



TOWN of WAKE FOREST

**Wake Forest Board of Adjustment
Meeting Agenda
May 21, 2026 at 6:00 PM
All items listed are for discussion and possible action.**

Notice

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA), the Town of Wake Forest will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. For individuals with impaired hearing, special equipment is available for use during meetings in the Town Hall board chambers. Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of Town of Wake Forest should contact the office of ADA Coordinator [Mickey Rochelle](#) at 919-435-9455 or Town Clerk [Ella Downtin](#) at 919-435-9432 as soon as possible, but no later than 48 hours before the scheduled event.

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Meeting Agendas

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Public Hearings

When an agenda item is denoted as a [Public Hearing](#), persons attending shall be permitted to address the Board of Commissioners regarding the item under consideration with those speaking in favor first and those against speaking second. Proponents and opponents shall each be given three minutes of time to speak and may choose to allow one speaker to utilize the time. In the event either proponent(s) or opponent(s) have not designated a speaker to represent the view, each speaker will be allowed three minutes each to express his/her comments, ideas, concerns, expressions, and desires. Only comments on a Public Hearing will be allowed during this time.

Public Comment

During the Public Comment period, anyone wishing to address the Board of Commissioners concerning an issue or topic that is not a public hearing item or an agenda item should complete and submit the Board of Commissioner Public Comment Form on the [Town website](#). Then, during the Public Comment portion of the meeting, Mayor Jones will recognize you and invite you to the podium at which time you will have three minutes to speak. Thank you for your cooperation.

1. Call to Order

2. Adoption of Agenda

3. Approval of Minutes

3.A Approval of Minutes

4. Old Business

5. New Business

5.A Approval of the BOA-26-01 Appeal Order Upholding the Planning Director's
January 16, 2026 Interpretation

5.B Approval of the BOA-25-06 Orders of Denial

6. Staff Comments

7. Board of Adjustment Comments

8. Adjournment



BOARD OF ADJUSTMENT AGENDA ITEM REPORT

Agenda Item No.: 2026-877-
Submitted by: Ella Dowtin, Planning
Submitting Department: Planning
Meeting Date: May 21, 2026

Subject

Approval of Minutes

Recommendation:

item Summary:

ATTACHMENTS:

- [DraftBOA minutes 4-16-2026.pdf](#)



Wake Forest Board of Adjustment Minutes

The Wake Forest Board of Adjustment met on **Thursday, April 16, 2026**, at **6:00 p.m.** in the Board Room at Wake Forest Town Hall, 301 S Brooks Street.

Board of Adjustment Members present: Mark Williams, Ken Christie, Rick Porter, William Hedrick, and Brad Walker.

Board of Adjustment Members absent: Howard Katowitz (Alternate)

Staff Members present: Planning Director Jennifer Currin, Development Services Manager Patrick Reidy, Senior Civil Engineer Emily Hennessy, Town Attorney Nathan McKinney, Attorney Sam Slater, and Deputy Town Clerk Ella Dowtin

1. Call to Order

Chair Hedrick called the meeting to order at 6:00 p.m.
A quorum was established.

2. Adoption of Agenda

ACTION:

Mover: Mark Williams moved to adopt the agenda as presented.

Second: Rick Porter.

Vote: Motion carried 5-0.

3. Approval of Minutes

ACTION:

Mover: Ken Christie moved to approve the December 18, 2025, minutes as presented.

Second: Rick Porter.

Vote: Motion carried 5-0

4. Old Business

None at the time.

5. New Business

5.A. Public Hearing and Consideration of an Appeal of an Administrative Decision related to the issuance of the Joyner Property-Roadway Between Open Space Administrator Interpretation

Attorney Slater asked whether there had been any ex parte communication regarding the quasi-judicial item BOA-26-01, Appeal of the Joyner Property-Roadway Between Open Space Administrator Interpretation. Attorney Slater verified that no board members have any preconceived notions about the meeting's outcome. Mark Williams, Ken Christie, Rick Porter, William Hedrick, and Brad Walker stated no.

Mr. Hedrick noted that the first order of business was to determine who, if anyone, had standing for BOA-26-01 and BOA-25-06.

