

Monroe A. Miller, Jr.  
2200 Camp Branch Road  
Waynesville, NC 28786  
(828) 456-3718  
October 24, 2019

The Grievance Committee  
**The North Carolina State Bar**  
208 Fayetteville Street  
PO Box 25908  
Raleigh, NC 27611  
(919) 828-4620

**Subject:** Complaint against Frank G. Queen, Haywood County Attorney.

I, the undersigned hereby complain against

ID 7275  
Frank G. Queen  
154 North Main Street, Ste 2  
Waynesville, NC 28786  
(828) 452-3336  
[frank@queenmountainlaw.com](mailto:frank@queenmountainlaw.com)

*I agree to cooperate by furnishing to the representatives of the North Carolina State Bar all pertinent information and records in my possession concerning the alleged misconduct of said attorney. I further agree that if a hearing or inquiry is ordered concerning the alleged misconduct of said attorney, then I will furnish evidence concerning the facts by submitting to deposition or personal attendance at the hearing or inquiry. I hereby indicate that this information is provided and transmitted by me to the North Carolina State Bar for the purpose of investigating the alleged misconduct of the above named attorney. I understand that I may also need to reveal this information to a privately-retained attorney to pursue private remedies on my behalf. I further understand that the immunity granted by North Carolina General Statute 84-28.2 applies only to those statements made without malice and intended for transmittal only to the North Carolina State Bar.*

*I also understand that the North Carolina State Bar may reveal this information to the accused attorney for his response to a formal inquiry and to others pursuant only to the Rules and Regulations of the North Carolina State Bar.*

The information in this complaint raises questions of whether Frank Queen, Haywood County Attorney, violated the North Carolina Rules of Professional Conduct, as more specifically set forth herein, or in the alternative, whether Frank Queen exhibited bias and a conflict of interest which significantly impaired his professional judgement, performance and competency as an attorney, and whether Frank Queen had engaged in conduct which is contemptuous and considered contrary to community standards of justice, honesty, or good morals, in attempting to hold an impromptu Quasi-Judicial Hearing without proper notice at a regular scheduled meeting of the Haywood County Commissioners, in having prospective witnesses administer an oath without a Bible nor witnesses placing their left hands on said Bible, and failing to have the Chair of the Haywood County Commissioners, Kevin Ensley, recuse himself for a conflict of interest in a vote during an appeal of a variance.

There is nothing in Haywood County Ordinance Chapter 114: JUNKYARDS AND OTHER FACILITIES, specifying or requiring an evidentiary Quasi-Judicial Hearing or Decision. [Attached].

From the UNC School of Government, by David Owens [Attached]:

<https://www.sog.unc.edu/resources/legal-summaries/notice-hearings-evidentiary-hearings-quasi-judicial-decisions>

### **Notice of Hearings: Evidentiary Hearings for Quasi-judicial Decisions**

David W. Owens

April, 2014

Legislative summary(ies)

#### **Summary:**

When a local government board makes a quasi-judicial decision – deciding a special or conditional use permit application, a variance request, or an appeal of a staff determination – it must hold an evidentiary hearing. Prior to 2013, state law left it to local ordinances to determine what “reasonable notice” of the hearing was to be provided. State law now sets a uniform standard for mandated notice of these hearings.

The local government holding the evidentiary hearing must provide both mailed and posted notice of the hearing. G.S. 160A-388(a2).

#### **Mailed notice**

A notice of the hearing must be mailed to the person who initiated the hearing, the owner of the affected property, and the owners of abutting properties. Some local ordinances expand the mailing requirement to the owners of all properties within a set distance of the affected property (typically those within 100 feet). The notice must be deposited in the mail at least 10 but not more than 25 days prior to the hearing.

#### **Posted notice**

The local government must also post a notice of the hearing on the site involved. That sign has to be put up at least 10 but not more than 25 days prior to the hearing.

There is no state mandate as to the size or content of the posted sign. Most local governments post a standard real estate size sign and include a heading such as “Zoning Hearing” and have contact information for obtaining more information from the staff.[1]

#### **Published notice**

There is no state mandate for publishing the notice of an evidentiary hearing in the newspaper, since the purpose of these hearings is to gather facts about a particular case, not to solicit public opinion about a pending policy choice. The notion here is that the interests of those most directly affected and who are most likely to have relevant evidence to offer are best served by mailed and posted notice, while newspaper publication is oriented more to the general public. Some local ordinances, however, do require published notice of these hearings.

#### **Open Meetings Law notice**

The Open Meetings Law also applies to these hearings, so in addition to the specific requirements noted above, the notices required by that law must also be provided. G.S. 143-318.10. A copy of the regular meeting schedule must be filed in a central location and posted on the local government’s web site (if it has one). A special meeting held outside the regular meeting schedule requires posting written notice of the meeting on the local government’s principal bulletin board, posting notice on the local government’s web site, and mailing a copy of the notice 48 hours in advance of the meeting to each person who has made a request for notification. Notice of an emergency meeting must be provided to the local news media.

Doyle Sutton purchased a piece of land in Haywood County to relocate his wrecker business. He was informed he would be in violation of county ordinance 114 - County Junkyards and Other Facilities [Attached]. He was told he could not build a storage lot on the property. He met with Kris Boyd, Facilities Director, Bryant Morehead, Haywood County Manager, Terry Ramey and others. Sutton expressed a desire to work with the county to work out a compromise.



**Haywood County  
Development Services**

157 Paragon Parkway, Suite 200  
Clyde, NC 28721  
Phone: 828-452-6632  
Fax: 828-452-6798

OCT 24 2019

September 10, 2019

Mr. Burnette Doyle Sutton  
1691 South Main Street  
Waynesville, NC 28786

Mr. Sutton,

Haywood County is in receipt of your appeal pursuant to section 114: 14 of Haywood County Code of Ordinances: Chapter 114: Junkyards and Other Facilities.

The Board of Commissioners are being made aware of your request. This request will be scheduled for a Board of County Commissioners regular meeting on or after October 7, 2019 at the Board Chairman's discretion.

Kris R. Boyd

A handwritten signature in black ink, appearing to read "Kris R. Boyd".

Development and Facilities Services Director

cc: Bryant Morehead  
Frank Queen  
Randy Best  
Kevin Ensley  
Jodie Ferguson

This is the only notice Doyle Sutton received from Haywood County, by Kris Boyd, dated 9/10/2019 **forty-two (42) days** before the review by county commissioners. The appeal was bumped until the next meeting on October 21, 2019, invalidating § 160A-388 a(2). The reason for the delay was that the county had not yet posted a sign on the property, as required by § 160A-388 a(2). There is nothing in the notice Doyle Sutton received that made any mention of a "Quasi-Judicial Hearing". For all Doyle Sutton knew, this matter was going to be for "Consideration of a Variance Request". This improper notification to Doyle Sutton invalidates the "Quasi-Judicial Hearing" held by Frank Queen at the 10/21/2019 county commission meeting.



