

# **Bond Case Briefs**

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## **ZONING - NORTH CAROLINA**

### **Morningstar Marinas/Eaton Ferry, LLC v. Warren County**

**Supreme Court of North Carolina - November 6, 2015 - S.E.2d - 2015 WL 6777106**

Neighbor filed petition for writ of mandamus, seeking to compel county planning and zoning administrator to place, on Board of Adjustment's agenda, neighbor's appeal from administrator's determination that easement connecting landowner's residential and commercial properties did not constitute a commercial use of residential property.

The Superior Court issued a writ of mandamus, and zoning administrator appealed. The Court of Appeals affirmed. Zoning administrator petitioned for discretionary review, which was denied. Zoning administrator then appealed as of right.

The Supreme Court of North Carolina held that neighbor had clear legal right to have its appeal transmitted to Board and placed on Board's agenda, thus warranting issuance of writ of mandamus to compel administrator to take such action.

Neighbor had a clear legal right to have its appeal, from determination by county planning and zoning administrator that easement connecting landowner's residential and commercial properties did not constitute a commercial use of residential property, transmitted to Board of Adjustment and placed on Board's agenda, thus warranting issuance of writ of mandamus to compel administrator to take such action after he refused to do so based on his judgment that neighbor lacked standing to appeal. Statute governing Board of Adjustment appeals specifically stated that the officer from whom the appeal was taken "shall" forthwith transmit to the board all the papers constituting the record upon which action appeal from was taken, and no exceptions were established.