

BOARD OF ZONING ADJUSTMENT
February 12, 2015

The Board of Zoning Adjustment Meeting was held on Thursday, February 12, 2015 in the Aberdeen City Hall, First Floor Council Chambers, Aberdeen, South Dakota with Babcock presiding as Chairman. Chairman Babcock called the meeting to order. Members present at roll call were Winter, Kezar, VanDeRostyne, Weigel, and Babcock. Grebner was absent. Also present were Ken Hubbard, City Planner, Brett Bill, Planning & Zoning Director, Chris Witzel, City Planner, Barry Dunlavy, Building Inspector, David Dosch, Code Enforcement Officer, Shane Smith, Code Enforcement Officer, Stuart Nelson, Assistant City Engineer, and Paula Nelson, Board of Zoning Adjustment Secretary.

Kezar moved and VanDeRostyne seconded to approve the Board of Zoning Adjustment minutes of January 8, 2015, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Vicki Anderson 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-1) Low Density Residential District, all on Lot 4, Block 1, Spaulding's First Addition, a.k.a. 1404 Jay Street N. Vicki Anderson 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 prior to the operation of this daycare commencing, 2) No more than one individual other than the owner, may work at the daycare at one time, 3) A floor plan must be submitted for review showing the location used for childcare, 4) Age range of children, the number of children and hours of operation must be submitted, 5) This special exception is for the owner, as long as she/he is the owner/operator of the proposed use, 6) Announced and unannounced inspections must be permitted by operator, 7) 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 9) 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) Cory Vosika requested permission, as per site plan submitted, to 1) permit the construction of a 24'x100' pole building in the (I-1) Industrial Park District, which would be an Appeal to the Board of Zoning Adjustment, and 2) to construct a 24'x100' pole building 25' from the West property line rather than the required 30', which would be a 5' Building Variance, all on Lot 2, Aberdeen Development Corporation 1999-1 Subdivision, in the NE¼ Sect.17-T123N-R63W, a.k.a. 2921 Idea Avenue. Cory Vosika was present to represent the property. Following discussion Weigel moved and Babcock seconded to approve agenda item #1 with the following stipulations: 1) The structure must be aesthetically similar to primary structure, 2) The structure must comply with all Building and Fire Codes that may be applicable (including Fire Marshal stipulation that structure needs to be of Type II-B, Steel Frame Construction or Masonry Block, with steel bar joist roof assembly or Type I-B Concrete, Pre-Cast Concrete or Masonry Block Construction), 3) Building permit must be obtained prior to construction and all inspections must be completed, and 4) Property pins must be located to verify setbacks at time of inspection. Upon roll call, Weigel-nay, VanDeRostyne-aye, Babcock-nay, Kezar-aye, Winter-nay (2-aye,3-nay), the motion failed. Following

further discussion Weigel moved and Babcock seconded to approve agenda item #1 with the following stipulations: 1) The structure must be aesthetically similar to primary structure, 2) The structure must comply with all Building and Fire Codes that may be applicable, 3) Building permit must be obtained prior to construction and all inspections must be completed, and 4) Property pins must be located to verify setbacks at time of inspection. Upon roll call, Weigel-aye, VanDeRostyne-aye, Babcock-aye, Kezar-aye, Winter-nay (4-aye, 1-nay), the motion carried.

APPEAL APPROVED. Following further discussion VanDeRostyne moved and Kezar seconded to deny agenda item #2, all members voting nay, the motion failed. Vosika submitted a letter of approval from adjacent neighbor, Quantum Properties LLC. Following further discussion Weigel moved and VanDeRostyne seconded to approve agenda item #2, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**

- 3) Dean Kiefer requested permission, as per site plan submitted, for 1) existing residence to remain 19' from the South property line rather than the required 25', which would be a 6' Building Variance and 11' from the East property line rather than the required 15', which would be a 4' Building Variance and 12' from the North lot line rather than the required 20', which would be an 8' Building Variance and 2) for shed to remain 1' from the North property line rather than the required 5', which would be a 4' Building Variance in order to 3) construct a 12'x16' addition to residence 13' from the North property line rather than the required 20', which would be a 7' Building Variance, all on Lots 933-934, Morning Heights Subdivision, a.k.a. 1323 Twelfth Avenue SE. Dean Kiefer was present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve agenda item #1, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.** Following further discussion VanDeRostyne moved and Weigel seconded to deny agenda item #2, all members voting aye, the motion carried. **BUILDING VARIANCE DENIED.** Following discussion Kezar moved and Weigel seconded to approve agenda item #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, 4) The submitted plat combining underlying lots must be approved and filed with Register of Deeds, and 5) Site plan must be submitted to obtain building permit to relocate shed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 4) Clarence and Lori Lee Habeck requested permission, as per site plan submitted, to 1) permit the open storage, parking or sale of vehicles and machinery, which would be a Special Exception in the (I-2) Unrestricted Industrial Zoning District, and 2) to permit a livestock feedlot, which would be a Special Exception in the (I-2) Unrestricted Industrial Zoning District, and 3) to permit livestock within 1000' of an incorporated area, which would be an Appeal to the Board of Zoning Adjustment, and 4) for existing freestanding sign to remain 9' from the South property line rather than the required 20', which would be an 11' Sign Setback Variance, all on Lot 1, Habeck's Fourth Addition, in the SE¼ Sect. 9-T123N-R63W, a.k.a. 4701 Eighth Avenue NE. Clarence and Lori Lee Habeck were present to represent the property. Following discussion Kezar moved and Weigel seconded to approve with the following stipulations: 1) Owner may winter 25 head of cattle on the property, with spring calving season to not exceed 3 cattle per acre, 2) All vehicles and machinery must be licensed, operable and available for sale, 3) Any unlicensed, wrecked, scrapped vehicles, machinery, and equipment must be stored indoors or within the fenced enclosure north of the building, 4) Gravel or hard surface parking areas in front of the building for up to 15 vehicles may be constructed and maintained for the display of licensed, operable vehicles in good repair

