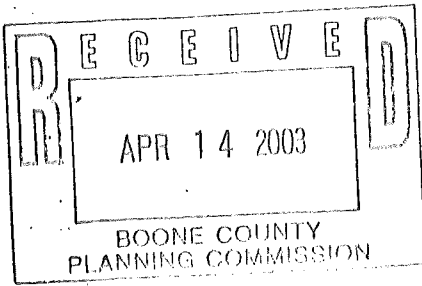


03-BCBOA-010-A



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 \_\_\_\_\_ Variance [checked] \_\_\_\_\_ Appeal \_\_\_\_\_
3. Applicant's Name THE DREES COMPANY (DAVID THORBURN) Phone Number 578-4269 Fax No. 331-9231 Applicant's Address 211 GRANDVIEW DR FT. MITCHELL KY 41017
4. Description of Request: REQUESTING VARIANCE FOR FRONT OF GARAGE ENCRoACHING 2'4" INTO FRONT SETBACK (SEE ATTACHED SITE PLAN).
5. Name of Development THE GROVES OF OAKBROOK
6. Location of Development FROM Phase L Part 5 IN THE GROVES OF OAKBROOK
7. Acreage Under Review .50 +/-
8. Lot Number and Name of Subdivision (if part of a subdivision) LOT # 121
9. Owner of Property DREES Phone Number of Owner 578-4269
10. Address of Property Owner 211 GRANDVIEW DR - FT. MITCHELL KY 41017
11. Proposed Use(s) on Site RESIDENTIAL DWELLING
12. Total Square Footage of Existing and/or Proposed Buildings 2,252
13. Current Zoning on Property i
14. Deed Book 839 Page No. 287 Group No. 2032
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: David Thorburn

Property Owner's Signature: David Thorburn

**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 4-14-03
- 2. Is application complete?  Yes  No Fee Received \$519.00 R# 34803
- 3. Staff Reviewer \_\_\_\_\_
- 4. Scheduled Board Action Date \_\_\_\_\_
- 5. Board Action:  
5-14-03  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](http://www.boonecountyky.org) - Web Page

**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: The Drees Company

LOCATION: Lot 121, Phase L, Part 5 of Oakbrook Subdivision (The Groves)  
(7094 Glade Lane, Boone County, Kentucky).

ZONING: Suburban Residential One/Planned Development (SR-1/PD).

DATE: May 14, 2003

### Proposal

The Drees Company is requesting a variance to reduce the front yard setback requirement from 30' to 27' 8" for a single-family residential dwelling, which is partially constructed on Lot 121 of The Groves at Oakbrook. The request, if approved, will allow an existing concrete foundation to remain where it has been poured (see attached Concept Plan).

### Site History

On November 14, 2002, a zoning permit was issued to construct a single-family residence on the subject lot. The zoning permit showed the house meeting the 30' front yard setback requirement (see attachments).

### Applicable Regulations

Article 2, Section 250 of the Boone County Zoning Regulations states that the Board of Adjustment 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.

#### Surrounding Land Uses and Zoning

The property is located in The Groves at Oakbrook and is zoned Suburban Residential One/Planned Development (SR-1/PD). The adjoining properties are single-family residential lots and are also zoned SR-1/PD.

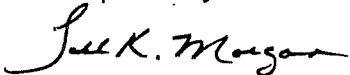
#### Staff Comments

1. Staff received a letter from the Drees Company, which outlines how the setback error was made (see attachments).
2. Staff also received letters from the future property owners and the adjoining property owners to the north and east. These letters support the variance request and are attached to the Staff Report.
3. Staff believes that the foundation was poured too closely to the front property line unintentionally and should not be viewed as a willful violation. Furthermore, Staff believes that granting the variance will not alter the essential character of the area or adversely affect the public health or safety.

