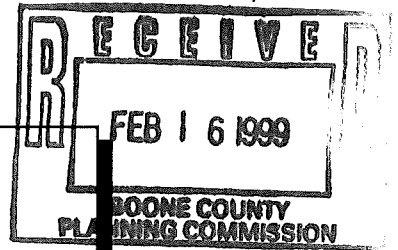


APPLICATION FORM



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 _____ Variance [checked] Appeal _____
3. Applicant's Name TODD ENGLE & ALANA ENGLE
Phone Number 606-341-9203 Fax No:
Applicant's Address 201 MCCRAE LANE FT. WRIGHT, KY 41014
City State Zip
4. Description of Request: Split Lot from 6.911 ACREAGE TO 2 LOTS 1 LOT IN FRONT AND 1 FLAG LOT IN REAR OF LOT
5. Name of Development KIRBY SUB DIVISION
6. Location of Development KIRBY DRIVE, BURLINGTON, KY
7. Acreage Under Review 6.911 ACRES
8. Lot Number and Name of Subdivision (if part of a subdivision) LOT # 18 KIRBY SUBDIVISION
9. Owner of Property DEAN & CLENDIA LOWER
Phone Number of Owner 606-384-2682
Address of Property Owner 1851 WHISPENY TRAILS KY, 41091
City State Zip
10.
11. Proposed Use(s) on Site HOME "NEW" HOME CONSTRUCTION
12. Total Square Footage of Existing and/or Proposed Buildings 3200 SQUARE FEET
13. Current Zoning on Property
14. Deed Book 20 Page No. 33 Group No. 2062
15. Is the site subject to a zone change?
If yes, give date of approval
16. Have you submitted a Site Plan with this request? YES.
17. Have you submitted a list of adjoining property owners with this request? NO.
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: [Signature]

Property Owner's Signature: [Signature]

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 Feb 11, 1999 Fee Received 414.⁰⁰ R#19474
2. Is application complete? Yes No
3. Staff Reviewer Kris Lowrey
4. Scheduled Board Action Date 3/10/99 6:30 AM. Defered
5. Board Action: 4/14/99 6:30 AM.
 Approved
 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: Todd & Alana Engle
LOCATION: Lot 18, Kirby Subdivision, Kirby Drive, Boone County,
Kentucky
ZONING: Agricultural Estate (A-2)
Date: March 10, 1999

Proposal

The applicant is requesting a variance for a reduction in the required lot frontage from the required 150 feet to 139.08 feet for a lot in a Agricultural Estate (A-2) zone. The property is located at the cul-de-sac at the end of Kirby Drive and is known as Lot 18. The lot is currently 6.971 acres. The owner proposes to divide the property into two lots. Lot one would be approximately 2.8 acres with a lot frontage of 139.08 feet. Lot two would be a flag lot of approximately 4.1 acres with a 20 foot wide road frontage. The applicant proposes to construct a 3200 square foot single family home on Lot 1.

The applicant submitted the following exhibits with the application:

Exhibit A – Plat of proposed division for Todd & Alana Engle

Exhibit B – Copy of deed for subject property

A topographic map of the site was prepared by staff and is included as Exhibit C.

Exhibit C – Kirby Drive topo.

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 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.

Article 3, Section 315 of the Boone County Subdivision Regulations establishes standards for the creation of flag lots.

Surrounding Land Uses and Zoning

The surround land is zoned as Agricultural Estate (A-2). The adjacent lots have been developed with single family homes. The land behind the lot to the west is undeveloped.

Staff Concerns/Comments

1. The lot consists of a gently sloping mown ridge top with steeper wooded side slopes. The front portion Lot two is steep and wooded. Housing construction would most likely occur on the rear portion of Lot 2. The major concern is that the portion of the driveway in the panhandle of the flag lot would have to be located along a steep side slope. See Exhibit C for site topography.
2. The proposed flag lot does not meet the requirement in Article 3, Section 315 of the Boone County Subdivision Regulations for the panhandle to extend a minimum distance of 150 feet from a publicly dedicated street. The panhandle must either be extended from 94.17 feet to 150 feet or in accordance with Article 1, Section 155 of the Boone County Subdivision Regulations, a waiver from the requirements of the subdivision regulations must be obtained from the Boone County Zoning Administrator. Extending the panhandle would force the driveway into a steeper area.
3. Both proposed lots meet the minimum lot size requirement of 80,000 square feet for the Agricultural Estate (A-2).
4. The proposed house site is located 70 feet behind the minimum setback line along the mown ridge top.

