



Zoning Board of Adjustment Meeting Agenda

Thursday, August 7, 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

- I. Call to Order and Roll Call
- II. Review of Minutes of Previous Meeting
 1. Review of Minutes of Previous Meeting: 7.17.25
- III. Public Hearing
 1. V25-7: Montana Mike's Frontyard Setback, 1400 West 18th Street South
 2. CU25-3: Capstone Behavioral Healthcare Group Living Facility, 200 East 20th 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
July 17, 2025

ROLL CALL: Board members present: Trotter, Rossow, Otto

Board members absent: Birkenholz, Billingsley

STAFF PRESENT: Erin Chambers, Community Development Director
Craig Armstrong, Development Specialist
Nicholas Alexander, City Planner

Applicants: Catherine Deutsch, 1016 S 6th Avenue W

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

Minutes

The Board reviewed the minutes of the previous meeting from June 4, 2025. **Motion** by Otto, **seconded** by Trotter to approve the minutes with corrections. **Voice vote**: approved by VV 3-0.

Public Hearing

V25-6: Variance to allow front yard encroachment at 1016 South 6th Avenue West, Catherine Deutsch, Applicant.

Chambers reviewed the prepared staff report and property map with the Board. She stated that this variance is to allow the encroachment for the 3x3 flagstone stairs. Chambers noted that the age of the home being built in 1929 predates Newton zoning rules. Staff recommended approval of the variance as it would not be detrimental to the public health or welfare to the neighborhood.

Catherine Deutsch, Applicant, stated that the previous structure that was there had been damaged in a previous wind storm. She provided pictures of the previous patio and structure, along with the proposed pergola to be installed, if the variance would be approved.

Otto noted that this property being a corner lot is very different from a lot of surrounding properties as it has two front yards.

Trotter, Rossow, and Otto all appreciated the pictures and believed the new pergola would complement the existing neighborhood greatly.

Motion by Otto to approve the proposed front yard encroachment to allow for a new pergola and flagstone stairs at 1016 South 6th Avenue West; **seconded** by Trotter. Roll Call Vote: approved 3-0.

Other Business- none.

Motion by Otto to adjourn the meeting, **seconded** by Trotter. **Voice Vote**: approved, 3-0. The meeting was adjourned at 4:45 PM.

Zoning Board of Adjustment - Staff Report: V25-7

Applicant: Montana Mike's
Proposal: Front yard setback variance for restaurant addition
Location: 1400 W. 18th Street S.
Current Use: Montana Mike's Restaurant
Current Zoning: C-A: Arterial Commercial

Proposal: The applicant has requested authorization of a 5' encroachment to the front yard setback along the west property line of 1400 W. 18th Street S. If granted, this will allow the applicant to add on to the existing structure, which was originally built in the 1980's. The reason for this addition to the restaurant is to enhance the service for customers visiting the establishment. It will also allow the restaurant to still serve customers while other renovations are ongoing.

Analysis:

1400 W. 18th Street S. is located within the C-A: Arterial Commercial zoning district, an aerial map and zoning map are included for reference. The required minimum front yard setback of the C-A zoning district is 40 feet. The existing structure has approximately a 30-foot front yard setback. The lot is 1.26 acres in area and is relatively flat.

The Zoning Ordinance stipulates that C-A properties meet the following building setback minimum requirements:

- Front yard: 40 feet
- Side yard: 10 feet
- Rear yard: 0 feet

If the variance is granted, the proposed restaurant structure addition would be less than the required 40ft front yard setback. Due to the position of the existing structure, the location of a frontage road between the property and Highway 14, and existing utilities located throughout the property, the front yard



Figure 1: Aerial Vicinity Map around 1400 W. 18th Street S.

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. This building was built in the early 1980's under different building codes and set back limits. I cannot add on to the South of the building due to the sewer and water lines on that side of the building. I cannot add on to the East side of the building due to the underground grease interceptor. I plan to add more Cooler and Freezer space to the North side of the building. So, the only way I can add to the building is the West side.
2. Is the variance request based on conditions that are not applicable in general to other properties in the same zoning classification.
 - a. Yes. To have better visibility to traffic on Highway 14. There is significantly less traffic on the frontage road compared to Highway 14 and we would like to have better visibility to traffic on Highway 14. We would use the extra space to have a better and more beautiful curb appeal.
3. Does the proposed variance comply with the spirit and intent of the restrictions imposed by the zoning ordinance?
 - a. Yes. By going to the West side, it does not block either of my neighbor's property. There is no increase in fire hazards to either of my neighbors and there is significantly less traffic on the frontage road compared to Highway 14. This addition is an asset and we plan to add new landscaping to beautify this area as well.
4. Did the present owner create the alleged difficulty or hardship?
 - a. No. I didn't build the building in the early 80's or have any input to where to set the building. Again, I cannot add on to the South of the building due to the sewer and water lines on that side of the building. I cannot add on to the East side of the building due to the underground grease interceptor. I plan to add more Cooler and Freezer space to the North side of the building. So, the only way I can add to the building is the West side.

5. Will granting the variance be materially detrimental to the public welfare or injurious to the neighborhood?
 - a. No. It will not impact the visibility of either of my neighbors nor will it impact the safety of our guests leaving the property, turning onto the frontage road.
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. It does not impair an adequate supply of light and air to adjacent property or increase the congestion in the area. It also does not increase the danger of fire or endanger the public safety, or substantially diminish property values within the neighborhood. In fact, it may help increase the property values in the area. With the addition the building will still be less than 35% of my lot coverage

Notice of Proposal: The Notice of the meeting and proposal was published in the Newton Daily News once on Friday, August 1st, 2025. A notice of the meeting was mailed on July 29th 2025 to surrounding properties of the subject parcel for feedback.

