

BOARD OF ZONING ADJUSTMENT
July 9, 2009

The Board of Zoning Adjustment Meeting was held on Thursday July 9, 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, Weigel, Zumbaum, and Babcock. Also present were Ken Hubbart, City Planner, Chad Nilson, Building Inspector, Brett Bill, Planning and Zoning Director, Dwayne Schueller, GIS/Planning Technician, Barry Dunlavy, Building Inspector, Vern Meyer, Planning Technician, Mike Holsten, Code Enforcement Officer, Mike Olson, Code Enforcement Officer, Adam Altman, City Attorney, and Paula Nelson, Board of Zoning Adjustment Secretary.

Kezar moved and Zumbaum seconded to approve the Board of Zoning Adjustment minutes of June 11, 2009, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Ashley Patterson 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/R-4) High Density/Special Density Residential Zoning District, all on Lot 2, Theeler's Third Addition, (Block 8, Woolverton's Addition), a.k.a. 612 Ninth Avenue SE. Ashley Patterson was 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/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) Robert & Lorissa Goldade 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 35, Block 1, Homes Are Possible Seventh Subdivision, a.k.a. 1207 Plum Lane. Robert Goldade 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) 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) Dave & Carmen Van Veen and Kelly Van Veen 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) High Density Residential Zoning District, all on Lot 14, Block 1, Homes Are Possible Fourth Subdivision, a.k.a. 902 Plum Lane. Kelly Van Veen was present to represent the property. Following discussion Zumbaum moved and Babcock 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) Cynthia Schick requested permission, as per site plan submitted, for existing residence to remain 27' from the East property line rather than the required 35', which would be an 8' Building Variance and for existing back deck to remain 12' from the West property line rather than the required 15', which would be a 3' Building Variance in order to construct a new front deck, all on Lot 1, Block 12, Eighth Addition to Forest Acres Addition, a.k.a. 1702 Eighth Street S. Cynthia Schick was present to represent the property. Following discussion Kezar moved and Zumbaum 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) Sharon Paranto requested permission, as per site plan submitted, for existing residence to remain 21' from the North property line rather than the required 25', which would be a 4' Building Variance in order to construct an addition to rear of residence, all on #4, Meadowview, West 220' of Lot 1, Block 4, Pagones First Addition, a.k.a. 2414 Thirteenth Avenue SE. Sharon Paranto was present to represent the property. Following discussion Zumbaum 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.**

- 6) Rebecca Tennant requested permission, as per site plan submitted, for existing residence to remain 30' from the South property line rather than the required 35', which would be a 5' Building Variance, in order to construct an 8'x12' deck on the rear of residence, all on The West 80' of Lot 15, Block 11, Ninth Addition to Highlands North Subdivision, a.k.a. 515 Sixteenth Avenue NE. Mike Jung of Jung Construction 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.**

- 7) Dirk Swanson requested permission, as per site plan submitted, to 1) permit the open storage, parking or sale of vehicles, machinery, and trailers, building materials and supplies in a (C-2) Highway Commercial Zoning District and 2) to permit Wholesale trade, warehousing and commercial storage completely within an enclosed storage building or structure, which would be a Special Exception in a (C-2) zoning district all on Artz Outlot 1, SW¼ Sect. 14-T123N-R64W, a.k.a. 1702 Sixth Avenue SW. Dirk Swanson was present to represent the property. Following discussion Kezar moved and Babcock seconded to approve with the following stipulations: 1) All items on display must be available for rent or sale at this location; no personal storage or for sale by owner items, 2) No storage in public right-of-way or visibility triangles where entrances/exits approach 6th Avenue, 3) No junk, unlicensed, or inoperable vehicles, 4) No illegal signage, 5) Property must be maintained in a neat and orderly manner at all times, and 6) Items must be directly related to the business located on this property. Upon roll, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 8) Mark Haglund requested permission, as per site plan submitted, for 1) existing residence to remain 2" from the North property line rather than the required 5', which would be a 4'10" Building Variance, and 15' from the West property line rather than the required 25', which would be a 10' Building Variance in order to 2) construct a 4'x9' deck 1'9" from the North property line rather than the required 5', which would be a 3'3" Building Variance and 3) 6'10" from the West property line rather than the required 15', which would be a 8'2" Building Variance, all on Lot 6, Hay's Replat of Lots 9-12, Block 19, First Addition to The Highlands, a.k.a. 1008 State Street N. Mark Haglund was present to represent the property. Following discussion Zumbaum moved and Kezar seconded to approve agenda item #1, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.** Following further discussion Kezar moved and Sikkink seconded to approve agenda item #2 with the following stipulations: 1) Plans must be submitted for review and a permit must be issued and a penalty must be applied because work began without a permit, 2) Property pins must be located for inspection and setbacks must be verified, 3) All required inspections must be completed, and 4) All Building & Fire Code requirements must be met. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**

