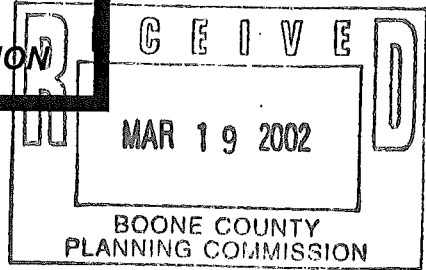


(2) BOONE COUNTY

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)

- 1. (Check One) Boone [checked] Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_
2. (Check One) Conditional Use Permit [checked] Variance \_\_\_\_\_ Appeal \_\_\_\_\_ Change in Non-Conforming Use \_\_\_\_\_
3. Applicant's Name TRACY & LYNLEE FOSTER Phone Number 586-1399 Fax No. same Applicant's Address 5040 House Rd Burlington, KY 41005
4. Description of Request: Reducing front yard set back from 80' to 30'
5. Name of Development \_\_\_\_\_
6. Location of Development 5040 House Rd Burlington, KY
7. Acreage Under Review 19.317
8. Lot Number and Name of Subdivision (if part of a subdivision) \_\_\_\_\_
9. Owner of Property Tracy & Lynlee Foster Phone Number of Owner 586-1399 Address of Property Owner Burlington, KY
10. \_\_\_\_\_
11. Proposed Use(s) on Site Barn
12. Total Square Footage of Existing and/or Proposed Buildings 9360
13. Current Zoning on Property A-1
14. Deed Book 812 Page No. 10 Group No. 2036
15. Is the site subject to a zone change? [checked]
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: Tracy Foster Lynlee Foster

Property Owner's Signature: Tracy Foster Lynlee Foster

**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 3-19-02 Fee Received \$444.00 R# 30758
2. Is application complete? \_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:   
\_\_\_\_\_ **Approved**   
\_\_\_\_\_ **Approved with Conditions** (See #6)   
4-10-02 ✓ \_\_\_\_\_ **Denial** (See #7)
6. Conditions of Approval: \_\_\_\_\_  
\_\_\_\_\_
7. Reasons for Denial: SEE 4-10-02 BCBOA MEETING  
MINUTES  
\_\_\_\_\_  
\_\_\_\_\_

**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](http://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: Tracy & Lynlee Foster  
LOCATION: 8040 Howe Road, Boone County, Kentucky  
ZONING: Agriculture (A-1)  
DATE: April 10, 2002

### Proposal

The property owners are requesting a variance to reduce the 80 foot front yard setback requirement for a barn, which is proposed at 8040 Howe Road, Boone County, Kentucky. The subject parcel is 19.3717 acres in area and is zoned Agriculture (A-1). The property owners have requested that the front yard setback be reduced to 30 feet so that they can construct a 9,360 square foot horse barn on a flat portion of their property.

### 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.

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.

Article 31, Section 3153 of the Boone County Zoning Regulations states that accessory structures or uses shall be placed in the side or rear yard only, and shall be no closer than five (5) feet to any property line in all zoning districts except the land for agricultural purposes may be exempt."

The Zoning Administrator has made the determination that accessory structures can be located within the front yard of agriculturally zoned parcels, where the agricultural exception does not apply, as long as the appropriate front yard setback requirement is being met. This standing interpretation is being addressed as part of 2001/2002 Zoning Update.

#### Site Characteristics

The 19.3717 acre parcel is zoned Agriculture (A-1) and contains a single-family residential dwelling and a detached shed. The barn is proposed between the shed and Howe Road and would be located 30 feet from the right-of-way. The back half of the property is heavily wooded and contains severe topography.

