

IN RE: PETITION FOR ADMIN. VARIANCE
S/S of Beach Road, 1,400 ft. +/- E
centerline of Stevens Road
11th Election District
5th Councilmanic District
(11311 Beach Road)

Cheryl & Gerald Welsh
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 04-144-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Administrative Variance filed by Cheryl and Gerald Welsh, the legal owners of the subject property. Apparently a neighbor raised some objection and the case was set in for hearing. The variance request is for property located at 11311 Beach Road in the eastern area of Baltimore County. The Petitioners herein seek a variance from Sections 400.1 and 427.B of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit two accessory structures (an above-ground swimming pool with attached deck and a gazebo) to be located in the front yard in lieu of the required rear yard and to permit a fence with a height of 72 inches with zero feet between the fence and front yard property line in lieu of the required 30 ft. separation.

The property was posted with Notice of Hearing on November 3, 2003, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on November 4, 2003 to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 307 of the B.C.Z.R. – *Variances*.

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where

ORDERED
Date 11/24/03
By: [Signature]

special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.”

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: ZAC comments received from the Office of Planning dated October 22, 2003, a copy of which is attached hereto and made a part hereof. ZAC comments received from the Bureau of Development Plans Review dated November 12, 2003. In addition, ZAC comments were received from the Department of Environmental Protection & Resource Management (DEPRM) dated October 20, 2003.

Interested Persons

Appearing at the hearing on behalf of the variance request were Cheryl and Gerald Welsh, the Petitioners in this case. No protestants or other citizens appeared at the hearing. People’s Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

Testimony and evidence indicated that the property, which is the subject of this variance request, is a typical waterfront property, which is located between Beach Avenue and Bird River. The Petitioners testified that the property is improved with a home built in the 1930’s, an above ground swimming pool and gazebo. The Petitioners bought the property five years ago and all

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11/24/03
BY [Signature]

structures mentioned above were existing then as shown in the photos marked Petitioner's Exhibit No. 2, except the privacy fence along the property owned by Mr. Lee. Testimony indicated that the pool and gazebo have been on the property for many years prior to the Petitioners' purchase of the site. The Planning Office had no objection to a variance for either the pool or the gazebo.

The fence is the only controversy in this case. It seems that the Petitioners erected a 6 ft. high stockade privacy fence along the Lee side of the property without a permit. Apparently, Mr. Lee complained, the fence was removed, and it is now the subject of a variance request. The Petitioners testified that they had an identical fence on the other side of their property that was apparently erected without complaint. They simply wanted to complete the privacy fence to allow them to fully enjoy their property without the continuous scrutiny of their neighbor, Mr. Lee. It is fairly obvious that the Welsh's and Mr. Lee are in fairly continuous conflict over the fence issue and perhaps other issues as well. Complicating their relationship is the fact that the Lee home is only 2 1/2 ft. from the property line. In addition, it seems as though a row of robust evergreen trees which had shielded the Welsh's from the Lee property had mysteriously died all in a row and all at one time. See the evergreens in Petitioners' Exhibit No. 2 (2M, 2N and 2O). The Lee home is the white sided building. Compare this to Exhibit Nos. 2 I, 2J and 2K that depict the present scene.

To add to the confusion, Mr. Welsh testified that the County has defined his front yard to be the area between his home and Bird River and his back yard to be the area between his home and Beach Avenue. The reviewer who took the Welsh application for these variance requests indicated that the fence variance was for the "front" yard.

11/24/03
R. G. [Signature]

Amendment To Petition/Clarification

Mr. Welsh, however, was very certain that this was a mistake on the zoning reviewer's part. Mr. Welsh indicated that the fence from his home to Beach Avenue was actually the item in question. He believed that he had every right to build a privacy fence between his house and Bird River along the Lee property line without a variance. Consequently, he amended his request at the hearing changing the relief requested to ..."permit a fence with a height of 72 inches with zero feet between the fence and the rear yard property line..." which I understand to mean a fence between his home and Beach Avenue. I may have misled Mr. Welsh on this point. In my reading of the petition I felt the word "front" referred to the Welsh property. However, in reviewing Section 427 A, I note that the regulation refers to the "front yard of another" which obviously refers to the Lee property in this case. Mr. Welsh also testified that whereas the County had declared the Bird River side of his home to be his front yard, they reversed themselves on Mr. Lee's property declaring the Bird River end of the Lee home is his back yard and the Beach Avenue end is the front yard of the Lee property. The Petitioners' photographs of Mr. Lee's property support this very unusual situation. Consequently, the Welsh's were building a fence in the front yard of the Lee home in violation of Section 427. The issue for this case then is the fence along the Lee property between the Welsh foundation and Beach Avenue.

The Planning Office comment recommends the variance for the fence be denied on the basis that it may block the view presumably of Mr. Lee. The comment refers to the attraction of living on the waterfront and so it follows that the issue, from the Planning Office perspective, is the fence along the Lee property between the Bird River and the Petitioners' home. On the

11/24/03
[Handwritten signature]

other hand, the comment indicates the fence erected in the rear of the Petitioners' home should be taken down indicating the fence from the Petitioners' house to Beach Avenue is the problem.

Mr. Welsh also testified that a lower fence would not achieve their privacy goals as their property would still be visible from Mr. Lee's living room which they view as a constant irritant. He also pointed out that the location of Mr. Lee's home only 2 ½ feet from the property line is not his fault. It is also not likely to be Mr. Lee's fault either. It just is, but it amplifies the problem significantly.

Finding of Fact the Conclusions of Law

Section 427 A specifies that a residential occupancy fence may not be erected in the rear or side yard of a lot which adjoins the front yard of another on which a residence has been built except as described in Section B. Section B specifies that fences over 30 feet from the front property line are exempt from the height restriction. Again, the only fence at issue is the fence running along the Lee property line from the Welsh foundation to Beach Avenue.

The reason for Mr. Lee's objections to this fence is simply unknown. It is not a view of the water, but rather a view at most of the Welsh's walkway and garage. Unfortunately, Mr. Lee did not attend the hearing to explain not only why, but to what extent he objects to the fence. Perhaps a 60-inch fence would be acceptable whereas a 72-inch fence would not. Again, I do not know.

One almost has to take judicial notice of the problem a 6 ft. fence would have on the water end of the properties. This water view is why people pay exorbitant prices for such lots. However, I can not give such status to a fence which undoubtedly will cut off Mr. Lee's view of a tiny portion of the Welsh property near Beach Road. It is not the Welsh's fault or problem

ORDER
Date 11/24/03
By R. Gannon

that Mr. Lee's home is so close to the property line. This fact greatly limits Mr. Lee's views toward the water and street.

More importantly, assuming that Petitioners' Exhibit No. 1 is reasonably to scale, (40 feet to 1 inches), I have marked in red 30 ft. from the front of the Lee property on Petitioners' Exhibit No. 1. The entire boundary is 220 ft. in length. Thirty feet is only 13.6 % of the total. As can be seen, 30 ft. is an insignificant portion of the overall length of the Lee/Welsh boundary. The Welsh's can build the 72-inch fence within 30 ft. of the Lee front yard property line without a variance. This would cut off all but a tiny view of the Welsh property from Mr. Lee's home. *What is left of the view concerning the last 30 ft. is of virtually no consequence to either the Welsh's or Mr. Lee.*

I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. Among these are that the pool and gazebo already existed when purchased by the Petitioners. In regard to the fence, I find that the location of the Lee home so close to the property line exacerbates the need for privacy on the Welsh property. I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. The Welsh's have the pool and gazebo and it would be costly to remove them and it would significantly lessen the value of the Welsh property to not allow them on the property. In regard to the fence, I find that the Welsh's would suffer significant loss in the use of their home and property if the full 72-inch fence were not allowed. No increase in residential density beyond that otherwise allowable by the Zoning Regulations was requested. Furthermore, I find that these variances can be granted in strict harmony with the spirit and intent of the regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. In particular, the Welsh's can

11/24/03
W. R. Johnson

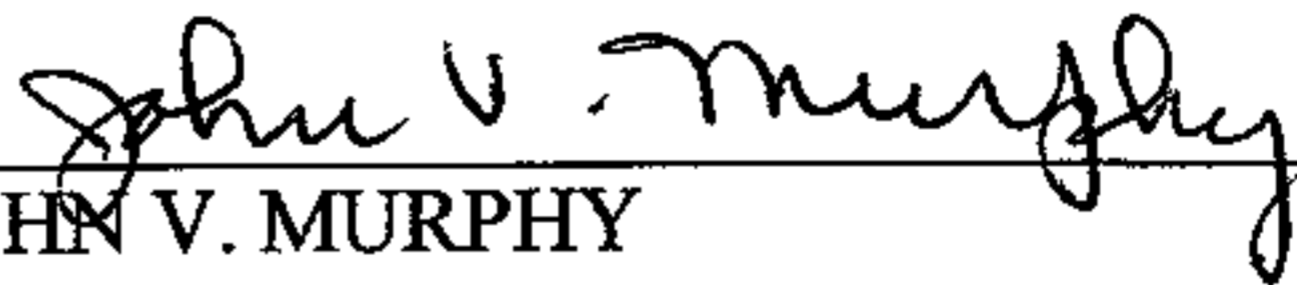
build a 72-inch high fence for almost the entire length of the boundary with Mr. Lee without a variance. What little is left (remaining 30 ft.) simply presents no practical impact on Mr. Lee or the neighborhood.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' variance requests should be GRANTED.

THEREFORE, IT IS ORDERED, this 24 day of November, 2003, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Sections 400.1 and 427.B of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit two accessory structures (an above-ground swimming pool with attached deck and a gazebo) to be located in the front yard in lieu of the required rear yard, be and it is hereby GRANTED.


IT IS FURTHER ORDERED, that the variance to permit a fence with a height of 72-inches with zero feet between the fence and front yard property line in lieu of the required 30 ft. separation, be and it is hereby GRANTED.

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



JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

ORDER
Date 11/24/03
By 

IN THE MATTER OF
THE APPLICATION OF
GERALD AND CHERYL WELSH -LEGAL
OWNERS /PETITIONERS FOR VARIANCE
ON PROPERTY LOCATED ON THE S/S OF
BEACH RD, 1400' +/- E OF C/L OF STEVENS
ROAD (11311 BEACH ROAD)
11TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 04-144-A

* * * * *

OPINION

This case comes to the Board based upon an appeal from a decision of the Deputy Zoning Commissioner of Baltimore County issued under date of November 24, 2003, in which the Deputy Zoning Commissioner granted a variance permitting the construction of a fence with a height of 72 inches with 0 feet between the fence and the property line and permitted two accessory structures (an above-ground swimming pool with attached deck and a gazebo) to be located in the front yard in lieu of the required rear yard. The appeal was entered by Mr. Samuel Lee and his wife Mrs. Joanne M. Lee (hereinafter "Appellant[s]") on December 22, 2003. The Board held a public hearing on this matter on May 18, 2004. A public deliberation followed on July 20, 2004. Present at the public hearing were Gerald Welsh and Cheryl Welsh (hereinafter "Petitioner[s]") and the Appellant.

In the Board hearing held on May 18, 2004, both Mr. Gerald Welsh and Mr. Samuel Lee delivered opening statements. Neither the Petitioner nor the Appellant chose to be represented by counsel at the hearing. At that time, it was made clear to this Board that the only issue on appeal from the decision of the Deputy Zoning Commissioner was

the requested variance from the permitted fence height. Mr. Welsh stated that he was simply trying to match the 6-foot fence that is already constructed on the other side of his property. He also indicated that he had a valuable piece of waterfront property and that the creation of privacy was important for his family to enjoy the property. Mr. Lee indicated that the 6-foot fence would be an unsightly addition to his front yard. He also indicated that he did not attend the zoning hearing due to some confusion over the date of the hearing.

After the opening statements, Mr. Welsh, Petitioner, delivered his testimony. He stated that the key issue was that, for zoning purposes, Baltimore County has classified Petitioner's yard that faces the Bush River as his back yard. However, the County has declared Mr. Lee's yard that faces Bush River as his front yard. Mr. Welsh indicated that his property is 150 feet wide and that he has a 6-foot fence on one side of his property that drops to 4 feet in height, and that he is simply trying to match that fence on the property line adjacent to the Lee property. Petitioner believes that the fence will have no impact of Appellant's view of the waterfront and entered into evidence numerous pictures presenting different views of the property (Petitioner's Exhibits 1A-1-S), as well as a plat of the property (Petitioner's Exhibit 2).

During the cross examination, Appellant, Samuel Lee, asked Mr. Welsh to identify where the kitchen was located in his home. He indicated that it was near the roadside front of the home. He also asked the Mr. Welsh if his garage was located on the roadside of the property and he indicated that was the case. Mr. Lee also raised a question as to

what had happened to the trees along the property line, and Mr. Welsh indicated that they had contracted a disease and died.

At the conclusion of Petitioner's testimony and cross-examination, Mr. Samuel Lee took the stand on behalf of the Appellants. Mr. Lee testified that he purchased the home in 1990 because it had a great view of the river. He stated that the construction of the proposed 6-foot fence would deprive his family of a waterfront view from his kitchen window. He cited § 427 of the BCZR that limits fences in the front yard to 42 inches and also stated that his house was approximately 40 feet closer to the water than the house on the other side of the Welsh property, making a comparison of the view over the fence by the two homes irrelevant. The Appellant introduced several pictures of his property and the Welsh property into evidence (Appellant Exhibits 1A-1F). He also introduced a letter from John R. Reisinger, Buildings Engineer for Baltimore County, responding to a request for a waiver of the fence height limitations in the *Baltimore County Building Code* (Appellants Exhibit 2), as well as a sketch that he drew of the property and some additional pictures of the Welsh property (Appellants Exhibits 3 and 4).

During his cross-examination of Mr. Lee, Mr. Welsh asked him if his view would truly be obstructed by the intended fence, and Mr. Lee continued to maintain that it would.

The B.C.Z.R. permits the granting of a variance of this regulation upon certain terms and conditions. The Board must determine whether or not special circumstances or conditions exist that are peculiar to the land that is the subject of the variance requested,

and, if so, whether strict compliance with 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 by 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.

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 upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has 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.

The Board considered all of the testimony in its public deliberation which was held on July 20, 2004, and, based upon the testimony and evidence presented, the Board found

that the property in question is unique. The proximity of the property lines meets the unique standard; but, perhaps even more important is the fact that the County considers the roadside of some of the properties in the area to be the front yard, but considers the same roadside lots of other properties to be the back yard, which creates a unique situation. The same is true for the portions of properties that face the river; some of those yards are considered back and some are considered front. The Board also concluded that Mr. Lee's view of the waterfront would not be harmed by the construction of the 6-foot fence.

Having found that this property is in fact unique, this Board further believes that strict compliance with the *Baltimore County Zoning Regulations* would create an undue hardship on the Petitioners.

Therefore, it is the unanimous decision of this Board to grant the request for variance seeking relief from the §§ 400.1 and 427.B of the B.C.Z.R that would allow construction of a fence with a height of 72 inches with 0 feet between the fence and front-yard property line.

ORDER

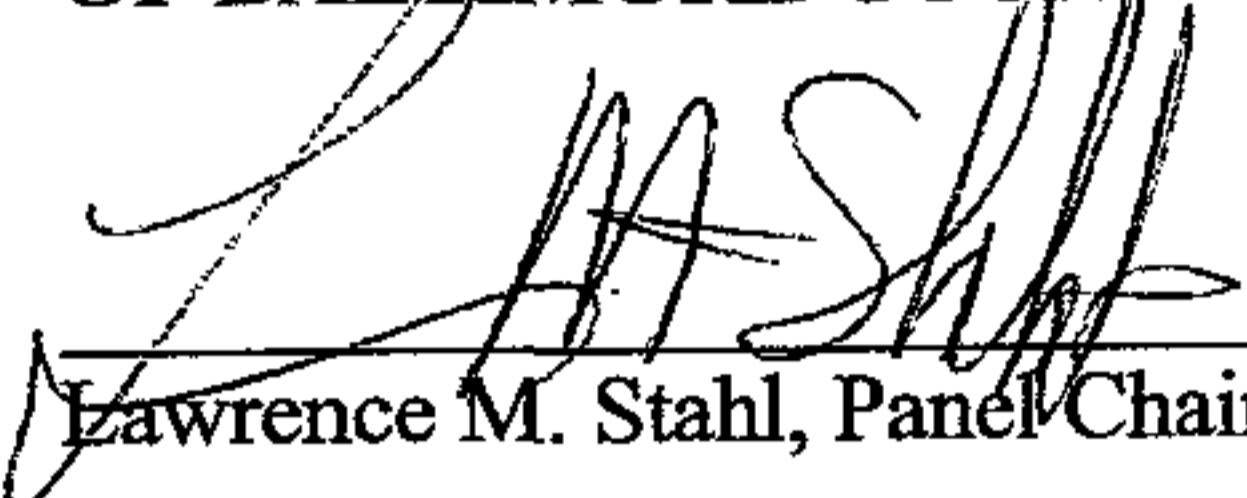
THEREFORE, IT IS THIS 27th day of August, 2004 by the
County Board of Appeals of Baltimore County

ORDERED that Petitioners' request for variance to permit a fence with a height of 72 inches with 0 feet between the fence and front yard property line in lieu of the required

30 feet separation be and is hereby **GRANTED**, with the Order of the Deputy Zoning Commissioner remaining the final Order as to any other relief granted in that Order.

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*.

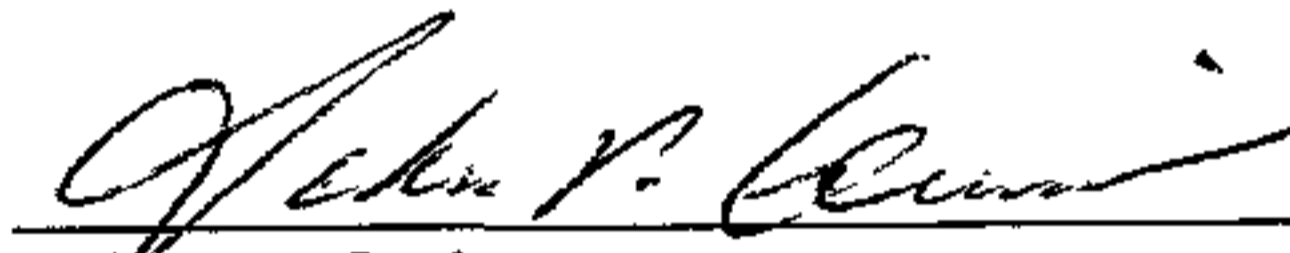
**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence M. Stahl, Panel Chair



Donald I. Mohler III



John P. Quinn



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 27, 2004

Mr. and Mrs. Samuel Lee
11313 Beach Road
White Marsh, MD 21162

RE: *In the Matter of: Gerald and Cheryl Welsh*
Legal Owners /Petitioners Case No. 04-144-A

Dear Mr. and Mrs. Lee:

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.** 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 that reads "Kathleen C. Bianco".

