

YORK COUNTY UNIFORM CONSTRUCTION CODE BOARD OF APPEALS

**INSTRUCTIONS FOR COMPLETING
APPLICATION FOR REVIEW**

1. **Application Form**

- a. Complete all sections of the Application Form.
- b. Sign and date the Application.
- c. Attach to your Application copies of the following:
 - i. Your initial building permit application and materials,
 - ii. Your building permit, if issued,
 - iii. Any relevant drawings (which should be complete and sealed), and
 - vi. Any other building permit related materials
- d. Pay the applicable Municipal and York County Uniform Construction Code Board of Appeals (the “Board”) fees.
- e. An Application for Review must request relief based upon one or more of the following grounds:
 - i. **Appeal of a decision of the Building Code Official** - (1) whether the true intent of the Act or the Uniform Construction Code (“UCC”) have been incorrectly interpreted, (2) whether the provision of the Act does not apply, or (3) whether an equally good or better form of construction is proposed.
 - ii. **Request for Variance from a provision of the UCC or Extension of Time** - (1) the reasonableness of the UCC’s Application in a particular case, (2) the extent to which granting of a variance or an extension of time will constitute a violation of the UCC or create an unsafe condition, (3) the availability of professional or technical personnel, or materials and equipment, needed to come into compliance, (4) the efforts being made to come into compliance as quickly as possible, (5) compensatory features that will provide an equivalent degree of protection to the UCC.

THE BOARD SHALL HAVE NO AUTHORITY TO WAIVE THE REQUIREMENTS OF THE UCC. RELIEF MAY ONLY BE GRANTED IF YOU SHOW THAT YOU ARE ENTITLED TO IT PURSUANT TO THE UCC AND REGULATIONS THEREUNDER. YOU MUST DEMONSTRATE, EITHER THROUGH WRITTEN DOCUMENTATION, OR THROUGH WRITTEN DOCUMENTATION AND ORAL TESTIMONY AT AN IN-PERSON HEARING, THAT YOUR REQUEST SATISFIES THE RELEVANT CRITERIA FOR GRANTING THE RELIEF REQUESTED.

f. Attach appropriate written explanation/arguments that demonstrate how your request meets the appropriate criteria above. It is the applicant's burden to present evidence and argument sufficient to meet the legal standard for any requested relief. Attach appropriate drawings, plans, photographs and/or illustrations, which help explain your request and a cover sheet that lists the summary of material and exhibits provided. Seven (7) copies of any document over 8.5" x 11" are required. Only one (1) print of each photograph exhibit is necessary. All materials submitted with this Application or entered as exhibits during the hearing become the property of the Board and are kept with this Application.

2. **Fees**

a. There is a fee for submitting an Application for review to the Board. The fee is \$500.00 for an Application, which requests a written decision without a formal hearing, plus \$250.00 for each item of relief (i.e., each appeal from or variance requested of a particular Code section). This fee must be paid at the time the Application is submitted. The Application will not be accepted if the fee is not included. Payment must be made in the form of cash, certified check, money order or check from an attorney's account. Checks should be made payable to the **York County Planning Commission** as administrator for the Board. The fee shall be considered an integral part of such appeal or request, and failure to file the fee at the time of filing of the appeal or request shall render the appeal or request for hearing, variance or extension of time incomplete as filed, and it will not be forwarded to the Board until such fee has been paid.

b. If a hearing is requested, the same fees apply plus the applicant must pay all stenographer's fees related to the Application and hearing. The stenographer's fees will be a pass through cost to the Applicant, payable no later than ten days following request by the Board. If the applicant fails to pay on time such costs, then the applicant shall also be responsible to pay a ten percent collection fee and any collection costs, including reasonable attorney's fees.

c. The postmark or date of personal service will establish the filing date of the appeal or request for variance or extension of time. Such appeal shall automatically suspend any action to enforce an order to correct, until the matter is resolved, except that any action relating to an unsafe building, structure, or equipment shall not be stayed by the appeal, request for variance, or request for extension of time.

3. **Meetings**

a. The Board shall schedule meetings and provide for public notice of meetings in accordance with 65 Pa.C.S.A. Sections 701-716, relating to the Sunshine Act. The Board shall publish the date, time and location for the meetings for the following calendar year no later than December 31 of each year. The date, place and time of the meeting during which the Application will be considered will be confirmed by mail. A decision may be postponed to the next month's meeting if the Board determines that it requires additional time to consider the Application for Review.

b. A quorum of the Board shall consist of a majority of the then-appointed members or their seated alternates. The Board shall modify or reverse the decision of a BCO by a concurring vote of at least three (3) members. Failure to achieve such a vote shall result in a denial of the appeal or other action requested. Any other action by the Board shall be by a majority vote of the quorum at any meeting. Failure to achieve a majority vote shall result in denial of the appeal or other action requested. When five (5) members of the Board are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing or proceed with the quorum of the Board that is present.

c. Within sixty (60) days from the date of appeal or request for variance or extension of time, the Board shall decide an appeal, variance request, or request for extension of time by reviewing documents and written brief or argument, unless the applicant requests a hearing. The Board may extend this time period if it determines that additional time is necessary. The Board may hold more than one hearing/meeting on an Application.

d. If a hearing is requested by the applicant, the Board shall hold a hearing within sixty (60) days from the date of request, unless the applicant agrees in writing to an extension of time. Upon the filing of a written request for a hearing with the payment of any fees, the Board shall schedule a hearing and notify the applicant and applicable building BCO of the date, time and place of the hearing. The Board may deny the hearing request in whole or in part, grant the hearing request in whole or in part, or grant the hearing request upon certain conditions being satisfied. The Board may extend the time period for issuance of its decision if it determines that additional time is necessary. The hearing may be held over several dates.

e. If the Applicant desires to request that the Application be tabled from review at a scheduled meeting to the scheduled meeting during the subsequent month, the Applicant may do so in writing in advance of the meeting. In such case, the Board may grant the request and the Application will be tabled for one month based upon the Applicant's request. A \$100.00 fee must be paid to defray administrative costs of tabling the Application. If the Applicant desires to continue the hearing on an Application at any time during the meeting when it is scheduled to be decided, but before the evidence and testimony are closed or the Board begins its deliberations, it may so request. The Board may grant the request and in such case, the Applicant shall pay an administration fee of \$300.00 for the continuance. The Board reserves the right to reject any request for an Application to be tabled or continued. After the Board begins deliberations, a continuance may be granted, in the sole and exclusive discretion of the Board, upon exceptional circumstances.

f. The Board shall render all decisions by resolution, with written findings of fact and conclusions of law. A copy of the resolution shall be provided to the applicant and the BCO of the participating municipality. It shall be the responsibility of the BCO to forward a copy of the resolution to the municipality.

Approved and Effective 6/16/09