

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 276
Committee Substitute Favorable 4/8/13
Senate Commerce Committee Substitute Adopted 5/30/13
Fourth Edition Engrossed 6/4/13

Short Title: Zoning/Board of Adjustment Changes.

(Public)

Sponsors:

Referred to:

March 13, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY AND MODERNIZE STATUTES REGARDING ZONING BOARDS
3 OF ADJUSTMENT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 160A-388 reads as rewritten:

6 "**§ 160A-388. Board of adjustment.**

7 (a) Composition and Duties. – ~~The city council zoning or unified development~~
8 ordinance may provide for the appointment and compensation of a board of adjustment
9 consisting of five or more members, each to be appointed for three years. In appointing the
10 original ~~members of such board, members~~ or in the filling of vacancies caused by the expiration
11 of the terms of existing members, the city council may appoint certain members for less than
12 three years ~~to the end so that thereafter~~ the terms of all members shall not expire at the same
13 time. The council ~~may, in its discretion, may~~ appoint and provide compensation for alternate
14 members to serve on the board in the absence or temporary disqualification of any regular
15 member or to fill a vacancy pending appointment of a member. Alternate members shall be
16 appointed for the same term, at the same time, and in the same manner as regular members.
17 Each alternate ~~member, while attending any regular or special meeting of the board and~~
18 member serving on behalf of any regular member, shall have and may exercise member has all
19 the powers and duties of a regular member. ~~A city~~ The ordinance may designate a planning
20 board or governing board to perform any ~~or all~~ of the duties of a board of adjustment in
21 addition to its other ~~duties.~~ duties and may create and designate specialized boards to hear
22 technical appeals.

23 (a1) Provisions of Ordinance. – The zoning or unified development ordinance may
24 provide that the board of adjustment hear and decide special and conditional use permits,
25 requests for variances, and appeals of decisions of administrative officials charged with
26 enforcement of the ordinance. As used in this section, the term "decision" includes any final
27 and binding order, requirement, or determination. The board of adjustment shall follow
28 quasi-judicial procedures when deciding appeals and requests for variances and special and
29 conditional use permits. The board shall hear and decide all matters upon which it is required to
30 pass under any statute or ordinance that regulates land use or development.

31 (a2) Notice of Hearing. – Notice of hearings conducted pursuant to this section shall be
32 mailed to the person or entity whose appeal, application, or request is the subject of the hearing;
33 to the owner of the property that is the subject of the hearing if the owner did not initiate the
34 hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the



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1 hearing; and to any other persons entitled to receive notice as provided by the zoning or unified
2 development ordinance. In the absence of evidence to the contrary, the city may rely on the
3 county tax listing to determine owners of property entitled to mailed notice. The notice must be
4 deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the
5 hearing. Within that same time period, the city shall also prominently post a notice of the
6 hearing on the site that is the subject of the hearing or on an adjacent street or highway
7 right-of-way.

8 ~~(b) A zoning ordinance or those provisions of a unified development ordinance adopted~~
9 ~~pursuant to the authority granted in this Part shall provide that the board of adjustment shall~~
10 ~~hear and decide appeals from and review any order, requirement, decision, or determination~~
11 ~~made by an administrative official charged with the enforcement of that ordinance. An appeal~~
12 ~~may be taken by any person aggrieved or by an officer, department, board, or bureau of the~~
13 ~~city. Appeals shall be taken within times prescribed by the board of adjustment by general rule,~~
14 ~~by filing with the officer from whom the appeal is taken and with the board of adjustment a~~
15 ~~notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken~~
16 ~~shall forthwith transmit to the board all the papers constituting the record upon which the action~~
17 ~~appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed~~
18 ~~from, unless the officer from whom the appeal is taken certifies to the board of adjustment,~~
19 ~~after notice of appeal has been filed with him, that because of facts stated in the certificate a~~
20 ~~stay would, in his opinion, cause imminent peril to life or property or that because the violation~~
21 ~~charged is transitory in nature a stay would seriously interfere with enforcement of the~~
22 ~~ordinance. In that case proceedings shall not be stayed except by a restraining order, which may~~
23 ~~be granted by the board of adjustment or by a court of record on application, on notice to the~~
24 ~~officer from whom the appeal is taken and on due cause shown. The board of adjustment shall~~
25 ~~fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and~~
26 ~~decide it within a reasonable time. The board of adjustment may reverse or affirm, wholly or~~
27 ~~partly, or may modify the order, requirement, decision, or determination appealed from, and~~
28 ~~shall make any order, requirement, decision, or determination that in its opinion ought to be~~
29 ~~made in the premises. To this end the board shall have all the powers of the officer from whom~~
30 ~~the appeal is taken.~~

