

**CITY OF DOVER
BOARD OF ADJUSTMENT MINUTES**

May 20, 2026

A Regular/Hybrid Meeting of the City of Dover Board of Adjustment was held on Wednesday, May 20, 2026, at 9:05 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 and new member Mr. Albert “Bill” Holmes Jr. Mr. Coburn was absent.

Staff members present were City Solicitor Mr. Daniel Griffith, Mrs. Melson-Williams, Mrs. Savage-Purnell, and Mrs. Walls.

APPROVAL OF AGENDA

Mr. Holmes moved for approval of the agenda. The motion was seconded by Ms. Brinkley and unanimously carried 4-0.

APPROVAL OF THE REGULAR BOARD OF ADJUSTMENT MEETING MINUTES OF March 18, 2026

Ms. Brinkley moved for approval of the meeting minutes of March 18, 2026 with any necessary corrections. The motion was seconded by Mr. Wagner and unanimously carried 3-0 and one not voting.

Mr. Holmes stated that he did not vote on the meeting minutes of March 18, 2026 as he was not a Board member at that time.

COMMUNICATIONS & REPORTS

Mrs. Melson-Williams mentioned that there are no other items. The Planning Staff has no other items right now and there will be one application for the June meeting.

Chairman Senato mentioned that the next Board of Adjustment Meeting is Wednesday, June 17, 2026, at 09:00 A.M.

Chairman Senato asked if there were any other items.

Special Recognition

Mrs. Melson-Williams mentioned on your agenda today is a Resolution honoring the service of Christian J. Swalm to the Board of Adjustment. The Resolution reads as follows:

RESOLUTION

***Whereas, Mr. Christian J. Swalm** became an appointed member of the City of Dover Board of Adjustment on July 22, 2024 and has served with diligence in this capacity to ensure that the spirit of the City’s Zoning Ordinance is observed and substantial justice is done; and,*

***Whereas, Mr. Christian J. Swalm** has played a role in ensuring fundamental fairness and careful forethought in the interpretation of the Zoning Ordinance to ensure undue hardship and*

exceptional practical difficulties are mitigated by the granting of variances through his service on the Board of Adjustment; and,

Whereas, Mr. Christian J. Swalm in reviewing and deliberating on variance applications considered a property's zoning classification, character of the area, effects on neighboring properties and uses, and the creation of exceptional practical difficulties for property owners seeking to make normal improvements to their properties; and,

Whereas, Mr. Christian J. Swalm shared his knowledge of real estate matters when deliberating and in the consideration of applications while learning more about land use and zoning matters; and,

Whereas, Mr. Christian J. Swalm ended his term of service on the City of Dover Board of Adjustment as of May 1, 2026.

*Now Therefore Be It Resolved That, the City of Dover Board of Adjustment does hereby express its sincere appreciation to **Christian J. Swalm** for his service to the Citizens of the City of Dover as an active member of the City of Dover Board of Adjustment and extends its best wishes to **Christian J. Swalm** in future endeavors.*

Ms. Brinkley moved to adopt the Resolution honoring the services of Christian J. Swalm to the Board of Adjustment. The motion was seconded by Mr. Wagner and unanimously carried 4-0.

Chairman Senato thanked Mr. Swalm for his service. He stated that Mr. Swalm was an asset as a member of the Board who also contributed a lot of information. On behalf of the other members, we wish you the very best in the forthcoming years in whatever you do.

Mr. Swalm said thank you very much. I just want to say something really quick. Serving on the City of Dover Board of Adjustment has been a meaningful experience for me. I had the opportunity to work alongside dedicated Board members, City Staff, Attorneys, Engineers and Planners on important Land Use and Zoning matters that directly impacted the community. This role gave me experience on seeing how decisions related to development, property rights, infrastructure and many other things that impact real people and working families every day. I would like to thank the City for placing trust in me at a relatively young age and allowing me the opportunity to serve in this capacity. As many of you may know my resignation comes as a result of me relocating back to Middletown. But while closing this chapter, my commitment to public service and community involvement is not. I look forward to continuing to stay involved in land use, housing and community issues and variance and zoning matters moving forward. And thank you again to the Board and the City Staff and everyone that I have worked with during my time here. I truly appreciate the experience and the relationship I have developed with all of you along the way.

Chairman Senato mentioned again, thank you for your service. We really appreciate it very much. Thank you very much.

OLD BUSINESS

Continued Discussion of Draft Rules of Procedure for Board of Adjustment

Mrs. Melson-Williams mentioned you begin this process back in September of last year. Included in your packet was the original Draft that you started with that the City Solicitor Mr. Griffith offered as a kind of a starting point making use of other examples that he was aware of. And throughout the ensuing months predominantly in December and then in March of this year, you worked through that document kind of line by line, and making suggestions, and corrections to that. As a result, we have attempted to capture all of those suggested revisions and changes in what we are calling the Draft May 26 version of the document. What I've done is placed any new language in red and red strike through if we were eliminating something. I will let you know that the March minutes were not fully prepared when I finalized this document, so there may be things that we need to go back and capture. There are a couple of things that I left in blue where we need to either clarify what the intent was or some additional information needs to go in that area. If the Solicitor has some opening remarks and then beyond that we can probably just quickly kind of look through this. I would not anticipate that it would be officially ready for formal adoption today. We may have a few more edits, but we're certainly getting there.

City Solicitor: Thank you, Dawn. I just had a couple of comments. Because we've been working through this in and out for about eight months. I thought it might be a helpful reminder as to why we're doing this. Most larger Boards of Adjustment in the State of Delaware have Rules of Procedure. And the reason is not just to guide us in terms of how we conduct our meetings, although that's certainly helpful for that purpose; but it's really for the purpose of the public to be able to know how we do things. To be able to look at the Rules of Procedure and know how to present an application and to know what we are thinking about and to incorporate open public meetings requirements of the FOIA. So, what we are doing is tedious exercise and I get that. We are working through language paragraph by paragraph. But it really is important for the members of the public in the City of Dover to understand when they come before the Board how things work and know that we are not just flying by the seat of our pants. That we are guided by Rules and Procedures that we follow. Thank you for the painful process of working through it paragraph-by paragraph and word-by-word. It has been a very conscientious endeavor. I certainly appreciate it as somebody who will ultimately have to defend the Board if an applicant, landowner, or taxpayer challenges something we do. In the same way, I want to express my really deep appreciation to the Planning Staff. We worked through this during our multiple meetings and just say this should be changed, that should be changed. And it's a little easier to just say it in an open meeting, but then the task of having to go back and try to parse through what we decided and then incorporate those changes for the strikethroughs and additions, and then present this document to us had to be hard for you know a very busy and probably overworked Staff. The extra work it took to incorporate the changes we've already made. To be able to look today at where we started in September and where we are now as of May, it was herculean for the Staff to do this. So, I want to express my appreciation for the Staff for getting us to where we are.

