



The Public may view the Live Council Meeting on the Town's YouTube Channel:
<https://www.youtube.com/TownofClaytonNC>

No Weapons Allowed Inside Council Chambers.

1. CALL TO ORDER

- a. Call to Order of the Board of Adjustment Meeting
- b. Roll Call of the Board of Adjustment

2. ADJUSTMENT OF THE AGENDA

- a. **POTENTIAL ACTION:** Adopt the Agenda as Presented
Presenter:
Conrad Olmedo, Planning Director

3. APPROVAL OF MINUTES

- a. Review of the Board of Adjustment meeting minutes from April 15, 2026.
Presenter:
Conrad Olmedo, Planning Director
POTENTIAL ACTION: Approval of Minutes

4. ACTION OF THE BOARD

Review of the Board of Adjustment's action conducted at the April 15, 2026 meeting.

- a. Review of the Findings of Fact, Conclusions of Law, and Decision for 101 Best Wood Drive, Appeal of Final Administrative Determination, Case BOA 2025-149-APL.
Presenter:
Conrad Olmedo, Planning Director

5. EVIDENTIARY HEARINGS

Evidentiary Hearings are scheduled accordingly per each meeting of the Board of Adjustment.

- a. No Evidentiary Hearings are scheduled for the May 20, 2026 meeting.

6. NEW BUSINESS

- a. A training session for the Board of Adjustment by Chad Meadows, CodeWright Planners.
Presenter:
Conrad Olmedo, Planning Director

7. ADJOURNMENT

- a. **POTENTIAL ACTION:** Motion To Adjourn

INFORMATION FOR THE PUBLIC

About the Board of Adjustment

The Board of Adjustment is composed of volunteer members of the public who reside within the corporate limits and extraterritorial jurisdiction (ETJ) of the Town of Clayton.

Members residing within the corporate limits are appointed by the Town Council and members residing in the ETJ are appointed by the Johnston County Board of Commissioners, with the recommendation of Town Council.

The Role of the Board of Adjustment

The Board of Adjustment is responsible for making quasi-judicial decisions on Administrative Appeals, Special Use Permits, and Variance requests. Decisions made by the Board of Adjustment are based on findings of fact and conclusions of law.

Participation in the Evidentiary Hearing

In accordance with [G.S. 160D-406. Quasi-judicial procedure](#), a person with standing serving as an expert witness may participate in the Evidentiary Hearing. This typically includes applicants, adjacent property owners, subject-matter experts, and legal counsel.

Before Speaking:

- Wait until you are recognized by the Chair;
- Clearly state your full name and address for the record;
- Be sworn in under oath, as administered by the Clerk; and
- Address your comments to the Board.

The Chair may ask you to conclude your comments should they be repetitive, immaterial, insubstantial, or it is determined you have no standing per [G.S. 160D-1402\(c\)](#).

ADA Compliance

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of Town of Clayton should contact the office of Dolores Gill, ADA Coordinator at 919-553-5002 as soon as possible but no later than 48 hours before the scheduled event.

Contact the Planning Department

For questions about the Board of Adjustment or items contained in this agenda packet, please contact the Planning Department at (919)553-5002 and ask for "Planning" or email planning@townofclaytonnc.org.

Additional Information

1. Board of Adjustment Website: [Board of Adjustment | Clayton, NC](#)
2. Planning Public Meetings and Hearings: [Public Meetings & Hearings | Town of Clayton](#)
3. Relevant North Carolina General Statutes: [G.S. 160D-302. Boards of adjustment](#), [G.S. 160D-705. Quasi-judicial zoning decisions](#), [G.S. 160D-406. Quasi-judicial procedure](#), and [G.S. 160D-1402. Appeals in the nature of certiorari](#).
4. UDO Information: [Unified Development Ordinance \(Adopted 11.17.25\)](#), Board of Adjustment, UDO § 1.8.5 (Adopted 11.17.25) and Evidentiary Hearings, UDO § 2.4.9.C (Adopted 11.17.25).

