IN RE: PETITION FOR SPECIAL HEARING
S/S of Philadelphia Road, 95 feet west
Of c/l of Spring Avenue
15th Election District
7th Councilmanic District
(8237 Philadelphia Road)

David F. and Kelly McNew II
Legal Owners
Baltimore County Department of
Permits and Development Management,
By Timothy Kotroco, Director
Petitioner

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY

CASE NO. 06-611-SPH

* *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner on a Petition for Special Hearing for the property located at 8237 Philadelphia Road. The Petition was filed by Baltimore County Department of Permits and Development Management, By Timothy Kotroco, Director. Special Hearing relief is requested pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to rescind the relief granted in Case No. 06-330-A by Order dated March 16, 2006 for applicant's failure to comply with the conditions precedent to the granting of that relief.

The file does not contain a certificate indicating that the property was posted with Notice of Hearing. However both the Petitioner's representative and Respondents agreed on the record that the property was posted prior to November 23, 2006 which would have been 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on November 21, 2006, to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all

12-26-06

zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) Comments are made part of the record of this case and contain the following highlights: None.

Interested Persons

Appearing at the hearing on behalf of the requested special hearing was Jeff Radcliffe, Code Enforcement Officer with the Department of Permits and Development Management. David F. and Kelly McNew II, the legal owners and Respondents in this matter appeared at the hearing in opposition to the requests. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The property contains a gross area of .46 acres and is split zoned D.R.5.5 and B.L. as shown on exhibit 1. The subject property is improved with a two-story dwelling, which contains two apartments and a detached garage.

Mr. Radcliffe indicated that the Respondents had been granted a variance in Case No. 06-330-A which allowed the Respondents to use the subject property as two apartments. However he noted that the Order by the Zoning Commissioner in that case contained certain conditions which he contends were conditions precedent to the granting of the variance. He indicated further that no appeal of the decision was made to the Board of Appeals nor was any Motion for Reconsideration filed by the Respondents. The date of the Order in Case No. 06-330-A was March 16, 2006.

He further indicated that three of the conditions required the Respondents to take certain actions. Those conditions were

> 2. The Petitioners shall regularly maintain the property in good condition, free of all trash and debris, and in compliance with all zoning and building code regulations.
>
> 3. There shall be no storage of damaged, disabled or untagged vehicles on the property, and the storage of any recreational vehicle on the property shall be in accordance with the Baltimore County Zoning Regulations.
>
> 4. Within sixty (60) days of the date hereof, the two parking spaces located in the front yard shall be removed and that area landscaped with lawn and shrubbery.

On May 17, 2006 shortly after the 60 days specified in condition 4 expired, he inspected the subject property, took eleven photographs of same as shown in County exhibit 1A and reported that the two parking spaces in the front of the building had not been removed, there were trash, debris, an unlicensed recreation vehicle, a trailer with expired tags and a garage with severely deteriorated roof on the property. As a result he opined that the conditions of the variance had not been complied with and consequently the grant of the variance should be rescinded.

Subsequently the County filed the subject case to rescind the variance which was set for public hearing on August 9, 2006. To prepare for the public hearing, Mr. Radcliffe revisited the property on August 7, 2006. Again he took photographs of the conditions on the property, County exhibit 1B, which showed the two parking places in the front of the building, trash, debris, the garage with a hole in the roof, unsanitary accumulations of trash bags, an old stove on the porch, and a dump truck with unsanitary material on the property.

However there was no certificate of posting by the County in the file and the August 9, 2006 hearing was rescheduled to December 7, 2006. Apparently the Respondents became aware of the hearing and interrupted their out of state vacation to attend. Mr. McNew indicated that he

was very upset with the County for not having the hearing, complained to the Zoning Commissioner's Office and received a copy of the March 16, 2006 Order.

As the case was scheduled for a public hearing on December 7, 2006, Mr. Radcliffe returned to the property and took photographs of the conditions thereon as shown on County exhibit 1C. Again he reported that the two parking spaces in front of the house had not been removed as required by condition 4 of the Order. In addition he found trash cans without lids, trash, debris, an untagged vehicle, and garage with the hole in the roof, garage windows missing. He testified that the conditions in the Order in case 06-330- A were conditions precedent to granting the variance and as these conditions were not complied with, the variance should be rescinded.

Upon questioning he admitted that neither he nor his Department notified the Respondents of the unsanitary conditions, untagged vehicles, failure to remove the parking spaces or the deteriorated garage after the May 17, August 7 or December 5, 2006 reinspections. He indicated that this was not Department policy as the owner is required to know the condition of his property. The photographs taken were to be evidence at the hearing and he has no responsibility to provide evidence before the case is heard.

Mr. McNew testified that his present address is 819 Cedar Grove Road and not the subject property. He noted that he and his wife lived at the subject address on Philadelphia Road beginning in 1996 but that in 2000 the building sustained damage in a fire. They subsequently moved to the Cedar Grove Road address during rehabilitation of the building. They moved back into the subject property in 2001 but found they had difficulty doing all the repairs needed.

He indicated that he never received the original March 16, 2006 decision and Order and so did not know the conditions of approval. He admitted he knew about the deteriorating roof on the garage but said he was occupied with major renovation issues which he was addressing one

at a time. He agrees to raze the garage.

Both Mr. McNew and Mrs. McNew indicated that they did not realize condition 4 required them to remove the two front parking spaces. They expressed disbelief this could be required as the neighborhood has many similar parking spaces in front yards along Philadelphia Road as shown Respondents' exhibit 3A, 3B and 3C. They would prefer to eliminate parking in the rear rather than the front if this were still needed.

In addition they opined there are many properties in the immediate vicinity that have much worse problems such as broken sidewalks, trash, debris, untagged vehicles problems as shown in Respondents exhibit 2 and 3. Similarly there are many other properties with deteriorating buildings such as shown in Respondents exhibit 3J. Finally they indicated that the problems with trash and debris were caused by their tenants and were temporary conditions which have been corrected.

The Respondents further indicated that since they never received the original March 2006 Order, they were unable to appeal the conditions to the Board of Appeals or to ask for reconsideration from the Zoning Commissioner.

Mr. Radcliffe noted that his office has issued another notice to repair or raze the garage which must be done as of January 5, 2007.

Findings of Fact and Conclusions of Law

The Petitioners assert they never received the March 16, 2006 Order in Case No. 06-330-A and so were prejudiced by losing their right to appeal or to ask for reconsideration. I note that the Respondents indicate their present address is 819 Cedar Grove Road on the subject case sign in sheet. They testified that although they lived in the subject property at Philadelphia Road for several years, they were living at Cedar Groove in March 2006 when case 06-330-A was heard by the Zoning Commissioner. The Zoning Commissioner's cover letter transmitting the decision

and Order in Case 06-330-A shows the March 16, 2006 decision and Order were sent by first class mail to the Respondents' Cedar Grove address.

The facts convince me that the Order in Case 06-330-A was sent to the Petitioners where they lived and by all experience should have reached them. However, if all else were equal, I would simply give them the benefit of the doubt that somehow the letter and Order never reached them, and I would then order the Respondents to comply with the conditions within a reasonable time. But the files and the facts indicate otherwise to me.

First the file in Case No. 06-330-A shows that the County cited the Respondents with Code violations involving the deteriorated garage, trash, debris and untagged vehicles as well as unlawful conversion of dwelling into two apartments in May 2005. The Respondents then filed for a variance for the apartment conversion. The Zoning Commissioner simply incorporated the requirements to clean up and keep clean the premises in his March 2006 Order. For the Respondents to claim they did not know the conditions involving Code violations is clearly disingenuous.

Similarly the Petitioners admit that they received a copy of the Order in Case No. 06-330-A on August 9, 2006. Yet absolutely nothing was done to appeal the decision, request reconsideration of the decision or comply with the conditions. They seem to feel that since they would have another hearing date, they could simply wait for the new hearing to start work on the clean up or renegotiate the conditions with which they did not agree. Again I find the Respondents actions (or really lack of action) disingenuous.

I find that the time for appeal and/or reconsideration of the March 16, 2006 Order has expired and the Order is a final order. I also find the Respondents knew or should have known of the conditions in the March 16, 2006 Order and failed to comply with said conditions. As

such the County has a right to enforce the final Order through zoning enforcement procedures. After notice and hearing the Respondents are subject to all sanctions in the law.

The question the County asks however is much more profound. The Department takes the position that compliance with the conditions is a condition precedent to granting the variance. This raises an important question as to whether or not a variance granted with conditions may be rescinded if the conditions are not complied with? There is no question that this Commission can impose conditions to mitigate adverse affects on health safety and welfare of the community when granting variances. Again a final Order of this Commission is enforceable by the County to the same degree and extent as any regulation in the BCZR or statute in the BCC.

However I know of no process in law that allows this Commission to rescind a variance once granted. Part of the problem is that variances "run with the land" and are not personal to the owner. This means that a property on which a variance has been granted may be sold to a new owner who has every right to use the variance. Variances once granted become property rights that do not expire or disappear for lack of use. These rights do not depend on the owner's compliance with the law. Said another way if the variance was a function of the owners behavior, it would no longer be a property right.

Another part of the problem is a more basic to the specific order in Case 06-330-A. Clearly it would have been more appropriate for the Zoning Commissioner to have heard the subject case as he would recall the facts of the case and his intentions. However I note that conditions 2 and 3 have to do with general maintenance of the property. These are typical Code enforcement provisions. If condition 4 is a condition precedent, then it could be argued that conditions 2 and 3 are as well. This could lead to a situation in which a future property owner fails to properly maintain the property and would be subject to a request for rescission of the variance. I do not believe this was the Zoning Commissioner's intention. I think the Zoning

Commissioner intended to have condition 4 enforced by the zoning enforcement process in a similar fashion even though it has a time limit. The fact that the two parking spaces were not removed is simply a matter for zoning enforcement.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioner, I find that the Petitioners' request for special hearing should be denied.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 26th day of December, 2006, that the Petitioners' request for Special Hearing relief filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to rescind the relief granted in Case No. 06-330-A by Order dated March 16, 2006 for applicants failure to comply with the conditions precedent to the granting of that relief and for such other relief as may be required and is DENIED.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

December 26, 2006

DAVID F. MCNEW II AND
KELLY MCNEW
819 CEDAR GROVE ROAD
BALTIMORE MD 21237

Re: Petition for Special Hearing
Case No. 06-611-SPH
Property: 8237 Philadelphia Road

Dear Mr. and Mrs. McNew:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy

John V. Murphy
Deputy Zoning Commissioner
for Baltimore County

JVM:pz

Enclosure

c: Timothy Kotroco, Director, Department of Permits & Development Management
Jeff Radcliffe, Code Enforcement Officer, Department of Permits & Development Management

12-26-06

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 8237 PHILADELPHIA RD.
which is presently zoned D.R.5.5 / B.L.

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 Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

Special Hearing to rescind the relief granted in Case No. 06-330-A by Order dated March 16, 2006, for applicant's failure to comply with the conditions precedent to the granting of that relief.

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Hearing, 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.

PETITIONER:

Contract Purchaser/Lessee:

BALTIMORE COUNTY, MD
Name - Type or Print

Timothy Kotroco
Signature

Director of Permits + Dev Mgt
Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Name - Type or Print

Signature

Company

Address Telephone No.

City State Zip Code

Legal Owner(s):

DAVID F. MCNEW II
Name - Type or Print

Signature

KELLY MCNEW
Name - Type or Print

Signature

8237 PHILADELPHIA RD. 410-477-4090
Address Telephone No.

ROSEDALE MD 21237
City State Zip Code

Representative to be Contacted:

Name

Address Telephone No.

City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By D.T. Date 6/1/06

Case No. 06-611-SPH

REV 9/15/98 Date 12-26-06

PM

ZONING DESCRIPTION FOR 8237 Philadelphia Road

Begining at a point on the south side of Philadelphia Rd. which is 40 feet wide at the distance of 95 feet west of the centerline of the nearest improved intersecting street Spring Avenue which is 30 feet wide. As recorded in Deed Liber 11429, Folio31 S.56 13'W.75 ft., S.33 47'E.280 ft., N.56 13'E.75 ft., and N.33 47'W.280 ft. to the place of beginning. Containing .46 Acre (21,000 Sq. Ft.) Also known as 8237 Philadelphia Road and located in the 15th election district, 7th councilmanic district.

06-611-SPH

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: #06-611-SPH
8237 Philadelphia Road
South side of Philadelphia Road, 95 feet west of centerline of Spring Avenue
15th Election District - 7th Councilmanic District
Legal Owner(s): David F. & Kelly McNew, II
Petitioner: Baltimore County, MD

Special Hearing: to rescind the relief granted in Case No. 06-330-A by Order dated March 16, 2006 for applicants failure to comply with the conditions precedent to the granting of that relief.

Hearing: Thursday, December 7, 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) 887-4386.

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

JT 11/685 Nov. 21 116721

CERTIFICATE OF PUBLICATION

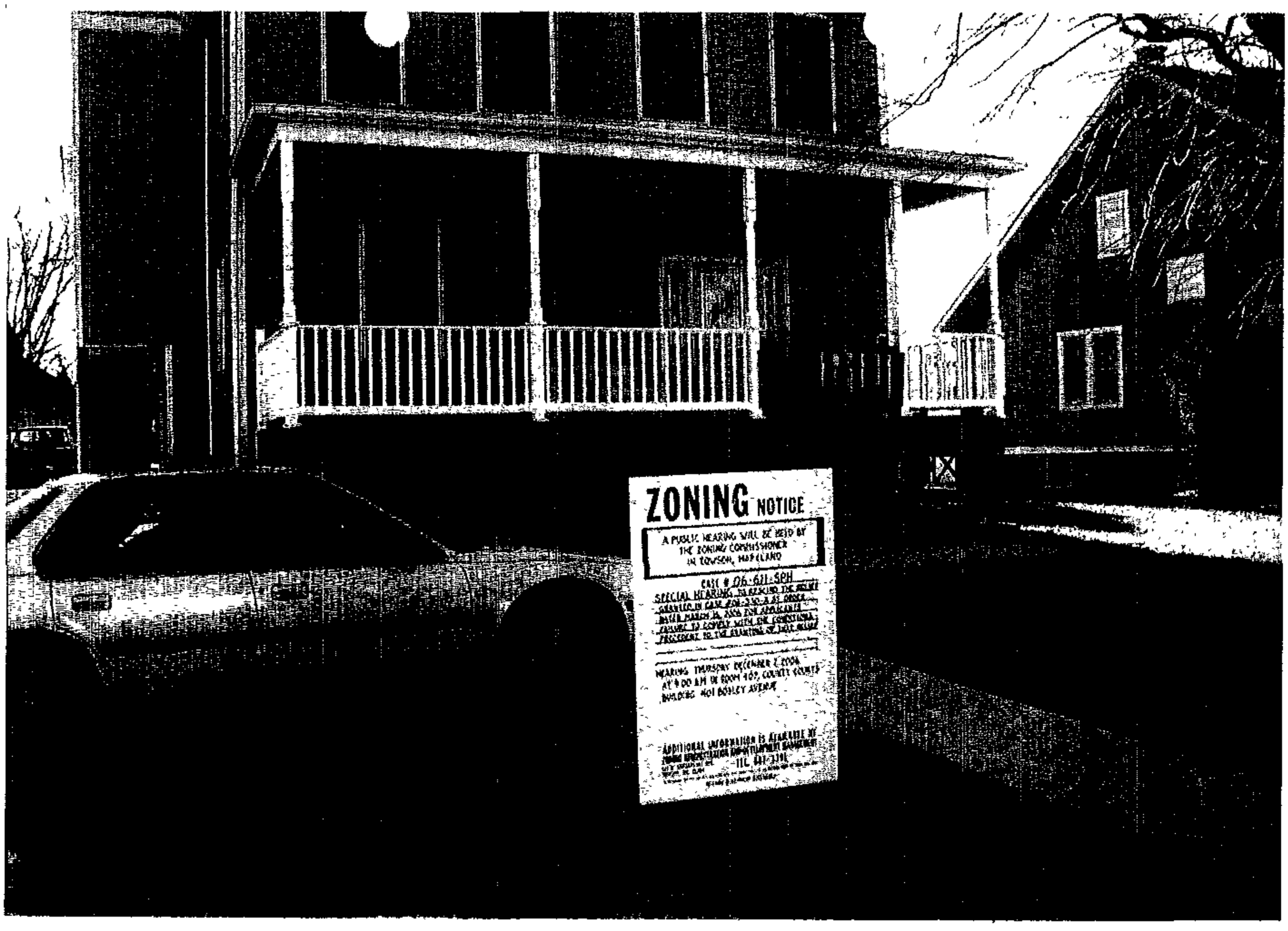
11/22/, 2006

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 11/21/, 2006.

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

S. Wilkinson

LEGAL ADVERTISING


ZONING NOTICE
A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MARYLAND

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: #06-611-SPH
8237 Philadelphia Road
South side of Philadelphia Road, 95 feet west of centerline of Spring Avenue
15th Election District - 7th Councilmanic District
Legal Owner(s): David F. & Kelly McNew, II
Petitioner: Baltimore County, MD

Special Hearing: to rescind the relief granted in Case No. 06-330-A by Order dated March 16, 2006 for applicant's failure to comply with the conditions precedent to the granting of that relief.

Hearing: Wednesday, August 9, 2006 at 2:00 p.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) 887-4386.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 7/721 July 25 103102

CERTIFICATE OF PUBLICATION

7/27/, 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 7/25/, 2006.

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

S. Wilkinson

LEGAL ADVERTISING

TO: PATUXENT PUBLISHING COMPANY
Tuesday, July 25, 2006 Issue - Jeffersonian

Please forward billing to:
Deborah Kendall-Sipple
Permits & Development Management
111 West Chesapeake Avenue
Towson, MD 21204

410-887-3353

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: 06-611-SPH
8237 Philadelphia Road
Southside of Philadelphia Road, 95 feet west of centerline of Spring Avenue
15th Election District – 7th Councilmanic District
Legal Owners: David F. & Kelly McNew, II
Petitioner: Baltimore County, MD

Special Hearing to rescind the relief granted in Case No. 06-330-A by Order dated March 16, 2006 for applicants failure to comply with the conditions precedent to the granting of that relief.

Hearing: Wednesday, August 9, 2006 at 2:00 p.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 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.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, November 21, 2006 Issue - Jeffersonian

Please forward billing to:
Deborah Kendall-Sipple 410-887-3353
Permits & Development Management
111 West Chesapeake Avenue
Towson, MD 21204

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: 06-611-SPH
8237 Philadelphia Road
Southside of Philadelphia Road, 95 feet west of centerline of Spring Avenue
15th Election District – 7th Councilmanic District
Legal Owners: David F. & Kelly McNew, II
Petitioner: Baltimore County, MD

Special Hearing to rescind the relief granted in Case No. 06-330-A by Order dated March 16, 2006 for applicants failure to comply with the conditions precedent to the granting of that relief.

Hearing: Thursday, December 7, 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 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

June 16, 2006

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: 06-611-SPH
8237 Philadelphia Road
Southside of Philadelphia Road, 95 feet west of centerline of Spring Avenue
15th Election District – 7th Councilmanic District
Legal Owners: David F. & Kelly McNew, II
Petitioner: Baltimore County, MD

Special Hearing to rescind the relief granted in Case No. 06-330-A by Order dated March 16, 2006 for applicants failure to comply with the conditions precedent to the granting of that relief.

Hearing: Wednesday, August 9, 2006 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

C: David & Kelly McNew, II, 8237 Philadelphia Road, Rosedale 21237
Permits & Development Management

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, JULY 25, 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.

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

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: 06-611-SPH
8237 Philadelphia Road
Southside of Philadelphia Road, 95 feet west of centerline of Spring Avenue
15th Election District – 7th Councilmanic District
Legal Owners: David F. & Kelly McNew, II
Petitioner: Baltimore County, MD

Special Hearing to rescind the relief granted in Case No. 06-330-A by Order dated March 16, 2006 for applicants failure to comply with the conditions precedent to the granting of that relief.

Hearing: Thursday, December 7, 2006 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue, Towson 21204

Timothy Kotroco
Director

TK:klm

C: David & Kelly McNew, II, 8237 Philadelphia Road, Rosedale 21237
Permits & Development Management

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, NOVEMBER 22, 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.

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

August 1, 2006

David F. McNew II
Kelly McNew
8237 Philadelphia Road
Baltimore, MD 21237

Dear Mr. and Mrs. McNew:

RE: Case Number: 06-611-SPH, 8237 Philadelphia Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 1, 2006.

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

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

Very truly yours,

W. Carl Richards, Jr.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
Permits and Development Management

Baltimore County
Fire Department

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

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

June 20,2006

ATTENTION: Zoning Review Planners

Distribution Meeting Of: June 19, 2006

Item Numbers: Item Number (611),621,624-637, 639-643

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.

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

Lieutenant Roland P Bosley Jr.
Fire Marshal's Office
410-887-4881 (C)443-829-2946
MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: June 27, 2006

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For June 21, 2006
Item Nos. 611, 621, 622, 623, 624, 626, 627, 628, 632, 633, 635, 636, 637, 640, 641, 642, and 643

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

DAK:CEN:clw
cc: File
ZAC-NO COMMENTS- 06272006.doc

BALTIMORE COUNTY, MARYLAND

Inter-Office Memorandum

DATE: August 7, 2006

TO: Kristen Matthews
Department of Permits & Development Management

FROM: Patti Zook, Legal Secretary to
John V. Murphy, Deputy Zoning Commissioner

SUBJECT: Case No. 06-611-SPH
Petition for Special Hearing

The above-referenced case file is being returned to you. This case is scheduled for a hearing on Wednesday, August 9, 2006 at 2:00 pm. However, the property was not posted so the hearing cannot be held. The County needs to post the property and re-advertise the new hearing date.

Please assign this case to William J. Wiseman, III, Zoning Commissioner, because he heard the original case.

Also, please include Case No. 06-330-A as a 'carry along' when this case is rescheduled for hearing.

Thank you for your attention and cooperation in this matter.

JVM:pz

Attachment

Jm
8/9
2pm

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

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

DATE: June 29, 2006

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

SUBJECT: Zoning Advisory Petition(s): **Case(s) 6-611- Special Hearing**

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer.

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

Prepared By: Cynthia Murray

Division Chief: Lyn Lanham

CM/LL

RECEIVED

JUN 29 2006

ZONING COMMISSIONER

W:\DEVREV\ZAC\6-611.doc

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

State Highway Administration
Driven to Excel
Maryland Department of Transportation

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

Date: 6.20.06

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

RE: Baltimore County
Item No. 611 DT

Dear Ms. Matthews:

We have reviewed the referenced item and have no objection to approval. Our review has determined that no construction is required within the State Highway Administration's right-of-way.

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,

L. G. Gredlein

Steven D. Foster, Chief
Engineering Access Permits Division

RE:	PETITION FOR SPECIAL HEARING 8237 Philadelphia Road; S/S Philadelphia Road, 95' W c/line Spring Avenue 15th Election & 7th Councilmanic Districts Legal Owner(s): David & Kelly McNew Contract Purchaser(s): Baltimore County, MD Petitioner(s)	* * * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 06-611-SPH

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

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 and all 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 26th day of June, 2006, a copy of the foregoing Entry of Appearance was mailed to, David & Kelly McNew, 8237 Philadelphia Road, Baltimore, MD 21237 and Timothy Kotroco, PDM, 111 W Chesapeake Avenue, Towson, MD 21204, Petitioner(s).

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

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: June 23, 2006

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

FROM: Rick Wisnom, Hearing Officer
Division of Code Inspections & Enforcement

SUBJECT: Item No.: 611
Legal Owner/Petitioner: David F. II and Kelly McNew
Contract Purchaser: Petitioner: Baltimore County, Timothy Kotroco, Director of Permits and Development Management
Property Address: 8237 Philadelphia Road
Location Description: S/side Philadelphia Road, 95 feet west of centerline Spring Avenue

VIOLATION INFORMATION: **Case No.: 06-4951**
Defendants: David F. II and Kelly McNew

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

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

Complaint Intake Form
State Tax Assessment printout
Correction Notice/Code Violation Notice
Photographs
Citation
Proof of Service
Final Order
Petition for Variance (Findings)
Other: Copy of permit

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Lisa Henson in Room 213 in order that the appropriate action may be taken relative to the violation case.

