

BOARD OF ZONING ADJUSTMENT
March 10, 2011

The Board of Zoning Adjustment Meeting was held on Thursday, March 10, 2011 in the City Hall 3rd Floor Courtroom, Aberdeen, South Dakota with Sikkink presiding as Acting Chairman. Acting Chairman Sikkink called the meeting to order. Members present at roll call were Sikkink, Weigel, Musel, Kezar, and VanDeRostyne. Babcock was absent. Also present were Ken Hubbard, City Planner, Brett Bill, Planning & Zoning Director, Ken Van Dyne, City Planner, Stuart Nelson, Assistant City Engineer, Chad Nilson, Building Inspection, Barry Dunlavy, Building Inspector, Mike Olson, 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 February 10, 2011, all members voting aye, the motion carried.

Acting Chairman Sikkink began with old business as follows:

- 1) Jim & Marcia Snover were present and stated they would like Ryan Barr's (1849 Eisenhower Circle) request from last month's meeting reconsidered. Sikkink moved this request to the end of the agenda.
- 2) Brett Bill explained the inaccuracy regarding his interpretation of the voting results of the Aberdeen Housing Authority item from last month's meeting.
- 3) Sikkink stated that he would like to discuss daycare regulations at the end of the agenda.

Acting Chairman Sikkink began with new business as follows:

- 1) Drew and Amy Pearson requested permission, as per plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in an (R-1) Low Density Residential District, all on Lot 37, Block 7, 19th Addition to the Highland North Addition, NE¼ Sec. 12-T123N-R64W, a.k.a. 510 21st Avenue NE. Amy Pearson 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.**

- 2) Darin Latt requested permission, as per site plan submitted, to 1) permit the storage of commercial goods which would be an Appeal to the Zoning Board of Adjustments, and 2) to permit a multi-family residential use which would be a Special Exception, all within an (R-1) Low Density Residential District, all on Rott's Outlot 1, NW¼ Sec.25-T123N-R64W, a.k.a. 2202 Bunker Drive. Darin Latt was present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve with the following stipulations: 1) The property must be rezoned to an (R-1) Low Density Residential District, 2) This Appeal for the existing use as a nursery is for the current property owner only, 3) Building floorplans must be submitted for approval by the City's Building Department and Fire Marshal with any necessary modifications made, and 4) The property must be annexed into the city. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**
- 3) Ka-Boomer's, Inc., requested permission, as per site plan submitted, to operate a temporary fireworks stand within the Aberdeen zoning jurisdiction, which would be a Special Exception in a (C-2) Highway Commercial District, all on Schumaker Lot 1, NW¼ Sec. 23-T123N-R63W, a.k.a. 39239 133rd Street (East Hwy 12). Stacy Bauer was present to represent the property. Following discussion Musel moved and Weigel seconded to approve with the following stipulations: 1) Must meet all Fire Marshal's requirements, 2) All signage must be in compliance with the Aberdeen Sign Ordinance, and permitted as applicable, and 3) Any applicable Building Code requirements must be met. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 4) Lamont Office Building, LLC, requested permission, per plans submitted, to construct a 198 square foot free-standing sign rather than the permitted 100 square feet, which would be a 98 square foot free-standing Sign Variance in a (C-3/R-4) Central Business District / Special Density Residential District, all on Lot 1, Lamont Office Building Addition, SE¼ Sec. 13-T123N-R64W, a.k.a. 205 Sixth Avenue SE. Tom Hurlbert of HULA was present to represent the property. Mike Thompson, Fire Marshal, spoke in opposition to this request. Following discussion Kezar moved and VanDeRostyne seconded to deny. Upon roll call, Weigel-aye, Musel-aye, Kezar-aye, VanDeRostyne-aye, Sikkink-nay (4-aye,1-nay), the motion carried. **FREE-STANDING SIGN VARIANCE DENIED.**
- 5) Aberdeen School District 6-1, requested permission per plans submitted; to 1) install a 93.36 square foot monument sign (4'x6' and 6.5'x10.67') rather than the permitted 16 square foot maximum which would be a 77.36 square foot freestanding Sign Variance, and 2) to allow this sign in addition to an existing 68.75 square foot (1.5' x 45.83') wall sign for a combined sign area of 162.11 square feet rather than the permitted combined maximum of 36 square feet which would be a 126.11 square foot Sign Variance in an (R-2) Medium Density Residential District, and 3) to install a 6.5'x10.67' electronic message center, which would be a Special Exception for a school, all on Lot 1, Aberdeen High School Second Subdivision, E½, NE¼ Sec 30-T123N-R63W, a.k.a. 2200 Roosevelt Street S. Bob Pitz, Director of Operations of Aberdeen School District and Chris Woolverton and Patrick King of Creative Signs were present to represent the property. Following discussion

