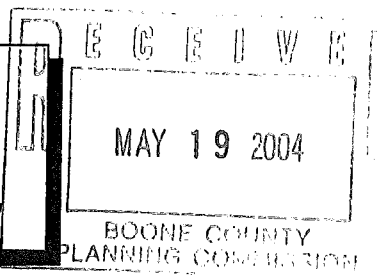


04-BCBOA-01e-7

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 KERRY & Kim Smith, Phone Number 859-586-6480, Fax No. _____, Applicant's Address 5666 Petersburg Rd., Petersburg Ky 41080
4. Description of Request: Variance of Front Yard Setback
5. Name of Development n/a
6. Location of Development 3396 Ashby Fork Rd, Boone Co.
7. Acreage Under Review .4
8. Lot Number and Name of Subdivision (if part of a subdivision) n/a
9. Owner of Property KERRY & Kimberly Smith, Phone Number of Owner 859-586-6480
10. Address of Property Owner 5666 Petersburg Rd., Petersburg Ky 41080
11. Proposed Use(s) on Site Single Family Home
12. Total Square Footage of Existing and/or Proposed Buildings 625 SQ FT. EXISTING 2057 NEW
13. Current Zoning on Property R-2
14. Deed Book 798 Page No. 438 Group No. 2012
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: [Handwritten Signature]

Property Owner's Signature: [Handwritten Signature]

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 5-19-04 Fee Received \$511.00 #38870
2. Is application complete? _____ Yes _____ No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:

Approved
6/9/04 Approved with Conditions (See #6)
Denial (See #7).
6. Conditions of Approval: SEE 6-9-04 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 - 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: Kerry & Kim Smith

LOCATION: Northeast side of Ashby Fork Road, to the north of 3472 Ashby Fork Road, and to the west of Ashby Fork Creek, Boone County, Kentucky.

ZONING: Agricultural Estate (A-2)

DATE: June 9, 2004

Proposal

The Applicants are requesting a variance to allow the 60-foot front yard setback requirement to be reduced to 10 feet so they can construct a 2,057 square foot single-family residence. The proposed single-family residence will replace a 625 square foot dilapidated cabin that is located on the 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.

Site Characteristics

The 0.4 acre property has a long gravel driveway which connects to Ashby Fork Road. A large portion of this driveway is located in the Ashby Fork Road right-of-way. The parcel is located immediately to the west of Ashby Fork Creek and immediately to the south of a tributary stream which flows into Ashby Fork Creek. While the topography of the parcel is relatively flat, the existing cabin is hard to see from Ashby Road due to abundant number of deciduous trees and the topography of the Ashby Fork right-of-way.

Surrounding Land Uses and Zoning

- North: Ashby Fork Creek & 41 Acre Parcel (A-2)
- South: 256 Acre Farm Fronting on Martin Road (A-2)
- East: Ashby Fork Creek & 256 Acre Farm Fronting on Martin Road (A-2)
- West: Ashby Fork Road & 12.9 Acre Parcel (A-1), 10.8 Acre Parcel (A-1)

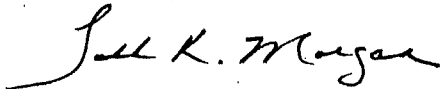
Staff Comments

1. Staff would like the Applicants to address the following issues:
 - a. Could a smaller house be constructed on the lot which better meets the setback requirements.
 - b. Have any discussions been had with the Division of Water regarding the proposed dwelling's proximity to the flood plain.
 - c. Have any discussions been had with the Northern Kentucky District Health Department regarding septic approval.
2. The 0.4 acre lot is non-conforming because the minimum lot size in the Agricultural Estate (A-2) zoning district is 80,000 square feet (1.83 acres). The variance is needed because the proposed dwelling is much closer to the front property line than the existing cabin.
3. While the site is almost completely hidden from Ashby Fork Road, Staff is concerned that the request so drastically reduces the front yard setback.

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 Applicants request for a front yard setback Variance.

