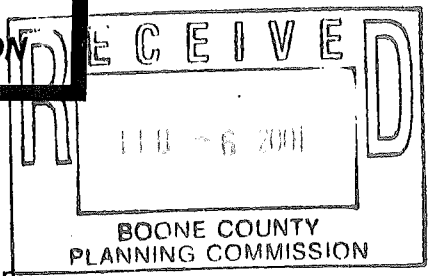


01-WBOA-003-A

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 Florence X Walton Union
2. (Check One) Conditional Use Permit X Variance Appeal
3. Applicant's Name Gus McKinley, Phone Number (859) 586-1817, Fax No. (859) 586-1817, Applicant's Address 5920 Vice Ln, Burlington Ky 41005
4. Description of Request: Reduce front yard setback from 40' to 23'
5. Name of Development
6. Location of Development Alta Vista Drive, Walton Ky
7. Acreage Under Review 6.252 Acres
8. Lot Number and Name of Subdivision
9. Owner of Property Mr & Mrs. A. Clinton Shields, Phone Number of Owner (859) 485-4482, Address of Property Owner Walton Ky 41094
10. Proposed Use(s) on Site Build single family dwelling
11. Total Square Footage of Existing and/or Proposed Buildings around 1500 to 1800 sq ft
12. Current Zoning on Property Rural Suburban (RS)
13. Deed Book 782 Page No. 518 Group No. 101 & 2079
14. Is the site subject to a zone change? NO
15. 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? 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: [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 2-6-01 Fee Received \$456.00 R# 26665
2. Is application complete? Yes Yes _____ No _____
3. Staff Reviewer L. Robertson
4. Scheduled Board Action Date 3/15/01
5. Board Action:
 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**

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: Gus McKinley
LOCATION: Alta Vista Drive (between lots 9 and 15)
Walton, Kentucky
ZONING: Rural Suburban (RS)
DATE: March 15, 2001

Proposal

The applicant is requesting a variance for a reduction in the required forty foot (40') front yard setback. The .6252 acre lot, located between 9 and 15 Alta Vista Drive, is zoned Rural Suburban (RS). The applicant requests that the front yard setback be reduced to twenty-three feet (23') in order to accommodate the construction of a single-family dwelling.

The applicant submitted the following exhibits with the application:

Exhibit A – List of adjacent property owners.

Exhibit B – Property Deed.

Exhibit C – Property Plat.

Non-conforming Lot

It is important to note that a plat of the applicant's lot was approved by the Boone County Planning Commission on June 7, 2000. The lot, containing only 60.99 of the required 75 feet of road frontage, was approved because it involved the consolidation of several other smaller lots reducing the non-conformity of the existing lot. A copy of the approved plat is attached as Exhibit C.

Surrounding Land Uses and Zoning

The property, located between 9 and 15 Alta Vista Drive, is zoned Rural Suburban (RS). Homes located on High School Street to the north are zoned Suburban Residential One (SR-1). Adjacent homes to the east and west Rural Suburban (RS). Chambers and Grubbs Funeral Home is located to the south and is zoned Walton Downtown District (WD).

Variance Regulations

Article 2, Section 271 of the Boone County Zoning Regulations pertaining to *Single Non-Conforming Lots of Record and Subdivisions, and Non-Conforming Setbacks* reads, "If any lot of record does not meet the minimum square footage requirements that are generally applicable in the district wherein said lot is located, and that lot existed at the effective date of adoption or amendment of this order, the owner may develop that lot in conformance with the dimensional (square footage) regulations, including front yard

setback requirements, previously in effect. The lot must be developed in conformance with all other requirements of this order. Variances of any requirements other than the square footage or lot size shall be obtained only through action of the Board of Adjustment and Zoning Appeals as provided in Section 250 through Section 254.

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.

Article 32, Section 3221 of the Boone County Zoning Regulations states that an encroachment permit shall be obtained from the State or County for whichever road is to be accessed. Each existing tract of land is entitled to one access point provided that its location and design fulfill, as a minimum, the requirements of these regulations.

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 contained in 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 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 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.

