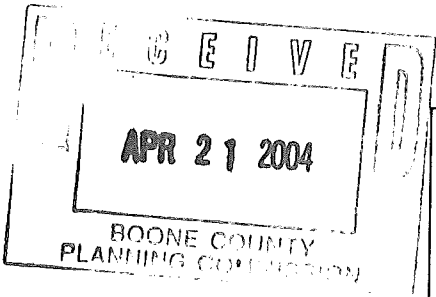


APPLICATION FORM

04-BCBOA-010-A



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 FISCHER HOMES INC. Phone Number 859-578-3728 Fax No. 859-344-5900 Applicant's Address 2670 CHANCELLOR DRIVE Suite 300 CRESTVIEW HILLS KY 41017

4. Description of Request: VARIANCE OF REAR LOT SETBACK FOR DECK CONSTRUCTION

5. Name of Development TRIPLE CROWN / WHIRLWAY RUN

6. Location of Development TRIPLE CROWN IN BOONE COUNTY

7. Acreage Under Review .53

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

LOT WR 49

9. Owner of Property HAROLD & MACHELLE TAYLOR

Phone Number of Owner 859-384-4027

10. Address of Property Owner 10838 ARCADIA LANE

UNION, KY 41091

City State Zip

11. Proposed Use(s) on Site SINGLE FAMILY RESIDENCE WITH DECK

12. Total Square Footage of Existing and/or Proposed Buildings (2130 HOUSE) (298 DECK)

13. Current Zoning on Property RESIDENTIAL (SR-1)

14. Deed Book 827 Page No. 701 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: [Signature]

Property Owner's Signature: [Signature] Machelle Taylor

BOARD OF ADJUSTMENT AND  
ZONING APPEALS ACTION  
APPLICATION  
PAGE 2

15 19A

SECTION B (To be completed by the Boone County Planning Commission Staff)

1. Date Received 4-21-04 Fee Received \$487.00 R# 31545
2. Is application complete?  Yes  No
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
5/12/04 Approved  
5/12/04 Approved with Conditions (See #6)  
Denial (See #7).
6. Conditions of Approval: SEE B.C. B.O.A. 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  
[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: Fischer Homes, Inc.  
LOCATION: 10838 Arcaro Lane, Boone County, Kentucky  
ZONING: Suburban Residential One (SR-1)  
DATE: May 12, 2004

### Proposal

Fischer Homes is requesting a variance to allow a deck to encroach into the 30 foot rear yard setback. The subject property is located at 10838 Arcaro Lane, Boone County, Kentucky. The Concept Development Plan (see attachments) indicates that the deck will be constructed onto the rear of an existing single-family residential dwelling and will be located 25.6 feet from the rear property line.

### 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 minimum front, side, or rear yard."

#### Site Characteristics and Zoning

The subject property and adjoining properties are located in Triple Crown County Club Subdivision and are zoned Suburban Residential One (SR-1). The subject lot is fairly level and contains no mature vegetation in the side or rear yards.

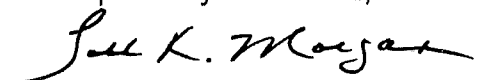
#### Staff Comments

1. Staff would like to make the Board aware that the subject lot has been sold and that the house is currently occupied.
2. The lots that appear to be the most impacted by the request are lots 48 and 50 (see Final Plat in attachments). Both lots are currently vacant.
3. Although there are a large number of deciduous trees on lot 50 (adjoining property to the northwest), Staff is not sure how many of these trees will remain after the lot develops.
4. Staff would like the applicant to explain if a smaller deck could be constructed that meets all the setback requirements.
5. If the Board grants the Variance, Staff recommends that two deciduous or evergreen trees, which are six feet tall at the time of planting, should be planted between the deck and rear property line.

