

159820

10-BOOA-006-A

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

RECEIVED MAY 17 2010 BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- 1. (Check One) Boone [checked] Florence _____ Walton _____
2. (Check One) Conditional Use Permit [checked] Variance _____ Appeal _____
3. Applicant's Name Adam Miller, Phone Number 859-652-4393, Fax No. N/A, Applicant's Address 3021 Sorata Dr., Union Ky 41091
4. Description of Request: To have a set back of 35' instead of 40' and a rear set back of 29'6" instead of 40'
5. Name of Development Adam Miller Homes Lot # 20
6. Location of Development Cornerstone Estates
7. Acreage Under Review .43
8. Lot Number and Name of Subdivision (if part of a subdivision) #20 Cornerstone Estates
9. Owner of Property Jack Miller, Address of Property Owner 2441 Legends way, Phone No. 859-551-3378
10. City Crestview Hills Ky, State Ky, Zip 41017
11. Proposed Use(s) on Site Single Family residential Ranch home.
12. Total Square Footage of Existing and/or Proposed Buildings 2000 sqft
13. Current Zoning on Property RS
14. Deed Book 8475 Page No. 115 Group No. 2007
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
18. I, or we, understand and agree that this application and drawing(s) are being filed in accordance with the Boone County Zoning Regulations.

ORIGINAL Property Owner's Signature: Jack Miller (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: Adam Miller (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

**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 5/17/10 Fee Received \$982⁰⁰ R#60777
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: SEE 6/9/10 BCBOA Meeting Minutes
AND C.L.U.R.
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: Adam Miller

LOCATION: Lot 20, Cornerstone Estates Subdivision
(3378 Wildrose Lane, Boone County, Kentucky)

ZONING: Rural Suburban (RS)

DATE: June 9, 2010

PROPOSAL

The applicant is requesting two (2) Variances to reduce the 40 foot front and rear yard setbacks for a single-family residential dwelling. The submitted plan shows that the structure is proposed 35 feet from the front property line and 29.5 feet from the rear property line (see attachments).

RELEVANT SUBDIVISION HISTORY

On September 28, 2004, Boone County Fiscal Court approved a Zoning Map Amendment from Rural Suburban Estates (RSE) to Rural Suburban (RS) for 18.77 acres of an overall 24.24 acre tract to allow a single-family residential subdivision. There was a condition of approval which required a 15 foot wide undisturbed easement around the perimeter of the subdivision.

APPLICABLE REGULATIONS

Article 2, Section 250 of the Boone County Zoning Regulations states that the Board of Adjustment 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.

Table 31.1 of the Boone County Zoning Regulations lists the setback requirements in a Rural Suburban (RS) zone as 40 foot front, 40 foot rear, and 10 foot sides.

Section 3619 of the Boone County Zoning Regulations requires street trees to be installed when new dwelling units are constructed in a residential zone. One large tree from Plant List A is required per 40 linear feet of lot width.

SITE CHARACTERISTICS

The approximate 0.45 acre site is located on the south side of Cornerstone Drive and is currently undeveloped. There is no mature vegetation on the site.

SURROUNDING LAND USES & ZONING

North: Single-Family Residential Dwelling & Vacant lot in Cornerstone Estates (RS)

South: Vacant lot in Cornerstone Estates (RS)

East: Existing Farm which is Approved as Sawgrass II Subdivision (RS & SR-1)

West: Wildrose Lane, Single-Family Residential Dwelling, and Vacant lot in Cornerstone Estates (RS)

STAFF COMMENTS

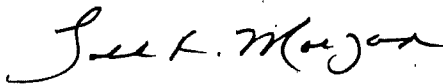
1. Restrictive Covenants were recorded for Section Two of Cornerstone Estates on June 17, 2009 (MC1129, PG 105). These Covenants have created some confusion because they list the front yard setback requirement as 35 feet. The Boone County Zoning Regulations require a 40 foot front yard setback when a house is proposed in a RS zone. Private Covenants cannot lessen the county requirements.
2. Staff has the following questions for the applicant:
 - A. Is this a speculative home or has the lot been sold?
 - B. What is the proposed square footage of the house?
 - C. Could a smaller house be constructed on the lot which better meets the setback requirements?
 - D. The Restrictive Covenants list the rear yard setback requirement as 50 feet. Has this setback requirement been waived by Cornerstone Property Development?
3. On April 7, 2009, Boone County Fiscal Court approved a Zoning Map Amendment which permitted a single-family residential subdivision on the adjoining property to the east. A condition was imposed on the approval which required natural vegetation to be preserved or mounding to be installed to the east of the subject lot.

