CITY OF DOVER, DELAWARE
BOARD OF ADJUSTMENT MEETING
Wednesday, May 20, 2026 at 9:00 AM

City Hall Council Chambers, 15 Loockerman Plaza, Dover, Delaware

AGENDA

IN-PERSON & VIRTUAL MEETING

This Board of Adjustment Meeting for May 20, 2026 will be held in City Hall, City Council Chambers. The public is welcome to attend in person. The Meeting will also be provided as a Virtual Meeting using Webex, an audio/video conferencing system as an electronic means of communication. See participation information below to join by phone or computer.

PUBLIC PARTICIPATION INFORMATION
To Attend City of Dover Board of Adjustment Meeting of May 20, 2026

Join by Phone: Dial +1-650-479-3208
Access Code: 253 191 10649
Password from Phones: 36837262

Join Online: https://bit.ly/BOA05202026
Webinar Number: 2531 911 0649
Webinar Password: DoverBOA

If you are new to Webex, get the app now at https://www.webex.com/ to be ready when the meeting starts. For problems accessing the meeting, please call the Planning Office at (302) 736-7196.

WELCOME

Welcome to new Board of Adjustment member appointed May 11, 2026 to complete a Term to Expire July 2028: Albert W. "Bill" Holmes, Jr.

ROLL CALL

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

APPROVAL OF MINUTES

1. Adoption of Minutes of March 18, 2026

COMMUNICATIONS & REPORTS

Meeting Reminder: The next Board of Adjustment Meeting date is Wednesday, June 17, 2026 at 9:00 AM.

SPECIAL RECOGNITION

2. Resolution honoring the service of Mr. Christian J. Swalm to the Board of Adjustment

OLD BUSINESS

3. Continued Discussion of Draft Rules of Procedure for Board of Adjustment

NEW BUSINESS

PUBLIC COMMENTS OPPORTUNITY - An opportunity is given for members of the public to provide comments to the Board of Adjustment not specifically related to Applications with Public Hearings.

ADJOURN

Posted Agenda: May 13, 2026

THE AGENDA ITEMS AS LISTED MAY NOT BE CONSIDERED IN SEQUENCE. PURSUANT TO 29 DEL. C. §10004(e)(2), THIS AGENDA IS SUBJECT TO CHANGE TO INCLUDE THE ADDITION OR THE DELETION OF ITEMS, INCLUDING EXECUTIVE SESSIONS, WHICH ARISE AT THE TIME OF THE MEETING

MINUTES OF

BOARD OF ADJUSTMENT MEETING

OF MARCH 18, 2026

- The Meeting Minutes of the March 18, 2026 are still being prepared. These Meeting Minutes will be distributed to the Board of Adjustment via email or hand delivered.
- Adoption of the Meeting Minutes may be considered at the May 20, 2026 meeting of the Board of Adjustment.

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 it best wishes to* ***Christian J. Swalm*** *in future endeavors.*

_____

Richard Senato
Board of Adjustment Chair

_____

Sharon Duca
Acting City Manager
On behalf of Department of Planning & Inspections

RULES OF PROCEDURE OF THE BOARD OF ADJUSTMENT OF CITY OF DOVER, DELAWARE

These rules shall govern the procedure of the Board of Adjustment of the City of Dover, Delaware.

Definitions

"Agenda" includes but is not limited to a general statement of the major issues expected to be discussed at a public meeting, as well as a statement of intent to hold an executive session and the specific ground or grounds therefor.

"City" means the City of Dover, Delaware, unless otherwise specified.

"Board of Adjustment" or **"Board"** means the Board of Adjustment of the City of Dover, Delaware.

"Meeting" means the formal or informal gathering of a quorum of the members of the Board of Adjustment for the purpose of discussion or taking action on public business.

"Chairman" means the Chairman of the Board of Adjustment.

"Presiding Officer" means the Chairman of the Board of Adjustment, or such other person who presides over the meetings of the Board of Adjustment, pursuant to the Rules of the Board of Adjustment.

"Public business" means any matter over which the Board of Adjustment has supervision, control, jurisdiction or advisory power.

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Rule 1 - **Duties**

1.1 The Chairman shall preside at all meetings or hearings of the Board, decide all points of order or procedure, and perform all duties required by law or these Rules.

1.2 The Department of Planning and Inspections shall conduct, at the discretion of the Board, all official correspondence of the Board, send out all notices required by law and by these Rules of Procedure, keep records of each examination of other official action of the Board and perform all duties required by law and these Rules of Procedure.

1.3 In the absence of the Chairman, the presiding officer, with all powers and duties of the Chairman enumerated herein, shall be the Vice-Chairman as elected from its membership by a majority vote of all of the members of Board of Adjustment. In the absence of the Vice-Chairman, the presiding officer, with all powers and duties of the Chairman enumerated herein, shall be such other member of the Board of Adjustment as is elected by a majority vote of the members of Board of Adjustment present.

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Rule 2 - **Order of Business; Conduct of Meetings**

2.1 The order of business at each regular meeting of the Board of Adjustment shall be as follows:

Call to Order
Pledge of Allegiance
Roll Call
Approval Agenda
Approval of Minutes
Communications of Reports
Old Business
New Business
Adjournment

2.2 The order of business can be altered at any duly constituted meeting by an affirmative vote of a majority of the Board of Adjustment members present. The privilege of the floor may be granted to the public at any time by presiding officer.

