12/07

IN RE: **PETITION FOR VARIANCE**
E/S Worton Road, 50' N of Sassafrass Rd.
(341 Worton Road)
15th Election District
6th Council District

Linda Ann Senez
Petitioner

* BEFORE THE
* ZONING COMMISSIONER
* OF
* BALTIMORE COUNTY
* **Case No. 05-298-A**

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Linda Ann Senez, by and through her attorney, John B. Gontrum, Esquire. The Petitioner requests variance relief from Section 400.1[1] of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a detached structure (deck and railing), to be located in the front yard in lieu of the required rear yard, and to permit a 0 foot side yard setback in lieu of the minimum required 2-½ feet. The subject property and requested relief are more particularly described on the amended site plan, which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Linda Ann Senez, owner of the property, Brian R. Dietz, the land surveyor and consultant who prepared the site plan, and the attorney for the Petitioner, John B. Gontrum, Esquire. The requested approval was contested. The opponents are the adjacent neighbors Stephen E. Collins and his wife, Ann W.

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Date 12-5-07
By 3 #2

[1] Section 400.1 of the B.C.Z.R. pertains to accessory buildings in residential zones and mandates their location only in the rear yard . . . Section 1B01.1A.18(g) more specifically pertains to accessory structures in the Density Residential Zones and specifically states "or other accessory structures or uses (all such accessory structures or uses subject to the height and area provisions for buildings as set forth in Section 400). As Section 1B01.1A.18(g) similarly prohibits accessory structures in front of any principal use, counsel for the Petitioner, at the outset of the hearing questioned whether his client's decking/planking used as an extension of the front yard terrace is actually an accessory structure subject to the provisions of Section 400 referring specifically to Page 4-1.5 of the Zoning Commissioner's Policy Manual (Z.C.P.M.). See Section 400.1.f – Things not considered as accessory … Photographic evidence, however, (Petitioner's Exhibits 11A & 11B) mitigates against such a contention.

Collins. The Protestants produced Clyde Hinkle, a consultant with William N. Bafitis, P.E., who is also familiar with County zoning regulations and land planning. J. Neil Lanzi, Esquire represented Mr. and Mrs. Collins. Mr. Errol A. Ecker, Supervisor in the County's Bureau of Building Inspections, also appeared and testified concerning his numerous site visits and the complaint registered with the Code Enforcement Division of Permits and Development Management relative to the location of the subject 88 square foot deck. The Petitioner was advised to file the instant Petition to resolve the matter.

An extensive volume of testimony and evidence was offered in this case over the two hearing dates. Due to limitations of time and space, it is impossible to repeat all of the testimony offered herein. Additionally, there were numerous documents, photographs, plats, permits, written memoranda and other exhibits entered into the record of this case.

In brief, the testimony and evidence offered disclosed that the subject waterfront property is a rectangularly shaped parcel located on the east side of Worton Road, just north of Sassafrass Road on Norman Creek in the Middle River area of Essex. The lot is identified as Lot 134 on the plat of Middleborough, which is an older subdivision that was platted and recorded in the Land Records in 1916. As is often the case with older subdivisions, many of the lots are undersized and do not meet current area and width requirements. In this regard, the subject lot contains a gross area of 17,990 square feet, more or less, zoned D.R.3.5 and is 50' wide by 340' deep. The Petitioner has owned the property since December 7, 2000. As shown on Petitioner's Exhibits 1 and 2, Lot 134, known as 341 Worton Road, is improved with a 70' x 30' two-story, single-family dwelling together with front and rear yard porches, wood decking along the southern and eastern exposures, and also features a detached 30' x 24' two-story garage (Case No. 84-188-A), located in the rear yard with piers and a frame boat house extending from the waterfront

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Date 1-2-07
By SH

bulkhead out into Norman Creek. A great deal of time and photographic exhibits (Petitioner's Exhibits 5, 6 and 8) were utilized to demonstrate existing conditions of the front yard[2] prior to Hurricane Isabel (2003).

By way of further background, following Mrs. Collins retirement from the Board of Education, the Collins' spent their nest egg and purchased 339 Worton Road (Lots 135 and 136 next to Petitioner's property) in September 2000. They began designing and building their retirement home positioning and providing amenities that would assure them of an optimum water view. Testimony indicates that the parties enjoyed a cordial relationship until early 2004. Following Hurricane Isabel, Ms. Senez commenced construction activities and improvements to the dwelling and front yard, reconfiguring the terrace and area leading down to the bulkhead and Norman Creek. Testimony indicated that as a result of the hurricane, the railroad tie retaining wall, which supported the terrace area and lawn in front of Petitioner's home, was damaged and structurally compromised. The Petitioner decided to replace the railroad ties with a masonry retaining wall. In this regard, she removed the existing slope area and flower beds (between the terrace and top of the old railroad tie retaining wall), including earth and brick steps (*See* Petitioner's Exhibits 5A, B and C) and constructed a new 8' high masonry retaining wall around the front and northern boundaries of the terrace and surrounded the new wall with wooden fencing. She also constructed the subject 11' x 15' x 8' wood deck with steps leading down to the bulkhead and pier (*See* Petitioner's Exhibits 7B, C, D and F). In essence, the 2'-3' wide sloped area that previously stepped down from the terrace to the old 6' high retaining wall was removed, the new

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By D.Fri

[2] The Z.C.P.M. Sections 400.1.a and 400.2.a provides a determination of what constitutes the front yard and placement of accessory structures on waterfront lots based on the orientation of houses and accessory buildings. It is beyond dispute that the detached structure before me is located in the front yard. Also, in Case No. 84-188-A, then Zoning Commissioner Arnold Jablon found that the garage requiring variance relief in that case was located in the rear yard (street side) of the subject property.

wall was then pulled back in this space increasing the wall height to 8'. According to the Petitioner, the newly built wood deck placed partially on the terrace and in front of the new wall was installed to recapture the lost space of the sloped area and to provide a stairway down to the seawall and pier. Meanwhile, the Collins' watched believing the improvements to be out of character, resulting in adverse impacts to their property and diminishing their right to the water view. They point out that Petitioner's property had functioned quite well from 1927 to 2004 without the need for these improvements and decking. To say that the previous neighborly relationship was deteriorating would be an understatement. The dispute has resulted in lawsuits being filed, one against the other. Circuit Court Case No. 03-C-04-010227 involving a boundary dispute is proceeding on a parallel track with this zoning case. Other litigation sets forth causes of action for trespass, nuisance, invasion of property, and injunction.

As noted above, the Petitioner believes she is entitled to her decking as it is merely an extension of her terrace, akin to a sidewalk, therefore, not a regulated structure. Even if it is determined to be susceptible to regulation, her expert, Brian Dietz, accepted as an expert in the interpretation and applicability of the B.C.Z.R., opined that the waterfront property is unique due to is topography, positioning of structures on the land and its susceptibility to flood damage from tropical storms. The placement of the subject deck at this location with its attendant steps leading to the seawall and boathouse in his opinion is not an unreasonable extension of the property and does not unduly burden the adjoining neighbors property. Dietz further believes that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and that strict compliance with zoning regulations would result in practical difficulty or unreasonable hardship. As to the zero foot side yard setback in lieu of the required 2-½

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Date 1-2-07
By D #3

feet, Petitioner submits Exhibit 9, a letter from Fred Lengsfield, owner of 343 Worton Road, the most affected property owner, who has no objection with regard to this request.[3]

Counsel for the Protestants urges strict compliance with the dictates of *Cromwell v. Ward* 102 Md. App. 691 (1995). In short, the Collins' believe that the Petitioner is trying to take advantage of the County system and point out that the variance request must be denied as there is no uniqueness or characteristic inherent in Senez's property that would make compliance with the zoning regulations overly burdensome or difficult. Clyde Hinkle testified he reviewed the neighborhood, adjacent properties and the record plat of Middleborough. He found that the Petitioner's property is typical of the other lots in the area. In this regard, he opined that the Lengsfield property (Lot 133) and Petitioner's (Lot 134) were identical in shape, size and topography.

This is a close case, and with the concurrence of the parties, I visited the property after the hearing. Based upon the testimony and evidence presented, as well as my observations during the site visit, I shall apply the following law in reaching the conclusion that the request should be denied.

North v. St. Mary's County:

"Uniqueness" of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls.

99 Md. App. at 514

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By

[3] Although the Office of Planning in its Zoning Advisory Committee (ZAC) comment submitted in this case does not support a zero foot side yard setback, this Commission has granted similar relief in a case closely resembling the facts presented here (*See* 05-023-A).

Section 307 of the B.C.Z.R. requires a "variance" Petitioner to prove that "strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship". To determine whether that has been done, I must engage in the following two-step analysis:

> The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is – in and of itself – unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that first step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, i.e., a determination of whether practical difficulty and/or unreasonable hardship, resulting from the disproportionate impact of the ordinance caused by the property's uniqueness, exists.
>
> *Cromwell v. Ward,* supra, 694-95 (1995)

Other than the fact that the Petitioner's lot slopes down to the water (Norman Creek) from Worton Road, there is no evidence that supports a finding of uniqueness. In my judgment, the detached structure in the front yard is not owing to some characteristic peculiar to the subject property. However, attorney Gontrum argues that all waterfront property is indeed unique and the hardship or practical difficulty that Ms. Senez claims must be determined upon three factors:

1) Whether compliance with the strict letter of the restrictions governing structure, location and setbacks would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson, 22 Md. App. at 39 (quoting *McLean v. Soley*, 270 Md. 208, 214-15 (1973)).

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Date 1-2-07
By D.Sch

That means that the Petitioner must show more than simply that the stricture "would be suitable or desirable or could do no harm or would be convenient for or profitable to its owner." *Kennerly vs. Mayor & City Council of Baltimore*, 247 Md. 601, 606-07 (1967). She must demonstrate that the application of B.C.Z.R. Section 400.1 to the unique characteristics of the land would cause "peculiar or unusual practical difficulties" that justify the variance requested. *Cromwell*, 102 Md. App. at 706. Furthermore, and of particular relevance to this case, as it formed the basis of my decision, the "peculiar or unusual practical difficulties" must not be the result of the Petitioner's own actions.

Ms. Senez argues that she needs to have the continuous retaining wall to protect her home from exposure to elements and that the deck and steps at issue provide her a better means of protection from major hurricanes than conventional type steps that would be incorporated into the retaining wall and would therefore provide a channel for advancing storm water surges. If Mr. and Mrs. Collins supported her request, I might be inclined to grant relief in that it would provide for greater protection. However, they oppose the relief.

None of the potential problems advanced by Petitioner – exposure to the elements or expenditures required to remove the decking and build a new set of stairs or regrade the property – rise to the level of "peculiar … or practical difficulty". As noted above, the "practical difficulty" standard requires this Commission to find "more than that the structure allowed would be suitable or desirable or could do no harm or would be convenient for its owner". Moreover, the "hardship" about which Ms. Senez now confronts is self-created, and as such, cannot serve as a basis for a finding of practical difficulty. *See Montgomery v. Rotwein* 169 Md. App. 716 (2006).

Pursuant to the advertisement, posting of the property and public hearing on this Petition held and for the reasons set forth herein, the variance relief shall be denied.

ORDER RECEIVED FOR FILING
Date 1-2-07
By DAS

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 2nd day of January, 2007 that the Petition for Variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a detached structure (deck and railing) to be located in the front yard in lieu of the required rear yard, and to permit a 0 foot side yard setback in lieu of the minimum required 2-½ feet, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

IT IS FURTHER ORDERED that any appeal of this decision shall be made within thirty (30) days of the date of this Order in accordance with Baltimore County Code Section 32-3-401.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

ORDER RECEIVED FOR FILING
Date 1-2-07
By DLW

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

January 2, 2007

John B. Gontrum, Esquire
Whiteford, Taylor & Preston, LLP
210 West Pennsylvania Avenue
Towson, Maryland 21204

RE: **PETITION FOR VARIANCE**
E/S Worton Road, 50' N of Sasafrass Rd.
(341 Worton Road)
15th Election District - 6th Council District
Linda Ann Senez - Petitioner
Case No. 05-298-A

Dear Mr. Gontrum:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been denied, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

c: Ms. Linda Ann Senez, 341 Worton Road, Essex, MD 21221
Mr. Brian Dietz, 7867 Oakdale Avenue, Baltimore, MD 21237
J. Neil Lanzi, Esquire, Mercantile Building, Suite 617,
409 Washington Avenue, Towson, MD 21204
Mr. and Mrs. Stephen E. Collins, 339 Worton Road, Essex, MD 21221
Mr. Clyde Hinkle, 1249 Engleberth Road, Baltimore, MD 21221
Chesapeake Bay Critical Area Commission, 1804 West Street,
Suite 100, Annapolis, MD 21401
Mr. Errol Ecker, Building Inspections, DPDM
Dennis Kennedy, Bureau of Development Plans Review, DPDM
People's Counsel; Division of Code Inspections & Enforcement, DPDM; Case File

CBCA / FLOOD

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 341 Worton Road

which is presently zoned D.R. 3.5

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) 400.1 to permit [redacted] detached structure (deck), in front yard in lieu of required rear yard, and to permit (and railing) a 0 ft. side yard setback in lieu of the minimum required 2½ feet.

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty) reconstruction of deck prior to Hurricane Isabel and regrading of front yard.

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

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

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

John B. Gontrum, Esquire

Name - Type or Print

Signature

Whiteford, Taylor & Preston, LLP

Company

210 West Pa. Ave., (410) 832-2055

Address Telephone No.

Towson,MD 21204

City State Zip Code

Legal Owner(s):

Linda Ann Senez

Name - Type or Print

Signature

Name - Type or Print

Signature

341 Worton Road (410) 574-7391

Address Telephone No.

Baltimore, MD 21221

City State Zip Code

Representative to be Contacted:

John B. Gontrum, Esquire

Name

210 W. Pa. Ave. (410) 832-2055

Address Telephone No.

Towson, MD 21204

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 05-298-A

Reviewed By JNP **Date** 12/19/04

REV 9/15/98

Date 1-2-07

By DSW

Brian Dietz
Professional Land Surveyor #21080
7867 Oakdale Avenue, Baltimore, MD 21237
Phone 410-686-1198 Fax 410-682-6021

August 12, 2004

Zoning Description for 341 Worton Road

Beginning for the same on the East side of Worton Road (30'R/W) at a distance of 50' North of Sasafrass Road (30'R/W). Being Lot 134, Plat of Middleborough, Plat Liber 4, folio 191. Containing 0.413 Ac. or 17,990 sq.ft. Known as 341 Worton Road, located in the 15th Election District, 7th Councilmanic District.

8-12-04

Brian Dietz

05-298-A

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: #05-298-A
341 Worton Road
East side of Worton Road, 50 feet north of Sasafrass Road
15th Election District
6th Councilmanic District
Legal Owner(s): Linda Ann Senez

Variance: to permit a detached structure (deck and railing) in front yard in lieu of the required rear yard and to permit a 0 foot side setback in lieu of the minimum required 2 1/2 feet.

Hearing: Monday, November 20, 2006 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM J WISEMAN, III
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

11/011 Nov. 2 114721

CERTIFICATE OF PUBLICATION

11/2/, 2006

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 11/2/,2006.

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

S. Wilkinson

LEGAL ADVERTISING

NOTICE OF ZONING HEARING

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Case: #05-298-A
341 Worton Road
East side of Worton Road, 50 feet north of Sasafrass Road
15th Election District
6th Councilmanic District
Legal Owner(s): Linda Ann Senez

Variance: to permit a detached structure (deck and railing) in front yard in lieu of the required rear yard and to permit a 0 foot side setback in lieu of the minimum required 2 1/2 feet.

Hearing: Thursday, February 3, 2005 at 11:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204.

WILLIAM WISEMAN
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.

1/248 Jan. 20 36200

CERTIFICATE OF PUBLICATION

1/20/, 2005

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 1/20/,2005.

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

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 441064

DATE 12/10/04 ACCOUNT R-001-006-6150

AMOUNT $ 65.00

RECEIVED FROM: Linda Senez

FOR: Variance (341 Worton Road)
05-298-A (Senez)

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRN
12/10/2004	12/10/2004	10:55:34	2

REC WS04 WALKIN DOOL DRD
>>RECEIPT # 294268 12/10/2004 DFLR
Dept 5 528 ZONING VERIFICATION
CR NO. 440064
Recpt Tot $65.00
$.00 CK $80.00 CA
$15.00 CB
Baltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATE OF POSTING

RE: Case No.: 05-298-A

Petitioner/Developer: LINDA ANN SENEZ

Date of Hearing/Closing: NOV 20 2006

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

ATTN: Kristen Matthews {(410) 887-3394}

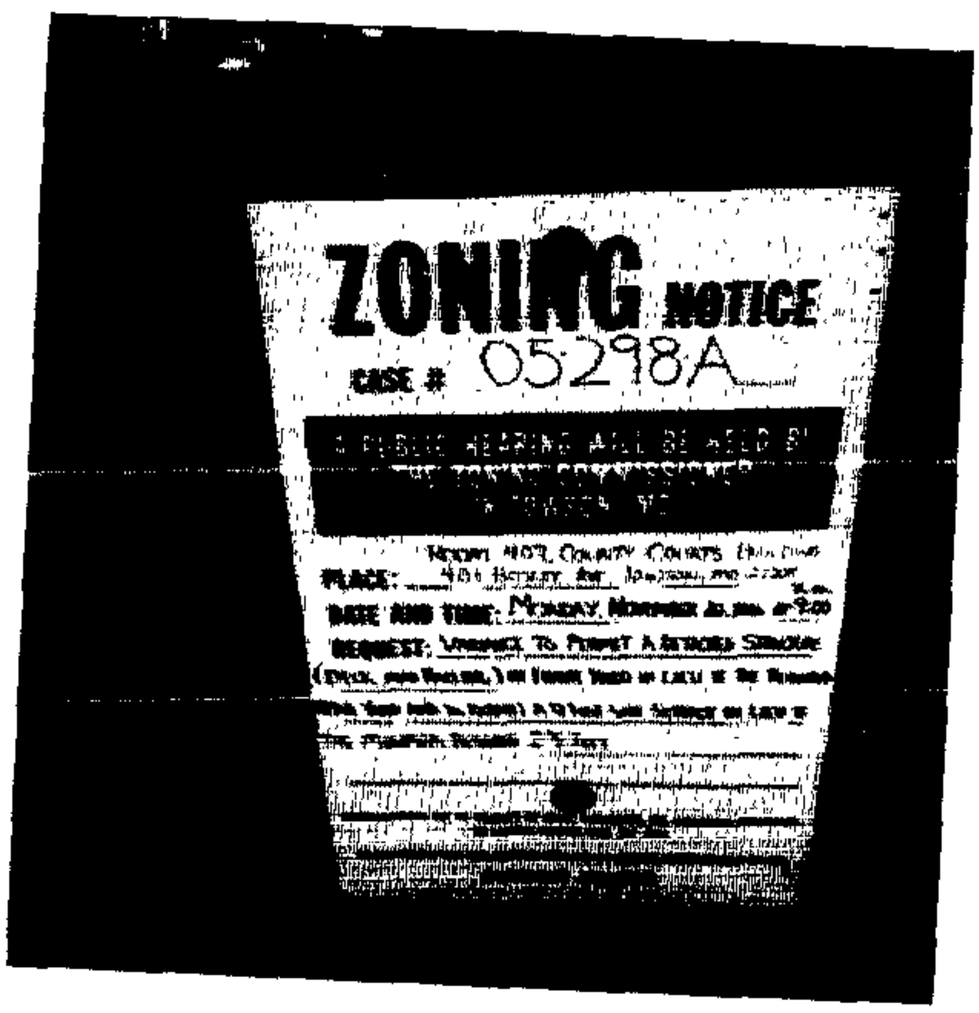
Ladies and Gentlemen:

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:

341 WORTON RD

The sign(s) were posted on 11-4-06
(Month, Day, Year)

Sincerely,



Robert Black 11-8-06
(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)

CERTIFICATE OF POSTING

RE: Case No.: 05-298-A

Petitioner/Developer: LINDA ANN SENEZ

Date of Hearing/Closing: 2/3/05

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

ATTN: Kristen Matthews {(410) 887-3394}

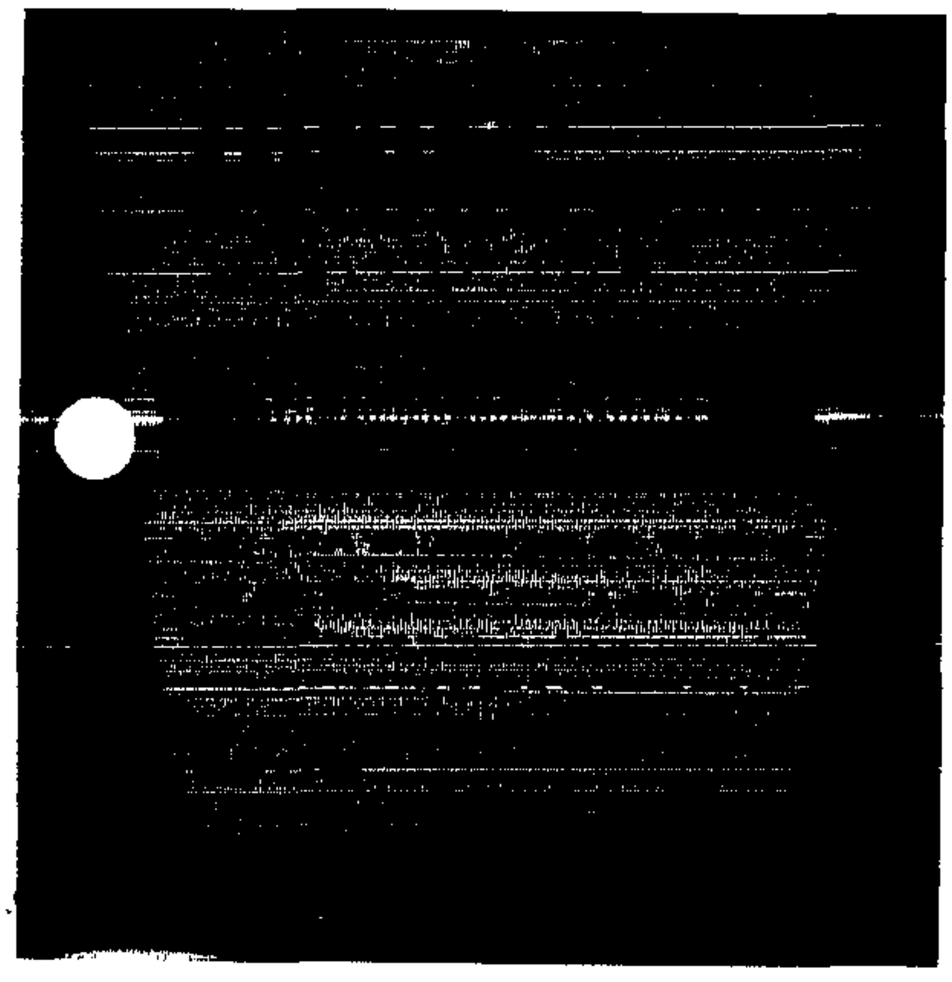
Ladies and Gentlemen:

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:

341 WORTON RD

The sign(s) were posted on 1/19/05
(Month, Day, Year)

Sincerely,



Robert Black 1/19/05
(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)

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

August 24, 2006

NEW 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: 05-298-A
341 Worton Road
East side of Worton Road, 50 feet north of Sasafrass Road.
15th Election District—6th Councilmanic District
Legal Owner: Linda Ann Senez

Variance to permit a detached structure (deck and railing) in front yard in lieu of the required rear yard and to permit a 0 foot side setback in lieu of the minimum required 2 1/2 feet.

Hearing: Monday, October 16, 2006 at 9:00 a.m. in Room 407, County Courts Building
401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK: klm

C: John B. Gontrum 210 W. Pennsylvania Avenue Towson 21204
J. Neil Lanzi, 409 Washington Avenue, Ste. 617, Towson 21204
Linda Ann Senez 341 Worton Road Baltimore 21221

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, SEPTEMBER 30, 2006.**
(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
Thursday, September 28, 2006 Issue - Jeffersonian

Please forward billing to:
Linda Senez 410-574-7391
341 Worton Road
Baltimore, Maryland 21221

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:

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341 Worton Road
East side of Worton Road, 50 feet north of Sasafrass Road.
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Hearing: Monday, October 16, 2006 at 9:00 a.m. in Room 407, County Courts Building
401 Bosley Avenue, Towson 21204

WILLIAM WISEMAN
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

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

September 21, 2006

NEW 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: 05-298-A
341 Worton Road
East side of Worton Road, 50 feet north of Sasafrass Road.
15th Election District—6th Councilmanic District
Legal Owner: Linda Ann Senez

Variance to permit a detached structure (deck and railing) in front yard in lieu of the required rear yard and to permit a 0 foot side setback in lieu of the minimum required 2 1/2 feet.

Hearing: Monday, November 20, 2006 at 9:00 a.m. in Room 407, County Courts Building
401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK: klm

C: John B. Gontrum 210 W. Pennsylvania Avenue Towson 21204
J. Neil Lanzi, 409 Washington Avenue, Ste. 617, Towson 21204
Linda Ann Senez 341 Worton Road Baltimore 21221

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, NOVEMBER 4,2006.**
(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
Thursday, November 2, 2006 Issue - Jeffersonian

Please forward billing to:
Linda Senez 410-574-7391
341 Worton Road
Baltimore, Maryland 21221

NEW 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: 05-298-A
341 Worton Road
East side of Worton Road, 50 feet north of Sasafrass Road.
15th Election District—6th Councilmanic District
Legal Owner: Linda Ann Senez

Variance to permit a detached structure (deck and railing) in front yard in lieu of the required rear yard and to permit a 0 foot side setback in lieu of the minimum required 2 1/2 feet.

Hearing: Monday, November 20, 2006 at 9:00 a.m. in Room 407, County Courts Building
401 Bosley Avenue, Towson 21204

WILLIAM WISEMAN
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

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

Baltimore County

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

December 21, 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: 05-298-A
341 Worton Road
East side of Worton Road, 50 feet north of Sasafrass Road.
15th Election District—6th Councilmanic District
Legal Owner: Linda Ann Senez

Variance to permit a detached structure (deck and railing) in front yard in lieu of the required rear yard and to permit a 0 foot side setback in lieu of the minimum required 2 1/2 feet.

Hearing: Thursday, February 3, 2005 at 11:00 a.m. in Room 407, County Courts Building
401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK: clb

C: John B. Gontrum 210 W. Pennsylvania Avenue Towson 21204
Linda Ann Senez 341 Worton Road Baltimore 21221

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY JANUARY 19, 2005.**
(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
Thursday, January 20, 2005 Issue - Jeffersonian

Please forward billing to:
Linda Senez 410-574-7391
341 Worton Road
Baltimore, Maryland 21221

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: 05-298-A
341 Worton Road
East side of Worton Road, 50 feet north of Sasafrass Road.
15th Election District—6th Councilmanic District
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Variance to permit a detached structure (deck and railing) in front yard in lieu of the required rear yard and to permit a 0 foot side setback in lieu of the minimum required 2 1/2 feet.

Hearing: Thursday, February 3, 2005 at 11:00 a.m. in Room 407, County Courts Building
401 Bosley Avenue, Towson 21204

WILLIAM WISEMAN
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, CONTAC~ 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 05-298-A

Petitioner Linda Senez

Address or Location: 341 Wonton Road, Balt., md. 21221

PLEASE FORWARD ADVERTISING BILL TO

Name. Linda Senez

Address 341 Wonton Road
Balt., md. 21221

Telephone Number. 410-574-7391

2/24/07

IN RE: **PETITION FOR VARIANCE** * BEFORE THE
E/S Worton Road, 50' N of Sassafrass Rd.
(341 Worton Road) * ZONING COMMISSIONER
15th Election District
6th Council District * OF

Linda Ann Senez * BALTIMORE COUNTY
Petitioner

* **Case No. 05-298-A**

* * * * * * * * * * *

AMENDED ORDER

This matter came before the undersigned Zoning Commissioner for consideration of a Petition for Variance filed by the owner of the subject property, Linda Ann Senez, through her attorney, John B. Gontrum, Esquire, for the property located at 341 Worton Road. The Petitioner sought approval of certain variance relief to allow a structure in her front yard next to an adjacent property. Following the public hearing, I denied the requested variance relief by written Order dated January 2, 2007. Subsequently, on January 11, 2007, the Petitioner filed a Motion for Reconsideration. Essentially, it is pointed out that clarification is needed regarding the improvements constructed post-Isabel on the property as my Order erroneously included the stairs and landing, not intended as a part of this case, rather than focusing on only the 90 square foot "deck extension". In an effort to correct the record and address the concerns of the Petitioner, the Motion was granted and continued proceedings were resumed on Wednesday, March 14, 2007.

By way of background, the subject waterfront property contains 17,990 square feet, zoned D.R.3.5 and identified as Lot 134 on the Plat of Middleborough. Ms. Senez has owned and resided on the property for 6-1/2 years. Following the damage sustained in Hurricane Isabel, she commenced construction efforts to improve the front yard area by replacing a railroad tie retaining wall, which formed a division line between the terraced lawn area in front of the home and the landing and bulkhead six (6) feet below at its frontage on Norman Creek. In this regard, Errol A.

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Date 3-29-07
By DTM

Ecker, a Supervisor in the County's Bureau of Building Inspections, gave a brief overview of the permitting process embraced by the Department of Permits and Development Management, during the post-Isabel era. Suffice to say, that storm-related repairs often proceeded on verbal permission prior to permits being issued. The Petitioner replaced the wooden retaining wall with a masonry one. The wall was pulled back towards the house away from the water and surrounded the front and northern boundaries of the existing terrace at a height of six (6) feet requiring wooden fencing at its edge.

It is apparent from reading my Order of January 2, 2007 that I erroneously included the stairs and a 4' x 10' landing area that had been constructed in front of this retaining wall pursuant to a valid building permit (Permit No. B555457 issued 5/11/04 – Petitioner's Exhibits 3A and 3B). These steps and the landing area can be seen from the Collins' property and therefore arguably diminish the (Collins) water view, they were, however, not the subject of the petition before me.[1] Nevertheless, they were considered as part of my Findings and should not have been ordered to be removed. Moreover, and as indicated at the conclusion of the continued proceedings, the 90 square foot deck portion, which is the subject of the petition before me, is located at the southeastern end of the landing and cannot be seen from the Collins' home. Therefore, it does not interfere in any way with their water view. This Finding coupled with my further realization of how the subject property steps down from Worton Road to Norman Creek causes me to re-evaluate my previous decision. The topography of this property, a division or 6' drop-off (between the terrace and bulkhead), occurs that is unusual or unique and in a manner different from the nature of surrounding properties. This uniqueness or peculiarly causes the zoning regulations to impact disproportionately upon the Senez's property. These enlightened facts lead me to believe that a practical difficulty

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Date 3-29-07
By DLW

[1] The stairs and landing were granted permits that have not been appealed. They are not now, nor have they been the subject of a violation notice and are in compliance with the law.

would be sustained if I require strict compliance with the Baltimore County Zoning Regulations (B.C.Z.R.), which would deny the Petitioner a reasonable response to the loss of the terraced area that she had enjoyed prior to the flood and due, in chief, to its proximity to tidal flooding.

Based upon the argument and evidence presented, I am persuaded to grant the requested relief. I find that the small deck area under consideration cannot be out of character with the community given the theme of development in this area, nor will it diminish the Collins' water view. Although I am appreciative of their objections, I do not find the requested relief will adversely impact upon them or other adjacent properties. Additionally, a letter was received from Fred Lengsfeld, whose property is on the south side of the subject property at 343 Worton Road. This letter indicates that he has no objection to the deck and fence which have been constructed since the summer of 2004. For all these reasons, I am now persuaded that the relief can be granted and that there will be no detrimental impact to the adjacent properties or surrounding locale, and shall amend my Order accordingly.

NOW THEREFORE, in consideration of Petitioner's request for modification, my Order of January 2, 2007, shall be amended in accordance with the following:

IT IS ORDERED by the Zoning Commissioner for Baltimore County this 29th day of March 2007, that the Petition for Variance from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a 90 square foot detached structure (deck and railing) to be located in the front yard in lieu of the required rear yard, and to permit a zero (0) foot side yard setback in lieu of the minimum required 2-1/2 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

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Date 3-29-07
By DJ

IT IS FURTHER ORDERED that any appeal of this decision shall be made within thirty (30) days of the date of this Order in accordance with Baltimore County Code Section 32-3-401.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

c: John B. Gontrum, Esquire, Whiteford, Taylor & Preston, LLP,
210 West Pennsylvania Avenue, Towson, Maryland 21204
J. Neil Lanzi, Esquire, Mercantile Building, Suite 617,
409 Washington Avenue, Towson, MD 21204
Mr. and Mrs. Stephen E. Collins, 339 Worton Road, Essex, MD 21221
Ms. Linda Ann Senez, 341 Worton Road, Essex, MD 21221
Mr. Brian Dietz, 7867 Oakdale Avenue, Baltimore, MD 21237
Mr. Clyde Hinkle, 1249 Engleberth Road, Baltimore, MD 21221
Mr. Fred Lengsfeld, 343 Worton Road, Essex, MD 21221
Mr. Errol Ecker, Building Inspections, DPDM
Dennis Kennedy, Bureau of Development Plans Review, DPDM
Chesapeake Bay Critical Area Commission, 1804 West Street,
Suite 100, Annapolis, MD 21401
People's Counsel; Division of Code Inspections & Enforcement, DPDM; Case File

ORDER RECEIVED FOR FILING
Date 3-29-07
By DLW

3/2/07

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
341 Worton Road		
East side of Worton Road,	*	ZONING COMMISSIONER
50 feet north		
Of Sassafrass Road	*	FOR
15th Election District		
6th Council District	*	BALTIMORE COUNTY
Linda Ann Senez		
Petitioner/Owner	*	Case No. 05-298-A

****

MEMORANDUM OF PETITIONER

A zoning variance petition in Baltimore County carries with it two burdens: a burden of production of evidence and a burden of persuasion. The burdens must be met with respect to the two step test propounded by Section 307 of the Baltimore County Zoning Regulations (BCZR). Section 307.1 of the BCZR states that variances from the regulations may only be granted where "special circumstances or conditions exist that are peculiar to the land or structure … and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship."

Cromwell v. Ward, 102 Md. App. 691, 651 A.2d 424 (1995) is the leading case in Baltimore County addressing the issue of "special circumstances or conditions." In that case the Petitioner sought a height variance for an accessory structure that had been built higher than the building permit stated and higher than the BCZR permits. No testimony of unique condition or special circumstances was offered. Judge Cathell articulated the two step variance analysis as follows:

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MAR 2 [illegible] 2007
ZONING COMMISSIONER

"The first step requires a finding that the property whereon the structures are to be placed (or uses conducted) is – in and of itself – *unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness or peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property.* Unless there is a finding that the property is unique, unusual, or different, the process stops here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that first step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, i.e., a determination of whether practical difficulty and/or unreasonable hardship resulting from the disproportionate impact of the ordinance caused by the property's uniqueness exists...." *Id.* at 694-695. emphasis added.

It is instructive that Judge Cathell was seeking in his opinion to correct a situation "where the zoning authorities are first determining whether a practical difficulty or unreasonable hardship exists. That determination is then used to create a unique or unusual situation as to the subject property because surrounding properties do not experience the hardship or difficulty." *Id.* at 695. It is the uniqueness of the property which has to cause the ordinance to have a different impact on it than on adjoining property.

In this case the variance request for the deck should be viewed as if the deck were not in place. If the Petitioner came in for a variance to allow a deck extending from the terrace should such a variance be allowed? We believe it should be.

Like Cromwell and the subject case, the object of the variance request in *Mastandrea v. North*, 361 Md. 107, 760 A. 2d 677 (2000) was also in place at the time of the variance request. *Mastandrea* completed a trilogy of Court of Appeal variance opinions on critical area variances that included *Belvoir Farms v. North*, 355 Md. 259, 734 A.2d 227 (1999), and *White v. North*, 356 Md. 31, 736 A.2d 1072 (1999). *Mastandrea* was

the only case of the three to be confronted with a requirement of proof of uniqueness.

The Court in looking at the "uniqueness" step in the test stated:

> "There is substantial evidence in the record establishing that, without the path, a person in a wheelchair could not enjoy the waterfront portion of the property. Evidence before the Board indicated that the soil composition of the Mastandreas' property near the shoreline, "one of the heaviest clay soils" their expert "had ever tested," does not allow handicap access to the waterfront. The record indicates that the Commission neither offered any evidence to the contrary nor questioned the Mastandreas' expert witness on this point when he testified before the Board....In other words, there is no evidentiary refutation by the Commission on the record that would support its argument that the Mastandreas' property is not unique or "in any way different from other properties in the neighborhood or in the Talbot County Critical Area." *Id.* at 136-137.

The opinion found that the record supported the Board's finding that there was a special condition or circumstance unique to the lot.

The "uniqueness" found by the Court in *Mastandrea* satisfied the definition of "uniqueness" given by the Court of Special Appeals in *North v. St. Mary's County*, 99 Md. App. 502, 514, 638 A. 2d 1175, 1181 (1994) where the court said:

> "In the zoning context the 'unique' aspect of a variance requirement does not refer to the extent of 'improvements upon the property, or upon the neighboring property. 'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, sub-surface 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. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls."
>
> In this case it is not the existence of the deck that creates the practical difficulty.

It is the topography of the ground and the lot's relationship to the waterfront. As the Commissioner was able to see from his site visit and appreciate when he realized the

need for a stairs and a landing from the water's edge to the terrace, the topography is unique to this site. There was no testimony to refute this unique feature of this site.

Protestants' case relied on the testimony that the site like others is waterfront, like waterfront sites it slopes from the street to the water, and like many properties it is 50' in width. None of these factors is what is unique about the property. All waterfront properties slope from the street to the water unless there is a system of dikes or levees. What is unique is **how** the property slopes from the street to the water. In this case there was a terrace that had existed on the site for many years. Flood damage from hurricane Isabel demonstrated the weakness of the lower retaining wall a scant 14' from the water. Rebuilding a wall destined to be washed out by flooding is insanity.

Like the Critical Area Commission in *Mastandrea* the Protestants have offered no evidence that this topographic condition is not unusual or that terraces with six (6) foot drop offs such as this one exist in the neighborhood. There is no photographic evidence rebutting Petitioner's claim. If Petitioner's claim of uniqueness is credible, then according to *Mastandrea* there has to be some rebuttal in order for the claim to be ignored.

The Petitioner could have built out the retaining wall to its former limit and could have raised the level of the terrace to be level with the existing terrace the entire way and not required any zoning. Mr. Ecker stated that not only were the stairs and the landing permitted as a matter of right as access points to the terrace but also the terrace and the extension of it to its previous limits was permitted without regard to height.

In *Mastandrea* the property owners could have replaced the clay topsoil with another type of soil more conducive to handicapped access and not have required the variance. Even under the more stringent standard of unwarranted hardship this measure was not required. Under the much more relaxed standard of practical difficulty extending the retaining wall out and up to avoid flood inundation and hauling in yards of fill dirt is simply not required. Nor should the property owner be denied the rights and privileges to the terrace area that she had prior to the flood.

Once uniqueness of a property is shown to exist then the Petitioner must relate that unique feature of the property to the need for relief from the impact of the zoning regulation. The proposed deck is a structure in the front, the waterfront, of the dwelling. It is not, however, like most decks or structures contemplated by the Code. Decks are usually considered to be structures projecting above grade from other structures. In this case the deck proposed is projecting from the ground. If the Petitioner simply extended the retaining wall out around the perimeter of the proposed deck and filled in underneath of it, then the deck would no longer be a structure necessitating a variance. What causes this situation is the uniqueness of the topography. Consequently, the strict application of the regulation would deny the Petitioner a reasonable response to the topographic issues of the property and its proximity to tidal flooding.

In *Lewis v. Department of Natural Resources*, 377 Md. 382, 833 A. 2d 563 (2003), the Court stated that even if alternatives could be found that did not require a variance those alternatives did not preclude the granting of a variance even under the stringent

unwarranted hardship criteria. The Court defined "unwarranted hardship" as whether the property owner would be denied a reasonable or significant use of the land. *Id.* at 416. It further explained that the application of a standard "does not look to whether petitioner would be denied all reasonable uses of his entire property, but rather a standard that should determine if petitioner's proposed use is a reasonable and significant one in consideration of all of the [critical area] factors." *Id.* at 417.

"Practical difficulty" is a much less stringent standard than "unwarranted hardship." McLean v. Soley, 270 Md. 208, 214, 310 A.2d 783 (1973), another case arising in Baltimore County, quoted 2 Rathkopf, The Law of Zoning and Planning (3d ed. 1972) 45-28,29 that the following are the criteria for determining "practical difficulty":

> "1) Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.
>
> "2) Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.
>
> "3) Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured."

An 88-90 square foot deck projection from the terrace is not an unreasonable response to the situation presented by this lot. Conformity with the regulations in *placing a retaining wall out to the previous wall and hauling in yards of dirt would be* unnecessarily burdensome. As the Commissioner stated, the issue is not one of interfering with the neighbor's view. The deck is virtually indistinguishable from the

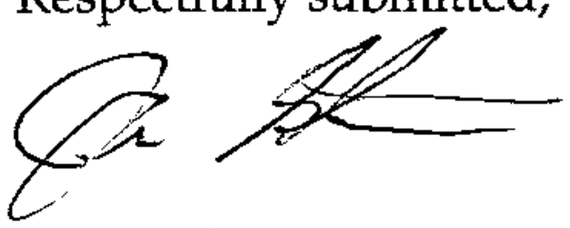
terrace. Both require fencing. If the terrace were expanded along its full length to its limits prior to the hurricane, the impact could be significant.

The stairs and landing were granted permits that have not been appealed. They are not now, nor have been the subject of a violation notice and are in compliance with the law. They are not the subject of the zoning variance request, and consequently, should not be ordered to be removed.

Consequently, the request for the variance for the deck as placed and configured squarely meets the definition of "practical difficulty." It is for structures such as this occurring as they do in response to unusual, natural conditions that the concept of variances was created.

In conclusion, it is respectfully requested that upon reconsideration of the decision in the above-referenced case that the variance for the deck be granted and that the stairs and landing as configured be permitted to remain.

Respectfully submitted,



John B. Gontrum
Whiteford, Taylor & Preston, LLP
210 W. Pennsylvania Avenue
Towson, Maryland 21204
Attorney for Petitioner

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

April 13, 3007

John B. Gontrum, Esquire
Whiteford, Taylor & Preston, LLP
210 West Pennsylvania Avenue
Towson, MD 21204

J. Neil Lanzi, Esquire, PA
Mercantile Building, Suite 617
409 Washington Avenue
Towson, MD 21204

RE: **MOTION FOR RECONSIDERATION – PETITION FOR VARIANCE**
(341 Worton Road)
15th Election District – 6th Council District
Linda Ann Senez - Petitioner
Case No. 05-298-A

Dear Counsel:

In response to Protestant's recently received Memorandum requesting reconsideration of the Amended Order dated March 29, 2007, the following comments are offered.

Ann and Steve Collins understandably urge that the subject structure(s) (railing, landing and deck) be viewed as one and then scrutinized in accordance with today's permitting standards and applicable Maryland variance law. Ms. Senez argues, on the other hand, that fairness dictates a filtered view be undertaken, one that appreciates how things were actually being done post Isabel. The crux of the controversy, as eloquently set forth in well prepared Memorandums, is whether the need for a variance was self-created and the application of practical difficulty. Based upon the testimony and evidence presented, I determined that the terrace area is legal, the landing and stairs providing access from the terrace to the bulkhead and water are legal, and that the subject 90 square foot deck does not detrimentally impact upon adjacent properties and granted the variance.

It is obvious that this dispute and the factual interpretations that logically flow therefrom, depending on one's perspective, will continue. I pointed out in my initial Order that "this is a close case". The Court of Appeals in *Stansbury v Jones* 372 Md 172, 188, n.12 (2002) discusses in detail self-created hardships. The building of a 90 foot square deck does not, in an of itself, foreclose Petitioner's ability to apply for variance relief. I have done my best and am content to leave things as they are. When there is doubt, and there is, on the facts presented in this case, that doubt should be resolved in favor of an owner's free use of land. Thus, Protestant's request for further Reconsideration is respectfully denied. This letter shall be considered an Order denying same and any appeal from this decision must be filed within thirty (30) days of the date hereof.

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:pz

c: Mr. Errol Ecker, Building Inspections, DPDM
People's Counsel; Division of Code Inspections & Enforcement, DPDM

ORDER RECEIVED FOR FILING
Date 4-13-07
By DEW

IN RE: PETITION FOR VARIANCE 341 Worton Road	*	BEFORE THE
Eastside of Worton Road 50 Feet North of Sassafrass Road	*	ZONING COMMISSIONER
15th Election District 6th Council District	*	FOR BALTIMORE COUNTY
Linda Ann Senez, Petitioner	*	Case No. 05-298-A

* * * * * * * * * * * *

PROTESTANT'S MEMORANDUM

Ann Collins and Steve Collins, Protestants, by their attorney, J. Neil Lanzi and J. Neil Lanzi, P.A., respectfully submit this Memorandum in Support of its Opposition to Petitioner's Petition for Variance.

I. BACKGROUND

Petitioner requested a variance from Section 400.1 of the Baltimore County Zoning Regulations ("BCZR") to permit a detached structure to be located in the front yard in lieu of the required rear yard and to permit a zero foot side yard setback in lieu of the minimum required 2.5 feet. By Order dated January 2, 2007, the Zoning Commissioner for Baltimore County determined the evidence advanced by Petitioner did not "rise to the level of 'peculiar … or practical difficulty'". The Zoning Commissioner also determined the "practical difficulty" standard required a finding that "more than that the structure allowed would be suitable or desirable or could do no harm or would be convenient for its owner". Finally, the Commissioner stated "the 'hardship' about which Ms. Senez now confronts is self created and as such, cannot serve as a finding of practical difficulty. See *Montgomery v. Rotwein*, 169 Md. App. 716 (2006)."

Notwithstanding the repeated objections of the undersigned to Petitioner's presentation of additional testimony and evidence, Petitioner attempted to argue her property was unique at the hearing on Petitioner's Motion for Reconsideration. The initial decision and Order was based on two days of testimony, exhibits and a site visit by the Commissioner. The sloped area of Petitioner's property was discussed at length at the original hearing and determined insufficient to meet the uniqueness standard necessary to grant the variance. A ruling was made at the reconsideration hearing on Petitioner's Motion that new evidence on uniqueness would not be considered and it should not be now.

Petitioner now seeks to have the January 2, 2007 Order reconsidered so that the steps and landing would be allowed apart from the deck and the variance denial be reversed to allow the deck. Protestant's respectfully requests the January 2, 2007 Order be upheld in its entirety.

II. DISCUSSION

An accessory use or structure is defined in the BCZR Section 101 as:

"a use or structure which: (a) is customarily is incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use for structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served; except that, where specifically provided in the applicable regulations, accessory, off-street parking need not be located on the same lot. An accessory building, as defined above, shall be considered an accessory structure ..."

Petitioner's property is located in the DR. 3.5 zone and, as such, is subject to Section 400.1 of the BCZR which states:

"accessory buildings in residence zones, other than farm buildings (Section 404) shall be located in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third. In no case shall they be located less than 2.5 feet from any side or rear lot lines, except a two car private garage may be built with a common party wall straddling a side interior property line if all other requirements are met. The limitations imposed by this Section shall not be applied to a structure which is attached to the principal building by a covered passageway or which has one wall or part of one wall in common with it. Such structure shall be considered part of the principal building and shall be subject to the yard requirement for such a building".

The steps, landing, railing and deck are accessory structures as defined in Websters Third New International Dictionary and in the BCZR. Petitioner's expert acknowledged the landing and deck were one attached structure. The regulations are clear that accessory structures are allowed only in the rear yard. The previous owner of Petitioner's property had filed for a variance for the existing garage and established the rear yard is on the Worton Road side of the residence. By Petitioner's own uncontradicted testimony and exhibits, the only accessory structures which existed in the front yard (waterfront side) of her property prior to Hurricane Isabel were the boathouse, steps leading to the grass terrace and the old retaining wall. The railing, landing and deck did not exist.

Petitioner, after Hurricane Isabel hit Baltimore County in September of 2003, took full advantage of Baltimore County's then extremely loose policy on repairing hurricane damage. No permit was ever produced at the hearing because no permit was ever obtained for the deck in question. Petitioner boldly built replacement structures and new accessory structures despite the absence of the necessary County approvals. Maryland case law is clear that a pleasant amenity for personal use is not equal to unwarranted hardship or practical difficulty. The rebuilt terrace, deck, stairs, railing and

landing are dramatically different from what they replaced as confirmed by the photographs in evidence. The voluminous exhibits and testimony provided by Protestants, Petitioner and Petitioner's witnesses clearly established there is nothing unique about Petitioner's property in that it is essentially rectangular, sloped to the water from the street, enjoys water views and is relatively narrow. In fact, the uncontradicted evidence presented confirmed several properties on Worton Road suffered substantial property damage as a result of the recent hurricane. Protestant's subdivision plat confirmed the similarity in location and shape of the Senez and Lengsfeld properties. Protestant's expert opined the Senez's property was substantially similar to other properties in the area in shape, size, topography and waterfront access. More importantly, Protestant's expert also determined the Senez waterfront property faced the same perils as all other residents in the area with regard to flooding and water damage. Interestingly, even the sloped area alleged to be unique was self created as shown by the retaining wall and terrace which existed for years prior to the hurricane, without issue. The uniqueness claim is baseless and without merit..

Section 307 of the BCZR provides for variance relief for property in Baltimore County as follows:

A. 307.1. (In Part) 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... only in cases where special circumstances or conditions that 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 a manner as to grant relief without injury to public health, safety and general welfare.

Under Maryland case law, the hearing officer or zoning board must follow the following two step process to determine whether the requested variances should be granted,

> "The first step requires a finding that the property whereon structures are to be placed (or uses conducted) is-in and of itself-unique and unusual in a manner different from the nature of surrounding properties such that the uniqueness and peculiarity of the subject property causes the zoning provision to impact disproportionately upon that property. Unless there is a finding that the property is unique, unusual or different, the process steps here and the variance is denied without any consideration of practical difficulty or unreasonable hardship. If that step results in a supportable finding of uniqueness or unusualness, then a second step is taken in the process, i.e. a determination of whether practical difficulty and/or unreasonable hardship, resulting from the disproportionate impact of the ordinance caused by the property's uniqueness, exists." *Cromwell v. Ward*, 102 Md. App. 691, 694-695 (1995).

Applying the standard of the two step process required by *Cromwell vs. Ward* and the BCZR to the facts presented, it is clear Petitioner has not met her burden and approval should not be granted to the variance requested. Petitioner's testimony was the new deck, stairs, landing and railing were necessary due to the cost and difficulty of extending the terrace. Petitioner however conceded that the old steps from the water to the terrace ended in grass. No deck, landing or railing existed. Petitioner's expert conceded the deck, landing and stairs were all one connected structure. Convenience for Petitioner does not equate to practical difficulty or unwarranted hardship. Petitioner's circumstances do not meet the requirements of the general rule as cited in *Cromwell v. Ward* that variances should only be granted sparingly and under exceptional circumstances. As the uniqueness requirement of *Cromwell* was not met, under current

Maryland law, this failure prevents consideration of the second prong required for a variance.

Despite the extensive testimony and photographs offered in Petitioner's case with regard to the extent of hurricane damage suffered by Petitioner, the Commissioner still must follow its opinion previously rendered. Replacing an old terrace with stairs to the water with a new larger terrace with a new set of stairs, landing and deck simply does not equate to exceptional circumstances required under Maryland law.

Assuming for the sake of argument that Petitioner's property was determined to be unique as compared to others in the neighborhood, the second prong of *Cromwell* requiring practical difficulty has not been satisfied. Protestants provided expert testimony that other options existed for Petitioner on where and how to construct the desired deck in the event the variance was denied, including simply extending the grass terrace to where the landing and deck have been built. Petitioner did not disagree but was concerned about the cost. Financial hardship is not enough under Maryland law.

