

**CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES**

June 17, 2026

A Regular/Hybrid Meeting of the City of Dover Board of Adjustment was held on Wednesday, June 17, 2026, at 9:04 A.M. in person in the City Council Chambers and using the phone/videoconferencing system Webex. Members present were Mr. Wagner, Mr. Senato, Ms. Brinkley, Mr. Albert “Bill” Holmes Jr and Mr. Ron Coburn (out at 9:18 A.M. and in at 11:04 A.M).

Staff members present were City Solicitor Mr. Daniel Griffith, Acting Solicitor for the Board Mr. Glenn Mandalas, Mrs. Melson-Williams, Mrs. Walls, Mr. Dewey, Mr. Kopp and Mrs. Brown.

APPROVAL OF AGENDA

Mr. Coburn moved for approval of the agenda. The motion was seconded by Mr. Holmes and unanimously carried 5-0.

Mr. Holmes motioned to move the Old Business to the end of the meeting. The motion was seconded by Ms. Brinkley and unanimously carried 5-0.

**APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF
May 20, 2026**

Mr. Holmes moved for approval of the Meeting Minutes of May 20, 2026, with any necessary corrections. The motion was seconded by Ms. Brinkley and unanimously carried 5-0.

COMMUNICATIONS & REPORTS

Chairman Senato mentioned that the next Board of Adjustment Meeting is Wednesday, July 15, 2026, at 09:00 A.M.

Mrs. Melson-Williams stated that there will be a meeting on July 15 as there is a variance application that made the submission deadline.

Mrs. Melson-Williams introduced Mr. Alex Dewey, who is a new Planner I with the City of Dover.

Chairman Senato asked if there were any other items.

Mrs. Melson-Williams mentioned that there are no other items. The Planning Staff has no other items right now.

NEW BUSINESS

Mrs. Melson-Williams read the Procedure Statement for New Business.

Mrs. Melson-Williams noted that the public notice for items on this agenda was completed in accordance with the code requirements and will be noted specifically for this item. The Meeting Agenda was posted on June 10, 2026, in accordance with the Freedom of Information Act

requirements.

Chairman Senato asked if there were any conflicts of interest.

Mr. Corburn recused himself at 9:18 A.M, due to him being the previous Code Enforcement Supervisor for this case.

Appeal Application #V-26-03

Property at 1131 S. Bay Road known as Kings Cliffe Manufactured Home Park. An Appeal Application has been filed by the owner's representative regarding the Zoning Violation issued Code Enforcement Case #25-00004632 (and associated Case #20-00003344) and the allowance of a non-conforming use for recreational vehicle lots and recreational vehicle lot rentals. This Appeal pertains to a determination of the City of Dover Division of Code Enforcement to prohibit the addition of new non-conforming mobile homes, house trailers or recreational vehicles (RVs) on lots in the community. This Appeal is related to the enforcement of Dover Code of Ordinances, Appendix B – Zoning (*Zoning Ordinance*), Article 3 Section 8.4 Uses prohibited with Sections 8.41 and 8.42. The subject area of the property is zoned MH (Manufactured Housing Zone). The owner of record is Kings Cliffe MHP, LLC. Property Address: 1131 S. Bay Road, Dover DE. Tax Parcel: part of ED-05-086.00-01-080.000-000.

Mrs. Melson-Williams gave a brief overview of the Appeal of Application V-26-03 referencing the Staff Review Report and Recommendations.

The Summary Report for this Application, including the list of Exhibits labeled Exhibits 1 (one) through 6 (six) is entered for the record. The public notice for this Appeal was published in the Daily State News on June 5, 2026. The property owners within 200 feet of the subject site were notified by letter sent by the Planning Office in accordance with the established procedures for the public notice.

Representatives: Mr. Peter K. Schaeffer, Jr., Esq., Solicitor for the Kings Cliffe Manufactured Home Park. Mr. Graham Shue and Mr. Robert Shue, Owners for the Kings Cliffe Manufactured Home Park attended virtually.

Due to Mr. Schaeffer being an attorney in the State of Delaware, he did not need to be sworn in.

Presentation

Mr. Schaeffer stated that this matter is essentially the same issue that was before the Board previously. On behalf of Kings Cliffe, he explained that on November 23, 2020, the City's Code Enforcement Division issued an open violation prohibiting the continued use of the pre-existing recreational vehicle rental locations on the property based on provisions of the City Code.

He referenced Appendix B, Article 3 District Regulations, Section 8.1, explaining that the 2017 ordinance essentially prohibited mixed-use properties. Under his interpretation, a property could either be a manufactured home park or an RV park, but it could not operate as both on the same property.

Mr. Schaeffer stated that Kings Cliffe appealed the November 2020 zoning violation. Following the hearing, the City overturned the zoning violation on January 21, 2021, allowing Kings Cliffe to continue using its RV lots. He noted that the January 2021 hearing minutes, which were included as exhibits, contain extensive details regarding the property's uses.

