



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, September 14, 2011
7:00 PM

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

1. Consider the **MINUTES** of the August 10, 2011, Board of Zoning Appeals meeting.
2. Consider a request for a **180 DAY EXTENSION** for an **APPROVED VARIANCE** to allow a driveway to be greater than twenty-four (24) feet in width and 960 square feet in area; and to reduce the minimum 75% landscaped open area required in the front yard, all for a proposed paved driveway for a new single-family dwelling located at 2630 Heartland Drive in the R, Single-Family Residential District (*Applicant/Owner: Mary and Carl Ice*).
3. Consider a request for a **180 DAY EXTENSION** for **APPROVED EXCEPTION** to allow an increase of the maximum height of fifty (50) feet to ninety (90) feet for a proposed expansion to an existing concrete ready-mix plant at 704 S. 4th Street in the LM-SC, Light Manufacturing-Service Commercial District. (*Applicant/Owner: Midwest Concrete Materials*)
4. **CONTINUE** the **PUBLIC HEARING** to consider an **EXCEPTION** to allow for the increase of the maximum lot coverage from thirty (30%) percent to thirty-four (34%) percent for a proposed second story addition and the reduction of the fourteen (14) foot front yard setback along S. 16th Street to four (4) feet for an existing and proposed deck at 1600 Pierre Street in the R-1/TNO, Single-Family Residential District and Traditional Neighborhood Overlay District. (*Applicant/Owner: Robert and Susan Kelly*).

5. A **PUBLIC HEARING** to consider an **EXCEPTION** to allow for the reduction of the minimum required front yard setback along Alta Drive from twenty-five (25) feet to twenty-two (22) feet for a building addition to the existing single-family home at 2235 Alta Drive in the R-1, Single-Family Residential District. (*Applicant/Owner: Bradley and Susan Schoen*).

6. A **PUBLIC HEARING** to consider an application for a **VARIANCE** to allow a second identification sign in the R-1, Single-Family Residential District. The proposed sign is to be an externally illuminated, ground sign with bulletin board along Browning Avenue at the Susan B. Anthony Middle School at 2501 Browning Avenue (*Applicant/Owner: David Payne, Assistant Principal, Susan B Anthony Middle School*).

7. A **PUBLIC HEARING** to consider an **EXCEPTION** to allow for a reduction in the minimum required front yard setback from twenty-five (25) feet to seventeen (17) feet for a proposed building addition to an existing single-family home at 921 DeHoff Street in the R, Single-Family Residential District. (*Applicant/Owner: Scott & Diana McElwain*)

8. A **PUBLIC HEARING** to consider an **EXCEPTION** to allow for the increase of the maximum lot coverage from thirty (30%) percent to thirty-five (35%) percent for a proposed detached garage and the reduction of the minimum eight (8) foot side yard setback along the east property line to zero (0) feet for a existing deck at 1207 Houston Street in the R-1/TNO, Single-Family Residential District and Traditional Neighborhood Overlay District. (*Applicant/Owner: Jeremy Beneke*)

9. **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.