The Court of Appeals in *Kennerly vs. Mayor and City Council of Baltimore*, 247 Md. 601 (1967) stated,

> "To grant a variance the Board must find from the evidence more than that the building allowed would be suitable or desirable or could do nor harm or would be convenient for or profitable to its owner. The Board must find there was proof of 'urgent necessity, hardship peculiar to the particular property, and a burden upon the owner not justified by the public, health, safety and welfare'."

See also *Carney v. City of Baltimore*, 201 Md. 130 (1952) where the Court of Appeals discussed a variance for a residential addition and the Court determined the

convenience of the applicants was not a sufficient basis for granting an exception to the zoning ordinance on the ground of unnecessary hardship.

This is not an undersized lot case where the Petitioner had no other alternatives. There was not then and there is not now any urgent necessity for Petitioner to build the deck, landing and railing in the front yard. Case law in Maryland has made it clear that a pleasant amenity for having a new deck and landing is not equal to unwarranted hardship or practical difficulty. See *North vs. St. Mary's County,* 99 Md. App. 502, 512 (1994) where the Court of Special Appeals discussed the "unique" aspect of a variance requirement stating,

> "In the zoning context, "unique" aspect of 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 have an inherent characteristic not shared by other properties in the area i.e. its shape, topography, subsurface condition, environmental factors, historical significance, access or non access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions. In respect to structures, it would relate to such characteristics as unusual architectural aspects and bearing or party walls."

The *North* case concerned a proposed gazebo for Petitioners enjoyment. The fact discussion in *North* is similar to the facts of the subject case in that neighboring properties were similarly situated with views. The Court in *North* determined that strict application of the regulations would not result in unnecessary hardship and would not deprive Petitioner of all reasonable use of his land.

In *Wilson vs. Mayor and Commissioners of Town of Elkton*, 35 Md. App. 417 (1977) the Court discussed a request for zoning variance to allow a third floor fire escape. In overturning the Board of Appeals, the Court held the Petitioner in that case would not

be deprived of all use of the third floor of the dwelling and the hardship alleged was self created.

Petitioner indicated at the hearing she intended to remain on the property even if the variance was denied. As in both *Wilson* and *North*, Petitioner will not be deprived of all reasonable use of her land.

The seminal case for variances prior to *Cromwell vs. Ward* was M*cLean v. Soley*, 270 Md. 208, 213, 1973, which states,

"The standard for granting a variance then, as it is now, was whether strict compliance with the regulations would result in 'practical difficulty or unreasonable hardship'; and that it should be granted only if in strict harmony with the spirit and intent of the zoning regulations; and only in such manner as to grant relief without substantial injury to the public health, safety and general welfare".

The criteria for establishing practical difficulty were listed in *McClean v. Soley* as follows:

1. Whether compliance with the strict letter of the restrictions governing area, set backs, frontage, height, bulk or density would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

2. Whether a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

3. Whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured. 270 Md. at 214.

The testimony presented by Protestants' expert was that strict compliance with the BCZR would not unreasonably prevent Petitioner from using her property for a permitted purpose, the granting of the requested variance would be contrary to the spirit and intent of the zoning regulations and in fact would cause substantial injury to the public health,

safety and general welfare, namely to the immediate adjoining neighbors. Protestant's photographic evidence demonstrated the adverse impact the accessory structures have on Protestants view and enjoyment of their property. The terrace, landing, railing and deck are filled with gazebos, tables, chairs, umbrellas and plantings which, taken as a whole, have a negative impact on Protestants property. Petitioner has not been denied all reasonable use of her property as the primary residence.

The documentation entered into evidence by the Protestants, including, but not limited to, the plat of Middleborough, the topographic map and aerial photographs, all demonstrated the absence of uniqueness of Petitioner's property. All these properties were in the hundred year flood plain. Petitioner is not now denied the right and privileges Petitioner had to the terrace and front yard prior to the hurricane.

The variance requested for the accessory structures should be viewed as if the structures were in place. In *Cromwell*, an accessory structure was built above the allowable height. The court determined not only was the property not unique from the surrounding properties but the construction of the building equated to a self created hardship. Petitioner in this case followed the same path and, only after being challenged, requested relief and was initially denied by the January 2, 2007 Order.

In *Mastandrea v. North, 361* Md. 107, 760 A. 2d 677 (2000) the Court of Appeals determined that a brick in sand pathway designed for wheelchair access to the waterfront constituted a reasonable modification to the Talbot County Zoning Regulations and agreed the evidence presented at the Board of Appeals level supported the granting of a variance. The variance granted in that case was to the Critical Area

Regulations. *Mastandrea* is distinguishable from the subject case on its facts as the Court focused on the disability of the property owner's daughter in allowing the variance by determining the property owner's daughter would not be able to enjoy the waterfront property the same as other land owners in the area due to the risk imposed by the sloping of the property and soil composition. The Court went further to state that the paths constructed were the least objectionable means to accommodate the disability of the property owner's daughter in order to provide her with the reasonable use of family property. Petitioner in the subject case is not disabled. The evidence supports and the site visit should have supported the fact that, even without the accessory structures in her front yard, Petitioner is clearly able to reasonably use her property and enjoy her waterfront as all of the waterfront property owners in the area.

In *Salisbury Board of Zoning Appeals v. Bounds*, 240 Md. 547, 214 A. 2d 810, (1965), a four apartment building was constructed and a post construction variance request was denied based on self created hardship. In a similar factual case to ours, *Citrano v. North*, 123 Md. App. 234, 717 A. 2d 960 (1997), the Court of Special Appeals affirmed the denial of variance for a deck proposed on a waterfront home in the Chesapeake Bay Critical Area. The Court determined that although the deck may have been a pleasant amenity for the property owner to enjoy additional views of the water, the owners failed to establish the "unwarranted hardship" burden despite evidence of steep slopes in the critical area leading to the Magothy River. It is also interesting in *Citrano* that the Court noted the Petitioner's dwelling also enjoyed a second floor deck with views of the water. From the evidence in the subject case, Petitioner obviously enjoys

various views of the water from her home, including from the second floor balcony, the enclosed all weather porch on the terrace level and the terrace itself, absent the proposed accessory structures which require the variance.

In *Belvoir Farms v. North*, 355 Md. 259, 734 A. 2d 227 (1999), the Court discussed a request for additional boat slips on a community pier and determined the unwarranted hardship standard applied for variances in the Chesapeake Critical Area. The Court held the unwarranted hardship standard is more restrictive than the practical difficulty standard whereby "the need sufficient to justify an exception must be substantial and urgent and not merely for the convenience of the applicant…". The Court further stated that to meet the undue hardship standard, a petitioner must prove that he or she would not be able to secure a reasonable return or to make any reasonable use of his or her property. It is the denial of a reasonable use which creates unwarranted hardship. Petitioner's needs were not shown to be substantial and urgent and certainly Petitioner will not be denied the reasonable use of her property by the denial of a variance for the accessory structures built in the front yard. Petitioner's views of the water are intact even without the variance. Petitioner enjoys post-Isabel, the same rights and privileges on her property, especially the water views, that she enjoyed prior to Isabel.

Accordingly, Protestant's respectfully request the Commissioner to allow the original Order dated January 2, 2007 to remain intact denying the zoning relief requested and further request the Commissioner to reverse and/or rescind its Amended Order dated March 29, 2007.

J. Neil Lanzi
J. Neil Lanzi, P.A.
409 Washington Avenue, Suite 617
Towson, Maryland 21204
Attorney for Protestants

J. NEIL LANZI, P.A.

ATTORNEY AT LAW
MERCANTILE BUILDING, SUITE 617
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

(410) 296-0686

FAX: (410) 296-0689

E-Mail: lanzilaw@cs.com

J. Neil Lanzi

OF COUNSEL
Fred L. Coover*

*Also Admitted in District of Columbia

COLUMBIA
Suite 420, Parkside Bldg
10500 Little Patuxent Parkway
Columbia, Maryland 21044-3563

Reply to Towson

April 5, 2007

William J. Wiseman, III, Zoning Commissioner
County Courts Building
Suite 405
401 Bosley Avenue
Towson, Maryland 21204

Re: Petitions for Special Hearing and Variance
Case No. 05-298-A

Dear Mr. Wiseman:

Enclosed for filing please Protestant's Memorandum in the above referenced case. I would respectfully request you reconsider the decision rendered in your Amended Order dated March 29, 2007.

Thank you for your consideration.

Very truly yours,

J. Neil Lanzi

cc: Mr. and Mrs. Steve Collins
J. Calvin Jenkins, Jr., Esquire
Robert J. Thompson, Esquire
John B. Gontrum, Esquire

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

January 26, 2005

John B. Gontrum
Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue
Towson, Maryland 21204

Dear Mr. Gontrum:

RE: Case Number: 05-298-A , 341 Worton Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on December 10, 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.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Linda Ann Senez 341 Worton Road Baltimore 21221

2/3

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

JAN 2 4 2005

TO: Tim Kotroco
PDM

FROM: John D. Oltman, Jr JDO
DEPRM

DATE: January 24, 2005

SUBJECT: Zoning Item # 05-298
Address 341 Worton Road (Senez Property)

Zoning Advisory Committee Meeting of December 20, 2004.

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

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

_____ Development of the property must 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).

__X__ 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:

Wood decks that are constructed to provide access to the waterfront must be designed in accordance with Buffer Management Area requirements. Note that mitigation and/or a variance may be nessicary.

Reviewer: Michael Kulis Date: January 24, 2005

S:\Devcoord\ZAC SHELL 11-20-03.doc

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

State Highway Administration
Driven to Excel

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

Maryland Department of Transportation

Date: 12.21.04

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

RE: Baltimore County
Item No. 298 JNP

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,

S. D. Foster

Steven D. Foster, Chief
Engineering Access Permits Division

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

December 23, 2004

ATTENTION: Zoning Review planners

Distribution Meeting of: December 20, 2004

Item No.: 252, 291-296, 298-300, 302-304

Pursuant to your request, the referenced plan(s) have been reviewed 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: January 21, 2005

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

SUBJECT: Zoning Advisory Committee Meeting
For December 27, 2004
Item No. 298

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

The flood protection elevation (MCS) for this site is 10.4 feet.

RWB:CEN:jrb

cc: File

ZAC-12-27-2004-ITEM NO 298-01212005

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: February1, 2005

RECEIVED
FEB - 2 2005
ZONING COMMISSIONER

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

SUBJECT: 341 Worton Road

INFORMATION:

Item Number: 5-298

Petitioner: Linda Ann Senez

Zoning: DR 3.5

Requested Action: Variance

SUMMARY OF RECOMMENDATIONS:

The Office of Planning maintains the position that the minimum side yard setback for residentially zoned lots (particularly the ±50-foot wide lots along the County's waterfront and peninsula) shall be 10 feet. A site visit revealed that the subject 2-story garage is already constructed and appears to exceed the 15-foot height limitation for accessory structures. It also appears as though the second floor of the garage is being used for dwelling purposes.

If the petitioner is permitted to maintain the subject structure, the following conditions shall apply:

1. Eliminate the second-story dwelling unit or apartment. The structure shall not contain any sleeping quarters, living area, kitchen or bathroom facilities.
2. The accessory structure shall not be used for commercial purposes.

For further information concerning the matters stated herein, please contact David Pinning with the Office of Planning at 410-887-3480.

Prepared by: Mae A. Cunningham

Division Chief: Lynn Lanham

AFK/LL:MAC:

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: November 17, 2006

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

SUBJECT: 341 Worton Road

NOV 17 2006

INFORMATION:

Item Number: 5-298 – **Additional Comments**

Petitioner: Linda Ann Senez

Zoning: DR 3.5

Requested Action: Variance from Section 400.1 of the BCZR to permit a detached structure (deck and railing) in the front yard in lieu of the required rear yard, and to permit a 0 foot side yard setback in lieu of the minimum required 2 and one half feet.

SUMMARY OF RECOMMENDATIONS:

The Office of Planning has reviewed the subject request(s) and offers the following additional comments:

The Office Planning maintains a position that the minimum side yard setback for residentially zoned lots, particularly the 50-foot wide lots found on the County's waterfront, shall be 10 foot. In this particular case, because of the existing side yard setback of the dwelling, it is recommended that at least a seven foot side yard set back variance be maintained to allow for adequate light and for maintenance purposes. This office cannot support a 0 foot side yard setback and therefore recommends denial of the requested variance.

Prepared by: Laurie Hay

Division Chief: Lynn Lanham

W:\COMPLAN\LAURIE\zac - 5-298.doc

RE:	PETITION FOR VARIANCE 341 Worton Road; E/side Worton Road, 50' N of Sasafrass Road 15th Election & 6th Councilmanic Districts Legal Owner(s): Linda Ann Senez Petitioner(s)	*	BEFORE THE
		*	ZONING COMMISSIONER
		*	FOR
		*	BALTIMORE COUNTY
		*	05-298-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 22nd day of December, 2004, a copy of the foregoing Entry of Appearance was mailed to, John B. Gontrum, Esquire, Whiteford, Taylor & Preston, LLP, 210 W Pennsylvania Avenue, Towson, MD 21204 , Attorney for Petitioner(s).

RECEIVED

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

Click here for a plain text ADA compliant screen.

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 15 **Account Number** - 1513401030

Owner Information

Owner Name: COLLINS STEPHEN
COLLINS ANN

Mailing Address: 339 WORTON RD
BALTIMORE MD 21221-3026

Use: RESIDENTIAL

Principal Residence: YES

Deed Reference: 1) /14676/ 245
2)

Location & Structure Information

Premises Address
339 WORTON RD

Legal Description
LT 135,136
100 N SASSAFRAS RD
MIDDLEBOROUGH

WATERFRONT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
97	12	373					135	3	Plat Ref: 4/ 191

Special Tax Areas
Town
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
2001	*3,022 SF*	*34,352.00 SF*	*34*

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value As Of 01/01/2006	Phase-in Assessments As Of 07/01/2006	As Of 07/01/2007
Land:	127,580	207,580		
Improvements:	235,420	362,280		
Total:	363,000	569,860	431,953	500,906
Preferential Land:	0	0	0	0

Transfer Information

Seller:	COOK GEORGE W,JR	**Date:**	09/06/2000	**Price:**	$235,000
Type:	NOT ARMS-LENGTH	**Deed1:**	/14676/ 245	**Deed2:**	
Seller:	MESSENGER ROLAND G	**Date:**	08/07/1973	**Price:**	$35,500
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 5383/ 752	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2006	07/01/2007
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:

* NONE *

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Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 15 **Account Number** - 1503000240

Owner Information

Owner Name:	SENEZ LINDA ANN	**Use:**	RESIDENTIAL
		Principal Residence:	YES
Mailing Address:	341 WORTON RD BALTIMORE MD 21221-3026	**Deed Reference:**	1) /14851/ 455 2)

Location & Structure Information

Premises Address
341 WORTON RD

Legal Description
341 WORTON RD
MIDDLEBOROUGH

WATERFRONT

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No: / Plat Ref:
97	12	373					134	3	4/ 191

Special Tax Areas **Town** **Ad Valorem** **Tax Class**

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1927	3,272 SF	17,100.00 SF	34

Stories	Basement	Type	Exterior
2	YES	STANDARD UNIT	SIDING

Value Information

	Base Value	Value As Of 01/01/2006	Phase-in Assessments As Of 07/01/2006	As Of 07/01/2007
Land:	123,270	203,270		
Improvements:	197,260	337,690		
Total:	320,530	540,960	394,006	467,482
Preferential Land:	0	0	0	0

Transfer Information

Seller:	MYERS ARTHUR L	**Date:**	12/07/2000	**Price:**	$333,000
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/14851/ 455	**Deed2:**	
Seller:	JONES ROY E	**Date:**	04/06/1981	**Price:**	$49,900
Type:	IMPROVED ARMS-LENGTH	**Deed1:**	/ 6274/ 192	**Deed2:**	
Seller:		**Date:**		**Price:**	
Type:		**Deed1:**		**Deed2:**	

Exemption Information

Partial Exempt Assessments	Class	07/01/2006	07/01/2007
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

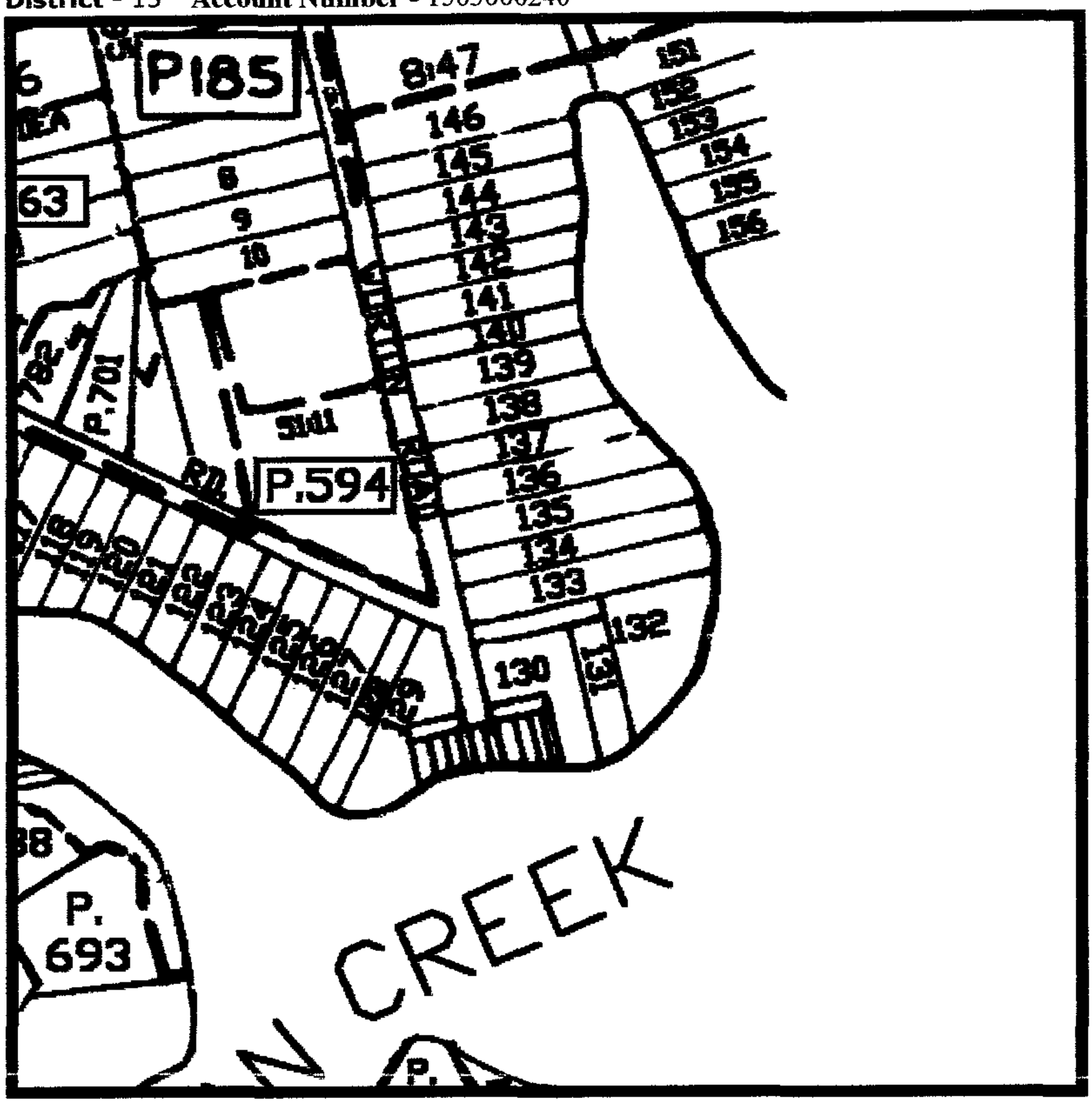
Special Tax Recapture:

* NONE *

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search

District - 15 **Account Number** - 1503000240



Property maps provided courtesy of the Maryland Department of Planning ©2004.
For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/webcom/index.html

Zoning Commissioner

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

2/3
41

Baltimore County

James T. Smith, Jr., County Executive
William J. Wiseman III , Zoning Commissioner

February 1, 2005

J. Neil Lanzi, Esquire
Mercantile Building, Suite 617
409 Washington Avenue
Towson, Maryland 21204

John B. Gontrum, Esquire
Whiteford, Taylor & Preston, L.L.P.
210 W. Pennsylvania Avenue
Towson, Maryland 21204

Re: Petitions for Special Hearing & Variance
Case No. 05-298-A
Property: 341 Worton Road

Dear Messrs. Lanzi & Gontrum:

This letter is to confirm that the above-captioned matter previously scheduled for hearing on Thursday, February 3, 2005 @ 11:00 a.m. has been postponed by agreement of counsel, due to the fact that the property was not posted as required. In addition, the case is being postponed due to a April 8, 2005 hearing scheduled on a civil matter pending between the parties in the Circuit Court for Baltimore County.

It is my understanding that a new hearing date will be scheduled for sometime in April by mutual agreement of the parties. At that time, all interested persons can be advised of the new hearing date by counsel. Please be advised that it will be necessary to re-post the property with the new hearing date.

In the meantime, should anyone have any questions concerning this matter, please feel free to contact this office.

Very truly yours,

John V. Murphy

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

BALTIMORE COUNTY MARYLAND
INTER-OFFICE CORRESPONDENCE

DATE: December 20, 2004

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

FROM: Rick Wisnom, Chief
Division of Code Inspections & Enforcement

SUBJECT:

Item No.:	298
Legal Owner/Petitioner	Senez, Linda Ann
Contract Purchaser:	N/A
Property Address:	341 Worton Rd
Location Description:	E/side Worton Rd, 50' N of Sassafrass Rd

VIOLATION INFORMATION:

Case No.	04-3295
Defendants:	Linda Ann Senez

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

NAME	ADDRESS

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:

X	1.	Complaint letter/memo/email/fax (if applicable)
X	2.	Complaint Intake Form/Code Enforcement Officer's report and notes
X	3.	State Tax Assessment printout
☐	4.	State Tax Parcel Map (if applicable)
☐	5.	MVA Registration printout (if applicable)
☐	6.	Deed (if applicable)
☐	7.	Lease-Residential or Commercial (if applicable)
☐	8.	Photographs including dates taken
X	9.	Correction Notice/Code Violation Notice
☐	10.	Citation and Proof of Service (if applicable)
☐	11.	*Certified Mail Receipt (if applicable)*
☐	12.	Final Order of the Code Official/Hearing Officer (if applicable)
☐	13.	Office of Budget & Finance Billing Notice/Property Lien Sheet (if applicable)
☐	14.	Complete Chronology of Events, beginning with the first complaint through the Billing Notice/Property Lien Sheet (if applicable).

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

RSW/gb
C: Code Enforcement Officer

Entered us

CODE ENFORCEMENT REPORT

DB

DATE: 4/29/04 INTAKE BY: JMA CASE #: 04-3295 INSPEC: 17

COMPLAINT LOCATION: 341 Worton Rd.

ZIP CODE: DIST: 15

COMPLAINANT NAME: Steve Collins PHONE #: (H) 410 918-0028 (W)

ADDRESS: 339 Worton ZIP CODE:

PROBLEM: RETAINING WALL (BLOCK) & DECK UNDER CONST NO PERMIT.

IS THIS A RENTAL UNIT? YES ____ NO ____

IF YES, IS THIS SECTION 8? YES ____ NO ____

OWNER/TENANT INFORMATION:

TAX ACCOUNT #: ZONING:

INSPECTION: 5-3-04 - DISCUSSED PERMIT PROCESS WITH MR COLLINS, HE TOLD ME AT THIS TIME HE WOULD LIKE TO RESEND COMP. CLOSE-OUT

KN

REINSPECTION: C BERRY

CB

5-6-04 MR COLLINS CALLED WANTS TO GO FORTH WITH COMPLAINT. TOLD HIM I WILL RE-INSPECT 5-10-04

REINSPECTION: 5-10-04 ISSUED STOP WORK ORDER TO OBTAIN PERMIT FOR DECK UNDER CONSTRUCTION & REPLACING RETAINING WALL - COMPLETED. GAVE COPY OF STOP WORK TO OWNERS FATHER AT SITE RE-CH 5-17-04

REINSPECTION: C BERRY

KN

CB

PDLV0103F Permits & Development - Livability System
View Cases

Case No: 04-3295

Notes: 05/03/04 DISCUSSED PERMIT PROCESS WITH MR COLLINS, HE TOLD ME AT THIS T IME HE WOULD LIKE TO RESEND COMP. CLOSE OUT. G.BERRY/KH.***
05/06/04 MR COLLINS CALLED, WANTS TO GO FORTH WITH COMPLAINT. TOLD HIM I WILL R E-INSP. ON 05/10/04. G.BERRY/KH.***
05/10/04 ISSUED SWO TO OBTAIN PERMIT FOR DK. UNDER CONSTRUCTION & REPLACING RET AINING WALL-COMPLETED. GAVE COPY OF SWO TO OWNER'LS FATHER AT SITE. P/U 05/17/04 . G.BERRY/KH.***
05/12/04 OWWNER CALLED-PERMIT B555457 WAS ISSUED ON 05/11/04. PERMIT STATES TO REBLD. RET. WALL W/LANDING FOR STORM DAMAGE. OWNER SAYS HE WILL COMP. & DIG HOLE TO SHOW FTS FOR LANDING & SHOW ME PICTURES TO VERIFY RET. WALL & LANDING BEFORE STORM. COMPL. ALSO CALLED, TOLD HIM PER. HAS BEEN ISSUED. HE SAYS RET. WALL IS NOW HIGHER & LANDING WAS NOT THERE BEFORE STORM. I TOLD HIM I WILL CONTACT HIM A FTER I SEE PICTURES-NO CHANGE IN POP-UP. G.BERRY/KH.***
05/18/04 CALLED OWNER. HE IS SETTING MEETING UP WITH R. KELLY FROM ENVRMNT. WIL L CALL ME TO COME OUT AT SAME TIME. P/U 05/28/004. G.BERRY/KH.***
05/27/04 MEET W/COMPL. & E.ECKER. E.E. WENT OVER DISCUSSION HE HAD WITH ZONING
*****SEE NEXT PAGE**********

Enter=Continue F12=Cancel

PQLV0104F Permits & Development - Livability System

View Cases

Case No: 04-3295

Notes: WITH J.PERLOW & WHAT OPTIONS THEY & OWNERS OF 341 HAVE. P/U 06/10/04. G .BERRY/KH.*** 0
6/08/04 MR COLLINS HAS HAD PROP. SERVEYED, FENCE PUT UP BY 341 WORTON IS ON HIS PROP. G.BERRY/KH.*** 0
6/09/04 VISITED SITE. PART OF FENCE IS CLEARLY ON HIS PROP. WILL WRITE CORR. NO. TALKED TO J.ALTMEYER. IF FENCE IS LESS THAN 42" IT WILL BE CIVIL MATTER. G.BERR Y/KH.*** 0
6/11/04 CALED MR COLLINS, TOLLD HIM I WILL STOP DOWN ON MON. TO CHECK FENCE HT.G .BERRY/KH.*** 0
6/14/04 MYSELF & E.ECKER MET WITH MR. COLLINS AT SITE. WE TOLD HIM CO. DOES NOT GET INTO FENCE PROP. LINE DISPUTES. WE OBSERVED DOWNSPOUT & SUMP PROP. LINE & GR ADE AT DRIVEWAY DISCHARGING AT PROP. LINE. WILL ISSUE CORR. NO. ON 06/15/04. P/U 06/28/04. G.BERRY/KH.*** 6
/18/04 UPDATE. MR.LANZI ATTORNEY FOR THE COLLINS CAME IN. GAVE HIM COPY OF TWO C ORR. NOTICES THAT HAVE BEEN ISSUED FOR 341 WORTON. G.BERRY/NS*** 0
8/13/04 NOTIFIED ATTY FOR COMPL. MR. LANZI-GAVE HIM ABOVE INFO. G.BERRY/KH.***
(NEXT PAGE)>>>>

Enter=Continue F12=Cancel

PDLV0105F Permits & Development - Livability System

View Cases

Case No: 04-3295

Notes: HAVE ALSO OBTAINED AN ATTY. PROP. LINE IN BEING DISPUTED WILL BE FAIL B EFORE BEING RESOLVED. P/U 09/10/04. G.BERRY/KH.*** 8 /11/04 RECIEVED LETTER AND TALKED TO JOHN GONTRUM HE IS ATTORNEY THAT IS GOING T O APPLY FRO VAR. FOR THE DECK IN FRONT YARD. MR.GONTRUM SAID HE IS IN CONTACT WI TH CARL RICHARDS FROM ZONING WITH CASE P/U 10/15/04 G.BERRY/JB*** 1 0/20/04 TALKED TO OWNER, SITE HAS SIGNED FORMS FOR SPECIAL HEAR. P/U 11/05/04. G .BERRY/KH.*** 11/5/04 CALLED ATT.J.GOUNTROM. HAS BEEN TO ZONE TWICE. HAS MEE TING FOR 1ST WEEK IN DEC. TO APP FOR DATES FOR SPECIAL VARIANCE. ALSO, OWNER CAM E IN FOR INFO. TOLD HERE THESE WERE ZONE ISSUES & WOULD HAVE TO TALK TO THEM FOR INFO. P/U 12/14/04 G.BERRY/NS*** J EFF PERLOW FROM ZONING CALLED. A VAR. HAS BEEN APPLIED FOR BY J.GONTRUM 05-298-A . CASE WILL BE SCHEDULED IN 02/05. I WILL CALL COMPL. WHEN CASE GETS A HEAR. DAT E. P/U 02/05/05. G.BERRY/KH.***

Enter=Continue F12=Cancel

RA1001B

DATE: 12/20/2004 STANDARD ASSESSMENT INQUIRY (1)
TIME: 11:06:44

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
15 03 000240	15	3-0	34-00	H	NO		10/07/04

SENEZ LINDA ANN
DESC-1.. IMPS
DESC-2.. MIDDLEBOROUGH
341 WORTON RD PREMISE. 00341 WORTON RD
00000-0000
BALTIMORE MD 21221-3026 FORMER OWNER: MYERS ARTHUR L

FCV	PRIOR	PROPOSED		PHASED IN CURR FCV	CURR ASSESS	PRIOR ASSESS
LAND:	123,270	123,270				
IMPV:	162,960	197,260	TOTAL..	320,530	320,530	309,096
TOTL:	286,230	320,530	PREF...	0	0	0
PREF:	0	0	CURT...	320,530	320,530	309,096
CURT:	286,230	320,530	EXEMPT.		0	0

DATE:	08/99	10/03
---- TAXABLE BASIS ----		FM DATE
ASSESS:	320,530	10/24/03
ASSESS:	309,096	
ASSESS:	0	

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

Baltimore County
Department of Permits and
Development Management

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

15 DIST

Code Enforcement:	410-887-3351	Plumbing Inspection:	410-887-3620
Building Inspection:	410-887-3953	Electrical Inspection:	410-887-3960

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No.	Property No.	Zoning:
04-3295	15 03 0000246	

Name(s): SENEZ LINDA ANN

Address: 341 WORTON Rd

Violation Location: 341 WORTON Rd.

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

IRC. 1.105 PERMITS REQUIRED TO CONSTRUCT DECK ON FRONT (WATER SIDE) OF PROPERTY.

2. IRC 105. PERMIT REQ. FOR REPLACEMENT OF RETAINING WALL - WORK COMPLETED.

PROPERTY POSTED BEWARE OF DOG - POSTED NOTICE ON FRONT GATE

$100.00 INVESTIGATION FEE. WAIVED PAID

YOU ARE HEREBY ORDERED TO CORRECT THESE VIOLATION(S) ON OR BEFORE: BY 5-17-04

On or Before:	Date Issued:

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

Print Name

INSPECTOR:

STOP WORK NOTICE

PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED. WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT. THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN:

Not Later Than:	Date Issued:
5-17-04	5-10-04

INSPECTOR: Glenn Berry
GLENN BERRY AGENCY

Bill Wiseman - In re Senez, Case No. 05-298 A

From: <LanziLaw@cs.com>
To: <wwiseman@co.ba.md.us>
Date: 04/02/07 2:01 PM
Subject: In re Senez, Case No. 05-298 A
CC: <JGontrum@wtplaw.com>

Dear Mr. Wiseman:

This letter is in follow up to our telephone conversation earlier today. You should have received my facsimile copy of the letter I mailed to you on March 23, 2007 requesting 15 days to respond to Petitioner's Memorandum. You have indicated that you did not receive my letter initially and issued your amended order. I am in the middle of preparing my memorandum and had intended to file my reply memorandum by my self imposed deadline of this Friday, April 6, 2007. You have agreed to allow me to still file the reply memorandum by the end of this week and would then consider the appropriate action to take at that time. Unless I receive other instructions, I will proceed as stated above. Thank you for your consideration.

Sincerely,

J. Neil Lanzi
J. Neil Lanzi
409 Washington Avenue
Suite 617
Towson, MD 21204
(410) 296-0686 office phone
(410) 296-0689 facsimile

Please be advised that this e-mail and any files transmitted with it are confidential, attorney-client communications or may otherwise be privileged of confidential and are intended solely for the individual or entity to whom they are addressed. If you are not the intended recipient, please do not read, copy or retransmit this communication but destroy it immediately. Any unauthorized dissemination, distribution or copying of this communication is strictly prohibited.

Bill Wiseman - FW: Collins/ Senez

From: "Gontrum, John" <JGontrum@wtplaw.com>
To: "Bill Wiseman" <wwiseman@co.ba.md.us>
Date: 11/30/06 4:43 PM
Subject: FW: Collins/ Senez
CC: <LanziLaw@cs.com>

Bill,

Both my client and Neil's clients from the email below have consented to a site visit to their properties.

Thanks,

John

From: LanziLaw@cs.com [mailto:LanziLaw@cs.com]
Sent: Thursday, November 30, 2006 4:41 PM
To: Gontrum, John
Subject: Re: Collins/ Senez

John:

My client's have no problem with a site visit by the zoning commissioner, however, Mr. Collins would like to be present for the visit. Let me know any possible dates. Thanks.

Neil

J. Neil Lanzi
409 Washington Avenue
Suite 617
Towson, MD 21204
(410) 296-0686 office phone
(410) 296-0689 facsimile

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Circular 230 Disclosure:
To ensure compliance with requirements imposed by Treasury and the IRS, we inform you that any federal tax advice contained in this communication (including attachments) is not intended or written to be used and cannot be used for the purpose of (i) avoiding tax penalties that may be imposed under the

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

January 24, 2007

John B. Gontrum, Esquire
Whiteford, Taylor & Preston, LLP
210 West Pennsylvania Avenue
Towson, Maryland 21204

J. Neil Lanzi, Esquire
Mercantile Building
Suite 617
409 Washington Avenue
Towson, Maryland 21204

RE: **MOTION FOR RECONSIDERATION – PETITION FOR VARIANCE**
E/S Worton Road, 50' N of Sassafrass Rd.
(341 Worton Road)
15th Election District – 6th Council District
Linda Ann Senez - Petitioner
Case No. 05-298-A

Dear Counsel:

This is to confirm that Mr. Gontrum's letter of January 11, 2007 has been accepted as a Motion for Reconsideration of the Order issued by me in the above-captioned matter on January 2, 2007. Pursuant to Rule 4K of the Rules of Practice and Procedure before the Zoning Commissioner/Hearing Officer of Baltimore County, any party may file a Motion for Reconsideration within thirty (30) days of the date of an Order. Thus, the Motion in this case was timely filed. Rule 4K further provides that: "At his discretion, the Zoning Commissioner may convene a hearing to receive testimony and/or argument on the Motion".

I wish to inform you that I will extend the courtesy of awaiting a reply from Mr. Lanzi before making a determination on reconvening the hearing. As you know, I am required to rule on a Motion within thirty (30) days from the date which the Motion is accepted for filing. In this case, I will withhold the running of the thirty (30) day period until it is determined whether: (1) it is appropriate to reconvene the hearing and (2) the limits of testimony and/or argument to be received on the Motion.

In the meantime, should anyone have any questions on the subject, please do not hesitate to call me.

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

c: Mr. Errol Ecker, Building Inspections, DPDM
People's Counsel; Division of Code Inspections & Enforcement, DPDM

3/14
9 AM

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

February 23, 2007

WILLIAM J. WISEMAN III
Zoning Commissioner

John B. Gontrum, Esquire
Whiteford, Taylor & Preston, LLP
210 West Pennsylvania Avenue
Towson, Maryland 21204

J. Neil Lanzi, Esquire
Mercantile Building, Suite 617
409 Washington Avenue
Towson, Maryland 21204

RE: **MOTION FOR RECONSIDERATION – PETITION FOR VARIANCE**
E/S Worton Road, 50' N of Sassafrass Rd.
(341 Worton Road)
15th Election District – 6th Council District
Linda Ann Senez - Petitioner
Case No. 05-298-A

Dear Counsel:

This letter is to confirm that counsel have agreed that the above-captioned matter be scheduled for further proceedings to resolve any factual inaccuracies on Wednesday, March 14, 2005, at 9:00 A.M., in Room 407, of the County Courts Building, 401 Bosley Avenue, Towson, Maryland, 21204. I humbly request that the open issues between the neighbors be discussed beforehand on the outside chance that an amicable resolution can still be obtained.

Should you have any questions, please give me a call.

Very truly yours,

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:dlw

c: Ms. Kristen Matthews, Department of Permits & Development Management; Case File

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
William J. Wiseman III , Zoning Commissioner

February 1, 2005

J. Neil Lanzi, Esquire
Mercantile Building, Suite 617
409 Washington Avenue
Towson, Maryland 21204

John B. Gontrum, Esquire
Whiteford, Taylor & Preston, L.L.P.
210 W. Pennsylvania Avenue
Towson, Maryland 21204

Re: Petitions for Special Hearing & Variance
Case No. 05-298-A
Property: 341 Worton Road

Dear Messrs. Lanzi & Gontrum:

This letter is to confirm that the above-captioned matter previously scheduled for hearing on Thursday, February 3, 2005 @ 11:00 a.m. has been postponed by agreement of counsel, due to the fact that the property was not posted as required. In addition, the case is being postponed due to a April 8, 2005 hearing scheduled on a civil matter pending between the parties in the Circuit Court for Baltimore County.

It is my understanding that a new hearing date will be scheduled for sometime in April by mutual agreement of the parties. At that time, all interested persons can be advised of the new hearing date by counsel. Please be advised that it will be necessary to re-post the property with the new hearing date.

In the meantime, should anyone have any questions concerning this matter, please feel free to contact this office.

Very truly yours,

John V. Murphy

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

Just received. Will return to Deputy to post. See Conjuration 11/9/05.

Printed on Recycled Paper

2/3.

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
TELEPHONE 410 884-0700
FAX 410 884-0719

JOHN B. GONTRUM
DIRECT NUMBER
410-832-2055
JGontrum@wtplaw.com

WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
FAX 410 832-2015
www.wtplaw.com

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

RECEIVED
FEB - 4 2005

February 2, 2005

VIA FACSIMILE TRANSMISSION
AND FIRST CLASS MAIL
(410) 887-3468
John V. Murphy,
Deputy Zoning Commissioner
Suite 405
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Petitions for Special Hearing & Variance
Case No.: 05-298-A
Property: 341 Worton Road-Linda Ann Senez-
Our File No.: 079642/00001

Dear Mr. Murphy:

I am in receipt of your letter of February 1, 2005 with respect to the above referenced matter. As we discussed, it is my belief and understanding that the Senez property at 341 Worton Road was indeed properly posted on January 19, 2005. It is our understanding that a Certificate of this posting exists in the file. My discussion with Mr. Lanzi indicated that his client did not notice the posting on the property until fairly recently.

Finally, based on our discussions, it is my understanding that my client will not be responsible for the cost of reposting the site or re-advertising for any new hearing.

Thank you for your consideration.

Very truly yours,

John B. Gontrum/kml

John B. Gontrum

JBG/kml
Enclosure
cc: J. Neil Lanzi, Esquire
Ms. Linda A. Senez
326295

WHITEFORD, TAYLOR & PRESTON L.L.P.

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FAX 202 331-0573

115 ORONOCO STREET
ALEXANDRIA, VIRGINIA 22314
TELEPHONE 703 836-5742
FAX 703 836-3558

January 11, 2007

William Wiseman, Esquire
Baltimore County Zoning Commissioner
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Case No. 05-298-A
Linda Senez Petitioner

Dear Commissioner Wiseman:

I have had the opportunity to review the Findings of Fact and Conclusions of Law with my client, and an issue of clarification has arisen. As you may recall, the basis for the petition was whether a deck which had been constructed post-Isabel required variances as an accessory structure in the front yard and if so, whether those variances should be granted.

Not a part of the case, for permits had been issued and not appealed were the stairs and landing to the terrace. The pre-Isabel terrace had extended some 11-15 feet waterward of the existing walled terrace, and steps had gone from the shore up to the terrace. Those brick steps were replaced by the wooden steps and a wooden landing. It is true that the new steps are parallel to the shoreline and not perpendicular to it as were the old steps. The steps and landing, however, were approved by the county inspectors and permitted.

The Order portion of the ruling refers to denial of the variances sought, and under consideration for the variance was only the deck extension, which as you stated on page 3 was 11′ x 15′. There is wording on page 7 of the ruling, however, which calls into question the stairs and landing. We do not believe that you meant to deprive access to

the shore from the terrace as constructed, nor do we believe that you actually intended to add the stairs and landing to the case, but my client has asked me to have this point clarified so that in the event she determines to remove the deck that these access amenities also do not have to be removed.

Sincerely,

John B. Gontrum

JBG:jbg
cc. Neil Lanzi, Esquire

WHITEFORD, TAYLOR & PRESTON L.L.P.

210 WEST PENNSYLVANIA AVENUE
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FAX 410 884-0719

1025 CONNECTICUT AVENUE, NW
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WASHINGTON, D C 20036-5405
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FAX 202 331-0573

115 ORONOCO STREET
ALEXANDRIA, VIRGINIA 22314
TELEPHONE 703 836-5742
FAX 703 836-3558

JOHN B. GONTRUM
DIRECT NUMBER
410-832-2055
JGontrum@wtplaw.com

January 31, 2007

Via Telefax & First Class Mail

William J. Wiseman, III, Esquire
Zoning Commissioner
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

1

Re: Motion For Reconsideration
Case No. 05-298-A
Linda Ann Senez - Petitioner

Dear Mr. Wiseman:

I am in receipt of your letter of January 24th and appreciate your consideration of my previous correspondence as a Motion for Reconsideration and the granting of same. I would not want the reconsideration, however, limited solely to the issue of the stairs and landing.

Unfortunately, it appears that certain other factual inaccuracies, pertaining to facts which were undisputed at the time of hearing, crept into the findings of fact. While we understand your legal interpretation of the issues to include a finding that the deck does indeed require variances as an accessory structure in the front yard of a dwelling, we believe that the factual inaccuracies stated as findings do have a direct bearing on the issues pertaining to the required variances and would like the opportunity at a hearing of presenting testimony and evidence further clarifying those issues for your consideration.

Obviously, we believe that a resolution of open issues between the neighbors is in the best interest of all concerned, and hopefully while these issues are pending, a resolution

may once again be seriously considered. Based on my discussions with Mr. Lanzi in the past few weeks I believe he concurs.

Consequently, please consider this letter as an amendment to my previous correspondence and request for reconsideration.

Sincerely,

John B. Gontrum

JBG:jbg
Neil Lanzi, Esq.
People's Counsel for Baltimore County
Linda Senez

WHITEFORD, TAYLOR & PRESTON L.L.P.
400 Court Towers
210 W. Pennsylvania Ave
Towson, Maryland 21204
(410) 832-2000
Fax - (410) 832-2015

FACSIMILE TRANSMITTAL COVER SHEET

TOTAL PAGES (including cover sheet):	Date: February 2, 2005
	File No.: 079642/00001

SENT TO: ***John V. Murphy,*** ***Deputy Zoning Commissioner***	FAX #: ***(410) 887-3468***

FROM: *John B. Gontrum, Esquire*

Re: 341 Worton Road Hearing - Senez

SPECIAL INSTRUCTIONS: See attached letter.

PRIVILEGED AND CONFIDENTIAL: *All information transmitted hereby is intended only for the use of the addressee(s)* named above. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering the message to the intended recipient(s), please note that any distribution or copying of this communication is strictly prohibited. Anyone who *receives this communication in error should notify us immediately by telephone and return the original message to us at the above* address via the U.S. mail.

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
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JOHN B. GONTRUM
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410-832-2055
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L.L.P.

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www.wtplaw.com

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WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

February 2, 2005

VIA FACSIMILE TRANSMISSION
AND FIRST CLASS MAIL
(410) 887-3468
John V. Murphy,
Deputy Zoning Commissioner
Suite 405
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Petitions for Special Hearing & Variance
Case No.: 05-298-A
Property: 341 Worton Road-Linda Ann Senez-
Our File No.: 079642/00001

Dear Mr. Murphy:

I am in receipt of your letter of February 1, 2005 with respect to the above referenced matter. As we discussed, it is my belief and understanding that the Senez property at 341 Worton Road was indeed properly posted on January 19, 2005. It is our understanding that a Certificate of this posting exists in the file. My discussion with Mr. Lanzi indicated that his client did not notice the posting on the property until fairly recently.

Finally, based on our discussions, it is my understanding that my client will not be responsible for the cost of reposting the site or re-advertising for any new hearing.

Thank you for your consideration.

Very truly yours,

John B. Gontrum

JBG/kml
Enclosure
cc: J. Neil Lanzi, Esquire
Ms. Linda A. Senez
326295

J. NEIL LANZI, P.A.

ATTORNEY AT LAW
MERCANTILE BUILDING, SUITE 617
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

(410) 296-0686

FAX (410) 296-0689

E-Mail: lanzilaw@cs.com

J Neil Lanzi

OF COUNSEL
Fred L. Coover*

*Also Admitted in District of Columbia

COLUMBIA
Suite 420, Parkside Bldg
10500 Little Patuxent Parkway
Columbia, Maryland 21044-3563

Reply to Towson

January 31, 2007

William J. Wiseman, III, Zoning Commissioner
Baltimore County, Suite 405
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Case No. 05-298-A
341 Worton Road

Dear Mr. Wiseman:

Thank you for your letter of January 24, 2007 where you indicated Mr. Gontrum's letter of January 11, 2007 has been accepted by your office as a Motion for Reconsideration of your January 2, 2007 Order for the above referenced case. By this letter on behalf of the Protestants, Ann and Steve Collins, I am requesting a hearing for the purposes of argument on the Motion for Reconsideration. As your Order was based upon two days of testimony, I would respectfully request that no further testimony be allowed.

Finally, with respect to scheduling the hearing, my clients will not be able to attend until after Monday, March 5, 2007. If your office could kindly provide Mr. Gontrum and I with some dates, I am confident we can mutually agree on a hearing date.

Thank you for your consideration.

Very truly yours,

J. Neil Lanzi

JNL\mal
cc: Mr. and Mrs. Collins
John B. Gontrum, Esquire
People's Counsel

J. NEIL LANZI, P.A.

ATTORNEY AT LAW
MERCANTILE BUILDING, SUITE 617
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OF COUNSEL
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COLUMBIA
Suite 420, Parkside Bldg
10500 Little Patuxent Parkway
Columbia, Maryland 21044-3563

Reply to Towson

March 23, 2007

William J. Wiseman, III
Zoning Commissioner for Baltimore County
Suite 405, County Courts Building
401 Bosley Avenue
Towson, MD 21204

RECEIVED
APR - 2 2007
ZONING COMMISSIONER

Re: Petition for Variance
Case No. 05-298-A
341 Worton Road

Dear Mr. Wiseman:

On March 23, 2007 I received a hard copy of a Memorandum of Law from counsel for Petitioner for the above referenced case. As the Memorandum of Law was not requested or ordered by you, I would respectfully request sufficient time to prepare and file a Reply Memorandum. I would think fifteen days from today's date would be sufficient.

Thank you in advance for your consideration.

Very truly yours,

J. Neil Lanzi

JNL\mal
cc: John B. Gontrum, Esquire
Mr. and Mrs. Steve Collins

J. NEIL LANZI, P.A.

ATTORNEY AT LAW
MERCANTILE BUILDING, SUITE 617
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J. Neil Lanzi

OF COUNSEL
Fred L. Coover*

*Also Admitted in District of Columbia

COLUMBIA
Suite 420, Parkside Bldg
10500 Little Patuxent Parkway
Columbia, Maryland 21044-3563

Reply to Towson

January 27, 2005

Sent Via Facsimile 410-887-3468
and Regular Mail
William J. Wiseman, Zoning Commissioner
Baltimore County, Suite 405
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RECEIVED
JAN 31 2005
ZONING

Re: Petition for Special Hearing and Petition for Variance
Case No. 05-298-A
341 Worton Road

Dear Mr. Wiseman:

The above referenced case has been scheduled for zoning hearing on February 3, 2005 at 11:00 a.m. I represent the adjoining property owners who reside at 343 Worton Road, Baltimore, Maryland 21221 and on their behalf I am requesting a postponement for the following reasons. First, my client just discovered the sign indicating the hearing date of next week. Second, there is a civil matter pending between the parties in the Circuit Court for Baltimore County, Case No. 03-C-04-01227-OC. The civil case involves some of the same issues and is scheduled for April 8, 2005. Finally, I have another zoning case set for hearing on February 3, 2005 at 9:00 a.m., Case No. 05-297-X.

Accordingly, for those reasons I respectfully request this case be postponed until after the civil matter is heard on April 8, 2005.

Thank you for your consideration.

Very truly yours,

J. Neil Lanzi

JNL\mal
cc: Mr. and Mrs. Collins
John B. Gontrum, Esquire (sent via facsimile: 410-832-2015)

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
William J. Wiseman III, Zoning Commissioner

FAX COVER SHEET

DATE: 2/1/05

NO. OF PAGES INCLUDING COVER SHEET: 2

TO: J. Neil Lanzi, Esq.
and
John B. Gontrum, Esq.

FROM: Jack Murphy
Zoning Comm. Office

PHONE:

FAX NO.: NL: 410-296-0689
JG: 410-832-2015

C:

PHONE:

FAX NO.:

REMARKS: ___ URGENT ___ FOR YOUR REVIEW ___ REPLY ASAP ___ PLEASE COMMENT

Re: 05-298-A
2/3/05 hearing - postponed

Attendance at hearing will not be necessary.

2/1/05 - Letter sent to attys.

Lanzi

****
***** ACTIVITY REPORT *****
****

TRANSMISSION OK

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CONNECTION ID	
START TIME	02/01 14:13
USAGE TIME	00'49
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RESULT	OK

Gontrum

****
***** ACTIVITY REPORT *****
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CONNECTION ID	W.T.& P.
START TIME	02/01 13:14
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RESULT	OK

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
William J. Wiseman III , Zoning Commissioner

2/3

FAX COVER SHEET

DATE: January 28, 2005

NO. OF PAGES INCLUDING COVER SHEET: 2

TO: John Gontrum, Esq.

FROM: Jack Murphy, Dep. Zoning Commissioner

PHONE:

FAX NO.: 410-832-2015

PHONE: 410-887-3868

FAX NO.:

C:

REMARKS: __ URGENT __ FOR YOUR REVIEW ✓ REPLY ASAP __ PLEASE COMMENT

Re: Case No. 05-298-A - Hearing: Feb. 3, 2005
Request for Postponement - Lanzi letter dated Jan. 27, '05

DO YOU HAVE ANY PROBLEMS WITH THE REQUEST FOR POSTPONEMENT?