RSW/
c: Ed Creed

ODE ENFORCEMENT REPORT

DATE: 5/30/05 INTAKE BY: EC CASE #: 054951 INSPEC: 3

COMPLAINT LOCATION: 8237 Philadelphia Rd

ZIP CODE: DIST:

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

ADDRESS: ZIP CODE:

PROBLEM:

IS THIS A RENTAL UNIT? YES NO

IF YES, IS THIS SECTION 8? YES NO

OWNER/TENANT INFORMATION:

TAX ACCOUNT #: 15-08-550-830 ZONING:

NSPECTION:

EINSPECTION:

INSPECTION:

INSPECTION:

RA1001B

DATE: 06/03/2005 S NDARD ASSESSMENT INQUIRY ( )
TIME: 13:48:08

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
15 08 550830	15	3-0	06-00	H	NO		05/02/05

MCNEW DAVID F
MCNEW KELLY
8237 PHILADELPHIA RD

DESC-1.. IMPS.46 AC
DESC-2.. 80FT W OF SPRING AV
PREMISE. 08237 PHILADELPHIA RD
00000-0000

BALTIMORE MD 21237-2842 FORMER OWNER: MILNOR JOANNE PEPE

FCV	PRIOR	PROPOSED	PHASED IN	CURR FCV	CURR ASSESS	PRIOR ASSESS
LAND:	76,000	75,000				
IMPV:	81,300	92,900	TOTAL..	167,900	167,900	164,366
TOTL:	157,300	167,900	PREF...	0	0	0
PREF:	0	0	CURT...	167,900	167,900	164,366
CURT:	157,300	167,900	EXEMPT.		0	0
DATE:	10/02	09/02				

TAXABLE BASIS		FM DATE
ASSESS:	167,900	11/20/04
ASSESS:	164,366	
ASSESS:	0	

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

RA1001C

DATE: 06/03/2005 S NDARD ASSESSMENT INQUIRY ( )
TIME: 13:48:20

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
15 08 550830	15	3-0	06-00	H	NO		05/02/05

LOT.... BOOK.... 0000 MAP..... 0089 LOT WIDTH..... 75.00
BLOCK.. FOLIO... 0000 GRID.... 0017 LOT DEPTH..... 200.00
SECTION.. PARCEL.. 1043 LAND AREA.. 21000.000 S
PLAT.. YEAR BUILT..... 24

---------TRANSFER DATA--------

NUMBER..... 089151
DATE..... 02/12/96
PURCHASE PRICE..... 125,000
GROUND RENT..... 0
DEED REF LIBER..... 11429
DEED REF FOLIO..... 0031
CONVEYED IND..... 1
TOT-PART TRAN IND..... T
GRANTOR ACCT NO.. 15-08-550830

----------EXEMPT DATA----------

STATUS.....
CLASS CODE..... 000
STATE EXEMPT CODE..... 000
COUNTY EXEMPT CODE..... 000
CURR STATE EX ASMT.... 0
PRIOR STATE EX ASMT... 0
CURR COUNTY EX ASMT... 0
PRIOR COUNTY EX ASMT.. 0

CRITICAL AREAS CODE	NEW CONST YEAR	CARD NO	------STRUCTURE----- CODE	SQ. FEET
		00610		2080

ENTER-INQUIRY3 PA1-PRINT PF2-INQUIRY1 PF4-MENU PF5-QUIT PF7-CROSS REF

RA1001B

DATE: 05/31/2005 STANDARD ASSESSMENT INQUIR' 1)
TIME: 15:36:28

PROPERTY NO.	DIST	GROUP	CLASS	OCC.	HISTORIC	DEL	LOAD DATE
15 08 550830	15	3-0	06-00	H	NO		05/02/05

MCNEW DAVID F
MCNEW KELLY
8237 PHILADELPHIA RD

DESC-1.. IMPS.46 AC
DESC-2.. 80FT W OF SPRING AV
PREMISE. 08237 - PHILADELPHIA RD
Prima Resi
00000-0000

BALTIMORE MD 21237-2842 FORMER OWNER: MILNOR JOANNE PEPE

	FCV PRIOR	FCV PROPOSED		PHASED IN CURR FCV	CURR ASSESS	PRIOR ASSESS
LAND:	76,000	75,000				
IMPV:	81,300	92,900	TOTAL..	167,900	167,900	164,366
TOTL:	157,300	167,900	PREF...	0	0	0
PREF:	0	0	CURT...	167,900	167,900	164,366
CURT:	157,300	167,900	EXEMPT.		0	0
DATE:	10/02	09/02				

---- TAXABLE BASIS ----

		FM DATE
ASSESS:	167,900	11/20/04
ASSESS:	164,366	
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

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

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

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CORRECTION NOTICE

Citation/Case No. 05-4951 | Property No. 15-08-550-834 | Zoning:

Name(s): DAVID/KELLY MCNEW

Address: 8237 PHILADELPHIA RD 21237

Violation Location: SAME

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

1 B.C.C. 35-2-203 IBC 115 B.C.B.C 115 UNSAFE STRUCTURE, BAZE, OR REHAB (REAR)

2 B.C.C. 35-5-214 ACCUMULATION AND STORAGE OF TRASH IN AND AROUND REAR STRUCTURE REMOVE

3 B.C.C/BCZR 101, 102.1, 1B01.1A 415A ILLEGALLY PARKED RECREATIONAL VEHICLES (BOAT) IN TRA'S

4 B.C.C 13-7-112-115-401, 402, 403 CUT ALL HIGH GRASS BY 6/8/5

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

On or Before: 1, 2, 3, 4 6/30/5 6/8/5 | Date Issued: 5/31/5

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: Ed Creed Sr

INSPECTOR: [signature]

STOP WORK NOTICE

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

Not Later Than: | Date Issued:

INSPECTOR:

AGENCY

Baltimore County
Department of Permits and
Development Management

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

Code Enforcement:	410-887-3351	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:
05-4951	15-08-550-830	

Name(s): DAVID F. / KELLY MCINEW

Address: 8237 PHILADELPHIA RD BALTO 21237

Violation Location: SAME

DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS:

B.C.Z.R. 101, 102.1, 1801.1A 402

ILLEGAL CONVERSION OF A DWELLING SHOW PROOF THAT ALL PERMITS, AND LICENSES HAVE BEEN APPLIED FOR

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

On or Before:	Date Issued:
6/20/5	5/31/5

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: ED CRAIG SR

INSPECTOR:

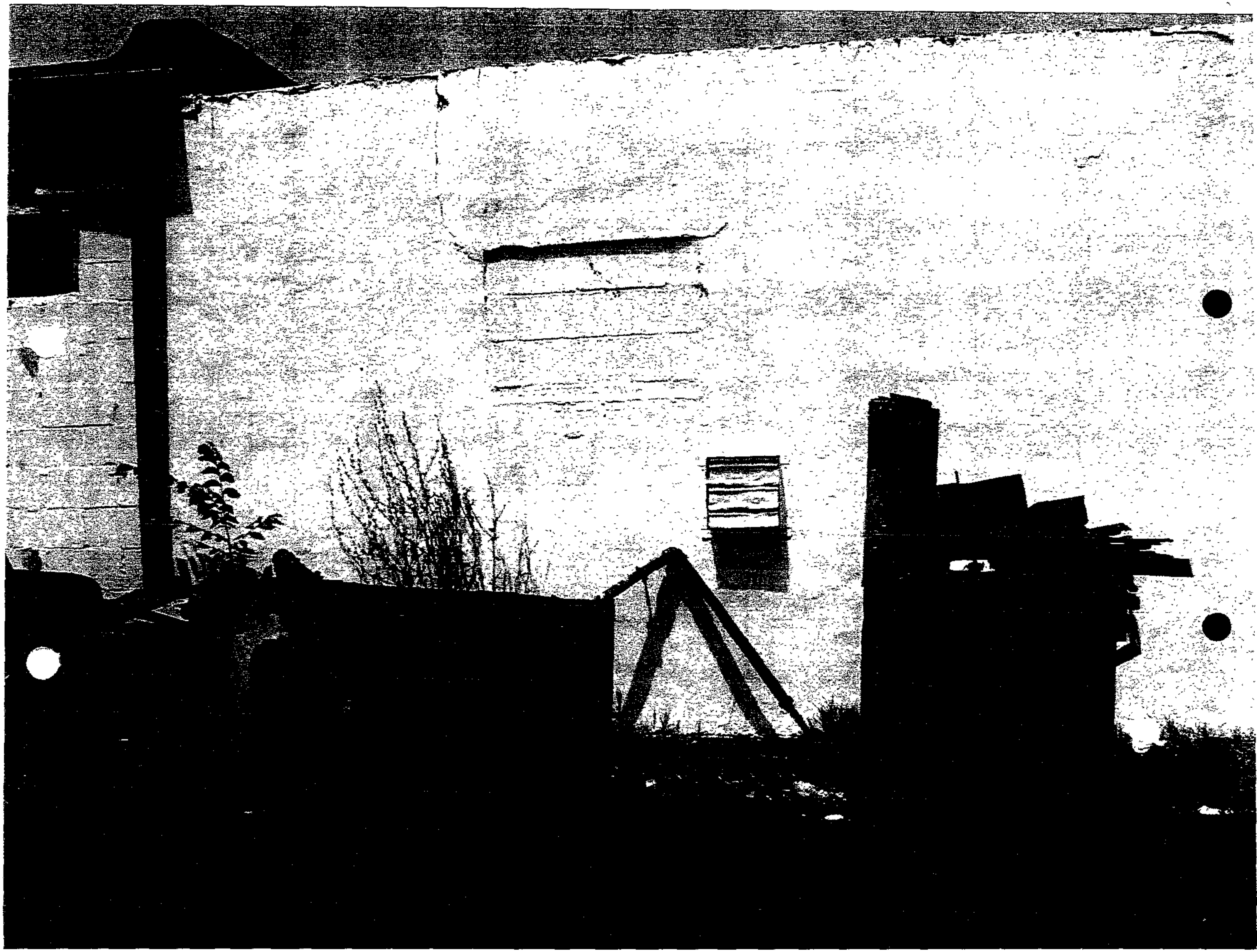
STOP WORK NOTICE

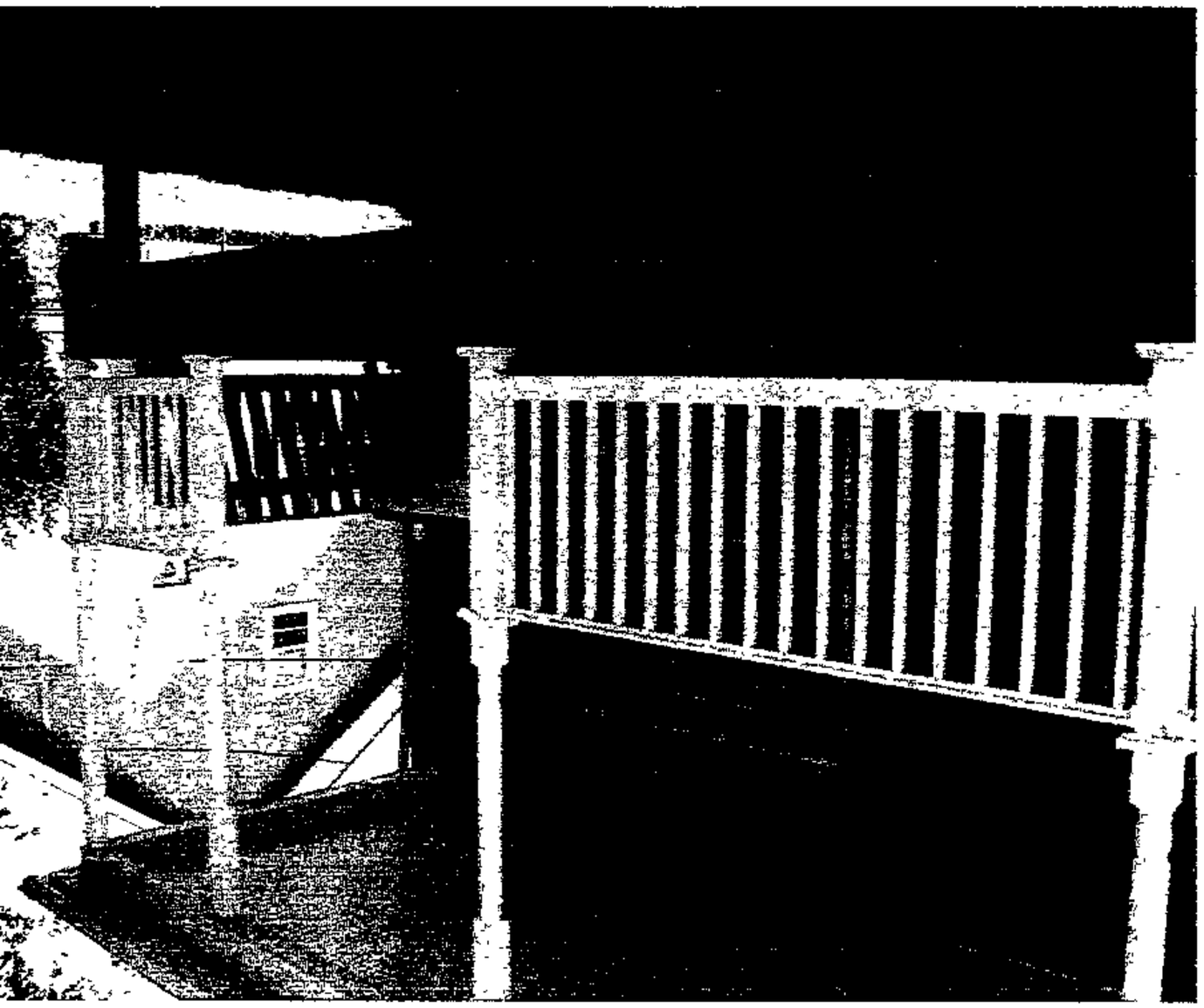
PURSUANT TO INSPECTION OF THE FOREGOING VIOLATIONS, YOU SHALL CEASE ALL WORK UNTIL THE VIOLATIONS ARE CORRECTED AND/OR PROPER PERMITS OBTAINED WORK CAN RESUME WITH THE APPROVAL OF THE DIVISION OF CODE INSPECTIONS AND ENFORCEMENT THESE CONDITIONS MUST BE CORRECTED NOT LATER THAN

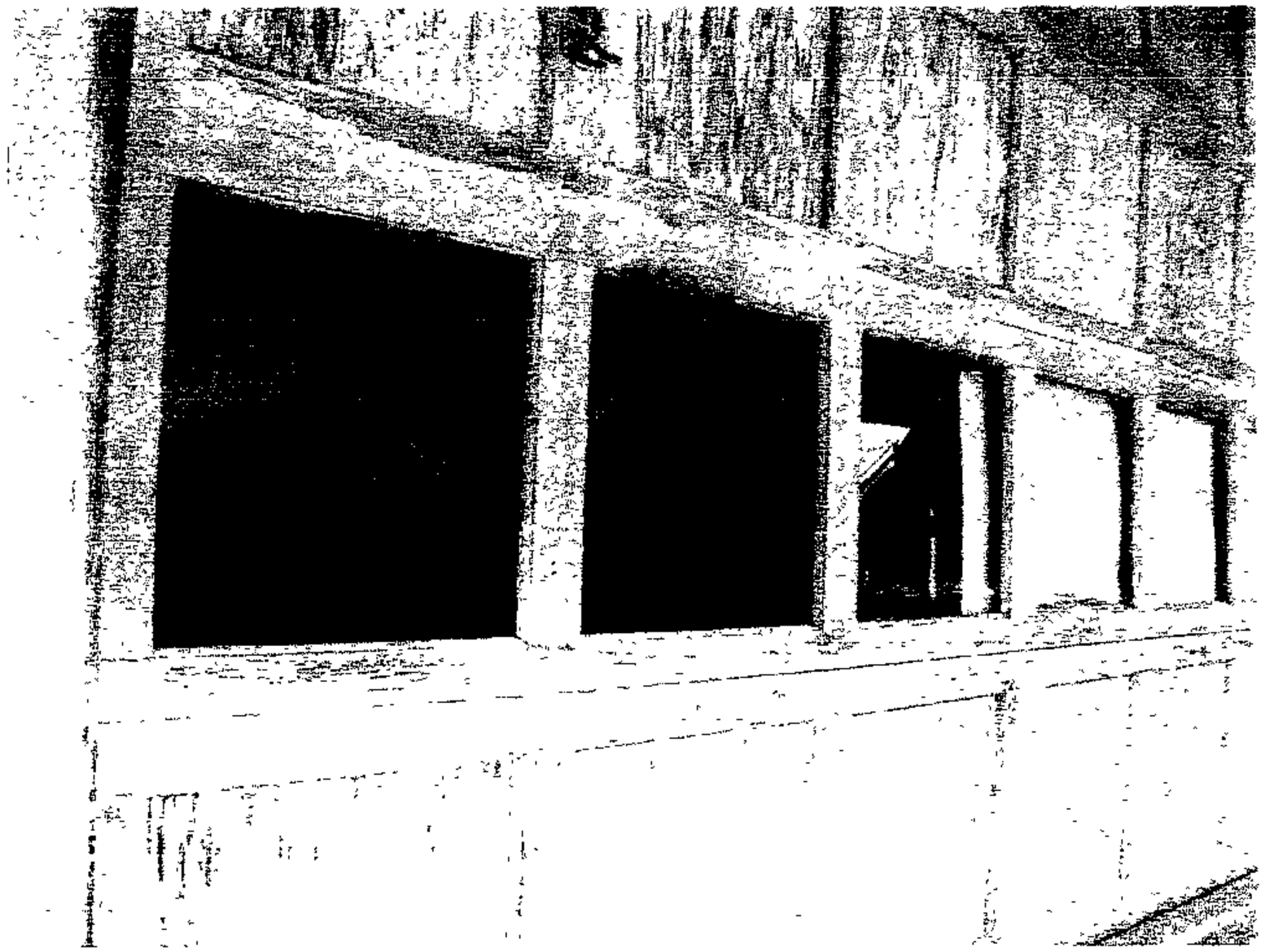
Not Later Than:	Date Issued:

ISPECTOR: _____

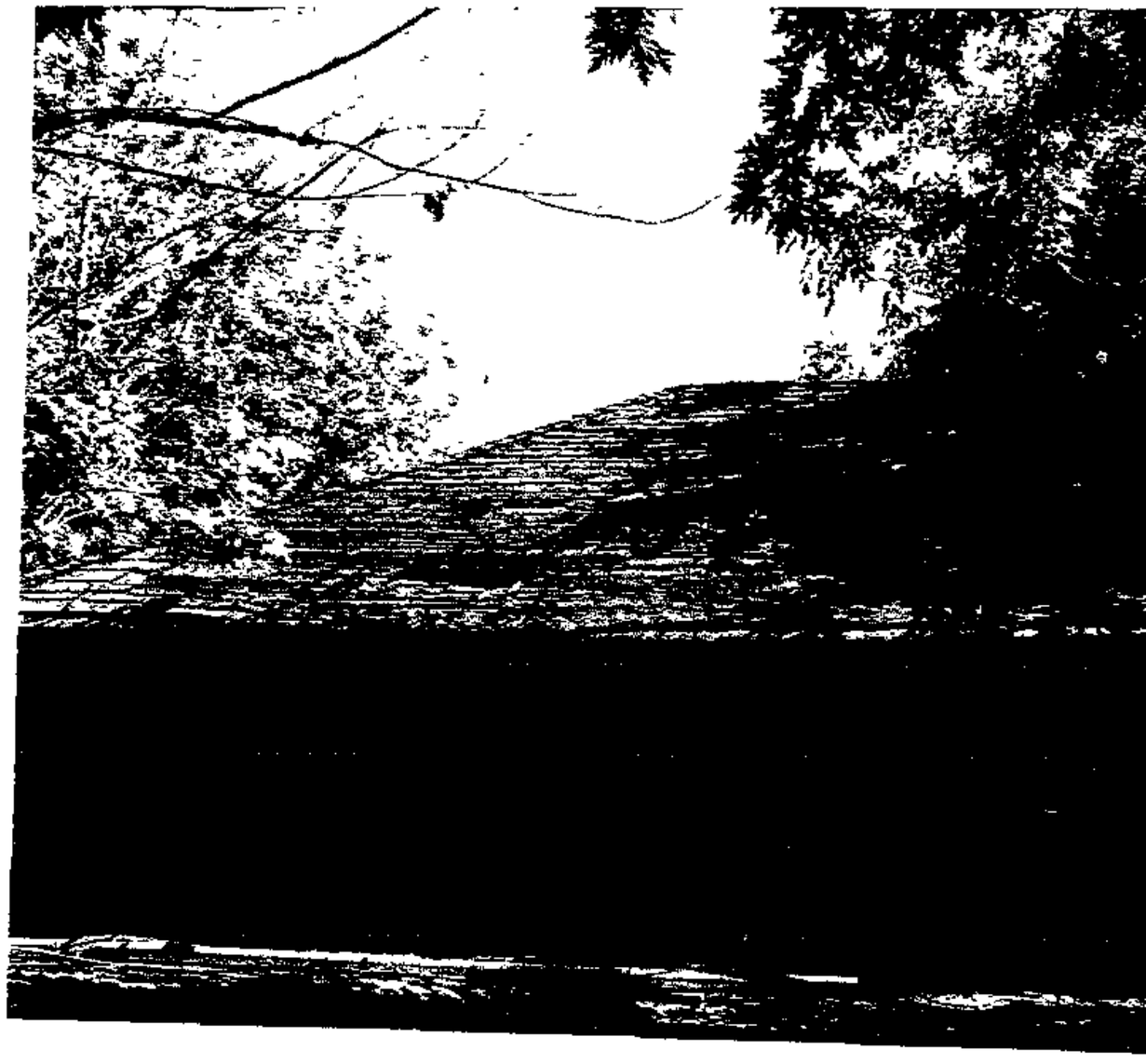
AGENCY

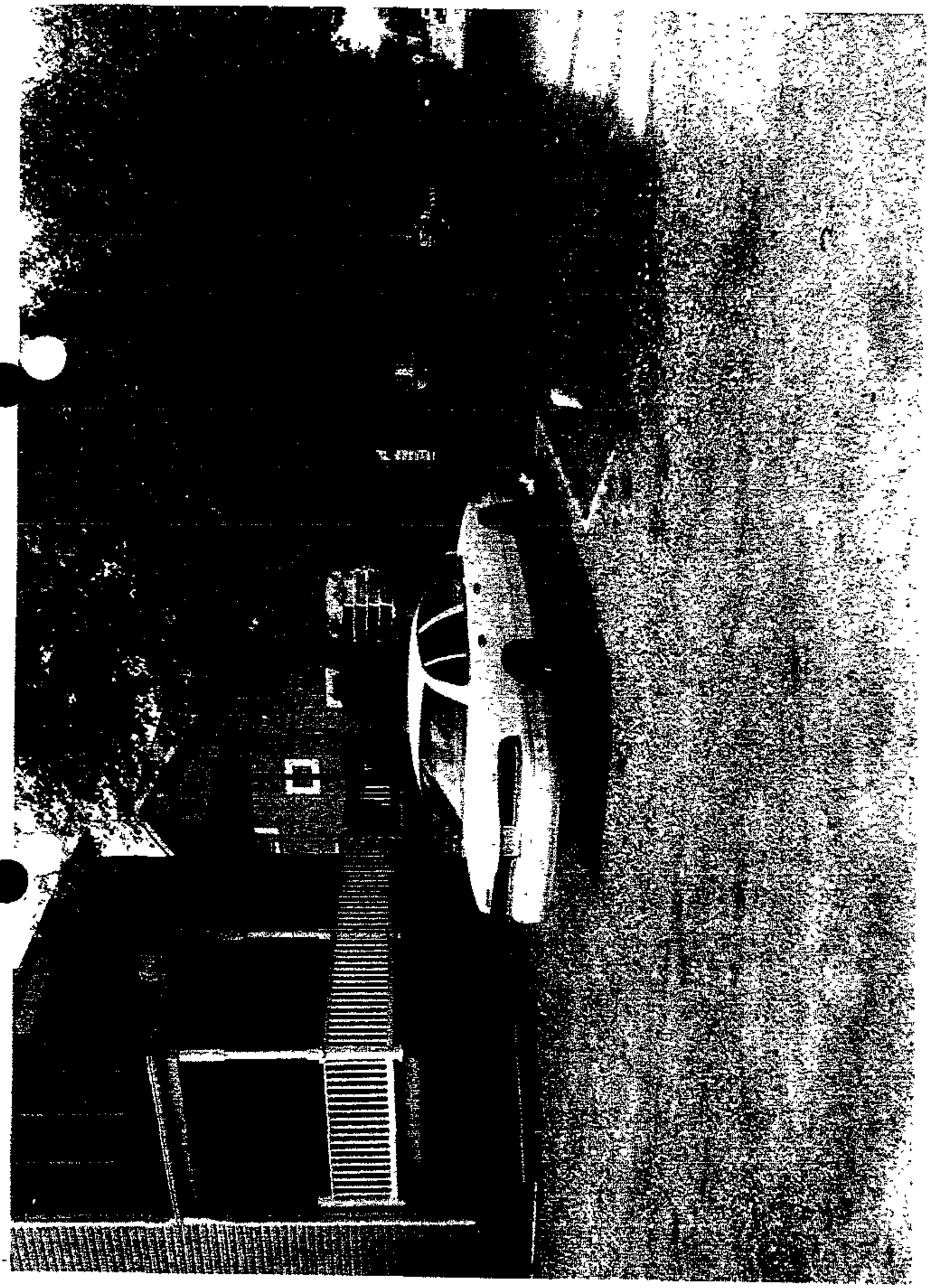


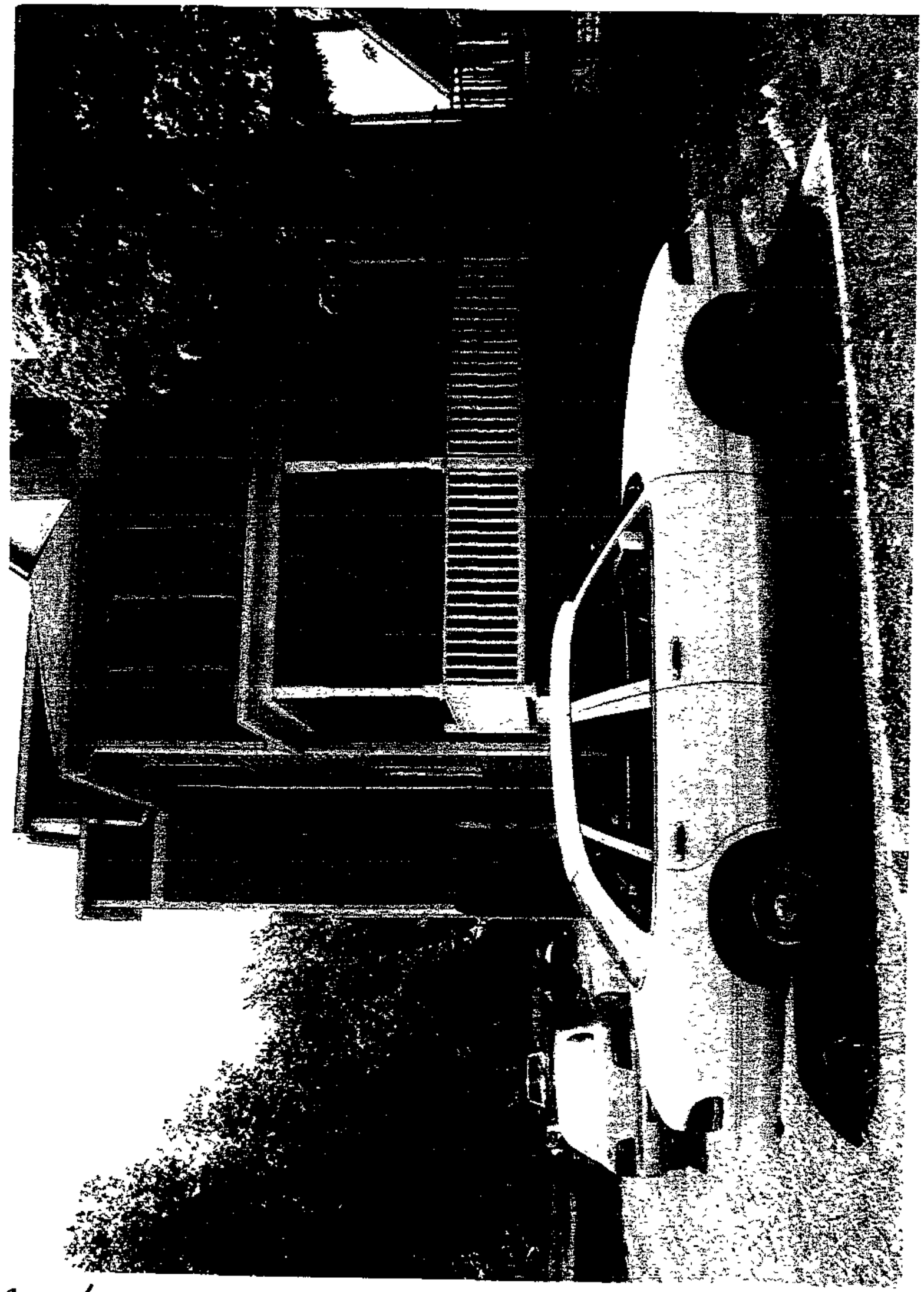





8
682075G

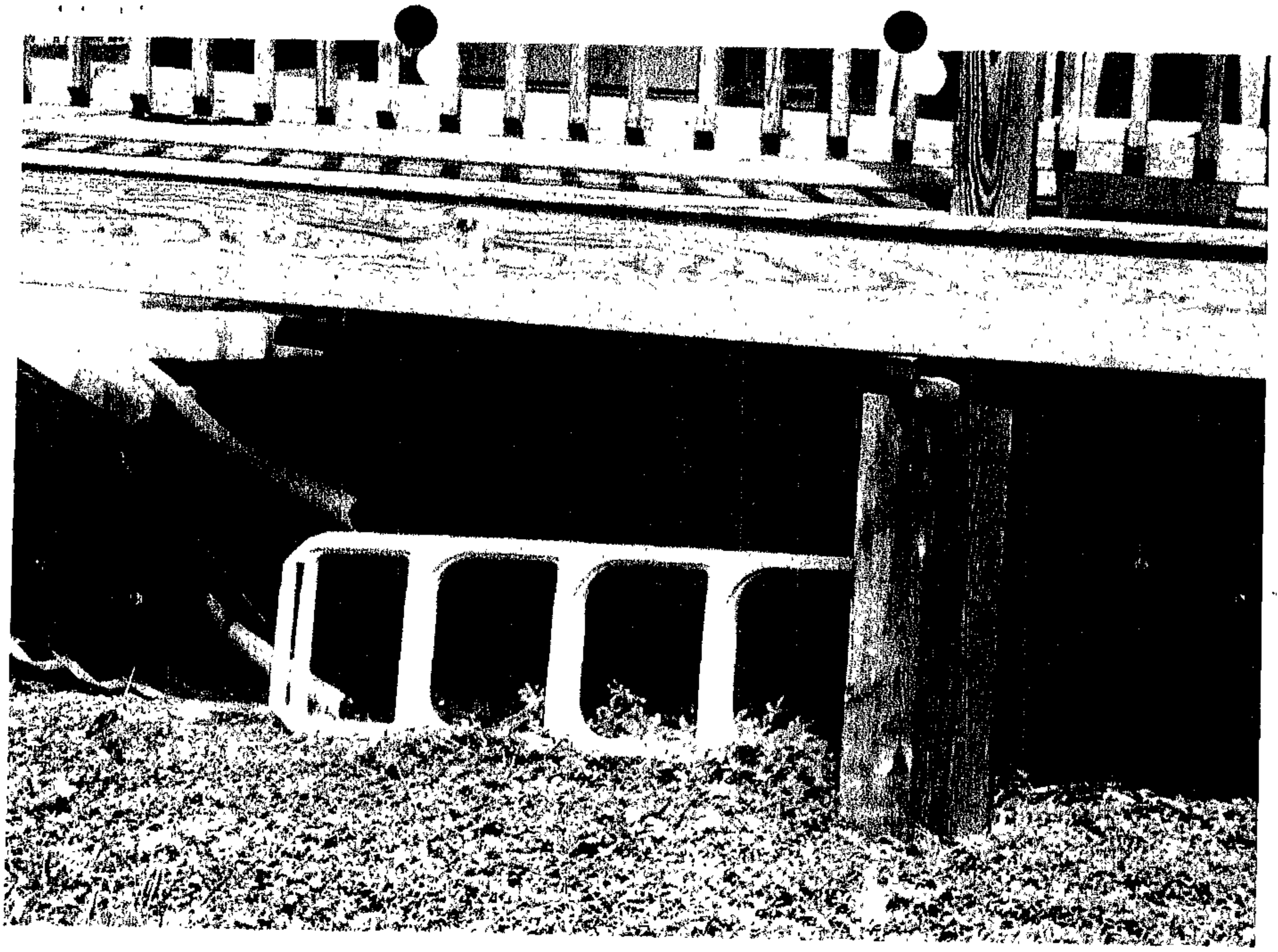


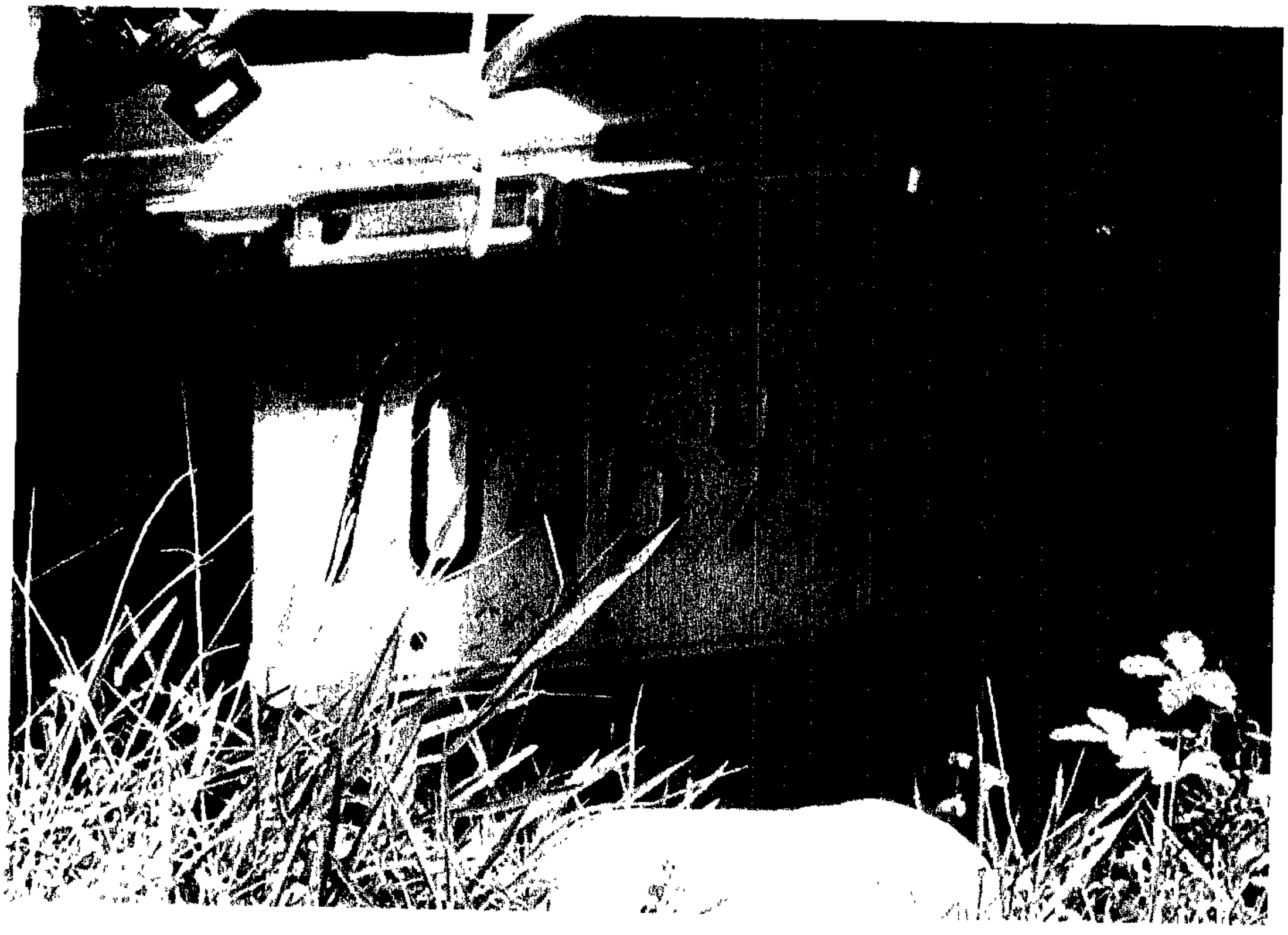


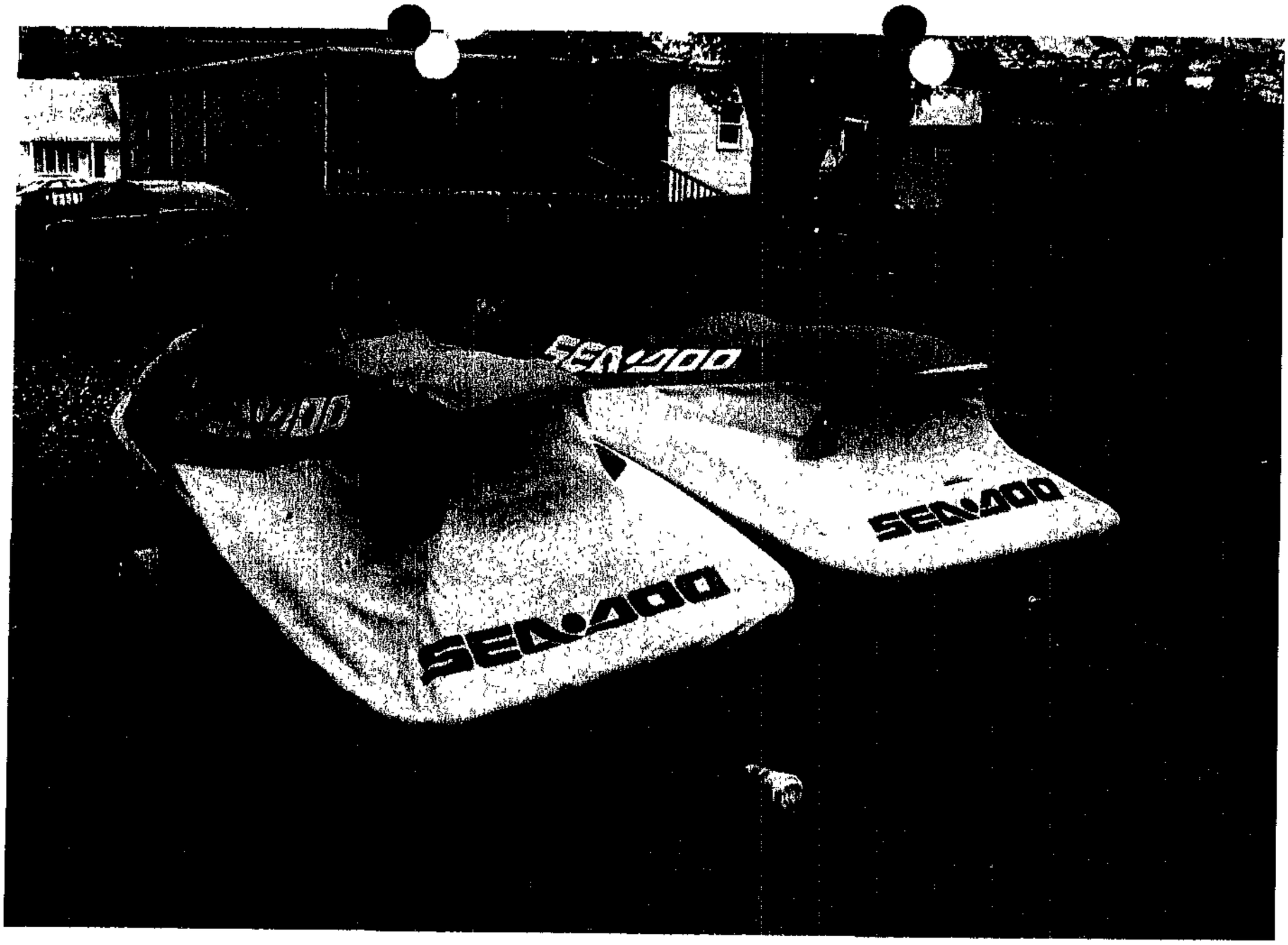


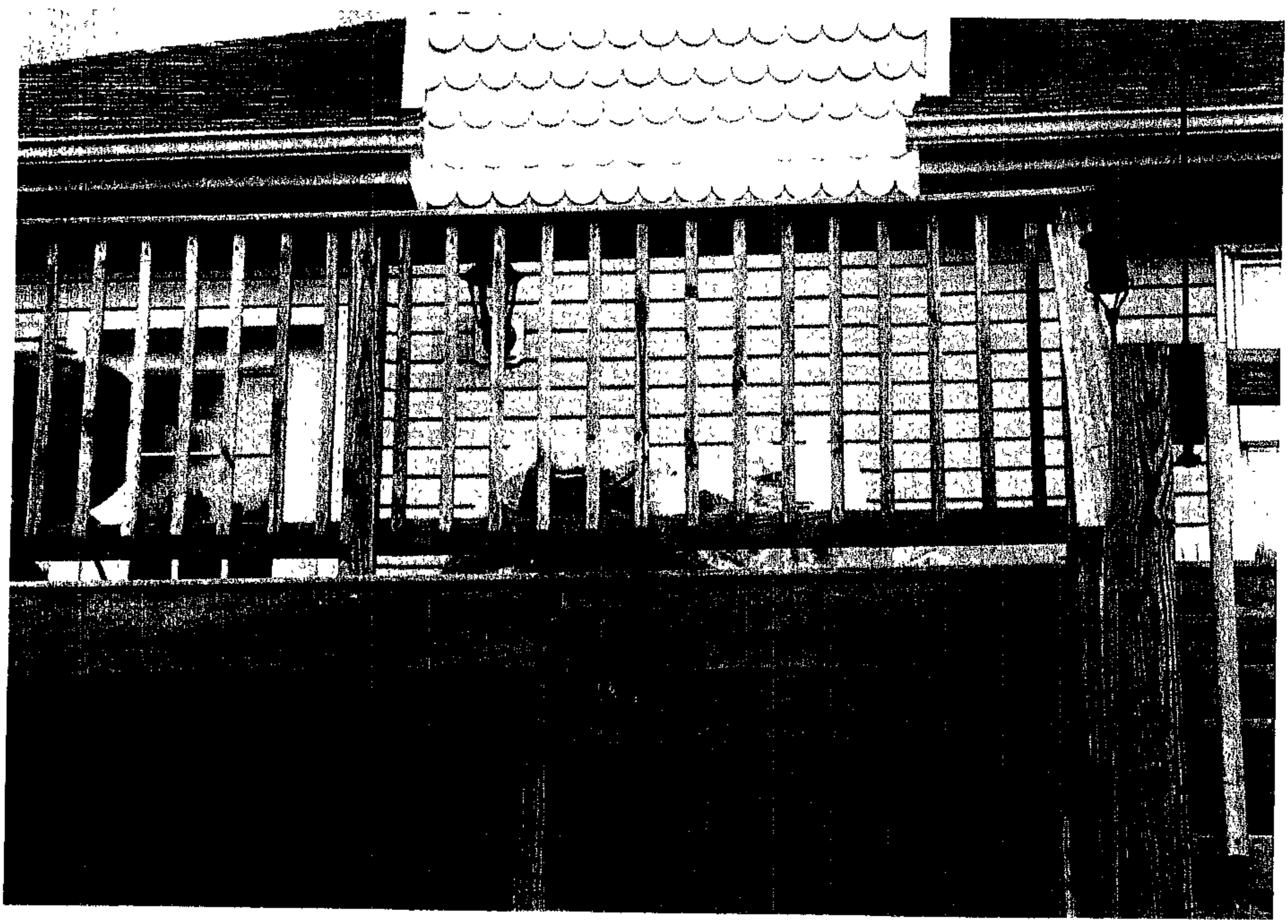
CS # 06-330-A

5/17/06 JEA

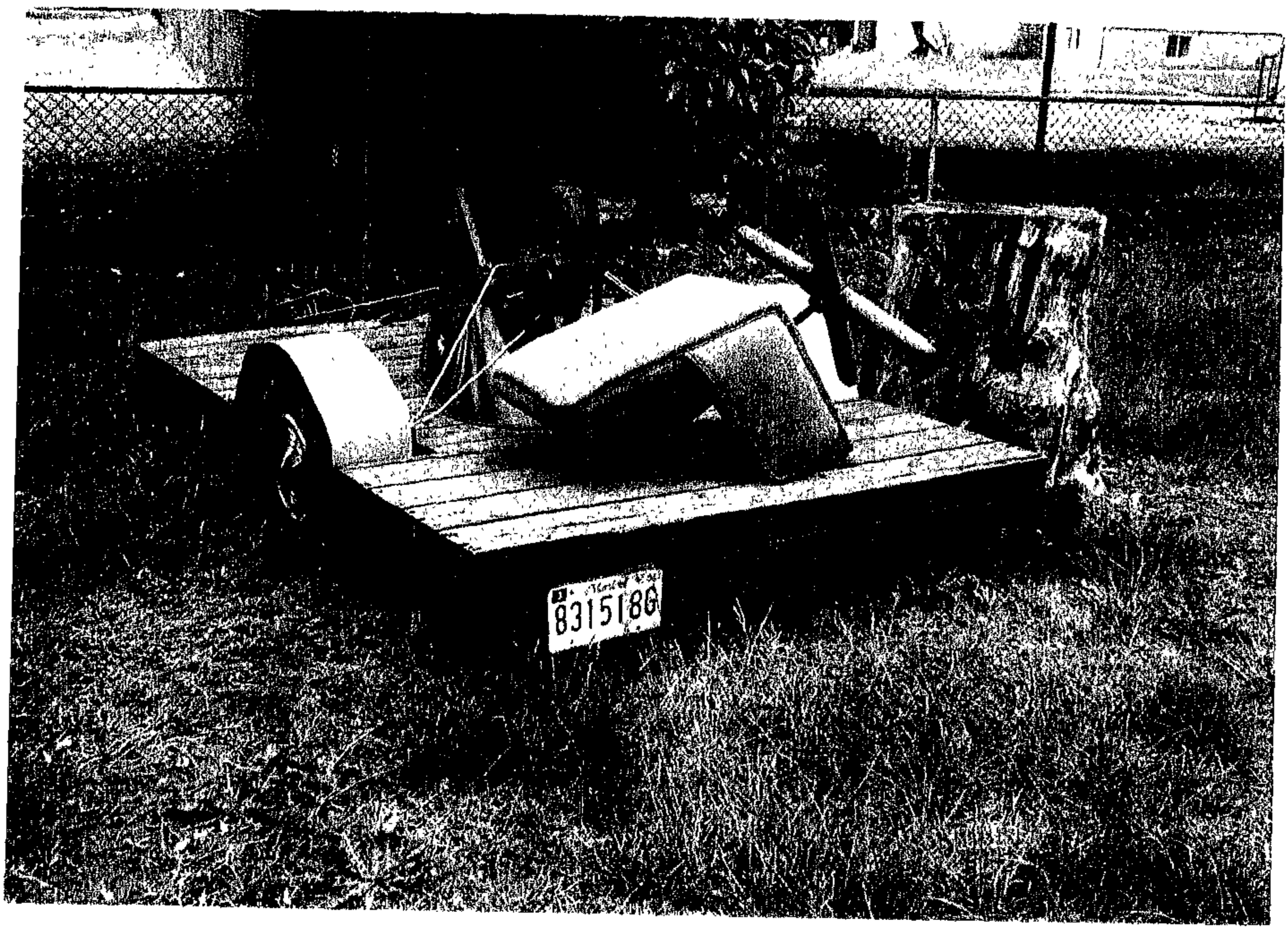


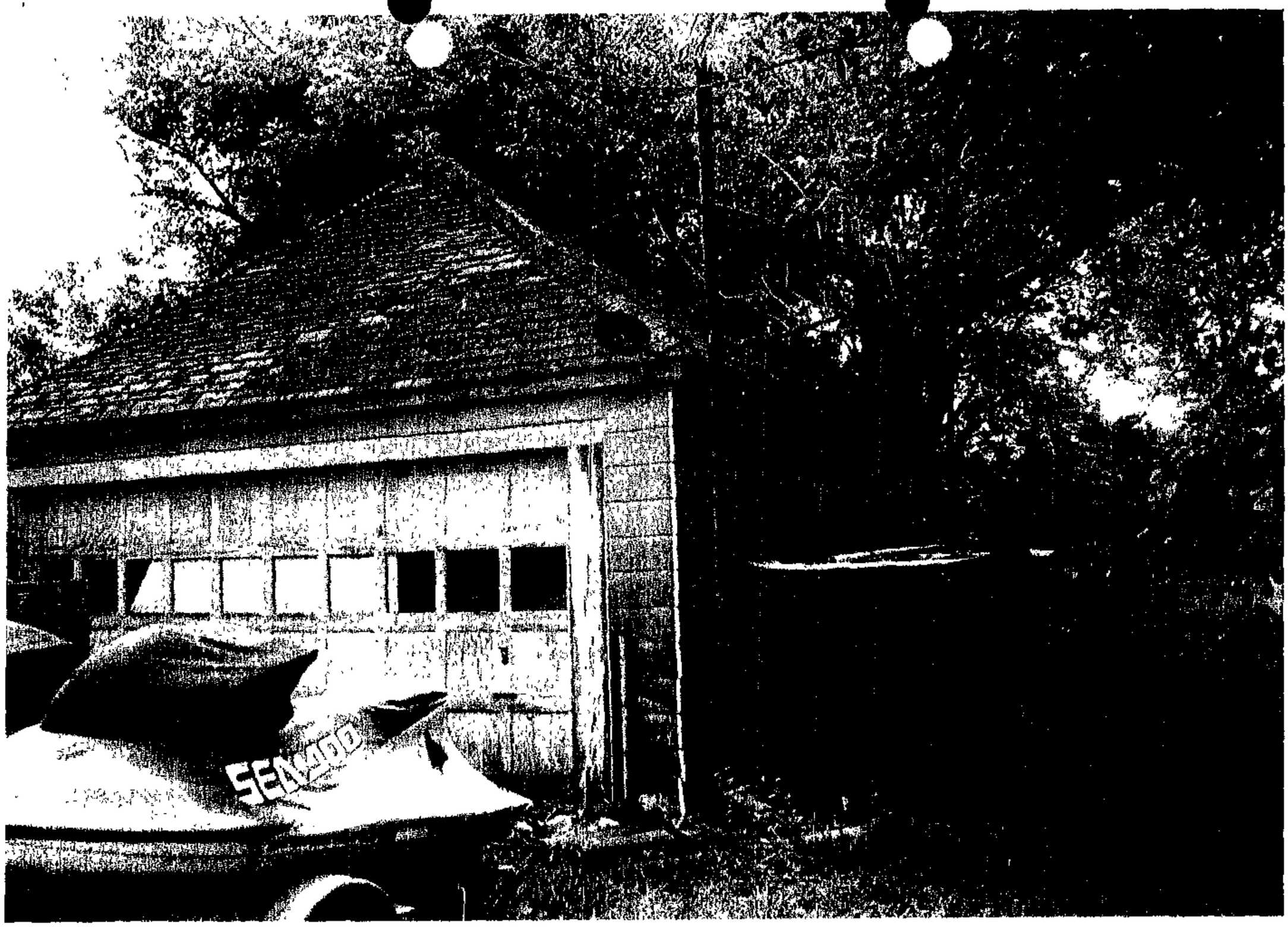



SEA-DOO
SEA-DOO
SEA-DOO
SEA-DOO




3
Maryland
06
831518G


831518G


SEAWOOD

Balti County
Department of Permits and
Development Management

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

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

BALTIMORE COUNTY UNIFORM CODE ENFORCEMENT CITATION

SERVE ON RESIDENT AGENT, CORPORATE OFFICER, OWNER, TENANT, AS APPLICABLE

Citation/Case No. 05-1951
Property No. 15-08-550-830
Zoning: DR 3.5

Name(s): David F. / Kelly McNew

Address: 8237 Philadelphia Rd Balt. 21237

Violation Location: SAME

Violation Dates:

BALTIMORE COUNTY FORMALLY CHARGES THAT THE ABOVE-NAMED PERSON(S) DID UNLAWFULLY VIOLATE THE FOLLOWING BALTIMORE COUNTY LAWS OR REGULATIONS:

B.C.Z.R. 402 104, 102, 1B01.1B

ILLEGAL CONVERSION OF A SINGLE FAMILY DWELLING TO A MULTIFAMILY DWELLING WITHOUT PERMITS OR VARIANCE

Pursuant to Section 1-8, Baltimore County Code, a civil penalty has been assessed, as a result of the violation cited herein, in the amount indicated: $ 1,000

A quasi-judicial hearing has been pre-scheduled in Room 116, 111 West Chesapeake Avenue, Towson, Maryland, for: Date: 9/27/05 Time: 9 AM

Citation must be served by: Date: 8/30/05

I do solemnly declare and affirm, under the penalty of perjury, that the contents stated above are true and correct to the best of my knowledge, information, and belief.

