

**BOARD OF ZONING ADJUSTMENT**  
**September 11, 2008**

The Board of Zoning Adjustment Meeting was held on Thursday, September 11, 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 Zumbaum, Kezar, Sikkink, Babcock, and VanDeRostyne. Also present were Brett Bill, Planning and Zoning Director, Ken Hubbart, City Planner, Mike Olsen, Code Enforcement Officer, Dwayne Schueller, GIS/Planning Technician, Stuart Nelson, Assistant City Engineer, Chad Nilson, Building Inspector, Barry Dunlavy, Building Inspector, Mike Holsten, Code Enforcement Officer, and Paula Nelson, Board of Zoning Adjustment Secretary.

Sikkink moved and Zumbaum seconded to approve the Board of Zoning Adjustment minutes of August 14, 2008, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Ashley Badenhorst requested permission, as per site plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in an R-3 (High Density Residential Zoning District), all on Lot 2, Block 56, Thomas Addition, a.k.a. 914 Third Street S. There being no representative this item was moved to the end of the agenda.
- 2) Randy Stern requested permission, as per site plan submitted, for existing residence to remain 20'8" from the East property line rather than the required 25', which would be a 4'4" Building Variance and 2'4" from the North property line rather than the required 5', which would be a 2'8" Building Variance in order to replace foundation due to flood damage, all on Lot 5 and the South 2' of Lot 4, Block 49, Thomas Addition, a.k.a. 922 Second Street S. Randy Stern 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 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**
- 3) Shirley Smith requested permission, as per site plan submitted, for existing residence to remain 15' from the West property line rather than the requires 25', which would be a 10' Building Variance in order to replace foundation due to flood damage, all on Lots 5&6, Block 31, Hagerty & Lloyd Addition, a.k.a. 317 Lloyd Street N. Larry Eckmann 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 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**

- 4) Brad Thorstad requested permission, as per site plan submitted, for existing residence to remain 16.5' from West property line rather than the required 25', which would be a 8.5' Building Variance, and 3.5' from South property line rather than the required 15', which would be a 11.5' Building Variance, and 1.5' from the North property line rather than the required 5', which would be a 3.5' Building Variance, and back steps to remain 9" from the South property line rather than the required 15', which would be a 14'3" Building Variance and front steps to remain 12'6" from West property line rather than the required 15', which would be a 2'6" Building Variance in order to replace foundation due to flood damage, all on Lot 13, Block 40, Hagerty & Lloyd Addition, a.k.a. 202 State Street N. Brad Thorstad 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, 3) All required inspections must be completed, and 4) If the steps on the back of the house are replaced they must be built no closer than 3'1" from the South property line to meet fire code. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**
- 5) Darren & Joyce Regehr and Beverly Schwandt requested permission, as per site plan submitted, to 1) plat Lot 1 with 42' of frontage rather than the required 60', which would be an 18' Minimum Lot Width Variance and 2) to plat Lot 2 with 50' of frontage rather than the required 60', which would be a 10' Minimum Lot Width Variance, and 3) to plat Lot 2 with 66.23' of frontage rather than the required 100', which would be a 33.77' Minimum Lot Depth Variance, all on Lots 1 & 2 Regher & Schwandt First Addition, a.k.a. 805 Main Street N. Darren Regehr was present to represent the property. Following discussion Zumbaum moved and Kezar seconded to approve, all members voting aye, the motion carried. **MINIMUM LOT WIDTH VARIANCES & MINIMUM LOT DEPTH VARIANCE APPROVED.**
- 6) Brian Jarvis requested permission, as per site plan submitted, for 1) existing residence to remain 6'3" from the South property line rather than the required 25', which would be a 18'9" Building Variance in order to 2) construct a 5'4"x25'4" deck 4' from the South property line rather than the required 15', which would be an 11' Building Variance, all on The West 76' of Lots 655-656, except the North 15' of The West 15' of Lot 655, Morning Heights Addition, a.k.a. 2117 Goodrich Avenue SE. Brian Jarvis was present to represent the property. Following discussion Kezar moved and Sikkink seconded to approve agenda item #1, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.** Following further discussion Sikkink moved and Zumbaum 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 Zumbaum moved and VanDeRostyne 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 3) All required inspections must be completed. Upon roll call, Sikkink - nay, Kezar, VanDeRostyne, Zumbaum, Babcock - aye (1-nay,4-aye), the motion carried. **BUILDING VARIANCE APPROVED.**

