

**BOARD OF ZONING ADJUSTMENT**  
**July 11, 2013**

The Board of Zoning Adjustment Meeting was held on Thursday, June 11, 2013 in the City Hall 3<sup>rd</sup> Floor Courtroom, Aberdeen, South Dakota with Babcock presiding as Chairman. Chairman Babcock called the meeting to order. Members present at roll call were Weigel, VanDeRostyne, Grebner, and Babcock. Kezar was absent. Also present were Ken Hubbard, City Planner, Karl Palmquist, City Planner, Brad Gardner, Building Inspector, Mike Olson, Code Enforcement Officer, Stuart Nelson, Assistant City Engineer, and Paula Nelson, Board of Zoning Adjustment Secretary.

VanDeRostyne moved and Grebner seconded to approve the Board of Zoning Adjustment minutes of June 13, 2013, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Kari Biel requests permission, as per site plan submitted, to permit the operation of a daycare as a home occupation, which would be a Special Exception in a (R-2) Medium Density Residential Zoning District, all on Lot 22, Block 3, Northview Fifth Addition, a.k.a. 1018 Eleventh Avenue NE. Kari Biel was present to represent the property. Following discussion Grebner moved and Weigel seconded to approve with the following stipulations: 1) Any provided yard/play area must be maintained as a fenced in area prior to the operation of this daycare commencing, 2) All applicable state regulations must be met, 3) No more than one individual other than the owner, may work at the daycare at one time, 4) Pending notification that the applicant and members of the household have not been rejected by the state due to abuse or neglect, 5) A floor plan must be submitted for review showing the location used for childcare, 6) Age range of children, the number of children and hours of operation must be submitted, 7) This special exception is for the owner, as long as she/he is the owner/operator of the proposed use, 8) Announced and unannounced inspections must be permitted by operator, 9) The operator must schedule a home inspection with the Building Inspection Department and/or the Fire Marshal in order to verify that Building and Fire Code requirements are met, and any required changes or modifications must be made, and 10) Owner/operator and any employees must be licensed with the City of Aberdeen. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
  
- 2) Tessa Schabot requested permission, as per site plan submitted, to permit the operation of a daycare as a home occupation, which would be a Special Exception in a (R-2) Medium Density Residential Zoning District, all on Lot 10, Block 5, Lampert's First Addition, a.k.a. 1326 Northview Lane. Tessa Schabot was present to represent the property. Following discussion VanDeRostyne moved and Grebner seconded to approve with the following stipulations: 1) Any provided yard/play area must be maintained as a fenced in area. Fence must be installed prior to August 15, 2013, 2) All applicable state regulations must be met, 3) No more than one individual other than the owner, may work at the daycare at one time, 4) Pending notification that the applicant and members of the household have not been rejected by the state due to abuse or neglect, 5) A floor plan must be submitted for review showing the location used for childcare, 6) Age range of children, the number of children and hours of operation must be submitted, 7) This

special exception is for the owner, as long as she/he is the owner/operator of the proposed use, 8) Announced and unannounced inspections must be permitted by operator, 9) The operator must schedule a home inspection with the Building Inspection Department and/or the Fire Marshal in order to verify that Building and Fire Code requirements are met, and any required changes or modifications must be made, and 10) Owner/operator and any employees must be licensed with the City of Aberdeen. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 3) Brian and Judy Hatzenbeller requested permission, as per site plan submitted, for 1) existing residence to remain 5.8' from the South property line rather than the required 25', which would be a 19.2' Building Variance and 0' from the East property line rather than the required 5', which would be a 5' Building Variance and 3' from the North property line rather than the required 20', which would be a 17' Building Variance in order to 2) construct an uncovered deck 0' from the South property line rather than the required 15', which would be a 15' Building Variance, all on the West 60' of Lots 11&12, Block 30, Bennett & Thomas Addition to Aberdeen, a.k.a. 10 Sixth Avenue NW. Brian and Judy Hatzenbeller were present to represent the property. Ken Hubbart stated that the building permit was issued at the time of application to provide necessary access. Following discussion Grebner moved and Babcock seconded to approve with the following stipulations: 1) Property pins must be located for inspection and setbacks must be verified, and 2) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**
- 4) Btoh, LLC and UPS requested permission, as per site plan submitted, for existing structure to remain .4' from East property line rather than the required 25', which would be a 24.6' Building Variance and .4' from the South property line rather than the required 15', which would be a 14.6' Building Variance in order to construct a 14'x48' addition to the North side of building which will meet all required setbacks, all on the East 166' of Lots 4-6, Block 57, Thomas Addition, a.k.a. 932 Fourth Street S. Josh Whitcomb was present to represent the property. Following discussion Weigel moved and Grebner seconded to approve with the following stipulations: 1) Property must be replatted into one parcel, 2) Plans must be submitted for review and a permit must be obtained prior to work commencing, 3) Property pins must be located for inspection and setbacks must be verified, and 4) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**
- 5) Steve Klein requested permission, as per site plan submitted, for 1) existing residence to remain 18' from the West property line rather than the required 25', which would be a 7' Building Variance and 15' from the East property line rather than the required 20', which would be a 5' Building Variance in order to construct a deck on the north side of residence that will meet all required setbacks, all on the West 77' of Lot 12, Block 12, North Aberdeen Addition, a.k.a. 324 First Street N. Steve Klein was present to represent the property. Ken Hubbart stated that the building permit was issued at the time of application to provide necessary access. Following discussion VanDeRostyne moved and Babcock seconded to approve with the following stipulations: 1) Property pins must be located for inspection and setbacks must be verified, and 2) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**

