

BOARD OF ZONING ADJUSTMENT
September 17, 2009

The Board of Zoning Adjustment Meeting was held on Thursday September 17, 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 Zumbaum, Babcock, VanDeRostyne, Kezar, and Sikkink. Also present were Ken Hubbart, City Planner, Chad Nilson, Building Inspector, Brett Bill, Planning and Zoning Director, Dwayne Schueller, GIS/Planning Technician, Mike Olson, Code Enforcement Officer, Vern Meyer, Planning Technician, Stuart Nelson, Assistant City Engineer, and Paula Nelson, Board of Zoning Adjustment Secretary.

Zumbaum moved and Sikkink seconded to approve the Board of Zoning Adjustment minutes of August 13, 2009, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Jared Schwartz requested permission, as per site plan submitted, for existing residence to remain 10' from the South property line rather than the required 25', which would be a 15' Building Variance and 4.5' from the West property line rather than the required 5', which would be a .5' Building Variance in order to construct a new deck, all on The 50' East of the West 50' of Lots 13-16, Block 31, Hagerty & Lloyd Addition, a.k.a. 607 Third Avenue NE. Dick Gooding 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.**
- 2) Ken Fiedler requested permission, as per site plan submitted, to construct a 14'x20' detached garage 25' from the South property line rather than the required 45', which would be a 20' Building Variance, all on Outlot 19, Jobee Acres, NE¼ Sect. 27-T123N-R63W, a.k.a. 5949 Country Lane. Robert Loeb 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 and setbacks must be verified, and 3) All required inspections must be completed. Upon roll call Zumbaum - aye, Sikkink, Kezar, VanDeRostyne, Babcock - nay (1-aye, 4-nay), the motion failed. Following further discussion VanDeRostyne moved and Kezar seconded to deny. Upon roll call, Sikkink, Kezar, VanDeRostyne, Babcock - aye, Zumbaum - nay (4-aye, 1-nay), the motion carried. **BUILDING VARIANCE DENIED.**
- 3) Rose Mathern requested permission, as per site plan submitted, for 1) existing residence to remain 10'2" from the West property line rather than the required 25', which would be a 14'10" Building Variance and 3' from the East property line rather than the required 20', which would be a 17' Building Variance and 4'9" from the South property line rather than the required 5', which would be a 3" Building Variance, in order to 2) construct a front deck 2'5" from the West property line rather than the required 15', which would be a 12'7" Building Variance, all on The

South 33' of Lot 6, Block 45, Second Addition, a.k.a. 711 Third Street S. Shannon Hoerth 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 VARIANCES APPROVED.**

- 4) Earl & LaVonne Kruse requested permission, as per site plan submitted, for existing residence to remain 23'6" from the West property line rather than the required 25', which would be a 1'6" Building Variance in order to construct a front deck that will meet required setbacks, all on Lot 8, Block 14, First Addition to the Highlands, a.k.a. 1106 State Street N. LaVonne Kruse was present to represent the property. Following discussion VanDeRostyne 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 VARIANCE APPROVED.**
- 5) Derwin Kampa requested permission, as per site plan submitted, for 1) existing residence to remain 10.5' from the South property line rather than the required 15', which would be a 4.5' Building Variance in order to 2) construct 30'x82' attached garage addition 10.5' from the South property line rather than the required 15', which would be a 4.5' Building Variance and 3) 18' from the East property line rather than the required 20', which would be a 2" Building Variance, all on Lots 7&8 and the Vacated East 17' of North Congress Street, Block 10, Howard & Hedger Replat of Northwestern Addition, a.k.a. 602 Congress Street N. Derwin Kampa was present. Following discussion Kezar moved and Zumbaum seconded to approve agenda item #1, all members voting aye, the motion carried. **BUILDING VARIANCE FOR EXISTING RESIDENCE APPROVED.** Following further discussion VanDeRostyne moved and Sikkink seconded to deny agenda item #2. Upon roll call, Sikkink, Kezar - aye, VanDeRostyne, Zumbaum, Babcock - nay (2-aye,3-nay), the motion failed. Following further discussion Kezar moved and Babcock 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, 3) All required inspections must be completed, and 4) Structure may not interfere with corner visibility triangle. Upon roll call, 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. **BUILDING VARIANCE DENIED.**
- 6) Chad & Shannon Bergan requested permission, as per site plan submitted, for 1) existing residence to remain 24'6" from the South property line rather than the required 35', which would be a 10'6" Building Variance in order to 2) construct a 48'x48' attached garage addition 15' from the North property line rather than the required 25', which would be a 10' Building Variance and for garage eave to extend 3' into setback rather than the permitted 2', which would be a 1' Building Variance, all on Lot 1, Bergan Addition, a.k.a. 110 Elizabeth Drive. This item was moved to the end of the agenda.

