



## Zoning Board of Adjustment Meeting Agenda

***Wednesday, January 15, 2025 - 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](http://www.newtongov.org/cablecast)

- I. Call to Order and Roll Call
- II. Review of Minutes of Previous Meeting
  1. Review of Minutes of previous meeting 12.4.2024
- III. Public Hearing
  1. Consideration and review of conditional uses authorized in 2018 for Auto Sales Business at the property located at 1504 West 4th Street North.
- IV. Other Business
- V. Adjourn

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

# Minutes of Meeting Zoning Board of Adjustment Regular Meeting

**December 4, 2024**

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

Board members absent: Otto

STAFF PRESENT: Brian Dunkelberger, Sr. City Planner  
Varsha Borde, City Planner  
Craig Armstrong, Development Specialist  
Joe Grife, Public Works Director

A quorum being present, Chair Rossow called the meeting to order at 4:34 PM

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## Minutes

The Board reviewed the minutes of the previous meeting from October 30, 2024. **Motion** by Birkenholz, **seconded** by Billingsley to approve the minutes as written. **Voice vote:** approved, 4-0.

## Public Hearing

- A. CU24-5: A Conditional Use Permit to authorize the construction of a new wash bay accessory building at 1700 N. 4<sup>th</sup> Ave. W. City of Newton, applicant.

Dunkelberger reviewed the prepared staff report and shared maps of the subject property along with the submitted draft building plans and site plan. Dunkelberger shared that no concerns were submitted by neighbors or residents in advance of the meeting. Rossow asked about where vehicles and equipment are currently washed. Joe Grife, Public Works Director, shared that there is a small wash bay in an existing building but it is rusting out and in desperate need of a remodel.

Billingsley inquired about excess flow or runoff from the washing and asked where does it end up. Grife shared that it flows into the sanitary sewer then to the waste water treatment plant just like all other waste water in the city. Grife described how this new building and site improvements will actually also improve that flow by installing new service lines along with a below grade sand interceptor to capture non-fluid runoff.

Rossow asked if there were any concerns with on site detention and if the existing basin near the south end of the property ever pushes its capacity limits. Dunkelberger and Grife shared that there were no concerns and said basin was initially constructed to accommodate more than what was necessary when it was designed. Birkenholz inquired about how long this project had been on the priority list for the Public Works Department. Grife answered that it was identified as a potential project 2-3 years prior, and their plan is to go out to bid in the immediate future with the hope it will be constructed in the spring of 2025.

Hearing no additional questions or comments, Chair Rossow called for a motion to close the public hearing. **Motion** by Birkenholz, **seconded** by Trotter. **Voice vote:** Approved 3-0.

Board members discussed the proposal and shared how the request met the criteria for granting conditional use permits.

**Motion** by Birkenholz to approve CU24-5: A Conditional Use Permit to authorize the construction of a new wash bay accessory building at 1700 N. 4<sup>th</sup> Ave. W., **seconded** by Billingsley. **Roll call vote:** Approved 4-0.

B. V24-3: Front yard setback variance for 1111 W. 22<sup>nd</sup> St. S. City of Newton, applicant.

Dunkelberger reviewed the prepared staff report and shared maps and a street view of the subject property. Members requested clarification on some information shared by staff including the background of development in this neighborhood, a description of flag lots, and if a 10-foot front yard setback would be adequate for a builder to develop this lot. Dunkelberger answered and provided additional information in response to each inquiry.

Nick Steinbach, neighbor at 1151 W. 22<sup>nd</sup> St. S., expressed several concerns with some being specific to this lot and others more generally relating to activity in or near their neighborhood. He shared that he and another neighbor regularly mow and maintain the subject property. He asked about what a future house might look like and if it would be consistent with the other homes in the neighborhood. Steinbach also commented that he and his wife were interested in purchasing the lot. Dunkelberger further defined the deed of restrictions and city code requirements for development of this lot, then he described the process for a city selling property. Steinbach also expressed frustrations with dust from a nearby gravel road and stormwater runoff and erosion. Dunkelberger described how building permits now require builders to provide and follow an erosion control plan for any new construction.