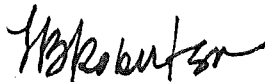
Staff Concerns/Comments

1. According to the plat submitted by the applicant, the adjacent home located at 15 Alta Vista Drive has a front yard setback of twenty-seven feet (27'). The house located at 9 on Alta Vista Drive is not shown on the plat but is depicted by the Boone County GIS system as having a similar setback as the home located at 15 Alta Vista. Although the applicant's request is a 42.5% departure from the required 40 foot front yard setback, it is not anticipated that the variance will adversely impact the character of existing homes in the neighborhood as the twenty three foot (23') front yard setback requested by the applicant is consistent with existing setbacks of the adjacent homes.

Conclusion

KRS 100.241 and Section 250 of the Boone County Zoning Regulations gives the Walton Board of Adjustment and Zoning Appeals the authority to grant the applicant's request for a front yard variance of seventeen feet (17'). It is the staff's opinion that granting a front yard variance from forty feet (40') to twenty-three feet (23') 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,



Lara B. Robertson, AICP

Attachments

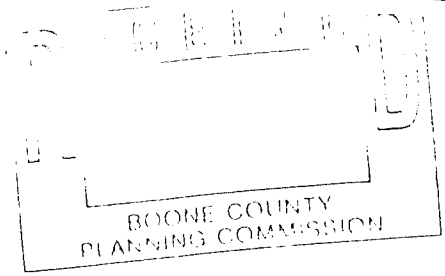
Exhibit A – List of adjacent property owners.

Exhibit B – Property Deed.

Exhibit C – Property Plat.

Exhibit D - Site Vicinity & Zoning Map

Adjoining Property Owners



Mr. & Mrs. A. Clinton Shields
17 Alta Vista Dr.
Walton, KY 41094

Mr. Kenneth Robinson
22 High School Ct.
Walton, KY 41094

Mrs. Sandra Turner
20 High School Ct.
Walton, KY 41094

Mr. Bill C. Adams
18 High School Ct.
Walton, KY 41094

Mr. Paul Noell
16 High School Ct.
Walton, KY 41094

Mrs. Rou Auglin (Betty)
14 High School Ct.
Walton, KY 41094

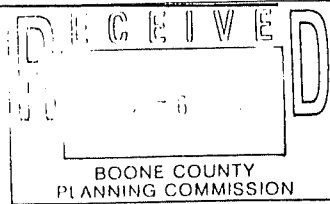
G&G Investments (was J.C. Benton heirs)
112 Woopler Ave.
Cincinnati, Oh 45202

Riverhills Development
Mr. Roger L. Schwartz
4609 Charlotte Hwy.
Suite # 3
Lake Wylice, S. Carolina 29710

Ms. Alva Falls
9 Alta Vista Dr.
Walton, KY 41094

Chambers & Grubbs Funeral Homes (across the street)
45 N Main St.
Walton, KY 41094

DEED



Know All Men By These Presents:

That Colleen Shields and A. Clinton Shields, her husband,

for and in consideration of \$1.00 and other valuable considerations to them paid by the grantees herein, the receipt of which is acknowledged, do bargain, sell, and convey to: A. Clinton Shields and Colleen Shields, 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, in the City of Walton, Boone County of Kentucky, to-wit: Group No. 2079

Present Street Address Alta Vista, Walton, KY 41094 Plat No.

Address 17 Alta Vista, Walton, KY 41094

Lying and being in the City of Walton, Kentucky, on the north side of Alta Vista Drive, 0.06 miles west of U.S. Route #25 and being more particularly described as follows, to-wit:

Unless otherwise stated, all references to "iron pin set" describe an 18" long 1/2" diameter iron pin with a yellow plastic cap stamped "2709". All property corners listed as posts are referenced by an iron pin set. The basis of bearings for this description is the west line of Riverhills Development, LTD. (DB 700 Pg. 246).

