



CITY OF SOUTHPORT
Historic Preservation Commission
Indian Trail Meeting Hall, 113 W. Moore Street
August 7, 2024
4:00 P.M.

AGENDA

Please turn off all cell phones

The Historic Preservation Commission's regular monthly meeting will be held at 4:00 p.m. on the first Wednesday of each month. All members are asked to attend.

- A. Call to Order**
- B. Invocation**
- C. Pledge of Allegiance**
- D. Approval of Agenda**
- E. Approval of Minutes**
 - 1. July 24, 2024
- F. Public Comment**
- G. Old Business**
 - 1. None
- H. New Business**
 - 1. Southport's History Write Up
 - 2. Discussion on who has "standing" in a quasi-judicial hearing.
 - 3. Training on how to conduct a Hearing.
- I. Other Business**
- J. Announcements**
- K. Member's Information**
 - 1. Member's Roster
 - 2. Attendance Record
- L. Adjourn**



City of Southport
Historic Preservation Commission Minutes
July 24, 2024
Fire Substation; 111 E. Nash St.

Member's Present: Vice-Chair Rick Pukenas, Bonnie Bray, Joanne Wesson, Alexis-Gore Graves, Josh McGee, Bonner Herring, and Chair Drew (a little late).

Members Absent: Tal West and Jim McKee

Staff Present: City Planner Mo Meehan, Historic Preservation Planner Penny Tysinger, and Deputy Clerk Tanya Shannon.

Aldermen Liaison: Robert Carroll (absent)

- A. Vice Chair Pukenas called the meeting to order at 4:08 p.m.
- B. Ms. Alexis Graves-Gore gave the Invocation.
- C. The Pledge of Allegiance was led by Vice Chair Pukenas.
- D. Administering the Oath of Office to Mr. Bonner Herring as a reappointed member by Deputy Clerk Shannon.
- E. Ms. Alexis Gore-Graves motioned to approve the agenda, and seconded by Mr. McGee. ***Unanimous Vote; Motion Carried.***
- F. Ms. Wesson motioned to approve the minutes from July 19, 2024, with an amendment to reflect that Ms. Graves commented on the John C. Smith Cemetery instead of herself. Ms. Gore-Graves seconded the motion. ***Unanimous Vote; Motion Carried.***

G. Public Comment:

- 1. Ms. Lowe Davis, 504 W. Brunswick Street, Alderman, and Member of the John C. Smith Cemetery Foundation, along with the President, Ms. Judy Gordon, and Member, Mr. James White. She wanted to clarify the relationship between the City and the Cemetery Foundation. She mentioned that although the Cemetery is within the City Limits, it is not City property. She also mentioned that the foundation is a 501(c)(3) organization. Ms. Davis explained that the City's contract includes groundskeeping at the John C. Smith Cemetery, but it only covers mowing the grass. She provided a brief history of the cemetery and expressed gratitude to all the volunteers who helped maintain it. Ms. Davis also highlighted that the Cemetery has been entered into the National Register of Historic Places by the NC Department of Natural and Cultural Resources Office of Archives and History. She expressed the foundation's interest in collaborating with the Historic Preservation Commission to designate the John C. Smith Cemetery as a Designated Local Historic Landmark.

H. Old Business: None

I. New Business:

1) Review Table for Minor COA and Major COA Approvals

Ms. Andrea Radford, a consultant for the City of Southport, clarified the distinction between Historic Local Designation and listing in the National Register of Historic Places via Zoom. She emphasized that the two should not be confused, as they are separate programs with different requirements and benefits. While some properties may have both designations, they are administered by different entities: the National Register is a federal program administered by the state, while the local designation

is a separate program specific to the city. The Commission first reached a consensus to complete the standards and guidelines, then proceeded with designating other landmarks and sites.

Ms. Radford reviewed the qualifications for applying for Minor and Major Certificate of Appropriations (COA). Any exterior work or new construction on a locally designated landmark or property within the City of Southport's Local Historic District requires a COA, regardless of whether or not a building permit is required. The table provided to the Board outlined the uses and standards for projects and COA requirements.

Chairman Drew asked if the new proposal was stricter than the previous version. Ms. Radford clarified that it was not stricter, but she mentioned that she had added solar panels to the proposal. She said that this addition would be considered a minor change and would provide guidance to the staff for a COA. There was a discussion about adding terms that specify "not regulating paint" as part of the design standards to ensure that applicants are not discouraged when reviewing the request for the COA. Ms. Radford mentioned that she would include these terms to clarify that paint will not be regulated.

