

Mr. Steven L. Kidd, Chairman, called the February 9, 2021 meeting of the Botetourt County Board of Zoning Appeals to order at 9:00 AM in the Auditorium of the Greenfield Education and Training Center in Daleville, Virginia.

PRESENT: Mr. Steven L. Kidd, Chairman  
Mr. Hunter Young, Member  
Mr. J. Scott Caldwell, Member  
Mr. S. E. Cash, Member, *participating remotely*  
Mrs. Nicole Pendleton, Director of Community Development  
Mr. Mike Lockaby, County Attorney  
Mr. Drew Pearson, Senior Planner  
Mrs. Laura Goad, Secretary to Board of Zoning Appeals

ABSENT: None

ALSO PRESENT: Mr. Chason Croom, Technology Services

Mr. Kidd introduced Staff and the Board of Zoning Appeals members. He then announced that the general public was provided an opportunity to provide comments on today's meeting agenda via three options, as he read the following aloud, "1. Members of the public were invited to submit comments to the Board of Zoning Appeals via email. 2. Members of the public were also invited to call into a dedicated phone line where comments could be recorded into the minutes for the Planning Commission. You may call +1 301 715 8592 or +1 929 205 6099 Meeting ID: 853 8239 4645. Enter \*9 to raise your hand for any questions. An automated operator will answer the call and provide directions for commenting during the hearing. Comments will be limited to three minutes. The line will open beginning at 8.55 AM, on February 9, 2021. This option is only available during the course of the hearing. 3. Comments are accepted by sending mail to any one of us or the Community Development Office. 4. The full agenda package is posted on the Board of Zoning Appeals' website for review and following along. If you go to the Botetourt County homepage and visit the Your Government menu, you can then click on the Planning & Zoning webpage with the Board of Zoning Appeals link for the agenda. If for some reason the virtual meeting system fails during the meeting, we will work to re-boot and get back on line on the next 15 to 30 minutes. The phone number and code will not change and can be dialed into at any time."

Mr. Lockaby recommended that the Board of Zoning Appeals adopt the electronic meeting bylaw by incorporating it into the current bylaws that were being voted upon today. Mr. Lockaby stated that members could meet electronically for medical or personal reasons with a two-time personal reason maximum. Mr. Lockaby further explained that in order to hold a meeting, such as this, where one member was absent, the Board of Zoning Appeals needed to adopt a by-law that conformed to state code regarding electronic meetings. He stated the Board had to vote to let the member attend electronically. He suggested adopting a similar format used by the Board of Supervisors, and he would circulate the language after the meeting.

Mr. Kidd motioned to approve the Board of Zoning Appeals bylaws with a revision to the meeting venue and inserting text to allow electronic meetings.

Mr. Young seconded, which was approved 3:0:0:1 with the following recorded vote by roll call:

YES: Mr. Young, Mr. Kidd, Mr. Caldwell  
NO: None  
ABSTAIN: None  
ABSENT: Mr. Cash

After roll call, Mr. Lockaby stated that Mr. Cash was not yet eligible to vote at this time.

Mr. Kidd motioned to allow Mr. Gene Cash to participate vote virtually.

Mr. Caldwell seconded, which was approved 3:0:0:1 with the following recorded vote by roll call:

YES: Mr. Young, Mr. Kidd, Mr. Caldwell  
NO: None  
ABSTAIN: None  
ABSENT: Mr. Cash

### **Public hearing**

**Buchanan District: Pillis Prospect LLC requests two variances to Section 2575. – Building Requirements (a)(1)d. Accessory Buildings in the Agricultural (A-1) Use District of the Botetourt County Zoning Ordinance. The property owner constructed a new accessory building that encroaches into the required side and front yard setbacks. The building is 3 feet from the side property line, and 41.7 feet from the front property line. Therefore, the requests are for a 12-foot encroachment into the required 15-foot side yard setback and a request for an 18.3-foot encroachment into the required 60-foot front yard setback. This 28.558-acre parcel is located on 1476 Wheatland Road, Buchanan VA, identified on the Real Property Identification Maps of Botetourt County as Section 62, Parcel 149.**

After a technical difficulty delay of approximately 19 minutes, the public hearing proceeded.

