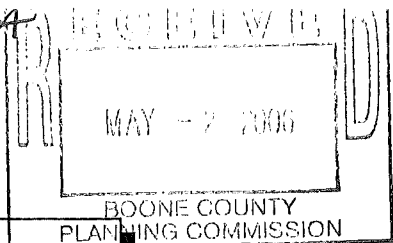


06 - BOA-008-A



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)

- 1. (Check One) Boone _____ Florence _____ Walton _____ Union _____
- 2. (Check One) _____ Conditional Use Permit _____ Variance _____ Appeal _____
 Change in Non-Conforming Use
- 3. Applicant's Name WILLIAM ATHA
Phone Number 859 371 8663 Fax No. _____
Applicant's Address 1185 BOONE AIRE RD.
FLORENCE KY. 41042
City State Zip
- 4. Description of Request: BOULD PARKING SHED
- 5. Name of Development _____
- 6. Location of Development 1185 BOONE AIRE RD. FLORENCE, KY. 41042
- 7. Acreage Under Review _____
- 8. Lot Number and Name of Subdivision (if part of a subdivision) _____
- 9. Owner of Property WILLIAM ATHA
Phone Number of Owner 859 371-8663
- 10. Address of Property Owner 1185 BOONE AIRE RD. FLORENCE, KY. 41042
City State Zip
- 11. Proposed Use(s) on Site Construction of a parking shelter for trucks located as used in hay delivery business
- 12. Total Square Footage of Existing and/or Proposed Buildings _____
- 13. Current Zoning on Property _____
- 14. Deed Book 666 Page No. 253 Group No. 2032
- 15. Is the site subject to a zone change? _____
If yes, give date of approval _____
- 16. Have you submitted a Site Plan with this request? _____
- 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.

hay delivery business
55'x60
trusses with
subd ends.

Applicant's Signature [Signature]

Property Owner's Signature: [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 5-2-06 Fee Received \$ 1711.00 (Att 15 135)
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: The applicant will work with the Homeowner's Association of the Links Subdivision to provide a landscaping plan for the western property line and rear property to screen the proposed shelter from the Links Subdivision. This landscaping plan will be submitted with the minor site plan for the parking shelter.

**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: William Atha
LOCATION: 1185 Boone Aire Road
ZONING: Suburban Residential One (SR-1)
DATE: June 14, 2006

PROPOSAL

The applicant is requesting a Change in Non-Conforming Use so he can construct an approximately 3,160 square foot parking shelter (52 feet by 60 feet) for the trucks used in his business, which involves the retail sale of hay that is produced off-site. The applicant has indicated that the proposed structure would be similar to a "pole barn," with a gabled roof and steel support trusses. No elevations of the proposed structure have been submitted. The submitted Concept Development Plan (see attachments) shows that parking shelter would be constructed in line with the existing barn on site and would be located approximately 8 feet at its closest point from the eastern property line.

APPLICABLE REGULATIONS

Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment and Zoning Appeals is to act on applications for changes in non-conforming use.

Section 270 of the Boone County Zoning Regulations states that it is the intent of the regulations is to keep non-conforming lots, uses or structures from being "enlarged or extended beyond the scope and area of its operation at the time it became a legal non-conforming use; nor shall other uses or structures which are prohibited elsewhere in the same district be permitted on lots of non-conforming uses or structures."

Section 272 of the Boone County Zoning Regulations states "where, at the time of the adoption of this order, legally established, uses of land exist which would not be permitted by regulations imposed by this order, the uses may be continued so long as they remain otherwise lawful, provided the Board shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time these regulations were adopted."

KRS 100.253 allows the following:

1. The lawful use of a building or premises, existing at the time of the adoption of any zoning regulations affecting it, may be continued, although such use does not conform to the provisions of such regulations, except as otherwise provided herein.