2) Training: How to conduct hearings for various COA's

Ms. Radford discussed various scenarios and provided Certificate of Appropriateness (COA) application examples. The discussion covered whether the removal of trees would require a professional assessment or a certified arborist's evaluation. Ms. Meehan clarified that a separate permit would still be required for any tree removal. She also emphasized that regardless of whether the COA application is for a Minor or Major COA, it still needs to be completed. In both cases, an assessment and permit from the city would be necessary.

Reviewing how the quasi-judicial process will work in receiving a case was reviewed. Ms. Radford provided the Board with the language and the procedure for the hearings. An example of a possible motion is as follows: ***The Southport Historic Preservation Commission finds that in the case of COA24001, 201 E Nash St. – Construction of New Rear Accessory Structure.***

"I move that the proposed Construction of a New Rear Accessory Structure is consistent/inconsistent with the historic character and qualities of the Historic District and are consistent/inconsistent with the Secretary of Interior's Standards and Southport's Historic District Standards, specifically those listed in the staff report, and the Southport Historic Preservation Commission approves the Certificate of Appropriateness for case COA24001 with the following conditions:

- 1. The improvements shall be substantially consistent with the plans and testimony presented to the Historic Preservation Commission at this hearing and attached to the Certificate of Appropriateness.***
- 2. The improvements may require additional approvals from the City or County departments or state or local agencies; the applicant is responsible for obtaining all required approvals relating to building construction, site work, and work in the right-of-way.***
- 3. A compliance inspection will be performed immediately upon completion of the work approved herein."***
- 4. Add any additional conditions here***

Ms. Radford mentioned that the current standards only allow for smooth facing and not rough facing. The Commission agreed to revise the standards to permit either type of hardy plank. She emphasized the importance of replacing damaged sections "in kind" to maintain historical accuracy rather than creating a false sense of history. Mr. Herring disagreed, citing an example of a boarding house that used to be next to his grandmother's house, which is now an empty lot. He believes that rebuilding something resembling the original house is reasonable. Ms. Radford countered by stating that replicating the original structure would make it noticeably different from the other historic homes and out of character with the surrounding buildings. Mr. McGee suggested that if a historic house were to be burned down, replicating it would be a positive thing. The Commission agreed that preserving the character and

original materials of the city's historic buildings is essential. However, any rebuilds, repairs, or improvements should closely resemble the city's historical character, with appropriate distinctions in architecture and materials.

Ms. Radford mentioned that the individuals who would have standing in the hearings include adjacent property owners and potentially others. She stated that she would research and confirm the eligible participants. After the hearings are concluded, a report will be compiled, and all updates and changes will be submitted to the State for review. The State will then have 30 days to review and respond, following which it will be presented to the Board of Aldermen. Suppose a hearing requires additional information and needs to continue. In that case, a continuation announcement must be made at the meeting, and a 90-day extension will be allowed before the commission must take action.

J. **Other Business:** None

K. **Announcements:** Chair Drew announced that the next meeting will take place on August 7th at 4 pm at the Indian Trail Meeting Hall.

There was no further discussion or business. Chair Drew requested a motion to adjourn. The motion was made by Mr. Pukenas and seconded by Mr. Herring. ***Unanimous Vote; Motion Carried.***

Adjourned—5:55 p.m.

Chair, Charles Drew

Deputy Clerk, Tanya Shannon

HISTORIC PRESERVATION

Modern Home in Raleigh Overcomes Historic Preservation Challenge

By [CHELSEA BLAHUT](#)



This post has been updated to reflect the court decision announced yesterday.

Superior Court Judge Elaine Bushfan [announced](#) yesterday that she will rule in favor of a contemporary home in the Historic Oakwood district—a controversial topic between historical preservationists and modernists in the area for nearly a year now. This could mean that construction of the home will be completed, which has been halted since last November, and allow for local architect Louis Cherry, FAIA, and his wife Marsha Gordon to move in. Last September, the Raleigh Historic Development Commission (RHDC) granted Cherry the necessary certification to build the house on Euclid Street. The neighborhood, [Raleigh's oldest and largest historical district](#), attracted the couple with its sense of community. Construction began a month later, but

was halted due to an appeal filed by the couple's neighbor across the street, Gail Wiesner, who objected to their home's modern aesthetic. The house stood incomplete and faced possible alterations and demolition.

