

BOARD OF ZONING ADJUSTMENT
July 14, 2011

The Board of Zoning Adjustment Meeting was held on Thursday, July 14, 2011 in the City Hall 3rd Floor Courtroom, Aberdeen, South Dakota with Babcock presiding as Chairman. Chairman Babcock called the meeting to order. Members present at roll call were Sikkink, Kezar, VanDeRostyne, Weigel, and Babcock. Also present were Ken Hubbart, City Planner, Brett Bill, Planning & Zoning Director, Chad Nilson, Building Inspector, Barry Dunlavy, Building Inspector, Mike Olson, Code Enforcement Officer, Stuart Nelson, Assistant City Engineer, and Paula Nelson, Board of Zoning Adjustment Secretary.

Kezar moved and VanDeRostyne seconded to approve the Board of Zoning Adjustment minutes of June 9, 2011, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Sheldon & Chelsey Liebl 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 19, Block 4, Northview Sixth Addition to Aberdeen, a.k.a. 1108 Twelfth Avenue NE. There being no representative this item was moved to the end of the agenda.

- 2) Colleen Hericks 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 4, Replat of Blocks 3&4, Huffman's Second Addition to Aberdeen, a.k.a. 1539 Dick Drive. Colleen Hericks 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. Fence must be installed by October 1, 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.**

- 3) Alison Tvinnereim requested permission, as per site plan submitted, to operate a daycare as a home occupation, which would be a Special Exception in a (R1) Low Density Residential Zoning District, all on Lot 13, Block 8, Seventh Addition to Highland North Subdivision, a.k.a. 515 Ninteenth Avenue NE. Alison Tvinnereim was present to represent the property. Following discussion VanDeRostyne 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.**

- 4) Mandy Sutton 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 36, Block 1, Homes Are Possible Seventh Addition, a.k.a. 1201 Plum Lane. Aaron Bunke 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. No unsupervised outdoor play until fence is installed. Fence must be installed by June 1, 2012, 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.**

- 1) Sheldon & Chelsey Liebl 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 19, Block 4, Northview Sixth Addition to

Aberdeen, a.k.a. 1108 Twelfth Avenue NE. Chelsey Liebl was present to represent the property. Following discussion VanDeRostyne 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.**

- 5) Real Estate Partnership and C.I. Construction requested permission, as per site plan submitted, to construct an 80'x260' Accessory Structure 22' tall rather than the required 10', which would be a Special Exception in a (C-2) Highway Commercial Zoning District, all on Lot 5, McIntyre's Subdivision in the S½SW¼ of Sect. 16-T123N-R64W, a.k.a. 4411 Sixth Avenue SE. Robert Thompson 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, 3) All required inspections must be completed, and 4) FAA approval must be obtained. Upon roll call, all members voting aye with Babcock abstaining, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 6) Jerry Mills requested permission, as per site plan submitted, for existing residence to remain 23' from West property line rather than the required 25', which would be a 2' Building Variance, and front deck to remain 4' from the West property line rather than the permitted 15', which would be an 11' Building Variance, all in order to replace foundation of residence on Lot 5, Hoffman's Replat of Block 27, Roches Eastside Addition, a.k.a. 207 Harvard Street S. Jerry Mills was present to represent the property and stated that he is not replacing the foundation of the residence but rather installing a wheelchair ramp. 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 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.**

- 7) Margaret Van Steenwyk requested permission, as per site plan submitted, for existing residence and detached garage to remain 3.5' from the North property line rather than the required 5', which would be a 1.5' Building Variance, in order to replace foundation of residence on Lot 5, Block 45, Thomas Addition, a.k.a. 1218 First Street S. Margaret Van Steenwyk was present to represent the property. Following discussion Kezar 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 setbacks must be verified, 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**

