



Zoning Board of Adjustment Meeting Agenda

Wednesday, April 3, 2024 - 4:30 PM

Newton City Hall - Council Chambers
101 W 4th St S
Newton, IA 50208

View this Meeting: Mediacom Channel 12/85/121.12 or www.newtongov.org/cablecast

- I. Call to Order and Roll Call
- II. Review of Minutes of Previous Meeting:
 - 1. December 6, 2023
- III. Public Hearing
 - 1. CU24-1: In-home daycare at 608 E. 26th St. S. (located in an R-2 zoning district).
Araina Blanchette, applicant.
- IV. Old Business
- V. New Business
 - 1. Election of Officers
 - 2. Rules of Procedure and By-Laws
- VI. Adjourn

ADA Compliance: *The City of Newton is pleased to provide reasonable accommodations, in compliance with the Americans with Disabilities Act, for those individuals or groups who require assistance in being able to participate in the meeting. Please contact the Community Development Department at least 24 hours in advance of the meeting by calling 641-792-6622 to arrange for accommodations to be provided.*

Chair: Bev Rossow; **Vice Chair:** Noreen Otto; **Members:** John Billingsley, Lynette Birkenholz, Craig Trotter

Minutes of Meeting Zoning Board of Adjustment Regular Meeting

December 6, 2023

ROLL CALL: Board members present: Billingsley, Birkenholz, Rossow, Otto,
Board members absent: Hanson

STAFF PRESENT: Brian Dunkelberger, City Planner

A quorum being present, Vice Chair Otto called the meeting to order at 4:30 PM

Minutes

The Board reviewed the minutes of the previous meeting from August 9, 2023. **Motion** by Billingsley, **seconded** by Birkenholz to approve the minutes as written. **Voice vote:** approved, 4-0.

Public Hearing

- A. CU23-6: Conditional Use Permit to authorize an accessory structure with a footprint exceeding 1,000 sq. ft. at 1200 East 19th Street South. Joe Hartgers, applicant.

Dunkelberger reviewed the prepared staff report and shared maps and images of the subject property along with the plot plan provided by the applicant. Dunkelberger shared that no comments or questions were submitted by neighbors or residents in advance of the meeting.

Joe Hartgers, applicant, introduced himself and described how the garage would be used for vehicle parking and personal storage. He described how the existing detached garage would be removed from the property and the new garage would be built in its place. Hartgers also shared that the appearance of the new garage would match the house and that construction won't begin until likely next spring.

Hearing no additional questions or comments, Chair Rossow called for a motion to close the public hearing.

Motion by Birkenholz, **seconded** by Otto. **Voice vote:** Approved 4-0.

Board members discussed out how Hartger's property was a large lot, so there was ample space for the large detached structure. Rossow determined that the request fit the 4 criteria for granting conditional use permits and felt comfortable approving the application. Birkenholz pointed out how the request is essentially an increase of the accessory structure's footprint from the existing 24' x 24' to 40' x 48' on the property. Billingsley expressed a concern about the total size, but members reviewed the size of the lot and how no objections were presented by the neighborhood.

Motion by Otto to approve CU23-6: a conditional use permit application authorizing a 40' x 48' accessory building at 1200 E. 19th St. S., **seconded** by Billingsley. **Roll call vote:** Approved 4-0.

- B. CU23-7: Conditional Use Permit to authorize an accessory structure with a footprint exceeding 1,000 sq. ft. at 800 N. 15th Ave. W. Paulette Elscott, applicant.

Dunkelberger reviewed the prepared staff report and shared maps and images of the subject property along with the plot plan provided by the applicant. Dunkelberger shared 4 statements of support from surrounding neighbors that were submitted in advance of the meeting.

Birkenholz asked a clarification question about agricultural zoning compared to R-2 residential zoning. Dunkelberger answered. Lee Dittmer, fiancé of the applicant, introduced himself and described how the pole barn would be used for storage of equipment, horse trailers, and vehicles. He shared how the space is very needed and that it would provide a secure space protected from the elements.

Hearing no additional questions or comments, Chair Rossow called for a motion to close the public hearing.

