



It is our policy to provide individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of our services, programs, and activities. This meeting is being held in the City Commission Room at City Hall, 1101 Poyntz Avenue. In accordance with provisions of the ADA, every attempt will be made to accommodate the needs of the disabled. Please contact the Human Resources Department (587-2440) for assistance.

AGENDA
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, March 10, 2010
7:00 PM

BOARD MEMBERS PLEASE NOTIFY THE PLANNING OFFICE IF YOU CANNOT ATTEND THIS MEETING.

1. Consider the **MINUTES** of the February 10, 2010, Board of Zoning Appeals meeting.
2. Consider a request for a **180 DAY EXTENSION** for **APPROVED EXCEPTIONS** to reduce the minimum rear yard setback for decks greater than 30 inches in height above the grade on which they are located for Lots 12A and 12B to Lot 20A and 20B, Kimball Townhomes Addition; a reduction of the minimum rear yard setback for a principal single-family attached residential structure (Lot 12A, Kimball Townhomes Addition); and to allow an increase of the maximum thirty-five (35) percent lot coverage to up to forty-five (45) percent for Lots 12B to 20B, Kimball Townhomes Addition for the purpose of constructing single-family attached residences with decks in the R-2, Two-Family Residential District. (*Applicant: Bayer Construction, Owner: Bayer Construction and AppleTech Construction, Inc.*).
3. **TABLE** the **PUBLIC HEARING** to consider an **EXCEPTION** to allow for a reduction of the minimum fourteen (14) foot front yard setback to three (3) feet along N. 9th Street to construct a proposed privacy fence for the property located at 901 Leavenworth Street in the R-M/TNO, Four-Family Residential District and the Traditional Neighborhood Overlay District (*Applicant/Owner: Melvin Watson*).
4. **REMOVE** from the **TABLE** and conduct a **PUBLIC HEARING** to consider an **EXCEPTION** to allow a reduction of the minimum fourteen (14) foot front yard setback requirement to two (2) feet along Leavenworth Street for the construction of a proposed five (5) foot tall fence; to allow a reduction of the minimum fourteen (14) foot front yard setback requirement along Leavenworth Street to five (5) feet for an existing six (6) foot tall fence; and to allow a reduction

of the minimum fourteen (14) foot front yard setback requirement along Leavenworth Street to nine (9) feet for the existing house. No addition or modifications are proposed for the existing house; that Exception is to allow for clear title of the property. The Exceptions are for a property at 223 N. 14th Street in the R-1/TNO, Single-Family Residential District and Traditional Neighborhood Overlay District. (*Applicant/Owner: Fred and Katherine Hasler*).

The item was tabled at the February 10, 2010 Board of Zoning Appeals meeting. The Board will need to remove the item from the table and conduct a public hearing.

5. A **PUBLIC HEARING** to consider a **VARIANCE** to allow reductions of minimum lot area associated with Lots 1, 2, and 3, and a reduction of minimum lot depth for Lot 3, all in the proposed Final Plat to be known as the Junghans Addition, which is located in the LM-SC, Light Manufacturing-Service Commercial District. More specifically, proposed Lot 1: to allow a reduction of the minimum 20,000 square foot lot area to 17,745 square feet; proposed Lot 2: to allow a reduction of the minimum 20,000 square foot lot area to 17,830 square feet; and, proposed Lot 3: to allow a reduction of the minimum 20,000 square foot lot area to 7,996 square feet and, to allow a reduction of the minimum 100 foot lot depth to 93 feet. (*Owner: Quik Shop – Greg Junghans and Greg and Patricia Junghans Applicant: SMH Consultants – Jeff Hancock*).

6. A **PUBLIC HEARING** to consider an **EXCEPTION** to allow a reduction of the minimum twenty-five (25) foot front yard setback associated with Lots 1, 2 and 3; to allow an increase in the maximum lot coverage associated with Lots 1 and 2 and to allow a reduction of the minimum ten (10) foot alley setback on Lot 3, all in the proposed Final Plat to be known as the Junghans Addition, which is located in the LM-SC, Light Manufacturing-Service Commercial District. More specifically, proposed Lot 1: to allow a reduction of the minimum twenty-five (25) foot front yard setback along S. 4th Street to twenty-two (22) feet for an existing building and an increase of the maximum lot coverage from fifty (50%) percent to fifty-five (55%) percent for an existing building; proposed Lot 2: to allow an increase in the maximum lot coverage of fifty (50%) percent to sixty-four (64%) percent for an proposed building; and, proposed Lot 3: to allow a reduction of the minimum twenty-five (25) foot front yard setback to three (3) feet along S. 3rd Street for an existing building and to allow a reduction of the minimum ten (10) foot alley setback to five (5) feet for an existing building on Lot 3 (*Owner: Quik Shop – Greg Junghans and Greg and Patricia Junghans Applicant: SMH Consultants – Jeff Hancock*).

7. ADJOURN

Standards for Exceptions. The Board of Zoning Appeals shall not grant an exception as authorized in Section 14-604 hereof unless it shall, in each case, make specific written findings of fact, based upon the particular evidence presented to it, that all of the following standards have been met:

- (A) The property complies with all applicable requirements of these regulations, other than the one for which an exception is being requested;
- (B) The proposed exception will not cause a substantial adverse affect on nearby properties;
- (C) The exception desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;
- (D) The strict application of these regulations is unreasonable, or unnecessary when all facts and circumstances are considered. In determining this standard, the Board shall weigh all facts and circumstances and place whatever emphasis and relevance it deems to be appropriate on each. Examples of such facts and circumstances to be considered are as follows:
 - (1) Whether or not conditions of the property requiring the exception were created by the applicant with prior knowledge and disregard of applicable regulations;
 - (2) Whether or not the applicant acquired the property with knowledge of the conditions which require the exception and whether or not the consideration for the acquisition took into account such conditions;
 - (3) Whether or not there are reasonable alternatives which would allow the property to meet the strict application of these regulations; and
 - (4) Whether or not a granting of the exception will result in a relative gain to the health, safety and general welfare of the Community; and,
- (E) Any other standards for exceptions that are specifically identified in these regulations.

Standards for Variances. The Board of Zoning Appeals shall not grant a variance as authorized in Section 14-501 hereof unless it shall, in each case, make specific written findings of fact, based upon the particular evidence presented to it, that all of the following standards have been met:

- (A) The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant;
- (B) The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- (C) The strict application of the provisions of these regulations from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
- (D) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
- (E) Granting the variance desired will not be opposed to the general spirit and intent of these regulations.

Standards For Conditional Use Permits. The Board of Zoning Appeals shall not grant a conditional use permit unless it shall, in each specific case, make specific written findings of fact directly, based upon the particular evidence presented to it, that all of the following standards have been met:

- (A) The proposed conditional use complies with all applicable regulations of these regulations, including lot size requirements, bulk regulations, use limitations, and performance standards.
- (B) The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
- (C) The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 - (1) The location, nature and height of buildings, structures, walls and fences on the site; and
 - (2) The nature and extent of landscaping and screening on the site.
- (D) Off-street parking and loading areas will be provided in accordance with the standards set forth in Article VII of these regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.
- (E) Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- (F) Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.