

04-BOBDA-DENIED

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

MAR 22 2004

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 Delbert R Bays Phone Number 859-586-7225 Fax No. Applicant's Address 5385 Petersburg Rd. Petersburg Ky 41080

4. Description of Request: REDEVELOP ROAD FRONTAGE REQUIREMENT OF REMAINDER TRACT FROM 150 FEET TO 120 FEET

5. Name of Development

6. Location of Development 5385 PETERSBURG ROAD PETERSBURG, KY

7. Acreage Under Review 10 +/-

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

9. Owner of Property Delbert R Bays

10. Phone Number of Owner 859-586-7225

10. Address of Property Owner 5385 Petersburg Rd. Petersburg Ky 41080

11. Proposed Use(s) on Site SINGLE-FAMILY RESIDENTIAL LOTS

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

13. Current Zoning on Property A-2

14. Deed Book 865 Page No. 547 Group No. 2016

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?

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: Delbert R. Bays

Property Owner's Signature: Delbert R. Bays

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 3-22-04 Fee Received \$ 519.00 RA# 38180
2. Is application complete? _____ Yes _____ No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
_____ Approved
_____ Approved with Conditions (See #6)
5/12/04 Denial (See #7).
6. Conditions of Approval: _____

7. Reasons for Denial: SEE 5/12/04 B.C. B.O.A.
MEETING MINUTES

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: Delbert R. Bays
LOCATION: 5385 Petersburg Road, Boone County, Kentucky.
ZONING: Agricultural Estate (A-2)
DATE: April 14, 2004

Proposal

The Applicant is requesting a Variance to reduce the 150 foot road frontage requirement for a proposed remainder tract (lot 2) which is located at 5385 Petersburg Road, Boone County, Kentucky.

The submitted Concept Development Plan shows that the applicant wants to subdivide his approximate 10.4 acre tract into two legal lots of record. The proposed subdivision would allow another single-family residential dwelling to be constructed.

Lot 1 is an approximate 8.4 acre flag lot. The Concept Plan indicates that a shared access easement will be recorded to allow lots 1 and 2 to share the existing driveway that is located near the western property boundary.

Lot 2 is approximately 2 acres in area and contains an existing single-family residential dwelling. A Variance is needed because the proposed lot does not have 150 feet of road frontage along Petersburg Road. The request is to reduce the required road frontage requirement of this remainder tract from 150 feet to 120 feet.

Applicable Regulations

Article 2, Section 250 of the Boone County Zoning Regulations states that the Board of Adjustment 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.

Section 315 (d) of the Boone County Subdivision Regulations states that flag lots in agricultural and residential subdivisions "shall have twenty feet (20') of road frontage on a publically dedicated street." Flag lots must have a panhandle that is a minimum of 150' in length (see attachments).

Table 31.1 of the Boone County Zoning Regulations indicates that newly created lots in the Agriculture Estate (A-2) zone must have a minimum road frontage of 150 feet. This standard does not apply if the lot is designed as a flag lot.

Surrounding Land Uses and Zoning

North: Petersburg Road and a single-family dwelling on a 143 acre parcel (A-2)

South: Approximate 35 acre flag lot (A-2)

East: Single-family residential dwellings (A-2)

West: Single-family residential dwelling (A-2)

Staff Comments

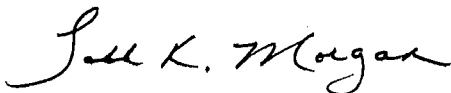
1. Staff was informed by one of the neighbors that the previous property owner was running a trucking business and dumping blacktop and concrete on the back half of the property. Staff could see the area where the blacktop and concrete has been dumped. Staff contacted the Boone County Solid Waste Coordinator and Environmental Protection Agency in regard to the dumped material. Both offices informed Staff that blacktop and concrete are considered clean fill and are not violations of their standards.
2. Staff was also informed that there are private deed restrictions on the property that prevented the lot from being subdivided. Although this is a private matter, Staff researched the issue and found that the only private restriction was that there could be "no mobile or modular type homes" placed or erected on the property.

