

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
A
* BALTIMORE COUNTY
* CASE NO. 02-283-A

* * * * *

OPINION

This is an appeal from the decision of the Deputy Zoning Commissioner (DZC) in which the DZC denied Petitioner's request for variance to allow a detached accessory structure (gazebo) in the front yard in lieu of the required rear yard. The Appellant /Petitioner, Sheryl Denise Gardner, was represented by Donald N. Rothman, Esquire. The Appellees /Protestants, Mr. and Mrs. Uzell Pitts and Ms. Marilyn Finn, represented themselves *pro se*. This matter was heard in public session on June 25, 2002, and a public deliberation was held on July 10, 2002.

Facts

The property in question consists of approximately .28 acre, more or less, zoned D.R. 5.5. It is improved with a single-family residential dwelling. At issue is a gazebo which has been partially constructed in the front yard of the Petitioner's property. Mr. Eddie Walker, who resides at the property, began constructing the gazebo early in December 2001. The construction of the gazebo ceased pending the outcome of the hearing before the Deputy Zoning Commissioner.

The Petitioners contended that their home contains a drainage and utility easement through the back yard. In addition, there is a slope in the backyard which allows water to remain in the back yard after heavy rains. The backyard also contains a number of trees which the Petitioners do not wish to cut down. Petitioners contend that the property is unique because of the easements which cross the backyard, the slope of the backyard causing standing water in the

yard, and the trees which make it virtually impossible for them to enjoy the backyard.

Petitioners contend that most of their entertaining and outdoor activities take place in their front yard, and that the gazebo would add an additional enjoyment to the yard, and would not impose any more of a hardship on the neighbors than the activities which already occur in the yard.

Petitioners contend it would be an additional hardship on them to require that the gazebo be constructed in the backyard since they would not be able to enjoy it because of the standing water than continuously seems to be there after a heavy rain.

Protestants testified that there was nothing unusual about the property of the Petitioners. Mr. and Mrs. Pitts live on one side of the Petitioners and Ms. Finn lives on the other side. Both Pitts and Finn have easements on their properties and have manholes in their backyards. Mrs. Pitts testified that their property also had standing water after a heavy rain, and that she and her husband brought in a number of loads of topsoil to raise the property to try to have the water run off the property so they would be able to use their yard. Mrs. Finn testified that, after a heavy rainstorm, the backyard of her property is wet and soggy. Mrs. Pitts introduced into evidence the covenants and restrictions which pertain to the development in which the three properties are located. One of the restrictions prohibits the construction of any structure on a lot unless plans and specifications have been submitted to and approved in writing by the "Architectural Committee."

Mrs. Pitts indicated that she had not taken action to enforce the covenants. Both of the Protestants indicated that they felt that the construction of the gazebo would affect the value of their property, although there was no expert testimony with respect to the values of the

properties.

Decision

It is not within the power of this Board to enforce covenants which affect the property owners in any subdivision. Enforcement of the covenants is a matter to be taken up in a court of law in the event that enforcement is required.

Section 307 of the *Baltimore County Zoning Regulations* (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. The burden to establish special circumstances or conditions was clarified by the Court of Special Appeals in *North v. St. Mary's County*, 99 Md.App. 502 (1994) when Judge Cathell stated:

An applicant for variance bears the burden of overcoming the assumption that the proposed use is unsuited. That is done, if at all, by satisfying fully the dictates of the statute authorizing the variance.

Under the Court of Special Appeals decision in *Cromwell v. Ward*, 102 Md.App. 691 (1995), which sets forth the legal benchmark 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 light of the law. The first burden on the Petitioner for a variance is to prove that the property is unique. This standard must be met before the other parts of the variance requirements can be properly considered. The Court defined the term "uniqueness" and stated:

In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements on the property, or upon neighboring property.

"Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.

After thorough review of the evidence and testimony, the Board finds 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 subject property must be unique in comparison to other properties in the neighborhood, to qualify for a variance. The testimony and evidence indicate that the property at 5516 McCormick Avenue is not substantially different from the properties on either side of it. All three properties have easements running through them and contain manholes in the backyards. In addition, Mrs. Finn's property becomes soggy and wet after a heavy rain, just as the subject property does. The property of Mr. and Mrs. Pitts did become soggy and wet after rain, but they brought topsoil and raised their property to allow drainage, which allows them to use their backyard. Photographs indicate that all the properties have a number of trees in the backyard, although some may have been cleared by the Pitts when they brought in the topsoil to level their yard.

While the Petitioners contend that not to allow the variance would prevent them from using their property for entertaining purposes because of the soggy, wet conditions in the backyard, the Board finds that that is not the case. There is a deck on the back of Petitioner's home which could be screened in to allow for entertainment. In addition, the Petitioner could bring in fill dirt and

topsoil to level the backyard and make it drain towards the rear of the property to allow for use of the backyard.

Therefore, it is the decision of this Board that the variance request from § 400.1 of the BCZR to permit a detached accessory structure (gazebo) to be located in the front yard in lieu of the required rear yard shall be denied.

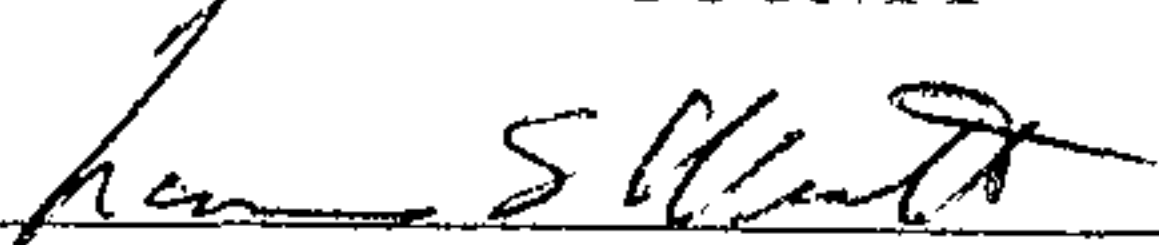
ORDER

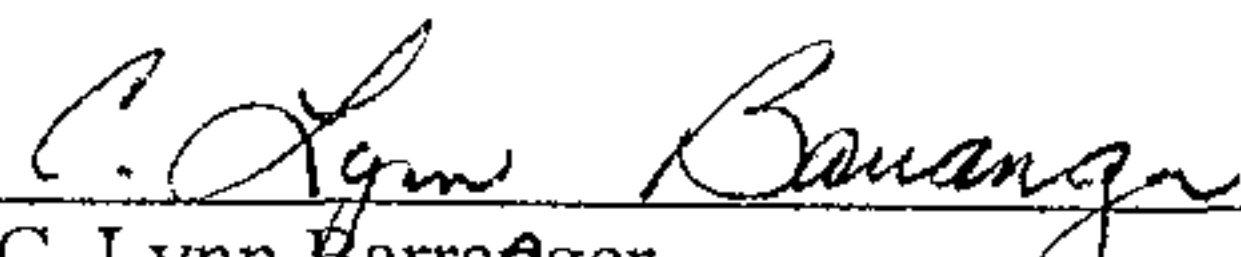
THEREFORE, IT IS THIS 4th day of September, 2002 by the County Board of Appeals of Baltimore County

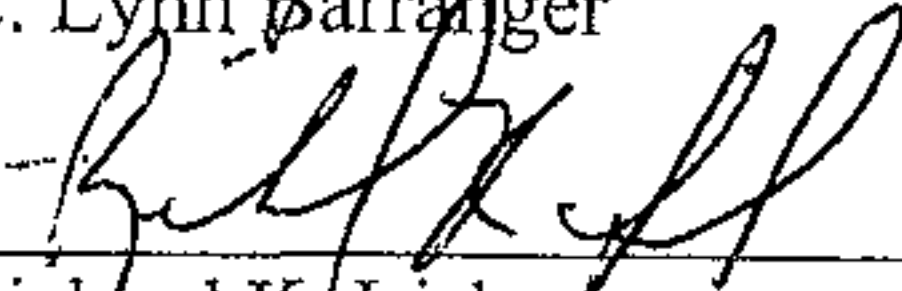
ORDERED that the Petitioners' request for variance seeking relief from § 400.1 of the *Baltimore County Zoning Regulations* to approve the construction of a detached accessory structure (gazebo) in the front yard of the subject property in lieu of the required rear yard be and the same is hereby **DENIED**.

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.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Lawrence S. Wescott, Panel Chairman


C. Lynn Barranger


Richard K. Irish



County Board of Appeals of Baltimore County

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

September 4, 2002

Donald N. Rothman, Esquire
GORDON*FEINBLATT, ROTHMAN,
HOFFBERGER & HOLLANDER LLC
233 E. Redwood Street
Baltimore, MD 21202-3332

RE: *In the Matter of: Sheryl Denise Gardner*
/ Case No. 02-283-A

Dear Mr. Rothman:

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*, 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,

Kathleen C. Bianco/hrs
Kathleen C. Bianco
Administrator

Enclosure

c: Sheryl Denise Gardner
Mr. and Mrs. Uzell Pitts
Ms. Marilyn Finn
People's Counsel for Baltimore County
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
Jeffrey Long /Planning
Arnold Jablon, Director /PDM



IN RE: PETITION FOR VARIANCE
W/S McCormick Avenue, 380' N
Cynthia Terrace
14th Election District
6th Councilmanic District
(5516 McCormick Avenue)

Sheryl Denise Gardner
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 02-283-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, Sheryl Gardner. Ms. Gardner requests a variance for property she owns at 5516 McCormick Avenue. The property is zoned D.R.5.5. The variance request is from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit a detached accessory structure (gazebo) to be located in the front yard in lieu of the required rear yard.

Appearing at the hearing on behalf of the variance request were Sheryl Gardner, owner of the property, Eddie Walker and William Gardner. Appearing in opposition to the Petitioner's request were adjacent property owners, Jacquelyn & Uzell Pitts and Marilyn Finn.

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 0.28 acres, more or less, zoned D.R.5.5. The subject property is improved with a single-family residential dwelling as is shown on Petitioner's Exhibit No. 1, the site plan submitted into evidence. At issue in the case is a gazebo which has been partially constructed in the front yard of the Petitioner's property. Mr. Walker, who resides at 5516 McCormick Avenue, began constructing the gazebo in early December of 2001. Construction on the gazebo has ceased pending the outcome of this hearing.

The testimony offered by Ms. Gardner and Mr. Walker demonstrated that the rear yard of their property is not suitable to locate the gazebo in question due to the fact that the area behind

3/12/02
J.R. Gardner

their home contains a drainage and utility easement and for the most part remains saturated with water. The Petitioner provided photographs of the area to the rear of the property evidencing the accumulation of water in that area. In addition, there are a number of trees in the rear yard which, according to the property owner, would have to be disturbed in order to locate the gazebo in that area. Therefore, the property owner has chosen and, in fact, did proceed with the construction of the gazebo in the front yard of her home. The Petitioner testified that the purpose of the gazebo would be to provide them with an area for cookouts and a place to congregate and enjoy their property. In order to allow the gazebo to be located in the front yard of this property, the variance request is necessary.

As stated previously, the neighbors who reside on the north and south side of the Petitioner's property both appeared in opposition to the variance. Mr. & Mrs. Pitts, who reside at 5510 McCormick Avenue, testified that they oppose the location of the gazebo. Mr. & Mrs. Pitts are concerned that the gazebo in question is highly visible as they enter their front yard and the front entrance to their dwelling. They have constructed a lattice fence along their property line in an effort to shield the activity which currently takes place in the front yard of the Petitioner's dwelling. Testimony offered by these neighbors demonstrated that the Petitioner utilizes her front yard for barbecuing and has provided a gas grill, lounge chairs and benches in that area for their use and enjoyment. These neighbors, Mr. & Mrs. Pitts and Ms. Finn, object to the activity that takes place in the front yard of the Petitioner's property and believe that the construction of a gazebo in that area will continue to promote parties and gatherings in the Petitioner's front yard. They believe that the gazebo in question would be better placed in the rear yard where such parties and activities normally occur.

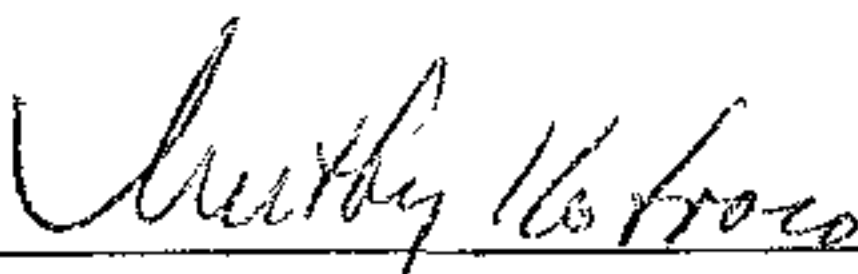
Neither of the protestants objected to the construction and design of the gazebo. They believe that Mr. Walker will do an excellent job in building the structure in question. However, their main objection relates to its location and the activity that will take place within the gazebo

once it is completed. These neighbors see no reason why the Petitioner cannot locate the gazebo in the rear yard, which they believe provides enough room for this structure.

After carefully considering the testimony and evidence offered by Ms. Gardner and Mr. Walker, as well as both of the adjacent property owners, I find that permitting the gazebo to be located in the front yard of the Petitioner's property would, in fact, have a detrimental impact on the properties owned by Mr. & Mrs. Pitts and Ms. Finn. Accordingly, the variance request must be denied. It appears from the testimony and evidence offered at the hearing that the Petitioner does have available to her enough area in the rear yard of her property upon which to locate this gazebo. It should also be noted that the gazebo in question sits atop small brick piers which elevates the gazebo off the ground. This should eliminate any problems with water accumulation, since the gazebo is not situated directly on the surface of the ground. Elevating the gazebo would allow any surface water to continue to drain away from the property.

THEREFORE, IT IS ORDERED this 12th day of March, 2002, by this Deputy Zoning Commissioner, that the Petitioner's request for variance to allow a detached accessory structure (gazebo) in the front yard in lieu of the required rear yard, be and is hereby DENIED. The Petitioner shall have forty-five (45) days within which to relocate the gazebo to an area that complies with the Baltimore County Zoning Regulations.

IT IS FURTHER ORDERED that any appeal of this decision must be made within thirty (30) days of the date of this Order.