Print Name: Edward Siu

Date: 8/17/5 Inspector's Signature

SEE REVERSE SIDE FOR ADDITIONAL DETAILS AND INFORMATION

NOTICE OF INTENTION TO DEFEND

Print Name:

Citation/Case No.: 05-1951

Address:

Date Defendant's Signature

VIOLATION SITE

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
County Office Building, Room 119
111 West Chesapeake Avenue
Towson, Maryland 21204

BALTIMORE COUNTY, Plaintiff, vs. David F/ Kelly Mc New, Defendant

Case # 05 4951 Violation Address 8237 Philadelphia Zip 21237

Hearing Date 9/27/15 Issued Date 8/17/15 Expiration Date 8/30/15

Author of Citation Ed Creed Sr

REQUEST FOR SERVICE

Please serve the attached process on the person shown.

ORDER FOR SERVICE

You are hereby commanded to serve the attached process and to make your return promptly on this Order if served, and if you are unable to serve, you are to make your return on this Order and return the original process no later than the last day following the termination of the validity of the process.

PROOF OF SERVICE

I hereby CERTIFY that:

X A Citation and all other papers filed with it were served by restricted delivery mail, return card attached.

___ A Citation and all other papers filed with it were served by personal delivery to _____,
Individual or agent served

_____ Zip _____, on ___/___/___ _____ a.m./p.m.
At this address Date Time

Description of Person Served: Race _____ Sex: M F Height: _____ft. _____in. Wt. _____ lbs.

Age: _____ yrs. Other: _____

Telephone verification of citation acknowledgment from _____ on ___/___/___.

I was unable to serve:

1st Attempt ___/___/___ _____ a.m./p.m. because _____ _____ Initials

2nd Attempt ___/___/___ _____ a.m./p.m. because _____ _____ Initials

3rd Attempt ___/___/___ _____ a.m./p.m. because _____ _____ Initials

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief, and do further affirm that I am a competent person over 18 years of age and not a party to the case.

111 W. Chesapeake Ave. Towson, MD 21204
Server's Address

410-887-3351
Telephone

Ed Creed Sr
Server's Name (Print)

8/19/15
Date

Server's Signature

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

In the Matter of

Civil Citation No.05-4951

David F. McNew
Kelly McNew

8237 Philadelphia Road

Respondents

FINDINGS OF FACT AND CONCLUSION OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on September 27, 2005, for a hearing on a citation for violations under the Baltimore County Zoning Regulations § 402; 102.1; 1B01.1A for illegal conversion of single family dwelling to a two unit dwelling on residential property zoned DR 3.5 located at 8237 Philadelphia Road, 21237.

On August 17, 2005, pursuant to §3-6-205, Baltimore County Code, a code enforcement citation was issued by Ed Creed, Code Enforcement Officer. The citation was legally served on the Respondents.

The citation proposed a civil penalty of $1,000.00 (one thousand dollars) to be assessed. A code enforcement hearing date was scheduled for September 27, 2005.

David McNew, Respondent appeared for the hearing and testified.
Ed Creed, Code Enforcement Officer also testified.

Testimony and evidence shows that the Respondents purchased the property in 1996 and that the property was set up for two dwelling units. Two building permits were issued and according to both permits, the dwelling was listed as a single-family dwelling as recently as in the year 2000. Mr. McNew is requesting a variance to required lot width in order to apply for the requisite permit to convert the status of the structure to a two family dwelling unit. Mr. McNew has a filing date set for October 20, 2005.

IT IS ORDERED by the Code Enforcement Hearing Officer, this 27th day of September 2005, that case #05-4951 and citation issued August 17, 2005 is hereby continued pending the outcome of the variance hearing and building permit process. A hearing may be set in on this matter for just cause such as failure to pursue the variance and conversion process.

Signed: _____
Raymond S. Wisnom, Jr.
Code Enforcement Hearing Officer

The violator is advised that pursuant to §3-6-301(a), Baltimore County Code, an appeal to the Baltimore County Board of Appeals may be taken within fifteen (15) days after the date of a final Order. §3-6-302(a)(b)(c)(d) requires the filing of a petition setting forth the grounds for appeal and a filing fee of $150. The appellant is urged to read the requirements for the appeal petition. Security in the amount of the civil penalty must be posted with the Director.

RSW/jaf

DIVISION OF CODE INSPECTIONS AND ENFORCEMENT

VIOLATION CASE DOCUMENTS

VIOLATION CASE: 05-4951

8237 Philadelphia Road

ZONING CASE: 06-330-A
8237 PHILADELPHIA ROAD

IN RE: **PETITION FOR VARIANCE** S/S Philadelphia Road, 82' SW of the c/l Spring Avenue **(8237 Philadelphia Road)** 15th Election District 7th Council District David F. McNew, II, et ux Petitioners	* * * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY **Case No. 06-330-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 owners of the subject property, David F. McNew, II and his wife, Kelly McNew. The Petitioners request a variance from Section 402.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a two-unit duplex dwelling to be situated on a lot having a width of 75 feet at the front building line in lieu of the required 80 feet. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were David and Kelly McNew, property owners. There were no Protestants or other interested persons present; however, it is to be noted that an unsigned letter was received from a concerned resident of the Rosedale area requesting that the property be limited to use as a single-family residence. This letter incorrectly referred to the property as 8257 Philadelphia Road.

The subject property at issue is a rectangular shaped parcel located on the south side of Philadelphia Road, between Neighbors Avenue and Spring Avenue in Rosedale. The property contains a gross area of .46 acres, more or less, and is split zoned D.R.5.5 and B.L. In this regard, the property immediately to the east is improved with a commercial building (dental offices). The property to the west is used for residential purposes. The subject property is improved with a two-story dwelling, which contains two apartments, and a detached garage. Apparently, the house

resided on the adjacent property for over 20 years, and who insured the subject property for the Petitioners. His letter indicates that the home always contained two apartments and that they were always rented. The Petitioners also have the support of their adjacent neighbors on either side; namely, Joan Novak, who resides at 8235 Philadelphia Road, and Dr. Edward Rose, whose dental office is located at 8241 Philadelphia Road.

Variance relief is requested from Section 402.1 of the B.C.Z.R. to allow the two-unit dwelling to be situated on a lot having a width of 75 feet. That Section requires a minimum lot width of 80 feet for duplex dwellings in the D.R.5.5 zone.

After due consideration of all of the testimony and evidence presented, I am persuaded to grant the requested relief. Obviously, the Petitioners are unable to meet the 80-foot lot width requirement. Thus, it is clear that strict compliance with Section 402.1 of the B.C.Z.R. would result in a practical difficulty and unreasonable hardship for the Petitioners. It is equally clear that the house has existed on the property since 1924 and its use as a two-unit dwelling has been ongoing for many years without prior complaint, as evidenced by the letter from Mr. Thomas. There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency, and the immediate neighbors support the proposal. Thus, I find that relief can be granted without detrimental impact to the adjacent properties or the surrounding locale. However, as a condition to the relief granted, the Petitioners shall be required to regularly maintain the property in good condition, free of all trash and debris, and in compliance with all zoning and building code regulations.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 16th day of March 2006 that the Petition for Variance seeking relief from Section 402.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a two-unit duplex dwelling to be situated on a lot having a width of 75 feet at the front building line in lieu of the required 80 feet,

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

DATE: January 24, 2006

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

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

SUBJECT: Item No.: 330
Legal Owner/Petitioner: David F. and Kelly McNew
Contract Purchaser:
Property Address: 8237 Philadelphia Road
Location Description: South side of Philadelphia Road, 82 feet southwest of Spring Avenue

VIOLATION INFORMATION: **Case No.: 05-4951**
Defendants: David F. and Kelly McNew

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

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

Complaint letter
Complaint Intake Form
State Tax Assessment printout
Correction Notice/Code Violation Notice
Photographs
Citation
Service Notice/Certified Mail Receipt
Final order from Hearing Officer
Other: copy of building permit

After the public hearing is held, please send a copy of the Zoning Commissioner's order to Lisa Henson in Room 213 in order that the appropriate action may be taken relative to the violation case.

RSW/
c: Ed Creed

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

4/27/2 DATE: 4/26/00

OEA: 5

HISTORIC DISTRICT/LI

[ ] YES [✓] NO
[ ] DO NOT KNOW

4/26/00

B413273
A 406352
MIC

60.02 x 5w
26.02
APP.

PROPERTY ADDRESS 8237 Philadelphia Rd.
SUITE/SPACE/FLOOR
SUBDIV:
TAX ACCOUNT #: 1508-550830
DISTRICT/PRECINCT 15 2

OWNER'S INFORMATION (LAST,FIRST)
NAME: David F & Kelly S McNew
ADDR: Same

DOES THE B
HAVE SPRINKL
YES

APPLICANT INFORMATION
NAME: David F McNew
COMPANY:
STREET 8237 Philadelphia Rd.
CITY,ST,ZIP Balto. Md. 21237
PHONE #: 410-574-1693 MHIC LICENSE #:
APPLICANT SIGNATURE: [signature] DBA#
PLANS: CONST ___ PLOT ___ PLAT ✓ DATA ✓ FL 1 PL 1
TENANT
CONTR: David F McNew
ENGNR:
SELLR:

DESCRIBE PROPOSED WORK: Repair fire damage 60% - Act to install framing, insulation, drywall new windows & doors, floor joists (1st flr), Replace shingles & fence shutters & trim soffits

NOTICE: CAREFULLY READ THIS APPLICATION AND ENSURE THE SAME IS CORRECT AND TRUE. IN ADDITION THIS WORK ALL PROVISIONS OF BALTIMORE COUNTY CODE AND APPLICABLE STATE REGULATIONS WILL BE COMPLIED WITH WHETHER HEREIN SPECIFIED OR NOT. WE WILL REQUEST ALL REQUIRED INSPECTIONS.

1 OR 2 FAM.
CODE 1
BOCA CODE
IMPROVEMENT
___ NEW BLDG CONST
___ ADDITION
✓ ALTERATION
___ REPAIR
___ WRECKING
___ MOVING
___ OTHER

USE

RESIDENTIAL
___ ONE FAMILY
___ TWO FAMILY
___ THREE AND FOUR FAMILY
___ FIVE OR MORE FAMILY (ENTER NO UNITS)
___ SWIMMING POOL
___ GARAGE
___ OTHER

NON-RESIDENTIAL 2600 SF

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

FOUNDATION
___ CAST
___ BLOCK
___ CONCRETE

BASEMENT
1. ___ FULL
2. ___ PARTIAL
3. ___ NONE

TYPE OF CONSTRUCTION
___ MASONRY
___ WOOD FRAME
___ STRUCTURE STEEL
___ REINF. CONCRETE

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

TYPE OF SEWAGE DISPOSAL
1. ✓ PUBLIC SEWER ✓ EXISTS ___ PR
2. ___ PRIVATE SYSTEM
___ SEPTIC ___ EXISTS ___ PL
___ PRIVY ___ EXISTS ___ PR

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

CENTRAL AIR: 1. 2.
ESTIMATED COST OF MATERIALS AND LABOR: $100,000
PROPOSED USE: 1FD or fire repair
EXISTING USE: SFD - vacant

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

RESIDENTIAL CATEGORY: 1. ___ DETACHED 2. ___ SEMI-DET. 3. ___ GROUP 4. ___ TOWNHSE 5. ___ MID 6. ___ HIGH
#EFF: #1BED: ___ #2BED: ___ #3BED: ___ TOT BED: ___ TOT APTS/CONDOS: ___
FAMILY BEDROOMS
GARBAGE DISPOSAL 1. Y 2. N BATHROOMS ___ CLASS 06
POWDER ROOMS ___ KITCHENS ___ LIBER ___ FOLIO ___

BUILDING SIZE
FLOOR 2600
WIDTH
DEPTH
HEIGHT
STORIES

LOT SIZE AND SETBACKS
SIZE 75,628
FRONT STREET
SIDE STREET
FRONT SETBK
SIDE SETBK NC
SIDE STR SETBK

APPROVAL SIGNATURES
BLD INSP [signature] 4/27/00
BLD PLAN
FIRE
SEDI CTL
ZONING [signature] 5907 C4
X PUB SERV
ENVRMNT

96 app

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

DATE: 4/12/02
OEA:
HISTORIC DISTRICT/BLDG. ☐ YES ☑ NO ☐ DO NOT KNOW

PERMIT #: B482053
RECEIPT #: A448722
CONTROL #: MK
XREF #:

FEE: 60.00 + 5.00
PAID: 65.00
PAID BY: App
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 8237 Philadelphia Rd.
SUITE/SPACE/FLOOR
SUBDIV:
TAX ACCOUNT #: 1508550830
DISTRICT/PRECINCT 15 02

OWNER'S INFORMATION (LAST,FIRST)
NAME: McNew David
ADDR: 8237 Philadelphia Rd.

DOES THIS BLDG. HAVE SPRINKLERS YES — NO —

APPLICANT INFORMATION
NAME: David McNew
COMPANY: Owner
STREET 8237 Philadelphia Rd.
CITY,ST,ZIP Balto. Md. 21237
PHONE #: 410-574-8693 MHIC # MHBR #
APPLICANT SIGNATURE: DRC#
PLANS: CONST 1 PLOT 4 PLAT 0 DATA 0 EL 2 PL 2
TENANT
CONTR: Owner
ENGNR:
SELLR:

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

DESCRIBE PROPOSED WORK:
— Construct 2 story deck w/landing + steps on rear of SFD.
20' X 24' = 432 SF (irreg.)
— Replace framing + decking on ex. front covered porch (open porch)
28 X 9' = 252

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

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

NOT OBA

* Front Setback Meets front avg. setback requirement per applicant

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 3. ___ ELECTRICITY
2. ___ OIL 4. ___ COAL

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

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

CENTRAL AIR: 1. 2.
ESTIMATED COST OF MATERIALS AND LABOR: $ 6,000

PROPOSED USE: SFD + addition.
EXISTING USE: SFD

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. N...
POWDER ROOMS
BATHROOMS
KITCHENS
CLASS 06
LIBER
FOLIO

BUILDING SIZE
FLOOR 684
WIDTH
DEPTH
HEIGHT
STORIES
LOT #'S
CORNER LOT 1. ___ Y... 2. N...

LOT SIZE AND SETBACKS
SIZE 21,000 SF
FRONT STREET
SIDE STREET
FRONT SETBK 25'
SIDE SETBK NC/NC
SIDE STR SETBK
REAR SETBK 200'
ZONING

APPROVAL SIGNATURES		DATE
BLD INSP		
BLD PLAN		
FIRE		
SEDI CTL		
ZONING		
PUB SERV	Final 4-12-02	
ENVRMNT		
PERMITS		4/12/02

MAKE CHECKS PAYABLE TO BALTIMORE COUNTY MARYLAND -- NO PERMIT FEES REFUNDED

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

DATE: 4/12/02

OEA: 5-1/12/02

HISTORIC DISTRICT/BLDG. ___ YES ✓ NO ___ DO NOT KNOW

PERMIT #: B482052
RECEIPT #: A464722
CONTROL #: MP
XREF #:

FEE: 60.00
PAID: 60.00
PAID BY: APP
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: 8237 Philadelphia Rd
SUITE/SPACE/FLOOR:
SUBDIV: 80' W of Spring Ave.
TAX ACCOUNT #: 1508550830
DISTRICT/PRECINCT: 15 02

OWNER'S INFORMATION (LAST,FIRST)
NAME: McNew David T Kelly
ADDR: 8237 Philadelphia Rd.

DOES THIS BLDG. HAVE SPRINKLERS YES ___ NO ___

APPLICANT INFORMATION
NAME: David McNew
COMPANY: Owner
STREET: 8237 Philadelphia Rd.
CITY,ST,ZIP: Balto. Md. 21237
PHONE #: 410-574-8697 MHIC # ___ MHIBR # ___
APPLICANT SIGNATURE: [signature] DRC# ___
PLANS: CONST 0 PLOT 0 PLAT 0 DATA 0 EL 1 PL 1

TENANT
CONTR: Owner
ENGNR:
SELLR:

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

DESCRIBE PROPOSED WORK: FAT ACTS TO COMPLETE (MR - FIRE DAMAGE) STARTED UNDER B413273.
NOT CLEAR
[illegible] Framing: 10/23/00
EGC & P/Pbg
Have not been finaled.

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

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 3. ___ ELECTRICITY
2. ___ OIL 4. ___ COAL

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

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

CENTRAL AIR: 1. ___ 2. ___
ESTIMATED COST OF MATERIALS AND LABOR: $100,000

PROPOSED USE: FAT ACTS TO Complete.
EXISTING USE:

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. ___ N... BATHROOMS ___ CLASS 06
POWDER ROOMS ___ KITCHENS ___ LIBER ___ FOLIO ___

BUILDING SIZE
FLOOR 0
WIDTH ___
DEPTH 1
HEIGHT 1
STORIES 1
LOT #'S ___
CORNER LOT 1. ___ Y... 2. ___ N...

LOT SIZE AND SETBACKS
21032SF
SIZE 175x240
FRONT STREET ___
SIDE STREET ___
FRONT SETBK ___
SIDE SETBK NO
SIDE STR SETBK ___
REAR SETBK ___
ZONING 1

APPROVAL SIGNATURES		DATE
BLD INSP		
BLD PLAN		
FIRE		
SED1 CTL		
ZONING		
PUB SERV		
ENVRMNT		
X PERMITS	DJS/NT	4/12/02

MAKE CHECKS PAYABLE TO BALTIMORE COUNTY MARYLAND -- NO PERMIT FEES REFUNDED

PLOT PLAN

Application Number

OWNER David McNew

ADDRESS 8237 Philadelphia Rd.

PLEASE SHOW BELOW:

- Property line dimensions and easements;
- Existing buildings;
- Existing well/septic; (show distance to nearest structure)
- Road names and location of alleys;
- If your property is in a tidal or riverine flood area, indicate elevation of lowest floor of proposed work.
- The proposed work and the setback distances to the proposed work.

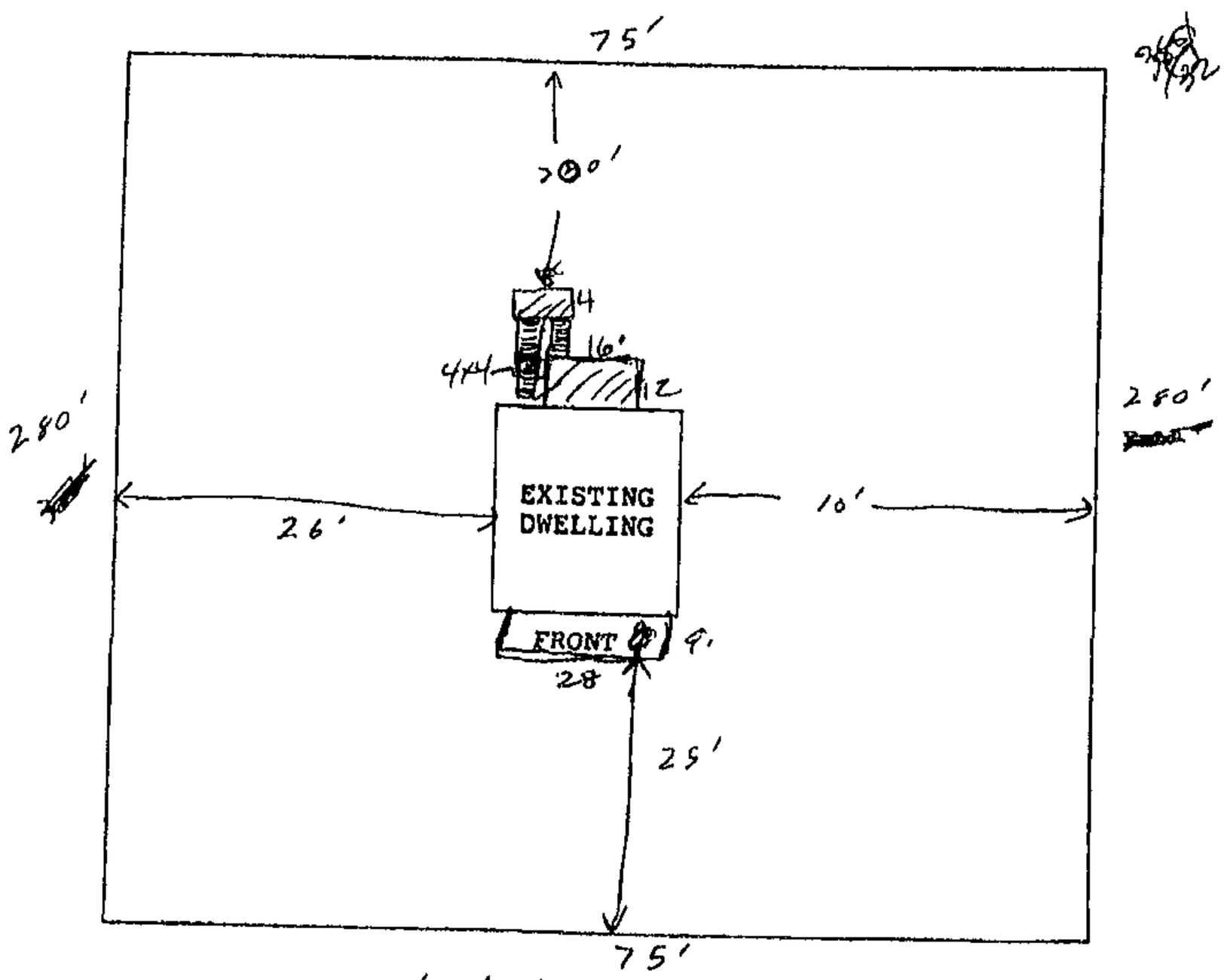
Front Setback 25'

Rear Setback 220'

Left Setback 26'

Right Setback 10'

NOTE: Cannot fence access easement.



ROAD NAME Philadelphia Rd.

REV 7/96

From: Patricia Zook
To: Matthews, Kristen
Date: 8/7/2006 3:50:45 PM
Subject: Case No. 06-611-SPH — hearing on Wed Aug 9

Hi Kristen-

This file is being returned to PDM. Please see the attached memo.

Thanks.

Patti Zook
Legal Secretary
Baltimore County
Office of the Zoning Commissioner
410-887-3868

IN RE: **PETITION FOR VARIANCE** S/S Philadelphia Road, 82' SW of the c/l Spring Avenue **(8237 Philadelphia Road)** 15th Election District 7th Council District David F. McNew, II, et ux Petitioners	* * * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY **Case No. 06-330-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 owners of the subject property, David F. McNew, II and his wife, Kelly McNew. The Petitioners request a variance from Section 402.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a two-unit duplex dwelling to be situated on a lot having a width of 75 feet at the front building line in lieu of the required 80 feet. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were David and Kelly McNew, property owners. There were no Protestants or other interested persons present; however, it is to be noted that an unsigned letter was received from a concerned resident of the Rosedale area requesting that the property be limited to use as a single-family residence. This letter incorrectly referred to the property as 8257 Philadelphia Road.

