

BOARD OF ZONING ADJUSTMENT
April 10, 2008

The Board of Zoning Adjustment Meeting was held on Thursday, April 10, 2008 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 Babcock, Zumbaum, VanDeRostyne, Marske and Sikkink. Absent was Rosebrock. Also present were Brett Bill, Planning and Zoning Director, Ken Hubbart, City Planner, Adam Altman, City Attorney, Mike Olson, Code Enforcement Officer, Mike Holsten, Code Enforcement Officer, Stuart Nelson, Assistant City Engineer, Vern Meyer, Planning Technician, Dwayne Schueller, GIS/Planning Technician, Chad Nilson, Building Inspector, and Paula Nelson, Board of Zoning Adjustment Secretary.

Sikkink moved and Zumbaum seconded to approve the Board of Zoning Adjustment minutes of March 13, 2008, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Budget Furniture requested permission, as per site plan submitted, for 1) existing 12'x6' freestanding sign to remain 6' from North property line rather than the required 10', which would be a 4' Building Variance, and 2) for permission to allow two freestanding signs to remain on property rather than the required one, which would be a one freestanding sign variance, and 3) request permission to permit a 720sf freestanding sign rather than the required 300sf, which would be a 420sf freestanding sign variance and 4) request permission for 660sf off premise sign to remain 6" from East property line rather than the required 20', which would be a 19'6" Sign Setback Variance and request permission to allow 660sf of off premise signage rather than the required 400sf, which would be a 260sf Off Premise Sign Variance and 6) and for existing off premise sign to remain 3' from North property line rather than the required 20', which would be a 17' Sign Setback Variance 7) request permission to install a 3'x10' monochrome electronic message center, which would be an appeal to the Zoning Board of Adjustment, and 8) request permission to allow 822sf of Freestanding Signs rather than the required 300sf, which would be a 522sf sign variance and 9) request permission to install electronic message center 7' from North property line rather than the required 10', which would be a 7' Sign Setback, all on Schumaker's Outlot D, NW¼ Sect. 22-T123N-R63W, except land deeded, a.k.a. 5350 Highway 12 E. Cory Weisenburger of Service Signs and Ron Nold of Budget Furniture were present to represent the property. Following discussion Zumbaum moved and Marske seconded to approve item #1, all members voting aye, the motion carried. **SIGN VARIANCE APPROVED (ITEM #1)**. Following further discussion Zumbaum moved and Marske seconded to deny item #2. Following further discussion Zumbaum moved and Marske seconded to table this motion to allow discussion on digital signs, upon roll call, all members voting aye, the motion was tabled. Following further discussion Zumbaum moved and Sikkink seconded to approve item #7 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, 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. Upon roll call, all members voting aye, **APPEAL APPROVED (ITEM #7)**. Following further discussion Zumbaum moved and Sikkink seconded to deny item #8, all members voting aye, the motion carried. **SIGN VARIANCE DENIED (ITEM #8)**. Following further discussion Zumbaum moved and Marske seconded to approve item #9, all members voting aye, the motion carried. **SIGN SETBACK VARIANCE APPROVED (ITEM #9)**. Following further discussion Zumbaum moved and Sikkink seconded to bring the motion for item #2 back on the table and to amend the motion to include items #2 through #6, all members voting aye, the motion carried. **VARIANCES DENIED (ITEMS #2 THROUGH #6)**.

- 2) Deon Haak requested permission, as per site plan submitted, for 1) existing residence to remain 24' from South property line rather than the required 25', which would be a 1' Building Variance and 7' from the East property line rather than the required 15', which would be a 8' Building Variance, and 8' from the North property line rather than the required 20', which would be a 12' Building Variance in order to 2) construct a 9'x24' addition 8' from the North property line rather than the required 20', which would be a 12' Building Variance, all on The East 47' of Lots 5&6, Block 14, Highland Park Addition to Aberdeen, a.k.a. 1502 Eighth Avenue SW. Deon Haak was present to represent the property. Following discussion VanDeRostyne moved and Marske seconded to approve item #1 with the following stipulations: 1) Fence must be removed from public right-of-way and City watertower property or easements must be obtained from the City Council, and 2) Shed must be removed from city property. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED**. Following further discussion Zumbaum moved and Marske seconded to approve item #2 with the following stipulations: 1) Plans must be approved, 2) Permit must be obtained, and 3) Required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED**.
- 3) Bill Welk 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, which would be Special Exception in a C-2 (Highway Commercial Zoning District) and 2) requests permission to permit a temporary 30'x30' office building on site until building can be constructed, which would be a Special Exception, all on Lot 1, Gross's Addition in the NE¼ Sect. 21-T123N-R63W, a.k.a. 4856 Sixth Avenue SE. Michael McClure was present to represent the property. Following discussion Marske moved and Zumbaum seconded to approve item #1 with the following stipulations: 1) Property must be maintained in a neat and orderly manner, 2) All items stored on property must be for sale or used in the construction of these homes, 3) This special exception is for the construction and sale of homes only - any other use must be approved by this board, 4) Property must be rezoned to (I-2) Unrestricted Industrial District, and 5) Property must be landscaped to comply with City Ordinance requirements. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED**. Following further