Recommendation:

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



Figure 1: View from the Northwest #1

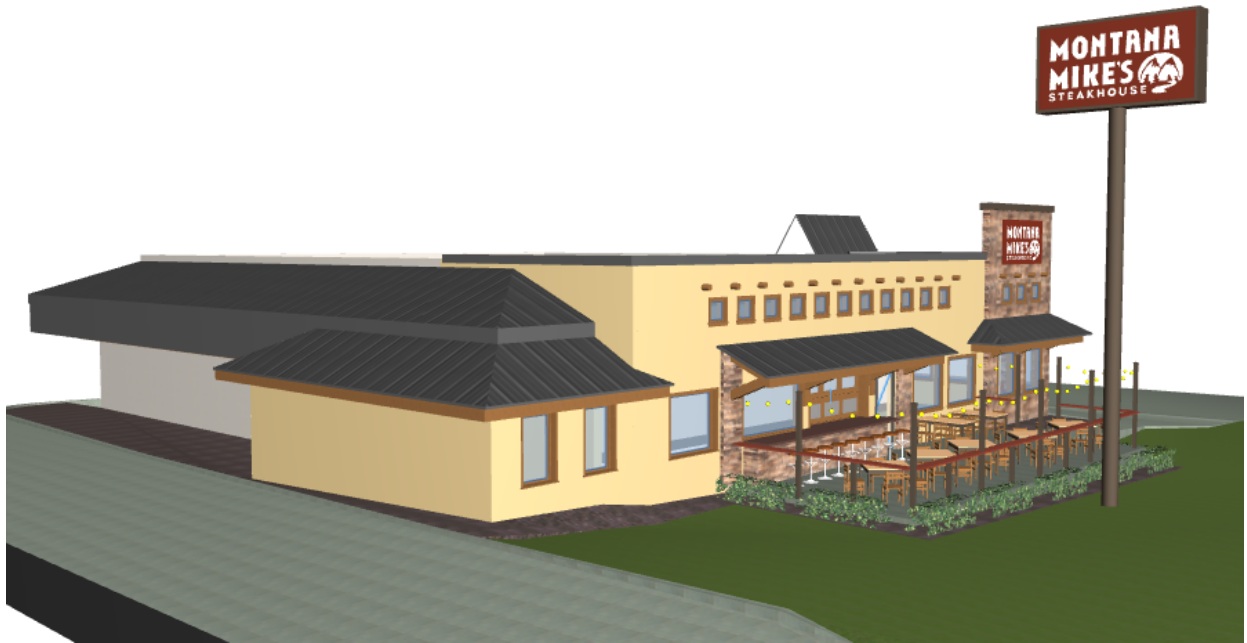


Figure 2: View from the Northwest #2



Figure 3: View from the Southwest street view #1

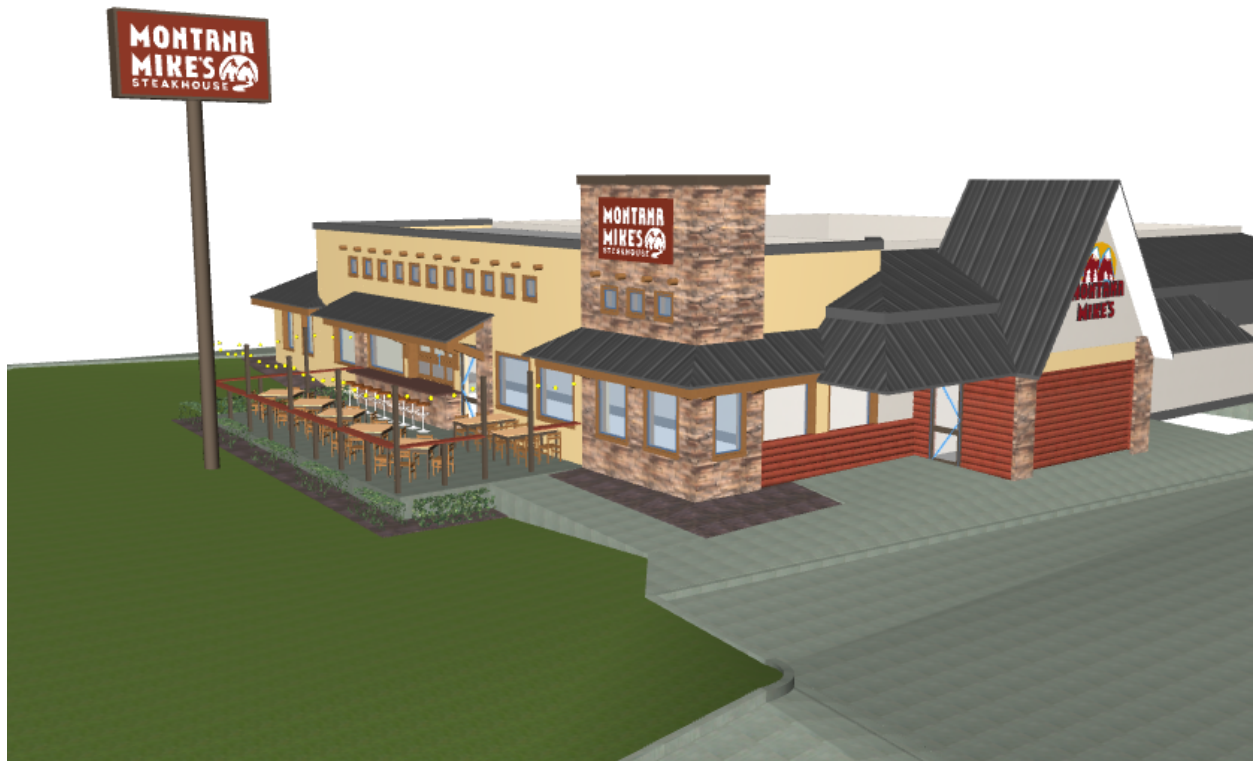


Figure 4: View from the Southwest street view #2



Figure 5: View from the street



Figure 6: Looking overhead from the street

Zoning Board of Adjustment – CU25-3 Staff Report

Applicant:	Capstone Behavioral Healthcare
Proposal:	To offer housing to persons with disabilities
Location:	200 E. 20 th St. N. (Parcel #0835204007)
Most recent use:	Single-family residence
Current Zoning:	R-2: One- and Two-Family Residential

Application Background:

Capstone Behavior Health has purchased the property at 200 East 20th Street North for the purpose “to offer housing to persons with disabilities.” [See the attached application provided by Capstone.]

City staff has limited information on the proposal. On Tuesday, July 15th, City staff sent the following email:

Thank you for submitting your application. In order for Capstone to present its best request to the Zoning Board of Adjustment, I suggest that you put together a detailed summary of how the property will operate on a day-to-day basis. Things I would suggest including in your narrative, based on past similar conditional uses, are:

- *Maximum number of residents at any given time.*
- *Number of staff present at the home and hours staff will be there (is it 8-5 or 24 hours a day?)*
- *Interior layout/floor plan of the home- showing bedrooms, shared living quarters, staff quarters, office areas, or other...*
- *Will residents be paying rent?*
- *How long is their stay? In other words, is this more permanent living or temporary living?*
- *Exterior layout- will residents have their own cars? Where will they park? Staff parking?*
- *Do you have lease agreements? House rules?*
- *In a conversation between your attorney and the City attorney, your attorney made mention of other properties owned by Capstone which did not obtain this permit. As the zoning administrator, I was unaware of these properties. Please provide the addresses, we may need to fold them into this application as well if they are in zoning districts that necessitate it.*

The more information you can provide, the better the Zoning Board of Adjustment can make their decision.

The following response was received:

The application does not ask any of that information.

On July 24, 2025, the City received an email (Attachment #1) from Capstone, making claims that the City's conditional use permit process is not applicable. The City's attorney reviewed this communication and sent a response letter (Attachment #2). This response letter establishes the multi-part determinations that will be necessary for the Zoning Board of Adjustment.

Property Background:

- 200 E. 20th St. N. is located within an R-2: One- and Two-Family Residential zoning district, and an aerial and zoning map are included for reference. Group living facilities are allowable as a conditional use within the R-2 zoning district.

Decisions for Zoning Board of Adjustment:

