



Zoning Board of Adjustment Meeting Agenda

Wednesday, June 26, 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. April 3, 2024
- III. Public Hearing
 - 1. CU24-2: 1,000+ sq. ft. accessory building at 513 E. 5th St. N. Peck Child Development Center, applicant.
- IV. Old / Other Business
 - 1. Rules of Procedure and By-Laws
- V. 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

April 3, 2024

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

STAFF PRESENT: Brian Dunkelberger, Sr. City Planner
Craig Armstrong, Development Specialist
Nick Cummins, Parks Operations Superintendent

A quorum being present, Chair Rossow called the meeting to order at 4:31 PM

Minutes

The Board reviewed the minutes of the previous meeting from December 6, 2023. Rossow pointed out one error to be corrected by staff. **Motion** by Otto, **seconded** by Trotter to approve the minutes as corrected. **Voice vote:** approved, 4-0.

Public Hearing

A. CU24-1: In-home daycare at 608 E. 26th St. S. (located in an R-2 zoning district). Araina Blanchette, applicant.

Dunkelberger reviewed the prepared staff report and shared maps and images of the subject property. Dunkelberger shared that no concerns were submitted by neighbors or residents in advance of the meeting. Trotter asked about potential time restrictions on the daycare. Dunkelberger clarified. Billingsley inquired about potential traffic/congestion issues in the neighborhood. Otto described her personal experience using in-home daycare services and answered Billingsley's question.

Araina Blanchette, applicant, introduced herself and explained the steps she has already completed and will be pursuing before offering her services. She described her goals for the daycare and what she hopes to accomplish with the kids in her home. Blanchette went on to share possible plans for offering 2nd shift care since it is not widely available. Her state application was to be reviewed the day after the ZBA meeting. Rossow asked if she planned to pursue any exterior changes at the property. Blanchette said no and the only potential change in the future would be replacing the existing rear yard fence.

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.

Otto stated that she agreed with staff and their recommendation. She emphasized the critical need for child care services in the community and how it is a major benefit to working families. Board members discussed how Blanchette's home and driveway were large enough to accommodate the use, and all members agreed that the application satisfied the four criteria for granting conditional use permits. This was especially true considering how no concerns were expressed by neighbors, so the Board voiced support for the permit.

Motion by Otto to approve CU24-1: a conditional use permit application authorizing an in-home daycare at 608 E. 26th St. S., **seconded** by Billingsley. **Roll call vote:** Approved 4-0.

Old Business

None.

New Business

B. Election of Officers

Dunkelberger presented options for selecting officers for the 2024 calendar year. Members discussed and agreed to retain the current leadership.

Motion by Otto to retain the current officers with Rossow as Chair and Otto as Vice Chair., **seconded** by Billingsley. **Roll call vote:** Approved 4-0.

C. Rules of Procedure and By-Laws

Dunkelberger briefly previewed the proposed rules of procedure and by-laws. Members discussed a handful of items to be adjusted or grammatical errors to be corrected. Joel Mills, 2500 W. 15th St. S., suggested a rule or section be added to the document clarifying how often the rules and by-laws should be reviewed. All agreed this was a great idea, and discussed an appropriate timeframe. Dunkelberger commented that an annual review might be too frequent, so members suggested a 3-year cycle. Dunkelberger thanked everyone for the feedback, and he confirmed that edits would be completed and a final version would be presented for a vote at the next meeting.

Motion by Trotter to adjourn the meeting, **seconded** by Otto. **Voice Vote:** approved, 4-0. The meeting was adjourned at 5:04 PM.

Zoning Board of Adjustment – CU24-2 Staff Report

Applicant: Peck Child Development Center
Proposal: Construct a 30' x 40' (1,200 sq. ft.) detached accessory building
Location: 513 E. 5th St. N. (Parcel #0827383038)
Current Use: Child care facility
Current Zoning: R-4: Multi-Family Residential

- 513 East 5th Street North is located within an R-4: Multi-Family Residential zoning district. Included in this report is an aerial and zoning map for reference. The outlined parcel is the subject property.
- Accessory buildings are a permitted use within the R-4 district, but if a building footprint exceeds 1,000 sq. ft., then a conditional use permit from the Newton Zoning Board of Adjustment is required - per code language adopted in 2014.
- The Zoning Code requires a minimum of “1 parking space for each employee, plus loading and unloading spaces for buses and other vehicles transporting children to and from school” for daycare centers. After the building is constructed, approximately 14 potential spaces would remain. Staff finds this to be adequate considering how there are 10-12 employees.