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

3/12/02
R. J. J. J. J.
TMK:raj



Baltimore County
Zoning Commissioner

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

March 12, 2002

Ms. Sheryl Denise Gardner
5516 McCormick Avenue
Baltimore, Maryland 21206

Re: Petition for Variance
Case No. 02-283-A
Property: 5516 McCormick Avenue

Dear Ms. Gardner:

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 Department of Permits and Development Management. 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, appearing to read "Timothy M. Kotroco".

Timothy M. Kotroco
Deputy Zoning Commissioner

TMK:raj
Enclosure

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



Printed with Soybean Ink
on Recycled Paper

Copies to:

Mr. & Mrs. Uzell Pitts
5510 McCormick Avenue
Baltimore, MD 21206

Ms. Marilyn Finn
5518 McCormick Avenue
Baltimore, MD 21206



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 5516 McCormick Avenue

which is presently zoned RE-10 DR. S.S.

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) 400.1 To Permit A Detached Accessory Structure (Gazebo) In The Front Yard In Lieu Of The Required Rear Yard.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (Indicate hardship or practical difficulty)

Practical Difficulty - due to drainage (back yard) easement which has standing water & backed up for 7 yrs. It has steep slopes & is wooded. It remains wet even in a drought situation, so nothing can be put in back 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):

SHERYL DENISE GARDNER
Name - Type or Print

Sheryl Denise Gardner
Signature

Name - Type or Print

Signature

5516 McCormick Avenue 410-866-9411
Address Telephone No.

Baltimore MD 21206
City State Zip Code

Representative to be Contacted:

Same
Name

Address Telephone No.

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

UNAVAILABLE FOR HEARING

Reviewed By SPJ Date 02-04-01

Case No. 02-283-A

9/15/98

3/12/02
R. Gardner

Zoning Description

ZONING DESCRIPTION FOR 5516 McCormick Avenue, Baltimore, Maryland 21206.

Beginning at a point on the ^{WEST}~~east~~ side of McCormick Avenue which is 20 feet wide at the

Distance +/- 380 feet ^{NORTH}~~south~~ of the centerline of the nearest improved intersecting street

Cynthia Terrace which is +/- 20 feet wide. Being Lot#15, ~~Block~~, Section # one in the

Subdivision of McCormick Woods as recorded in Baltimore County Plat Book #47,

Folio #105, containing 0.28 acres. Also known as 5516 McCormick Avenue

Located in the 14th Election District, 6th Councilmanic District.

02.283.17.

**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: #02-283-A

5516 McCormick Avenue

W/S McCormick Avenue,

380' N Cynthia Terrace

6th Election District

14th Councilmanic District

Legal Owner(s):

Sheryl D. Gardner

Variance: to permit a detached accessory structure (gazebo) in the front yard in lieu of the required rear yard

Hearing: Monday, March 11, 2002 at 9:00 a.m. in Room 407, County Courts Building, 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 concerning the file and/or Hearing, Contact the Zoning Review Office at (410) 887-3391

2/228 Feb 21 CS21592

CERTIFICATE OF PUBLICATION

2/21, 2002

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 2/21, 2002.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

J. M. K. S.
LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

07-283-A
No. 008874

DATE 01-04-02 ACCOUNT RECOL-CCG-6120

AMOUNT \$ 50.00

RECEIVED FROM: SHERYL DAVIS SPAD, SH

FOR: RES WAR \$50
CTAC \$50

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER SDA

PAID RECEIPT

PAYEE: ACTUAL THE

1/04/2002 1/04/2002 15:45:00

REF: 0085 CASHIER K026 K02 DRIVER

RECEIPT # 242057

Det: 5 520 ZINING VERIFICATION

CR NO. 008834

Receipt Tot 50.00

50.00 Dk

Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No. 02-283-A

Petitioner/Developer: Sheryl D. Gardner

Hearing Date: 03/11/02

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, MD 21204

Attention: Mr. George Zahner

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 **5516 McCormick Ave.**

The sign(s) were posted on **02/23/02.**

Sincerely,

Sincerely,



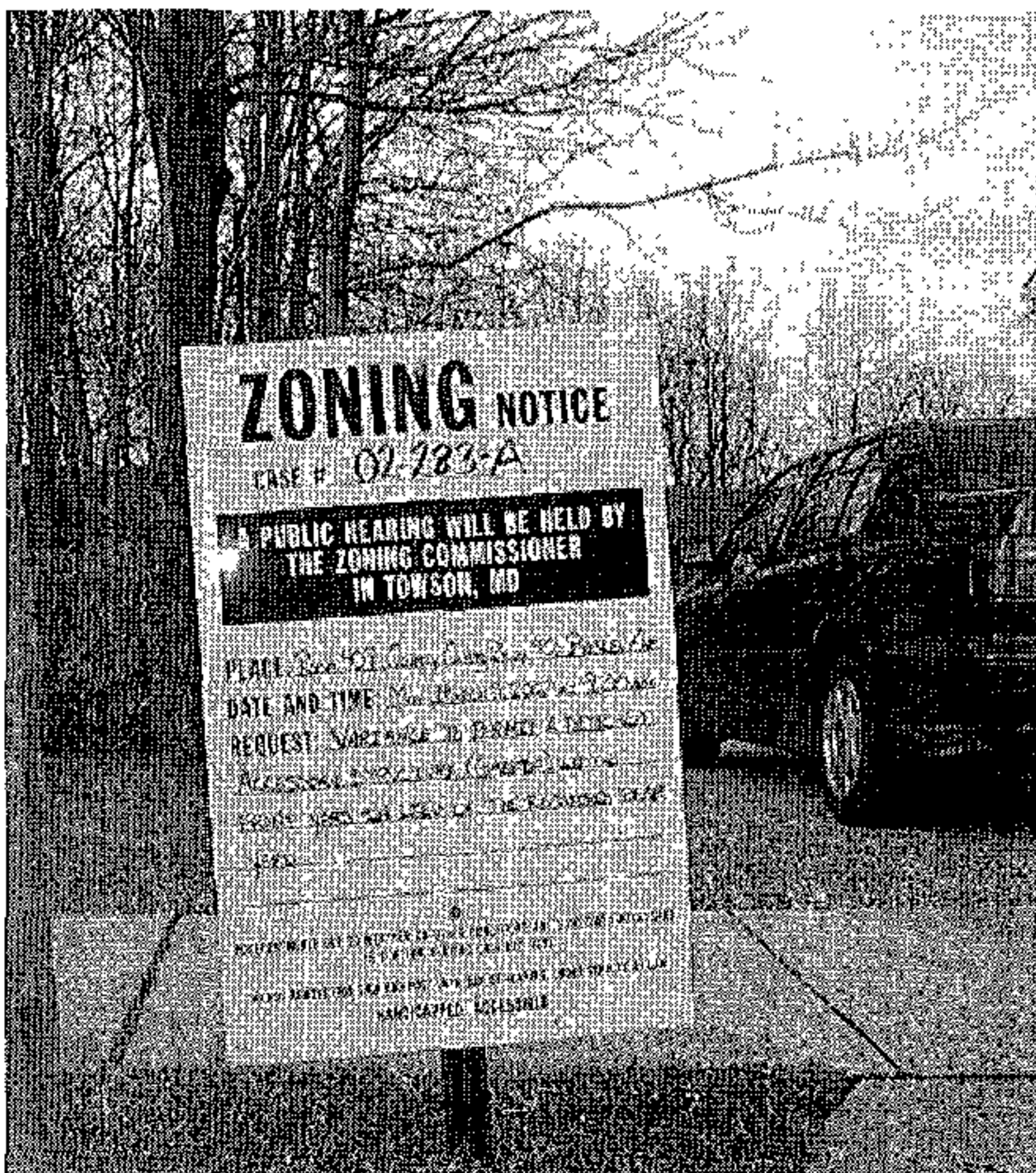
Thomas J. Hoff

Thomas J. Hoff, Inc.

406 West Pennsylvania Avenue

Towson, MD. 21204

410-296-3668



2/20/02 ✓

APPEAL SIGN POSTING REQUEST

CASE NO.: 02-283-A

Sheryl Denise Gardner - LEGAL OWNERS

5516 McCormick Avenue

14th ELECTION DISTRICT

APPEALED: March 25, 2002

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

*******COMPLETE AND RETURN BELOW INFORMATION*******

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

Attention: Kathleen Bianco
Administrator

RE: Case No.: 02-283-A

Petitioner/Developer:

5516 MCCORMICK AVE.

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

The sign was posted on 5/16, 2002

By: Gary C. Freund
(Signature of Sign Poster)

GARY C. FREUND
(Printed Name)

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. 02-283-A
Petitioner: SHIRYL DENISE GARDNER
Address or Location: 5516 MCCORMICK AVE.

PLEASE FORWARD ADVERTISING BILL TO:

Name: SHIRYL DENISE GARDNER
Address: 5516 MCCORMICK AVENUE
BALTIMORE, MD 21206
Telephone Number: 410-866-9411

02-283-A

TO: PATUXENT PUBLISHING COMPANY
Thursday, February 21, 2002 Issue – Jeffersonian

Please forward billing to:
Sheryl D Gardner
5516 McCormick Avenue
Baltimore MD 21206

410 866-9411

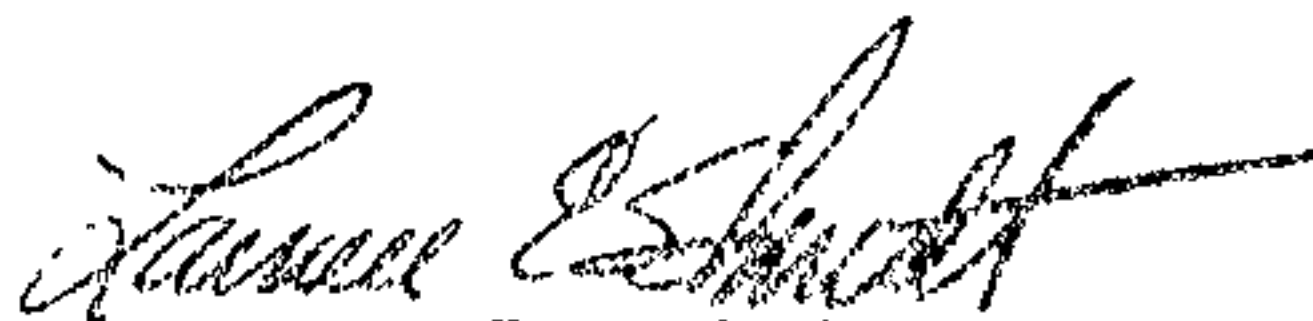
NOTICE OF ZONING HEARING

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: 02-283-A
5516 McCormick Avenue
W/S McCormick Avenue, 380' N Cynthia Terrace
6th Election District – 14th Councilmanic District
Legal Owner: Sheryl D Gardner

Variance to permit a detached accessory structure (gazebo) in the front yard in lieu of the required rear yard.

HEARING: Monday, March 11, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue


Lawrence E. Schmidt

LAWRENCE E. SCHMIDT 602
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

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

January 31, 2002

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: 02-283-A
5516 McCormick Avenue
W/S McCormick Avenue, 380' N Cynthia Terrace
6th Election District – 14th Councilmanic District
Legal Owner: Sheryl D Gardner

Variance to permit a detached accessory structure (gazebo) in the front yard in lieu of the required rear yard.

HEARING: Monday, March 11, 2002 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".

Arnold Jablon 372
Director

C: Sheryl D Gardner, 5516 McCormick Avenue, Baltimore 21206

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, FEBRUARY 23, 2002.**
- (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.



County Board of Appeals of Baltimore County

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

W.C.

*** HEARING ROOM – Room 48 ***

Basement – Old Courthouse
400 Washington Avenue

APPEAL HEARINGS SCHEDULED FOR THE WEEK OF JUNE 25, 2002

TUESDAY . 6/25 10:00 am Case No.: 02-283-A /HEARING

In the Matter of:

*Sheryl Denise Gardner – Legal Owner - Petitioner
5516 McCormick Avenue
14th Election District; 6th Councilmanic District*

VAR – To permit a detached accessory structure (gazebo) to be located in the front yard ilo required rear yard.

WEDNESDAY 6/26 10:00 am Case No.: CBA-01-127 /HEARING

In the Matter of:

*Lowe's Home Centers, Inc. Store #720
19 Texas Station/ Timonium*

RE: False Alarm Fees / Reg #C 988020-6

11:30 am Case No.: CBA-01-116 /HEARING

In the Matter of:

*The Parkanna Medical Center
4000 Annapolis Road, Baltimore, MD 21227*

RE: False Alarm Fees / Reg #C 991088

2:00 pm Case No.: CBA-02-112 /HEARING
CBA-02-113

In the Matter of:

*Brink's Incorporated
3610 Commerce Drive, Baltimore, MD 21227*

RE: Denial of hearing by ART (timeliness of request) Reg. # C965814-3 and False Alarm Fees / Reg #C 986518-1

SCHEDULE CONTINUED ON NEXT PAGE FOR THURSDAY JUNE 27, 2002

JUN 17 2002

DEPT. OF PERMITS AND
ENVIRONMENTAL MANAGEMENT

SCHEDULE CONTINUED

THURSDAY 6/27 9:30 am Case No.: 01-147-SPH /DELIBERATION

In the Matter of:

*Anthony J. and Susan S. Moken
2400 Bauernschmidt Drive
15th Election District; 5th Councilmanic District*

10:00 am Case No.: CBA-01-132 /HEARING

In the Matter of:

*Shirley Whisonant
3114 Fairview Road, Baltimore, MD 21207*

RE: ERS Decision / Approved Ordinary Disability allowance effective 2/2/01

c:	Executive Office Law Office Director /PDM	People's Counsel Planning Office Court Info. Desk	County Council Board Members Court Reporter
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County Board of Appeals of Baltimore County

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

June 25, 2002

NOTICE OF DELIBERATION

IN THE MATTER OF:

SHERYL DENISE GARDNER –Legal Owner /Petitioner
Case No-02-283-A

Having heard this matter on 6/25/02, public deliberation has been scheduled for the following date /time:

DATE AND TIME : **WEDNESDAY, JULY 10, 2002 at 9:45 a.m.**
LOCATION : **Hearing Room 48, Basement, Old Courthouse**

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : Donald N. Rothman, Esquire
Appellant /Petitioner : Sheryl Denise Gardner

Mr. and Mrs. Uzell Pitts
Ms. Marilyn Finn

People's Counsel for Baltimore County
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
Jeffrey Long /Planning
Arnold Jablon, Director /PDM

Copy to: S.B.R.





