

Resolution # 456 of 2009

RESOLUTION OF LEGISLATIVE FINDINGS

TO ACCOMPANY

LOCAL LAW # OF 2009 AMENDING CHAPTER 4 OF THE
TOWN CODE REGARDING ALTERNATE PLANNING BOARD MEMBERS,

AND

LOCAL LAW # OF 2009 AMENDED
CHAPTER 77 OF THE TOWN CODE REGARDING ALTERNATE
MEMBERS OF THE ZONING BOARD OF APPEALS

The Town Board of Kent hereby adopts the following
legislative findings:

In 1998, this state's Legislature amended Section 271
and Section 267 of the Town Law, respectively, to provide
directly for town boards to enact local legislation for the
appointment of alternate members to a planning board or to a
zoning board of appeals. The statutes provide that, where
enacted, the local legislation shall provide that alternate
members are subject to the same provisions as regular members
pertaining to attendance, compensation, training, continuing
education, and the like (Town Law, Section 271[15][c] and
267[11][c]).)

In counties deemed reasonably comparable to Putnam
County, such as Dutchess County and Ulster County in the Hudson
Valley, the Town Board finds that several townships, including

the Town of Kent, have not availed themselves of this legislative prerogative since the state legislation expressly delegated it. Currently, there are six (6) towns in Putnam County; and, only two towns have alternate member legislation in place. In more suburban and developable Dutchess County, there are 20 towns; of that number, nine (9) of those municipalities do not have alternate member legislation in place. In Ulster County, which is arguably more analogous by topography and other factors limiting land development (including significant mountainous areas and important public reservoirs), there are 20 towns; of that number, 11 do not yet possess alternate member legislation, and possibly two (2) additional towns do not (unable to verify these two [2] towns as of this date).

The Town of Kent's not uncommon lack of alternate member legislation came into view through a pending regional shopping center project known as Patterson Crossing which spans both the Town of Patterson and the Town of Kent, and which is the subject of site plan and other applications pending before the administrative land use boards of both towns.

The shopping center project is located in reasonably close proximity to Lake Carmel, and various residential areas of the Town of Kent which are associated or perceived as associated with that waterbody. The Patterson Crossing project has given

rise to significant interest, issue-spotting, and some expressed opposition among some citizens of the Town of Kent.

On or about February 11, 2009, through retained legal counsel, the Patterson Crossing project corresponded with the municipality's Planning Board. The purpose of that letter, in significant part, was (a) to advocate that the Planning Board, at that point, was compelled to, and that it should, immediately schedule a public hearing for the site plan review, and (b) to present information that two members of the seven member Planning Board had, at some unspecified point during the several year lifespan of the Project, signed a petition generated by a local interest group entitled "Stop Patterson Crossing", that they should recuse themselves, and that the Town of Kent should examine a process for establishing alternate members of the Planning Board to substitute in their place for the eventual vote on the Project.

After consideration, the two members of the Planning Board voluntarily recused themselves from further participation in the Patterson Crossing project. That result was informed by one particular judicial holding in this state, in which the appellate court concluded that a member's past signature of a petition in arguable support or in arguable opposition to a project before a municipal board created, of itself, a

sufficient appearance of potential bias to warrant the member's
recusal.

The two Planning Board members voluntarily recused
themselves at a meeting of the Planning Board held in March of
2009.

Consistent with the advocacy and push for public
hearing found in February 11, 2009 letter of the Project's legal
counsel (supra.), representatives and consultants of the
Project, both before and after that point, continued efforts to
induce the Planning Board, at meetings of the Board and through
written submissions, to schedule a public hearing despite
ongoing discussion as the adequacy, in the eyes of Planning
Board consultants, of the Project's submissions on issues
including such matters as wetlands, waterbodies, and stormwater
management.

At its April of 2009 regular meeting, the Planning
Board agreed to schedule a public hearing on the Patterson
Crossing site plan application for May 14, 2009. The public
hearing was set, consistent with the applicant's demands which
predated and continued after the recusal of the two Planning
Board members. The public hearing was set even though the
Board's consultants had not found completeness or adequacy in

the Project's freshwater wetlands submissions under Chapter 39A of the Town Code, and even though that Chapter required that a public hearing on wetlands issues must take place at the same time at the public hearing on other local permit and approvals. That requirement was relaxed by the Planning Board to move the site plan forward to public hearing. It was fully expected, by the Planning Board, that at least a quorum of the seven-member Planning Board would be present for the public hearing, and that it would proceed as demanded by the Project.

