



GUILFORD COUNTY

PLANNING AND DEVELOPMENT

BOARD OF ADJUSTMENT AGENDA
Carolyn Q. Coleman Conference Room
First Floor, Old Guilford County Courthouse
301 W. Market Street, Greensboro, NC 27401
August 4, 2026

Regular Meeting

6:00 PM

I. Roll Call

II. Agenda Amendments

III. Approval of Minutes: July 7, 2026

IV. Rules and Procedures

V. Old Business

**A. ORDER AFFIRMING SOLID WASTE CITATION CASE # 26-05-BOA-00006: 4426
GREEN LAKE CT, GREENSBORO, NC 27407**

Pursuant to N.C.G.S. 160D-406(j), approve Order Affirming Solid Waste Citation in the matter of property owners Harvey Junior Bartley and Luz Rocio Bartley's appeal of the Solid Waste Citation set forth in violation case # 26-03-SWCE-00041 dated May 1, 2026, and heard by the Board of Adjustment on July 7, 2026.

VI. New Business

None

VII. Other Business

A. Officer Election: Chair

VIII. Adjournment

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**GUILFORD COUNTY
BOARD OF ADJUSTMENT
MEETING MINUTES**

Carolyn Q. Coleman Conference Room
First Floor, Old Guilford County Courthouse
301 W Market St, Greensboro, NC 27401

July 7, 2026

Call to Order

6:00 p.m.

Chair Havens called the meeting to order at 6:04 p.m. and welcomed everyone to the meeting. He asked staff to call the roll for those members present.

I. Roll Call

Mr. Moss called the roll for attendance at this meeting:

Present: Franklin Havens, Chair; Willie Johnson, Vice Chair; Carey Campbell; Larry Standley; Dr. Latoya Gathers, Alternate;

Absent: Ditra Miller; Joshua Scott;

The following Guilford County staff members were also present: Justin Hardin, Planning and Development Deputy Director; Oliver Bass, Planning and Zoning Manager; Samantha Lockwood, Senior Planner; Troy Moss, Planner I; Amira Yassin-Fort, Planning Technician; Bonnie Ware, Community Environmental Service Manager; Quincey Moffit, Community Environmental Program Specialist; Matthew Mason, Attorney; Ashton Roberts, Deputy County Attorney

II. Agenda Amendments

Chair Havens asked staff if there were any agenda amendments. Mr. Hardin responded that there were none.

III. Approval of Minutes: June 2, 2026

Dr. Gathers moved to approve the minutes as written, seconded by Vice Chair Johnson. The Board voted unanimously, 5-0, in favor of the motion. (Ayes: Johnson, Havens, Campbell, Standley, Gathers; Nays: None)

IV. Rules and Procedures

Chair Havens explained the rules and procedures followed by the Board of Adjustment.

V. Old Business

Chair Havens asked if there was any old business Mr. Hardin responded that there was none.

VI. New business

At this time, Chair Havens swore in or affirmed all those who intended to speak or provide testimony in relation to the evidentiary hearings on the agenda.

A. APPEAL OF SOLID WASTE CITATION CASE #26-05-BOA-00006: 4426 GREEN LAKE COURT, GREENSBORO NC, 27407

Chair Havens called Appeal Case Number 26-05-BOA-00006, 4426 Green Lake Court, Greensboro.

Attorney Mason (Board Attorney): We are here tonight on an appeal of a citation that Guilford County issued. In that posture, Guilford County bears the burden of proving the violations that they've cited Mr. Bartley for. Because of that, Guilford County will put its evidence on first. And then after that, if Mr. Bartley has counter evidence against the county showing he can put that on. If Mr. Bartley chooses to raise any defenses other than, I didn't do the violations that they have alleged, he would bear the burden of proof on those and he would have an opportunity to put any additional evidence on in supporting those.

Chair Havens: Thank You. So, the County would proceed.

Mr. Bass: My name is Oliver Bass. I am the Planning and Zoning Manager for the Guilford County Planning and Development Department. I'm here to present background and property information of the zoning case for you tonight. This is appeal case 26-05-BOA-00006. The property owners are Harvey Junior Bartley and Luz- I apologize if I'm mispronouncing the name. Luz Rocio Bartley per deed book 8975, page 308-310. The property address is 426 Green Lake Court, parcel number 242185. The property carries a zoning of RS-40, which is a residential zoning district. To give a brief summary of the case. This is an appeal of a solid waste citation dated May 1st, 2026. The associated violation case number 26-03-SWCE-00041. The appeal application was received on May 26th submitted by Kenneth M. Johnson, attorney on behalf of the property owner. As it relates to the nature of the violation, the property owners were cited for violation of the solid waste regulation of the Guilford County Code Chapters 15.5 specifically with the Public Nuisance Section 15.5-2 and Section 15.5-3 deals with responsibilities, prohibited acts and prima facie evidence. Just given a notification and site postings that was presented for this case. The date of initial notice of the signed postings on property was June 25th, 2026. The date notice was mailed to the adjacent property owners was June 25th, 2026. The public notice was posted on the county website on June 26th, 2026. The day the board packet was published and sent certified mail to applicants and the attorney was June 26th, 2026. And due to missing sign postings, we had to do up to four additional postings from the posting just to ensure that there was continuous notice on the site. Date of the second posting was June 26th, 2026. The third posting, and you can tell from the slide showing the date of the posting. The original posting was June 25th, 2026. We had a second reposting on June 26th, 2026. Provided a third reposting on July 1, 2026. On July 6th, 2026, we provided a fourth reposting. And then finally, on July 7th today, we provided a fifth reposting. So, you can see on the map, the map display on the screen right now indicates the property owners that were issued a mailed notice, there's a certified notice documentation that the packet was also sent to the representative attorney. To give you some context about the area. The subject property is zoned RS-40, and this area is primarily a residential area of single-family residence. Mostly zoned AG but also carries a residential RS-40 zoning as well. These are some additional maps that give you context of the area that was under review today. There are several residential properties surrounding this parcel right here. That concludes my report on the background information of the case.

Chair Havens: Anyone else from the County who wants to add to that testimony?

Attorney Roberts: Yes.

Attorney Mason: Mr. Bass, while Ms. Ware is coming forward, if any of the materials that you showed on the screen are not already part of the packet, the board will need to receive hard copies of those just for the record.