#### Surrounding Land Uses

- North: Single-Family Residence & Vacant Lot (A-1)
- South: Vacant Lots (A-1)
- East: Single-Family Residence & Vacant Lot (A-1)
- West: Single-Family Residences (A-1) & Farm (A-1)

#### Staff Comments

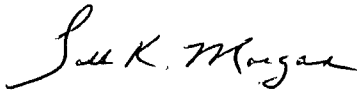
1. Staff recommends that the Board should analyze the criteria that deals with denying the property owners of the reasonable use of their land. Staff questions if it possible for the property owners to build a smaller barn that meets their needs and that better meets the 80 foot front yard setback requirement.
2. While the proposal is not out of character with the general vicinity, Staff is concerned about the impact that the barn would have on the property owners across the street. Staff believes that setting the barn further off the road or building a smaller barn would minimize this impact.
3. If the request is approved, Staff would recommend a condition that requires the front yard property pins to be located. The staked location of the barn does not appear to be 30' from the front property line.

4. The property owners have informed Staff that the barn will only be used for their horses and that they will not be offering riding lessons. If the owners decide to board horses or give riding lessons at a later time, they will need to obtain Site Plan approval from the Planning Commission to address parking. It is also possible that they will need to obtain a Conditional Use Permit from the Board of Adjustment to permit the use. Boarding and riding stables are being proposed to be changed from conditional uses to principally permitted uses, in the A-1 zone, as part of the 2001/2002 Zoning Update.

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 30 feet.

Respectfully submitted,



Todd K. Morgan, AICP  
Planner, Zoning Services

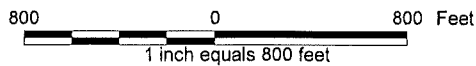
TKM/pr

Attachments

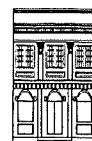
- Exhibit A – Site Vicinity & Zoning Map
- Exhibit B – Concept Plan
- Exhibit C – Aerial Map
- Exhibit D – Topographical Map
- Exhibit E – Application

