

**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 1/17/13 Fee Received \$1032.00 Receipt # 606194
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
3/13/13 **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: Richard Gerth

LOCATION: 4205 Mudlick Road, Boone County, Kentucky

ZONING: Agriculture (A-1)

DATE: March 13, 2013

Proposal

The property owner has submitted a variance application so room and deck additions can be constructed onto the front of his cabin. The submitted plans show a 19' x 28' room addition (first floor and basement levels) will be constructed onto the front of the cabin and a 12' x 28' wide deck will attach to the first floor of the room addition. The request is to reduce the front yard setback requirement from 80' to 41'.

The applicant has submitted a plot, floor plans, and elevation drawings (see attachments). The plot plan shows that a large covered porch is also proposed on the back and sides of the cabin. This covered porch is not part of the application because it meets the setback requirements. The elevation drawings show that the addition will be constructed to match the existing cabin.

Applicable 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.

Section 271 of the Boone County Zoning Regulations states that when an addition is proposed for a pre-existing structure that does not meet the current setback requirements, the addition may be located along the nonconforming building line established by the existing structure, but may not encroach into such nonconforming setback unless a variance is granted by the Board of Adjustment and Zoning Appeals.

Table 31.1 of the Boone County Zoning Regulations lists the setback requirements in an A-1 zone as 80' front, 25' rear, and 10' 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 approximately 25 acres in area and fronts on the south side of Mudlick Road. The property contains an 18' x 28' two-story log cabin, a detached garage, and another outbuilding which is still under construction. Access to the property is provided from a gravel driveway that connects to Mudlick Road. Boone County GIS shows that the topography of the parcel falls 744' above sea level at the southeast property line to 480' above sea level at Mudlick Road. The majority of the property contains mature deciduous trees

Site History

On July 15, 2011, Boone County Planning Commission approves a Zoning Permit allowing a cabin to be constructed in the same place as another cabin.

On May 23, 2012, Boone County Planning Commission issues a Zoning Permit allowing the pole barn and shed to be constructed.

Staff Comments

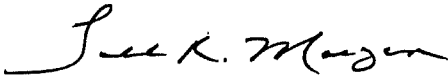
1. The property owners have submitted a letter indicating that the addition cannot be located on the other side of the cabin because of the septic system (see attachments)
2. Staff would like to note the following:
 - A. The property is located in a secluded area and there no other households visible from the subject site.
 - B. The topography of the property makes it feel that the cabin is located further off the road than it really is.