31 (b1) Appeals. – The board of adjustment shall hear and decide appeals decisions of
32 administrative officials charged with enforcement of the zoning or unified development
33 ordinance and may hear appeals arising out of any other ordinance that regulates land use or
34 development, pursuant to all of the following:

- 35 (1) Any person who has standing under G.S. 160A-393(d) or the city may
36 appeal a decision to the board of adjustment. An appeal is taken by filing a
37 notice of appeal with the city clerk. The notice of appeal shall state the
38 grounds for the appeal.
- 39 (2) The official who made the decision shall give written notice to the owner of
40 the property that is the subject of the decision and to the party who sought
41 the decision, if different from the owner. The written notice shall be
42 delivered by personal delivery, electronic mail, or by first-class mail.
- 43 (3) The owner or other party shall have 30 days from receipt of the written
44 notice within which to file an appeal. Any other person with standing to
45 appeal shall have 30 days from receipt from any source of actual or
46 constructive notice of the decision within which to file an appeal.
- 47 (4) It shall be conclusively presumed that all persons with standing to appeal
48 have constructive notice of the decision from the date a sign containing the
49 words "Zoning Decision" or "Subdivision Decision" in letters at least six
50 inches high and identifying the means to contact an official for information
51 about the decision is prominently posted on the property that is the subject of

1 the decision, provided the sign remains on the property for at least 10 days.
2 Posting of signs is not the only form of constructive notice. Any such
3 posting shall be the responsibility of the landowner or applicant. Verification
4 of the posting shall be provided to the official who made the decision.
5 Absent an ordinance provision to the contrary, posting of signs shall not be
6 required.

7 (5) The official who made the decision shall transmit to the board all documents
8 and exhibits constituting the record upon which the action appealed from is
9 taken. The official shall also provide a copy of the record to the appellant
10 and to the owner of the property that is the subject of the appeal if the
11 appellant is not the owner.

12 (6) An appeal of a notice of violation or other enforcement order stays
13 enforcement of the action appealed from unless the official who made the
14 decision certifies to the board of adjustment after notice of appeal has been
15 filed that because of the facts stated in an affidavit, a stay would cause
16 imminent peril to life or property or because the violation is transitory in
17 nature, a stay would seriously interfere with enforcement of the ordinance.
18 In that case, enforcement proceedings shall not be stayed except by a
19 restraining order, which may be granted by a court. If enforcement
20 proceedings are not stayed, the appellant may file with the official a request
21 for an expedited hearing of the appeal, and the board of adjustment shall
22 meet to hear the appeal within 15 days after such a request is filed.
23 Notwithstanding the foregoing, appeals of decisions granting a permit or
24 otherwise affirming that a proposed use of property is consistent with the
25 ordinance shall not stay the further review of an application for permits or
26 permissions to use such property; in these situations the appellant may
27 request and the board may grant a stay of a final decision of permit
28 applications or building permits affected by the issue being appealed.

29 (7) Subject to the provisions of subdivision (6) of this subsection, the board of
30 adjustment shall hear and decide the appeal within a reasonable time.

31 (8) The official who made the decision shall be present at the hearing as a
32 witness. The appellant shall not be limited at the hearing to matters stated in
33 the notice of appeal. If any party or the city would be unduly prejudiced by
34 the presentation of matters not presented in the notice of appeal, the board
35 shall continue the hearing. The board of adjustment may reverse or affirm,
36 wholly or partly, or may modify the decision appealed from and shall make
37 any order, requirement, decision, or determination that ought to be made.
38 The board shall have all the powers of the official who made the decision.

39 (9) When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal
40 in the nature of certiorari, the hearing shall be based on the record below and
41 the scope of review shall be as provided in G.S. 160A-393(k).

42 (10) The parties to an appeal that has been made under this subsection may agree
43 to mediation or other forms of alternative dispute resolution. The ordinance
44 may set standards and procedures to facilitate and manage such voluntary
45 alternative dispute resolution.