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 variance of the minimum lot frontage. The requested variance is to reduce the required lot frontage from 150 feet to 139.08 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 if the staff concerns regarding the location of the driveway in the panhandle of the flag lot can be addressed.

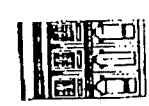
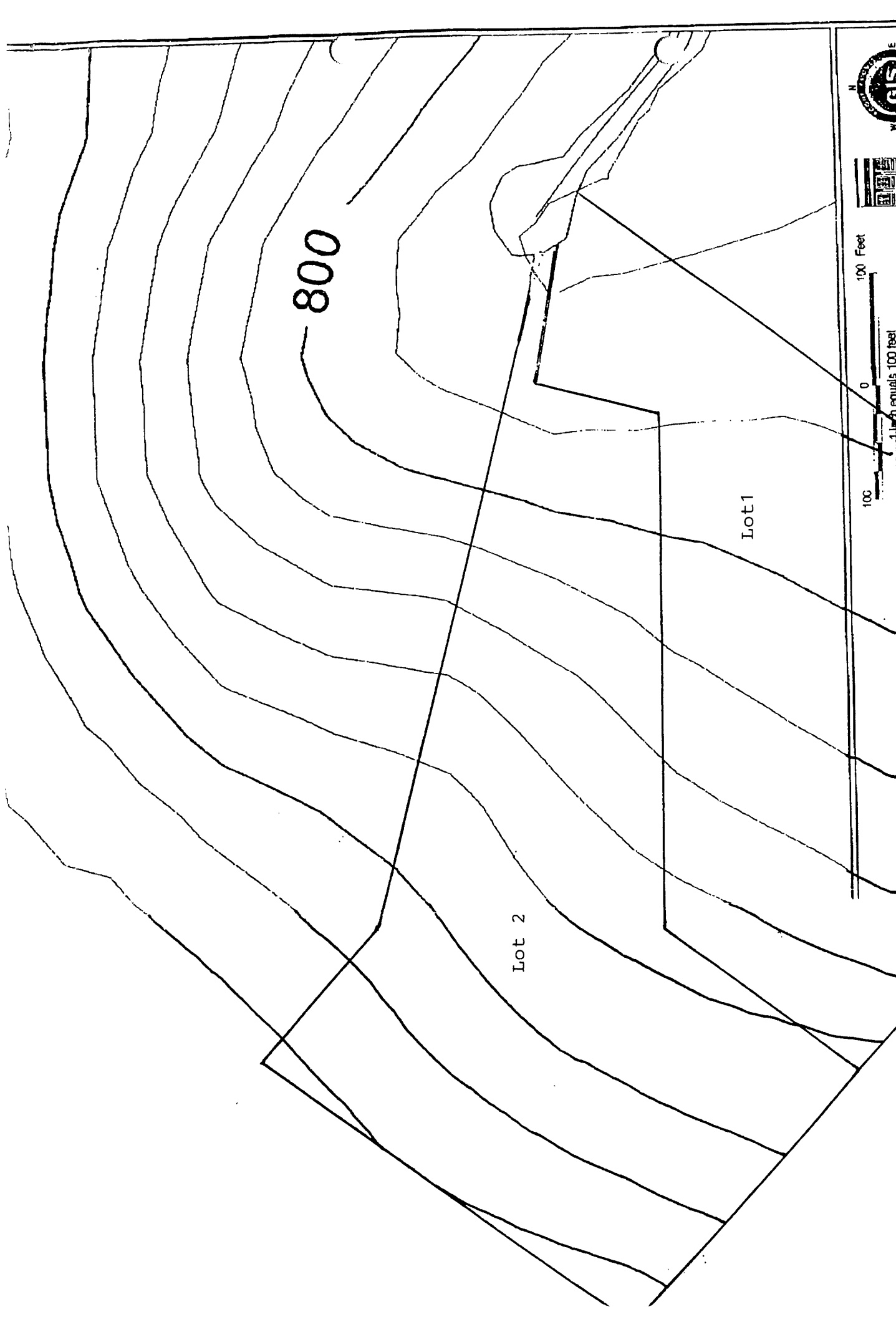
Respectfully submitted,



