

CODE APPEALS BOARD PETITION PROCESS FOR APPEALS, VARIANCES, OR TIME EXTENSIONS

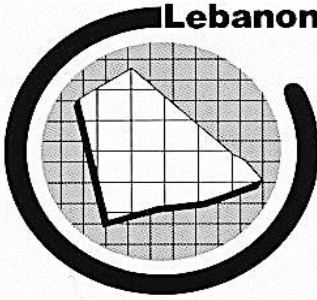
The Pennsylvania Uniform Construction Code (PA UCC) provides contractors and property owners a path for appealing the decisions of a Building Code Official (BCO), requesting a variance to the requirements of the PA UCC, or requesting an extension of time. A Code Appeals Board, consisting of 3 members with a construction/engineering background from our local communities, is established to hear and rule on those appeals. The Board handles both residential and commercial appeals, except for any petition relating to accessibility under the PA UCC. All the specific requirements of the PA UCC regarding the Board of Appeals can be found in PA UCC §403.121 and §403.122, which are attached for your review.

The PA UCC establishes a required timeline of 60 days for the Board to meet to rule on your petition, which is reduced to 30 days when involving residential construction. The timeline begins upon receipt of a COMPLETE Appeals Board Petition and may be extended if you agree to an extension in writing. The petition form to be filled out is attached to this letter. Please be sure you have provided all requested items in the Filing Information section, as the timeline does not begin until all the required information and payment has been received. The filing of your petition will suspend any enforcement action until the matter is resolved but shall not be interpreted as approval to proceed. All work related to the appeal will need to cease until a ruling is made.

The attached Appeals Board Petition form will walk you through the information and supporting documentation needed to file a petition. Please read carefully. You will be selecting the type of petition you are making before the Board. In summary, the 3 types are as follows:

1. Appeal of Building Code Official (BCO) Decision - This means you disagree with the official ruling of the BCO and are petitioning the Board that the code was interpreted incorrectly, that the code does not apply in your situation, or that you are proposing an equivalent form of construction.
2. Extension of Time Requested - This type is used if you are petitioning the Board for an extension of time to comply with a time restriction being enforced by the Building Code Official.
3. Request for Variance - This petition type should be used if you are seeking relief from a specific code requirement. You will need to explain and support why the strict letter of the code is impractical and how the variance would still satisfy the intent of the code. You will also need to explain how the variance would NOT lessen life, health, fire safety or structural requirements of the code.

You will also need to specify whether you request a hearing before the Board or not. It is our recommendation that you request a hearing, as that will provide opportunity for Board members to ask you or an authorized agent questions to clarify any information needed. If you choose to forgo the hearing, your petition and supporting documentation will need to stand on its own. There is no cost difference between requesting a hearing or not. You will receive a written decision from the Board within 5 business days of the Board meeting in either case. Please reach out if you have any questions.



Lebanon County Planning Department

Building Code Administration
Room 206, Lebanon County Courthouse
400 S. 8th Street, Lebanon, PA 17042
(717) 228-4444 • www.lebanoncountypa.gov

Petition Number
Municipality

Uniform Construction Code (UCC) APPEALS BOARD PETITION

This form may be used to file an appeal, seek a variance or an extension of time. When variances are requested, as many variances as may be needed may be sought via this petition. Once this petition has been submitted, no changes may be made, and any additional variance requests must be filed via a separate (new) petition.

