

IN RE: PETITION FOR VARIANCE
N/S of Talister Court, 104.19 ft. SW
centerline of King Avenue
14th Election District
6th Councilmanic District
(28 Talister Court)

Janine P. Zito-Richmond &
Stuart K. Richmond, III
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 04-594-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 owners of the subject property, Janine P. Zito-Richmond & Stuart K. Richmond, III. The Petitioners are requesting variance relief for property located at 28 Talister Court in Baltimore County. The variance request is from Sections 1B02.3B, 301.1 and 504 of the Baltimore County Zoning Regulations (B.C.Z.R.), and Parts V.B.7 and V.B.6.6 of the Comprehensive Manual of Development Policies (CMDP) to permit an open projection (pool and deck attached to house) with a 6 ft. rear yard setback in lieu of the required 11.25 ft. and to permit a private yard space of 0 sq. ft. in lieu of the required 500 sq. ft.

The property was posted with Notice of Hearing on August 2, 2004, 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 August 10, 2004 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 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

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Date 9/9/04
By Ray

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: None

Interested Persons

Appearing at the hearing on behalf of the variance request were Janine Zito-Richmond, Stuart Richmond, Christine Bevans, Connee Piercy, Dawn Zito, Anthony Piercy, Theresa Zito and Judy Blachowicz. Michelle Ruth appeared as a protestant at the hearing. People’s Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Code Enforcement Comments

This matter is currently the subject of an active violation case (Case No. 04-1081) in the Division of Code Inspections and Enforcement. A citation for code violation has been issued in this matter due to the fact that the deck is built to the property line, a privacy wall was recently built on top of the deck and the pool in the rear of the yard is less than 2½ ft. from the property line.

It should be noted, for the record, that the fact that a zoning violation is issued is simply ignored in this zoning case. This means that the Petitioner cannot use the fact that a structure has been built to set a precedent in order to allow it to continue. Nor does the fact that a structure may be costly to remove or modify come into consideration of the zoning case. The reason for

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By Raj

this is that this condition is clearly self-imposed and as such cannot be a basis for the hardship or practical difficulty required by Section 307 of the B.C.Z.R. Conversely, the fact that something may have been done which could violate the law is not held against the Petitioner as some sort of an additional punishment. Zoning enforcement is conducted by the Department of Permits and Development Management, which has the authority to impose fines and other penalties for violation of law. This is not the province of this office.

Testimony and Evidence

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 1619 sq. ft. of land, more or less, zoned DR 5.5 and DR 16. The subject property is improved by a townhouse whose front yard is located in the DR 16 zone and rear yard in the DR 5.5 zone. The Petitioners purchased the property in 1991 with an aboveground pool, a shed and two decks. See Petitioners' photograph Exhibit No. 2A. The pool was located on the Dubiago side of the rear yard. See Petitioners' Exhibit No. 1. However, the Petitioners testified that they had problems with water coming from the woods behind the property into their yard. In 1998, they decided to install French drains and re-grade the back yard to be able to handle the water coming onto their property. They also relocated the pool to the Ruth side of the rear yard in order to enhance the drainage problem and they built a privacy fence around the property in conjunction with neighbors on both sides who had built similar privacy fences. The rear yards of these townhouses are 18 ft. wide by 40 ft. long and contain 720 sq. ft. of area.

In June of 2004, however, the County received an anonymous complaint that the pool was too close to the Ruth boundary. (Ms. Ruth, who testified as a protestant, indicated that she was not the anonymous complainant). On inspection, a citation for zoning violation was issued requiring the Petitioners to move the pool away from the Ruth property line 2.5 ft. and to reduce the overall coverage of the rear yard by accessory uses to less the 40% of the rear yard area. The

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By [Signature]

basis of the citation was that the pool was an accessory structure subject to the regulations cited in the complaint. The Petitioner applied for the subject variance.

The intake person in the Zoning Office, however, saw the problem quite differently. First, she viewed the pool as attached to the deck, which was attached to the house. Therefore, the regulations applicable were quite different from those cited by the Zoning Inspector. For example, if the pool is attached, then the whole construction of deck, steps and pool are treated as one open projection and there are no zoning setbacks from the property line. (Apparently there is a separation required by the fire code, which is not part of this hearing). Based upon an open projection requirement of the CMDP Section V.B.7, there must be a 15 ft. minimum free of structures in the rear yard. Open projections can then project into this minimum dimension by not more than 25% per Section 301.1 of the B.C.Z.R., which leaves 11.25 ft. free of such projections. In this case, the Petitioner has 6 ft. from the end of the pool to the rear lot line, thus requiring a variance.

Similarly, the Zoning Office determined that Section V.B.7 of the Comprehensive Manual of Development Policies (CMDP) also requires a minimum area of open land of 500 sq. ft. Petitioners' Exhibit No. 9A indicates that the rear yard is 720 sq. ft. The pool itself is 170 sq. ft. according to Petitioners' Exhibit No. 9A. If only the pool is counted, the "area of open land" would be 550 sq. ft., which meets the minimum specified in the CMDP section. This policy also specifies that land area under an uncovered deck (such as we have here) "at grade or elevated" may be included in the calculation. This seems to include virtually every deck and so one could argue that the Petitioners meet this CPDM requirement. However, the longstanding interpretation of this policy by the Zoning Office is that only elevated decks under which one can walk without bending are allowed in the calculation. In this case, the deck is perhaps 6 ft. above grade and, therefore, cannot be used in the "area of open land" calculation. As a result, the pool

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By Ray

and deck together are 327 sq. ft. and leave only 393 sq. ft. of area of open land in the Petitioners' back yard, rather than the 500 sq. ft. required.

The Petitioners testified that they were the subject of an internal community dispute and were picked out for harassment by the anonymous complainant. Ms. Richmond indicated that the zoning complaint was in retaliation for a letter she had written to the homeowners association. This allegation was supported by testimony of members of Mrs. Richmond's family who also noted that many of the homes in this townhouse neighborhood would likely have zoning violations. Consequently, it was not fair to single out the Petitioners.

Mrs. Richmond testified that if she moved the pool away from the Ruth border and kept the same pool, she would lose the effectiveness of the drainage system they installed in the rear yard because the pool would cover the drain. In addition, they would lose access to the pool from the deck in her rear yard. See Petitioners' Exhibit No. 9B. She felt that it was not reasonable to make her move a pool which had been in the same location without complaint for six years and which had been enjoyed not only by her family but by her neighbors as well. Ms. Richmond also testified and presented evidence of her daughter's disabilities, as well as her own medical problems, many of which can be allayed by swimming in the pool. As important, neither Ms. Richmond nor her daughter can climb ladders to go from the ground level to the edge of the pool. Consequently, direct access from the landing is essential.

Ms. Ruth testified that she lived next door to the Petitioners but again was not the anonymous complainant. One of her concerns was that the Petitioners' pool was too close to the fence, which separates their properties such that she could reach the pool itself from her yard. In addition, she testified that the pool was too large for the size of the backyard. She indicated that the pool in the Dubiago's yard was more in keeping with the size of the back yards in the neighborhood. Finally, she noted that the Petitioners' pool cover was not maintained during the

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By [Signature]

winter months and collected leaves and other debris along with rainwater. See Protestant's photograph 1.

On cross-examination, she indicated that she and the Petitioners had mutually erected a privacy fence between and around their properties in 1999. In addition, she admitted that she has used the Petitioners' pool in its present location as a guest of the Petitioner several years earlier when their relationship was friendlier.

Findings of Fact and Conclusions of Law

An interesting side note to this case is that Section 1B02.3 B of the B.C.Z.R. indicates that the subdivisions, such as "Kingsberry", which have been approved by the Planning Board, are to have the zoning regulations applicable at the time of approval rather than later applying the regulations. In this case, the rear yard minimum would be 30 ft. If the zoning regulations applied, the open projection can be 25% of the rear yard minimum or 7.5 ft. Said another way, if the zoning regulations applied, the variance would be for an open projection of 34 ft. in lieu of 7.5 feet. A variance is required in either case, but there would be a different variance requested if the zoning regulations applied.

However, the Zoning Office has consistently held that the CMDP replaces the zoning regulations in a large subdivision. This is a curious interpretation in that the CMDP regulations are "not to be inconsistent with the zoning regulations", but rather are intended to further the purposes of the zoning regulations". See Section 504.1 of the B.C.Z.R. A good example of furthering the zoning regulation occurs when the CMDP requires 500 sq. ft of area of open land in each lot. The zoning regulations do not cover this subject matter. Consequently, this provision clearly furthers the zoning regulations. However, when one considers the open projection argument above, the zoning regulations are in conflict with the CMDP regulations. Again, this really does not matter in this case but may in other cases.

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BY Ray

Then there is the issue of what law applies to this case. The Zoning inspector saw the pool as freestanding and applied regulations such that the pool violated the regulations because it was within 2.5 feet of the property line, etc. The Zoning Office sees the pool attached to the deck and steps and, therefore, should be treated as an open projection.

In my view, the pool should be considered attached to the deck. I understand the inspector's perspective that the pool was not mechanically bolted to the deck. However, Petitioners' photographs 11E and Protestant's photograph 1 show that access to the pool is obtained not from the ground up a ladder, but directly from the landing at the bottom of the steps. I think the word "attached" is more than simple mechanical connection, but rather includes the function of access. To me these are all one functional item although the components may be distinct.

As a result, I do not find that there is any requirement to treat the pool as a separate accessory structure, which must be more than 2.5 feet from the property line. Consequently, I find that there is no need from a zoning standpoint to move the pool.

No one objected to the fact that the pool is only 6 ft. from the rear property line rather than 11.5 ft. I find that this variance can be granted without affecting the health, safety or welfare of the community. I also find that the Petitioners would suffer hardship and practical difficulty to move this existing structure to meet the regulations and that from a zoning standpoint the property is unique and qualifies for a variance.

However, I do not agree with the Zoning Office in regard to the interpretation of the CMDP Section V.B.7 requirement regarding 500 ft. of "area of open land". The Zoning Office did not include the deck and steps in the open space calculation, due to a longstanding interpretation of that section which they see as forbidding such unless the deck is at grade or one can walk under

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By [Signature]

the deck without bending. I agree that this deck is not high enough to qualify under the second interpretation. However, I read the section differently.

The Section specifies that porches that can be covered do not qualify but that the land under an uncovered deck may be included. It seems to me that these decks have the broadest possible definition as they may be at grade or elevated. There is simply nothing in the regulations that address how high they may be. My interpretation relies in part on the fact that the intention is to insure that each back yard has a minimum private space for occupants. Surely, a deck is a space that provides open space for occupants just the same as grass would. I sense that this regulation which was enacted in the 1970's was a first attempt to define impervious area and address the rain water runoff problems surfacing at that time. Thus, covered porches would not be included as impervious, but decks allowed rainwater to drain directly into the ground below because of their open construction. I am also troubled by a request for a 0 sq. ft. in any variance. If a variance is granted in these instances, the entire back yard could be filled and no area of open land would be provided.

As a result of my interpretation of Comprehensive Manual of Development Policies, Section V. B. 7 and applying the facts above, I find that the Petitioners meet the 500 sq. ft. minimum and do not need a variance from this section.

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 in part and denied in part.

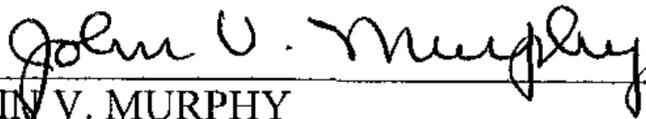
THEREFORE, IT IS ORDERED, this 9 day of September, 2004, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Section 1B02.3B, 301.1 and 504 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an open projection

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By [Signature]

(pool and deck attached to house) with a 6 ft. rear yard setback in lieu of the required 11.25 ft.,
be and is hereby GRANTED; and

IT IS FURTHER ORDERED, that the Petitioners' request pursuant to CMDP Section
V.B.7, to permit a private yard space of 0 sq. ft. in lieu of the required 500 sq. ft., be and it is
hereby DENIED as not being needed because I find that Petitioners' Exhibit No. 1 meets these
regulations.

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

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Date 9/9/04
By Raj

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

September 10, 2004

Mr. & Mrs. Stuart K. Richmond, IV
28 Talister Court
Baltimore, Maryland 21237

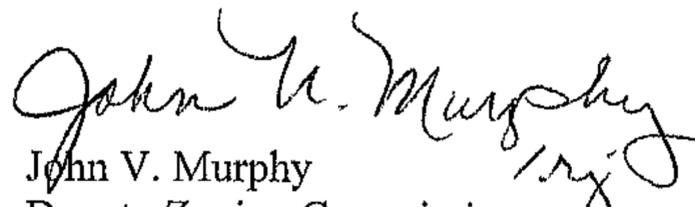
Re: Petition for Variance
Case No. 04-594-A
Property: 28 Talister Court

Dear Mr. & Mrs. Richmond:

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,


John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

c: Christine Bevans, 10405 Bird River Road, Baltimore, MD 21220
Connee & Anthony Piercy, III, 38 S. Hawthorne Road, Baltimore, MD 21220
Judy Blachowicz, 20 Talister Court, Baltimore, MD 21237
Michelle Ruth, 30 Talister Court, Baltimore, MD 21237

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





Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 28 Talister Ct.

which is presently zoned Residential D.R. 16 + D.R. 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 1802.2B., 301.1, 504 (BCZR); V.B.7, V.B.6.b. (EMDP)

To permit an open projection (pool and decking attached to house) with a 6' rear setback in lieu of the required 11.25' and to permit a private yard space of 0-square feet in lieu of the required 500-square feet due to open areas on lot being less than 15' in depth.

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

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. 04-594-A

Legal Owner(s):

Janine P. Zito Richmond
Name - Type or Print _____
Signature _____
Stuart K Richmond IV
Name - Type or Print _____
Signature _____
28 Talister Ct 410-574-1242
Address Telephone No. _____
Baltimore Md 410-837-5417
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 D.T. Date 6/23/04

Varlance Answers

- A) 1) The property is unique in that the house was purchased with a pool and deck in 1991 with the intent to provide these amenities for a disabled child, now an adult who is still residing at the residence (See Exhibit 1). The purchasers paid more for the house than the going rate at the time due to the added amenities (See Exhibits: 2, 3). The house was refinanced in 3/98 (See Exhibit 4) and 11/02 (See Exhibits: 5, 6, 7) with no infractions noted on the appraisals or title binders that were required for these transactions. The house consistently appraises (See Exhibits 3, 6) at a higher value because of amenities. Removal of the amenities will result in a decrease of property value.
- 2) One of the owners and the disabled daughter has medical problems, which are benefited by the use of the pool (See Exhibits: 8, 9, 10, 11& 12).
- 3) This family and the aforementioned property has been the object of harassment, destruction and hate crimes as reported to the Baltimore County Police and the FBI (See Exhibit 13).
- B) 1) i) Moving the pool will result in economic, emotional and medical hardship to the family owning this property.
- a) Economic – The husband and wife have experienced a drop of income due to circumstances beyond their control (See Exhibits: 14, 15, 16). The wife has had medical problems that have resulted in her reducing her work week (See Exhibit 17) and the husband, a convention manager, has experienced a lag in work due to the 9/11 attacks and the sale of his company (See Exhibit 18). Moving the pool would result in an unneeded and unnecessary expense (See Exhibit 19).
- b) Emotional – The family has experienced untold hardship at the hands of these anonymous complaints and terror like actions. The family counselor is aware of the harassment (See Exhibit 20).
- c) Medical – The wife and disabled child, both suffering from stress have had medical set backs due to this complaint. Their doctors have been apprised of the situation (See Exhibits: 8, 9, 10, 11& 12).
- ii) a) The backyard was designed, constructed and backfilled providing much needed drainage from runoff from the woods for the adjoining properties with the pool being placed perpendicular to adjacent fence and pipes buried around the pool and in strategic locations (See Exhibits 22, 23). Fence was updated with two locking gates to provide added security to prevent unauthorized access (See Exhibit 24). Baltimore County was contacted in 2/98 to inquire about any necessary permits. No permits were required and no other information given because of the size of the pool was under 250 square feet as determined by an ellipse calculator at www.csgnetwork.com/areaellipse.html. (See Exhibit 25) The pool is already erected and filled for the summer (See Exhibit 26).
- b) The deck was built to provide easy access for the disabled child/adult to the pool (See Exhibit 27).
- iii) The house was purchased in 10/91 with a pool on the set back (See Exhibit 2).
- 2) i) Moving the pool would unreasonably prevent the use of an amenity that the owners were looking for at the time of purchase of the property (See Exhibit 1). Access to the pool would be limited (See Exhibit 28). It would be burdensome, because the deck would have to be moved for the aforementioned disabled party to gain safe access (See Exhibits: 11, 12, 27). One of the owners also has medical problems, which are benefited by the use of the pool (See Exhibits: 8, 9, 10, 11& 12).
- ii) It would be a substantial injustice because the anonymous complaint is apparently another attempt by unknown parties to continue the harassment, destruction and hate crimes towards this family when there are other homes in the community with code violations as well (See Exhibit 29). These owners are responsible citizens and have lived in this neighborhood as pool owners for 13 years with no complaints (See Exhibits: 30, 31, 32).
- iii) The public safety and welfare is secure as indicated by the six foot privacy fence and two locked gates to gain access to the pool from the community which was an improvement of existing fence from time of purchase (See Exhibit 26).
- C) There is no increase in residential density as established in 1979.
- D) The relief requested is in the spirit and intent of existing regulations. Note: Requested regulations in 2/98.
- E) There is no hazard to the public health, safety and general welfare as provide by a six foot fence, two locking gates installed by owners (See Exhibit 24).

