

03-KBDA-006-A

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 KERRY and JENNY BROWN
Phone Number 859-384-9003 Fax No. SAME
Applicant's Address 2206 BOURBON ST UNION KY 41091-8686
4. Description of Request: VARIANCE TO REDUCE REAR YARD SETBACK TO 26 FEET ALLOW CONSTRUCTION OF DECK AND GAZEBO
5. Name of Development ORLEANS SOUTH
6. Location of Development FLORENCE
7. Acreage Under Review 0.25 ACRES
8. Lot Number and Name of Subdivision (if part of a subdivision) HOMESITE #34 Le'Meridian at ORLEANS SOUTH
9. Owner of Property KERRY and JENNY BROWN
Phone Number of Owner 859-384-9003
10. Address of Property Owner
11. Proposed Use(s) on Site DECK w/ ATTACHED GAZEBO
12. Total Square Footage of Existing and/or Proposed Buildings
13. Current Zoning on Property RS/PD
14. Deed Book 835 Page No. 441 Group No. 2046
15. Is the site subject to a zone change?
16. Have you submitted a Site Plan with this request?
17. Have you submitted a list of adjoining property owners with this request?
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: Kerry Mark Brown

Property Owner's Signature: Kerry Mark Brown

(over)

**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 11-18-03 Fee Received \$ 495.00 R# 37209
2. Is application complete? Yes No
3. Staff Reviewer _____
4. Scheduled Board Action Date _____
5. Board Action:
12-11-03 **Approved**
_____ **Approved with Conditions** (See #6)
_____ **Denial** (See #7)
6. Conditions of Approval: NONE

7. Reasons for Denial: _____

Boone County Planning Commission
2995 Washington Street
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: Kerry & Jenny Brown
LOCATION: 2206 Bourbon Street, Florence, Kentucky
ZONING: Rural Suburban/Planned Development (RS/PD)
DATE: December 11, 2003

Proposal

The applicant is requesting a variance for a reduction in the 35 foot rear yard setback requirement, for property located at 2206 Bourbon Street, Florence, Kentucky. The applicant has requested that the rear yard setback be reduced by 9 feet (see attached Concept Plan) so that a deck and gazebo can be constructed onto the rear of a single-family dwelling.

Applicable Regulations

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. 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.

Article 31, 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 minimum front, side, or rear yard."

Site Characteristics and Zoning

The property is located in Orleans - South Subdivision and is zoned Rural Suburban/Planned Development (RS/PD). The property contains a 15' wide utility easement along the rear property line and shared 10' utility easement along the east property line. A wood, electric utility pole has been placed within the 15' wide utility easement along the rear property line.

The subject property adjoins other single-family residential lots with Orleans - South to the south, east, and west. The parcel adjoins a 20 acre residential estate to the north, which is zoned Rural Suburban Estates (RSE).

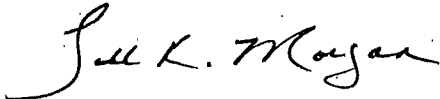
Staff Comments

1. The submitted Concept Plan (see attachments) indicates that portion of the deck closest to the house will meet the 35 foot rear yard setback requirement. The only part of the deck that is encroaching into the rear yard setback is the 11' x 11' section that the gazebo will be placed on.
2. The Applicants have submitted a letter (see attachments) which indicates that they want to construct the gazebo so that they can "camouflage" the utility pole in their rear yard.
3. The rear property line adjoins a 20 acre residential estate, which contains two houses. The closest house on the 20 acre parcel is approximately 450 feet from the rear property line.
4. Staff recommends that the Board should analyze if the presence of the utility pole in the rear yard is a special circumstance which does not generally apply to land in the general vicinity.

Conclusion

KRS 100.241 and Section 250 of the Boone County Zoning Regulations gives the Florence Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for a rear yard setback variance.

Respectfully submitted,



Todd K. Morgan, AICP
Planner, Zoning Services

TKM/pr

Attachments

- Exhibit A – Site Vicinity Map
- Exhibit B – Letter From Applicants
- Exhibit C – Concept Plan (Plot Plan)
- Exhibit D – Concept Plan (Deck & Gazebo Schematic)
- Exhibit E – Concept Plan (Picture of Proposed Gazebo)
- Exhibit F – Zoning Map
- Exhibit G – Aerial Map
- Exhibit H – Pictures
- Exhibit I – Application



2206 Bourbon Street Site Vicinity Map

400 0 400 Feet
1 inch equals 400 feet

Produced by the
Boone County Planning Commission
GIS Services Division
November 21, 2003



Kerry M. and Jenny L. Brown
2206 Bourbon Street
Union, KY 41091

November 18, 2003

Florence Board of Adjustment
Florence City Bldg.
Florence, KY 41042

RE: 2206 Bourbon Street
Union, KY 41091

Dear Sir/Madam:

This letter is to further detail the reason for a request for variance at the above named property. This property has a 35 foot setback in the backyard. We were unaware of this setback and there was no verbal communication with builder regarding same.

