

Deadline 12-22-99
00-003

APPLICATION FORM

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION

RECEIVED
DEC 22 1999
BOONE COUNTY
PLANNING COMMISSION

See Boone County Zoning Regulations
SECTION A (To be completed by applicant)

- (Check One)
1. Boone _____ Florence _____ Walton _____ Union _____
(Check One)
 2. _____ Conditional Use Permit Variance _____ Appeal _____
_____ Change in Non-Conforming Use
 3. Applicant's Name BRYAN FENTRESS
Phone Number (607) 586-0750 Fax No. _____
Applicant's Address 3753 JONATHAN DR
HEBRON KY 41048
City State Zip
 4. Description of Request: 5 FT VARIANCE FOR DECK
 5. Name of Development ORCHARD ESTATES
 6. Location of Development HEBRON OFF OF CONNER RD
 7. Acreage Under Review NO .15
 8. Lot Number and Name of Subdivision (if part of a subdivision)
LOT # III ORCHARD ESTATES
 9. Owner of Property BRYAN FENTRESS
Phone Number of Owner 586-0750
 10. Address of Property Owner 3753 JONATHAN DR HEBRON KY 41048
City State Zip
 11. Proposed Use(s) on Site DECK
 12. Total Square Footage of Existing and/or Proposed Buildings DECK 50 FT 250
 13. Current Zoning on Property SP-1
 14. Deed Book 750 Page No. 275 Group No. 3780 2020
 15. Is the site subject to a zone change? NO
If yes, give date of approval _____
 16. Have you submitted a Site Plan with this request? YES
 17. Have you submitted a list of adjoining property owners with this request? YES
 18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

Applicant's Signature: Bryan Fentress

Property Owner's Signature: Bryan Fentress

BOARD OF ADJUSTMENT AND
ZONING APPEALS ACTION
APPLICATION
PAGE 2

SECTION B (To be completed by the Boone County Planning Commission Staff)

1. Date Received 12-22-99 Fee Received \$420.00 R# 22786
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
 Approved
 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: _____

7. Reasons for Denial: _____

Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005
(606) 334-2196 Phone
(606) 334-2264 Fax

NOTE: See Boone County Planning Commission Fee Schedule for Board of Adjustment Fees.

Site Plan Review is not granted by the appropriate Board of Adjustment.

An application consists of all fees paid in full, submitted drawings and a completed application form.

Approved
No Conditions

#3

STAFF REPORT

APPLICANT: Bryan Fentress
LOCATION: 3753 Jonathan Drive, Boone County, Kentucky
ZONING: Suburban Residential One (SR-1)
DATE: January 12, 2000

Proposal

The applicant is requesting a Variance to reduce the required rear yard setback for Lot 111, within Orchard Estates Subdivision. The Variance is needed so an existing deck can encroach 5 feet into the required rear yard setback. The property is zoned Suburban Residential One (SR-1). However, the subdivision was platted as a clustered subdivision and as a result the minimum rear yard setback is 25 feet instead of the 30 feet that is required for a conventional subdivision.

Dimensional Variance

The Board of Adjustment and Zoning Appeals shall have the power to hear and decide on applications for Variances. A Variance is defined as a departure from dimensional terms of the zoning regulation pertaining to height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of K.R.S. 100.241 to 100.47.

“Before any Variance is granted, the board must find that the granting of the Variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:

- a. The requested Variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
- b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant and;
- c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

2. The board shall deny any request for Variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought."

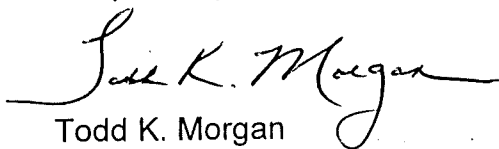
Staff Comments

1. Staff is concerned that the applicant has appeared to have willfully encroached upon the rear setback area without first obtaining a Variance. K.R.S. 100.243 (2) explicitly states that boards shall deny willful violations of the zoning regulation (~~see text above~~).
2. Rudy Cordell, Zoning Enforcement Officer for the Boone County Planning Commission, has written a Memorandum which outlines the history of the request for the deck. A copy of the Memorandum is attached to the back of the Staff Report.

