

**SOME KEY DIFFERENCES BETWEEN LEGISLATIVE
AND QUASI-JUDICIAL ZONING DECISIONS**

ATTACHMENT 19

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Legislative

Quasi-Judicial

	<u>Legislative</u>	<u>Quasi-Judicial</u>
Decision-maker	Only governing board can decide (others may advise)	Can be board of adjustment, planning board, or governing board
Notice of hearing	Newspaper and mailed notice to owners and neighbors required	Only notice to parties required unless ordinance mandates otherwise
Type of hearing	Legislative	Evidentiary
Speakers at hearings	Can reasonably limit number of speakers, time for speakers	Witnesses are presenting testimony, can limit to relevant evidence that is not repetitious
Evidence	None required; members free to discuss issue outside of hearing	Written findings of fact required
Voting	Simply majority, but ¾ required if protest petition filed or rezoning	4/5 to decide in favor of applicant, but if special/conditional use permit is issued by governing board, only a simple majority required
Standard for decision	Creates standard	Can only apply standards previously set in ordinance
Conditions	Not allowed	Allowed if based on standard in ordinance
Time to initiate judicial	Two months to file challenge	30 days to file challenge
Conflict of interest	Requires direct financial interests	Any financial interest or personal bias disqualifies
Creation of vested right	None	Yes, if substantial expenditures are made in reliance on it

Source: David Owens, Institute of Government