

BOARD OF ZONING ADJUSTMENT
October 9, 2008

The Board of Zoning Adjustment Meeting was held on Thursday, October 9, 2008 in the City Hall 3rd Floor Courtroom, Aberdeen, South Dakota with Dan Zumbaum presiding as Acting Chairman. Chairman Zumbaum called the meeting to order. Members present at roll call were Zumbaum, Kezar, Sikkink, VanDeRostyne, and Weigel. Also present were Ken Hubbart, City Planner, Chad Nilson, Building Inspector, Vern Meyer, Planning & Zoning Technician, and Paula Nelson, Board of Zoning Adjustment Secretary.

Sikkink moved and VanDeRostyne seconded to approve the Board of Zoning Adjustment minutes of September 11, 2008, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

1) Shanna Zantow 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 8, Block 4, Thomas Addition, a.k.a. 507 Ninth Avenue SE. Shanna Zantow was present to represent the property. Following discussion Kezar 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.**

2) Lonnie Turman requested permission, as per site plan submitted, for existing residence to remain 18.8' from the East property line rather than the required 25', which would be a 6.2' Building Variance and 2' from the North property line rather than the required 5', which would be a 3' Building Variance and 2' from the South property line rather than the required 5', which would be a 3' Building Variance in order to replace foundation due to flood damage, all on The North 24' of Lot 10, Block 46, Hagerty & Lloyd Addition, a.k.a. 105 State Street N. Kristin Turman was present to represent the property. Following discussion Sikkink 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 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**

- 3) Raymond Wik requested permission, as per site plan submitted, for existing residence to remain 17' from the East property line rather than the required 25', which would be an 8' Building Variance and 2.5' from the North property line rather than the required 5', which would be a 2.5' Building Variance in order to replace foundation due to flood damage, all on Lots 8&9, Block 4, Hagerty & Lloyd Addition, a.k.a. 703 State Street N. Raymond Wik was present to represent the property. Following discussion VanDeRostyne moved and Weigel seconded to approve with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection, and 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**
- 4) Frank Ringer, Sr. requested permission, as per site plan submitted, for existing residence to remain 15' from the South property line rather than the required 25', which would be a 10' Building Variance in order to construct a 6'x6' deck on the East side of residence, all on Lot 14, Ladner's Replat of Block 1, Hagerty & Lloyd Addition, a.k.a. 821 Seventh Avenue NE. This item was moved to the end of the agenda.
- 5) Samantha Eastman requested permission, as per site plan submitted, for existing residence to 1) remain 16' from the South property line rather than the required 25', which would be a 9' Building Variance, and 4' from the West property line rather than the required 5', which would be a 1' Building Variance in order to 2) construct a 4'x5' uncovered deck 12' from the South property line rather than the required 15', which would be a 3' Building Variance, all on Lot 19 and the N½ of Lot 20, Block 21, Hagerty & Lloyd Addition, a.k.a. 213 Fifth Avenue NE. Samantha Eastman was present to represent the property. Following discussion Sikkink moved and Zumbaum seconded to approve with the following stipulations: 1) Deck may not be covered or enclosed, 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.**
- 6) Kimberly & Darius Schwan requested permission, as per site plan submitted, for existing residence to remain 21' from the West property line rather than the required 25', which would be a 4' Building Variance in order to construct a 9'x16' deck on back of residence, all on Lot 1, Block 4, Northview Fifth Addition & the South 32' of Lot 30, Block 4, Northview Sixth Addition, a.k.a. 1102 Dakota Street N. Kimberly Schwan 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 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 7) Rachael Junck requested permission, as per site plan submitted, to permit the open storage, parking or sale of vehicles, machinery and trailers, building materials and supplies, which would be a Special Exception in a C-2 (Highway Commercial Zoning District), all on Lot 1, Wuebker

