

BOARD OF ZONING ADJUSTMENT
May 8, 2014

The Board of Zoning Adjustment Meeting was held on Thursday, May 8, 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 Kezar, Weigel, Babcock, and Grebner. VanDeRostyne was absent. Also present were Brett Bill, Planning & Zoning Director, Ken Hubbard, City Planner, Chris Witzel, City Planner, Mike Olson, Code Enforcement Officer, Barry Dunlavy, Building Inspector, Chad Nilson, Building Inspector, Stuart Nelson, Assistant City Engineer, and Paula Nelson, Board of Zoning Adjustment Secretary.

Kezar moved and Grebner seconded to approve the Board of Zoning Adjustment minutes of April 10, 2014, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Caylee Hertel 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 an (R-3) High Density Residential Zoning District, all on Lot 2, Bunsness Subdivision, except the North 8', Block 31, West Aberdeen Addition, a.k.a. 208 Seventh Street S. Caylee Hertel was present to represent the property. Following discussion Kezar moved and Weigel 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 by June 1, 2014, 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) Melissa Webb requested permission, as per site plan submitted, for existing residence to remain 12' from the East property line rather than the required 25', which would be a 13' Building Variance and 4' from the South property line rather than the required 5', which would be a 1' Building Variance and 7.5' from the West property line rather than the required 20', which would be a 12.5' Building Variance in order to 2) construct a 6'x6' wheel chair lift addition 12' from the East property line rather than the required 15', which would be a 3' Building Variance, all on Lot 2, D&G McLaughlin's First Subdivision of the North 80' of Lots 1-2 Foster's Subdivision of Block 24, First Addition, a.k.a. 404 Second Street S. Melissa Webb was present to represent the property. Following discussion Kezar moved and Weigel 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, 3) All required inspections must be completed, and 4) Petition to rezone to (R-3) High Density Residential District must be submitted and approved. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**

- 3) Forsyth & Zahn requested permission, as per site plan submitted, to permit the open storage of vehicles, equipment, materials and houses built on lot to be moved off-site, which would be a Special Exception in an (I-2) Unrestricted Industrial Zoning District, all on Lots 7-18, Block 66, Hagerty & Lloyd Addition and Vacated Street and Alley ROW's, a.k.a. 405 First Avenue SE. There being no representative present this item was moved to the end of the agenda.
- 4) Quantum Properties, LLC and Anderson Industries, LLC request permission, as per site plan submitted, to permit the open storage of Steel tubing and parts, which would be a Special Exception in an (I-2) Unrestricted Industrial Zoning District, all on Lot 2, KO Lee Plant First Addition, a.k.a. 1110 First Avenue SE. Neil Bellikka and Renae Worrel were present to represent the property. Following discussion Grebner moved and Kezar seconded to approve with the following stipulations: 1) A 6' tall chainlink fence must be installed along the North side of this property to prevent access to materials stored outside, 2) Open storage is for Anderson Industries only, as long as they are the owner/operator of proposed use. Any other businesses on property must obtain their own special exception in order to allow open storage, 3) No storage in areas required for visibility or emergency routes, 4) Property must be maintained in a neat and orderly manner at all times, 5) No off-premise storage or storage of items not related to this use, and 6) No junk or unlicensed vehicles. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 5) 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. Randy Weber was present to represent the property. Following discussion Kezar moved and Weigel seconded to approve the use of red and green electronic signs for the fuel pricing signs only. Upon roll call, all members voting aye, the motion carried. **SIGN SETBACK VARIANCE AND APPEAL APPROVED.**
- 6) Matt Vogel and Gale Gunderson requested permission, as per site plan submitted, to permit the open storage, parking and sale of vehicles, semi-trucks and trailers, and pay loaders, which would be a Special Exception in the (C-2) Highway Commercial Zoning District, all on Lot 2, Vogel Subdivision, in the NW¼ Sect. 23-T123N-R63W, a.k.a. 39239 133rd Street. Gale Gunderson was present to represent the property. Following discussion Grebner moved and Kezar seconded to deny, all members voting nay, the motion carried. Following further discussion Grebner moved and Kezar seconded to approve with the following stipulations: 1) All items on property must be vehicles, semi-trucks, trailers, and pay loaders only, and must be available for sale, 2) No storage of any other equipment, vehicles, materials, etc., 3) No off-premise storage (private property, park-it/market, etc.), 4) Property must be maintained in a neat and orderly manner at all times, 5) Property must be landscaped to city code

