

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 \_\_\_\_\_
- (Check One)
- 2. \_\_\_\_\_ Conditional Use Permit  Variance \_\_\_\_\_ Appeal \_\_\_\_\_  
\_\_\_\_\_ Change in Non-Conforming Use \_\_\_\_\_
- 3. Applicant's Name ARLINGHAUS BUILDERS LLC  
Phone Number 392-8900 Fax No. 344-7983  
Applicant's Address 172 E. ARBWOOD DRIVE  
EDGEWOOD KY 40017  
City State PEAR Zip
- 4. Description of Request: GRANT VARIANCE FOR FRONT YARD, SETBACK,  
OR DETERMINE THAT FRONT YARD FACES EAST.
- 5. Name of Development NORTH POINTE
- 6. Location of Development HEBRON KY
- 7. Acreage Under Review APPROXIMATELY 1/2 ACRE
- 8. Lot Number and Name of Subdivision (if part of a subdivision)  
LOT 140 A BRECKENRIDGE AT NORTH POINTE
- 9. Owner of Property ARLINGHAUS BUILDERS LLC  
Phone Number of Owner 392-8900
- 10. Address of Property Owner 172 BARWOOD, EDGEWOOD KY 40017  
City State Zip
- 11. Proposed Use(s) on Site SINGLE FAMILY RESIDENCE
- 12. Total Square Footage of Existing and/or Proposed Buildings EXISTING - 2200, PROPOSED <sup>2000</sup> + GARAGE
- 13. Current Zoning on Property PUD RPD/CD <sup>CPFB</sup>
- 14. Deed Book 906 Page No. 575 Group No. 4263 PLAT 5/245
- 15. Is the site subject to a zone change? NO 2001  
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: Aringhaus Builders LLC  
By Robert Schwab

Property Owner's Signature: Aringhaus Builders LLC  
By Robert Schwab

**BOARD OF ADJUSTMENT AND  
ZONING APPEALS ACTION  
APPLICATION  
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**SECTION B** (To be completed by the Boone County Planning Commission Staff)

1. Date Received 5-18-06 Fee Received \$921.00 R# 50145
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: 1. The front yard of Lot 140A will be screened with 3 deciduous or evergreen trees per 100 linear feet. The trees will be selected from Plant List A, B, C or D and will meet the minimum installation size requirements. 2. The house will be situated on the lot as shown in the submitted Concept Development Plan and will not be moved closer to the common property line shared with Lot 139.

**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: Arlinghaus Builders  
LOCATION: Lot 140a of Northpointe Subdivision  
ZONING: Residential Planned Development/Concept Development (RPD/CD)  
DATE: June 14, 2006

### Proposal

The Applicant is requesting a variance to reduce the front yard setback requirements for lot 140A of Northpointe Subdivision. The front yard setback for Lot 140A would be reduced from the required 30 feet to 5.5 feet. The requested variance would allow the applicants to orient the house so that the front of the house would face the east property boundary instead of the street.

### Applicable Regulations

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

“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.”

The following is the definition of rear yard:

“ 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 0.5 acre lot is located within Breckenridge at Northpointe Subdivision and is zoned Residential Planned Development/Concept Development (RPD/CD). The following land uses adjoin the lot:

- North and West: Vacant parcel, 11.31 acres, part of Breckenridge at Northpointe Subdivision, zoned Residential Planned Development/Concept Development (RPD/CD)
- South: Vacant lots 140 and 141 of Breckenridge at Northpointe Subdivision, zoned Residential Planned Development/Concept Development (RPD/CD)
- Single family residence at 1122 Breckenridge Lane, part of Breckenridge at Northpointe Subdivision, zoned Residential Planned Development/Concept Development (RPD/CD)
- East: Single-family residences at 1119 Breckenridge Lane, part of Breckenridge at Northpointe Subdivision, zoned Residential Planned Development/Concept Development (RPD/CD)

#### 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 property on Lot 140 could be impacted through this request. If the variance is approved, there would be only 5.6 feet from the side of the house on Lot 140A to the shared property boundary between Lot 140A and Lot 140. Lot 140 is currently vacant at this time.
3. Staff would like the applicant to address if the setbacks could be met if the house were oriented so that the front of the house would face the street.

