



Board of Adjustment  
 April 16, 2026

**Appeal of Determination**  
**BACEO-1-426**

Patrick O'Mahony, Planning Manager, (910) 341-3260

<i>Code Section(s)</i>	<b>Land Development Code:</b> Section 18-325: Fence, walls, & non-vegetative screens Section 18-572: Appeals Section 18-615: Board of adjustment
<b>Subject Property</b>	<b>646 Long Leaf Acres Drive</b>
<i>Parcel ID</i>	R05011-017-003-000
<i>Zoning</i>	R-15, Residential
<i>Request</i>	Appeal of staff determination that the structure in violation is considered a fence
<i>Applicant/Owner</i>	Nicole and Darrell Jones 646 Long Leaf Acres Drive Wilmington, NC 28405

**GENERAL INFORMATION**

Subject Property Area	Approximately 15,419 square feet or 0.35 acres
Annexation Date	January 31, 1999
History if applicable	N/A

**Analysis & Research**

1. According to New Hanover County tax records, the subject property at 646 Long Leaf Acres Drive contains a 1,790 square foot single-dwelling use.
2. Land Development Code Section 18-325.C.3 states that the structural framework of a fence, wall, or screen shall not be installed facing adjacent properties or rights-of-way.
3. Land Development Code Section 18-325.A.5.a states that the maximum height of fences within any side or rear yard in residential zoning districts shall be eight feet.
4. Land Development Code Section 18-325.A.5.b states that the maximum height of fences, walls, and screens in residential zoning districts shall be limited to four feet within the front yard setback.
5. Land Development Code Section 18-325.C.1 states that in all zoning districts, chain link, woven wire, and electric and barbed wire fences, walls, and screens shall be prohibited in front setbacks, except for bona fide agricultural uses, electric and gas substations, and government facilities.
6. Land Development Code Section 18-325 D. 4. identifies additional standards for any fence that exceeds four feet in height located within a front yard. These standards include the following requirements and cannot be waived by the Board of Adjustment:

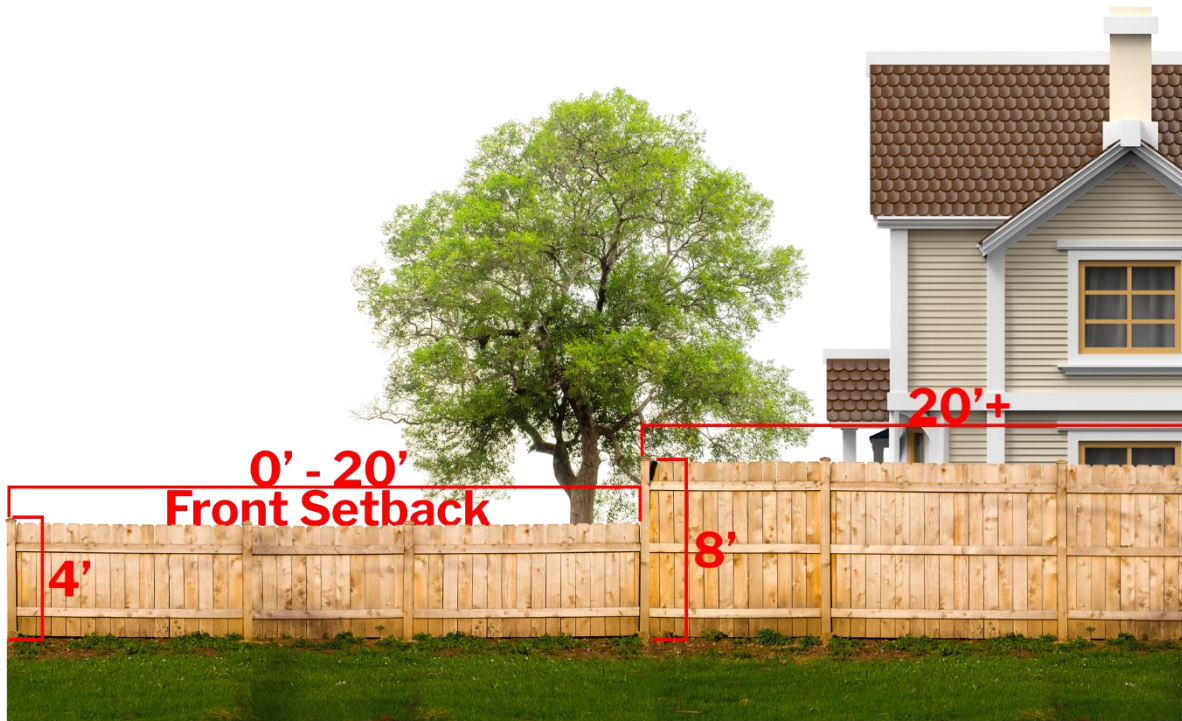
- a. The fence, wall, or screen shall be set back a minimum of one-half the distance of the required front yard setback for the district or 15 feet, whichever is greater.
  - b. At least 50 percent of the area of the fence, wall, or screen above a height of four feet shall be open along the entire length such that clear vision is possible from one side to the other.
7. Land Development Code Section 18-699 includes the following fence height standard measurement:

