

BOARD OF ZONING ADJUSTMENT
December 9, 2010

The Board of Zoning Adjustment Meeting was held on Thursday, December 9, 2010 in the City Hall 3rd Floor Courtroom, Aberdeen, South Dakota with Scott Sikkink presiding as Acting Chairman. Acting Chairman Sikkink called the meeting to order. Members present at roll call were Kezar, VanDeRostyne, Musel, Weigel, and Sikkink. Babcock was absent. Also present were Ken Hubbart, City Planner, Brett Bill, Planning & Zoning Director, Ken Van Dyne, City Planner, Stuart Nelson, Assistant City Engineer, Rob Baumgartner, Code Enforcement Officer, and Paula Nelson, Board of Zoning Adjustment Secretary.

Kezar moved and VanDeRostyne seconded to approve the Board of Zoning Adjustment minutes of November 10, 2010, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Vicki Anderson requested permission, as per plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in an (R-2) Medium Density Residential District, all on the East 72' of Lot 7-8, Block 11, 1st Addition to Highlands, SE¼ Sec. 12-T123N-R64W, a.k.a. 605 Twelfth Avenue NE. Vicki Anderson was present to represent the property. Following discussion VanDeRostyne moved and Musel 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) Alison Schwan requested permission, as per plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in an (R-3) High Density Residential District, all on Lot 12, Block 1, Hyde Park 3rd Addition, SW¼ Sec. 18-T123N-R63W, a.k.a. 3 Linda Lane. Alison Schwan was present to represent the property. Following discussion Kezar moved and Weigel 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) Kathy Barr requested permission, as per plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in an (R-2) Medium Density Residential District, all on Lot 13 and the South 45' of Lot 14, Replat of Block 1, Huffmans 2nd Addition, SE¼ Sec. 24-T123N-R64W, a.k.a. 1535 State Street S. Ryan Barr was present to represent the property. Following discussion Weigel moved and Musel 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.**

- 4) Angella Welke requested permission, as per plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in an (R-2) Medium Density Residential District, all on Lot 16 & the North ½ of Lot 17, Block 2, Gorders 1st Addition, SW¼ Sec. 24-T123N-R64W, a.k.a. 117 Seventeenth Avenue SW. Angella Welke was present to represent the property. Following discussion Weigel moved and Kezar 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) Courtney Rott Jr. requested permission, as per site plan submitted, for the existing residence to remain 3.5' from the South property line rather than the required 10', which would be a 6.5' Building Variance in order to replace a deck in the rear yard which meets all required setbacks, all on Lots 5-6, Block 10, Corrected Plat of the Highlands, SW¼ Sec. 12-T123N-R64W, a.k.a. 1215 Washington Street N. Courtney Rott Jr. 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 VARIANCE APPROVED.**

- 6) 2005 II LLC & Carquest requested permission, as per site plan submitted, to accommodate 33 parking spaces rather than the required 39 spaces, which would be a 6 stall Parking Variance, all on the West 37' of Lots 1-7 & Lots 8-14, Block 55, West Aberdeen Addition and the South 33' of the West 195' of the Vacated Street (5th Avenue SW) and the Vacated Alley except H-1, SE¼ Sec. 14-T123N-R64W, a.k.a. 610 Sixth Avenue SW. Craig S. Jones was present to represent the property. Following discussion VanDeRostyne moved and Weigel seconded to approve with the following stipulations: 1) This variance is for the current business uses and their respective usage area and employee count on the property at the time of this request, and 2) Any change to the existing use classifications shall be subject to a redetermination of the required parking spaces as per city ordinance. Upon roll call, all members voting aye, the motion carried. **PARKING VARIANCE APPROVED.**

- 7) Ryan Barr requested permission, as per site plan submitted, to place a 10' x 12' shed 1) 1'8" from the North property line rather than the required 35', which would be a 33'4" Proposed Setback Variance, and 2) 4' from the East property line rather than the required 10', which would be a 6' Proposed Setback Variance, and 3) to place a 12' x 16' shed 12' from the North property line rather than the required 35', which would be a 23' Proposed Setback Variance, and 4) 4' from the East property line rather than the required 10', which would be a 6' Proposed Setback Variance, and 5) 4' from the South property line rather than the required 10', which would be a 6' Proposed Setback Variance, all within an (R-1) Low Density Residential District, on Lot 15, Block 4, Replat of Gorders 4th Addition & Lots 14A & 15A, Engel's Replat of a Portion of Lot 4, Culbert's Subdivision, NW¼ Sec. 25-T123N-R64W, a.k.a. 1849 Eisenhower Circle. Ryan & Tiffany Barr were present to

represent the property. Jim and Marcia Snover were present in opposition to this request. Following discussion VanDeRostyne moved and Kezar seconded to deny. Upon roll call, Musel, Kezar, Sikkink - nay, VanDeRostyne, Weigel - aye (3-nay,2-aye), the motion failed. Item failed for lack of another motion. **SETBACK VARIANCES DENIED.**