4. If the Board grants the Variances, Staff recommends the following condition:

- a) The front yard of Lot 140 A will be screened with three (3) deciduous or evergreen trees per 100 linear feet. The trees will be selected from Plant List A, B, C, 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

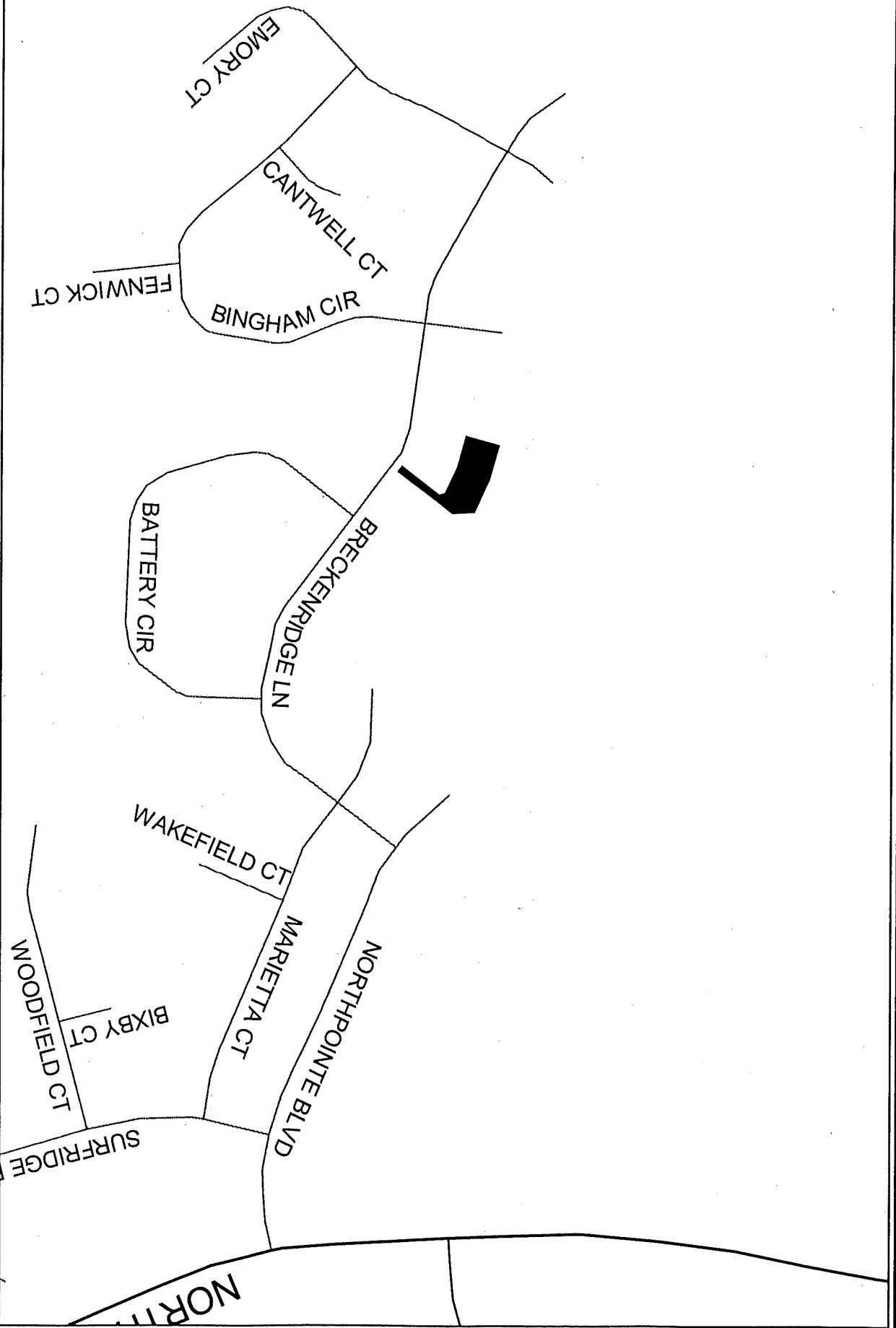
MPB/pr

Attachments

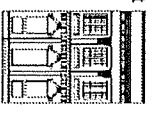
- Exhibit A – Site Vicinity Map
- Exhibit B – Concept Plan
- Exhibit C – Zoning Map and Aerial Photography
- Exhibit D – Final Plat, Section Eight of Breckenridge at Northpointe Subdivision
- Exhibit E – Application

