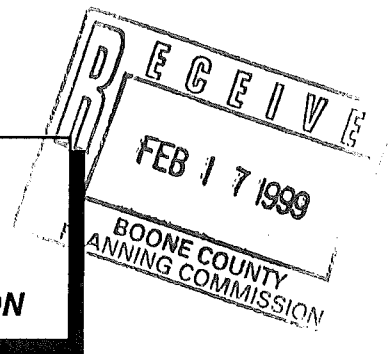


APPLICATION FORM

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 [checked] Florence _____ Walton _____ Union _____
2. (Check One) Conditional Use Permit [checked] Variance _____ Appeal _____
3. Applicant's Name JAMES AND MARY BADAR
Phone Number 606-384-4805 Fax No.
Applicant's Address 9287 CAMP ERNST RD
BURLINGTON, KY 41005
4. Description of Request: REQUEST A VARIANCE FOR FRONT YARD SETBACK FOR A FLAG LOT (LOT 26 BURLINGTON WOODS SUBDIVISION) FROM 30' TO 5' DUE TO TOPOGRAPHY RELATIVE TO LOT LINES
5. Name of Development BURLINGTON WOODS SUBDIVISION
6. Location of Development RODGERS LANE, BURLINGTON
7. Acreage Under Review LOT #26
8. Lot Number and Name of Subdivision (if part of a subdivision) LOT #26 BURLINGTON WOODS SUBDIVISION
9. Owner of Property JAMES AND MARY BADAR
Phone Number of Owner 606-384-4805 / 606-391-5370 10.
Address of Property Owner BURLINGTON KY 41005
11. Proposed Use(s) on Site SINGLE FAMILY RESIDENTIAL
12. Total Square Footage of Existing and/or Proposed Buildings 2100 sq' PROPOSED
13. Current Zoning on Property SR-1
14. Deed Book 728 Page No. 203 Group No. 3792 2030
15. Is the site subject to a zone change? NO
If yes, give date of approval N/A
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.

Applicant's Signature: James S Badar Mary E. Badar 2/17/99

Property Owner's Signature: James S Badar Mary E. Badar 2/17/99

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 2-17-99 Fee Received \$414.00 R# 19508
2. Is application complete? Yes No
3. Staff Reviewer KRISTE COPPING
4. Scheduled Board Action Date 3/10/99 6:30 PM.
5. Board Action:
 Approved (no conditions)
 Approved with Conditions (See #6)
 Denial (See #7)
6. Conditions of Approval: _____

7. Reasons for Denial: _____

Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005
(606) 334-2196 Phone
(606) 334-2264 Fax

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: James and Mary Badar
LOCATION: 6274 Satinwood Drive, Lot 26 Burlington Woods Subdivision,
Boone County, Kentucky
ZONING: Suburban Residential One (SR-1)
Date: March 10, 1999

Proposal

The applicant is requesting a Variance for a reduction in the required 30 foot front yard setback for a lot in a Suburban Residential One (SR-1) zone. The property is located at 6274 Satinwood Drive. The lot is a flag lot located at the end of a cul-de-sac and is known as Lot #26 of the Burlington Woods Subdivision. The applicant desires to construct a 2100 square foot single family home on the lot. They are requesting a reduction in the front yard setback from 30 feet to five feet.

The applicant submitted the following exhibits with the application:

- Exhibit A – Letter from Cincinnati Land Development
- Exhibit B – Letter from James and Mary Badar detailing their request
- Exhibit C – List of Adjoining Property Owners recorded at PVA office as of 2/16/99
- Exhibit D – Site plan of the property
- Exhibit E – Copy of deed for subject property
- Exhibit F – Letter from Raymond and Elizabeth Stutler

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. 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.

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 a nuisance to the

- 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.

