



19761007000095880 1/11 \$.00
Shelby Cnty Judge of Probate, AL
10/07/1976 12:00:00AM FILED/CERT

196

JOHN CLARK DYER, et als,

Plaintiffs,

vs.

ROBERT CECIL DYER, et als,

Defendants.

IN THE CIRCUIT COURT

FOR

SHELBY COUNTY, ALABAMA

CIVIL ACTION NO. E-535-74

COURT ORDER OF PARTITION

This cause coming on for final hearing on the 13th day of September, 1976 under the Pre-Trial Agreement and Order heretofore entered in this cause and all parties Plaintiff and all parties Defendant being in open Court in their own and proper persons and by and through their Attorneys of Record and the Guardian Ad Litem for the minor Plaintiff being in open Court and the Court proceeding to take testimony and receive evidence in open Court and this cause being continued for conclusion of the evidence on September 14, 1976, and on the 14th day of September, 1976 the Attorneys of Record for all parties and the Guardian Ad Litem announcing to the Court that they, with the express consent of all parties, have entered into additional stipulations and agreements for a compromise in lieu of further Court proceedings in this cause, which was then reduced to writing by the Court Reporter and made a part of the record in this cause, whereby (1) the Plaintiffs' Complaint is dismissed with prejudice with cost to the Defendants Robert Cecil Dyer, Jack McLeod Nix and Oburea Dyer Jones, (2) the parties offered and the Court received in evidence as Court's Exhibit Number 3 a perimeter survey and legal description of all of the real estate involved in this cause, being all of the real estate owned by L. C. Dyer at the time of his death, consisting of 35.03 acres, more or less, (3) the parties offered and the Court received in evidence as Court's Exhibit Numbers 4, 5, 6 and 7 four separate surveys dividing the real estate shown by Court's Exhibit Number 3 into four separate parcels, known as Parcels I, II, III and IV, respectively, (4) the parties have agreed upon the division or partition of the real estate shown by Court's Exhibit Number 3, under which the Defendant Robert Cecil Dyer will receive Parcel Number I being the parcel described by Court's Exhibit Number 4, the Plaintiffs John Clark Dyer and Betty Jane Dyer and the Defendants Ella Ruth Roberson, Evelyn Jeanette Robinson and Jack Edward Dyer will receive Parcel II being the

BOOK 301 PAGE 346
See Amendment - Deed Book 301 - Page 739 10-21-76
301 - Page 745 10-28-76

parcel shown by Court's Exhibit Number 5, subject to the dower interest of Synthia Ozzelliar Meyers, the Defendant Oburea Dyer Jones will receive Parcel III being the parcel shown by Court's Exhibit Number 6, and the Defendant Jack McLeod Nix will receive Parcel IV being the parcel shown by Court's Exhibit Number 7, (5) the Plaintiffs and the Defendants Ella Ruth Roberson, Evelyn Jeanette Robinson and Jack Edward Dyer shall have a perpetual right-of-way and easement to the existing private dirt road from Shelby County Highway Number 83 over and across the real estate shown by Court's Exhibit Number 6 for ingress and egress to the real estate shown by Court's Exhibit Number 5, (6) any ownership interest of L. C. Dyer or his heirs to any real estate lying North of the North line as shown by Court's Exhibit Number 3 will be the property of the Defendant Robert Cecil Dyer, and (7) the Defendant Robert Cecil Dyer shall pay the 1976 ad valorem taxes on the real estate shown by Court's Exhibit Number 3 and during the tax assessment period for 1977 ad valorem taxes beginning on October 1 and ending on December 31, 1976 each party to this cause will assess or cause to be assessed in their own name or names the parcel of the real estate received in this division.

Based upon the testimony previously taken and evidence previously received in open Court in this cause and upon the written stipulations and agreements of the parties and their procedure of compromise, the Court makes the following findings of fact: (1) that the procedure of compromise reached by the Attorneys of Record and the Guardian Ad Litem is in the best interest of all parties and the minor Plaintiff and should be approved by the Court, (2) that the real estate involved in this action can be equitably divided and partitioned, (3) that the real estate shown by Court's Exhibit Number 3 constitutes all of the real estate owned by L. C. Dyer at the time of his death and is all of the real estate involved in this action, (4) that under the circumstances of this case, all of the real estate involved in this case is equitably divided into four parcels as shown by Court's Exhibits Numbers 4, 5, 6 and 7 and, under the circumstances involved in this case, it is equitable for the Defendant Robert Cecil Dyer to receive the parcel shown by

