



APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

SEP 19 2006

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 SME New Home Solutions, LLC. Phone Number (859) 655-2220 Fax No. (859) 655-2223 Applicant's Address P.O. Box 139 Union KY 41091

- 4. Description of Request: To enclose on the minimum 30' rear

- 5. Name of Development Cuspiens Creek attach with a 9'9" x 4' wood deck. 6. Location of Development Florence, KY Gatewood Court

- 7. Acreage Under Review

- 8. Lot Number and Name of Subdivision (if part of a subdivision) Lot 23 Cuspiens Creek

- 9. Owner of Property SME New Home Solutions, LLC. Phone Number of Owner (859) 655-2220

- 10. Address of Property Owner Union KY 41091

- 11. Proposed Use(s) on Site Residential Home.

- 12. Total Square Footage of Existing and/or Proposed Buildings 1537

- 13. Current Zoning on Property SR1

- 14. Deed Book 669 Page No. 485 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

- 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: [Signature]

Property Owner's Signature: [Signature]

**BOARD OF ADJUSTMENT AND  
ZONING APPEALS ACTION  
APPLICATION  
PAGE 2**

01 112

**SECTION B** (To be completed by the Boone County Planning Commission Staff)

1. Date Received 9-19-06 Fee Received \$ 571.00 R#5148
2. Is application complete?  Yes  No
3. Staff Reviewer \_\_\_\_\_
4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
 Approved  
 10/11/06 Approved with Conditions (See #6)  
 Denial (See #7)
6. Conditions of Approval: SEE 10/11/06 MEETING  
MINUTES
7. Reasons for Denial: \_\_\_\_\_

**Boone County Planning Commission  
Boone County Administration Building  
2950 Washington Street, Room 317  
P.O. Box 958  
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: SMI New Home Solutions, LLC

LOCATION: Lot 23, Carspens Creek Subdivision (11074 Gatewood Court), Boone County, Kentucky

ZONING: Suburban Residential One (SR-1)

DATE: October 11, 2006

### Proposal

The applicants have requested a Variance to allow a proposed deck to encroach into the thirty (30) foot rear yard setback (see attachments). The subject house is currently being constructed on lot 23 of Carspens Creek Subdivision (11074 Gatewood Court, Boone County, Kentucky). The submitted Concept Plan shows that the deck will be located 27'-4½" from the rear property line.

### Applicable Regulations

Section 3123 of the Boone County Zoning Regulations states that open structures such as porches, canopies, balconies, platforms, carports, covered patios, and similar architectural projections which occupy space three (3) or more feet above the general ground level of the yard shall be considered parts of the building to which attached and shall not project into the required minimum front, side or rear yard.

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.

#### Site Characteristics

The subject property fronts on Gatewood Court and is approximately 0.18 acres in area. The rear of the property contains some scrubby vegetation and the topography falls off substantially (see attached topographical map).

#### Adjoining Properties

- North: Vacant Lot in Carspens Creek (SR-1)
- South: Single-Family Dwelling in Carspens Creek (SR-1)
- East: Gatewood Court and Single-Family Dwelling in Carspens Creek (SR-1)
- West: Single-Family Residential Dwelling in Horseshoe Trails (SR-1)

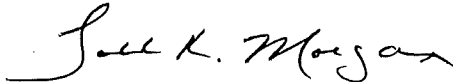
#### Staff Comments

1. The proposed house is located at the minimum front yard setback (30') and cannot be moved any further forward.
2. Staff would like the applicant to address if the house has been sold. If it hasn't, Staff would like to know if a smaller house could have been constructed on the lot.
3. The Board needs to analyze if the request is in accord with Section 251 of the zoning regulations.
4. If the request is approved, Staff recommends a condition which would require two small trees from Plant List C to be installed between the deck and rear property line (see Article 36 of the Boone County Zoning Regulations).

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.

