

IN THE MATTER OF
THE APPLICATION OF
LORI MERCER –LEGAL OWNER /
PETITIONER FOR VARIANCE ON
PROPERTY LOCATED ON THE NE/S
ONYX ROAD, 398' NW OF C/L OPAL ROAD
(2806 ONYX ROAD)
9TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. 99-525-A

* * * * *

OPINION

This case comes before the Baltimore County Board of Appeals on a timely appeal brought by the Petitioner, Lori C. Mercer, resulting from a decision by the Deputy Zoning Commissioner to deny a Petition for Variance from Section 400.1 of the *Baltimore County Zoning Regulations* (BCZR) to permit an accessory structure to be 6 inches from the side lot line in lieu of the required 2½ feet at the subject site 2806 Onyx Road, 9th Election District, 6th Councilmanic District.

The Appellant /Petitioner, Lori C. Mercer, appeared before the Board *pro se*. John M. Kerney, Esquire, appeared on behalf of Antoinette Simmont, Protestant and adjacent property owner at 2804 Onyx Road.

Ms. Mercer was the first witness to testify before the Board in this hearing. As owner of the subject property, Ms. Mercer indicated that, although her initial request was for a variance of 6 inches from the side lot line, she was now asking to modify that request to 18 inches from the adjoining property boundary.

She recited that two years ago she had had an above-ground pool installed, and last year she had begun building a deck surrounding the pool. The construction had been done without securing a permit from Baltimore County, and, therefore, she had not known of the applicable

law until the next door neighbor, Ms. Simmont, filed a zoning complaint. At that time, Ms. Mercer undertook to secure the required permit and found that she was in violation of the setback requirements under BCZR 400.1, which requires accessory structures to be 2½ feet from the side property line.

Ms. Mercer testified that the deck was currently constructed within an inch, more or less, from the fence which divides her property from that of Ms. Simmont. She further testified that she is willing to put up a privacy fence between the two properties and that she is willing to replace any of Ms. Simmont's plants that may have been destroyed or damaged because of her construction.

Ms. Mercer introduced a series of photographs (Petitioner's Exhibit 1) showing the existing deck and the way in which it can be reduced to a distance of 18 inches from the property line. She said that the pool offers an important recreational activity for her and her fiancé's four children. She described her lot as 42 feet in width and 140 feet deep with a house 26 feet by 41.6 feet (Petitioner's Exhibit 2).

Next to testify was Niles Jones, Baltimore County Code Enforcement Building Inspector. Mr. Jones testified that he visited the subject site on June 7, 1999, and found an unfinished deck constructed in the rear yard around a pool. There was no permit issued for said construction. Therefore, Mr. Jones issued a stop work order until the required permit was secured. He said that he next visited the site on May 31, 2000, prior to this hearing and that nothing had changed. The deck was still in an unfinished condition and less than an inch from the fence on the side property line between 2804 and 2806 Onyx Road.

The next witness was the Protestant and adjoining property owner, Antoinette Simmont. Ms. Simmont testified that her lot and indeed all the lots in this block of Onyx Road are

approximately the same size and configuration as the subject property; i.e., they are approximately 40 feet wide and 140 feet deep with some degree of slope.

Ms. Simmont stated that she had lived at 2804 Onyx Road for 30 years and over that time she has developed a significant garden in her rear yard. She also has a patio adjoining her house which she likes to enjoy as a quiet spot to view her garden. She said that the previous owners of the subject site had also had a pool, but they had located it far to the back of their lot in a flat area now occupied by Ms. Mercer's trampoline, so that the activity did not disturb her privacy and the tranquility of her garden.

In the past year, however, Ms. Simmont emphasized that she has not been able to use her patio as previously because of the proximity of the Petitioner's pool and deck. She said that the noise level was extreme, not only because of the children in the pool, but also because of the rattling of the chain link fence against the deck. Ms. Simmont was also concerned about her liability when children came over the fence onto her property to retrieve balls or toys which came from the deck or pool.

On Ms. Simmont's behalf, Mr. Kerney introduced into evidence a series of photos (Protestant's Exhibits 1 and 2 [1-17]) showing the placement of the deck and its immediate proximity to the side lot line.

Ms. Simmont testified that she made a complaint to zoning enforcement after Ms. Mercer's fiancé' told her that no permits were needed for the pool and deck construction.

The final witness was Dominic Celano, Ms. Mercer's fiancé', who also lives at 2806 Onyx Road. Mr. Celano testified that he didn't feel that the deck would be safe on the more sloping side of the subject site farther away from the Protestant's lot. He also indicated that they didn't want to place the pool at the back of the lot because of the leaves and the shade from the

trees there. He would, however, agree to reduce the deck to be 18 inches from the chain link fence to mitigate the noise.

Section 307 of the BCZR permits granting of a variance upon certain terms and conditions, which in pertinent part in this case, allow a variance where special circumstances or conditions exist that are peculiar to the land that is the subject of the variance requested, and where strict compliance with the zoning regulations would result in practical difficulty or unreasonable hardship.

Under the Court of Special Appeals decision in *Cromwell v. Ward*, 102 Md.App. 691 (1995), which sets forth the legal standards under which a variance may be granted, the Board of Appeals, hearing the case *de novo*, is given the task of interpreting regulations and statutes where issues are debatable in the light of the law. The first burden on the Petitioner for variance is to prove that the property is unique. This standard must be met before other parts of the variance requirements can be properly considered.

After a thorough review of the evidence and testimony before us, this Board finds as a matter of fact that the Petitioner has not met the burden as required for a variance under BCZR 307.1 and the standards of *Cromwell v. Ward*.

The first prong requires that the land, itself, which is the subject of the variance request must be unique from others in the neighborhood to qualify for a variance. The testimony and evidence is uncontradicted that 2806 Onyx Road is not different in any way from the other lots in that neighborhood of Onyx Road. It is essentially the same size and the same topography as those which adjoin it, as testified by both parties.

Even assuming that this prong of uniqueness had been met (which it has not), the request would fail equally under the second prong as to practical difficulty and unreasonable hardship.

Evidence before us, as testified by both the Protestant and the Petitioner, supports the fact that the pool and adjoining deck could be placed elsewhere on the subject property, and in fact testimony indicates that the previous owners had had a pool in another location. The placement of the pool and deck in an illegal location was self-created.

Any issue of unreasonable hardship is also self-created in that the Petitioner proceeded to install the pool and deck without a permit. If the permit had been applied for, the Petitioner would have known the requirements for setback from the side lot line of 2½ feet.

As to the third prong of spirit and intent, the Petitioner's request would also fail here in that the illegal construction as built and the requested amendment clearly invade the privacy and quiet enjoyment of the adjoining property owner, Ms. Simmont.

Therefore, it is the unanimous decision of this Board to deny the request for variance from BCZR 400.1 to permit an accessory structure (pool and deck) to be 18 inches from the side lot line in lieu of the required 2½ feet.

The Petitioner shall have 45 days from the date of this order to bring the subject deck and pool into compliance with all required setbacks.

ORDER

THEREFORE, IT IS THIS 2nd day of August, 2000 by the
County Board of Appeals of Baltimore County

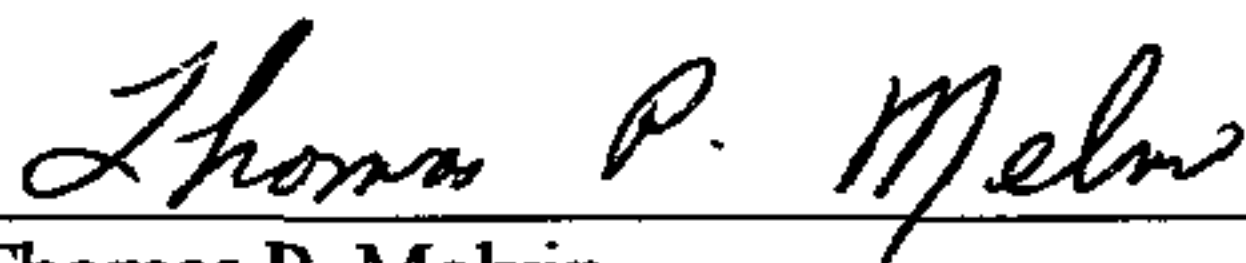
ORDERED that Petitioners' request for variance relief seeking to permit an accessory structure to be 18 inches from the side lot line in lieu of the required 2½ feet at the subject site 2806 Onyx be and the same is hereby **DENIED**; and it is further

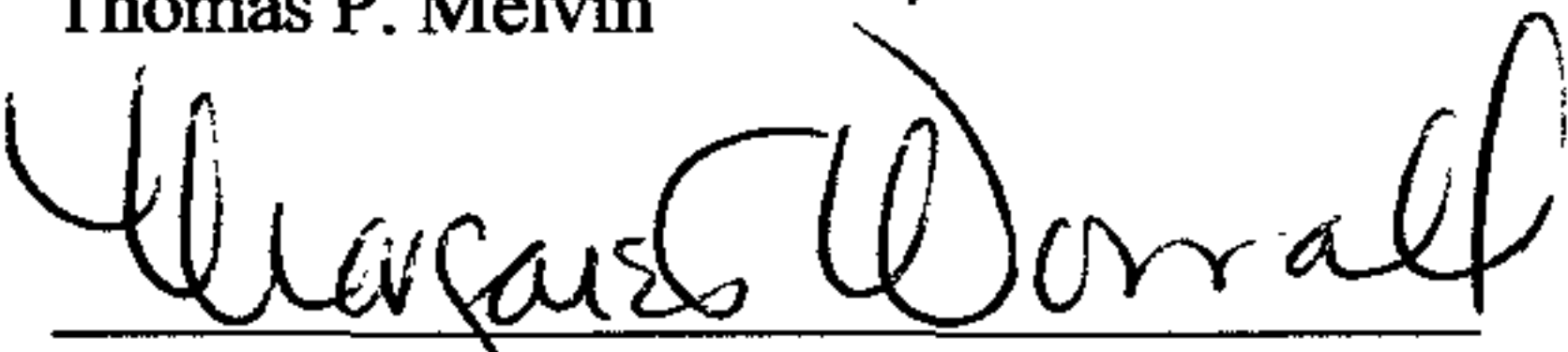
ORDERED that Petitioner shall have forty-five (45) days from the date of this Order to bring the subject deck and pool into compliance with all setback requirements.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules of Procedure.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence S. Wescott, Panel Chairman


Thomas P. Melvin


Margaret Worrall

IN RE: PETITION FOR VARIANCE
NE/S Onyx Road, 398' NW
of centerline of Opal Road
9th Election District
6th Councilmanic District
(2806 Onyx Road)

Lori Mercer
Petitioner

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 99-525-A

*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a petition for variance filed by the legal owner of the subject property, Lori Mercer. Ms. Mercer is requesting a variance for property located at 2806 Onyx Road situated in the Parkville area of Baltimore County. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an accessory structure to be 6 inches from the side lot line in lieu of the required 2 ½ ft.

Appearing at the hearing on behalf of the variance request were Lori Mercer, property owner and Dominic Celano. Appearing in opposition to the Petitioner's request were Antoinette Simmont and her son, Harry Simmont. Mrs. Simmont lives at 2804 Onyx Road, adjacent to the subject property.

Testimony and evidence indicated that the property, which is the subject of this variance request, is improved with a 1½ story frame dwelling with an accessory swimming pool and deck located in the rear yard. Ms. Mercer testified that she has lived at the subject property for the past 2 years. At the end of last summer, she began to install an above-ground swimming pool and attached deck in the rear of her yard adjacent to the property owned by Ms. Simmont. She testified that due to the topography of the back yard the pool and deck were located in close proximity to the property line shared with her next door neighbor. She is requesting a variance to allow the deck to be situated as close as 6 inches to the common property line of her neighbor.

ORIGINAL RECEIVED FOR FILING

Date

8/26/99

By

[Signature]

Appearing in opposition to the Petitioner's request were Mrs. Simmont and her son, Harry Simmont. Mrs. Simmont testified that the pool and deck structure were erected by Ms. Mercer without the benefit of a Baltimore County building permit. A stop work order was issued once the County inspector observed the construction being performed without a valid permit. The property owners were also advised that the deck was constructed too close to the common property line owned with Mrs. Simmont. Therefore, a variance is necessary. Photographs taken by Mrs. Simmont and presented at the hearing show that the Petitioner has constructed the deck immediately adjacent to a chain link fence which separates the two properties. Mrs. Simmont testified that as people move around on the deck, the chain link fence rattles and makes noise. Furthermore, she is opposed to the location of the deck in that it imposes on her privacy and her quiet enjoyment of her property. She believes the deck would have an adverse impact on the value of her property, given its close proximity. She asked that the Petitioner maintain the full 2 1/2 ft. setback from her property line.

After considering the testimony and evidence of the Petitioner, as well as the Protestant, I find that the Petitioner's request for variance should be denied. The testimony entered, as well as the photographs submitted, showed that the deck itself is entirely too close to Mrs. Simmont's property. In addition, the Petitioner proceeded to construct a deck without first obtaining a valid Baltimore County building permit for the structure. Had the Petitioner proceeded through proper channels, she would have realized that the deck could not be situated as close as it is to her neighbor's property line. Therefore, for all these reasons, the Petitioner's Request for Variance shall be denied.

ORDER RECEIVED FOR FILING

Date

8/26/99

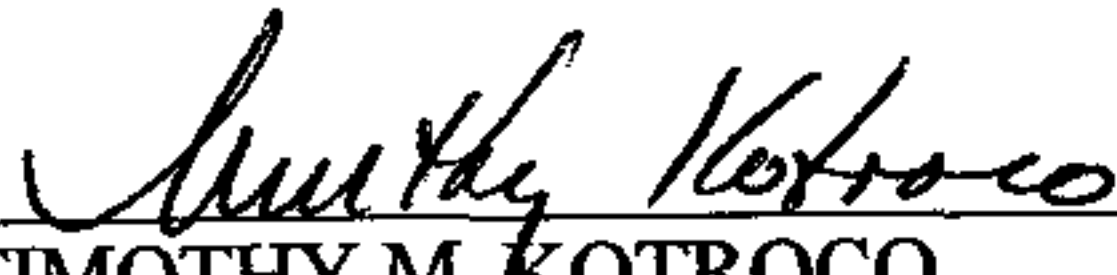
By

R. J. Johnson

Pursuant to the advertisement, posting of the property, and public hearing held hereon, the Petitioner's Request for Variance to allow an accessory structure (pool and deck) to be 6 inches from the side lot line in lieu of the required 2 1/2 ft. be and is hereby denied.

THEREFORE, IT IS ORDERED this 26th day of August, 1999, by this Deputy Zoning Commissioner, that the Petitioner's Request for Variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an accessory structure to be 6 inches from the side lot line in lieu of the required 2 1/2 ft., be and is hereby DENIED. The Petitioner shall have forty-five (45) days within which to bring the subject deck and pool into compliance with all required setbacks.

IT IS FURTHER ORDERED that any party has the right to file an appeal within thirty (30) days of the date of this Order.


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

ORDER RECEIVED FOR FILING
Date 8/26/99
By R. G. Johnson

APPEAL

Petition for Variance
2806 Onyx Road, NE/S Onyx Road, 398' NW of c/l Opal Road
9th Election District - 6th Councilmanic District
Lori Mercer, Legal Owner
Case No. 99-525-A

Petition for Variance

Description of Property

Notice of Zoning Hearing

Certificate of Posting (Posted on 7/30/99 by Thomas P. Ogle, Sr.)

Certificate of Publication (8/3/99 Jeffersonian)

Entry of Appearance by People's Counsel

Petitioner(s)' Sign-In Sheet: none

Protestant(s)' Sign-In Sheet: none

Zoning Advisory Committee Comments

Petitioners' Exhibits: No. 1

Protestants' Exhibits: none

Deputy Zoning Commissioner's Order dated August 26, 1999

Notice of Appeal received on September 17, 1999 from Lori Mercer

Miscellaneous (Not marked as Exhibits):

Letter from Timothy M. Kotroco, Deputy Zoning Commissioner to
Lori Mercer dated August 25, 1999

Violation notice dated July 21, 1999 ✓ *Memo*

Violation complaint form

Letter from Delegate Redmer to John Altmeyer dated July 12, 1999 ✓

Violation notice no: 108783 ✓

15 Photographs ✓

Partial copy of zoning map NE 8-D

C:

People's Counsel of Baltimore County, M.S. 2010
Lawrence Schmidt, Zoning Commissioner, M.S. 3401
Timothy Kotroco, Deputy Zoning Commissioner, M.S. 3401
Arnold Jablon, Director of PDM, M.S. 1105



Petition for Variance

525

to the Zoning Commissioner of Baltimore County

for the property located at 2806 Onyx Rd
which is presently zoned DE 5-5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate 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 Section(s)

Section 400.1 to permit an accessory structure (pool and deck) 6" to the side lot line in lieu of 2 1/2.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) We installed a pool left center of our yard due to the sloping of the right side so that it would leave room for our children to play. Left of the pool was unuseable property that we had planned to use for this deck. We are asking for a 23'6" variance to complete this project. At the least we are asking for not less than 15" if necessary to complete our request we would install a privacy fence to alleviate our neighbors' concerns of pool water running into her yard.

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address

Telephone No.

City

State

Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address

Telephone No.

City

State

Zip Code

Legal Owner(s):

Lori Mercer

Name - Type or Print

Signature

Name - Type or Print

Signature

Address

City

State

Zip Code

Representative to be Contacted:

Dominic Celano

Name

Address

City

State

Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 1 hr

UNAVAILABLE FOR HEARING

Reviewed By MJK/LTM Date 6/28/98

Case No. 99-525-A

REV 9/15/98

ORIGINAL FILED IN 99-525-A



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

August 2, 2000

Ms. Lori Mercer
2806 Onyx Road
Baltimore, MD 21234

RE: In the Matter of Lori Mercer—Legal Owner /Petitioner
Case No. 99-525-A

Dear Ms. Mercer:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules of Procedure*, with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script, reading "Kathleen C. Bianco".

Kathleen C. Bianco
Administrator

Enclosure

c: John M. Kerney, Esquire
Antoinette Simmont
Peter Max Zimmerman
People's Counsel for Baltimore County
Pat Keller /Planning Director
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

Case No. 99-525-A

VAR -To permit accessory structure to be 6" from side lot line ilo required 2.5'

LORI MERCER

8/26/99 -D.Z.C.'s decision in which Petition for Variance was DENIED.

2/07/2000 -Notice of Assignment for hearing scheduled for Thursday, April 27, 2000 at 10:00 a.m. sent to the following:

Lori Mercer
Antoinette Simmont
People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

3/02/00 -Entry of Appearance filed by John M. Kerney, Esquire, on behalf of Antoinette Simmont, Protestant; request for postponement filed by Mr. Kerney; scheduled to be out of town 4/26 through 4/30/2000.

3/03/00 -Notice of PP and Reassignment sent to parties; postponement request granted; case reassigned to Thursday, June 1, 2000 at 10:00 a.m.

6/01/00 -Hearing concluded; public deliberation took place this date; requested variance relief was denied by unanimous decision of Board; Order to be issued; Appellate period to run from date of written Order and not today's date; attendees so informed. (Wescott, Worrall, Melvin)

Petition for Variance
NE/S Onyx Road, 398' NW of centerline Opal Road, 2806 Onyx Road
9th Election District - 6th Councilmanic District
Lori Mercer, Legal Owner
Case No. 99-525-A

Petition for Variance

Description of Property

Notice of Zoning Hearing

Certificate of Posting (Posted on 7/30/99 by Thomas P. Ogle, Sr.)

Certificate of Publication (8/3/99 Jeffersonian)

Entry of Appearance by People's Counsel

Zoning Advisory Committee Comments

Petitioners' Exhibits:

1. Plat to accompany variance petition.

Inspection report dated 6/4/99

Violation notice (no. 108783) dated 6/7/99

Letter to John Altmeyer, supervisor, from Al Redmer, Jr., Delegate,
dated 7/12/99.

Memo to Larry Schmidt, Zoning Commissioner from John Altmeyer, Code
Enforcement Supervisor dated 7/21/99

8 pages of photographs

Deputy Zoning Commissioner's Order dated August 26, 1999 (Denied)

Notice of Appeal received on September 17, 1999 from Lori Mercer

c: Lori Mercer

People's Counsel of Baltimore County, M.S. 2010

Timothy Kotroco, Deputy Zoning Commissioner, M.S. 3401

Arnold Jablon, Director of PDM, M.S. 1105

TO: PATUXENT PUBLISHING COMPANY
Tuesday, August 3, 1999 Issue – Jeffersonian

Please forward billing to:

Lori Mercer	410-668-1987 (home)
2806 Onyx Road	410-884-1200, ext. 102 (work)
Baltimore, MD 21234	

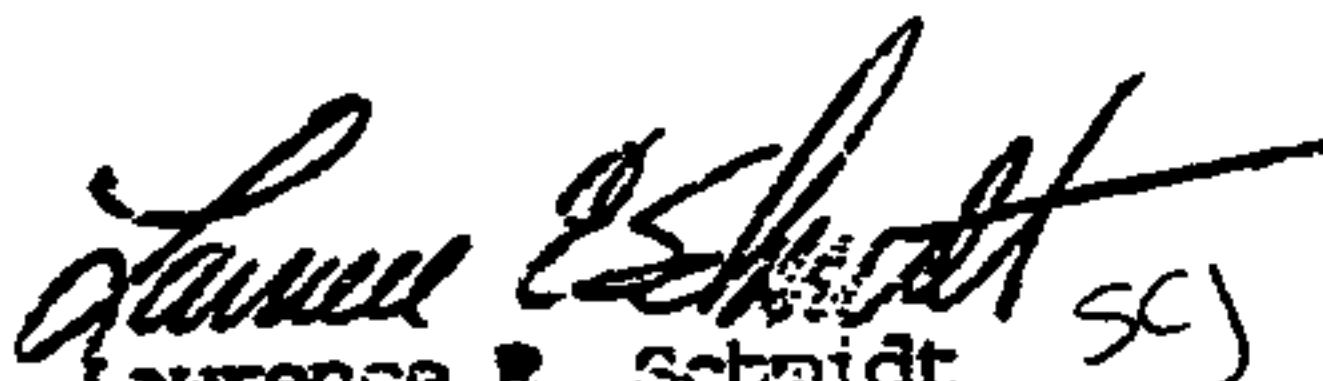
NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 99-525-A
2806 Onyx Road
NE/S Onyx Road, 398' NW of centerline Opal Road
9th Election District – 6th Councilmanic District
Legal Owner: Lori Mercer

Variance to permit a 6-inch side yard setback for an accessory structure (pool and deck) in lieu of the required 2-1/2 feet.

HEARING: Thursday, August 19, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue


Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

July 23, 1999

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 99-525-A
2806 Onyx Road
NE/S Onyx Road, 398' NW of centerline Opal Road
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HEARING: Thursday, August 19, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in cursive script, reading "Arnold Jablon", with the initials "JC" written below it.