46 (c) Special and Conditional Use Permits. – The zoning ordinance may provide that the
47 board of adjustment may permit special exceptions to the zoning regulations in specified
48 classes of cases or situations as provided in subsection (d) of this section, not including
49 variances in permitted uses, and that the board may use hear and decide special and conditional
50 use permits, all to be permits in accordance with the principles, conditions, safeguards,
51 standards and procedures specified in the ordinance. Reasonable and appropriate conditions

1 ~~may be imposed upon these permits. The ordinance may also authorize the board to interpret~~
2 ~~zoning maps and pass upon disputed questions of lot lines or district boundary lines and similar~~
3 ~~questions as they arise in the administration of the ordinance. The board shall hear and decide~~
4 ~~all matters referred to it or upon which it is required to pass under any zoning ordinance.~~

5 (d) Variances. – ~~When practical difficulties or unnecessary hardships would result from~~
6 ~~carrying out the strict letter of a zoning ordinance, the board of adjustment shall have the power~~
7 ~~to vary or modify any of the regulations or provisions of the ordinance so that provisions of the~~
8 ~~ordinance upon a showing of all of the following:~~

9 (1) Unnecessary hardship would result from the strict application of the
10 ordinance. It shall not be necessary to demonstrate that, in the absence of the
11 variance, no reasonable use can be made of the property.

12 (2) The hardship results from conditions that are peculiar to the property, such
13 as location, size, or topography. Hardships resulting from personal
14 circumstances, as well as hardships resulting from conditions that are
15 common to the neighborhood or the general public, may not be the basis for
16 granting a variance.

17 (3) The hardship did not result from actions taken by the applicant or the
18 property owner. The act of purchasing property with knowledge that
19 circumstances exist that may justify the granting of a variance shall not be
20 regarded as a self-created hardship.

21 (4) The requested variance is consistent with the spirit spirit, purpose, and intent
22 of the ordinance shall be observed, ordinance, such that public safety and
23 welfare secured, safety is secured, and substantial justice done. is achieved.

24 ~~No change in permitted uses may be authorized by variance. Appropriate conditions, which~~
25 ~~must be reasonably related to the condition or circumstance that gives rise to the need for a~~
26 ~~variance, may be imposed on any approval issued by the board. Appropriate conditions may be~~
27 ~~imposed on any variance, provided that the conditions are reasonably related to the variance.~~
28 Any other ordinance that regulates land use or development may provide for variances
29 consistent with the provisions of this subsection.

30 (e) Voting. –

31 (1) ~~The concurring vote of four-fifths of the members of the board shall be~~
32 ~~necessary to reverse any order, requirement, decision, or determination of~~
33 ~~any administrative official charged with the enforcement of an ordinance~~
34 ~~adopted pursuant to this Part, or to decide in favor of the applicant any~~
35 ~~matter upon which it is required to pass under any ordinance, or to grant a~~
36 ~~variance from the provisions of the ordinance. grant a variance. A majority~~
37 ~~of the members shall be required to decide any other quasi-judicial matter or~~
38 ~~to determine an appeal made in the nature of certiorari. For the purposes of~~
39 ~~this subsection, vacant positions on the board and members who are~~
40 ~~disqualified from voting on a quasi-judicial matter shall not be considered~~
41 ~~"members of the board" members of the board for calculation of the requisite~~
42 ~~supermajority majority if there are no qualified alternates available to take~~
43 ~~the place of such members.~~

44 (e1) A member of the board or any other body exercising quasi-judicial functions
45 pursuant to this Article shall not participate in or vote on any quasi-judicial matter in a manner
46 that would violate affected persons' constitutional rights to an impartial decision maker.
47 Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior
48 to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a
49 close familial, business, or other associational relationship with an affected person, or a
50 financial interest in the outcome of the matter. If an objection is raised to a member's

1 participation and that member does not recuse himself or herself, the remaining members shall
2 by majority vote rule on the objection.

