

\$535.00

04-BCB0A-035-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. [X] Boone [] Florence [] Walton [] Union

(Check One)

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

3. Applicant's Name Patrick Marsh Call # 630-0323 Phone Number 859-727-2222 ext 477 Fax No. 859-689-1943 Applicant's Address 2800 Bullittsburg Church Rd. Petersburg KY 41080

4. Description of Request: Request to increase height of fence on front of property from 4 ft. to 6 ft. high

5. Name of Development Answers in Genesis Creation Museum

6. Location of Development 2800 Bullittsburg Church Rd + 2754 Deck Ln. Petersburg, KY 41080

7. Acreage Under Review 47

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

9. Owner of Property Answers in Genesis, Mike Zedath Phone Number of Owner

10. Address of Property Owner 2800 Bullittsburg Church Rd. Petersburg, KY 41080

11. Proposed Use(s) on Site MUSEUM & Gardens

12. Total Square Footage of Existing and/or Proposed Buildings

13. Current Zoning on Property PF

14. Deed Book [redacted] Page No. [redacted] Group No. 2003

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? NO

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: Patrick Marsh

Property Owner's Signature: [Signature] Answers in Genesis

18 PG 79 599 190 676

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 10-7-04 Fee Received \$535.00 R#40452
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:

 Approved
11/10/04 Approved with Conditions (See #6)

 Denial (See #7).
6. Conditions of Approval: SEE STAFF COMMENTS 3 AND 4
IN THE 11/10/04 STAFF REPORT

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

APPLICANTS: Patrick Marsh for Answers in Genesis

LOCATION: 2800 Bullittsburg Church Road & 2754 Deck Lane, Boone County, KY

ZONING: Public Facilities (PF) & Rural Suburban Estates (RSE)

DATE: November 10, 2004

Proposal

The Applicant has requested a Variance to allow a 6 foot tall aluminum fence to be constructed in the front yard of the Answers in Genesis properties. The subject properties are located at 2800 Bullittsburg Church Road and 2754 Deck Lane, Boone County, Kentucky. The submitted Concept Development Plan shows that the fence will immediately adjoin the Bullittsburg Church Road and Deck Lane right-of ways and will run the full length of the two properties.

Applicable Regulations

Article 37, Section 3755 of the Boone County Zoning Regulations states that fences shall be permitted within the front yard according to the following standards:

- a. No fence can be taller than four (4) feet;
- b. Fences shall be of a decorative design (chain link, barbed wire, stock wire, chicken wire and similar type fences are not permitted) and shall be designed to have an opacity of fifty (50) percent or less;
- c. No fence can be located within a public right-of-way nor can it be located in an area which will obstruct the sight triangle for any motorist or pedestrian as defined in Article 32.

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.

Surrounding Land Uses

North: Interstate 275

South: Single-Family Residential Dwellings (RSE)

East: Single-Family Residential Dwelling & Farmland (RSE)

West: Bullittsburg Church Road, Deck Lane, Farmland (C-3)

Site History

5/6/99 – A Zoning Map Amendment from Rural Suburban Estates (RSE) to Public Facilities (PF) was conditionally approved by Fiscal Court which allowed a museum/religious assembly/office/mail order facility to be constructed on site.

Staff Comments

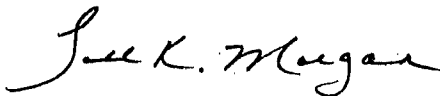
1. In addition to the Variance request, the Applicant has submitted a Zoning Map Amendment for a Special Sign District application. This application will be heard by the Boone County Planning Commission and Boone County Fiscal Court. If approved, the Special Sign District will allow: (1) banners to be placed on the parking lot light poles; (2) steel plated animals to be placed on natural stone monuments; and (3) a steel plated tree to be constructed into the entrance gate (see attachments).
2. Staff is concerned that the 6' tall fence is above eye level and will obstruct some of the landscaping that has been planted along the front property line.
3. Staff recommends a condition which requires all fencing (except for fencing proposed near entrance gate) to be setback at least 10' feet from the Bullittsburg Church and Deck Lane right-of-ways. This 10' area will allow for some landscaping to be installed in front of the fence.

