



AGENDA
NEWTON-NORTH NEWTON AREA PLANNING COMMISSION
April 5, 2021

The Newton–North Newton Area Planning Commission will meet Monday, April 5, 2021 at 6:00 p.m. at Newton City Hall, 201 East 6th Street, 3rd Floor Commission Chambers, Newton, Kansas, to consider the following:

1. Consider approval of the March 1, 2021 meeting minutes.
2. Consider and conduct a public hearing on a variance request from Scott Erb of 417 W 11th Street requesting a reduced side yard setback of two feet. If the variance is granted, the property owner will be allowed to build a garage along the east side of the lot.
3. Old Business
4. New Business
5. Adjournment

**NEWTON-NORTH NEWTON PLANNING COMMISSION
REGULAR MEETING
March 1, 2021**

Members Present: **Newton:** Carl Harris (6-0), Brian Scott (6-0), Dan Harder (5-1), Denise Goodnite (5-1), Arlan Newell (5-1), Jay Sommerfeld (2-4)

North Newton: Tyson Weidenbener (6-0), Gary Roth (6-0), Joe Slechta (5-1)

[Note: attendance-recording period runs from 5-1-2020 to 4-30-2021]

Staff Present: **Newton:** Suzanne Loomis, DPW/City Engineer
Justin Erickson, Building and Zoning Supervisor
Matt Mullen, Assistant City Attorney
Sara Schmidt, Recording Secretary/Administrative Assistant

Staff Present: **North Newton:** Greg Nye, City Attorney

The Newton-North Newton Area Planning Commission met on March 1, 2021 in a regular meeting at the Newton City Hall commission chambers, 201 E. 6th Street, Newton. At 6:01 p.m., a quorum was present, and Chair Weidenbener called the meeting to order.

AGENDA ITEM NO. 1

Consider approval of the December 7, 2020 meeting minutes.

MOTION: Commissioner Harris moved and Commissioner Scott seconded to approve the minutes. Motion carried.

AGENDA ITEM NO. 2

Consider and conduct a public hearing on an application for a Zoning District Amendment for property located along the south side of SE 14th Street, between South Pine Street and Parkwood Lane, north of Highway 50 from the current R-1 to an R-2 zoned district.

An application for a Zoning District Amendment, submitted by Claassen Family Investments LLC/Richard A. Claassen Family Trust, for property located along the south side of SE 14th Street, between South Pine Street and Parkwood Lane, north of Highway 50 was presented. The applicant requested an amendment from the Current R-1 (Single Family Dwelling District) to an R-2 (Two Family Dwelling District). The action to be taken by the Planning Commission will take the form of a recommendation to the Newton City Commission, who has final authority to act upon the request.

Chair Weidenbener opened the public hearing at 6:09 p.m. There being no one to speak, Chair Weidenbener closed the public hearing at 6:09 p.m., and discussion was brought back to the bench.

No discussion was held.

MOTION: Commissioner Harris moved and Commissioner Sommerfeld seconded to approve the Zoning District Amendment. Motion carried.

AGENDA ITEM NO. 3

Consider a preliminary plat for Newton Prestress Addition, for property located on the north side of Old Hwy 81/N Hesston Rd, between North Anderson Avenue and North West 36th Street.

A preliminary plat was presented by Kaw Valley Engineering as per the City's subdivision regulations. Staff continues to work with the applicant on a few items that will be discussed prior to the proposal of the final plat. A zoning determination will also be brought before the Commission preceding the final plat decision. A drainage report and plan has been received and is being reviewed by the City Engineering staff. Any final suggestions or changes will be made to the final plat before submittal to the Planning Commission. When a final plat is submitted to the Planning Commission, the Planning Commission's recommendation goes before the Newton City Commission, who has final authority to act upon the final plat.

City Engineering design standards requires keeping any additional water runoff resulting from the platting of this property from existing. Kaw Valley Engineering staff are currently projecting an approximate decrease in runoff of 10%.

