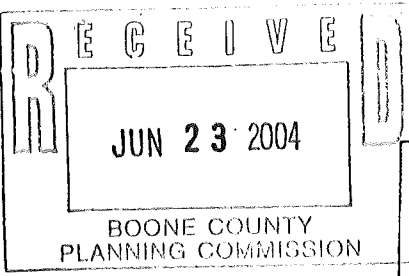


04-BCBOA-019-A



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)

- (Check One) 1. Boone Florence Walton Union 2. Conditional Use Permit Variance Appeal Change in Non-Conforming Use 3. Applicant's Name Trademark Properties Phone Number (859) 282-7373 Fax No. (859) 282-0211 Applicant's Address 7000 Houston Road Florence KY 41042 4. Description of Request: Front + Rear Setback requirements for both lots 42 + 43 of Haven Hill subdivision - see attached Plot Plans 5. Name of Development Haven Hill Subdivision 6. Location of Development Mt Zion Road, East of Gunpowder Rd - Unincorporated Boone County 7. Acreage Under Review 0.47 Acres (Lot 42) + 0.49 Acres Lot 43 8. Lot Number and Name of Subdivision (if part of a subdivision) 42 + 43 of Haven Hill Subdivision 9. Owner of Property Trademark Properties Phone Number of Owner (859) 282-7373 10. Address of Property Owner 7000 Houston Road Florence, Ky 41042 11. Proposed Use(s) on Site Residential - Single Family 12. Total Square Footage of Existing and/or Proposed Buildings 2432 (Lot 42) + 1554 Lot 43 13. Current Zoning on Property SR-1 14. Deed Book 870, 870 Page No. 864, 861 Group No. 2057 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 - see Plot Plans 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.

Handwritten notes: DB 870 pg 864 -> 401 42 DB 870 pg 861 -> Lot 43

Applicant's Signature: Tita Wofford Property Owner's Signature: Mark Hendy

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 6-23-04 Fee Received \$901.00 R# 39286
- 2. Is application complete? Yes No
- 3. Staff Reviewer M.P. Bachman
- 4. Scheduled Board Action Date 7-14-04
- 5. Board Action:
 Approved
 Approved with Conditions (See #6)
 Denial (See #7).

6. Conditions of Approval: Variances requested for reduced front yard and rear yard set backs for lot 42 approved. Three (3) trees from plant lists A, B, or C must be provided per 100 linear feet on the rear yard of the lot.

7. ~~Reasons for Denial:~~ The vote for approval or denial of requested variances for lot 43 was deferred until the August meeting of the Board.

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: Trademark Properties
LOCATION: Lots 42 & 43 of Haven Hill Subdivision, Boone County, Kentucky.
ZONING: Suburban Residential One (SR-1)
DATE: July 14, 2004

Proposal

The Applicant is requesting Variances to reduce the front yard and rear yard setback requirements for lots 42 and 43 of Haven Hill Subdivision. The front yard setback for Lot 42 would be reduced from the required 30 feet to between 14 and 23.75 feet. The rear yard set back would range between 15.41 and 15.89 feet, rather than 30 feet as required. Lot 43 would have a reduced front yard setback and rear yard setback of 20.83 feet.

Applicable Regulations

Article 40 of the Boone County Zoning Regulations defines front yard as:

"A yard extending between side lot lines cross the front of a lot and from the front lot line to the front of the principal building. For flag lots the front yard is measured from the rear lot line of the adjoining lot that is between the flag lot in question and the street."

Rear yard is defined as:

" A yard extending between side lots or between a side lot line and corner side yard if applicable, across the rear of a lot and from the rear lot line to the rear of a principal building (p. 40.26)."

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 (p. 2.4-2.5).