< End of Information for the Public >



Town of Clayton
Board of Adjustment Minutes
Wednesday, April 15, 2026 at 6:00 PM
Council Chambers, Town Hall
111 E. Second Street

Pursuant to N.C. General Statute § 143-318.10(e), these minutes provide a general summary of the Board of Adjustment meeting and do not represent a verbatim transcript. A complete video recording of this meeting is available for public access on the Town of Clayton’s official YouTube channel: <https://www.youtube.com/user/TownofClaytonNC>.

Present:

Marty Bizzell, Chair
Rebecca Berry, Vice-Chair
Joseph Warta
Jim Perricone
Karen Spicer
Robin Jarvi

Staff Present:

Francis Rasberry, Town Attorney
Conrad Olmedo, Planning Director
Susan Long, Zoning and Code Enforcement Officer
Heidi Holland, Town Clerk

Absent:

Richie Wiggins

1. CALL TO ORDER

- a. Call To Order

Chair Bizzell called the meeting to order at 6:00 p.m. It was noted Town Clerk Heidi Holland would administer oaths to new member Robin Jarvi and re-appointed members Rebecca Berry and Marty Bizzell.

- b. Roll Call of the Board of Adjustment

Mr. Olmedo provided the roll call. A quorum was present. With Board Member Wiggins absent, Board Member Spicer was able to vote.

2. BOARD OF ADJUSTMENT ELECTIONS

Election of the Board of Adjustment Chair and Vice Chair

- a. Accept nominations for the Board of Adjustment Chair and entertain a motion to vote.

Board Member Perricone nominated Chair Bizzell for Chair and Vice-Chair Berry for Vice-Chair for this year, seconded by Board Member Spicer. Mr. Olmedo asked Board Member Perricone to make those separate motions. Board Member Perricone amended his motion to nominate Chair Bizzell for Chair, seconded by Vice-Chair Berry.

Nominate Chair Bizzell to Continue to Serve as Chair for 2026

Result:	Passed 5-0
Mover:	Jim Perricone

Seconded:	Rebecca Berry
Yes:	Joseph Warta, Rebecca Berry, Jim Perricone, Marty Bizzell, Karen Spicer
No:	None
Absent:	Richie Wiggins

- b. Accept nominations for the Board of Adjustment Vice Chair and entertain a motion to vote.

Board Member Perricone nominated Vice-Chair Berry for Vice-Chair for this year, seconded by Board Member Spicer.

Nominate Vice-Chair Berry to Continue to Serve as Vice-Chair for 2026

Result:	Passed 5-0
Mover:	Jim Perricone
Seconded:	Karen Spicer
Yes:	Joseph Warta, Rebecca Berry, Jim Perricone, Marty Bizzell, Karen Spicer
No:	None
Absent:	Richie Wiggins

3. ADJUSTMENT OF THE AGENDA

- a. No adjustments were made to the agenda.

Adoption of the Agenda as Presented

Result:	Passed 5-0
Mover:	Rebecca Berry
Seconded:	Joseph Warta
Yes:	Joseph Warta, Rebecca Berry, Jim Perricone, Marty Bizzell, Karen Spicer
No:	None
Absent:	Richie Wiggins

4. APPROVAL OF MINUTES

- a. October 7, 2025 Meeting Minutes of the Board of Adjustment

Adoption of Minutes

Result:	Passed 5-0
Mover:	Joseph Warta

Seconded:	Jim Perricone
Yes:	Joseph Warta, Rebecca Berry, Jim Perricone, Marty Bizzell, Karen Spicer
No:	None
Absent:	Richie Wiggins

5. EVIDENTIARY HEARINGS

a. 101 Best Wood Drive 2025-149-APL

Chair Bizzell stated prior to opening the evidentiary hearing, the Board Attorney Rasberry would review the quasi-judicial process for the benefit of new and returning members.

Attorney Rasberry advised the Board of Adjustment is an independent decision-making body operating pursuant to the North Carolina General Statutes. He stated the matter before the Board was an appeal of an administrative determination made by the Town of Clayton planning staff. He explained quasi-judicial hearings are evidentiary in nature and are conducted in a manner similar to a court proceeding rather than a general public hearing.