Variance Answers

- A) 1) The property is unique in that the house was purchased with a pool and deck in 1991 with the intent to provide these amenities for a disabled child, now an adult who is still residing at the residence (See Exhibit 1). The purchasers paid more for the house than the going rate at the time due to the added amenities (See Exhibits: 2, 3). The house was refinanced in 3/98 (See Exhibit 4) and 11/02 (See Exhibits: 5, 6, 7) with no infractions noted on the appraisals or title binders that were required for these transactions. The house consistently appraises (See Exhibits 3, 6) at a higher value because of amenities. Removal of the amenities will result in a decrease of property value.
- 2) One of the owners and the disabled daughter has medical problems, which are benefited by the use of the pool (See Exhibits: 8, 9, 10, 11 & 12).
- 3) This family and the aforementioned property has been the object of harassment, destruction and hate crimes as reported to the Baltimore County Police and the FBI (See Exhibit 13).
- B) 1) i) Moving the pool will result in economic, emotional and medical hardship to the family owning this property.
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- ii) It would be a substantial injustice because the anonymous complaint is apparently another attempt by unknown parties to continue the harassment, destruction and hate crimes towards this family when there are other homes in the community with code violations as well (See Exhibit 29). These owners are responsible citizens and have lived in this neighborhood as pool owners for 13 years with no complaints (See Exhibits: 30, 31, 32).
- iii) The public safety and welfare is secure as indicated by the six foot privacy fence and two locked gates to gain access to the pool from the community which was an improvement of existing fence from time of purchase (See Exhibit 26).
- C) There is no increase in residential density as established in 1979.
- D) The relief requested is in the spirit and intent of existing regulations. Note: Requested regulations in 2/98.
- E) There is no hazard to the public health, safety and general welfare as provide by a six foot fence, two locking gates installed by owners (See Exhibit 24).



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 28 Talister Ct

which is presently zoned Residential D.R. 16+
D.R. 55

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) 1202.2B., 201.1, 504 (BCZR); V.B.7, V.B.6.b. (CMDP)

To permit an open projection (pool and decking attached to house) with a 6' rear setback in lieu of the required 11.25' and to permit a private yard space of 0-square feet in lieu of the required 500-square feet due to open areas on lot being less than 15' in depth.

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

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):

Janine P. Zito Richmond
Name - Type or Print _____
[Signature]
Signature _____
Stuart K. Richmond IV
Name - Type or Print _____
[Signature]
Signature _____
28 Talister Court 410-574-1242
Address _____ Telephone No. 410-837-5417
Baltimore Md 21237
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 D.T. Date 6/23/04

Case No. 04-594-A

Zoning Description

Zoning description for 28 Talister Court

Beginning at a point on the north side of Talister Court which is 70.45 feet wide at the distance of 104.19 feet southwest of the centerline of the nearest improved intersecting street, King Avenue which is 31.38 feet wide. Being Lot #42 in the subdivision of Kingsberry as recorded in the Baltimore County Plat Book # 044, Folio # 0147, containing 1619 square feet. Also known as 28 Talister Court and located in the 14th Election District, 6th Councilman District.

04-594-A

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 40389

DATE 6/23/04 ACCOUNT 0010066150
AMOUNT \$ 65.00

RECEIVED FROM: JANINE P. ZITO RICHMOND
FOR: ITEM # 394 04-594-A
28 TALISTER CT. BY D. THOMPSON

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS ACTUAL TIME DMM
6/23/2004 6/23/2004 10:57:47 5
SER 4635 WALKIN MEL WH
> RECEIPT # 3888 6/23/2004 OFLT
Dept 5 528 ZONING VERIFICATION
CX NO. 040389

Receipt Tot \$55.00
\$65.00 CX 1.00 04
Baltimore County, Maryland

CASHER'S VALIDATION

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 #04-594-A
28 Talister Court, 104.19 feet s/west of N/side of Talister Court, 104.19 feet s/west of centerline of King Avenue
14th Election District — 6th Councilmanic District
Legal Owner(s): Janine P. Zito Richmond and Stuart K. Richmond

Variance: to permit an open projection (pool and deck attached to house) with a 6-foot rear setback in lieu of the required 11.25 feet and to permit a private yard space of 0 square feet in lieu of the required 500 square feet.

Hearing: Tuesday, August 24, 2004 at 10:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake 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.

16451

JT 8/6/04 August 10

CERTIFICATE OF PUBLICATION

_____ 8/21, 2004

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 8/10, 2004.

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

S. Wilkinson

LEGAL ADVERTISING

Certificate Of Posting

RE: Case NO.: 04-594-A

Petitioner/Developer: JANINE
ZITO RICHMOND

Date of Hearing/Closing: 8/24/04

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

Attention:

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
at 28 TALLISTEK CT.

This sign(s) were posted on 8/9/04
(Month, Day, Year)

Sincerely,

Martin Ogle 8/9/04
(Signature of Sign Poster and Date)

Martin Ogle
(Printed Name)
5016 Castlestone Drive
(Address)
Balto, MD 21237
(City, State, Zip Code)
(410)-933-9470
(Phone Number)

TO: PATUXENT PUBLISHING COMPANY
Tuesday, August 10, 2004 Issue - Jeffersonian

Please forward billing to:

Mr. & Mrs. Stuart Richmond, IV
28 Talister Court
Baltimore, MD 21237

410-574-1242

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: 04-594-A

28 Talister Court

N/side of Talister Court, 104.19 feet s/west of centerline of King Avenue

14th Election District – 6th Councilmanic District

Legal Owners: Janine P. Zito Richmond and Stuart K. Richmond

Variance to permit an open projection (pool and deck attached to house) with a 6-foot rear setback in lieu of the required 11.25 feet and to permit a private yard space of 0 square feet in lieu of the required 500 square feet.

Hearing: Tuesday, August 24, 2004, at 10:00 a.m. in Room ¹⁰⁶407, 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.



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

July 6, 2004

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: 04-594-A

28 Talister Court

N/side of Talister Court, 104.19 feet s/west of centerline of King Avenue

14th Election District – 6th Councilmanic District

Legal Owners: Janine P. Zito Richmond and Stuart K. Richmond

Variance to permit an open projection (pool and deck attached to house) with a 6-foot rear setback in lieu of the required 11.25 feet and to permit a private yard space of 0 square feet in lieu of the required 500 square feet.

Hearing: Tuesday, August 24, 2004, at 10:00 a.m. in Room ¹⁰⁶407, ~~County Courts Building,~~
~~401 Bosley Avenue~~

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

Timothy Kotroco
Director

TK:klm

C: Janine & Stuart Richmond, 28 Talister Court, Baltimore 21237

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, AUGUST 9, 2004.**
- (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.

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: 04-594-A

Petitioner: RICHMOND

Address or Location: 28 TALISTER CT.

PLEASE FORWARD ADVERTISING BILL TO:

Name: MR. + MRS. STUART R. RICHMOND IV

Address: 28 TALISTER CT.

BAKTO. MD 21237

Telephone Number: 410-574-1242

**Department of Permits and
Development Management**

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



Baltimore County

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

August 17, 2004

Janine P. Zito Richmond
Stuart K. Richmond IV
28 Talister Court
Baltimore, Maryland 21237

Dear Mr. and Mrs. Richmond:

RE: Case Number: 04-594-A, 28 Talister Court

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 23, 2004.

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.".

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel

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



Fire Department

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



Baltimore County

James T. Smith, Jr., County Executive
John J. Hohman, Chief

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

July 1, 2004

ATTENTION: Kristen Mathews

Distribution Meeting of: July 1, 2004

Item No.: 585, 592-⁵⁹⁴596, 598-609

Dear Ms. Mathews:

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.

6. 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
INTEROFFICE CORRESPONDENCE

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

DATE: July 23, 2004

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

SUBJECT: Zoning Advisory Committee Meeting
For July 12, 2004
Item Nos. 585, 592, 593, 594, 595, 596,
597, 598, 599, 600, 601, 602, 603, 605,
606, 607, 608, and 609

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

RWB:CEN:jrb

cc: File

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco
FROM: John D. Oltman, Jr *JDO*
DATE: July 30, 2004
SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of July 19, 2004

X The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

04-585
04-592
04-593
04-594
04-595
04-596
04-600
04-601
04-603
04-604
04-605
04-606
04-607
04-608
04-609

Reviewers: Sue Farinetti, Dave Lykens

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

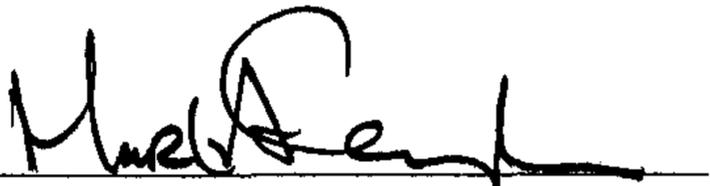
DATE: August 10, 2004

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 4-594 – Administrative Variance**

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: _____



Division Chief: _____



MAC/LL



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

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

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 7.2.04

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

RE: Baltimore County
Item No. 594 DT

Dear Ms. Matthews:

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



RE: PETITION FOR VARIANCE
28 Talister Court; N/side Talister Court,
104.19' SW c/line of King Avenue
14th Election & 6th Councilmanic Districts
Legal Owner(s): Janine P Zito-Richmond &
Stuart K. Richmond, III
Petitioner(s)

* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* 04-594-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.

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 13th day of July, 2004, a copy of the foregoing Entry of Appearance was mailed to, Janine & Stuart Richmond, 28 Talister Court, Baltimore, MD 21237, Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED

JUL 13 2004

Per.....

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: July 14, 2004

TO: W. Carl Richards, Jr.
Zoning Review Supervisor

FROM: James Thompson, Supervisor
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 04-594-A
Legal Owner/Petitioner: Janine P. Zito-Richmond & Stuart K. Richmond III
Property Address: 28 Talister Court
Location Description: North side Talister Court, 104.19-ft SW of centerline of King Ave.
INFORMATION: **Case No.: 04-2828**

Please be advised that the aforementioned petition is the subject of an active violation case.

In addition, please find attached a duplicate copy of the following pertinent documents relative to the violation case, for review by the Zoning Commissioner's Office:

Code Enforcement Complaints
Tax Assesment Inquiry
Baltimore County Correction Notice
Letter from Property owner with diagram attached
Case Record

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Latoshia Rumsey-Scott in Room 113 in order that the appropriate action may be taken relative to the violation case.

JHT/lrs

c: Derek Propalis, Code Enforcement Inspector, MS 1105

CODE ENFORCEMENT REPORT

NCF

DATE: 6/1/04 INTAKE BY: RM CASE #: 04-4828 INSPEC: 14

COMPLAINT LOCATION: 28 Talister Ct. (Rear)

Rosedale Md. ZIP CODE: 21237 DIST:

COMPLAINANT NAME: Anon PHONE #: (H) (W)

ADDRESS: ZIP CODE:

PROBLEM: Deck is built to the property line. Recently built a privacy wall on top of deck. Pool in rear, less than 2 1/2 ft from prop line

IS THIS A RENTAL UNIT? YES NO IF YES, IS THIS SECTION 8? YES NO

OWNER/TENANT INFORMATION:

TAX ACCOUNT #: ZONING:

INSPECTION: • Also - All accessory structures exceed 40% of rear yard restriction • NO Building Permits

REINSPECTION:

REINSPECTION:

REINSPECTION:

DATE: 06/01/2004

STANDARD ASSESSMENT INQUIRY (1)

TIME: 14:34:34

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
18 00 008350	14	3-2	04-00	H	NO		02/13/04
RICHMOND JANINE P ZITO				DESC-1.. IMPS.0371 AC			
RICHMOND STUART K,4TH				DESC-2.. KINGSBERRY			
28 TALISTER CT				PREMISE. 00028 TALISTER			CT
							00000-0000

BALTIMORE MD 21237-4029 FORMER OWNER: ZITO JANINE P

----- FCV -----		----- PHASED IN -----				
	PRIOR	PROPOSED		CURR	CURR	PRIOR
LAND:	26,000	26,000		FCV	ASSESS	ASSESS
IMPV:	54,650	62,700	TOTAL..	86,016	86,016	83,333
TOTL:	80,650	88,700	PREF...	0	0	0
PREF:	0	0	CURT...	86,016	86,016	83,333
CURT:	80,650	88,700	EXEMPT.		0	0
DATE:	06/99	08/02				

---- TAXABLE BASIS ----	FM DATE
04/05 ASSESS: 86,016	11/09/02
03/04 ASSESS: 83,333	06/04/03
02/03 ASSESS: 80,650	05/30/02

ENTER-INQUIRY2 PA1-PRINT PF4-MENU PF5-QUIT PF7-CROSS REF

04-4828



Baltimore County
Department of Permits and
Development Management

Code 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

Citation/Case No. 04 4828	Property No. 18 06 008350	Zoning:
------------------------------	------------------------------	---------

Name(s):
Ganine Richmond
Stuart Richmond

Address:
28 Talister Ct Balto MD 21237

Violation Location:
Same

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

BCZC 101 102.1 B.O.A. 400

You cannot occupy more than
40% of your rear yard with
accessory use (sheds, pools)

Reduce the size of your pool
and keep 2 1/2 feet off all
property lines

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

On or Before: 6/20/04	Date Issued: 6/3/04
--------------------------	------------------------

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
Derek Propolis

INSPECTOR:
Derek Propolis

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:	Date Issued:
-----------------	--------------

INSPECTOR: _____

AGENCY

Baltimore County Code Enforcement
Attention: Derek Propolis
410-887-3351
410-887-2824

June 4, 2004

Dear Mr. Propolis,

Please review the attached diagrams and call me regarding the proposal. I do not have a lot of time to figure out what I have to do, so your immediate attention is requested. I appreciate you extending the deadline for completion of work to July 3, 2004. Thank you for all of your assistance.