Decision #1: Is the property exempt from the Conditional Use Permit review per Iowa Code Sections 414.22, 135C.23(2), and 414.32?

- At the time of the agenda packet, City Staff has limited information to assist in determining if all of these criteria are met.
- Referring to the response letter from City Attorney Matt Brick, Capstone should demonstrate to the Zoning Board of Adjustment the following, in order to be considered exempt from the Conditional Use Permit Process:
 - The residence is a community-based residential home, which is licensed as a residential care facility under Chapter 135C to provide room and board, personal care, habilitation services, and supervision for 8 persons or fewer with a developmental disability or a brain injury or any necessary support personnel.

Question 1: Does Capstone hold a license for the property for the proposed use. If so, what does the license specify?

Question 2: Is this a community-based residence/home? (see definition from Iowa Code.) Who are the clients living in the home, does capstone serve someone with Developmental disability or brain injury?

Family home” means a community-based residential home which is licensed as a residential care facility under chapter 135C or as a child foster care facility under chapter 237 to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight persons with a developmental disability or brain injury and any necessary support personnel. However, family home does not mean an individual foster

care family home licensed under chapter 237.

Question 3: How many persons will be living in the home? Will there be Capstone staff at the home, and if so, what does that schedule look like?

Question 4: What services will Capstone be providing in the home?

- The property is not located within a contiguous city block of another such property.

City staff reviewed the GIS system and can verify that no properties providing similar services are so located.

- The home is not admitting/retaining residents who are dangerous to others, in acute state of alcoholism, drug addiction, or mental illness, unduly disturbing to other residents, etc.

Since the home, presumably, is un-occupied, there are currently no residents who pose a danger to others in the home or neighborhood.

Question 1: What is Capstone's admittance process? How will such issues be handled if they arise in the future?

Decision #2: If the answer for Decision #1 is "No", proceed with the review of the application following the normal Conditional Use Permit review process.

Letters of Support: Attached to this staff report are Letters of Support of Capstone's proposed use at 200 East 20th Street North.

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 if this living facility is exempt as specified in the State of Iowa Code, if not exempt the Zoning Board of Adjustment must determine the appropriateness of a group living facility at 200 E. 20th St. N., 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, July 23, 2025. Notice of the meeting was also published in the *Newton Daily News* twice, once on Tuesday, July 22, 2025, and again on Tuesday, July 29, 2025. No comments were received as of the date of writing this report.