#### 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 30' to 27' 8".

Respectfully submitted,



Todd K. Morgan, AICP  
Planner, Zoning Services

TKM/pr

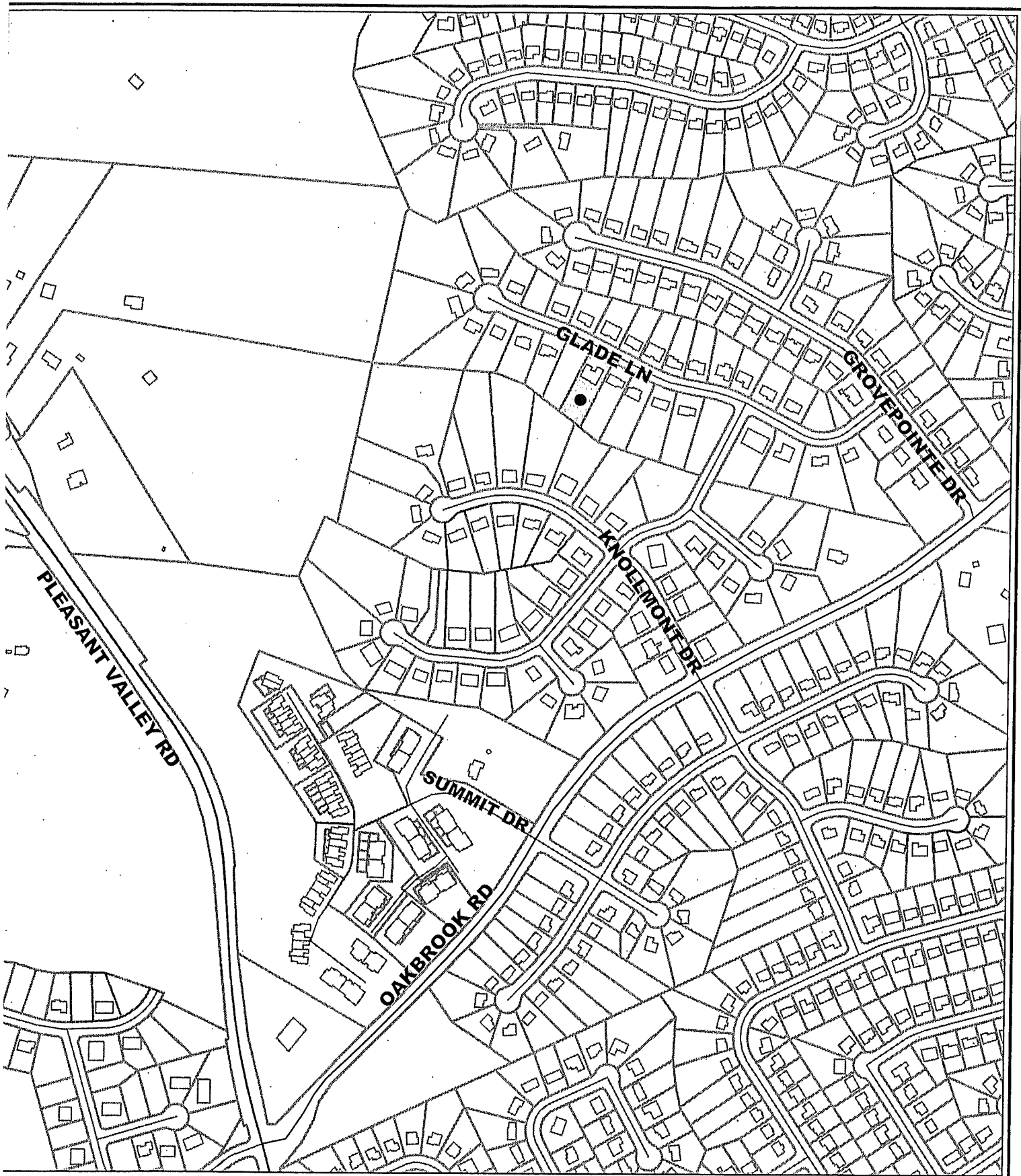
#### Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Concept Plan
- Exhibit C – Zoning Map
- Exhibit D – Aerial Map
- Exhibit E – November 14, 2002 Zoning Permit
- Exhibit F – Letter from The Drees Company

