

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 276
Committee Substitute Favorable 4/8/13

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 variances, and appeals of decisions of administrative officials charged with enforcement of the
26 ordinance. As used in this section, the term "decision" includes any final and binding order,
27 requirement, or determination. The board of adjustment shall follow quasi-judicial procedures
28 when deciding appeals and requests for variances and special and conditional use permits. The
29 board shall hear and decide all matters upon which it is required to pass under any statute or
30 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 ordinance. In the
36 absence of evidence to the contrary, the city may rely on the county tax listing to determine



1 owners of property entitled to mailed notice. The notice must be deposited in the mail at least
2 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time
3 period, the city shall also prominently post a notice of the hearing on the site that is the subject
4 of the hearing or on an adjacent street or highway right-of-way.

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

28 (b1) Appeals. – The board of adjustment shall hear and decide appeals from any decision
29 made by an official charged with the enforcement of a zoning or unified development
30 ordinance and may hear appeals arising out of any other ordinance that regulates land use or
31 development, pursuant to all of the following:

- 32 (1) Any person who has standing under G.S. 160A-393(d) or the city may
33 appeal a decision to the board of adjustment. An appeal is taken by filing a
34 notice of appeal with the city clerk. The notice of appeal shall state the
35 grounds for the appeal.
- 36 (2) The official who made the decision shall give written notice to the owner of
37 the property that it is subject of the decision and to the party who sought the
38 decision, if different from the owner. The written notice shall be delivered
39 by personal delivery, electronic mail, or by first-class mail.
- 40 (3) The owner or other party shall have 30 days from receipt of the written
41 notice within which to file an appeal. Any other person with standing to
42 appeal shall have 30 days from receipt from any source of actual or
43 constructive notice of the decision within which to file an appeal.
- 44 (4) It shall be conclusively presumed that all persons with standing to appeal
45 have constructive notice of the decision from the date a sign containing the
46 words "Zoning Decision" or "Subdivision Decision" in letters at least six
47 inches high and identifying the means to contact an official for information
48 about the decision is prominently posted on the property that is the subject of
49 the decision, provided the sign remains on the property for at least 10 days.
50 Posting of signs is not the only form of constructive notice. Any such
51 posting shall be the responsibility of the landowner or applicant. Verification

1 of the posting shall be provided to the official who made the decision.
2 Absent an ordinance provision to the contrary, posting of signs shall not be
3 required.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (e) Voting. –

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

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

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

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

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

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

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

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

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

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

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

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

15 **"§ 153A-345.1. Board of adjustment.**

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

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

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

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

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

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

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

42 "(c1) The regulations may also provide that the board of adjustment, the planning board,
43 or the board of commissioners may issue special use permits or conditional use permits in the
44 classes of cases or situations and in accordance with the principles, conditions, safeguards, and
45 procedures specified therein and may impose reasonable and appropriate conditions and
46 safeguards upon these permits. Where appropriate, the conditions may include requirements
47 that street and utility rights-of-way be dedicated to the public and that recreational space be
48 provided. When deciding special use permits or conditional use permits, the board of county
49 commissioners or planning board shall follow quasi-judicial procedures. Notice of hearings on
50 special or conditional use permit applications shall be as provided in G.S. 160A-388(a2). No
51 vote greater than a majority vote shall be required for the board of county commissioners or

1 planning board to issue such permits. For the purposes of this section, vacant positions on the
2 board and members who are disqualified from voting on a quasi-judicial matter shall not be
3 considered "members of the board" for calculation of the requisite majority. Every such
4 decision of the board of county commissioners or planning board shall be subject to review of
5 the superior court in the nature of certiorari consistent with G.S. 153A-345."

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

7 **"§ 153A-44. Members excused from voting.**

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

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

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

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

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

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

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

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

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

45 **"§ 160A-75. Voting.**

46 No member shall be excused from voting except upon matters involving the consideration
47 of the member's own financial interest or official conduct or on matters on which the member is
48 prohibited from voting under G.S. 14-234, 160A-381(d), or ~~160A-388(e1)~~-160A-388(e)(2). In
49 all other cases, a failure to vote by a member who is physically present in the council chamber,
50 or who has withdrawn without being excused by a majority vote of the remaining members
51 present, shall be recorded as an affirmative vote. The question of the compensation and

1 allowances of members of the council is not a matter involving a member's own financial
2 interest or official conduct.

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

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

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

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

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

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

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

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