

# APPLICATION TO BOARD OF ADJUSTMENT

## Variance

Paris- Bourbon County Joint Planning Commission

301 Main Street, Paris, KY 40361 • (859) 987-2150 • Fax (859) 987-2136

**Office Use only:**

Application No. VAR 20-05 Fee Amount: \$ 200<sup>00</sup> Date Fee Received: 9/28/2020  
1. APPLICANT EVERGREEN MEMORY GARDENS Owner (if different) LORD & MOSES INC.  
MAILING ADDRESS 5364 LEXINGTON KY 40511  
PHONE NO. 859-987-3680 (HOME) \_\_\_\_\_ (WORK) \_\_\_\_\_

2. PLEASE CIRCLE: Paris / Bourbon County / Millersburg/ North Middletown  
Location \_\_\_\_\_

3. SUBDIVISION \_\_\_\_\_

4. EXISTING USE CEMETERY ZONING DISTRICT A-1

5. DESCRIPTION OF REQUEST TO OBTAIN A VARIANCE PERMITTING THE REPLACEMENT OF THE SIGN IN FRONT OF THE CEMETERY ENTRANCE

**7. SUPPORTING INFORMATION:**

VARIANCE - Attach plans drawn to scale showing the dimensions and shape of the lot or land, the size and locations of existing buildings, the locations and dimensions of proposed buildings or additions, and any natural or topographic peculiarities of the lot in question. In order for a variance to be granted, the applicant must prove to the Board that the following items are true: (Please attach these comments on a separate sheet) Refer to section 4.28 (Dimensional Variance) in Zoning Ordinance.

- A. Special conditions exist peculiar to the lot, land or building(s) in question.
- B. That a literal interpretation of the zoning ordinance would deprive the applicant of the rights enjoyed by other property owners.
- C. That the special conditions do not result from previous actions of the applicant.
- D. That the requested variance is the minimum variance that will allow a reasonable use of the lot, land or building(s).

**CHECKLIST:**

- Attach a Legal Description of the Property
- Attach a plan of the proposed variance (as described above)
- Attach a separate statement describing A-D
- Attach a narrative describing any prior actions taken by the Board of Adjustment on this property
- Attach a list of adjoining property owners (name and address)

I hereby certify that the information contained in this application and supporting attachments is true and correct. I acknowledge that the paid fee will not be returned after legal notices have been submitted. The filing fee covers the cost of public notice and the recording of a Land Use Restriction at the County Clerk's Office.

BARBARA ELLIOTT 9-28-2020  
APPLICANT SIGNATURE GEN. MER DATE

Applications under zoning regulations involve legal procedures and the satisfaction of legal requirements, often complex, based up the written information in your application and the facts presented at your hearing. If you fail to comply with the procedures, or to satisfy the requirements your application will be subject to denial. Even if your application is approved it could be subject to a neighboring landowners appeal to the Circuit Court. You are not required to employ an attorney but you are encouraged to do so.



5364 Lexington Road • Lexington, KY 40511  
Phone 859-987-3680 • Fax 895-987-6505 • [evergreenmemorygardens@gmail.com](mailto:evergreenmemorygardens@gmail.com)

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September 28, 2020

Bourbon County Board of Adjustment

Paris Pike Corridor Commission

To whom it may concern:

Evergreen Memory Gardens is submitting this narrative to the Bourbon County Board of Adjustments and the Paris Pike Corridor Commission for their consideration of the cemetery's request for a set back variance. The intent is to replace the existing sign with a new sign.

Evergreen Memory Gardens has decided that the cemetery sign could be constructed in a way that is beneficial to the cemetery as a whole and in conformance with the beauty of the Paris Pike landscape along the right of way.

The parcel the cemetery now occupies was purchased in 1959 and is when the first sign was erected. The first burial in the cemetery was June 23, 1960, thus the sign in question existed before development stages and subsequent construction of the new four lane highway began.