3. 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

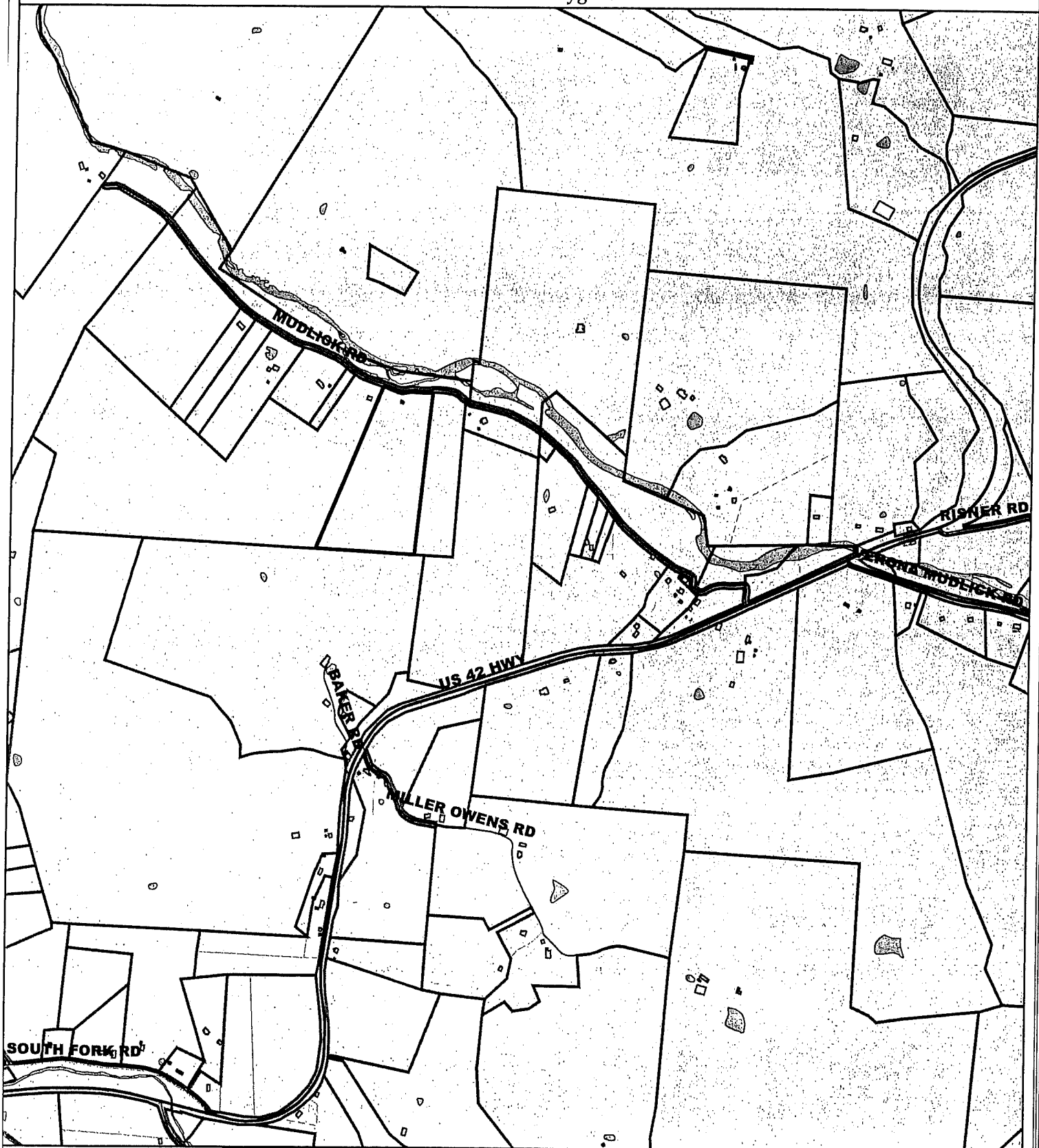
TKM/dw

Attachments

- *Site Vicinity Map
- *Letter from the Property Owners
- *Plot Plan
- *Floor Plans
- *Elevation Drawings
- *2007 Aerial Map of Subject Area
- *Zoning Map
- *Topographical Map
- *Application

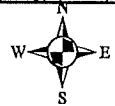
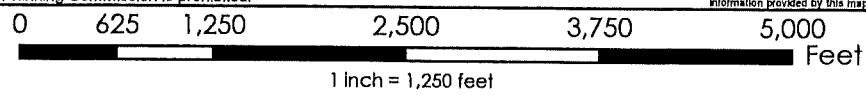
SITE VICINITY MAP

www.boonecountygis.com



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Boone County GIS - Putting Northern Kentucky on the Map

Map Created: 01/01/2008

Boone County GIS
ArcMap Document: *.mxd

To: Boone Co. Board of Adjustment
From: Rick and Kathy Gerth
Re: Request for variance at 4205 Mudlick Rd. Verona, Ky. 41092
Date: 1/17/2013

We are making a request for you to grant us a variance to build an addition on our home. This addition, when completed, will be closer to the edge of the property than the 80 foot requirement for property zoned A-1. We are unable to build on the other side of the house because it would put the addition too close to the septic system and take out the line to the tank.

When we built the existing log structure, with the help and guidance of Terry Sawyer, we weren't planning to make it a permanent residence and the 4 rooms seemed sufficient. Also, the structure, which is a log home whose basic structure is made from logs circa 1830, fits in very well with the area. It is on a new foundation, has a new roof and has new doors and windows. It is on the same spot where the original farmhouse was built almost a century ago. We know this from records, discussions with older residence in the area and the stone root cellar located near the house. When we decided to make this our permanent residence, we felt that a family room with a basement was necessary to accommodate our needs and extended family, 2 married children and soon to be 6 grandchildren, all living in the area.

Attached is a record of the specifics of the distance to the edge of the property. We hope you will consider that we will be living here, very likely for the rest of our lives. Our children are planning to also build on the property in the future. Together we will be doing light farming and plan to be active members of the community. We already know and have a good relationship with a good number of our neighbors and feel that this addition will be a tasteful and appropriate addition to the historically rich area. This addition will be done professionally through a reputable builder, B.O.L.D. Company.