He explained that the 2021 decision allowed the continued rental of certain sites for recreational vehicles. From 2021 through 2025, Kings Cliffe continued what he described as an eight-decade-long use of the RV lots. He stated that, as a result of the City's 2021 appeal decision, proof of the established use was documented in the Board's minutes and exhibits. He further stated that no testimony was presented disputing the long-standing use of the property.

Mr. Schaeffer stated that in October 2025, after several years of continued operation, the City again issued a notice prohibiting the use of the RV rental lots. He argued that this action effectively overturned the City's own 2021 decision. He stated that no explanation had been provided as to why the 2021 appeal decision had apparently been reversed in 2025. He concluded that Kings Cliffe had continued using the property without objection following the 2021 decision and was asking the City to abide by its prior ruling allowing the continued use approved in January 2021.

As a legal matter, Mr. Schaeffer stated that Kings Cliffe relied on the case of *Kollock v. Sussex County Board of Adjustment*. He explained that cases involving rezoned properties and existing uses becoming nonconforming after zoning changes have long been recognized under Delaware law and throughout the United States. He stated that these situations have existed for decades and that Delaware courts have previously addressed the issue. Referring to the Kollock case, he asserted that the government does not have the authority to reopen or revisit its own prior decision by vacating or reversing it after it has become final.

Mr. Schaeffer continued by stating that once a governmental decision has been made, it cannot later be rescinded or altered. He referenced a 1987 Delaware judicial opinion, which he stated was upheld in 2010 in *Ridd v. Board of Adjustment of Sussex County*. He explained that there has historically been a consistency requirement whereby a decision, once made, is subject to the legal doctrine of *res judicata*, meaning that the same parties cannot relitigate an issue that has already been fully litigated.

Mr. Schaeffer asked whether there were any questions at that point. Mr. Schaeffer indicated he was prepared to answer questions but noted that he understood, based on earlier comments by Ms. Melson-Williams, that questions would likely be held until both the appellant and the Planning Office had completed their presentations.

Mrs. Melson-Williams stated that this would be at the Board's discretion, with advice from legal counsel if necessary. It was suggested that allowing both sides to present first would help keep the proceedings organized. The Chair added that Board members could ask questions after hearing both presentations so they would have all of the information before them.

Mr. Schaeffer then added one additional legal point. He stated that Delaware law precludes enforcement of a zoning violation while an appeal is pending. Specifically, he cited Title 22, Del. Code Section §325, explaining that an appeal stays all proceedings in furtherance of the action being

appealed unless the enforcing officer certifies to the Board of Adjustment that a stay would, in the officer's opinion, cause imminent peril to life or property.

Mr. Schaeffer stated that Kings Cliffe had testified that, despite the 2025 reissued violation, it had experienced multiple interruptions relating to its RV rentals. He argued that the City had gone beyond merely filing a violation notice by taking additional actions that were not authorized while the appeal remained pending. He characterized those actions as extra-jurisdictional and inconsistent with the statutory appeal process.

He requested that, should the Board delay its decision for any reason; it should at least instruct the City to provide a letter addressing the matter.

Mr. Schaeffer stated that the Construction and Property Maintenance Code Board of Appeals had addressed this issue previously and had overturned the violation in 2021. He asserted that Kings Cliffe had continued to rely on that decision and had maintained its lawful nonconforming use based on the reasons discussed during the earlier proceedings.

Representative: Mr. Daniel Griffith, Solicitor for the City of Dover. Mr. Eddie Kopp, Chief Code Enforcement Officer for the City of Dover, was also present.

Presentation

Mr. Griffith stated that the use of recreational vehicles is not permitted under the City's zoning ordinance, noting that Article 3, Section 8.4 clearly provides that RV use is not a permitted use in the applicable zoning district. He emphasized that this was not a new issue and was the same position the City had taken during the 2021 proceedings.

He referred the Board to the January 2021 Construction and Property Maintenance Code Board of Appeals meeting minutes included in the hearing packet. He noted that, during those proceedings, then-Board member and current City Council Member David Anderson explained that although the use was not conforming under the *Zoning Ordinance*, he believed it should be allowed to continue because the property had been used in that manner for such a long period of time.

Mr. Griffith stated that Mr. Anderson's position was essentially that the longstanding nature of the property's use justified recognizing it as a legal nonconforming use, or, in other words, that it was "grandfathered." He explained that if the property remained in the same condition today as it was in January 2021, the parties likely would not be before the Board. Instead, he argued, the issue arose because five (5) years had passed and the nonconforming use had expanded. He stated that, as a matter of law, a legal nonconforming use may not be expanded or changed beyond what was previously recognized.

Mr. Griffith directed the Board to Exhibit 5, which contained Article 7 of the City's Zoning Ordinance governing nonconforming uses. He read the applicable provision stating that any nonconforming use, except those specifically identified, may continue but "shall not be enlarged, extended, reconstructed, or placed on a different lot or parcel of land occupied by such uses."

He explained that recognition as a legal nonconforming use does not grant unlimited authority to expand that use. Rather, the use is limited to the scope that existed when it was recognized.