Chris Goevert, General Manager of Prestress Concrete stood for questions and presented Kurk Stewart of Kaw Valley Engineering. He spoke regarding the flooding from the previous year stating that the Prestress Concrete facility had standing water in portions of the property and they would like to solve some of those issues. He would like to see the plat "over designed" in order to keep flooding issues for his business and surrounding areas at bay.

Greg Nye, North Newton City Attorney, rescinded the formal request to table the preliminary plat. He asked that the City of North Newton be conferred before a final plat is submitted to the Planning Commission due to concerns about drainage in the surrounding areas. The preservation of the beautification of the North Newton residential area to the east of the proposed preliminary plat is another concern to those living in the area.

Ron Braun, North Newton Mayor discussed drainage and screening. Mayor Braun also spoke to preserving the aesthetics of the surrounding residential North Newton community. He stated concern for flooding and hoped that an additional height of the 6-foot screening would be considered. On behalf of the North Newton community, Mayor Braun hoped that discussion will be held between the two cities prior to being brought to a vote.

Kurk Stewart, of Kaw Valley Engineering, stood for questions regarding the drainage plan that is under review by staff. The current topography allows water runoff from the east of the property to run directly south along North Anderson Avenue and the west portion drains directly into mud creek. The current drainage plan would not change the direction of the drainage but will decrease the amount of flow which is currently projected at a decrease of 30 cubic feet per second or approximately 10%. The Kaw Valley design will be made to be in conjunction to the 100-year flood and to follow the requirements of the City of Newton engineering design standards, which necessitates a 100-year detention with an extra foot of freeboard.

MOTION: Commissioner Harris moved and Vice Chair Harder seconded to approve the preliminary plat subject to a final drainage plan review and approval of minor adjustments to the plat as suggested by staff. Motion carried 8-1 with Chair Weidenbener opposing.

AGENDA ITEM NO. 4

Old Business

There was no old business to discuss.

AGENDA ITEM NO. 5

New Business

There was no new business to discuss.

AGENDA ITEM NO. 6

Adjournment

There being no further business, the Chair declared the meeting adjourned at 7:05 p.m.

Sara Schmidt
Recording Secretary



COMMISSION COMMUNICATION	
FOR MEETING OF	04/05/21
AGENDA ITEM	2
FOR ACTION	✓
INFORMATION ONLY	

MEMO

Justin Erickson
Planning & Zoning Supervisor
jerickson@newtonkansas.com
p: 316-284-6020
201 E. Sixth, P.O. Box 426
Newton, Kansas 67114-0426

TO: The Newton / North Newton Area Planning Commission
FROM: Justin Erickson, Planning & Zoning Supervisor
RE: April 5, 2021, Planning Commission Agenda
DATE: March 29, 2021

- APPLICANT:** Scott Erb
LOCATION: 417 W 11th
ZONING / USE: R-1, Residential
REQUEST: Reduce the “East” side yard setback to 2’ (ft)
PURPOSE: New Garage

The requirements for legal publication and notification of property owner within 200 feet have been met.

The following are Staff’s comments and recommendations based on the standards for granting variances.

A. Standard – The variance requested arises from such conditions which are unique to the property in question and which are not ordinarily found in the same zoning district and which were not created by an action of the property owner or the applicant.

Commentary – The unique aspects of this property not ordinarily found in the same zoning district would be the shape of the lot being a trapezium/trapezoid.

B. Standard – The granting of the variance will not adversely affect the rights of adjacent property owners or residents, nor will it confer upon the applicant any special privilege denied by this ordinance to other land or structures in the same district.

Commentary- This could adversely affect the rights of the adjacent property owner to the east of applicant. Note: City staff did not hear from Neighbor(s) within 200' (ft) at time this memo was created.

C. Standard – The strict application of the provisions of this Ordinance from which a variance is requested will constitute unnecessary hardship upon the applicant.

Commentary- The strict application would not allow Mr. Erb to fit his garage without placing behind his home or cutting down trees.