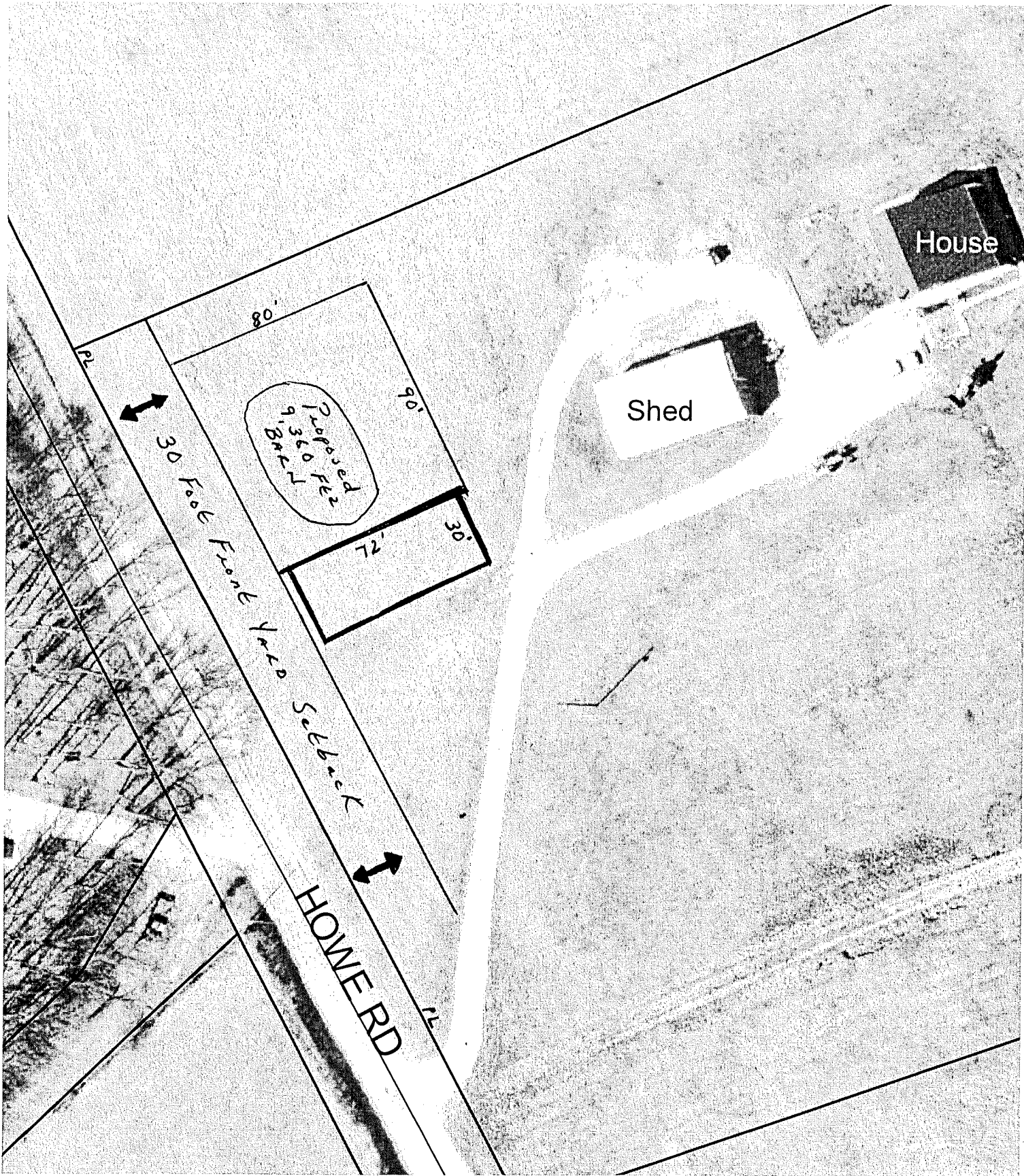


# Foster Property Site Vicinity & Zoning Map

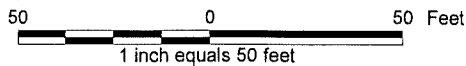


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GIS Services Division  
March 21, 2002

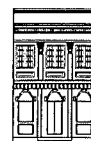




# Foster Property Concept Plan



Produced by the  
Boone County Planning Commission  
GIS Services Division  
March 26, 2002





