

Mr. Steven L. Kidd, Chairman, called the April 11, 2023 meeting of the Botetourt County Board of Zoning Appeals to order at 9:02 AM in the Auditorium of the Botetourt County Administration Building in Daleville, Virginia.

PRESENT: Mr. Steven L. Kidd, Chairman
Mr. Hunter Young, Member
Mr. S. E. Cash, Member
Mrs. Nicole Pendleton, Director of Community Development
Mr. Mike Lockaby, County Attorney
Mr. Drew Pearson, Zoning Administrator
Mrs. Laura Goad, Secretary to Board of Zoning Appeals
Mr. Jon McCoy, Long Range Planner
Mr. Nick Baker, Planner
Mr. Matt Lewis, Code Enforcement

ABSENT: Mr. J. Scott Caldwell, Member
Mr. Darrin Hill, Member

After Mr. Kidd introduced Staff and the Board of Zoning Appeals, he explained the public hearing process and asked that comments be directed to the Board, not to others in the audience.

Public hearing

Blue Ridge District: New Hope Baptist Church requests a variance in accordance to Section 25-126.- Use limitations, Residential (R-1) and Section 25-551.- Variance procedure. of the Botetourt County Code from the requirement of development to be served with public or community water and sewer in order to create a total of three new lots. This 2.9-acre lot is located within the Residential (R-1) Use District, located at 37, 66, 71, and 107 Love View Lane, Roanoke, and is identified on the Real Property Identification Maps of Botetourt County as Section 108, Parcel 72A.

Mr. Pearson read the request aloud. He displayed the zoning map with the affected parcel outlined in red. Mr. Pearson pointed out Knollwood Subdivision in the Residential R-1 Use District, an Agricultural (A-1) zoned lot across Knoll Road and the Blue Ridge Parkway in Forest Conservation Use District across US 460 as adjacent properties. He then displayed aerial map and preliminary plat. Mr. Pearson stated the applicant requested relief from requirement of public water and public sewer. He further stated the closest public water and public sewer was 1.5 miles away and it was not feasible to extend it that far. He also commented that this area was not shown in comprehensive plan's service area. Mr. Pearson explained that the church purchased this property with four homes, and wanted to create three lots, with the fourth house to be combined with the church campus for use by the church. Instead of renting homes, Mr. Pearson said the church wanted to sell, noting the difficulty of finding nice affordable houses for owner occupancy. Mr. Pearson stated there would be no construction of additional homes as he suggested a condition of substantial conformity. He further stated that if granted approval, if someone did not know about this process, they would not see a change. Mr. Pearson said the only thing to change would be home ownership, and there would be no additional homes or traffic. Mr. Pearson reviewed the criteria required to grant a variance. He stated that the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; the granting of the variance would not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; the condition or situation of the property concerned

would not be of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; the granting of the variance would not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and the relief or remedy sought by the variance application was not available through a special exception permit.

Mr. Pearson explained that the owner acquired this in good faith and the hardship was not caused by the applicant. He further explained that the variance was not a detriment to adjacent properties, not recurring in nature, and was unreasonably practicable. He said this did not result in a use otherwise permitted, and no remedy was available through a special exception permit. Mr. Pearson pointed out that the four homes pre-existed before the 2002 zoning ordinance, and the only thing changing would be owner occupancy instead of rental. He displayed the aerial map showing single homes on single lots, with no special exception relief for the separation of the properties. The lots exceeded the 20,000 square feet minimum lot size, with legal lot frontage. He further commented that the only thing standing in the way was the lack of public water and public sewer. Mr. Pearson stated the houses would continue to share one well which functioned property and the church was working to convey a maintenance agreement with an ingress and egress easement created for utility maintenance. He then showed the new property lines on the displayed plat, as he suggested substantial conformity as a condition.

Mr. Kidd confirmed that all houses were built 40 plus years ago.

Mr. Young stated that his question of rights to utilize well in the future had been answered.