Surrounding Land Uses and Zoning

The surrounding land is zoned as Suburban Residential One (SR-1). The surround lots are being developed as single family home lots. Lot 25 which fronts on Satinwood Drive in front of the subject property (Lot 26) has not yet had a house constructed on it. There is a creek located to the north of Lot 26 along the rear property line.

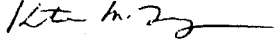
Staff Concerns/Comments

1. The lot has significant topographic limitations. The lot drops off approximately fifty feet in the rear to a creek. The lot slopes up a hillside to the west. The relatively flat space available for construction of house is limited in size. As this is a flag lot, the house will 155 feet from the street right-of-way if the variance is granted.
2. As the rear of Lot 25 is wooded, most likely a house constructed on Lot 25 will be oriented close to Satinwood Drive and not the rear of the lot. There is a 30 foot rear lot setback for Lot 25. This combined with the proposed five foot front yard setback on Lot 26 will result in a 35 foot distance between structures on the two lots.
3. Although the variance request is for a front yard setback, the side of the house will be oriented to the front of the lot. The required side yard setback is five feet minimum and a total of 15 feet for both sides. The front of the house will be oriented towards the side of the lot and will set back from the side approximately 45 feet.

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 grant the applicant's request for a front yard variance. The requested variance is to reduce the required front yard setback from 30 feet to five feet. It is the staff's opinion that granting 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.

