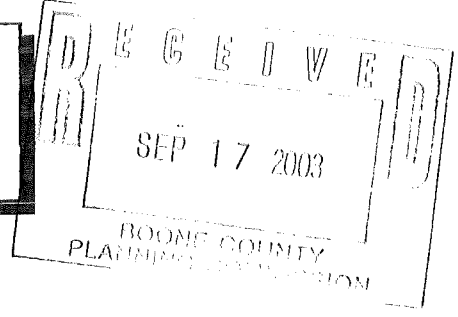


Case # 03-BCBOA-020-A
APPLICATION FORM

**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 _____ Florence _____ Walton _____ Union _____
- 2. (Check One)
_____ Conditional Use Permit Variance _____ Appeal _____
_____ Change in Non-Conforming Use _____
- 3. Applicant's Name STEVE CURLEY (CONSTRUCTION)
Phone Number 356-3333 Fax No. _____
Applicant's Address 635 WRIGHT RD.
WALTON KY 41094
City State Zip
- 4. Description of Request: REAR YARD SETBACK VARIANCE - CURRENTLY 40';
REDUCE TO 28' (12' REDUCTION)
- 5. Name of Development HOWE ACRES - PHASE II
- 6. Location of Development MAHER ROAD
- 7. Acreage Under Review _____
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
LOTS 50-55 & LOTS 14 & 15 (8 TOTAL)
- 9. Owner of Property STEVE CURLEY (CONSTRUCTION)
Phone Number of Owner 356-3333 635 WRIGHT ROAD
Address of Property Owner WALTON KY 41094
City State Zip
- 11. Proposed Use(s) on Site SINGLE FAMILY RESIDENTIAL
- 12. Total Square Footage of Existing and/or Proposed Buildings _____
- 13. Current Zoning on Property RS
- 14. Deed Book 838 Page No. 160 Group No. 2058
- 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 (SEE #)
- 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: STEVE CURLEY CONST., INC. BY: Amy S. Curley, V.P.
Property Owner's Signature: STEVE CURLEY CONST., INC. BY: Amy S. Curley, V.P.

(over)

ADJOINING PROPERTY OWNERS!

1) FINE HOMES
3180 BURLINGTON PIKE
BURLINGTON, KY.
41005

2) LAURENCE HOWE
492 MAHER ROAD
WALTON, KY.
41094

**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 9-17-03 Fee Received \$487.00 # 36631
2. Is application complete? _____ Yes _____ No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
10/8/03 **Approved**
Approved with Conditions (See #6)
Denial (See #7)
6. Conditions of Approval: SEE 10/8/03 BCBOA MEETING
MINUTES
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
_____ - 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: Steve Curley Construction
LOCATION: Lots 14-15 and 50-55 of Howe Acres Subdivision, Boone County, Kentucky
ZONING: Rural Suburban (RS)
DATE: October 8, 2003

Proposal

The Applicant has requested eight (8) variances to reduce the rear yard setbacks of lots 14-15 and 50-55 of Howe Acres Subdivision. The request is to reduce the rear yard setback requirement of the eight lots from 40 feet to 28 feet so decks can be constructed onto the rear of single-family dwellings.

Applicable Regulations

Article 31, Section 3123 of the Boone County Zoning Regulations states that open structures such as porches, canopies, balconies, platforms, carports, covered patios, and similar architectural projections which occupy space three (3) or more feet above the general ground level of the yard shall be considered parts of the building to which attached and shall not project into the required minimum front, side or rear yard.

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.

Site Characteristics

Each of the eight parcels are approximately three-tenths of an acre in area. A single-family residential dwelling is currently under construction on lot 50. The remaining lots on which the rear yard setback variance is being proposed are currently vacant. The topography of the parcels is flat to rolling. Utility easements exist on each of the parcels.

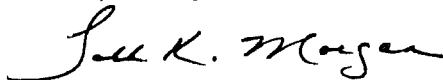
Staff Comments

1. Staff received a letter from the applicant explaining that the variances would allow each house to be constructed with a deck (see attachments).
2. Staff believes that the variance requests can be viewed in two ways:
 - A. The granting of the variances will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, and will not cause a hazard or nuisance to the public because the decks are open structures.
 - B. The developer decided to plat off the lots near the minimum 12,000 square foot lot size, knowing that the setbacks were 40' front and 40' rear. The variances were self created by the developer when he decided to plat off the lots.
3. Staff recommends the following condition, if the variance requests are approved:
 - A. Only decks will be allowed to encroach into the rear yard setback. The maximum a deck can encroach into the rear yard setback is 12 feet.