Ms. Ware: Good evening, members of the Board. For the record, my name is Bonnie Ware, and I am the Community Environmental Program Manager for Guilford County Environmental Services. I am here before you tonight to present the staff's case supporting the \$1,000 citation number 26-03-SWCE-00041 issued on May 1st, 2026, for solid waste and open burning violations at 4426 Green Lake Court in Greensboro. Before we dive into the specific timeline, I want to clarify an important procedural distinction for the board. The civil penalty notification you see in your packet at Exhibit Two is the first step in notifying that a civil penalty may be issued. It is entirely distinct from the operative underlying citation itself at Exhibit one. Citation appeal was issued due to persistent flagrant violations of Solid Waste County Chapter 15.5, which defines the unlawful collection and open burning of solid waste. Our department operates under the authority of Guilford County Code Chapter 15.5. Tonight, we will demonstrate that the property owners violated multiple sections of this ordinance, specifically maintaining an unlawful collection of yard debris, burning non-vegetative material, burning materials not originating on the premises and doing so for a commercial purpose. The triggering event that brought this property to our immediate attention was a complaint received on April 27th, 2026. The complainant indicated that there was an active open burn occurring at 4426 Green Lake Court at approximately 10:30 AM. The complainant also informed staff that the fire department had responded to a fire at 4426 Green Lake Court the day prior on April 26th, 2026. To verify the report of a fire the day prior, I obtained the official report from the Pinecroft-Sedgefield Fire District, which is at Exhibit 12 of your packet and is an official business record. According to the report, fire personnel responded to an active unpermitted outside burn at the property. Mr. Harvey Bartlett was observed actively burning in a metal drum during a state-issued burn ban. Mr. Bartley was informed by the responding Guilford County Fire District personnel of the burn ban and instructed to extinguish the fire. On Monday, April 27th, responding to the aforementioned citizen complaint, Brianna Steele, a program specialist, and I conducted a site inspection at 4426 Green Lake Court. We were escorted by three sheriff's deputies to the site. Upon arrival, we observed an active smoldering fire contained within a front-end loader bucket as shown in exhibit three. The fire contained a mix of vegetated debris, an unpermitted manufactured piece of wood, synthetic and a synthetic plastic bottle. This directly violates section 15.5-2 subsection five, which strictly prohibits the burning of such materials without permit and Section 15.5-3 Subsection G, which prohibits burning these materials. Furthermore, we documented a melted 30-gallon plastic trash can adjacent to the pit and freshly scorched tree limbs reaching approximately 20 feet above the fire pit. Mrs. Bartley was instructed to extinguish the fire and did so while we were there. Mrs. Bartley stated that, "City officials had told her she could burn in the past." This statement is critical because it confirmed that the Bartley's actively and intentionally utilized fire as a disposal method rather than this incident being an accidental flare-up. A critical element of this \$1,000 citation is the commercial nature of the violation under Section 15.5-2, Subsection 13. En route to the property on April 27th, Ms. Steele and I photographed a large commercial truck parked roughly 600 feet to the east of the property. As you can see in exhibit four, the truck was filled to capacity with freshly cut trees and prominently displayed the business name H&B Stump Removal and Tree Services, Exhibit six. The freshly cut trees in the truck did not appear to come from the property based on my observations while at the property.

The H&B Stump Removal Company address is pinned to the property on Google Maps Exhibit 13. And the business's website, Exhibit 14, identifies Mr. Harvey Bartlett as the owner. And the North Carolina Secretary of State's website lists the principal office address as the subject property and identifies Mr. Bartley as the registered agent and president, Exhibit 16.

During our on-site discussion, Mrs. Bartley admitted to us that they operate this tree service business. While she claims the trucks were typically stored elsewhere and that all debris was hauled to local landfills, she did not produce any disposal invoices or landfill receipts to verify that claim. Members of the board, I will now introduce Quincy Moffitt to continue the presentation of the staff's case.

Mr. Moffitt: My name is Quincy Moffitt, Environmental Program Specialist. Continued reports of subsequent violations persisted after Monday's investigations. On Tuesday, April 28th, 2026, our department received another urgent complaint from neighboring residents stating that commercial debris was actively being offloaded onto the property at 4426 Green Lake Court from commercial vehicles. I responded to the scene immediately along with other staff and sheriff escorts. Upon arrival, I observed the exact same H&B stump removal commercial truck photographed on Monday, April 27th, now half empty, parked directly across the street from the subject's property within the NCDOT right-of-way, Exhibit five. This would be a direct violation of County Code Ordinance 15.5-2, public nuisance 15.5-2, subsection two, the dumping, placing the solid waste, trash, garbage upon the land, or other open areas. 15.5-2 Subsection three, the dumping placing of land clearing debris alleged such land is a licensed and permitted disposal facility. And 15.5-3 subsection D, promiscuous dumping prohibited. During the investigation, Ms. Bartley spoke with me and said that she had documentation where the debris is being offloaded on site, but she did not provide it when asked. When I attempted to investigate further, Mr. Bartley explicitly denied me permission and other county staff to view the rear of the property, became uncooperative, and ordered county personnel along with myself to leave the premises. This act of obstruction prevented a final measurement of the debris but heavily corroborated the ongoing commercial dumping. Based on the observations performed by myself, Ms. Steele, and Ms. Ware, I issued a citation at exhibit one on May 1st. Based on the act of burning of prohibited materials, the violation of a standing burn ban, and the clear commercial nature of the debris, county staff request that the board upholds a \$1,000 citation in its entirety. We are now open for any questions the board may have.

Mr. Standley: Is it \$1,000 per day or \$1,000 total.

Mr. Moffitt: It is just an initial \$1,000 fine citation.

Mr. Standley: If you are back out there next week, do you issue another fine if it still going on?

Mr. Moffitt: So, we would do an assessment to see if the violation has been remediated. If not, then we will continue to send out a notification, which will be a civil penalty to let them know that they have a certain amount of days to have this remediated.

Chair Havens: So just so I understand, you've made multiple trips, same violation over and over again. Why are you just assessing one?

Mr. Moffitt: So, for the citation that was sent out, we issued under the citation, under each subsection we have listed in 15.5-2, public nuisance. 15.5-2, the dumping and placing of debris, solid waste upon the lands. 15.5-2, subsection three, the dumping and placing of land clearing debris on an unlicensed and unpermitted disposal facility. And in 15.5-2, subsection five, the open burning as well.

And then 15.5-2, subsection 13, the violation of a commercial purpose, and flagrant and willful violation. And then 15.5-3, subsection B, promiscuous dumping prohibited. And 15.5-3 subsection I, failure to comply with the deemed violation of the chapter.

Chair Havens: I understand.

Mr. Moffit: Yes.

Dr. Gathers: Sir. Okay. I have a question. So, if you go out there a second time, how many days will they have for a second citation, or they'll get a second citation within they have a certain number of days to clean up?

Mr. Moffit: So, within the citation they're given from what it says under the acknowledged receipt of the citation, I understand that the fine must be paid within 30 days. So, it is an assessed 30-day period where we will go out and monitor the situation.

Chair Havens: Do we have any questions from the board? Mr. Mason this varies slightly from our normal case, of course. Where are we moving from here?

Attorney Mason: So, yes, Mr. Chair, you don't get these appeals coming before you very often, but the process right now is Mr. Bartley's attorney, Mr. Kent Johnson is here. He would have the opportunity right now to ask questions of any of the witnesses who testified for the County if he would like to do that.

Chair Havens: Please proceed.

Attorney Johnson (Representing the Property Owners): All right. Thank you very much! Okay. Let's take a look at the Public Nuisance Ordinance 15.5-2. The first .2 in pound one. Now what's the second word in that ordinance?

Attorney Mason: Are you directing this to Mr. Moffitt? Just so the record is clear.

Attorney Johnson: Yes, Mr. Moffitt.

Mr. Moffit: And are you referring to the first paragraph, sir?

Attorney Johnson: Yes, sir.

Mr. Moffit: Creation.

Attorney Johnson: All right. Now take a look at public nuisance in one, a promiscuous dump. Now you all visited the site in three consecutive days, is that correct?

Mr. Moffit: Two.

Attorney Johnson: Two?

Mr. Moffit: Yes, sir.

Attorney Johnson: You visited on April 26th, 27th.

Mr. Moffit: So, the fire department responds to the-Yeah, on the 26th.

Attorney Johnson: Yes. On the 26th, that no burn ordinance had been in effect by the state since March. Is that correct?

Mr. Moffit: Yes, Sir.

Attorney Johnson: And it was still in effect on the date that the fire department visited?

Mr. Moffit: Correct.

Attorney Johnson: All right. And on that date, they did indicate that there was a fire and an open pit. And I think the open pit shown in Exhibit three is actually the bucket of a some sort of a dump or tractor. Is that correct?

Mr. Moffit: Correct.

Attorney Johnson: That's what we are referring to. So, when we refer to a barrel, I think someplace it be only referring to this particular idle barrel. Is that correct?

Mr. Moffit: Correct.

