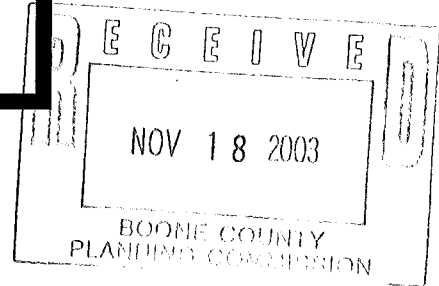


APPLICATION FORM

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 [X] Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_
2. (Check One) Conditional Use Permit \_\_\_\_\_ Variance [X] Appeal \_\_\_\_\_ Change in Non-Conforming Use \_\_\_\_\_
3. Applicant's Name FISCHER HOMES-BRIAN JOHNSON
Phone Number 859-344-4294 Fax No. 859-344-5900
Applicant's Address 2670 CHANCELLOR DRIVE - STE. 300 CRESTVIEW HILLS Ky 41017
4. Description of Request: VARIANCE TO ADD DECK REDUCE REAR YARD SETBACK TO 21.12'
5. Name of Development TRIPLE CROWN
6. Location of Development RICHWOOD EXIT - UNION, Ky
7. Acreage Under Review \_\_\_\_\_
8. Lot Number and Name of Subdivision (if part of a subdivision) TRIPLE CROWN - SITE # 245
9. Owner of Property RAZA & LEIGH KARIM
Phone Number of Owner 517-204-6769
10. Address of Property Owner 10971 ARCADE LN. UNION, Ky 41091
11. Proposed Use(s) on Site RECREATIONAL/LIVING
12. Total Square Footage of Existing and/or Proposed Buildings 200 sq. ft.
13. Current Zoning on Property RESIDENT (SR-1)
14. Deed Book D863 Page No. 881 Group No. 2064
15. Is the site subject to a zone change? NO
If yes, give date of approval N/A
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: Brian Johnson
Property Owner's Signature: Raza Karim

(over)

**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 11-18-03 Fee Received \$827.00 # 37193
2. Is application complete? \_\_\_\_\_ Yes \_\_\_\_\_ No
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
1-14-04 **Approved**  
**Approved with Conditions (See #6)**  
**Denial (See #7)**
6. Conditions of Approval: SEE 1-14-04  
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@boonecountky.org - E-mail  
www.boonecountky.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: Fischer Homes  
LOCATION: 10971 Arcaro Lane, Triple Crown Subdivision  
ZONING: Suburban Residential One (SR-1)  
DATE: December 10, 2003

### Proposal

Fischer Homes is requesting two variances for reductions in the required 30 foot rear yard setback for the above-mentioned address. The subject parcel is 0.39 acres. The zoning of the property is Suburban Residential One (SR-1).

The Applicant submitted a Zoning Permit early in 2003 to allow construction of a single-family home on the lot. At that time a plot plan that did not feature the required 30-foot rear yard setback was submitted with the Zoning Permit application. The applicant revised the drawings, and a Zoning Permit was subsequently issued for the property in March of 2003, with a plot plan that reflected the correct rear-yard setback. However, the original drawings, rather than the revised drawings, were forwarded to Fischer's engineering department. Thus the lot was staked out and the house was built according to the incorrect rear yard setback as shown on the original plot plan.

The residence in question was a market home. The home's purchaser requested that a deck be built on the rear of the house at the time of the home's sale. When the contractor applied for a Zoning Permit to construct the deck, a discrepancy in the rear-yard setback was discovered. The rear-yard setback was at 23.38 feet rather than 30 feet. The applicant is requesting the first variance to permit this reduced rear setback. Additionally, the applicant is requesting a variance to the rear yard setback to allow the construction of a 16 foot by 12 foot deck that would encroach further into the rear yard setback, reducing it to 21.12 feet.

### 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 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.

#### Site Characteristics

The parcel slopes downward toward the property boundaries on the east, between lots 245 and 246. Elevations range from 900 feet above sea level to approximately 908 feet above sea level. There is landscaping along the eastern side of the house, closest to 1106 Grindstone Court. There is a driveway adjoining the property boundary on this side of the house.

