



Zoning Board of Adjustment Meeting Agenda

Wednesday, April 1, 2026 - 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: 2.4.2026
- III. Public Hearing
 1. ~~Public Hearing 1: Appeal to ZBA: 109 E 3rd St. S. — Miller Property Solutions LLC. MOVED TO MAY ZBA MEETING~~
 2. Public Hearing 2: V26-2: Variance to allow accessory structure to exceed 15' max height in R-2 zoning district at 215 W 13th St. S. Jose Delgado-Benitez, applicant.
 3. Public Hearing 3: V26-3: Variance to allow a 6ft privacy fence in front yard in R-2 zoning district at 1108 S 13th Ave W. Carol Clemmens, applicant.
 4. Public Hearing 4: V26-4: Variance to allow a reduced side yard setback for an accessory garage structure in R-2 zoning district at 806 E 12th St N. Ashton Hartgers, 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, John Billingsley, Donald Fitzgerald

Minutes of Meeting
Zoning Board of Adjustment
Regular Meeting
February 4, 2026

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

Board members absent: -

STAFF PRESENT: Erin Chambers, Community Development Director
Varsha Borde, Sr. City Planner
Nicholas Alexander, City Planner
Matt Muckler, City Administrator
Craig Armstrong, Economic Development Specialist

Applicants: Chaison Loupee
Citizens: Bruce Showalter

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 December 3, 2025. **Motion** by Otto, **seconded** by Trotter to approve the minutes. **Voice vote:** Approved 5-0.

Action:

1. **V26-1: Confirmation of a new-single family home encroaching into the required rear yard setback area. Chaison Loupee, applicant.**

Sr. City Planner Varsha Borde presented the staff report, detailing the analysis of the situation and the variance request to allow the single-family home at 18.08' in lieu of the required 30' setback. Community Development Director, Erin Chambers explained that the original house on the property had setbacks closer than the proposed dwelling. The non-conforming setbacks would have been grandfathered in administratively, but the building had been demolished and the vacant lot was owned by the city through a lengthy D&D process. This action makes a 'zoning grandfathered determination' part of the permanent record.

There were no questions for staff, so Chair Rossow invited the applicant to explain the project. Chaison Loupee, the applicant then spoke about the variance. He mentioned that the house would be sold at market value. There were no questions for the applicant.

Motion by Otto, **Seconded** by Trotter to close the Public Hearing. **Voice Vote:** (5-0)

Motion by Otto, **seconded** by Trotter to close the public hearing. **Voice Vote:** (5-0)

Rossow invited the board to start the discussion. Otto mentioned the infill redevelopment program and that she supported the D&D program and said that the developer has to work with the available space. Trotter congratulated the developer for his work in developing the lot.

Motion by Billingsley to accept the answers to the variance questions, accept findings of the variance and approve the variance. **Seconded** by Otto. **Roll Call Vote:** Approved (5-0)

Other Business- Chair Rossow asked if there was any other business to be discussed. Borde mentioned that the annual elections to elect the chair and the vice-chair were due and a motion could be made for both elections.

Motion by Trotter to keep the current officers as is. Seconded by Fitzgerald. Motion to continue to keep the same officers (Rossow as chair and Otto as vice-chair) passed a voice vote of 4-0.

Motion by Otto to adjourn the meeting, **seconded** by Billingsley. **Voice Vote:** Approved, 5-0. The meeting was adjourned at 4:45 PM.

Zoning Board of Adjustment - Staff Report: V26-2

Applicant: Jose Luis Delgado-Benitez
Proposal: Variance to allow accessory structure to exceed 15' max. height
Location: 215 W. 13th St. S. (Parcel #0833178010)
Current Use: Single-family residence
Current Zoning: R-2: One- and Two-Family Residential