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 rear yard setback variance.

Respectfully submitted,

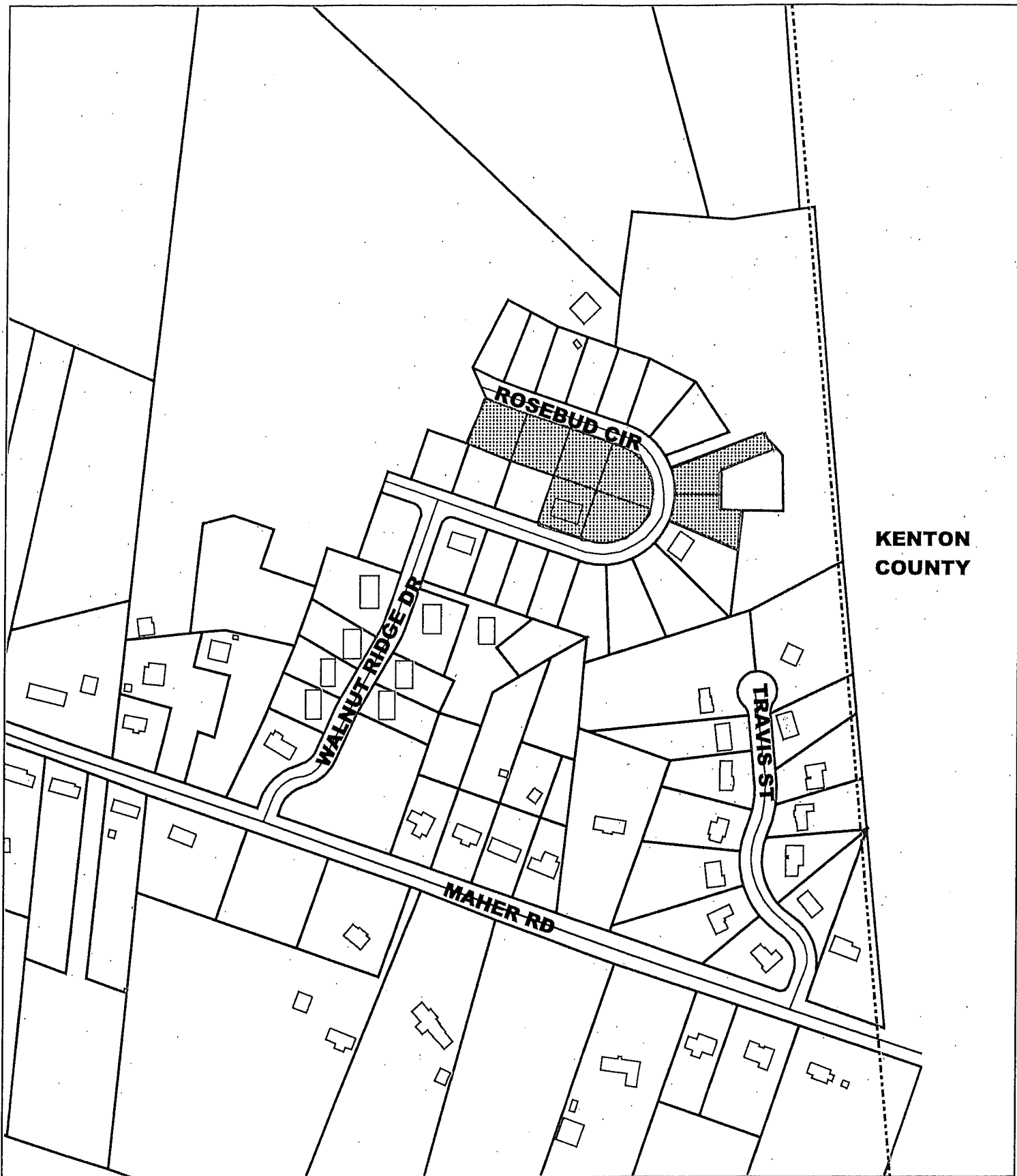


Todd K. Morgan, AICP
Planner, Zoning Services

TKM/pr

Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Letter From Applicant
- Exhibit C – Concept Plan (Final Plat)
- Exhibit D – Zoning Map
- Exhibit E – Topographical Map
- Exhibit F – Application