Printed on Recycled Paper

****
***** ACTIVITY REPORT *****
****

TRANSMISSION OK

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CONNECTION TEL	94108322015
CONNECTION ID	W.T.& P.
START TIME	01/28 14:02
USAGE TIME	00'32
PAGES	1
RESULT	OK

BW 2/3

J. NEIL LANZI, P.A.

ATTORNEY AT LAW
MERCANTILE BUILDING, SUITE 617
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

(410) 296-0686

FAX: (410) 296-0689

J. Neil Lanzi

OF COUNSEL
Fred L. Coover*

*Also Admitted in District of Columbia

COLUMBIA
Suite 420, Parkside Bldg
10500 Little Patuxent Parkway
Columbia, Maryland 21044

Reply to Towson

DATE: January 28, 2005

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

NAME: William J. Wiseman, Zoning Commissioner

TELECOPIER NO.: 410-887-3468

FROM Neil Lanzi, Esquire

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FORMS\OFFICE\ FAXFORM

Linda A. Senez, CPCU
341 Worton Road
Baltimore, Maryland 21221
410-574-7391 Home
410-409-5154 Cell
410-319-0651 Work

January 7, 2007

HAND DELIVERED

RECEIVED
JAN 8 2007
ZONING COMMISSIONER

William J. Wiseman, III, Zoning Commissioner
Baltimore County Zoning Commissioner
County Courts Building
401 Bosley Avenue, Room 405
Towson, Md. 21204

RE: Case No. 05-298-A

Dear Judge Wisman,

I received the Petition for Variance letter. With all due respect, I have a valid permit for the wall, steps and a 10' x 4' landing. Those items were not part of the zoning variance hearing. Copy attached. The area in question I have highlighted in yellow on attached drawing. That same drawing has red lines which show were the old wall was. There are also several other items you should be aware of, that for whatever reason, which I can't explain, weren't brought out by my attorney. My attorney has and has had all of the information below.

1- Page 3- Collins did not build there house with an optimal water view. A review of the aerial photos will confirm that their house is on an angle to the left. Three different aerial photo's attached. The view to the open water area that they "now" want is to the right.

2- Page 3- There is no section of the masonry retaining wall that is 8 feet high. The highest section is under the side enclosed porch and is 6 feet 9 inches. Pictures attached. The wall was pulled back on the side of the house because when the old wall / ground area was removed we discovered that there were no footers or support under that section of the house. The foundation was cracking. Pictures attached. The wooden fencing is a wooden railing, exactly like you see on decks.

3- Page 3- The deck is not 11' x 15'x 8'.

4- Page 3- The 2' wide sloped area that you mention was on the northern side of the terraced level. The sloped area in front or the eastern side was 12 feet wide.

5- Page 4- Refer to #2. The wall is not 8 feet.

6- Page 4- The Collins have a lovely view in front of their own home. Picture attached from Creseant Yacht Club which is .66 miles from my house, further from Collins. GIS aerial photo attached verifying distance. Their house is in the middle and their view is blocked by their own trees and deck railing. All they have to do is cut a few of the lower branches. They do not have a legal "right" to a view across my property. Picture of my property from Collins deck attached. The bump out area in question is not even visible from Collins property. There is no adverse impact on Collins.

7- Page 4- I don't understand the statement that my "property functioned quite well from 1927 to 2004 without these needs for improvements and decking." Collins re-built and re-graded.

8- Page 4- Circuit Court Case. Collins sued me for light pollution. My lights are 100 watts or less, in the front they are 87' and 210' from the closest corner of Collins house. Collins house also sits higher. Collins sued me for drainage, over a two year period Baltimore County couldn't find any evidence of damage on Collins property resulting from my property. Ann Collins stated under oath there wasn't a peace order against them, copy attached. Also attached copies of pages from Collins Interrogatories (complete copies of all Interrogatories available.) The Collins are using zoning as a means to coerce me into taking down the boathouse or agreeing to give them a right to a view over my property. Invasion of privacy is a result of surveillance camera's installed to protect my property, from the vandalism I experienced during this time. The camera's do not invade Collins privacy. The other issues you site have to do with Adverse Property possession resulting from aerial photo's discovered in May of 2004, by Collins.

9- Page 5- Mr. Lengsfeld sent a second letter, which I hope you received. Copy attached.

10- Page 5- Clyde Hinkle's plat of Middleborough was from 1916. The Lengsfeld property does not have an upper terrace level, my house also sits 50 feet closer to Norman Creek, so it is not the same. My property is the only one on Norman Creek that has an upper terrace level which was put in by the previous owner some 20+ years ago. To my knowledge my property was the only one on Norman Creek that suffered extensive flooding damage from Hurricane Isabel, over $70,000. I think that makes me unique. Collins damage was one piece of siding along the eve.

11- Page 6- Refer to #10. The slope, pre Isabel was approximately 12 inches in height. Isabel flooded over that lower area. Refer to #4.

12- Page 7- I don't understand, "peculiar or unusual practical difficulties" must not be the result of Petitioners own action." I had a creosote (toxic) railroad tie wall that was structurally compromised by Hurricane Isabel, "13 feet from the water." I took that wall down and pulled it back 2 feet on the north side (reason refer to #2) and 12 feet on the front or eastern side, away from the water, improving the Buffer Zone. The wall was pulled back to were there was an old concrete wall picture attached. This removed the portion of the upper terrace level that slopped. The reason was to provide for greater protection of my property.

13- Page 7- The wall was continuous on the northern side. I don't understand how the greater protection of my property can be in the hands of someone whom it has absolutely no impact on, other than their preconceived notion of a view across my front yard. Who has the burden of repair?. I didn't re-grade, my contractor and landscaper can confirm. The upper ground is the same height it always was. See attached pictures, aluminum siding, measurement of railroad ties, measurement of lion statues against steps, pictures of under the front porch area, pictures of ramp pre and post wall construction, pictures of side of house.

14- Page 7- Hurricane Isabel was of particular difficulty to me. The expenditures to repair my property created extreme difficulty. Since I have a permit for the wall, steps and landing there is nothing I need to remove in that area. The only area in question is the little bump out area of the deck that I added to recover some of the upper level terrace area I lost. This is all over the same footprint area that was slopped, only the step and deck area are smaller. I never re-graded the upper level, it is the same ground height it always was. I fail to understand how you can say, "the hardship about which Ms. Senez now confronts is self-created,". Again, I removed a structurally compromised creosote (toxic) railroad tie retaining wall and built a concrete block wall in its place 2 feet closer to my house on the northern side and 12 feet closer on the eastern side or front. Nothing I did had any impact on Collins. The only reason Collins are protesting is to hold me hostage to tear down the boathouse which has been there since the 30's or agree to give them a view across my front yard.

The neighbors on the other side of Collins have a lovely view, picture attached. The Collins want me to make up for the house they designed and are now not happy with.

Any and all of the information I have stated above can be verified and I'm more than happy to discuss.

Respectfully,

Linda A. Senez

PLEASE PRINT CLEARLY

CASE NAME_____
CASE NUMBER_____
DATE_____

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
LIWOA SEWER	341 Wonton Rd	ESSEX, MD 21221	lsewer@comcast.net

PLEASE PRINT CLEARLY

CASE NAME Snez
CASE NUMBER 05-298-A
DATE 3/14/07

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
J Nick Lanzi	409 Washington Ave #617	Towson MD 21204	
Mr & Mrs J Collins	339 Worton Rd	Balto MD 21221	

PLEASE PRINT CLEARLY

CASE NAME_____
CASE NUMBER_____
DATE_____

COUNTY REPRESENTATIVE'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Carol Cole	111 W. Ches.	21204	

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE 11-20-06

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
LINDA SENEZ	341 WONTOWRD	ESSEX MD 21221	lsenez@comcast.net
BRIAN DIETZ	8119 OAKLEIGH RD	PARKVILLE MD 21234	
ERROL ECKER	BALTO. CO. (BOX 66)	TOWSON MD 21204	
		(BORING MD. 21020	(COUNTY)
GONTRUM			

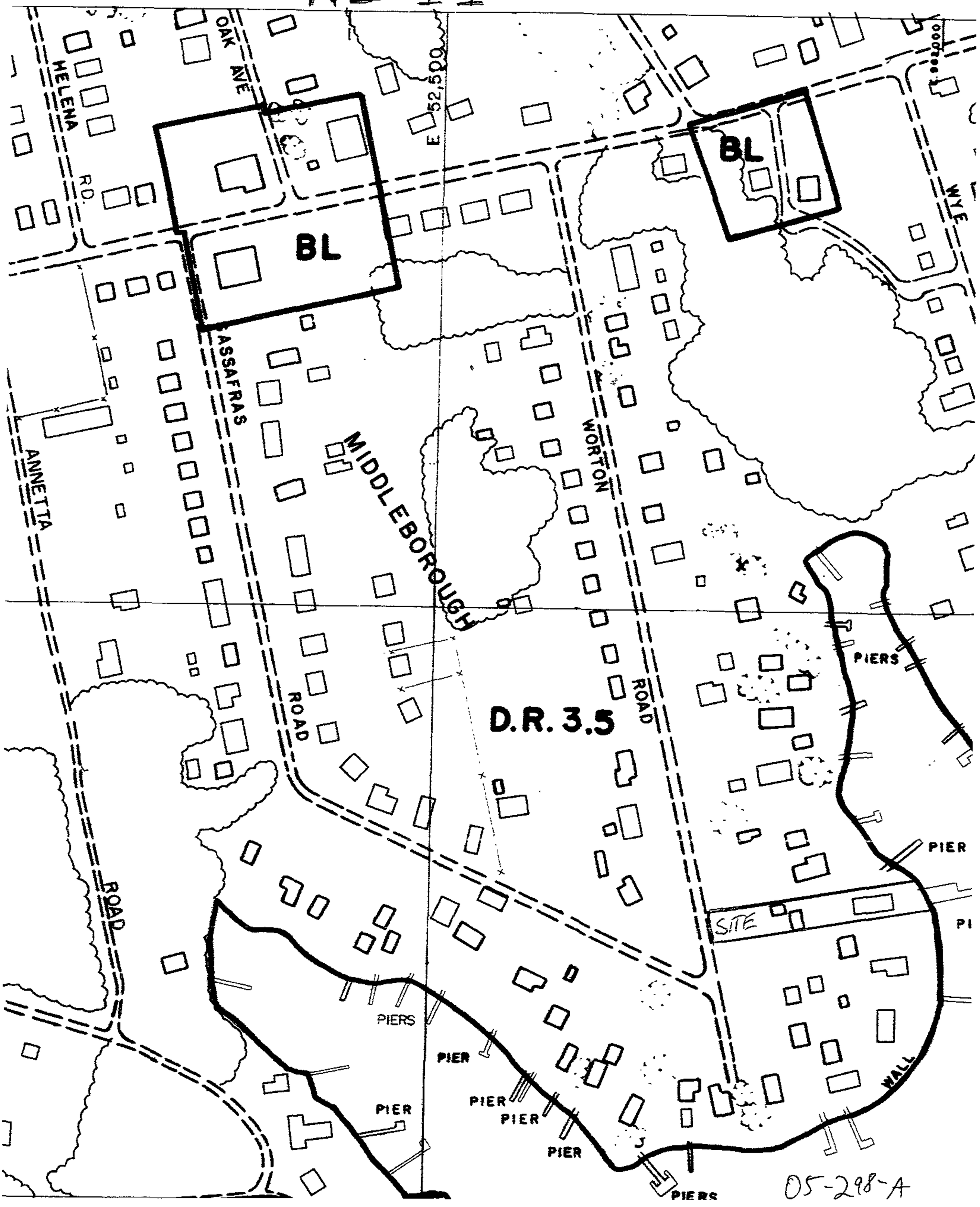
PLEASE PRINT CLEARLY

CASE NAME_____
CASE NUMBER_____
DATE_____

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Stephen			
STEPHEN E COLLINS	339 WORTON RD	BALTO Md 21221	
Ann W Collins	339 Worton Rd	Balto Md 21221	
Clyde Hinkle	1249 Englebarth Rd	Balto Md 21221	Bal Tig & Aggee
LANZI			

MAP NE 11



05-298-A

Case No.: 05-298 A 341 WORTON RD.

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	Site Plan	Swing Set & Canopy
No. 2 Aerials	A. 1998 Topo/GIS Map B. 2005 Topo/GIS Map C. 2005 - Close up	Aerial Photographs - Collectively
No. 3	A - Permit # B555457 B - Application for Permit	* Location Survey
No. 4	Zoning Order 84-188-A - Garage	* View from Collins Deck
No. 5 Photos Existing	A - } Prior to Isabelle B - } Prior to Isabelle C } after Isabelle Prior to Const	Record Plat of Middleburg Ht
No. 6 Photos	A } Post Isabelle - B } FEMA Aid Request(s) New Deck	Deed - From Myers to Senez
No. 7 Photos	7A thru 7E - Deck A - 11/06 7F - From Water B - Summer 04 C - New Deck (Subject of Hearing)	Topographical Map
No. 8 2002 2005	A GIS Aerial + Transparency B GIS - Aerial + Transparency	Photos 8A, 8B, 8C, [Deck Structure]
No. 9	Lengsfield Letter	
No. 10	Existing Conditions Prior to Isabelle in Area of Deck	
No. 11	A - Stake denoting Position B - of Rail Road Retaining Wall	
No. 12 *	A View from Collins Deck B - Collins Home	

* View in contrast with pic another

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

TIMOTHY M. KOTROCO
DIRECTOR

BUILDING PERMIT

JOHN R. REISINGER
BUILDINGS ENGINEER

PERMIT #: B0403457 CONTROL #: RR DIST: 15 PREC: 13
DATE ISSUED: 03/11/2004 TAX ACCOUNT #: 1503000240 CLASS: 34

PLANS: CONST 0 PLOT 1 R PLAT BATA ELEC NO PLUM NO
LOCATION: 341 WORTON RD
SUBDIVISION: MIDDLEBOROUGH

OWNERS INFORMATION
NAME: SENEZ,LINDA
ADDR: 341 WORTON RD

TENANT:
CONTR: OWNER
ENGNR:
SELLR:
WORK: CONST RETAINING WALL W/STAIRS & LANDING TO RPLC
SAME,DAMAGED BY STORM OF 9/13/03.RETAINING WALL
LETTER ATTACHED.TO BE ON FRONT OF WATERFRONT
PROPERTY. 80LF X 6' MAX HEIGHT
LANDING IS 4'X10'=40SF

BLDG. CODE:
RESIDENTIAL CATEGORY: DETACHED OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: SFD & NEW RETAINING WALL
EXISTING USE: SFD W/RETAINING WALL

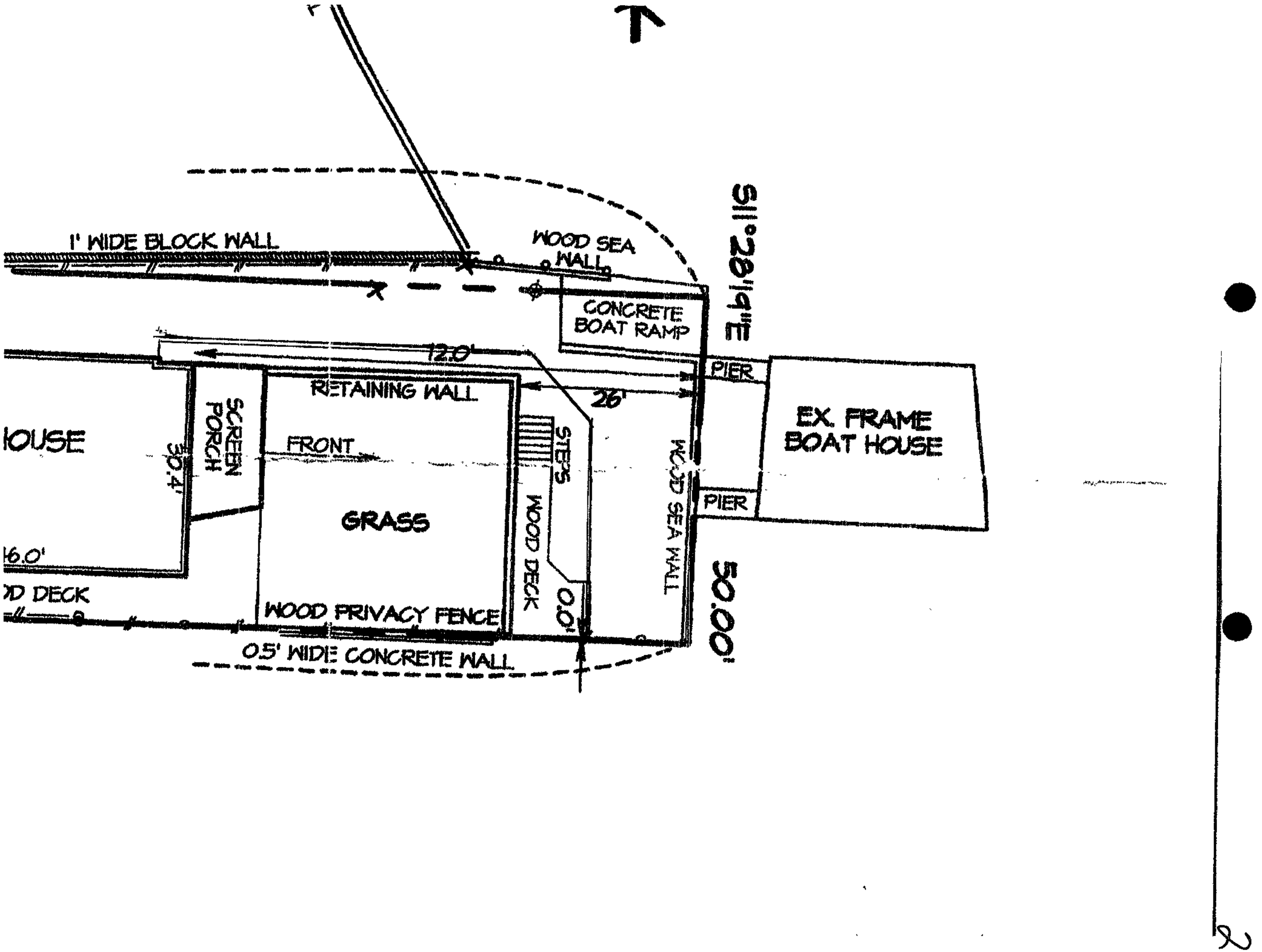
TYPE OF IMPRV: REPAIR
USE: OTHER - RESIDENTIAL
FOUNDATION: BASEMENT:
SEWAGE: PUBLIC EXIST WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 50.00 X
FRONT STREET:
SIDE STREET:
FRONT SETB: 15'
SIDE SETB: 16'/0
SIDE STR SETB:
REAR SETB: NC

THIS PERMIT EXPIRES
ONE YEAR FROM
DATE OF ISSUE

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.


1' WIDE BLOCK WALL
WOOD SEA WALL
CONCRETE BOAT RAMP
S11°28'14"E
12.0'
PIER
RETAINING WALL
26'
EX. FRAME BOAT HOUSE
IOUSE
SCREEN PORCH
30.4'
FRONT
STEPS
WOOD DECK
WOOD SEA WALL
PIER
GRASS
6.0'
D DECK
WOOD PRIVACY FENCE
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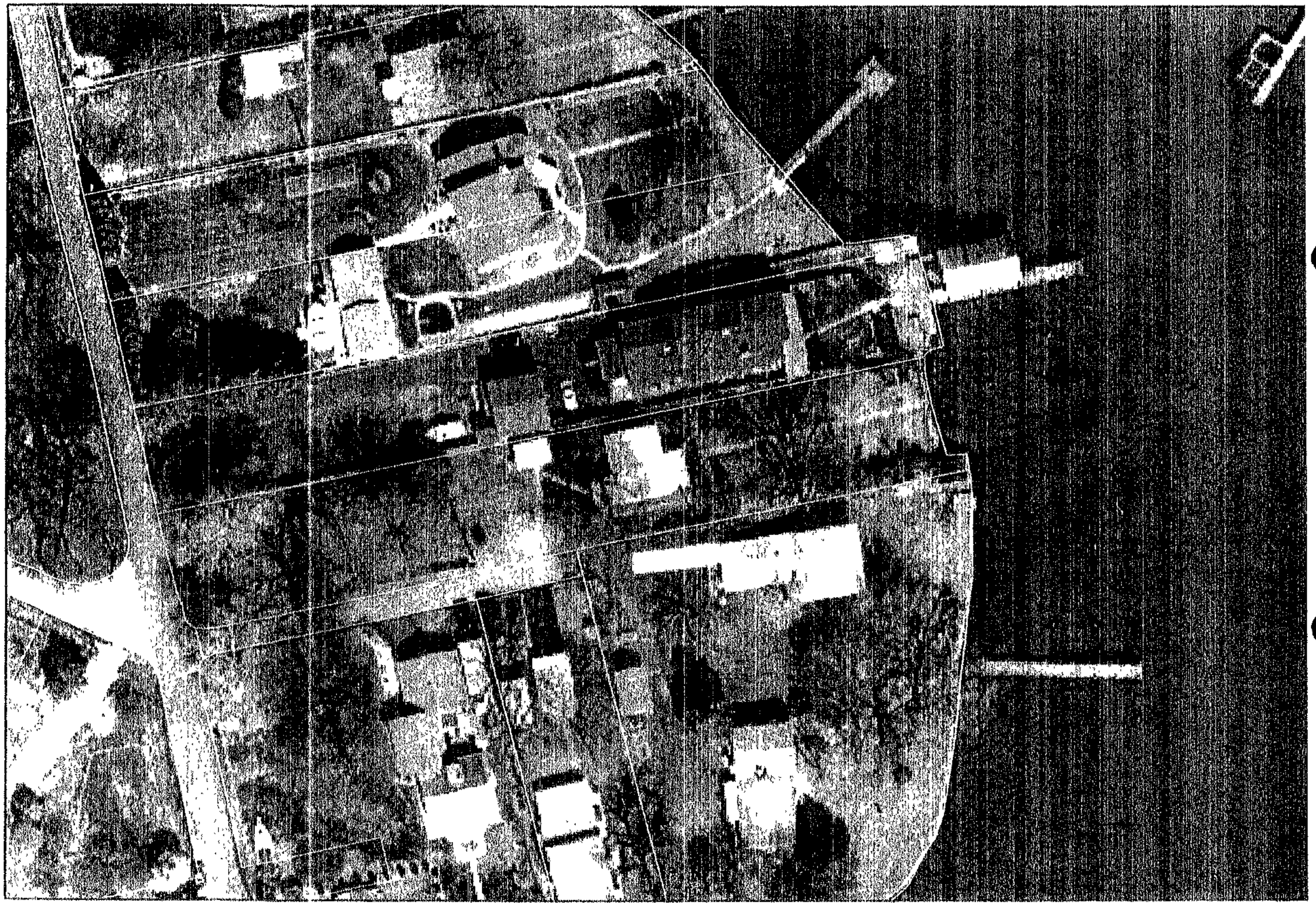
50.00'
.5' WIDE CONCRETE WALL

341 worton rd



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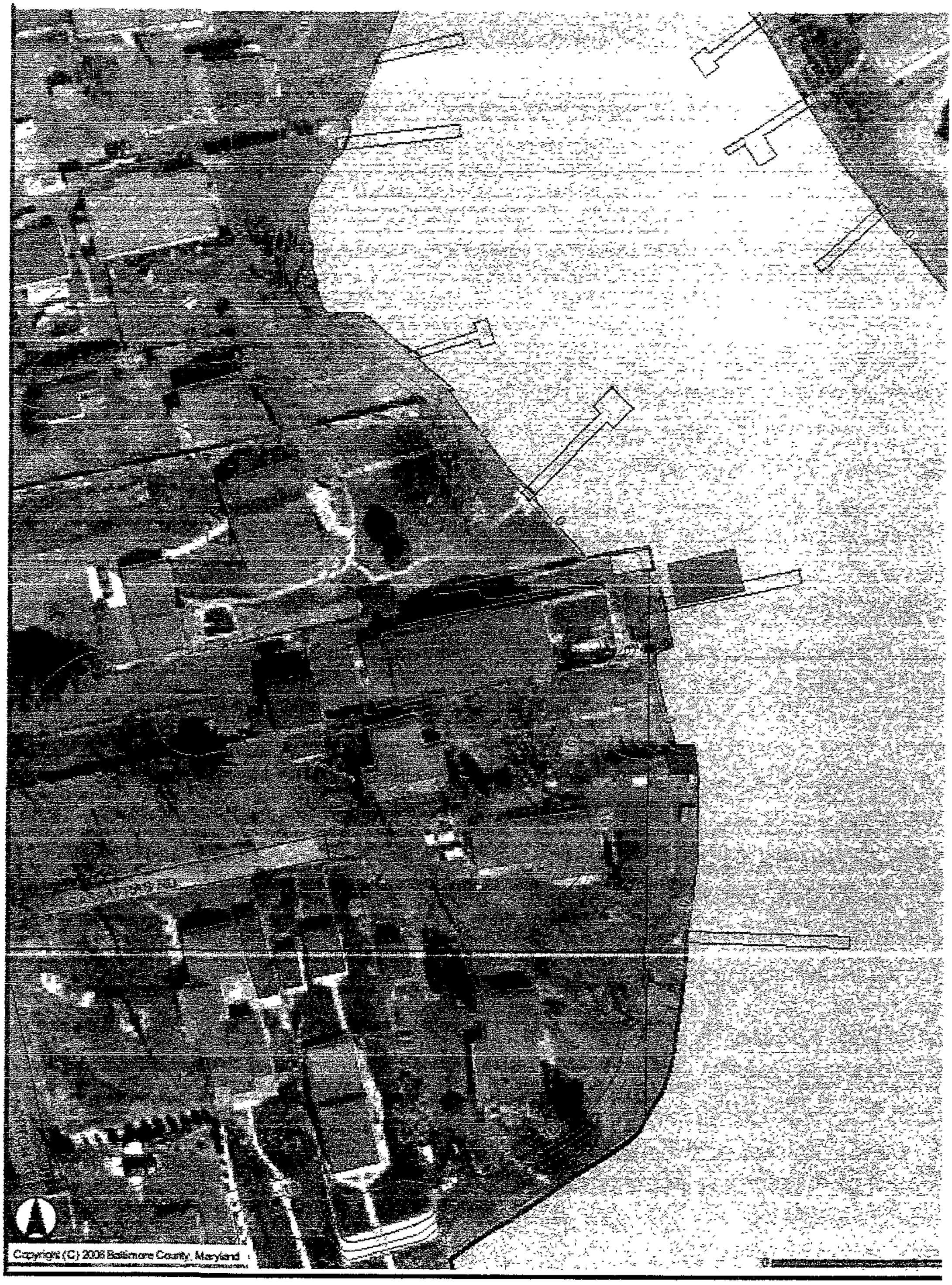
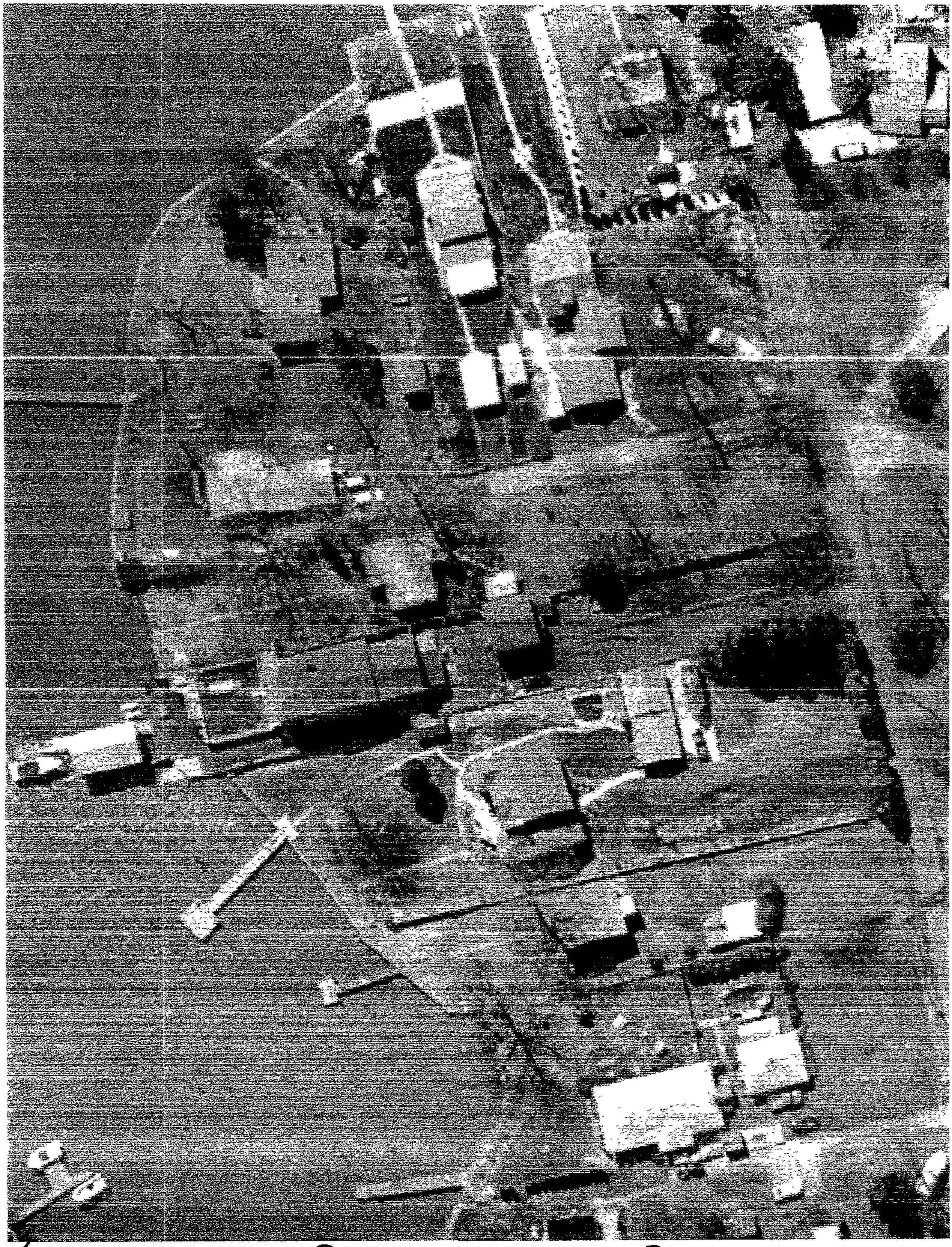
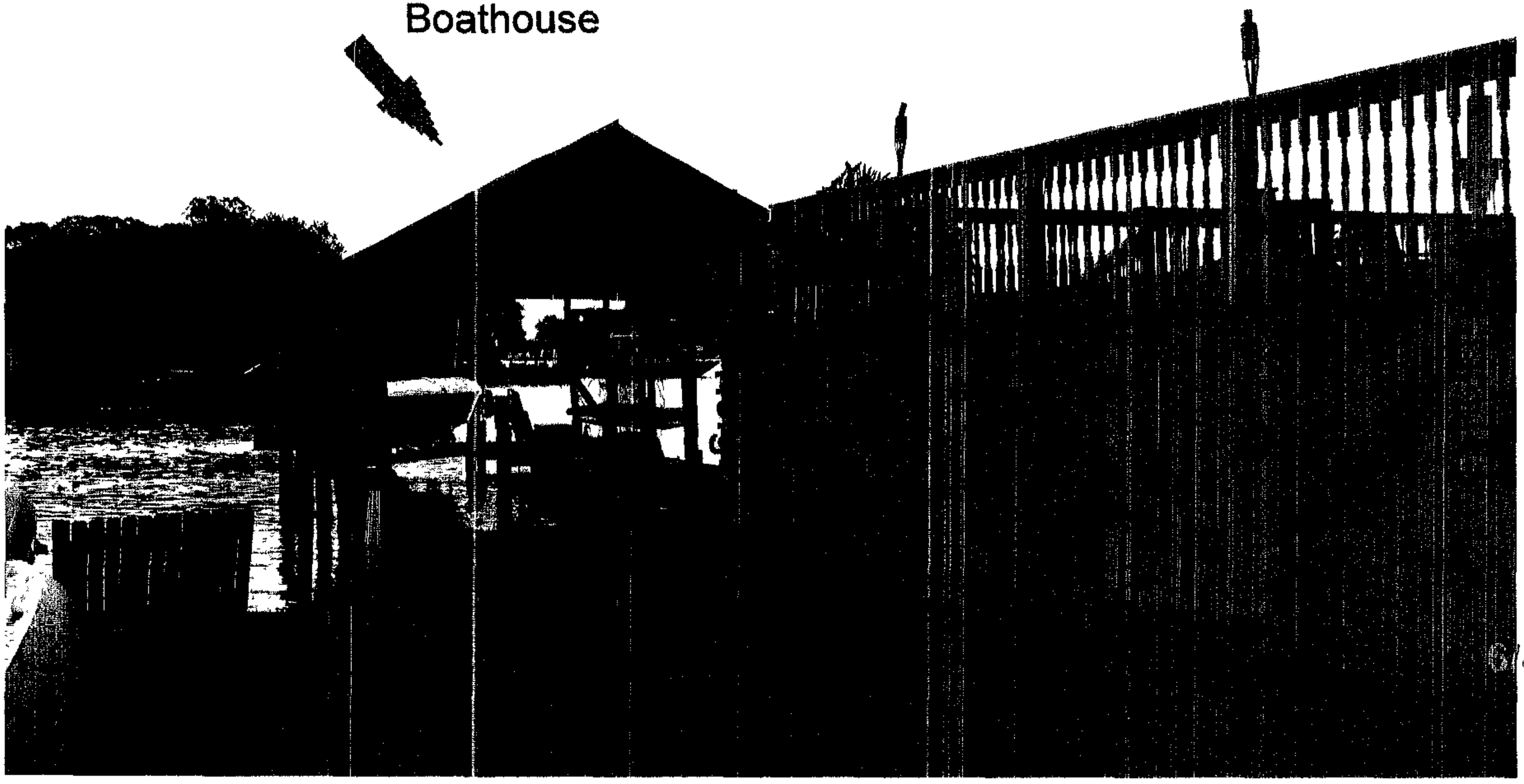
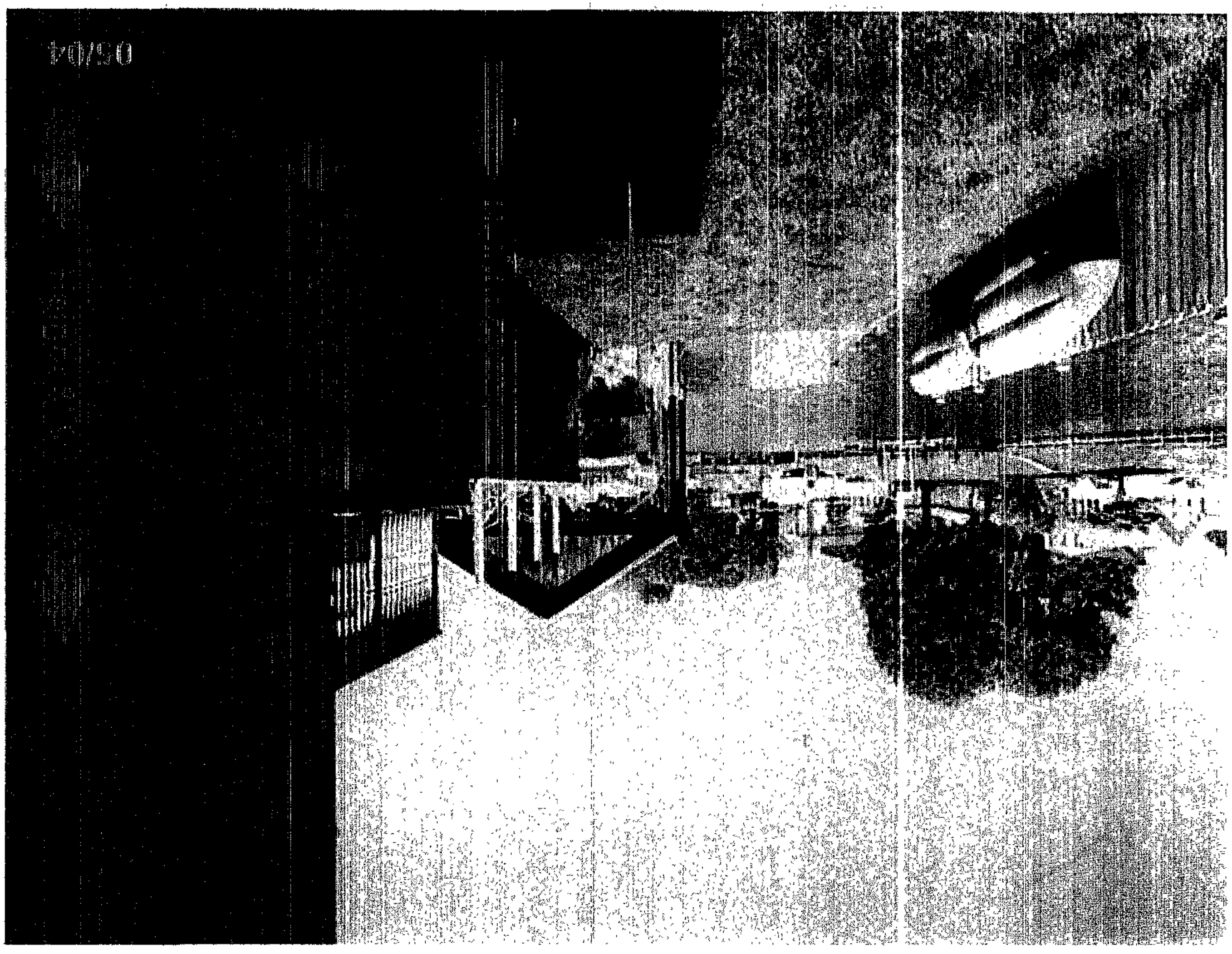




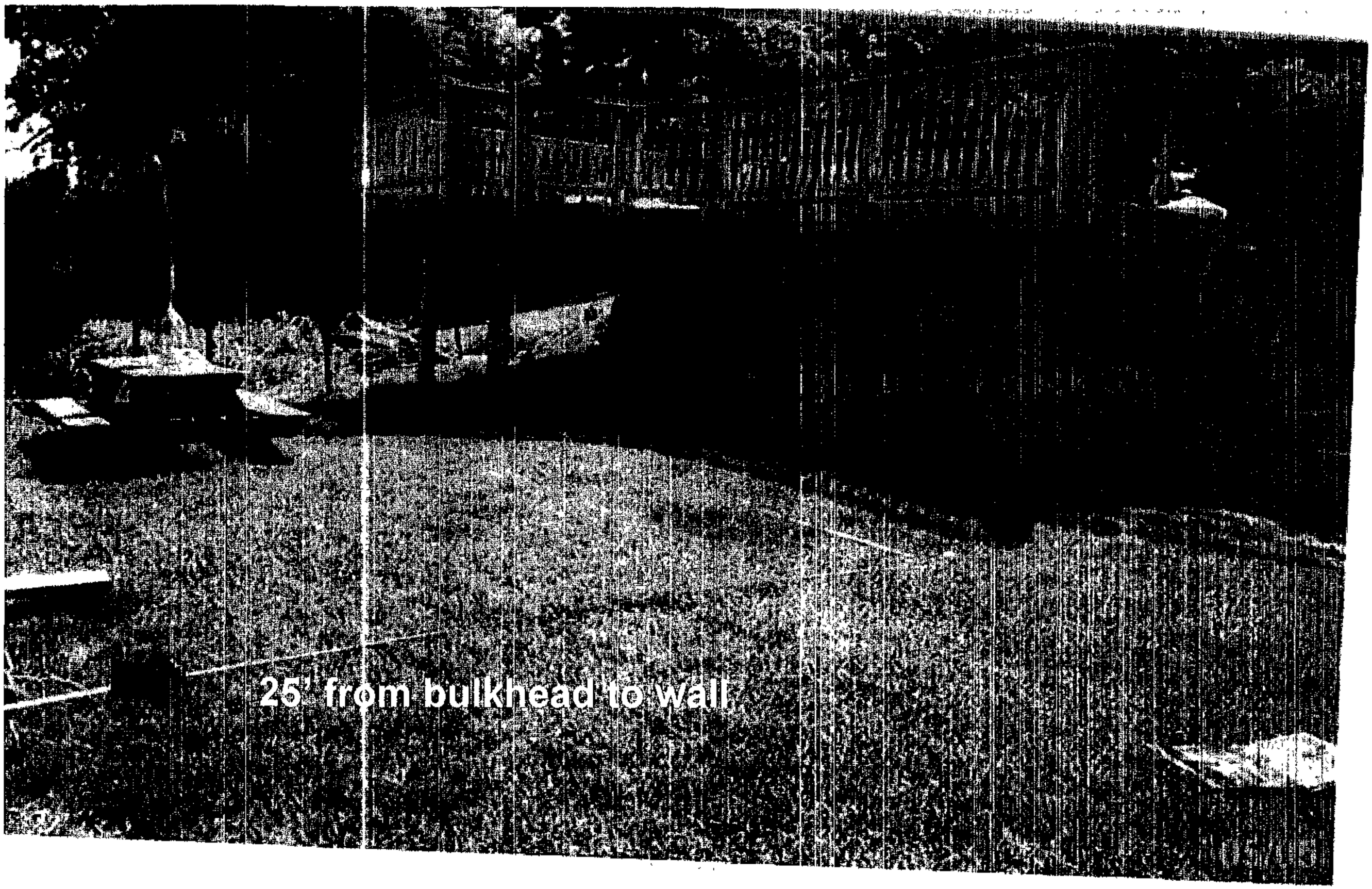


6/4/04


05/04

Re-Grading

Deck bump out on right hand side is not out past were the wall originally was. The landing is about half as far as the original upper level extended.



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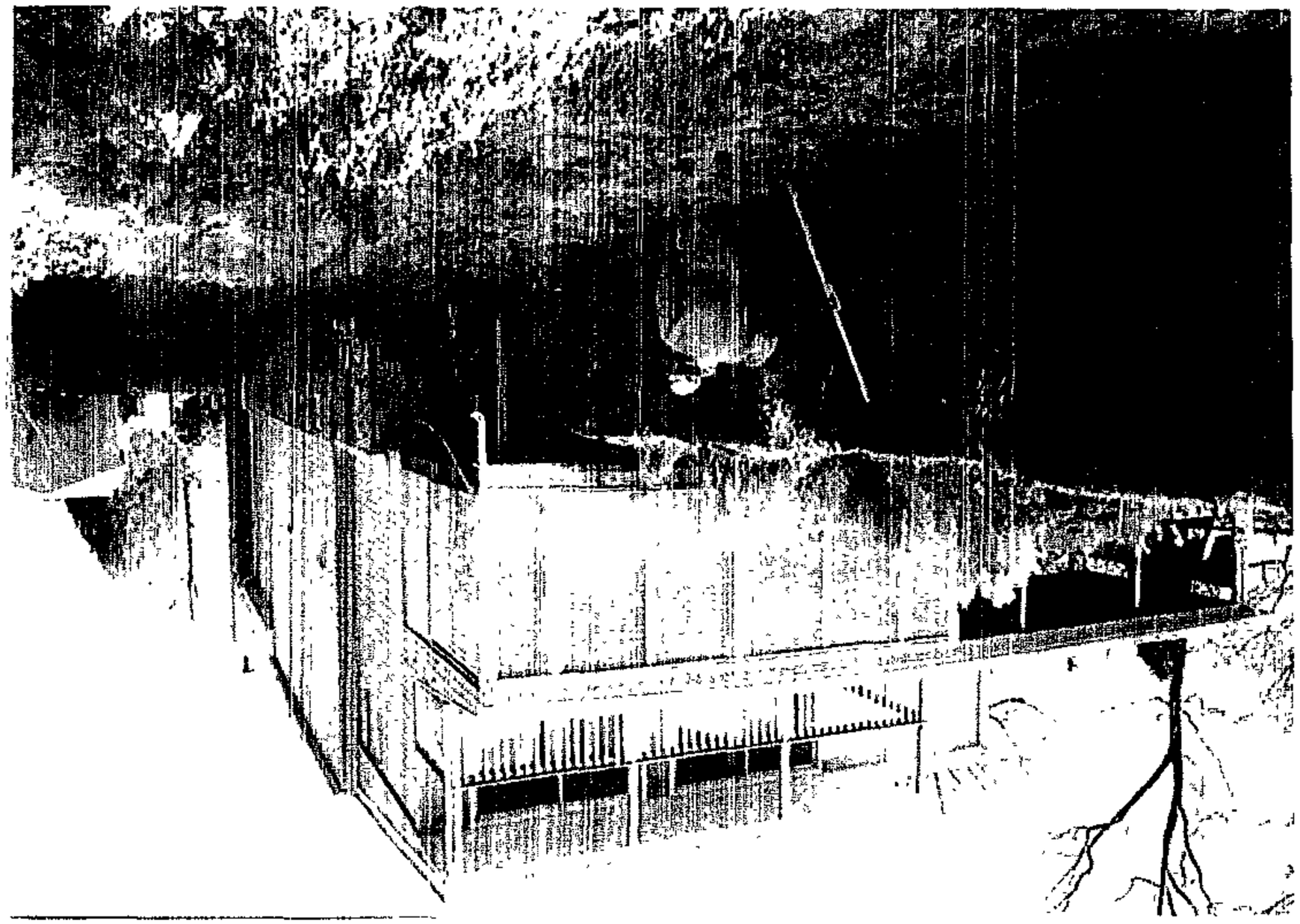

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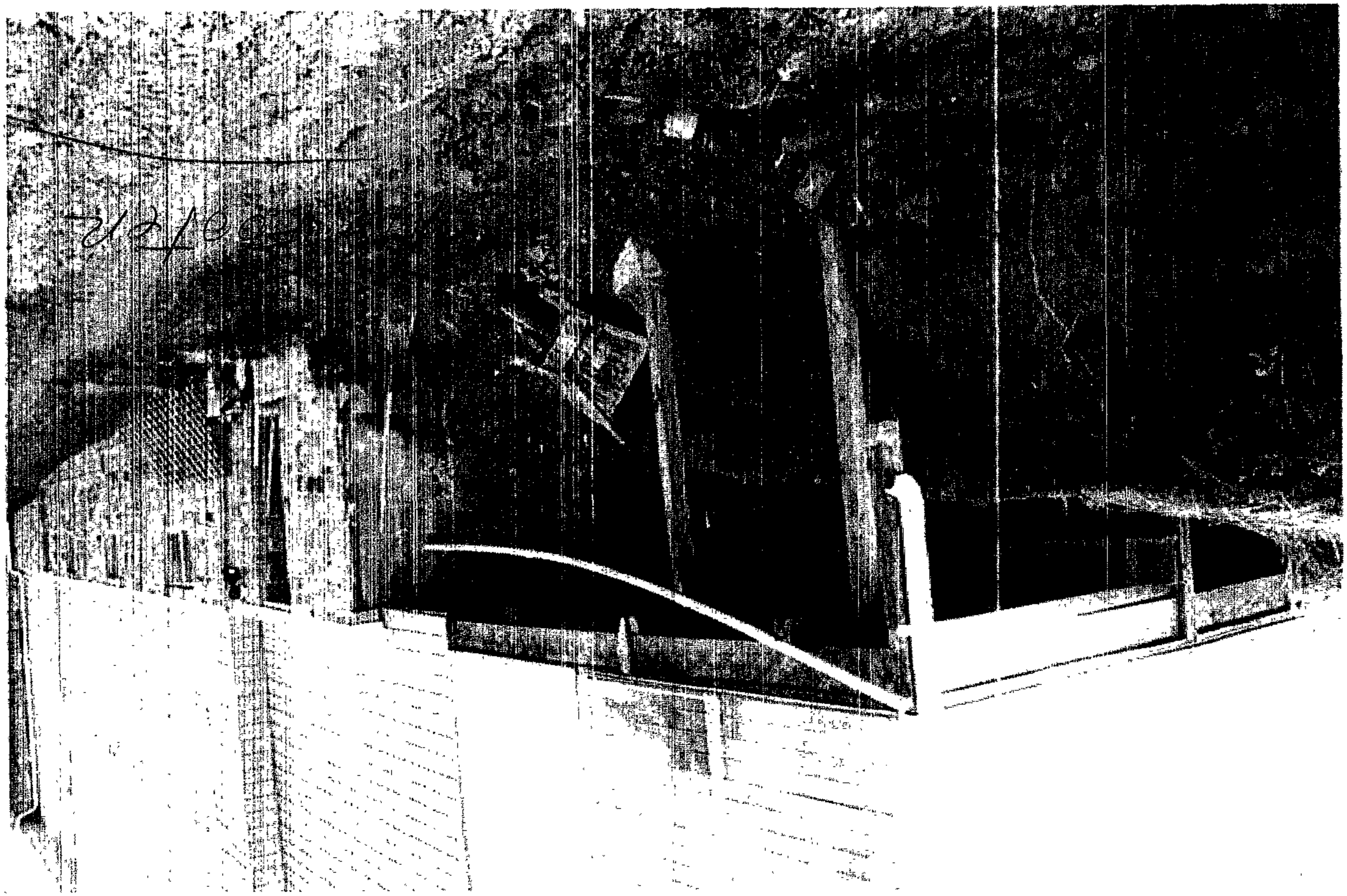