Now that we have the documents before us, I think the most helpful way to do it would be to go through the May version. In the packets, I have it as 35 pages with the Draft May edits on page 20 of 35 (out of the packet). If the Board members would be so kind as to scroll or get to that page where the red edits start, I think we could just kind of walk through what has been done and confirm that the red reflects what we want.

Mrs. Melson-Williams: If you have your paper version of the packet, it's the one that says Draft May 2026 as you see on the screen. It is page number 1 of 16. The packet numbers that City

Solicitor Griffith would be packet page numbers for your entire meeting packet if you were looking at it on your computer.

City Solicitor: If everybody is on the same page literally with the heading Rules and Procedure, you will see the first red edit is the Planning Staff putting in the authority of the Board and how we have been created and what the statutory authority for our work is. I think that's absolutely appropriate. The public should know where we get our authority from. Does anybody have any comments on that edit?

After that, the next edit is definitionally. I think it was Chairman and, we changed it to Chairperson. I assume that there are no comments on that.

The next definitions that were changed were to identify what a variance is and the difference between an Area Variance and a Use Variance. These definitions are pretty much taken as under Delaware State Law. Applicants can know whether they are applying for a Use Variance or an Area Variance. We apply a different standard for each.

The next edit is an Appeal and how we define an Appeal. As you may recall, we not only hear original applications for things like Area Variances and Use Variances, but we also hear Appeals from zoning determinations.

Mr. Wagner asked if they jumped over Area Variances. What are "related bulk standards?"

Mrs. Melson-Williams: Under the term "Area Variance" related bulk standards would be things like setbacks from property lines, size of something, height, and other limitations. They're kind of "number" things that are part of the *Zoning Ordinance* that would limit how and where development could happen. For example, on a property the bulk standards would govern how close the building could be from property lines, the height of the building, and things like that.

City Solicitor: We were just talking about Appeals. So, what I was explaining is that sometimes you hear an original application for some type of variance, like we just said either Area Variance or a Use Variance. But also, you all have the authority to consider and determine Appeals from zoning determinations that have been made. If an applicant gets a letter from an administrative official in the City concerning land use issues and wants to appeal that then there's original jurisdiction for this body to consider that Appeal as well.

Mr. Wagner: Does that clarify 18.2? My question becomes if there is an Appeal. To who do you request the Appeal to and what is the procedure. We had a considerable discussion on 18.2.

City Solicitor: Said 18.2 is the Request for a rehearing. I don't know if that relates to Record of an Appeal. Request for a Rehearing is 18.2. Oh, now I get it. So, one of the things we were talking about when we came to 18.2 is what happens if an applicant is disenchanted with your decision, and what are their opportunities for recourse? What do they do? In the original Draft of these, we had a provision where they can ask you to reconsider your decision. We struck that. So, if they are disenchanted with your decision and this is consistent with *Delaware Code* and the Municipal Code, their recourse is an Appeal to the Superior Court and not coming back to you and asking you to change your mind.

City Solicitor: Just so you know, the difference between an Appeal and the definitions and this provision. An Appeal, there are some cases where you have the original jurisdiction for an Appeal of a decision that another City Code Official makes. So, for instance if a landowner says I think my neighbor's use of their property exceeds what the property is zoned for and they write a letter to the City for that. And then a mystery official for the city says I reviewed this and NO. It looks like I think your neighbor is using this property the exact way it is zoned for; and you decide well I'm going to appeal that, then that comes before the Board.

Mr. Wagner: He said okay.

City Solicitor: There are some matters where you hear Appeals and there are some where you hear initial Applications. This definition part that we are on now relates to when you hear an Appeal.

Rule 1 – Duties

1.1

City Solicitor: Moving back to where we were on definition. The last definition was Appeals. The first red edit we changed “Chairman” to “Chairperson.”

1.2

The only real edit here is the obligation and role of the Office of the Board of Adjustment to send out notices and to keep records.

Correction: It's not the role of the Officer of the Board of Adjustment to keep those records; it's the Department of Planning and Inspections to keep records and send out notices.

1.4

Here we added the provision that the Office of the City Clerk shall provide guidance to ensure appropriate Record retention practices are followed because it is the Office of the City Clerk who is responsible for retention of City Records.

Chairman Senato: In 1.4 you have the Board of Adjustment activity as required by law, he would presume is more general than anything else.

City Solicitor: What that really says is for the Office of the City Clerk, one of their main rules is to maintain all official City Records. Because we are an agency or an administrative body of the City of Dover, the Records shall be maintained by the Office of the City Clerk.

Rule 2

2.1

City Solicitor: The only edit we made was to include a Public Comments Opportunity on the agenda. And the reason we did that is because it's a requirement under the Delaware Open

Meetings Law. Every one of our meetings that you might recall has to include an opportunity for public comment.

Mrs. Melson-Williams: That opportunity for public comment is outside of a particular Application appearing before you. I think there was some confusion about that during our discussion. So, you have an Application for a Variance or an Appeal that has a public hearing, that is not what we are talking about here. This is a separate opportunity for public comment. It can be a comment on how the Board is functioning or something like that. It's not tied to a specific Application that has come before you.

2.2

City Solicitor: And that ties into the next edit as well. If you look at 2.2. There was a sentence stricken. That sentence says "the privilege of the floor may be granted to the public at any time by the presenting officer." That's not really the case. There is a time for public comment and there is a time for the presentation of an Application or an Appeal. We do not want the presiding officer to simply open up the floor for public comment at any time during the meeting.

2.3

City Solicitor: There's a small edit to 2.3, but it's kind of important because it changes having comments or testimony. What we are talking about is setting reasonable time limits on the testimony and support of an application, which is different from public comment. I think the edit makes that clear as to what we are talking about. It's limits on testimony in support of an application. The Chair can also set limits on public comments as well.

2.4

City Solicitor: These are minor semantic edits when all we did was add terminology to make it clear what we're talking about is the business schedule at a meeting. Are there any comments on 2.4?

Chairman Senato: The reason is we anticipated the presentation and/or the meeting may be suspended by motion and approval of majority of the Board of Adjustment members present. I just have a note/wording and I could be wrong. "May be suspended by the Chairperson by the motion and approval of majority of the Board of Adjustment members present." How does the Board feel about that?

Again, the meeting may be suspended by motion, and I am suggesting "and the meeting may be suspended by the Chairperson with a motion and the approval of the majority."

City Solicitor: So, action by the Board has to be by the majority of the Board. My concern is that it says the Chairperson is the one doing the adjourning of the meeting, even though it makes clear that it's after the motion. I think we might be better served if the provision makes clear that it is the Board that is suspending the meeting and not one person.

