

Mr. Griffin called the December 8, 2014 meeting of the Botetourt County Planning Commission to order at 6:00 PM, in Meeting Room 102 of the Old District Courthouse in Fincastle, Virginia.

PRESENT: Mr. John Griffin, Chairman
Mr. Hiawatha Nicely, Jr., Vice-Chairman
Mr. Steven L. Kidd, Member
Mr. Sam Foster, Member
Mr. William Thurman, Member
Dr. Mac Scothorn, Ex-Officio Member
Mrs. Theresa Fontana, County Attorney
Mr. Jeffrey Busby, Planner
Mrs. Laura Goad, Administrative Assistant

ABSENT: Mrs. Nicole Pendleton, Planning Manager/Zoning Administrator

ALSO PRESENT: Mrs. Kathleen D. Guzi, County Administrator
Mr. Cody Sexton, Information Specialist

Mr. Griffin opened the Planning Commission meeting and welcomed those in attendance. He introduced Staff and Planning Commission members, and then read the procedures for the public hearings. Mr. Griffin stated the Board of Supervisors would hear this request on December 18, 2014 at 6:00 PM at the Greenfield Education Training Center and that the Planning Commission would hold a *Wind Ordinance* work session at their regular meeting date and location on January 12, 2015.

Mr. Griffin asked if there were any discussions regarding the November 10, 2014 minutes and requested a motion.

Mr. Kidd motioned to approve the November 10, 2014 Planning Commission minutes as written. Mr. Nicely seconded the motion, which was unanimously approved 5:0:0:0 with the following recorded vote:

YES: Mr. Thurman, Mr. Nicely, Mr. Griffin, Mr. Kidd, Mr. Foster
NO: None
ABSTAIN: None
ABSENT: None

Mr. Griffin stated noted the Planning Commission would meet in the Kroger parking lot for the field review on Thursday, January 8, 2015 at 3:15 PM.

Mrs. Guzi distributed the updated organizational chart for the newly named Community Development Services. She noted that Planning and Zoning and Development Services were separated into two distinct divisions; the Development Services division would be led by Mr. David Givens, an engineer well versed in the building codes, although not a building official. Mrs. Guzi stated that vacancies were currently being reviewed and filled; and both she and Mr. David Moorman were working to coordinate communications with the Planning Department. Mrs. Guzi commended Mr. Busby (along with Mrs. Pendleton and Mrs. Goad) for their contributions toward the Strategic Planning sessions, most particularly for Mr. Busby for an excellent job engaging dialogue with the Board.

Public hearings

Blue Ridge Magisterial District: Mark E. Lynch requests to vacate and relocate a 15' Drainage Easement in accordance with Section 15.2 - 2272 of the Code of Virginia of 1950, as amended, to construct a single-family dwelling on a 0.773 acre lot in the R-2, Residential District, on Poplar Drive, approximately 0.06 miles southeast of the 1st Street (Route 1503) and Poplar Drive (Route 1502) intersection in Blue Ridge Heights, originally shown on Plat Book 4, Page 136, identified on the Real Property Identification Maps of Botetourt County as Section 103C(2), Block 4, Parcel 6.

Mr. Busby read the request aloud as he displayed the zoning map on PowerPoint. He stated the Planning Commission now reviewed the public easement vacations, in addition to the Board of Supervisors. He further stated this property was an existing R-2 zoned vacant lot, purchased by Mr. Lynch with intent of building a single family dwelling; after the purchase Mr. Lynch realized the drainage easement interfered with plans for his house. Mr. Busby said the drainage feature was not being used, and Mr. Lynch wanted to vacate and relocate the drainage easement. Mr. Busby said that Mr. David Givens of Botetourt County Development Services, met with VDOT, who agreed that the proposed plans from Mr. Lynch were acceptable Mr. Givens had no issues after reviewing the plans. Mr. Busby commented that staff had received one phone call, but the neighbor did not have any issues with this request.

Mr. Foster verified that the current easement not being used, and that the easement was shown only on paper.

Mr. Busby replied that the easement was not used, and the property was currently only a flat lot. He noted that VDOT planned to cut a little bit for a drainage ditch, as he displayed a concept plan prepared by Balzer and Associates, with contours and a drainage ditch. Mr. Busby further noted that Mr. Lynch would submit this concept plan at the time of his building permit application.

Mr. Nicely confirmed that no other utilities were involved.

Both Mr. Mark Lynch and Mr. Ken Myers both present for this request.

Mr. Mark Lynch of Bedford spoke on his own behalf. Mr. Lynch indicated that Mr. Busby said the easement was on plot map, but physically not there. Mr. Lynch said that where the easement was shown did not make sense, because water would not run uphill. He concluded that he did not understand why the drainage easement had to be there at all.

Mr. Griffin commented that over the years, the erosion had filled the lot.

There being no one else to speak, Mr. Griffin closed the public hearing.

Mr. Foster said he had no problem with this request, that VDOT had stated what needs to be done.

Mr. Foster moved to forward the request of Mr. Mark Lynch to relocate the drainage easement as shown on the attached plat to the Board of Supervisors with a recommendation of approval.