D. Standard – The variance will not adversely affect the public health, safety, morals, order, convenience, or welfare.

Commentary- The variance would likely have little effect on the neighborhood as the area would currently still allow for access around the garage for public health, safety, morals, order, convenience, or welfare.

E. Standard – The variance requested is the minimum variance that will make possible the reasonable use of the land or structure.

Commentary The variance would allow applicant to get the most use out of this lot.

F. Standard – Granting the variance requested would not be opposed to the general spirit and intent of the Ordinance.

Commentary The ordinance is meant to keep open space and uniform space between buildings.

Comments of the Applicant-

- Want garage to not be behind house. If I have to move garage more south because of side yard I will have to cut down trees.
- Next door neighbors' fence is more than 10' off of side yard boundary
- Neighbor has no building in that area of his lot

Staff Comments: Planning Commission can either approve, deny or reduce the setbacks

Attachments:

- A. Variance Permit Application
- B. Site Plan & Photos
- C. Property Ownership Notification List for Public Hearing
- D. Aerial map showing zoning of property and Surrounding Area
- E. Notice of Public Hearing (Publication)
- F. Notice of Public Hearing (Owners of Nearby Properties)
- G. Affidavit of Publication

NEWTON / NORTH NEWTON AREA PLANNING COMMISSION
VARIANCE APPEALS APPLICATION

OFFICE USE ONLY
Filing Fee: _____
Signed: _____

Meeting Date: _____

Filing Deadline: _____

Filing Date: _____

Owner: Scott Erb

Applicant: _____

Address: 417 W 11th

Address: _____

Telephone No.: 402-366-0609

Telephone No.: _____

I HEREBY REQUEST A:

ScottErb82@gmail.com

- 1. Variance X
- 2. Temporary Structure & Use Permit _____
- 3. Substitution of a Nonconforming Use _____

Street Address of Subject Property: 417 W 11th

Legal Description of Subject Property:

Lot(s) 3 Block 90 Subdivision Alumbaugh RePlat

Present use of land or structure: Lawn

Proposed use of land or structure: New Garage

List variance request to Zoning Ordinance:

- 1. 2' Side Yard
- 2. _____
- 3. _____
- 4. _____

Please state reasons why your request should be granted. (Use back of page if necessary).

