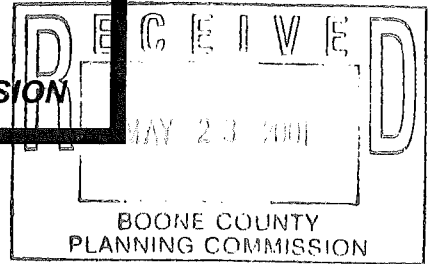


APPLICATION FORM

01-BCBOA 018-A

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION



See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- (Check One)
- Boone _____ Florence _____ Walton _____ Union _____
 - (Check One)
 Conditional Use Permit Variance _____ Appeal _____
 Change in Non-Conforming Use _____
 - Applicant's Name FINKE HOMES INC
 Phone Number 859 586 7583 Fax No. 859 586 7589
 Applicant's Address 3180 BURLINGTON PIKE
BURLINGTON KY 41005
 City State Zip
 - Description of Request: REQUEST FOR FRONT SETBACK VARIANCE
AND REAR YARD SET BACK VARIANCE
(FRONT 40' to 30') (REAR 40' to 20')
 - Name of Development HOWE ACRES
 - Location of Development AT INTERSECTION OF MAHER RD AND WALNUT
RIDGE DRIVE
 - Acreage Under Review 0.81 ACRES
 - Lot Number and Name of Subdivision (if part of a subdivision)
LOT #5 HOWE ACRES SUBDIVISION
 - Owner of Property FINKE HOMES INC
 Phone Number of Owner 859 586 7583 10.
 Address of Property Owner 3180 BURLINGTON PIKE BURLINGTON KY 41005
 City State Zip
 - Proposed Use(s) on Site NEW SINGLE FAMILY RESIDENCE
 - Total Square Footage of Existing and/or Proposed Buildings 2085
 - Current Zoning on Property RS
 - Deed Book D778 Page No. 695 Group No. 2058
 - Is the site subject to a zone change? NO
 If yes, give date of approval _____
 - Have you submitted a Site Plan with this request? YES
 - Have you submitted a list of adjoining property owners with this request? YES
 - 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: Tal Jeter Vice President

Property Owner's Signature: Tal Jeter Vice President

**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 5-22-01 Fee Received \$420.00 RA 27847
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: NONE

7. Reasons for Denial: _____

**Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005
(859) 334-2196 - Phone
(859) 334-2264 - Fax
plancom@boonecountyky.org - E-mail**

www.boonecountyky.org

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.

STAFF REPORT

APPLICANT: Finke Homes, Inc.
LOCATION: Section 1, Lot 5 (Walnut Ridge Drive)
Howe Acres Subdivision,
Boone County, Kentucky
ZONING: Rural Suburban (RS)
Date: June 13, 2001

Proposal

The applicant is requesting a variance for a reduction in foot front and rear yard setbacks for property located in Section 1, Lot 5 (Walnut Ridge Drive) of Howe Acres Subdivision. The .81 acre site is zoned Rural Suburban (RS) and is a flag lot. The request is to reduce the front yard setback from 40' to 30' and the rear yard setback from 40' to 20'.

The applicant submitted the following exhibits with the application:

- Exhibit A – List of adjoining property owners
- Exhibit B – Legal description of the property
- Exhibit C – Concept Plan

Applicable Regulations

Article 40 of the Boone County Zoning Regulations defines the front yard as, "A yard extending between side lot lines cross the front of a lot and from the front lot line to the front of the principal building. *For flag lots, the front yard is measured from the rear lot line of the adjoining lot that is between the flag lot in question and the street.*

Article 2, Section 250 of the Boone County Zoning Regulations states that the Board of Adjustment and Zoning Appeals shall have the power to hear and decide on applications for variances. Variance is defined as a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

The Board should evaluate the applicant's request as it relates to the criteria necessary for granting a variance as stated in Section 251 of the Boone County Zoning Regulations:

1. 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 regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - c. The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulations from which relief is sought.
2. The Board shall deny any request for a 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.