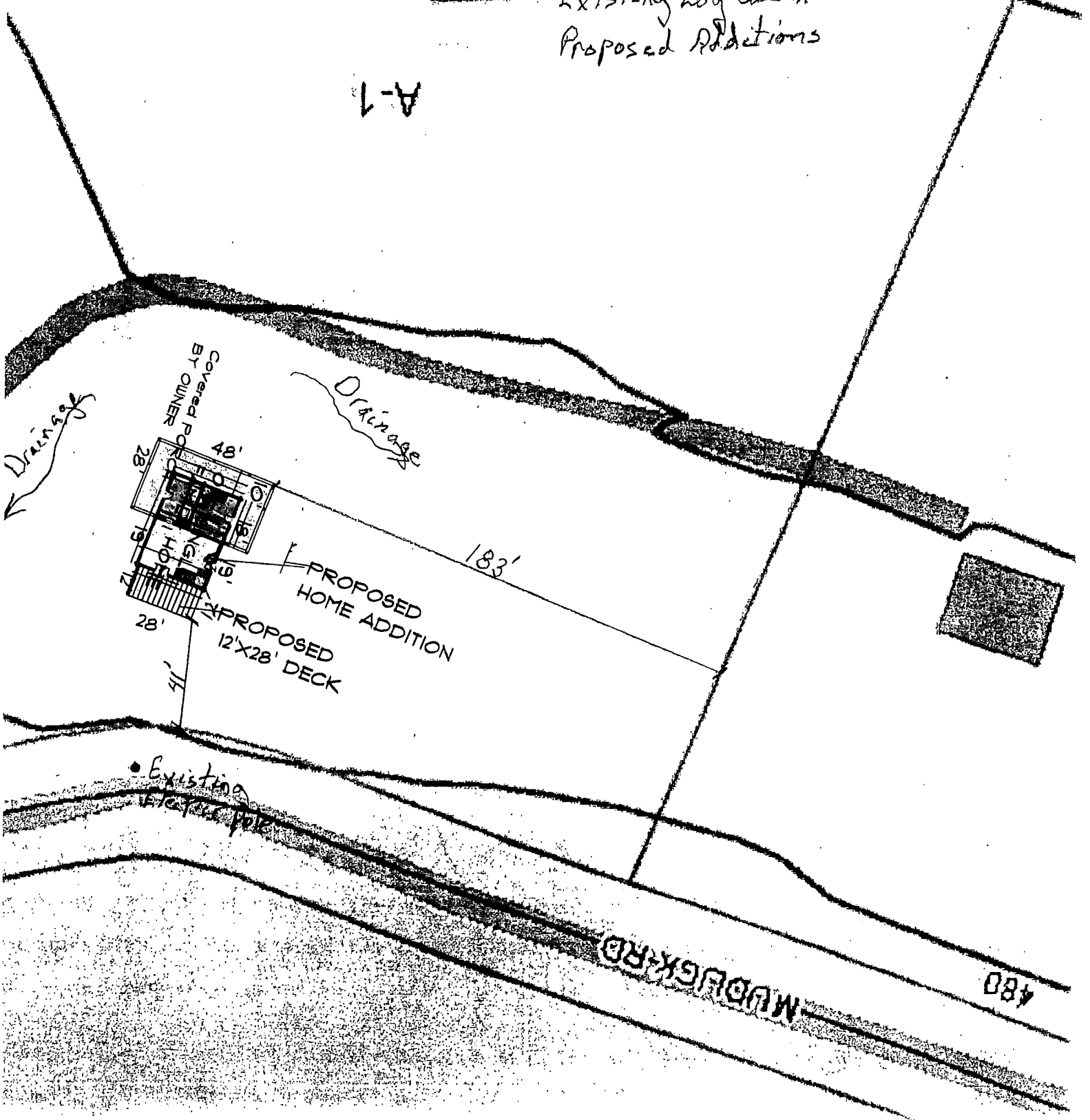
We appreciate your consideration in this matter and look forward to your response.