We include a history of the problems we have had with this property. This will help to understand the reason for the request for a variance.

Upon viewing the land in 2002 with a salesperson, we were shown the lot as though it sat 25 feet further west. Upon purchasing the lot, we were told we would have to reverse the house plan (flipping the plan). We did so, with reluctance.

Once the basement was poured and the foundation laid, we entered the house and started to see the view. We then noticed a utility pole in view from the family room and kitchen windows. We had many discussions with the builder about moving the pole, but to no avail. We now are ready to have a builder add a deck to the house. It was suggested that we attach a gazebo to the deck that would sit in front of the pole. We also consulted a landscape specialist with regard to planting in the front of the pole to further camouflage the pole. In applying for the building permit we learned about the 35 ft. setback.

We have met with Owen Electric and showed them the plans and have gotten the ok from them with regard to keeping clear of the pole. We need this setback to be reduced to 20 feet. We feel to enhance the aesthetic beauty and value of the house; we need to camouflage the pole. A gazebo is a beautiful way of accomplishing this.

We have 45.8 feet in our backyard. With a 35 foot setback we are left with 10.8 feet in which to have a deck. Also, our kitchen door (the entrance to the deck) has a bay

window/door that causes the deck to be reduced to an 8 foot deck. We feel this is too small a deck for a family home with 5/6 bedrooms. Plus, it is unsightly to look out beautiful windows and see a utility pole with cross wires.

Thank you for your time; please seriously consider our request.

Respectfully yours,

Kerry Mark Brown
Jenny L Brown
Kerry and Jenny Brown

FISCHER SINGLE FAMILY HOMES II, LLC

2670 Chancellor Drive, Suite 300
 Crestview Hills, KY 41017
 Phone: (859) 341-4709

HOME SITE # : 034
 COMMUNITY: LeMeridian at Orleans (LM)
 RECORDED: SECTION 2, Plat Cab 4, Plat Slide 90, Recorded: 3/05/01
 COUNTY/STATE: City of Florence, Boone County, Kentucky
 ADDRESS: 2206 Bourbon Street
 DATE: 03/05/2002 DRAWN BY: K.A.J.
 FILE NAME: Section2.dwg
 DOCUMENT TYPE: Permit
 SCALE OF DRAWING: 1" = 30'

*The outside post farthest from house
 is 24' out & 2d from rear
 property line.*

Improvement Plan
 Approved: 08/25/2000
RECORDED

SETBACK REQUIREMENTS		FISCHER
FRONT -	35'	35'
SIDE -	5 Min, 15' Total	7.5' Min, 15' Total
REAR -	35'	40'
SIDEYARD CORNER LOT -	17.5'	
SIDEWALKS	4' Walk, both sides of Bourbon Street	

N SPACE PARCEL "J"

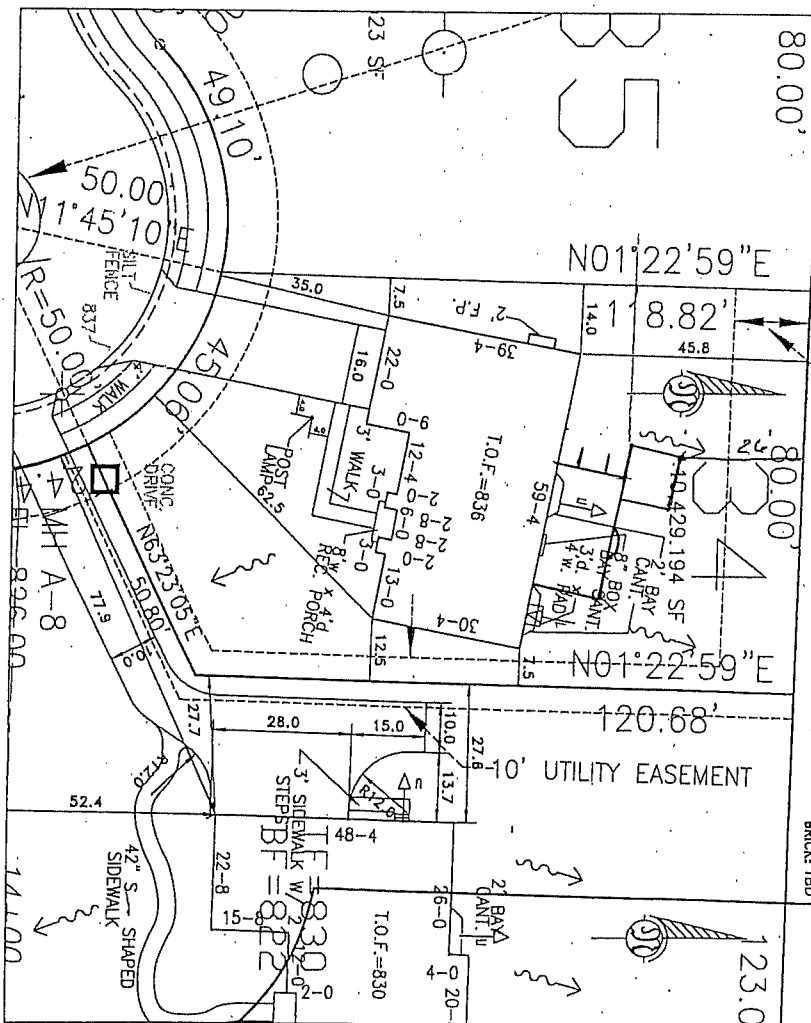
452,389 SF

JEFFERSON F481

EXTERIOR: N-modified
 TOP: 836
 PRE-START: 03-05-2002
 START:
 SIDING: SILVER GRAY
 TRIM: ALCOA SILVER GRAY
 SHUTTER: ABBEY BLUE
 BRICK: INVERNESS