available for sale, 5) Any vehicles towed to this property as part of the towing business must be secured within a building or within the fenced enclosure north of the buildings, 6) The existing sign must be permitted with the Planning and Zoning office, following approval of any necessary variances, 7) Storage of any vehicles, machinery, etc. not displayed for sale must take place in the buildings, fenced enclosure or area north of the buildings, 8) The property must be maintained in a neat and orderly manner at all times, 9) This Special Exception is for Clarence and Lori Lee Habeck only, as long as they are the owner/operator of proposed uses, and 10) All of the stipulations must be met and adhered to on or before July 1, 2015. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTIONS AND APPEAL APPROVED.**

- 5) Ka-Boomer's, Inc. requested permission, as per site plan submitted, to permit the operation of a temporary fireworks stand within the Zoning Jurisdiction of the City of Aberdeen, which would be a Special Exception, all on Judy Outlot 1, NW¼ Sect. 22-T123N-R63W, a.k.a. 5050 Highway 12 E. Stacy Bauer was present to represent the property. Following discussion VanDeRostyne moved and Babcock seconded to approve with the following stipulations: 1) All Fire Marshal requirements must be met, and 2) Any and all signage must be approved and permitted prior to installation. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 6) Sacred Heart Parish requested permission, as per site plan submitted, to construct a 26'x40 accessory structure without the required primary structure, which would be an Appeal to the Board of Zoning Adjustment, all on Lots 19-20, Block 75, Hagerty & Lloyd Addition, a.k.a. 124 Arch Street S. Jeff Swank, Building & Grounds Supervisor @ Sacred Heart Parish was present to represent the property. Following discussion VanDeRostyne moved and Weigel seconded to deny, all members voting aye with Kezar abstaining, the motion carried. **APPEAL DENIED.**
- 7) D&H Development Corporation requested permission, as per site plan submitted, to 1) permit a real estate sign that is 32sf rather than the required 6sf, which would be a 26sf Real Estate sign variance and 2) to install a 4'x8' freestanding sign 1' from the South property line rather than the required 10', which would be a 9' Sign Setback Variance, all on Lot 1, Ninth Addition to Ashwood Heights Subdivision, a.k.a. 2715 Oakwood Lane. Lonnie Anderson was present to represent the property. Following discussion Weigel moved and Babcock seconded to approve agenda item #1, all members voting aye, the motion carried. **SIGN VARIANCE APPROVED.** Following further discussion VanDeRostyne moved and Kezar seconded to deny agenda item #2, all members voting nay, the motion failed. Following further discussion VanDeRostyne moved and Kezar seconded to approve agenda item #2 with the following stipulations: 1) Permit must be obtained prior to installation, 2) Sign must be removed within 3 years or upon sale of final lot, whichever occurs sooner. If sign is still necessary in 3 years the applicant may reapply for a variance at that time, and 3) Sign to be located 2' from South property line rather than the required 10', which would be a 8' Sign Setback Variance. Upon roll call, all members voting aye, the motion carried. **SIGN SETBACK VARIANCE APPROVED.**
- 8) Ideal Equity Group, LLC and Procomm Builders requested permission, as per site plan submitted, to 1) permit the open storage, and display of prebuilt homes, which would be a Special Exception in the (C-2) Highway Commercial Zoning District, and 2) to place display homes 5' from the North property line rather than the required 45', which would be a 40' Minimum Setback Variance, and 3) to place an office building on a pier foundation as a group project, which would be a Special

Exception in the (C-2) Highway Commercial Zoning District, all on Lot 1, Crompton Addition, in the NW¼ Sect. 23-T123N-R63W, a.k.a. 39205 133rd Street. Neil Bellikka, Ryan Hanson, Jerry Reif, and David Mohn were present to represent the property. Following discussion Weigel moved and Kezar seconded to deny agenda item #1, all members voting nay, the motion failed. Following further discussion VanDeRostyne moved and Kezar seconded to approve agenda item #1 with the following stipulations: 1) No more than two (2) homes on this property at any one time, 2) Previous Approvals on this property are immediately revoked, and 3) 35' corner visibility triangle requirements must be adhered to. Upon roll call, all members voting aye, the motion carried.

SPECIAL EXCEPTION APPROVED. Following further discussion Weigel moved and VanDeRostyne seconded to approve agenda #2, all members voting aye, the motion carried.

MINIMUM SETBACK VARIANCE APPROVED. Following further discussion Kezar moved and Weigel seconded to approve agenda item #3 with the following stipulations: 1) Plans for foundation must be approved by Building Inspection Department 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) Must be ADA accessible and restroom facilities must be installed with an adequate septic system installed to meet requirements for this new office, 5) Soil compaction testing must meet recommendations of licensed professional Geotechnical Engineer or Structural Engineer as required by building code, 6) A site plan must be submitted indicating where septic system is going to be placed on this property and approval obtained by SD DENR. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 9) Aberdeen Shopping Centers requested permission, as per site plan submitted, to increase the total freestanding signage on property to 624.3sf rather than the permitted 300sf, which would be a 324.3sf Freestanding Sign Size Variance, all on Block A, Super City Corner Subdivision, a.k.a. 2105 Sixth Avenue SE. Scott Grebner was present to represent this property. Following discussion petitioner withdrew this request. No action taken.

Brett Bill introduced Shane Smith as Code Enforcement Officer.

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

Paula Nelson
Board of Zoning Adjustment Secretary
February 12, 2015