

BOARD OF ZONING ADJUSTMENT
February 9, 2012

The Board of Zoning Adjustment Meeting was held on Thursday, February 9, 2012 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 Kezar, VanDeRostyne, Babcock, 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, Mike Olson, Code Enforcement Officer, Stuart Nelson, Assistant City Engineer, and Paula Nelson, Board of Zoning Adjustment Secretary.

Kezar moved and Sikkink seconded to approve the Board of Zoning Adjustment minutes of January 12, 2012, all members voting aye, the motion carried.

Chairman Babcock began with new business as follows:

- 1) Danielle Carlson 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-2) Medium Density Residential Zoning District, all on Lot 2, Block 4, Gorder's Second Addition, a.k.a. 1605 Third Street S. Danielle Carlson was present to represent the property. Following discussion Kezar moved and VanDeRostyne 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.**

Wegel entered the meeting at this time.

- 2) Jacey Weig requested permission, as per site plan submitted, to permit the operation of a daycare as a home occupation, which would be an Appeal to the Board of Zoning Adjustment in a (I-2) Unrestricted Industrial Zoning District, all on Lot 6, Block 55, Thomas Addition, a.k.a. 1024 Third Street S. Jacey Weig was present to represent the property. Following discussion Kezar moved and Sikkink 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 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.**

- 3) Darci Withers 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/R-4) High Density/ Special Density Residential Zoning District, all on The East 37.5' of the South 28' of Lot 2 & The East 37.5' of Lot 3, Fossum's Subdivision of Lots 6-8, Block 6, Thomas Addition, a.k.a. 505 Eleventh Avenue SE. There being no representative this item was moved to the end of the agenda.
- 4) Hangar 9 requested permission, as per site plan submitted, to install an electronic message board sign, which would be an Appeal to the Board of Zoning Adjustment in a (M) Municipal, State and County Use Zoning District, all on Lot 1, Aberdeen Regional Airport Subdivision, a.k.a. 4400 Sixth Avenue SE, Ste. 19. John Aman was present to represent the property. Following discussion Sikkink moved and VanDeRostyne seconded to approve with the following stipulations: 1) All electronic message board signs shall be in compliance with all other applicable codes regarding signs, 2) This sign shall not interfere with traffic safety, and may not be confused with or construed as a traffic control device, 3) Each message displayed shall remain static for a minimum of 6 seconds, with all change sequences to be instantaneous, no fading, dissolving, spinning in/out, 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 electronic message board signs shall be limited to utilizing only amber colored lights, 6) Violation of the previous stipulations may result in a citation with a penalty of \$500 for each day that the violation persists, 7) Any possible FAA approval must be obtained, and 8) A permit must be obtained with a penalty applied for installation without a permit. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**
- 5) Stencil Group requested permission, as per site plan submitted, to 1) construct twin homes 0' from proposed lot line rather than the permitted 8', which would be two 8' Building Variances, all on Lot 1, Rolling Hills Village Sixteenth Addition, a.k.a. 626 Palmer Circle W. Jason Lee was present to represent the property. David Blondo of 1629 Stewart Drive and Tony Gross of 614 Palmer Circle West were present and spoke in opposition to this request. Following discussion Kezar moved and VanDeRostyne seconded to approve with

the following stipulations: 1) A plat must be approved by the Planning Commission and City Council and filed with the Register of Deeds Office, 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, 4) All required inspections must be completed, and 5) All other setbacks must be met. Upon roll call, all members voting aye with Babcock abstaining, the motion carried. **BUILDING VARIANCES APPROVED.**