4. The submitted entrance gate exhibits show that fencing, berms, stone monuments, and trees will be located as little as 9 feet away from the Bullittsburg Church Road right-of-way. Staff is concerned that the trees, berms, and stone monuments may impede sight distance. As a result, Staff recommends a condition which requires an entrance gate area landscaping plan to be submitted when the Applicant submits for sign permit(s). Staff will review the sign drawings and landscape plan to verify that no structures, berms, or landscaping will impede sight distance at the Answers in Genesis access point.

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 fence height variance from 4 feet to 6 feet.

Respectfully submitted,

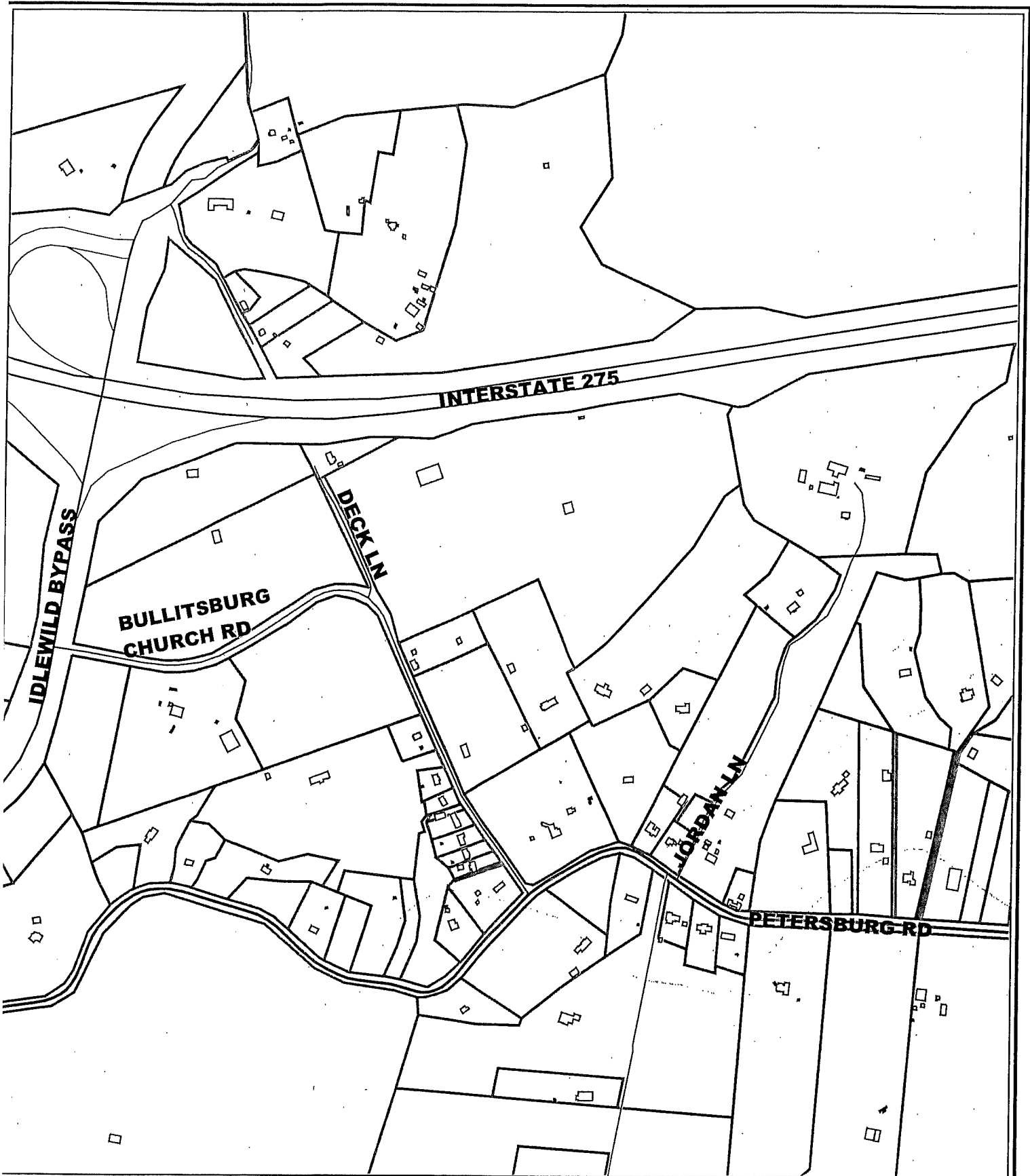


Todd K. Morgan, AICP
Planner, Zoning Services

TKM/pr

Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Concept Plan
- Exhibit C – Entrance Gate Plans
- Exhibit D – Zoning Map
- Exhibit E – Aerial Map
- Exhibit F – Application



Answers in Genesis Site Vicinity Map

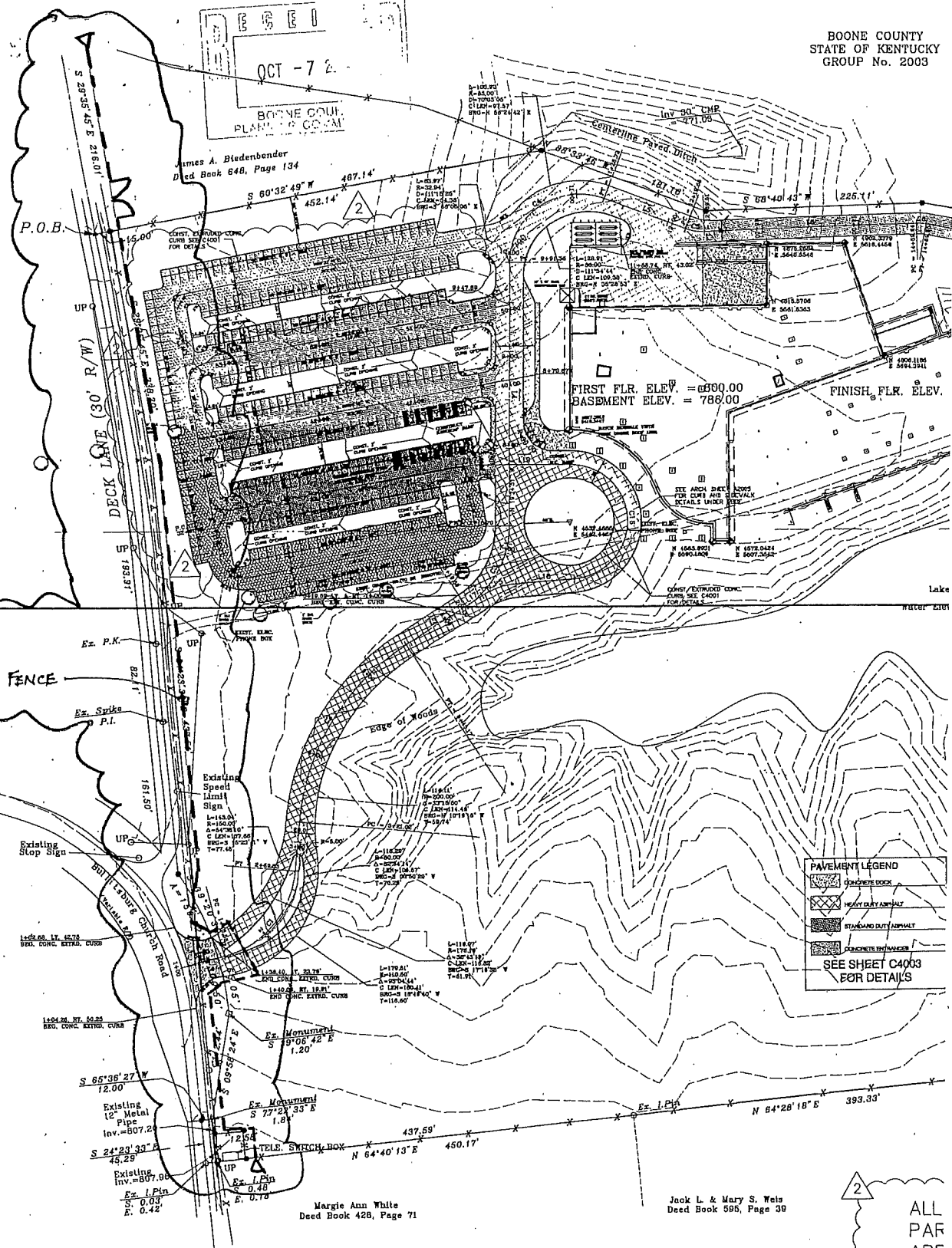


1 inch equals 700 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 October 26, 2004



