

Quasi-Judicial Decisions

Board Workshops
Spring 2015



1. Types of Decisions
2. Before the Hearing
3. Conducting the Hearing
4. Making the Decision

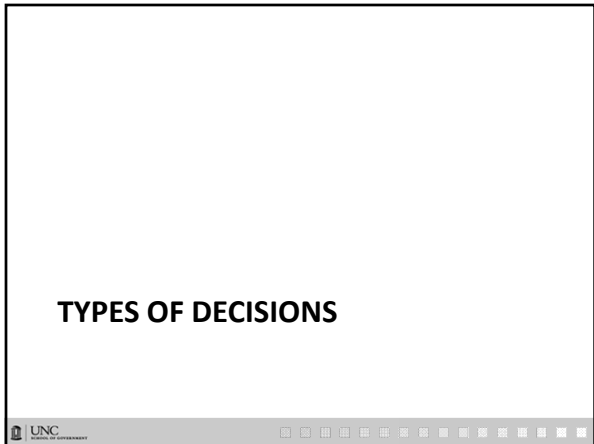


Discussion





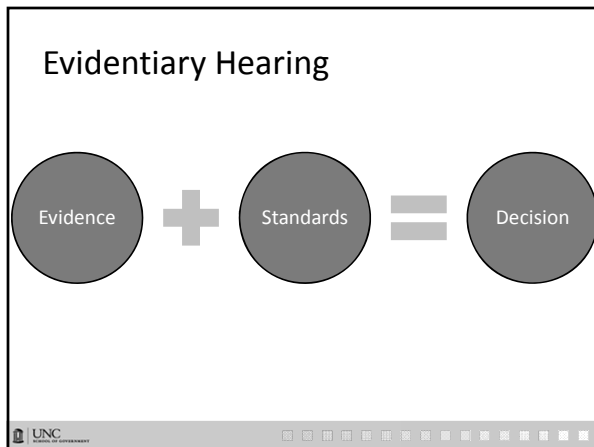




Legislative	Quasi-Judicial	Administrative

Quasi-Judicial Decisions

- Special Use Permit or Conditional Use Permit
- Variance
- Certificate of Appropriateness
- Appeal of Administrative Decision



Decision	Standard
Special Use Permit/ Conditional Use Permit	Ordinance standard (commonly property values, plan conformity, harmony with area, etc.)
Variance	Statutory standard for hardship
Certificate of Appropriateness	Congruous with the character of the district or landmark
Appeal of Administrative Decision	Ordinance Interpretative Guidance

The board . . .


<p>Must</p> <ul style="list-style-type: none"> • Apply the established standards • Decide whether the particular application meets the standards 	<p>Must not</p> <ul style="list-style-type: none"> • Set new policy • Gauge public opinion • Decide based on personal preference
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Due Process Rights

- Notice
- Clear Standards
- Opportunity to be Heard
- Impartial Decision-maker
- Right to Appeal


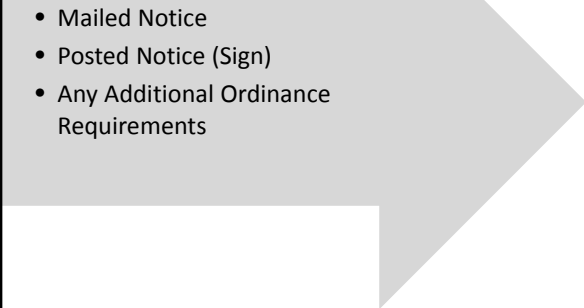
Notice
Bias
Ex Parte Communications
Conflicts

BEFORE THE HEARING




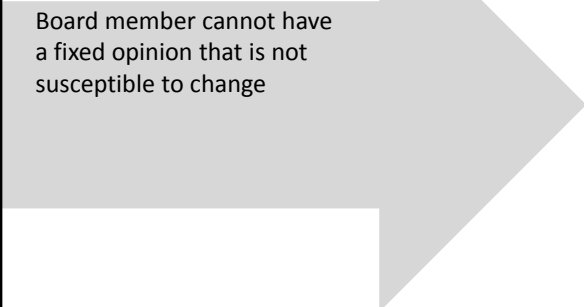
Notice

- Mailed Notice
- Posted Notice (Sign)
- Any Additional Ordinance Requirements



Bias

Board member cannot have a fixed opinion that is not susceptible to change



Ex Parte Communication

- Contacts with a party outside of the hearing
- Should be avoided
- Must be disclosed