- 6) Rivett Family Trust and Quest Hospitality Suppliers requested permission, as per site plan submitted, to 1) construct a 10'x22' Electronic Message Center, which would be a Special Exception to construct an off-premise sign in a (C-2) Highway Commercial Zoning District, and 2) to construct an off-premise sign 5' from the East property line rather than the required 20', which would be a 15' Sign Setback Variance and 10' from the South property line rather than the required 20', which would be a 10' Sign Setback Variance and 3) to construct an off premise sign within 150' of a residential zoning district, which would be an Appeal to the Board of Zoning Adjustment, and 4) to construct an off-premise sign 5' from an intersection rather than the required 50', which would be a 45' Sign Setback Variance and 5) request permission to permit multi-color lighting of an off-premise sign, which would be an Appeal to the Board of Zoning Adjustment, all on Lots 1-8 & the North 24.4' of Lot 9, Block 55, Roches East Side Addition & East 5' of Vacated Alley except H-2, a.k.a. 2415 Sixth Avenue SE. Cory Weisenburger of Service Signs and Todd Heintzman were present to represent the property. Grant Merron of Daktronics spoke regarding the amber alert capabilities of these types of signs. Following discussion VanDeRostyne moved and Kezar seconded to deny. Upon roll call, Sikkink-nay, Kezar-nay, VanDeRostyne-aye, Weigel-nay, Babcock-abstain (1-aye,3-nay,1-abstain), the motion failed. Following further discussion Sikkink moved and Weigel seconded to approve with the following stipulations: 1) All electronic message board signs shall be in compliance with all other applicable codes regarding signs, 2) This sign shall not interfere with traffic safety, and may not be confused with or construed as a traffic control device, 3) Each message displayed shall remain static for a minimum of 6 seconds, with all change sequences to be instantaneous, no fading, dissolving, spinning in/out, 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 electronic message board signs shall be limited to utilizing only amber colored lights, 6) Violation of the previous stipulations may result in a citation with a penalty of \$500 for each day that the violation persists, 7) Property must be platted into one parcel, and 8) Dry landscape (shrubs, etc.) must be installed around the base of the signage. Upon roll call, Sikkink-aye, Kezar-aye, VanDeRostyne-nay, Weigel-aye, Babcock-abstain (3-aye,1-nay,1-abstain), the motion failed. **SPECIAL EXCEPTION DENIED.**
- 3) Darci Withers 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/R-4) High Density/ Special Density Residential Zoning District, all on The East 37.5' of the South 28' of Lot 2 & The East 37.5' of Lot 3, Fossum's Subdivision of Lots 6-8, Block 6, Thomas Addition, a.k.a. 505 Eleventh Avenue SE. Darci Withers was present to represent the

property. Following discussion Kezar moved and Sikkink 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.**

- 7) Dan Mielke requested permission, as per site plan submitted, to construct a residence in a (C-2) Highway Commercial Zoning District, which would be an Appeal to the Board of Zoning Adjustment all on Lots 11 & 12, Block 48, Bennett & Thomas Addition, a.k.a. 524 Fourth Street N. Dan Mielke was present to represent the property. Following discussion Kezar moved and VanDeRostyne seconded to approve with the following stipulations: 1) Any change of use of this property shall void this Appeal, 2) May be used for ambulance service personnel only, 3) Off-street parking will be required for all employee vehicles, 4) Plans must be submitted and permit obtained prior to construction, 5) All required inspections must be completed, 6) Setbacks must be verified, 7) Landscaping must be completed as per City Forestry Ordinance, 8) Property must be replatted prior to permitting, and 9) Sidewalk must be installed as required by Engineering Department. Upon roll call, all members voting aye, the motion carried. **APPEAL APPROVED.**

- 8) Todd Campbell requested permission, as per site plan submitted, to 1) construct a new 14'x24' detached garage 2' from the North property line rather than the required 5', which would be a 3' Building Variance and 2) for existing residence to remain 12' from the South property line rather than the required 25', which would be a 13' Building Variance and 3) 13.5' from the North property line rather than the required 20', which would be a 6.5' Building Variance in order to 4) construct new front steps 2.5' from the South property line rather than the required 15', which would be a 12.5' Building Variance, all on lot 6, except the East 82', Block 26, Bennett & Thomas Addition, a.k.a. 15 Fifth Avenue NE. Todd Campbell was present to represent the property. Following discussion Sikkink moved and Kezar seconded to approve agenda items # 2 - #4. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCES APPROVED.** Following further discussion Sikkink moved and Weigel 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, and 4) Property

must be replatted into one parcel. Upon roll call, all members voting aye, the motion carried. **BUILDING VARIANCE APPROVED.**

- 9) Glen & Marla Delzer requested permission, as per site plan submitted, to construct a 20'x30' detached garage 2.5' from the South property line rather than the required 5', which would be a 2.5' Building Variance, all on Lot 1, Delzer & Tinker Addition, a.k.a. 918 Penn Street N. Glen Delzer was present to represent the property. Following discussion Kezar moved and Sikkink seconded to deny, all members voting aye, the motion carried. **BUILDING VARIANCE DENIED.**

- 10) Ladco Properties XXX, LLC. requested permission, as per site plan submitted, to permit a second freestanding sign (7'x12'), which would be a One Freestanding Sign Variance, all on Lot 2, Mutual of Omaha Fifth Addition, a.k.a. 3015 Third Avenue SE. Scott Mohr of J. E. Dunn Construction was present to represent the property. Following discussion VanDeRostyne seconded to deny, all members voting aye, the motion carried. Following further discussion VanDeRostyne moved and Kezar seconded to allow a 12 square foot directional sign with the bottom of the sign permissible to be at the level of the height of the top of the curb. Upon roll call, all members voting aye, the motion carried. **ONE FREESTANDING SIGN VARIANCE APPROVED.**

Chairman Babcock continued with other business as follows:

- 1) Discussion ensued concerning how the city handles existing signage that is dilapidated and in need of repair. No action taken.

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

Paula Nelson
Board of Zoning Adjustment Secretary
February 9, 2012