The presenter stated that the reason the parties were before the Board in 2025 was not to relitigate the 2021 decision but because, in the City's view, the use had expanded beyond what was approved in 2021. He asserted that there were additional RV uses on the property beyond those previously recognized.

He further stated that the City's position was that the issue involved not only an expansion of the nonconforming use but also the manner in which the property was being used. He reiterated that if the property remained in the same condition as it was in January 2021, the City would not have challenged the use.

In conclusion, Mr. Griffith stated that the Appeal should be denied because the City believed the expansion constituted an impermissible enlargement of a legal nonconforming use. He then indicated that, unless the Board had questions for him, he would ask Mr. Kopp to come to the podium to discuss the factual history of the property and answer questions based on his personal knowledge.

Mr. Eddie Kopp stated that he is the Chief Code Enforcement Officer for the City of Dover and that he is one (1) of the two (2) licensed Manufactured Home Installer Inspectors, which is a State license.

Mr. Griffith asked Mr. Kopp if he was employed by the City in 2020/2021?

Mr. Kopp stated that he was and that he was an Inspector I.

Mr. Griffith asked Mr. Kopp what he recalled about the violation that was demonstrated back in November?

Mr. Kopp testified that, in 2020, a violation notice was issued concerning the operation of RVs within the park. He stated that the notice identified the pre-existing RVs that were located on the property at that time.

Mr. Griffith asked whether Mr. Kopp had been present at the January 2021 Code Board of Appeals meeting when the violation was appealed.

Mr. Kopp testified that he had.

Mr. Griffith asked whether Mr. Kopp recalled the outcome of that Appeal.

Mr. Kopp testified that he was present at the January 2021 violation appeal hearing and recalled the outcome. He further testified that, in connection with their duties for the City, they had consistently observed the condition of the property over the previous five years. Mr. Kopp explained that, in late 2025, the City's office received a complaint regarding recreational vehicles (RVs) and general conditions within the community. Following an investigation, staff determined that additional RVs had been placed in the park beyond those inventoried during the previous case. Specifically, several

new RVs were identified on sites that had not previously contained RVs, such as lots 81, 120, 137 and 150. As a result, an additional violation notice was issued.

Mr. Griffith asked him if he was aware of the January 2021 decision when he issued the 2025 notice.

Mr. Kopp confirmed that he was aware of the January 2021 decision when issuing the new violation notice and stated that they believed the property's use had expanded beyond what had previously been approved.

Mr. Griffith asked him if he is generally familiar of the *Dover Code of Ordinances* pertaining to code violations.

Mr. Kopp stated that yes, he is.

When asked about safety concerns, Mr. Kopp testified that RVs are not regulated under the International Building Code or in the same manner as manufactured homes. While the City of Dover has manufactured home standards, there are no local inspection requirements or code provisions governing on RVs placement alongside code-compliant manufactured homes. Mr. Kopp stated this creates safety concerns because there are no inspection or oversight processes to ensure compliance when RVs are located adjacent to manufactured homes.

Mr. Kopp further testified that the complaint received by the City expressed concerns about both the number of RVs and the overall condition of the property. Mr. Kopp confirmed that, during the 2025 inspection, the property was not being used in the same manner as it had been at the time of the January 2021 decision.

Following the testimony, Mr. Griffith indicated they had no further questions, and the Chair opened the floor for questions from the Board.

Mr. Wagner asked whether the Board's responsibility was to determine if a variance was necessary or whether it should instead focus on the property's compliance with the current ordinance.

Mr. Mandalas explained that the matter before the Board was an Appeal, not a variance request. He stated that a variance involves determining whether relief from the zoning code should be granted; whereas, an Appeal requires the Board to determine whether the Code Official correctly interpreted and applied the ordinance. Mr. Mandalas explained that the 2021 decision addressed the property's use at that time.

Mr. Mandalas continued to explain that Mr. Schaeffer argued that the issue had already been adjudicated and that the previous Board's decision allowed the continued rental of RVs at the property. The City's position was that the current matter involved a different issue because the use had expanded since 2021. Therefore, the Board's task was to determine whether an expansion of the nonconforming use had occurred and, if so, whether that expansion was permitted under the ordinance.

Mr. Schaffer emphasized that the case involved interpretation of the prior Board decision and the doctrine of nonconforming use rather than a traditional variance analysis.

Mr. Holmes noted that he drove through the property and is aware of multiple residents that are worried that the outcome of this Appeal will have a direct impact on them.

Mr. Schaffer addressed concerns raised by nearby residents, stating that many of the RV occupants were traveling federal contractors who preferred extended stays in RVs rather than hotels. The representative stated that these tenants generally posed little risk to neighboring property values or community safety.

In response to Ms. Brinkley's question, Mr. Schaeffer stated that electrical service continued to the existing RV locations but that, after October, no new electrical service had been installed for additional RV sites.

Chairman Senato asked whether maintaining the same conditions that existed under the 2021 approval would avoid a violation.