3. Staff would like to point out that the existing lot is non-conforming because it does not have 150 feet of road frontage along Petersburg Road. The applicant's survey indicates that the 10.4 acre tract only has 140 feet of road frontage. The Variance request would further reduce the frontage of the remainder tract to 120 feet.
4. Staff would like the applicant to explain where the proposed house will be constructed. This is an important factor because a geo-technical analysis will be required if a house is proposed in or near the filled area.
5. Staff would like to note that there is an existing shed where the flag lot panhandle is proposed. The Boone County Zoning Regulations state that accessory structures cannot be located in the front yard.
6. If the Variance is approved, Staff recommends the following conditions:
 - a. A Major Site Plan application will need to be submitted to the Boone County Planning Commission before any more fill is dumped on the property.
 - b. The proposed flag lot will share an access point with the existing single-family residence. No additional curb cuts are permitted on Petersburg Road.
 - c. The shed (accessory structure) will be removed from the panhandle of the proposed flag lot.

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 road frontage variance.

Respectfully submitted,



Todd K. Morgan, AICP
Planner, Zoning Services

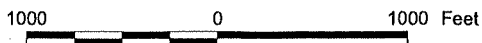
TKM/pr

Attachments

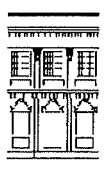
- Exhibit A – Site Vicinity Map
- Exhibit B – Concept Plan
- Exhibit C – Zoning Map
- Exhibit D – Topographical Map
- Exhibit E – Aerial Map
- Exhibit F – Flag Lot Exhibits
- Exhibit G – Application



**5385 Petersburg Road
Site Vicinity Map**



1 inch equals 1000 feet
Produced by the
Boone County Planning Commission
GIS Services Division
March 23, 2004



John Randall
13.155 Ac.

Fd. Iron sink
14.155 Ac

2014
T.C.S.
E.S.S.

BEGIN DESC.

KY. HWY. # 20

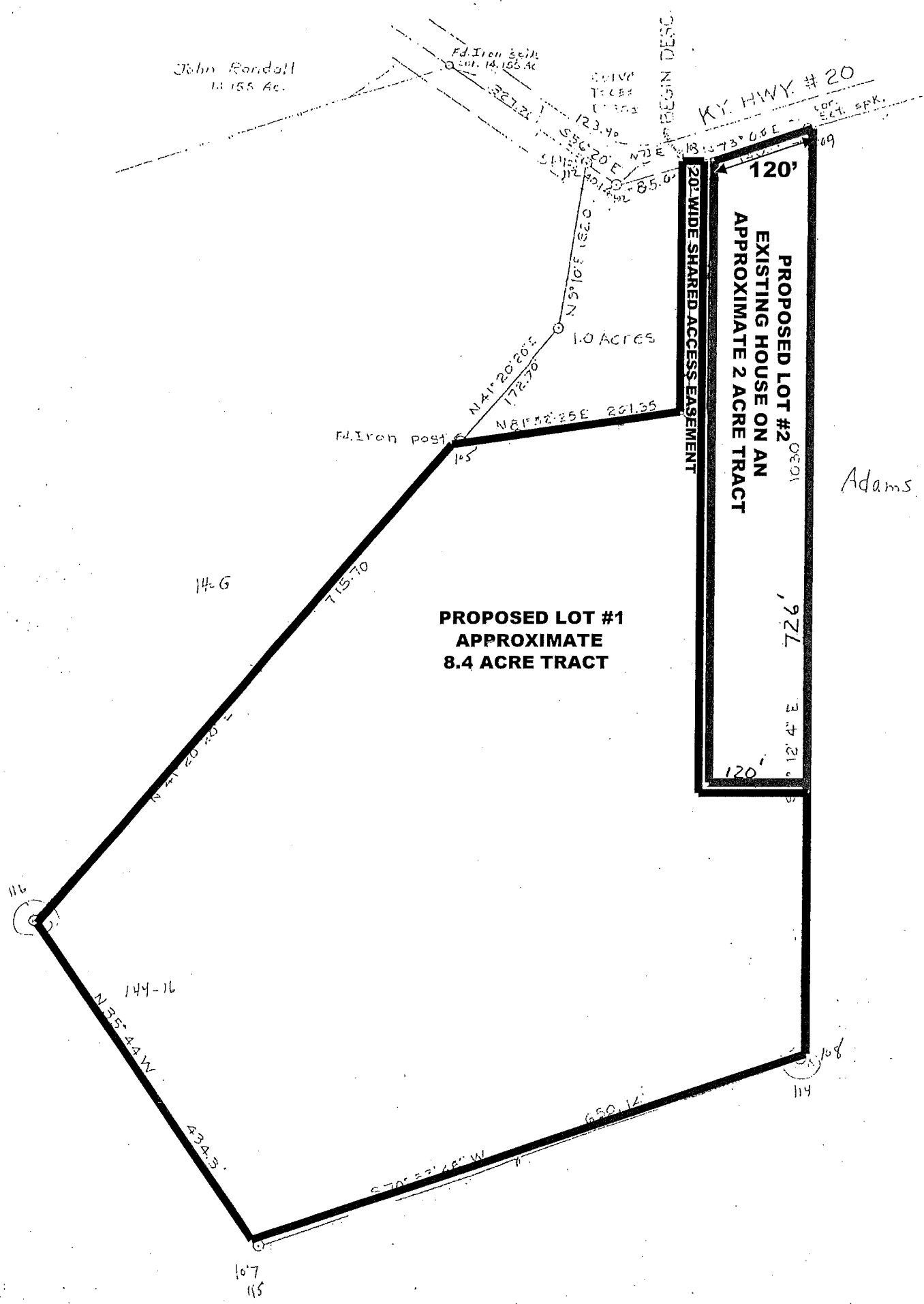
100
547
SPK.