Kathleen C. Bianco
Administrator

Enclosure

c: Gerald and Cheryl Welsh
Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM



Zoning Commissioner

Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
Tel: 410-887-3868 • Fax: 410-887-3468



Baltimore County

James T. Smith, Jr., County Executive
Lawrence E. Schmidt, Zoning Commissioner

November 24, 2003

Mr. & Mrs. Gerald Welsh
11311 Beach Road
White Marsh, Maryland 21162

Re: Petition for Variance
Case No. 04-144-A
Property: 11311 Beach Road

Dear Mr. & Mrs. Welsh:

Enclosed please find the decision rendered in the above-captioned case. The petition for variance has been granted 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 that reads "John V. Murphy".

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

Copy to: L. Lee
11313 Beach Rd
Balto. MD 21162

Visit the County's Website at www.baltimorecountyonline.info





Fluvol B.C.A. Petition for Variance

to the Zoning Commissioner of Baltimore County
for the property located at 11311 BEACH RD.
which is presently zoned RC-2

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 and 427.B to permit two accessory structures (an above-ground swimming pool with attached deck and a gazebo) to be located in the front yard in lieu of the required rear yard, and to permit a fence with a height of 72 inches with zero feet between the fence and front yard property line in lieu of the required 30 feet separation.

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

Pool and Gazebo Where there when we purchased the home 5 years ago.

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 _____

Case No. 64-144-A

Legal Owner(s):

George Edward Welsh
Name - Type or Print _____
George Welsh Cheryl Skelton
Signature _____
Cheryl Welsh
Name - Type or Print _____
Cheryl Skelton
Signature _____
11311 BEACH RD. 410 335-1806
Address _____ Telephone No. _____
White Marsh MD 21162
City _____ State _____ Zip Code _____

Representative to be Contacted:

Name _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By _____ Date _____

Zoning Description

11311 Beach Rd.

Beginning at a point on the south side of Beach Rd. at a point 1400 ft. \pm East of the centerline of Stevens Rd. Being known as lot nos. 21 & 22 in the subdivision of Bird River Beach as recorded in Balto. Co. Plat Book 7 Lien folio 187 containing 0.552 acres \pm and located in the 11th Election District

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: #04-144-A

11311 Beach Road

S/Side of Beach Road, 1,400 feet east centerline of Stevens Road

11th Election District - 5th Councilmanic District

Legal Owner(s): Gerald and Cheryl Welsh

Variance: to permit two accessory structures for above-ground swimming pool with attached deck and a gazebo to be located in the front yard in lieu of the required rear yard, and to permit a fence with a height of 72 inches with zero feet between the fence and front yard property line in lieu of the required 30 feet separation.

Hearing: Wednesday, November 19, 2003 at 11:00 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.

JT/11/611 Nov. 4

C635202

CERTIFICATE OF PUBLICATION

11/5/2003

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 11/4/2003.

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



LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 29388

DATE 9/23/03 ACCOUNT K001.006.6150

AMOUNT \$ 65.80

RECEIVED FROM: Conrad

FOR: Zoning Verification

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

Item # 144

PAID RECEIPT

9/23/2003 9/23/2003 10:31:32 5
BUSINESS ACTIN TIME DKN
RECEIPT # 329660 9/23/2003 DFLN
DEPT 5 528 ZONING VERIFICATION
CR NO. 029388

Receipt Tot \$65.00
65.00 OK
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 23064

DATE 12/29/03 ACCOUNT 0010006-6150
AMOUNT \$ 300.00 CU

RECEIVED FROM: Amber James of yr
FOR: Appeal

042144A

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS ACTUAL TIME DRG
7/05/2004 1/05/2004 0927124 2
REG MS02 MILL JEVI ICE
PROPERTY # 314090 1/05/2004 OPEN
DEPT 5 528 ZINING VERIFICATION
SR NO. 023064

Receipt Tot \$500.00
\$300.00 DX \$100.00 CR
Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No.: 04-144-A

Petitioner/Developer: GETLARD AND
CHERYL WELSH

Date of Hearing/Closing: NOV 19, 2003

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

ATTN: Becky Hart {(410) 887-3394}

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:

11311 BEACH RD

The sign(s) were posted on

11/3/03
(Month, Day, Year)

Sincerely,

[Signature] 11/3/03
(Signature of Sign Poster) (Date)

SSG Robert Black

(Print Name)

1508 Leslie Road

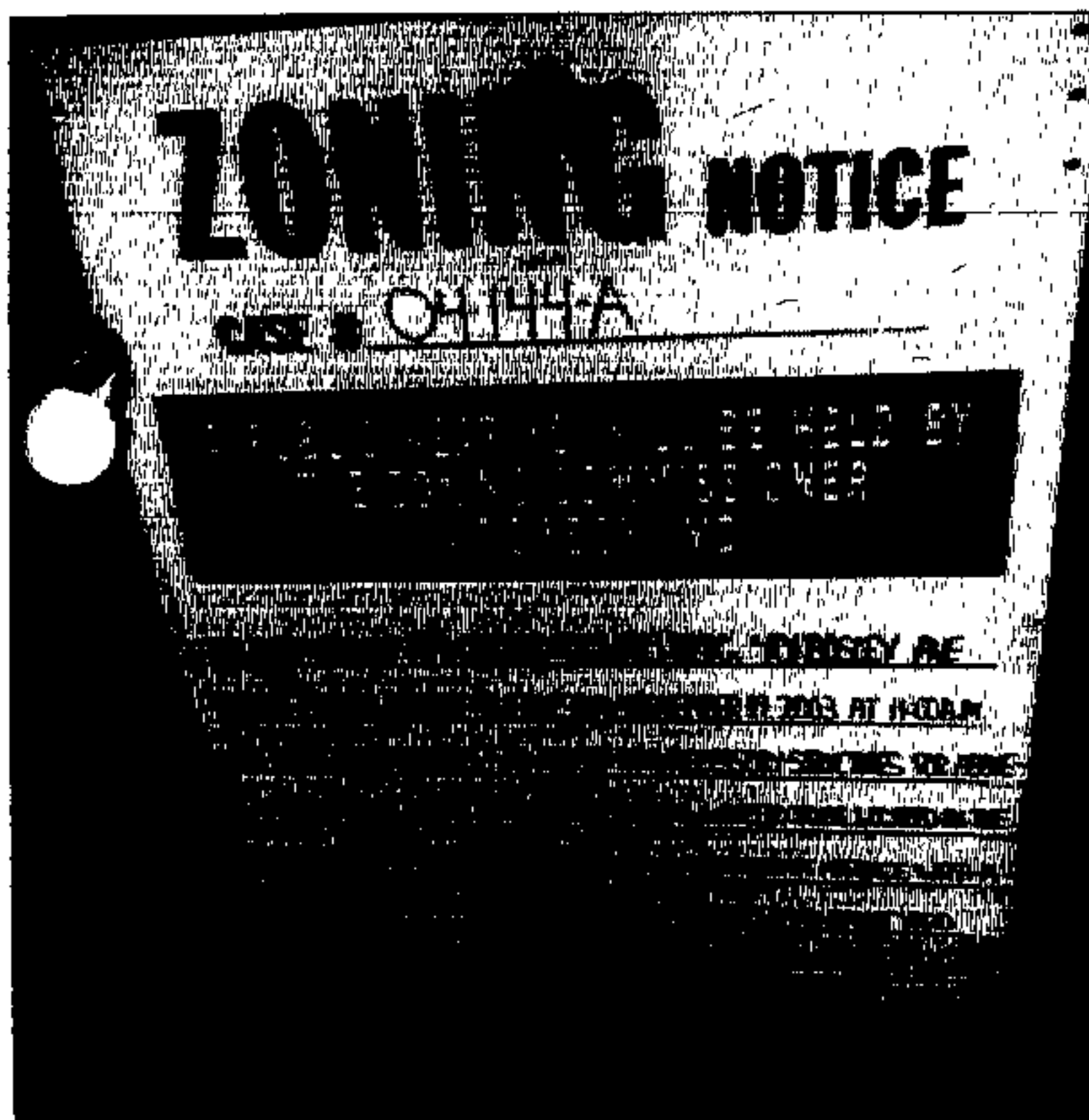
(Address)

Dundalk, Maryland 21222

(City, State, Zip Code)

(410) 282-7940

(Telephone Number)



APPEAL SIGN POSTING REQUEST

CASE NO.: 04-144-A

GERALD AND CHERYL WELSH

11311 BEACH ROAD, WHITE MARSH, MD 21162

11TH ELECTION DISTRICT

APPEALED: 12/22/2003

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

30B9

APPEAL SIGN POSTING REQUEST

CASE NO.: 04-144-A

GERALD AND CHERYL WELSH

11311 BEACH ROAD, WHITE MARSH, MD 21162

11TH ELECTION DISTRICT

APPEALED: 12/22/2003

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

CASE NO.: 04-144-A

Petitioner/Developer:

GERALD AND CHERYL WELSH

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

11311 BEACH ROAD, WHITE MARSH, MD 21162

The sign was posted on 2/4, 2004

By: *Gary Freund*
(Signature of Sign Poster)

GARY FREUND
(Printed Name)



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

October 10, 2003

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: 04-144-A

11311 Beach Road

S/side of Beach Road, 1, 400 feet east centerline of Stevens Road

11th Election District – 5th Councilmanic District

Legal Owners: Gerald and Cheryl Welsh

Variance to permit two accessory structures for above-ground swimming pool with attached deck and a gazebo to be located in the front yard in lieu of the required rear yard, and to permit a fence with a height of 72 inches with zero feet between the fence and front yard property line in lieu of the required 30 feet separation.

Hearings: Wednesday, November 19, 2003, at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

TK:klm

C: Gerald and Cheryl Welsh, 11311 Beach Road, White Marsh 21162

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, NOVEMBER 4, 2003.**
- (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.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, November 4, 2003 Issue - Jeffersonian

Please forward billing to:
Gerald and Cheryl Welsh
11311 Beach Road
White Marsh, MD 21162

410-335-1806

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: 04-144-A

11311 Beach Road
S/side of Beach Road, 1, 400 feet east centerline of Stevens Road
11th Election District – 5th Councilmanic District
Legal Owners: Gerald and Cheryl Welsh

Variance to permit two accessory structures for above-ground swimming pool with attached deck and a gazebo to be located in the front yard in lieu of the required rear yard, and to permit a fence with a height of 72 inches with zero feet between the fence and front yard property line in lieu of the required 30 feet separation.

Hearings: Wednesday, November 19, 2003, at 11:00 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.

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: 04-144-A
Petitioner: GERALD AND Cheryl Welsh
Address or Location: 11311 BEACH RD. White Marsh Md. 21162

PLEASE FORWARD ADVERTISING BILL TO:

Name: GERALD AND Cheryl Welsh
Address: 11311 BEACH RD.
White Marsh Md. 21162
Telephone Number: 410-335-1806

Revised 2/20/98 - SCJ



County Board of Appeals of Baltimore County

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

May 18, 2004

NOTICE OF DELIBERATION

IN THE MATTER OF:

GERALD AND CHERYL WELSH - Petitioners
Case No-04-144-A

Having heard this matter on 5/18/04, public deliberation has been scheduled for the following date /time:

DATE AND TIME : **TUESDAY, JULY 20, 2004 at 9:00 a.m.**

LOCATION : **Hearing Room 48, Basement, Old Courthouse**

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

c: Appellants /Protestants : Samuel L. and Joanne M. Lee

Petitioners : Gerald and Cheryl Welsh

Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM

Copy to: 2-6-1





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

April 9, 2004

NOTICE OF ASSIGNMENT

CASE #: 04-144-A

IN THE MATTER OF: *GERALD AND CHERYL WELSH* -Legal Owners
Petitioners 11311 Beach Road
11th Election District; 5th Councilmanic District

11/24/2003 – D.Z.C.'s Order in which requested variance relief was
GRANTED.

ASSIGNED FOR:

TUESDAY, MAY 18, 2004 at 11:00 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: Appellants /Protestants : Samuel L. and Joanne M. Lee
Petitioners : Gerald and Cheryl Welsh

Office of People's Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM





Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

November 14, 2003

Gerard Welsh
Cheryl Welsh
11311 Beach Road
White Marsh, MD 21162

Dear Mr. and Mrs. Welsh:

RE: Case Number: 04-144-A, 11311 Beach Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on September 23, 2003.

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,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." with a small star above the "i" in "Richards".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:klm

Enclosures

c: People's Counsel



Printed with Soybean Ink
on Recycled Paper

Visit the County's Website at www.baltimorecountyonline.info

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits &
Development Management

DATE: November 12, 2003

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

SUBJECT: Zoning Advisory Committee Meeting
For October 13, 2003
Item No. 144

The Bureau of Development Plans Review has reviewed the subject-zoning item.

In conformance with *Federal Flood Insurance* requirements, the first floor or basement floor must be at least 1 foot above the flood plain elevation.

RWB:CEN:jrb

cc: File

OFFICE OF THE COUNTY CLERK
11/24/03
BY: J. J. G. [Signature]

ZAC-10-13-2003-ITEM NO 144-11132003

Jack
11/19

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: October 22, 2003

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

RECEIVED

OCT 24 2003

SUBJECT: 11311 Beach Road

ZONING COMMISSIONER

INFORMATION:

Item Number: 04-144

Petitioner: Gerald D. Welsh

Zoning: RC 2

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning recommends that the petitioner's request to permit a 6-foot fence with zero feet between the fence and front yard property line in lieu of the minimum required 30-foot separation be **DENIED**.

One of the major attractions to living on the waterfront is the view. This office is on the opinion that a 6-foot high fence would block the side view of both abutting neighbors and thus limit their enjoyment of their property.

This office has no comments regarding the above ground pool and the gazebo considering both structures existed when the petitioner purchased the subject property.

Prepared by: Mark A. Cunningham

Section Chief: [Signature]
AFK/LL:MAC:

11/24/03
R. [Signature]

For further questions or additional information concerning the matters stated herein, please contact Karin Brown in the Office of Planning at 410-887-3480.

Prepared by: Mark A. Cump

Section Chief: John J. [Signature]

AFK/LL:MAC:



Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt Governor*

Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 10.7.03

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

RE: Baltimore County
Item No. 144 BPR

Dear Ms. Hart:

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,

Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division



**Baltimore County
Fire Department**

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

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

October 7, 2003

ATTENTION: Rebecca Hart

Distribution Meeting of: October 7, 2003

Item No.: 130 - 141, 143, 144, 147 - 150

Dear Ms. Hart:

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.

7. The Fire Marshal's Office has no comments at this time.

LIEUTENANT JIM MEZICK
Fire Marshal's Office
PHONE 887-4881
MS-1102F

cc: File



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

DATE: October 20, 2003

TO: Tim Kotroco

FROM: R. Bruce Seeley *RBS/TGT*

DATE: October 20, 2003

SUBJECT: Zoning Item 04-144
Address 11311 Beach Road (Welsh Property(Gerald))

Zoning Advisory Committee Meeting of October 6, 2003

The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

If streams or wetlands occur on or within 200 feet of the property, the development of the property may need to comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).

Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

Additional Comments:

Reviewer: Keith Kelley

Date: 10/16/03

11/24/03
R. Seeley

RE: PETITION FOR VARIANCE
11311 Beach Road; S/side Beach Rd,
1,400' E c/line Stevens Road
11th Election & 5th Councilmanic Districts
Legal Owner(s): Gerald & Cheryl Welsh
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* 04-144-A

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent documentation filed in the case.

RECEIVED
OCT 09 2003
Per.....

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Carole S. Demilio
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 9th day of October, 2003, a copy of the foregoing Entry of Appearance was mailed to, Gerald & Cheryl Welsh, 11311 Beach Road, White March, MD 21162, Petitioner(s).

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

**Department of Permits and
Development Management**

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



Baltimore County

*James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director*

January 5, 2004

Mr. Samuel L. Lee
Mrs. Joanne M. Lee
11313 Beach Road
White Marsh, MD 21162

Dear Mr. & Mrs. Lee:

RE: Case 04-144-A, 11313 Beach Road

Please be advised that an appeal of the above-referenced case was filed in this office on December 22, 2003. 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,

A handwritten signature in black ink that reads "Timothy Kotroco".

Timothy Kotroco
Director

KT:rlh

c: Lawrence E. Schmidt, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Mr. and Mrs. Gerald Welsh

Visit the County's Website at www.baltimorecountyonline.info

RECEIVED

JAN - 6 2004

**BALTIMORE COUNTY
BOARD OF APPEALS**

APPEAL

Petition for Variance
11311 Beach Road
S/s of Beach Road, 1,400 ft. +/- E. centerline Of Stevens Road
11th ED - 5th CD
Gerald and Cheryl Welsh

Case No.: 04-144-A

✓ Petition for Variance (~~October 2003~~) *undated*

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (October 10, 2003)

✓ Certification of Publication (November 4, 2003)

✓ Certificate of Posting (November 3, 2003)

✓ Entry of Appearance by People's Counsel (October 9, 2003)

✓ Petitioner(s) Sign-In Sheet
One Sheet

✓ Protestant(s) Sign-In Sheet
None

✓ Citizen(s) Sign-In Sheet
None

✓ Zoning Advisory Committee Comments *dated 11-14-03*

Petitioners' Exhibit

- 1. A Plat to accompany Petition for Zoning Variance
- 2. Photos of front ~~and~~ back of house
- 3. A-1 Photos of property *& side*

✓ Protestants' Exhibits:
None

✓ Miscellaneous (Not Marked as Exhibit)
✓1. Portion of the Zoning Map

✓ Deputy Zoning Commissioner's/Zoning Commissioner's Order (November 24, 2003)

✓* Notice of Appeal received on December 22, 2003 *Samuel & Joanne Lee*

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Mr. & Mrs. Gerald Welsh

date sent 1/5/04 rlh

RECEIVED

JAN - 6 2004

BALTIMORE COUNTY
BOARD OF APPEALS

GRANTED

* SAMUEL L LEE
JOANNE M LEE
11313 BEACH ROAD
WHITE MARSH MD 21162
APPELLANTS

GERALD WELSH
CHERYL WELSH
11311 BEACH ROAD
WHITE MARSH, MD 21162
PETITIONERS

Case No. 04-144-A

In the Matter of: Gerald and Cheryl Welsh -Petitioners /Legal Owners

VAR – To permit two accessory structures (an above-ground pool w/attached deck and a gazebo) in front yard ilo required rear yard and to permit fence with height of 72” w/0’ between the fence and front yard property line ilo required 30’ separation.

11/24/2003 – D.Z.C.’s Order in which requested variance relief was **GRANTED**.

4/09/04 – Notice of Assignment sent to following; assigned for hearing on Tuesday, May 18, 2004 at 11 a.m.:

Samuel L. and Joanne M. Lee
Gerald and Cheryl Welsh
Office of People’s Counsel
Pat Keller, Planning Director
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Director /PDM

5/18/04 – Board convened for hearing (Stahl, Mohler, Quinn); concluded this date; assigned for public deliberation on Tuesday, July 20, 2004 at 9 a.m.; notice of deliberation sent this date; FYI copy to 2-1-6. No briefs to be filed.