Surrounding Land Uses and Zoning

Surrounding property located within Howe Acres Subdivision is zoned Rural Suburban (RS). Three homes have been constructed in the subdivision and are located to the north of the site. Vacant lots and a .30 acre detention pond, also zoned Rural Suburban (RS), are located to the east and south. Homes located within the Rolling Hills Subdivision are located to the south and west and are zoned Rural Suburban Estates (RSE).

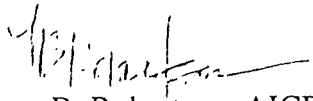
Staff Concerns/Comments

The site to be used for the construction of a single family home contains .81 acres and is significantly larger than surrounding lots located within Howe Acres Subdivision. Although the lot contains more square footage than adjacent lots, the buildable area is limited in size due to the location of easements for surface drainage, storm sewers, and access for the detention pond located to the rear of the lot. As the property is a flag lot, the placement of a home 10 feet (a 25% variance) closer to the rear property line of lot #4 will not interrupt the common front yard setbacks or character of the homes already constructed along Walnut Ridge Drive. In addition, it is not anticipated that a 20 foot variance (or variance of 50%) from the rear of the home to the lot line of the detention basin will impact adjacent property owners as the rear of home to be constructed is 86 feet (more than twice the rear yard setback of 40') from Lot #3 in Rolling Hills Subdivision.

Conclusion

KRS 100.241 and Section 250 of the Boone County Zoning Regulations gives the Boone County Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for a front and rear yard variances. Due to the lack of buildable lot area and location of the detention pond to the rear of the lot, it is the staff's opinion that granting 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.

Respectfully submitted,



Lara B. Robertson, AICP

Attachments

Exhibit A – List of adjoining property owners

Exhibit B – Legal description of the property

Exhibit C – Concept Plan

Exhibit D – Vicinity/Zoning Map

Adjoining property owners addresses

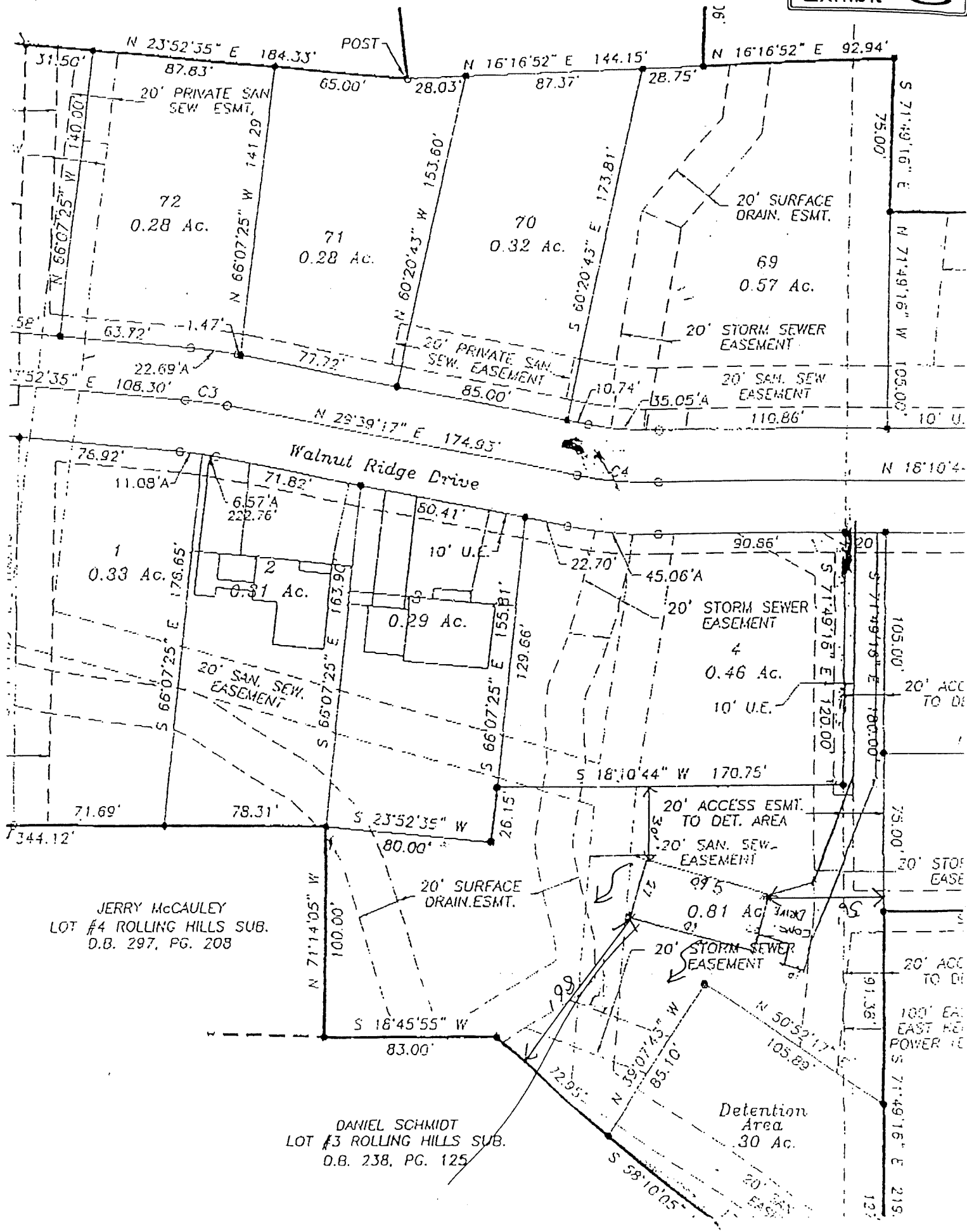
Eric and Beverly Brab	10468 Walnut Ridge Drive
Lawrence Howe	492 Maher Road
Daniel Schmidt	510 Maher Road
Jerry McCauley	5 th Maher Road
Finke Homes	3180 Burlington Pike Applicant