2. The board of adjustment shall not allow the enlargement or extension of a non-conforming use beyond the scope and area of its operation at the time the regulation which makes its use nonconforming was adopted, nor shall the board permit a change from one (1) nonconforming use to another unless the new nonconforming use is in the same or a more restrictive classification, provided, however, the board of adjustment may grant approval, effective to maintain nonconforming-use status, for enlargements or extensions, made or to be made, of the facilities of a nonconforming use, where the use consists of the presenting of a major public attraction or attractions, such as a sports event or events, which has been presented at the same site over such period of years and has such attributes and public acceptance as to have attained international prestige and to have achieved the status of a public tradition, contributing substantially to the economy of the community and state, of which prestige and status the site is an essential element, and where the enlargement or extension was or is designed to maintain the prestige and status by meeting the increasing demands of participants and patrons.
3. Any use which has existed illegally and does not conform to the provisions of the zoning regulations, and has been in continuous existence for a period of ten (10) years, and which has not been the subject of any adverse order or other adverse action by the administrative official during said period, shall be deemed a nonconforming use. Thereafter, such use shall be governed by the provisions of subsection (2) of this section.

Section 276 of the Boone County Zoning Regulations states that repairs and maintenance may be made on any non-conforming structure or portion of a structure containing a nonconforming use. Such work may include ordinary repairs, or repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became non-conforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Sections 931 and 933 of the Boone County Zoning Regulations do not list the retail sale of hay among the Principally Permitted or Conditional Uses in the Suburban Residential One (SR-1) zoning district.

SITE CHARACTERISTICS

The site is 6 acres in area. The topography is rolling, with elevations ranging from 828 feet to 872 feet above sea level. Slopes range from 5 percent to 35 percent. There is a pond in the front of the site, as well as an existing house and barn.

SITE HISTORY

The property has been zoned Suburban Residential One (SR-1) since 1980.

SURROUNDING LAND USES & ZONING

- North: Detached single-family residence on a two-acre lot, located across Boone Aire Road from subject property, zoned Urban Residential One (UR-1)
- South: Detached single-family residences located at 1150 and 1170 MacIntosh Lane, part of Belle Meadows subdivision, zoned Suburban Residential One (SR-1)
- Southeast: Farm on 25 acres, zoned Suburban Residential One (SR-1)
- Southwest: 6.87-acre parcel, part of Boone Aire Country Club, zoned Recreation ®
- East: Florence Church of Christ on an 8.12 acre parcel, zoned Suburban Residential One (SR-1)
- West: Detached single-family residence located at 7089 Glen Arbor Drive, part of The Links subdivision, zoned Suburban Residential One (SR-1)
- Two vacant parcels totaling 1.57 acres, owned by the Links Homeowner's Association, zoned Suburban Residential One (SR-1)

STAFF COMMENTS

1. The retail sale of hay on site is a non-conforming use because the property is zoned Suburban Residential One (SR-1). This land use is not among the principally permitted uses or conditional uses in this zoning district.
2. It is Staff's understanding that the proposal for a change in non-conforming use can be viewed in the following fashions:
 - a. The proposed addition will enlarge the existing non-conforming use in terms of gross square footage, or
 - b. The proposed addition will not enlarge the scope of the non-conformity. The overall structure will still serve as a single-family residential dwelling.
3. Staff would like the applicant to provide elevations of the proposed structure.

4. If the proposed land use is approved, a Minor Site Plan will be required for the parking structure.
5. Staff suggests that if the land use is approved, the proposed parking structure be moved 2 feet to the east so that a ten-foot wide landscaping buffer yard can be installed on the east side of the parking structure. The plant requirements for Buffer Yard "B," minus the required number of shrubs, should be installed in this ten-foot wide buffer yard.

Conclusion

KRS 100.253 and Section 220 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 Change-in-Non-Conforming Use.