- Addition (Lot 1B2, Woolverton Addition), a.k.a. 826 Sixth Avenue SE. There being no representative this item was moved to the end of the agenda.
- 8) Bill & Jennifer Wall and Timothy Wall requested permission, as per site plan submitted, to replace stairs and landing 4'6" from North property line rather than the required 5', which would be a 6" Building Variance on The North 36' of Lot 12, Block 21, Thomas Addition, a.k.a. 915 Jay Street S. Timothy Wall was present to represent the property. Following discussion Sikkink moved and Weigel seconded to approve with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property pins must be located for inspection, and 3) All required inspections must be completed. Upon roll call, all members voting nay, the motion failed. Following further discussion Sikkink moved and Zumbaum seconded to deny due to a lack of accurate information on submitted site plan. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE DENIED.**
- 9) Pam & Tom Brzezinski and Troy & Amy Dinger requested permission, as per site plan submitted, to operate a kennel or veterinary clinic, which would be a Special Exception in a M-Ag (Mini-Agriculture Zoning District), on Lot 1, Johnson's Second Subdivision, SE¼ Sect.8-T123N-R64W, a.k.a. 38374 132nd Street. Troy & Amy Dinger and Attorney Bill Sauck were present to represent the property. David & Sonia Feickert and Steve Streier were present and voiced concerns about noise. Nancy Upton, Vice-President of Humane Society was also present. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) This special exception is for Pam & Tom Brzezinski only, 2) Property must be maintained in a neat and orderly manner, 3) If pet adoption is to take place, the Humane Society and Animal Control Officer (ACO) must be consulted, 4) If this property becomes a part of ACO's jurisdiction, the owner would have to immediately comply with all city ordinances, 5) Any complaints from neighbors should be dealt with immediately by owner and unresolved issues can lead to future review by the Board of Zoning Adjustment, 6) This operation will be strictly utilized as a personal kennel and will not be operated as a veterinary clinic or any other form of commercial clinic/kennel, and 7) This approval is for no more than 46 animals. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 10) Albert Ell requested permission, as per site plan submitted, to construct a 18'x24' detached garage 11' from the South property line rather than the required 25', which would be a 14' Building Variance, all on The South 15' of Lot 11 & Lot 12, Block 10, Hagerty & Lloyd Addition, a.k.a. 603 Arch Street N. Jack Swanson was present to represent the property. Following discussion VanDeRostyne 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.**
- 11) Rubiloff Tri-State Lakewood Portfolio, LLC requested permission, as per site plan submitted, to install a monochromatic electronic message center in existing free standing sign, which would

be an Appeal to the Board of Zoning Adjustment, all on Lot 2A, Dial Third Addition, SE¼ Sect. 17-T123N-R63W, a.k.a. 3315 Sixth Avenue SE. Beth Isaacson-Hoeft, Property Manager, was present to represent the property. Following discussion Sikkink moved and Kezar seconded to approve with the following stipulations: 1) All electronic message board signs shall be in compliance with all other applicable codes regarding signs, 2) This sign shall not interfere with traffic safety, and may not be confused with or construed as a traffic control device, 3) Each message displayed shall remain static for a minimum of 6 seconds, with all change sequences to be instantaneous, 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 for each violation. Upon roll call, all members voting aye, the motion carried.

APPEAL APPROVED.