The subject property at issue is a rectangular shaped parcel located on the south side of Philadelphia Road, between Neighbors Avenue and Spring Avenue in Rosedale. The property contains a gross area of .46 acres, more or less, and is split zoned D.R.5.5 and B.L. In this regard, the property immediately to the east is improved with a commercial building (dental offices). The property to the west is used for residential purposes. The subject property is improved with a two-story dwelling, which contains two apartments, and a detached garage. Apparently, the house

has existed on the property since 1924. In addition, a paved parking area for up to six vehicles is located between the house and the garage along the north side of the property and there are two paved parking spaces in front of the building adjacent to Philadelphia Road. At issue in this case, is the Petitioners' proposal to use the property as a two-apartment dwelling.

In this regard, testimony indicated that the Petitioners have owned and resided on the property since February 1996. Testimony indicated that the house was set up as two separate units, served by separate entrances, electrical meters, etc. There is no internal connection within the dwelling from one unit to the other, and each unit has its own kitchen and separate heating/ventilation systems. At the time of their purchase, the first floor was used as a craft shop, and the second floor contained living quarters. The Petitioners resided on the second floor until December 1999, when the entire building sustained structural damage and was rendered uninhabitable. The Petitioners moved from the property during the rebuilding process and now reside elsewhere; however, have elected to rent both units to other individuals (Van Skripicz, second floor tenant, and Germiel Paul, first floor tenant). Pertinent parts of the fire restoration contract were submitted into evidence as Petitioner's Exhibit 2 and show that the first and second floor stairways, kitchens, bedrooms, and bathrooms were reconstructed.

In any event, following completion of the restoration, an anonymous complaint was filed (Case No. 05-4951) alleging that an illegal conversion of the dwelling into two apartments had occurred. In this regard, when permits were issued for the renovations, the contractor identified the building as a single-family dwelling. There were other complaints regarding the accumulation of trash and debris, Petitioners' failure to maintain the property (cut grass), and illegal parking of recreational vehicles (boat). At the hearing, Mr. McNew attributed these problems to the fire, which destroyed the majority of their personal possessions, and stated that it took some time to sort through and dispose of those things that were not salvageable.

Mr. McNew argued that the building has contained two separate units for many years and that the proposed conversion is appropriate in this instance. In support of the request, he submitted into evidence a letter from James G. Thomas, a State Farm agent, who previously

resided on the adjacent property for over 20 years, and who insured the subject property for the Petitioners. His letter indicates that the home always contained two apartments and that they were always rented. The Petitioners also have the support of their adjacent neighbors on either side; namely, Joan Novak, who resides at 8235 Philadelphia Road, and Dr. Edward Rose, whose dental office is located at 8241 Philadelphia Road.

Variance relief is requested from Section 402.1 of the B.C.Z.R. to allow the two-unit dwelling to be situated on a lot having a width of 75 feet. That Section requires a minimum lot width of 80 feet for duplex dwellings in the D.R.5.5 zone.

After due consideration of all of the testimony and evidence presented, I am persuaded to grant the requested relief. Obviously, the Petitioners are unable to meet the 80-foot lot width requirement. Thus, it is clear that strict compliance with Section 402.1 of the B.C.Z.R. would result in a practical difficulty and unreasonable hardship for the Petitioners. It is equally clear that the house has existed on the property since 1924 and its use as a two-unit dwelling has been ongoing for many years without prior complaint, as evidenced by the letter from Mr. Thomas. There were no adverse Zoning Advisory Committee (ZAC) comments submitted by any County reviewing agency, and the immediate neighbors support the proposal. Thus, I find that relief can be granted without detrimental impact to the adjacent properties or the surrounding locale. However, as a condition to the relief granted, the Petitioners shall be required to regularly maintain the property in good condition, free of all trash and debris, and in compliance with all zoning and building code regulations.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 16th day of March 2006 that the Petition for Variance seeking relief from Section 402.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a two-unit duplex dwelling to be situated on a lot having a width of 75 feet at the front building line in lieu of the required 80 feet,

in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, the Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

2) The Petitioners shall regularly maintain the property in good condition, free of all trash and debris, and in compliance with all zoning and building code regulations.

3) There shall be no storage of damaged, disabled or untagged vehicles on the property, and the storage of any recreational vehicle on the property shall be in accordance with the Baltimore County Zoning Regulations.

4) Within sixty (60) days of the date hereof, the two parking spaces located in the front yard shall be removed and that area landscaped with lawn and shrubbery.

5) When applying for any permits, the site plan filed must reference this case and set forth and address the restrictions of this Order.

Any appeal of this decision must be taken in accordance with Baltimore County Code Section 32-3-401.

WILLIAM J. WISEMAN, III
Zoning Commissioner
for Baltimore County

WJW:bjs

05-4951

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

March 15, 2006

WILLIAM J. WISEMAN III
Zoning Commissioner

Mr. & Mrs. David F. McNew
819 Cedar Grove Road
Baltimore, Maryland 21221

RE: **PETITION FOR VARIANCE**
S/S Philadelphia Road, 82' SW of the c/l Spring Avenue
(8237 Philadelphia Road)
15th Election District – 7th Council District
David F. McNew, *et ux - Petitioners*
Case No. 06-330-A

Dear Mr. & Mrs. McNew:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted, 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:bjs

cc: Code Enforcement Division, DPDM
People's Counsel; Case File

PLEASE PRINT CLEAR

PLEASE PRINT CLEARLY

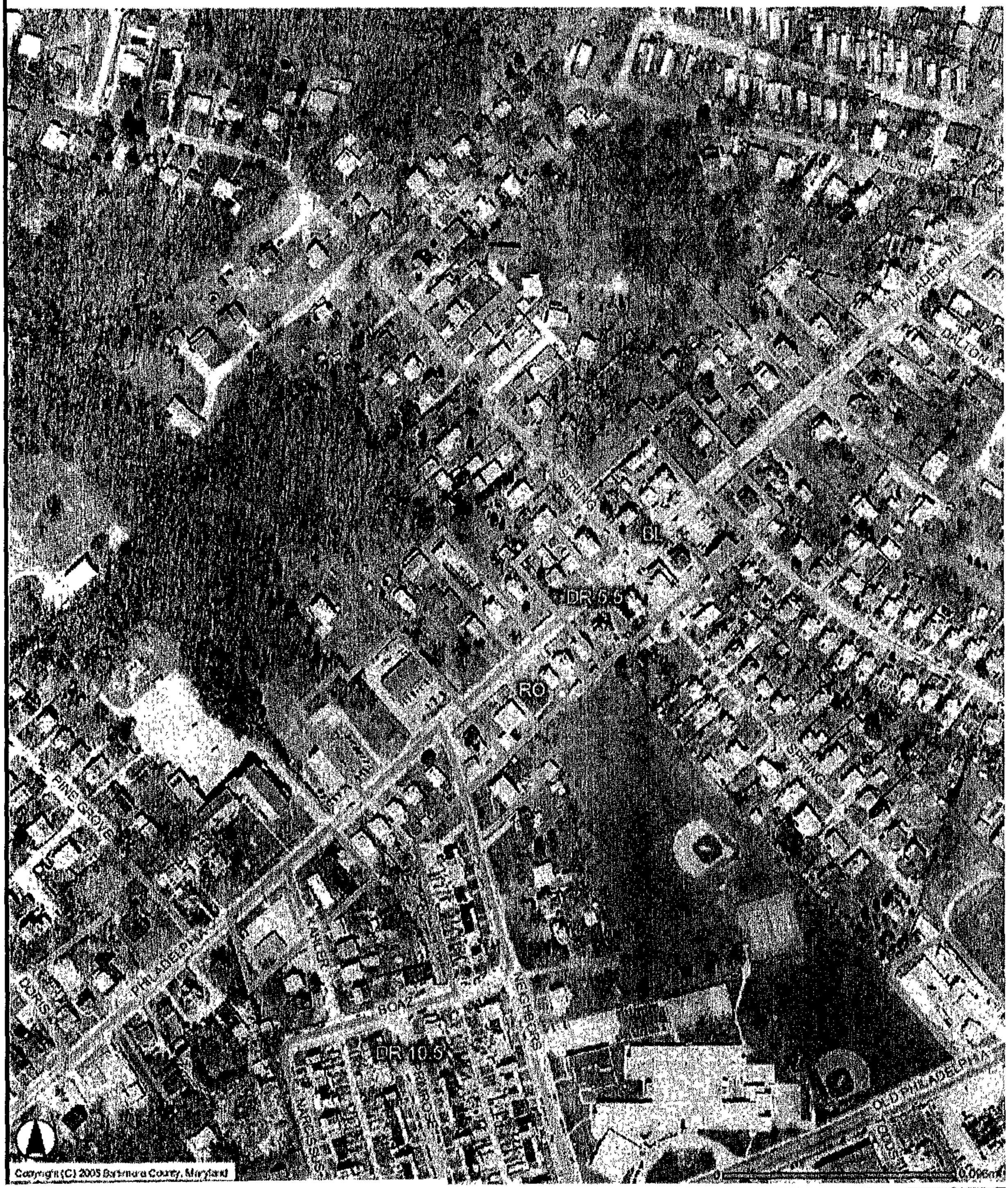
CASE NAME_____
CASE NUMBER_____
DATE_____

CITIZEN'S SIGN-IN SHEET

NAME	
Jeff Radcliffe	///

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
David + Kelly McNew	819 Cedar Grove Rd.	Balto. MD 21237	

Baltimore County - My Neighborhood



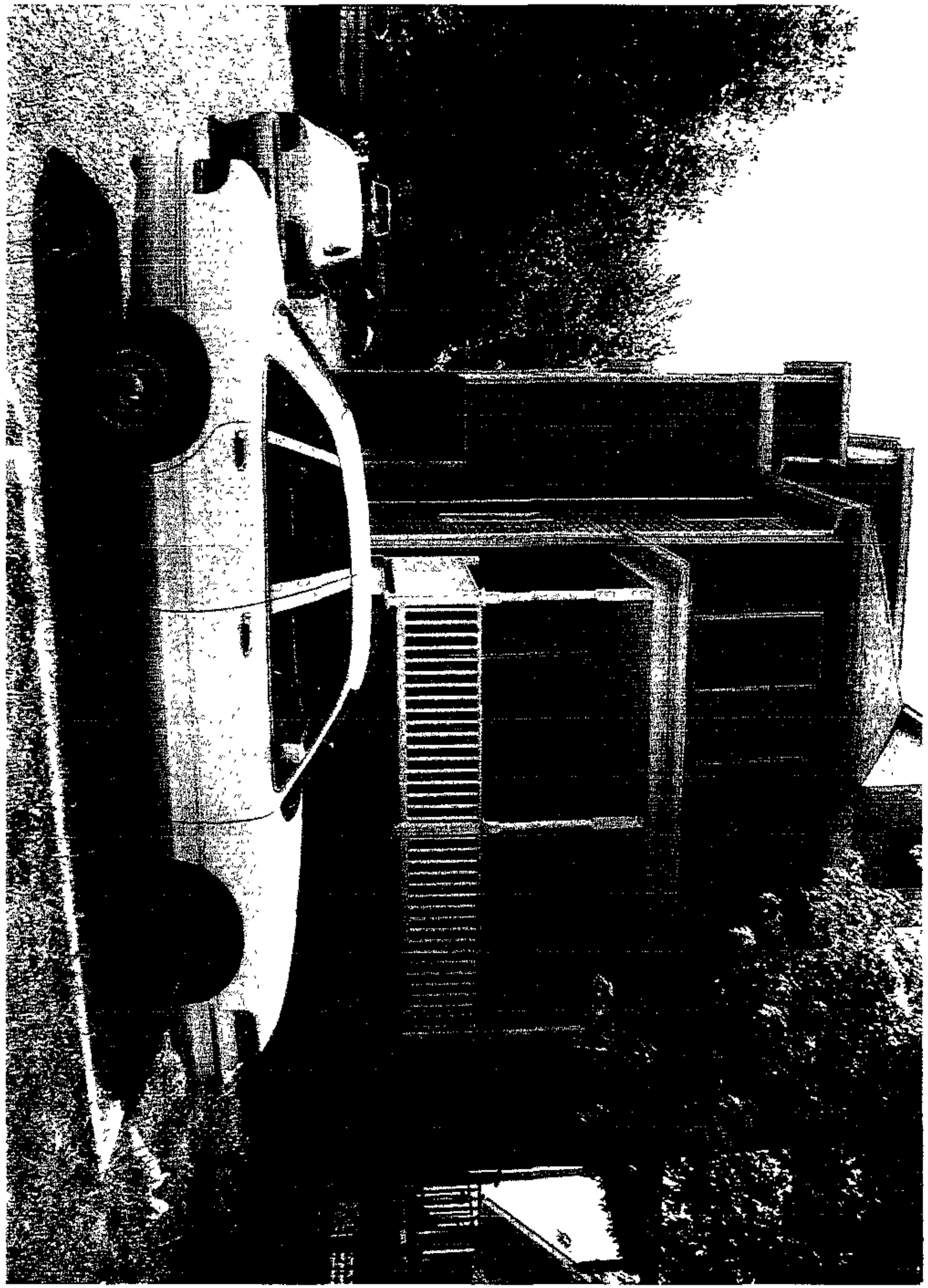
089 CZ

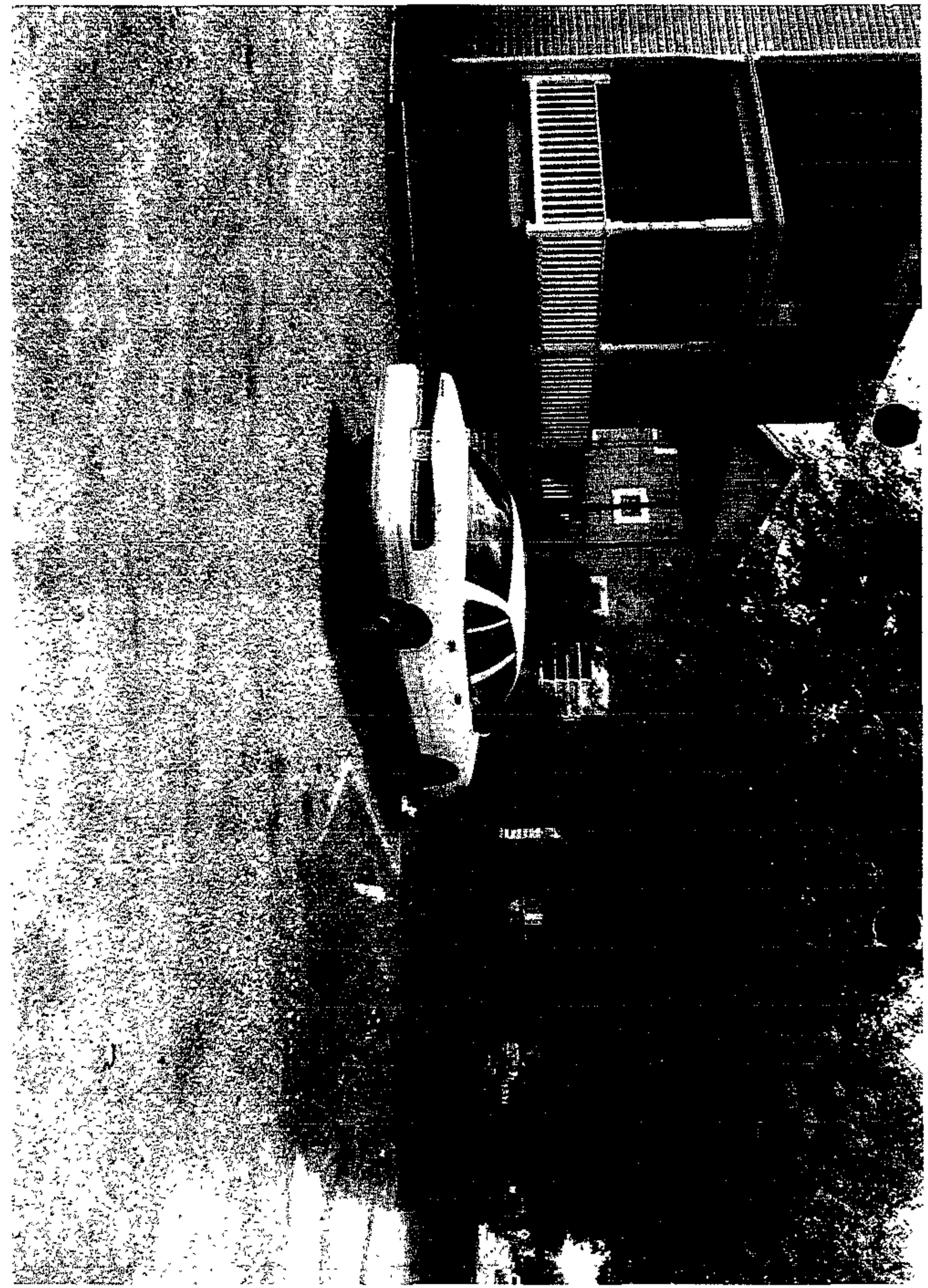
06-611-SPH

CS.# 05-4951
CS.# 06-330-A

8237 Philadelphia Rd.
5/17/06 JRA

Pet EX1.A
11 photo's.