This is a photo taken 10/24/2019 at the entrance to Doyle Sutton's property (Terry Ramey pictured). There is no mention of a "Quasi-Judicial Hearing", only that there would be a hearing "For Consideration of Variance Request".

The issue was eventually placed on the October 21, 2019 county commission meeting agenda (as indicated by the posted notice), Item 3 under new business. The agenda [Attached as Exhibit] stated:

3. Consideration of appeal and variance of the County Junkyards and Other Facilities Ordinance by Doyle Sutton for a permit to operate a wrecker service with a storage lot on property located at 3039 Crabtree Road, Waynesville, NC, parcel #8628-33-4271, per County Ordinance Chapter 114: Junkyards and Other Facilities, §114.14, Appeals and Variances - County Attorney Frank Queen.

There was no mention of any "quasi-judicial hearing" in the agenda item.

Under normal circumstances, when there is a reason to hold a public hearing, commissioners request either the Clerk or County Manager to place it on the agenda. It is then announced on the next meeting's agenda, usually two weeks subsequent, that there will be a public hearing. Then, usually two weeks later, the public hearing is held. A total of usually four (4) weeks pass from the initiation of a public hearing until the actual public hearing is held.

I received notification that there was going to be a "quasi-judicial hearing" fifteen minutes (15 min.) prior to the start of the October 21, 2019 county commission meeting.

WTF?

After the Pledge of Allegiance and Invocation, the third item on the agenda was "Public Hearings/Call to Public hearings". There was a notation following this - "none". When Kevin Ensley, the Chair, read this, he fumbled around indicating that they were going to have a public hearing, but it would be during an item on the agenda, and Frank Queen was going to handle that. [re: video].

Doyle Sutton had received no notice from local government about anything related to a “quasi-judicial hearing” [re: sog.unc.edu - Owens]. Doyle Sutton walked into that meeting expecting what was stated on the agenda, and that was “Consideration of appeal and variance ...”. Since Doyle Sutton is challenged in delivering speeches, he was going to have Terry Ramey speak for him during that agenda item.

Frank Queen sandbagged Doyle Sutton and Terry Ramey by springing this “quasi-judicial hearing”. Frank Queen spent considerable time [re: video of county commission meeting, re: <https://www.haywoodcountync.gov>] telling everyone that Doyle Sutton must be represented by a lawyer, thus preventing Terry Ramey from speaking on Doyle Suttons behalf.

To add insult to injury, witnesses were asked to administer an oath. The oath was administered by Candace Way, the Clerk to County Commissioners, but instead of the 15 or so witnesses [Attached] swearing to the oath, each was asked to stand up from their seated position, and Candace Way read the following from a half sheet of paper [Attached]:

“Do you swear or affirm that the evidence you shall give to the Board in this action is the truth?”

I asked Candace Way why no Bible. She indicated Frank Queen said she did not need one, although she did have a Bible that was available to her.

During the swearing in process at the City of Waynesville Planning Board meetings, a regular occurrence, Elizabeth Teague held out a Bible, and everyone who was going to take the oath placed one hand on the Bible, raised their right hand, and swore. If there were too many people to get near the Bible, it was permissible to touch a nearby person who was actually touching the Bible. That established a conduit to God.

During Frank Queen’s monolog describing the “quasi-judicial hearing”, Kevin Ensley meekly asked Frank Queen if he should recuse himself from voting. Kevin Ensley’s house is nearly adjacent to the land Doyle Sutton purchased, separated by a tiny 33 foot sliver of land owned by:

ENSLEY, MEGAN R  
136 STARLING HILL LN  
CLAYTON, GA 30525  
PIN 8628-23-5671

Frank Queen indicated that General Statues require him to vote. Frank Queen’s “opinion” was that there was no conflict of interest in Kevin Ensley voting on this issue. However, during the witness testimony, people as far away as .55 miles [re: Gwen Phillips - first speaker, Attached] complained about a potential decrease in property value. So how could it be that Kevin Ensley, whose land is only 33 feet from Suttons property would not be adversely affected. Kevin Ensley eventually voted “NO!” on all five aspects of § 114.14 [re: Attachment 5 on the agenda, Sutton letter Attached].

Why was this underhanded maneuver taken, calling for a “quasi-judicial hearing”, instead of letting the agenda as written take it’s course? **The outcome would have been the same in both cases.** One plausible reason was that Grover Bradshaw, a local resident within spitting distance to Doyle Suttons new property wanted to insure that he:

- Mustered enough people to attend the county commission hearing and complain, and
- Prevent Terry Ramey from speaking on behalf of Doyle Sutton during the regular agenda issue as originally stated.

[By the way, Kris Boyd, the Haywood County Facilities Director that originally denied Doyle Sutton his use of land, is currently dating Grover Bradshaw’s daughter. Can anyone spell “conflict of interest” here? This is an incestuous cesspool.]

There was nothing in the agenda about having a “quasi-judicial hearing” [Attached].

This “quasi-judicial hearing” should be declared null and void for reason of invalid notification. If the county wants to have a “quasi-judicial hearing”, it needs to be restarted and be properly noticed. Since it was not noticed properly, it deprived many other people of being able to attend a publicly noticed “quasi-judicial hearing”.

This is about as underhanded as it gets.

By the way, James Weaver “Kirk” Kirkpatrick the III, a lawyer (Bar Card ID 21711) knows perfectly well the operations of “quasi-judicial hearings”, as he and I have attended several at the City of Waynesville Planning Board (Lake Buchanan vote), and probably gave Frank Queen inspiration and guidance on how to run a “quasi-judicial hearing”. James Weaver “Kirk” Kirkpatrick the III admonished Doyle Sutton during the meeting, telling him this was one time he should have brought a lawyer to represent him. How would Doyle Sutton know to bring a lawyer?

---

The following are but a few of the Rules of Profession Conduct that Frank Queen allegedly violated.

RULE 1.1: COMPETENCE

RULE 1.3: DILIGENCE

RULE 1.11: SPECIAL CONFLICTS OF INTEREST FOR FORMER AND CURRENT GOVERNMENT OFFICERS AND EMPLOYEES

RULE 1.14: CLIENT WITH DIMINISHED CAPACITY

RULE 3.4: FAIRNESS TO OPPOSING PARTY AND COUNSEL

RULE 4.4: RESPECT FOR RIGHTS OF THIRD PERSONS

RULE 6.6: ACTION AS A PUBLIC OFFICIAL

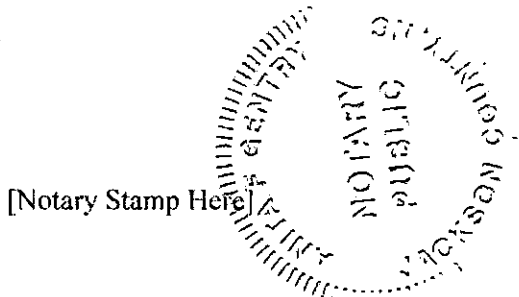
RULE 8.4: MISCONDUCT

It’s about time that the North Carolina State Bar Grievance Committee did your job and call out Frank Queen and revoke his Bar Car.