discussion Zumbaum moved and VanDeRostyne seconded to approve item #2 with the following stipulations: 1) Temporary structure must meet all building and zoning requirements, 2) Temporary office shouldn't exceed 180 days per Section 107 of the 2000 International Building Code, 3) Homes must be stored to meet required setbacks and fire code separation distances, and 4) Property must be kept well maintained, no junk or unlicensed vehicles. Proper excavation and leveling of existing lot must occur to eliminate the tall weeds & suspected mounds of debris that have prompted complaints from neighboring property owners. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 4) Ron Bonn and Jake Jundt requested permission, as per site plan submitted, to plat a lot in a R-3 (High Density Residential Zoning District) with 43' of frontage rather than the required 50', which would be a 7' Building Variance, all on The North 12' of Lots 416 & 417, Morning Heights Addition, a.k.a. 811 Merton Street S. Ron Bonn was present to represent the property. Babcock stated that the board received 49 petitions from neighbors in opposition to this request. James Hanson and Janet Volk were in attendance and spoke in opposition to this request. Following discussion Sikkink moved and Zumbaum seconded to approve with the following stipulations: 1) Property must be platted into one lot, 2) A professional termite inspection must be completed, and 3) Project must be completed within 1 year of date on building permit. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 5) The Aberdeen Area Humane Society requested permission, as per site plan submitted, for existing structure to remain 57' from the West property line rather than the required 100', which would be a 43' Building Variance in order to construct an addition with same setback, all on Janusz Outlot 1, SW¼ Sect. 27-T123N-R64W, a.k.a. 13452 385th Avenue. Melvin Thistle was present to represent the property. Following discussion VanDeRostyne moved and Marske seconded to approve, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 6) Jeff & Mark Rich 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 Special Exception in a C-2 (Highway Commercial Zoning District), on Lots 639-645, Morning Heights Addition, except Lot H-1 of Lot 639, a.k.a. 2220 Sixth Avenue SE. Following discussion VanDeRostyne moved and Babcock seconded to approve with the following stipulations: 1) Storage of vehicles for sale may not exceed 1 vehicle per 10' x 20' parking stall, and may not interfere with the required customer parking, 2) No off-premise storage, 3) All items must be licensed, operable and available for sale, 4) No items, regardless of height may be stored in 35' corner visibility triangle, 5) No illegal signs, banners, etc. or unpermitted temporary signage, 6) Property must be landscaped to comply with City Ordinance requirements, and 7) Any future violations of these stipulations will be considered grounds to revoke this special exception. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 7) Dave & Annette Ochs requested permission, as per site plan submitted, for 1) existing residence to remain 68' from East property line rather than the required 100', which would be a 32' Building Variance, and 2) to construct a new deck 56' from East property

line rather than the required 90', which would be a 34' Building Variance, all on Lot 3, Block 2, Moulton First Subdivision, SE¼ Sect. 2-T122N-R64W, a.k.a. 13673 387th Avenue. Dave Ochs was present to represent the property. Following discussion Marske moved and Zumbaum seconded to approve with the following stipulations: 1) Owner must file a petition to rezone the property to (M-AG) Mini-Agricultural District by April 25th as the Building Permit for this deck was issued with the agreement that owner would submit rezoning petition by March 21st. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**