He reviewed the procedural and constitutional requirements applicable to quasi-judicial hearings, including the right of parties to due process, the right to counsel, the right to present sworn testimony, the right to examine and cross-examine witnesses, and the requirement that the Board base its decision solely on competent, material, and substantial evidence. He explained a written record of the proceedings must be maintained and the Board's decision must be memorialized in a written final order containing findings of fact and conclusions of law.

He also explained the parties to the proceeding were the Town of Clayton, acting through its administrative staff, and the appealing party. He stated Board Members must serve as a fair and impartial tribunal and may not participate in a case if they have a substantial familial, business, or associational relationship with any party. He advised the Chairman should inquire regarding any conflicts of interest before proceeding.

Attorney Rasberry stated in an administrative appeal, the Board's role is to receive evidence, determine the relevant facts, and interpret and apply the applicable law. He clarified that Board Members serve as both fact-finders and decision-makers and that the Board may not grant relief beyond the authority provided by statute. Board Members asked questions regarding the conduct of the hearing, deliberations, and the preparation and approval of the final written order, which were addressed by Attorney Rasberry.

Chair Bizzell formally opened the evidentiary hearing and stated all individuals intending to testify be sworn in by Town Clerk Heidi Holland. Ms. Holland swore those individuals in.

Susan Long, Zoning and Code Enforcement Officer for the Town of Clayton, presented the staff report regarding the appeal of a Notice of Violation associated with a shipping container located on the property at 101 Bestwood Drive. Ms. Long testified the property is approximately 1.15 acres in size and is located at the corner of Powhatan Road and Bestwood Drive. She stated the property is developed with a commercial building containing two tenant suites, one occupied by a handyman services business and the other by an indoor tumbling and cheer studio. She stated the property is zoned Light Industrial.

Ms. Long stated public notices for the evidentiary hearing were properly provided through the posting of signage, mailing of notices, and updating of the Town's website. She stated the Notice of Violation was discovered during a routine enforcement activity when staff observed construction materials attached to a shipping container on the property. Upon further investigation, staff determined no building permits or temporary use permits had been issued for the shipping container or for the construction activity associated with it.

Ms. Long presented aerial and street-level imagery showing no shipping container was present on the site in April 2022 or October 2023, but the container appeared on the property by early 2024. She testified the Unified Development Ordinance became effective on January 2, 2024, and under the UDO, shipping containers are classified as temporary structures requiring a temporary use permit. She explained temporary use permits allow placement for a limited period of time and that, even if such a permit had been issued, the allowed duration would have expired well before enforcement action was taken. Ms. Long stated no permits of any kind had been issued and the container was therefore in violation of the UDO.

Members of the Board questioned staff regarding whether the shipping container would have been permitted under the prior development code, whether grandfathering or legal nonconforming status could apply, and what permitting requirements would have existed prior to the adoption of the current UDO. Mr. Olmedo stated under the prior ordinance, shipping containers may have been allowed as an accessory use subject to screening, setbacks, and other standards, but permitting would still have been required. He stated no documentation existed showing the container was lawfully established prior to the effective date of the current UDO.

Additional questions were asked regarding the timing of the container's placement on the site, the issuance of enforcement notices, and the length of time the container had remained on the property without authorization. Staff clarified the enforcement timeline and confirmed that no documentation had been submitted demonstrating lawful establishment of the container.

Attorney Rasberry clarified a use may only be considered legal nonconforming if it was lawfully established prior to a change in the ordinance. He explained the absence of required permits is a critical factor in making this determination and it is the Board's responsibility to determine whether the evidence supports lawful establishment of the use.

The appellant, Richard Schacher testified under oath as a fact witness. He stated he operates a business located at 101 Bestwood Drive but does not own the property. He testified the shipping container was acquired as part of the purchase of the business and that it is used exclusively for storage of tools, equipment, and materials related to business operations. He acknowledged the container was not permitted.

Mr. Schacher testified he believed the container had been delivered prior to the effective date of the Unified Development Ordinance, possibly in October 2023, but stated he lacked documentary evidence confirming the delivery date. He testified after acquiring the business, he removed the unauthorized construction that had been attached to the container. He further testified he had relied on representations from the prior owner that the matter was being addressed and believed it had been resolved until later enforcement notices were received.