3 (e2) Quasi-Judicial Decisions and Judicial Review. –

4 (1) The board shall determine contested facts and make its decision within a
5 reasonable time. Every quasi-judicial decision shall be based upon
6 competent, material, and substantial evidence in the record. Each
7 quasi-judicial decision shall be reduced to writing and reflect the board's
8 determination of contested facts and their application to the applicable
9 standards. The written decision shall be signed by the chair or other duly
10 authorized member of the board. A quasi-judicial decision is effective upon
11 filing the written decision with the clerk to the board or such other office or
12 official as the ordinance specifies. The decision of the board shall be
13 delivered by personal delivery, electronic mail, or by first-class mail to the
14 applicant, property owner, and to any person who has submitted a written
15 request for a copy, prior to the date the decision becomes effective. The
16 person required to provide notice shall certify that proper notice has been
17 made.

18 (2) Every quasi-judicial decision of the board shall be subject to review by the
19 superior court by proceedings in the nature of certiorari. Any certiorari
20 pursuant to G.S. 160A-393. A petition for review by the superior court shall
21 be filed with the clerk of superior court within by the later of 30 days after
22 the decision of the board is filed in such office as the ordinance specifies, is
23 effective or after a written copy thereof is given in accordance with
24 subdivision (1) of this subsection. When first-class mail is used to deliver
25 notice, three days shall be added to the time to file the petition delivered to
26 every aggrieved party who has filed a written request for such copy with the
27 secretary or chairman of the board at the time of its hearing of the case,
28 whichever is later. The decision of the board may be delivered to the
29 aggrieved party either by personal service or by registered mail or certified
30 mail return receipt requested.

31 (f) Oaths. – The chairman chair of the board of adjustment or any member temporarily
32 acting as chairman, chair and the clerk to the board are is authorized in his official capacity to
33 administer oaths to witnesses in any matter coming before the board. Any person who, while
34 under oath during a proceeding before the board of adjustment, willfully swears falsely is guilty
35 of a Class 1 misdemeanor.

36 (g) Subpoenas. – The board of adjustment adjustment through the chair, or in the chair's
37 absence anyone acting as chair, may subpoena witnesses and compel the production of
38 evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d)
39 may make a written request to the chair explaining why it is necessary for certain witnesses or
40 evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be
41 relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion
42 to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be
43 appealed to the full board of adjustment. If a person fails or refuses to obey a subpoena issued
44 pursuant to this subsection, the board of adjustment or the party seeking the subpoena may
45 apply to the General Court of Justice for an order requiring that its order subpoena be obeyed,
46 and the court shall have jurisdiction to issue these orders after notice to all proper parties. No
47 testimony of any witness before the board of adjustment pursuant to a subpoena issued in
48 exercise of the power conferred by this subsection may be used against the witness in the trial
49 of any civil or criminal action other than a prosecution for false swearing committed on the
50 examination. Any person who, while under oath during a proceeding before the board of
51 adjustment, willfully swears falsely, is guilty of a Class 1 misdemeanor."

1 **SECTION 2.(a)** G.S. 160A-388(e1) is recodified as G.S. 160A-388(e)(2).
2 **SECTION 2.(b)** G.S. 160A-388(e)(2), as recodified by Section 2(a) of this act,
3 reads as rewritten:

4 "(2) A member of ~~the any board or any other body~~ exercising quasi-judicial
5 functions pursuant to this Article shall not participate in or vote on any
6 quasi-judicial matter in a manner that would violate affected persons'
7 constitutional rights to an impartial decision maker. Impermissible ~~conflicts~~
8 violations of due process include, but are not limited to, a member having a
9 fixed opinion prior to hearing the matter that is not susceptible to change,
10 undisclosed ex parte communications, a close familial, business, or other
11 associational relationship with an affected person, or a financial interest in
12 the outcome of the matter. If an objection is raised to a member's
13 participation and that member does not recuse himself or herself, the
14 remaining members shall by majority vote rule on the objection."

15 **SECTION 3.(a)** G.S. 153A-345 is repealed except that any local modification to
16 that section in effect on September 30, 2013, shall be treated as a local modification to
17 G.S. 160A-388 from October 1, 2013, through June 30, 2015.

18 **SECTION 3.(b)** Article 18 of Chapter 153A of the General Statutes is amended by
19 adding a new section to read:

20 **"§ 153A-345.1. Board of adjustment.**

21 (a) The provisions of G.S. 160A-388 are applicable to counties.

22 (b) For the purposes of this section, as used in G.S. 160A-388, the term "city council" is
23 deemed to refer to the board of county commissioners, and the terms "city" or "municipality"
24 are deemed to refer to the county.