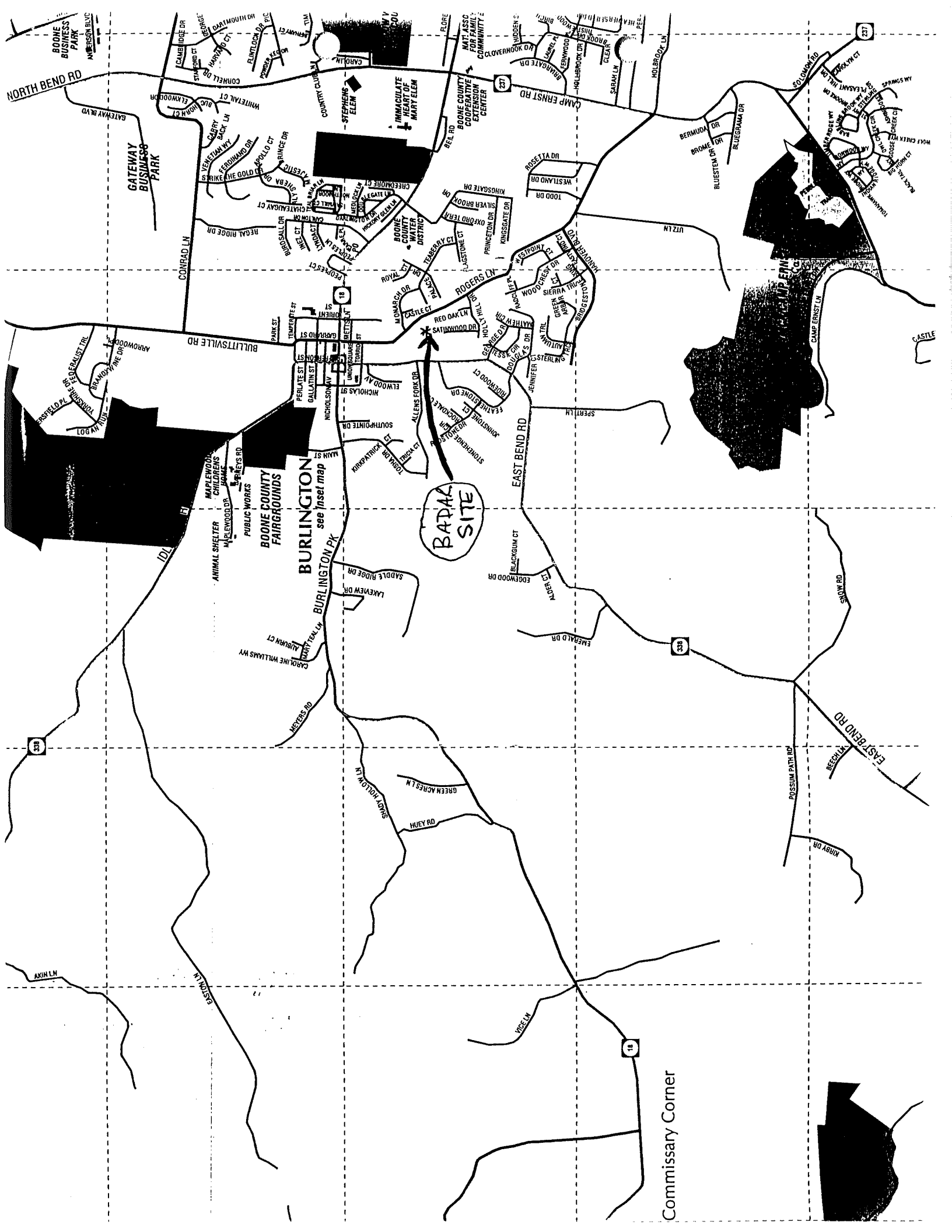
Respectfully submitted,



Kristen M. Lowry, AICP

Attachments

- Location Map
- Site Map
- Exhibit A
- Exhibit B
- Exhibit C
- Exhibit D
- Exhibit E
- Exhibit F