Kristen M. Lowry, AICP

Attachments

- Location Map
- Site Map
- Exhibit A
- Exhibit B
- Exhibit C



1 inch equals 100 feet

Produced by the
Boone County Planning Commission
GIS Services Division
March 5, 1995

Kirby Dr. - topo

Exhibit C



ENGLE SITE



POSSUM PATH RD

SR-11 BECK RD

EAST BEND RD

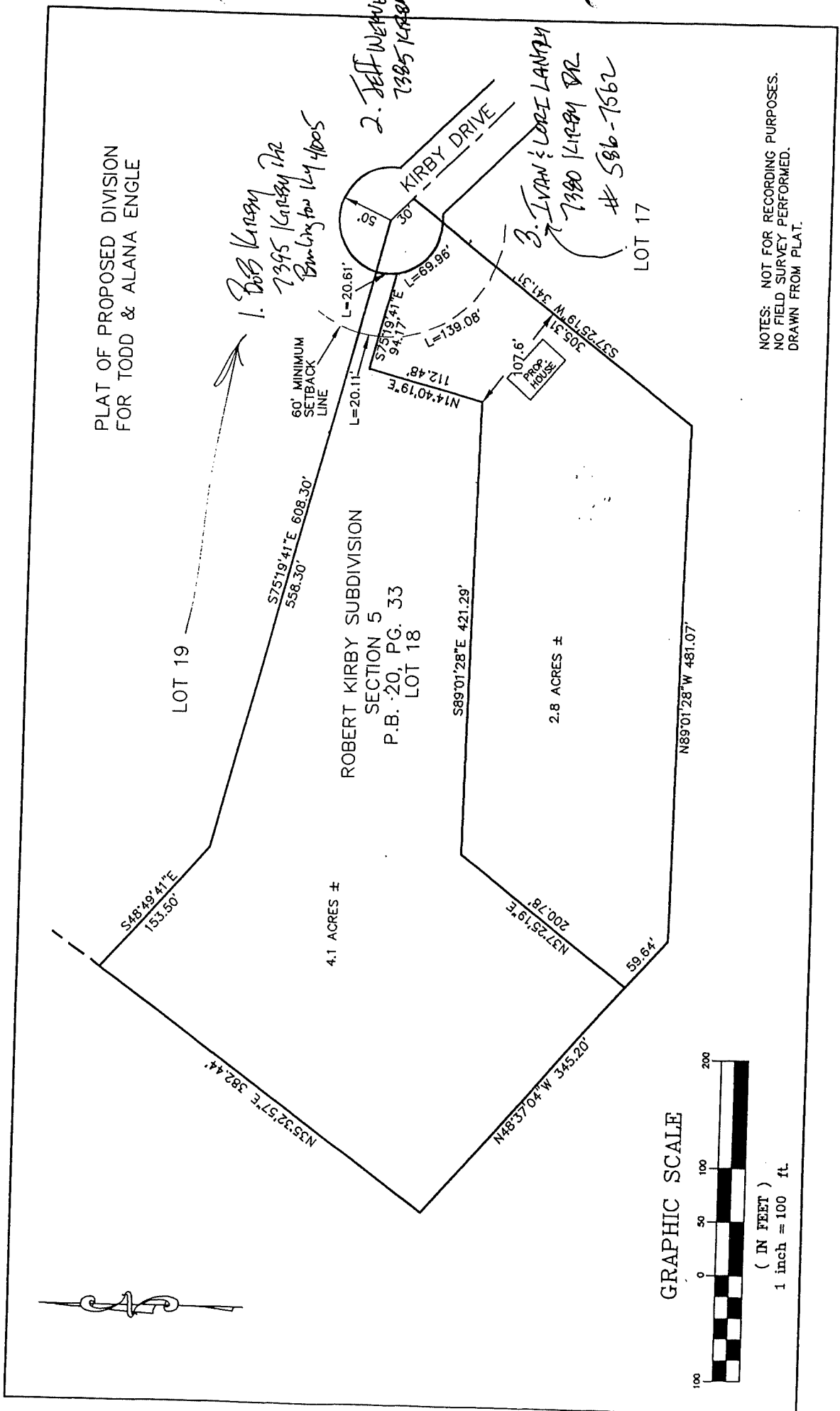
GREENE RD

ROCKE RD

RELY RD

A-2

PLAT OF PROPOSED DIVISION
FOR TODD & ALANA ENGLE



NOTES: NOT FOR RECORDING PURPOSES.
NO FIELD SURVEY PERFORMED.
DRAWN FROM PLAT.

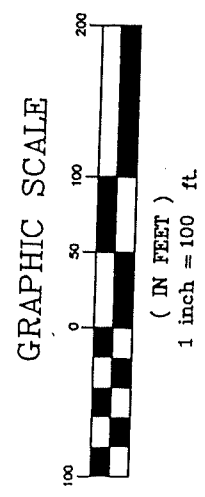


Exhibit B

BOOK 477 PAGE 217

Boone

DEED

KNOW ALL MEN BY THESE PRESENTS: PROPERTY TRANSFER TAX PAID \$ 35.00
JERRY W. ROUSE, CLERK P. Copu

That ROBERT KIRBY and GWYLENN KIRBY, his wife

whose mailing address is: P.O. Box 339, Burlington, KY 41005

for and in consideration of: \$ 35,000.00
to them paid by the grantee(s) herein, the receipt of which
is acknowledged, do bargain, sell and convey to:

LANNY D. LOWER and GLENDA G. LOWER, his wife, jointly for
and during their lives, with the remainder in fee simple to
the survivor of them, his or her

heirs and assigns forever, the following described real estate
located in the City of _____, County of Boone and
Commonwealth of Kentucky, to-wit:

GROUP: 1671

Present Street Address 7388 Kirby Drive, Burlington, KY