Chairman Senato: Okay, thank you.

Mrs. Melson-Williams: So, your recommendation would be to leave that as is without the reference to the presiding officer or Chair?

Chairman Senato: Yes, according to the Solicitor.

2.6

City Solicitor: So that does two things. The first thing it does is make clear that there is going to be a Public Comments Opportunity during all of our meetings, and then it talks about how the public comment obligation will be carried out. So, we don't anticipate it. We haven't had it since I've been here, but the presiding officer or the Chairperson can take action if we have either a speaker who is going beyond a reasonable time or, you know, a hundred speakers that wanted to take 3 hours. The Chairperson has the right to limit the time for public comment. And that's consistent with the open public meetings law that allows a public body to impose reasonable time restrictions on public comment. And then the other thing is, how those public comments can be made. You are not limited to showing up in person and making a presentation or a public comment here. An individual may submit a written statement in addition. And then it gives the presiding officer discretion to strike unduly, competitive, or irrelevant comments.

Chairman Senato: I want to go to 2.5 regarding administering the oath directed by the presiding officer. Basically, either the Chair or the Chairperson or the attorney, if I am reading this right can issue the oath. I believe it is in one of the Codes. This is a point of information.

City Solicitor: That is right. The way we have been doing it is that I've been administering the oath to people testifying, but what this provision says is that, whether I'm here or whether I'm not here, you can designate somebody to administer the oath.

Chairman Senato: Thank you for the clarification.

Rule 3 – Meetings of the Board of Adjustment

3.1

City Solicitor: This makes clear that if for some reason this room is not available, then our meetings can be held at another location made available by the City. The only comment I would make for 3.1 is if the meetings are going to be held at a different location other than City Hall, then it will need to be put on the agenda.

3.2

City Solicitor: The first edit has to do with meeting times. Regular meetings shall convene at 9:00 A.M. But then the edit makes clear that the meeting time may be adjusted by the Chairperson in consultation with City Staff or by a majority vote of the Board. You have the ability to change the time of your meetings. We would have to be in compliance with the public notice requirements. That would have to be sufficiently noticed in advance. You can't wait until the morning of and say let's do this at 10:30 instead of 9. But you do have the discretion to change the time of your meetings.

Mrs. Melson-Williams: Staff added that one about the adjustment by the Chair and in consultation with City Staff. My thoughts there were that if for some reason there was a weather delay and the City opening did not happen until after the start of the meeting time. So, something along those lines unexpected to be then able to adjust it somewhat administratively. For example, this morning's meeting was scheduled at 9; however, we had a freak snowstorm last night and City Offices weren't opening until 10 to be able to adjust that time.

City Solicitor: Thank you for that edit.

3.3

City Solicitor: Just a couple edits. The first just makes clear that we refer to Title 29, Chapter 100 of the Delaware Code (Freedom of Information Act) FOIA, and then we changed "Chairman" to "Chairperson."

3.4 – No changes

3.5

City Solicitor: This is also a requirement of the FOIA of the public meetings. It just makes clear that minutes will be kept and they will be made available for inspection and copying as authorized by FOIA. So, any member of the public can make a FOIA request for the minutes of our meetings. And they are considered public records.

Ms. Brinkley: Just an observation to add "be" after the word can. It should read "such minutes can be made available instead" of "can made".

City Solicitor: Yes, you are right. You found a grammatical error.

City Solicitor: We might have to workshop this a little bit. The first sentence says minutes of all meetings including executive sessions shall be kept and then such minutes can be made available for public inspection. Actually, executive session minutes cannot be made available for public inspection under FOIA. Maybe what we should do is say in the second sentence that minutes of public meetings can be made available for public inspection.

City Solicitor: Is there any objection to that language? There were none.

City Solicitor: So, the way it reads now is it says, "minutes of both public meetings and executive session can be made available to the public." The actual statement of the law for minutes of executive sessions states that if we moved into executive session back in that room and away from the public and we held an executive session, there would be minutes kept of that, but those minutes are not public. So, what we're trying to do is to distinguish between minutes that are made from our public meetings can be available for inspections or available for the public, but minutes of executive sessions are not available to the public. I think the way to do that would be in the second sentence say, "minutes of public meetings can be made available." If there's consensus for that, we can move on to the next item.

Rule 4 – Public Notice of Meetings**4.1.**

City Solicitor: The only edit is to make clear that the public notices will be provided at least 7 days before the meeting date. That is the requirement under the public meetings Law. That should not be controversial.

4.2

City Solicitor: The first edit eliminates “property” because that doesn't apply here. The next editing includes hearings from variance requests and appeal applications. That's really what this Board does. What you do is variance requests and appeals applications. So, that's what you have hearings for and that just makes it clear that what we are doing is providing public notices and advertisements for these types of hearings. And then the last edit on this paragraph is the Department of Planning and Inspections is responsible for completing notices, and that's the way it has always been done.

4.3

City Solicitor: This was inserted by Staff because they know the rules of notice better than we do. They inserted this provision to comply with the Law.

4.4 / 4.5

City Solicitor: It is the same for 4.4 and 4.5. Staff inserted these edits to make sure that it is clear how Staff provides notices.

Mrs. Melson-Williams: Yes, public notice is actually outlined in how it occurs. It's actually outlined in the City's *Zoning Ordinance* in Article 9 that deals with the Board of Adjustment. So, this language is basically lifted from that as notice of all hearings. There is a mailing that goes out to adjacent property owners that by Code has to be completed 10 days prior to the hearing and it is also subject to a newspaper legal ad as well with the same time notice. Then there's also provisions if the subject application is in proximity of an adjacent municipality.

Rule 5 – Agenda

City Solicitor: Again, the provision regarding the agenda is largely dictated by the public meetings law.

5.1

City Solicitor: We changed “one week to 7 days” which I think is the right thing. It makes it clear and it is the language used by the public meetings law.

Chairman Senato: He asked about the 7 days. Did it used to be 10 days?

Mrs. Melson-Williams: The public notice is very specifically in our Code as ten. For the agenda posting, our Code is silent about that and absent of any kind of Rules of Procedures, we chose to follow the FOIA requirement which is the 7 days. You may not have your packet at that 7 day point, but you will have the agenda in hand.

Ms. Brinkley: The Agenda for the Board of Adjustment meetings shall be available to members of the Board of Adjustment at least seven days prior. She asked if the 7 days prior were in delivery of the packets to the Board members or is it available somewhere else at 7 days?

Mrs. Melson-Williams: So, this talks specifically about the agenda and at that 7 day timeframe that agenda has to be posted. Referring back to Rule 4, its where the agenda is posted on a bulletin board here in City Hall. It is posted on the website. What we do if the packet is not going out to you on that day, which is what happened this time, we are very specifically emailing the Board of Adjustment, that yes, you're having the meeting and here is the meeting agenda. You can mark your calendar for one week, 7 days prior to your meeting, which in this case would have been last Wednesday. You're either getting your packet delivered to you that day or you're getting an email that at least has the agenda in it.