Surrounding Land Uses and Zoning

The approximate 0.4 acre lots are located within Haven Hill Subdivision and are zoned Suburban Residential One (SR-1). The following land uses adjoin the two tracts:

- North: Single-Family Residential Lots in Haven Hill Subdivision, zoned Suburban Residential One (SR-1)
- South: Single-Family Residential Lots in Haven Hill Subdivision, zoned Suburban Residential One (SR-1)
- East: Single-Family Residence on a 6.15 Acre Tract, zoned Suburban Residential One (SR-1)
- West: Danbury Drive and Single-Family Residential Lots in Haven Hill Subdivision, zoned Suburban Residential One (SR-1)

Staff Comments

1. Article 40 of the Boone County Zoning Regulations defines front yard as the area located in the front of the lot between the side lot lines. The front yard of a flag lot is measured from the rear lot line of the adjoining property that is between the flag lot and the street. The orientation of the proposed houses to be built on the lots has no bearing on how the front yard is defined.
2. Staff believes that the aesthetic qualities of the adjoining properties will be impacted through these requests. There is a relatively thick deciduous tree cover on the rear property boundary of lot 42, extending to the rear property boundary of lot 43. However, this tree cover thins, and the side of the adjoining house to east is clearly visible on lot 43 through the tree cover. No trees are located in the front of the subject lots to act as a buffer for the rear of lots 40, 41, 44, and 45.

3. Staff would like the applicant to address if the setbacks could be met by building smaller houses on the lots.
4. If the Board grants the Variances, Staff recommends the following condition:
 - a) The front and rear yards of lots 42 and 43 will be screened with three (3) deciduous or evergreen trees per 100 linear feet. The trees will be selected from Plant List A, B, or ~~D~~ of the Boone County Zoning Regulations and will meet the minimum installation size requirements.

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 requests.

Respectfully submitted,



Patty Bachman
Planner, Zoning Services

MPB/pr

Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Concept Plan
- Exhibit C – Zoning Map
- Exhibit D – Aerial Map
- Exhibit E – Final Plat, Section 7 of Haven Hill
- Exhibit F – Application