Evergreen Memory Gardens was instructed to deed over the road frontage to a depth of 54 feet for the right of way of the new road, which they did. To our knowledge, there have been no prior actions taken by the Board of Adjustments on this property.

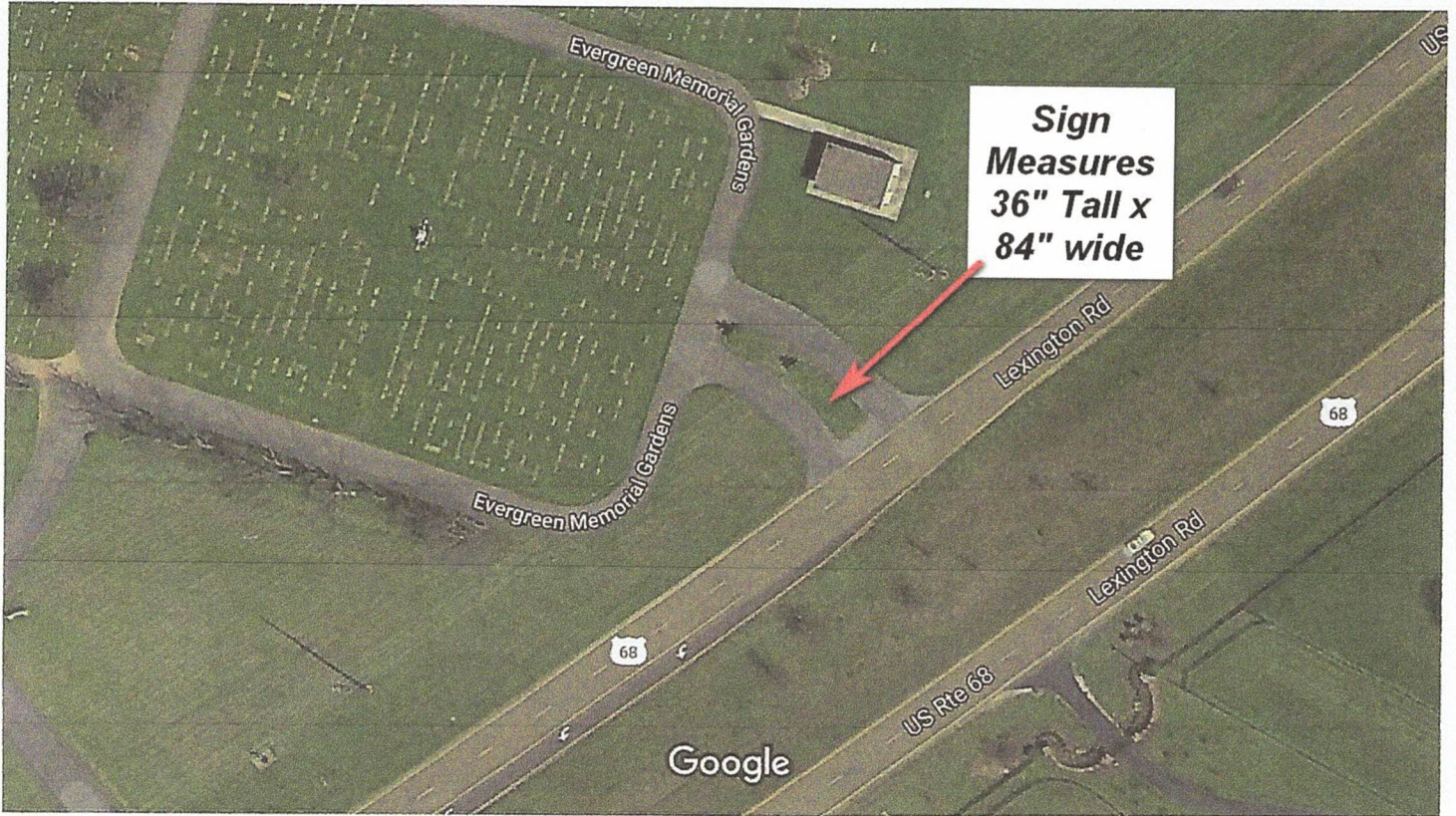
In submitting this narrative and application materials, the cemetery hopes to convey our intent to recognize and respect the governing authority of both the board and the commission. As this is done, we hope to present a reasonable cause as to why a variance in our favor would benefit all parties.