Mr. Schacher stated his objective in filing the appeal was to stop the accrual of daily penalties

and to find a path toward compliance. He requested the Board consider allowing the container to remain on the property, citing the presence of similar containers on neighboring properties and the financial hardship associated with removal.

Members of the Board questioned the applicant regarding permit history, his knowledge of the violation prior to acquiring the business, ownership of the container, and use of the container. Mr. Schacher acknowledged no permits had been obtained and confirmed he was aware of the violation prior to completing the business acquisition.

Ms. Long testified other shipping containers in the area had either been lawfully established under previous regulations or had existed for a duration beyond the applicable enforcement limitations. She testified that temporary permitting options had been discussed with the prior owner and the current UDO prohibits granting use variances for uses not permitted by right.

Mr. Schacher asked whether there was any process available, outside of a legislative amendment and a rewrite of the Unified Development Ordinance, that would allow the matter to remain in compliance on a permanent basis through a variance, waiver, or similar mechanism. Mr. Olmedo responded, at this time, no such alternative path exists. It was explained potential solutions had been discussed previously, including conversations with Mr. Richie Stewart, and there was interest in addressing the issue legislatively in the future.

Mr. Olmedo noted the matter before the board that evening was limited to whether the cited violation should be appealed or not appealed, and emphasized this should remain the focus of the current decision. While alternative solutions and future possibilities could be discussed at a later time, staff indicated they would be willing to continue those discussions outside of the immediate appeal process. No further questions were raised.

Attorney Rasberry clarified the Board's role was limited to determining whether staff correctly issued the Notice of Violation. He stated the Board lacked authority to grant a use variance, waive ordinance requirements, or direct staff to negotiate alternative compliance paths. He further clarified that matters related to civil penalties and enforcement are not within the Board's jurisdiction and that legislative amendments to the Unified Development Ordinance are outside the Board's authority.

No additional evidence or testimony was offered by either staff or the appellant.

Chair Bizzell closed the evidentiary hearing and opened the matter for Board deliberation.

Following deliberation, Board Member Perricone made a motion to affirm the determination of staff in Appeal No. 2025-149-APL on the grounds that the shipping container was not lawfully established, required permits were not obtained, and the use does not comply with the current Unified Development Ordinance. The motion was seconded by Vice-Chair Berry.

Affirm the Determination of Staff in Appeal No. 2025-149-APL

Result:	Passed 5-0
Mover:	Jim Perricone
Seconded:	Rebecca Berry
Yes:	Joseph Warta, Rebecca Berry, Jim Perricone, Marty Bizzell, Karen Spicer

No:	None
Absent:	Richie Wiggins

6. NEW BUSINESS

- a. Information update on the Written Decision of the Board of Adjustment.

Attorney Rasberry stated a written final order containing findings of fact and conclusions of law would be prepared and presented to the Board for review and formal approval at the next regular meeting, in accordance with statutory requirements.

7. ADJOURNMENT

- a. Adjourn

With nothing further, the meeting was adjourned at 7:31 p.m.

Motion To Adjourn

Result:	Passed 5-0
Mover:	Joseph Warta
Secunder:	Karen Spicer
Yes:	Joseph Warta, Rebecca Berry, Jim Perricone, Marty Bizzell, Karen Spicer
No:	None
Absent:	Richie Wiggins

Duly Adopted by the Board of Adjustment on Wednesday, May 20, 2026 while in regular session.

Marty Bizzell
Chair

ATTEST:

Heidi L. Holland, MMC, NCCMC
Town Clerk

101 BEST WOOD DRIVE, CLAYTON, NC
APPEAL OF FINAL ADMINISTRATIVE DETERMINATION
CASE BOA 2025-149-APL

TOWN OF CLAYTON BOARD OF ADJUSTMENT
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION

This is an appeal from a final administrative determination regarding the permissibility of a metal shipping container located on property having the address of 101 Best Wood Drive in Clayton, NC. The matter came before the Clayton Board of Adjustment (the “BOA”, or “Board”) on April 15, 2026, for evidentiary hearing. Based on the testimony of the witnesses, the administrative appeal application, with attachments, the staff report, and all other evidence present at the hearing, the BOA finds that the Final Administrative Determination of the Town should be Affirmed. In support thereof, the Board makes the following Findings of Fact, Conclusions of Law, and Decides as follows:

FINDINGS OF FACT

1. The property at issue (the “Property”) consists of a single parcel of land, 1.15 acres in size, having parcel ID# 05105019T, Tax ID# 167700-59-0242. The property is located at 101 Best Wood Drive in Clayton.
2. The Property is zoned Light Industrial (LID).
3. The Property is currently owned by Aligwen, LLC, with an address of 6300 Westgate Road, Suite A, Raleigh NC 27617.
4. The Property is currently leased to Mr. Richard L. Schacher d/b/a “Mr. Handyman of NE Raleigh to Clayton Area”, and the appeal is brought by Mr. Schacher (the “Appellant”)
5. The Property is presently improved with a light industrial/commercial building, of brick construction, used in connection with the Appellant’s business.
6. As testified to by the Appellant, a metal shipping container was placed adjacent to the principal brick building, along its northeast side, by the prior owner. No zoning compliance or other permit was applied for or issued by the Town for the placement of the shipping container.
7. The Applicant began to lease the Property subsequent to the location of the shipping container on the Property.
8. On March 10, 2025, code enforcement staff of the Town of Clayton (the “Town”) observed building materials used in construction on and around the shipping container. Photographic evidence and the Appellant’s testimony indicated the building materials were intended and used for construction of a wooden canopy or roof alongside the

shipping container. It was determined that no building or other permits had been issued for this construction, and a Notice of Violation was issued to the property owner.

9. In early April, the prior business owner visited the Clayton Town Hall. The prior business owner informed the Town staff that the building materials had been removed, and fees for the violation should be waived.
10. On November 20, 2023 (“New Ordinance Effective Date”) the Town adopted a new Unified Development Ordinance (“UDO”), with an effective date of January 2, 2024, replacing the Town’s prior land use regulations, Chapter 155: Unified Development Code.
11. The Town’s newly adopted UDO provided comprehensive land use regulation updates and revisions, including zoning ordinance provisions relating to shipping containers.
12. The Town’s UDO, effective January 2, 2024, classifies shipping containers as “Portable Storage Containers” and are permitted in the Light Industrial (LID) zoning district on a temporary basis only, with issuance of a Temporary Permit being required, pursuant to UDO Section 4.6.5(D).
13. Prior to the New Ordinance Effective Date, shipping containers were classified as “Accessory General Outdoor Storage” and permitted, on a permanent basis, as an accessory use to the principal use in what was then the “Industrial Light (I-1)” zoning district, subject to the requirement for a zoning permit or building permit and subject to the Accessory Structures and Use standards of the Unified Development Code.
14. Photographic evidence (Google Street View) shows that the shipping container was not located or sited at the Property on April 2022. Aerial imagery (Nearmap) was presented that shows the shipping container not being located on the property as of October 19, 2023 and then appearing on the property on February 1, 2024.
15. No zoning compliance permit, building permit, or temporary use permit has been issued with respect to the shipping container located on the Property.
16. The shipping container was placed on the Property by its prior owner and was situated on the Property at the time the Appellant began to lease the Property.
17. The precise date the shipping container was placed on the property and whether it was placed on the Property prior to the New Ordinance Effective Date cannot be conclusively fixed, based upon the evidence presented at the hearing.

CONCLUSIONS OF LAW

Based upon the evidence presented, the Board of Adjustment Concludes as follows:

1. The Town has presented substantial, competent, and material evidence to show that:
 - a. The shipping container was placed or located on the Property, and continues to be located on the Property, without issuance of any building permit, zoning compliance permit, temporary permit or other permit as required under applicable provisions of the Town’s UDO.
 - b. The shipping container has, since March 10, 2025, and continuing to the date of this hearing, been located on the Property in violation of UDO Section 4.6.5 (D).

2. The Appellant has failed to present substantial, competent, and material evidence to show that the shipping container is entitled to remain on the Property, and that the Town’s Final Administrative Determination should be otherwise reversed.