Arnold Jablon
Director

c: Lori Mercer, 2806 Onyx Road, Baltimore 21234
Dominic Celano, 2806 Onyx Road, Baltimore 21234
Ms. Antoinette Simmantle, 2804 Onyx Road, Baltimore 21234

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY AUGUST 4, 1999.**
- (2) **HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.**
- (3) **FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.**

Come visit the County's Website at www.co.ba.md.us



BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANC
MISCELLANEOUS RECEIPT

No. 070410

DATE 6/28/99

ACCOUNT 01-615

Item: 525
By: MJK/LTM

AMOUNT \$ 50.⁰⁰

RECEIVED
FROM:

Lori Mercer - 2806 Onyx Rd

FOR:

010 - Res Varma — \$ 50.⁰⁰

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

PROCESS ACTUAL TIME
6/28/1999 6/28/1999 10:26:32

REG 0001 CASHIER JRIC JNR DROWER 1
Dept 5 528 ZONING VERIFICATION
Receipt # 106456 OFLN
CR NO. 070410

Receipt Tot 50.00
.00 CK 50.00 CA
Baltimore County, Maryland

99.525-A

CASHIER'S VALIDATION

LORI MERCER & DOMINIC CELANO

September 15, 1999

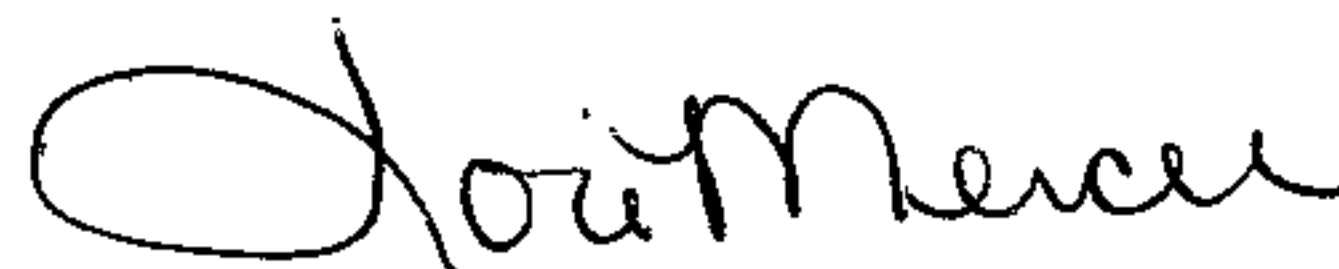
Baltimore County Zoning Commissioner
Attn: Arnold Jablon
Suite 405, County Courts Bldg
401 Bosley Ave
Towson, Maryland 21204

RE: Appeal for Variance
Case # 99-525-A
Property: 2806 Onyx Road

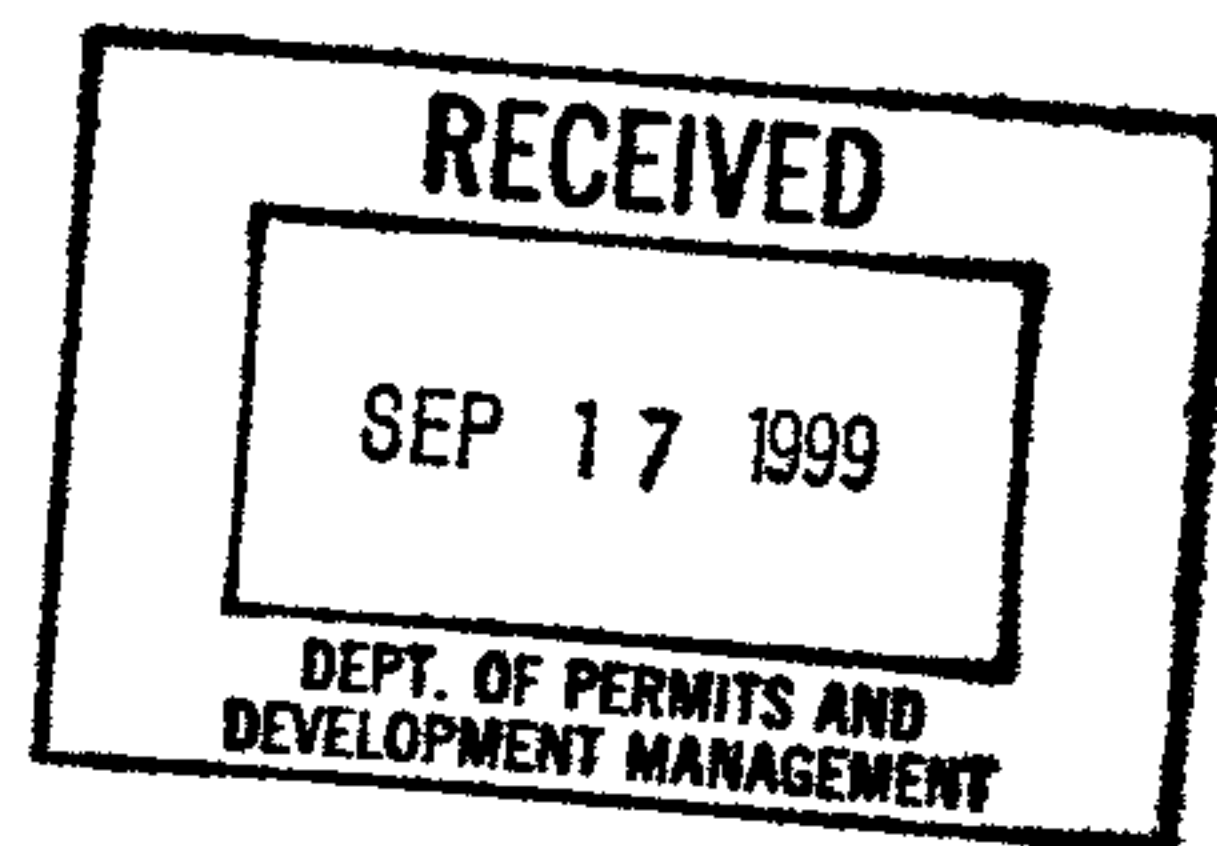
Dear Mr. Jablon:

Please accept this as an appeal request on the above referenced Case #. Enclosed is a check in the amount of \$210 to cover processing of this appeal.

Sincerely,



Lori Mercer



2806 ONYX ROAD • BALTIMORE, MD • 21234
PHONE: 410-668-1987 • WORK: 410-884-1200 EXT 102

CERTIFICATE OF POSTING

RE: CASE # 99-525-A
PETITIONER/DEVELOPER:
(Lori Mercer)
DATE OF Hearing
(Aug. 19, 1999)

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Ave.
Towson, Maryland 21204

ATTENTION : MS. GWENDOLYN STEPHENS

LADIES AND GENTLEMEN:

This letter is to certify under the penalties of perjury that the necessary
sign(s) required by law were posted conspicuously on the property located at
2806 Onyx Road Baltimore, Maryland 21234_____

The sign(s) were posted on_____ 7-30-99 _____
(Month, Day, Year)

Sincerely,


[Signature of Sign Poster & Date]

_____ Thomas P. Ogle, Sr. _____

_____ 325 Nicholson Road _____

_____ Baltimore, Maryland 21221 _____

_____ (410) 687-8405 _____
(Telephone Number)

BALTIMORE COUNTY, MARYLA
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 072165

DATE

9/23/99

ACCOUNT

R-001-6150

AMOUNT \$

210 -

RECEIVED

FROM:

Lori Mercer

FOR:

Appeal (9/17/99) 99-525-A

DISTRIBUTION

WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

PAID RECEIPT

PROCESS	ACTUAL	TIME
9/23/1999	9/23/1999	13:11:11
REG MS02	CASHIER LSWI LX5	DRAWER 2
Dept 5	528 ZONING VERIFICATION	
Receipt #	110835	DELTA
CR NO. 072165		
Receipt Tot		210.00
210.00 OK		.00 OK
Baltimore County, Maryland		

CASHIER'S VALIDATION



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

July 23, 1999

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HEARING: Thursday, August 19, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in black ink, appearing to read "Arnold Jablon" with a stylized flourish at the end.

Arnold Jablon
Director

c: Lori Mercer, 2806 Onyx Road, Baltimore 21234
Dominic Celano, 2806 Onyx Road, Baltimore 21234
Ms. Antoinette Simmantle, 2804 Onyx Road, Baltimore 21234

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY AUGUST 4, 1999.**
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Come visit the County's Website at www.co.ba.md.us



Printed with Soybean Ink
on Recycled Paper

CERTIFICATE OF PUBLICATION

TOWSON, MD., 8/5/, 1999

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Tues 8/3/, 1999

THE JEFFERSONIAN,

S. Wilkinson

LEGAL ADVERTISING

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #99-525-A
2806 Onyx Road
NE/S Onyx Road, 398' NW of
centerline Opal Road
9th Election District
6th Councilmanic District
Legal Owner(s): Lori Mercer
Variance: to permit a 6-inch
side yard setback for an ac-
cessory structure (pool and
deck) in lieu of the required
2 1/2 feet.

Hearing: Thursday, August
19, 1999 at 9:00 a.m. in
Room 407, County Courts
Bldg., 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are
Handicapped Accessible, for
special accommodations.
Please Contact the Zoning
Commissioner's Office at
(410) 887-4386.

(2) For information concern-
ing the File and/or Hearing,
Contact the Zoning Review Of-
fice at (410) 887-3391.

JTU/8/620 Aug. 3 C329713

TO: PATUXENT PUBLISHING COMPANY
Tuesday, August 3, 1999 Issue – Jeffersonian

Please forward billing to:

Lori Mercer	410-668-1987 (home)
2806 Onyx Road	410-884-1200, ext. 102 (work)
Baltimore, MD 21234	

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 99-525-A
2806 Onyx Road
NE/S Onyx Road, 398' NW of centerline Opal Road
9th Election District – 6th Councilmanic District
Legal Owner: Lori Mercer

Variance to permit a 6-inch side yard setback for an accessory structure (pool and deck) in lieu of the required 2-1/2 feet.

HEARING: Thursday, August 19, 1999 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue


Lawrence E. Schmidt SCJ

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 99-525-A
Petitioner: LORI Mercer
Address or Location: 2806 Onyx Rd

PLEASE FORWARD ADVERTISING BILL TO:

Name: LORI Mercer
Address: 2806 Onyx Rd
Baltimore, MD 21234
Telephone Number: Hm 410-668-1987 WK 410-884-1200 Ext 102

Revised 2/20/98 - SCJ

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 072165

DATE

9/23/99

ACCOUNT

R-001-6150

AMOUNT \$

210 -

RECEIVED
FROM:

L. Mercer

FOR:

Apple (9/17/99) 99-525-A

DISTRIBUTION

DATE RECEIVED

PROCESS

AC

TIME

9/23/1999

9/23/1999

13:11:11

REG 4502

CA

CA

LXS

DRAWER

DEPT

5

528

VERIFICATION

Receipt #

11003

UP NO.

165

Receipt To:

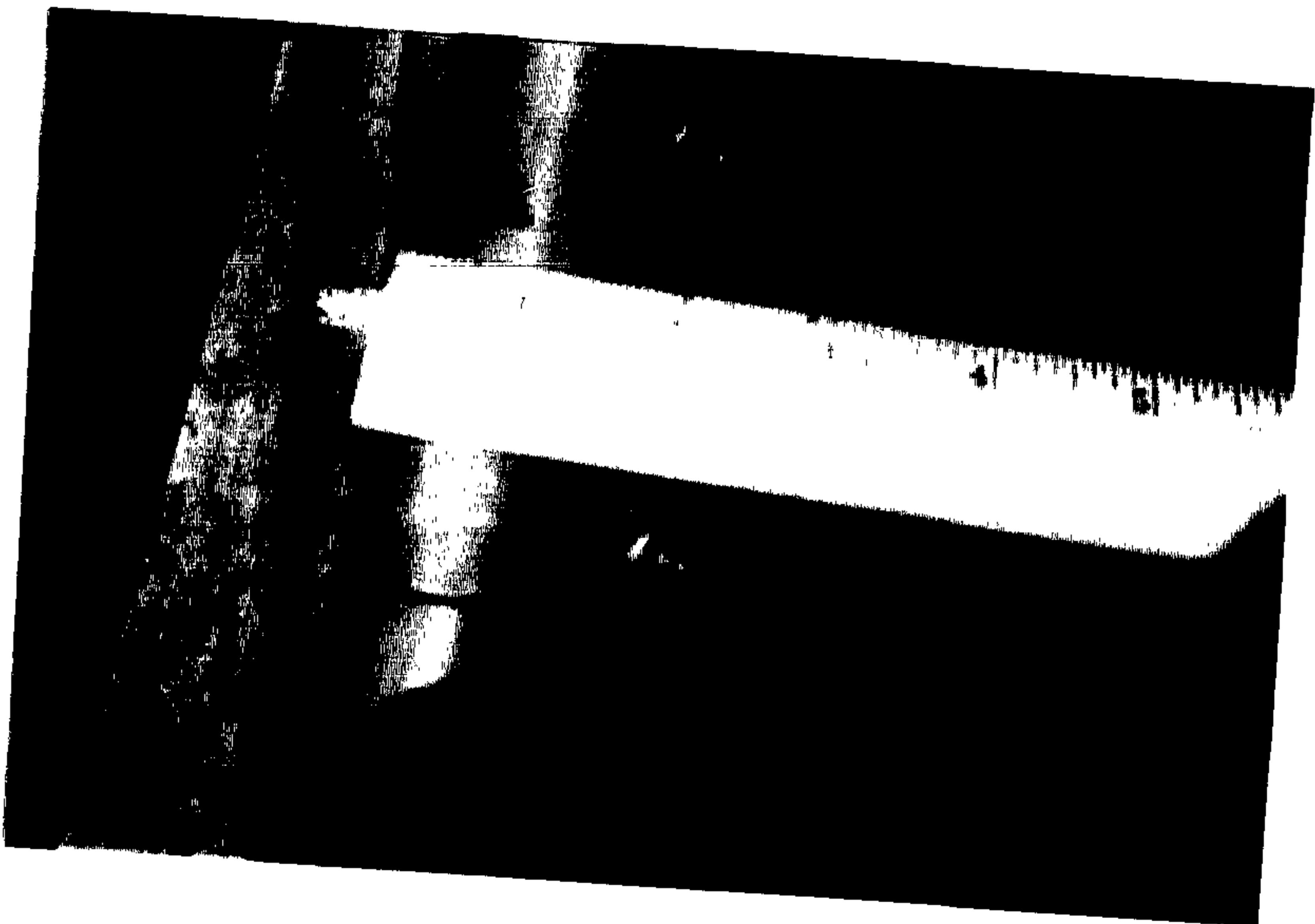
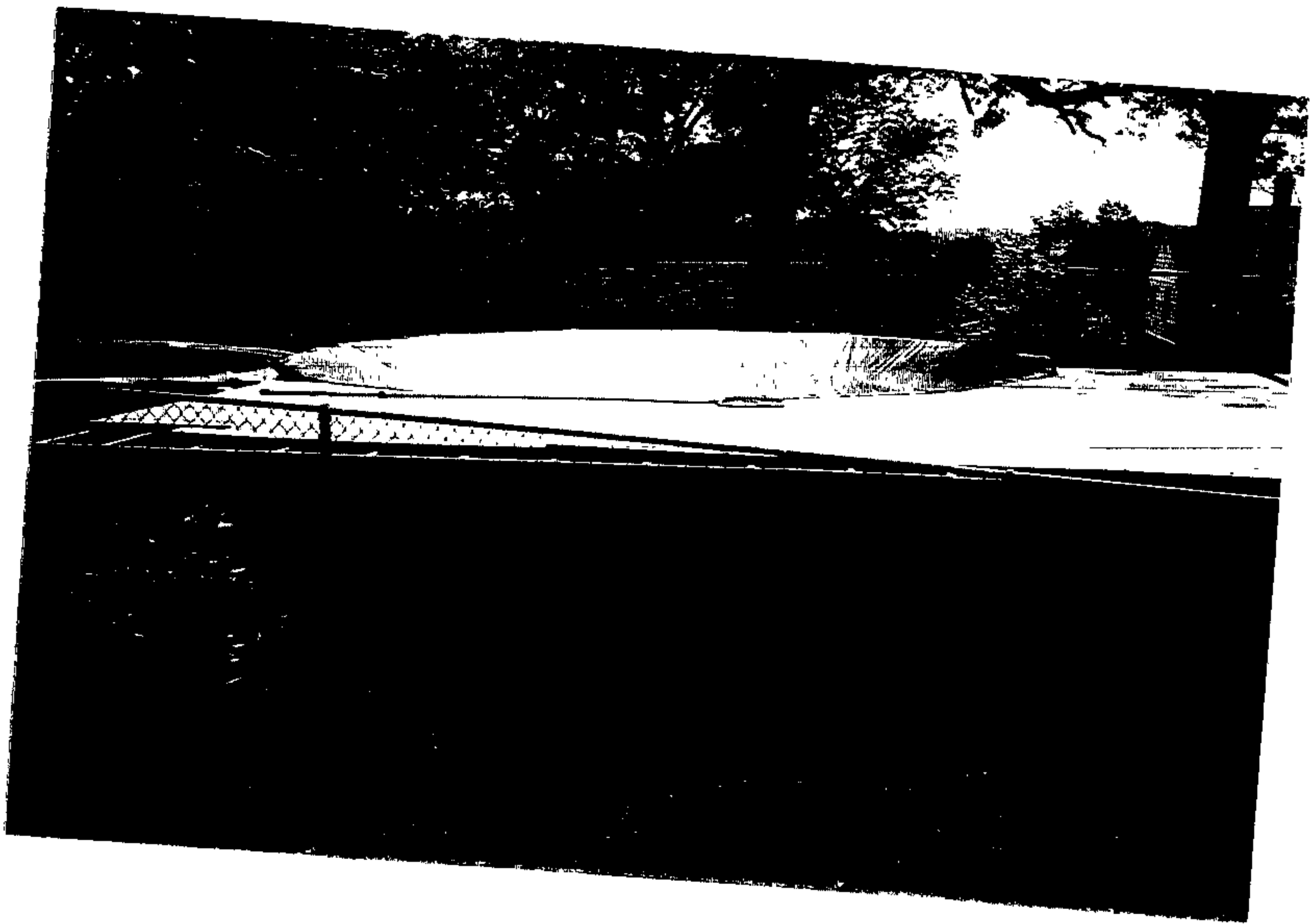
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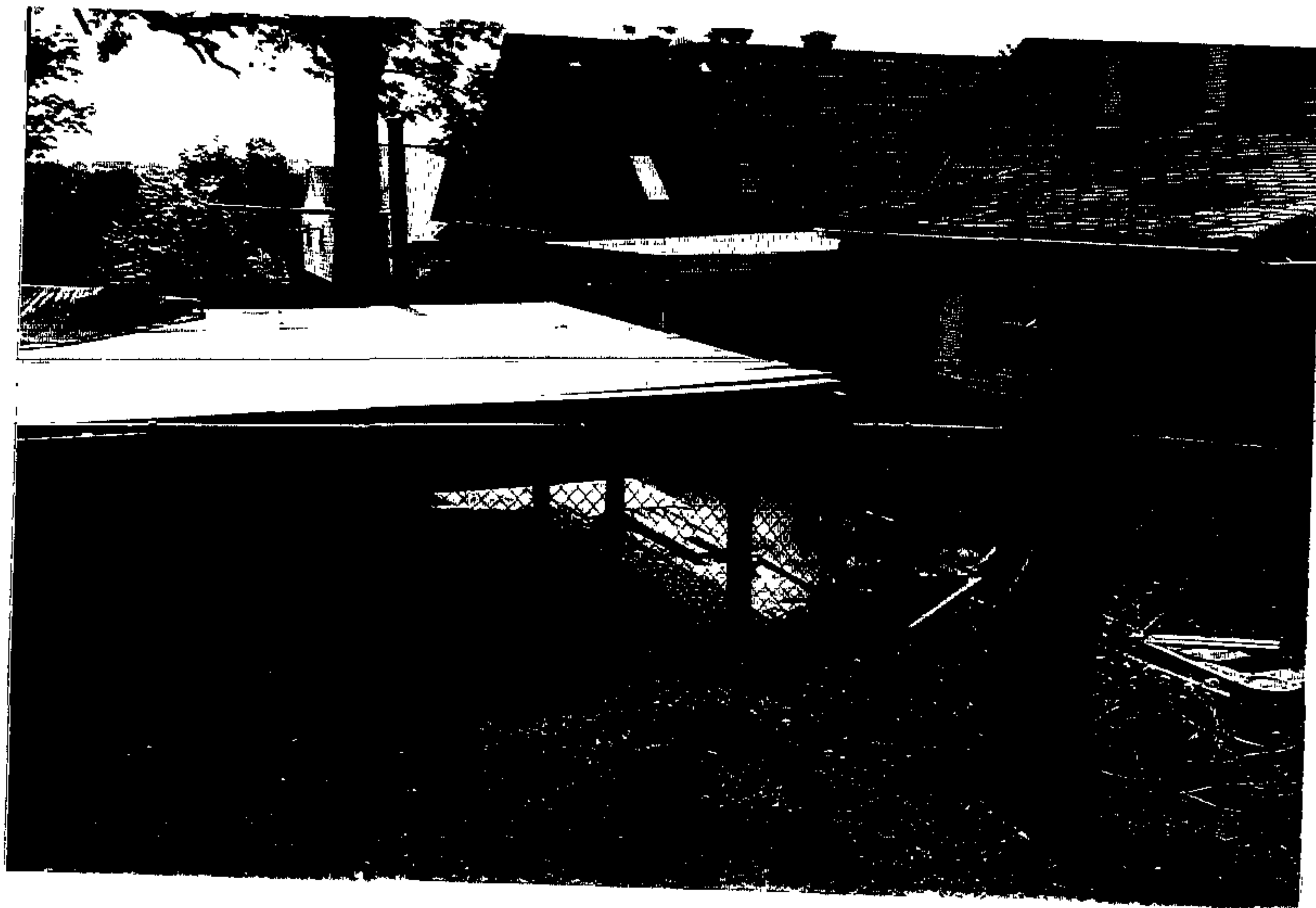
CA

