

**BOARD OF ZONING ADJUSTMENT**  
**February 14, 2008**

The Board of Zoning Adjustment Meeting was held on Thursday, February 14, 2008 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 Sikkink, VanDeRostyne, Zumbaum, McQuillen, and Babcock. Absent was Rosebrock. Also present were Brett Bill, Planning and Zoning Director, Ken Hubbart, City Planner, Mike Olson, Code Enforcement Officer, Mike Holsten, Code Enforcement Officer, Vern Meyer, Planning Technician, Dwayne Schueller, GIS/Planning Technician, Chad Nilson, Building Inspector, and Paula Nelson, Board of Zoning Adjustment Secretary.

Zumbaum moved and Sikkink seconded to approve the Board of Zoning Adjustment minutes of January 10, 2008, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Kathy Barr requested permission, as per site plan submitted, to operate a daycare as a home occupation in an R-3 (High Density Residential District), which would be a Special Exception in a residential zoning district, all on Lot 17, Block 41, Thomas Addition, a.k.a. 917 First Street S. Rodney Barr was present to represent the property. Following discussion McQuillen moved and Sikkink 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) Linda M. Urlacher requested permission, as per site plan submitted, to operate a daycare as a home occupation in an R-2 (Medium Density Residential District), which would be a Special Exception in a residential zoning district, all on Lot 7, except the North 5', Block 2, Huffman's Third Addition, a.k.a. 1725 Royal Road. Linda Urlacher was present to represent the property. Following discussion McQuillen 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) Gail L. Stotz requested permission, as per site plan submitted, to operate a daycare as a home occupation in an R-2 (Medium Density Residential District), which would be a Special Exception in a residential zoning district, all on The East 67' of Lots 11 & 12, Block 15, First Addition to Highlands, a.k.a. 712 Twelfth Avenue NE. There being no representative this item was moved to the end of the agenda.
  
- 4) Lucille Frazier requested permission, as per site plan submitted, to operate a daycare as a home occupation in an R-3 (High Density Residential District), which would be a Special Exception in a residential zoning district, all on Lot 6, Block 33, Bennett & Thomas Addition, a.k.a. 601 First Street N. Daniel Frazier was present to represent the property. Following discussion McQuillen moved and Sikkink 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.**
  
- 5) Diane Zahalka requested permission, as per site plan submitted, to operate a daycare as a home occupation in an R-2 (Medium Density Residential District), which would be a Special Exception in a residential zoning district, all on The South 54.2' of Lot 6, Block 6, First Addition to Highlands & The North 16' V/S (13<sup>th</sup> Ave NE) Between Block 6 & Block 11, a.k.a. 1301 Lloyd Street N. Gary Zahalka was present to represent the property. Following discussion McQuillen 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.**

- 6) Bethesda Sharing Center and Shelly Buckmeier requested permission, as per site plan submitted, to operate a daycare in an R-2 (Medium Density Residential District), which would be a Special Exception in a residential zoning district, all on Clarks Second Addition of Mel Ros Estates except Part Deeded to City, a.k.a. 1224 High Street S. Shelly Buckmeier was present to represent the property. Following discussion McQuillen 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 and members of the household 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, and 8) Owner/operator and any employees must be licensed with the State of South Dakota. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 7) Terri Peters requested permission, as per site plan submitted, to operate a daycare as a home occupation in an R-3 (High Density Residential District), which would be a Special Exception in a residential zoning district, all on Lot 5, Block 13, North Aberdeen Addition, a.k.a. 309 First Street N. Zamani Peters was present to represent the property. Following discussion Zumbaum moved and McQuillen 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.**

- 8) Sarah Tucker requested permission, as per site plan submitted, to operate a daycare as a home occupation in an R-2 (Medium Density Residential District), which would be a Special Exception in a residential zoning district, all on Outlot C, Block 6, North Plains First Addition, a.k.a. 1902 Dakota Street N. #201. There being no representative this item was moved to the end of the agenda.
- 9) Tami Mielke requested permission, as per site plan submitted, to operate a daycare as a home occupation in an R-3 (High Density Residential District), which would be a Special Exception in a residential zoning district, all on Lot 2, Block 21, Smith Addition, a.k.a. 523 Ninth Avenue SE. Tami Mielke was present to represent the property. Following discussion McQuillen 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.**
- 10) Kristin Asleson requested permission, as per site plan submitted, to operate a daycare as a home occupation in an R-2 (Medium Density Residential District), which would be a Special Exception in a residential zoning district, all on Lot 5, Block 1, Lampert's First Addition, a.k.a. 1218 Gemini Avenue. Kristin Asleson was present to represent the property. Following discussion McQuillen 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.**

