

**BOARD OF ZONING ADJUSTMENT**  
**March 12, 2009**

The Board of Zoning Adjustment Meeting was held on Thursday March 12, 2009 in the City Hall 3<sup>rd</sup> Floor Courtroom, Aberdeen, South Dakota with Bob Babcock presiding as Chairman. Chairman Babcock called the meeting to order. Members present at roll call were Weigel, Kezar, VanDeRostyne, Kezar, and Weigel. Also present were Ken Hubbart, City Planner, Chad Nilson, Building Inspector, Barry Dunlavy, Building Inspector, Brett Bill, Planning and Zoning Director, Stuart Nelson, Assistant City Engineer, Dwayne Schueller, GIS/Planning Technician, Vern Meyer, Planning & Zoning Technician, Mike Holsten, Code Enforcement Officer, and Paula Nelson, Board of Zoning Adjustment Secretary.

Kezar moved and Zumbaum seconded to approve the Board of Zoning Adjustment minutes of February 12, 2009, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Bethlehem Evangelical Lutheran Church requested permission, as per site plan submitted, to operate a preschool, which would be a Special Exception in an R-3 (High Density Residential Zoning District), all on Lot 1, Bethlehem Evangelical Lutheran Church Addition, a.k.a. 1620 Milwaukee Avenue NE. Stephanie Kline was present to represent the property. Following discussion Zumbaum moved and VanDeRostyne 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 preschool commencing, 2) All applicable state regulations must be met, 3) Pending notification that the applicant and members of the staff have not been rejected by the state due to abuse or neglect, 4) A floor plan must be submitted for review showing the location used for childcare, 5) Age range of children, the number of children and hours of operation must be submitted, 6) This special exception is for the owner, as long as she/he is the owner/operator of the proposed use, 7) Announced and unannounced inspections must be permitted by operator, 8) The operator must schedule an inspection with the Building Inspection Department and 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) Chris Arment and Shanna R.L. Curtis requested permission, as per site plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in an R-2 (Medium Density Residential Zoning District), all on Lot 19, Block 3, Lampert's First Addition, a.k.a. 1218 Casper Avenue. Chris Arment and Shanna R.L. Curtis were present to represent the property. Following discussion Zumbaum moved and Kezar 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 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) Wanda Reszler and Tanya Reszler requested permission, as per site plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in an R3/R4 (High Density/Special Density Residential Zoning District), all on The South 45' of the East 101' of Lot 6, Block 34, Thomas Addition, a.k.a. 1024 Washington Street S. Tanya Reszler was present to represent the property. Following discussion Zumbaum 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 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) When daycare is moved to a permanent location, a new special exception must be approved for the new property. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 4) Mike Beadle requested permission, as per site plan submitted, to allow the temporary sale of fireworks within the zoning jurisdiction of the City of Aberdeen, which would be an Appeal to the Zoning Board of Adjustment, all on Yeoman's Outlots 2&3 & the South 700' of the 50' East of Outlots 2&3, NE¼ Sect. 27-T124N-R64W, a.k.a. 12849 386<sup>th</sup> Avenue. Mike Beadle was present to represent the property. Following discussion VanDeRostyne moved and Babcock seconded to approve with the following stipulations: 1) Must meet all Fire Marshal's requirements, 2) All signage must be in compliance with the sign code (absolutely no illegal temporary signs or parasitic signs) and 3) Any applicable Building Code requirements must be met. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**
- 5) The Aberdeen American News requested permission, as per site plan submitted, to 1) Install two 6.5'x9' Multicolor Electronic Message Center Signs, which would be an Appeal to the Board of Zoning Adjustment in a C3/R4 (Central Business/Special Density Residential Zoning District) and 2) request permission to install two Wall/Roof Signs, rather than the permitted