Motion by Birkenholz, **seconded** by Billingsley. **Voice vote:** Approved 4-0.

Otto described how she always appreciates a person choosing to invest in their property and emphasized the impact of the 4 statements of support from surrounding neighbors. Billingsley agreed.

Motion by Birkenholz to approve CU23-7: a conditional use permit application authorizing a 48' x 60' accessory building at 800 N. 15th Ave. W., **seconded** by Otto. **Roll call vote:** Approved 4-0.

- C. V23-4: Variance to authorize the average height of the accessory structure at 800 N. 15th Ave. W. to be 18.75 feet which exceeds the maximum allowable height of 15 feet. Paulette Elscott, applicant.

Dunkelberger reviewed the prepared staff report and shared maps and images of the subject property along with the building plans provided by the applicant. Dunkelberger reminded the Board about the 4 statements of support that were shared during the report for CU23-7.

Billingsley inquired about the reason for such a tall building. The applicant answered and shared that they own horse trailers that would be parked in the building and needed the taller height for tall enough doors. Otto reiterated the generally supportive feedback from neighbors and identified that no objections were raised. Billingsley pointed out how the building would also be setback a good distance from the road and block the view of a natural gas station to the north. Otto shared her appreciation for a thoughtful design and location, and thanked the applicants for following the appropriate procedures.

Hearing no additional questions or comments, Chair Rossow called for a motion to close the public hearing.

Motion by Otto, **seconded** by Billingsley. **Voice vote:** Approved 4-0.

Motion by Otto to approve V23-4: a variance authorizing the average height of the accessory structure at 800 N. 15th Ave. W. to be 18.75 feet which exceeds the maximum allowable height of 15 feet established by the Zoning Code, **seconded** by Birkenholz. **Roll call vote:** Approved 4-0.

Old Business

None.

New Business

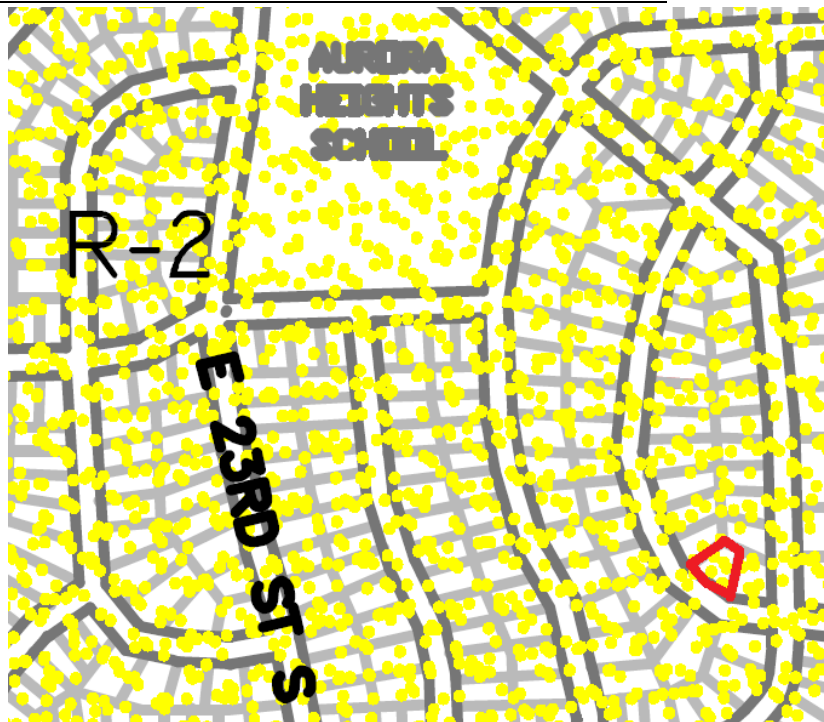
Dunkelberger shared that Gregg Hanson informed him that he had chosen to step down from his seat on the Board. A search for a new member would begin immediately, and Dunkelberger requested suggestions from members if they knew of anyone who might be interested in serving.

Motion by Birkenholz to adjourn the meeting, **seconded** by Otto. **Voice Vote:** approved, 4-0. The meeting was adjourned at 4:59 PM.