Respectfully submitted,



Todd K. Morgan, AICP  
Senior Planner, Zoning Services

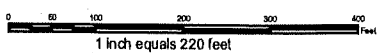
TKM/pr

Attachments

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



Boone County GIS extends no warranty relating to the accuracy or content of the information provided by this map. This map should be used for planning purposes only.

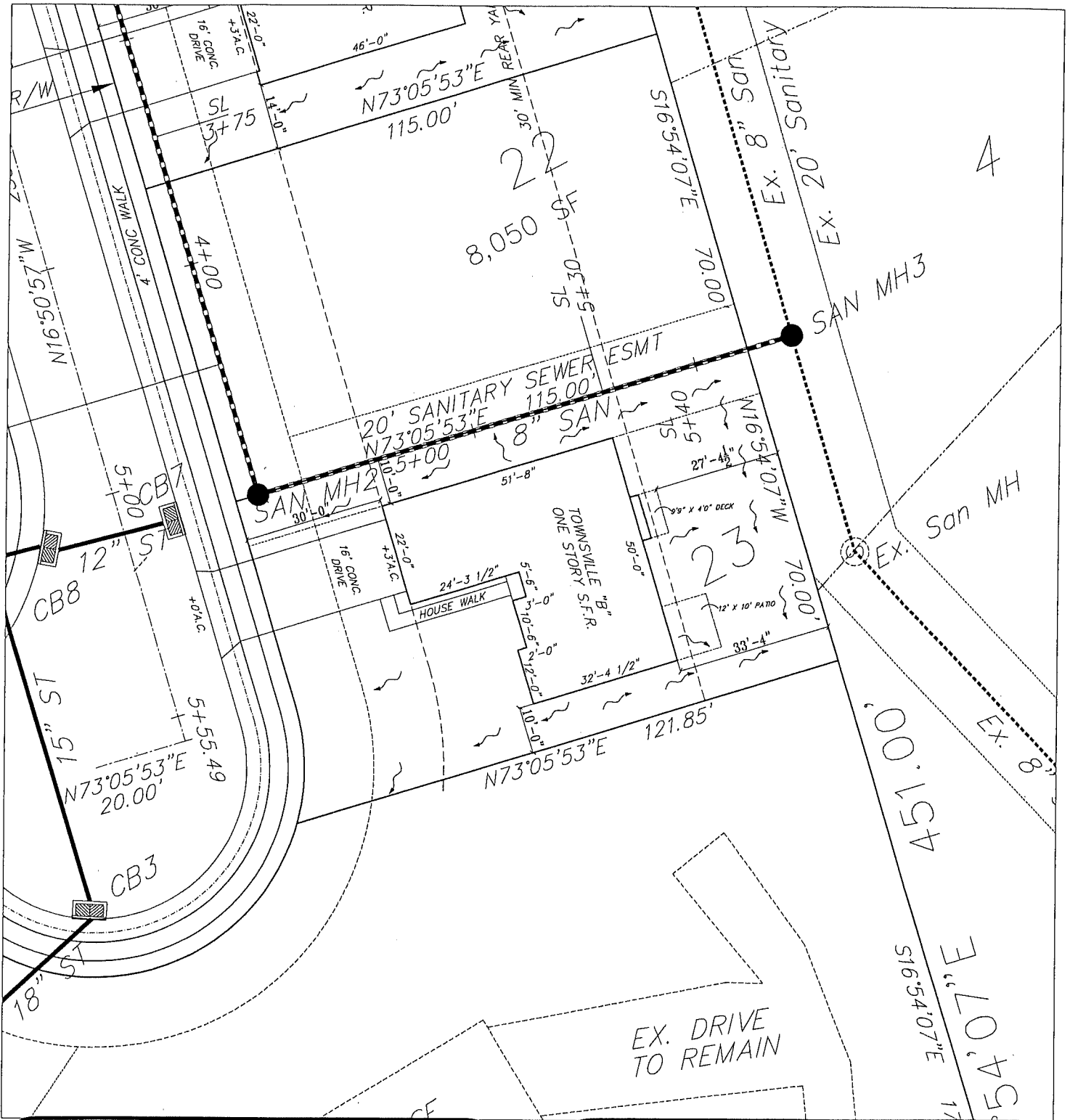


1 inch equals 220 feet

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Boone Plans Kentucky North NAD 983





