

IN RE: PETITION FOR ZONING VARIANCE • BEFORE THE
S/C Holly Hill Road and Holly Hill Court • ZONING COMMISSIONER
310 Holly Hill Road • OF BALTIMORE COUNTY
4th Election District
Jed Constantin District • Michael G. O'Brien, et al
Petitioners • Case No. 97-259-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner on a Petition for Variance for the property located at 310 Holly Hill Road in Reisterstown. The petition is filed by Michael G. O'Brien and Gloria J. O'Brien, property owners. Variance relief is requested from Sections 400.1 and 427.B of the Baltimore County Zoning Regulations (BCZR) to permit an existing shed to be located closer to the street in lieu of the required third of the lot farthest removed from any street; to permit a 0 ft. setback from the property line in lieu of the required 2-1/2 ft. for the aforementioned shed; and to permit a 6 ft. high fence in lieu of the required 42 inches. The subject property and requested relief are more particularly shown on the plat to accompany the Petition for Variance, marked as Petitioners' Exhibit No. 2.

Appearing at the public hearing held for this case were Michael G. O'Brien and Gloria J. O'Brien, his wife. Also present on their behalf was Patrick O'Keefe, a consultant engaged by the O'Briens. Appearing in opposition to the request were Mr. and Mrs. William C. Hooper, adjoining property owners.

Testimony and evidence presented on behalf of the Petitioners was that the subject lot is rectangular in shape and located at the intersection of Holly Hill Court and Holly Hill Road in Reisterstown. The property is zoned R-8.1.5. Mr. and Mrs. O'Brien indicated that they have owned and resided on the property for approximately 11 years. The property is

improved with a 1-1/2 story brick and aluminum single family dwelling which was constructed in the early 1960s. In addition to the house, the premises are improved with a concrete driveway from which vehicular access is provided from Holly Hill Road. The house fronts Holly Hill Road and bears an address of 310 Holly Hill Road. In the rear yard, the Petitioners have installed a 24 ft. above-ground circular swimming pool. Additionally, the property is significantly landscaped and a small road has been built in the rear corner of the property. Also present in the rear portion of the lot is a shed, 10 x 16 ft. in dimension. This shed is the subject of two of the zoning variances which have been requested.

Mr. and Mrs. O'Brien seek three zoning variances. Two of the variances relate to the location of the shed both in terms of its proximity to the property line and its location on the lot. In this regard, Mr. and Mrs. O'Brien testified that when they bought the house an old metal shed (16x10 ft.) was already located in the rear yard. That shed was located immediately abutting the property line in the center of the rear portion of the lot. Eventually, the condition of that shed deteriorated and the Petitioners decided to replace same. The current shed was recently constructed to replace the other shed. Although slightly larger, it was placed in nearly the same footprint location as the old shed. The Petitioners indicated that the shed is used for storage purposes for their lawnmower, garden equipment and similar household type items.

In addition to the variance request for the shed's location, relief is also requested for an existing fence. In this regard, the Petitioners testified that a wooden board on board fence was constructed in the Summer of 1986. The fence runs along the entire rear yard which includes a common property line with Mr. and Mrs. Hooper. Additionally, a portion of the fence extends down the side yard adjacent to Holly Hill Court and also

along the plane established by the rear of the envelope for the dwelling. The Petitioners indicated that the fence was installed to provide privacy and also ensure that children and others could not get access to the pool. The Petitioners request variance relief to allow the fence to remain at a height of 42 inches notwithstanding the zoning requirement that same not exceed 42 inches. The Petitioners submitted numerous photographs of both the subject property and neighborhood in support of their request. They indicated that other properties in the neighborhood are similarly improved and believe that the grant of variance relief is appropriate. In addition to reviewing the testimony and evidence presented, I also conducted a site inspection.

Testimony was also received from Mr. Hooper. He owns the property immediately next door, which is improved with a single family dwelling bearing the address, 807 Holly Hill Court. The side yard of Mr. Hooper's property abuts the rear yard of the subject property. Mr. Hooper's concerns are reflected in a letter submitted by him and marked as Petitioners' Exhibit No. 1. Essentially, he objects to the variances for two reasons. First, he complains that his right distance is infringed when attempting to exit his driveway. He also complains that the fence and shed are on his property.