Beginning at an axle found at the back of curb of Alta Vista Drive (PB 1 Pg. 69), a corner to Jerry Goins (DB 370 Pg. 309); thence with Alta Vista Drive, N 40-32-54 E, 75.16 to cut notch in the sidewalk, a common corner to Clinton Shields (DB 140 Pg. 104) and a 0.2454 acre parcel; thence with the right of way of Alta Vista Drive, N 40-32-54 E, 89.01 feet to an iron pin set, said point being the REAL PLACE OF BEGINNING for this description; thence with a new made line partitioning the grantors' property, N 39-08-01 W, 314.92 feet to an iron pin set in the line of High School Court Subdivision (PB 2 Pg. 68); thence with the line of said subdivision, N 53-35-46 E, 161.85 feet to an iron pin set by a post, a corner to the J. C. Benton heirs (DB 174 Pg. 186 & DB 143 Pg. 86); thence with the line of the Benton heirs and Riverhills Development, LTD. (DB 700 Pg. 246), S 29-00-00 E, 96.19 feet to an iron pipe found by a post, a corner to Alva Falls; thence with the line of Falls, S 55-51-12 W, 85.16 feet to an iron pin set by a post; thence S 39-08-01 E, 208.84 feet to an iron pin set in the right of way of Alta Vista Drive; thence S 40-32-54 W, 60.99 feet to the point of beginning, containing 0.6252 acres more or less exclusive of all right of ways and easements of record according to a survey made by Cahill Surveyors, Inc. on September 13, 1999.

Being part of the same property shown in DB 232 Pg. 291, part of the same property shown in DB 83 Pg. 88 and part of the same property shown in DB 81 Pg. 605 of the Boone County Court Clerk's records, at Burlington, Kentucky. See also Affidavit of Descent for Kleo Vallendingham which is recorded in Mis. 678 Pg. 149 of the Boone County Records.

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

TO HAVE AND TO HOLD the same to the said

A. Clinton Shields and Colleen Shields, his wife, jointly for and during their lives with the remainder in fee simple to the survivor of them, his or her

BOONE COUNTY D782 PG 518

heirs and assigns, forever, the Grantor s, their COVENANTING with the grantee s, their CLEAR, FREE AND UNINCUMBERED, and that same against all legal claims whatsoever.

heirs, executors and administrators, HEREBY heirs and assigns, that the TITLE so conveyed is they will WARRANT AND DEFEND the

WITNESS WHEREOF, The said Grantors, Colleen Shields and A. Clinton Shields,
her husband,

hereunto set their hands, this 19th day of June in the year 2000.

STAMPS

	<u>Colleen Shields</u> Colleen Shields
	<u>A. Clinton Shields</u> A. Clinton Shields

State of Kentucky
County of Boone

The foregoing instrument was acknowledged before me this 19th day of June, 2000,
by Colleen Shields and A. Clinton Shields.

Eddie W. Brown
Notary Public
(Title)
My commission expires 10/9/03.

COMMONWEALTH OF KENTUCKY, }
COUNTY OF }
I, _____, Clerk of the County Court, for the aforesaid, do hereby certify that this
instrument of writing from

to _____
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 _____ in the year 19 _____

_____, Clerk
By _____, D. C.

BOONE COUNTY
D782 PG 519

WARRANTY DEED

From
COLLEEN SHIELDS
&
A. CLINTON SHIELDS
To
A. CLINTON SHIELDS
&
COLLEEN SHIELDS

Acknowledged _____
Clerk
_____, D. C.

Left for Record _____

Recorded in Deed Book No. _____ Page _____

GENERAL INDEX	Index Clerk
GROUP _____	

This Deed Prepared By
THIS DOCUMENT WAS PREPARED BY
Eddie W. Brown
EDDIE W. BROWN
ATTORNEY AT LAW
9 GIRARD STREET
FLORENCE, KY 41042

CERTIFICATE OF CONSIDERATION

Comes the Grantor(s) herein and the Grantee(s) herein and first being duly cautioned and sworn, state that this transfer is a transfer between husband and wife and is exempt under KRS 142.050(7)(e) and the estimated fair cash value of the property passing by this deed is \$ 20,000.00.

Colleen Shields
Colleen Shields
17 Alta Vista
Walton, KY 41094

A. Clinton Shields
A. Clinton Shields
17 Alta Vista
Walton, KY 41094

Copy

DOCUMENT NO: 16030
RECORDED ON: JUNE 19, 2000 02:49:42PM
TOTAL FEES: \$14.00
GROUP : 101
COUNTY CLERK: MARILYN K ROUSE
COUNTY: BOONE
DEPUTY CLERK: RENA' PING
BOOK D782 PAGES 518 - 521

STATE OF KENTUCKY:

COUNTY OF BOONE:

The foregoing certificate was sworn to before me this 19th day of June, 2000, by Colleen Shields and A. Clinton Shields, both the grantors and the grantees herein.