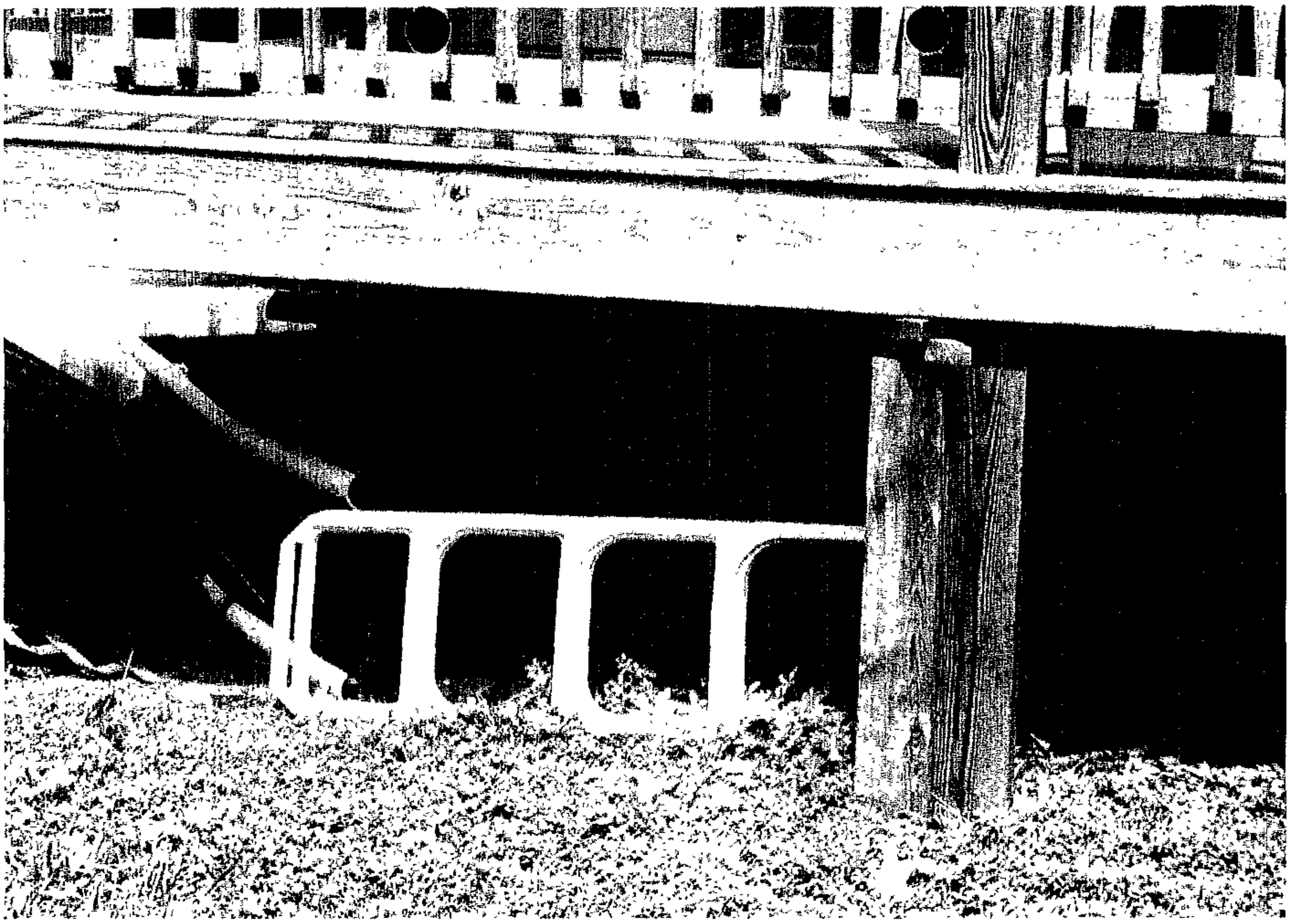


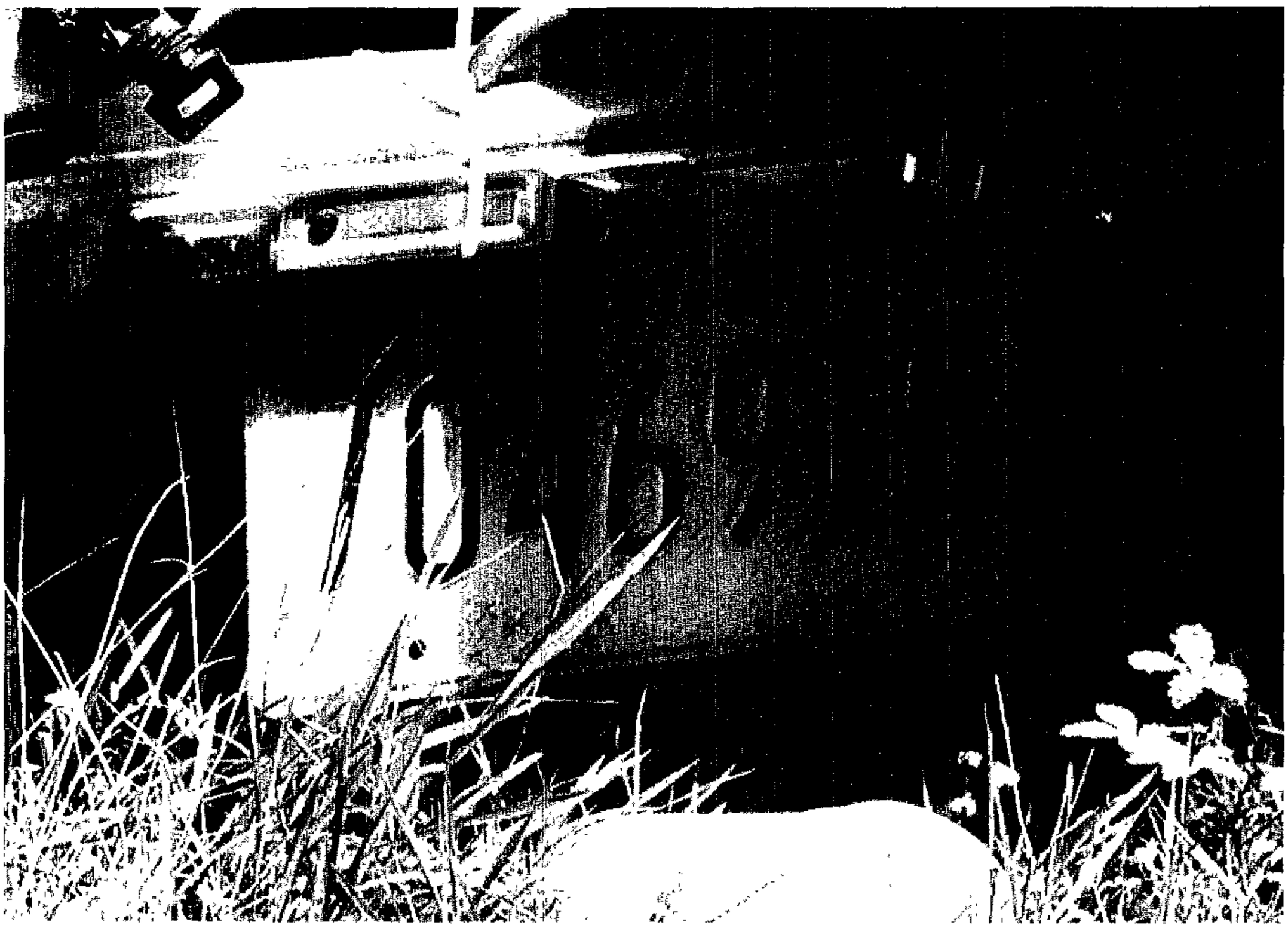


EX1

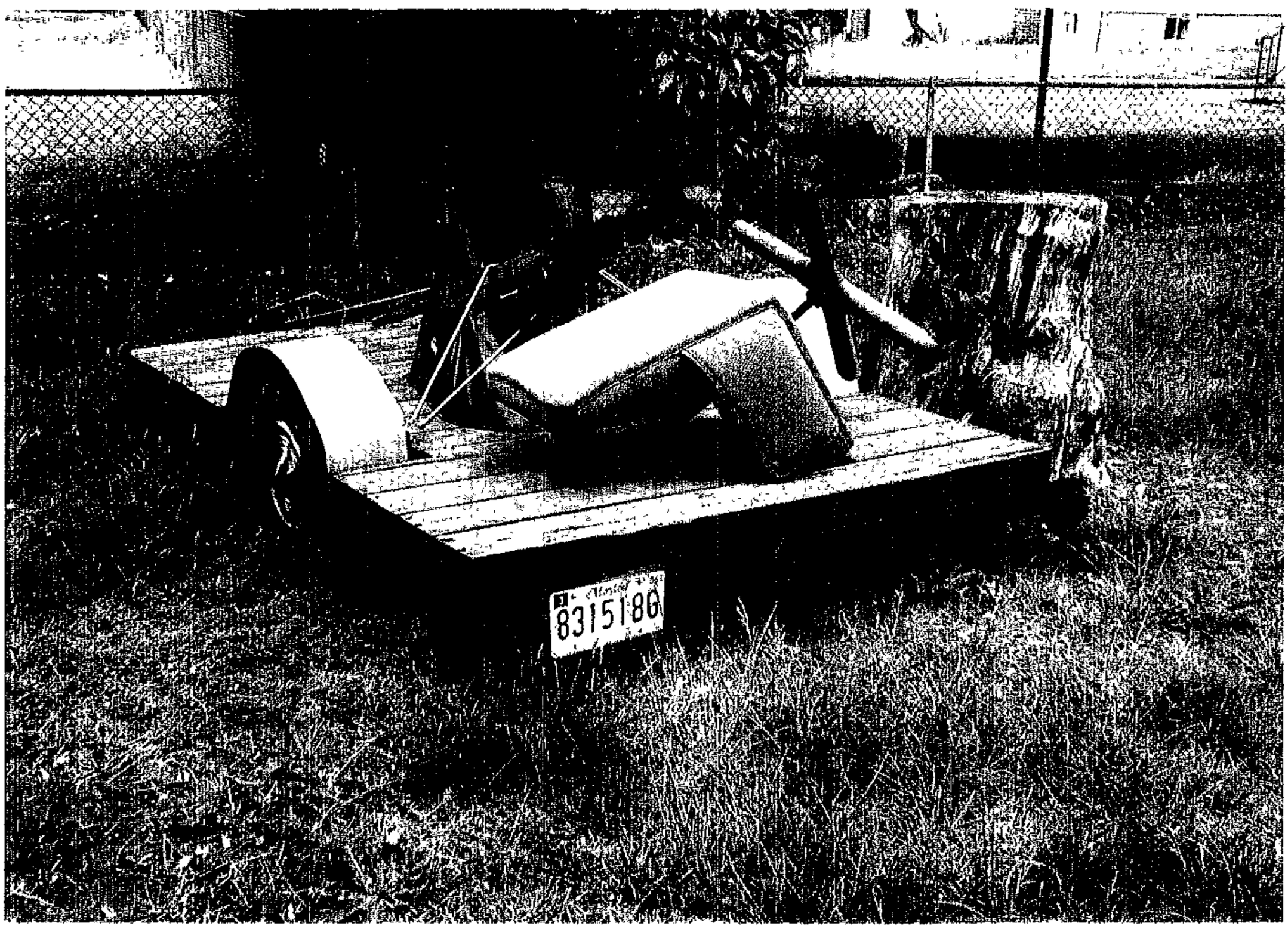
1A2

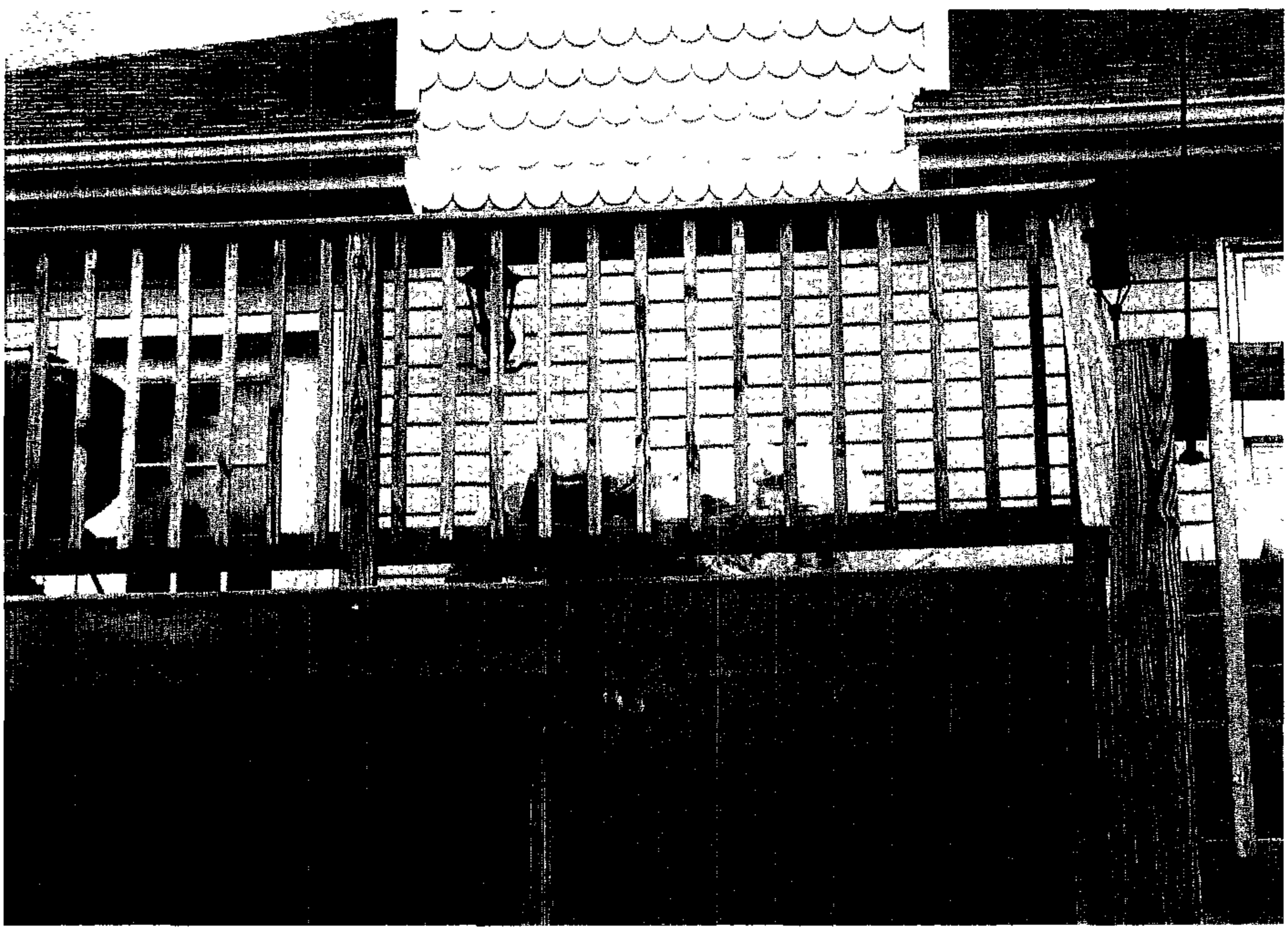
143





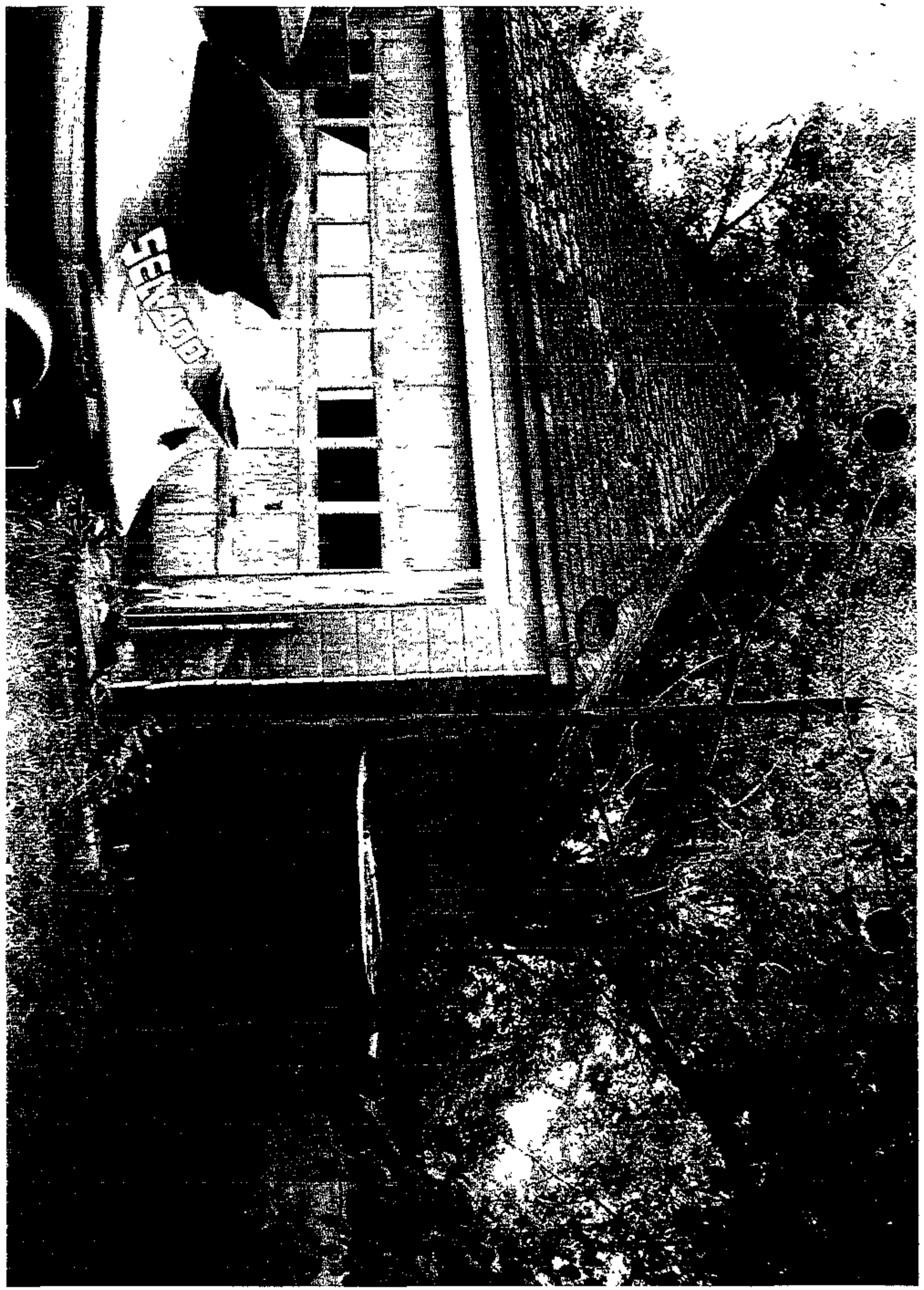
14F





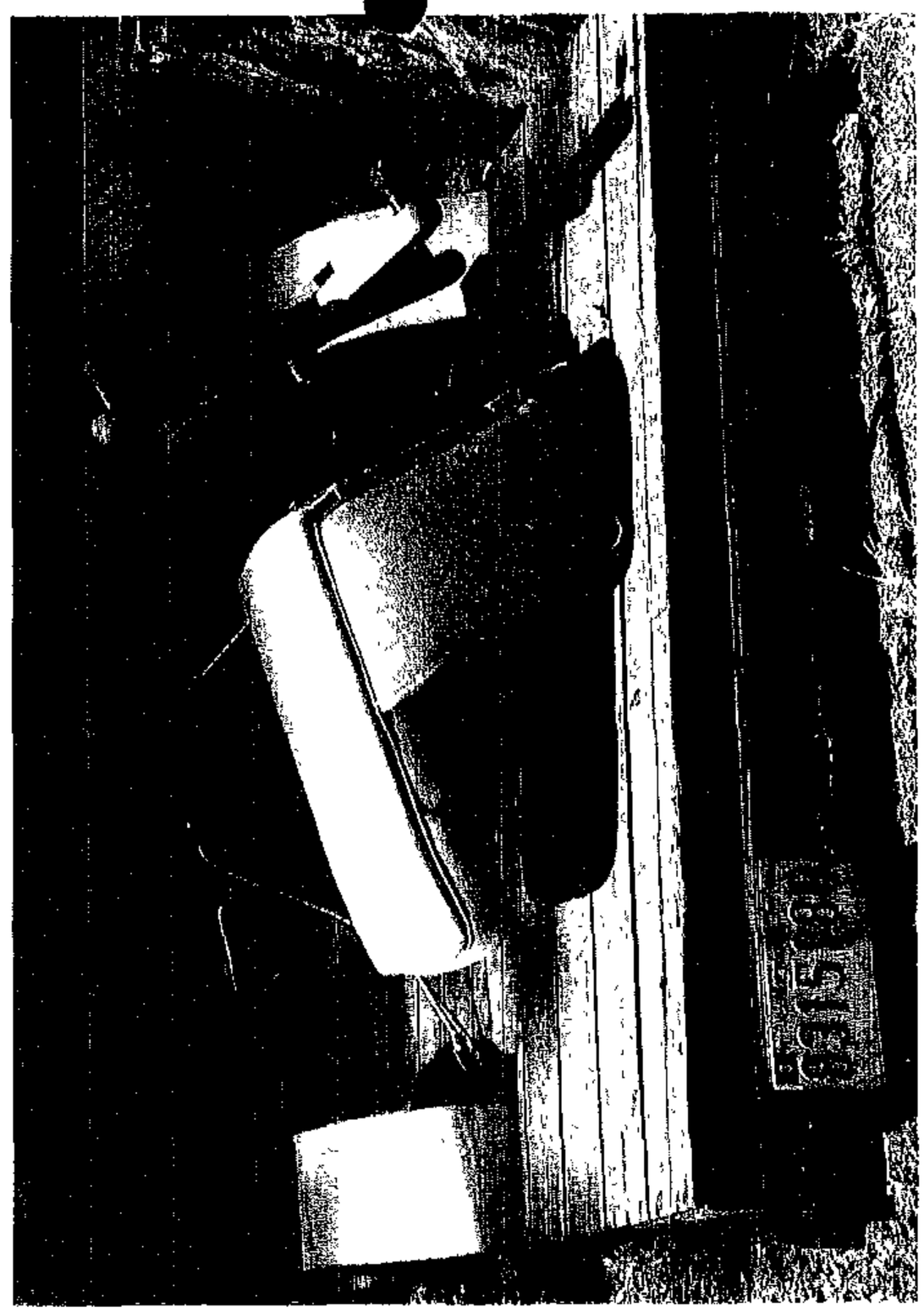
145

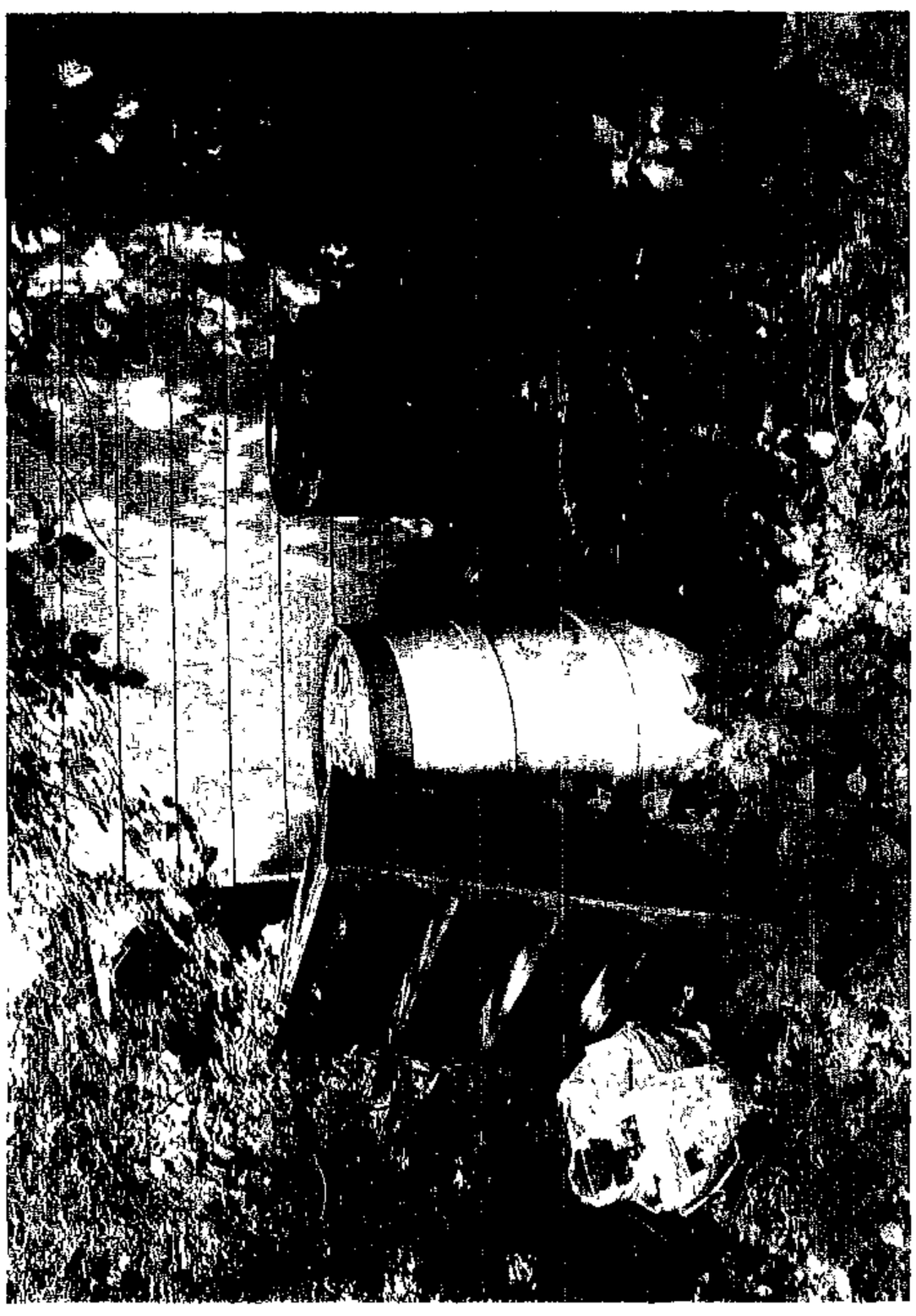
146

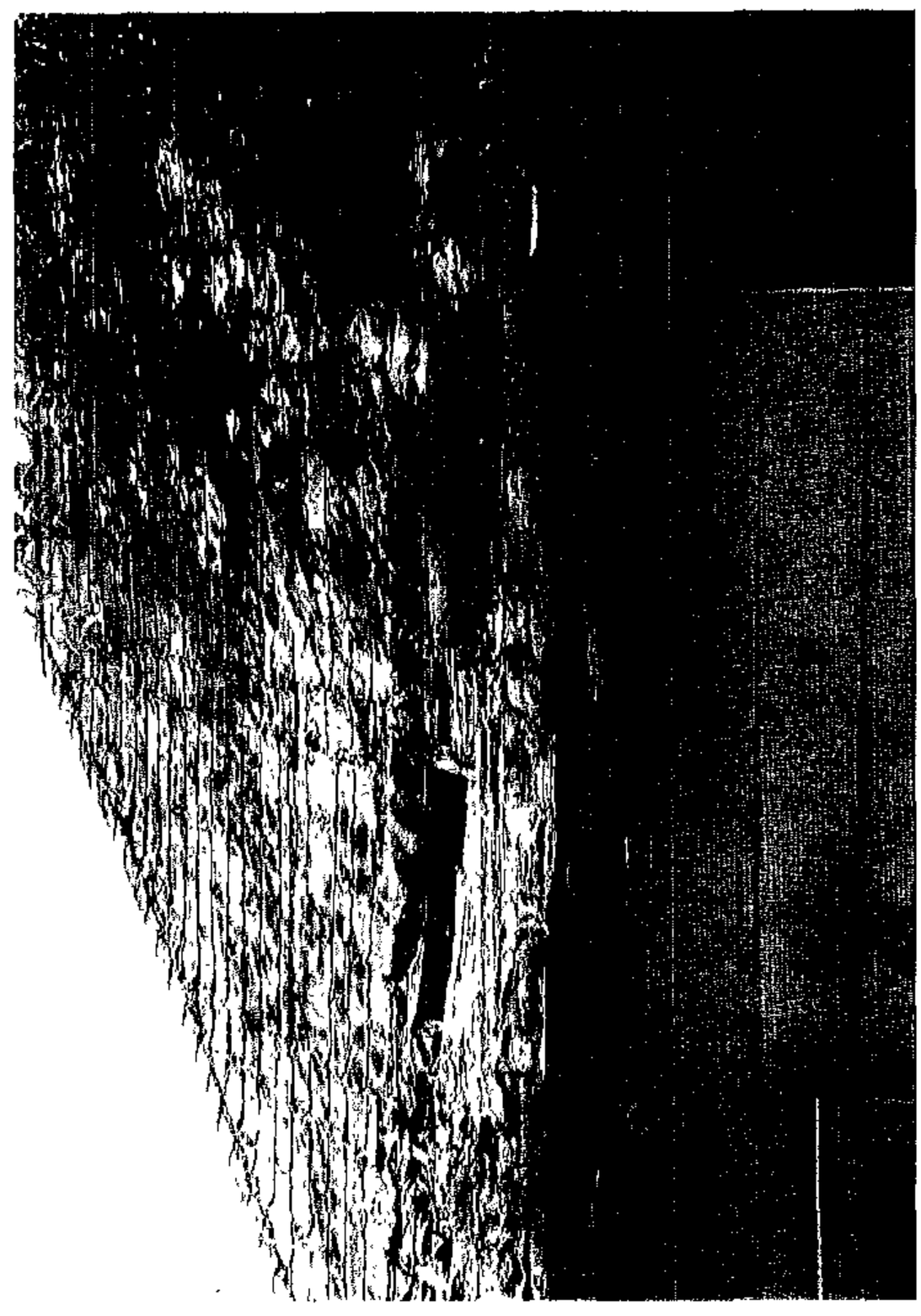


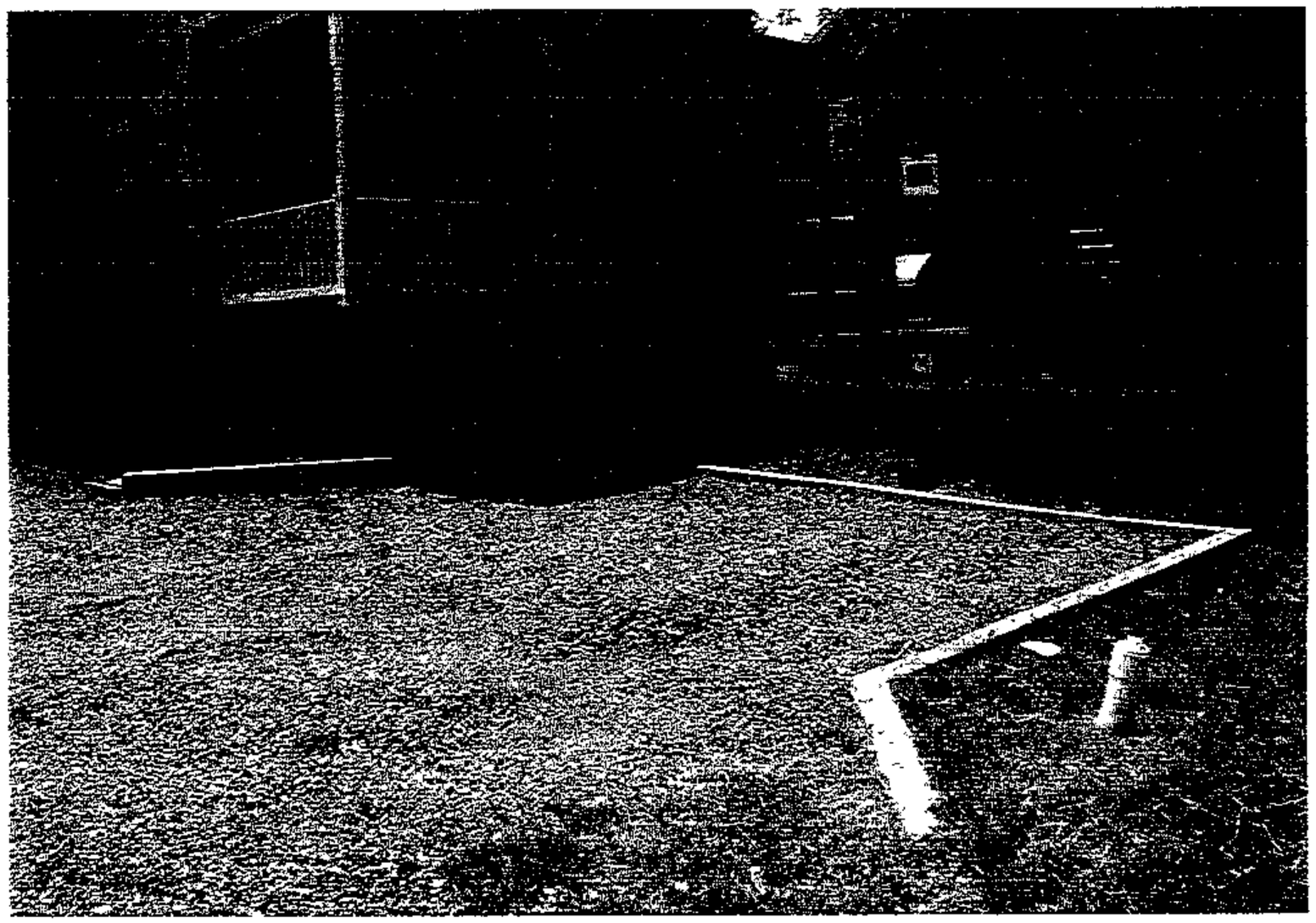
CS. # 05-4951
4237 Philadelphia Rd.
8/7/06
JRA

