

## What Is an Evidentiary Hearing?

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An Evidentiary Hearing is a legal proceeding in which the Board acts like a court and applies pre-determined standards in an ordinance to a particular proposal, usually in matters involving land use.

## What Type of Applications Require a Evidentiary Hearing?

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The Board of Commissioners hears all special use permit applications and some Preliminary Plats. The Board of Adjustment hears variances and appeals of administrative decisions, staff determinations, and ordinance interpretations.

## How Does the Board Get the Information Needed to Make a Decision?

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The Board must first determine who is allowed to present evidence and then the Board receives the evidence in an orderly manner so that the process is fair to the parties. Evidence is in the form of reports and sworn testimony from county staff, the applicant and anyone who has standing to either support or oppose applicant's request.



### Currituck County

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153 Courthouse Road  
Currituck, North Carolina 27929  
[CurrituckCountyNC.gov](http://CurrituckCountyNC.gov)

**Planning Department**  
(252) 232-3055

**County Manager**  
(252) 232-2075

**A Citizen's Guide  
to Evidentiary  
Hearings**  
*(Also Known As  
Quasi-Judicial  
Hearings)*

**Before the  
Currituck County  
Board of  
Commissioners**

## **What Kind of Evidence and Testimony Does the Board Hear in an Evidentiary Hearing?**

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The Board hears sworn testimony and must base its decision on material, substantial and competent evidence that a proposal meets the requirements of the Currituck County Unified Development Ordinance (“UDO”). General witness testimony is limited to facts, not opinions. For most topics, the Board may only rely on opinion testimony from expert witnesses. These topics include projections about impacts on property values, projections about the impacts of increased traffic, and matters about which only expert testimony would generally be admissible under the rules of evidence applicable to trial courts. Individuals providing expert opinion must be qualified as experts based on their education, experience, credentials, etc., and provide factual evidence upon which they base their expert opinion.

## **Can the Board’s Decision Be Appealed?**

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Yes, an individual or entity with standing may appeal the Board’s decision to Superior Court.

## **Can Citizens Talk to Board of Commissioner Members Before the Hearing?**

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No communication with the presiding body is allowed outside the hearing. To protect the constitutional rights of the parties, before the hearing each board member is required to disclose any conversations that they have had about the subject matter or any information received in advance of the hearing regarding the subject of the hearing and whether the member has any special relationship with the applicant or anyone opposing the applicant’s request.

## **Should Individuals With Standing Hire an Attorney or an Expert to Testify?**

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It is not required, but strongly encouraged, to hire an attorney. If you do not hire an attorney, individuals must be careful not to practice law without a license. When the issues are technical, such as whether a proposal will create a traffic problem, an expert witness may be the only qualified person who can provide factual information that is admissible.

## **How Do Citizens of Currituck County Know if a Proposed Project Near Them Requires an Evidentiary Hearing Be Held Prior to Approval?**

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Applicant will mail letters regarding a Community Meeting and the County will mail Notices for an evidentiary hearing by first-class mail to nearby property owners and a sign is posted on the subject property. Additional information is provided on the County website at [currituckcountync.gov](http://currituckcountync.gov) and a notice may be published in the local newspaper prior to the hearing.

## **Who Can Participate?**

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The applicant, property owner, local government, and individuals with standing can fully participate in the hearing. Individuals have “standing” and are considered an “Affected Party” if they would suffer some kind of special damages from the project that does not affect the entire community as a whole.

Non-party witnesses with personal knowledge may be given a reasonable opportunity to present sworn, factual, non-repetitive and material testimony relevant to the application at the discretion of the Chairman.