- 12) Nick Fettig requested permission, as per site plan submitted, to construct a 14'x24' addition to residence 3'2" from the North property line rather than the required 5', which would be a 1'10" Building Variance, all on Lot 4, Easton's Subdivision of Lots 1-6, Block 41, Bennett & Thomas Addition, a.k.a. 315 Second Street N. Jim Fettig was present to represent the property. Following discussion Sikkink moved and Zumbaum seconded to approve with the following stipulations: 1) A permit, with penalty assessed, must be obtained for the house addition, 2) All required inspections must be completed, 3) All building code violations must be corrected, 4) Engineered as-built drawings must be provided and approved for work already done in violation of building code (house foundation), and 5) Property pins must be located for inspection. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
- 13) Lang's Audio, TV & Appliance requested permission, as per site plan submitted, to construct new 3'8"x4'6" and 5'x9' freestanding sign 3.5' from South property line rather than the required 10', which would be a 6.5' Sign Setback Variance, all on Lot 1, Lang's First Corner Subdivision, a.k.a. 2705 Sixth Avenue SE. Chad Lang was present to represent the property. Following discussion Sikkink moved and Zumbaum seconded to approve with the stipulation that a sign permit must be obtained prior to installation of sign. Upon roll call, all members voting aye, the motion carried. **SIGN SETBACK VARIANCE APPROVED.**
- 14) Pete Feickert and Tony Schmidt requested permission, as per site plan submitted, to 1) plat two 1.16 acre lots in a M-Ag (Mini-Agriculture Zoning District) rather than the required 2.5 acres, which would be two 1.34 acre Minimum Lot Size Variances, and 2) to plat two 1.116 acre lots in a M-Ag (Mini-Agricultural Zoning District) rather than the required 2.5 acres, which would be two 1.384 acre Minimum Lot Size Variances, all on Feickert Tract 1 in the NW¼ Sect. 27-T124N-R64W, a.k.a. 12844 385th Avenue. Tony Schmidt and Josh Fettig were present to represent the property. Following discussion Sikkink moved and Zumbaum seconded to deny. Upon roll call, Kezar, VanDeRostyne, Zumbaum - nay, Weigel, Sikkink - aye (3-nay,2-aye), the motion failed. Following further discussion Kezar moved and Zumbaum seconded to approve

with the following stipulations: 1) WEB water needs to be used in conjunction with on-site wastewater disposal systems, and 2) Passing percolation test results must be provided to Planning & Zoning office for all four lots prior to a plat being filed in order to verify that they are buildable lots. Upon roll call, all members voting aye, the motion carried. **MINIMUM LOT SIZE VARIANCES APPROVED.**

- 15) Dr. Francis L. Barnett requested permission, as per site plan submitted, to 1) to permit the location of an off premise sign 4' from the South property line rather than the required 20', which would be a 16' Sign Setback Variance, and 2) 4' from the West property line rather than the required 20', which would be a 16' Sign Setback Variance, and 3) request permission to permit the location of an off premise sign 4' from an intersection of Public R.O.W.'s rather than the permitted 50', which would be a 46' Sign Setback Variance, all on Lots 6&7, Moccasin Plaza Addition, ex H-1, a.k.a. 515 Moccasin Drive S. Rod Mack of Service Signs was present to represent the property. Following discussion Sikkink moved and Zumbaum seconded to approve all requests. Upon roll call, Kezar, VanDeRosytne, Weigel, Zumbaum - nay, Sikkink - aye (4-nay,1-aye), the motion failed. Following further discussion VanDeRostyne moved and Kezar seconded to deny all requests, all members voting aye, the motion carried. **SIGN SETBACK VARIANCES DENIED.**

- 4) Frank Ringer, Sr. requested permission, as per site plan submitted, for existing residence to remain 15' from the South property line rather than the required 25', which would be a 10' Building Variance in order to construct a 6'x6' deck on the East side of residence, all on Lot 14, Ladner's Replat of Block 1, Hagerty & Lloyd Addition, a.k.a. 821 Seventh Avenue NE. Vern Meyer was present to represent the property. 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 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**

- 7) Rachael Junck requested permission, as per site plan submitted, to permit the open storage, parking or sale of vehicles, machinery and trailers, building materials and supplies, which would be a Special Exception in a C-2 (Highway Commercial Zoning District), all on Lot 1, Wuebker Addition (Lot 1B2, Woolverton Addition), a.k.a. 826 Sixth Avenue SE. There still being no representative VanDeRostyne moved and Sikkink seconded to deny, all members voting aye, the motion carried. **SPECIAL EXCEPTION DENIED.**

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

Paula Nelson
Board of Zoning Adjustment Secretary
October 9, 2008