- 9) William Sauck and Graham Tire Company of Aberdeen, Inc. 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 2, Eastgate First Subdivision, a.k.a. 624 Roosevelt Street S. William Sauck and Steve Shanley were present to represent the property. Following discussion Sikkink moved and Kezar seconded to approve with the following stipulations: 1) Property must be maintained in a neat and orderly manner, 2) No junked, unlicensed, or inoperable vehicles may be stored on this site, 3) This special exception is for merchandise available for sale at this location only; no off-premise sales or storage (vehicles for sale by owner, etc.), 4) No storage in public right-of-way or 35' corner visibility triangle at intersection, 5) Tires must be treated for mosquitoes, etc., 6) All Fire Code requirements must be met and adhered to, and 7) Landscape requirements must be met if applicable. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 10) Stan Lesnar requested permission, as per site plan submitted, to construct a 22'x40' detached garage 3' from the South property line rather than the required 5', which would be a 2' Building Variance and 3' from the West property line rather than the required 5', which would be a 2' Building Variance, all on The North 86' of Lots 1-4, Block 39, West Aberdeen Addition, a.k.a. 801 Third Avenue SW. Stan Lesnar was present to represent the property. Following discussion Kezar moved and Zumbaum seconded to deny, all members voting aye, the motion carried. **BUILDING VARIANCES DENIED.**
- 11) Keith Shishnia requested permission, as per site plan submitted, for 1) existing residence to remain 22' from the East property line rather than the required 25', which would be a 3' Setback Variance and 22' from the North property line rather than the required 30', which would be an 8' Building Variance and for garage to remain 2' from West property line rather than the required 30', which would be a 28' Building Variance and 24' from North property line rather than the required 30', which would be a 6' Building Variance in order to 2) relocate door to North side of residence and install a 4'x6' deck on a residence located in an (I-2) Unrestricted Industrial Zoning District, which would be a Special Exception, all on Lots 1&2, Block 53, Hagerty & Lloyd Addition, a.k.a. 21 State Street N. Keith Shishnia was present to represent the property. Following discussion Sikkink moved and Weigel seconded to approve agenda item #1, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.** Following further discussion Zumbaum moved and Sikkink seconded to approve agenda item #2 with the following stipulations: 1) Property must be rezoned to High Density Residential District (R-3) which is adjacent to north and west sides of property, 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, and 4) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 12) Scott Meier 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 an (I-2) Unrestricted