- 7) Donna Moen requests permission, as per site plan submitted, to 1) plat a lot in a (M-Ag) Mini-Agricultural Zoning District with 140' of frontage rather than the required 200', which would be a 60' Minimum Lot Width Variance and 2) to allow existing accessory structure to remain on property until a primary structure can be constructed on same property, which would be an Appeal to the Board of Zoning Adjustment, all on proposed Lot 1, Moen – Rudolph Subdivision of Lot 1, Evelo's Outlots in the SE¼ Sect. 35-T123N-R64W, a.k.a. 3602 Fifth Street S. Donna Moen was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve agenda item #1, all members voting aye, the motion carried. **MINIMUM LOT WIDTH VARIANCE APPROVED.** Following further discussion Zumbaum moved and VanDeRostyne seconded to approve agenda item #2 with the following stipulations: 1) Property must be maintained in a neat and orderly manner at all times, 2) No outside storage of junk vehicles, garbage, debris, etc., 3) Storage building is only for personal storage, no rental storage or commercial uses allowed, and 4) Property must be cleaned up within 30 days per Code Enforcement's guidelines. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**
- 8) Park Village Mobile Home Court and David Jorgenson requested permission, as per site plan submitted, to construct a 18'x21' carport 3' from a park road rather than the required 5', which would be a 2' Building Variance, all on BOLS #1236, Park Village Lot 2, Block 1, Park Village, a.k.a. 1623 Tenth Avenue SW #1236. Ken Jorgenson was present to represent the property. Following discussion Zumbaum moved and Babcock seconded to deny, all members voting aye, the motion carried. **BUILDING VARIANCE DENIED.**
- 9) 20/20 Properties, LLC requested permission, as per site plan submitted, to construct a 5.5'x10.5' freestanding sign 5' from the East property line rather than the required 10', which would be a 5' Sign Setback Variance, all on Lots 10, 11 & 12, Moccasin Plaza Addition, Replat of Block 26, Pierson's Subdivision, a.k.a. 508 Moccasin Drive. Dr. Angela Hase, Dr. Francis Barnett & Cory Weisenburger of Service Signs were present to represent the property. Following discussion Sikkink moved and VanDeRostyne seconded to approve with the following stipulations: 1) Sign permit must be obtained prior to erection of the sign, 2) Sign may not reduce the required parking on property, 3) The "Barnett Vision" signage must be removed from previous location on 6th Avenue as previously stipulated by the Zoning Board prior to the issuing of any sign permits for this property, and 4) Existing temporary signage must be removed prior to issuing any sign permits for this property. Upon roll call, all members voting aye, the motion carried. **SIGN SETBACK VARIANCE APPROVED.**
- 10) Bethlehem Evangelical Lutheran Church requested permission, as per site plan submitted, to construct an accessory structure without an aesthetically similar exterior to the primary structure, which would be an Appeal to the Board of Zoning Adjustment, all on Lot 1, Bethlehem Evangelical Lutheran Church Addition, SE¼ Sect. 18-T123N-R63W, a.k.a. 1620 Milwaukee Avenue NE. Lonnie Anderson, Steve Cassanova and Ryan Siefkes were present to represent the property. Following discussion Sikkink moved and Babcock seconded to approve, all members voting aye, the motion carried. **APPEAL APPROVED.**

- 11) Safe Harbor requested permission, as per site plan submitted, to construct a wheel chair ramp 4.66' from the East property line rather than the required 15', which would be a 10.33' Building Variance, all on Lots 5-6, Block 90, Hagerty & Lloyd Addition, a.k.a. 310 Kline Street S. Jamie Beard 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) If property is sold or ramp is no longer needed, it must be removed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 12) Sunshine Park, LP requested permission, as per site plan submitted, to permit the construction of 5 duplexes with a total of 28 units on one property, which would be a Special Exception to allow a group project in a (R-2) Medium Density Residential Zoning District, all on Block 4, Mel Ros Southview Addition, S½ Sect. 19-T123N-R63W, a.k.a. 1524 Lawson Street S. Bryan Samson was present to represent the property. Area property owners Dave Flinn, Carol Compton and Dennis Hellwig were present to voice concerns regarding drainage and increased traffic & noise. 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, 3) All required inspections must be completed, and 4) Adequate off-street parking must be provided. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 13) John Carrels requested permission, as per site plan submitted, to construct a stone mailbox stand 1' from the North property line rather than the required 35', which would be a 34' Building Variance, all on Lot 9, Bells Outlots Subdivision of Plat F, Elmwood Acres, a.k.a. 6 Lilac Lane. Colette Carrels was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 14) Rolling Hills Golf Development requested permission, as per site plan submitted, to 1) plat a lot in a (R-2) Medium Density Residential Zoning District with 27.83' of frontage rather than the required 60', which would be a 32.17' Minimum Lot Width Variance, and 2) request permission to construct a town home 0' from the East property line rather than the required 8', which would be a 8' Building Variance, all on Proposed Lot 1, Rolling Hills Village Twelfth Addition, a.k.a. 1623 Nicklaus Drive. Dale Aman, Bryon Itterman and Dennis Batteen were present to represent the property. Following discussion Zumbaum moved and VanDeRostyne seconded to approve with the following stipulations: 1) Plat must be approved by the City Planning Commission and City Council and filed with the Brown County Register of Deeds Office, 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. **MINIMUM LOT WIDTH VARIANCE AND BUILDING VARIANCE APPROVED.**
- 15) Rolling Hills Golf Development requested permission, as per site plan submitted, to 1) plat a lot in a (R-2) Medium Density Residential Zoning District with 19.52' of frontage rather than the

