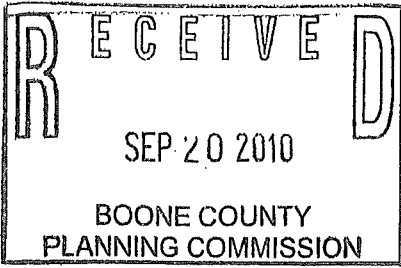


10-BCBOA-612-A



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 [X] Florence _____ Walton _____ Union _____
2. (Check One) Conditional Use Permit [X] Variance _____ Appeal _____
3. Applicant's Name BILLY & PAULETTA MODESITT
4. Description of Request: BUILD ROOF OVER EXISTING PATIO WHICH WILL ENCR OACH INTO THE REAR SETBACK, APPROX. 12' ON RIGHT SIDE, 4' ON LEFT SIDE DUE TO SLOPE OF LOT
5. Name of Development COOLSPRINGS SUBDIVISION, SECTION 9
6. Location of Development UNINCORPORATED BOONE COUNTY, OFF U.S. 42
7. Acreage Under Review _____
8. Lot Number and Name of Subdivision (if part of a subdivision) LOT # 93, COOLSPRINGS SUBDIVISION, SECTION 9
9. Owner of Property BILLY & PAULETTA MODESITT
10. Address of Property Owner 1532 VININGS COURT Phone No. (859) 918-1771
11. Proposed Use(s) on Site BEING ABLE TO USE BACK PATIO WITH PROTECTION OF WEST SUN & FOUL WEATHER.
12. Total Square Footage of Existing and/or Proposed Buildings EXISTING 16x18 CONCRETE PATIO, 288 sq ft
13. Current Zoning on Property RESIDENTIAL SR-1/UT0
14. Deed Book D976 Page No. 925 Group No. 2064
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 (SEE LETTER)
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: [Signature] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

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

(over)

STAFF REPORT

APPLICANT: Billy & Pauletta Modesitt

LOCATION: 1532 Vinings Court, Boone County, Kentucky

ZONING: Suburban Residential One/Union Town Overlay (SR-1/UTO)

DATE: October 13, 2010

Proposal

The applicants are requesting a variance to allow a 16' x 18' (288 square foot) covered patio to be constructed onto the back of their house and encroach into the required 30 foot rear yard setback. The submitted plot plans shows the porch would be located approximately 19 feet from the rear property line (see attachments). The subject property is located at 1532 Vinings Court and is zoned Suburban Residential One (SR-1).

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.

Table 31.1 of the Boone County Zoning Regulations lists the setback requirements for a detached single-family residence in an SR-1 zone as 30' front, 30' rear, and 5' minimum/15' total sides.

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. Chimneys, overhangs and gutters may extend up to two and one-half (2½) feet into a required front, side, or rear yard. However, such extensions into a required yard shall not impede, disrupt, or interfere with storm water flow and may need to be cantilevered above grade or necessitate the construction of a storm pipe system with drainage structures or other improvements to provide adequate site drainage.

Site Characteristics

The subject property is located on the northwest side of Vinings Court in Cool Springs Subdivision. A one-story brick ranch with a basement has been constructed on the approximate 0.38 acre lot. A concrete patio and block retaining wall are located in the rear yard. The submitted Plot Plan shows the topography falls from 894.5 feet above sea level at the rear property line to 874.5 feet above sea level at the southeast property corner. The property owners have installed some deciduous trees and shrubs on the hillside in the rear yard.

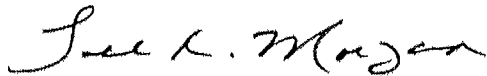
Staff Comments

1. The applicants informed Staff that the new roof will extend out to the end of the concrete patio pad.
2. The applicants submitted a picture of a similar structure that was constructed on another household. The proposed pillars will be constructed with brick and will match the house (see attachments).
3. The applicant submitted a signed petition from four adjoining property owners. The petition indicates the neighbors are in favor of the request (see attachments).
4. The applicant has been made aware of the following issues:
 - A. The home builder constructed a retaining wall in the rear yard without a permit. A permit for the retaining wall will need to be submitted to the Boone County Planning Commission immediately after the Board acts on the Variance request.
 - B. The patio pad and possibly a portion of the retaining wall have been constructed in a 15 foot wide drainage easement. The Planning Commission's Engineer indicated that it is a private easement and the property owners need to verify if they have permission to put permanent improvements in the easement.
5. The Board needs to analyze the Variance criteria 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 act on the request.