Respectfully submitted,



Patty Bachman
Planner, Zoning Services

MPB/pr

Attachments

Exhibit A – Aerial Photography and Zoning Map

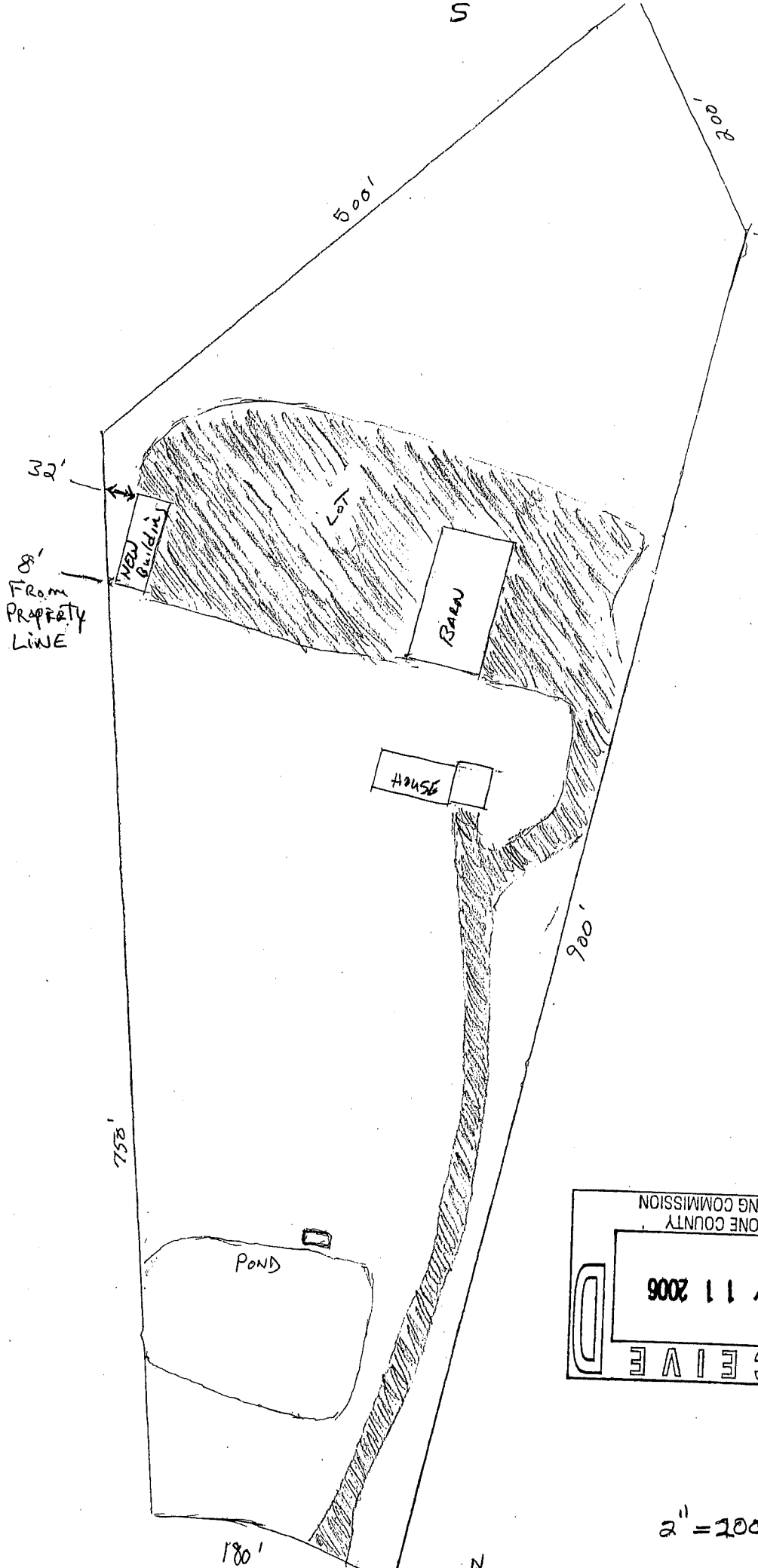
Exhibit B – Concept Plan

Exhibit C – Topographic Map

Exhibit D – Excerpt from 1980 Zoning Map