Conflicts of Interest


- a close familial, business, or other associational relationship with an affected person
- a financial interest in the outcome of the matter

Discussion 1




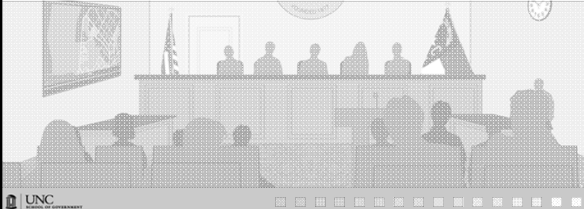
Roles
Opening
Creating the Record
Testimony
Opinion Evidence

CONDUCTING THE HEARING



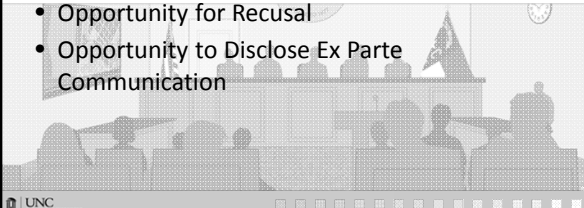
Roles

- Board Chair
- Board Members
- Staff
- Parties
- Attorneys



Opening

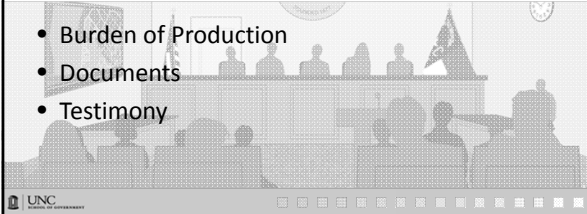
- (Swearing In Witnesses)
- Description of the Hearing
- Description of the Standards
- Opportunity for Recusal
- Opportunity to Disclose Ex Parte Communication



Creating the Record

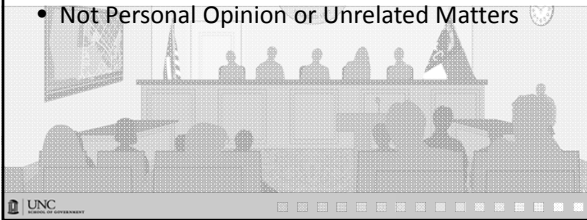
“Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record.”

- Burden of Production
- Documents
- Testimony



Testimony

- Sworn Witnesses
- Factual Testimony
- Related to the Standards
- Not Personal Opinion or Unrelated Matters