JOHN D. DICKSON DR

DANBURY DR
DANBURY DR

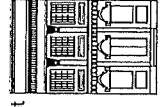
BUDDLEIA CT

DONNER DR

DONNER DR

DANBURY DENVER DR

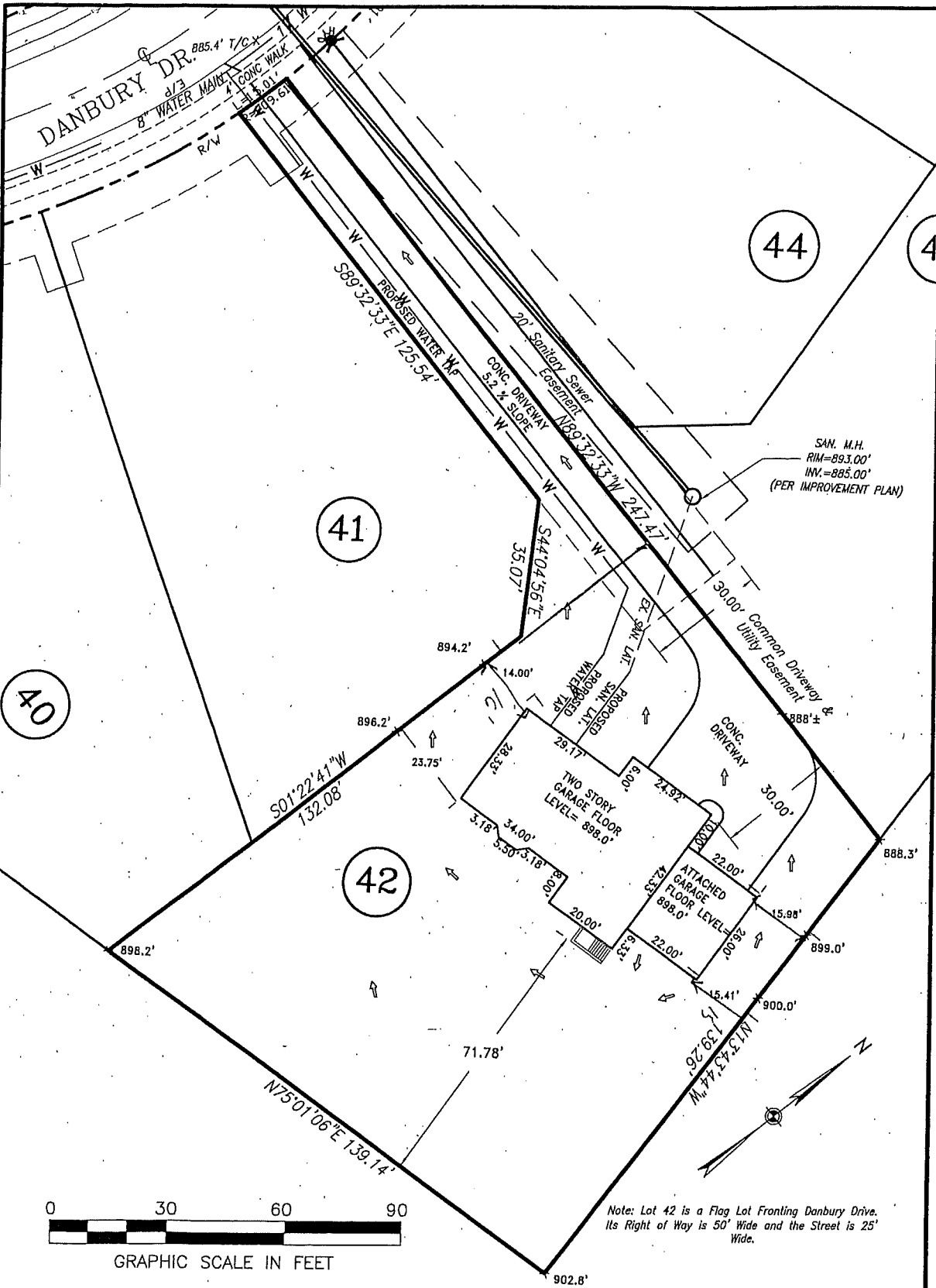
ARVADA CT



300 Feet
0
300

1 inch equals 300 feet
Produced by the
Boone County Planning Commission
GIS Services Division
July 2, 2004