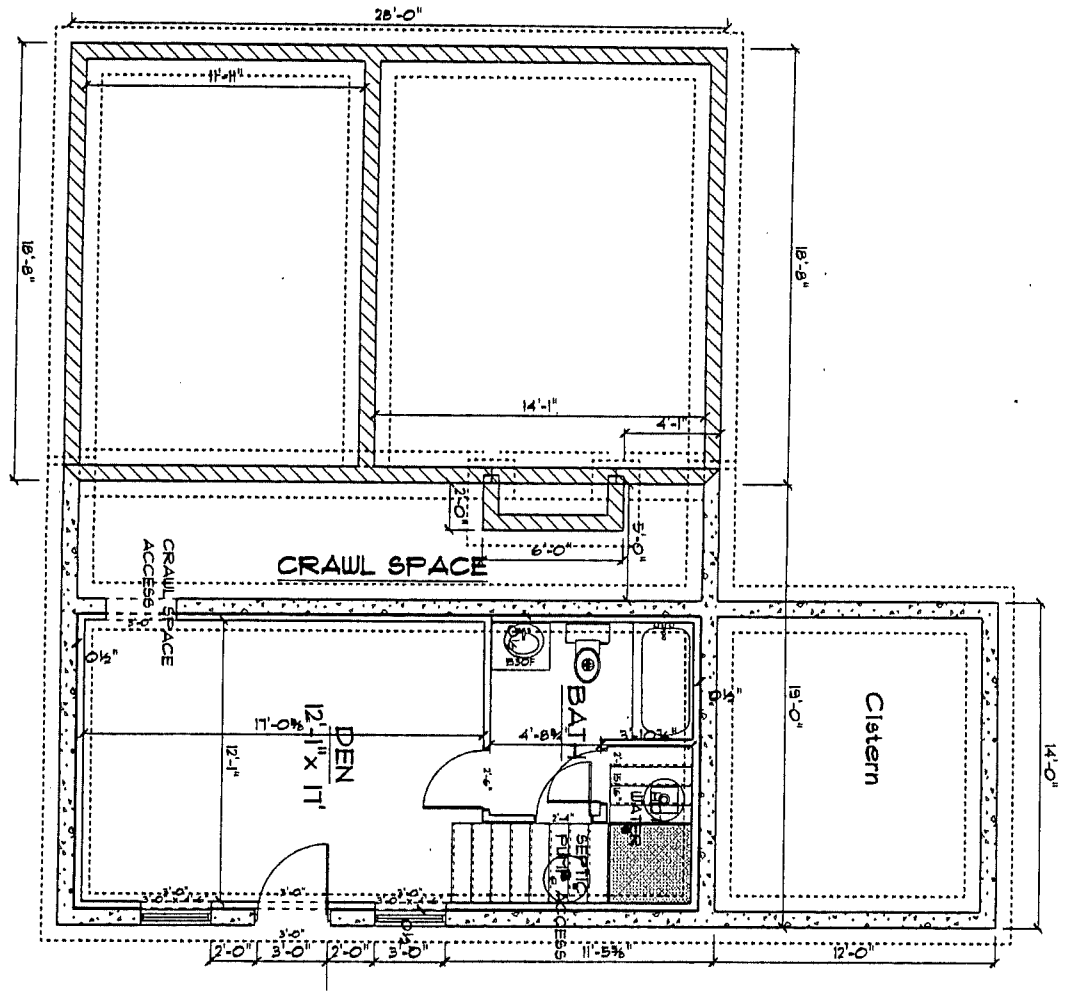
Rick and Kathy Gerth
4205 Mudlick Rd.
Verona, Ky. 41092
859-462-0556