Attorney Johnson: All right. Now that would have caused a fine of \$100 to desist against. Would it not? Or could it not? Are you familiar with that?

Attorney Johnson: Right. So, when the fire department went out there on the first day and there was a fire, they could have assessed \$100 for an open burn. They could have been, as they did do, they cautioned Mr. Bartley, I believe, according to your summary, that they were not to continue burning. And they told them about that ordinance.

Mr. Moffit: Correct.

Attorney Johnson: All right. Now you go back out on April the 27th and in Exhibit three, it shows that there was some debris in the same bucket that had some of it partially burned. Other parts of it looks like it had been finished. Is there any indication that you have that this was not the same debris that was in it in the Fire Department went up?

Ms. Ware: We have no way to know that other than there was fresh leaves. And also, can I speak to the first question? The fire department did not alert us to that first day. That came in as a report from the neighboring report.

Attorney Johnson: Oh, okay.

Attorney Johnson: You also had the ability to assess a \$100 fine for open burn. Is that not correct?

Ms. Ware: Yes.

Attorney Johnson: Okay. Now you said there were fresh leaves, but you have no way of knowing that this is not the same debris that was in there for the fire department?

Ms. Ware: We did not receive photographs from the fire department.

Attorney Johnson: All right. And now you said when you went out there, there was flames... Where there actual flames?

Ms. Ware: The way the county views this, and we've spoken with the Fire Marshal at length about this, smoke means fire and we saw smoke probably from his fire pit, so there is no distinction between flames and smoke.

Attorney Johnson: All right. So, if this thing was not completely doused on the 26th. Then it is entirely possible that these were cinders that were there from the time the Fire Department arrived.

Ms. Ware: I cannot speak to whether that's true or not.

Attorney Johnson: Well, it is true that Exhibit three shows no smoke, no flame, no (inaudible).

Ms. Ware: That photo was taken after it was extinguished.

Attorney Johnson: All Right. Would it not have made more sense if you're going to charge somebody with thousand dollars to paint a picture of an actual violation as it is occurring? You had an opportunity to do that. How was that not done?

Ms. Ware: I can't speak to that. We were speaking with Mrs. Bartley when we were on site and she extinguished the fire as requested and then the photographs were taken after that. It is clear that the material in the bucket was burned and we had been in a burn ban for some time and the fresh leaves on top show that was fresh material put into that burn.

Attorney Johnson: Well, not necessarily. So, it could also show that was fresh material that had not burned the day before. Is that not possible?

Ms. Ware: We saw smoke on April 27th.

Attorney Johnson: All right. And who was responsible for taking the picture?

Ms. Ware: Brianna Steele.

Attorney Johnson: Okay. And by looking at the backside of April 3rd, there does appear to be possibly a whiff of smoke. Do you agree with that? Do you want to take a look at the picture?

Ms. Ware: I've seen the pictures and there was smoke on the left side.

Attorney Johnson: On the left side in the back. Now you have no way of knowing or telling that's not an incomplete putting out of this the day before.

Ms. Ware: I don't see the relevance to this in that the County Fire Marshal sees smoke and flames as the same.

Attorney Johnson: Okay. Do we have anybody from that Fire Department here to explain the fire-smoke distinction today?

Ms. Ware: We have not called them.

Attorney Johnson: All right. Could you have called them?

Attorney Roberts (Staff Attorney): We could have. We did not.

Attorney Johnson: You did not. But we are here prepared to equip it to, give the equivalency of a whiff of smoke with an active fire that male could step a separate day from that when the fire in your department was out there.

Ms. Ware: Could you please repeat that?

Attorney Johnson: All right. We are, we are suggesting that this whiff of smoke that we see here was the, was the result of an active fire set a second time after the fire department was sent out there?

Ms. Ware: At that, at this point, I cannot assume either way. I just know there was fire on April 27th.

Attorney Johnson: Okay. We know that we, but we show that there was smoke.

Attorney Johnson: Which is equivalent you say of fire.

Ms. Ware: Correct.

Attorney Johnson: All right.

Ms. Ware: And I do know that Mrs. - Thes Bartleys called the Fire Chief, Bobby Carmon, to discuss this very topic and he clearly explained to them, by his report that, that exactly what I told you. And that's how the County views it.

Attorney Johnson: All right. But He's not here, is he?

Ms. Ware: He's Not here.

Attorney Johnson: All right. Now looking at number, number four, exhibit four, we see what the, what appears to be a truck loaded with, looked like chopped up or cut up, tree trunks and so forth. Now we are not suggesting here that, that Mr. Bartley is burning this, these large truckloads of truck of breadth of wood, that's been cut up as we see in exhibit four. We're not suggesting that he is burning that on his property, and that we see in exhibit three, are we?

Ms. Ware: On exhibit three, no.

Attorney Johnson: All Right. We didn't see anything that was very even similar to that in this, in this pit on either visit, did we?

Ms. Ware There were no cut-up trunks in the pit.

Attorney Johnson: Did you observe a tree on his property that had branches that had fallen?

Ms. Ware: No, sir.

Attorney Johnson: Now, the. So, we have a total then of two visits on two separate days. And I believe you used the term a persistent violation. Is that not the term you used?

Ms. Ware: Yes.

Attorney Johnson: And we have in the public nuisance statute, the term promiscuous. Now, we all familiar with other nuisances around Greensboro and Guilford County. Do you know the single one anywhere else within, in Guilford County where this particular statute was applied after two visits on involving an outside burning? Do you have it in your, and do you have it in your records anywhere that ever happened?

Mr. Moffit: Involving a promiscuous dump?

Attorney Johnson: Promiscuous, meaning time and time again, like the motels right here off 85, where you got 85 visits out there from the police in a month.

Ms. Ware: I believe promiscuous doesn't mean multiple times.

Attorney Johnson: Okay. What do you think promiscuous means?

Ms. Ware: Obvious and open.

Attorney Johnson: Okay. Obvious and open. And frequency or the obnoxiousness that it has, has no play in that, in your opinion?

Ms. Ware: Promiscuous? That would be the, the flagrant would fit the promiscuous one.

Attorney Johnson: All right. The, you cited section of 15.5-2 in parentheses two. The dumping placing, burying or other disposal. You did not see any of this kind of thing in a pile, in a ditch, in a hole or anywhere on that property?

Mr. Moffit: We did see on April 27th a fence post. Well, not the fence post, but the, the style of the lumber as well as a, a bottle of water. Well, a plastic bottle. So, it is considered a dumping of solid waste.

Attorney Johnson: Okay. We're talking about this piece of rail.

Mr. Moffit: Yes.

Attorney Johnson: All right. And, and, and I think it would be conceded that piece of rail is, is not a natural, and that would be a violation.

Mr. Moffit: Right. It's treated.

Attorney Johnson: But you didn't find a whole stack of those anywhere on the property, did you?

Mr. Moffit: No.

Attorney Johnson: And you didn't find a whole stack of wood like this that showed in exhibit four of the property in here, did you?

Mr. Moffitt: So, we were not given an opportunity to review the property at all from Mr. Bartley.

Attorney Johnson: Your department has the ability to get a search warrant done?

Mr. Moffitt: Yes, we do.

Attorney Johnson: Did you?

Mr. Moffitt: No, we did not.

Attorney Johnson: Okay.

Mr. Moffitt: So, at the time when we were called out, we are immediately supposed to respond to the scene.

Attorney Johnson: All right. So then, but you suggest, however, that because when you saw the truck the second time, there wasn't as much wood in it.

Mr. Moffitt: Correct.

Attorney Johnson: That somehow or another that was on the property somewhere.

Mr. Moffitt: Correct.

Attorney Johnson: Now you have folks who get calling you in there about this stuff a lot of times.