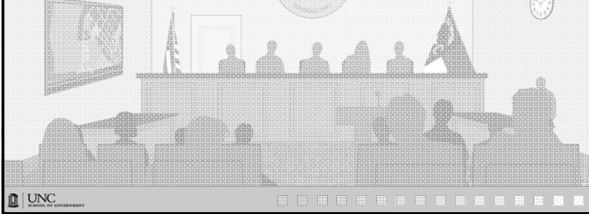
Opinion Evidence

Expert Witnesses

- Property Values
- Projected Traffic Impacts
- Other technical matters



Closing the Hearing

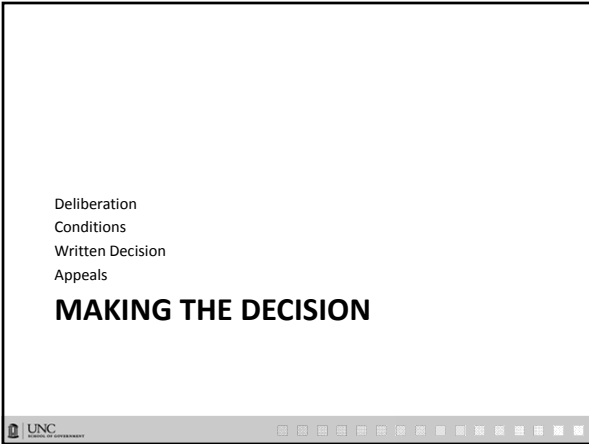


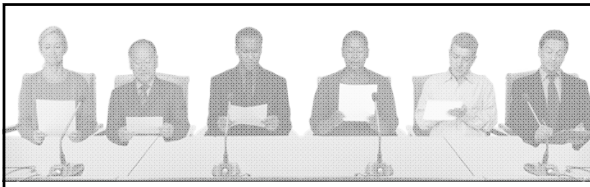
Discussion 2




- Deliberation
- Conditions
- Written Decision
- Appeals

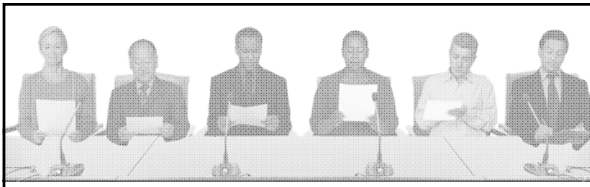
MAKING THE DECISION






Deliberate in Open Session

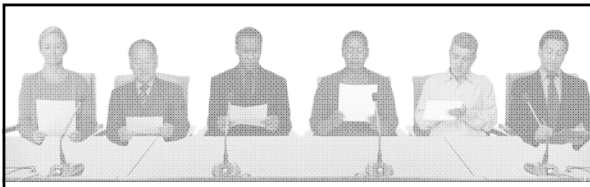





Determine Facts

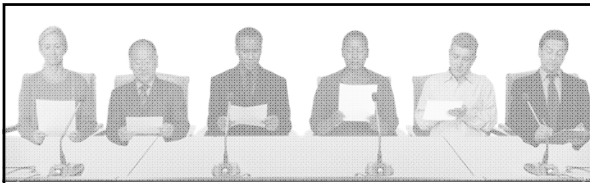
- Does the project injure property values?
- Is the hardship peculiar to this property?





Apply Standards

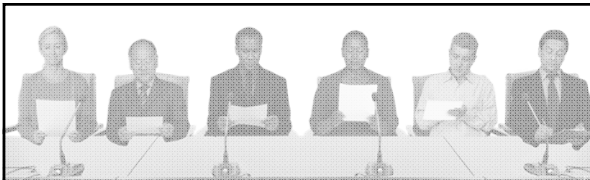




Conditions

- Related to the standards
- May bring a development into compliance (that would have been denied otherwise)

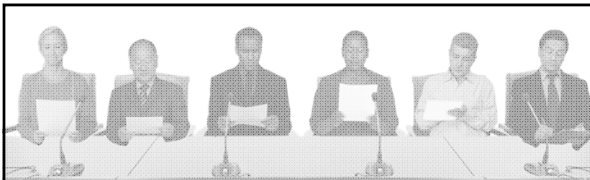




Motion

- Approve, approve with conditions, or deny
- Reasoning related to the standards

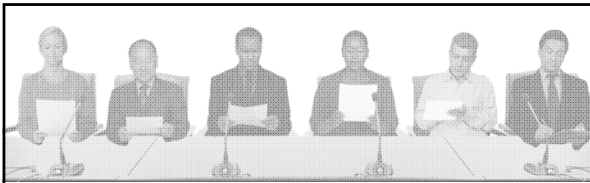




Voting

- Simple majority, generally
- 4/5 majority for a variance

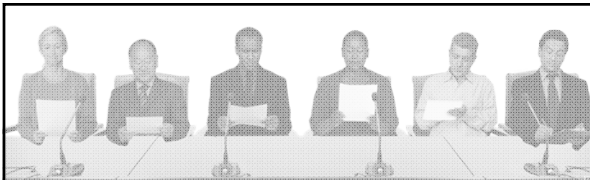




Written Decision

- May prepare draft decision prior to hearing
- Final decision document prepared after the meeting (may be by staff or attorney)
- Accurately reflect action and reasoning of the board
- Signed by chair or authorized member
- Need more than meeting minutes

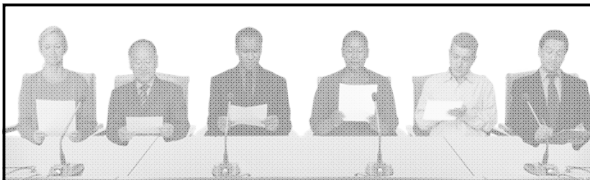




Notice of Decision

- Email, first class mail, or personal delivery
- Staff certifies delivery for the record (i.e., clerk affidavit)





Appeals

- 30 days from effective date
- To Superior Court
- On the record



Discussion 3



Questions

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