GERTH RICHARD W

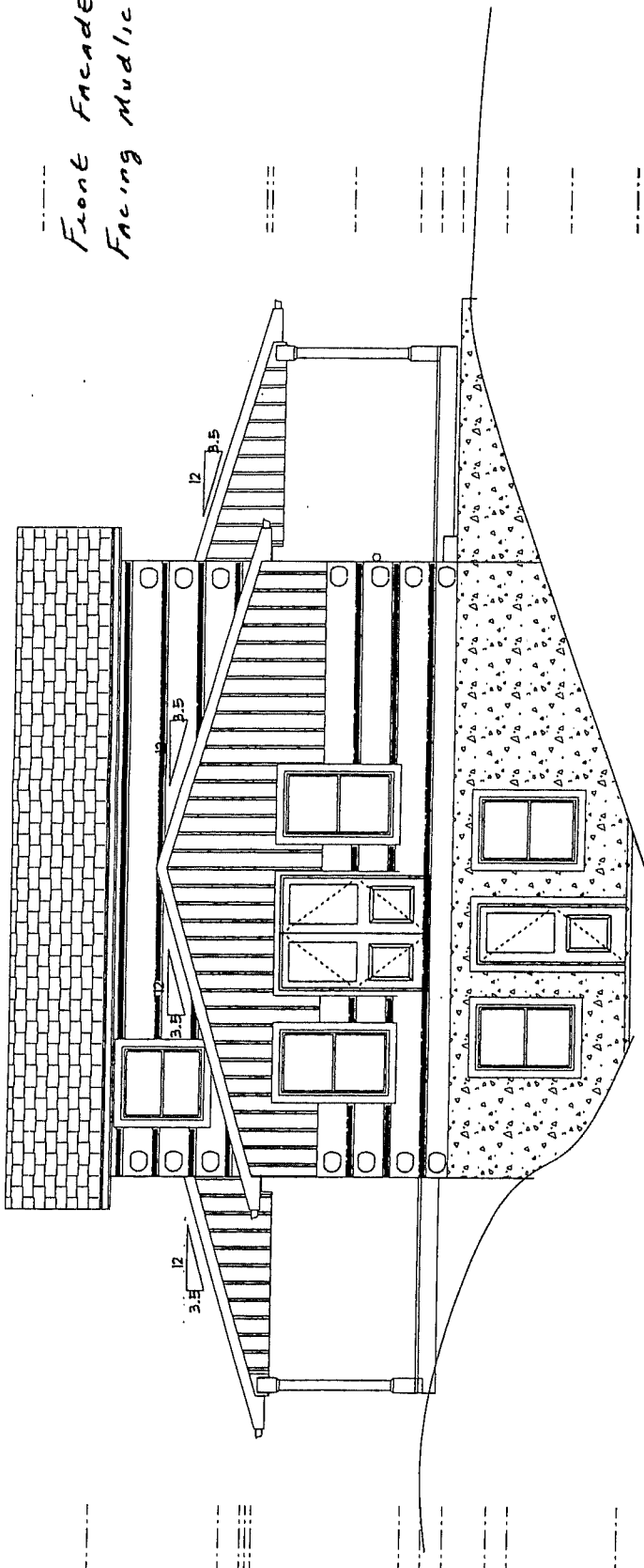
Existing log Cabin
Proposed Additions

A-1

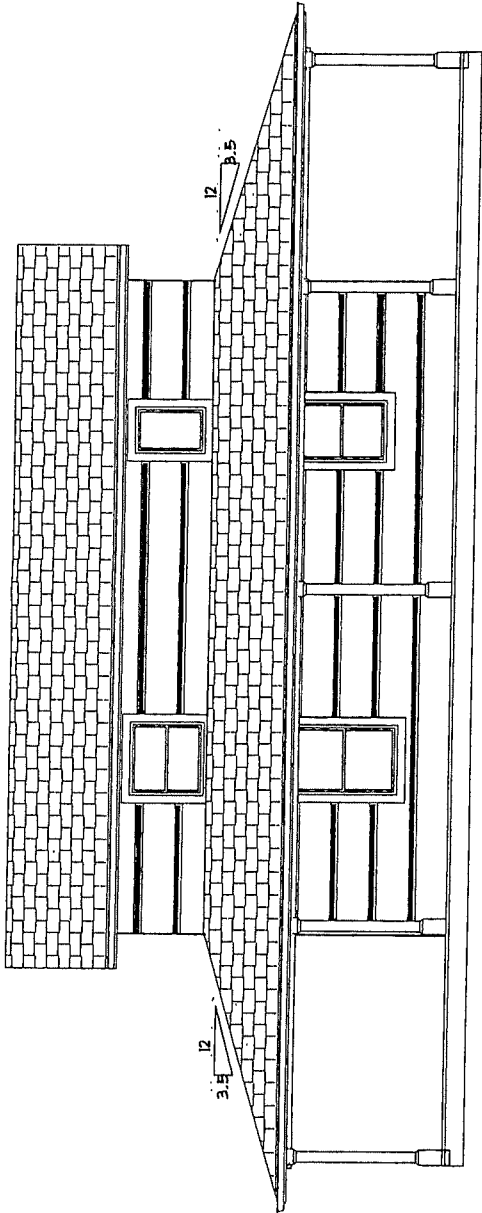




Front Facade
Facing Mudlick Rd.