#### Surrounding Land Uses

North: Single-family residence at 10967 Arcaro Lane, zoned Suburban Residential Two/Planned Development/Concept Development (SR-2/PD/CD)

- Northeast: Single-family residence at 10968 Arcaro Lane, zoned Suburban Residential Two/Planned Development/Concept Development (SR-2/PD/CD)
- Northwest: Single-family residence at 1087 Bold Forbes Court, zoned Suburban Residential Two/Planned Development/Concept Development (SR-2/PD/CD)
- South: Single-family residence at 1101 Grindstone Court, zoned Suburban Residential One (SR-1)
- East: Single-family residence at 10972 Arcaro Lane, zoned Suburban Residential One(SR-1)
- West: Single-family residence at 1106 Grindstone Court, zoned Suburban Residential One(SR-1)

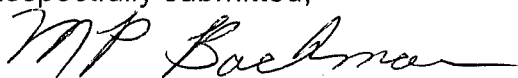
Staff Comments

1. The Board shall deny the request for a variance that results from any willful violation of the Boone County Zoning Regulations. It is staff's belief that the reduction in setback resulted from an honest error rather than a willful violation.
2. Staff is concerned about the impact the proposed variances will have on the adjoining property at 1106 Grindstone Court. If the variances are approved, Staff recommends that 3 evergreen trees be planted near the shared property boundaries between 1106 Grindstone Court and 10971 Arcaro Lane, extending the length from the northernmost point of the western property boundary to the southwest corner of the house, closest to the driveway, to screen the deck from the adjoining property. The trees shall be 6 feet tall at planting.

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 two rear yard setback variances, first from 30 feet to 23.38 feet and then to 21.12 feet with the construction of the deck. It is Staff's opinion that granting the variance will not adversely affect the public health, safety or welfare, and will not alter the essential character of the general vicinity if the existing tree line is preserved.

Respectfully submitted,



Patty Bachman  
Planner, Zoning Services

MPB/pr

Attachments

Exhibit A – Site Vicinity Map

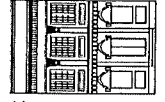
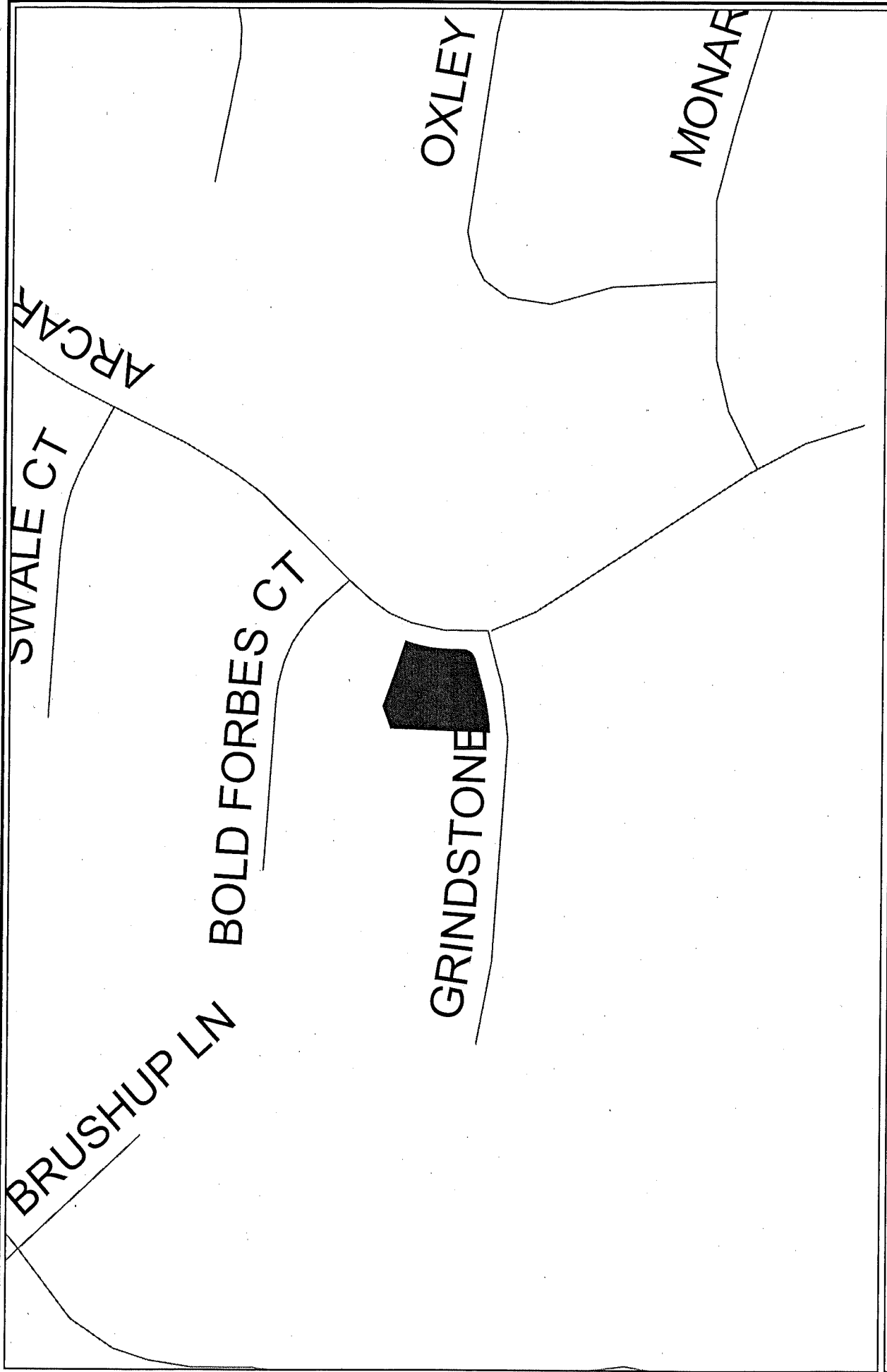
Exhibit B – Letter from Fischer Homes

