

**BOARD OF ZONING ADJUSTMENT**  
**May 12, 2011**

The Board of Zoning Adjustment Meeting was held on Thursday, May 12, 2011 in the City Hall 3<sup>rd</sup> 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 Kezar, Musel, VanDeRostyne, Weigel, and Sikkink. Also present were Ken Hubbard, City Planner, Brett Bill, Planning & Zoning Director, Chad Nilson, Building Inspector, Barry Dunlavy, Building Inspector, Mike Olson, Code Enforcement Officer, and Paula Nelson, Board of Zoning Adjustment Secretary.

Weigel moved and Musel seconded to approve the Board of Zoning Adjustment minutes of April 14, 2011, all members voting aye, the motion carried.

Acting Chairman Sikkink began with new business as follows:

- 1) Amanda McMahan requested permission, as per site plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in a (R2) Medium Density Residential Zoning District, all on Lot 13, Block 2, Second Replat of Clark's First Addition to Mel Ros Estates, a.k.a. 1607 Thirteenth Avenue SE. There being no representative this item was moved to the end of the agenda.
- 2) James Torbert and Rod Wertman requested permission, as per site plan submitted to permit the open storage, parking or sale of vehicles, which would be a Special Exception in a (I-2) Unrestricted Industrial Zoning District, all on Lots 1-2, Block 16, Original Plat of Aberdeen, a.k.a. 6 First Street S. Rod Wertman was present to represent the property. Following discussion Kezar moved and Sikkink seconded to approve with the following stipulations: 1) Owner/operator shall display no more than one vehicle per 10' x 20' parking stall on lot. Any required customer or employee parking stalls may not be used for storage or display, 2) All vehicles must be licensed and operable if stored outside; any junk, inoperable vehicles or vehicles in disrepair must be stored within the building, 3) No illegal or unpermitted signage allowed on property, 4) No parking or storage permitted in 35' corner visibility triangle, 5) This special exception is for Rod Wertman, as long as he is the tenant/operator of this proposed use, and 6) Any complaints or violations shall be dealt with by the owner/operator immediately upon notification. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 3) Aberdeen Equipment Company and Steve Herther requested permission, as per site plan submitted to permit the open storage, parking or sale of vehicles, which would be a Special Exception in a (C-2) Highway Commercial Zoning District, all on The South 512' of the West 700' of the SW<sup>1</sup>/<sub>4</sub> Sect. 15-T123N-R63W, a.k.a. 5055 Highway 12 E. Steve Herther was present to represent the property. Following discussion Musel moved and VanDeRostyne seconded to approve with the following stipulations: 1) Property must be rezoned to (C-2) Highway Commercial Zoning District, 2) All equipment must be

licensed/operable/available for sale as applicable, 3) No storage in required employee or customer parking spaces, 4) No illegal or unpermitted signage allowed, 5) No storage of any sort in 35' corner visibility triangle, 6) Property must be maintained in a neat and orderly manner at all times, and 7) Any complaints or violations shall be dealt with by the owner immediately upon notification. **SPECIAL EXCEPTION APPROVED.**