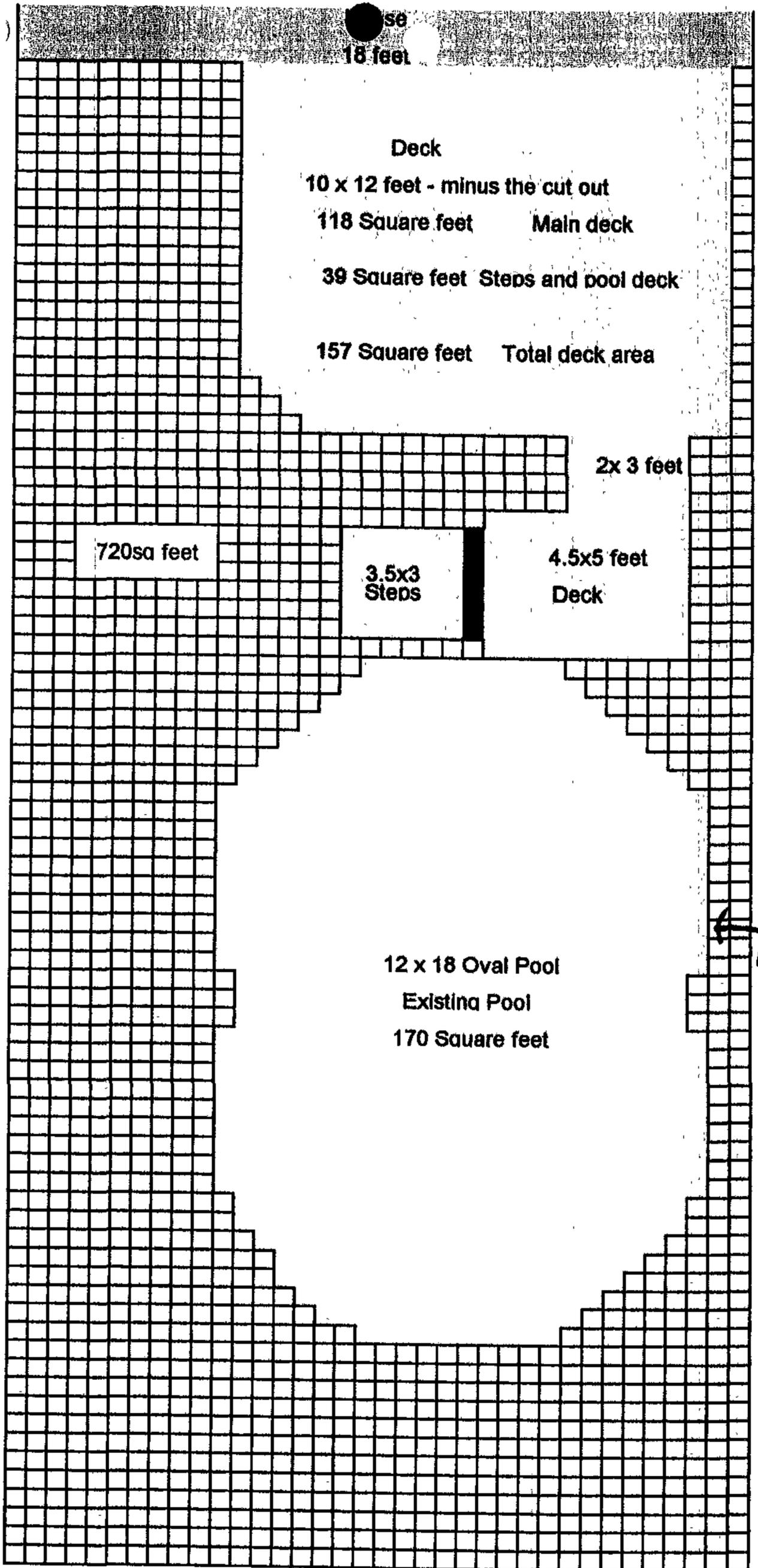


Janine Richmond
28 Talister Court
Baltimore, MD 21237
h) 410-574-1242
fax) 410-574-1856

4 pages including cover

04-4828

Existing structures



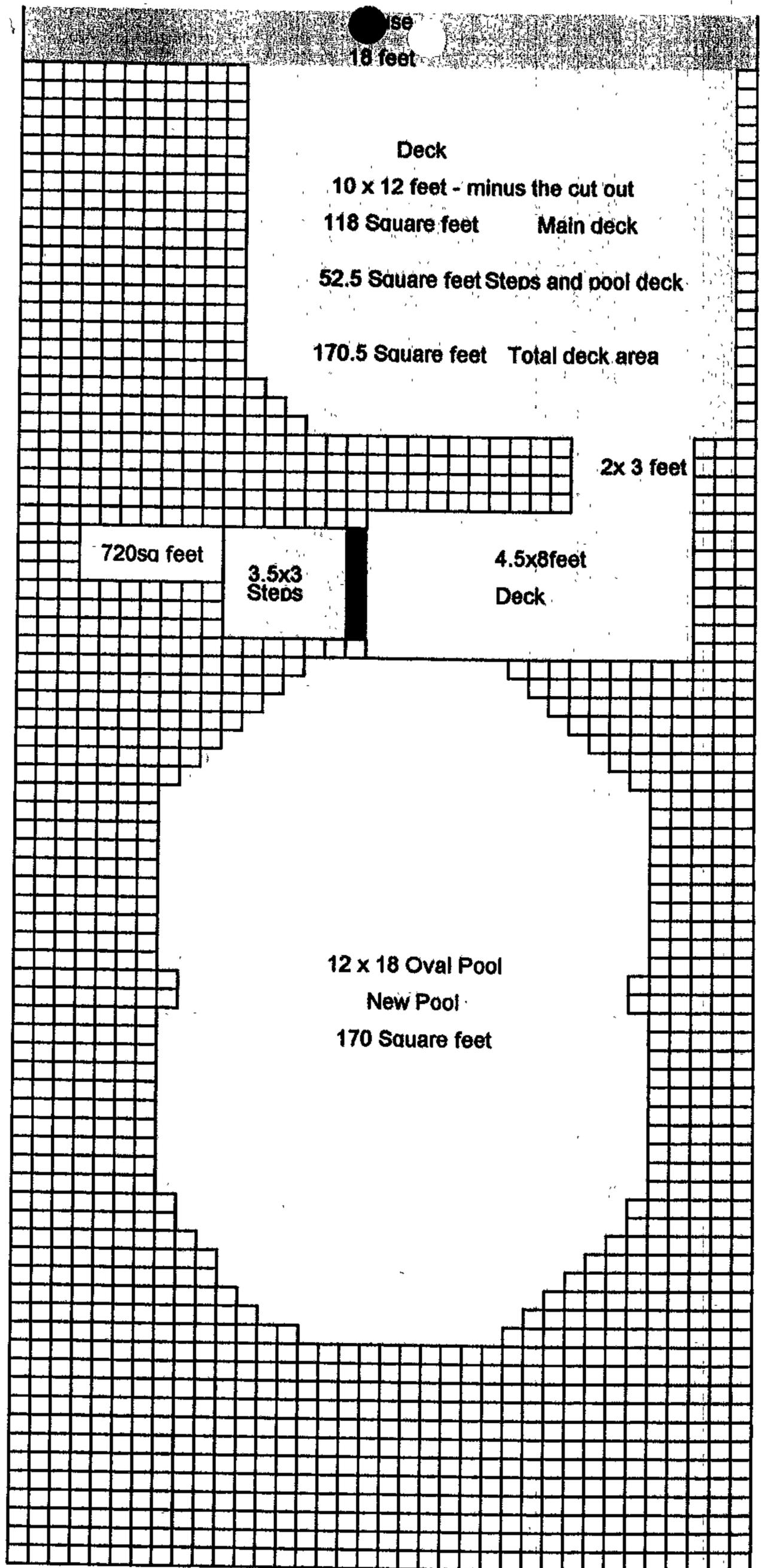
Legend: Each square represents .5 square feet

720 square feet
- 157 square feet deck
*40%
225 square feet

Existing pool is an oval or ellipse @ 170 square ft smaller than 40% or 225 square feet allowed for pools. Formula for ellipse/oval obtained from <http://www.csanetwork.com/areaellipse.html>

Proposal 1

The existing pool deck may need to be lengthened due to moving of pool. A permit will be acquired.



40 feet

Legend: Each square represents .5 square feet

720 square feet

- 170.5 deck

*40%

219.8 square feet

Existing pool is an oval or ellipse @ 170 square ft smaller than 40% or 219.8 square feet allowed for pools. Formula for ellipse/oval obtained from <http://www.csgnetwork.com/areaellipse.html>

Case Entry/Update
Format : CASREC

Mode : CHANGE
File : PDLV0001

Dt Rec: 6022004 Intake: RM Act: _____ Case #: 04-4828
Insp: _____ Insp Grp: ENF Insp Area: 14 Tax Acct: _____
Address: 28 TALISTER CT REAR Apt #: _____ Zip: 21237
Owner: _____

Problem Descript.: DECK IS BUILT TO THE PROP. LINE RECENTLY BUILTA PRIVACY WALL
ON TOP OF DECK, POOL IN REAR, LESS THEN 2 1/2 FROM PROP. LINE

MAP 37D1

Complainant Name (Last): ANON (First): _____
Complainant Addr: _____
Complainant City: _____ State: ___ Zip: _____
Complainant Phone (H): _____ (W): _____
Date of Reinspection: 8302004 Date Closed: _____ Delete Code (P): _

F3=Exit
F9=Insert

F5=Refresh
F10=Entry

F6=Select format
F11=Change

Case Entry/Update
Format : CASREC

Mode : CHANGE
File : PDLV0001

Notes: ****6/3/04, POOL IS LESS THAN 2 1/2' OFF 28-30'S PROP LINE, PROBABLY MORE THAN 40% OF REAR, NOTICE TO KEEP SETBACK OF 2 1/2 FT, CANNOT DETERMINE IF DECK IS IN VIOLATION AS REAR YARD IS FENCED & GATED, DP/CP****

****6/4/04, EXTENSION TO 7/3/04, MRS RICHMOND WILL FAX DIAGRAM SHOWING POOL LESS THAN 40% OF REAR YARD, DECK EDGE TO FENCE, ANONYMOUS COMPL, DP/CP****

****6/4/04, MRS RICHMOND CAME IN WITH DIAGRAMS THAT SHOW POOL OCCUPIES LESS THAN 40% OF REAR YARD BUT THAT IS 10 INCHES OFF ONE SIDE PROP LINE, SHE HAD PAPERS FOR A ZONING VARIANCE WHICH I WOULD VIEW AS ACCEPTABLE GIVEN FAITHFULL FOLLOW THROUGH, AFTER SOME DISCUSSION IT SEEMS SHE WILL RELOCATE POOL TO COMPL WITH SETBACKS, DP/CP****

6/10/04, LEFT MESSAGE THAT THEY MUST HAVE AN APPT TO FILE FOR ZONING VARIANCE BY 7/3/04, APPT TO FILE 6/23/04 10 AM, DP/CP*

****6/30/04, APPT ON 6/23/04 SUCCESSFUL, HEARING 04-594-A, CHECK ON PROGRESS, NO HEARING DATE YET, POSSIBLY LATE AUGUST, P/U 8/30/04, DP/CP****

F3=Exit
F9=Insert

F5=Refresh
F10=Entry

F6=Select format
F11=Change

Editor's note. — Section 2, ch. 624, Acts 1987, provides that "this act shall be construed both retroactively and prospectively." Quoted in *Geisz v Greater Baltimore Medical Ctr.*, 313 Md 301, 545 A.2d 658 (1988). Section 2, ch. 772, Acts 1988, provides that

§ 5-114. Setback line restrictions.

(a) *Definitions.* — (1) In this section, the following words have the meanings indicated.

(2) "Building permit" or "permit" includes a site plan and other documentation submitted in support of an application for a building permit and providing the basis for the issuance of the building permit.

(3) "Governmental entity" includes:

- (i) The State;
- (ii) A local government; and
- (iii) An officer, office, department, agency, board, commission, or other unit of State or local government.

(4) "Highway" means any way or thoroughfare, whether or not the way or thoroughfare has been dedicated to the public or a dedication has been accepted.

(5) "Local government" means:

- (i) A chartered county established under Article 25A of the Code;
- (ii) A code county established under Article 25B of the Code;
- (iii) A board of county commissioners established or operating under Article 25 of the Code;

(iv) Baltimore City;

(v) A municipal corporation established or operating under Article 23A of the Code;

(vi) A special taxing district; or

(vii) Any other political subdivision.

(6) (i) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(ii) "Person" does not include a governmental entity.

(7) "Property line" means the line marking the boundary between 2 separate lots or parcels of property.

(8) "Setback line" means the distance from a curb or shoulder of a highway, edge of a sidewalk, or property line beyond which any portion of a building or structure may not extend.

(9) "Setback line restriction" means a setback line established by:

- (i) A law, ordinance, or regulation, including a building or zoning law, ordinance, or regulation; or
- (ii) An instrument, however denominated.

(b) *In general.* — (1) A person may not initiate an action or proceeding arising out of a failure of a building or structure to comply with a setback line restriction more than 3 years after the date on which the violation first occurred.

(2) A governmental entity may not initiate an action or proceeding arising out of a failure of a building or structure to comply with a setback line restriction more than 3 years after the date on which the violation first occurred if the building or structure was constructed or reconstructed:

(i) In compliance with an otherwise valid building permit, except that the building permit wrongfully permitted the building or structure to violate a setback line restriction; or

(ii) Under a valid building permit, and the building or structure failed to comply with a setback line restriction accurately reflected in the permit.

(3) For purposes of paragraph (2) (i) of this subsection and notwithstanding any other provision of State or local law to the contrary, a building permit that was otherwise validly issued, except that the permit wrongfully permitted the building or structure to violate a setback line restriction, shall be considered a valid building permit.

(4) For purposes of paragraph (2) of this subsection, the date on which the violation first occurred shall be deemed to be the date on which the final building inspection was approved.

(c) *Failure to comply.* — Notwithstanding any provision to the contrary in a deed or other written instrument, a failure to comply with a setback line restriction may not cause a forfeiture or reversion of title.

(d) *Defenses.* — This section may not be construed to abrogate or affect the defense of laches or any other defense that a person may have to an action or proceeding for a violation of a setback line restriction. (1989, ch. 729; 1991, ch. 576; 1992, ch. 383.)

Editor's note. — Section 2, ch. 729, Acts 1989, provides that "this act shall be construed only prospectively and may not be applied or interpreted to have any effect upon or application to any action or proceeding initiated prior to July 1, 1989."

Section 2, ch. 576, Acts 1991, provides that "this act shall apply to and be interpreted to affect all actions or proceedings initiated on or after July 1, 1989."

Section 2, ch. 383, Acts 1992, provides that "this act shall be construed both prospectively and retroactively and shall be applied to and interpreted to affect a building or structure constructed or reconstructed under a valid building permit or in which a variance was granted before October 1, 1992."

Section 3 of ch. 383 provides that "this act shall apply to all actions or proceedings filed on or after October 1, 1992."

§ 5-115. Product liability arising in a foreign jurisdiction.

(a) (1) In this section the following words have the meanings indicated.

(2) "Foreign jurisdiction" means a state, other than this State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a foreign country.