**SMI**  
NEW HOME SOLUTIONS

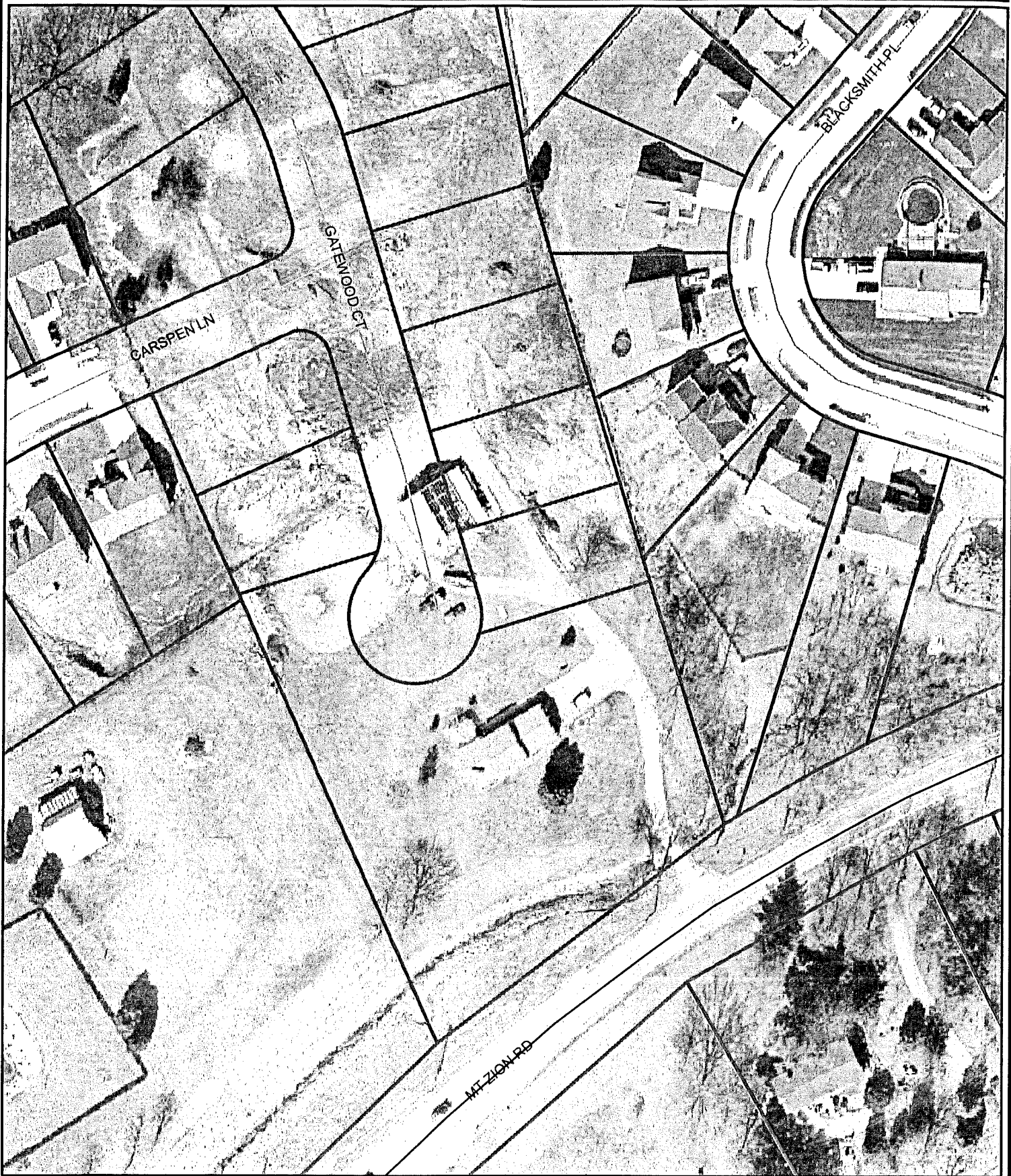
P.O. BOX 139  
UNION, KENTUCKY 41091  
OFFICE: (859) 655-2220  
FAX: (859) 655-2223