15' UTILITY EASEMENT

HANCOCK II F705
 EXTERIOR: D
 TOP: 830
 PRE-START: 04-13-2001
 START: 06-18-01
 SIDING: DESERT SAND
 TRIM: ALCOA DESERT SAND
 SHUTTER: CHEFFIN GRAY
 BRICK: TBD



447.52
4529.08

1493.25
152.50
45.15

121.58 ft

419.58 ft
167

9

13.25

71.59
0.50
4.59
0.00
0.59

11 ft

75 ft

24 ft

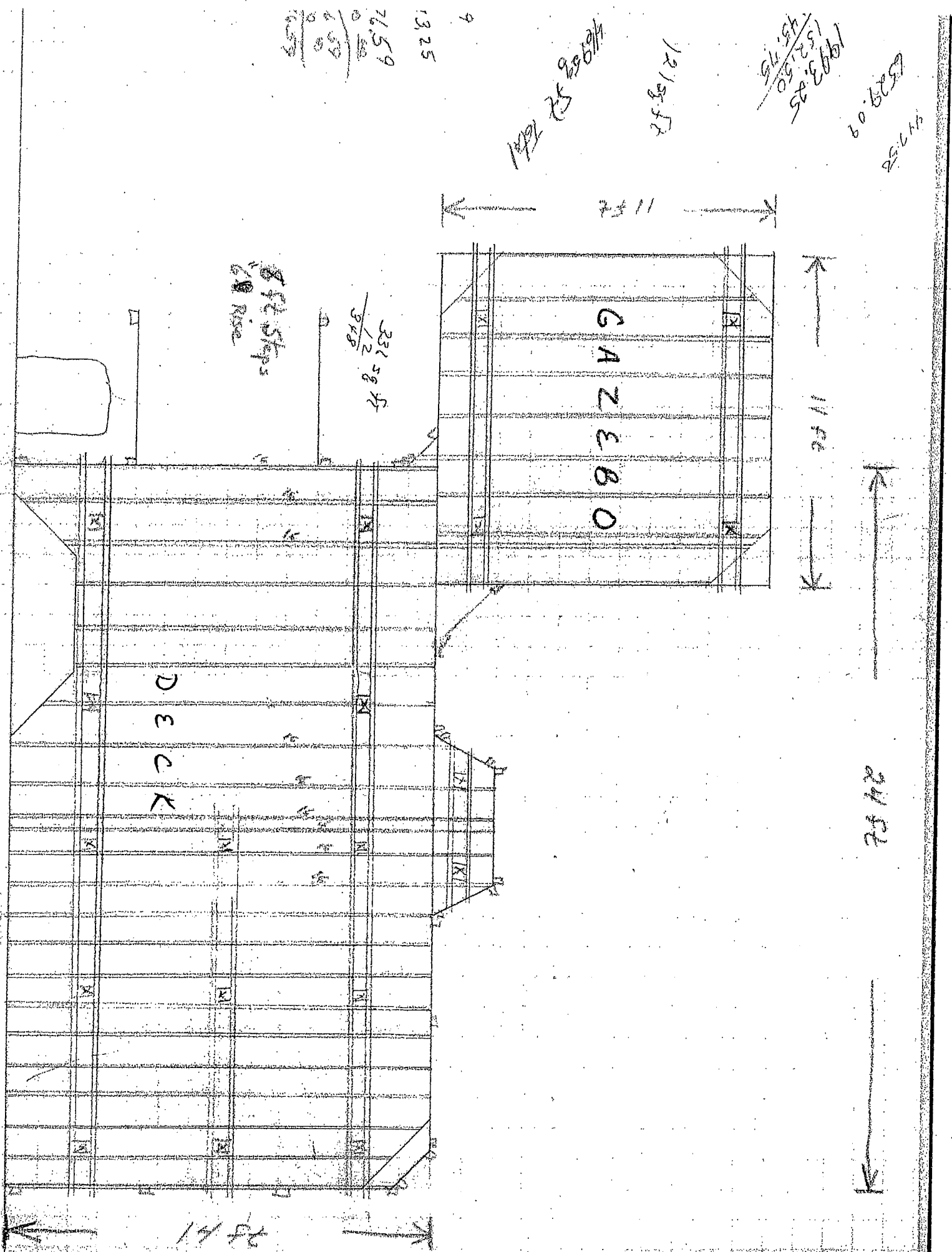
24 ft

8 ft Steps
1/2 Rise

331.58 ft
1/2
348

G A Z E B O

D E C K





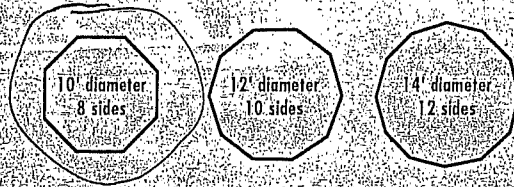
San Marino with Two-Tier Roof

San Marino (round)

Sizes: 10' diameter
 12' diameter (both shown)
 14' diameter

Enjoy the outdoors with this attractive and affordable gazebo.

