

BOARD OF ZONING ADJUSTMENT
January 12, 2012

The Board of Zoning Adjustment Meeting was held on Thursday, January 12, 2012 in the City Hall 3rd Floor Courtroom, Aberdeen, South Dakota with Sikkink presiding as Acting Chairman. Chairman Sikkink called the meeting to order. Members present at roll call were Kezar, VanDeRostyne, Musel, and Sikkink. Also present were Ken Hubbard, City Planner, Brett Bill, Planning & Zoning Director, John Stoll, City Planner, 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 December 8, 2011, all members voting aye, the motion carried.

Chairman Sikkink began with new business as follows:

- 1) Angela Shelnuttt requested permission, as per site plan submitted, to permit the operation of a daycare as a home occupation, which would be a Special Exception in a (R-3) High Density Residential Zoning District, all on Lot 124 & the North 12.05' of Lot 123, Morning Heights Addition, a.k.a. 819 Riverside Drive. There being no representative this item was moved to the end of the agenda.
- 2) R&J Enterprises, LLC. requested permission, as per site plan submitted, to 1) permit a 720sf off-premise sign rather than the permitted 400sf, which would be a 320sf Off-premise Sign Variance, and 2) request permission for off-premise sign to remain 3.44' from the North property line rather than the required 20', which would be a 16.56' Sign Setback Variance and 3) .14' from the East property line rather than the required 20', which would be a 19.86' Sign Setback Variance, all on Proposed Outlot 1, Budget Furniture-J. Gross Outlots in the NW¼ Sect. 22-T123N-R63W, a.k.a. 5356 Highway 12 E. Ron Nold of Budget Furniture was present to represent the property. Following discussion Kezar moved and Musel seconded to deny, all members voting nay, the motion failed. Following further discussion VanDeRostyne moved and Kezar seconded to deny agenda items #1 and #2. Upon roll call, all members voting aye, the motion carried. **OFF-PREMISE SIGN VARIANCE DENIED AND SIGN SETBACK VARIANCE DENIED.** Following further discussion VanDeRostyne moved and Kezar seconded to approve agenda item #3 with the stipulation that approval is for this existing sign/billboard only. Upon roll call, all members voting aye, the motion carried. **SIGN SETBACK VARIANCE APPROVED.**
- 3) Delbert Dutenhoffer requested permission, as per site plan submitted, to 1) construct a 13 unit apartment building rather than the permitted 11.4 units, which would be a 1.6 unit Maximum Density Variance and 2) to construct a 13 unit apartment building 30' from the North property line rather than the required 35', which would be a 5' Building Variance, all on Lot 1, Block 1, D&G Tenth Subdivision in Roosevelt Crystals Subdivision, a.k.a. 2012 Prospect Ave SE. Delbert Dutenhoffer was present to represent the property. Matthew Pearson of 2011 Prospect Avenue SE was present in opposition to this request. Following discussion VanDeRostyne moved and Kezar seconded to deny. Upon roll call,

Kezar-aye, VanDeRostyne-aye, Musel-aye, Sikkink-nay (3-aye,1-nay), the motion carried.
MAXIMUM DENSITY VARIANCE DENIED AND BUILDING VARIANCE DENIED.

- 4) Matt Vogel requested permission, as per site plan submitted, to construct a mini-storage facility, which would be a Special Exception in a (C-2) Highway Commercial Zoning District, and 2) to construct a mini-storage building that is 240' in length rather than the permitted 120', which would be a 120' Maximum Length Variance and 3) 140' in length rather than the required 120', which would be a 20' Maximum Length Variance and 4) 50' in width rather than the required 30', which would be a 20' Maximum Width Variance, and 5) owner requests permission to operate a fireworks stand, which would be a Special Exception, all on Lot 3, Vogel Subdivision in the NW¼ Sect. 23-T123N-R63W. Matt Vogel was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to deny agenda item #1, all members voting nay, the motion failed. Following further discussion VanDeRostyne 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 pins must be located for inspection and setbacks must be verified, 3) All required inspections must be completed, 4) The landscape plan must be installed as submitted and approved by the Board of Zoning Adjustment, 5) Property must be maintained in a neat and orderly manner at all times, and 6) Tree's must meet the minimum size requirements as suggested by City Forester. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.** Following further discussion VanDeRostyne moved and Kezar seconded to approve agenda items # 2 - #4, all members voting aye, the motion carried. **MAXIMUM LENGTH VARIANCES APPROVED AND MAXIMUM WIDTH VARIANCE APPROVED.** Following further discussion VanDeRostyne moved and Kezar seconded to approve agenda #5 with the stipulation that the Fire Marshal's stipulations all must be met. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**
- 5) Marti Rathert requested permission, as per site plan submitted, for existing residence to remain 17'3" from the West property line rather than the required 25', which would be a 7'9" Building Variance in order to construct an attached garage all on Lot 1, Rathert Consolidation Addition, a.k.a. 506 Penn Street N. Marti Rathert 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. **BUILDING VARIANCE APPROVED.**
- 6) Terry Hettich requested permission, as per site plan submitted, to 1) permit the operation of a truck and maintenance terminal, which would be a Special Exception in an (I-2) Unrestricted Industrial Zoning District and 2) to permit the open storage and sale of vehicles, machinery and related equipment, which would be a Special Exception in a (I-2) Unrestricted Industrial Zoning District, all on The East 94'8" of Lots 7-9, Block 38, Bennett & Thomas Addition, a.k.a. 114 First Avenue NW. Terry Hettich was present to

represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve agenda item #1 with the following stipulations: 1) All vehicles must be licensed and operable, no junk vehicles, etc, 2) No open storage of miscellaneous junk, scrap, refuse, dirt, gravel, etc., 3) No off-premise storage, such as vehicles from adjacent service stations, 4) Property must be kept in a neat and orderly manner at all times and any complaints must be dealt with immediately by the owner, and 5) Property must be landscaped to city code. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.** There being no motion on agenda item #2, the item died. No action taken.