Baltimore County, Maryland

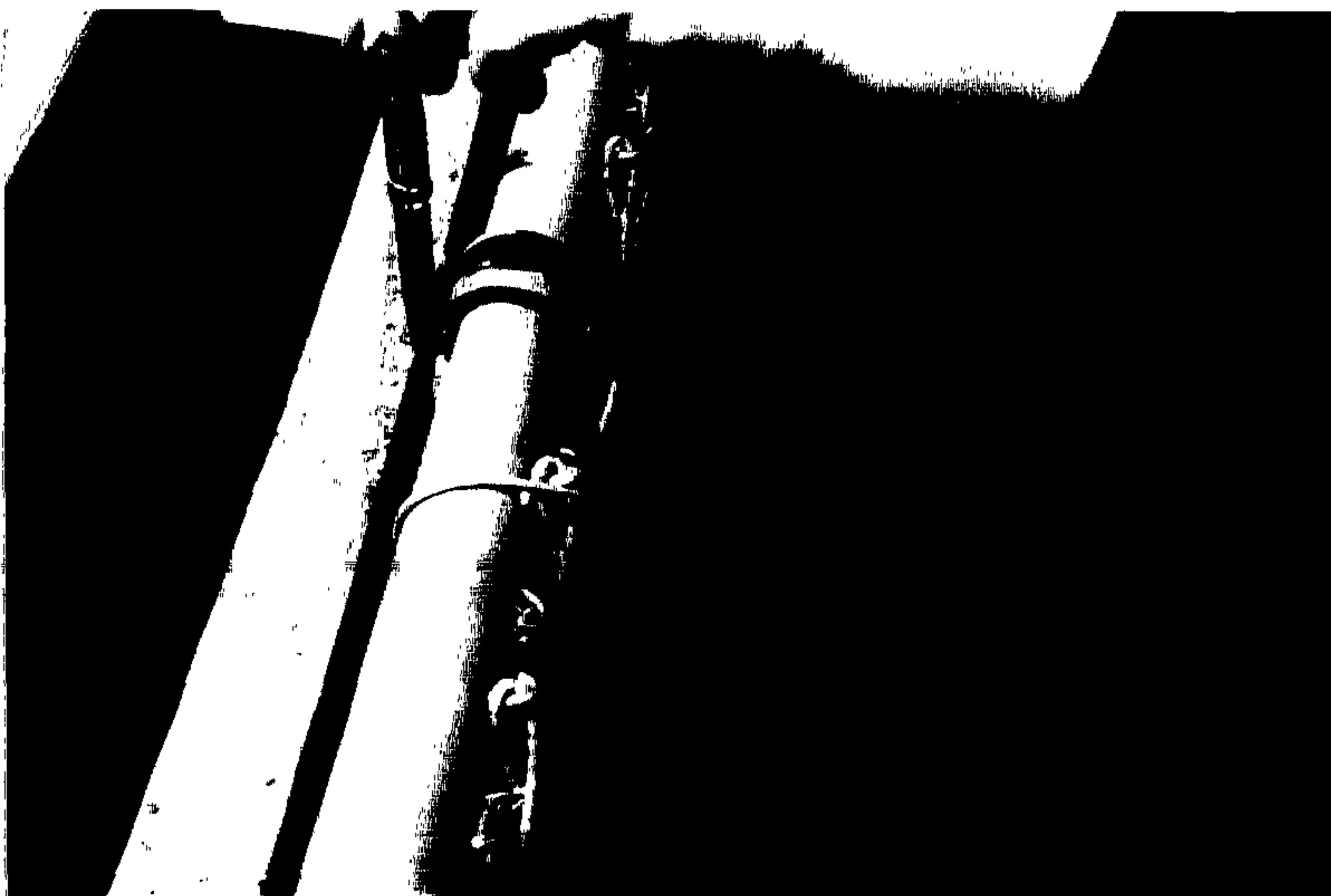
CASHIER'S VALIDATION

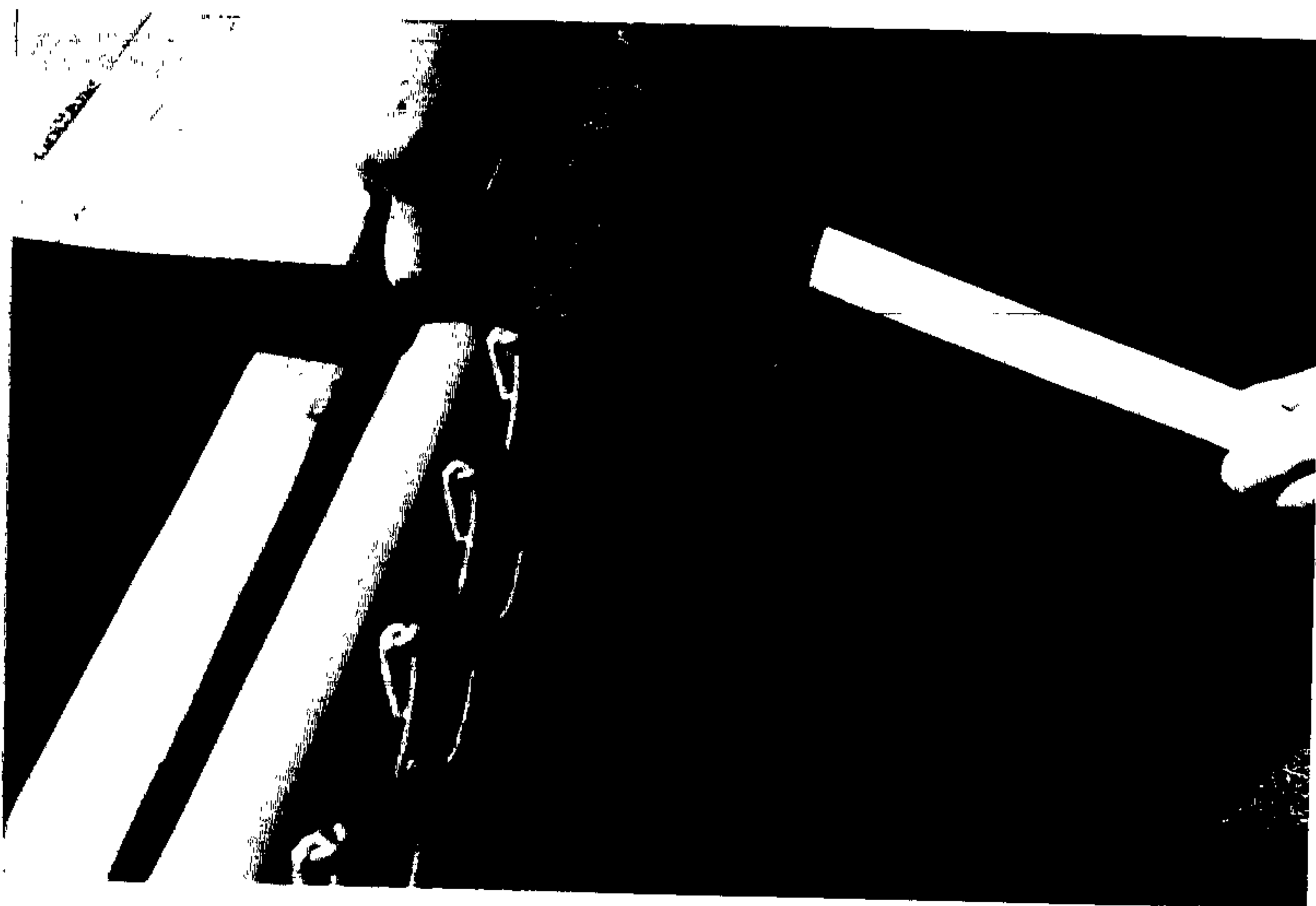


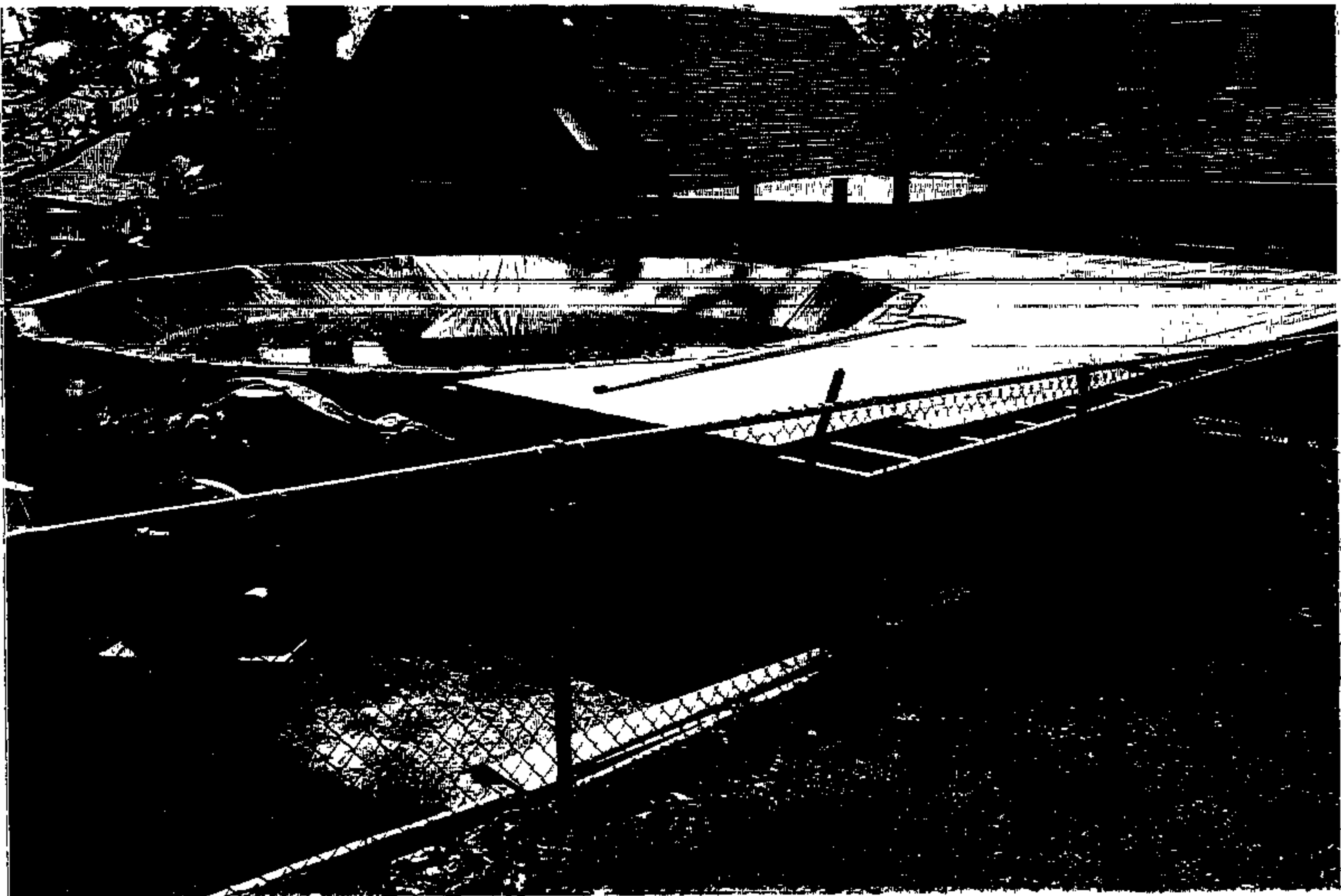
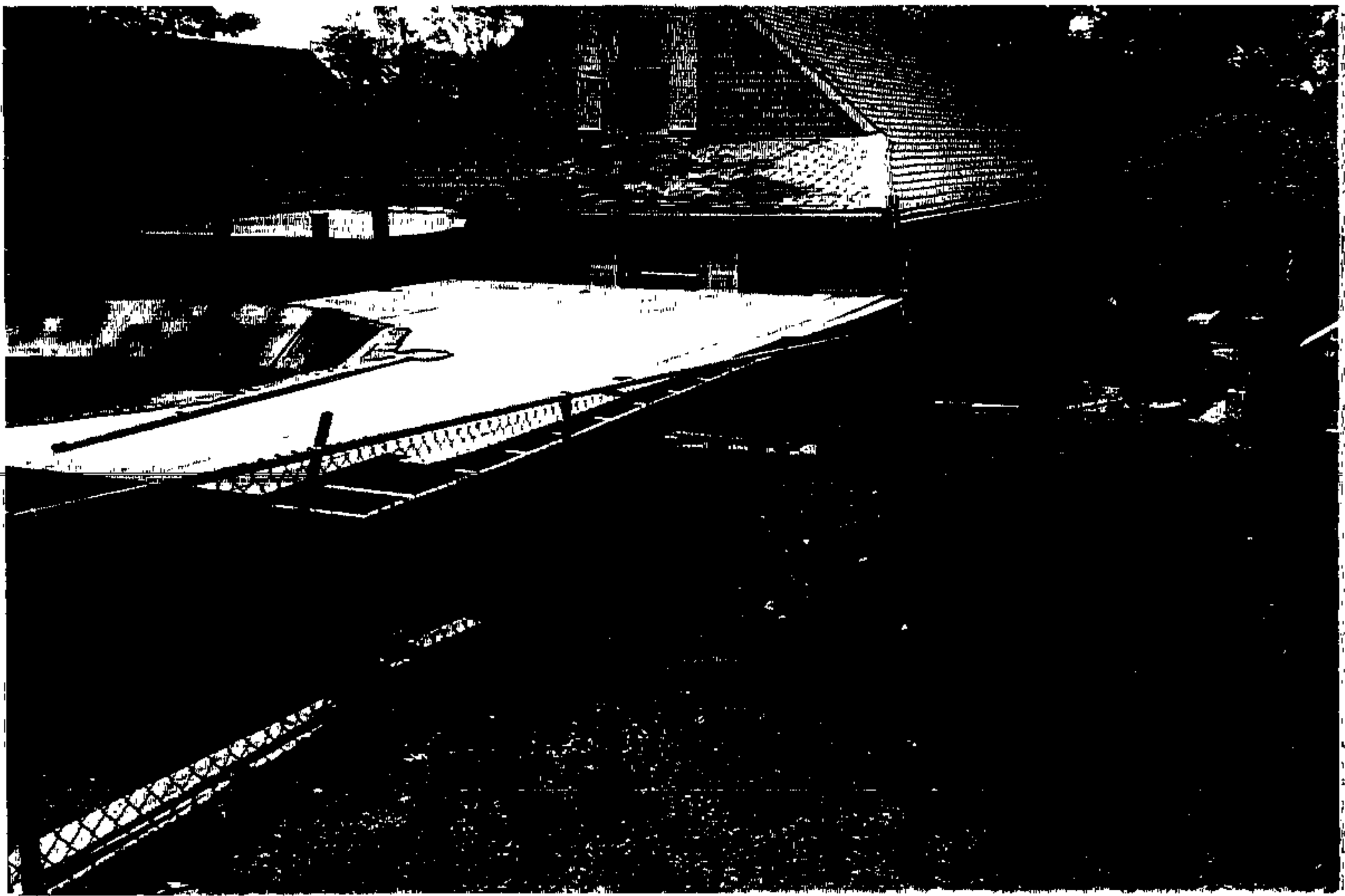


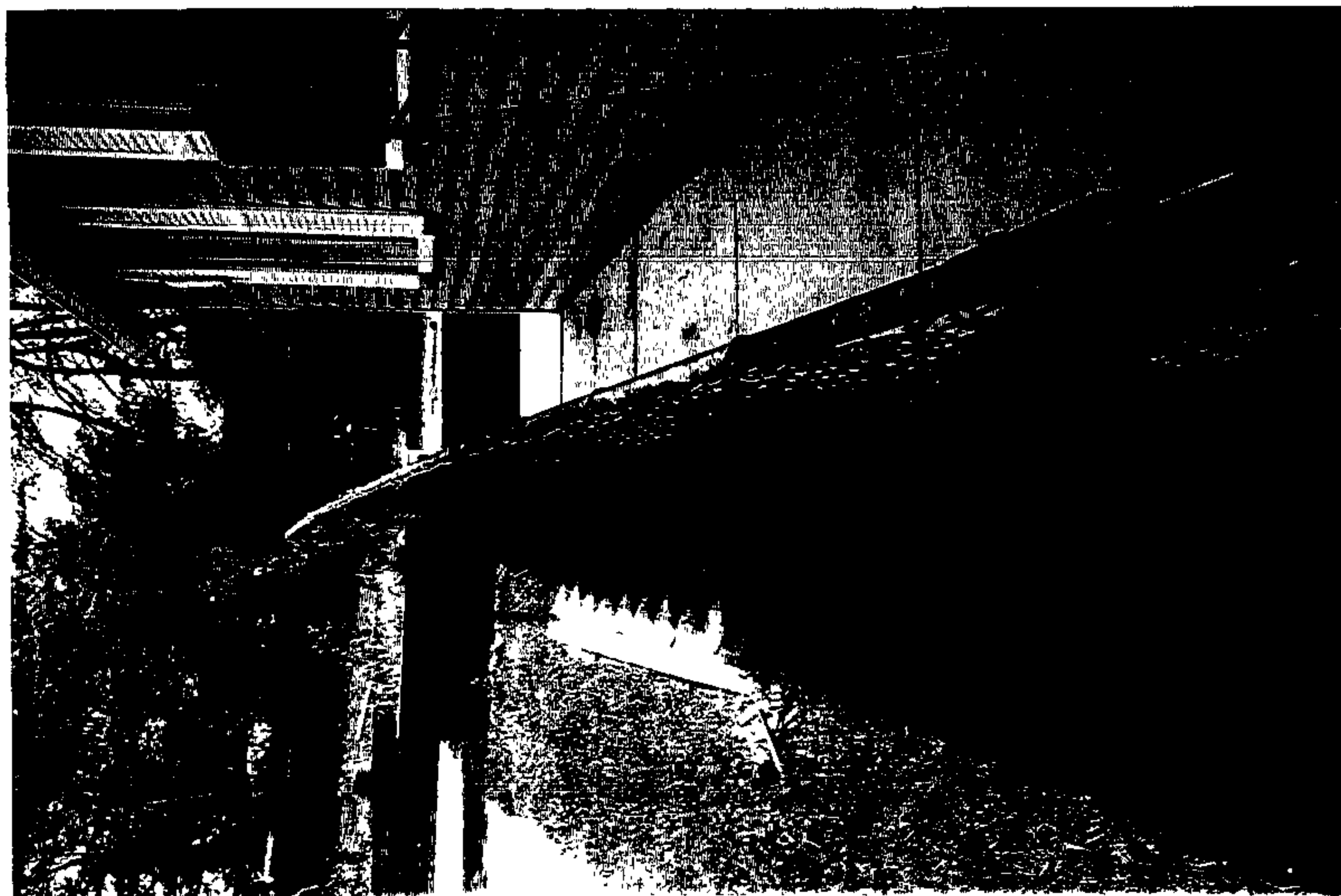
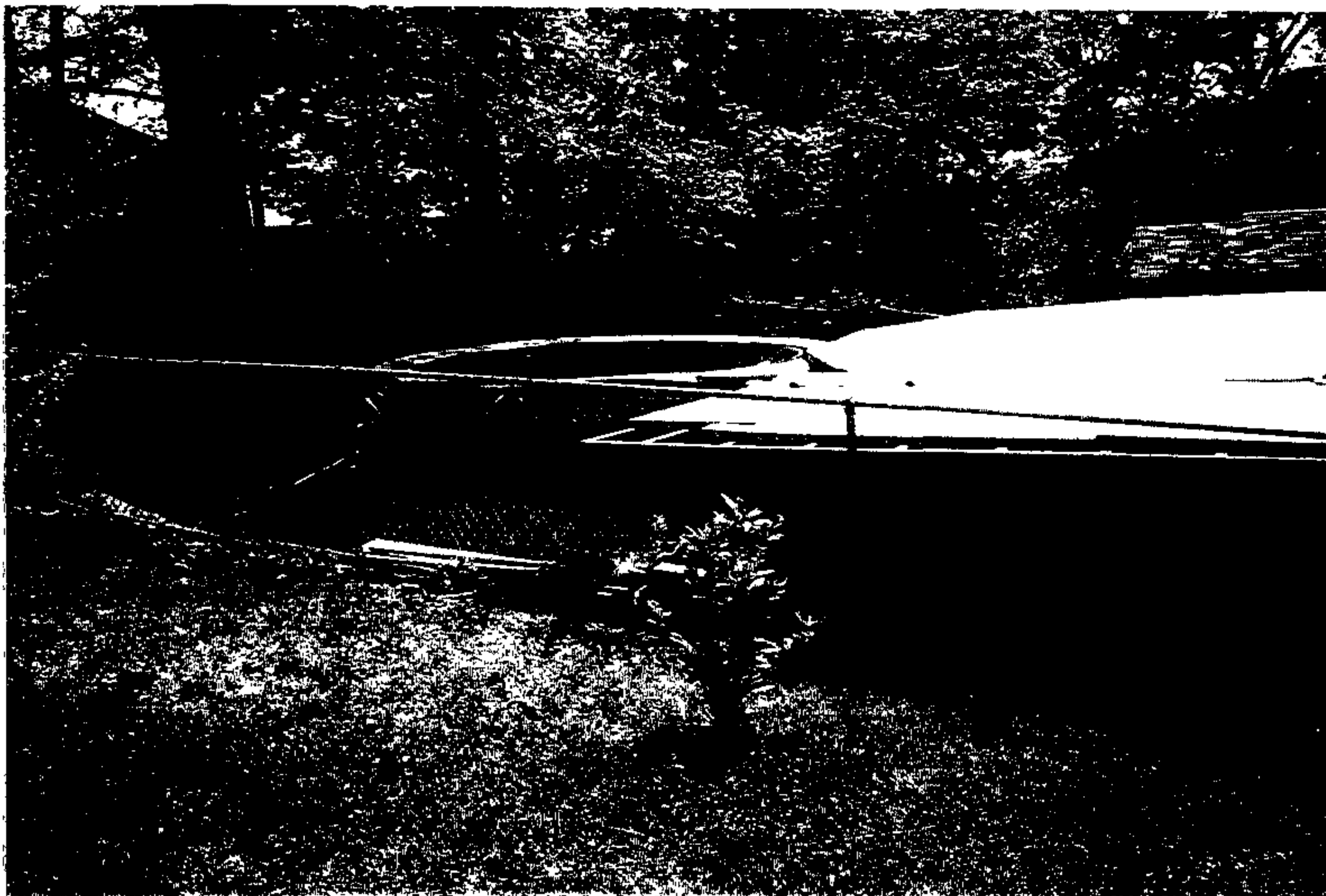


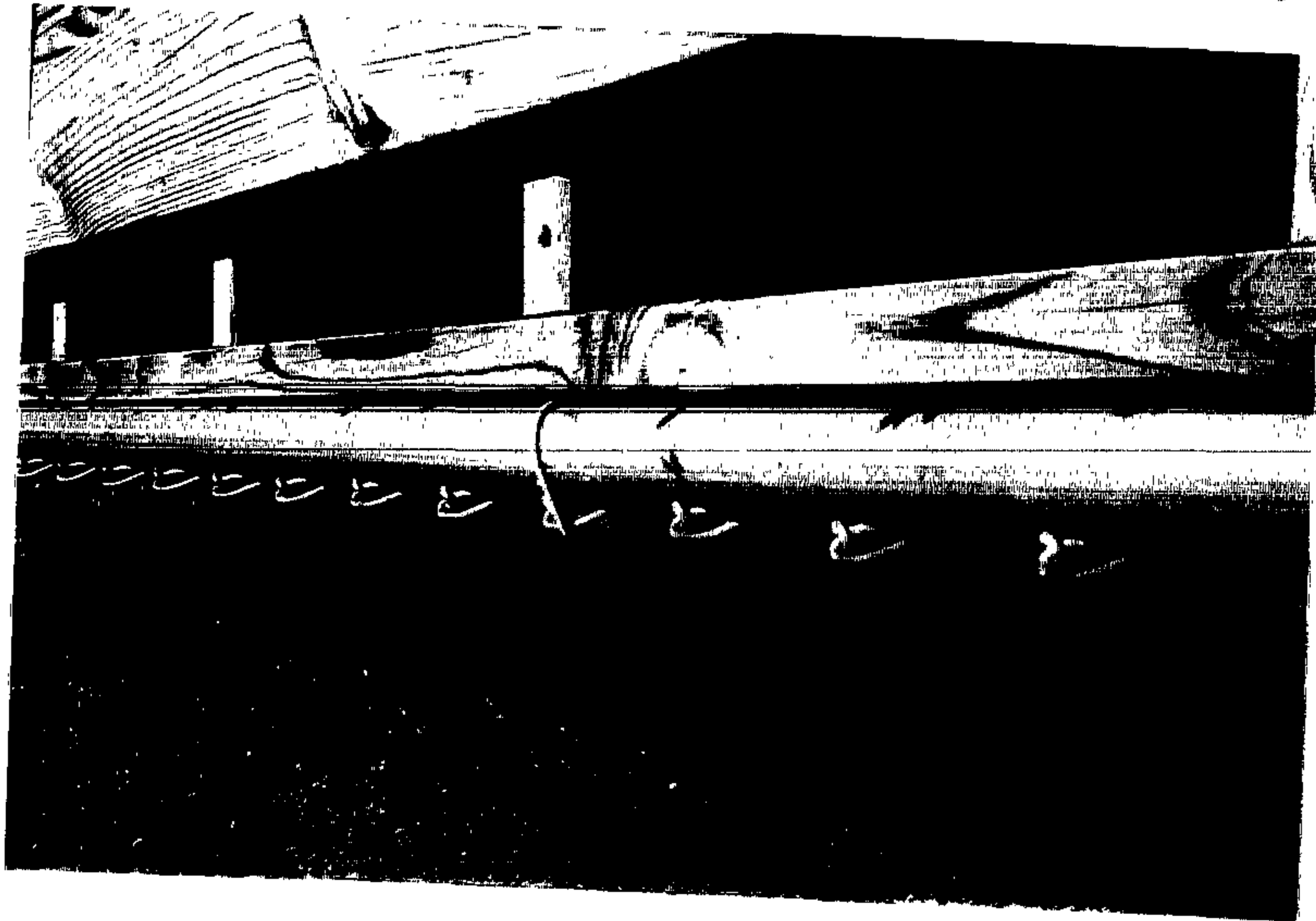
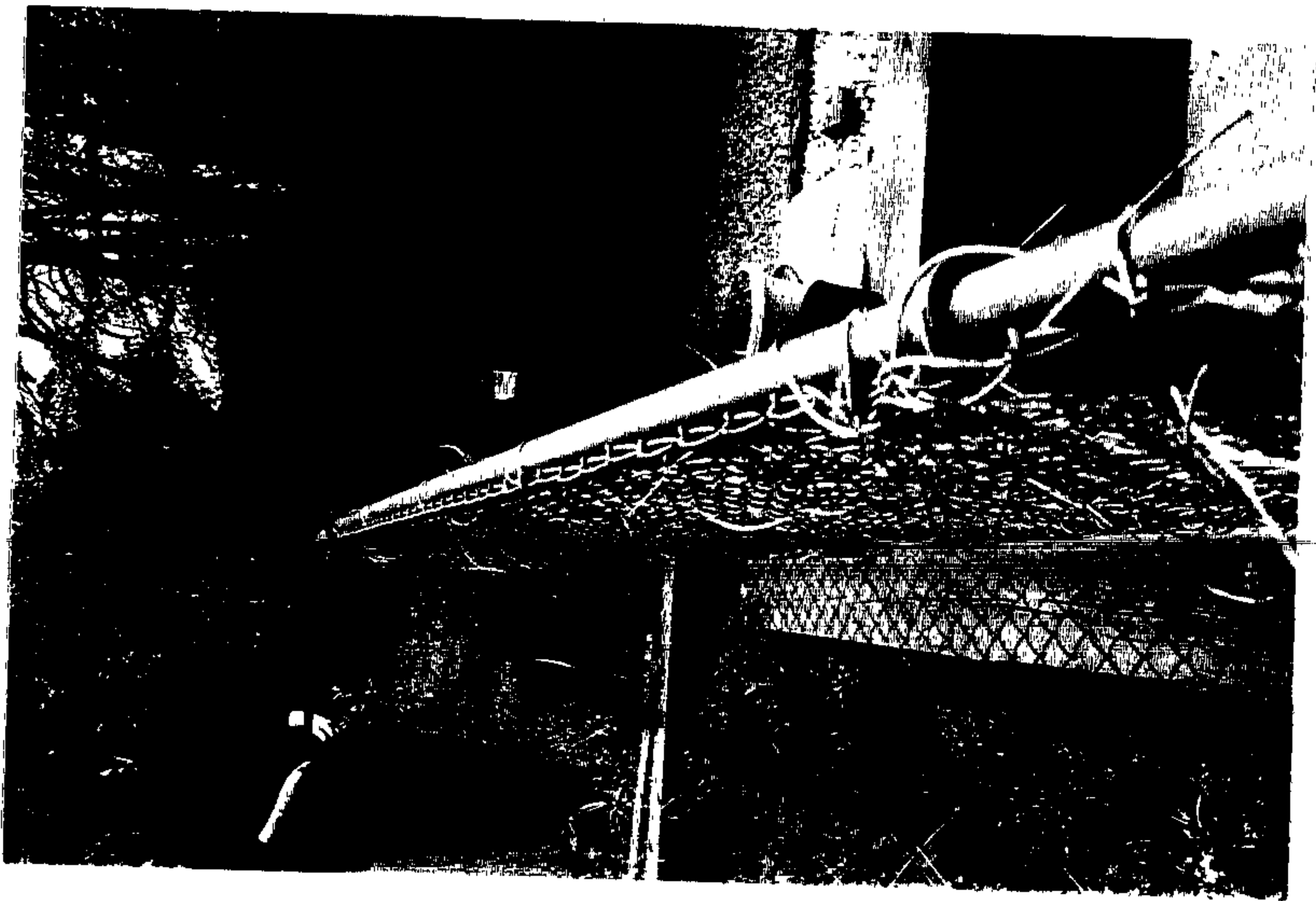