Mr. Moffitt: We've had a lot.

Attorney Johnson: A lot of times! And not one time have they said if you go back here to the property, you'll find a big old stack 60 times there.

Ms. Ware: On the morning of April 28th, Tuesday, I received the phone call on my work cell phone from a neighboring complainant saying that they actively were seeing the material being offloaded onto the property. That is what spurred us to go to the property on April 28th. Since he was available and I called him to go to the site and that's where he attended the site to view what was going on.

Attorney Johnson: You all have drones, don't you?

Ms. Ware: No.

Attorney Johnson: You do not?

Ms. Ware: Our department does not.

Attorney Johnson: Does the county have drones?

Ms. Ware: Yes, and we do not have access to those.

Attorney Johnson: All right.

Mr. Larry Standley: Please repeat that question.

Ms. Ware: Plus, May I add to that?

Attorney Johnson: Yeah.

Ms. Ware: Under the way that we investigate, we have to investigate a property with the, and, and pardon my wording on this, a reasonable amount of privacy. So, if we're not allowed access onto the property, we have to view it from the road. And a drone would not be allowed.

Attorney Johnson: Oh. Now, if I would sum up so far while we have. It is that on April 26th, fire department went out there and there was an active burning in this, in this, we'll call it a pit, as shown in exhibit three. On Monday, you, you go back out there, and this was in response to a, a call from a neighborhood you said. All right. Have you talked to this neighbor previously?

Ms. Ware: Yes, multiple times.

Attorney Johnson: Okay. And then, on the 27th or 28th, you go back out there second time. And again, we are talking for those three times some materials in this fire pit shown in exhibit three. All right? And we, and we are being led to believe that then that, that those three times constituted a promiscuous, persistent, multiple violations of an open burn that the that the state and the county said was a \$100 violation. That's, that's, that's what we have here, is that a reasonable summary of what they have?

Ms. Ware: I would disagree. The \$100 violation applies to residential uses. This is clearly a commercial situation and that is why we assessed the \$1,000 penalty.

Attorney Johnson: It, it's not about, is it, are you, are you stating to us that it's a violation to have a burn barrel or pit in the back of your residence in the county, not the city, in the county, that's not in a development?

Ms. Ware: It is perfectly okay to have a burn fire pit at your personal house for your personal use.

Attorney Johnson: Right And in this situation, we see nothing commercial in this thing, do we?

Ms. Ware: We see illegal items in that.

Attorney Johnson: Illegal, yes. Commercial?

Mr. Moffitt: So, the burning was considered the illegal substances that were in the pile. The commercial was for the dumping.

Attorney Johnson: Illegal? Yes. But you, you're categorizing this as commercial. And hence, the \$1,000 penalty that leads into this.

Mr. Moffitt: So, the \$1,000 penalty is being assessed based off of the illegal substances in the burn pit and then also too from the probable cause of the illegal dumping of commercial material on the property.

Attorney Johnson: Well, where do we see the proof of that?

Mr. Moffitt: Again, we stated we were not given time. We're not given time or the permission to review the area that was being assessed at the time.

Attorney Johnson: Which then, which equate to speculation.

Mr. Moffitt: Probable cause, which is why we assess the fine.

Attorney Johnson: No further questions.

Chair Havens: Once again, you cross-examine the county. do we need to allow them a chance to present their case outside of that? Or do you have a case to present outside that?

Attorney Mason: Before we get to that, does the county have any additional evidence to present?

Attorney Roberts (Staff Attorney): Excuse me. Redirect and we have one additional witness. Yes.

Attorney Mason: So, we'll let the, the, the county will, will finish then-and there would be an opportunity for cross-examination of, of whatever they may present now, before we move on.

Chair Havens: Please.

Attorney Roberts: If I can just ask some follow-up questions. So, Mr. Johnson asked you, I believe both of you, a question about the fire department's response on April 26th. To clarify, neither one of you were on scene on April 26th, correct?

Mr. Moffitt: Correct.

Ms. Ware: Correct.

Attorney Roberts: Okay. And do you have any indication that the photograph in exhibit three, that the front-end loader, the, the bucket that Mr. Johnson's referring to is the same bucket or the same metal drum that the Fire Department witnessed the fire in on the April 26th?

Ms. Ware: We have no way to assess that. What we saw on April 27th could be totally different than what the fire department saw. We have no way to know that.

Attorney Roberts: And did, was there, did you observe any other receptacles that had any burn material in it, on the property on April 27th?

Ms. Ware: I did not see any while we were there. We didn't walk the entire property. But we did see items around this fire pit that had been affected by very large fires.

Attorney Roberts: And you were asked a question about, the penalty that or the, the fine that was issued with the citation. if you take a look at... We may not have a copy of it. why was the \$1,000 penalty issued rather than \$100 penalty fee?

Mr. Moffitt: So, due to willful and flagrant, use of... of... promiscuous dump... of dumping material and, of burning illegal substances in the burn, in the burn barrel and neglecting to remedy those violations under our county code of ordinance.

Attorney Roberts: Thank you.

Mr. Standley: What was deemed to be illegal being burned there.

Mr. Moffitt: The treated wood and then also to the plastic bottle.

Ms. Ware: To clarify, Guilford County allows for any natural material that origin- originates on your property to be burnt. Anything else that does not originate on your property, especially from commercial use, cannot be burned. And man-made materials such as plastics, even fence posts are illegal to burn.

Attorney Roberts: And to clarify, what are you alleging is the commercial violation here?

Mr. Moffitt: The material that was dumped from the, the business. The stuff that was on, considerably on the truck. The H&B stump removal truck.

Attorney Roberts: And did you witness any of that debris on the property?

Mr. Moffitt: We did not. As I mentioned before, we were not given permission to review the property, the rear end of the property where we received a call saying that. Mr. Bartley did not want us to review that area at all.

Attorney Roberts: And when you issue these citations, are you issuing them based on probable cause?

Mr. Moffitt: We issue them based off of probable cause and also willful and flagrant intent.

Attorney Roberts: Thank you. And if we could call Dr. Wade to the stand.

Chair Havens: If you could state your name, please.

Dr. Trudy Wade: Trudy Wade. If you need know, I live at the adjacent property.

Mr. Hardin: Please state your address for the record.

Dr. Wade: 4205 Rose Lake Drive.

Chair Havens: Okay, thank you. Proceed.

Attorney Roberts: Dr. Wade, did you have a statement you wanted to present today?

Dr. Wade: Well, I don't have a statement, but I can tell you the burning's been going on about every weekend, except after I called in when the fire ban was on. Because I was extremely worried that my property is right next to his fence where he's burning, that it would come over and catch one of my storage buildings on fire or something, my house for that garage.

Attorney Roberts: How long have you been at the adjacent property?

Dr. Wade: How Long? My family's lived there 71 years. I moved back home when my mother and father passed away about 10 years ago.

Attorney Roberts: And approximately how long has this burning been occurring next door?

Dr. Wade: Well, I've been living there for about 10 years, so it's been going on about every weekend if not every other weekend since I've been there.

Attorney Roberts: And did you make some of these complaints?

Dr. Wade: I sure did.

Attorney Roberts: And do you have any video of any of the burns?

Dr. Wade: I have lots of videos, but I did... They said they were just interested in 26 and 27.

Attorney Roberts: Okay. Did you bring any of those with you tonight?

Dr. Wade: Yes, they're supposed to be here. I have my attorney over here.

Mr. Bass: May I ask any members of the public that's speaking to sign in on the sign sign-in sheet?

Dr. Wade: Oh, do you want me to sign into this one right here?

Mr. Bass: Yes, ma'am.

Dr. Wade: Thank You.