Ms. Brinkley: I was just trying to clear that up in my head, thank you.

Mr. Holmes: What about if there's a holiday in that week?

Mrs. Melson-Williams: We still count calendar days.

5.2

City Solicitor: It's the Staff because all applications and appeals come first to the Staff. They place them on the agenda for the next meeting date. And then the second part provides authority for you members of the Board if there is some type of matter that you believe should be on the agenda for a particular meeting to contact Staff. You contact the Director of Planning and Inspections and let them know that there's an item you would like to put on the agenda. So, in other words, the Staff will create the agenda based on the applications and appeals that they receive, but if you want something else in addition to that, you can feel free to contact Staff and make that request.

Mrs. Melson-Williams: This is why we left that paragraph that is in blue italics. That was in your original Draft, and it was a little unclear as to what the Board had decided about the ability of others to place items on the agenda. So, I think that may need some more discussion or clarification.

Ms. Brinkley: When I was reading this under 5.2 "The Department of Planning and Inspections shall be responsible for the preparation and contents of the agenda based on the applications as filed meeting established deadlines and other matters and correspondence that may come before the Board." That just wasn't clear to me.

City Solicitor: It might be confusing because it might be interpreted as referring to a meeting that we have. What it really means is the application has to meet the deadline. In other words, if an application was filed two days ago, and the applicant said, "hey, can I have it on Wednesday's

agenda?” We cannot do that; we have to meet the applicable deadline. The “meeting” there is not referencing an actual “meeting” of the Board. It’s referring to the obligation of the applicant to meet the appropriate deadline.

Ms. Brinkley: Is there a way you can clarify that a little bit?

City Solicitor: I think we can say as far as “complying” with established deadlines.

Ms. Brinkley: Thank you.

City Solicitor: Did the Board want to have any discussion on the blue edits which really apply to Applications and Appeals that go to the Planning Staff? The Planning Staff creates the agenda based on those Applications and Appeals. This provision has to do with any additional items on the agenda and how the Board wants to handle either requests from members of the public to put things on the agenda or requests from members of the Board to put things on the agenda. I think the way it reads; I'm not on the Board so I don't get to vote here. All roads are run through the Planning Department. In other words, if you members of the Board want something on the agenda, you go to the Department of Planning and Inspections. If members of the public want something on the agenda, they do the same thing. In my view, the Planning Staff has special expertise. Dawn in particular has special expertise in determining what matters the Board has jurisdiction over and what matters the Board does not have jurisdiction over. Because what this process involves really is going to be determining whether this is an appropriate matter for the Board or not. To me it makes sense for the people with specialized expertise to make the determination. So, that if either a Board member or a member of the public believes something should be on the agenda, that request should be made to the Staff.

Chairman Senato: Yes, definitely if they have the expertise. I would presume that any addition to the agenda by the Board or the public would have to relate to the particular applicant or particular meeting that is coming up or have to deal with an application. Is there any other factor? Would that leave it open to other items coming to the agenda that perhaps would not be related and have to be determined by Ms. Melson-Williams at that time?

Ms. Melson-Williams: The only thing that Staff would note is we'll probably revise this too instead of specifically saying the Director of Planning and Inspections, to just use the term Department of Planning and Inspections because technically at the moment that individual position is not filled. That's one thing that Staff would note here. It looks like there are probably four instances of that.

City Solicitor: It would just be a matter of taking the word “Director” out and putting the word “Department” in. But I think otherwise this provision makes sense in terms of having the Department make the decision as to what items go on the agenda including requests from the Board to go on the agenda.

Mr. Holmes: Yes, I agree with the City Solicitor. I would like the Planning and Inspections Department to take care of all of it and present me with an agenda. I want the public to go to them and not to me. I want the Department of Planning to handle it. Thank you.

City Solicitor: Other than the substitution of the word "Department" for "Director," we will keep that in.

5.3 There are no edits.

There is a blue provision about adding the statement about the Board of Adjustment meeting packet. I think what we talked about is not necessarily the content of the packet but the timing that packets are received. Is that right Dawn?

Mrs. Melson-Williams: Yes, I think since there is a packet that is distributed to the Board of Adjustment, we want to make some reference to that. Probably a statement of what the general contents of that are being the agenda and then the documents submitted. Also, we should probably indicate that it would be delivered to the members of the Board, and the word "delivered" I would not define it more than that. Right now, we do distribute via hard copy, but we also can distribute electronically. I think we would also note that the meeting packet would also be posted on the city's website, which is the practice we have today.

City Solicitor: I can propose language for that and circulate it. I don't think I realized that the packet got posted. Now in terms of the timeframe for the posting, I don't want to put any pressure on the Staff for that. I don't know if there's a requirement or deadline for the posting of the packet. Would it be the preference of the Staff for that to be just as soon as reasonably practical to be posted?

Mrs. Melson-Williams: Yes, because it doesn't always meet seven days, but by FOIA we only need the agenda posted by seven days. So, we strive to have it certainly within five days of your meeting.

City Solicitor: We will try to add a provision to 5.4 which I can circulate and which can say something to the effect of the Department of Planning and Inspections will prepare a meeting packet for the members of the Board as soon as reasonably practical in advance of the meeting. The package shall include, among other things, the agenda, minutes from the prior meeting if available, and all materials supporting any Applications or Appeals.

Ms. Brinkley: This is just in reference to the agenda, but not the informational content of what we would be dealing with. I know I need time to be able to consider it to do my best job on this Board. Receipt in seven days of that information is a really good time period because this is a one day out of a month kind of a deal that we do here, but we want to have time and give our best to it. We need time to be able to read it and think about it.

City Solicitor: Yeah, I think that's the ideal. I don't know that including it as a requirement is helpful because Staff is really busy. I don't want it to be a violation of the Rules and Procedure if you get it five or six days before the meeting. So that's why I thought it might be helpful to say it's as soon as reasonably practical. That way, it's no gun to the Staff's head to have it out by seven days in advance, but the Staff can use its best efforts to get it out as soon as possible.