Respectfully submitted,

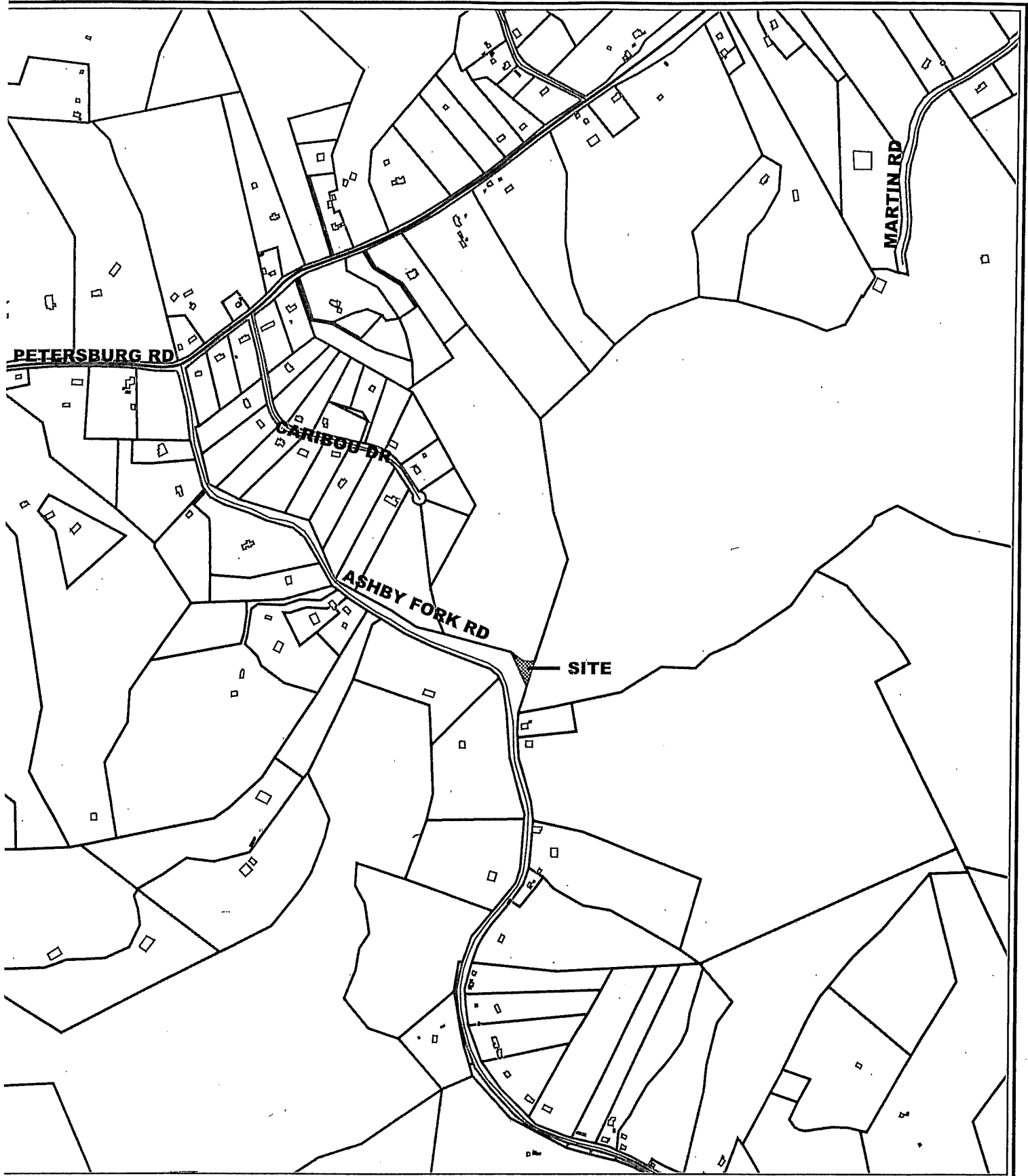


Todd K. Morgan, AICP
Planner, Zoning Services

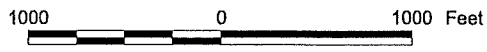
TKM/pr

Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Concept Plan (Survey)
- Exhibit C – Concept Plan (Elevations)
- Exhibit D – Concept Plan (Floor Plan)
- Exhibit E – Zoning Map
- Exhibit F – Aerial Map
- Exhibit G – Topographical Map
- Exhibit H – Application