Conclusion

K.R.S. 100.241 gives the Boone County Board of Adjustment and Zoning Appeals the power to hear and decide on applications for Variances. In this case, the board should analyze whether the applicant has willfully violated the zoning regulations. If a willful violation occurred then K.R.S. 100.243 (2) states that the request shall be denied.

Respectfully Submitted,

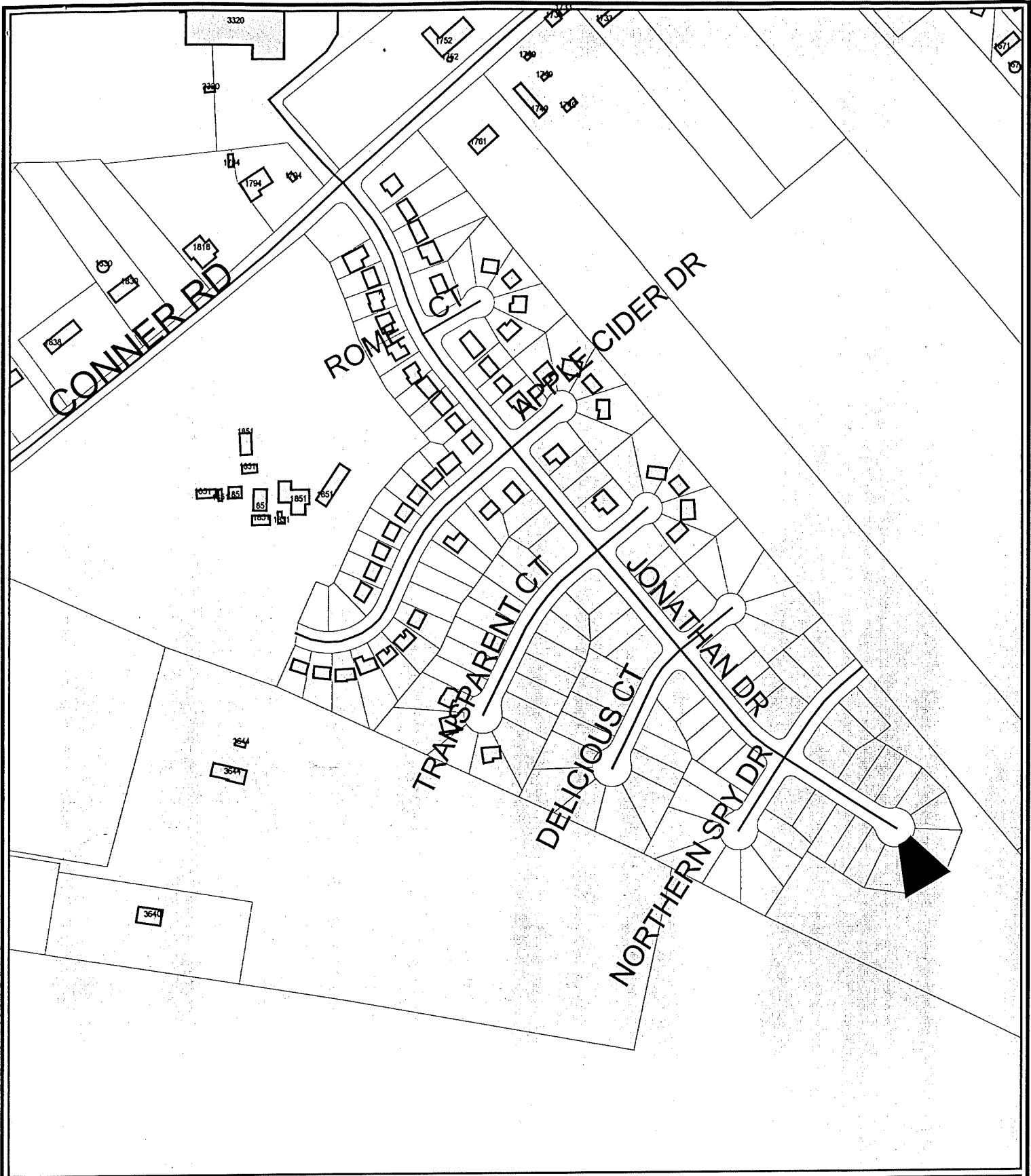


Todd K. Morgan
Planner

TKM/pr

Attachments

- Site Vicinity Map
- Zoning Map
- Plat
- Memorandum from Rudy Cordell

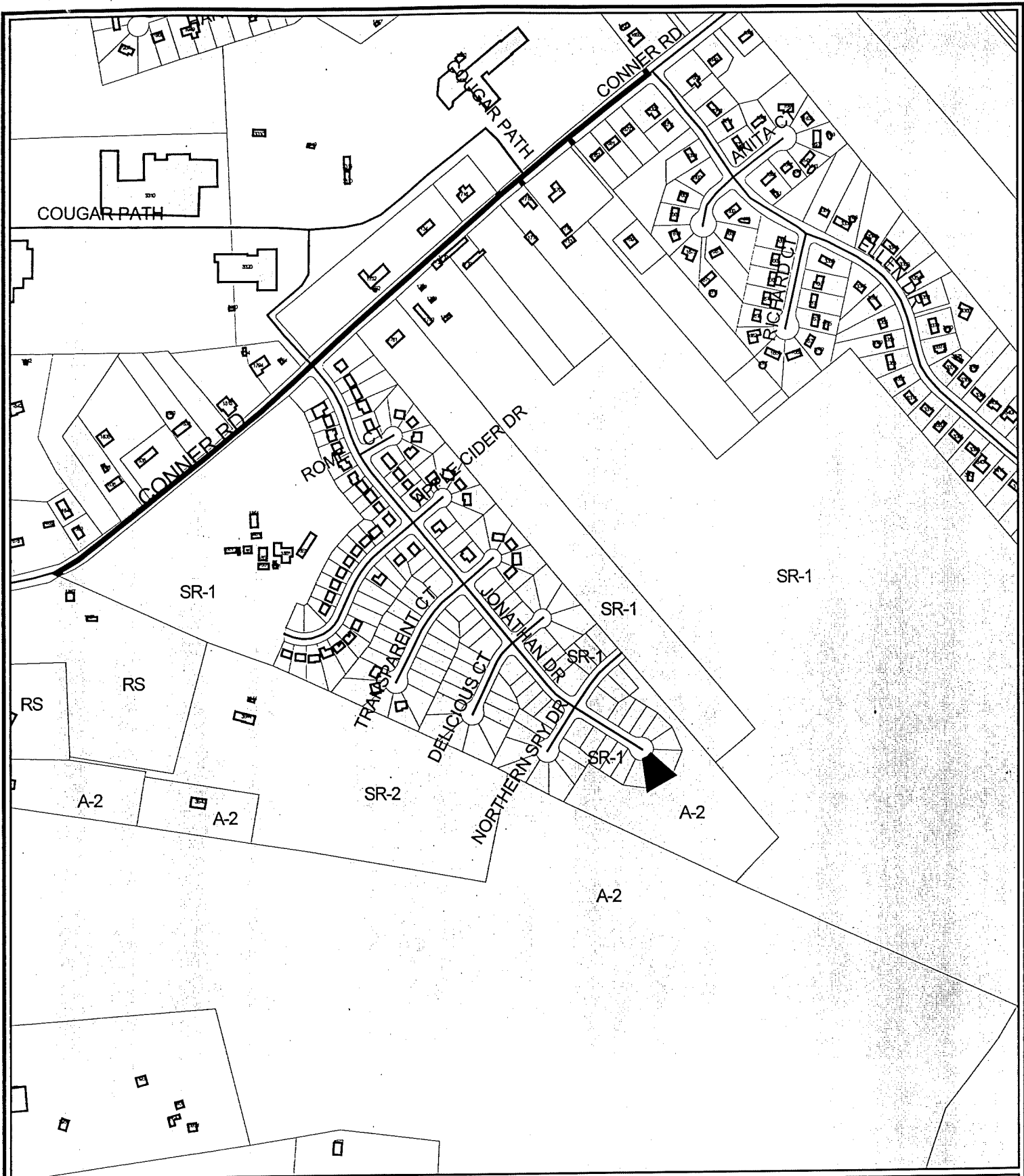


Vicinity Map
3753 Jonathon Drive



1 inch equals 300 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 January 5, 2000