Chairman Senato: The only comment I have is that this is a lot of work that goes into these packets from my experience and I know the Staff has been under the gun with most of this probably with everything you had to do. But I feel that the Board members need adequate time to

review, particularly if it's going to be a long case with a lot of information. I'm sure that Mrs. Melson-Williams will as quickly as possible provide the information and give us at least give us three or four days rather than the day before. I know the Minutes haven't been coming out and they're supposed to be ready for the next meeting to be approved and there's no way we can approve minutes two months later. We received a hard copy of the minutes today. I didn't have a chance to get on my computer last night because I got in late to read the electronic minutes that were sent a day before the meeting. I think we have to have some consensus of allowing the information to be presented to the Board members rather than that at the meeting or two days before. I'm hoping that at least with the Minutes we will have them every meeting month after the previous meeting and not two or three months later. As far as the packet, I would like to see that packet at least five days prior to the meeting. Not putting any restraints on Mrs. Melson-Williams and her Staff. But at least to give the members of the Board who do their due diligence to spend enough time to come into the meeting and make a sound judgment rather than rushing through it. It is important to the applicant that we do the best we can. With that being said it will be up to Mrs. Melson-Williams, I'm sure.

Ms. Brinkley: It is a consideration I think of the Board and for the Planning Staff. I do understand you feeling like you are under the gun and not able to do your best job. You may not be able to get it out in seven days. Maybe just some compromise there, so it's as close to seven days as possible. We need to put some kind of timing on it. I would not want it to end up either being two or three days before the meeting.

City Solicitor: If the Board members feel like it's been working sufficiently so far and trust the Department to get it out as reasonably soon as possible, I wonder if we even need to include a provision here about that. As they said, trust the process.

Ms. Brinkley: We have like seven days there now, right?

City Solicitor: Yes, there's seven days for the agenda, but not the packet.

Ms. Brinkley: I trust the Staff at this point. I've been receiving my information in a timely manner.

Mr. Holmes: I'm on a lot of other Commissions and was on the City of Dover Planning Commission years ago. Staff always do a good job. They always get it out to you. I take my hat off to all the different Staffs. I'm sure they will take care of us. Thank you.

Chairman Senato: They haven't failed the Board yet.

City Solicitor: There might be a consensus just not to put a deadline on the packet and materials and leave as it is.

Rule 6 – Attendance of Members of the Board of Adjustment at meetings; Quorums

6.1

City Solicitor: Instead of just notifying one person, if a member is not able to make a meeting, the member shall be responsible for notifying both the Chairperson and the Director of Planning

and Inspections or Staff member. So, it could be Mr. Senato and/or another Presiding Officer or either Dawn or Staff.

Chairman Senato: In doing all of this, something is missing. I believe it was a couple of months ago that the attendance of the City Solicitor at the meetings it was suggested and that we add that the City Solicitor should attend all meetings. If not, a representative from his office should be in attendance at the Board meetings. I believe Mr. Coburn made a motion and it was approved by the majority of the Board. When it was brought up and discussed very seriously, it was dropped from Rule 6. And my first question is, why was it dropped if the Board had agreed; correct me if I'm wrong, I believe there was a motion and Ms. Brinkley and Mr. Wagner, you were here, to that effect. So, whether the Planning Department or the City Solicitor agreed or disagreed with it, it should have been in this packet as requested by the majority members of the Board at that time and maybe further discussed.

Mrs. Melson-Williams: I will note that discussion occurred at your March 18 meeting and it is found on page 20 of those minutes. As I noted, this main version of your "Rules of Procedures" was ready for basically distribution before those minutes were officially completed. So, it would be an item. I don't know if we specifically said where it should go, but it was mentioned and we just need to find the proper location in these rules for it to go. It was right after the discussion of Rule 19, so it was kind of at the end when we were at the section of any other questions and thoughts about the "Rules of Procedures." So, it was discussed and it can be made part of your "Rules of Procedure." Rule 9 talks about the attendance of the members of the Board of Adjustment. I'm not sure if there's a better location in these rules or if there needs to be an additional rule or statement.

Chairman Senato: I believe at the time it was mentioned and that's why it was brought up by Mr. Coburn because we were talking about attendance of members of the Board of Adjustment. Of course, the City's Solicitors considered a member not necessarily of the Board members himself, but he's here at the Board meetings. That's why it was suggested at that time it would go under 19.1 where Rule 6 is attendance and members. Maybe that's a technicality and maybe we should have 6.1. I think that's where it was agreed upon at that time and that's why it was brought up because we were discussing attendance. It could either go in there as a numbered paragraph just for the City Solicitor. But it seems logical that it would be the place to go.

Mr. Holmes: Yes, I think that is where it should go, number one and number two. I think the City Solicitor should be at all the meetings. I don't want to do business without someone here. I don't expect him to be at every meeting because he has his life to live, but I think he could always make sure that somebody is sent to represent (another attorney). I remember one time when I was head of the Planning Commission for the County and the Solicitor did not show up, we didn't have the meeting. We dismissed the meeting and had it the following week. I think it's very important that you have legal representation at these meetings because you will never know what might happen, especially when you are dealing with the public.

City Solicitor: We can add it to Rule 6. The only question I have in my head is whether an administrative body of the City can require the City Solicitor to be at their meetings. That might be a City Council decision. I don't know if the City's Human Rights Commission decided that the City's Solicitor should be at other meetings or whether they have the authority to just make that determination on their own. I think it might be a City Council decision as to how I spend the

City money. I think we can put it in, but it might be worthwhile to say if there's any objection later on, we recognize that it might be beyond the authority of the Board to require the City Solicitor to be at all of their meetings.

Ms. Brinkley: With the unavailability of a City Solicitor at each one of our meetings, I could see where that goes to extend issues that we might have or concerns about because we might need that legal consultation. And we're thinking about a Staff that's overworked, that works really hard and they do a good job. And just waiting and waiting and waiting for an issue to be resolved, I think that puts more work into our Planning Office. And on something that we have fresh in our minds, trying to think about, why not just go and get it out of the way. That's really important, I think getting something out of the way. Just a comment to be considered.

Mr. Wagner: Because this requires expenditure, let's pass it on to the City Council to get it resolved because I think that's the issue.

City Solicitor: I won't say as a matter of practice that I won't be at the meeting. I've been here almost a year. As better practice, either I or somebody from my office will be covering every meeting. There are only two meetings that I attend every one of and that's City Council meetings and these meetings.

Mr. Wagner: Was it resolved?

City Solicitor: When I was first hired as City Solicitor, I kind of asked, hey, what meetings do I go to? And I was told by I think the City Manager, you go to every Board of Adjustment meeting, every City Council meeting and then you go to other meetings at the request of either the City Council or the Department Head.