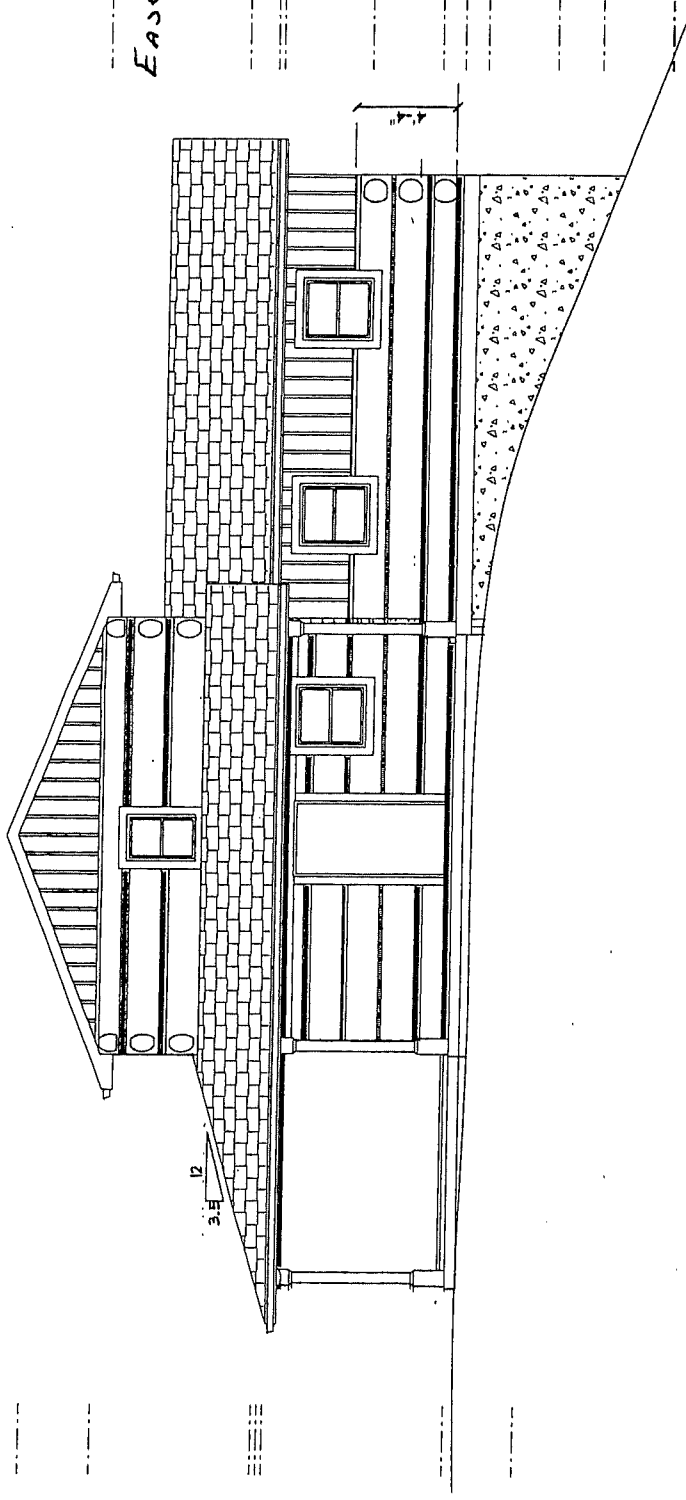


Rear Facade

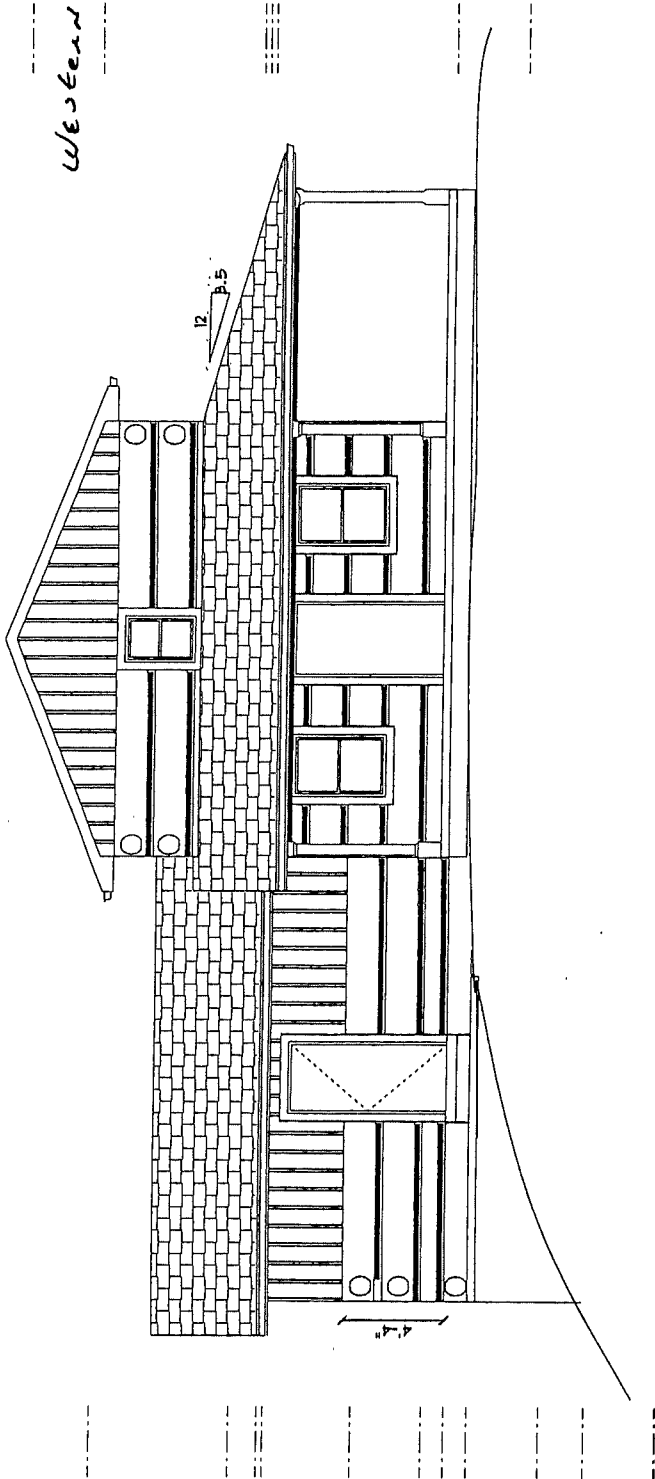


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Eastern Side



Western Side



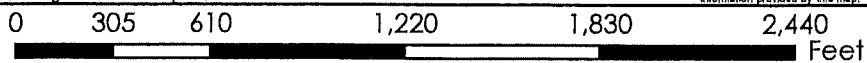
2007 AERIAL MAP

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1 inch = 600 feet



Boone County GIS - Putting Northern Kentucky on the Map

Map Created: 01/01/2008

2007 Data Created by: Mark M. Hill
ArcMap Document: *.mxd

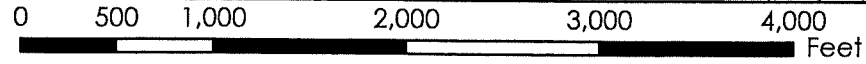
ZONING MAP

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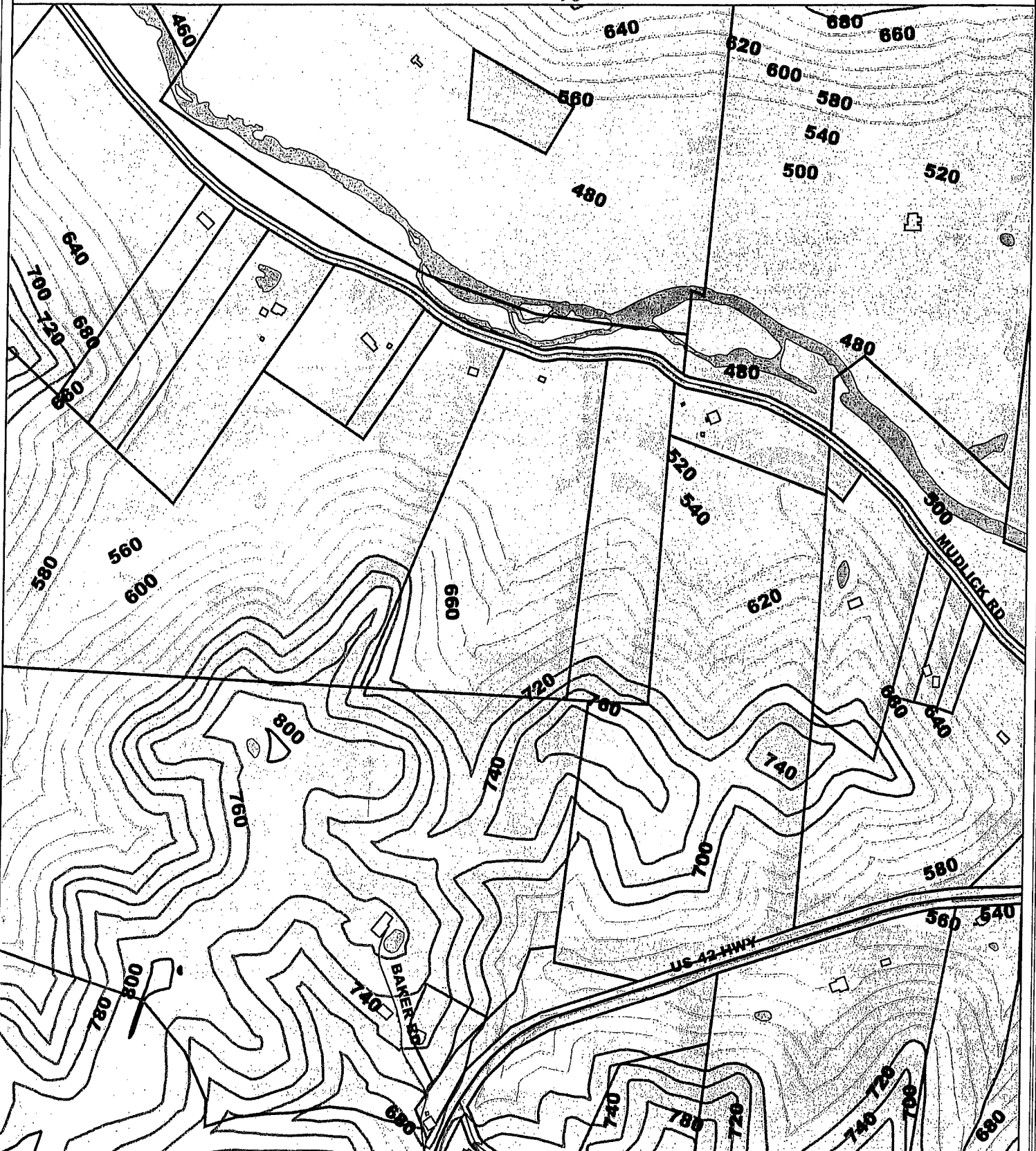
Boone County GIS - Putting Northern Kentucky on the Map

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Boone County GIS
ArcMap Document: *.mxd

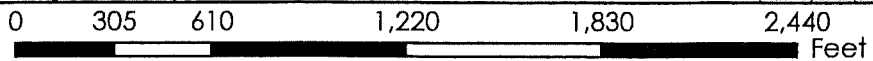
TOPOGRAPHICAL MAP