Mrs. Pendleton read the request aloud, as the PowerPoint was displayed on the auditorium screen. She stated that prior to these variance requests, TM # 62-149 consisted of a residential structure known as Wheatland Inn, and a barn estimated by the applicant to be one-hundred years of age. She noted this was in the Agricultural, A-1 Use District, and located on a corner lot with frontage on Wheatland Road and Loope Lane. Mrs. Pendleton further stated the recorded plat showed a new three-acre lot was subdivided in 2014 with the 28.558 acres remaining on this parcel. She commented that the reduction in acreage and change of the parcel's boundary line resulted in the setbacks on this property to be regulated by the Agricultural, A-1, January 1, 2002 Zoning Ordinance, Section 25-75. Mrs. Pendleton stated that on October 22, 2020 a complaint was received about construction too close to the property line. She further stated that at that time, there were no open or active building permits on file for this parcel. Building and Zoning inspections were conducted and the property owner was notified on October 28, 2020 of the Zoning violation. Mrs. Pendleton stated the building permit submitted on November 30, 2020 by the applicant, and included a drawing called "Barn Sketch" that was drawn and sealed by Mr. Rodney Pierson, dated November 9, 2020. This was displayed on PowerPoint. The Barn Sketch detailed the setbacks as being 3 feet from the side yard property line, and 41.7 feet from the front property line facing Wheatland Road. VDOT comments were included, there was no 100-year floodplain on the property, and there were no comments other than the initial complaint. Mrs. Pendleton stated that the Board needed to take two actions, variance into side yard, and variance into front yard, as she indicated Mr. Pillis was also here to

Speak.

The Board of Zoning Appeals had no questions for Mrs. Pendleton.

Mr. Greg Pillis of Buchanan was present and spoke on his own behalf. Mr. Pillis stated his appreciation for the opportunity to review his request, as he said this was all about the old barn that's 100 years old and his desire to shore it up. Mr. Pillis pointed out, and said he perhaps misinterpreted, in Section 6-23, which he said indicated that permits were not required the construction or operation for a farm building in the Building Code. Mr. Pillis said he has since learned there was a zoning code. He further stated he took Section 6-23 and thought was no building permit was needed, so he started construction of this shed because he needed a place to store equipment while the old barn was shored up.

There were no questions from Board of Zoning Appeals members.

Mr. Kidd opened the public hearing.

Mr. Cash wanted to know if there was any opposition by adjoining neighbors present.

Mrs. Pendleton responded that to date, Staff had not received a response to letters sent to the adjacent property owners.

Mrs. Pendleton noted there was a caller on the line ready to speak.

Mr. Young asked if there was a provision to be in the setback temporarily, and if the structure could be allowed to stay there while barn being renovated.

Mrs. Pendleton replied that was not in the code, deferred to counsel.

Mr. Lockaby stated the Board had the general authority to give conditions, and if believed to be appropriate, then that could be done.

Mrs. Stephanie Stotts-Berg of Buchanan spoke in opposition to this request. She stated this affected her property's aesthetic value, and that she understood the new barn was not just for equipment storage, but also for an event venue to go along with the bed and breakfast. She also brought up the shipping container on the property, which she said diminished her property value. Mrs. Stotts-Berg requested denial of the variances.

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

Mr. Pillis requested to respond to comments, which Mr. Kidd allowed. Mr. Pillis stated another Special Exception Permit would be necessary if they wanted to have an event facility. He further stated they did not have the space for that and did not want large crowds, and were not pursuing that option.

Mr. Kidd stated that they would only address the setbacks today.

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

Mr. Kidd said that while he liked the idea of a temporary structure, he did not think it needed to go in same location, that Mr. Pillis could put it other places on property. Looking at other cases, Mr. Kidd said this was the worst sideyard setback he had seen at the Board of Zoning Appeals. Mr. Kidd stated he could not do justice by approving this and going forward.

Mr. Young said he understood, and his initial thought was to deny this, as he brought up the possibility of placing a time limit on a temporary structure.