Industrial Zoning District, all on Lots 7-18, Block 66, Hagerty & Lloyd Addition, a.k.a. 405 First Avenue SE. Steve Meier was present to represent the property. Following discussion Kezar moved and Sikkink seconded to approve with the following stipulations: 1) Property must be kept in a neat and orderly manner at all times and the current notice from code enforcement must be resolved within the timeline specified, 2) No junk vehicles, unlicensed or inoperable vehicles, 3) No storage of any type allowed in the 35' corner visibility triangle at Kline Street, 4) Storage shall be limited to items used in the businesses located at this property only. No off-premise storage, personal storage, vehicles for sale, etc. and 5) All miscellaneous junk, debris, rubble, etc. must be removed. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 13) Vincent Webb requested permission, as per site plan submitted, for 1) existing residence to remain 4.5' from the South property line rather than the required 15', which would be a 10.5' Building Variance in order to 2) construct a new entry door and deck 4.5' from the South property line rather than the required 10', which would be a 5.5' Building Variance, all on Lots 10-12, Block 34, Corrected Plat of the Highlands, a.k.a. 902 Washington Street N. Vincent Webb was present to represent the property. Following discussion Zumbaum moved and Kezar seconded to approve agenda item #1, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.** Following further discussion Zumbaum moved and Kezar seconded to approve agenda item #2 with the following stipulations: 1) Deck may not extend any farther south than existing residence, 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, and 4) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 14) C&J Holdings and Photo Xpress request permission, as per site plan submitted, to install a 3'x8' multi-color electronic message center on an existing freestanding sign, which would be an Appeal to the Board of Zoning Adjustment, all on Lot 1, Haglund's Replat of Block 1, Ackerman's First Addition, NE¼ Sect. 18-T123N-R63W, ex. Hwy, a.k.a. 131 Roosevelt Street N. Jody Lindsey and Cory Weisenburger of Service Signs were present to represent the property. Following discussion Zumbaum moved and Babcock seconded to approve with the following stipulations: 1) All electronic message board signs shall be in compliance with all other applicable codes regarding signs, 2) This sign shall not interfere with traffic safety, and may not be confused with or construed as a traffic control device, 3) Each message displayed shall remain static for a minimum of 6 seconds, with all change sequences to be instantaneous, no fading, dissolving, spinning in/out, etc., 4) 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, 5) 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, 6) Violation of the previous stipulations may result in a citation with a penalty of \$500 for each day that the violation persists, and 7) All signage must be for this location, and any off-premise signage on South lot must be removed in order to get rid of off-premise signage on both parcels. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**

- 15) Ophthalmic Associates, LLC requested permission, as per site plan submitted, to repair existing monument sign and to install an additional 5'x6' freestanding sign rather than the permitted 1 freestanding sign, which would be a 1 Freestanding Sign Variance, all on Lot 2, Professional Groups Third Addition, a.k.a. 310 Eighth Avenue NW. David Arlt was present to represent the property. Following discussion Zumbaum moved and Kezar seconded to approve with the stipulation that sign permits must be obtained prior to erection of signs. Upon roll call, all members voting aye, the motion carried. **FREESTANDING SIGN VARIANCE APPROVED.**
- 16) John Hieb requested permission, as per site plan submitted, requests permission, as per site plan submitted, to 1) construct four mini-storage structures, which would be a Special Exception in an (C-2) Highway Commercial Zoning District, and 2) to construct four mini-storage structures 50' in width rather than the required 30', which would be four 20' Maximum Width Variances, all on Lots 14&15, Auditor's Second Subdivision, SE¼ Sect. 27-T123N-R64W, a.k.a. 2826 & 2900 Highway 281 S. John Hieb was present to represent the property and presented a letter from the adjacent property owners indicating their support of this project. Following discussion Sikkink moved and Kezar seconded to approve with the following stipulations: 1) The property must be kept in a neat and orderly manner at all times, 2) All required permits must be obtained and inspections completed, 3) Property must be landscaped to meet code, 4) Property must be platted into one parcel, and 5) All applicable building code and fire code stipulations must be complied with. Upon roll call, Sikkink - aye, Kezar, Weigel, Zumbaum, Babcock - nay (1-aye,4-nay), the motion failed. **SPECIAL EXCEPTION AND MAXIMUM WIDTH VARIANCES DENIED.**
- 17) Bonna Jean Schutz requested permission, as per site plan submitted, for existing residence to remain 7.5' from the North property line rather than the required 15', which would be a 7.5' Building Variance in order to replace front deck, all on Lot 1, Block 28, First Addition to Highlands, a.k.a. 817 State Street N. This item was moved to the end of the agenda.
- 18) Justin D. Shultis requested permission, as per site plan submitted, to repair existing shared garage 0' from the East property line rather than the required 5', which would be a 5' Building Variance and 3' from the North property line rather than the required 5', which would be a 2' Building Variance, all on The West 71' of Lot 7, Block 47, Thomas Addition, a.k.a. 1023 Second Street S. Justin D. Shultis was present to represent the property. Following discussion Zumbaum 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, 3) All required inspections must be completed, and 4) Firewall must be constructed as per Fire Marshall's comments. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**
- 19) Stu Gulden requested permission, as per site plan submitted, to repair existing shared garage 0' from the West property line rather than the required 5', which would be a 5' Building Variance and 3' from the North property line rather than the required 5', which would be a 2' Building Variance, all on The East 71' of Lot 7, Block 47, Thomas Addition, a.k.a. 114 Eleventh Avenue SW. Doris Gulden was present to represent the property. Following discussion Kezar 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, 3) All required inspections must be