Despite advocating for the public hearing, and despite inducing the Planning Board to both schedule and to issue published notice of the public hearing to a body of interested citizens, the Project, by letter of its legal counsel dated May 1, 2009, declared a fresh and inconsistent position that it would be impossible for the Planning Board to hold its public hearing on May 14, 2009, given the failure of the Town of Kent to have adopted legislation allowing for appointment of alternative planning board members to take the place of the two recused members.

Consistent with that new position, the Project failed to issue mailed public hearing notices to nearby properties as required by local regulation, and self-created a jurisdictional impediment to the public hearing for May 14, 2009. It was

cancelled to the vehement disappointment of several citizens who appeared ready to go forward.

There was no legal impediment at that time for the Planning Board to move forward with a public hearing (other than the one created by the applicant) or further project review, so long as either four or five of its qualifying members were available to participate.

There was no legal impediment to the project's continued appearances before a Planning Board of that numerical composition. There was no impediment to the Project's further submissions to the Board, either in the context of or outside the context of a public hearing, on application completeness issues then identified as remaining open by the Town's land use consultants. Those application completeness issues remain open today, given the Project's self-imposed moratorium on participation and movement forward of the review process until and unless the Town Board adopted alternate member legislation and appointed alternates.

Prior to this sharp pivot by the Project before the Planning Board on May 1, 2009, the Town Board had begun a process of examining the general wisdom and specific means of implementing legislating for alternative members for both the

Planning Board and the ZBA. From commencement, the legislative exercise has been a creature of general policy, and not an explicit or implicit acquiescence to numerous, voluminous and remarkably redundant letters issued to the Town Board on behalf of the Project.

Those ongoing written communications, despite the Project's self-imposed halt before the Planning Board, assert that the Town of Kent owes Patterson Crossing rapid and remedial legislation, with a content tailored to Patterson Crossing's aspirations, because (a) the Town Board knowingly infused bias into the Planning Board with respect to Patterson Crossing by appointing the two members who later recused themselves, and (b) Patterson Crossing has concluded that at least two other Planning Board members either actually suffer, or may suffer, bias against the Project. At the same time that it has suspended its processing of the Project before the Planning Board, and suspended application completeness dialogues with Planning Board consultants, Patterson Crossing has redundantly accused the Town Board that it is delaying the Project by the pace of its legislative consideration of alternate member regulations.

The Town Board is not reviewing the merits of the Patterson Crossing project. It has before it a legislative

examination of the wisdom and means of exercising the delegated authority of the state to provide for Planning Board or Zoning Board of Appeals alternates which, to date, many towns have done and many have not. The legislation is for any and all projects.

Consistent with the statutory framework, the Town Board's path has been to develop legislation identifying that alternate members, when and if appointed, would sit alongside regular members during the scrutiny of all matters; that they would be entitled to compensation for this public service; and that they would be required to fulfill the same attendance and training requirements.

Conversely, the Town Board is not empowered by state delegation to create virtual single-purpose reservists to be imbedded for any particular matter at the instance of the Planning Board, or the Zoning Board of Appeals, or to suit the circumstances of any particular applicant, or project proponent or project opponent.

By letter of its own legal counsel dated May 11, 2009, the Town Board attempted to make several things clear to representatives of Patterson Crossing, so that the Project might factor them into its election to suspend the land use review process of the Planning Board.

In that regard, the Town Board went on record that this legislative exercise began with the consideration, at a Town Board work session of May 4, 2009, of draft alternate member legislation of the type used by other towns. That most towns in Putnam County did not yet have the legislation authorizing alternates. That the Town Board denied, and was not particularly swayed by, repetitive allegations that the Town Board itself had earlier and knowingly inserted two biased members onto the Planning Board through its appointment process. That the local legislation had a comprehensive purpose, and that authorization for alternate board members was not under examination to remedy any purported grievances felt to exist by Patterson Crossing. That the Town Board would not be coordinating its processing of the legislation with the ongoing proceedings of the Planning Board in review of the Patterson Crossing project. That the Town Board would be exercising its legislative prerogatives on this subject independent of the Patterson Crossing project and its allegations, strategies, hopes, fears, or aspirations. That the Town Board was not waiting, as then incorrectly assumed by the Project according to the Project, for the Planning Board Chairman to pronounce a position on the legislation's wisdom and content for any particular project.