- 6) Ron Fischer requested permission, as per site plan submitted, to construct a group project consisting of two apartment buildings on one lot, all on Lot 1 & 2, Arbor Springs Second Addition, a.k.a. 915 Arbor Lane and 904 Harrison Street N. Ron Fischer was present to represent the property. Following discussion VanDeRostyne moved and Grebner seconded to approve with the stipulation that a plat is filed to combine the 2 lots into one parcel. Upon roll call, all members voting aye, the motion carried. **GROUP PROJECT APPROVED.**
  
- 7) Mbc, LLC requested permission, as per site plan submitted, to 1) permit a 7'x12' Electronic Message Center on existing freestanding sign, which would be a Special Exception in a (C-3/R-4) Central Business/Special Density Residential Zoning District, and 2) to permit off-premise advertising on the sign, which would be an Appeal to the Board of Zoning Adjustment, and 3) to permit an existing freestanding sign that is 169sf in size rather than the permitted 100sf, which would be a 69sf Freestanding Sign Size Variance, all on Lots 1-7 & North 118.4' of Lot 8 and North 118.4' of East 5' of Lot 9, Block 39, Second Addition, except H-2, a.k.a. 20 Sixth Avenue SE. Mike Salem was present to represent the property. Following discussion Grebner moved and Babcock seconded to approve agenda items #1 and #3 with the following stipulations: 1) All EMC ordinances must be complied with, and 2) This sign is for advertising of non-profit organizations and events only; no off-premise commercial advertising at any time. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION AND FREESTANDING SIGN SIZE VARIANCE APPROVED.** Following further discussion Weigel moved and VanDeRostyne seconded to deny agenda #2, all members voting nay, the motion carried. Following further discussion Grebner moved and VanDeRostyne seconded to approve agenda #2 with the stipulation that this sign is for advertising of non-profit organizations and events only; no off-premise commercial advertising at any time. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**
  
- 8) William Mundhenke and Philip Morrison requested permission, as per site plan submitted, to permit the open storage of gravel and raw materials and parking of vehicles and related equipment, which would be a Special Exception in an (A-1) Agricultural Zoning District, all on The NW¼ Sect. 22-T123N-R64W North of the Railroad, except Highway and West 208', a.k.a. 2905 133rd Street NW. Philip Morrison was present to represent the property. Following discussion VanDeRostyne moved and Weigel seconded to deny. Adjacent neighbors Bob Bourdon, Kevin Bourdon, Lynn Rivers, Ron Bourdon, Susan Brick, and Del Lowe spoke in opposition to this project. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION DENIED.**
  
- 9) John Meier requested permission, as per site plan submitted, to 1) plat a lot with 37.5' of frontage rather than the required 50', which would be a 12.5' Minimum Lot Width Variance and 2) for existing residence to remain 15.2' from the North property line rather than the required 25', which would be a 9.8' Building Variance and 3' from the West property line rather than the required 5', which would be a 2' Building Variance in order to 3) replace front deck 6' from the North property line rather than the required 15', which would be an 9' Building Variance, all on the West 25' of Lot 26 & the East 12.5' of Lot 27, Block 53, Second Addition, a.k.a. 115 Ninth Avenue SW. John Meier was present to represent the property. Following discussion

VanDeRostyne moved and Grebner seconded to approve with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection and setbacks must be verified, and 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **MINIMUM LOT WIDTH VARIANCE & BUILDING VARIANCES APPROVED.**