Wiesner, a real estate agent, said the new house did not coincide with the Oakwood district's historical character and even threatened the value of her own home if she were to [resell](#), according to Allison Arieff's article. In November, Wiesner and her attorney appealed the ruling granted by the RHDC to the Board of Adjustment (BOA), a committee within the RHDC which reviews other city agencies' decisions to ensure validity. For the next four months, Wiesner filed more appeals and presented for several hours at the BOA. In February, the BOA reversed the RHDC's approval, deciding that the historical commission failed to properly apply the appropriate guidelines for the construction of Cherry and Gordon's house.



Mark Herboth 516 Euclid St., Raleigh, N.C., by Louis Cherry Architecture

Per the RHDC Design Guidelines, Section 4.3 states: New construction within a historic district can enhance the existing district character if the proposed design and its setting reflect an understanding of and a compatibility with the distinctive character of the district setting and buildings. In fact, the introduction of a compatible but contemporary new construction project can add depth and contribute interest to the district.

Cherry's [proposal](#) that was first accepted, cites this specific portion of the RHDC Design Guidelines, and even goes on to address how his construction would add to the "architectural philosophy" of the neighborhood and enhance it by integrating diversity.

The [reversal by the BOA](#), official as of March 10, revoked Cherry's construction permits. Ten days later, city officials [announced](#) they would appeal that very reversal by the BOA because their ruling failed to establish if Wiesner has legal standing to challenge Cherry's permits on the basis of his home affecting her property values. Although construction remains halted, Cherry and Gordon [obtained an injunction](#) in April from Superior Court to complete waterproofing for the house to prevent damage, though they expected to move in by May.



Mark Herboth 516 Euclid St., Raleigh, N.C., by Louis Cherry Architecture

Since then, the story has picked up national and international coverage, featured on the [The TODAY Show](#), [Huffington Post](#), and the [Daily Mail](#). Vincent Scully Prize-winning architecture critic Paul Goldberger, Hon. AIA, says Cherry “is sympathetic to the design guidelines” in his [Vanity Fair](#) article, calling the house “an example of modern architecture trying hard, very hard, to be on its best manners—in essence, to be a good neighbor.” Allison Arieff, content strategist for the San Francisco Planning and Urban Research Association (SPUR), and editor of its magazine, *The Urbanist*, calls the house “modern but modestly so.”

On [August 25](#) and [26](#) the case went to Wake County Super court, to decide if the BOA was evenhanded in overturning the RHDC's approval. To ensure fairness, Judge Elaine Bushfan was brought in from Durham, a neighboring city of Raleigh.

Concern about a lack of consistency in the neighborhood's style was sparked last August, when another set of neighbors completed a [modern addition](#) to the back of their historic Victorian-style home.

The neighborhood's [houses](#) consist of a variety of styles and eras, ranging from Victorians, Queen Annes and bungalows. Some were built during the times in which those styles were vernacular, while others allude to these eras but were built within the 2000s. However, to ensure that an area does not get stuck in one style, preservationists often encourage contemporary design, as mentioned in a [letter to Oakwood residents](#) by [Myrick Howard](#), president of [Preservation North Carolina](#), a nonprofit dedicated to maintaining historical sites and properties.

This post has been updated since its original posting on August 1, 2014.



Mark Herboth 516 Euclid St., Raleigh, N.C., by Louis Cherry Architecture



Coates' Canons NC Local Government Law

Can the neighbor speak? Can the neighbor appeal? Standing and quasi-judicial hearings

Published: 09/27/16

Author Name: Adam Lovelady

A local development board is set to hold a quasi-judicial hearing for a development permit. The neighbor across the street from the proposed project is set to oppose it. She wants to voice her concerns in the quasi-judicial hearing—and appeal to court if necessary. Does the neighbor have a right to participate in the hearing? What about a right to appeal the decision? This blog considers those questions in light of North Carolina caselaw including a recent decision from the state Court of Appeals.

The situation described above is the situation that played out in a dispute over a contemporary house in a Raleigh historic district, the case of Cherry v. Wiesner (781 S.E.2d 871 (N.C. Ct. App. 2016), review denied, No. 103P16, 2016 WL 4468152 (N.C. Aug. 18, 2016)). A property owner applied to build a contemporary home in a historic district. After the preservation commission granted the certificate of appropriateness, the neighbor across the street appealed the decision to the board of adjustment. The board of adjustment reversed the decision of the preservation commission. The property owner and the city appealed to superior court claiming, among other things, that the neighbor lacked standing to

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the matter. Indeed, a board seeking to make the best decision may welcome additional testimony.