Attorney Andy Petesch of Petesch Law, representing property owners adjacent to the original Wake Forest Golf Club property, requested that two of the property owners be considered for standing for both cases being heard. Mr. Petesch used a PowerPoint presentation to review the requirements to legally determine if standing exists. The two adjacent property owners Mr. Petesch claimed to have standing were Kevin Upton, 1358 Country Club Dr., and Joseph Micchia, 212 Middlestone Court. Attorney Slater swore in Kevin Upton and Joseph Micchia. Mr. Petesch called upon Mr. Upton and Mr. Micchia, who provided testimony related to their standing claim. Attorney Petesch called upon Mr. Michael Ogburn, sworn in by Mr. Slater, to list his credentials, establishing Mr. Ogburn as an expert in real estate evaluation. Mr. Upton discussed the lack of privacy, and the negative impacts of light and noise pollution on the properties. Mr. Micchia discussed the impact of the golf course easement, the potential for a walking path around the property, the potential for trespass and property damage, and loss of privacy.

Richard Ostergard, 8032 Hawkshead Rd, claimed to have standing. Attorney Slater swore in Mr. Ostergard. Mr. Ostergard presented neighborhood covenants and noted that these covenants provided ground for his standing request.

Following arguments to establish standing, Chair Hedrick made the decision on standing for Kevin Upton, stating that Mr. Upton had standing.

Following arguments to establish standing, Chair Hedrick made the decision on standing for Joseph Micchia, stating Mr. Micchia had standing.

Following the arguments to establish standing, Chair Hedrick made the decision on standing for Richard Ostergard, stating that Richard Ostergard does not have standing.

Mr. Winstead asked the Board to consider the Chair's decision on standing, specifically for Mr. Upton and Mr. Micchia. The board discussed the standing request.

ACTION:

Mover: Brad Walker moved to affirm the Chair's decision that Mr. Upton and Mr. Micchia had standing for BOA-26-01 and BOA-25-06.

Seconder: None.

Vote: Motion failed due to lack of second.

ACTION:

Mover: Ken Christie moved to overturn the Chair's decision and instead deny standing for Mr. Upton and Mr. Micchia.

Seconder: Mark Williams.

Vote: Motion carried 3-2.

Aye

Mark Williams

Ken Christie

Rick Porter

Nay

William Hedrick

Brad Walker

Attorney Andy Petesch requested, in order for his clients' right to appeal, that all evidence presented and documents supplied during the consideration of standing be entered into the official record.

Attorney Hunter Winstead stated that he has no objection to Mr. Petesch's request related to the evidence submission for right of appeal but wanted to clarify that the information presented did not qualify as competent, substantial and material evidence.

Chair Hedrick accepted the request that all evidence be submitted and reflected in the record.

Five-minute recess requested by Attorney Petesch.

Chair Hedrick approved the five-minute recess.

Recess at 7:17 pm.

Reconvened at 7:23 pm.

Attorney Slater swore in Planning Director Jennifer Currin.

Planning Director Jennifer Currin presented the Quasi-Judicial item, BOA-26-01, Appeal of the Joyner Property-Roadway Between Open Space Administrator Interpretation. Ms. Currin requested that the staff report, presentation, and all supporting exhibits be entered into the record.

Ms. Currin first asked the board to determine if the appeal was filed in a timely manner (30 days from decision) and if the appeal case should be heard. Staff presented information as to when staff first notified the applicants, representing the property owner, that development would not be allowed in the PUD open space based on the UDO definitions. Staff noted that the applicants were first made aware in 2023 and several times subsequent to the initial notification.

Mr. Winstead argued that those notifications didn't constitute an official determination or decision and therefore the appeal case should be heard.

The board discussed whether the thirty-day rule applies and whether the plaintiff filed an appeal within the proper thirty-day period.

After considering the evidence and arguments provided by Ms. Currin and Mr. Winstead, Chair Hedrick determined that the Town's 2023-2025 correspondence, staff report Exhibits 3-5, does not meet the requirements as an administrative determination

under NCGS 160D-102 and that the appeal was filed in a timely manner from the date of the January 2026 Administrative Determination. The Chair stated that the BOA-26-01 case be heard. The members agreed to proceed with the hearing on BOA-26-01.

Mr. Petesch requested that the evidence and testimony presented during the standing consideration be entered into the record related to the board determining if the appeal would be heard and the actual appeal hearing.

Chair Hedrick noted that it would be reflected in the record.

Planning Director Jennifer Currin presented case BOA-26-01, Appeal of the Joyner Property-Roadway Between Open Space Administrator Interpretation. Ms. Currin requested that the staff report, presentation, and all supporting exhibits be entered into the record.