BADAK SITE

BURLINGTON
see inset map

BOONE COUNTY FAIRGROUNDS

GATEWAY BUSINESS PARK

BOONE COUNTY COOPERATIVE FAMILY COMMUNITY CENTER

BOONE COUNTY WATER DISTRICT

MAPLEWOOD CHILDREN'S ANIMAL SHELTER

PUBLIC WORKS

Commissary Corner

33B

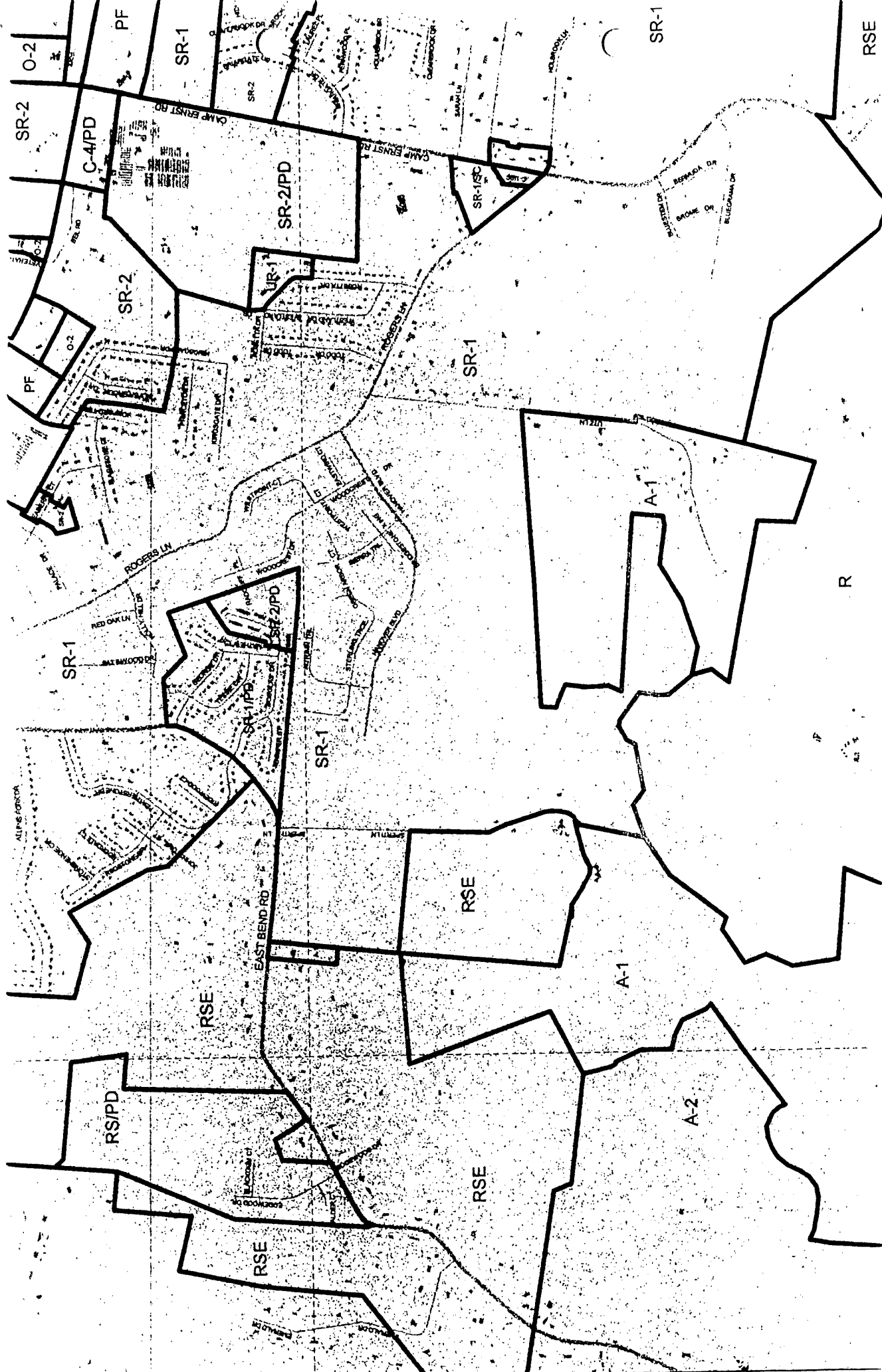
18

33B

237

33B

18



CINCINNATI LAND DEVELOPMENT CORPORATION
GRANTS PERMISSION FOR A VARIATION TO TIM & MARY
BAGAN FOR LOT 26 BURLINGTON WOODS. CINCINNATI
LANDS OWNS LOTS 25-27-24-49 BURLINGTON WOODS

CINCINNATI LAND DEVELOPMENT
J. D. Himmelstein U.P.
J.D. Himmelstein
2/17/99

Boone County Planning Commission
2995 Washington Street
Burlington, KY 41005

Exhibit B

James and Mary Badar
8287 Camp Ernst
Burlington, KY 41005
February 16, 1999

Members of the Board,

James and Mary Badar formally request the Board of Adjustments and Zoning Appeals Action of the Boone County Planning Commission to grant a variance for front yard set back for a flag lot (lot 26 of Burlington Woods Subd.) from 30' to 5' due to the topography relative to the lot lines.

Description of lot:

-Lot 26 of Burl. Woods is basically a wooded, hillside lot. A narrow area at the end of the existing drive was graded and filled. This is appx. 38' from the rear lot line of lot 25. Beyond this is appx 60' of steep, wooded hillside tapering appx 50' further to a creek bank at the rear lot line.

-As viewed from the road, a large natural drain from the Stutler property and lot 25, runs through the left, center of the hilltop, the widest portion of the house site, appx. 50'. Beyond this is the steep, wooded hillside.

Background:

We purchased lot 26 of Burl. Woods Subd. on 11/6/98 from J.D. Himmelstein, VP of Cincinnati Land Development. A phone call to Planning and Zoning just prior to our purchase indicated the yard set backs for a flag lot were dictated by house orientation. With this information, we were comfortable with the site location. However, on Feb. 16, 1999, a follow up with Planning and Zoning revealed otherwise. We were then informed that flag lot yard set backs were determined by lot lines and NOT house orientation. This meant that even though the side of the house would face the rear of lot 25, we would have to maintain a 30' setback. This cannot be done without the variance because of the narrowness of the site location.

Comment:

Looking at a simple plat would indicate a large area to locate a house. However, when looking at the lot on a topo map, it becomes evident of the predicament we are in. Maintaining a 30' s/b would virtually eliminate any front yard due to driveway, turn-a-round and culvert as well as the rear yard because the house would have to be pushed to the Stutler property line. We anticipated add'l. expense in purchasing a flag lot in length of drive and utility access. An enormous expense in excavating, stone, add'l. drive, culverts and foundation would cause an extreme financial burden, unanticipated.

A variance from 30' to 5' front yard set back would allow us to pull the house site up and out of the natural drain as well as off the steep hillside. There is also a buffer of trees at the back of lot 25 that would maintain privacy of lots 25 and 26. This request would in no way detract from the intended appearance of the subdivision.

A note is attached from J.D.Himmelstein, VP of Cincinnati Land Dev., owner of lots 24,25,27 and 47, indicating his acceptance of our variance request.

We are grateful for the Boards review of this request. We pray you find in our favor as our current home is now under contract with an expected closing date of March 26, and we need to break ground.

Please contact us if any further information is needed prior to the hearing date.

Respectfully,
James and Mary Badar

**VARIANCE REQUEST C JAMES AND MARY BADAR
LOT 26, BURLINGTON WOODS SUBDIVISION**

Exhibit C

LIST OF ADJOINING PROPERTY OWNERS recorded at PVA office as of 2/16/99;

Lot 48

Pauline A. Lant
6280 Red Oak Ln.
Burlington, KY 41005

Lots 24,25,27,47

Cincinnati Land Development
11865 Enyart Rd.
Loveland, OH 45140

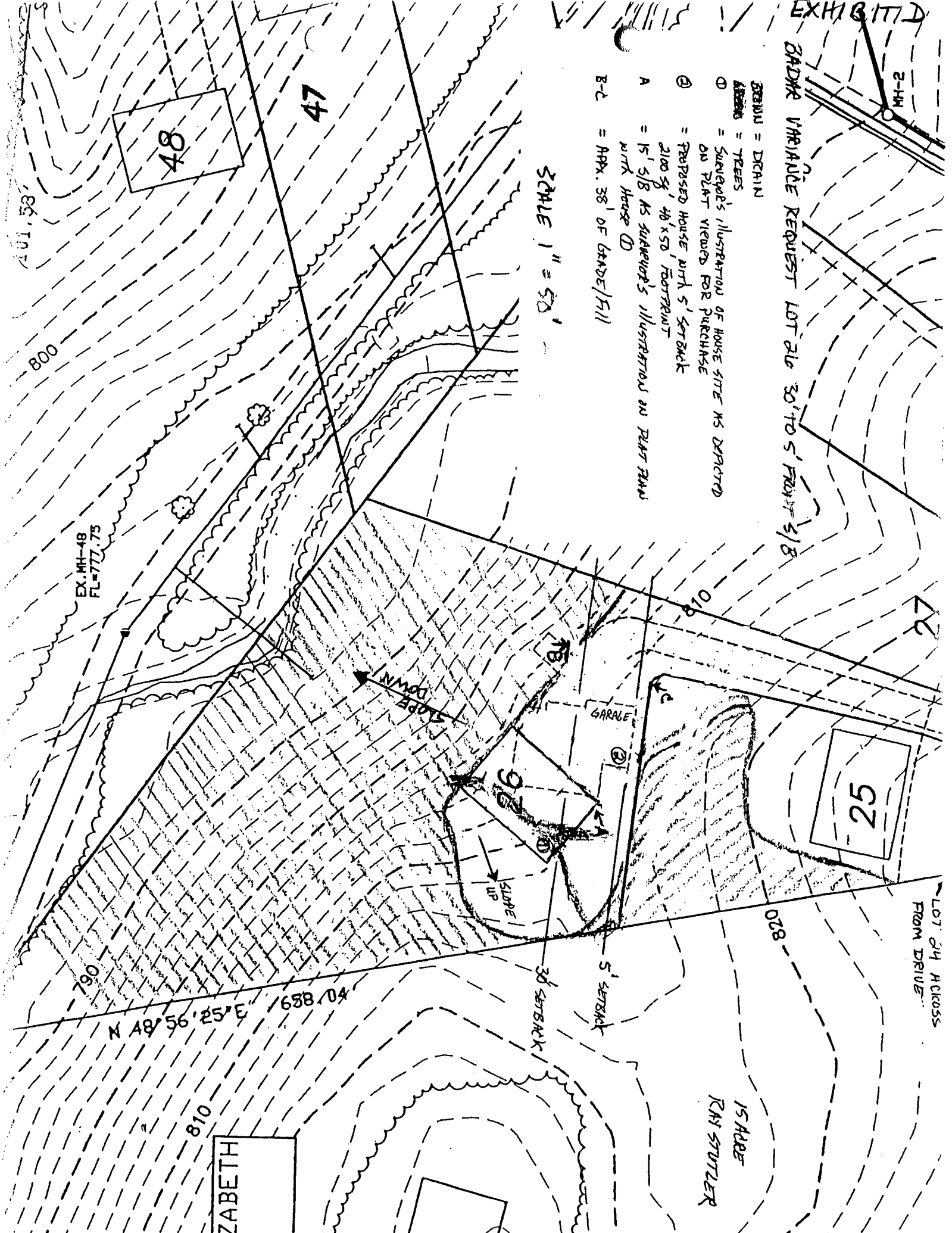
15 ac. Stutler's

Raymond and Elizabeth Stutler
6168 East Bend Rd.
Burlington, KY 41005

BADDER VARIANCE REQUEST LOT 216 30' TO S FRONT 5' B

- ① = DRAIN
- ② = TREES
- ③ = SURVEYOR'S ILLUSTRATION OF HOUSE SITE AS DEPICTED ON PLAT VIEWED FOR PURCHASE
- A = PROPOSED HOUSE WITH 5' SETBACK
- B = 15' SIB AS SURVEYOR'S ILLUSTRATION ON PLAT 216 WITH HOUSE ①
- B-C = APPX. 38' OF GRADE/FILL

SCALE 1" = 50'



EX. MH-48
FL-772.75

101.53

800

800

N 48° 56' 25" E
40.889

810

ZABETH

47

48

25

LOT 214 ACCESS
FROM DRIVE

15' SIB
RAY STUTLER

30 SETBACK

5' SETBACK

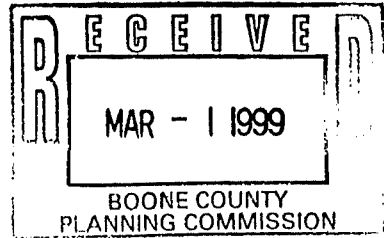
GARAGE

SLOPE
DOWN

SLOPE
UP

MH-2

Exhibit F



Boone County Planning Commission
2995 Washington Street
Burlington, KY 41005

Raymond and Elizabeth Stutler
6168 East Bend Road
Burlington, KY 41005
March 1, 1999

re: **James and Mary Badar request for variance.**

Members of the Board,

We are aware of the request for a variance to set back applied for by James and Mary Badar, owners of lot 26 of Burlington Woods Subdivision. As adjoining property owners, we would like to state our opinion regarding their request.

We are not opposed to their request and feel the granting of this variance would aid them in building their home without degrading the appearance intended by the current regulations.

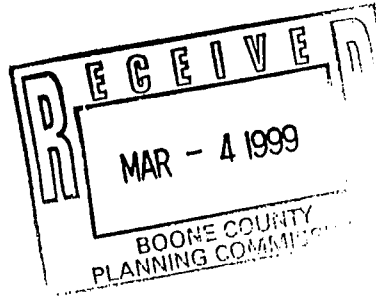
The Boards consideration of this statement is appreciated.