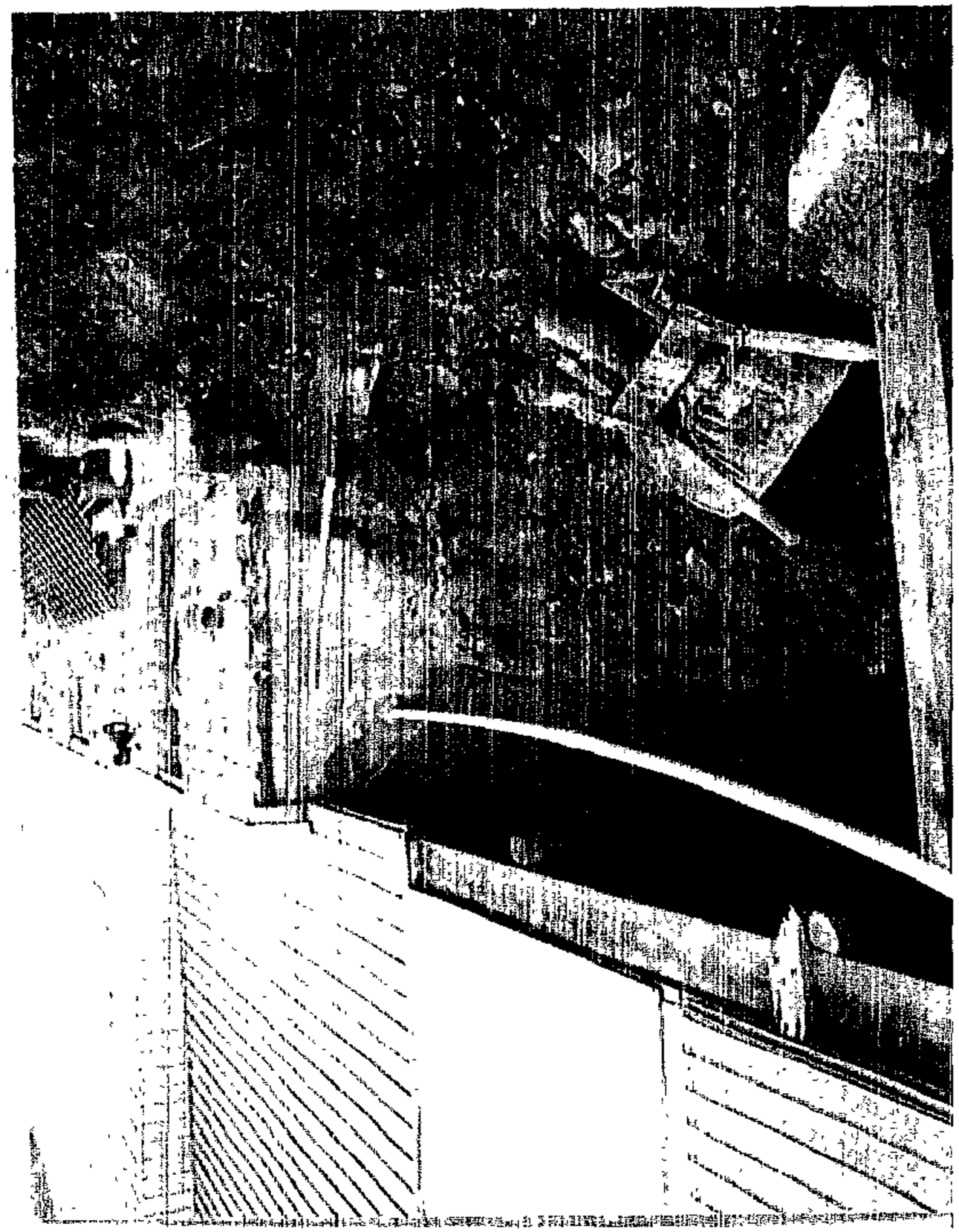

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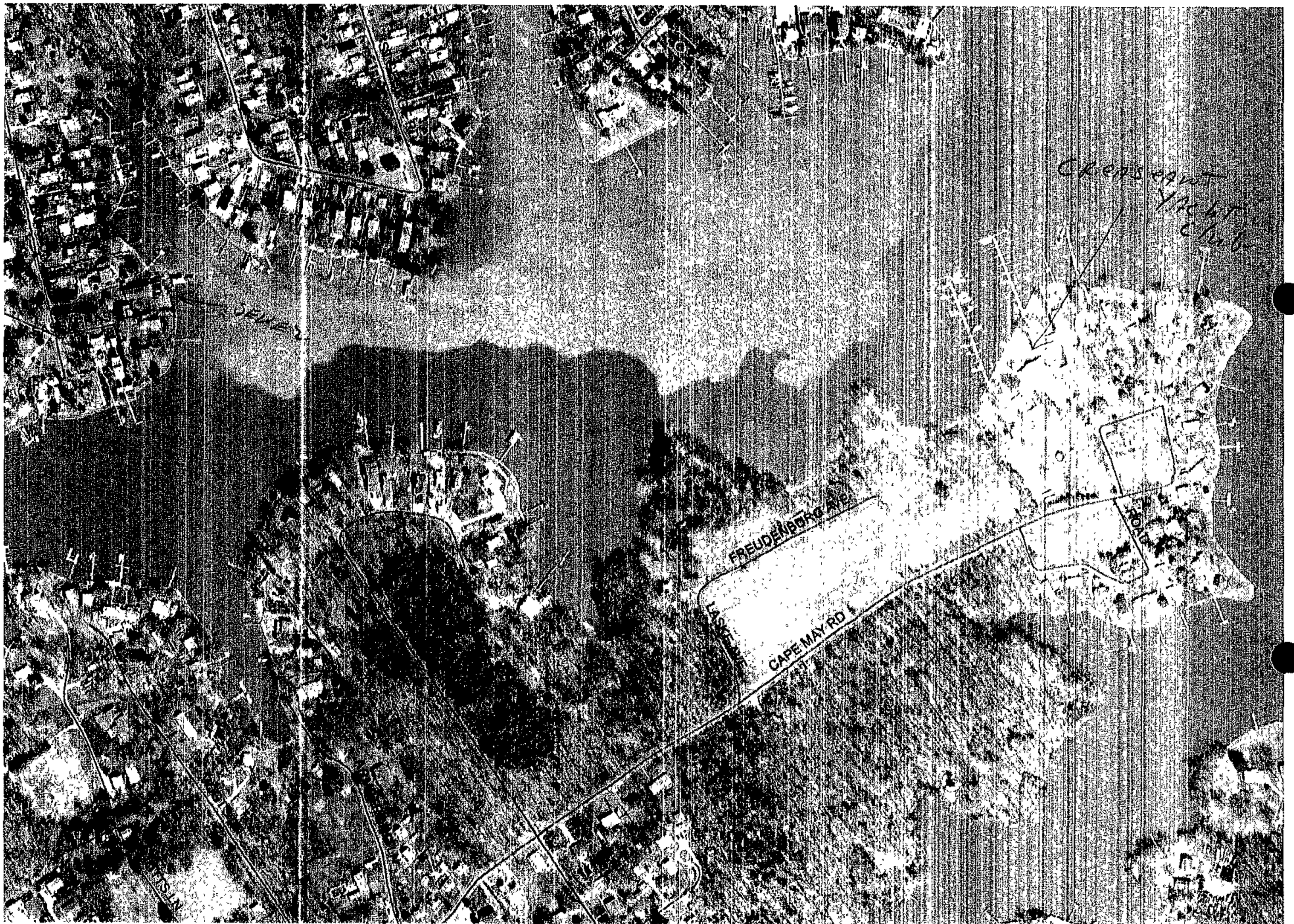
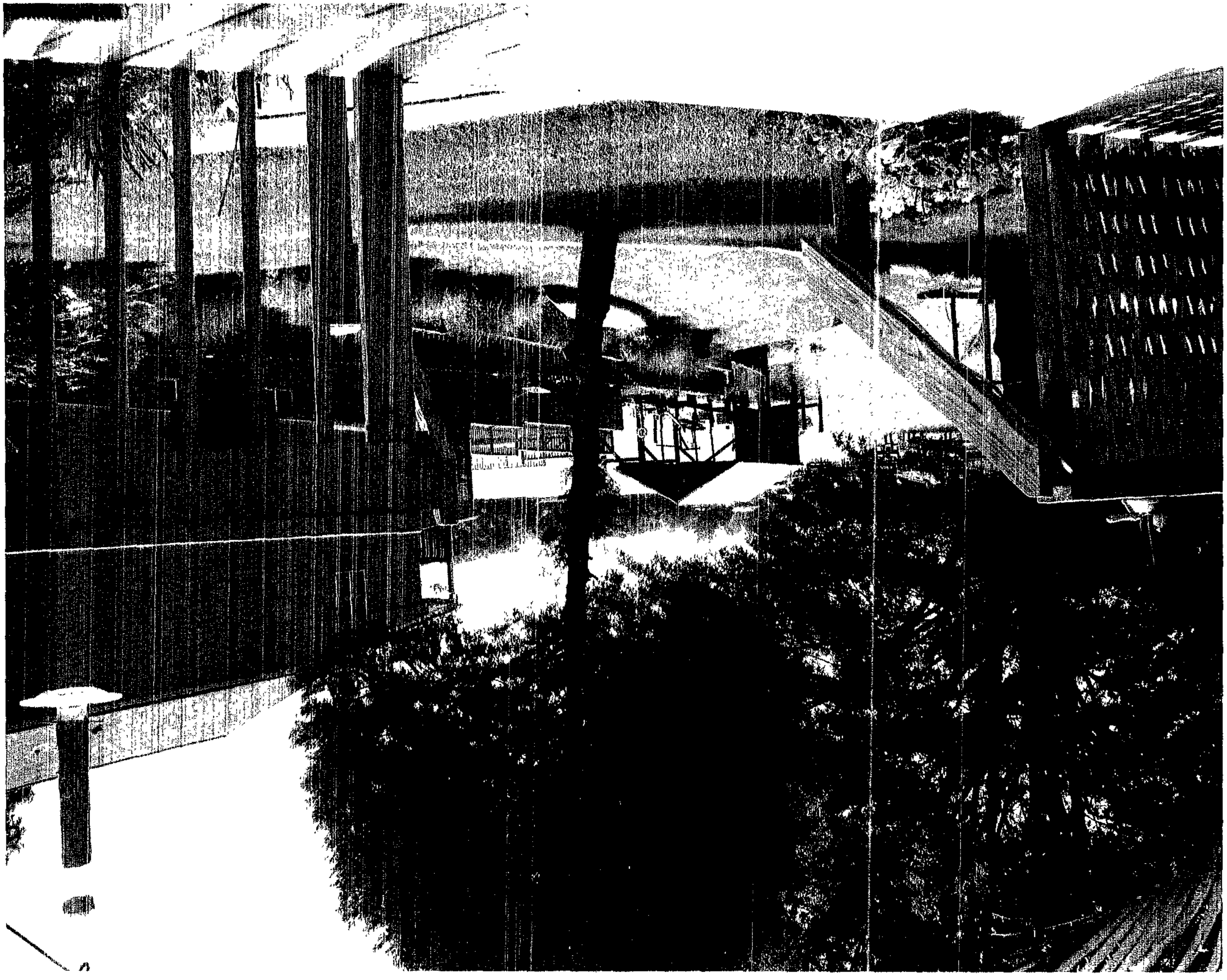

FREUDENBORG AVE
CAPE MAY RD
0.1
0.05
0
0.1
0.2
0.3
0.4
Miles

14



DISTRICT COURT OF MARYLAND FOR ..... City/County

Located at ..... Case No. 4P6374-04 15

Court Address

Linda Ann Senez ..... vs. ..... Steve Callins

Petitioner Respondent

FINAL PEACE ORDER

After the appearance of the ☒ Petitioner ☒ Petitioner's Counsel ☐ Respondent ☐ Respondent's Counsel, and in consideration of the Petition and evidence, **the Court makes the following findings:**

A. ☒ That the Respondent consents to the entry of a peace order.

OR

☐ 1. That there is clear and convincing evidence that within 30 days before the filing of the Petition, the Respondent committed the following act(s):

☐ Act(s) which caused serious bodily harm: .....

.....

.....

☐ Act(s) which placed Petitioner in fear of imminent serious bodily harm: .....

.....

.....

☐ Assault in any degree
☐ Rape or a statutory sexual offense (or attempt) in any degree
☐ False Imprisonment
☐ Harassment
☐ Stalking
☐ Trespass
☐ Malicious Destruction of Property

☐ 2. That there is clear and convincing evidence that Respondent is likely to commit a prohibited act in the future against the Petitioner.

B. ☐ The parties have agreed to waive the Temporary Peace Order hearing.

Based on the foregoing findings, the Court hereby ORDERS:

☒ 1. That, unless stated otherwise below, this Order is effective until Dec. 25, 04 or until property Dispute is Settled in CT

☒ 2. That the Respondent SHALL NOT commit or threaten to commit any of the following acts against Petitioner: an act which causes serious bodily harm; an act that places the Petitioner in fear of imminent serious bodily harm; assault; rape, attempted rape, sexual offense, or attempted sexual offense; false imprisonment; harassment; stalking; trespass; or malicious destruction of property. CT CT

☒ 3. That the Respondent SHALL NOT contact (in person, by telephone, in writing, or by any other means), attempt to contact, or harass the Petitioner.

☒ 4 That the Respondent SHALL NOT enter the residence of the Petitioner at: 341 Worton Rd 21221

.....

(Residence includes yard, grounds, outbuildings, and common areas surrounding the dwelling.)

☐ 5. That the Respondent SHALL STAY AWAY from:

☐ The temporary residence of Petitioner at: .....

.....

☐ The Petitioner's school(s) at: .....

.....

☐ The Petitioner's place(s) of employment at: .....

.....

☐ 6 That the Respondent and/or Petitioner shall participate in counseling as follows: .....

.....

☐ 7. That the parties shall participate in mediation as follows: .....

.....

☐ 8. That the ☐ Petitioner ☐ Respondent shall pay the filing fees and costs of these proceedings.

6/25/04 .....

Date Judge

NOTICE TO RESPONDENT

Violation of this Peace Order may be a crime or contempt of court or both, and could result in imprisonment or fine or both.

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Steve Collins

demands were made, by whom and to whom such demands were made, if oral identify all persons present at the times of such demands, identify all persons with personal knowledge of such facts and identify all documents upon which you intend to rely in support of such allegation.

ANSWER TO INTERROGATORY NO. 22:

Assuming again the "Plaintiff" means Ms. Senez, on May 10, 2004, Linda Senez came to our house to discuss the retaining wall. Present were Ann Collins (wife), Linda Senez and myself. She made an attempt to convince us that the new wall did not obstruct our view of the water any greater than the old wall. She proceeded to tell us that she was going to install an 18-inch high railing to prevent the dogs from falling off the new retaining wall but the spindles would be spaced apart so we could see through them easier.

Our response was for her to give us back some of the water view we had by removing the unusable boathouse and we will forget about challenging the variances for the retaining wall and deck.

We also had discussions about the boundary pin, which was removed by her construction of the wall. She replied that she would be willing to have the property lone resurveyed and also that she wished to purchase the now "'disputed property' because it meant more to her than it did to us."

On May 12, 2004, Linda again came to our house for further discussions about the new retaining wall etc. I told her that our water view was very important to us in that this is our retirement home and the obstructed view would diminish the scenic value and

Steve Collins

resale value of our property. I suggested that I would give her the now "disputed property" and pay for the removal of the boathouse. Her response was that she was not going to be blackmailed about the boathouse. I then demanded she remove her fence from our property.

23. Set forth all facts upon which you rely in support of your allegation in the Complaint that the Plaintiff, by and through certain contractors, trespassed upon the Collins Property to install certain structures, set forth the dates of all such, alleged trespass and the contractors allegedly entering onto the Collins Property, identify all persons with personal knowledge of such facts and identify all documents upon which you intend to rely in support of such allegation.

ANSWER TO INTERROGATORY NO. 23:

Taking "Plaintiff" to mean Ms. Senez, November of 2000 to install a fence on our property, which Linda Senez stated she had to have to keep her dogs enclosed. We, being accommodating neighbors, allowed it to take place.

Again in November 2003 through May 2004 during the removal and installation of the retaining wall, grading and sodding, resulting in the removal of the property line boundary pin.

Persons with knowledge:

Ann Collins

Dave Woodard

Todd Sene

Linda Senez

Arthur Myers

Ann Collins 19

identify the person taking the statement, and identify its present custodian

ANSWER TO INTERROGATORY NO. 3:

Citations issued to Ms. Senez by Baltimore County officials. We also have copies of these citations. See Ann Collins

4. State whether you are aware of any written or oral statement concerning the subject matter of this action made by Plaintiff or any agent, representative, or employee of the Plaintiff. If so, state the substance of each such statement, the place and date when that statement was made, identify the person making the statement, and the person to whom it was made and all documents concerning the statement.

ANSWER TO INERROGATORY NO. 4:

Assuming "Plaintiff" to mean Ms. Senez, we talked to Linda (Ms. Senez) on numerous occasions and told her that we did not want to bring the "County" into this Lie issue. She came to our home on the 10th of May to talk over the issues. We told her May 9th Last time we talked about Ms. Berry's visit. and told her that we did not want to put a stop on the job because of our friendship. We tried to compromise and told her we would give her the land in question and not pursue any county violations if she allowed us to take down the boathouse, which up until this fall had never been used. She said that that was there before we moved to 339. She said it is grand fathered and she would never be allowed to rebuild it. We told her we knew that when we bought this property, we did not have the wall, etc. in our view. We told her that Mr. Berry said she did not need a fence around the wall to meet code. She advised us that she was an insurance agent and knew the ramifications of a lawsuit if someone fell off the wall. We reminded her that she had no fence on top of the "old" wall. She said she had bushes to prevent any falls. We claimed

Always intended to put one there

ANN Collins 18

that it was because of the increased height of the new wall, that she felt obligated to have a fence placed on top of the wall. She kept repeating that this new wall is no higher than the old wall and I kept repeating, than you don't need to build a fence on top of the new wall. We were at an impasse. We asked her to move the fence back to her property, as we knew that the "neighbor friendly" relationships were history.b She further stated that she could plant large trees to really block our view.

She came over again on the 12th of May and told us she would not be blackmailed about the boathouse and or the construction project. She told us that the land in question meant more to her than it did us. She offered to buy the property and to have both properties re-surveyed because she knew that the construction equipment and workers dug up the mark. We told her that that was not an option because we could then no longer be able to use the ramp or the property.

5. Identify all persons not otherwise identified in your answer to the other Interrogatories set forth herein who have personal knowledge of facts that pertain to the subject matter of this litigation and set forth the nature of all such personal knowledge.

ANSWER TO INTERROGATORY NO. 5:

Mr. Tony Lhotsky was hired to fix the mistakes of the previous contractors dealing with the grading, drainage on the top of the yard inside the wall, the grading away from the wall onto our property. He also redirected the water runoff from the driveway and front hard scape and the roof to our property.

6. State whether you and/or any mortgage lender of yours have any insurance under which a person carrying on an insurance business ("insurer") might be liable to satisfy all or part of a judgment that may be entered in this action, reimburse you

Fred Lengsfeld
5601 Belle Vista Avenue
Baltimore, Md. 21206

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November 27, 2006

Baltimore County Zoning Commissioner
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RE: 343 Worton Road

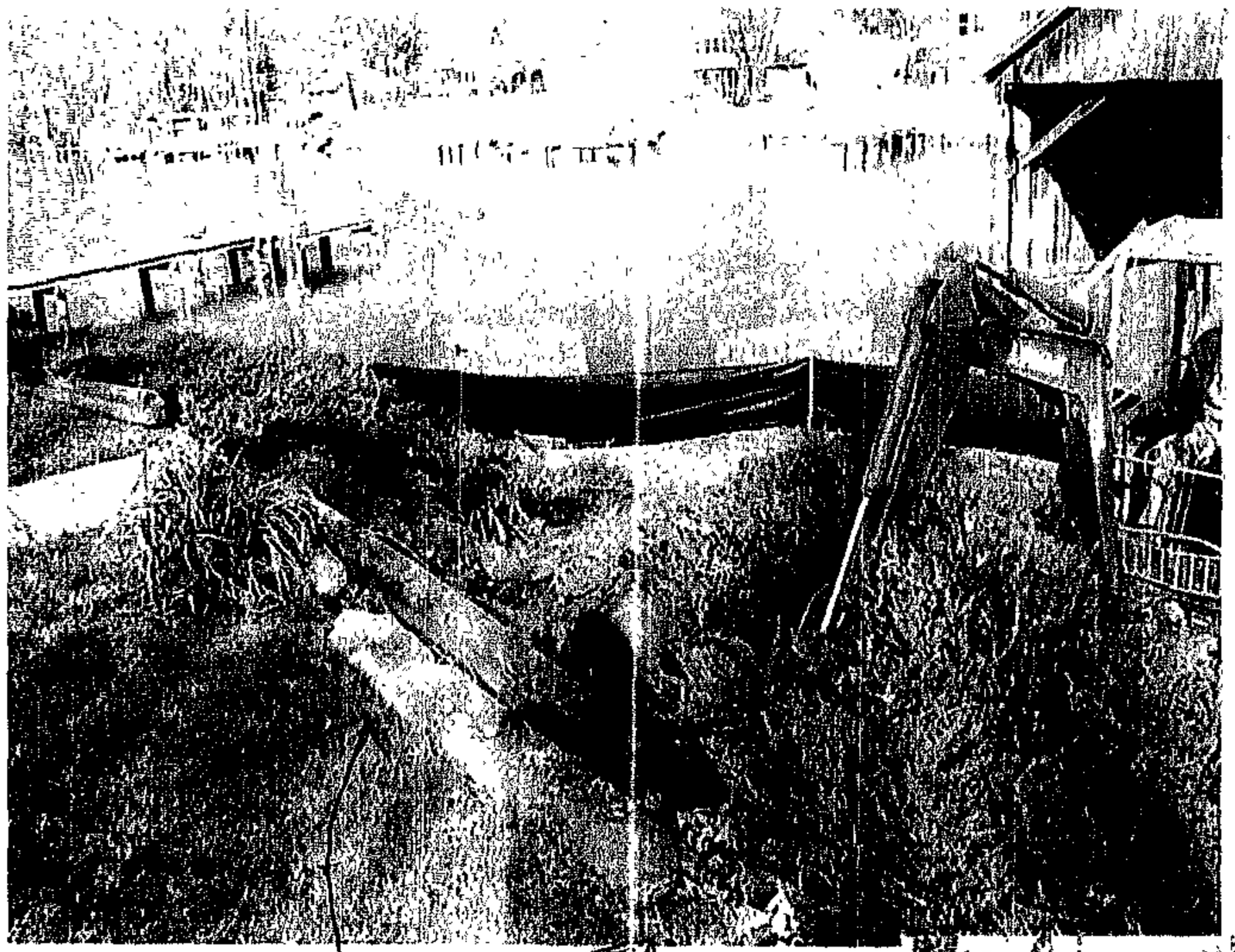
Dear Mr. Commissioner,

My name is Fred Lengsfeld; I along with my family own the property at 343 Worton Rd., Baltimore County, under an estate. I'm the representative for same. I have no objection to the deck and fence on the property 341 Worton Road that belongs to Linda Senez that was constructed the summer of 2004.

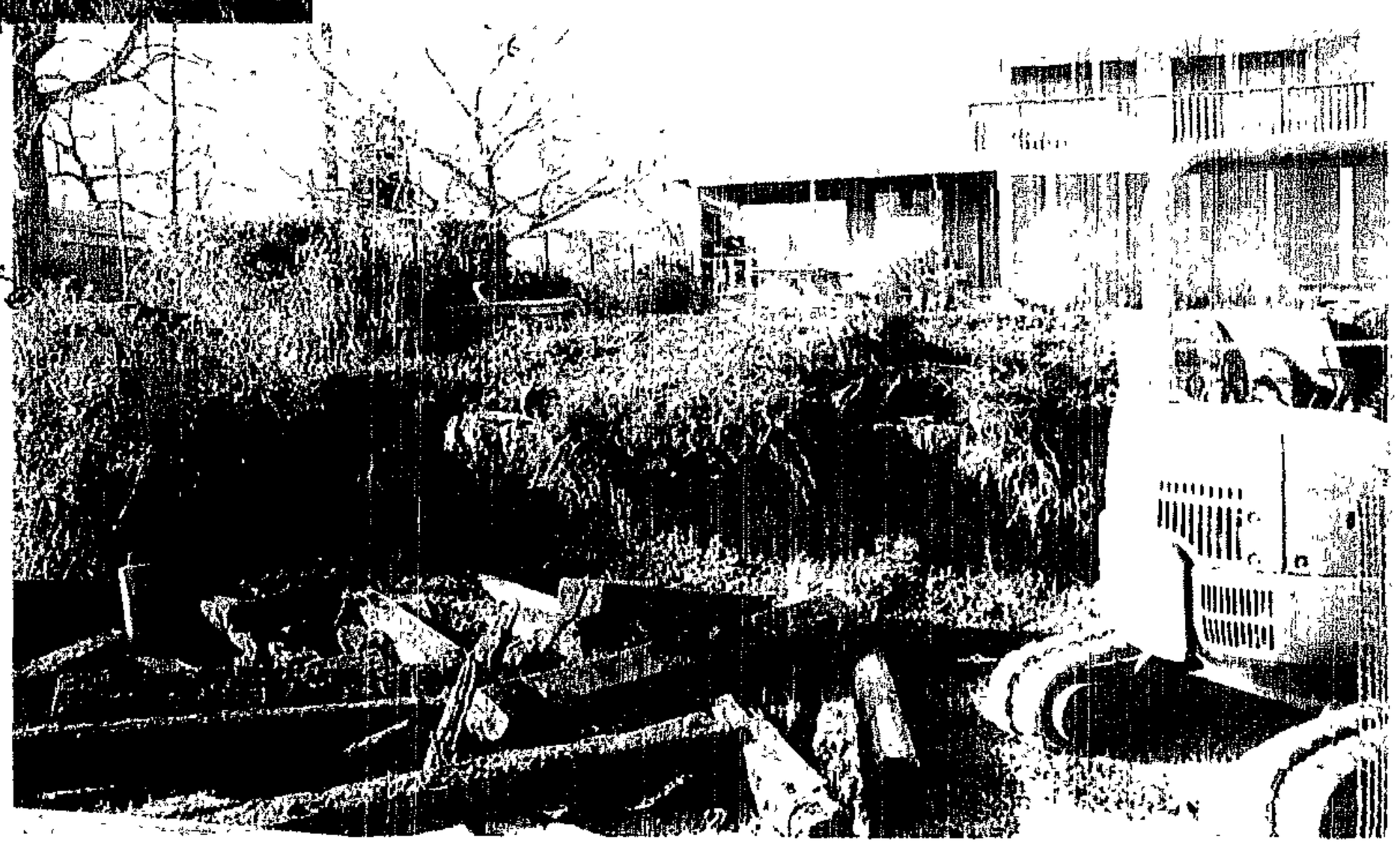
The hurricane caused extensive damage to her retaining wall, and the deck is located on a portion of the area previously occupied by the grass terrace. Without the deck she would have less in front of her house, level with her house, than she had prior to the hurricane.

Sincerely,

Fred Lengsfeld



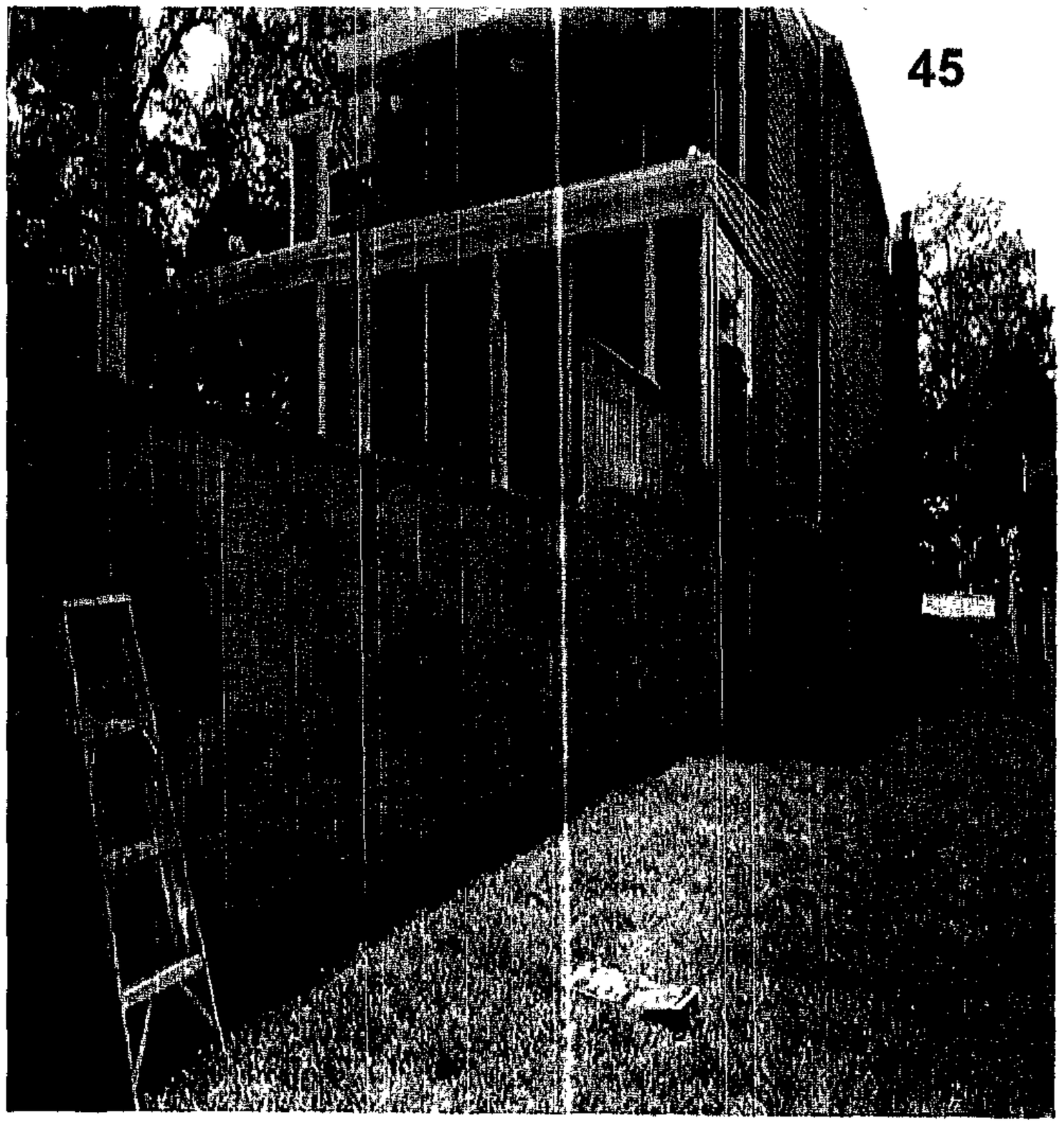
010 Concrete wall

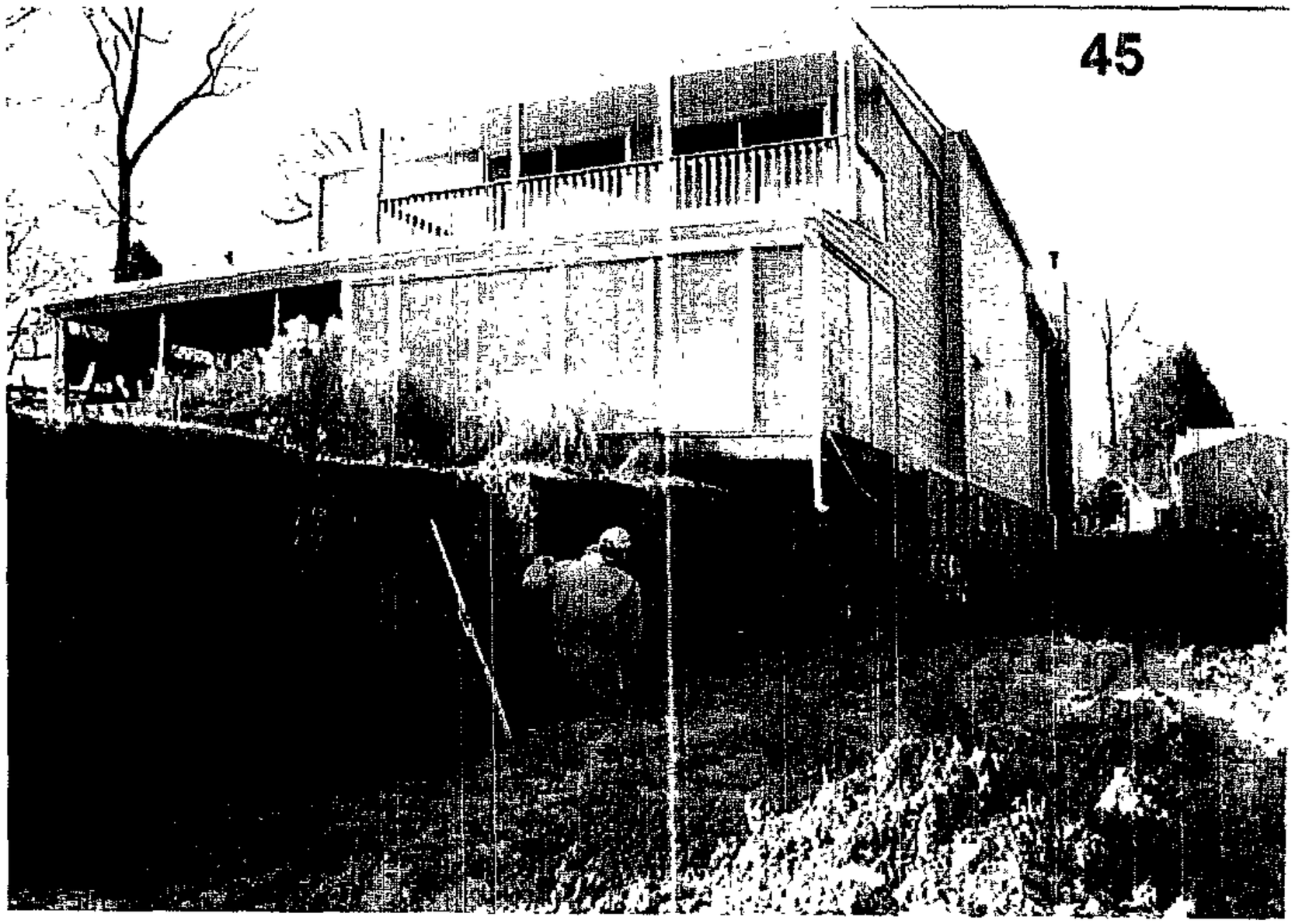


45 __

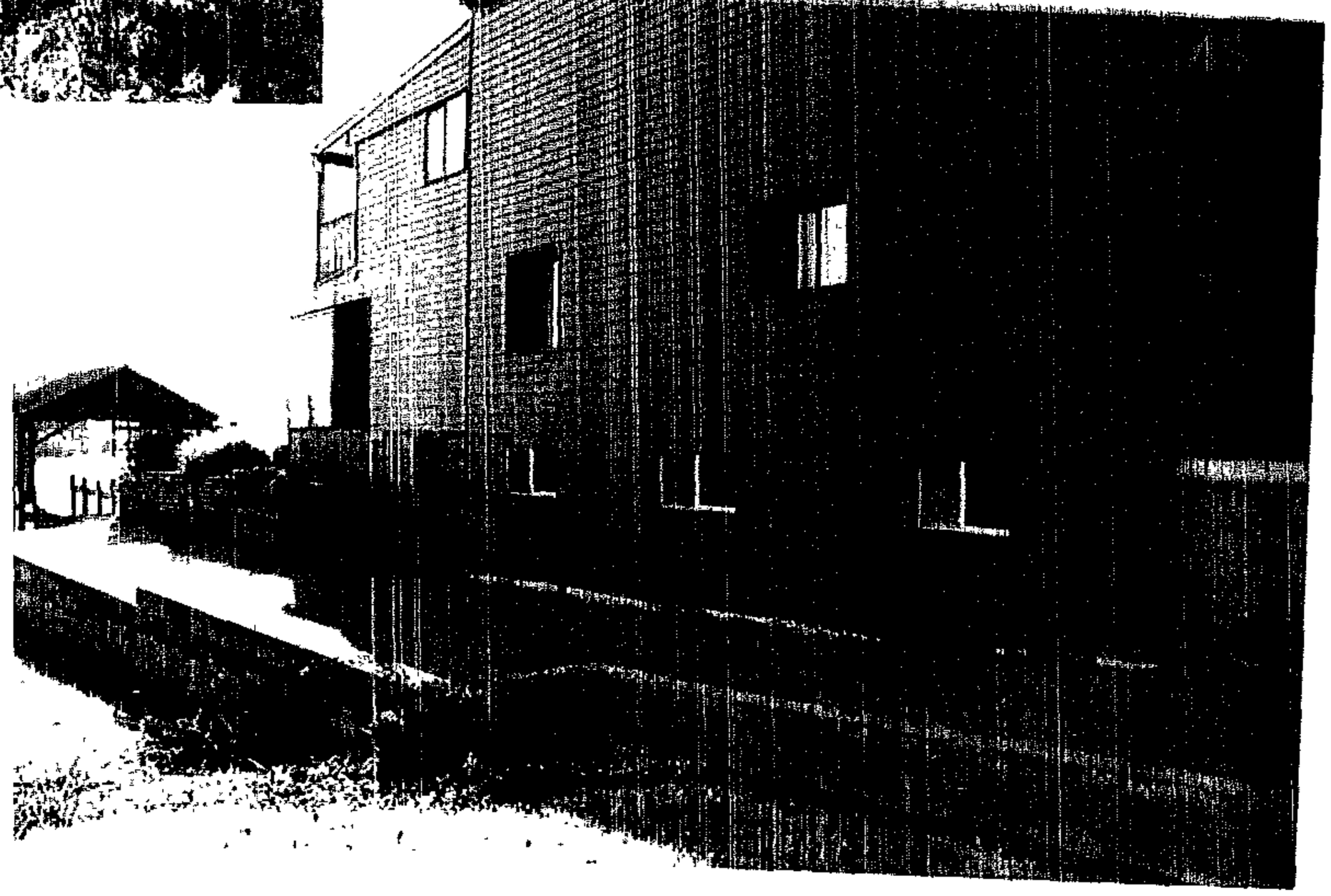
45 Sliding slates from the roof to the basement door

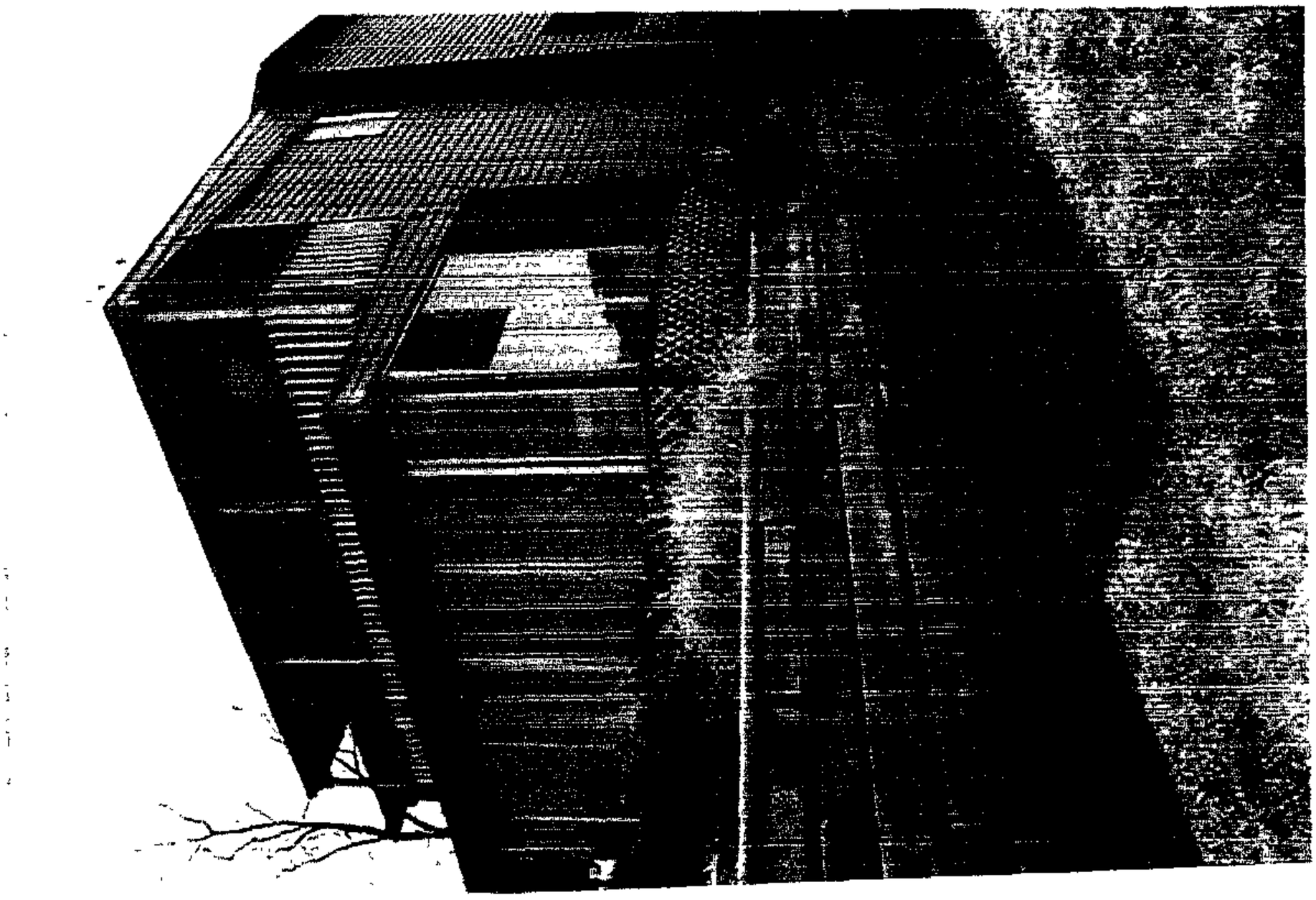
SIDING 5" WIDE

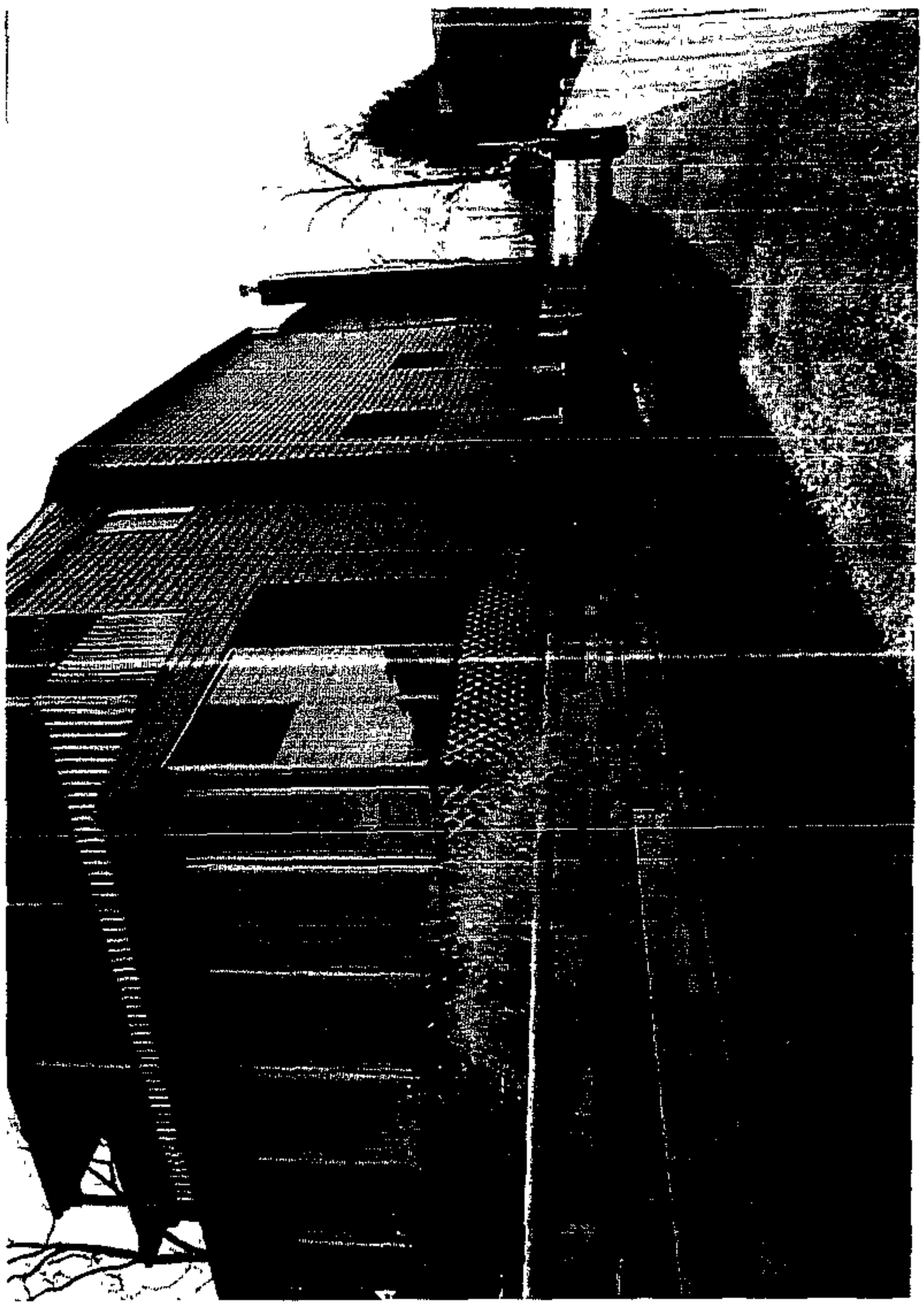


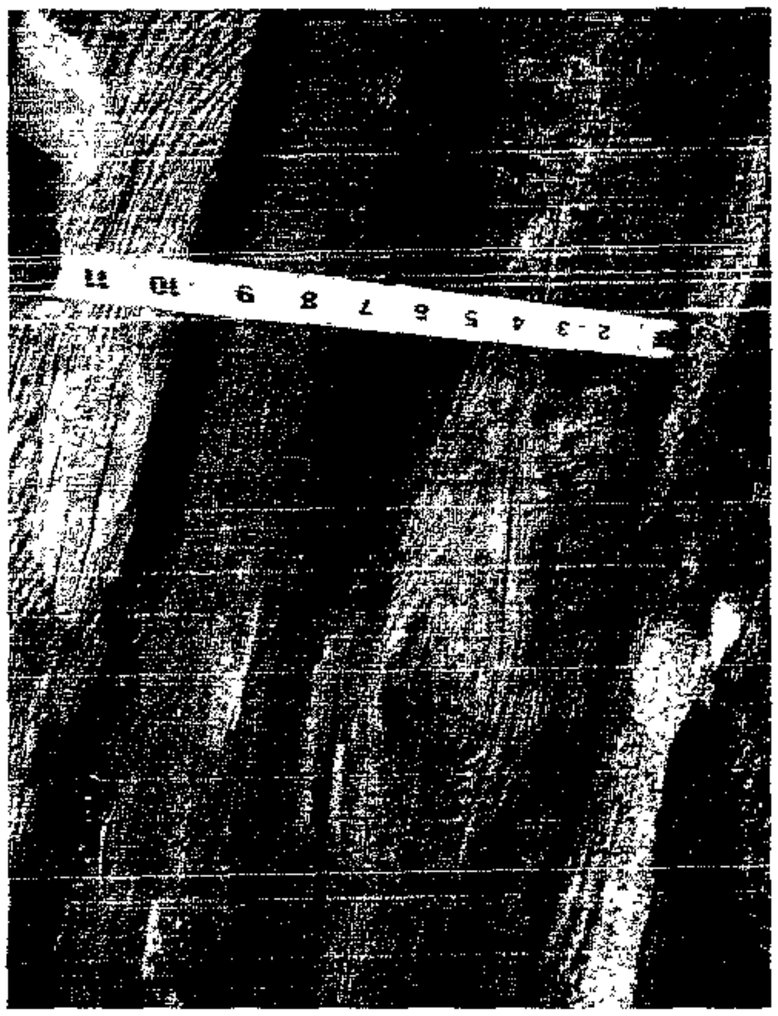


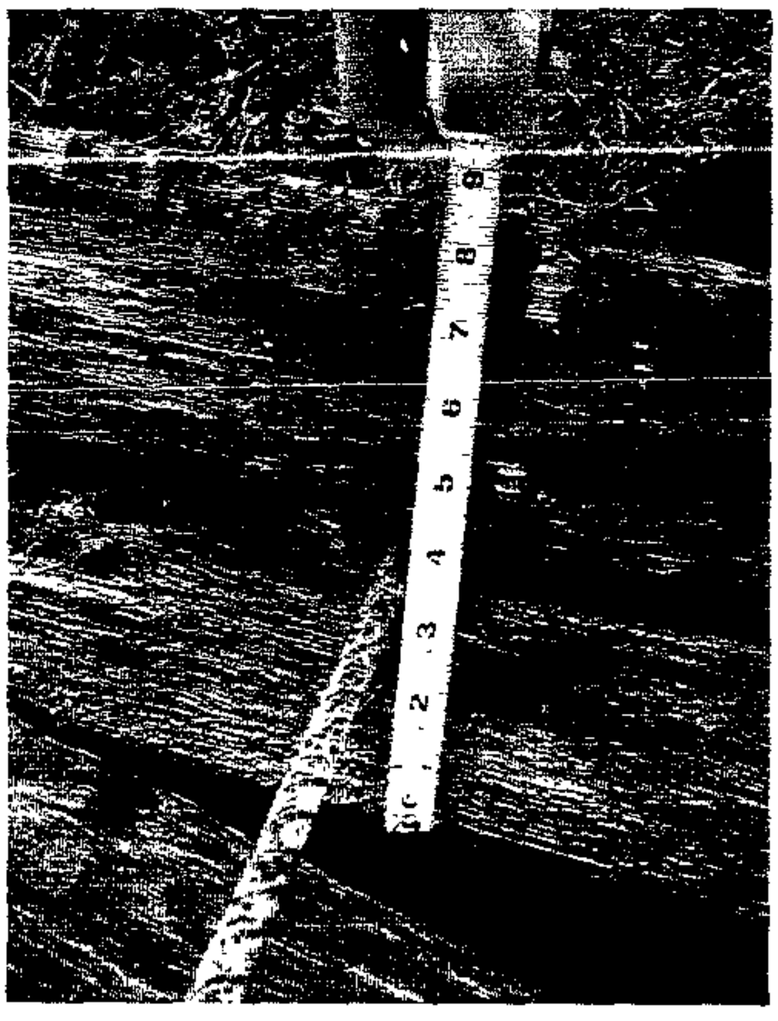
45 Sliding slates from the roof to the basement door