Mailing Address 23 Juarez, Fort Mitchell, Kentucky 41017

Being all of Lot No. EIGHTEEN (18), SECTION 5, ROBERT KIRBY SUB-
DIVISION, as shown on plat recorded in Plat Book 20, Page 23 of the
Boone County Clerk's Records at Burlington, Kentucky.

Being part of the same property conveyed to Robert Kirby and Gwylenn
Kirby, his wife, by deed from George Monhollin and Lillian Monhollin,
his wife, dated 2/7/75, recorded in Deed Book 211, Page 645 of the
Boone County Clerk's Records at Burlington, Kentucky.

Together with all the PRIVILEGES and APPURTENANCES to the same
belonging.

TO HAVE AND TO HOLD the same to the said

LANNY D. LOWER and GLENDA G. LOWER, his wife, jointly for
and during their lives, with the remainder in fee simple
to the survivor of them, his or her

heirs and assigns, forever, the Grantor(s), their heirs, executors
and administrators, HEREBY COVENANTING with the Grantee(s), their
heirs and assigns, that the TITLE so conveyed is CLEAR, FREE and
UNINCUMBERED, and that they will WARRANT and DEFEND the same
against all legal claims whatsoever.

IN WITNESS WHEREOF, the said Grantors:

ROBERT KIRBY and GWYLENN KIRBY, his wife

hereunto set hand, this 25 day of October, 1991

Robert Kirby
ROBERT KIRBY
Gwylenn Kirby
GWYLENN KIRBY

Small vertical text on the left margin, possibly a recording stamp or reference number.