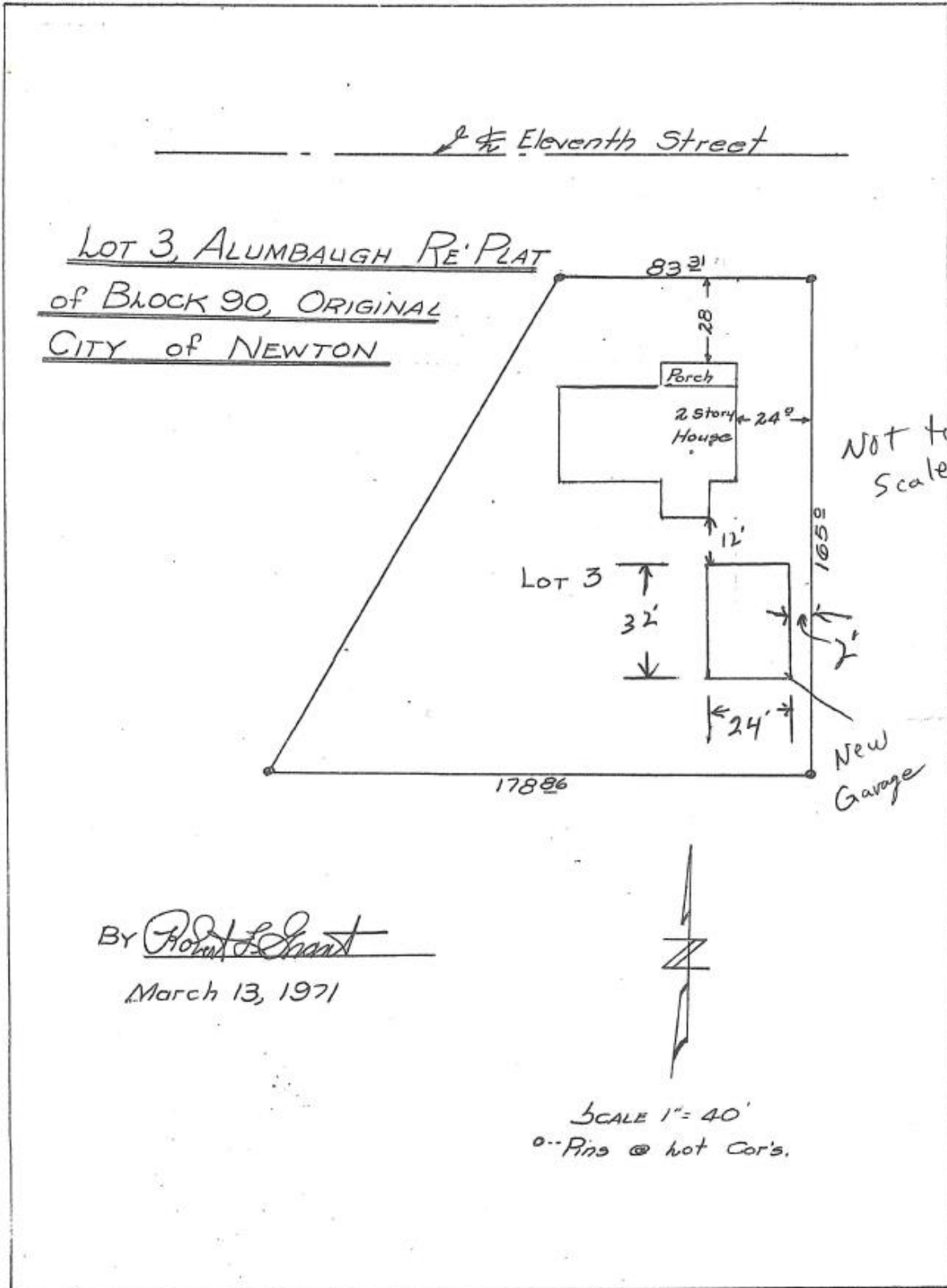
Want garage to not be behind House
IF I have to Move Garage Move South, because of
Side Yard, I will have to Cut down trees.

I agree to furnish a plot plan or any other information the Zoning Office may require in order for the Planning Commission to reach a decision on the matter before them. Such information shall be brought to the Zoning Office at least ten (10) days prior to the meeting:

Scott Erb
Signature of Applicant

1-29-21
Date

- Next door neighbor's fence is more than 10' of side yard boundary.
- Neighbor has no building in that area of his lot



Attachment C Continued

Beg. 132 ft. E of SW/c Blk 90; N 165 ft.; E 66 ft.; S 165 ft.; W 66 ft. to pob.

Esmeralda Valle
426 W 10th ST
Newton, KS 67114-1757

Beg. 84 ft. E of SW/c Blk 90; N 165 ft.; E 48 ft.; S 165 ft.; W 48 ft. to pob.

Timothy J. Larez & Tamie J. Larez
308 E 7th ST
Newton, KS 67114-2702

Beg. SW/c Blk 90; E 84 ft.; N 165 ft.; W 84 ft.; S 165 ft. to pob.

Robert F. Brown & Ruby S. Brown
41 Lakewood CR
North Newton, KS 67117-8104

MAGE'S SUBDIVISION OF EAST 200 FEET OF SOUTH HALF BLOCK 90, NEWTON

Lot 1

Les D. Kent
PO Box 280140
San Francisco, CA 94128-0140

Lot 2

Michael K. Lane
3001 S Kansas RD
Newton, KS 67114-8807

BLOCK 91, NEWTON

Beg. 262 1/2 ft. S of NE/c Blk 91; W 150 ft.; S 87 ft. to S line Blk; E 150 ft. to SE/c Blk; N 87 ft. to pob.