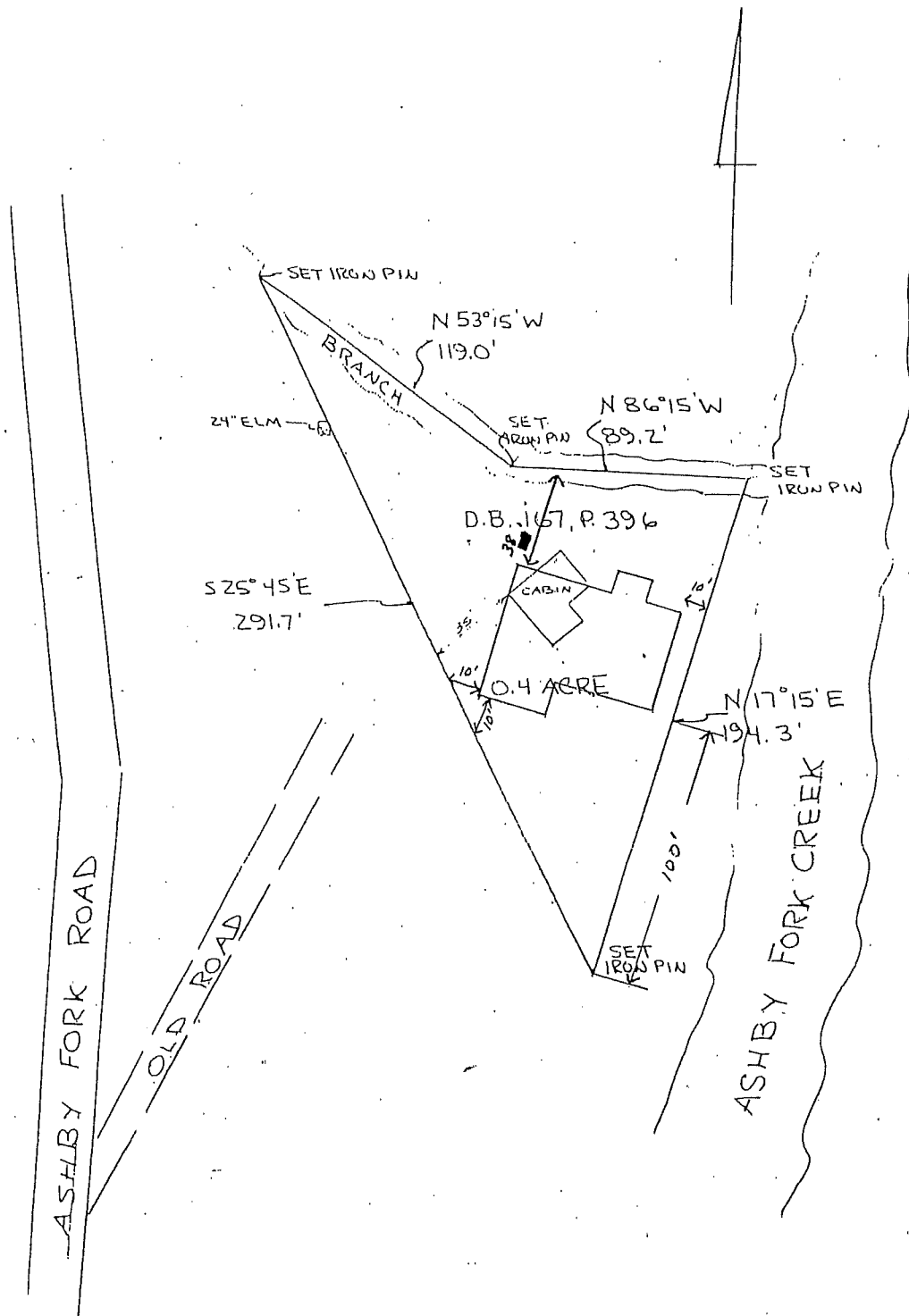


Kerry & Kim Smith Site Vicinity Map



1 inch equals 1000 feet
Produced by the
Boone County Planning Commission
GIS Services Division
June 1, 2004