#### 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

Attachments

Exhibit A – Site Vicinity Map

Exhibit B – Concept Development Plan

Exhibit C – Concept Development Plan (Close Up of Proposed Deck)

Exhibit D – Final Plat, Section 4, Block DD of Triple Crown County Club

Exhibit E – Improvement Plan, Section 4, Phase 16-B of Triple Crown County Club

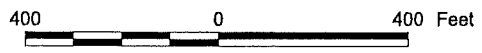
Exhibit F – Zoning Map

Exhibit G – Aerial Map

Exhibit H – Application

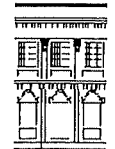


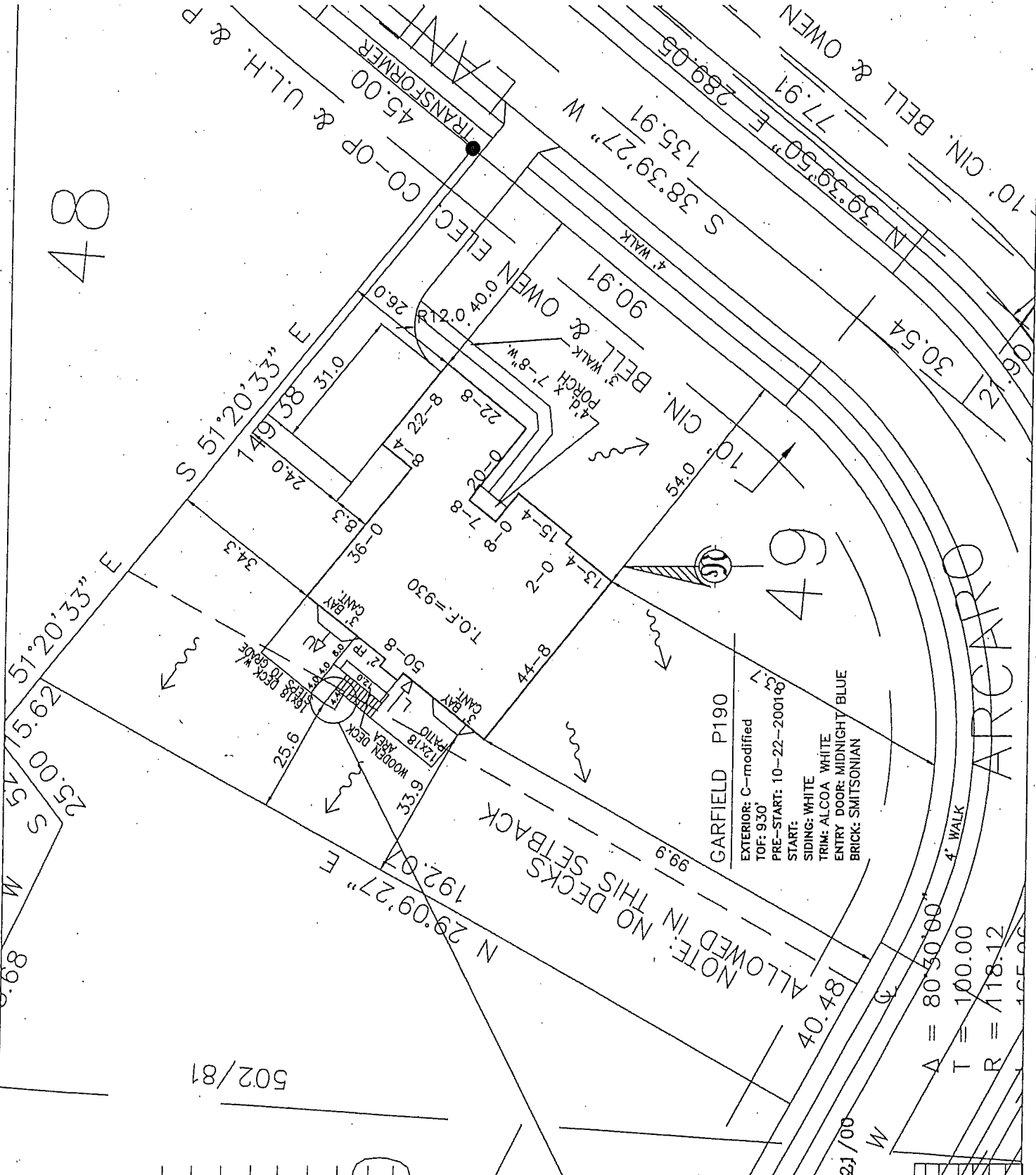
# 10838 Arcaro Lane Site Vicinity Map



1 inch equals 400 feet

Produced by the  
Boone County Planning Commission  
GIS Services Division  
April 23, 2004





48

49

GARFIELD P190

EXTERIOR: C-modified  
 TOF: 930'  
 PRE-START: 10-22-20010937  
 START:  
 SIDING: WHITE  
 TRIM: ALCOA WHITE  
 ENTRY DOOR: MIDNIGHT BLUE  
 BRICK: SMITSONIAN

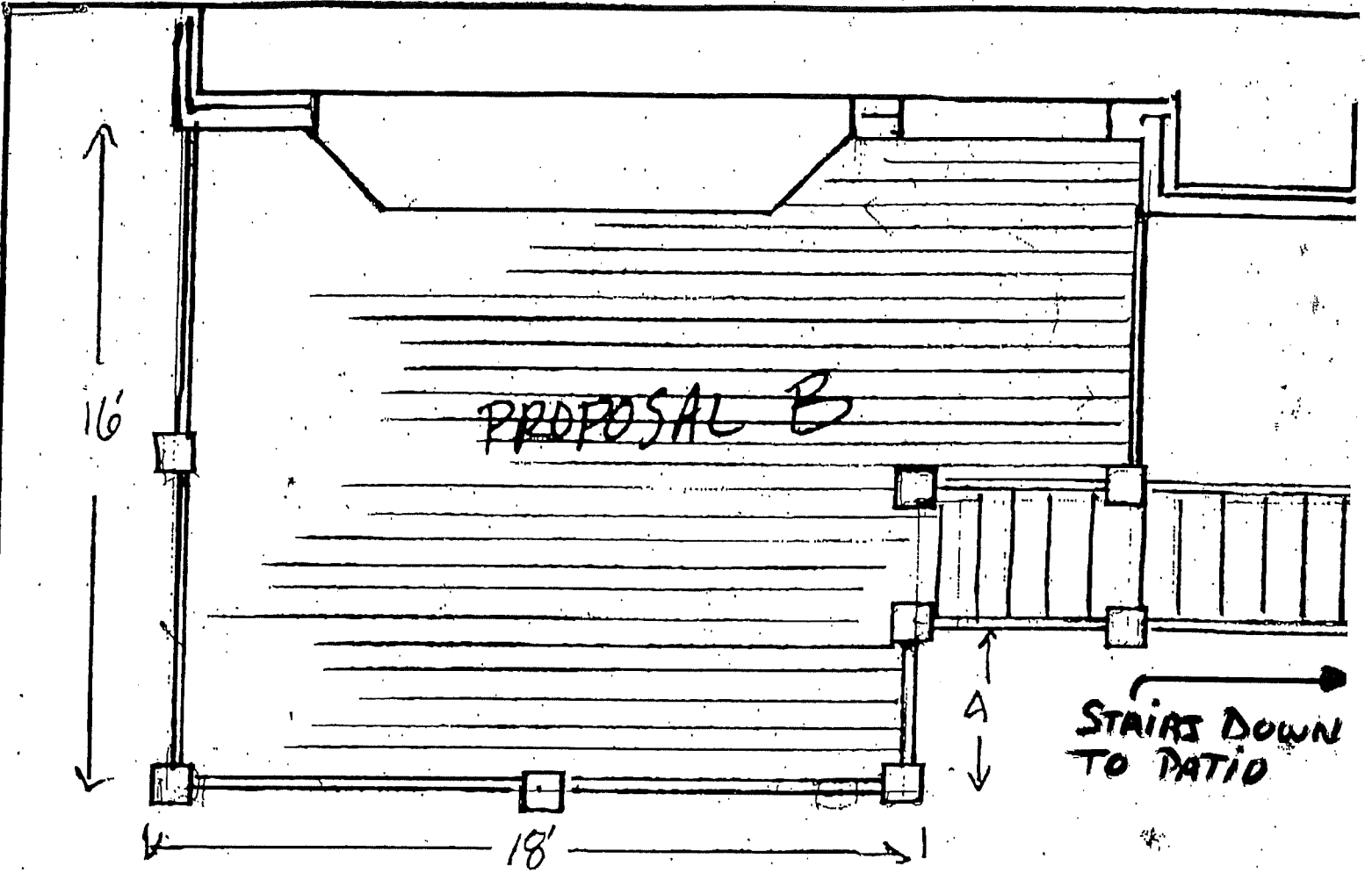
NOTE: NO DECKS  
 ALLOWED IN THIS SETBACK