Zoning Board of Adjustment – CU24-1 Staff Report

Applicant: Araina Blanchette
Proposal: To provide an in-home daycare
Location: 608 E. 26th St. S. (Parcel #0835429026)
Current Use: Single-family residence
Current Zoning: R-2: One- and Two-Family Residential

- 608 E. 26th St. S. is located within an R-2: One- and Two-Family Residential zoning district, and an aerial and zoning map are included for reference. In-home child care facilities are allowable as a conditional use within the R-2 zoning district.
- The location of the proposed child care facility is within a residential neighborhood, and it is within ~¼ of a mile to Aurora Heights Elementary and ~½ mile to Aurora Park.
- Ms. Blanchette recently purchased the dwelling at 608 E. 26th St. S. and would like to operate an in-home daycare at the residence. She intends to register the home with the State of Iowa Department of Human Services and would watch up to 12 children at a time with no outside employees.
- In addition to an inspection to be completed by the Iowa Department of Human Services prior to the property becoming a child development home, the applicant has also pursued the services of an electrician for noted violations from a 2022 City rental inspection of the property that staff shared prior to the ZBA meeting.



Criteria for Granting Conditional Use Permits:

- *Criteria for Granting:* No conditional use shall be granted by the Zoning Board of Adjustment unless such use:
 1. Is so designed, located, and proposed to be operated that the public health, safety and welfare will be protected;

2. Is so designed, located, and proposed to be operated that it is compatible with its surroundings;
3. Will not cause substantial injury to the value of the other property in the neighborhood in which it is to be located; and
4. Shall conform to the applicable regulations of, and be compatible with the essential character of the district in which it is located.

Therefore, the role of the Zoning Board of Adjustment is to determine the appropriateness of an in-home child care facility at 608 E. 26th St. S., and to ensure it does not unreasonably or negatively interfere with the use and enjoyment of another's property.

Public Notice:

Notice of the public meeting was sent to all neighbors within 400 feet of the subject property upon which the proposed conditional use is to be located on Wednesday, March 20, 2024. Notice of the meeting was also published in the *Newton Daily News* twice, once on Tuesday, March 19, 2024, and again on Tuesday, March 26, 2024. No comments were received as of the date of writing this report.

Recommendation:

According to a December 2023 KCCI report, state license records indicate an approximate 16% drop in child care facilities across the state as compared to 4 years ago. The impact of these closings has been felt locally as recent as November 2023 when a large Newton facility closed its doors. Staff recommends approval of the conditional use permit noting the proposed daycare is compatible with the neighborhood for the following reasons:

- No outside employees;
- Child-care facilities near residential uses are convenient for Newton families;
- In-home child care facilities do not typically vary from what is considered normal residential character and typically operate during normal business hours.

The Board may consider conditions to be placed on the permit. Conditions that have been placed on other in-home care permits in the past include:

- Children shall not be outside before dawn or after dark (or restricting hours of operation);
- One sign, as allowed by the Sign Ordinance, may be placed in the front yard.





Newton

RULES OF PROCEDURE AND BY-LAWS OF THE NEWTON ZONING BOARD OF ADJUSTMENT

Section I: Membership, Officers, Elections and Appointments, and Committees

Rule 1: General. A Board of Adjustment is hereby created, such Board to consist of five members appointed by the City Council. All members shall be residents of the city. No member of the Board shall hold other elective or appointive office in the city or county government (Ch. 158.176 (A)).

Rule 2: Term of Office. As terms expire, each new appointment shall be for a term of five years, expiring on December 31st (Ch. 158.176 (B)). If a vacancy occurs, by resignation or otherwise, among the members of the Board, the City Council shall appoint a member for the unexpired term. The Council shall also have the power to remove any member of the Board for cause, after a public hearing (Ch. 158.176 (C)). Members of the Board of Adjustment shall serve without salary (Ch. 158.176 (D)).

