

**BOARD OF ZONING ADJUSTMENT**  
**October 13, 2011**

The Board of Zoning Adjustment Meeting was held on Thursday, October 13, 2011 in the City Hall 3<sup>rd</sup> Floor Courtroom, Aberdeen, South Dakota with Sikkink presiding as Acting Chairman. Chairman Sikkink called the meeting to order. Members present at roll call were Weigel, Kezar, Grebner, Musel, and Sikkink. Also present were Ken Hubbart, City Planner, Brett Bill, Planning & Zoning Director, John Stoll, City Planner, Chad Nilson, Building Inspector, Barry Dunlavy, Building Inspector, Dennis Mike Olson, Code Enforcement Officer, and Paula Nelson, Board of Zoning Adjustment Secretary.

Kezar moved and Weigel seconded to approve the Board of Zoning Adjustment minutes of September 8, 2011, all members voting aye, the motion carried.

Chairman Sikkink began with new business as follows:

- 1) Jeff Rich requested permission, as per site plan submitted, for 1) existing residence to remain 3.5' from the North property line rather than the required 5', which would be a 1.5' Building Variance and 2) 13.5' from the West property line rather than the required 25', which would be a 11.5' Building Variance, in order to 3) replace a 3'x4' deck 10.5' from the West property line rather than the required 15', which would be a 4.5' Building Variance, all on Lots 15-16, Block 17, Hagerty & Lloyd Addition, a.k.a. 508 State Street N. Jenny Flannery 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.**
- 2) Dennis Hotchkin requested permission, as per site plan submitted, for existing residence to remain 3' from the North property line rather than the required 5', which would be a 2' Building Variance in order to construct a deck that will meet required setbacks, all on Lots 3-4, Block 11, Roches Eastside Addition, a.k.a. 12 Illinois Street S. There being no representative this item was moved to the end of the agenda.
- 3) Paul Dummer requested permission, as per site plan submitted, to permit 1344sf of accessory structures rather than the permitted 953.7sf, which would be a 390.3sf Accessory Structure Lot Coverage Variance, all on Lot 1, Dummer First Addition to Aberdeen, a.k.a. 1204 Washington Street N. Paul Dummer was present to represent the property. Following discussion Grebner moved and Musel seconded to deny, all members voting nay, the motion failed. Following further discussion Kezar moved and Weigel seconded to approve with the following stipulations: 1) Existing garage shall be demolished or removed by November 1, 2011, 2) Permit 1008.70sf of accessory structures rather than the permitted 953.70sf, which would be a 55sf Accessory Structure Lot Coverage Variance, 3) Plans must be submitted for review and a permit must be obtained prior to work

commencing, 4) Property pins must be located for inspection and setbacks must be verified, and 5) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **ACCESSORY STRUCTURE LOT COVERAGE VARIANCE APPROVED.**

- 4) Lynch Real Estate Corp. requested permission, as per site plan submitted, to construct a new 30'x40' building as an addition to a livestock feedlot and sale barn, which would be a Special Exception in an (I-2) Unrestricted Industrial Zoning District, all on Lot 3, Whitney's Second Addition, in the SE¼ Sect. 16-T123N-R64W, a.k.a. 38474 133<sup>rd</sup> Street. Troy Truebenbach of Lynch Livestock was present to represent the property. Following 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) All fire code requirements must be met. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 5) Lonnie Anderson requested permission, as per site plan submitted, to place a 12'x16' accessory structure on a lot without a primary structure, which would be an Appeal to the Board of Zoning Adjustment, all on Lot 3, Mehlhoff's 14<sup>th</sup> Addition to North Plains Subdivision, a.k.a. 1317 Thomas Drive. Lonnie Anderson was present to represent the property. Following discussion Grebner moved and Musel seconded to approve with the stipulation that a site plan must be submitted and a permit must be obtained. Upon roll call, all members voting aye with Weigel abstaining, the motion carried. **APPEAL APPROVED.**
- 6) Calvin Bahr and Dianne Fuehrer requested permission, as per site plan submitted, to construct an 8.5'x10' shed 11.5' from the South property line rather than the required 25', which would be a 13.5' Building Variance, all on Lot 16, Block 42, Hagerty & Lloyd Addition, a.k.a. 205 Dakota Street N. Dianne Fuehrer was present to represent the property. Following discussion Kezar moved and Musel seconded to deny, all members voting aye, the motion carried. **BUILDING VARIANCE DENIED.**
- 7) Brad Linquist requested permission, as per site plan submitted, for existing residence to remain 18' from the West property line rather than the required 25', which would be a 7' Building Variance, in order to construct an uncovered deck that will meet required setbacks, all on The North 35' of Lot 10, Block 12, North Aberdeen Addition, a.k.a. 316 First Street N. Elmer Zahn of EZ Builders was present to represent the property. Following discussion Musel 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 VARIANCE APPROVED.**