Recommendation:

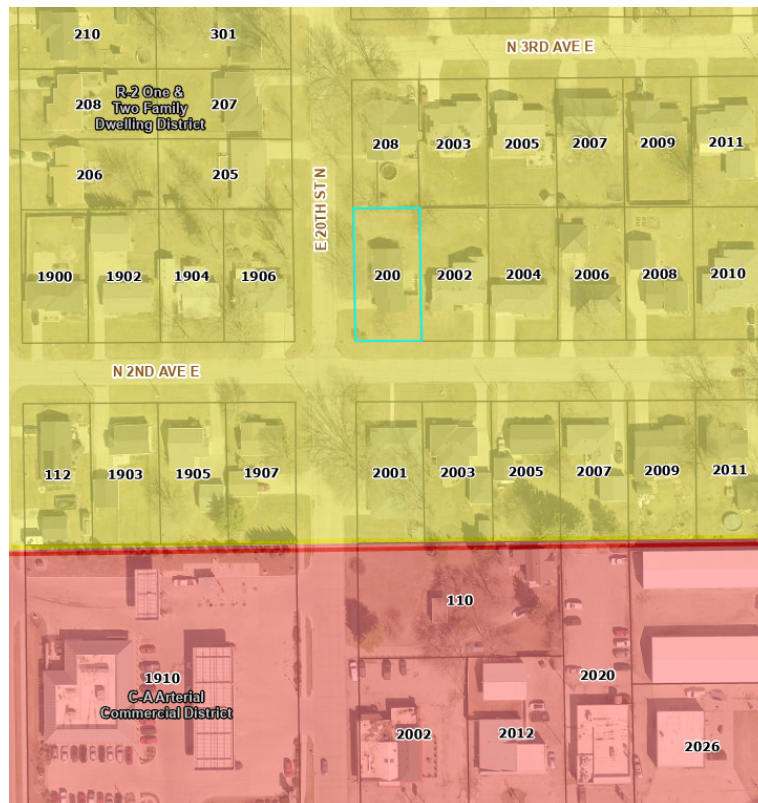
Due to limited information provided ahead of the meeting, City staff recommends only holding the public hearing at the August 7th Zoning Board of Adjustment meeting. The Zoning Board of Adjustment should use the public hearing time to gather the necessary information to make an informed decision at a future meeting of the board.

Staff recommends scheduling a second meeting, which can be held as soon as 7 days from the date of the August 7th meeting, schedules of the board pending, to determine if the property is exempt from the Conditional Use Permit process in accordance with Iowa Code. If it is determined that it not, the ZBA could proceed with the Conditional Use Permit review process.

Map of the Property (outlined in blue):

Yellow: R-2 Zoning

Red: C-A Zoning



JASPER COUNTY SHERIFF'S OFFICE



Serving Jasper County Since 1846

Sheriff

Brad M. Shutts

2300 Law Center Drive
Newton, Iowa 50208

Office (641) 792-5912

Fax (641) 792-4202

Chief Deputy

Duane Rozendaal

July 16th, 2025

City of Newton
Community Development
303 W 4th St N, Suite 501
Newton, IA 50208

Subject: Letter of Support for Director Julie Smith and Capstone Behavioral Healthcare's Initiatives for Improved Housing.

To Whom It May Concern:

This letter expresses strong support for Director Julie Smith and Capstone Behavioral Healthcare's efforts to improve housing options and conditions for individuals managing behavioral health conditions. Accessible, safe, and stable housing is essential for supporting well-being and managing and recovering from mental health challenges.

Individuals facing behavioral health conditions often face challenges in securing and maintaining appropriate housing, which can worsen their conditions and create additional barriers to recovery. Capstone Behavioral Healthcare's commitment to addressing these critical needs through enhanced housing initiatives is both commendable and vital.

It is understood that Capstone Behavioral Healthcare is committed to developing new housing programs, improving existing housing facilities, and advocating for supportive housing policies. These efforts are crucial to:

- **Promoting Recovery:** Stable housing provides security and belonging, fostering an environment where individuals can focus on treatment and recovery without the added stress of housing insecurity.
- **Enhancing Well-being:** Access to safe and healthy housing directly impacts physical and mental health. Addressing housing needs contributes to overall well-being and reduces health disparities among this vulnerable population.
- **Facilitating Community Integration:** Appropriate housing can help individuals reintegrate into their communities, connect with support networks, and participate in daily life more fully.

Capstone Behavioral Healthcare's commitment to these objectives aligns perfectly with the understanding that a holistic approach, encompassing housing alongside therapeutic interventions, is paramount for positive outcomes.

Investing in improved housing for individuals with behavioral health conditions will yield significant positive impacts, not only for those served but also for the broader community. These initiatives can reduce emergency service use, improve health outcomes, and contribute to a more inclusive and supportive society.

Capstone Behavioral Healthcare's endeavors to enhance housing opportunities and infrastructure in the city of Newton are fully endorsed. It is believed that their continued dedication will lead to tangible and meaningful improvements in the lives of those they serve.

Thank you for considering this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Brad M. Shutts". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Brad M. Shutts, Sheriff
Jasper County Sheriff's Office

July 16, 2025

Zoning Commission of Adjustment
City of Newton
101 W 4th Street South
Newton, Iowa 50208

To Whom it May Concern:

I am writing on behalf of Julie Smith and Capstone Behavioral Healthcare, as I am a Clinical Psychologist and Clinical Director who has worked for Capstone for over nine years. I am writing requesting support for Capstone being approved for a Conditional Use Permit for housing. I am writing in support of this program as not only an employee of Capstone, but as a psychologist who specializes in working with high need, high risk, and severely mentally ill patients with over 15 years of experience.