2.3 During public hearings, the presiding officer may set reasonable time limits on public comments. An individual may submit a written statement in lieu of or in addition to verbal comments. The presiding officer may terminate or limit testimony which is irrelevant or unduly repetitive.

2.4 Every attempt will be made to complete all business scheduled. In the event that the presentation of a scheduled agenda item takes longer than reasonably anticipated, the presentation may be suspended by approval of majority of the Board of Adjustment members present. A motion to suspend a presentation should, to the extent possible, include the date and time at which the remainder of the presentation will be heard.

2.5 Testimony at public hearings shall be taken under oath which shall be administered by the Board's attorney or any other individual as may be directed by the presiding officer.

Rule 3 - Meetings of the Board of Adjustment

3.1 Regular meetings shall be held in City of Dover City Hall Council Chamber or such other location as designated by majority vote of all the members of the Board of Adjustment.

3.2 Regular meetings shall convene at 9:00 A.M. on those days when a meeting has been properly noticed and advertised.

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3.3 Special meetings and executive sessions may be held as provided in Title 29, Chapter 100 of the Delaware Code. Special meetings may be called by the Chairman upon at least 48 hours' notice to each member. The Chairman shall call a special meeting within 10 days of receipt of a written request from any two members of the Board. Notice of a special meeting shall include an explanation as to why the notice required in Rule 4 could not be given.

3.4 Except for executive sessions, all meetings shall be open to the public.

3.5 Minutes of all meetings, including executive sessions, shall be kept and made available for public inspection and copying. At a minimum, the minutes shall include a record of attendance and a record, by individual members of the Board of Adjustment, of each vote taken and each action agreed upon.

Rule 4 - Public Notice of Meetings

4.1 Public notice of all meetings shall be posted on the public bulletin board located in City Hall and on the official City of Dover website.

4.2 Public notice, property posting and advertisement of meetings and public hearings shall comply with all applicable provisions of State law and City of Dover ordinances. In addition, notice of a public hearing shall be mailed to an appellant or applicant (or attorney or agent of the appellant or applicant) at least 15 days before the date of the hearing.

Rule 5 - Agenda

5.1 The agenda for Board of Adjustment meetings shall be available to members of the Board of Adjustment at least one week prior to the scheduled meeting.

5.2 The Director of the Department of Planning and Inspections shall be responsible for the preparation and contents of the agenda. Any member of the Board of Adjustment may place items on the agenda by contacting the Director of Planning and Inspections, either verbally or in writing, prior to the posting of the agenda. Any other person may

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request to have items placed on the Board of Adjustment agenda by notifying the Director of Planning and Inspections, in writing; provided, however, that items requested to be placed on the agenda that are not, in the opinion of the Director or Planning and Inspections, of Board of Adjustment jurisdiction, or which do not meet requirements of notice or advertisement, will not be placed on the posted agenda. Those items that do not qualify as Board of Adjustment business will be responded to by the Director of Planning and Inspectiuons and copied to the members of the Board of Adjustment.

5.3 Items which arise at the time of the Board of Adjustment's meeting may be added to the agenda, and items may be deleted from the agenda, by a majority vote of all of the members of the Board of Adjustment present, subject to requirements of advertisement and other applicable provisions of state law and City of Dover ordinance.

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

6.1 No members of the Board of Adjustment shall be absent from scheduled meetings or from other official duties without cause. When

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unable to attend a scheduled meeting, a member of the Board of Adjustment shall be responsible for notifying one of the following: the Chairman, the Director of Planning and Inspections, another Board of Adjustment member, or a staff member of the Office of Planning and Inspections.

6.2 The presence of no less than three (3) members of the Board of Adjustment shall constitute a quorum.

6.3 When a quorum is not present at any properly called meeting, the members of the Board of Adjustment present may adjourn.

6.4 If no members of the Board of Adjustment are present, any staff member of the Office of Planning and Inspections may adjourn the meeting.

6.5 Three (3) affirmative votes shall be required to approve any special use exception or variance. Failure to receive three (3) affirmative votes shall be deemed to disapprove any matter.

6.6 Any other matter may be decided by majority vote of Board of Adjustment members present.

Rule 7 - **Voting Procedure**

7.1 On each motion duly made and seconded, the presiding officer shall call the roll or determine the vote in some other manner, and announce the results.

7.2 A written record shall be made of the vote by each member of the Board of Adjustment on each vote taken. Said record shall also reflect the number of "aye" votes, the number of "nay" votes and the number of "abstaining" votes.

Rule 8 - **Record Keeping**

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8.1 A file shall be kept in the Office of Planning and Inspections of all Board of Adjustment meetings. The file shall include copies of meeting notices (including the time, date and place where they were posted), the agenda and the minutes of the meeting.