Ms. Currin noted that the appeal was centered around determination #11 in the January 16, 2026 Administrator Interpretation, where staff determined that the current Unified Development Ordinance (UDO) requirements applied to open space. Specifically, staff argued that while the PUD was originally approved in 1999, and amended in 2023, it didn't include any provisions related to development of the open space. Since no open space development conditions were included in the PUD, any new development proposed within the PUD boundary would have to meet the current UDO requirements. Ms. Currin noted that vested rights were considered and granted related to the use of the property, but no vested rights exist related to the construction of the open space. For example, if a Special Use Permit (SUP) or conditional zoning is silent on an item, such as stormwater requirements, staff would review that development proposal against the ordinance requirements in place when the development permit application is submitted and not a previous ordinance when the SUP or CZ was approved. Additionally, the development proposed in the PUD open space was included in the Joyner Property Subdivision Master Plan application, first submitted in 2024, under the current UDO requirements.

Mr. Winstead noted that he agreed with most of the Town's determination, except for No. 11 in that determination, and argued that the 1999 ordinance applies to the PUD open space and reviewed his presentation with the Board. Mr. Hunter passed out handouts to the Board. Additionally, he contends that due to NCGS 160D-108(c)(1), vested rights would require the open space to be reviewed against the 1999 ordinance.

Mr. Winstead also presented information on Hewett vs. County of Brunswick and how he believed this applied to the Joyner Property development.

The board asked Mr. Winstead about the Hewett vs. County of Brunswick case as the merits of the case seem to be different from what has occurred related to the Joyner property. In Hewett vs. County of Brunswick, a nonconformity was created due to an ordinance text amendment and then staff required the nonconforming mining activity to come into compliance vs. this case, in which the applicant is requesting to develop the tract. The board also asked Mr. Hunter about the Hewett vs. County of Brunswick case as it relates to applying a set of standards to a different tract (PUD open space) and not the Joyner Property Subdivision.

The board discussed the appeal request and evidence and testimony from the Town and applicant. They asked questions to the Town and Mr. Winstead to seek clarification on items presented.

Attorney Slater swore in Ryan Barker, an expert Project Engineer at McAdams and Associates, as the standing expert for the appeal case BOA-26-01, as a witness called by Attorney Hunter. The Board requested that it be recorded whether the dams are or are not a part of the NC Dams Safety Registry. Mr. Barker informed the board that they are not a part of the NC Dams Safety Registry.

Attorney Slater swore in Emily Hennessy, a Civil Engineer with the Town of Wake Forest. Ms. Hennessy was asked if the dams were breached, could they be repaired by NC DEQ. Ms. Hennessy responded that the Town Engineer and Planning Director did send a letter to the owner of record within the last calendar year stating that repairs could be made to maintain the dams in the current state; should the roads be constructed, she has received confirmation from DEQ that the dams would become jurisdictional because there is a road in the floodway should they breach.

Public hearing open for citizens without standing.

Attorney Slater swore in citizen Richard Ostergard.

Attorney Hunter would like to note the objections for the record on the relevant grounds, no determination needed, just for the record.

Discussion

The board discussed the appeal request based on evidence and testimony presented.

ACTION:

Mover: Mark Williams moved to affirm the staff's determination based on the information presented.

Seconder: Brad Walker.

Vote: Motion carried 5-0.

Public hearing closed.

Chair called for a recess at 9:14 pm

Reconvened at 9:24 pm

**5.B. Public Hearing and Consideration of QUASI-JUDICIAL ITEM BOA-25-06
Variance Requests for Joyner Property**

Development Services Manager Planner Patrick Reidy presented the Quasi-Judicial item, BOA-25-06, variance request for applicant Morningstar Law Group, and Owner Green Timber Foundation Dry Timber LLC for 1180 and 1200 Club Villas Drive. The variance requests were to allow the block length and cul-de-sac length to exceed the Unified Development Ordinance (UDO) maximums allowed for the Simpson Ct. extension and to allow the block length and cul-de-sac length to exceed the UDO maximums allowed for the proposed Road F extension. Mr. Reidy reviewed each variance request and presented staff's analysis as it relates to the required findings of fact in UDO Chapter 15.

The board questioned Mr. Reidy on several items presented during his testimony.

Attorney Slater swore in Development Services Manager Patrick Reidy, based on the presentation, that the information he provided was true.

Attorney Petesch requested that the evidence, sworn testimony, and argument of counsel presented for standing be added to the record for the variance consideration.

Chair Hedrick acknowledged the request to include all evidence, sworn testimony, and argument of counsel in the records.

