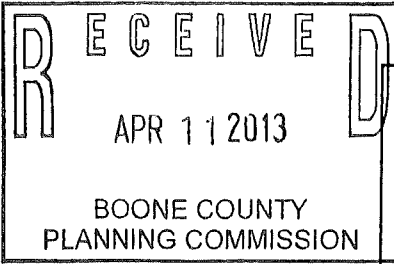


APPLICATION FORM



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)
1. [x] Boone \_\_\_\_\_ Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_
2. \_\_\_\_\_ Conditional Use Permit \_\_\_\_\_ Variance \_\_\_\_\_ Appeal \_\_\_\_\_
Change in Non-Conforming Use \_\_\_\_\_
3. Applicant's Name PC EDWARD BURCHAM
Applicant's Address 1842 GROVEPOINTE DR.
FLORENCE KY 41042
City State Zip
4. Phone Number 859 282 9422 Fax No. 859 282 0527 E-Mail PEDBURCHA@AOL.COM
Description of Request: VARIANCE FROM FRONT YARD SETBACK, SEE ATTACHMENT
5. Name of Development BLACKBERRY HILL
6. Location of Development LOT 11, BLACKBERRY HILL ESTATES
7. Acreage Under Review 1.84
8. Lot Number and Name of Subdivision (if part of a subdivision)
LOT 11 BLACKBERRY HILL ESTATES
9. Owner of Property PC EDWARD BURCHAM
Address of Property Owner 1842 GROVEPOINTE DR
FLORENCE KY 41042
City State Zip
10. Phone Number 859 282 9422 Fax No. 859 282 0527 E-Mail PEDBURCHA@AOL.COM
11. Proposed Use(s) on Site SINGLE FAMILY RESIDENCE
12. Total Square Footage of Existing and/or Proposed Buildings 3750
13. Current Zoning on Property A-2
14. Deed Book 1014 Page No. 530 Group No. 2013
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?
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: PC Edward Burcham
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: PC Edward Burcham
(Faxed, Photocopied or Scanned Signatures will NOT be Accepted)



**STAFF REPORT**

APPLICANT: P.C. Edward Burcham

LOCATION: Lot 11, Blackberry Hill Estates Subdivision, Boone County, Kentucky

ZONING: Agricultural Estate (A-2)

DATE: May 8, 2013

**PROPOSAL**

The applicant has submitted a variance so a single-family residential dwelling can be constructed in the 60 foot front yard setback. The submitted plans show that house is proposed 39 feet from the front property line (see attachments).

**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.

Table 31.1 of the Boone County Zoning Regulations lists the setback requirements for a detached single-family residence in an A-2 zone as 60' front, 25' rear, and 10' sides.

### SITE CHARACTERISTICS

The approximate 1.84 acre site has road frontage along Raspberry Court and Idlewild Road. Boone County GIS shows that the topography is 802 feet above sea level at Raspberry Court, 752 feet above sea level where a tributary stream runs through the property, and 796 feet above sea level at Idlewild Road. The area between Raspberry Court and the stream has been filled and cleared of vegetation, while the area between the stream and Idlewild Road is still heavily wooded with large deciduous trees.

### SURROUNDING LAND USES & ZONING

North: Single-Family Residential Dwelling Fronting on Raspberry Court (A-2)

South: Idlewild Road and 158 Acre Farm (A-1)

East: Single-Family Residential Dwellings Fronting on Raspberry Court and Idlewild Road (A-2)

West: Vacant Single-Family Residential Lot Fronting on Raspberry Court (A-2)

### STAFF COMMENTS

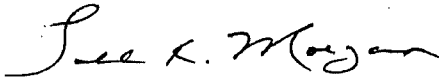
1. The property owner has submitted a letter addressing why the Variance should be approved. The letter indicates that the setback requirements combined with the location of the septic leach field and storm drainage easement are causing significant hardships. Additional soil and an extended foundation will need to be constructed in order for the house to meet the setbacks. The letter also indicates that the proposed house will not be out of character with the neighborhood because four other houses in the subdivision do not meet the front yard setback requirement.
2. Michael A. Duncan wrote a letter supporting the application. The letter documents the developer's consent for the proposed building location.
3. Building elevation drawings and floor plans have been submitted with the request and are attached to the Staff Report.
4. Staff researched a couple other single-family residential dwellings on Raspberry Court and found they have non-conforming setbacks. Boone County Planning Commission approved Zoning Permits for 3832 and 3840 Raspberry Court on 8/26/98 and 8/11/99. Both Permits showed the houses would meet the 60 foot front yard setback. Approximate Boone County GIS measurements show the houses are located about 50 feet from the front property line.
5. The Board needs to analyze the Variance criteria before acting on the request.
6. Staff contacted the applicant regarding the amount of fill that was added to the property. Staff did not see any silt fencing or hay bales had been installed to stop silt from running directly into the stream when pictures were being taken. Staff asked the applicant to contact the Kentucky Division of Water to see if any permits were required.
7. Staff recommends the following conditions if the request is approved:

- A. The Zoning Permit application needs to address final grading and erosion control.
- B. The applicant shall furnish documentation from Kentucky Division of Water indicating if they will require permits for the fill that was added near the stream. This documentation shall be submitted to Boone County Planning Staff before the Zoning Permit application for the house is 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 request.

Respectfully submitted,



Todd K. Morgan, AICP  
Senior Planner, Zoning Services

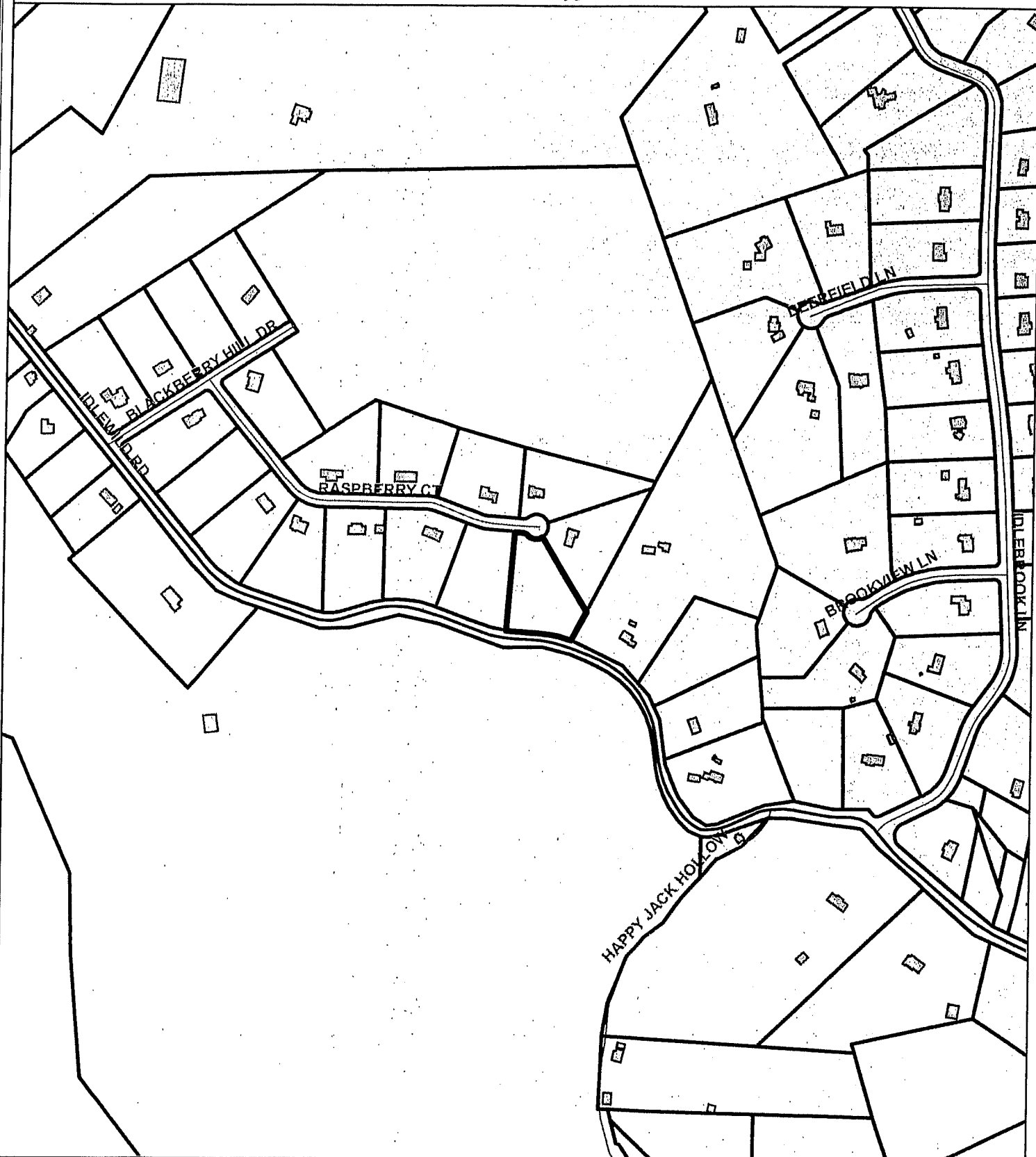
TKM/dw

Attachments

- \*Site Vicinity Map
- \*Proposed Plot Plan
- \*Building Elevations and Floor Plans
- \*Letter from P.C. Edward Burcham
- \*Letter from Michael A. Duncan
- \*2012 Aerial Map
- \*Topographical Map
- \*Zoning Map
- \*Application

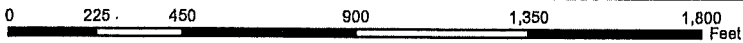
# SITE VICINITY MAP

www.boonecountygis.com



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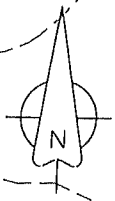
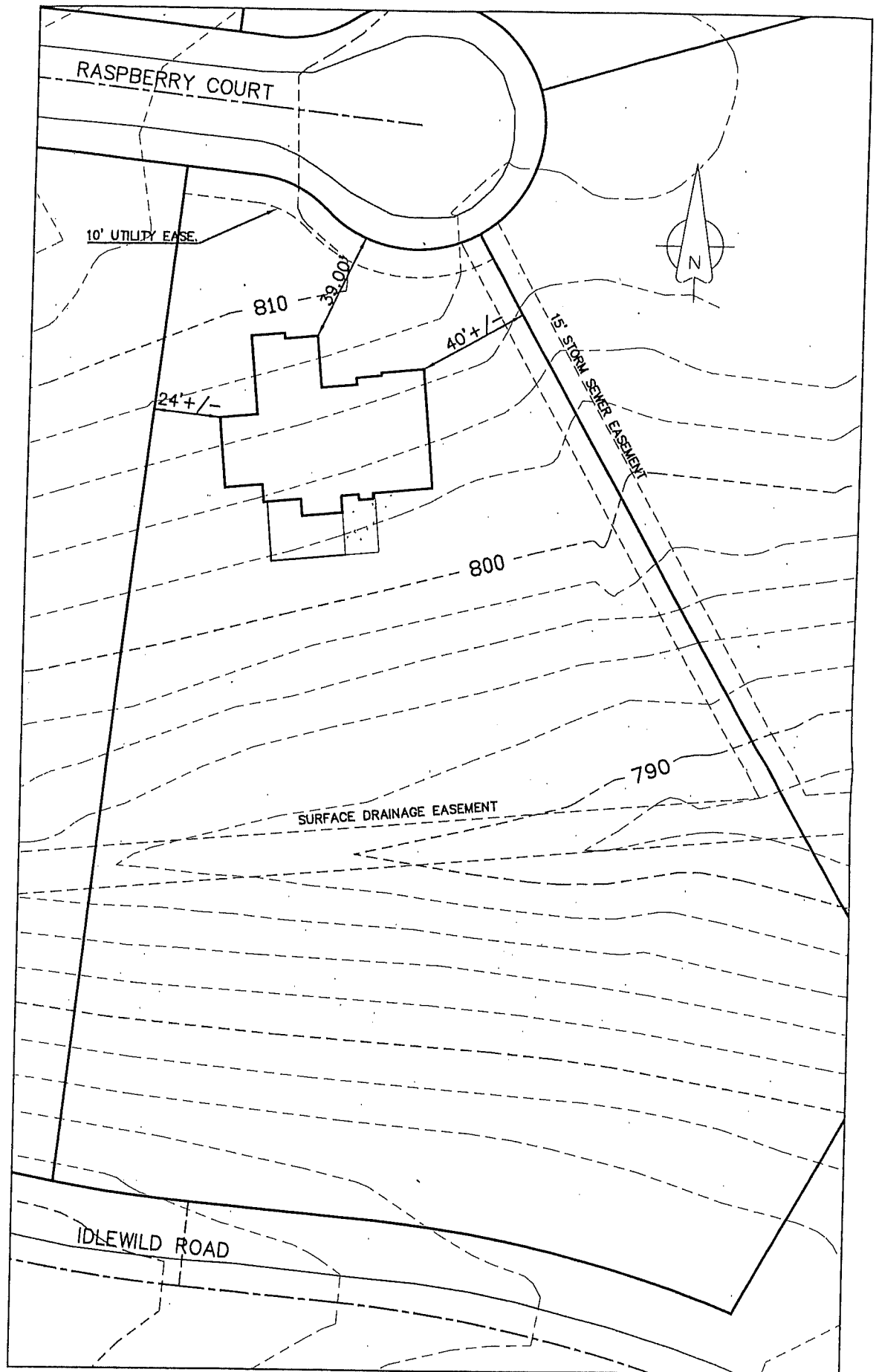
1 inch = 500 feet

Boone County GIS

"Putting Northern Kentucky on the Map"



Boone County GIS, 2012



FRONT YARD VARIANCE REQUEST  
 LOT 11 BLACKBERRY HILL

REQUIRED FRONT YARD: 60'  
 REQUESTED FRONT YARD: 39'

SCALE: 1"=40'





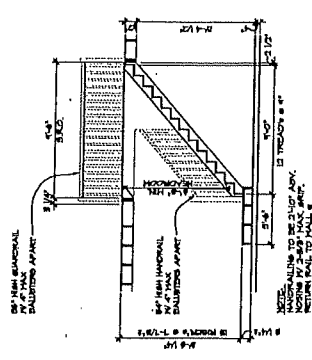
**NOTES:**

1. FOUNDATION WALLS TO BE 16" V. INTERCONNECTED W/ BATTERY BACKUP.
2. FOUNDATION WALLS TO BE 16" V. INTERCONNECTED W/ BATTERY BACKUP.
3. FOUNDATION WALLS TO BE 16" V. INTERCONNECTED W/ BATTERY BACKUP.
4. FOUNDATION WALLS TO BE 16" V. INTERCONNECTED W/ BATTERY BACKUP.
5. FOUNDATION WALLS TO BE 16" V. INTERCONNECTED W/ BATTERY BACKUP.
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8. FOUNDATION WALLS TO BE 16" V. INTERCONNECTED W/ BATTERY BACKUP.
9. FOUNDATION WALLS TO BE 16" V. INTERCONNECTED W/ BATTERY BACKUP.
10. FOUNDATION WALLS TO BE 16" V. INTERCONNECTED W/ BATTERY BACKUP.

**FOUNDATION NOTES:**

1. DO NOT SCALE DRAWINGS. FOUNDATION CONSTRUCTION TO BE PERFORMED IN ACCORDANCE WITH THE FOUNDATION PLAN AND ALL APPLICABLE CODES.
2. FOOTINGS - TYPICAL 20" x 24" CONCRETE W/ 4# BARS. CONTIGUOUS AND JUT FOOTINGS TO BE 24" x 24" CONCRETE W/ 4# BARS. ALL FOOTINGS TO BE A MINIMUM 30" DEEP UNLESS OTHERWISE NOTED.
3. PROVIDE 1/2" AIR SPACE 3/4" DIA. H.R. 1/2" DIAMETER OR EQUIV. FOR AIR SPACES 3/4" DIA. AND MAX. 12" FROM CONCRETE.
4. PROVIDE SLAB CONTROL JOINTS AT MAX. 30'-0" EACH WAY.
5. FOUNDATION WALLS TO BE COATED WITH EPAYK OR EQUIV. ALL JOINTS IN DIRECT CONTACT WITH CONCRETE TO BE COATED WITH EPAYK OR EQUIV. ALL JOINTS IN CONTACT WITH CONCRETE TO BE COATED WITH EPAYK OR EQUIV.
6. PROVIDE OUTSIDE VENTILATION AIR INTAKE FOR FINANCE AS NOTED.

**8'-0" HIGH FOUNDATION WALLS**

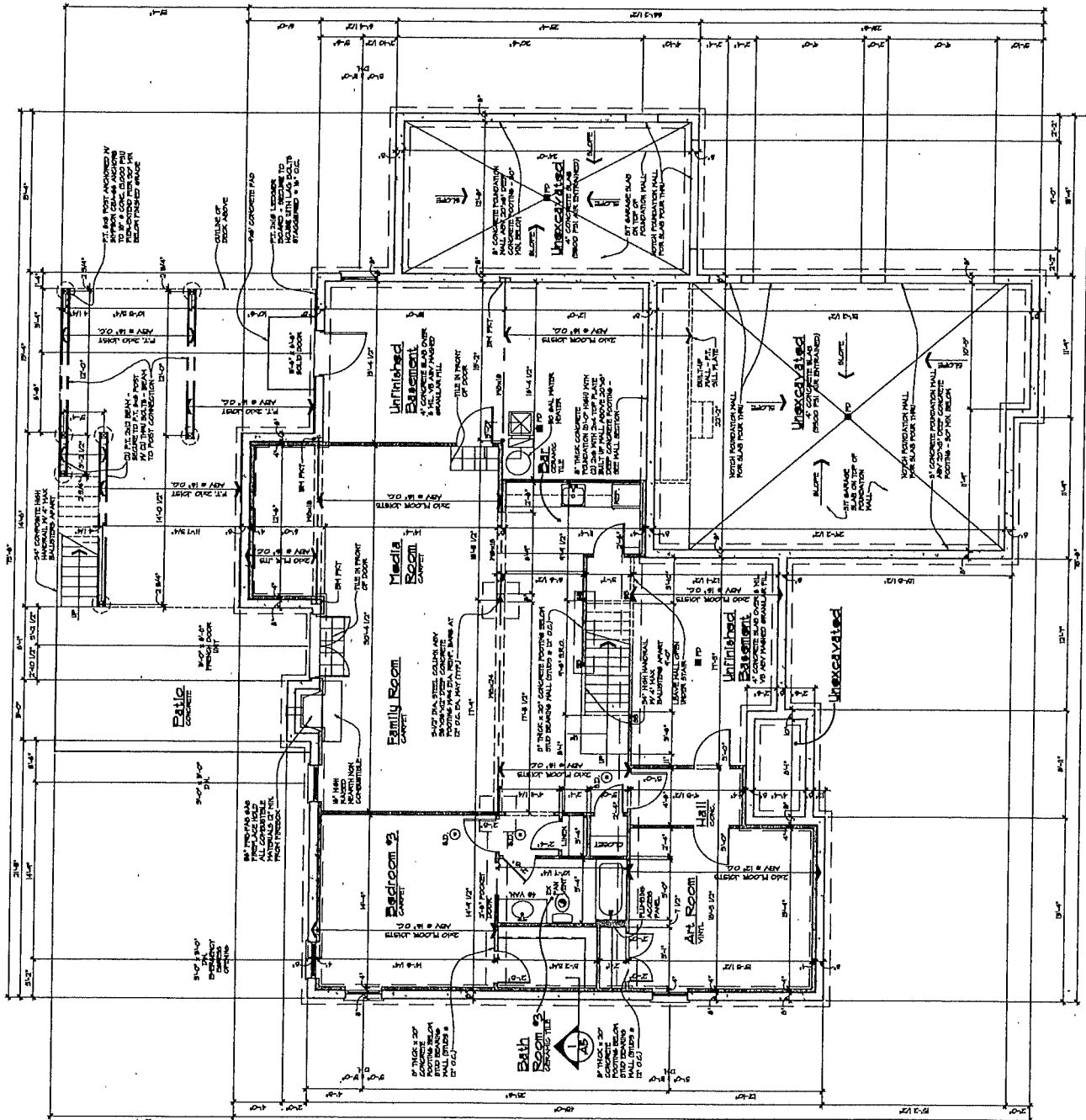


**STAIR SECTION**  
SCALE: 1/4" = 1'-0"

Scale	1/4" = 1'-0"
Date	01/26/13
Sheet # of #	3 of 3
Project Name	Foundation / Lower Level Plan
File	Foundation / Lower Level Plan
Sheet Number	

**A3**

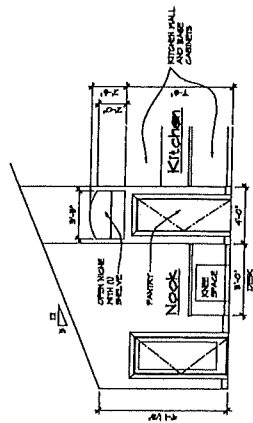
**FOUNDATION / LOWER LEVEL PLAN**  
SCALE: 1/4" = 1'-0"



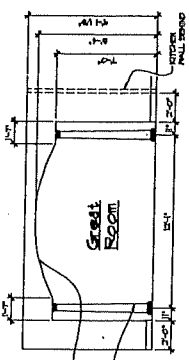
**FLOOR PLAN NOTES:**

1. DO NOT SCALE DIMENSIONS.
2. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
3. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
4. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
5. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
6. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.
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10. ALL DIMENSIONS ARE TO FACE UNLESS NOTED OTHERWISE.

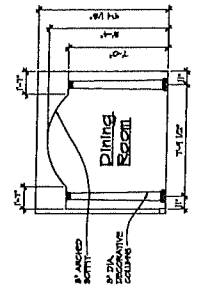
**9'-0" NOMINAL CEILING HEIGHT**



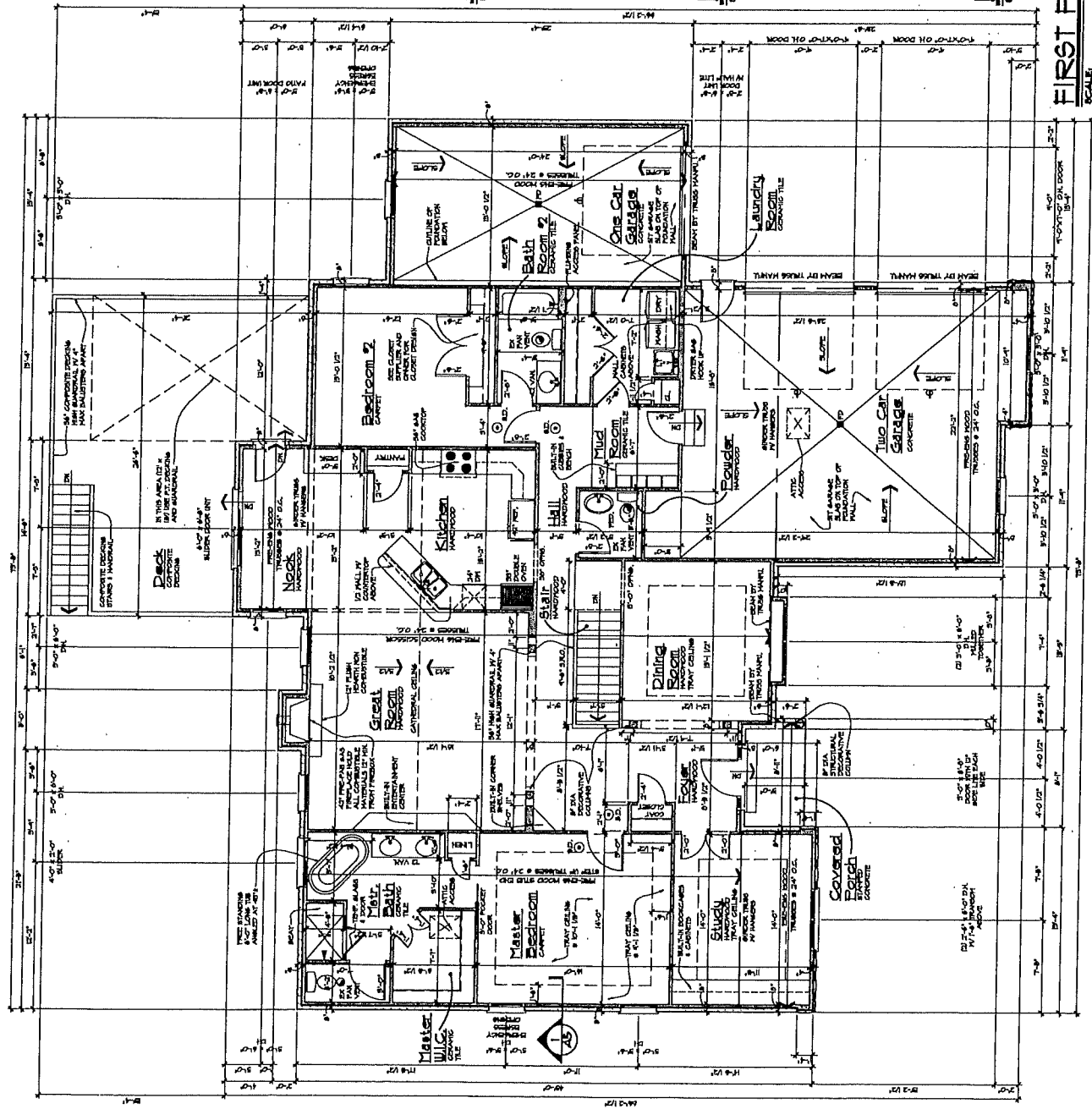
**INTERIOR ELEVATION  
Looking Pantry in the Kitchen**  
SCALE: 1/4" = 1'-0"



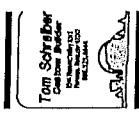
**INTERIOR ELEVATION  
Looking Thru to Great Rm.**  
SCALE: 1/4" = 1'-0"



**INTERIOR ELEVATION  
Looking Thru to Dining Rm.**  
SCALE: 1/4" = 1'-0"



**FIRST FLOOR PLAN**  
SCALE: 1/4" = 1'-0"



Sheet Number: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_  
 Scale: \_\_\_\_\_

**A4**

4/1/13

To: Boone County Planning Commission, Board of Adjustment

Re: Burcham Raspberry Ct residence

I am requesting a waiver of the requirement for a minimum front yard setback as found in Table 31.1 of the 2006-2008 Boone County Zoning regulations to allow a front yard setback of 39 ft. The property in question is Lot 11 of said subdivision. The lot size is 1.84 acres and contains a storm drainage easement across the lot as shown on the plat. The complete property description is:

Group No.: 3281 Deed Book D1014, Page 530      PIDN: 016.00-03-011.00      Plat No. 245 B

Being all of Lot Number Eleven (11), Blackberry Hill Estates Subdivision, as shown on the plat of the subdivision recorded at Plat Slide 245 B of the Boone County Clerk's records at Burlington, Kentucky.

This lot did not meet requirements for a septic system as purchased. A permit has been obtained for a septic system, Permit B-13001-01. This permit required installation of 83 truck loads of soil to create a leach field bed. The placement of the leach field bed was determined by the storm drainage easement and the topography of the lot. The lot has a steep slope of more than 15 ft. per 100 ft. from the street toward the back of the lot.

Table 31.1 specifies a front yard setback of 60 ft. for this conventional subdivision zoned A-2. Upon staking the foundation with this setback, there is a significant impact of the setback requirement due to the slope of the lot, the placement of the septic leach field and the location of the storm drainage easement. Due to this, the home as designed will not fit within the limitations of the storm drainage easement, and an extended foundation height of 10 ft. will be required as well as another significant addition of soil in order to properly place the building on the lot. This will present a significant hardship. There is sufficient space on the lot to meet all other setbacks of the regulation Article 31.

Construction of a home in compliance with this setback requirement will result in significant additional cost and will not accommodate the home which has been designed, depriving me of reasonable use of my property. The home is a ranch with finished basement, consisting of 3750 sq. ft. of finished space, consistent with all deed restrictions and subdivision requirements. Many of the lots in the subdivision contain significant slopes on the lots from the street to the back of the lot, which influences the placement of a home on the lot. There are 14 residences total in the subdivision, 10 of which have Raspberry Ct. addresses. Three of the 10 homes on Raspberry Ct. and one on Blackberry Hill Dr. do not comply with the front yard setback. Thus, granting of a waiver in the case of my lot will not result in an unreasonable circumvention of the requirement. There will be no impact on safety, health and welfare of the community by granting this waiver, as all other zoning and subdivision regulations will be achieved.

The neighbors immediately affected by this building are:

Adjoining properties – 3845 Raspberry Ct. Stephanie Villanueva and 3860 Raspberry Ct. Randy and Tammy Gibbons.

Facing property – 3854 Raspberry Ct. Craig and Cynthia Miculan.

There will be no view obstruction, no impact on storm drainage or other negative impact on the neighbors' property or comfortable enjoyment of their property.

I request that the Board grant my request for a waiver of the front yard setback for this structure.

P.C. Edward Burcham  
1842 Grovepointe Dr.  
Florence, KY 41042

ZIEGLER & SCHNEIDER, P.S.C.  
ATTORNEYS AT LAW

541 BUTTERMILK PIKE  
SUITE 500  
P.O. Box 175710

COVINGTON, KENTUCKY 41017-5710

TELEPHONE (859) 426-1300

FAX (859) 426-0222

WWW.ZSLAW.COM

WILBERT L. ZIEGLER  
DAVID A. SCHNEIDER  
JOSEPH L. BAKER  
WILLIAM J. DEUPREE, III  
THOMAS C. SMITH  
KAREN BURRIS BAKER  
MICHAEL A. DUNCAN  
LORI FIELDS-LEE  
ROBERT C. ZIEGLER  
SHARON SCHNEIDER ELLISTON  
MICHAEL L. BAKER  
DEBRA S. PLEATMAN  
MATTHEW C. SMITH  
STEVEN C. MARTIN  
MOLLY McEVROY BOH  
DANIEL A. HUNT

GREGORY W. HUGHES  
1898-1958  
ANDREW W. CLARK  
1914-1967  
D. COLLINS LEE  
1888-1949  
T.J. BRANDT  
1948-1994

REAL ESTATE FAX  
(859) 426-0333

April 8, 2013

Mr. P. C. Edward Burcham  
1842 Grovepointe Drive  
Florence, Kentucky 41042

Mr. Tom Schreiber  
Tom Schreiber Construction Inc.  
8344 Pleasant Valley Road  
Florence, Kentucky 41042

Boone County Board of Adjustment  
Boone County Administration Building  
2950 Washington Street, Room 317  
P.O. Box 958  
Burlington, Kentucky 41005

**Re: Front Yard Setback Variance – Lot# 11 Blackberry Hill Estate Subdivision**

To whom it may concern:

I write this letter as the representative for Charles O. and Ruth E. Duncan, developers of Blackberry Hills Estates Subdivision, my parents. I was pleased to sell Lot# 11 to Mr. Burcham, so that Mr. Schreiber could build a fine home which will enhance the aesthetics and values in Blackberry Hill. Because of the topography, terrain and the location of the creek, it is necessary for Messrs Schreiber and Burcham to construct the on-site septic system on the street side of the creek. Because of all these factors, a variance is reasonable and necessary to construct the new home.

The purpose of this letter is to document the developers' consent to the granting of a front yard setback variance so that the home may be built according to the plans. I have walked the site, have reviewed the plans, and am convinced that construction of the home in this location with the variance will be an asset to the neighborhood, will contribute to the increase in property values, and will have no negative implications for the subdivision. As a result of my review of the plans for the home, I also consent to the construction of the home according to the plans submitted.

I trust that you will find the foregoing acceptable. Appreciating your courtesies and cooperation, I write this with my

Best regards,



Michael A. Duncan  
Trustee of the Charles O. Duncan Trust, and  
Executor of the Estate of Ruth E. Duncan