Mr. Kidd responded that he did not understand this to be temporary.

After further discussion, Mr. Cash said he had read over all of this information and the structure did not meet setbacks, as he stated he was inclined to deny the requests. He questioned if Mr. Pillis had talked with his neighbor about acquiring land to meet setbacks.

Mr. Kidd motioned to deny the variance request for a 12-foot encroachment into the required 15-foot side yard setback for Pillis Prospect LLC, as the granting of this request would be contrary to the public interest, and that the standards for a variance as listed in Section 25-551 have not been met.

Mr. Cash seconded the motion, which was approved 3:1:0:0 with the following recorded vote by roll call:

Mr. Young asked what would happen in the event of a tie vote.

Mr. Kidd stated the motion would be denied; Mr. Lockaby further stated that the order of the Zoning Administrator would stand unless they overturned it.

YES:	Mr. Kidd, Mr. Caldwell, Mr. Cash
NO:	Mr. Young
ABSTAIN:	None
ABSENT:	None

Mr. Kidd motioned to deny the variance request for an 18.3-foot encroachment into the required 60-foot front yard setback for Pillis Prospect LLC, as the granting of this request would be contrary to the public interest, and that the standards for a variance as listed in Section 25-551 have not been met.

Mr. Caldwell seconded the motion, which was approved 3:1:0:0 with the following recorded vote by roll call:

YES:	Mr. Kidd, Mr. Caldwell, Mr. Cash
NO:	Mr. Young
ABSTAIN:	None
ABSENT:	None

Mr. Kidd announced the variances were denied.

Other business:

Consideration was given to the October 8, 2019 minutes.

Mr. Kidd motioned to approve the October 8, 2019 minutes. Mr. Young seconded the motion, which was approved 4:0:0:0 with the following recorded vote:

YES:	Mr. Young, Mr. Kidd, Mr. Caldwell, Mr. Cash
NO:	None
ABSTAIN:	None
ABSENT:	None

Mrs. Pendleton presented annual report and commended Mrs. Goad for preparing it. She noted that one meeting had been held for reorganization, with one meeting regarding a variance that was withdrawn, and there were no court actions. Mrs. Pendleton discussed changes such as staffing, the Covid-19 pandemic with offices open by appointment only and an initiated opportunity for payments by phone. She expressed her appreciation to Staff for working through all the changes. Mrs. Pendleton brought up that Mr. Larowe and Mr. Martin noted a 5% increase of business over last year. She noted the Board of Zoning Appeals relocated from Fincastle to Greenfield, Mr. Vaughn had resigned and his seat was briefly held by Dr. Beth Leffel, and now vacated. Mrs. Pendleton thanked all the members for their willingness to serve.

Mr. Kidd thanked staff for their work, as he noted they have had fewer Board of Zoning Appeals cases than in years past, as he was appreciative for Staff's extra work.

Mr. Lockaby confirmed a motion could be made for both at same time.

Mr. Caldwell nominated Mr. Kidd and Chair and Mr. Young as Vice-Chair.

Mr. Cash seconded, which was approved 4:0:0:0 with the following recorded vote:

YES:	Mr. Young, Mr. Kidd, Mr. Caldwell, Mr. Cash
NO:	None
ABSTAIN:	None
ABSENT:	None

Mr. Kidd nominated Mrs. Goad as Secretary to the Board of Zoning Appeals. Mr. Young seconded, which was approved 4:0:0:0 with the following recorded vote:

YES:	Mr. Young, Mr. Kidd, Mr. Caldwell, Mr. Cash
NO:	None
ABSTAIN:	None
ABSENT:	None

There being no other business, at 9:48 AM, Mr. Young motioned to adjourn, seconded by Mr. Kidd,

which was approved 4:0:0:0 with the following recorded vote:

YES:	Mr. Young, Mr. Kidd, Mr. Caldwell, Mr. Cash
NO:	None
ABSTAIN:	None
ABSENT:	None

Mrs. Pendleton thanked Mr. Croom for handling the technology portion of the public hearing.