7/20/04 – Board convened for deliberation (2-1-6); G variance request; appellate period to run from date of written Order. (1)

BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Gerald and Cheryl Welsh
Case No.: 04-144-A

DATE: July 20, 2004

BOARD/PANEL: Lawrence M. Stahl LMS
John P. Quinn JPQ
Donald L. Mohler III DLM

RECORDED BY: Theresa R. Shelton / Legal Secretary

PURPOSE: To deliberate the Petition for Variance filed by Gerald and Cheryl Welsh requesting to permit two accessory structures (an above ground swimming pool with attached deck and gazebo) to be located in the front yard ilo the req'd rear yard, and to permit a fence with a height of 72 inches with zero feet between the fence and front yard property line ilo the req'd 30 feet separation.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

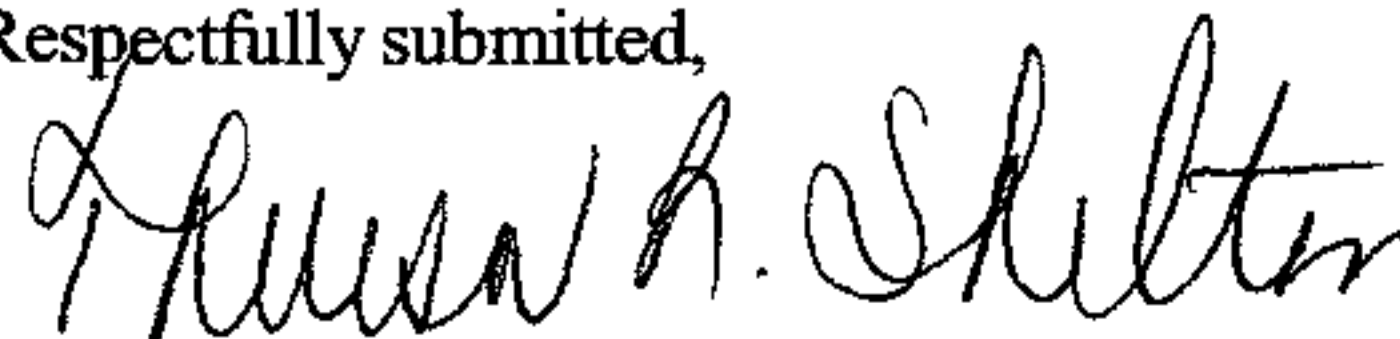
- ◆ Property is unique
- ◆ Poland Gazebo were already in place when property was purchased
- ◆ View not hampered
- ◆ Neighbor have no problem with problem with pool and gazebo
- ◆ Strict compliance with the zoning regulations would create a hardship on property owner.

DECISIONS BY BOARD MEMBERS: Unanimous decision to AFFIRM the Deputy Zoning Commissioner's Order dated November 24, 2003.

FINAL DECISION: That the decision dated November 24, 2003 by the Deputy Zoning Commissioner is AFFIRMED and the Applicant's Petition for Variance to permit two accessory structures (an above ground swimming pool with attached deck and gazebo) to be located in the front yard ilo the req'd rear yard, and to permit a fence with a height of 72 inches with zero feet between the fence and front yard property line ilo the req'd 30 feet separation is GRANTED.

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 30, 2004

TO: Timothy Kotroco, 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>
NO NUMBER	<i>O/C RECLASS</i>	RIVERWATCH LLC	118 MOUNT CARMEL ROAD
03-448-SPH	<i>03-448-SPH</i>	WALTERS AND GOSSLING	1130-1132 WISEBURG ROAD
02-365-A	<i>02-365-A</i>	PAULA RUSH	5850 HWAZELWOOD AVENUE
04-144-A	<i>04-144-A</i>	<i>GERALD AND CHERYL WELSH</i>	11311 BEACH ROAD

Attachment: SUBJECT FILE(S) / EXHIBIT(S) ATTACHED;

Samuel L. Lee & Joanne M. Lee
11313 Beach Road
White Marsh, MD 21162
410-335-2776

IN RE: APPEAL FOR ADMIN. VARIANCE
S/S of Beach Road, 1,400 ft. +/- E
Centerline of Stevens Road
5th Council manic District
(**11311 Beach Road**)
Cheryl & Gerald Welsh
CASE NO. 04-144-A

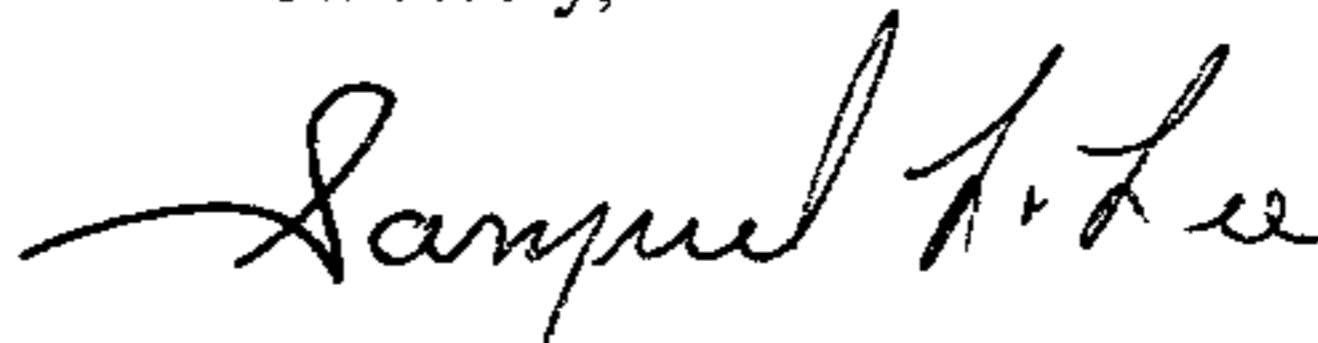
Tim Kotroco, Director

I Samuel L. Lee; and my wife Joanne M. Lee are appealing the Deputy Zoning Commissioner decision to grant the variance's 400.1 and 427.B of the Baltimore County Zoning Regulations (B.C.Z.R.), and to permit a fence with a height of 72- inches with zero feet between the front yard property line in lieu of the required 30 ft. separation.

We live in a typical waterfront property next to 11311 located on Beach Road. My wife Joanne & I moved to 11313 Beach Road because of the view of the water. A 72- inch fence will interfere with our view of the water. It will also create unreasonable hardship to us, every time we walk in and out of the front of our house.

I had called on the Zoning notice, case no. 04-144-A and was told that there was no hearing on the fence. I was told to call the Building Engineer Office. I did and talked to Mr. John Reisinger on 11-18-03, he told me there was NO HEARING on the fence at that time. Mr. Reisinger also told that all I had to do was give him my concerns dealing with this case and that he would set a hearing date. I also called him back on 11-24-03 to make sure that a hearing date would set for the fence issue. It appears that there was some confused when we discussed their variance request. This is why my wife & I did not come to the hearing on 11-24-03. The Planning Office had recommended that the variance for a 72 inch fence be **DENIED** on the basis that it may block our view of the water.

Sincerely,



Samuel L. Lee

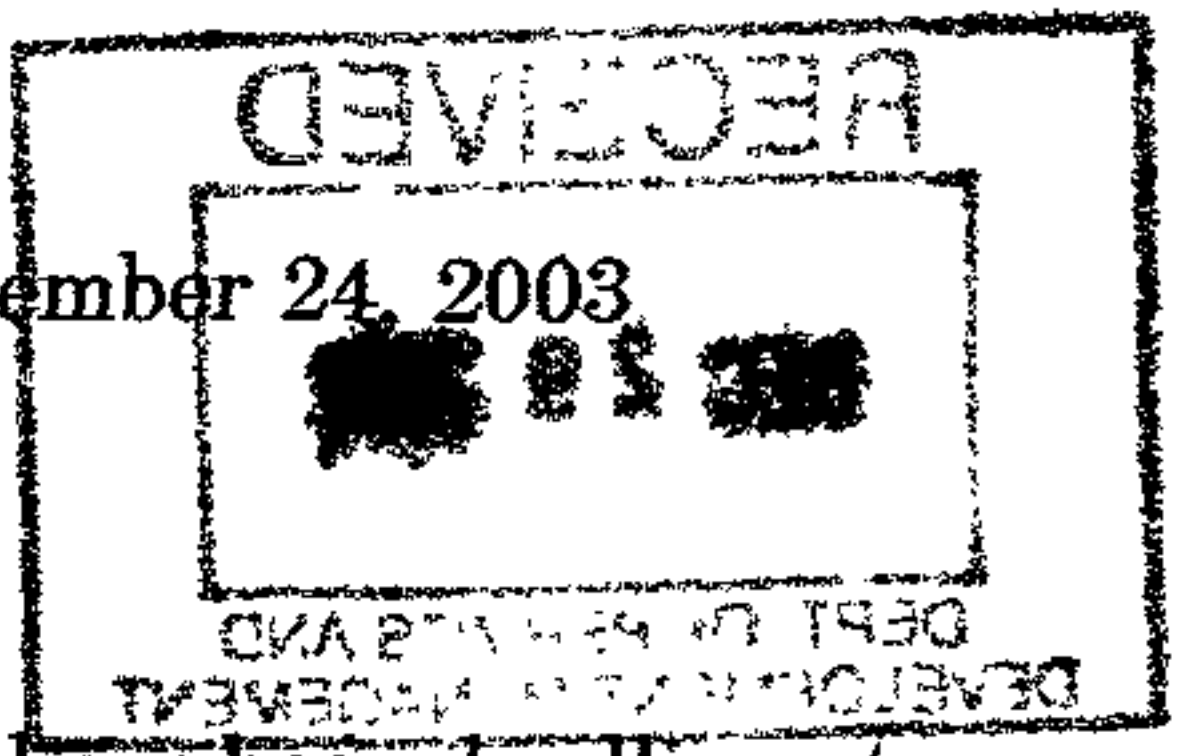


Joanne M. Lee

RECEIVED
DEC 22 2008
DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT

File

03-6094



Director of Permits and Develop Management:

I am writing this letter concerning case # 04-154-SPH. I have been dwelling at 2010 Park Place since 1992 and specifically purchased my property because it was in a residential community. My house sits around the corner from the property seeking a commercial permit, and we have a full view into the property's backyard. I am deeply concerned that the commercialization of this property could lead to many vehicles being kept and maintained at all hours.

In the past, we have often heard engines being worked on at 10:00pm and the coming and going of a tow truck in the early morning hours. In fact at one point, this property housed up to eleven vehicles in the backyard. These vehicles were eye sores of the community.

With additional storage facilities comes concern for larger volumes of trash. Also, who will supervise the proper disposal of engine fluids when vehicles are maintained? We already receive a great volume of water run-off from this property and I can't imagine, should this property be commercialized, that the run-off situation would improve.

While I am not against anyone trying to earn an honest living, I have a wife and two young children that deserve a house in a quiet area. This is a wonderful community that is continuously trying to improve itself. It is for these reasons that I am strongly against the commercialization of this property. Because I am active duty Army and will be on leave at the time of this hearing, I have provided a phone number should you have questions concerning this letter. I thank you for your time and the chance to be heard.

Sincerely,
Thomas A Enokian
Thomas A. Enokian

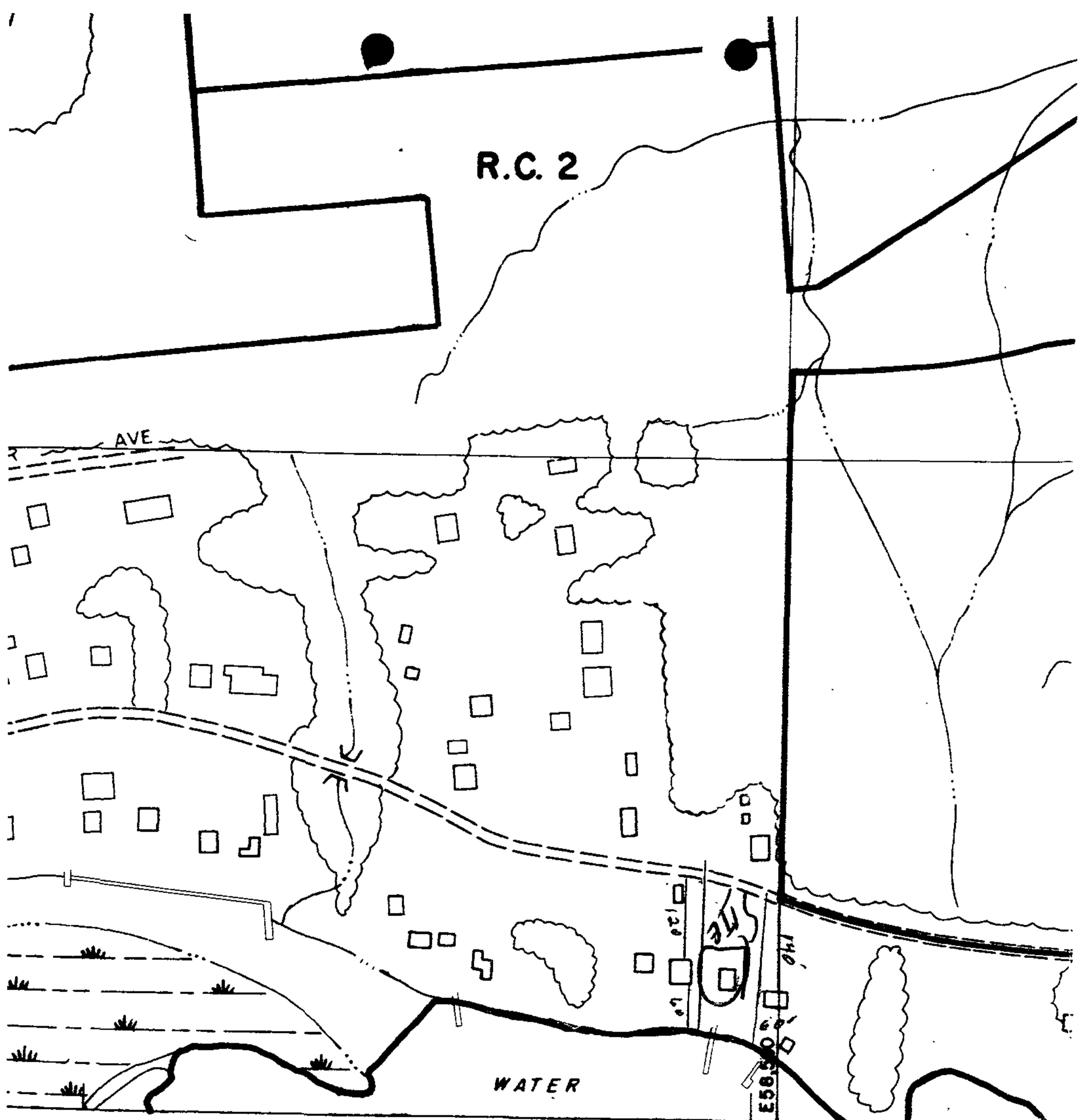
My contact information:

cell phone #410-913-6758

RECEIVED

DEC 28 1988

**DEPT. OF PERMITS AND
DEVELOPMENT MANAGEMENT**



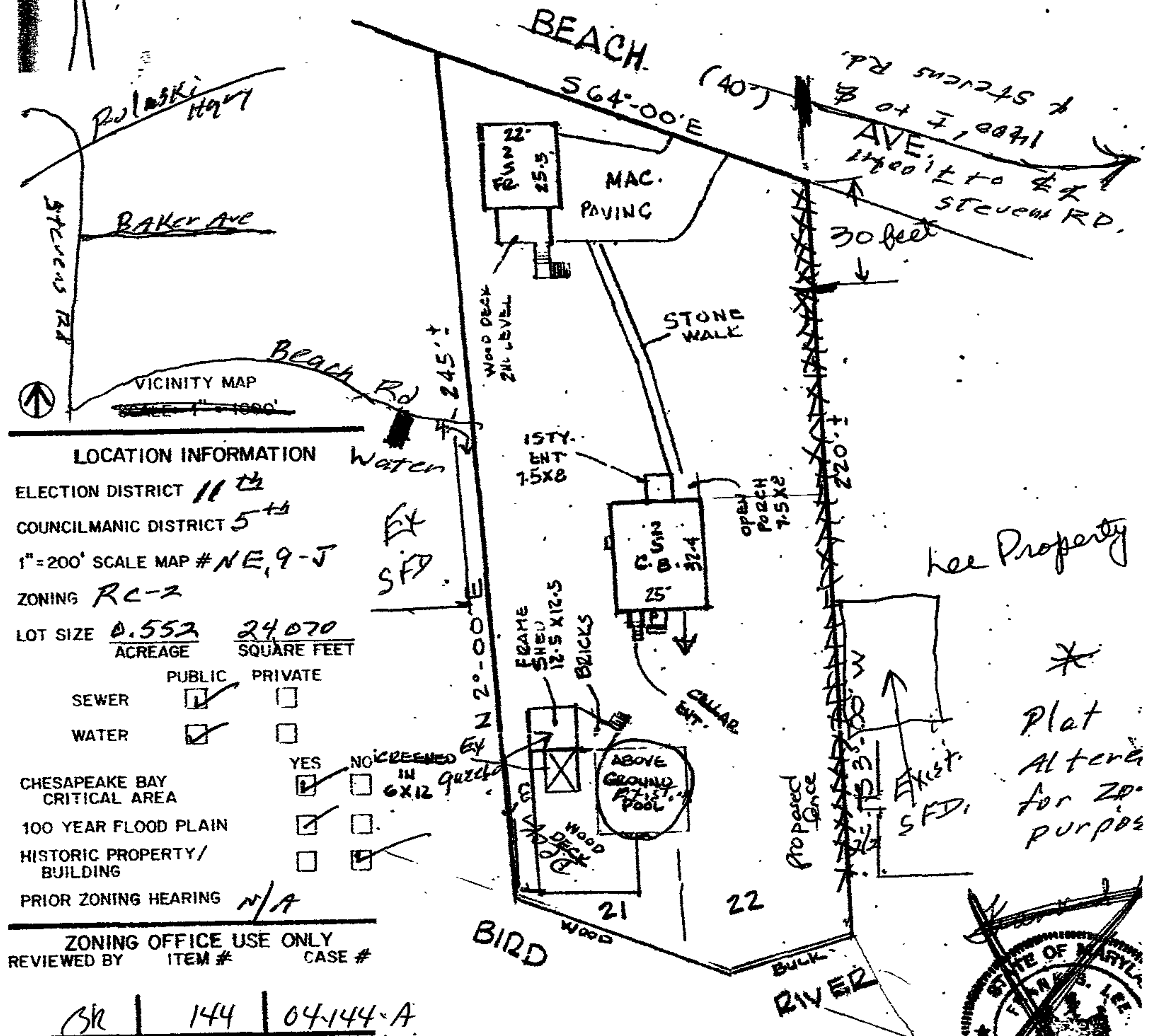
**COUNTY
AND ZONING
MAP**

NE 9 J
1" = 200'

SCALE
1" =
DATE
C
PHOTO
JAN
19

PLAT TO A COMPANY PETITION FOR ZONING VARIANCE

PROPERTY ADDRESS 11311 Beach Rd SEE PAGES 5 & 6 OF THE CHECKLIST FOR
 SUBDIVISION NAME Bird River Beach
 PLAT BOOK # 7 FOLIO # 187 LOT # 21-22 SECTION # --- INSURANCE RATE MAP
 OWNER Cheryl A. & Gerald T. Welsh 295B Zones A 10, B & C