*The height of a fence, wall, or non-vegetative screen shall be the vertical distance between the highest part of the fence, wall, non-vegetative screen, or its supporting structure, whichever is higher, and the average undisturbed grade adjacent to the fence.*
8. Land Development Code Section 18-688 defines setback encroachments as any building and site elements that project into or are located on the non-buildable side of a setback line, typically in a required yard area.
9. The Land Development Code does not include a specific definition for fences. Where terms are undefined, the LDC prescribes the standard dictionary definition in these instances, which is included below:

*Fence: A barrier that defines a property line, encloses, or borders on a field, a yard, or the like. (Source: Dictionary of Architecture & Construction, 3<sup>rd</sup> Addition)*

*Fence: A barrier intended to prevent escape or intrusion or to mark a boundary (Merriam-Webster Dictionary, Merriam-Webster.com Dictionary. Accessed 9 Apr. 2026)*
10. On or about January 30, 2026, Zoning Compliance Officer Devontae Smith inspected the subject property following a complaint and determined:
  - a. A fence exceeding 12 feet in height had been installed along the southwest (side) property line.
  - b. The fence is located within the required front setback of 20 feet and intersects with the front property line.
  - c. The structural supports of the fence face the adjacent property to the southwest.
11. On February 6, 2026, compliance staff sent a Notice of Violation to the property owner stating that the fence was in violation of Land Development Code requirements.
12. On March 2, 2026, the property owner filed an appeal of the zoning violation with the City Clerk.
13. This matter is set for hearing before the Board of Adjustment on April 16, 2026.

**Figure 1: Residential Fence Requirements in Front Setbacks**



**Figure 2: Allowable Fence Heights**



**Site Photos**



## **NEIGHBORHOOD CONTACT**

### **City Notifications:**

Adjacent Letters

Property Posted

Advertisement Dates

### **Board of Adjustment**

4/3/26

4/2/26

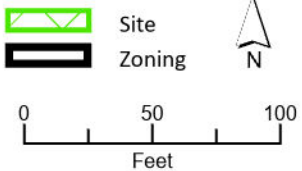
4/10/26

## **ATTACHMENTS**

- 1.) Application (received 3/2/26)
- 2.) Location and Zoning Map (2021)
- 3.) Notice of Violation (sent 2/6/26)
- 4.) City Code Chapter 18, Land Development Code references:
  - a. Section 18-325: Fence, walls, & non-vegetative screens
  - b. Section 18-572: Appeals
  - a. Section 18-615: Board of Adjustment