Rule 9 - Minutes of Board of Adjustment Meetings

9.1 Minutes shall be taken of each meeting of the Board of Adjustment, and shall reflect the following:

a. Kind of meeting.

b. Date and place of meeting.

c. Name of the presiding officer.

d. Members of Board of Adjustment present.

e. Whether the minutes of the previous meeting were approved.

f. The proceedings of the Board of Adjustment, briefly and accurately stated. The minutes shall record what was done rather than what was said. However, a member of Board of Adjustment may request that a statement or written material be attached to the minutes and made a part thereof.

g. All motions voted upon and the results of said motions.

h. Names of members of Board of Adjustment making motions and those making secondary motions.

i. A record by individual members of Board of Adjustment, of each vote taken and action agreed upon.

j. Time of convention and adjournment.

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9.2 Minutes shall be taken, prepared and presented by a staff member of the Office of Planning and Inspections and the Board's attorney in written form for approval as written or as amended. The minutes as approved shall be filed in the minute book of the Board of Adjustment. Copies of the approved minutes shall be made available to the general public, except as otherwise authorized by law.

9.3 Recordings will be made of all Board of Adjustment meetings at which City of Dover business is transacted. The recordings shall be under the custody of the Director of Planning and Inspections and shall be open to inspection and copying in accordance with applicable law regarding access to public records.

Rule 10 - **Conduct During Meetings**

10.1 When a member of Board of Adjustment desires to speak, that member shall address the presiding officer and shall not proceed until recognized and granted the privilege of the floor. The presiding officer shall recognize the member of Board of Adjustment who is the first to address the presiding officer.

10.2 No member of Board of Adjustment shall interrupt another in debate without the consent of the other. To obtain such consent, the member shall first address the presiding officer.

10.3 If any member of Board of Adjustment, in speaking or otherwise, transgresses the Rules of the Board of Adjustment, the presiding officer shall, or any member of Board of Adjustment may, call the errant member to order. When a member shall be called to order, that member shall not proceed without the permission of the presiding officer.

Rule 11 - **Change or Suspension of Rules**

Any rule of the Board of Adjustment may be changed or suspended by the approval of a majority of all of the members of the Board of Adjustment.

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Rule 12 - **Rules of Order**

12.1 These rules have been adopted in order to provide an orderly procedure for matters coming before the Board. However, these rules shall be interpreted and applied so as to afford substantial justice and to promote a fair but efficient hearing procedure. Consequently, strict adherence to these rules shall not be required but the Board may modify and digress from these rules for reasonable cause as the situation may demand. In the event that any rule herein contradicts state law or City of Dover ordinance, such rule shall be construed in compliance with such statute or ordinance. In the event that any of the foregoing rules is declared illegal or unenforceable by any court of competent jurisdiction, the balance hereof shall remain in full force and effect.

Rule 13 - **Standards of Conduct**

13.1 Persons attending Board of Adjustment meetings shall observe appropriate dress standards and standards of conduct. Attire that may distract from the proceedings shall not be permitted.

13.2 Persons attending Board of Adjustment meetings may wear one (1) "cause supporting sign" affixed to their clothing. The size of such "sign" may not exceed three (3) inches by five (5) inches. Signs offensive to the members of the Board of Adjustment or to participants, and signs that may distract from the proceedings shall not be permitted. No placards shall be permitted at any meeting of the Board of Adjustment.

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13.3 The City Manager for the City of Dover may, from time-to-time, prescribe by policy reasonable and appropriate attire and conduct for persons attending meetings of the Board of Adjustment.

13.4 Members of the news media shall conduct themselves in such a manner as to not be disruptive of the proceedings of the Board of Adjustment.

13.5 Persons attending Board of Adjustment meetings shall at all times conduct themselves in an orderly manner and follow the direction of the presiding officer.

13.6 No applause or other disruptive behavior shall be permitted. All cellular phones, pagers, and other electronic devices which emit noise shall be turned off or placed on silent mode for the duration of the meeting.

Rule 14 - **Appeals and Applications to the Board of Adjustment**

14.1 Appeals and applications to the Board, as permitted by state law and City of Dover ordinances, shall be on forms to be prepared by the Director of Planning and Inspections and approved by the Board of Adjustment, and shall be accompanied by the proper fee. Appeals and applications shall be signed by any person authorized by law to make such an appeal or application, or an agent or an attorney of such person.

14.2 All appeals and applications to the Board shall be accompanied by a recent survey, prepared and approved by a licensed surveyor, of the subject property, except when this requirement is waived by the Board or the Office of Planning and Inspections.

14.3 Appellants, Applicants, supporters, and members of the opposition are encouraged to submit their exhibits and other supporting materials prior to the hearing, if possible.

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14.4 All communication and correspondence with the Board shall be submitted through the Office of Planning and Inspections. Telephone, email, verbal or written communication to individual Board members regarding a case is prohibited.

14.5 Appeals and applications shall not be amended after public notice of the public hearing has been made except that the size of any variance requested may be increased or reduced by an applicant prior to or at the public hearing provided, however, that the type of variance requested (side yard variance, front yard variance, etc.) has been included in the public notice.

14.6 During the presentation of an appeal or application to the Board, persons addressing the Board shall identify themselves by name and place or residence. No cross-examination of witnesses or applicants will be permitted. All questions for others should be directed to the Board and the Board may direct the question to the appropriate person. Nothing in this paragraph shall limit an attorney from directly questioning witnesses in support of the position the attorney is advocating.

14.7 The Board may continue a hearing or vote to leave the record open for the purpose of supplementing the record and may put limitations or conditions thereon.

