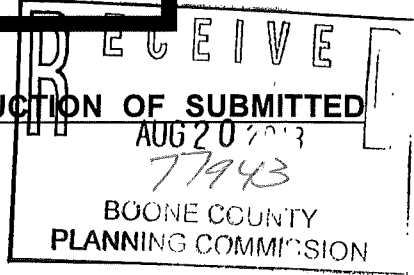


APPLICATION FORM

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)

- 1. (Check One) Boone [checked] Florence \_\_\_\_\_ Walton \_\_\_\_\_ Union \_\_\_\_\_
2. (Check One) Conditional Use Permit [checked] Variance \_\_\_\_\_ Appeal \_\_\_\_\_
3. Applicant's Name Jon Scott, Address 4800 DARTMOUTH DR. BURLINGTON KY 41005
4. Description of Request: REQUEST OF VARIANCE TO INCREASE HEIGHT OF FENCE ON CORNER SIDE YARD TO 6 FEET
5. Name of Development
6. Location of Development 4800 DARTMOUTH DR BURLINGTON, KY 41005
7. Acreage Under Review Approx. .50
8. Lot Number and Name of Subdivision (if part of a subdivision) DARTMOUTH WOODS - LOT #1
9. Owner of Property Jon Scott, Address of Property Owner SAME AS ABOVE
10. City, State, Zip, Phone Number, Fax No., E-Mail
11. Proposed Use(s) on Site WE HAVE A DOG THAT CAN EASILY JUMP OVER 4' FENCE, EXISTING STRUCTURE/RAMP PREVENTS FENCE BEING BUILT AS
12. Total Square Footage of Existing and/or Proposed Buildings none IT IS CURRENTLY ZONED
13. Current Zoning on Property SR-1
14. Deed Book 1042 Page No. 845 Group No. 2025
15. Is the site subject to a zone change?
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: [Signature] (Faxed, Photocopied or Scanned Signatures will NOT be Accepted)

ORIGINAL Applicant's Signature: [Signature] (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 8-20-18 Fee Received \$632.00 Receipt # 77943
2. Is application complete?  Yes  No
3. Staff Reviewer M. Schwartz
4. Scheduled Board Action Date 9/12/18
5. Board Action:  
 **Approved**  
 **Approved with Conditions** (See #6)  
 **Denial** (See #7)
6. Conditions of Approval: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
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](http://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

#2

APPLICANT: Jon Scott

LOCATION: 4800 Dartmouth Drive, Unincorporated Boone County, Kentucky

ZONING: Suburban Residential One (SR-1)

DATE: September 12, 2018

### PROPOSAL

The applicant is requesting a Variance so he can install a six (6) foot high fence within the corner side yard of his property located at 4800 Dartmouth Drive. He included a detail of the fence indicating that it will have an opacity of 50%.

### SITE HISTORY

1991 A zoning permit was issued for the construction of a single-family residential dwelling

1991 A zoning permit was issued for the construction of a deck

1992 A zoning permit was issued for the construction of a pool

### APPLICABLE REGULATIONS

- A. Section 220 of the Boone County Zoning Regulations states that one of the duties of the Board of Adjustment is to authorize such variances from the terms of this order as 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 a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations.
- B. Section 932 of the Boone County Zoning Regulations identifies fences as an accessory use within the Suburban Residential One (SR-1) district.
- C. Section 3153 of the Boone County Zoning Regulations states that fences are considered accessory structures and may not be located in the front yard or corner side yard (except as otherwise permitted under Section 3655).
- D. Section 3655 of the Boone County Zoning Regulations provides for the following regulations:
  - 1. Fences shall be permitted within all districts.
  - 2. The maximum height for fences within residential zones is six (6) feet and fences shall be required to be located within the side or rear yards.
  - 3. Fences shall be permitted within the front yard and corner side yards according to the following standards:
    - a. No fence can be taller than four (4) feet.
    - b. Fences shall be designed to have an opacity of fifty (50) percent or less.
    - c. No fence can be located within a public right-of-way nor can it be located in an area which will obstruct the sight triangle for any motorist or pedestrian.

E. Section 250 of the Boone County Zoning Regulations reads as follows:

The Board of Adjustment and Zoning Appeals shall have the power to hear and decide on applications for variances. Variance is defined as a departure from 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.

Variances are appropriate by reason of exceptional narrowness, shallowness or unusual shape of a site on the effective date of these regulations or amendment thereof or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the above dimensional terms of the zoning regulations would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners in the same zone. The dimensional terms pertaining to height, width and location involve such items as structures, parking space stalls, driveway aisles, and landscaped buffers and signs (excepting the number of signs). Lot frontages, the size of yards and open spaces refer to minimum yard dimensions such as building setbacks. The Board shall not possess the power to grant a variance to permit a use of land, building or structure, which is not permitted by the zoning regulation in the zone in question, or to alter the density requirements in the zone in question. Density is defined as the number of units or square footage of a building per net acre of land developer. A variance runs with the land and is transferable to any future owner of the land, but it cannot be transferred by the applicant to a different site.

All adjoining property owners shall be notified of the public hearing at least two weeks in advance. The applicant shall be responsible for supplying the names and addresses of all adjoining property owners and shall pay costs of notification. Records maintained by the property valuation administrator may be relied upon conclusively to determine the identity and address of property owners. A sign, that announces the fact that a Board of Adjustment and Zoning Appeals hearing has been scheduled, shall be posted on the subject property at least 7 days prior to the public hearing.

F. Section 251 of the Boone County Zoning Regulations reads as follows:

A variance from the terms of this order shall not be granted by the Board of Adjustment and Zoning Appeals unless and until a written and signed application for a Variance is submitted to the Zoning Administrator and the Board of Adjustment and Zoning Appeals, along with any additional information the Board may find appropriate.

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 a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
  - 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 of 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 regulations 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.
- G. Section 930 of the Boone County Zoning Regulations states that "The purpose of the Suburban Residential One district is to provide a low density, residential environment whose dwelling types and densities are typical of a suburban character. It is also to provide limited or passive and active recreational uses that are appropriate to the permitted uses in the district. Suburban Residential One districts will be located on lands within established urban areas where adequate infrastructure facilities and services are available or proposed."

RELATIONSHIP TO THE COMPREHENSIVE PLAN

- A. The 2010 Boone County Comprehensive Plan's 2035 Future Land Use Plan designates the site in question for "Suburban Density Residential" uses. This designation is defined as single-family housing of up to four units per acre.
- B. The following 2017 Boone County Comprehensive Plan's Goals and Objectives apply to this application:

Land uses and zoning decisions shall strive to balance the rights of landowners with the rights of neighbors and the community (Overall Goal A, Objective 4).

Promote quality of life amenities to retain current residents and attract new residents in order to have a stable and diversified population (Demographic Goal A, Objective 3).

Home ownership shall be encouraged and incentivized as well as redevelopment and renovation of deteriorating housing stock (Demographics Goal B, Objective 3).

SITE CHARACTERISTICS

- A. The approximate 0.5 acre property is located at the southeast corner of the intersection of Dartmouth Drive with Conrad Lane, within the Dartmouth Woods Subdivision. The property is currently occupied by a detached single-family residential dwelling. There is an existing sidewalk along the north side of the dwelling, terminating at a handicapped ramp, providing access to the rear of the dwelling. Access to the property is from Dartmouth Drive, a local roadway. Conrad Lane is designated as a collector roadway. The property is located within the 65 DNL noise contour of the airport.
- B. The following table provides required setbacks, existing building setbacks, and the proposed fence setbacks:

	Required	Existing Building	Proposed Fence
Front Yard	30 feet	38 feet	55 feet
Rear Yard	30 feet	56 feet	5 feet (can be on property line)
Side Yard (south)	5 feet	60 feet	15 feet
Side Yard (north)	15 feet	51 feet	35 feet

- C. Several other properties within the vicinity of the site in question have fences in their rear yards.

### SURROUNDING LAND USES AND ZONING

North: Single-family residential dwelling and vacant land (RS)

South: Single-family residential dwellings (SR-1)

East: Single-family residential dwellings (SR-1)

West: Single-family residential dwellings (SR-1)

### PROPOSED DEVELOPMENT

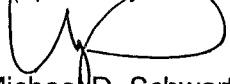
The applicant is proposing the following:

- A. Construction of a six (6) foot high privacy fence within the side and year yards (permitted).
- B. Construction of a six (6) foot high, 50% opaque, fence within the corner side yard (maximum 4 foot height is permitted).

### CONCLUSION

KRS 100.241 and Section 220 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,

  
Michael D. Schwartz  
Planner

MDS/ss

### Attachments

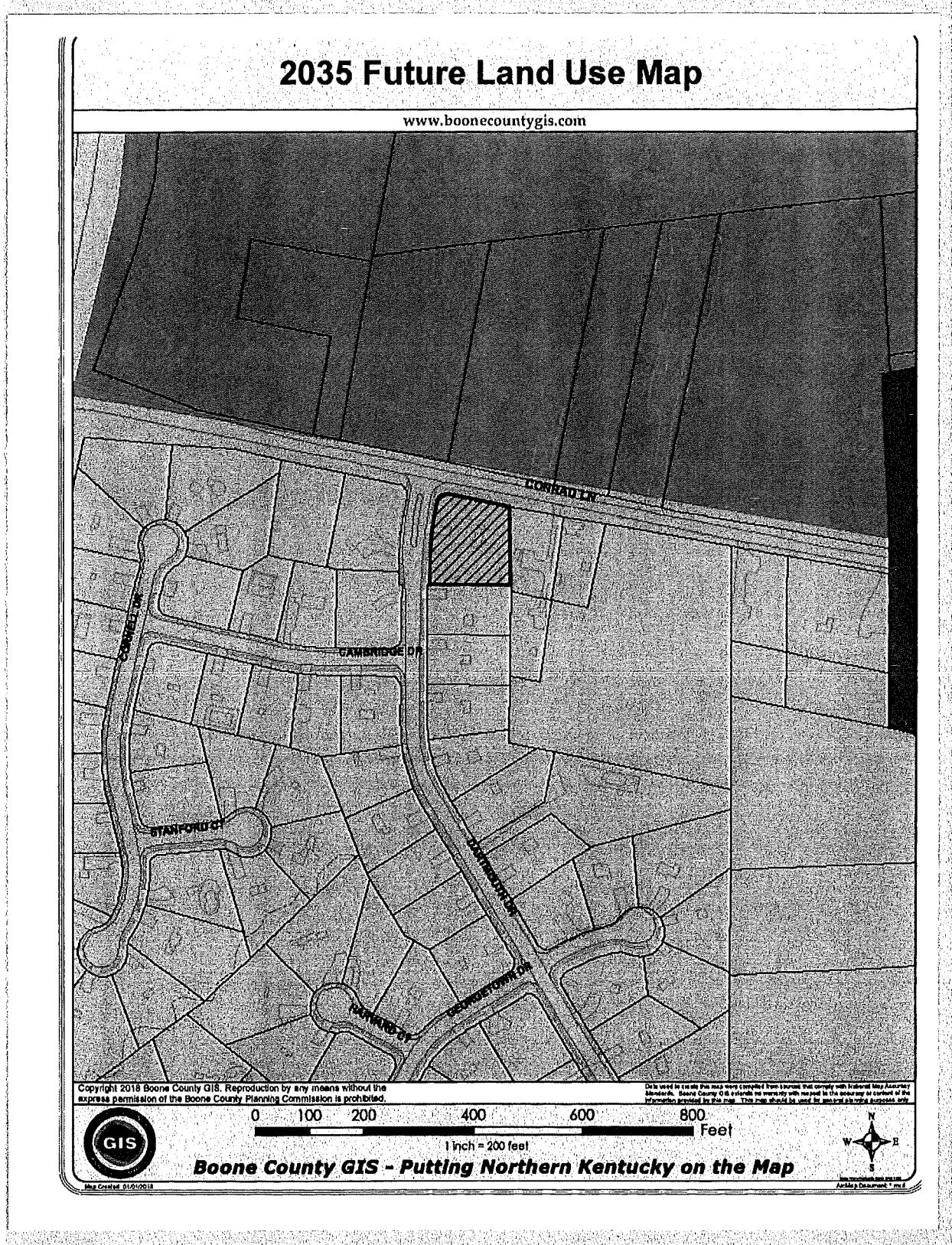
- \*Vicinity Map
- \*Aerial Map
- \*Topographic Map
- \*Zoning Map
- \*2035 Future Land Use Map
- \*Application
- \*Site Plan











APPLICATION FORM

**BOARD OF ADJUSTMENT  
AND  
ZONING APPEALS ACTION  
BOONE COUNTY PLANNING COMMISSION**

RECEIVED  
AUG 20 2018  
77943  
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  Florence  Walton  Union
- (Check One)  
2.  Conditional Use Permit  Variance  Appeal  
 Change in Non-Conforming Use
3. Applicant's Name Jon Scott  
Applicant's Address 4800 DARTMOUTH DR.  
BURLINGTON KY 41005  
City State Zip  
Phone Number (812) 584-4167 Fax No. \_\_\_\_\_ E-Mail \_\_\_\_\_
4. Description of Request: REQUEST OF VARIANCE TO INCREASE HEIGHT OF FENCE ON CORNER SIDE YARD TO 6 FEET
5. Name of Development \_\_\_\_\_
6. Location of Development 4800 DARTMOUTH DR.  
BURLINGTON, KY 41005
7. Acreage Under Review Approx. .50
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Address of Property Owner SAME AS ABOVE
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City State Zip  
Phone Number N/A Fax No. \_\_\_\_\_ E-Mail \_\_\_\_\_
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13. Current Zoning on Property SR-1
14. Deed Book 1042 Page No. 845 Group No. 2025
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If yes, give date of approval \_\_\_\_\_
16. Have you submitted a Site Plan with this request? YES
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ORIGINAL Applicant's Signature: [Signature]  
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(over)

**BOARD OF ADJUSTMENT AND  
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4. Scheduled Board Action Date \_\_\_\_\_
5. Board Action:  
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 Approved with Conditions (See #6)  
 Denial (See #7)
6. Conditions of Approval: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
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](http://www.boonecountyky.org) - Web Page**

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6' Fence Height

15'

15'

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

Jon Scott  
4800 Dartmouth Drive  
Burlington, KY 41005

2. ADDRESS OF PROPERTY

4800 Dartmouth Drive  
Burlington, KY 41005

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Jon Scott

4. DEED BOOK 1042

PAGE NO. 845

GROUP NO. 2025

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

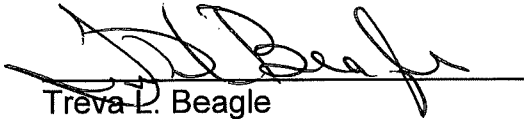
Michael Schwartz, Planner  
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledged before me by Michael Schwartz

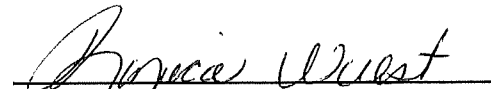
on behalf of the Boone County Planning Commission this 13 day of September, 2018.



Treva L. Beagle  
Notary ID 588897  
NOTARY PUBLIC, State at Large

My commission Expires:  
November 12, 2021

This instrument was prepared for recording purposes only by:



Ronica Wuest  
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.)