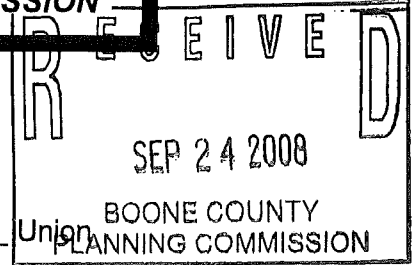


08-Bea00A-022-A

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) X Boone Florence Walton Union
2. (Check One) Conditional Use Permit X Variance Appeal
3. Applicant's Name RALPH & KRISTA WILMHOFF
4. Description of Request: allow 30' setback instead of 60'
5. Name of Development
6. Location of Development GREEN RD BURLINGTON NEXT TO 3709 GREEN RD
7. Acreage Under Review 3
9. Owner of Property RALPH & KRISTA WILMHOFF
11. Proposed Use(s) on Site PERSONAL HOME
12. Total Square Footage of Existing and/or Proposed Buildings APPROXIMATELY 2000 SF
13. Current Zoning on Property A2
14. Deed Book D955 Page No. 807 Group No. 2028
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? YES

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 9-24-08 Fee Received \$632.00 R# 51443
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
11/12/08 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: Ralph & Krista Wilmhoff

LOCATION: South side of Green Road and immediately to the west of 3709 Green Road, Boone County, Kentucky

ZONING: Agricultural Estate (A-2)

DATE: November 12, 2008

Proposal

The applicants are requesting a variance to reduce the front yard setback requirement of a proposed single-family residential dwelling from 60 feet to 30 feet. The subject property is 3.026 acres in area and is located on the south side of Green Road.

Applicable Regulations

Article 2, 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 lot is 3.026 acres in area and is located on the south side of Green Road. The site is currently undeveloped and contains a large lake at the rear of the site. The topography of the parcel falls from approximately 820 feet above sea level at the centerline of Green Road to 796 feet above sea level at the lake. The site is also bisected by an overhead utility line. Mature deciduous trees exist along Green Road and in front of the lake.

Surrounding Land Uses and Zoning

- North: Green Road, Single-Family Dwellings, and Farm (A-2)
- South: Single-Family Residential Dwelling (A-2)
- East: Single-Family Residential Dwelling (A-2)
- West: Single-Family Residential Dwelling (A-2)

Staff Comments

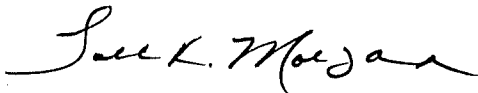
1. Although the preliminary plan shows the front property line is the centerline of Green Road, Greg Sketch informed Staff that the county maintains Green Road and that there is a thirty foot claimed right-of-way. He also indicated that the county would require the property owners to dedicate additional right-of-way if the property were ever subdivided. The additional right-of-way would extend 25' from the center of the road. Lastly, he recommended that any proposed household should be a minimum of 30' from the future right-of-way line.
2. Staff would like the applicant to address the following:
 - A. Explain if the overhead utilities will need to be relocated to build the house.
 - B. Explain access to the proposed dwelling.
3. Staff prepared an exhibit which shows the approximate house location on an aerial map. All the houses on the adjoining properties are setback further from Green Road than the proposed house.

4. Staff believes that the strict application of the 60' front yard setback would create an unnecessary hardship because of the topography of the lot. Staff asked the applicants to look into the possibility of moving the house further back on the lot so it would meet a minimum 40' setback from the claimed right-of-way line (30' setback from the future right-of-way).

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 act on the request.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