Randy Renaud, neighbor at 1091 W. 22<sup>nd</sup> St. S., echoed the concerns shared by Steinbach. He went on to express concerns with dirt removed from other lots in the neighborhood and the appearance in the neighborhood. He described how it was a close neighborhood and they look out for one another. Renaud emphasized the concerns relating to erosion and stormwater flow in the creek behind their homes. He also asked for clarification on the proposed minimum front yard setback. Dunkelberger illustrated the proposed variance on a map to provide a better understanding of where a future home might be positioned if the variance was approved.

Billingsley asked if Renaud objected to the Board changing the setback requirement. Renaud confirmed they'd prefer the established setback to remain and for the lot to remain as open space, but he recognized the motivation behind seeing the lot developed. Trotter asked if there were objections to seeing the lot developed even with a new house that met the requirements established by city code and the deed of restrictions and if it fit the style of the neighborhood. Steinbach interjected and shared that, selfishly speaking, he did object because it has been open space for the entire duration they have lived in their home. Discussion ensued about concerns with erosion control and clearing debris along the creek behind the homes.

Rossow clarified that the scope of the Board's review is strictly limited to the proposed reduction of the minimum front yard building setback. While all other concerns may be valid, they should be taken up with other appropriate city staff or city processes. Discussion followed to review other concerns with the potential development of this lot including erosion control, stormwater management, and establishing a precedent. Trotter commented on the difficult nature of this review, but expressed support for the setback variance request. Members further discussed the request and other city processes.

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

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

Rossow pondered if a 10-foot front yard setback would be enough but emphasized the need due to the dramatic falloff toward the rear of the lot. Members concurred. Rossow introduced the answers to the variance questions that were provided by staff. Members voiced their agreement with the six answers. Billingsley suggested that the City should entertain offers from the neighbors. Steinbach made a comment from the audience and Rossow offered Billingsley a chance to make a motion to re-open the public hearing. All parties agreed it was not necessary to re-open. Billingsley went on to share that the application was technically approvable, but the concerns presented by the neighbors are valid and should be addressed separately.

**Motion** by Trotter to approve V24-3: A variance to reduce the minimum required front yard building setback from 25 feet to 10 feet for the residential lot at 1111 W. 22<sup>nd</sup> St. S., **seconded** by Billingsley. **Roll call vote:** Approved 4-0.

#### **Old/Other Business**

Dunkelberger shared that he accepted a new job and will be leaving the City of Newton at the beginning of the next calendar year. He introduced Varsha Borde, City Planner, who will be taking over staff responsibilities for the Zoning Board of Adjustment. Dunkelberger expressed his appreciation for each Board member and described how much he valued his experiences in Newton.

**Motion** by Birkenholz to adjourn the meeting, **seconded** by Trotter. **Voice Vote:** approved, 4-0. The meeting was adjourned at 5:40 PM.



## Zoning Board of Adjustment- Staff Report

Applicant: City of Newton  
Proposal: Request to revoke issued conditional use permit for auto sales business.  
Property Owner: Morris Motors  
Location: 1504 West 4th Street North.  
Current Zoning: C-N: Neighborhood Commercial

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### Background:

- The subject property is located within the C-N: Neighborhood Commercial I-H Zone. The Auto Sales Business use falls under the conditional uses within that zoning classification.
- Morris Motors is a company out of Des Moines, IA. The business name for the Newton location is Newton Cars. They have regular business hours listed on their website at [www.Newtoncarsia.com](http://www.Newtoncarsia.com). The website is currently active for 2025.
- **2016-2017** - Morris Motors applied for a text amendment - Between late 2016 to Spring 2017, Morris Motors had applied for a text amendment to allow for auto sales to be located in the C-N: Neighborhood Commercial District. This amendment was reviewed and approved by the Newton Planning and Zoning Commission and Newton City Council.

Adopted code is as follows –

Auto Sales; provided the following conditions, in addition to the requirements of §158.178(F) of this chapter, are met:

- (a) The property upon which the auto sales use is to be located must be at least 0.25 acres in size.
- (b) Minor auto service work may be conducted on site as part of the auto-sales business only during regular business hours and shall be limited to:
  - i. Oil, filter, and fluid changes
  - ii. Tire Rotations and tire changes
  - iii. Cleaning and detailing provided cleaning materials, liquids and the like are properly disposed of.
- (c) The subject property upon which the auto sales use is to be located shall have a residential use abutting no more than two property lines.
- (d) Sales and service hours shall be no later than 6:00 pm and no earlier than 7:00 am, Monday through Friday. No sales or service work on Sunday and Saturday.