Attorney Hunter Winstead presented the Joyner Property's variance requests and discussed the following elements: Unnecessary hardship, conditions peculiar to property, not self-created, and consistent with the spirit, purpose, and intent.

Attorney Slater swore in David Bregmark, an AICP-certified planner with McAdams and Associates.

Mr. Bergmark requested that the staff report, presentations, and documents be included in the record.

Mr. Bergmark presented his credentials, which included education, certifications, and experience. Attorney Winstead requested that Mr. Bergmark be recognized as an expert in urban planning.

Chair Hedrick acknowledged Mr. Bergmark as an urban planning expert.

David Bergmark presented the project overview of the Joyner Property Subdivision Master Plan and specific variance requests as they related to the required findings of fact. Mr. Bergmark presented that with environmental constraints and existing developments, a hardship does exist and there are conditions particular to the property, the constraints were not self-created, and are consistent with the spirit, purpose, and intent.

Attorney Slater swore in Nate Bouquin, Traffic Engineer of McAdams.

Mr. Bouquin presented his credentials, which included education, licenses, and experience. Attorney Hunter requested that Mr. Bouquin be recognized as an expert in traffic engineering.

Chair Hedrick accepted Mr. Bouquin as an expert in traffic engineering.

Mr. Bouquin provided testimony related to what safe access is and what it would look like for the Joyner Property development proposed.

The board asked if anyone in the audience wanted to speak during the public hearing. Richard Ostergard, remaining sworn in, spoke. Mr. Hunter noted his objection since the comments were not relevant to any of the specific elements.

Attorney Slater swore in Richard Mayo to speak. Mr. Hunter objected to Mr. Mayo's comments on two grounds-request is only for a variance to length of cul-de-sac and block lengths and per 160D-1402, only tendered experts can provide testimony related to the safety of traffic.

Chair Hedrick noted the objections.

Joseph Micchia, remaining sworn in, spoke.

ACTION:

Mover: Ken Christie moved to close the public hearing.

Second: Brad Walker.

Vote: Motion carried 5-0.

Discussion

The board discussed the evidence and testimony presented related to potential hardships of developing the land, if spirit and intent of the requests was met, if the applicant caused need for a variance, property conditions, and public safety. During their conversation, it was determined additional clarification was needed and that the public hearing needed to be reopened to seek that clarification from staff and the applicant.

ACTION:

Mover: Mark Williams moved to reopen the public hearing.

Second: Rick Porter.

Vote: Motion carried 5-0.

ACTION:

Mover: Mark Williams moved to approve BOA 26-01 for Street G, based on the applicant satisfying the findings of fact.

Second: Ken Christie.

Vote: Motion failed 1-4.

Aye

Mark Williams

Nay

Ken Christie

Rick Porter

William Hedrick

Brad Walker

ACTION:

Mover: Brad Walker moved to deny Variance BOA 26-01 for Street G, based on the applicant not satisfying finding of fact #4.

Second: Rick Porter.

Vote: Motion carried 4-1.

Aye

Ken Christie

Rick Porter

William Hedrick

Brad Walker

Nay

Mark Williams

ACTION:

Mover: Rick Porter moved to deny variance request BOA 26-01 for street F, based on the applicant not satisfying findings of fact #1-3

Second: Brad Walker.

Vote: Motion carried 4-1.

Aye

Ken Christie

Rick Porter

William Hedrick

Brad Walker

Nay

Mark Williams

6. Staff Comments

No comments.

7. Board of Adjustment Comments
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No comments.

8. Adjournment

ACTION:

Chair Hedrick moved to adjourn at 10:55 p.m.

Duly approved in open session this 21st day of May 2026.

Ella F. Downtin
Deputy Town Clerk

William Hedrick
Board of Adjustment Chair



BOARD OF ADJUSTMENT AGENDA ITEM REPORT

Agenda Item No.: 2026-890-

Submitted by: Jennifer Currin, Planning

Submitting Department: Planning

Meeting Date: May 21, 2026

Subject

Approval of the BOA-26-01 Appeal Order Upholding the Planning Director's January 16, 2026 Interpretation

Recommendation:

item Summary:

ATTACHMENTS:



BOARD OF ADJUSTMENT AGENDA ITEM REPORT

Agenda Item No.: 2026-880-
Submitted by: Patrick Reidy, Planning
Submitting Department: Planning
Meeting Date: May 21, 2026

Subject

Approval of the BOA-25-06 Orders of Denial

Recommendation:

item Summary:

ATTACHMENTS: