



**APPLICATION ACCEPTED:** November 14, 2008  
**DATE OF PUBLIC HEARING:** February 3, 2009  
**TIME:** 9:00 a.m.

## County of Fairfax, Virginia

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January 27, 2009

### STAFF REPORT

**SPECIAL PERMIT APPLICATION No. SP 2008-DR-098**

### DRANESVILLE DISTRICT

**APPLICANTS & OWNERS:** John C. Wood, Trustee and Elyse Dibiagio-Wood, Trustee

**ZONING:** R-2 Cluster

**LOCATION:** 1404 Baritone Court

**SUBDIVISION:** Shouse Village

**ZONING ORDINANCE PROVISION:** 8-914 & 8-922

**TAX MAP:** 19-3 ((4)) 325

**LOT SIZE:** 15,289 Sq. Ft.

**SP PROPOSAL:** To permit reduction of certain yard requirements based on error in building location to permit accessory storage structure to remain 5.5 feet from the rear lot line and a reduction to certain yard requirements to permit construction of addition such that side yards total 18.9 feet.

**STAFF RECOMMENDATION:** Staff recommends approval of SP 2008-DR-098 for the addition subject to the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with provisions of any applicable ordinances, regulations, or adopted standards.

*O:\Scaff2\Case Files\Special Permits\SP 2008-DR-098 WOOD\Wood\_Cover.doc*

Shannon Caffee

Department of Planning and Zoning  
Zoning Evaluation Division  
12055 Government Center Parkway, Suite 801  
Fairfax, Virginia 22035-5509  
Phone 703-324-1290 FAX 703-324-3924  
[www.fairfaxcounty.gov/dpz/](http://www.fairfaxcounty.gov/dpz/)



It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

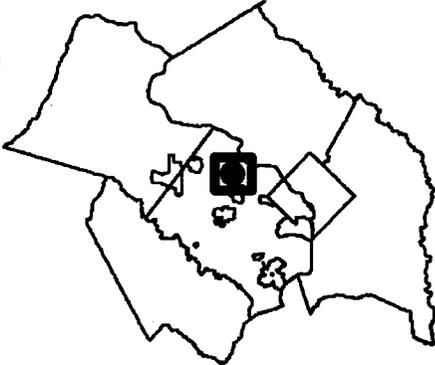
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

# Special Permit

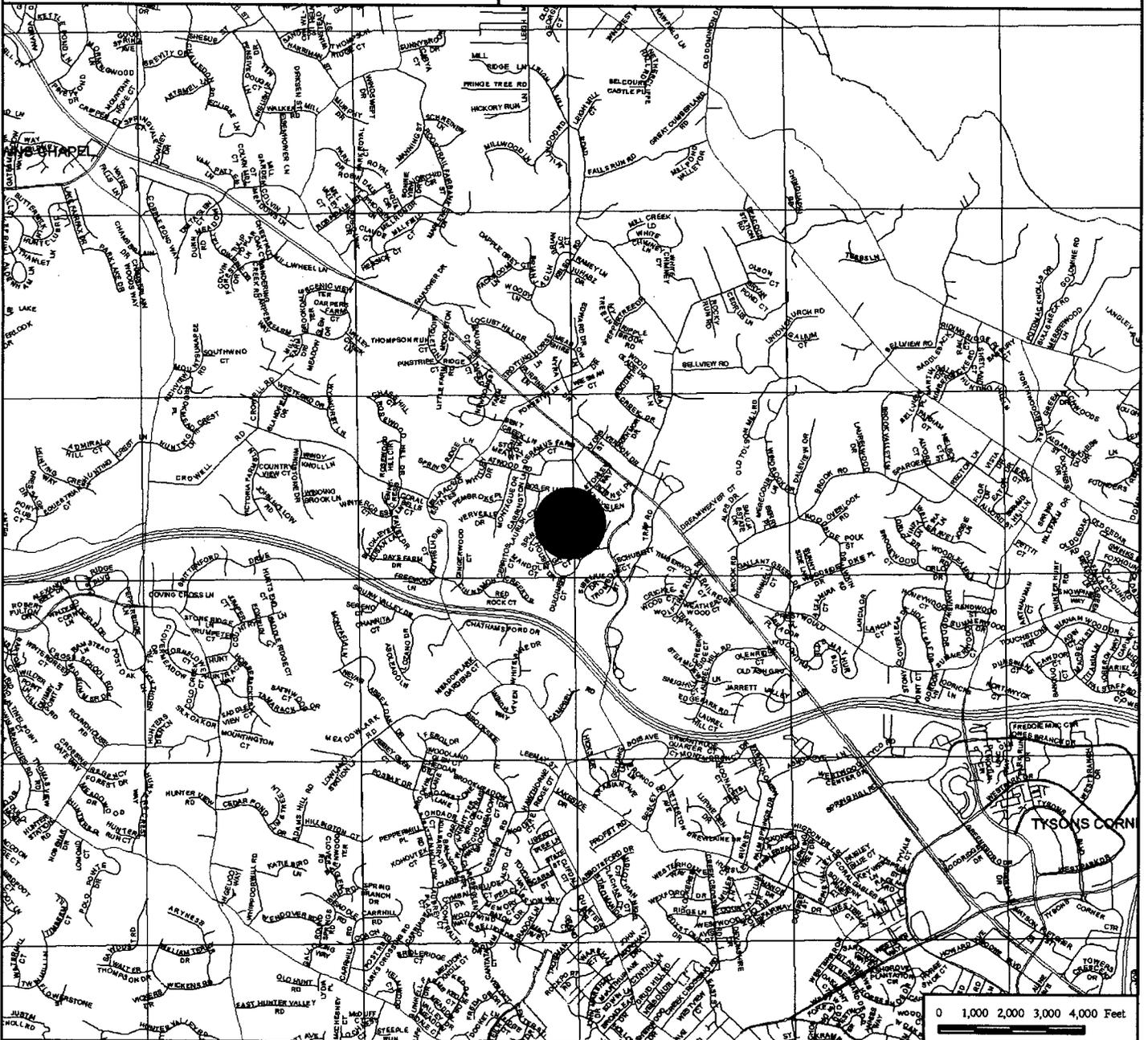
SP 2008-DR-098



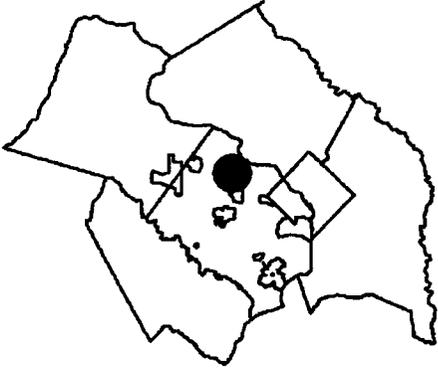
**Applicant:** JOHN C. WOOD, TRUSTEE, AND ELYSE DIBIAGIO-WOOD, TRUSTEE  
**Accepted:** 11/14/2008  
**Proposed:** REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT ADDITION

SUCH THAT SIDE YARDS TOTAL 18.9 FEET AND REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ACCESSORY STORAGE STRUCTURE TO REMAIN 5.5 FEET FROM REAR LOT LINE

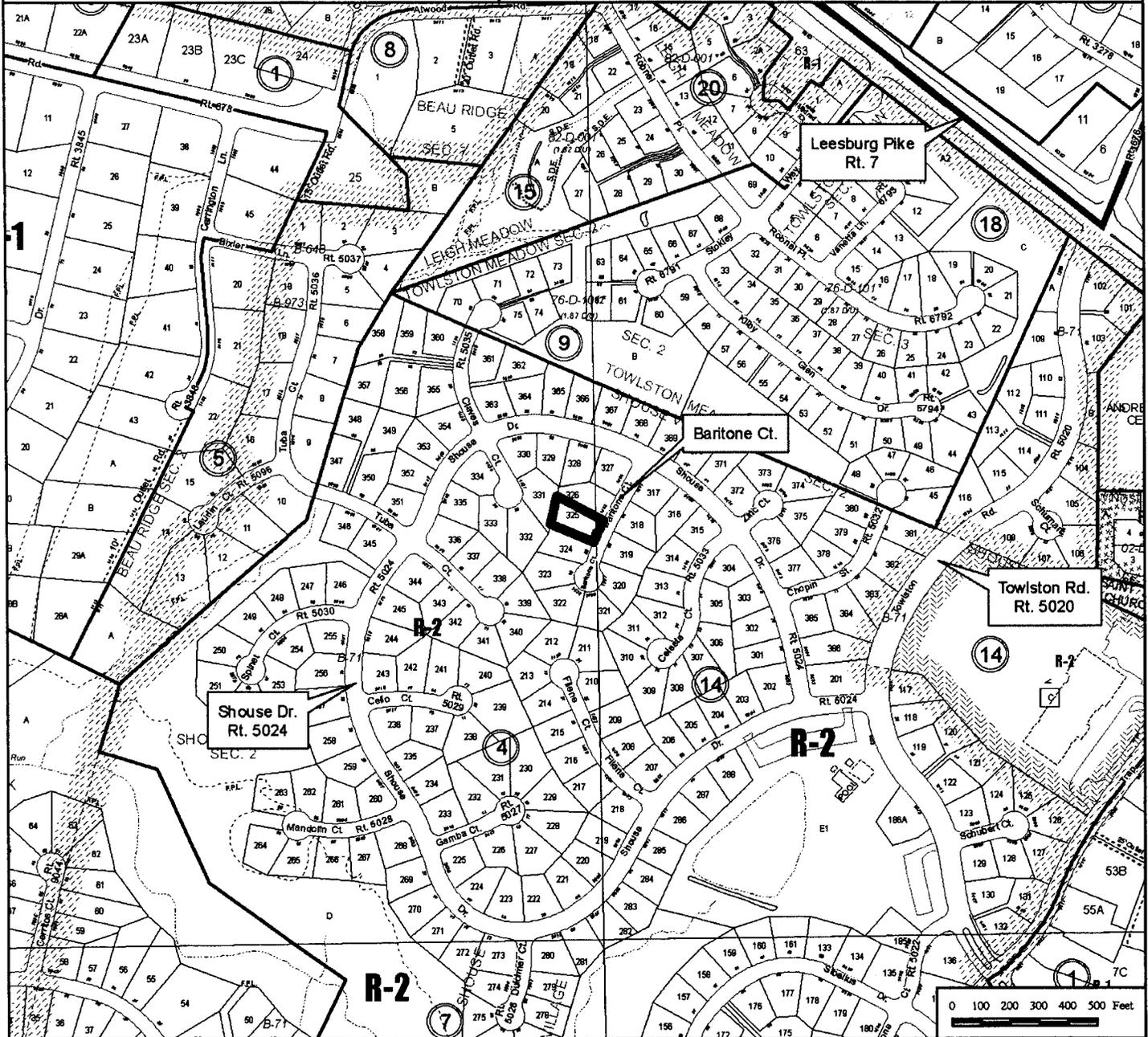
**Area:** 15,289 SF OF LAND; DISTRICT - DRANESVILLE  
**Zoning Dist Sect:** 08-9220 8-0914  
**Art 8 Group and Use:** 9-21 9-13  
**Located:** 1404 BARITONE COURT  
**Zoning:** R- 2 (CLUSTER)  
**Map Ref Num:** 019-3- /04/ /0325



**Special Permit**  
**SP 2008-DR-098**



**Applicant:** JOHN C. WOOD, TRUSTEE, AND ELYSE DIBIAGIO-WOOD, TRUSTEE  
**Accepted:** 11/14/2008  
**Proposed:** REDUCTION OF CERTAIN YARD REQUIREMENTS TO PERMIT ADDITION SUCH THAT SIDE YARDS TOTAL 18.9 FEET AND REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT ACCESSORY STORAGE STRUCTURE TO REMAIN 5.5 FEET FROM REAR LOT LINE  
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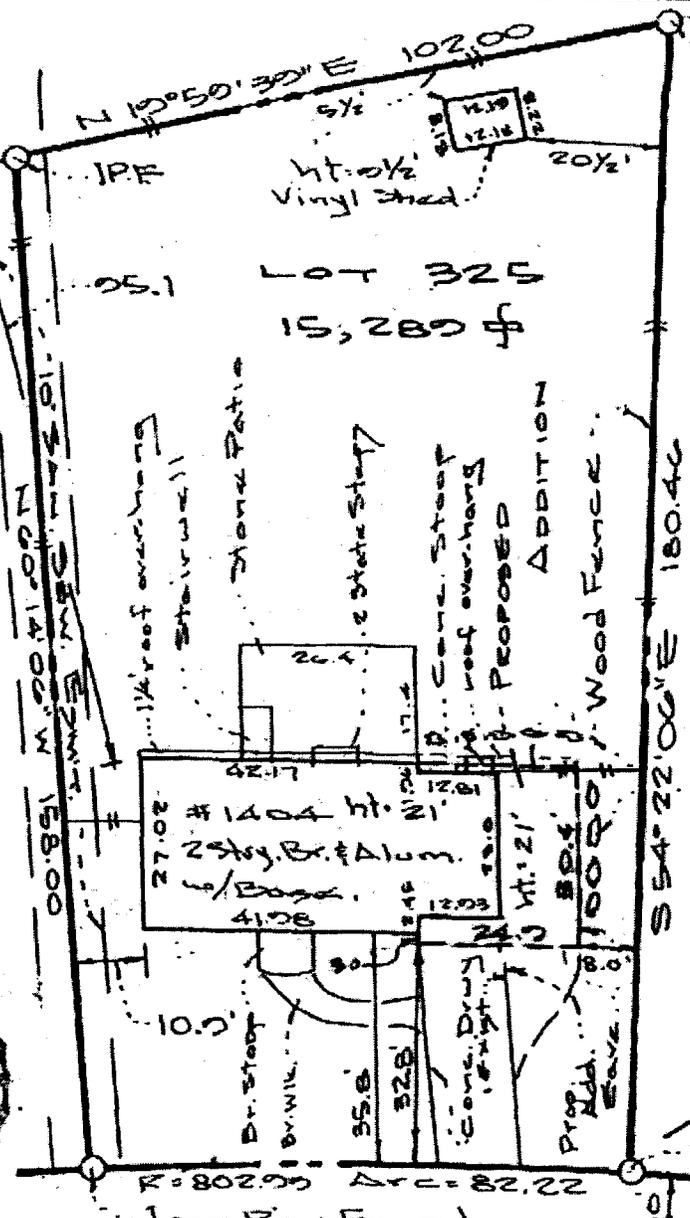
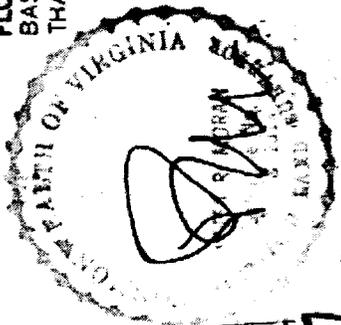
RECEIVED  
DEPARTMENT OF PLANNING  
AND ZONING

JAN 21 2009

SPECIAL PERMIT &  
VARIANCE BRANCH

FLOOD NOTE:  
BASED ON FEMA PANEL #5155250050 D, DATED MARCH 5, 1990, IT APPEARS  
THAT THE PROPERTY SHOWN HEREON IS LOCATED IN ZONE "X".

