



## A Citizen's Guide to Quasi-Judicial (Evidentiary) Hearings in the Town of Belville

### What is a quasi-judicial (evidentiary) hearing?

A meeting/hearing in which a quasi-judicial decision will be made based on the facts (evidence) are used and the Hearing Body exercises discretion when applying the standards of an ordinance to a specific situation.

In most of its work, the Belville Board of Commissioners acts in a "legislative" capacity. When they take up legislative issues, Board members solicit and consider concerns of many different constituents. They can seek information from anyone they choose, use their own experiences, opinions, and judgments, and listen to the different viewpoints involved in an issue at any time or place they choose. In legislative matters, the Board will often hold a public hearing about a legislative issue to solicit comments from the public, where citizens may address decisions makers. Most public hearings have only informal rules regarding how the hearing is held and how long and on what issues members of the public may speak. For example, at a regularly scheduled public hearing any citizen may speak for however long the Board sets as a time limit and give his or her opinion on the issue.

As part of its legislative role, the Belville Board of Commissioners and its appointed boards and commissions hold many public hearings each year, mostly informal. Less frequently, the Board acts like a court in what is called a "quasi-judicial" capacity. Under North Carolina statutes, whenever a Board of Commissioners, planning board, board of adjustment or other appointed board applies pre-determined discretionary standards in an ordinance to a particular proposal, usually in matters involving land use, it must conduct a quasi-judicial or evidentiary hearing. Evidentiary hearings are designed to ensure that discretionary standards are applied fairly to every applicant.

### It is important to know that in a quasi-judicial (evidentiary) hearing:

- Proponents present substantial, competent 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 Town Code. Opponents must also present substantial, competent evidence that the proposal does not meet the applicable standards.
- Information concerning the application can only be presented at scheduled hearings. Neither the applicant nor other interested persons may discuss the matter with the members of any Town Board members outside the hearing.
- 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. § 160A-393) specifically states that a lay witness cannot testify that:
  - The use of the property would affect the value of other property, or
  - Increased vehicle traffic would pose a danger to public safety.
- The presiding body decides whether the plan is in accordance with the objective standards of the Town Code and issues specific findings.
- Because the ONLY purpose of this hearing is to introduce evidence as to whether or not a proposal meets specific standards, no other information can be presented. No opinions (unless an expert witness is called to offer or dispute a fact), no inadmissible hearsay, and no information on any related issue can be considered by the reviewing body.
- Those testifying must follow rules of evidence set out in State statutes. Just as happens in Court, if an opposing party objects to inadmissible evidence, the objection will be sustained, and the inadmissible evidence will not be allowed in the record.
- All witnesses who testify may be cross-examined as in a court of law.
- The only appeal to a quasi-judicial decision made in an evidentiary hearing is to Superior Court. (For the Historic Development Commission, appeals go first to the Board of Adjustment, then to Superior Court.)



## **FREQUENTLY ASKED QUESTIONS:**

### **How do I know if a project proposed near me requires an evidentiary hearing be held prior to approval?**

Notices are sent out by first-class mail to nearby property owners, and a sign is posted on the subject property. Additional information is provided on the Town's website, [www.townofbelville.com](http://www.townofbelville.com), and a notice may be published in the local newspaper prior to the hearing.

### **How do I get more information about the proposal?**

If you receive a letter, it will include additional information about where to seek more specific detail on the proposal and on the specific standards that will need to be met (phone number, email address, web site address). Each sign posted on the property will include a case number and the Town's contact information. Meeting agendas are posted to the Town's website. To sign up for regular updates and information from the Town, please email [townclerk@townofbelville.com](mailto:townclerk@townofbelville.com) to be added to the sunshine list.

### **If I believe that standards are not fully met for this plan and want to testify, what do I do?**

You simply come to the hearing. The presiding officer 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. § 160A-393(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 Town 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 Commissioners 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 Town Commissioners who make quasi-judicial decisions cannot discuss cases except during a hearing and then must decide applications based on evidence.

### **Why doesn't the Board of Commissioners simply use the legislative hearing process, rather than the more difficult and technical evidentiary hearing process for these cases?**

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

### **What types of proposals require evidentiary hearings in Belville?**

- 1) All variances to the Zoning Ordinance, variances to the Subdivision Ordinance that are acted upon by the Board, all special use permits, and appeals of certain actions by the Town of Belville Planning Board.
- 2) All certificates of appropriateness for major work on a Belville Historic Landmark or on a building in a Belville Historic Overlay District.

**Any Questions? Please contact us at:**

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