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**SMI New Home Solutions, LLC**

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DATE:		REVISION:	
SUBDIVISION		CARSPENS CREEK, SECTION TWO	
SCALE		1"=30'	
JOB ADDRESS: GATEWOOD COURT			
CONTRACT BY:	SMI	CUSTOMER:	SALCIDO
PHONE NO.:	859-655-2220	JOB #:	23CC
CONTRACT DATE:	08/31/06	SHEET NO. <b>P.1</b>	



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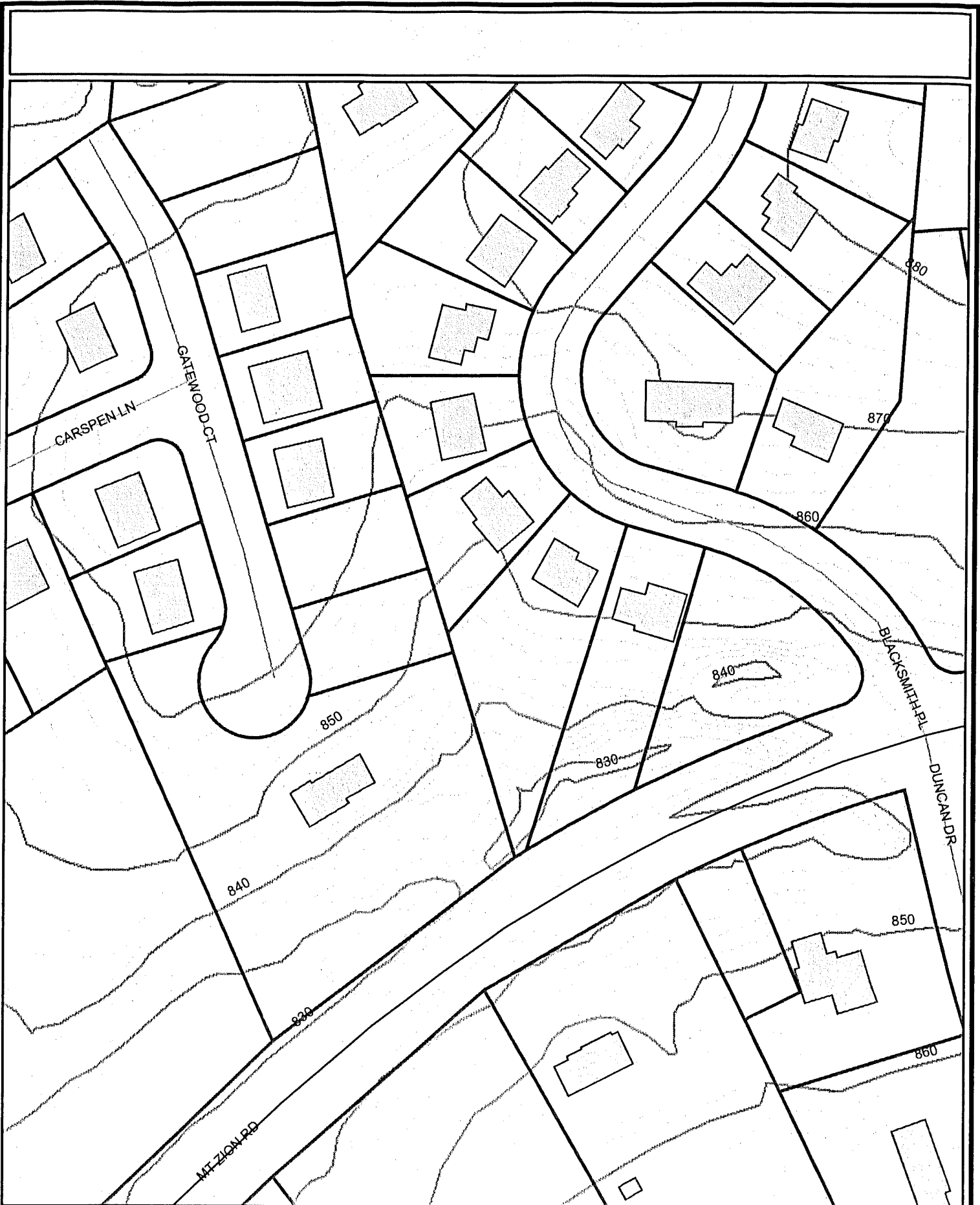