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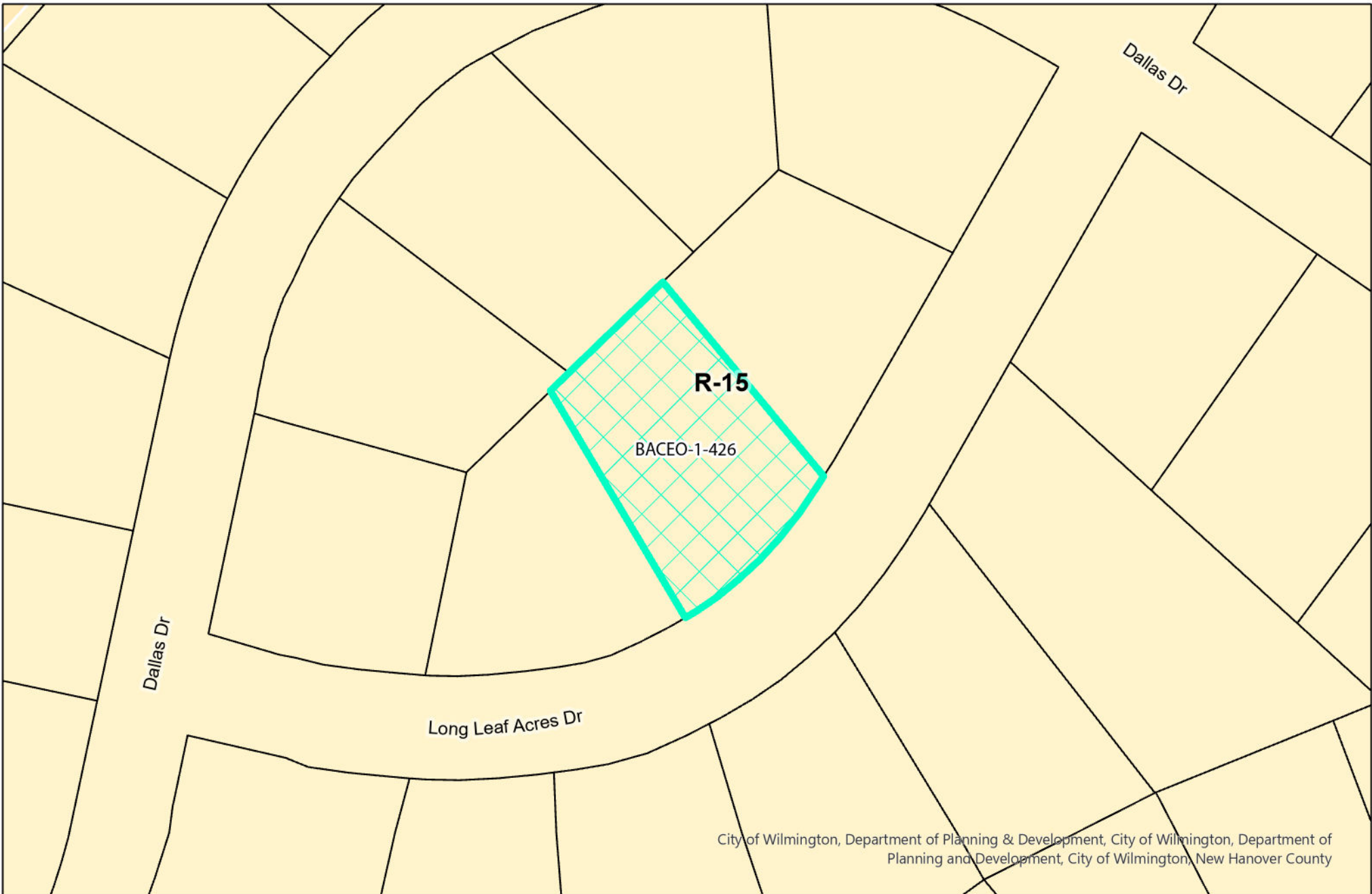


### Board of Adjustment

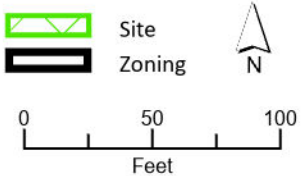
BACEO-1-426 — Aerial Map  
646 Long Leaf Acres Drive

2/26/2026



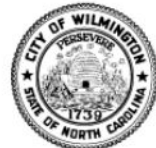


City of Wilmington, Department of Planning & Development, City of Wilmington, Department of Planning and Development, City of Wilmington, New Hanover County