Vicinity Map-Haven Hill Subdivision



DATE: 04/26/04

DRAWN BY: REL

SHEET 1 OF 1

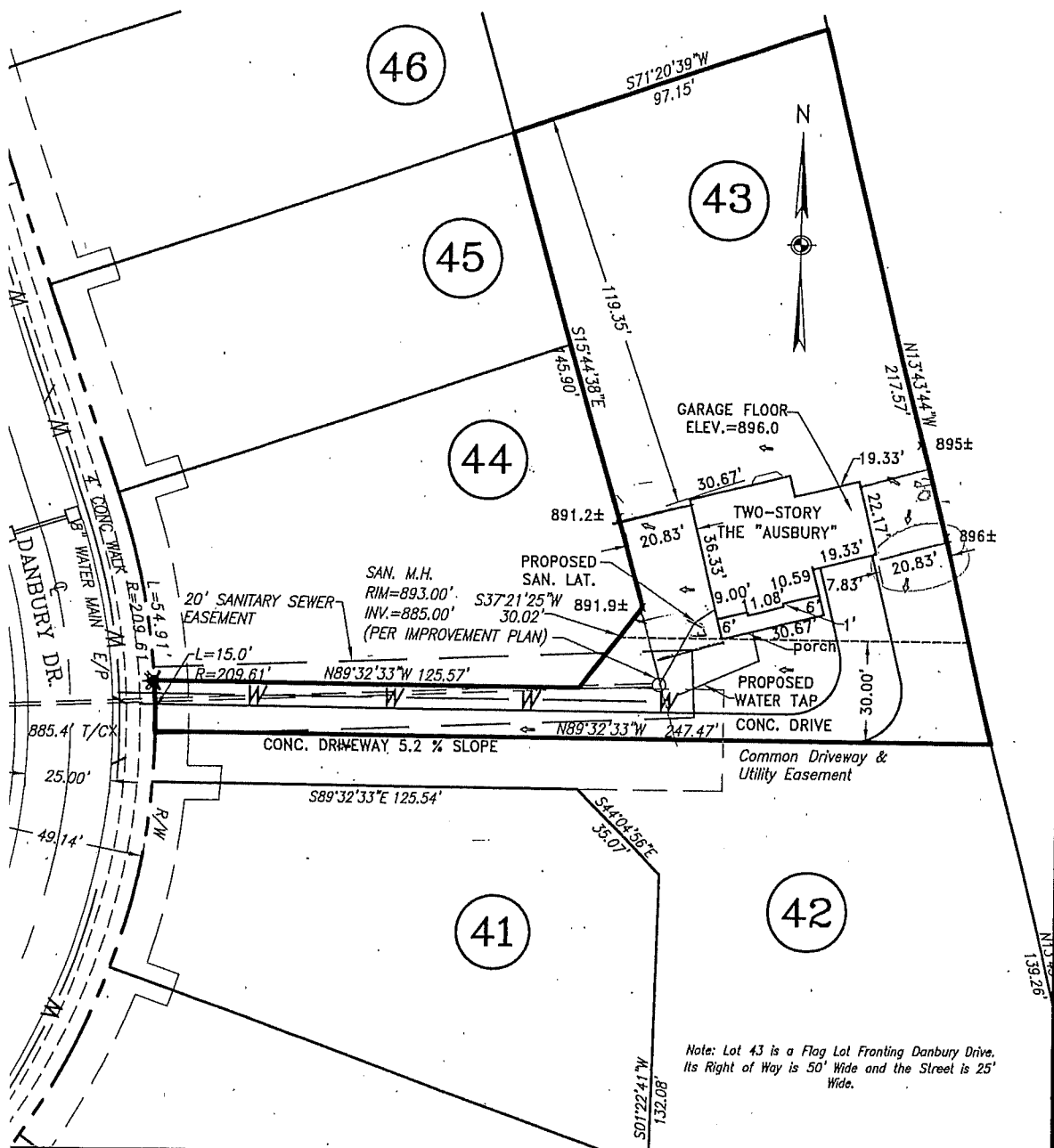
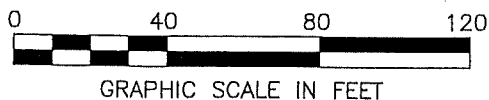
SCALE: 1" = 30'