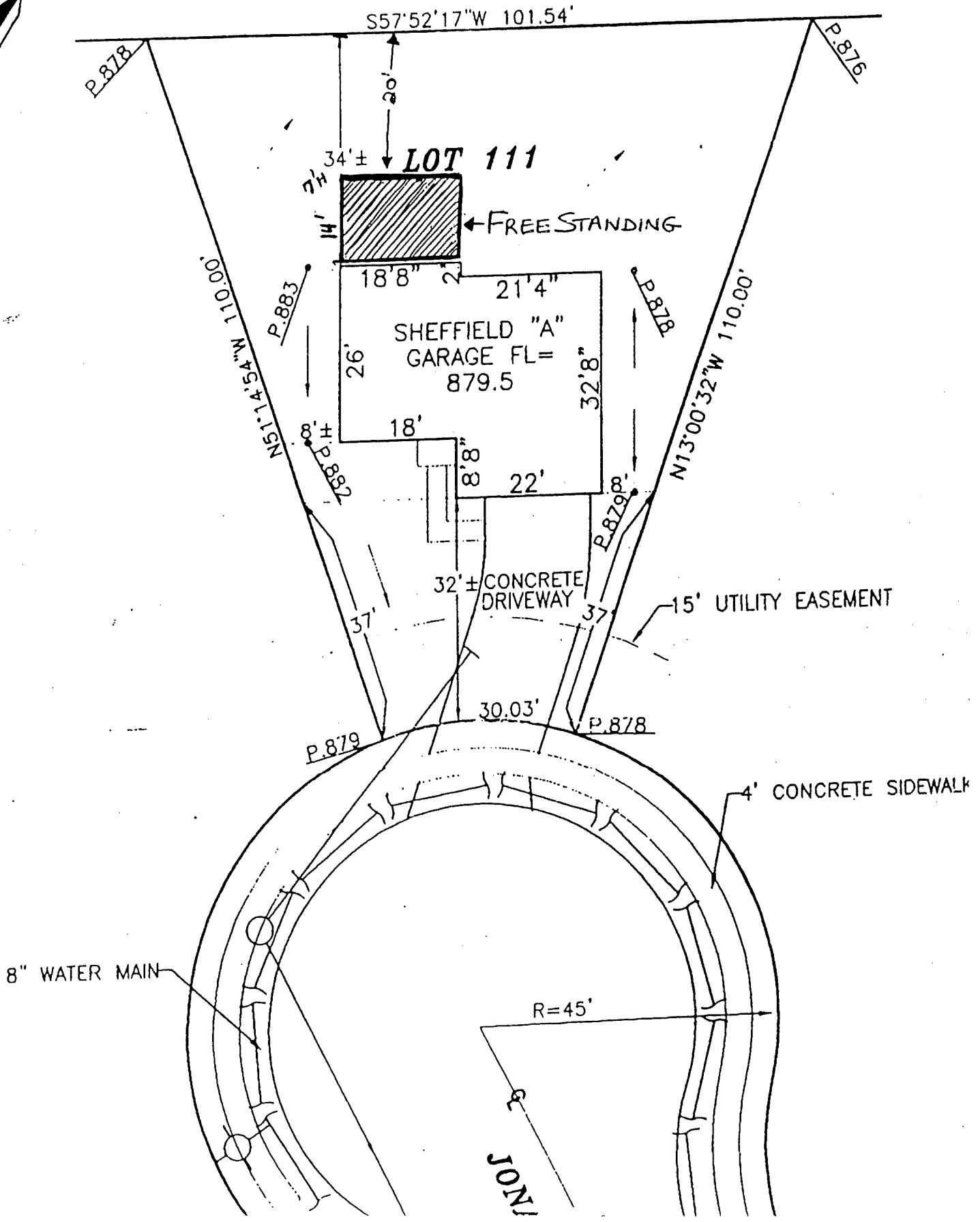
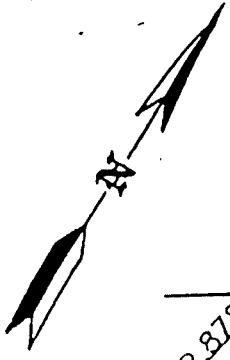