PETER R. MORAN  
LAND SURVEYOR  
VIENNA, VIRGINIA



Notes & Legend.  
1.) Zone: R-2C  
2.) Public Water  
& Sewer Connected.  
Gas available

--- = Wood Fence  
= 3/4" High  
--- Prop. Plantings

BARITONE COURT (50' R/W)

SPECIAL PERMIT FOR PROPOSED ADDITION

LOT 325

SECTION 3

SHOUSE VILLAGE

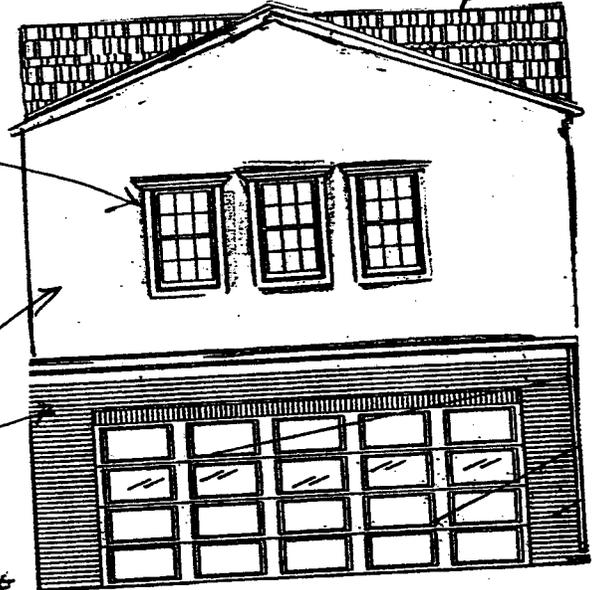
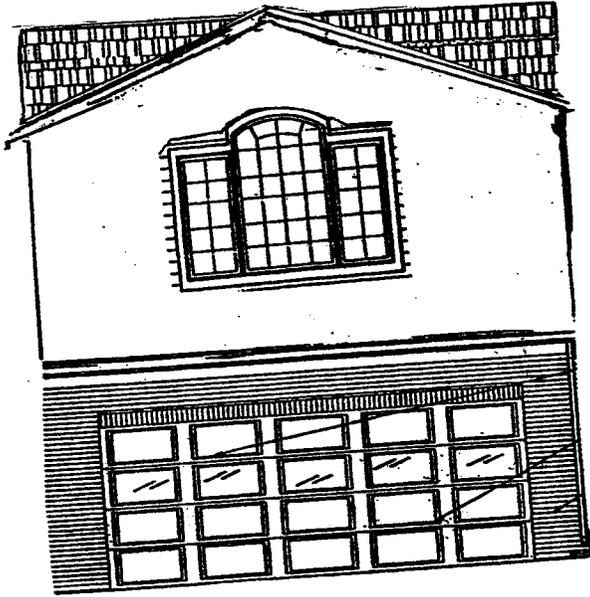
FAIRFAX COUNTY, VIRGINIA  
REVISED SEPT. 20, 2008 PL

SCALE: 1" = 30' AUGUST 20, 2007  
REVISED JAN. 25, 2008

NOTE: WE PLAN TO INSTALL A NEW ROOF AND NEW VINYL SIDING ON THE EXISTING HOUSE AS PART OF THIS PROJECT; THUS, SIDING AND ROOF WILL BE SAME ON BOTH ADDITION AND EXISTING HOUSE.

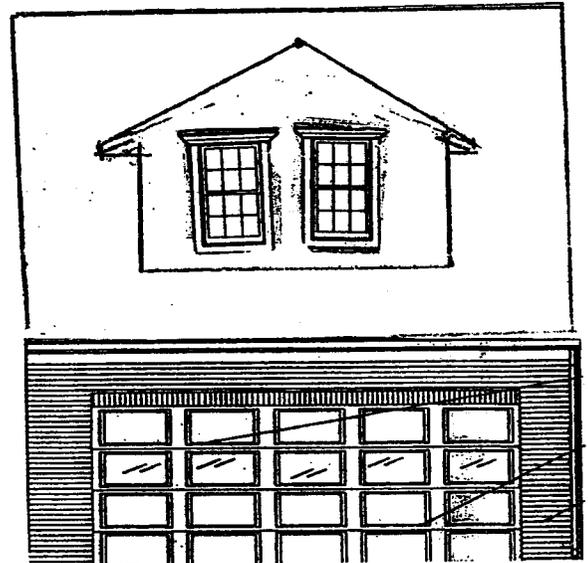
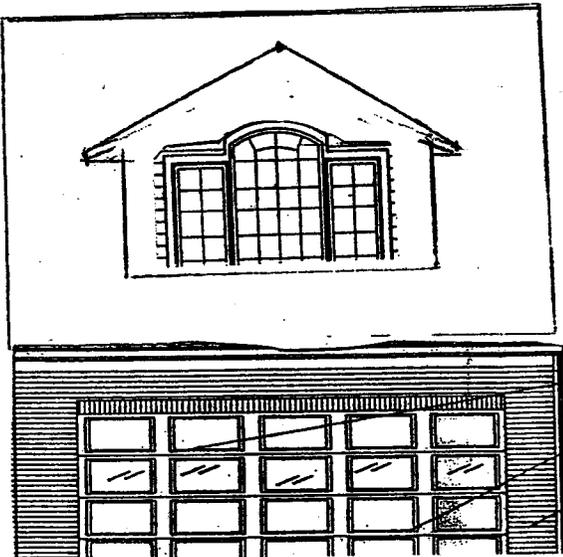
ASPHALT SHINGLE ROOF

WINDOWS TO MATCH SIZE AND GENERAL STYLE OF EXISTING HOUSE



BRICK OR VINYL SIDING (IN EITHER CASE, TO MATCH THAT OF EXISTING HOUSE)

Front Garage Elevation - Alternative Designs



WOOD

SCALE  
AS SHOWN

DATE  
JAN 9, 2004

DRAWN BY:  
CINDY BER

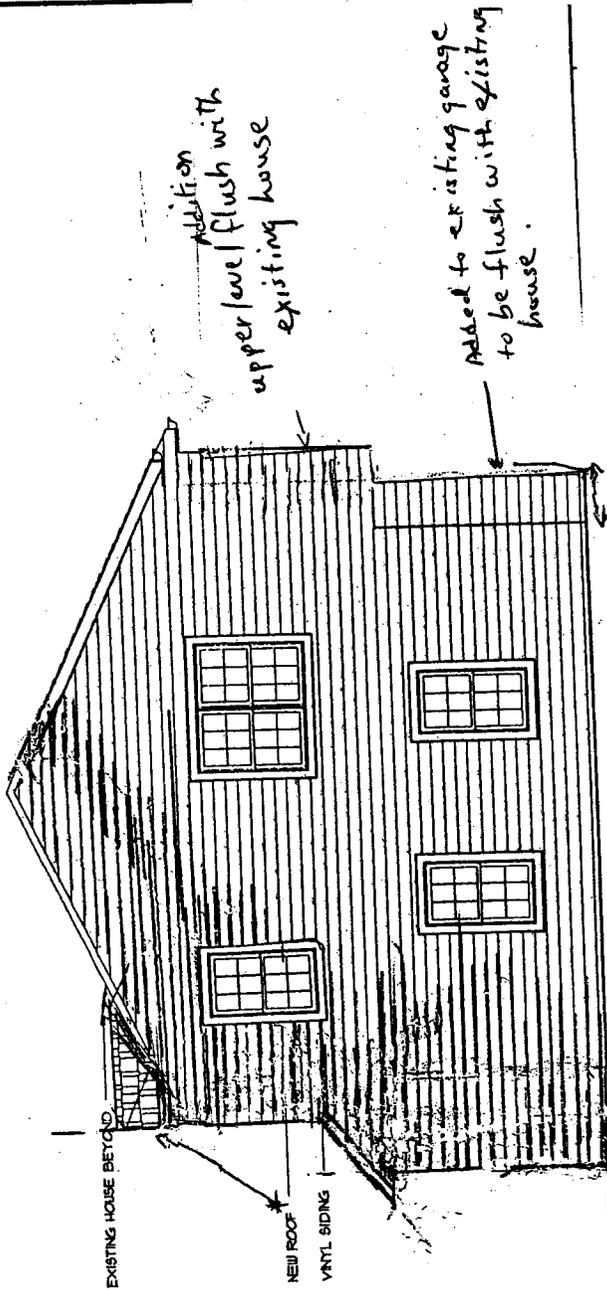
PROJECT #

REVISIONS

AUTOCAD FILE

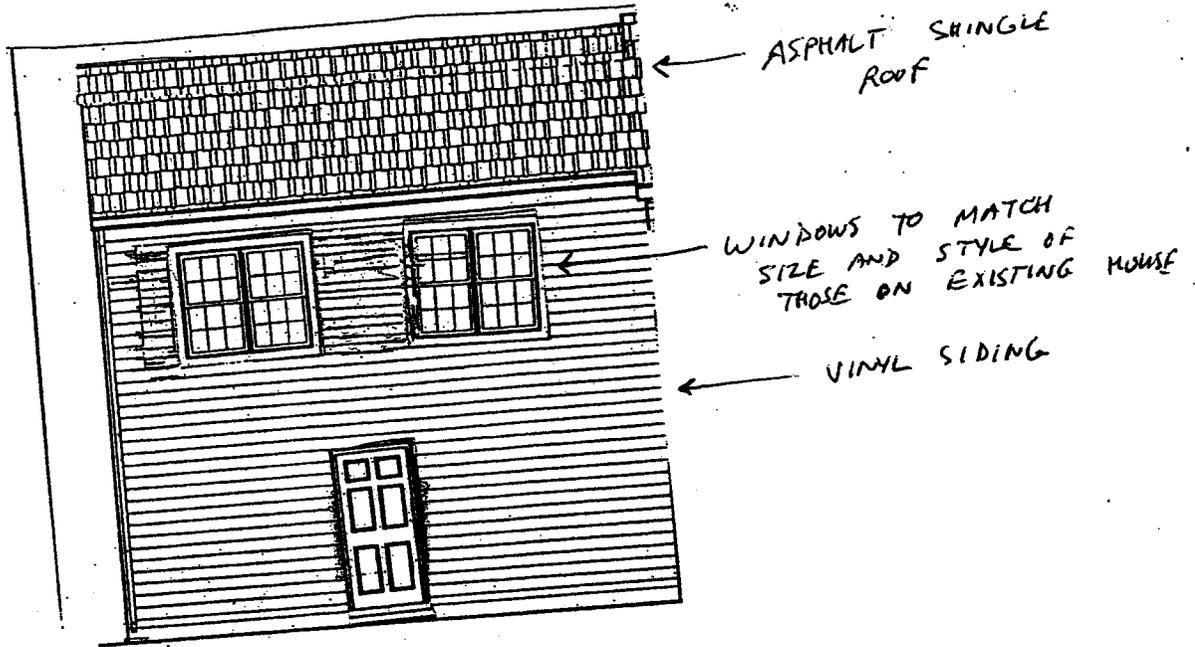
CYNTHIA A. BERG, ARCHITECT  
EXHIBIT 100-11-01  
COMMON LAW COPY  
OTHER PROPERTY OR  
THESE PLANS, THESE  
ARE NOT TO BE REPRODUCED,  
CHANGED, COPIED, OR  
TO ANY THIRD PARTY  
WRITTEN PERMISSION  
CYNTHIA A. BERG, ARCHITECT

A3

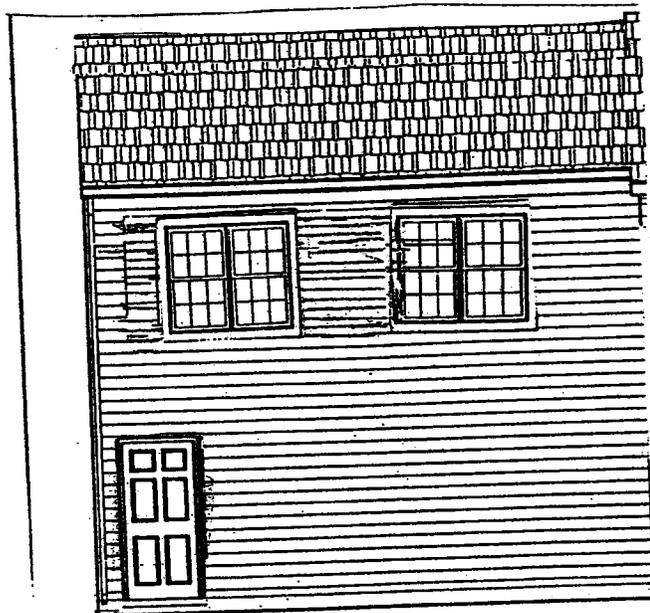


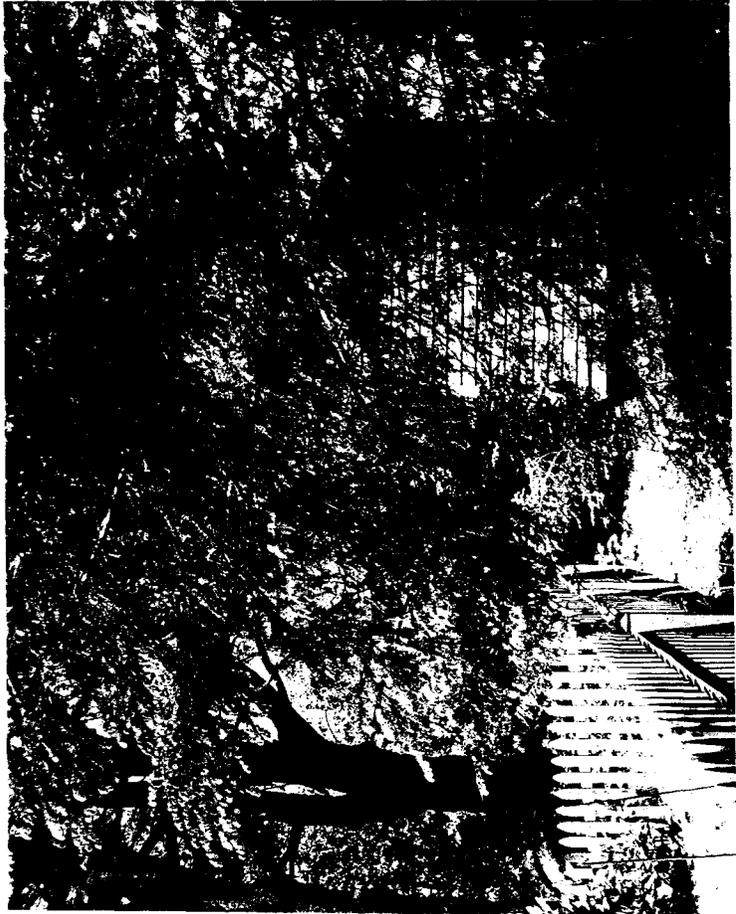
\* ASPHALT SHINGLES

3 RIGHT ELEVATION 10'-11"-0"



Rear Garage Elevation - Alternative Designs





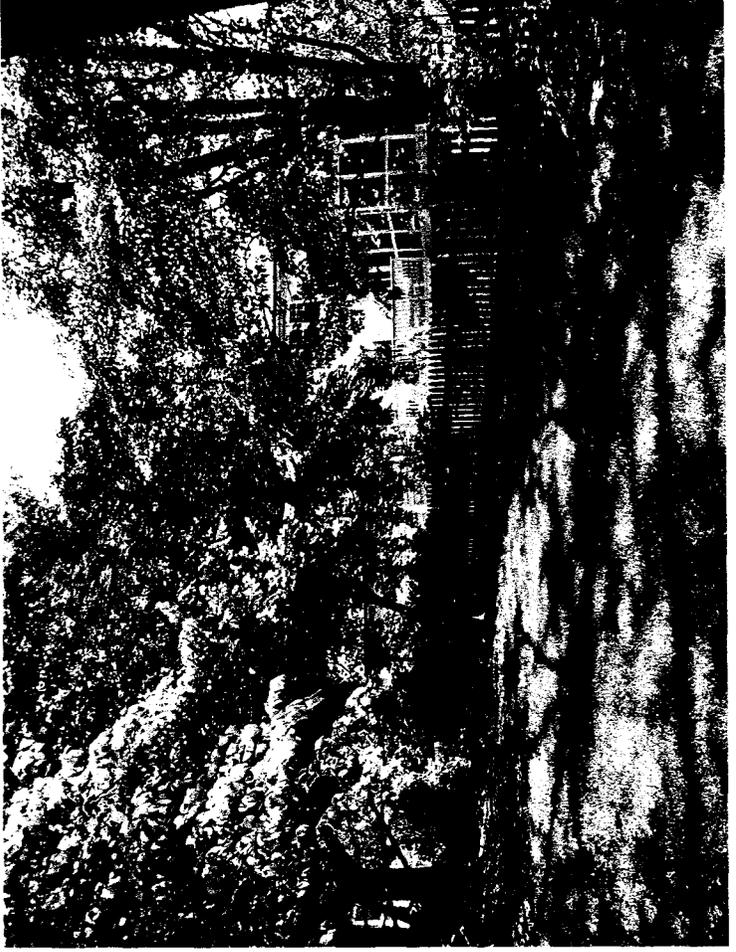
DSCN2642.JPG 2008/05/17 13:55:11

VIEW OF SIDE OF SHED - FROM NEAR REAR PROPERTY LINE



DSCN2641.JPG 2008/05/17 13:54:38

VIEW FROM SHED AREA TOWARD NEIGHBORS (TOWARD)