**LIST OF EXHIBITS.**

- Notice of Consideration of appeal of variance, by Kris Boyd
- HC Board of Commissioners Agenda, October 21,2019
- Attachment 5, from 10/21/2019 Agenda
  - Letter from Sutton
  - GIS Photo
  - Ordinance 114
- UNC School of Government - Article
  - Notice of Hearings
- § 160A-388(a2)
- § 143-318.10
- Oath for Witness's at quasi-judicial hearing
- Witness Sign-up sheet at quasi-judicial hearing

Monroe A. Miller, Jr.  
Monroe A. Miller, Jr.  
2200 Camp Branch Road  
Waynesville, NC 28786  
(828) 456-3718



**Jurat**

Signed and sworn before me Anita F. Centry, on this day, the 24 day of October, 2019.

Signed: Anita F. Centry

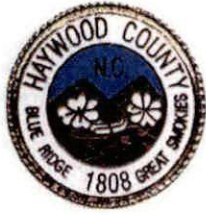
Printed: Anita F. Centry

My commission expires on October 22, 2021



**LIST OF EXHIBITS.**

- ① Notice of Consideration of appeal of variance, by Kris Boyd
  - HC Board of Commissioners Agenda, October 21,2019
  - Attachment 5, from 10/21/2019 Agenda
    - Letter from Sutton
    - GIS Photo
    - Ordinance 114
  - UNC School of Government - Article
    - Notice of Hearings
  - § 160A-388(a2)
  - § 143-318.10
  - Oath for Witness's at quasi-judicial hearing
  - Witness Sign-up sheet at quasi-judicial hearing



## Haywood County Development Services

157 Paragon Parkway, Suite 200  
Clyde, NC 28721  
Phone: 828-452-6632  
Fax: 828-452-6798

**OCT 24 2019**

September 10, 2019

Mr. Burnette Doyle Sutton  
1691 South Main Street  
Waynesville, NC 28786

Mr. Sutton,

Haywood County is in receipt of your appeal pursuant to section 114: 14 of Haywood County Code of Ordinances: Chapter 114: Junkyards and Other Facilities.

The Board of Commissioners are being made aware of your request. This request will be scheduled for a Board of County Commissioners regular meeting on or after October 7, 2019 at the Board Chairman's discretion.

Kris R. Boyd

A handwritten signature in blue ink, appearing to read "Kris R. Boyd".

Development and Facilities Services Director

cc: Bryant Morehead  
Frank Queen  
Randy Best  
Kevin Ensley  
Jodie Ferguson



215 North Main  
Waynesville, North C

LN  
a/12

**CERTIFIED MAIL**  
GREENVILLE  
SEP 19  
7016 3010 0000 4048 0723

OCT 24 2019

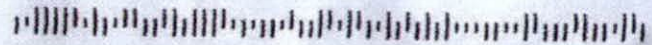
NEOPOST  
09/10/2019  
**US POSTAGE \$006.80<sup>0</sup>**



ZIP 28786  
041M11290633

Mr. Burnette Doyle Sutton  
1691 S. Main Street  
Waynesville, NC 28786

28786-682191



**LIST OF EXHIBITS.**

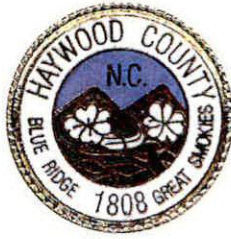
- Notice of Consideration of appeal of variance, by Kris Boyd

① HC Board of Commissioners Agenda, October 21,2019

- Attachment 5, from 10/21/2019 Agenda
  - Letter from Sutton
  - GIS Photo
  - Ordinance 114
- UNC School of Government - Article
  - Notice of Hearings
- § 160A-388(a2)
- § 143-318.10
- Oath for Witness's at quasi-judicial hearing
- Witness Sign-up sheet at quasi-judicial hearing

BOARD OF COMMISSIONERS

L. KEVIN ENSLEY, CHAIRMAN  
RANDON C. ROGERS, VICE CHAIRMAN  
W. "KIRK" KIRKPATRICK, III  
TOMMY LONG  
MARK PLESS



COUNTY MANAGER  
BRYANT MOREHEAD

COUNTY ATTORNEY  
FRANK QUEEN

HAYWOOD COUNTY BOARD OF COMMISSIONERS  
AGENDA FOR  
October 21, 2019

The Board will meet in the HAYWOOD COUNTY COURTROOM  
of the HISTORIC COURTHOUSE at 215 N. Main Street, Waynesville  
beginning at 5:30 p.m.

**Citizens must sign up for public comment prior to 5:20 p.m. and are limited to three (3) minutes. Audience members may not address the Board at any time during deliberations unless recognized by the Chairman.**

- I. Call to Order – Chairman (Kevin Ensley)
- II. Pledge of Allegiance  
Invocation – BOCC Chaplain - Rev. Patrick Womack
- III. Public Hearings/Call to Public Hearings  
none
- IV. Public Comment Session
- V. Constituent Concerns
- VI. Administrative/Agency Reports/Presentations  
none
- VII. Discussion/Adjustment to Agenda
- VIII. Consent Agenda
  1. Request approval of October 7, 2019 regular meeting minutes
  2. Request approval of resolution authorizing Haywood County to enter in a lease agreement with Meridian Behavioral Health Services, Inc. for County owned property located at 1207 East Street/307 Broadview Road, Waynesville, NC, parcel #8615-79-8012 - ATTACHMENT 1
  3. Request approval of payment of \$1,600 for operational costs to the Fairgrounds for the Santa Pals program provided by Evergreen Packaging to assist Haywood County school system.
  4. Request approval of Resolution of the County of Haywood Authorizing the Purchase of Up to ten (10) 2020 Dodge Charger Pursuits 5.7 Hemi V-8 MDS VVT AWD 5-speed Auto W5A580 from Ilderton Dodge Chrysler Jeep Ram Fleet for the Sheriff's Office per Exception to Competitive Bidding Requirements – ATTACHMENT 2

IX. Regular Agenda

1. Request approval of September 2019 - Refunds, Releases, Amendments and Discoveries - Tax Assessor Judy Hickman - ATTACHMENT 3
2. Request approval of September 2019 Tax Collections Updates and Refunds - Tax Collector Greg West - ATTACHMENT 4

5:43p

3. Consideration of appeal and variance of the County Junkyards and Other Facilities Ordinance by Doyle Sutton for a permit to operate a wrecker service with a storage lot on property located at 3039 Crabtree Road, Waynesville, NC, parcel #8628-33-4271, per County Ordinance Chapter 114: Junkyards and Other Facilities, §114.14, Appeals and Variances - County Attorney Frank Queen - ATTACHMENT 5

X. Appointments - County Manager Bryant Morehead  
none

XI. Closed Session  
none

XII. Adjournment

3. Quasi - Judicial Hearing - 1<sup>ST</sup> TIME!

Terry not a lawyer - ~~X'd out~~ Speaking For Doyle Sutton.