- 4) Homes Are Possible, Inc. requested permission, as per site plan submitted, to 1) plat 4 lots that are 56.25' wide rather than the permitted 60', which would be four 3.75' Minimum Lot Width Variances, and 2) request permission to construct 4 twin homes 0' from the East property line of proposed Lot 1, 0' from the West property line of proposed Lot 2, 0' from the East property line of proposed Lot 3, and 0' from the West property line of proposed Lot 4 rather than the required 8', which would be four 8' Building Variances, all on Proposed Lots 1-4, HAPI-2011-1 Subdivision, a.k.a. 1418, 1422, 1504 and 1508 Thirteenth Avenue SW. Jeff Mitchell was present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve with the following stipulations: 1) Plat must be approved and filed, 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. **MINIMUM LOT WIDTH VARIANCE AND BUILDING VARIANCES APPROVED.**
- 5) Dirk Swanson and Steve Grandpre requested permission, as per site plan submitted to permit the open storage, parking or sale of vehicles, which would be a Special Exception in a (I-2) Unrestricted Industrial Zoning District, all on Lot 1, Swanson Electric Addition in the SW¼ of Sect. 14-T123N-R64W, a.k.a. 1702 Sixth Avenue SW. Steve Grandpre was present to represent the property. Following discussion Weigel moved and Musel seconded to approve with the following stipulations: 1) Special Exception for open storage, for Steve Grandpre only, is valid through December 31, 2011, 2) Storage may not occur in any required customer or employee parking area, 3) All vehicles must be licensed and operable if stored outside, 4) No illegal or unpermitted signage allowed, 5) The proposed office space must be staffed during hours of operation (no off-premise sales/storage), 6) Property must be maintained in a neat and orderly manner at all times, and 7) Any complaints or violations shall be dealt with by the owner immediately upon notification. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 6) Darcy Schock requested permission, as per site plan submitted to 1) construct a 720sf (24'x30') detached garage in addition to an existing 539sf (14'x38.5') detached garage for a total of 1259sf of accessory structures rather than the permitted 1098sf, which would be a 161sf Accessory Structure Lot Coverage Variance, and 2) request permission to construct 24'x30' detached garage 3'1" from North property line rather than the required 5', which would be a 1'11" Building Variance, all on Lot 1, Noughton-Schock Addition, a.k.a. 1619 Lincoln Street S. Darcy Schock was present to represent the property. Following discussion VanDeRostyne moved and Musel seconded to approve agenda item #1 with the

stipulation that both sheds be removed from this property prior to construction of garage. Upon roll call, VanDeRostyne-aye, Kezar-nay, Musel-aye, Weigel-nay, Sikkink-aye, (3-aye,2-nay) the motion failed. **ACCESSORY STRUCTURE LOT COVERAGE VARIANCE DENIED.** Following further discussion Kezar moved and VanDeRostyne seconded to approve agenda item #2 with the stipulation that the size of the garage be modified smaller to not exceed accessory structure limits. Upon roll call, VanDeRostyne-aye, Kezar-aye, Musel-aye, Weigel-nay, Sikkink-nay, (3-aye,2-nay), the motion failed. **BUILDING VARIANCE DENIED.**

- 7) Real Estate Partnership and Robert Thompson requested permission, as per site plan submitted to 1) permit the open storage, parking or sale of vehicles, which would be a Special Exception in a (C-2) Highway Commercial Zoning District, and 2) to temporarily permit a group project in order to utilize existing building and proposed building as a group project prior to the demolition of existing building, which would be a Special Exception in a (C-2) Highway Commercial Zoning District, all on Lot 5, McIntyre's Subdivision, in the SW $\frac{1}{4}$  Sect. 16-T123N-R64W, a.k.a. 4411 Sixth Avenue SE. Robert Thompson was present to represent the property. Following discussion VanDeRostyne moved and Musel seconded to approve with the following stipulations: 1) All vehicles must be licensed/operable/available for sale if applicable, 2) No storage in required employee or customer parking areas, 3) No illegal or unpermitted signage allowed, 4) No storage of any sort in 35' corner visibility triangle, 5) Property must be maintained in a neat and orderly manner at all times, 6) Any complaints or violations shall be dealt with by the owner immediately upon notification, 7) Plans must be submitted for review and a permit must be obtained prior to work commencing, 8) All required inspections must be completed and FAA approval must be obtained, if necessary, and 9) Demolition of old building must be completed by October 1, 2012. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTIONS APPROVED.**
- 8) CWD Real Estate, LLC. requested permission, as per site plan submitted, to 1) construct a ministorage facility, which would be a Special Exception in a (I-2) Unrestricted Industrial Zoning District, and 2) to construct a ministorage building consisting of phase one of 60'x180', rather than the permitted 30'x120', which would be a 30' Width and 60' Length Variance, and 3) phase 2, which would be 240' in length rather than the permitted 120', and 60' in width rather than the permitted 30', which would be a 120' Length Variance and a 30' width Variance, and 4) phase 3, which would be 240' in length rather than the permitted 120', and 60' in width rather than the permitted 30', which would be a 120' Length Variance and a 30' Width Variance, all on Mardian's Outlot 1 and Lot 2, Webb's Subdivision of Prior's Outlot 4, SW $\frac{1}{4}$  Sect. 13-T123N-R64W, a.k.a. 402 First Avenue SW and 4 Fourth Street S. Carlyle Mardian & Dan Mardian were present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve agenda item #1 with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property must be platted into one parcel, and 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

