

APPLICATION FORM

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)

- 1. [X] Boone [ ] Florence [ ] Walton [ ] Union

(Check One)

- 2. [ ] Conditional Use Permit [X] Variance [ ] Appeal [ ] Change in Non-Conforming Use

3. Applicant's Name HOWARD DELPH
Phone Number 859-586-6953 Fax No.
Applicant's Address 3028 3RD ST. P.O. BOX 72
PETERSBURG, KY 41080
City State Zip

4. Description of Request: ASKING FOR SETBACK OF 60' FROM COUNTY RIGHT OF WAY, RATHER THAN 80' TO BUILD HOME.

5. Name of Development RURAL BOONE COUNTY

6. Location of Development ASHBY FORK RD.

7. Acreage Under Review 5.1082

8. Lot Number and Name of Subdivision (if part of a subdivision)

9. Owner of Property HOWARD DELPH

10. Phone Number of Owner 859-586-6953

Address of Property Owner 3028 3RD ST PETERSBURG, KY 41080
City State Zip

11. Proposed Use(s) on Site RESIDENCE

12. Total Square Footage of Existing and/or Proposed Buildings 2197

13. Current Zoning on Property A1

14. Deed Book D.B. 736 Page No. 14 Group No. 2012

15. Is the site subject to a zone change? NO

If yes, give date of approval

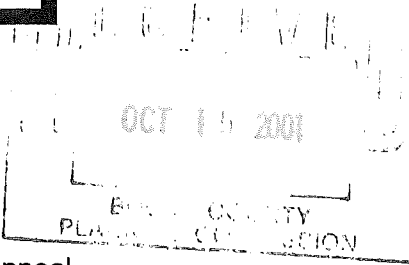
16. Have you submitted a Site Plan with this request?

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: Howard Delph

\* Property Owner's Signature: Howard Delph



**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 10-15-01 Fee Received \$420.00 RA# 09371
2. Is application complete? \_\_\_\_\_ Yes \_\_\_\_\_ No
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
11-14-01 **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  
(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: Howard Delph

LOCATION: Immediately to the south of 3472 Ashby Fork Road, Boone County, Kentucky

ZONING: Agriculture (A-1)

DATE: November 14, 2001

### Proposal

The property owner is requesting a variance for a reduction in the required 80 foot front yard setback for a proposed residence, which will be located immediately to the south of 3472 Ashby Fork Road, Boone County, Kentucky. The subject parcel is 5.1082 acres in area and is zoned Agriculture (A-1). The property owner has requested that the front yard setback be reduced to 60' so that the rear of the house will not be located within a hillside.

### Applicable Regulations

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. A variance is defined as a departure from the 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 nuisance to the public, and will not allow an unreasonable circumvention of the requirements contained in the zoning regulations.
  - 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 contained in 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 regulation from which relief is sought.

- 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.

#### Site Characteristics

The 5.1082 acre parcel is split zoned Agriculture (A-1) and Agricultural Estates (A-2). The proposed home is required to meet the A-1 standards because a portion of it is located within that district.

The portion of the site closest to Ashby Fork Road is flat and clear of vegetation. The middle and rear portions of the property are steep and heavily wooded. The 80' front yard setback requirement and length of the house will put the rear of the house within the hillside.

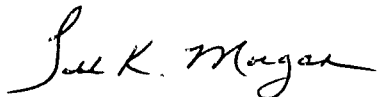
#### Surrounding Land Uses

- Slide 3*
- North: Single-Family dwelling on a two-acre parcel (A-2)
  - South: 118 acre vacant parcel owned by the applicant (A-1)
  - East: 118 acre vacant parcel owned by the applicant (A-1)
  - West: Ashby Fork Road & vacant Land (A-1)

#### 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 yard setback variance from 80 feet to 60 feet. It is Staff's opinion that denying the variance would create an unnecessary hardship on the applicant due to the steep hillside that is located on the property.