- 11) Shelly Moench requested permission, as per site plan submitted, for existing residence to remain 23' from the South property line rather than the required 25', which would be a 2' Building Variance in order to construct an addition on the North side of residence, all on Lots 19-21, Block 35, West Aberdeen Addition, a.k.a. 1116 Third Avenue SW. David Swain was present to represent the property. Following discussion McQuillen 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 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 12) Hank Flack & Northern Valley Communications requested permission, as per site plan submitted, to construct a cell phone tower 32.8' from West property line rather than the required 45', which would be a 12.2' Building Variance and 30.4' from the South property line rather than the required 35', which would be a 4.6' Building Variance, all on Lots 7-12, Block 46, Bennett & Thomas Addition, a.k.a. 319 Eighth Avenue NW. Attorney Jim Cremer was present to represent the property. Following discussion Sikkink moved and Zumbaum seconded to approve with the following stipulations: 1) Must comply with all FAA Regulations, and 2) Work needs to be completed on two demolition permits already obtained. Following further discussion Sikkink moved and Zumbaum seconded to approve the following amendment to include additional stipulations: 3) All permits and inspections must be brought up to date before work continues and 4) Engineered; stamped plans must be submitted to the City Building Inspection Department for review and approval before work continues. Upon roll call, all members voting aye, the motion carried for the amendment to original motion. **AMENDMENT APPROVED.** Following further discussion Sikkink, Zumbaum, Babcock - aye, VanDeRostyne, McQuillen - nay (3-aye, 2-nay), the motion carried. **BUILDING VARIANCES APPROVED.**
- 13) Terry Backous requested permission, as per site plan submitted, to construct a detached garage 3'1" from South property line rather than the required 5', which would be a 1'11" Building Variance on Lot 7, Block 25, Simmon's First Addition, a.k.a. 1721 Lincoln Street S. Terry Backous was present to represent the property. Following discussion McQuillen moved and VanDeRostyne seconded to deny, all members voting aye, the motion carried. **BUILDING VARIANCE DENIED.**
- 14) Bryan R. Gohn requested permission, as per site plan submitted, for 1) existing residence to remain 22.5' from West property line rather than the required 25', which would be a 2.5' Building Variance in order to replace foundation and 2) request permission for existing detached garage and carport to remain 15' from South property line rather than the required 25', which would be a 10' Building Variance, all on Lot 1, Block 1, Pleasant Hill Addition, a.k.a. 635 Eleventh Street S. Bryan Gohn was present to represent the property. Following discussion Zumbaum moved and McQuillen seconded to approve with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection, 3) All required inspections must be completed, and 4) Owner must obtain an easement from the City Council for existing fence to remain in public right-of-way. Upon roll call, all

members voting aye, the motion carried. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**

- 15) Stacy Bauer for Ka-Boomer's, Inc. requested permission, as per site plan submitted, to allow the temporary sale of fireworks from a temporary structure within the zoning jurisdiction of the City of Aberdeen, which would be an Appeal to the Zoning Board of Adjustments, all on Lot 1, Schumaker Subdivision in the NW¼ S23-T123N-R63W, a.k.a. 39239 133<sup>rd</sup> Street (E. Hwy 12). Stacy Bauer was present to represent the property. Following discussion VanDeRostyne moved and McQuillen seconded to approve with the following stipulations: 1) Must meet all Fire Marshal's requirements, 2) All signage must be in compliance with sign code and permits must be obtained, and 3) Any applicable building code requirements must be met. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**
- 16) John & Colette Carrels requested permission, as per site plan submitted, to 1) construct a new residence 10' from North property line rather than the required 35', which would be a 25' Building Variance and 2) to construct new residence 5' from West property line rather than the required 10', which would be a 5' Building Variance, all on Lot 9, Bell Outlots Subdivision of Plat of Elmwood Acres, a.k.a. 6 Lilac Lane. John & Colette Carrels and John Kokales of Quest Development & Construction were present to represent the property. Following discussion McQuillen moved and Zumbaum seconded to deny. Upon roll call, Sikkink, VanDeRostyne, Zumbaum, Babcock - nay, McQuillen - aye (4-nay,1-aye), the motion failed. Following further discussion Sikkink moved and Zumbaum seconded to approve 15' from North property line rather than the required 35' which would be a 20' building variance and 8' from West property line rather than the required 10' which would be a 2' building variance 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, Sikkink, VanDeRostyne, Zumbaum, Babcock - aye, McQuillen - nay (4-aye,1-nay), motion carried. **BUILDING VARIANCES APPROVED.**
- 17) Avera St. Lukes 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 an appeal to the Zoning Board of Adjustment, on Lot 1, Avera-Land-O-Lakes Second Subdivision SE¼ S13-T123N-R64W, a.k.a. 702 First Avenue SE. Bill Roth of Avera St. Lukes was present to represent the property. Following discussion McQuillen moved and Zumbaum seconded to approve with the following stipulations: 1) Property must be landscaped to meet City Ordinance requirement, 2) Permit must be obtained for construction of lot, 3) Property must be maintained in a neat and orderly fashion, and 4) Parking is for customers & employees - no unlicensed/junk vehicles, long term storage, etc. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**
- 18) Jay & Connie Kusler requested permission, as per site plan submitted, to construct an addition 1) 3'10" from East property line rather than the required 10', which would be a 6'2" Building Variance and 2) 32' from South property line rather than the required 35', which would be a 3' Building Variance, all on Lot 9, Block 7, Fifteenth Addition to the Highlands Addition to Aberdeen, a.k.a. 401 Twentieth Avenue NE. Jay Kusler was present

