
Property Rights and Municipal Processes

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Attorneys John N. (Nick) Fountain, Reed N. Fountain and David A. Senter are defending Louis Cherry and Marsha Gordon and their now-famous Euclid Street house in the Oakwood Historic District. After a hearing and approval by the Raleigh Historic Development Commission and after issuance of a building permit and commencement of construction, the Raleigh Board of Adjustment overturned the RHDC and denied permission to build the house. Our team has appealed to the Superior Court and has so far obtained a Temporary Restraining Order and a Preliminary Injunction based on a forecast of likely error by the Board of Adjustment, thus preserving the house so far. A companion appeal has been filed by the City of Raleigh, also contending error by the Board of Adjustment. Further rulings in both cases are expected in late summer.

This case is challenging not only for the hardship and yearlong delay incurred by Cherry and Gordon but also to weigh the standing or ability of a neighbor to attack a house plan after issuance of a building permit and commencement of construction. Another issue is the proper role and options available to a Board of Adjustment in reviewing the decision of a panel trained in design, historic preservation and application of the City Guidelines for historic neighborhoods and properties. Lastly, the case presents issues as to the nature and extent of control on design of new construction upon a vacant lot in a historic neighborhood. Stay tuned.

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