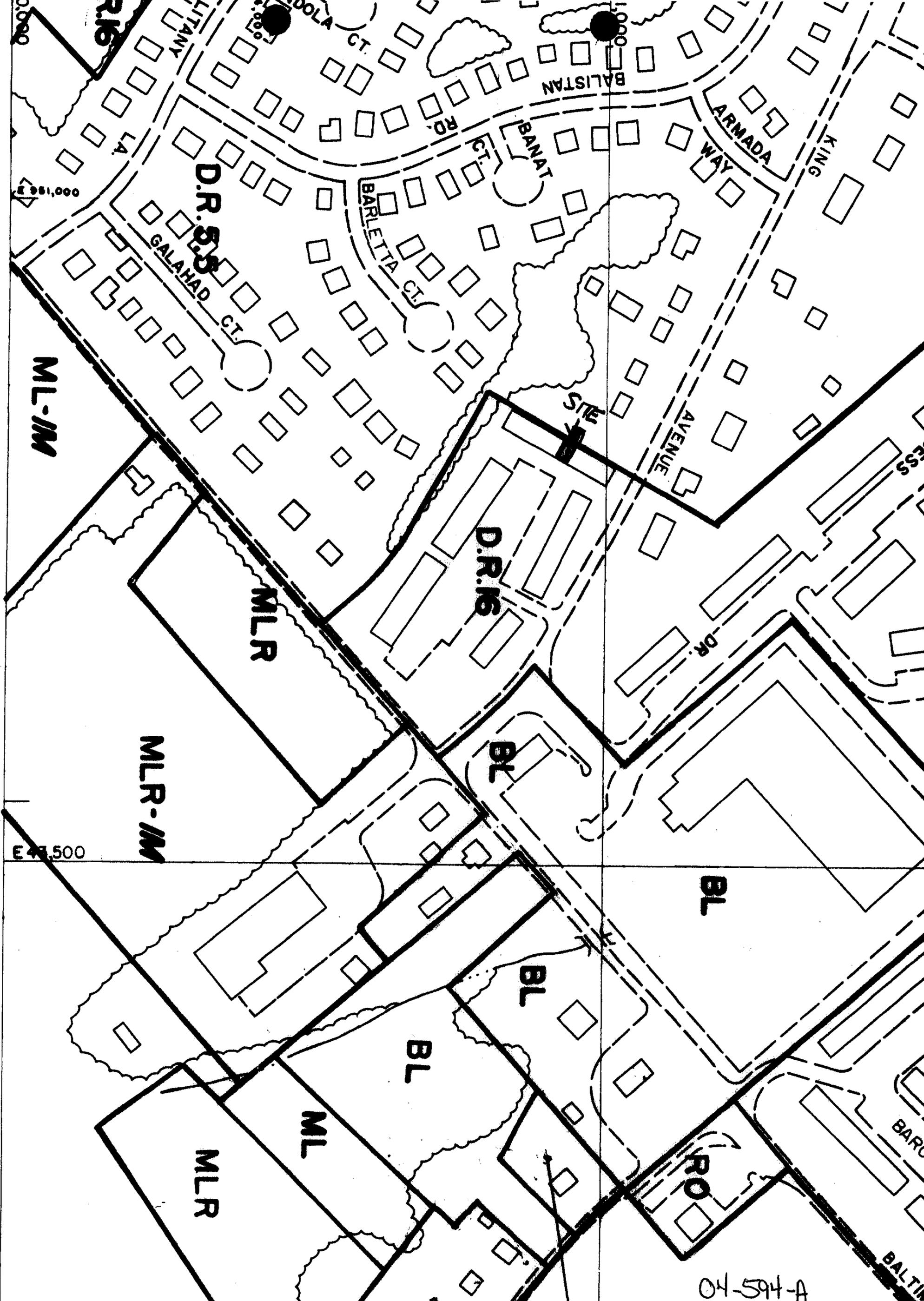
(3) (i) "Manufacturer" means a designer, assembler, fabricator, constructor, compounder, producer, or processor of a product or its component parts.

(ii) "Manufacturer" includes an individual or entity not otherwise a manufacturer that imports a product or otherwise holds itself out as a manufacturer.

(4) "Product" means a tangible article, including attachments, accessories, and component parts, and accompanying labels, warnings, instructions, and packaging.

- SW M - SE

NE 6-H



2000 COMPREHENSIVE ZONING MAP

ADOPTED BY

04-594-A

PLAT TO ACCOMPANY PETITION FOR ZONING VARIANCE SPECIAL HEARING

Property Address: 28 Talister Court, Baltimore MD 21237

Subdivision Name: Kingsberry

Plat Book # 044 Folio # 0147 Lot # 42 Section: NA

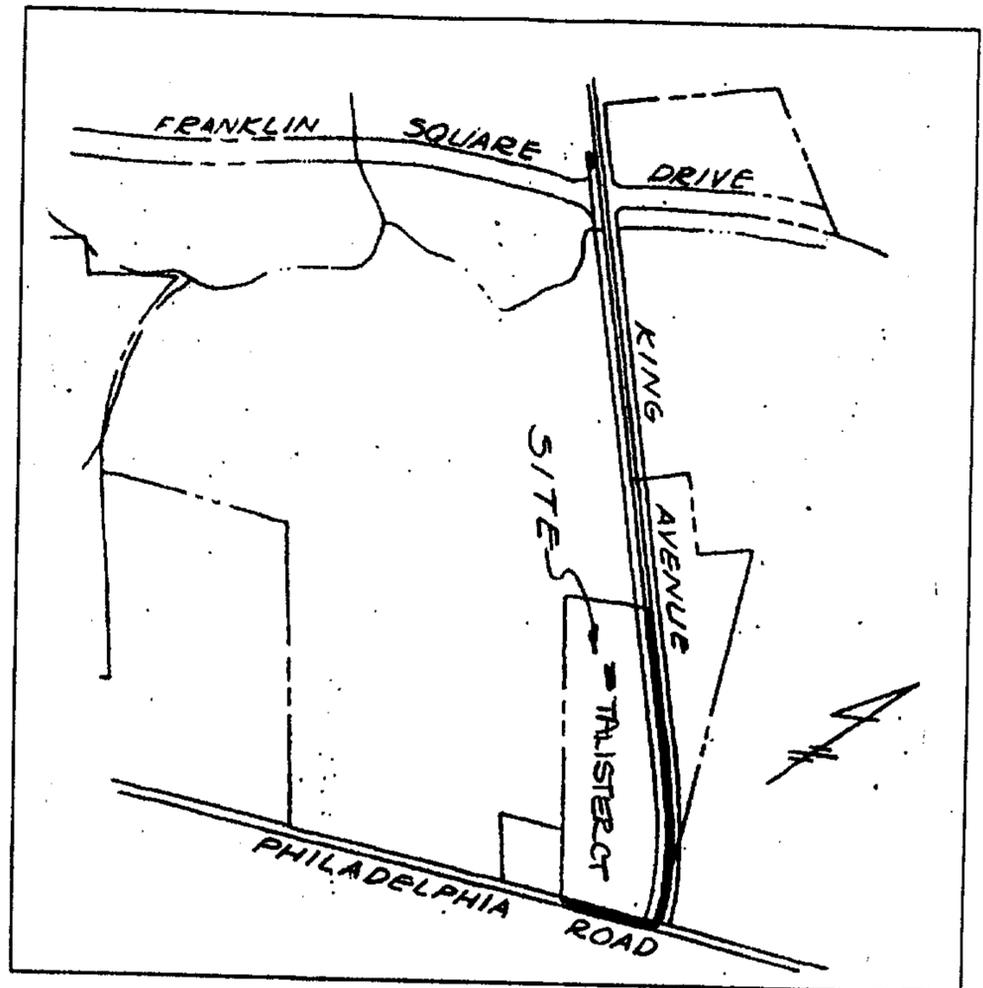
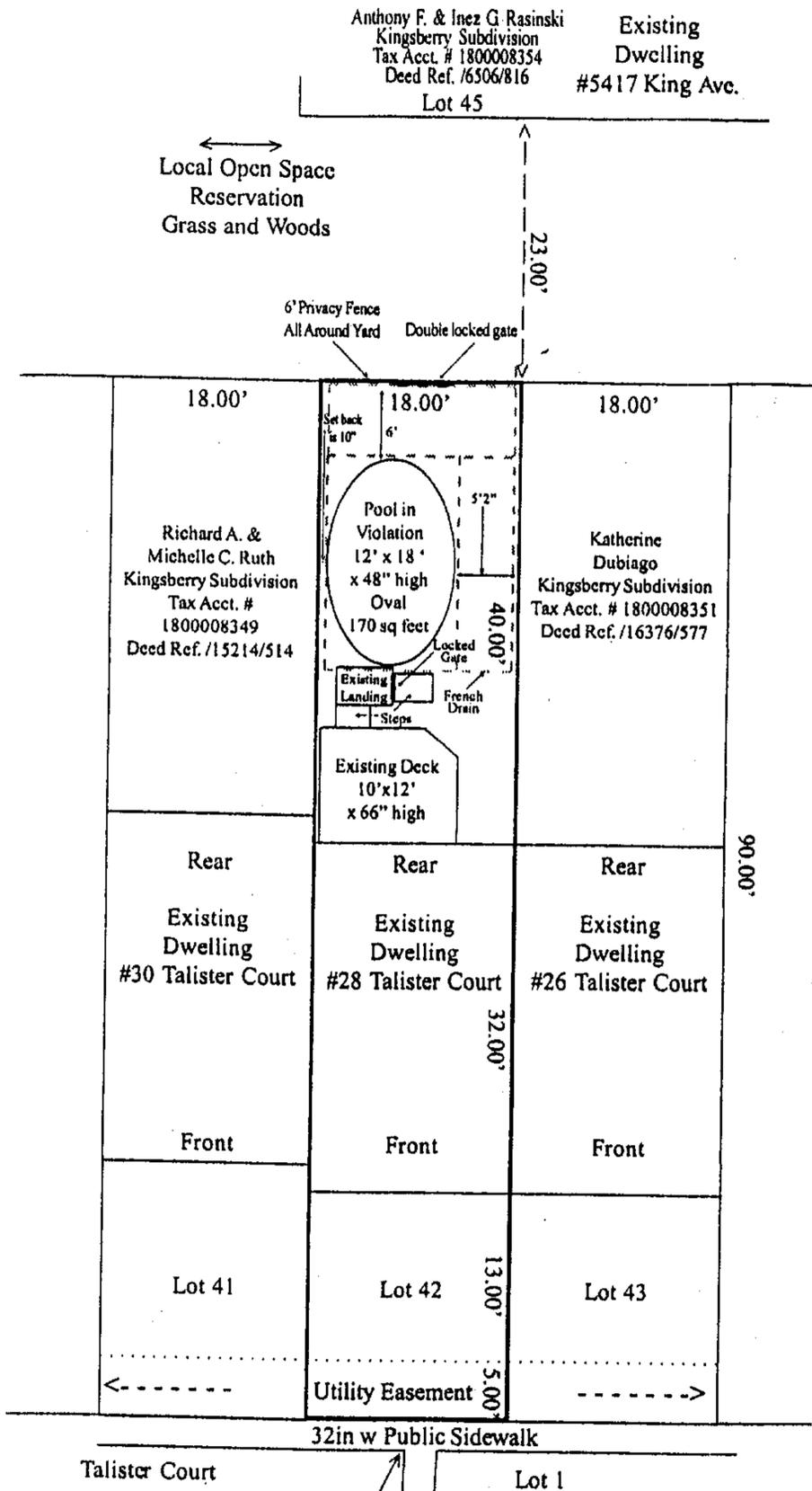
Tax Acct. # 1800008350

Deed Ref /14140/280

Owners: Janine P. Zito Richmond & Stuart K. Richmond IV

No other zoning hearings known with this property.

6/23/04



Vicinity Map
1" = 1000'

B.O.C.A. - None
Special Requirements - None
This site is not located in the Bowleys Quarters Peninsula/Martin Airport/Back River Neck area.

LOCATION INFORMATION		Yes	No
Election District:	14 th		
Councilman District:	6 th		
1" = 200' Scale Map #	NE 6-H		
Zoning:	DR-16		
Lot Size:	1619 Square Feet		
Acreage:	.04		
	Public Private		
Sewer	X		
Water	X		
Chesapeake Bay Critical Area		X	
100 Year Flood Plain		X	
Historic Property/Building		X	
Prior Zoning Hearing		X	

ZONING OFFICE USE ONLY

Reviewed by Item # Case #

D.T. 1594 04-594-A

Drawn by: JZR

Scale of Drawing: 1" = 20'

