

5909

RECEIVED FOR RECORD

VARIANCE FROM AND RE-ESTABLISHMENT OF TIME
FRONT BUILDING SET BACK LINE PERTAINING
TO LOT 129, CHAPEL CREEK, SECTION SIX.

DATE June 26, 1995
RECORDED IN Misc DRA 22
INSTR. NO. 5909

Ann S. Watfill
RECORDER OF FLOYD COUNTY

PLAT NO. 1022

WHEREAS, H.D.S. Developers, Inc., is the Developer of Chapel Creek, Section Six, Plat No. 1022 of the Floyd County, Indiana Records, which Plat was recorded on September 29, 1992; and,

WHEREAS, Lot No. 129 of Chapel Creek is located in Section Six of such Development; and,

WHEREAS, William H. Eskridge, Jr., and Cathy M. Eskridge are the owners of Lot No. 129 of Chapel Creek having acquired title thereto from H.D.S. Developers, Inc., by deed dated September 21, 1994, which deed was recorded on October 4, 1994, in Deed Drawer 21, Instrument No. 11060 in the Office of the Recorder of Floyd County, Indiana; and,

WHEREAS, the established front building set back line pertaining to Lot 129, Chapel Creek, is 40 feet from the right-of-way of Chapel Creek Trail as shown on the recorded Plat of Chapel Creek, Section Six, Plat No. 1022; and,

WHEREAS, the residential dwelling which has been constructed on Lot No. 129, Chapel Creek, encroaches over the established 40 foot front building set back line by six (6) feet, more or less, as shown on the attached survey prepared by Thomas J. Boofter and Associates dated March 17, 1995; and,

WHEREAS, the Restrictions and Protective Covenants pertaining to Chapel Creek, Section 6, Plat No. 1029 recorded in Misc. Drawer

19, Instrument No. 12314 in the Office of the Recorder of Floyd County, Indiana, read in part as follows:

5. Setbacks.

(a) No structure shall be located on any lot nearer to the front lot line or the side street line than the minimum building setback lines shown on the recorded plat. Developer may vary the established building lines, in its sole discretion, where not in conflict with applicable zoning regulations during the development of the subdivision. For purposes of this section, the development of the subdivision shall be from the date that these Restrictions and Protective Covenants are executed by the Developers to the date of the sale of the last remaining lot in Chapel Creek, Section Eight, to any person, firm or corporation other than the Developers; and,

WHEREAS, as of June 2, 1995, not all lots in Chapel Creek, Section Six, Seven, and Eight have been sold to persons, firms, or corporations other than the Developer; and,

WHEREAS, Eskridge has requested that Developer exercise its discretion and vary the established front building set back line pertaining to Lot No. 129 by reducing the same from 40 feet to 33 feet from the right-of-way of Chapel Creek Trail; and,

WHEREAS, Developer agrees to vary the established front building set back line pertaining to Lot 129, Chapel Creek, as requested by Eskridge.

NOW, THEREFORE, based on the terms and provisions of Paragraph 5. Setbacks. Section (a) of the Restrictions and Protective Covenants pertaining to Chapel Creek, Section Six, Plat No.

1022, recorded in Misc. Drawer 19, Instrument No. 12314, H.D.S. Developers, Inc., does hereby establish and dedicate the front building set back line pertaining to Lot 129, Chapel Creek, to be 33 feet from the right-of-way of Chapel Creek Trail and not 40 feet from such right-of-way as shown on the recorded Plat of Chapel Creek, Section Six, Plat No. 1022.

IN WITNESS WHEREOF: H.D.S. Developers, Inc., has caused this instrument to be executed by its duly authorized officers this 2nd day of June, 1995.

H.D.S. DEVELOPERS, INC.

BY: Norman A. Schuler

Norman A. Schuler, President

ATTEST:

David J. Hines *secy*

David J. Hines, Secretary

STATE OF INDIANA)

COUNTY OF FLOYD)

Before me, a Notary Public, in and for said county and state, personally appeared Norman A. Schuler, President, and David J. Hines, Secretary of H.D.S. Developers, Inc., and acknowledged the execution of the foregoing instrument.

WITNESS my hand and notarial seal this 2nd day of June, 1995. . .

My Commission Expires:
December 26, 1995

J. Terrence Cody
Name
Printed: J. Terrence Cody
County of Residence: Floyd
NOTARY PUBLIC

ACCEPTED this 2nd day of June, 1995.

William H. Eskridge Jr.
William H. Eskridge, Jr.

Cathy M. Eskridge
Cathy M. Eskridge

STATE OF INDIANA)
COUNTY OF FLOYD)

Before me, a Notary Public, in and for said county and state,
personally appeared William H. Eskridge, Jr., and Cathy M. Eskridge,
husband and wife, and acknowledged the execution of the foregoing
instrument.