completed, and 4) Firewall must be constructed as per Fire Marshall's comments. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**

- 20) David & Kathryn Fischer requested permission, as per site plan submitted, for existing detached garage to remain 7' from the South property line rather than the required 10', which would be a 3' Building Variance in order to construct an addition that will meet all required setbacks, all on The South ½ of Lot 2, and all of Lot 3, Block 1, Second Addition to the Highlands Addition, a.k.a. 1415 Jay Street N. David & Kathryn Fischer were 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.**
- 21) Dustin Usselman and Tarah Usselman requested permission, as per site plan submitted, to operate a daycare, which would be an Appeal to the Board of Zoning Adjustment in an (I-2) High Density Residential Zoning District, all on Lot 2, Replat of Hyman Outlot 1, a.k.a. 611 Roosevelt Street N. Dustin Usselman and Tarah Usselman were present to represent the property. City Attorney Adam Altman presented a letter addressed to Mr. Dustin Usselman clarifying the legal status of the manufactured home currently located at the end of Hyman Drive. 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) Pending notification that the applicant, members of the household, or employees 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 appeal 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 a building 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 prior to operation of daycare, 9) Owner/operator and any employees must be licensed with the City of Aberdeen, 10) Mobile home currently located on this site must be removed before the operation of this daycare commences, 11) The dilapidated meter pit cover must be replaced before the operation of this daycare commences, 12) Commercial garbage service for this property must be obtained immediately, and 13) All stipulations must be completed before operation of daycare may commence. Upon roll call, Sikkink, Kezar, Weigel, Babcock - aye, Zumbaum - nay (4-aye, 1-nay), the motion carried. **APPEAL APPROVED.**
- 22) Dustin Usselman requested permission, as per site plan submitted, to permit the operation of a private club or lodge, which would be a Special Exception in a (R-3) High Density Residential Zoning District, all on Lot 1, North Main Fire Station #2 Subdivision, a.k.a. 604 Main Street N. Dustin Usselman & Dave Usselman were present to represent the property. Following discussion Zumbaum moved and Babcock seconded to approve with the following stipulations: 1) Adequate parking must be provided on the property to prevent parking in the street, 2) Absolutely no open storage will be allowed on this site, 3) No kenneling of dogs, 4) No excessive

noise allowed (Section 1017 of Zoning Ordinance), 5) Compliance with all applicable home occupation ordinances, 6) Any Building, Electrical, Plumbing, or Fire Code Changes must be made prior to operation, 7) Any complaints related to this use may be cause for review and possible revocation of this special exception, and 7) No additional business may locate at this site or store equipment on the premises. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 17) Bonna Jean Schutz requested permission, as per site plan submitted, for existing residence to remain 7.5' from the North property line rather than the required 15', which would be a 7.5' Building Variance in order to replace front deck, all on Lot 1, Block 28, First Addition to Highlands, a.k.a. 817 State Street N. Brett Bill was present to represent the property. Following discussion Zumbaum 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.**

Following further discussion Kezar moved for adjournment, seconded by Weigel, all members voting aye, the meeting was adjourned until August 13, 2009.

Paula Nelson
Board of Zoning Adjustment Secretary
June 11, 2009