Rule 3: Officers. The Zoning Board of Adjustment shall select from its membership a Chair and Vice Chair at its first Regular meeting of each year, who shall perform the usual duties pertaining to such offices and as established below. All officers, with the exception of the Zoning Administrator, shall be voting members of the Board and are eligible for re-election. The Zoning Administrator shall be a non-member officer, or a *de facto* officer.

Chair: The Chair shall serve as the primary presiding officer at all meetings, decide all points of order or procedure, appoint all committees, and shall perform such other duties as are usually exercised by the Chair of a commission or the president or chief officer of a corporation including the right to vote but shall not make any motions.

Vice Chair: The Vice Chair shall perform the duties of the Chair during the absence or disability of the Chair. In the event the office of the Chair becomes vacant, the Vice Chair shall act as the Interim Chair until a new Chair is elected, at the next regular meeting upon request from any member of the Board or at the first meeting of the next calendar year if the Vice Chair is willing to serve as Interim Chair until that time.

Zoning Administrator: The role of the Zoning Administrator is defined by the Newton Zoning Ordinance as, "The local official responsible for administration and implementation of the zoning regulations of the city or its authorized representative" The Zoning Administrator shall keep a record of all meetings, shall send all notices of Regular and Special meetings required to be sent, attend meetings of any Committee when requested, transcribe the minutes of proceedings, and shall have charge of the office of the Board and all books, papers, and records thereof and shall attend to all correspondence of the Board, in addition to any other duties required as a City employee.

Rule 4: Elections, Appointments, and Presiding Officer. The Chair and Vice Chair shall be elected by the Board, and shall hold office for a term of one (1) year, or until their successors are elected and assume office. The Zoning Administrator shall be appointed by the City Council and serve at their discretion. Any vacancy in the office of the Chair, Vice Chair, or Zoning Administrator may be filled at any Regular or Special meeting after such vacancy. The Chair or in the Chair's absence or incapacity, the Vice Chair, shall be the presiding officer at all Board meetings. If both the Chair and Vice Chair are absent, the most senior Board member present shall preside. In the event two or more members equally possess the greatest seniority, then the eldest person among them shall preside.

Rule 5: Committees. Committees may be appointed by the Chair or a majority of the Board for consideration of special matters. Each Committee shall consist of two (2) or more Board members and other citizens with talent, information, or experience with the question(s) or issue(s) being scrutinized. One (1) Board member shall be appointed as the Committee Chair, and the Committee shall meet at such times and places as directed by said Committee Chair. The members of the Committee shall serve until the specific matter for which the Committee was established is resolved or as otherwise terminated by the Board. All reports of Committees upon which action is being contemplated shall be submitted in writing to the Board and signed by the Chair of the Committee.

Section II. General Provisions

Rule 6: Scope of Rules. The Board shall determine the rules of its own proceedings by a majority vote, and the Zoning Administrator shall keep such rules on file for public inspection. These rules shall govern the filing of appeals from a Zoning Administrator decision and applications for variances and conditional uses, the process for publication of required notices, the conduct of the Board, and they shall be interpreted to ensure fair and open deliberations and decision making (Ch. 158.176 (F)).

Rule 7: Technical Parliamentary Forms Abolished. Except as specifically provided in these rules, the Board shall not use any formal points of parliamentary order, personal privilege, parliamentary inquiry or other technical forms. Only motions specified within these rules are allowed.

Rule 8: Quorum, Votes Necessary for Official Action. A majority of members, or three or more out of five, of the Board of Adjustment shall constitute a quorum. Each member is entitled to one (1) vote, and no action is official unless authorized by a majority of the Board. The concurring vote of at least a majority of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to exercise any powers or functions conferred or imposed upon the Board such as deciding in favor of any applicant regarding any matter upon which the Board is authorized to render decisions (Ch. 158.176 (E)). The proceedings of the Zoning Board of Adjustment are recognized as quasi-judicial, and all decisions and findings of the Board on appeals or applications shall be final unless otherwise ruled by a court of competent jurisdiction.

Rule 9: Matters Not Covered. Any matter or order or procedure not covered by these rules shall be referred to the presiding officer, who shall decide the matter with or without the assistance and advice of the Zoning Administrator in conformity with the purpose of these rules in a fair and expeditious manner. The decision of the presiding officer may be reversed by a majority vote from the Board.