4. The Board needs to analyze the Variance criteria before acting on the requests.
5. Staff recommends that six (6) large trees from Plant List A shall be evenly dispersed along the rear property line if the requests are approved.

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 requests.

Respectfully submitted,



Todd K. Morgan, AICP
Planner, Zoning Services

TKM/pr

Attachments

- *Site Vicinity Map
- *Plot Plan
- *2009 Aerial Map
- *Zoning Map
- *2004 Concept Plan for Cornerstone Estates
- *2009 Concept Plan for Sawgrass II Subdivision
- *Setback Chart From Restrictive Covenants
- *Application

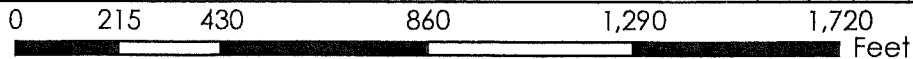
SITE VICINITY MAP

www.boonecountygis.com

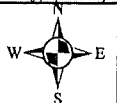


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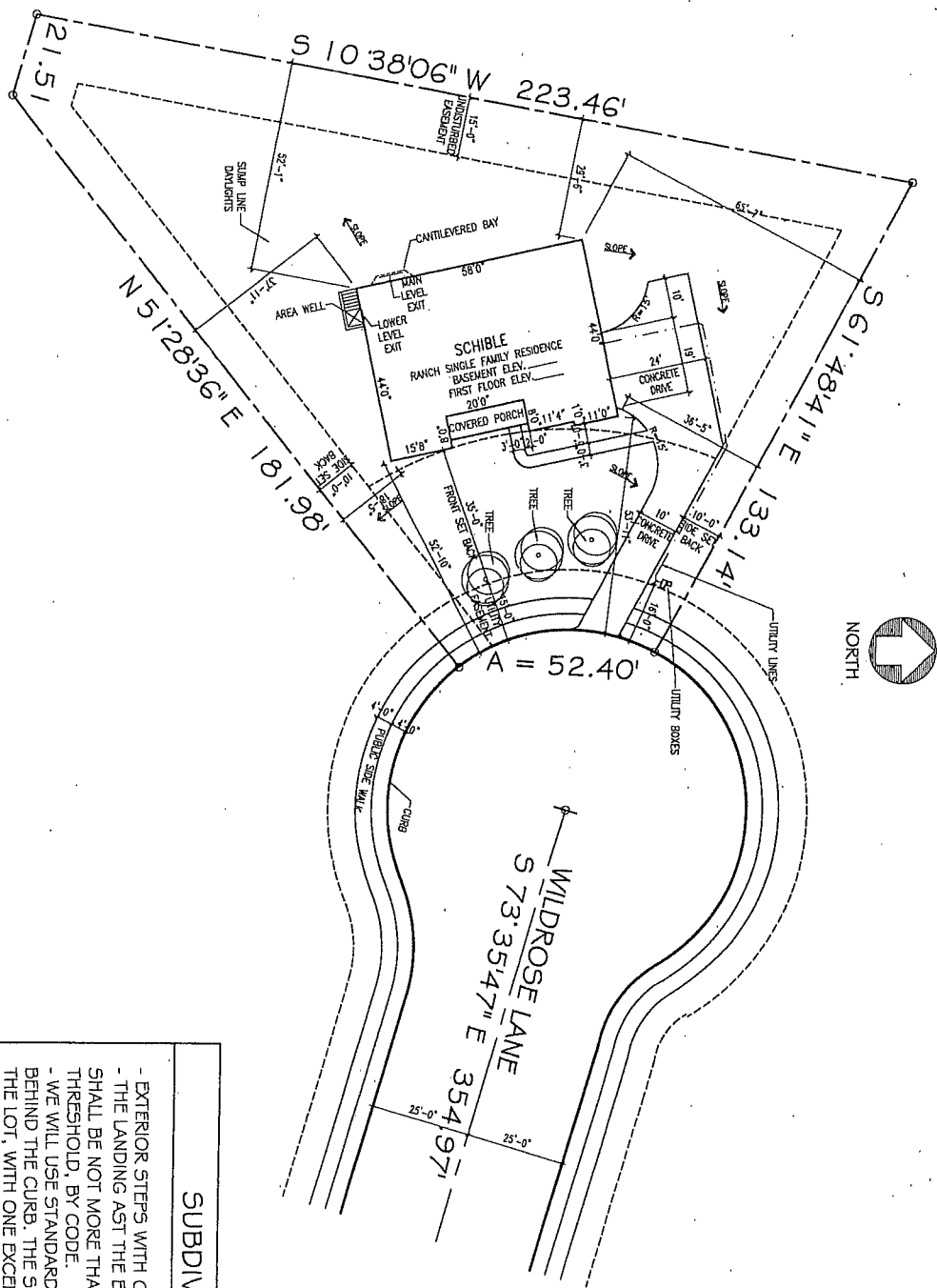
Data used to create this map were compiled from sources that comply with National Map Accuracy Standards. Boone County GIS extends no warranty with respect to the accuracy or content of the information provided by this map. This map should be used for general planning purposes only.