Ref.
LB 11 photo's

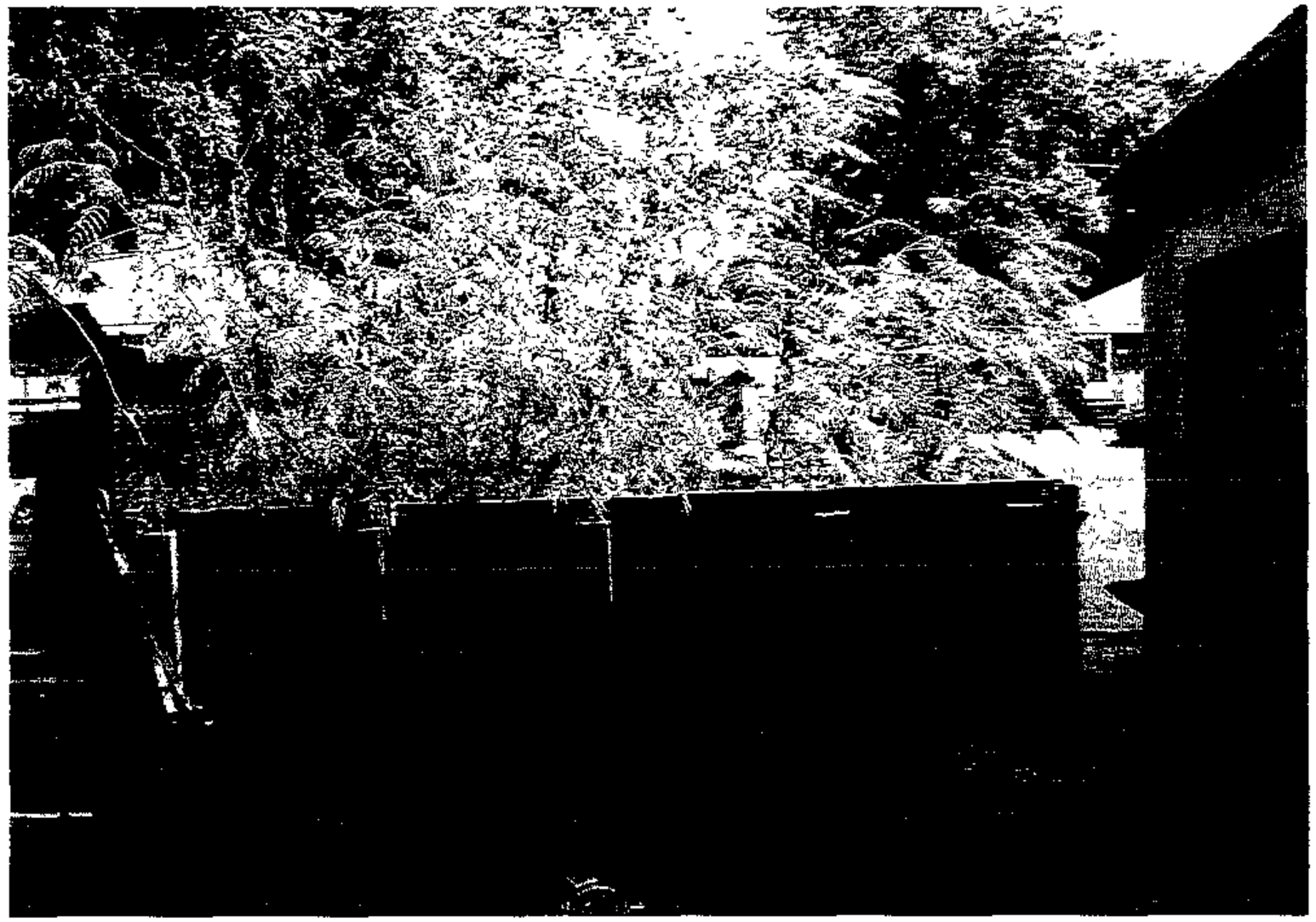


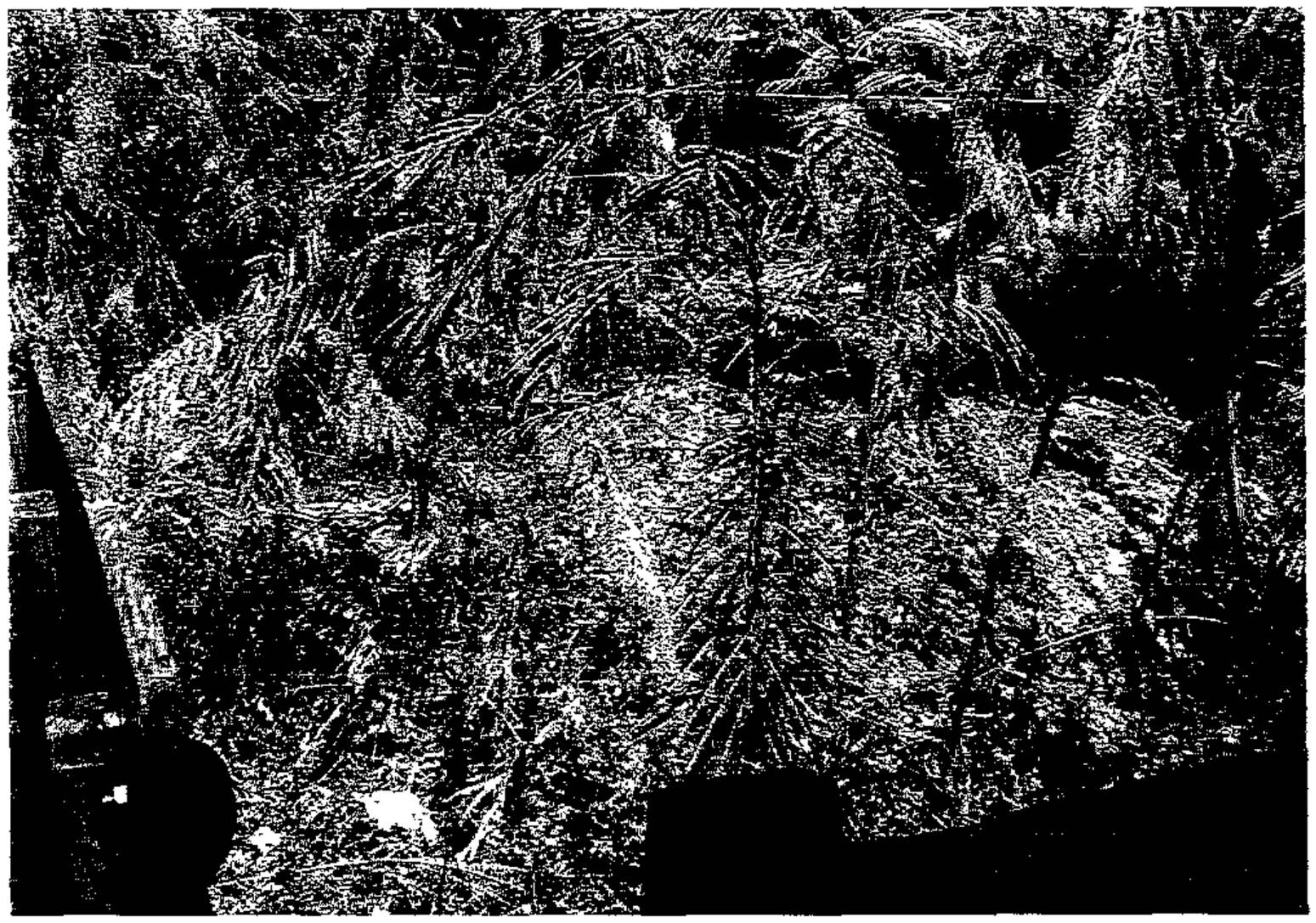






183





PHOTOGRAPHIC RECORD

Def.
1C 7 photo's

Citation/Case No.: 05-4951

Date of Photographs: 12-5-06

I HEREBY CERTIFY that I took the 7 (number of photos) photographs set out above, and that these photographs fairly and accurately depict the condition of the property that is the subject of the above-referenced citation/case number on the date set out above.