Evergreen Memory Gardens would appreciate your attention to the following items individually and collectively as reason to award the variance:

1. The variance requested for the location of the sign is 162 feet of the current 200 ft that is required by the Dept. of Transportation.
2. The design of the proposed double sided sign improvement utilizes muted colors and native wood that is consistent with the history and beauty of the corridor. The square wooden posts holding the sign would be 6 inch by 6 inch by 10 feet with 2 feet in the ground, allowing for stability as well as easy breakaway should any vehicular incidents occur. Landscaping below the sign will be utilizing native flora and fauna further beautifying the Paris Pike Corridor. The sign will be illuminated at night from both sides.
3. The location of the sign improvement would be at the main entrance of the cemetery which has been in place before the expansion of Paris Pike to 4 lanes.
4. The location of the proposed sign is similar in the setback as others in the general area.

The owner of Evergreen Memory Gardens sincerely appreciates your consideration of our request and ask that you join us in our effort to enhance the attractiveness of our cemetery and the Paris Pike Corridor.

We further present an aerial view of the sign location in conjunction with the highway and the cemetery proper.



Imagery ©2020 Maxar Technologies, Map data ©2020 50 ft

Evergreen Memory Gardens  
5364 Lexington Road  
Lexington KY 40511

Evergreen Memory Gardens  
5364 Lexington Road  
Lexington KY 40511

\$300<sup>00</sup>  
RE Tax Rd  
4-21-03  
Richard Stipp Esq & Co  
By: Mary Elizabeth Walther

BOOK 250 PAGE 660

LODGED FOR RECORD  
RICHARD STIPP ESQ  
BOURBON COUNTY CLERK

SOURCE DEED

03 APR 21 PM 3:32

Property: 5364 Paris-Lexington Rd. Lexington, KY

5-22-03  
Mailed to  
-att-

**DEED**

THIS DEED, dated April 18, 2003, between **MEMPHIS MEMORY GARDENS, INC.**, a Tennessee corporation, as successor by merger with **STILLBROOKE CORPORATION OF TENNESSEE**, a Texas corporation, hereinafter referred to as **GRANTOR**, whose offices are located at 1929 Allen Parkway, Houston, TX, 77019, and **LORD & MOSES, LLC**, an Ohio limited liability company, hereinafter referred to as **GRANTEE**, with offices at P.O. Box 302, Aurora, OH, 44202,

**WITNESSETH:**

That for and in consideration of the total purchase price of **THREE HUNDRED THOUSAND AND 00/100 DOLLARS (\$300,000.00)** the receipt of which is hereby acknowledged, GRANTOR has Bargained and Sold and does hereby Grant and Convey unto GRANTEE, its successors and assigns forever, the following described real estate situated in Fayette County, Kentucky, and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO.

TO HAVE AND TO HOLD, the above described property, together with all appurtenances and privileges thereunto belonging, unto GRANTEE, in fee simple, its successors and assigns forever.

GRANTOR hereby releases and relinquishes unto GRANTEE, its successors and assigns forever, all of GRANTOR'S right, title and interest in and to said property, and covenants with GRANTEE, its successors and assigns forever, that GRANTOR is lawfully seized in fee simple title to said property, and has good and lawful right to sell and convey same as is herein done, that the title to said property is clear, perfect and unencumbered, and subject to the hereinafter set out exceptions, WARRANTS GENERALLY the title to said property.

PROVIDED, HOWEVER, exception is hereby taken to current taxes, easements and restrictions of record affecting said property.