Rule 10: Interpretation. These rules are intended to supplement and shall be interpreted to conform to the statutes of the State of Iowa and the ordinances of the City of Newton.

Section III. Board Meetings

Rule 11: Regular meetings. All Regular meetings of the Board shall be held on the first Wednesday of each month beginning at 4:30 PM in the Council Chamber of City Hall, or at a different time or location if specified by the Board. If such day should fall on a legal holiday, if the City Hall Council

Chamber is reserved, or if a quorum cannot be achieved, the meeting shall be held the following Wednesday at the same time unless a different day or time is determined by the Board. The same rule shall apply to any Recessed meetings, unless otherwise specified by the motion to recess.

Rule 12: Special Meetings. Special meetings shall be held upon call of the Chair or upon the written request of a majority of the members of the Board submitted to the Zoning Administrator. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or sent to the usual place of residence of each member of the Board. A record of the service of notice shall be maintained by the Zoning Administrator.

Rule 13: Hearings. Any other rule to the contrary notwithstanding, unless required by statute or necessary to conform to proceedings required for a special purpose, a hearing shall commence when declared open by the presiding officer and shall close when closed by the presiding officer or by other formal action of the Board. At the time of the hearing, the applicant may appear in his/her own behalf or be represented by agent or counsel. If absent, the Board will proceed to dispose of the matter on the forms and information provided.

Rule 14: Attendance Requirements. If the number of absences by any member exceeds 50% of the number of completed meetings in a calendar year, then any three members of the Board can compel the attendance of said absent member at any regular, adjourned, or duly called meeting. The Zoning Administrator shall subsequently attempt to contact said absent member to create a plan for minimizing absences or inquire about their willingness to continue serving on the Board. If said absent member fails to respond to the Zoning Administrator and/or attend the next consecutive meeting, then a vote can be scheduled and placed on the agenda of the third consecutive meeting to recommend removal of the member to the Mayor.

Rule 15: Notice of Meetings. The Board shall give reasonable notice of the time, date, and place of each meeting and its agenda. Such notices shall be published as prescribed in Iowa Code § 362.3 and § 414.4 or any successor provisions thereto. Such notice shall contain a statement of the particular purpose of the meeting and a brief description of the location of the property under consideration at the meeting. All meetings of the Board of Adjustment shall be open to the public (Ch. 158.176 (I)).

Rule 16: Open Sessions. All meetings shall be held in open session.

Rule 17: Minutes. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and the vote of each member present shall be made public. Any time these rules require an action to be sponsored by a Board member, the Zoning Administrator shall note the name of the sponsoring Board member on the face of the roll call for said item.

Rule 18: Cameras and Recorders. The public may use cameras or recording devices at any open session.

Rule 19: Electronic Meetings. A meeting may be conducted by electronic means only in circumstances where such a meeting in person is impossible or impractical and only if compliance with the provisions of Iowa Code Ch. 21 can be achieved.

Section IV. Agenda

Rule 20: Preparation of Agenda. Prior to each Regular meeting, the Zoning Administrator shall publish an agenda which contains all items the Board anticipates acting upon at the meeting. The Board may proceed with the meeting and follow the agenda as presented, or the Board may amend the agenda as provided by these rules and vote to adopt it as amended.

Rule 21: Agenda Requests. Any Board member may request an item be added to the agenda by submitting a written request to the Zoning Administrator no later than three weeks prior to a meeting date.

Rule 22: Extra Items. Items requested or filed after three weeks prior to a meeting date shall not be included upon the agenda unless the Chair or Zoning Administrator deems the item to be of sufficient urgency to warrant immediate Board action and if all publication and notice requirements can still be satisfied. These items shall be designated as "extra" items and will be considered at the appropriate place on the regular agenda (prior to or after a related item). If not, the item can be held until a future meeting date or placed on the next agenda under "Other Business" as a presentation/discussion item without a public hearing and it will not be subject to a vote.

Rule 23: Withdrawal of Items. Only the applicant or Zoning Administrator may withdraw an item, which may occur at any time prior to a decision by the Board.