Mr. Schaffer responded that no additional RV lots had been created since 2021 and referenced testimony supporting that position.

Ms. Brinkley stated that she understands that Mr. Schaffer has said that there were no new lots but were there any new RVs placed on lots that were being used in 2021.

Mr. Schaffer stated that no new RVs had been placed on the lots between 2021 and 2025.

Mr. Mandalas asked Mr. Kopp if lots 81, 120, 137 and 150 were in use in 2021.

Mr. Kopp responded that they are new lots. He noted that he had consulted with the previous owners and confirmed that these were new lots.

Mr. Schaffer stated that was a hearsay statement.

Mr. Mandalas stated that he is aware that there was a court proceeding regarding this matter, it was filed in Superior Court challenging the violation. The outcome was that the Judge requested that this matter be brought in front of the Board of Adjustment for the City of Dover. He did ask whether the Judge issued a statement on whether the City had already heard this matter.

Mr. Schaffer stated that no due to it being an expansion of use and that he wanted it to come to the Board of Adjustment.

Mr. Griffith stated that is correct and that the Judge did not touch on the merits of the case.

Mr. Mandalas confirmed that the court had determined the applicant was first required to exhaust the administrative appeal process before the Board. He explained that the Board was therefore

responsible for deciding whether the current use represented an impermissible expansion beyond what had been approved in 2021.

Mr. Mandalas asked Mr. Kopp if Kings Cliffe went back to only using the lots that were being used in 2021, if the violation would be withdrawn.

Mr. Kopp stated that is correct and it would not be challenged by the City.

Mr. Mandalas summarized the City's position by stating that the 2021 decision permitted the park to continue operating at the intensity of use that existed at that time. The City's contention was that the 2025 violation resulted from an increase in the intensity of use through additional occupied RV sites beyond those existing in 2021. Consequently, the Board must determine whether such an expansion occurred and, if so, whether it was permissible under the prior approval and applicable zoning regulations.

Mr. Schaffer questioned why the electric was turned off to all the lots, rather than only to those alleged to be newly added. He stated that his client suffered some pretty significant economic damage due the not being able to use any of the rental lots.

Mr. Schaffer closed by stating that he would just like to point out the owner has invested millions of dollars in this property. It is in the owner's interest to protect that investment. He does think that this is a key point. He believed Mr. Kopp raised some type of unspecified safety issue here. It is not in Kings Cliffe's interest to do anything but protect safety, keep current tenants happy, and attract new tenants as needed. Mr. Schaffer also pointed point out that the operations of the manufactured home community provide a lower-cost alternative to other types of housing.

He thinks, as the City might be aware, there have been discussions regarding housing, not only reducing allowable lot sizes to make housing more affordable but also designating certain areas within cities and towns as low-cost housing, which may become a state-mandated requirement. Kings Cliffe is a prime example of that and could be very beneficial in helping meet that quota without having to redevelop other areas. It has traditionally operated in this manner for many decades and has been beneficial to the City. With an interest in keeping the community safe, that is one (1) more area that he believes will not place as much demand on City services such as fire, police, and ambulance, allowing those agencies to focus their efforts elsewhere. So, that's sort of the moral and economic underlying rationale. The real issue here is whether this constitutes an expansion of use and that is just not the case here.

Mr. Mandalas asked Mr. Kopp to clarify what evidence does he think exists of the expansion of use?

Mr. Kopp responded that he had been the Inspector on the initial case and personally did an inventory of the park. He stated that he also served as the Inspector during the 2025 investigation and again physically inventoried the park to verify compliance and determine which RVs had been added. He explained that one of the tools he used was the reference map and that he inspected the park based on that map. To his knowledge, the map had not changed between 2021 and 2025, and his findings were based on his firsthand observations.

Mr. Mandalas stated that, if the map had not changed, there could not be any additional lots because the same number of lots existed in 2025 as in 2021. He continued to state that some of the lots may not have had RVs in 2021, but those same lots did have RVs in 2025.

Mr. Kopp stated that is correct. Mr. Kopp further clarified that the parcel map had not changed and that the parcel lines remained the same. He explained that what had changed was the equipment located on the lots.

Chairman Senato stated that he was not lawyer but that he wanted to offer his thoughts after hearing from both sides. He explained that, based on his understanding, there had been RVs on the property at one (1) point, followed by a change in the Code that allowed certain existing conditions to remain. He stated that he was getting the impression that the RVs had once been in compliance with the Code and that, after the Code changed, additional RVs had been added.

Mr. Kopp asked to clarify the timeline. He stated that the Code had been adopted in 2018 and that the case initiated in 2020 was based on the 2018 Code. He explained that what brought the property into compliance was the Construction and Property Maintenance Code Board of Appeal's prior Appeal decision. He stated that, although he believed the property still did not comply with the Code in his professional opinion, the existing conditions had been allowed to remain as a result of that Appeal. He further explained that the current violation was based on the expansion beyond what had been allowed through the Appeal. In his opinion, the units covered by the Appeal were considered existing, but once additional RVs were added beyond those approved, they were no longer protected under the prior Appeal.