NOTE: North is based upon a survey by Timothy R. Dated 2/12/78; Recorded in Deed Book 363.

BOONE COUNTY
STATE OF KENTUCKY
GROUP No. 2003



FIRST FLR. ELEV. = 6600.00
BASEMENT ELEV. = 786.00
FINISH FLR. ELEV.

PAVEMENT LEGEND

	CONCRETE DOCK
	HEAVY DUTY ASPHALT
	STANDARD DUTY ASPHALT
	CONCRETE DRIVEWAY

SEE SHEET C4003 FOR DETAILS

BOONE COUP.
PLAN

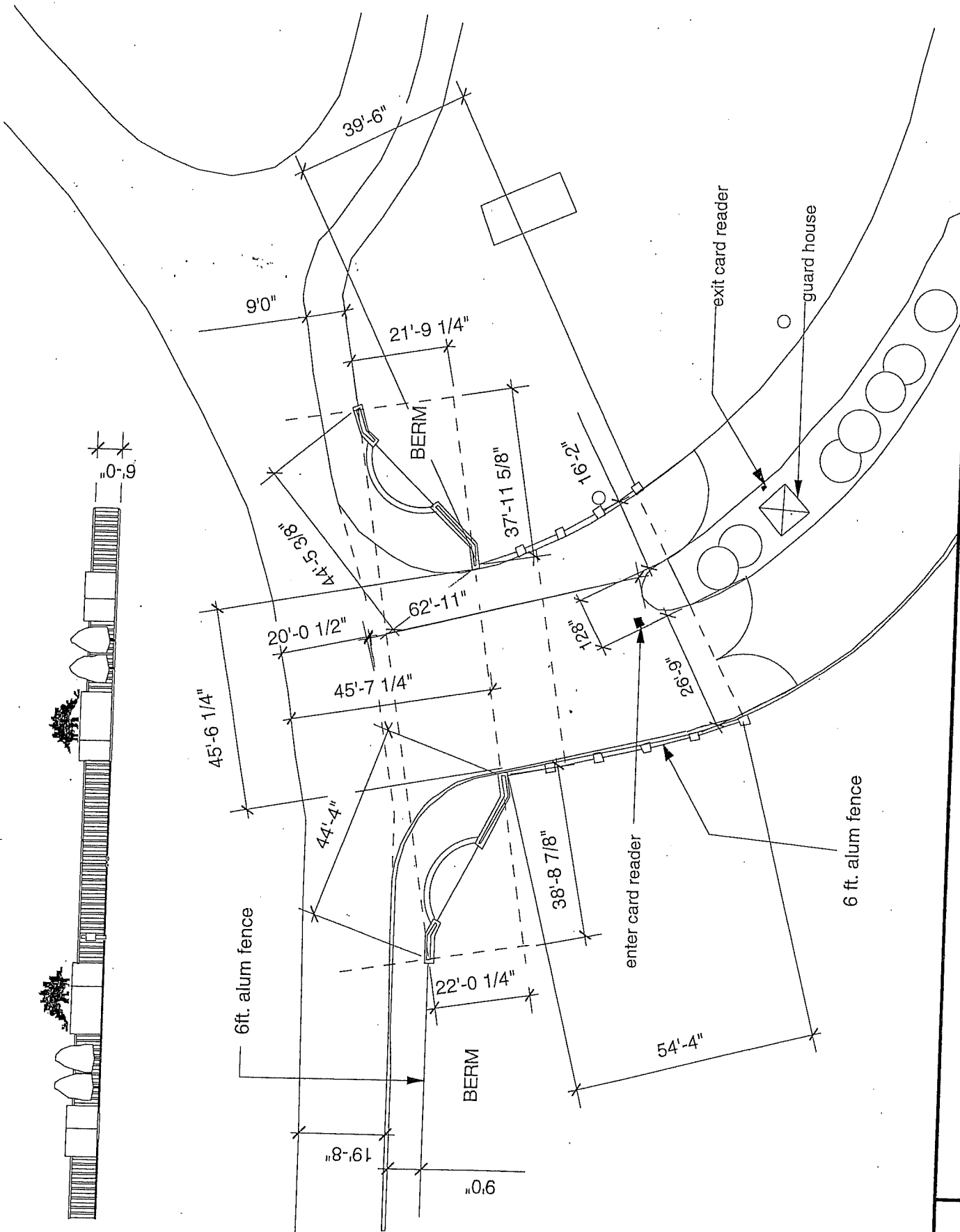
OCT - 7 2

James A. Biedenbender
Deed Book 648, Page 134

Margie Ann White
Deed Book 428, Page 71

Jack L. & Mary S. Wels
Deed Book 595, Page 39

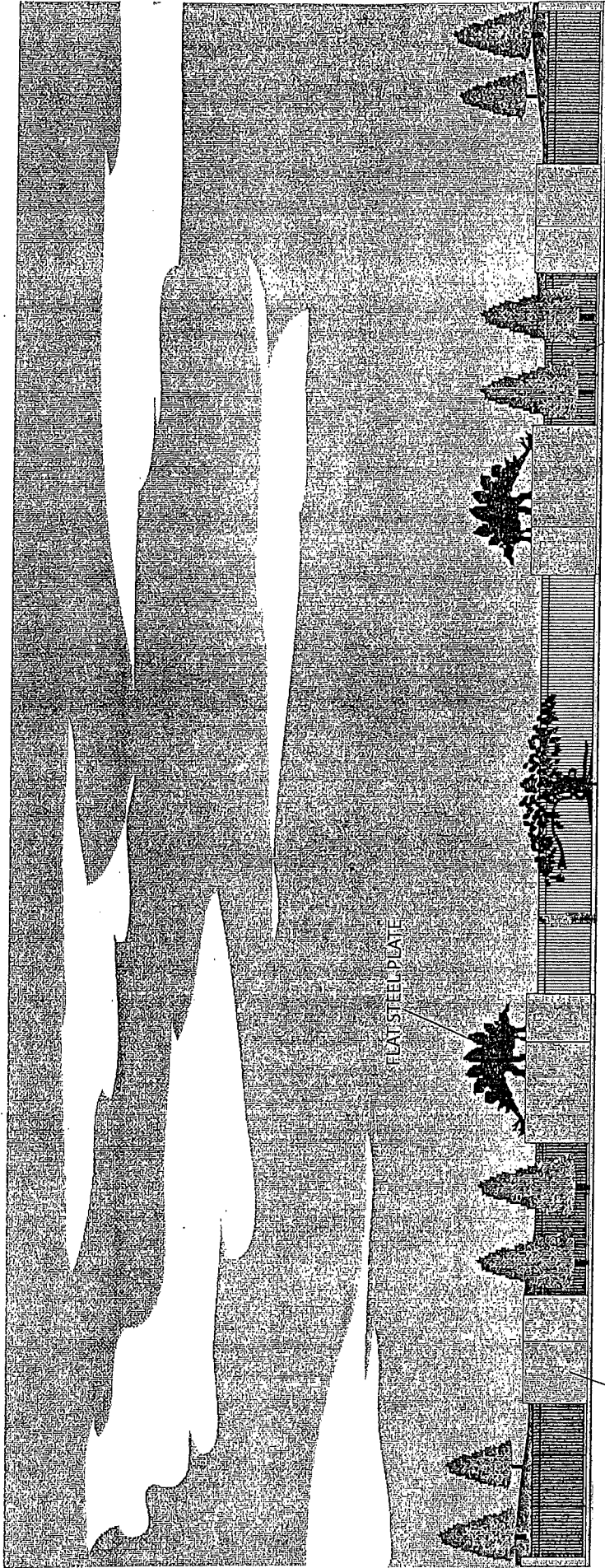
2
ALL
PAR
APF
INCI



DATE: 6/25/04
SCALE: 1/30TH

ANSWERS IN GENESIS
CREATION MUSEUM

ENTRANCE GATE

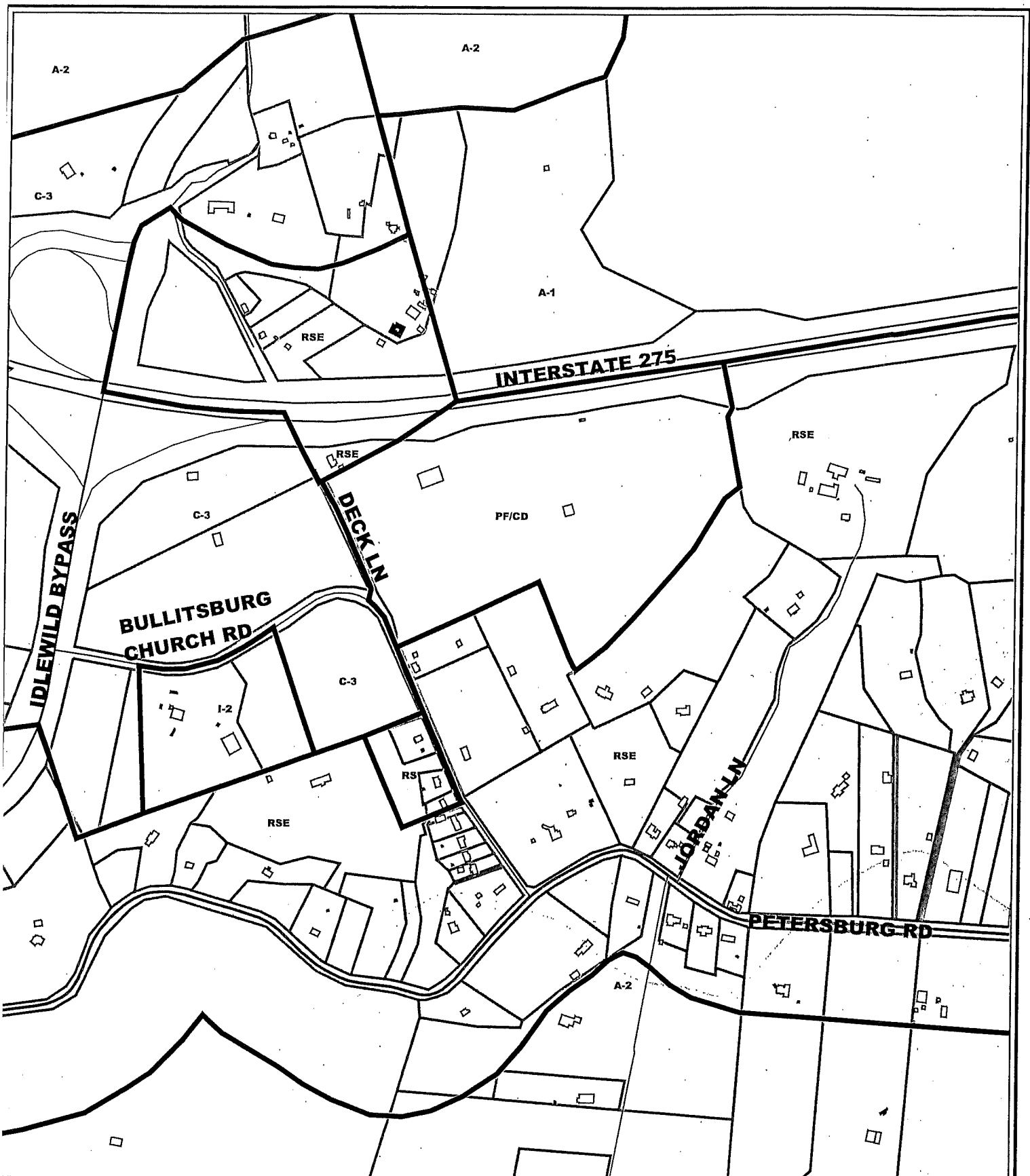


NATURAL STONE

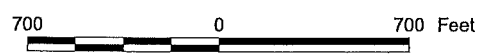
BLACK ALUMINUM FENCE

ENTRANCE GATE TO THE CREATION MUSEUM

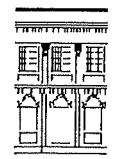
ANSWERS IN GENESIS



Answers in Genesis Zoning Map