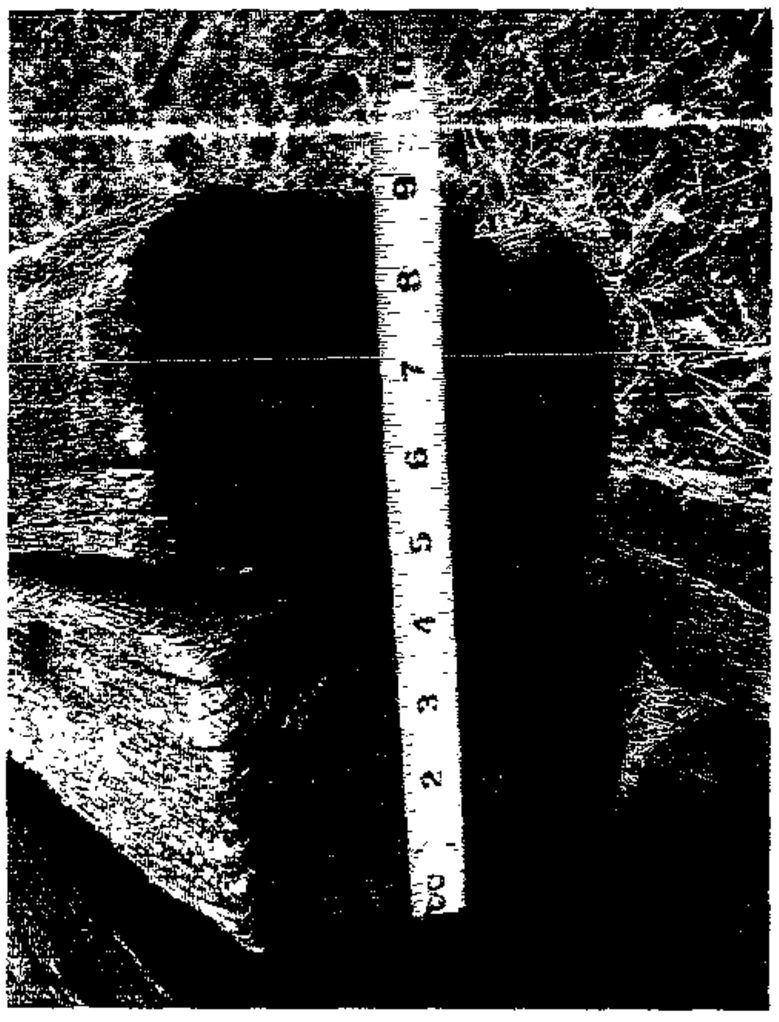


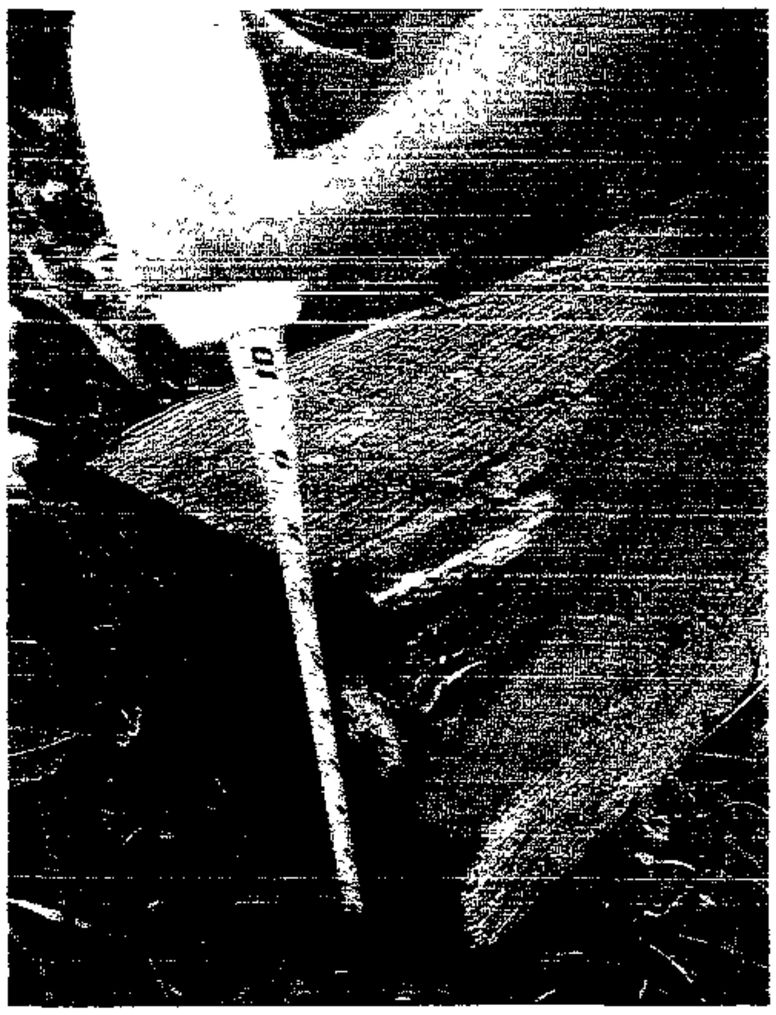


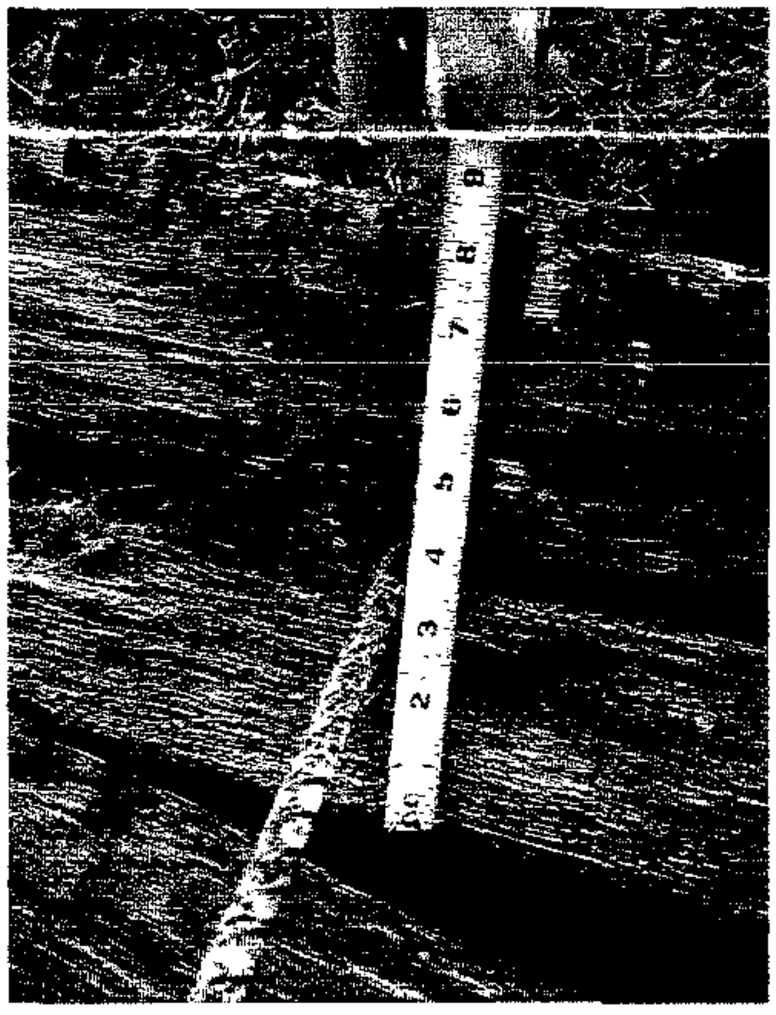


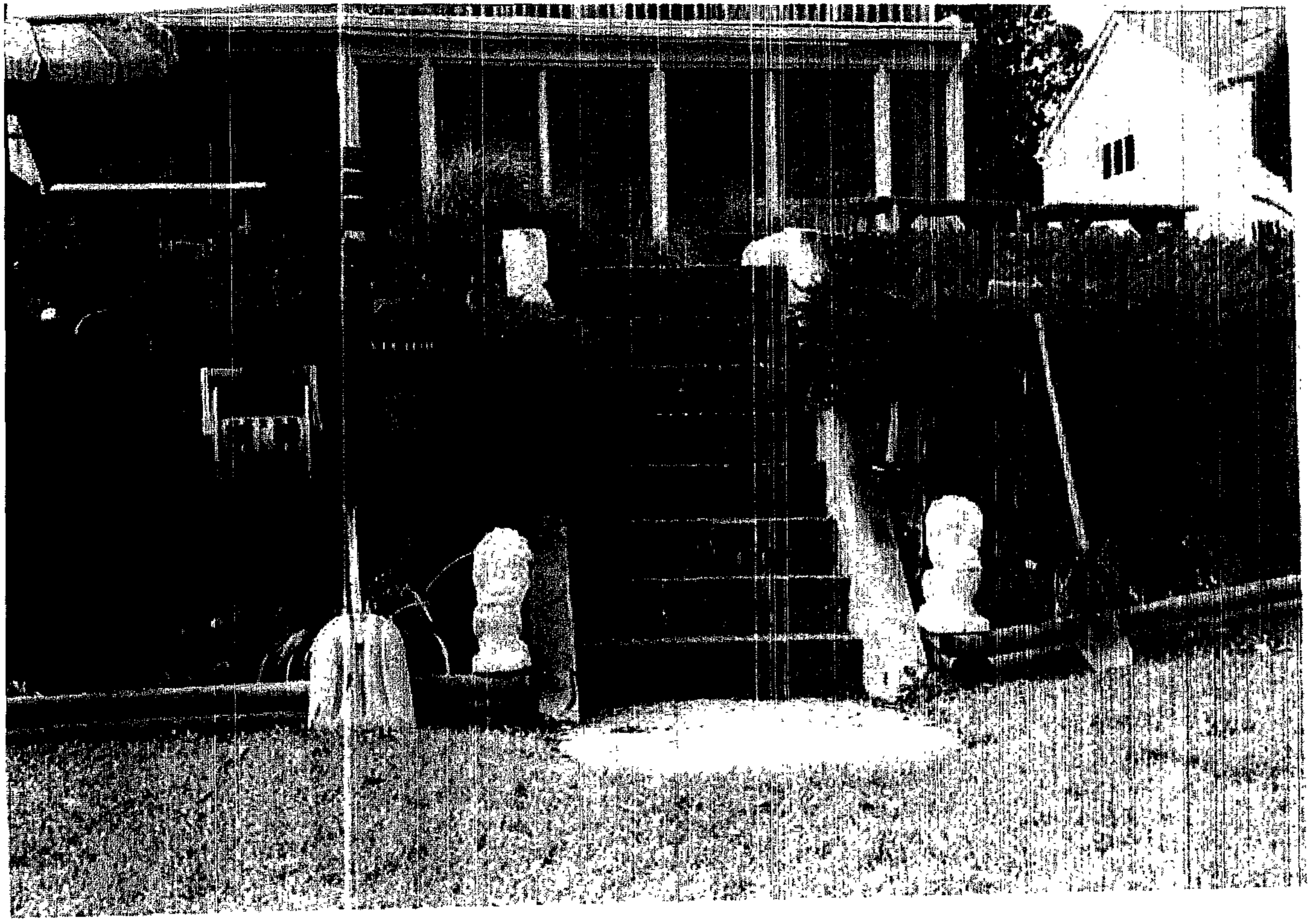




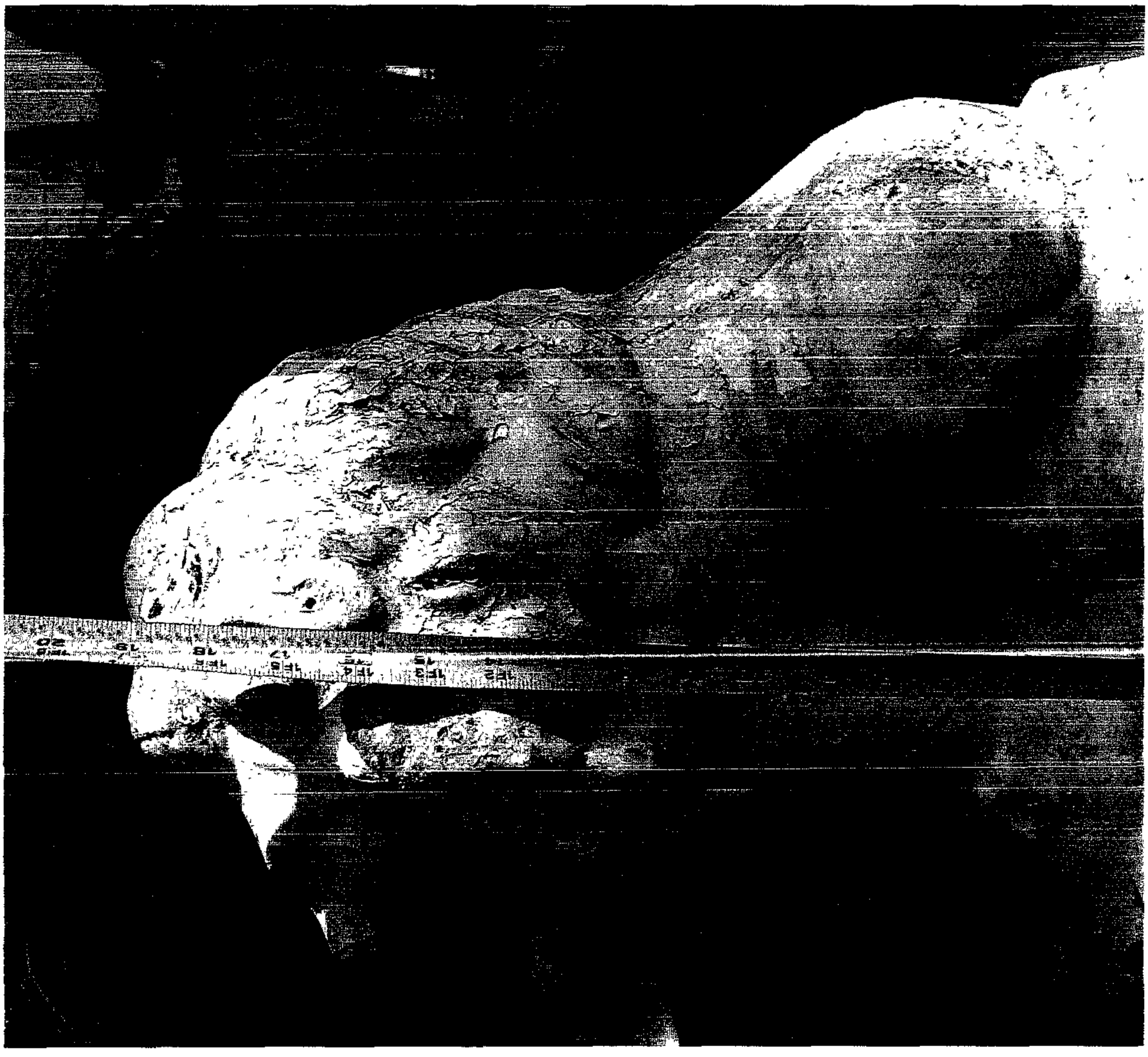




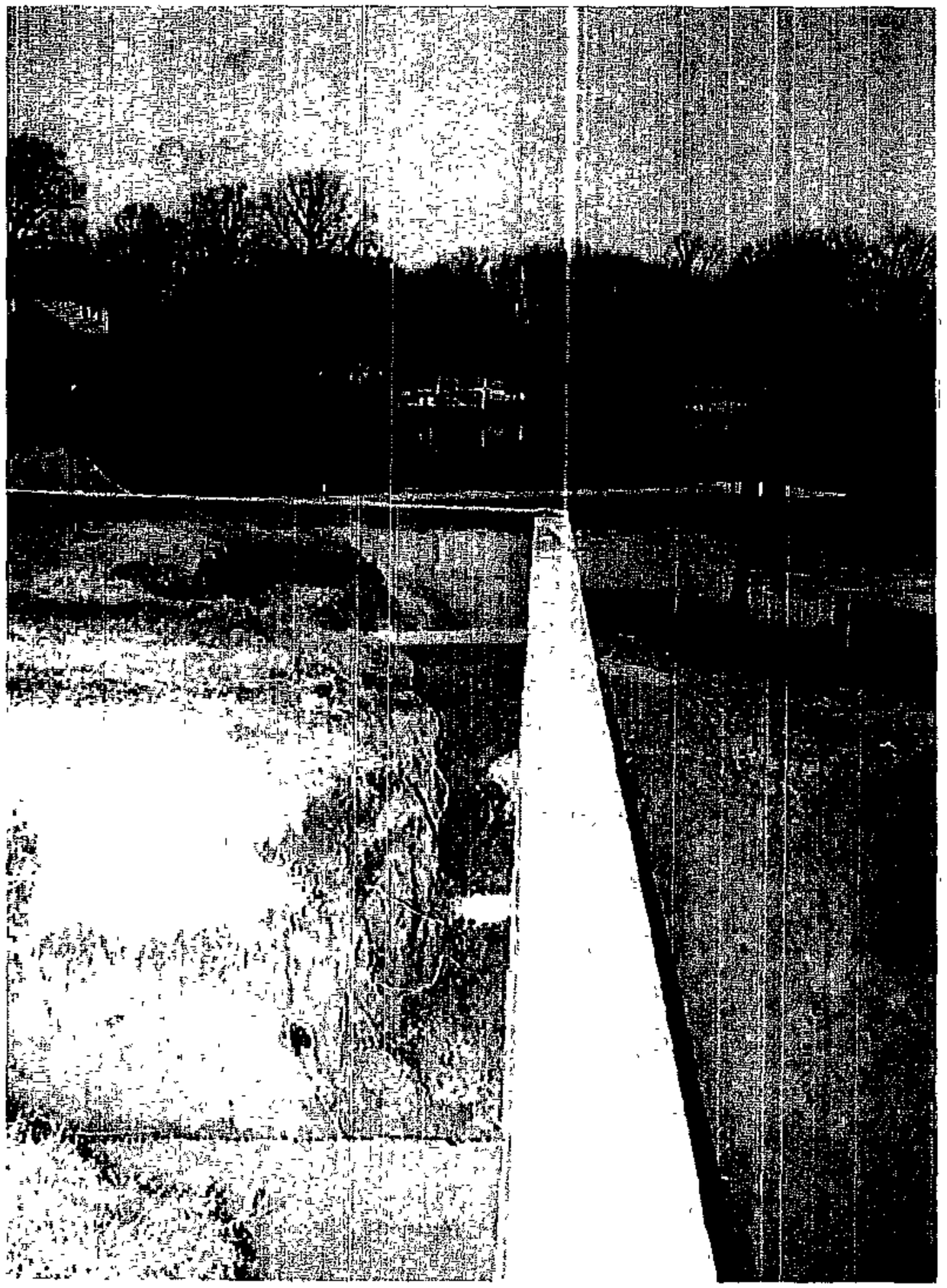


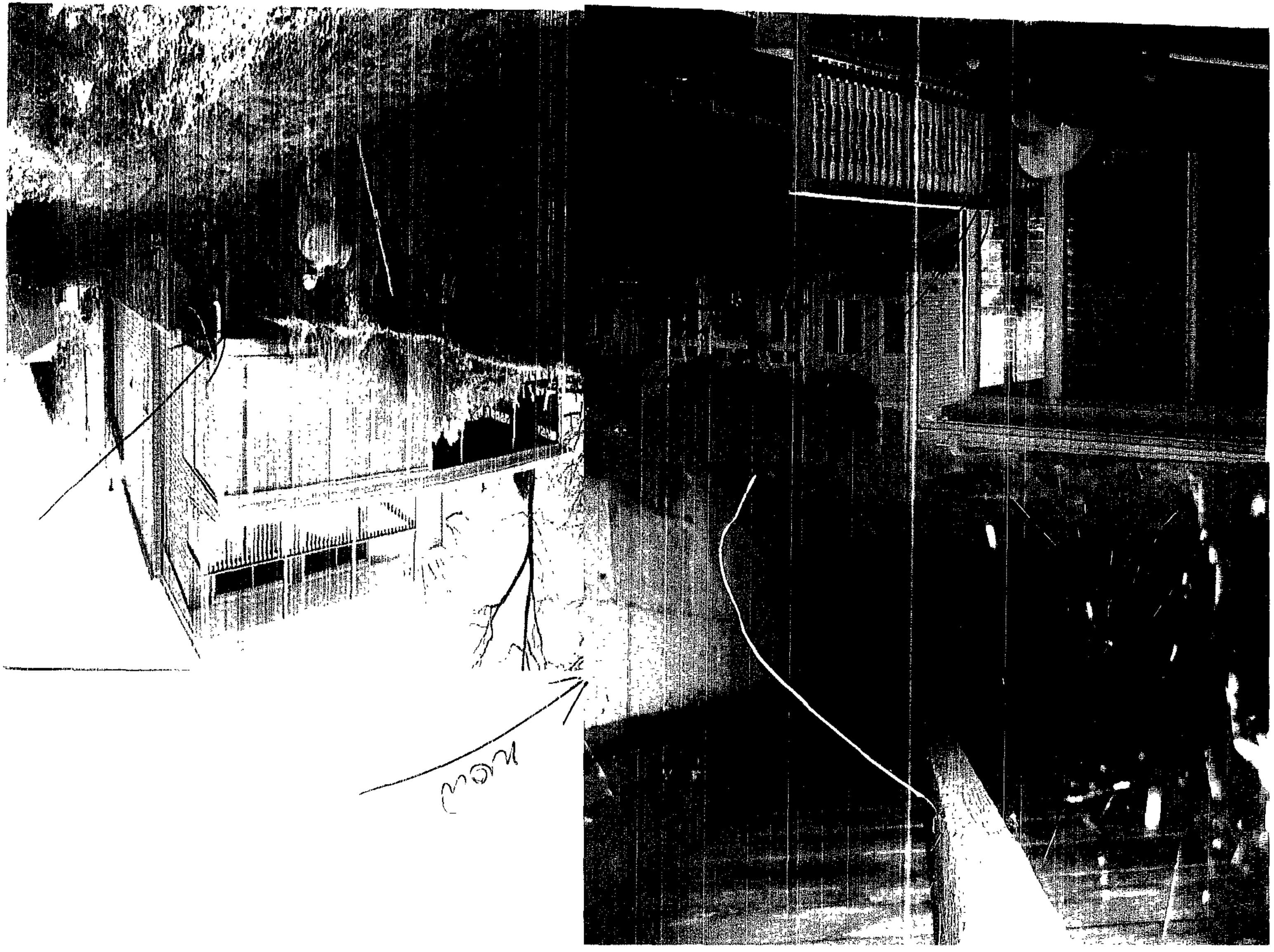


19" Lions



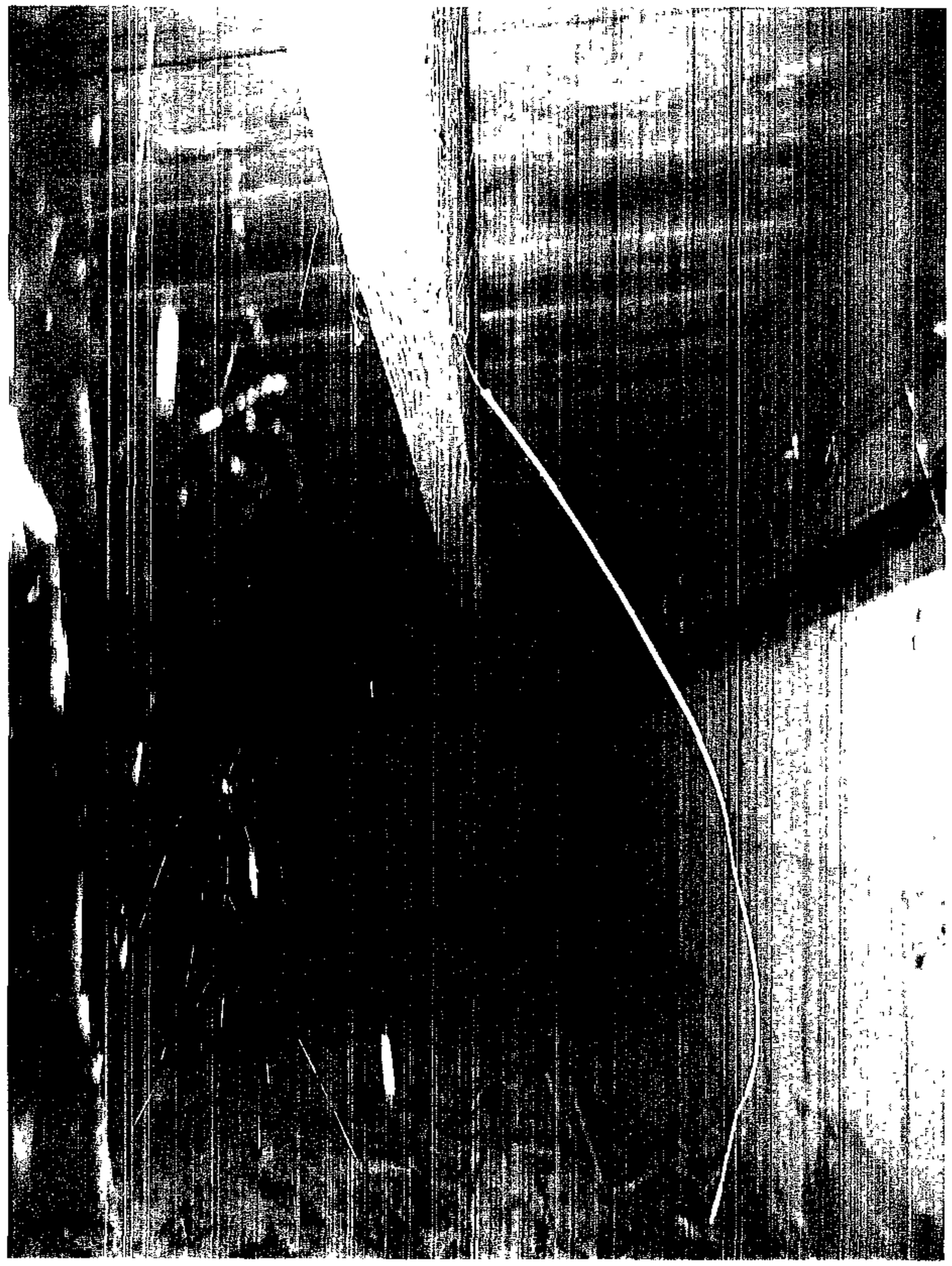
Upper Ground Level The same

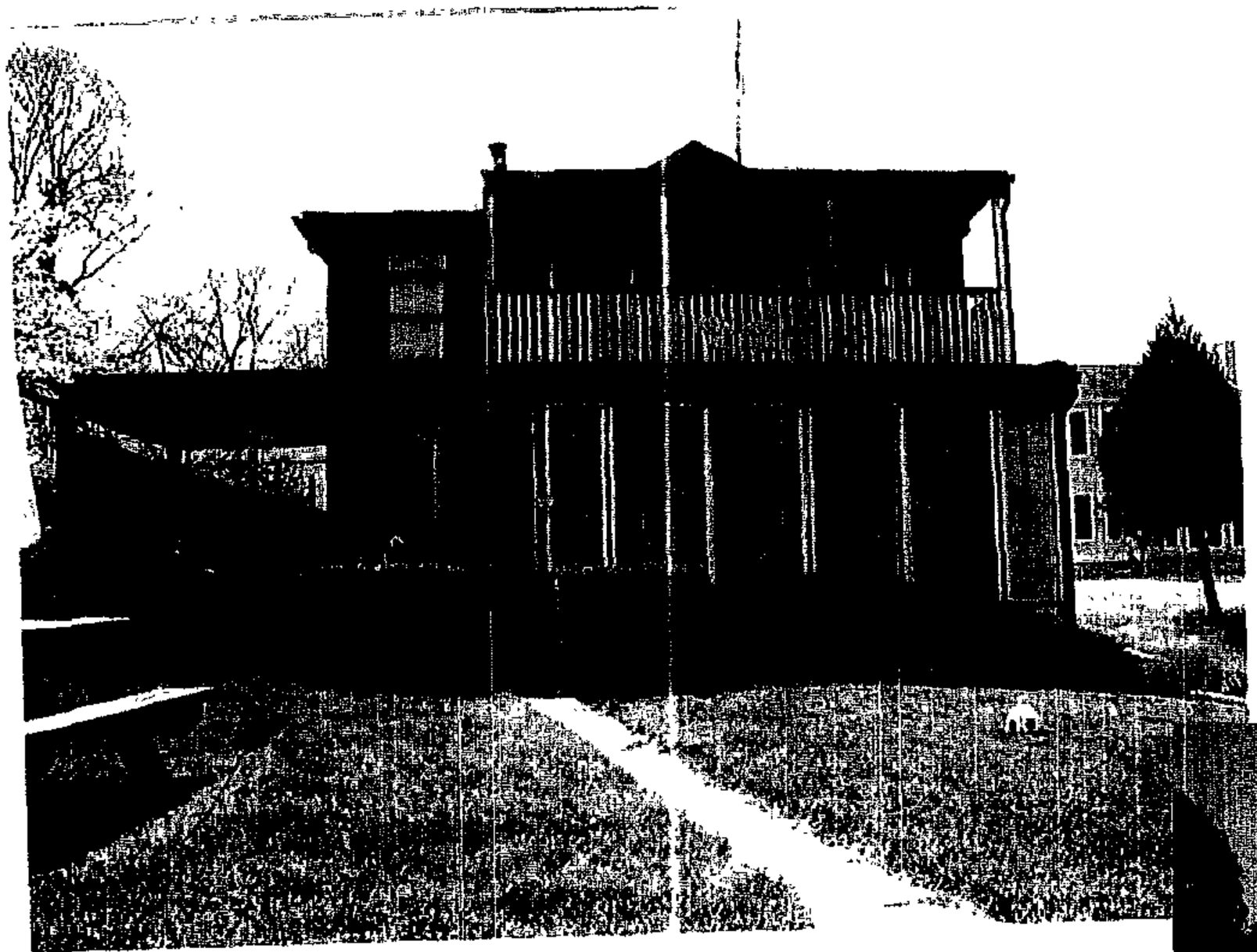




During construction

now



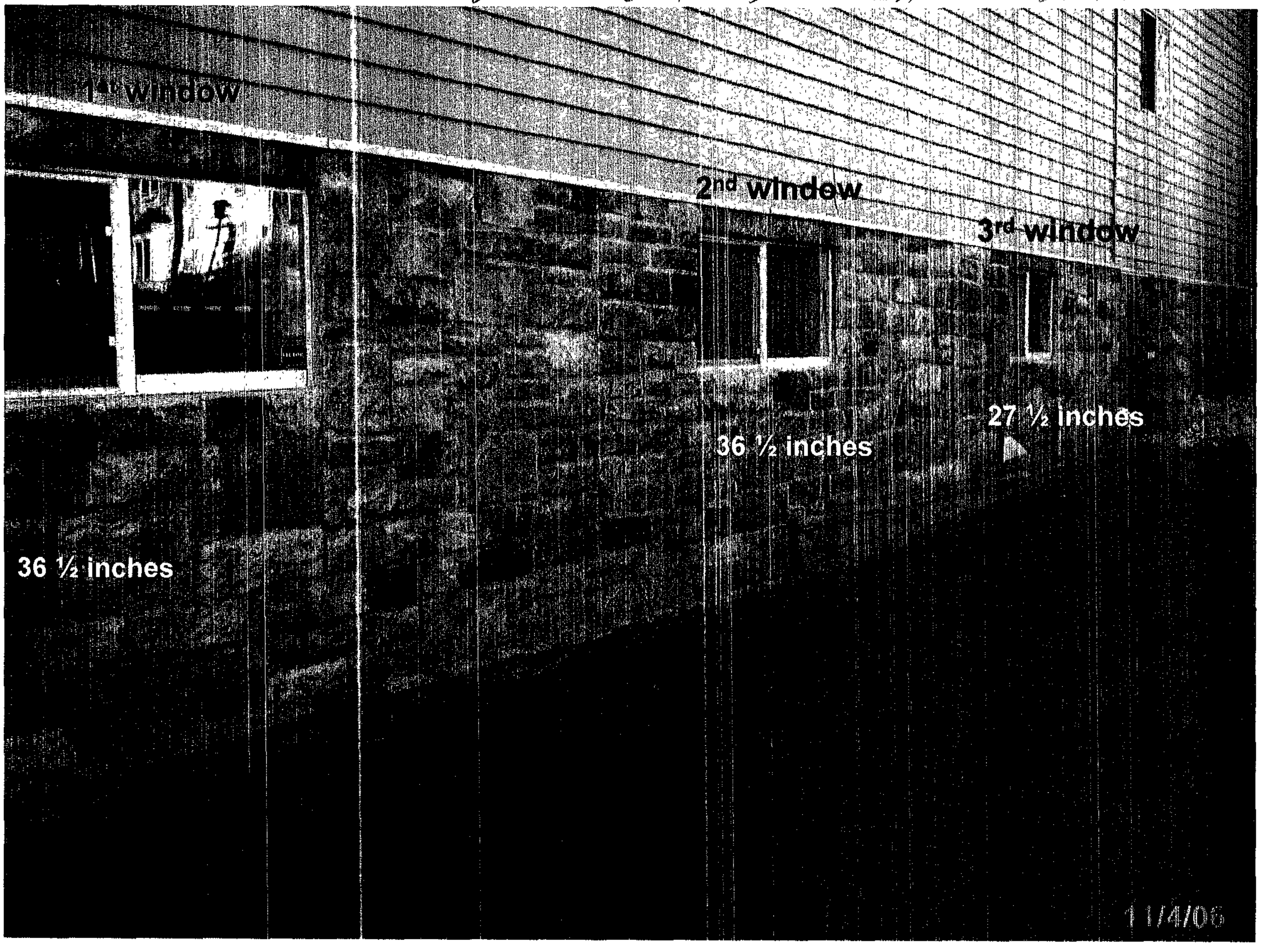


F soil terrace slopped

SAME WOODEN RAMP IN FRONT OF house

32

Review of 010 photo will show same distance



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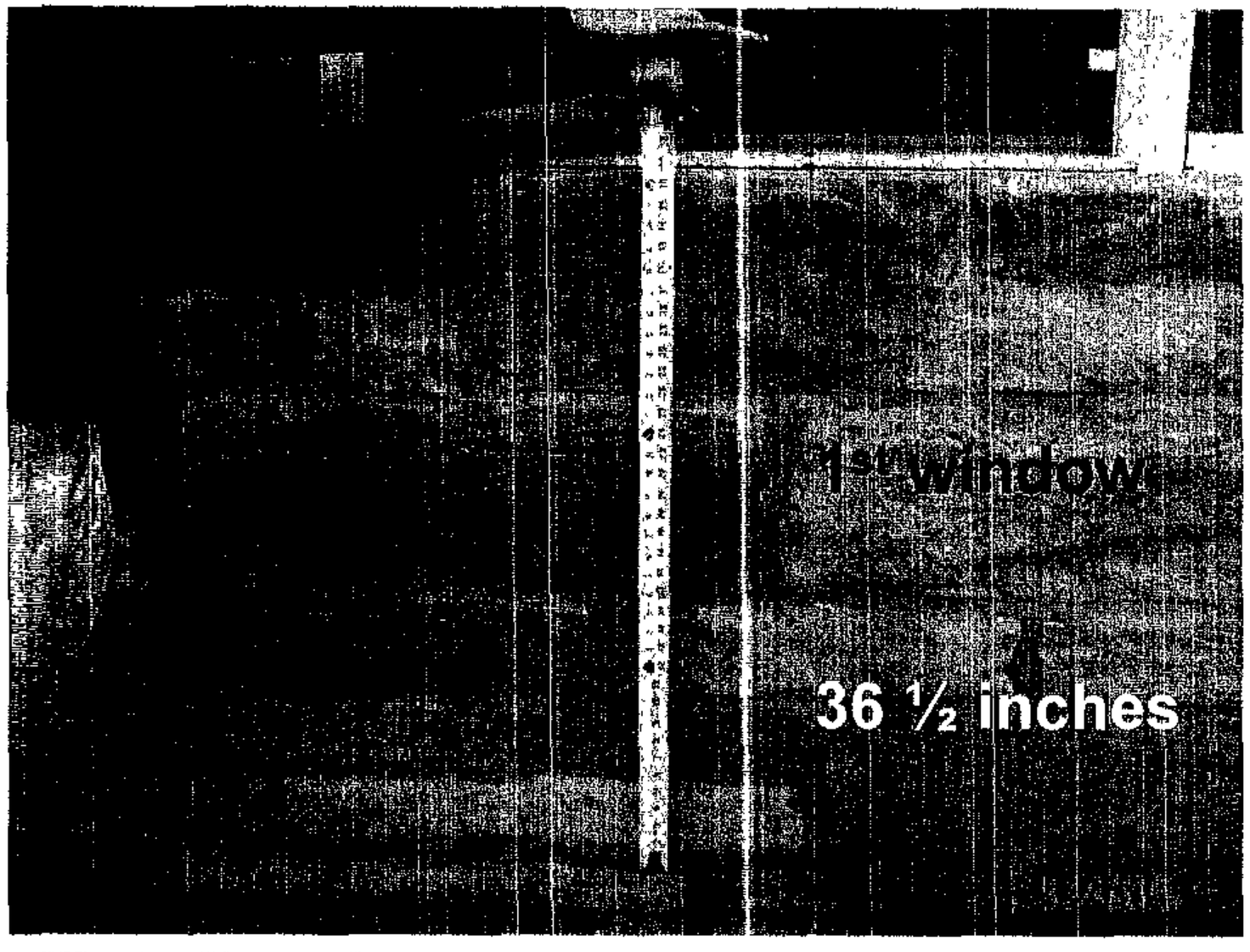
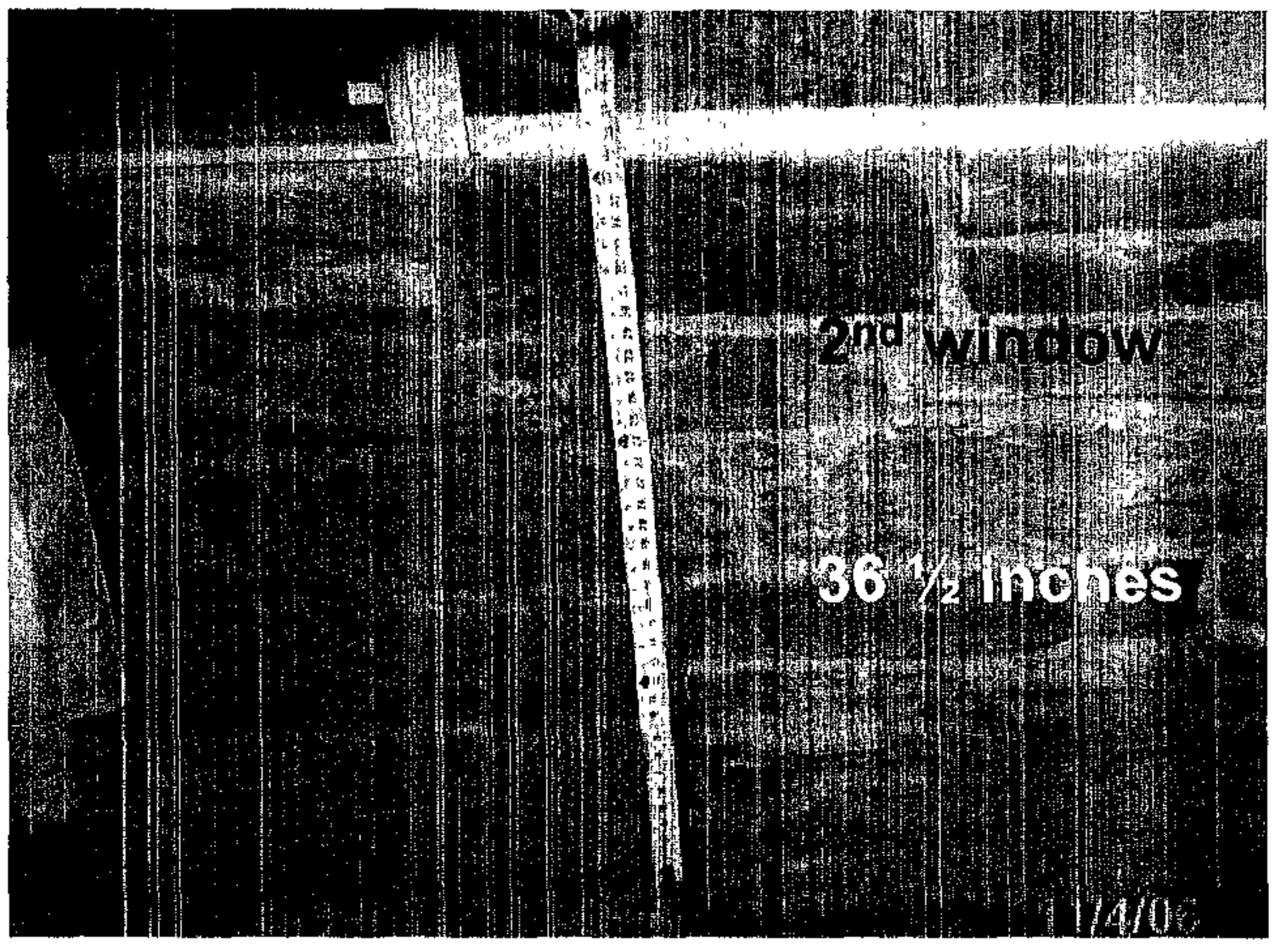
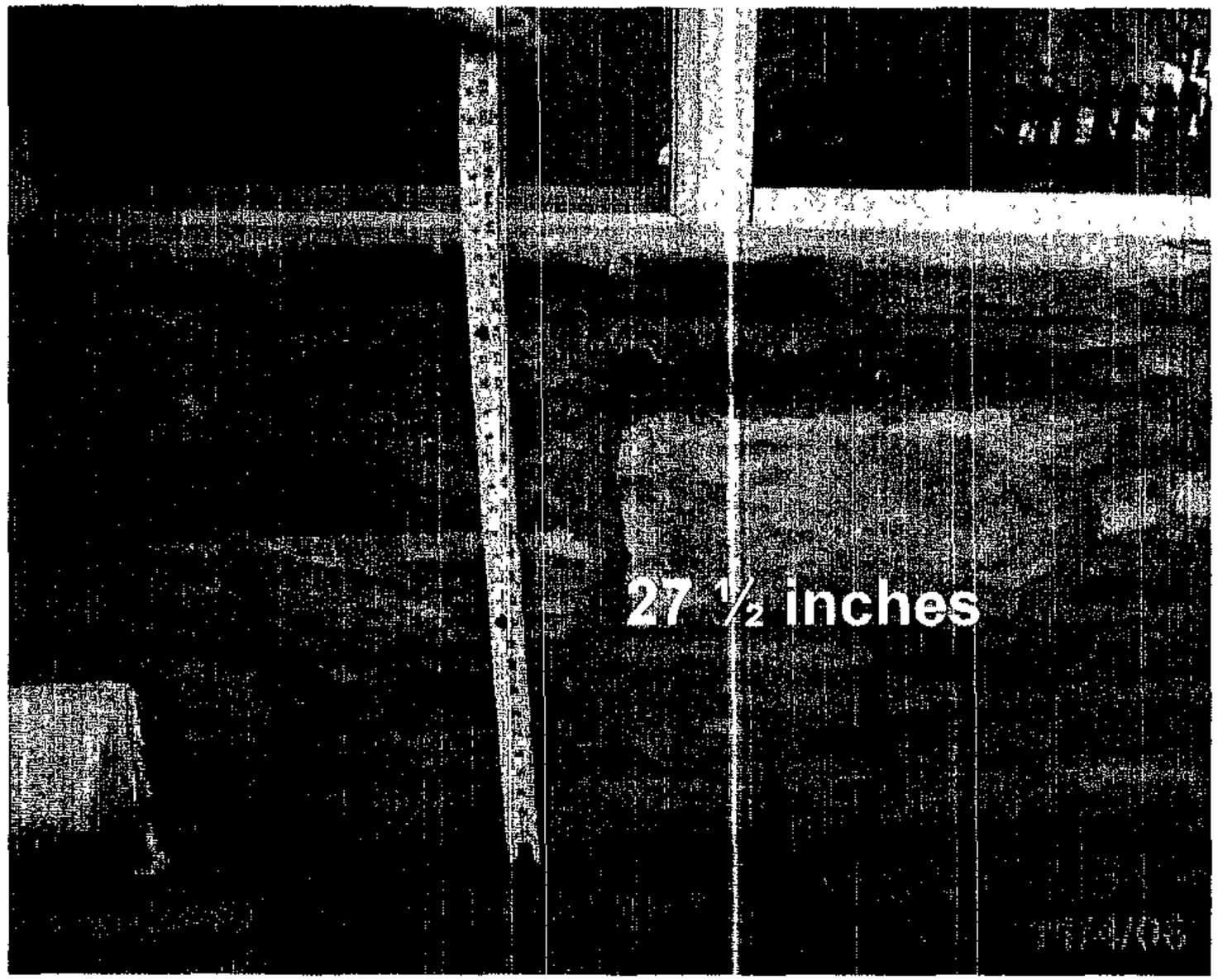
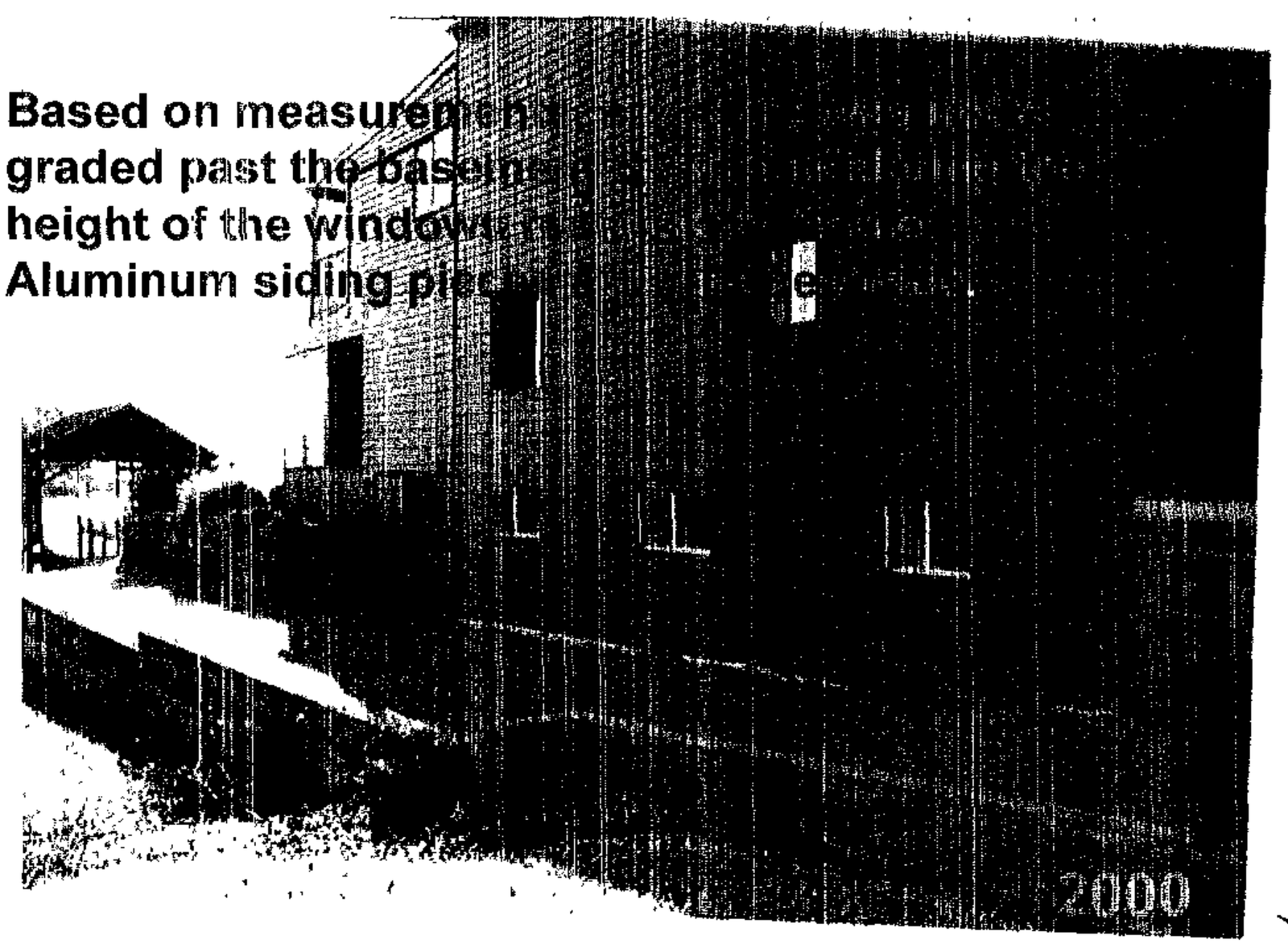

1st window
36 ½ inches


2nd window
36 ½ inches


27 ½ inches


Based on measuren
graded past the base
height of the window
Aluminum siding pie
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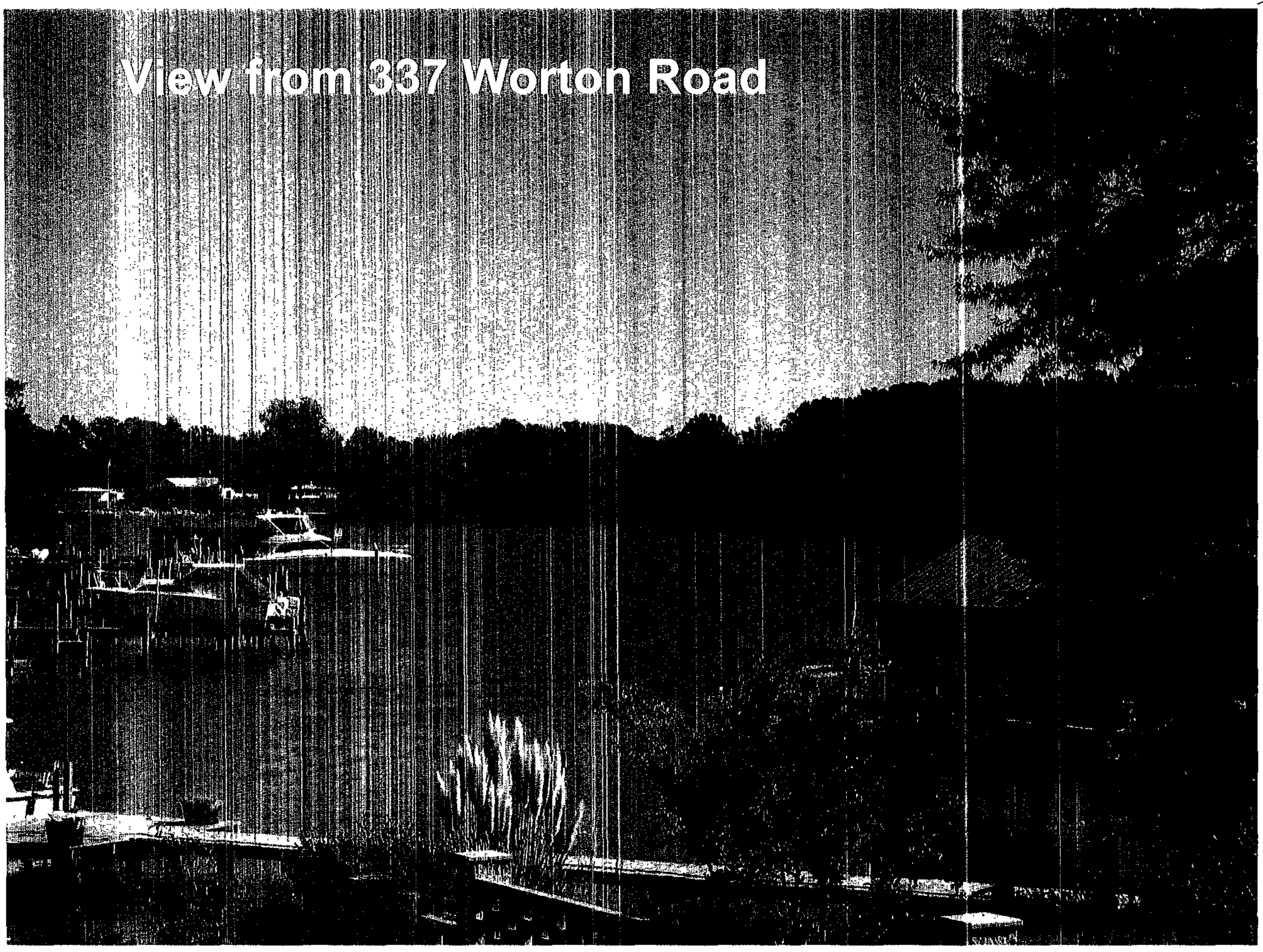
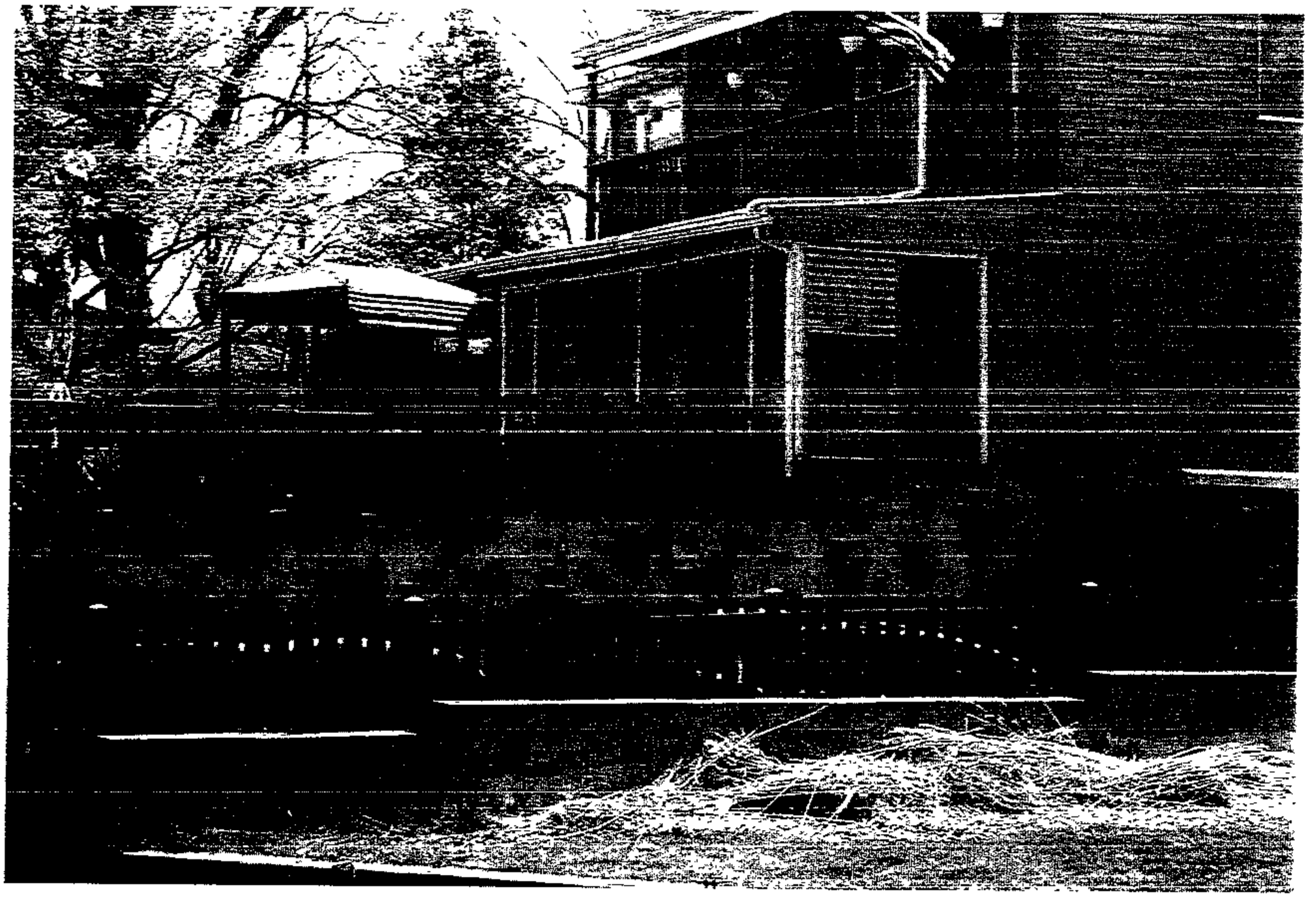