Respectfully submitted,



Todd K. Morgan, AICP
Senior Planner, Zoning Services

TKM/pr

Attachments

- *Site Vicinity Map
- *Plot Plan with Proposed Covered Patio
- *Picture of a Similar Structure
- *2009 Aerial Map
- *Zoning Map
- *Petition From Adjoining Property Owners
- *Application

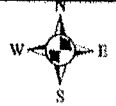
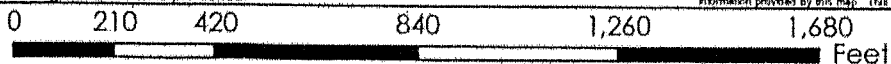
SITE VICINITY MAP

www.boonecountygis.com



Copyright 2008 Boone County GIS. Reproduction by any means without the express permission of the Boone County Planning Commission is prohibited.

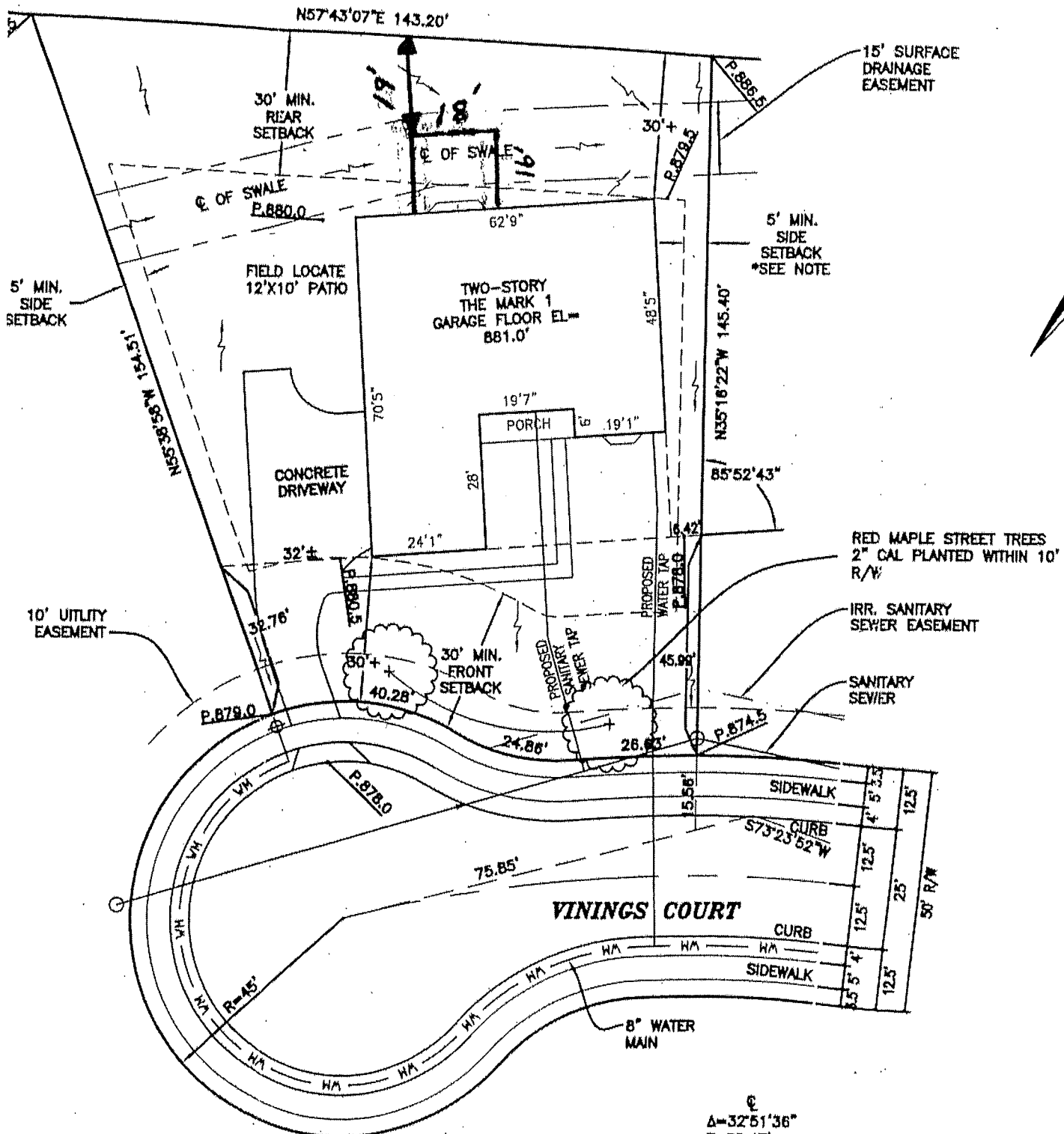
Data used to create this map were compiled from sources that comply with National Map Accuracy Standards. Boone County GIS extends no warranty with respect to the accuracy or content of the information provided by this map. This map should be used for general planning purposes only.