Preservation commissions even have statutory authority to seek outside experts (NCGS 160A-400.9(d)). David Owens previously blogged about who gets to speak at a quasi-judicial hearing.

Standing

In contrast to participation, relatively few individuals have legal standing in the quasi-judicial decision. A party with standing is an aggrieved party that would suffer special damages from the outcome of the matter. They are distinct from the general public and enjoy certain due process rights that must be protected.

General Statute 160A-393 outlines the rights and procedures for appealing a quasi-judicial decision. It sets forth the following persons that have standing to appeal. This guidance is also instructive for determining standing in the initial quasi-judicial hearing.

- A person with a legal interest in the subject property (this might include ownership; lease interest; an option or contract to purchase the property; or an interest created by an easement, restriction, or covenant)
- The applicant before the decision-making board
- The city or county when the governing board believes the decision was made in error
- A person who will suffer special damages as a result of the decision
- An association organized to promote the interests of a particular area (such as a homeowners association or community association) so long as at least one member would have standing as an individual and the association was not created in response to the development at issue

When does standing matter?

A party must have due process rights in the proceeding to take certain actions. So, standing matters when an individual wants to assert one of those legal rights. Otherwise the proceedings could infringe on the constitutional due process rights of the individuals who do have standing in the matter.

An individual must have standing to:

- Appeal a staff decision to the board of adjustment
- Appeal a preservation commission decision to the board of adjustment
- Act as a party in the quasi-judicial hearing, including to
 - cross-examine witnesses
 - object to evidence
 - offer rebuttal
 - challenge the impartiality of a decision-maker
- Appeal a quasi-judicial decision to superior court
- Intervene in an appeal to superior court

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ruled that the evidence was insufficient to establish standing: “[T]hese allegations do not demonstrate special damages distinct to respondent, other than the view from her front porch; rather, respondent alleges a generalized damage to the overall neighborhood.”

So then, what is sufficient to establish standing? North Carolina caselaw has not established a clear rule for this. Rather, each case is a fact specific inquiry based on a set of factors including proximity, property value, and other adverse impacts. The central question is this: Has the party who claims standing shown that their damages are distinct from those damages to the public at large?

Proximity is a factor in standing, but not determinative. As noted in the case *Mangum v. Raleigh Bd. of Adjustment* (362 N.C. 640, 644 (2008)), while proximity “in and of itself, is insufficient to grant standing, it does bear some weight on the issue of whether the complaining party has suffered or will suffer special damages distinct from those damages to the public at large.”

In *Cherry* the neighbor challenging the certificate of appropriateness lived directly across the street. Such proximity was insufficient to convince the court of standing in this dispute over historic district character and congruity of new structures. This case raises a vexing question, beyond the scope or space of this blog, about standing and preservation regulations. If a regulation is rooted in and justified by aesthetics, does not the visual impact of a new project on a neighbor count as an adverse impact sufficient to establish standing?

Property value is a factor in standing, but not determinative. As noted by the *Cherry* court, “[u]sually, special damages include economic damages such as a decrease in property value and other direct adverse effects on the property” But, NC courts have found standing without an allegation of diminution in property value. In the *Mangum* case the neighbors did not directly allege loss of property value but the court still found standing. (The dissent cited prior caselaw as it argued that evidence of diminution in property value is necessary to allege standing.)

Even with an allegation of diminution in property value, that may be insufficient to establish standing. In the *Cherry* case, the court did not allow additional affidavits for the neighbor’s standing argument. The Court of Appeals noted that even if it had allowed the affidavit from an appraiser predicting loss of value, that affidavit was insufficient without identifying some secondary impacts such as traffic, noise, light, odors, runoff, or other potential damages generated by the use of the subject property.

Additional adverse impacts need to be shown by the party alleging standing. As noted in *Lloyd v. Town of Chapel Hill* (127 N.C. App. 347 (1997)), in order to establish standing the individual must do more

than state that they live in the vicinity of the subject property and allege that the project will harm them. This website uses cookies and similar technologies to understand visitor experiences. By using this website, you consent to UNC-Chapel Hill's cookie usage in accordance with their

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Coates' Canons NC Local Government Law

Can I Be Heard? Who Gets to Speak at a Hearing on a Quasi-judicial Matter?