- 7) Sara Blair requested permission, as per site plan submitted, for 1) existing residence to remain 18' from the West property line rather than the required 35', which would be a 17' Building Variance in order to 2) construct a 4'7"x6' deck 13'5" from West property line rather than the required 25', which would be a 11'7" Building Variance, all on Lot 8, Block 10, Thomas Addition, a.k.a. 1119 Kline Street S. Sara Blair was present to represent the property. Following discussion Zumbaum moved and Sikkink seconded to approve with the following stipulations: 1) Property must be rezoned to (R-3) High Density Residential District, 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 4) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**
- 8) Dakota Lodging (Ramada Inn) requested permission, as per site plan submitted, to install a 4'x11' electronic message center, which would be an Appeal to the Board of Zoning Adjustment and 2) request permission to permit 449sf of freestanding signage rather than the permitted 300sf, which would be a 149sf Freestanding Sign Area Variance, on Lot 2, Block 1, LHL Subdivision of Block 1, LHL First Subdivision, a.k.a. 2727 Sixth Avenue SE. Jack Fider of Dakota Lodging and Angela Pitzl of Stein Sign Display were present to represent the property. Following discussion Zumbaum moved and VanDeRostyne seconded to deny agenda item #1, all members voting nay, the motion failed. Following further discussion Sikkink moved and Babcock seconded to approve agenda item #1 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, and 6) Misuse of sign stipulations could result in a conviction with a penalty of up to \$500.00. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.** Following further discussion Zumbaum moved and Kezar seconded to approve agenda item #1, all members voting aye, the motion carried. **FREESTANDING SIGN AREA VARIANCE APPROVED.**
- 9) Jason Benike requested permission, as per site plan submitted, to construct a 22'x22' detached garage 4' from the East property line rather than the required 10, which would be a 6' Building Variance on Lot 13, Block 7, Replat of Gorder's Fourth Addition, a.k.a. 122 Gorder Drive. Jason Benike was present to represent the property. Following discussion Zumbaum moved and VanDeRostyne seconded to deny, all members voting nay, the motion failed. Following further discussion Sikkink moved and Zumbaum seconded to approve 5' from the East property line rather than the required 10', which would be a 5' 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.**

- 10) Doyle Foreman and Terry Hettich 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 and wholesaling and warehousing goods, which would be a Special Exception in a C-3 (Central Business District) and an I-2 (Unrestricted Industrial Zoning District), all on The East 94'8" of Lots 7-9, Block 38, Bennett & Thomas Addition and Lots 5-6, Block 15, North Aberdeen Addition, a.k.a. 114 First Avenue NW and 101 First Street N. Harvey Oliver was present to represent the property. Following discussion Sikkink moved and Kezar seconded to deny, all members voting aye, the motion carried. **SPECIAL EXCEPTION DENIED.**
- 11) Paramount Estates II, LLC requested permission, as per site plan submitted, to 1) construct a 42 unit apartment on a lot with 56,724sf of area rather than the required 110,000sf, which would be a 53,276sf Maximum Lot Area Variance, and 2) to permit 32.3 units per net residential acre rather than the permitted 11.4 units, which would be a 20.9 Unit Maximum Density Variance, and 3) request permission to construct an apartment building 51' tall rather than the permitted 45', which would be a 6' Maximum Height Variance, all on Lot 1, McDowell Paramount Second Addition, a.k.a. 2704 Third Avenue SE. Ryan Rivett 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 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **MAXIMUM LOT AREA VARIANCE, MAXIMUM DENSITY VARIANCE, & MAXIMUM HEIGHT VARIANCE APPROVED.**
- 12) Dr. Curt Wischmeier requested permission, as per site plan submitted, to 1) construct a building 0' from South property line and 0' from West property line, which would be two 0' Shared Property Line Setback Variances, and 2) to construct a building 30' from the East property line rather than the required 35', which would be a 5' Building Variance, all on Lot 1, Professional Group's Third Subdivision, a.k.a. 307 Tenth Avenue NW. John Kokales of Quest Construction and Francis Brink of Brink Engineering were present to represent the property. Following discussion Zumbaum moved and Kezar seconded to approve agenda item #1 with the following stipulations: 1) Plat must be approved by the City Planning Commission and filed with the Brown County Register of Deeds, 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 4) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **SHARED PROPERTY LINE SETBACK VARIANCES APPROVED.** Following further discussion Zumbaum moved and Kezar seconded to deny agenda item #2, all members voting nay, the motion failed. Following further discussion Sikkink moved and Zumbaum seconded to

approve agenda item #2, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**

- 13) Avera St. Luke's requested permission, as per site plan submitted, to 1) decrease parking stall requirements to 10'x18' rather than the required 10'x20', which would be a 2' Parking Stall Length Variance, and 2) to decrease parking stall size to 9'x20', rather than the required 10'x20', which would be a 1' Parking Stall Width Variance, all on Lot 1, Avera St. Luke's West Addition, a.k.a. 304 State Street S. Bill Roth of Avera St. Luke's was present to represent the property. Following discussion Kezar moved and Sikkink seconded to approve with the stipulation that a Zoning Permit must be obtained prior to construction. Upon roll call, all members voting aye, the motion carried. **PARKING STALL LENGTH VARIANCE & PARKING STALL WIDTH VARIANCE APPROVED.**
  
- 14) Beef Tech, LLC requested permission, as per site plan submitted, to 1) operate a livestock feedlot, which would be a Special Exception on property zoned I-2 (Unrestricted Industrial Zoning District), and 2) to permit the feeding or maintaining of 400 animal units rather than the permitted 200, which would be a 200 Animal Unit Variance, all on Lot 2, Sanderson Addition in the SE¼ Sect. 34-T123N-R64W, a.k.a. Approximately ½ South and ½ West of Hub City Radio. Brett Bill stated that the petitioner withdrew this item. No action taken.
  
- 1) Ashley Badenhorst requested permission, as per site plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in an R-3 (High Density Residential Zoning District), all on Lot 2, Block 56, Thomas Addition, a.k.a. 914 Third Street S. Brett Bill stated the petitioner would like this item withdrawn. No action taken.

Following further discussion Zumbaum moved for adjournment, seconded by Kezar, all members voting aye, the meeting was adjourned until October 9, 2008.

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Paula Nelson  
Board of Zoning Adjustment Secretary  
September 11, 2008