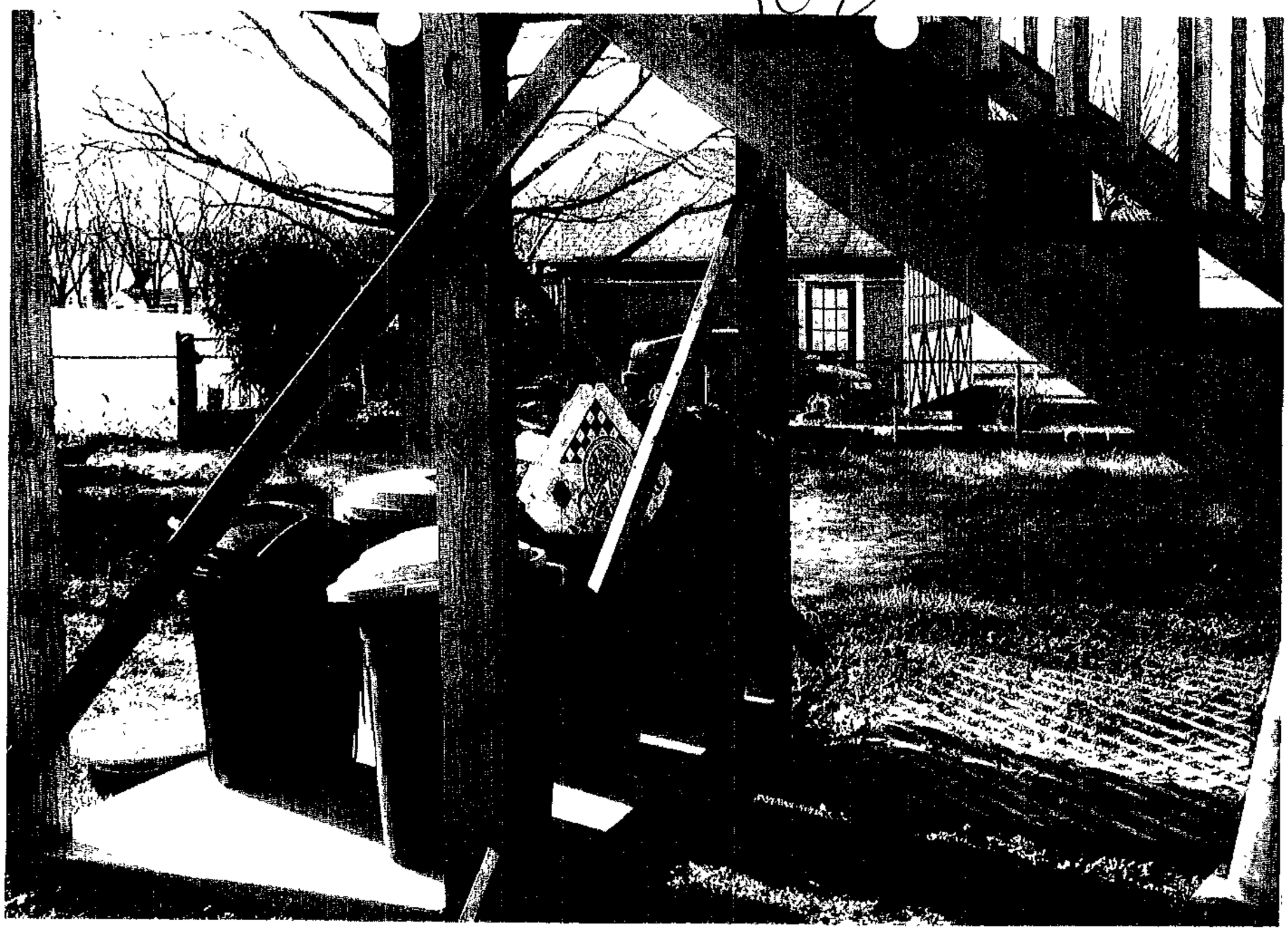
Enforcement Officer

11/14/00

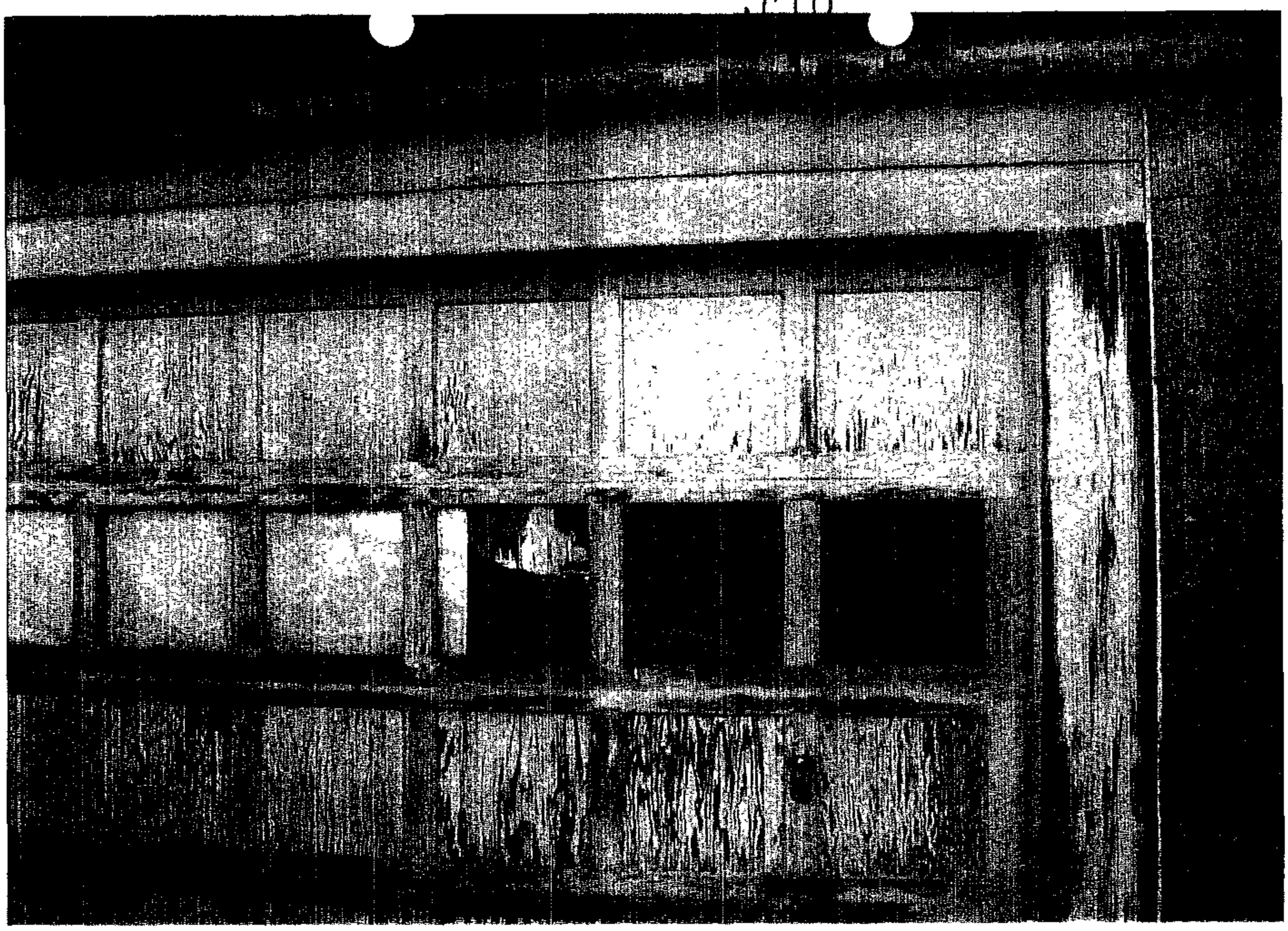
1

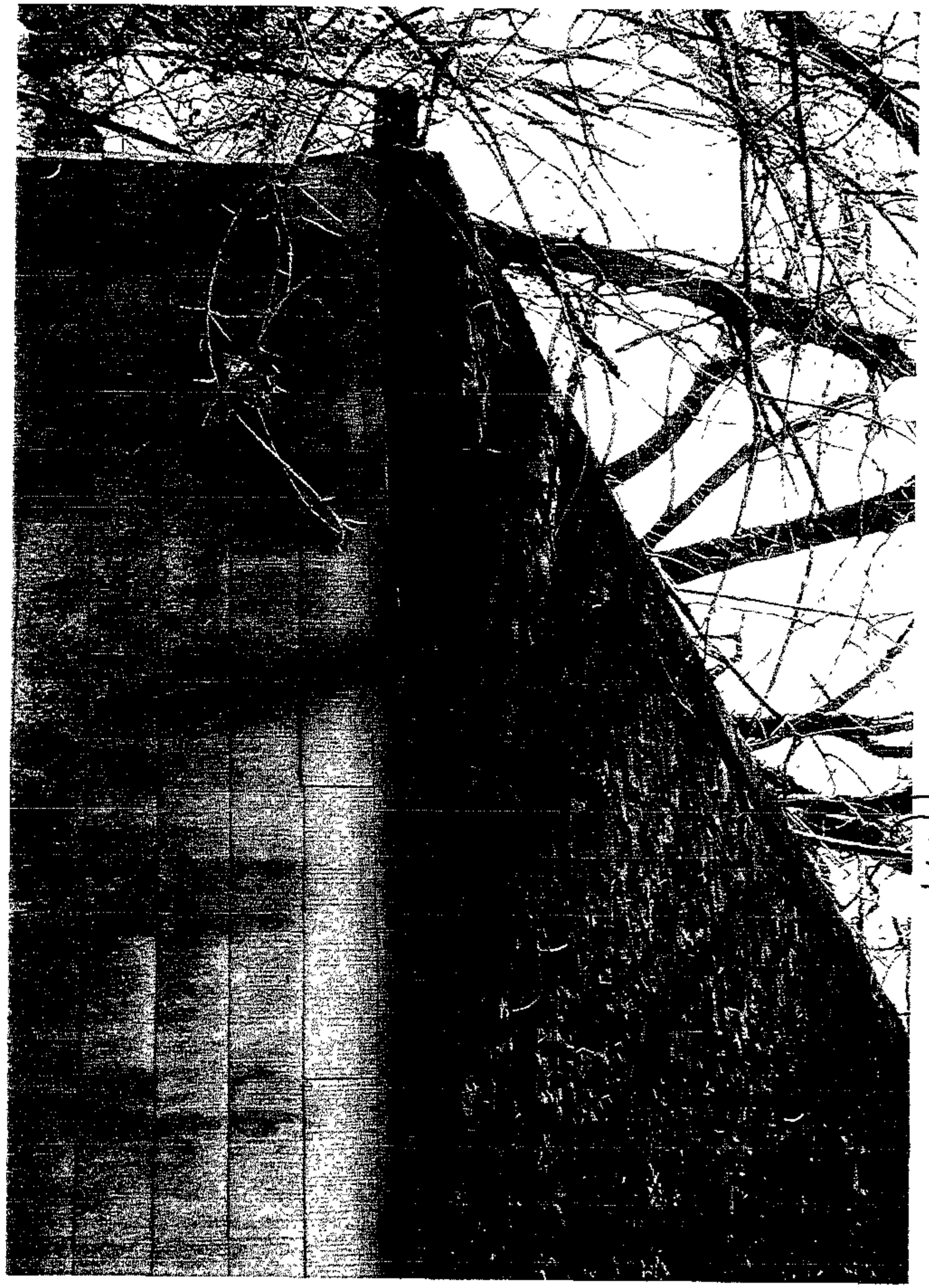
1C1

1C2



7

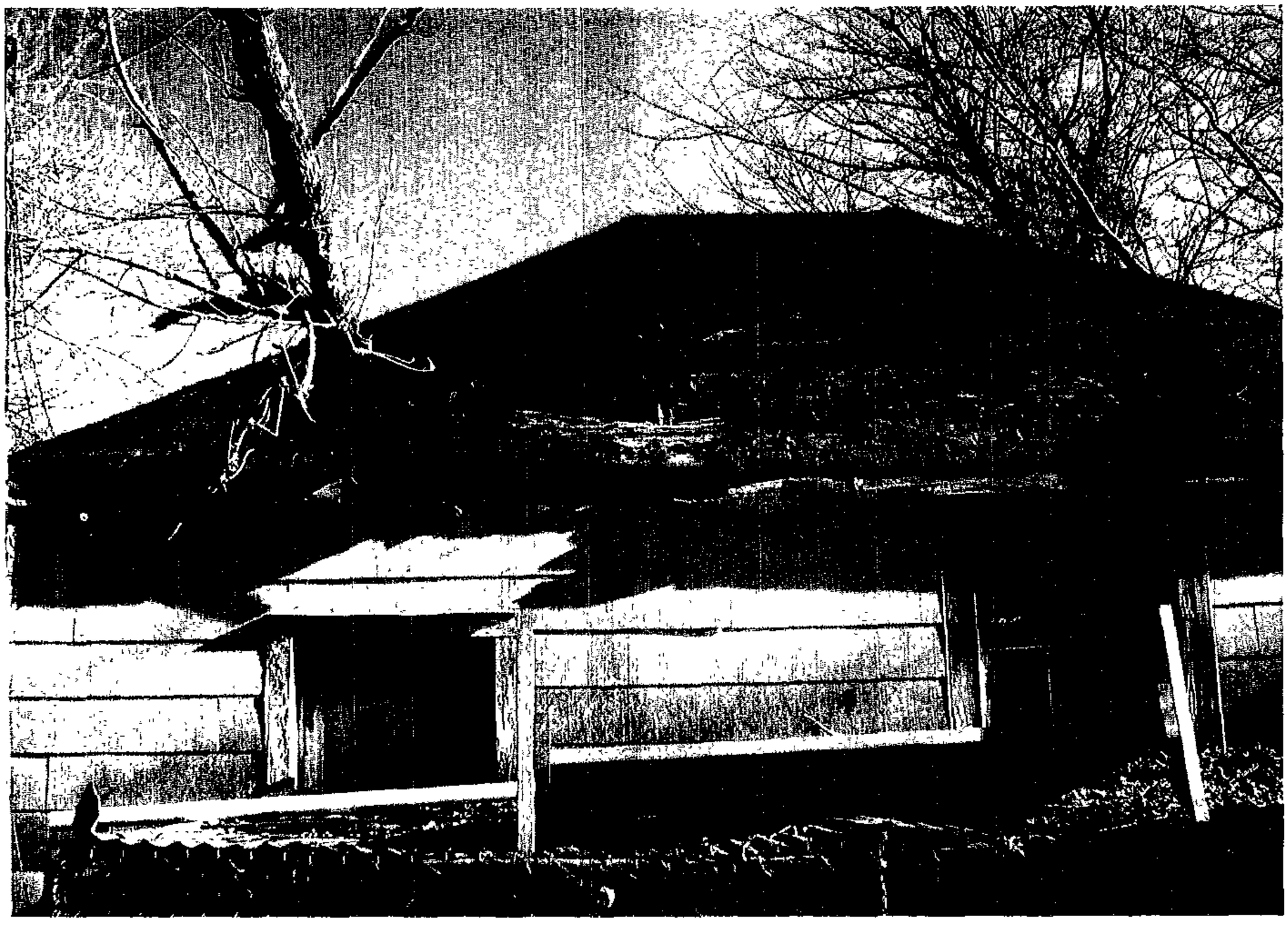




PHOTOGRAPHIC RECORD

Citation/Case No : 06- 611 - SPH

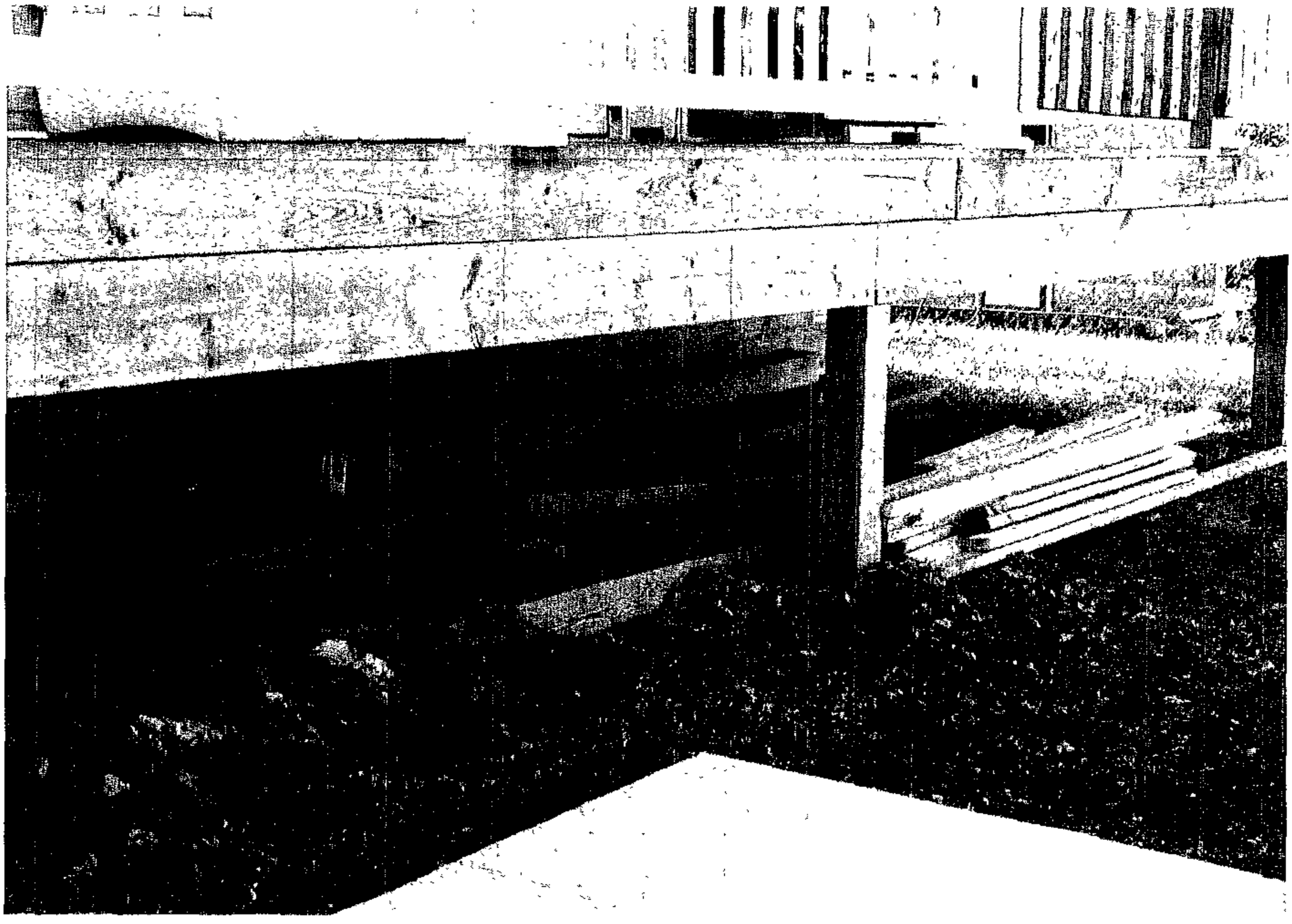
Date of Photographs 11- 21-06

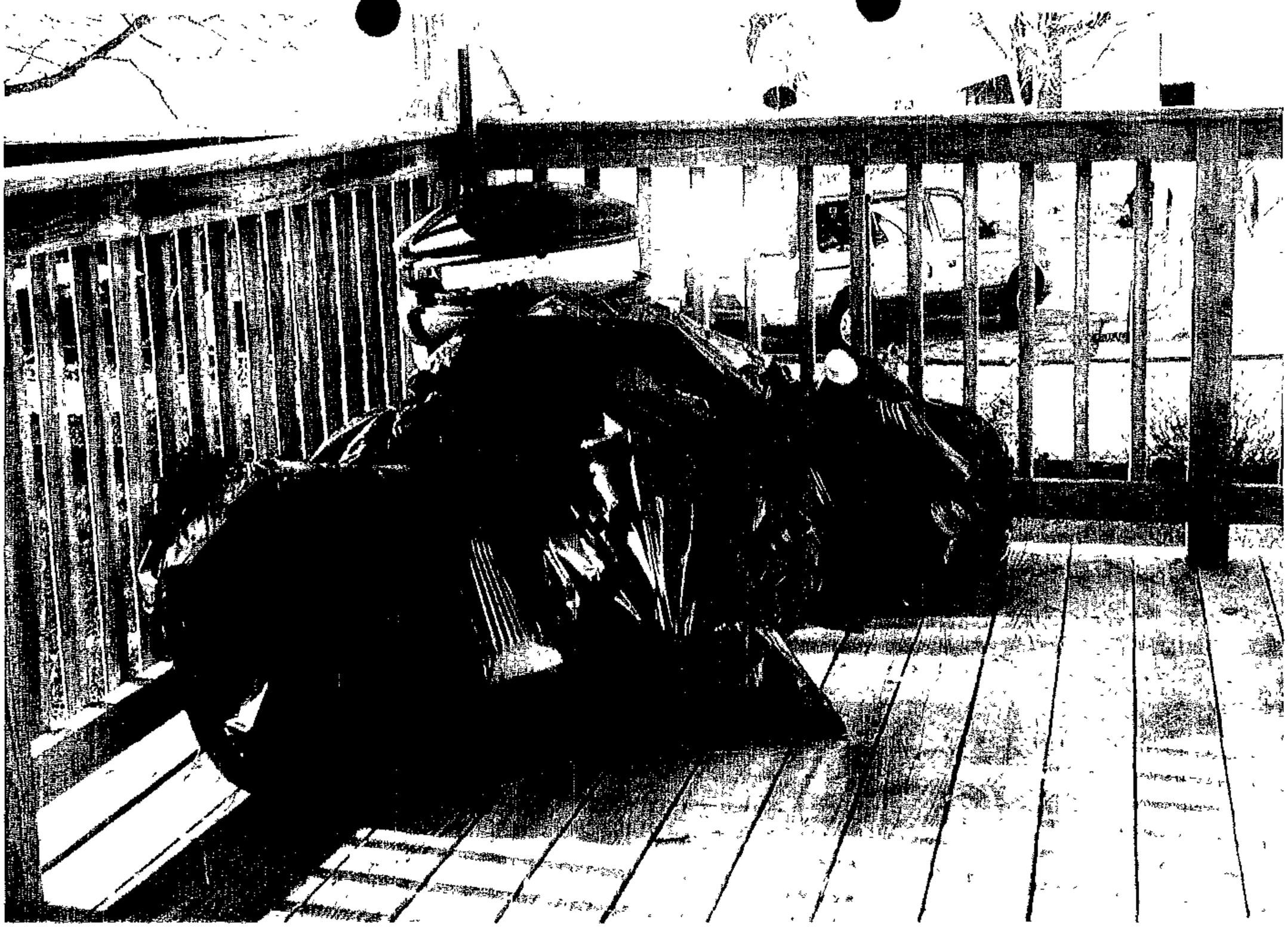


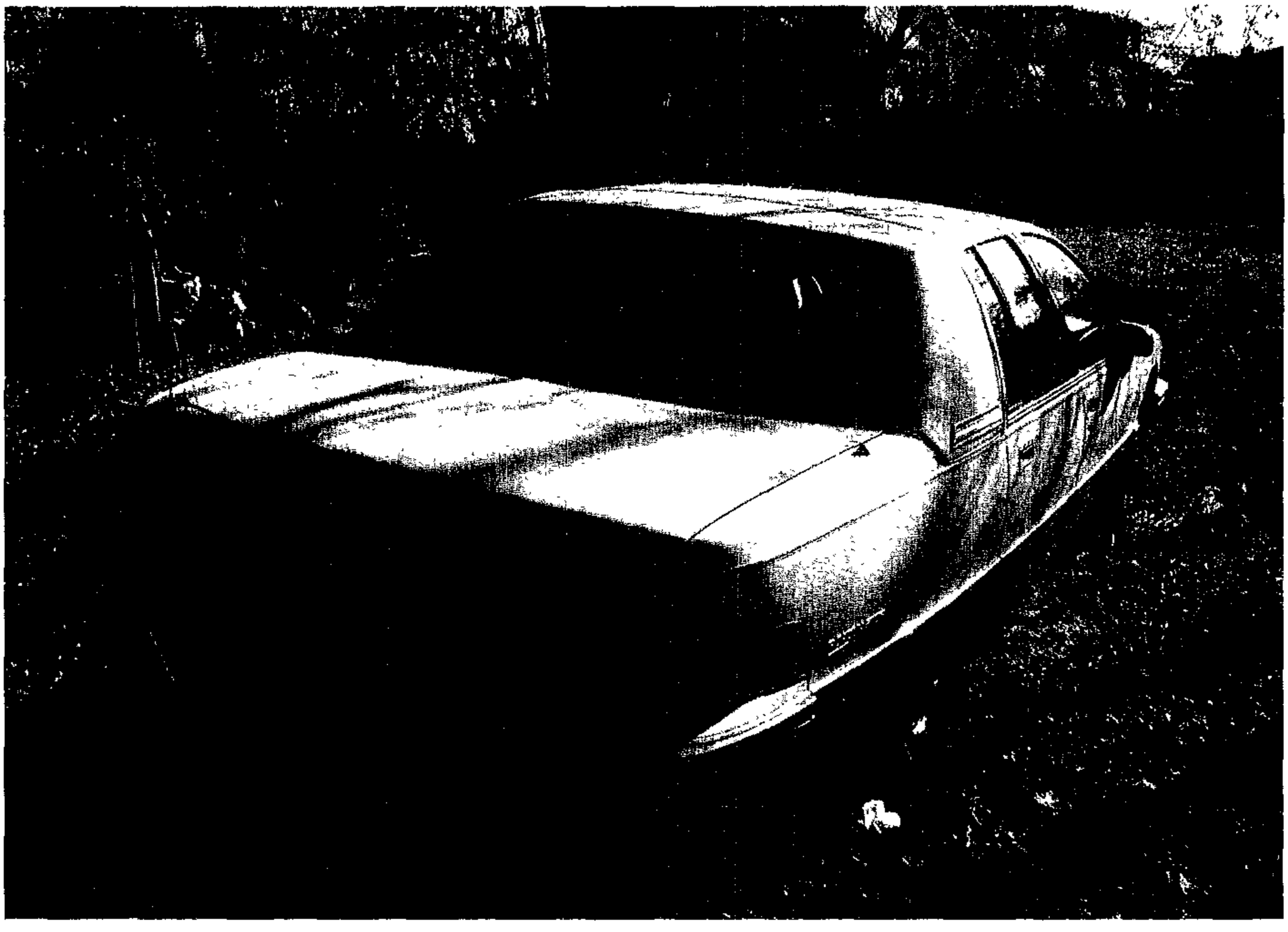
I HEREBY CERTIFY that I took the 5 (number of photos) photographs set out above, and that these photographs fairly and accurately depict the condition of the property that is the subject of the above-referenced citation/case number on the date set out above

Enforcement Officer

11/14/00





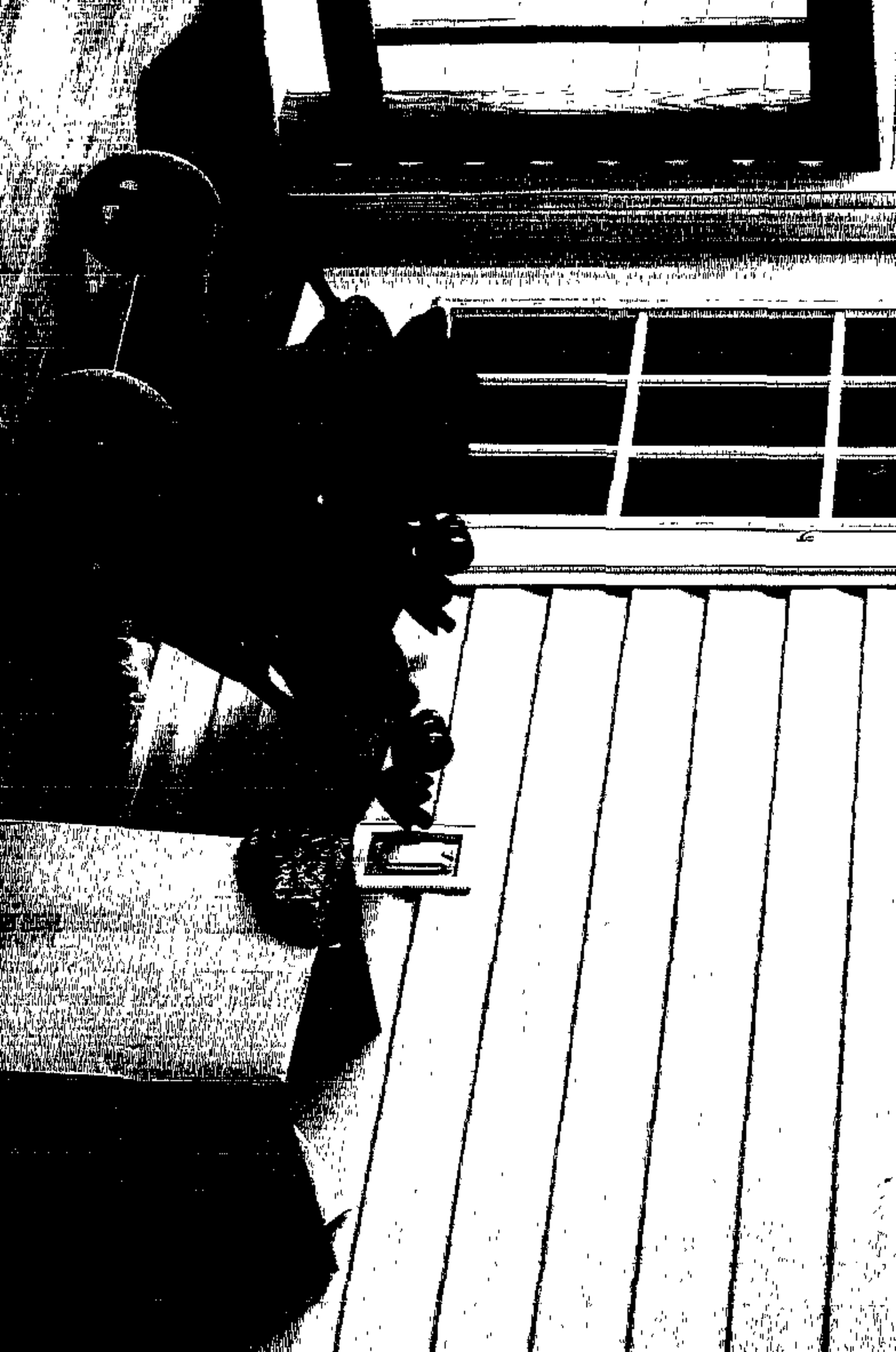



CRX

BALTIMORE COUNTY
MARYLAND

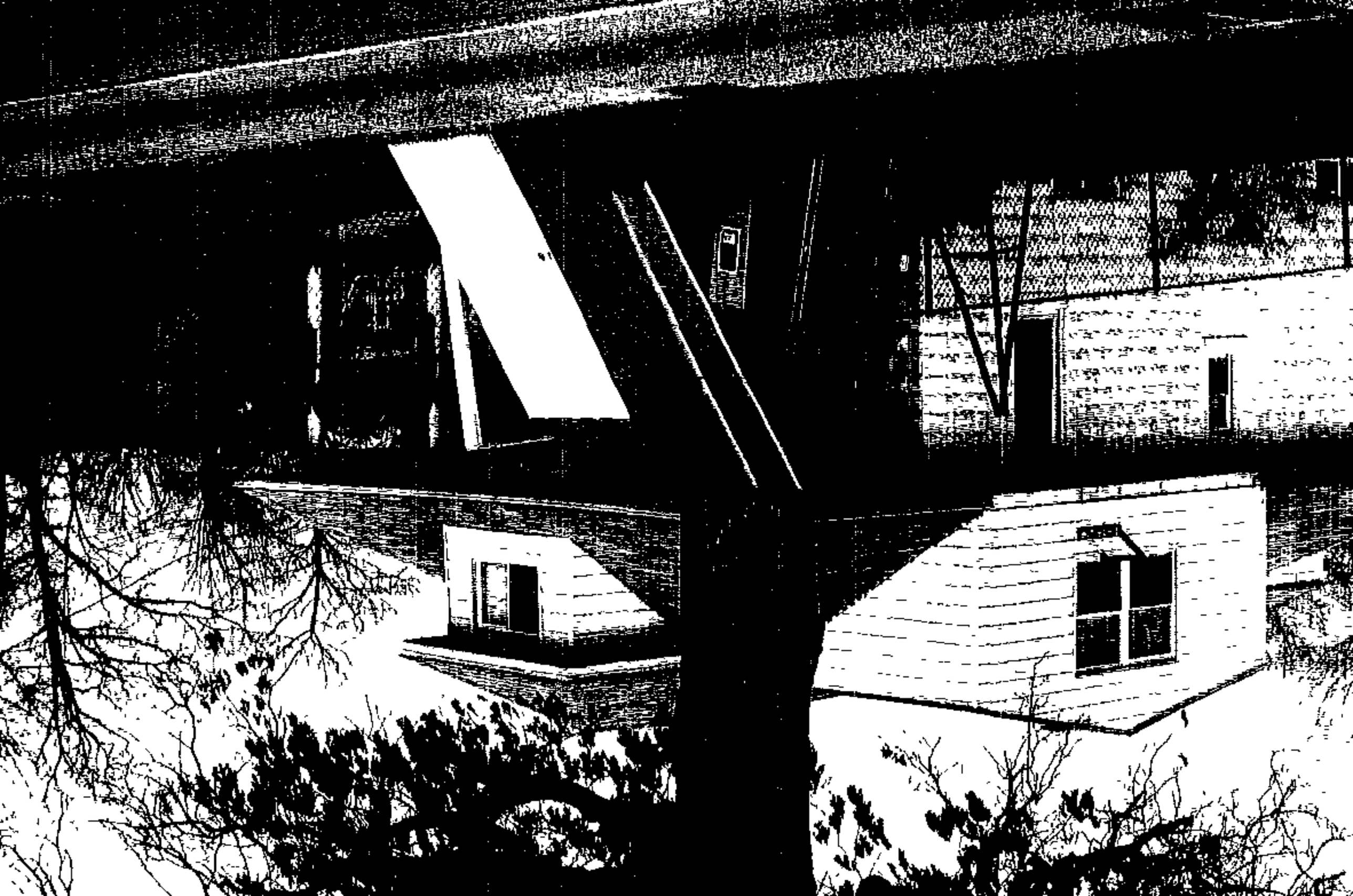
Zoning Commissioner's Office
401 Bosley Avenue, Suite 405
County Courts Building
Towson, Maryland, 21204

PICTURES
#06-611-SPX




HAIR DESIGN
TANNING
AUTENTICA
COMIDA
MEXICANA
SHEAR TOUCH
HAIR SALON


SEABLADE



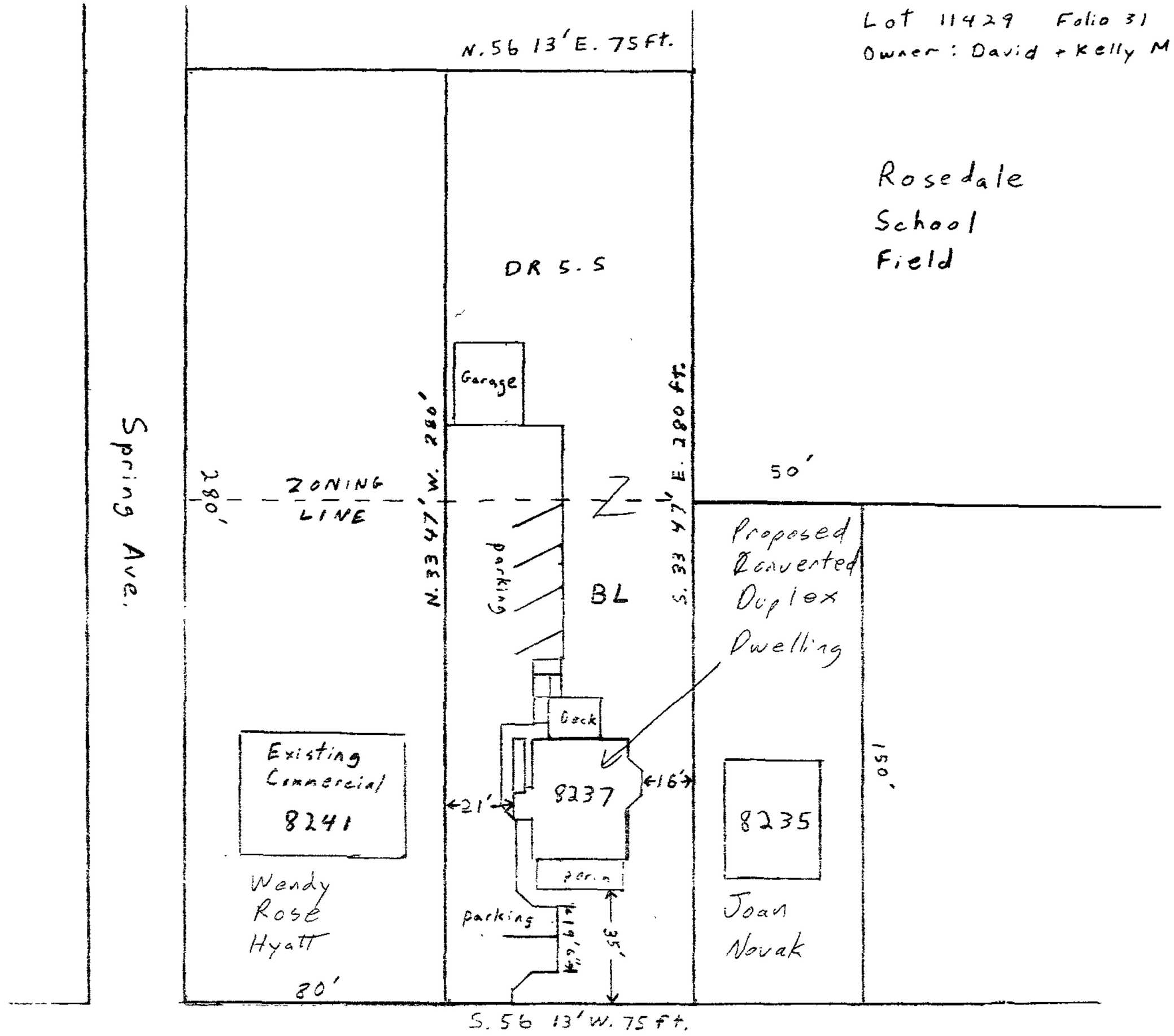

(N)


GRANDMOMS
ATTIC, INC.
Buying Antiques
& Collectibles
One Piece or
Entire Estate
7 DAYS A WEEK
410-391-4408

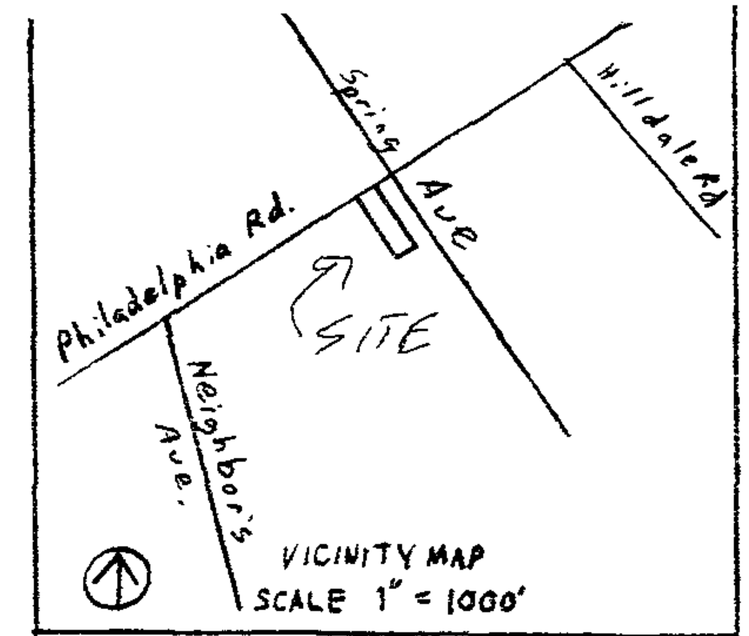
8237 Philadelphia Rd.

Lot 11429 Folio 31

Owner: David + Kelly McNew



Philadelphia Road 40' R/W



LOCAL INFORMATION

ELECTION DISTRICT 15

COUNCIL DISTRICT 7

ZONING DR 5.5 / BL

LOT SIZE .46 ACRE
21,000 SQ FT

PUBLIC WATER + SEWER

CHESAPEAKE BAY CRITICAL AREA	NO
FLOOD PAIN	NO
HISTORIC	NO

NO PRIOR ZONING HEARING

NO EXPANSION IN LAST 5 YEARS

North

Prepared by DM

06-611-SPH

PLEASE PRINT CLEARLY

CASE NAME_____
CASE NUMBER_____
DATE_____

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
David + Kelly McNew	819 Cedar Grove Rd.	Balto. MD 21237	