LOCATION INFORMATION

ELECTION DISTRICT 11th
 COUNCILMANIC DISTRICT 5th
 1" = 200' SCALE MAP # NE, 9-J
 ZONING RC-2

LOT SIZE 0.552 24,070
 ACREAGE SQUARE FEET

	PUBLIC	PRIVATE
SEWER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
WATER	<input checked="" type="checkbox"/>	<input type="checkbox"/>

CHESAPEAKE BAY CRITICAL AREA YES NO
 100 YEAR FLOOD PLAIN YES NO
 HISTORIC PROPERTY/BUILDING YES NO
 PRIOR ZONING HEARING N/A

ZONING OFFICE USE ONLY

REVIEWED BY _____ ITEM # _____ CASE # _____

SR | 144 | 04-144-A

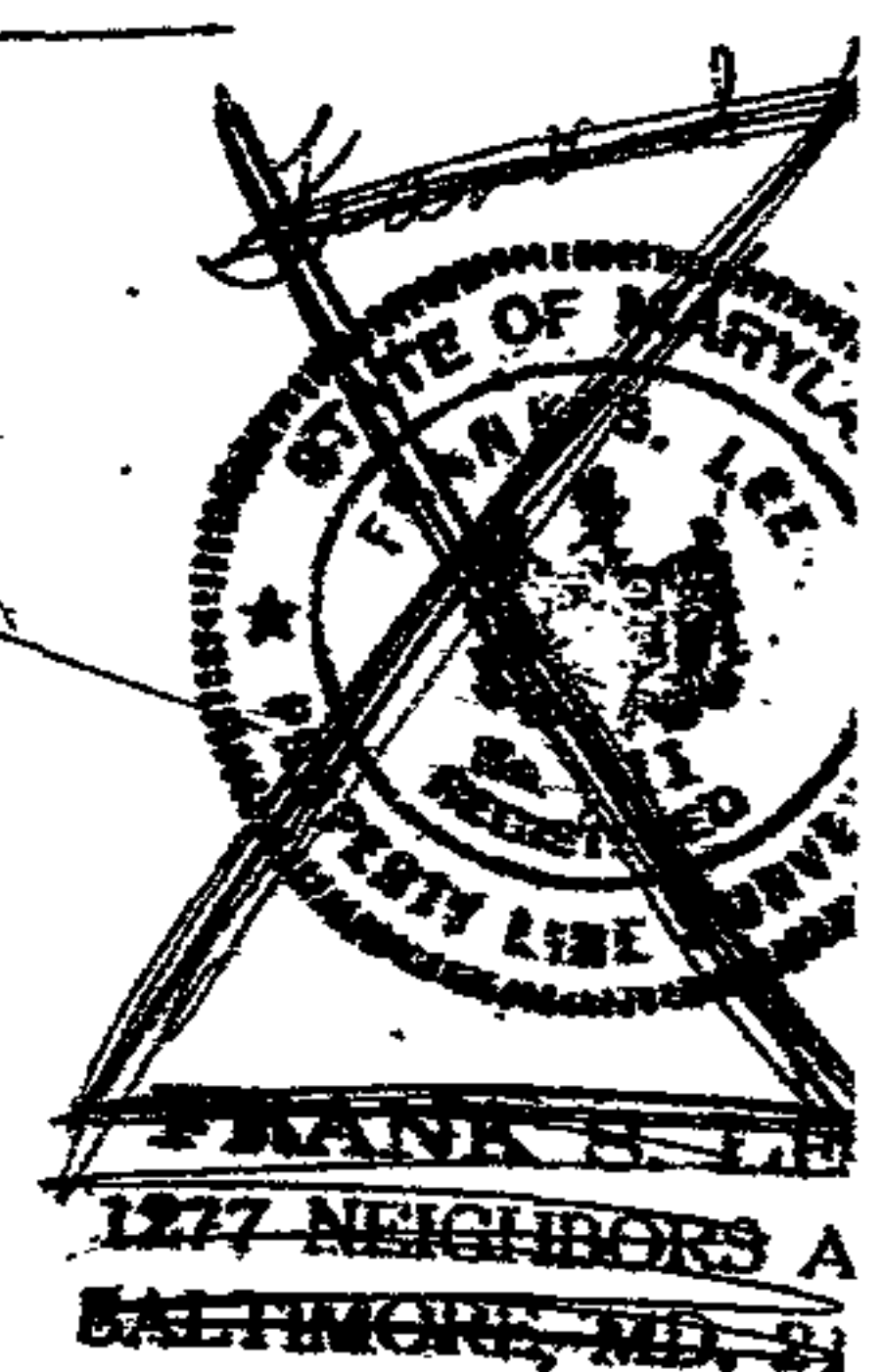
No. 11311
 LOTS 21-22
 BIRD RIVER BEACH
 PLAT BOOK 7-187

5TH DISTRICT BALTIMORE CO, MARYLAND
 SCALE 1" = 40' DATE 5-29-96

Handwritten signature and initials

See Property

** Plat Altered for ZP purposes*



PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE

SEE PAGES 5 & 6 OF THE CHECKLIST FOR

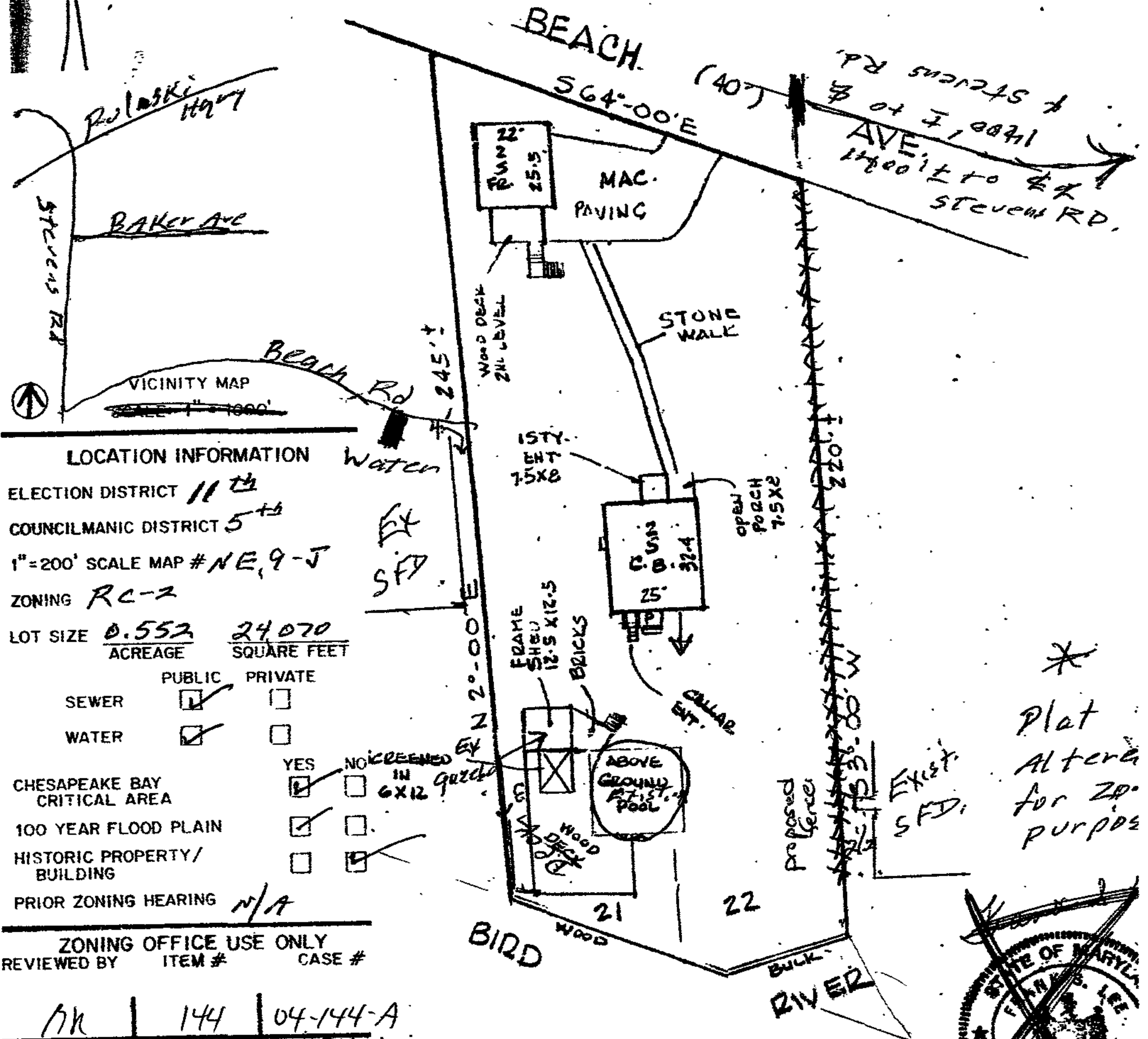
PROPERTY ADDRESS 11311 Beach Rd

SUBDIVISION NAME Bird River Beach

PLAT BOOK # 7 FOLIO # 187 LOT # 21-22 SECTION # ---

OWNER Cheryl A. & Gerald T. Welsh

INSURANCE RATE MAP
295B Zones A 10, B & C



LOCATION INFORMATION

ELECTION DISTRICT 11th
 COUNCILMANIC DISTRICT 5th
 1"=200' SCALE MAP # NE, 9-J
 ZONING RC-2

LOT SIZE 0.552 24070
 ACREAGE SQUARE FEET

	PUBLIC	PRIVATE
SEWER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
WATER	<input checked="" type="checkbox"/>	<input type="checkbox"/>

CHESAPEAKE BAY CRITICAL AREA	YES <input checked="" type="checkbox"/>	NO <input type="checkbox"/>	SCREENED IN GARDEN <input checked="" type="checkbox"/>
100 YEAR FLOOD PLAIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
HISTORIC PROPERTY/BUILDING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
PRIOR ZONING HEARING	<u>N/A</u>		

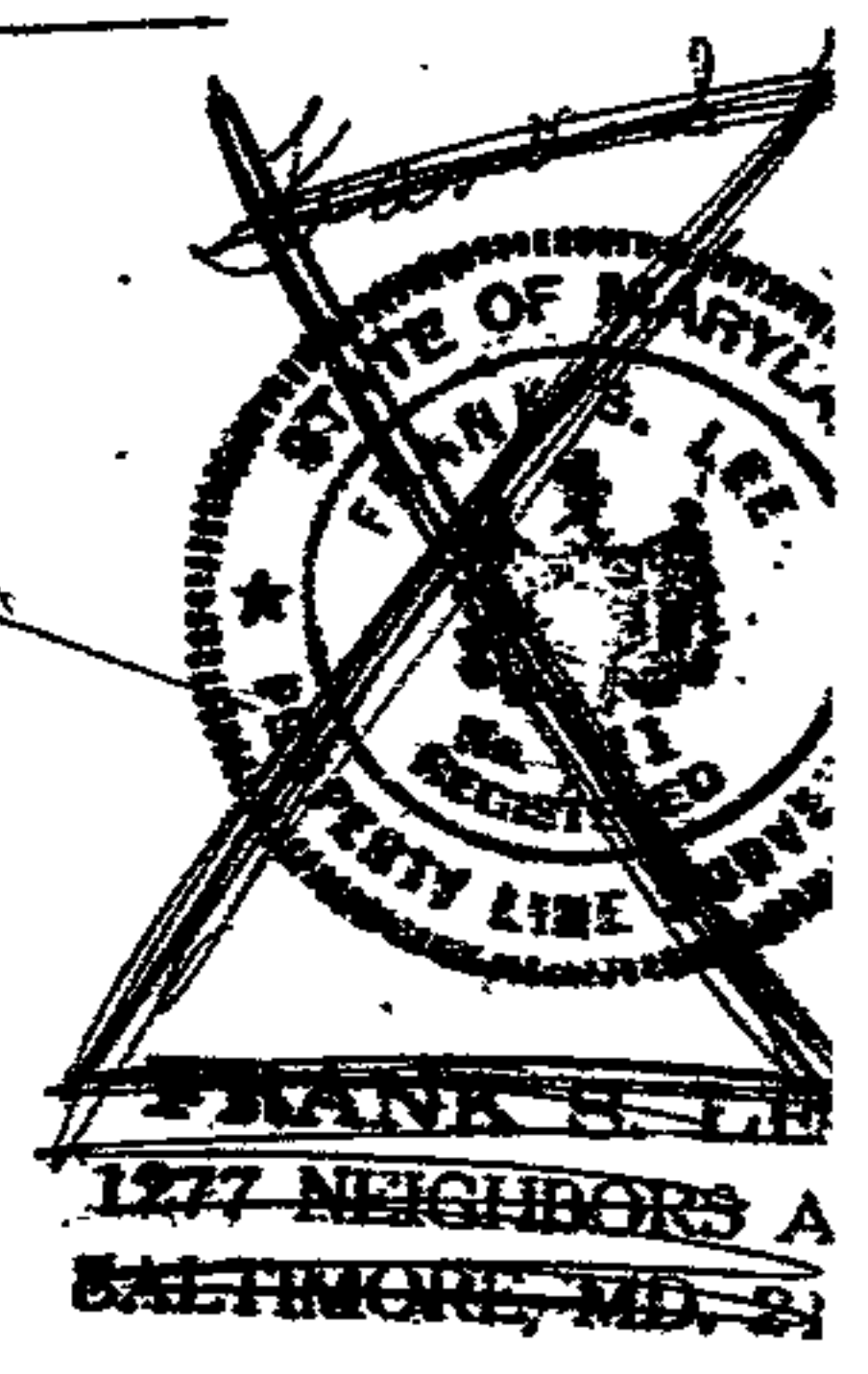
ZONING OFFICE USE ONLY
 REVIEWED BY ITEM # CASE #

AK | 144 | 04-144-A

No. 11311
 LOTS 21-22
BIRD RIVER BEACH
 PLAT BOOK 7-187

5TH DISTRICT BALTIMORE CO, MARYLAND
 SCALE 1" = 40' DATE 5-29-96

*
 Plat Altered for Zoning purposes



Pet. 94 #1



**Public Hearing for Waiver
Of Building Code Fence Height Limitations**
Per Building Code Section 3111.0

Property Address 1131 Beach Road

Owner Jerry and Cheryl Welsh
Owner Address Same

Hearing Date December 8, 2003

On this date a hearing was held regarding a request for a waiver of the fence height limitations in the Baltimore County Building Code. The waiver application requested a fence varying from 6 to approximately 10 feet in height approximately 30-35 feet into front yard of 11311.

Those attending were Mr. and Mrs. Welsh, the applicants, and Mr. Samuel Lee, of 11313 Beach Road.

Summary of Testimony

Both properties are waterfront The Welshs' property fronts on the water and Mr. Lee's property fronts on Beach Road, making the Welshs' front yard adjoin Mr. Lee's side and rear yard. The Welshs desire the privacy previously afforded by several trees that have recently died. Mr. Lee is concerned about the fence infringing on his views of the water. The Welshs desire the fence to extend from a point opposite the front corner of Mr. Lee's house to a point opposite the corner of Mr. Lee's rear deck. Because of the sloping ground, they desire the fence to be 8-10 feet high at that point.

There was further testimony about sight lines, views, and other matters. Mr. Lee stated he would be agreeable to the construction of the fence under two conditions: that it be limited to six feet in height, and that it start at an existing post approximately opposite the chimney on the side of his house. (This location is about 10 feet from the corner of Mr. Lee's house.)

The Welshs stated they need the full 8-10 ft height at the end opposite the deck for the privacy they desire and that omitting the section of the fence beyond the termination point Mr. Lee prefers along the side of his house would leave an unsightly gap that is in no one's best interest.

Site Visit

On December 8, 2003, the hearing officer visited the site to better understand the effects of the proposed fence. Several points were clarified by this visit. The fact that the house at 11313 is much closer to the property line has an adverse effect on 11311's privacy, but also causes any adjacent privacy fence to have a greater impact on 11313. The area in question is the area that would be considered the front yard of 11311, that portion between the water and the front foundation wall of 11311. The front yard of 11311 terminates at a point near the end of the front porch area of 11313.

Both homes overlook the water from a relatively high elevation. Because of this, and because of the importance of maintaining the view with waterfront property, the desired fence height of 8-10 ft adjacent to Mr. Lee's deck would not be appropriate. Such a height would unreasonably interfere with the view of anyone seated on the deck and would create a gloomy, closed-in canyon on Mr. Lee's side. Avoiding this contingency is one of the reasons building setback requirements exist. Similarly, the visit revealed that a six-foot high section of fence between the existing fence post opposite the chimney at 11313 and the end of 11313's front porch would cut off a sweeping view of the river that people approaching the front of 11313 presently enjoy.

Conclusions and Decision:

Any fence waiver, particularly when waterfront property is involved, must balance the desires of those affected with the requirements of the law and the realities of the site. On waterfront property, the necessity for maintaining views usually takes precedence over any expectation of privacy, at least where fence height waivers are concerned. In this case, issues of privacy contend with issues of maintaining views and avoiding one property erecting a structure that unreasonably closes in another.

Based on the testimony and on the site visit, the waiver request can only be partially granted. Therefore, the waiver decision is as follows:

1. A waiver is GRANTED for the construction of a 6 ft high fence in the front yard of 11311 Beach Road beginning at the existing 10 ft +/- fence post located at approximately the corner of the deck of 11313 closest to the water and terminating at the existing 6 ft +/- fence post opposite the chimney on the side of 11311 Beach Road.
2. The fence along the sloped section of the ground will be sloped to maintain the 6 ft height above grade allowed by the waiver.
3. Any portion of fence within the front yard of 11311 and outside the limits of this waiver will be limited to 42 inches in height.
4. The portion of fence between the pole opposite the chimney and the pole opposite the electric meter may be 5 ft in height as a transition.