*Added - condition - must be  
60' from adjoining  
house to east*

# Vicinity

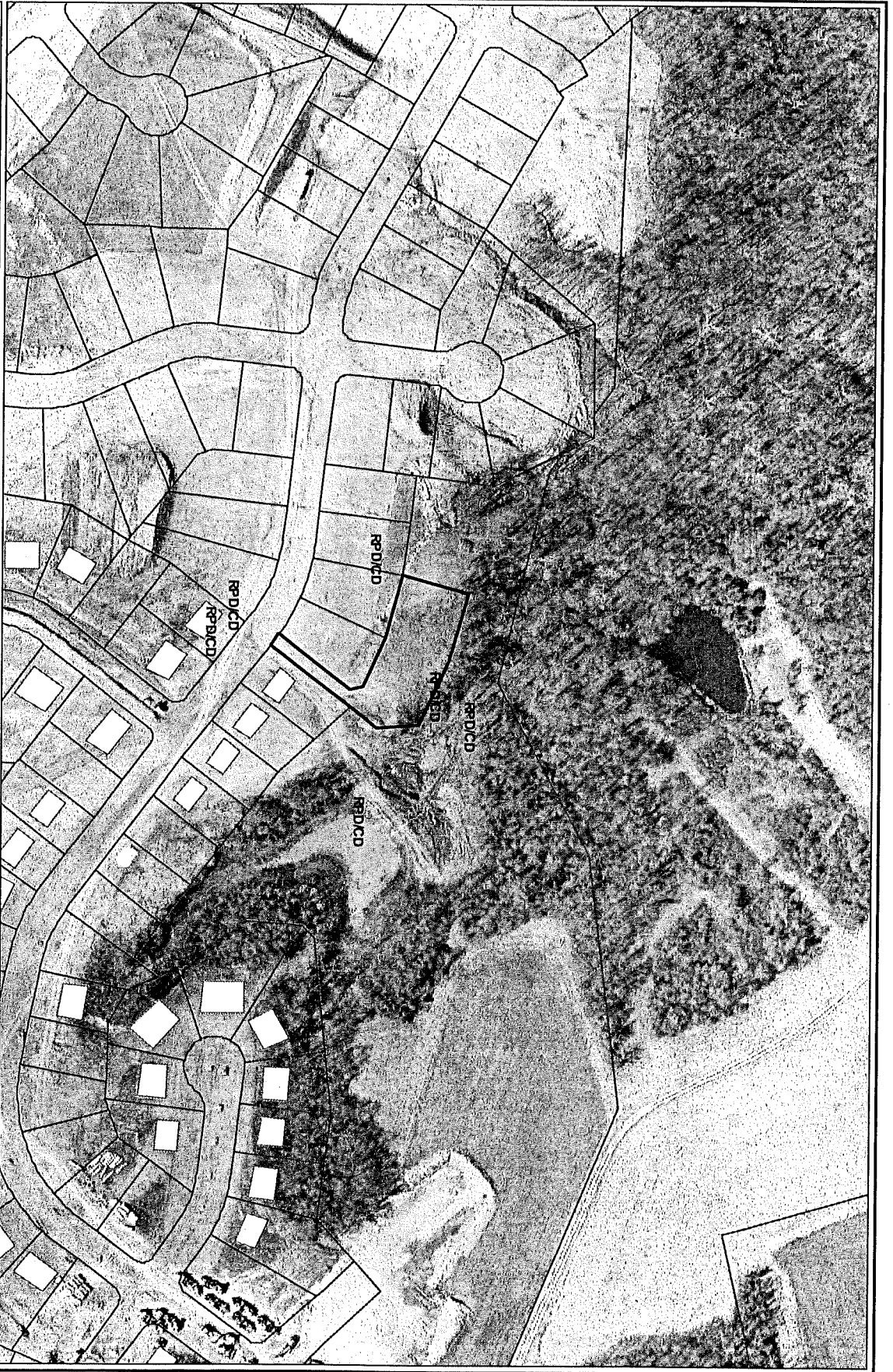


1 inch equals 400 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
June 9, 2006





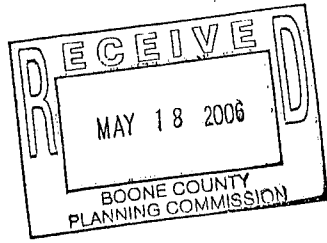
# Zoning Map



1 inch equals 200 feet  
Produced by the  
Boone County Planning Commission  
GIS Services Division  
June 9, 2006







APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

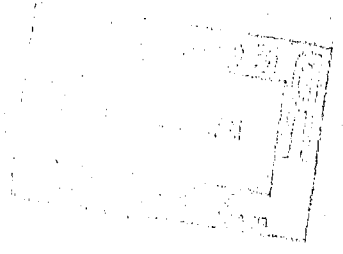
See Boone County Zoning Regulations

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  - 2. (Check One) \_\_\_\_\_ Conditional Use Permit  Variance \_\_\_\_\_ Appeal \_\_\_\_\_  
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EDGEWOOD KY 41017
  - 4. Description of Request: GRANT VARIANCE FOR FRONT YARD, SETBACK,  
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  - 10. Address of Property Owner 172 B ARWOOD, EDGEWOOD KY 41017  
City State Zip
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  - 12. Total Square Footage of Existing and/or Proposed Buildings EXISTING - 2600, PROPOSED 2000 + GARAGE
  - 13. Current Zoning on Property PUD RPD/CD CPFB
  - 14. Deed Book 906 Page No. 575 Group No. 4763 PLAT 5/245
  - 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: Aringhaus Builders LLC  
By Robert Schroeder
- Property Owner's Signature: Aringhaus Builders LLC  
