

PROCEDURE FOR APPEALS

Appeals of Historic District Commission Decisions

State statutes [\[§160A-400.9\(e\)\]](#)¹ set forth the responsibilities of the Board of Adjustment in appeals of the Historic District Commission decisions as follows:

“An appeal may be taken to the Board of Adjustment from the commission's action in granting or denying any certificate, which appeals (i) may be taken by any aggrieved party, (ii) shall be taken within times prescribed by the preservation commission by general rule, and (iii) shall be in the nature of certiorari. Any appeal from the Board of Adjustment's decision in any such case shall be heard by the superior court of the county in which the municipality is located.”

Review Based on the Record

Subsection [4.10.1\(a\)](#)² of the Chapel Hill Land Use Management Ordinance states that any decision of the Historic District Commission may be appealed to the Board of Adjustment, and shall be reviewed based on the record. The Board of Adjustment's review and determination of the Historic District Commission's decision is “in the nature certiorari.” This means that the Board is to review the record of the case brought before the Historic District Commission [\(N.C.G.S. 160A-388\(b1\)\(9\)\)](#),³ and may hear arguments of any interested party, but is not to receive additional evidence.

Board of Adjustment's Responsibility

The Board of Adjustment's responsibility to hear and decide appeals can involve 1) interpreting the meaning of provisions of the Ordinance that are unclear; 2) applying the meaning of the Ordinance to specific factual situations; and if necessary 3) correcting abuses of discretion or mistakes that may have occurred in administering the Ordinance. The scope of the Board's review of the Historic District Commission is provided [in N.C.G.S. Sec. 160A-393\(k\)](#).⁴ To grant this appeal, a majority of the 10-member Board of Adjustment (6 members) must vote to overrule the Historic District Commission's decisions.

¹ <http://chplan.us/NCGS-COA>

² <http://chplan.us/LUMO-Appeals>

³ <http://chplan.us/2qepScX>

⁴ <http://chplan.us/2qeAc4C>