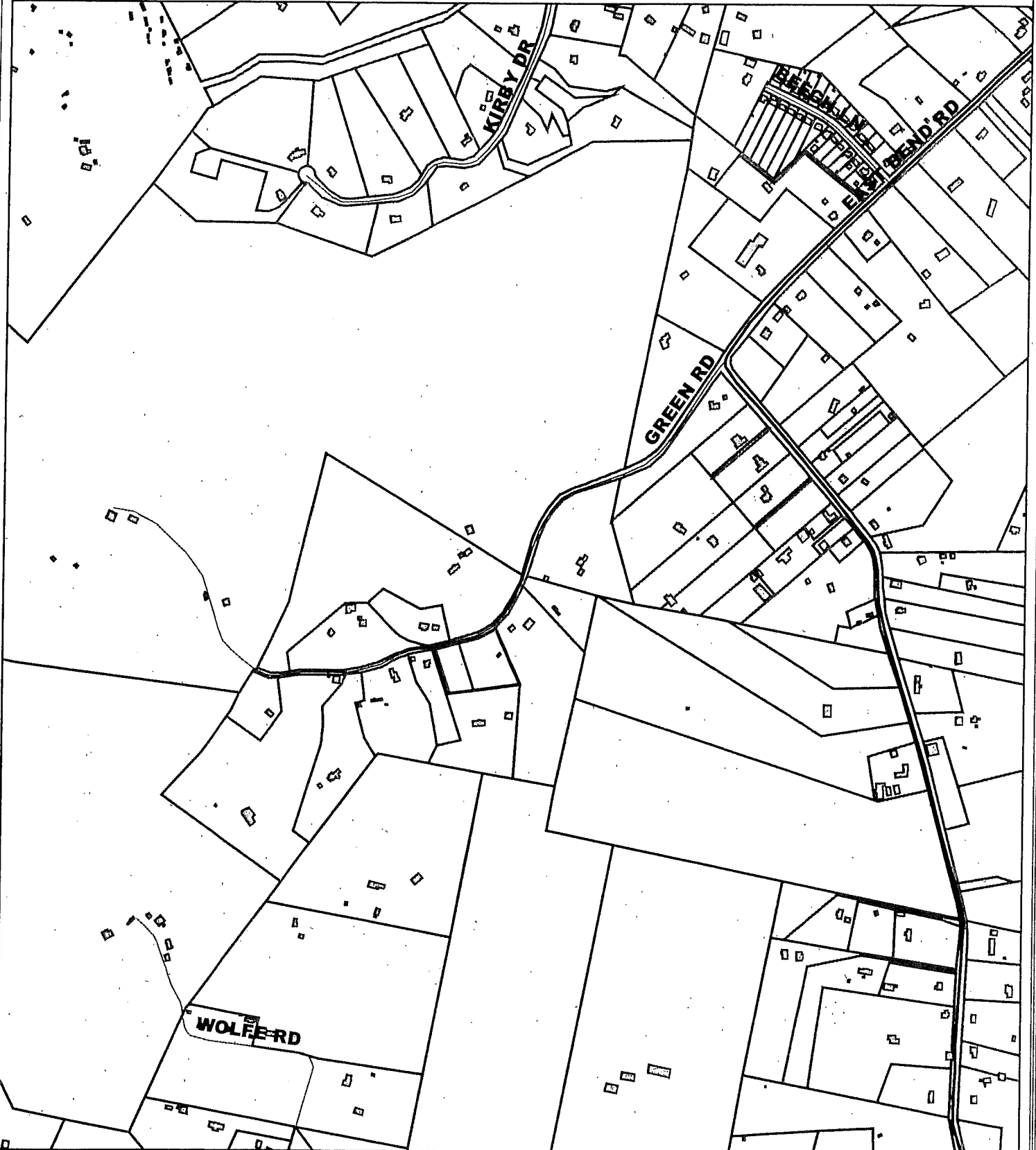
TKM/pr

Attachments

- *Site Vicinity Map
- *Concept Plan
- *Comments From the Applicants
- *Aerial Map
- *Topographical Map
- *Zoning Map
- *Approximate House Location
- *Application