Mr. Pearson responded that the Health Department did not prevent a private well from being shared and this was not a community well by state standards.

Mr. Kidd noted the 30 feet utility easement did not have a dashed line on the plat.

Mr. Pearson commented that was a good catch, and that after a staff review, that was one of the comments from staff to ECI. He further commented that there were small errors, although nothing that would change the lots. He also said that if approved, a note of Board of Zoning Appeals approval would be required on the plat.

Mr. Cash said that he looked at the property. He said it did not look like much, if any, change in the lots or traffic.

Pastor David McNeill of New Hope Baptist spoke on behalf of the church. He stated his appreciation for Mr. Pearson's assistance. Pastor McNeill said the church wanted out of the rental business, and they needed a fellowship hall. He noted there had been no problems with the well since he arrived 11 years ago. Pastor McNeill stated that a maintenance agreement would be recorded however it needed to be drawn up. He further stated the church used to have daycare, and they got rid of that, and basically there would be no traffic. He said this was a wonderful little community, and the houses were being remodeled to sell with new floors, new paint to go on the market.

Mr. Kidd asked if the well served church.

Pastor McNeill responded that it served only the four houses, and there were no problems with well or the road.

The Board of Zoning Appeals had no other questions.

Mr. Kidd opened the public hearing.

Mr. Robert Jones said that his property backed up to the rental property. He commented that before the church bought property, he used to show the houses to perspective renters. With all apologies to the church, Mr. Jones said he had not seen upgrades. He questioned what would happen if well ran dry, as well as a previous attempt to extend the road.

Pastor McNeill requested to respond to Mr. Jones, which was granted by Mr. Kidd.

Pastor McNeill replied that he had receipts for thousands spent on the property for repairs, also on the outside. He further replied that they never had a problem, and were not trying to add anymore and they were not trying to add anything, including the road.

Mr. Kidd asked about a backup plan for the well if it went dry.

Pastor McNeill responded that while he did not have a backup plan, he had looked into connecting with Aqua. He indicated that both Aqua and their contractor said it was doable and digging individual wells would be their last resort.

Mr. Young asked if the church would be legally responsible for supplying water.

Pastor McNeill stated, "Yes, to the house."

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

Mr. Kidd asked Mr. Lockaby, if under conditions, any wording could be added for the water, and his view of amending the Comprehensive Plan for them to go on a water system. He asked if this would be considered overreaching.

Mr. Lockaby responded that he was here in capacity representing Mr. Pearson, and was neither for nor against this request. He further responded that a condition could be added to that effect to, say, make sure of a backup plan, with deeds to hold church responsible, to that effect.

Mr. Young remarked that if something did not exist like that, it would be difficult for people to get a loan.

After Mr. Kidd checked with members, there was a general consensus to have condition for water.

Mr. Kidd asked if there were any other comments.

Mr. Cash motioned to grant the variance request from Section 25-126 as requested by the applicant and with the condition(s) included in the staff report for New Hope Baptist Church as the granting of this request will not be contrary to the public interest, and a literal enforcement of the Botetourt County Zoning Ordinance would result in unnecessary hardship, and that the standards for a variance as listed in Section 25-551 have been met. The parcel shall be subdivided in substantial conformity with the

preliminary subdivision plat titled New Hope Baptist Church, prepared by ECI Surveying and dated November 22, 2022, plus the condition of a backup plan for water supply to the homes.

Mr. Young seconded the motion, which was approved 3:0:0:2 with the following recorded vote:

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

Consideration was given to the September 29, 2022 and October 11, 2022 minutes.

Mr. Young motioned to approve the September 29, 2022 and October 11, 2022 minutes. Mr. Cash seconded the motion, which was approved 3:0:0:2 with the following recorded vote:

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

There being no other business, at 9:31 AM, Mr. Young motioned to adjourn, seconded by Mr. Cash, which was approved 3:0:0:2 with the following recorded vote:

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