Christian J. Zuercher & Lori Ellison-Zuercher
1201 N Ash ST
Newton, KS 67114-1770

Beg. 193.04 ft. E of SW/c Blk 91; NEly along W side of drainage easement to City of Newton, 192.9 ft. to point
294.6 ft. E & 165 ft. N of SW/c Blk; E 155.4 ft.; S 165 ft. to S line Blk; W 256.96 ft. to pob.

Barbara Aileen McCune
414 W 11th ST
Newton, KS 67114-1718

Beg. NE/c Lot 1, Yoder Subd. pt Blk 91; E on extended N line said Lot, 174.6 ft. to W line drainage easement to
City of Newton; SWly 192.9 ft. along said easement to S line Blk; W 73.04 ft. to SE/c Lot 2, Yoder Subd.; N to pob.

Chelsea R. Roep N/K/A Chelsea R. Salsbery
420 W 11th ST
Newton, KS 67114-1718

YODER SUBDIVISION (PART OF BLOCK 91), NEWTON

Lot 1

Josie L. Zimmerman N/K/A Josie Lynn Dennis
1204 N Elm ST
Newton, KS 67114-1732

Lot 2

David L. Rankin & Heather S. Rankin
1200 N Elm ST
Newton, KS 67114-1732

BLOCK 93, NEWTON

Lots 1 & 3 (Chapman's Subd. of N/2 Blk 93)

Kathy Landis & Miles Reimer
511 W 11th ST
Newton, KS 67114-1719

2430176 Alumbaugh's pt Blk 90 Newton (Erb)

S/2 Blk 93 EXCEPT W 17 ft. thereof

Donald D. Stucky & Teresa K. Stucky
520 W 10th ST
Newton, KS 67114-1716

This report is not a representation of the condition of title to real property. It is not an abstract, legal opinion, opinion of title, title insurance commitment, or any form of title insurance or guaranty. This report is issued exclusively for the benefits of the applicant therefore, and may not be relied upon by any other person. Security 1st Title does not represent or warrant that the information herein is complete or free from error, and as a material part of the consideration given in exchange for the issuance of this report, recipient agrees that Security 1st Title's sole liability for any loss or damage caused by an error or omission in this report shall be limited to the fee charged for the report, whether such error or omission results from negligence, accident, or other cause. All other liability for loss or damage is expressly disclaimed. Recipient accepts this report with this limitation and agrees that Security 1st Title would not have issued this report but for the limitation of liability described above. Security 1st Title makes no representation or warrant as to the legality or propriety of recipient's use of the information herein.

That the undersigned is a duly licensed and qualified abstractor in and for the county and state aforesaid, a member in good standing of the Kansas Title Association and the American Title Association, whose bond as required by law is in force at the date of this certificate.

Dated at Newton, Kansas, this 5th day of February, 2021, at 7:59 AM.

SECURITY 1ST TITLE

By 
Licensed Abstractor



NOTICE OF HEARING

TO ALL PERSONS CONCERNED:

Notice is hereby given that a Variance Application from the regulations of Section 3.3, of the Newton-North Newton Zoning Ordinance which requires that structures in a R-1 Zoning District maintain a side yard setback of 7' (ft) and or 5' (ft) if platted prior to 07/01/1950. This property is legally described as:

Lot Three (3) of Alumbaugh's Replat of a portion of Block 90, City of Newton, Harvey County, Kansas.

The Applicant Scott Erb (417 W 11th) requests that the above-described property be allowed to reduce the side yard setback from 7' (ft) to 2' (ft) for the purpose of building a Garage.

The Application will be presented to, and a public hearing held by, the Newton/North Newton Area Planning Commission in the Newton City Commission chambers at City Hall, 201 E. 6th Street, Newton, Kansas on **Monday, April 5, 2021 at 6:00 p.m.**, or as soon thereafter as the matter may be heard. All persons interested may appear and be heard as to the application.