Boone County GIS - Putting Northern Kentucky on the Map

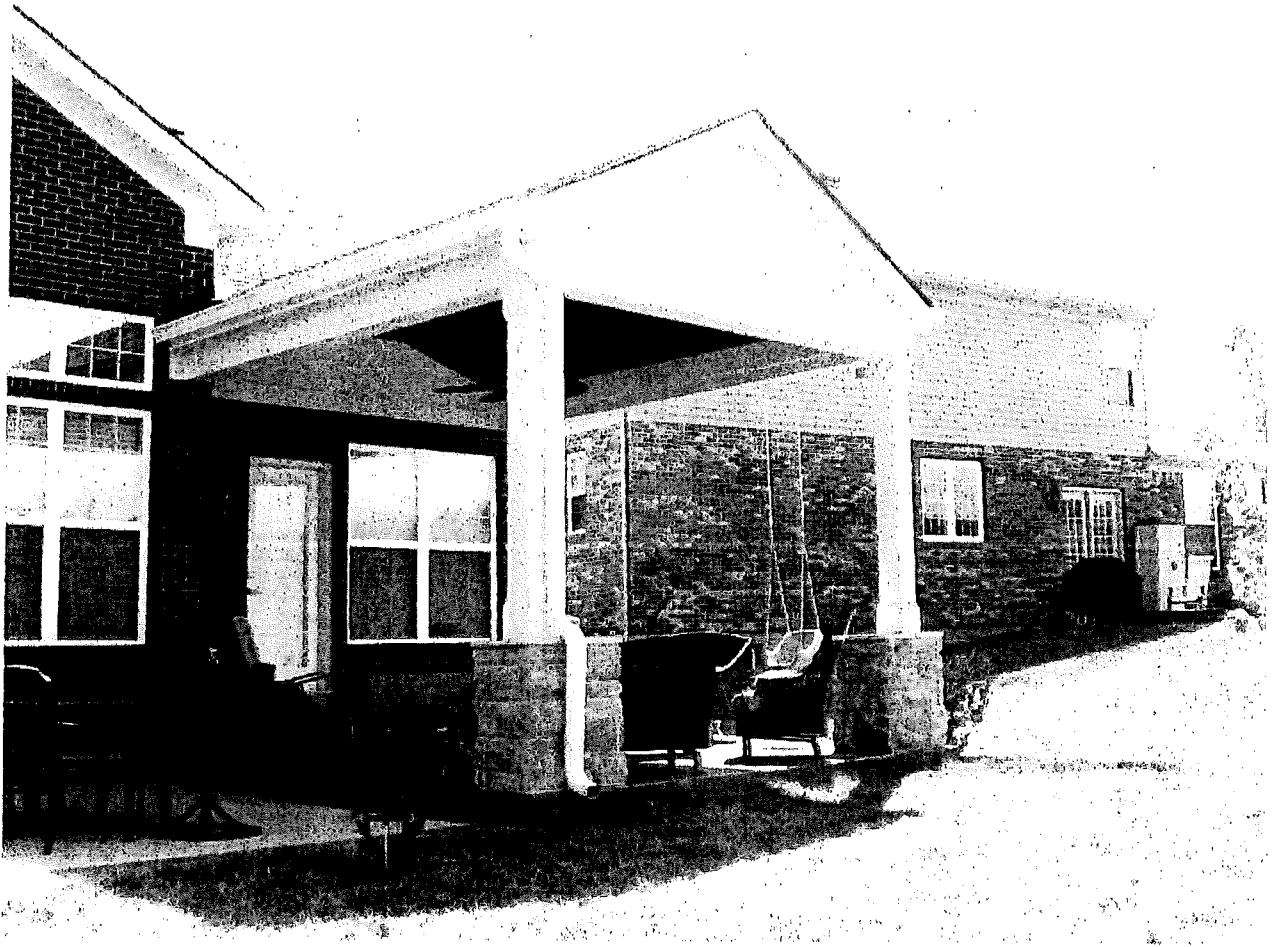
15' DRAINAGE SURFACE
DIR TO CONSTRUCTION