View from 337 Worton Road

PROTESTANT'S

EXHIBIT NO. 1



PROTESTANT'S

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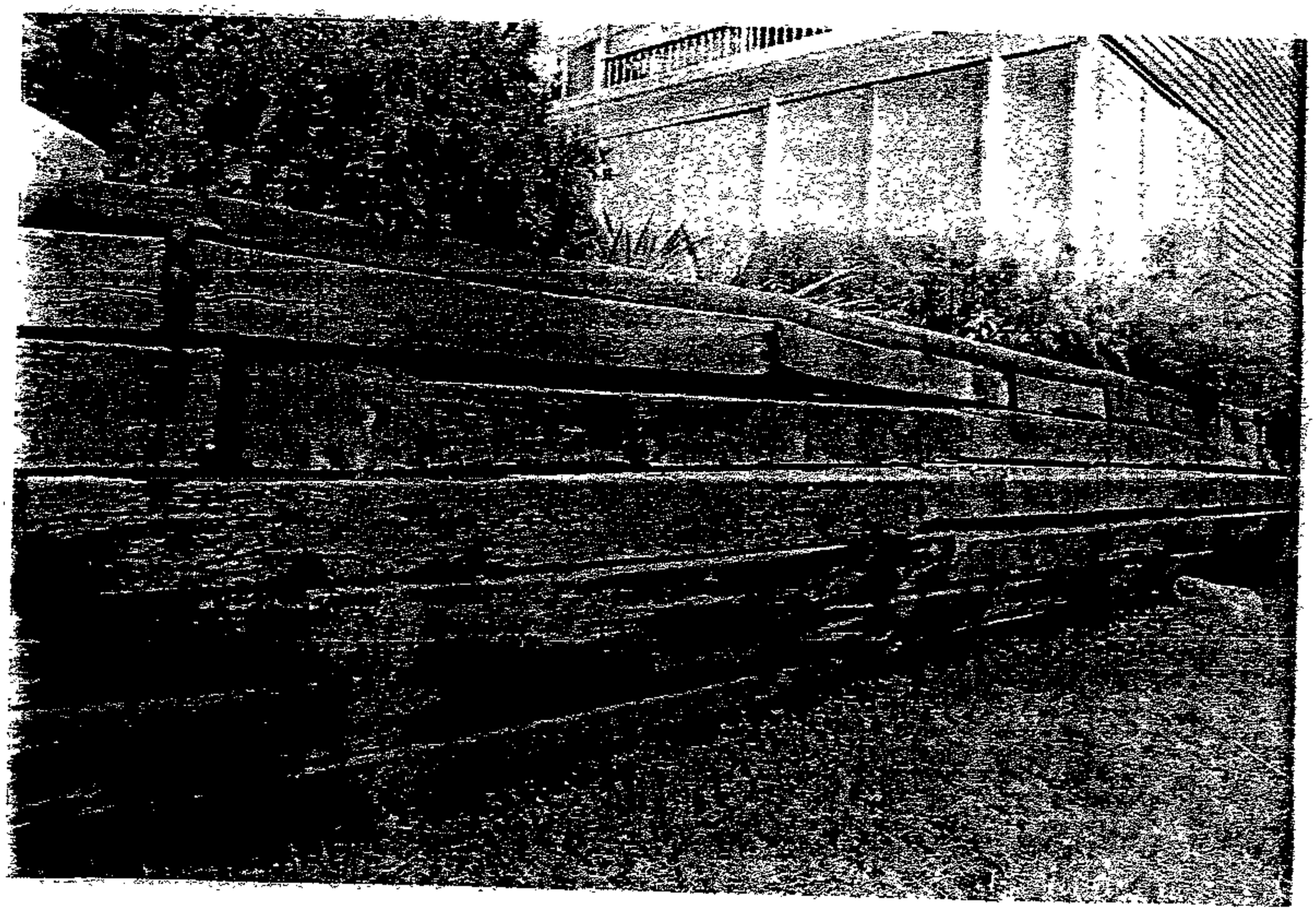
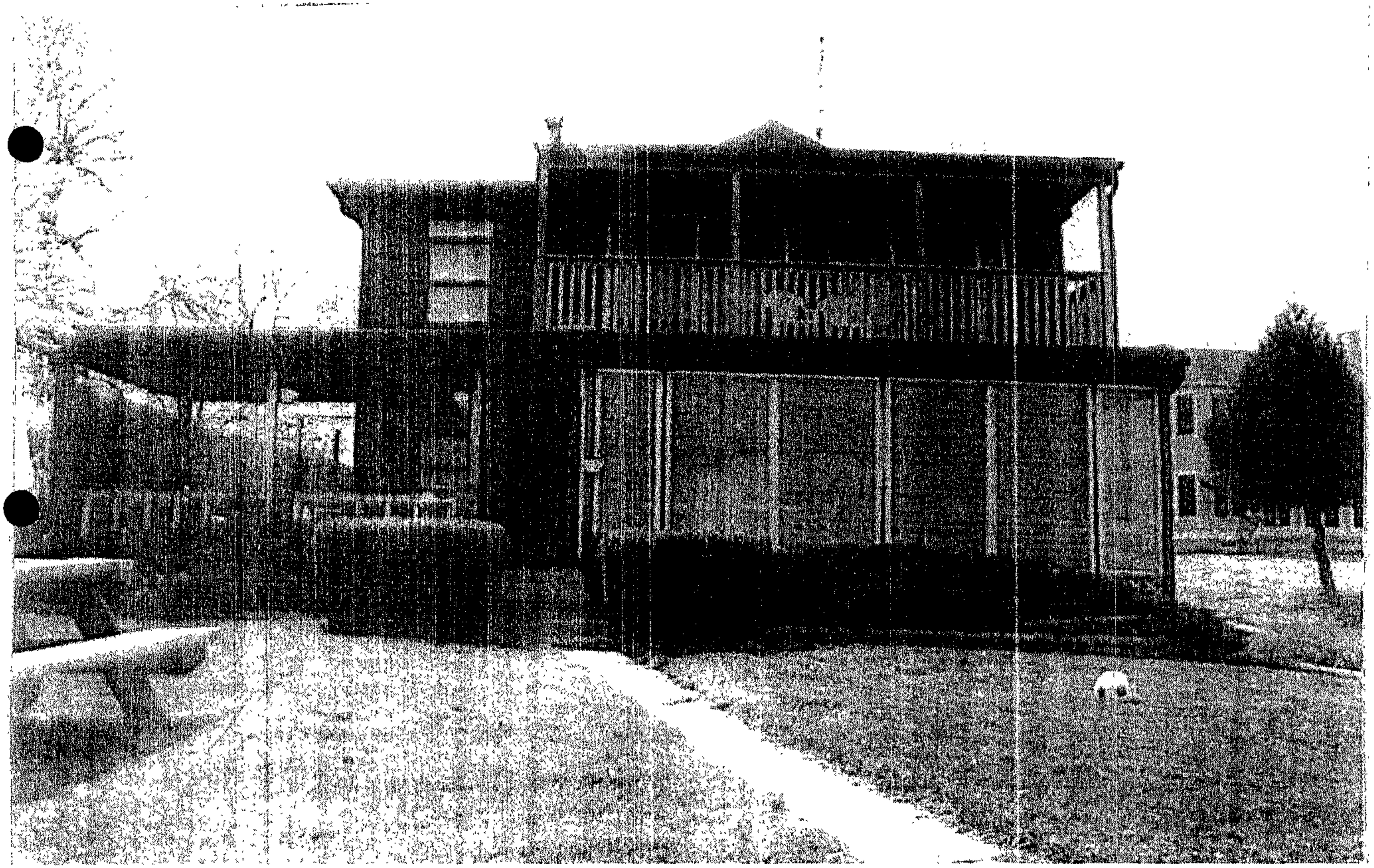


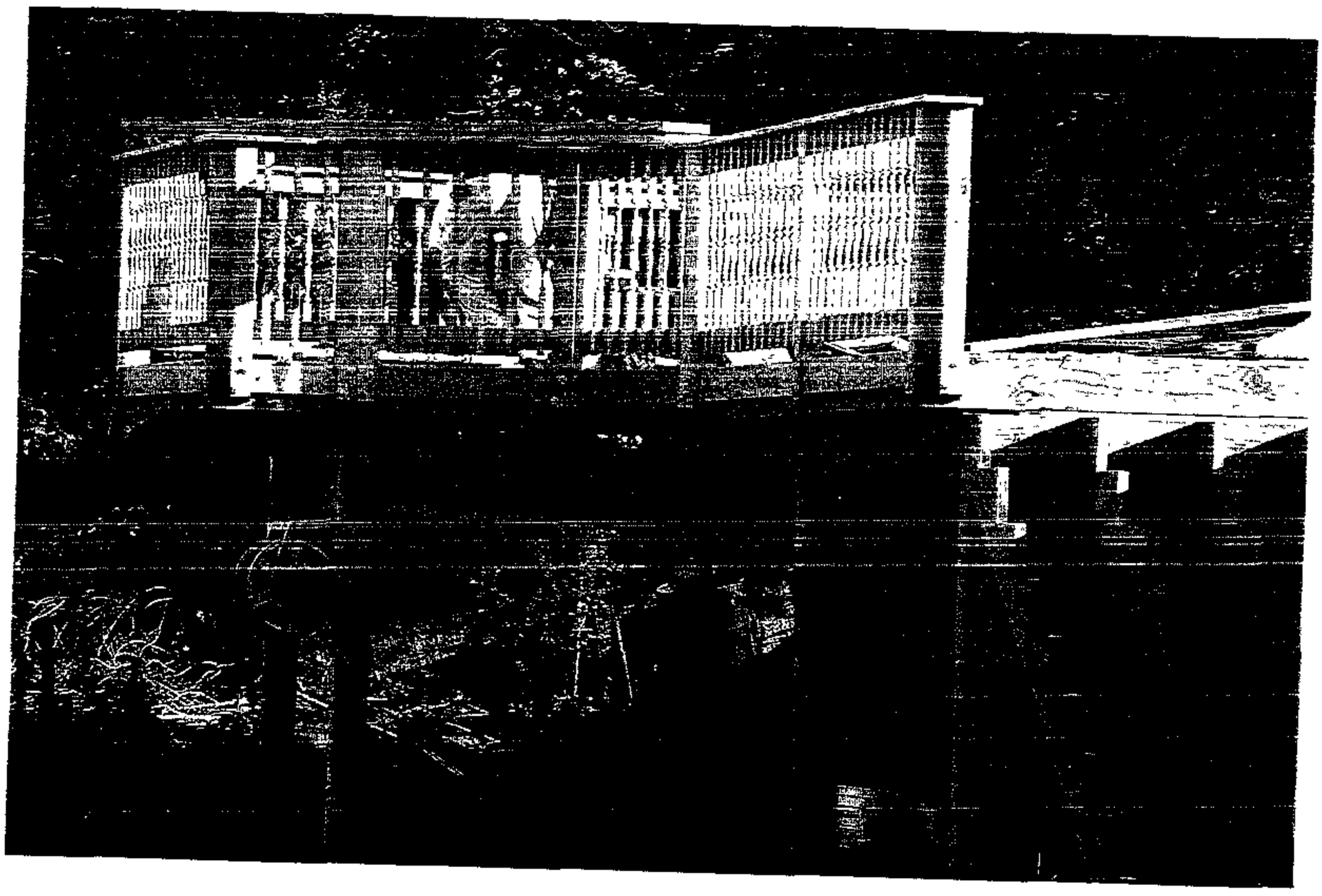
2B

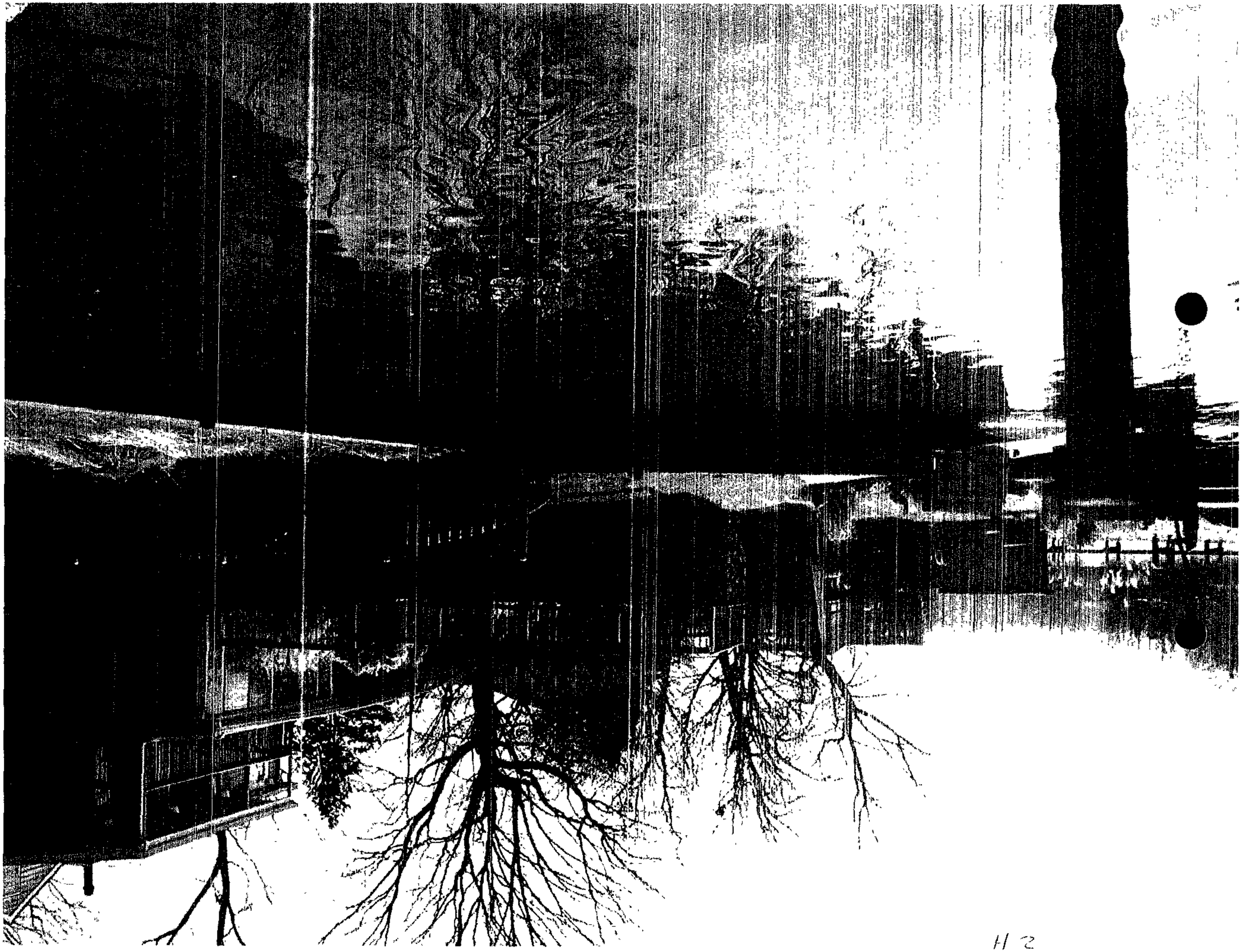


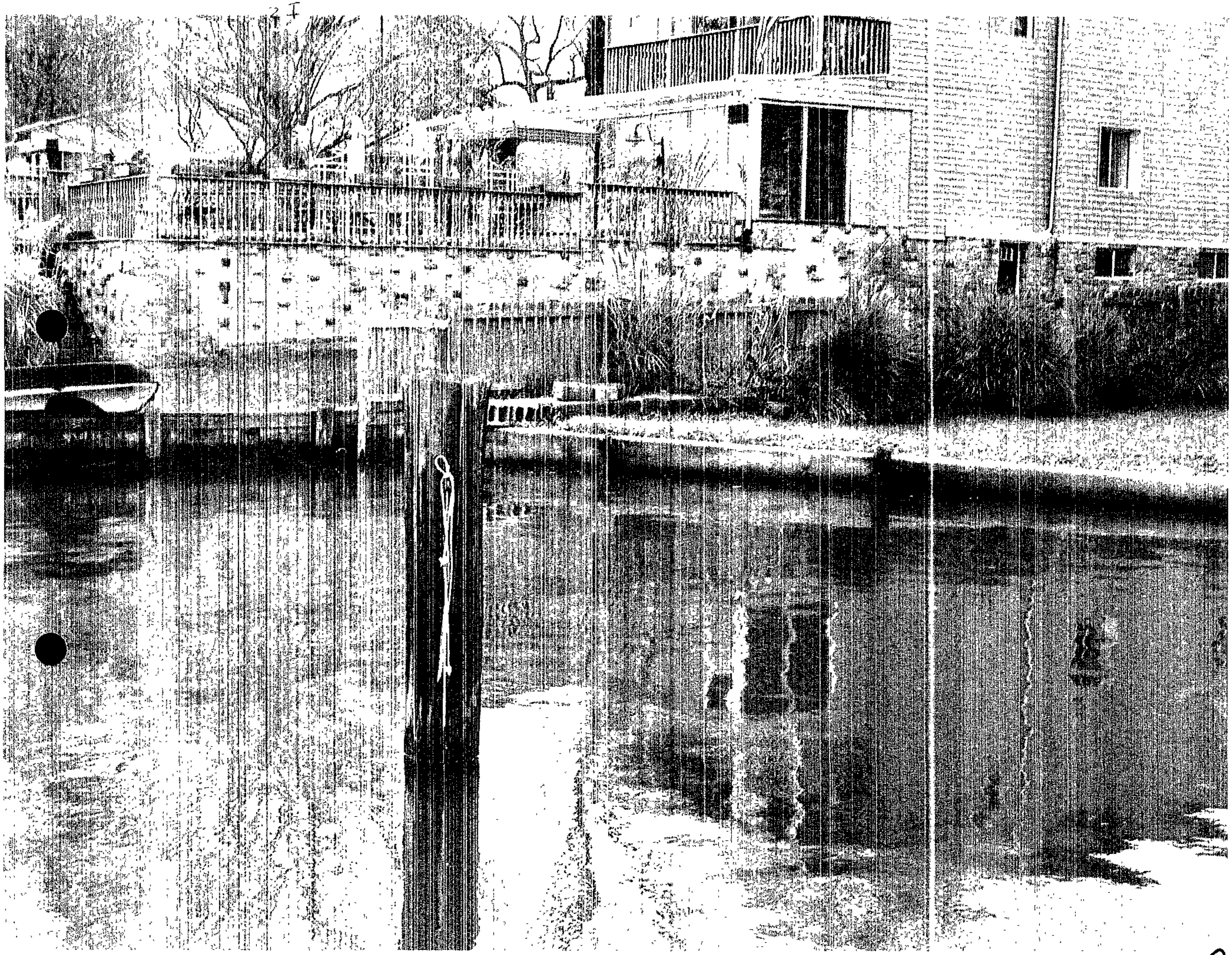
2- C

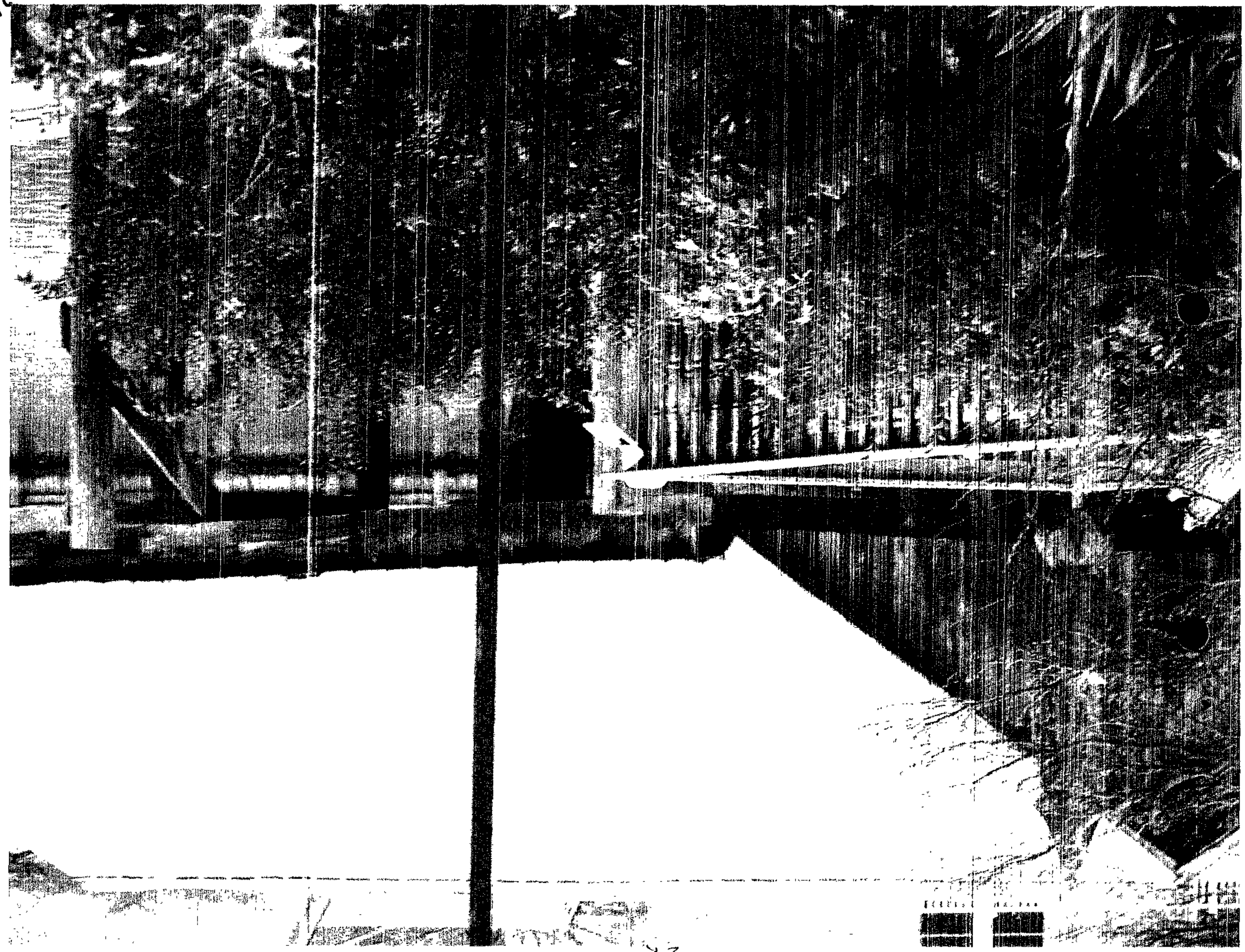
2D

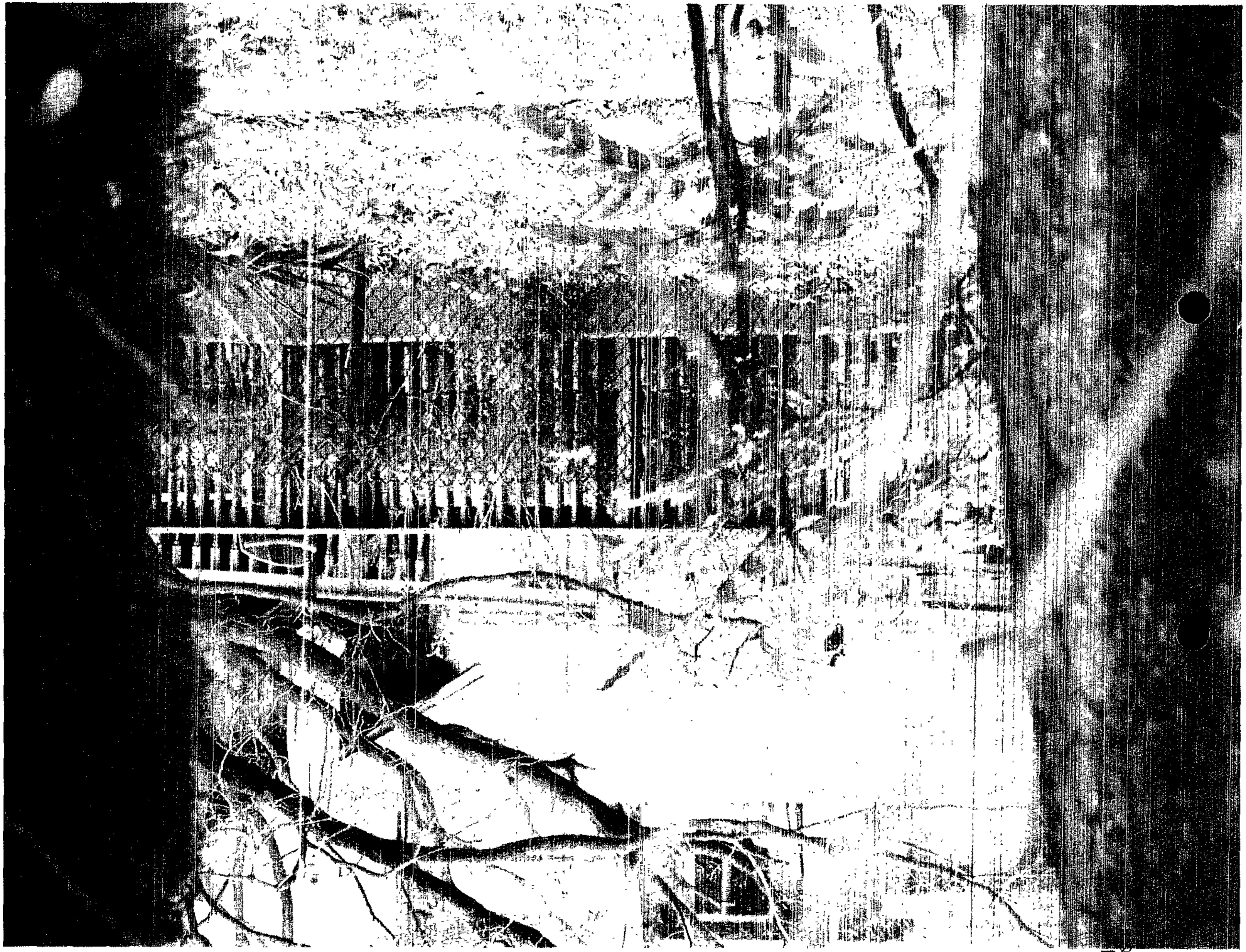
2F

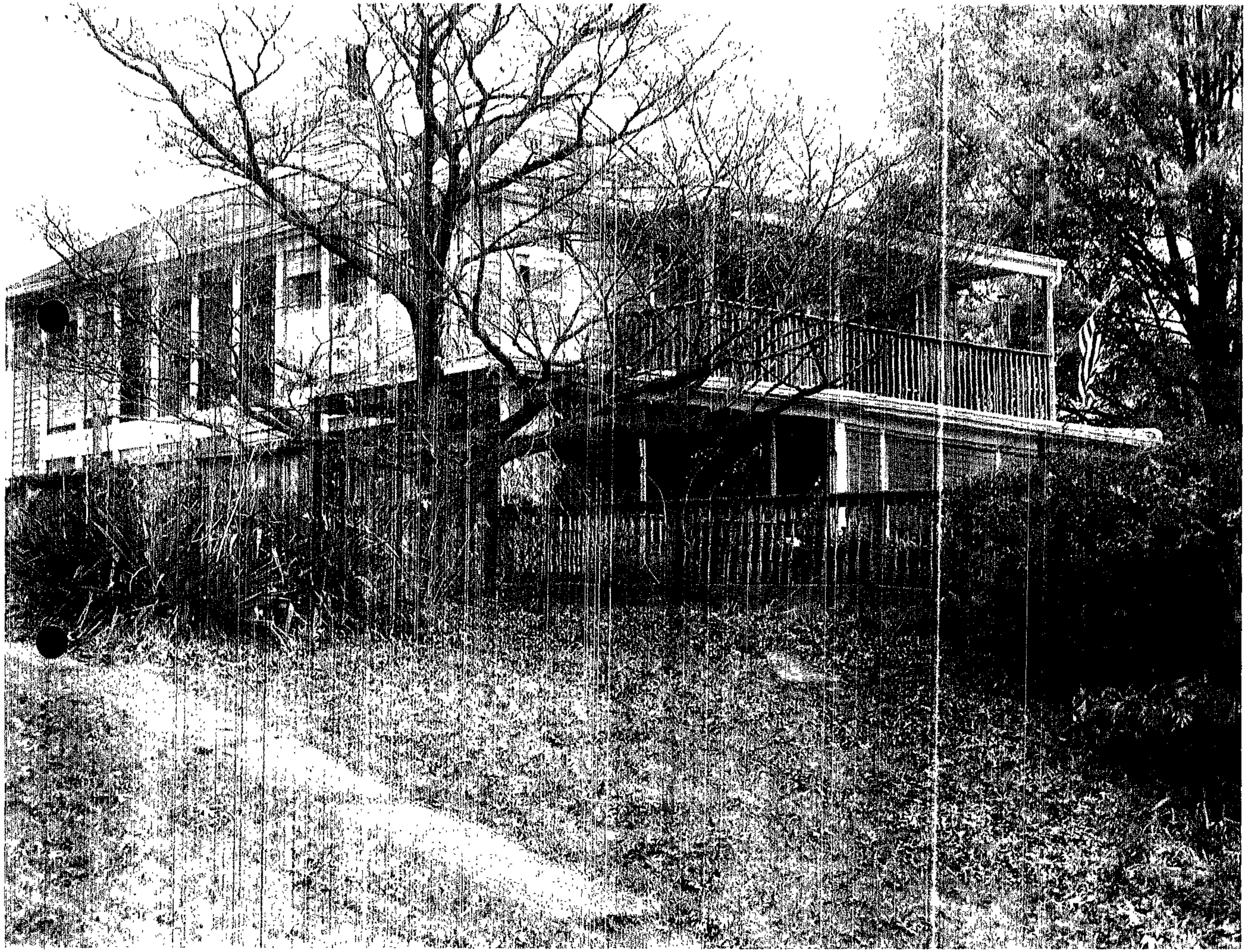


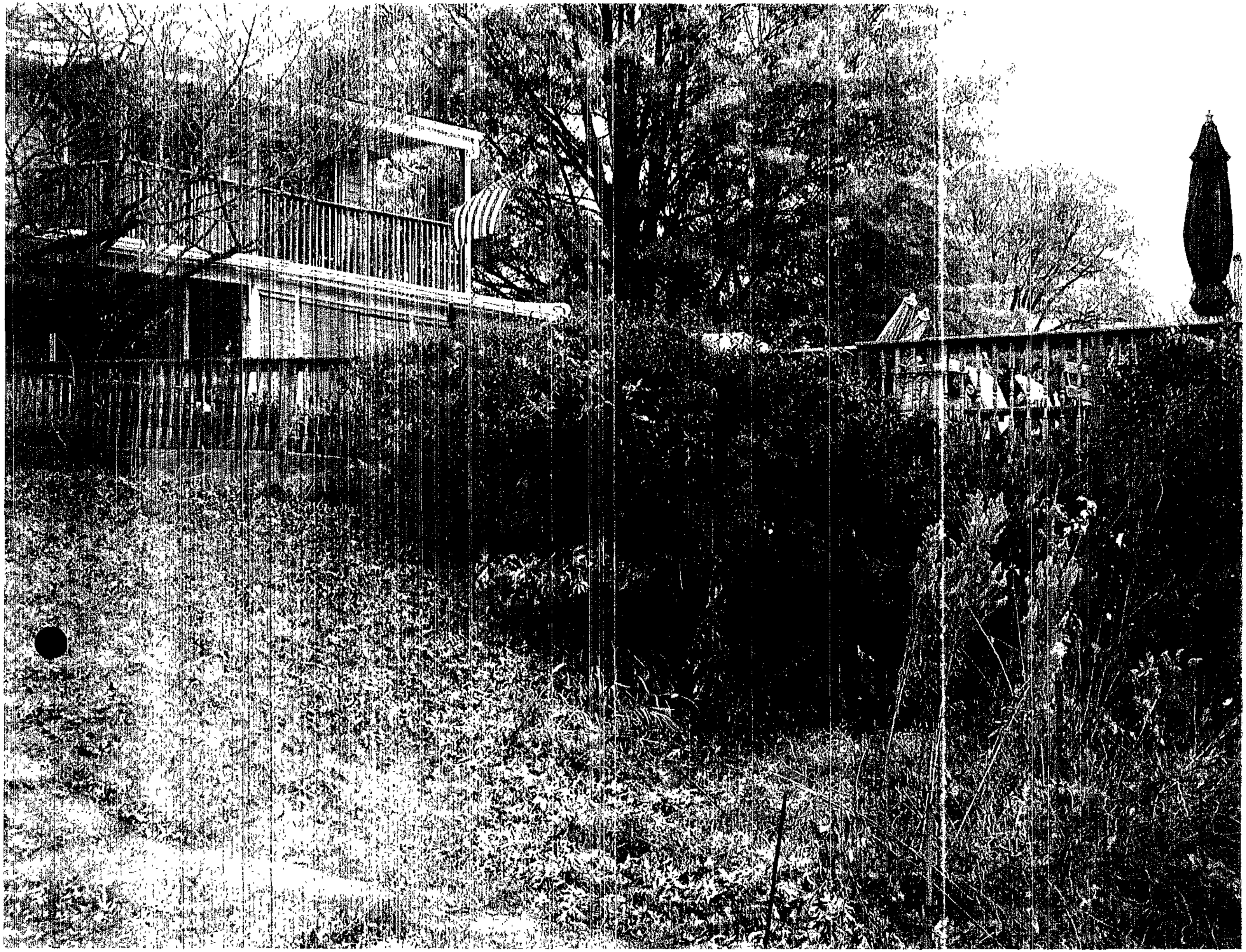


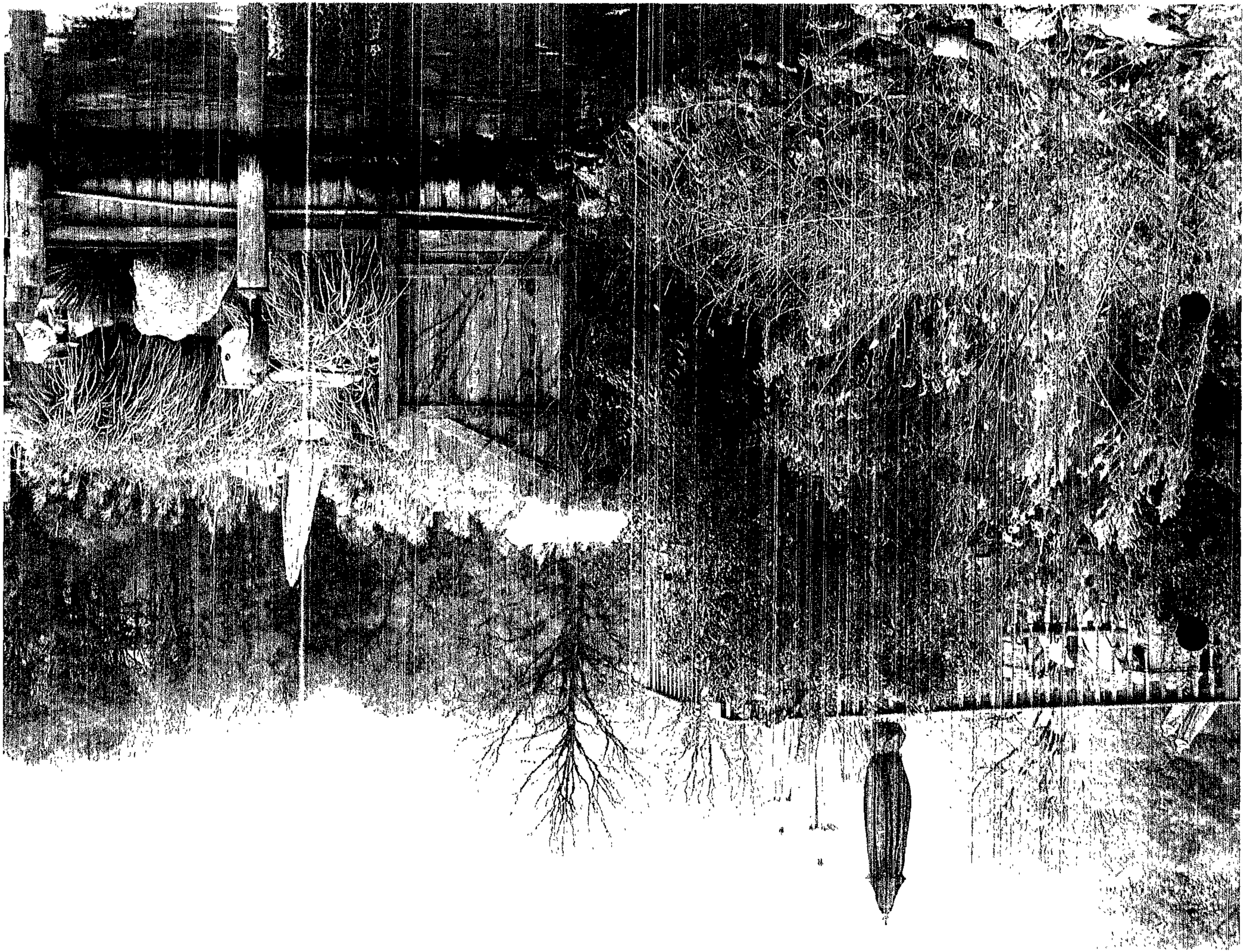


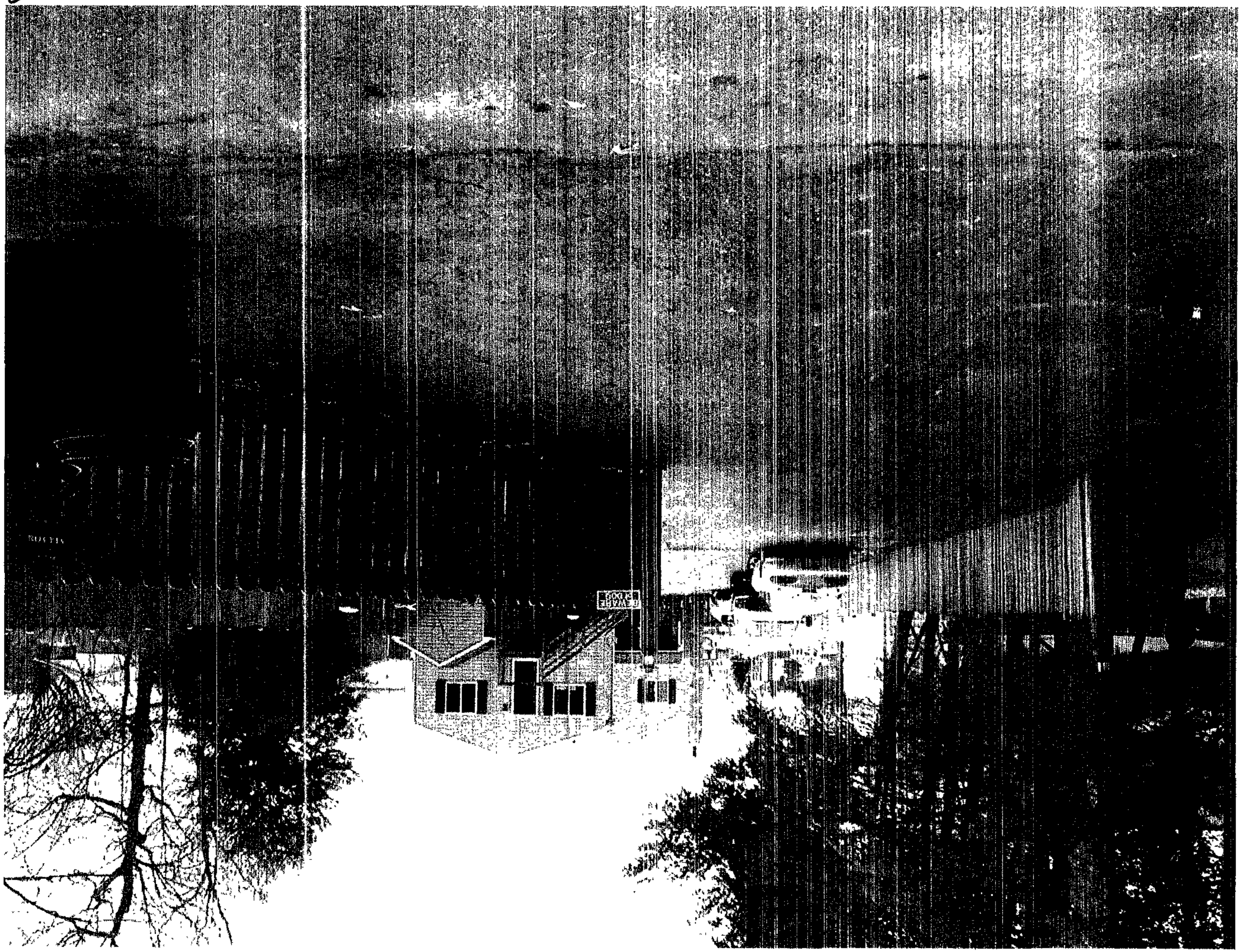


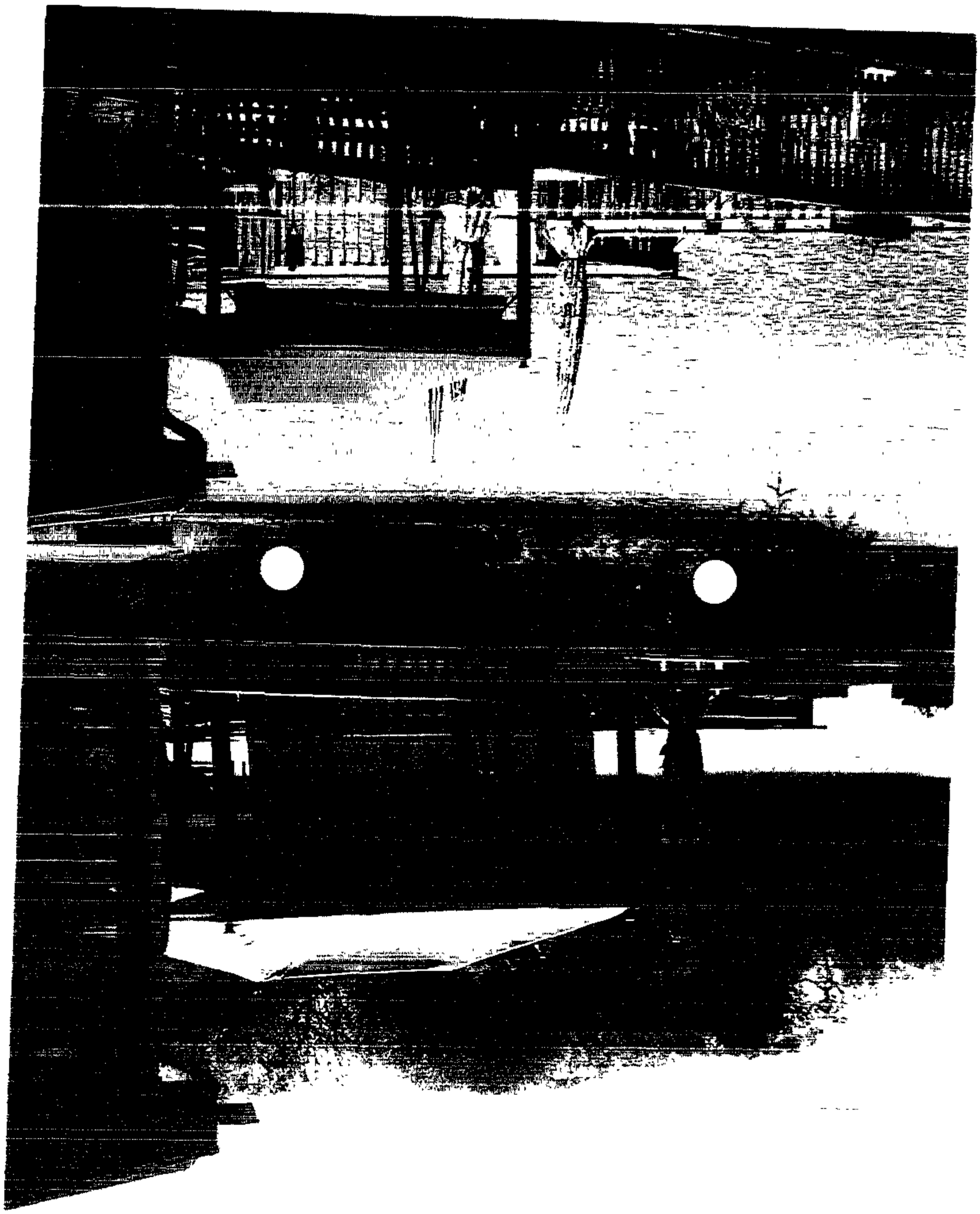


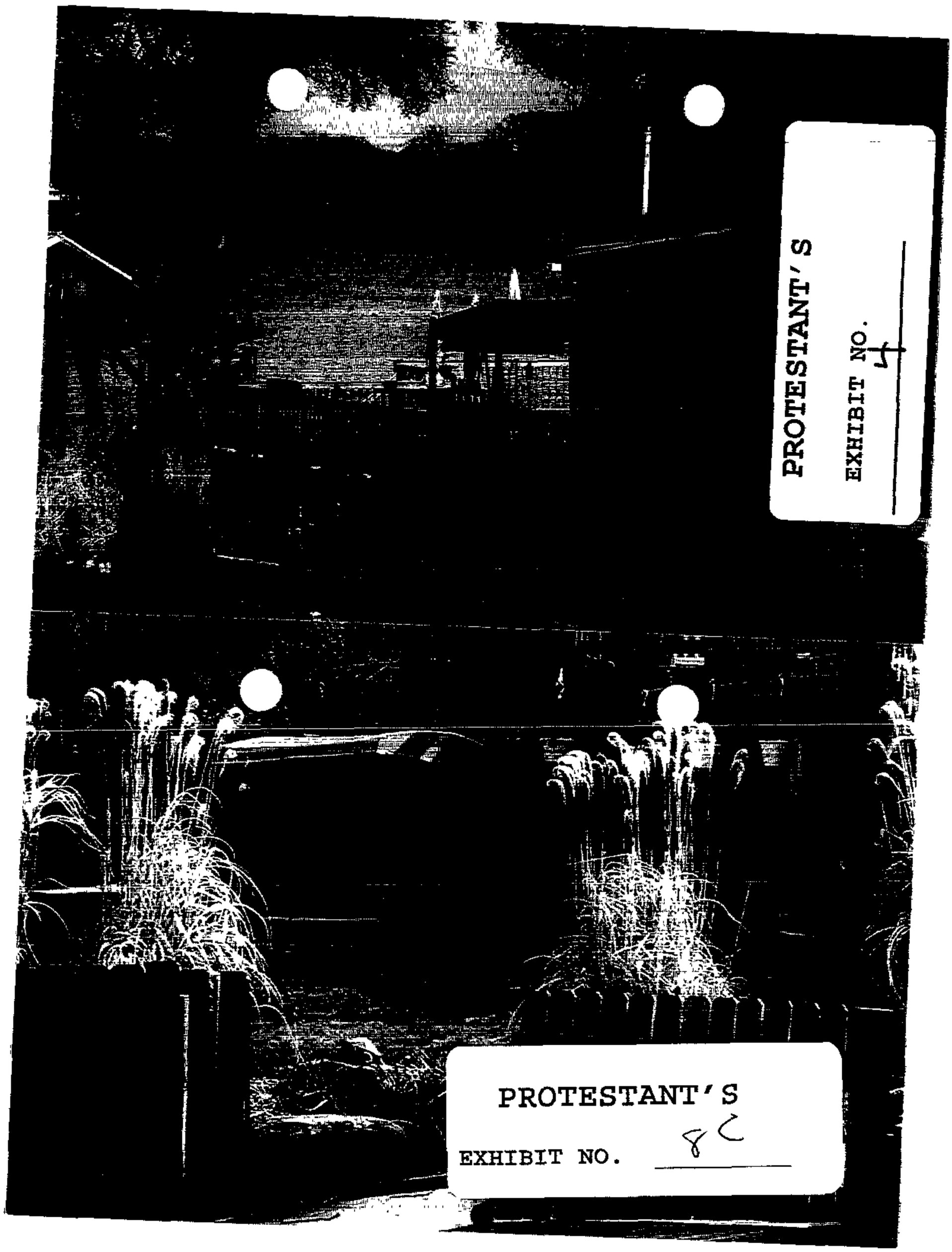




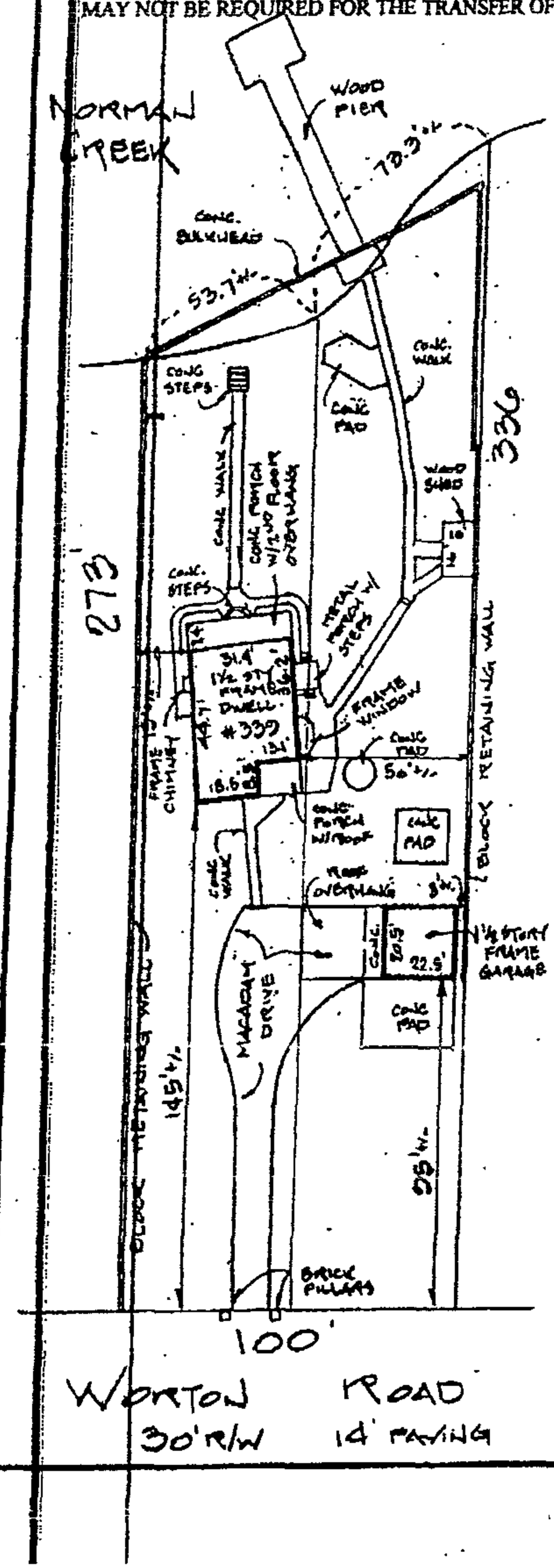







PROTESTANT'S
EXHIBIT NO. 4
PROTESTANT'S
EXHIBIT NO. 8C

THE PLAT IS OF BENEFIT TO A CONSUMER ONLY INSOFAR AS IT IS REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH CONTEMPLATED TRANSFER, FINANCING OR RE-FINANCING; THE PLAT IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OR LOCATION OF FENCES, GARAGES, BUILDINGS, OR OTHER EXISTING OR FUTURE IMPROVEMENTS; AND THE PLAT DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE SECURING FINANCING OR RE-FINANCING.