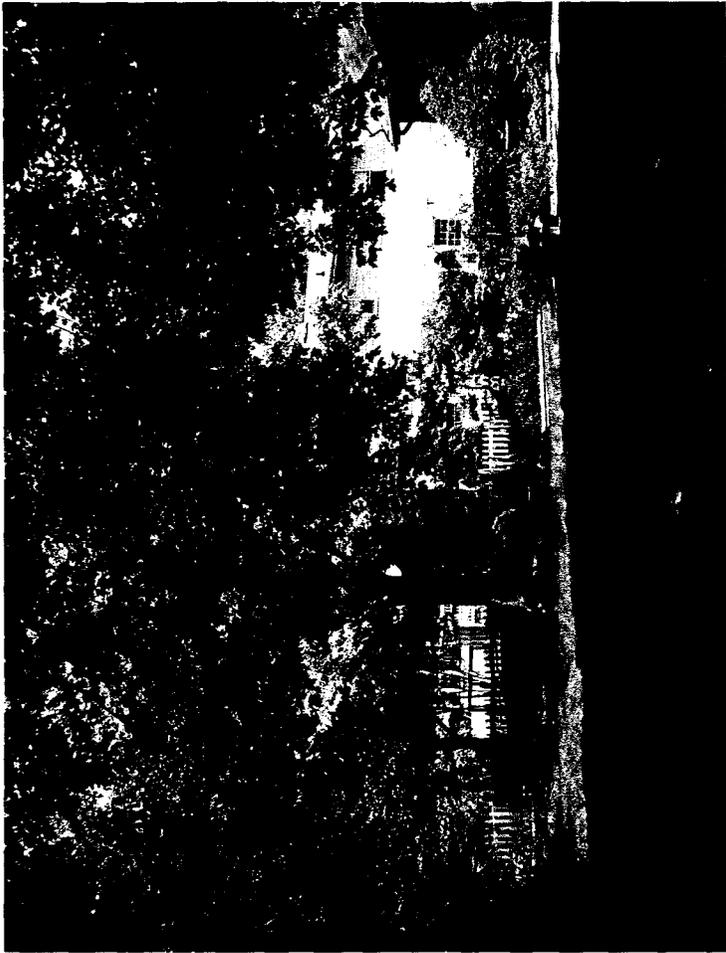
DSCN2644.JPG 2008/05/17 13:55:24

VIEW FROM LOWER BACK YARD TOWARD NEIGHBORS (TO SOUTH)



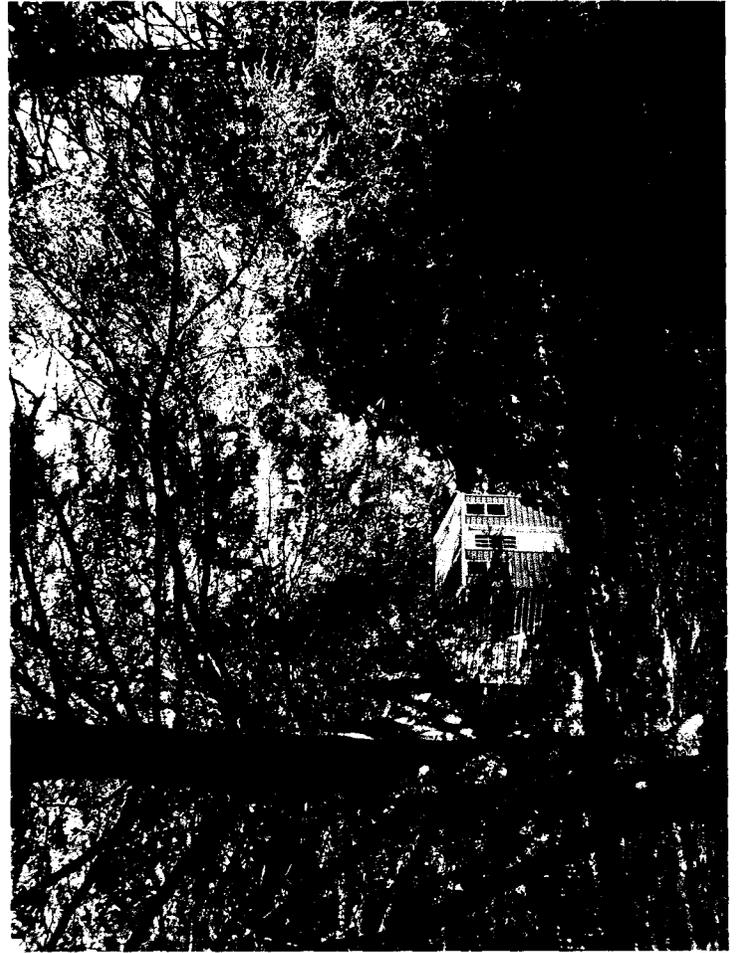
DSCN2643.JPG 2008/05/17 13:55:18

VIEW FROM WESTERN CORNER OF LOWER BACK YARD



DSCN2648.JPG 2008/05/17 13:56:21

VIEW FROM UPPER BACK YARD TOWARD NEIGHBORS (TO NORTH EAST)



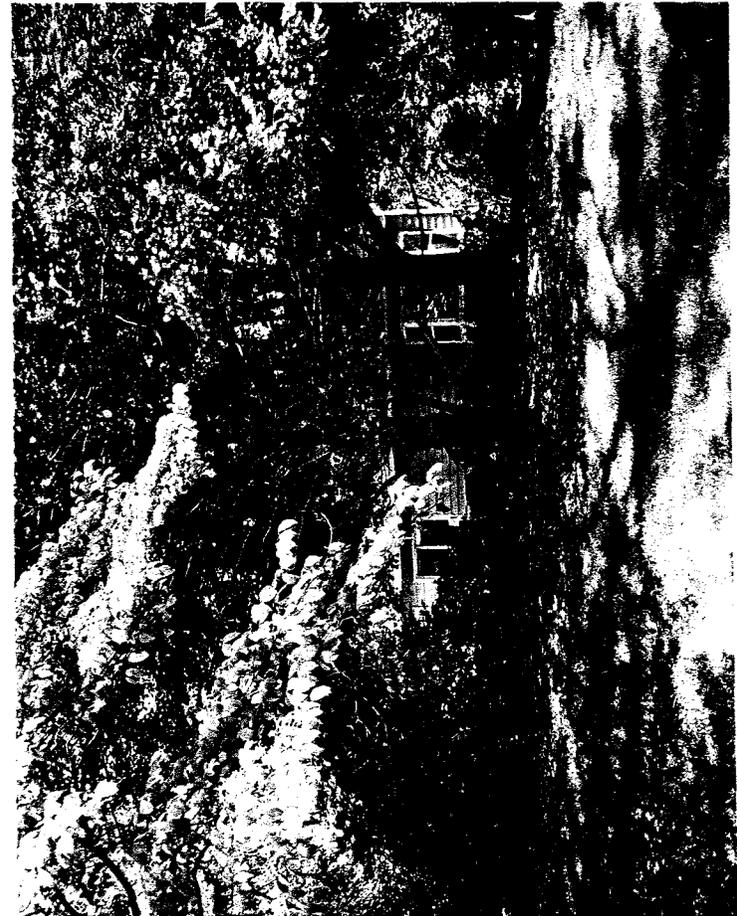
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VIEW OF SHED FROM UPPER BACK YARD (SOUTH SIDE)



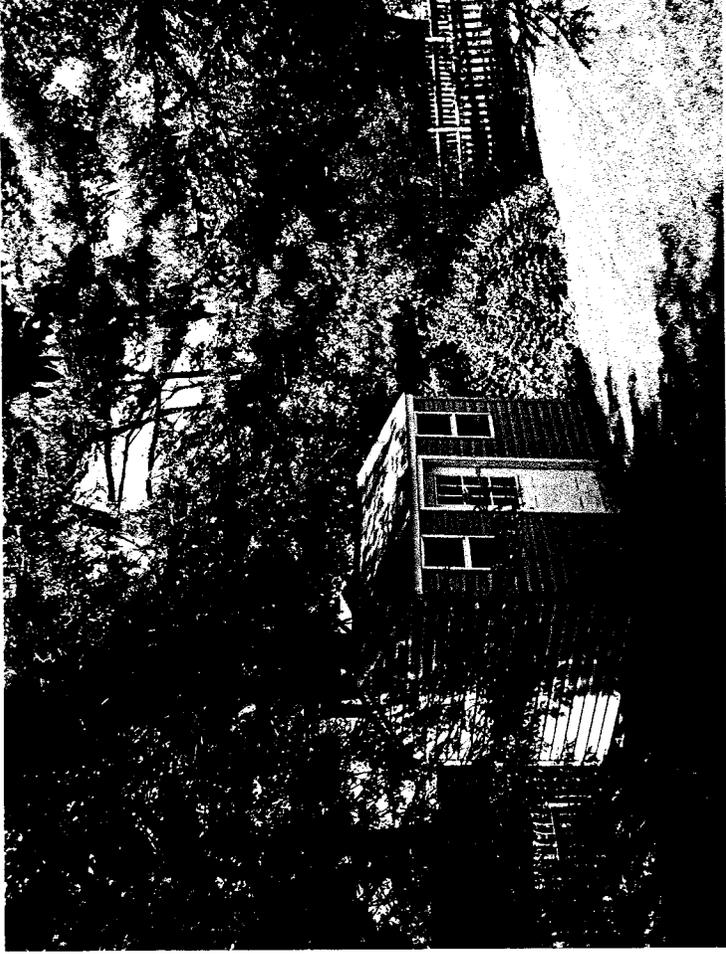
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VIEW FROM LOWER BACK YARD TOWARD BACK OF HOUSE



DSCN2645.JPG 2008/05/17 13:55:35

VIEW FROM GARDEN AREA TOWARD BACK OF HOUSE



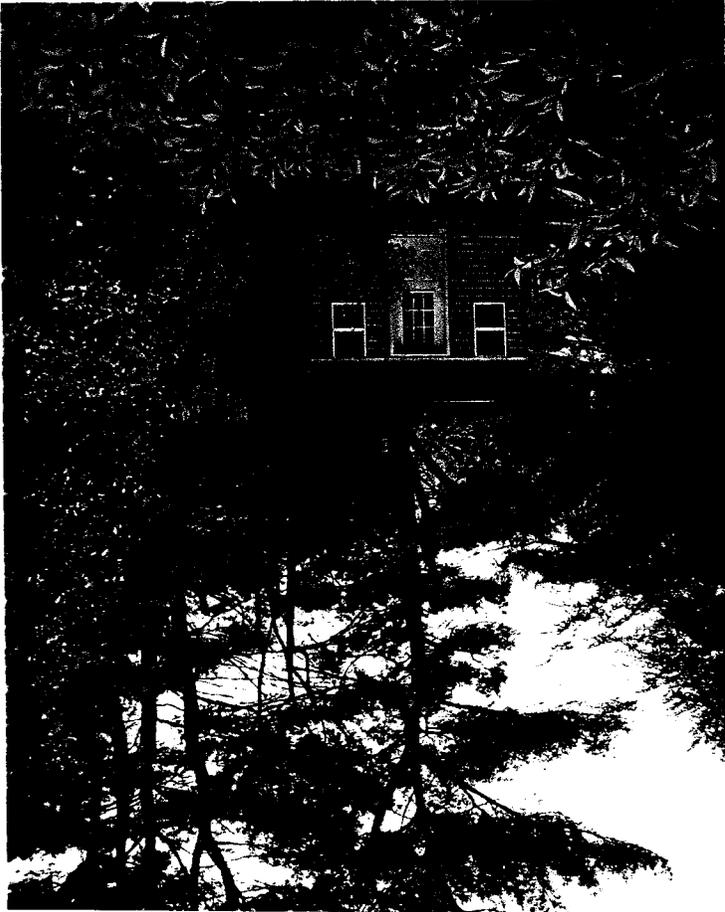
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VIEW OF SHED FROM MIDDLE OF LOWER BACK YARD



DSCN2639.JPG 2008/05/17 13:53:53

CLOSE VIEW OF SHED (FROM NORTHEAST)



DSCN2638.JPG 2008/05/17 13:53:07

VIEW OF SHED FROM NORTH SIDE PROPERTY LINE



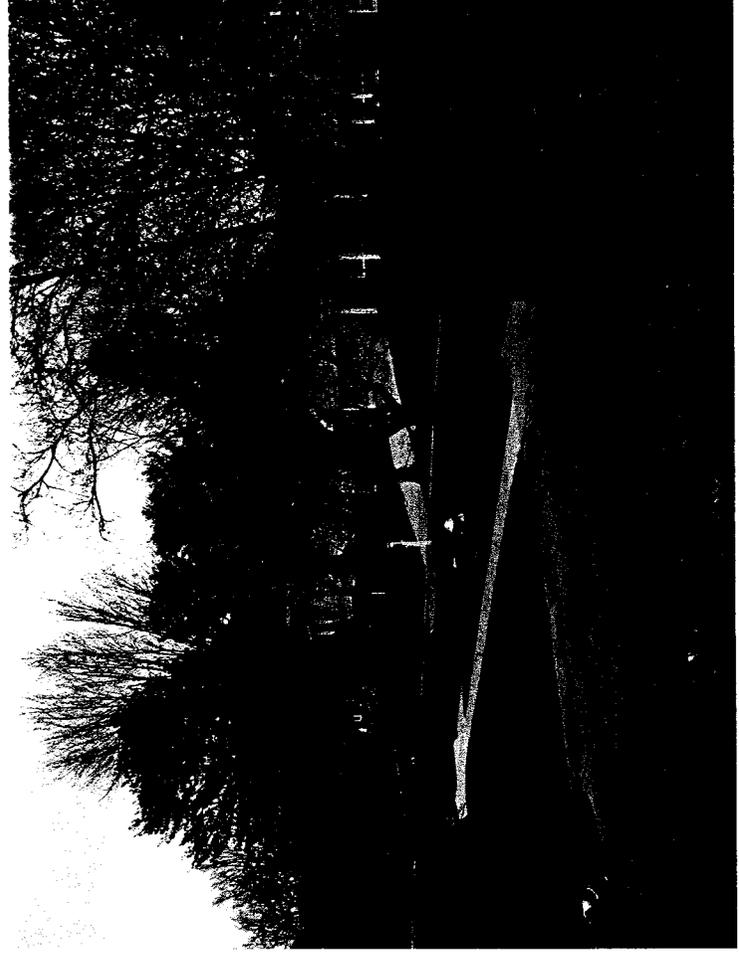
DSCN2637.JPG 2008/05/17 13:52:31

VIEW OF SHED FROM GRASSY AREA NEAR DRIVEWAY (NEAR PATIO)



DSCN2551.JPG 2008/02/24 16:22:55

VIEW FROM FRONT - TOWARD RIGHT 45°



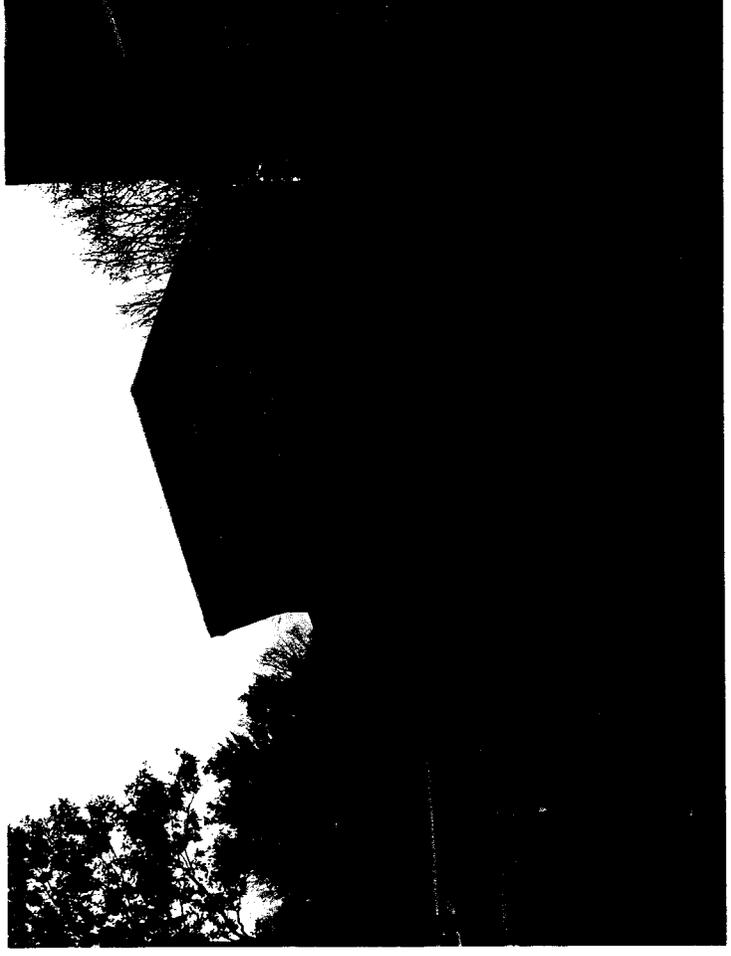
DSCN2553.JPG 2008/02/24 16:23:40

VIEW FROM FRONT - 45° LEFT



DSCN2550.JPG 2008/02/24 16:22:38

VIEW FROM FRONT - TOWARD STREET



DSCN2552.JPG 2008/02/24 16:23:22

VIEW FROM FRONT - TOWARD 1401 BARITONE CT.