BOOK 477 PAGE 218

STATE OF KENTUCKY
COUNTY OF

The foregoing instrument was acknowledged before me this 25th day of
October, 19 91, by Grantor s:

ROBERT KIRBY and GWYLENN KIRBY, his wife

Dee K. McNealy
NOTARY PUBLIC

My commission expires: November 9, 1992

CERTIFICATE OF CONSIDERATION

Grantor s and Grantee s, both certify, under oath, that the consideration reflected in this deed is the full consideration paid for the property and Grantee s joins in this deed for the sole purpose of making this certificate about the consideration.

SWORN to this 25th day of October, 19 91

GRANTOR S:

Robert Kirby
ROBERT KIRBY

Gwynn Kirby
GWYLENN KIRBY

GRANTEE S:

Lanny D. Lower
LANNY D. LOWER

Glenda G. Lower
GLENDA G. LOWER

STATE OF KENTUCKY
COUNTY OF

The foregoing certification was sworn to and acknowledged before me this 25 day of
October, 19 91, by

GRANTORS: ROBERT KIRBY AND GWYLENN KIRBY, HIS WIFE

GRANTEES: LANNY D. LOWER AND GLENDA G. LOWER, HIS WIFE

Dee K. McNealy
NOTARY PUBLIC
KENTUCKY STATE AT LARGE

My commission expires: November 9, 1992

STATE OF KENTUCKY, COUNTY OF BOONE

I, JERRY W. ROUSE, Clerk of the County Court, for the aforesaid, do hereby certify that this instrument of writing from ROBERT KIRBY and GWYLENN KIRBY, his wife to LANNY D. LOWER and GLENDA G. LOWER, his wife was this day presented to me in my office, certified as above, and this day left for record at 1:05 P.M.

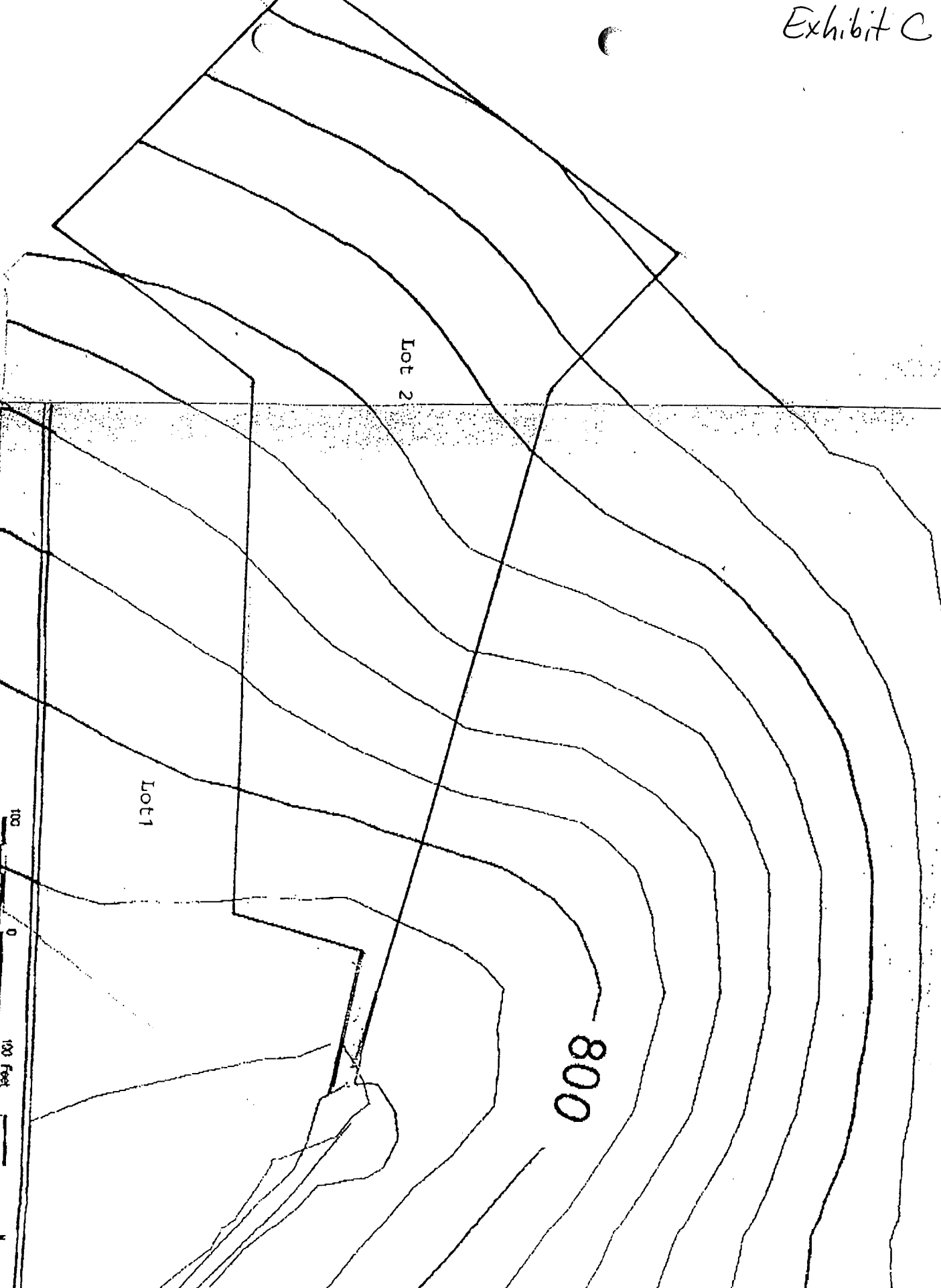
WHEREUPON the same, the foregoing certificate and this certificate, were duly recorded in my office. GIVEN under my hand this 20TH day of APRIL, 19 92.