Mr. Mandalas stated that he was reviewing the January 2021 meeting minutes and he read part of the minutes out loud, "Responding to Mr. Martin, Mr. Schaeffer stated that 17 lots are utilized for RVs at any one time and that number had not changed since 2016 when it was purchased and presumably that was the same number of lots it had for decades." He stated that his presumption was that the 2021 decision had been based on 17 lots and he asked whether more than 17 lots were now being used for RVs.

Mr. Schaeffer stated that he believes back in 2020 there were actually 20 lots designated as RV lots. However, in 2020, only 17 of them were occupied at that point.

Mr. Griffith thanked Mr. Mandalas for narrowing down this very complex issue to the essence of what they are here for and believes that they can come to some agreement that the January 2021 Construction and Property Maintenance Code Board of Appeals granted 17 lots. They are fine with that. If it is the decision of this Board of Adjustment that 17 lots can be used consistent with 2021, then anything beyond that would be an expansion. But at that number of 17, there would be no violation.

Mr. Schaeffer disagreed, stating that the 2021 Appeal decision did not specify a number of lots. He said the decision only allowed the rental of RVs and that the 2021 hearing minutes, which were not provided until earlier that week, did not establish a 17-lot limit. He stated that he did not believe such a limitation was correct.

Chairman Senato stated that when they are dealing with Code, that this Board must take into consideration very seriously the codes. They do not want to set the wrong precedence for other mobile home parks. He noted that if the codes stipulate 17 lots for RV vehicles and then there are more than the 17, that according to the Inspector becomes a violation. He thinks that they seriously must consider what the Code stipulates.

Mr. Mandalas clarified that is not the Code that stipulates how many lots but the minutes from the meeting. The meeting minutes were presumably adopted by that Board and if there was to be a correction then they would have had to amend the minutes. They are just minutes; they are not Code, so they do not bind them. Those minutes are persuasive and this Board can rely upon them as they can rely on the other evidence that has been presented.

Mr. Schaeffer agreed with Mr. Mandalas that whatever is in the meeting minutes is not necessarily sworn testimony. His understanding is that there are 21 lots designated and believed to be RV. One of the types of designation was that the electrical service provided to the RV lots was different based on the use. Mr. Schaeffer further stated that the type of electrical equipment used to provide electricity to those 21 lots was different. He pointed out that the Code which they relied on for the appeal in 2020 and the Code that is today, does not say that you can have x percentage of preexisting RV lots or x number of RV lots. It simply states that you can't have RV lots. He believes that arguing about the four (4) extra lots is beyond the scope of the hearing today.

Mr. Wagner noted that he is trying to come up with an open-minded honest conclusion with the Board.

Mr. Mandalas stated that he believed the issues were becoming more narrowly focused. He stated that the question before the Board was that there was clearly an approval in 2021 for, at a minimum, 17 lots. The question he asked was whether that approval was limited to those 17 lots or whether it was broader and allowed all 21 RV lots to be used as RV rentals.

Mr. Mandalas stated that this was the first question for the Board. If the Board determined that the 2021 approval was broad enough to include all 21 lots, then the matter would be resolved. However, if the Board determined that the approval was not broad enough to cover all 21 lots but did apply to the 17 lots, then the Board would need to consider a different question. He stated that the next question would be whether the use had expanded to all 21 lots. If it had, the Board would then need to determine whether that expansion was permissible. If the Board found that the expansion was permissible, then the property could continue operating as it currently was, and the City would withdraw the Notice of Violation. If the Board found that the expansion was not permitted, then it could uphold the Notice of Violation.

Ms. Brinkley asked if Mr. Kopp counted 17 or 21 lots when he did his inspection.

Mr. Kopp clarified that there were 15 lots from his case #20-00003344. Those 15 lots consist of lots 1, 1A, 42, 54, 60, 74, 89, 108, 109, 110, 132, 138, 142, 147 and 149. These lots were part of the inspection conducted November 23, 2020.

Mr. Schaeffer asked Mr. Kopp if he provided an inventory of what he counted during 2020 to anybody, such as the Recorder of Deeds?

Mr. Kopp stated that it is part of the case file. It is within the Notice of Violation that was sent to the property owner at the time, Kings Cliffe Mobile Home Park.

Mr. Schaeffer asked if those lots had RVs on them in 2020.

Mr. Kopp stated that is correct.

Mr. Schaeffer questioned whether Mr. Kopp had counted any vacant lots.

Mr. Kopp stated that no, they were specific for the RV lots. He consulted with the ownership as well and they confirmed it.

Mr. Schaeffer asked if it was fair to say that there could have been additional lots that at the time of the inventory did not have recreational vehicles on them.

Mr. Kopp stated that there could have been, yes.

Mrs. Melson-Williams noted, for the Board's reference, that Exhibit 3D was the case file and that the violation details listed the lot numbers previously referenced by the Inspector. She stated that the information was provided to assist the Board in keeping the paperwork organized.