VanDeRostyne moved and Musel seconded to deny. Upon roll call, Weigel-nay, Musel-nay, Kezar-nay, VanDeRostyne-nay, Sikkink-aye (4-nay,1-aye), the motion failed. Following further discussion Weigel moved and Kezar seconded to approve with the following stipulations: 1) The electronic message board shall display information pertaining to the school and the school's related activities only, 2) The electric message board shall be in compliance with all applicable codes regarding signs, 3) Each message displayed shall remain static for a minimum of 6 seconds, with all change sequences being instantaneous, no fading, dissolving, spinning, etc., 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 signs shall be limited to utilizing only amber lights, 6) The sign must be positioned with east/west facing sides to avoid the CMS from constant display toward residential neighbors to the north, and 7) Lighted sign must be turned off from 10 p.m. to 6 a.m. daily. Upon roll call, all members voting aye, the motion carried. **FREESTANDING SIGN VRIANCE AND SPECIAL EXCEPTION APPROVED.**

- 6) Michael Beadle requested permission, as per site plan submitted, to operate a temporary fireworks stand within the Aberdeen zoning jurisdiction, which would be a Special Exception in an (A-1) Agricultural District, all on Yeoman's Outlots 2-3 & South 700' of the 50' East of Yeoman's Outlots 2-3, NE¼ Sec. 27-T124N-R64W, a.k.a. 12850 386th Avenue (Hwy 281). Michael Beadle was present to represent the property. Following discussion Musel moved and Kezar seconded to approve with the following stipulations: 1) Must meet all Fire Marshal's requirements, 2) All signage must be in compliance with the Aberdeen Sign Ordinance, and permitted as applicable, and 3) Any applicable Building Code requirements must be met. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 7) Black Acre, LLC requested permission, per site plan submitted, to 1) provide fifteen (15) 9'x18' parking spaces rather than the required parking stall dimensions of 10'x20', which would require Parking Stall Size Variances for 15 spaces, and 2) provide a total of total of 22 parking stalls rather than the required 24 parking stalls which would be a 2 stall Parking Variance, located in a (C-3/R-4) Central Business District / Special Density Residential District, all on Lot 12, Washburn's Replat of Block 106, Hagerty & Lloyd Addition and Lot 2 of Lamont Office Building Edition, SE¼ Sec. 13-T123N-R64W, a.k.a. 503 Washington Street S. There being no representative present this item was moved to the end of the agenda.
- 8) Aberdeen Housing Authority requested permission, as per site plan submitted, to construct six townhome buildings on a single lot as a group project which would be a Special Exception in an (R-2/R-4) Medium Density Residential District / Special Density Residential District, all on Lots 1-10 Inman's 5th Addition & the entirety of McDowell Circle R.O.W. (pending vacation), SW¼ Sec. 17-T123N-R63W. Bryan Samson of Aberdeen Housing Authority was present to represent the property. Mike Hoffman and Irene Howell were present to express their concerns about the proposed playground's location. Following discussion Kezar moved and Musel seconded to approve with the

