

BOARD OF ZONING ADJUSTMENT
August 12, 2010

The Board of Zoning Adjustment Meeting was held on Thursday August 12, 2010 in the City Hall 3rd Floor Courtroom, Aberdeen, South Dakota with Bob Babcock presiding as Chairman. Chairman Babcock called the meeting to order. Members present at roll call were Sikkink, Kezar, VanDeRostyne, Weigel, and Babcock. Also present were Ken Hubbart, City Planner, Brett Bill, Planning & Zoning Director, Barry Dunlavy, Building Inspector, Ken Van Dyne, City Planner, Chad Nilson, Building Inspector, Mike Olson, Code Enforcement Officer, and Paula Nelson, Board of Zoning Adjustment Secretary.

VanDeRostyne moved and Weigel seconded to approve the Board of Zoning Adjustment minutes of July 8, 2010, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Melissa Zastrow requested permission, as per site plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in a (R-3) High Density Residential Zoning District, all on Lot 3, Block 1, Golden Acres First Subdivision, a.k.a. 624 Kettering Drive. Melissa Zastrow was present to represent the property. Following discussion Kezar moved and Sikkink 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) Heather A. Smith requested permission, as per site plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in a (R-2) Medium Density Residential Zoning District, all on Lot 11, Block 6, Northview Seventh Addition, a.k.a. 1218 Twelfth Avenue NE. Heather A. Smith was present to represent the property. Following discussion Sikkink 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.**

- 3) April Wirth and Dee Ann Hofer requested permission, as per site plan submitted, to operate a daycare as a primary use in a (R-3) High Density Residential Zoning District, which would be an Appeal to the Board of Zoning Adjustment, all on Lot 10, Block 3, Thomas Addition, a.k.a. 519 Eighth Avenue SE. April Wirth was present to represent the property. Following discussion Kezar moved and Sikkink 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, 11) Property must be maintained in a neat and orderly manner at all times, and 12) Any complaints from neighbors must be addressed immediately. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 4) Leslie Podoll requested permission, as per site plan submitted, for existing residence to remain 24' from the East property line rather than the required 25', which would be a 1' Building Variance in order to construct a front deck that will meet all required setbacks, all on Lot 1, Block 2, Hyde Park First Addition, a.k.a. 106 Linda Lane. Leslie Podoll was present to represent the property. Following discussion Sikkink 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 APPROVED.**

- 5) Ben Buisker requested permission, as per site plan submitted, for existing residence to remain 15.5' from the West property line rather than the required 25', which would be a 9.5' Building Variance and 10' from the North property line rather than the required 15', which would be a 5' Building Variance in order to replace foundation, all on Lots 23-24, Block 32, Hagerty & Lloyd Addition, a.k.a. 324 Arch Street N. Ben Buisker was present to represent the property. Following discussion VanDeRostyne 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 VARIANCES APPROVED.**

- 6) David & Tracy Nash requested permission, as per site plan submitted, for existing residence to remain 3' from the North property line rather than the required 5', which would be a 2' Building Variance in order to replace enclosed front porch, all on Lot 11, Block 2, Garden Park Addition, a.k.a. 612 Ninth Street S. Tracy Nash was present to represent the property. Following discussion Kezar 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 APPROVED.**

- 7) Bryan Delzer requested permission, as per site plan submitted, for 1) existing residence to remain 7.5' from the South property line rather than the required 15', which would be a 7.5' Building Variance in order to replace front deck and 2) for existing detached garage to remain 7.5' from the South property line rather than the required 25', which would be a 17.5' Building Variance in order to 3) construct a 12'x22' addition to detached garage 7.5' from the South property line rather than the required 25', which would be a 17.5' Building Variance, all on Lot 7, Block 5, Gorder's Second Addition to Aberdeen, a.k.a. 1628 Third Street S. Bryan Delzer was present to represent the property. Following discussion Sikkink moved and VanDeRostyne seconded to approve agenda item #1, all member voting aye, the motion carried. **BUILDING VARIANCE APPROVED.** Following further discussion Sikkink moved and Kezar seconded to approve agenda item #2 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.**