Following further discussion Kezar moved and Weigel seconded to deny agenda items #2 - #4, all members voting nay, the motion failed. Following further discussion Kezar moved and Musel seconded to approve agenda items #2 - #4 with the following stipulations: 1) All building and fire codes must be met, and 2) Property must be maintained in a neat and orderly manner at all times. Upon roll call, all members voting aye, the motion carried.

**LENGTH VARIANCES APPROVED.**

- 9) CWD Real Estate, LLC. requested permission, as per site plan submitted, to 1) construct a ministorage facility, which would be a Special Exception in a (I-2) Unrestricted Industrial Zoning District, and 2) to construct a 90'x210' ministorage building rather than the permitted 30'x120', which would be a 60' Maximum Width Variance and a 90' Maximum Length Variance, and 3) to construct a 90'x210' ministorage building 15' from North property line rather than the required 25', which would be a 10' Setback Variance, and 4) 15' from the East property line rather than the required 25', which would be a 10' Building Variance and to construct a 30'x72' ministorage building 15' from the South property line rather than the required 25', which would be a 10' Building Variance, all on Lot 1, Block 61, Second Addition and Lots 2-5, Vacated Alley and East 122' of Coacher's Subdivision of Block 61, Second Addition, a.k.a. 401 First Avenue SW, 114 Fourth Street S. and 418 Second Avenue SW. Carlyle Mardian & Dan Mardian were present to represent the property. Following discussion Kezar moved and Musel seconded to approve agenda item #1 with the following stipulations: 1) Plans must be submitted for review and a permit must be obtained prior to work commencing, 2) Property must be platted into one parcel, 3) All required inspections must be completed, and 4) Property must be maintained in a neat and orderly manner at all times. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.** Following further discussion Kezar moved and Weigel seconded to deny agenda items #2 - #4, all members voting aye, the motion carried. **MAXIMUM WIDTH VARIANCE, MAXIMUM LENGTH VARIANCE, SETBACK VARIANCES, BUILDING VARIANCES DENIED.**
- 10) Pheasant Run Apartments, LLC. & Crossroads Truck Center requested permission, as per site plan submitted, to 1) construct and operate an operation and maintenance terminal for trucks and related large equipment, which would be an Appeal to the Board of Zoning Adjustment in a (C-2) Highway Commercial Zoning District, and 2) to permit the open storage, parking or sale of vehicles, which would be a Special Exception in a (C-2) Highway Commercial Zoning District, all on Lot 2, Highland Park Second Subdivision and Lot 2, Highland Park Third Subdivision, a.k.a. 1804 Ninth Avenue SW and 1701 Sixth Avenue SW. Ron Clemensen, Robert Thompson of Crossroads Truck Center and Rob Johnson of Pheasant Run Apartments were present to represent the property. Following discussion VanDeRostyne moved and Musel seconded to deny. Upon roll call, VanDeRostyne-aye, Kezar-aye, Musel-nay, Weigel-aye, Sikkink-nay (3-aye,2-nay), the motion failed. Following further discussion Musel moved and VanDeRostyne seconded to approve with the following stipulations: 1) Property must be replatted and rezoned from (R-3) High Density Residential District to (C-2) Highway Commercial District, 2) Plans must be submitted and

approved and a permit obtained prior to construction, 3) All required inspections must be completed, 4) Landscaping adjacent to Highway 281, in addition to landscaping plan requirements, must be installed on private property (40' spacing of trees), 5) Storage may not occur in any required customer or employee parking areas, 6) All vehicles must be licensed & operable & available for sale if stored outside, 7) No illegal or unpermitted signage allowed, 8) Property must be maintained in a neat and orderly manner at all times with any complaints or violations corrected by owner, 9) 6' fence must be installed along the South and East property lines, 10) Driving and parking areas must be paved with asphalt and/or concrete, 11) An opacity tree buffer must be installed along South and East property lines consisting of trees per City Ordinance with a second row of shrubs, 12) Hours of operation between 7:00 a.m. and 10:00 p.m. only, 13) No truck access from 17<sup>th</sup> Street, and 14) Water retention plan must be submitted and approved. Upon roll call, VanDeRostyne-aye, Kezar-nay, Musel-aye, Weigel-nay, Sikkink-aye (3-aye,2-nay), the motion failed. **APPEAL DENIED.**