Michael Sorrells  
David Francis  
Randy Sisk  
Kris Boyd  
Luke Weir  
Grover Bradshaw

17 people Swore to Tell The Truth.

Boyd  
6:15 Sutton  
6:20 Phillips NO  
6:23 Yates NO  
6:29 Yates NO (wife)  
6:34 Ramsey Yes  
6:50 Dave? NO  
7:00 Sorrells NO  
7:04 Martha Wills? NO  
7:06 William Hedrick NO  
7:08 Bobby? NO  
7:11 Jack? might be interested in purchasing the property NO  
7:13 Alex Kieth NO

well organized By: Grover Bradshaw.

Terry on a roll... (25 minutes) Implicated Ensley - Dist.

Hearing Closed

Variance	NO	YES
1	5	0
2	5	0
3	5	0
4	5	0
5	4	1

**LIST OF EXHIBITS.**

- Notice of Consideration of appeal of variance, by Kris Boyd
- HC Board of Commissioners Agenda, October 21,2019
- ⑤ Attachment 5, from 10/21/2019 Agenda
  - Letter from Sutton
  - GIS Photo
  - Ordinance 114
- UNC School of Government - Article
  - Notice of Hearings
- § 160A-388(a2)
- § 143-318.10
- Oath for Witness's at quasi-judicial hearing
- Witness Sign-up sheet at quasi-judicial hearing

8-6-19

TO Haywood Co. Commissioners

I Doyle Sutton would like to Appeal  
the decision of the Enforcement Officer  
ON my plan submission for my <sup>Kris</sup> <sup>Boyd</sup> wrecker  
service on the property located at 3039  
Crabtree Rd. 8628-33-4271.

I Am Asking the Haywood County Commissioners  
to consider a Variance to grant me a permit  
to operate a wrecker service which requires  
A storage lot for towed in automobiles.

Per the requirements by the NESHP, Haywood  
Co. Sheriffs and Towns in Haywood Co. Towing  
services are required to have storage lots.

I AM ASKING for A Variance as I feel that  
I Am with in the bounds of §114.14 Appeals and  
VARIANCES (B) - 1-5.

Doyle Sutton

8-6-19

CC Terry Ramey

CC County Commissioners

CC Randy Best

CC Kris Boyd





1 inch = 100 feet

3039 Crabtree Rd

Flood Way  
As Shown

1861  
1847  
4271  
4523  
RIVERVIEW

## CHAPTER 114: JUNKYARDS AND OTHER FACILITIES

### Section

- 114.01 Definitions
- 114.02 Findings, Purposes and Objectives
- 114.03 Geographic Coverage
- 114.04 General Standards
- 114.05 Additional Standards
- 114.06 Exemptions
- 114.07 Fencing and Screening Requirements
- 114.08 Maintenance
- 114.09 Registration and Permitting of Pre-Existing Junkyards, Service Stations, Garages, Used Car Lots, Wrecker Services, and Motor Vehicle Storage Areas
- 114.10 Non-Conforming Pre-Existing Junkyards, Service Stations, Garages, Used Car Lots, Wrecker Services, and Motor Vehicle Storage Areas
- 114.11 Permit Required
- 114.12 Enforcement Provisions
- 114.13 Penalties and Remedies for Violations
- 114.14 Appeals and Variances
- 114.15 Severability

(Ord. passed 10-06-97; Am. Ord. passed 05-01-00)

### § 114.01 DEFINITIONS.

For the purposes of this Chapter, certain terms and words are hereby defined; words used in the present tense shall include the future; words used in the singular number shall include the plural number, and the plural the singular; and the word "shall" is mandatory and not directory.

**ACTIVITY.** The use of a land parcel or facility for a service station, garage, used car lot, wrecker service, junkyard, or motor vehicle storage area.

**AUTOMOBILE GRAVEYARD.** More than 10 vehicles meeting the definition of junk motor vehicle as defined in this chapter located upon a land parcel that has not been issued a permit as a service station, garage, used car lot, wrecker service, junkyard, or motor vehicle storage area.

**BUILDING.** Any structure having a roof supported by columns or walls, and designated or intended for the shelter, support, enclosure or protection of persons, animals or chattels.

**ENCLOSED BUILDING.** A permanent structure located on a parcel of land configured so as to prevent its contents from being visible from the public road or adjacent land parcel of another.

**ENFORCEMENT OFFICER.** Duly sworn employees of the Planning Office and Haywood County Sheriff's Office and such other persons as may be authorized by the Haywood County Board of Commissioners. The Enforcement Officer is also referred to as the "Officer" in this chapter.

**ESTABLISHMENT.** Any real property on which, or in which, there is operated or maintained any commercial, industrial, or service business or activity.

**FACILITY.** A structure used for a service station, garage, used car lot, wrecker service, junkyard, or motor vehicle storage area.

**FARM OR BONAFIDE FARM.** One or more contiguous land parcels under common or separate ownership on which agricultural operations are conducted as the primary use and which meets the definition of agricultural land or horticultural land under G.S. § 105-277.2 (1) and (3). For the purposes of this chapter, farm operations include the cultivation of crops, forest products, or the husbandry of livestock, poultry, or fish.

**FENCE.** A continuous, opaque, unperforated barrier extending from the surface of the ground to a uniform height of not less than six feet from the ground at any given point, constructed of dirt, wood, stone, steel or other metal, or any substance of a similar nature and strength.

**GARAGE.** An establishment which is maintained and operated for the primary purpose of making mechanical and/or body repairs to motor vehicles.

**GATE.** A door or other device attached to a fence which, when opened, provides a means of ingress and egress of persons and things for which it was intended, and which, when closed, forms a continuous barrier as a part of the fence to which it is attached.

**HEALTH NUISANCE OR SAFETY HAZARD VEHICLE.** A motor vehicle, used machinery or other used materials may be declared to be a health nuisance or safety hazard when it is found to be:

- (1) A breeding ground or harbor for mosquitoes or other insects, snakes, rodents or other pests; or
- (2) A point of collection of pools or ponds of water; or
- (3) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor; or

(4) One which has areas of confinement which cannot be operated from the inside such as trunks, hoods, etc. or is a source of danger from exposed surfaces of metal, glass or other rigid materials; or

(5) So located that there is a danger of the vehicle falling or turning over; or

(6) A point of concentration of car radiators, batteries or other materials that pose either immediate or long-term danger of environmental degradation.

**HOUSING UNIT.** A house, an apartment, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters.

**JUNK.** Scrapped copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, iron, steel, or other scrap ferrous or non-ferrous materials; or wrecked, dismantled or uninhabitable mobile homes.