- 8) Sharon Johs requested permission, as per site plan submitted, for existing residence to remain 20' from the West property line rather than the required 25', which would be a 5' Building Variance, and for existing deck to remain 14' from the West property line rather than the required 15', which would be a 1' Building Variance in order to construct new deck on back of residence that will meet all required setbacks, all on Lot 1, of Geary's Replat of Block 5, Pleasant Hill Addition, a.k.a. 819 Eleventh Street S. Roland Walters of

Walter Construction was present to represent the property. Following discussion Kezar 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 VARIANCES APPROVED.**

- 9) Donald Brick requested permission, as per site plan submitted, for existing mobile home to remain 60' from the West property line rather than the required 100', which would be a 40' Building Variance in order to construct a 14'x18' addition that will meet all required setbacks, all on Lot 1, Kraft's First Addition, NW¼ Sect.22-T123N-R63W, a.k.a. 1023 391st Avenue. Donald Brick was present to represent the property. Following discussion VanDeRostyne 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, and 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 10) Timothy L. Pond requested permission, as per site plan submitted, to construct an 8'x10' shed 3' from the South property line rather than the required 10', which would be a 7' Building Variance, all on Lots 8-10, Block 30, Corrected Plat of Highlands Addition, a.k.a. 1308 Washington Street N. Timothy Pond was present to represent the property. Following discussion Sikkink moved and VanDeRostyne seconded to deny, all members voting nay, the motion failed. Following further discussion Sikkink 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.**
- 11) Michael Dick requested permission, as per site plan submitted, to 1) construct a 12'x12' accessory structure 20' from the East property line rather than the required 35', which would be a 15' Building Variance and 2) 5' from the South property line rather than the required 10', which would be a 5' Building Variance, all on Lot 16, Block 11, Eleventh Addition to Highlands North Subdivision, a.k.a. 522 Seventeenth Avenue NE. Michael and Chris Dick were present to represent the property. Following discussion VanDeRostyne moved and Sikkink 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.**
- 12) Leroy Hottman requested permission, as per site plan submitted, to 1) construct ministorage units, which would be a Special Exception in a (I-2) Unrestricted Industrial Zoning District, and 2) to construct two 30'x60' ministorage units 12' from the West

property line rather than the required 25', which would be two 13' Building Variances, all on Lot 1, Premack's Second Subdivision, E½ Sect. 14-T123N-R64W, a.k.a. 120 East Drive. There being no representative present this item was moved to the end of the agenda.

- 13) Ron & Debra Droog requested permission, as per site plan submitted, to 1) construct a 20'x32' shed 6' from the East property line rather than the required 35', which would be a 29' Building Variance, and 2) 14' from the South property line rather than the required 15', which would be a 1' Building Variance, all on Block A, Droog First Subdivision, S½ Sect. 22-T123N-R64W, a.k.a. 13356 385th Avenue. Debra Droog was present to represent the property. Following discussion VanDeRostyne moved and Babcock seconded to deny, all members voting nay, the motion failed. Following further discussion Kezar moved and Babcock seconded to approve 6' from the East property line and 15' from the South property line 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) Floodplain Development Permit must be obtained. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 14) Paul & Sherry Jung requested permission, as per site plan submitted, to construct a 6' addition to existing attached garage 4' from the North property line rather than the required 5', which would be a 1' Building Variance, all on Lot 29, Block 2, Wylie Park Estates Fourth Addition, a.k.a. 1626 Olive Drive. Mike Jung of Jung Construction Inc. was present to represent the property. Following discussion Sikkink 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, and 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 15) Lynn & Candice Gross requested permission, as per site plan submitted, to plat a lot in a (M-Ag) Mini-Agriculture Zoning District with 188.79' of frontage rather than the required 200', which would be a 11.21' Minimum Lot Width Variance, all on Proposed Outlot 1, Joe Gross Outlots, NE¼ Sect. 33-T124N-R64W, a.k.a. 12941 385th Avenue. Lynn Gross was present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve, all members voting aye, the motion carried. **MINIMUM LOT WIDTH VARIANCE APPROVED.**
- 16) Lynn & Candice Gross requested permission, as per site plan submitted, to 1) install two 48sf freestanding signs rather than the permitted 1, which would be a one Freestanding Sign Variance, and 2) request permission to install 2 freestanding signs 5' from the East and West property lines rather than the permitted 20', which would be two 15' Sign Setback Variances, all on Lot 4, East Highway 12 Addition, NE¼ Sect. 22-T123N-R63W, a.k.a. 5856 Highway 12 E. Lynn Gross was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to deny agenda item #1. Upon roll call, Sikkink-nay, Kezar-nay, VanDeRostyne-aye, Weigel-nay, Babcock-aye (3-nay,2-aye), the