DSCN2338.JPG 2007/12/01 13:39:09

2007/12/01

1404 (ON LEFT) AND 1406, FROM BACK



DSCN2340.JPG 2007/12/01 13:39:52

2007/12/01

1404 (ON LEFT) AND 1406, FROM NORTHWEST



DSCN2337.JPG 2007/12/01 13:38:43

2007/12/01

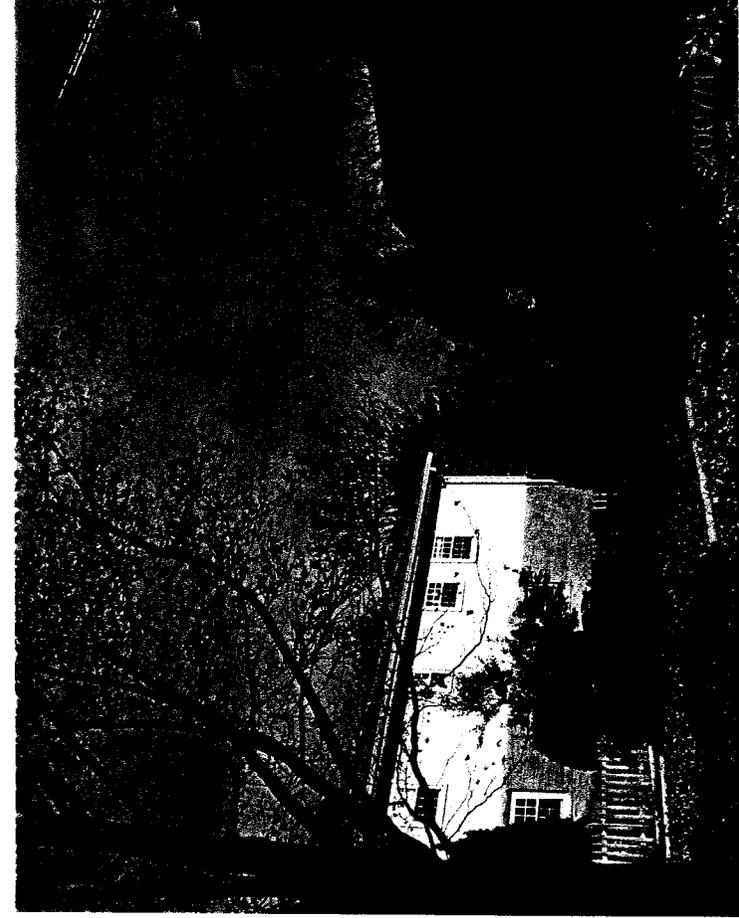
1404 AND 1406 FROM BACK (NORTHWEST)



DSCN2339.JPG 2007/12/01 13:39:34

2007/12/01

1402, FROM SOUTHWEST (ALSO SHOWING 1404,



DSCN2334.JPG 2007/12/01 13:37:21

1402, FROM SOUTHWEST (ALSO SHOWING) IN  
SHADOW, GARAGE OF 1404



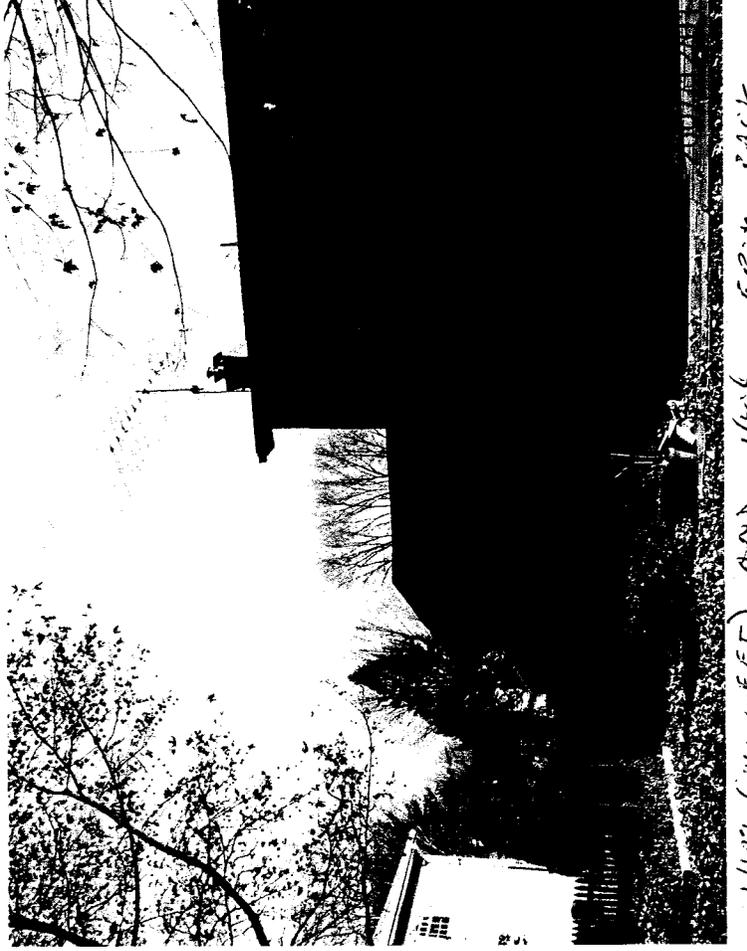
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1404, FROM BACK



DSCN2333.JPG 2007/12/01 13:37:01

1402 (SHOWING LARGE TO BE EXPANDED), FROM



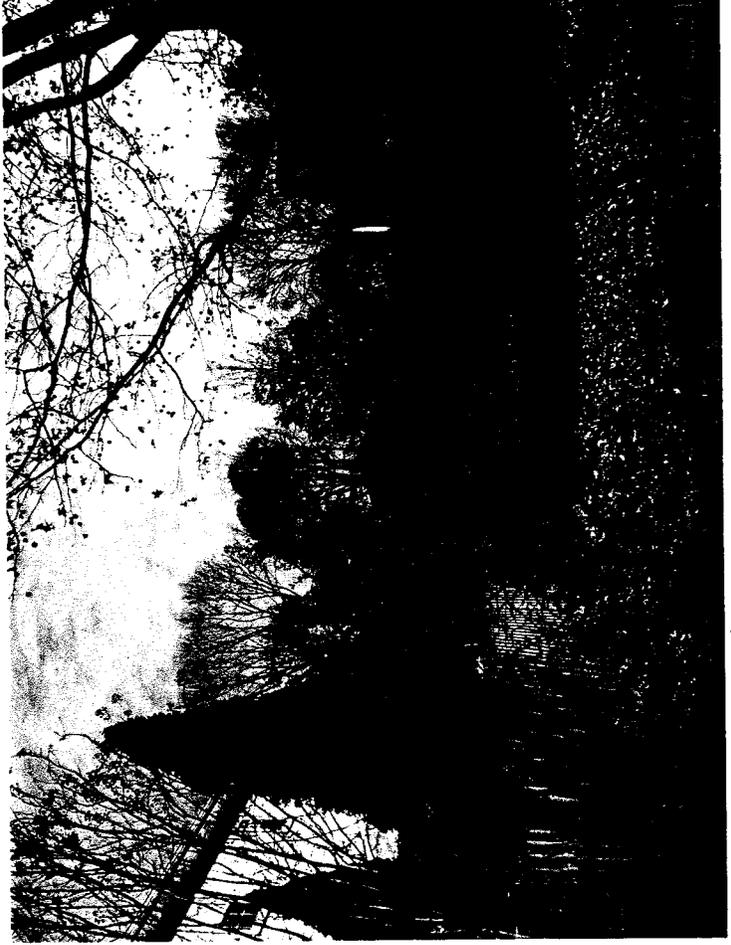
DSCN2335.JPG 2007/12/01 13:37:39

1402 (ON LEFT) AND 1404, FROM BACK



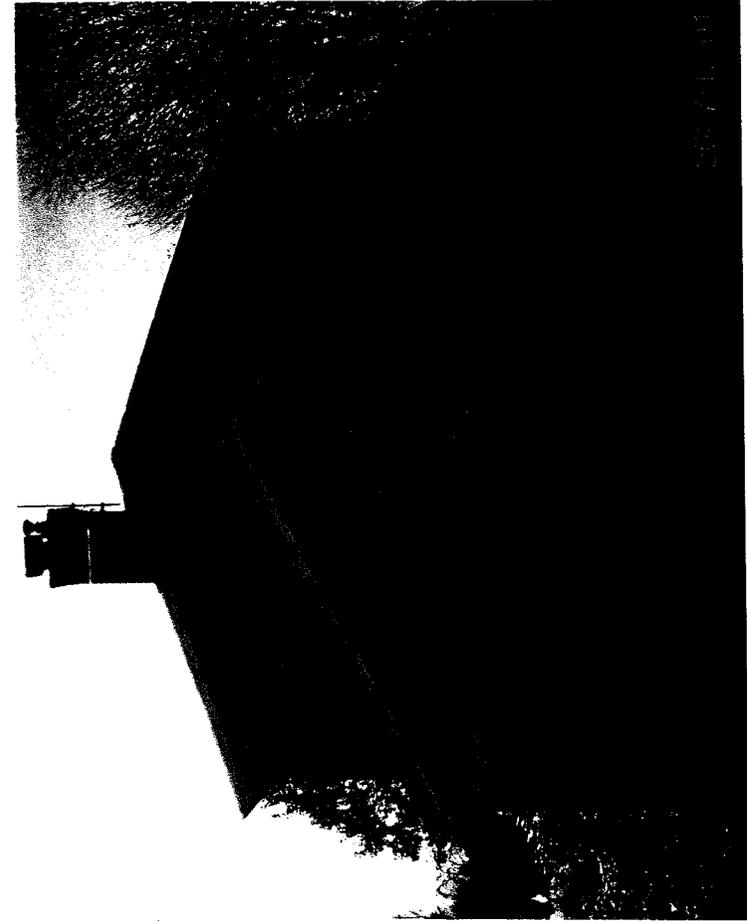
DSCN2332.JPG 2007/12/01 13:36:40

1404 (ON LEFT) AND 1406, FROM BACK (WEST)



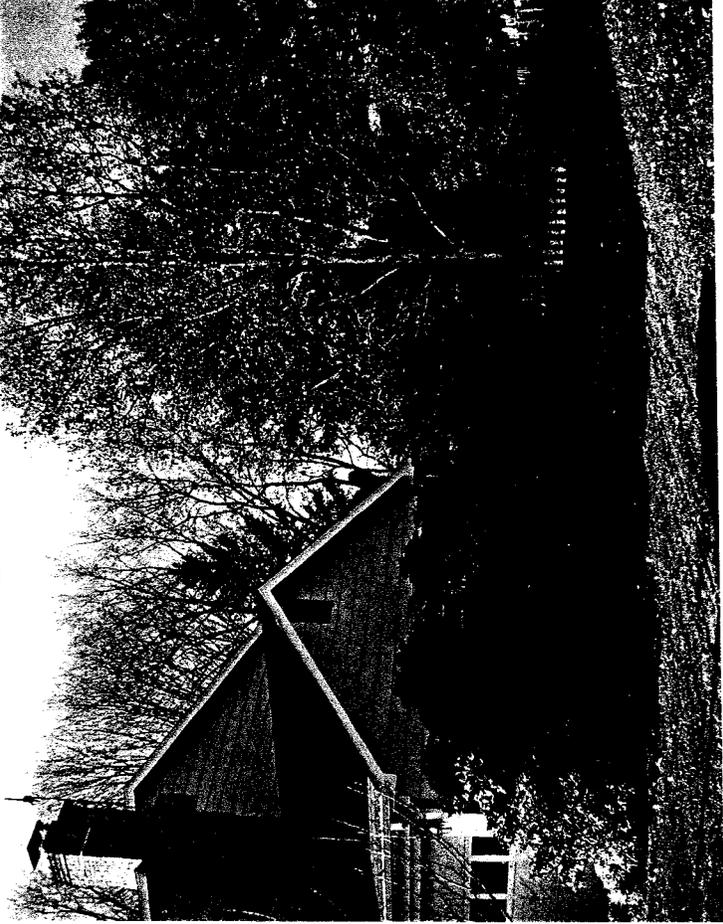
DSCN2331.JPG 2007/12/01 13:36:21

1404 (ON LEFT) AND 1406, FROM BACK



DSCN2330.JPG 2007/12/01 13:35:43

1404, FROM NORTH (SHOWING SIDE OF GARAGE + HOUSE)



DSCN2329.JPG 2007/12/01 13:35:11

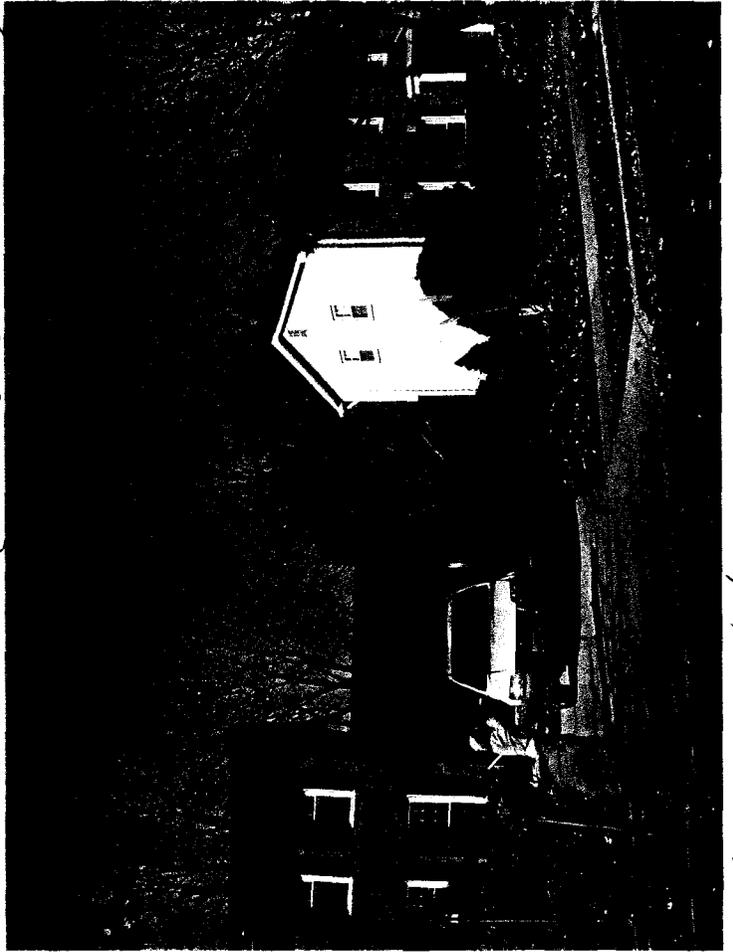
1404 FROM NORTHEAST

DSCN2328.JPG 2007/12/01 13:34:53



GARAGE (TO BE EXPANDED), FROM FRONT (SHOWING SIDE OF 1402)