**JUNK MOTOR VEHICLE.** A motor vehicle or other motorized equipment or parts thereof that:

(1) Is fully or partially dismantled or wrecked; or

(2) Cannot be self-propelled in its present condition; or

(3) Does not display a current license plate.

**JUNKYARD.** Any land parcel which is maintained, operated, or used for storing, keeping, buying or selling junk, or junk motor vehicles. The term "junkyard" shall not include any county-operated landfills, collection, or recycling facilities.

**JUNKYARD CONTROL ACT.** G.S. § 136-141 through 155 (Article 12) which delegates to the N.C. Department of Transportation the responsibility to regulate "junkyards" and "automobile graveyards" located on interstate and federal-aid primary system highways.

**LAND PARCEL.** A tract of land which is separately described by the Haywood County Land Records/GIS Office.

**MOTOR VEHICLE.** Any machine designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

**MOTOR VEHICLE STORAGE AREA.** One or more contiguous land parcels under common or separate ownership where junk motor vehicles are stored.

**OPAQUE.** Impervious to light.

**RECYCLING FACILITY.** A temporary or permanent site at which glass, aluminum cans, paper, plastic, clothes or similar materials commonly collected for recycling are collected and

moved off site or kept on site in enclosed buildings, storage bins, solid waste containers, truck trailers or other rolling stock.

**SERVICE STATION.** An establishment which is maintained and operated for the purpose of making mechanical repairs, servicing and/or washing of motor vehicles.

**USED CAR LOT.** An establishment which is maintained and operated for the purpose of selling used automobiles under a license issued by North Carolina Division of Motor Vehicles.

**VECTOR.** An organism that carries pathogens from one host to another.

**VEGETATION.** All season or evergreen vegetation including evergreen trees with leaves or foliage at all seasons of the year. Examples are white pine, southern yellow pine, hemlock and spruce trees.

**WIRE FENCE.** A continuous, translucent, perforated barrier extending from the surface of the ground to a uniform height of not less than six feet from the ground at any given point, constructed of wire, steel or nylon mesh, or any substance of a similar nature and strength, but which perforations or openings are no larger than 16 square inches.

**WRECKER SERVICE.** A land parcel which is used for the purpose of storing motor vehicles.

(Ord. passed 10-06-97; Am. Ord. passed 05-01-00)

#### § 114.02 FINDINGS, PURPOSES AND OBJECTIVES.

It is hereby found that automobile graveyards and health nuisance or safety hazard vehicles are inherently dangerous and should be prohibited and that junkyards, service stations, garages, used car lots, wrecker services, or motor vehicle storage areas should be regulated.

The purposes and objectives of this chapter include the following:

- (1) To promote the health, safety and welfare of the citizens of Haywood County;
  - (2) To protect citizens and residents;
  - (3) To promote or enhance the protection of property values throughout the county;
  - (4) To attract tourists and promote the prosperity, economic well-being and general welfare of the county;
  - (5) To protect surface and groundwater quality; and
  - (6) To preserve and protect the natural environment in Haywood County.
- (Ord. passed 10-06-97; Am. Ord. passed 05-01-00)

**§ 114.03 GEOGRAPHIC COVERAGE.**

These regulations shall be in effect in all unincorporated portions of Haywood County which are not under the jurisdiction of any municipality.

(Am. Ord passed 08-21-06)

**§ 114.04 GENERAL STANDARDS.**

(A) All junkyards which are established from and after the effective date of this chapter (November 1, 1997) and any service station, garage, used car lot, wrecker service, or motor vehicle storage area shall meet the following standards:

(1) A minimum setback of 30 feet from any public or private road surface and outside the right of way of any public or private road; and

(2) Screened as herein provided, or not visible from the main-traveled way and adjacent properties at any season of the year, or fenced, or fenced and screened and maintained as provided for in § 114.07, subsection (B); and

(3) Not be located closer than 500 feet of a residence, school or business; and

(4) Have a 50 foot vegetative buffer from all perennial streams or water bodies as shown on the U.S.G.S. topographic map.

(B) The following criteria shall be applicable to pre-existing junkyards which are registered within 180 days of November 1, 1997, the original effective date of this chapter and service stations, garages, used car lots, wrecker services, or motor vehicle storage areas that are registered within 30 days of May 1, 2000 and no portion of any such junkyard, service station, garage, used car lot, wrecker service, or motor vehicle storage area shall be operated, maintained or expanded, except those meeting at least one of the following conditions:

(1) Those which are screened by natural land features or vegetation, berms, plantings, fences or other appropriate means which sufficiently preserves the policy and intent of this chapter, or are screened and/or fenced in accordance with § 114.07; or

(2) Those which are located where the topography and terrain of adjacent lands is such that screening would be ineffective or useless. In these instances, the Enforcement Officer may waive all or part of the fencing or screening requirements, but shall require fencing and screening insofar as is practical and feasible, at all points where such fencing and/or screening shall be necessary to screen or partially screen the view of the property or a health nuisance or safety hazard vehicle as defined by this chapter.

(C) Automobile graveyards are prohibited.  
(Ord. passed 10-06-97; Am. Ord. passed 05-01-00)

**§ 114.05 ADDITIONAL STANDARDS.**

All junkyards, service stations, garages, used car lots, wrecker services, and motor vehicle storage areas which are established from and after the effective date of this chapter (November 1, 1997), or that have been issued a current valid permit to establish, operate or maintain a junkyard, as provided in § 114.10 hereof shall meet the following additional standards:

(1) **JUNKYARDS** that store more than ten junk motor vehicles, for more than thirty days, shall meet the fencing and screening requirements of § 114.07 and registration and permit requirements of § 114.09.

(2) **SERVICE STATIONS** that store more than three junk motor vehicles, for more than thirty days, shall meet the fencing and screening requirements of § 114.07 and registration and permit requirements of § 114.09.

(3) **GARAGES** that store more than three junk motor vehicles, for more than thirty days, shall meet the fencing and screening requirements of § 114.07 and registration and permit requirements of § 114.09.

(4) **USED CAR LOTS** that store more than three junk motor vehicles, for more than thirty days, shall meet the fencing and screening requirements of § 114.07 and registration and permit requirements of § 114.09.

(5) **WRECKER SERVICES** that store more than three junk motor vehicles, for more than thirty days, shall meet the fencing and screening requirements of § 114.07 and registration and permit requirements of § 114.09.

(6) **MOTOR VEHICLE STORAGE AREAS** that store more than three junk motor vehicles, for more than thirty days, shall meet the fencing and screening requirements of § 114.07 and registration and permit requirements of § 114.09.  
(Ord. Passed 10-06-97; Am. Ord. passed 05-01-00)

**§ 114.06 EXEMPTIONS.**

The following are exempted from regulation by this chapter:

(1) Recycling facilities using enclosed structures or solid waste containers, bins, truck trailers and rolling stock to store materials and equipment; or

(2) Any bona fide farm; or

(3) Motor vehicles that are not visible from outside an enclosed building and are listed as taxable personal property in the Haywood County Tax Assessors Office; or

(4) Abandoned vehicles as defined in G.S. § 153A-132.

