

CONCORD TOWNSHIP BUILDING CODE BOARD OF APPEALS INSTRUCTIONS and APPLICATION

The purpose of the Building Code Board Of Appeals ("Board") is to help assure fair and equitable application and administration of the Building Code by hearing appeals from the Building Code Official's determinations, determining extensions of time, and granting relief from the literal enforcement of the Building Code (variance) where the provisions of the Building Code inflict unnecessary hardship. The Board is an independent, quasi-judicial body; that is, its powers are to some extent judicial in nature. The Board schedules hearings on applications, if requested and appeals that come before it, takes evidence, and issues written decisions with findings of fact and conclusions of law.

Briefly, the Board has exclusive jurisdiction to hear and decide the following:

- a) Appeals from the determination of the Building Official's granting or denial of any permit, or failure to act on the application, or the issuance of any cease and desist order.
- b) Applications for variances
- c) Applications for extensions of time

The Board shall decide an application for an appeal, variance or request for an extension of time by **either** reviewing documents and written briefs, hearing oral argument, or hearing testimony by a hearing.

In order for the Board to hold a hearing on the application, the applicant **must** request a hearing before the Board on the completed application form.

If the applicant has filed an appeal from the Building Official's decision, the Board **only** considers the following factors in deciding an appeal:

1. The true intent of the act or Uniform Construction Code was incorrectly interpreted.
2. The provisions of the Code or Act do not apply.
3. An equivalent form of construction is to be used.

If the applicant is requesting an extension of time or a variance, the Board **may** consider but is not limited to the following factors:

1. The reasonableness of the Uniform Construction Code's application in a particular case.
2. The extent to which the granting of a variance or an extension of time will pose a violation of the Uniform Construction Code or an unsafe condition.
3. The availability of professional or technical personnel needed to come into compliance.
4. The availability of materials and equipment needed to come into compliance.
5. The efforts being made to come into compliance as quickly as possible.
6. Compensatory features that will provide an equivalent degree of protection to the Uniform Construction Code.

The Board does not have authority to hear issues relating to accessibility. An applicant must file for relief with the Accessibility Advisors Board under 403.142 of the Uniform Construction Code.

SUBMISSIONS: An original and ten (10) copies of all documents, including any plans and photographs, are required to be submitted with the application. They become part of the record and will not be returned to applicant.

If plans are modified or revised after filing the application but before the hearing, the applicant must file the revision (and appropriate number of copies) with the Township office no later than one (1) week prior to the scheduled hearing or meeting.

FEES

The Board of Supervisors has established reasonable fees as set forth in the attached fee resolution (Resolution No. 55-2004) and is subject to change. They include compensation for the Board, notice and advertising costs, and necessary administrative overhead connected with the hearing. The applicant should contact the Township Manager concerning current fees.

APPLICATION

The application must specify whether the applicant is seeking a variance, extension of time, or an appeal from a decision of the Building Official.

Proof of ownership is required, A deed, tax folio number, agreement of sale, option to purchase, or a lease may be sufficient.

A survey or plot plan of the subject property must accompany the application, and its requirements are described in more detail below.

Applicant should submit its complete, initialed instructions and application (all pages) and plot plans to the Township Officer no later than the end of the calendar month proceeding the month desired to present its case at a hearing. The Board will attempt to schedule a hearing at the next regularly scheduled meeting upon receipt of a timely filing and the applicant will be notified of the time and date; however, it cannot guarantee a hearing schedule. **An incomplete application will delay the scheduling of a hearing.**

The postmark date of a properly completed application or the date of personal service of such application upon the Township, establishes the filing date on the application and request for variance or extension of time for purposes of compensation of time.

EFFECT OF FILING

The filing an appeal or request for variance or extension of time to the Board will automatically suspend an action to enforce an order to correct until the matter is resolved except that an action by the Building Code Official relating to an unsafe building or structure or equipment may not be stayed or suspended by filing of an appeal.

NOTICE REQUIREMENTS

The law requires notice of a hearing, if requested by the applicant, be sent to the applicant, to the Building Official, to any person who has requested to be notified, and to anyone else designated by ordinance. Notice must be published in a newspaper of general circulation. All notices will be mailed to the applicant at the subject property's address unless the applicant specifies otherwise on the application.