- one, which would be a 1 Wall/Roof Sign Variance, all on Lots 4-6 & 11-12, Block 18 & Lot 4, Hopkins First Rearrangement of Lots 7-8, Block 18, First Addition to Aberdeen, a.k.a. 124 Second Street S. Dave Leon of the Aberdeen American News and Cory Weisenburger of Service Signs were present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to deny. Upon roll call, Weigel, VanDeRostyne - aye, and Kezar, Zumbaum, Babcock - nay (2-aye, 3-nay), the motion failed. Following further discussion Kezar moved and Babcock seconded to approve with the following stipulations: 1) Signs to be located on tower portion of building only with all other signage to be removed, 2) All electronic message board signs shall be in compliance with all other applicable codes regarding signs, 3) This sign shall not interfere with traffic safety, and may not be confused with or construed as a traffic control device, 4) Each message displayed shall remain static for a minimum of 6 seconds, with all change sequences to be instantaneous, 5) Electronic message board signs shall not contain animated images or graphics, audio components, scrolling, blinking, flashing, pulsating, or fluttering images or the appearance or illusion of writing, printing, or other movement, 6) Electronic message board signs shall not be operated to display a message or graphic that is entirely red or blue in color. Monochrome electronic message board signs shall be limited to utilizing only amber colored lights, and 7) Violation of the previous stipulations may result in a citation with a penalty of \$500 for each day violation persists upon conviction. Upon roll call, Weigel, Kezar, Zumbaum, Babcock - aye, VanDeRostyne - nay (4-aye, 1-nay), the motion carried. **APPEAL APPROVED.**
- 6) David & Vicki Fransen requested permission, as per site plan submitted, for 1) existing residence to remain 16' from North property line rather than the required 25', which would be a 9' Building Variance in order to repair covered porch, all on the West ½ of Lots 1&2, Block 12, Highland Park Addition to Aberdeen, a.k.a. 1307 Seventh Avenue SW. David Fransen was present to represent the property. Following discussion Zumbaum moved and Kezar seconded to approve, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 7) Quantum Properties, LLC requested permission, as per site plan submitted, to permit the open storage, parking or sale of vehicles, raw materials, building materials, supplies, wholesaling, warehousing, manufactured goods, contractor's equipment and concrete, asphalt and ready-mix manufacturing operations, and sales, which would be a Special Exception in a I-2 (Unrestricted Industrial Zoning District), all on Lot 2, K.O. Lee Plant First Addition, a.k.a. 1110 First Avenue SE. Neil Bellikka and Dennis Chastney were present to represent the property. Following discussion Zumbaum and Kezar seconded to approve with the following stipulations: 1) Property must be maintained in a neat and orderly manner at all times, 2) No junk, unlicensed or inoperable vehicles may be stored outside, 3) No scrap, parts, junk, debris, etc. may accumulate on property, and 4) This special exception is for the proposed use by Michel's Pipeline only and outside storage must cease with their vacating the property. Upon roll call, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 8) Pam & Tom Brzezinski and Troy & Amy Dinger requested permission, as per site plan submitted, to operate a kennel or veterinary clinic, which would be a Special Exception in a M-Ag & A-1 (Mini-Agricultural and Agricultural Zoning District), on Lot 1, Breezy Acres

- Subdivision, SE¼ Sect.8-T123N-R64W, a.k.a. 38374 132<sup>nd</sup> Street. Attorney Bill Sauck was present to represent the property. Following discussion Zumbaum moved and VanDeRostyne seconded to approve with the following stipulations: 1) This special exception is for Pam and Tom Brezinski only, as long as they are the owner/operator of proposed use, 2) Property must be maintained in a neat and orderly manner, 3) If pet adoption is to take place, the Humane Society and Animal Control Officer must be consulted, 4) If this property becomes part of A.C.O.'s jurisdiction, the owner would have to comply with City Ordinances, 5) Any complaints for neighbors should be dealt with immediately by the Brzezinski's and any unresolved issues may lead to future review by the Board of Zoning Adjustment, 6) This operation will be strictly utilized as a personal kennel and will not be operated as a veterinary clinic or any other form of commercial clinic or kennel, and 7) This approval is for no more than 46 animals. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 9) Corey Sauerwein requested permission, as per site plan submitted, to 1) plat a lot in a R-3 (High Density Residential District) with 35' of Frontage rather than the required 50', which would be a 15' Minimum Lot Width Variance and 2) to construct a residence 6' from the West property line rather than the required 15', which would be a 9' Building Variance and 3) and 19' from the North property line rather than the required 20', which would be a 1' Building Variance, all on The West 35' of Lots 7&8, Block 50, Bennett & Thomas Addition, a.k.a. 324 Third Avenue NW. Corey Sauerwein was present to represent the property. Following discussion Zumbaum moved and VanDeRostyne seconded to approve item #1, all members voting aye, the motion carried. **MINIMUM LOT WIDTH VARIANCE APPROVED.** Following further discussion Zumbaum moved and VanDeRostyne seconded to approve items #2 & #3 with the stipulation that a concrete pad must be placed on the North side of the garage for parking. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**
- 10) Jeff Lamont requested permission, as per site plan submitted, for 1) existing building to remain 9'4" from the South property line rather than the required 45', which would be a 35'8" Building variance in order to replace 3 walls of building and 2) request permission to construct a canopy 6' from the South property line rather than the required 45', which would be a 39' Building Variance and 3) to provide one 10'x23' off-street loading stall rather than the required 12'x40' stall, which would be a 2'x17' Minimum Off-Street Loading Stall Variance and 4) request permission to allow existing freestanding sign to remain 2' from South property line rather than the required 10', which would be an 8' Sign Setback Variance, and 6' from the West property line rather than the required 10', which would be a 4' Sign Setback Variance, all on Lots 15&16, Block 10, Nicollet Park Addition to Aberdeen, a.k.a. 901 Sixth Avenue SE. Jeff Lamont, Tom Hurlbert and Nate Kessler were present to represent the property. Following discussion Zumbaum moved and VanDeRostyne seconded to approve agenda item #1 with the stipulation that proper permits must be obtained for any construction projects. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.** Following further discussion VanDeRostyne moved and Kezar seconded to approve agenda item #2. Upon roll call, Weigel, Kezar, VanDeRostyne, Babcock - aye, Zumbaum - nay (4-aye,1-nay), the motion carried. **BUILDING VARIANCE APPROVED.** Following discussion