John R. Reisinger
Buildings Engineer

12/10/2003

Date

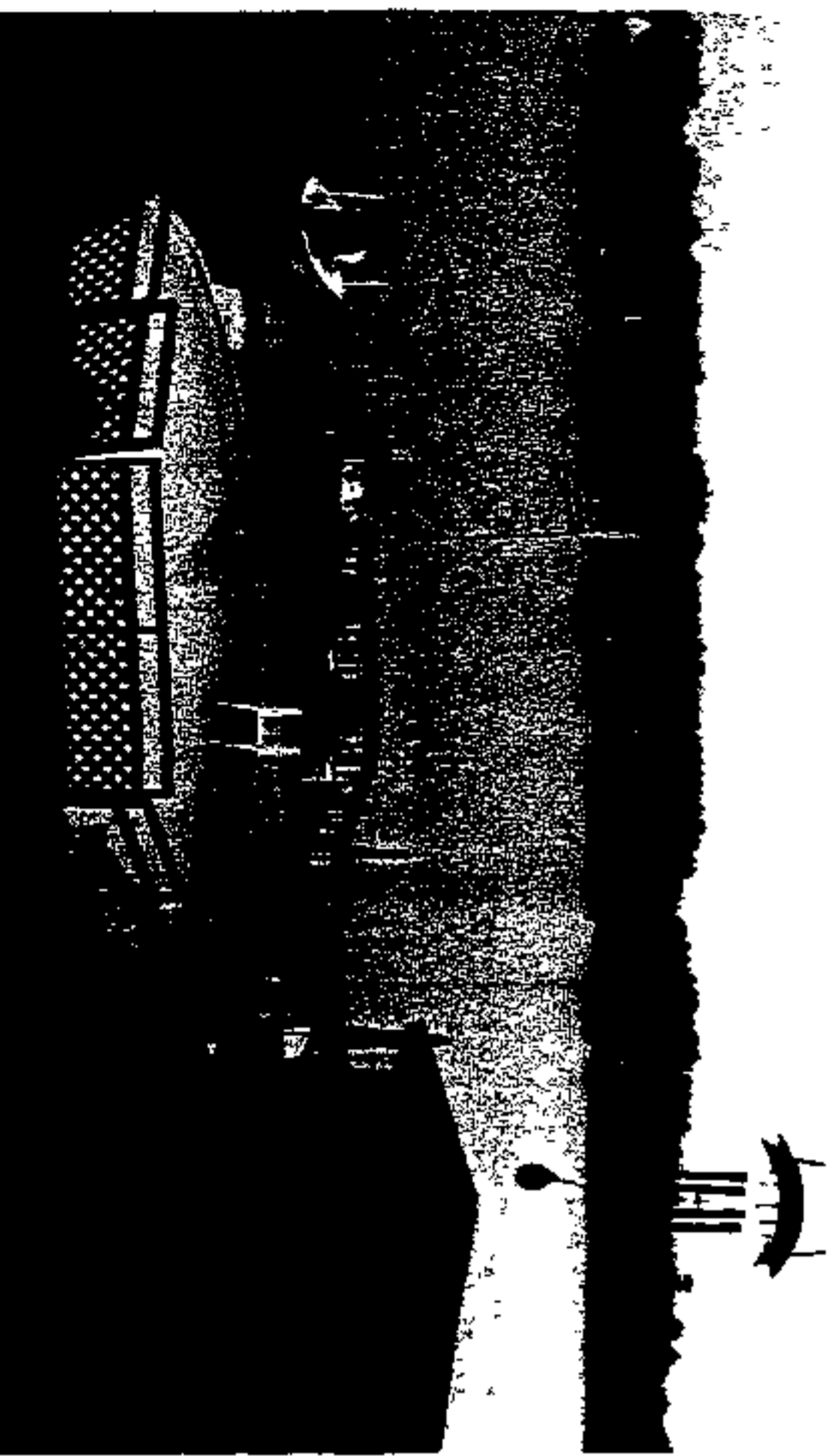
Anyone may appeal this decision to the Baltimore County Board of Appeals by filing an appeal in writing to this office within 30 days of the date of this order. A \$100 appeal fee must accompany appeals. Checks are to be made out to Baltimore County.

11311 Beech Rd
White Marsh MD
21162



BACK

FRONT





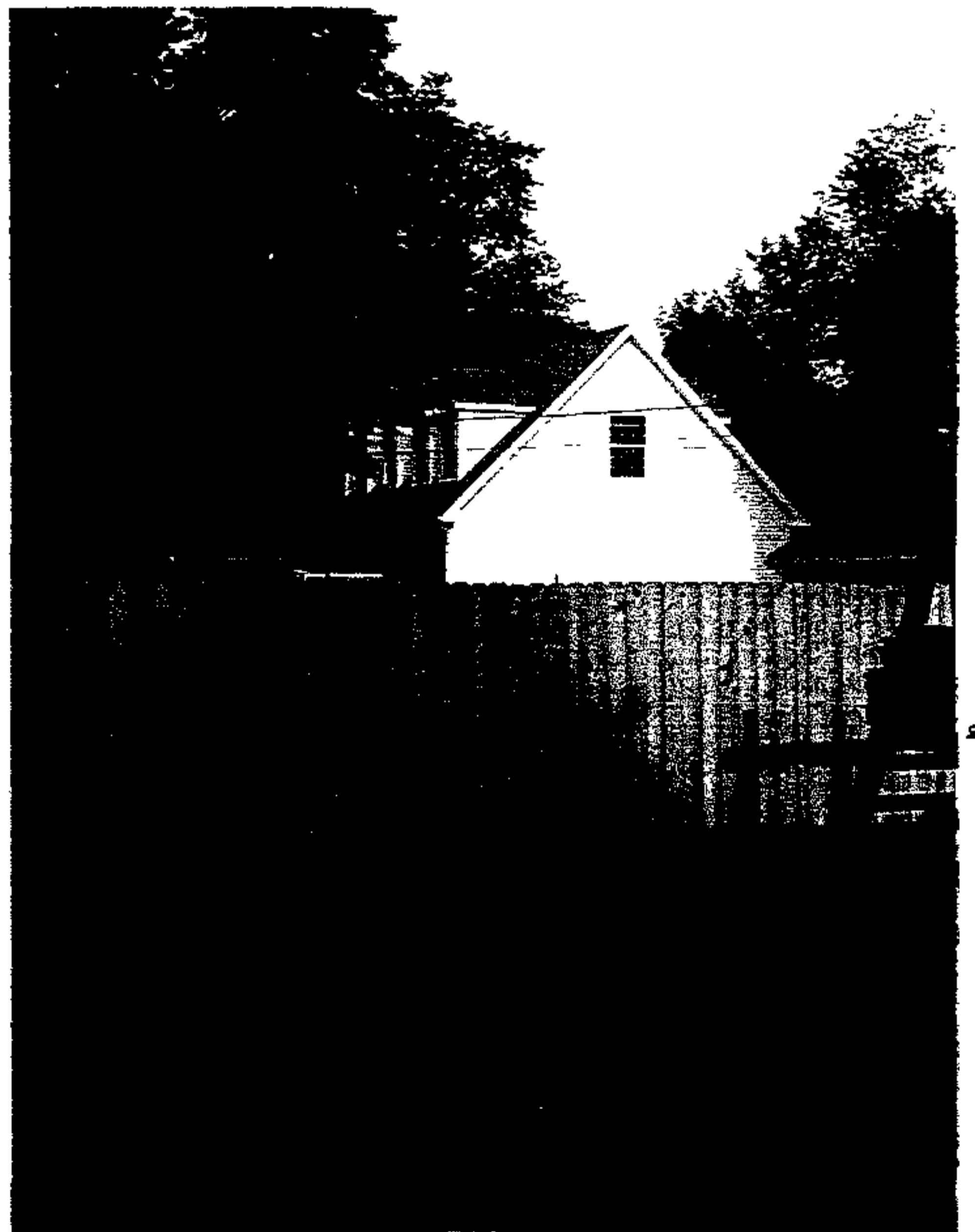
D



C



B

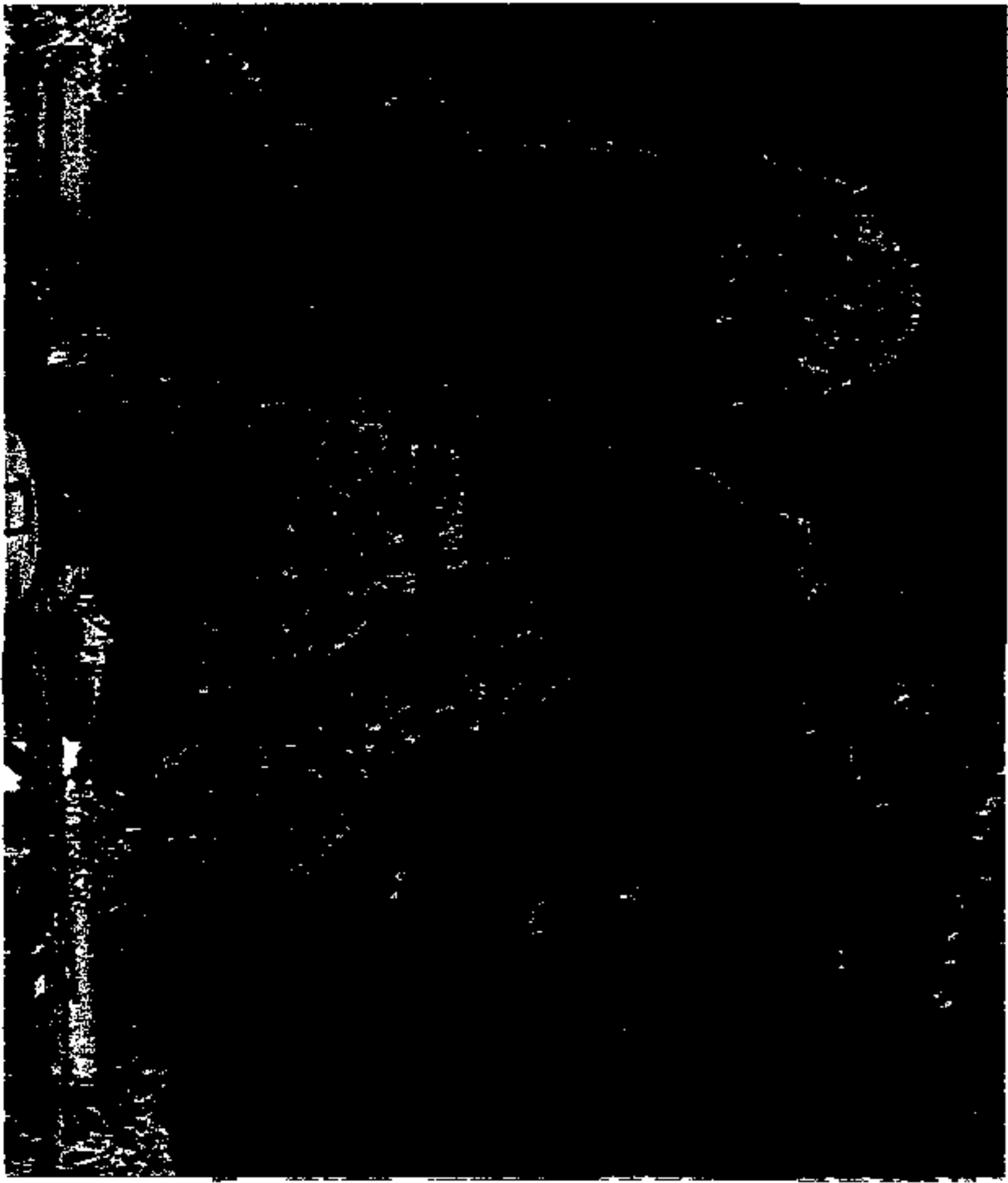
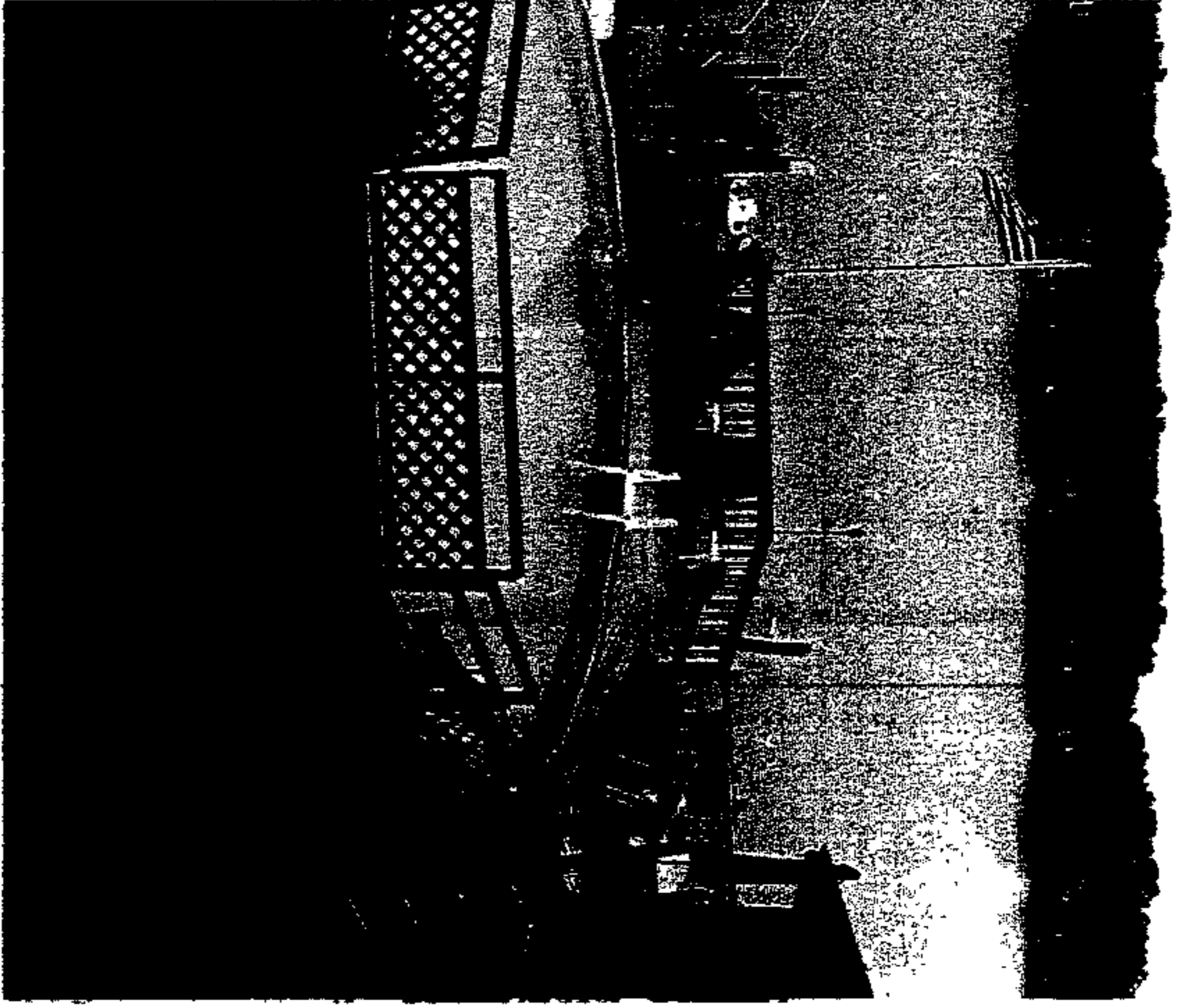


← fence taken down now

A

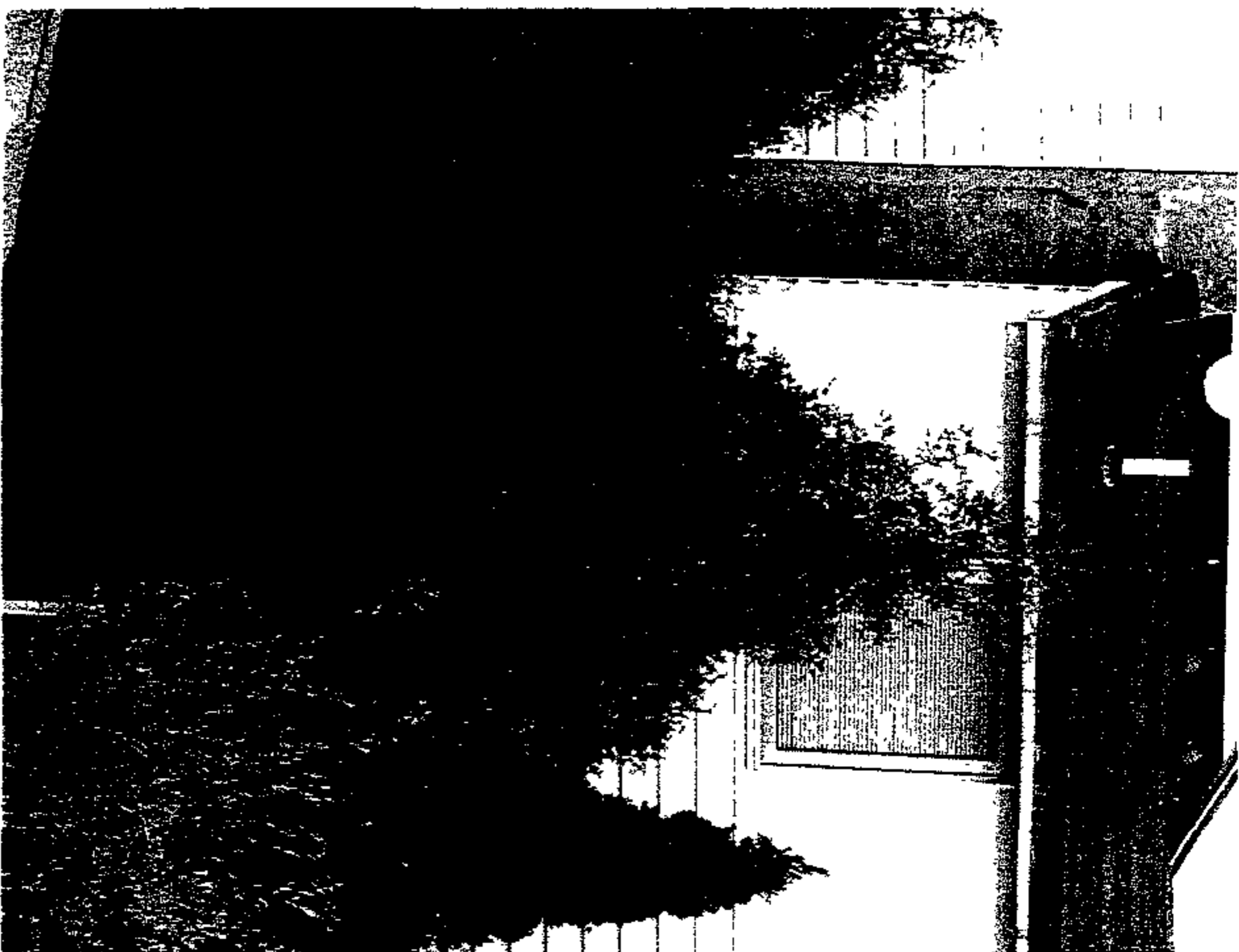
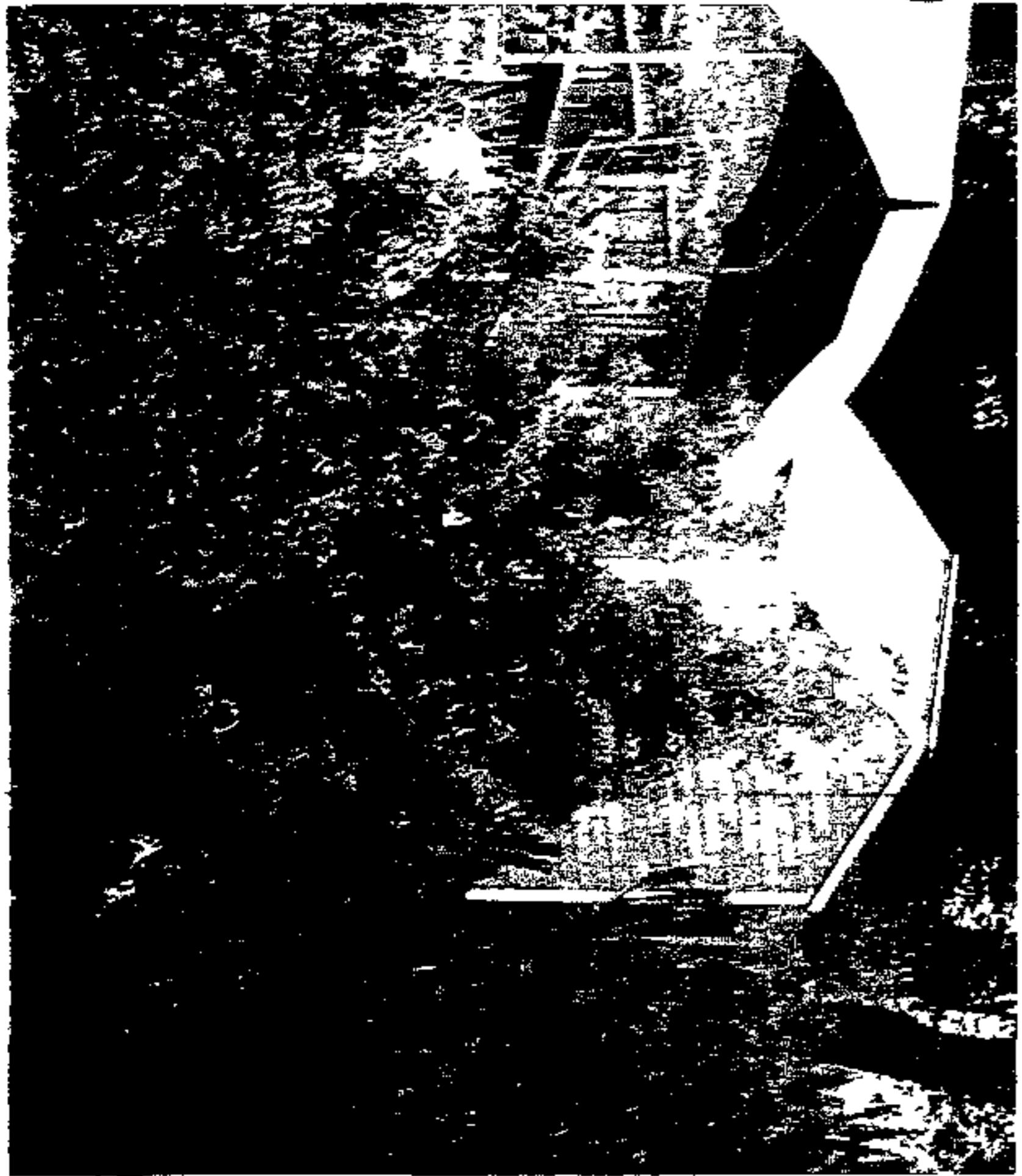
Plot # 3