Mr. Schaeffer pointed out for the record, Mr. Kopp said that the page with the inventory only referenced lots with the RVs on them and not the vacant lots.

Mr. Schaeffer commented that he did Bate stamp the documents as well to make them easier. He explained that when reviewing a large number of exhibits, it is often easier if the pages are numbered so participants can be directed to a specific page rather than searching for exhibits by letter.

Mrs. Melson-Williams from the Planning Office responded that the exhibit packet had been prepared and organized for the Board. She explained that the packet distributed to the Board included exhibit labels by letter, with the "1" series representing the appellants' exhibits, the "2" series representing the Code Enforcement exhibits, and the "3" series representing the Construction and Property Maintenance Board of Appeals' materials. She further noted that the meeting packet posted on the City's website included page numbers at the bottom of each page so those following electronically could be directed to specific page numbers.

Ms. Brinkley questioned that based on the information presented, possibly, there may not have been an expansion of lots, although she was not certain.

Mr. Schaeffer explained that it does not appear that the Board had documentation establishing an expansion other than the communications that had been presented. He further stated that he believed

there were different types of lots, with RV lots differing from the manufactured home lots, and that while certain lots were available, they were not necessarily being used. He noted that there was an availability of a total of 21 lots (for RVs).

Ms. Brinkley stated that, however, there was an expansion of new RVs being placed on the lots.

Mr. Schaefer stated that there had been no expansion beyond what was previously there. He further clarified that the term "expansion" did not necessarily refer to an increase in the number of lots. He explained that, based on case law addressing zoning decisions, "expansion" generally means a higher or greater use of what already exists.

Mr. Griffith stated that that Mr. Mandalas had helpfully pointed out what the Board did in 2021. He continued to state that Mr. Schaffer, who had previously represented Kings Cliffe in 2021, told the Board back then that there are 17 lots being utilized at any one time and that the number had not changed since 2016. He further stated that he presumed the same number of lots had existed for decades. Based on that understanding, he stated that anything beyond 17 lots would constitute an expansion. He further noted that expansion is not limited to an increase in the number of lots but rather is defined by the Code. Mr. Griffith referenced Article 7, Section 1 of the *Zoning Ordinance*, noting that a nonconforming use "shall not be enlarged, extended, or moved to a different portion of the property." He stated that, if additional lots beyond the original 17 were being used, that would constitute an expansion under the Code.

Mr. Schaeffer further stated that he was not a fact witness and that, at the time, if he had referred to 17 lots, it was based on the information available to him.

Public Hearing

Chairman Senato opened the Public Hearing at 10:33 A.M for those to speak in against this item.

No one spoke.

Chairman Senato asked if anyone would like to speak in favor of this item.

Mr. Robert Shue, appearing via Webex, was sworn in by Acting Solicitor for the Board, Mr. Mandalas.

Mr. Shue apologized for participating while driving to a meeting in New York City and stated that he hoped everyone could hear him. He emphasized that the appellant was not attempting to expand the RV use within the park. Rather, he stated that they had been informed that if an RV left the property, it could not be replaced with another RV, which he said was contrary to what they had been told when they purchased the park.

Mr. Shue stated that their purchase of the park had relied upon the existing use of RVs, as that use was an integral part of the overall investment. He further stated that the property receives weekly inquiries from individuals seeking affordable housing and explained that the RVs are smaller than manufactured homes, allowing them to be rented at lower rates. He added that the property manager,

Carol Beard, regularly speaks with single mothers with children and small families seeking affordable housing.

Mr. Shue stated that the park is a long-term investment for his family and that they are also purchasing other parks. He emphasized that their goal is not to acquire properties, increase rents, and quickly resell them, but rather to provide safe, family-friendly communities. He stated that, if asked, the police who monitor the park would confirm that conditions had improved substantially, including the removal of drug dealers and other undesirable activity. He concluded by stating that he believed they were doing the right thing for the City of Dover and the State of Delaware and thanked the Board for its time.

Mr. Graham Shue, appearing via Webex, was sworn in by Acting Solicitor for the Board, Mr. Mandalas.

Mr. Graham Shue stated that he would keep his comments brief and echoed the remarks made by his father, Mr. Robert Shue. He stated that the park was a family investment and that the property manager, Carol Beard, could attest that they receive daily calls from individuals seeking affordable housing. He stated that there was a waiting list of more than 60 people seeking to move into the park but that they had been unable to accommodate those requests because of the matter before the Board.

Mr. Graham Shue further stated that, over the past several years, the family had worked to improve the park and create affordable housing opportunities within the City of Dover. He reiterated that the property was a long-term family investment rather than one owned by institutional investors seeking short-term profits. He concluded by expressing hope that they could continue working with the City and providing affordable housing.

Mrs. Melson-Williams thanked the virtual participants for their comments and informed the Chair that all attendees participating virtually had been heard. She further stated that no written comments had been received regarding the Appeal and that all documents submitted consisted of the series of Exhibits that had already been entered into the record.