- 8) Roger Blum requested permission, as per site plan submitted, to 1) construct 4 mini-storage buildings, which would be an Appeal to the Board of Zoning Adjustment in an (I-2) Unrestricted Industrial Zoning District, and 2) to construct a mini-storage building 192' in length rather than the permitted 120', which would be a 72' Maximum Length Variance, and 3) to construct a 60'x165' mini-storage building rather than the permitted 30'x120', which would be a 30' Maximum Width Variance and a 45' Maximum Depth Variance, and 4) to construct a mini-storage building 168' in length rather than the permitted 120', which would be a 48' Maximum Length Variance and 5) to construct a 40'x160' mini-storage building rather than the permitted 30'x120', which would be a 10' Maximum Width Variance and a 40' Maximum Length Variance, all on Lot 2, Dahme Subdivision of Blocks 54&59, Thomas Addition, a.k.a. 314 Twelfth Avenue SW. Roger and Evelyn Blum and Bill Hinds of Steel Structures were present to represent the property. Following discussion Musel moved and Kezar seconded to deny agenda #1, all members voting nay, the motion failed. Following further discussion Kezar moved and Musel seconded to approve, all members voting aye, the motion carried. **APPEAL APPROVED.** Following further discussion Kezar moved and Musel 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, 3) All required inspections must be completed, and 4) All Fire Code requirements must be met. Upon roll call, all members voting aye, the motion carried. **MAXIMUM LENGTH VARIANCE APPROVED.** Following further discussion Musel moved and Kezar seconded to approve agenda item #3 with the following stipulations: 1) Mini-storage building, on the West side of the property, can be no larger than 60' x 125' rather than the permitted 30' x 120', which would be a 30' Maximum Width Variance and a 5' Maximum Depth Variance, 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. **MAXIMUM WIDTH VARIANCE & MAXIMUM DEPTH VARIANCE APPROVED.** Following further discussion Weigel moved and Kezar seconded to approve agenda #4 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. **MAXIMUM LENGTH VARIANCE APPROVED.** Following further discussion Weigel moved and Kezar seconded to deny agenda item #5, all members voting aye, the motion carried. **MAXIMUM WIDTH VARIANCE AND MAXIMUM LENGTH VARIANCE DENIED.**
- 9) Northwestern Energy requested permission, as per site plan submitted, to permit the construction of a new microwave communications site, which would be a Special Exception in an (I-2) Unrestricted Industrial Zoning District, all on Lot 1, Siebrecht Substation Addition in the NW¼ of Sect. 36-T123N-R64W, a.k.a. 421 Thirtieth Avenue SW. Ron Gogolin of Northwestern Energy 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, 3) All required inspections must be completed, and 4) FAA approval must be obtained for 150' tower, if necessary. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 10) John Hieb requested permission, as per site plan submitted, to 1) construct two mini-storage buildings, which would be a Special Exception in a (C-2) Highway Commercial Zoning District and 2) to construct a mini-storage building that is 50'x170' rather than the required 30'x120', which would be a 20' Maximum Width Variance and a 50' Maximum Depth Variance, and 3) to construct a 20'x50' addition to existing mini-storage building, which would be a 20' Maximum Width Variance, all on Lot 1, Hieb Addition in the SE¼ of Sect. 27-T123N-R64W, a.k.a. 2826 Highway 281 S. John Hieb and Attorney Jay Gellhaus were present to represent the property. Following discussion Weigel 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. **SPECIAL EXCEPTION, MAXIMUM WIDTH VARIANCES, MAXIMUM DEPTH VARIANCE APPROVED.**
- 11) Bruce Boschee requested permission, as per site plan submitted, to construct a 12'x24' detached garage 1) 4' from the North property line rather than the required 5', which would be a 1' Building Variance, and 2) 4' from the South property line rather than the required 5', which would be a 1' Building Variance, all on The North 20' of Lot 3, Block 56, Thomas Addition, a.k.a. 918 Third Street S. Bruce Boschee 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, 3) All required inspections must be completed, and 4) Drainage from this structure may not adversely affect the adjacent property owner. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.**
- 12) Park Village Mobile Home Court and Marcella Fuhrmann requested permission, as per site plan submitted, to place a mobile home 17', 18' and 19' from three adjacent mobile homes, rather than the required 20', which would be a 3', 2' and 1' Building Variance, all on Lot 1, Park Village Addition, Lot 411, a.k.a. 1623 Tenth Avenue SW #411. Marcella Fuhrmann was present to represent the property. Following discussion Grebner moved and Kezar seconded to approve with the following stipulations: 1) Site plan 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) Performance Ag Services requested permission, as per site plan submitted, to construct a 40'x120' fertilizer containment structure and 140'x300' fuel station fill area, which would

