

Board of Adjustment & Quasi-Judicial Hearings: A Quick Guide

1. What is the Board of Adjustment (BOA)?

The BOA is a "quasi-judicial" body—meaning it acts like a specialized court. Unlike a Town Board of Commissioners that makes new laws (legislative), the BOA applies existing laws to specific cases. It serves as a neutral panel to ensure land-use rules are applied fairly.

2. What is a Quasi-Judicial Hearing?

Because these hearings affect a person's legal property rights, they are more formal than a typical public meeting.

- **No Outside Discussion:** Board members cannot talk to anyone about a case before the hearing (ex parte communication).
- **Sworn Testimony:** Everyone who speaks must be sworn in, just like in a courtroom.
- **Evidence, Not Opinion:** Decisions must be based on facts and expert testimony, not on how many people like or dislike a project.

3. Who has "Standing"?

"Standing" is the legal right to participate as a primary party in the case.

- **The Applicant:** The person or developer making the request.
- **The Town:** Represented by staff providing the technical review.
- **Any other person who will suffer special damages as a result of the Board of Adjustment's decision.** Neighbors or property owners who can prove they will suffer a specific, unique damage other than that suffered by the general public. e.g. a specific drainage issue or diminution in property value different from the general public.

Note: Simply living in the same neighborhood usually does not automatically grant standing.

4. The Verdict

The Board is bound by the "Four Findings" or similar standards in the local Zoning Ordinance. If an applicant provides competent, material evidence that it meets the conditions for a Special Use Permit or variance, the Board must approve the request. If the applicant does not provide competent material evidence demonstrating it meets the conditions for a special use or variance, the Board must deny it. For variance requests, 4 out of 5 voting members must approve the request. If there are only 4 members present, all 4 must approve the request for it to pass. A special use permit may pass with 3 of 5 members, or if only 4 members present, 3 of 4 members voting yes.