



## Zoning Board of Adjustment Meeting Agenda

**Wednesday, March 5, 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 1.8.2025 ZBA meeting
- III. Public Hearing
  1. V25-1: Variance for Reduced Frontyard setback at 328 West 8th Street North. Alliant Energy, Applicant.
- IV. Other Business
- 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:** Craig Trotter, Lynette Birkenholz, John Billingsley

**Minutes of Meeting**  
**Zoning Board of Adjustment**  
**Regular Meeting**  
**January 15, 2024**

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

STAFF PRESENT: Erin Chambers, Community Development Director  
Varsha Borde, City Planner  
Craig Armstrong, Development Specialist

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

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**Minutes**

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

**Public Hearing**

CU25-1: Consideration and review of conditional uses authorized in 2018 for Auto Sales Business at the property located at 1504 West 4th Street North. City of Newton, applicant.

Chambers reviewed the prepared staff report and shared map of the subject property and explained what a conditional use permit is. Chambers explained that in 2018, the Zoning Board of Adjustment had considered that a used car sales business might be compatible with the neighborhood and approved the conditional use permit CU18-1: Conditional Use Permit for Auto Sales Business at 1504 W 4 ST N. Chambers shared the 2018 proposal by Morris Motors and the conditions that Morris Motors had committed to fulfill. Chambers also shared that the DOT had mailed a letter to revoke the dealer’s license from Morris Motors due to not maintaining hours and that Morris Motors had until January 27th to appeal. Chambers then read neighbor testimonies as to why the conditional use permit should be revoked by the city. Chambers concluded that the business was not performing in the way it was supposed to by not complying with the conditions of the conditional use and that the staff recommends that the ZBA should revoke the conditional use permit.

Rossow asked if there were any questions for staff. Otto asked for clarification on conditional uses. Billingsley enquired about the yellow stickers and whether all cars on the property work, whether the cars need to be registered?

Rossow then recognized Shelly Baker who was representing the property/business owner. Baker said that she was representing the owners and that the owners had brought the proposal to the city in 2018. She stated their dealers license has not been revoked; they could appeal the DOT letter. Baker further stated that the business was being targeted by the city and that maintaining hours was none of the City’s business. They were in the business for 15 years and there had been no complaints to the DOT during this time, except from the city.

Billingsley inquired about dealer plates; Rossow asked whether the business in Stuart was in operation; and inquired about the number of cars sold at the Newton location since 2018. Baker replied that they had closed the Stuart shop which they were renting and had bought subject property in Newton. Baker continued to say that she took offense to the word junk being used for the cars and that the cars they sold are affordable so that people of all socio-economic levels can own cars. She stated that they sold 350 vehicles since 2018 and after Otto asked about the cars sold since 2023, Baker replied that they sold 25

vehicles between 2023 and 2024. Otto clarified that the words 'junk' came from neighbors. Otto inquired about their hours of operation as there was a condition on the conditional use to maintain regular hours, to which Baker replied that they were open 9 am – 2 pm Mondays, Wednesdays and Fridays, and 9 am to 2 pm on Tuesdays and Thursdays. To a commissioner's question regarding the yellow stickers on most cars, Baker explained the two options that dealers have to place on the vehicles - either to have a buyer's guide or a yellow 'not for sale' sticker. She further stated that some stickers had fallen off due to the weather conditions. The business was currently stockpiling vehicles to be sold during after the tax season. Baker also stated that she was treading lightly saying that the city was targeting the business because it was a minority owned business. The building had been vacant when they had bought the building and the neighbors liked the light that they had put up. She said that the only thing that would be gained from revoking the permit was that a small town would lose a business and the building would become vacant.

Birkenholz asked if the conditional use permit had a condition regarding resurfacing. Baker stated that she was not aware that gravel was not allowed, as DOT allowed gravel. Otto reminded Baker that the conditional use permit was separate from the DOT. Otto asked if the business was stockpiling for sale and how many vehicles were currently on the property. Baker said they currently have 25 vehicles on the property and will not be buying more until the current ones are sold. They also have a warehouse in Des Moines to store vehicles. Otto stated that only vehicles actively for sale should be stored outside. Rossow thanked Baker, and asked if the audience had any questions.

Chambers shared a picture of a 'Not for sale' sticker that had been shared by a citizen and that had triggered the revoking process. Chambers then shared google pictures from previous years as well as during the Union Dr. reconstruction which showed the vehicles parked on the property, many with the stickers on them. Billingsley then posed a question to Chambers as to what the property/business owners should do to bring the property into compliance. Chambers shared the applicant's narrative submitted with the conditional use permit application in 2018 and listed the commitments that the applicant had proposed.

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 the conditional use permit. Otto mentioned that the pictures show cars parked on grass, and though she believes that cars should be available to people of all socio-economic levels, the manner in which the business was being operated is out of step with neighborhood perception and that appearances are important. The manner in which the business currently operates is out of character with the neighborhood. The perception is that it's a not a functioning business. Otto stated that she is willing to give the business owners time to remedy the problems and demonstrate that they can operate as an outwardly business. Rossow stated that she had originally planned to revoke the permit, but after hearing the owner representative, she was willing to reconsider and give them time to comply. There was more discussion regarding the amount of time that should be given to comply and rectify the manner in which the business operated.