required 60', which would be a 40.48' Minimum Lot Width Variance, and 2) request permission to construct a town home 0' from the East property line rather than the required 8', which would be a 8' Building Variance and 0' from the West property line rather than the required 8', which would be an 8' Building Variance, all on Proposed Lot 2, Rolling Hills Village Twelfth Addition, a.k.a. 1621 Nicklaus Drive. Dale Aman, Bryon Itterman and Dennis Batteen were present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) Plat must be approved by the City Planning Commission and City Council and filed with the Brown County Register of Deeds Office, 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. **MINIMUM LOT WIDTH VARIANCE AND BUILDING VARIANCE APPROVED.**

16) Rolling Hills Golf Development requested permission, as per site plan submitted, to 1) plat a lot in a (R-2) Medium Density Residential Zoning District with 19.52' of frontage rather than the required 60', which would be a 40.48' Minimum Lot Width Variance, and 2) request permission to construct a town home 0' from the East property line rather than the required 8', which would be a 8' Building Variance and 0' from the West property line rather than the required 8', which would be an 8' Building Variance, all on Proposed Lot 3, Rolling Hills Village Twelfth Addition, a.k.a. 1619 Nicklaus Drive. Dale Aman, Bryon Itterman and Dennis Batteen were present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) Plat must be approved by the City Planning Commission and City Council and filed with the Brown County Register of Deeds Office, 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. **MINIMUM LOT WIDTH VARIANCE AND BUILDING VARIANCE APPROVED.**

17) Rolling Hills Golf Development requested permission, as per site plan submitted, to 1) plat a lot in a (R-2) Medium Density Residential Zoning District with 27.83' of frontage rather than the required 60', which would be a 32.17' Minimum Lot Width Variance, and 2) request permission to construct a town home 0' from the West property line rather than the required 8', which would be a 8' Building Variance, all on Proposed Lot 4, Rolling Hills Village Twelfth Addition, a.k.a. 1617 Nicklaus Drive. Dale Aman, Bryon Itterman and Dennis Batteen were present to represent the property. Following discussion Zumbaum moved and VanDeRostyne seconded to approve with the following stipulations: 1) Plat must be approved by the City Planning Commission and City Council and filed with the Brown County Register of Deeds Office, 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. **MINIMUM LOT WIDTH VARIANCE AND BUILDING VARIANCE APPROVED.**

- 18) Rolling Hills Golf Development requested permission, as per site plan submitted, to 1) plat a lot in a (R-2) Medium Density Residential Zoning District with 27.83' of frontage rather than the required 60', which would be a 32.17' Minimum Lot Width Variance, and 2) request permission to construct a town home 0' from the East property line rather than the required 8', which would be a 8' Building Variance, all on Proposed Lot 5, Rolling Hills Village Twelfth Addition, a.k.a. 1615 Nicklaus Drive. Dale Aman, Bryon Itterman and Dennis Batteen were present to represent the property. Following discussion Zumbaum moved and VanDeRostyne seconded to approve with the following stipulations: 1) Plat must be approved by the City Planning Commission and City Council and filed with the Brown County Register of Deeds Office, 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. **MINIMUM LOT WIDTH VARIANCE AND BUILDING VARIANCE APPROVED.**
- 19) Rolling Hills Golf Development requested permission, as per site plan submitted, to 1) plat a lot in a (R-2) Medium Density Residential Zoning District with 19.52' of frontage rather than the required 60', which would be a 40.48' Minimum Lot Width Variance, and 2) request permission to construct a town home 0' from the East property line rather than the required 8', which would be a 8' Building Variance and 0' from the West property line rather than the required 8', which would be an 8' Building Variance, all on Proposed Lot 6, Rolling Hills Village Twelfth Addition, a.k.a. 1613 Nicklaus Drive. Dale Aman, Bryon Itterman and Dennis Batteen were present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) Plat must be approved by the City Planning Commission and City Council and filed with the Brown County Register of Deeds Office, 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. **MINIMUM LOT WIDTH VARIANCE AND BUILDING VARIANCE APPROVED.**
- 20) Rolling Hills Golf Development requested permission, as per site plan submitted, to 1) plat a lot in a (R-2) Medium Density Residential Zoning District with 19.52' of frontage rather than the required 60', which would be a 40.48' Minimum Lot Width Variance, and 2) request permission to construct a town home 0' from the East property line rather than the required 8', which would be a 8' Building Variance and 0' from the West property line rather than the required 8', which would be an 8' Building Variance, all on Proposed Lot 7, Rolling Hills Village Twelfth Addition, a.k.a. 1611 Nicklaus Drive. Dale Aman, Bryon Itterman and Dennis Batteen were present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) Plat must be approved by the City Planning Commission and City Council and filed with the Brown County Register of Deeds Office, 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. **MINIMUM LOT WIDTH VARIANCE AND BUILDING VARIANCE APPROVED.**