DECISION

WHEREUPON, based on the foregoing Findings of Fact and Conclusions of Law, the Town’s final administrative determination that, inasmuch as the shipping container has been continuously located at on the Property at 101 Best Wood Drive without the issuance of any zoning compliance permit, building permit, temporary use permit, or other permit, and has remained on the property in excess of the temporary period allowed under UDO Section 4.6.5 (D), a violation of applicable provisions of the UDO has occurred, and the administrative determination of the issued Notice of Violation by the Town is hereby Affirmed.

This is ____ day of _____, 2026.

Marty Bizzell, Chair
Town of Clayton Board of Adjustment



Board of Adjustment

Training Session

5.20.26

Chad Meadows, AICP

Founder & Principal

chad@codewrightplanners.com



OVERVIEW

01

**What is the
BOA?**

02

Core Functions

03

Quasi-Judicial Basics

04

Legal Standards

05

**Common Mistakes to
Avoid**

01. What is the BOA?

- A **Quasi-Judicial** body empowered to consider certain types of development applications by NCGS§160D-302
- It applies existing development requirements (the UDO) to specific applications (often difficult or confusing ones)

It is NOT a Legislative Body
(like Town Council)

Town Council makes and interprets policy

It is NOT a Ministerial Body (like Town Staff)

Town Staff Administers development regulations but does not exercise discretion

It is a DISCRETIONARY Body

It applies the regulations while interpreting conditions and exercising discretion

01. What is the BOA?

A **Board of Adjustment** is like:

- A REFEREE in its consideration of **appeals** - it doesn't make the rules, it just makes sure the rules are being followed
- An INTERPRETER in its consideration of **special use permits** - it listens, weighs content, and applies judgment to facilitate the conversation
- A TAILOR in its consideration of **variances** - it evaluates conditions (the ordinance, or the "garment" & the wearer or the "applicant") and adjusts the garment to better fit the wearer

02. BOA Core Functions

VARIANCES
UDO§2.3.29

Authorizes a deviation from rules due to a hardship

SPECIAL USE PERMITS
UDO§2.3.22

Authorizes a use when there are concerns about compatibility

APPEALS
UDO§2.3.2

Determines if the rules were followed



QUASI-JUDICIAL BASICS



03. Quasi-Judicial Basics

- The General Statutes (NCGS) create the authority (enabling legislation) for towns to control land use
- The 14th Amendment to the US Constitution recognizes the need for **due process** and **equal protection** under the law when it comes to rules that control land use
- The BOA is one of the cross checks built into the land use regulatory system to protect due process and ensure equal protection
- The quasi-judicial process is the foundation of the BOA protections