DSCN2327.JPG 2007/12/01 13:33:55



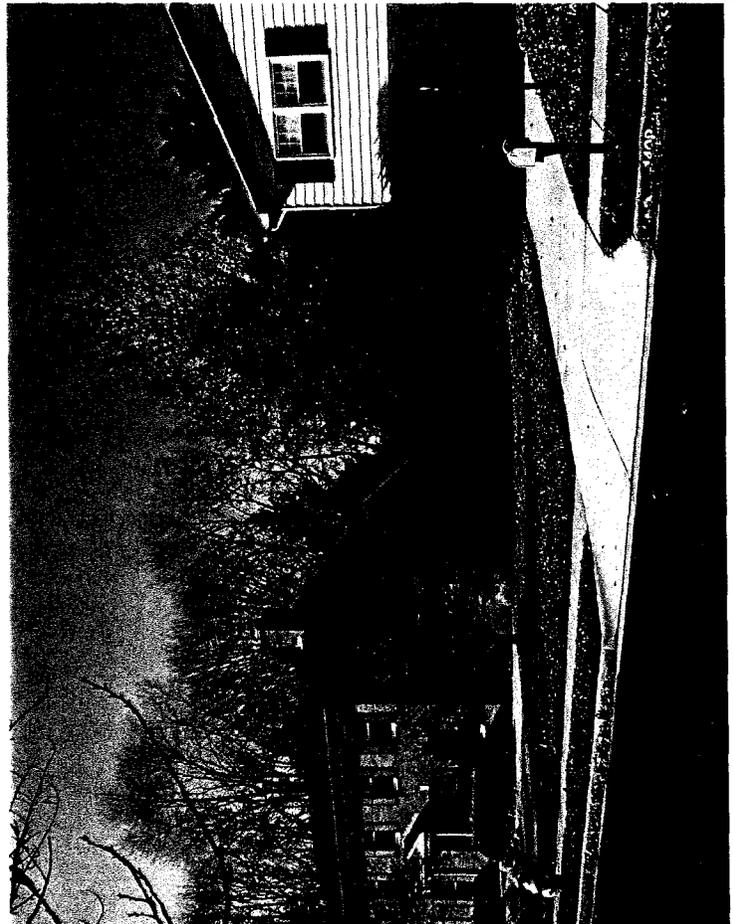
1406 AND 1404, FROM FRONT

DSCN2326.JPG 2007/12/01 13:33:33



1404 AND 1406, FROM FRONT

DSCN2325.JPG 2007/12/01 13:32:58



1404 AND 1402 FROM FRONT



DSCN2561.JPG 2008/02/24 16:26:24

VIEW FROM BACK - TOWARD 1406



DSCN2560.JPG 2008/02/24 16:26:10

VIEW FROM BACK - 45° TOWARD LEFT



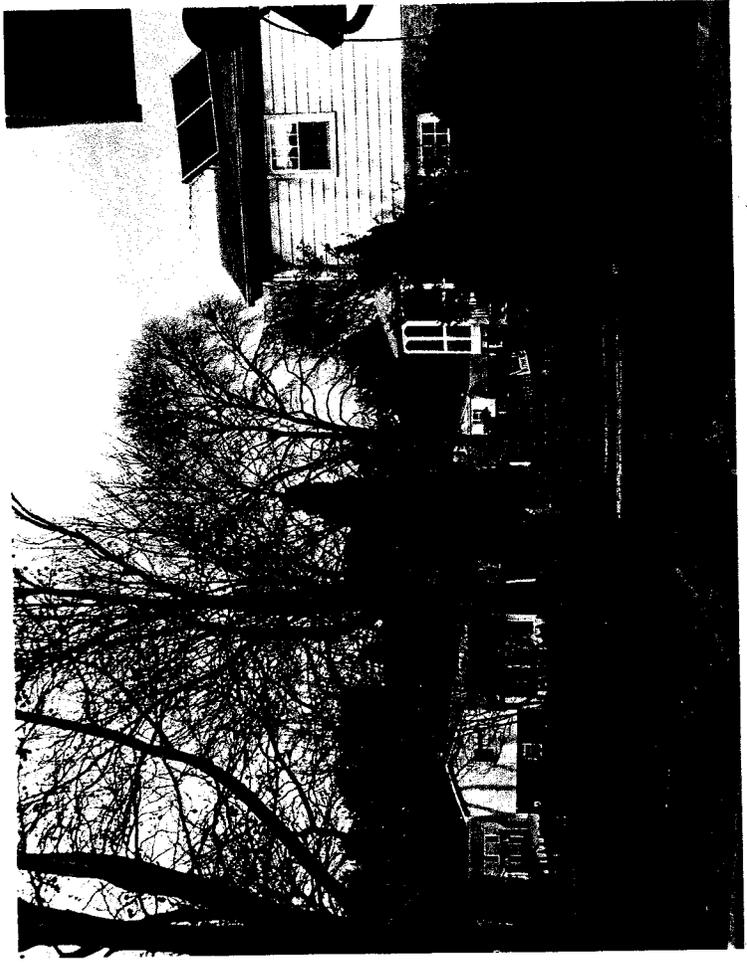
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VIEW FROM BACK - LOOKING STRAIGHT BACK



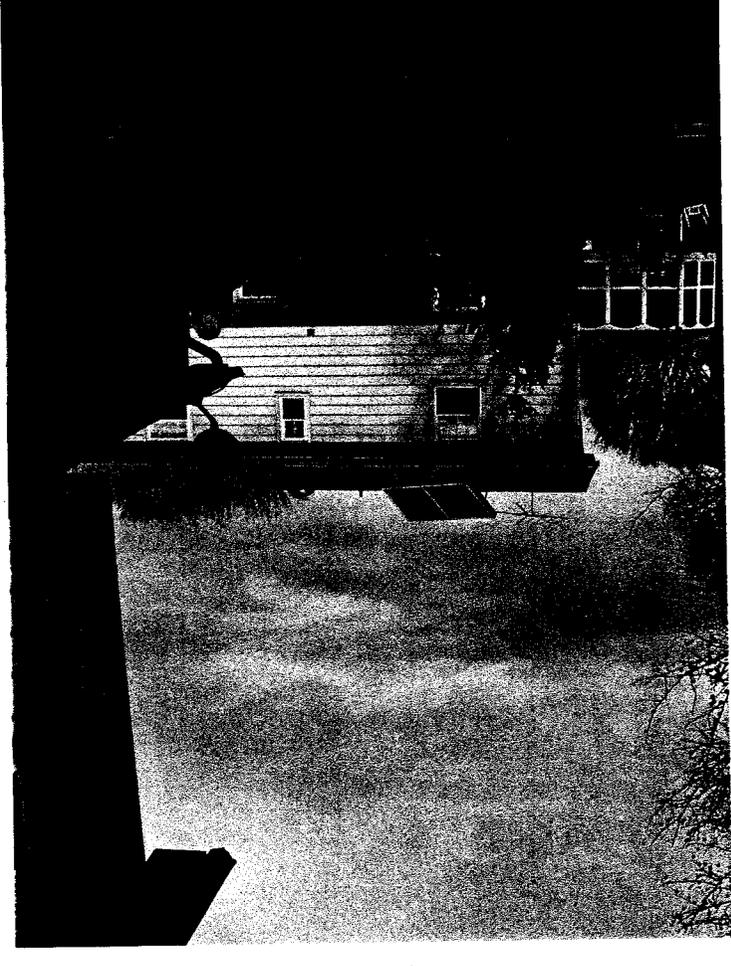
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VIEW FROM BACK - 45° TOWARD RIGHT



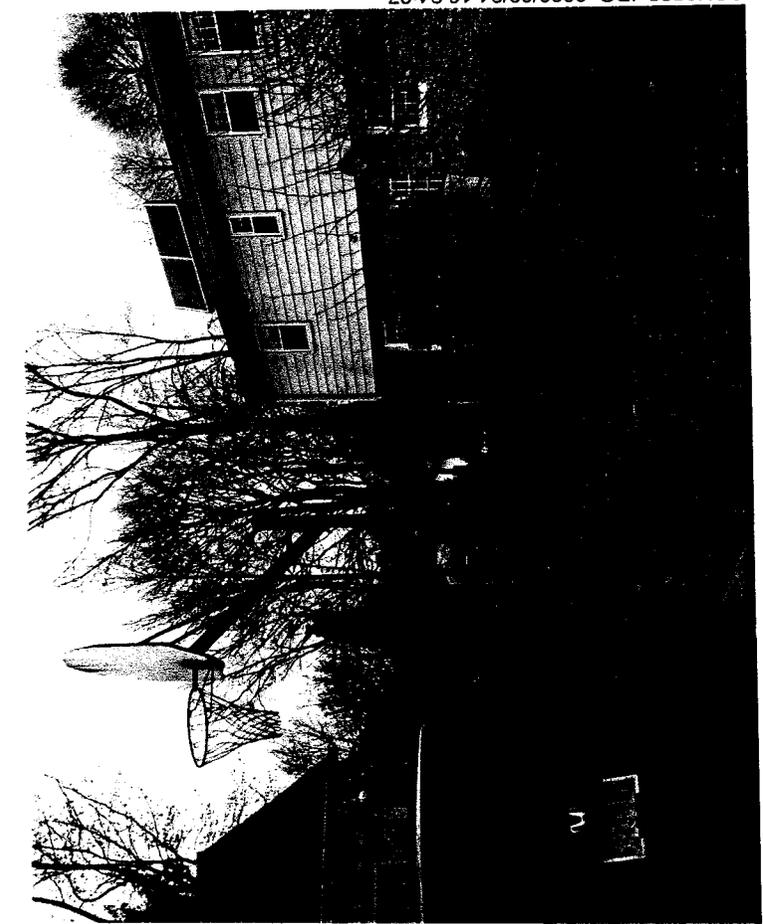
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VIEW FROM BACK - TOWARD 1402



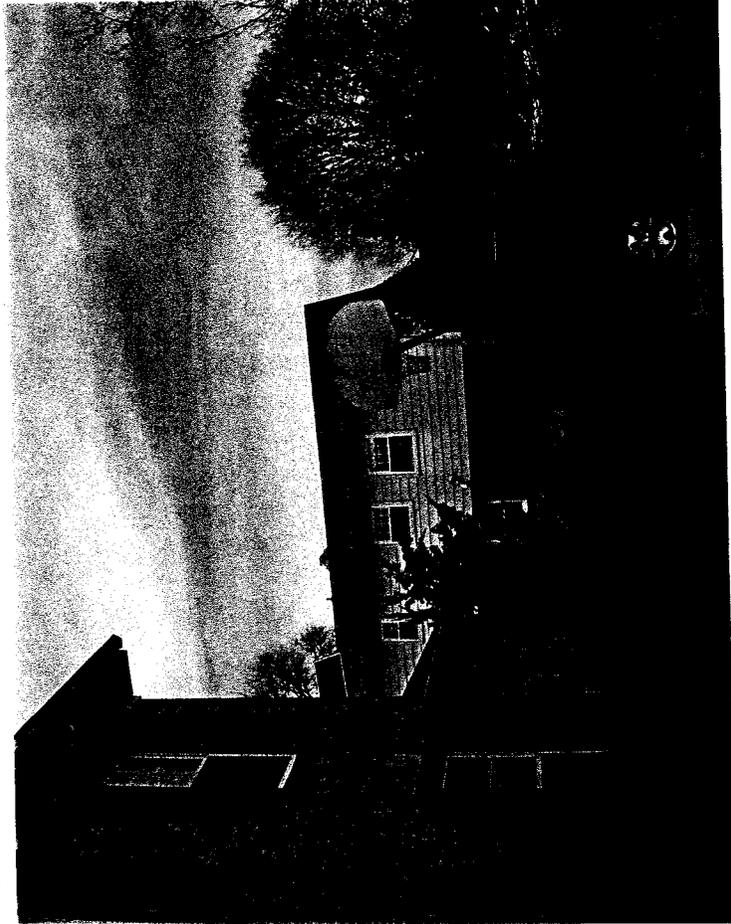
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VIEW FROM BACK - TOWARD 1402



DSCN2555.JPG 2008/02/24 16:24:27

VIEW FROM FRONT - TOWARD 1402



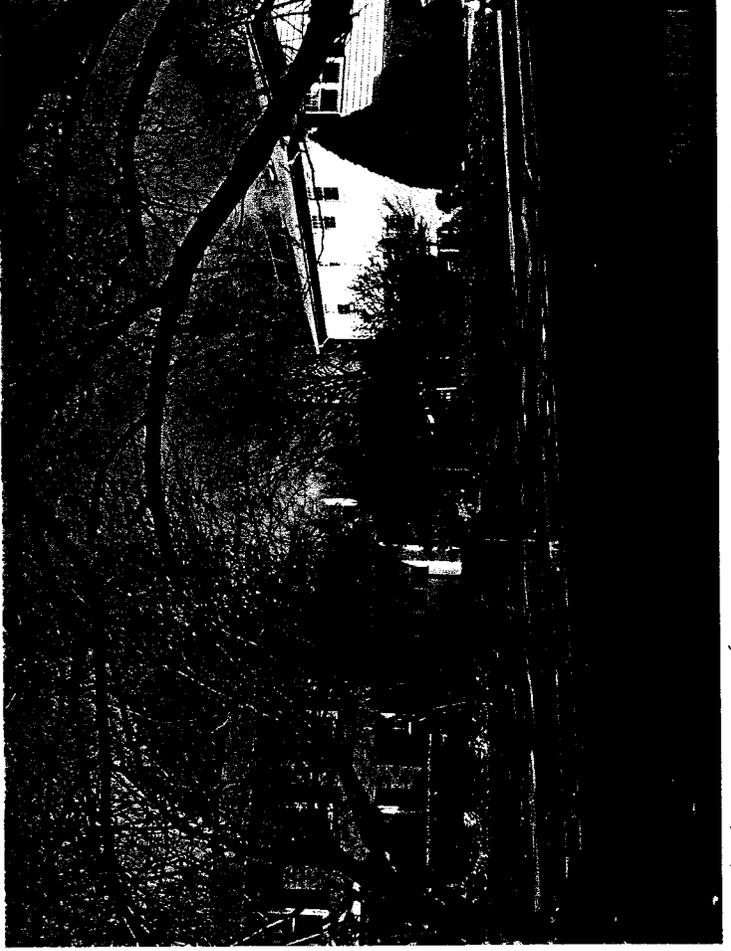
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VIEW FROM FRONT - TOWARD 1402