- 21) Rolling Hills Golf Development requested permission, as per site plan submitted, to 1) plat a lot in a (R-2) Medium Density Residential Zoning District with 19.52' of frontage rather than the required 60', which would be a 40.48' Minimum Lot Width Variance, and 2) request permission to construct a town home 0' from the East property line rather than the required 8', which would be a 8' Building Variance and 0' from the West property line rather than the required 8', which would be an 8' Building Variance, all on Proposed Lot 8, Rolling Hills Village Twelfth Addition, a.k.a. 1609 Nicklaus Drive. Dale Aman, Bryon Itterman and Dennis Batteen were present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) Plat must be approved by the City Planning Commission and City Council and filed with the Brown County Register of Deeds Office, 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. **MINIMUM LOT WIDTH VARIANCE AND BUILDING VARIANCE APPROVED.**
- 22) Rolling Hills Golf Development requested permission, as per site plan submitted, to 1) plat a lot in a (R-2) Medium Density Residential Zoning District with 19.52' of frontage rather than the required 60', which would be a 40.48' Minimum Lot Width Variance, and 2) request permission to construct a town home 0' from the East property line rather than the required 8', which would be a 8' Building Variance and 0' from the West property line rather than the required 8', which would be an 8' Building Variance, all on Proposed Lot 9, Rolling Hills Village Twelfth Addition, a.k.a. 1607 Nicklaus Drive. Dale Aman, Bryon Itterman and Dennis Batteen were present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) Plat must be approved by the City Planning Commission and City Council and filed with the Brown County Register of Deeds Office, 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. **MINIMUM LOT WIDTH VARIANCE AND BUILDING VARIANCE APPROVED.**
- 23) Rolling Hills Golf Development requested permission, as per site plan submitted, to construct a town home 0' from the West property line rather than the required 8', which would be a 8' Building Variance, all on Proposed Lot 10, Rolling Hills Village Twelfth Addition, a.k.a. 1603 Nicklaus Drive. Dale Aman, Bryon Itterman and Dennis Batteen were present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) Plat must be approved by the City Planning Commission and City Council and filed with the Brown County Register of Deeds Office, 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.**
- 6) Chad & Shannon Bergan requested permission, as per site plan submitted, for 1) existing residence to remain 24'6" from the South property line rather than the required 35', which

would be a 10'6" Building Variance in order to 2) construct a 48'x48' attached garage addition 15' from the North property line rather than the required 25', which would be a 10' Building Variance and for garage eave to extend 3' into setback rather than the permitted 2', which would be a 1' Building Variance, all on Lot 1, Bergan Addition, a.k.a. 110 Elizabeth Drive. Stuart Nelson was present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve agenda item #1, all members voting aye, the motion carried. **BUILDING VARIANCE FOR EXISTING RESIDENCE APPROVED.** Following further discussion Zumbaum moved and VanDeRostyne seconded to deny agenda item #2, all members voting aye, the motion carried. **BUILDING VARIANCE FOR ATTACHED GARAGE ADDITION DENIED.**

Chairman Babcock continued with other business as follows:

- 1) Brett Bill informed the Zoning Board members of the pending lawsuit filed against the City of Aberdeen by Dustin Usselman & Tarah Usselman.

Following further discussion Zumbaum moved for adjournment, seconded by Kezar, all members voting aye, the meeting was adjourned until October 8, 2009.

Paula Nelson
Board of Zoning Adjustment Secretary
September 17, 2009