Respectfully submitted,



Todd K. Morgan, AICP  
Planner, Zoning Services

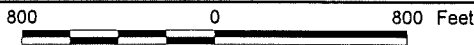
TKM/pr

#### Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Boundary Survey
- Exhibit C – Zoning Map
- Exhibit D – Topographical Map
- Exhibit E – Application



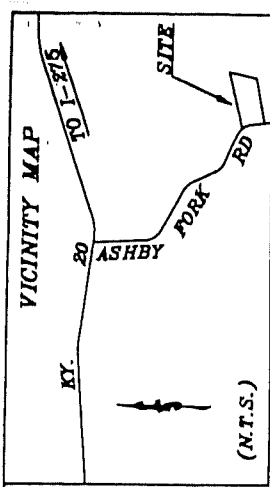
# Howard Delph Site Vicinity Map



1 inch equals 800 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
October 24, 2001



# BOUNDARY SURVEY



R/W DATA

AIN	07°05'13"	W	64.37'
BIN	01°48'02"	E	121.71'
CIN	00°20'18"	E	76.91'
DIN	05°09'41"	W	71.78'
EIN	11°25'30"	W	68.75'
FIN	14°52'39"	W	53.89'
GIN	14°52'39"	W	21.90'

FOR BUILDABLE LOTS  
LAND SURVEYOR'S CERTIFICATE  
I CERTIFY THAT I HAVE EXAMINED THE RECORDS OF THE BOONE COUNTY CLERK AND FIND THAT THIS IS THE SECOND CONVEYANCE MADE UNDER THE PRESENT OWNERSHIP AND THE PARENT TRACT SINCE 1966 OR FROM THE ADOPTION OF KRS 100.

*Gary W. Menetrey*  
SIGNATURE OF SURVEYOR  
DATE 9-24-2001

BOONE COUNTY PLANNING COMMISSION APPROVAL CERTIFICATE  
APPROVED FOR RECORDING THE TRANSFER OF PROPERTY ONLY BY THE BOONE COUNTY PLANNING COMMISSION THIS 16th DAY OF October, 2001

THIS PLAT SHALL BE VOID IN NOT FILED WITH THE BOONE COUNTY CLERK FOR RECORDING PURPOSES WITHIN (2) YEARS OF PLANNING COMMISSION APPROVAL.

I HEREBY CERTIFY THAT I AM A FULLY QUALIFIED AND LICENSED KENTUCKY SURVEYOR IN ACCORDANCE WITH KRS 322 AND THAT THIS PLAT DEPICTS A SURVEY PERFORMED BY ME, OR UNDER MY DIRECT SUPERVISION, IN ACCORDANCE WITH THE CODE OF PROFESSIONAL PRACTICE AND CONDUCT FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS, BY THE METHOD OF RANDOM TRAVERSE. THE UNADJUSTED PRECISION RATIO OF THE TRAVERSE WAS 1:3,097. THE SURVEY AS SHOWN HEREIN IS A CLASS A SURVEY AND THE ACCURACY AND PRECISION OF SAID SURVEY MEETS ALL THE SPECIFICATIONS OF THIS CLASS. THIS PLAT MEETS OR EXCEEDS THE MINIMUM REQUIREMENTS OF 201 KAR 18.150.

STATE OF KENTUCKY  
GARY W. MENETREY  
3390  
LICENSED PROFESSIONAL LAND SURVEYOR

GUY E. & DEBORAH A. WALSTON AND HOWARD E. & JACKIE L. DELPH  
D.B. 796, PG. 14  
125.2170 ACRES  
LESS 2.0000 ACRES  
LESS 5.1082 ACRES  
NET 118.1088 ACRES