Exhibit C –Plot Plan Submitted with Approved Building Permit

Exhibit D –As-Built Plot Plan for the Site

Exhibit E –Aerial Map and Zoning Map

Exhibit E –Application



1 inch equals 200 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
November 26, 2003

10971 Arcaro-Vicinity



*A Fischer Group Company*

October 31, 2003

Boone County Planning Commission  
Attn: Todd Morgan

Re: Triple Crown site 245

Dear Mr. Morgan:

The purpose of this letter is to try and explain why we need the variance on site 245 and what led to this situation.

To begin, our company is divided into different departments. Each department has certain responsibilities for which they are responsible. Our Architecture Department is responsible for drawing and submitting blueprints and plot plans to Building & Zoning Department for approval. When the plot plan was submitted for permits, it was found that the original drawing was located in the rear property setback lines and needed to be revised. These changes were made and resubmitted, however the original plot plan had already been issued to the engineering firm for stakeout. The persons responsible for relaying these changes did not pass along this change to the other people involved with completing the plans for start of construction or to the Division in charge of Triple Crown. Thus, the incorrect plot plan was issued for construction and to all parties involved in the building process.

The home was built and completed as a Market Home. When the home was sold, the purchaser asked for a deck to be added. It was at this time, when the deck contractor submitted for a permit, that it was discovered that the home was actually encroaching into the setback. Since it was necessary for our customer to close quickly due to relocation from Michigan, we were not able to request or obtain the variance prior to closing. It created a very stressful situation for our customer and put us in a difficult position.

Due to this situation, we have made changes in our process so as to avoid any future problems in this area. We hope never to put a customer through this type of stress again. Fischer Homes is very thorough with all processes and asks for your indulgence in this instance.

We thank you for your consideration in granting this variance so that we can provide our customer with a peace of mind and they can move on with their life.

Sincerely,

A handwritten signature in black ink, appearing to read 'Brian Johnson'.