requirements, 6) Any and all signage must be permitted with this office prior to installation, 7) No junk or unlicensed vehicles, 8) No more than 5 vehicles on this property at any one time, and 9) No parking in access easement along North property line. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 7) HCI Developers, LLC requested permission, as per site plan submitted, to 1) permit the installation of 199 off-street parking stalls rather than the required 240, which would be a 41 stall Parking Stall Variance and 2) to permit two off-street loading/unloading stalls rather than the required 10, which would be an 8 stall Loading and Unloading Stall Variance, all on Lot 2A, First Subdivision of Lot A, Aberdeen Motor Hotels Addition to the City of Aberdeen, Being a Subdivision of Bjornson's Outlot A, a.k.a. 2424 Sixth Avenue SE. Roger Huff and Chad Huff were present to represent the property. Following discussion Kezar moved and Weigel seconded to approve with the following stipulations: 1) The parking lot must be maintained in accordance with all ordinances regarding parking stall numbers, sizes, and landscaping requirements that may be applicable, and 2) The plat of this property must be filed with the Register of Deeds prior to any permitting. Upon roll call, all members voting aye, the motion carried. **PARKING STALL VARIANCE AND LOADING & UNLOADING STALL VARIANCE APPROVED.**
- 8) Remax Preferred Choice Realty requested permission, as per site plan submitted, to 1) indefinitely permit a temporary sign at a specified location, which would be an Appeal to the Board of Zoning Adjustment, and 2) to indefinitely permit an inflatable sign at a specified location, which would be an Appeal to the Board of Zoning Adjustment, all on Lots 13-14, Block 9, Nicollet Park Addition, a.k.a. 1011 Sixth Avenue SE. Following discussion Weigel moved and Kezar seconded to approve to continue this item until next month's meeting. Upon roll call, all members voting aye with Grebner abstaining, the motion carried. **APPEAL CONTINUED.**
- 9) Stiles & Byron Partnership requested permission, as per site plan submitted, to 1) permit the installation of a freestanding sign 6' from the North property line rather than the permitted 10', which would be a 4' Freestanding Sign Setback Variance and 2) 9' from the West property line rather than the required 10', which would be a 1' Freestanding Sign Setback Variance, all on The West 8' of Lot 7 and Lots 8-12, Block 14, Smith Addition, a.k.a. 604 Sixth Avenue SE. Elizabeth Stokes was present to represent the property. Following discussion Weigel moved and Babcock seconded to deny, all members voting nay, the motion failed. Following further discussion Kezar moved and Weigel seconded to approve with the following stipulations: 1) Sign permits must be obtained prior to installation by a licensed sign hanger, with all plans submitted, approved and permits signed and paid for prior to installation, and 2) If electronic message center is added at a later date, all ordinance requirements must be met and adhered to. Upon roll call, all members voting aye, the motion carried. **FREESTANDING SIGN SETBACK VARIANCES APPROVED.**
- 10) Robert McCormack requested permission, as per site plan submitted, for existing residence to remain 21'7" from the East property line rather than the required 25', which would be a 3'5" Building Variance and for existing unattached garage to remain 0' from the South property line rather than the required 5', which would be a 5' Building Variance in order to 2) replace

front steps 14'7" from East property line rather than the required 15', which would be a 5" Building Variance, all on Lot 8 & North 2' of Lot 9, Garden Addition, a.k.a. 616 Eighth Street S. Harv Schlosser was present to represent the property. Following discussion Kezar 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.**

- 11) Timothy Hanigan requested permission, as per site plan submitted, to construct a 10'x10' shed 5' from the East property line rather than the required 10', which would be a 5' Building Variance, all on Lots 9-12, Block 15, Corrected Plat of the Highlands, a.k.a. 317 Thirteenth Avenue NW. Timothy Hanigan was present to represent the property. Following discussion Grebner moved and Kezar 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 APPROVED.**
- 12) Lucian Jones requested permission, as per site plan submitted, to permit the open storage and sale of farm, construction, and truck equipment, which would be a Special Exception in the (I-2) Unrestricted Industrial Zoning District, all on Lot 1, Jones Natural Gold Subdivision, SE¼ Sect. 16-T123N-R63W, a.k.a. 4945 Railroad Avenue NE. Lucian Jones was present to represent the property. Following discussion Weigel moved and Grebner seconded to approve with the following stipulations: 1) No storage of anything within the 35' corner visibility triangle at the intersection of Railroad Avenue and Brown County 14, 2) All items on lot must be available for sale; no personal or off-premise storage, 3) Storage is strictly limited to what was applied for (farm, construction, and truck equipment available for sale), 4) Sign permits must be obtained before any signs are installed, 5) Property must be maintained in a neat and orderly manner at all times, 6) Property must be landscaped in accordance with City Forester's requirements, 7) No junk or unlicensed vehicles, and 8) No more than 18 vehicles on this property at any one time. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 13) Clint & Gretchen Rux requested permission, as per site plan submitted, for existing residence to remain 22' from the East property line rather than the required 25', which would be a 3' Building Variance and 11' from the South property line rather than the required 15', which would be a 4' Building Variance in order to construct an 8'x12' addition to back of residence that will meet all required setbacks, all on Lots 224-225, Morning Heights Subdivision, a.k.a. 632 Lawson Street S. Clint Rux was present to represent the property. Following discussion Weigel moved and Kezar 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, 3) All required inspections must be completed, and 4) Property must be replatted into one parcel. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**

