

**TOWN OF ELSMERE
BOARD OF ADJUSTMENT
MEETING MINUTES**

**June 23, 2026
6:30 P.M.**

PLEDGE OF ALLEGIANCE:

CALL TO ORDER:

ROLL CALL:

CHAIRMAN	JAMES PERSONTI	PRESENT
BOARD MEMBER	JOHN ACTON	PRESENT
BOARD MEMBER	JOHN SMITH	PRESENT
BOARD MEMBER	KYRAH TATE	PRESENT
BOARD MEMBER	ED ZIELINSKI	ABSENT

Town Manager, Steve Martin
Code Enforcement Officer, Rick Crumb – Present

PUBLIC COMMENT: None.

APPROVAL OF MINUTES:

Minutes from May 26, 2026, Board of Adjustment Meeting

ACTION: Board Member Smith made a motion to approve the minutes from the May 26, 2026, Board of Adjustment meeting with no corrections. Board Member Tate seconded the motion.

VOTE: 4 in favor 1 Absent Motion carried

Acton – Yes, Smith – Yes, Personti – Yes, Tate – Yes, Zielinski – Absent

OPENING STATEMENT: Administrative Assistant for the Code Department Denise Lardani read the opening statement.

OLD BUSINESS:

1. Review of Petition 26-14, Tax Parcel Number 1900-400-803

The applicant is requesting a variance to build a side yard deck and stairs with a one-foot setback in lieu of the five-foot setback requirement on lot two in the R1 Residential Zoning

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District at 117 Forrest Avenue. The Planning Commission has reviewed and recommended to the Board of Adjustment that the proposed meets the Harmonious Development Intent of the Town of Elsmere Code Chapter 225-9. The Board of Adjustment will review and render a decision.

The applicant, Kevin Smith, stated that the proposed side-yard deck was intended to provide a secondary means of egress for a new residential construction project. He acknowledged that the platform size created a 1-foot clearance to the property line. To address concerns regarding potential future adjacent fencing and maintenance access, the builder proposed installing steps leading to both the front and rear of the property.

Several Board Members expressed concern regarding the 1-foot setback, specifically highlighting that the narrow gap would accumulate leaves, weeds, and windblown debris that could not be easily maintained or cleaned if an adjacent fence were erected.

Mr. Smith noted that risers would be installed on the steps to block debris from getting beneath the deck, and proposed installing mulch, stone, or a concrete base underneath to suppress weed growth.

ACTION: Board Member Smith made a motion to approve the request by the applicant who meets the Harmonious Development Intent of Chapter 225-9 and the variance for the side yard setback of 1-foot in lieu of the 5-foot setback in Chapter 225, Attachment #3. A condition that a concrete slab should be installed underneath the stairs instead of mulch or stone. Board Member Tate seconded the motion.

VOTE: 4 in favor 1 Absent Motion carried

Acton – Yes, Smith – Yes, Personti – Yes, Tate – Yes, Zielinski – Absent

NEW BUSINESS:

1. Review of Petition 26-19, Tax Parcel Number 1900-500-178

The applicant is seeking to raise the building height restriction in the General Industrial GI district located at 14 Hadco Road. The Planning Commission has reviewed and recommended to the Board of Adjustment that the proposed meets the Harmonious Development Intent of the Town of Elsmere Code 225-9. The Board of Adjustment will review and render a decision.

The applicant, Dominic Papa, is requesting additional 10 feet of vertical clearance to enclose their current outdoor bulk cement operation inside a new structure. The 45-foot peak was required to accommodate three 38-foot-tall indoor silos equipped with top-mounted 99.9%

Acton – Yes, Smith – Yes, Personti – Yes, Tate – Yes, Zielinski – Absent

3. Review of Petition 26-18, Tax Parcel Number 1900-800-118

The applicant is seeking to remove all fines and the Nuisance property on record removed in relation to Town of Elsmere Code Chapter 71-27, Harboring Stray Animals. The 3 cats in question are not defined as stray animals in the dictionary. Town Code does not define the word. They are TNVR (Trapped, Neutered, Vaccinated and Released) cats that reside on her property. 3 Cats, 3 Shelters, 2 plates of food covered by an enclosure. The food is removed after 1 hour. The shelter and food routine follow the New Castle County regulations. The Board of Adjustment will review and render a decision.

The applicant Maria Santa Barbara stated she manages a Trap-Neuter-Vaccinate-Return (TNVR) colony of three cats residing on her property. She argued that the cats were not stray animals under general definitions, as they were spayed/neutered, microchipped/ear-tipped, vaccinated against rabies, provided with elevated/insulated shelters, and fed under direct supervision with food removed after one hour in accordance with County standards. She stated she is not the owner of the cats, but she is the caretaker. She referenced Delaware House Bill 235 as supporting free-roaming cat management. Mrs. Santa Barbara requested that the municipal fines, property citations be removed, and the clearing of a Nuisance record from her property.

Town Manager Steven Martin stated the House Bill 235 is a statewide House Bill, but our municipality has its own ordinance, and the House Bill 235 does not supersede our ordinances. The Town is looking at TNVR to see if that is something the Town should adopt. He wants to let the chairman and the rest of the committee know the Town is trying to do that but as it stands right now, these violations are valid because it violates our code. The Town also understands Mrs. Santa Barbara's situation.