Published: 02/15/12

Last-Revised: June 13, 2022

Author Name: David Owens

The town council makes decisions on special use permit applications under the Macomb zoning ordinance. The council is in the midst of a hearing on an application from Malcolm Tucker for a special use permit to build a new shopping center. The town planner has summarized the nature of the project and the applicable town standards. Tucker's project planner has testified about all the studies and reports she prepared to show compliance with the town standards. At this point Clara Edwards stands up and asks to be heard. Clara lives on the other side of town, but word is she plans to run for Mayor next time around. In any event, she has lately taken to showing up at most town council meetings and offering her views on whatever is before the council. Tucker, who has a long and acrimonious relationship with Edwards, objects to allowing her to speak. Addressing the council, Tucker says, "Madame Mayor, I submit that Mrs. Edwards has no right to testify about my project. She's not the

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illegal for the council to act without offering her that opportunity. A council can certainly impose reasonable limits on public comments at legislative hearings, such as reasonable time limits or that comments be germane to the issues presented. But for the most part those presenting comments are free to express their views on the matter. See this [post](#) for more on the procedures required for legislative decisions.

A hearing on a *quasi-judicial* matter is altogether different. With a special use permit or variance, the purpose of the hearing is not to solicit public opinion and comment about proposed policies. The policies have already been set. Instead, the council holds an evidentiary hearing to gather facts regarding whether this application meets the standards. The applicant has a constitutional right to present evidence, to cross-examine witnesses, and to present rebuttal evidence. In addition, persons who would be directly and substantially affected by the decision have a right to participate in the hearing. These persons include immediate neighbors whose property values (or use and enjoyment of their property) would be adversely affected. These persons are effectively also “parties” and have the right to present testimony, cross-examine witnesses, and otherwise participate in the hearing. See this [post](#) for more on who has formal standing to participate as a party. Persons who are not parties to the case do not have a constitutional or statutory right to present evidence to the council.

In fact, since parties to the case have a constitutional right to have the decision based only on properly received material evidence, receipt of irrelevant evidence is problematic unless it is clear that the council has not relied on it in making a decision. Often the presiding officer will give witnesses some latitude in their testimony as most witnesses are not experienced in these procedures and it would be improper to prevent someone from presenting relevant information. Still, it is appropriate to remind witnesses to stick to the relevant facts should they begin to stray too far afield. If irrelevant testimony is presented, the board should make it clear that such evidence was not considered when it makes its factual findings.

The complicating fact here is that local government hearings on quasi-judicial matters are not conducted with the formality of a court proceeding. Most often the staff simply presents a summary of the application and applicable standards, the applicant summarizes its case, and any neighbors present are recognized to make comments on the case. Most of the cross-examination is in the form of questions from council members. At this stage persons are not formally designated as “parties.” The legal standing to participate is rarely raised at this point. Most of the time neither the applicant nor the

neighbors are represented by attorneys. [For a detailed report from N.C. cities and counties on their experiences with special use permit hearings, [click here](#).] As a practical matter, the board hearing one

of these quasi-judicial matters is more concerned with acquiring quality evidence than identifying

<https://canons.sog.unc.edu/2012/02/can-i-be-heard-who-gets-to-speak-at-a-hearing-on-a-quasi-judicial-matter/>

considered by the board. However it is done, it is important that the applicant, the neighbors, the board members, and the public have a common understanding of the rules governing these hearing and that everyone make a good faith effort to observe these basic rules of fairness.

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Coates' Canons NC Local Government Law

Can Time Limits be Imposed on Speakers at a Zoning Hearing?

Published: 06/13/12

Last-Revised: June 2, 2022

Author Name: David Owens

The county board of commissioners is holding a public hearing on a controversial rezoning. A sizable contingent of neighbors who oppose the project are present. Many have signed up to tell the commissioners just how terrible it would be if the rezoning were to be approved. Anticipating that opposition, the developer has brought nearly as many folks to speak in favor of the rezoning. Looking out over the restless crowd awaiting the commencement of the hearing, it appears the board is in for a long evening.

Would it be legally permissible for the board to set time limits for the speakers at this rezoning hearing, say three minutes per speaker? How about an overall time limit, such as giving the proponents and opponents 30 minutes each? If so, could those same time limit rules be applied next month to a similarly controversial hearing on a special use permit?