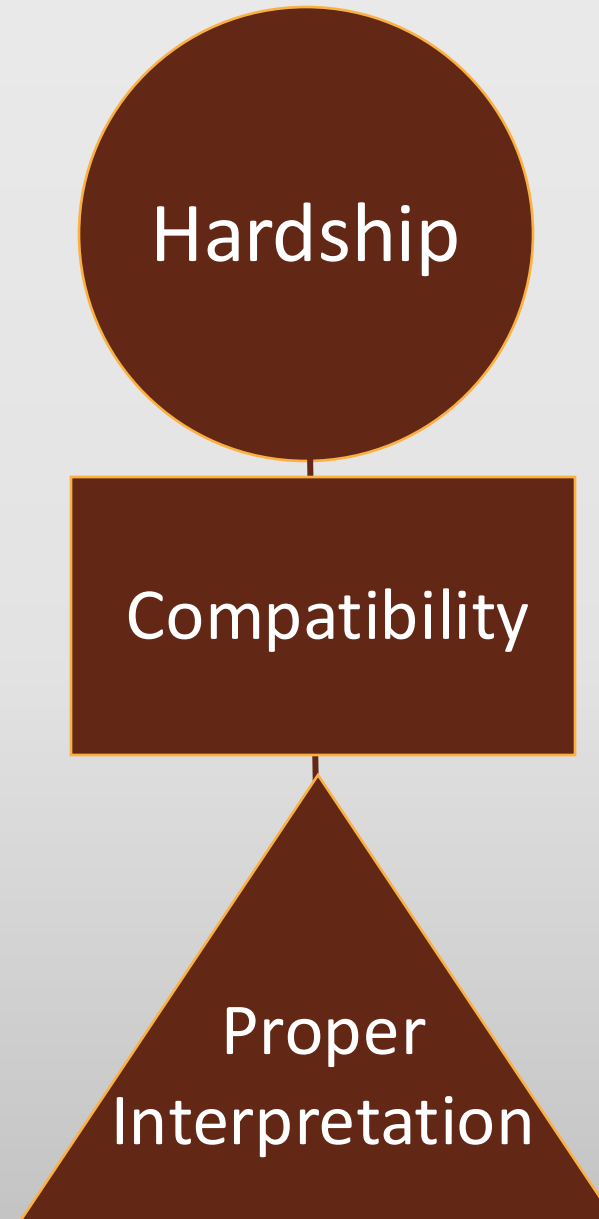


03. Quasi-Judicial Basics

1. Impartial decision makers
2. Decisions must be based on "competent, material, and substantial evidence"
3. Opinions are not enough - we need facts
4. Witnesses must be sworn and have standing
5. Certain testimony must come only from experts to be credible
6. Cross-examination rights matter
7. Decisions are reduced to writing



LEGAL STANDARDS



04. Legal Standards - EVIDENCE

To make a legally defensible decision, the BOA must rely solely on:

SUBSTANTIAL, MATERIAL, and COMPETENT EVIDENCE

- 1. Substantial** evidence: the amount of evidence provided is the minimum necessary to reach a decision
- 2. Material** evidence: the evidence is relevant, or logically connected to facts in the case
- 3. Competent** evidence: evidence that a reasonable mind would accept as adequate to support a conclusion

04. Legal Standards - STANDING

- Standing is the legal right to provide testimony or evidence and participate in a quasi-judicial hearing
- Who has standing?
 - The applicant
 - The landowner, lessee, or contract purchaser
 - Any person who will suffer special damages as a result of the decision
 - Any association (provided it was not created in response to the application being considered)

04. Legal Standards - HEARSAY

- A person needs to be present at a hearing to present testimony
- Use of letters or proxy statements typically not accepted as evidence
- Courts do allow a special class of hearsay - technical reports and analyses from governmental officials
- Having in-person testimony permits cross examination and an evaluation of credibility
- Hearsay may be allowed as testimony, if it is offered without rejection (suggest avoiding this)

04. Legal Standards - EXPERT TESTIMONY

- Expert witness testimony has more credibility than lay person testimony
- Opinion evidence should only be offered and accepted by a properly qualified expert witness
- Anyone claiming to be an expert witness must present their credentials for analysis and approval by the Chair
- Expert witness testimony is **required** for providing evidence about impacts on property values and traffic/safety impact

04. Legal Standards - BURDEN OF PROOF

- The applicant has the burden of proof for producing sufficient evidence for the BOA to approve the request
- If insufficient evidence is presented, the application must be denied (though the case may be continued to allow the applicant to prepare additional evidence)
- Once sufficient evidence has been presented and accepted, the applicant is entitled to approval
- If there is conflicting evidence presented, the BOA must determine which facts it believes correct

04. Legal Standards – CONDITIONS OF APPROVAL

These may be applied to address perceived impacts from the proposed development

Conditions must be:

- Proportional and reasonably related to the impacts
- Measurable and trackable
- In writing, and agreed to in writing by the applicant before the decision is made
- In compliance with federal law
- In compliance with §2.4.10

COMMON MISTAKES TO AVOID

05. Common Mistakes to Avoid

- Deciding based on opinion rather than evidence
- Confusing a legislative proceeding with an evidentiary one
- Ignoring or failing to make required Findings of Fact
- Allowing unsworn testimony or public comment to influence decision-making

05. More Common Mistakes to Avoid

- Relying on personal knowledge or communication without disclosure
- Reliance on hearsay
- Improper findings or insufficient evidence
- Failing to respect the record-building function of the evidentiary hearing

QUESTIONS/FOLLOW-UP

- Who has standing and who doesn't?
- How the BOA becomes the decision-maker in appeal cases
- How to recognize hearsay and public comment during an evidentiary hearing, and what to do about it
- Admitting evidence during the hearing and determination of expert witnesses
- When and why to suggest or allow continuances
- How to deliberate as a group