

**BOARD OF ZONING ADJUSTMENT**  
**May 14, 2009**

The Board of Zoning Adjustment Meeting was held on Thursday May 14, 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 Zumbaum, Kezar, Sikkink, VanDeRostyne, and Babcock. Also present were Ken Hubbart, City Planner, Chad Nilson, Building Inspector, Brett Bill, Planning and Zoning Director, Stuart Nelson, Assistant City Engineer, Dwayne Schueller, GIS/Planning Technician, Barry Dunlavy, Building Inspector, and Paula Nelson, Board of Zoning Adjustment Secretary.

Zumbaum moved and Kezar seconded to approve the Board of Zoning Adjustment minutes of April 9, 2009, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Joy Robey and Shelley Barr 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 18, Block 1, Northridge First Subdivision & S. 33' of Vacated Street, a.k.a. 1526 Dakota Street N. Joy Robey and Shelley Barr were present to represent the property. Following discussion Kezar moved and Zumbaum 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) Jennifer Little requested permission, as per site plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in an (R-3) High Density Residential Zoning District, all on Lots 1&2, Block 35, Hagerty & Lloyd Addition to Aberdeen, a.k.a. 224 Fourth Avenue NE. Jennifer Little was present to represent the property. Following discussion Kezar 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 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) Nancy Langerock 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 11, Block 22, Ganje Addition of Mel Ros Estates, a.k.a. 1701 Fourteenth Avenue SE. Nancy Langerock 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 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.**
- 4) Susan Snaza requested permission, as per site plan submitted, for existing residence to remain 19' from the West property line rather than the required 25', which would be a 6' Building Variance in order to replace foundation due to flood damage, all on Lot 9, Block 50, Bennett & Thomas Addition, a.k.a. 310 Fourth Street N. Susan Snaza 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.**
- 5) Chuck Hodges requested permission, as per site plan submitted, to construct a 14'x14' storage shed 15' from the West property line rather than the required 25', which would be a 10' Building Variance, all on Lots 2&4, Larson & Schwab's Replat of Block 8, Hagerty & Lloyd Addition & Part of Block 17, Bennett & Thomas Addition, a.k.a. 624 Washington Street N. Chuck Hodges 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, 2) Property pins must be located for inspection and setbacks must be verified, 3) All required inspections must be

completed, and 4) Boulevard trees need to be installed as required. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**

- 6) Dakota Retail Group requested permission, as per site plan submitted, to 1) replace a non-conforming sign on an existing sign structure located 2' from the South property line rather than the required 10', which would be an 8' Sign Setback Variance and 2) 8.5' from the West property line rather than the required 10', which would be a 1.5' Sign Setback Variance, all on Lot 1, Dakota Retail Group Addition to Aberdeen, a.k.a. 901 Sixth Avenue SE. Nate Kessler and Tom Hurlbert were present to represent the property. Following discussion VanDeRostyne moved and Zumbaum seconded to approve with the following stipulations: 1) The existing support structure must be utilized; if new supports are to be installed, the entire sign structure must be moved to meet setbacks as required by City Ordinance, 2) All required sign permits must be obtained, and 3) Sign structure may not include any signage below 12' above grade. Upon roll call, all members voting aye, the motion carried. **SIGN SETBACK VARIANCE APPROVED.**
- 7) Curtis Hamre 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 Mead's Outlot D, E½ Sect. 20-T123N-R64W, a.k.a. 38390 Highway 12 W. Curtis Hamre was present to represent the property. Following discussion Kezar moved and Zumbaum seconded to approve with the following stipulations: 1) All trailers, tents, structures, signs, etc. must meet required setbacks, 2) Signs must meet all applicable ordinance requirements to be permitted as required, and 3) All fire code stipulations must be met. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**
- 8) Mark Musel 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 The SW¼SW¼ Sect. 36-T124N-R64W, a.k.a. The Northeast corner of the intersection of Brown County 10 and 130<sup>th</sup> Street. Mark Musel was present to represent the property. Following discussion Zumbaum moved and Sikkink seconded to approve with the following stipulations: 1) All trailers, tents, structures, signs, etc. must meet required setbacks, 2) Signs must meet all applicable ordinance requirements to be permitted as required, and 3) All fire code stipulations must be met. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**
- 9) Jason and Britt Frost requested permission, as per site plan submitted, for an existing residence to remain 17.5' from the North property line rather than the required 25', which would be a 7.5' Building Variance in order to construct an uncovered deck on West and South sides of residence, all on Lot 12, Block 36, Hagerty & Lloyd Addition & the South 21' of Lot 3, Block 1 & Strip 34'x66' North of Lot 1, North Aberdeen Addition, a.k.a. 204 Third Avenue NE. Jason Frost 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 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**