Addressing first his concerns over the location of the fence and shed, I indicated at the hearing that the Zoning Commissioner is without authority to resolve questions of title or establish property lines. The Petitioners have offered a location survey which indicates that the fence and shed are on their property. For the purposes of considering the petition before me, I am satisfied that the location survey provided by the Petitioners is accurate. However, I make no finding as to the exact location of the property line and do not attempt to resolve any dispute between these neighbors.

between these neighbors. Any relief which is granted is contingent upon the Petitioners establishing that the improvements are on their property.

As to Mr. Hooper's second concern, I am not persuaded by same. I particularly noted this issue when I visited the site and pulled my automobile into the Hooper driveway. This driveway is located in the side yard of the Hooper property located farthest away from the Petitioners' property. That is, the Hooper's driveway is not immediately adjacent to the fence but a significant distance away. I noted no interference with sight distance occasioned by the fence. Moreover, it is to be noted that Holly Hill Court terminates in a cul-de-sac not far from where the Hooper's reside. The volume and speed of traffic will certainly be reduced based upon the character of this street.

Based upon the testimony and evidence presented, I am persuaded to grant the requested variance relief as it relates to the shed. In my judgment, the location of the shed is appropriate, both in terms of its location in the yard and as to the property line. Relocation of the shed to the third of the lot farthest removed from any street is not practicable. In this regard, several related testimony and evidence was presented that there exists a drainage and utility easement on the north side of the property. Moreover, a drive lane is located in and about this easement. These factors prohibit the location of the shed in that portion of the yard. Additionally, since this shed replaced an existing shed which was at the same location for many years, the shed's location is appropriate. Moreover, other improvements to the property, including landscaping and the location of the pool, limit the area in the shed could be located. All of these reasons, I am persuaded to grant relief to allow a 0 ft. setback from the property line and also permit the shed to remain in its present location.

The third variance sought by the Petitioners relates to the fence. In this regard, there is a conflict between the zoning regulations and the building code as they relate to fences around swimming pools. The zoning ordinance prohibits a fence over 42 inches in height when that fence adjoins the side or rear yard of a neighbor's property. However, the building code requires a fence a minimum of 48 inches around the pool. Obviously, concerns over safety of neighborhood children are a basis of that requirement.

Based upon the testimony and evidence offered, as well as the above requirements, I am persuaded to grant limited variance relief for the fence. Specifically, I will allow the fence to be a height of 48 inches. In my judgment, this height is sufficient to provide the necessary security and is in character with the community. Thus, the Petitioners shall be ordered to reduce the fence to a height of 48 inches. The affected portions of the fence are that part which extends from the shed to the side walk along the rear property line, along the side property line in a direction parallel to Holly Hill Court and in a direction from the side property line northerly towards the house in the Petitioners' side yard. Those portions of the fence, as described immediately here above, must be reduced to 48 inches. The fence may remain at its present height where same is constructed from the shed to the property line on the north side of the site.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted, in part, and denied, in part.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 12th day of February, 1997 that a variance from Section 400.1 and 427.B of the Baltimore County Zoning Regulations (BCZR) to permit an

existing shed to be located closer to the street, in lieu of the required third of the lot farthest removed from any street; and to permit a 0 ft. setback from the property line in lieu of the required 2-1/2 ft. for the aforementioned shed, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance to permit a 6 ft. high fence in lieu of the required 42 inches, be and is hereby DENIED, subject, however, to the following restrictions:

1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this order has expired. If, for whatever reason, this order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2. The Petitioners shall, within 90 days from the date of this order, reduce the fence to a height of 4 ft. (48 inches), in lieu of 6 ft. in height, in more particularly set forth hereinafter.