(Ord. Passed 10-06-97; Am. Ord. passed 05-01-00)

**§ 114.07 FENCING AND SCREENING REQUIREMENTS.**

All new and pre-existing facilities, land parcels, or activities regulated in accordance with this chapter shall be operated subject to the following fencing and screening conditions:

(A) New land parcels created, activities commenced or facilities established after the effective date of this chapter shall comply with the chapter by registering, obtaining a permit, meeting the requirements of § 114.04 (A) and meeting the following fencing and screening requirements of this section:

(1) The facility, parcel, or activity shall be entirely surrounded by:

(a) an opaque fence at least six feet in height; or

(b) by either a woven or welded wire (14 gauge minimum) fence at least six feet in height; or

(c) chain link fence a minimum of six feet in height.

With respect to (b) and (c) above, there shall be vegetation that is at least three feet high and no more than six feet apart when planted. The vegetation shall be planted at the time the facility begins operation, or at the next appropriate planting time. The fence and vegetation shall surround the minimum area necessary for the facility to not be visible from a point at the same elevation as the facility. The vegetation shall be planted on the outbound side of the fence, contiguous to, and not more than eight feet from the fence. The vegetation shall be maintained as a continuous, unbroken hedgerow for the period the property is used as a regulated facility. Each owner, operator, or maintainer of a facility shall utilize good horticultural techniques such as pruning, mulching and proper fertilization, so that the vegetation will have maximum density and foliage. Dead or diseased vegetation shall be replaced at the next appropriate planting time.

(2) All operations, equipment, junk and/or junk motor vehicles shall be kept within the confines of the fence or enclosed building at all times.

(B) Pre-existing activities regulated and operating with a proper business license or valid tax number from the North Carolina Department of Revenue on the effective date of this chapter (November 1, 1997) shall comply with this chapter by obtaining a permit as provided in § 114.09 and meeting the requirements for pre-existing service stations, garages, used car lots, wrecker services, junkyard, or motor vehicle storage areas, as set forth in § 114.04, General Standards, subsections B(1) or B(2), or meeting one of the following conditions:

(1) Remove all junk, vehicles or equipment that may be located within 15 feet of a public or private road surface to an area further than 15 feet from the road surface; and install a fence with an all-season vegetation screening between junk materials and property lines; or



(2) Screen and fence the junkyard in accordance with the screening and fencing provisions of § 114.07 (B) for new junkyards; provided, however, if topography renders fencing and screening useless and ineffective, the Enforcement Officer may waive all or part of the fencing and screening requirements as provided in § 114.04 (B)-(3) of this chapter; or

(3) Place in an enclosed building all items regulated by this chapter.  
(Ord. passed 10-06-97; Am. Ord. passed 05-01-00)

#### **§ 114.08 MAINTENANCE.**

All junkyards, service stations, garages, used car lots, wrecker services, or motor vehicle storage areas shall be maintained to protect the public from health nuisances and safety hazards. The Enforcement Officer shall inspect each facility once each year to determine that the chapter provisions are being followed. The Enforcement Officer may call upon the health department for advice and consultation as needed regarding vector or rodent problems. Should vectors be identified, the owner/operator/maintainer shall be notified of a violation in writing. Within 30 days of the receipt of the letter, the owner/operator/maintainer shall submit satisfactory evidence to the health department that vectors have been eliminated. Failure to comply with this section may result in revocation of the permit as well as other penalties and remedies for violation as provided for in § 114.13.

(Ord. passed 10-06-97; Am. Ord. passed 05-01-00)

#### **§ 114.09 REGISTRATION AND PERMITTING OF PRE-EXISTING JUNKYARDS, SERVICE STATIONS, GARAGES, USED CAR LOTS, WRECKER SERVICES, AND MOTOR VEHICLE STORAGE AREAS.**

All owners, operators or maintainers of junkyards existing on the effective date of this chapter (November 1, 1997) shall register same with the Enforcement Officer within a period of 180 days beginning with the effective date of this chapter. All owners, operators or maintainers of service stations, garages, used car lots, wrecker services, and motor vehicle storage areas shall register same with the Enforcement Officer within 30 days from May 1, 2000. All existing junkyards, service stations, garages, used car lots, wrecker services, and motor vehicle storage areas that have not been registered within the stated time shall be in violation of this chapter. Following registration, a permit shall be applied for and obtained as provided for in § 114.11.

(Ord. passed 10-06-97; Am. Ord. passed 05-01-00)

#### **§ 114.10 NON-CONFORMING PRE-EXISTING JUNKYARDS, SERVICE STATIONS, GARAGES, USED CAR LOTS, WRECKER SERVICES, AND MOTOR VEHICLE STORAGE AREAS.**

(A) All existing junkyards at the effective date of this chapter, registered in accordance with the preceding section, shall be granted a compliance period of 12 months from the effective date of registration to conform to the chapter. All existing junkyards that have not registered

within this period shall be in violation of this chapter. The Enforcement Officer shall monitor such facility at least annually.

(B) All service stations, garages, used car lots, wrecker services, and motor vehicle storage areas existing at the effective date of this chapter, registered in accordance with § 114.09, shall be granted a compliance period of 90 days from the effective date of registration to conform to the chapter. All existing facilities that have not registered within this period shall be in violation of this chapter. The Enforcement Officer shall monitor each facility at least annually. (Ord. passed 10-06-97; Am. Ord. passed 05-01-00)

**§ 114.11 PERMIT REQUIRED.**

No person, firm or business entity shall establish, operate or maintain a junkyard, service station, garage, used car lot, wrecker service, or motor vehicle storage area at any single location without obtaining a permit for that location. Application for the permit shall be made to the Enforcement Officer, on such forms as he shall prescribe. A plan prepared by the applicant shall be submitted as part of the permitting process.

The plan shall indicate setbacks, location of road rights-of-way, all proposed or existing structures, driveways, entrances, fencing, screening, types of fencing, types of screening, dimensions, gross acreage, owner(s) names(s), address(es), preparer of plan name(s) and address(es). Plans may be drawn to scale or freehand with distances marked, on paper large enough to show details. Three (3) copies shall be submitted.

No expansion, whether pre-existing or newly permitted, may be undertaken until a permit as a new facility is first obtained in accordance with this Section. (Ord. passed 10-06-97; Am. Ord. passed 05-01-00)

**§ 114.12 ENFORCEMENT PROVISIONS.**

This chapter shall be enforced by the Enforcement Officer. The Officer may call upon other agencies, departments, or offices as necessary to assist in the enforcement of this chapter.