During the course of its legislative exercise, the Town Board has considered various alternative member legislation issues, and it has been working with similar local laws used in other municipalities. Fundamentally, the legislation calls for the appointment of up to two alternate members for the Planning Board and the ZBA. It has included provisions for removal of board members due to excessive absence. It has made it clear, consistent with the enabling statute, that alternate members sit alongside regular members for all purposes, whether they are voting participants or not, and that they are subject to the same compensation from the public purse, and the same obligations to attend meetings and to participate in periodic training and education at public expense.

Despite the Town Board's effort to give clear guidance to the Patterson Crossing project that this was not legislation for it, and that the Town Board rejected its allegation that Patterson Crossing had legitimate grievances with the Town Board, the Project has continued to withhold review from the remaining members of the Planning Board eligible to hear it. It has suspended application completeness dialogue with the Planning Board's consultants.

At the same time, the project has embarked upon a continuing, prolonged, rhetorical, and dramatic course of filing

letter after letter, drafted by legal counsel, suggesting that the Town Board owed it a legislative remedy, and that the legislation under review did not provide remedy enough or soon enough. (The legislative record for Local Law # ___ of 2009 regarding amendment of Chapter 4 to establish alternative members of the Planning Board shall be deemed to include, at the request of Patterson Crossing's legal counsel, his filed letter dated September 29, 2009 which includes, as attachments, eight (8) earlier letters on the subject composed by counsel and collected with the September 29, 2009 submission, as well as a more recent correspondence of that writer to the Town Board dated November 4, 2009.)

In this regard, the legislative record is replete with redundant argument by Patterson Crossing representatives that the power of appointment of more than two alternate Planning Board members is warranted and that it should be exercised, because even though two alternates would restore a full compliment of seven members for review of the Patterson Crossing project, Patterson Crossing has issues with one of the other sitting members, and it is avowedly in the process of developing a case against a fourth member of the Planning Board.

More particularly, commencing May 11, 2009, Patterson Crossing began a formal effort to cause the recusal of a third

Planning Board member based upon the fact that this member attended a Town of Patterson Planning Board SEQRA scoping session for the Project in 2005, and commented that certain socio-economic and safety issues should be identified and examined by the Patterson Planning Board as lead agency supervising the Environmental Impact Statement review process for the Project. Thereafter, Project representatives were advised, by letter of the Planning Board's attorney dated June 23, 2009, that the member had examined the request for recusal, and that his recusal would not be forthcoming because of his 2005 participation in a regulatory review process that invited his participation.

Irrespective of this result, or because of it, Patterson Crossing continues to advocate that the number of potential alternate members to be appointed to the Planning Board should be more than two, and should perhaps be unlimited, in order to give the Project room to address an apparently continuing desire for the recusal of a third member and/or to develop its purported ongoing efforts to build a recusal case against another Planning Board member.

In other respects, Patterson Crossing has redundantly advocated that the grounds for removal of a Planning Board member for absences is not strong enough. In this regard, the

comments are punctuated by references to one member's pattern of Planning Board attendance in the past. This member is the same member Patterson Crossing has sought unsuccessfully to disqualify for bias. This branch of the comments ignores the fact that if that member, or any other member, were to be removed for excessive absences in the future, whatever the standard, the spot would not be filled by an alternate member, but instead by the appointment of a successor regular member.

The Town Board feels it is important to develop this legislative record and findings, which are predicated upon the files of the Town Board and of the Planning Board, given the steady drum beat of submissions from Patterson Crossing to co-opt the legislative process into one to give it remedies for alleged grievances inflicted upon it by the Town Board in the past which, as stated above, the Town Board denies and declines to countenance as a genuine basis for this general legislation.

The Town Board has examined legislatively the issue of the appropriate number of alternative members. It finds that for both Planning Board and Zoning Board of Appeals purposes, a balancing of relevant factors favors a ceiling of two alternate members. The Town Board finds that this number is adequate. If it proves not to be adequate for any particular reason, in the future, for whatever reason that might be, the legislation is

subject to potential review and modification. The appointment of two members, as opposed to a potential higher number, is a matter of fiscal policy. Alternate members are not inserted periodically into the affairs of the Planning Board or Zoning Board of Appeals. They sit along side the regular members for all purposes. They are to be compensated. The Town is obligated to cover the costs of training and continuing education imposed on the alternates, which are the same requirements as pertain to the regular members. These are very difficult economic times for the Town of Kent and other municipalities, as a consequence of the deep global, national, statewide and local recession.