- When reviewing a conditional use permit for an accessory building, the Zoning Board of Adjustment should consider: Proposed location & screening, drainage impacts, visual interest & compatibility with the neighborhood.
- **Screening.** The Board may choose to explore a requirement for screening from adjoining properties. Staff finds that this requirement is not necessary considering the existing fencing along the west property line. This requirement should only be reviewed if aesthetic concerns are presented. If concerns are not raised by neighbors about visual impacts, staff would determine that an extra expense for more screening is not necessary.
- **Drainage or Direction of Downspouts.** Storm water run-off from the new building footprint may not be directed onto abutting properties. If this conditional use permit is approved, Staff

shall ensure the structure meets minimum building code requirements. The Board may still choose to explore requiring gutters and downspouts to be installed so that rainwater is discharged away from the building and directed towards a specific area of the property.

- **Visual Interest and Visual Compatibility with Surrounding Neighborhood.** This element is the primary reason why citizens sought the code amendment requiring a conditional use permit for large accessory buildings. The accessory building in design and style should complement the property and surrounding neighborhood. Buildings that look/feel misplaced in nature should be amended with design elements that align with the surroundings. The proposed accessory building substantially matches an accessory building at a neighboring property to the southwest in design and material, and this was the most cost-effective option for a much-needed service in the community.

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 a 1,200 sq. ft. detached accessory building at 513 E. 5th St. N., and to ensure that it does not unreasonably or negatively interfere with the use and enjoyment of another's property.

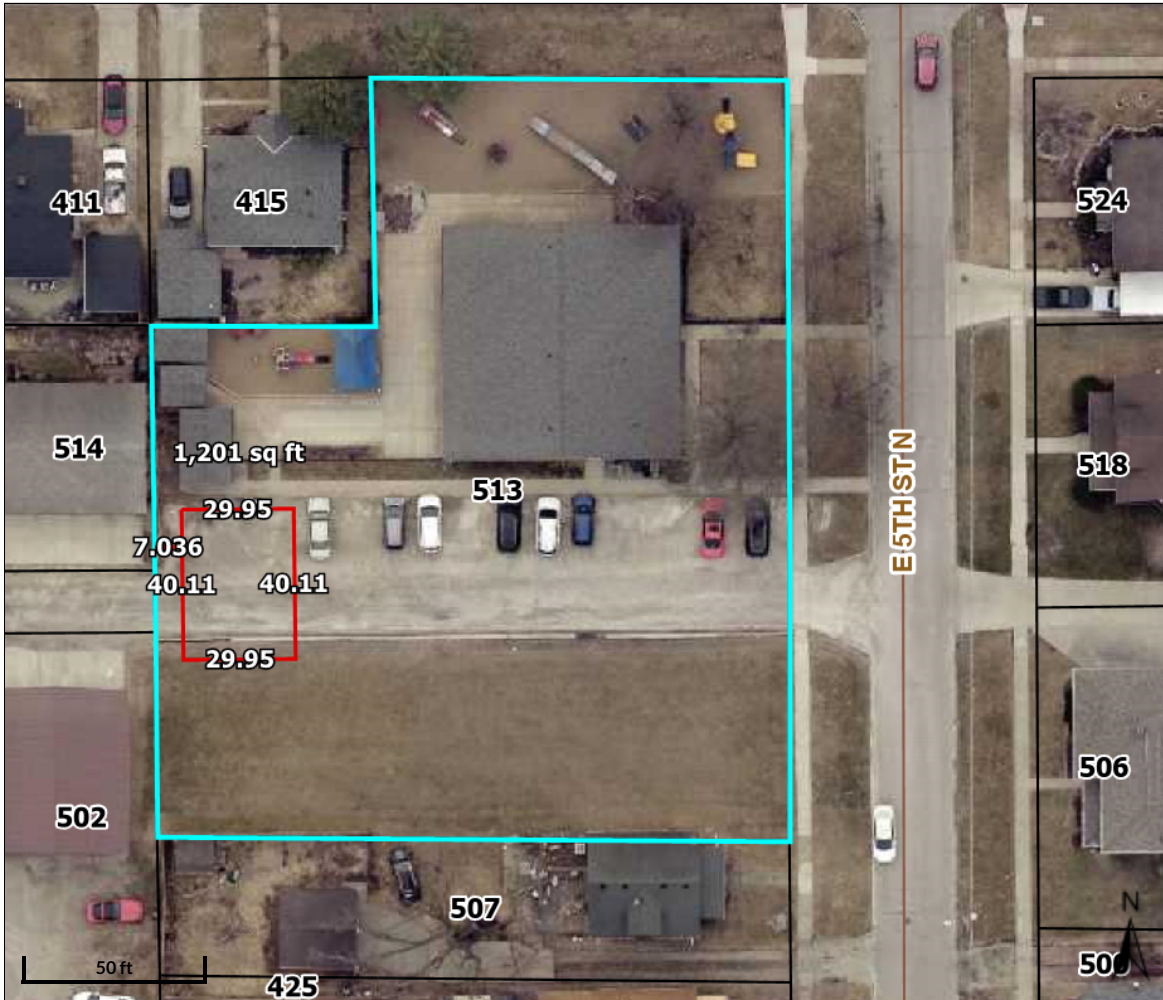
Public Notice:

Notice of the public meeting was sent to all property owners within 400 feet of the subject property upon which the proposed conditional use is to be located on Monday, June 10, 2024. Notice of the meeting was also published in the *Newton Daily News* twice, once on Tuesday, June 11, 2024, and again on Tuesday, June 18, 2024. If comments are received before the meeting, staff will share them as part of this report.