Exhibit E – Table 2 from Article 37 of the Boone County Zoning Regulations

Exhibit F – Application

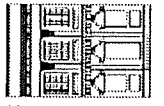
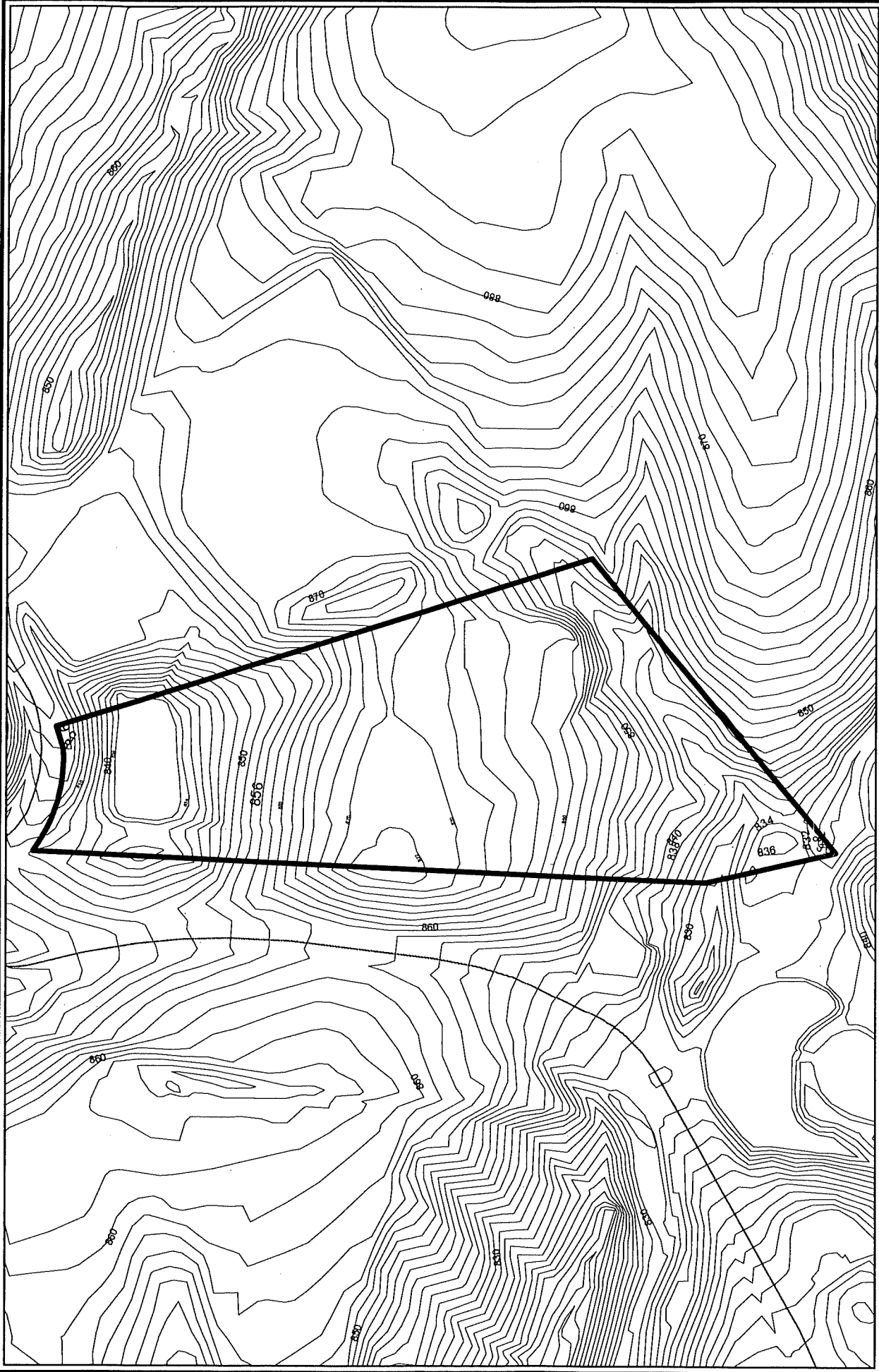


RECEIVED
 MAY 11 2006
 BOONE COUNTY
 PLANNING COMMISSION

2" = 100'

