



Board of Standards and Appeals

40 Rector Street, 9th Floor • New York, NY 10006-1705 • Tel. (212) 788-8500 • Fax (212) 788-8769
Website @ www.nyc.gov/bsa

MEENAKSHI SRINIVASAN
Chair/Commissioner

November 27, 2006

Alan D. Sugarman, Esq.
17 W. 70th Street
New York, NY 10023

VIA FACSIMILE AND FIRST CLASS MAIL

Re: FOIL request

Dear Mr. Sugarman:

Jeff Mulligan has asked me to respond to your November 20, 2006 letter regarding your previous FOIL request.

You request in your letter that the Board provide any notes of the meeting held on November 8, 2006. As explained in Mr. Mulligan's November 14, 2006 letter to you, hand-written notes were not disclosed because they are subject to attorney/client privilege or attorney work product privilege, or because they are exempt under FOIL § 87(2). Accordingly, your request for notes is denied. Please be advised that no other materials responsive to your request exist.

As to the Board's pre-application meetings in general, please review the enclosed description of this process. You may avail yourself of the procedure as well. Please contact Mr. Mulligan if you want to schedule a meeting.

You should understand that the Board takes the public hearing process very seriously. Any individual with standing may testify and make submissions. Further, all materials submitted into the record are made available for timely review. If you would like to know more about the Board's hearing process, you may review our Rules of Practice and Procedure, available on our web-site.

If you have any questions, please contact me at 212-788-0296.

Sincerely,


John Reisinger
Counsel/FOIL Appeals Officer

Encl.

c: Jeff Mulligan, Executive Director



**CITY OF NEW YORK
BOARD OF STANDARDS AND APPEALS**
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PROCEDURE FOR PRE-APPLICATION MEETINGS AND DRAFT APPLICATIONS

Pre-application Meetings are designed to facilitate discussion between potential applicants and the BSA of development proposals that may require discretionary relief.

Such meetings are conducted on an informal basis, and have no bearing on the ultimate outcome of the case if subsequently filed. Although the BSA greatly favors the use of the Pre-application Meeting process, an application may be formally filed even though a meeting was not held.

Draft Applications, which are an adjunct to the Pre-application Meeting process, are submitted for staff-level review prior to formal filing. This review is designed to reduce the number of comments on the Notice of Objections, and to ensure that filed applications, which are later sent to community boards, elected officials, and neighbors, have fewer deficiencies.

This procedure statement: (1) sets forth the objectives of the Pre-application Meeting process; (2) establishes when a meeting is appropriate; (3) recommends who should attend, as well as what materials should be submitted in advance; (4) briefly explains what occurs at the meetings; (5) describes the Draft Application requirements; and (6) lists contact information for scheduling and advice.

Objectives

The BSA historically has offered some form of pre-application meeting process to potential applicants. However, many major cases have been filed without any pre-application review. Some of these cases have been poorly presented, and were deficient in both substance and form. This causes unnecessarily protracted technical review and undue delay in calendaring.

When such cases come to public hearing, the Board often is compelled to remedy problems that could have been easily avoided prior to filing. Additionally, the Board must guide the applicant through the process of meeting the findings required for the grant, which usually necessitates numerous continued hearings.

Through the Pre-application Meeting process, the BSA seeks to:

- Facilitate a more efficient and expeditious technical and public review process;
- Provide technical and procedural advice to both inexperienced and experienced applicants on the formulation and execution of potential applications;
- Provide substantive feedback on the merits of the proposal;
- Ensure better quality of submissions, and reduce or eliminate the review of unnecessary or poor quality submissions;

- Establish case-to-case consistency in materials submitted for review;
- Identify early in the process the need for additional analyses, technical data, modifications, substantive discussion, and corrections; and
- Suggest alternative routes to achieve the desired outcome.