1 inch = 400 feet



Boone County GIS - Putting Northern Kentucky on the Map



SUBDIVISION NOTES

- EXTERIOR STEPS WITH CONCRETE PAD AS REQUIRED BY GRADE
- THE LANDING AS TO THE EXTERIOR OF AN EXTERIOR DOORWAY SHALL BE NOT MORE THAN 8 1/4" BELOW THE TOP OF THE THRESHOLD, BY CODE.
- WE WILL USE STANDARD SILT FENCE, IT WILL BE INSTALLED JUST BEHIND THE CURB. THE SILT FENCE WILL RUN THE FULL WIDTH OF THE LOT, WITH ONE EXCEPTION AT THE DRIVEWAY. A 12" TRENCH WITH BACK FILL WILL PREVENT IT FROM MOVING.

ADAM MILLER HOMES
CORNERSTONE ESTATES
 BURLINGTON, KENTUCKY - BOONE COUNTY

SCALE: 1" = 30'-0"
 DATE: 4-13-10

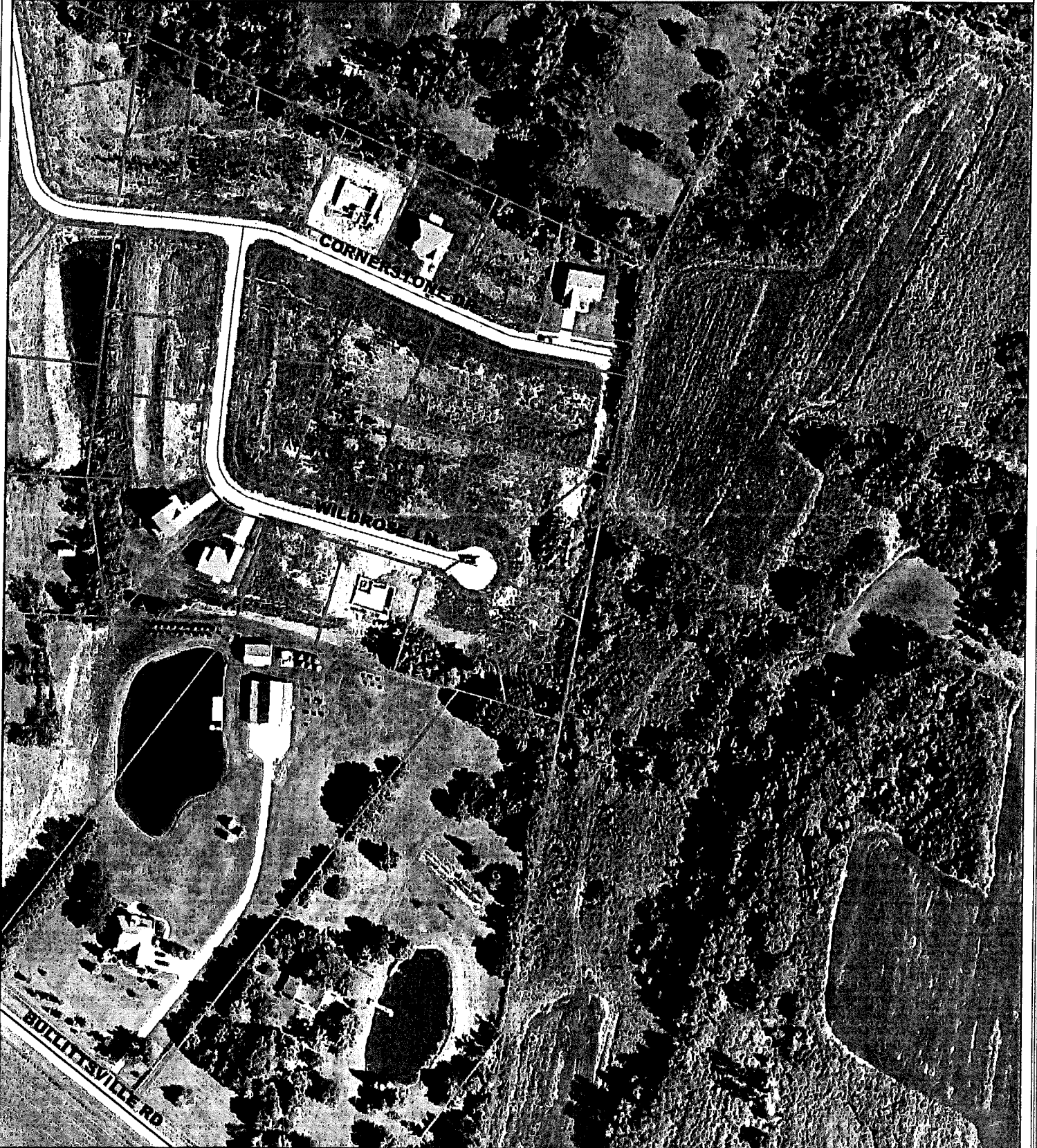
LOT #20

PLOT PLAN

SHEET NO.

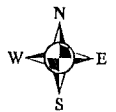
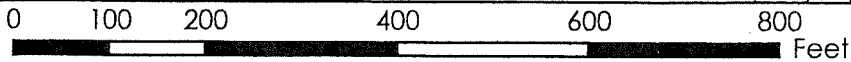
2009 AERIAL MAP

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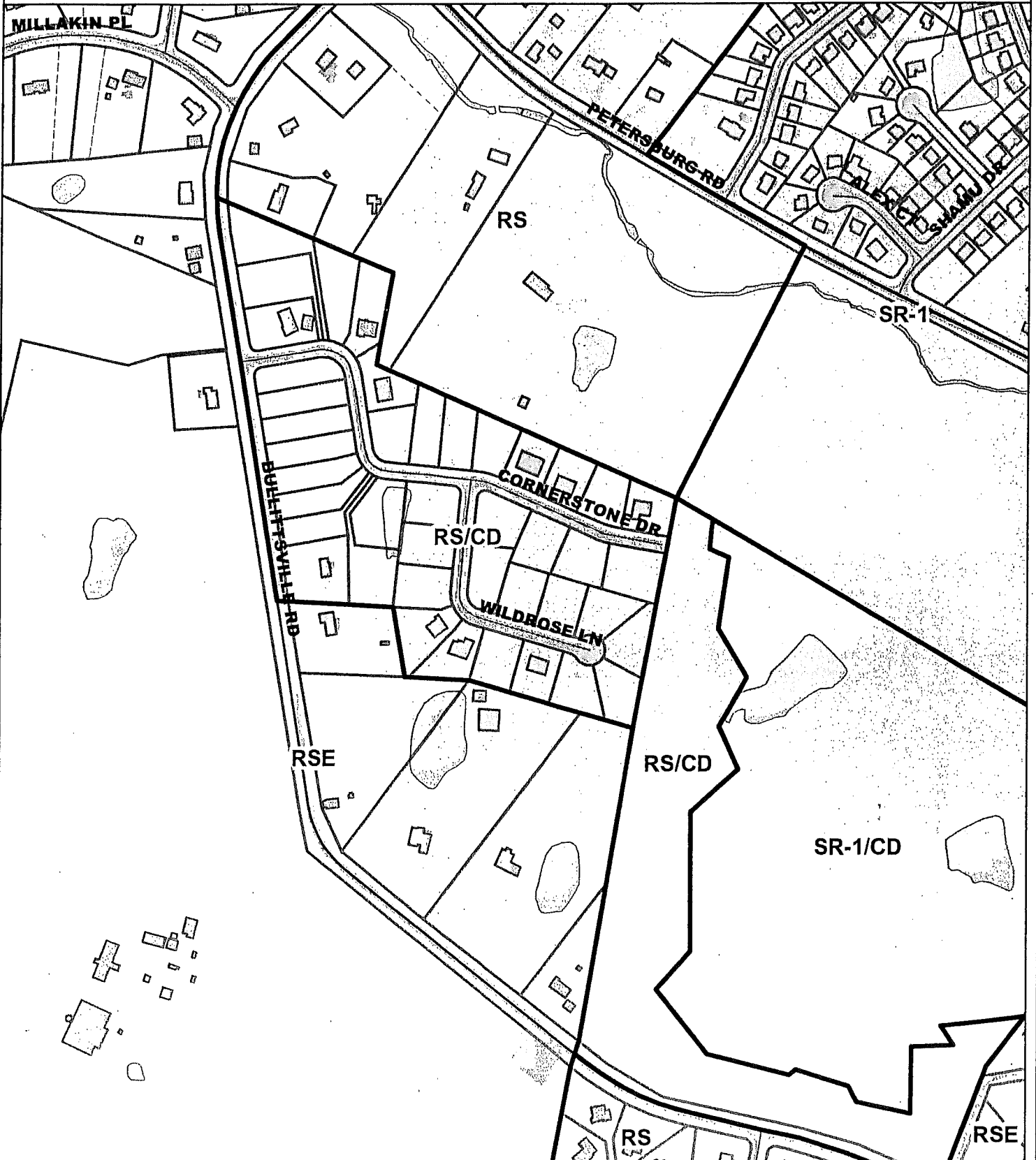
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Boone County GIS - Putting Northern Kentucky on the Map