Chairman Senato closed the Public Hearing at 10:39 A.M.

Chairman Senato stated that he wished to share his thoughts on the matter. He indicated that he believed the figure of 17 lots was central to the case and stated that the Board needed to carefully consider the evidence presented by the Inspections Department. He noted that, whether the Board focused on the 17 lots or another interpretation, the issue before the Board involved the alleged violation relating to the RV lots and the evidence presented. He concluded that the Board would ultimately need to determine whether the prior approval was limited to 17 lots or extended beyond that.

Mrs. Melson-Williams from the Planning Office asked the Acting Solicitor for the Board whether there was an opportunity for closing comments from both the administrative officer on behalf of the City and the appellant.

Mr. Mandalas confirmed that the Board's Rules and Procedures do allow for closing comments and they will hear from the City first.

Mr. Griffith thanked the Acting Solicitor for the Board for narrowing the issues, which he believes are very narrow now. He explained that the question was whether the current use represented an expansion beyond what had been permitted by the Board in 2021. He stated that the Board should look back to the 2021 decision to determine exactly what had been permitted. He noted that the starting point was what existed before the 2021 Appeal, explaining that the use was not permitted under the Code but had been allowed to continue as a "grandfathered" condition through the Board's decision. He further stated that the evidence presented to the Board in 2021 reflected 17 RV lots and that it had been represented at that time that this had been the longstanding condition of the property.

Mr. Griffith stated that the evidence presented in the 2021 appeal reflected that there had been 17 RV lots for many years and that no change to that number had been identified. He explained that, although the use was not permitted under the Zoning Code, the Board had approved the continuation of that existing nonconforming use.

He stated that the issue before the Board was whether the current use represented an expansion beyond what had been approved in 2021. He explained that, under the City of Dover *Zoning Ordinance*, a nonconforming use may not be expanded and that expansion is prohibited by definition. He stated that the 2021 Board decision permitted 17 nonconforming RV lots and that anything beyond those 17 lots would constitute an expansion.

Mr. Griffith further stated that this framework would simplify the Board's motion. He explained that the Board could make a motion to limit the number of nonconforming RV lots to 17. He noted that, if such a motion carried, the Appeal would be denied, and the nonconforming use would be limited to 17 lots. If the motion failed, the Appeal would be granted, and the appellant would be permitted to continue using the greater number of lots. He concluded that the issue before the Board had been narrowed to whether the number of nonconforming RV lots should be limited to 17.

Mr. Schaeffer stated that he believed Mr. Griffith had clarified the issue. He stated that, under the Zoning Code, the nonconforming RV use had been permitted, and that the question before the Board was whether that permitted use was limited to 17 lots or extended to all 21 lots.

Mr. Schaeffer further stated that no evidence had been presented demonstrating that the additional four (4) lots had been added after the prior approval. He noted that all parties have stated that there are currently 21 designated RV lots. He stated that Mr. Kopp had confirmed that when he counted the 15 lots during his inspection, he counted only those lots that were occupied by RVs at that time, rather than all designated RV lots. He continued to state that in 2021, he made a comment that there were 17, but he believes that he was incorrect. He further stated that no evidence had been presented demonstrating that the additional four (4) lots created any imminent and irreparable harm to the park. Mr. Schaeffer requested that, if the Board chooses to approve the Appeal, it approves the use beyond the limitation of 17 lots to 21 lots.

Ms. Brinkley moved to limit the number of nonconforming lots to 17. The motion did not receive a

second. As a result, the motion was lost.

Mr. Wagner moved to limit the use at Kings Cliffe to 17 legally non-conforming lots and there by permitting on these lots RVs, mobile homes and house trailers. The motion was seconded by Mr. Holmes.

Mr. Mandalas stated that the courts have said they will not go searching the record to see why a particular member voted.

Roll Call Vote

Mr. Wagner – I vote no because I believe 21 was proper.

Mr. Holmes – I vote in favor of the motion for all reasons given, the exhibits and testimony that he heard today. He also feels that something like this is needed in Dover, as there are a lot of people coming to Dover for work. These people will only be here for a few months, and they have these RVs that they travel in and they live in. A place like this is needed in Dover so that they can live temporarily.

Ms. Brinkley – I move to limit the number to 17 because I believe there was an expansion. She stated that came from their legal representation today, that from 17 to 21, may have been a mistake but it was an expansion of Article 7 if they do 21. She moves that they deny the 21.

Mr. Mandalas asked Ms. Brinkley if she was voting in favor of limiting the number to 17 lots.

Ms. Brinkley stated yes.

Chairman Senato – I vote in favor of the motion to hold it to the 17 with all the information given by both parties and based on a prior Board. I stand by the 17.

Mr. Mandalas wanted to clarify the second vote. He was not sure if the vote was in favor of 17 or 21 lots.

Mr. Holmes stated that he voted in favor of the motion to limit it to the 17 lots. He believes that if they want to use the 21 lots than they should be able to come back to the City to apply for the other four (4) lots.

