

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

NOV 15 2006

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 Michael & Peggy M Wesselman
Phone Number 859-384-1835 Fax No. _____
Applicant's Address 10018 Timbercreek Dr
Union KY 41091
City State Zip
4. Description of Request: Reduce 500' street frontage requirement for 2 driveway to 350'
5. Name of Development _____
6. Location of Development 10018 Timbercreek Dr
7. Acreage Under Review _____
8. Lot Number and Name of Subdivision (if part of a subdivision) _____
9. Owner of Property Michael & Peggy Wesselman
Phone Number of Owner 859-384-1835
10. Address of Property Owner 10018 Timbercreek Dr
City State Zip
11. Proposed Use(s) on Site Single family residence with 2 access points on timbercreek Dr
12. Total Square Footage of Existing and/or Proposed Buildings _____
13. Current Zoning on Property A-2
14. Deed Book 307 Page No. 185 Group No. 2054
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: Peggy M Wesselman

Property Owner's Signature: Peggy M Wesselman

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

01 VOW

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

1. Date Received 11-15-06 Fee Received \$571.00 R 51858
2. Is application complete? Yes No
3. Staff Reviewer J. Del Morgan
4. Scheduled Board Action Date _____
5. Board Action:
12/13/06 Approved
 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: NONE

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 - 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: Michael & Peggy Wesselman
LOCATION: 10018 Timbercreek Drive, Boone County, Kentucky
ZONING: Agricultural Estate (A-2)
DATE: December 13, 2006

Proposal

The applicants have requested a Variance to reduce the road frontage requirement from 500 feet to 350 feet so their property can have two curb cuts on Timbercreek Drive. The submitted Concept Plan shows that the applicants have a driveway which connects their single-family residence to Timbercreek Drive. The proposed curb cut is located further to the southeast and would connect their garage to Timbercreek Drive. The subject property is located at 10018 Timbercreek Drive, Boone County, Kentucky.

Applicable Regulations

Section 3221 of the Boone County Zoning Regulations states that where the frontage of a tract of land is greater than 500 feet, an additional access point is permitted for each additional 500 feet of frontage, provided all access points are otherwise in compliance with all applicable sections of these regulations.

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 approximate 1.6 acre property is located on the southeast corner of Hathaway Road and Timbercreek Drive and is zoned Agricultural Estate (A-2). The property contains a single-family residence, a swimming pool, a garage, and an outside wood burning heating unit. The property has approximately 350 feet of road frontage along Timbercreek Drive. The property contains two driveways on Timbercreek Drive. The first driveway connects to the side of the applicant's house and the second connects to their garage. The second driveway was constructed without zoning permits or encroachment permits being approved.

Adjoining Properties

- North: Hathaway Road & 127 Acre Farm (A-1 & A-2)
- South: Single-Family Residence fronting on Timbercreek Road (A-2 & RSE)
- East: Single-Family Residence Fronting on Hathaway Road (A-2 & RSE)
- West: Timbercreek Road and Single-Family Residence (A-2)

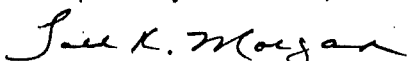
Staff Comments

1. The applicants have provided a letter which explains why they are seeking a Variance for a second driveway (see attachments).
2. Staff has made the applicants aware that the Variance would not be needed if the second driveway did not connect to Timbercreek Drive. The applicants can gravel or pave a path between their existing driveway and the garage without any permits.
3. Staff talked with Daryl Davis, with Boone County Public Works, regarding the request. Mr. Davis indicated he would grant an encroachment permit if the Board grants the Variance because there are no sight distance issues.
4. The Board needs to analyze the criteria for granting a variance before acting on the request.

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.

