

BOARD OF ADJUSTMENT AND ZONING APPEALS ACTION BOONE COUNTY PLANNING COMMISSION

FIVE (5) SCALED COPIES AND ONE (1) 11X17 REDUCTION OF SUBMITTED DRAWINGS ARE REQUIRED

See Boone County Zoning Regulations

SECTION A (To be completed by applicant)

- (Check One) Boone [checked] Florence _____ Walton _____ Union _____
(Check One) _____ Conditional Use Permit [checked] Variance _____ Appeal _____
Change in Non-Conforming Use _____
Applicant's Name Cynthia Buttery & Charles Buttery II
Phone Number (859) 466-1812 Fax No. _____
Applicant's Address 2848 Watts Rd
Burlington KY 41005
City State Zip
Description of Request: Reduce set back of front yard
Name of Development _____
Location of Development 2848 Watts Rd
Acreage Under Review _____
Lot Number and Name of Subdivision (if part of a subdivision) _____
Owner of Property Charles & Cynthia Buttery
Address of Property Owner 2848 Watts Rd Phone No. (859) 466-1812
Burlington KY 41005
City State Zip
Proposed Use(s) on Site Addition. Enclosed front porch
Total Square Footage of Existing and/or Proposed Buildings Existing (940) Addition (400)
Current Zoning on Property RSE
Deed Book 980 Page No. 307 Group No. 2004
Is the site subject to a zone change? _____
If yes, give date of approval _____
Have you submitted a Site Plan with this request? yes
Have you submitted a list of adjoining property owners with this request? yes
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: Cynthia Buttery, Charles Buttery II (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: Cynthia Buttery, Charles Buttery II (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 8/20/12 Fee Received \$132.00 Receipt # 105465
2. Is application complete? Y Yes _____ No _____
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
9/12/12 **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: Cynthia Buttery and Charles Buttery II

LOCATION: 2848 Watts Road, Boone County, Kentucky

ZONING: Rural Suburban Estates (RSE)

DATE: September 12, 2012

Proposal

The property owners have submitted a variance application to allow a 10' x 40' room addition onto the front of their house. The owners removed an approximate 7' long deck on the front of their house earlier this summer and started construction on the room addition without the proper zoning and building permits. On August 6, 2012, Boone County Building Department issued a stop work order until the owners obtained the proper permits. The request is to reduce the front yard setback from 40' to approximately 37'.

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 in an RSE zone as 40' front, 40' rear, and 10' sides.

Site Characteristics

The subject property is approximately 0.92 acres in area and fronts on the east side of Watts Road. The property contains an 33' x 40' ranch home, which is constructed with siding, and a detached garage. A large deciduous tree is located between the front of the house and Watts Road. Watts Road is approximately 15 feet wide and is located in a 30 foot right-of-way. Boone County G.I.S. shows that the topography of the parcel falls 828' above sea level at the front property line to 808' above sea level at the rear property line.

Staff Comments

1. On August 6, 2012, Boone County Building Department issued a stop work on the project because Zoning and Building Permits had not been issued. One of the Variance criteria states that the Board shall deny any request arising from circumstances that are the result of willful violations of the zoning regulation by the applicant.

Staff would like the applicant to explain why the work was started without the proper Permits.

2. Staff took some pictures of some houses that front on Watts Road because there are large disparities in building setbacks. Some houses are located in close proximity to the road and others are setback more than 200 feet.
3. Staff does not believe the request will alter the essential character of the area for the following reasons:
 - A. The disparity in building setbacks along Watts Road.
 - B. The approximate 3' setback variance is not discernable from the road.
4. 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/dw

Attachments

- *Site Vicinity Map
- *Proposal
- *2007 Aerial Map of Subject Area
- *Zoning Map



WATER RD

2004

2003

1

2

3

+

PETERSBURG RD

2013

PROPOSAL

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.

0 8,750 17,500 35,000 52,500 70,000



Boone County GIS - Putting Northern Kentucky on the Map



CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Charles & Cynthia Buttery
2848 Watts Rd.
Burlington, KY 41005
2. ADDRESS OF PROPERTY
2848 Watts Rd.
Burlington, KY 41005
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Charles & Cynthia Buttery
4. DEED BOOK 480 PAGE NO. 304 GROUP NO. 2004
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

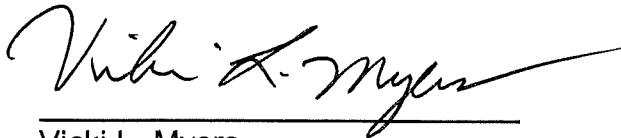
Todd K. Morgan, Senior Planner, Zoning Services
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Todd K. Morgan

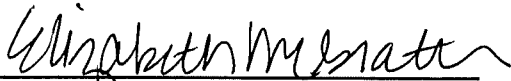
on behalf of the Boone County Planning Commission this 25th day of September, 2012.



Vicki L. Myers
Vicki L. Myers
Notary ID 438411
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2015

This instrument was prepared for recording purposes only by:



Elizabeth McGrath
Elizabeth McGrath
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 Board of Adjustments and in accordance with the current zoning in effect as of September 12, 2012 Certificate of Land Use Restriction (#12-BCBOA-005-A), for Charles & Cynthia Buttery , Property Owner(s).

The following conditions will apply:

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

DEED BOOK 480 PAGE NO. 307 GROUP NO. 2004