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, December 8, 2010
7:00 PM

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

1. Consider the **MINUTES** of the November 10, 2010, Board of Zoning Appeals meeting**.**

2. **TABLE** the **PUBLIC HEARING** to consider an **EXCEPTION** to allow a reduction of the minimum twenty-five (25) foot rear yard setback for an existing building to six (6) feet at 112 Harvard Place in the R, Single-Family Residential District. No additions or expansions are proposed for the structure. The Exception is to address an existing condition so that the property can be Replatted. (*Applicant/Owner: Fredrick and Patricia Freeman)*

3. A **PUBLIC HEARING** to consider an **EXCEPTION** to allow for the reduction of the minimum required roof eave overhang of the Traditional Neighborhood Overlay District Building Design Standards from one (1) foot to zero (0) feet for a single-family home under construction at 122 S. Manhattan Street in the R-1/TNO District, Single-Family Residential District and Traditional Neighborhood Overlay District (*Applicant/Owners: Christopher Spaw*)

4. A **PUBLIC HEARING** to consider a **CONDITIONAL USE** to allow a Bed and Breakfast Home at 529 Pierre Street within a R-M/TNO, Four-Family Residential District and Traditional Neighborhood Overlay District. (*Applicant/Owner: Rebecca Herl)*

5. A **PUBLIC HEARING** to consider an **EXCEPTION** to allow a reduction of the minimum front yard setback along S. 6th Street from fourteen (14) feet to zero (0) feet for existing off-street parking spaces associated with a proposed Bed and Breakfast Home at 529 Pierre Street in the R-M/TNO, Four-Family Residential District and Traditional Neighborhood Overlay District. No addition or expansion of the parking area long the alley is proposed and will bring the property into compliance with the Manhattan Zoning. (*Applicant/Owner: Rebecca Herl)*

6. A **PUBLIC HEARING** to consider an EXCEPTION under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow a reduction of the minimum twenty-five (25) foot rear yard setback to eight (8) feet for a proposed office building at 401 Westwood Drive in the C-1, Restricted Business District. (*Applicant/Owner: Steve and Chris Springer)*

7. **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.