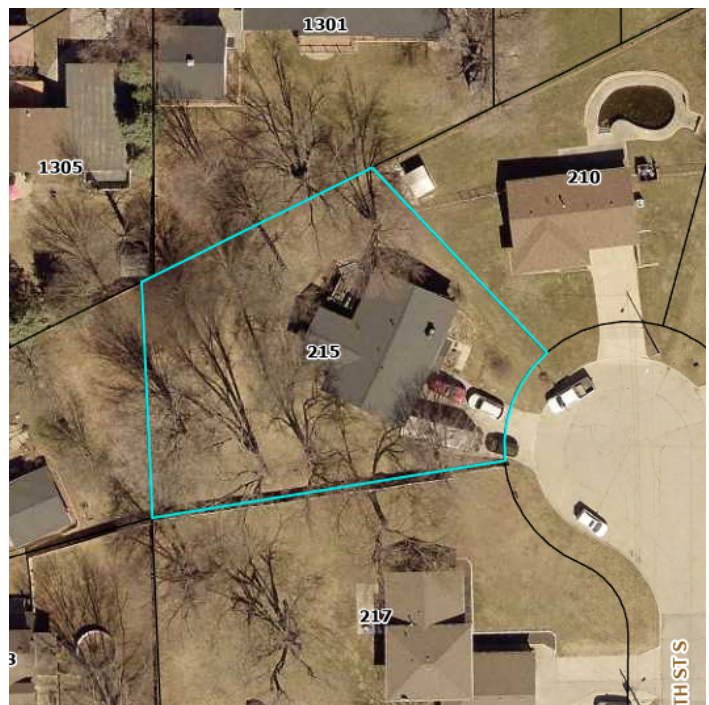
History- A notice was sent to the property owner at 215 W. 13th St. S after it was found that an accessory structure was built at 215 W. 13th St. S. without a permit.

In response to the notice, the property owner applied for a building permit. A permit was never issued since the already constructed accessory structure was found to be in violation of city code for the following reasons -

1. The structure was built on an easement.
2. The height of the structure exceeded the maximum allowable height for an accessory structure.

After receiving another notice and talking to city staff, the applicant moved the structure out of the easement, but decided to pursue a variance to allow the already-built structure at the property.

The Newton Zoning Code stipulates the following for the height of accessory buildings or structures on residential lots (158.110): *"No detached accessory building or structure located on a residential lot shall exceed a height of 15 feet, as measured to the midpoint of the roof slope or the average height between the roof edge and the hisghest portion or ridge of the roof."* The midpoint of the roof slope is 17.5 feet. Therefore, this variance application is, in essence, a request to allow for 2.5 extra feet in total height.



215 W. 13th St. S. is located within both the R-2: One- and Two-Family Residential district. Due to the height of the accessory structure, the variance is necessary to authorize its construction. Answers to the 6 variance questions were provided by the applicant (enclosed). Also, an aerial image, a plotplan and a photo of the shed have been attached.



32' from Back of property Line
12' from Side of property Line

Proposed location of the shed



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 (enclosed).

Notice of Proposal: Notice of the public meeting was sent to all neighbors within 200 feet of the subject property on Wednesday, March 25, 2026. Notice of the meeting was also published in the *Newton Daily News*, on Friday, March 27, 2026. If comments are received before the meeting, staff will share them at this point in the report.

Recommendation:

Staff recommends that the Zoning Board of Adjustment only grant the variance if the answers provided to the six legal test questions are determined to be sufficient and/or if the Board determines that the request aligns with with the spirit and intent of the Zoning Code. Staff finds that the requested variance is not detrimental to the public health or welfare or to the neighborhood considering the circumstances. Staff would like to bring the board's attention to another variance application V23-2 for construction of a garage not meeting bulk standards, specifically front yard setback. The board did not grant the variance and the homeowner had to deconstruct or move the fence.

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. If granted and the taller building is allowed, the building permit can be approved and issued.



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

Variance Application

Fee: \$250

<u>Jose Luis Delgado-Benitez</u> Name of Applicant	<u>215 W 13th St S</u> Mailing Address	<u>515-401-5506</u> Telephone
<u>Jose Delgado-Benitez</u> Name of Owner	<u>215 W 13th St S</u> Mailing Address	<u>515-401-5506</u> Telephone
_____ Name of Agent	_____ Mailing Address	_____ Telephone

Location of Premises Affected by this Variance: 215 W 13th St S Newton IA 50209

Legal Description: Larchwood PLACE
PIAT 1 LOT 5

The Board is requested to grant a variance from Sec. 158.110 D of the Zoning Ordinance for the following reasons: HEIGHT of A 2 story shed 17'6"

The following items must be submitted with application unless specified by the Zoning Administrator:

- Site plan (if applicable)
- Building plans (if applicable)
- Petition signed by supporters of appeal (optional)
- Application fee

[Signature]
Signature of Applicant

3.3.2026
Date

FOR OFFICE USE ONLY	
Date Submitted:	<u>3.3.2026</u>
Date Paid:	<u>3.3.2026</u>
Receipt #:	<u>053105</u>
File #:	<u>V 26-2</u>
Fee:	\$250

According to the ordinance, 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?