During my time at Capstone, I have watched Julie lead our organization with a goal of improved mental health care for not just patients in Newton or in Jasper County, but for the betterment of mental health for all individuals in the state of Iowa. Specifically, Julie consistently personally and professionally goes out of her way to ensure services and support are available to all in need, including those who have been forgotten and given up on by other organizations, the medical field, and other community leadership – individuals with severe mental illness, clients with cognitive delays resulting in difficult caring for themselves independently, individuals with significant substance abuse concerns and those in recovery, homeless patients, and for patients who are returning to life after incarceration. **Julie knows that ignoring these patients is not the answer – that they will be returning to our communities and will be living in our communities regardless of what help is offered to them because it is their right to exist in the free world.** She has committed to ensuring her team of professionals continues to provide the best possible care for them, not only because it is what's best for them as human beings, but because it is what's *best for the community*. Providing safe housing for patients who have no other housing options means they are living in a supervised setting as opposed to on the streets, behind businesses, or in abandoned homes in Newton. Allowing for consistent supervision means that staff can learn patterns and warning signs for increased symptoms so that early intervention can help us to avoid big mental health crises which often involve community members and the police. Providing supportive housing and services means patients feel connected with others and accountable to their community, which reduces the chance they engage in crime and acting out behavior toward others.

Julie, in her role as Director at Capstone Behavioral Healthcare, is the perfect person to lead this supportive initiative. She has over 20 years of experience working in and serving the community of Newton. Not only does she work as the Director of Capstone, but she is engaged in larger community projects because of her expertise in the area, to include: a board member for the CICS Governing Board, a member for the Advisory Council for the Region, the Chair of Jasper County Public Health, and being on the Leadership Team for the Jasper County Cares Coalition. Her significant experience makes her the perfect person to continue to help make lasting and positive change in this community.

Again, I cannot support Julie and Capstone enough in opening supportive housing for members of our community in need. Our goal to improve the stability and safety of Newton will only occur when primary and secondary intervention methods are supported and are invested into by leadership in this city. We share the same goal – all with different responsibilities and roles in meeting it. Please support us in doing our part and follow through with our responsibility to the community and to our shared goal.

Let us be part of the solution!

Sincerely,

A handwritten signature in black ink that reads "Jessica Virzi Gasser Psy.D." The signature is written in a cursive style with a large, looping initial 'J' and a distinct 'D' at the end.

Jessica Virzi Gasser, Psy.D.
Licensed Psychologist

July 16, 2025

To Whom It May Concern:

I write in support of Julie Smith, Executive Director of Capstone Behavioral Healthcare, in her efforts to secure whatever zoning is needed to implement any and all of our housing units. This is in particular reference to our newest staffed home in question.

I have been involved with Capstone for over twenty-five years, serving on their boards of directors. I am currently Vice President of the Capstone Board, President of the Capstone Foundation Board, and President of the Beacon Housing Board. I have known Julie well for all of those years.

Since Julie was named Director in 2012, I have worked closely with her, not just at Capstone, but on many committees and in many groups whose goal is to provide and streamline Human Services to the residents of Newton and Jasper County. A few years ago, many of those groups combined to form one large consortium, Jasper County Cares, which meets monthly. The mutual goal of Jasper County Cares is to address quality of life for many in our community who are in desperate need of services. All members collaborate to better serve our population. Julie and I both serve on the Leadership Team of Jasper County Cares. I can vouch that Julie has been intimately involved in meeting needs, especially those with special needs and those who are undeserved, in Jasper County.

Julie's involvement and commitment to her life's work reaches far beyond Newton and Jasper County. She serves on state-wide boards and committees with the same dedication and goals as those she furthers at Capstone. She is well respected in those circles in our State of Iowa.

Capstone provides both Substance Misuse and Mental Health Services. The inherent intent is to treat clients holistically, not just treating the single obvious problem, but assisting with life effects created by the misuse of substances and mental health issues. Because our community does not have specific units for treatment of such cases, incarceration is often the immediate response. Julie works tirelessly with both the Newton Police Department and the Jasper County Sheriff's Office to help such individuals. Capstone makes every effort to see that clients are assisted in efforts to reenter society in a positive way. It is a known fact that Julie has answered calls 24/7 in this capacity.

Because our city and county do not provide housing for the homeless and those persons with other needs, our staffed housing is a vital component of these efforts. Capstone, along with a few other human service providers, has done much to prevent and remedy homelessness. One subcommittee of Jasper County Cares is also currently addressing this issue, because there is obviously much work left to do.

Please support Julie Smith in her efforts to continue to provide help through housing for these clients. She is extremely knowledgeable and capable in her position as Executive Director.

Historically, she led the charge to save Capstone Behavioral Healthcare when prior leadership failed to keep the organization viable.

Please feel free to contact me with questions or for further information. I am also willing to discuss this matter in person.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Rita A. Baker". The signature is fluid and cursive, with a long horizontal stroke extending to the right from the end of the name.

Rita A. Baker

Jasper County
General Assistance



315 W. 3rd St. N., Suite 200
Newton, IA 50208
Phone: 641-791-2609

July 16, 2025

To Whom it May Concern:

I am writing in support of Capstone's request for allowance of a recently acquired residential home to be used for disabled individuals in Newton. By doing so, Capstone will be filling a much needed service in our community.

I have worked with Julie Smith and Capstone for over 15 years, serving mentally ill residents of Jasper County. Capstone has been at the forefront of supplying services and treatment for these individuals. Where there is a gap in available services in our area, Capstone has stepped up to help fill those needs. I have worked with Julie through the Central Iowa Community Services Region for mental health and disability services as well as on the leadership team for the Jasper County Cares Coalition. Her experience and expertise in the mental health field allowed her to provide much needed input while working on the Community Health Needs Assessment. Housing was identified as a top need in our community. Her extensive knowledge of the mental health system and needs for our county are invaluable. Through our County General Assistance Program, we have collaborated to find housing for many of our most vulnerable population. Finding housing for the low-income population is a struggle, particularly when they are ill and need additional supports. Julie's passion for this segment of the population is unmatched.