**Board of Adjustment**  
**BACEO-1-426 — Aerial Map**  
**646 Long Leaf Acres Drive**

2/26/2026



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## Section 18-325: Fences, walls, and non-vegetative screens

### A. General standards

1. A fence, wall, or non-vegetative screen for the purposes of privacy or security may be installed in any yard if the following standards are met.
  - a. The vision clearance requirements of Section 18-667: Vision clearance, are met.
  - b. In nonresidential districts, no fence, wall, or screen shall exceed three feet in height in any yard adjacent to a street, unless the fencing above three feet in height is at least 50 percent transparent above three feet.
  - c. The fence height standard of Section 18-669: Fence height standard is met.
2. A fence, wall, or screen shall not impede access by emergency services.
3. The structural framework of a fence, wall, or screen shall not be installed facing adjacent properties or rights-of-way.
4. Within historic districts and overlays:
  - a. When fences are subject to design review, fence height shall be established by the historic preservation commission.
  - b. If fences are not subject to design review in an overlay, fence height shall be subject to the standards of the applicable zoning district.

5. Within residential zoning districts, the following shall apply.
  - a. Within any side or rear yard, the maximum height for any fence shall be eight feet.
  - b. Within front yards, the height of fences, walls, and screens shall be limited to four feet.

### B. Maintenance

1. All fences, walls, and screens shall be maintained in an upright, sturdy, and safe condition, including but not limited to, the replacement of missing, decayed, or broken structural and decorative elements.
2. All fences, walls, and screens shall receive regular structural maintenance to prevent and address sagging and weathering of surfaces visible from the public right-of-way.
3. Any deteriorated, damaged, or decayed fence materials shall be repaired, and any fence or wall post or section that leans more than ten degrees from vertical shall be repaired to correct that condition.

### C. Prohibited fence options and design

1. In all zoning districts, chain link, woven wire, and electric and barbed wire fences, walls, and screens shall be prohibited in front setbacks, except on bona fide agricultural uses, electric and gas substations, and government facilities.
2. Fences, walls, and screens of exposed concrete block, tires, junk, or other discarded materials shall be prohibited.

3. No open wire fence of a type that could inflict injury from casual contact, such as barbed wire or electric fencing, shall be permitted below a height of six feet. Such fences shall not be permitted within any residential district. Other types of open wire fencing (such as hurricane and chain link fencing) may be erected in any side or rear yard.

#### D. Exceptions

1. Height limits shall not apply to government facilities or utilities and public facilities.
2. Height limits shall not apply to chain link fences surrounding tennis courts or ball field backstops. Fences for private tennis courts shall be within the required setbacks for accessory uses in that zoning district.
3. A property owner may appeal to the board of adjustment for a variance to allow fence, wall, or screen height up to six feet within front yards adjacent to thoroughfares, as defined in this chapter.
4. The following shall be required for any fence, wall, or screen exceeding four feet in a front yard. These standards may not be waived by the board of adjustment.
  - a. The fence, wall, or screen shall be set back a minimum of one-half the distance of the required front yard setback for the district or 15 feet, whichever is greater.
  - b. At least 50 percent of the area of the fence, wall, or screen above a height of four feet shall be open along the entire length such that clear vision is possible from one side to the other.

5. In hearing the request for a height variance, the board of adjustment shall consider all technical evaluations, relevant factors, standards specified in this section, and applicable requirements in the Technical Standards and Specifications Manual.

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#### Section 18-326: Landscaping for expansions to existing principal building or uses

- A. Required landscaping for expansions to existing principal buildings or uses is prescribed in Table 18-326: Required landscaping for expansions.
- B. Landscaping shall be upgraded in the previously developed portions of the site (up to the maximum landscaping requirements of this division).
- C. Construction of any new building, use, or parking on a site shall require compliance with the full landscaping requirements of this division for the newly developed portions of the site.
- D. For the purpose of this division, an increase of five percent or more in floor area or an increase of five or more parking spaces shall be considered an expansion.
- E. When subdivision of previously developed property occurs and a building permit for new construction is issued for any newly created lot within two years of the date of final subdivision plat approval, all lots of the original tract shall be subject to the provisions for expansions to existing structures or uses.