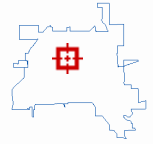
Recommendation:

Staff recommends approval of this application, with the understanding that all neighborhood comments and questions are addressed during the public hearing and all feedback is resolved/addressed prior to construction. If approved, a building permit application can then be reviewed and issued to authorize construction.





Overview



Legend

Parcel Address

Parcels

Parcel

BLL

Parcel ID	0827383038	Alternate ID	n/a	Owner Address	PECK CHILD DEVELOPMENT CENTER
Sec/Twp/Rng	n/a	Class	C		513 E 5 ST N
Property Address	513 E 5TH ST N NEWTON	Acreage	n/a		NEWTON, IA 50208
District	NWNT				
Brief Tax Description	NEWTON LAMB & KENNEDY'S ADDLOT 4 & N 53' LOT 5 BLK 3 & E 111.04' LOT 1 BLK 3 & E 1/2 VAC N/S ALLEY ADJ ON W				
	(Note: Not to be used on legal documents)				

Jasper County Data Disclaimer

Please Read Carefully.

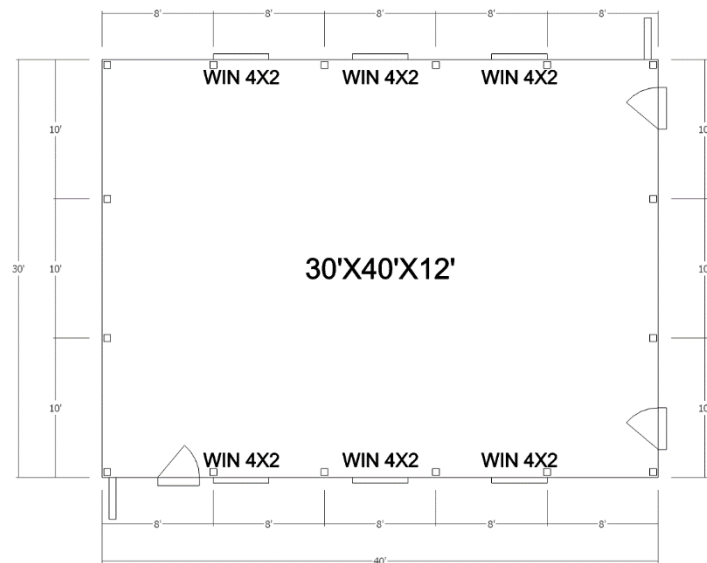
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RULES OF PROCEDURE AND BYLAWS OF THE NEWTON ZONING BOARD OF ADJUSTMENT

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 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.

Rule 11: Review. The Board shall conduct a thorough review of these bylaws and rules of procedure once every three years or as deemed necessary. Current and subsequent revised bylaws shall be maintained by the Zoning Administrator and can be provided upon request.

Section III. Board Meetings

Rule 12: 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 13: 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 14: 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 15: 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 16: 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 17: Open Sessions. All meetings shall be held in open session.

Rule 18: 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 19: Cameras and Recorders. The public may use cameras or recording devices at any open session.

Rule 20: 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 21: 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 22: 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 23: 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 24: 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 25. 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)
- 5) Adjournment
 - Introduce future voting items
 - Presentations
 - Voting items that do not require a public hearing
 - Comments or Questions from Board Members

Section V. Conduct of Meetings

Rule 26: 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 27: 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 28: 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 29: Presiding Officer's Right to Enter into Discussion. The Chair (or designated presiding officer) may enter into any discussion.

Rule 30: 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 31: 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 32: 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 33: 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 34: 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 35: 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 36: 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 37: 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 38: 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 39: 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 40: 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 41: 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 42: 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 43: 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 44: 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 45: 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 from further consideration, but the Board shall proceed as if the motion had not been made.

Rule 46: 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 47: 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 48: Presiding Officer's Right to Speak Last. The presiding officer has the right to close debate and speak last on any item.

Rule 49: 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 50: 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 placed on a subsequent agenda for a new public hearing with notices.

Rule 51: 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 52: 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 53: 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 54: Recording Names of Moving Members. The Zoning Administrator shall record the name of the member making and seconding each motion.

Rule 55: 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 56: 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 57: 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 bylaws are hereby adopted by the Newton Zoning Board of Adjustment.

Craig Trotter, _____ Date _____

Lynette Birkenholz, _____ Date _____

John Billingsley, _____ Date _____

Noreen Otto, Vice Chair _____ Date _____

Bev Rossow, Chair _____ Date _____

The rules of procedure and bylaws 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.