**KENTON
COUNTY**

**Lots 14-15 & 50-55
Howe Acres
Site Vicinity Map**


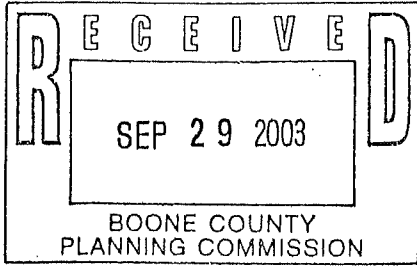
300 0 300 Feet



1 inch equals 300 feet

Produced by the
Boone County Planning Commission
GIS Services Division
September 30, 2003





**Steve Curley
Construction, Inc.**

635 WRIGHT ROAD • WALTON, KY 41094
Model (859) 356-3333
Fax (859) 356-4532

September 26, 2003

Mr. Todd Morgan
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005

Re: Requested Variances
Lots 14-15 and 50-55 Howe Acres
Rosebud Circle
Hearing Date: 10/08/03

Dear Mr. Morgan:

We have submitted an application for request of variances for the above-referenced property. These are single-family building lots.

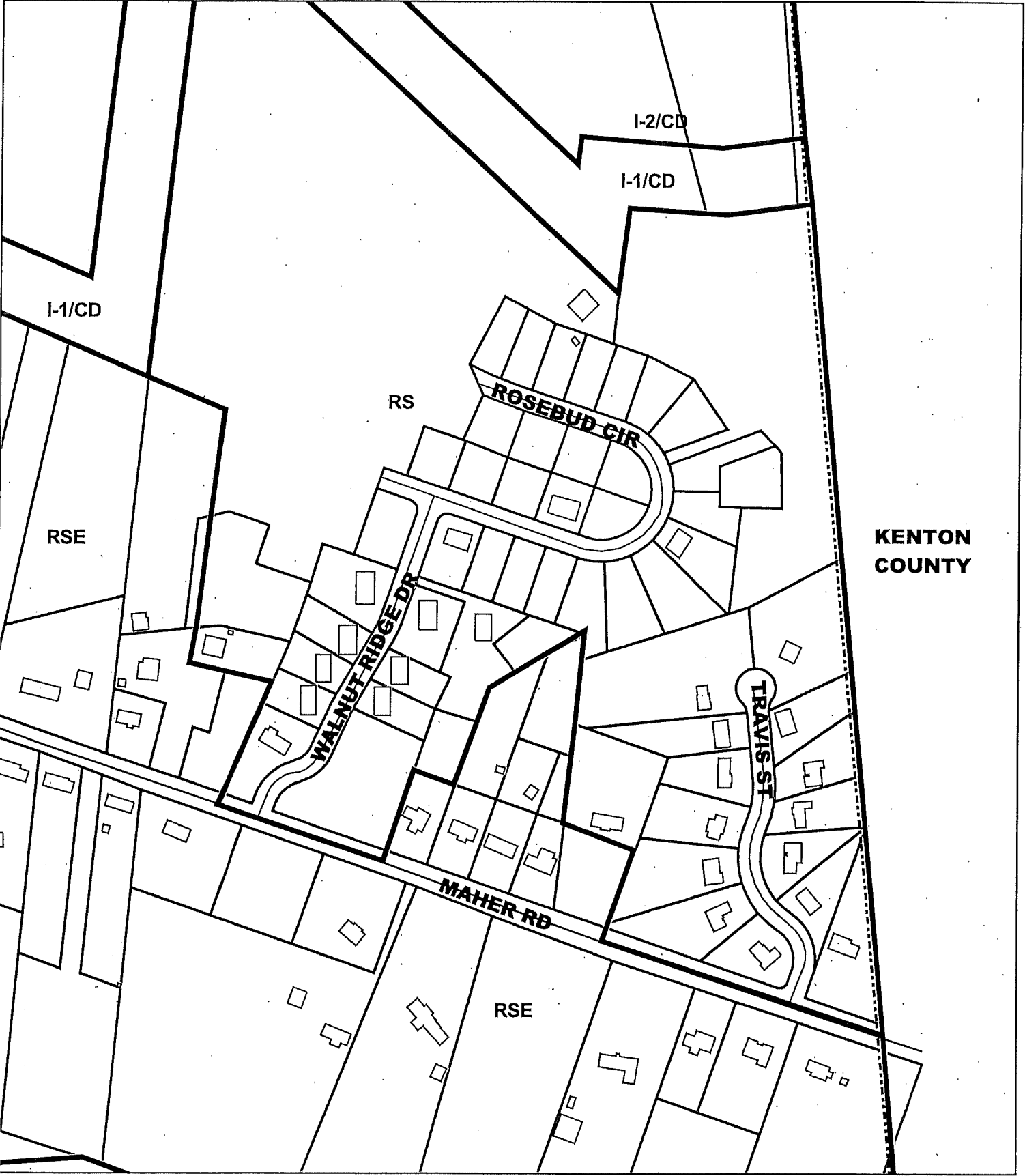
The reason we are requesting variances for these lots is so that a deck will be able to be placed in the rear of the homes to be constructed on these lots. These lots do not contain enough depth for us to place decks on the homes and still meet the rear setback restriction.