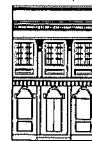
# Foster Property Aerial Map

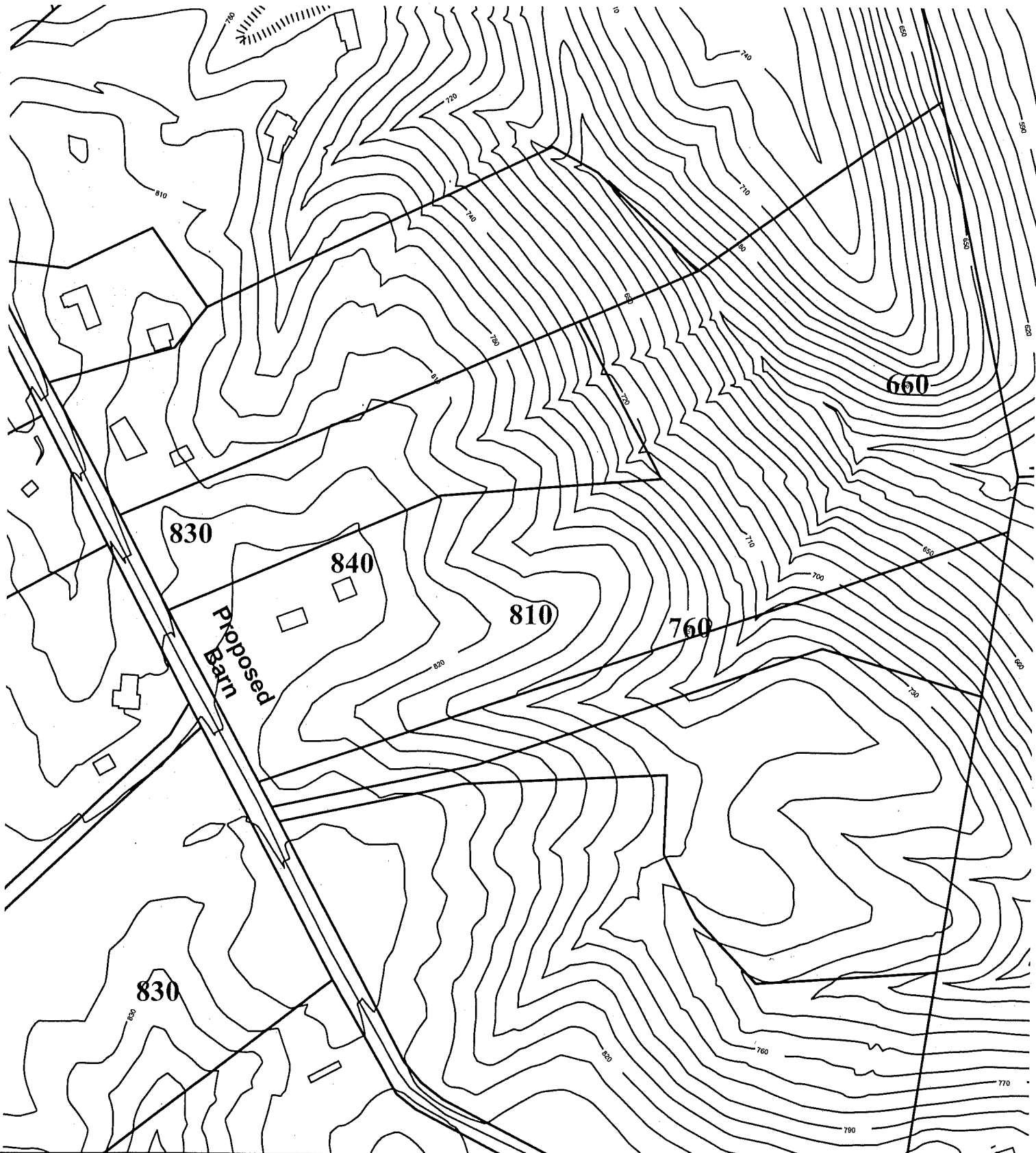
300 0 300 Feet



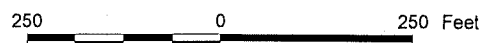
1 inch equals 300 feet

Produced by the  
Boone County Planning Commission  
GIS Services Division  
March 26, 2002





# Foster Property Topographical Map

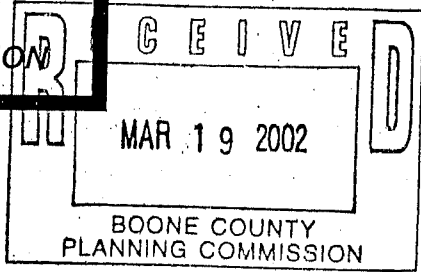


1 inch equals 250 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
March 26, 2002



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)
- Boone \_\_\_\_\_ Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_
  - (Check One)  
 Conditional Use Permit  Variance \_\_\_\_\_ Appeal \_\_\_\_\_  
 Change in Non-Conforming Use \_\_\_\_\_
  - Applicant's Name Tracy & Lynlee Foster  
 Phone Number 586-1399 Fax No. same  
 Applicant's Address 8040 Howe Rd  
Burlington, Ky 41005  
 City State Zip
  - Description of Request: Reducing front yard  
set back from 80' to 30'
  - Name of Development \_\_\_\_\_
  - Location of Development 8040 Howe Rd  
Burlington, Ky
  - Acreage Under Review 19.317
  - Lot Number and Name of Subdivision (if part of a subdivision) \_\_\_\_\_
  - Owner of Property Tracy & Lynlee Foster  
 Phone Number of Owner 586-1399 10.  
 Address of Property Owner: Burlington Ky  
 City State Zip
  - Proposed Use(s) on Site Barn
  - Total Square Footage of Existing and/or Proposed Buildings 9360
  - Current Zoning on Property A-1
  - Deed Book 812 Page No. 10 Group No. 2036
  - Is the site subject to a zone change?   
 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:

Property Owner's Signature:

(over)