DSCN2324.JPG 2007/12/01 13:32:39

1404 AND 1402 BARITONE CT. VIEWED FROM FRONT



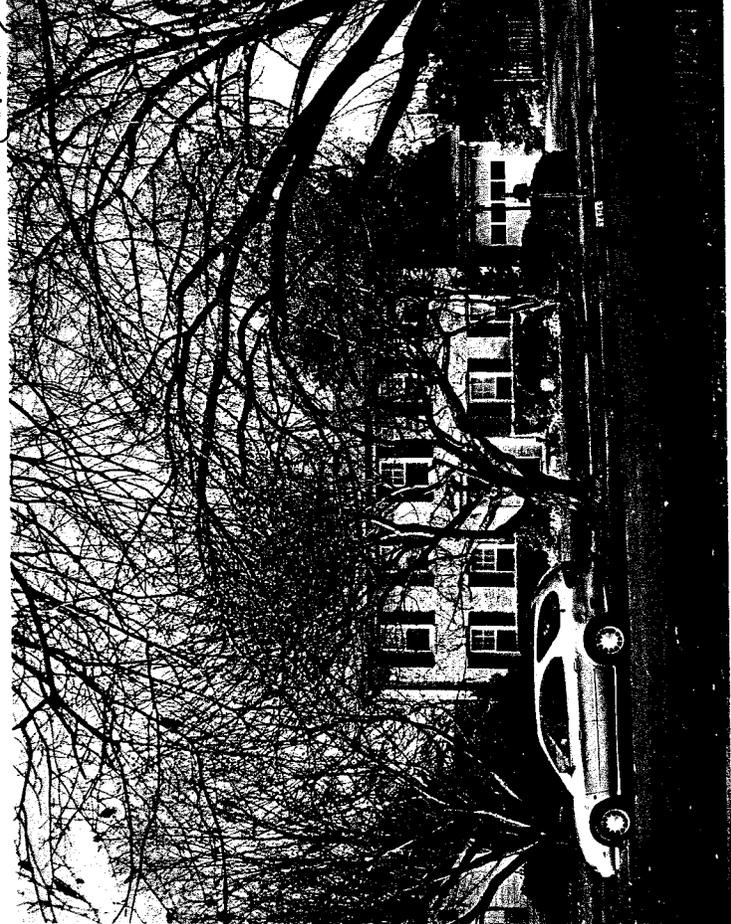
DSCN2323.JPG 2007/12/01 13:32:22

1404 AND 1402 VIEWED FROM FRONT



DSCN2322.JPG 2007/12/01 13:32:07

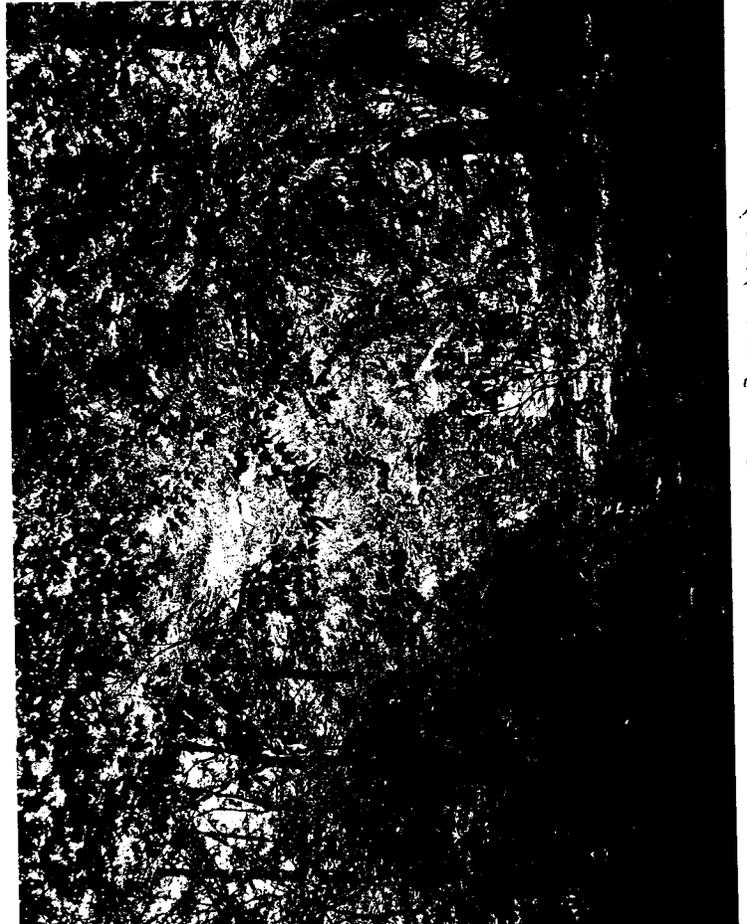
1404 AND 1406 BARITONE CT. VIEWED FROM FRONT (EAST)



DSCN2321.JPG 2007/12/01 13:31:58

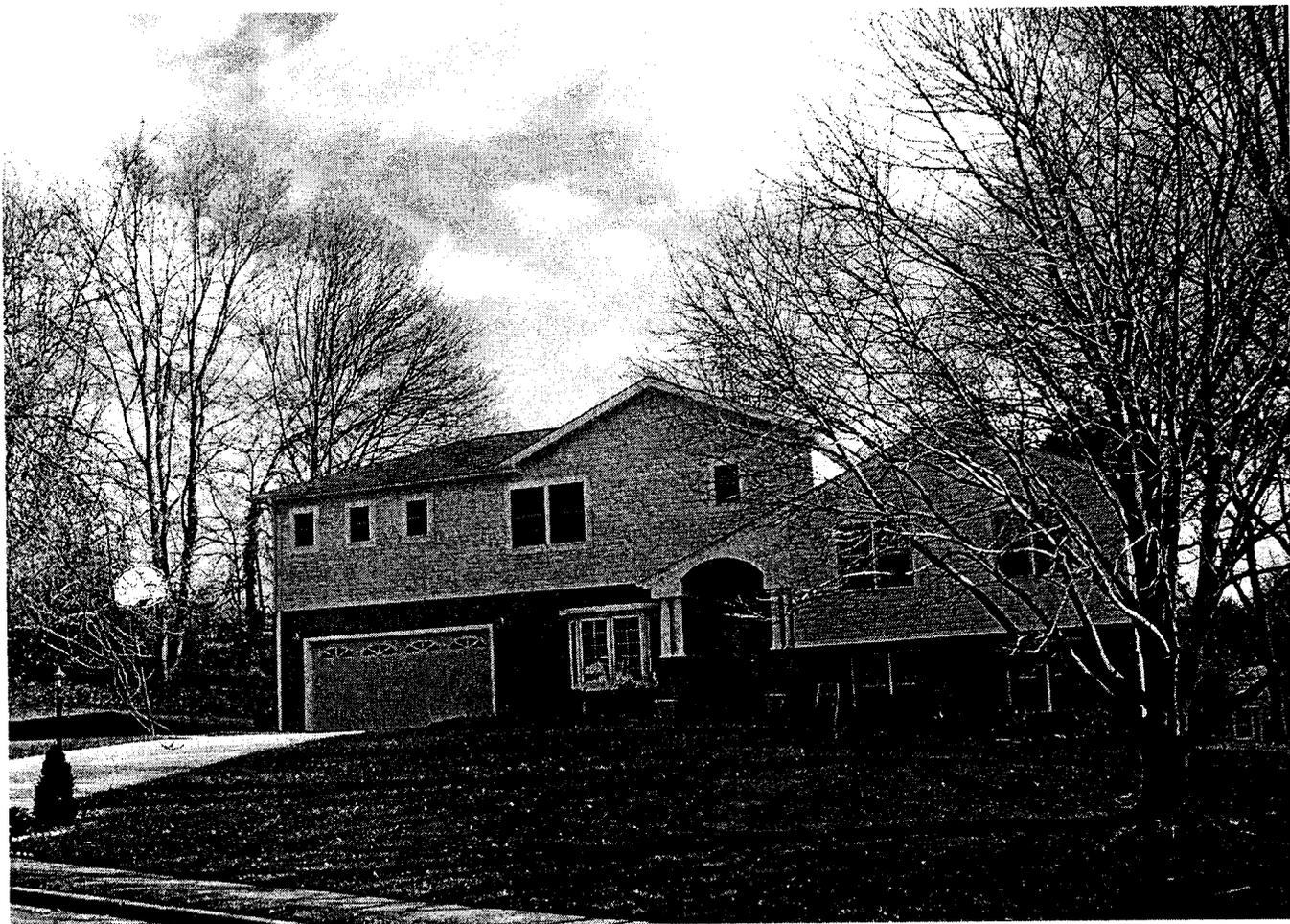
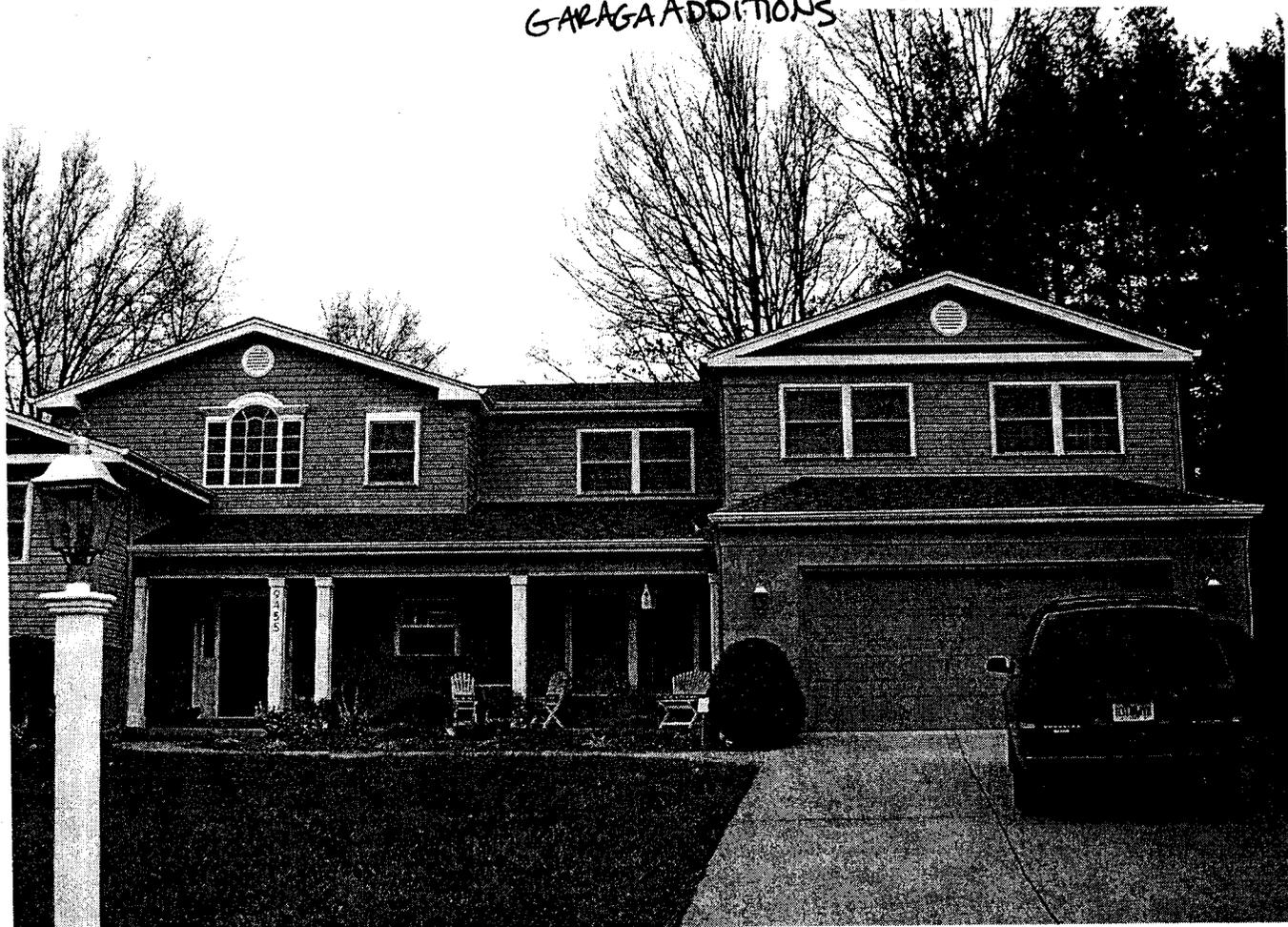
1406 BARITONE CT. VIEWED FROM FRONT

DSCN2649.JPG 2008/05/17 13:56:36



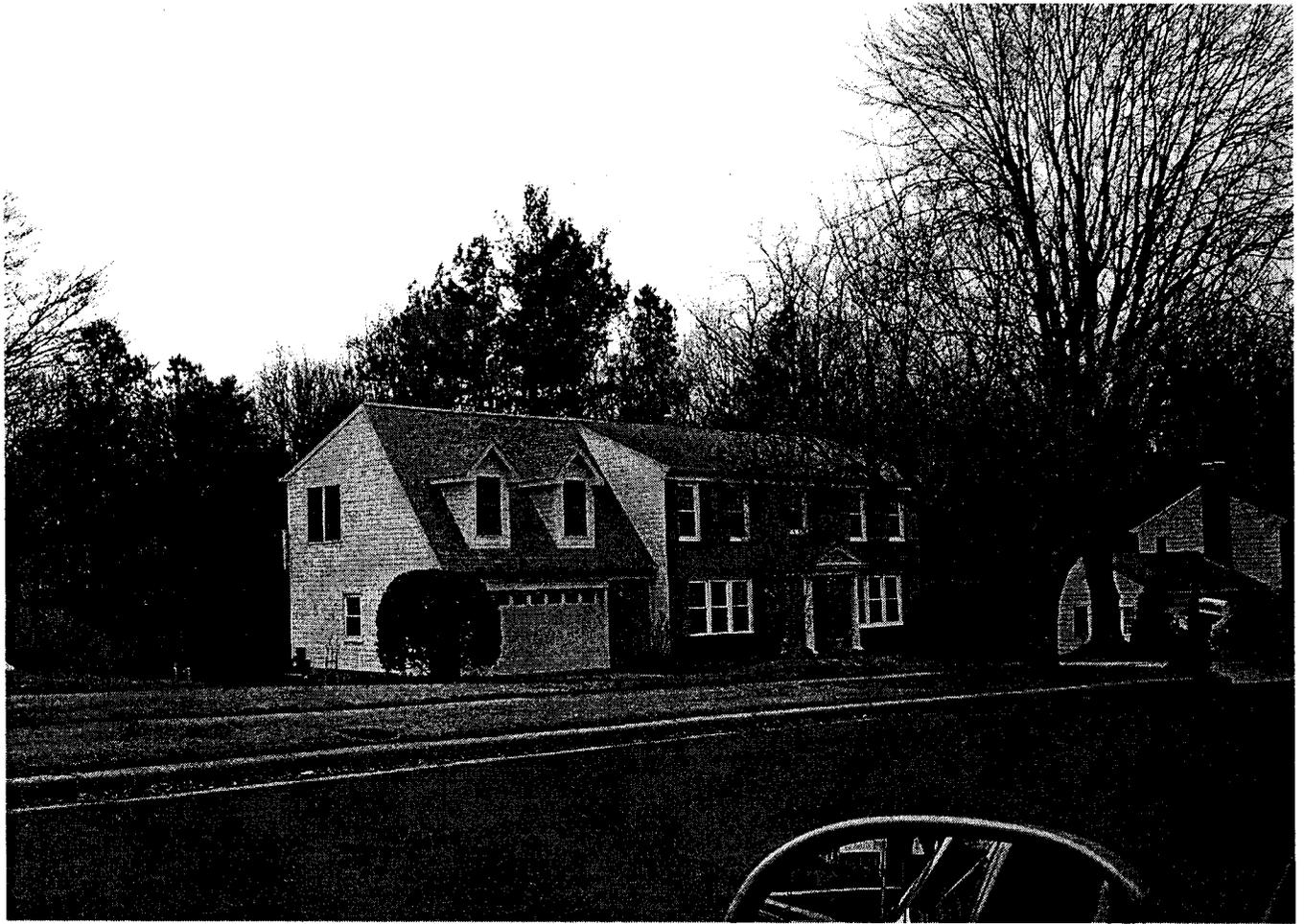
... AC ... CYPRESS ... BACK YARD

NEIGHBORING PROPERTIES WITH 2-STORY  
GARAGE ADDITIONS









**DESCRIPTION OF THE APPLICATION**

The applicant seeks approval of two special permits for the subject property. The first is for an error in building location to permit a shed to remain 5.5 feet from the rear lot line.