F



D

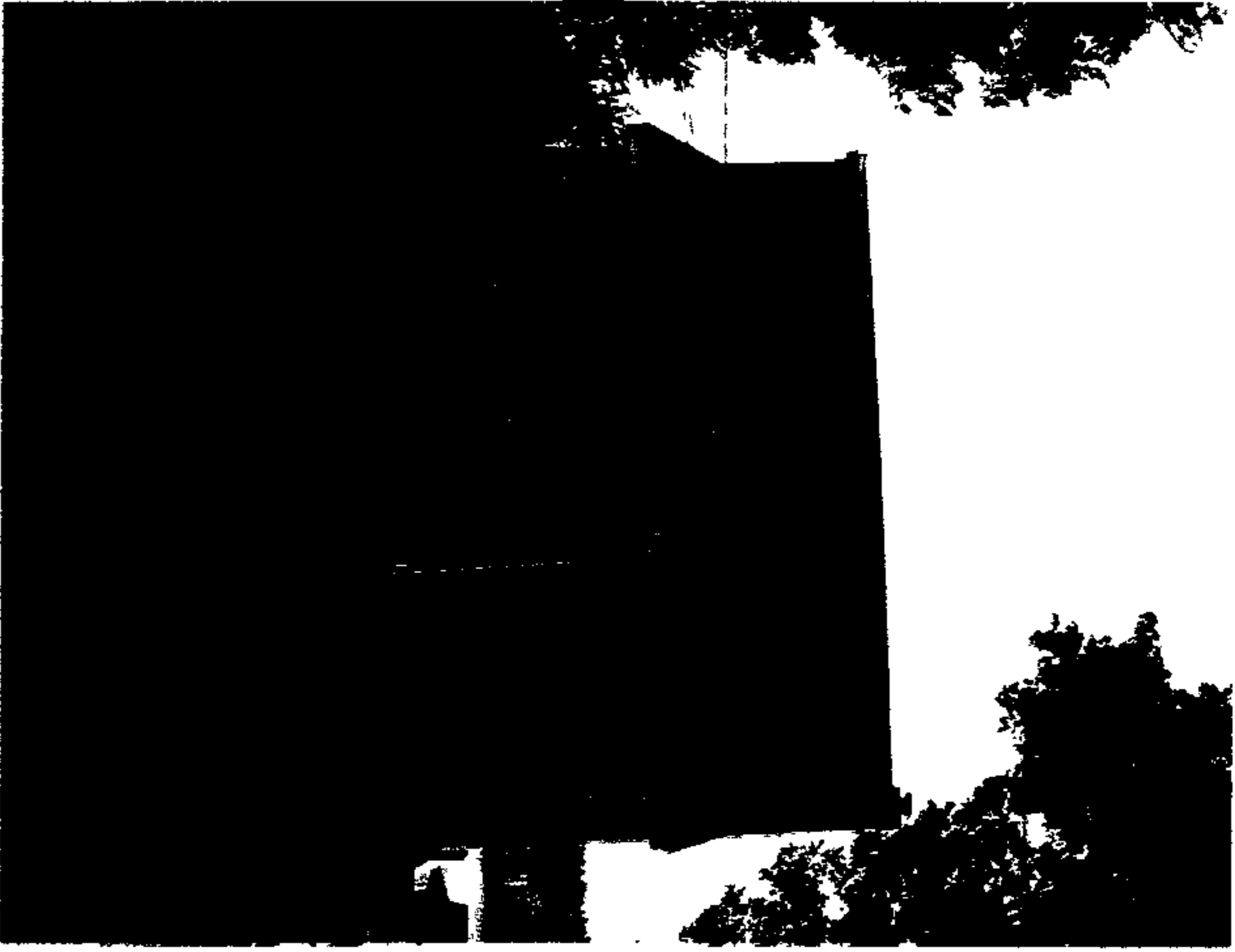
0



N

Foot print

5



6

id
-1804

04-144-A

PET. EXHIBITS
5/8/04

(1)

- A Back
- B Front
- C Pool + River
- D Side
- E Tree
- F Side of House
- G Umbrella + side of House
- H Fence that was removed
- I Pool
- J Mr Lee's front yard
- K Boat
- L Trash cans, Pic. Table
- M Back - Welsh
- N Lee - side
- O Pic. Table + walk
- P Lee side of proposed fence
- Q SHRUBS
- R TREES
- S TREES

#2 PLAT of Property

refined
5-18-04

Appellant EXHIBITS

04-144-A

- #1 A Lee Home + waterfront
- B From Lee Property to Welsh
- C Lee Driveway
- D Fence on other side of Welsh property
- E Water view from Lee's
- F Lee's Back Deck

#2 Reisinger letter 12/10/2003.

#3 sketch on legal pad by Mr. Lee.

#4 picture of Welsh Home

PLAT TO A COMPANY PETITION FOR ZONING VARIANCE

SEE PAGES 5 & 6 OF THE CHECKLIST FOR

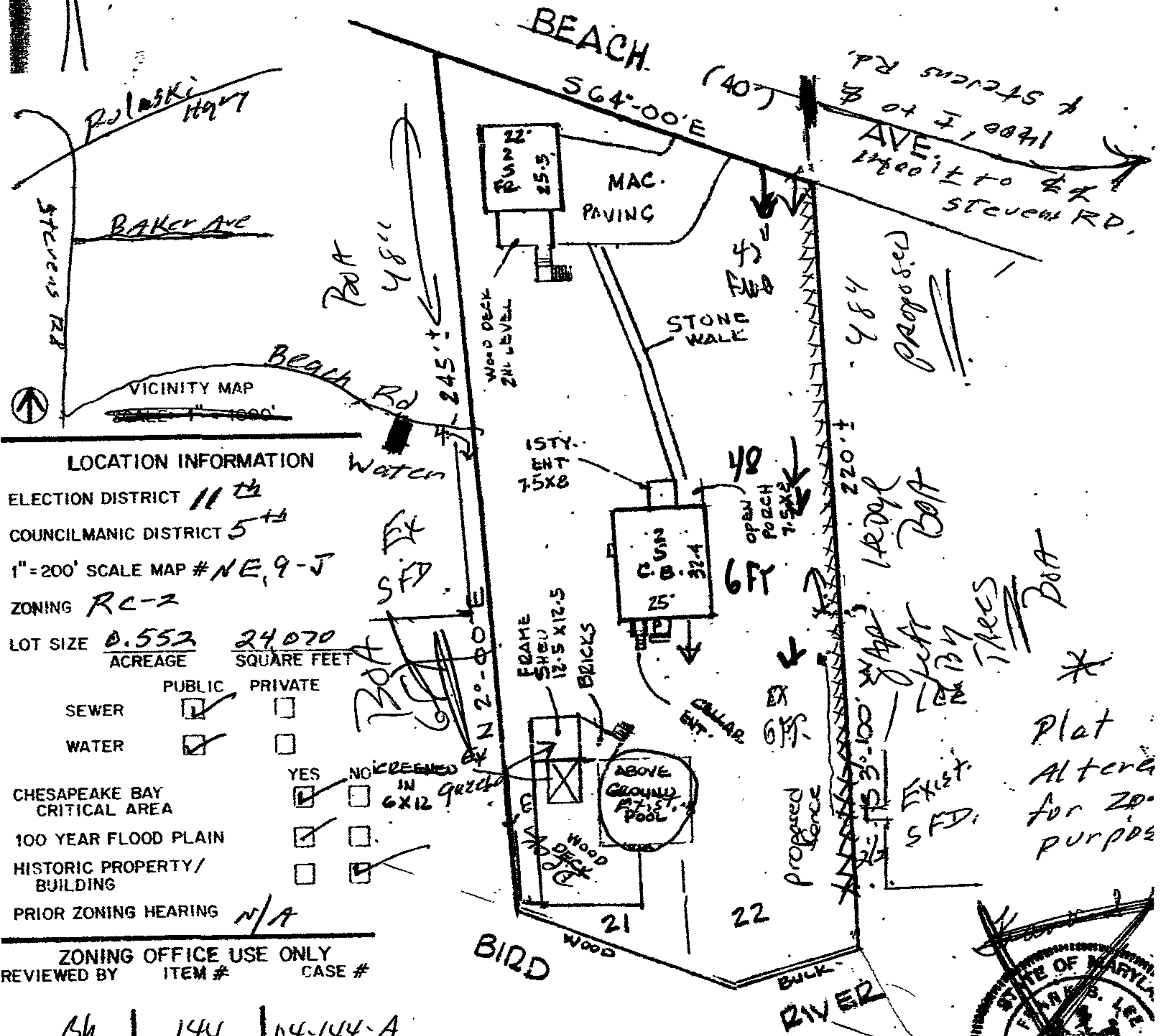
PROPERTY ADDRESS 11311 Beach Rd

SUBDIVISION NAME Bird River Beach

PLAT BOOK # 7 FOLIO # 187 LOT # 21-22 SECTION # ---

OWNER Cheryl A. & Gerald T. Welsh

INSURANCE RATE MAP
295B Zones A 10, B & C



LOCATION INFORMATION

ELECTION DISTRICT 11th
 COUNCILMANIC DISTRICT 5th
 1"=200' SCALE MAP # NE, 9-J
 ZONING RC-2

LOT SIZE 0.552 ACRES
24,070 SQUARE FEET

SEWER	<input checked="" type="checkbox"/> PUBLIC	<input type="checkbox"/> PRIVATE
WATER	<input checked="" type="checkbox"/> PUBLIC	<input type="checkbox"/> PRIVATE

CHESAPEAKE BAY CRITICAL AREA YES NO
 100 YEAR FLOOD PLAIN YES NO
 HISTORIC PROPERTY/BUILDING YES NO
 PRIOR ZONING HEARING N/A

ZONING OFFICE USE ONLY
 REVIEWED BY _____ ITEM # _____ CASE # _____

Bk | 144 | 04-144-A

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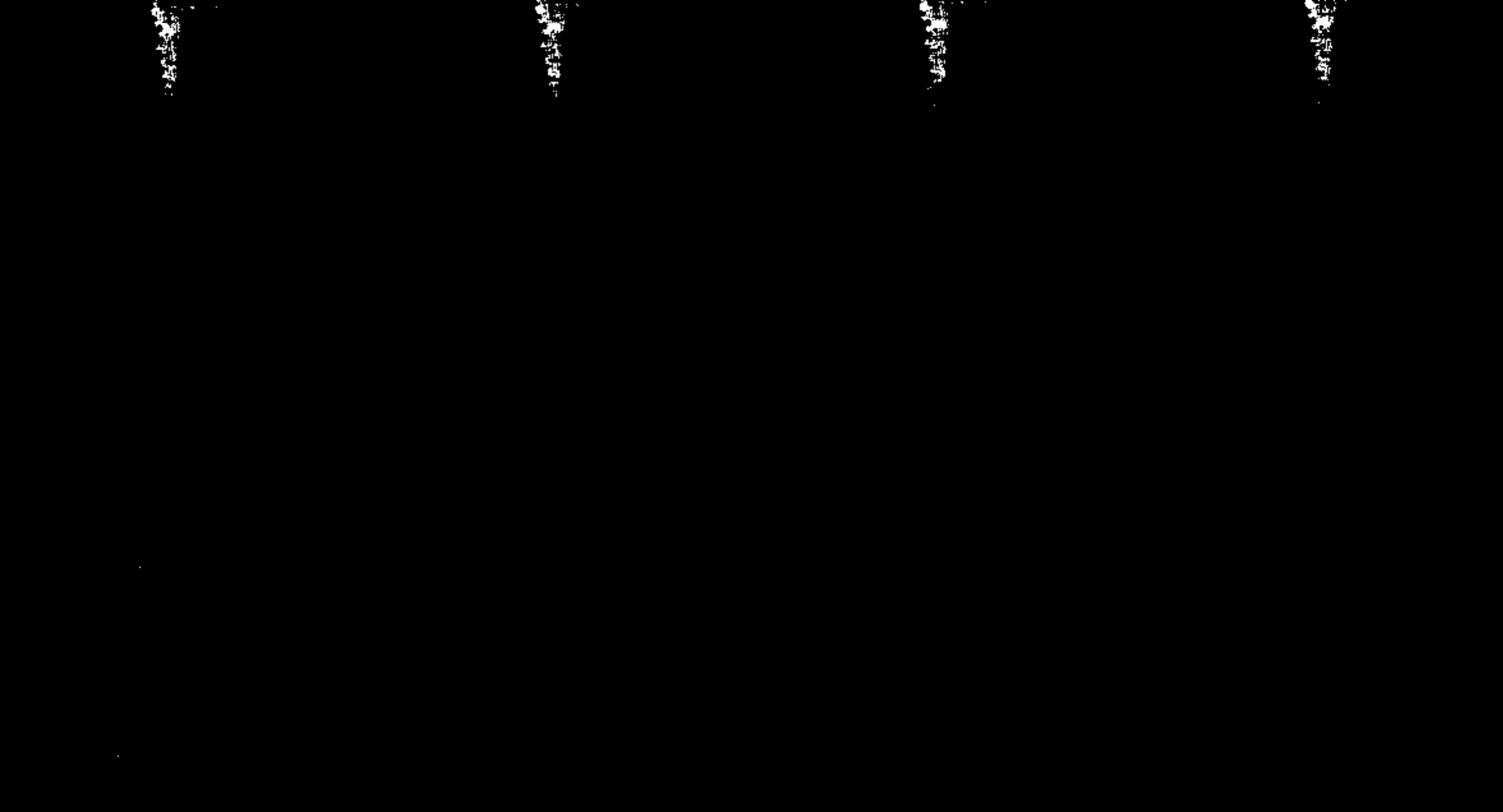
5TH DISTRICT BALTIMORE CO, MARYLAND
 SCALE 1" = 40'
 DATE 5-29-96



Handwritten signature/initials















BOA
A

11311 Beach Rd
White Marsh MD
21162

BOA
B

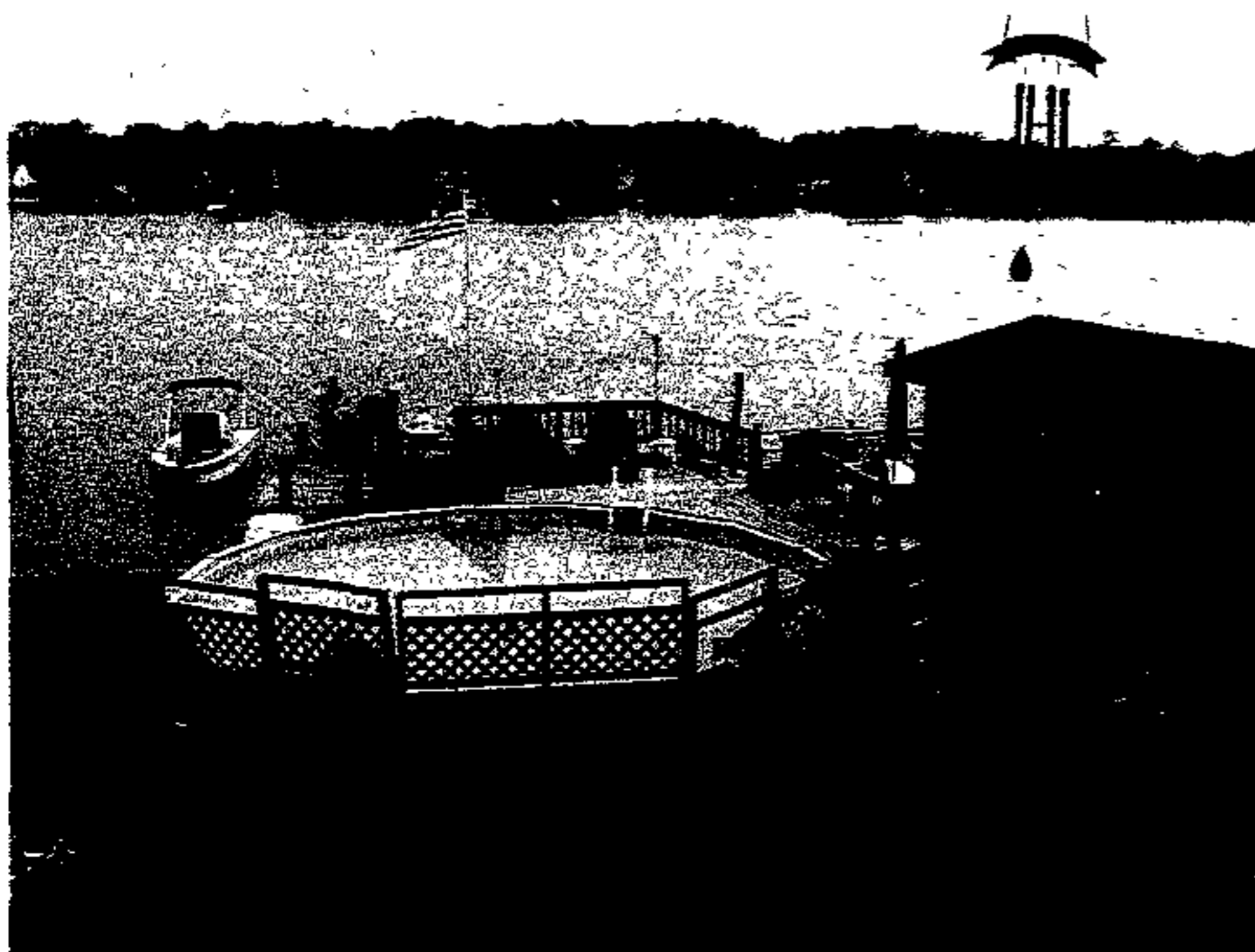


BACK



FRONT

BOA
C



BACK

LEE

BOA
D



SIDE

BOA 'FRONT'