~~NO~~ - The SHAPE AND DESIGN of the shed
yes goes with surrounding Area AND the
current design of Home owner

2. Is the variance request based on conditions that are not applicable in general to other properties in the same zoning classification?

~~NO~~ YES shed built 2 story
due to the fact of convenience AND EXTRA STORAGE

3. Does the proposed variance comply with the spirit and intent of the restrictions imposed by the zoning ordinance?

yes - same thing here needed 2 story due
to placement and honoring the city
EASEMENT that was NOT disclosed when
purchasing the house!

4. Did the present owner create the alleged difficulty or hardship?

NO - this was designed for convenience AND size for
the area

5. Will granting the variance be materially detrimental to the public welfare or injurious to the neighborhood?

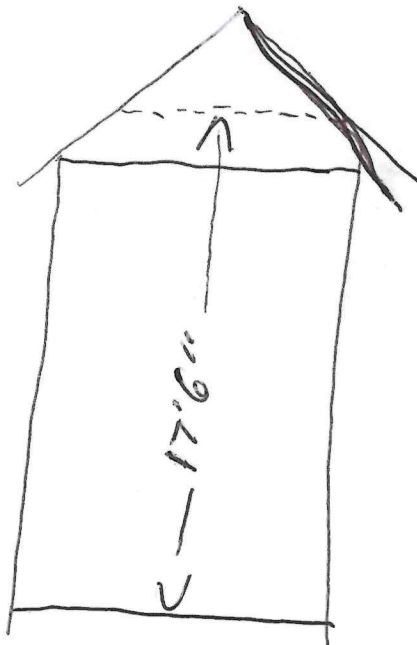
NO - neighbors ~~AND~~ HAVE SAID nothing or that
IT IS A well looking structure. AND where
LOCATED IT IS NOT structurally blocking
anyone views.

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?

NO - structure IS built
away from ALL ~~PROPERTIES~~ surrounding properties AND EASY
ACCESS TO GET TO from the street IN CASE
of A Emergency Situation.



32' from back of property line
12' from side of property line



Height

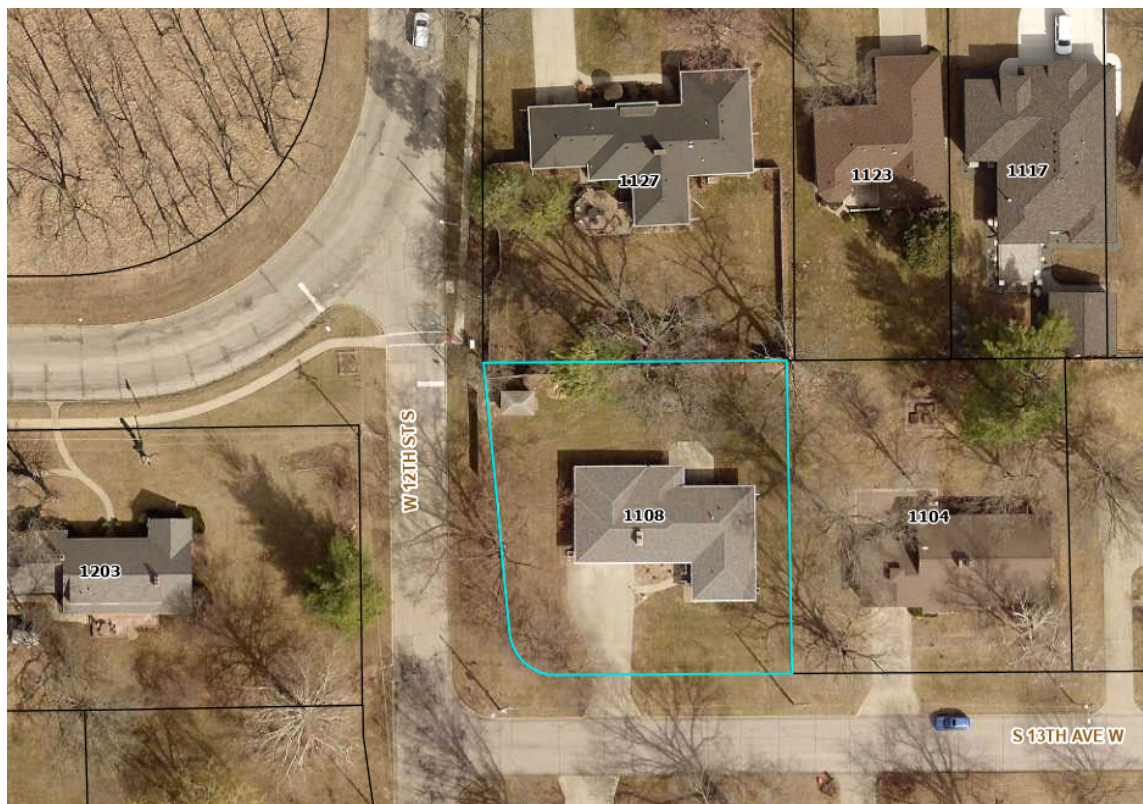
Zoning Board of Adjustment - Staff Report: V26-3