20' WIDE SHARED ACCESS EASEMENT

120'
PROPOSED LOT #2
EXISTING HOUSE ON AN
APPROXIMATE 2 ACRE TRACT

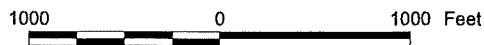
Adams

PROPOSED LOT #1
APPROXIMATE
8.4 ACRE TRACT



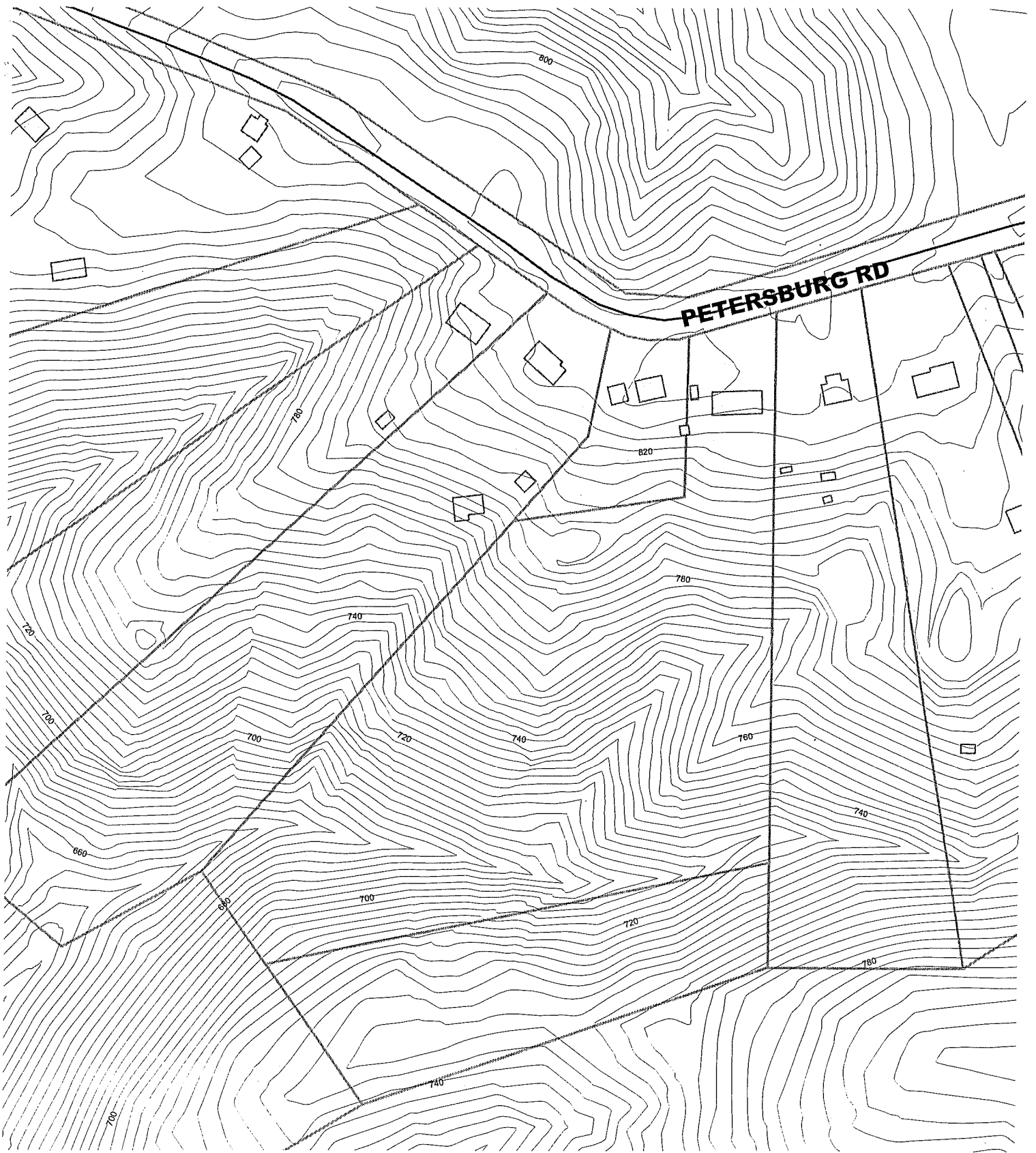


5385 Petersburg Road Zoning Map



1 inch equals 1000 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 March 23, 2004





