



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, November 9, 2011
7:00 PM

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

1. Consider the **MINUTES** of the October 12, 2011, Board of Zoning Appeals meeting.
2. Consider a Request for a **180 DAY EXTENSION** for an approved **EXCEPTION** to allow for an increase of the maximum thirty (30) percent lot coverage to thirty-five (35) percent for a proposed single-story office building at 1509 and 1515 Poyntz Avenue in the C-1, Restricted Business District. (*Applicant/Owner: Calvin Emig*).
3. Consider a Request for a **180 DAY EXTENSION FOR EXCEPTION** to allow for the reduction of the minimum required off-street parking for a proposed church with two-hundred (200) fixed seats from fifty (50) spaces to twenty-three (23) spaces at 821 Poyntz Avenue in the C-1, Restricted Business District (*Applicant: Manhattan Mennonite Church – Richard Gehring*).
4. **CONTINUE** the **PUBLIC HEARING** to consider a **CONDITIONAL USE** to allow for a lodging/boarding house consisting of eight (8) bedrooms, four (4) bathrooms and one (1) kitchen at 1810 Todd Road in the R-2, Two-Family Residential District. (*Applicant/Owner: Gary Glatz and Lela Beck-Glatz*).
5. A **PUBLIC HEARING** to consider an application for a **VARIANCE** to allow a reduction in the minimum required lot area for a Conditional Use in the R-2, Two-Family Residential District, from 10,000 square feet to 7,430 square feet for a proposed lodging/boarding house at 1810 Todd Road in the existing building. (*Applicant/Owner: Gary Glatz and Lela Beck-Glatz*).

6. A **PUBLIC HEARING** to consider an application for an **EXCEPTION** to allow for a reduction in the minimum required front yard setback along Seaton Avenue from twenty-five (25) feet to seven (7) feet for the construction of a proposed fence for an existing single-family home at 3029 James Street in the R-1, Single-Family Residential District. (*Applicant/Owner: Chris and Mildred McNabb*).

7. A **PUBLIC HEARING** to consider an application for a **CONDITIONAL USE** to allow for the modification of a legally non-conforming condition where two (2) principle residential structures are present on a single zoning lot in the R-1/TNO, Single-Family Residential District and Traditional Neighborhood Overlay District. The modification consists of an approximately three (3) foot by fifteen (15) foot addition to the front façade of the structure at 612 Kearney Street, and for an **EXCEPTION** to allow a reduction of the minimum fourteen (14) foot front yard setback to one (1) foot for the proposed addition (*Applicant/Owner: Nick and Bonnie Zack*).

8. A **PUBLIC HEARING** to consider an application for an **EXCEPTION** to allow for the reduction of the minimum required front yard setback along Delaware Avenue from twenty-five (25) feet to twelve (12) feet for a proposed building addition to the front door of the house; and from twenty-five (25) feet to fifteen (15) feet for a proposed building addition to the south of the house and the existing house at 204 S. Delaware Avenue in the R-1, Single-Family Residential District. The Exception for the existing house is to give the property owner clear title of the property. (*Applicant/Owner: Michael & Sarah Wesch*).

9. A **PUBLIC HEARING** to consider an application for an **EXCEPTION** to allow for a reduction in the minimum required front yard setback along Butterfield Road from twenty-five (25) feet to zero (0) feet for the construction of a proposed fence at 2501 Galloway Drive in the Butterfield, Unit 2 PUD, Residential Planned Unit Development. (*Applicant/Owner: Jessi R. Lane*).

10. **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.