ASHBY'S FORK ROAD  
25.00' R/W  
6.1082 ACRES TO BE CONVEYED  
OVERHEAD ELECTRIC

LEGEND  
○ SET 5/8" REBAR WITH CAP STAMPED P.L.S. 3390  
● FOUND I.P.  
⊕ SET MAG NAIL  
⊙ FOUND NAIL

SUBDIVISION D.B. 796, PG. 14  
LOT NO. \_\_\_\_\_ PL.BK. \_\_\_\_\_ PG. \_\_\_\_\_  
CITY PETERSBURG BOONE COUNTY STATE KY  
CLIENT GUY E. & DEBORAH A. WALSTON AND HOWARD E. & JACKIE L. DELPH ASHBY FORK ROAD  
MENETREY LAND SURVEYING INC.  
PROFESSIONAL LAND SURVEYOR  
4 SHERIDAN DR. ALEXANDRIA, KY. 41001  
PHONE 6592448-0662  
FAX 6592448-0663  
KENTUCKY P.L.S. 3390

SCALE: 1"=200'  
DRAWN BY:  
DATE: 09-24-01  
JOB NO.: 22601

P & Z Code No. 3838  
SCALE: 1"=200'

0 200' 400'  
SCALE: 1"=200'

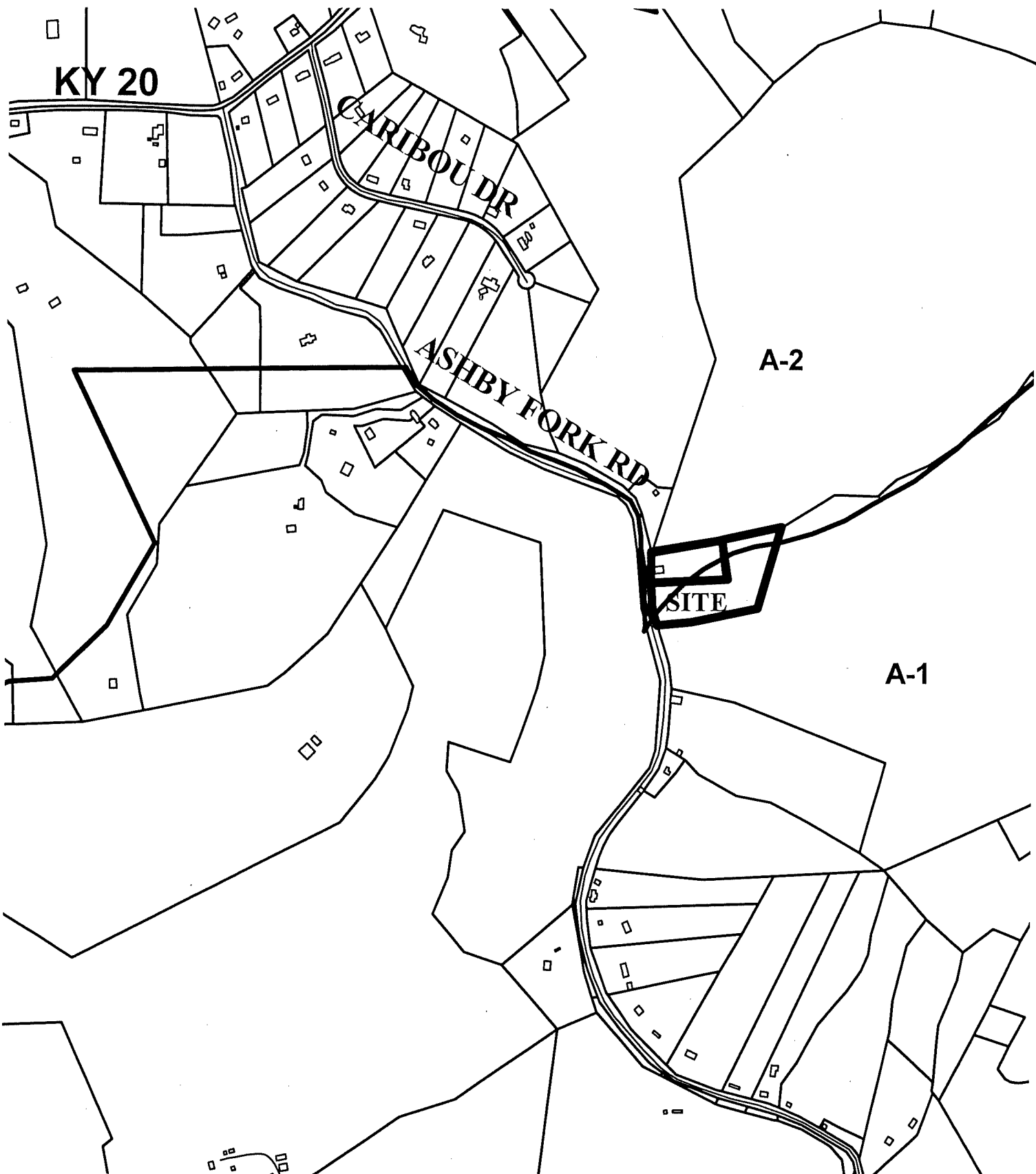
9-27-2001  
*Gary W. Menetrey*

1090  
1090

198.67'

198.67'

198.67'

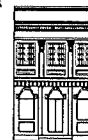


# Howard Delph Zoning Map

800 0 800 Feet

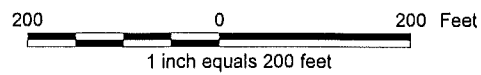


1 inch equals 800 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
October 24, 2001





# Howard Delph Topographical Map

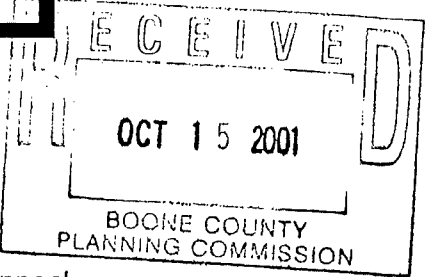


Produced by the  
Boone County Planning Commission  
GIS Services Division  
October 23, 2001



APPLICATION FORM

BOARD OF ADJUSTMENT  
AND  
ZONING APPEALS ACTION  
BOONE COUNTY PLANNING COMMISSION



See Boone County Zoning Regulations  
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Change in Non-Conforming Use \_\_\_\_\_
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- 9. Owner of Property HOWARD DELPH  