PLOT PLAN FOR:
 TRADEMARK PROPERTIES
 7000 HOUSTON ROAD,
 BUILDING 100, SUITE 5
 FLORENCE, KY 41042


HAVEN HILL
 PHASE C
 DATE OF APPROVAL 10/24/01
 SECTION 7, LOT 42

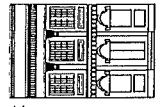
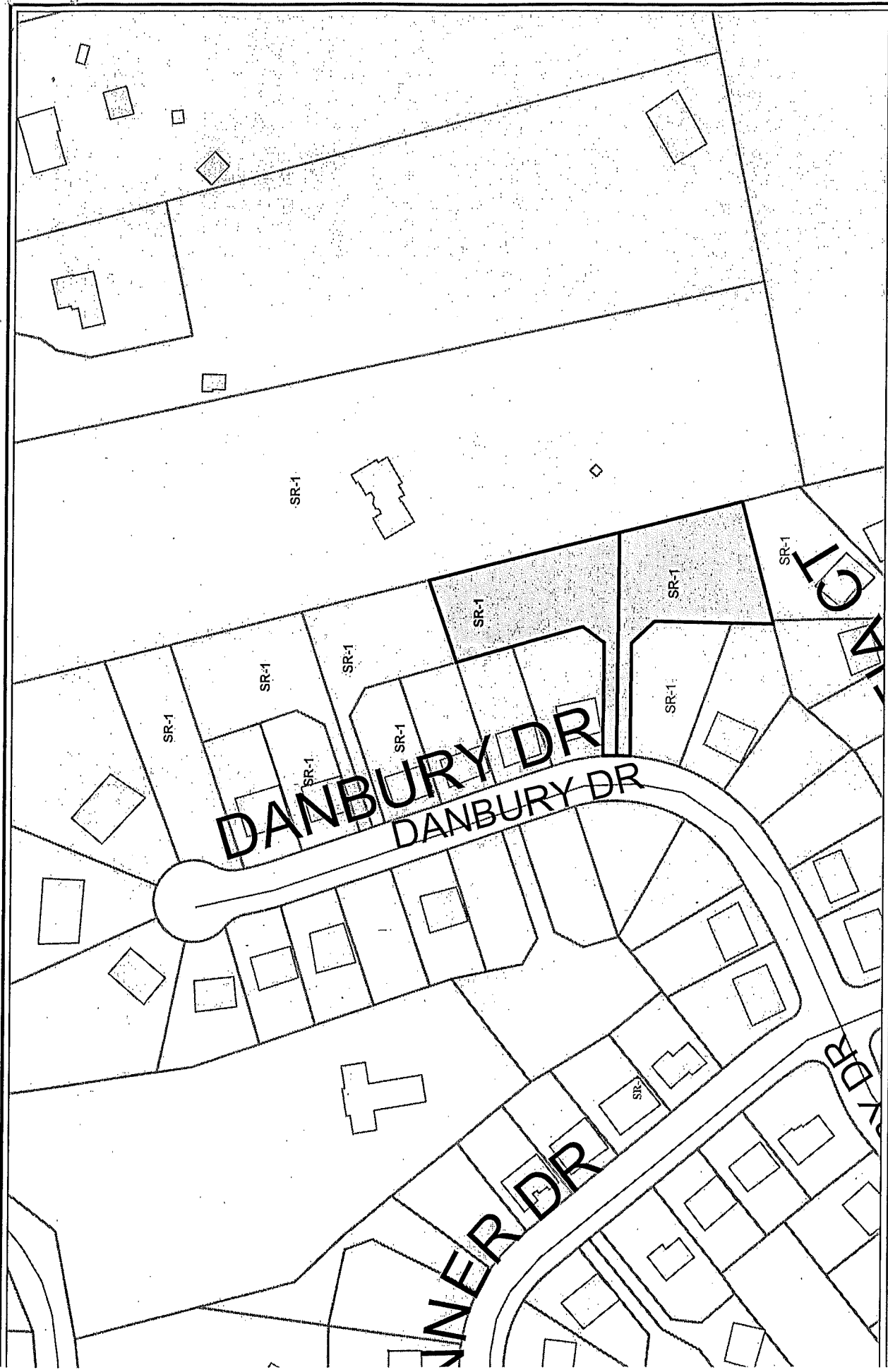
RIEGLER ENGINEERING, LLC
 19 LENDALE DR., SUITE B
 FLORENCE, KY 41042
 (859) 371-5500

Riegler
 ENGINEERING LLC



Note: Lot 43 is a Flag Lot Fronting Danbury Drive. Its Right of Way is 50' Wide and the Street is 25' Wide.