- Crafted from select tight-knot Western Cedar
- Decorative spindle styling
- Shingle to suit your decorative taste. (shingles sold separately)
- Metal cap and wooden finial



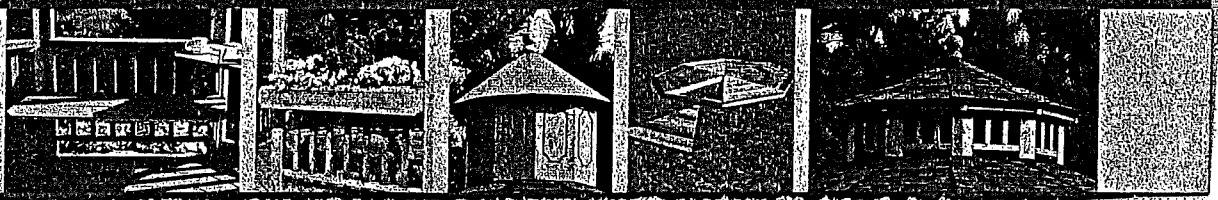
San Marino Two-Tier Roof

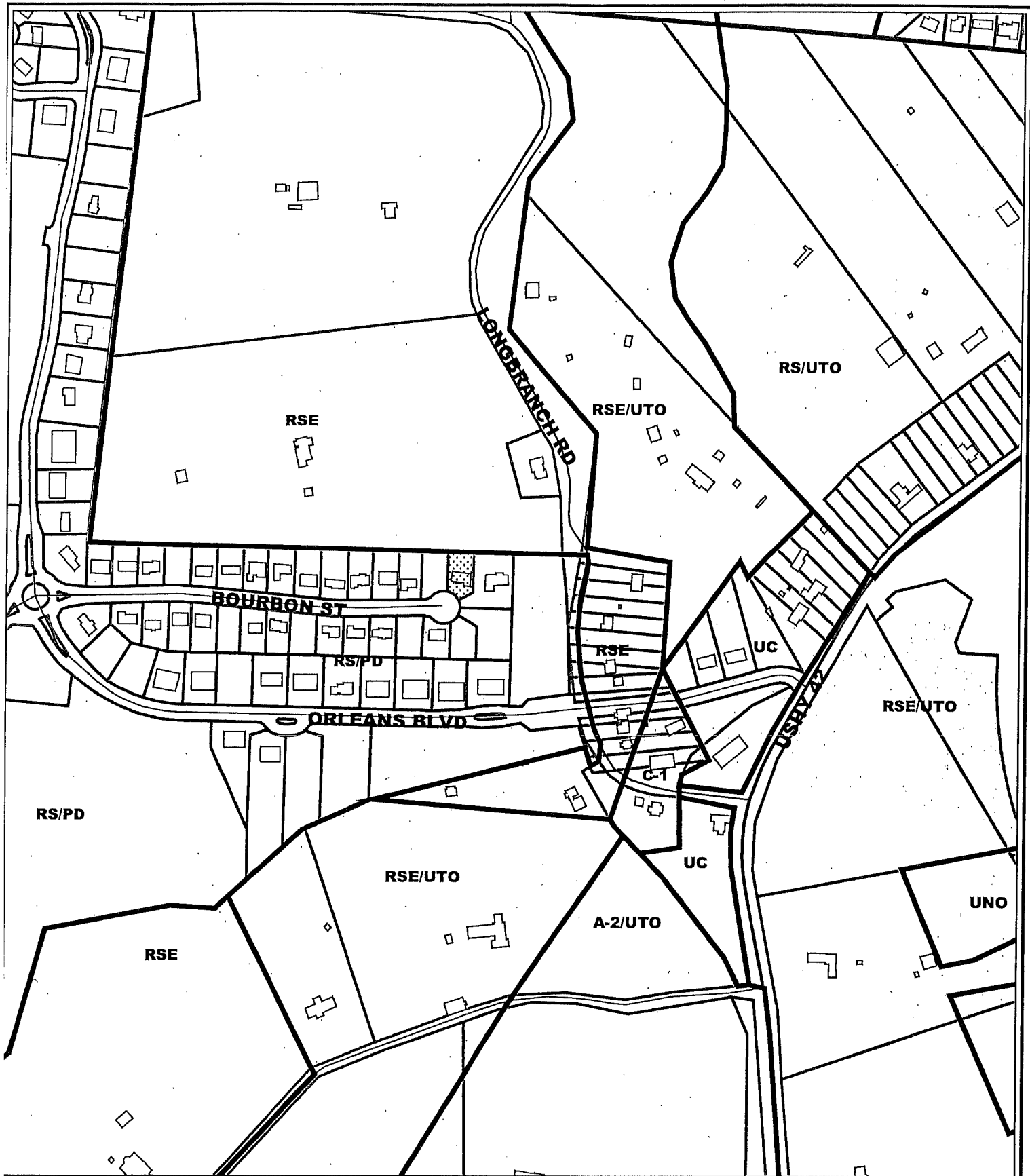
(shown with optional cupola near left)