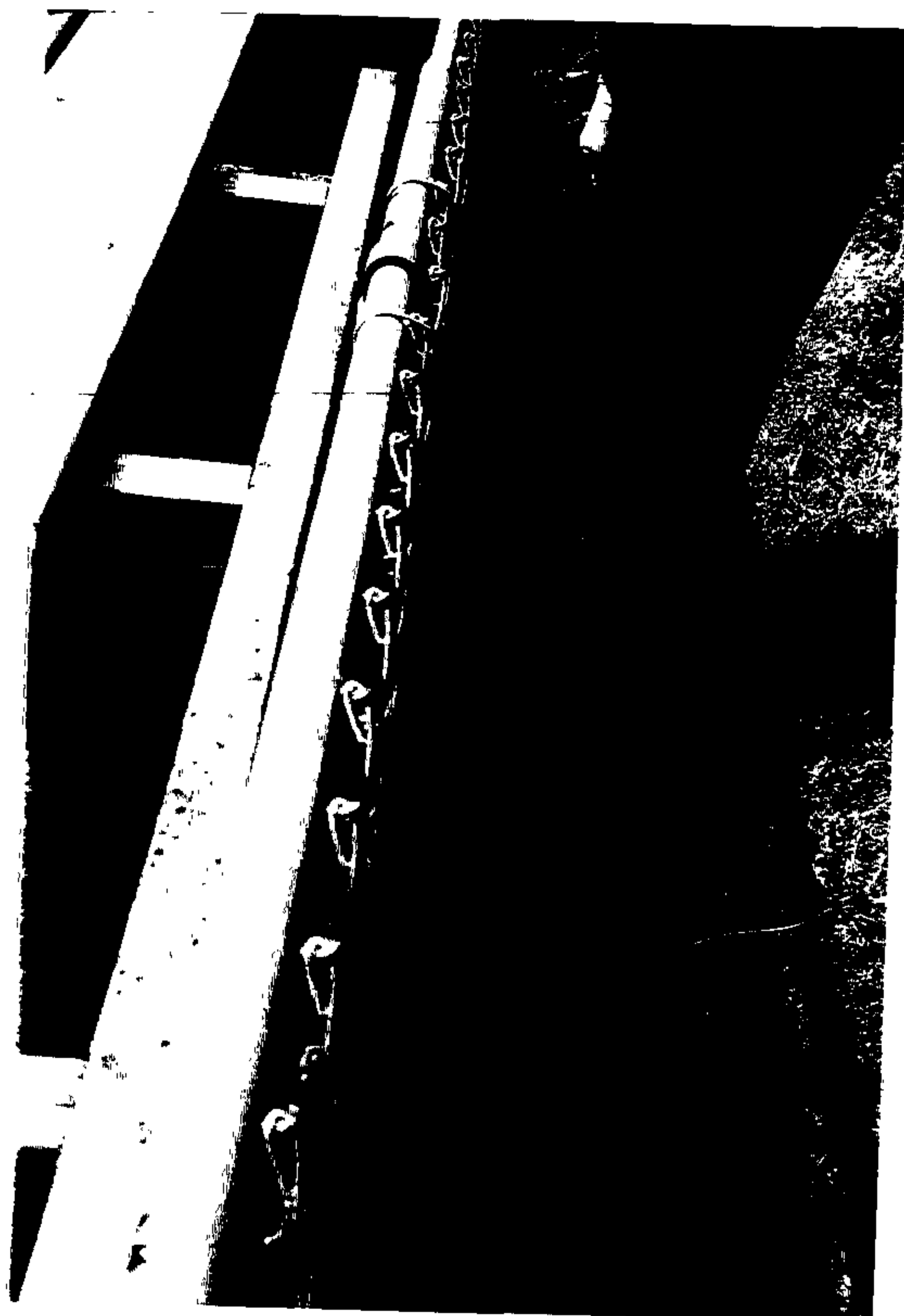












County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

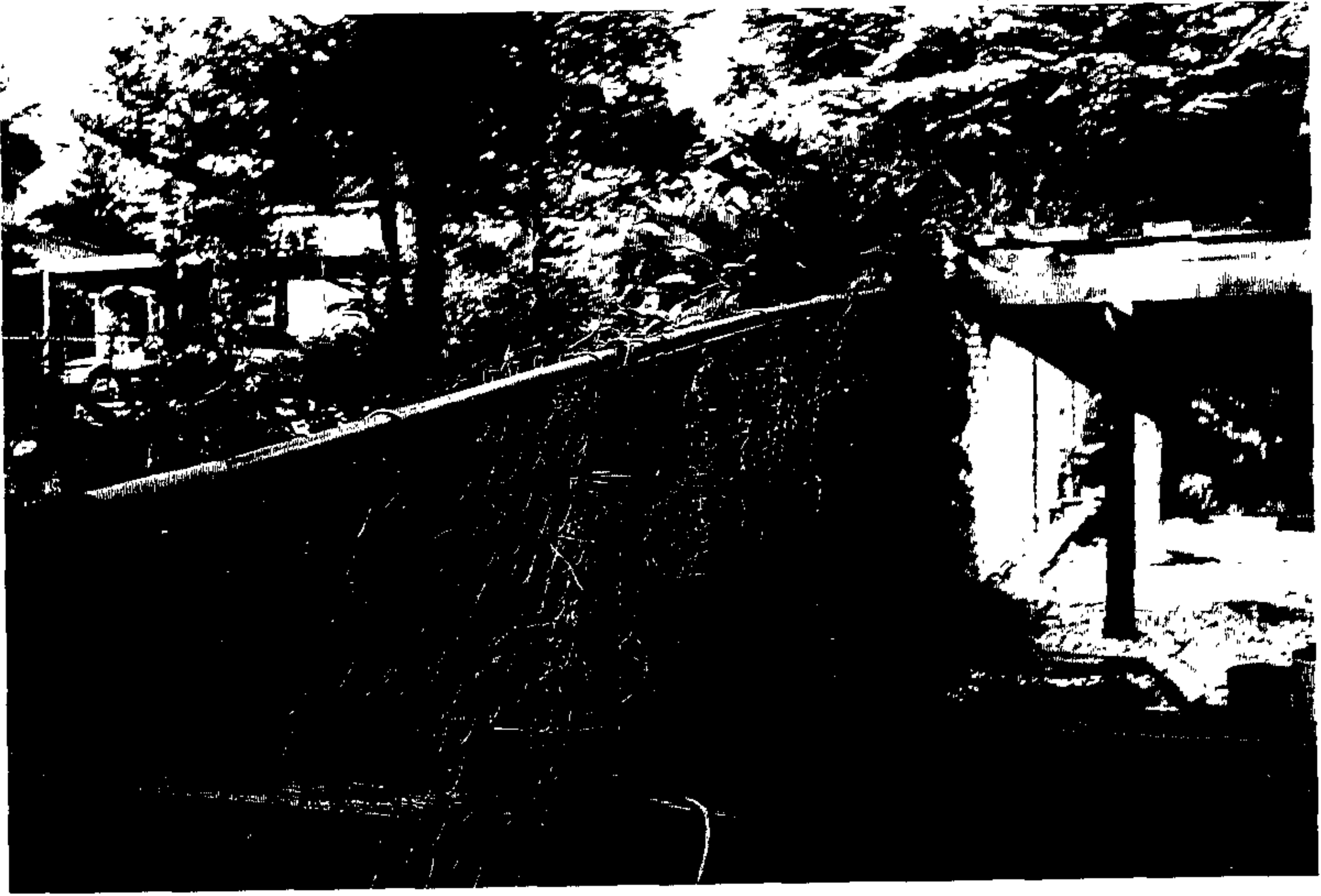
99-524-R

Meyer

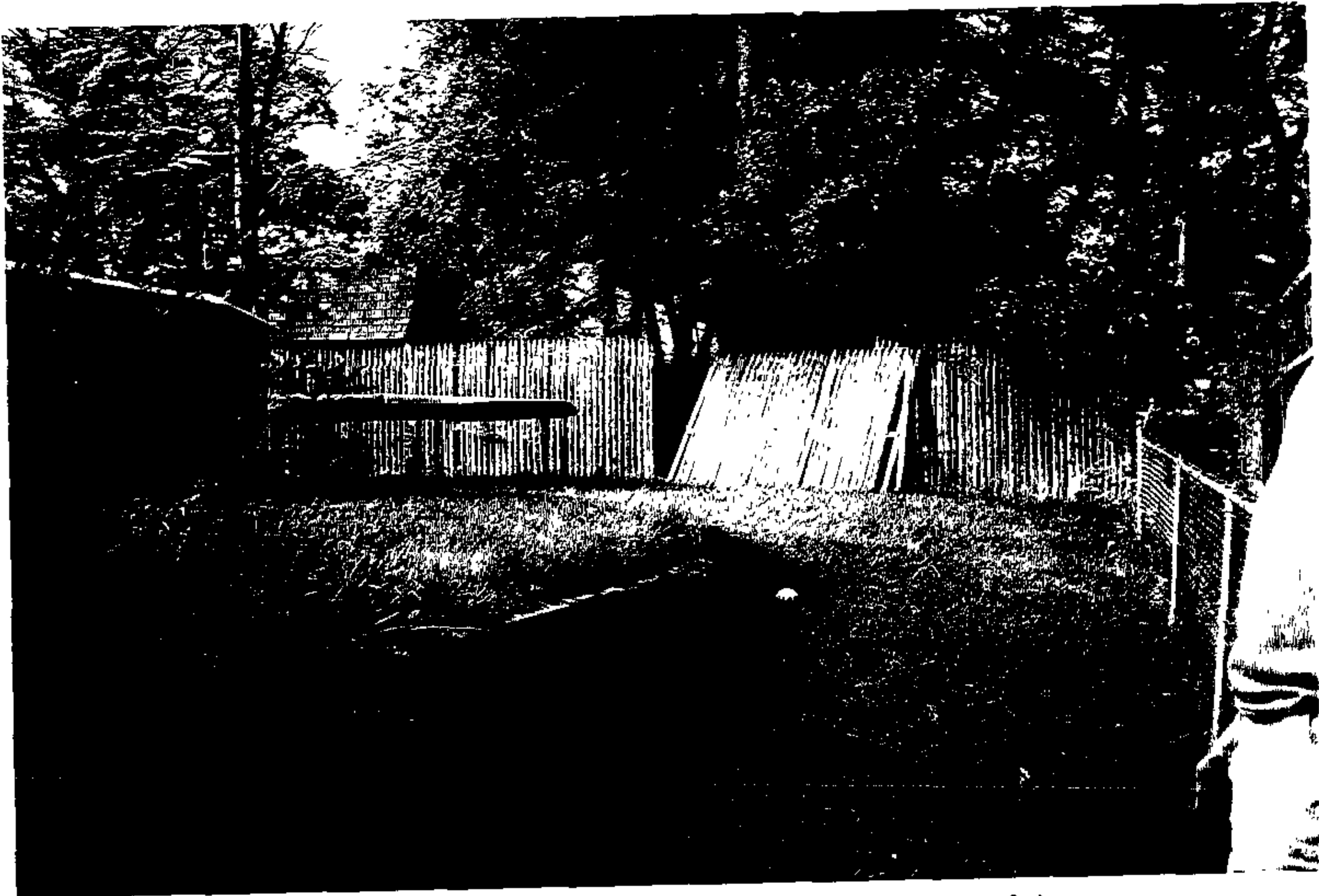
Protestants

2 (17 photos)
3 (pen)

Petitioner's
Exb. # 1



Overgrown brush growing up, over & through fence.



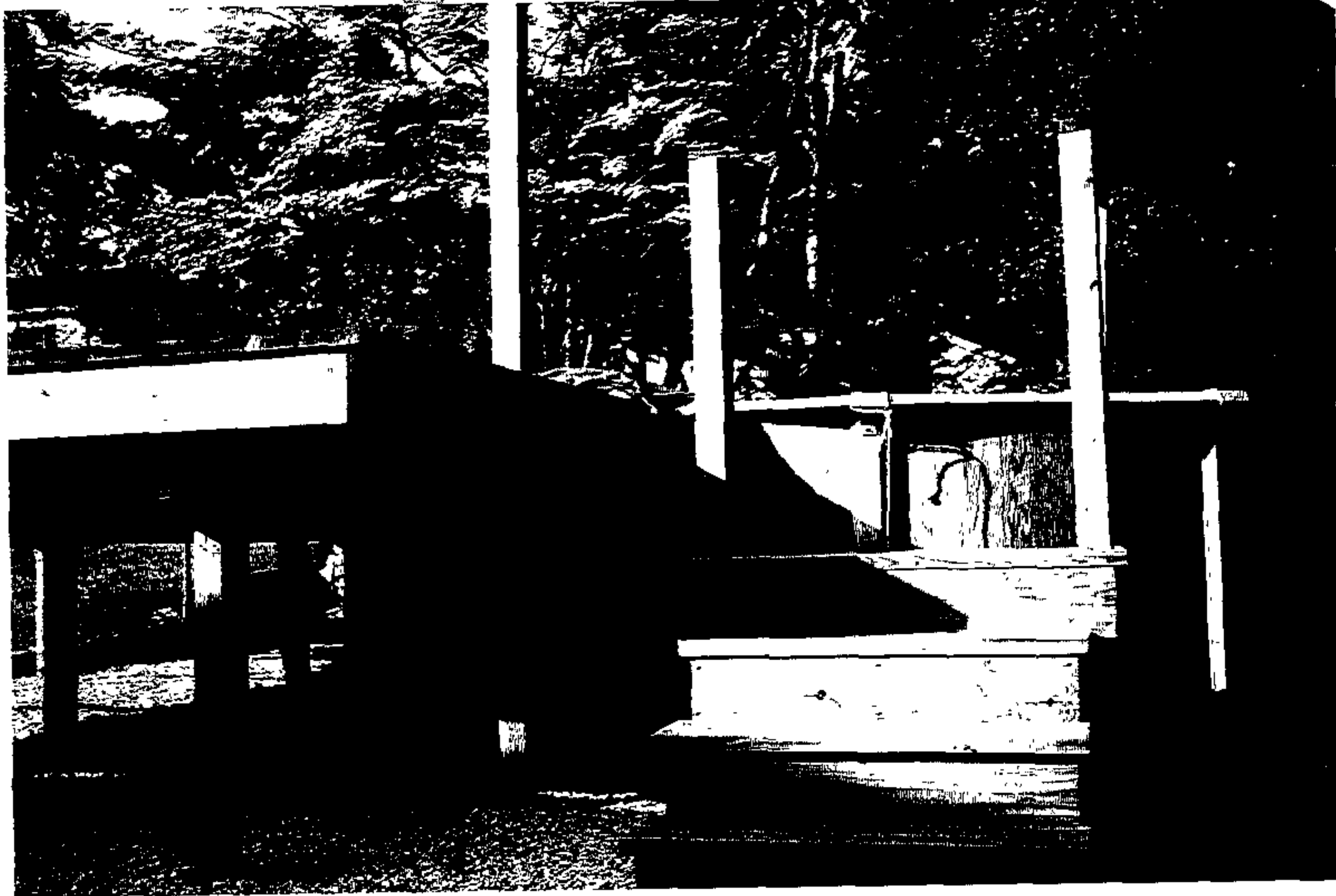
Dropped area where another crumbling cement wall needs to be replaced



Rear of yard - Rear neighbors
trees hanging over in our yard.



Rear neighbors Tree in above picture
Not belonging to County as ms. Simma
stated in previous hearing.



Step up area to deck - house sits below
Back yard level. - Sits on hill



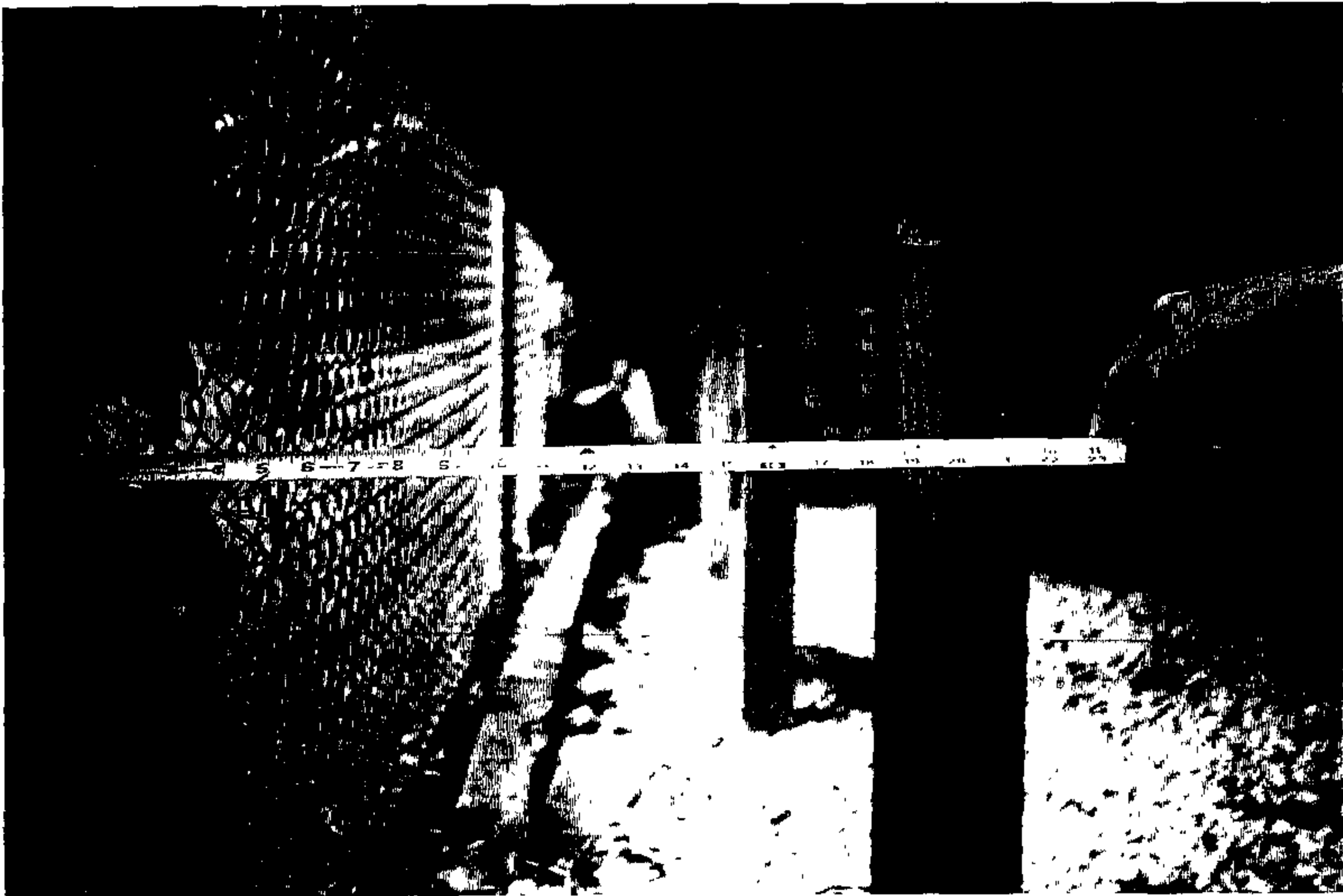
ALPHAMAT ARTICARE #0463V

243

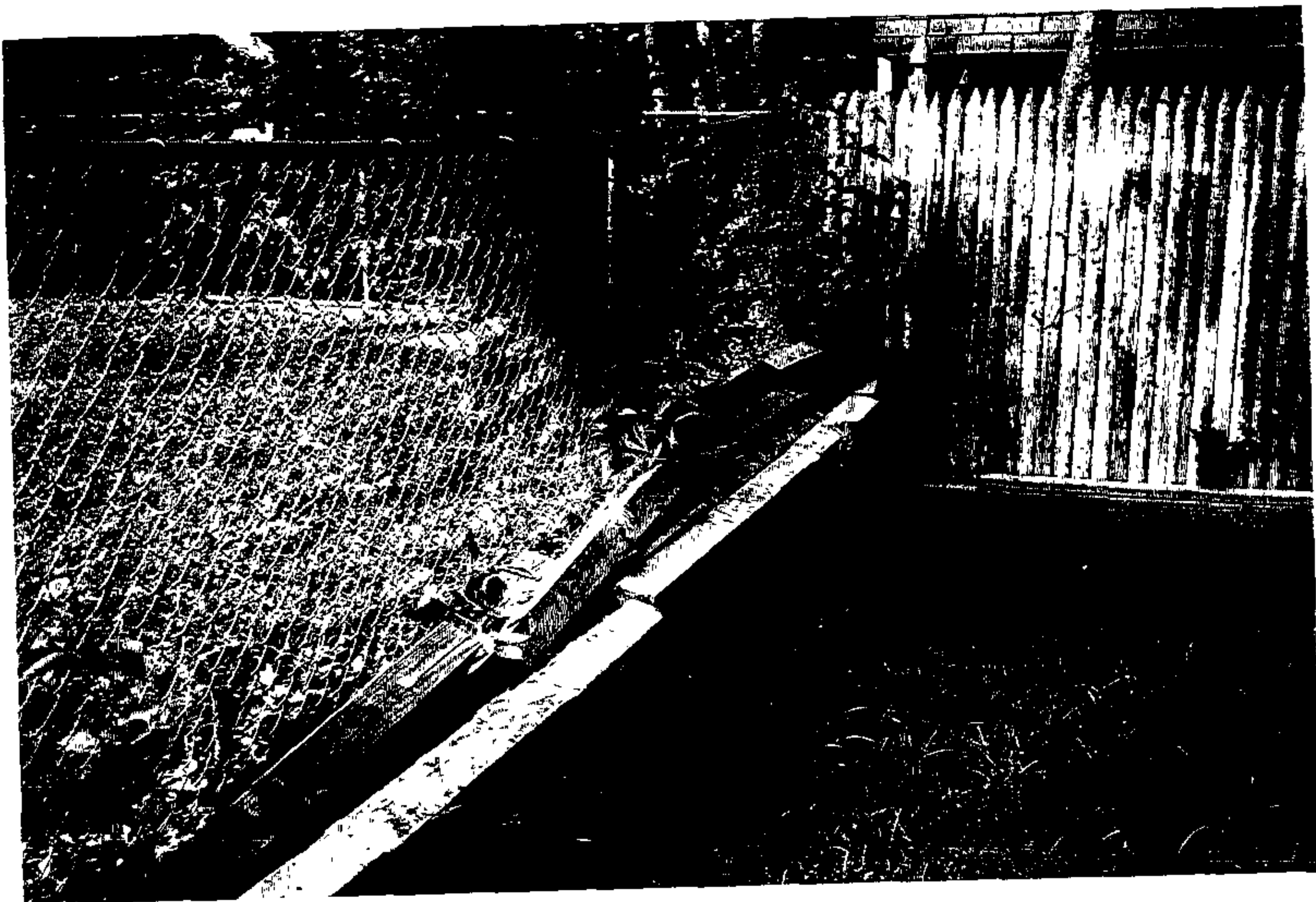


ALPHAMAT ARTCARE #8463V 24382

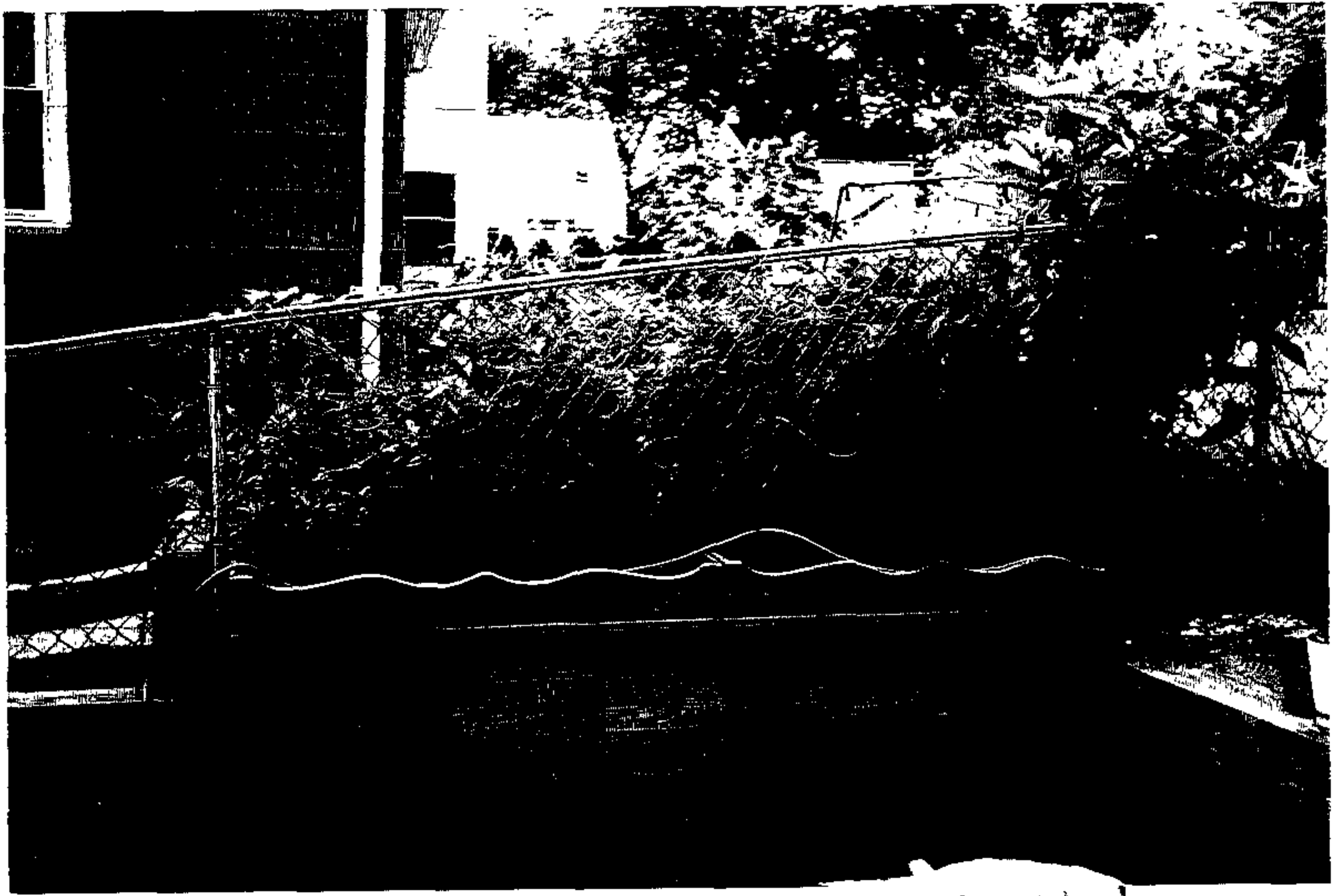
Back yard of house on our right



Proposed & Requested 18" Variance
(current view is 1" fence to deck)



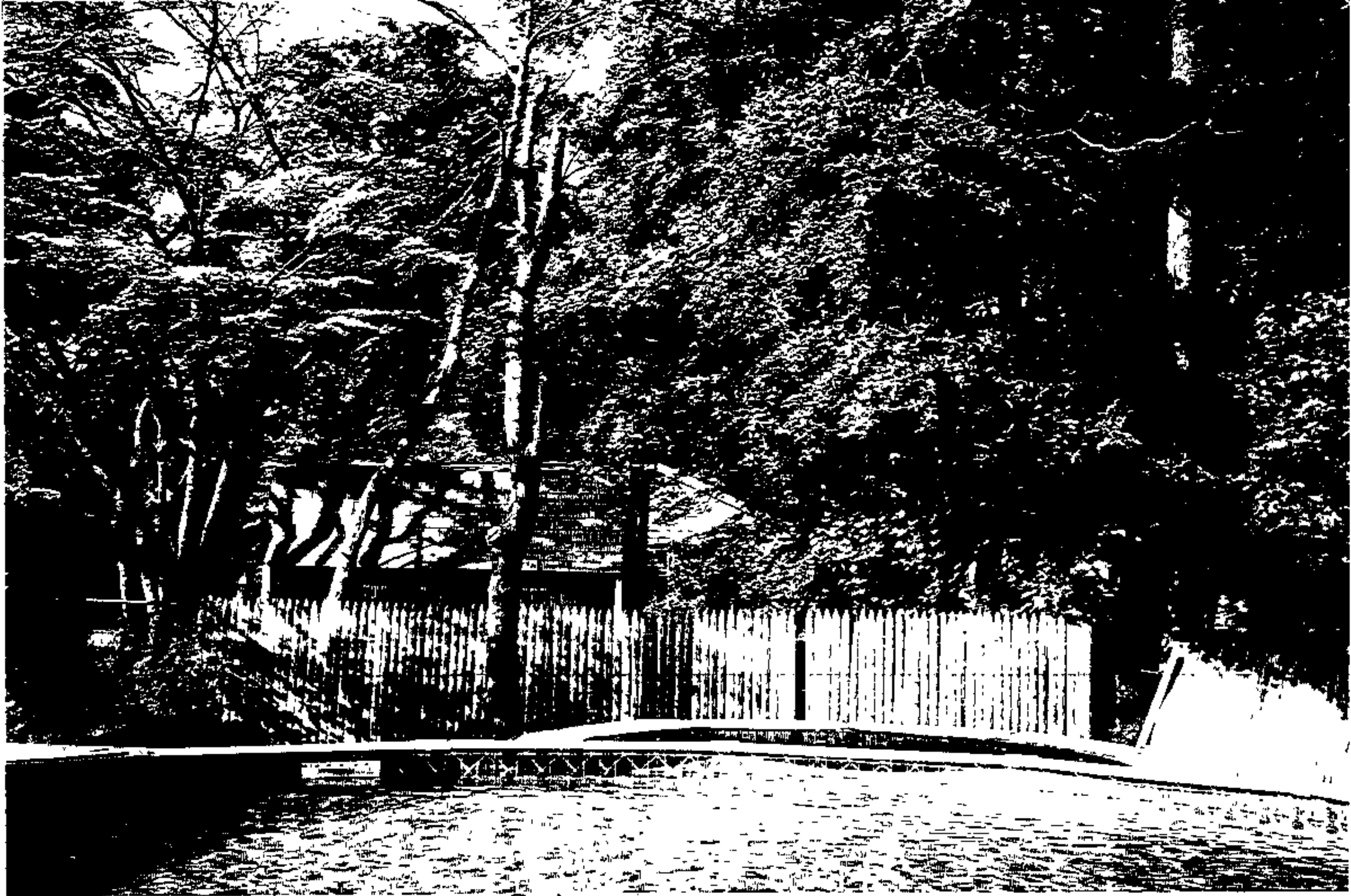
Rear of yard - Cement retaining wall that
must be replaced due to ms. Summons yard
pushing through to ours.