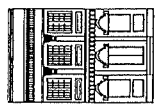
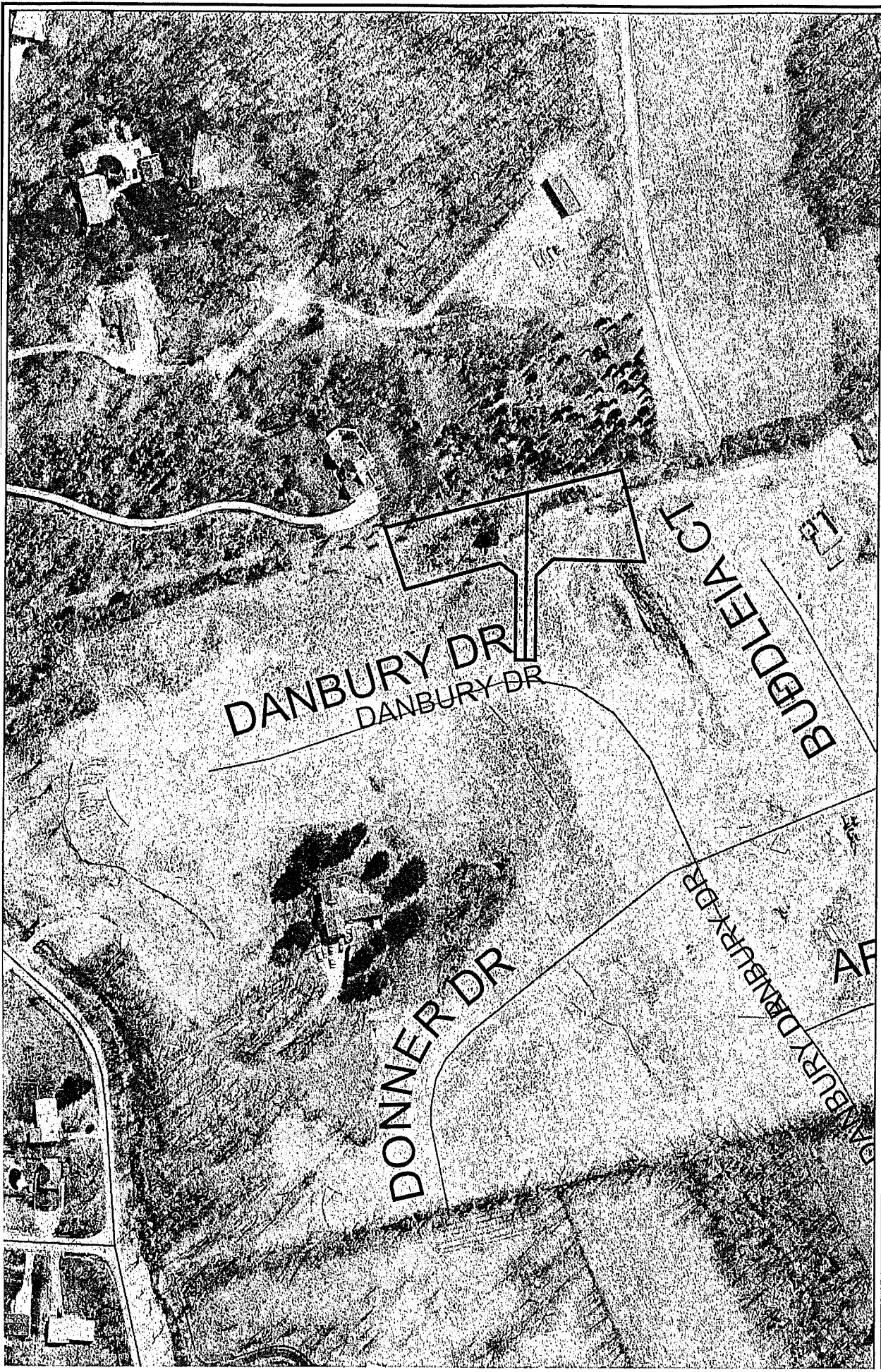
DATE: 06/23/04	PLOT PLAN FOR: TRADEMARK PROPERTIES 7000 HOUSTON ROAD, BUILDING 100, SUITE 5 FLORENCE, KY 41042	RIEGLER ENGINEERING, LLC 19 LENDALE DR., SUITE B FLORENCE, KY 41042 (859) 371-5500
DRAWN BY: DMR	HAVEN HILL PHASE C DATE OF APPROVAL 10/24/01 SECTION 7, LOT 43	
SHEET 1 OF 1		
SCALE: 1" = 40'		



150 0 150 Feet

1 inch equals 150 feet
Produced by the
Boone County Planning Commission
GIS Services Division
July 2, 2004

Zoning-Haven Hill



1 inch equals 200 feet
Produced by the
Boone County Planning Commission
GIS Services Division
July 2, 2004

Aerial Map-Haven Hill

able consideration, We, the undersigned do hereby
 ntly grant unto Cinergy and Subsidiaries, Insight Comm.
 rovider), and the Cincinnati Bell Telephone Company, their
 ira and assigns, forever, non-exclusive easements, as shown
 within plat and designated as "Utility Easement" for the
 tion, operation, maintenance, repair or replacement
 ind all necessary fixtures for the overhead or
 und distribution of gas, electric, telephone or
 unications, or other utilities. Said utility
 as shall have the right of ingress and egress and also
 to cut, trim or remove any trees, undergrowth or
 ing branches within said easement or immediately
 thereto. No buildings or other structures may be
 in said easements, nor may the easement area be
 altered so as to (1) reduce clearances of either
 or underground facilities; (2) impair the land
 of said facilities; (3) impair ability to maintain
 ties or (4) create a hazard. To have on to hold
 easements forever. We acknowledge having full power
 / this easement and will defend the same against all

Total Area
 R/W Area
 Group

BOONE COUNTY PLANNING COMMISSION APPROVAL CERTIFICATE

"This plat has been found to be in compliance with the Boone
 County Zoning and Subdivision Regulations and is being submitted
 for recording in the office of the Boone County Court Clerk."