The Town Board is content with the rule created for excessive board member absences, and it is cognizant that whatever the rule, there will always be circumstances that need to be considered in the context of removing a Planning Board member absent his or her consent to removal.

The Town Board is cognizant of the fact that Planning Board and Zoning Board of Appeals regular membership changes periodically, as the life circumstances of its members change. Nothing is static with respect to the composition of membership on administrative boards. It is somewhat narrow to contend, or for the Town Board to accept, that any hypothetical set of

circumstances based on the identity of current board members vis a vis any particular subject, or any hypothetical calculus of potential member votes on a particular subject, is unaltered and set in stone, and that it should be the basis for crafting general legislation having policy and fiscal impacts.

The Town Board concludes that this legislation is sound and wise. It is consistent with the approach of several other local municipalities, particularly in connection with the adoption of a ceiling of two alternate members for an administrative land use review board. The legislation is being enacted as a matter of general policy, and not with respect to the circumstances of any particular project either past, present or future. The Town Board is not aware of any project, including Patterson Crossing, which could not have been proceeding along a path of continuing administrative review at the Planning Board or at the Zoning Board of Appeals, as a matter of law, during the drafting, consideration, and adoption of this legislation.

Dated: November 9, 2009

Motion by: Supervisor Doherty
Seconded by: Councilwoman Osborn

Roll Call Vote on Resolution:

Supervisor Doherty
Councilman Rohde
Councilman Tartaro
Councilman Tierney
Councilwoman Osborn

aye
nay
aye
aye
aye

Resolution Declared:

Adopted x
Defeated

Resolution Certified:

Yolanda D. Cappelli
Yolanda D. Cappelli, Town Clerk

11/09/2009
Date

Resolution #457 - Adopt Local Law #8 of 2009 – Amend Article 4 of Chapter 4

On a motion by Supervisor Doherty
Seconded by Councilman Tierney

RESOLUTION OF ADOPTION
LOCAL LAW NO. 8 OF 2009

A LOCAL LAW OF THE TOWN OF KENT, PUTNAM COUNTY, NEW YORK
TO AMEND ARTICLE IV "PLANNING BOARD" OF CHAPTER 4
OF THE CODE OF THE TOWN OF KENT TO ADD PROVISIONS
RELATED TO THE APPOINTMENT OF ALTERNATE PLANNING
MEMBERS AND THE COMPENSATION, ATTENDANCE, AND REMOVAL
OF PLANNING BOARD AND ALTERNATE PLANNING BOARD MEMBERS

The Town Board of Kent hereby acts as follows in consideration of the proposed enactment of the above-titled local law, a copy of which is attached hereto:

1. A local law entitled Town of Kent Local Law No. 8 of the Year 2009, A Local Law of the Town of Kent, Putnam County, New York to Amend Article IV "Planning Board" of Chapter 4 of the Code of the Town of Kent to Add Provisions Related to the Appointment of Alternate Planning Board Members and the Compensation, Attendance, and Removal of Planning Board Members and Alternate Planning Board Members was introduced on July 13, 2009; and
2. A public hearing in relation to said local law was held on September 29, 2009; and
3. Notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and
4. Said local law has been on the desks of the members of the Town Board of the Town of Kent for at least seven (7) days, exclusive of Sunday; and
5. Subsequent to the public hearing, the proposed text of the local law was revised to make the following non-substantive changes:
 - a. Section 3 of the proposed local law was amended to revise the first sentence to read as follows: "Any *regular or alternate* Planning Board member..."; and
 - b. Section 5 of the proposed local law was amended to read as follows: "... to remove any *regular or alternate* member of the Planning Board..."; and
6. The revised proposed text was received by the Town Board members on October 19, 2009.

NOW, THEREFORE, BE IT RESOLVED that Town of Kent Local Law No. 8 of the Year 2009, A Local Law of the Town of Kent, Putnam County, New York to Amend Article IV "Planning Board" of Chapter 4 of the Code of the Town of Kent to Add Provisions Related to the Appointment of Alternate Planning Board Members and the Compensation, Attendance, and Removal of Planning Board Members and Alternate Planning Board Members, copy attached, is hereby enacted.

Roll Call Vote:

Supervisor Doherty – aye Councilman Tartaro – aye
Councilman Tierney – aye Councilwoman Osborn – aye

Councilman Rohde – nay, this has cost a lot of money, if we appointed members that did not have conflicts of interest we would not have this expense.