\$250 retaining wall that had to be built due to ms. Simment's Flower bed being built up against Fence.



Rear view of our house - Only useable area But has a drop off to the left



Rear view of back yard - pool with
trampoline behind it.



Dark Blue house is ms Simmonds. Gray house
is to the left of ms Simmonds house where
her patio is located.

APPEAL

Petition for Variance
NE/S Onyx Road, 398' NW of centerline Opal Road, 2806 Onyx Road
9th Election District - 6th Councilmanic District
Lori Mercer, Legal Owner
Case No. 99-525-A

- ✓ Petition for Variance
- ✓ Description of Property
- ✓ Notice of Zoning Hearing
- ✓ Certificate of Posting (Posted on 7/30/99 by Thomas P. Ogle, Sr.)
- ✓ Certificate of Publication (8/3/99 Jeffersonian)
- ✓ Entry of Appearance by People's Counsel
- ✓ Zoning Advisory Committee Comments
- Petitioners' Exhibits:
 - ✓ 1. Plat to accompany variance petition.
- ✓ Inspection report dated 6/4/99
- ✓ Violation notice (no. 108783) dated 6/7/99
- ✓ Letter to John Altmeyer, supervisor, from Al Redmer, Jr., Delegate, dated 7/12/99.
- ✓ Memo to Larry Schmidt, Zoning Commissioner from John Altmeyer, Code Enforcement Supervisor dated 7/21/99
- ✓ 8 pages of photographs
- ✓ Deputy Zoning Commissioner's Order dated August 26, 1999 (Denied)
- ✓ Notice of Appeal received on September 17, 1999 from Lori Mercer

c: * Lori Mercer
People's Counsel of Baltimore County, M.S. 2010
Timothy Kotroco, Deputy Zoning Commissioner, M.S. 3401
Arnold Jablon, Director of PDM, M.S. 1105

Lori Mercer and Dominic Celano,
2806 Onyx Road, Baltimore, MD 21234

Antoinette Simmont
2804 ONYX Road, Baltimore, MD 21234

Counsel for Protestant (Simmont):
John M. Kerney, Esquire 21 W. Susquehanna Ave Suite 100 Towson

✓ E
RECEIVED
COUNTY BOARD OF APPEALS
99 SEP 30 AM 11:11

**BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION**

IN THE MATTER OF: Lori Mercer –Petitioner /Owner
Case No. 99-525-A

DATE : Thursday, June 1, 2000

BOARD /PANEL : Lawrence S. Wescott (LSW)
Margaret Worrall (MW)
Thomas P. Melvin (TPM)

SECRETARY : Kathleen C Bianco /Administrator

PURPOSE: To deliberate Case No. 99-525-A /Petition for Variance to permit an accessory structure to be 6 inches from the side lot line in lieu of the required 2-1/2 feet. Request amended at hearing to 18 inches from fence.

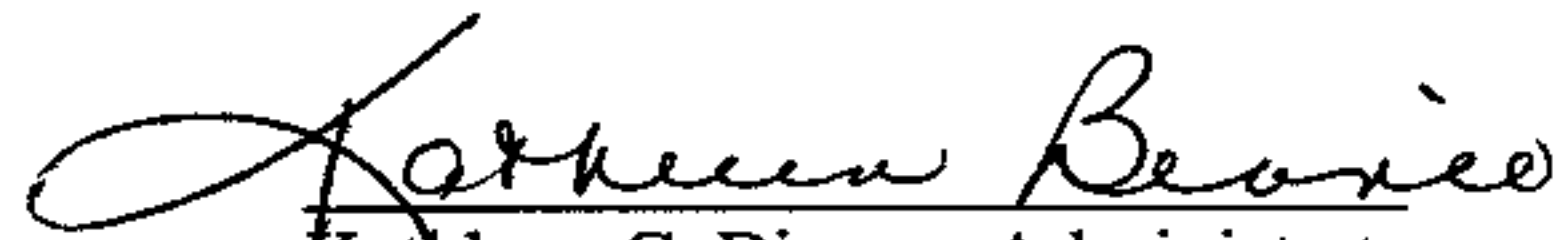
Panel members discussed:

- ◆ Issue: Request for variance of BCZR 400.1 /accessory buildings, other than on a farm as to location in yard and distance from property line (2-1/2 feet)
- ◆ Courts have stated that a variance is to be granted only in extreme cases
 - First prong for variance (per 307.1 of BCZR and *Cromwell v. Ward*) – as to uniqueness: no testimony as to uniqueness; subject property was not shown to be different from other properties in neighborhood; testimony indicated that all properties were very much the same, including slopes; does not meet this first prong.
 - Even assuming that first prong (that of uniqueness) was met, would fail as to practical difficulty and unreasonable hardship:
 - Would fail as to unreasonable hardship – self-created in that if permit had been applied for, Petitioner would have known that regulations were not met as planned.
 - Would fail as to practical difficulty – in that it could be located elsewhere on the property; again, self-created situation.
 - As to spirit and intent, would also fail here; does not meet spirit and intent of law which is to allow people to live without invasion of property.
- ◆ Unanimous decision of the Board in this public deliberation that this request fails (1) as to uniqueness; no testimony or evidence that the property is unique; (2) assuming first prong was met, fails as to practical difficulty and unreasonable hardship for reasons as stated; and (3) further would fail as to spirit and intent; does not satisfy the plain spirit and intent of the law.

- ◆ Upon determination that Petitioner has not met her burden under 307.1 of the BCZR and *Cromwell v. Ward*, the requested variance is denied; written Opinion and Order to be issued by the Board; appellate period to run from date of written Order and not today's date.
-

NOTE: These minutes, which will become part of the case file, are intended only to indicate for the record that a public deliberation took place this date regarding this zoning case. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by this Board.

Respectfully submitted


Kathleen C. Bianco, Administrator
County Board of Appeals



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

March 3, 2000

NOTICE OF POSTPONEMENT & REASSIGNMENT

CASE #: 99-525-A

IN THE MATTER OF: LORI MERCER -Legal Owner
/Petitioner 2806 Onyx Road
9th Election District; 6th Councilmanic

(8/26/99 -Decision of the Z.C. in which Petition
for Variance was DENIED.)

which was assigned to be heard on 4/27/00 has been POSTPONED at the request
of Counsel for Protestant due to schedule conflict; and has been

REASSIGNED FOR:

THURSDAY, JUNE 1, 2000 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the
advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix
C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient
reasons; said requests must be in writing and in compliance with
Rule 2(b) of the Board's Rules. No postponements will be granted
within 15 days of scheduled hearing date unless in full compliance
with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at
least one week prior to hearing date.

Kathleen C. Bianco
Administrator

cc: Appellant /Petitioner : Lori Mercer

Counsel for Protestant : John M. Kerney, Esquire
Protestant : Antoinette Simmont

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney



JOHN M. KERNEY
ATTORNEY AT LAW
21 WEST SUSQUEHANNA AVENUE
SUITE 100
TOWSON, MARYLAND 21204

MEMBER OF MARYLAND
AND PENNSYLVANIA BARS

TELEPHONE 410-337-5407
FAX 410-321-1054

March 1, 2000

County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

Re: **Case No. 99-525A**
In the Matter of Lori Mercer
2806 Onyx Road - 9th Election District
6th Councilmatic District

RECEIVED
COUNTY BOARD OF APPEALS
00 MAR -2 PM 1:45

Gentlemen:

Please enter the appearance of John M. Kerney on behalf of Antionette Simmont, Protestant, in the above-captioned matter.

Sincerely yours,


John M. Kerney

JMK:det

cc: Ms. Antoinette Simmont
Peter Zimmermen, Esquire
Lori Mercer



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180

FAX: 410-887-3182

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

February 7, 2000

NOTICE OF ASSIGNMENT

CASE #: 99-525-A

IN THE MATTER OF: LORI MERCER -Legal Owner
/Petitioner 2806 Onyx Road
9th Election District; 6th Councilmanic

(8/26/99 -Decision of the Z.C. in which Petition
for Variance was DENIED.)

*pp'd to
6/01/00
neg of
Counsel for
Protestant*
ASSIGNED FOR:

THURSDAY, APRIL 27, 2000 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

cc: Appellant /Petitioner

: Lori Mercer

Protestant

: Antoinette Simmont

People's Counsel for Baltimore County
Pat Keller, Director /Planning
Lawrence E. Schmidt /Z.C.
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney



JOHN M. KERNEY
ATTORNEY AT LAW
21 WEST SUSQUEHANNA AVENUE
SUITE 100
TOWSON, MARYLAND 21204

MEMBER OF MARYLAND
AND PENNSYLVANIA BARS

TELEPHONE 410-337-5407
FAX 410-321-1054

March 1, 2000

County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RECEIVED
COUNTY BOARD OF APPEALS
00 MAR -2 PM 1:45

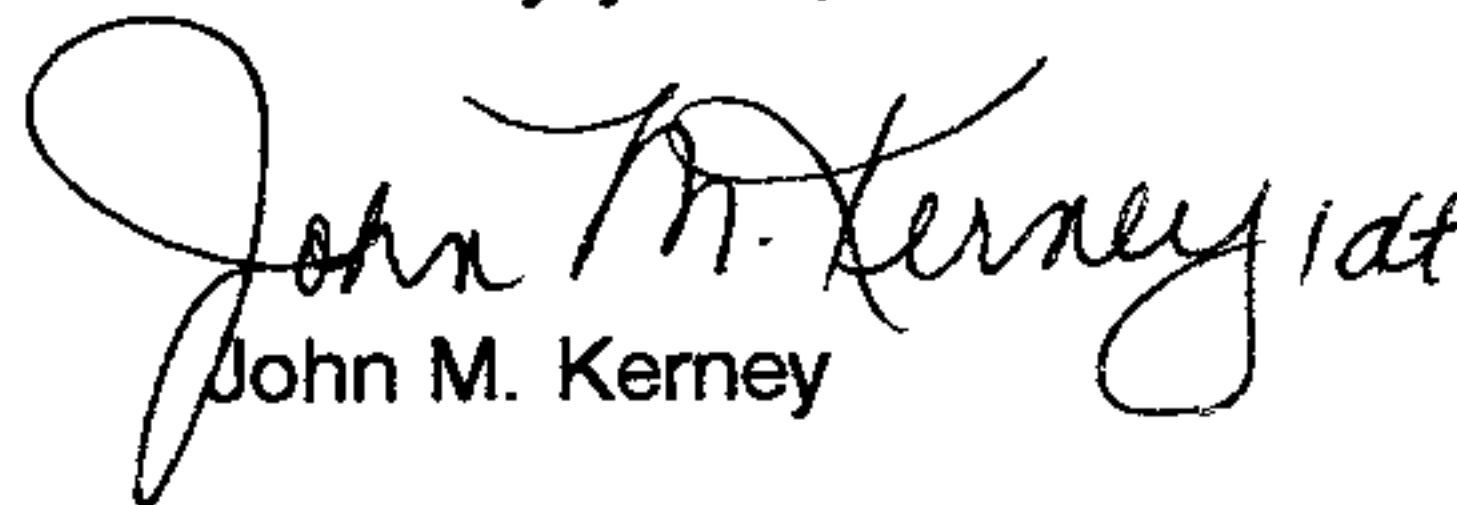
Re: **Case No. 99-525A**
In the Matter of Lori Mercer
2806 Onyx Road - 9th Election District
6th Councilmatic District

Gentlemen:

Please be advised that the undersigned has entered his appearance on behalf of the Protestant, Antionette Simmont, regarding the appeal scheduled for Thursday, April 27, 2000 at 10:00 a.m. Please be advised that the undersigned has been scheduled to be on vacation from Wednesday, April 26, 2000 through Sunday, April 30, 2000 in North Carolina.

Would you please schedule this matter at the Board's earliest convenience.

Sincerely yours,

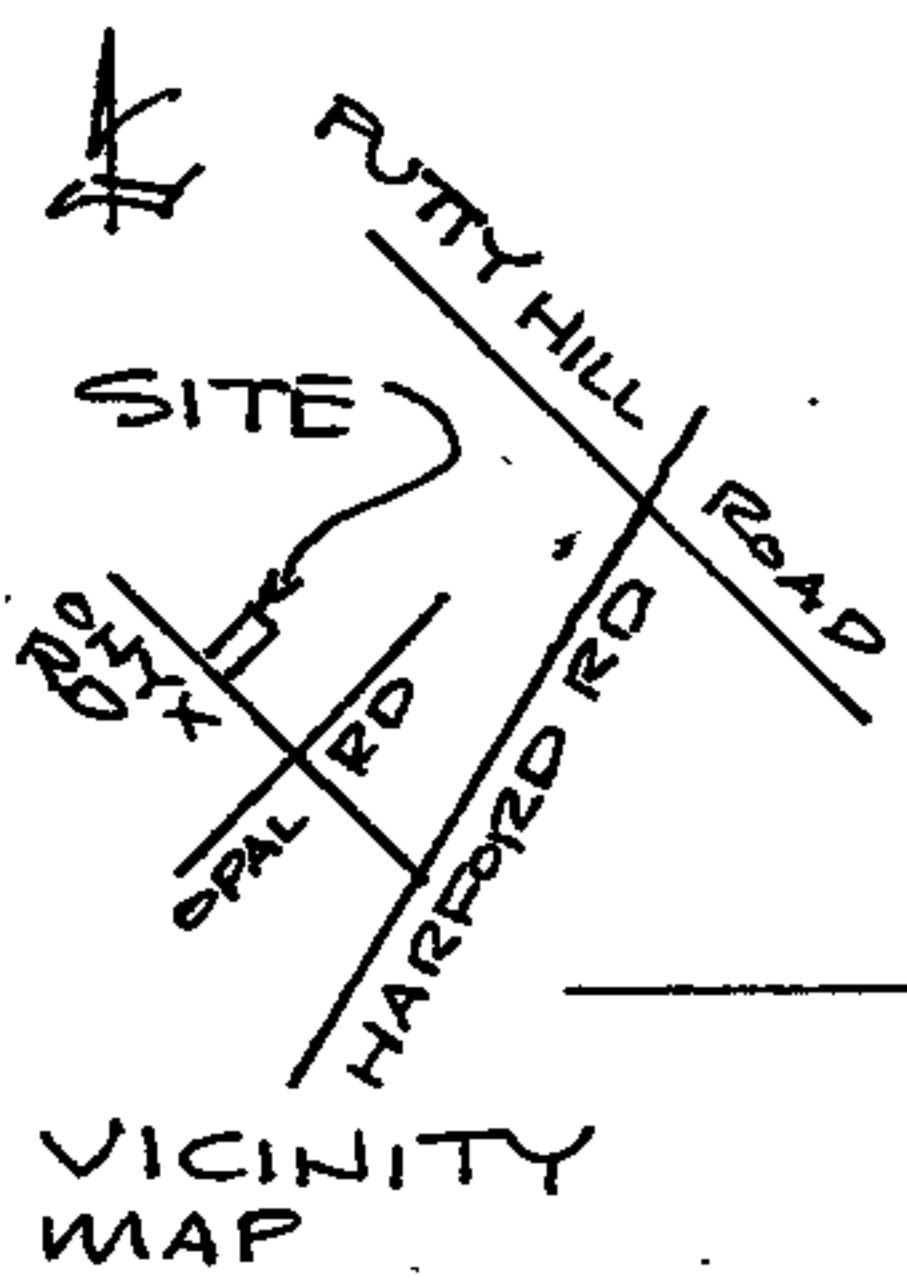
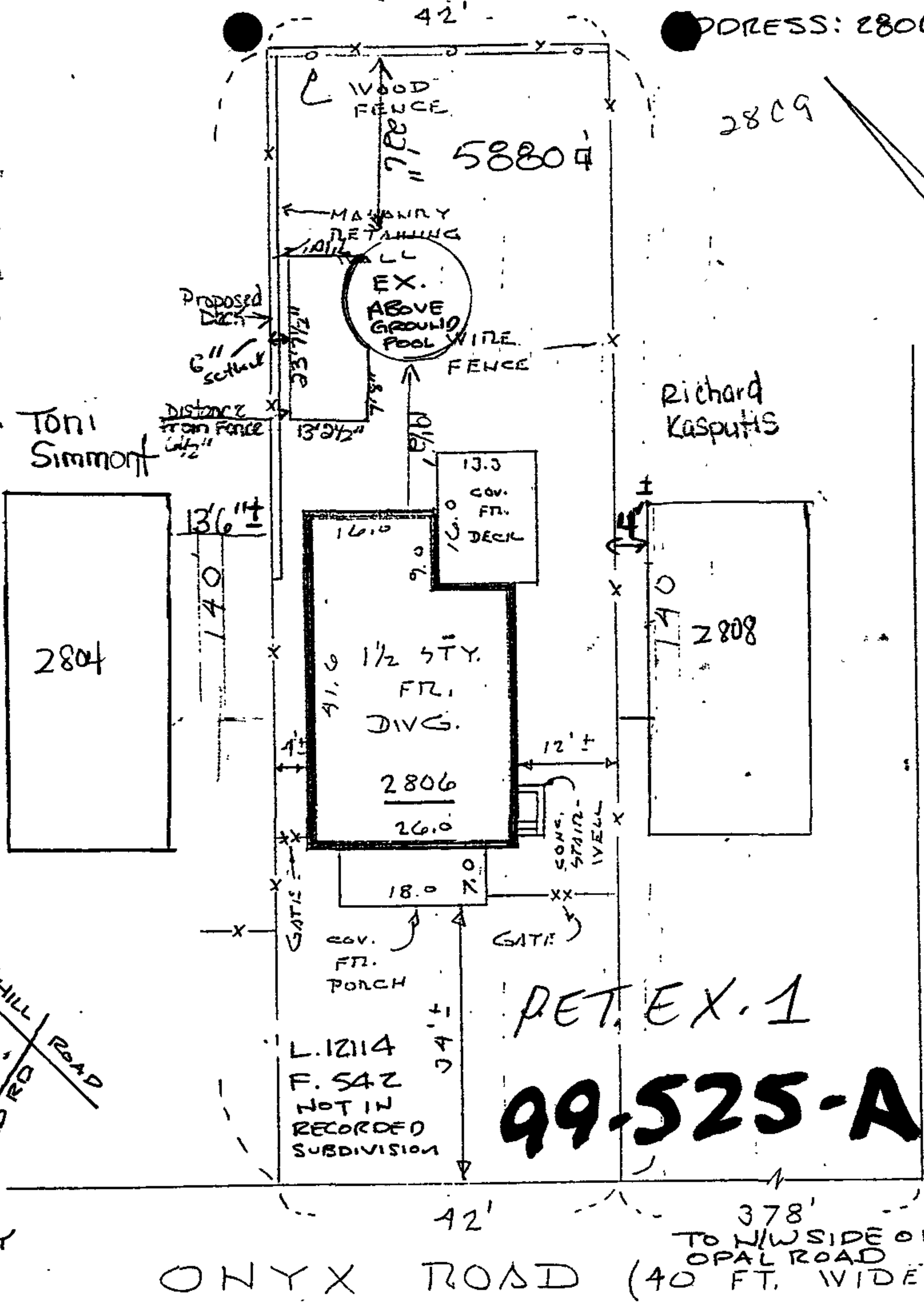

John M. Kerney

JMK:det

cc: Ms. Antoinette Simmont
Peter Zimmermen, Esquire
Lori Mercer

ADDRESS: 2806 ONYX ROAD
 ADDRESS: 2806 ONYX ROAD

This property is not located in a H.U.D. Identified Special Flood Hazard Area. Flood Hazard Map Interpretation though believed accurate is not guaranteed.



PET. EX. 1
99-525-A

NO PRIORITY ZONING PUBLIC WATER YES PUBLIC SEWER YES NO CHESAPEAKE BAY CRITICAL AREA

 PREPARED BY L.M. DATE: 6/28/99	LOCATION DRAWING 2806 ONYX ROAD, BALTIMORE COUNTY, MARYLAND	SCALE 1" = 20'
	PLAN TO ACCOMPANY VARIANCE PETITION OFFICE OF MAN & KUNST POST OFFICE BOX 5448 TOWSON, MARYLAND 21285 0.13 AC OWNER: LORI MERCER	DATE 2/21/97
		JOB NO. 19 97 C

CASE #
 99-525-A

NE 8D
 REVIEWED BY: LTM
 MJK

Zoned DR5-5
 6TH COUNCIL DISTRICT

4th Election District



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

August 13, 1999

Ms. Lori Mercer
Mr. Dominic Celano
2806 Onyx Road
Baltimore, MD 21234

Dear Petitioners:

RE: Case No.: 99-525-A, Petitioner: Lori Mercer and Dominic Celano,
Location: 2806 Onyx Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM), on June 28, 1999.

The Zoning Advisory Committee (ZAC), which consists of representatives from several Baltimore County approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in cursive script, reading "W. Carl Richards, Jr.", followed by a stylized flourish.

W. Carl Richards, Jr.
Zoning Supervisor

WCR:gg

Enclosures

Come visit the County's Website at www.co.ba.md.us



Printed with Soybean Ink
on Recycled Paper

INTEROFFICE CORRESPONDENCE

Date: August 4, 1999

SUBJECT: Zoning Advisory Committee Meeting
for July 26, 1999
Item Nos. 525, 526, 528, 529, 530,
531, 532, 001, 002, 003, 004, 005,
006, 007, 009, 010, 011, 012, 013,
and 014

cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits
and Development Management

Date: July 20, 1999

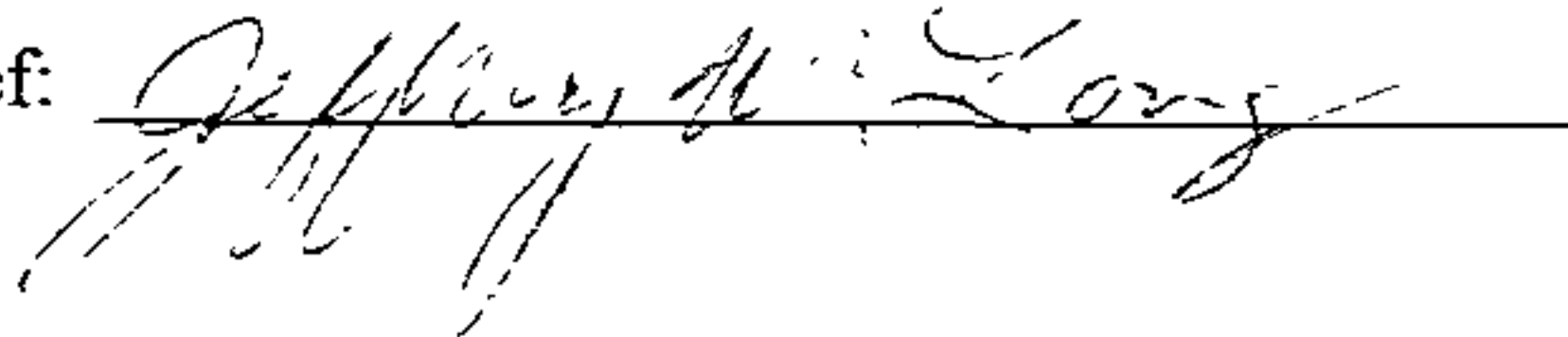
FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: Zoning Advisory Petitions

The Office of Planning has no comment on the following petition(s):
Item No(s) 525, 528, 003, 004, and 007

If there should be any questions or this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3480.