$\Delta = 80.50'00"$   
 $T = 100.00$   
 $R = 118.12$

502/81

11/23/00

HER
ech
cel



PROPOSAL B

16'

18'

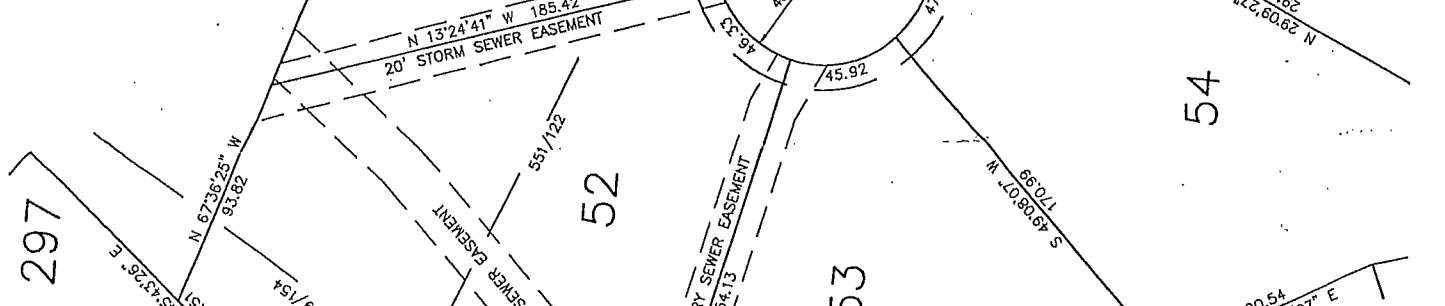
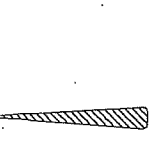
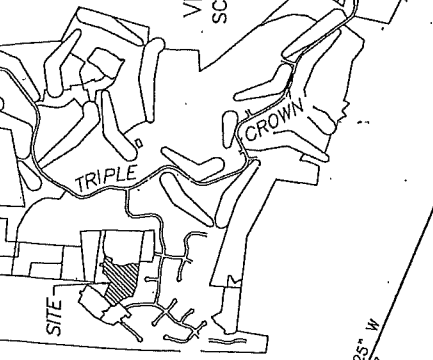
STAIRS DOWN TO PATIO

A

BOONE COUNTY PLANNING  
 This plot has been found to be in compliance with the Zoning and Subdivision Regulations in the office of the Boone County Clerk's Office.  
 9-5-01  
 Date

Sanitary Sewers Sanitation District No. 1 Misc. Book 652, Pg. 310  
 The duties and obligations of the individual lot owner and the respective utility are set forth in a separate recorded document in the Boone County Clerk's Office. Terms and conditions of the document listed below are incorporated by reference.

VICINITY MAP  
 SCALE: 1" = 2000'



(I) (We) hereby certify that the property shown on this plat has been surveyed and established in accordance with the laws of the State of Missouri and the appropriate legal...