Handwritten signature and initials

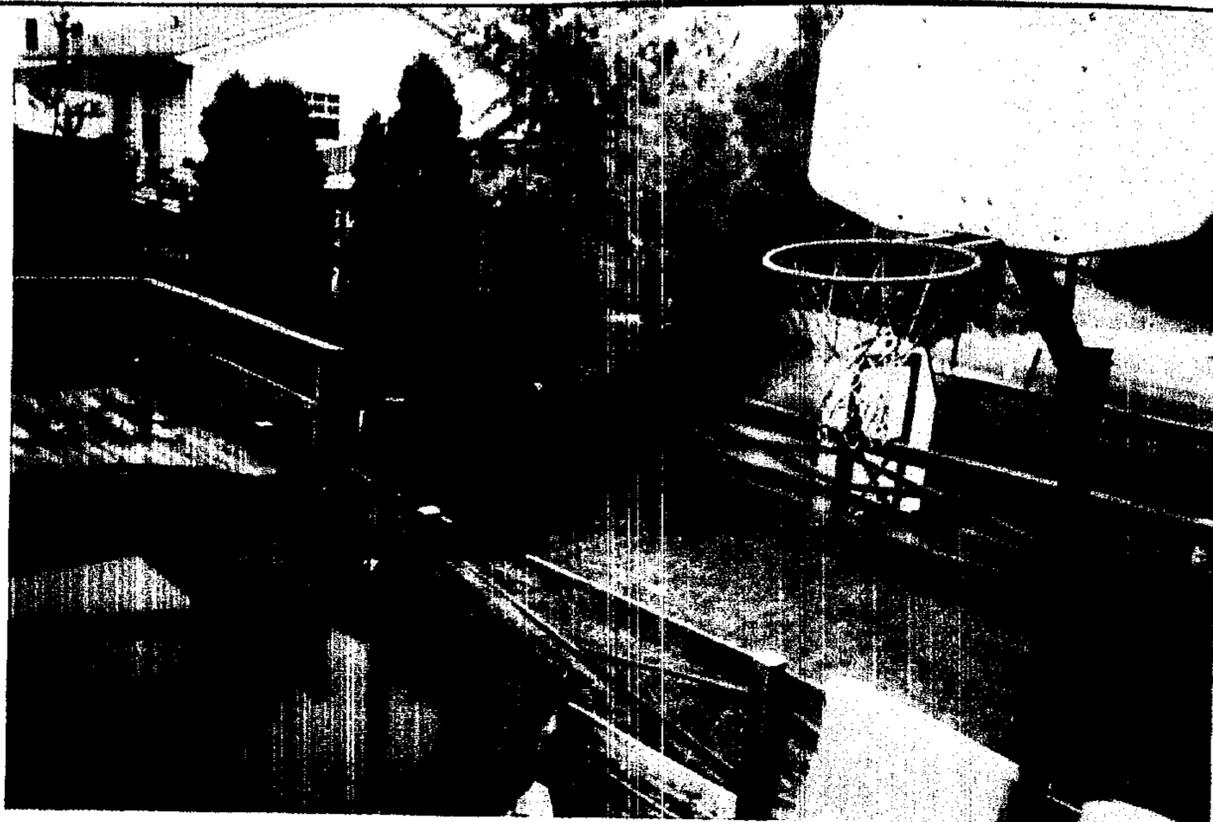
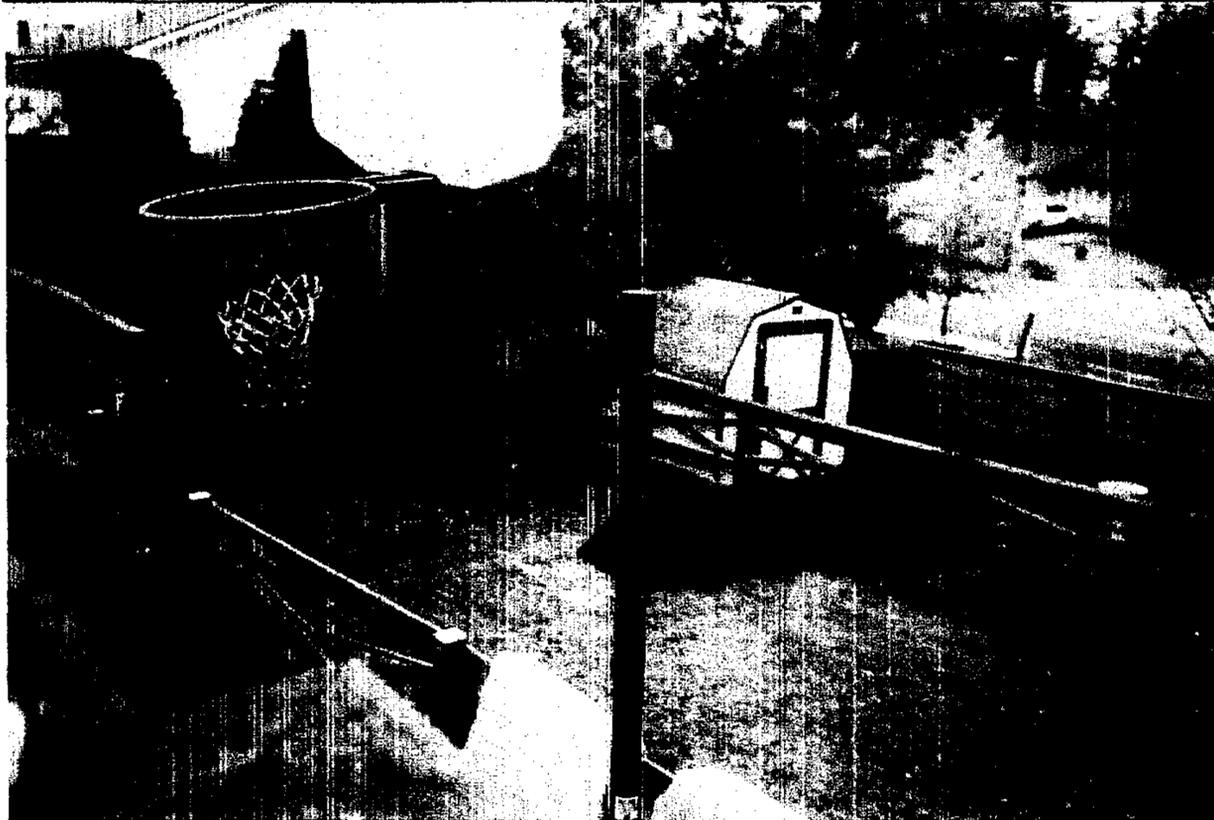
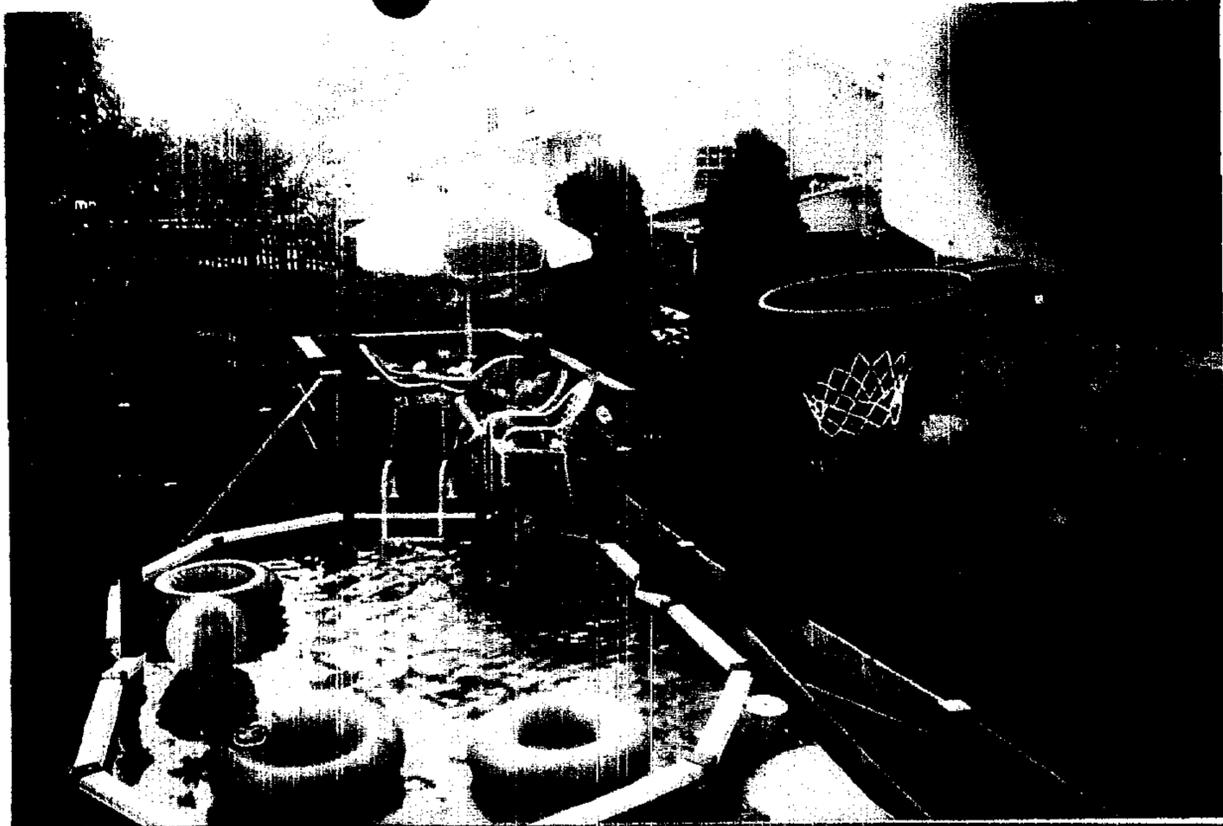
Pro~~at~~ 2

To Whom It May Concern

I am a resident of Talister Ct. who objects to the variance being applied for by residents of 28 Talister Ct. In the past, the pool and fence, which was erected illegally by these residents, nearly caused the drowning death of my youngest son, who is autistic. My wife reacted swiftly to save his life by climbing the fence and pulling him from the water. The pool is too close to the fence and, at the time of this incident, the fence was too short and easily climbed by small children. Upon learning of this, the resident was indifferent to the welfare of my son, and his wife was more concerned about a broken slat in their fence. I feel, do this incident and numerous other incidents involving them, that the variance should not be granted. A six-foot fence was eventually erected by the residents, but only after an African-American family moved next door to them. Also, the six-foot fence was only erected on the side adjoining this family's yard. Other incidents with this "neighbor" also occurred, but do not have anything to do with

(over)

mead



Pet 2A



28 Talister Court

Relax B



MEDICAL STATUS FORM

- Berea Health Ctr. 410-522-5120
- Cranberry Station Health Ctr. 410-857-2300
- East Baltimore Medical Ctr. 410-522-9800
- Greater Dundalk 410-288-4800
- Green Spring Station Health Ctr. 410-847-3535
- Hager Park Health Ctr. 301-791-0600
- Johnson Health Ctr. 410-243-1800
- Laurel Health Ctr. 410-880-6132
- Marley Horizons Health Ctr. 410-766-8580
- Merritt Park 410-284-6660
- Monocacy Valley Health Ctr. 301-696-1000
- Montgomery Grove Health Ctr. 301-990-3190
- Odenton Meade Health Ctr. 410-519-2400
- Riverside 410-575-6611
- Signature Health Ctr. 410-992-0950
- South River Health Ctr. 410-841-5304
- Tindoco Health Ctr. 410-522-9940
- White Marsh 443-442-2300
- Wyman Park Medical Ctr. 410-338-3000

Patient Theresa E Zito Date of Birth 11/19/87

Med Rec# _____

Was Seen at INTERNAL MEDICINE On 6/15/04
(Department/Site) (Date)

As of today
(Date)

- () May return to full work status. (Spell Out Number) (Circle One)
- () May return to school.
- () Should be placed on an off-work status, for _____ days/weeks/months.
- () May return to light duty work status, for _____ days/weeks/months.
- () May return to restricted work status, for _____ days/weeks/months.*
- () May return to restricted physical education, for _____ days/weeks/months.*
- () May not participate in physical education, for _____ days/weeks/months.

Other Please allow the Zito family pool to remain in place. She requires

* Restrictions daily or every other day swim/aquatherapy for improvement of back pain

+ strengthening. This also helps her asthma symptoms.

Next Appointment Sharon Delbosch (Date) (Time) M.D. AM PM

pet #5

Kingsberry Village Homeowners Association
C/O Jeff Gary, President
58 Talister Court
Baltimore, MD 21237

May 20, 2004

To Whom It May Concern,

We are writing this letter to express concern about decisions being made concerning the parking lot and the open space behind our house and the KBVHA Board's pending intent to pursue these plans.

We have explored the issues surrounding the use, regulation and management of the parking lot and common areas many times. After many heated confrontations and involvement of lawyers in 1996, it was determined by the KBVHA attorney after interpretation of our homeowner's covenant that "because all members (homeowners) own all common areas including the parking lot, 100% of all members must decide the fate of the areas." This decision made by the attorneys in 1996 was a final decision not to be usurped by the current (1996) or any subsequent boards. With this knowledge, the current board - 2004 - is continuing to pursue assignment and management of the parking area without the consent of 100% of the owners.

Our concern is that this legal issue has already been resolved and is being pursued by people knowing that it has been resolved. We purchased this house in 1991 knowing that parking was available on a first come, first serve basis. We do not want assigned parking when it comes at the cost of empowering people to confront us because we have made a mistake or as evidenced by past behavior, giving other people the ability to torment us.

As many of you are already aware - there have already been many confrontational incidents in the neighborhood around the upper end of the lot. These events have involved; violence, threats, intimidation, verbal confrontation and illegal personal harassment and destruction of property. Because of said actions, we will make the assumption that the pursuit of these decisions is a further attempt by these parties to threaten, intimidate and harass our family and will only cause further mental anguish on our part. The KBVHA Board knowing that these issues were explored, discussed and decided in 1996, and knowing that these issues were not to be pursued again can only be viewed by our family as intentional. We view it as an attempt to contribute to the actions of the persons partaking in the annoyance. Any attempt to assign, regulate or enforce parking will be viewed as an additional attempt at the arm of our adversaries to control and harass us even further.

We are asking for your assistance in this matter. Do not take a chance and expose yourselves to the liability of contributing to an already horrendous situation. We would like at this point to request that the board cease all actions that can potentially lead to additional unrest and civil insurrection. Thank you for your time.