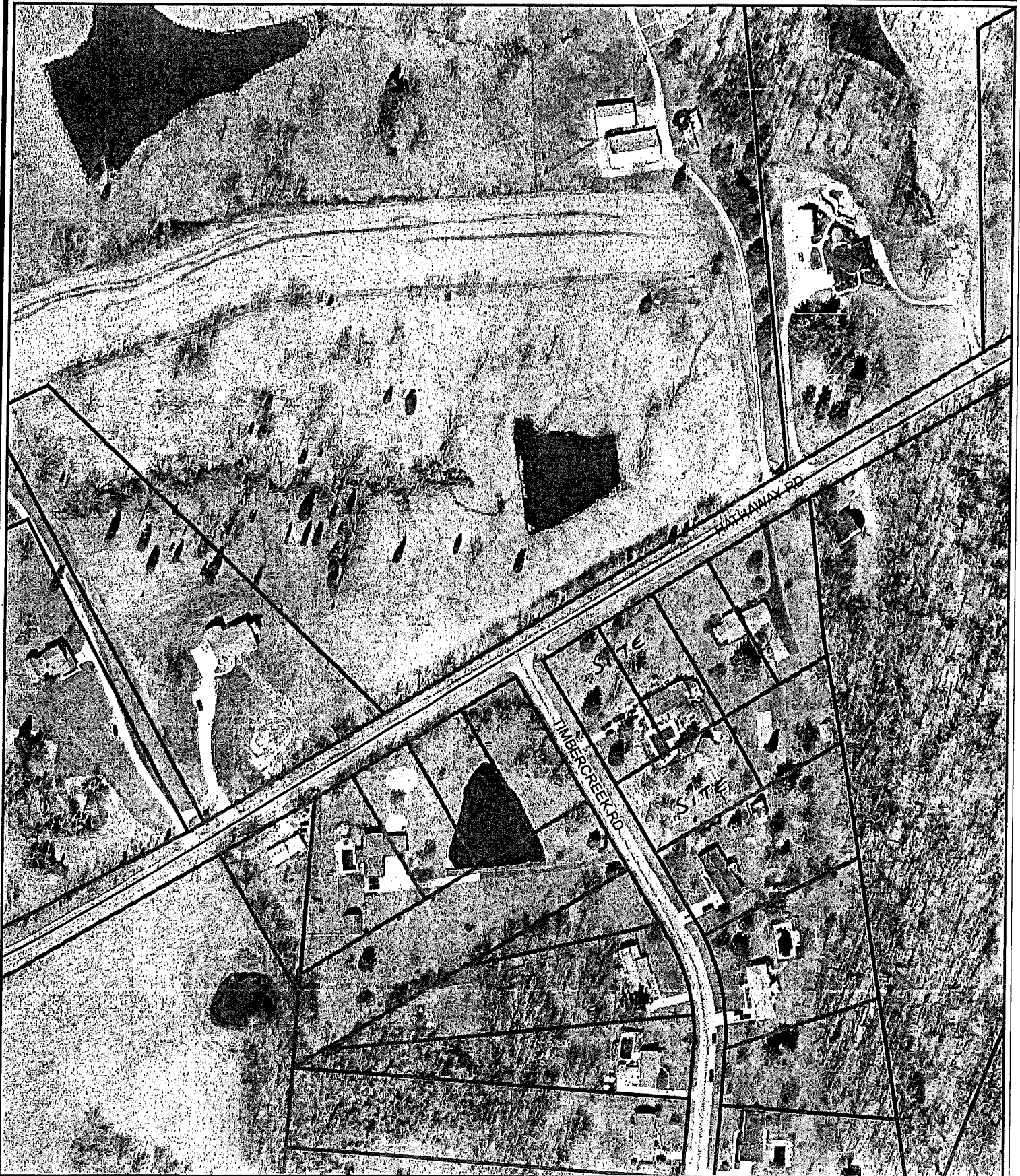
Respectfully submitted,



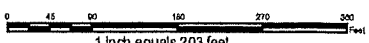
Todd K. Morgan, AICP
Senior Planner, Zoning Services

Attachments

- Exhibit A – Aerial Map
- Exhibit B – Concept Plan
- Exhibit C – Letter From Applicants
- Exhibit D – Zoning Map
- Exhibit F – Application