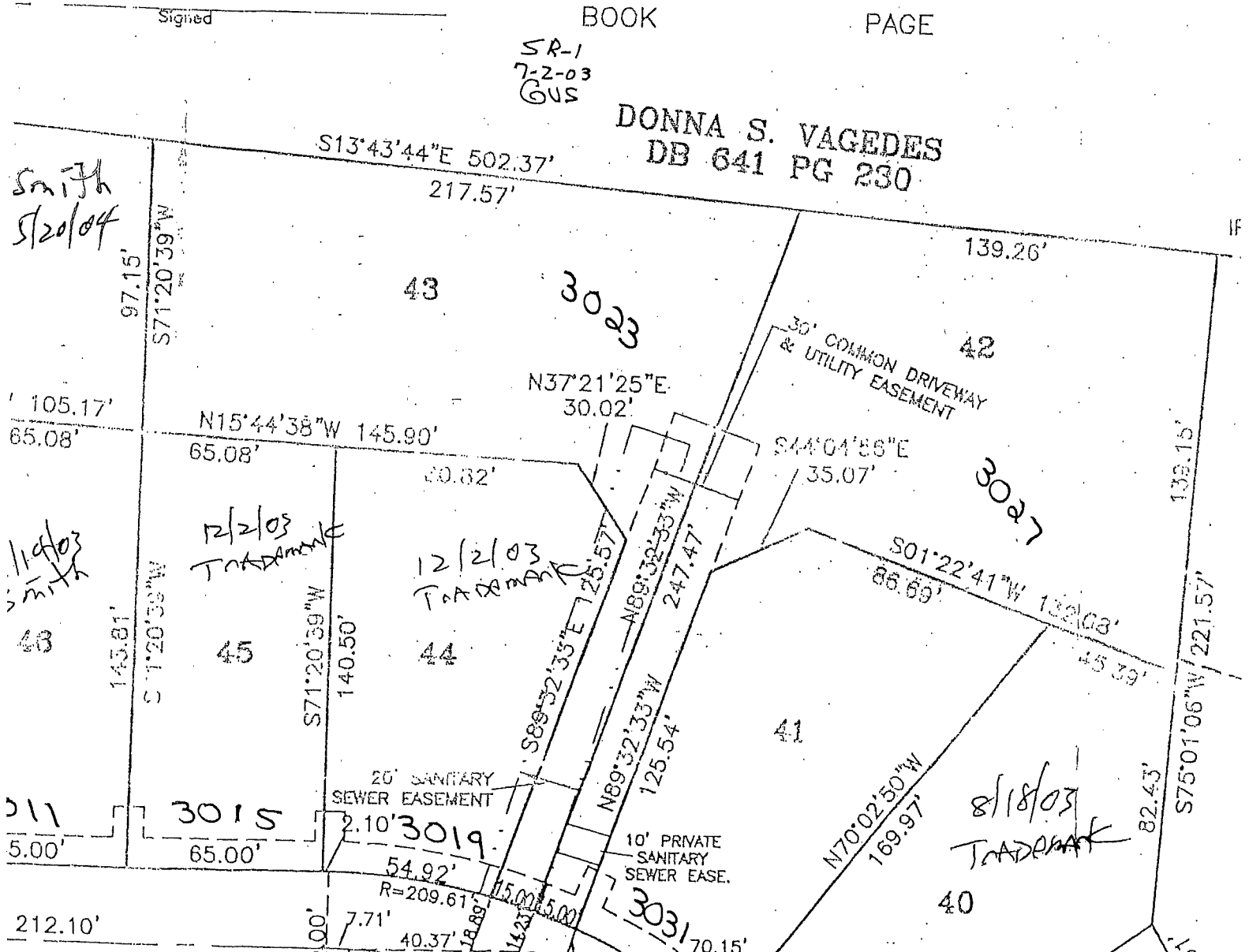
7-2-03
 Date

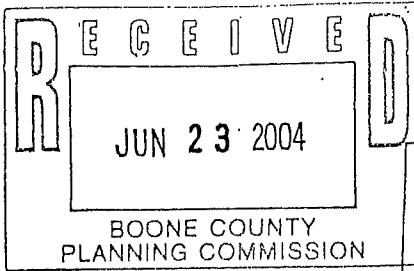
Donna S. Vagedes
 Sec. Treas.

FOR COVENANTS AND RESTRICTIONS SEE
 BOOK PAGE

SR-1
 7-2-03
 GUS

DONNA S. VAGEDES
 DB 641 PG 230





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. [X] Boone [] Florence [] Walton [] Union

(Check One)

- 2. [] Conditional Use Permit [X] Variance [] Appeal [] Change in Non-Conforming Use

3. Applicant's Name: Trademark Properties
Phone Number: (259) 282-7373 Fax No. (259) 282-0211
Applicant's Address: 7000 Houston Road, Florence, KY 41042

4. Description of Request: Front + Rear Setback requirements for both lots 42 + 43 of Haven Hill subdivision - see attached plot plans

5. Name of Development: Haven Hill Subdivision

6. Location of Development: Mt Zion Road, East of Gunpowder Rd - Unincorporated Boone County

7. Acreage Under Review: 0.47 Acres (Lot 42) + 0.49 Acres Lot 43

8. Lot Number and Name of Subdivision (if part of a subdivision): 42 + 43 of Haven Hill Subdivision

9. Owner of Property: Trademark Properties

Phone Number of Owner: (259) 282-7373

10. Address of Property Owner: 7000 Houston Road, Florence, KY 41042

11. Proposed Use(s) on Site: Residential - Single Family

12. Total Square Footage of Existing and/or Proposed Buildings: 2432 (Lot 42) + 1554 Lot 43

13. Current Zoning on Property: SR-1

14. Deed Book: 870, 870 Page No.: 864, 861 Group No.: 2057

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 - see Plot Plans

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: Rita Workford

