

TOWNSHIP OF KENNEDY  
CONSTRUCTION CODE BOARD OF APPEALS

**RULES OF PROCEDURE AND OPERATION**

**A. Appeal Procedures**

1. The Kennedy Township Construction Code Board of Appeals (“Board”) shall have jurisdiction to hear and rule on appeals, requests for variances, and extensions of time in accordance with the Pennsylvania Construction Code Act, the Uniform Construction Code, and regulations promulgated by the Department of Labor and Industry at 34 Pa. Code §403.121, et seq.

2. Any party aggrieved wishing to appeal a decision by the Kennedy Township Building Code Official, or any owner or owner’s agent seeking a variance or extension of time may do so by filing an application with the Township Building Code Official.

3. The post-marked date or the date of personal service of the application on the Building Code Official will establish the filing date of the appeal or request for variance or extension of time.

4. Each application to the Board shall state in detail the claim of the applicant and the relief requested.

a. The application shall specify whether the applicant claims that the true intent of the Act or the Uniform Construction Code has been incorrectly interpreted, whether the provisions of the Act or Uniform Construction Code do not fully apply, or whether an equivalent form of construction is to be used.

b. The applicant shall state whether or not they request a public hearing.

5. Each appeal shall be accompanied by an appeal fee in the amount set by the Township.

6. Appeals or requests for variance resulting from a decision of the Building Code Official must be filed within thirty (30) days from the date of mailing of the decision of the Building Code Official.

7. The Board will attempt to hold a hearing, or where a hearing is not held, issue a decision, within sixty (60) days from the date of an applicant’s request unless the applicant agrees in writing to an extension of time. The Board shall decide appeals, variance requests, or requests for extension of time by reviewing documents and written briefs or arguments unless the owner or owner’s agent or other party requests a hearing.

8. All hearings shall be held in accordance with the Local Agency Law.
9. Where a public hearing is held, all evidence and testimony shall be presented publicly at the hearing.
10. No ex-parte contact shall be made between parties to the appeal and members of the Board.
11. All hearings shall be recorded, whether by court reporter or by tape recording, such that an accurate transcript of the hearing can be made in the event of appeal.
12. When deciding an appeal, the Board shall consider only the following factors:
  - (1) The true intent of the Act, or Uniform Construction Code was incorrectly interpreted.
  - (2) The provisions of the Act do not apply.
  - (3) An equivalent or better form of construction is to be used.
13. The Board may consider the following factors when ruling upon a request for extension of time or the request for a variance:
  - (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 comparable to the Uniform Construction Code.
14. When deciding an appeal, 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.

The Board shall have no authority to waive requirements of the Uniform Construction Code.

15. The Board of Appeals shall provide a written notice of its decision to the property owner, to the Building Code Official and to any other party who has participated in the appeal. The written notice of the decision shall state thereon the following notation, "Date of Mailing of This Decision - \_\_\_\_\_."  
(Insert Date Decision Mailed)

16. The written decisions of the Board shall be accompanied by findings of fact and conclusions of law along with a discussion of the reasons for the Board's decision. The findings of fact, conclusions of law, and reasons for the Board's decision may be set forth in a separate opinion which may be issued at the time of decision or at a later time.

17. In appeals where a hearing is held, Board Members not present for all or part of the hearing may participate in the decision if they read all of the hearing transcript and review all of the exhibits.

18. In all cases, the burden of proof shall be on the applicant.

**B. Operation of the Board**

19. The Board will give public notice of all meetings and hearings in accordance with the Sunshine Act.

20. The Board shall elect a Chair, who shall preside over meetings and hearings. The Board shall also elect a Vice-Chair and a Secretary.

21. The Board shall report its activities to the Board of Commissioners, on a monthly or other regular basis.

22. A Board Member may not cast a vote or participate in a hearing in any appeal, request for variance, or request for extension of time in which the Member has a personal, professional, or financial interest, or where such participation may otherwise constitute a conflict of interest within the meaning of the State Ethics Act.

23. The Board may determine whether to schedule regular meetings and shall provide public notice of its meetings in accordance with the Sunshine Act.

24. These Rules of Procedure may be amended from time-to-time by majority vote of the Board.

25. The Board shall, as necessary, utilize legal, architectural, engineering or other professional consultants as may be approved by the Board of Commissioners.