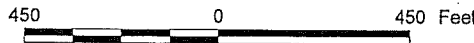
Exhibit G – Letters from Future Owners

Exhibit H – Letters from Adjoining Property Owners

Exhibit I – Application



# Lot 121, The Groves Site Vicinity Map

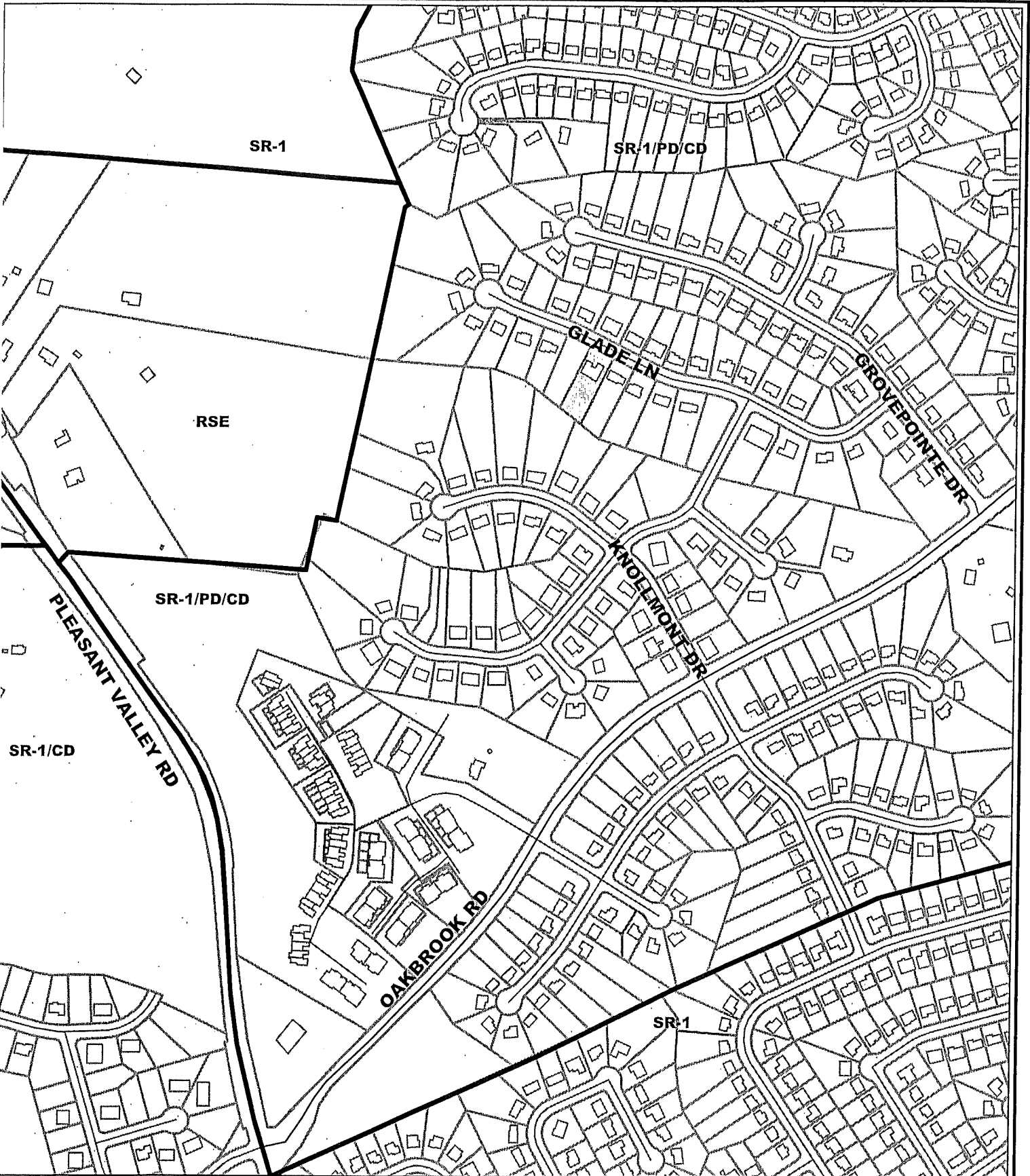


1 inch equals 450 feet

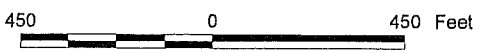
Produced by the  
Boone County Planning Commission  
GIS Services Division  
April 22, 2003