**Motion** by Otto to restate terms of the initial conditional use permit and grant the business owners more time to be fully compliant with the conditions described in the application narrative and the conditional use permit that was granted in 2018; and be fully compliant with the operation of a regular business; and to revisit the operations at the end of May 2025 with some spot checking. If the DOT revokes the dealer's license, the conditional use permit would sunset and the business cannot operate.

**Motion seconded** by Trotter. **Roll call vote:** Approved 4-0.

**Motion** by Otto to adjourn the meeting, **seconded** by Birkenholz. **Voice Vote:** approved, 4-0. The meeting was adjourned at approximately 5:35 PM.

## Zoning Board of Adjustment - Staff Report: V25-1

Applicant: Alliant Energy  
Proposal: Front yard setback variance for Control Enclosure  
Location: 328 W. 8<sup>th</sup> St. N.  
Current Use: Alliant Substation  
Current Zoning: I-H: Heavy Industrial

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**Proposal:** The applicant has requested authorization of a 10'-1 1/2" front yard setback along the west property line of 328 West. 8th Street N. If granted, this will allow the applicant to replace the existing control enclosure which was originally built in 1977. The reason for replacing is the age of the existing enclosure. The applicant is moving the location of existing enclosure to a different location so as to avoid extended outages during construction for their customers. The size of the proposed enclosure is 48ft by 15-1/2 ft.

**Analysis:**

328 W. 8<sup>th</sup> St. N is located within the I-H: Heavy Industrial zoning district, and an aerial and zoning map are included for reference. The required minimum front yard setback of the I-H zoning district is 50 feet. The parcel is on a corner lot so it has 2 front yards along W 8<sup>th</sup> St. N and N 4<sup>th</sup> Ave W. The existing enclosure has approximately a 42-foot front yard setback. The lot is 1.34 acres in area and is relatively flat.

The Zoning Ordinance stipulates that I-H properties meet the following building setback minimum requirements:

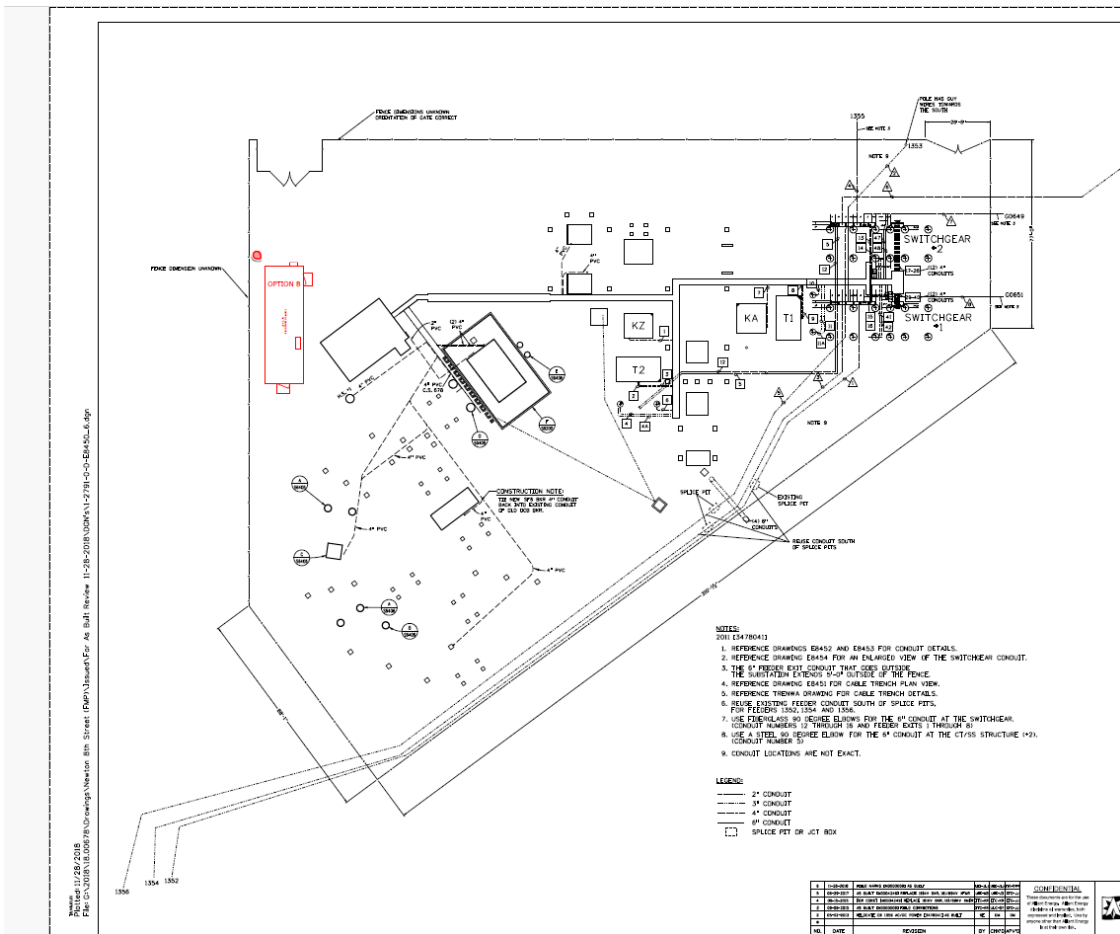
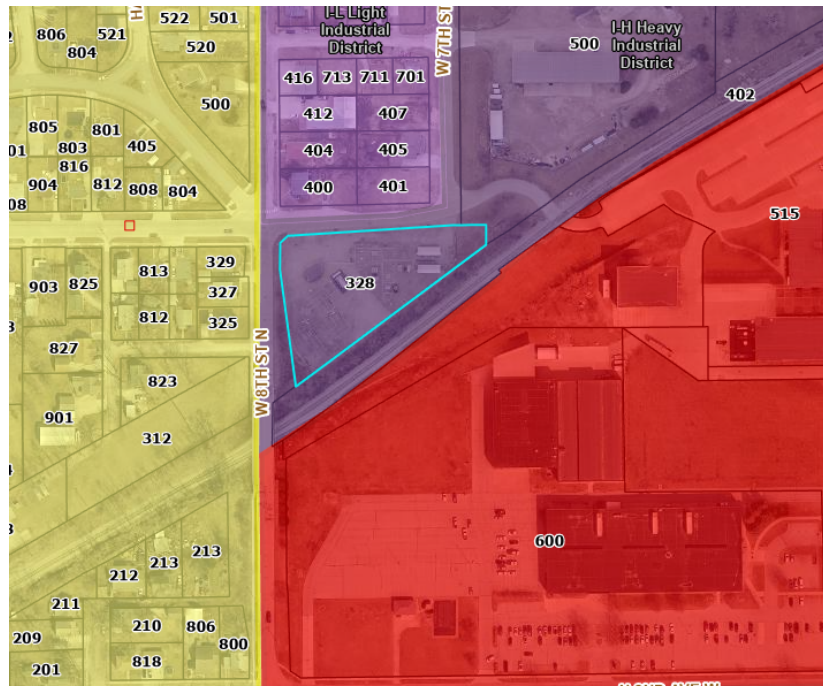
- Front yard: 50 feet
- Side yard: 25 feet
- Rear yard: 25 feet