Thank you for your consideration, and please allow this request to proceed.

Sincerely,

Connie McQuiston
Director, Jasper County General Assistance



July 17, 2025

City of Newton, Zoning Board of Adjustments
101 W 4th St S
Newton, IA 50208

RE: Letter of Support for Capstone Behavioral Healthcare

Dear Zoning Board of Adjustments,

I am writing to express my strong support for Capstone Behavioral Healthcare and the vital role it plays in improving the health and well-being of individuals and families in Jasper County. According to the most recent Jasper County Community Health Assessment, the top needs in Jasper County continue to be Mental Health and Substance Misuse. A close second is the critical need for affordable housing, which includes a safe place to support individuals in treatment or recovery. These challenges are deeply intertwined, and Capstone Behavioral Healthcare has been at the forefront of addressing them in our community.

Under the steadfast leadership of Julie Smith, Capstone has grown from 879 visits per year in 2012 to over 20,451 visits in FY24, a remarkable expansion that reflects the growing need and the trust our community places in this organization. Julie has been a passionate advocate and a bold leader in the fight against mental illness and addiction. Her compassion, commitment, and innovative thinking have led to real solutions for some of our community's most vulnerable residents.

On July 1, 2025, the State of Iowa underwent a major transition in its mental health program, which included the change of the vital administrative agency serving Jasper County. Amid this upheaval, Julie's leadership has provided continuity, clarity, and hope. She continues to lead with heart and vision, especially for those experiencing homelessness while seeking behavioral health treatment. Julie Smith's service extends far beyond Capstone. She is a respected leader in the Jasper County Cares Coalition, serves as the Chair of the Jasper County Board of Health, and has represented Jasper County on the Regional Governing Board for CICS Mental Health. Her ability to bridge organizations, systems, and communities is exceptional.

Capstone Behavioral Healthcare is a central hub for mental health and substance misuse services in Jasper County. They are the first line of support for referrals, crisis response, school interventions, jail diversion, court mandates, probation needs, peer support, and emergency assessments. They serve everyone, from children to the elderly, from those in crisis to those simply seeking help. Their work touches every corner of our community.



While a full-scale homeless shelter may not be fiscally feasible at this time, we must still find meaningful ways to support individuals on the path to recovery. The work of Capstone is emotionally, mentally, and physically demanding, but it is also lifesaving and community-sustaining.

It is important to remember that asking individuals whether they have mental health or substance issues is not appropriate and may violate their right to privacy. These challenges are deeply personal to those who are experiencing them. Whether they are family members, neighbors, or friends, everyone deserves dignity, compassion, and confidentiality.

Capstone's tenants, whether they are employees, guests, or individuals receiving services, are entitled to the same right to privacy as anyone else. Speculating about or questioning someone's health or treatment status is not only disrespectful, but it can also be harmful. We must foster a community where individuals feel safe and supported, not scrutinized or judged.

I have read the City Zoning Codes, and while I am not an expert, I understand the section related to waiver recipient residences. From my perspective, Capstone's efforts align with the spirit and intent of providing inclusive, community-integrated care to individuals who need it most.

I strongly urge this Board to work collaboratively with Capstone Behavioral Healthcare to identify housing solutions for individuals seeking treatment and recovery support. Housing is healthcare, and ensuring access to safe shelter is a critical step toward restoring lives and strengthening our community.

Thank you for your leadership and for considering this important partnership.

Sincerely,

A handwritten signature in blue ink that reads "Rebecca Pryor".

Rebecca Pryor, Administrator

Jasper County Health Department

I am writing to formally request that the following Iowa Codes be distributed to all board members for review, as they directly prohibit the City from requiring a Conditional Use Permit (CUP) in this context:

- **Iowa Code 414.22** – *Homes for persons with disabilities*:
This code states that a residence housing persons with disabilities must be treated the same as a single-family dwelling for zoning purposes, and cities may not impose conditions that are not applied to other single-family homes.
- **Iowa Code 414.32** – *Zoning restrictions related to residential care services*:
This section prohibits a city from requiring a special or conditional use permit for a residential program that complies with applicable licensing or certification standards and serves eight or fewer unrelated individuals with disabilities.

Given these provisions, the requirement of a Conditional Use Permit in this instance appears to be in direct conflict with state law.

Furthermore, I would like to understand why notices were sent to neighboring residents. This act raises significant concerns of discrimination. Capstone Behavioral Healthcare is the state-designated Community Mental Health Center tasked with providing services to individuals with mental health diagnoses. Informing neighbors of the arrival of such individuals effectively discloses private medical information and fosters stigma, which is a violation of their rights under both federal and state laws, including the Fair Housing Act and Americans with Disabilities Act.

Capstone is committed to transparency and inclusion. It is with deep disappointment that we must raise concerns about the City's handling of this matter, which we believe reflects discriminatory practices regarding housing for individuals with mental illness.

Julie Smith

414.22 Zoning for family homes.

1. It is the intent of [this section](#) to assist in improving the quality of life of persons with a developmental disability or brain injury by integrating them into the mainstream of society by making available to them community residential opportunities in the residential areas of this state. In order to implement this intent, [this section](#) shall be liberally construed.