IN TESTIMONY WHEREOF, GRANTOR, by and through its authorized representative, has hereunto affixed its signature, this the day and year first above written.

Return to:  
Walther, Roark, Gay, & Todd, PLC  
163 East Main Street, Suite 200  
P. O. Box 1598  
Lexington, Kentucky 40588-1598



2003

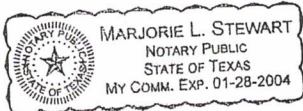
GRANTOR:

MEMPHIS MEMORY GARDENS, INC.,  
a Tennessee corporation, as successor by merger with  
STILLBROOKE CORPORATION OF TENNESSEE,  
a Texas corporation

By: *Ray A. Gipson*  
Ray A. Gipson, Vice President

STATE OF TEXAS        )  
                                  )SS  
COUNTY OF HARRIS    )

The foregoing instrument was acknowledged before me on this 16<sup>th</sup> day of April, 2003, by Ray A. Gipson, Vice President, for and on behalf of MEMPHIS MEMORY GARDENS, INC., a Tennessee corporation, as successor by merger with STILLBROOKE CORPORATION OF TENNESSEE, a Texas corporation.



*Marjorie L. Stewart*  
NOTARY PUBLIC

CONSIDERATION CERTIFICATE

We, the undersigned, hereby certify that the consideration reflected in this deed is the full consideration paid for the property.

MEMPHIS MEMORY GARDENS, INC.,  
a Tennessee corporation, as successor by  
merger with STILLBROOKE CORPORATION  
OF TENNESSEE, a Texas corporation

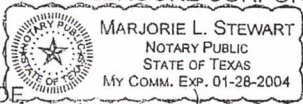
LORD & MOSES, LLC

Ray A. Gipson  
Ray A. Gipson, Vice President

By: John R. Moses  
Its: President

STATE OF TEXAS )  
                          )SS  
COUNTY OF HARRIS )

The foregoing CONSIDERATION CERTIFICATE was acknowledged before me on this 16th day of April, 2003, by Ray A. Gipson, Vice President, for and on behalf of MEMPHIS MEMORY GARDENS, INC., a Tennessee corporation, as successor by merger with STILLBROOKE CORPORATION OF TENNESSEE, a Texas corporation.



Marjorie L. Stewart

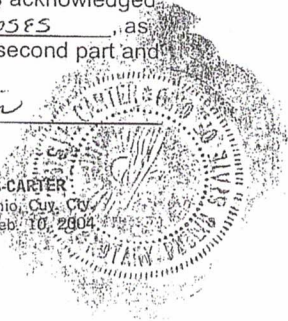
STATE OF \_\_\_\_\_ )  
                                  )SS  
COUNTY OF \_\_\_\_\_ )

I hereby certify that the foregoing deed and consideration statement was acknowledged and sworn to before me this 18th day of April, 2003 by JOHN R. MOSES as PRESIDENT of LORD & MOSES, LLC, party of the second part and Grantee.

Ray A. Gipson  
This instrument was prepared by:  
Ray A. Gipson, Esq.  
SCI Management  
1929 Allen Parkway  
Houston, TX 77019

Carmen S. Williams-Carter

CARMEN S. WILLIAMS-CARTER  
Notary Public, State of Ohio, Cuy. Co.  
My Commission Expires Feb. 10, 2004



## Exhibit "A"

All that tract or parcel of land situated in the County of Bourbon, State of Kentucky, and described as follows:

BEGINNING at a point in the center of the Maysville and Lexington Turnpike, corner to Lockhart Spears; thence with the line of Spears North 38 degrees 55 minutes West 1408.0 feet to a point; (erroneously referred to as South 38 degrees 55 minutes East 1408.8 feet in four previous deeds; thence South 38 degrees West 1414.0 feet to a point, corner to Smedley; thence in the line of Smedley South 72 degrees 25 minutes East 1277.0 feet to a point in the center of the Maysville and Lexington Turnpike; thence North 51 degrees 05 minutes East 780.0 feet to the BEGINNING containing 31.58 acres (actually including the 31.58 acre tract of land and 1.96 acre tract as shown on the plat of same referred to hereinafter) Said description of property being set out in a survey of William E. Hudnall, dated March 30, 1963, and of record in Deed Book 143, Page 655, in the Bourbon County Clerk's office.

