

MINUTES

MANHATTAN BOARD OF ZONING APPEALS

City Commission Room, City Hall
1101 Poyntz Avenue

Wednesday, November 8, 2023

MEMBERS PRESENT

Ansley Chua
George Matthews

MEMBERS ABSENT

Andrew Dame
Harry Hardy, chair
Connie Hamilton, vice-chair

STAFF PRESENT

Michael Bidwell, Planner I

1. CALL TO ORDER

- 1.1 The chair called the meeting to order at 6:01 p.m. Staff called roll and stated there was not a quorum.
- 1.2 In the absence of a quorum, approval of the Minutes of the September 13, 2023, Manhattan Board of Zoning Appeals meeting will be postponed until December 13th, 2023.

2. GENERAL AGENDA

- 2.1 A **PUBLIC HEARING** to consider an **EXCEPTION at 3608 Brenda Court** to reduce the rear yard setback from 25 feet to 13.3 feet or existing decks that are more than 30" above the ground and to reduce the rear yard setback from 25 feet to 20 feet to cover the two upper-level decks. (*applicant: Dane Savener, Tallgrass Construction; file no. EXC-23-120*)

In the absence of a quorum, the hearing for the Exception will be postponed until December 13th, 2023.

3. ADJOURNMENT

- 3.1 Next meeting: Chair announced the next meeting is Wednesday, December 13th, 2023

Meeting was adjourned at 6:01 p.m.

26-9E-3D. review Criteria for Exceptions. The Board of Zoning Appeals may not grant an exception as authorized in Subsection 26-9E-3D hereof unless it makes specific, written findings of fact, based upon the particular evidence presented, that all of the following standards have been met:

1. The property complies with all applicable requirements of these regulations, other than the exception being requested.
2. The proposed exception will not cause a substantial adverse effect on nearby properties.
3. The exception will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
4. The strict application of these regulations is unreasonable or unnecessary when all facts and circumstances are considered. In determining this standard, the Board must 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 include whether or not:
 - A. Conditions of the property requiring the exception were created by the applicant with prior knowledge and disregard of applicable regulations.
 - B. The applicant acquired the property with knowledge of the conditions that prompt the exception, and whether or not the consideration for the acquisition took into account such conditions.
 - C. There are reasonable alternatives that would allow the property to meet the strict application for these regulations.
 - D. Granting of the exception will result in a relative gain to the health, safety and general welfare of the Community.
 - E. The exception will aid in preserving and/or increasing the viability of a designated historic structure, site, or district and/or its historic use.
5. Any other standards for exceptions that are specifically identified in these regulations.

26-9E-3D. Review Criteria for Variances. The Board of Zoning appeals may not grant a variance as authorized n Subsection 26-9E-3D hereof unless it finds, in each case, based upon the particular evidence presented to it, that all of the following standards have been satisfied:

1. The variance arises from one or more conditions unique to the property that are not ordinarily found in the same zoning district and is not created by an action or actions of the property owner or the applicant.
2. The strict application of the chapter will constitute unnecessary hardship upon the property owner.
3. Granting the variance will not adversely affect the rights of adjacent property owners or residents.
4. The variance desired will not adversely affect the public health, safety, or general welfare.
5. Granting the variance will not violate the general spirit and intent of these regulations.