APPLICANT AND LOCATION	Location of Property
	Township, Borough or City Name County
	Property Owners Name
	Owners Current Address
	City State Zip Code
ENGINEER/ARCHITECT BUILDER/CONTRACTOR	Name Phone Number
	Company Name
	Address
	City State Zip Code
TYPE OF PETITION BEING FILED	Check the petition type(s) and complete the appropriate detailed information for each petition type below <input type="checkbox"/> Appeal <input type="checkbox"/> Extension of Time <input type="checkbox"/> Variance
Petition Type One; <u>APPEAL OF BUILDING CODE OFFICIAL (BCO) DECISION</u>	BCO Name _____ Date of BCO Decision _____ Please check which of the following form the basis for your appeal; <input type="checkbox"/> The true intent of the Pennsylvania Construction Code Act (PCCA) or the UCC was incorrectly interpreted <input type="checkbox"/> The provisions of the PCCA do not apply to this construction <input type="checkbox"/> An equivalent form of construction was proposed for use On an 8 1/2" X 11" page of paper, please detail the grounds for appealing this decision, citing provisions of the PCCA or the UCC, or explaining how your proposed construction would be equivalent to that specified in the UCC.

-continued on page 2

<p>Petition Type Two; <u>EXTENSION OF TIME REQUESTED</u></p>	<p>Building Code Official Order Date _____ Deadline _____</p> <p>On an 8 ½" X 11" page of paper, please detail the reasons for this request</p>
<p>Petition Type Three; <u>REQUEST FOR VARIANCE</u></p>	<p>Please provide <u>all</u> of the following information <u>for each variance requested:</u></p> <ul style="list-style-type: none"> • Specify the <u>particular code</u> and the <u>section(s) of the code</u>, or <u>any referenced standard</u> mentioned in the specified section(s) • Indicate on your plans what portions of the building will be affected by the variance request • State the reasons for the requested variance, including why the strict letter of the code is impractical, how the variance would satisfy the code's intent, and why the modification would not lessen health, life and fire safety or structural requirements in the listed code section(s) <p>Attach this information to a page of 8 ½" X 11" page of paper and attach to this petition.</p>
<p>Certification</p>	<p>Select the Board procedure requested</p> <p><input type="checkbox"/> I request a written decision, <u>without</u> a hearing from the Board</p> <p><input type="checkbox"/> I request a <u>hearing and a written decision</u> from the Board</p> <p>I hereby certify that this appeal application information is true and correct, to the best of my knowledge.</p> <p style="text-align: right;">_____ Applicant</p>
<p><u>FILING INFORMATION</u></p>	<ul style="list-style-type: none"> • Submit completed petition and any additional information sheets • Submit one set of drawings, including floor plans • Board review with or without hearing for <u>residential</u> appeals is <u>\$750.00</u> • Board review with or without hearing for <u>commercial</u> appeals is <u>\$975.00</u> • Make check payable to <u>Lebanon County Planning Department</u> <p><u>Mail to:</u> Appeals Board c/o Lebanon County Planning Department Room 206, 400 S. 8th Street Lebanon, PA 17042</p> <p><u>Direct questions to:</u> (717) 228-4444</p> <p><u>Note:</u> IF ADDITIONAL REQUESTS ARE NEEDED AFTER THIS PETITION FORM IS FILED, YOU MUST SUBMIT THESE REQUESTS ON A SEPARATE PETITION FORM, ALONG WITH REQUIRED FEE.</p>
<p><u>BCO USE ONLY</u></p>	<p>Date received: ____/____/____ Check Number: _____ Received By: _____</p>

BOARD OF APPEALS

§ 403.121. Board of appeals.

(a) A municipality which has adopted an ordinance for the administration and enforcement of the Uniform Construction Code or is a party to an agreement for the joint administration and enforcement of the Uniform Construction Code shall establish and appoint members to serve on a board of appeals under section 501(c) of the act (35 P. S. § 7210.501(c)).

(b) The board of appeals shall hear and rule on appeals, requests for variances and requests for extensions of time. An application for appeal shall be based on a claim that the true intent of the act or Uniform Construction Code has been incorrectly interpreted, the provisions of the act or Uniform Construction Code do not fully apply or an equivalent form of construction is to be used.

(c) The composition of a board of appeals is governed by all of the following:

(1) A member of the board of appeals shall be qualified by training and experience to pass on matters pertaining to building construction. Training and experience may consist of licensure as an architect or engineer, experience in the construction industry, and training or experience as an inspector or plan reviewer.