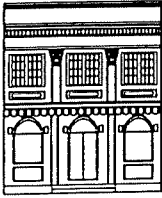
1 inch equals 500 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 January 5, 2000



Zoning Map



BOONE COUNTY PLANNING COMMISSION



MEMORANDUM

TO: Todd Morgan
Planner, Zoning Services

FROM: Rudy Cordell *RC*
Zoning Enforcement Officer

DATE: January 5, 2000

RE: Bryan Fentress Deck Permit Application

Bryan Fentress applied for a deck permit on November 16, 1999. I subsequently reviewed the request and determined that the deck would extend five (5) feet into the minimum rear yard setback of twenty-five (25) feet. I called Mr. Fentress and explained that because of this five (5) foot intrusion into the rear yard setback, I would have to deny the application as submitted. I offered two options:

1. Shorten the deck by five (5) feet
2. Apply for a dimensional variance.

At that time he declined both offers, and on November 18, 1999, I advised him that the application would be denied.

On December 22, 1999, Mr. Fentress applied for a Variance stating he had already built the deck.

NAME OF APPLICANT AND ADDRESS: BRYAN FENTRESS

NAME OF PROPERTY OWNER AND ADDRESS: BRYAN FENTRESS 3753 JONATHAN OR
HEBRON KY 41048

NOTICE

I, or we, understand and agree that all construction work will be performed in accordance with this Zoning Permit Application, the Boone County Zoning Regulations and the Boone County Subdivision Regulations.

APPLICANT'S SIGNATURE: *Bryan Fentress*

DATE: 11-4-99 Phone Number: (606) 586-0750 282-0999-W

Review # _____

This Portion of the Application to be Completed
the Boone County Planning Commission

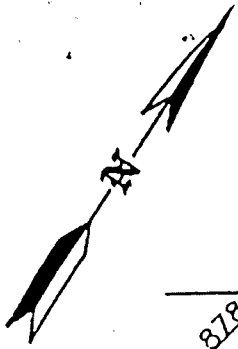
SRI-cluster

Zoning District	Date	11/18/99	Fee	\$40.00	\$35.00
Approved	Denied	X	10	\$15.00	None
Staff Reviewer	Rudy Cordell	Address/Location	3753 JONATHAN D.C.		
Subdivision	ORCHARD ESTATES				
Lot #	111	Section #	—		
		Block/Phase #	—		

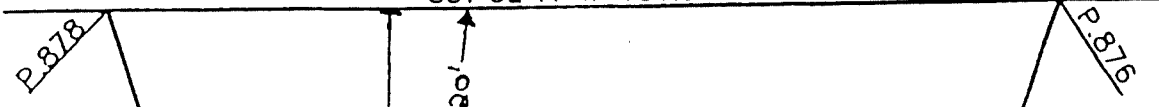
Deck goes
S INTO MAIN
REAR SET BACK
RC

Type of Improvement	
<input type="checkbox"/> Single Family Residence	<input type="checkbox"/> Detached Garage
<input type="checkbox"/> Duplex	<input type="checkbox"/> Garage Addition
<input type="checkbox"/> Three Family	<input checked="" type="checkbox"/> Porch or Deck
<input type="checkbox"/> Apartment (# units _____)	<input type="checkbox"/> Barn or Shed
<input type="checkbox"/> Townhouse (# units _____)	<input type="checkbox"/> Swimming Pool
<input type="checkbox"/> Mobile Home	<input type="checkbox"/> Tenant Finish
<input type="checkbox"/> Residential Addition	<input type="checkbox"/> Other:
Jurisdiction	
<input checked="" type="checkbox"/> Boone County	<input type="checkbox"/> Florence
<input type="checkbox"/> Walton	<input type="checkbox"/> Union
Post Office	
<input type="checkbox"/> Burlington	<input type="checkbox"/> Florence
<input type="checkbox"/> Walton	<input type="checkbox"/> Union
<input checked="" type="checkbox"/> Hebron	<input type="checkbox"/> Verona
<input type="checkbox"/> Petersburg	<input type="checkbox"/> Erlanger
<input type="checkbox"/> Crittenden	
Group # <u>2020</u> Reference Group # _____	Census Tract # <u>704</u>