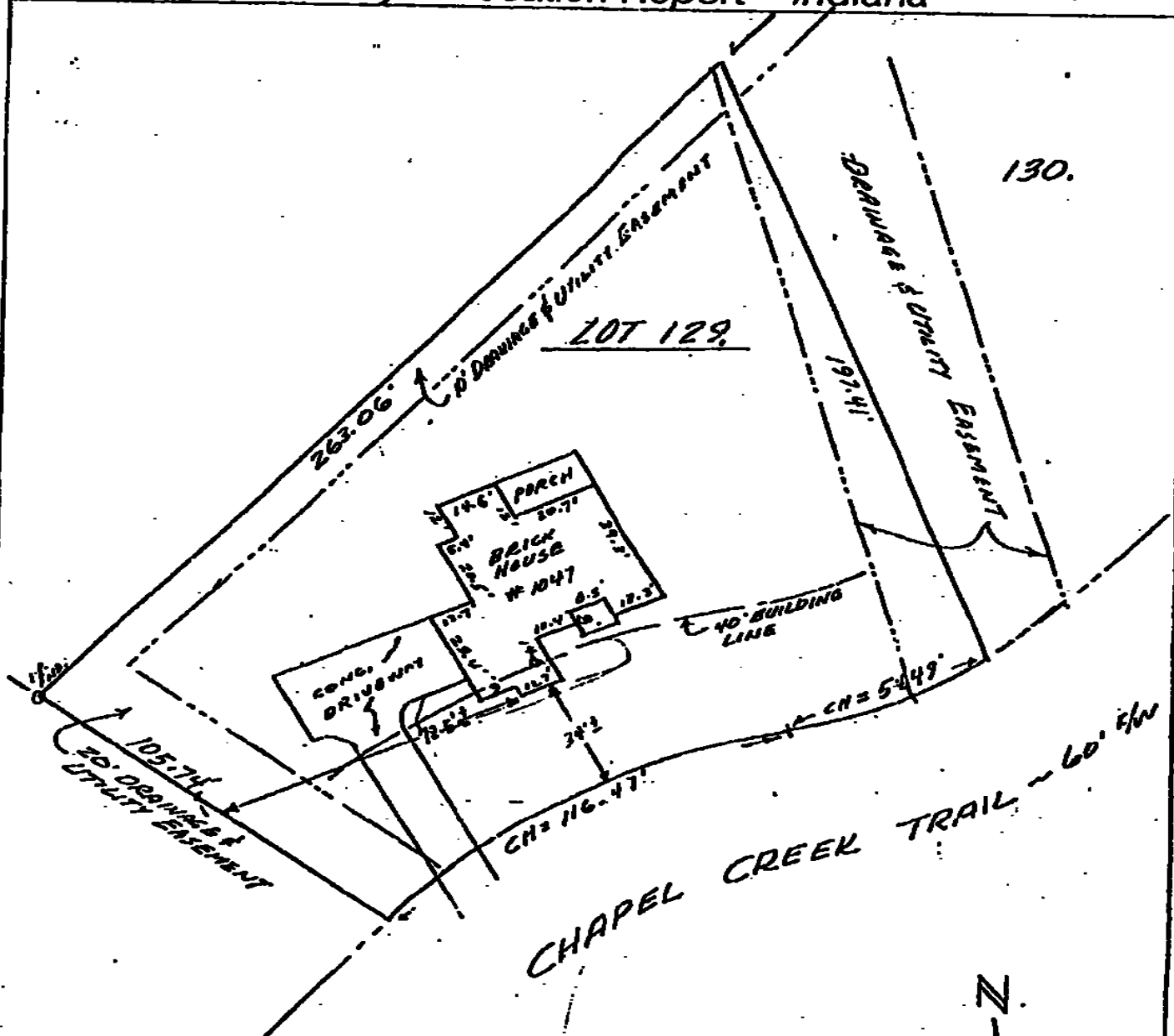
WITNESS my hand and notarial seal this 2nd_ day of June,
1995.

My Commission Expires:
December 26, 1998

J. Terrence Cody
Name
Printed: J. Terrence Cody
County of Residence: Floyd
NOTARY PUBLIC

Prepared by: J. Terrence Cody
Attorney At Law
318 Pearl Street
P.O. Box 685
New Albany, IN 47151-0685
(812) 944-2205

Surveyor Location Report - Indiana



LOT 129, PLAT 1022, FLOYD COUNTY, INDIANA.

NEW OWNERS - WILLIAM ESKRIDGE, JR. & CATHRYN M. ESKRIDGE

PROPERTY ADDRESS - 1047 CHAPEL CREEK TRAIL., NEW ALBANY, IN. 47150

*William H. Eskridge
Cathryn M. Eskridge*

SCALE: 1" = 40'
MAR. 17, 1995

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE PROPERTY LINES, EASEMENTS, AND IMPROVEMENTS EXIST AS SHOWN ON THIS DRAWING. I FURTHER CERTIFY THAT THIS LOCATION REPORT AND THE INFORMATION SHOWN HEREON MEETS OR EXCEEDS THE MINIMUM REQUIREMENTS AS ADOPTED BY THE INDIANA SOCIETY OF PROFESSIONAL LAND SURVEYORS ON JANUARY 28, 1981 AND APPROVED BY THE TITLE UNDERWRITERS OF INDIANA, INC. ON MARCH 29, 1981. I FURTHER CERTIFY THAT I HAVE EXAMINED F.I.A. FLOOD HAZARD BOUNDARY MAP NUMBER 180432, DATED 1-3-81, AND THAT BASED ON THAT EXAMINATION THE SUBJECT PROPERTY IS NOT LOCATED IN A DESIGNATED FLOOD HAZARD AREA.

Thomas J. Boofter
THOMAS J. BOOFTER, L.S.

CERTIFICATION DATE 3-17-95



T. J. BOOFTER ASSOCIATES, Civil Engineers and Land Surveyors
207 West Spring Street, New Albany, Indiana