The typical deck size for this type of home is usually ten to twelve feet in depth.

Thank you very much for considering our application. Please advise if you have any questions or need anything further. We are scheduled to be out of town on the date of the hearing, so Jerry Keith, our engineer, will be present at the meeting on our behalf.

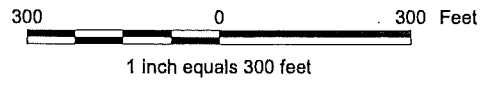
Sincerely,


Amy Curley

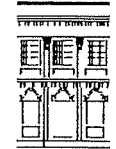


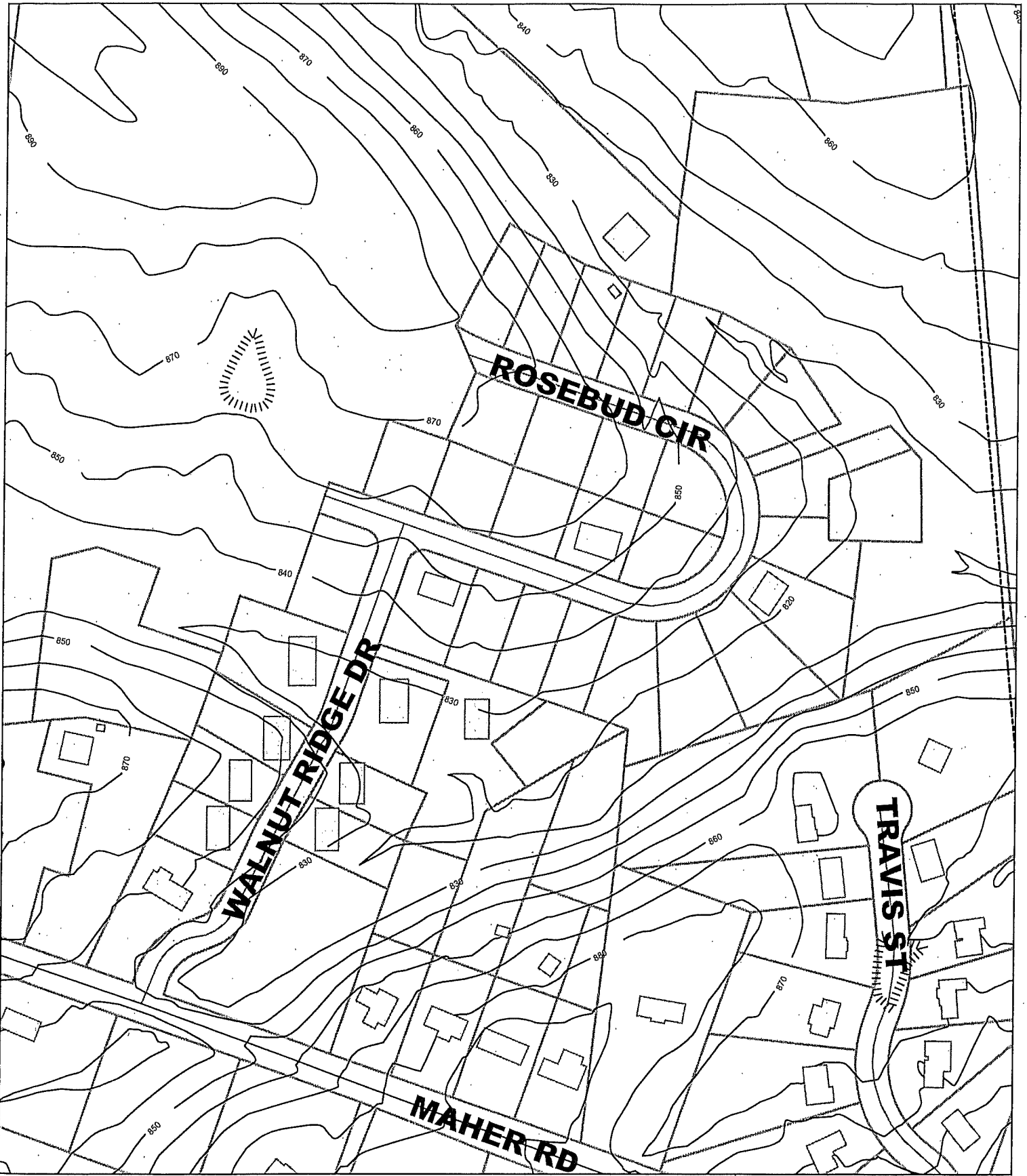
**KENTON
COUNTY**

**Lots 14-15 & 50-55
Howe Acres
Zoning Map**

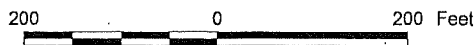


Produced by the
Boone County Planning Commission
GIS Services Division
September 30, 2003





**Lots 14-15 & 50-55
Howe Acres
Topographical Map**



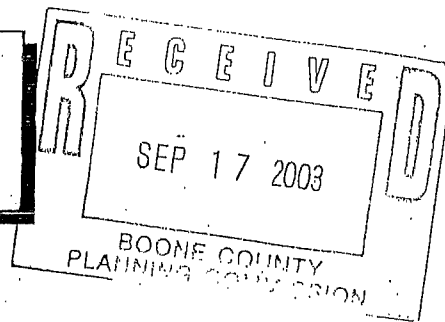
1 inch equals 200 feet

Produced by the
Boone County Planning Commission
GIS Services Division
September 30, 2003



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 _____
3. Applicant's Name STEVE CURLEY CONSTRUCTION
Phone Number 356-3333 Fax No. _____
Applicant's Address 635 WRIGHT RD.
WALTON KY 41094
4. Description of Request: REAR YARD SETBACK VARIANCE - CURRENTLY 40';
REDUCE TO 28' (12' REDUCTION)
5. Name of Development HOWE ALFES - PHASE II
6. Location of Development MAHER ROAD
7. Acreage Under Review _____
8. Lot Number and Name of Subdivision (if part of a subdivision)
LOTS 50-55 & LOTS 14 & 15 (B TOTAL)
9. Owner of Property STEVE CURLEY CONSTRUCTION
Phone Number of Owner 356-3333 635 WRIGHT ROAD
10. Address of Property Owner WALTON KY 41094
City State Zip
11. Proposed Use(s) on Site SINGLE FAMILY RESIDENTIAL
12. Total Square Footage of Existing and/or Proposed Buildings _____