Chairman Senato: I guess the reason why this was brought up to the solicitor personally. For the presiding officer or the Chair if we have a request not brought forward prior to (the meeting) with the exception of one that he had to be dismissed from the meeting, and the thing that bothers me is when we have an applicant in front of us. We are a quasi-court which means similar or like in a sense as everyone knows. I don't want to be here conducting a meeting and have an applicant here participating and the frustration of what he has to go through if that's the case and then have the City Solicitor say I've got to stop the meeting because I have to take a call with the Judge. I'm not being critical of the City Solicitor because he has his work to do and that's fine. What I have to worry about as the Chair, I have to consider the Board members. I have to consider Mrs. Melson's time and the work that the Staff has put in. I have to consider the work that you have put in, but I have to consider the citizens in the audience and mainly the applicant in my mind. And I don't want an applicant to wait. We just get ready to vote on something and I'm going to call for a 15 minute recess. That's not going to happen. It's not going to happen when I all of a sudden have whispered I got to leave for 10 minutes because I have to make a call. Maybe it sounds as if I'm being critical and I apologize to the City Solicitor. Believe me, I have a lot of respect for the City Solicitor since I have known him. That's not the reason; I'm just talking about policy. I'm talking about how the Chair feels about interrupting a meeting with the applicants or whoever else is there anticipating some kind of a decision from this Board without any kind of delay. It should never be. In the 27 years, possibly, I have been on the Board, we have never had this problem. We have never missed a City Solicitor here at the meeting for the Executive Session. So, my obligation is to the Board, Mrs. Melson, to the citizens, and the

responsibility that I have to the City of Dover. With that being said I hope that we can come up with an agreement that a City Solicitor or representative will be here at all times. For the City Solicitor, this is the meeting committee or Boards they should be attending. Because if he is not here, not through his fault, and then all of a sudden we need to go into an Executive Session and we don't have an attorney. Or a Board member asks a question and we need a legal opinion and he's not here. What do you do? I don't want that situation to happen at all.

City Solicitor: Why don't we have a vote to include a provision in the Rule that the City Solicitor or a representative be present at each of the meetings. I don't have any difficulty in including that in the Rules of Procedure. The only caveat I would have is it's not in conceivable that members of City Council can override that. So, we'll include that provision under Rule 6.

Ms. Brinkley: I do have one question. On "or a Representative from," would we include that? It would say something to the effect that the City Solicitor or his or her Representative.

City Solicitor: It might make sense to put that in as the last part of 6.1. rather than add a new provision at the end. Because that provision relates to attendance. It would be another sentence added to 6.1.

6.3

City Solicitor: It previously said when a quorum is not present, the members may adjourn, it makes sense. You can't do business if the quorum's not there. So, that edit makes clear that when a quorum is not present, it's required to adjourn.

6.4

City Solicitor: This just changes Office of Planning and Inspections to the Department of Planning and Inspections. It makes it clear again that if no members are present Staff members shall adjourn the meeting.

6.5

City Solicitor: Previously said that three affirmative votes would be required. But that's not actually the case, because if three members of the Board are present at a meeting you have a quorum and two affirmatives' votes would be sufficient. So, we took that provision out. It previously said that a majority of the members of the Board present can vote on these. So, because a quorum can be three, there can be two votes. This provision previously said you need three votes to approve a variance application. That is not actually the case. If only three of you are here, you only need two votes. The new 6.5 is just a semantic change.

Rule 7 – Voting Procedure

City Solicitor: There are no substantive changes other than 7.1 rather than the presiding officer calling a vote. The presiding officer request a call of the vote.

Rule 8 – Record Keeping**8.1**

City Solicitor: This is also a requirement of the FOIA. A file shall be kept in the Department of Planning and Inspections of all Board of Adjustment meetings.

Rule 9 – Minutes of Board of Adjustment Meetings**9.1**

City Solicitor: Describes what the minutes consist of. One edit is that it includes the meeting format so that if it is both in person and video availability. The minutes will include not only the members of the Board that are present but also the Staff members who are present. So, subsection “F” here was a subject of discussion at a prior meeting. We talked about what should be included in the minutes. The language we came up with is included in the edit so that the minutes will describe and summarize what was said. It will not be a verbatim transcript. That’s the way it has been done. I think that’s what we agreed on. And then “G” the minute shall reference the reports, exhibits, and other documents submitted for the record. I think this is all consistent with what common practice has been.

Chairman Senato: I believe there was a general discussion if I remember, there was some opposition by a couple of Board members. Ok, let me ask you this. The minutes that we are going to approve would be as said, but the full transcript of the minutes will not be presented on the agenda for approval; just the short version, am I correct?

City Solicitor: So, you have the minutes in front of you from the March meeting. This is typically what minutes look like. It's a kind of a summary of what's said rather than verbatim transcript. Although this looks much like a transcript. But we are not requiring the Staff to put together the full transcript of everything that was said at every meeting. What it does is just kind of summarize what was said by everybody.

Chairman Senato: We vote on a summation. And not on the total minutes that were transcribed. Could this in the future bring up a bring up a legal situation? In other words, here is my problem with that. But the problem is to me the legality. If the Board is voting on the minutes that were said and discussed in an hour’s meeting with an applicant, and here we are voting on a short version. The problem I have with that is what happens with the full version? Is that without voting and coming up in front of the Board a legal document? If anything happens or if there's errors or omissions or miswording on those full minutes that the Board members haven't had a chance to look at prior to the meeting and saying “yay” or “nay” That's my problem. We are approving something that we are not really seeing. We are just seeing a summation. Errors can be made. Things could be misinterpreted. If you have an Appeal or anything like that, I’m sure the Superior Court is going to want the full version and not the short version.

City Solicitor: So, the way it typically works when we go to the Superior Court of handling probably a hundred Appeals from administrative decisions, is that the first thing after an Appeal is taken is that the Superior Court will order that the record below be transmitted to the Superior Court. So, what does the record below consist of? The record below consists of the materials that

were given to the Board as part of the meeting and the minutes of the meeting. The Superior Court is pretty used to seeing that the record consists of the minutes, not necessarily a verbatim transcript. Now, that goes back historically. More recently, most meetings are recorded; so, we have either a video recording or an audio recording of all meetings. So, we can go back later if there is ever an Appeal and find and create a transcript of that meeting. I think an audio recording is made of these meetings. So, if there is ever an Appeal that a transcript can be created. But for your purposes, what you're really doing in each meeting when you look at the minutes, it's just making sure that they accurately reflect what happened generally in terms of yes, I voted that way or the other person did not vote that way. This is a fair summary of the Application that was brought. So, you don't really need a verbatim transcript for purposes of creating accurate records for an Appeal. That can be done after the Appeal is taken.

Chairman Senato: I just want to make sure that if they go to Superior Court or something happens that the Board actions for whatever decisions are made and whatever are in the full minutes, we are not going to be held accountable because we never really voted on it like the procedures has been for the last 27 years. That's my only concern. Other than that, based on what you just told me, I don't have a problem with that.

He asked the Board if they had any problems? He asked the Board if they were in agreement.

Mr. Holmes said he did not have a problem.