# Lot 121, The Groves Zoning Map



1 inch equals 450 feet

Produced by the  
Boone County Planning Commission  
GIS Services Division  
April 22, 2003





# Lot 121, The Groves Aerial Map



1 inch equals 150 feet

Produced by the  
Boone County Planning Commission  
GIS Services Division  
April 22, 2003



BUILDING ADDRESS OR LOCATION: 7094 Glade Lane Florence  
The Groves TG-121

**NOTICE**

I certify that what is submitted is true and accurate and 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.

NAME AND ADDRESS OF APPLICANT (PLEASE PRINT): Amanda Stewart  
The Drees Company  
211 Grandview Drive  
Ft. Mitchell, KY 41017  
(859) 578-4200

APPLICANT'S SIGNATURE: Amanda Stewart  
 As Authorized by Property Owner

DATE: 11/13/02 Phone Number: 578-4247

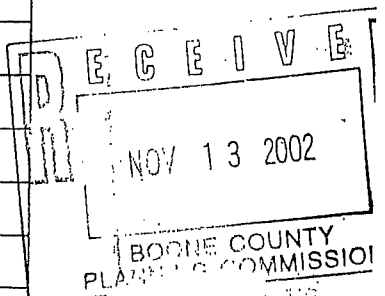
\*\*\*\*\*

SR/PA/CD This Portion of the Application to be Completed  
 the Boone County Planning Commission

Zoning District	Date <u>11/14/02</u>	Fee	<input checked="" type="checkbox"/> \$40.00	\$35.00
Approved <input checked="" type="checkbox"/>	Denied	<u>RD</u>	\$15.00	None
Staff Reviewer <u>Rudy Gaddell</u>	Address/Location <u>7094 Glade Lane</u>			
Subdivision <u>Oakbrook - Groves</u>				
Lot # <u>12</u>	Section # <u>---</u>	Block/Phase # <u>L</u>		

Type of Improvement	
<input checked="" type="checkbox"/> Single Family Residence	Detached Garage
Duplex	Garage Addition
Three Family	<input checked="" type="checkbox"/> Porch <input checked="" type="checkbox"/> Deck
Apartment (# units _____)	Barn or Shed
Townhouse (# units _____)	Swimming Pool
Mobile Home	Tenant Finish
Residential Addition	Other:
Jurisdiction	
<input checked="" type="checkbox"/> Boone County	Florence
Walton	Union
Post Office	
Burlington	<input checked="" type="checkbox"/> Florence
Walton	Union
Hebron	Verona
Petersburg	Erlanger
Crittenden	
Group # <u>2032</u>	Census Tract # <u>703.98</u>