- 8) Terry Stevens requested permission, as per site plan submitted, to 1) construct a new residence 17' from East property line rather than the required 25', which would be an 8' Building Variance, and 2) requests permission for existing detached garage to remain 1' from North property line rather than the required 5', which would be a 4' Building Variance and 3) requests permission to permit accessory structure lot coverage of 1100sf rather than the required 1008sf, which would be a 92sf Accessory Structure Lot Coverage Variance, all on Lots 926-927 and the South 1' of Lot 925, Morning Heights Extended Addition, a.k.a. 1112 Aldrich Street S. Travis Stevens and Marcella Stevens were present to represent the property. Discussion ensued concerning the measurements on owner's site plan that don't match measurements taken by City Building Inspector and City Planner. Following discussion Zumbaum moved and Marske seconded to deny item #1, upon roll call Sikkink, Zumbaum, Babcock - aye, Marske, VanDeRostyne - nay (3-aye, 2-nay), the motion carried. **BUILDING VARIANCE DENIED.** Following further discussion Marske moved and Sikkink seconded to approve item #2 with the following stipulations: 1) Existing garage must be brought into fire code compliance, and 2) This variance does not grant the right to replace or substantially repair the garage at this setback. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.** Following further discussion VanDeRostyne moved and Marske seconded to approve with the stipulation that this variance does not grant the right to replace or substantially repair this structure. Upon roll call, all members voting aye, the motion carried. **ACCESSORY STRUCTURE LOT COVERAGE VARIANCE APPROVED.**
- 9) Alan & Kathy Peck requested permission, as per site plan submitted, to 1) construct a 42'x80' pole barn 63' from North property line rather than the required 100', which would be a 37' Building Variance, and 2) for existing garage to remain 49' from North property line rather than the required 100', which would be a 51' Building Variance, and residence to remain 91' from North property line rather than the required 100', which would be a 9' Building Variance, and 3) request permission to permit two residences on same lot, which would be an Appeal to the Zoning Board of Adjustment, and 4) for existing mobile home to remain 83' from North property line rather than the required 100', which would be a 17' Building Variance, all on The NW¼ Sect. 15-T123N-R64W, a.k.a. 2505 Eighth Avenue NW. Allen Peck was present to represent the property. Following discussion Zumbaum moved and Marske seconded to approve with the stipulation that when current resident vacates mobile home, the mobile home must be removed from this property or when existing mobile home is moved off of property a new one may not be moved on. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES AND APPEAL APPROVED.**

- 10) Steven Lust requested permission, as per site plan submitted, to 1) construct a decorative wall 22'4" from South property line rather than the required 45', which would be a 22'8" Building Variance and 2) request permission for existing building to remain 24' from South property line rather than the required 45', which would be a 21' Building Variance, and 2" from West property line rather than the required 25', which would be a 24'10" Building Variance, all on The South 286' of ET Taubman's Property in the SW¼ Sect. 14-T123N-R64W, a.k.a. 1314 Sixth Avenue SW. Steven Lust and Chad Huff & David Mohn of Huff Construction were present to represent the property. Following discussion Marske moved and Sikkink seconded to approve item #1 with the stipulation that the existing overhang in the 14th Street right-of-way be removed per site plan, upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED (ITEM #1)**. Following further discussion Sikkink moved and Marske seconded to approve with the following stipulations: 1) Existing overhang in the 14th Street right-of-way will be removed per site plan, 2) Absolutely no open storage shall be allowed in corner visibility triangles, and 3) Landscaping ordinance must be applied to total cost of the 3 or 4 projects being permitted at this location. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED**.
- 11) Tom Bakken 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; contractors' equipment; and concrete, asphalt and ready-mix manufacturing operations, and sales, which would be a Special Exception in a I-2 (Unrestricted Industrial Zoning District), all on Lot 1, Bakken First Subdivision, a.k.a. 909 First Avenue NE. Tom Bakken was present to represent the property. Discussion ensued concerning current enforcement actions by Code Enforcement Officer that are pending on this property. Following discussion VanDeRostyne moved and Zumbaum seconded to deny, all members voting aye, the motion carried. **SPECIAL EXCEPTION DENIED**.
- 16) Lorraine F. Evelo requested permission, as per site plan submitted, to plat a lot in a M-Ag (Mini-Agricultural Zoning District) with 66' of Frontage rather than the required 200', which would be a 134' Minimum Lot Dimension Variance, all on Proposed Lot 1, Evelo's Second Subdivision in the NW¼ and South ½ of Sect. 29-T123N-R63W, a.k.a. 3202 Melgaard Road E. Lorraine Evelo and Attorney Drew Johnson were present to represent the property. Following discussion VanDeRostyne moved and Marske seconded to approve, all members voting aye, the motion carried. **MINIMUM LOT DIMENSION VARIANCE APPROVED**.
- 12) Lamont Companies, Inc. requested permission, as per site plan submitted, to construct a 2'x12' addition to freestanding, off-premise sign 9' above grade in a 35' Corner Visibility Triangle rather than the required 12', which would be a 3' Sign Height Variance on Lot 5, Lamont Third Addition, a.k.a. 3828 Seventh Avenue SE. Cory Weisenburger of Service Signs and Nate Kessler & Kody Schochenmaier of Lamont Companies were present to represent the property. Following discussion VanDeRostyne moved and Zumbaum seconded to deny, upon roll call, Sikkink, VanDeRostyne, Zumbaum - aye, Marske, Babcock - nay (3-aye,2-nay), the motion carried. **SIGN HEIGHT VARIANCE DENIED**.