When a Pre-application Meeting is Appropriate

The Board *strongly encourages* potential applicants to seek Pre-application Meetings for any of the following types of proposals:

- All use changes, including legalizations;
- Significant bulk waivers;
- Variance proposals based upon novel uniqueness/hardship claims;
- Proposals in sensitive areas (areas under study or within proposed rezoning boundaries);
- Potentially controversial proposals (projects that generate major environmental impacts or projects with anticipated community opposition);
- Projects that have funding deadlines, such as schools or low-income housing developments;
- Projects that require coordinated review with the Department of City Planning or other City agencies;
- All new City projects;
- Major special permit applications; and
- Major amendments to existing grants.

Applications for the above types of proposals that are filed in the absence of a Pre-application Meeting will likely require more staff-level examination and more Board deliberation during public hearing. Consequently, they are less likely to be expeditiously calendared and decided than applications preceded by a meeting. Applicants should advise their clients accordingly.

If desired by the potential applicant, Pre-application Meetings may be conducted at the staff level for minor, routine applications on the Special Order Calendar, many special permit applications on the BZ Calendar, and for questions on technical or procedural issues. Pre-application meetings on appeals cases, except for General City Law or Multiple Dwelling Law matters, are generally not permitted. Applicants who are uncertain as to whether a Pre-application Meeting is appropriate may contact the Board's Executive Director or General Counsel to discuss the proposal.

Attendees

The potential applicant should bring those members of the development team necessary to provide an understanding of the proposal and to answer any foreseeable questions or concerns that may arise. Typically, this means the architect, the client or owner, and, depending on the type of application, the financial and/or environmental consultants.

However, an applicant may reasonably determine that the presence of the architect, client or consultant is not necessary for certain proposals that are in the formative stages. Again, applicants may contact the Executive Director or General Counsel for guidance in particular situations.

Advance Submissions

Potential applicants should generally submit the following materials at least one week in advance of the scheduled meeting:

- A letter outlining the development proposal, the requested relief, and the rationale for any required findings;
- Zoning calculations that show the proposed waivers;
- Drawings that illustrate the proposed waivers; and
- Zoning and Sanborn maps highlighting the location of the subject parcel.

On an optional basis, certain other items, such as detailed land use maps, photographs, preliminary feasibility studies, engineering and/or environmental reports, or relevant Board or court cases, may also be submitted. Alternatively, applicants may present such materials, especially if voluminous, at the meeting. Occasionally, such materials will be requested by the BSA if the need for them is apparent after review of the initial submission.

Applicants should direct three copies of all submissions to the attention of the Chair or Executive Director.

Meeting Process

Potential applicants are expected to provide a description of the proposal, the premises and its location, and the requested waivers. Clients often provide an initial statement as well. Architects or financial consultants may then elaborate on the proposal or explain submitted materials.

Applicants should anticipate questions as to the merits of the proposal, and suggestions on both substantive and procedural issues. If, at the conclusion of the meeting, significant outstanding issues remain, applicants may be advised to schedule a second meeting, or to submit a Draft Application.

Draft Applications

Applicants who use the Pre-application Meeting process and then submit Draft Applications can reasonably anticipate that their formally filed cases may take less time to be reviewed and calendared than cases filed without any prior examination.

Complete Draft Applications should include the following materials: an application form, a proposed list of objections, a Statement of Facts and Findings, a zoning analysis, a full set of drawings, photographs, and a financial feasibility study and Environmental Assessment Statement (if either is required).

Draft Applications should be directed to the attention of the Deputy Director. Upon review of the application, the Deputy may recommend substantive changes or technical corrections, request additional information, and/or offer advice on filing procedures.

Contact Information

Please contact Anita Lew at (212) 788-8773 to schedule a meeting. Materials may be submitted to the attention of the Chair or the Executive Director.

For questions, please contact:

- Pat Pacifico, Executive Director, (212) 788-8805;
- Roy Starrin, Deputy Director, (212) 788-8797; or
- John Reisinger, General Counsel, (212) 788-0296.