Being the same property conveyed to Stillbrooke Corporation of Tennessee, a Texas corporation, by deed dated September 19, 1989, of record in Deed Book 205, Page 554, in the Bourbon County Clerk's Office.

THERE IS EXCEPTED FROM THE ABOVE DESCRIPTION THE FOLLOWING:

Being all of Parcel One (1) of the property shown on the Consolidation Minor Subdivision Plat of record in the office of the Bourbon County Court Clerk in Plat Cabinet B, Slide 235, to which plat reference is hereby made for a more complete description of said property.

Being the same property conveyed to Bedford Acres Christian Church, Inc., a Kentucky Religious Non-Profit Corporation, by deed dated August 17, 1994, of record in Deed Book 220, Page 177, in the Bourbon County Clerk's Office.

LESS AND EXCEPT:

Parcel No. 91: Beginning at a point in the existing right of way line 5.65 feet left of southbound Paris-Lexington Road station 648+17.82; thence with the property line North 40 degrees 56 minutes 03 seconds West, 272.51 feet to a point in the proposed right of way line and the property line 275.98 feet left of southbound Paris-Lexington Road station 647+82.86; thence with the proposed right of way line North 48 degrees 18 minutes 19 seconds East, 65.57 feet to a point in the proposed right of way line 285.00 feet left of southbound Paris-Lexington Road station 648+50.00; thence with the proposed right of way line South 39 degrees 04 minutes 04 seconds East, 225.52 feet to a point in the proposed right of way line 60.33 feet left of southbound Paris-Lexington Road station 648+70.00; thence with the proposed right of way line North 57 degrees 02 minutes 39 seconds East, 278.38 feet to a point in the proposed right of way line 50.00 feet left of southbound Paris-Lexington Road station 651+50.00; thence with the proposed right of way line North 52 degrees 39 minutes 03 seconds East, 435.31 feet to a point in the existing said proposed right of way line 49.04 feet left of southbound Paris-Lexington Road station 655+87.88; thence with the existing right of way line South 50 degrees 23 minutes 56 seconds West, 768.57 feet to the point of beginning.