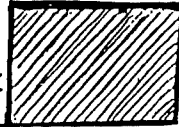
R# 22442
RECEIVED
NOV 16 1999
BOONE COUNTY PLANNING COMMISSION



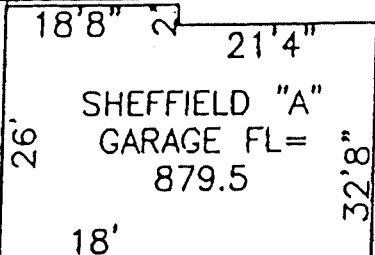
S57°52'17"W 101.54'



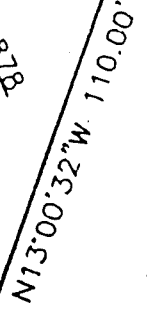
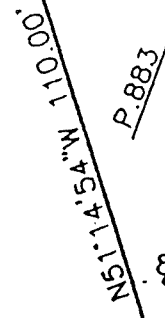
LOT 111



← FREE STANDING

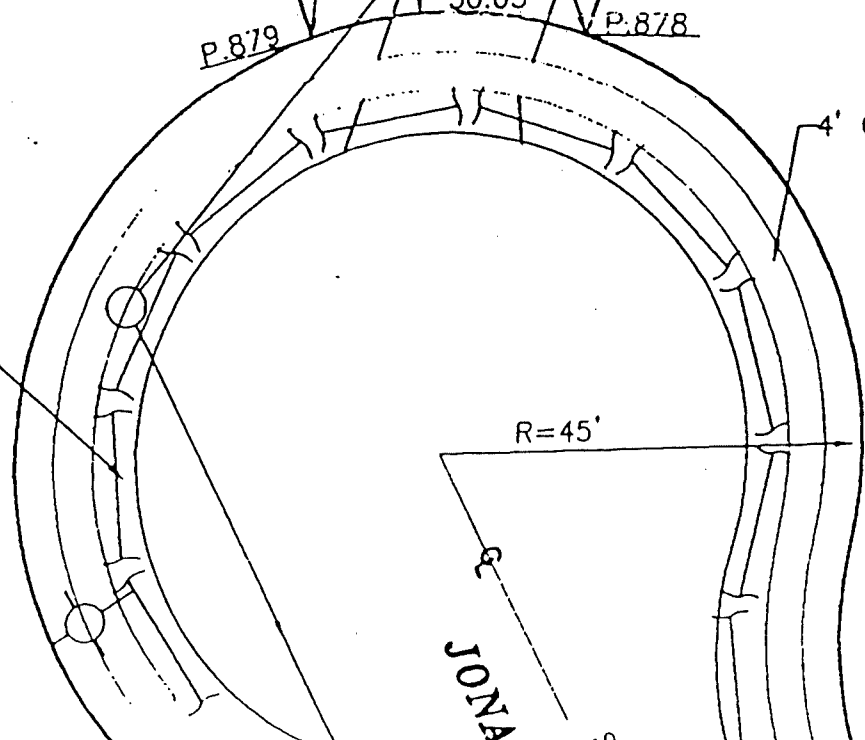


SHEFFIELD "A"
GARAGE FL =
879.5



32' ± CONCRETE DRIVEWAY

15' UTILITY EASEMENT



8" WATER MAIN

4' CONCRETE SIDEWALK

R=45'

JOHN

APPLICATION MUST BE COMPLETED IN ITS ENTIRETY INCLUDING DESCRIPTION OF PROJECT.

Application Date 11-16-99

Boone County, Kentucky

RESIDENTIAL BUILDING PERMIT APPLICATION

A. PROJECT ADDRESS 3753 JONATHAN DR CITY HEBRON
SUBDIVISION/PROJECT NAME ORCHARD ESTATES LOT/BLDG. NO. # 111

B. IDENTIFICATION	NAME	ADDRESS	CITY/STATE/ZIP	PHONE/FAX
OWNER	<u>BRYAN FENTRESS</u>	<u>3753 JONATHAN DR</u>	<u>HEBRON, KY 41048</u>	<u>(606) 586-0750</u>
CONTRACTOR				

