

BOARD OF ZONING ADJUSTMENT
April 10, 2014

The Board of Zoning Adjustment Meeting was held on Thursday, April 10, 2014 in the Aberdeen Recreation & Cultural Center - Alumni Room, Aberdeen, South Dakota with Babcock presiding as Chairman. Chairman Babcock called the meeting to order. Members present at roll call were Musel, VanDeRostyne, Babcock, Weigel, and Grebner. Absent was Kezar. Also present were Brett Bill, Planning & Zoning Director, Ken Hubbart, City Planner, Chris Witzel, City Planner, Mike Olson, Code Enforcement Officer, Barry Dunlavy, Building Inspector, Chad Nilson, Building Inspector, Stuart Nelson, Assistant City Engineer, Paula Nelson, Board of Zoning Adjustment Secretary, and Adam Altman, City Attorney.

Musel moved and Weigel seconded to approve the Board of Zoning Adjustment minutes of March 13, 2014, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Katherine Linke requested permission, as per site plan submitted to 1) permit the operation of a daycare as a home occupation, which would be a Special Exception in an (R-3) High Density Residential Zoning District and 2) for existing residence to remain 3.5' from the North property line rather than the permitted 5', which would be a 1.5' Building Variance and for unattached garage to remain 3.5' from the South property line rather than the permitted 5', which would be a 1.5' Building Variance, all on Lot 8, Block 22, Bennett & Thomas Addition, a.k.a. 608 Lincoln Street N. Katherine Linke was present to represent the property. Following discussion Musel moved and Grebner 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, 10) Owner/operator and any employees must be licensed with the City of Aberdeen, and 11) If existing structures are replaced, all setbacks must be met. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED AND BUILDING VARIANCES APPROVED.**

- 2) Susan Beckler requested permission, as per site plan submitted to 1) permit the operation of a daycare as a home occupation, which would be a Special Exception in an (R-1) Low Density Residential Zoning District and 2) existing house to remain 9' from the West property line rather than the permitted 10', which would be a 1' Building Variance and existing detached garage to remain 3' from the North property line rather than the permitted 10', which would be a 7' Building Variance and 4.5' from the East property line rather than the required 10', which would be a 5.5' Building Variance in order to 3) construct a 22'x28' attached garage 1' from the East property line rather than the required 10', which would be a 9' Building Variance, all on Lot 1, Roberts & Gallits Replat of Lots 13-18, Block 19, Corrected Plat of Highlands Addition to Aberdeen, a.k.a. 16 Thirteenth Avenue NW. Terry Beckler was present to represent the property. Following discussion Musel moved and VanDeRostyne seconded to approve agenda items #1 and #2 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, 10) Owner/operator and any employees must be licensed with the City of Aberdeen, and 11) If existing structures are replaced, all setbacks must be met. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED AND BUILDING VARIANCES APPROVED.** Following further discussion VanDeRostyne moved and Musel seconded to deny agenda item #3, all members voting aye, the motion carried. **BUILDING VARIANCE DENIED.**
- 3) Randall Weber request permission, as per site plan submitted to 1) construct a 5'x7' digital pricing sign addition to an existing freestanding sign that is 5' from the North and West property lines, which would be two 5' Sign Setback Variances and 2) request permission to install red and green electronic signs rather than the permitted amber light, which would be an Appeal to the Board of Zoning Adjustment, all on Lot 1, Weber First Corner Subdivision, a.k.a. 208 Second Street N. There being no representative present this item was moved to the end of the agenda.
- 4) Sarah Jones requested permission, as per site plan submitted, to 1) Appeal Section 60-56 of the Aberdeen Municipal Code to permit the construction of a mini-storage facility in a (C-1) Neighborhood Commercial Zoning District, which would be an Appeal to the Board of Zoning Adjustment, and 2) to permit the installation of an approach 15' from the intersection of two public R.O.W.'s rather than the permitted 30', which would be a 15' Variance, and 3) to permit the installation of an approach 23' from the intersection of two