- 10) Ryan and Zach Remily requested permission, as per site plan submitted, for existing residence to remain 3.4' from the South property line rather than the required 5', which would be a 1.6' Building Variance and 3.6' from the North property line rather than the required 15', which would be a 11.4' Building Variance in order to construct a 14'x16' deck on rear of residence, all on Lot 1, Block 21, Bennett & Thomas Addition, a.k.a. 523 Washington Street N. Ryan Remily was 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 VARIANCE APPROVED.**
- 11) Luke & Andrea Heupel requested permission, as per site plan submitted, to 1) construct a 25'x28' detached garage 3' from the South property line rather than the required 5', which would be a 2' Building Variance and 2) 19' from the North property line rather than the required 25', which would be a 6' Building Variance, all on Lot 1, Block 22, Simmon's First Addition to Aberdeen, a.k.a. 1502 Second Street S. Luke & Andrea Heupel were present to represent the property. Following discussion Zumbaum moved and Sikkink seconded to deny item #1. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE DENIED.** Following further discussion Zumbaum moved and Kezar seconded to approve 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, 3) All required inspections must be completed, and 4) Boulevard trees need to be installed as required. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 12) Dan Brenner requested permission, as per site plan submitted, to place a 50'x100' steel structure 16' from the North property line rather than the required 25', which would be a 9' Building Variance, all on Lot 4, Premack's Second Subdivision, E½ Sect. 14-T123N-R64W, a.k.a. 115 East Drive. Eric Brenner was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to deny, all members voting aye, the motion carried. **BUILDING VARIANCE DENIED.**
- 13) Tracy and Sally Kopecky requested permission, as per site plan submitted, for existing residence to remain 4' from the North property line rather than the required 5', which would be a 1' Building Variance, and 15.5' from the West property line rather than the required 25', which would be a 9.5' Building Variance in order to replace foundation, all on Lots 14 & 15, Block 26, Hagerty & Lloyd Addition, a.k.a. 406 State Street N. Tracy Kopecky 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 inspections 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.**
- 14) Loren Feist requested permission, as per site plan submitted, to permit the open storage, parking or sale of vehicles, machinery and trailers, building materials and supplies, which would be a