By Robert Schroeder

(over)

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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  
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COPY

CLUR #06-BCBOA-006-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)  
Arlinghaus Builders, LLC  
142 Barnwood Drive  
Edgewood, KY 41017
2. ADDRESS OF PROPERTY  
Boone County, KY
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Northpointe, Lot 140A
4. DEED BOOK 906      PAGE NO. 575      GROUP NO. 2001
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

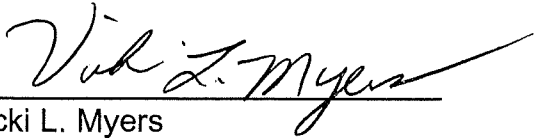
*MP Bachman*  
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

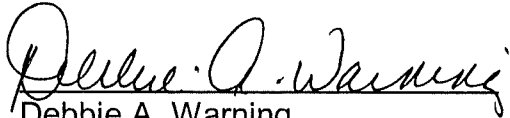
Subscribed, sworn to, and acknowledged before me by Patty Bachman on behalf of the  
Boone County Planning Commission this 27<sup>th</sup> day of June, 2006.



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 14, 2006 Certificate of Land Use Restriction (#06-BCBOA-006-A), for Arlinghaus Builders, LLC, Property Owner(s).

The following conditions will apply:

- 1) There are to be three deciduous or evergreen trees planted per 100 linear feet for the first 100 feet of the property.
- 2) The house is to be 60 feet from the property line with Lot #139.

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

DEED BOOK 906

PAGE NO. 575

GROUP NO. 2001