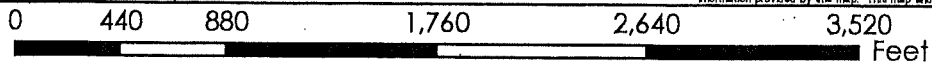
SITE VICINITY MAP

www.boonecountygis.com

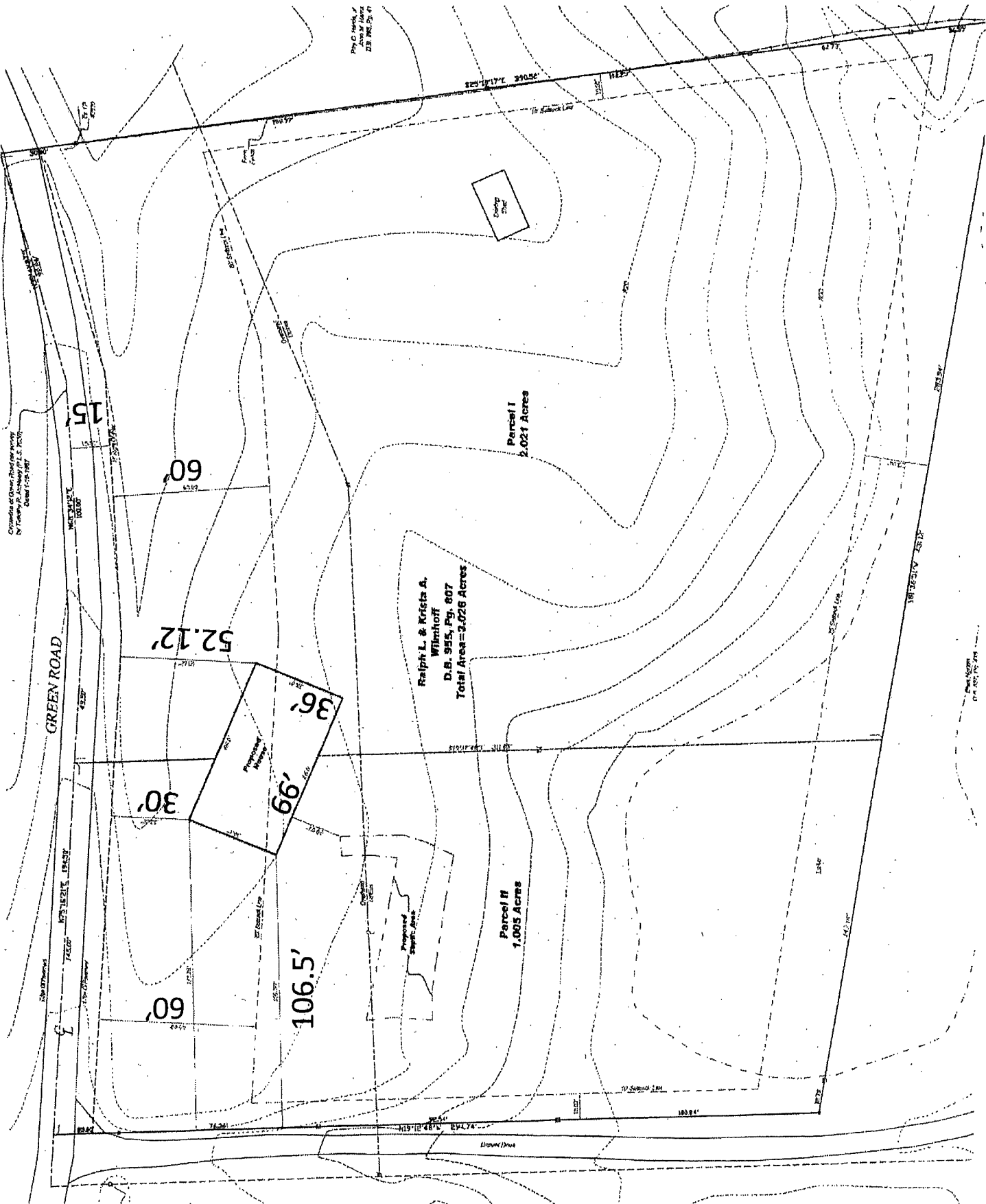


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Boone County GIS - Putting Northern Kentucky on the Map



Contours of Green Road (not for survey)
 by Timothy J. Anthony P.L.S. 3070
 Green 1-12-1987

Prop. O. North
 Area of Interest
 D.B. 962, Pg. 4

GREEN ROAD

Ralph L. & Krista A.
 Winthoff
 D.B. 955, Pg. 807
 Total Area=3.026 Acres

Parcel I
 2.021 Acres

Parcel II
 1.005 Acres

15'

60'

52.12'

30'

36'

66'

60'

106.5'

142.21' ±
 198.02' ±

- There is a preexisting condition on Green Rd. Our neighbors garage @ 3757 currently is approximately 16' from its property line. Even this close, it is barely visible from Green Rd
- We are proposing that only the NW corner of the house be setback at 20'. The home would angle away from this point.
- There is a fairly steep embankment along the border of our property with Green Rd. It is approximately 6-8 ft above the level of the road. This embankment is a heavily wooded area with an assortment of deciduous trees of varying sizes. We are willing to plant additional trees and shrubs to enhance the already existing screen of trees. The embankment combined with this line of trees makes it almost impossible to see any part of our house
- The location of the septic field has been determined by the Ky Health Dept. According to them, the location of the septic field on the site plan is the optimum location. We have relocated it as close to the pond and our east boundary as possible. The further back into the lot we move the home, the more necessary it becomes to pump sewage up into the septic tank. While this is not impossible, it seems to make more sense to allow moving closer to the front of the property. Given the recent prolonged power outages, this does not seem to be the best option in order to satisfy the 60' setback requirement.
- We have investigated the possibility of moving the location of the house toward the east boundary of the property. There are several factors that make this an unacceptable alternative
 - The distance from the septic tank. The contour of the property would make it difficult if not impossible to allow proper flow to the septic tank.
 - There is a large swail located in this area for natural drainage to the pond. It would require a severe change to the topography to build a home in this area and still allow for the drainage in this area.
 - It would require the destruction of a large portion of the mature trees and a major disturbance of the current topography of the land.
 - There is a utility pole currently located in the NE portion of the property with a 20' easement. We plan to have this line buried from the pole to the SW of the property terminating at the pole located on our neighbors property. This would allow for the location of our house in the proposed area if we are granted the variance. This can be accomplished fairly simply at a reasonable cost. The line that runs from this pole to the east would have to be relocated in order to build in the eastern portion of the property. It would require relocating the pole along our east boundary in order to provide room to build. This would entail a much more expensive alternative..
 - The combination of moving an electric pole, removing large mature trees, and drastically altering the topography of the east side of the property seem to make this option too extreme just to accommodate the setback requirement.