Mr. Kidd seconded, which was unanimously approved 5:0:0:0, with the following recorded vote:

YES:	Mr. Thurman, Mr. Nicely, Mr. Griffin, Mr. Foster, Mr. Kidd
NO:	None
ABSTAIN:	None
ABSENT:	None

Buchanan Magisterial District: Gregory Dunn Pillis requests to rezone a 3.0-acre portion of a 31.55-acre parcel from an Agricultural (A-1) District to a Rural Residential (RR) District, with possible proffered conditions, to create a new lot for an existing single-family dwelling, served by well and septic. Another single-family dwelling, also served by well and septic to remain with the parent parcel. The property is located at 40 Loope Lane (State Route 732), Buchanan, VA, 0.03 miles north of its intersection with Wheatland Road (State Route 639), identified on the Real Property Identification Maps of Botetourt County as Section 62, Parcel 149.

Mr. Busby read the request aloud as he displayed the zoning map on PowerPoint. He stated that most of the zoning in the surrounding area was A-1 but there was some Agricultural-Rural zoning near the Baptist church. He further stated this was a 31-acre tract with two houses, that the new house was constructed to meet setbacks of the previous lot creation. Mr. Busby explained that when a new lot was created, the property owner would have to go by new setbacks, that the previous ordinance only required a 35 foot front setback. He noted the proposed three (3) acre lot would conform to current A-1, Agricultural standards, not inconsistent with surrounding lots. Mr. Busby stated the issue was that the house was 78.1 feet and should be 100 feet for house to meet current setbacks in A-1, Agricultural. Mr. Busby noted that the lay of the land sloped off at the back and this might explain why the building was placed at the current location. He further noted that the property owner might not have realized this needed to be on a smaller lot at the time house constructed.

Mr. Chris McMurry of McMurry Surveyors in Daleville, stated that he worked with Mr. Pillis throughout the process. He further stated that he staked the boundaries of the property, then, staked off the 60 foot setback, and recalled their conversation of creating a lot around the new house. Mr. McMurry indicated that Mr. Pillis said the house would be left as-is, then afterwards his situation changed. Mr. McMurry said he had two options. He then asked Mr. Kidd if he could support a variance, and Mr. Kidd said no, because the situation wasn't really a hardship. Mr. McMurry noted that other options did not fit, because the topography dropped off toward the back, and grading would have been more costly, and banks would not support two houses on one piece of property. Mr. McMurry noted the other house had the same situation with front setbacks.

Mr. Kidd asked Mr. McMurry about the possibility of doing a family subdivision.

Mr. McMurry replied that even after meeting with Mrs. Pendleton and Mr. Busby, the property owner would still have to meet setbacks; and creating the new lot changed the nature of the lot.

Mr. Griffin asked if other lots were closer than this.

Mr. McMurry said that while he had not measured them, some dwellings appeared closer to the road than Mr. Pillis' house.

Mr. Nicely inquired of those houses were under old setback requirements.

Mr. McMurry said if the lot was created before 2002, the property owners could use the old setback. He brought up a recent variance request where the man thought he had met all setbacks, but after a survey by the bank, he did not. Even with a neighbor willing to give him land to meet the rear setback, the front of his house would not meet setback requirements. Mr. McMurry suggested revising the ordinance because of these issues for rural areas.

There being no one else to speak, Mr. Griffin closed the public hearing.

Mr. Kidd said Mr. McMurry was correct because that this did not constitute a hardship. He agreed with Mr. McMurry that we might need to look at 100' setback, but would need to proceed cautiously. Mr. Kidd stated that he did not want to rezone this for bank purposes, but in this case, the choice was either a rezoning or a variance. He noted there is no proof of hardship, but the rezoning was the only way because of how the ordinance was set up. Mr. Kidd further noted that topography played a role in where Mr. Pillis set the house.

Mr. Foster wanted to know if the Planning Commission had previously rezoned property to Rural Residential.

Mr. McMurry recalled a similar situation where the builder built too close to road, but the Board of Zoning Appeals denied their variance request on a 3-2 vote. He noted the property owners' attorney brought their before the Planning Commission and Board of Supervisors for Rural Residential rezoning.

Mr. Griffin said that he understood the circumstances.

Mr. Busby said that he had made notes on ordinance revisions, that Staff needed time to review and do a comprehensive review of the ordinance. He noted that some localities had different setbacks for primary and secondary roads.

After questioning from Mr. Foster, Mr. Busby responded that Staff would have to know when the house was built and when lot was created. He noted the difference here was that the house was built under the new ordinance.

Mr. Kidd motioned to recommend that the zoning map amendment for Gregory Dunn Pillis be forwarded to the Board of Supervisors with recommendation for approval on the basis that the requirements of Section 25-581(k)(4) of the Zoning Ordinance have been satisfied.

Mr. Griffin seconded, which was unanimously approved 5:0:0:0, with the following recorded vote:

YES:	Mr. Thurman, Mr. Nicely, Mr. Griffin, Mr. Foster, Mr. Kidd
NO:	None
ABSTAIN:	None
ABSENT:	None

Other Business

Mr. Busby confirmed a wind ordinance discussion would be held at the January 12, 2015 Planning Commission meeting.

Adjournment

There being no other business, on motion by Mr. Kidd at 6:41 PM, and seconded by Mr. Griffin the Planning Commission recessed until January 12, 2015 at 6:00 PM with the following recorded vote:

YES:	Mr. Thurman, Mr. Nicely, Mr. Griffin, Mr. Foster, Mr. Kidd
NO:	None
ABSTAIN:	None
ABSENT:	None