Rule 24. Agenda Order. Except as otherwise provided in these rules, each agenda item shall be considered in the numerical order assigned by the Zoning Administrator. Each agenda item shall be separately announced by the presiding officer for purposes of discussion and consideration. To announce an item, it shall be sufficient to identify the item by the number assigned by the Zoning Administrator, unless greater specificity is requested by some person in attendance or if the presiding officer so chooses. Each agenda item shall be voted upon separately and each separate vote shall be recorded by the Zoning Administrator. This rule may be adjusted in situations deemed appropriate by the Zoning Administrator. The following is the order of business of the Zoning Board of Adjustment at its meetings:

- 1) Call to Order and Roll Call
- 2) Review Previous Meeting Minutes
- 3) Public Hearing
 - Unfinished Business - if a voting item, public hearing must be re-opened
 - New Business:
 - City Staff Report
 - Questions for City Staff
 - Applicant & Citizen Participation
- 4) Old / Other Business
 - Close of Public Hearing (voice vote)
 - Board Deliberation
 - Roll Call Vote
 - (Repeat for each new item)
 - Introduce future voting items
 - Presentations
 - Voting items that do not require a public hearing
 - Comments or Questions from Board Members
- 5) Adjournment

Section V. Conduct of Meetings

Rule 25: Control of Discussion. The presiding officer shall control discussion of the Board on each agenda item to assure full participation in accordance with these rules.

Rule 26: Discussion. A Board member shall speak only after being recognized by the presiding officer. A Board member recognized for a specific purpose shall limit remarks to that purpose. After being recognized, a Board member shall not be interrupted except by the presiding officer to enforce these rules, or by another Board member raising a point of order.

Rule 27: Members May Speak – How Often. No member shall speak more than once on the same question until all other members desiring to speak have spoken.

Rule 28: Presiding Officer's Right to Enter into Discussion. The Chair (or designated presiding officer) may enter into any discussion.

Rule 29: Remarks to be Germane. Comments must be directed to the subject under consideration. The presiding officer shall rule on the germaneness of comments. Members making personal, impertinent, or slanderous remarks may be barred, at the presiding officer's discretion, from further comment on the item under consideration.

Rule 30: No "Side" Conversations Between Members. Members shall not engage in "side" conversations with one another during any Board meeting. Should a member of the Board wish to share information with other members, that member should seek the recognition of the presiding officer.

Rule 31: Profanity and Motive: No member shall use profanity while speaking in any Board meeting, and no member shall question the motive of another member.

Section VI. Citizen Participation

Rule 32: Citizen's Right to Address the Board. The City of Newton is supportive of citizen participation at Zoning Board of Adjustment meetings. In order to ensure that citizen participation occurs in an orderly fashion, the guidelines below must be utilized by persons wishing to speak at a Board meeting. By following these guidelines, all persons can be assured that their viewpoint, concerns and comments are brought to the attention of Board members prior to and during their decision-making process.

Rule 33: Manner of Addressing the Board. Any person desiring to address the Board must first be recognized by the presiding officer. After being recognized by the presiding officer, speakers shall proceed to the podium, use the microphone, state his or her name, address, and group affiliation (if any), then speak clearly and address his or her comments to the Board.

Rule 34: Citizen's Remarks and Decorum. Individual and/or total citizen input during a public hearing on any subject under Board consideration can be limited to a fixed period by the presiding officer. Individuals shall be limited to one visit to the podium for each item on a given agenda unless said individual is the applicant or applicant's representative, if any member of the Board makes such a specific request or asks a question directed to an individual, or if the presiding officer allows an individual to speak again. All comments and questions shared by an individual shall be directed only to the Board and not to anyone else in the audience including the Zoning Administrator, other citizens, or the applicant or applicant's representative. Then, the Board may choose to respond or redirect the comment or question to the appropriate party.

Rule 35: Remarks of Citizens to be Germane. Citizen comments must be directed to the subject under consideration and must be related to City policies or the provision of City services. If the presiding officer finds it appropriate, he or she may refer items not on the agenda to further study by City staff or to a city board or commission. Citizens making irrelevant remarks or who use profanity may be barred by the presiding officer from further comment to the Board during the meeting. The presiding officer shall rule on the germaneness of citizen comments.

