

EXCEPTION

APPLICATION

A Board of Zoning Appeals Process

Pre-Application Requirements

Pre-Application meeting date: Click or tap to enter a date.

Application

Applicant/Agent Information

If different from property owner

Full Name(s):

Print Name(s)

Company:

Address:

Street Address City State Zip Code

Phone No:

Email: _____

Property Owner Information

Full Name(s):

Print Name(s)

Address:

Street Address City State Zip Code

Phone No:

Email: _____

Property Information

Must also apply to rezone annexed parcel to City zoning district

Project name: _____

General location or address: _____

Lot no.:

Subdivision: _____

Acres: _____

Legal description (may be attached): _____

Current zoning: _____

Current land use: _____

Proposed land use: _____

As listed in Tables 26-2C-2.2. and 26-2D-4

Responded to Review Criteria?
 (Sec. 26-9E-1-E) Yes No

Submitted Site Plan? Yes No

Additional submittals? Yes No If yes, what:

Exception

The Board of Zoning Appeals (BZA) may grant exceptions from the provisions of this Chapter on the basis and in the manner provided in this Section, and only in those instances where the BZA is specifically authorized to grant such exceptions. In no event may an exception be granted unless it is specifically listed in this Section.

- A. Applicability.** The BZA is authorized to grant exceptions from the following requirements:
1. Any bulk regulation set out in Sec. 26-2C-4, Residential Types and Standards.
 2. Any requirement for surfacing of off-street parking set out in Sec. 26-7B-7, Parking Area Design—General Requirements, provided the BZA also approves a schedule for conformance with the surfacing requirement within a reasonable time period.
 3. Any requirement related to the number of off-street parking spaces set out in Sec. 26-7B-3, Off-Street Parking.
 4. Any regulation related to the height or setback of signs set out within the Sec. 26-7D-9, On-Premise District Regulations, or Sec. 26-7D-26, Off-Premise Advertising Signs.
 5. The height restrictions prescribed by the Airport Overlay (O-A) District set out in Sec. 26-3B-1, Airport Overlay (O-A) District, provided the Federal Aviation Administration has provided a determination of no adverse impact on the operation of air navigation facilities and the safe, efficient use of navigable airspace.
 6. Any of the site design or building design standards in Article 26-4, Design Standards. See also Subsec. 26-9E-3E, Additional Review Criteria, below.
 7. Any of the provisions pertaining to lot size requirements, bulk regulations, collocation, and use limitations found in Division 26-2E-11, Wireless Telecommunication Towers & Facilities.
 8. In Sec. 26-7B-9, Parking Design for Single-Family and Two-Family Residential Uses, any of the front yard restrictions pertaining to driveways, parking, and landscaping.
 9. The structured parking requirements in Paragraph 26-4B-5G-4, Structured Parking.

B. Procedure. The land use actions in this Section are subject to the Type-II review process in accordance with Article 26-8, Procedures and Administration.

C. Authority. The BZA is authorized to approve, approve with conditions, or deny an exception application.

D. Review Criteria. The BZA may not grant an exception 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 this Chapter, 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 this Chapter is unreasonable or unnecessary when all facts and circumstances are considered. In determining this standard, the BZA 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 of this Chapter.

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. Consideration of any other standards for exceptions that are specifically identified in this Chapter.

E. Additional Review Criteria. For exceptions sought under Paragraph 26-9E-3A-6, above, the applicant must provide an explanation for why the design standards cannot be met that is satisfactory to the BZA, and must propose an alternative design that meets the purpose of the design standards. Financial hardship is not an acceptable reason for seeking or granting an exception.

F. Scope of Approval

1. Conditions and Restrictions. In granting an exception, the BZA may impose conditions, safeguards, and restrictions upon the premises benefitted by the exception, in order to carry out the purposes of this Chapter. Failure to comply with such conditions, safeguards, and restrictions will constitute a violation of this Chapter.

2. Decisions and Records. A final decision of the BZA occurs upon the majority vote on the exception application at a public hearing. The BZA will render a written decision on an application without unreasonable delay after the close of the hearing. The Zoning Administrator will maintain complete records of all exception application actions.

3. Approval or conditional approval authorizes the applicant to proceed on the basis of the BZA decision.

G. Period of Validity. An exception granted by the BZA is valid for a period of 180 days from the date the BZA granted the exception. The approval lapses unless within the 180-day period:

- A building permit is obtained and the construction, moving, or remodeling of a structure is started; or
- A use is commenced or continued pursuant to the exception.

H. Extension. Upon request, the BZA may grant additional extensions, not exceeding 180 days each. The request will be considered during a regular BZA meeting as an agenda item but not as a hearing item. No additional notice will be required.

Exception Information

Select which requirement you are seeking an Exception from and answer the corresponding questions.

- Bulk regulation set out in Paragraph 26-2C-2, Residential Uses and Standards.
 - 1. Bulk standard requirement: _____
 - 2. Requested deviation: _____

- Off-street parking surfacing requirement set out in Sec. 26-7A-7, Parking Area Design – General Requirements.
 - 1. Surfacing requirement: _____
 - 2. Requested deviation: _____

- Number of off-street parking spaces requirement set out in Sec. 26-7A-3, Off-Street Parking
 - 1. Number spaces required: _____
 - 2. Requested deviation: _____

- Sign height or setback requirement set out in Sec. 26-7C-9, On-Premises District Regulations, or Sec. 26-7C-24, Off-Premises Signs.
 - 1. Specific requirement: _____
 - 2. Requested deviation: _____

- Height restriction of the O-A, Airport Overlay District set out in Sec. 26-3B-1, Airport Overlay (O-A) District.
 - 1. Specific requirement: _____
 - 2. Requested deviation: _____

- Building design standards of Sec. 26-4B-1, Established Neighborhood Design; Sec.26-4B-3, Redevelopment Design; or Sec. 26-4B-7, Multiple-Family Design.
 - 1. Specific standard: _____
 - 2. Requested deviation: _____

- Any provision pertaining to lot size requirements, bulk regulations, co-location, and use limitations of wireless telecommunication facilities set out in Sec. 26-2E, Limited and Conditional Use Standards.
 - 1. Specific requirement: _____
 - 2. Requested deviation: _____

- Any front yard restrictions pertaining to driveways, parking, and landscaping set out in Sec. 26-7A-9, Parking Area Design – Small.
 - 1. Specific requirement: _____
 - 2. Requested deviation: _____

Signature and Attestation

By signing this application, the owner/applicant attests that all information and facts provided on this form and attachments are complete and accurate, and that any omission or incorrect fact or information may invalidate any notice or subsequent action taken by the Manhattan Urban Area Planning Board or City Commission. All applicants and owners must sign the application.

Applicant

Name: _____ Date: _____
Print Name

Signature

Owner

Name: _____ Date: _____
Print Name

Signature

Owner

Name: _____ Date: _____
Print Name

Signature

Office Use Only

App. No.: _____ Date Received: **Click or tap to enter a date.** _____

App. Fee: \$ _____

Notice Mailed/Published **Click or tap to enter a date.** Public Hearing **Click or tap to enter a date.**
Date: _____ Date: _____

Completeness Determination **Click or tap to enter a date.**
Date: _____