Court's Exhibit Number 4, for the Plaintiffs John Clark Dyer and Betty Jane Dyer and the Defendants Ella Ruth Roberson, Evelyn Jeanette Robinson and Jack Edward Dyer to receive the parcel shown by Court's Exhibit Number 5, subject to the dower interest of Synthia Ozzelliar Meyers, for the Defendant Oburea Dyer Jones to receive the parcel shown as Court's Exhibit Number 6, and for the Defendant Jack McLeod Nix to receive the parcel shown as Court's Exhibit Number 7, with the provision for a perpetual right-of-way and easement to the existing private dirt road from Shelby County Highway Number 83 over and across the parcel shown by Court's Exhibit Number 6 for ingress and egress to the parcel shown by Court's Exhibit Number 5, and with the further provision that Defendant Robert Cecil Dyer be awarded any interest that L. C. Dyer or his heirs may have in and to the real estate North of the North line as shown by Court's Exhibit Number 3, (5) the Court further finds from the evidence that the parcel shown by Court's Exhibit Number 5 has the largest acreage of any of the four parcels and its acreage is more than one-fourth of the whole and that such parcel has a fair market value of not less than one-fourth of the whole and further that the fair market value of such parcel is equal to or greater than any one of the other three parcels, and (6) that \$350.00 is a reasonable fee to be awarded to Hon. Hewitt L. Conwill for his services in this cause as Guardian Ad Litem for the minor Plaintiff Betty Jane Dyer.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. That the procedure of compromise reached by the Attorneys of Record and the parties and the Guardian Ad Litem in this cause be and the same is hereby approved.
2. That the Plaintiffs' Complaint be and the same is hereby dismissed with prejudice and all of the Court costs in this cause are taxed to the Defendants Robert Cecil Dyer, Jack McLeod Nix and Oburea Dyer Jones.
3. That the real estate shown by Court's Exhibit Number 3 constitutes all of the real estate owned by L. C. Dyer at the time of his death and is all of the real estate involved in this action, a copy of which exhibit is attached to and made a part of this Court Order.

4. That Robert Cecil Dyer be and he is hereby awarded and vested with title in and to the real estate shown by Court's Exhibit Number 4, a copy of which exhibit is attached to and made a part of this Court Order.

5. That John Clark Dyer, Betty Jane Dyer, Ella Ruth Roberson, Evelyn Jeanette Robinson and Jack Edward Dyer be and they are hereby awarded and vested with title in and to the real estate shown by Court's Exhibit Number 5, a copy of which exhibit is attached to and made a part of this Court Order, as joint owners subject to the dower interest therein of Synthia Ozzelliar Meyers.

6. That Oburea Dyer Jones be and she is hereby awarded and vested with title in and to the real estate shown by Court's Exhibit Number 6, a copy of which exhibit is attached to and made a part of this Court Order, subject to a perpetual right-of-way and easement to the existing private dirt road from Shelby County Highway Number 83 over and across this parcel for ingress and egress to the parcel shown by Court's Exhibit Number 5.

7. That Jack McLeod Nix be and he is hereby awarded and vested with title in and to the real estate shown by Court's Exhibit Number 7, a copy of which exhibit is attached to and made a part of this Court Order.

8. That Robert Cecil Dyer be and he is hereby awarded and vested with all of the right, title and interest, if any, of L. C. Dyer or his heirs in and to the real estate lying North of the North line as shown by said Court's Exhibit Number 3.

9. That Robert Cecil Dyer pay the 1976 ad valorem taxes on the real estate shown by Court's Exhibit Number 3 and that during the tax assessment period for 1977 ad valorem taxes each party to this cause will assess or cause to be assessed in their own name or names the parcel of real estate hereby awarded and vested under this Court Order.

10. That Hon. Hewitt L. Conwill is awarded a fee of \$350.00 for his services as Guardian Ad Litem in this cause for the minor Plaintiff Betty Jane Dyer, which fee will be taxed as part of the Court costs in this cause.

11. That the Register of this Court will cause a copy of this

Court Order to be recorded in the Office of the Judge of Probate of Shelby County, Alabama and will cause another copy to be delivered to the Tax Assessor for Shelby County, Alabama.

12. That the Register of this Court will serve a copy of this Court Order by mail upon the Attorneys of Record for all parties in this cause, the Guardian Ad Litem, and the three parties Defendant who are not represented by an Attorney of Record.

DONE AND ORDERED this 14th day of September, 1976.