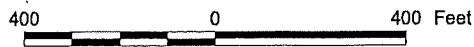
Boone County Clerk's Office  
 Date  
 State of  
 County of  
 The foregoing instrument is hereby certified to be a true and correct copy of the original as recorded in the Boone County Clerk's Office.

FINAL PLAT TRIPLE CROWN COUNTRY CLUB SECTION 4 BLOCK DD





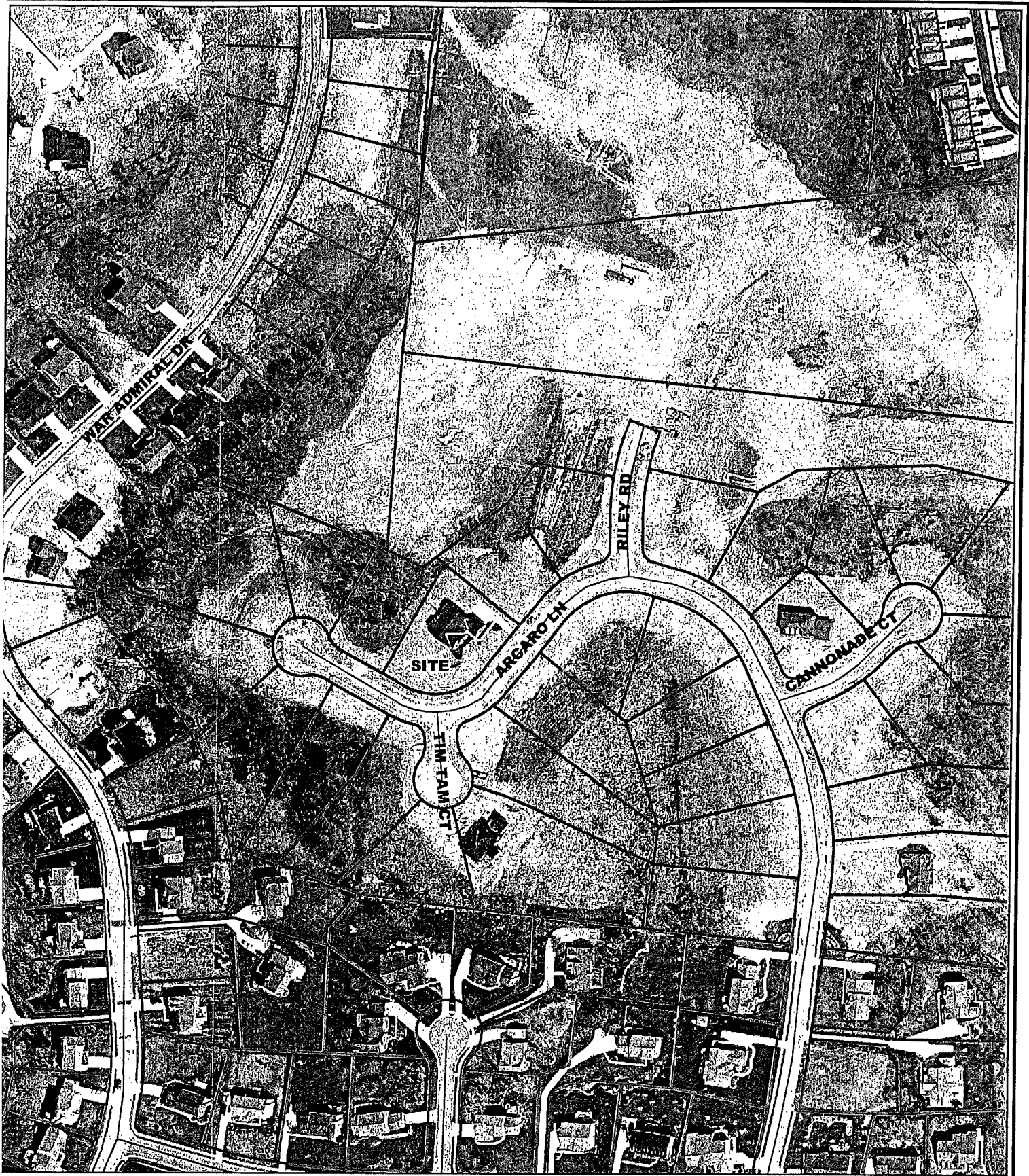
# 10838 Arcaro Lane Zoning Map



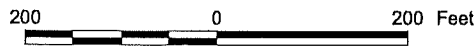
1 inch equals 400 feet

Produced by the  
Boone County Planning Commission  
GIS Services Division  
April 23, 2004



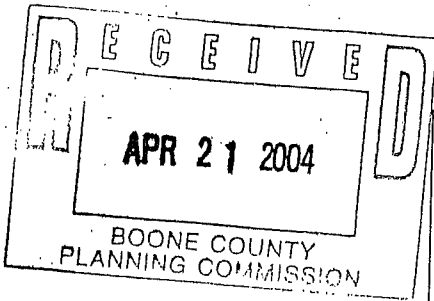


# 10838 Arcaro Lane Aerial Map



1 inch equals 200 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
April 23, 2004





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 FISCHER HOMES INC. Phone Number 859-578-3728 Fax No. 859-344-5900 Applicant's Address 2670 CHANCELLOR DRIVE Suite 300 CRESTVIEW HILLS KY 41017
4. Description of Request: VARIANCE OF REAR LOT SETBACK FOR DECK CONSTRUCTION
5. Name of Development TRIPLE CROWN / WHIRLWAY / RDM
6. Location of Development TRIPLE CROWN IN BOONE COUNTY
7. Acreage Under Review .53
8. Lot Number and Name of Subdivision (if part of a subdivision) LOT WR49
9. Owner of Property HAROLD & MACHELLE TAYLOR Phone Number of Owner 859-384-4027
10. Address of Property Owner 10838 ARCARO LANE UNION, KY 41091
11. Proposed Use(s) on Site SINGLE FAMILY RESIDENCE WITH DECK
12. Total Square Footage of Existing and/or Proposed Buildings (2130 HOUSE) (298 DECK)