Due to an inadvertent error, there was no #13 agenda item.

- 14) Super City Mall requested permission, as per site plan submitted, to 1) construct a 3'x7' addition to the fifth freestanding sign, which would be a Fifth Freestanding Sign Addition Variance and 2) request permission to permit 660sf of freestanding signs, rather than the required 300sf, which would be a 360sf Freestanding Sign Variance, all on Block A, Super City Corner Subdivision in the SE¼ Sect. 18-T123N-R63W, a.k.a. 2105 Sixth Avenue SE. Cory Weisenburger of Service Signs and Brian Beach of Super City Mall Laundromat were present to represent the property. Following discussion Marske moved and Zumbaum seconded to deny item #1, all members voting aye, the motion carried. **FIFTH FREESTANDING SIGN ADDITION DENIED.** Following further discussion Zumbaum moved and Babcock seconded to deny item #2, all members voting aye, the motion carried. **FREESTANDING SIGN VARIANCE DENIED.**
- 15) The Aberdeen YMCA requested permission, as per site plan submitted, 1) to permit a 6'x8' off premise sign 10' from First Avenue SE rather than the 300' required by Ordinance, which would be an Appeal to the Zoning Board of Adjustment, and 2) 10' from South and West property lines rather than the required 20', which would be two 10' Off Premise Sign Setback Variances, and 3) 10' from intersection of two Public R.O.W.'s rather than the required 50', which would be a 40' Off Premise Sign Variance, and 4) permission to install an off premise sign 90' from a residential zoning district rather than the required 150', which would be a 60' Off Premise Sign Setback Variance, and 5) request permission to install a 3'x8' monochrome electronic message center sign in an I-2 (Unrestricted Industrial Zoning District), which would be an appeal to the Zoning Board of Adjustment, all on Lot 1, Hagerty & Lloyd's Third Subdivision, a.k.a. 601 First Avenue SE. Cory Weisenburger of Service Signs and Steve Graf of The Aberdeen YMCA were present to represent the property. Terry Dickman was present and spoke in opposition to this sign request. Following discussion VanDeRostyne moved and Zumbaum seconded to deny, upon roll call Marske, VanDeRostyne, Zumbaum, Babcock - aye, Sikkink - nay, the motion carried. **APPEAL AND SIGN VARIANCES DENIED.**
- 17) East River Electric Cooperative requested permission, as per site plan submitted, to construct an addition to a utility substation, which would be a Special Exception in an A-1 (Agricultural Zoning District), all on Lot 3 in the NW¼ Sect. 23-T123N-R63W, a.k.a. 13320 392nd Avenue. Kurt Donelan of East River Electric Cooperative was present to represent the property and submitted a letter from the SD Dept. of Transportation indicating this structure will not be required to obtain FAA approval based on slope and height. Following discussion VanDeRostyne moved and Babcock seconded to approve with the stipulation that plans must be submitted and a permit obtained before construction begins. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 18) Lamont Companies, Inc. requested permission, as per site plan submitted, to 1) construct a building 55' tall rather than the permitted 45', which would be a 10' Maximum Height of Structure Variance and 2) request permission to construct a building across East property line, which would be a Shared Property Line Variance, all on Proposed Lot 2, First Replat of Lot 1, Lamont Fourth Addition, a.k.a. 3310 Seventh Avenue SE. Nate Kessler and Kody Schochenmaier of Lamont Companies were present to represent the property.

Following discussion Zumbaum moved and Babcock seconded to approve with the following stipulations: 1) Property must be platted in order to obtain building permit, 2) All landscape requirements must be met, 3) Plans must be approved & permit issued prior to construction, and 4) FAA approval must be submitted if applicable. Upon roll call, all members voting aye with Babcock abstaining, the motion carried. **MAXIMUM HEIGHT OF STRUCTURE VARIANCE AND SHARED PROPERTY LINE VARIANCE APPROVED.**