There are three (3) members in favor of the motion to limit the number to 17 non-conforming lots in King Cliffe for RVs and associated type of uses and one (1) no to grant the appeal. Vote 3-1. With that vote, the motion carried.

Mrs. Melson-Williams stated that a written notice reflecting the Board's action taken that day would be prepared and provided to the appellant. She then advised the Chair that he could proceed with the remainder of the meeting.

Public Comments Opportunity

Chairman Senato opened the meeting to the public giving an opportunity to make comments to the Board. He asked if there was anyone who wished to speak?

Mr. Robert Shue, via Webex, stated that he has no comment.

Ms. Ruth Morris, Kings Cliffe, 1131 S. Bay Road Trailer 105, was sworn in by Acting Solicitor for the Board, Mr. Mandalas.

Ms. Ruth Morris stated that she had listened to the comments from all parties and was curious why the use would be limited to 17 lots. She questioned whether the vacant lots, if not all occupied at the same time, could still total 21 lots. She stated that, in her opinion, nothing had expanded and that all 21 lots had not been used simultaneously.

Ms. Morris explained that the park has extra lots available for campers and temporary workers who stay for three (3) to six (6) months and that those accommodations are convenient for the community. She stated that the RVs are no different than the manufactured homes, as the owners do not know who will ultimately rent either type of unit. She added that some tenants may be good and others may not, but she believed the RVs benefit the community and provide a convenient housing option.

Ms. Morris stated that she is a resident of Lot 105, that her son resides at Lot 16, her sister resides at Lot 14, and her uncle resides at Lot 40. She expressed her support for allowing the use of all 21 lots and questioned what harm would result from allowing 21 lots instead of 17. She further noted that the Inspector had testified that he counted the 17 occupied lots but did not count the vacant lots that were present and known to exist. Ms. Morris concluded by stating that she was in favor of Kings Cliffe.

Mr. Mandalas clarified that the Board's decision today was really related to whether the Code Enforcement Officer made a proper determination or not under the law that was in place. There certainly is an opportunity for this appellant to file a new application asking for a variance, which is a different question to expand to the 21 lots. If they do, he hopes that Ms. Morris comes and testifies in favor of it.

Ms. Morris explained that she is afraid that they are not expanding to the 21 lots because the Code Enforcement Officer only counted the 17.

Mr. Mandalas stated that this decision had already been made.

Ms. Melson-Williams reminded the Chair that earlier, he moved what was the item of Old Business on the Draft Rules of Procedure and if he would like to go back to that now, staff stands ready to.

Chairman Senato stated that there would be a short recess.

The meeting was recessed at 11:00 A.M and the meeting was reconvened at 11:04 A.M.

OLD BUSINESS

Chairman Senato stated that the Board had been working on the proposed Rules of Procedure presented by the City Solicitor for approximately nine (9) months and noted that a tremendous amount of effort had been invested in reviewing and revising the document.

Chairman Senato stated that he believed the Board needed a break from the discussion and proposed postponing any further discussion or vote on the Rules of Procedure. He suggested tabling the matter until a future meeting, at a time to be determined by the Chair, to allow the Board an opportunity to step back from the issue before continuing its review.

Chairman Senato moved to postpone the discussion on the Update on Draft Rules of Procedure for Board of Adjustment to a future meeting. The motion was seconded by Mr. Brinkley and unanimously carried 5-0.

Roll Call Vote

Mr. Wagner – Yes

Mr. Holmes – Yes

Ms. Brinkley – Yes

Mr. Coburn – Yes

Chairman Senato – Yes

There were five (5) members in favor of postponing discussion of the Update on the Draft Rules of Procedure for the Board of Adjustment to a future meeting, with no members opposed. The motion carried unanimously.

Ms. Melson-Williams stated that, before the meeting was officially adjourned, staff wanted to note that they had not been prepared to continue discussion of the Draft Rules of Procedure at this meeting. She explained that staff had not yet incorporated the Board's discussion from the May meeting, which had been based on the first draft of the document. She stated that both staff and the City Solicitor, Mr. Griffith, still had additional work to complete based on the Board's comments. She added that it had not been possible to have a revised draft ready for that today's meeting, but that staff would continue working on it.

Mr. Holmes stated that he wanted to ensure the matter would not forgotten, noting that boards and commissions often postpone items with the intention of addressing them in the future, only for the issue never to be returned. He expressed hope that the Rules of Procedure could be brought back for consideration sometime in the fall, acknowledging that everyone had busy schedules but emphasizing the importance of completing the project.

Chairman Senato stated that he agreed and did not intend to let the matter remain unresolved. He

stated that, following discussions with the City Solicitor, Mr. Griffith, the matter would be brought back within a reasonable period of time. He explained that it simply needed to be placed on hold temporarily but assured the Board that it would return for further consideration.

Mr. Holmes made a motion to adjourn the meeting. It was seconded by Mr. Coburn and unanimously carried 5-0.

The meeting was adjourned at 11:09 A.M.

Sincerely,

Ashley Walls
Acting Secretary