25 (c) If a board of county commissioners does not zone the entire territorial jurisdiction of
26 the county, each designated zoning area shall, if practicable, have at least one resident as a
27 member of the board of adjustment; otherwise, the provisions of G.S. 153A-25 regarding
28 qualifications for appointive office shall apply to board of adjustment appointments."

29 **SECTION 4.** G.S. 160A-381(c) reads as rewritten:

30 "(c) The regulations may also provide that the board of adjustment, the planning board,
31 or the city council may issue special use permits or conditional use permits in the classes of
32 cases or situations and in accordance with the principles, conditions, safeguards, and
33 procedures specified therein and may impose reasonable and appropriate conditions and
34 safeguards upon these permits. When deciding special use permits or conditional use permits,
35 the city council or planning board shall follow quasi-judicial procedures. Notice of hearings on
36 special or conditional use permit applications shall be as provided in G.S. 160A-388(a2). No
37 vote greater than a majority vote shall be required for the city council or planning board to
38 issue such permits. For the purposes of this section, vacant positions on the board and members
39 who are disqualified from voting on a quasi-judicial matter shall not be considered "members
40 of the board" for calculation of the requisite majority. Every such decision of the city council or
41 planning board shall be subject to review of the superior court in the nature of certiorari in
42 accordance with G.S. 160A-388.

43 Where appropriate, such conditions may include requirements that street and utility
44 rights-of-way be dedicated to the public and that provision be made of recreational space and
45 facilities."

46 **SECTION 5.** G.S. 153A-340(c1) reads as rewritten:

47 "(c1) The regulations may also provide that the board of adjustment, the planning board,
48 or the board of commissioners may issue special use permits or conditional use permits in the
49 classes of cases or situations and in accordance with the principles, conditions, safeguards, and
50 procedures specified therein and may impose reasonable and appropriate conditions and
51 safeguards upon these permits. Where appropriate, the conditions may include requirements

1 that street and utility rights-of-way be dedicated to the public and that recreational space be
2 provided. When deciding special use permits or conditional use permits, the board of county
3 commissioners or planning board shall follow quasi-judicial procedures. Notice of hearings on
4 special or conditional use permit applications shall be as provided in G.S. 160A-388(a2). No
5 vote greater than a majority vote shall be required for the board of county commissioners or
6 planning board to issue such permits. For the purposes of this section, vacant positions on the
7 board and members who are disqualified from voting on a quasi-judicial matter shall not be
8 considered "members of the board" for calculation of the requisite majority. Every such
9 decision of the board of county commissioners or planning board shall be subject to review of
10 the superior court in the nature of certiorari consistent with G.S. 153A-345."

11 **SECTION 6.** G.S. 153A-44 reads as rewritten:

12 **"§ 153A-44. Members excused from voting.**

13 The board may excuse a member from voting, but only upon questions involving the
14 member's own financial interest or official conduct or on matters on which the member is
15 prohibited from voting under G.S. 14-234, 153A-340(g), or ~~153A-345(e1)~~-160A-388(e)(2).
16 For purposes of this section, the question of the compensation and allowances of members of
17 the board does not involve a member's own financial interest or official conduct."

18 **SECTION 7.** G.S. 153A-336(a) reads as rewritten:

19 "(a) When a subdivision ordinance adopted under this Part provides that the decision
20 whether to approve or deny a preliminary or final subdivision plat is to be made by a board of
21 commissioners or a planning board, other than a planning board comprised solely of members
22 of a county planning staff, and the ordinance authorizes the board of commissioners or
23 planning board to make a quasi-judicial decision in deciding whether to approve the
24 subdivision plat, then that quasi-judicial decision of the board of commissioners or planning
25 board shall be subject to review by the superior court by proceedings in the nature of certiorari.
26 The provisions of G.S. 153A-340(f), ~~153A-345(e2)~~-160A-388(e2)(2), and 153A-349 shall
27 apply to those appeals."