Attorney Roberts: Dr. Wade, is there a date on this video?

Dr. Wade: It is on my phone, so it should be up there. April 26th.

Attorney Roberts: April 26th?

Dr. Wade: See that gray fence is the end of my property. And that's my garage right there. And that's my two little dogs. What you can see is all that smoke back there in the corner. It was probably, before I called it in, burning for two or three hours. Before I called the Fire Department. I got really worried that in, during a ban and everything was so dry that it was gonna come on over to my property or catch my fence on fire.

Attorney Roberts: Okay. And, Dr. Wade, do you have any videos from April 27th?

Dr. Wade: I do.

Attorney Roberts: If you could pull those up.

Dr. Wade: The smoke wasn't as bad on that day, but it was definitely coming up because that's how I noticed it. See it back there. I was standing at the end of my driveway and there in the back is my garage taking that. Again, I was very concerned that, you know, it's dry and the wind was blowing extremely hard that it might throw a little ember over and catch my garage on fire or my house on fire.

Attorney Roberts: And Dr. Wade, between April 26th and April 27th, did you notice continued smoke or...?

Dr. Wade: No.

Attorney Roberts: ...at some point did it stop?

Dr. Wade: It stopped that night and then the next morning it was up, back up again. That, that's what concerned me. And I have videos from last night. If you'd like to see at 9:00, where we're burning again.

Attorney Roberts: And by we, you mean your neighbor?

Dr. Wade: Yes. And it was, it was pretty high last night. It started about at, when I got home at 8:00, took my dogs out and the fire was starting then. When I first drove in it wasn't and then at 9:00, it was going pretty good.

Attorney Roberts: Is there any other testimony you'd like to provide?

Dr. Wade: No, but it's an ongoing problem. I mean, I'm glad his business does well. He just needs to operate it in a commercial zone. Not in our residential area. And he just keeps getting more and more trucks and I don't know, the debris is out on his truck when he parks it on the side of the road. It, he used to park it in the back right next to the fence. But now in the last probably I'd say two or three weeks, he's started to move it a little more towards the front of his property. But most of the time it's just backed up against that fence right there.

Attorney Roberts: Thank you, Dr. Wade. I don't have any more questions.

Dr. Wade: Thank you.

Attorney Johnson: All right. Now, those photos starting from the 27th, I think we observed there's, there was no black smoke coming up in that spot.

Dr. Wade: No, it's usually oily smelling smoke. Okay? There's some tree smell to it, but mainly it's just a bunch of smoke with, like, an oil smell to it.

Attorney Johnson: But it's not black?

Dr. Wade: No, it's not black.

Attorney Johnson: Well, we can rule out that it was oil in it.

Dr. Wade: We can rule out what, sir?

Attorney Johnson: We can rule out that there's actually oil in it.

Dr. Wade: No, it's just smoking really bad. You can't even breathe in the backyard.

Attorney Johnson: And is that because that wind is blowing that smoke over into your yard?

Dr. Wade: Every time he burns, you can't breathe when you're in the backyard. If you sit on the patio, you can't even have a friend over.

Attorney Johnson: Run that again so we can observe how hard the wind is blowing, as you spoke about.

Dr. Wade: Well, I've sent several videos said there's more than one showing it. You see the wind right there?

Attorney Johnson: Okay. Now that wind is blowing, is it blowing towards your property or away?

Dr. Wade: Right at my property.

Attorney Johnson: Okay. That was- Was that the one at...?

Dr. Wade: That was the 27th. It was worse on the 26th.

Attorney Johnson: Alright. Now if the wind was blowing that way and that fire hadn't been fully extinguished the day before, it could have started up again from that. Is that correct?

Dr. Wade: No, sir. I wouldn't say that because it was no smoke all night long.

Attorney Johnson: Smoking all night long?

Dr. Wade: Okay, after they put it out that night, the fire department came out, and I didn't see any more smoke. I didn't see any smoke when I first took my pets out in the morning to go to the bathroom when I go with them. But it started up before I left to go to work around 10 or 10:30.

Attorney Johnson: All right now, I understand this. So, the smoking on the 26th, obviously when the fire department came out. After the fire department left, you said it smoked all the night of 26th?

Dr. Wade: There was no smoke. I had my dogs out walking them.

Attorney Johnson: No smoke on the night of the 26th?

Dr. Wade: No, not after, I don't know what time the fire department left, but after dark, I, there was no more smoke out there and I'm like, I walk my dogs right there, so.

Attorney Johnson: And what time of day or the evening did you walk your dogs?

Dr. Wade: Sometime between 8 – 9 o'clock.

Attorney Johnson: And that's- when you were walking your dogs, that's when you observe it between 8 or 9 o'clock? Is that when you first observed it on the 27th?

Dr. Wade: There was no. When I first observed it?

Attorney Johnson: On the 27th.

Dr. Wade: On the 27th? No. When I first observed it on the 27th was in the morning about 10:30. They put it out on the 26th and there wasn't any smoke that night. But it started. And it wasn't any smoke that morning when I got up actually at 6:00.

Attorney Johnson: Alright. So, then you called and that's when Ms. Ware came out on the 27th and that's when the pictures were taken. Have you seen that?

Dr. Wade: I saw that. I've never seen his backyard, so I don't know the fence that's up, but I can't say anything to that. I can only say the smoke's coming over and you can't breathe.

Attorney Johnson: Now you have a pretty high fence there, don't you?

Dr. Wade: Yes. It's probably eight feet.

Attorney Johnson: Eight feet.

Dr. Wade: Maybe in some spots taller. My mom and dad had to put it up when he started getting more trucks for his commercial business.

Attorney Johnson: Okay. And, well, you can't, you can't, you couldn't see this fire pit, so you cannot see over to his yard?

Dr. Wade: Well, no, that'd be invading his privacy. I can't do that. The county informed me that.

Attorney Johnson: And, if you had, if you had five and a half to six foot, yes, like most folks you probably would be able to see over there, but that's neither here nor there.

Dr. Wade: Well, we would, but the trucks were over that about four to five feet. So my father put it up as far as he could, so it didn't bother him all the time. It was still, his trucks stay up four or five feet over the fence.

Attorney Johnson: And how long, do you know how long, Mr. Bartley has lived up here?

Dr. Wade: How long? I can't even tell you. I know that other people that lived there before him. He lived there for a while. I know that when he started out with one truck, my mom and dad said he kept getting more trucks. Of course, I've lived here all my life with, you know, been just a few miles down the road. And so, they were old. They didn't want to complain. They were afraid that they'd get the neighbor upset, but it's been going on a long time.

Attorney Johnson: Okay.

Dr. Wade: I just didn't realize how bad until I moved back into the home.

Attorney Johnson: And you've been there how long?

Dr. Wade: Nine, 10 years.

Attorney Johnson: And this is the, and the-

Dr. Wade: But my family's been there 71 years, so I've been in and out of the house all the time, except when I was in veterinary school in Alabama.

Attorney Johnson: Alright. So, for 10 years then you, you coexisted. And now in, on the 27th and 28th of April, the two times you, you, you, you alerted the county about the issue?

Dr. Wade: Yes, I alerted them about the fire department coming out, so my property didn't catch on fire, but I've talked to the county before. At first, when Mr. Bartley had one truck, it wasn't too bad, but now he has three trucks. And I don't know what else.

And I mean, he brings them in at nine, 10 o'clock at night. It, it's a, it's a real problem in a residential area. Not that I'm not glad his business is doing better, but it's just really a problem in a residential area. And I know my other neighbor couldn't be here tonight he's working, but the other adjoining property.

Attorney Johnson: Is that the one on the opposite side?