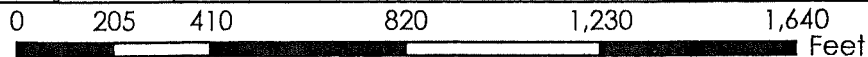
ZONING MAP

www.boonecountygis.com



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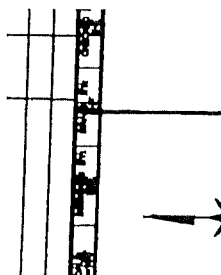
1 inch = 400 feet



Boone County GIS - Putting Northern Kentucky on the Map



CORNERSTONE ESTATES - Zoning Map Amendment Approved 9/28/04



OWNER: DURWOOD & PEARL JEAN FRYAR AND TOM & THERESA FRYAR
 3428 BULLITSVILLE ROAD
 BURLINGTON, KENTUCKY 40005

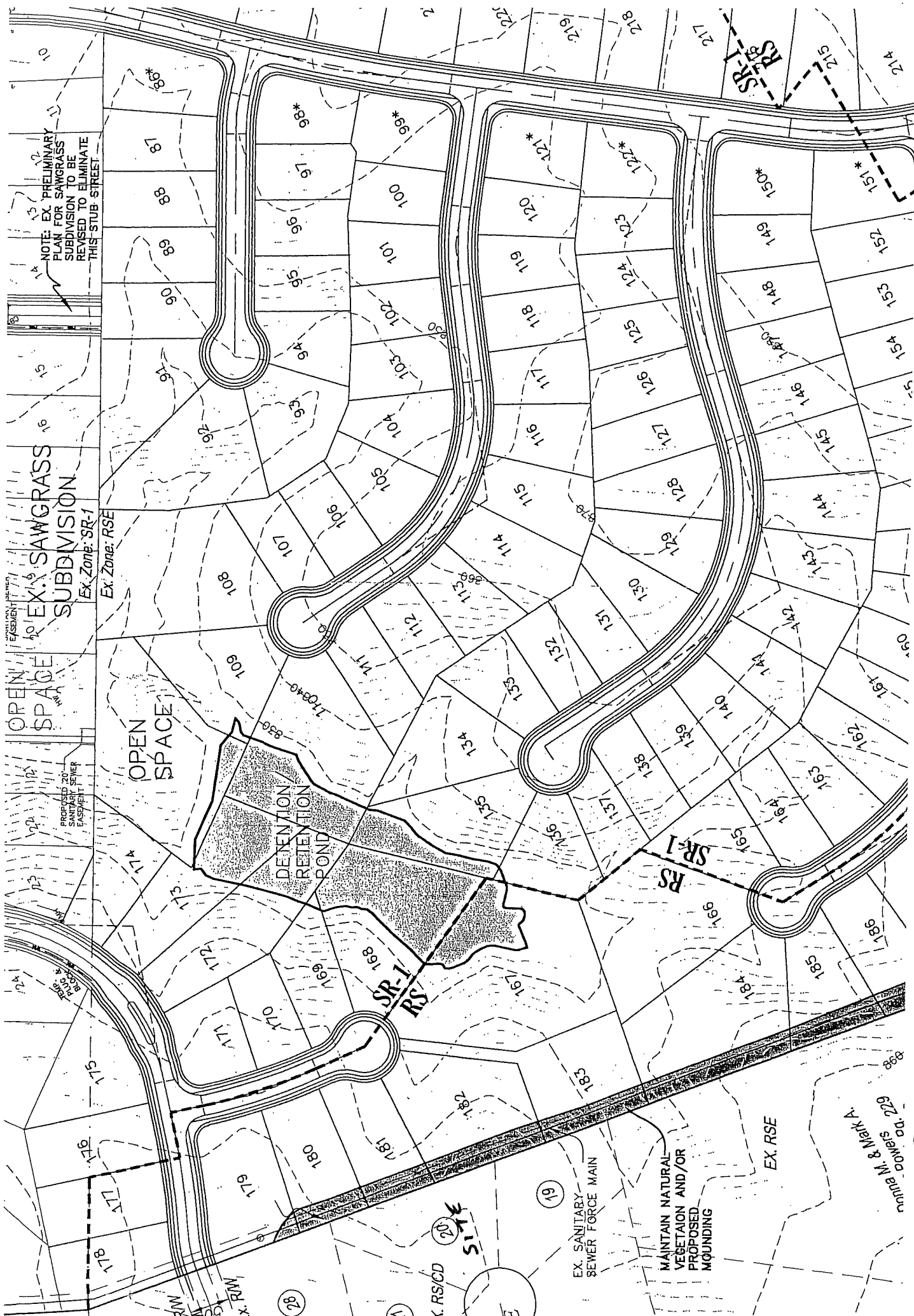
ENGINEER: ECFE Engineering, Inc.
 3428 BULLITSVILLE ROAD
 BURLINGTON, KENTUCKY 40005

DATE: 09/28/04
 SHEET: 1 OF 1

FRYAR PROPERTY
BURLINGTON BOONE COUNTY KENTUCKY

CONCEPT PLAN

200



NOTE: EX. PRELIMINARY PLAN FOR SAWGRASS SUBDIVISION TO BE REVISED TO ELIMINATE THIS STUB STREET.

OPEN SPACE
 EX. SAWGRASS SUBDIVISION
 Ex. Zone: SR-1

OPEN SPACE

PROPOSED 20" SANITARY SEWER FACILITY

EX. RSCD

EX. RSE

SR-1

RS

SR-1

RS

SR-1

RS

SR-1

RS

SR-1

RS

Sawgrass II Subdivision - Zone Change Approved 4/7/09

Owners M. & Mark A. ... 229

Exhibit 1

Lot Number	Approximate Size			Front Setback	Rear Setback	Side Setbacks
	Acres	Frontage	Depth			
1*	0.46	388.4	275	100'	75'	10'
2	0.47	150	275	100'	75'	10'
3	0.47	150	275	100'	75'	10'
4	0.47	148.2	275	100'	75'	10'