PROTESTANT'S

EXHIBIT NO. 3

LOCATION SURVEY

339 WORTON ROAD

LOTS 135 & 136
MIDDLE BOROUGH
ON MIDDLE RIVER
A/121

ELECT. DIST. 15 · BALTO. CO., MD
SCALE: 1" = 50' · DATE: 8/2/00

SPELLMAN, LARSON & ASSOCIATES, INC.
CIVIL ENGINEERS AND LAND SURVEYORS
SUITE 406, JEFFERSON BUILDING
TOWSON, MARYLAND 21204
PHONE : 410-823-3535
FAX : 410-825-5215

70000

PROTESTANT'S

EXHIBIT NO. 6

0014851 455

Tax No. 15-03-000240

This Deed,

Made this 22nd day of November , in the year two thousand, by and between
ARTHUR L. MYERS and JOAN E. MYERS, his wife, parties of the first part, and

LINDA ANN SENEZ, party of the second part.

Witnesseth, That in consideration of the sum of THREE HUNDRED THIRTY-THREE THOUSAND DOLLARS ($333,000.00) and other good and valuable consideration, the receipt of which is hereby acknowledged,

the said parties of the first part,

do grant and convey unto the said party of the second part, her personal representatives, heirs and assigns,

in fee simple

all that lot of ground, situate, lying and being in Baltimore County, State of Maryland, and described as follows, that is to say:

BEING known as Lot No. 134, as shown on the Plat of the property of Middleborough Land Corporation of Baltimore County, which Plat is duly recorded among the Land Records of Baltimore County in Plat Book W.P.C. No. 4, folio 191. The improvements thereon being known as No. 341 Worton Road.

BEING the same lot of ground described in a Deed dated March 26, 1981, and recorded among the Land Records of Baltimore County in Liber EHK, Jr. 6274 at folio 192 from Roy E. Jones unto Arthur L. Myers and Joan E. Myers, his wife.

TOGETHER with the buildings thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said party of the second part, as Sole Owner, her personal representatives, heirs and assigns, in fee simple.

AND the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby granted; and that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

Witness the hands and seals of said grantors.

Witness:

_____ _____ (SEAL)
ARTHUR L. MYERS

_____ _____ (SEAL)
JOAN E. MYERS

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, that on this 22nd day of November, in the year two thousand, before me, the subscriber, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared, Arthur L. Myers and Joan E. Myers, the above grantors and they acknowledged the foregoing Deed to be their act.

As Witness my hand and Notorial Seal.

_____
Gerald M. Phillips, Notary Public

My Commission Expires: September 1, 2001

THIS is to certify that the within instrument was prepared by or on behalf of the undersigned Maryland Attorney.

_____
Ralph K. Rothwell, Jr.

0014851 457

The Grantee herein swears and affirms under penalty of perjury that the within residence shall be occupied by the Grantee

Witness:

_____ _____(SEAL)
LINDA ANN SENEZ

STATE OF MARYLAND, COUNTY OF BALTIMORE, TO WIT:

I HEREBY CERTIFY, That on this 22nd day of November , in the year two thousand, before me, the subscriber, a Notary Public of the State of Maryland in and for the County aforesaid, personally appeared Linda Ann Senez, the above named Grantee and she acknowledged the foregoing Deed to be her act.

As Witness my hand and Notorial Seal

_____
Gerald M. Phillips, Notary Public

My Commission Expires September 1, 2001

ASHORE TITLE COMPANY, INC.
7506 Eastern Avenue
Baltimore, MD 21224

PROTESTANT'S
EXHIBIT NO. 8A

PROTESTANT'S

EXHIBIT NO. 8B

Case No.: 05-298 A 341 WORTON RD.

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	SITE PLAN	SWING SET & CANOPY
No. 2 AERIALS	A. 1998 TOPO/GIS MAP B. 2005 TOPO/GIS MAP C. 2005 - CLOSE UP	A thru R Photographs - Collectively
No. 3	A - Permit # B555457 B - APPLICATION FOR PERMIT	* LOCATION SURVEY
No. 4	ZONING ORDER 84-188-A - GARAGE	*VIEW FROM Collins DECK
No. 5 Photos Existing	A - } PRIOR to ISABELLE B. } PRIOR to ISABELLE C } after Isabelle Prior to Const	RECORD PLAT OF MIDDLEBOURGH
No. 6 Photos	A } Post ISABELLE - B } FEMA AID REQUEST(S) NEW DECK	DEED - FROM MYERS to SENEZ
No. 7 Photos	7A thru 7B - DECK A - 11/06 7F - From Water B - SUMMER 04 C - NEW DECK (SUBJECT OF HEARING)	TOPOGRAPHICAL MAP
No. 8 2002 2005	A GIS Aerial + Transparency B GIS - Aerial + Transparency	
No. 9	LENGSFIELD LETTER	
No. 10	EXISTING CONDITIONS PRIOR TO ISABELLE IN AREA OF ~~DECK~~	
No. 11	A - Stake denoting Position B - OF Railroad Retaining Wall	
No. 12 *	A VIEW FROM Collins DECK ~~B - Collins Home~~	

* VIEW IN CONTRAST WITH ONE ANOTHER -

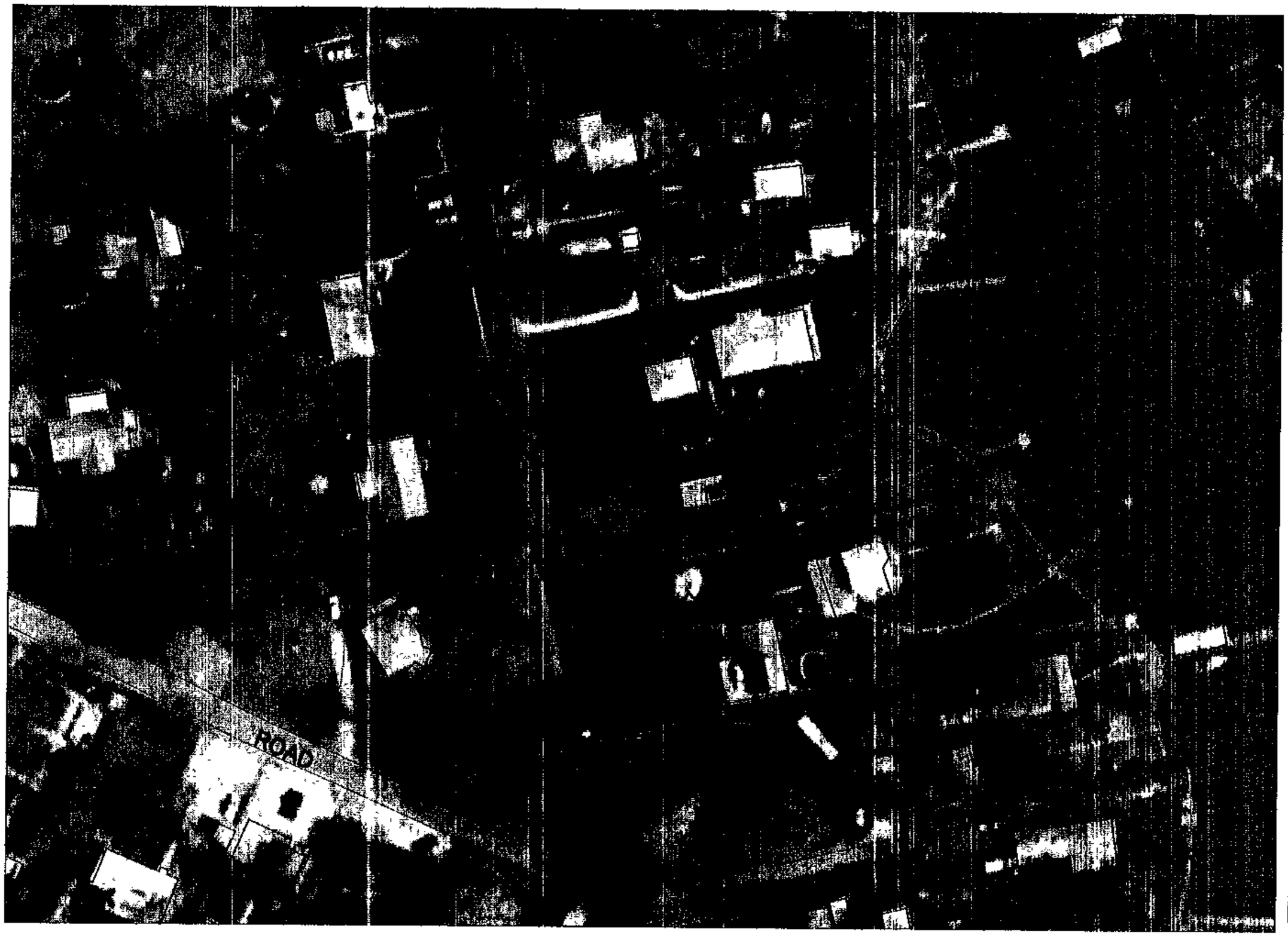
Case No.: 05-298-A 341 WORTON RD.

Exhibit Sheet - Continued

	Petitioner/Developer	Protestant
No. 13 5 Photos	PHOTOGRAPHS - AFTER ISABLE - BUT BEFORE CONSTRUCTION - "EXISTING CONDITION"	
No. 14 3 Photos	PHOTO'S DENOTE (14A) WHERE OLD BULK HEAD WAS LOCATED - ½ HEIGHT OF DECK	
No. 15	SIDE OF RETAINING WALL - 2' to 3' Higher	
No. 16		
No. 17		
No. 18		
No. 19		
No. 20		
No. 21		
No. 22		
No. 23		
No. 24		

PETITIONER'S

EXHIBIT NO. 24



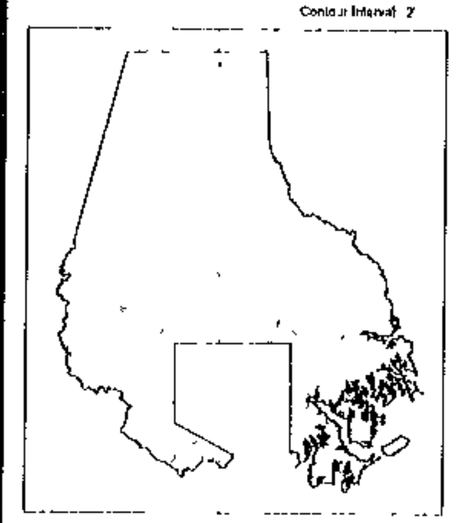
Baltimore County
Maryland
Tile Id 097C1

Legend

Radio Towers
Transmission Towers
Microwave Transmitters
Residential
Commercial
Institutional
Garages and Other Structures
Buildings Under Construction
Toll Booths and Rail Stations
Water Towers and Storage Tanks
Dam
Index Contour
Intermediate Contour
Index Depression Contour
Intermediate Depression Contour
Obscured Index Contour
Obscured Intermediate Contour
Obscured Index Depression Contour
Obscured Intermediate Depression Contour
Hidden Contour
Spot Elevation
Water Elevation
Bridge Elevation
Rooftop Elevation
Junkyard
Quarries
Gravel/Sand Pit
Landfill
Cemetery
Area Under Construction
Power Stations
Race Tracks
Commercial Pad
Golf Courses
Baseball/Athletic Fields
Tennis Court
Parks
Beaches and Bike Areas
Playground
Paved Roads
Curbs
Hidden Roads
Unpaved Roads
Road Under Construction
Unimproved Roads
Paved Alleys
Paved Parking Lots, Driveways, Runways, Taxiways
Bridges and Overpasses
Tunnel Portal
Rail Line
Hidden Rail Line
Abandoned Line
Metro Line
Light Rail
Light Rail Under Construction
Transmission Line
Pipeline
Natural Hydrography, Reservoirs, and SWM Retention Ponds
Bay Area
Boat Ramps, Piers, Dams, and Bulkheads
Single Line Streams
Culvert
Hidden Hydrography
Wetlands and Swamps
Bulkheads
Floodwall
Wooded Areas, Orchards and Nurseries
Tree Rows
Wetlands, Swamps

0 10 20 40 60 80 100 Feet

1 inch equals 28 feet
Contour Interval 2



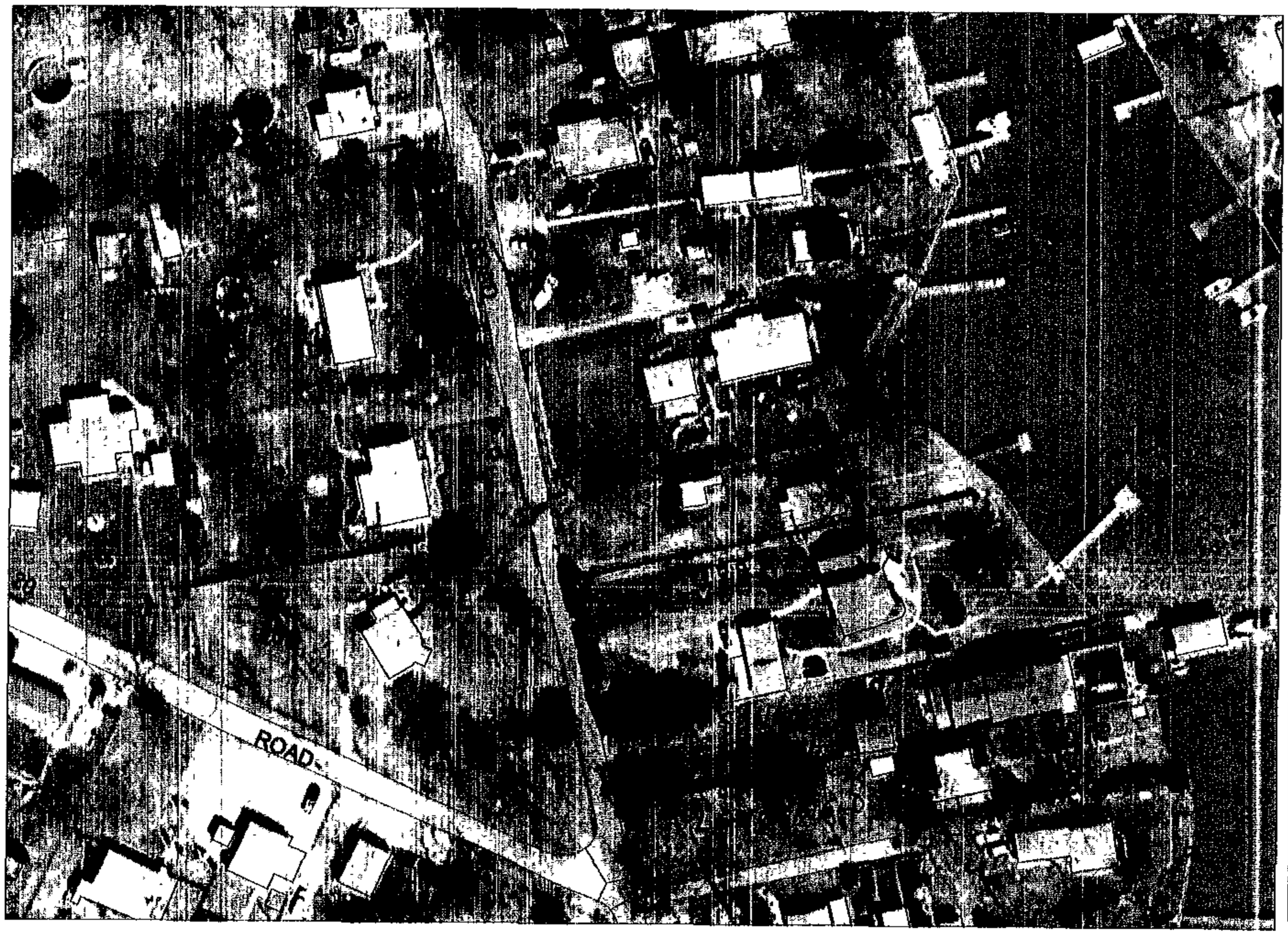
Map Notes
Map Production date: Aug 30, 2006
Map compiled using photogrammetric methods
from 1" = 200' aerial photography dated 4/2005

Projection:
Maryland State Plane
Zone 9018
NAD 83 US SURVEY FEET

Date of Imagery: 1993

PETITIONER'S

EXHIBIT NO. 2B



Baltimore County
Maryland
Tile Id 097C1

Legend

Radio Towers
Transmission Towers
Microwave Transmitters
Residential
Commercial
Institutional
Garages and Other Structures
Buildings Under Construction
Toll Booths and Rail Stations
Water Towers and Storage Tanks
C_line
Index Contour
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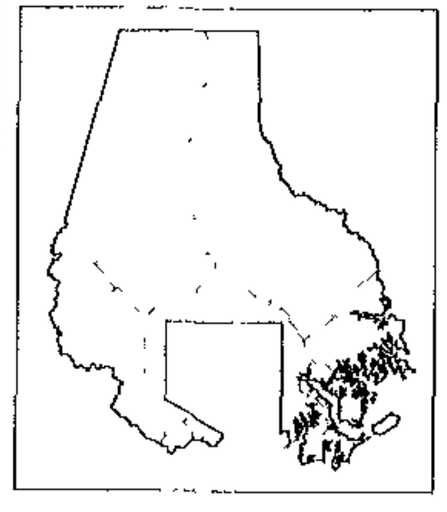
Index Depression Contour
Intermediate Depression Contour
Obscured Index Contour
Obscured Intermediate Contour
Obscured Index Depression Contour
Obscured Intermediate Depression Contour
Hidden Contour
Spot Elevation
Water Elevation
Bridge Elevation
Rooftop Elevation
Junkyard
Quarries
Gravel/Sand Pit
Landfill
Cemetery
Area Under Construction
Power Stations
Race Tracks
Commercial Pool
Golf Courses
Baseball/Athletic Fields
Tennis Court

Park
Bike and Hike Areas
Playground
Paved Roads
Curbs
Hidden Roads
Unpaved Roads
Road Under Construction
Unimproved Roads
Paved Alleys
Paved Parking Lots, Driveways, Runways, Taxiways
Bridges and Overpasses
Tunnel Portal
Rail Line
Hidden Rail Line
Abandoned Line
Metro Line
Light Rail
Light Rail Under Construction
Transmission Line
Pipeline
Natural Hydrography, Reservoirs, and SWM Retention Ponds
Bay Area
Boat Ramps, Piers, Docks, and Bulkheads
Single Line Streams
Culvert
Hidden Hydrography
Wetlands and Swamps
2775 9998
Bulkheads
Floodwall
Wooded Areas, Orchards and Nurseries
Tree Rows
Wetlands Swamps

0 10 20 40 60 80 100 Feet

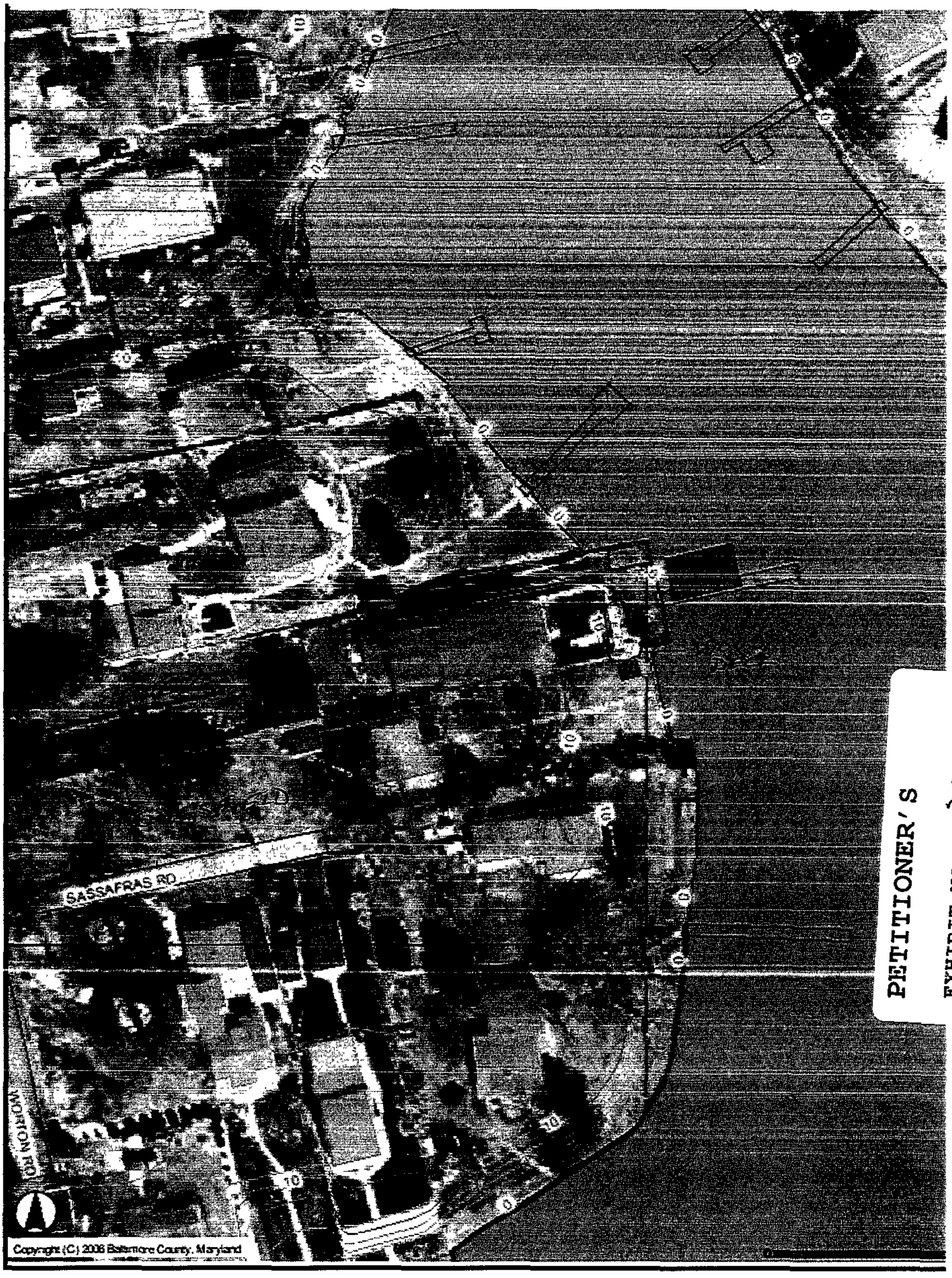
1 inch equals 28 feet
Contour Interval 2'



Map Notes
Map Production date: Aug 30, 2006
Map compiled using photogrammetric methods
from 9" = 200' aerial photography dated 4/2005

Projection
Maryland State Plane
Zone 83 1900
NAD 83 US SURVEY FEET

Data © Imagery 2005


SASSAFRAS RD
MORTON RD
Copyright (C) 2006 Baltimore County, Maryland
PETITIONER'S
EXHIBIT NO. 2C

Flood Job.

APPLICATION FOR PERMIT
BALTIMORE COUNTY MARYLAND
DEPARTMENT OF PERMITS & DEVELOPMENT MANAGEMENT
TOWSON, MARYLAND 21204

DATE: 5-11-04

OEA: LMA

HISTORIC DISTRICT/BLDG. ☐ YES ☑ NO ☐ DO NOT KNOW

PERMIT #: B555457
RECEIPT #: Waived
CONTROL #: RR
XREF #:

FEE: 10.
PAID: Waived
PAID BY: NA
INSPECTOR:

I HAVE CAREFULLY READ THIS APPLICATION AND KNOW THE SAME IS CORRECT AND TRUE, AND THAT IN DOING THIS WORK ALL PROVISIONS OF THE BALTIMORE COUNTY CODE AND APPROPRIATE STATE REGULATIONS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT AND WILL REQUEST ALL REQUIRED INSPECTIONS.

PROPERTY ADDRESS 341 Worton Rd.
SUITE/SPACE/FLOOR
SUBDIV: Middle Borough
TAX ACCOUNT #: 15-03-000240
DISTRICT/PRECINCT 15 / 18

OWNER'S INFORMATION (LAST,FIRST)
NAME: Linda Senez
ADDR: 341 Worton Rd.
21221

APPLICANT INFORMATION
NAME: ~~Linda Senez~~ Dave Woodard
COMPANY: SAME Husband.
STREET 341 Worton Rd.
CITY,ST,ZIP Balt. Md 21221
PHONE #: 410-574-7391 MHIC # MHBR #
APPLICANT SIGNATURE:
DRC#
PLANS: CONST 2 PLOT 4 PLAT DATA EL 2 PL 2
TENANT
CONTR: Owner. 341 Worton Rd.
ENGNR:
SELLR:

DOES THIS BLDG. HAVE SPRINKLERS YES — NO —

Correction Notice # 04-3295
DESCRIBE PROPOSED WORK:
Construct Retaining Wall w/Stairs and Landing To Replace Same, Damaged By Storm of 9/19/03. Retaining Wall Letter Attached, 80 LF X 6 Max Height, Landing 4'X10' = 40sf On Front of Waterfront Property

ok To waive Plans

Footing To BE EXPOSED For Inspection

5/11/04

Linda Senez

TYPE OF IMPROVEMENT
1. ___ NEW BLDG CONST
2. ___ ADDITION
3. ___ ALTERATION
4. ✓ REPAIR
5. ___ WRECKING
6. ___ MOVING
7. ___ OTHER

TYPE OF USE

RESIDENTIAL
01. ✓ ONE FAMILY
02. ___ TWO FAMILY
03. ___ THREE AND FOUR FAMILY
04. ___ FIVE OR MORE FAMILY (ENTER NO UNITS)
05. ___ SWIMMING POOL
06. ___ GARAGE
07. ___ OTHER Ret Wall

NON-RESIDENTIAL
08. ___ AMUSEMENT, RECREATION, PLACE OF ASSEMBLY
09. ___ CHURCH, OTHER RELIGIOUS BUILDING
10. ___ FENCE (LENGTH HEIGHT)
11. ___ INDUSTRIAL, STORAGE BUILDING
12. ___ PARKING GARAGE
13. ___ SERVICE STATION, REPAIR GARAGE
14. ___ HOSPITAL, INSTITUTIONAL, NURSING HOME
15. ___ OFFICE, BANK, PROFESSIONAL
16. ___ PUBLIC UTILITY
17. ___ SCHOOL, COLLEGE, OTHER EDUCATIONAL
18. ___ SIGN
19. ___ STORE ___ MERCANTILE ___ RESTAURANT SPECIFY TYPE
20. ___ SWIMMING POOL SPECIFY TYPE
21. ___ TANK, TOWER
22. ___ TRANSIENT HOTEL, MOTEL (NO. UNITS)
23. ___ OTHER

TYPE FOUNDATION: 1. SLAB 2. BLOCK 3. CONCRETE
BASEMENT: 1. FULL 2. PARTIAL 3. NONE

TYPE OF CONSTRUCTION: 1. MASONRY 2. WOOD FRAME 3. STRUCTURE STEEL 4. REINF. CONCRETE

TYPE OF HEATING FUEL: 1. GAS 2. OIL 3. ELECTRICITY 4. COAL

TYPE OF WATER SUPPLY: 1. PUBLIC SYSTEM ✓ EXISTS ___ PROPOSED; 2. PRIVATE SYSTEM ___ EXISTS ___ PROPOSED

TYPE OF SEWAGE DISPOSAL: 1. ✓ PUBLIC SEWER ___ EXISTS ___ PROPOSED; 2. PRIVATE SYSTEM ___ SEPTIC ___ EXISTS ___ PROPOSED ___ PRIVY ___ EXISTS ___ PROPOSED

CENTRAL AIR: 1. 2. ✓
ESTIMATED COST OF MATERIALS AND LABOR: $ 5,000.
PROPOSED USE: SFD + New Retaining Wall
EXISTING USE: SFD w/ Retaining Wall

OWNERSHIP: 1. ✓ PRIVATELY OWNED 2. ___ PUBLICLY OWNED 3. ___ SALE 4. ___ RENTAL

RESIDENTIAL CATEGORY: 1. ✓ DETACHED 2. ___ SEMI-DET. 3. ___ GROUP 4. ___ TOWNHSE 5. ___ MIDRISE 6. ___ HIRISE
#EFF: #1BED: #2BED: #3BED: TOT BED: TOT APTS/CONDOS:
1 FAMILY BEDROOMS
GARBAGE DISPOSAL 1. Y.. 2. NO BATHROOMS CLASS 34
POWDER ROOMS KITCHENS LIBER 04 FOLIO 191

BUILDING SIZE: FLOOR 0, WIDTH 80, DEPTH, HEIGHT 6', STORIES, LOT #'S 134, CORN
LOT SIZE AND SETBACKS (17100 sf): SIZE 50' X, FRONT STREET, SIDE STREET, FRONT SETBK 15', SIDE SETBK 16'10", SIDE STR SETBK, REAR SETBK N/C

1. PETITIONER'S

EXHIBIT NO. 3B

APPROVAL SIGNATURES		DATE
BLD INSP		5/11/04
BLD PLAN	120	
FIRE		
SEDI CTL	416 NC Fill Material	5/11/04
ZONING		
PUB SERV		
ENVRMNT		
PERMITS		

MORE COUNTY MARYLAND -- NO PERMIT FEES REFUNDED

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

TOWSON, MARYLAND 21204

TIMOTHY M. KOTROCO
DIRECTOR

BUILDING PERMIT

JOHN R. REISINGER
BUILDINGS ENGINEER

PERMIT #: B0050457 CONTROL #: RR DIST: 15 PREC: 18
DATE ISSUED: 03/11/2004 TAX ACCOUNT #: 1503000240 CLASS: 34

PLANS: CONST 0 PLOT 1 R PLAT DATA ELEC NO PLUM NO
LOCATION: 341 WORTON RD
SUBDIVISION: MIDDLEBOROUGH

OWNERS INFORMATION
NAME: SENEZ,LINDA
ADDR: 341 WORTON RD

TENANT:
CONTR: OWNER
ENGNR:
SELLR:
WORK: CONST RETAINING WALL W/STAIRS & LANDING TO RPLC
SAME,DAMAGED BY STORM OF 9/13/03.RETAINING WALL
LETTEK ATTACHED.TO BE ON FRONT OF WATERFRONT
PROPERTY. ROLF X 6' MAX HEIGHT
LANDING IS 4'X10'=40SF

BLDG. CODE:
RESIDENTIAL CATEGORY: DETACHED OWNERSHIP: PRIVATELY OWNED

PROPOSED USE: SFD & NEW RETAINING WALL
EXISTING USE: SFD W/RETAINING WALL

TYPE OF IMPRV: REPAIR
USE: OTHER - RESIDENTIAL
FOUNDATION: BASEMENT:
SEWAGE: PUBLIC EXIST WATER: PUBLIC EXIST

LOT SIZE AND SETBACKS

SIZE: 50.00 X
FRONT STREET:
SIDE STREET:
FRONT SETB: 15'
SIDE SETB: 16'/0
SIDE STR SETB:
REAR SETB: NC

THIS PERMIT EXPIRES
ONE YEAR FROM
DATE OF ISSUE

PETITIONER'S

EXHIBIT NO. 3A

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

February 10, 1984

Mr. & Mrs. Arthur L. Myers
341 Worton Road
Baltimore, Maryland 21221

IN RE: Petition Zoning Variances
E/S of Worton Road, 70' N of
Sassafras Road (341 Worton
Road) - 15th Election District
Arthur ~~L. Myers~~, et ux,
Petitioners
Case No. 84-188-A

Dear Mr. & Mrs. Myers:

I have this date passed my Order in the above-referenced matter in accordance with the attached.

Sincerely,

ARNOLD JABLON
Zoning Commissioner

AJ/srl

Attachments

cc: People's Counsel

PETITIONER'S

EXHIBIT NO. 4

IN RE: PETITION ZONING VARIANCES
E/S of Worton Road, 70' N of
Sassafras Road (341 Worton
Road) - 15th Election District

Arthur L. Myers, et ux,

Petitioners

* BEFORE THE

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 84-186-A

* * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request variances to permit a side yard setback of one foot instead of the required 2½ feet and an average height of 19 feet instead of the required 15 feet, as more fully described on Petitioners' Exhibit 1.

The Petitioner, Arthur L. Myers, appeared and testified. There were no Protestants.

Testimony indicated that the property in question is zoned D.R.5.5. and is 50' x 350'. The Petitioners own and reside in the dwelling situated on the lot and have constructed a 24' x 24' garage to the rear of the home. The garage has a storage area on top with an outside entrance as shown on Petitioners' Exhibit 1. The garage was constructed at the end of the existing driveway to the left of the house and is attached to an existing 10' x 10' building.

The Petitioners received a building permit to construct the garage but were unaware of the height restriction imposed by the Baltimore County Zoning Regulations (BCZR). Since they wanted and needed more storage area, they decided to add the second story to the garage. The subject property is bordered on each side by a retaining wall necessitated by existing slopes. Although the Petitioners are unsure of how far the retaining wall is from the side property line, they believe it is about one foot inside. Since they constructed the garage 1½ feet from the wall, they thought the garage met the required side yard setback.

However, they discovered that the side yard setback is determined by the existing building to which the garage is attached, which is one foot from the wall. The Petitioners are unsure of the exact distance from the side property line to the garage inasmuch as the retaining wall was constructed before they purchased the property and no survey was ever made. At the very least, the minimum distance would be one foot.

The average height of the garage is 19 feet with a peak of 21 feet; the house is about 21 feet in height. The Petitioners would be willing to change the roof in order to comply, but this apparently is unacceptable to various County agenices. It would be a practical difficulty to move the garage elsewhere on the property or to lower the roofline. The property is narrow, and if the garage were moved to the right, extensive paving and a maneuvering area would be required, whicn would disrupt the ecological balance of the property.

The Petitioners seek relief from Sections 400.1 and 400.3, pursuant to Section 307, of the BCZR.

An area variance may be granted where strict application of the zoning regulation to the petitioner and his property would cause practical difficulty. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

1. whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

2. whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3. whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances were granted, such use as proposed would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public good.

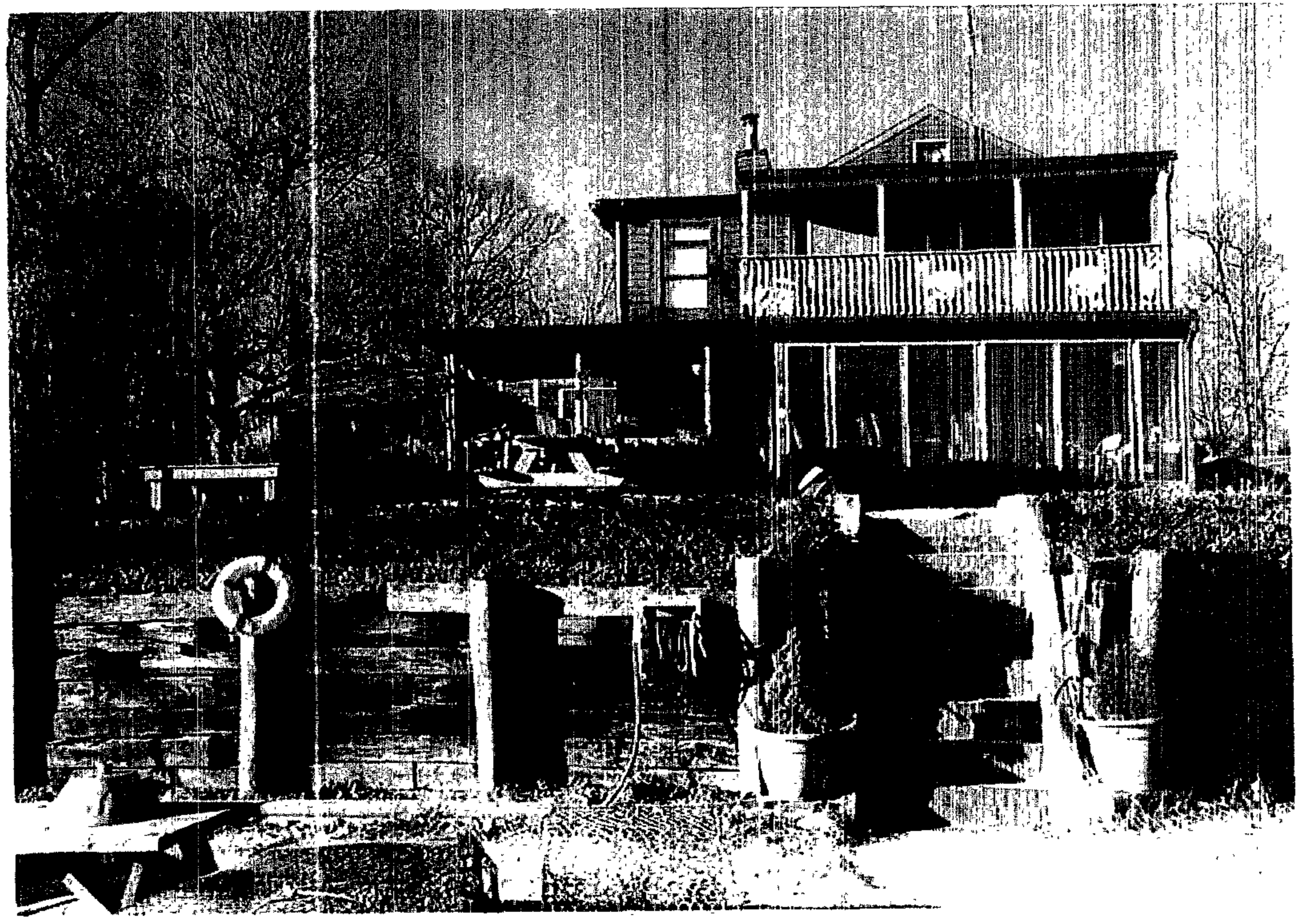
After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the instant variances were not granted. It has been established that the requirement the Petitioners seek relief from here would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety, and general welfare.

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

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 10th of February, 1984, that the Petition for Variances to permit a side yard setback of one foot instead of the required 2½ feet and an average height of 19 feet instead of the required 15 feet be and is hereby GRANTED, from and after the date of this Order, subject to the following:

1. Compliance with the comments submitted by the Baltimore County Zoning Plans Advisory Committee (ZPAC), which are adopted in their entirety and made a part of this Order.