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

May 3, 2002

NOTICE OF ASSIGNMENT

CASE #: 02-283-A

IN THE MATTER OF: SHERYL DENISE GARDNER

–Legal Owner /Petitioner

5516 McCormick Avenue

14th Election District; 6th Councilmanic District

3/12/02 –D.Z.C.'s Order in which Petition for Variance was DENIED.

ASSIGNED FOR:

TUESDAY, JUNE 25, 2002 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

c: Counsel for Appellant /Petitioner
Appellant /Petitioner

: Donald N. Rothman, Esquire
: Sheryl Denise Gardner

Mr. and Mrs. Uzell Pitts
Ms. Marilyn Finn

People's Counsel for Baltimore County
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
Jeffrey Long /Planning
Arnold Jablon, Director /PDM





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

March 8, 2002

Ms. Sheryl Denise Gardner
5516 McCormick Avenue
Baltimore MD 21206

Dear Ms. Gardner:

RE: Case Number: 02-283-A, 5516 McCormick Avenue

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on February 4, 2002.

The Zoning Advisory Committee (ZAC), which consists of representatives from several 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, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.

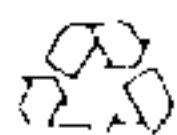
W. Carl Richards, Jr. G.D.L.
Supervisor, Zoning Review

WCR: gdz

Enclosures

c: People's Counsel

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



Jim
3/11

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: January 29, 2002

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

JAK 3/0

SUBJECT: Zoning Advisory Petition(s): Case(s) 02-283 & 02-284

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark A. Cunningham in the Office of Planning at 410-887-3480.

Prepared by:

Mark A. Cunningham

Section Chief:

Jeffrey W. Long

AFK/JL:MAC

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

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

DATE: February 28, 2002

FROM:  Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
for February 4, 2002
Item Nos. 263, 264, 265, 267, 268, 269,
270, 271, 272, 273, 274, 275, 276, 278,
279, 280, 281, 282, (283), 284, 285, 286,
287, 288, 290 and 292

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comments.

RWB.HJO:cab

cc. File

ZAC-2-4-2002-NO COMMENT-02282002.doc



Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

January 31, 2002

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF January 28, 2002

Item No.: See Below

Dear Ms. Stephens:

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:

263, 267, 268, 270, 271, 273, 274, 275, 276, 278, 279, 280, 282,
283, 284, 287, 289, 290,

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's 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: 1. 29. 02

Mr. George Zahner
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 283

JRA

Dear Mr. Zahner:

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,

Ken

Kenneth A. McDonald Jr., 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

Amh
3/11

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon
FROM: Todd Taylor
DATE: March 1, 2002

Zoning Advisory Committee Meeting of January 28, 2002

SUBJECT: NO COMMENTS for the FOLLOWING ZONING ITEMS:

263 - 265, 268, 271, 272, 275 - 277, 279 - 281, 283, 284, 286, 287, 290 - 292

Agricultural Preservation is still reviewing Zoning Items: 270, 273, 278, and 288.



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

April 4, 2002

Mr. & Mrs. Uzell Pitts
5510 McCormick Avenue
Baltimore MD 21206

Dear Mr. & Mrs. Pitts:

RE: Case No. 02-283-A, Address 5516 McCormick Avenue

Please be advised that an appeal of the above-referenced case was filed in this office on March 25, 2002 by Donald N. Rothman, on behalf of Sheryl Denise Gardner. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

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

Sincerely,

Arnold Jablon GDZ
Director

02-283-A-1 02-283

AJ: gdz

c: Gordon*Feinblatt, Mr. Donald N. Rothman, 233 E Redwood Street,
Baltimore MD 21202-3332
Sheryl D. Gardner, 5516 McCormick Avenue, Baltimore 21206
Ms. Marilyn Finn, 5518 McCormick Avenue, Baltimore 21206
People's Counsel

02-283-A

APPEAL

Petition For Variance
5516 McCormick Avenue
W/S McCormick Avenue, 380' N Cynthia Terrace
14th Election District – 6th Councilmanic District
Sheryl Denise Gardner - Legal Owner
Case No.: 02-283-A

✓ Petition for Variance (dated 02/04/02)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (dated 01/31/02)

✓ Certification of Publication (The Jeffersonian issue dated 02/21/02)

✓ Certificate of Posting (Thomas J. Hoff posted 02/23/02)

✓ Entry of Appearance by People's Counsel (01/30/02)

✓ Petitioner(s) Sign-In Sheet (1 sheet)

✓ Protestant(s) Sign-In Sheet (1 sheet)

✓ Citizen(s) Sign-In Sheet (none)

✓ Zoning Advisory Committee Comments

✓ Petitioners' Exhibits:

- ✓ 1. Plat To Accompany Petition For Zoning Variance
- ✓ 2A Pictures (4 front views)
- ✓ 2B Pictures (4 back yard of 5516)
- ✓ 2C Picture (1 view of trees from side of 5516)

✓ Protestants' Exhibits:

- ✓ 1. Photographs (3 pictures)
- ✓ 2. Declaration of Covenants and Restrictions

✓ Miscellaneous (Not Marked as Exhibits):
(none)

✓ Deputy Zoning Commissioner's/Zoning Commissioner's Order
(dated 03/12/02 -DENIED)

✓ Notice of Appeal received on March 25, 2002 from Mr. Donald N. Rothman, Attorney on behalf of Sheryl Denise Gardner

Att. for Pet./Opp
c: * Gordon Feinblatt, Rothman, Hoffberger & Hollander LLC, Donald N Rothman,
233 E Redwood Street, Baltimore 21202-3332
People's Counsel of Baltimore County, MS #2010
Timothy Kotroco, Deputy Zoning Commissioner
Arnold Jablon, Director of PDM

* Sheryl D. Gardner *Pet. Opp* Ms. Marilyn Finn
5516 McCormick Avenue 5518 McCormick Avenue
Baltimore, MD 21206 Baltimore, MD 21206

Mr. and Mrs. Uzell Pitts
5510 McCormick Avenue
Baltimore, MD 21206

Jacky Petts

410 - 458 - 2779

Case # 02-283-A

Case No. 02-283-A

In the Matter of: Sheryl Denise Gardner – Legal Owner /Petitioner

VAR –To permit detached accessory structure (gazebo) to be located in the front yard in lieu of the required rear yard.

3/25/02 –D.Z.C.'s Order in which Petition for Variance was DENIED.

5/03/02 -Notice of Assignment sent to following; assigned for hearing on Tuesday, June 25, 2002 at 10:00 a.m.:

Donald N. Rothman, Esquire
Sheryl Denise Gardner
Mr. and Mrs. Uzell Pitts
Ms. Marilyn Finn
People's Counsel for Baltimore County
Lawrence E. Schmidt /Zoning Commissioner
Pat Keller, Planning Director
Jeffrey Long /Planning
Arnold Jablon, Director /PDM

6/25/02 – Board convened for hearing (Wescott, Barranger, Irish); completed; deliberation assigned for Wednesday, July 10, 2002 at 9:45 a.m. Notice of Deliberation sent to parties; FYI copy to S.B.R.

7/10/02 – Board convened for deliberation; unanimous decision by Board (S.B.R.) – variance request is DENIED; does not meet requirements of 307.1. Written Opinion and Order to be issued; appellate period to run from date of written Order.

RE: PETITION FOR VARIANCE
5516 McCormick Avenue, W/S McCormick Ave,
380' N of Cynthia Terr
6th Election District, 14th Councilmanic

Legal Owner: Sheryl Denise Gardner
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 02-283-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. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.


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 January, 2002 a copy of the foregoing Entry of Appearance was mailed to Sheryl Denise Gardner, 5516 McCormick Avenue, Baltimore, MD 21206, Petitioners.


PETER MAX ZIMMERMAN



Baltimore County
Department of Permits &
Development Management



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

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

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

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Case No. <u>01-7834</u>	Property No. <u>19-00-001998</u>	Zoning: <u>R</u>
Name(s): <u>STERYL D GARDNER</u>		
Address: <u>5516 McCORMICK AVE</u>		
Location: <u>BALTO. MD. 21207</u>		

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

1. Failure to obtain permit
for the const. of front
yard. BOCA 1071
at 5516 permit given
5 working days to Mr. Gardner
fine
by 6/12/01 8:00 AM
3:30 - 4:00 PM

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE:

On or Before:	Date Issued:
---------------	--------------

FAILURE TO COMPLY WITH THE DEADLINE STATED IS A MISDEMEANOR. A CONVICTION FOR EACH VIOLATION SUBJECTS YOU TO POTENTIAL FINES OF \$200, \$500, OR \$1000 PER DAY, PER VIOLATION, DEPENDING ON VIOLATION, OR 90 DAYS IN JAIL, OR BOTH.

Print Name

INSPECTOR: _____

STOP WORK NOTICE

PURSUANT TO INSPECTION 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:

Not Later Than: <u>12/18/01</u>	Date Issued: <u>12/11/01</u>
------------------------------------	---------------------------------

INSPECTOR: Carol Ecker (ERROL ECKER)

VIOLATION SITE

01-2834

BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF:

Sheryl Denise Gardner
Case No.: 02-283-A

DATE:

July 10, 2002

BOARD/PANEL:

Lawrence S. Wescott	LSW
C. Lynn Barranger	CLB
Richard K. Irish	RKI

RECORDED BY:

Theresa R. Shelton / Legal Secretary

PURPOSE: To deliberate Petition for Variance filed requesting a detached accessory structure (gazebo) in the front yard ilo the req'd rear yard.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

- Uniqueness of property
- Board does not enforce covenants – not Board's jurisdiction
- testimony did not substantiate uniqueness between the three properties
- property could be improved; i.e. grading, etc.
- to allow the petition would hinder the general welfare of the neighbors
- all in flood zone

FINAL DECISION: Unanimous decision by the Board of Appeals to DENY the Petition for Variance.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. 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,



Theresa R. Shelton
County Board of Appeals

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: November 14, 2002

TO: Arnold Jablon, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton *trs*
Board of Appeals

SUBJECT: **CLOSED APPEAL CASE FILES**

The following case(s) have been finalized and the Board of Appeals is closing the copy of the appeal case file(s) and returning the file(s) and exhibits (if applicable) attached herewith.

<u>BOARD OF APPEALS CASE NUMBER</u>	<u>PDM FILE NUMBER</u>	<u>NAME</u>	<u>LOCATION</u>
01-506-XA	<i>01-506-XA</i>	Mark McAllister	1627 Eastern Blvd.
02-283-A	<i>02-283-A</i>	Sheryl Gardner	5516 McCormick Avenue

Attachment: SUBJECT FILE(S) ATTACHED

GORDON • FEINBLATT
ROTHMAN, HOFFBERGER & HOLLANDER, LLC

DONALD N. ROTHMAN

410.576.4201

FAX 410.576.4246

drothman@gfrlaw.com

ATTORNEYS AT LAW
233 EAST REDWOOD STREET
BALTIMORE, MARYLAND
21202-3332
410.576 4000
www.gfrlaw.com

March 22, 2002

The Hon. Arnold Jablon
Director, PDM
Baltimore County Zoning Office
Room 111
111 West Chesapeake Avenue
Towson, MD 21204

RE: Petition for Variance
Case No. 02-283-A
Property: 5516 McCormick Avenue
Baltimore, MD 21206

Dear Mr. Jablon:

Please enter my appearance as attorney for Sheryl Denise Gardner. She wishes to appeal the Order from the Deputy Zoning Commissioner in the above case dated the 12th day of March 2002, denying Petitioner's request for a variance to allow a detached accessory structure in the front yard of her property. Petitioner is dissatisfied with his findings and the reasons given by him for the denial of her Petition.

Ms. Gardner's check in the amount of \$210.00 is enclosed to cover the cost of the appeal and sign posting.

I would appreciate receiving copies of all notices and other proceedings respecting this appeal.

Very truly yours,


Donald N. Rothman
Attorney for Sheryl Denise Gardner

lahm
Enclosure
cc: Ms. Sheryl Denise Gardner

MAR 25 2002
GDZ

PLEASE PRINT CLEARLYPETITIONER(S) SIGN-IN SHEETNAMEADDRESS

SHERYL D. GARDNER
EDDIE C. WALKER SR
William C. Gardner

5516 McCORMICK 21206
5516 McCORMICK AVE 21206
18 KING AVE FALTO. 21222



Case Number

02-983-A

PLEASE PRINT LEGIBLY

PROTESTANT'S SIGN-IN SHEET

[illegible]

1/10/02
6/25/02

EXHIBITS

PETITIONERS

1. Plat to Accompany Petition for Zoning Variance
2. Photo showing rear yard - 3/20/02
3. Photo showing rear yard from side yard - 3/20/02
4. Photo of front yard
5. letter from Delroy Tripps

Protestants

1. Photo of Pitts home - 3/7/02
2. Photo of property taken around Easter 5 yrs. ago
3. Photo of property " " 7 yrs. ago.
4. Photo of gazebo " 4/17/02
5. Photo of rear yard 3/27/02
6. letter from Owings Enterprises 6/13/02 2 pages.
7. File from Hearing Officers Case.
8. Photo from Ms. Finn's porch of Gardner property
9. " " " " " " " "
10. Photo from Ms. Finn's rear deck to Gardner property.
11. " " " " yard " " " "
12. " showing sharing of Finn + Gardner driveway.

PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE SPECIAL HEARING

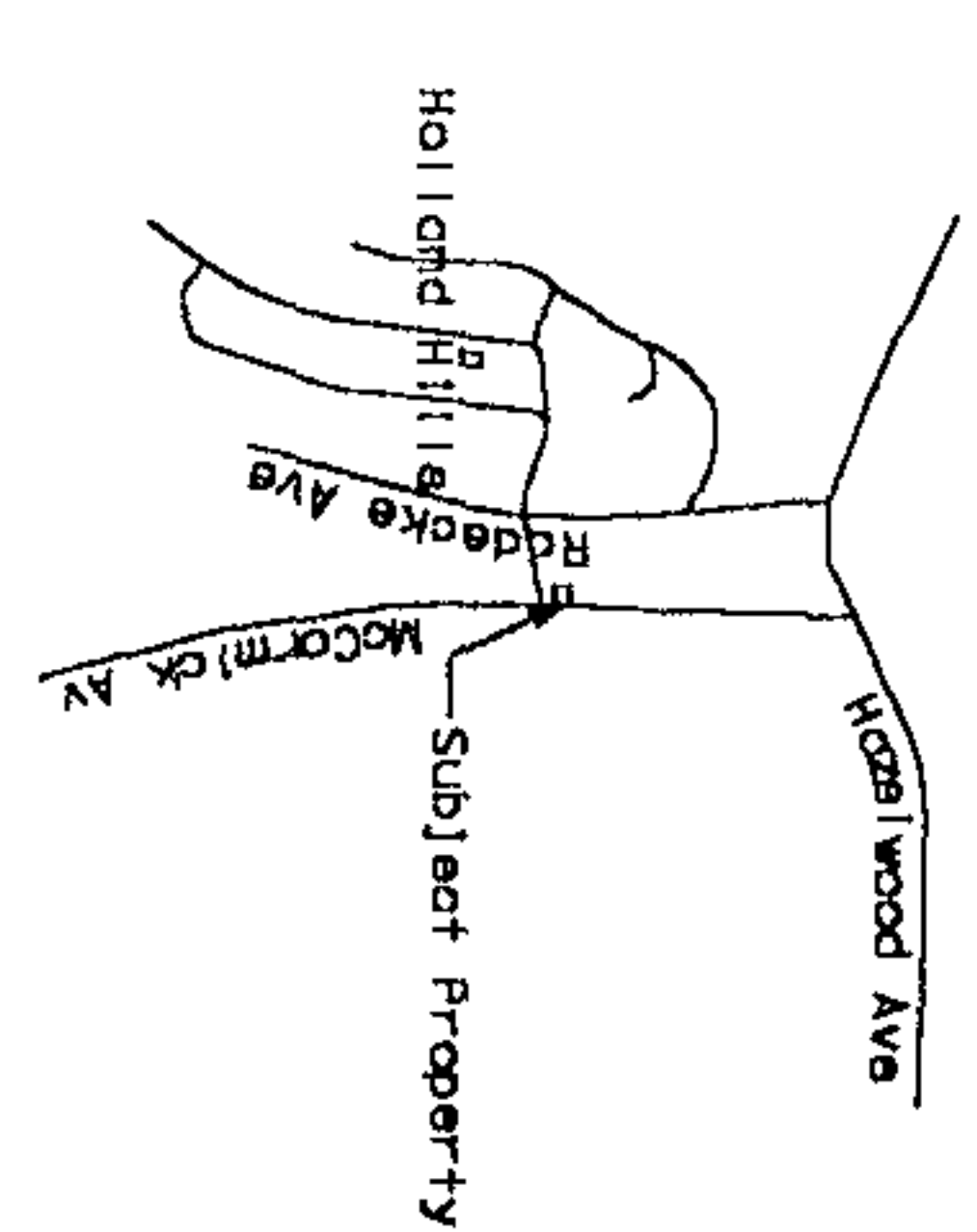
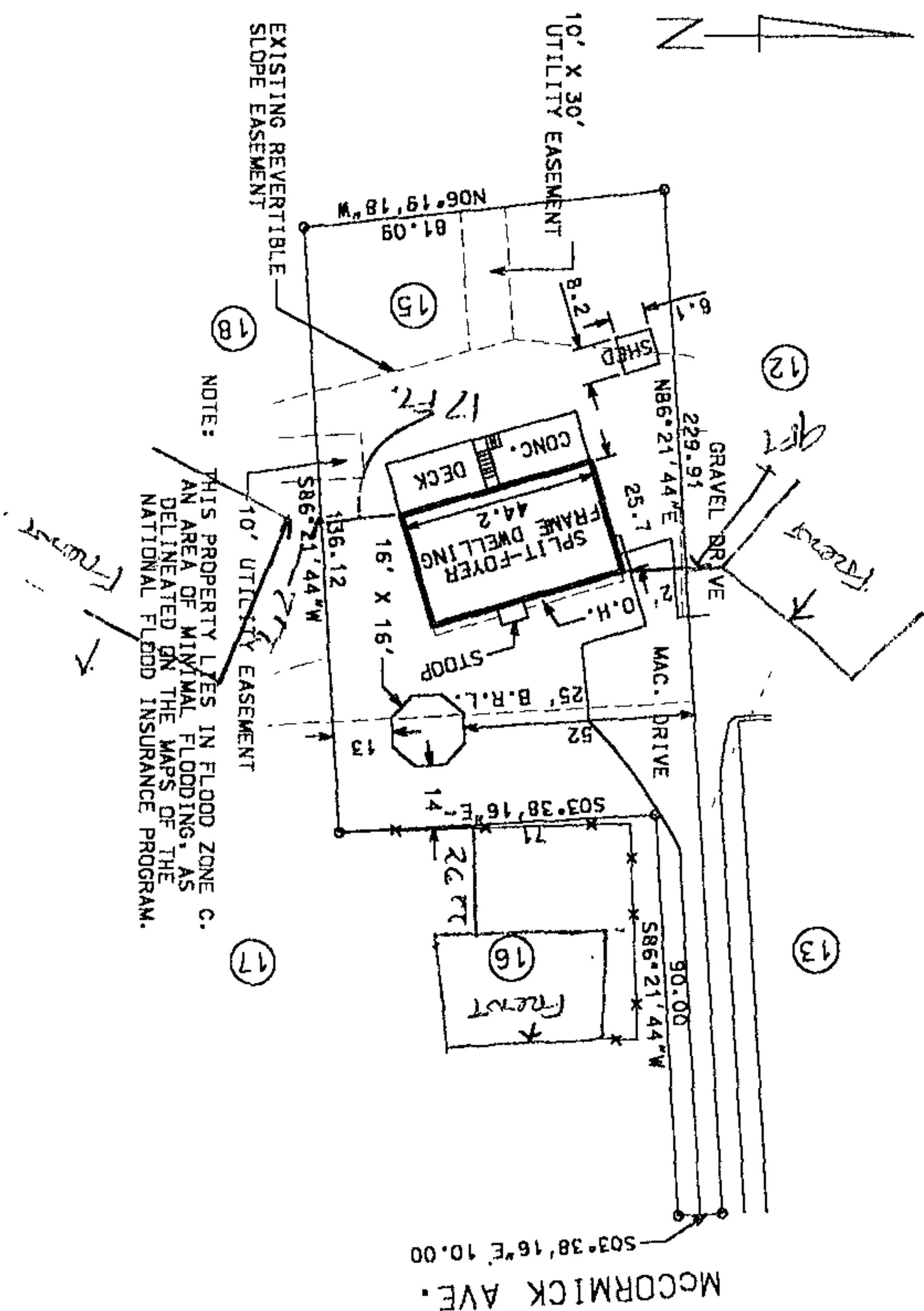
PROPERTY ADDRESS 5516 MCCORMICK AVE

SUBDIVISION NAME McCormick Woods

PLAT BOOK # 47 FOLIO # 105 LOT # 15 SECTION # ONE

OWNER Sheryl Gardner

SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION



VICINITY MAP
SCALE 1" = 1000'

LOCATION INFORMATION

ELECTION DISTRICT 14TH
COUNCILMANIC DISTRICT 6TH
1" = 200' SCALE MAP # N.E. 4-E
ZONING D.R. -5.5

LOT SIZE 0.28 12079.67 SQUARE FEET

ACREAGE 0.28

PUBLIC ☒ PRIVATE ☐

SEWER ☒ WATER ☒

CHESAPEAKE BAY ☐ YES ☒ NO

CRITICAL AREA ☐ YES ☒ NO

100 YEAR FLOOD PLAIN ☐ YES ☒ NO

HISTORIC PROPERTY / BUILDING ☐ YES ☒ NO

PRIOR ZONING HEARINGS ☐ YES ☒ NO

PREPARED BY _____ SCALE OF DRAWING: 1" = 50'

ZONING OFFICE USE ONLY
REVIEWED BY 5037 ITEM # 02-2834 CASE #

Ref #1

DECLARATION OF COVENANTS AND RESTRICTIONS

181
This Declaration of Covenants and Restrictions, made this second day of November, 1981, by JOHN F. OWINGS, JR. and ROBERT F. POREMSKI, owners and hereinafter collectively called the "Developer".

WHEREAS, the Developer owns a tract of land containing 8.94 acres, more or less, situated in the 14th Election District of Baltimore County, and

WHEREAS, the Developer has caused said property to be subdivided into residential lots as shown on plat of "McCormick Woods" Section 1 recorded among the Land Records of Baltimore County in Plat Book E.H.K., Jr. 47, Folio 105, and "McCormick Woods" Section 2 recorded in Plat Book E.H.K., Jr. 47, Folio 106, and

WHEREAS, Developer is desirous of subjecting said land to certain covenants and restrictions binding upon the said land, and

WHEREAS, in order to make said covenants and restrictions binding and in full force and effect upon said land and upon the present and future owners and occupants thereof, Developer is executing this Declaration, and

WHEREAS, it is the intention of the Developer to develop the land so subdivided by the aforesaid plat as a residential community and to assure therefore a uniform plan and scheme of development, and

WHEREAS, for that purpose the Developer adopts the covenants and restrictions hereinafter set forth to insure the best use and the most appropriate development and improvement of each building site; and to protect the owners of building sites against such improper use of surrounding building sites as will depreciate the value of their property; to guard against the erection thereon of poorly designed and proportioned structures and structures built of improper and unsuitable materials; to obtain harmonious color schemes, to insure the highest and best development of the property; to encourage and secure the erection of attractive homes therein with appropriate locations of building sites; to secure and maintain proper setbacks from streets and adequate free spaces between structures; and in general to provide for a high type and quality of improvement in said development and thereby enhance the value of investments made by purchasers of building sites herein.

NOW, THEREFORE, these presents witnesseth, that the Developer does establish upon these lots appearing on the record plats of "McCormick Woods" Sections I and II the following protective restrictions, covenants, and reservations to be enforced and observed by it, its successors and assigns as well as by all purchasers of lots shown on said plats, to wit:

1. The lots herein mentioned and described shall be used for private residential purposes only, and no building shall be erected, altered, placed or permitted to remain on any lot other than one detached dwelling not to exceed two and one-half stories in height, each dwelling being designed for occupancy by a single family, and a private garage for not more than two cars, or a private carport for not more than two cars. All garages or carports must conform in architecture to the external design of the dwelling, and shall be attached to the main dwelling directly or by means of breezeway or covered

TRANSFER TAX NOT REQUIRED
RANDOLPH B. ROSENKRANTZ
DIRECTOR OF REVENUE
BALTIMORE COUNTY, MARYLAND

Per: *Thomas J. Calburn*
11-4-81 *Roll 11-85*

STATE DEPARTMENT OF
ASSESSMENTS & TAXATION
11-5-81
CLERK

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE
11-5-81
DATE

LAW OFFICES OF
DAVID GRANT
WILLEMANN
SUITE 106,
JEFFERSON BUILDING
108 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

Plot Ex #2

patio. Notwithstanding the foregoing, detached garages or carports will be allowed only on lots numbered 2, 3, 6, 7, 10, 11, 14, 15, 18, 19, 22, 29, 30, 31, 32, 33, 34, 35, and 36.

2. Any structure constructed on said lot shall be completed within eight (8) months from the start of construction.

* 3. No structure (including in ground and above ground swimming pools as well as detached storage sheds) shall be commenced, erected, placed, moved onto or permitted to remain on any lot, nor shall any existing structure upon any lot be altered in any way which changes the exterior appearance thereof, nor shall any new residence be commenced, unless plans and specifications (including a description of any proposed new use) therefor shall have been submitted to and approved in writing by the "Architectural Committee". Such plans and specifications shall be in such form and shall contain such information as may be required by the "Architectural Committee". Provided, however, that the approval of the "Architectural Committee" of any plans and specifications submitted as model house plans shall be construed to be the approval of such plans and specifications for construction in conformance therewith (including any options noted on such plans and specifications) on any lot subject to this Declaration.

4. The "Architectural Committee" shall be composed of two (2) individuals: John F. Owings, Jr. or his heirs or assigns and J. Patrick Gill, or his heirs or assigns. The Architectural Committee hereinafter referred to as "Committee" shall have the right to disapprove any plans and specifications submitted hereunder because of the following:

- a. the failure of any such plans and/or specifications to comply with any of the Restrictions;
- b. objection to the exterior design, appearance or materials of any proposed structure;
- c. the failure to include information in such plans and specifications as may have been requested;
- d. objection to the grading plan for any lot; and
- e. any other matter which, in the sole judgment of the Committee would render the proposed structure, structures or uses inharmonious with the general plan of improvement of the property or with structures or uses located upon other lots in the vicinity.

In any case where the Committee shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any case the Committee shall, if requested, make reasonable efforts to assist and advise the applicant in order that any acceptable proposal can be prepared and submitted for approval.

Any action of the Committee shall be effective only if the action is taken by both members or if the action is taken by one member with the other abstaining. In the event that the members of the Committee disagree on any proposal before the Committee, each member shall provide the person submitting the proposal with written statement of the grounds upon which that member feels the proposal shall be approved or disapproved.

In the event an applicant brings litigation against the Committee or any member thereof and a court of competent jurisdiction finds that the Committee or a member thereof acted in bad faith in disapproving an application, the Court may award attorney's fees.

In the event that litigation ensues over the disapproval of an application; the Committee or any member thereof shall be entitled to attorneys' fees and expenses reasonably incurred if the position of the Committee (or the member thereof) is substantially sustained by a court of competent jurisdiction.

In the event that the "Committee" fails to approve or disapprove any plans and specifications as herein provided, within sixty (60) days after submission thereof, the same shall be deemed to have been disapproved, as submitted, and no further action shall be required. "Committee" action shall require the agreement of both members of the "Committee".