- 8) K & L Realty and Ben Grote requested permission, as per site plan submitted, to 1) construct an accessory structure(camera obscura) within the front setback of the property, which would be an Appeal to the Board of Zoning Adjustment, and 2) to construct an accessory structure that is not aesthetically similar to the primary structure, which would be an Appeal to the Board of Zoning Adjustment, all on Lots 1-7, & the North 118'4" of Lot 8 & the North 118'4" of the East 5' of Lot 9, Block 39, Second Addition, except H-2, a.k.a. 20 Sixth Avenue SE. Ben Grote was present to represent the property. Following discussion Sikkink moved and Weigel seconded to approve with the following stipulations: 1) Permit must be obtained, 2) Any Building Code concerns must be addressed, 3) Structure must be removed by August 15, 2011. Upon roll call, all members voting aye, the motion carried. **APPEALS APPROVED.**

- 9) Jacqueline Ohleen requested permission, as per site plan submitted, for existing residence to remain 1' from the North property line rather than the required 5', which would be a 4' Building Variance, and 14' from the East property line rather than the required 25', which would be an 11' Building Variance, all on Lots 3 & 4, Block 12, Hagerty and Lloyds Addition, a.k.a. 619 Lloyd Street N. Jacqueline Ohleen was present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**

- 10) Ladco Properties XXIV, LLC requested permission, as per site plan submitted, to construct an accessory 20' tall rather than the required 10', which would be a Special Exception in a (C-2/HC) Highway Commercial/Healthcare Zoning District, all on Lot 2, Mutual of Omaha Fifth Addition, a.k.a. 3015 Third Avenue SE. Scott Mohr of Ladco Properties 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. **SPECIAL EXCEPTION APPROVED.**

- 11) Branden & Hannah Stewart requested permission, as per site plan submitted, for 1) existing residence to remain 19'5" from the West property line rather than the required 25', which would be a 5'7" in order to 2) construct a 6'x6'5" Deck 13' from the West property line rather than the required 15', which would be a 2' Building Variance, all on Lot 18, Block 11, Garden Park Addition, a.k.a. 909 Tenth Street S. Jon Malsam of Jon Malsam Construction was present to represent the property. Following discussion Kezar moved and Weigel 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 Kezar 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 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.**

- 12) Avera St. Luke's requested permission, as per site plan submitted, to 1) construct an addition 0' from the East and South property lines, which would be a Shared Lot Line Variance, and 2) to provide a total of 389 off-street parking stalls rather than the required 743 parking stalls, which would be a 354 Parking Stall Variance and 3) to provide 9'x18' parking stalls rather than the required 10'x20' stalls, which would be a 1'x2' Minimum Parking Stall Dimension Variance, all on Lot 3, Hagerty & Lloyd's Third Subdivision in the SE¼ Sect. 13-T123N-R64W, a.k.a. 721 First Avenue SE. Jim Dobbs of Avera St. Lukes and Craig Harrison of Helms & Associates were present to represent the property. Following discussion Kezar moved and Sikkink 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 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 with Babcock abstaining, the motion carried. **SHARED LOT LINE VARIANCE APPROVED.** Following further discussion Kezar moved and Sikkink seconded to approve agenda items #2 and #3 with the following stipulations: 1) All required ADA accessible parking requirements must be met. Upon roll call, all members voting aye with Babcock abstaining, the motion carried. **PARKING STALL VARIANCE AND MINIMUM PARKING STALL DIMENSION VARIANCE APPROVED.**

- 13) Melgaard Group, LLC requested permission, as per site plan submitted, to 1) permit the construction of 28 apartment units, rather than the permitted 20 units, which would be an 8 unit Maximum Density Variance and 2) to construct a group project consisting of 3 primary structures, which would be a Special Exception in the (R2/R4) Medium Density/Special Density Residential Zoning District, and 3) to construct 3 multifamily buildings 5' from the East property line rather than the required 10', which would be three 5' Building Variances, all on Lot 2, Young Railroad Addition to Aberdeen, a.k.a. 310 Seventeenth Avenue SE. Jeff Lamont and Tom Hurlbert of HULA Design were present to represent the property. Darin Latt, current owner of this property spoke in favor of this project and the following adjacent property owners spoke in opposition to this project: Jim Gabriel of 1733 Marshall Road, Lara Nelson of 1707 Marshall Road, Jim Fuller of 1745