Applicant: Carol Clemmens
Proposal: Variance to allow a 6' privacy fence and structure in the front (west) yard
Location: 1108 S. 13th Ave W (Parcel# 1304201001)
Current Use: Single-family residence
Current Zoning: R-2: One- and Two-Family Residential

1108 S. 13th Ave W. is located within an R-2: One- and Two-Family Residential zoning district. According to historic imagery, a 4 ft. fence has been at this location since as early as 2007. According to the applicant, this fence blew away in a windstorm last November.

The applicant is applying for a variance to allow a 6 feet tall privacy fence in the front (west) yard along W 12th St. S.

Chapter 158.115 of the Newton Zoning Code stipulates the following: *“(B) Fences in the front yard area must be at least 50% open and no taller than four feet tall.”*



Aerial Image

1108 S. 13th Ave W is located within an R-2: One- and Two-Family Residential zoning district and it is a corner lot. As such, the property has two front yards (east & north), a side yard, and a rear yard. Within the R-2 district, a front yard is a 25' wide space measured from the front property lines.



View from street

The applicant is applying for a variance to help with the noise and headlights from the eastbound traffic on W. 12th St. S. In essence, this variance application is a request to authorize the placement, and any future replacements, of a 6' privacy fence the front (west) yard of the corner lot.

The red dimension lines in the picture show the approximate location of the proposed fence.



Proposed fence in red.

Answers to the 6 variance questions were provided by the applicant along (enclosed). Also, an aerial image and street view image of the property are included for reference.

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 (enclosed).

Notice of Proposal:

Notice of the public meeting was sent to surrounding neighbors on Tuesday, March 24, 2026. Notice of the meeting was also published in the *Newton Daily News* on Friday, March 27, 2026. *If comments are received before the meeting, staff will share them at this point in the report.*

Recommendation:

Staff recommends that the Zoning Board of Adjustment only grant the variance if the answers provided to the six legal test questions are determined to be sufficient and/or if the Board determines that the request aligns with the spirit and intent of the Zoning Code. The intersection of S 12th Ave W and W 12th St. S. makes the location of this property unique. Staff would recommend that if the board approves the variance, the fence should extend no further south than the southern end of the west wall of the building (shown in green the above picture).

Any decision by the board should take into fact that neighborhood concerns are addressed to avoid anything that is contrary to the public interest. The findings of the ZBA shall be a determination to approve, conditionally approve, or deny this variance. If granted and the privacy fence is approved, then a fence permit can be issued immediately.



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Varsha Borde
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Variance Application

Fee: \$250

<u>Carol Clemmens</u>	<u>1108 S. 13th Ave. W, Newton, IA</u>	<u>419-680-9500</u>
Name of Applicant	Mailing Address	Telephone
<u>Carol Clemmens Irrevocable Trust</u>	<u>1108 S. 13th Ave. W., Newton, IA</u>	<u>419-680-9500</u>
Name of Owner	Mailing Address	Telephone
Name of Agent	Mailing Address	Telephone

Location of Premises Affected by this Variance: 1108 S. 13th Ave. W., Newton, IA

Legal Description: Elm Park Place Lot 1

The Board is requested to grant a variance from Sec. 158.115 of the Zoning Ordinance for the following reasons: Requesting variance to erect a replacement 6' closed fence. Traffic from S. 12th Ave. W. creates a noise and headlight nuisance.

The following items must be submitted with application unless specified by the Zoning Administrator:

- Site plan (if applicable)
- Building plans (if applicable)
- Petition signed by supporters of appeal (optional)
- Application fee

Carol Clemmens
Signature of Applicant

3/11/2026
Date

FOR OFFICE USE ONLY	
Date Submitted:	_____
Date Paid:	_____
Receipt #:	_____
File #: V	_____
Fee:	\$250

According to the ordinance, 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?**

Yes, my reason for requesting this variance is to help with the noise and headlights coming from the eastbound traffic on W. 12th St. S. We had a 6' fence in the same location previously but it blew over in a windstorm recently. I am merely hoping to replace what was already there.