Special Exception in a (C-2) Highway Commercial Zoning District, all on Lot 1, Clinton's First Subdivision, a.k.a. 720 Sixth Avenue SW. Loren Feist was present to represent the property. Following discussion Zumbaum moved and Babcock seconded to approve with the following stipulations: 1) No more than 1 vehicle per 10' x 20' parking stall and any required customer or employee parking stalls may not be used for storage, 2) All vehicles must be licensed and operable if stored outside; any junk, inoperable vehicles or vehicles in disrepair must be stored within the building, 3) No illegal or unpermitted signage on property, 4) No parking or storage will be permitted within the 35' corner visibility triangle, 5) Outside storage may be inspected by Code Enforcement Department in order to ensure compliance with all regulations, 6) This special exception is for Loren Feist, as long as he is the owner/operator of this proposed use. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 15) Scott Dell requested permission, as per site plan submitted, to 1) construct mini-storage units, which would be a Special Exception in a (I-2) Unrestricted Industrial Zoning District and 2) to construct mini-storage buildings 60' deep rather than the permitted 30', which would be a 30' Maximum Depth Variance and 156' in width rather than the required 120', which would be a 36' Maximum Width Variance, all on Lots 1-5, Block 61, Hagerty & Lloyd Addition and the West 33' of Vacated Arch Street R.O.W., a.k.a. 421 Railroad Avenue SE. Scott Dell was present to represent the property. Following discussion VanDeRostyne moved and Sikkink seconded to approve item #1 with the following stipulations: 1) Property must be platted into one parcel, 2) Plans must be submitted for review and a permit must be obtained prior to work commencing, 3) Property pins must be located for inspection and setbacks must be verified, 4) All required inspections must be completed, 5) If these units are to be used for shops, offices, or warehouses, off-street parking must be provided as required by ordinance, 6) These units cannot be used for residential living purposes, and 7) Boulevard trees must be installed as required. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.** Following further discussion Zumbaum moved and Babcock seconded to approve item #2, all members voting aye, the motion carried. **MAXIMUM DEPTH VARIANCE APPROVED.**
- 16) Jeremy Hoag requested permission, as per site plan submitted, for existing residence to remain 23.5' from the West property line rather than the required 25', which would be a 1.5' Building Variance in order to construct an addition to the rear of residence, all on Lot 9, Block 49, Thomas Addition, a.k.a. 919 Third Street S. Jeremy Hoag was present to represent the property. Following discussion Kezar 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 VARIANCE APPROVED.**
- 17) Bob LeGrand requested permission, as per site plan submitted, for existing residence to remain 4'6" from the South property line rather than the required 5', which would be a 6" Building Variance, and 16' from the West property line rather than the required 25', which would be a 9' Building Variance in order to construct an attached garage, all on Lot 1, Gese First Consolidation Subdivision, a.k.a. 1715 Lincoln Street S. Bob LeGrand was present to represent the property. Following discussion Sikkink moved and Babcock 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.**

- 18) Terra Gillis requested permission, as per site plan submitted, for existing residence to remain 15' from the North property line rather than the required 25', which would be a 10' Building Variance and 2' from the East & West property lines rather than the required 5', which would be a 3' Building Variance, in order to construct a deck on the East side of residence, all on The West 12.5' of Lot 25 and the East 25' of Lot 26, Block 53, Second Addition to Aberdeen, a.k.a. 111 Ninth Avenue SW. Terra Gillis 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, 3) All required inspections must be completed, and 4) Carport may not be reconstructed or replaced at the setbacks approved with this variance. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**
- 19) Michael Shannon requested permission, as per site plan submitted, to replace the foundation on a residence, which would be a Special Exception in a (C-2) Highway Commercial Zoning District, all on Lots 19-20, Pierce's Subdivision of Block 103, Hagerty & Lloyd Addition, a.k.a. 507 Arch Street S. Brett Bill was present to represent the property. Following discussion Kezar moved and Babcock 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) The debris and old foundation material that is lying in the open area near the alley must be cleaned up immediately. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 20) Michael Holsten requested permission, as per site plan submitted, for 1) existing residence to remain 13' from East property line rather than the required 25', which would be a 12' Building Variance in order to 2) construct a 8'x12' deck 12' from East property line rather than the required 15', which would be a 3' Building Variance, all on Lots 392-393, Morning Heights Addition, a.k.a. 812 McCoy Street S. Chad Nilson 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, 2) Property pins must be located for inspections 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.**

Chairman Babcock continued with other business as follows:

- 1) Brett Bill stated that the cell tower ordinance amendment goes before the Planning Commission on Tuesday May 19<sup>th</sup> at 7:00 p.m. in the Brown County Courthouse Basement.
- 2) Kezar stated that the Barnett Vision signage at their old location has not been totally removed. Ken Hubbart explained that he has been working with Francis Barnett to get the matter resolved.

- 3) Kezar questioned why fireworks renewals need to come back through this board. Brett Bill explained that he has been working to change the process so they go back before the City Council like other licenses do.
- 4) VanDeRostyne initiated discussion concerning surveillance cameras on residential homes. Following discussion VanDeRostyne moved and Zumbaum seconded to direct the City Attorney to investigate whether the city currently has an ordinance in place prohibiting a surveillance camera on a residential home being directed towards another residential home and to prepare an ordinance prohibiting this if one doesn't already exist. Upon roll call, all members voting aye, the motion carried.

Following further discussion Kezar moved for adjournment, seconded by Babcock, all members voting aye, the meeting was adjourned until June 11, 2009.

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Paula Nelson  
Board of Zoning Adjustment Secretary  
April 9, 2009