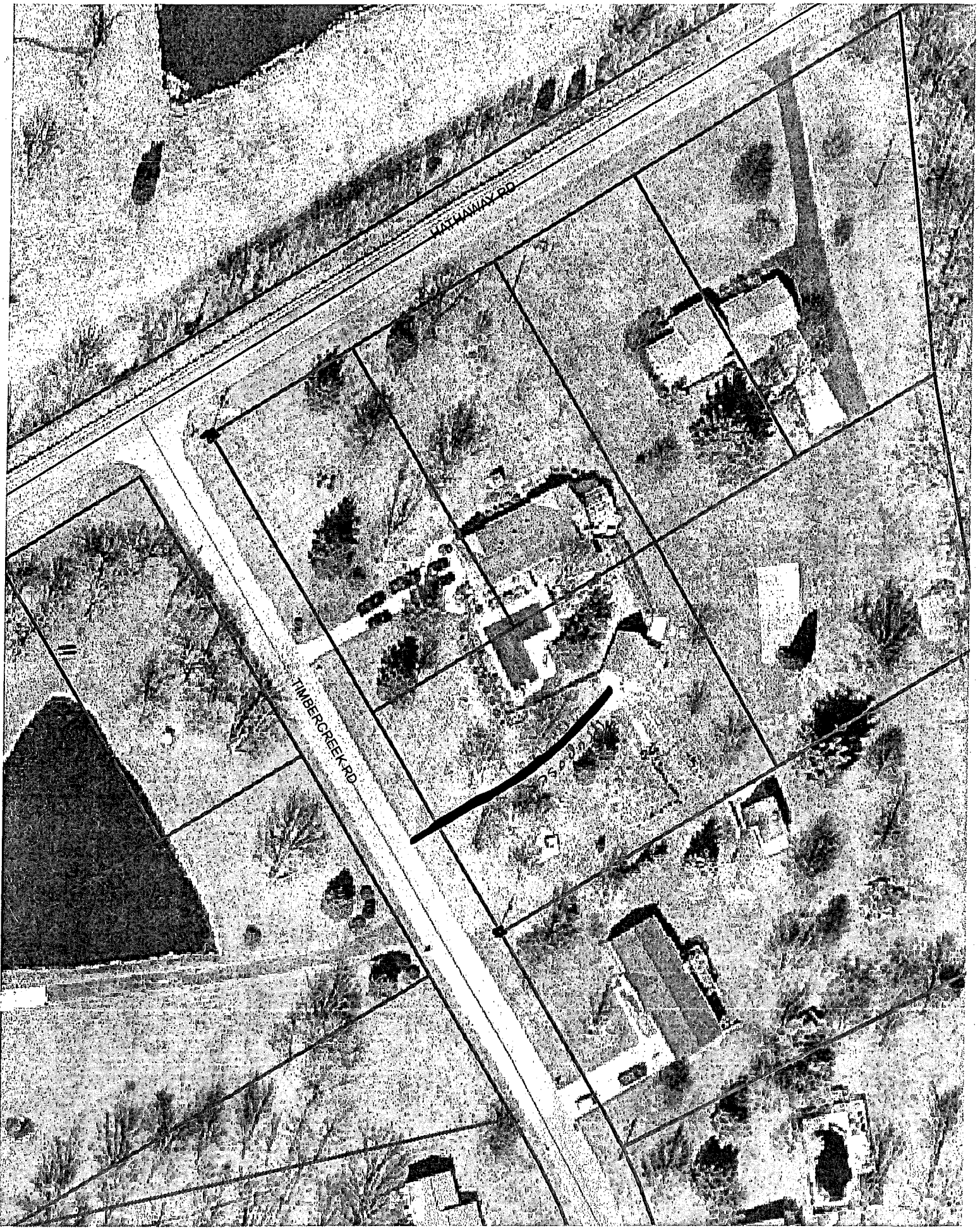
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State Plane Kentucky North, NAD 1983