- 19) Lamont Companies, Inc. requested permission, as per site plan submitted, to construct a building across South property line, which would be a Shared Property Line Variance, all on Proposed Lot 1, First Replat of Lot 1, Lamont Fourth Addition, a.k.a. 3310 Seventh Avenue SE. Nate Kessler and Kody Schochenmaier of Lamont Companies were present to represent the property. Following discussion Sikkink moved and VanDeRostyne seconded to approve with the following stipulations: 1) Property must be platted to obtain building permit, 2) Parking & landscape requirements must be met, 3) Plans must be approved and permit obtained, 4) Must comply with requirements for accessible stalls, and 5) Must comply with requirements for ratings and separation at time of plan review. Upon roll call, all members voting aye with Babcock abstaining, the motion carried. **SHARED PROPERTY LINE VARIANCE APPROVED.**
- 20) Lamont Companies, Inc. requested permission, as per site plan submitted, to 1) construct a building across North property line and West property line, which would be two Shared Property Line Variances and 2) to permit 125 parking stalls rather than the required 131 stalls, which would be a 6 parking stall variance, all on Proposed Lot 3, First Replat of Lot 1, Lamont Fourth Addition, a.k.a. 3310 Seventh Avenue SE. Nate Kessler and Kody Schochenmaier of Lamont Companies & Kraig Schlaht of Maverick's were present to represent the property. Following discussion Zumbaum moved and VanDeRostyne seconded to approve with the following stipulations: 1) Property must be replatted, 2) Parking & Landscape requirements to be met, 3) Plans must be submitted and approved in order to obtain building permit, 4) FAA approval must be submitted if applicable, 5) Must comply with requirements for fire ratings and separation at time of review and 6) Must comply with requirements for accessible stalls. Upon roll call, all members voting aye with Babcock abstaining, the motion carried. **SHARED PROPERTY LINE VARIANCES AND PARKING STALL VARIANCE APPROVED.**
- 21) Rolling Hills Golf Development, LLC requested permission, as per site plan submitted, to plat a lot in the R2/R4 (Medium Density/Special Density Residential Zoning District) with 32.92' of frontage rather than the required 60', which would be a 27.08' Minimum Lot Width Variance, all on Lot 36A, Rolling Hills Village Tenth Addition, a.k.a. 1707 Nicklaus Drive. Attorney Jay Gellhaus was present to represent the property. Following discussion VanDeRostyne moved and Marske seconded to approve with the stipulation that sidewalks and boulevard trees will be installed. Upon roll call, all members voting aye, the motion carried. Upon roll call, all members voting aye, the motion carried. **MINIMUM LOT WIDTH VARIANCE APPROVED.**
- 22) Rolling Hills Golf Development, LLC requested permission, as per site plan submitted, to plat a lot in the R2/R4 (Medium Density/Special Density Residential Zoning District) with

37.95' of frontage rather than the required 60', which would be a 22.05' Minimum Lot Width Variance, all on Lot 36B, Rolling Hills Village Tenth Addition, a.k.a. 1713 Nicklaus Drive. Attorney Jay Gellhaus was present to represent the property. Following discussion VanDeRostyne moved and Zumbaum seconded to approve with the stipulation that sidewalks and boulevard trees will be installed. Upon roll call, all members voting aye, the motion carried. **MINIMUM LOT WIDTH VARIANCE APPROVED.**

- 23) Rolling Hills Golf Development, LLC requested permission, as per site plan submitted, to plat a lot in the R2/R4 (Medium Density/Special Density Residential Zoning District) with 37.95' of frontage rather than the required 60', which would be a 22.05' Minimum Lot Width Variance, all on Lot 37A, Rolling Hills Village Tenth Addition, a.k.a. 1714 Nicklaus Drive. Attorney Jay Gellhaus was present to represent the property. Following discussion VanDeRostyne moved and Zumbaum seconded to approve with the stipulation that sidewalks and boulevard trees will be installed. Upon roll call, all members voting aye, the motion carried. Upon roll call, all members voting aye, the motion carried. **MINIMUM LOT WIDTH VARIANCE APPROVED.**

- 24) Rolling Hills Golf Development, LLC requested permission, as per site plan submitted, to plat a lot in the R2/R4 (Medium Density/Special Density Residential Zoning District) with 32.92' of frontage rather than the required 60', which would be a 27.08' Minimum Lot Width Variance, all on Lot 37B, Rolling Hills Village Tenth Addition, a.k.a. 1708 Nicklaus Drive. Attorney Jay Gellhaus was present to represent the property. Following discussion VanDeRostyne moved and Babcock seconded to approve with the stipulation that sidewalks and boulevard trees will be installed. Upon roll call, all members voting aye, the motion carried. Upon roll call, all members voting aye, the motion carried. **MINIMUM LOT WIDTH VARIANCE APPROVED.**

Following further discussion Zumbaum moved for adjournment, seconded by Markse, all members voting aye, the meeting was adjourned until May 8, 2008.

Paula Nelson
Board of Zoning Adjustment Secretary
April 10, 2008