14.8 Following a decision by the Board on an appeal or application, a copy of the written decision shall be sent to the appellant or applicant, or the agent or attorney for the appellant or applicant. 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.

14.9 The Board may impose conditions with respect to the granting of an application or appeal pursuant to the City of Dover Municipal Code. Whenever such condition is imposed by the Board, the condition should be stated in the decision of the Board. Such decision shall remain valid

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only as long as the condition or conditions upon which it was approved exist or the conditions imposed by the Board are adhered to.

Rule 15 — Order of Proceeding:

15.1 The order of presentation shall generally be as follows subject to modification by the Chairman for reasonable grounds.

15.2 The Board shall identify the application number, the general nature of the proceeding (appeal, variance, or special use exception), the name of the filing party, the description of the subject property, and shall state whether the Office of Planning and Inspections has received any correspondence pertaining to the application.

15.3 The Applicant/Appellant will be afforded the opportunity to present testimony and evidence supporting the application. The Applicant/ Appellant may appear with or without legal counsel. The Applicant/ Appellant shall be permitted to present witnesses and introduce exhibits, petitions, and other documents into the record.

15.4 Upon the conclusion of each witness' initial testimony, members of the Board, the Planning and Inspections Department, and the Board's attorney shall have an opportunity to ask questions of the Applicant/ Appellant and its witnesses and counsel.

15.5 In the case of a variance or special use exception application, at the conclusion of the Applicant's witnesses and evidence, any person desiring to make a statement in support of the application shall be given an opportunity to do so. Each person desiring to make such a statement shall identify himself or herself by name and address and shall be sworn in prior to making a statement.

15.6 In the case of a variance or special use exception application, at the conclusion of the statements in favor of an application, any person

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desiring to make a statement in opposition to the application shall be given an opportunity to do so. Each person desiring to make such a statement shall identify himself or herself by name and address and shall be sworn in prior to making a statement.

15.7 At the conclusion of all evidence and public statements, if applicable, the Applicant/Appellant shall be given a brief opportunity to submit additional testimony or evidence in the form of "rebuttal." The presiding officer may allow for brief "sur-rebuttal" testimony from the opposition provided that such testimony is limited to the scope of the testimony presented in the "rebuttal" and is not repetitive, redundant, or irrelevant.

15.8 All exhibits presented to the Board for its consideration shall be identified and marked appropriately. All such documents shall be retained by the Office of Planning and Inspections.

15.9 Hearsay evidence shall be permitted a Board hearing and the Board shall be entitled to hear and consider any probative evidence which, in the Board's opinion, is relevant and of sufficient credibility to be entitled to consideration.

15.10 The Board shall have the authority to set reasonable time limits on all parties and speakers appearing before it.

15.11 The presiding officer shall have authority to terminate or limit any testimony or questioning which is irrelevant or unduly repetitive or provocative.

15.12 Once all testimony and evidence has been presented, the public hearing shall be closed and no new testimony or evidence will be permitted unless the Board votes to leave the public record open.

Rule 16 - **Delaware Freedom of Information Act**

16.1 All procedures of the Board of Adjustment shall comply with the Delaware Freedom of Information Act, as contained in Title 29,

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Chapter 1000 of the Delaware Code, as amended. To the extent that any provision herein shall conflict with the provisions of the Delaware Freedom of Information Act, the more restrictive provision shall apply.

Rule 17 - **Delaware State Employees', Officers' and Officials' Code of Conduct**

17.1 Members of the Board of Adjustment shall be subject to the Delaware State Employees', Officers' and Officials' Code of Conduct, as set forth in Title 29, Chapter 58, Subchapter I of the Delaware Code.

Rule 18 - **Request for a Rehearing**

18.1 A motion for a rehearing shall be made not later than 10 days after the filing of a decision in the office of the Board of Adjustment. The Board of Adjustment may rehear a matter for the following reasons:

a. Mistake, inadvertent surprise or excusable neglect.

b. Newly discovered evidence which by due diligence could not have been discovered at the time of the original hearing.

c. Fraud, misrepresentation or other misconduct of an adverse party.

18.2 A motion for a rehearing shall state the grounds therefore and may be accompanied by applicable affidavits. The motion and affidavits shall be provided by mail to the opposing party of record, if any. The opposing party shall have 10 days after receipt of the motion to file a response thereto and attach applicable affidavits. The Board shall determine the motion upon the written application, any responses thereto, and accompanying affidavits, if any.

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Rule 19 - **Adoption and Effective Date**

19.1 These rules shall become effective upon adoption by a majority vote of all of the members of the Board of Adjustment.

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Adopted:
Effective Date:

RULES OF PROCEDURE OF THE BOARD OF ADJUSTMENT OF CITY OF DOVER, DELAWARE

These rules shall govern the procedure of the Board of Adjustment of the City of Dover, Delaware. The Board of Adjustment is established in Dover Code of Ordinances, Appendix B – Zoning, Article 9. Board of Adjustment (Zoning Ordinance) and the provision of Delaware Code, Title 22. Municipalities, Chapter 3 (22 Del. Code §301 et seq.)

Definitions

"Agenda" includes but is not limited to a general statement of the major issues expected to be discussed at a public meeting, as well as a statement of intent to hold an executive session and the specific ground or grounds therefore.