Sincerely,

A large, stylized handwritten signature in cursive script, appearing to read "Raymond and Elizabeth Stutler".

Raymond and Elizabeth Stutler

A handwritten signature in cursive script, appearing to read "Elizabeth Stutler".



Boone County Planning Commission
2995 Washington Street
Burlington, KY 41005

Pauline A. Lant
6280 Red Oak Lane
Burlington, KY 41005
March 1, 1999

re: **Request for a variance to set back by James and Mary Badar.**

Planning Committee,

As owner of lot 48 of Burlington Woods Subdivision, I am aware of the request for a variance to set back for the adjoining lot 26 owned by James and Mary Badar.

I feel that the granting of this request to reduce the set back minimum of this flag lot due to the topography, would not hurt the appearance of the subdivision as intended by the current regulations. This should allow the Badar's to orient their house in a practical manner and still maintain space between dwellings.

The consideration of this statement is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Pauline A. Lant".

Pauline A. Lant

GENERAL WARRANTY DEED

CINCINNATI LAND DEVELOPMENT CORPORATION, an Ohio corporation, Grantor, in consideration of \$28,000 paid, receipt of which is hereby acknowledged, hereby grants in fee simple with covenants of General Warranty, to

JAMES S. BADAR AND MARY E. BADAR, husband and wife, for their joint natural lives, remainder to the survivor of them, his or her separate heirs and assigns, forever, 8287 Camp Ernst Road Burlington, Kentucky 41005

Grantee, whose address is:

the following described property:

Situate in City of Burlington, County of Boone, State of Kentucky and being more particularly described as follows: Being all of Lot No. 26 of Burlington Woods Subdivision, Section 3 as the same is more particularly set forth and described on the plat of said subdivision, which plat is recorded in Plat Book 449B of the Plat Records of Boone County, Kentucky Clerk's Office. GROUP - #3792 Subject to easements and restrictions of record.

Prior Instrument Reference: VOL. 578 PAGES 33 through 39 of the Deed records of Boone County KY.

To have and to hold the above described premises with all appurtenances thereunto pertaining unto the Grantee, its successors and assigns forever.

And the Grantor for itself, its successors and assigns, does covenant with the Grantee, its successors and assigns, that it is lawfully seized of the within described property, with good and lawful right to sell and convey, and that the same is free and clear of all encumbrances whatsoever except real estate taxes due and payable in the year 1998, which Grantee hereby assumes and agrees to pay and excepting restrictions and easements of record.

IN WITNESS WHEREOF, the Grantor has executed this Instrument on this 6th day of November, 1998.

Signed and acknowledged in the presence of:

CINCINNATI LAND DEVELOPMENT CORPORATION, An Ohio Corporation

By: James P. Dunn, President

By: J.D. Himmelstein, Vice President

Witness: Susan L. Berger, Mary Ann Ditzgottick

STATE OF OHIO, COUNTY OF HAMILTON, SS:

The foregoing instrument was acknowledged before me this 6th day of November, 1998 by James P. Dunn, President and J.D. Himmelstein, Vice President of Cincinnati Land Development Corporation, an Ohio corporation, on behalf of the corporation.



Susan L. Berger, Notary Public, State of Ohio, My Commission Expires Mar. 31, 2009

CERTIFICATION

SELLER'S STATEMENT:

Comes Cincinnati Land Development Corporation, an Ohio Corporation, whose mailing address is 11340 Montgomery Road, Cincinnati, OH 45249 and states that the full consideration paid for real estate located at lot #26, 6274 Satinwood Drive, Burlington KY 41005 is \$28,000.00

SELLER:
Cincinnati Land Development Corporation

By: James P. Dunn
James P. Dunn, President

STATE OF OHIO)
COUNTY OF HAMILTON)

Subscribed and sworn to me by James P. Dunn, President of Cincinnati Land Development Corporation, An Ohio Corporation this 6th day of November, 1998.