public ROW's rather than the permitted 30', which would be a 7' Variance and to 4) permit a parking lot 0' from Main Street S. Public R.O.W. rather than the permitted 10', which would be a 10' Parking Lot Buffer Variance and 5) 0' from Twelfth Avenue SW Public R.O.W. rather than the permitted 10', which would be a 10' Parking Lot Buffer Variance, and 6) to permit the construction of two required off street parking stalls within the Twelfth Avenue SW Public ROW, which would be an Appeal to the Board of Zoning Adjustment and 7) to permit 5 off-street parking stalls rather than the required 7, which would be a Two Parking Stall Variance and 8) to permit the installation of required private landscaping in a Public ROW rather than on private property, which would be an Appeal to the Board of Zoning Adjustment and 9) to construct a 40'x129' Mini-storage facility 29' from the South property line rather than the permitted 35', which would be a 6' Building Variance and 10) to construct a mini-storage building that is 40' in Width rather than the required 30', which would be a 10' Maximum Width Variance and 11) to construct a mini-storage facility that is 129' in length rather than the required 120', which would be a 9' Maximum Length Variance, all on Lot 1, T and S Jones Consolidation Subdivision in Aberdeen, South Dakota, a.k.a. 1122 Main Street S. Sarah Jones & Terry Dohn were present to represent the property. Following discussion VanDeRostyne moved and Musel seconded to deny agenda item #1, all members voting aye, the motion carried. **APPEAL DENIED.** No further action taken on remaining items.

- 5) Mark Anderson requested permission to permit a seasonal second residence on a property in a (M-Ag) Mini-Agricultural Zoning District, which would be an Appeal to the Board of Zoning Adjustment, all on Lot 1, Droog's First Addition, NW¼ Sect. 27-T123N-R64W, a.k.a. 2905 Melgaard Road W. Mark Anderson was present to represent the property. Following discussion VanDeRostyne moved and Weigel seconded to deny. Upon roll call, Musel-aye, VanDeRostyne-aye, Babcock-aye, Weigel-aye, Grebner-nay (4-aye, 1-nay), the motion carried. **APPEAL DENIED.**
- 6) Lamar Advertising and Family Worship Center requested permission, as per site plan submitted, to 1) permit the construction of two 10'6"x22'9" off-premise sign structures as an accessory land use to the permitted primary use as a church, which would be two Appeals to the Board of Zoning Adjustment, and 2) to permit the installation of two freestanding off-premise sign structures in addition to the previously permitted one on-premise freestanding sign, which would be a Two Freestanding Sign Variance, and 3) to permit 599.25sf of freestanding signage rather than the permitted 300sf, which would be a 299.25sf Freestanding Sign Size Variance, all on Lot A, Church of God Addition, a.k.a. 435 Highway 281 N. Terry Olson of Lamar Advertising was present to represent the property. Following discussion VanDeRostyne moved and Musel seconded to deny. Upon roll call, Musel-aye, VanDeRostyne-aye, Babcock-aye, Weigel-aye, Gerbner-nay (4-aye, 1-nay), the motion carried. **APPEAL DENIED & FREESTANDING SIGN VARIANCES DENIED.**
- 7) Lamar Outdoor Advertising and Kenneth Cartney requested permission, as per site plan submitted to 1) permit the installation of an off-premise sign structure as an accessory land

use, which would be an Appeal to the Board of Zoning Adjustment, and 2) to permit an Electronic Message Center as an off-premise sign, which would be an Appeal to the Board of Zoning Adjustment, and 3) to permit an off-premise sign to be constructed 40' in height rather than the permitted 30', which would be a 10' Maximum Height Variance and 4) to construct an off-premise sign within 150' of a residential zoning district, which would be an Appeal to the Board of Zoning Adjustment and 5) to construct an off-premise sign 20.5' from a Public R.O.W. rather than the required 50', which would be a 29.5' Sign Setback Variance and 6) to construct an off-premise sign 19' from a Public R.O.W. rather than the required 50', which would be a 31' Sign Setback Variance, and 7) to permit a multi-color Electronic Message Center as an off-premise sign, rather than the permitted white light, which would be an Appeal to the Board of Zoning Adjustment, and 8) to permit an off-premise sign to include any flashing, intermittent, or moving lights, which are prohibited by ordinance, which would be an Appeal to the Board of Zoning Adjustment, all on Lot 1, Baggett's First Addition to Block 3, Woolverton Addition, Except H-1, a.k.a. 720 Sixth Avenue SE. Terry Olson of Lamar Advertising, Jared DeBoer of Lamar Advertising, and Roger Brown of Daktronics were present to represent the property. Following discussion VanDeRostyne moved and Weigel seconded to deny. Upon roll call, Musel-nay, VanDeRostyne-aye, Babcock-aye, Weigel-aye, Grebner-nay (3-aye,2-nay) the motion carried. **APPEALS AND SIGN VARIANCES DENIED.**