Legal Description.

Plat Slide: 541-B

Being all of lot 5 Section 1, of Howe Acres Subdivision, as shown on Plat Slide 541-B of the Boone County Clerk's Records at Burlington, Kentucky. Deed Book 778, Page 695.



JERRY McCAULEY
 LOT #4 ROLLING HILLS SUB.
 D.B. 297, PG. 208

DANIEL SCHMIDT
 LOT #3 ROLLING HILLS SUB.
 D.B. 238, PG. 125

Detention
 Area
 30 Ac.

100' EAST
 HIGH VOLTAGE
 POWER LINE

I-2/CD

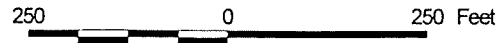
I-1/CD

RS

RSE

WALNUT RIDGE DR

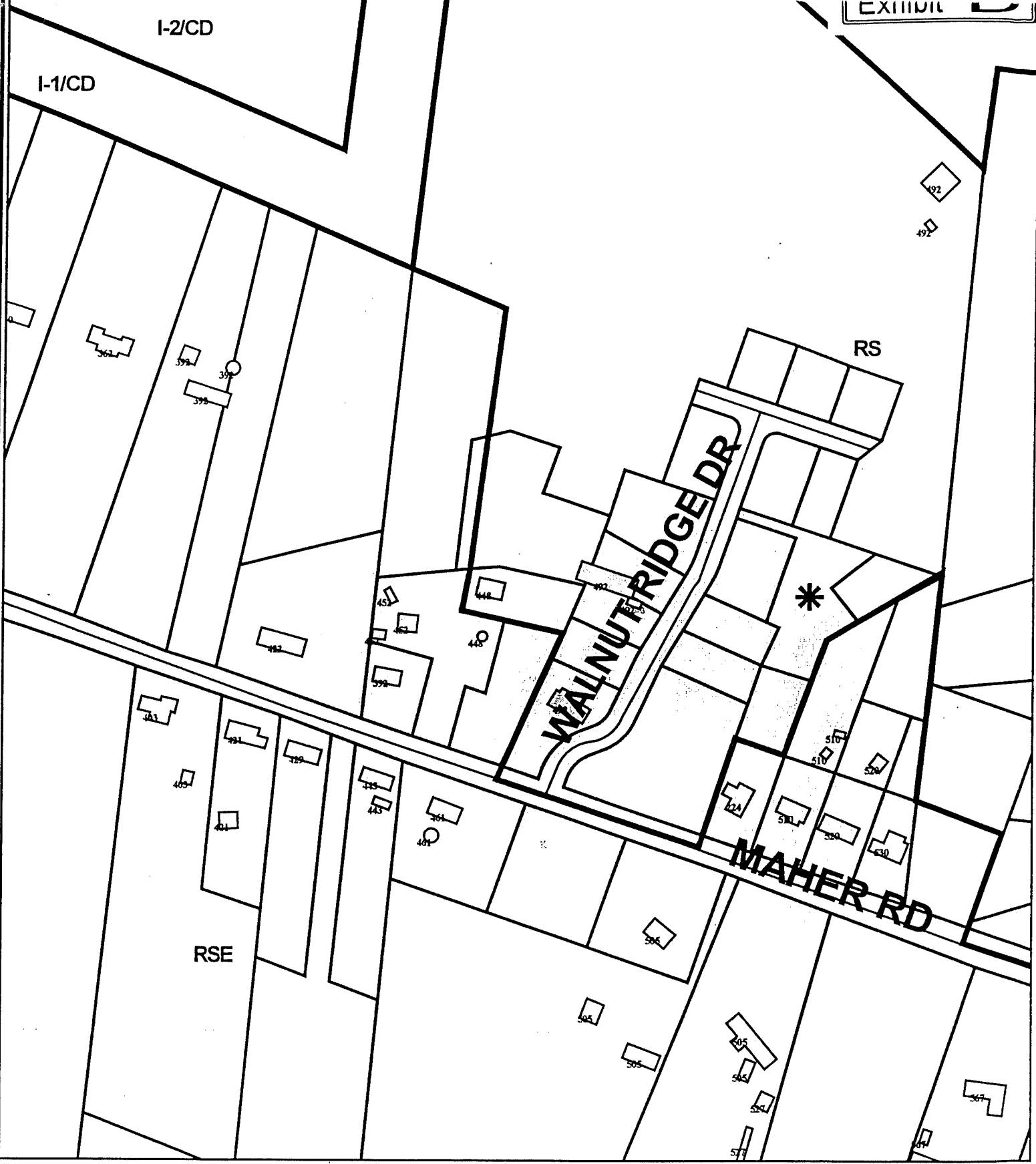
MAHER RD



1 inch equals 250 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 June 1, 2001



Finke Homes



COPY

CLUR #01-BCBOA-018-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Finke Homes, Inc.
3180 Burlington Pike
Burlington, KY 41005

2. ADDRESS OF PROPERTY

Walnut Ridge Drive
Walton, KY 41094

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Howe Acres

4. DEED BOOK 778

PAGE NO. 695

GROUP NO. 2058

5. TYPE OF RESTRICTION(S) (Check all that apply)

Zoning Map Amendment:
From To

Conditional Use Permit

Development Plan

Conditional Zoning

Subdivision Plat
(Not Recorded)

Other:

Variances (2)

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

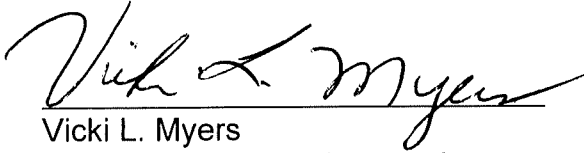

SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

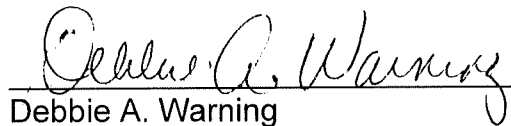
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of
the Boone County Planning Commission this 15 day of June, 2001.



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 Variances (2) approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of June 13, 2001 Certificate of Land Use Restriction (#01-BCBOA-018-A), for Finke Homes, Inc., Property Owner(s).

The following conditions will apply:

No conditions.

The approved Variances (2) as well as the preceding conditions apply to the property described in:

DEED BOOK 778

PAGE NO. 695

GROUP NO. 2058