Eddie W. Brown
Notary Public

My commission expires 10/9/03

HIGH SCHOOL COURT
SUBDIVISION
PLAT BOOK 2, PAGE 68

N 53°35'46" E 356.47'

PARCEL "A"
0.2454 ACRES
TO BE ADDED
TO D.B. 140,
PAGE 104

PARCEL "B"
0.6959 ACRES
DEED BOOK 232,
PAGE 291

PARCEL "C"
0.6252 ACRES

SITE

IPS BY POST

108.90'

161.85'

IRON PIN FOUND
LS 310

PIPE BY POST
JND

71.28'

S 55°51'12" W

85.16'

IPS BY CORNER POST

208.84'

S 39°08'01" E

314.92'

N 39°08'01" W

60.89'

S 40°32'54" W

78.97'

CUT NOTCH IN WALK

75.16'

AXLE FOUND

8.23'

12.69'

HOUSE 15

HOUSE 17

HOUSE 18

HOUSE 19

HOUSE 20

HOUSE 21

HOUSE 22

HOUSE 23

HOUSE 24

HOUSE 25

HOUSE 26

HOUSE 27

HOUSE 28

HOUSE 29

HOUSE 30

HOUSE 31

HOUSE 32

HOUSE 33

HOUSE 34

HOUSE 35

HOUSE 36

HOUSE 37

HOUSE 38

HOUSE 39

HOUSE 40

HOUSE 41

HOUSE 42

HOUSE 43

HOUSE 44

HOUSE 45

HOUSE 46

HOUSE 47

HOUSE 48

HOUSE 49

HOUSE 50

HOUSE 51

HOUSE 52

HOUSE 53

HOUSE 54

HOUSE 55

HOUSE 56

HOUSE 57

HOUSE 58

HOUSE 59

HOUSE 60

HOUSE 61

HOUSE 62

HOUSE 63

HOUSE 64

HOUSE 65

HOUSE 66

HOUSE 67

HOUSE 68

HOUSE 69

HOUSE 70

HOUSE 71

HOUSE 72

HOUSE 73

HOUSE 74

HOUSE 75

HOUSE 76

HOUSE 77

HOUSE 78

HOUSE 79

HOUSE 80

HOUSE 81

HOUSE 82

HOUSE 83

HOUSE 84

HOUSE 85

HOUSE 86

HOUSE 87

HOUSE 88

HOUSE 89

HOUSE 90

HOUSE 91

HOUSE 92

HOUSE 93

HOUSE 94

HOUSE 95

HOUSE 96

HOUSE 97

HOUSE 98

HOUSE 99

HOUSE 100

HOUSE 101

HOUSE 102

HOUSE 103

HOUSE 104

HOUSE 105

HOUSE 106

HOUSE 107

HOUSE 108

HOUSE 109

HOUSE 110

HOUSE 111

HOUSE 112

HOUSE 113

HOUSE 114

HOUSE 115

HOUSE 116

HOUSE 117

HOUSE 118

HOUSE 119

HOUSE 120

HOUSE 121

HOUSE 122

HOUSE 123

HOUSE 124

HOUSE 125

HOUSE 126

HOUSE 127

HOUSE 128

HOUSE 129

HOUSE 130

HOUSE 131

HOUSE 132

HOUSE 133

HOUSE 134

HOUSE 135

HOUSE 136

HOUSE 137

HOUSE 138

HOUSE 139

HOUSE 140

HOUSE 141

HOUSE 142

HOUSE 143

HOUSE 144

HOUSE 145

HOUSE 146

HOUSE 147

HOUSE 148

HOUSE 149

HOUSE 150

HOUSE 151

HOUSE 152

HOUSE 153

HOUSE 154

HOUSE 155

HOUSE 156

HOUSE 157

HOUSE 158

HOUSE 159

HOUSE 160

HOUSE 161

HOUSE 162

HOUSE 163

HOUSE 164

HOUSE 165

HOUSE 166

HOUSE 167

HOUSE 168

HOUSE 169

HOUSE 170

HOUSE 171

HOUSE 172

HOUSE 173

HOUSE 174

HOUSE 175

HOUSE 176

HOUSE 177

HOUSE 178

HOUSE 179

HOUSE 180

HOUSE 181

HOUSE 182

HOUSE 183

HOUSE 184

HOUSE 185

HOUSE 186