James H. Sharbitt
Circuit Judge

Certified a true and complete copy

Kyle Ramsford
Register of Circuit Court



19761007000095880 6/11 \$.00
Shelby Cnty Judge of Probate, AL
10/07/1976 12:00:00AM FILED/CERT

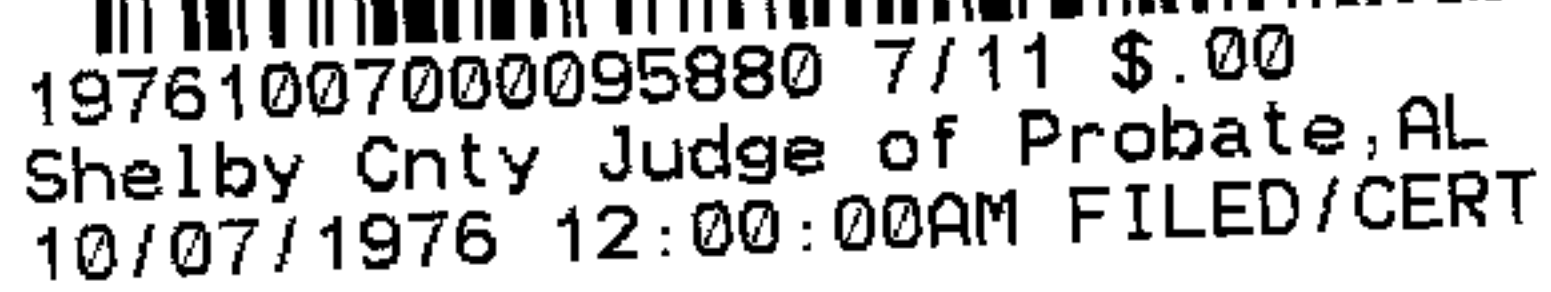
DYER ESTATE PROPERTY

Begin at the southwest corner of the South-West quarter of the North-East quarter of Section 28, Township 19 South, Range 2 East, Shelby County, Alabama; thence in a northerly direction along the west boundary of said quarter-quarter section a distance of 991.35 feet; thence turn 89 degrees and 26 minutes to the right in an easterly direction 1406.92 feet; thence turn 84 degrees and 28 minutes to the right in a southeasterly direction 314.57 feet; thence turn 2 degrees and 54 minutes to the right in a southeasterly direction 209.00 feet; thence turn 80 degrees and 20 minutes to the left in a southeasterly direction 209.00 feet to intersection with the west right-of-way boundary of Highway 83; thence turn 87 degrees and 05 minutes to the right in a southerly direction along said west right-of-way boundary 158.90 feet; thence turn 97 degrees and 45 minutes to the right in a northwesterly direction 329.00 feet; thence turn 90 degrees and 00 minutes to the right in a northeasterly direction 96.80 feet; thence turn 95 degrees and 30 minutes to the left in a northwesterly direction 313.00 feet; thence turn 84 degrees and 30 minutes to the left in a southwesterly direction 277.00 feet; thence turn 95 degrees and 30 minutes to the left in a southeasterly direction 313.00 feet; thence turn 95 degrees and 30 minutes to the right in a southwesterly direction 237.80 feet; thence turn 90 degrees and 00 minutes to the left in a southeasterly direction 90.30 feet; thence turn 97 degrees and 35 minutes to the right in a southwesterly direction 312.80 feet; thence turn 81 degrees and 39 minutes to the left in a southeasterly direction 195.52 feet to intersection with the north-west right-of-way boundary of said Highway 83; thence turn 96 degrees and 50 minutes to the right in a southwesterly direction along said northwest right-of-way boundary 183.75 feet; thence turn 17 degrees and 38 minutes to the right in a southwesterly direction along the northwest right-of-way boundary of Highway 231 275.39 feet; thence turn 91 degrees and 37 minutes to the right in a northwesterly direction 198.00 feet; thence turn 72 degrees and 48 minutes to the right in a northeasterly direction 75.75 feet; thence turn 14 degrees and 45 minutes to the left in a northeasterly direction 495.99 feet; thence turn 94 degrees and 18 minutes to the left in a westerly direction 100.00 feet; thence turn 94 degrees and 18 minutes to the right in a northeasterly direction 80.00 feet to intersection with the south boundary of said South-West quarter of the North-East quarter; thence in a westerly direction along said south boundary 1030.00 feet to the point of beginning.