Motion carried

LOCAL LAW NO. 8 OF 2009

A LOCAL LAW OF THE TOWN OF KENT, PUTNAM COUNTY, NEW YORK
TO AMEND ARTICLE IV "PLANNING BOARD" OF CHAPTER 4
OF THE CODE OF THE TOWN OF KENT TO ADD PROVISIONS
RELATED TO THE APPOINTMENT OF ALTERNATE PLANNING

**MEMBERS AND THE COMPENSATION, ATTENDANCE, AND REMOVAL
OF PLANNING BOARD AND ALTERNATE PLANNING BOARD MEMBERS**

BE IT ENACTED by the Town Board of the Town of Kent that the Town Code is amended to read as follows:

Section 1. Subsection 4-7 of the Town of Kent Town Code is amended to change the reference to "§272" of the Town Law to "§271" of the Town Law.

Section 2. Subsection 4-7.1 of the Town of Kent Town Code is added as follows:

§4-7.1 Compensation.

The Town Board shall fix the compensation to be paid to the members of the Planning Board, if any, on a salary basis or per meeting basis as determined by the Town Board.

Section 3. Subsection 4-7.2 of the Town of Kent Town Code is added as follows:

§4-7.2 Attendance.

Any regular or alternate Planning Board member who fails to attend three consecutive regularly scheduled Planning Board meetings in a calendar year shall be subject to removal from the Planning Board pursuant to §4-7.4 of this chapter. For the purposes of this section, a regularly scheduled meeting shall be defined as any meeting or workshop scheduled at least thirty days in advance and any site visit scheduled at least two weeks in advance.

Section 4. Subsection 4-7.3 is added to the Town of Kent Town Code as follows:

§4-7.3. Alternate Members.

- A. The Town Board may appoint up to two (2) alternate members, with each such position having a term of one (1) year, for purposes of substituting for a member(s) in the event such member(s) is absent or unable to participate because of a conflict of interest. All provisions relating to members of planning boards, including training, continuing education, attendance, compensation and removal apply to alternate members.
- B. If a Planning Board member is unable to participate because of a conflict of interest, the Chairman of the Planning Board shall

designate an alternate member to substitute for the conflicted member on the particular application or matter before the Board. If a Planning Board member is absent from a meeting, the Chairman of the Planning Board shall designate an alternate member to substitute for the absent member at that particular meeting for all applications and matters before the Board.

C. Once designated, the alternate member shall possess all the powers and responsibilities of the member being substituted for to make determinations. The minutes of the Planning Board shall reflect the meeting at which the substitution is made.

Section 5. Subsection 4-7.4 is added to the Town of Kent Town Code as follows:

§4-7.4. Removal.

The Town Board shall have the power, after public hearing, to remove any regular or alternate member of the Planning Board for cause or for failing to comply with the minimum meeting attendance and training requirements established herein, by local law, or by the Town Law.

Section 6. Supersession.

Pursuant to §22 of this state's Municipal Home Rule Law, the provisions of this law are intended to supersede any inconsistent provisions of state or local law, including the following sections of New York State Town Law: §§27(1), 271(9), 271(15).

Section 7. This local law shall take effect immediately upon filing with this state's Secretary of State.

Resolution #458 - Adopt Local Law #9 of 2009—§77-55 of Chapter 77

On a motion by Supervisor Doherty
Seconded by Councilman Tartaro

RESOLUTION OF ADOPTION
LOCAL LAW NO. 9 OF 2009

A LOCAL LAW OF THE TOWN OF KENT, PUTNAM COUNTY, NEW YORK
TO AMEND CHAPTER 77 OF THE CODE OF THE TOWN OF KENT
TO ADD PROVISIONS RELATED TO THE APPOINTMENT OF
ALTERNATE (ZONING) BOARD OF APPEALS MEMBERS AND THE
COMPENSATION, ATTENDANCE, AND REMOVAL OF (ZONING) BOARD
OF APPEALS AND ALTERNATE (ZONING) BOARD OF APPEALS MEMBERS

The Town Board of Kent hereby acts as follows in consideration of the proposed enactment of the above-titled local law, a copy of which is attached hereto:

1. A local law entitled Town of Kent Local Law No. 9 of the Year 2009, A Local Law of the Town of Kent, Putnam County, New York to Amend Chapter 77 of the Code of the Town of Kent to Add Provisions Related to the Appointment of Alternate (Zoning) Board of Appeals Members and the Compensation, Attendance and Removal of (Zoning) Board of Appeals and Alternate (Zoning) Board of Appeals Members was introduced on July 13, 2009; and
2. A public hearing in relation to said local law was held on September 29, 2009; and
3. Notice of said public hearing was given pursuant to the terms and provisions of the Municipal Home Rule Law of the State of New York; and
4. Said local law has been on the desks of the members of the Town Board of the Town of Kent for at least seven (7) days, exclusive of Sunday;
5. Subsequent to the public hearing, the proposed text of the local law was revised to make the following non-substantive changes:
 - a. Section 2 of the proposed local law was amended to revise the first sentence to read as follows: "Any *regular or alternate* Board of Appeals member..."; and
 - b. Section 4 of the proposed local law was amended to read as follows: "... to remove any *regular or alternate* member of the Board of Appeals..."; and
6. The revised proposed text was received by the Town Board members on October 19, 2009.

NOW, THEREFORE, BE IT RESOLVED that Town of Kent Local Law No. 9 of the Year 2009, A Local Law of the Town of Kent, Putnam County, New York to Amend Chapter 77 of the Code of the Town of Kent to Add Provisions Related to the Appointment of Alternate (Zoning) Board of Appeals Members and the Compensation, Attendance and Removal of (Zoning) Board of Appeals and Alternate (Zoning) Board of Appeals Members, copy attached, is hereby enacted.

Roll Call Vote:

Supervisor Doherty – aye	Councilman Tartaro – aye
Councilman Tierney – aye	Councilwoman Osborn – aye
Councilman Rohde – nay	with the same objections.

Motion carried

LOCAL LAW NO. 9 OF 2009

**A LOCAL LAW OF THE TOWN OF KENT, PUTNAM COUNTY, NEW YORK
TO AMEND CHAPTER 77 OF THE CODE OF THE TOWN OF KENT
TO ADD PROVISIONS RELATED TO THE APPOINTMENT OF ALTERNATE (ZONING) BOARD OF
APPEALS MEMBERS AND THE COMPENSATION, ATTENDANCE, AND REMOVAL OF (ZONING)
BOARD OF APPEALS AND ALTERNATE (ZONING) BOARD OF APPEALS MEMBERS**

BE IT ENACTED by the Town Board of the Town of Kent that the Town Code is amended to read as follows:

Section 1. Subsection 77-55C of the Town of Kent Town Code is added as follows:

C. Compensation.

The Town Board shall fix the compensation to be paid to the members of the Board of Appeals, if any, on a salary basis or per meeting basis as determined by the Town Board.

Section 2. Subsection 77-55D of the Town of Kent Town Code is added as follows:

D. Attendance.

Any regular or alternate Board of Appeals member who fails to attend three consecutive regularly scheduled Board of Appeals meetings in a calendar year shall be subject to removal from the Board of Appeals pursuant to §77-55F of this chapter. For the purposes of this section, a regularly scheduled meeting shall be defined as any meeting or workshop scheduled at least thirty days in advance and any site visit scheduled at least two weeks in advance.

Section 4. Subsection 77-55E is added to the Town of Kent Town Code as

follows:

E. Alternate Members.

(1) The Town Board may appoint up to two (2) alternate members, with each such position having a term of one (1) year, for purposes of substituting for a member(s) in the event such member(s) is absent or unable to participate because of a conflict of interest. All provisions relating to members of planning boards, including training, continuing education, attendance, compensation and removal apply to alternate members.

(2) If a Board of Appeals member is unable to participate because of a conflict of interest, the Chairman of the Board of Appeals shall designate an alternate member to substitute for the conflicted member on the particular application or matter before the Board. If a Board of Appeals member is absent from a meeting, the Chairman of the Board of Appeals shall designate an alternate member to substitute for the absent member at that particular meeting for all applications and matters before the Board.

(3) Once designated, the alternate member shall possess all the powers and responsibilities of the member being substituted for to make determinations. The minutes of the Board of Appeals shall reflect the meeting at which the substitution is made.

Section 4. Subsection 77-55F is added to the Town of Kent Town Code as follows:

F. Removal.

The Town Board shall have the power, after public hearing, to remove any regular or alternate member of the Board of Appeals for cause or for failing to comply with the minimum meeting attendance and training requirements established herein, by local law, or by the Town Law.

Section 5. Supersession.

Pursuant to §22 of this state's Municipal Home Rule Law, the provisions of this law are intended to supersede any inconsistent provisions of state or local law, including the following sections of New York State Town Law: §§27(1), 267(9), 267(11).

Section 6. This local law shall take effect immediately upon filing with this state's Secretary of State.