RA# 33493



DESCRIPTION

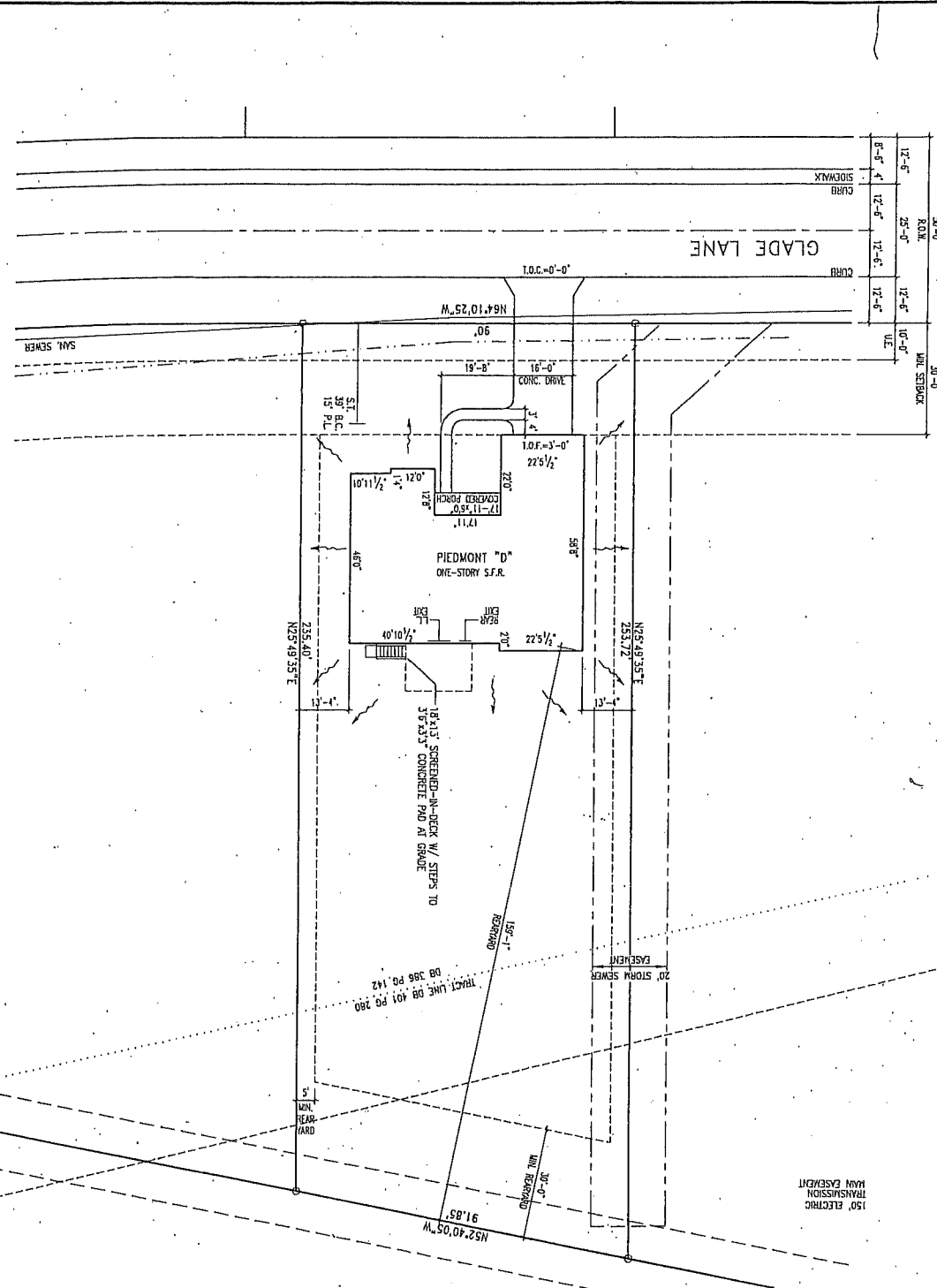
LOT #121  
THE GROVES OF OAKBROOK  
PHASE 1, PART 5

BOONE COUNTY  
KENTUCKY



SUBDIVISION NOTES

- EXTERIOR STEPS WITH CONCRETE PAD IF/AS REQUIRED BY GRADE
- THE LANDING (MINIMUM 3'-0" X 3'-0") AT THE EXTERIOR OF AN EXTERIOR DOORWAY SHALL BE NOT LOWER THAN 8 1/4" BELOW THE TOP OF THE THRESHOLD
- CONTRACT SELECTION SHEETS
- FIELD DETERMINE EXACT ROUNDS AND LOCATION OF CURVES AT HOUSE SIDEWALK



CONTRACT REVISIONS:	REV. NO.	REV. DATE	REV. BY	REV. DESCRIPTION

JOB ADDRESS	7094 GLADE LANE
CONTRACT NO.	TG-0121-00
CONTRACT DATE	11/12/02 11:18:17 am EST
CUSTOMER	DAUGHERTY
PHONE NO.	(859) 578-6555
JOB #	TG-0121-00
SHEET NO.	P.1



**The Drees Company**  
 211 Goodwin Drive First Union, Kentucky 40122  
 Copyright 2000 The Drees Company. All rights reserved. These plans are protected by copyright. No part of these plans may be reproduced in any form or by any means, including photocopying, without the written permission from the copyright owner.