"City" means the City of Dover, Delaware, unless otherwise specified.

"Board of Adjustment" or **"Board"** means the Board of Adjustment of the City of Dover, Delaware.

"Meeting" means the formal or informal gathering of a quorum of the members of the Board of Adjustment for the purpose of discussion or taking action on public business.

"Chairperson" means the Chairperson of the Board of Adjustment. Chairperson may also be referred to as Chair.

"Presiding Officer" means the Chairperson of the Board of Adjustment, or such other person who presides over the meetings of the Board of Adjustment, pursuant to the Rules of the Board of Adjustment.

"Public business" means any matter over which the Board of Adjustment has supervision, control, jurisdiction or advisory power.

"Variance" means an official dispensation from a rule or regulation of the Zoning Ordinance.

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"Area Variance" means a variance that related to bulk standards, signage requirements, and other provisions of the Zoning Ordinance that address lot layout, buffers, and dimensions.

"Use Variance" means a variance that would permit a use of the subject property that would otherwise not be permitted on the subject property.

"Appeal" means a request for consideration of any order, requirement, decision or determination made by an administrative official in the enforcement of the Zoning Ordinance. Such request may be made by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of an administrative officer.

Rule 1 - Duties

1.1 The Chairperson shall preside at all meetings or hearings of the Board, decide all points of order or procedure, and perform all duties required by law or these Rules.

1.2 The Department of Planning and Inspections shall conduct, at the discretion of the Board, all official correspondence of the Board, send out all notices required by law and by these Rules of Procedure, keep records of each examination of other official actions of the Board and perform all duties required by law and these Rules of Procedure. This shall be determined to be the Office of the Board of Adjustment.

1.3 In the absence of the Chairperson, the presiding officer, with all powers and duties of the Chairperson enumerated herein, shall be the Vice-Chairperson as elected from its membership by a majority vote of all of the members of Board of Adjustment. In the absence of the Vice-Chairperson, the presiding officer, with all powers and duties of the Chairperson enumerated herein, shall be such other member of the Board of Adjustment as is elected by a majority vote of the members of Board of Adjustment present.

1.4 The Office of the City Clerk shall provide guidance to ensure appropriate records retention practices are followed for the Board of Adjustment activities as required by law.

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Rule 2 - Order of Business; Conduct of Meetings

2.1 The order of business at each regular meeting of the Board of Adjustment shall be as follows:

Call to Order
Pledge of Allegiance
Roll Call
Approval Agenda
Approval of Minutes
Communications Reports
Old Business
New Business
Public Comments Opportunity
Adjournment

2.2 The order of business can be altered at any duly constituted meeting by an affirmative vote of a majority of the Board of Adjustment members present. ~~The privilege of the floor may be granted to the public at any time by presiding officer.~~

2.3 During public hearings, the presiding officer may set reasonable time limits on public testimony comments. An individual may submit a written statement in lieu of or in addition to verbal comments. The presiding officer may terminate or limit testimony which is irrelevant or unduly repetitive.

2.4 Every attempt will be made to complete all business scheduled for a meeting. In the event that the presentation of a scheduled agenda item or the meeting takes longer than reasonably anticipated, the presentation and/or the meeting may be suspended by motion and approval of majority of the Board of Adjustment members present. A motion to suspend a presentation and/or the meeting should, to the extent possible, include the date and time at which the remainder of the presentation will be heard or when the meeting is continued.

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2.5 Testimony at public hearings shall be taken under oath which shall be administered by the Board's attorney or any other individual as may be directed by the presiding officer.

2.6 During the public comments opportunity, the presiding officer may set reasonable time limits on public comments. An individual may submit a written statement in lieu of or in addition to verbal comments. The presiding officer may terminate or limit the comments which are irrelevant or unduly repetitive or are not the subject of the Board of Adjustment's purview.

Rule 3 - Meetings of the Board of Adjustment

3.1 Regular meetings shall be held in City of Dover City Hall Council Chamber or such other location made available by the City or such other location as designated by majority vote of all the members of the Board of Adjustment.

3.2 Regular meetings shall convene at 9:00 A.M. on those days when a meeting has been properly noticed and advertised. The meeting time may be adjusted by the Chairperson in consultation with City Staff or by majority vote of the Board of Adjustment.

3.3 Special meetings and executive sessions may be held as provided in Title 29, Chapter 100 of the Delaware Code (Freedom of Information Act). Special meetings may be called by the Chairperson upon at least 48 hours' notice to each member. The Chairperson shall call a special meeting within 10 days of receipt of a written request from any two members of the Board. Notice of a special meeting shall include an explanation as to why the notice required in Rule 4 could not be given.

3.4 Except for executive sessions, all meetings shall be open to the public.

3.5 Minutes of all meetings, including executive sessions, shall be kept. ~~and~~ Such Minutes can made available for public inspection and copying as authorized Freedom of Information Act provisions. At a minimum, the minutes shall include a record of attendance and a record, by individual

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members of the Board of Adjustment, of each vote taken and each action agreed upon.

Rule 4 - Public Notice of Meetings

4.1 Public notice of all meetings of the Board of Adjustment shall be posted on the public bulletin board located in City Hall and on the official City of Dover website at least 7 days before the meeting date.