James E. Schmidt
JAMES E. SCHMIDT
Zoning Commissioner
for Baltimore County

LEJ/mnn

ORDER RECEIVED FOR FILING
Date *Feb 11 1997*
By *[Signature]*



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

February 6, 1997

Mr. and Mrs. Michael G. O'Brien
310 Holly Hill Road
Reisterstown, Maryland 21136
RE: Case No. 97-259-A
Petition for Zoning Variance
Property: 310 Holly Hill Road

Dear Mr. and Mrs. O'Brien:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted, with restrictions, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

James E. Schmidt
James E. Schmidt
Zoning Commissioner

LEJ:mnn
att.
Ct. Mr. William C. Hooper, 807 Holly Hill Court, Reisterstown, Md. 21136



Petition for Variance
to the Zoning Commissioner of Baltimore County
for the property located at 310 Holly Hill Road Reisterstown, Md.
97-259-A which is presently zoned R-8.1.5

This Petition shall be filed with the Office of Zoning Administration & Development Management.
The undersigned legal owners of the property located in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Sections 400.1 & 427.B (BCZR)
In permit an existing shed to be located closer to the street in lieu of the required third of the lot farthest removed from any street, zero (0) setback from property line in lieu of the required 2-1/2 ft. and an existing 6 ft. 0" high fence in lieu of the required 42 inches.
The undersigned hereby petition the Zoning Law of Baltimore County, for the following reasons (include reasoning in presentment of proposed changes with a 6' high fence with fence treated and steeled structure shed to screen pool and driveway from 6' square public utility and culture.
1) Replace fence located 36' with metal shed with a modern shed frame and
2) Replace fence located 36' with metal shed with a modern shed frame and
3) Shed work fence work location (presentment location of old fence and shed) 36' to 48' high fence structure which is area of old fence at 48' which
The undersigned hereby petition.
Property is to be posted and advertised as prescribed by Zoning Regulations.
I or we agree to pay expenses of above variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contact Information	
Name of Petitioner	<i>Michael G. O'Brien</i>
Address	<i>310 Holly Hill Rd</i>
City	<i>Reisterstown, Maryland</i>
State	<i>MD</i>
Zip	<i>21136</i>
Name of Petitioner	<i>Gloria Jean O'Brien</i>
Address	<i>310 Holly Hill Rd</i>
City	<i>Reisterstown, Maryland</i>
State	<i>MD</i>
Zip	<i>21136</i>
Name of Petitioner	<i>James E. Schmidt</i>
Address	<i>400 Washington Avenue</i>
City	<i>Towson</i>
State	<i>MD</i>
Zip	<i>21204</i>
ESTIMATED LENGTH OF HEARING	
All Petitioning Party	OTHER
HEARING BY	DATE <i>12-17-96</i>
ITEM # <i>259</i>	



Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Parker F. Williams
Administrator

Ms. Roslyn Eubanks
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County 12-31-96
Item No. 257 (27)

Dear Ms. Eubanks:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Larry Gredien at 410-545-5606 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

R. Burns
for Ronald Burns, Chief
Engineering Access Permits
Division

LG

My telephone number is _____
Maryland Relay Service for impaired hearing or speech
1-800-735-2288 Statewide Toll Free
Mailing Address: P.O. Box 771 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

TO: PDM
FROM: R. Bruce Seeley
Permits and Development Review
DEPRM
SUBJECT: Zoning Advisory Committee
Meeting Date: 12-20-96

DATE: 12/21/96

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee items:

Item #'s:
253
257
260
261
263
265
266
268

RBS:sp
BRUCEZ/DEPRM/TXTSPB

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits and Development
Management
FROM: Pat Kellor, Director
Office of Planning
SUBJECT: Petitions from Zoning Advisory Committee

DATE: December 30, 1996

The Office of Planning has no comments on the following petition(s):

Item Nos. 238/259, 261, 263, 267, 268, and 269

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3495.

Prepared by: *Jeffrey V. Long*
Division Chief: *Cary L. Kellor*

PK/JL

ITER258/25996/SAC1

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development
Management
FROM: Robert W. Rowling, Chief
Development Plans Review Division
SUBJECT: Zoning Advisory Committee Meeting
for January 6, 1997
Item Nos. 258 (259), 261, 262,
263, 265, 267, 268

DATE: January 3, 1997

The Development Plans Review Division has reviewed the subject zoning item, and we have no comments.