2. The request shall be in writing, either by mail or email, and the request must be received by the city prior to date of publication of the notice of hearing.
3. If the request is received by after the date of publication of the notice of public hearing, the applicant must request of the decision-making body that the application be continued to a future scheduled hearing date.

#### D. Application termination

1. If the city manager determines an applicant is not taking affirmative steps to advance a postponed application for a final determination, the application may be declared terminated.
2. Any re-submittal of a terminated application shall be treated as a new application for purposes of review, scheduling, and payment of application fees.

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## Section 18-572: Appeals

### A. Procedures

Appeal procedures depend on the type of application and the appropriate review and decision-making authority. This section refers only to appeals to be heard by a city decision-making authority. Nothing in this section prohibits applicants to appeal pursuant to state law. Appeals of quasi-judicial decisions shall also be subject to the standards of Section 18-602: Appeals of quasi-judicial decisions.

1. Board of adjustment  
Appeals of administrative determinations and the historic preservation commission shall be made to the board of adjustment.
2. City council  
Unfavorable recommendations by the planning commission on zoning map amendments and land development code amendments may be appealed by the applicant to the city council

by filing a written notice of appeal with the city clerk within 10 days after the rendering of the final recommendation by the planning commission. Upon filing of a written notice of appeal, the matter shall be placed on the agenda of the next regularly scheduled meeting of the city council, no later than 30 days after the notice of appeal has been filed. The city council, at its discretion, may hear the appeal at its regular meeting or set a special hearing date.

### 3. Court

A decision by the city council, board of adjustment, and the design adjustment committee may be appealed to a North Carolina court of record as permitted by North Carolina General Statutes.

### B. Effect

1. The appeal of any decision or administrative action stays all proceedings in furtherance of the decision or administrative action.
2. Where a stay of proceedings would cause imminent peril to life or property, the official from whom the appeal is taken or the city manager may certify in writing to the decision maker(s) hearing the appeal that the stay would cause such harm. The stay shall be lifted pending hearing on the appeal. In such case, the action may be stayed only by a restraining order granted by a decision-making body or court of record if due cause is shown, following notice to the official or city manager.

(Ord. No. O-2022-88, §12(Att. A), 11-1-2022)

## ARTICLE 7. DIVISION 3.

### BOARDS, COMMISSIONS, AND COMMITTEES

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#### Section 18-615: Board of adjustment

##### A. Establishment

The board of adjustment is established to fulfill the duties and powers prescribed by the city of Wilmington Code of Ordinances and by NCGS 160D-302.

##### B. Appointment and tenure

1. The board shall consist of five members and two alternate members, who shall be citizens and residents of the city, holding no other public office under the city government, and shall be appointed by the city council.
2. All members shall be appointed for staggered terms of three years, to serve in accordance with the city council policy on boards and commissions then in effect.
3. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member.
4. All appointments to fill vacancies shall be for the unexpired period of the term.

##### C. Compensation

Members of the board shall serve without compensation and may be removed by the city council at any time.

##### D. Organization

1. The board shall hold meetings in accordance with its rules of procedure for the purpose of transacting its duties assigned in this chapter and shall maintain a public record of its actions.

2. Rules of procedure shall be adopted by the board for the conduct of its business and for the election of its officers. The city council shall approve the rules of procedure and any amendments prior to implementation.
3. All meetings held by the board shall be held in accordance with the North Carolina open meetings law.
4. The board shall keep minutes of its proceedings suitable for review in court showing:
  - a. The factual evidence presented to the board by all parties concerned;
  - b. The findings of fact and the reasons for the determinations by the board; and
  - c. The vote of each member, or if absent or failing to vote indicating such fact, all of which shall be public record and be filed with the secretary to the board.

##### E. Duties

1. The board shall hear and decide all matters upon which it is required to pass under any statute or development regulation.
2. The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. Vacant positions on the board and members who are disqualified from voting on the quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.