

**Albion BZA Meeting – Minutes
November 16, 2011 at 6:00 PM
Albion Municipal Building 211 E Park Drive**

Members Present: David Dunn, Terry Dazey and David Bremer. **Absent was member Charles Elser. (Note: Charles Elser passed away due to heart complications on November 17, 2011.)**

Also in attendance were Town Manager Beth Shellman; Town Attorney Mike Yoder; petitioners Brandy Wolfe-Hatton, Dennis Trump and Leah Heaston. Others in attendance were: Dorris Bering; Jessica Hatton; Linda Gordon; Sue Anderson; Brian Rugh; Steven Caswell; Deborah Caswell; Staci Howard; and Jack Howard. (meeting attendance sheet attached to these minutes)

The meeting was called to order by Chairman Pro-tem David Dunn at 6:02 PM, after determining a quorum was present. Chairman Dunn cautioned petitioners that with only 3 of the 5 board members present, it requires all 3 votes to pass any motion. He gave them an option to continue their request to another meeting when a full board was in attendance. Neither petitioner requested another hearing.

Approval of Minutes: Minutes from the October 19, 2011 regular meeting were approved as submitted, motion and second (D. Bremer, T. Dazey). Motion carried with a 3-0 voice vote.

New Business: Variance Number 2011-06, Brandy Wolfe-Hatton, requesting a Variance from Section 4, Authorized Uses, to allow a dog and cat grooming business to be operated from a detached garage in a Residential Three zoning, including future potential to sell pet shampoos and similar pet supplies from the site; real estate located west half of Lots 116 and 119 in the Original Plat of Albion, common location 214 W Hazel Street, Albion.

Brandy Wolfe-Hatton was in attendance. Proof of legal publication was noted as was verification of notification to surrounding property owners. Two letters of written correspondence were received and several interested parties were in attendance. Chairman Dunn opened the public hearing at 6:05 p.m.

Spokesperson for the petitioner was Jessica Hatton. She explained that Brandy would like approval to operate a small privately owned business from an accessory building beside her home. There would be no other employees. Affordable grooming would be provided for loved ones pets at "Caring Cuts Grooming" which was the proposed businesses mission statement. Brandy desired to earn an extra income from home while caring for her family. The grooming area would be enclosed to eliminate noise and provide protection from animals running loose. There would be 2 inside kennels and off-street parking in her residential driveway off Oak Street. National Serve All would provide waste disposal. Services provided are bathing, nail trimming, grooming, teeth cleaning and pet supply products. Hours of operation would be 'By Appointment Only' from 8 a.m. until 8 p.m. and there would be no more than 3 animals there at any one given time. She estimated between 6 and 8 animals could be seen in a normal day. The business was compared to a one-station beauty shop and since there was no business in Albion area offering this service they felt there is a local need.

Interested parties were allowed an opportunity to speak.

Jack Howard stated he was concerned about the noise 2 or 3 animals would create in the neighborhood. He goes to bed early and feels the use of this property would be affected by causing him to close his windows in the summer due to the noise from barking dogs and traffic. The petitioner has several dogs now that bark. There are no businesses in the area now, they are all uptown in the Central Business zoning district. He feels the proposed business in his residential neighborhood would decrease his property value.

Steve Caswell was concerned the business would further reduce the already limited parking in the area. They have dealt with parking issues since the apartments went in on the north side of the petitioner's home. He does not believe the petitioner has adequate parking for her own vehicles since they often times block the public sidewalk with their vehicles. When the apartments went in, the

property was rezoned by the town from industrial to residential. The town Plan Commission and Council determined several years ago that this neighborhood should be kept residential. The proposed business is planned to be located in a very small lean-to area on the petitioner's property which affects the value of his property.

Linda Gordon spoke in favor of the request. She currently lives in Kendallville and runs an animal sanctuary there. Brandy has helped her in the past in Kendallville and has practiced grooming stray dogs for her at the proposed site. She believes the proposed space is adequate and the petitioner would do fine. She doesn't believe there will be much noise from the dogs since they were not being boarded.

Staci Howard lives directly south of the petitioner and is concerned about customer dogs getting loose. She wondered what type of insurance the petitioner would carry in case a dog got loose and bit someone on her property. She believed the petitioner was already grooming dogs from the site and was concerned if she would follow any conditions since she wasn't following the rules now.

Dorris Bering stated she is Brandy's grandmother. Brandy has practiced grooming her dogs from the proposed location as well as other family members. She didn't believe that was classified as a business use when you groom for family members.

Deb Caswell noted there is not a need in the area since Doc's Hardware has a dog grooming room and announced their grand opening this coming Saturday on November 19th. The proposed grooming area would be inside Doc's Hardware which is located in the commercial zoning district where that type of use is permitted. She requested the other two letters the board received be read.