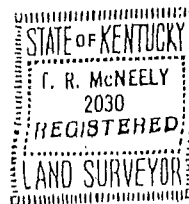
PLAT OF JESSE A. PORTER PROPERTY
BOONE COUNTY KENTUCKY

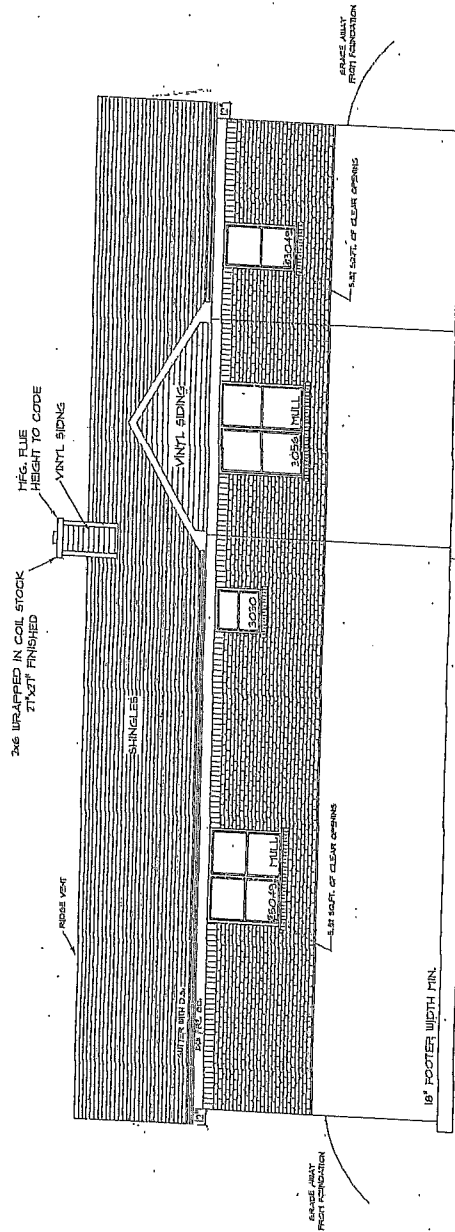
FEB. 2, 1986

1" = 50'