- 11) John Kippley requested permission, as per site plan submitted, to construct a 25'x50' addition 12' from the West property line rather than the required 25', which would be a 13' Building Variance, all on The North ½ of Lot 9 and all of Lots 10&11, and the South 33' of Lot 12, Block 42, Bennett & Thomas Addition, a.k.a. 215 Fifth Avenue NW. John Kippley was present to represent the property. Following discussion Weigel moved and Musel seconded to deny. Upon roll call, VanDeRostyne-aye, Kezar-aye, Musel-nay, Weigel-aye, Sikkink-nay (3-aye,2-nay), the motion failed. **BUILDING VARIANCE DENIED.**
- 12) St. Mark's Episcopal Church requested permission, as per site plan submitted, to construct a 24sf Freestanding Sign in addition to the existing 94.5sf of existing signage, for a total of 118.5sf of Freestanding Signage rather than the permitted 16sf, which would be a 78.5sf Freestanding Sign Variance, all on Lot 1, St. Mark's Episcopal Church First Subdivision, a.k.a. 1410 Kline Street N. Patrick King of QQP Creative Signs was present to represent the property. Following discussion Kezar moved and Musel seconded to approve with the following stipulations: 1) Sign must meet 10' setbacks as stipulated by Board of Zoning Adjustment in 2005, 2) Sign permit must be obtained prior to erection of sign, 3) When "sovereigngrace" no longer is occupying this building, this sign and sign structure must be removed, and 4) Approval must be granted by St. Mark's Episcopal Church prior to installation of sign. Upon roll call, all members voting aye, the motion carried. **FREESTANDING SIGN VARIANCE APPROVED.**
- 13) Aberdeen School District 6-1 and O.M. Tiffany Elementary School requested permission, as per site plan submitted, to 1) Construct a Freestanding sign with an Electronic Message Center(2'x8'), which would be a Special Exception for a school in a (R-2) Medium Density Residential Zoning District, and 2) request permission to construct a 41.31sf Freestanding Sign in addition to 24.67sf of existing signage for a total of 65.98sf of signage rather than the permitted 36sf, which would be a 29.98sf Sign Variance, all on Outlot 1, SE¼ Sect. 12-T123N-R64W, First Addition to Highlands & 2' North of South 699' of the West 60' of Highlands Outlot 1, a.k.a. 819 Eighth Avenue NE. Patrick King of QQP Creative Signs

and Bob Pitz of the Aberdeen School District were present to represent the property. Following discussion VanDeRostyne moved and Musel 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) This sign shall not interfere with traffic safety, and may not be confused with or construed as a traffic control device, and 7) Lighted sign must be turned off from 10 p.m. to 7 a.m. daily, 8) Violation of the previous stipulations may result in a citation with a penalty of \$500 for each day that the violation persists, 9) All applicable setbacks must be met, and 10) Sign permit must be obtained prior to erection of sign. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION AND FREESTANDING SIGN VARIANCE APPROVED.**