4.2 Public notice, ~~property posting~~ and advertisement of meetings and public hearings for variance requests and appeals applications shall comply with all applicable provisions of State law and City of Dover ordinances. The Department of Planning and Inspections is responsible for completing these items of notice.

4.3 Public notice shall be mailed by postal card or other means to all abutting property owners and property owners within 200 feet from the exterior boundaries of the subject property at least 10 days before the date of the hearing. In addition, notice of a public hearing shall be mailed to an appellant or applicant (or attorney or agent of the appellant or applicant) at least ~~15 days~~ 10 days before the date of the hearing.

4.4 Public notice of required public hearings before the Board of Adjustment shall be published in the official newspaper of the city at least 10 days before the date of the hearing.

4.5 Public notice shall also be sent to the municipal clerk of other municipalities when the subject property an application lies within 500 feet of the boundary of another incorporated municipal boundary no later than one day after the newspaper publication of such notice.

Rule 5 - Agenda

5.1 The agenda for Board of Adjustment meetings shall be available to members of the Board of Adjustment at least ~~one week~~ 7 days prior to the scheduled meeting.

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5.2 The ~~Director of 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.

Any member of the Board of Adjustment may place items on the agenda by contacting the Director of Planning and Inspections, either verbally or in writing, prior to the posting of the agenda. Any other person may request to have items placed on the Board of Adjustment agenda by notifying the Director of Planning and Inspections, in writing; provided, however, that items requested to be placed on the agenda that are not, in the opinion of the Director or Planning and Inspections, of Board of Adjustment jurisdiction, or which do not meet requirements of notice or advertisement, will not be placed on the posted agenda. Those items that do not qualify as Board of Adjustment business will be responded to by the Director of Planning and Inspections and copied to the members of the Board of Adjustment.

5.3 Items which arise at the time of the Board of Adjustment's meeting may be added to the agenda, and items may be deleted from the agenda, by a majority vote of all of the members of the Board of Adjustment present, subject to requirements of advertisement and other applicable provisions of state law and City of Dover ordinance.

Add statements about Board of Adjustment meeting packet

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

6.1 No members of the Board of Adjustment shall be absent from scheduled meeting or from other official duties without cause. When unable to attend a scheduled meeting, a member of the Board of Adjustment shall be responsible for notifying ~~one of~~ the following: the Chairperson and the

Director of Planning and Inspections, ~~another Board of Adjustment member,~~ or a staff member of the ~~Office~~ Department of Planning and Inspections.

6.2 The presence of no less than three (3) members of the Board of Adjustment shall constitute a quorum.

6.3 When a quorum is not present at any properly called meeting, the members of the Board of Adjustment present ~~may~~ shall adjourn.

6.4 If no members of the Board of Adjustment are present, any staff member of the ~~Office~~ Department of Planning and Inspections ~~may~~ shall adjourn the meeting.

~~6.5 Three (3) affirmative votes shall be required to approve any special use exception or variance. Failure to receive three (3) affirmative votes shall be deemed to disapprove any matter.~~

6.5~~6.6~~ Any ~~other~~ matter may be decided by majority vote of Board of Adjustment members present.

Rule 7 - Voting Procedure

7.1 On each motion duly made and seconded, the presiding officer shall request a call of the roll or determine the vote in some other manner and announce the results.

7.2 A written record shall be made of the vote by each member of the Board of Adjustment on each vote taken. Said record shall also reflect the number of "aye" votes, the number of "nay" votes and the number of "abstaining" votes.

Rule 8 - Record Keeping

8.1 A file shall be kept in the ~~Office~~ Department of Planning and Inspections of all Board of Adjustment meetings. The file shall include copies of meeting notices (including the time, date and place where they were posted), the agenda and the minutes of the meeting.

Check to see if any other FOIA provisions on record keeping should be noted

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Rule 9 - Minutes of Board of Adjustment Meetings

9.1 Minutes shall be taken of each meeting of the Board of Adjustment, and shall reflect the following:

a. Kind of meeting.

b. Date and place of meeting and meeting format.

c. Name of the presiding officer.

d. Members of Board of Adjustment present and staff members present.

e. Whether the minutes of the previous meeting were approved.

~~f.~~ The proceedings of the Board of Adjustment briefly and accurately stated. The minutes shall record what was done by describing and summarizing what was said. The minutes preparation will not be a verbatim transcript. ~~However, a member of Board of Adjustment may request that a statement or written material be attached to the minutes and made a part thereof.~~

g. The minutes shall reference the reports, exhibits, and other documents submitted for the record.

h. All motions voted upon and the results of said motions.

i. Names of members of Board of Adjustment making motions and those making secondary motions.

j. A record by individual members of Board of Adjustment, of each vote taken and action agreed upon.

k. Time of convention and adjournment.

9.2 Minutes shall be taken, prepared and presented by a staff member of the ~~Office~~ Department of Planning and Inspections or other City Staff as

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designated and the Board's attorney in written form for approval as written or as amended. The minutes as approved shall be filed in the minute ~~book~~ collection of the Board of Adjustment. Copies of the approved minutes shall be made available to the general public, except as otherwise authorized by law.