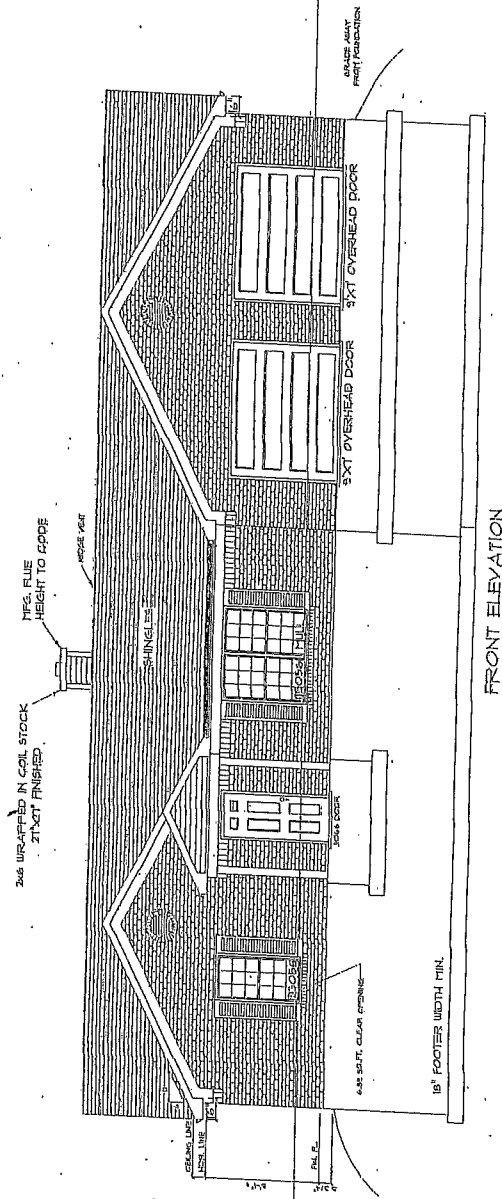
SURVEYED BY: *Timothy R. McNeely*

TIMOTHY R. McNEELY
Registered Land Surveyor
7108 McVillie Road
Burlington, KY 41005 Ph. 586-6497