No previously approved structure shall be used for any purpose other than that for which it was originally designed.

5. MINIMUM HOUSE AND PRICE. Any structure erected thereon shall contain a minimum of living floor area of the following:

- a. Split Levels - shall contain a minimum of 1,000 square feet on upper two levels.
- b. Ranchers - shall contain a minimum of 1,000 square feet.
- c. Split Foyers - shall contain a minimum of 750 square feet on upper level.
- d. Two-Stories - shall contain a minimum of 1,200 square feet.
- e. Cape Cods - shall contain a minimum of 1,050 square feet.

All square footage calculations shall be exclusive of garages, attics, basements, porches, patios, or terraces.

The minimum sales price shall be \$60,000 for any house offered for sale.

6. NUISANCES. No noxious or offensive trade or activity shall be carried on upon any lot, or parcel, or homesite, nor shall anything be done thereon which may become an annoyance or nuisance to adjacent residents and property owners in the neighborhood.

7. PETS. Domestic pets are authorized, but must be controlled so as not to constitute a nuisance or hazard to adjacent residents and property owners. No birds, animals, or insects shall be kept or maintained on any lot except for domestic purposes. No livestock, swine, or poultry shall be maintained on any lot, parcel, or homesite. Under no circumstances shall any commercial or business enterprise involving the use of animals be conducted on the property.

8. GARBAGE, REFUSE DISPOSAL, STOCK PILING AND STORAGE. No area on any lot or parcel, or homesite shall be used or maintained as a dumping ground or storage place for rubbish, trash, garbage or other waste. All trash cans or other equipment for weekly storage or disposal of such materials shall be kept in a clean and sanitary condition and be kept screened from public roadways. There shall be no open stock piling or storage of any type building materials or equipment, motor vehicle parts and supplies,

and lawn and garden equipment and supplies. In the event that rubbish, trash or garbage accumulates, the Committee has the right to clear the debris and charge the culpable party for the expenses incurred. This charge shall be subject to the requirements of Baltimore County.

9. SUBDIVISION. There shall be no further subdivision of any lot or parcel of land to increase the existing density of McCormick Woods.

10. MOTOR VEHICLES. (Includes but not limited to automobiles, pick-up trucks, vans, motorcycles, dune buggies, and all terrain vehicles.) No junked motor vehicles or other junked or used vehicles, shall be permitted to stand upon any lot or parcel (any motor vehicle not currently licensed shall be conclusively presumed to be junked) nor shall any publicly-owned or commercial truck or vehicle exceeding three-fourths (3/4) ton capacity be permitted to stand upon any lot, or parcel, or homesite. Furthermore, only one (1) such publicly-owned or commercial truck or vehicle (including, but not limited to motor vehicles with commercial equipment, advertising, phone numbers, names, etc.), not in excess of three-fourths (3/4) ton capacity shall be permitted to stand upon any lot, parcel, or homesite. Said publicly-owned, or commercial truck or vehicle shall not be permitted to park on McCormick Avenue or Cynthia Terrace. Motor vehicle repair of any type is not permitted on any lot, or parcel, or homesite except by the lot, or homesite owner on his own vehicle.

No motorcycle, truck, jeep, dune buggy, van, all terrain vehicle, boat, camper, motor home, trailer or any vehicle other than an automobile, shall be permitted to stand upon any lot, parcel, homesite, McCormick Avenue or Cynthia Terrace except:

- a. delivery vehicles while making deliveries of merchandise to residents;
- b. trucks used by mechanics repairing or constructing improvements on a lot while such repairs or construction work is being performed; and
- c. vehicles which are concealed from general view by a garage, carport and/or screening and which have been approved by the Architectural Committee.

11. FENCING. No fence shall be erected within twenty-five (25) feet of the front property line of any house (except those houses on panhandled lots). No fence with a height greater than four (4) feet shall be erected (privacy screens adjoining the home are excluded from this provision along with those erected on the front property lines of lots numbered 2,3,6,7,10,11,14,15,18,19 and 22). Fencing as otherwise allowed shall be subject to the approval of the Committee as to the type of construction and location.

12. TREES. No living tree twelve (12) inches or more in caliber (measured at one foot above existing ground) shall be removed without the prior consent of the Committee. Dead trees on any lot which constitute a hazard to other than the owner of said lot or parcel, shall be felled by the homeowner or otherwise rendered non-hazardous.

13. SIGNS. No sign is to be erected on any lot or parcel, other than signs offering the property for sale, or a professional service sign. This covenant shall not apply to a discreetly designed marker indicating the name of the owner or resident of any lot or parcel. Professional service signs shall not exceed 300 square inches and shall be approved by the Architectural Committee.

14. CONSTRUCTION PERIOD. Trailers required for construction of approved structures are allowed for period of construction only. No temporary building trailer, garage or building in the course of construction, or other outbuilding erected in the subdivision shall be used, temporarily or permanently, as a place of residence.

15. CLOTHES LINES AND ANTENNAS. No clothing or any other household fabrics shall be hung in the open on any lot unless the same are hung from an umbrella or retractable clothes hanging device which is removed from view when not in use. No outside radio or T.V. antennas to exceed 25 feet in height shall be allowed without written authority of the Committee.

* 16. GROUNDS AND HOME MAINTENANCE. Each owner shall keep all lots owned by him and all improvements therein or thereon, in good order and repair, including but not limited to, the seeding and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management.

17. The Restrictions shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, rules, or regulations of any governmental authority, or by specific restrictions imposed by any deed or lease. In the event of any conflict, the most restrictive provisions of such laws, rules, regulations, deeds, leases, or the Restrictions shall be taken to govern control.

18. The Restrictions and covenants are to run with the land and shall be binding on all parties and all persons for a period of twenty-five years from the date of recordation of these covenants, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument, signed by a majority of the thirty-six (36) owners of the lots, has been recorded agreeing to change said covenants in whole or in part.

19. The failure of the Committee, or the owner of any lot, included in the property, their respective legal representatives, heirs, successors and assigns, to enforce any Restriction herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such a violation or breach occurring prior or subsequent thereto.

20. The determination of a Court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

21. The Architectural Committee shall have the exclusive right, subject to the control of any public agency having jurisdiction, to establish grade and slopes on the land hereby conveyed and to fix the grade at which any dwelling shall hereafter be erected or placed thereon so that the same shall conform to a general plan.

22. Enforcement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, and it shall be lawful for any person or persons owning any part of the subdivision to prosecute said proceedings.

IN WITNESS HEREOF, the respective hands and seals of the Parties hereto the day and year first above written.

WITNESS:

Delores McKinnel
as to both

John F. Owings, Jr.
JOHN F. OWINGS, JR.

Robert F. Poremski
ROBERT F. POREMSKI

STATE OF MARYLAND)
) TO WIT:
Carroll)
BALTIMORE COUNTY)

I HEREBY CERTIFY that on this second day of November, 1981, before me, the
subscriber, a Notary Public for the State of Maryland, in and for the County of ^{Cornell} ~~Baltimore~~,
duly commissioned and qualified, personally appeared JOHN F. OWINGS, JR., and acknow-
ledged the foregoing to be his free act and deed.

WITNESS my hand and Notarial Seal.

Release of *[Signature]*

NO. 1700
DELORES MARIN KIMBLE
NO. 1700
NO. 1700

My Commission Expires on July 1, 1982.

STATE OF MARYLAND)
Carroll)
 BALTIMORE COUNTY)

TO WIT:

I HEREBY CERTIFY that on this second day of November, 1981, before me, the subscriber, a Notary Public for the State of Maryland, in and for the County of ^{Carroll} ~~Baltimore~~, duly commissioned and qualified, personally appeared ROBERT F. POREMSKI, and acknowledged the foregoing to be his free act and deed.

WITNESS my hand and Notarial Seal.

al.

Delores Martin Kimmel

NOTARY PUBLIC
DELORES MARTIN KIMMEL
CARRINGTON, MD.

0002**** 00011582 18-9-AD
0002**** 00011582 My Commission Expires on July 1, 1982.

DGW/en
D77/22
#726C
DGW:hdi
11/2/81

Rec'd for record NOV 16 1981 at 10th
Per Elmer H. Kahline, Jr., Clerk
Mail to Executive, Title Co. Inc
Receipt No. 40.00-