Mrs. Melson-Williams: Staff would like to note that your meeting minutes are fairly detailed. If you really wanted to see what short looked like, we could show you what short looks like. Because under some of the Robert's Rules, it really is: who's here, who made the motion, what the motion was and what the vote was without any of the presentation of the applicant talking and any of that. So that's the minimum, and we have never done the minimum. We have been fairly complete in reflecting the presentations by staff, the applicants, the questions back and forth, as well as the votes that we are required to do. Is it verbatim? No. But it's fairly close. I would say it's a cleaned up verbatim. We put things in sentences because if you really wanted to do verbatim, you would have captured all the ums that I would say by habit I can't break. The fact that you don't talk in sentences and all of that. So, it's a clean-up version of what transpires in each meeting. You certainly shouldn't feel like you're not voting on the full actions that happen.

Chairman Senato: I agree with Mrs. Melson. I know the Robert Rules of Order. I have no problem with shorting this version down to eliminating all the work that you have to do. But as Chair, some of the questions I have might not be in agreement, but I have a reason to bring them up. It is now settled. I'm in agreement and the Board is in agreement and we are fine with that. I appreciate what you do with the Planning Department and the minutes.

Mr. Holmes: I would also like to add to the Record that I have represented over 15 municipalities in Delaware, and I have never seen minutes this detailed from any type of proceeding. The minutes that I have seen are much more detailed than the County.

Rule 10 – Conduct During Meetings

City Solicitor: There were not very many controversial comments about the Draft Rules. The only matter of discussion was Rule 10.3 which originally provided that if one of the members of the Board transgresses the Rules, any other member of the Board can call that member to order. We changed that. So, if any member of the Board transgresses the Rules, the Presiding Officer and the Presiding Officer alone can call that person to order.

Rule 11 and Rule 12 – There are no proposed changes.**Rule 13 – Standards of Conduct**

City Solicitor: We did make wholesale changes to Rule 13 Standards of Conduct. You'll see that they were pretty detailed in prescribing appropriate attire and things like that. We had some First Amendment concerns about prescribing what people are allowed to wear and how they're allowed to present themselves. So, we made changes to be a little more consistent to balance the fact that members of the public who come here do have the First Amendment rights of expression, but you all also have the ability to impose reasonable time, place, and manner restrictions. And so proposed new Rules 13.1 and 13.2 that you see in blue, they're offered for additional discussion. What it really provides is some discretion on the part of the Board to make sure that members of the public conduct themselves in an orderly fashion and follow the direction of the Presiding Officer. No cell phones going off or being loud and no applause or disruptive behavior. It really just gives the Presiding Officer the right to maintain order in the chamber without imposing upon any First Amendment rights.

Rule 14 – Appeals and Variance Applications to the Board of Adjustment**14.1**

City Solicitor: You will see in the blue edit, we mentioned a few times now that your responsibilities are sort of divided between hearing Variance Applications on the one hand and hearing Appeals from zoning determinations and other decisions by Code Officials on the other. So it's whether or not, we need to clarify and separate those two things or combine them and determine how we proceed with them. So, the way that has been done, is the way we originally had it combined here as Appeals and Variance Applications in 14.1. We added Variance Request Applications and Appeals and it's just a general statement about how the applications are made. They have to be on the right forms; they have to be approved by the Board. You have the right to reject Applications and Appeals that are not conformed to the forms and have not paid the proper fee.

14.2

City Solicitor: One of the things we took out is if you look at 14.2. The original version had that all appeals and applications include a recent survey. That has never been, as far as I know, an actual requirement; so, that has been taken out. No survey is required.

14.3

City Solicitor: We added a provision that in addition to people speaking on behalf of or in opposition to an application or Appeal, the applicant or an opponent can also submit the exhibits that could be entered into the Record. It's both an oral presentation and a documentary presentation both in support and against.

Mr. Wagner: My only intent is to make sure anybody who appears before us fully understands what options they have in front of this Board. I understand and explain to me that Appeals will go to the particular court. What does the person do or how do they understand if you say to them, they had a right to an Appeal. How are we involved in that if the court is going to be involved in that? So, does that make sense?

City Solicitor: It does and so the provision allowing appeals from Board of Adjustment are included in the *Delaware Code*. So, they should know from that. I will say what it would be analogous to is if you're present in an actual Superior Court. If you go down the street here and you appear in front of the Superior Court Judge and the judge rules against you. The judge doesn't then say I'm dismissing your case. By the way, now you have the right to file an Appeal to the Supreme Court. It's not the burden of the governing body to tell the applicant how to appeal. If they ask, we can answer, but we typically don't give that type of advice and sometimes it can create some type of liability. We've had cases where city employees have been accused of giving advice by saying you have 30 days to do this. Well, it turns out they had ten days to do that and then the City creates a liability for itself. I think it's a little cleaner to just make a decision on the application without providing the applicant any advice on what happens if we rule against them unless they ask.

Mr. Wagner: We make a decision, the Board?

City Solicitor: Sure, so let's assume we deny a Variance Application. That's as far as you have to go.

Mr. Wagner: Excellent.

14.4

City Solicitor: There are no substantive changes.

14.5

City Solicitor: We made it clear that it is both Appeals and Variance Applications.

Rule 14.5

City Solicitor: There was a substantive change to conform with the way, we actually do things. So, it's an important provision because we've had this happen fairly recently where an applicant for a variance after public notice of the hearing has been made cannot change the application. That's sort of a FIOA requirement that you cannot; if the public gets noticed of what's happening seven days in advance then an applicant can't come here and on the fly change what's being requested. However, an applicant can reduce the variance request. So, in other words, an

applicant can't walk in and say, I have applied for an area variance to allow me to build a little closer to the curve a little closer to the end of my property line and then come in and have multiple variance applications. Then when they come before us they add more and ask for more than what was in the original application. What they can do is reduce the number. They can come in and say, hey, when this was originally filed, I was looking for four different variances. We've worked out two or three of them. Now, I only need one or two. So, what this provision does is make it clear that an applicant can reduce what they're asking for when they come before us, but they can't make additional requests after the agenda has been posted.

14.6

City Solicitor: This is about conduct during the hearing. You see one of the edits is no cross examination of witnesses or applicants will be permitted by the public during the public hearing. The reason we made that change is because the Board is permitted to ask questions of applicants or witnesses and you can do it in the nature of cross examination. We just wanted to make sure that members of the public aren't cross-examining each other during the course of a proceeding. Only the Board can ask those types of questions of the applicants or witnesses.

14.7.

City Solicitor: If you do not believe you have enough information ahead of time or if an applicant requests, you can make a motion and upon approval, you can continue the hearing or vote to leave the record open. So that they won't have to start all over again when they come back. It's consistent with pretty standard practice.