2. a. “*Brain injury*” means brain injury as defined in [section 135.22](#).

b. “*Developmental disability*” means a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:

(1) Attributable to an intellectual disability, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to an intellectual disability because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with an intellectual disability or requires treatment and services similar to those required for the persons.

(3) Attributable to dyslexia resulting from a disability described in either subparagraph (1) or (2).

(4) Attributable to a mental or nervous disorder.

c. “*Family home*” means a community-based residential home which is licensed as a residential care facility under [chapter 135C](#) or as a child foster care facility under [chapter 237](#) to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight persons with a developmental disability or brain injury and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under [chapter 237](#).

d. “*Permitted use*” means a use by right which is authorized in all residential zoning districts.

e. “*Residential*” means regularly used by its occupants as a permanent place of abode, which is made one’s home as opposed to one’s place of business and which has housekeeping and cooking facilities for its occupants only.

3. Notwithstanding any provision of [this chapter](#) to the contrary, a city, city council, or city zoning commission shall consider a family home a residential use of property for the purposes of zoning and shall treat a family home as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the city. A city, city council, or city zoning commission shall not require that a family home, its owner, or operator obtain a conditional use permit, special use permit, special exception, or variance. However, new family homes owned and operated by public or private agencies shall be dispersed throughout the residential zones and districts and shall not be located within contiguous city block areas. [Section 135C.23, subsection 2](#), shall apply to all residents of a family home.

4. Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property in a city which permits residential use of property but prohibits the use of property as a family home for persons with a developmental disability or brain injury, to the extent of the prohibition, is void as against the public policy of this state and shall not be given legal or equitable effect.

[83 Acts, ch 11, §2; 93 Acts, ch 90, §4; 94 Acts, ch 1023, §110; 94 Acts, ch 1170, §9; 96 Acts, ch 1129, §113; 2012 Acts, ch 1019, §128](#)

Referred to in [§135C.9, 414.27, 414.30, 414.31, 504C.1](#)

Similar provision, see [§335.25](#)

414.32 Home and community-based services waiver recipient residence.

1. A city, city council, or city zoning commission shall consider the residence of the recipient of services under a home and community-based services waiver as a residential use of property for the purposes of zoning and shall treat the use of the residence as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the city.

2. A city, city council, or city zoning commission shall not require that the recipient, or owner of such residence if other than the recipient, obtain a conditional use permit, special use permit, special exception, or variance. A city, city council, or city zoning commission shall not establish limitations regarding the proximity of one such residence to another.

3. [This section](#) applies to the residence of a recipient of services under a home and community-based services waiver if the residence meets any of the following conditions:

- a. The residence is a single-family dwelling owned or rented by the recipient.
- b. The residence is a multifamily dwelling which does not hold itself out to the public as a community-based residential provider otherwise regulated by law, including but not limited to a residential care facility, and which provides dwelling units to no more than four recipients of services under a home and community-based services waiver at any one time.

4. For the purposes of [this section](#), “*home and community-based services waiver*” means “*waiver*” as defined in [section 249A.29](#).

[2007 Acts, ch 218, §131, 132](#)

Similar provision, see [§335.34](#)

July 30, 2025

Mike Lewis
Lewis Law Firm
212 Water Street
Cambridge, IA 50046
mike@lewislawfirm.us

RE: Capstone Property - 200 East 20th Street North

Mr. Lewis:

In previous correspondence to the City (see enclosed) your client claimed that Iowa Code sections 414.22 and 414.32 prohibit the City from holding a zoning hearing or requiring a Conditional Use Permit for the property at 200 E. 20th Street. While these Code sections may create an exemption, they only do so after evidence is provided that the exemptions apply and the specific property is exempt from the conditional use permit requirements. As your client has refused to provide the information that City staff has suggested it include as part of its application, there is no way for the City to confirm these exemptions absent a hearing.

As I am sure you know, Iowa Code 414.22 only allows an exemption after it is shown that:

1. The residence is a community-based residential home which is licensed as a residential care facility under chapter 135C to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight persons with a developmental disability or brain injury and any necessary support personnel; and
2. The property is not located within a contiguous city block of another such property.

Further Iowa Code 135C.23(2) only allows an exemption if it is shown that the home has not admitted nor retained any residents who are:

- a. Dangerous to the resident or other residents;
- b. In an acute stage of alcoholism, drug addiction, or mental illness;
- c. Unduly disturbing to other residents; or
- d. In need of medical procedures, as determined by a physician, or services which cannot be or are not being carried out in the facility.

Finally, under Iowa Code 414.32, it must be shown that the residence is:

1. A single-family dwelling owned or rented by the recipient; or
2. A multifamily dwelling which does not hold itself out to the public as a community-based residential provider otherwise regulated by law, including but not limited to a residential care facility, and which provides dwelling units to no more than four recipients of services under a home and community-based services waiver at any one time.

A zoning hearing is the mechanism to allow your client to establish whether the property at issue requires a conditional use permit or qualifies for an exemption. The procedure under Iowa Code and Newton's City Code requires notice of the hearing to be publicly posted and mailed to all property owners within 400 feet of the outside boundaries of the subject property. The procedure for public notice is the same for all properties, and the Capstone facility is not exempt from this requirement. No private medical information was disclosed.

Regard the allegations made by your clients of discrimination by the City, this is a claim City staff takes seriously, and we ask that your client provide all evidence in support of these claims immediately so they can be investigated. The City is committed to providing a fair and respectful environment for all residents and has been and remains supportive of Capstone's mission in bringing vital services to the residents of Newton.