LAW OFFICES OF
DAVID GRANT
WILLEMANN
SUITE 108,
JEFFERSON BUILDING
105 WEST CHESAPEAKE AVE.
TOWSON, MD. 21204

26

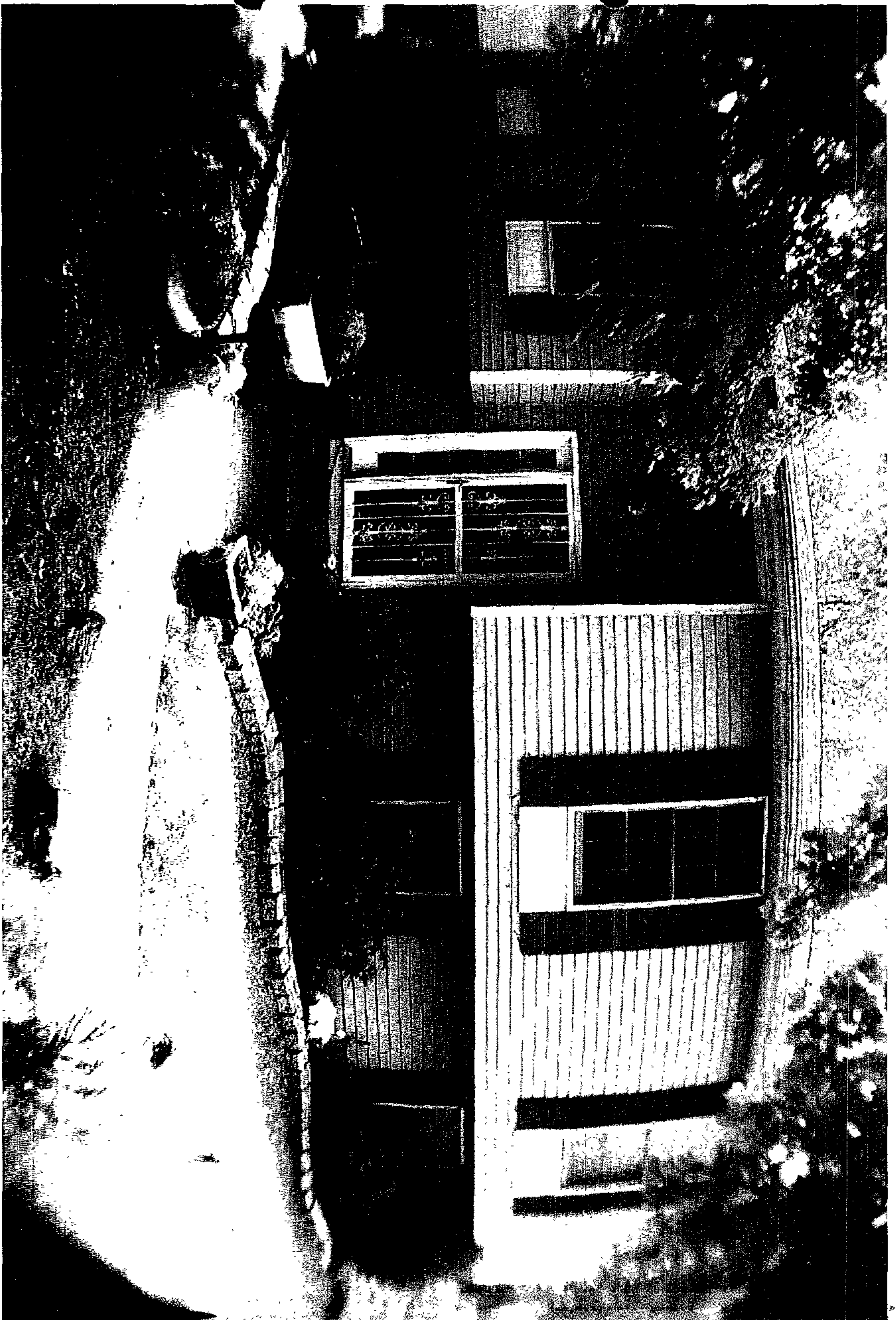
Case # 02-283-A

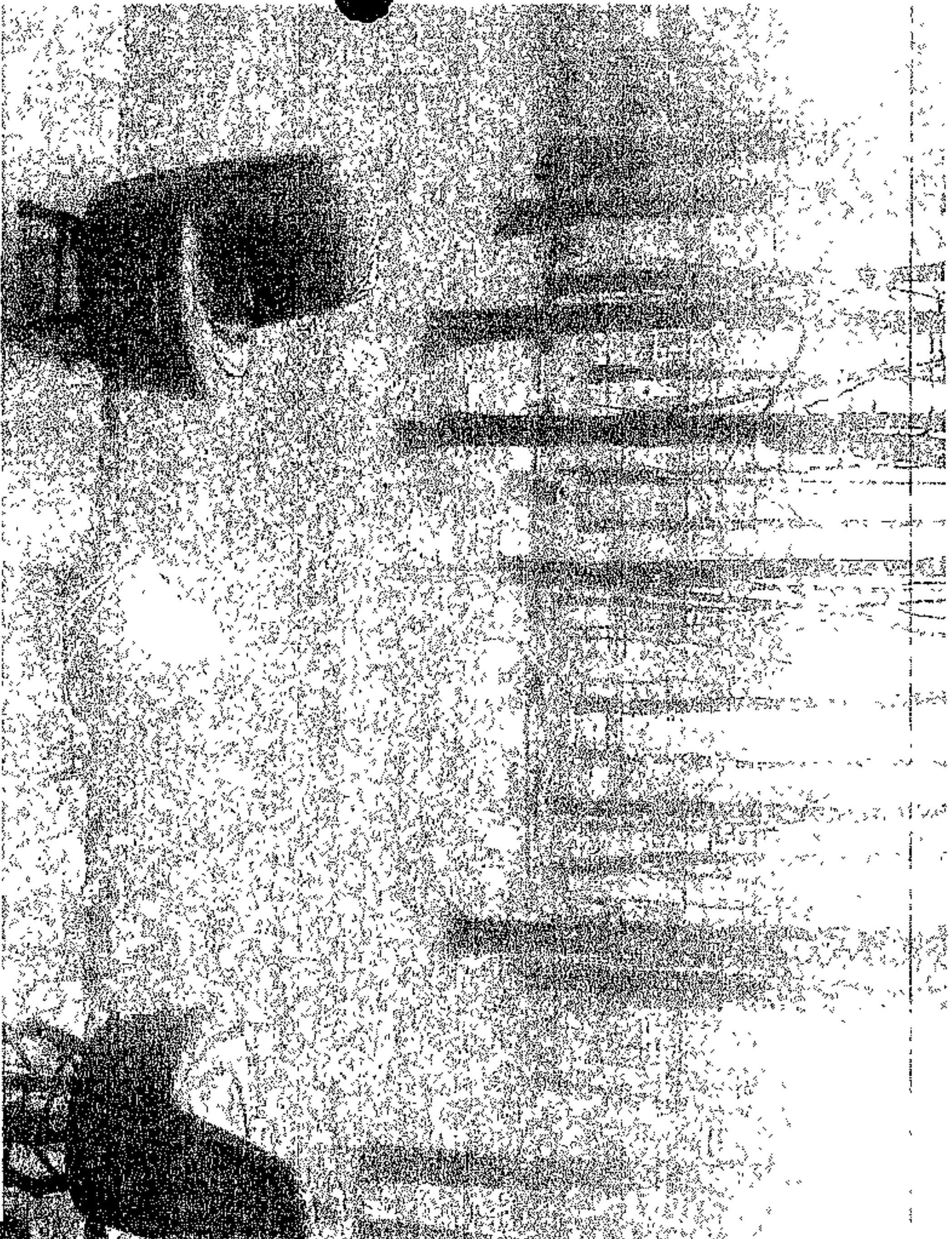


View of trees
from side of
5516 W

PET #3 6/25/02

PET #4 6/25/02





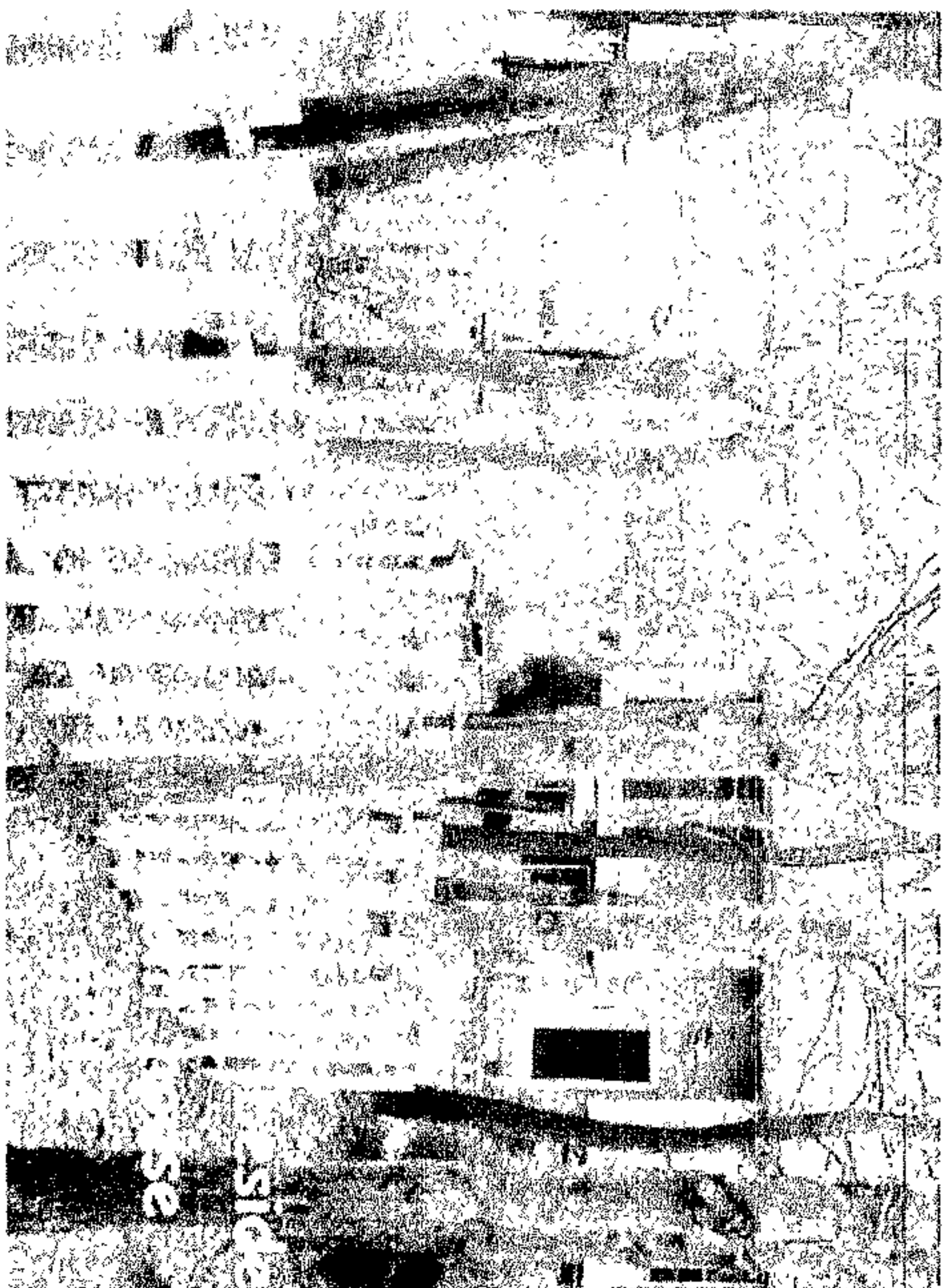
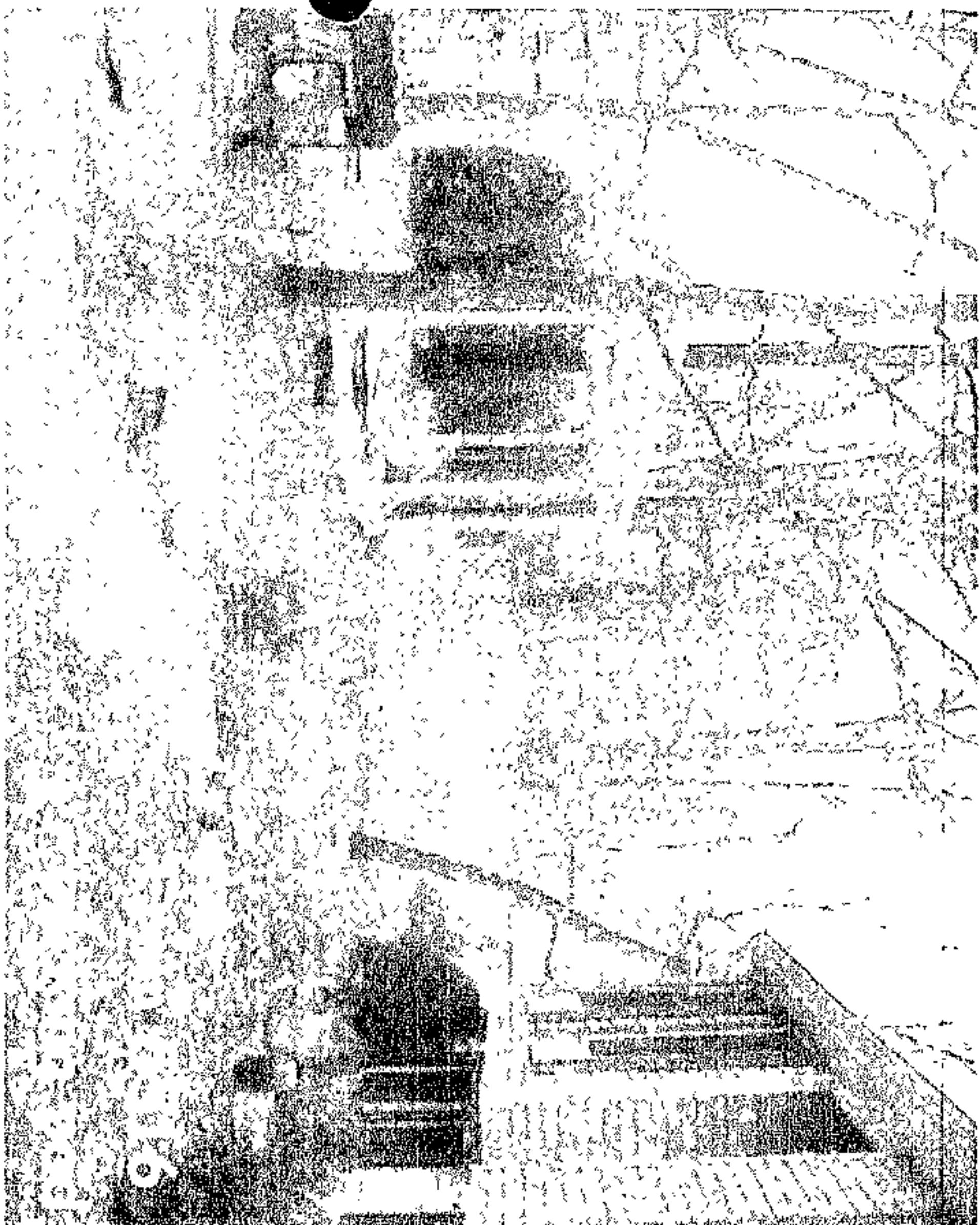
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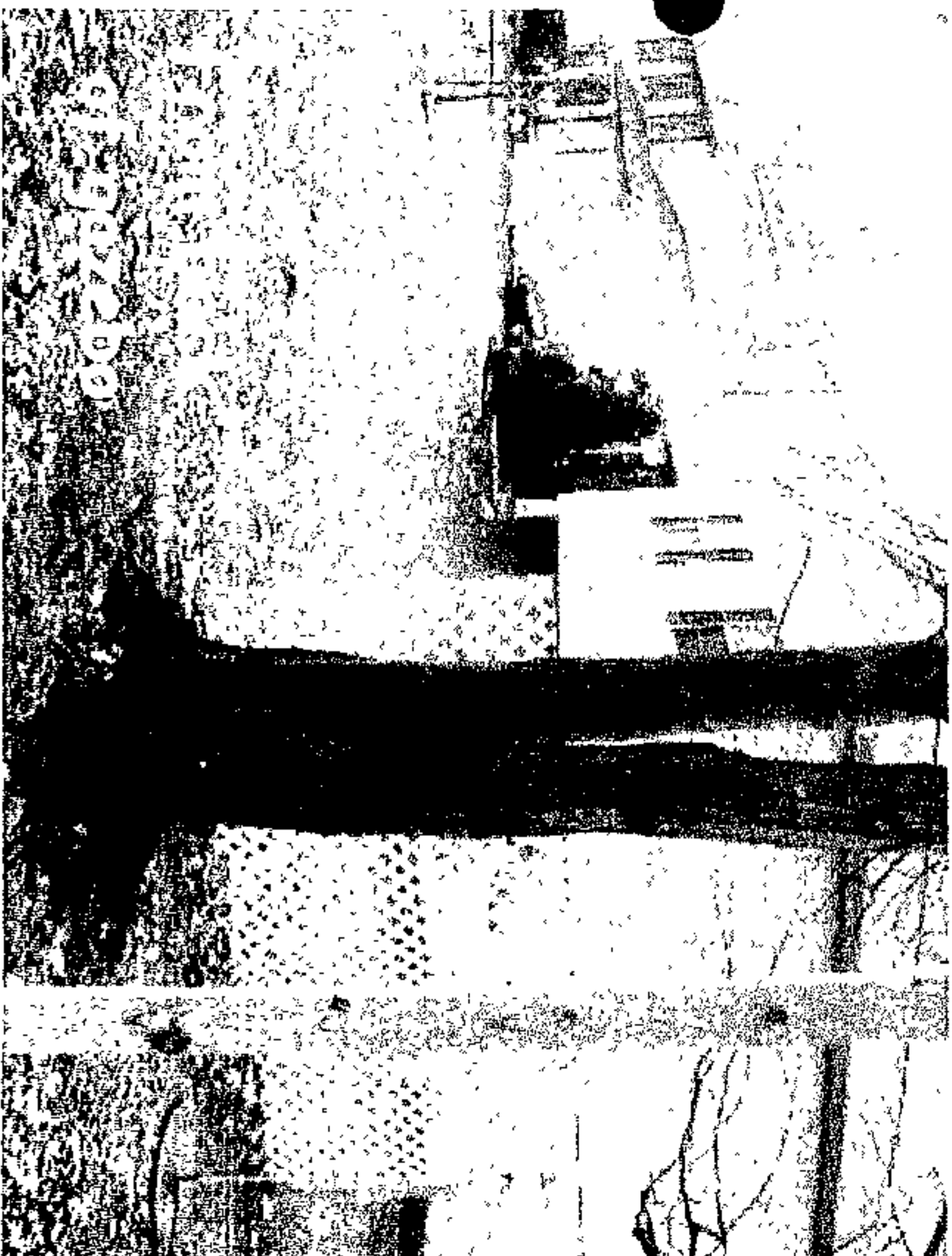
Back yard

