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# Favorable Decision for 21st century home in historic Oakwood neighborhood

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John N. (Nick) Fountain, Reed N. Fountain and David A. Senter recently received a favorable ruling from Superior Court Judge Elaine Bushfan reversing an earlier decision of the City of Raleigh Board of Adjustment. Judge Bushfan's ruling will allow the completion of an under-construction home in Raleigh's historic Oakwood neighborhood. Marsha Gordon and Louis Cherry were initially granted a Certificate of Appropriateness from the Raleigh Historic Development Commission and all necessary permits from the City of Raleigh to build the home. Construction on the house was nearly complete before the City's Board of Adjustment asserted that the house did not fit with the architecture of the historic neighborhood. Following the Board of Adjustment decision Marsha Gordon and Louis Cherry faced the risk of having to tear down their home. Judge Bushfan determined that the Board of Adjustment committed errors of law, including utilizing an inappropriate standard of review, and that the complaining neighbor did not demonstrate legal standing to pursue the appeal to the Board of Adjustment. There was substantial evidence as to the wide variety of architectural styles in this particular Historic District. The case also presents the topic of the extent to which congruity refers to style rather than size, mass, height or other objective criteria. Appeal to the North Carolina Court of Appeals is possible.

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## CONTACT US

Phone: 919-782-6860

Fax: 919-782-6753

## OFFICE

Young Moore and Henderson, P.A.

3101 Glenwood Ave. Suite 200

Raleigh, N.C. 27612

## MAILING ADDRESS

Young Moore and Henderson, P.A.

P.O. Box 31627

Raleigh, N.C. 27622-1627