5385 Petersburg Road Topographical Map

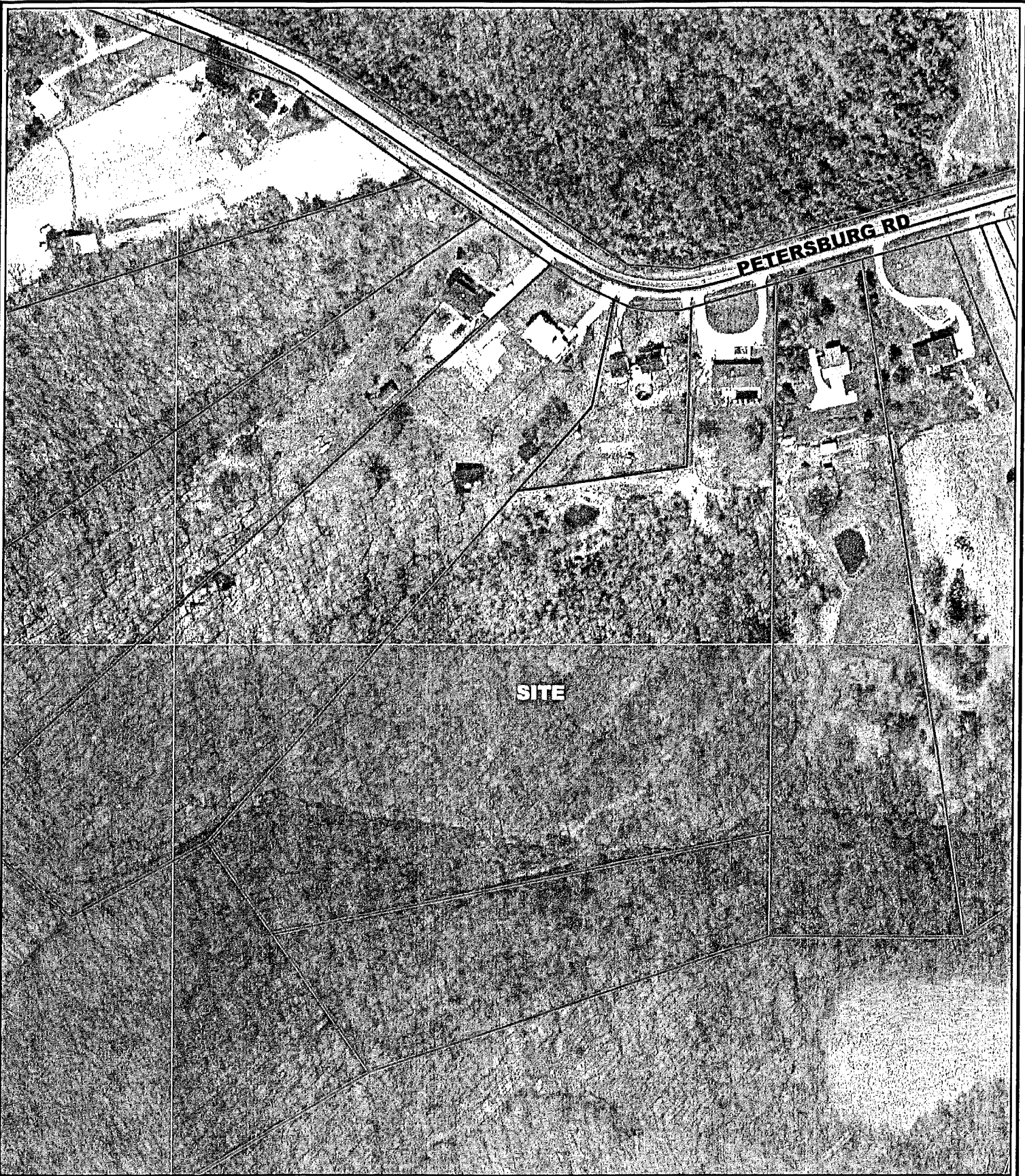
200 0 200 Feet



1 inch equals 200 feet

Produced by the
Boone County Planning Commission
GIS Services Division
April 5, 2004





