

BOARD OF ZONING ADJUSTMENT
February 12, 2009

The Board of Zoning Adjustment Meeting was held on Thursday February 12, 2009 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, Zumbaum, and Babcock. Also present were Ken Hubbart, City Planner, Chad Nilson, Building Inspector, Dwayne Schueller, GIS/Planning Technician, Vern Meyer, Planning & Zoning Technician, Mike Holsten, Code Enforcement Officer, and Paula Nelson, Board of Zoning Adjustment Secretary.

Zumbaum moved and VanDeRostyne seconded to approve the Board of Zoning Adjustment minutes of January 8, 2009, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Stanis Malsom requested permission, as per site plan submitted, to construct a 28'x36' detached garage 17' from the West property line rather than the required 25', which would be an 8' Building Variance, on Lots 11&12, Block 38, West Aberdeen Addition, a.k.a. 305 Tenth Street S. Stanis Malsom was present to represent the property. Following discussion Zumbaum 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, 3) All required inspections must be completed, and 4) Structure cannot be located in the corner visibility site triangle. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 2) Heritage Business Plaza, LLC and SWS, LLC requested permission, as per site plan submitted, to construct a 110' tall cellular phone tower, which would be a Special Exception in an (I-2) Unrestricted Industrial Zoning District, on Lot 3, Heritage Business Plaza Subdivision, a.k.a. 905 Third Avenue SE. Doug Sweet of Property Acquisition & Management Corporation was present to represent the property. Following discussion Kezar moved and Zumbaum seconded to deny, all members voting aye, the motion carried. **SPECIAL EXCEPTION DENIED.**
- 3) Gerald M. and James A. Keeley and SWS, LLC requested permission, as per site plan submitted, to construct a 199' tall cellular phone tower, which would be a Special Exception in an (I-2) Unrestricted Industrial Zoning District, on Keeley Outlot B in the SW¹/₄ Sect. 14-T123N-R64W, a.k.a. 1900 Sixth Avenue SW. Doug Sweet of Property Acquisition & Management Corporation was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) FAA approval must be obtained, 2) Plans must be submitted for review prior to work commencing and must be stamped by a South Dakota Certified Engineer and building permit must be obtained, 3) Property pins must be located for inspection, 4) All required inspections must be completed including a footing & setback inspection prior to any concrete being poured, 5) Landscaping must be approved by the City Forester, and 6) Aeronautical warning/identification device to be located at top of tower. Upon roll call Sikkink - nay, Kezar, VanDeRostyne, Zumbaum, Babcock - aye (1-nay, 4-aye), the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 4) Larry and Josh Shilman requested permission, as per site plan submitted, to operate a cabinetry shop in an accessory structure located in a (M-Ag) Mini-Agricultural Zoning District, which would be an Appeal to the Board of Zoning Adjustment, on The North 1,000' of the West 330' of the NE¼ Sect. 34-T124N-R64W, a.k.a. 38557 129th Street. Larry and Josh Shilman were present to represent the property. Following discussion Zumbaum moved and Sikkink seconded to approve with the following stipulations: 1) All tools, equipment, wood, scraps, etc. must be completely enclosed in buildings, 2) No changes to outward appearance of property, and 3) Any signage must be permitted with the Planning & Zoning office. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**
- 5) Marcia Carls requested permission, as per site plan submitted, to temporarily place a house on a lot without a foundation in a (R-3) High Density Residential District, which would be an Appeal to the Zoning Board of Adjustment on Lot 9 & the West 5' of Lot 10, Block 49, Second Addition, a.k.a. 114 Ninth Avenue SW. Audie Crouch was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) A moving permit must be obtained prior to moving house to lot, 2) Property must be replatted into one parcel before foundation is permitted, 3) Permit must be obtained for foundation before construction begins, 4) House must be placed on a permanent foundation by August 12, 2009, and 5) Owner must submit pictures of interior and exterior of home and submit to Building Inspection Department prior to moving house to lot. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**
- 6) Justin D. and David B. Shultis requested permission, as per site plan submitted, for existing residence to remain 3' from West property line rather than the required 5', which would be a 2' Building Variance and 0' from the North property line rather than the required 20', which would be a 20' Building Variance, and for accessory structure to remain 0' from the East property line rather than the required 5', which would be a 5' Building Variance, all on Lot 10, Block 51, Second Addition, a.k.a. 13 Ninth Avenue SE. Justin D. & David B. Shultis were present to represent the property. Following discussion Zumbaum moved and Babcock seconded to approve with the following stipulations: 1) Demolition permit must be obtained for one house before any permits may be issued for the second house or garage, 2) Permits must be obtained to bring the house and garage into compliance with all Building & Fire Codes and this work must be completed within predetermined timeframe, 3) Any and all required inspections must be completed, 4) Required off-street parking stalls must be provided before property may be rented, and 5) All three walls requiring variances must be made to meet fire code requirements. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**
- 7) Justin D. and David B. Shultis requested permission, as per site plan submitted, for 1) existing residence to remain 19' from the North property line rather than the required 25', which would be a 6' Building Variance, and 3.7' from West property line rather than the required 5', which would be a 1.3' Building Variance and 2) request permission to provide 0 off street parking stalls rather than the required 1.5 parking stalls per unit, which would be a 1.5 Parking Stall per Unit Variance, all on Lot 2, Diver's Second Rearrangement of Lots 11-12, Block 23, First Addition, a.k.a. 317 Fourth Avenue SW. Justin D. & David B. Shultis were present to

represent the property and Stanley Schulz and Ralph & Eunice Stevens were present in opposition. Following discussion Zumbaum moved to deny requested item #1. This motion died due to lack of second. Following further discussion Sikkink moved and Kezar seconded to approve requested item #1 with the following stipulations: 1) A Code Enforcement Officer must conduct an immediate walk-through on the lot and compile a list of any violations that need to be resolved and owner must permit any follow-up inspections for health & safety violations, and 2) Permit must be obtained for any alterations. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.** Following discussion Zumbaum moved and VanDeRostyne seconded to deny requested item #2, all members voting aye, the motion carried. **PARKING STALL PER UNIT VARIANCE DENIED.**

- 8) Stacy Bauer for Ka-Boomer's, Inc. requested permission, as per site plan submitted, to allow the temporary sale of fireworks from a temporary structure within the zoning jurisdiction of the City of Aberdeen, which would be an Appeal to the Zoning Board of Adjustments, all on Lot 1, Schumaker Subdivision in the NW¼ S23-T123N-R63W, a.k.a. 39239 133rd Street (E. Hwy 12). Stacy Bauer was present to represent the property. Following discussion Zumbaum moved and Sikkink seconded to approve with the following stipulations: 1) Must meet all Fire Marshal's requirements, 2) All signage must be in compliance with sign code, and 3) Any applicable Building Code requirements must be met. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**

Chairman Babcock continued with other business as follows:

- 1) Discussion ensued concerning cell phone towers. Following discussion Kezar moved and VanDeRostyne seconded to direct city staff to compile information for next months meeting including county regulations and the PUC's Draft Model Ordinance. Upon roll call, all members voting aye, the motion carried.
- 2) Discussion ensued concerning digital signs. Ken Hubbart stated that he is drafting letters to all digital sign owners outlining the specific stipulations attached to their prior approvals and explaining the penalties if not adhered too.

Following further discussion Zumbaum moved for adjournment, seconded by VanDeRostyne, all members voting aye, the meeting was adjourned until March 12, 2009.

Paula Nelson
Board of Zoning Adjustment Secretary
February 12, 2009