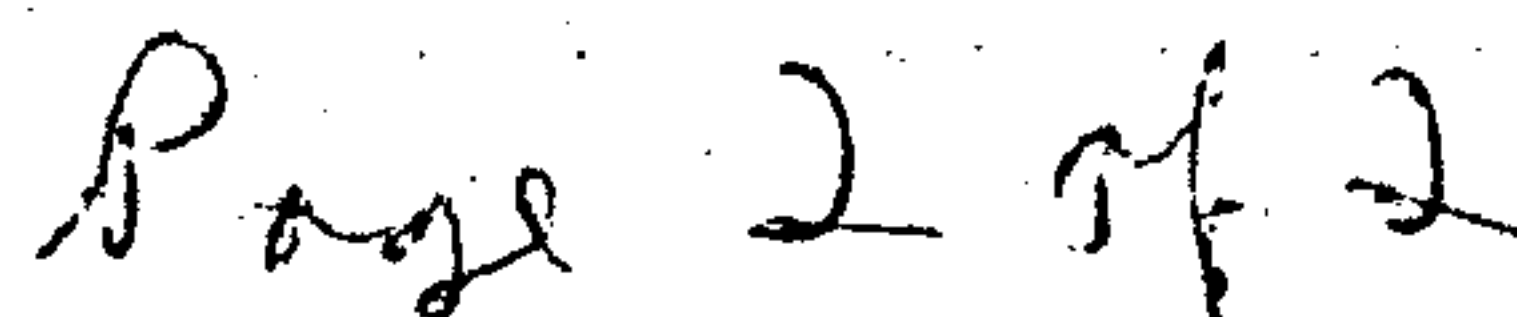
BOOK 301 PAGE 351

Court's Ex 3

Page 1 of 2



SHEET NO. _____ OF _____
JOB NO. _____
SCALE : 1" = 300'





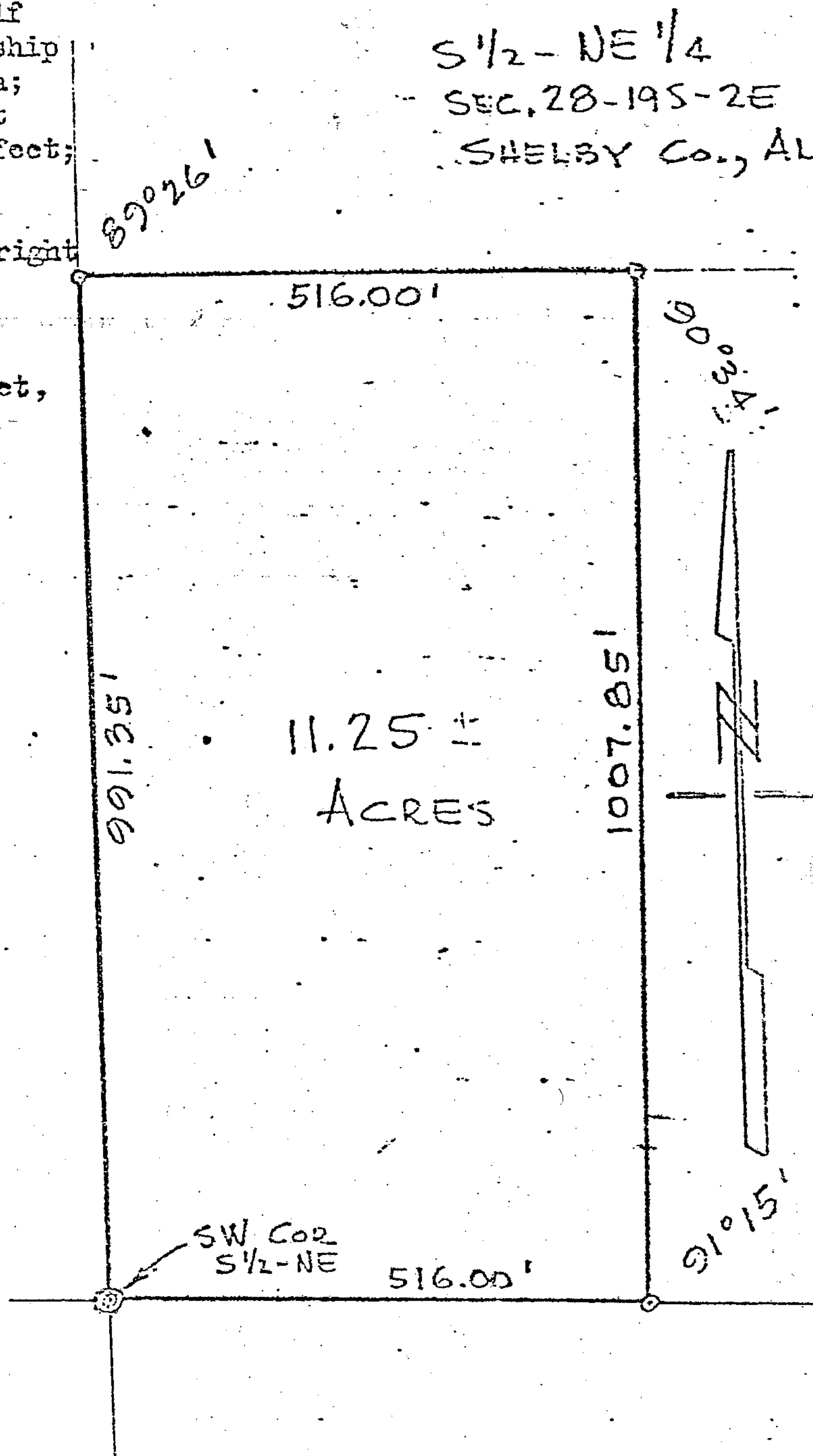
19761007000095880 8/11 \$.00
Shelby Cnty Judge of Probate, AL
10/07/1976 12:00:00AM FILED/CERT

STATE OF ALABAMA
JEFFERSON COUNTY

I, W. M. Varnon, a Registered Land Surveyor, do hereby certify that the following is a true and correct map, or plat, of a survey made and/or completed by me on 3-2-74.