For the rezoning, reasonable time limits are perfectly acceptable. For the special use permit, not so much so.

At the outset it is critical to distinguish these two different types of public hearings. For legislative zoning decisions – the decision to adopt, amend, or repeal an ordinance – state statutes mandate a public hearing to gather public comments on the wisdom and desirability of the policy being proposed. For quasi-judicial zoning decisions – the decision on a special use permit or variance – the decision-making board must conduct a hearing to gather factual evidence as to whether the particular application

that the legislative intent was to mandate a hearing and provide a “fair opportunity” for those in attendance to present their views. However, the governing board was allowed to establish an “orderly procedure” for the hearing, for “[t]he General Assembly did not contemplate that all persons entertaining the same views would have an unqualified right to iterate and reiterate these views in **endless repetition.**” *Id.* at 457, 160 S.E.2d at 286.

In our example, the county board can limit both the time allowed for individual speakers and the overall time allowed for all speakers. If this is to be done, it is advisable for the board to have clear, fair rules on this point and to make those rules available to all concerned persons. If the rules go beyond time limits for individual speakers, some attention needs to be given to how speakers are selected. For example, many cities and counties have a sign-up sheet available a set time prior to the start of the hearing and take speakers in the order of sign-up. Some provision also needs to be made to assure that proponents of one side of a controversial issue are not allowed to monopolize the hearing to the exclusion of opposing points of view. It is preferable if these rules are adopted and distributed well before a controversial hearing arises, but at a minimum they should be announced and explained at the outset of the hearing.

Evidentiary hearings

The hearing required for a quasi-judicial decision is an altogether different type of hearing. Beyond the use of the term “hearing,” these evidentiary hearings have little in common with the more familiar legislative hearing. It is certainly a “public hearing” in the sense that it must be held in compliance with open meetings and public records laws and any notice provisions in the applicable ordinance. But it is not a “public hearing” in the traditional sense of being an opportunity for all members of the public to appear and express their views on a pending public policy choice. The purpose of an evidentiary hearing on a quasi-judicial zoning matter is not to gather public opinions and suggestions as to the policy to be applied. The policy is already set in the ordinance. The board making the decision must apply those existing policies to a specific application. Rather, the purpose of the evidentiary hearing is to gather legally sufficient factual evidence to apply those standards to the application.

Our courts have held that since quasi-judicial zoning decisions affect the property rights of the applicant and other affected persons, due process requires that certain procedural safeguards be observed. The hearing is a principal means of securing the required substantial, competent, and material evidence to support the board’s factual findings. In Jarrell v. Board of Adjustment, 258 N.C. 476, 128

S.E.2d 879 (1965), the court held that a degree of informality is allowed in the conduct of evidentiary hearings for quasi-judicial zoning decisions and that the technical rules of evidence applicable in court proceedings need not be strictly followed. But the court went on to hold that notwithstanding this

<https://canons.sog.unc.edu/2012/06/can-time-limits-be-imposed-on-speakers-at-a-zoning-hearing/>

in the context of allowing affected parties to adequately present relevant facts to the board. If the time limit would preclude presentation or challenging of relevant evidence, the time limit must give way to those constitutional rights.

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§ 160D-406. Quasi-judicial procedure.

(a) Process Required. – Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision.

(b) Notice of Hearing. – Notice of evidentiary hearings conducted pursuant to this Chapter shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

(c) Administrative Materials. – The administrator or staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

(d) Presentation of Evidence. – The applicant, the local government, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

(e) Appearance of Official New Issues. – The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the local government would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

(f) Oaths. – The chair of the board or any member acting as chair and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

(g) Subpoenas. – The board making a quasi-judicial decision under this Chapter through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the local government, and any person with standing under G.S. 160D-1402(c) may make a written request

cross-examined. You may also cross examine the applicant's witnesses. The controlling State statute discusses who may participate in a hearing (see G.S. § ~~160A-202(d)~~). Certain associations may be allowed to participate in a hearing, as well as individual property owners or lessees.

Should I or my neighbors hire an attorney or an expert to testify?

That is an option, but City staff cannot offer advice on this question. When the issues are technical, such as whether or not a proposal will create a traffic problem, an expert witness may be the only qualified person who can provide factual information that is admissible.