- 14) Bill Meidinger and Jack Karst requested permission, as per site plan submitted, to 1) construct a mini-storage and commercial rental building, which would be a Special Exception in a (C-2) Highway Commercial Zoning District, and 2) to permit the construction of a mini-storage and commercial rental building that is 50' in depth rather than the required 30', which would be a 20' Maximum Depth Variance, and 3) to permit 16' sidewall height rather than the permitted 12', which would be a 4' Maximum Sidewall Height Variance, all on Lot 1, Auditor's Subdivision, SE¼ Sect. 27-T123N-R64W, a.k.a. 2932 Highway 281 S. Jack Karst was present to represent the property. Following discussion Grebner moved and Weigel 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, 3) All required inspections must be completed, 4) Sign permits must be obtained before any signs are installed, 5) This approval does not grant permission for any open storage on this property, 6) Property must be maintained in a neat and orderly manner at all times, 7) Build outs of any unit will require further permitting with this office, 8) Property must be landscaped in accordance with City Forester's requirements, 9) Construction shall not be of sheet metal or similar material, and 10) This replaces the previously granted Special Exception for a mini-storage facility at this location. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION, MAXIMUM DEPTH VARIANCE, AND MAXIMUM SIDEWALL HEIGHT VARIANCE APPROVED.**
- 15) Dixie Mattern and Dakota Motor Sports, LLC requested permission, as per site plan submitted to permit the open storage, parking and sale of ATV's, motorcycles and related vehicles, which would be a Special Exception in the (C-2) Highway Commercial Zoning District, all on The West 200' of the East 1000' of the North 670.16', NW¼ Sect. 23-T123N-R63W, a.k.a. 39233 133rd Street. Jerome Ottenbacher was present to represent the property. Following discussion Kezar moved and Grebner seconded to approve with the following stipulations: 1) No off premise storage or sales, 2) Sign permits must be obtained before any signs are installed, 3) Property must be maintained in a neat and orderly manner at all times, 4) Property must be landscaped in accordance with City Forester's requirements, 5) Property must be replatted, 6) Property must be rezoned to (C-2) Highway Commercial District, 7) No junk or unlicensed vehicles, and 8) No more than 20 vehicles on this property at any one time. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 16) Wagner Holdings, LLC and MJ's Team, LLC requested permission, as per site plan submitted, to permit a permanent fireworks stand, which would be a Special Exception in the Zoning Jurisdiction of the City of Aberdeen, all on Rich Brothers Outlot 1, NW¼ Sect. 23-T123N-R63W, a.k.a. 6230 Highway 12 E. Ron Wagner was present to represent the property. Following discussion Grebner moved and Babcock seconded to approve with the following stipulations: 1) Sign permits must be obtained before any signs are installed, 2) All fire marshal requirements must be met, and 3) Property must be maintained in a neat and orderly manner at all times, including remainder of year when sales are not permitted. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 3) Forsyth & Zahn requested permission, as per site plan submitted, to permit the open storage of vehicles, equipment, materials and houses built on lot to be moved off-site, which would be a Special Exception in an (I-2) Unrestricted Industrial Zoning District, all on Lots 7-18, Block 66,

Hagerty & Lloyd Addition and Vacated Street and Alley ROW's, a.k.a. 405 First Avenue SE. Tyler Forsyth was present to represent the property. Following discussion Kezar moved and Grebner seconded to approve with the following stipulations: 1) Staff recommends approval of this request for the applicants only, as long as they are the owner/operator of the proposed use, 2) Open storage & parking is limited to vehicles and equipment used for this business only, 3) No off-premise storage, 4) Property must be maintained in a neat and orderly manner at all times, 5) All houses or structures built on site must adhere to setbacks and not be placed in corner visibility triangle, 6) Building permits must be obtained for any structures built onsite, 7) No junk or unlicensed vehicles, and 8) All construction debris must be picked up from the surrounding neighborhood if windy conditions occur. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

Babcock continued with other business as follows:

- 1) Kezar questioned the existing EMC (Electronic Message Center) Sign Ordinance and whether it currently has enough "teeth" so that Code Enforcement can enforce non-compliance or whether a request has to be made to City Council to strengthen the ordinance. Ken Hubbard & Brett Bill explained that Code Enforcement has the authority to issue citations for non-compliance. No action taken.
- 2) Weigel questioned whether the City Council is actually opposed to steel siding on any new buildings or rather only new storage buildings constructed of primarily steel siding along the main roads and entrances to our communities. Brett Bill explained that the current ordinance amendment he's currently drafting for City Council prohibits the construction of new storage unit facilities along main roads and entrances to our community. No action taken.

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

Paula Nelson
Board of Zoning Adjustment Secretary
May 8, 2014