Phone Number of Owner 859-586-6953 10. \_\_\_\_\_  
Address of Property Owner 3028 3RD ST PETERSBURG, KY 40380  
City State Zip
- 11. Proposed Use(s) on Site RESIDENCE
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- 15. Is the site subject to a zone change? NO  
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\* Property Owner's Signature: Howard Delph

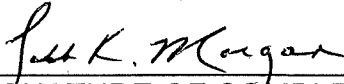
COPY

CLUR #01-BCBOA-027-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)  
Howard Delph  
3028 3<sup>rd</sup> Street  
Petersburg, KY 41080
  
2. ADDRESS OF PROPERTY  
Ashby Fork Road  
Petersburg, KY 41080
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
\_\_\_\_\_
  
4. DEED BOOK 736                      PAGE NO. 14                      GROUP NO. 2012
  
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

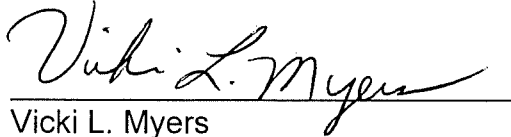
  
\_\_\_\_\_  
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

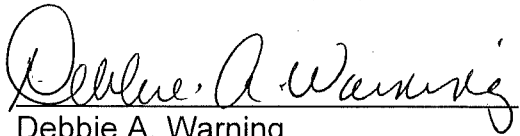
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 16 day of November, 2001.



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 Variance approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of November 14, 2001 Certificate of Land Use Restriction ( #01-BCBOA-027-A), for Howard Delph, Property Owner(s).

The following conditions will apply:

No conditions.

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

DEED BOOK 736

PAGE NO. 14

GROUP NO. 2012