- Adds style and distinction to your San Marino

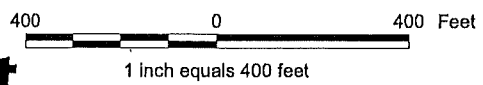
Optional accessories shown

SEE PAGE 15 FOR DETAILS

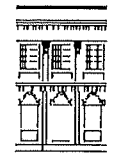


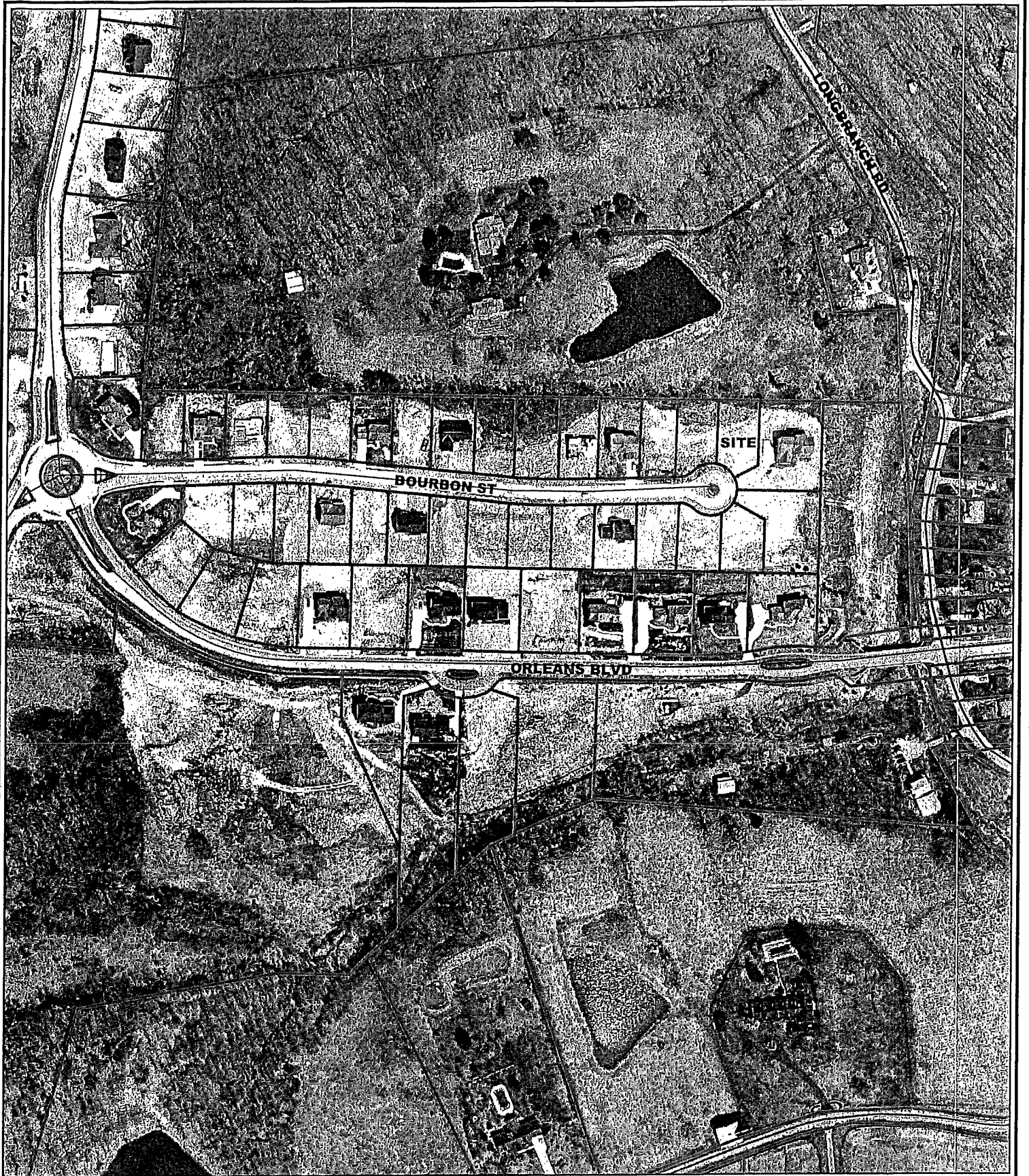


2206 Bourbon Street Zoning Map



Produced by the
Boone County Planning Commission
GIS Services Division
November 21, 2003