My Commission Expires:



Susan L. Berger
Susan L. Berger
Notary Public, State of Ohio
My Commission Expires Mar. 31, 2000

BUYER'S STATEMENT:

Comes James S. Badar and Mary E. Badar, husband and wife and states that our mailing address is 8287 CampErnst Road, Burlington Kentucky 41005 and that the full consideration paid to Cincinnati Land Development Corporation, An Ohio corporation for real estate located at lot #26, 6274 Satinwood Drive, Burlington KY 41005 is \$28,000.00.

BUYERS:

James S. Badar
James S. Badar
Mary E. Badar
Mary E. Badar

STATE OF KENTUCKY)
COUNTY OF BOONE)

Subscribed and sworn to before me by _____ of James S. Badar and Mary E. Badar, husband and wife, this 16 day of Feb, 1999.

My Commission Expires:
1-8-00

Deanna Hicks
Notary Public

This instrument prepared by:
Susan L. Berger
Susan L. Berger, for CLDC
11340 Montgomery Rd., Cincinnati, OH 45249

COMMONWEALTH OF KENTUCKY
COUNTY OF BOONE

I, _____, Clerk of the County Court, for the aforesaid, do hereby certify that this instrument of writing from CINCINNATI LAND DEVELOPMENT CORPORATION, to JAMES S. BADAR and MARY E. BADAR was this day presented to me in my office, certified as above, and this day left for record at _____ M. Whereupon the same, the foregoing certificate and this certificate were duly recorded in my office. Given under my hand this _____ day of _____, 19____.

CLERK
By: _____ D.C.

COPY

CLUR # 99-BCBOA-004-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)

James & Mary Badar
8287 Camp Ernst Road
Burlington, KY 41005

2. ADDRESS OF PROPERTY

Lot #26 Burlington Woods
Burlington, Kentucky 41005

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

Burlington Woods

DEED BOOK: 728

PAGE NO.:203

GROUP NO.: 2030

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

Zoning Map Amendment: From To Conditional Use Permit

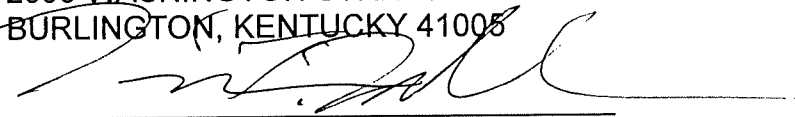
Development Plan Conditional Zoning

Subdivision Plat (Not Recorded) Other:

Variance

5. 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
2995 WASHINGTON STREET
BURLINGTON, KENTUCKY 41005



SIGNATURE OF COMPLETING OFFICIAL

Kevin T. Wall, AICP/CDT, Director of Zoning Services
Name and Title of Completing Official

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 March 10, 1999 Certificate of Land Use Restriction (# 99 BCBOA-004-A), for James and Mary Badar, Property Owners.

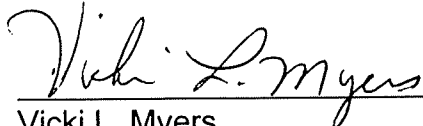
The following conditions will apply: NO CONDITIONS

The approved Variance as well as the preceding conditions apply to the property described in: DEED BOOK 728 PAGE NO. 203 Group No. 2030

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

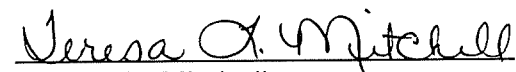
Subscribed, sworn to, and acknowledge before me by Kevin T. Wall behalf of the
Boone County Planning Commission this 12th day of April 1999.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 1999

This instrument was prepared for recording purposes only by:



Teresa L. Mitchell
Boone County Planning Commission
2995 Washington Street
Burlington, Kentucky 41005

NO TITLE EXAMINATION

(Legal Description and source of Title and Group Number furnished by the applicant.)