HOUSE 187

HOUSE 188

HOUSE 189

HOUSE 190

HOUSE 191

HOUSE 192

HOUSE 193

HOUSE 194

HOUSE 195

HOUSE 196

HOUSE 197

HOUSE 198

HOUSE 199

HOUSE 200

HOUSE 201

HOUSE 202

HOUSE 203

HOUSE 204

HOUSE 205

HOUSE 206

HOUSE 207

HOUSE 208

HOUSE 209

HOUSE 210

HOUSE 211

HOUSE 212

HOUSE 213

HOUSE 214

HOUSE 215

HOUSE 216

HOUSE 217

HOUSE 218

HOUSE 219

HOUSE 220

HOUSE 221

HOUSE 222

HOUSE 223

HOUSE 224

HOUSE 225

HOUSE 226

HOUSE 227

HOUSE 228

HOUSE 229

HOUSE 230

HOUSE 231

HOUSE 232

HOUSE 233

HOUSE 234

HOUSE 235

HOUSE 236

HOUSE 237

HOUSE 238

HOUSE 239

HOUSE 240

HOUSE 241

HOUSE 242

HOUSE 243

HOUSE 244

HOUSE 245

HOUSE 246

HOUSE 247

HOUSE 248

HOUSE 249

HOUSE 250

HOUSE 251

HOUSE 252

HOUSE 253

HOUSE 254

HOUSE 255

HOUSE 256

HOUSE 257

HOUSE 258

HOUSE 259

HOUSE 260

HOUSE 261

HOUSE 262

HOUSE 263

HOUSE 264

HOUSE 265

HOUSE 266

HOUSE 267

HOUSE 268

HOUSE 269

HOUSE 270



Gus McKinley
Site Vicinity & Zoning Map

100 0 100 Feet

1 inch equals 100 feet
 Produced by the
 Boone County Planning Commission
 GIS Services Division
 March 2, 2001



COPY

CLUR #01-WBOA-003-A

CERTIFICATE OF LAND USE RESTRICTION

1. NAME AND ADDRESS OF PROPERTY OWNER(S)

A. Clinton Shields
17 Alta Vista Drive
Walton, KY 41094

2. ADDRESS OF PROPERTY

Alta Vista Drive
Walton, KY 41094

3. NAME OF SUBDIVISION OR DEVELOPMENT (if applicable)

4. DEED BOOK 782

PAGE NO. 518

GROUP NO. 2079

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:

X 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

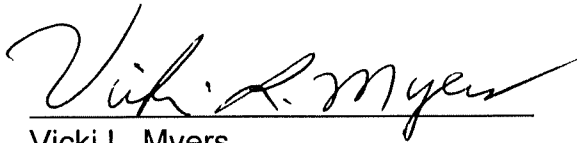

SIGNATURE OF COMPLETING OFFICIAL

Kevin P. Costello, Executive Director
Name and Title of Completing Official

COMMONWEALTH OF KENTUCKY

COUNTY OF BOONE

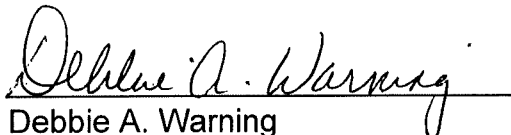
Subscribed, sworn to, and acknowledged before me by Kevin P. Costello on behalf of
the Boone County Planning Commission this 20 day of March, 2001.



Vicki L. Myers
NOTARY PUBLIC, State at Large

My commission Expires:
April 17, 2003

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 Walton Board of Adjustments and in accordance with the current zoning in effect as of March 15, 2001 Certificate of Land Use Restriction (#01-WBOA-003-A), for A. Clinton Shields, 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 782

PAGE NO. 518

GROUP NO. 2079