RWB:jrb
cc: PLO

ZCH/AA

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: December 19, 1996

TO: Owen Stephens
Zoning Review
FROM: James H. Thompson
Code Enforcement
RE: Item No. 0297
Item No. 259
318 Holly Hill Road
O'Brien - Petitioners

Please be advised that the referenced petitions are subject to an outstanding code violation case. (C-97/1605)

When this matter is set for a hearing please notify:

William C. Hooper
807 Holly Hill Court
Reisterstown, Maryland 21136

JHT/bb

cc: Inspector Kim Woods

Note:
F/A will
be in open
dock

BEFORE THE
318 Holly Hill Road, NC Holly Hill Road
and Holly Hill Circle
4th Election District, 3rd Councilmanic
Michael G. and Gloria J. O'Brien
Petitioners
CASE NO. 97-259-A

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Charles S. Semels
CHARLES S. SEMELS
Deputy People's Counsel
Room 87, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 807-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of February, 1997, a copy of the foregoing Entry of Appearance was mailed to Michael G. and Gloria J. O'Brien, 318 Holly Hill Road, Reisterstown, MD 21136, Petitioners.

MON, 2/3
2C HGS

Peter Max Zimmerman
PETER MAX ZIMMERMAN

Baltimore County
Department of Permits and Development Management
Bureau of Code Enforcement
111 West Chesapeake Avenue
Towson, Maryland 21204

CODE VIOLATION NOTICE

NAME: Michael + Gloria O'Brien
ADDRESS: 318 Holly Hill Rd.
CITY: ZIP: Reisterstown, MD 21136
RE: Case No. 97/1605 LOCATION: 318 Holly Hill Rd.
DISTRICT: 4

Dear Mr + Mrs. O'Brien

In accordance with the Baltimore County Code, Article IV, Section 402. (d), an inspection was conducted of the above location, zoned _____ This inspection revealed a violation(s) according to the following code(s):

- ☒ Baltimore County Zoning Regulations (BCZR), Section 102.1
- ☐ Building Code of Baltimore County, Maryland, Section 102.1
- ☐ Livability Code, Baltimore County, Section 18-68
- ☐ Other _____

The following correction(s) is/are required:

- 1. *Permits required for fence and shed in rear yard. No permits found.*
- 2. *Shed not permitted in present location. Shed must be 20 feet from property line and on corner lots shed must be located only in the third of the lot furthest from any street.*
- 3. *Fence not to be over 6'6" in height unless projecting in the front yard at any adjoining lot.*

The above violation(s) must be corrected on or before 11/12/96 or further legal action will proceed, in which you may be subject to a civil penalty. Should you need further clarification, please contact

Kimberly Wood
Code Inspector, at (410) 887-5832

Baltimore County
Department of Permits and Development Management
Bureau of Code Enforcement
111 West Chesapeake Avenue
Towson, Maryland 21204

CODE VIOLATION NOTICE

NAME: Michael + Gloria O'Brien
ADDRESS: _____
CITY: ZIP: _____
RE: Case No. 97/1605 LOCATION: 318 Holly Hill Rd.
DISTRICT: 4

Dear _____

In accordance with the Baltimore County Code, Article IV, Section 402. (d), an inspection was conducted of the above location, zoned _____ This inspection revealed a violation(s) according to the following code(s):

- ☐ Baltimore County Zoning Regulations (BCZR), Section 102.1
- ☐ Building Code of Baltimore County, Maryland, Section 102.1
- ☐ Livability Code, Baltimore County, Section 18-68
- ☐ Other _____

The following correction(s) is/are required:

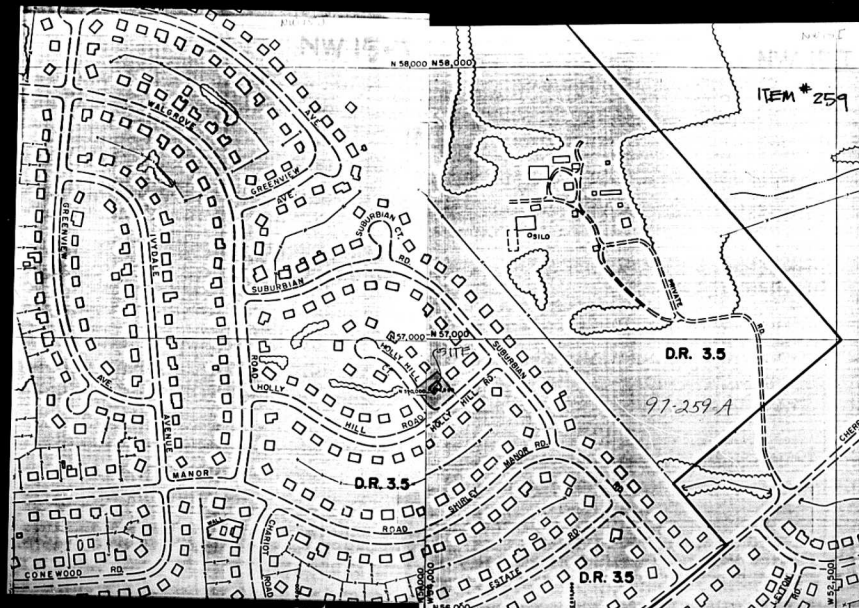
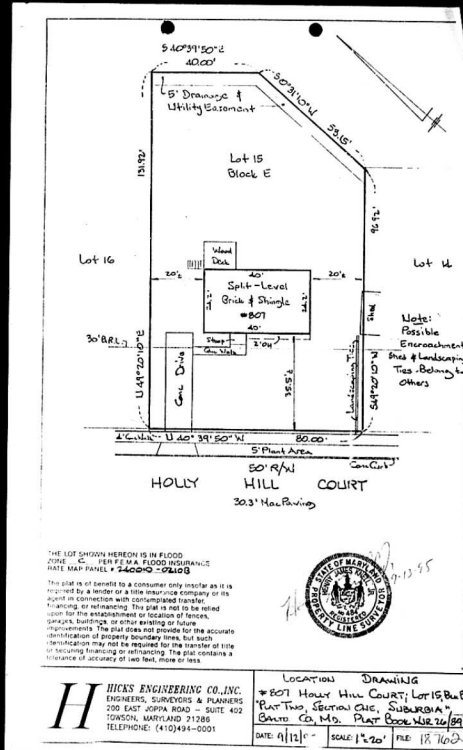
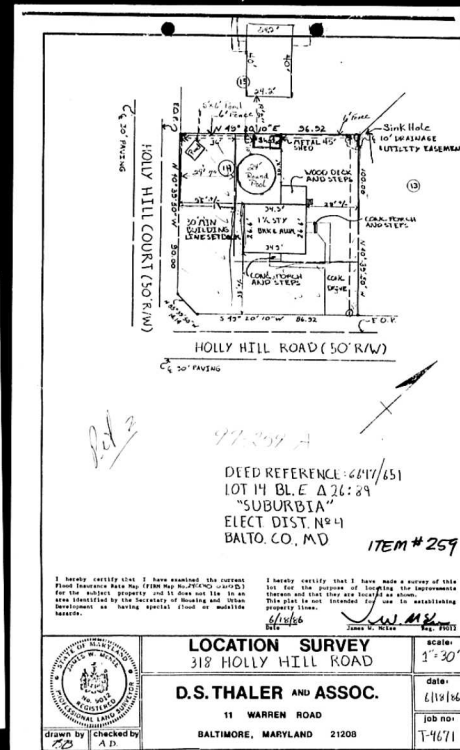
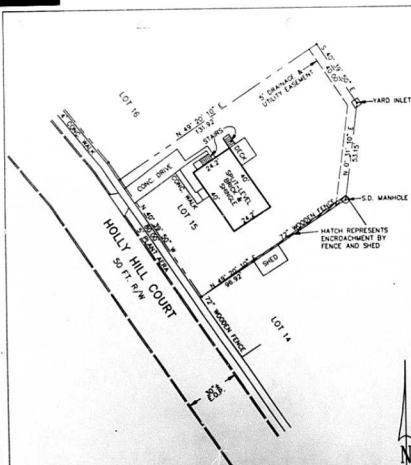
- 1. *You may apply for a variance concerning these violations. Variance must be applied for within 2 weeks from the date of this notice.*