Brian Johnson  
South Division Manager  
Fischer Single Family Homes, LTD

cc: customer file



244

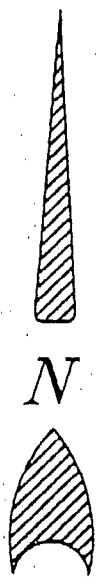
243

STORM SEWER EASEMENT

473/306  
658/57

N 45°30'23" E

S 80°05'22" E 132.48



N

S 02°31'56" W

Δ = 19°00'00"  
T = 60.00  
R = 358.55  
L = 118.90

245

147.61

NT

DRIVEWAY

COURT

ARCARDO

LANE

GRINDSTONE

TRACT LINE

SANITARY SEWER EASEMENT

38.30

1.47

37.35

21.18

89.36

N 09°46'26" W  
70.56

36.26

35.95

28.58

37.26

20.03

113.62

67.31

60.16

18.97

25.90

55.91

56.03

47.89

35.92

20'R

29.52

26.88

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8.25

7.58

8.08

15.50

2.08

13.17

44.75

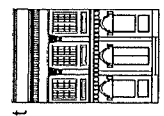
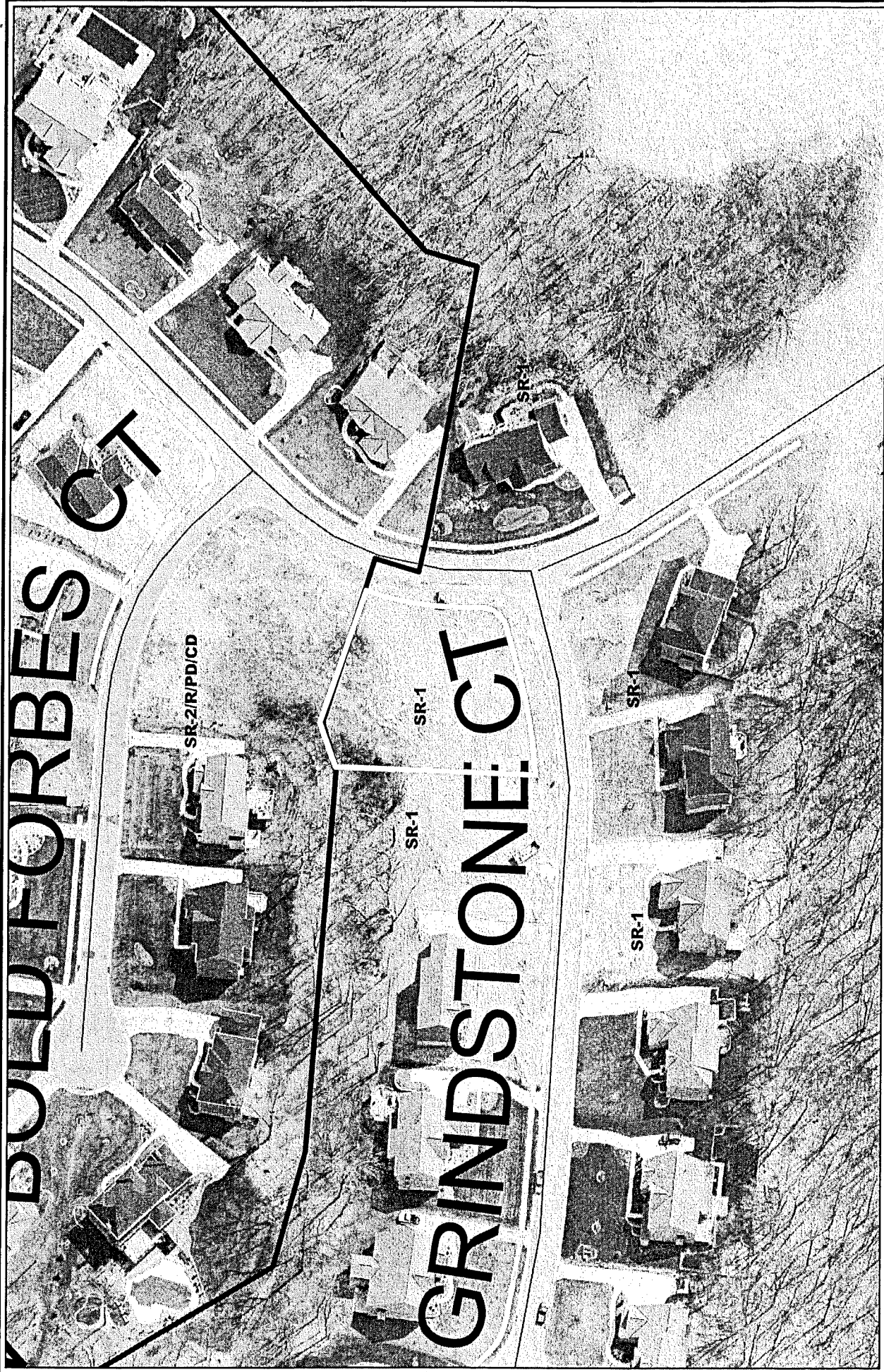
50.75