- 14) Aberdeen Lakeside, LLP requested permission, as per site plan submitted, to place a mobile home 1) 18' from mobile home to the West rather than the required 20', which would be a 2' Building Variance, and 2) 13' from mobile home to the East rather than the required 20', which would be a 7' Building Variance, all on Lot 1, Lakeside First Addition in the W½ of Sect. 26-T123N-R64W, a.k.a. 103 Seventh Curve at 2511 Highway 281 S. There being no representative this item was moved to the end of the agenda.
- 15) Aberdeen Lakeside, LLP. requested permission, as per site plan submitted, to place a mobile home 17' from mobile home to the West rather than the required 20', which would be a 3' Building Variance, all on Lot 1, Lakeside First Addition in the W½ of Sect. 26-T123N-R64W, a.k.a. 211 Fifth Curve at 2511 Highway 281 S. There being no representative this item was moved to the end of the agenda.
- 16) Mark Musel requested permission, as per site plan submitted, to allow the temporary sale of fireworks within the zoning jurisdiction of the City of Aberdeen, which would be an Appeal to the Board of Zoning Adjustment, all on Lot 2, Musel Second Subdivision in the SE¼ Sect. 2-T123N-R64W, a.k.a. 3155 Brown County 10 N. Mark Musel was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) Property must meet all Fire Marshal requirements, and 2) Any signage must be permitted in accordance with City Sign Ordinance requirements. Upon roll call, all members voting aye with Musel abstaining, the motion carried. **APPEAL APPROVED.**
- 17) Verna Kulm and Cheri Robideau requested permission, as per site plan submitted, to place a mobile home 17' from existing structure to the East rather than the permitted 20', which

would be a 3' Building Variance, all on Lot 1-4, Except the South 300' of Lot 1 & Except Parcel 50'x108' & except North 80' of Lot 1-4, Pierson's Subdivision, S½ Sect. 18-T123N-R63W, a.k.a. 108 Roosevelt Street S., Lot 94. Cheri Robideau was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) Permit must be obtained prior to placement of mobile home, and 2) No structures may be placed in the remaining area between mobile homes. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**

- 1) Amanda McMahan requested permission, as per site plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in a (R2) Medium Density Residential Zoning District, all on Lot 13, Block 2, Second Replat of Clark's First Addition to Mel Ros Estates, a.k.a. 1607 Thirteenth Avenue SE. Amanda McMahan 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 October 15, 2011, 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.**
  
- 14) Aberdeen Lakeside, LLP requested permission, as per site plan submitted, to place a mobile home 1) 18' from mobile home to the West rather than the required 20', which would be a 2' Building Variance, and 2) 13' from mobile home to the East rather than the required 20', which would be a 7' Building Variance, all on Lot 1, Lakeside First Addition in the W½ of Sect. 26-T123N-R64W, a.k.a. 103 Seventh Curve at 2511 Highway 281 S. Shelley Merkel of Aberdeen Lakeside was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve with the following stipulations: 1) Permit must be obtained prior to placement of mobile home, and 2) No structures may be placed in the remaining area between mobile homes. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**
  
- 15) Aberdeen Lakeside, LLP. requested permission, as per site plan submitted, to place a mobile home 17' from mobile home to the West rather than the required 20', which would be a 3' Building Variance, all on Lot 1, Lakeside First Addition in the W½ of Sect. 26-T123N-R64W, a.k.a. 211 Fifth Curve at 2511 Highway 281 S. Shelley Merkel of

Aberdeen Lakeside was present to represent the property. Following discussion Weigel moved and Musel seconded to approve with the following stipulations: 1) Permit must be obtained prior to placement of mobile home, and 2) No structures may be placed in the remaining area between mobile homes. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**

Acting Chairman Sikkink continued with other business as follows:

- 1) Discussion ensued concerning the plywood CHS eagle previously removed from the Civic Arena. Sikkink stated that the school may be interested in erecting it at Central High School. Ken Hubbart stated that plans would have to be reviewed prior to determining if a permit would be required. No action taken.

Following discussion Weigel moved for adjournment, seconded by VanDeRostyne, all members voting aye, the meeting was adjourned until June 9, 2011.

Marti Rathert asked to address the board regarding a decision made today. Weigel moved and Kezar seconded to reconvene the meeting to address additional other business as follows:

- 1) Marti Rathert questioned why the board members voted as they did on Item #6. He stated that approximately one year ago he had a similar request and it was unanimously denied with little to no discussion. He questioned what was different because there was plenty of discussion and a few members actually voted to approve the request today. He stated that even though the item did not pass today he was concerned that the board is acting inconsistently. No action taken.

Following further discussion Kezar moved and Weigel seconded to adjourn the meeting.

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Paula Nelson  
Board of Zoning Adjustment Secretary  
May 12, 2011