Section Chief:

A handwritten signature in cursive script, appearing to read 'Jeffrey Long', is written over a horizontal line.

AFK/JL



**Baltimore County
Fire Department**

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4500

July 21, 1999

Arnold Jablon, Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF JULY 19, 1999

Item No.: See Below

Zoning Agenda:

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

(525) 526, 528, 529, 531, 532, 002, 003, 004, 007, 008,
009, 010, 011, 012, AND 013.

REVIEWER: LT. ROBERT P. SAUERWALD

Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File

Come visit the County's Website at www.co.ba.md.us





Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor
John D. Porcari
Secretary
Parker F. Williams
Administrator

Date: 7.20.99

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

RE: Baltimore County
Item No. 525 MSK/LTM

Dear Ms Stephens:

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.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

Michael M. Lenhart
to Michael M. Lenhart, Chief
Engineering Access Permits Division

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

Handwritten:
8/19

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits
and Development Management

Date: July 20, 1999

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: Zoning Advisory Petitions

The Office of Planning has no comment on the following petition(s):
Item No(s): 525, 528, 003, 004, and 007

If there should be any questions or this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 410-887-3480.

Section Chief:

Handwritten signature of Jeffrey W. Long

AFK/JL

MES. E. PORTS, JR.

8TH LEGISLATIVE DISTRICT

BALTIMORE COUNTY & CITY

WAYS AND MEANS COMMITTEE

SUBCOMMITTEE ON EDUCATION

CHAIRMAN'S WAYS & MEANS

OVERSIGHT SUBCOMMITTEE

HOUSE AND SENATE SPECIAL

JOINT COMMITTEE ON

TRANSPORTATION 2000

HOME ADDRESS:

21 ROBIN LYNNE COURT

RY HALL, MARYLAND 21128

(410) 256-0225

email: jimports@erois.com



HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401-1991

July 12, 1999

ALFRED W. REDMER, JR.

8TH LEGISLATIVE DISTRICT

BALTIMORE COUNTY & CITY

ENVIRONMENTAL MATTERS COMMITTEE

SUBCOMMITTEE ON HEALTH CARE

SPECIAL JOINT COMMITTEE ON

VEHICLE EMISSIONS

INSPECTION PROGRAM

MARYLAND MEDICAID

ADVISORY COMMITTEE

HOME ADDRESS:

4101 KAHLSTON ROAD

BALTIMORE, MARYLAND 21236-1026

email: alredmer@erois.com

John Altmeyer, Supervisor
Division of Code Inspections and Enforcement
Baltimore County Department of Permits
111 W. Chesapeake Avenue
Towson, MD 21204

Dear Mr. Altmeyer:

We are writing to you regrading one of our constituents, Toni Simmont, who lives at 2804 Onyx Road. Ms. Simmont's neighbors began construction on a deck without a permit from the county. The deck comes within two inches of her property line which, according to county regulations, clearly violates county code. According to one of your inspectors, Niles Jones, a stop work order was issued for the deck and her neighbor was required to file for a variance. The date for the variance hearing has not yet been set but apparently the stop work order has been reversed and the neighbor is continuing to work on the deck.

We would appreciate if you could respond in writing regarding the status of the variance, why the stop work order was issued, and why the order was overturned. If the stop work order was overturned for safety concerns, we would appreciate if you would specify what those concerns are. On behalf of our constituent, we request any information you can provide to us regarding this case as soon as possible.

Thank you for your time and attention to this issue. If you have any further questions or concerns, please feel free to contact us.

Sincerely,

Jim Ports, Jr.
Delegate

Al Redmer, Jr.
Delegate

JFP/AWR:cen

ANNAPOLIS ADDRESS:
307 HOUSE OFFICE BUILDING
ANNAPOLIS, MARYLAND 21401-1991
(410) 841-3365
FAX (410) 841-3850

DISTRICT OFFICE:
8001 HARFORD ROAD
BALTIMORE, MARYLAND 21234
(410) 882-8490
FAX (410) 882-1518

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: July 21, 1999

TO: Larry Schmidt
Zoning Commissioner

FROM: John M. Altmeyer / Code Enforcement Supervisor

SUBJECT: ITEM NO.: 525

PETITIONER: Lori Mercer

VIOLATION CASE NO.: 99-3398

LOCATION OF VIOLATION: 2806 Onyx Rd.

DEFENDANTS: Lori S. Mercer

Please be advised that the aforementioned petition is the subject of an active Violation case. When the petition is scheduled for a public hearing, please notify the Following person(s):

<u>NAME</u>	<u>ADDRESS</u>	
Ms. Antointte Simmantle	2804 Onyx Rd.	21234

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Code Enforcement Supervisor, so that the appropriate action may be taken relative to the violation case.

JMA/NJ/klh

99-525-A



Baltimore County
Department of Permits and
Development Management

Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Code Enforcement: 410-887-3351 Extension _____
Building Inspection: 410-887-3953

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

Recheck
6/15/99

BALTIMORE COUNTY UNIFORM CODE VIOLATION NOTICE

VIOLATION(S) OF TITLE 3, 7, 18, 24, OR 26 OF THE
BALTIMORE COUNTY CODE, ZONING, OR OTHER
CODES, REGULATIONS, AND POLICIES AS
INDICATED BELOW:

Violation Notice No.
108783

Case No.:

Election District 9 Permit No. None

Name (s) Lori S. Mercer

Address 2806 ONLYX RD

Zoning
Case

99-525A

Location of Violation (if different than address) _____

Vehicle License No. _____

Vehicle ID: _____

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

County Code:

§§ _____

§§ _____

Zoning Regulations:

§§ _____

§§ _____

Building Code (BOCA):

§§ _____

§§ _____

Livability Code (18-66):

§§ _____

§§ _____

Investment Property Act (7-66):

§§ _____

Electrical Code (NEC):

§§ _____

Plumbing Code (NSPC):

§§ _____

Dwelling (CABO):

§§ III

Other: §§ _____

COMMENTS OR OTHER VIOLATIONS:

Permit Required For Deck. - Footing
Inspection Required Before Any other work
Obtain Permit Call For Footing Inspection

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE
6/15/99 FAILURE TO COMPLY WILL RESULT IN THE PENALTIES DESCRIBED ON
THE REVERSE SIDE OF THIS VIOLATION NOTICE.

DATE ISSUED: 6-7-99

INSPECTOR: NR Jones

STOP WORK NOTICE

PURSUANT TO INSPECTION AND IDENTIFICATION OF THE FOREGOING VIOLATIONS,
YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER
PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE
INSPECTIONS AND ENFORCEMENT.

THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN: 6-15-99

DATE ISSUED: 6-7-99

INSPECTOR: NR Jones

IMPORTANT INFORMATION ON FINES AND PENALTIES PRINTED ON REVERSE SIDE.
PLEASE READ CAREFULLY.

AGENCY

SPMA APPROVED TO COMPLETE STEPS & RAIL
ON LANDING 4'x6" ONLY FOR SAFETY
OF CHILDREN TO ENTER AND EXIT POOL.

NO WORK TO BE DONE ON LARGE DECK TILL
ZONING VARIANCE HAS BEEN APPROVED

FILE FOR VARIANCE ON 6-25-99

AS OF 7-16-99 CASE HAS NOT BEEN
SET FOR HEARING MR. JONES

DATE: 6.14.99 INTAKE: C/P 1/1 CASE #: 99-98 INSPEC: Jones

COMPLAINT

LOCATION: 2806 Onyx Rd

ZIP CODE: 21234 DIST: 09

COMPLAINANT

NAME: Tony Hottellett Simmonette

PHONE #: (H) 410 666 18078 (W) 410 931-7800

Lunch 2-3

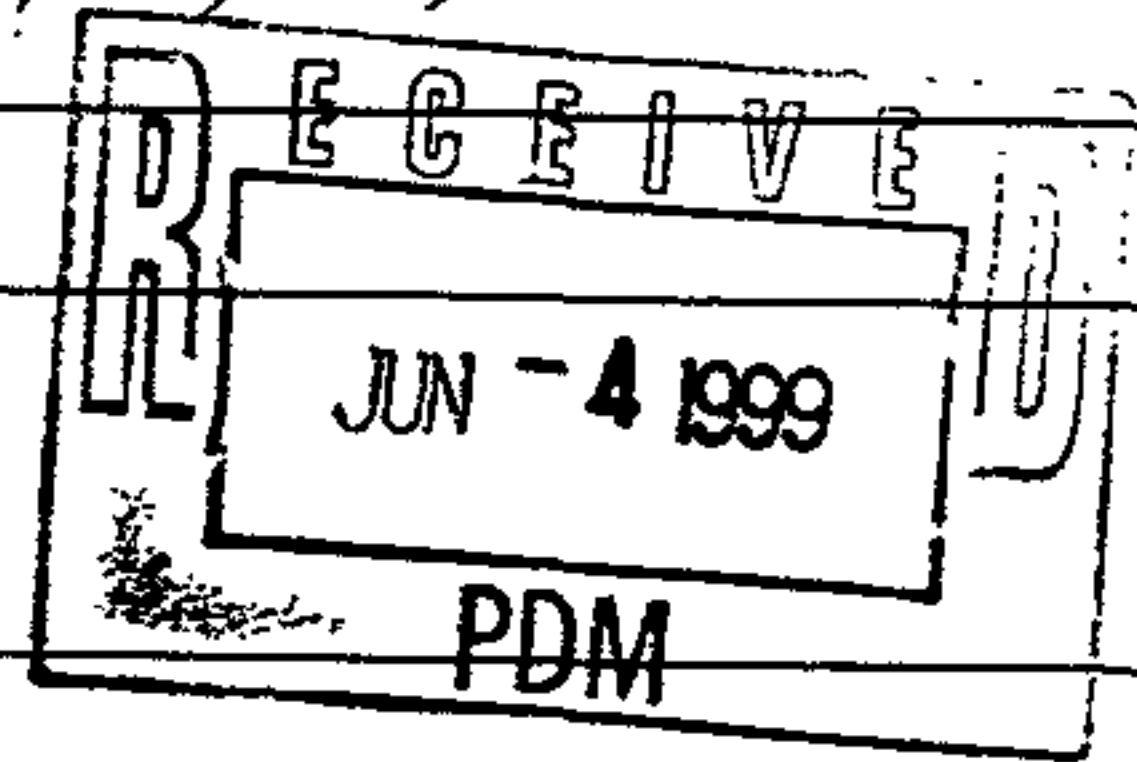
ADDRESS: 2804 Onyx Rd

ZIP CODE:

PROBLEM: Building deck in rear/side yard w/o permit

OWNER/TENANT
INFORMATION:

882-3192 Chrisy



TAX ACCOUNT #:

ZONING:

INSPECTION: 6-7-99 Deck In Rear Yard Permit Required.
Issued stop work order # 108783 NR Jones.

Spoke to complainant with up date 6-8-99 AMJ.

REINSPECTION: Mrs Simmonette CPH would like to be at Zoning Hearing.

Will file on 6-25 - sign goes up 3-4 weeks after filing.
Sign up for 15 Day. Hearing set after that.

REINSPECTION: Called Mrs Simmonette with up date 6-21-99
Zoning VAR 99-525A Filed for on 6-25-99
Called Mrs Simmonette w/ up date 7-1-99 NRJ

REINSPECTION: As of 7-16-99 Zoning Variance Has Not Been Assigned
A Court Date. Will contact Mrs Simmonette when date has been
Assigned. NRJ 7-16-99

99-525-A

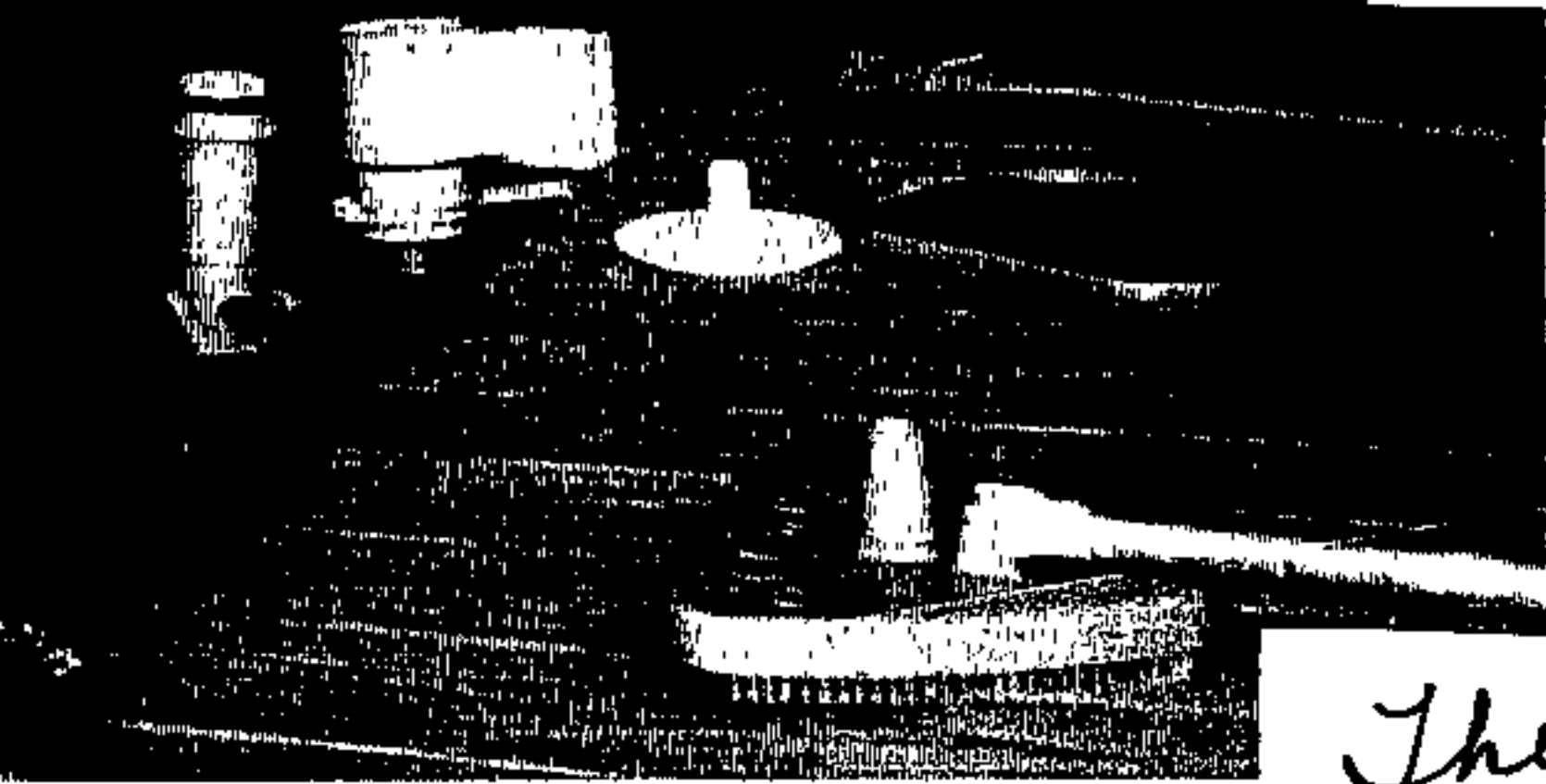
SMIA Approved To Complete Steps & Rail
on Landing 4'x6" only For Safety
of children To Enter and Exit Pool.

No work To Be Done on Large Deck Till
Zoning Variance Has Been Approved

File For Variance on 6-25-99
As of 7-16-99 Case Has Not Been
Set For Hearing MR Jones



This area was
available in the rear
yard next to the
pool. Tromaline
is portable
#2



#2

This tromaline
is portable and
can be relocated
or removed to
accommodate the
#1 deck.



#99-525-A

#1

signs which are the subject of this portion of the Petition are the signs located at 4825 Butler Road, now identifying the Glyndon Nursery, the sign at the corner of 4825 identifying the Reter's Crab House and a gasoline sign on the Railroad Avenue frontage. The uncontradicted testimony presented was that these signs have existed at their present locations for years; i.e., before 1945, at the least. Additionally, Mr. Reter testified that he has entered into an agreement with his neighbors regarding signs wherein he has agreed not to use temporary signs on the property. Based on the uncontradicted testimony presented, I must conclude that the signs are, in fact, nonconforming and may be permitted to remain.

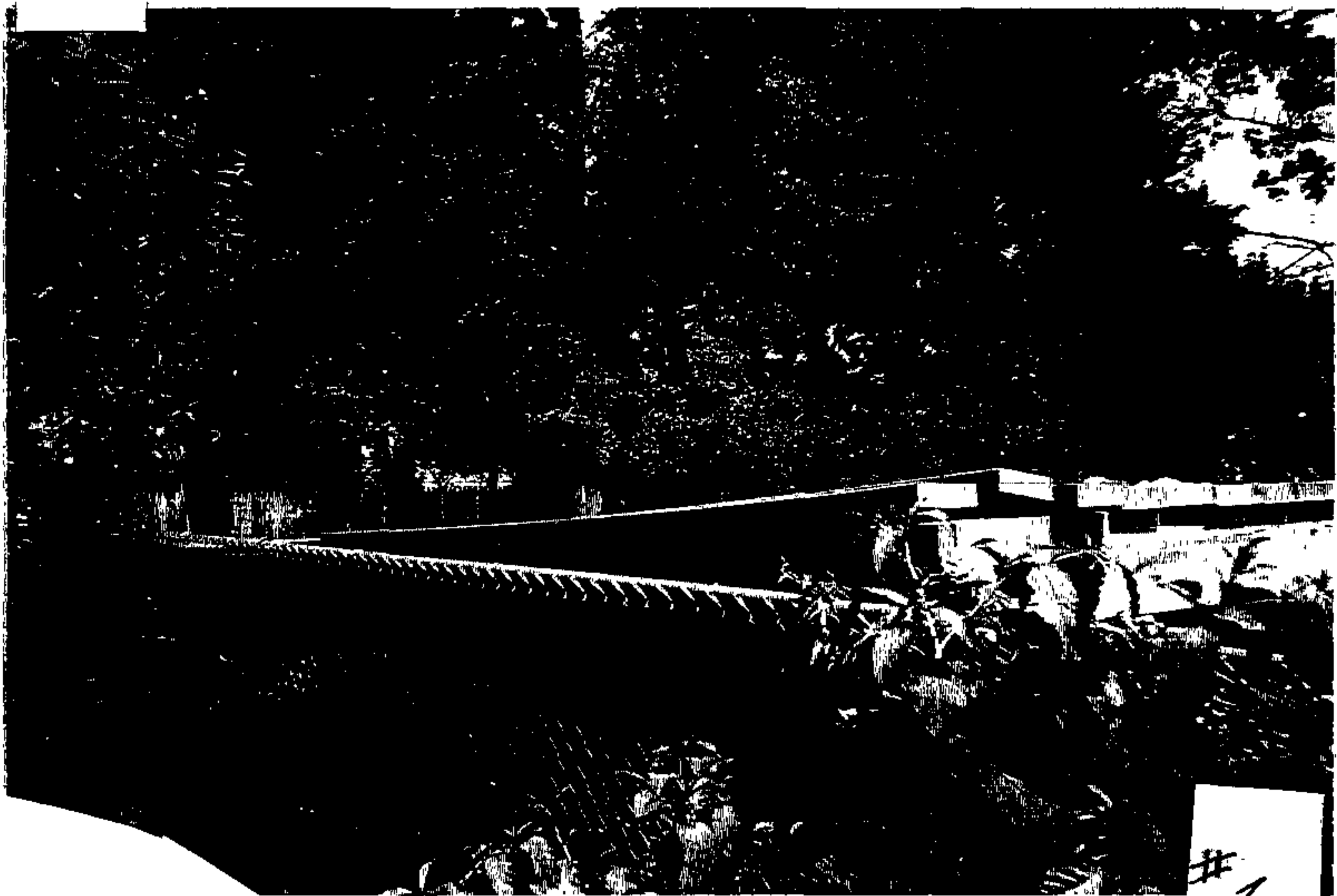
The final issue for consideration regards the request contained in the Petition that a determination be made that the parking area surfaces, driveway entrances, and driveway widths with 24 parking spaces be, likewise, considered nonconforming uses. Clearly, these traffic and parking surfaces are not primary uses to the site, itself, but incidental to the various other uses which have been discussed above. As such, I cannot conclude that they may be characterized as nonconforming uses, rather must be adjudged as they relate to the particular primary uses on site. As to the apartments, the parking area serving same would be nonconforming in that the apartments have existed at the locale since 1945 and predate the parking regulations (i.e., special regulations). However, as to the garden shop, the crab house and the service station, the nonconforming parking and traffic areas serving those are not nonconforming.

Pursuant to the advertising, 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.

ORDER RECEIVED FOR FILING

Date

By



#99-525-A

Major Concerns

1. Vulnerability of my Chain Link fence
 2. my shrubs, vegetable garden^{#1}
 3. and my Rose bed

are not nonconforming from a use standpoint, but are nonconforming to the special regulation set forth in Section 402.

The business conducted on that portion of the site known as 4819 Butler Road presents a different issue. That business, which was apparently established in approximately 1990, is operated by Michael Warner. The area requirements mandated by Section 402 are inapplicable to this commercial use. Moreover, it is also to be noted that this business is not listed among the uses identified in the Petition. An identification of the nature of this business/use must be established.

There was little testimony as to the specifics of the operation. The business arguably might be a nursery, which is defined by the B.C.Z.R. as "an agricultural operation primarily engaged in the production and marketing of trees, shrubs and plants." (Emphasis added) However, it appears that there is no production of any agricultural items on site. Further, a nursery is not among the enumerated uses permitted in a B.L. zone under the B.C.Z.R. (See Section 230).

Instead, the use appears to more closely resemble a garden center. That use is permitted as of right in a B.L. zone (See Section 230.9) and is defined in the B.C.Z.R. as "A place of business where garden related products, horticultural materials or produce are sold to the retail customer. A garden center may include a nursery or controlled environment structures." In fact, this definition seemingly fits to the business conducted on site. In that this use is permitted in a B.L. zone, I must conclude that the business is not nonconforming, yet permissible as of right.

The third structure for consideration is the food market/office /gasoline service station in the southwest corner of the site. This structure is located adjacent to Railroad Avenue. The three commercial operations

ORDER RECEIVED FOR FILING

Date

By

Other options for
placement of a deck
this size, for the pool.



F99-525-A



Please note #3
placement of →
← pool ladder,
where is
the safety
hazard?

retail operations which offer the residents of a rural locale a single site where they can obtain a variety of goods and services, including gasoline.

I have carefully considered the Petitioner's argument in this respect. Although I can envision a rural retail outlet with accessory gas pumps (service station), the facts of this case do not support such a conclusion. The gas pumps on this site may well have been accessory to the general store, but are not accessory to the crab house operation. I can find no basis to support the contention that the gas pumps (service station) is customarily incident to or contributes to comfort, convenience or necessity of a crab house (see Section 101 of the B.C.Z.R. as to accessory uses). The uses are too divergent and I cannot tie them together in a principal/accessory relationship.

Additionally, the service station use is not nonconforming. The testimony and evidence presented as to this issue was less than clear. However, there is no doubt that the pumps have been replaced and relocated. Further, their use has been intermittent. (see, e.g., Peoples Counsel Exhibit No. 1- Letter from State of Maryland, Comptroller of the Treasury). For these reasons, I must conclude that the service station use is not nonconforming.

It should be noted, however, that service station use is permitted in a B.L. zone by special exception. Such a petition is not before me. However, a limited operation, as apparently contemplated by Mr. Reter, might have no adverse impact upon the surrounding locale.