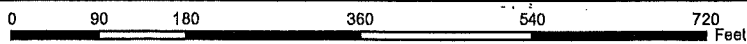
# 2012 AERIAL MAP

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1 inch = 200 feet

Boone County GIS

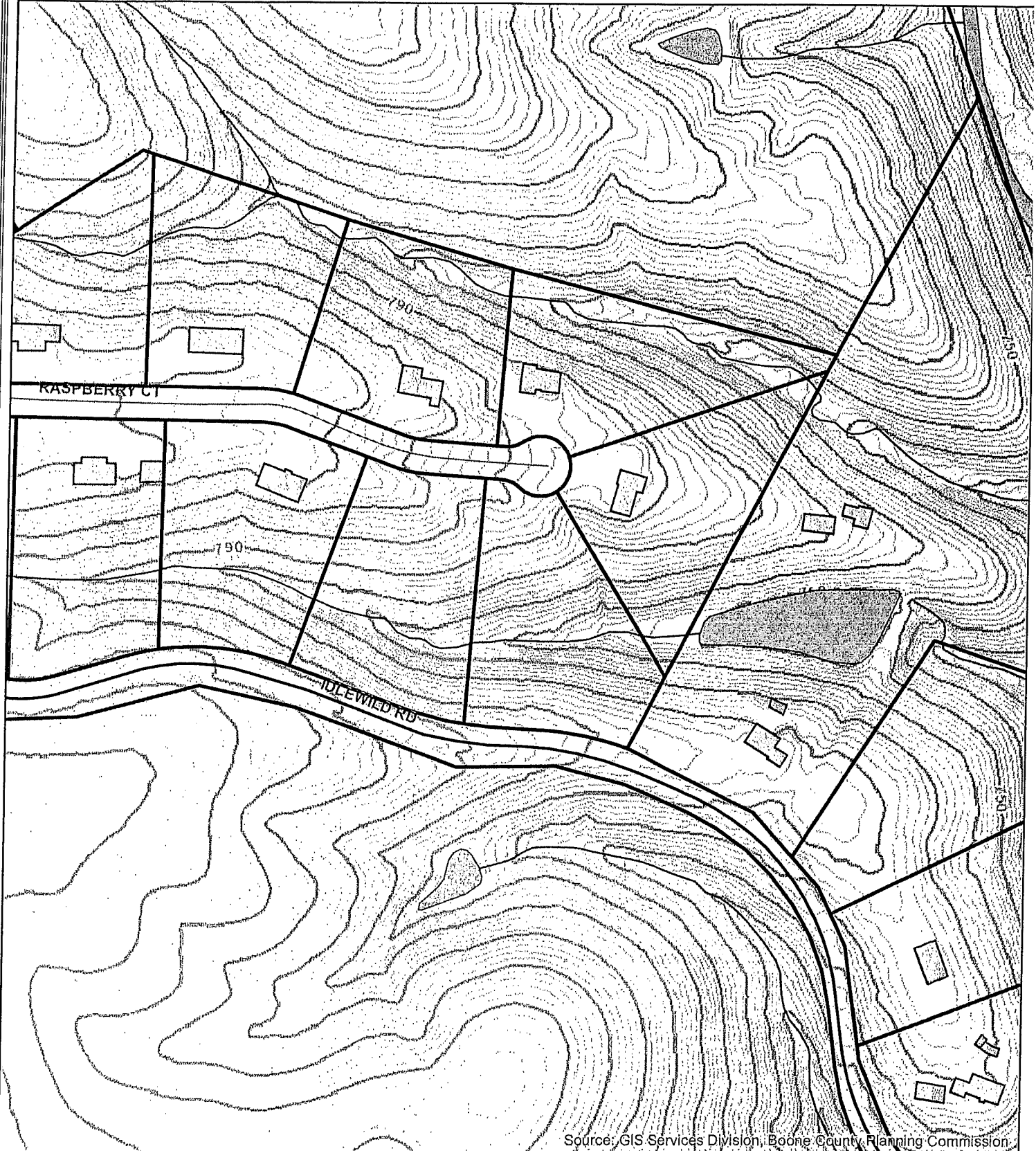
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# TOPOGRAPHICAL MAP

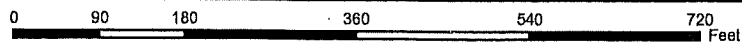
www.boonecountygis.com



Source: GIS Services Division, Boone County Planning Commission

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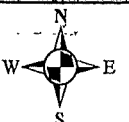
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1 inch = 200 feet

**Boone County GIS**

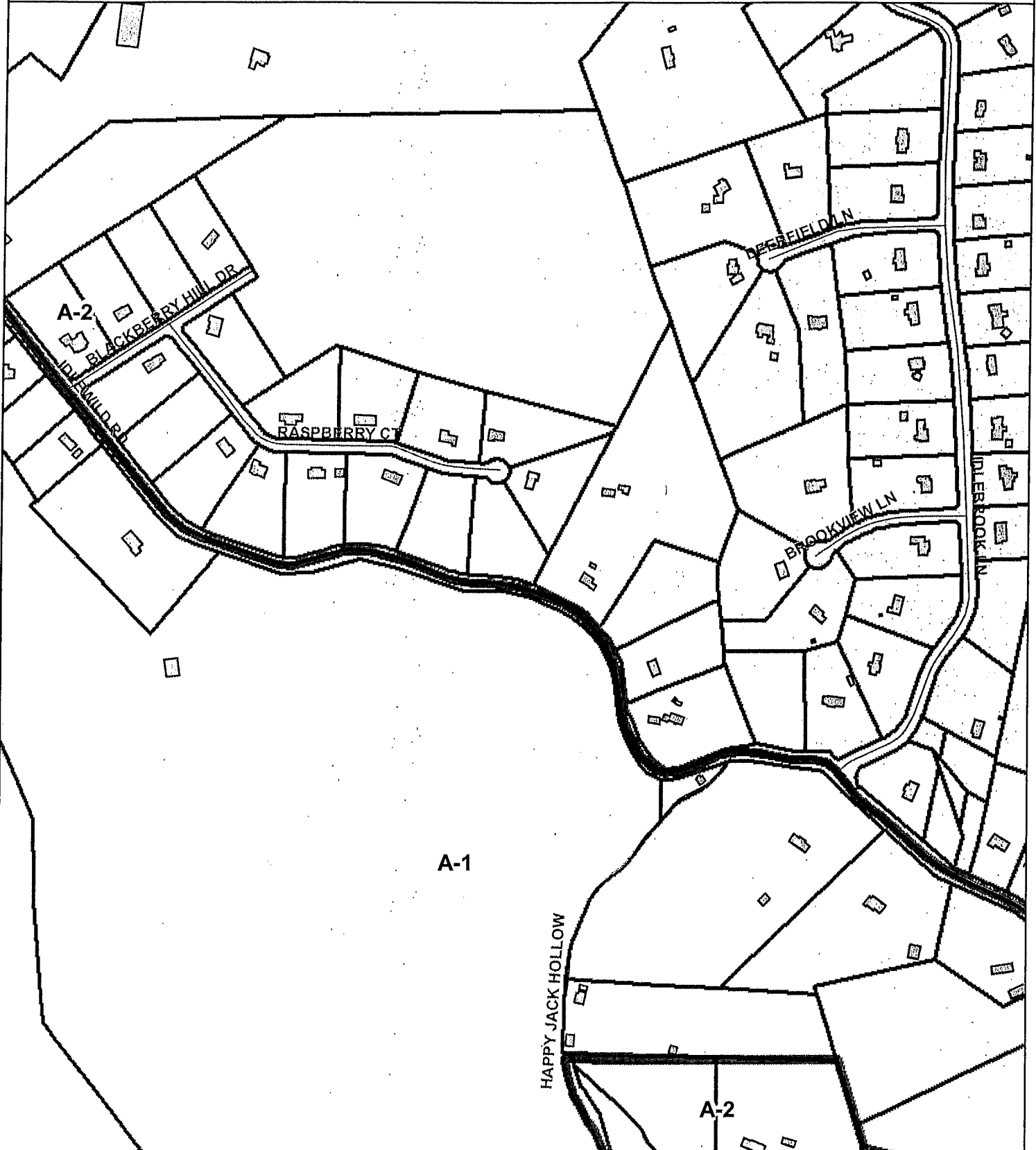
**"Putting Northern Kentucky on the Map"**