Dave Dunn read only the pertinent points identified in a letter of objection received from Josh and Melissa Kleber. (letter on file in the petitioner's file) The pertinent items listed in the letter included concerns about noise, traffic, loose animals, crime rate increasing, operating the business without a variance, petitioner keeping more than 3 dogs currently allowed by town ordinance, improper disposal of chemicals associated with the proposed business, and insurance coverage for animal attacks or accidents all associated with the proposed business.

Terry Dazey read a letter from neighbor Brenda Cripe who opposed the variance due to concerns about the increase in noise and traffic associated with the proposed business. (letter on file)

In rebuttal, Brandy presented a petition signed by 10 people who supported the request. (on file) It was noted that only 3 of the petitioners could be identified as adjacent property owners. Brandy said she can fit up to 5 cars on her property by parking them two cars deep. The room sizes she plans will be larger than those usually needed for this type of business. There would be no more than 3 dogs or cats there at any one given time. The apartments across the road from her have nothing to do with her request. The business will be accessed from Oak Street and not Hazel Street. She felt her business would create enough competition that Doc's would keep their prices down. She has 4 small children of her own and she would not operate an unsafe business.

T. Dazey asked what the overall size of the business area would be. Brandy replied she wasn't sure. Her lean-to currently fits a full size truck. If the variance is granted, she will enclose the lean-to and arrange a place to fit her bathing tub and 2 crates for waiting dogs. It was estimated to be 10' x 20'.

There being no further discussion, Chairman Dunn closed the public hearing at 6:31 p.m. Board members then reviewed the Findings of Fact and considered all evidence presented by the petitioner and interested parties. BZA Attorney responded to the board's question by explaining that each Finding must be approved in order for the Variance to be approved. His advice was if the board could determine the evidence supported a finding, that finding must be denied. Board members unanimously determined, based on the evidence presented, the proposed request would be injurious

to the public health, safety, morals, and general welfare of the community and the use and value of the area adjacent property would be affected in a substantially adverse manner. After adopting Findings, a motion was made and seconded (T. Dazey, D. Bremer) to deny the Variance. A voice vote determined the motion carried unanimously by a 3-0 margin.

Variance Number 2011-07, Bowen Center for Human Services, requesting a Variance from Section 5 – Use Requirements and Restrictions, allowing an office expansion to be constructed no closer than 15' from the right-of-way of East Park Drive, instead of the required 30' setback; real estate located Site #1 in the Albion East Industrial Park plat and .797+- acres, common location 101 E Park Drive, Albion.

Dennis Trump, Authorized Agent for Bowen Center, presented a Letter of Authorization. (On file in petitioners file) Also present was Leah Heaston manager at Bowen Center. Proof of legal publication was noted as was verification of notification to surrounding property owners. Two interested parties were in attendance. Chairman Dunn opened the public hearing at 6:42 p.m.

Dennis is the contractor for the Bowen Center. They plan a 4,000 square foot addition and currently have 44 off-street parking spaces. As per Zoning Ordinance requirements, they need 41 spaces when the new addition is completed. The existing number of parking spaces will not be reduced.

T. Dazey asked if there was a basement at the Bowen Center as depicted on the site plan submitted. D. Trump replied there is only a crawlspace with an outside access door.

Brian Rugh lives west of the Bowen Center and has no objection to the request. He is concerned about them doubling the square footage if it causes more lights, if more parking lot is planned, if the current pattern of snowplowing in their parking lot continues to push gravel towards his property and requested the Bowen Center place an outdoor trash receptacle in the parking lot for clients to use. Clients currently clean out their cars while waiting to be seen at the Center. This trash litters his yard.

Sue Anderson lives with Brian Rugh. She wondered if the parking lot would be expanded. T. Dazey asked the petitioners if the parking lot would be expanded to the west. D. Trump replied it would not be. Any parking spaces there now that are covered by the addition would be added to the north.

T. Dazey asked why the Bowen Center could not add on to the building towards the west. D. Trump stated there is a utility easement running north and south to the west of the existing Bowen Center facility. They cannot construct any permanent structures on the easement. B. Shellman noted the water/wastewater and street department heads for Albion both reviewed the request and did not object to the setback proposed. There is ample room for utilities and snow plowing along E Park Drive is not affected.

L. Heaston noted the Bowen Center is increasing their current level of staff to better serve their clients. Since most of the case workers are "community based" they stop by the office on an occasional basis. Most of the time they are visiting clients in homes, schools, etc.

There were no further comments on the request and Chairman Dunn closed the hearing at 6:52 p.m. Board members then reviewed and adopted Findings of Fact in support of the request. A motion was made and seconded (D. Bremer/D. Dunn) to approve the Variance as requested. Motion carried by a 3-0 voice vote.

With no further business, the meeting adjourned 7:01 p.m.

Dave Dunn, Chairman Pro Tem

David Bremer, Secretary