5	0.46	117.75	281(avg.)	100'	75'	10'
6	0.50	115.6	267(avg.)	100'	75'	10'
7**	0.46	15.4	213.34	100'	75'	10'
9**	0.57	16	173(avg.)	35'	50'	10'
10	0.58	71.4	208(avg.)	35'	50'	10'
11*	0.46	276.5	165	35'	50'	10'
12	0.46	121.2	165	35'	50'	10'
13	0.49	109.2	170(avg.)	35'	50'	10'
14	0.54	52.35	187(avg.)	35'	50'	10'
15	0.51	70.8	201(avg.)	35'	50'	10'
16	0.46	125	160	35'	50'	10'
17	0.46	125	160	35'	50'	10'
18	0.46	101.2	150(avg.)	35'	50'	10'
19	0.46	38.8	150(avg.)	35'	50'	10'
20	0.46	52.4	161(avg.)	35'	50'	10'
21	0.46	89.1	171(avg.)	35'	50'	10'
22	0.46	125	160	35'	50'	10'
23	0.46	125	160	35'	50'	10'
24*	0.46	256.9	110(avg.)	35'	50'	10'
25*	0.50	327.4	170(avg.)	35'	50'	10'
26	0.46	127.3	157(avg.)	35'	50'	10'
27	0.46	127.8	142(avg.)	35'	50'	10'
28	0.56	171.3	144(avg.)	35'	50'	10'
29	0.46	145.5	138(avg.)	35'	50'	10'
30	0.46	144	157(avg.)	35'	50'	10'
31	0.46	125	160	35'	50'	10'
32	0.46	125	160	35'	50'	10'
33	0.46	92.6	173(avg.)	35'	50'	10'
34	0.46	99.4	201(avg.)	35'	50'	10'
35	0.46	86.4	231(avg.)	35'	50'	10'
36*	0.46	239.9	164(avg.)	35'	50'	10'
37	0.48	164.9	127(avg.)	35'	50'	10'
38	0.61	55.8	272(avg.)	35'	50'	10'
39	0.63	43.4	286(avg.)	35'	50'	10'
40**	0.70	178.8	178(avg.)	100'	50'	10'
41**	0.74	146.15	230	100'	50'	10'
42*	0.69	344.2	215	100'	50'	10'