JERRY W. ROUSE Clerk
By Jerry Rouse D.C.

Recorded in DEED BOOK 477
PAGE 217

GENERAL INDEX

GROUP: 1671
Index Clerk



Kirby Dr. - topo

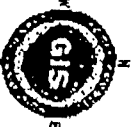
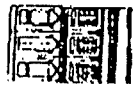
Lot 2

Lot 1

800

Exhibit C

1 inch equals 100 feet
 Produced by US
 Boone County Planning Commission
 GIS Services Division
 March 5, 1999



COPY

CLUR # 99-BCBOA-006-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)
Dean and Glenda Lower
1851 Whispering Trials
Union, Kentucky 41091

2. ADDRESS OF PROPERTY
Kirby Subdivision
Boone County, Kentucky

3. NAME OF SUBDIVISION OR
DEVELOPMENT (if applicable)
Lot #18 Kirby Subdivision

DEED BK.:20

PAGE NO.:33

GROUP NO.:2062

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

Zoning Map Amendment:
From To

Conditional Use Permit

Development Plan

Conditional Zoning

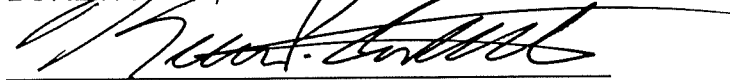
Subdivision Plat
(Not Recorded)

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



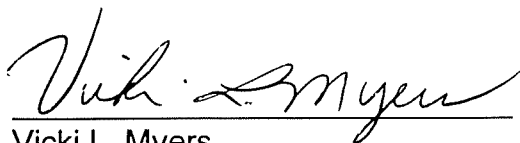
SIGNATURE OF COMPLETING OFFICIAL

Kevin C. Costello/AICP, Executive Director
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

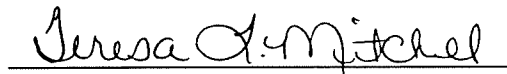
Subscribed, sworn to, and acknowledge before me by Kevin Costello, on behalf of the
Boone County Planning Commission this 12th day of May, 1999.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2003

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.)

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 April 14, 1999 Certificate of Land Use Restriction (# 99-BCBOA-006-A), for Dean and Glenda Lower, 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 20 PAGE NO. 33 Group No. 2062