9.3 Recordings will be made of all Board of Adjustment meetings at which City of Dover business is transacted. The recordings shall be under the custody of the ~~Director~~ Department of Planning and Inspections and Office of the City Clerk and shall be open to inspection and copying in accordance with applicable law regarding access to public records.

Rule 10 - Conduct During Meetings

10.1 When a member of Board of Adjustment desires to speak, that member shall address the presiding officer and shall not proceed until recognized and granted the privilege of the floor. The presiding officer shall recognize the member of Board of Adjustment who is the first to address the presiding officer.

10.2 No member of Board of Adjustment shall interrupt another in debate without the consent of the other. To obtain such consent, the member shall first address the presiding officer.

10.3 If any member of Board of Adjustment, in speaking or otherwise, transgresses the Rules of the Board of Adjustment, the presiding officer shall, ~~or any member of Board of Adjustment may~~, call the errant member to order. When a member shall be called to order, that member shall not proceed without the permission of the presiding officer.

Rule 11 - Change or Suspension of Rules

Any rule of the Board of Adjustment may be changed or suspended by the approval of a majority of all of the members of the Board of Adjustment.

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Rule 12 - Rules of Order

12.1 These rules have been adopted in order to provide an orderly procedure for matters coming before the Board. However, these rules shall be interpreted and applied so as to afford substantial justice and to promote a fair but efficient hearing procedure. Consequently, strict adherence to these rules shall not be required but the Board may modify and digress from these rules for reasonable cause as the situation may demand. In the event that any rule herein contradicts state law or City of Dover ordinance, such rule shall be construed in compliance with such statute or ordinance. In the event that any of the foregoing rules is declared illegal or unenforceable by any court of competent jurisdiction, the balance hereof shall remain in full force and effect.

Rule 13 - Standards of Conduct

~~13.1 Persons attending Board of Adjustment meetings shall observe appropriate dress standards and standards of conduct. Attire that may distract from the proceedings shall not be permitted.~~

~~13.2 Persons attending Board of Adjustment meetings may wear one (1) "cause supporting sign" affixed to their clothing. The size of such "sign" may not exceed three (3) inches by five (5) inches. Signs offensive to the members of the Board of Adjustment or to participants, and signs that may distract from the proceedings shall not be permitted. No placards shall be permitted at any meeting of the Board of Adjustment.~~

~~13.3 The City Manager for the City of Dover may, from time to time, prescribe by policy reasonable and appropriate attire and conduct for persons attending meetings of the Board of Adjustment.~~

~~13.4 Members of the news media shall conduct themselves in such a manner as to not be disruptive of the proceedings of the Board of Adjustment.~~

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~~13.5~~ *13.1* *Persons attending Board of Adjustment meetings shall at all times conduct themselves in an orderly manner and follow the direction of the presiding officer.*

~~13.6~~ *13.2* *No applause or other disruptive behavior shall be permitted. All cellular phones, pagers, and other electronic devices which emit noise shall be turned off or placed in silent mode for the duration of the meeting.*

Rule 14 - Appeals and Variance Applications to the Board of Adjustment

Consider separating procedures for variance request applications and appeals for clarity. This Rule 14 section will need more work to clarify. This section was the starting point for the March 2026 meeting discussion where the Meeting Minutes are still in preparation.

14.1 Variance request applications and Appeals ~~and~~ applications to the Board, as permitted by state law and City of Dover ordinances, shall be on forms to be prepared by the Director of Planning and Inspections and approved by the Board of Adjustment, and shall be accompanied by the proper fee. ~~Appeals and~~ All applications shall be signed by any person authorized by law to make such an appeal or variance application, or an agent or an attorney of such person.

~~14.2 All appeals and applications to the Board shall be accompanied by a recent survey, prepared and approved by a licensed surveyor, of the subject property, except when this requirement is waived by the Board or the Office of Planning and Inspections.~~

14.3 Appellants, Applicants, supporters, and members of the opposition are encouraged to submit their exhibits and other supporting materials prior to the hearing~~, if possible~~. As part of the application consideration and public hearing other exhibits may be entered for the record.

14.4 All communication and correspondence with the Board shall be submitted through the ~~Office~~ Department of Planning and Inspections. Telephone, email, verbal or written communication to individual Board members regarding a case is prohibited.

14.5 Appeals and Variance applications shall not be amended after public notice of the public hearing has been made except that the size of any variance requested

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may be ~~increased or~~ reduced by an applicant prior to or at the public hearing provided, however, that the type of variance requested (side yard variance, front yard variance, etc.) has been included in the public notice.

14.6 During the presentation of an appeal or variance application to the Board, persons addressing the Board shall identify themselves by name and place or residence. No cross-examination of witnesses or applicants will be permitted by the public during the public hearing. All questions for others should be directed to the presiding officer of Board and ~~the Board~~ the presiding officer may direct the question to the appropriate person. Nothing in this paragraph shall limit an attorney for the applicant from directly questioning witnesses in support of the position the attorney is advocating.

14.7 Upon motion and approval, the Board may continue a hearing or vote to leave the record open for the purpose of supplementing the record and may put limitations or conditions thereon.