5385 Petersburg Road Aerial Map

200 0 200 Feet

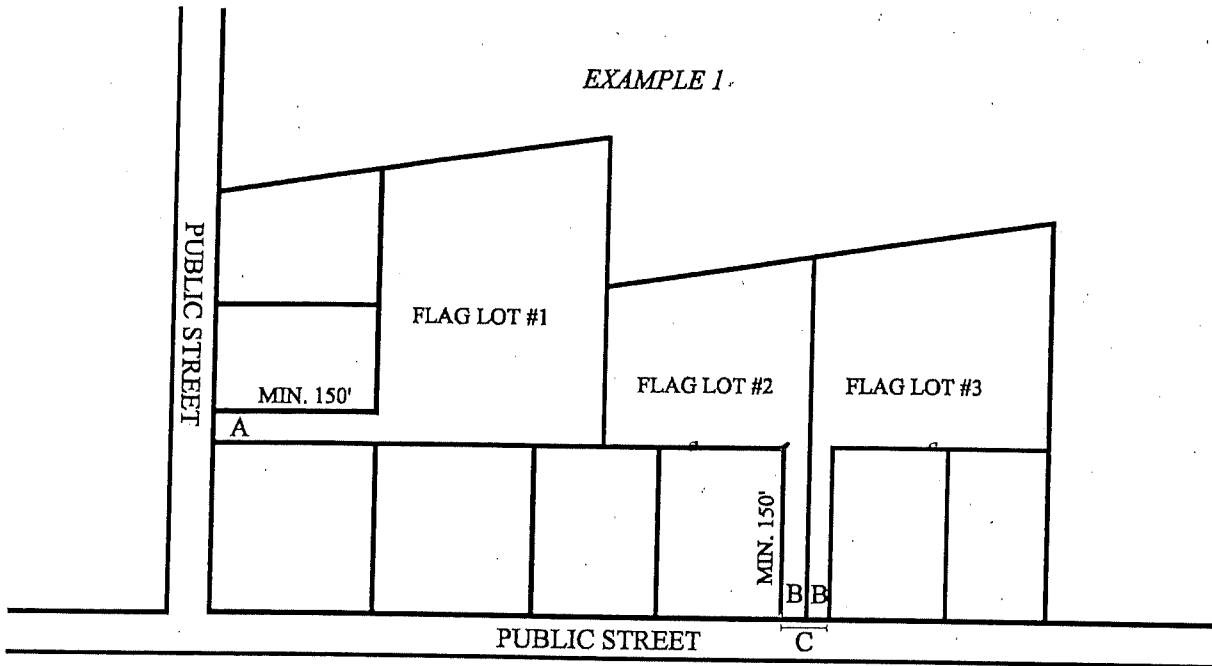
1 inch equals 200 feet
Produced by the
Boone County Planning Commission
GIS Services Division
March 23, 2004