*NOTE: BUILDER SHOULD
PRIOR TO SETTING
ELEVATION.



$\Delta=32^{\circ}51'36''$
 $T=88.47'$
 $R=300.00'$
 $L=172.05'$

PICTURE OF A SIMILAR STRUCTURE



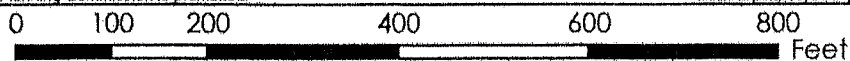
2009 AERIAL MAP

www.boonecountygis.com



Copyright 2010 Boone County GIS. Reproduction by any means without the express permission of the Boone County Planning Commission is prohibited.

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 = 200 feet

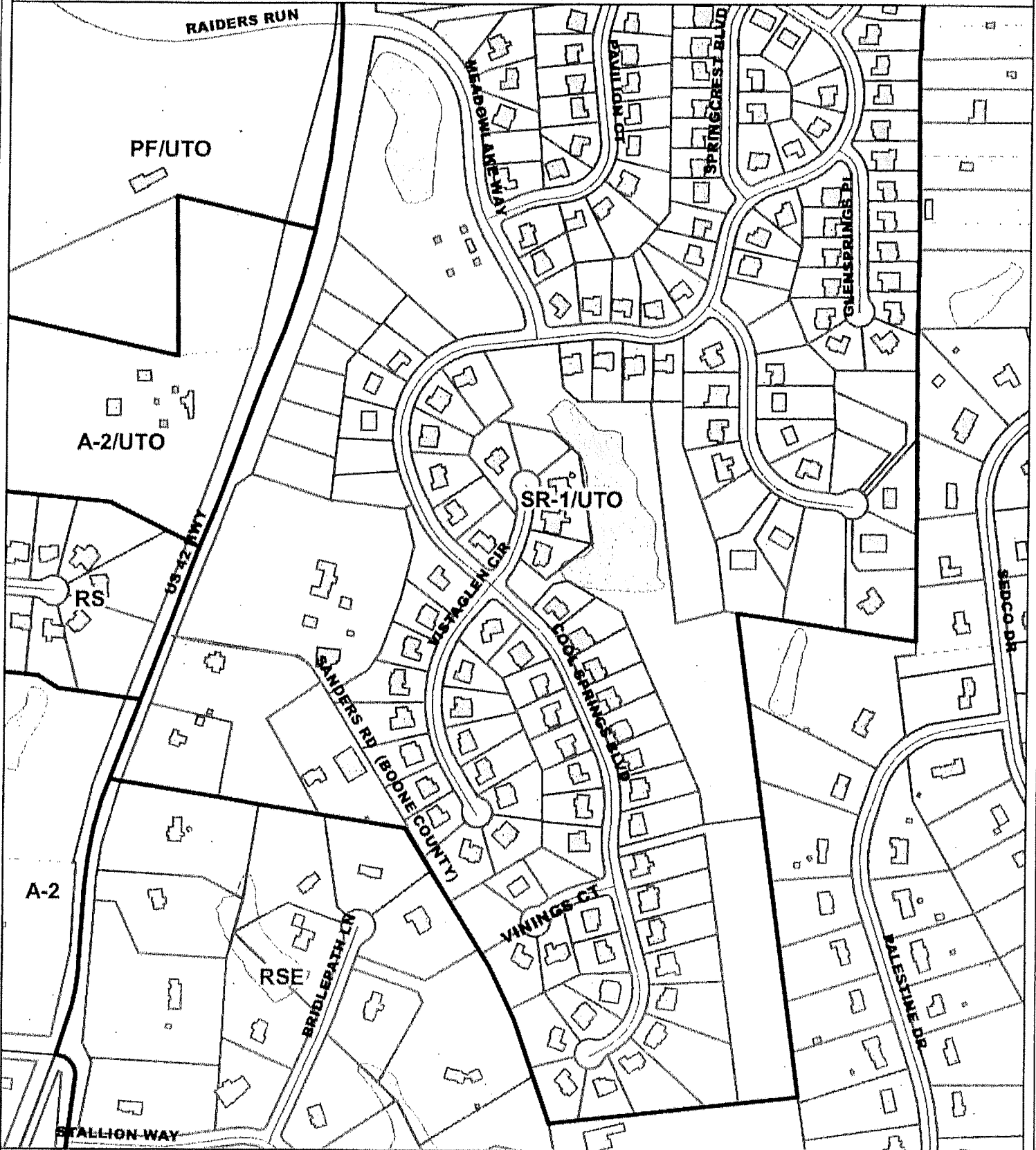


Boone County GIS - Putting Northern Kentucky on the Map



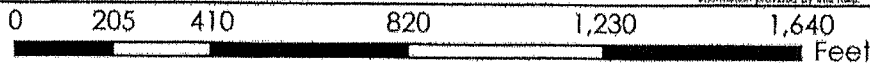
ZONING MAP

www.boonecountygis.com



Copyright 2010 Boone County GIS. Reproduction by any means without the express permission of the Boone County Planning Commission is prohibited.

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 not be used for general planning purposes only.



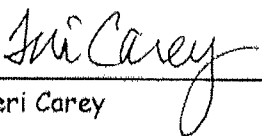
Boone County GIS - Putting Northern Kentucky on the Map

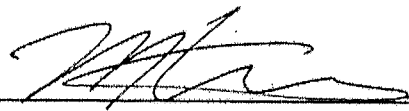
September 6, 2010

To Whom It May Concern:

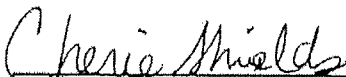
This letter documents consent by the neighbors of Pauletta & Bill Modesitt, 1532 Vinings Court, Union, Kentucky 41091 to the Modesitt's adding a covered portion to their existing patio on their property. The consent was requested because the covered portion of the patio will reduce the required distance from the rear of the structure to the rear property line from 30' to 19'. Since the Modesitt's will be requesting a variance to this requirement, the consent of the neighbors seemed appropriate and necessary.


The covered portion of the existing patio will measure 16' X 18' but will not extend past the current patio line. The covered portion will not be obtrusive nor infringe on the view or rear property line of either neighbors yard, since a considerable distance, approximately 75-100' will still exist to either neighbors' residence. In addition, the new covered portion will set below the level rear yards of either neighbor, since the Modesitt's property sets approximately 20'-25' below either lot. The request for the variance is being made due to the fact the Modesitt's new home was built back on their lot in order for it to fit due to it being a ranch style home and thereby not affording a greater distance to the property line.