following stipulations: 1) The property must be replatted and the right-of-way vacated, 2) Any approved plans must include engineering plans that minimize stormwater runoff or overtaking the public storm sewer system, 3) Development must include completion of sidewalks on street frontages and any required landscaping, 4) All plans must be approved and permits obtained prior to commencing work, 5) Property pins must be located and setbacks verified, 6) Permits must be obtained for any signage, and 7) A solid 6' opaque fence must be installed along East property line the entire length of and extending 20' past either side of the playground. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 9) Aberdeen Shopping Centers & Ken's Shell Express requested permission, as per plans submitted; to 1) install a 34.08 square foot fuel price sign rather than the permitted 12 square feet which would be a 22.08 square foot Sign Variance, and 2) to install the 34.08 square foot sign as an LED sign rather than non-illuminated which would be a Special Exception, and 3) to install three fuel price signs rather than the permitted one fuel price sign which would be an Appeal to the Zoning Board for the two additional fuel signs, and 4) to install two 14.17 square foot fuel price signs on the existing canopy rather than the permitted 12 square feet which would be two 2.17 square foot Sign Size Variances, and 5) to install the two 14.17 square foot signs as LED signs rather than non-illuminated which would be two Special Exceptions all in a (C-2) Highway Commercial District, on Block A, Super City Corner Subdivision, SE¼ Sec.18-T123N-R63W, a.k.a. 2105 Sixth Avenue SE. Kevin Fiedler of Ken's Shell Express and Tony Mach of Harms Oil were present to represent the property. Following discussion Weigel moved and VanDeRostyne seconded to deny agenda item #1, all members voting nay, the motion failed. Following further discussion Weigel moved and Kezar seconded to approve agenda items #1 and #2 with the following stipulations: 1) All required permits must be obtained, 2) Permits for any potential canopy signs cannot be obtained until the new canopy is permitted, constructed and inspected, and 3) All LED signs must be fixed/non-blinking lights showing fuel prices only. Upon roll call, all members voting aye, the motion carried. **SQUARE FOOT SIGN VARIANCE AND SPECIAL EXCEPTION APPROVED.** Following further discussion Kezar moved and Musel seconded to approve agenda items #3, #4, and #5 with the following stipulations: 1) All required permits must be obtained, 2) Permits for any potential canopy signs cannot be obtained until the new canopy is permitted, constructed and inspected, and 3) All LED signs must be fixed/non-blinking lights showing fuel prices only. Upon roll call, all members voting aye, the motion carried. **APPEAL, SQUARE FOOT SIGN SIZE VARIANCE, AND SPECIAL EXCEPTIONS APPROVED.**
- 10) Steven and Emily Heintzman requested permission, as per plans submitted, to permit the open storage of (pods) storage containers, which would be an Appeal to the Zoning Board, all on property currently zoned (A-1) Agricultural District, proposed S & E Heintzman Subdivision, NE¼ Sect. 27-T123N-R64W. Emily Heintzman and Francis Brink of Brink Engineering were present to represent the property. Following discussion Kezar moved and Weigel seconded to deny, all members voting nay, the motion failed. Following further discussion VanDeRostyne moved and Musel seconded to approve with the following stipulations: 1) The property must be rezoned and approved by the planning commission and city council, 2) Property must be maintained in a neat and orderly manner at all times. Any complaints shall be remedied by the owner immediately upon

notification, 3) Any signage must be approved and permit(s) obtained, 4) Plans shall be submitted to the City Forester for recommendation and adherence to landscaping requirements, 5) The storage area must be fenced in with storage for closed container storage only (no personal or wrecked vehicles, construction equipment or supplies), and 6) This appeal would be for the current owner only. Upon roll call, VanDeRostyne-aye, Musel-aye, Sikkink-aye, Kezar-nay, Weigel-nay (3-aye,2-nay), the motion failed. **APPEAL DENIED.**

- 11) Paramount Estates, LLC requested permission, as per site plan submitted, to construct two apartment buildings (two 8-plex units) on a single lot which would be a Special Exception in an (R-2/R-4) Medium Density Residential District / Special Density Residential District, all on Lot 2 of McDowell Paramount 2nd Addition, SW¼ Sec. 17-T123N-R63W. Ryan Rivett was present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve with the following stipulations: 1) Any approved plans must include engineering plans that minimize stormwater runoff or overtaxing the public storm sewer system, 2) All plans must be approved and permits obtained prior to commencing work, 3) Property pins must be located and setbacks verified, and 4) Permits must be obtained for any signage. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 7) Black Acre, LLC requested permission, per site plan submitted, to 1) provide fifteen (15) 9'x18' parking spaces rather than the required parking stall dimensions of 10'x20', which would require Parking Stall Size Variances for 15 spaces, and 2) provide a total of total of 22 parking stalls rather than the required 24 parking stalls which would be a 2 stall Parking Variance, located in a (C-3/R-4) Central Business District / Special Density Residential District, all on Lot 12, Washburn's Replat of Block 106, Hagerty & Lloyd Addition and Lot 2 of Lamont Office Building Edition, SE¼ Sec. 13-T123N-R64W, a.k.a. 503 Washington Street S. John Kokales of Quest Construction and Annette Schwan were present to represent the property. Following discussion VanDeRostyne moved and Musel seconded to approve, all members voting aye, the motion carried. **PARKING STALL SIZE VARIANCE AND PARKING VARIANCE APPROVED.**

Following further discussion Kezar moved for adjournment, seconded by VanDeRostyne, all members voting aye, the meeting was adjourned until March 10, 2011.

Paula Nelson
Board of Zoning Adjustment Secretary
February 10, 2011