14.8

City Solicitor: We struck the portion that was not consistent with our current practice. It reads "any oral discussion of or vote upon the application by the Board shall be deemed in the nature of preliminary deliberations to the rendering of a final written decision and only the written decision, as adopted by a majority of the Board, shall constitute a decision of the Board." What that makes for you is, your decision is final when it is made after the hearing. When you vote at this hearing on an application, your determination is effective then and it doesn't have to wait until the final written decision. For those of you who have been on since September, you should be getting final decisions from me, but I have not gotten them to you. I have been too backed up. Hopefully within the very near future, you will be getting a final written decision on what you've decided so far. What this provision says is you don't have to wait to get my draft of the written decision to sign off on it. Your decision is final at the time of the hearing when it gets made. That's why we took out that provision. That provision suggested that your decision doesn't take any effect until I get you a proposed written decision and you sign off on it.

14.9

City Solicitor: The blue portion is whether the Board should consider establishing a method for extension of the Board's action. That would require an amendment to the *Zoning Ordinance* and then to consider the establishment of the Administrative Variances. I'm not exactly sure what we discussed concerning extension of the Board's action. He asked Dawn if she had any recollection of that?

Mrs. Melson-Williams: I think that was in our March meeting and I think the concern was adding it in and to not add that into Rules of Procedure until there was an item in the Code that would allow for such extension. If that's something to pursue, Staff will have to work on some Code changes and have that move through a process before you could have that. Right now, the Code says that your Board's action has a basically an approval for one year. We've interpreted that one year and during that time frame, the applicant has to take actions to implement what they're asking for. Whether that's a size of a sign, they have to make their permit submission and move towards getting that sign installed or any other kind of permitting or plan review process subsequent to your action. Extensions that we cannot just drop in your Rules of Procedure, it would have to be actually in the *Zoning Ordinance*.

City Solicitor: Okay, and it looks like that's the same for Administrative Variances.

Mrs. Melson-Williams: Yes, the same thing. There's provisions in *Delaware Code* that allow for Administrative Variances. Currently that is not reflected in the City's *Zoning Ordinance*. It would have to be Code and Text Amendments written and adopted in order to make it part of our process.

City Solicitor: So, we'll keep an eye out for any Code amendments that we would have to incorporate into the Rules.

Rule 15 – Order of Proceeding

15.1

We were discussing this at our last meeting. This is how our meeting can be conducted. The Chairperson and Staff will describe the general nature of the proceeding, whether it's an Appeal or a Variance Application. She'll describe the property. The Staff will also brief the matter and enter the exhibits into the record. So, it's kind of Staff to start the proceeding and to describe the type of application you're going to be considering, the land, where it is, and the type of application that is being applied for. And then staff will also state whether any correspondence pertaining to the application has been received. That stuff will typically be in your packet.

15.3 and 15.4

City Solicitor: Sections 15.3 and 15.4 which are really just the description of how the Application will be presented.
There are no real edits to those.

15.5

City Solicitor: We make clear that during the public hearing that any person desiring to make a statement can. The reason why that edit was important because we wanted to distinguish people who are speaking in favor of or are against an application to make sure they are doing it during the presentation of that application and not when we have our public comment portion. So, we have what the comment portion of our meetings; it is not designed to relate to any one particular application. It's just designed usually for members of the public to make general comments about

the Board and about no specific application, but it's really just grievances they have or anything complimentary they have to say. We want to make clear here that if a member of the public is going to speak in favor of or against an application, it is during that presentation of that Application.

The same thing for **15.6**

15.7

City Solicitor: We removed the opportunity for a "sur rebuttal." The manner in which an Application or Appeal is presented goes as follows. Application is presented and the people who are in favor of it speak in favor of it. Once that is completed, then any opponent can speak in opposition to that Application or Appeal. Once the opposition is completed, the original applicant or appellant can then respond to that opposition, but that's it. What this had previously provided for was the opposition to respond again. It's a second bite of the apple, and we took that out. So, its opening, answering, response, and that's it.

15.8, 15.9, and 15.10 no substantive changes

15.12

City Solicitor: We took out the part where the Board can vote to leave the public record open once all of the testimony evidence is presented. Once a public hearing is closed, it's closed. No new testimony or evidence after its closed.

Rule 16 – Delaware Freedom of Information Act.

City Solicitor: It's making clear that we are complying with FOIA.

Rule 17

City Solicitor: We took it out because it said that members of the Board are subject to the statute Officials Code of Conduct. We already know that without having to put it in there. Right here we were referencing the State Code provision, and as you can see in the blue the comment was there has to be a *Dover Code of Ordinance* citation on ethics and any code of conduct references. I think what we decided was there's no reason to keep a separate ethics obligation, you know, rules. These are Rules of Procedure, not any ethical rules of conduct.

Rule 18

City Solicitor: We agreed that once your decision is final, applicants and appellants who lose can't come back and say I want you to hear it again. There is no provision for that in Dover Code of municipal ordinances. Their recourse is an Appeal (to the court).

Rule 19

City Solicitor: The adoption and the effective date that the Rules become effective will be once these are all finalized, they are reviewed and you vote to adopt them. That's when they become

effective. I think we have walked through now all of the proposed edits. We still have some additional ones to make after we discuss them, but I will turn it back to the Chair.

Mrs. Melson-Williams: So again, we've gone through these and the kind of next step are I think we ought to wrap this up. Staff and the City Solicitor still have a little bit more work to do. I'm not sure that we'll have that done by the June meeting. But, what we would probably envision is creating another Draft version and be able to provide that to you at a meeting but not necessarily act upon that at that same meeting. Just kind of say here's the latest and then schedule, formal consideration at a subsequent meeting; if that makes sense.

Mr. Holmes: It does make sense so let's move on.

Mrs. Melson-Williams: Yes. So, we'll work on it again, get you another version of it, and go from there.

Chairman Senato: Thank you.

NEW BUSINESS

Chairman Senato asked if there were any items of New Business?

Mrs. Melson-Williams: Mr. Chair, in the adoption of your agenda, you did not add any items under New Business.

Public Comments Opportunity

Chairman Senato mentioned as the open meeting, the public are given an opportunity to provide comments to the Board of Adjustment for anyone wishing to speak.

Mrs. Melson-Williams mentioned to Mr. Chair that there are no members of the public in the audience and there are no members that have joined us online today. If there were, they would have been given that opportunity to make a brief statement limited to items under the purview of the Board of Adjustment. So, I believe that there are no public comments today.

Chairman Senato: Thank you. He thanked the Board members, City Solicitor, and Staff for hard work that has been put in and probably it still will be another month or two. Thank you very much for that.

Mr. Holmes made a motion to adjourn the meeting. It was seconded by Ms. Brinkley and unanimously carried 4-0.

The meeting was adjourned at 10:59 A.M.

Sincerely,
Maretta Savage-Purnell
Secretary