14.8 Following a decision by the Board on an appeal or application, a copy of the written decision shall be sent to the appellant or applicant, or the agent or attorney for the appellant or applicant. ~~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.~~

14.9 The Board may impose conditions with respect to the granting of an application or appeal pursuant to the City of Dover Municipal Code. Whenever such condition is imposed by the Board, the condition should be stated in the decision of the Board. Such decision shall remain valid only as long as the condition or conditions upon which it was approved exist or the conditions imposed by the Board are adhered to.

Need to consider establishing a method for Extension of the Board's action. This will involve amendments to the Zoning Ordinance.

Need to consider the establishment of "administrative" variances as allowed per 22 Del. Code §327(a) (3). This will involve amendments to the Zoning Ordinance.

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Rule 15 — Order of Proceeding:

15.1 The order of presentation shall generally be as follows subject to modification by the Chairperson for reasonable grounds.

15.2 The ~~Board~~ Chairperson or presiding officer shall identify the application number and subject location. Staff of the Department of Planning and Inspections will describe the general nature of the proceeding (appeal, variance application ~~or special use exception~~), ~~the name of the filing party,~~ the description of the subject property. Staff of the Department of Planning and Inspections will brief the matter and enter the Exhibits into the record.

During the public hearing, Staff shall state whether the ~~Office~~ Department of Planning and Inspections has received any correspondence pertaining to the application.

15.3 The Applicant/Appellant will be afforded the opportunity to present testimony and evidence supporting the application. The Applicant/ Appellant may appear with or without legal counsel. The Applicant/ Appellant shall be permitted to present witnesses and introduce exhibits, petitions, and other documents into the record.

15.4 Upon the conclusion of each witness' initial testimony, members of the Board, the Planning and Inspections Department, ~~and the Board's attorney~~ shall have an opportunity to ask questions of the Applicant/ Appellant and its witnesses and counsel.

15.5 In the case of a variance or appeal ~~or special use exception~~ application, at the conclusion of the Applicant's witnesses and evidence presentation, during the public hearing any person desiring to make a statement in support of the application shall be given an opportunity to do so. Each person desiring to make such a statement shall identify himself or herself by name and address and shall be sworn in prior to making a statement.

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15.6 In the case of a variance or appeal ~~or special use exception~~ application, during the public hearing at the conclusion of the statements in favor of an application, any person desiring to make a statement in opposition to the application shall be given an opportunity to do so. Each person desiring to make such a statement shall identify himself or herself by name and address and shall be sworn in prior to making a statement.

15.7 At the conclusion of all evidence and public statements, if applicable, the Applicant/Appellant shall be given a brief opportunity to submit additional testimony or evidence in the form of "rebuttal." ~~The presiding officer may allow for brief "sur-rebuttal" testimony from the opposition provided that such testimony is limited to the scope of the testimony presented in the "rebuttal" and is not repetitive, redundant, or irrelevant.~~

15.8 All exhibits presented to the Board for its consideration shall be identified and marked appropriately. All such documents shall be retained by the ~~Office~~ Department of Planning and Inspections.

15.9 Hearsay evidence shall be permitted at a Board hearing and the Board shall be entitled to hear and consider any probative evidence which, in the Board's opinion, is relevant and of sufficient credibility to be entitled to consideration.

15.10 The presiding officer shall have the authority to set reasonable time limits on all parties and speakers appearing before it.

15.11 The presiding officer shall have authority to terminate or limit any testimony or questioning which is irrelevant or unduly repetitive or provocative.

15.12 Once all testimony and evidence has been presented, the public hearing shall be closed and no new testimony or evidence will be permitted ~~unless the Board votes to leave the public record open.~~

Rule 16 - Delaware Freedom of Information Act

16.1 All procedures of the Board of Adjustment shall comply with the Delaware Freedom of Information Act, as contained in Title 29,

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Chapter ~~1000~~ 100 of the Delaware Code, as amended. To the extent that any provision herein shall conflict with the provisions of the Delaware Freedom of Information Act, the more restrictive provision shall apply.

Rule 17 - ~~Delaware State~~ Employees', Officers' and Officials' Code of Conduct

~~17.1 Members of the Board of Adjustment shall be subject to the Delaware State Employees', Officers' and Officials' Code of Conduct, as set forth in Title 29, Chapter 58, Subchapter I of the Delaware Code.~~

Need to add appropriate City of Dover Code of Ordinance citation on ethics and any code of conduct references.

~~Rule 18 - Request for a Rehearing~~

~~18.1 A motion for a rehearing shall be made not later than 10 days after the filing of a decision in the office of the Board of Adjustment. The Board of Adjustment may rehear a matter for the following reasons:~~

~~a. Mistake, inadvertent surprise or excusable neglect.~~

~~b. Newly discovered evidence which by due diligence could not have been discovered at the time of the original hearing.~~

~~c. Fraud, misrepresentation or other misconduct of an adverse party.~~

~~18.2 A motion for a rehearing shall state the grounds therefore and may be accompanied by applicable affidavits. The motion and affidavits shall be provided by mail to the opposing party of record, if any. The opposing party shall have 10 days after receipt of the motion to file a response thereto and attach applicable affidavits. The Board shall determine the motion upon the written application, any responses thereto, and accompanying affidavits, if any.~~

Rule 19 - **Adoption and Effective Date**

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19.1 These rules shall become effective upon adoption by a majority vote of all of the members of the Board of Adjustment.

Adopted:
Effective Date:

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