Please let me know if you or your client have further questions or comments in advance of the August 7, 2025, Zoning Board of Adjustment hearing.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matt Brick', written in a cursive style.

MATTHEW S. BRICK

Enclosures

From: Julie Smith [<mailto:julies@capstonebh.com>]
Sent: Thursday, July 24, 2025 3:30 PM
To: Nick Alexander; Erin Chambers
Cc: Evelyn George; Matt Muckler
Subject: Re: Zoning Board of Adjustment- Meeting Date

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

I am writing to formally request that the following Iowa Codes be distributed to all board members for review, as they directly prohibit the City from requiring a Conditional Use Permit (CUP) in this context:

- **Iowa Code 414.22** – *Homes for persons with disabilities:*
This code states that a residence housing persons with disabilities must be treated the same as a single-family dwelling for zoning purposes, and cities may not impose conditions that are not applied to other single-family homes.
- **Iowa Code 414.32** – *Zoning restrictions related to residential care services:*
This section prohibits a city from requiring a special or conditional use permit for a residential program that complies with applicable licensing or certification standards and serves eight or fewer unrelated individuals with disabilities.

Given these provisions, the requirement of a Conditional Use Permit in this instance appears to be in direct conflict with state law.

Furthermore, I would like to understand why notices were sent to neighboring residents. This act raises significant concerns of discrimination. Capstone Behavioral Healthcare is the state-designated Community Mental Health Center tasked with providing services to individuals with mental health diagnoses. Informing neighbors of the arrival of such individuals effectively discloses private medical information and fosters stigma, which is a violation of their rights under both federal and state laws, including the Fair Housing Act and Americans with Disabilities Act.

Capstone is committed to transparency and inclusion. It is with deep disappointment that we must raise concerns about the City's handling of this matter, which we believe reflects discriminatory practices regarding housing for individuals with mental illness.

Julie Smith

From: Nick Alexander <nicka@newtongov.org>
Date: Wednesday, July 23, 2025 at 1:15 PM
To: Erin Chambers <ErinC@newtongov.org>, Julie Smith <julies@capstonebh.com>
Cc: Evelyn George <EvelynG@newtongov.org>, Matt Muckler <Matt@newtongov.org>
Subject: RE: Zoning Board of Adjustment- Meeting Date

Julie,

Attached to this email should be copies of the notice to the paper, and the letter to the surrounding property owners. If you have any questions, please let me know.

Best Regards,

Nicholas Alexander

City Planner | City of Newton
O: 641-792-6622 ext. 2317
nicka@newtongov.org | www.newtongov.org



From: Erin Chambers <ErinC@newtongov.org>
Sent: Wednesday, July 23, 2025 12:57 PM
To: Julie Smith <julies@capstonebh.com>
Cc: Evelyn George <EvelynG@newtongov.org>; Matt Muckler <Matt@newtongov.org>
Subject: RE: Zoning Board of Adjustment- Meeting Date

Julie, The agenda has not yet been issued/prepared. When it is completed, it will be available on the City website and we can email you a link for your convenience.

Regarding the notices, I will have Nick Alexander, City Planner, share with you the notice that was sent to the newspaper along with a copy of the letter that is in today's mail to surrounding property owners.

One of the members will be participating in the meeting via phone. So, if there are any materials are bringing within you, I recommend you send them to Nick or myself ahead of the meeting as she would not be able to receive them during the meeting.

Erin Chambers

Community Development Director, City of Newton
641-792-6622 x 2301 | erinc@newtongov.org | www.newtongov.org

From: Julie Smith [<mailto:julies@capstonebh.com>]
Sent: Wednesday, July 23, 2025 12:55 PM
To: Erin Chambers
Cc: Evelyn George; Matt Muckler
Subject: Re: Zoning Board of Adjustment- Meeting Date

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

Erin-

Can I get a copy of the agenda for the meeting that is on August 7th. I would also like a copy of the notice that was put in the paper and sent to the neighbors.

Thank you,

Julie Smith
Center Director
Capstone Behavioral Healthcare
1123 1st Ave E #200
Newton, IA 50208
(641) 792-4012 ext. 457



City of Newton
Community Development
303 W 4th St N, Suite 501
Newton, Iowa 50208-1926

Varsha Borde
City Planner
(641) 792-6622 x 2302
VarshaB@newtongov.org

Conditional Use Permit Application

Fee: \$100 (less than 1 acre)
\$200 (more than 1 acre)

Julie Smith 1123 1st Ave E. Ste # 200 Newton 641-792-4012
Name of Applicant Mailing Address Telephone

Capstone Behavioral Healthcare 1123 1st Ave E. Suite 200 641-792-4012
Name of Owner Mailing Address Telephone

N/A _____
Name of Agent Mailing Address Telephone

Location of Premises Affected by this Conditional Use: 200 E. 20th St. N.

Legal Description: Residential Home

The Board is requested to grant a conditional use for the following activity: _____

We purchased this home to offer housing to persons with disabilities.

The following items must be submitted with application unless specified by the Zoning Administrator or Community Development Department staff:

- Site Plan
- Building Plans (if applicable)
- Petition signed by supporters of proposal (optional)
- Application Fee

Julie Smith
Signature of Applicant

7-15-25
Date

FOR OFFICE USE ONLY	
Date Submitted:	<u>7/15/2025</u>
Date Paid:	<u>7/15/2025</u>
Receipt #:	<u>052741</u>
File #: CU	<u>25-3</u>
Fee:	
<input checked="" type="checkbox"/> Less than 1 acre - \$100	
<input type="checkbox"/> More than 1 acre - \$200	

julies@capstonebh.com