PER ITEM #1 OF DWGS FOR GENERAL SPECS:  
 THIS IS NOT A LEGAL INSTRUMENT. FOR FURTHER INFORMATION, CONTACT THE ARCHITECT OR ENGINEER.  
 HODGSON & SHERMAN ARCHITECTS & ENGINEERS OF LOCAL OFFICE

PILOT PLAN BR: 2575  
 PHONE EXT. NO.: 11-11-02  
 PILOT PLAN DATE: 11-11-02  
 SHEET DESCRIPTION: PLOT PLAN  
 SCALE: 1" = 30'-0"



March 28, 2003

Boone County Planning Commission  
Board of Adjustments and Zoning Appeals

RE: Front yard variance

The Drees Company requests a variance to the front yard setback. This house has encroached the 30' minimum setback by 2'4".

The Drees Company noticed a potential encroachment during a construction review on Tuesday March 25, 2003. The encroachment was confirmed on Wednesday, March 26, 2003 from our request to Viox & Viox, Inc. to provide an engineering survey of the house in relationship to the front set back.

The encroachment occurred as a result of an error of The Drees Company to get the home re-staked after changes were made to increase the size of the garage to better accommodate a handicapped spouse with multiple sclerosis. These changes occurred after the original stakeout. We failed at that time to re-stake this home with a larger garage.

Upon confirmation the encroachment by engineering survey we have discussed the matter with the purchaser of lot 121 Mr. and Mrs. Daugherty. During our discussion they expressed their support of the variance and will submit this support in writing.

While clearly this occurrence is due to error by The Drees Company we do request an approval based on the support of our affected future owners and their plans with this home, as well as eliminating unnecessary hardship to all affected parties.

Respectfully,

A handwritten signature in cursive script that reads "David Thorburn".

David Thorburn  
Construction Manager  
The Drees Company

*The way better homes are built*

211 Grandview Drive | Ft. Mitchell, Kentucky 41017-2790  
P (859) 578-4200 | F (859) 331-9231 | [www.dreeshomes.com](http://www.dreeshomes.com)



Mr. & Mrs. James Daugherty  
6859 Glen Arbor Drive  
Florence, KY 41042

April 2, 2003.

Re: Planning & Zoning Variance Application

The Drees Company is building our home on Glade Lane, lot 121, in the Grove Subdivision of Oakbrook. They have stopped construction due to the garage now being 2' 4" over the minimum set back line.

This error inadvertently happened as a result of The Drees Company trying to accommodate our desire to build a handicap accessible home. They have been working with us for almost a year, as we have dramatically altered their house plan to achieve this goal. The garage design is an important part of this plan to accommodate a handicap vehicle. They will be installing an elevator and there will be no steps at any of the entrances, for wheelchair access, for Denise who has multiple sclerosis.

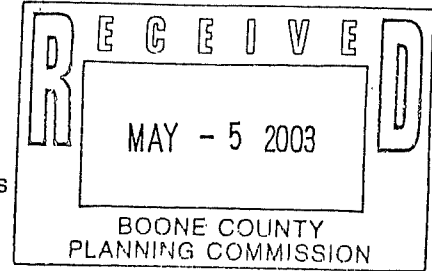
Glade Lane is nearly all developed, except for one lot at the corner of Glade and Thornwood so this encroachment ordeal should not be a repeated problem on this street.

We sincerely hope that you will grant a variance to allow The Drees Company to proceed with current construction of our home.