Section VII. Zoning Board of Adjustment Action

Rule 36: Call to Order. The presiding officer shall call the meeting to order at the appointed hour. In the absence of the Chair and Vice Chair, the Zoning Administrator shall call the meeting to order and a temporary presiding officer shall then be selected under Rule 4. The selected temporary presiding officer shall serve as the Interim Chair for that specific meeting for the purpose of being authorized to sign all measures approved at that meeting.

Rule 37: Roll Call. Before proceeding with the business of the Board, the Zoning Administrator shall call the roll call of members present, and enter those named in the minutes. The presiding officer shall determine the presence of a quorum as required by law and these rules.

Rule 38: Simple Motion. Motions are the most typical action of the Board. Motions are used for routine actions, such as approval of minutes, and are effective immediately upon the vote of the Board. All action requiring a vote shall be moved by a member of the Board, and a simple majority of the Board members present need to vote affirmatively to pass a motion.

Rule 39: Motions. At any appropriate place on the agenda, any member of the Board may make a motion for the Board to act if the motion is germane to the matter under consideration. Allowable motions include the following: 1) Motion to approve, 2) motion to amend, 3) motion to adjourn, 4) motion to recess, 5) motion to postpone to a certain time, 6) motion to postpone indefinitely, 7) motion to appeal the rule of the presiding officer, 8) motion to suspend the rules, 9) motion to reconsider and 10) motion for the previous question. Form and example:

Motion to approve: I move the adoption of item 3 as presented.

Motion to amend: I move to amend by adding the words "and grade" after "purchase." Discussion and a vote would then take place on the amendment (i.e., the addition of the words "and grade"). Whether the amendment is or is not adopted, a subsequent vote would be taken on the underlying item.

Motion to adjourn: I move to adjourn.

Motion to recess: I move that the meeting recess until 6:00 P.M. Or, I move to recess for 10 minutes.

Motion to postpone to a certain time: I move to postpone the motion to the next meeting. Or, I move to table this review until the regular November meeting so the applicant can provide more information.

Motion to postpone indefinitely: I move that the item be postponed indefinitely.

Motion to appeal the rule of the presiding officer: I move to appeal the decision of the chair. If seconded, the chair shall clearly state the exact question at issue, the reason for his or her decision and state the question, "Shall the decision of the chair be sustained?"

Motion to suspend the rules: I move that the rules be suspended which interfere with ... [stating the object of the suspension].

Motion to reconsider: I move to reconsider the vote on the conditional use permit application. I voted for [or against] the application.

Motion for the previous question (i.e., "closing debate"): I move the previous question or I call for the question.

Rule 40: Motions – Requiring a second. No motion shall be debated until another member has seconded the motion. After a motion has been made, another member who wishes it to be considered says, "I second the motion," and may do so without obtaining the floor.

Rule 41: Must be read or stated before debate. After a motion is made and seconded, the motion shall be reviewed by the presiding officer before being debated.

Rule 42: Points of Order. Members of the Board who notice a breach of these rules may raise a point of order to insist upon their enforcement. If the presiding officer notices a breach, he or she corrects the matter

immediately, but if he or she fails to do so, then any member can make the appropriate point of order. Points of order are ruled upon by the presiding officer. Points of order are not debatable.

Rule 43: Appeal from a Ruling of the Presiding Officer. Should there be an appeal from any ruling of the presiding officer, the question, "Shall the chair be sustained?" shall be immediately asked and determined before the Board proceeds to other business.

Rule 44: Previous Question (i.e., "closing debate"). Any member may move the previous question. The motion shall be restated by the presiding officer in this form: "Shall the question under immediate consideration be now put?" It shall only prevail when supported by a majority of the Board, and until decided, shall preclude debate. If the motion is sustained, the proponent of the matter under consideration shall have one minute in which to make a closing statement before the Board deliberates and votes on the question. A failure to sustain the motion shall not take the matter under consideration from further consideration, but the Board shall proceed as if the motion had not been made.