DESCRIPTION:

Begin at the southwest corner of the South-half of the North-East quarter of Section 28, Township 19 South, Range 2 East, Shelby County, Alabama; thence in a northerly direction along the west boundary of said half-quarter section 991.35 feet; thence turn 89 degrees and 26 minutes to the right in an easterly direction 516.00 feet; thence turn 90 degrees and 34 minutes to the right in a southerly direction 1007.71 feet to intersection with the south boundary of said half-quarter section; thence in a westerly direction along said south boundary 516.00 feet, more or less, to the point of beginning.



SCALE 1" = 200'

Given under my hand and seal this

13 day of March 1974
W. M. Varnon

Count's Ex #4

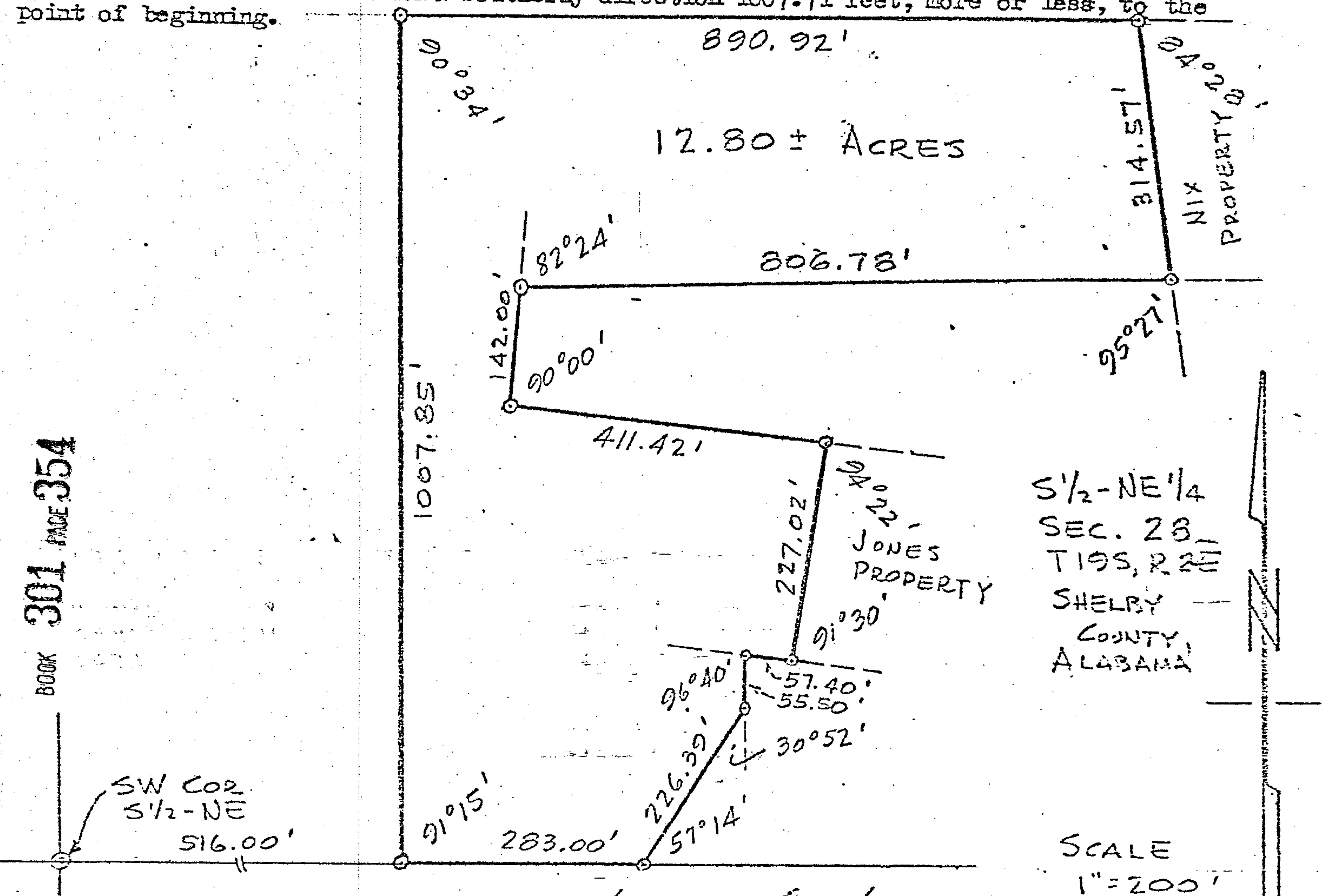
W. M. VARNON - Registered Land Surveyor
Alabama Certificate No. 9324
610 Parsons Drive, Hueytown, Ala. 35020
Telephone: 491-4821

STATE OF ALABAMA
JEFFERSON COUNTY

I, W. M. Varnon, a Registered Land Surveyor, do hereby certify that the following is a true and correct map, or plat, of a survey made and/or completed by me on 10-5-74.

