

# Frequently Asked Questions

- **How do I know if a project proposed near me requires a quasi-judicial hearing prior to approval?**

Notices are sent by first-class mail to nearby property owners. A sign is posted on the subject property. Additional information and a notice are provided on the City of Greenville's website, and a notice is published in the local newspaper prior to the hearing.

- **How do I get more information about a proposal?**

If you receive a letter, it will include information about where to seek more details about a proposal and the specific standards that need to be met. In addition, a sign will be posted on the property. The letter and sign will contain information to contact the Planning and Development Services Department for additional information.



- **If I believe specific standards are not met for a proposal and want to testify, what do I do?**

You may simply come to the hearing. The Board/Commission Chair will ask those who wish to testify to come forward and be sworn in. You may be 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. § 160D-705). 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?**

City staff cannot offer advice on this question, and this decision would be up to you. When the issues are technical, such as whether a proposal will create a traffic problem, an expert witness may be the only qualified person who can provide factual information that is admissible.

- **Can I talk to the board/commission members before the hearing, so they know how I feel?**

No. Communication with the board/commission is not allowed outside the quasi-judicial hearing. Just like judges in court, board/commission members and City Council members who make quasi-judicial decisions cannot discuss cases except during a hearing, and their decisions must be based on evidence.

- **Why do the Board of Adjustment and Historic Preservation Commission use the more difficult and technical quasi-judicial hearing process instead of the legislative hearing process?**

All quasi-judicial hearings, including the assignment to the required boards/commissions, are conducted pursuant to North Carolina's statutory requirements.



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# A Citizen's Guide to a Quasi-Judicial Public Hearing





# What are Public Hearings?

The City of Greenville Council and some of its appointed boards and commissions hold many public hearings each year, including legislative and quasi-judicial.

## Legislative Public Hearing

During the legislative process, City Council members can solicit and consider concerns from all citizens. Legislative hearings for land use are typically for annexations, future land use map amendments, rezonings, and text amendments. Legislative hearings only have rules regarding how to conduct the hearing, including how long and on which topics members of the public may speak. For example, during a legislative public hearing, any citizen may give their opinion on the issue being discussed for as long as the City Council allows.

## Quasi-Judicial Public Hearing

Under North Carolina statutes, a quasi-judicial hearing must be conducted when considering special use permits, variances, or Certificates of Appropriateness. Pursuant to local ordinances, appeals of administrative decisions are also done through quasi-judicial hearings. Quasi-judicial hearings ensure that the appropriate board applies the pre-determined standards fairly to every applicant.

# It is important to know that during a Quasi-Judicial Hearing:

- The applicant has the burden of providing substantial, competent, and material evidence that a proposal meets a series of specifically defined standards related to the proposal under consideration. The standards are written or referenced in the City Ordinances. Those persons against the proposal must also present substantial, competent, and material evidence that the proposal does not meet the applicable standards.
- Witnesses are sworn or affirmed as in a court of law. Only qualified experts in a particular discipline may testify as to their opinions; laypeople cannot. The controlling North Carolina statute (G.S. § 160D-1402) specifically states that a lay witness cannot testify to:
  - The use of a property in a particular way would affect the value of other property.
  - The increase in vehicle traffic resulting from a proposed development poses a danger to public safety.
  - Matters about which only expert testimony would generally be admissible under the rules of evidence
- The board/commission makes a determination whether the proposal is in accordance with the standards of the ordinances and issues specific findings.
- The purpose of the quasi-judicial hearing is to analyze evidence as to whether a proposal meets specific standards, and no other information can be presented. No opinions (unless an expert witness is called to offer or dispute a fact) and no information on any unrelated issue can be considered by the board/commission.
- Generally, an appeal to a quasi-judicial decision made in an evidentiary hearing is to Superior Court. For the Historic Preservation Commission, appeals go first to the Board of Adjustment, then to Superior Court.