to represent the property. Following discussion McQuillen moved and VanDeRostyne seconded to deny, all members voting aye, the motion carried. Following further discussion Zumbaum moved and Babcock seconded to approve 7'10" from East property line rather than the required 10', which would be 2'2" variance and 32' from South property line rather than the required 35' which would be a 3' building variance 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.**

- 19) Alan & Brenda Lanphere requested permission, as per site plan submitted, to construct a new residence 14' from North property line rather than the required 20', which would be a 6' Building Variance in order to replace fire damaged home, all on Lot 7, Block 6, Golden Acres First Subdivision, a.k.a. 1407 Fifth Avenue NE. Alan & Brenda Lanphere were present to represent the property. Following discussion Zumbaum moved and McQuillen 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.**
  
- 3) Gail L. Stotz requested permission, as per site plan submitted, to operate a daycare as a home occupation in an R-2 (Medium Density Residential District), which would be a Special Exception in a residential zoning district, all on The East 67' of Lots 11 & 12, Block 15, First Addition to Highlands, a.k.a. 712 Twelfth Avenue NE. Doug Stotz was present to represent the property. Following discussion Zumbaum moved and McQuillen 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.**
  
- 8) Sarah Tucker requested permission, as per site plan submitted, to operate a daycare as a home occupation in an R-2 (Medium Density Residential District), which would be a Special Exception in a residential zoning district, all on Outlot C, Block 6, North Plains First Addition, a.k.a. 1902 Dakota Street N. #201. There still being no representative for this item Zumbaum moved and McQuillen seconded to deny, all members voting aye, the motion carried. **SPECIAL EXCEPTION DENIED.**

- 20) Harr Motors requested permission, as per site plan submitted, to 1) install three freestanding signs rather than the permitted 1 sign, which would be a 2 Freestanding Sign Variance, and 2) to install 316sf of freestanding signage rather than the required 150sf, which would be a 166sf Freestanding Sign Variance, all on Lot 3, McIntyre's Subdivision in the SW¼ Sec. 16-T123N-R63W, a.k.a. 4255 Sixth Avenue SE. Dean Marske of HKG Architects was present to represent the property. Following discussion McQuillen moved and VanDeRostyne seconded to deny. Upon roll call, Sikkink, VanDeRostyne, McQuillen - aye, Zumbaum - nay, with Babcock abstaining. **FREESTANDING SIGN VARIANCES DENIED.**

Chairman Babcock continued with other business as follows:

- 1) Brett Bill explained that the Ordinance Amendment for the Electronic Message Board Signs was remanded back to the Joint City/County Planning Commission, by the Aberdeen City Council and the Brown County Commission, for further discussion at their next meeting to be held Tuesday February 19<sup>th</sup>. Following discussion Zumbaum moved and VanDeRostyne seconded to reaffirm that the Board of Zoning Adjustment requests this Ordinance Amendment be approved as is. Upon roll call, all members voting aye, the motion carried.

Following further discussion McQuillen moved for adjournment, seconded by Zumbaum, all members voting aye, the meeting was adjourned until March 13, 2008.

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Paula Nelson  
Board of Zoning Adjustment Secretary  
February 14, 2008