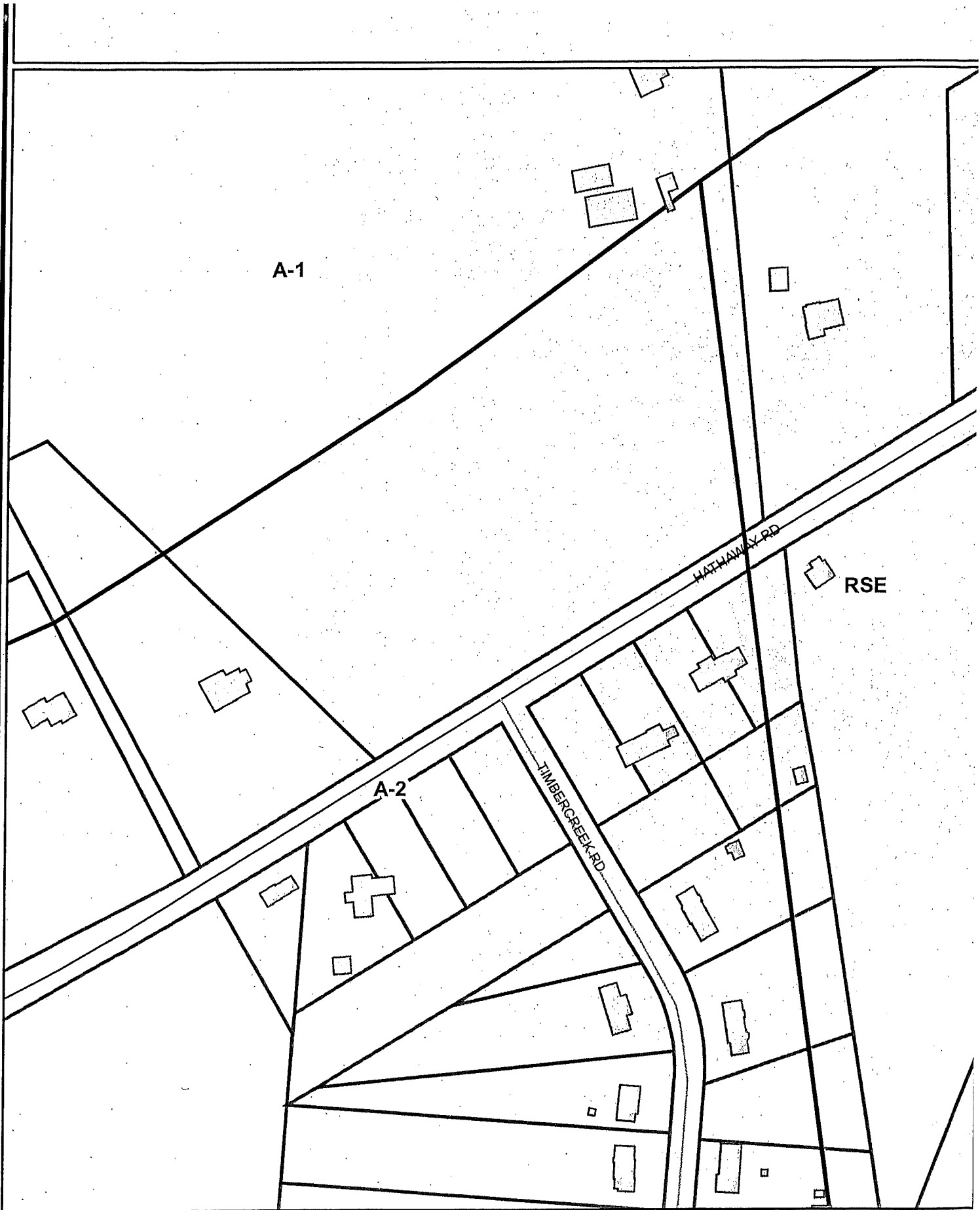


PATRAMAY RD

TIMBERCREEK RD

Hello, we are writing this letter to your family in accordance to the Boone County Zoning Board. We are requesting a variance to County Ordinance 97.61 Right-Of-Way Encroachment Policy which would allow us to install a second driveway on Timbercreek Dr. This new driveway will allow us to have easy access to both our Woodmaster, the wood burning stove which heats our home, as well as our garage in the back of our property. During the entire year, we are accumulating wood that we can burn during the winter months. The drive will provide our trucks easy access to the wood pile. The drive would eliminate any mud from collecting on the street as a result of our trucks driving on unpaved land. The drive will give our property as well as the street a cleaner look, more so than a dirt path. Secondly, the drive will give us access to our garage in which we use to store two of our classic cars as well as other miscellaneous items. The drive will allow us to store our cars in the garage without taking them through the muddy terrain that accrues during the wet seasons in early spring and late fall. In addition, the new drive will allow our son, Andrew who has a spinal cord injury from a car accident two years ago and is now relegated to a wheelchair, access to the back of our property through the use of his golf cart. We thank you for your time and hope that you can see our need for the second driveway and not oppose its installation.

Mike and Peggy Wesselman



A-1

RSE

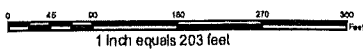
A-2

HATHAWAY RD

TIMBERCREEK RD

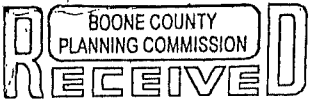


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APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

NOV 15 2006

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Applicant's Signature: Peggy M Wesselman

Property Owner's Signature: Peggy M Wesselman

COPY

CLUR #06-BCBOA-022-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Michael and Peggy Wesselman
10018 Timbercreek Drive
Union, KY 41091
2. ADDRESS OF PROPERTY
10018 Timbercreek Drive
Union, KY 41091
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

4. DEED BOOK 307 PAGE NO. 185 GROUP NO. 2054
5. TYPE OF RESTRICTION(S) (Check all that apply)
- ____ Zoning Map Amendment: ____ Conditional Use Permit
 From ____ To
- ____ Development Plan ____ Conditional Zoning
- ____ Subdivision Plat ____ Other:
 (Not Recorded)
- X 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
2950 WASHINGTON STREET, ROOM 317
P.O. BOX 958
BURLINGTON, KENTUCKY 41005

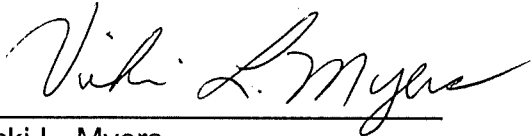
Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

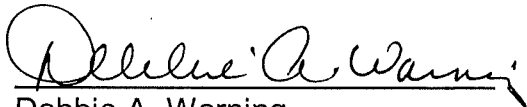
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 14 day of December, 2006.



Vicki L. Myers
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
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 December 13, 2006 Certificate of Land Use Restriction (#06-BCBOA-022-A), for Michael and Peggy Wesselman, Property Owner(s).

The following conditions will apply:

No conditions.

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

DEED BOOK 307 PAGE NO. 185 GROUP NO. 2054