Zumbaum moved and VanDeRostyne seconded to approve agenda item #3, all members voting aye, the motion carried. **MINIMUM OFF-STREET LOADING STALL VARIANCE APPROVED.** Following further discussion Zumbaum moved and VanDeRostyne seconded to deny agenda item #4. Jeff Lamont requested to have this item withdrawn from the table. Following discussion Zumbaum moved and VanDeRostyne seconded to withdraw the motion from the table. **SIGN SETBACK VARIANCE REQUEST WITHDRAWN.**

- 11) Lamont Office Building, LLC requested permission, as per site plan submitted, to 1) plat a lot in an R-3 (High Density Residential Zoning District) with 47.5' of frontage rather than the required 50', which would be a 2.5' Minimum Lot Width Variance in order to 2) locate a 3 unit apartment building 8.5' from the East property line rather than the required 15', which would be a 6.5' Building Variance and 3) request permission to permit 4 off street parking stalls rather than the required 5 stalls, which would be a 1 Off-Street Parking Stall Variance and 4) request permission to permit a designated parking stall within the front yard setback, which would be an Appeal to the Board of Zoning Adjustment, all on Lot 1, Klabo Addition to Aberdeen, a.k.a. 3 Tenth Avenue SW. Jeff Lamont and Nate Kessler were present to represent the property. Neighbors Doug & Nan Reiersen and Kim Lien were also present. Following discussion Zumbaum moved and VanDeRostyne seconded to approve agenda item #1. Upon roll call, all members voting aye, the motion carried. **MINIMUM LOT WIDTH VARIANCE APPROVED.** Jeff Lamont stated that they will remodel structure into a two unit apartment building in order to avoid the need for additional parking. Following further discussion Kezar moved and Zumbaum seconded to approve agenda item #2, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.** Following further discussion Zumbaum moved and VanDeRostyne seconded to deny agenda item #3, all members voting aye, the motion carried. **OFF-STREET PARKING STALL VARIANCE DENIED.** Following discussion Zumbaum moved and VanDeRostyne seconded to deny agenda item #4, all members voting aye, the motion carried. **APPEAL DENIED.**
- 12) Eugene Jerke and SWS, LLC requested permission, as per site plan submitted, to collocate a cellular phone antenna on existing tower and construct accessory structures, which would be a Special Exception in a I-2 (Unrestricted Industrial Zoning District), all on Lots 6-7, Block 61, Hagerty & Lloyd Addition except the North 17', a.k.a. 421 Railroad Avenue SE. Doug Sweet of SWS, LLC 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, and 2) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 13) James Valley Cooperative and SWS, LLC requested permission, as per site plan submitted, to collocate a cellular phone antenna on existing tower and construct accessory structures, which would be a Special Exception in a C-2 (Highway Commercial Zoning District), all on Lot 3, NVC West Addition, a.k.a. 704 Fourth Street N. Doug Sweet of SWS, LLC was present to represent the property. Following discussion Zumbaum 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, and 2) All required inspections must be

completed. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

Chairman Babcock continued with other business as follows:

- 1) Discussion ensued regarding communication towers. Following discussion Zumbaum moved and Kezar seconded to request that the Planning & Zoning Department move forward with an Ordinance Amendment. Upon roll call, all members voting aye, the motion carried.
- 2) Discussion ensued concerning rescheduling the September 10<sup>th</sup> meeting. Following discussion Zumbaum moved and Babcock seconded to approve the meeting to be held on September 17<sup>th</sup> instead to allow Brett and Ken to attend a conference. Upon roll call, all members voting aye, the motion carried.

Following further discussion VanDeRostyne moved for adjournment, seconded by Weigel, all members voting aye, the meeting was adjourned until April 9, 2009.

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Paula Nelson  
Board of Zoning Adjustment Secretary  
March 12, 2009