



SECTION B

(To be completed by Boone County Planning Commission Staff)

1. Date Received 9-26-91
2. Fee Received \$246.00 #7130
3. Is application complete? Yes \_\_\_\_\_ No
4. Staff Reviewer \_\_\_\_\_
5. Scheduled Board Action Date \_\_\_\_\_
6. Board Action: \_\_\_\_\_  
Approval  
Approved with Conditions (See #7)  
Disapproved (See #8)
7. Conditions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
8. Reasons for Disapproval: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## STAFF REPORT

#1

APPLICANT: Arendell Construction  
REQUEST: front yard Variance  
LOCATION: 1051 Churchill Dr., Union, KY  
ZONE: Agricultural Estate (A-2)  
DATE: October 21, 1991, 5:30 p.m.

### REMARKS:

The applicant in requesting a fifteen (15) foot Variance in the front yard setback for the construction of a single family residence. The 1.102 acre site, located on lot 1 of the Gunpowder Estates subdivision, is zoned Agricultural Estate (A-2) and is owned by James and Agnes Pruett.

### Background

Article 17 of the Boone County Zoning Regulations indicates that the minimum front yard setback in A-2 zoning districts is sixty (60) feet. However, when the subdivision plat was approved in 1977, before the current regulations were adopted, the front yard setback was recorded at fifty (50) feet. This recorded setback became, in effect, the minimum setback for this section of the subdivision. The applicant has applied for a Variance to reduce the minimum front yard setback from fifty (50) feet to thirty-five (35) feet for the reason explained below.

### Review


Article 2 of the Boone County Zoning Regulations gives the standards with which the Board must review Variance requests. The following reviews these standards:

1. Staff believes that, if granted, 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 nuisance or a hazard to the public and will not allow an unreasonable circumvention of the requirements of the zoning regulations. To make these findings, the following were considered:
  - (a) The requested Variance arises from the special circumstance of lot topography (or "lay of the land" as described by the applicant). In other words, the lot has only a limited buildable area because a large part of the lot slopes steeply into a small creek. This special circumstance does not generally apply to other lots in the subdivision;
  - (b) Strict application of the fifty (50) foot setback would create an unnecessary hardship on the applicant by requiring him to take extraordinary measures to build the house into the side of a hill, and;

- (c) The special circumstance of lot topography is not the result of the actions of the applicant taken after the adoption of the zoning regulations.
2. The Board must deny any request for a Variance which arises out of willful violations of the zoning regulations by the applicant. This consideration cannot be applied to this application since no construction has begun.

Copies of the applicant's brief explanation of the reasons for the Variance and plot plan of the lot are attached.

Respectfully submitted,



Thomas W. Breidenstein  
Zoning Enforcement Officer

TWB:kat

# ARENDELL CONSTRUCTION CO.

---

1056 Churchill Drive, Florence, Kentucky 41042  
(606) 525-1505

September 26, 1991

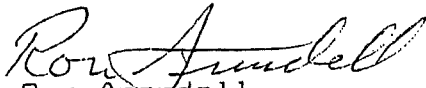
Boone Co. Planning Commission  
2995 Washington St.  
Burlington, Ky. 41005  
Attn: Tom Breidenstein

Dear Sir,

As agents for James and Agnes Pruett, we are requesting a variance of 15' on the 50' minimum setback on lot number 1 in Gunpowder Estates. The reasons for this request is as follows:

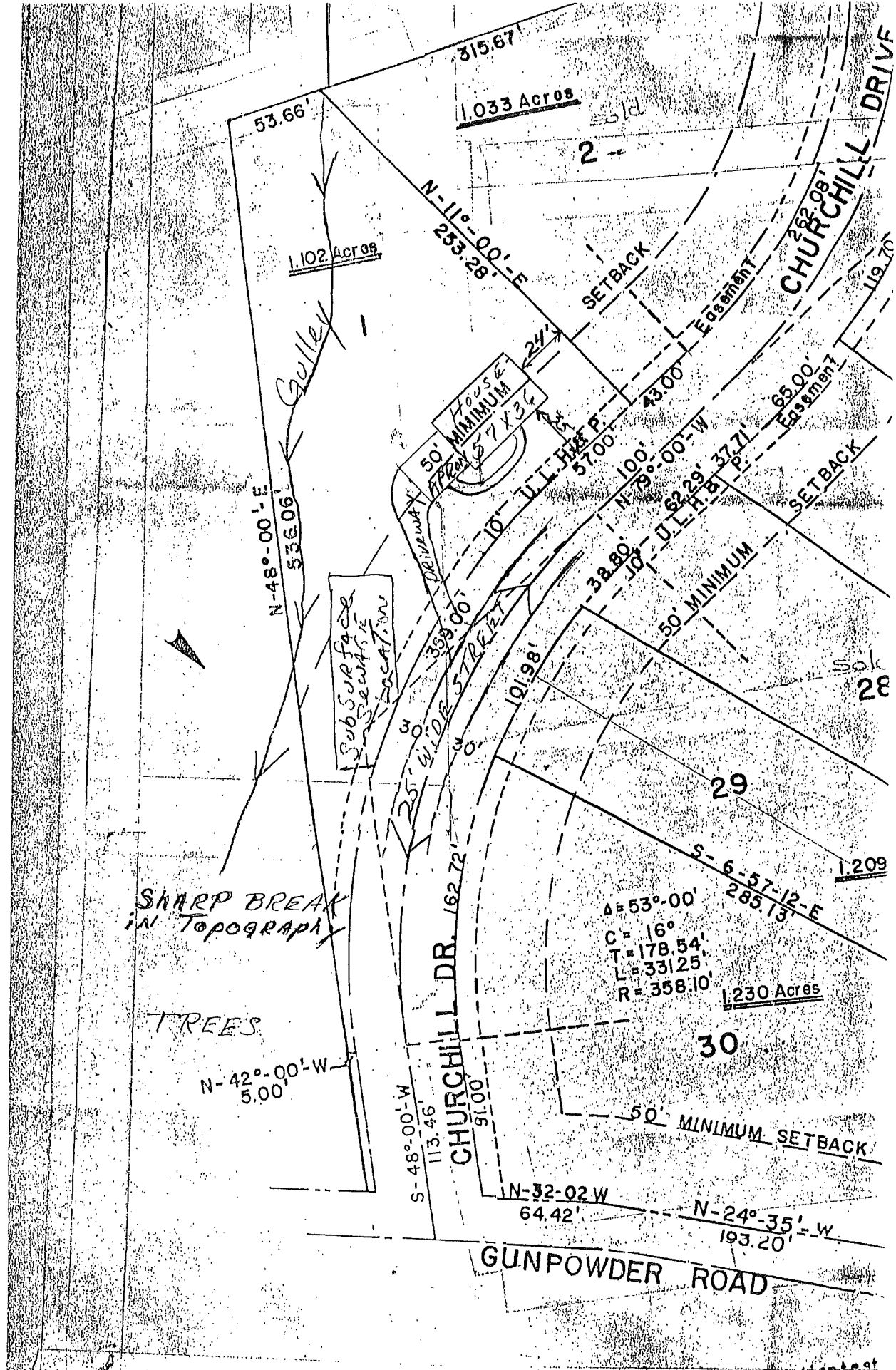
1. The lay of the land
2. Trees
3. Placement of the sub-surface sewage system

Sincerely,



Ron Arendell  
Owner, Arendell Construction Co.

REA/cw



SHARP BREAK  
in Topography

TREES

Gulley

Subsurface  
Sewerage  
Location

CHURCHILL DR. 162.72'

GUNPOWDER ROAD

CHURCHILL DRIVE

1.033 Acres

1.102 Acres

1.230 Acres

Δ = 53°-00'  
C = 16°  
T = 178.54'  
L = 331.25'  
R = 358.10'

1" = 60'

COPY

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER (S)  
James & Agnes Pruett  
1441 Tomahawk Trace  
Murfreesboro, TN 37129

2. ADDRESS OF PROPERTY  
Churchill Drive  
Florence, KY 41042

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)  
Gunpowder Estates

DEED BOOK: 376

PAGE NO.: 241

GROUP NO.: 2047

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

- |                                     |   |                          |                                 |
|-------------------------------------|---|--------------------------|---------------------------------|
| <input type="checkbox"/>            | Zoning Map Amendment<br>from _____ to _____ | <input type="checkbox"/> | Conditional Use Permit          |
| <input type="checkbox"/>            | Development Plan                            | <input type="checkbox"/> | Conditional Zoning<br>Condition |
| <input type="checkbox"/>            | Subdivision Plat<br>(unrecorded)            | <input type="checkbox"/> | Other: (Specify)                |
| <input checked="" type="checkbox"/> | 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

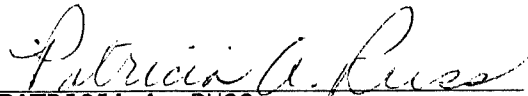
Thomas W. Breidenstein  
 SIGNATURE OF COMPLETING OFFICIAL

Thomas W. Breidenstein, Zoning Enforc. Officer  
 NAME AND TITLE OF COMPLETING OFFICIAL  
 (type or print)

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

Subscribed, sworn to, and acknowledge before me by Thomas W. Breidenstein  
on behalf of the Boone County Planning Commission this 27th day  
of April, 1992.

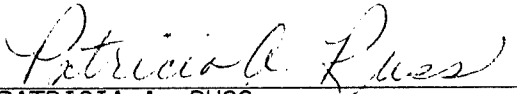


PATRICIA A. RUSS  
NOTARY PUBLIC, State at Large

My commission Expires:

October 4, 1993

This instrument was prepared for recording purposes only by:



PATRICIA A. RUSS  
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.)

BCPC 01/89

CLUR# 91-UBOA-002-A

CONDITIONS OF APPROVAL

The following Conditions of Approval apply to the Variance  
as approved by the Union Board of Adjustments and in accordance with the  
current zoning in effect as of October 21, 1991, (Certificate of Land Use  
Restriction # 91-UBOA-002-A ), for James and Agnes Pruett, property  
owners.

NO CONDITIONS

The approved Variance as well as the preceding conditions apply  
to the property described in: DEED BOOK 376 PAGE NO. 241 Group No. 2047