Permitted
LMA
Pet #2

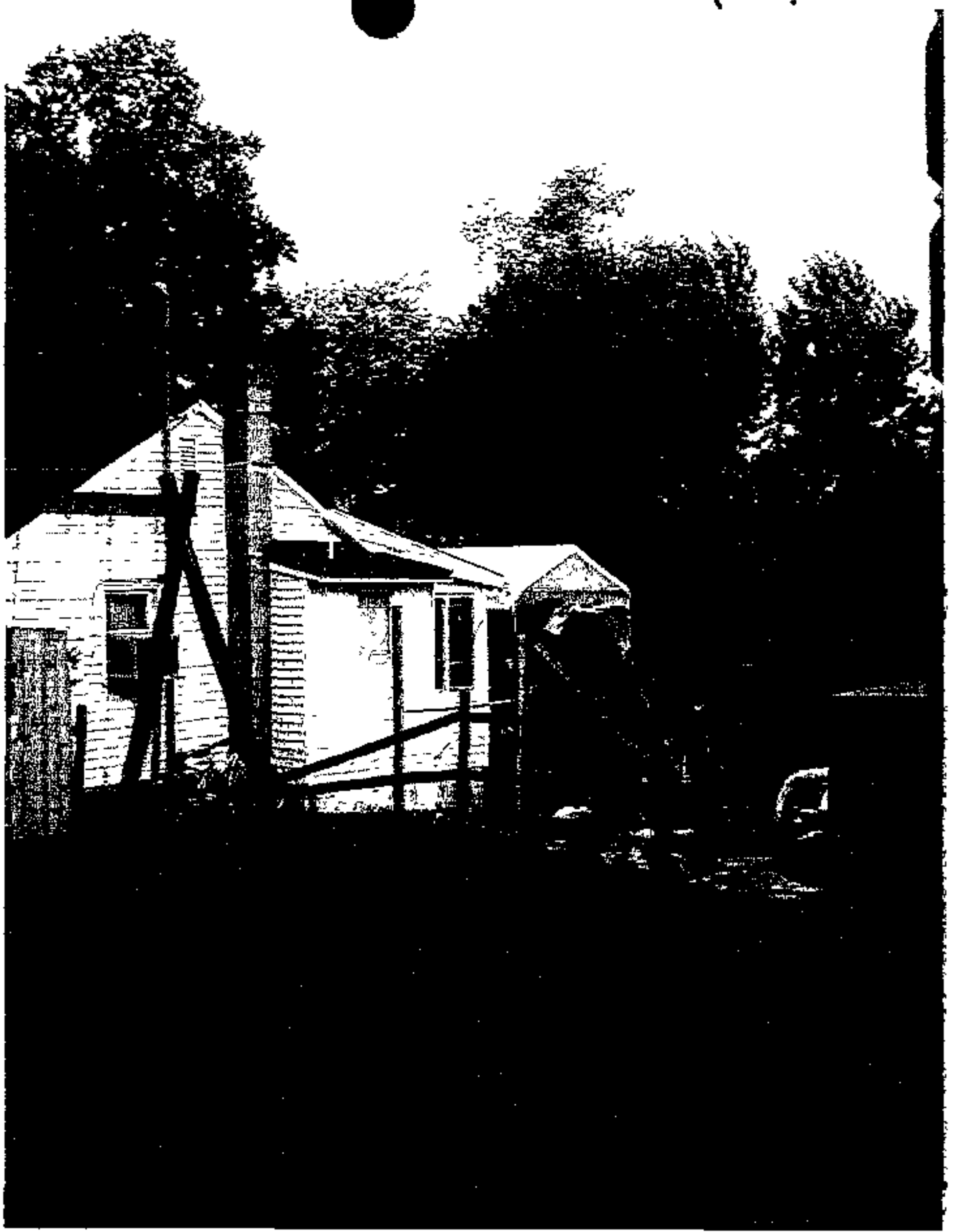
#144

BOA E

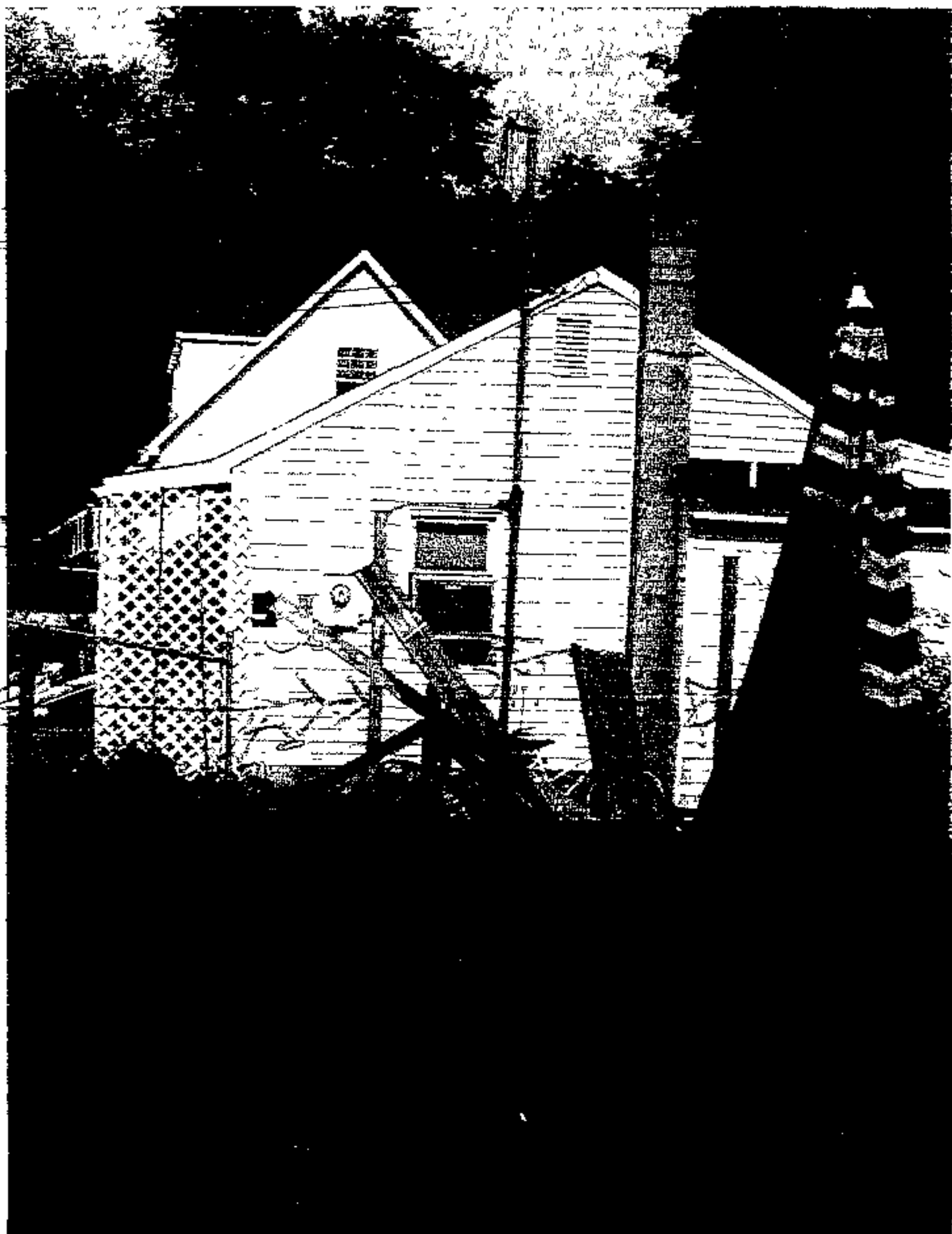


D

BOA F

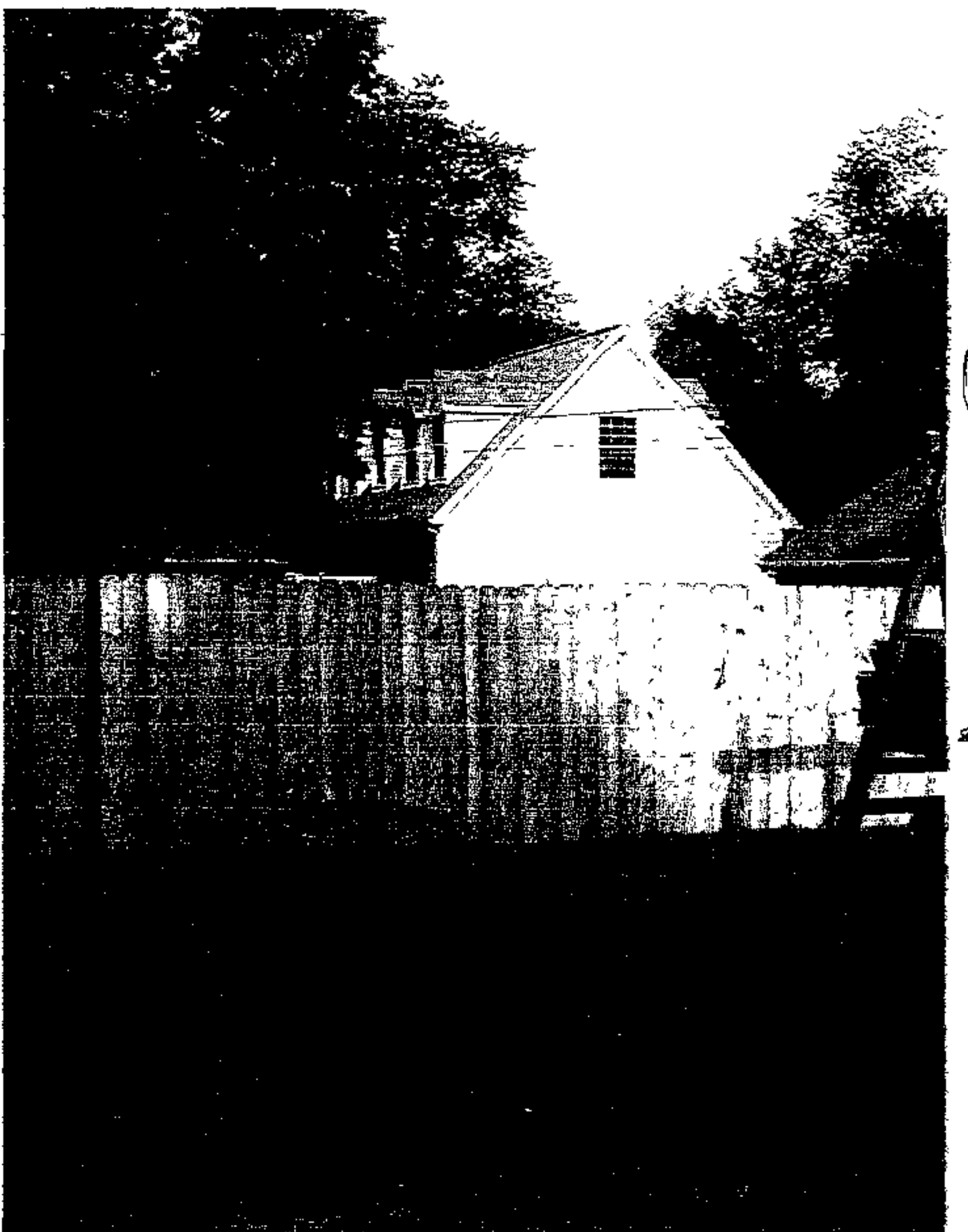


C



BOA G

B



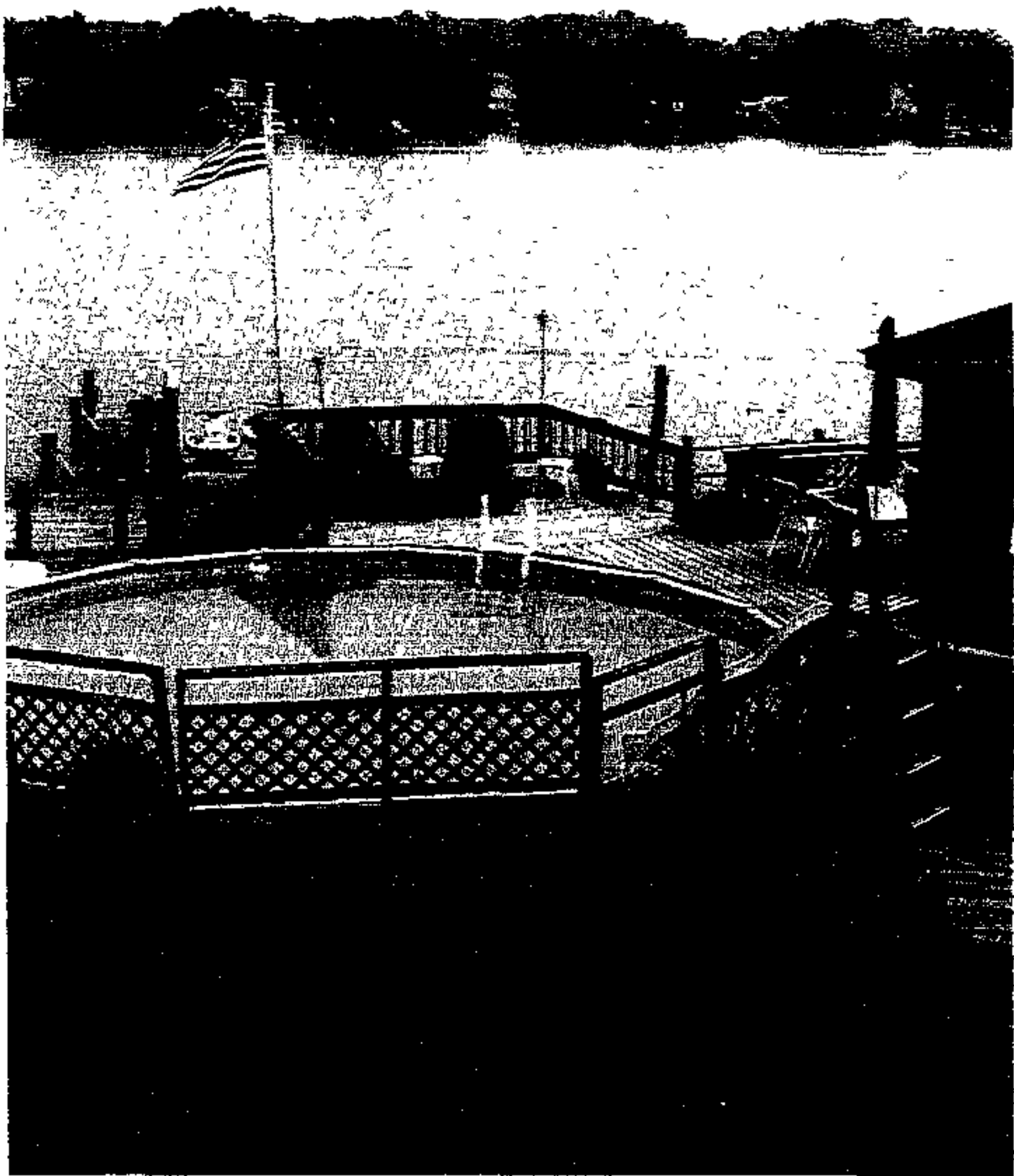
BOA H

fence taken down now

A

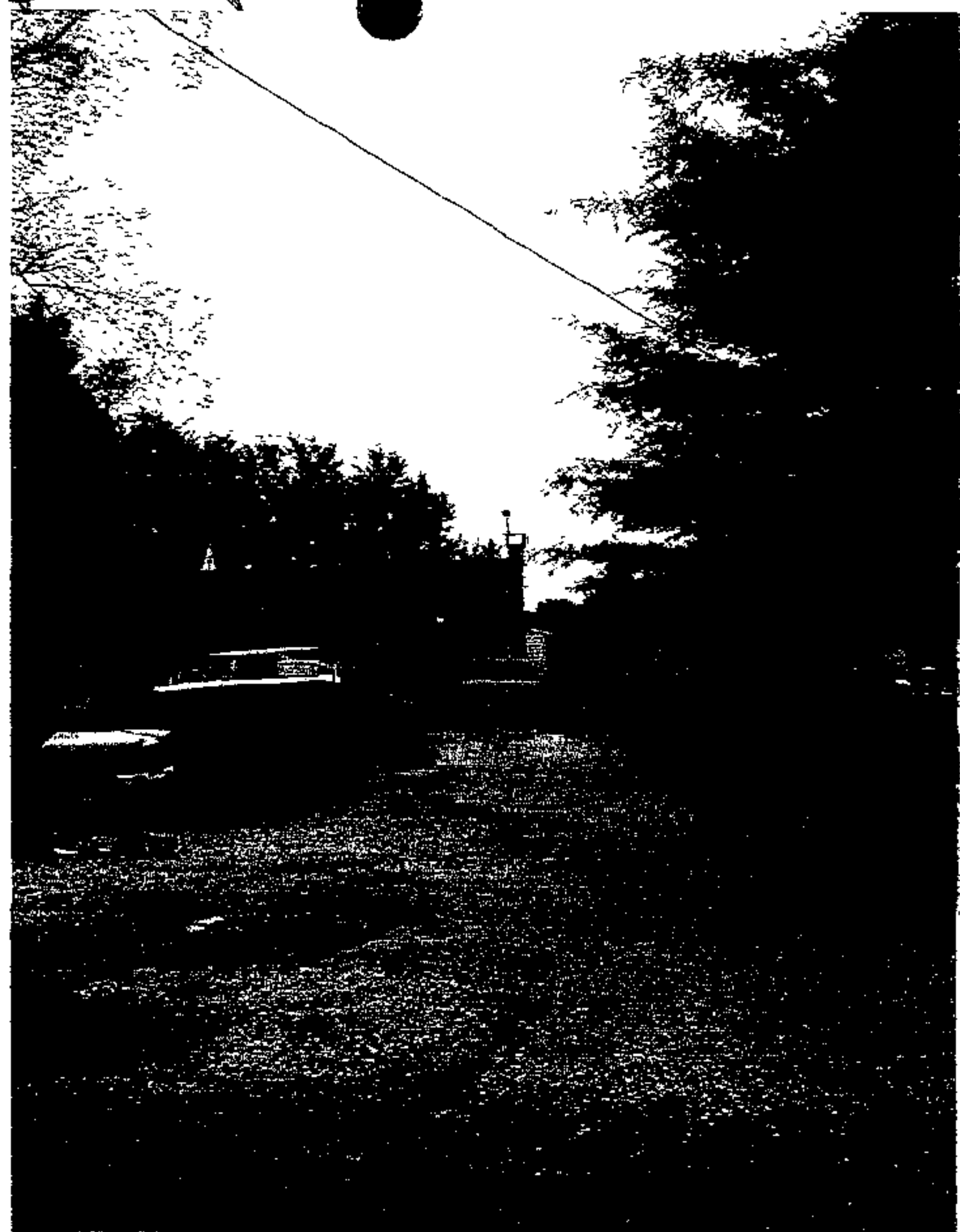
Plot # 3

Boat I



H

Boat J



G

Boat K



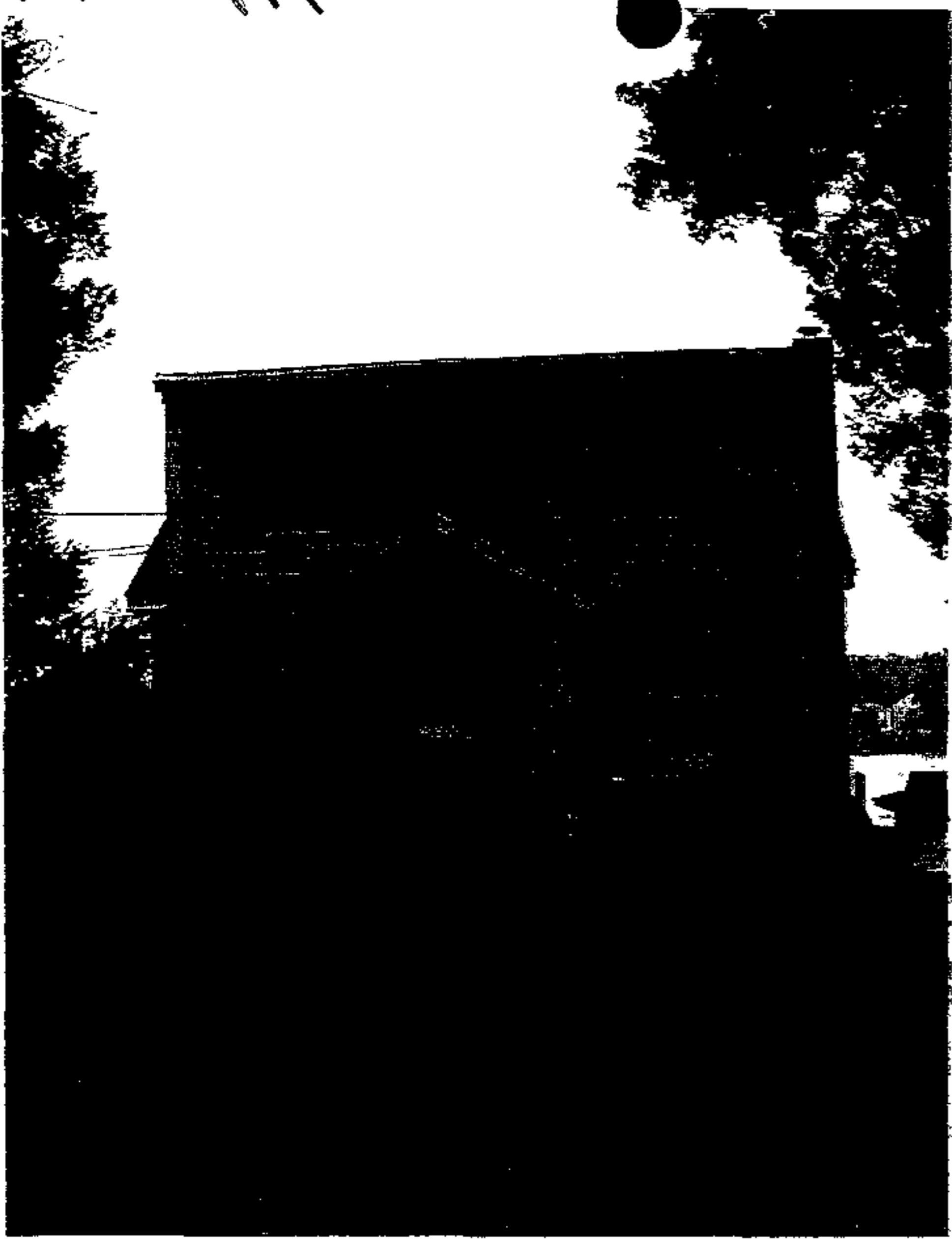
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Boat L