11

3

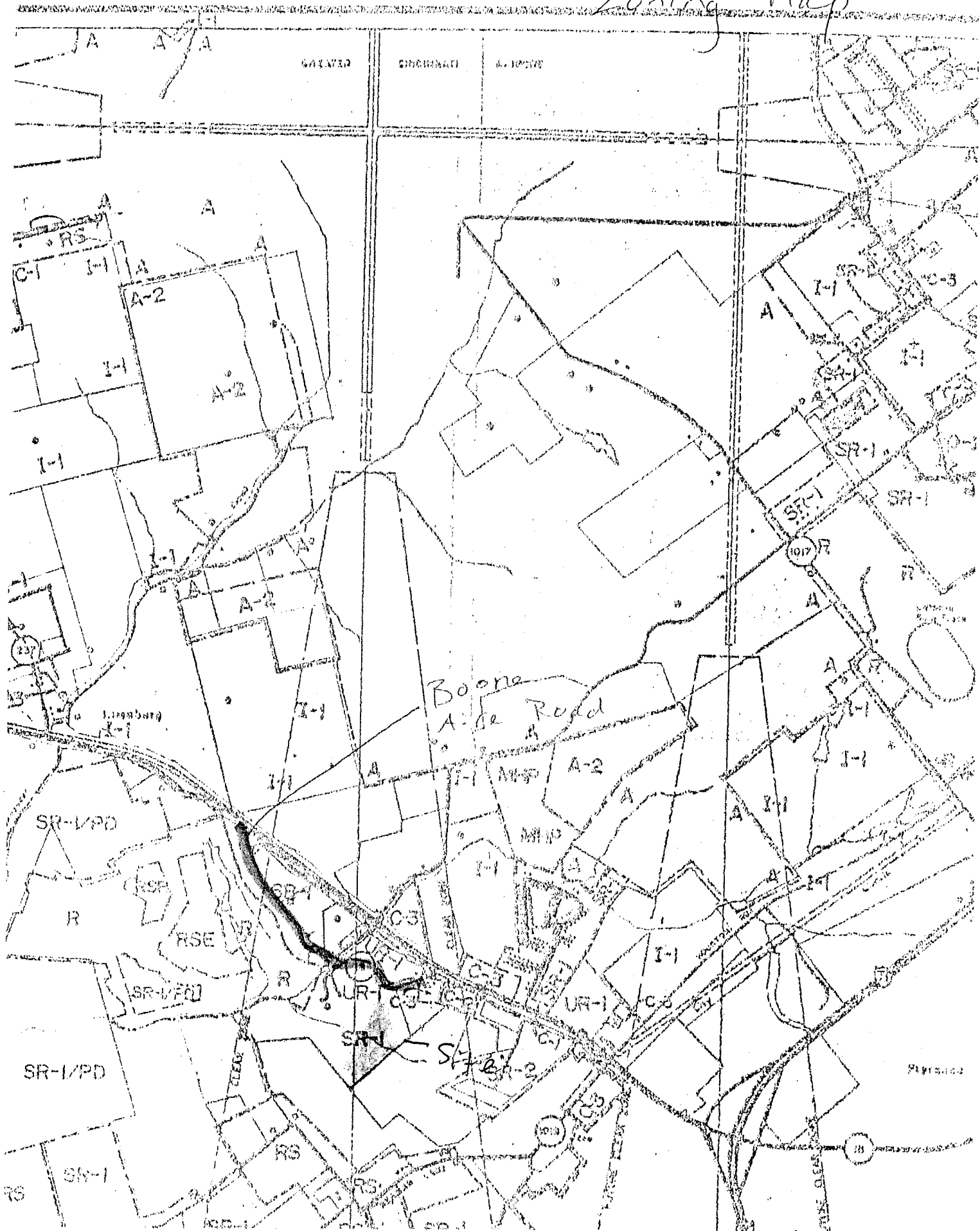


175 Feet
0
175

1 inch equals 175 feet
Produced by the
Boone County Planning Commission
GIS Services Division
June 8, 2006

Topography

Excerpt from 1980 Zoning Map



**TABLE # 2
BUFFER YARD TYPES**

The numbers shown are the minimum quantities required for each plant type. Smaller trees may be replaced with larger varieties. Buffer yards are established in 100 foot increments with the number of plants specified. The number of plants required for a given buffer yard shall be determined by dividing the actual length of the buffer yard by 100 and multiply that number by the number of plants from each plant list required and rounding to the next whole number. A minimum of two genera (a group of species possessing fundamental traits in common, but differing in other lesser characteristics) shall be used from each plant list required at an even ratio per 100 linear feet of buffer yard required. Fences or walls which are used within buffer yards shall be located within the center of the buffer yard and the plants shall be installed on both sides of the fence or wall. Fences shall be solid and provide 100 percent opacity. Chain link fences with slats shall not be permitted.

BUFFER YARD A - 10 FOOT WIDTH

Landscaping required per 100 linear feet at 10 feet wide. No trees or shrubs are required in this buffer yard where an I-1 or I-2 zoned developing use site abuts a I-1 or I-2 zoned adjoining site; for other zones, no trees or shrubs are required in this buffer yard when the developing use and the adjoining use are in the same zone.