Thank you,

James & Denise Daugherty

May 5, 2003



Re: Planning & Zoning Variance Application for Drees Lot 121, The Groves

Dear Committee Members:

The purpose of this letter is to support The Drees Company request for a zoning variance for Lot 121, Glade Lane, in The Groves Subdivision of Oakbrook. This variance accommodates an inadvertent error that occurred as a result of The Drees Company building our handicap-accessible home. They have been working with us for over a year and have significantly altered the house plan to achieve this goal.

This house's design accommodates Denise's poor and deteriorating mobility. It has several integrated features designed to achieve handicap accessibility without being obvious to the casual observer.

The garage size is common to Drees homes in Oakbrook as a side-entry, 3-car garage. However, as a front-entry garage (used predominately in The Groves), this garage allows greater choice in handicap-accessible vehicles. Denise can park in the garage with either side of her vehicle opening for the handicap ramp. Then another car can park behind her vehicle and still allow the garage door to close. The 32-foot depth is the minimum depth required to accommodate two vehicles parked end-to-end.

The following are representative of vehicles that we would likely own:

<u>Vehicle</u>	<u>Length</u>
Chevrolet Venture Van	15' 6"
Dodge Caravan, Chevrolet Malibu, Chevrolet Astro Van	15' 10"
Ford Taurus	16' 6"

Because the outside garage wall continues flush with the house side wall (there is no bump in at the end of the garage), the garage appears to be a standard, two-car garage. The loss of 2' 4" of depth destroys the garage's utility for its intended purpose and will be a significant hardship.

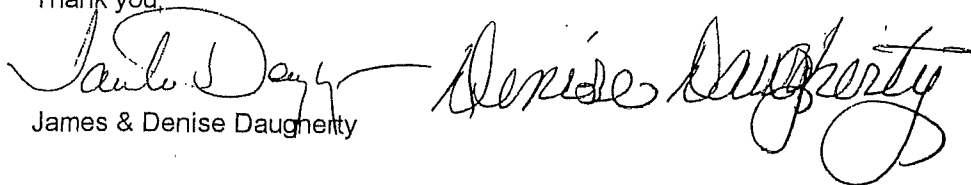
This house has other innovative features to accommodate Denise's multiple sclerosis. These features include no step from the garage floor to the kitchen utility room, no step from the front walk to the front door, no step from the rear porch to the breakfast room and no step from the lower patio to the family room. In addition, there is an elevator between the main and lower levels and wheelchair access (no step or threshold) in the master and the lower level showers and widened halls and doorways.

These features, particularly the design of the front entrance (which avoids a handicap ramp), allows the house to blend in with the neighborhood. Similarly, this requested variance would not be obvious to the casual observer. While the variance would allow this house's garage to be 2' 4" closer to the street than neighboring houses, it has no other feature as close to the street. Neighboring homes have features attached to them that extend closer to the street, such as front porch stoops and retaining walls.

We respectfully request granting this variance because:

- it allows a significant increase in utility to a handicap individual,
- it will not be noticeable to the casual observer, and
- there is no feasible alternative which allows these features to be incorporated into this house.

Thank you.

  
James & Denise Daugherty

March 31, 2003

To Whom It May Concern:

We live across the street from lot 121 in The Groves of Oakbrook. The Drees Company has made us aware that the home under construction on lot 121 has encroached the minimum set back. The Drees Company has explained that they are in the process of applying for a variance through Boone County Planning and Zoning.

This correspondence is to give our support of approval of the variance and to go on record that we are in no way opposed to the existing placement of our new neighbors home on the lot.

Respectfully,

A handwritten signature in cursive script, appearing to read "Paul Rogers", written in dark ink.