13. Current Zoning on Property RS
14. Deed Book [redacted] 838 Page No. [redacted] 160 Group No. 4454
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 (SEE)
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: BY: Amy S. Curley, V.P.
Property Owner's Signature: BY: Amy S. Curley, V.P.

(over)

ADJOINING PROPERTY OWNERS:

1) FIVE HOMES
3180 BURLINGTON AVE
BURLINGTON, KY.
41005

2) LAURENCE HOWE
492 MAHER ROAD
WALTON, KY.
41094

COPY

CLUR #03-BCBOA-020-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Steve Curley Construction
635 Wright Road
Walton, KY 41094
2. ADDRESS OF PROPERTY
Maher Road
Walton, KY 41094
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Howe Acres, Phase II
4. DEED BOOK 838 PAGE NO. 160 GROUP NO. 2058
5. TYPE OF RESTRICTION(S) (Check all that apply)
- Zoning Map Amendment: Conditional Use Permit
From To
- Development Plan Conditional Zoning
- Subdivision Plat
(Not Recorded) Other:
- 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



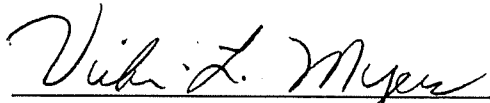
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

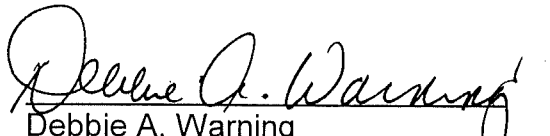
COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 3 day of November, 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 October 8, 2003 Certificate of Land Use Restriction (#03-BCBOA-020-A), for Steve Curley Construction, Property Owner(s).

The following conditions will apply:

- 1) Only decks will be allowed to encroach into the rear yard setback. The maximum a deck can encroach into the rear yard setback is 12 feet.

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

DEED BOOK 838

PAGE NO. 160

GROUP NO. 2058