REAR ELEVATION

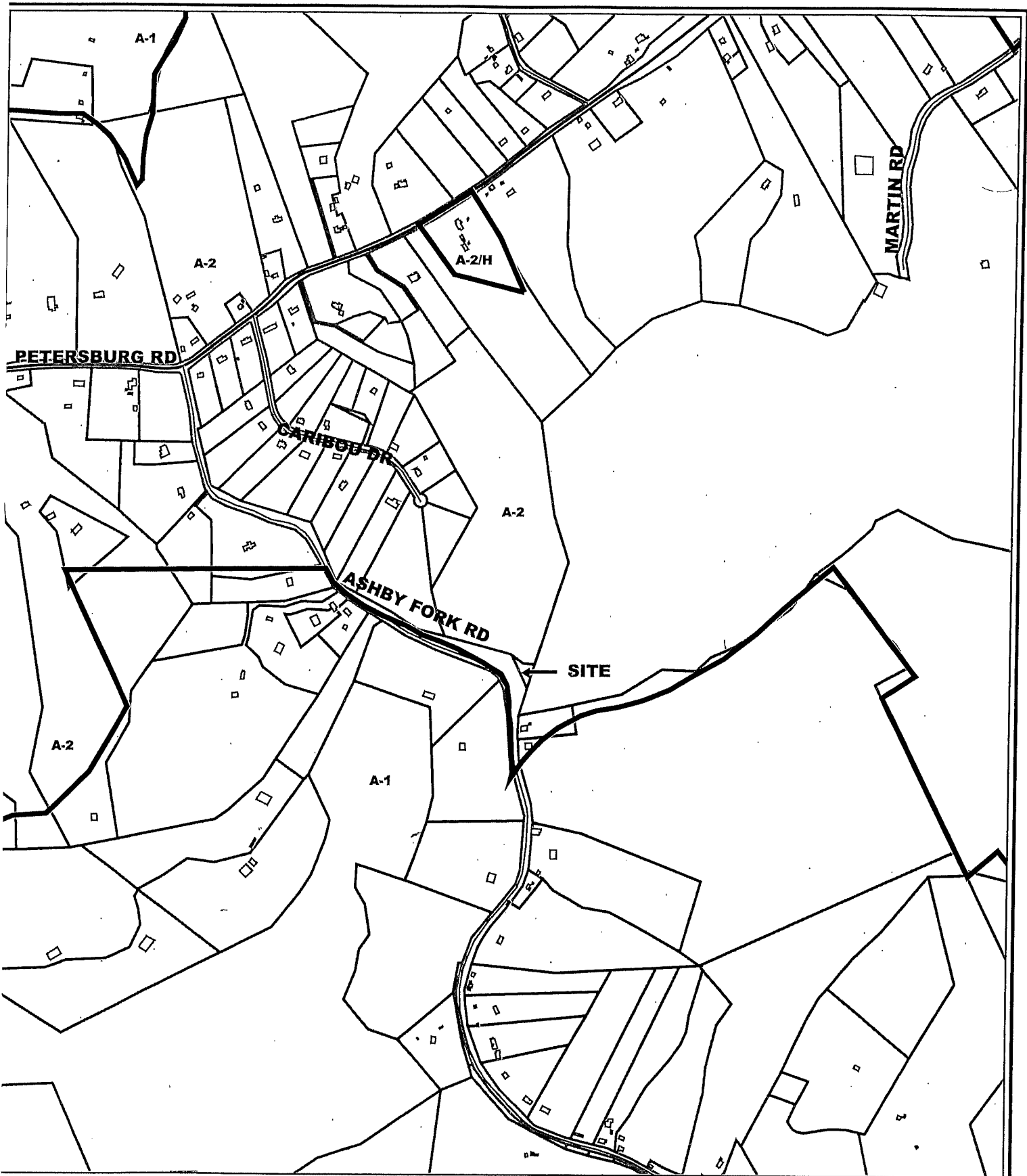


FRONT ELEVATION

*This plans to
be revised (minor).
Be assumed
And be dated
to
customer's
and connect.
Am*

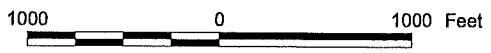
SCALE 1/8" = 1'

MEMPHIS	DATE	ADDRESS	SHEET NO.
			15



Kerry & Kim Smith

Zoning Map

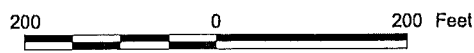


1 inch equals 1000 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 June 1, 2004



