

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE BILL 276  
Committee Substitute Favorable 4/8/13  
PROPOSED SENATE COMMITTEE SUBSTITUTE H276-PCS10413-TP-47

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  
35 hearing; and to any other persons entitled to receive notice as provided by the zoning or unified



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

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

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

- 34 (1) Any person who has standing under G.S. 160A-393(d) or the city may  
35 appeal a decision to the board of adjustment. An appeal is taken by filing a  
36 notice of appeal with the city clerk. The notice of appeal shall state the  
37 grounds for the appeal.
- 38 (2) The official who made the decision shall give written notice to the owner of  
39 the property that is the subject of the decision and to the party who sought  
40 the decision, if different from the owner. The written notice shall be  
41 delivered by personal delivery, electronic mail, or by first-class mail.
- 42 (3) The owner or other party shall have 30 days from receipt of the written  
43 notice within which to file an appeal. Any other person with standing to  
44 appeal shall have 30 days from receipt from any source of actual or  
45 constructive notice of the decision within which to file an appeal.
- 46 (4) It shall be conclusively presumed that all persons with standing to appeal  
47 have constructive notice of the decision from the date a sign containing the  
48 words "Zoning Decision" or "Subdivision Decision" in letters at least six  
49 inches high and identifying the means to contact an official for information  
50 about the decision is prominently posted on the property that is the subject of  
51 the decision, provided the sign remains on the property for at least 10 days.

1 Posting of signs is not the only form of constructive notice. Any such  
2 posting shall be the responsibility of the landowner or applicant. Verification  
3 of the posting shall be provided to the official who made the decision.  
4 Absent an ordinance provision to the contrary, posting of signs shall not be  
5 required.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (e) Voting. –

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

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

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

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

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

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

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

50 **SECTION 2.(a)** G.S. 160A-388(e1) is recodified as G.S. 160A-388(e)(2).

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

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

14           **SECTION 3.(a)** G.S. 153A-345 is repealed.

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

17           "**§ 153A-345.1. Board of adjustment.**

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

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

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

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

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

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

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

44           "(c1) The regulations may also provide that the board of adjustment, the planning board,  
45 or the board of commissioners may issue special use permits or conditional use permits in the  
46 classes of cases or situations and in accordance with the principles, conditions, safeguards, and  
47 procedures specified therein and may impose reasonable and appropriate conditions and  
48 safeguards upon these permits. Where appropriate, the conditions may include requirements  
49 that street and utility rights-of-way be dedicated to the public and that recreational space be  
50 provided. When deciding special use permits or conditional use permits, the board of county  
51 commissioners or planning board shall follow quasi-judicial procedures. Notice of hearings on

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

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

9 **"§ 153A-44. Members excused from voting.**

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

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

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

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

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

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

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

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

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

47 **"§ 160A-75. Voting.**

48 No member shall be excused from voting except upon matters involving the consideration  
49 of the member's own financial interest or official conduct or on matters on which the member is  
50 prohibited from voting under G.S. 14-234, 160A-381(d), or ~~160A-388(e1)~~. 160A-388(e)(2). In  
51 all other cases, a failure to vote by a member who is physically present in the council chamber,

1 or who has withdrawn without being excused by a majority vote of the remaining members  
2 present, shall be recorded as an affirmative vote. The question of the compensation and  
3 allowances of members of the council is not a matter involving a member's own financial  
4 interest or official conduct.

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

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

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

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

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

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

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

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