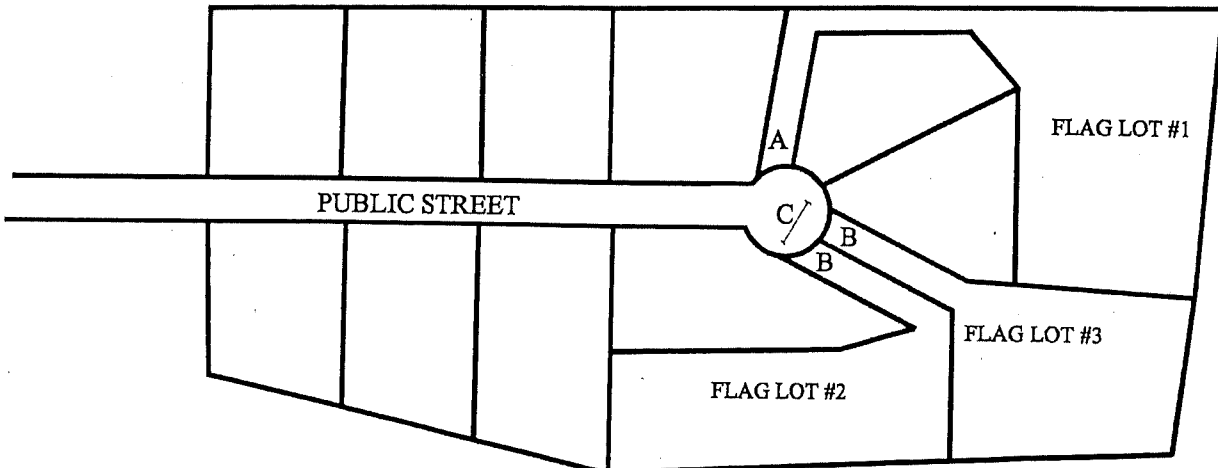
PROPER USE OF FLAG LOTS

<u>TYPE OF SUBDIVISION</u>	<u>A</u>	<u>B</u>	<u>C</u>
AGRICULTURAL/RESIDENTIAL	20'	15'	30'
COMMERCIAL/INDUSTRIAL	30' MIN 50' MAX	15' MIN 25' MAX	30' MIN 50' MAX

EXAMPLE 1.

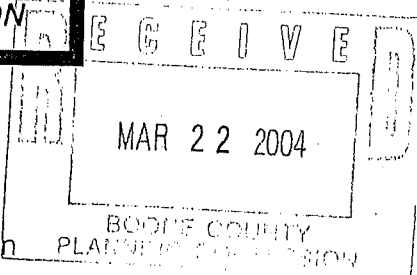


EXAMPLE 2



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 Delbert R Bays
Phone Number 859-586-7225 Fax No. _____
Applicant's Address 5385 Petersburg Rd.
Petersburg Ky 41080
City State Zip
- 4. Description of Request: REDUCE ROAD FRONTAGE REQUIREMENT
OF REMAINDER TRACT FROM 150 FEET TO 120 FEET
- 5. Name of Development _____
- 6. Location of Development 5385 PETERSBURG ROAD PETERSBURG, KY
- 7. Acreage Under Review 10 +/-
- 8. Lot Number and Name of Subdivision (if part of a subdivision) _____
- 9. Owner of Property Delbert R Bays
Phone Number of Owner 859-586-7225
- 10. Address of Property Owner 5385 Petersburg Rd
Petersburg Ky 41080
City State Zip
- 11. Proposed Use(s) on Site SINGLE-FAMILY RESIDENTIAL LOTS
- 12. Total Square Footage of Existing and/or Proposed Buildings _____
- 13. Current Zoning on Property A-2
- 14. Deed Book 865 Page No. 547 Group No. 2016
- 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? _____
- 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: Delbert R. Bays

Property Owner's Signature: Delbert R. Bays