2206 Bourbon Street Aerial Map

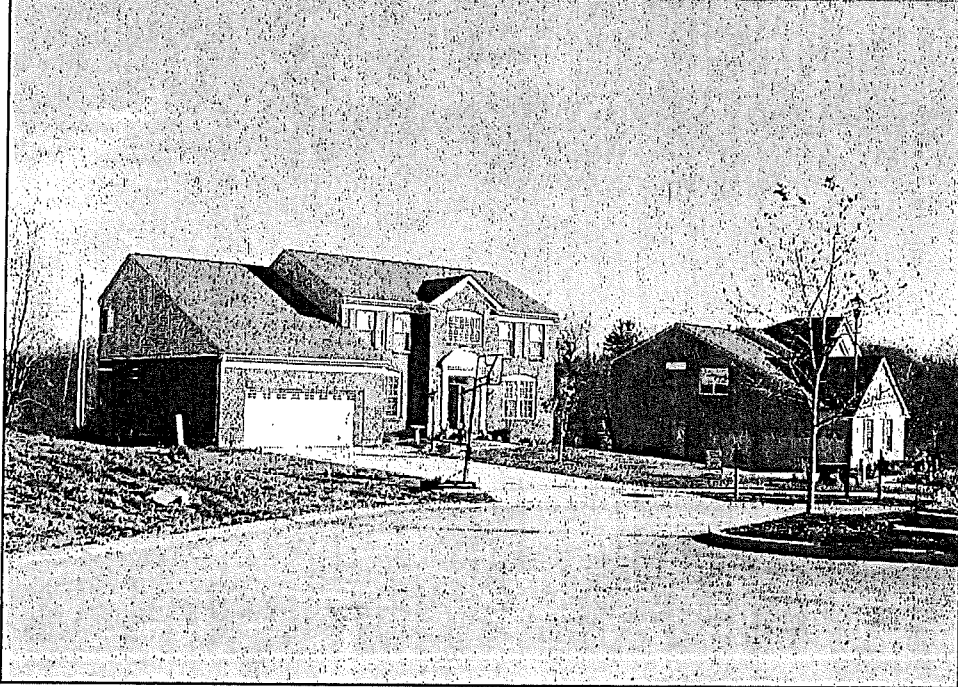
250 0 250 Feet

1 inch equals 250 feet

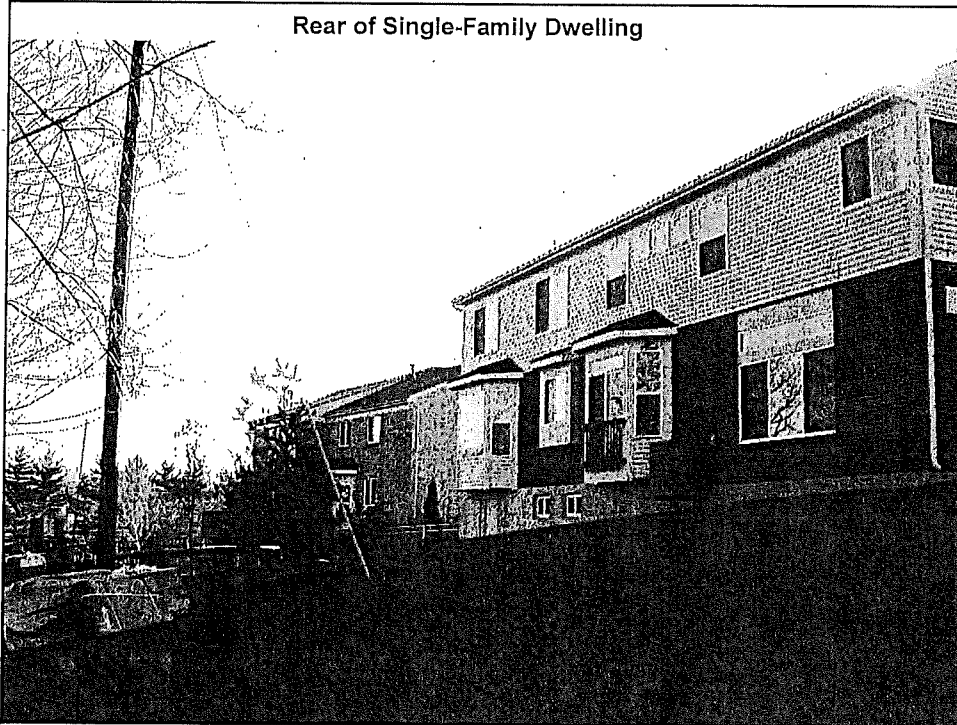
Produced by the
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November 21, 2003