- Corner Lot
- ** Flag Lot

BOONE COUNTY
MC1129 PG 110

DOCUMENT NO: 542468
RECORDED ON: JUNE 17, 2009 02:17:27PM
TOTAL FEES: 122.00
GROUP : 4929
COUNTY CLERK: RENAI PING
COUNTY: BOONE COUNTY CLERK
DEPUTY CLERK: DONNA COLLINS
BOOK MC1129 PAGES 105 - 110

159820

APPLICATION FORM

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

RECEIVED MAY 17 2010 BOONE COUNTY PLANNING COMMISSION

See Boone County Zoning Regulations SECTION A (To be completed by applicant)

1. (Check One) [X] Boone [] Florence [] Walton []

2. (Check One) [X] Conditional Use Permit [] Variance [] Appeal [] Change in Non-Conforming Use

3. Applicant's Name Adam Miller Phone Number 859-652-4393 Fax No. N/A Applicant's Address 3021 Sonata Dr. Union Ky 41091

4. Description of Request: To have a set back of 35' instead of 40'

5. Name of Development Adam Miller Homes Lot # 20

6. Location of Development Cornerstone Estates

7. Acreage Under Review .43

8. Lot Number and Name of Subdivision (if part of a subdivision) #20 Cornerstone Estates

9. Owner of Property Jack Miller

10. Address of Property Owner 2491 Legends way Crestview Hills Ky 41017 Phone No. 859-551-8378

11. Proposed Use(s) on Site Single Family residential Ranch home

12. Total Square Footage of Existing and/or Proposed Buildings 2000 sqft

13. Current Zoning on Property [] RS

14. Deed Book [] 475 Page No. [] 115 Group No. [] 2007

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.

ORIGINAL Property Owner's Signature: Jack Miller (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: Adam Miller (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

COPY

CLUR #10-BCBOA-006-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Jack Miller
2491 Legends Way
Crestview Hills, KY 41017

2. ADDRESS OF PROPERTY

Wildrose Lane
Burlington, KY 41005

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Cornerstone Estates, Lot 20

4. DEED BOOK 975

PAGE NO. 115

GROUP NO. 2007

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:

Variances (2)

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

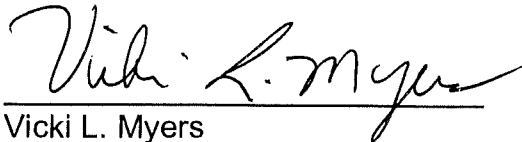
Todd K. Morgan
SIGNATURE OF COMPLETING OFFICIAL

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 25 day of June, 2010.



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 Variances (2) approved by the Boone County Board of Adjustments and in accordance with the current zoning in effect as of June 9, 2010 Certificate of Land Use Restriction (#10-BCBOA-006-A), for Jack Miller, Property Owner(s).

The following condition(s) will apply:

- 1) Six (6) large trees from Plant List A shall be evenly dispersed along the rear property line.

The approved Variances (2) as well as the preceding conditions apply to the property described in:

DEED BOOK 975 PAGE NO. 115 GROUP NO. 2007