- 8) Zoo Properties, LLP requested permission, as per site plan submitted, to construct an accessory structure that is not located in the rear yard of the property, 6' from West property line, which would be an Appeal to the Zoning Board in a (C-3) Central Business District, all on Lot 1, Mike Walsh Addition, NW¼ Sec. 24-T123N-R64W, a.k.a. 1017 Main Street S. Cindi Walsh and Lowell Punt were present to represent the property. Following discussion VanDeRostyne moved and Sikkink seconded to deny, all members voting nay, the motion failed. Following further discussion Musel 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) The structure shall comply with regulations for outdoor smoking shelters. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**
- 9) XL Motors, Inc. requested permission, as per site plan submitted, to permit the open storage of vehicles, which would be a Special Exception in a (C-2) Highway Commercial District, all on Lot 1, Liebelt Addition, NE¼ Sec. 23-T123N-R64W, a.k.a. 823 Sixth Avenue SW. Jonathan Liebelt was present to represent the property. Following discussion VanDeRostyne moved and Musel seconded to approve with the following stipulations: 1) Property must be maintained in a neat and orderly manner at all times. Any complaints shall be remedied by the owner immediately upon notification, 2) 35' corner visibility triangle at 6th Avenue and 9th Street South must remain free of vehicles and other sight obstructions, 3) Stored vehicles must be licensed and operable in accordance with state law, 4) Any signage must be approved and permit(s) obtained, and 5) Plans must be submitted to the City Forester for recommendation and adherence to landscaping requirements. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 10) Cindy Holler requested permission, as per site plan submitted, for the existing residence to remain 1) 12' from the North property line rather than the required 25', which would be a 13' Building Variance and 2) 4' from the West property line rather than the required 5', which would be a 1' Building Variance in order to construct an 8.5' x 5.5' deck which meets all required setbacks, all on Lot 14, Block 6, Pleasant Hill Addition, NE¼ Sec. 23-T123N-R64W, a.k.a. 1115 Eighth Avenue SW. Cindy Holler was present to represent the property. Following discussion Kezar moved and Musel 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.**

- 11) Curtis Merkel requested permission, as per site plan submitted, for 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 District, all on Lot 1, Haug Subdivision, NE¼ Sec. 22-T123N-R64W, a.k.a. 2323 Highway 12 W. Curtis Merkel was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) Property must be maintained in a neat and orderly manner at all times. Any complaints shall be remedied by the owner immediately upon notification, 2) Area to be used for storage shall be surfaced with gravel or other hard-surface material, 3) Stored vehicles must be licensed and operable in accordance with state law, 4) Any signage must be approved and permits(s) obtained, 5) Plans must be submitted to the City Forester for recommendation and adherence to landscaping requirements, 6) Only vehicles are allowed in the front setback area, between property line and building, and 7) Any wood storage for burning fuel should be stacked in the rear setback area and stacked according to ordinance. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 12) Maria & David Meyer requested permission, as per site plan submitted, for the existing residence to remain 16' from the West property line rather than the permitted 20', which would be a 4' Building Variance in order to replace the East foundation wall and replace the East and South facing decks, all on the East 80' of Lots 11-12, Block 29, Bennett & Thomas Addition, NW¼ Sec. 13-T123N-R64W, a.k.a. 503 Main Street N. David Meyer was present to represent the property. Following discussion Musel 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 VARIANCE APPROVED.**

- 13) Huff Construction, Inc. requested permission, as per site plan submitted, to place a storage tank for diesel fuel on its property, which would be a Special Exception in an (I-2) Unrestricted Industrial District, all on the South 20' of Lots 4-8 and Lots 9-13 and the West 253' of the North 11' of the South 31' of Lots 1-8, Block 56, Hagerty & Lloyd Addition and the Vacated Alley Adjacent to Lots 4-13, E½ Sec. 13-T123N-R64W, a.k.a. 11 Dakota Street N. Roger Huff was present to represent the property. Following discussion Musel moved and Kezar seconded to approve with the stipulation that all fire codes are met. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 14) Rodney Brandlee requested permission, as per site plan submitted, for 1) the existing residence to remain 16.5' from the West property line rather than the required 25', which would be an 8.5' Building Variance, in order to construct a 6' x 16' covered porch, that 2) is 10.5' from the West property line rather than the required 25', which would be a 14.5' Proposed Setback Variance, and 3) porch steps that extend to 5.5' from the West property line rather than the permitted 15', which would be a 9.5' Proposed Setback Variance, all

on Lot 8, Block 26, 1st Addition to Highlands, SE¼ Sec. 12-T123N-R64W, a.k.a. 808 Lloyd Street N. Rodney Brandlee was present to represent the property. Following discussion Weigel moved and VanDeRostyne seconded to approve agenda item #1. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.** Following further discussion VanDeRostyne moved and Sikkink seconded to deny agenda item #2, all members voting nay, the motion failed. Following further discussion VanDeRostyne moved and Kezar seconded to approve agenda item #2 with the following stipulations: 1) The proposed covered porch may not exceed 6' x 10', 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. **SETBACK VARIANCE APPROVED.** Following further discussion VanDeRostyne moved and Kezar seconded to approve agenda item #3, all members voting aye, the motion carried. **SETBACK VARIANCE APPROVED.**

Following further discussion Weigel moved for adjournment, seconded by Kezar, all members voting aye, the meeting was adjourned until January 13, 2011.

Paula Nelson
Board of Zoning Adjustment Secretary
December 9, 2010