HEARING

If a hearing has been request, the hearing is a formal judicial proceeding open to the public. The Board shall hold a hearing within sixty (60) days from the date of a properly completed application unless the applicant

has agreed in writing to an extension of time. **It cannot proceed unless a completed application has been presented and the fee has been paid.** A Court Reporter records the hearing and prepares a transcript. In addition to the applicant, parties to the hearing are the Township and any person affected by the application who wishes to be a party and has made a timely appearance of record before the Board. The applicant's sworn testimony, that of its witnesses and any party to the hearing, and any documents and plans presented at the hearing become the formal record and form the basis of the Board's decision. Parties have the right to be represented by counsel and are given the opportunity to respond to the applicant's presentation and present evidence at the hearing. The applicant should be prepared to answer questions from the Board, other parties and the public. Some applications may require more than one hearing. The applicant may use enlargements of its plot plan to aid its presentation, but to avoid confusion, be sure the enlargement data matches the application.

RELIEF

The Board may:

1. Deny the request in whole or in part.
2. Grant the request in whole or in part.
3. Grant the request upon certain conditions being satisfied.

Any party to the hearing may file an appeal of a decision of the Board if it is believed an official has committed an error, or misinterpreted the law. Appeals to the board must be filed within thirty (30) days after the action that is subject to an appeal. The applicant must file a Notice of appeal with the Board specifying the grounds on which it appeals. If an appeal of the Board's decision is taken to the Court of Common Pleas, the Court will consider the formal record of the original hearing.

CONCLUSION

THE APPLICANT IS RESPONSIBLE TO MAKE ITS CASE TO THE BOARD IN SUPPORT OF ITS APPLICATION. SUCCESS IS DIRECTLY PROPRTIONAL TO PREPARATION.

A complete, concise and well-organized presentation saves time and eliminates confusion. The Board may postpone its decision or decide adversely if the evidence presented is not clear. In other words, the applicant has the burden of proof to show that it is entitled to a variance or that it meets the requirements for a special exception or other relief. The Board depends on the applicant to produce all the relevant information and testimony (including expert witnesses when needed).

The Applicant may only communicate with the Board during scheduled hearings. If the Applicant has any procedural questions, it should contact the Board's Solicitor or the Township administrative staff.

Please return the INSTRUCTIONS and APPLICATION, initialed on each page to indicate that the Applicant has read and understands them.

CONCORD TOWNSHIP BUILDING CODE BOARD OF APPEALS
Application for Variance, Extension of Time, and Notice of Appeal

1. Applicant's name and telephone number:

2. The location of the property: (Please give the Tax Parcel (Folio) Number if possible):

3. Mailing address of the property:

NOTE: Notices from the Building Code Board Of Appeals will be sent to the address above unless applicant completes Section 4. (a) Below.

4. (a) The address for notices, if different from the address of the property:

5. (b) Applicant's attorney's, or agent's name and address, if applicant is represented by counsel or agent:

6. Please give a brief, detailed description of the property. (Example: "1.3 acres located at 1313 Mockingbird Lane, with three-story residence, adjacent to cemetery, Tax Parcel (Folio) Number 15-2-89.1").

7. What buildings or other structures are now on the property?

8. What is the property being used for now?

9. The reason for this application, choose one:

- Appeal of Building Code Official's decision; or
- Request for variance; or
- Extension of time

10. The relief being requested is as follows, choose one:

- A hearing before the Board
- A review of documents and written briefs **only** by the Board
- A presentation of oral argument **only** without testimony, but with documents and other relevant materials filed by the applicant.

11. Identify the relative sections of the Building Code, Ordinance, Act or Statute, the applicant believes is at issue and/or would allow the Building Code Board Of Appeals to approve the applicant's request.

12. Please choose **one or more** of the following if you are asserting the Building Code Official has erred in his written decision:

- The true intent of the Code or the rules legally adopted there under was incorrectly interpreted; or
- The provisions of the code do not fully apply; or
- An equivalent form of construction is to be used.

13. If the applicant is appealing a determination of the Building Code Official, attach a copy of the Building Code Official's determination and **more fully explain** the reasons that the applicant believes the Building code Official's determination is incorrect with reference to any applicable sections of the Building Code.

14. What additions to or improvement in the property does applicant intend to make under this application, if any? Describe below as completely as possible, and attach any applicable plans of the property indicating the size of the lot, size of buildings or other structures now erected and size and location of those to be erected together with all other required plan details. (If the plan submitted with this application does not meet requirements, additional plans may be submitted prior to the scheduled hearing, or a continuance may be necessary).