motion failed. Following further discussion Sikkink moved and Kezar seconded to approve agenda item #1, upon roll call, Sikkink-aye, Kezar-nay, VanDeRostyne-nay, Weigel-nay, Babcock-nay (4-nay,1-aye), the motion failed. Following further discussion Sikkink moved and Babcock seconded to approve agenda item #2 5' from the West property line and 20' from the East property line with the stipulation that sign permits must be obtained prior to the erection of signs. Upon roll call, all members voting aye, the motion carried. **SIGN SETBACK VARIANCE APPROVED.**

- 17) Jerry Keeley and John Eichinger requested permission, as per site plan submitted, to permit the open storage, parking, or sale of vehicles, which would be a Special Exception in a (I-2) Unrestricted Industrial Zoning District, all on Keeley Outlot B, SW $\frac{1}{4}$ Sect. 14-T123N-R64W, a.k.a. 1900 Sixth Avenue SW. John Eichinger was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to deny, all members voting nay, the motion failed. Following further discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) This special exception is for the display of licensed and operable vehicles only; no other miscellaneous items shall be stored or displayed on the property, 2) Any signage must be approved and permitted by the Planning & Zoning Office, 3) The property must be maintained in a neat and orderly manner at all times, 4) No storage of any items, regardless of height, shall be allowed in the 35' corner visibility triangle at the intersection of Hwy 12 & Hwy 281. All measurements to be made from the property lines, 5) This special exception is for John Eichinger, d.b.a. "John's Classic Cars" only, and permission will terminate when Mr. Eichinger no longer does business at this location, 6) Open storage may not exceed 4 total vehicles for the entire property; any items not for sale by Mr. Eichinger will count towards this limit, and 7) Open storage may only occur in the SW corner of the property (100' N/S x 200' E/W). Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 18) W.T. Teigen requested permission, as per site plan submitted, to plat two lots in a (C-2) Highway Commercial Zoning District that are 125' deep rather than the required 142', which would be two 17' Minimum Lot Depth Variances, all on Proposed Lots 6&7, Teigen's Second Subdivision, NW $\frac{1}{4}$ Sect. 29-T123N-R63W, a.k.a. 1805 Roosevelt Street S. Francis Brink of Brink Engineering was present to represent the property. Following discussion Sikkink moved and VanDeRostyne seconded to approve, all members voting aye, the motion carried. **MINIMUM LOT DEPTH VARIANCES APPROVED.**
- 19) Michael Shilhanek requested permission, as per site plan submitted, to construct an 8'x1'10" addition to detached garage 3'2" from the East property line rather than the required 5', which would be a 1'10" Building Variance, all on The West 50' of Lots 11-12, Block 47, Thomas Addition, a.k.a. 121 Tenth Avenue SW. Michael Shilhanek was present to represent the property. Following discussion VanDeRostyne 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.**