Respectfully,

Stuart and Janine Richmond
28 Talister Court

Pet # 6

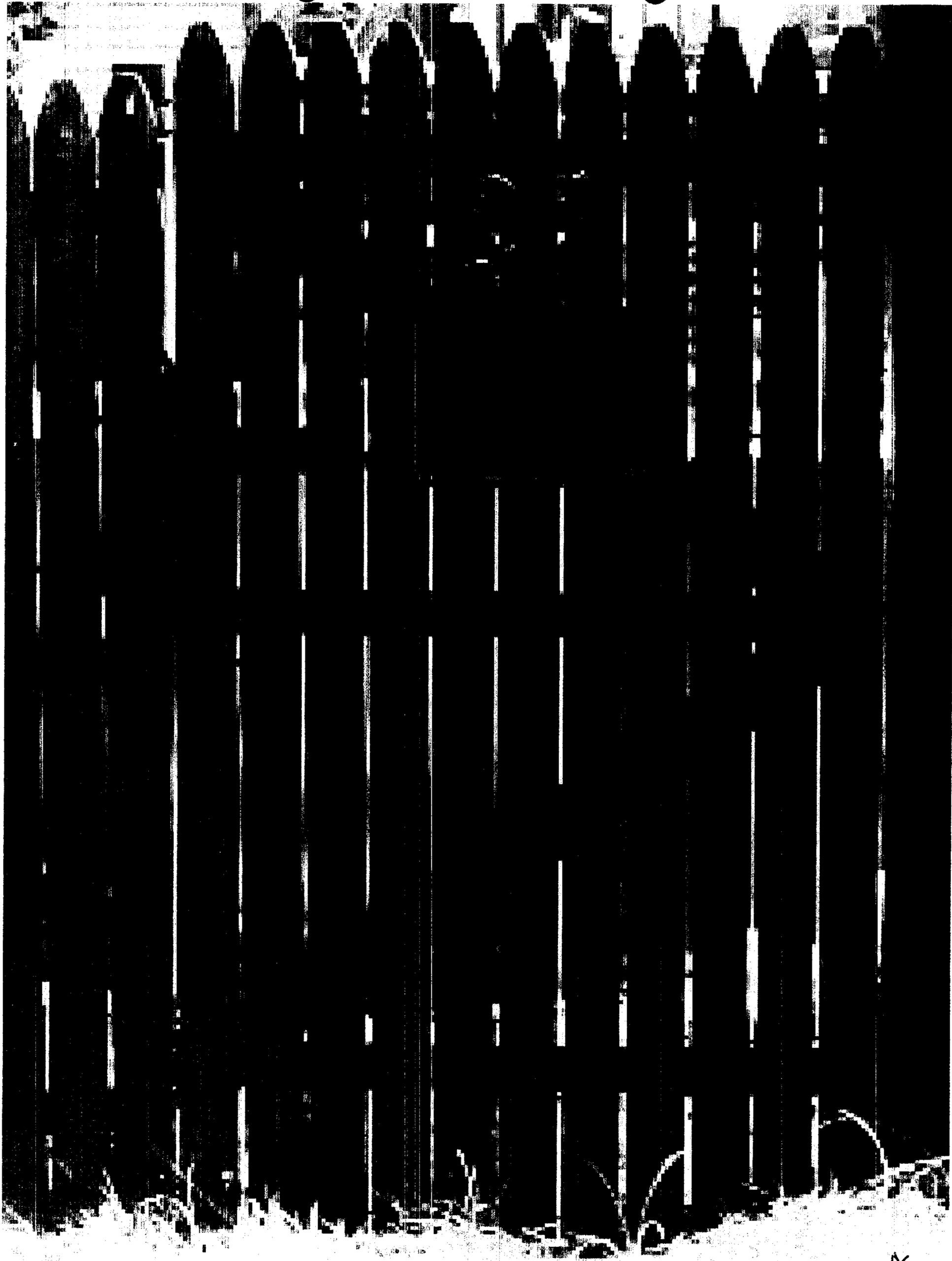
Variance Answers

- A) 1) The property is unique in that the house was purchased with a pool and deck in 1991 with the intent to provide these amenities for a disabled child, now an adult who is still residing at the residence (See Exhibit 1). The purchasers paid more for the house than the going rate at the time due to the added amenities (See Exhibits: 2, 3). The house was refinanced in 3/98 (See Exhibit 4) and 11/02 (See Exhibits: 5, 6, 7) with no infractions noted on the appraisals or title binders that were required for these transactions. The house consistently appraises (See Exhibits 3, 6) at a higher value because of amenities. Removal of the amenities will result in a decrease of property value.
- 2) One of the owners and the disabled daughter has medical problems, which are benefited by the use of the pool (See Exhibits: 8, 9, 10, 11 & 12).
- 3) This family and the aforementioned property has been the object of harassment, destruction and hate crimes as reported to the Baltimore County Police and the FBI (See Exhibit 13).
- B) 1) i) Moving the pool will result in economic, emotional and medical hardship to the family owning this property.
- a) Economic – The husband and wife have experienced a drop of income due to circumstances beyond their control (See Exhibits: 14, 15, 16). The wife has had medical problems that have resulted in her reducing her work week (See Exhibit 17) and the husband, a convention manager, has experienced a lag in work due to the 9/11 attacks and the sale of his company (See Exhibit 18). Moving the pool would result in an unneeded and unnecessary expense (See Exhibit 19).
- b) Emotional – The family has experienced untold hardship at the hands of these anonymous complaints and terror like actions. The family counselor is aware of the harassment (See Exhibit 20).
- c) Medical – The wife and disabled child, both suffering from stress have had medical set backs due to this complaint. Their doctors have been apprised of the situation (See Exhibits: 8, 9, 10, 11 & 12).
- ii) a) The backyard was designed, constructed and backfilled providing much needed drainage from runoff from the woods for the adjoining properties with the pool being placed perpendicular to adjacent fence and pipes buried around the pool and in strategic locations (See Exhibits 22, 23). Fence was updated with two locking gates to provide added security to prevent unauthorized access (See Exhibit 24). Baltimore County was contacted in 2/98 to inquire about any necessary permits. No permits were required and no other information given because of the size of the pool was under 250 square feet as determined by an ellipse calculator at www.csgnetwork.com/areaellipse.html. (See Exhibit 25) The pool is already erected and filled for the summer (See Exhibit 26).
- b) The deck was built to provide easy access for the disabled child/adult to the pool (See Exhibit 27).
- iii) The house was purchased in 10/91 with a pool on the set back (See Exhibit 2).
- 2) i) Moving the pool would unreasonably prevent the use of an amenity that the owners were looking for at the time of purchase of the property (See Exhibit 1). Access to the pool would be limited (See Exhibit 28). It would be burdensome, because the deck would have to be moved for the aforementioned disabled party to gain safe access (See Exhibits: 11, 12, 27). One of the owners also has medical problems, which are benefited by the use of the pool (See Exhibits: 8, 9, 10, 11 & 12).
- ii) It would be a substantial injustice because the anonymous complaint is apparently another attempt by unknown parties to continue the harassment, destruction and hate crimes towards this family when there are other homes in the community with code violations as well (See Exhibit 29). These owners are responsible citizens and have lived in this neighborhood as pool owners for 13 years with no complaints (See Exhibits: 30, 31, 32).
- iii) The public safety and welfare is secure as indicated by the six foot privacy fence and two locked gates to gain access to the pool from the community which was an improvement of existing fence from time of purchase (See Exhibit 26).
- C) There is no increase in residential density as established in 1979.
- D) The relief requested is in the spirit and intent of existing regulations. Note: Requested regulations in 2/98.
- E) There is no hazard to the public health, safety and general welfare as provide by a six foot fence, two locking gates installed by owners (See Exhibit 24).

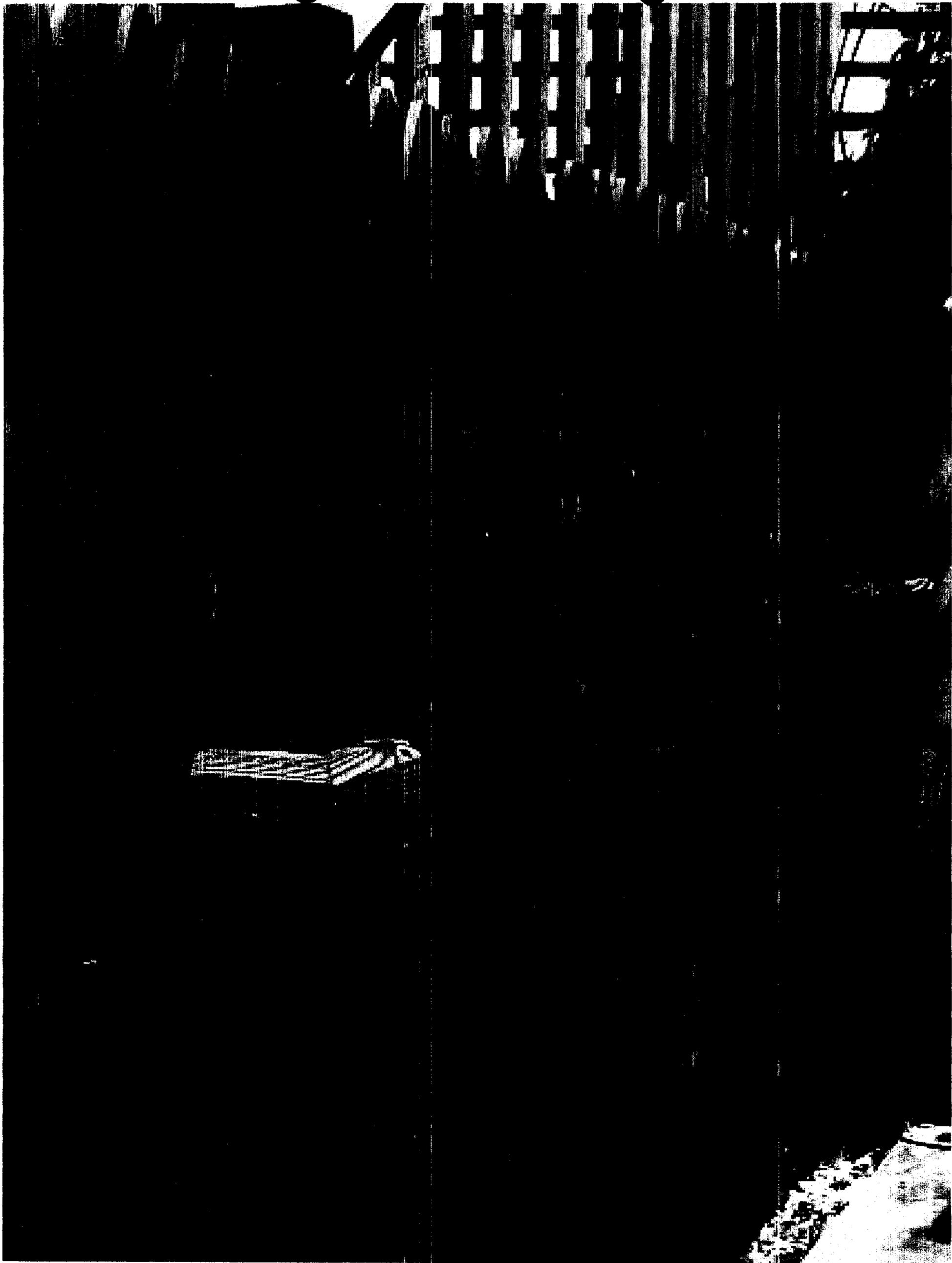
Det # 7



Part #8
A



RET II 8B



Pet BC

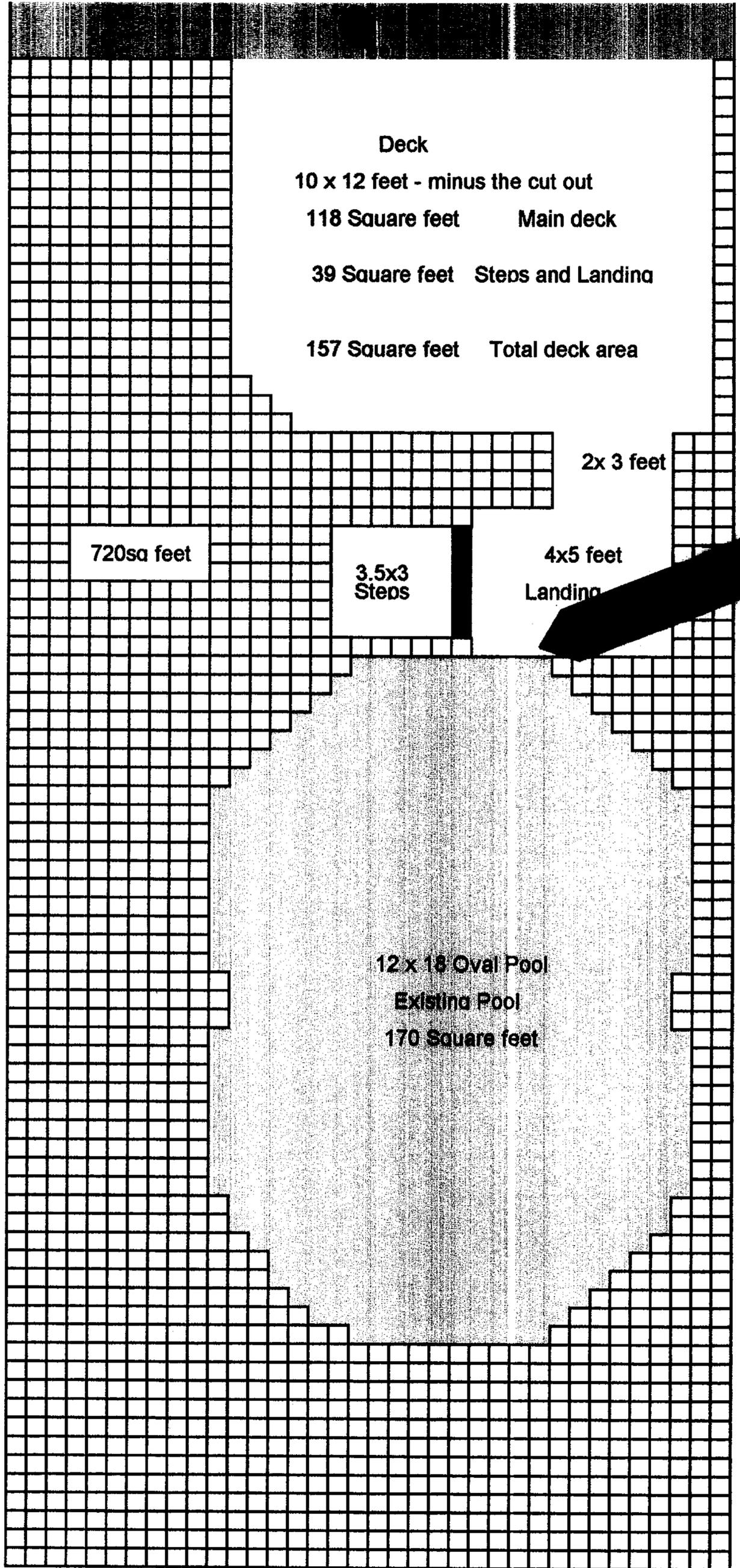


Post # 8 D



Pl 8F

Existing structures



40 feet

720sq feet

3.5x3
Steps

4x5 feet
Landing

2x 3 feet

12 x 18 Oval Pool
Existing Pool
170 Square feet

Legend: Each square
represents .5 square feet

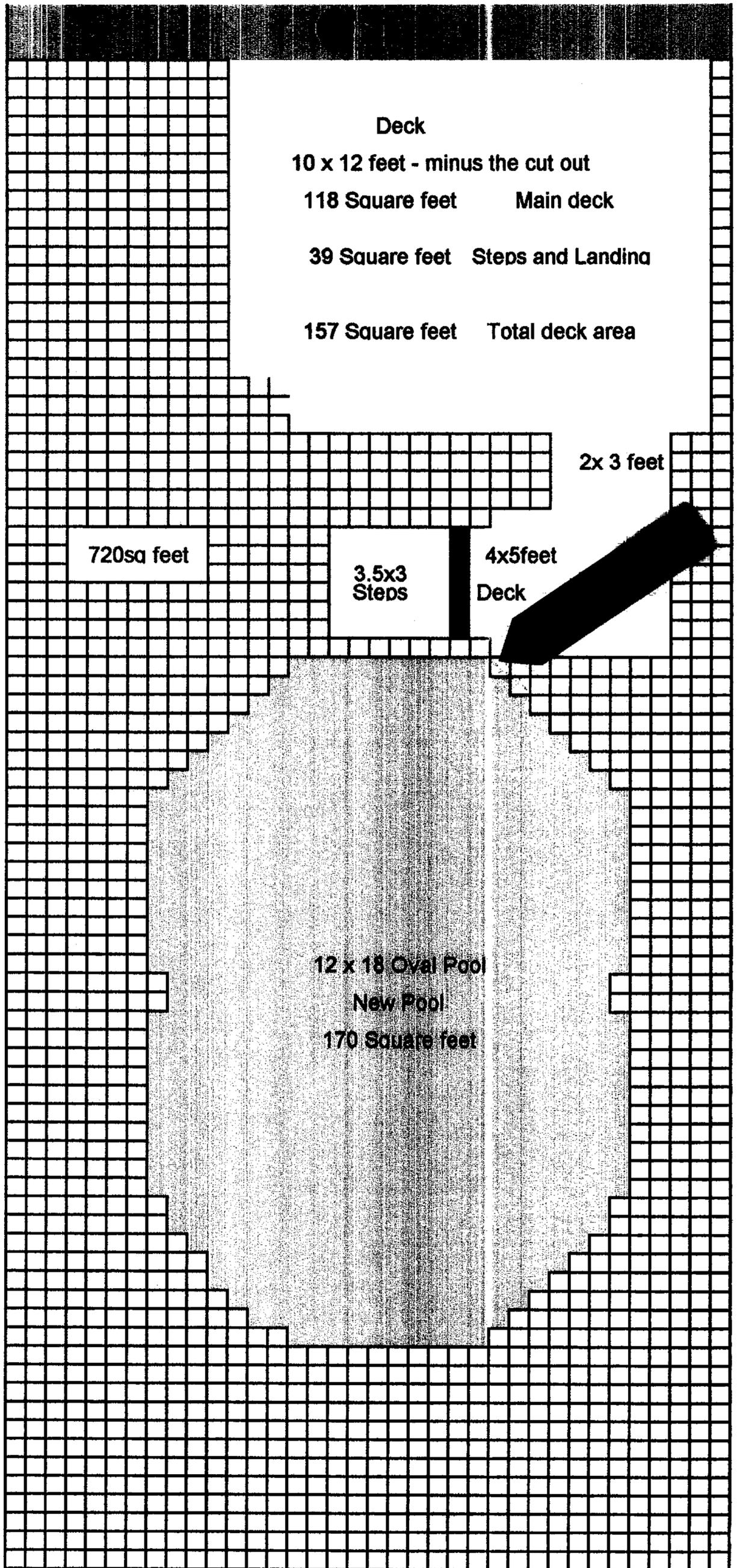
720 square feet
- 154.5 square feet deck
*40%
226.2 square feet

Existing pool is an oval
or ellipse @ 170 square ft
smaller than 40% or 225
square feet allowed for pools.
Formula for ellipse/oval obtained from
<http://www.csanetwork.com/areaellipse.html>

P. J. A.

Moving the pool

Moving the pool would render the landing unusable by the owner and her disabled daughter.



Legend: Each square represents .5 square feet

Det AB

June 22, 2004

To Whom It May Concern,

This letter is to state several things that need to be addressed. The Richmond's have been my neighbors for approximately thirteen years. Their house is beautiful, both inside and out and is very welcome to anyone.

I am a single mother with two sons and both Janine and Stuart are always willing to lend a helping hand. They are very good friends and people. They have always been their to help with anything to tough to handle.