C. TYPE OF IMPROVEMENT

- NEW BUILDING
- ADDITION
- ALTERATION
- DEMOLITION

D. TYPE OF USE

- SINGLE FAMILY
- TWO-FAMILY
- MODULAR HOME
- MOBILE HOME
- MULTI-FAMILY
- NO. OF UNITS _____
- GARAGE
- SHED
- POOL
- BARN
- DECK/PORCH
- OTHER

E. DESCRIBE PROPOSED WORK

18x14 ft DECK (FREE STANDING)

E. CONSTRUCTION COST \$ 1,500

G. FARM? No _____ Yes _____ # of Acres _____

H. FLOOD PLAIN? Yes _____ No _____

L. ENCROACHMENT PERMIT _____ Driveway/Apron Permit _____

J. TYPE OF SEWAGE Public _____ Private _____ Permit # _____

K. ELECTRICIAN _____ Certification # _____

L. ZONING APPROVAL _____ DATE _____ ZONE _____ FEE _____

SPECIAL RESTRICTIONS _____

M. TYPE OF CONSTRUCTION

- 5B _____ 2C _____
- 5A _____ 2B _____
- 4B _____ 2A _____
- 3B _____ 1B _____
- 3A _____ 1A _____

N. TYPE OF HEATING

- GAS
- OIL
- ELECTRIC

Q. SQUARE FOOTAGE

- First Floor _____
- Second Floor _____
- Garage _____

O. RESIDENTIAL

NO. OF BEDROOMS _____ NO. OF BATHROOMS _____

P. CODE USED

1995 CABO _____ 1997 KBC _____

The owner of this building and undersigned, do hereby covenant and agree to comply with all the applicable regulations pertaining to building and buildings, and to construct the proposed building or structure or make the proposed change or alteration in accordance with the plans and specifications submitted herewith, and certify that the information and statements given on this application, drawings and specifications are to the best of their knowledge true and correct. Failure of this office to note all violations in the review of plans and specifications does not relieve contractors of the responsibility of complying with the applicable codes and regulations.

APPLICANT'S SIGNATURE [Signature] ADDRESS _____

DO NOT WRITE BELOW THIS LINE

R. APPROVED

BUILDING OFFICIAL _____

DATE ISSUED _____ PERMIT NO. _____ FEE _____ DRIVEWAY/APRON FEE _____

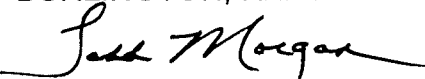
COPY

CLUR #00-BCBOA-003-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Bryan Fentress
3753 Jonathan Drive
Hebron, KY 41048
2. ADDRESS OF PROPERTY
3753 Jonathan Drive
Hebron, KY 41048
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Orchard Estates
4. DEED BOOK 756 PAGE NO. 275 GROUP NO. 2020
5. TYPE OF RESTRICTION(S) (Check all that apply)
- Zoning Map Amendment: Conditional Use Permit
From To
- Development Plan Conditional Zoning
- Subdivision Plat Other:
(Not Recorded)
- Variance
6. NAME AND ADDRESS OF PLANNING COMMISSION, BOARD OF ADJUSTMENT, LEGISLATIVE BODY OR FISCAL COURT WHICH MAINTAINS THE ORIGINAL RECORDS CONTAINING THE RESTRICTION

BOONE COUNTY PLANNING COMMISSION
2995 WASHINGTON STREET
BURLINGTON, KENTUCKY 41005




SIGNATURE OF COMPLETING OFFICIAL

Todd Morgan, Planner, Zoning Services
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

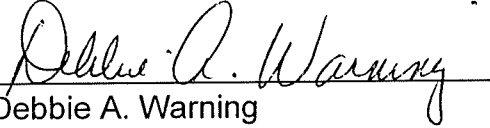
Subscribed, sworn to, and acknowledged before me by Todd Morgan on behalf of the
Boone County Planning Commission this 25 day of January, 2000.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2003

This instrument was prepared for recording purposes only by:



Debbie A. Warning
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Variance approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of January 12, 2000 Certificate of Land Use Restriction (#00-BCBOA-003-A), for Bryan Fentress, Property Owner(s).

The following conditions will apply:

None.

The approved Variance as well as the preceding conditions apply to the property described in:

DEED BOOK 756

PAGE NO. 275

GROUP NO. 2020