What if I want to talk to City Councilors or board members who will be hearing the case, so they know how we feel?

Under the rules for an evidentiary hearing, no communication with the presiding body is allowed outside the hearing. Just like judges in Court, Board members and City Councilors who make quasi-judicial decisions cannot discuss cases except during a hearing and then must decide applications based on evidence.

Why doesn't the City Council simply use the legislative hearing process, rather than the more difficult and technical evidentiary hearing process for these cases?

North Carolina statutes give the City of Raleigh no other choice. All of the evidentiary hearings held by the City are conducted in this formal manner due to State law mandates.

What types of proposals require evidentiary hearings in Raleigh?

- All variances to the Zoning Ordinance, variances to the Subdivision Ordinance that are acted upon by City Council, all special use permits, and appeals of certain actions by the City of Raleigh Planning Commission.
- All certificates of appropriateness for major work on a Raleigh Historic Landmark or on a building in a Raleigh Historic Overlay District.



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The City of Raleigh
Public Affairs Department
June 2012

CITY OF RALEIGH



Raleigh City Council

A Citizen's Guide to Evidentiary Hearings

also known as
Quasi-Judicial Hearings

HISTORIC PRESERVATION COMMISSION MEMBER'S ROSTER

MEMBER	Address	Phone Number	Appointment	Expiration
Charles Drew, Chair cdrew@cityofsouthport.com	112 Park Ave	(910) 477-2365	Oct 2022	June 2025
Rick Pukenas, Vice-Chair rick.pukenas@southportnc.org	119 N. Lord St	(910) 750-1951	Oct 2022	June 2025
Bonnie Bray, Alternate bonnie.bray@southportnc.org	515 Quarter Master Dr	(301) 741-6698	Oct 2022	June 2026
Josh Cline McGee joshcline.mcgee@southportnc.org	195 Gentle Breeze Ct	(704) 614-2956	Oct 2022	June 2026
Alexis Gore Graves alexis.goregraves@southportnc.org	510 N. Lord St	(256) 653-1854	Oct 2022	June 2025
Bonner Herring bonner.herring@southportnc.org	112 W. Bay St	(772) 263-1417	June 2024	June 2027
Jim McKee Jim.mckee@southportnc.org	114 S. Davis St	(910) 470-0529	Oct 2022	June 2026
Joanne Wesson joanne.wesson@southportnc.org	107 River Watch Ln	(910) 264-4009	June 2024	June 2027
Lewis "Tal" West, Alternate tal.west@southportnc.org	6159 River Sound Cir	(704) 575-6048	Oct 2022	June 2026
Penny Tysinger ptysinger@cityofsouthport.com	1029 N. Howe Street, Southport, NC 28461	(910) 457-7925	Staff HPC Planner (PT)	
Maureen Meehan (Mo) mmeehan@cityofsouthport.com	1029 N. Howe St., Southport, NC 28461	(910) 457-7900 Ext 1043	Staff City Planner	
Tanya Shannon tshannon@cityofsouthport.com	1029 N. Howe St., Southport, NC 28461	(910) 457-7929	Staff Deputy City Clerk	
Dorothy Dutton (Dorrie) ddutton@cityofsouthport.com	1029 N. Howe St. Southport, NC 28461	(910) 457-7900 Ext 1010	Staff Assistant City Manager/City Clerk	
Robert Carroll rcarroll@cityofsouthport.com	307 E. Nash St	(910) 465-2717	Board of Aldermen Liaison	

HISTORIC PRESERVATION COMMISSION 2024 ATTENDANCE RECORD

<u>MEETING DATE</u>	Jan 03	Feb 07	March 06	April	May	June	July	July 31	Aug.	Sept.	Oct.	Nov.	Dec.	
<u>NAME</u>														Total
Charles Drew Chair	P	P	A	P	P	P	P	P						1
Rick Pukenas Vice-Chair	P	A	A	P	P	P	P	P						2
Alexis Gore Graves	P	A	P	A	P	P	P	P						2
Jim McKee	P	P	P	P	P	P	A	A						2
Josh Cline McGee	P	P	A	P	P	A	P	A						2
Bonner Herring	P	A	P	A	P	A	P	P						3
Joanne Wesson	P	P	P	P	P	P	P	P						
Bonnie Bray	P	P	P	P	P	P	P	P						
Lewis 'Tal' West	P	A	P	P	P	A	A	A						4