Dr. Wade: At the corner of Green Lake and Rest Lake. He adjoins them.

Attorney Johnson: So, he's between the two of them.

Dr. Wade: He's at the end of the road. And of course, he hears the trucks all night long and keeps his children up.

Attorney Johnson: Alright, no more questions.

Mr. Standley (Board Member): Can I ask you one question?

Dr. Wade: Yes.

Mr. Standley: You got three trucks now. Do they go through the neighborhood? Do they create additional problems for the neighborhood rather than the fire?

Dr. Wade: Yes, sir. It's mainly myself and the other adjoining property. And, uh, they come in at different times at night when it's dark and the lights. It looks like a football field over there, which I asked Mr. Bartley to start out with if he could do something about not putting those lights up because at nighttime, it looks like you're playing the Super Bowl over there. And I even asked about maybe he putting lights up that are motion detection.

But basically, it's just kinda getting out of control because it's a commercial property now. It's, it really doesn't feel like a residential area. And I have another neighbor here that has been over at my house and seen it.

And, uh, the gentleman, Mr. Dang, that lives at the end of the street, he's had several confrontations with, Mr. Bartley. So, but he had to work tonight because his boss is off, so. But I think he's, he's talked to the County about it before, too.

Mr. Standley: Thank you.

Chair Havens: Ok, thank you. Do we need to allow them to present the case? Other than what they've already done?

Attorney Mason: Yes, we'll need to allow Mr. Bartley to put on whatever evidence he might wanna put on in opposition to the county showing.

Chair Havens: Again, just state your name and address for the record.

Mr. Bartley (Property Owner): Harvey Bartley. And this is my wife, Luz Rocio Bartley, 4426 Green Lake Court.

Mr. Hardin (Deputy Planning Director): And if you can sign the sign in sheet.

Attorney Johnson: Mr. Bartley, do you understand that you're here on the violations that occurred on April 26th, April 27th and April 28th allegedly. You understand that's why you're before us here today?

Mr. Bartley: Yes, sir.

Attorney Johnson: It started with April 26th, 2026. What were you, what were you burning in this pit on that day?

Mr. Bartley: Pine straw needles. I got like four or five trees of pine straw that drops the pine straw needle. And I put it in my burn pit, burn it, and that's where the white smoke. It makes white smoke. And that's where the white smoke came from. I've never burned anything in my yard that didn't come out of my yard. I don't dump debris in my yard. I got receipts showing where I take my stuff to the landfill. Why would I dump a big load of that debris in my yard? Her and the next-door neighbor, her neighbor get on the roof of a house and look over to my lots, so they ought to know that it wasn't there. You said you've never been in my backyard.

Attorney Johnson: Answer this question. I will hand you some documents here...Tell me what those documents are and then we'll pass them around.

Mr. Bartley: It's where we pay at the landfill.

Attorney Johnson: And what do you pay the landfill for?

Mr. Bartley: For dumping chips and wood.

Attorney Johnson: Tell us what your business is, sir.

Mr. Bartley: It's take down trees, grind out stumps.

Attorney Johnson: Okay. And you, and you grind those stumps out and cut down the trees. What do you do with the wood and the chippings and –

Mr. Bartley: We have a machine that you run the limb through, and you can run a tree that big around in it. And 90% of the time we give it to a customer, the people that want the chip. The wood, we take to the landfill. I know a gentleman live out there up Huffine Mill Road. He takes the wood and he splits it, then he sells it.

Attorney Johnson: Alright.

Mr. Bartley: And what we can't dump at his place we carry to the landfill.

Attorney Johnson: And if you would tell us about these. I'm just going to mark them as one, two, and three. Can you tell us what those pictures depict, sir? Start with number one.

Mr. Bartley: Number one is the dead oak tree in my backyard right here at my burn pit. So as they fall out of my tree, I'll take it and put it in a pile. I'll put it in the burn pit, burn it.

Attorney Johnson: Number two?

Mr. Bartley: Number two, the driveway that goes to my barn. That debris you're looking at there, that fell out of my tree out of a hedge which is about nine foot. I drag that and put it in there. The brown stuff you see there is pine needle straws. That's what I burn.

Attorney Johnson: Number three.

Mr. Bartley: And number three is a big steel burn pit that come off in the front-end loader, which is better than a five-gallon bucket for burning stuff then.

Attorney Johnson: Would I be allowed to pass this around? Were you aware that there was a burn order in effect in the state of North Carolina on April the 26th?

Mr. Bartley: No, sir. I, I did not. There was two guys from Bishop Road, which is Sedgefield Fire Department, came out to my house and told me. And I took the water hose and put it out. And that's when they left. There hadn't been anything burned there since. That's when the lady come over to my house, told my wife she was a fire chief. And that's when she got permission to go back in my yard and inspect stuff. And that's when she said she seen flame, which was smoke. They called smoke flames so.

Attorney Johnson: And to the best of your knowledge, was there ever a flame that had reignited in, in that burn pit on April the 27th?

Mr. Bartley: Yes. It was all; it was all soaked down with the water hose. The two fire department guys was there when I did it.

Attorney Johnson: Have, have you been cited before by the county or anyone else for, for, for burning anything?

Mr. Bartley: No, sir. Never been cited by the County for anything. Never been there before or anything like this. My trouble started with Trudy Wade.

Attorney Johnson: How long have you lived out there?

Mr. Bartley We've been there 25 years, over there. 25 years. The first, my wife walked her dogs down the road. She would stop my wife and ask my wife, "Will we please turn the light off in the backyard. It's not lit up like a football field. But I did. I took the light and went back there and took the spray paint any part of the light, just to dim the light. And there's been several inspectors been out there that checked it, seen that I did. I didn't have to do it, but I did.

Attorney Johnson: This was April 26th. County came out on the 27th and 28th. How many times would you guess the county's been out to your property?

Mr. Bartley: Yes. I tried to get a record, and they wouldn't give it to me. I bet they've been at my place I know 25 times. 25 to 30 times.

Attorney Johnson: When you say 25 times over what period of time?

Mr. Bartley: In about four years.

Attorney Johnson: Okay. And when they come out, do they identify who they are?

Mr. Bartley: Some, yeah. And sometimes when we're there, my wife and I, we let them come back and check. And there's been a couple of them come out and told us that it was, burning debris. He went, we let them go back there and look. And he signed off on it. He signed off on it, you guys gotta have it. Then there's one guy come out who's checking to make sure our trucks are back there, and he told us we could have two trucks back there. And that's what we've been having.

Attorney Johnson: All right. So, you guess in four years they've been out there 25 times. So far, we'd be, we are, we are two for 27 and you catch a \$1,000 fine. Is that, is that coming up?

Mr. Bartley: Yep.

Attorney Johnson: Alright. No further questions.

Mr. Bartley: And it's a big harassment.

Attorney Johnson: Yes, no further questions.

Attorney Roberts: Mr. Bartley, you just testified that you soaked down your burn pit on April 26th completely. Is that right?

Mr. Bartley: Completely. On a Sunday, I soaked it down with a water hose with two fire department guys standing there looking at it.

Attorney Roberts: Okay. And you're alleging that on the 27th, despite the water hose, it just reignited?

Mr. Bartley: I'm not alleging. That is what happened.

Attorney Roberts: Okay. And you testified that on the 26th there was nothing but pine needles in that burn pit?

Mr. Bartley: That's all I burned.

Attorney Roberts: Okay.

Mr. Bartley: If you seen a plastic bottle in there, it might have been where I was drinking water and flipped it instead of going into my trash can it fell in that. Other than that, you didn't see nothing in there, nothing but debris out of my yard.

Attorney Roberts: So, in exhibit three that I think Mr. Johnson can show you, you're saying that we're not seeing a wooden fence post in there?