1 inch equals 87 feet

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State Plane Kentucky North NAD 1983



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1 Inch equals 220 feet

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APPLICATION FORM

SEP 19 2006

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 [checked] Variance \_\_\_\_\_ Appeal \_\_\_\_\_
Change in Non-Conforming Use \_\_\_\_\_
3. Applicant's Name SMI New Home Solutions, LLC.
Phone Number (854) 655-2220 Fax No. (854) 655-2223
Applicant's Address P.O. Box 134
Union KY 41091
City State Zip
4. Description of Request: To encroach on the minimum 30' rear setback with a 9'9" x 4' wood deck.
5. Name of Development Cusspens Creek
6. Location of Development Florence, KY Gatewood Court
7. Acreage Under Review \_\_\_\_\_
8. Lot Number and Name of Subdivision (if part of a subdivision)
Lot 23 Cusspens Creek
9. Owner of Property SMI New Home Solutions, LLC.
Phone Number of Owner (854) 655-2220
10. Address of Property Owner Union KY 41091
City State Zip
11. Proposed Use(s) on Site Residential Home
12. Total Square Footage of Existing and/or Proposed Buildings 1537
13. Current Zoning on Property S7L1
14. Deed Book 869 Page No. 485 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
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: Kyle Mason

Property Owner's Signature: [Handwritten Signature]

COPY

CLUR #06-BCBOA-018-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)  
SMI New Home Solutions, LLC  
P.O. Box 139  
Union, KY 41091
  
2. ADDRESS OF PROPERTY  
11074 Gatewood Court  
Florence, KY 41042
  
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Carspens Creek, Lot 23
  
4. DEED BOOK 869                      PAGE NO. 485                      GROUP NO. 2057
  
5. TYPE OF RESTRICTION(S) (Check all that apply)  
 Zoning Map Amendment:  
                    From  To   
 Development Plan                       Conditional Zoning  
 Subdivision Plat                       Other:  
                    (Not Recorded)  
 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

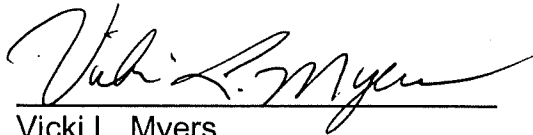
Todd K. Morgan  
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

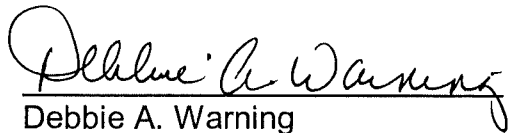
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the  
Boone County Planning Commission this 25 day of October, 2006.



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  
2950 Washington Street, Room 317  
P.O. Box 958  
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 October 11, 2006 Certificate of Land Use Restriction (#06-BCBOA-018-A), for SMI New Home Solutions, LLC, Property Owner(s).

The following conditions will apply:

- 1) Two small trees from Plant List C are required to be installed between the deck and rear property line (see Article 36 of the Boone County Zoning Regulations).

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

DEED BOOK 869 PAGE NO. 485 GROUP NO. 2057