- In reviewing the Board of Adjustment Variance Checklist we do not believe it is in keeping with the statements in Section 251: “. . . 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 a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations.” We believe that our situation does “. . . arise from special circumstances which do not generally apply to land in the general vicinity”, and also that the “. . . strict application of the provisions of the regulations would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant”.
- We have personally contacted the adjoining property owners and none of them expressed any concern about the approval of this variance. They were supportive of our desire to move to this area and build our home as shown on the site plan.
- Under the current 60' setback requirement, there would be little room for more than a single wide mobile home, if that. Since this is in an area of nice homes, we feel it would be in everyone's best interest and in keeping with the neighborhood to allow this variance.

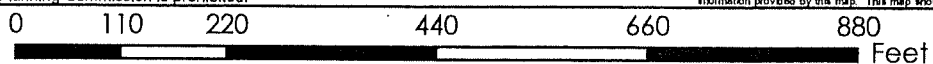
AERIAL MAP

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Boone County GIS - Putting Northern Kentucky on the Map

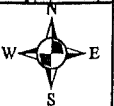
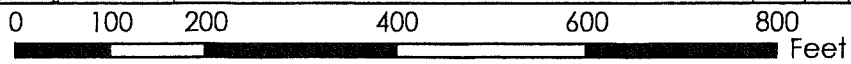
TOPOGRAPHICAL MAP

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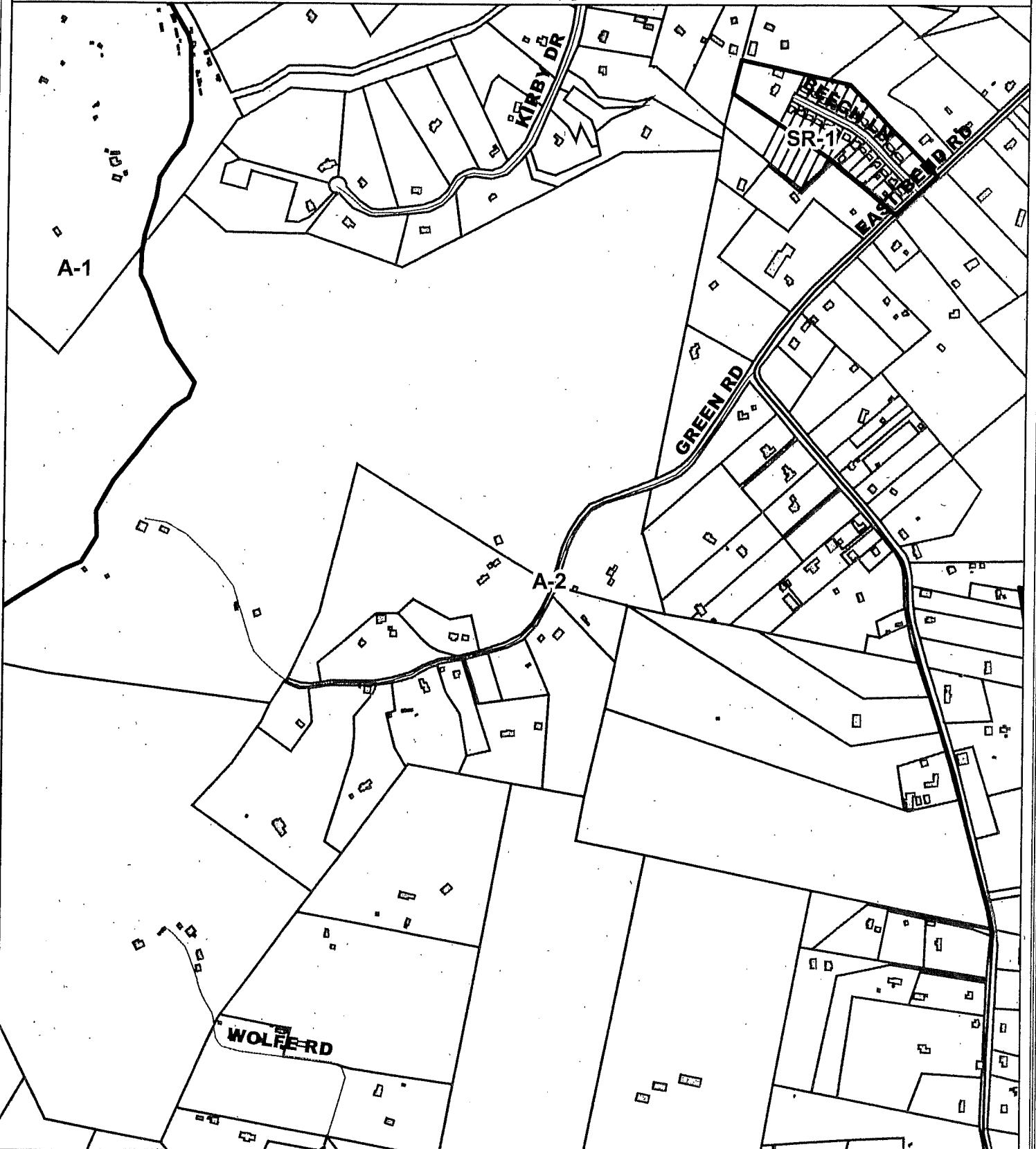
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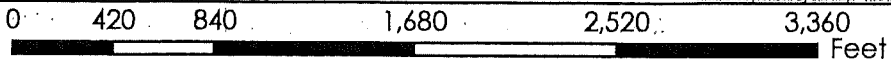
ZONING MAP