1 inch equals 700 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 October 26, 2004





Answers in Genesis Aerial Map

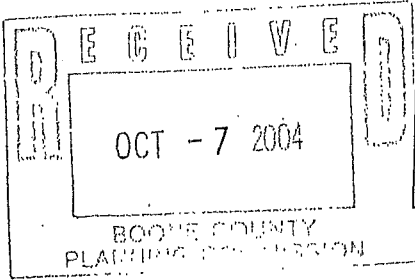
400 0 400 Feet

1 inch equals 400 feet
Produced by the
Boone County Planning Commission
GIS Services Division
October 26, 2004



\$535.00

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 Patrick Marsh cell # 630-0323 Phone Number 859-727-2222 ext 477 Fax No. 859-689-1943 Applicant's Address 2800 Bullittsburg Church Rd. Petersburg KY 41080

4. Description of Request: Request to increase height of fence on front of property from 4 ft. to 6 ft. high Name of Development Answers in Genesis Creation Museum Location of Development 2800 Bullittsburg Church Rd + 2754 Deck Ln. Petersburg, KY 41080 Acreage Under Review 47 Lot Number and Name of Subdivision (if part of a subdivision)

9. Owner of Property Answers in Genesis, Mike Zavath Phone Number of Owner

10. Address of Property Owner 2800 Bullittsburg Church Rd. Petersburg, KY 41080