- 2. Is the variance request based on conditions that are not applicable in general to other properties in the same zoning classification?**

Yes, we feel that a 4' open fence on the west side of our property (considered a front yard), because it would not block the lights that flood our property every night. We would like to erect a 6' closed fence.

- 3. Does the proposed variance comply with the spirit and intent of the restrictions imposed by the zoning ordinance?**

Yes, the proposed variance will not harm or alter the surrounding properties. It will not cause a hardship for the neighborhood. As I mentioned, there was already a fence in this location prior to the wind storm, so this new fence should not change anything.

- 4. Did the present owner create the alleged difficulty or hardship?**

No, this request is simply to provide noise relief and privacy to our home.

- 5. Will granting the variance be materially detrimental to the public welfare or injurious to the neighborhood?**

No, this variance will not harm any surrounding properties in the area. It is simply to erect a new fence where there was one previously.

- 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?**

No, this variance will not negatively affect the neighbors or pose danger to the public. It will actually enhance the neighborhood.

Zoning Board of Adjustment - Staff Report: V26-4

Applicant:	Ashton Hartgers
Proposal:	Side yard accessory structure setback variance to allow construction of detached garage
Location:	806 E. 12 th St. N
Current Use:	Residential
Current Zoning:	R-2: One- and Two-Family Residential

Proposal: The applicant has requested authorization of a one (1) foot side yard setback along the north property line of 806 East 12th Street North. If granted, this will allow the homeowner to demolish the existing detached garage which was originally built in 1962 and is located about one (1) foot from the property line. The applicant then plans to construct a new and larger detached garage near the north property line.

Analysis:

The subject property is located within the R-2: One- and Two-Family zoning district. The required minimum side yard setback for an accessory structure in the R-2 zoning district is three (3) feet. The home currently has approximately a 17-foot side yard setback, but the existing *detached* garage was built with an approximate one foot side yard setback. The home is located on a property that is 6,488 square feet, which is less than the current minimum lot size. Additionally, the property can be described as relatively flat, with some change towards the rear of the property.

The Zoning Ordinance stipulates that accessory structures meet the following setback minimum requirements:

- Structures: 4 feet
- Side yard: 3 feet
- Rear yard: 3 feet

If the variance is granted, a future detached garage at this property would encroach into the required side yard setback of three feet, but doesn't encroach into the required structure or rear yard setback areas. Due to the position of the home, the lot size, and the existing location of the driveway, the side yard setback variance is necessary to allow the construction of



a detached garage on the north and east side of the home. Building plans were provided by the applicant (attached) which include an elevation view of the proposed structure. Also, a Google streetview of the property is provided below (Garage is on the right side of this photo).



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

Variance Questions:

(Answers are attached, and the applicant wishes to have these answered in greater detail at the meeting)

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?
2. Is the variance request based on conditions that are not applicable in general to other properties in the same zoning classification?
3. Does the proposed variance comply with the spirit and intent of the restrictions imposed by the zoning ordinance?
4. Did the present owner create the alleged difficulty or hardship?
5. Will granting the variance be materially detrimental to the public welfare or injurious to the neighborhood?

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?

Notice of Proposal: The notice of the meeting was published in the Newton Daily News on Friday, March 27th. A notice of the proposal and meeting were sent to surrounding properties on Monday, March 23rd. No comments were received as of the date of this report.

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.

W

According to the ordinance, 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?

Yes

2. Is the variance request based on conditions that are not applicable in general to other properties in the same zoning classification?

Yes

3. Does the proposed variance comply with the spirit and intent of the restrictions imposed by the zoning ordinance?

Yes

4. Did the present owner create the alleged difficulty or hardship?

No

5. Will granting the variance be materially detrimental to the public welfare or injurious to the neighborhood?

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?

No

• Site plan is drawn on back

806 Property line

7 Ft

9 Ft

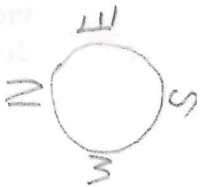
New Garage
24x30

13 Ft

House: 36x22

14 Ft
Driveway

806 Property line



12th Street

Property Dimensions: 62x104
6,448 SF

806 Property line

SINGLE FAMILY RESIDENTIAL GARAGE