Mr. Bartley: You are not. You are not seeing a wooden fence post in there.

Attorney Roberts: Okay. And you're also testifying that we're not seeing a water bottle.

Mr. Bartley: No, I'm not saying you didn't see a water bottle in there. I could have thrown it in there; I just told you. I pitched a water bottle in towards the trashcan, and it could have fell in there. And if there was anything in there, that was it. But there was no fence post in there. I'm the one that put stuff in there. I am.

Attorney Roberts: Okay. I'm not finished. Thank you. And it appeared to me I wasn't able to take a look at the invoices as they moved quickly along, but it appeared that one of those in-that the invoice was for January. Do you have an invoice for April from the landfill?

Mr. Bartley: I can get it. If it's not there, I can get it because we go to the landfill all the time. We go to the Whitford Landfill, and we go to the McLeansville Landfill. That's the only two places that take wood and chip debris. The City don't take it to their landfill.

Attorney Roberts: So, you have no invoices with you tonight for any debris taken to a landfill in April?

Mr. Bartley: No.

Attorney Roberts: Okay.

Mr. Bartley: I sure don't.

Attorney Roberts: Okay. And you also testified that staff has been on your property 25 times in the last four years.

Mr. Bartley: Look at your email.

Attorney Roberts: Let me finish my question.

Mr. Bartley: Look at it, pull it up and see how many people have been out there. When they first started coming, we didn't mind. Then it got so-every time Trudy Wade call in, somebody would come out there.

Attorney Roberts: And do you have any idea who these individuals are? Are they from Solid Waste? Are they from the Planning Department? Do you have any idea?

Mr. Bartley: Any idea on what?

Attorney Roberts: Which staff members are coming you're alleging are coming to your home?

Mr. Bartley: City, County Inspectors. You guys gotta have a copy or a record of it. They come out there, they tell us who it is, and they go back there. I mean you should have a record of it.

Attorney Johnson: Tell us, look at exhibit three. That's the one right there in front of you. No, no, no.

Mr. Bartley: This?

Attorney Johnson: Yes. What's the long piece of wood sticking out of it?

Mr. Bartley: That's a piece of bamboo that's grown in the corner of my lot that I cut down and put in there. Do you like to take a look at it?

Attorney Roberts: I've seen the pictures.

Mr. Bartley: It's a piece of bamboo. I got four more pieces laying in my corner of my lot too. Four more piece of this bamboo that I cut down and dug up by the roots. The only thing I can get rid of and dig it up by the roof.

Attorney Johnson: No further questions. We have nothing further.

Chair Havens: Okay. Any questions for the board?

Mr. Standley: I noted that all the invoices for the landfill for January 2026. How often do you go to the landfill?

Mr. Bartley: How often I go? I go, it just depends on what I have, but how often? When I do go, I'll take strap wood. If it's decent wood that I can carry to the gentleman on Huffine Mill Rd, then I'll take it out to him and I'll give that to him, and he'll split it and sell it. But big bucket wood, which is that big around that you killed and split, then I'll take that to the landfill. And I can go to McLeansville landfill and get a record of everything they would dump out and to the landfill on 220 North, which is Whitsett and they can give me a record of it if I need to get it to you. So, the debris that you've seen on my truck, that is wood. I take that to Huffine Mill Road. And if you like, I can actually get something from him. I'm not, really, I am not. I am not carrying stuff at my house stuff at all. My yard is cleaner than hers. Please, when you have time, come over in my neighborhood and just take a look. Take a look at my place. Take a look at her place and take a look at the rest of the place and hers. Take a look at her yard.

Chair Havens: Any other questions? Attorney Mason, since this is outside our norm, would it be appropriate for the board to go into closed session?

Attorney Mason: Yeah, certainly you can consult with me in closed session. If I might make an inquiry here, Mr. Johnson, are you going to be raising any defenses or going to present any other evidence that you have so far?

Attorney Johnson: No, we have no further evidence to present.

Attorney Mason: So, Mr. Chair, certainly if you feel the need to consult with me, I'm glad to do that. That would need a motion and a second to go into closed session to consult with the board's attorney.

Dr. Gathers: I motion that move into a closed session to talk with the Boards Attorney.

Mr. Campbell: Second

Mr. Hardin: Can you get a Roll Call vote on that?

The Board voted unanimously, 5-0, to enter closed session to consult with the Attorney (Ayes: Havens, Johnson, Campbell, Standley, Gathers; Nays: None).

At this time, the Board entered closed session and consulted with their Attorney. In the closed session, the Board consulted with its counsel, Matthew Mason, who answered the Board's legal questions and provided legal guidance. No action was taken.

Chair Havens: Okay at this time the Board of Adjustment will be called back to order.

Attorney Mason: Let's take a vote to go back into open session, please.

Dr. Gathers: I motion that the board goes back into open session.

Chair Havens: Very good.

Mr. Standley: Second

Attorney Mason: You Don't need a roll call for that, Mr. Chair, if you'll ask all in favor.

Chair Haven: All in favor.

The Board voted unanimously, 5-0, in favor to return to open session (Ayes: Havens, Johnson, Campbell, Standley, Gathers; Nays: None).

Chair Havens: Alright, at this time, has the County has prepared the closing statements?

Attorney Mason: Mr. Chair, if I might suggest the County bears the burden of proof as mentioned at the outset. Because of that, traditionally the way closing statements go is the County would have the opportunity to go first or last at its option. The party bearing the burden of proof have that choice.

Attorney Roberts: We'll go last, Chair.

Attorney Johnson: Thank you very much, Mr. Chairman. I'll be brief. Ladies and gentlemen, I came here tonight, with Mr. Bartley, because when Mr. Bartley came to see me about this matter, there was one that appeared to me to pose an injustice. Pose an injustice not because there was no violation. Posed an injustice because the violations went from zero to a thousand in no time and for no real good reason. We don't stand here and argue that verdict on April 26th and there was a statewide ordinance in effect that there would be an open burning. We don't sit and stand here and argue that that wasn't a violation, that it's a \$100 violation. It could also be \$183 court cost sometimes or that's not the necessity. So, what I propose is \$283 violation. But he was, of course, charged with reason of 15-25-2 and what follows was a public nuisance violation. And I repeat again that word in the definition of public nuisance is promiscuous. And promiscuous, as applied in the public nuisance arena most often is repeated violations. And all of us in here are well aware of the public nuisances around the City of Greensboro and few in the County of Guilford that have been shut down. And without exception, they've been all shut down for essentially the same reason. Because there was repeated violations of one kind enough, repeated criminal violations, repeated fights, repeated drugs, repeated prostitution, you name it, but it's always repeated. Now that's not to say that if in fact you look into Mr. Bartley's backyard, what you find was a stack of that wood that he works in that high and a flame going in, would that call for the time of zero to a thousand kind of speed that we took in this matter? I would not argue that that would've been warranted, but to have a situation where you come out on two successive days and you find materials have been burned in a pit and frankly, I looked at the long spill in Exhibit three to look at and it didn't occur to me that it was bamboo initially until he said that I was willing to concede that was probably a violation. But in hindsight, when he said it was a bamboo, when you look at it, that's exactly what it is. You can see that it's bamboo. So that fits within the definition of what's permissible. That is the natural wood.

Now, if there was a plastic bottle in the neighbors burn, that would be a violation.

And I think other than there was a mention of some plastic other plastic, but I don't think it was said directly nor does the evidence support that there was anything in that actual burn pit other than what would may have been a plastic bottle.