13. Current Zoning on Property RESIDENTIAL (SR-1)
14. Deed Book 827 Page No. 701 Group No. 2064
15. Is the site subject to a zone change? NO
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: [Signature]

Property Owner's Signature: [Signature] Machelle Taylor

COPY

CLUR #04-BCBOA-010-A

CERTIFICATE OF LAND USE RESTRICTION

- 1. NAME AND ADDRESS OF PROPERTY OWNER(S)  
Harold & Machelle Taylor  
10838 Arcaro Lane  
Union, KY 41091
  
- 2. ADDRESS OF PROPERTY  
10838 Arcaro Lane  
Union, KY 41091
- 3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Triple Crown Country Club
  
- 4. DEED BOOK 827                      PAGE NO. 701                      GROUP NO. 2064
  
- 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

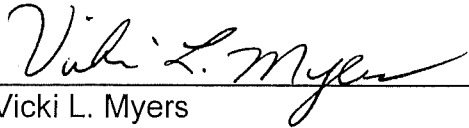
Todd K. Morgan  
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

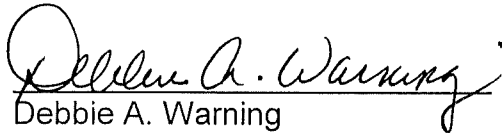
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 17 day of May, 2004.



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 May 12, 2004 Certificate of Land Use Restriction (#04-BCBOA-010-A), for Harold & Mabelle Taylor, Property Owner(s).

The following conditions will apply:

- 1) There are to be two deciduous or evergreen trees, which are six feet tall at the time of planting, to be planted between the deck and rear property line.

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

DEED BOOK 827

PAGE NO. 701

GROUP NO. 2064