

BOROUGH OF KULPMONT

ORDINANCE 2018-04

AN ORDINANCE OF THE BOROUGH OF KULPMONT, NORTHUMBERLAND COUNTY, COMMONWEALTH OF PENNSYLVANIA, FOR AN APPEALS BOARD AND FEE PROCESS.

NOW, THEREFORE IT IS HEREBY ENACTED AND ORDAINED by the Councilmen of the Borough of Kulpmont, Northumberland County, Pennsylvania, that the foregoing Uniform Construction Code regulations and procedures shall apply:

Section 1: Uniform Construction Code

§ 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 inter-municipal 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.

(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)).

(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).

§ 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).

FEES:

The Borough of Kulpmont will request a fee of **EIGHT HUNDRED FIFTY DOLLARS (\$850.00)** deposit toward the cost of the appeal process to include, but not limited to the cost of advertising, stenographer, transcripts and any other fees required for the appeal process. Any unused money will be returned to the applicant.

Kulpmont Borough in the case of any other Kulpmont Borough Code(s) or Codified Ordinance(s), whether or not such other Codes or Ordinances are referenced in this Ordinance, and, whether or not an ongoing violation of such other Code(s) or Ordinance(s) is cited as the underlying grounds for a finding of a violation of this Ordinance.

Severability

If any provision, paragraph, word or subsection of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections or subsections shall not be affected and shall remain in full force and effect.

All relevant Ordinances, regulations and policies of the Borough of Kulpmont not amended shall remain in full force and effect.

Any Ordinance or part of an Ordinance conflicting with the provisions of this Ordinance shall be and the same is hereby repealed to the extent of such conflict.

NOW THEREFORE, be it enacted and ordained that the Borough of Kulpmont hereby establishes a **APPEALS BOARD AND FEE** Process as set forth herein.

Passed and Approved by the Council of Borough of Kulpmont, County of Northumberland, Commonwealth of Pennsylvania, this _____ day of _____.

WALTER LUTZ, PRESIDENT

NICHOLAS BOZZA, MAYOR

RHONDA WILK, SECRETARY