So, my reason, my position in this is yes, there's a violation. Again, state had put in an order. You were not to be burning. But now to say that this ought to be a \$1,000 violation because someone put some evidence to say, "Well, I was afraid that the cinders were going to blow over here and burn my house down." And then in the next breath say, "Well, there's some burning every week." Well, you add it all up. This just does not add up to the kind of violation that warrants, the violation does not warrant the penalty that's being assessed here. This body could assess the \$100 penalty. It has authority to do that. It was a burn on a day, and it was prohibited. So, let's call it what it is. And on this occasion, now I'm not going to dwell on the fact that as he's indicated and it was really not disputed. I can't tell you why they've been out there 25 times, but you would think that if he was as big a culprit as some make him out to be, that you went back there 25 times and go and walk over his land and come back and say, "Well, there's nothing to see here." Well, if he was as some portray him as he's just a hardworking individual who's had some success, he cuts down trees, he grinds out stumps. When the wood is sellable can be sold as firewood, he delivers it to a place in the McLeansville when the stumps have ground down, he runs down and he takes that to two different dumps. I think the documents I gave you supports the fact that he utilized two different dumps. Now I would be the first to agree there was not a dump. It was not a receipt for April the 26th or 27th. But of course, you have pictures of the truck that was still loaded on those days. So, you went down, but you wouldn't have a receipt for the 27th because the stuff was still in his truck. But I would submit to you that the evidence that's been placed here before the Board has done an excellent job. They went out and they did their job. And I understand from my question and what have you, I would get sometimes they get a little harsh, but they are doing their jobs and I'm doing my job to represent a client who I think has been wronged. And I ask the Board and I hope that you'll agree with me that, at least on this case, the penalty that's been assessed is excessive and it should be rolled back to more reflect the seriousness of the matter at hand.

Chair Havens: Thank You. County, you want to give your closing argument?

Attorney Roberts: Yes. Thank you, Mr. Chairman and members of the board. County staff has presented ample evidence this evening in support of citation that was issued on May 1st. Mr. Johnson conceded that yes, there was burning that occurred on April 26th. And we heard testimony that the fire was observed within a front-end loader bucket on April 27th from staff. We also saw a video of smoke related to a fire from Dr. Wade and heard her testimony about that fire on April 27th. We heard testimony from her that at some point between April 26th and April 27th, there was no smoke. So, it was indicated that yes, it was put out on the 26th and it's more than likely that it was reignited on the 27th. We also heard testimony that there was a plastic bottle and treated wood in that front-end loader bucket. We saw evidence of that in exhibit three in your packet. You can clearly see that there's a plastic bottle there as well as treated wood despite Mr. Bartley's testimony that it is bamboo. These are clear violations of the county's ordinances as noted in the citation that was issued. And it is entirely possible that two burns did occur.

We did also hear testimony that there was a separate metal drum on the property that appeared to be melted on April 27th as well as the smoke that was observed in the front-end loader that same day. So again, there's ample evidence to support the ordinance violation for open burning. Now the citation that was issued to \$1,000 fine and Mr. Johnson has made arguments that it should have been a much smaller fine, potentially \$100. Now the UDO section, or not the UDO, Solid Waste Ordinance 15.5-7 allows for a fine of \$1,000 for a violation for a commercial purpose or a flagrant and willful violation of the ordinances. Now here staff has made the argument and I believe we've presented ample evidence that this was a flagrant and willful violation if there was indeed a second burn on April 27th when Mr. Bartley had already been notified that there was a burn ban in place and had been asked to extinguish a fire on April 26th. So that \$1,000 fee is appropriate here given the flagrant and willful nature of this open burning violation.

Now staff also presented evidence of commercial dumping, which was also noted in the citation and violations of ordinances. Now they based these violations on observations of a commercial truck being full to the brim of wood and tree debris material on April 27th, and then the next day returning and saying that that same truck was half empty. Now, while Mr. Johnson argues that there's no reason for Mr. Bartley to have an invoice from April, there indeed is a reason for him to have an invoice from April because the truck was half full. So where did that debris go? Staff's argument in issuing this citation is that there was probable cause that that debris from the truck that is now half empty was offloaded onto the property.

Additionally, Mr. Bartley provided, as we noted, no invoices or receipts at all for April 2026. So, we would contend that the state has met its burden this evening and we ask that the board uphold the citation for \$1,000 in its entirety.

Chair Havens: We've heard all the evidence presented. Do we have a motion from the Board.

Dr. Gathers: I motion that we, one, find that the county did prove violations of the ordinances cited in citation by the greater weight of the evidence. Two, that we find that the violations were willful and flagrant. Three, that we affirm the citation. And four, that we direct staff and council to the board to draft a proposed order containing proposed findings and conclusions consistent with the board's decision and supported by the evidence and the law for the board's consideration at its next meeting.

Chair Havens: Okay. Do we have a second?

Vice Chair Johnson: Second.

Chair Franklin Havens: Roll call.

The Board voted unanimously, 5-0, in favor of the motion. (Ayes: Johnson, Havens, Campbell, Standley, Gathers; Nays: None)

Chair Havens: Okay. We heard the motion for the board. It was denied; he will receive written notification and have 30 days to appeal that to the Superior Court. Thank you.

VII. Other Business

None.

VIII. Adjournment

There being no further business, Chair Havens adjourned the meeting by acclamation at 7:53 p.m.

The next regular meeting of the Guilford County Board of Adjustment is scheduled for August 4, 2026, at 6:00 p.m. in the Carolyn Q. Coleman Conference Room, located on the first floor of the Old Guilford County Courthouse, 301 W Market St, Greensboro, NC 27401.

Attorney Johnson: Mr. Bartley, do you understand that you're here on the violations that occurred on April 26th, April 27th and April 28th allegedly. You understand that's why you're before us here today?

Mr. Bartley: Yes, sir.

Attorney Johnson: It started with April 26th, 2026. What were you, what were you burning in this pit on that day?

Mr. Bartley: Pine straw needles. I got like four or five trees of pine straw that drops the pine straw needle. And I put it in my burn pit, burn it, and that's where the white smoke. It makes white smoke. And that's where the white smoke came from. I've never burned anything in my yard that didn't come out of my yard. I don't dump debris in my yard. I got receipts showing where I take my stuff to the landfill. Why would I dump a big load of that debris in my yard? Her and the next-door neighbor, her neighbor get on the roof of a house and look over to my lots, so they ought to know that it wasn't there. You said you've never been in my backyard.

Attorney Johnson: Answer this question. I will hand you some documents here...Tell me what those documents are and then we'll pass them around.

Mr. Bartley: It's where we pay at the landfill.

Attorney Johnson: And what do you pay the landfill for?

Mr. Bartley: For dumping chips and wood.

Attorney Johnson: Tell us what your business is, sir.

Mr. Bartley: It's take down trees, grind out stumps.

Attorney Johnson: Okay. And you, and you grind those stumps out and cut down the trees. What do you do with the wood and the chippings and –

Mr. Bartley: We have a machine that you run the limb through, and you can run a tree that big around in it. And 90% of the time we give it to a customer, the people that want the chip. The wood, we take to the landfill. I know a gentleman live out there up Huffine Mill Road. He takes the wood and he splits it, then he sells it.

Attorney Johnson: Alright.

Mr. Bartley: And what we can't dump at his place we carry to the landfill.

Attorney Johnson: And if you would tell us about these. I'm just going to mark them as one, two, and three. Can you tell us what those pictures depict, sir? Start with number one.

Mr. Bartley: Number one is the dead oak tree in my backyard right here at my burn pit. So as they fall out of my tree, I'll take it and put it in a pile. I'll put it in the burn pit, burn it.

Attorney Johnson: Number two?

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***DRAFT ORDER
AFFIRMING SOLID
WASTE CITATION
(PLACEHOLDER)***

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