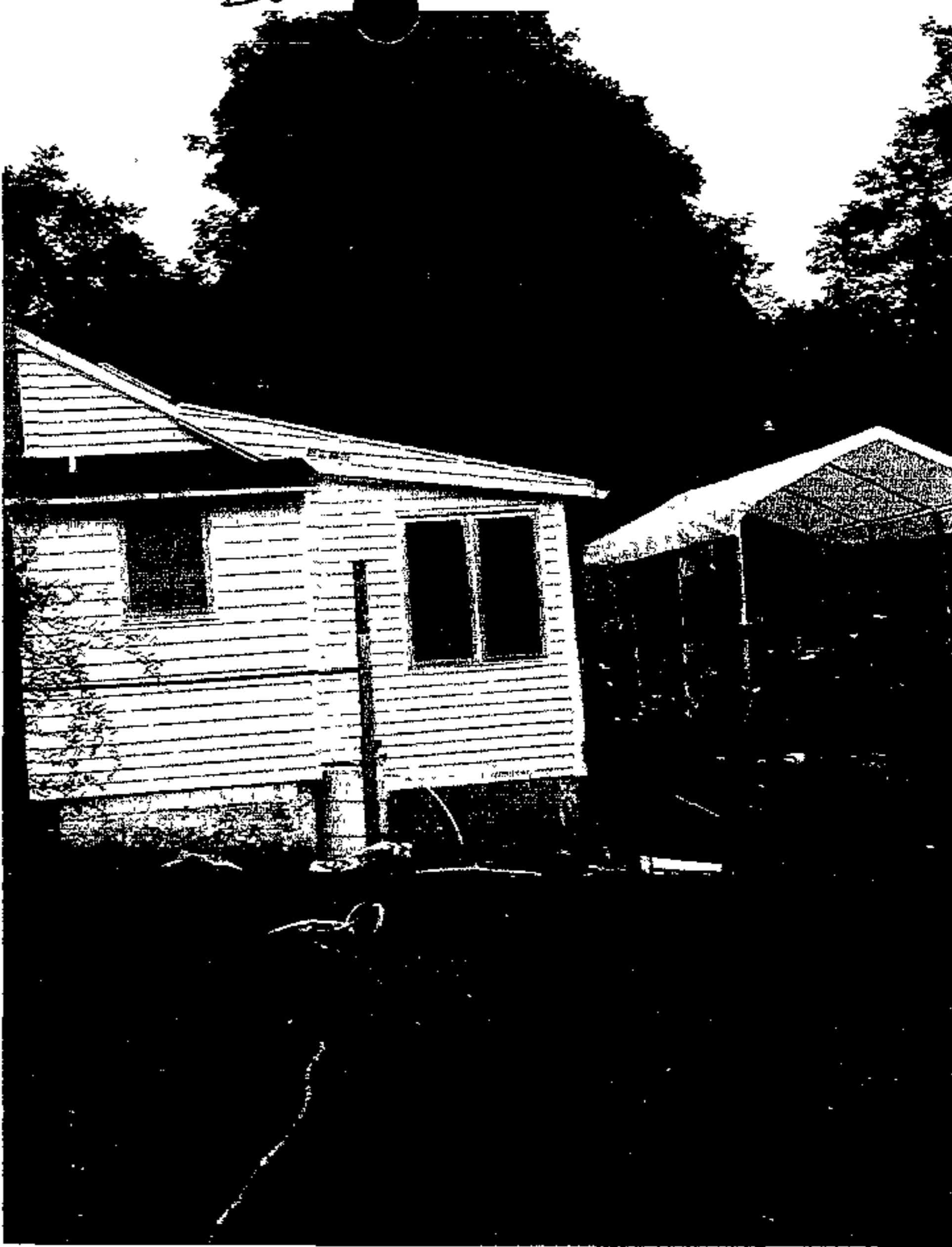
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BOA M



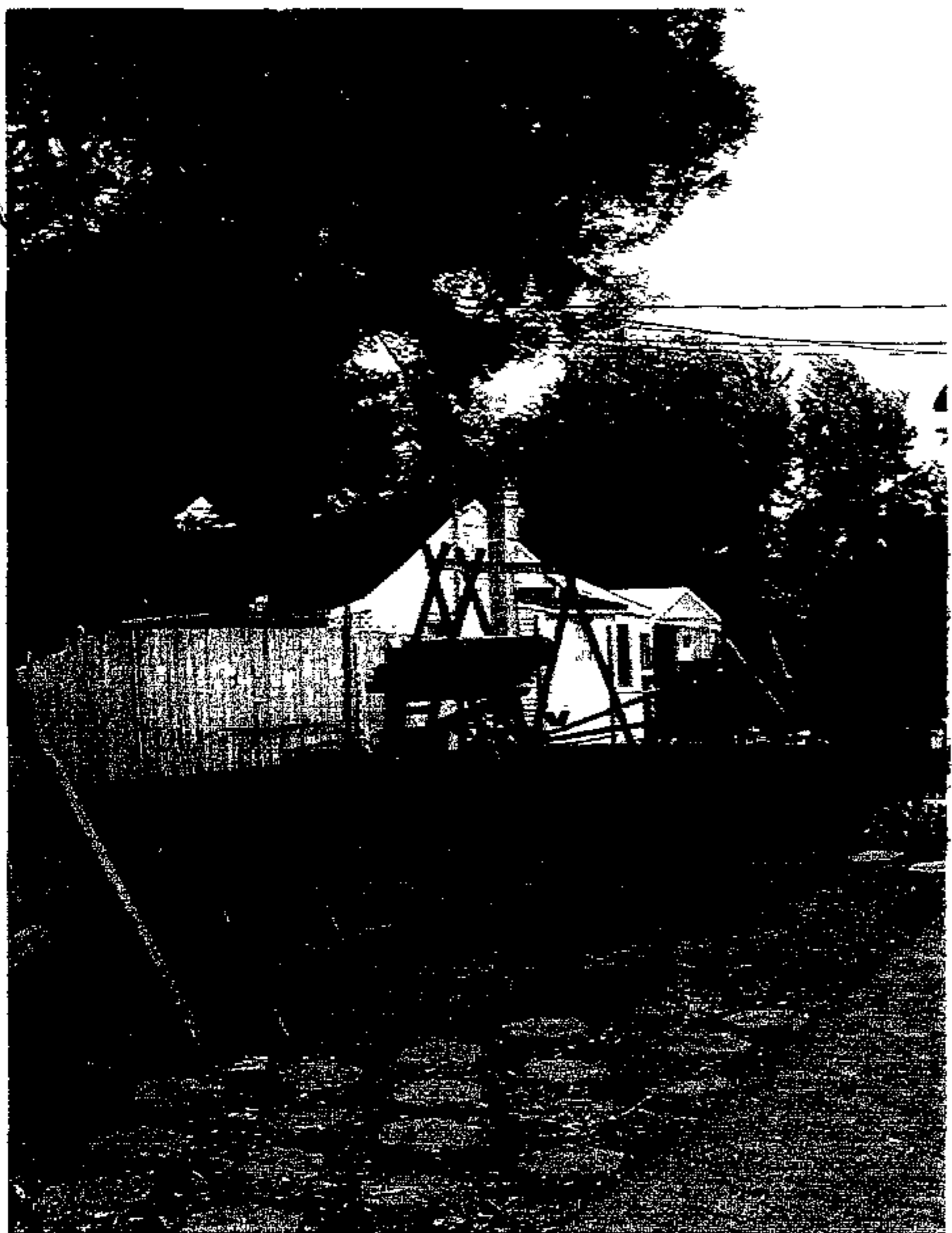
✓

BOA D



K

BOA O



J

BOA P



I

N

BOA 6



0

BOA R



N

BOA S



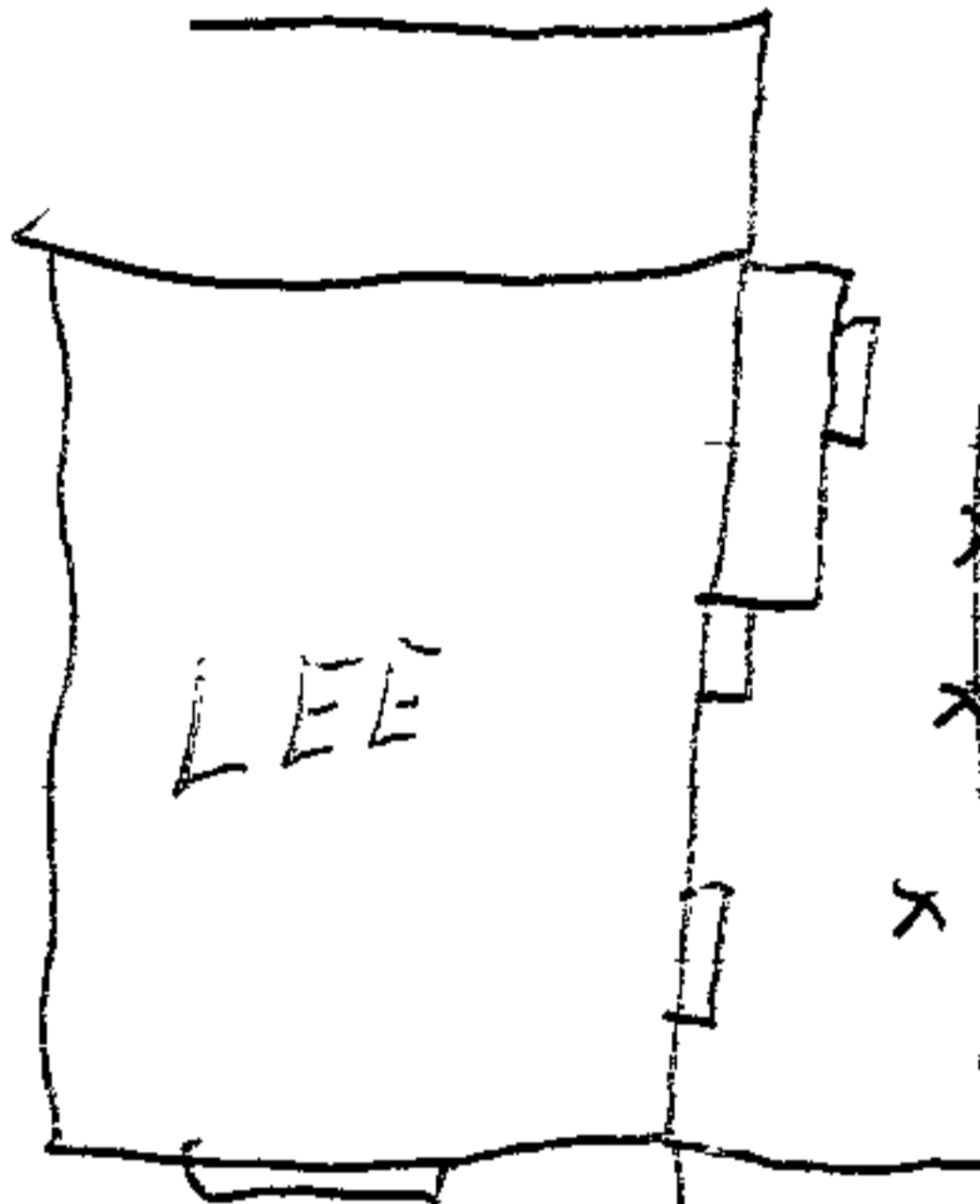
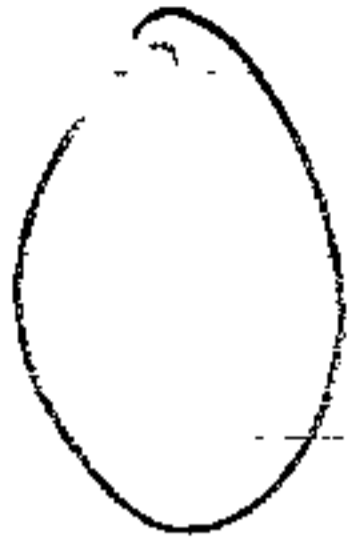
M

Trees existed until past summer

3

WATER

APP X # 3



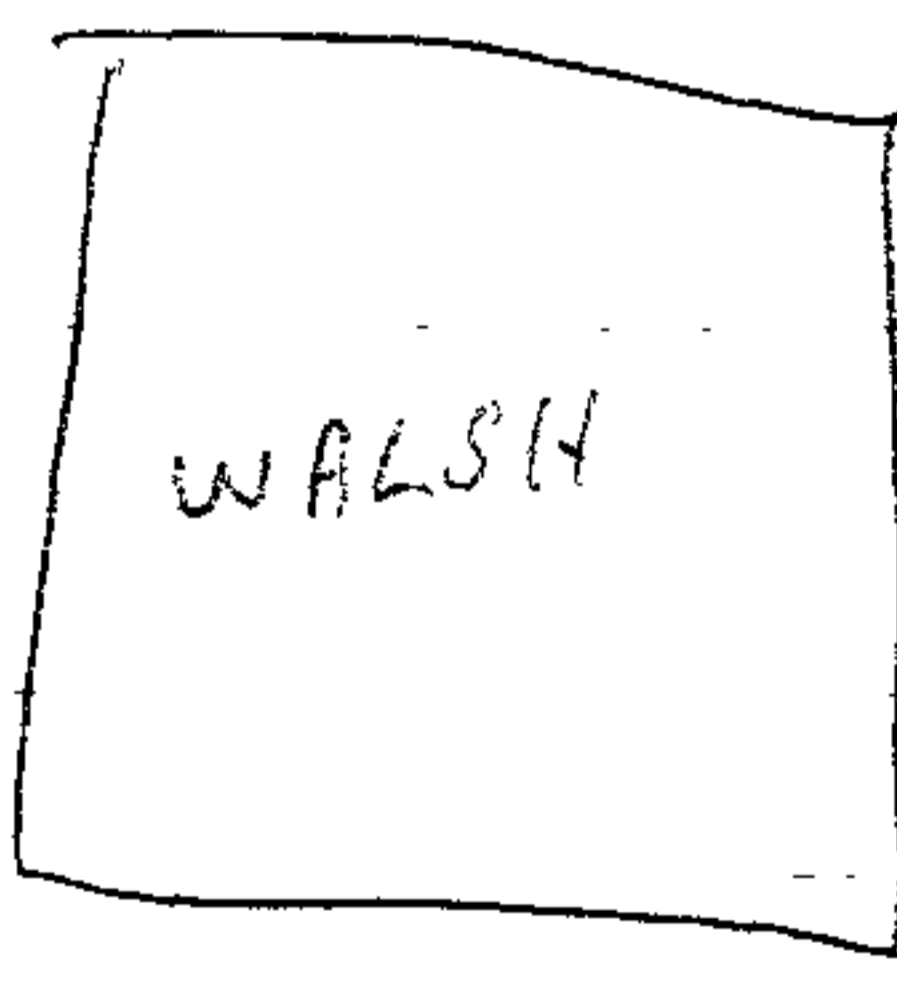
6'

5'
42"

WAIVER
COVERS

40'

BRICK WAY



04'