The next issue for consideration are the three existing signs on site which are a combined 212 sq. ft. in area. The Petitioners argue that these signs should, likewise, be permitted as a nonconforming use. The

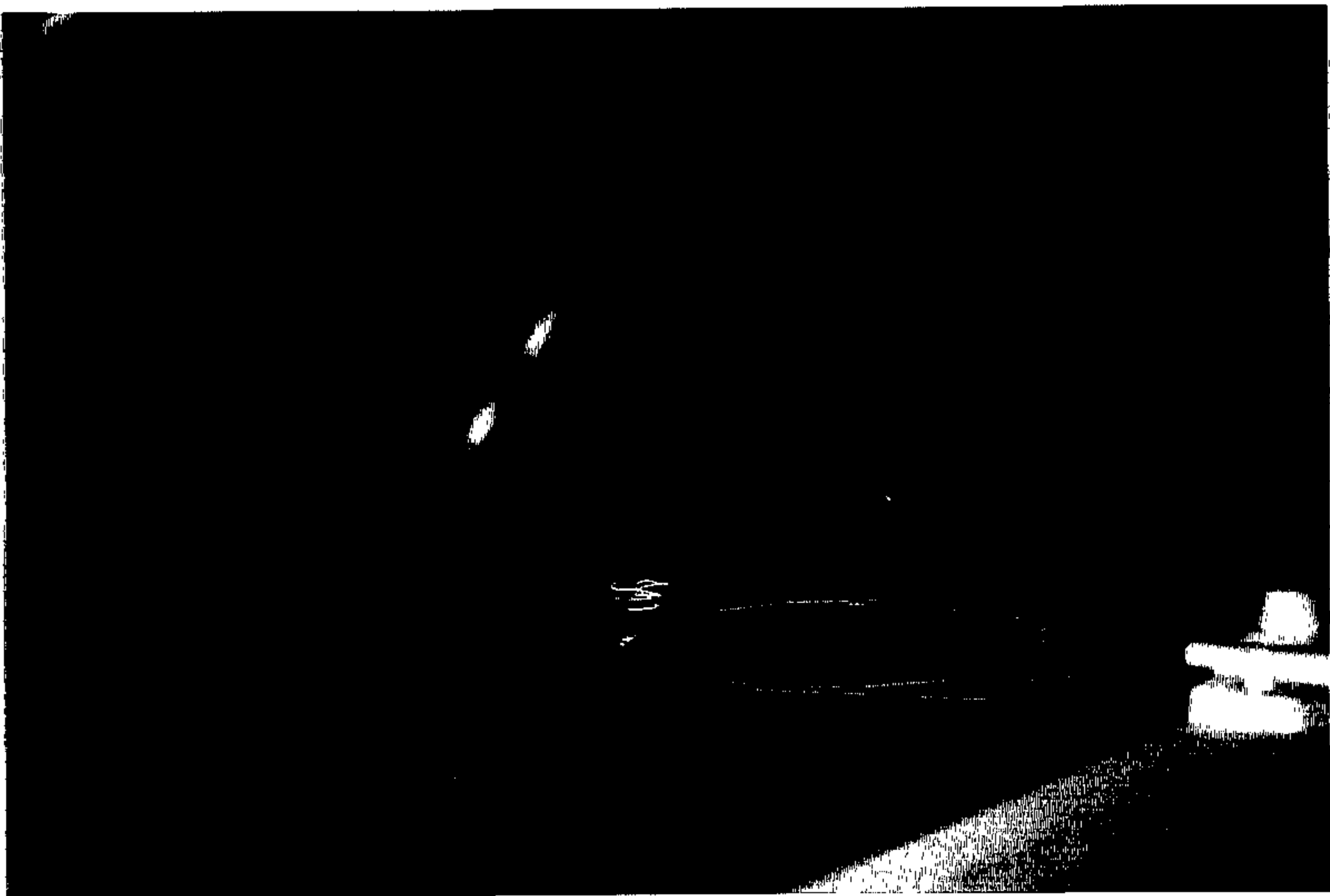
ORDER RECEIVED FOR FILING

Date

By

When asked "Why did you place this desk on the side yard to the pool and not the rear yard?" The response was "That was wasted space in my yard and I do not want any wasted space; I want to use all my space."

#3



#99-525-A

noted above are housed in a one and one-half story building. Mr. Reter testified that this structure has housed a retail food outlet for many years. Originally, it was a general store and was known as Reter's Food Market. Subsequently in 1989, the general store closed and the use was converted to a crab house which specializes in the sale of crabs and other seafoods. Mr. Reter testified that the crab house operates each year from April to October. The original general store had operated year around.

As is the case with the apartment use, the crab operation/food store is permitted as of right in a B.L. zone (see Section 230.9 of the B.C.Z.R.). Consequently, the relief which is requested within the Petition for Special Hearing, that the carryout crab house be authorized as a nonconforming use, is inappropriate. The food store operation is not prohibited by either the property's zone classification or any regulation of the B.C.Z.R. and thus cannot be nonconforming. For the same reasons, the accountant's office which is located in the food store building is not nonconforming but is permissible in a B.L. zone (see Section 230.6 of the B.C.Z.R.). It should also be noted that the change of the use, from a general store to a crab house, is significant. The nature of this change may well prohibit continuation if the use of same were nonconforming, pursuant to Section 104. See also McKemy v. Baltimore County, Maryland, 39 Md. App. 257, 385 A2d 96 (1978)

The more difficult question concerns the gasoline pumps (service station use) which is attached to the Reter Crab House. The Petitioners aver that this service station use is not a primary use. Instead, it is alleged that the gas pumping operation is an accessory use attached to the food store. Specifically, the Petitioners note that many small village and country stores have accessory gas pumps. These are truly full service

ORDER RECEIVED FOR FILING

Date

By



3

THE ZONING COMMISSION
IN TOWSON, MD.

PLACE: Room 407 County Courts Bldg. UN/Boyle Ave

TIME & DATE: 9:20 AM THURS AUGUST 12, 1999

VARIANCE TO PERMIT A 6-INCH SIDE YARD SETBACK
FOR AN ACCESSORY STRUCTURE (POOL + DECK)
OF THE REQUIRED 2 1/2 FEET.

4

#99-525-A

Variance to permit a 6 inch side yard setback
for an accessory structure (Pool + Deck) #
in lieu of the required 2 1/2 feet. A

orated by the testimony of John J. Dillon, the Area Planner for this property, from the Baltimore County Office of Planning and Zoning. Based upon these conclusions, People's Counsel argues that the apartments and retail sales office cannot be nonconforming, in that they do conform to the use regulations for the B.L. zone in which they are located. Although this logic is sound, it ignores the second prong of the nonconforming use definition in Section 101, relating to special regulations applicable to a given use. As noted by Mr. Dillon, Sections 102.2 and 402 of the B.C.Z.R. require that a certain area of the tract be designated to the apartment use and that area cannot be used for any other use or building on the site. In fact, the amended site plan (Petitioners' Exhibit No. 1) shows a 24,500 sq. ft. area as allocated to the apartment use, pursuant to Section 402. However, it is clear that the apartment use predates the adoption of the "special regulation" contained in Section 402. Therefore, the apartment use is nonconforming in that respect, and the property owner need not comply with the area requirement in Section 402. For these reasons, I must conclude the apartment use and retail office use are not nonconforming from a use standpoint; i.e., they are permitted as of right in a B.L. zone, but are nonconforming as to Sections 402 and 102.2.

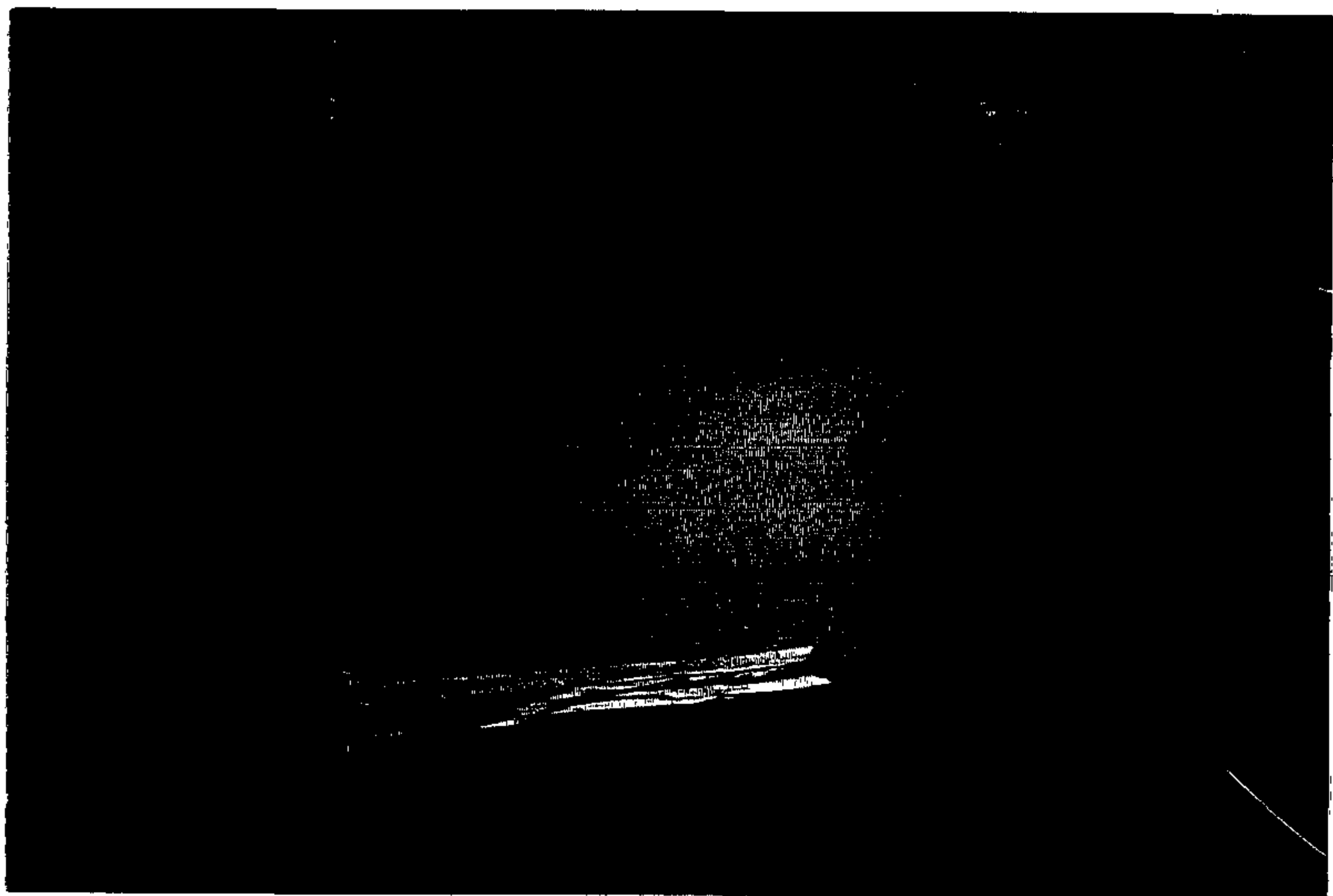
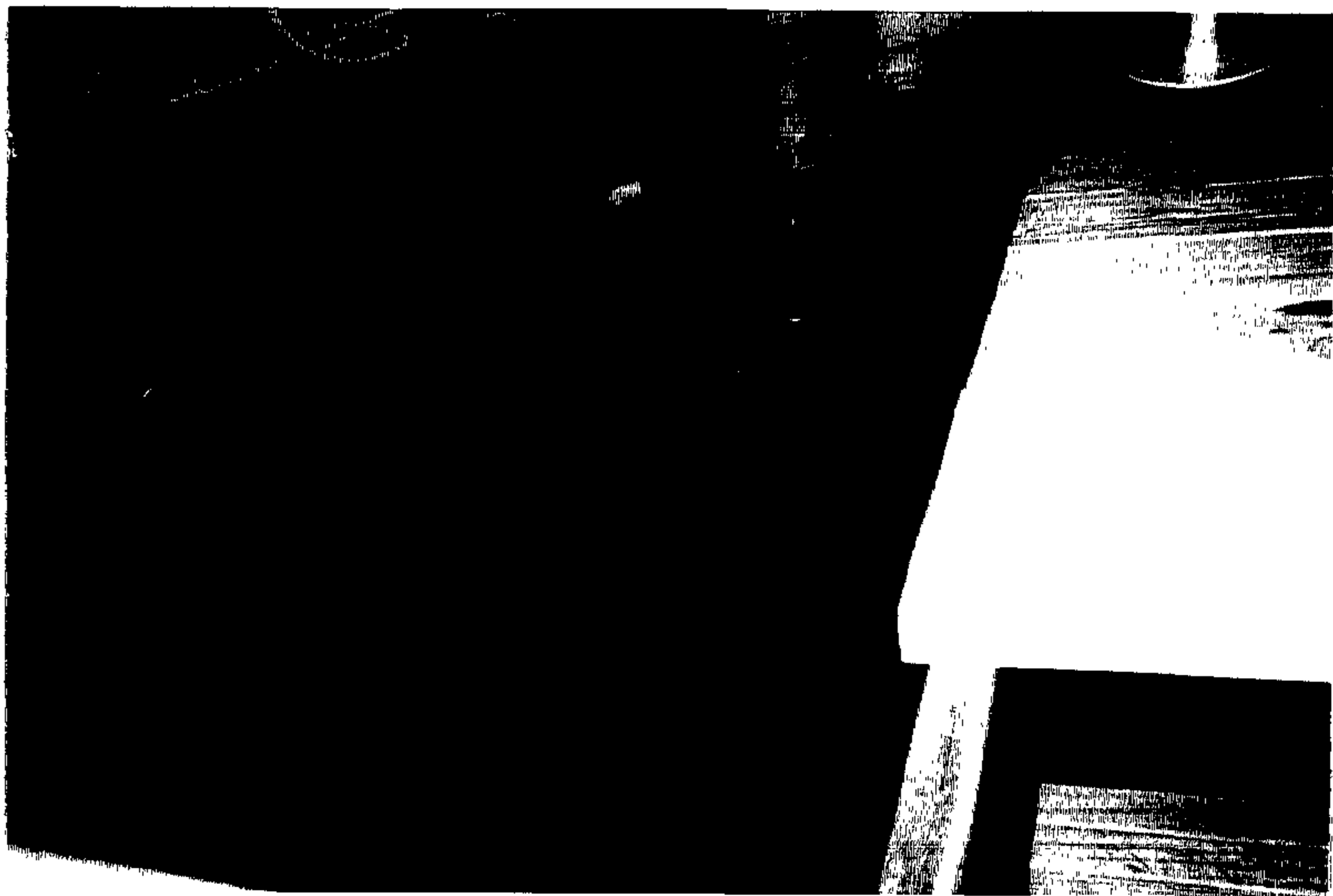
Attention is next turned to the building known as 4819 Butler Road which houses four apartments and is also that portion of the site which features a business operated by Michael Warner. As was the case with the building and apartments at 4825 Butler Road, Mr. Reter's testimony was that the building and apartments at 4819 Butler Road had existed prior to his family purchase of the property in 1945. For the reasons set forth above, I must, likewise, conclude that the apartments at 4819 Butler Road

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Date

By

Is there a Balto Cocode
for electrical standards
for pools?

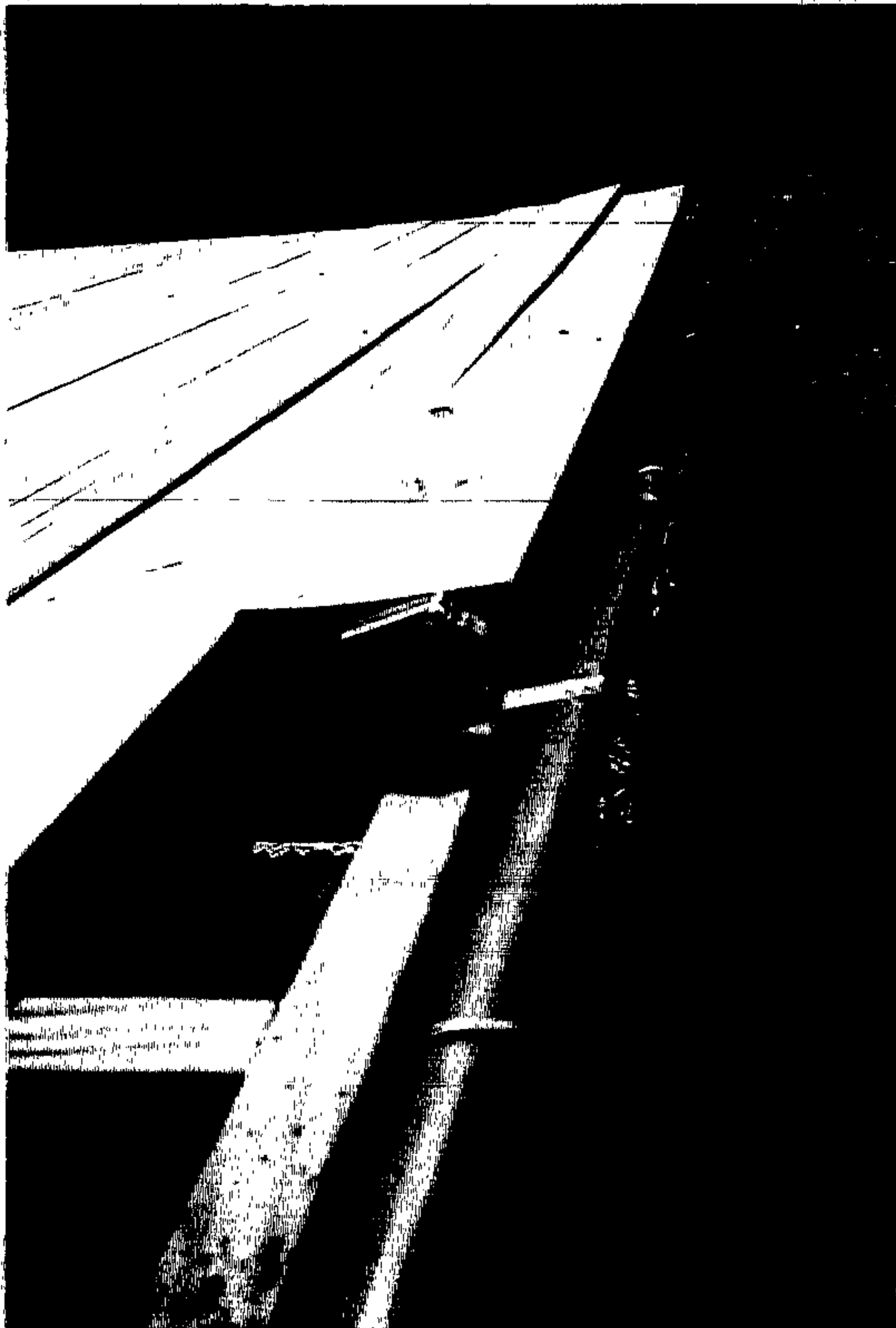


#99-525-A

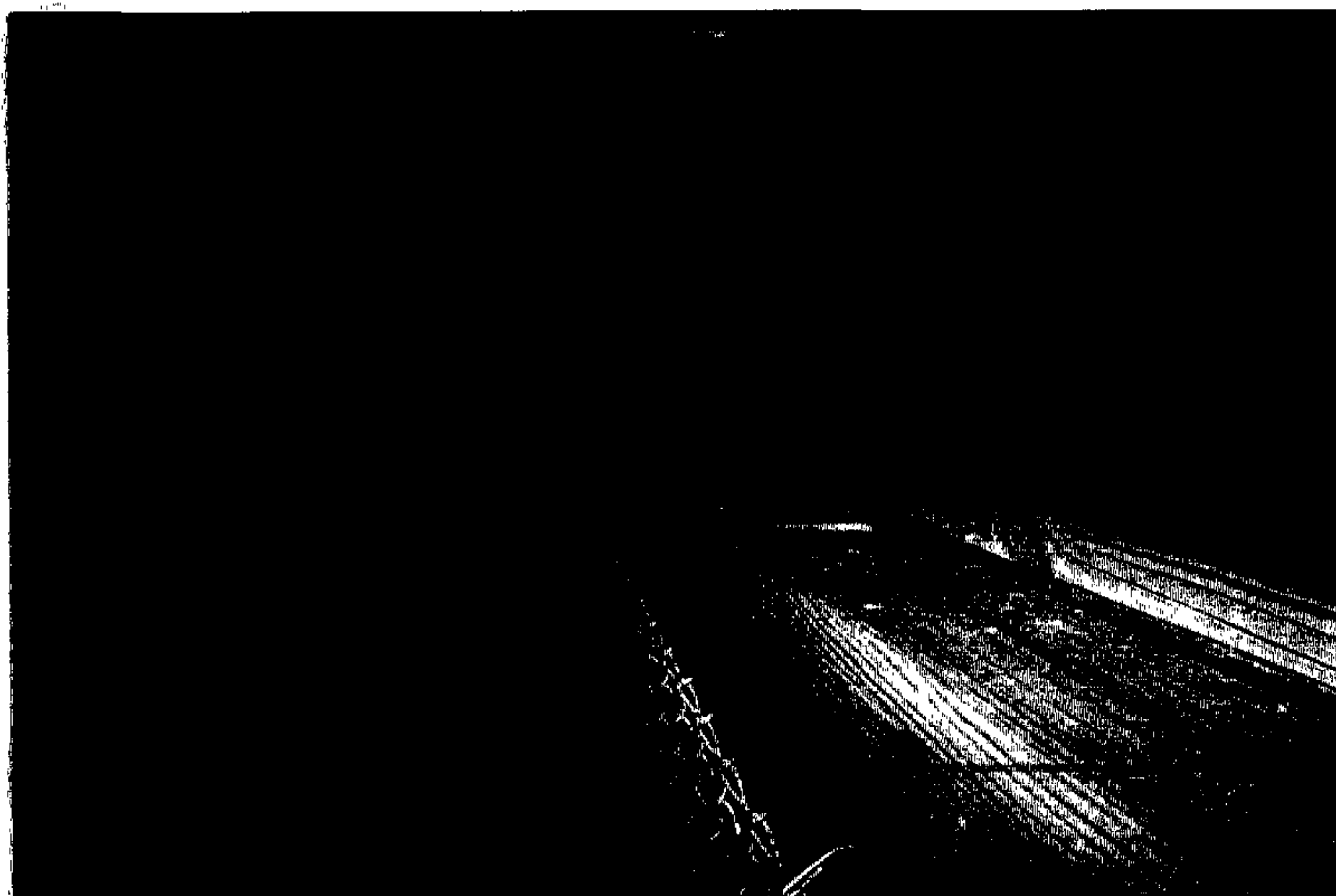
Mr. Reter recalled that the property housed a general store, a post office, where an accountant's office is currently located, and two apartment houses, known as 4825 and 4819 Butler Road. In fact, Mr. Reter recalled that the apartment buildings were the same size and devoted to the same use as present.

Additionally, Mr. Reter noted that the general store, then known as Reter's Farm Mart, has existed on the property for many years. At the present time, the food market specializes in the sale of crabs and is known as the Reter Crab House. Mr. Reter also described the evolution of the uses of the property since his family's acquisition of the site in 1945. Specific testimony as applicable to particular uses on site will be recounted as appropriate hereinafter.

In reviewing the merits of the subject Petition, it appears most appropriate to consider each use individually and building which said use utilizes. The first and easiest structure/use for consideration is the three story framed dwelling which houses five apartments and a retail sales office; known as 4825 Butler Road. That building is located on the northwest corner of the site immediately abutting the Butler Road/Railroad Avenue intersection. As noted heretofore, Mr. Reter testified that this dwelling has existed on site for many years, even prior to his family's acquisition of the property in 1945. Further, the uncontradicted testimony offered was that the use of this building in this manner has continued uninterrupted since that time. That is, the building has contained apartments and a retail sales office for many years. Certainly, the apartments and the retail sales office are legal uses. Additionally, as noted by People's Counsel, who actively participated in this case, these uses are permissible under the existing B.L. zoning. This position was corrob-



Case #99-525-A



this property are many and varied. These multi-natured uses and the history of their operation on site makes this case complex and produces difficult issues. Adding to this difficulty is the evolving nature of uses on the site over the long period of time this property has been owned by the Reter family. Further, the site plan to accompany the Petition was amended after this case was filed. The most current site plan is marked as Petitioners' Exhibit No. 1.

As noted above, the relief requested by the Petitioners is for a determination of the legitimacy of numerous activities/uses on site by the establishment of same as nonconforming uses. A nonconforming use is defined by Section 101 of the Baltimore County Zoning Regulations (B.C.Z.R.) as "A legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective 'nonconforming' is a nonconforming use." (BCZR, 1955; Bill No.18, 1976) From a plain reading of that definition, it is, therefore, clear that in order for a use to be nonconforming, it must be identified as a legal use. That is, the use must be among those uses which are recognized within the B.C.Z.R. Having established the legality of the use, the definition then goes on to provide that in order for a use to be nonconforming, it must either, be not among those uses allowed by the property's zoning classification, or not conform to a special regulation applicable to the use. Further, nonconforming uses are governed by Section 104 of the B.C.Z.R. That section provides that nonconforming uses may continue provided that they are not changed, abandoned, or discontinued for a period of one year or more. Section 104 goes on to provide further guidelines as to the repair of

ORDER RECEIVED FOR FILING

Date

2/3/93

By

Per Mr. Peter MacZimmerman
Peoples council for Baltimore County
"He must prove a unique
setting of the property"
What constitutes "a unique
setting of a property?"
for a variance to be granted.



99-525-A

nonconforming uses after casualty, the expansion of such uses, and other regulations relevant to specific uses.

As is clear from both the relevant provisions of the B.C.Z.R. and the case law, nonconforming uses are not favored by law. Maryland case law has consistently held that nonconforming uses pose a threat to the success of an orderly zoning scheme and can limit the effectiveness of land use control. See e.g. County Council of Prince Georges County v. E.L.Gardner, Inc. 293 Md. 259, 443 A2d 114, (1982) and County Commissioners of Carroll County v. Uhler 78 Md. App. 140, 552 A2d 942, (1989).

Nonetheless, despite their undesirability from a land use and land planning standpoint, the courts have recognized the legal authority for nonconforming uses to continue under certain guidelines. Specifically, both the B.C.Z.R. and the case law provide for a grandfathering mechanism to permit nonconforming uses to continue even after a rezoning and/or reregulation of the property on which they are located which would render that use impermissible. As noted above, however, nonconforming uses may continue only if not abandoned, discontinued or changed; and limits are placed upon their expansion and repair.