- (e) Parking areas shall be asphalt, concrete or other similar material, no gravel.
- (f) All lighting for the business shall not constitute a nuisance to the neighborhood and shall be downcast.
- (g) Exterior display shall be limited to vehicles only, and not located within the public right-of-way. Tires, fluids, and the like must be stored inside a structure on the property.
- (h) A transitional yard or privacy fence may be required to provide a buffer and screening to adjacent properties.

2018 - Morris Motors applied for a Conditional Use Permit for the address at 1504 West 4th Street North. The conditional use permit was approved by the Zoning Board of Adjustment with the following conditions -

1. All gravel within the right-of-way, with the exception of the 8 to 10' shoulder on West 4<sup>th</sup> Street North should be replaced with grass. With this the driveway access off both frontages should be defined, both being placed away from the intersection near the north and east sides of the lot respectively.
  2. Vehicles be parked up on a hard surface, defined as asphalt to gravel, within 6 months of the issuance of the conditional use permit.
  3. All lighting shall be downcast and shall not pose a nuisance to neighboring properties.
  4. No outside storage of materials other than the vehicles for sale.
- Minutes from the meeting where the permits were granted are included in the attachments to this staff report.
  - Since the time of the issuance of the Conditional Use Permit, little auto-sales activity has occurred on the site. A significant number of "junk" vehicles, which may or may not be operable remain stored on the property.
  - It appears that while Morris Motors may have the façade of an auto-sales business, it is not actually functioning as one. See the photos of vehicles with stickers which indicate they are not for sale.
  - On October 16, 2024, Community Development (City Planner, Varsha Borde), mailed notice regarding outdoor storage of in-operable vehicles to the address, 3824 Lincoln Place Dr. Des Moines, IA 50312, with a compliance date of November 13 2024. There was no response to the notice from Morris Motors. There was no action regarding compliance to the notice.
  - Iowa DOT confirmed that Morris Motors has an active dealer's license, which requires them to maintain active hours at the location. The Dealer Programs staff at the DOT sent the dealer a notice of non-compliance on December 5<sup>th</sup> 2024. The dealer was required to schedule an on-site inspection with the DOT by January 4<sup>th</sup> to provide proof of the required regular maintained business hours.
  - January 2025 - Iowa DOT moved forward with revocation of their license. DOT mailed a letter to Morris Motors about revoking the license and Morris Motors has 20 days to appeal. If they appeal, there might be a hearing before an administrative judge.
  - Staff mailed notice of the review to the property owner on January 3<sup>rd</sup>, 2025. Staff also mailed notice of the proposal and meeting date/time to property owners within 400 feet of the location dated January 7<sup>th</sup>, 2025. A separate notice was also published in the Newton Daily News on January 10, 2025.

- The subject of this conditional use permit review is limited to the exterior storage of cars and non-operation of the business.
  - Many vehicles parked on the property have 'Not for Sale' stickers.
  - Staff has observed that this location is used for storage of the vehicles and there are no active vehicle sales. The photos on the following pages shows the progression of the site within the last few months.

**Analysis:**

- The City of Newton City Code Chapter 158.178 provides the regulations regarding conditional use permits.
  - 158.178 (2) (c) *Authorization; revocation.* Conditional uses shall be authorized by a conditional use permit granted by the Zoning Board of Adjustment, after the Board shall have noticed and held a public hearing and prepared and filed a finding of fact, thereon. Such permit shall set forth any restrictions or conditions imposed in the granting thereof. Failure of the permittee to comply with such conditions or restrictions shall be deemed cause for the revocation of such permit.
- The specific condition of no outside storage of materials other than the vehicles for sale is currently (as of 1/9/2025) out of compliance and has been for some time.
- The Iowa Department of Transportation has also tried to get in touch with Morris Motors regarding the Auto sales business. The communication to staff from the DOT has been added to the agenda packet for review.
- Staff finds that the subject property has been out of compliance for many months, and that no apparent effort has been made to remedy the existing violations. The decision ultimately rests with the Newton Zoning Board of Adjustment and the following options should be considered:
  - Revoke the Conditional Use Permit due to lack of compliance.
  - Maintain the Conditional Use Permit with no more than 30 additional days for compliance with the conditions of the Conditional Use Permit and adopted codes for the City of Newton. Should compliance not be achieved within 30 days of the meeting date, all Conditional Use Permits be revoked.
- Staff recommends revoking the Conditional Use Permit due to the non-operating status of the business and exterior storage of inoperable, junk vehicles.
- If Zoning Board of Adjustment agrees with Staff Recommendation, the ZBA's motion shall also include a maximum number of days the vehicles can remain on the property.