- 8) Steve Haug requested permission, as per site plan submitted, for 1) existing residence to remain 10.5' from the North property line rather than the permitted 25', which would be a 14.5' Building Variance in order to replace back deck, and 2) to construct a new 5'x8' front deck and steps to the side 5' from the North property line rather than the required 15', which would be a 10' Building Variance, all on Lot 1, Haug & King Addition, a.k.a. 317 Ninth Avenue SW. Steve Haug was present to represent the property. Following discussion Weigel 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.**
- 9) Thomas L. Hinz requested permission, as per site plan submitted, to construct a 50'x75' accessory building 24'7" from the North property line rather than the required 100', which would be a 75'5" Building Variance, all on Lot 1, T.Hinz Subdivision, NE¼ Sect. 7-T122N-R63W, a.k.a. 38895 137th Street. Thomas Hinz was present to represent the property. Following discussion Grebner moved and Babcock seconded to approve with the stipulation that plans must be submitted for review and a permit must be obtained prior to work commencing. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 10) Ron Fischer requested permission, as per site plan submitted, to 1) construct a 34'x160' mini-storage building, which would be a Special Exception in a (C-2) Highway Commercial Zoning District, and 2) to permit a 34' wide mini-storage building rather than the

permitted 30', which would be a 4' Maximum Width Variance and 3) to construct a 160' long mini-storage building rather than the permitted 120', which would be a 40' Maximum Length Variance, and 4) to Construct a 34'x160' mini-storage building 10' from the North property line rather than the required 30', which would be a 20' Setback Variance, all on Lot B, Replat of Cambridge Second Addition, a.k.a. 1527 Eighth Avenue NE. Ron Fischer was present to represent the property. Following discussion Musel moved and Grebner seconded to approve agenda items #1 - #3 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, 3) All required inspections must be completed, and 4) All required landscaping must be completed. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION, MAXIMUM WIDTH AND MAXIMUM LENGTH VARIANCES APPROVED.** Following further discussion Grebner moved and Musel seconded to deny agenda item #4. Upon roll call, Musel-aye, VanDeRostyne-aye, Babcock-aye, Weigel-aye, Grebner-aye (1-aye,4-aye), the motion carried. **SETBACK VARIANCE DENIED.**

- 11) Melgaard Group, LLC, requested permission, as per site plan submitted, to construct a group project consisting of two townhome buildings, with 5 units in one building and 11 units in the second building, for a total of 16 units, which would be a Special Exception in a (R-2) Medium Density Residential District, all on Lot 2, Young Railroad Addition, SE¼ Sect. 24-T123N-R64W, a.k.a. 316 Seventeenth Avenue SE. Elizabeth Stokes was present to represent the property. Following discussion Grebner moved and Babcock 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. **SPECIAL EXCEPTION APPROVED.**
- 12) Richard Turgeon and MJ's Team, LLC requested permission, as per site plan submitted, to permit a temporary fireworks stand for the 2014 fireworks season, which would be a Special Exception in the Zoning Jurisdiction of the City of Aberdeen, all on Lot 2, Browning First Addition, NW¼ Sect. 22-T123N-R64W, a.k.a. 2980 Highway 12 W. Mike Denning was present to represent the property. Following discussion Weigel moved and Musel seconded to approve with the following stipulations: 1) All Fire Marshal requirements must be met, 2) Any signage must be permitted with this office prior to installation. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 3) Randall Weber requested permission, as per site plan submitted to 1) construct a 5'x7' digital pricing sign addition to an existing freestanding sign that is 5' from the North and West property lines, which would be two 5' Sign Setback Variances and 2) request permission to install red and green electronic signs rather than the permitted amber light, which would be an Appeal to the Board of Zoning Adjustment, all on Lot 1, Weber First

Corner Subdivision, a.k.a. 208 Second Street N. There still being no representative this item was not acted on.

Bob Babcock continued with other business as follows:

- 1) Brett Bill asked the board for their input regarding a proposed ordinance amendment regarding construction of new mini-storage units located in (C-2) Highway Commercial District, adjacent to Sixth Avenue, and (I-2) Unrestricted Industrial District. No action taken.

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

Paula Nelson
Board of Zoning Adjustment Secretary
April 10, 2014