Teri Carey

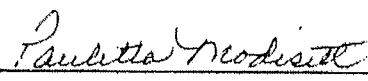

Mike Carey

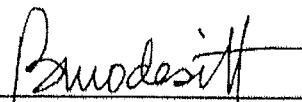
*Owners of: 1500 Vistaglen Circle, Union, Kentucky 41091 Telephone: (859) 817-1284


Cherie Shields

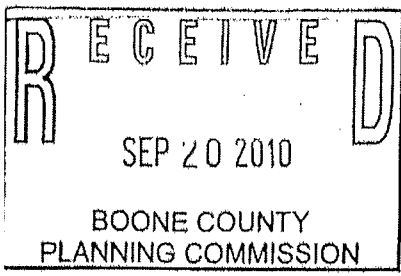

Doug Shields

*Owners of: 1503 Vistaglen Circle, Union, Kentucky 41091 Telephone: (859) 384-8975


Pauletta Modesitt


Bill Modesitt

*Owners of: 1532 Vinings Court, Union Kentucky 41091 Telephone: (859) 918-1771



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 [X] Florence _____ Walton _____ Union _____
2. (Check One) _____ Conditional Use Permit [X] Variance _____ Appeal _____
3. Applicant's Name BILLY + PAULETTA MODESITT
Phone Number (859) 918-1771 Fax No. N/A
Applicant's Address 1532 VININGS COURT UNION KY. 41091
4. Description of Request: BUILD ROOF OVER EXISTING PATIO WHICH WILL ENCROACH INTO THE SETBACK, APPROX. 12' ON RIGHT SIDE; 4' ON LEFT SIDE DUE TO SLOPE OF LOT
5. Name of Development COOLSPRINGS SUBDIVISION, SECTION 9
6. Location of Development UNINCORPORATED BOONE COUNTY, OFF U.S. 42
7. Acreage Under Review _____
8. Lot Number and Name of Subdivision (if part of a subdivision) LOT # 93, COOLSPRINGS SUBDIVISION, SECTION 9
9. Owner of Property BILLY + PAULETTA MODESITT
Address of Property Owner 1532 VININGS COURT Phone No. (859) 918-1771
10. UNION KY. 41091
11. Proposed Use(s) on Site BEING ABLE TO USE BACK PATIO WITH PROTECTION OF WEST SUN + FOUL WEATHER.
12. Total Square Footage of Existing and/or Proposed Buildings EXISTING 16x18 CONCRETE PATIO, 288sq ft.
13. Current Zoning on Property RESIDENTIAL SR-1/UT0
14. Deed Book D976 Page No. 925 Group No. 4670
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 (SEE LETTER)
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: [Signature] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

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

COPY

CLUR #10-BCBOA-012-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Billy and Pauletta Modesitt
1532 Vinings Court
Union, KY 41091

2. ADDRESS OF PROPERTY
1532 Vinings Court
Union, KY 41091
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Cool Springs

4. DEED BOOK 976 PAGE NO. 925 GROUP NO. 2064

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

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 13, 2010 Certificate of Land Use Restriction (#10-BCBOA-012-A), for Billy and Pauletta Modesitt, Property Owner(s).

The following conditions will apply:

No conditions.

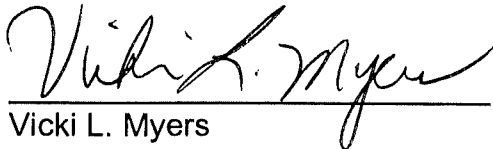
The approved Variance as well as the preceding conditions apply to the property described in:

DEED BOOK 976 PAGE NO. 925 GROUP NO. 2064

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

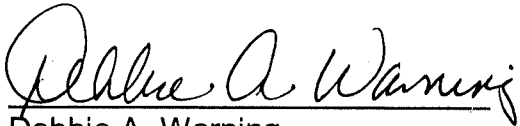
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 14 day of October, 2010.



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.)