/S/ Justin Erickson
Planning and Zoning Supervisor
City of Newton, Kansas



Justin Erickson
Planning & Zoning Supervisor
jerickson@newtonkansas.com
p: 316-284-6020
201 E. Sixth, P.O. Box 426
Newton, Kansas 67114-0426

February 19, 2021

To Owners of Nearby Properties:

Notice is hereby given that a Variance Application from the regulations of Section 3.3, of the Newton-North Newton Zoning Ordinance which requires that structures in a R-1 Zoning District maintain a side yard setback of 7' (ft) and or 5' (ft) if platted prior to 07/01/1950. This property is legally described as:

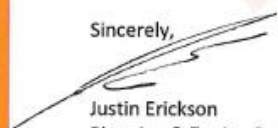
Lot Three (3) of Alumbaugh's Replat of a portion of Block 90, City of Newton, Harvey County, Kansas.

The Applicant Scott Erb (417 W 11th) requests that the above-described property be allowed to reduce the side yard setback from 7' (ft) to 2' (ft) for the purpose of building a Garage.

The Zoning Ordinances of the City of Newton require as a part of any variance process that a certified list be obtained of the owners of all property within the variance area; of all properties within the city limits located within 200 feet of the boundary of the variance; of all properties within 1,000 feet of any portion of the boundary of the variance that is outside the city limits; and that each of those property owners be given notice of the proceedings by mail. This Notice is provided to you as an owner of one of these properties.

The Application will be presented to, and a public hearing held by, the Newton/North Newton Area Planning Commission in the Newton City Commission chambers at City Hall, 201 E. 6th Street, Newton, Kansas on **Monday, April 5, 2021 at 6:00 p.m.**, or as soon thereafter as the matter may be heard. All persons interested may appear and be heard as to the application.

Sincerely,



Justin Erickson
Planning & Zoning Supervisor
City of Newton

AFFIDAVIT OF PUBLICATION

STATE OF KANSAS, COUNTY OF HARVEY,
Debra S. Jacobsen Debra S. Jacobsen
Being first duly sworn, deposes and says: That she is the
Classifieds Clerk of

The Newton Kansan

A daily newspaper printed in the State of Kansas, and published in
and of general circulation in Harvey County, Kansas, and that said
newspaper is not a trade, religious or fraternal publication.

Said newspaper is a daily published at least weekly 50 times a year;
has been so published continuously and uninterruptedly in said
county and state for a period of more than five years prior to the
first publication of said notice; and has been admitted at the post
office of Newton, Kansas in said County as second class matter.

That the attached notice is a true copy there of and was published in
the regular and entire issue of said newspaper

One

Insertion(s), the first publication being

February 25th 2021

subsequent publications being made on the following dates

None

Subscribed and sworn to before me this **March 4, 2021**

Justin Erickson

Notary Public

My commission expires
Total Amount of Payment \$9.00
Notice of Hearing/R1 Zoning

(Published in *The Newton Kansan*,
Thursday, February 25, 2021.)
NOTICE OF HEARING
TO ALL PERSONS CONCERNED:
Notice is hereby given that a Variance
Application from the regulations of
Section 3.3, of the Newton-North
Newton Zoning Ordinance which
requires that structures in a R-1 Zoning
District maintain a side yard setback
of 7' (ft) and or 5' (ft) if platted prior
to 07/01/1990. This property is legally
described as:
**Lot Three (3) of Alumbagh's
Replat of a portion of Block 90,
City of Newton, Harvey County,
Kansas.**
The Applicant Scott Erb (417 W 11th)
requests that the above-described
property be allowed to reduce the side
yard setback from 7' (ft) to 2' (ft) for
the purpose of building a Garage.
The Application will be presented to,
and a public hearing held by, the
Newton/North Newton Area Planning
Commission in the Newton City Com-
mission chambers at City Hall, 201 E.
6th Street, Newton, Kansas on Monday,
April 5, 2021 at 6:00 p.m., or as soon
thereafter as the matter may be heard.
All persons interested may appear and
be heard as to the application.
/s/ Justin Erickson
Planning and Zoning Supervisor
City of Newton, Kansas

ANDREA FIEDLER
Notary Public - State of Kansas
My Appointment Expires 4/4/22