Boone County GIS

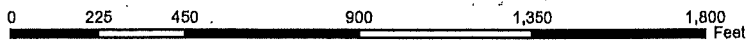
# ZONING MAP

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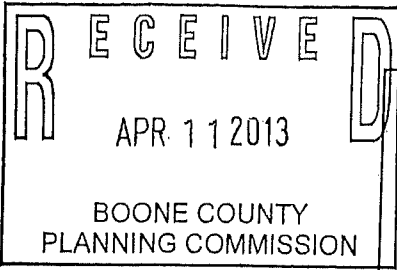
1 Inch = 500 feet

Boone County GIS

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Boone County GIS



APPLICATION FORM

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) 1. Boone [checked] Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_ (Check One) 2. \_\_\_\_\_ Conditional Use Permit [checked] Variance \_\_\_\_\_ Appeal \_\_\_\_\_ Change in Non-Conforming Use 3. Applicant's Name PC EDWARD BURCHAM Applicant's Address 1842 GROVEPOINTE DR. FLORENCE KY 41042 City State Zip Phone Number 859 282 9422 Fax No. 859 282 0527 E-Mail PEDBURCH@AOL.COM 4. Description of Request: VARIANCE FROM FRONT YARD SETBACK, SEE ATTACHMENT 5. Name of Development \_\_\_\_\_ 6. Location of Development Lot 11, Blackberry Hill Estates 7. Acreage Under Review 1.84 8. Lot Number and Name of Subdivision (if part of a subdivision) LOT 11 BLACKBERRY HILL ESTATES 9. Owner of Property PC EDWARD BURCHAM Address of Property Owner 1842 GROVEPOINTE DR 10. FLORENCE KY 41042 City State Zip Phone Number 859 282 9422 Fax No. 859 282 0527 E-Mail PEDBURCH@AOL.COM 11. Proposed Use(s) on Site SINGLE FAMILY RESIDENCE 12. Total Square Footage of Existing and/or Proposed Buildings 3750 13. Current Zoning on Property A-2 14. Deed Book 1014 Page No. 530 Group No. 2013 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? \_\_\_\_\_ 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: PC Edward Burcham (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: PC Edward Burcham (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

COPY

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

PC Edward Burcham  
1842 Grovepointe Drive  
Florence, KY 41042

2. ADDRESS OF PROPERTY  
Lot 11, Blackberry Hill Estates

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Blackberry Hill

4. DEED BOOK 1014      PAGE NO. 530      GROUP NO. 2013

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

Zoning Map Amendment:  
From  To

Conditional Use Permit

Development Plan

Conditional Zoning

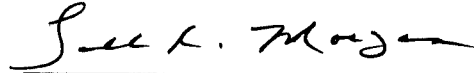
Subdivision Plat  
(Not Recorded)

Other:

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

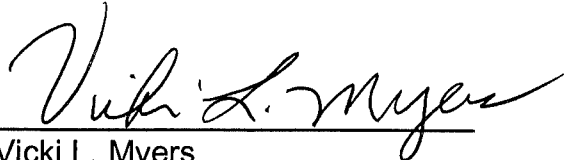
Todd K. Morgan, AICP, Senior Planner, Zoning Services  
Name and Title of Completing Official

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 May, 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:



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 May 9, 2013 Certificate of Land Use Restriction (#13-BCBOA-010-A), for PC Edward Burcham, Property Owner(s).

The following conditions will apply:

- 1. Applicant will provide documentation from Kentucky Division of Water indicating if permits are required for the fill that was added to the site. This documentation shall be submitted to Boone County Planning Commission before the Zoning Permit application for the house is approved.

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

DEED BOOK 1014      PAGE NO. 530      GROUP NO. 2013