be a Special Exception in an (I-2) Unrestricted Industrial Zoning District, all on Swenson's Outlot 2, SW¼ Sect. 21-T123N-R64W, a.k.a. 38420 Highway 12 W. Jon Swenson was present to represent the property. Following discussion Weigel 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, 3) All required inspections must be completed, and 4) All fire code requirements must be met. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 14) Topaz Town Homes requested permission, as per site plan submitted, to 1) plat 3 Lots that are 48.6', 41.17', 13.39' and 13.44' wide rather than the required 60', which would be a 11.4', a 18.83', a 46.61' and a 46.56' Minimum Lot Width Variance, and 2) to permit the construction of townhomes 0' from the South lot line of proposed Lot 1, 0' from the North lot line of proposed Lot 2, 0' from the South property line of proposed Lot 2, 0' from the North lot line of proposed Lot 3, 0' from the South lot line of proposed Lot 3, 0' from the North lot line of proposed Lot 4, 0' from the South lot line of proposed Lot 4, and 0' from the North lot line of proposed Lot 5, which would be seven 8' Building Variances, all on Lots 4 & 5, Block 3, D&G Tenth Subdivision of Roosevelt Crystals Subdivision, a.k.a. 1001 & 1007 Topaz Court. Scott Grebner was present to represent the property. Attorney Bill Gerdes, representing several property owners from the neighborhood, spoke in opposition to this request. 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, 3) All required inspection must be completed, and 4) All fire code requirements must be met. Upon roll call, Weigel-aye, Kezar-aye, Grebner-abstain, Musel-aye, Sikkink-nay (3-aye,1-nay), the motion failed. **MINIMUM LOT WIDTH VARIANCE DENIED & BUILDING VARIANCES DENIED.**
- 15) Meidinger Auto Sales and Lamar Advertising requested permission, as per site plan submitted, to 1) construct a 11'x23' off-premise sign, in addition to a primary use of the property, which would be an Appeal to the Board of Zoning Adjustment, and 2) to construct 11'x23' off-premise sign 20' from an approach rather than the permitted 50', which would be a 30' Minimum Setback Variance, all on the West 95' of Lot 19, Block 2, Pleasant Hill Addition, except H-1&H-2, a.k.a. 1123 Sixth Avenue SW. Bill Meidinger and Phil Westra of Lamar Advertising were present to represent the property. Following discussion Kezar moved and Musel seconded to deny. Upon roll call, Weigel-aye, Kezar-aye, Grebner-nay, Musel-aye, Sikkink-nay (3-aye,2-nay), the motion carried. **APPEAL DENIED.**
- 16) James Keeley and Rick Downs requested permission, as per site plan submitted, to permit the open storage, display and sale of prebuilt houses, which would be a Special Exception in an (I-2) Unrestricted Industrial Zoning District, all on Keeley Outlots 1&2, SE¼ Sect. 15-T123N-R64W, a.k.a. 1916 & 1924 Sixth Avenue SW. Rick Downs was present to represent the property. Following discussion Grebner moved and Kezar seconded to