5516 McCormick Ave
West

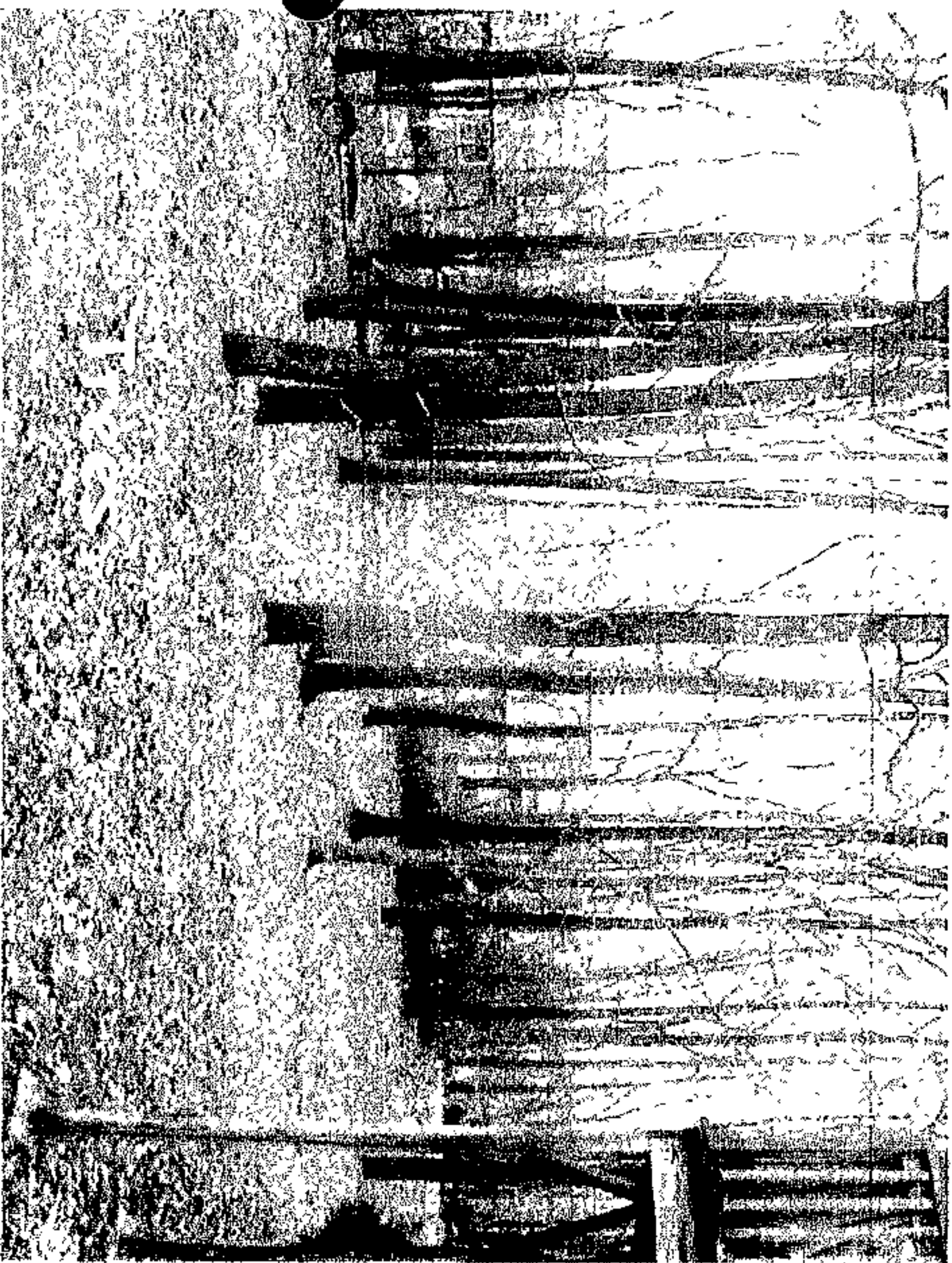
PET #2
6/25/02



Case # 02-283-A 5516 -- Front views

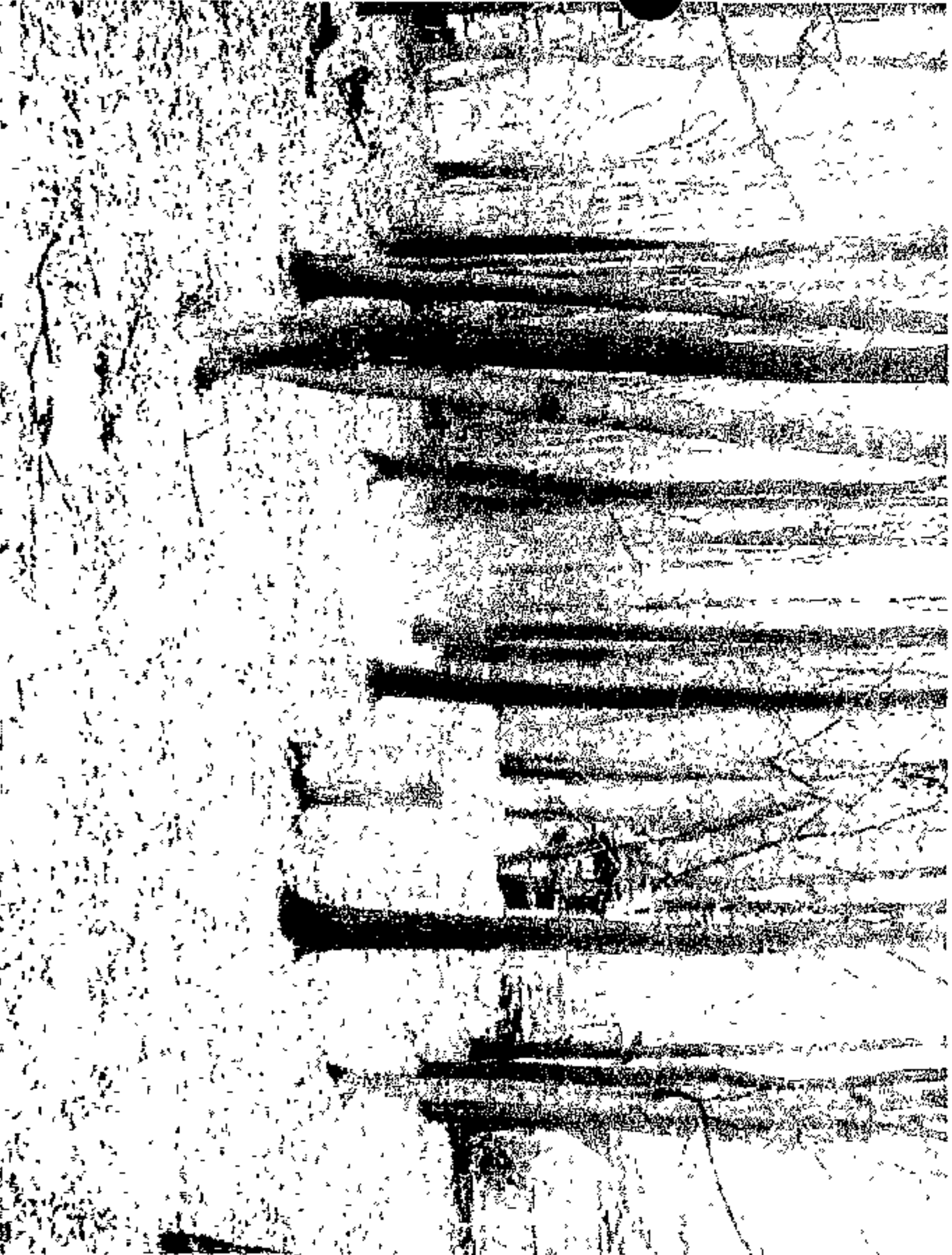


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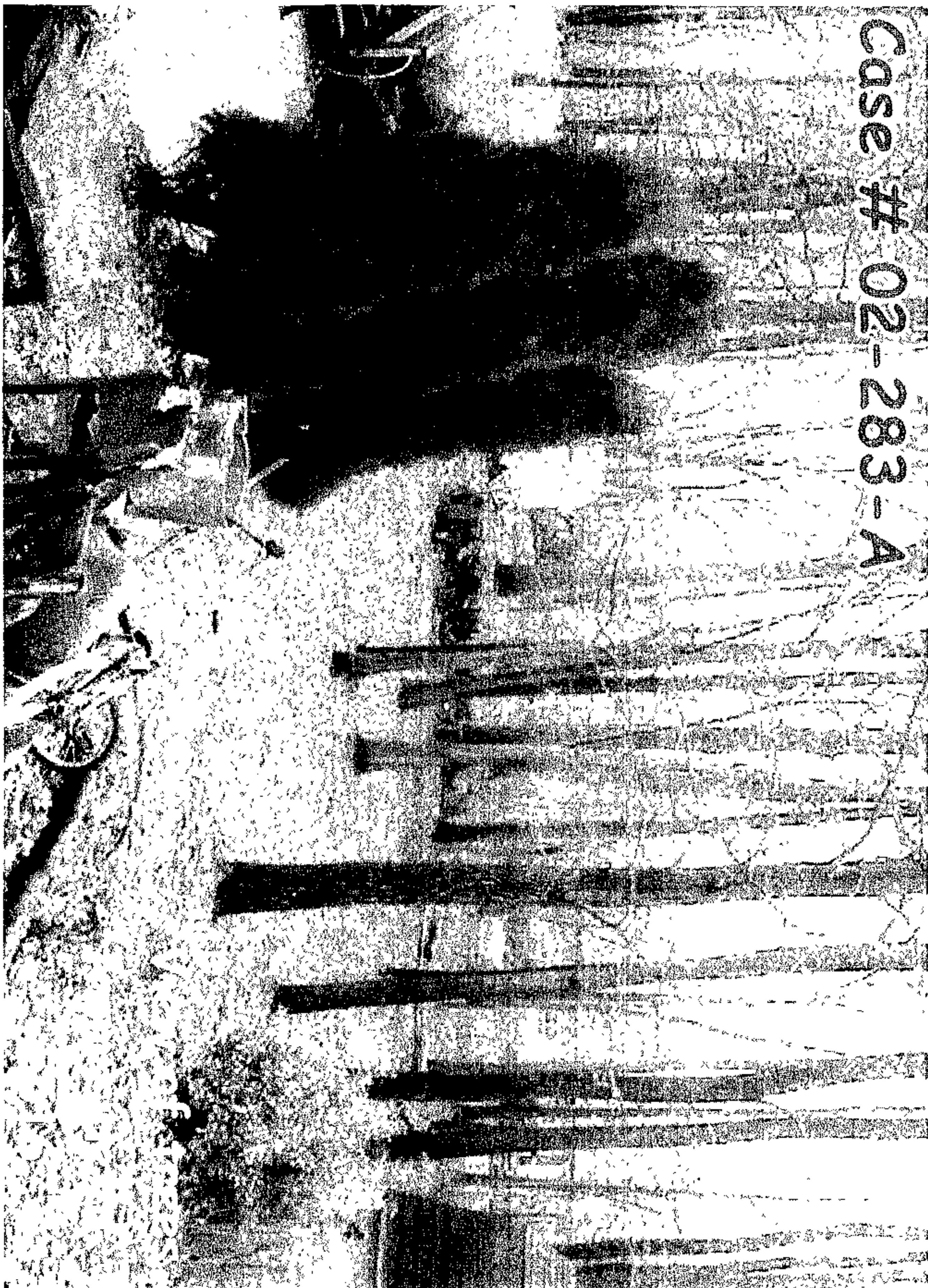
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Case # 02-283-A Back Yard of 5516



Back to front
from property line

Case # 02-283-A



XC

To whom this may concern;

My name is Mr. Delroy Tripps and I would like to say something in reference to this situation. I have lived in the community for nearly five (5) years now and I somewhat know of the neighbors of this dispute. Through the years since I have been a part of this community, my neighbor, who is at the center of this dispute, has helped many, if not all, of the neighbors in the immediate area. Mr. Walker has helped with the kids in the neighborhood by watching over them as they play and often the kids were playing in his front yard. He had helped others in doing small odd jobs and working on and establishing computer systems for the homes.

However, this dispute is about the gazebo that Mr. Walker wants to build in his front yard. This is the issue that has torn apart the fabric that makes our community. Is it that the structure will create an eyesore? Will this structure increase traffic flow into our area? With this structure in the front of his house, I see the same activities going on with it as is going on now. The front yard is used for cookouts and entertaining and I can only assume that the gazebo will be used for the same purpose. Probably all of the more immediate neighbors have stopped by and shared food that was cooked in the front yard. It is sad that this structure has torn apart our neighborhood. It is sad that the gazebo progressed to the point it is now before there was objections filed. Is it possible that in building the structure in the back of his property would have warranted for a couple of trees to be cut down? I don't have answers to the questions and I don't want to pass judgement but did anyone care what Mr. Walker would be doing before this situation? I hope this isn't something that is personal and an all out war is being waged. I like the structure and I believe it will enhance his property. It is truly something different from anything in the area. Whatever the arguments are for and against this structure, our little section of our community will never be the same. It is sad that the pros and cons could not have been ironed out earlier before the time and money was spent to only have the project suspended and placed in the litigation of the County.

I have nothing to gain from this but a lot has been lost already. I hope a resolution will be reached that will be fair and just and I wish for nothing but the best.

Sincerely,
Delroy M. Tripps
Delroy M. Tripps

PET #5 6/25/02

JOHN F. OWINGS ENTERPRISES
REAL ESTATE DEVELOPMENT
P. O. BOX 295
OWINGS MILLS, MARYLAND 21117
410-833-1187
FAX 410-833-7277

6-13-02
Attn: Mrs. Pitts

1-page + Cover

Prot #6 6/25/02

JOHN F. OWINGS ENTERPRISES
REAL ESTATE DEVELOPMENT
P. O. BOX 295
OWINGS MILLS, MARYLAND 21117
410-833-1187
FAX 410-833-7277

TO: THE COURT OF APPEALS
OF BALTIMORE COUNTY
REF: CASE NO. 02-283-A

McCORMICK WOODS WAS ESTABLISHED WITH A DECLARATION OF COVENANTS AND RESTRICTIONS TO INSURE THE BEST USE AND APPROPRIATE DEVELOPMENT AND IMPROVEMENT OF EACH BUILDING SITE. "McCORMICK WOODS" SECTION 1 IS RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY IN PLAT BOOK E.H.K., JR 47 FOLIO 105. THE RESTRICTIONS AND COVENANTS ARE TO RUN WITH THE LAND AND SHALL BE BINDING ON ALL PRESENT AND FUTURE OWNERS AND OCCUPANTS FOR A PERIOD OF TWENTY-FIVE YEARS FROM THE DATE OF RECORDATION OF THESE COVENANTS WHICH WAS RECEIVED FOR RECORD ON NOV. 8th 1981.