28 **SECTION 8.** G.S. 153A-340(c1) reads as rewritten:

29 "(c1) The regulations may also provide that the board of adjustment, the planning board,
30 or the board of commissioners may issue special use permits or conditional use permits in the
31 classes of cases or situations and in accordance with the principles, conditions, safeguards, and
32 procedures specified therein and may impose reasonable and appropriate conditions and
33 safeguards upon these permits. Where appropriate, the conditions may include requirements
34 that street and utility rights-of-way be dedicated to the public and that recreational space be
35 provided. When deciding special use permits or conditional use permits, the board of county
36 commissioners or planning board shall follow quasi-judicial procedures. No vote greater than a
37 majority vote shall be required for the board of county commissioners or planning board to
38 issue such permits. For the purposes of this section, vacant positions on the board and members
39 who are disqualified from voting on a quasi-judicial matter shall not be considered "members
40 of the board" for calculation of the requisite majority. Every such decision of the board of
41 county commissioners or planning board shall be subject to review of the superior court in the
42 nature of certiorari consistent with ~~G.S. 153A-345~~-G.S. 160A-388."

43 **SECTION 9.** G.S. 153A-349(c) is repealed.

44 **SECTION 10.** G.S. 153A-349.8(c) reads as rewritten:

45 "(c) If the developer fails to cure the material breach within the time given, then the local
46 government unilaterally may terminate or modify the development agreement; provided, the
47 notice of termination or modification may be appealed to the board of adjustment in the manner
48 provided by ~~G.S. 153A-345(b)~~-G.S. 160A-388(b1)."

49 **SECTION 11.** G.S. 160A-75 reads as rewritten:

50 **"§ 160A-75. Voting.**

1 No member shall be excused from voting except upon matters involving the consideration
2 of the member's own financial interest or official conduct or on matters on which the member is
3 prohibited from voting under G.S. 14-234, 160A-381(d), or ~~160A-388(e1)~~-160A-388(e)(2). In
4 all other cases, a failure to vote by a member who is physically present in the council chamber,
5 or who has withdrawn without being excused by a majority vote of the remaining members
6 present, shall be recorded as an affirmative vote. The question of the compensation and
7 allowances of members of the council is not a matter involving a member's own financial
8 interest or official conduct.

9 An affirmative vote equal to a majority of all the members of the council not excused from
10 voting on the question in issue, including the mayor's vote in case of an equal division, shall be
11 required to adopt an ordinance, take any action having the effect of an ordinance, authorize or
12 commit the expenditure of public funds, or make, ratify, or authorize any contract on behalf of
13 the city. In addition, no ordinance nor any action having the effect of any ordinance may be
14 finally adopted on the date on which it is introduced except by an affirmative vote equal to or
15 greater than two thirds of all the actual membership of the council, excluding vacant seats and
16 not including the mayor unless the mayor has the right to vote on all questions before the
17 council. For purposes of this section, an ordinance shall be deemed to have been introduced on
18 the date the subject matter is first voted on by the council."

19 **SECTION 12.** G.S. 160A-377(a) reads as rewritten:

20 "(a) When a subdivision ordinance adopted under this Part provides that the decision
21 whether to approve or deny a preliminary or final subdivision plat is to be made by a city
22 council or a planning board, other than a planning board comprised solely of members of a city
23 planning staff, and the ordinance authorizes the council or planning board to make a
24 quasi-judicial decision in deciding whether to approve the subdivision plat, then that
25 quasi-judicial decision of the council or planning board shall be subject to review by the
26 superior court by proceedings in the nature of certiorari. The provisions of G.S. 160A-381(c),
27 ~~160A-388(e2)~~, ~~160A-388(e2)(2)~~, and 160A-393 shall apply to those appeals."

28 **SECTION 13.** G.S. 160A-393(c)(3) reads as rewritten:

29 "(3) Set forth with particularity the allegations and facts, if any, in support of
30 allegations that, as the result of impermissible conflict as described in
31 ~~G.S. 160A-388(e1)~~, ~~G.S. 160A-388(e)(2)~~, or locally adopted conflict rules,
32 the decision-making body was not sufficiently impartial to comply with due
33 process principles."

34 **SECTION 14.** G.S. 160A-393(j)(2) reads as rewritten:

35 "(2) Whether, as a result of impermissible conflict as described in
36 ~~G.S. 160A-388(e1)~~, ~~G.S. 160A-388(e)(2)~~, or locally adopted conflict rules,
37 the decision-making body was not sufficiently impartial to comply with due
38 process principles."

39 **SECTION 15.** This act becomes effective October 1, 2013, and applies to actions
40 taken on or after that date by any board of adjustment.