Photos from January 8th, 2025:





**Photos from November/December 2024:**





**Minutes of Meeting**  
**Zoning Board of Adjustment**  
**City Council Chambers**  
City Hall, 101 West 4<sup>th</sup> Street South

***February 7, 2018***

ROLL CALL: Board members present: Birkenholz, Rossow, Billingsley

Board members absent: Porter, Hollander

STAFF PRESENT: Erin Chambers-Director of Planning and Zoning

A quorum being present substituting Chair, Birkenholz, called the meeting to order at 4:34 p.m.

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In accordance with the Americans with Disabilities Act, Chair Porter questioned if there was anyone present that may require special assistance in being able to participate in this public meeting. There was no response.

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## **Minutes**

Minutes from the January 3, 2018 meeting were postponed until the next meeting given that only two of the three members present attended the meeting, and a vote of the majority (3) of the board is necessary.

## **Old Business**

None.

## **New Business**

- A. Public Hearing: Conditional Use Permit for Auto Sales at 1504 W 4<sup>th</sup> Street North, Morris Motors, Applicant.

PZ Director Chambers reviewed the prepared staff report for the case.

Shelly Baker, 1504 W 4<sup>th</sup> Street North, Morris Motors, Applicant joined the meeting via conference call. Baker summarized the project proposal. Rossow asked where parking is going to occur. Baker replied that it would be in the front (west) and rear (east).

Billingsley asked about with the cars already at the site, is it a problem to pave. Baker replied it would not be. It would be done in stages.

Rossow asked about colors and aesthetics of the building. Baker discussed colors and plans for painting.

Rossow asked about the business and where currently located. Baker stated they were out of Stuart, but have closed that location and are moving here. They will be living in Newton. They bought the commercial building on North 2<sup>nd</sup> AVE W where Least of Saints used to be. Commission noted this as the old Salvation Army building.

Birkenholz asked about lighting. Baker stated that 1 in the front and 1 in the rear. Rear will be tied to a motion sensor so as not to be detrimental to neighborhood.

Tracy Adams, 1600 W 4<sup>th</sup> Street N, was present at the meeting and stated to the board that it is good to see something go into it. She came to the meeting out of curiosity.

**Motion** by Rossow to close the public hearing, **seconded** by Billingsley. Voice Vote: Approved, 3-0.

Billingsley stated he was in favor of approval. Discussion of fencing design to align with the fencing that is already consistent. Discussion of requiring of the business to install fencing if the existing north side fence, owned by the neighbor, is ever removed.

**Motion** by Rossow, **seconded** by Billingsley to approve the conditional use permit for 1504 W 4<sup>th</sup> Street North for an auto sales business, with the condition that if the existing north side fence is ever removed then the auto sales business shall replace one along the property line. Voice Vote: Approved, 3-0.

## **Adjournment:**

**Motion** by Rossow to adjourn the meeting, **seconded** by Billingsley. Voice Vote: Approved, 3-0.

The meeting was adjourned at 5:11 pm.

The logo features the words "GET TO KNOW" in white, bold, sans-serif font inside a blue speech bubble shape. To the right of the speech bubble, the word "Newton" is written in a large, bold, grey, sans-serif font.

October 16, 2024

Morris & Associates Properties LLC  
3824 Lincoln Place Dr  
Des Moines IA 50312

Dear Property Owner,

The purpose of this letter is to inform you of city code violations at the property you own at **1504 West 4th St N** in Newton. Please accomplish the following to ensure your property is in compliance with city code:

- Remove any and all inoperable vehicles from the property.
- All vehicles shall be parked on an all-weather surface, as defined by § 94.03 OUTSIDE PARKING AND STORAGE.
- Any new or added off-street parking shall be paved with concrete, asphalt or other similar material – per Newton Code of Ordinances § 155.25 MINIMUM DESIGN STANDARDS.
- Ensure your business has an active license from the Iowa DOT to sell motor vehicles: <https://iowadot.gov/mvd/buyingselling/buyingselling/dealer>.

**City Staff will review the situation again thirty (30) days from the date of this notice, or on Wednesday, November 13, 2024.** I would like to thank you in advance for your compliance.