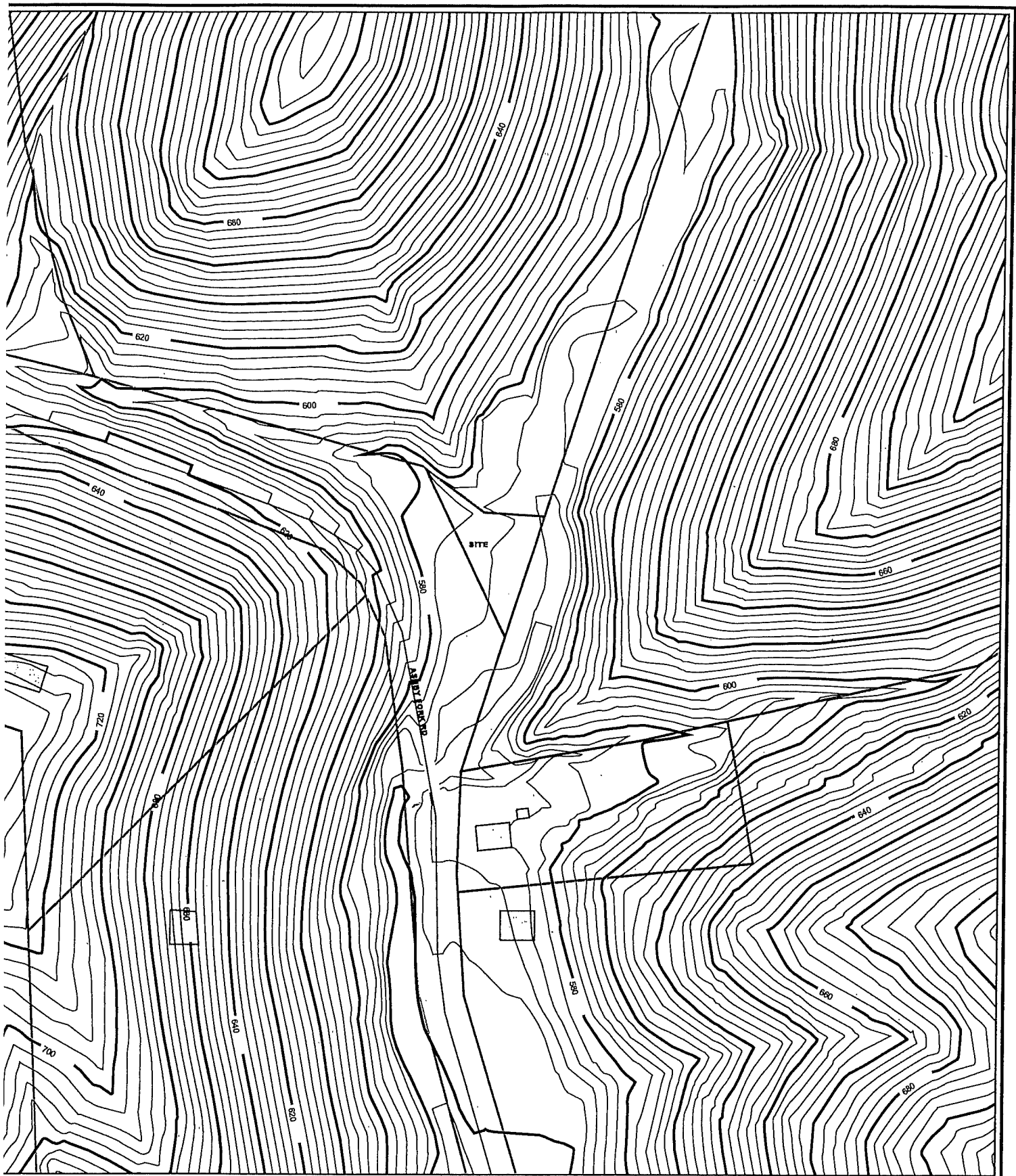


Kerry & Kim Smith Aerial Map



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





Kerry & Kim Smith Topographical Map

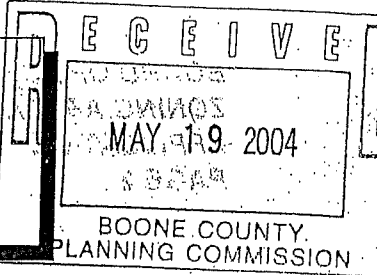


1 inch equals 200 feet
Produced by the
Boone County Planning Commission
GIS Services Division
June 1, 2004



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 Florence Walton Union
- 2. (Check One) Conditional Use Permit Variance Appeal
 Change in Non-Conforming Use
- 3. Applicant's Name KERRY & Kim Smith
Phone Number 859-586-6480 Fax No. _____
Applicant's Address 5666 Petersburg Rd.
Petersburg Ky 41080
City State Zip
- 4. Description of Request: Variance of Front Yard Setback
- 5. Name of Development N/A
- 6. Location of Development 3396 Ashby Fork rd, Boone Co.
- 7. Acreage Under Review .4
- 8. Lot Number and Name of Subdivision (if part of a subdivision)
N/A
- 9. Owner of Property KERRY & Kimberly Smith
Phone Number of Owner 859-586-6480
- 10. Address of Property Owner 5666 Petersburg Rd.
Petersburg Ky 41080
City State Zip
- 11. Proposed Use(s) on Site Single Family Home
- 12. Total Square Footage of Existing and/or Proposed Buildings 625 SQ FT. Existing 2057 new
- 13. Current Zoning on Property A-2
- 14. Deed Book 798 Page No. 438 Group No. 2012
- 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: Kimberly Smith

Property Owner's Signature: Kimberly Smith

COPY

CLUR #04-BCBOA-016-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Kerry and Kimberly Smith
5666 Petersburg Road
Petersburg, KY 41080

2. ADDRESS OF PROPERTY

3396 Ashby Fork Road
Petersburg, KY 41080

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

4. DEED BOOK 798

PAGE NO. 438

GROUP NO. 2012

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:

X 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

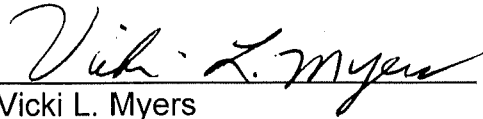
Todd K. Morgan, Planner, Zoning Services
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the

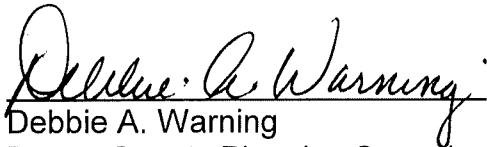
Boone County Planning Commission this 21 day of June, 2004.



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 June 9, 2004 Certificate of Land Use Restriction (#04-BCBOA-016-A), for Kerry and Kimberly Smith, Property Owner(s).

The following conditions will apply:

- 1) The applicant must obtain permits from the Division of Water and from the Northern Kentucky Health Department.

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

DEED BOOK 798

PAGE NO. 438

GROUP NO. 2012