In addition, whenever the Officer receives a written complaint alleging a violation of this chapter, the Officer shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken. The complainant shall provide their name, address, and telephone number upon making a written complaint.

The owner, tenant or occupant of any building or land or part thereof and agent or other person who participates in, assists, directs, creates, or maintains any junkyard, service station, garage, used car lot, wrecker service, junkyard, or motor vehicle storage area that is contrary to the requirements of this chapter, shall be held responsible for the violation of this chapter and shall suffer the penalties and be subject to the remedies herein provided.

The following procedure shall apply upon discovery of a violation:

(1) If the Officer finds that any provision of this chapter is being violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation, ordering the action necessary to correct it, and advising the violator of the number of days within which the violation shall be corrected. The violator shall be informed of his right to appeal to the Board of Commissioners.

(2) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this chapter or pose a danger to the public health, safety or welfare, the Enforcement Officer may seek enforcement without prior written notice by invoking the penalties authorized in this section.

(Ord. passed 10-06-97; Am. Ord. passed 05-01-00)

### **§ 114.13 PENALTIES AND REMEDIES FOR VIOLATIONS.**

Violations of the provisions of this chapter or failure to comply with any of its requirements, including violations of any conditions and safeguards established, shall constitute a misdemeanor, punishable by a fine of up to \$50.00 or a maximum 30 days imprisonment as provided in G.S. § 14-4.

Any act constituting a violation of the provisions of this chapter or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$25.00 per violation. Each day shall constitute a separate violation. If the offender fails to pay this penalty within 10 days after being served with a notice of violation, the penalty may be recovered by the county in a civil action in the nature of a debt.

This chapter may also be enforced by appropriate equitable action. Such remedy may include court order of abatement as part of a judgment in the cause. The abatement order may include actions required to make the facility, land parcel or activity comply with the provisions of this chapter at the owner's expense.

Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this chapter. In addition to the foregoing enforcement provisions, this chapter may be enforced by any remedy provided in G.S. § 153A-123, including, but not limited to, all appropriate equitable remedies provided in G.S. § 153A-123(d) and particularly the remedy of injunction and order of abatement as allowed in G.S. §153A-123(e).

Any building permit(s) associated with property that has a permit may be revoked by the permit-issuing authority (in accordance with the provisions of this section) if the permit holder fails to develop or maintain the property in accordance with the plans submitted, the requirements of this chapter, or any additional requirements lawfully imposed.

Before such other permit(s) may be revoked, the permit holder shall be given 10 days written notice of intent to revoke a permit. The notice shall inform the holder of the reasons for

the revocation and of his right to obtain an informal hearing on the allegations before the County Manager. If any permit is revoked, the Enforcement Officer shall provide to the permittee a written statement of the decision and the reasons why the action has been taken.

(Ord. passed 10-06-97; Am. Ord. passed 05-01-00)

**§ 114.14 APPEALS AND VARIANCES.**

(A) Unless otherwise provided, appeals from any action taken by the Enforcement Officer shall be filed with the Board of Commissioners within 10 days of receipt of notice of such action. The Board of Commissioners may authorize relief from these provisions when, in its opinion, undue hardship may result from strict compliance.

(B) The Board of Commissioners may authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship. Such variance may be granted in individual cases upon a finding by the Board of Commissioners that the following conditions exist:

(1) There are extraordinary and exceptional conditions pertaining to the particular place or property in question because of its size, shape or topography, that are not applicable to similar facilities governed by this chapter;

(2) Granting the variance requested will not confer upon the applicant any special privileges that are denied to operators of similar facilities governed by this chapter;

(3) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other operators of similar facilities governed by this chapter;

(4) The requested variance will be in harmony with the purpose and intent of this chapter and will not be unduly injurious to the neighborhood or to the general welfare; and

(5) The variance requested is the minimum variance that will make possible a reasonable legal use of the land in question.

A copy of the decision by the Board of Commissioners shall be prepared and furnished to the applicant within 10 days of its rendition. In granting any variance, the Board of Commissioners may prescribe appropriate conditions and safeguards to insure conformity with this chapter. Violation of such condition and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(C) Decision of the Board of Commissioners may be appealed. A petition for a writ of certiorari may be filed with the County Clerk of Court within 30 days after the later of the following occurrences:

(1) A written copy of the Board of Commissioners decision has been filed in the office of the Enforcement Officer; and

(2) A written copy of the Board of Commissioners decision has been delivered, by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy prior to or at the hearing of the case.

A copy of the petition for writ of certiorari shall be served upon the county through the office of the County Manager.

(Ord. passed 10-06-97; Am. Ord. passed 05-01-00)

#### **§ 114.15 SEVERABILITY.**

Should any section or provision in this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

(Ord. passed 10-06-97; Am. Ord. passed 05-01-00)

**LIST OF EXHIBITS.**

- Notice of Consideration of appeal of variance, by Kris Boyd
- HC Board of Commissioners Agenda, October 21,2019
- Attachment 5, from 10/21/2019 Agenda
  - Letter from Sutton
  - GIS Photo
  - Ordinance 114

① UNC School of Government - Article  
Notice of Hearings

- § 160A-388(a2)
- § 143-318.10
- Oath for Witness's at quasi-judicial hearing
- Witness Sign-up sheet at quasi-judicial hearing

# Notice of Hearings: Evidentiary Hearings for Quasi-judicial Decisions

David W. Owens

April, 2014

Legislative summary(ies)

## Summary:

When a local government board makes a quasi-judicial decision – deciding a special or conditional use permit application, a variance request, or an appeal of a staff determination – it must hold an evidentiary hearing. Prior to 2013, state law left it to local ordinances to determine what “reasonable notice” of the hearing was to be provided. State law now sets a uniform standard for mandated notice of these hearings.

The local government holding the evidentiary hearing must provide both mailed and posted notice of the hearing. G.S. 160A-388(a2).

## Mailed notice

A notice of the hearing must be mailed to the person who initiated the hearing, the owner of the affected property, and the owners of abutting properties. Some local ordinances expand the mailing requirement to the owners of all properties within a set distance of the affected property (typically those within 100 feet). The notice must be deposited in the mail at least 10 but not more than 25 days prior to the hearing.

## Posted notice

The local government must also post a notice of the hearing on the site involved. That sign has to be put up at least 10 but not more than 25 days prior to the hearing.

There is no state mandate as to the size or content of the posted sign. Most local governments post a standard real estate size sign and include a heading such as “Zoning Hearing” and have contact information for obtaining more information from the [i]

## Published notice

There is no state mandate for publishing the notice of an evidentiary hearing in the newspaper, s

the purpose of these hearings is to gather facts about a particular case, not to solicit public opinion about a pending policy choice. The notion here is that the interests of those most directly affected and who are most likely to have relevant evidence to offer are best served by mailed and posted notice, while newspaper publication is oriented more to the general public. Some local ordinances, however, do require published notice of these hearings.