Code Enforcement Officer Rick Crumb stated the initial complaint regarding the cat situation was submitted in March 2026 by a Maple Avenue resident. On June 12, 2026, Town staff distributed 200-foot notices for the Maria Santa Barbara BOA appeal which lead to multiple neighbors voicing support for the Town's enforcement, citing issues with stray cats defecating in yards, damaging patio furniture, and in one instance, a cat giving birth inside a resident's outdoor grill. Residents questioned whether all colony cats are spayed/neutered, also noted that some cats appear unhealthy, and expressed worry that leaving food out is attracting additional stray cats to the neighborhood.

John Holloway, 4th District Councilman stated he is Mrs. Santa Barbara's neighbor. He has been a neighbor for 25 years plus. He has seen where she has organized and made the living spaces and feeding areas more maintained. As stated, the current code concerning the

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definition of a stray cat is very vague and nondescriptive. The verbiage should be comparable to the county and state definitions. The current animals are TNVR cats. Trapped, neutered, vaccinated, and released to control unwanted and uncontrolled population growth that all of us, the surrounding neighbors, are left to deal with. Over the years he has been at that house, they have had up to 14 cats that were rescued from the other side of the alley. People dump them there on a regular basis. She has one of the cats, we have two of them, of the last litter that were born on outback. He is familiar with the cat situation. She has done quite a bit to change things since this incident started. She has been maintaining the food schedule, removing the food within an hour, as stated. He would recommend rescinding all fees and the nuisance on the property removed because she has made quite a bit of effort since this arose initially.

Debbie Tortella, 6 Western Avenue works for Faithful Friends Animal Society. She has worked with people like Maria. One of your questions was about the cat being a nuisance and going places to bother neighbors. Cats will travel. If they are not being fed by a caretaker, they are going to go to your trash. They are going to be crying at your back door. She has had several of them show up on her property. She has noticed in the last 15 years she has seen a lot of feral cats and the problem is only going to get worse. She feels the Town needs to have a TNVR program. Part of the problem right now is it is now the middle of kitten season, it is only going to get worse. The fact that she cares for these three cats, and she is feeding them, she is making sure that the food is pulled, and she has a place for them to stay, it is their home.

Mrs. Tortella stated she has information she would love to give on TNVR, and statistics show that 82% of communities that have a TNVR program, the residents are happy because they see that a problem is being taken care of. The animals have feeding stations, caretakers. They are vaccinated. They are not spreading disease. They are not digging in people's trash or crying at their back door. She is advocating for her because she is doing the right thing. Delaware is a no-kill state.

Rita Cappelle, 1109 N Clayton works for Faithful Friends and wants to dispel a couple of things. One thing is when you have a colony, it is what it is a colony. They do not let outsiders in. The colony may not accept that cat. It is a hierarchy. Second is wild animals, you are not going to stop wild animals. That is what happens because people feed them. You must understand the whole TNVR system, the dynamics on cats that are out there. This committee must at least have a presentation from your friends and understand the dynamics involved in colonies for people that leave them. People that may be complaining are saying, her three cats probably do not go that far. They lounge around. If they are fed they lose their instinct go out and hunt.

Councilman Brian Reinbold, 3rd district stated that, Councilwoman Sally Jensen, 2nd District, Councilman Holloway, 4th district have had preliminary talks about changing the ordinance because as it is written right now and what is happening with Maria, she is being cited for something that, if she was not doing it, the problem would be worse. It is almost like she is being singled out. He does not want to make it seem like that and he is sorry if it does.

Councilman Reinbold stated him and Councilman Holloway sat out there for about two hours at one time on a Sunday and the cats were just lounging around. If they were on a back-enclosed deck or something, this would not be a problem. She does not have that. He does not have that either. The cats were not running around crazy. They were not making a ton of noise. They were not skittish at people. You would never know that these were not indoor cats He would like to ask, as Councilman Holloway did, to rescind the fines and allow us on Council to adjust the ordinance and amend it or write a new one and just go from there so that it's more comprehensive and doesn't punish people for doing things the right way that do help control the mice, the cat population, and all of that.

Stevie Keely, 1356 Maple Avenue. She has been on a negative side of a cat hoarding situation next door to her house. It was cat hoarding to the extreme of 40-plus cats in one house. Her house smelled terrible for a long time, she cannot even begin to explain the smell that came from that. She recommended these fines be waived for her. She does not think that penalizing her, given that she has taken the steps to try to rectify the situation in her backyard with her little group of cats, she should be penalized for that.

Giovanni Granados lives on Maple Avenue, and he wants to voice support for Maria, and what she is doing.

ACTION: Board Member Smith made a motion to remove the fines, citations, and any record of nuisance for Petition 26-18. Board Member Acton seconded the motion, and the motion passed.

VOTE: 4 in favor 1 Absent Motion carried

Acton – Yes, Smith – Yes, Personti – Yes, Tate – Yes, Zielinski – Absent

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS: None

PUBLIC COMMENT: None

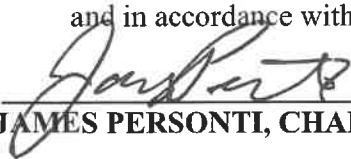
ADJOURNMENT:

ACTION: Board Member Smith made a motion to adjourn. Board Member Acton seconded the motion.

VOTE: 4 in favor 1 absent Motion carried

Acton – Yes, Smith – Yes, Personti – Yes, Tate – Yes, Zielinski – Absent

These minutes summarize the agenda items and other issues discussed at the June 23, 2026, Board of Adjustment meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tape(s) may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.



JAMES PERSONTI, CHAIRMAN



JOHN ACTON, SECRETARY