

RESOLUTION NO. 441

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF TULLYTOWN, COUNTY OF BUCKS, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING A UNIFORM CONSTRUCTION CODE BOARD OF APPEALS AND ESTABLISHING PROCEDURES FOR HEARINGS PURSUANT TO THE PENNSYLVANIA UNIFORM CODE ACT AND REGULATIONS, AS AMENDED

BACKGROUND:

A. Tullytown Borough is a Pennsylvania political subdivision, organized and existing under the Pennsylvania Borough Code, 8 Pa.C.S.A §101 *et seq.*

B. Title 34, Section 403.121 of the *Pennsylvania Code*, 34 Pa Code §403.121, requires a municipality that has adopted an ordinance for the administration and enforcement of the Uniform Construction Code (the "UCC") to establish a Board of Appeals under section 501(c) of the UCC, 35 P. S. §7210.501(c).

C. On May 4, 2004, the Tullytown Borough Council ("Council") adopted Ordinance No. 287, providing for the administration and enforcement of the UCC within Tullytown Borough. Ordinance No. 287, as amended, is codified at Chapter 65 of the Code of Ordinances of Tullytown Borough (the "Code").

D. Section 65-26 of the Code states that the UCC Board of Appeals shall be established by Resolution of the Council, such resolution to comply with the relevant requirements of the UCC and the regulations promulgated thereunder. On August 2, 2005, the Council adopted Resolution No. 186, purporting to join a regional UCC Board of Appeals. No such regional board ever materialized.

E. Council now wishes to repeal Resolution No. 186; and to adopt a new Resolution establishing a UCC Board of Appeals for the Borough of Tullytown.

NOW THEREFORE, BE IT RESOLVED AND ENACTED by the Council of the Borough of Tullytown, County of Bucks, Commonwealth of Pennsylvania, as follows:

Section 01: Creation of Appeals Board. Pursuant to 35 P.S. §7210.101 *et seq.*, the Pennsylvania Construction Code Act and the regulations promulgated thereunder (collectively the "UCC"), there is hereby created and established in the Borough of Tullytown, County of Bucks, Commonwealth of Pennsylvania a board of appeals for the UCC to be known as the Tullytown Borough Uniform Construction Code Board of Appeals (hereinafter referred to as the "Board of Appeals"). The Board of Appeals shall consist of no fewer than three (3) and no more than five (5) members.

Section 02: Appointment of Members; Terms; Vacancies. The members of the Board of Appeals shall be appointed by the Tullytown Borough Council, each for a term of three (3) years,

- (1) The true intent of the UCC was correctly interpreted.
 - (2) The provisions of the UCC do not apply.
 - (3) An equivalent form of construction is to be used.
- J. The Board of Appeals may consider the following factors when ruling upon a request for extension of time or request for variance:
- (1) The reasonableness of the UCC'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 UCC 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 UCC.
- K. The Board of Appeals may (1) deny an application in whole or in part, (2) grant the request in whole or in part, or (3) grant the request upon certain conditions being satisfied. The Board of Appeals shall render a written decision to the parties within five (5) business days of the last hearing. If the Board of Appeals fails to act within the specified time periods set forth in this Resolution, the appeal shall be deemed granted. The Board of Appeals shall provide a written notice of its decision to the applicant, building code official, and Borough Council.

Section 07: Accessibility. The Board of Appeals may not act upon appeals, requests for variances or extensions of time relating to accessibility under the UCC. All such appeals and requests shall be filed with the Pennsylvania Department of Labor and Industry's Accessibility Advisory Board pursuant to section 106 of the UCC (35 P. S. §7210.106).

Section 08: Fees. The Borough Council, by resolution, may prescribe reasonable fees for appeals and petitions requesting variances or extensions of time to the Board of Appeals. The fee for an appeal or request for variance or extension of time shall not exceed the actual costs of the appearance fee for the court reporter, public notice, mailing and advertising costs, and administrative fees as necessary. A stenographic record shall be kept of hearings only. The party who requests the original transcript shall bear the cost thereof. The cost of additional copies shall be paid by the person or party requesting such copy or copies.

Section 09: Resolution No. 186 is hereby repealed in its entirety.

Section 10: All inconsistent provisions of all other Ordinances and Resolutions of the Borough of Tullytown, Bucks County, Pennsylvania are hereby repealed to the extent of the inconsistency. All other provisions of the Ordinances and Resolutions of the Borough of Tullytown, Bucks County, Pennsylvania shall remain in full force and effect.

Section 11: The provisions of this Resolution are declared to be severable. If any provision of this Resolution is declared to be invalid or unconstitutional by a court of competent jurisdiction, such determination shall have no effect on the remaining provisions of this Ordinance.

Section 12: This Resolution shall be effective upon adoption by the Tullytown Borough Council.

RESOLVED AND ENACTED by the Council of the Borough of Tullytown this 9th day of June, 2020.

TULLYTOWN BOROUGH COUNCIL

By: Nina Chrzanowski
Nina Chrzanowski, President

Attest: Nancy Conner
Nancy Conner, Secretary

APPROVED this 9th day of June, 2020

J. David Cutchineal
J. David Cutchineal, Mayor