Marshall Road, Rocky Burkett of 1751 Marshall Road, Helen Gabriel of 1733 Marshall Road, and Joel Dockter of 1705 Marshall Road. Attorney Rory King also spoke in opposition. Following discussion VanDeRostyne moved and Kezar seconded to deny agenda item #1, upon roll call, all members voting aye, the motion carried. **MAXIMUM DENSITY VARIANCE DENIED.** Following further discussion VanDeRostyne moved and Kezar seconded to deny agenda item #2. Upon roll call, Sikkink-nay, Kezar-nay, VanDeRostyne-aye, Weigel-nay, Babcock-nay (1-aye,4-nay), the motion failed. Following further 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 setbacks must be verified, 3) All required inspections must be completed, and 4) Buildings not to exceed two stories and must be aesthetically similar in design. Upon roll call, Sikkink-aye, Kezar-aye, VanDeRostyne-nay, Weigel-aye, Babcock-aye (4-aye,1-nay), the motion carried. **SPECIAL EXCEPTION APPROVED.** Following further discussion Kezar moved and VanDeRostyne seconded to deny agenda item #3, all members voting aye, the motion carried. **BUILDING VARIANCES DENIED.**

- 14) Paul & Melissa Fisher requested permission as per site plan submitted, to construct a 30'x40' Accessory Structure within the front setback of the primary structure, which would be an Appeal to the Board of Zoning Adjustment in an (R-1) Low Density Residential District, all on Lot 1, Fisher Consolidation Subdivision, in the NE¼ of Sect. 4-T123N-R64W, a.k.a. 3125 385th Avenue. Paul Fisher and Troy Woehl of Woehl Construction were present to represent the property. Following discussion Weigel moved and VanDeRostyne seconded to deny. Upon roll call, Sikkink-aye, Kezar-nay, VanDeRostyne-aye, Weigel-aye, and Babcock-aye (4-aye,1-nay), the motion carried. **APPEAL DENIED.**
- 15) Midstates Printing, Inc. requested permission, as per site plan submitted, to install 2 freestanding signs rather than the permitted 1, which would be a 1 Freestanding Sign Variance, all on Lot 1, Midstates Printing 2011-1 Subdivision in Aberdeen Industrial Park East Addition, a.k.a. 4820 Capital Avenue NE. Patrick King and Chris Woolverton of QQP Creative Signs were present to represent the property. Following discussion Weigel moved and Kezar seconded to deny, all members voting nay, the motion failed. Following further discussion VanDeRostyne moved and Kezar seconded to approve with the stipulation that a sign permit must be obtained prior to erection of sign and that the shipping signs can be no larger than the current signs are. Upon roll call, all members voting aye, the motion carried. **FREESTANDING SIGN VARIANCE APPROVED.**

Brett Bill continued with election of a Chairman. VanDeRostyne opened nominations by nominating Bob Babcock for Chairman. Kezar seconded VanDeRostyne's nomination. VanDeRostyne moved and Weigel seconded that nominations cease. All members voting aye to cease nominations, the motion carried. There being no further nominations for Chairman, all members voting aye to elect Bob Babcock as Chairman, the motion carried.

VanDeRostyne opened nominations by nominating Scott Sikkink for Vice-Chairman. Weigel seconded VanDeRostyne's nomination. VanDeRostyne moved and Weigel seconded that nominations cease. All members voting aye to cease nominations, the motion carried. There being no further nominations for Vice-Chairman, all members voting aye to elect Scott Sikkink as Vice-Chairman, the motion carried.

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

Paula Nelson
Board of Zoning Adjustment Secretary
July 14, 2011