## Open Meetings Law notice

The Open Meetings Law also applies to these hearings, so in addition to the specific requirements noted above, the notices required by that law must also be provided. **G.S. 143-318.10**. A copy of the regular meeting schedule must be filed in a central location and posted on the local government's website (if it has one). A special meeting held outside the regular meeting schedule requires posted written notice of the meeting on the local government's principal bulletin board, posting notice on the local government's web site, and mailing a copy of the notice 48 hours in advance of the meeting to each person who has made a request for notification. Notice of an emergency meeting must also be provided to the local news media.

Also see these blog posts in Coates Canons

Frayda Bluestein, Is a Quorum Necessary for a Public Hearing (April 2014)

David Owens, Mandated Notices in Land Development Regulation (January 2014)

For additional legal analysis, see

David W. Owens, *Land Use Law in North Carolina* (2ed. 2011)

[i] Another provision in G.S. 160A-388 does set a standard for the size and content of a posted notice. The owner of property receiving a staff determination is allowed by this statute to post a notice that a determination has been made, thereby providing notice to the neighbors that starts the time running for any appeal they may make to the board of adjustment. This sign must include letters at least 4 inches high and must include contact information for the city or county.

[Accessibility](#)

© Copyright 2019, The University of North Carolina at Chapel Hill



**LIST OF EXHIBITS.**

- Notice of Consideration of appeal of variance, by Kris Boyd
- HC Board of Commissioners Agenda, October 21,2019
- Attachment 5, from 10/21/2019 Agenda
  - Letter from Sutton
  - GIS Photo
  - Ordinance 114
- UNC School of Government - Article
  - Notice of Hearings
- ① • § 160A-388(a2)
- § 143-318.10
- Oath for Witness's at quasi-judicial hearing
- Witness Sign-up sheet at quasi-judicial hearing

**§ 160A-388. Board of adjustment.**

- (a2) Notice of Hearing. - Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning or unified development ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the city shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

**LIST OF EXHIBITS.**

- Notice of Consideration of appeal of variance, by Kris Boyd
- HC Board of Commissioners Agenda, October 21,2019
- Attachment 5, from 10/21/2019 Agenda
  - Letter from Sutton
  - GIS Photo
  - Ordinance 114
- UNC School of Government - Article
  - Notice of Hearings
- § 160A-388(a2)
- § 143-318.10
- Oath for Witness's at quasi-judicial hearing
- Witness Sign-up sheet at quasi-judicial hearing

Article 33B.

Meetings of Governmental Bodies.

**§§ 143-318.1 through 143-318.8. Repealed by Session Laws 1979, c. 655, s. 1.**

Article 33C.

Meetings of Public Bodies.

**§ 143-318.9. Public policy.**

Whereas the public bodies that administer the legislative, policy-making, quasi-judicial, administrative, and advisory functions of North Carolina and its political subdivisions exist solely to conduct the people's business, it is the public policy of North Carolina that the hearings, deliberations, and actions of these bodies be conducted openly. (1979, c. 655, s. 1.)

**§ 143-318.10. All official meetings of public bodies open to the public.**

(a) Except as provided in G.S. 143-318.11, 143-318.14A, and 143-318.18, each official meeting of a public body shall be open to the public, and any person is entitled to attend such a meeting.

(b) As used in this Article, "public body" means any elected or appointed authority, board, commission, committee, council, or other body of the State, or of one or more counties, cities, school administrative units, constituent institutions of The University of North Carolina, or other political subdivisions or public corporations in the State that (i) is composed of two or more members and (ii) exercises or is authorized to exercise a legislative, policy-making, quasi-judicial, administrative, or advisory function. In addition, "public body" means the governing board of a "public hospital" as defined in G.S. 159-39 and the governing board of any nonprofit corporation to which a hospital facility has been sold or conveyed pursuant to G.S. 131E-8, any subsidiary of such nonprofit corporation, and any nonprofit corporation owning the corporation to which the hospital facility has been sold or conveyed.

(c) "Public body" does not include (i) a meeting solely among the professional staff of a public body, or (ii) the medical staff of a public hospital or the medical staff of a hospital that has been sold or conveyed pursuant to G.S. 131E-8.

(d) "Official meeting" means a meeting, assembly, or gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent, of the public body. However, a social meeting or other informal assembly or gathering together of the members of a public body does not constitute an official meeting unless called or held to evade the spirit and purposes of this Article.

(e) Every public body shall keep full and accurate minutes of all official meetings, including any closed sessions held pursuant to G.S. 143-318.11. Such minutes may be in written form or, at the option of the public body, may be in the form of sound or video and sound recordings. When a public body meets in closed session, it shall keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired. Such accounts may be a written narrative, or video or audio recordings. Such minutes and accounts shall be public records within the meaning of the Public Records Law, G.S. 132-1 et seq.; provided, however, that minutes or an account of a closed session conducted in compliance with G.S. 143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of a closed session. (1979, c. 655, s. 1; 1985 (Reg. Sess., 1986), c. 932, s. 4; 1991, c. 694, ss. 1, 2; 1993 (Reg. Sess., 1994), c. 570, s. 1; 1995, c. 509, s. 135.2(p); 1997-290, s. 1; 1997-456, s. 27; 2011-326, s. 8.)

**LIST OF EXHIBITS.**

- Notice of Consideration of appeal of variance, by Kris Boyd
- HC Board of Commissioners Agenda, October 21,2019
- Attachment 5, from 10/21/2019 Agenda
  - Letter from Sutton
  - GIS Photo
  - Ordinance 114
- UNC School of Government - Article
  - Notice of Hearings
- § 160A-388(a2)
- § 143-318.10
- ① Oath for Witness's at quasi-judicial hearing
- Witness Sign-up sheet at quasi-judicial hearing

OCT 22 2019

**Do you swear or affirm that the evidence you shall give to the Board in this action is the truth?**

**LIST OF EXHIBITS.**

- Notice of Consideration of appeal of variance, by Kris Boyd
- HC Board of Commissioners Agenda, October 21,2019
- Attachment 5, from 10/21/2019 Agenda
  - Letter from Sutton
  - GIS Photo
  - Ordinance 114
- UNC School of Government - Article
  - Notice of Hearings
- § 160A-388(a2)
- § 143-318.10
- Oath for Witness's at quasi-judicial hearing
- Witness Sign-up sheet at quasi-judicial hearing

Junkyard & Other Facilities Ordinance variance consideration  
Monday, October 21, 2019  
5:30 P.M.

SPEAKER'S LIST

NAME	PRINTED NAME
Gwen Phillips	Gwen Phillips
OL Yates	OL Yates
Linda Yates	Linda Yates
Terry Ramey	Terry Ramey
Michael Sorrells	David L. Hill
MARTA WILCE	Michal Sorrells
William Pedrick	William D. PEDRICK
Robert E. Rogers	Robert E. Rogers
Alex Kettl	Alex Kettl