2. DESCRIPTION:

Begin at the southwest corner of the South-half of the North-East quarter of Section 28, Township 19 South, Range 2 East, Shelby County, Alabama; thence in an easterly direction along the south boundary of said half-quarter section 516.00 feet to the point of beginning; thence continue in an easterly direction along said south boundary 283.00 feet; thence turn 57 degrees and 14 minutes to the left in a northeasterly direction 226.39 feet; thence turn 30 degrees and 52 minutes to the left in a northerly direction 55.50 feet; thence turn 96 degrees and 40 minutes to the right in an easterly direction 57.40 feet; thence turn 91 degrees and 30 minutes to the left in a northeasterly direction along the west boundary of the Jones Property 227.02 feet; thence turn 94 degrees and 22 minutes to the left in a northwesterly direction 411.42 feet; thence turn 90 degrees and 00 minutes to the right in a northeasterly direction 142.00 feet; thence turn 82 degrees and 24 minutes to the right in an easterly direction 806.78 feet; thence turn 95 degrees and 27 minutes to the left in a northwesterly direction along the west boundary of the Nix Property 314.57 feet; thence turn 84 degrees and 23 minutes to the left in a westerly direction 890.92 feet; thence turn 89 degrees and 26 minutes to the left in a southerly direction 1007.71 feet, more or less, to the point of beginning.



Given under my hand and seal this 14 day of Oct. 1974

Carroll Ex #5

W. M. Varnon
W. M. VARNON - Registered Land Surveyor
Alabama Certificate No. 9324
610 Parsons Drive, Hueytown, Ala. 35020
Telephone: 491-4821



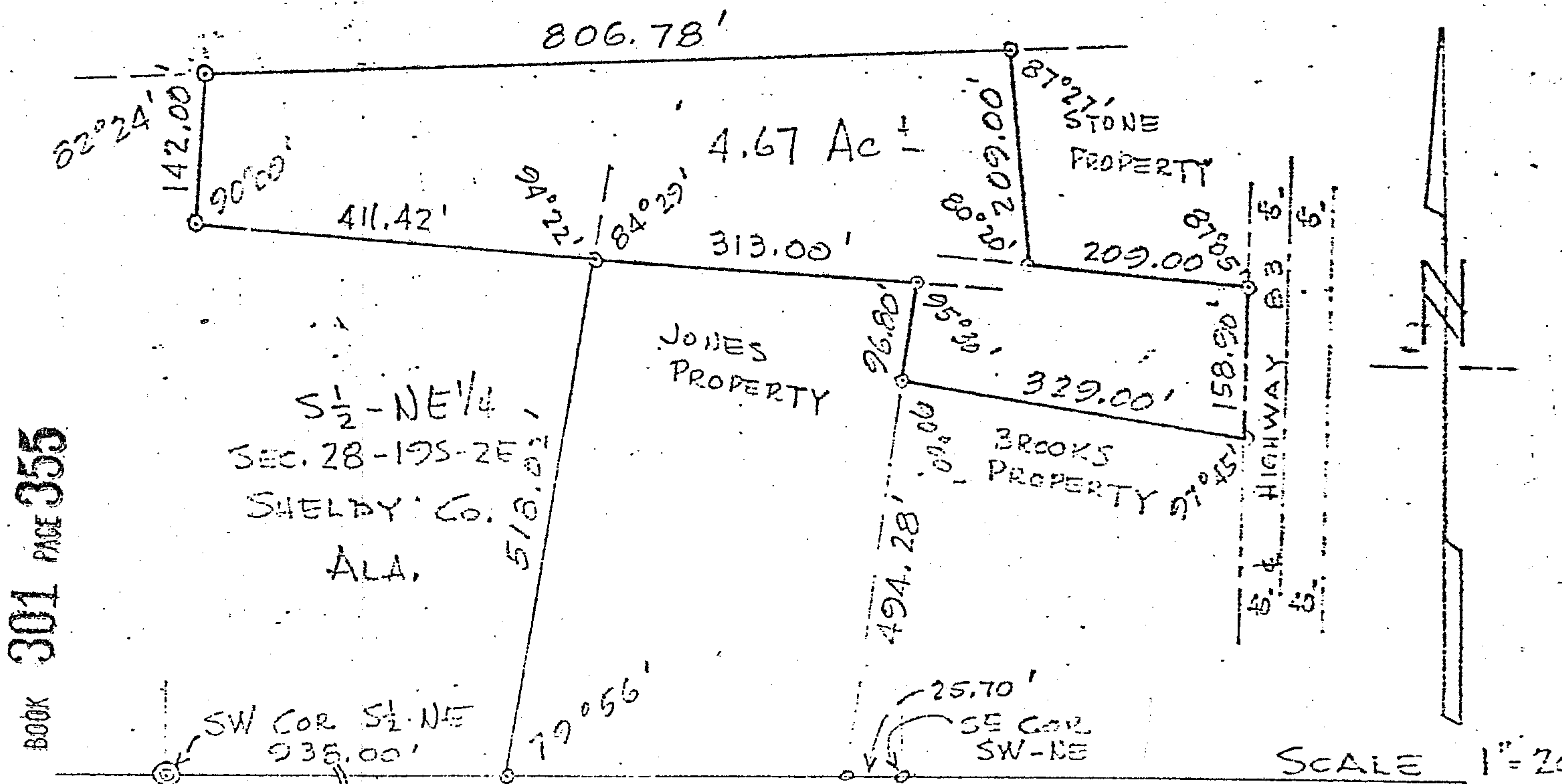
19761007000095880 10/11 \$.00
Shelby Cnty Judge of Probate, AL
10/07/1976 12:00:00AM FILED/CERT