If the variance is granted, the proposed control enclosure structure shall be less than the required 50ft front yard setback. Due to the unique shape of this property, the access road on the north of the property and position of the existing substation structures, the front yard setback variance is necessary to allow the construction of the control



enclosure on the west side of the parcel. Building plans provided by the applicant are attached. Public works has confirmed that the sight distances are ok.

The findings of the Zoning Board of Adjustment shall be a determination to either approve, conditionally approve, or deny this front yard setback variance.





**Variance Questions:**

The Zoning Ordinance includes specific criteria for granting variances. These are listed below, phrased as questions. For each question, the Board should try to determine what, if anything, distinguishes this case from other projects in the same zoning classification and if the applicant provided sufficient answers.

**According to the ordinance and in order to grant the variance, the answer must be “yes” to the first three questions and “no” to the last three:**

1. Do the physical surroundings, shape, or topographical conditions of the specific property involved result in a particular hardship upon the owner, other than a mere inconvenience or loss of revenue?
  - a. *Yes – the substation feeds several customers, including a hospital, and they'd have to take an outage on the entire substation for an extended period of time to put the control enclosure back in the same location*
  
2. Is the variance request based on conditions that are not applicable in general to other properties in the same zoning classification?
  - a. *Yes- this is site specific*
  
3. Does the proposed variance comply with the spirit and intent of the restrictions imposed by the zoning ordinance?
  - a. *Yes - the proposed location would still have a buffer between the fence and the enclosure.*
  
4. Did the present owner create the alleged difficulty or hardship?
  - a. *No.*
  
5. Will granting the variance be materially detrimental to the public welfare or injurious to the neighborhood?
  - a. *No.*
  
6. Will granting the variance impair an adequate supply of light and air to adjacent property, increase the congestion, increase the danger of fire, endanger the public safety, or substantially diminish property values within the neighborhood?
  - a. *No.*

**Notice of Proposal:** The Notice of the meeting and proposal was published in the Newton Daily News once on Tuesday, February 25<sup>th</sup> 2025. A notice of the meeting was mailed on February 20<sup>th</sup> 2025 to surrounding properties within 200 ft. of the subject parcel for feedback. A yard sign regarding the meeting was also placed at the location. Staff received an in- person enquiry from a neighbor.

**Recommendation:**

While improvements to public utilities and their facilities are encouraged for the betterment of the community and/or region as a whole, staff recommends that the Zoning Board of Adjustment only grant the variance if the answers provided to the six legal test questions are to the Board's satisfaction. Staff finds that the requested variance is not detrimental to public welfare or the neighborhood considering the current circumstances. This recommendation applies with the understanding that neighborhood concerns and questions are addressed so as to avoid anything that is contrary to the public interest.