- 20) First Baptist Church requested permission, as per site plan submitted, to 1) install a third freestanding sign, rather than the permitted 1, which would be a 2 Freestanding Sign Variance, install a freestanding sign 32sf in size rather than the permitted 16sf, which would be a 16sf Sign Variance, and 3) to permit 146sf of freestanding signage rather than the permitted 16sf, which would be a 130sf Sign Variance, and 4) request permission to install 32sf freestanding sign 0' from the West property line rather than the permitted 10', which would be a 10' Sign Setback Variance, all on Lot 1, First Replat of South Haven First Addition, a.k.a. 1500 Melgaard Road E. Dave Vilhauer of First Baptist Church was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to deny agenda item #1, all members voting nay with Babcock abstaining, the motion failed. Following further discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) Sign permit must be obtained prior to erection of temporary sign and the temporary sign must be removed prior to August 12, 2013. Upon roll call, all members voting aye with Babcock abstaining, the motion carried. **FREESTANDING SIGN VARIANCE APPROVED.** Following further discussion VanDeRostyne moved and Kezar seconded to approve agenda items #2 and #3 with the stipulation that the temporary sign must be removed prior to August 12, 2013. Upon roll call, all members voting aye with Babcock abstaining, the motion carried. **SIGN VARIANCES APPROVED.** Following further discussion VanDeRostyne moved and Kezar seconded to approve agenda item #4 with the following stipulations: 1) Temporary sign may be placed 5' from the West property line and 15' from the North lot line, and 2) Temporary sign must be removed prior to August 12, 2013, and 3) Existing freestanding sign at 8th Avenue NE location must be removed prior to installation. Upon roll call, all members voting aye with Babcock abstaining, the motion carried. **SIGN SETBACK VARIANCE APPROVED.**
- 21) K.O. Lee and Stencil Corporation requested permission, as per site plan submitted, to 1) construct two detached garages in the front setback of an apartment complex, which would be an Appeal to the Board of Zoning Adjustment, and 2) to provide 81 parking stalls rather than the required 98, which would be a 17 Parking Stall Variance, all on Lot 2, Prairie Springs First Addition to Aberdeen, SW¼ Sect. 18-T123N-R63W, a.k.a. 116 Weber Street S. Brian Wolfgang of Stencil Corporation was present to represent the property. Following discussion Weigel moved and Kezar seconded to approve agenda item #1, all members voting aye with Babcock abstaining, the motion carried. **APPEAL APPROVED.** Following further discussion Sikkink moved and VanDeRostyne seconded to approve agenda item #2, all members voting aye with Babcock abstaining, the motion carried. **PARKING STALL VARIANCE APPROVED.**
- 22) Steve Markley requested permission, as per site plan submitted, to 1) construct a 24'x24' detached garage 1' from the North property line rather than the required 25', which would be a 24' Building Variance, and 2) 3.5' from the West property line rather than the required 5', which would be a 1.5' Building Variance, all on Lot 1, Block 8, Forest Acres

Sixth Addition, a.k.a. 1502 Eighth Street S. Steve Markley was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to deny agenda items #1 and #2, all members voting aye, the motion carried. **BUILDING VARIANCES DENIED.**

- 12) Leroy Hottman requested permission, as per site plan submitted, to 1) construct ministorage units, which would be a Special Exception in a (I-2) Unrestricted Industrial Zoning District, and 2) to construct two 30'x60' ministorage units 12' from the West property line rather than the required 25', which would be two 13' Building Variances, all on Lot 1, Premack's Second Subdivision, E½ Sect. 14-T123N-R64W, a.k.a. 120 East Drive. Brett Bill stated that the petitioner was withdrawing this request. No action taken.

Chairman Babcock continued with other business as follows:

- 1) Tom Hurlbert of HULA was present to discuss Comfort Hauck's house/garage plans again at 1409 South Main Street. No action taken.
- 2) Ken Hubbart continued with election of a Chairman. VanDeRostyne opened nominations by nominating Bob Babcock for Chairman. Kezar seconded VanDeRostyne's nomination. VanDeRostyne moved and Sikkink seconded that nominations cease. All members voting aye to cease nominations, the motion carried. There being no further nominations for Chairman, all members voting aye to elect Bob Babcock as Chairman, the motion carried.

VanDeRostyne opened nominations by nominating Scott Sikkink for Vice-Chairman. Weigel seconded Sikkink's nomination. VanDeRostyne moved and Weigel seconded that nominations cease. All members voting aye to cease nominations, the motion carried. There being no further nominations for Vice-Chairman, all members voting aye to elect Scott Sikkink as Vice-Chairman, the motion carried.

Following further discussion VanDeRostyne moved for adjournment, seconded by Kezar, all members voting aye, the meeting was adjourned until September 9, 2010.

Paula Nelson
Board of Zoning Adjustment Secretary
August 12, 2010