Property Owner's Signature: Mark Hendy

Handwritten notes: DB 870 p 864, 407 42, DB 870 p 861, 407 Lot 43

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 6-23-04 Fee Received \$901.00 RA# 39286
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 - 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-019-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Trademark Properties
7000 Houston Road
Florence, KY 41042

2. ADDRESS OF PROPERTY

3027 Danbury Drive
Florence, KY 41042

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Haven Hill, Lot 42

4. DEED BOOK 870

PAGE NO. 864

GROUP NO. 2057

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

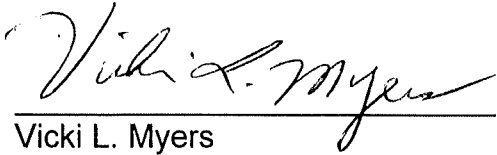
Patty Bachman
SIGNATURE OF COMPLETING OFFICIAL

Patty Bachman, Planner, Zoning Services
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

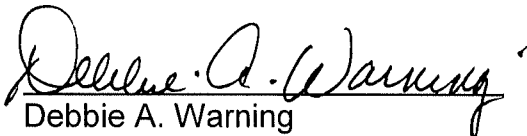
Subscribed, sworn to, and acknowledged before me by Patty Bachman on behalf of the
Boone County Planning Commission this 22 day of July, 2004.



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 July 14, 2004 Certificate of Land Use Restriction (#04-BCBOA-019-A), for Trademark Properties, Property Owner(s).

The following conditions will apply:

- 1) In the rear yard there are to be three deciduous or evergreen trees per 100 linear feet selected from Plan List A, B, or D of the *Boone County Zoning Regulations* that meet the minimum installation size requirements.

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

DEED BOOK 870

PAGE NO. 864

GROUP NO. 2057