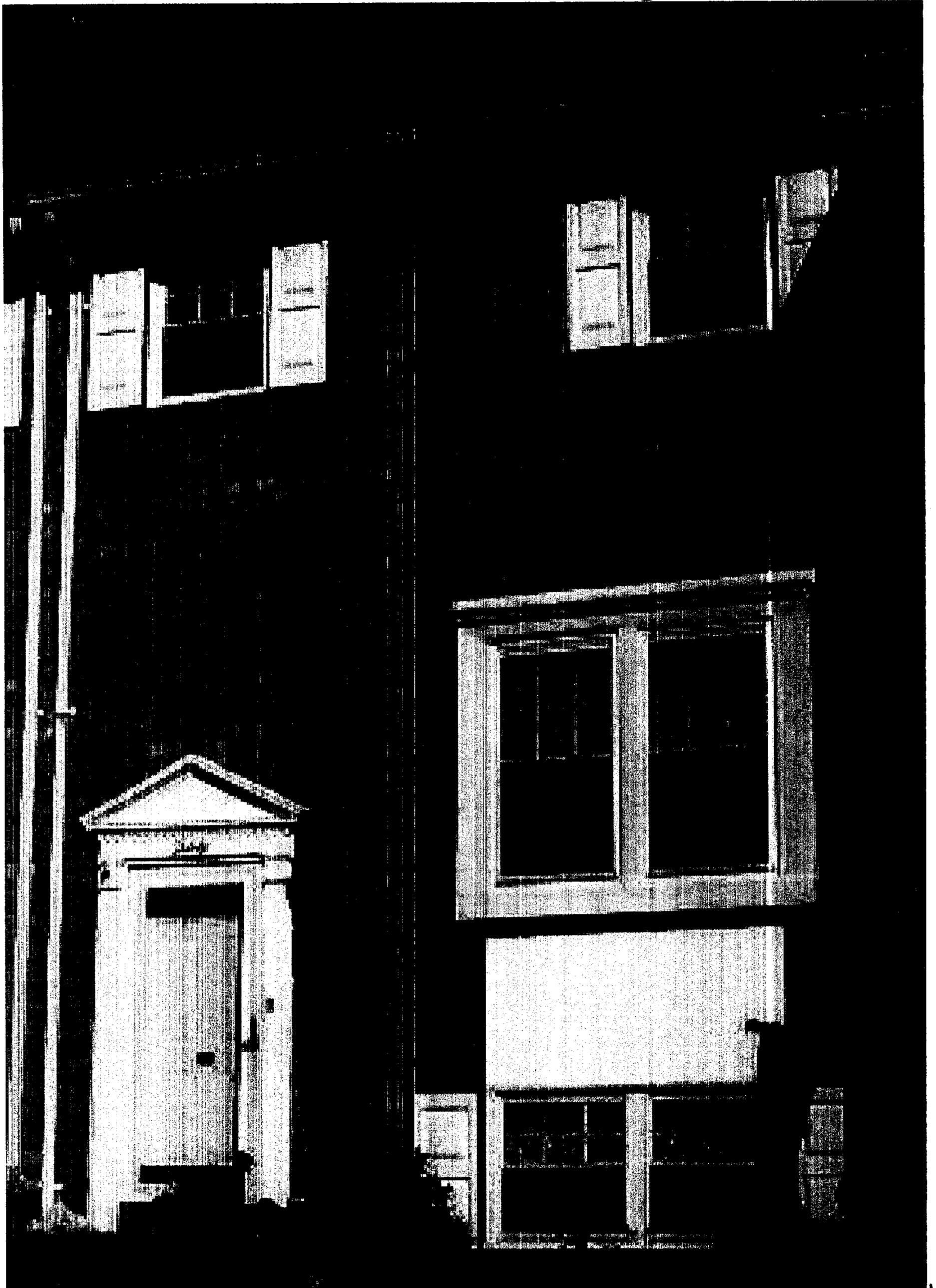
I believe some of the neighbors are jealous because of their beautiful backyard, which includes their deck and pool. Some of the neighbors are immature and need to stop worrying about things that are not their business. They are just trying to bring heart ache to things most people wouldn't even recognize as a problem.

It would be greatly appreciated if this matter is resolved correctly, since this pool has been up for eight years and no one has complained, or nothing has been brought to the Richmond's attention until now. Janine and Stuart are very generous and helping people they do not deserve to be treated this way. Thank you for your time and assistance in this matter.

