

EXCEPTION

INSTRUCTIONS

A Board of Zoning Appeals Process

Information

The following information outlines the process for filing an exception application.

Your Responsibility

Your decision to initiate application for an Exception needs to be based on a determination that your request can satisfactorily address each of the standards. To demonstrate satisfactory compliance, you are requested to provide a written response to each of the standards. The written response will be included as part of your application for an Exception.

Procedure Type

An exception is a Type-II review process [[Section 26-8B-2](#)].

Instructions

Complete the following steps.

Step 1: Schedule a Pre-Application Conference

A pre-application conference is intended to familiarize the applicant with the development review and approval process, provide for an exchange of information, advise the applicant as to the key planning, zoning, engineering, and other considerations, and to determine the information required to accompany an application.

A pre-application conference is required to be held at least **15 days** before an application is submitted.

In accordance with Paragraph 26-8B-3C-3, the applicant must submit information concerning the conditional use permit request as required by the Zoning Administrator at least **5 working days** prior to the conference.

A meeting report will be prepared by staff and provided to the applicant summarizing meeting outcomes and expectations. The pre-application conference and meeting report will determine whether special studies or reports may be required along with any other specific items.

A pre-application conference is valid for a period of **6 months**. If an application is not filed in this time, a new pre-application conference will be required. [[Section 26-8B-3C-5](#)]

Step 2: Review the Exception criteria

Authority

Pursuant to Sec. 26-9E-2-D of the Manhattan Development Code, the Board of Zoning Appeals will not grant an Exception unless it makes specific written findings of fact, based upon the particular evidence presented to it, that all of the following standards have been met.

Review Criteria

1. The property complies with all applicable requirements of these regulations, other than the one for which an Exception is 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 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 are as follows:
 - 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.
5. Consideration of any other standards for Exceptions that are specifically identified in this Chapter.
6. Additional Review Criteria: Exceptions sought under Paragraph 26-9E-2A-6 requires the applicant to provide an explanation for why the design standards cannot be met.

Step 3: Prepare materials to accompany your application

Submission of information less than necessary to adequately review and process your application may result in a delay of the review process. Community Development staff will determine the completeness, accuracy, and sufficiency of the application within **15 business days** of receipt of the application. [[Sec. 26-8C-3](#)]

Exception Application Attachments

1. A payment of \$120 made payable to the City of Manhattan.
2. A site plan in pdf format. A checklist of what should be provided on the site plan can be found [here](#) to help with its creation.

Step 4: Submit your application

Upon completion of the previous steps, fill-out and submit the application to the Community Development Department.