STATE OF ALABAMA
JEFFERSON COUNTY

I, W. M. Varnon, a Registered Land Surveyor, do hereby certify that the following is a true and correct map, or plat, of a survey made and/or completed by me on 3-2-74.

DESCRIPTION:

Begin at the southwest corner of the South-half of the North-East quarter of Section 28, Township 19 South, Range 2 East, Shelby County, Alabama; thence in an easterly direction along the south boundary of said half-quarter-section 938.00 feet; thence turn 79 degrees and 56 minutes to the left in a northeasterly direction 518.02 feet to the point of beginning; thence turn 94 degrees and 22 minutes to the left in a northwesterly direction 411.42 feet; thence turn 90 degrees and 00 minutes to the right in a northeasterly direction 142.00 feet; thence turn 82 degrees and 24 minutes to the right in an easterly direction 806.78 feet; thence turn 87 degrees and 27 minutes to the right in a southerly direction along the west boundary of the Stone Property 209.00 feet; thence turn 80 degrees and 20 minutes to the left in a southeasterly direction 209.00 feet; thence turn 87 degrees and 05 minutes to the right in a southerly direction along the west right-of-way boundary of Highway 83 a distance of 158.90 feet; thence turn 97 degrees and 45 minutes to the right in a northwesterly direction along the north boundary of the Brooks Property 329.00 feet; thence turn 90 degrees and 00 minutes to the right in a northeasterly direction along the east boundary of the Jones Property 96.80 feet; thence turn 95 degrees and 30 minutes to the left in a northwesterly direction along the north boundary of said Jones Property 313.00 feet, more or less, to the point of beginning.