As to the subject property, a description of same is appropriate. The entire site, comprised of 2.157 acres and zoned B.L.-C.N.S., is located in the center of the historic Glyndon community. The property is located to the southeast of the intersection of Butler Road and Railroad Avenue, near the Western Maryland Railroad line which passes through the center of this town.

Further, the history of the site was produced through the testimony of Calvin Reter, a co-owner of the property. He testified that his family acquired the property on or about VE Day in May of 1945. At that time,

ORDER RECEIVED FOR FILING

Date

By

ZONING DESCRIPTION

ZONING DESCRIPTION FOR: 2806 ONYX ROAD

BEGINNING AT A POINT ON THE NORTHEAST SIDE OF ONYX ROAD
WHICH IS 42 FEET WIDE AT THE DISTANCE OF 378 FEET NORTHWEST
~~CENTERLINE~~
OF THE ^{NORTHWEST} CENTERLINE OF THE NEAREST IMPROVED INTERSECTING
STREET OPAL ROAD WHICH IS 40 FEET WIDE. AS RECORDED IN DEED
LIBER NO. 12114 FOLIO 542. ALSO KNOWN AS 2806 ONYX ROAD AND
LOCATED IN THE 9TH ELECTION DISTRICT.

49-525-A

525

RE: PETITION FOR VARIANCE
2806 Onyx Road, NE/S Onyx Rd,
398' NW of c/l Opal Rd
9th Election District, 6th Councilmanic

Legal Owner: Lori Mercer
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 99-525-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
People's Counsel for Baltimore County


CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of July, 1999 a copy of the foregoing Entry of Appearance was mailed to Lori Mercer, 2806 Onyx Road, Baltimore, MD 21234, Petitioner.


PETER MAX ZIMMERMAN



Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

September 28, 1999

ONT
Ms. Antoinette Simmantle
2804 Onyx Road
Baltimore, MD 21234

RE: Petition for Variance, Case No.99-525-A, 2806 Onyx Road
9th Election District

Dear Ms. Simmantle:

Please be advised that an appeal of the above-referenced case was filed in this office on September 17, 1999 by Ms. Lori Mercer. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you have any questions concerning this matter, please do not hesitate to call 410-887-3180.

Sincerely,


Arnold Gablon
Director

AJ:ggs

c: Lori Mercer
People's Counsel

RECEIVED
COUNTY BOARD OF APPEALS
99 SEP 30 AM 11:11



Posted 10-15

NO CERTIF.

Prepared by PBM

Case No. 99-525-A

LORI MERCER ~ Petitioner

NE/s Onyx Road, 396' NW of c/l Opal Road,
(2806 Onyx Road)

9th Election District Appealed: 9/17/99

(see attached Plan to acc.
Var. Petition - Pet. Ex. #1)

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director **DATE:** November 6, 2000
Permits & Development Management

FROM: Charlotte E. Radcliffe *cm*
County Board of Appeals

SUBJECT: Closed Files (7):
99-390-XA /Baltimore Gas & Electric Co.-LO
The Westmoreland Co., Inc. -CP
99-481-SPH /303 N. Rolling Road Partnership
99-525-A /Lori Mercer *W/* LARGE BOARD EXHIBIT (PHOTOS)
00-003-A /Thomas A. Reed
00-035-A /Pamela & William Parsons
00-057-A /Pamela & Carl Steele, Sr.
00-181-SPH /Koinonia Partnership (Gramercy)

Zoning Cases

Since no further action was taken in the above captioned cases, we are hereby closing the files and returning same to you herewith.

Attachment - (7-CBA Case Files)

JOHN M. KERNEY
ATTORNEY AT LAW
21 WEST SUSQUEHANNA AVENUE
SUITE 100
TOWSON, MARYLAND 21204

MEMBER OF MARYLAND
AND PENNSYLVANIA BARS

TELEPHONE 410-337-5407
FAX 410-321-1054

May 16, 2000

County Board of Appeals
of Baltimore County
Old Court House
Room 49
400 Washington Avenue
Towson, Maryland 21204

RECEIVED
COUNTY BOARD OF APPEALS
00 MAY 17 PM 2:18

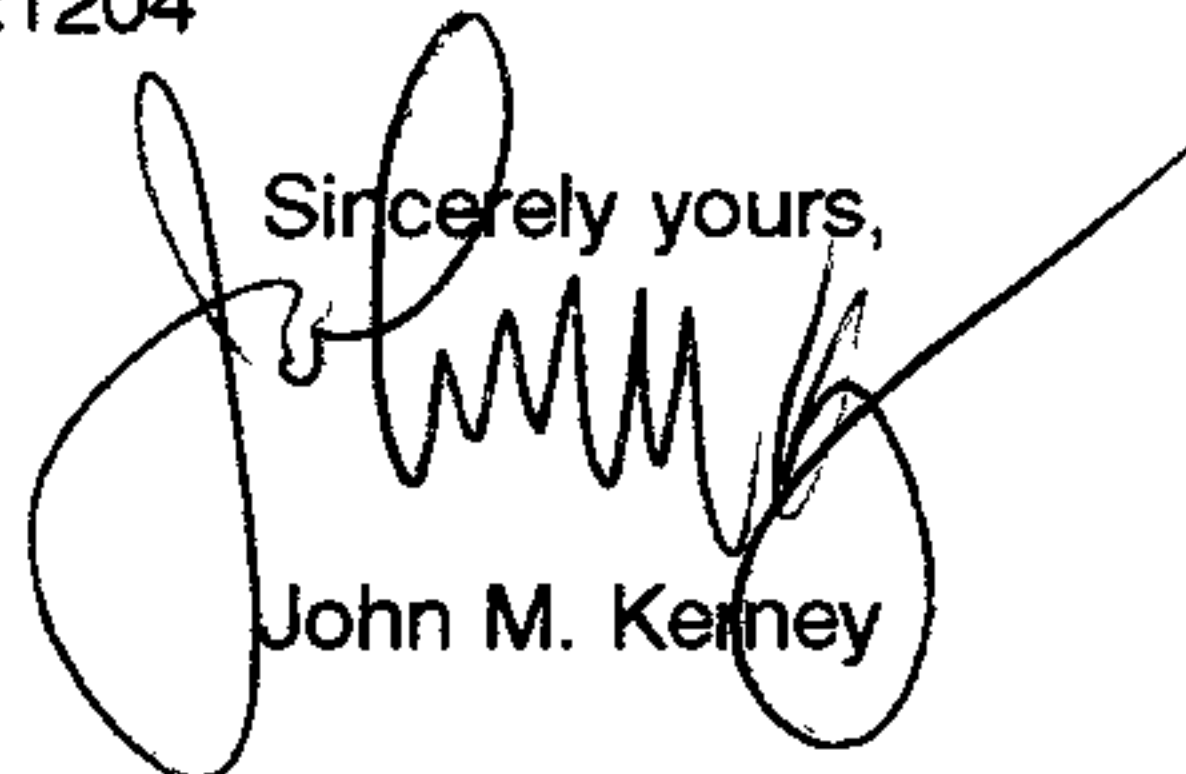
Re: **Case No. 99-525-A**
In the Matter of Lori Mercer
Legal Owner/Petitioner
2806 Onyx Road - 9th Election District,
6th Councilmanic District

Dear Sir:

Please summons the following individuals with their files to appear on Thursday June 1, 2000 at 10:00 a.m. for the hearing in the above-captioned matter at the old Court House, Room 49, 400 Washington Avenue, Towson, Maryland 20204 to appear on behalf of the Protestant:

Niles Jones
Baltimore County Permits and Development Management
Code Inspections and Enforcement
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Sincerely yours,



John M. Kerney

JMK:det

cc: Mrs. Antoinette Simmont

*Send 5/17/00
via fax.*

RE: IN THE MATTER OF

LORI MERCER

LEGAL OWNER/PETITIONER

2806 Onyx Road, 9th

Election District

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 99-525-A

* * * * *
S U B P O E N A

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

TO: (Name, Address, County)

Niles Jones

Baltimore County Permits and Development Management
Code Inspection and Enforcement

County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

YOU ARE HEREBY COMMANDED TO: () Personally appear;
() Produce documents and/or objects only; (X) Personally appear and produce documents or objects;

in Room 48, Basement, Old Courthouse, 400 Washington Avenue, Towson, MD 21204 on
June 1, 2000 at 10:00 a.m./p.m. ~~XXXX~~

YOU ARE COMMANDED TO produce the following documents or objects (for general purpose as stated):

The County's file regarding the petition for 2806 Onyx Road, 9th Election District for a variance.

SUBPOENA REQUESTED BY:

John M. Kerney
(Name of Party /Attorney)

21 West Susquehanna Avenue, Suite 100
(Address /Telephone #)
Towson, Maryland 21204
410-337-5407

The witness named above is hereby ORDERED to so appear before the County Board of Appeals. The Board requests (XX) the Sheriff, () Private Process Server, to issue the summons set forth herein.


County Board of Appeals of
Baltimore County

00 MAY 18 PM 1:24
RECEIVED
COUNTY BOARD OF APPEALS



**DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

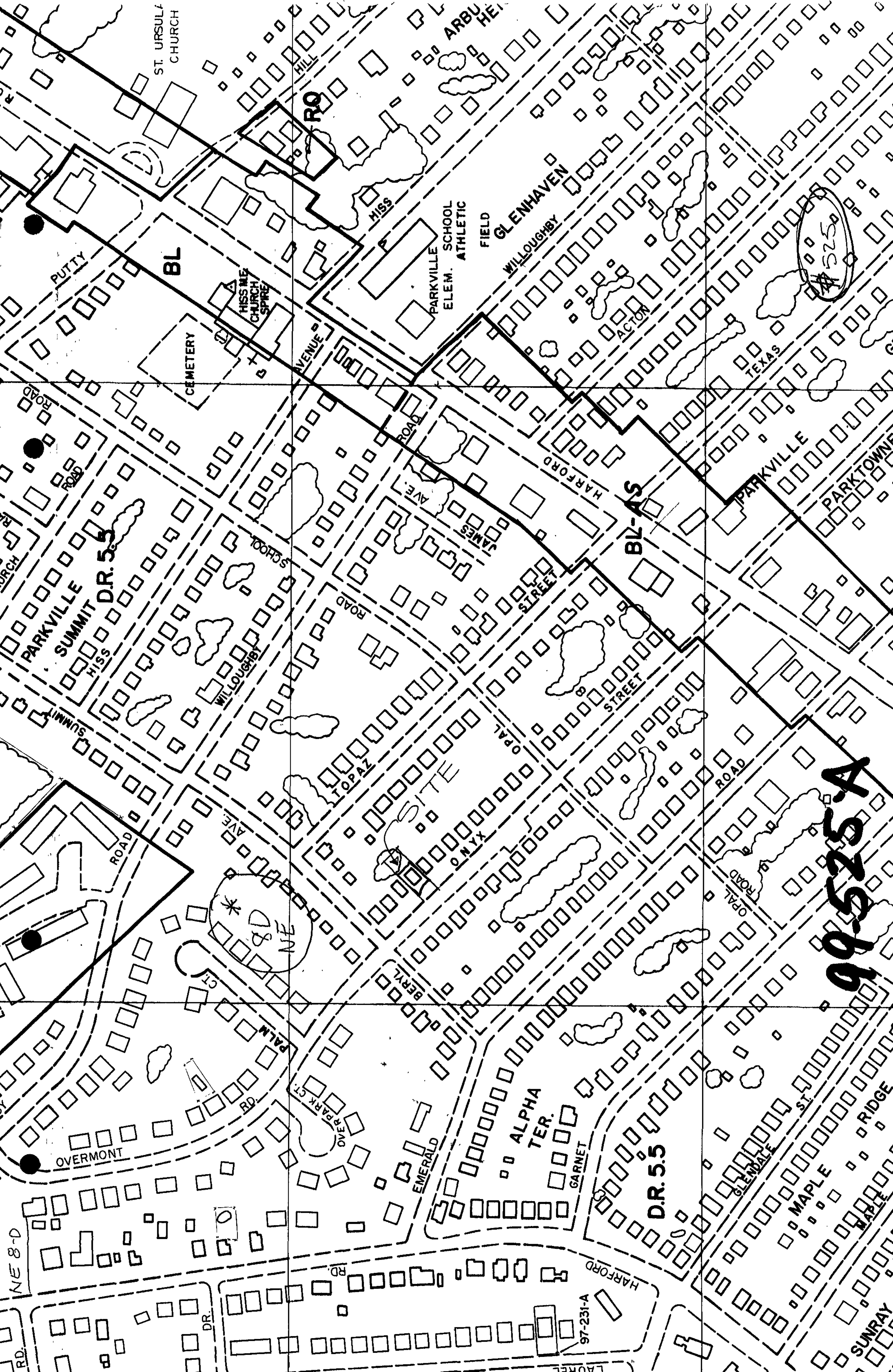
For Newspaper Advertising:

Item Number or Case Number: 99-525-A
Petitioner: LORI Mercer
Address or Location: 2806 Onyx Rd

PLEASE FORWARD ADVERTISING BILL TO:

Name: LORI Mercer
Address: 2806 Onyx Rd
Baltimore, MD 21234
Telephone Number: Hm 410-668-1987 WK 410-884-1300 Ext 102

Revised 2/20/98 - SCJ





Baltimore County
Zoning Commissioner

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

August 25, 1999

Ms. Lori Mercer
2806 Onyx Road
Baltimore, Maryland 21234

Re: *Petition for Variance*
Case No. 99-525-A
Property: 2806 Onyx Road

Dear Ms. Mercer:

Enclosed please find the decision rendered in the above-captioned case. The Petition for Variance has been denied in accordance with the enclosed 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 from 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 410-887-3391.

Very truly yours,

A handwritten signature in cursive script, reading "Timothy M. Kotroco".

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure

Copy to:

Ms. Antoinette Simmont
2804 Onyx Road
Baltimore, Maryland 21234

Come visit the County's Website at www.co.ba.md.us



Printed with Soybean Ink
on Recycled Paper

AMES F. PORTS, JR.

8TH LEGISLATIVE DISTRICT
BALTIMORE COUNTY & CITY

WAYS AND MEANS COMMITTEE

SUBCOMMITTEE ON EDUCATION

ICE CHAIRMAN'S WAYS & MEANS
OVERSIGHT SUBCOMMITTEE

HOUSE AND SENATE SPECIAL
JOINT COMMITTEE ON
TRANSPORTATION 2000

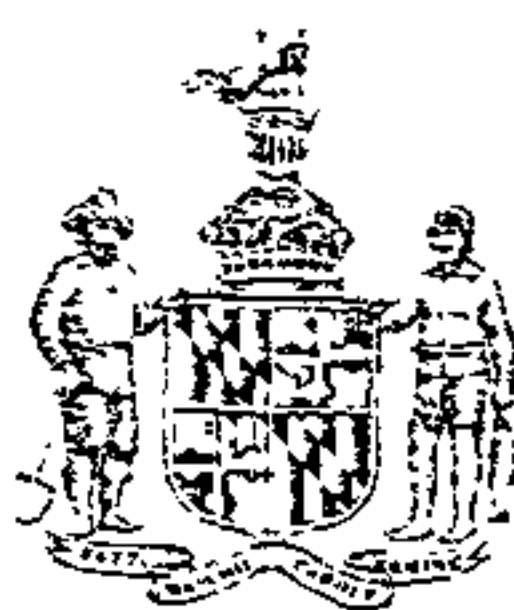
HOME ADDRESS:

21 ROBIN LYNNE COURT

ERRY HALL, MARYLAND 21128

(410) 256-0225

email: jimports@erols.com



HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401-1991

July 12, 1999

ALFRED W. REDMER, JR.

8TH LEGISLATIVE DISTRICT
BALTIMORE COUNTY & CITY

ENVIRONMENTAL MATTERS COMMITTEE

SUBCOMMITTEE ON HEALTH CARE

SPECIAL JOINT COMMITTEE ON
VEHICLE EMISSIONS
INSPECTION PROGRAM

MARYLAND MEDICAID
ADVISORY COMMITTEE

HOME ADDRESS:

4101 KAHLSTON ROAD

BALTIMORE, MARYLAND 21236-1026

email: alredmer@erols.com

John Altmeyer, Supervisor
Division of Code Inspections and Enforcement
Baltimore County Department of Permits
111 W. Chesapeake Avenue
Towson, MD 21204

Dear Mr. Altmeyer:

We are writing to you regrading one of our constituents, Toni Simmont, who lives at 2804 Onyx Road. Ms. Simmont's neighbors began construction on a deck without a permit from the county. The deck comes within two inches of her property line which, according to county regulations, clearly violates county code. According to one of your inspectors, Niles Jones, a stop work order was issued for the deck and her neighbor was required to file for a variance. The date for the variance hearing has not yet been set but apparently the stop work order has been reversed and the neighbor is continuing to work on the deck.

We would appreciate if you could respond in writing regarding the status of the variance, why the stop work order was issued, and why the order was overturned. If the stop work order was overturned for safety concerns, we would appreciate if you would specify what those concerns are. On behalf of our constituent, we request any information you can provide to us regarding this case as soon as possible.

Thank you for your time and attention to this issue. If you have any further questions or concerns, please feel free to contact us.

Sincerely,

Jim Ports, Jr.
Delegate

Al Redmer, Jr.
Delegate

JFP/AWR:cen

ANNAPOLIS ADDRESS:
307 HOUSE OFFICE BUILDING
ANNAPOLIS, MARYLAND 21401-1991
(410) 841-3365
FAX (410) 841-3850

DISTRICT OFFICE:
8001 HARFORD ROAD
BALTIMORE, MARYLAND 21234
(410) 882-8490
FAX (410) 882-1518

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: July 21, 1999

TO: Larry Schmidt
Zoning Commissioner

FROM: John M. Altmeyer / Code Enforcement Supervisor

SUBJECT: ITEM NO.: 525

PETITIONER: Lori Mercer

VIOLATION CASE NO.: 99-3398

LOCATION OF VIOLATION: 2806 Onyx Rd.

DEFENDANTS: Lori S. Mercer

Please be advised that the aforementioned petition is the subject of an active Violation case. When the petition is scheduled for a public hearing, please notify the Following person(s):

<u>NAME</u>	<u>ADDRESS</u>	
Ms. Antointte Simmantle	2804 Onyx Rd.	21234

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Code Enforcement Supervisor, so that the appropriate action may be taken relative to the violation case.

JMA/NJ/klh

99-525-A



Code Enforcement: 410-887-3351 Extension
Building Inspection: 410-887-3953

Plumbing Inspection: 410-887-3620
Electrical Inspection: 410-887-3960

Recheck
6/15/99

BALTIMORE COUNTY UNIFORM CODE VIOLATION NOTICE

VIOLATION(S) OF TITLE 3, 7, 18, 24, OR 26 OF THE
BALTIMORE COUNTY CODE, ZONING, OR OTHER
CODES, REGULATIONS, AND POLICIES AS
INDICATED BELOW:

Violation Notice No.
108783

Case No.:

Election District 9 Permit No. None

Name (s) LORI S. MERCER

Address 2806 ONLYX RD

Zoning
CASE

99-525A

Location of Violation (if different than address)

Vehicle License No.:

Vehicle ID:

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

County Code:

§§

§§

Zoning Regulations:

§§

§§

Building Code (BOCA):

§§

§§

Livability Code (18-66):

§§

§§

Investment Property Act (7-66):

§§

Electrical Code (NEC):

§§

Plumbing Code (NSPC):

§§

Dwelling (CABO):

§§

Other: §§

COMMENTS OR OTHER VIOLATIONS:

Permit Required For Deck - Footing
Inspection Required Before Any other work
OBTAIN Permit Call For Footing Inspection

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE
6/15/99 FAILURE TO COMPLY WILL RESULT IN THE PENALTIES DESCRIBED ON
THE REVERSE SIDE OF THIS VIOLATION NOTICE.

DATE ISSUED: 6-7-99

INSPECTOR: NR Jones

STOP WORK NOTICE

PURSUANT TO INSPECTION AND IDENTIFICATION OF THE FOREGOING VIOLATIONS,
YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER
PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE
INSPECTIONS AND ENFORCEMENT.

THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN:

DATE ISSUED: 6-7-99

INSPECTOR: NR Jones

IMPORTANT INFORMATION ON FINES AND PENALTIES PRINTED ON REVERSE SIDE.
PLEASE READ CAREFULLY.

AGENCY

DATE: 6.14.99 INTA NY: C/Prol. 1 CASE #: 99-398 INSPEC: Jones

COMPLAINT
LOCATION: 2806 Onyx Rd

ZIP CODE: 21234 DIST: 09

COMPLAINANT Fony
NAME: Mrs. Hattinett Simmantle

PHONE #: (H) 410 661 2678 (W) 410 931-7800
Lunch 2-3

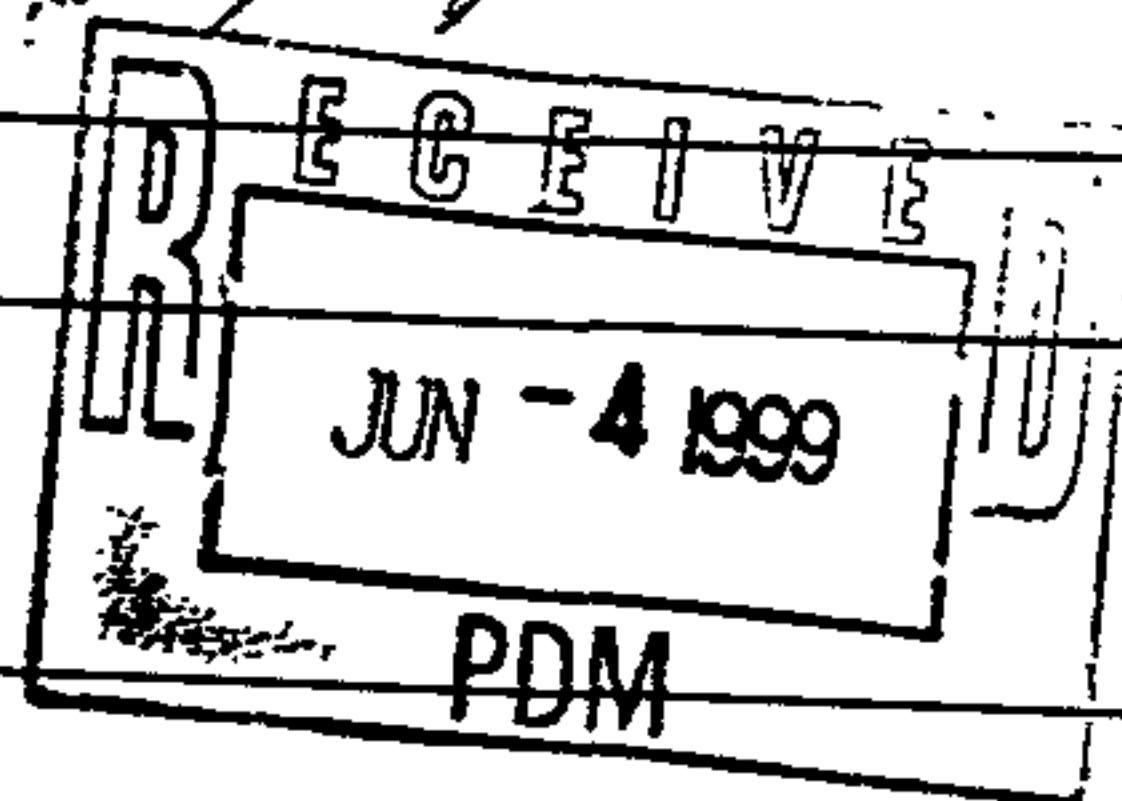
ADDRESS: 2804 Onyx Rd

ZIP CODE: _____

PROBLEM: Building deck in rear/side yard w/o permit

OWNER/TENANT
INFORMATION:

SEA-3100 Chris



TAX ACCOUNT #:

ZONING: _____

INSPECTION: 6-7-99 Deck In Rear Yard Permit Required
Issued stop work order # 108783 NR Jones

Spoke To complainant with up Date 6-8-99 AMJ.

REINSPECTION: MRS Simmantle can would like to be AT Zoning
Hearing.

Will File on 6-25 - Sign goes up 3-4 weeks after Filing.
Sign up for 15 Day. Hearing set after that.

REINSPECTION: Called MRS Simmantle with up Date 6-21-99
Zoning VAR 99-525A Filed for on 6-25-99
Called MRS Simmantle w/ update 7-1-99 NRJ

REINSPECTION: As of 7-16-99 Zoning Variance Has Not Been Assigned
A Court Date. Will contact MRS Simmantle when date has been
Assigned. NRJ 7-16-99

99-525-A

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: July 21, 1999

TO: Larry Schmidt
Zoning Commissioner

FROM: John M. Altmeyer / Code Enforcement Supervisor

SUBJECT: ITEM NO.: 525

PETITIONER: Lori Mercer

VIOLATION CASE NO.: 99-3398

LOCATION OF VIOLATION: 2806 Onyx Rd.

DEFENDANTS: Lori S. Mercer

Please be advised that the aforementioned petition is the subject of an active Violation case. When the petition is scheduled for a public hearing, please notify the Following person(s):

<u>NAME</u>	<u>ADDRESS</u>	
Ms. Antoinette Simmantle	2804 Onyx Rd.	21234

After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Code Enforcement Supervisor, so that the appropriate action may be taken relative to the violation case.

JMA/NJ/klh

99-525-A

JMA Approved To complete steps & Rail
on Landing 4'x6" only For safety
of children To enter and exit Pool.

No work To Be Done on Large Deck Till
Zoning Variance Has Been Approved

File For Variance on 6-25-99
As of 7-16-99 case Has not Been
set For Hearing MR Jones