Sincerely,

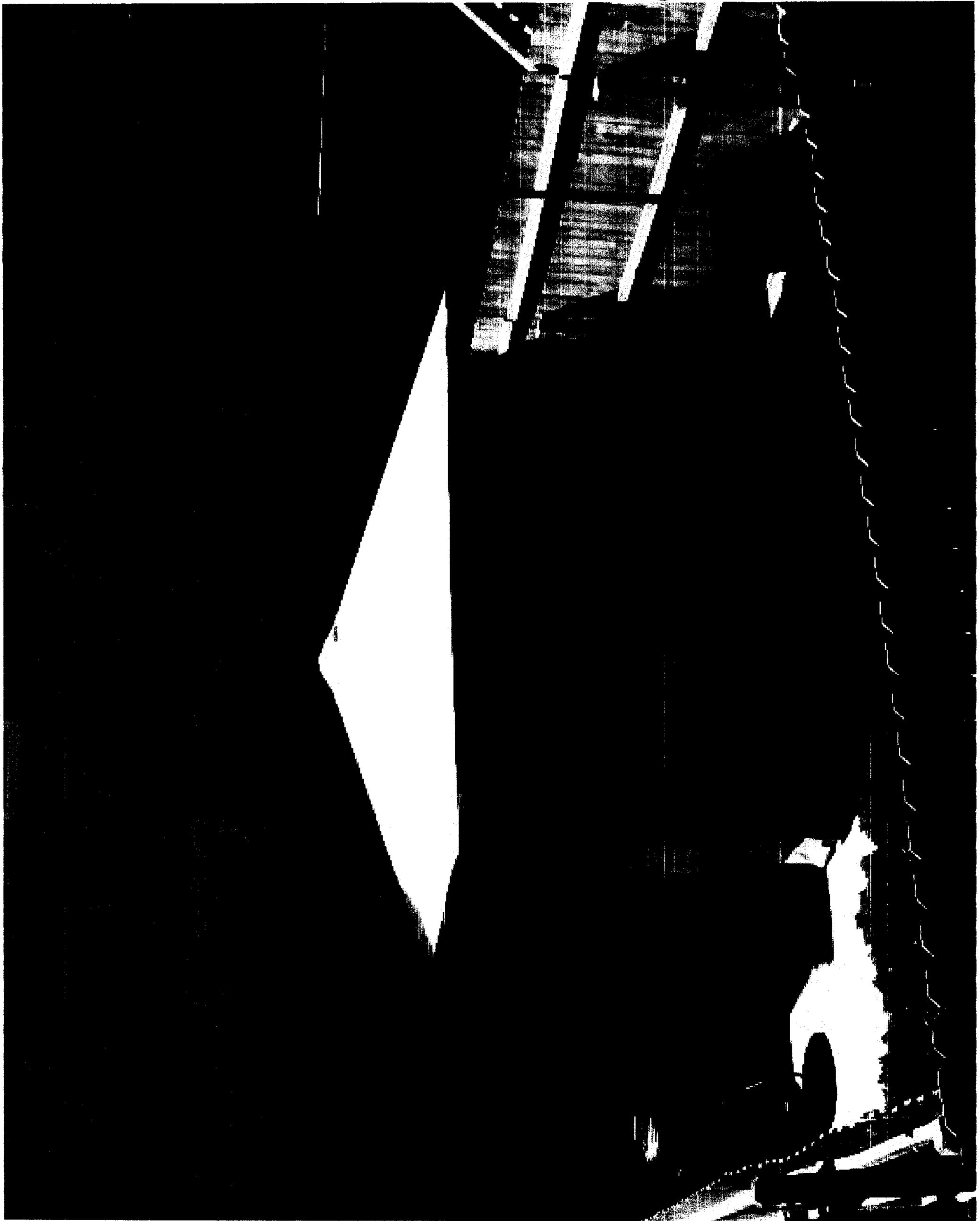
Judy Blachowicz
Judy Blachowicz

Pet # 10



30 Talister Court

Pet # 11A



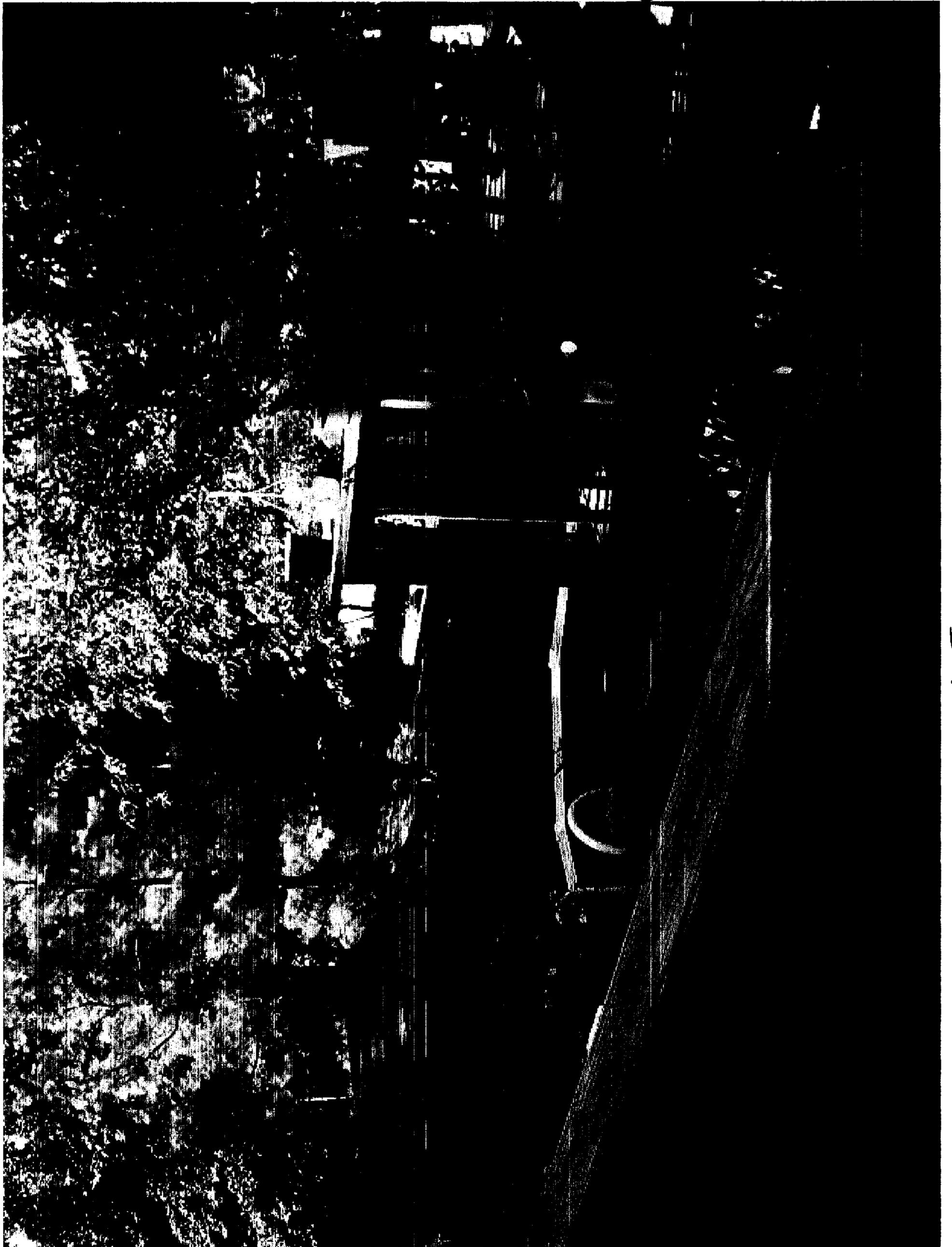
30 Talister Court

Pet # 11B



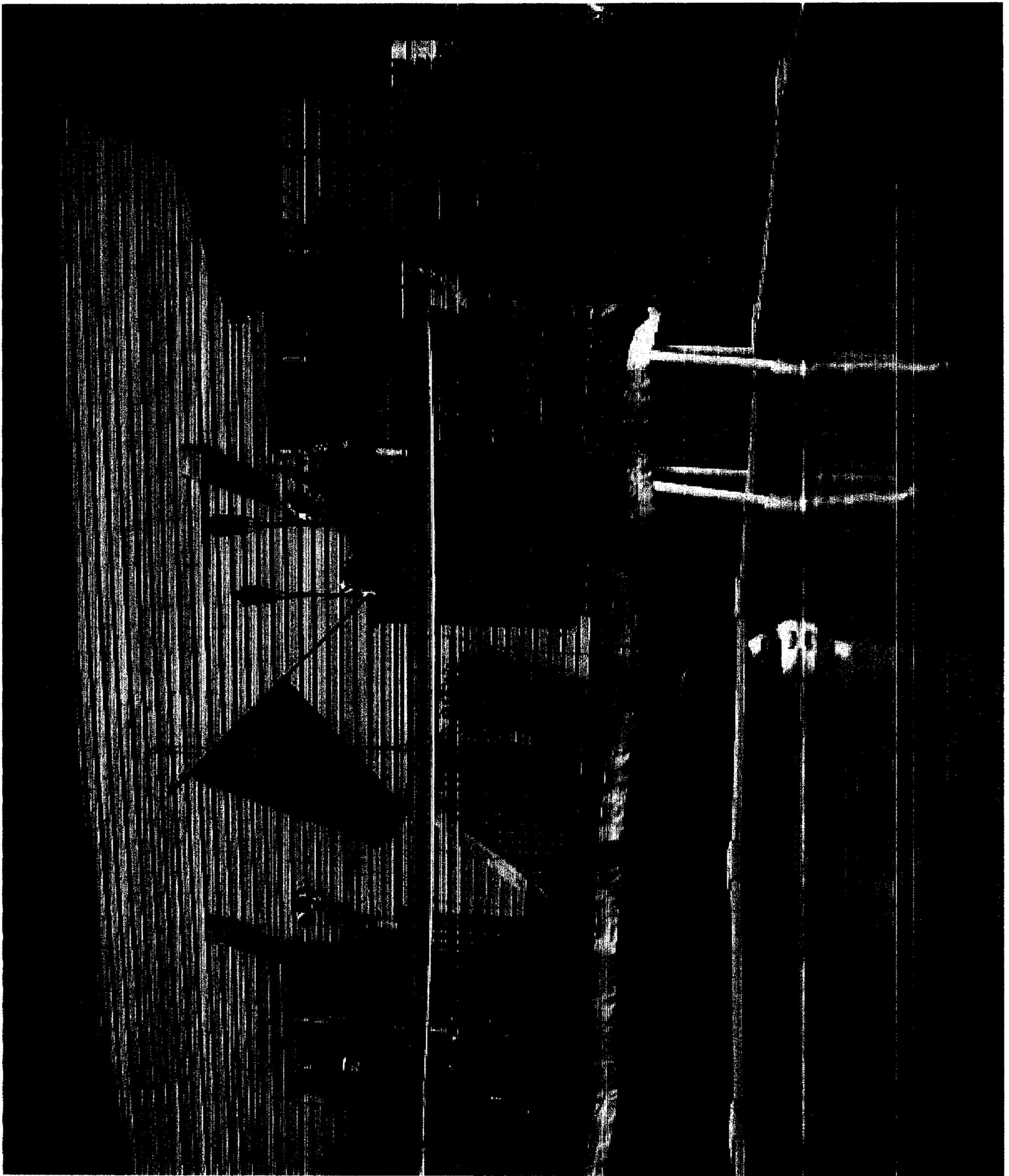
DeTalistes Court

Ret 11C



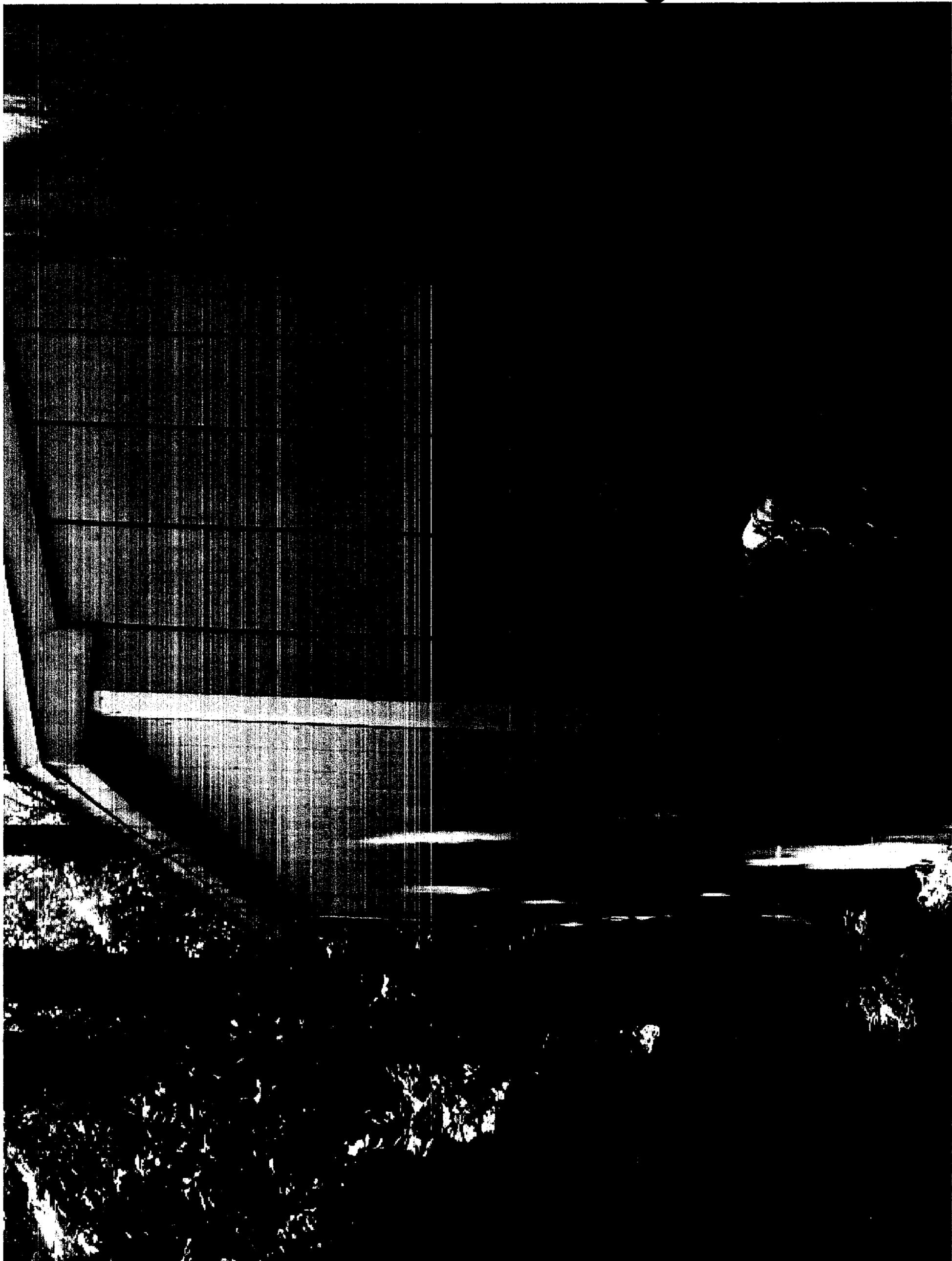
26 Talister Court

pet 11D



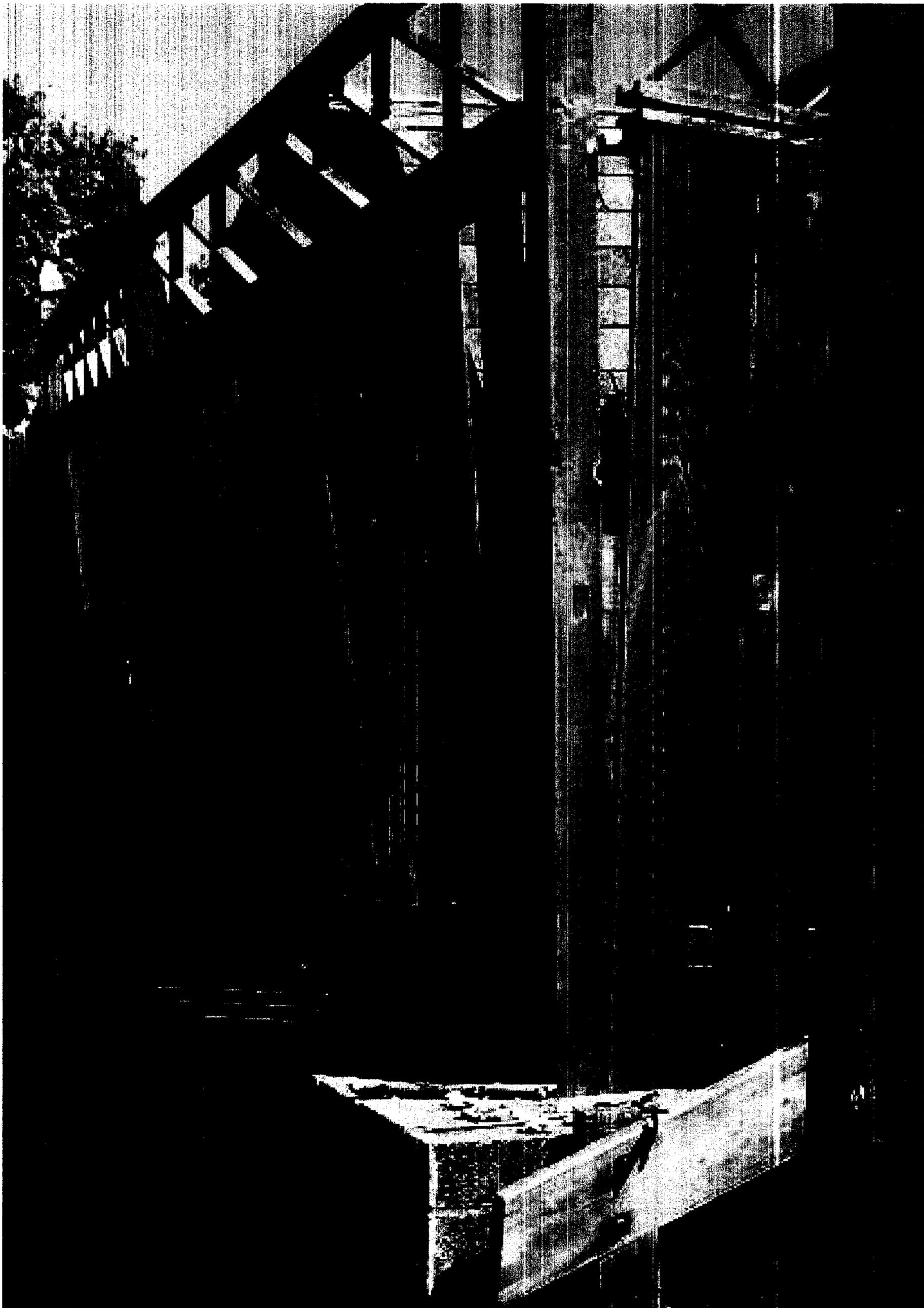
28 Talister Court
Looking toward "26"

Det #
11E



AF40

Ret 12A



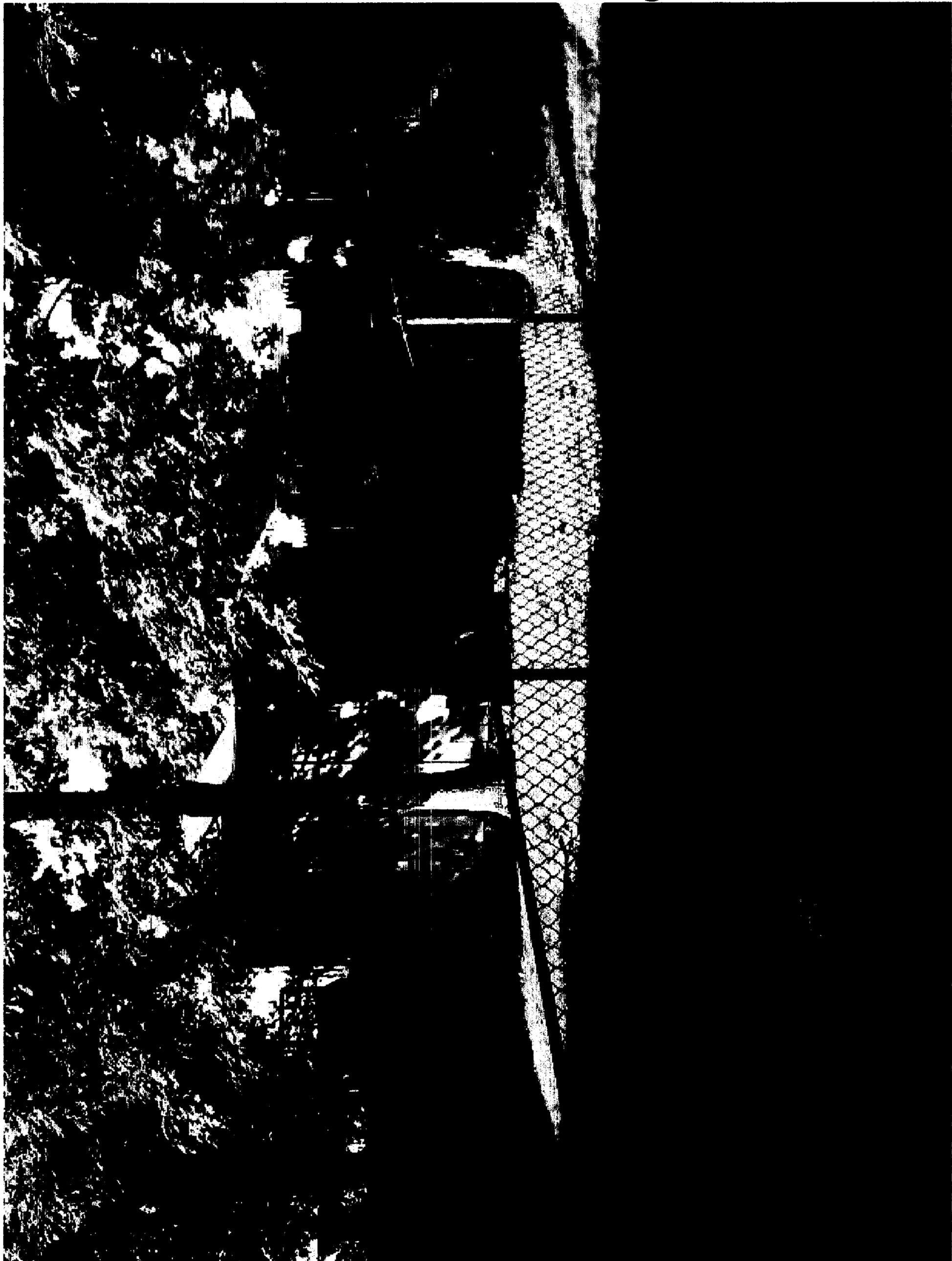
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Part
B B



#30

Det
12C



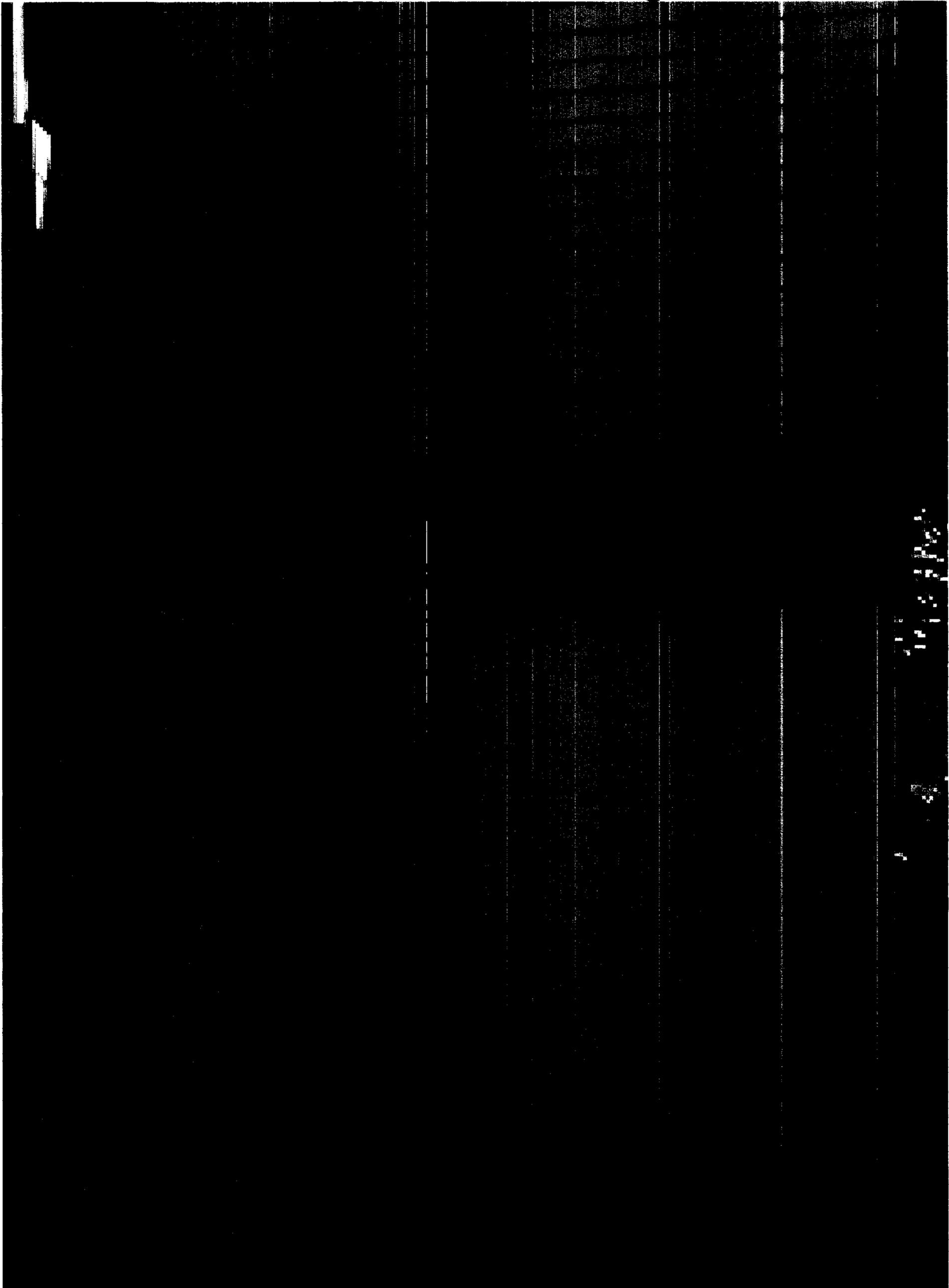
26 #

Per
12/1



24
2011

Part 12
12



2

4

RET 12
G