Given under my hand and seal this

13 day of March 1976

County Ex # 6

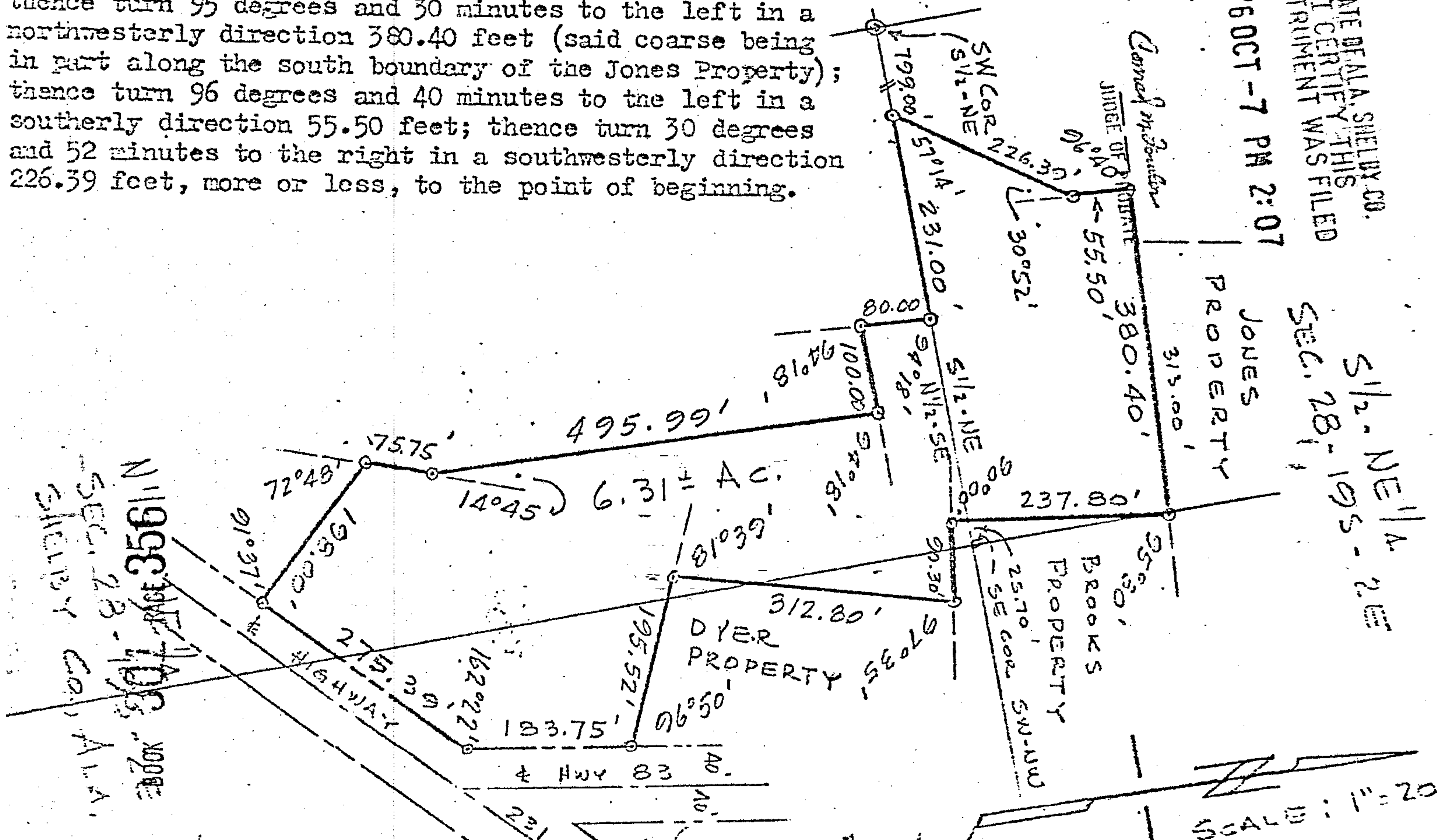
W. M. VARNON - Registered Land Surveyor
Alabama Certificate No. 9324
610 Parsons Drive, Hueytown, Ala. 35020
Telephone: 491-4821

STATE OF ALABAMA
JEFFERSON COUNTY

I, W. M. Varnon, a Registered Land Surveyor, do hereby certify that the following is a true and correct map, or plat, of a survey made and/or completed by me on 10-5-74.

4. DESCRIPTION:

Begin at the southwest corner of the South-half of the North-East quarter of Section 28, Township 19 South, Range 2 East, Shelby County, Alabama; thence in an easterly direction along the south boundary of said half-quarter section 799.00 feet to the point of beginning; thence continue in an easterly direction 231.00 feet; thence turn 94 degrees and 13 minutes to the right in a southwesterly direction 80.00 feet; thence turn 94 degrees and 13 minutes to the left in an easterly direction 100.00 feet; thence turn 94 degrees and 13 minutes to the right in a southwesterly direction 495.99 feet; thence turn 14 degrees and 45 minutes to the right in a southwesterly direction 75.75 feet; thence turn 72 degrees and 48 minutes to the left in a southeasterly direction 198.00 feet to intersection with the northwest right-of-way boundary of Highway #231; thence turn 91 degrees and 37 minutes to the left in a northeasterly direction along said northwest right-of-way boundary 275.39 feet; thence turn 17 degrees and 38 minutes to the left in a northeasterly direction along the northwest right-of-way boundary of Highway #83 a distance of 183.75 feet; thence turn 96 degrees and 50 minutes to the left in a northwesterly direction along the southwest boundary of the Dyer Property 195.52 feet; thence turn 81 degrees and 39 minutes to the right in a northeasterly direction along the northwest boundary of said Dyer Property 312.80 feet; thence turn 97 degrees and 35 minutes to the left in a northwesterly direction along the southwest of the Brooks Property 90.30 feet; thence turn 90 degrees and 00 minutes to the right in a northeasterly direction along the northwest boundary of said Brooks Property 237.80 feet; thence turn 95 degrees and 30 minutes to the left in a northwesterly direction 380.40 feet (said course being in part along the south boundary of the Jones Property); thence turn 96 degrees and 40 minutes to the left in a southerly direction 55.50 feet; thence turn 30 degrees and 52 minutes to the right in a southwesterly direction 226.39 feet, more or less, to the point of beginning.



Given under my hand and seal this

14 day of October 1974

Caution #7

W. M. VARNON - Registered Land Surveyor
Alabama Certificate No. 9324
610 Parsons Drive, Hueytown, Ala. 35020
Telephone: 491-4821