Paul and Clare Rogers  
7093 Glade Lane  
Florence, KY 41042

April 4, 2003

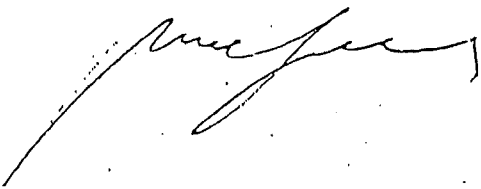
To Whom It May Concern:

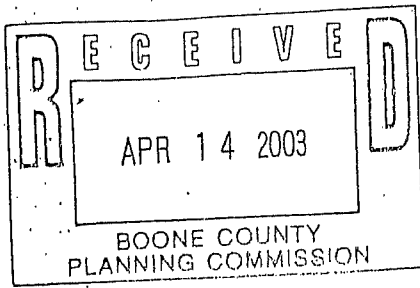
I live at 7088 Glade Lane, which is next to lot 121 in The Groves of Oakbrook. The Drees Company has brought it to my attention that the home under construction on lot 121 has encroached the minimum set back. The Drees Company has explained that they are in the process of applying for a variance through Boone County Planning and Zoning.

I am writing this letter to give my support of approval for the variance and to go on record that I am in no way opposed to the existing placement of my new neighbors home on the lot.

Sincerely,

Marian Gajdos.





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.  Boone \_\_\_\_\_ Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_
  2. \_\_\_\_\_ Conditional Use Permit  Variance \_\_\_\_\_ Appeal \_\_\_\_\_  
Change in Non-Conforming Use
  3. Applicant's Name THE DREES COMPANY (DAVID THORBURN)  
Phone Number 578-4269 Fax No. 331-9231  
Applicant's Address 211 GRANDVIEW DR  
FT. MITCHELL KY 41017  
City State Zip
  4. Description of Request: REQUESTING VARIANCE FOR FRONT OF GARAGE ENCRoACHING  
2'4" INTO FRONT SETBACK (SEE ATTACHED SITE PLAN).
  5. Name of Development THE GROVES OF OAKBROOK
  6. Location of Development FROM Phase L Part 5 IN THE GROVES OF OAKBROOK
  7. Acreage Under Review .50 +/-
  8. Lot Number and Name of Subdivision (if part of a subdivision)  
LOT # 121
  9. Owner of Property DREES
  10. Phone Number of Owner 578-4269  
Address of Property Owner 211 GRANDVIEW DR. FT MITCHELL KY 41017  
City State Zip
  11. Proposed Use(s) on Site RESIDENTIAL DWELLING
  12. Total Square Footage of Existing and/or Proposed Buildings 2,252
  13. Current Zoning on Property I
  14. Deed Book 839 Page No. 287 Group No. 3357
  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: David Thorburn

Property Owner's Signature: David Thorburn

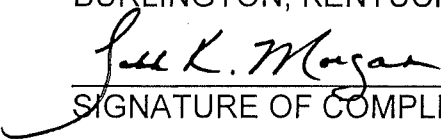
COPY

CLUR #03-BCBOA-010-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)  
The Drees Company  
211 Grandview Drive  
Ft. Mitchell, KY 41017
2. ADDRESS OF PROPERTY  
7094 Glade Lane  
Florence, KY 41042
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Oakbrook, The Groves, Lot 121
4. DEED BOOK 839      PAGE NO. 287      GROUP NO. 2032
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

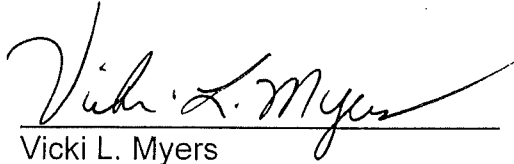
  
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

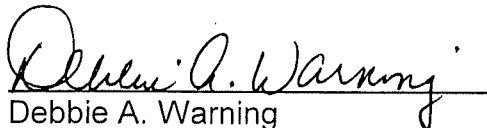
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 15 day of May, 2003.



Vicki L. Myers  
NOTARY PUBLIC, State at Large

My commission Expires:  
April 17, 2007

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 May 14, 2003 Certificate of Land Use Restriction (#03-BCBOA-010-A), for The Drees Company, 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 839

PAGE NO. 287

GROUP NO. 2032