27.90

23.38

30.66

13.28

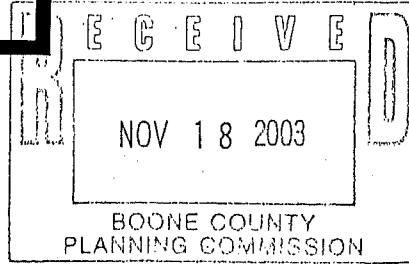


1 inch equals 100 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
December 2, 2003

# 10971 Arcaro-Zoning

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 FISCHER HOMES - BRIAN JOHNSON  
Phone Number 859-344-4294 Fax No. 859-344-5900  
Applicant's Address 2670 CHANCELLOR DRIVE - STE. 300  
CRESTVIEW HILLS, KY 41017  
City State Zip
- 4. Description of Request: VARIANCE FOR HOME ENCROACHMENT  
AT REAR SETBACK. From 30' to 23.36
- 5. Name of Development TRIPLE CROWN
- 6. Location of Development RICHWOOD EXIT - UNION Ky.
- 7. Acreage Under Review \_\_\_\_\_
- 8. Lot Number and Name of Subdivision (if part of a subdivision)  
TRIPLE CROWN - SITE #245
- 9. Owner of Property RAZA & LEIGH KARIM  
Phone Number of Owner 517-204-6769
- 10. Address of Property Owner 10971 ARCARO LN., UNION, Ky 41091  
City State Zip
- 11. Proposed Use(s) on Site LIVING SPACE
- 12. Total Square Footage of Existing and/or Proposed Buildings 2,130 Sq.Ft.
- 13. Current Zoning on Property RESIDENTIAL
- 14. Deed Book D863 Page No. 881 Group No. 4001
- 15. Is the site subject to a zone change? NO  
If yes, give date of approval N/A
- 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: Brian Johnson

Property Owner's Signature: Raza Karim

(over)

**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 1-18-03 Fee Received \$ 827.00 R# 37193
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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
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.

COPY

CLUR #04-BCBOA-001-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Raza and Leigh Karim  
10971 Arcaro Lane  
Union, KY 41091

2. ADDRESS OF PROPERTY

10971 Arcaro Lane  
Union, KY 41091

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Triple Crown Country Club

4. DEED BOOK 863

PAGE NO. 881

GROUP NO. 2064

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

Zoning Map Amendment:  
From  To

Conditional Use Permit

Development Plan

Conditional Zoning

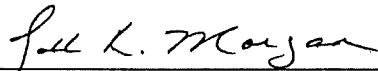
Subdivision Plat  
(Not Recorded)

Other:

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



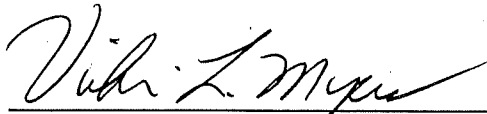
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

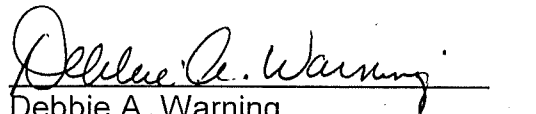
COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 22 day of January, 2004.

  
\_\_\_\_\_  
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 January 14, 2004 Certificate of Land Use Restriction (#04-BCBOA-001-A), for Raza and Leigh Karim, Property Owner(s).

The following conditions will apply:

The variance is subject to the landscaping plan agreed to by Fischer Homes, the property owners, and the adjoining property owners. See the agreement dated December 18, 2003 on file at the Planning Commission Office.

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

DEED BOOK 863

PAGE NO. 881

GROUP NO. 2064