- 5 Small Trees - Plant List C, OR
- Any 3 Large Trees / Medium Trees / and/or Evergreen - Plant List A, B, or D, OR
- An equivalent combination of trees from the Small Tree group and the Large/Medium/Evergreen group, AND
- 20 Shrubs where Buffer Yard A adjoins a paved area on the developing lot - Plant List E
- Ground Cover (Required in all areas not covered with grass)
- Mulch (Temporary)

BUFFER YARD B - 20 FOOT WIDTH

Landscaping required per 100 linear feet at 20 feet wide.

- 3 Evergreens - Plant List D, AND
- Any 4 Large Trees / Medium Trees / Small Trees / Additional Evergreen Trees or any combination thereof - Plant List A, B, C, or D, AND
- 20 Shrubs where Buffer Yard B adjoins a paved area on the developing lot if less than 70% of the trees in this buffer yard are Evergreen Trees (Plant List D)
- Ground Cover (Required in all areas not covered with grass)
- Mulch (Temporary)

BUFFER YARD C - 25 FOOT WIDTH

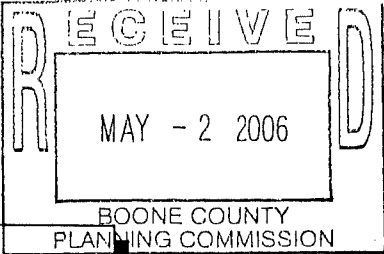
Landscaping required per 100 linear feet at 25 feet wide.

- 8 Evergreens - Plant List D, AND
- Any 4 Large Trees / Medium Trees / and/or Small Trees - Plant List A, B, or C
- Ground Cover (Required in all areas not covered with grass)
- Mulch (Temporary)

BUFFER YARD D - 50 FOOT WIDTH

Landscaping required per 100 linear feet at 50 feet wide.

- 15 Evergreens - Plant List D, AND



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 _____ Appeal [checked] Change in Non-Conforming Use
3. Applicant's Name WILLIAM ATHA Phone Number 859 371 8663 Fax No. _____ Applicant's Address 1185 BOONE AIRE RD. FLORENCE KY. 41042
4. Description of Request: BULD PARKING SHED
5. Name of Development _____
6. Location of Development 1185 BOONE AIRE RD. FLORENCE, KY. 41042
7. Acreage Under Review _____
8. Lot Number and Name of Subdivision (if part of a subdivision) _____
9. Owner of Property WILLIAM ATHA Phone Number of Owner 859 371-8663
10. Address of Property Owner 1185 BOONE AIRE RD. FLORENCE, KY. 41042
11. Proposed Use(s) on Site Construction of a parking shelter for trucks located on used in hay
12. Total Square Footage of Existing and/or Proposed Buildings _____
13. Current Zoning on Property _____
14. Deed Book 666 Page No. 253 Group No. 2032
15. Is the site subject to a zone change? _____ If yes, give date of approval _____
16. Have you submitted a Site Plan with this request? _____
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 [Signature]

Property Owner's Signature: [Signature]

hay delivery business 50'x60 trusses with gabled ends.

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 5-2-06 Fee Received \$ 471.00 RA#45735
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@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.

COPY

CLUR #06-BCBOA-008-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
William Atha
1185 Boone Aire Road
Florence, KY 41042
2. ADDRESS OF PROPERTY
1185 Boone Aire Road
Florence, KY 41042
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

4. DEED BOOK 666 PAGE NO. 253 GROUP NO. 2032
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: Change in Non-Conforming Use
- 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



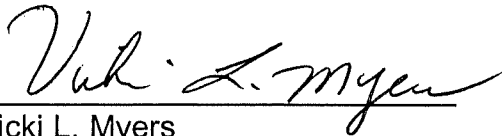
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

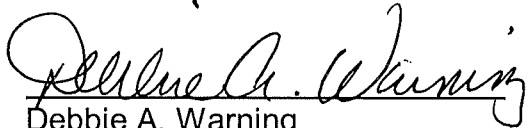
Subscribed, sworn to, and acknowledged before me by Patty Bachman on behalf of the
Boone County Planning Commission this 27th day of June, 2006.



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 Change in Non-Conforming Use 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-008-A), for William Atha, Property Owner(s).

The following conditions will apply:

- 1) The property owner must meet with the Links Homeowners Association and come to agreement in regard to the landscaping on the right side of the property and where it arcs around and impacts the Links property.

The approved Change in Non-Conforming Use as well as the preceding conditions apply to the property described in:

DEED BOOK 666

PAGE NO. 253

GROUP NO. 2032