- 10) Miller & Holmes requested permission, as per site plan submitted, to 1) permit two 3'x18' electronic message center signs on existing fuel canopy, which would be a Special Exception in a (C3/R4) Central Business/Special Density Residential Zoning District, and 2) to permit 1180sf of total signage rather than the permitted 740.4sf, which would be a 289.6sf Total Sign Variance, all on Lot 1, M&H Addition, a.k.a. 202 Sixth Avenue SW. Cory Weisenburger of Service Signs and Darcy Binset were present to represent the property. Following discussion VanDeRostyne moved and Grebner seconded to deny agenda item #1 and #2. Upon roll call, VanDeRostyne-aye, Grebner-nay, Weigel-nay, Babcock-aye (2-nay,2-aye), the motion failed. Following further discussion Grebner moved and Weigel seconded to approve with the following stipulations: 1) All EMC ordinances must be complied with, 2) ONE copy change sign must be removed from East side of building and TWO copy change signs must be removed from South side of building, and 3) Three-sided cigarette sign previously located under the canopy cannot be put back up. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION AND TOTAL SIGN VARIANCE APPROVED.**
- 11) Darwin Podoll requested permission, as per site plan submitted, to 1) construct a 16'x26' Accessory Structure 10' from the East property line rather than the required 25', which would be a 15' Building Variance, and 2) to construct an accessory structure that is not aesthetically similar to the primary structure, all on Lot 3, Block 1, Hyde Park Second Addition, a.k.a. 17 Linda Lane. Darwin Podoll was present to represent the property. Following discussion Weigel moved and Grebner seconded to deny, all members voting nay, the motion failed. Following further discussion Grebner moved and VanDeRostyne seconded to approve with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection and setbacks must be verified, and 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE AND AESTHETICALLY SIMILAR VARIANCE APPROVED.**
- 12) Jason Shanley requested permission, as per site plan submitted, for existing residence to remain 12' from the North property line rather than the required 15', which would be a 3' Building Variance in order to construct 2 back decks that will meet all required setbacks and 2) for existing detached garage to remain 12' from the North property line rather than the permitted 25', which would be a 13' Building Variance and 3) to construct a 10'x26.5' Addition on East side of house 12' from the North property line rather than the required 15', which would be a 3' Building Variance, all on Lot 12, Block 44, Bennett & Thomas Addition, a.k.a. 624 Third Street N. Jason Shanley was present to represent the property. Following discussion VanDeRostyne moved and Grebner seconded to approve with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection and setbacks must be verified, and 3) All required inspections must be completed.

Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**

- 13) Dakota Storage, Inc. requested permission, as per site plan submitted, to 1) construct 7 additional mini-storage buildings, which would be a Special Exception in a (C-2) Highway Commercial Zoning District and 2) to construct two 30'x192' buildings rather than the permitted 120' deep, which would be two 72' Maximum Building Depth Variances, and 3) to construct two 30'x168' buildings rather than the permitted 120' deep, which would be two 48' Maximum Building Depth Variances and 4) two buildings that are 40' wide rather than the permitted 30', which would be two 10' Maximum Building Width Variances and 5) to construct a 40'x192' building rather than the permitted 120' long, which would be a 72' Maximum Building Depth Variance and 6) to construct a 40'x168' building rather than the permitted 120' long, which would be a 48' Maximum Building Depth Variance, and 7) to construct three mini-storage buildings 30' from the North property line rather than the permitted 45', which would be three 15' Building Variances, all on Lot 3, Fuhrmann's Second Addition, SE¼ Sect. 7-T123N-R63W, a.k.a. 1602 Twelfth Avenue NE. Kurt Weisbeck was present to represent the property. Following discussion Grebner moved and VanDeRostyne seconded to approve agenda items #1 - #6 with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection and setbacks must be verified, and 3) All required inspections must be met. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION, MAXIMUM BUILDING DEPTH VARIANCES, & MAXIMUM BUILDING WIDTH VARIANCES APPROVED.** Following further discussion VanDeRostyne moved and Weigel seconded to deny agenda item #7, all members voting aye, the motion carried. **BUILDING VARIANCES DENIED.**
- 14) Sunset Memorial Gardens requested permission to permit a cemetery, which would be a Special Exception in a (M-Ag) Mini-Agricultural Zoning District, all on Lots A-C, Garden of Honor Sunset Memorial Gardens, Garden of Gethsemane Subdivision of Lot 1, First Addition to Sunset Memorial Gardens, Sunset Memorial Gardens Lot 1, Sunset Memorial Gardens Maintenance Addition, Lots 1&2, Sunset Memorial Gardens Irrigation Pond Addition, a.k.a. 5839, 5843, and 5851 Highway 12 E. Jim Zerbel was present to represent the property. Following discussion Weigel moved and VanDeRostyne seconded to approve with the stipulation that the petition to rezone to (M-AG) Mini-Agricultural District is approved by the Planning Commission, City Council & County Commission. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

Following further discussion VanDeRostyne moved and Weigel seconded to adjourn the meeting.

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Paula Nelson  
Board of Zoning Adjustment Secretary  
July 11, 2013