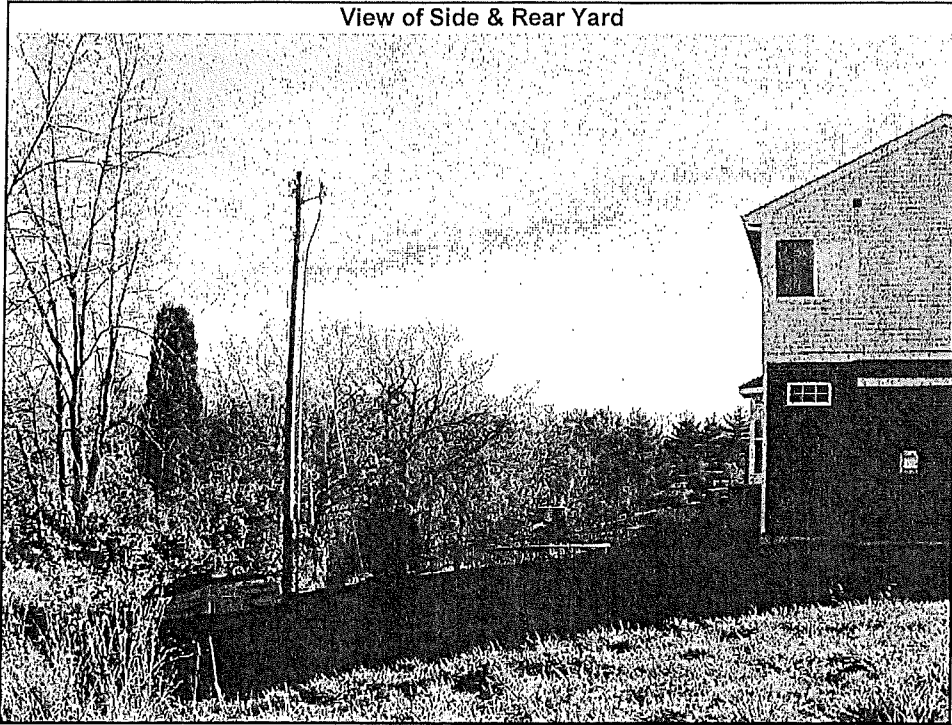
View of Property from Bourbon Street



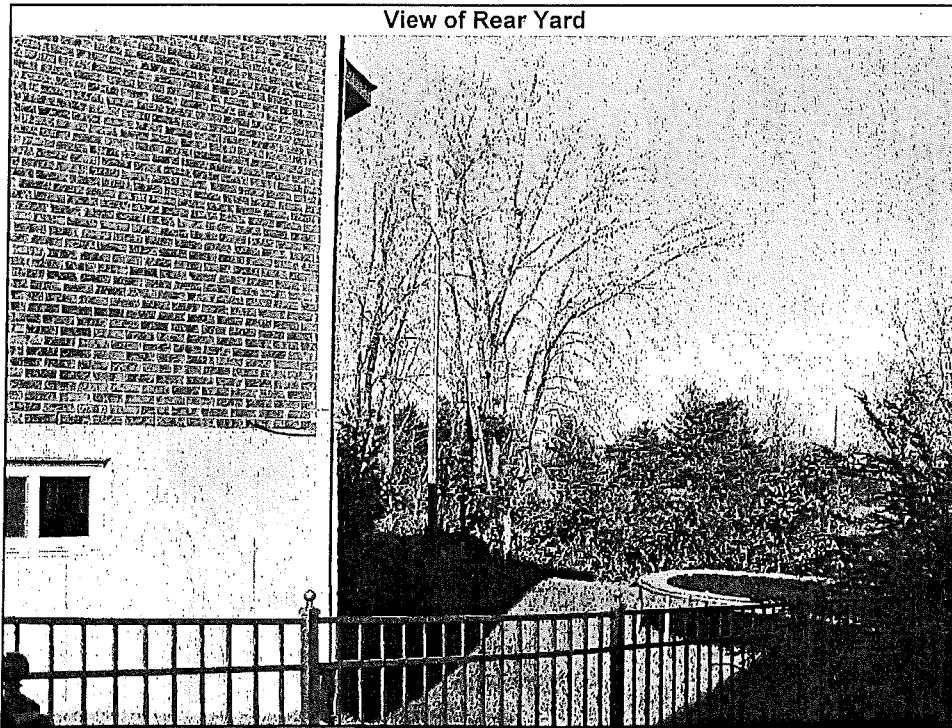
Rear of Single-Family Dwelling



View of Side & Rear Yard



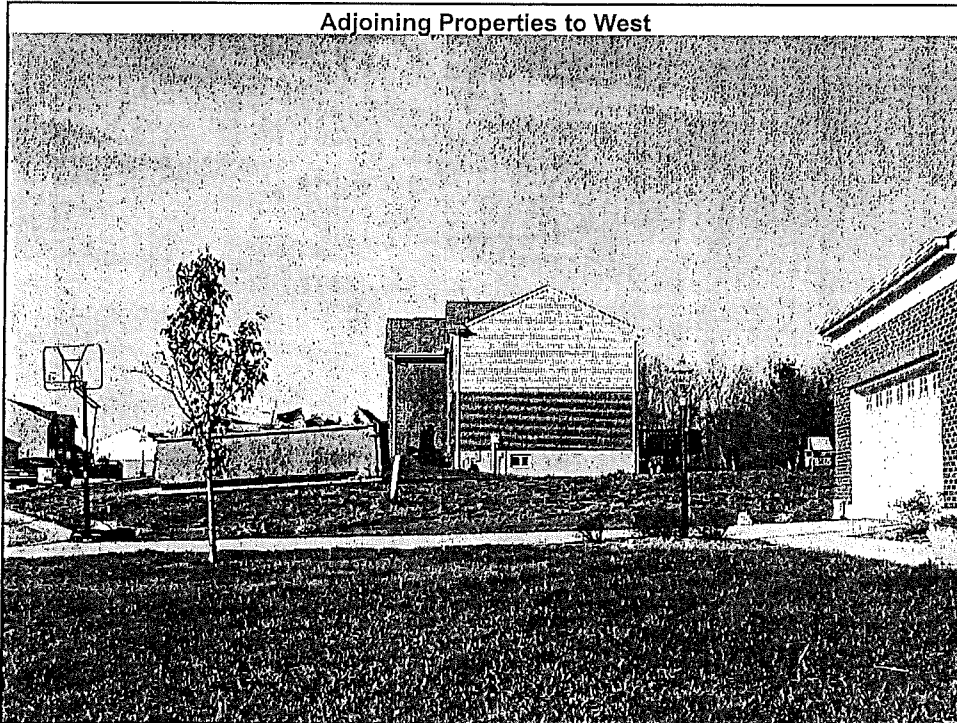
View of Rear Yard



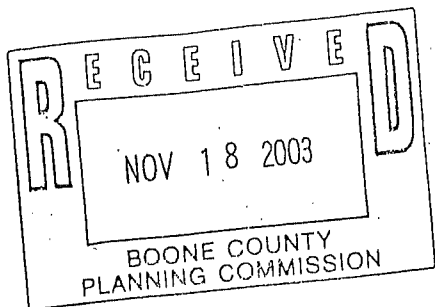
Adjoining Property to the North



Adjoining Properties to West



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)

- (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 KERRY and JENNY BROWN Phone Number 859-384-9003 Fax No. SAME Applicant's Address 2206 BOURBON ST UNION KY 41091-8686 4. Description of Request: VARIANCE TO REDUCE REAR YARD SETBACK TO 26 FEET ALLOW CONSTRUCTION OF DECK AND GAZEBO 5. Name of Development ORLEANS SOUTH 6. Location of Development FLORENCE 7. Acreage Under Review _____ 8. Lot Number and Name of Subdivision (if part of a subdivision) HOMESITE #34 Le'Meridian at ORLEANS SOUTH 9. Owner of Property KERRY and JENNY BROWN Phone Number of Owner 859-384-9003 10. Address of Property Owner _____ City _____ State _____ Zip _____ 11. Proposed Use(s) on Site DECK w/ ATTACHED GAZEBO 12. Total Square Footage of Existing and/or Proposed Buildings _____ 13. Current Zoning on Property RS/PD 14. Deed Book 835 Page No. 441 Group No. 4215 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? _____ 17. Have you submitted a list of adjoining property owners with this request? _____ 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]

(over)