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1 Inch = 600 feet



Boone County GIS - Putting Northern Kentucky on the Map

Map Created: 01/01/2008

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ArcMap Document: 11.mxd

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CLUR #13-BCBOA-003-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Richard W. & Kathleen A. Gerth
74 Greenbriar Avenue
Ft. Mitchell, KY 41017

2. ADDRESS OF PROPERTY

4205 Mudlick Road
Verona, KY 41092

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

4. DEED BOOK 995

PAGE NO. 8

GROUP NO. 2074

5. TYPE OF RESTRICTION(S) (Check all that apply)

___ Zoning Map Amendment:
From ___ To ___

___ Conditional Use Permit

___ Development Plan

___ Conditional Zoning

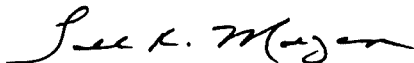
___ Subdivision Plat
(Not Recorded)

___ Other:

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



SIGNATURE OF COMPLETING OFFICIAL

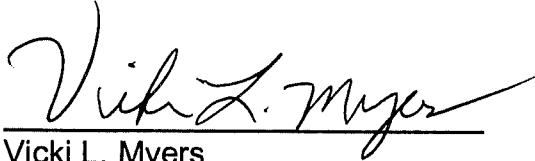
Todd K. Morgan, Senior Planner, Zoning Services
Name and Title of Completing Official

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 14th day of March, 2013.



Vicki L. Myers

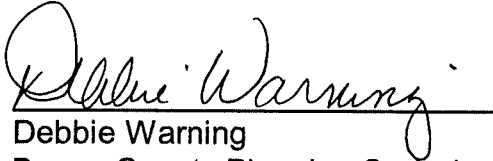
Notary ID 438411

NOTARY PUBLIC, State at Large

My commission Expires:

April 17, 2015

This instrument was prepared for recording purposes only by:



Debbie 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 March 13, 2013 Certificate of Land Use Restriction (#13-BCBOA-003-A), for Richard W. & Kathleen A. Gerth, 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 995

PAGE NO. 8

GROUP NO. 2074