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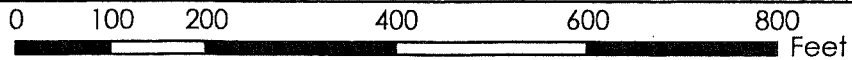
Approximate House Location

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Boone County GIS - Putting Northern Kentucky on the Map

APPLICATION FORM

BOARD OF ADJUSTMENT
AND
ZONING APPEALS ACTION
BOONE COUNTY PLANNING COMMISSION

RECEIVED
SEP 24 2008
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 RALPH & KRISTA WILMHOFF
Phone Number 859-384-4745 Fax No. _____
Applicant's Address 10073 Whittlesey DR
UNION KY 41091
City State Zip
- 4. Description of Request: allow 30' setback INSTEAD
OF 60'
- 5. Name of Development _____
- 6. Location of Development GREEN RD BURLINGTON NEXT TO
3709 GREEN RD
- 7. Acreage Under Review 3
- 8. Lot Number and Name of Subdivision (if part of a subdivision) _____
- 9. Owner of Property RALPH & KRISTA WILMHOFF
Address of Property Owner SAME AS ABOVE Phone No. _____
- 10. _____
City State Zip
- 11. Proposed Use(s) on Site PERSONAL HOME
- 12. Total Square Footage of Existing and/or Proposed Buildings APPROXIMATELY 2000 SF
- 13. Current Zoning on Property A2
- 14. Deed Book D955 Page No. 807 Group No. 2028
- 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: Ralph Wilhoff

Property Owner's Signature: Ralph Wilhoff

COPY

CLUR #08-BCBOA-022-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Ralph and Krista Wilmhoff
10073 Whittlesey Drive
Union, KY 41091

2. ADDRESS OF PROPERTY
Green Road
Boone County, KY
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Wilmhoff Property

4. DEED BOOK 955 PAGE NO. 807 GROUP NO. 2028

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)

 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

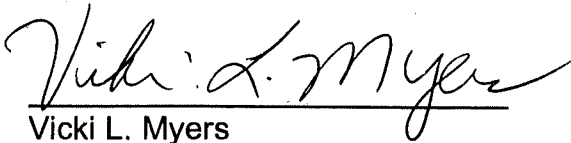
Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

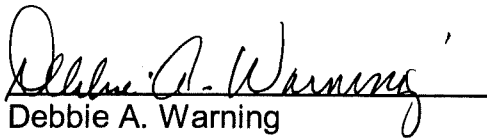
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 17 day of November, 2008.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2011

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 November 12, 2008 Certificate of Land Use Restriction (#08-BCBOA-022-A), for Ralph and Krista Wilmhoff, 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 955 PAGE NO. 807 GROUP NO. 2028