	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
<b>Special Permit 1</b>	Rear	9.5 feet	5.5 feet	4 feet	42.1 %

\* Minimum yard requirement per Section 10-102

The second special permit request is for a reduction of certain yard requirements to permit construction of a two-story addition for a garage with living space above 8 feet from the side lot line such that side yards total 18.9 feet.

	Structure	Yard	Min. Yard Required *	Proposed Location	Proposed Reduction	Percent of Reduction Requested
<b>Special Permit 2</b>	Addition	Total Side Yards	24 feet	18.9 feet	5.1 feet	21.2 %

\* Minimum yard requirement per Section 3-203

**CHARACTER OF THE AREA**

	Zoning	Use
<b>North</b>	R-2 Cluster	Single Family Detached Dwellings
<b>South</b>	R-2 Cluster	Single Family Detached Dwellings
<b>East</b>	R-2 Cluster	Single Family Detached Dwellings
<b>West</b>	R-2 Cluster	Single Family Detached Dwellings

## ANALYSIS OF SPECIAL PERMIT APPLICATION

- **Title of SP Plat:** Special Permit for Proposed Addition, Lot 325, Section 3, Shouse Village
- **Prepared By:** Peter R. Moran, Land Surveyor, dated August 30, 2001, Revised through January 24, 2008.
- **Building Permit Required for Shed:** No
- **Location and Error Made By:** Owner/Contractor

## BACKGROUND

The existing single family detached dwelling was constructed in 1973 with an existing carport which was later converted to a one-car garage. The proposed garage addition will have a storage area in the rear as well as windows and a door for outside access.

The Board of Zoning Appeals (BZA) has not heard other land use applications in the neighborhood.

## PROPOSAL

The applicant wishes to extend their existing one-car garage so that they may have a two car garage with living space above. The proposed addition will be two stories and constructed along the same roofline as the existing dwelling.

The applicant also seeks approval of a special permit for the shed which is located within the minimum required rear yard due to its height. The shed is smaller than 150 square feet and therefore did not require a building permit.

## ZONING ORDINANCE REQUIREMENTS (See Appendix 4)

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provisions for Reduction of Certain Yard Requirements (Sect. 8-922)

### **Sect. 8-006 General Special Permit Standards**

Staff believes that the application for the addition meets all of the 8 General Special Permit Standards with notes regarding standard 3 and 5.

General Standard 3 requires that the proposed uses be harmonious with and not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. *Staff believes that the special permit application satisfies this condition based on pictures submitted by the applicant and a site visit which confirms other two-car garages throughout the neighborhood. Given that this is a cluster subdivision in which homes are allowed to be as close as 8 feet to the side lot line by-right, so long as they meet a total of 24 feet for both, the proposed reduction will not adversely affect neighboring properties and will be harmonious with the surrounding neighborhood.*

### **Sect. 8-922 Provisions for Reduction of Certain Yard Requirements**

*Standard 4 states that the resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first yard reduction request. In such instance, if a portion of the principal structure is to be removed; no more than fifty (50) percent of the gross floor area of the existing principal structure at the time of the first yard reduction shall be removed. The existing structure is 3,247 square feet in size. Therefore 150% of the total gross floor area could result in an addition up to 4,870.5 square feet; which makes a combined total of 8,117.5 square feet. The proposed addition will be 404 square feet for a total of 3,651 square feet for the existing house and addition. Therefore the application meets this provision.*

*Standard 6 states that the BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot. The proposed addition will be an expansion of an existing one car garage to create a two-car garage with living space above. The addition will be 21 feet high and the existing house is currently 21 feet; therefore, the height will be in character with the existing on-site development. The size of the proposed addition is 404 square feet and the existing house is 3,247 square feet; therefore staff believes that application meets this provision in terms of scale.*

*Standard 7 states that the BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the director. The proposed addition will be harmonious with the surrounding neighborhood since many of the other homes within the neighborhood have existing two-car garages. There will be a slight increase of impervious surfaces due to the expansion of the existing one-car garage to a two-car garage. However, the applicant proposes to expand the driveway in such a way to avoid coming strait off the addition to the street. No significant trees are proposed to be harmed by the requested expansion. Therefore, staff believes the application meets this provision.*

*Standard 8 states that the BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff. No downstream complaints have been indicated by DPWES and there is a minimal increase of impervious area due to the proposed addition being constructed over an existing brick*  
*O:\Staff2\Case Files\Special Permits\SP 2008-DR-098 WOOD\Wood\_DRAFT.doc*

*patio. Light and noise impacts will be mitigated since the applicant will be able to park their vehicles within the proposed garage. Staff believes that the proposed addition shall not have any adverse impact on neighboring properties.*

*Standard 9 states that the BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources. Since the proposed addition is an expansion of an existing one-car garage and based on the lot size and current orientation of existing structures on the lot there are no alternate locations for the proposed addition. There are no floodplains or Resource Protection Areas on the subject property.*

## **CONCLUSION**

Staff believes that the subject application for the addition is in conformance with the applicable Zoning Ordinance provisions with the implementation of the Proposed Development Conditions contained in Appendix 1 of the staff report.

## **RECOMMENDATION**

Staff recommends approval of special permit application SP 2008-DR-098 for the addition subject to the proposed development conditions contained in Appendix 1 of the staff report.

The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

## **APPENDICES**

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****SP 2008-DR-098****January 27, 2009**

If it is the intent of the Board of Zoning Appeals to approve SP 2008-DR-098 located at Tax Map Number 19-3 ((4)) 325 (1404 Baritone Ct.), to permit reduction of certain yard requirements pursuant to 8-914 & 8-922 of the Fairfax County Zoning Ordinance, staff recommends the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land record of Fairfax County for this lot prior to the issuance of a building permit. A certified copy of the recordation shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This special permit is approved for the location and size of a proposed addition and shed as shown on the plat prepared by Peter R. Moran, Land Surveyor, dated August 20, 2007, revised through January 24, 2008 submitted with this application and is not transferable to other land.
3. Pursuant to Provision 4 of Section 8-922 of the Zoning Ordinance, the resulting gross floor area of the existing principle structures may be up to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion (3,247 square feet existing + 4,870.5 (150%) = 8,117.5 permitted) regardless of whether such addition complies with the minimum yard requirement or is the subject of a subsequent yard reduction, special permit or variance. Notwithstanding the definition of gross floor area as set forth in the Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage. Subsequent additions that meet minimum yard requirements shall be permitted without an amendment to this special permit.
4. The addition shall be consistent with the architectural renderings and materials included in Attachment 1 to these conditions.

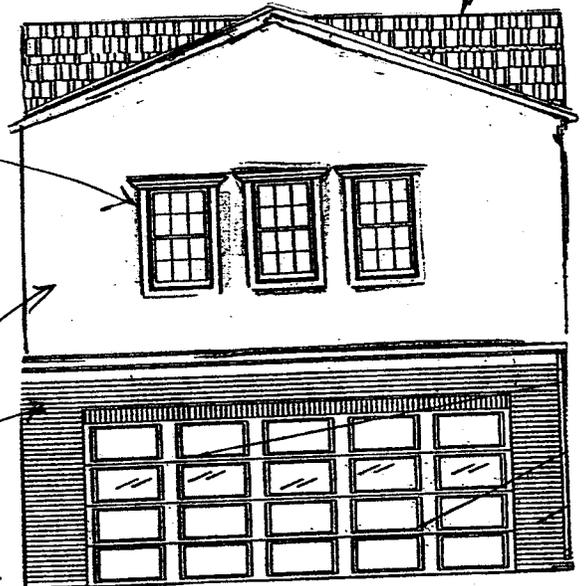
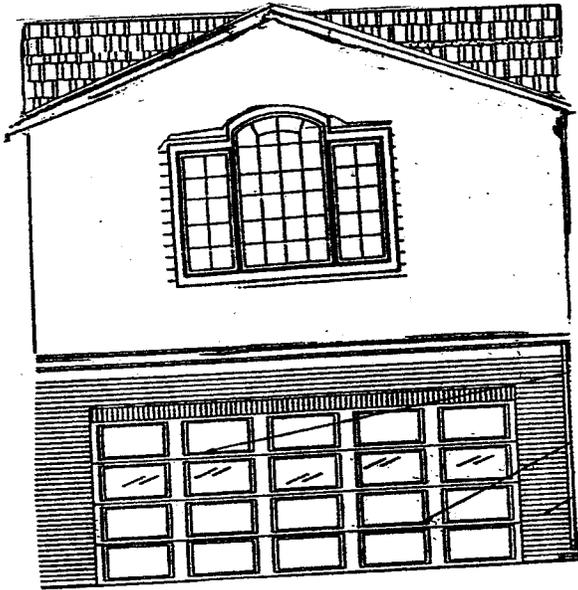
This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted. The Board of Zoning Appeals may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

NOTE: WE PLAN TO INSTALL A NEW ROOF AND N SIDING ON THE EXISTING HOUSE AS PART OF THUS, SIDING AND ROOF WILL BE SAME ON BOTH ADDITION AND EXISTING HOUSE.

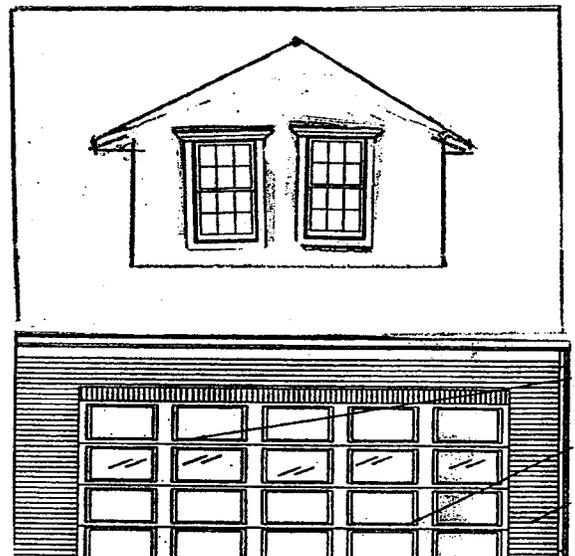
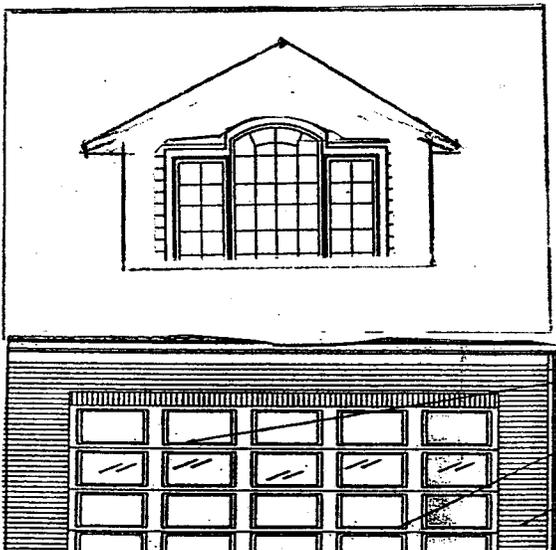
ASPHALT SHINGLE ROOF

WINDOWS TO MATCH SIZE AND GENERAL STYLE OF EXISTING HOUSE



BRICK OR VINYL SIDING (IN EITHER CASE, TO MATCH THAT OF EXISTING HOUSE)

Front Garage Elevation - Alternative Designs



WOOD/D  
1/10/00

SCALE  
AS SHOWN

DATE  
JAN 9, 2004

DRAWN BY  
CINDY BEER

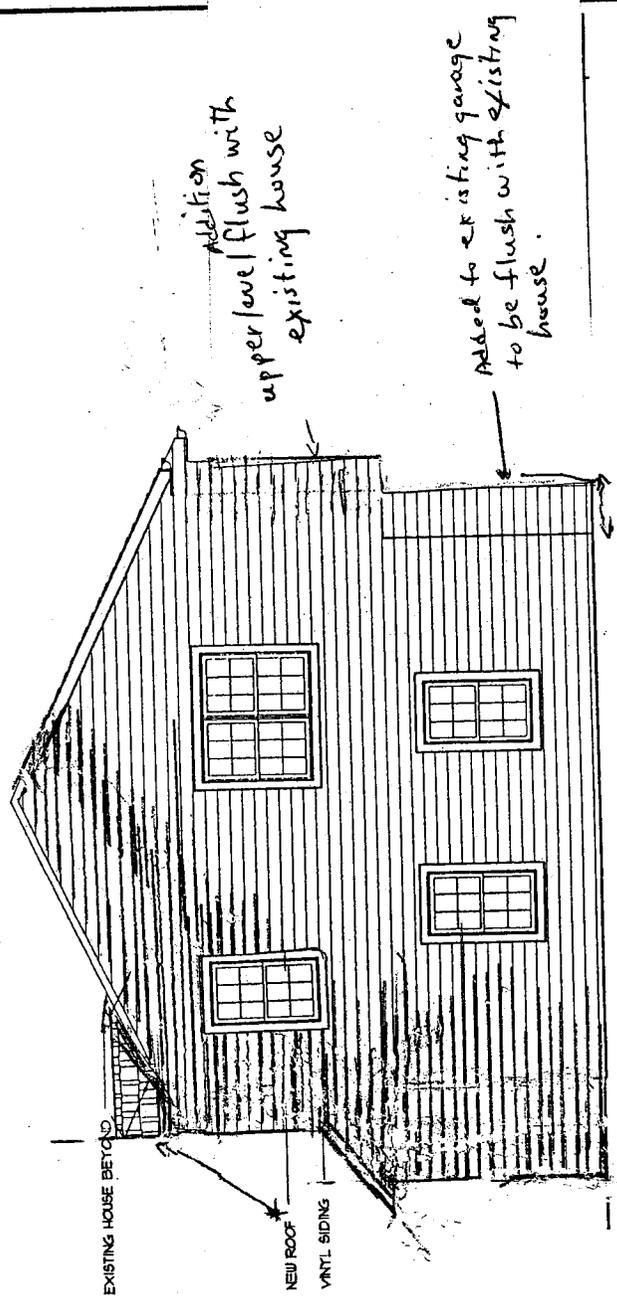
PROJECT #

REVISIONS

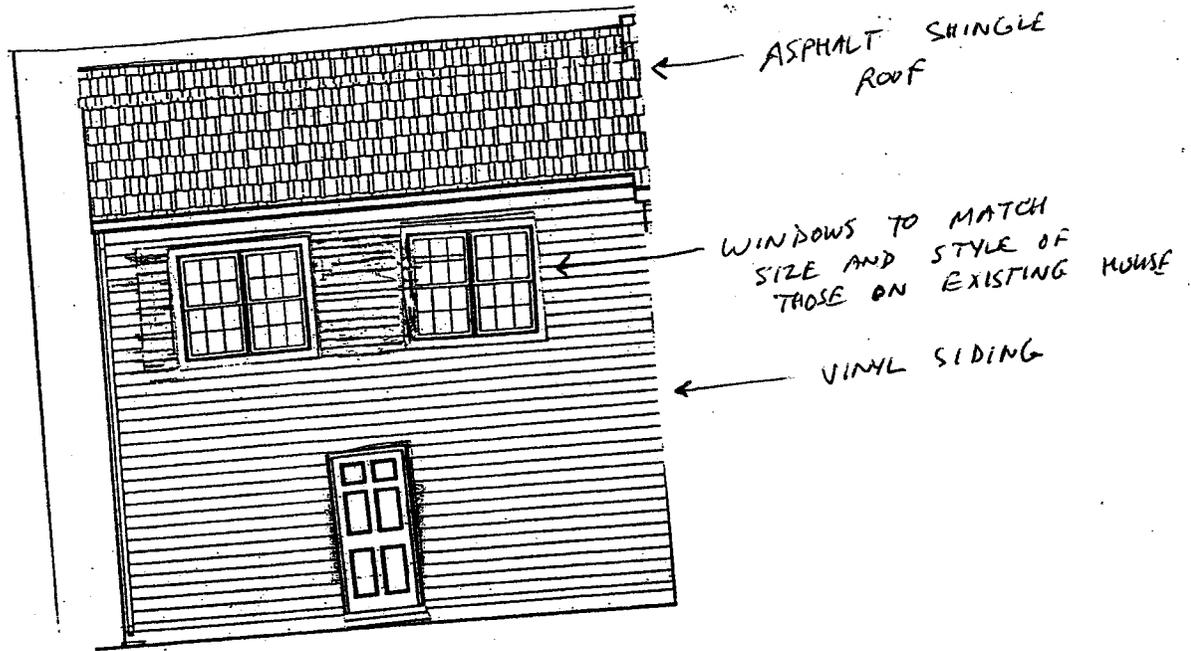
AUTOCAD FILE

CYNTHIA A. BERG, ARCHITECT  
UNLAWFULLY REPRODUCED  
WITHOUT THE WRITTEN PERMISSION  
OF CYNTHIA A. BERG, ARCHITECT  
OTHER PROPERTY RIGHTS  
ARE NOT TO BE REPRODUCED,  
CHANGED, OR COPIED  
FOR ANY PURPOSES  
WITHOUT THE WRITTEN PERMISSION  
OF CYNTHIA A. BERG, ARCHITECT