Should you have any questions, please feel free to give me a call at (641) 792-6622 x 2302 or send me an email at [varshab@newtongov.org](mailto:varshab@newtongov.org). Please be on notice that this letter serves as the only warning for this matter. Future violations will automatically move to an enforcement level.

Sincerely,

Varsha Borde  
Newton City Planner



January 3rd, 2025

Morris & Associates Properties LLC  
3824 Lincoln Place Dr  
Des Moines IA 50312

Dear Property Owner,

The purpose of this letter is to inform you that the Conditional Use Permit for the car dealership at **1504 West 4th St N.** will be under review by the Zoning Board of Adjustment on 1/15/2025, 4:30 pm. Please be advised that this will be a public hearing. You, and the public, will have the opportunity to speak at said hearing.

Should you have any questions, please feel free to give me a call at (641) 792-6622 x 2302 or send me an email at [varshab@newtongov.org](mailto:varshab@newtongov.org). Please be on notice that this letter serves as the only warning for this matter. Future violations will automatically move to an enforcement level.

Sincerely,

Varsha Borde  
Newton City Planner

## Varsha Borde

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**From:** Feld, Luke <Luke.Feld@iowadot.us>  
**Sent:** Tuesday, January 7, 2025 8:17 AM  
**To:** Varsha Borde  
**Subject:** RE: Newton Cars in Newton, IA

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**CAUTION:** This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Our Dealer Programs staff is moving forward with revocation of the license. The letter should go out in the next few days. At that point they will have 20 days to appeal the revocation. If they appeal, our staff will need to navigate that process, which can include a hearing before an administrative law judge.

I hope this information helps. Thank you.

**Luke Feld T513**  
**Investigator**  
Bureau of Investigation & Identity Protection  
Iowa Department of Transportation  
6310 SE Convenience Blvd.  
Ankeny, IA 50021  
515-237-3222 office  
515-817-6574 fax  
luke.feld@iowadot.us  
[iowadot.gov](http://iowadot.gov)



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**From:** Varsha Borde <VarshaB@newtongov.org>  
**Sent:** Monday, January 6, 2025 12:18 PM  
**To:** Feld, Luke <Luke.Feld@iowadot.us>  
**Subject:** RE: Newton Cars in Newton, IA

**CAUTION:**

This email originated from outside the Iowa Department of Transportation.  
Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning Luke,

I wanted to check if you received any communication from Morris Motors, and what is the future plan of action? The City is working to revoke his Conditional Use permit next week.

Thanks!

## Varsha Borde

City Planner | City of Newton

O: 641-792-6622 ext 2302

303 W 4th St N Suite 501, Newton, IA 50208

[varshab@newtongov.org](mailto:varshab@newtongov.org) | [www.newtongov.org](http://www.newtongov.org)



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**From:** Feld, Luke <[Luke.Feld@iowadot.us](mailto:Luke.Feld@iowadot.us)>  
**Sent:** Thursday, December 5, 2024 7:48 AM  
**To:** Varsha Borde <[VarshaB@newtongov.org](mailto:VarshaB@newtongov.org)>  
**Subject:** RE: Newton Cars in Newton, IA

**CAUTION:** This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Varsha,

Our Dealer Programs staff has sent the dealer a notice of non-compliance. What that means is that they have until January 4<sup>th</sup> to schedule an on-site inspection with me to provide proof of the required regular maintained business hours. If they fail to do this, or fail to respond to the letter, the DOT will move forward with revocation of their license.

### Luke Feld T513

#### Investigator

Bureau of Investigation & Identity Protection

Iowa Department of Transportation

6310 SE Convenience Blvd.

Ankeny, IA 50021

515-237-3222 office

515-817-6574 fax

[luke.feld@iowadot.us](mailto:luke.feld@iowadot.us)

[iowadot.gov](http://iowadot.gov)



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**From:** Varsha Borde <[VarshaB@newtongov.org](mailto:VarshaB@newtongov.org)>  
**Sent:** Wednesday, December 4, 2024 11:30 AM  
**To:** Feld, Luke <[Luke.Feld@iowadot.us](mailto:Luke.Feld@iowadot.us)>  
**Subject:** RE: Newton Cars in Newton, IA

**CAUTION:**

This email originated from outside the Iowa Department of Transportation.  
Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you.