- 7) Terry Hettich requested permission, as per site plan submitted, to 1) permit the operation of a truck and maintenance terminal, which would be a Special Exception in an (I-2) Unrestricted Industrial Zoning District and 2) to permit the open storage and sale of vehicles, machinery and related equipment, which would be a Special Exception in a (I-2) Unrestricted Industrial Zoning District, all on the North 12.5' of the East 47'4" of Lot 10 & the East 47'4" of Lots 11-12, Block 38, Bennett & Thomas Addition, a.k.a. 115 Second Avenue NW. Terry Hettich was present to represent the property. Following discussion VanDeRostyne moved and Musel seconded to deny. Upon roll call, Kezar-aye, VanDeRostyne-nay, Musel-nay, Sikkink-aye (2-aye,2-nay), the motion carried. **SPECIAL EXCEPTION DENIED.** Following further discussion VanDeRostyne moved and Kezar seconded to bring agenda item #2 back on the table, all members voting aye, the motion carried. Following further discussion VanDeRostyne moved and Kezar seconded to approve agenda item #2 with the following stipulations: 1) All vehicles must be licensed and operable, no junk vehicles, etc., 2) No open storage of miscellaneous junk, scrap, refuse, dirt, gravel, etc, 3) No off-premise storage, such as vehicles from adjacent service stations, 4) Property must be kept in a neat and orderly manner at all times and any complaints must be dealt with immediately by they owner, 5) Property must be landscaped to city code, and 6) Property must be replatted into one lot. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

Musel moved and VanDeRostyne seconded to bring back Agenda Item #6 to further discuss the 2nd agenda item portion of the request, all members voting aye, the motion carried.

- 6) Terry Hettich requested permission, as per site plan submitted, to 1) permit the operation of a truck and maintenance terminal, which would be a Special Exception in an (I-2) Unrestricted Industrial Zoning District and 2) to permit the open storage and sale of vehicles, machinery and related equipment, which would be a Special Exception in a (I-2) Unrestricted Industrial Zoning District, all on The East 94'8" of Lots 7-9, Block 38, Bennett & Thomas Addition, a.k.a. 114 First Avenue NW. Terry Hettich was present to represent the property. Following discussion Musel moved and VanDeRostyne seconded to approve agenda item #2 with the following stipulations: 1) All vehicles must be licensed and operable, no junk vehicles, etc, 2) No open storage of miscellaneous junk, scrap, refuse, dirt, gravel, etc., 3) No off-premise storage, such as vehicles from adjacent service stations, 4) Property must be kept in a neat and orderly manner at all times and any complaints must be dealt with immediately by the owner, 5) Property must be landscaped

to city code, and 6) Property must be replatted into one lot. Upon roll call, all members voting aye, the motion carried. **SPECIAL EXCEPTION APPROVED.**

- 8) AmericInn requested permission, as per site plan submitted, to construct an accessory structure which is not aesthetically similar to the primary structure, which would be an Appeal to the Board of Zoning Adjustment, all on Lot 1, Dornbush Second Addition in the SE¼ Sect. 17-T123N-R63W, a.k.a. 301 Centennial Street S. Jon Hoffman, General Manager of AmericInn was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to deny, all members voting nay, the motion failed. Following further discussion Kezar moved and Musel seconded to approve with the stipulation that the North and West walls must be aesthetically similar (with brick facing) to the primary structure while the South and East walls may be entirely sided in steel. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**
- 9) Request for revocation of Special Exception granted to Scott Suedmeier on August 11, 2011 to permit the open storage, parking or sale of vehicles, raw materials, building materials, supplies, wholesaling, warehousing, manufactured goods, contractor's equipment and concrete, asphalt and ready-mix manufacturing operations and sales in a (I-2) Unrestricted Industrial Zoning District. Scott Suedmeier was present to represent the property. Following discussion VanDeRostyne moved and Kezar seconded to approve the revocation unless the previously stipulated privacy fence is installed within 30 days from today's date. If said fence is installed within this time, the previously granted special exception will remain in place. If said fence is not installed within this time, an additional 30 days will be granted to allow for the removal of all open storage. Upon roll call, all members voting aye, the motion carried.
- 1) Angela Shelnuttt requested permission, as per site plan submitted, to permit the operation of a daycare as a home occupation, which would be a Special Exception in a (R-3) High Density Residential Zoning District, all on Lot 124 & the North 12.05' of Lot 123, Morning Heights Addition, a.k.a. 819 Riverside Drive. There still being no representative for this property and no motion made, the request is denied. **SPECIAL EXCEPTION DENIED.**

Chairman Sikkink continued with other business as follows:

- 1) Sikkink expressed his frustration over the Budget Furniture sign request that has been before this board numerous times. He explained that his frustration lies with the Developer on this project. No action taken.

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

Paula Nelson
Board of Zoning Adjustment Secretary
January 12, 2012