approve with the following stipulations: 1) Property must be maintained in a neat and orderly manner at all times, 2) All structures on lot must meet required setbacks, 3) All signage must be in compliance with city ordinance, 4) Any and all required landscaping must be completed as per City Forester, and 5) No more than three homes and an office on this property at any time. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 17) Northwestern Energy requested permission, as per site plan submitted, to permit the open storage of materials, supplies and associated vehicles, which would be a Special Exception in an (I-2) Unrestricted Industrial Zoning District, all on Lot 1, Northwestern Energy Addition, a.k.a. 113 Centennial Street S. Ron Gogolin of Northwestern Energy was present to represent the property. Following discussion Musel moved and Grebner seconded to approve with the following stipulations: 1) All vehicles, materials, etc. must be stored in proposed storage yard, 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. **SPECIAL EXCEPTION APPROVED.**
- 18) Jack Karst requested permission, as per site plan submitted, to 1) construct two mini-storage buildings, which would be a Special Exception in a (C-2) Highway Commercial Zoning District, and 2) to construct a 30'x240' mini-storage building rather than the permitted 30'x120', which would be a 120' Maximum Length Variance and 3) to construct a 60'x240' mini-storage building rather than the permitted 30'x120', which would be a 30' Maximum Width Variance and a 120' Maximum Length Variance, and 4) request permission to permit the off-premise storage of vehicles for sale, which would be a Special Exception in a (C-2) Highway Commercial Zoning District, all on Lot 1, Auditor's Subdivision, SE¼ Sect. 27-T123N-R64W, a.k.a. 2932 Highway 281 S. Jack Karst was present to represent the property. Following discussion Weigel moved and Musel seconded to approve agenda item #1 with the following stipulations: 1) Property must be maintained in a neat and orderly manner at all times, 2) No junk or unlicensed vehicles or inoperable vehicles to be stored on site, 3) No illegal or unpermitted signage of any type, 4) All complaints must be remedied by owner immediately, 5) No open storage of anything except vehicles available for sale, and 6) No storage in corner visibility triangle. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.** All other items died due to lack of a motion. No action taken on agenda items #2, #3, and #4.
- 2) Dennis Hotchkin requested permission, as per site plan submitted, for existing residence to remain 3' from the North property line rather than the required 5', which would be a 2' Building Variance in order to construct a deck that will meet required setbacks, all on Lots 3-4, Block 11, Roches Eastside Addition, a.k.a. 12 Illinois Street S. 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, and 3) All required inspections must be completed. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**

Chairman Sikkink continued with other business as follows:

- 1) Jeff Lamont and Ron Nold were present to discuss Budget Furniture's sign variance granted January 13, 2011. Per City Attorney Adam Altman, no action taken.
- 2) Kevin Weisbeck and Marcia Johnson were present to discuss two properties on Stone Gate Court. Per City Attorney Adam Altman, no action taken.
- 3) Kezar thanked city staff for their prompt enforcement of the recently installed digital signs that weren't following ordinance requirements.
- 4) Weigel questioned whether the board should be accepting phone calls, etc. from individuals on the agenda prior to the meeting. City Attorney Adam Altman warned the board to think of themselves as "quasi-judges" and that all decisions have to be "clean" and un-biased. Attorney Altman will develop a set a rules for the board to use as a guideline.

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

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Paula Nelson  
Board of Zoning Adjustment Secretary  
October 13, 2011