(2) A member of the board of appeals holds office at the pleasure of the municipality's governing body.

(3) Members of a municipality's governing body and its code administrators may not serve on a board of appeals.

(4) A municipality may fill a position on the board of appeals with a qualified person who resides outside of the municipality when it cannot find a person within the municipality who satisfies the requirements of this section.

(d) Two or more municipalities may establish a joint board of appeals through an intermunicipal agreement under 53 Pa.C.S. § § 2301—2315 (relating to intergovernmental cooperation).

(e) A board of appeals 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.

(f) A board of appeals shall schedule meetings and provide public notice of meetings in accordance with 65 Pa.C.S. § § 701—716 (relating to Sunshine Act).

(g) A board of appeals may not act upon appeals, requests for variance or requests for extension of time relating to accessibility under the act.

(h) The fee for an appeal in a municipality which has adopted an ordinance for the administration and enforcement of the Uniform Construction Code or is a party to an agreement for the joint administration and enforcement of the Uniform Construction Code will not exceed the actual costs of publishing the hearing notice, court reporter services and other necessary administrative services under section 501(c) of the act (35 P. S. § 7210.501(c)(4)).

Source

The provisions of this § 403.121 amended December 24, 2009, effective December 31, 2009, 39 Pa.B. 7196. Immediately preceding text appears at serial page (323823).

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§ 403.122. Appeals, variances and extensions of time.

(a) An owner or owner's agent may seek a variance or extension of time or appeal a building code official's decision by filing a petition with the building code official or other person designated by the board of appeals on a form provided by the municipality.

(b) The postmark date or the date of personal service will establish the filing date of the appeal and request for variance or extension of time.

(c) An appeal or request for variance or extension of time to a board of appeals will automatically suspend an action to enforce an order to correct until the matter is resolved. An action under § 403.84 (relating to unsafe building, structure or equipment) may not be stayed.

(d) A board of appeals shall decide an appeal, variance request or request for extension of time by reviewing documents and written brief or argument unless the owner or owner's agent requests a hearing.

(e) A board of appeals shall hold a hearing within 60 days from the date of an applicant's request unless the applicant agreed in writing to an extension of time. A board of appeals shall convene a hearing within 30 days of receipt of an appeal or request for variance or extension of time involving the construction of a one- or two-family residential building.

(f) A board of appeals shall only consider the following factors when deciding an appeal under section 501(c)(2) of the act:

- (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 form of construction is to be used.

(g) A board of appeals may consider the following factors when ruling upon a request for extension of time or the request for 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 to the Uniform Construction Code.

(h) If the owner or owner's agent requests a hearing, the board of appeals shall schedule a hearing and notify the owner or owner's agent and building code official of the date, time and place of the hearing.

(i) The board of appeals 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.

(j) The board of appeals shall provide a written notice of its decision to the owner and to the building code official. A board of appeals shall render a written decision regarding an appeal or request for variance or extension of time involving the construction of a one- or two-family residential building within 5 business days, or within 10 business days in cities of the first class, of the latest hearing. The appeal shall be deemed granted if a board of appeals fails to act within this time period.

(k) An owner shall file an appeal, request for variances and request for extension of time relating to accessibility with the Accessibility Advisory Board under § 403.142 (relating to Accessibility Advisory Board).

Source

The provisions of this § 403.122 amended December 24, 2009, effective December 31, 2009, 39 Pa.B. 7196. Immediately preceding text appears at serial pages (323823) to (323825).

Cross References

This section cited in 34 Pa. Code § 401.1 (relating to definitions); 34 Pa. Code § 403.43 (relating to grant, denial and effects of permits); 34 Pa. Code § 403.46 (relating to certificate of occupancy); 34 Pa. Code § 403.63 (relating to grant, denial and effect of permits); 34 Pa. Code § 403.65 (relating to certificate of occupancy); 34 Pa. Code § 403.141 (relating to enforcement by the Department); and 34 Pa. Code § 405.3 (relating to permit application).

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