**BY THE TOWNSHIP OF KENNEDY UNIFORM CONSTRUCTION CODE BOARD**

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Chris Gutt

Dave Gasparovich

Richard Urbano

KENNEDY TOWNSHIP  
340 FOREST GROVE ROAD  
ALLEGHENY COUNTY, PENNSYLVANIA

APPLICATION OF APPEAL  
UNIFORM CONSTRUCTION CODE APPEALS BOARD

Petitioner:

Name: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Relationship to Property Owner: \_\_\_\_\_  
(for appeals hearings, list witnesses registration page)

Property Owner:

Name: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Property Location: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Appeal Method: (check one)

\_\_\_\_ Appeals Meeting

\_\_\_\_ Appeals Hearing

**WITNESS REGISTRATION PAGE**

Witness Name: \_\_\_\_\_

Company: \_\_\_\_\_

Phone: \_\_\_\_\_

Relationship to Property Owner (circle one):

Architect Engineer Contractor Lawyer Other \_\_\_\_\_

Witness Name: \_\_\_\_\_

Company: \_\_\_\_\_

Phone: \_\_\_\_\_

Relationship to Property Owner (circle one):

Architect Engineer Contractor Lawyer Other \_\_\_\_\_

Witness Name: \_\_\_\_\_

Company: \_\_\_\_\_

Phone: \_\_\_\_\_

Relationship to Property Owner (circle one):

Architect Engineer Contractor Lawyer Other \_\_\_\_\_

Witness Name: \_\_\_\_\_

Company: \_\_\_\_\_

Phone: \_\_\_\_\_

Relationship to Property Owner (circle one):

Architect Engineer Contractor Lawyer Other \_\_\_\_\_

*Use multiple sheets if required*

**ICC Code for which appeal is requested:**

*(list applicable code sections) behind code and attach copy of the text of the code)*

\_\_\_ International Building Code

\_\_\_\_ International Residential Code

\_\_\_\_ International Existing Building  
Code \_\_\_\_\_

\_\_\_ International Fire  
Code \_\_\_\_\_

\_\_\_ International Mechanical  
Code \_\_\_\_\_

\_\_\_ International Plumbing  
Code \_\_\_\_\_

\_\_\_ International Fuel Gas  
Code \_\_\_\_\_

\_\_\_\_ International Property Maintenance  
Code \_\_\_\_\_

\_\_\_ International Energy Conservation  
Code \_\_\_\_\_

\_\_\_ International Urban-Wildland Interface  
Code \_\_\_\_\_

\_\_\_ ICC Electrical  
Code \_\_\_\_\_

**Reason for Appeal:**

\_\_\_ The true intent of the Act or Uniform Construction Code was  
incorrectly interpreted.

\_\_\_ The Provisions of the Act do not apply.

\_\_\_ An equivalent form of construction is to be used.

**Supporting Documentation and/or Relief Requested:**

*(use separate sheet if necessary)*

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**CERTIFICATION PAGE**

I, \_\_\_\_\_, hereby attest the attached information is true and accurate for the property located at

\_\_\_\_\_

in Kennedy Township.

Signature of Applicant \_\_\_\_\_

Print Name and Title \_\_\_\_\_

SWORN AND SUBSCRIBED before me

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_

Notary Public

My Commission Expires \_\_\_\_\_

Hereby authorize the Township of Kennedy Uniform Construction Code Appeals Board and other Kennedy Township officials to view and inspect the property which is the subject of this Application at any time during the pendency of said Application and the construction related thereto.

Signature of Applicant \_\_\_\_\_

Signature of Property Owner \_\_\_\_\_

**(Office Use Only)**

Date Submitted \_\_\_\_\_

\*Fee \$500.00

Received by: \_\_\_\_\_ Title: \_\_\_\_\_

\*From this amount shall be deducted any fees accruing from the Township consultants, and/or Solicitor reviews. If at any time during the progression of this application it is determined by the Township that the balance available is or will be inadequate to fully cover the anticipated process, the Applicant shall be obligated to pay any of the remaining fees. At the completion of the final process and after all fees are deducted, the balance may be returned to the Applicant.