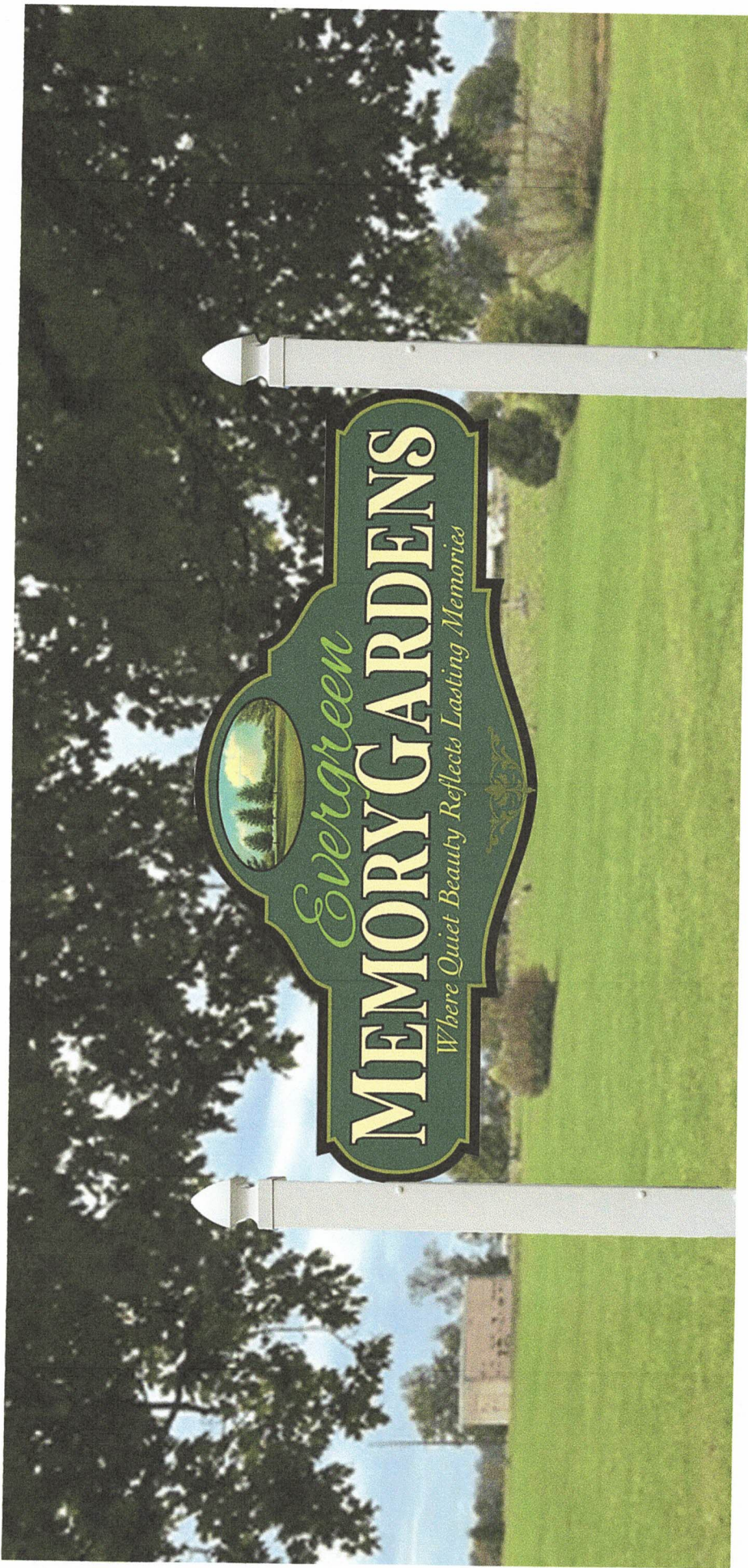
The above-described parcel contains .680 acres (29,631 sq. ft.).

Being the same property conveyed to the Commonwealth of Kentucky Transportation Cabinet Department of Highways, pursuant to that certain Agreed Order and Judgment Settling in Civil Action No. 99-CI-00259; Commonwealth of Kentucky Transportation Cabinet Department of Highways vs. Memphis Memory Gardens, Inc., et al., of record with the Bourbon County Circuit Court, Division N

↻ (IN DB. 250 P6. 292)

State of Kentucky, County of Bourbon, Sct.  
I, RICHARD STIPP EADS, Clerk of Bourbon  
County Court, do certify that the foregoing  
Filed  
was, on the 21st day of April, 2013  
at 3:32 P. M., lodged in my office for record,  
and that it has been duly recorded in my said  
office, together with this and the certificate thereon  
endorsed. Given under my hand.

*Richard Stipp Eads, BCC*



Sign = 8ft long  
3ft High

Post 8ft From Ground Level

Evergreen Memory Gardens  
5364 Lexington Road  
Lexington KY 40511



WYLES JEREMY P & MIRANDA L

5498 LEXINGTON RD  
LEXINGTON KY 405911

BEDFORD ACRES CHRISTIAN CHURCH  
5414 LEXINGTON RD  
PARIS KY 40361

RAHMAN KHALIL & RANA

5417 LEXINGTON RD  
LEXINGTON KY 40511

SHOULTZ A J IRREVOCABLE TRUST  
827 BETHLEHEM RD  
PARIS KY 40361

SMITH ROBERT IV & RACHEL  
5373 LEXINGTON RD  
PARIS KY 40361