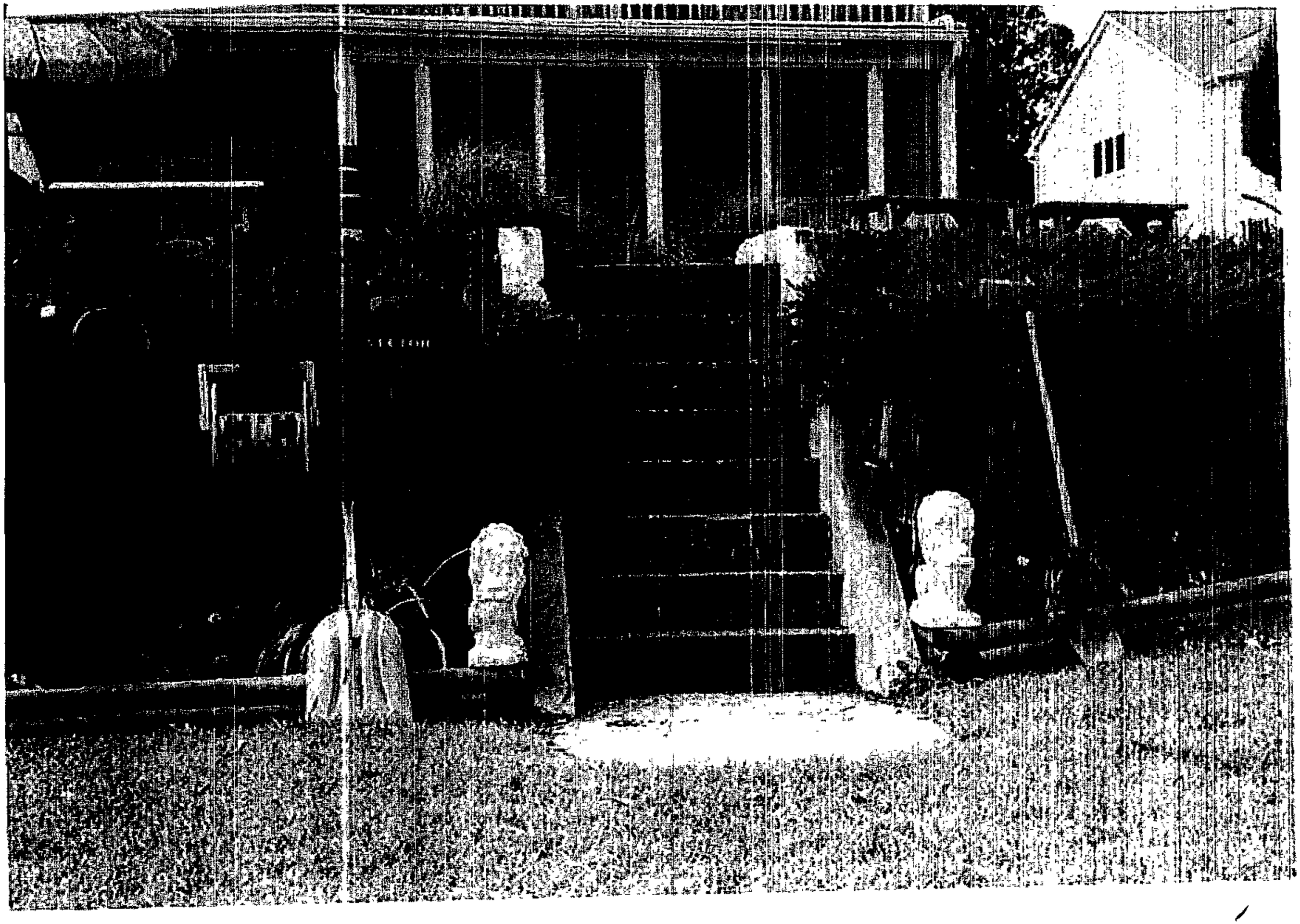
Zoning Commissioner of
Baltimore County



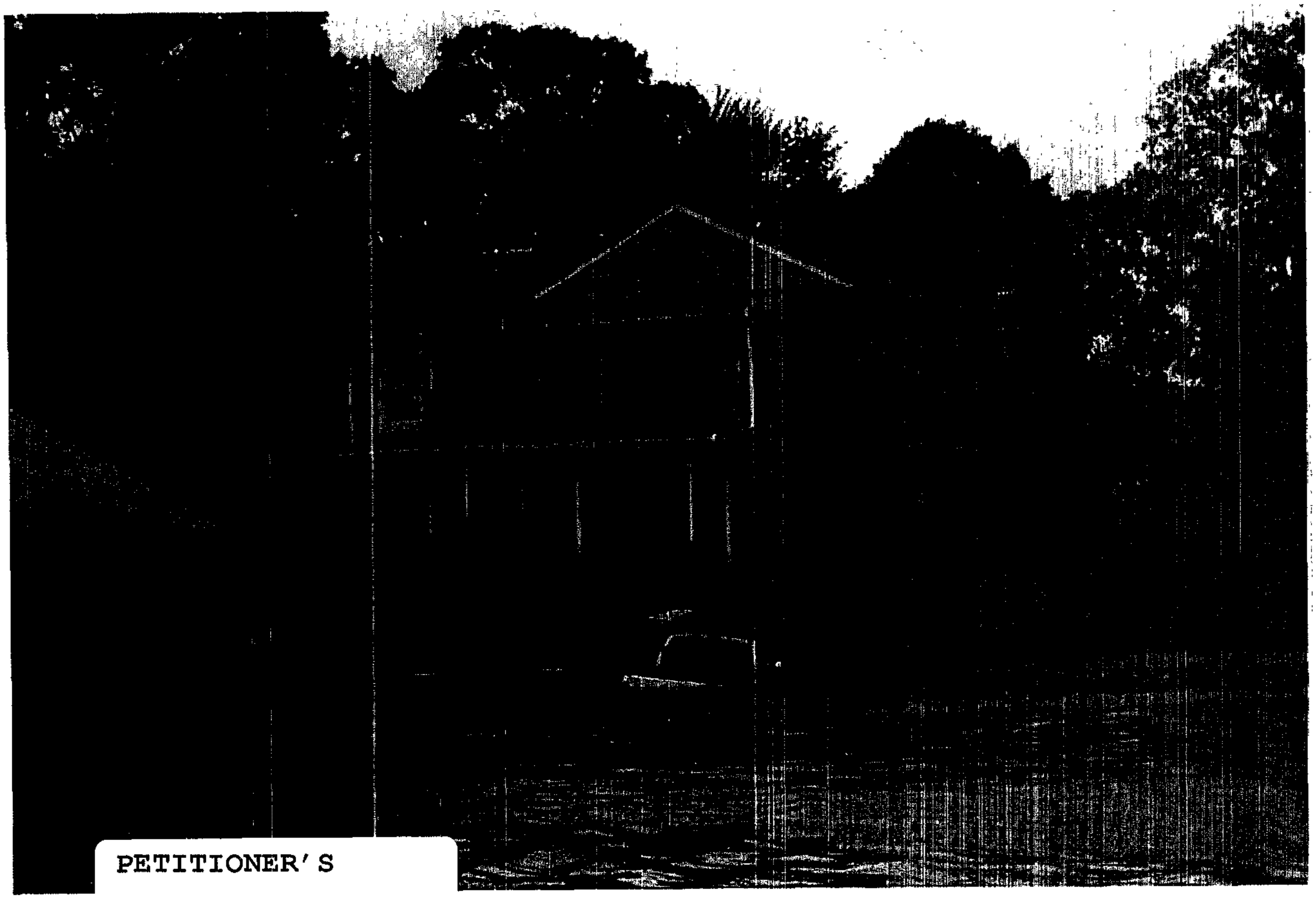
PETITIONER'S

EXHIBIT NO. 5

B



6 C



PETITIONER'S

EXHIBIT NO. 6A

GB

B

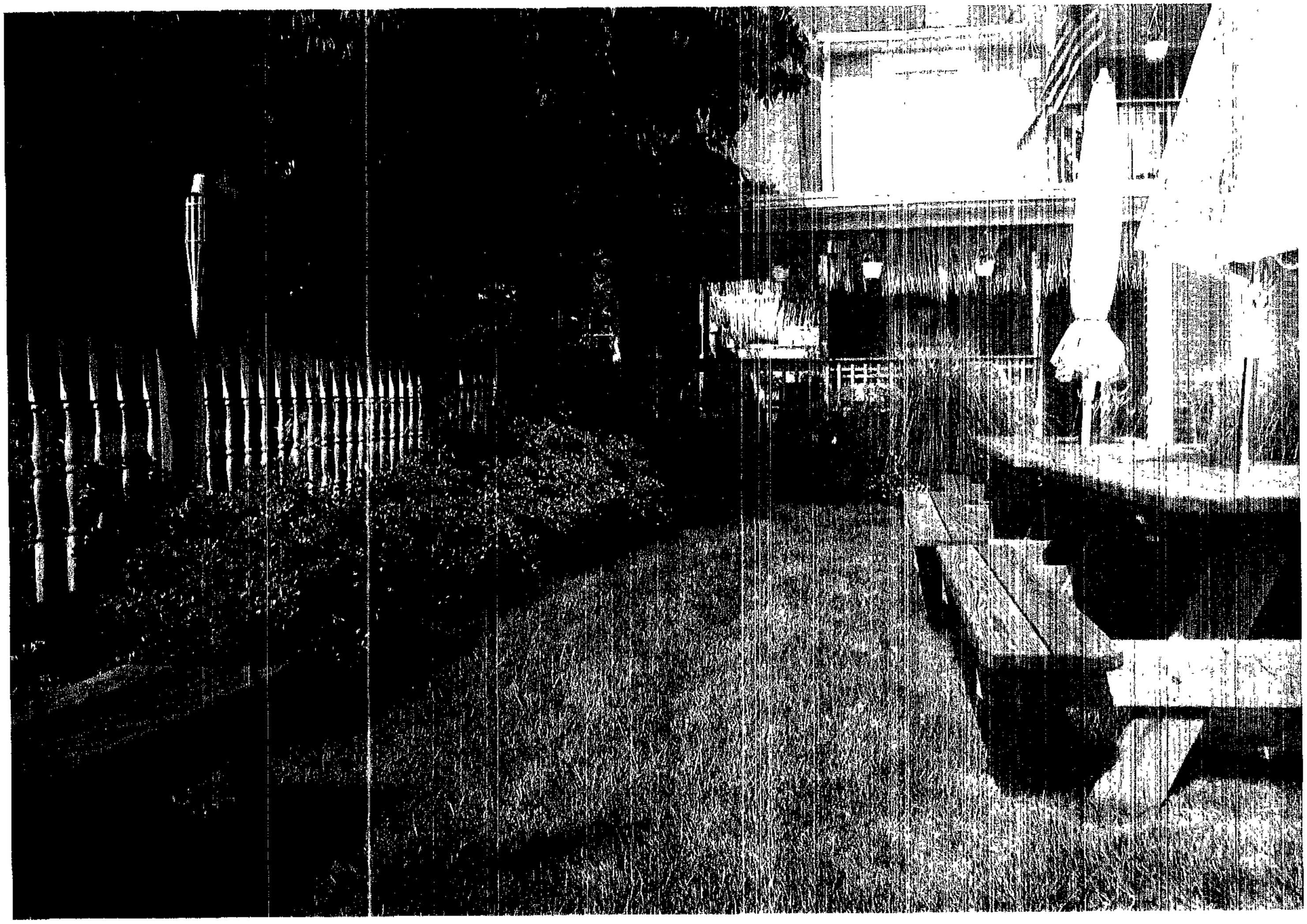
PRIOR TO
ISABEL

11/06

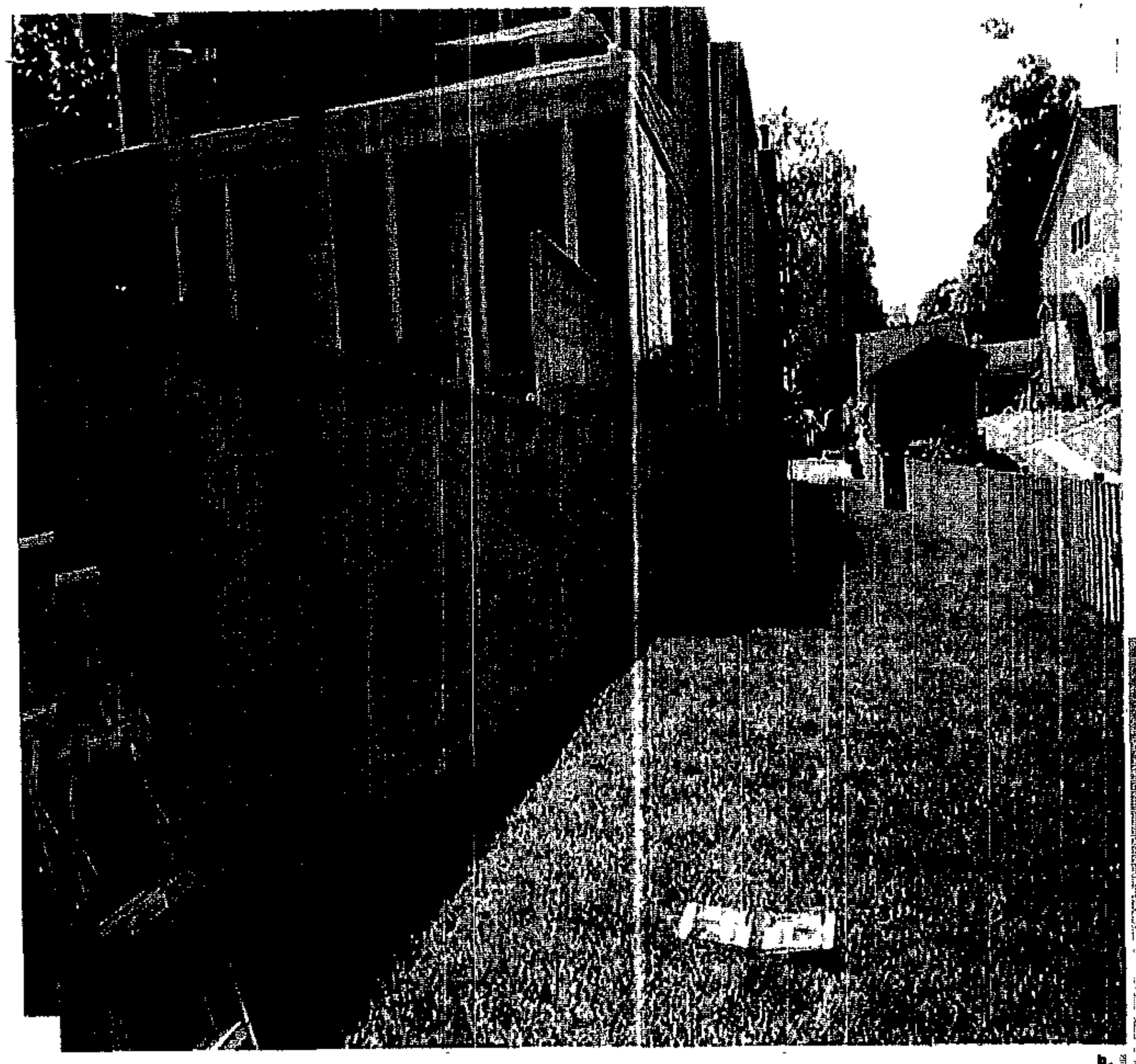
PETITIONER'S

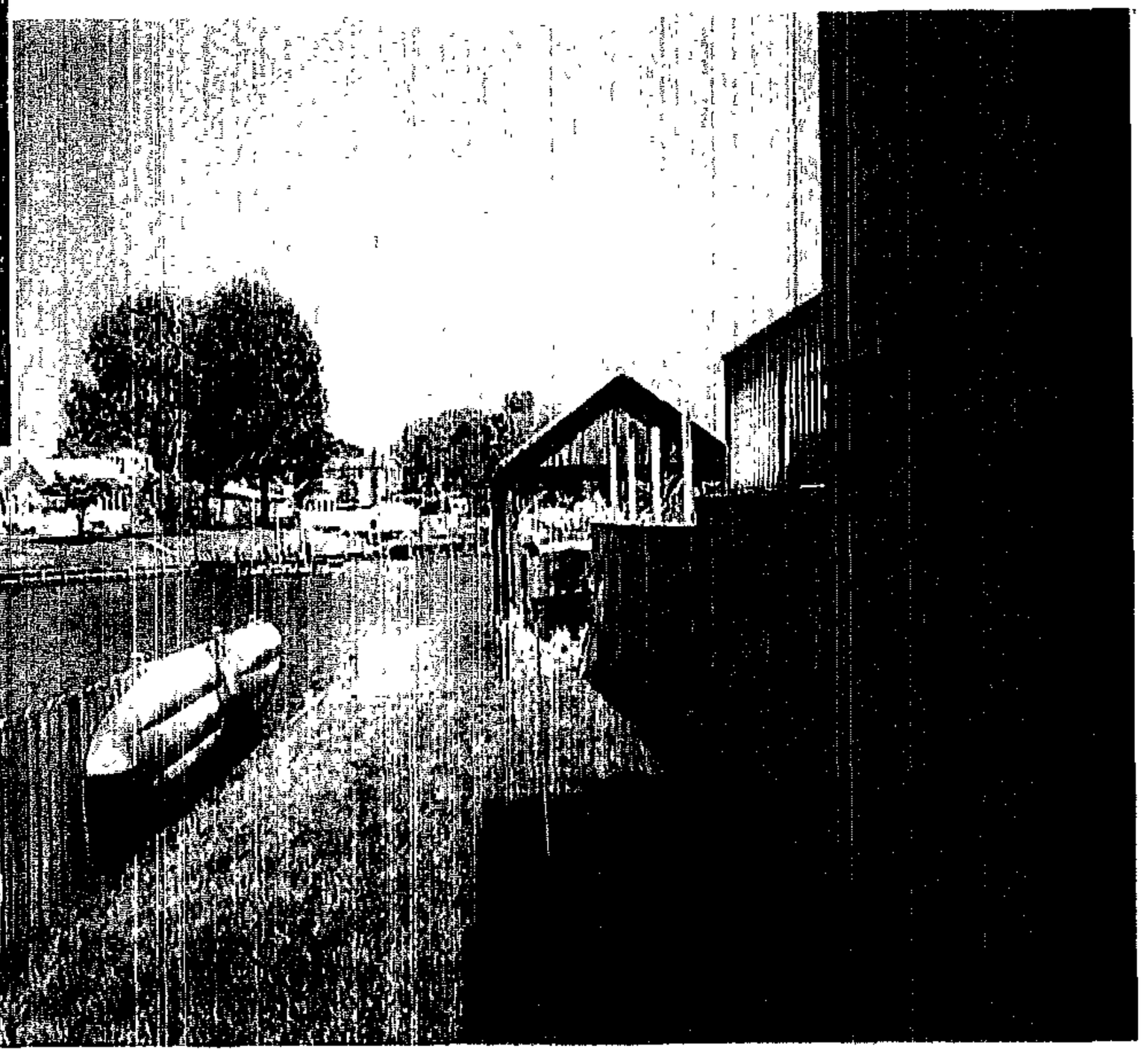
EXHIBIT NO. 3A

A

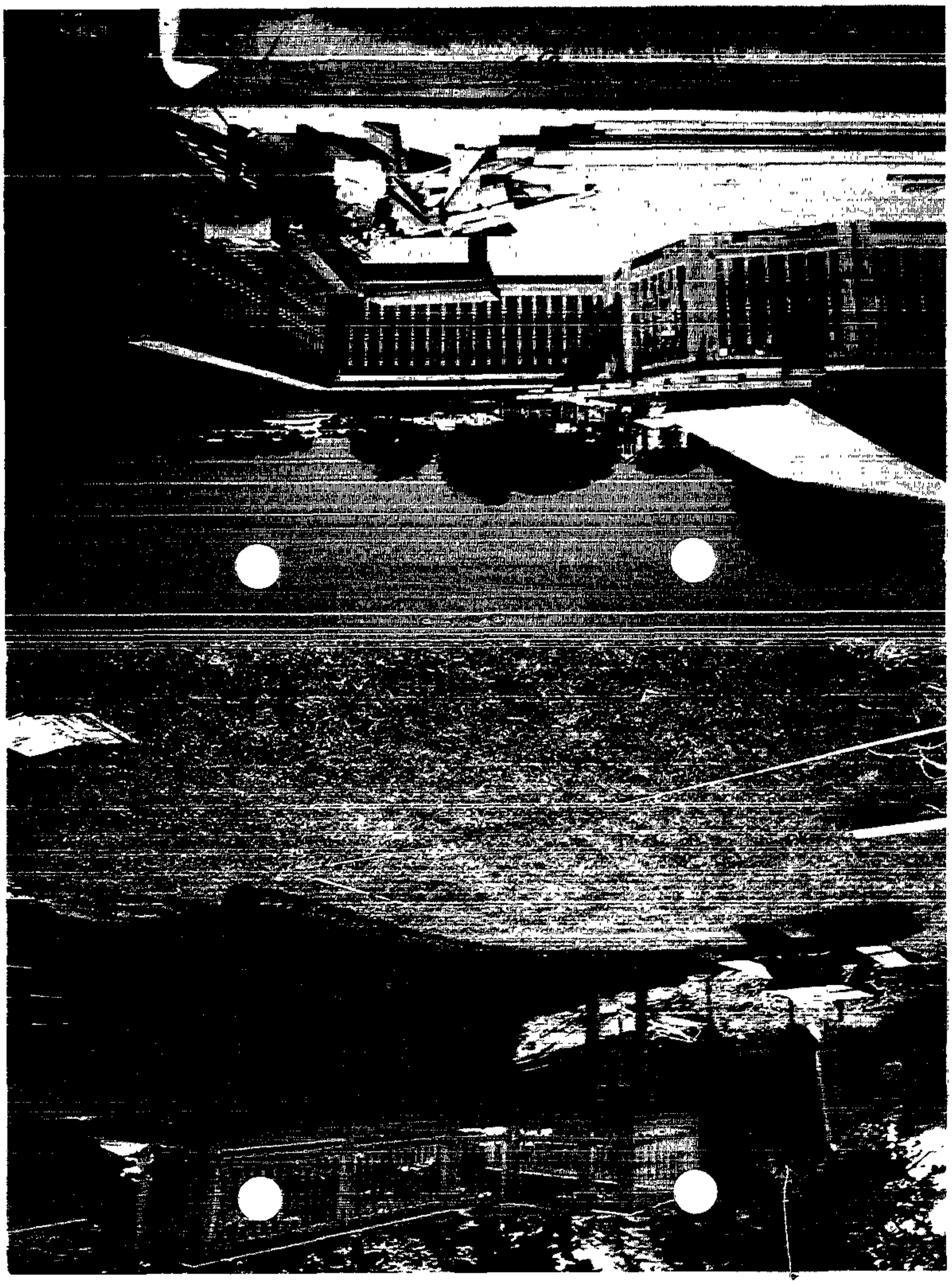


F B





7C



2005

PETITIONER'S

EXHIBIT NO. 8

2002

PETITIONER'S

EXHIBIT NO. 8A

January 31, 2005

Baltimore County Zoning Commissioner
County Courts Building
401 Bosley Avenue
Towson, MD 21204

RE: Senez Zoning Variance Petition
341 Worton Road

Dear Mr. Commissioner,

My name is Fred Lengsfeld; I own the property at 343 Worton Road, Baltimore County. I have no objection to the deck and fence on the property 341 Worton Road that belongs to Linda Senez that was constructed last Summer of 2004.

Sincerely,

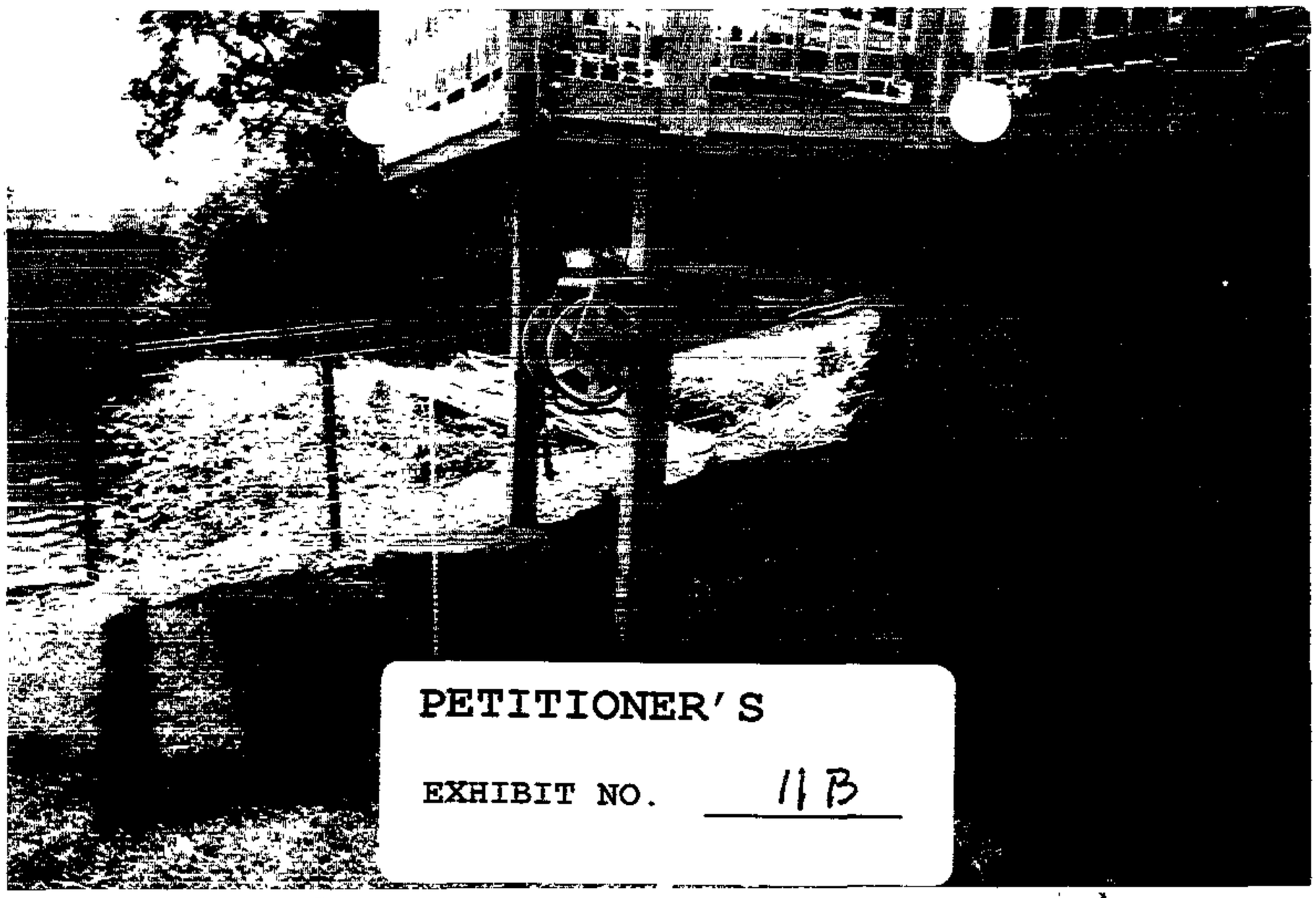
Fred Lengsfeld

PETITIONER'S
EXHIBIT NO. 9

02/02/2005 12:29 NO.037 D02

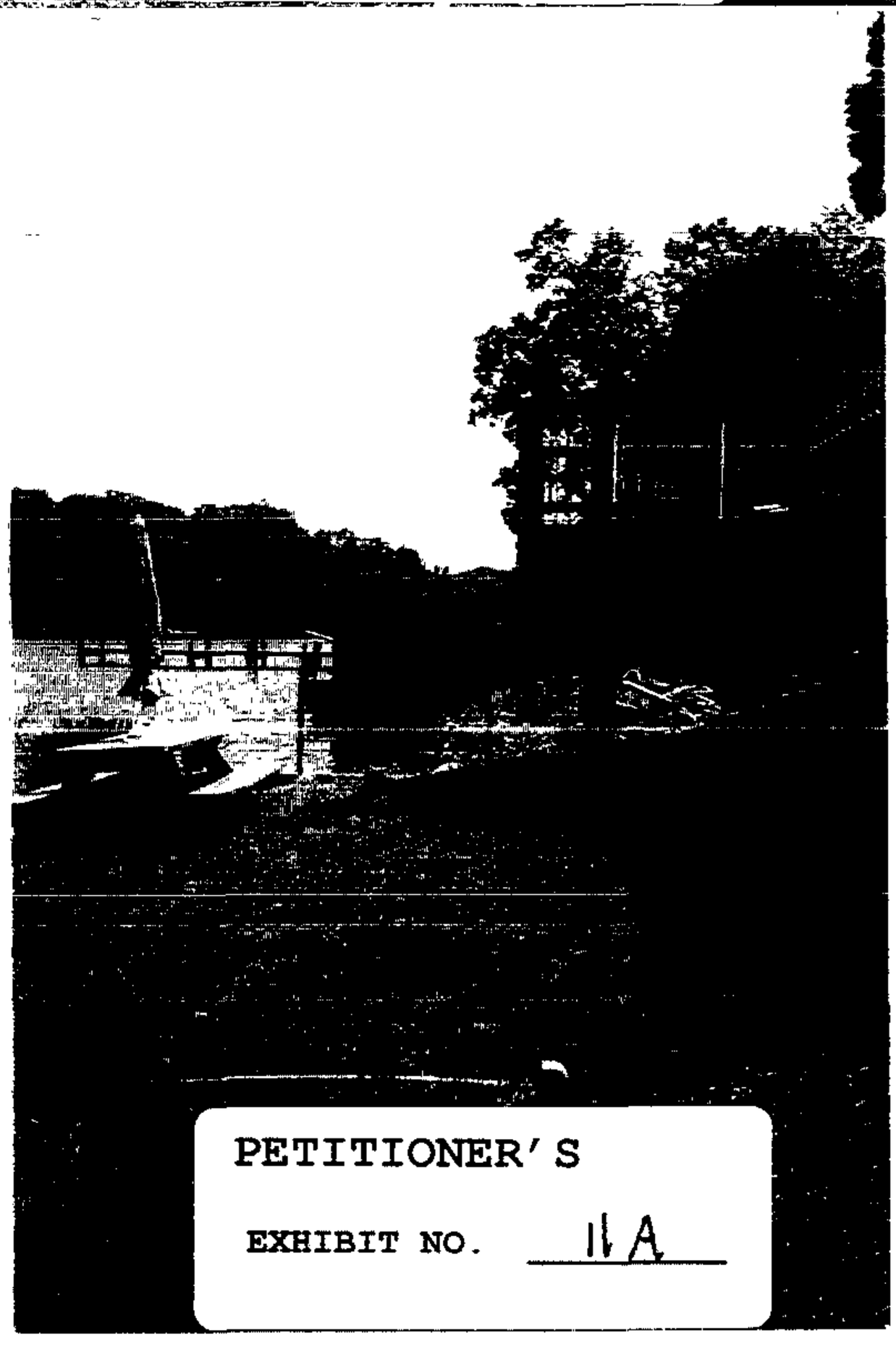
PETITIONER'S

EXHIBIT NO. 10



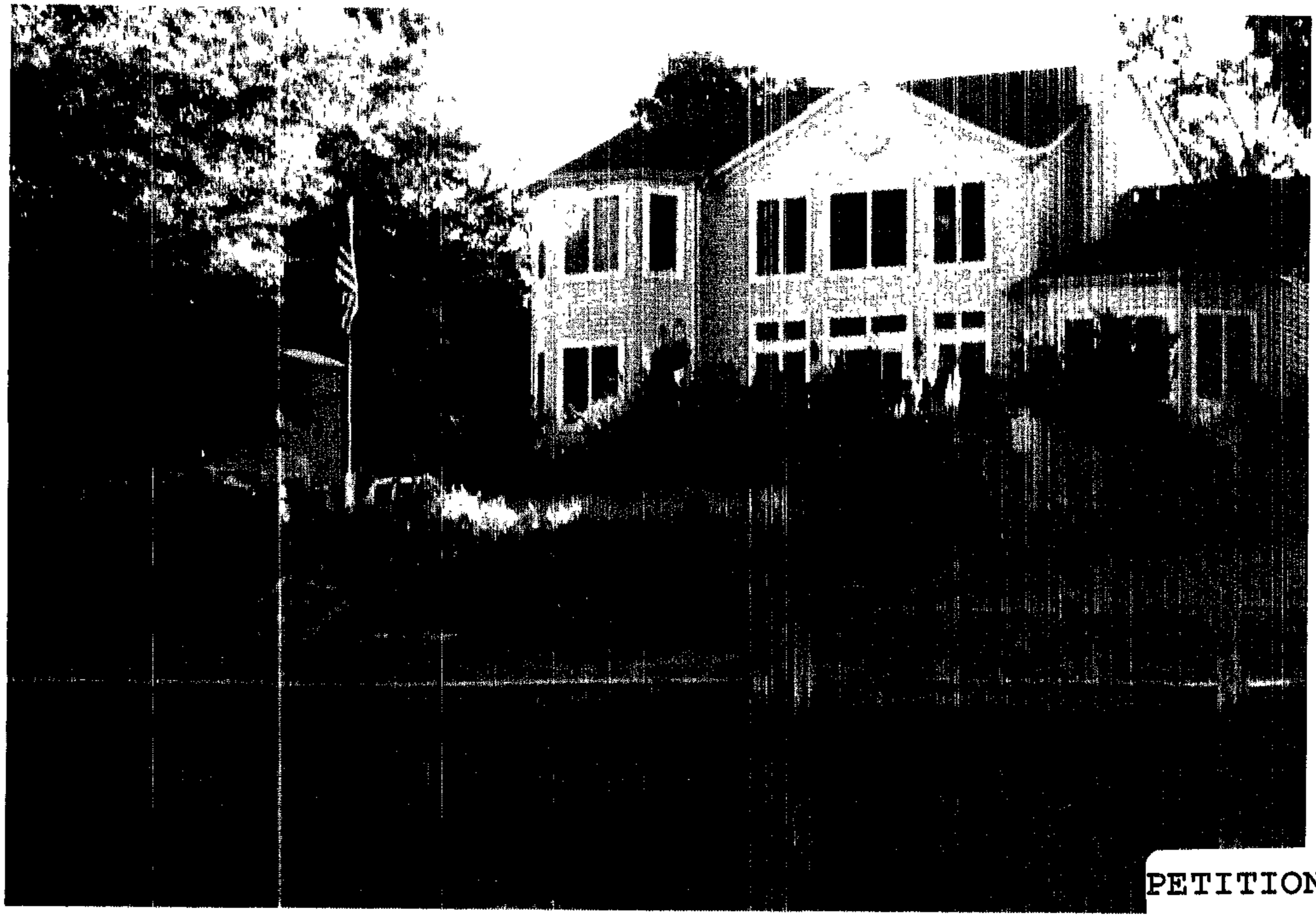
PETITIONER'S

EXHIBIT NO. 11B



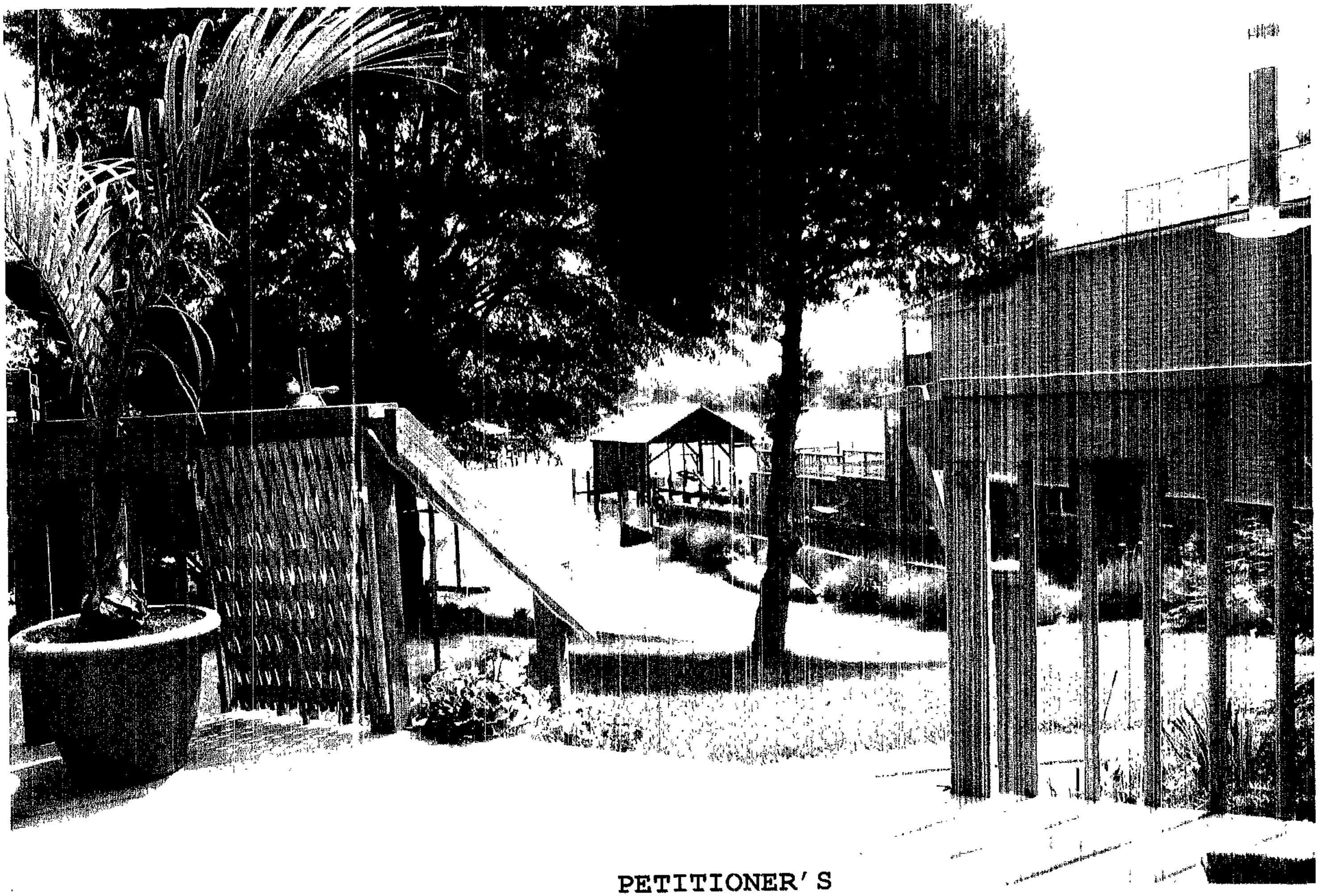
PETITIONER'S

EXHIBIT NO. 11A



PETITIONER'S

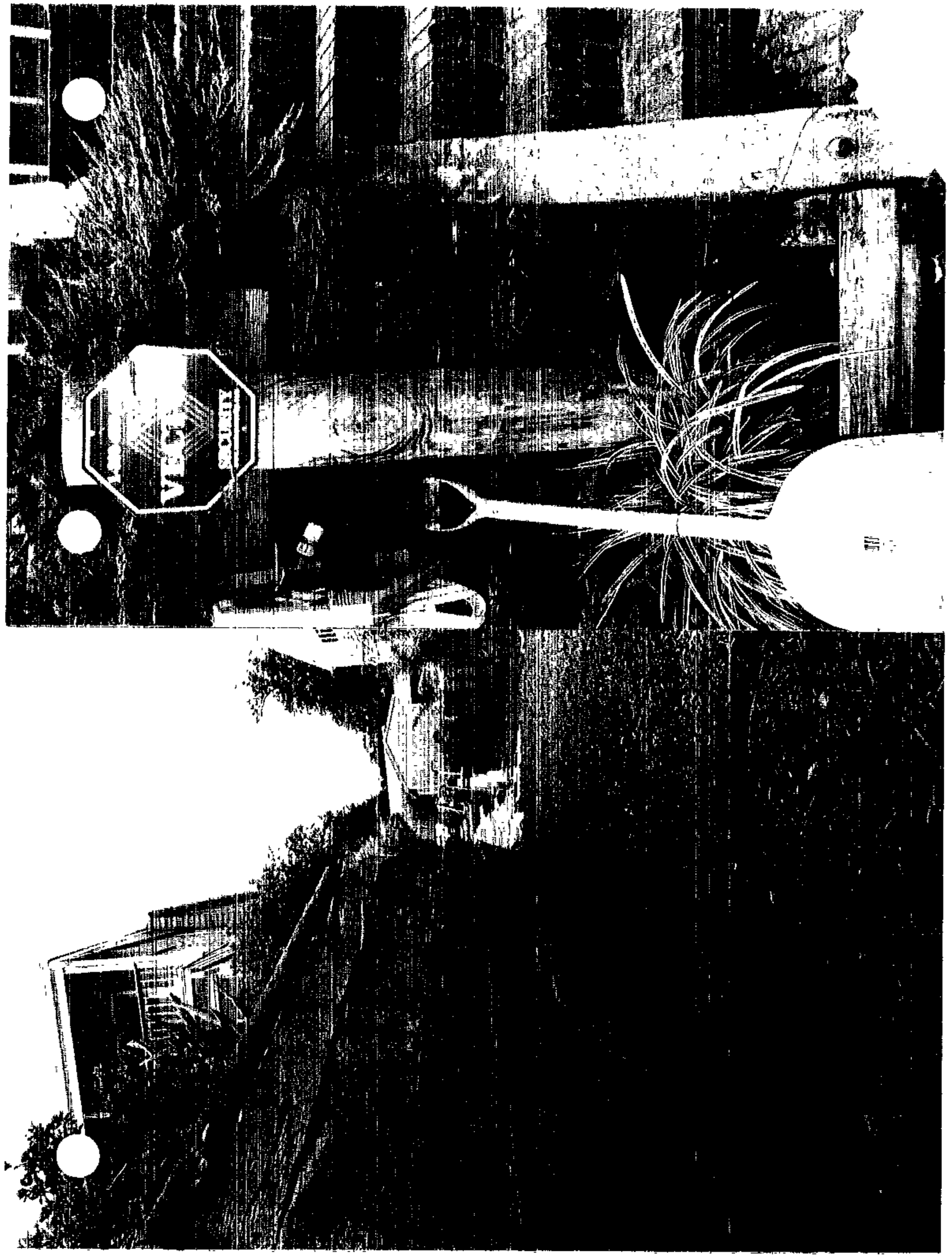
EXHIBIT NO. 12 B

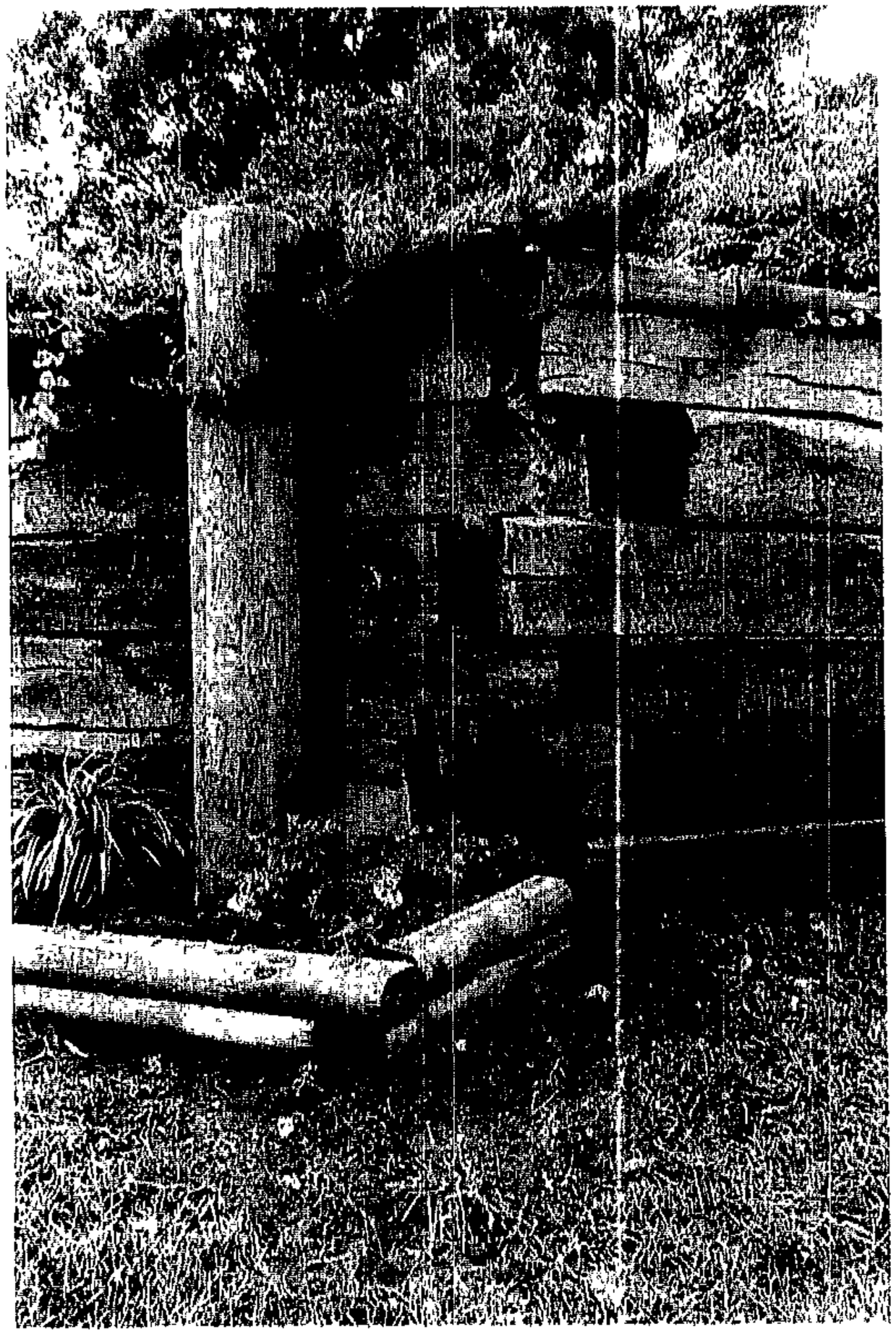


PETITIONER'S

EXHIBIT NO. 12A

MAY 15, 2004



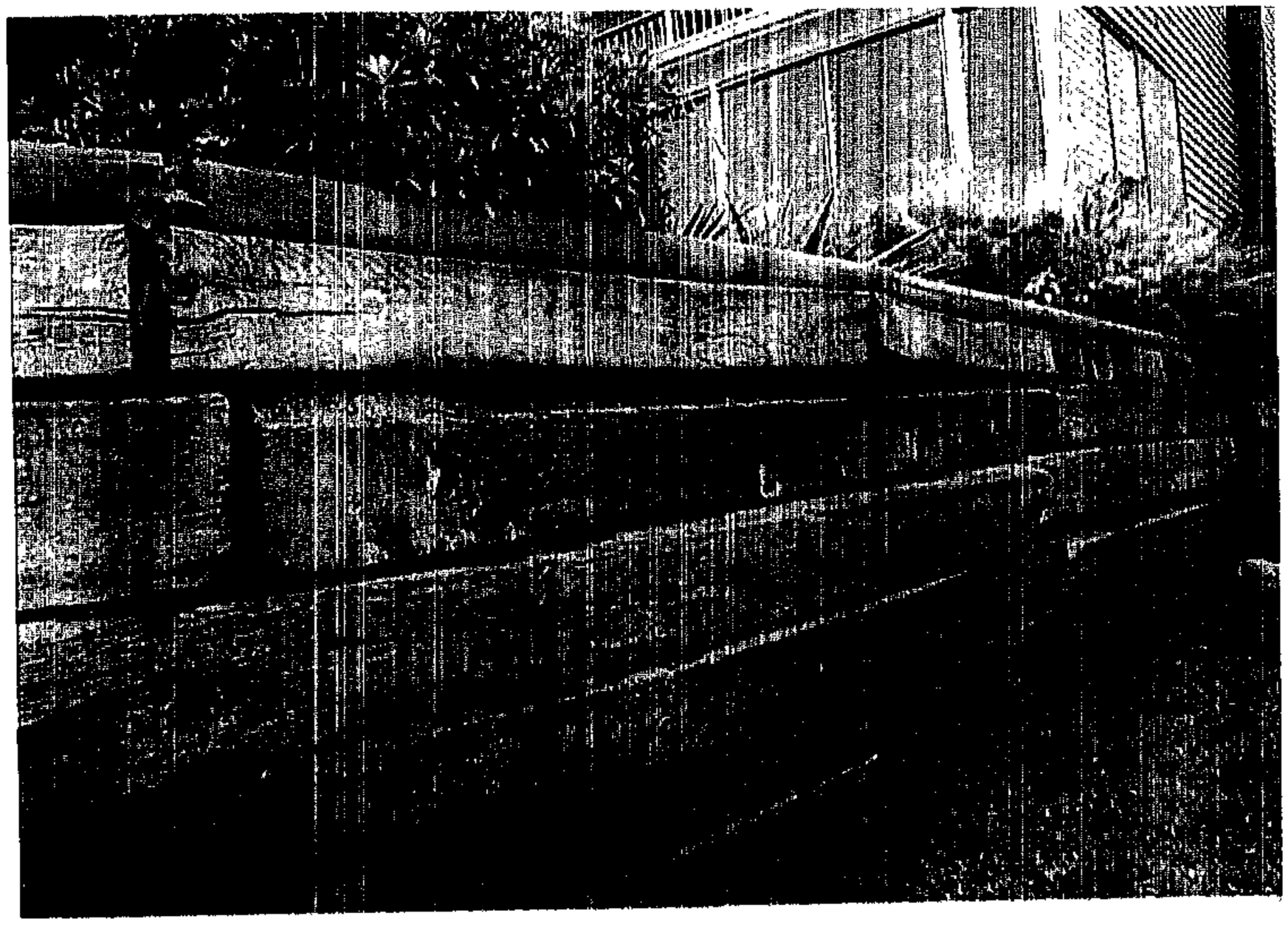


13A

PETITIONER'S

EXHIBIT NO. 13

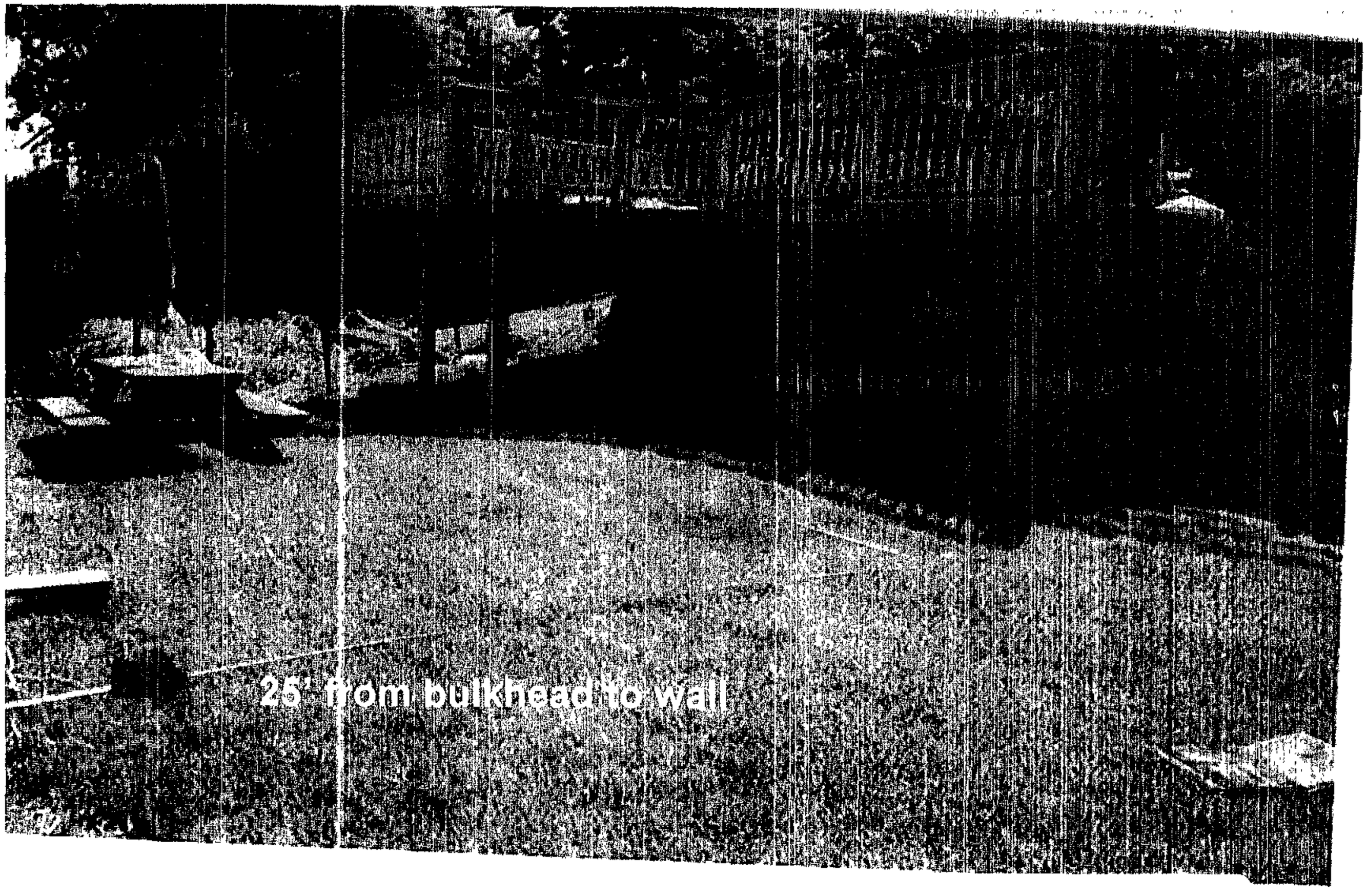
13A thru E



13B

Re-Grading

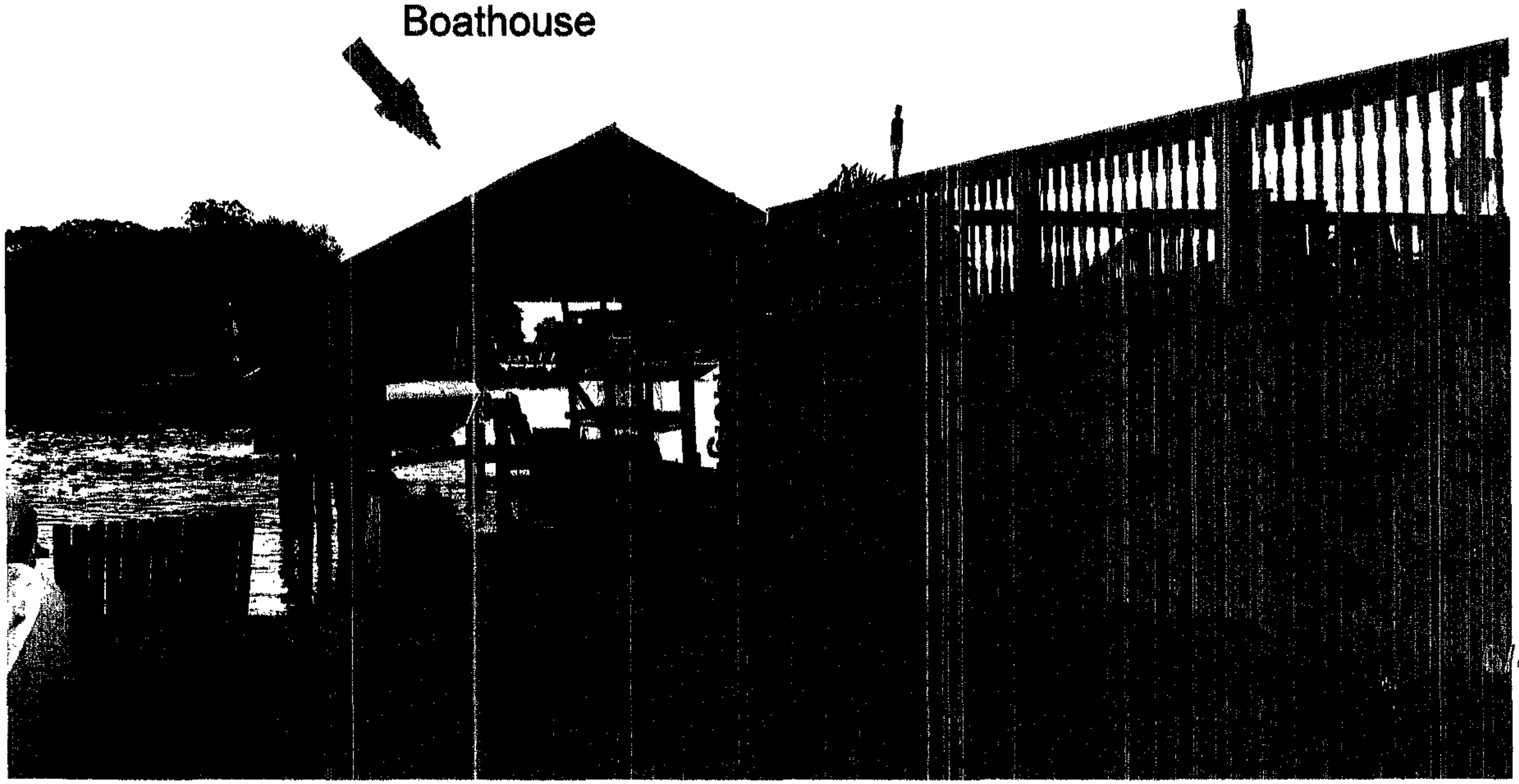
Deck bump out on right hand side is not out past were the wall originally was. The landing is about half as far as the original upper level extended.



PETITIONER'S

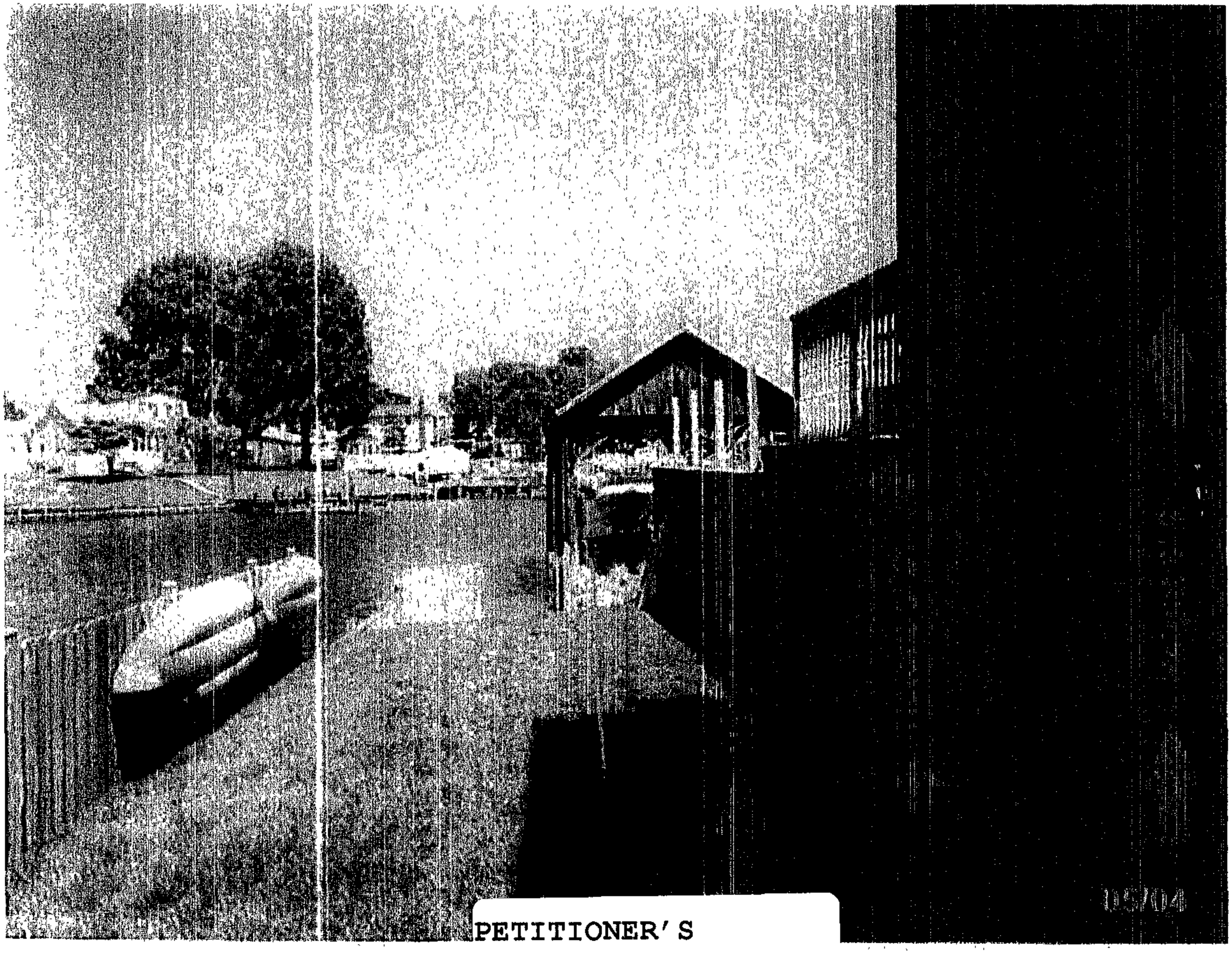
EXHIBIT NO. 14 A

14A



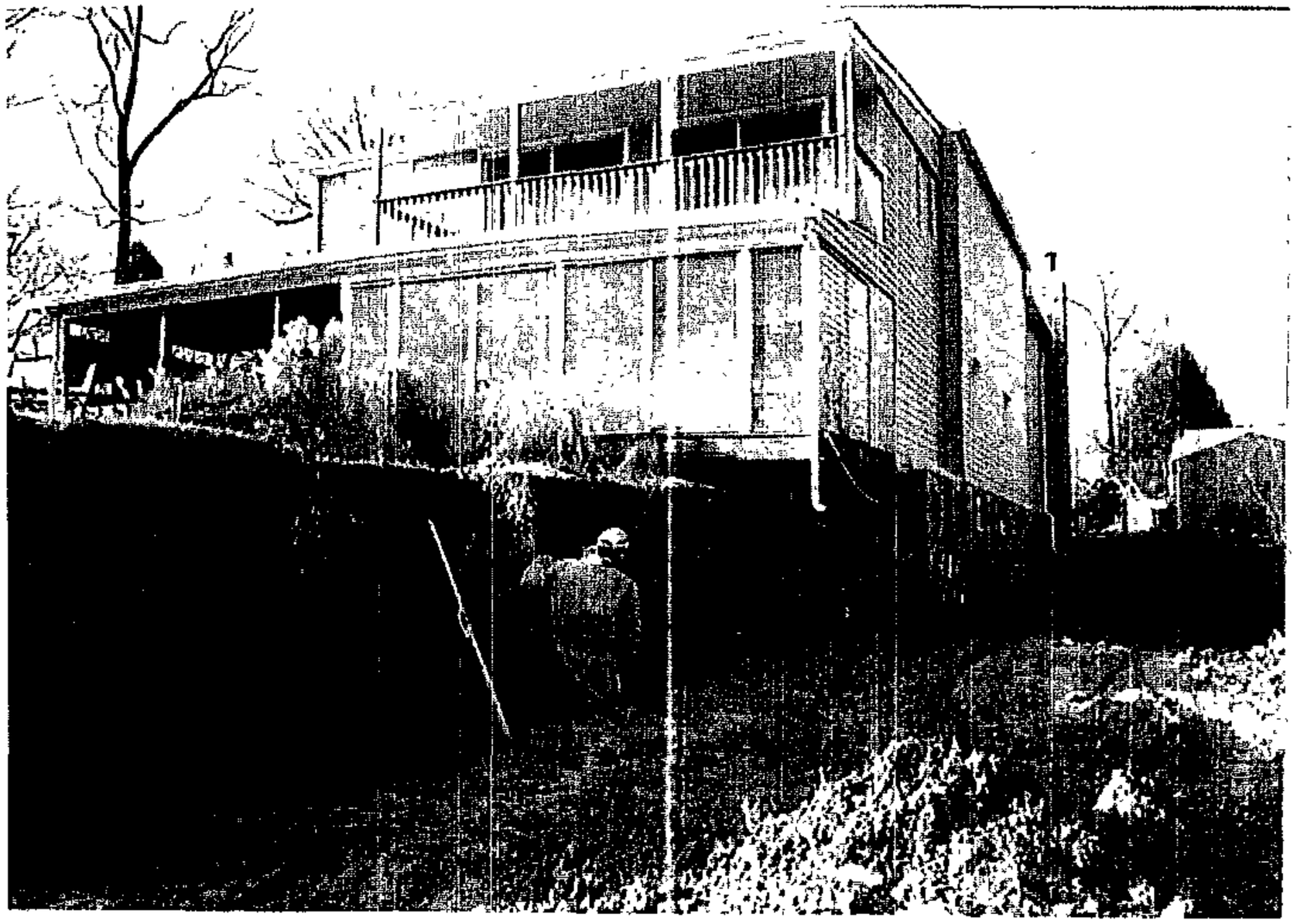
PETITIONER'S

EXHIBIT NO. 14B



PETITIONER'S

EXHIBIT NO. 14C



PETITIONER'S

EXHIBIT NO. 15