THE COVENANT WAS DEVELOPED TO PROTECT THE OWNERS OF THE PROPERTY AGAINST CONDITIONS THAT WILL DEPRECIATE THE VALUE OF THEIR PROPERTY SUCH AS:

- OFFENSIVE TRADE OR ACTIVITY
- BUSINESS ENTERPRISE INVOLVING THE USE OF ANIMALS
- HOMESITES USED AS DUMPING GROUNDS OR STORAGE OF JUNKED CARS
- THE ERECTION OF INAPPROPRIATE AND UN-PROPORTIONED STRUCTURES

THE ARCHITECTURAL COMMITTEE OF McCORMICK WOODS HAS THE RIGHT TO DISAPPROVE THE BUILDING OF THE GAZEBO AT 6618 McCORMICK AVE. I AM IN AGREEMENT WITH THE DENIAL ISSUED MARCH 12th 2002 BY DEPUTY ZONING COMMISSIONER TIMOTHY M. KOTROCO. PERMITTING THE GAZEBO TO BE LOCATED IN THE FRONT YARD OF THE PETITIONER'S PROPERTY WOULD IN FACT HAVE A DETRIMENTAL IMPACT ON THE PROPERTIES OF OTHER HOMEOWNERS. THE ARCHITECTURAL COMMITTEE HAS NOT AND WILL NOT APPROVE THE ERECTION OF A GAZEBO IN THE FRONT YARD OF ANY HOME IN McCORMICK WOODS.

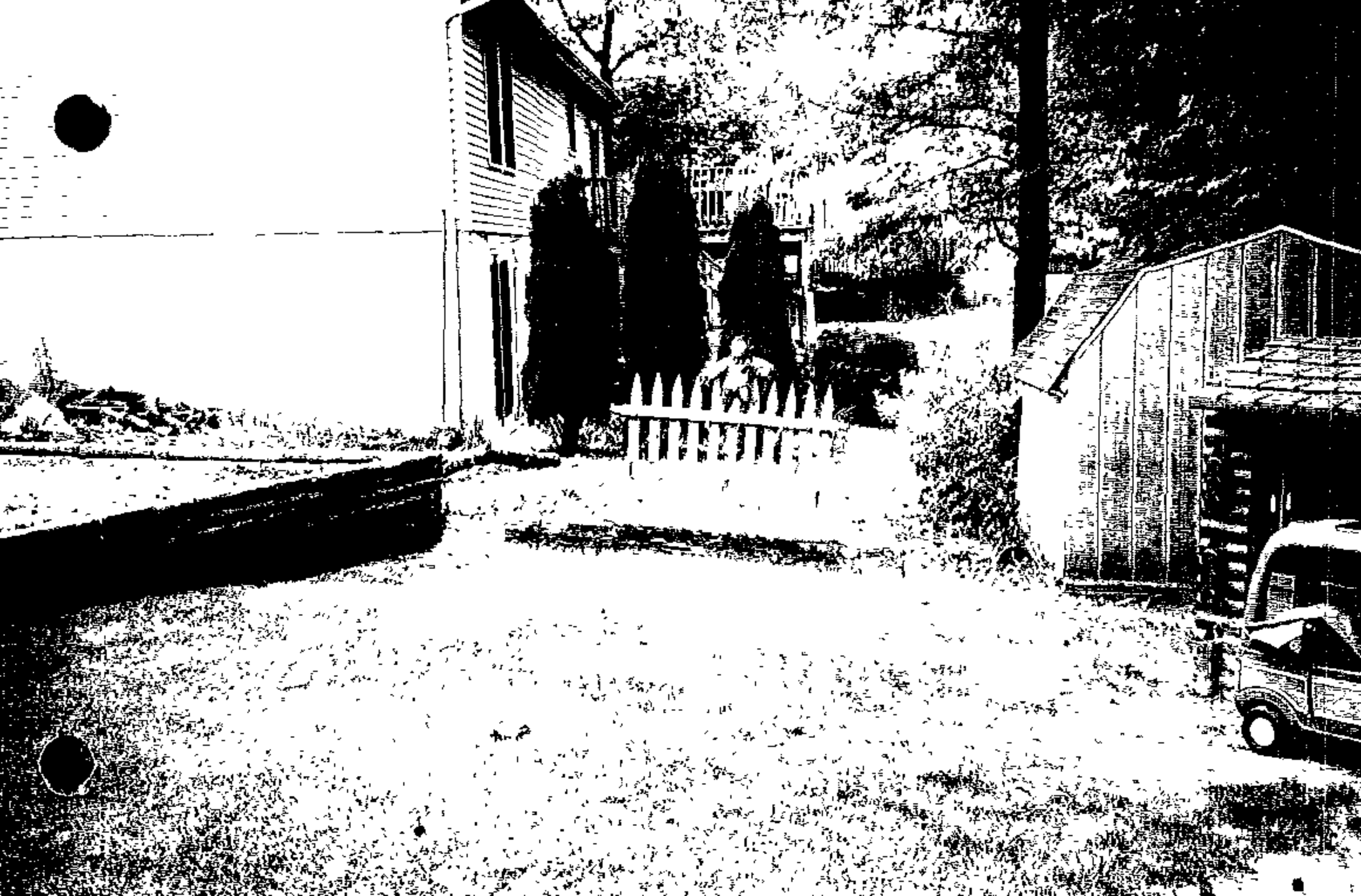
John F. Owings, Jr. 6-13-02











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PROT. #11 6/25/02

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~~Photo taken from Ms. Finn's yard~~

Prot. #5 6/25/02



Photo taken from Ms. Finn's property

PROT #4 6/25/02







PLAT TO ACCOMPANY PETITION FOR ZONING ☒ VARIANCE ☐ SPECIAL HEARING

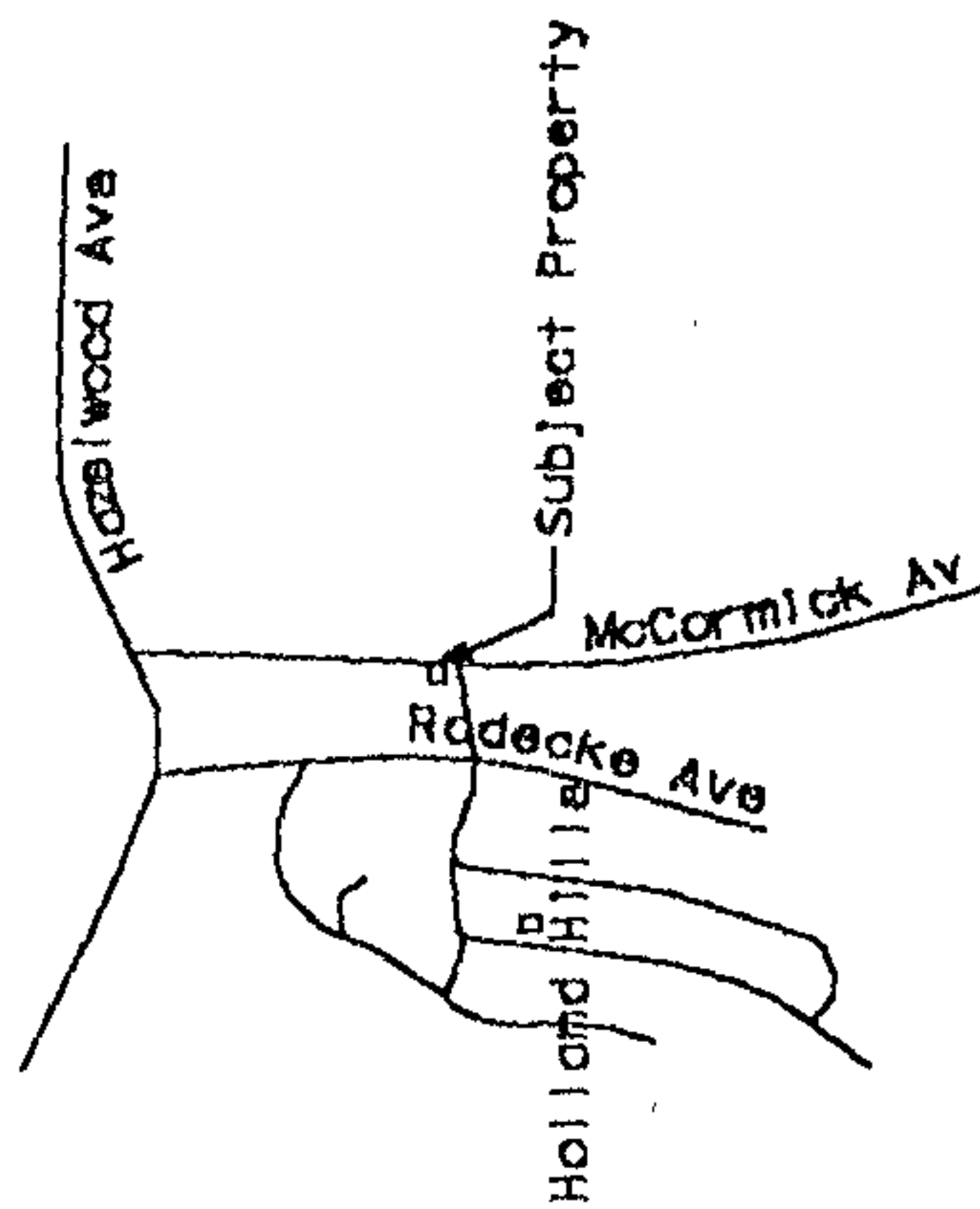
SEE PAGES 5 & 6 OF THE CHECKLIST FOR ADDITIONAL REQUIRED INFORMATION

PROPERTY ADDRESS 5516 MCCORMICK AVE

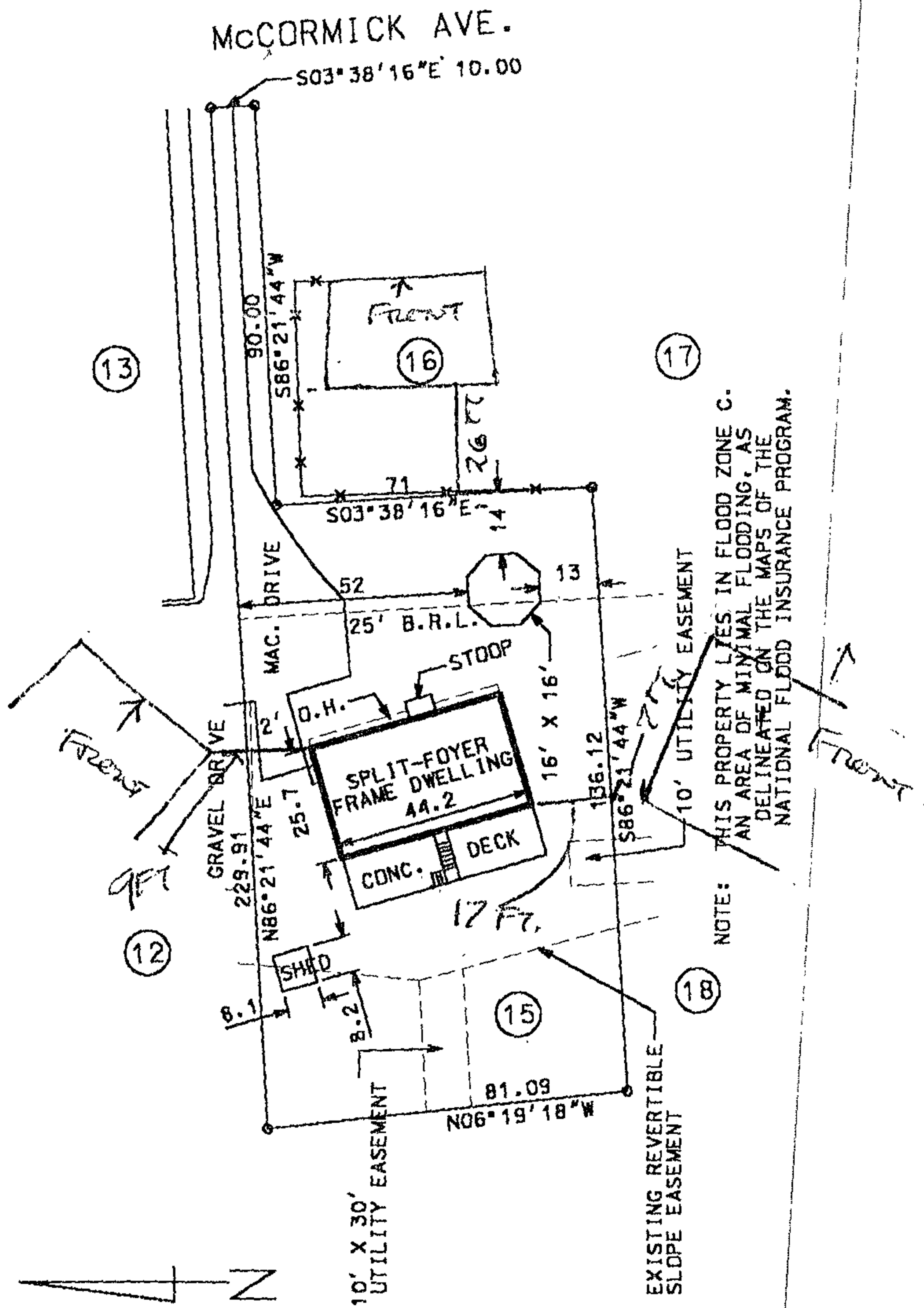
SUBDIVISION NAME McCormick Woods

PLAT BOOK # 47 FOLIO # 125 LOT # 15 SECTION # ONE

OWNER Sheryl Gardner



VICINITY MAP
SCALE 1" = 1000'



LOCATION INFORMATION
ELECTION DISTRICT 14TH
COUNCILMANIC DISTRICT 6TH
1" = 200' SCALE MAP # N.E. 4-E
ZONING D.R. -3.5
LOT SIZE 0.28 12079.67
ACREAGE PUBLIC PRIVATE
SEWER ☒ ☒
WATER ☒
CHESAPEAKE BAY YES ☐ NO ☒
CRITICAL AREA YES ☐ NO ☒
100 YEAR FLOOD PLAIN YES ☐ NO ☒
HISTORIC PROPERTY / BUILDING YES ☐ NO ☒
PRIOR ZONING HEARINGS YES ☐ NO ☒

ZONING OFFICE USE ONLY
REVIEWED BY ITEM # CASE #

PREPARED BY SCALE OF DRAWING: 1" = 50'