The above violation(s) must be corrected on or before _____ or further legal action will proceed, in which you may be subject to a civil penalty. Should you need further clarification, please contact

Kimberly Wood
Code Inspector, at (410) 887-5832

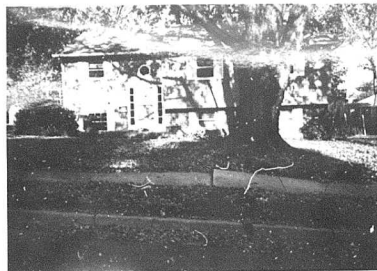
1877770NER(S) SIGN-IN SOURCE

NAME	ADDRESS
Michael G. O'Brien	318 Holly Hill Rd. New Rochelle, NY
Cloria J. O'Brien	318 Holly Hill Rd. New Rochelle, NY
PATRICK O'KEEFE	

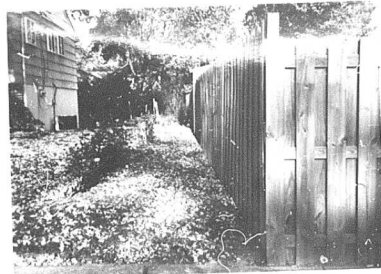
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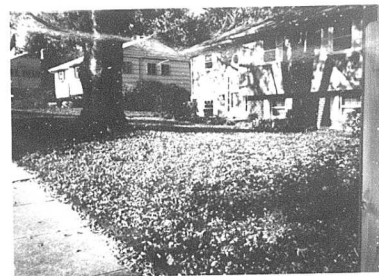
FRONT GLEN



SCOTT HILL ST. CHICKEN



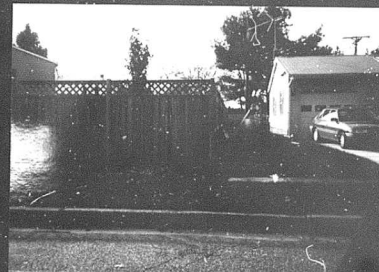
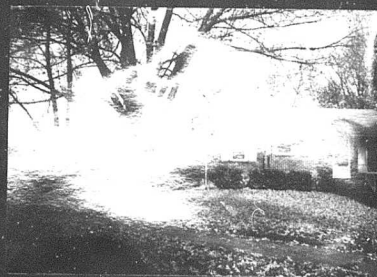
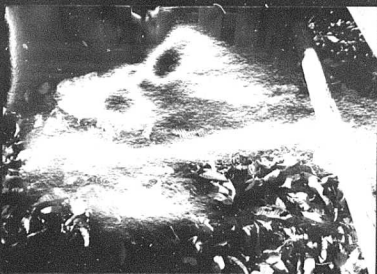
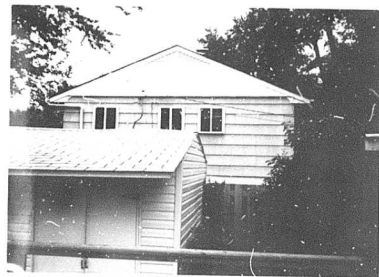
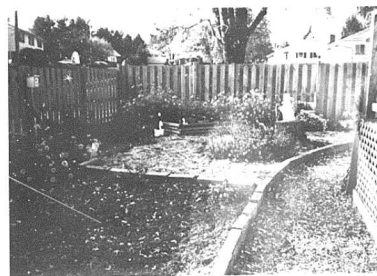
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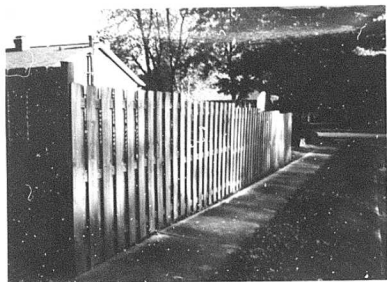


8. 10. 2014



FRONT





NB 100-111