11. Proposed Use(s) on Site MUSEUM & Gardens

12. Total Square Footage of Existing and/or Proposed Buildings

13. Current Zoning on Property PF

14. Deed Book [redacted] Page No. [redacted] Group No. 2003

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? NO

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: Patrick Marsh

Property Owner's Signature: [Signature] Answers in Genesis

PG 599 676

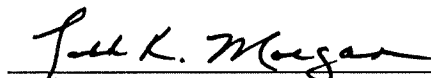
COPY

CLUR #04-BCBOA-035-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Answers in Genesis
2800 Bullittsburg Church Road
Petersburg, KY 41080
2. ADDRESS OF PROPERTY
2800 Bullittsburg Church Road
Petersburg, KY 41080
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Answers in Genesis
4. DEED BOOKS & PAGES 779/599, 790/676 GROUP NO. 2003
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



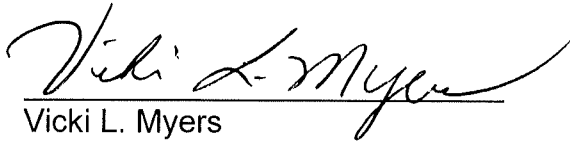
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

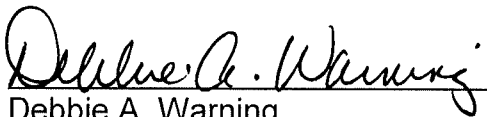
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 22 day of November, 2004.



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 November 10, 2004 Certificate of Land Use Restriction (#04-BCBOA-035-A), for Answers in Genesis, Property Owner(s).

The following conditions will apply:

- 1) All fencing (except for fencing proposed near entrance gate) will be setback at least 10 feet from the Bullittsburg Church and Deck Lane right-of-ways. This 10 foot area will allow for some landscaping to be installed in front of the fence.
- 2) An entrance gate area landscaping plan needs to be submitted when the Applicant submits for sign permit(s). Staff will review the sign drawings and landscape plan to verify that no structures, berms, or landscaping will impede sight distance at the Answers in Genesis access point.

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

DEED BOOKS & PAGES 779/599, 790/676

GROUP NO. 2003