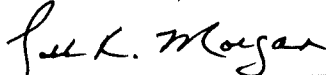
COPY

CLUR #03-FBOA-006-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)
Kerry & Jenny Brown
2206 Bourbon Street
Florence, KY 41042
2. ADDRESS OF PROPERTY
2206 Bourbon Street
Florence, KY 41042
3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)
Orleans South, Lot 34
4. DEED BOOK 835 PAGE NO. 441 GROUP NO. 2046
5. TYPE OF RESTRICTION(S) (Check all that apply)
- Zoning Map Amendment: Conditional Use Permit
From _____ To _____
- Development Plan Conditional Zoning
- Subdivision Plat Other:
(Not Recorded)
- 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
2995 WASHINGTON STREET
BURLINGTON, KENTUCKY 41005



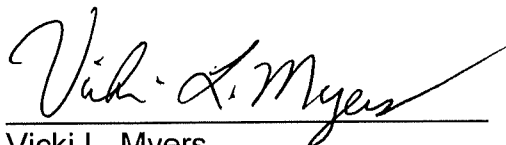
SIGNATURE OF COMPLETING OFFICIAL

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

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

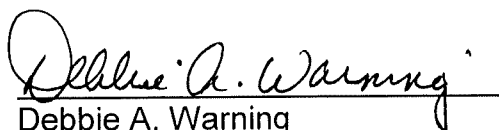
Subscribed, sworn to, and acknowledged before me by Todd K. Morgan on behalf of the
Boone County Planning Commission this 12 day of December, 2003.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2007

This instrument was prepared for recording purposes only by:



Debbie A. Warning
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 Florence Board of Adjustments and in accordance with the current zoning in effect as of December 11, 2003 Certificate of Land Use Restriction (#03-FBOA-006-A), for Kerry & Jenny Brown, 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 835

PAGE NO. 441

GROUP NO. 2046