Rule 45: Not debatable. The following motions shall be decided without debate: 1) motion to adjourn, 2) motion for the previous question, 3) motion to suspend the rules, and 4) motion to recess.

Rule 46: Indefinite postponement. When a simple motion or application is postponed indefinitely, that item shall not be acted on again in the same calendar year except if supported by a simple majority of the Board.

Rule 47: Presiding Officer's Right to Speak Last. The presiding officer has the right to close debate and speak last on any item.

Rule 48: Closing Debate. Discussion shall be closed on any item by the presiding officer with the concurrence of a majority of the Board. Except as provided by Rule 25, a call for the vote shall not close discussion if any member of the Board still wishes to be heard.

Rule 49: Motion to Reconsider and Sponsor Requirements. No rehearing shall be held on a denied appeal or application for variance or conditional use for a period of 12 months from the date of such denial (Ch. 158.176 (K)). If, after 12 months after the date of such denial, an applicant desires the Board to reconsider the same application, a request shall be submitted to the Zoning Administrator in writing and the item shall be placed under Old Business on the next meeting agenda. A motion to reconsider a denied application after 12 months or for an approved appeal, variance, or conditional use permit must be sponsored by a member who voted on the prevailing side of the original action or by a member who was absent at the time of the original action.

A rehearing of any decision of the Board may be made if the following occur: the motion to reconsider is made by a sponsoring member and approved by a simple majority of the Board; new evidence or extenuating circumstances are submitted which could not reasonably have been presented at the original meeting; and the case is put on a subsequent agenda for a new public hearing with notices.

Rule 50: Call for Vote. At the conclusion of debate, the presiding officer shall call for a vote, provided, however, a majority of the Board may require a vote at any time.

Rule 51: Final Decisions. A final decision for any application or appeal shall be made in the form of a vote by the Board. The vote may affirm, modify, or reverse the refusal of a permit by the decision of the Zoning Administrator. In the case of an application for variance or conditional use permit, the vote shall set forth that the application is granted or denied and said vote shall specifically set forth what variances or conditional uses are permitted and what conditions, if any, shall be complied with.

Rule 52: Voting. All members of the Board, including the Chair, are required to cast a vote for each motion. Minutes will show absent members, and a member may abstain if he/she feels there is a conflict of interest, particularly if the conflict is of a financial nature. If a member elects to abstain from voting, he/she is required to state the reason for his/her abstention at the time of voting.

Rule 53: Recording Names of Moving Members. The Zoning Administrator shall record the name of the member making and seconding each motion.

Rule 54: Consideration of Matters Not on Agenda. Except for matters which by law require the publication of notice before consideration by the Board, any member of the Board may at the close of the regular agenda, bring a matter not on the agenda to the Board's attention during "Other Business." The Board may not act upon such a matter, but rather direct the matter to be included upon a future agenda.

Rule 55: Suspension of Rules. These rules or any part hereof, may be suspended for a specific purpose by a vote of four-fifths of the Board, or by all members present at a given meeting.

Rule 56: Informal Requests. A member of the Board, before or during the consideration of any matter, or in the course of a hearing, may request and receive information, explanations or the opinions of the City Attorney or any City employee.

Section VIII. Board Signatures

In accordance with Ch. 414 of the Iowa Code and Ch. 158 of the Newton Zoning Ordinance – both of which establish requirements of the Zoning Board of Adjustment (the “Board”) to adopt rules to carry out the provisions of the Zoning Ordinance – the following rules of procedure and by-laws are hereby adopted by the Newton Zoning Board of Adjustment.

John Billingsley, _____ Date _____

Lynette Birkenholz, _____ Date _____

Craig Trotter, _____ Date _____

Noreen Otto, Vice Chair _____ Date _____

Bev Rossow, Chair _____ Date _____

The rules of procedure and by-laws found herein may be amended whenever necessary or when it is in the best interest of the Board, provided that such an amendment is proposed in writing and approved by a simple majority of the Board (at least three members). If approved, the Zoning Administrator shall update the official document and it shall be maintained at the Newton Community Development Department offices.