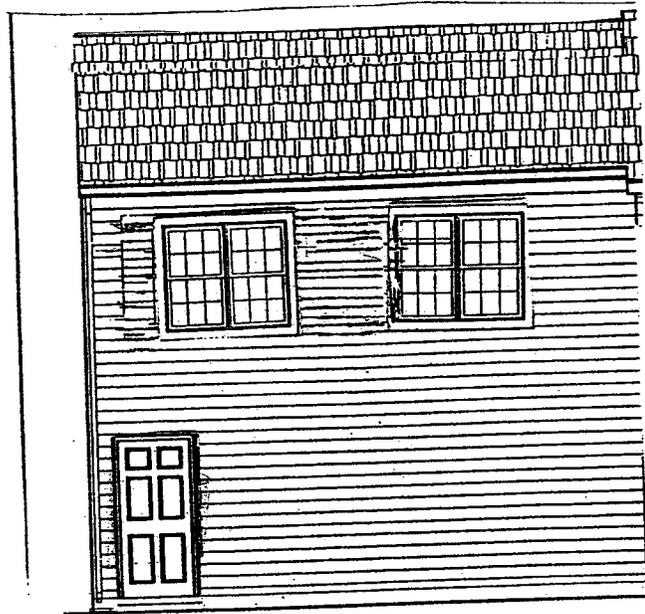
A3



3 RIGHT ELEVATION 1/8"=1'-0"



Rear Garage Elevation - Alternative Designs



Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: Oct. 17, 2008  
(enter date affidavit is notarized)

I, John C. Wood, Trustee, do hereby state that I am an  
(enter name of applicant or authorized agent)

(check one)             applicant  
                              applicant's authorized agent listed in Par. 1(a) below

99239a

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,\* and, if any of the foregoing is a **TRUSTEE,\*\*** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

**(NOTE:** All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

<b>NAME</b> (enter first name, middle initial, and last name)	<b>ADDRESS</b> (enter number, street, city, state, and zip code)	<b>RELATIONSHIP(S)</b> (enter applicable relationships listed in <b>BOLD</b> above)
John C. Wood and Elyse M. DiBiagio-Wood, Trustees for DiBiagio-Wood Family Trust, for the benefit of John C. Wood, Elyse M. DiBiagio, Christopher J. D. Wood, Benjamin DiBiagio-Wood, and any other of our descendants.	1404 Baritone Court Vienna, VA 22182	Applicants/Title Owners/Trustees

(check if applicable)     There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

\* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.

\*\* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

Page Two

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: Oct. 17, 2008  
(enter date affidavit is notarized)

99239a

1(b). The following constitutes a listing\*\*\* of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

**(NOTE:** Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

**CORPORATION INFORMATION**

**NAME & ADDRESS OF CORPORATION:** (enter complete name, number, street, city, state, and zip code)

N/A

**DESCRIPTION OF CORPORATION:** (check one statement)

- There are 10 or less shareholders, and all of the shareholders are listed below.
- There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
- There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

**NAMES OF SHAREHOLDERS:** (enter first name, middle initial, and last name)

(check if applicable)  There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

Page Three

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: Oct. 17, 2008  
(enter date affidavit is notarized)

99239a

1(c). The following constitutes a listing\*\*\* of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

**PARTNERSHIP INFORMATION**

**PARTNERSHIP NAME & ADDRESS:** (enter complete name, number, street, city, state, and zip code)

N/A

(check if applicable)  The above-listed partnership has no limited partners.

**NAMES AND TITLE OF THE PARTNERS** (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

(check if applicable)  There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

\*\*\* All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

Page Four

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: Oct. 17, 2008  
(enter date affidavit is notarized)

99239a

1(d). One of the following boxes **must** be checked:

In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land:

Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

**EXCEPT AS FOLLOWS:** (NOTE: If answer is none, enter "NONE" on the line below.)

NONE

(check if applicable)  There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): \_\_\_\_\_  
(county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: Oct. 17, 2008  
(enter date affidavit is notarized)

992399

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

**EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)**

NONE

**(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)**

(check if applicable) [ ] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE\* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

**WITNESS the following signature:**

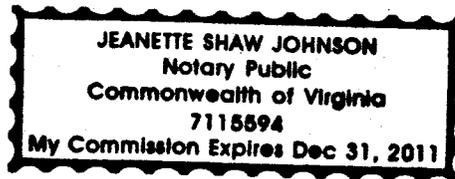
(check one)  Applicant John C Wood, Trustee [ ] Applicant's Authorized Agent

JOHN C. WOOD, TRUSTEE  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 17 day of OCT 2008, in the State/Comm. of Virginia, County/City of Fairfax.

Jeanette Shaw Johnson  
Notary Public

My commission expires: 12/31/2011



**APPLICATION FOR SPECIAL PERMIT****1404 BARITONE COURT, VIENNA, VA 22182****JOHN C. WOOD AND ELYSE M. DIBIAGIO-WOOD, APPLICANTS****SPECIAL PERMIT STATEMENT OF JUSTIFICATION  
(REVISED JANUARY 2009)**

This application is for reduction of certain yard requirements. Specifically, the application is for a permit to construct a two-car garage in place of an existing one-car garage, and to add a second storey above the new two-car garage. The construction will necessitate extending approximately five feet beyond the generally applicable combined side yard requirement.

The application meets the standards set forth in the zoning ordinance. In particular:

(1) The application meets the standards in section 8-006, in that the construction will be in harmony with the comprehensive plan and the general purpose and intent of applicable zoning district regulations. Since the extension beyond the otherwise applicable side yard requirement is not large, and since many houses in the neighborhood (including on the immediate block) already have two-car garages (some with second storeys above), the proposed use will be harmonious with, and will not adversely affect the use or development of, or impair the value of, neighboring properties. The proposed use will not increase pedestrian or vehicular traffic, because there is no plan to purchase or rent additional vehicles beyond the two already owned by applicants, and there is no plan for additional persons to live in the residence. Open space, utility, and drainage facilities will be adequate. The conversion of a one-car garage to a two-car garage will

improve the parking facilities at the property (resulting in one car no longer being parked on the street).

(2) The application also meets the applicable standards of section 8-903. In particular, the proposed use will comply with the lot size regulations of the zoning district in which it is located.

(3) The application also meets the applicable standards of section 8-922. The following discussion relates to the applicable paragraphs in section 8-922:

Paragraph 1. The existing side yard on the right (garage) side of the house is 20.0 feet, and on the left side is 10.9 feet, for a total of 30.9 feet. The reduction, of approximately 12 feet, would result in a combined side yard measurement of approximately 18.9 feet. Since the requirement is 24 feet, the resulting combined side yard of 18.9 feet would be not less than the permitted reduction to one-half the requirement, i.e. 12 feet. In addition, the side yard on the right side would be approximately 8.0 feet, in excess of the required minimum of 5 feet.

Paragraph 2. The proposal does not contemplate the placement of a detached structure in a front yard.

Paragraph 3. The lot contains a principal structure and use that complied with the minimum yard requirements in effect when the use and structure were established.

Paragraph 4. The proposed resulting gross floor area of the structure including the addition would be approximately 4,355 square feet, or 134 percent of the existing gross floor area of the structure, which is approximately 3,247 square feet. This is less than the 150 percent ratio permitted in paragraph 4.

Paragraph 5. (Not applicable, since no accessory structure is involved in the proposed addition.)

Paragraph 6. The proposed construction will be in character with the existing structure on the lot. The garage, even after conversion to a two-car garage and addition of a second storey above the garage, will still have considerably less bulk than the main portion of the house. The height of the garage, including the new second storey, will not exceed that of the main portion of the house.

Paragraph 7. The proposed construction will be harmonious with the surrounding uses and structures. Many houses in the neighborhood, including on the immediate block, already have two-car garages, some in the neighborhood with second storeys above the garage. The proposed development will not exceed the height, scale, or bulk of many other houses in the neighborhood. The proposed development will not alter the existing topography or require the removal of any trees. Several foundation plantings around the existing garage will have to be removed, but new foundation plantings can be installed around the new garage after construction.

Paragraph 8. The proposed construction will not adversely impact the use and/or enjoyment of any adjacent properties with regard to noise (no additional noise will result), light and air (the distance between the proposed structure and the adjoining house on the right side will still be approximately 25 feet), safety (no changes in type of use or in likelihood of fire will result), or erosion or stormwater runoff (the additional covered area will not be large enough to adversely affect these matters).

Paragraph 9. (For BZA to determine.)

Paragraph 10. (For BZA to determine.)

OCT 23 2008

Zoning Evaluation Division

**APPLICATION FOR SPECIAL PERMIT****1404 BARITONE COURT, VIENNA, VA 22182****JOHN C. WOOD AND ELYSE M. DIBIAGIO-WOOD, APPLICANTS****STATEMENT OF JUSTIFICATION EXPLAINING  
ERROR IN BUILDING LOCATION (SHED)**

The letter to us from the Fairfax County Department of Planning and Zoning dated March 7, 2008 stated that our Special Permit Application did not meet the minimum submission requirements. One of the deficiencies noted in the checklist attached to the letter was that the shed located in the rear yard must be added to the application as an error in building location, or we have the choice to relocate the shed 9.5 feet from the rear property line. We have chosen to add the shed as an error in building location. The following statement is intended to address the standards in section 8-914, items 2A through 2G and to explain how the error in building location occurred.

Item 2A. The shed is located 5.5 feet from the rear property line, as compared to the standard of 9.5 feet. The difference is 4.0 feet, more than 10 percent of the measurement involved.

Item 2B. The noncompliance was in good faith and through no fault of the property owners (ourselves). We hired a home improvement contractor to build the shed for us. The contractor appeared competent and professional, and we therefore assumed that he would obtain any necessary permits and would locate the shed in compliance with applicable building and zoning requirements. The shed was built in approximately 1998; unfortunately, the contract for the shed construction appears to have been lost or misplaced and we do not currently have contact information for the contractor.

Item 2C. We believe the error in location will not impair the purpose and intent of this Ordinance (but this is for the BZA to determine).

Item 2D. The error in location will not be detrimental to the use and enjoyment of other property in the immediate vicinity. The house immediately behind our property has several large evergreen trees growing on their side of the property line, which screen the view from that house in the direction of our property, including the shed. (The trees were already there when the shed was built.) In addition, the land slopes upward toward the back of our house, and there are a number of plantings in our rear yard that obscure the view from our neighbor's house. Therefore, the fact that the shed is closer to the rear property line than it should have been does not significantly affect the view from our neighbor's house. Also, we asked our neighbors, at the time we were planning to have the shed constructed, if they had any objections; they did not object at that time, nor have they done so at anytime since.

Item 2E. The error in location will not create an unsafe condition with respect to other property and public streets. The shed does not block access to the house of our neighbor's to the rear (or to our house, or any other neighbors' houses) by fire or other emergency vehicles. Also, there is nothing in the shed that would create a risk of fire.

Item 2F. To force compliance with the minimum yard requirements would cause unreasonable hardship. Moving the shed might be impossible, in which case it would have to be destroyed and a new shed constructed; or if the shed could be moved, this would be difficult and expensive. In either case, the expense would not be reasonable, in light of the facts stated in Items 2B through 2E above.

Item 2G. The error in location will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations; even if the shed were further away from the rear property line, its floor area would be the same as it now is.

**8-006 General Standards**

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

**8-903 Standards for all Group 9 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.

3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

#### **8-922 Provisions for Reduction of Certain Yard Requirements**

The BZA may approve a special permit to allow a reduction of certain yard requirements subject to all of the following:

1. Only the following yard requirements shall be subject to such special permit:
  - A. Minimum required yards, as specified in the residential, commercial, industrial and planned development districts in Articles 3, 4, 5 and 6, provided such yards are not subject to proffered conditions or development conditions related to yards and/or such yards are not depicted on an approved conceptual development plan, final development plan, development plan, special exception plat, special permit plat or variance plat.
  - B. Yard regulations for pipestem lots and lots contiguous to pipestem driveways set forth in Sect. 2-416.
  - C. Accessory structure location requirements set forth in Sect. 10-104.
  - D. Regulations on permitted extensions into a minimum required yard as set forth in Sect. 2-412.

Approval of a reduction of yard requirements specified in Paragraphs A, B and C above shall not result in any yard that is less than fifty (50) percent of the requirement and shall not result in any yard of less than five (5) feet, as measured from the lot line to the closest point of the proposed structure.

Approval of a reduction of yard requirements specified in Par. D above shall not result in an extension that exceeds the applicable distances set forth in Sect. 2-412 by more than fifty (50) percent. Where no extension is permitted by the provisions of Sect. 2-412, the BZA shall not approve a special permit that results in a structure that extends into a minimum required yard by more than fifty (50) percent.

2. Such reduction shall not result in the placement of a detached accessory structure in a front yard where the placement of such accessory structure is not otherwise permitted in that yard.
3. This special permit shall only apply to those lots that contain a principal structure and use that complied with the minimum yard requirements in effect when the use or structure was established.
4. The resulting gross floor area of an addition to an existing principal structure may be up to 150 percent of the total gross floor area of the principal structure that existed at the time of the first expansion request. The resulting gross

floor area of any subsequent addition is limited to 150 percent of the gross floor area of the dwelling that existed at the time of the first expansion request, regardless of whether such addition complies with the minimum yard requirements or is the subject of a subsequent yard reduction special permit. If a portion of a single family detached dwelling is to be removed, no more than fifty (50) percent of the gross floor area of the existing dwelling at the time of the first yard reduction shall be removed. Notwithstanding the definition of gross floor area, as set forth in this Ordinance, the gross floor area of a single family dwelling for the purpose of this paragraph shall be deemed to include the floor area of any attached garage.

5. The resulting gross floor area of an existing accessory structure and any addition to it shall be clearly subordinate in purpose, scale, use and intent to the principal structure on the site.
6. The BZA shall determine that the proposed development will be in character with the existing on-site development in terms of the location, height, bulk and scale of the existing structure(s) on the lot.
7. The BZA shall determine that the proposed development is harmonious with the surrounding off-site uses and structures in terms of location, height, bulk and scale of surrounding structures, topography, existing vegetation and the preservation of significant trees as determined by the Director.
8. The BZA shall determine that the proposed development shall not adversely impact the use and/or enjoyment of any adjacent property with regard to issues such as noise, light, air, safety, erosion, and stormwater runoff.
9. The BZA shall determine that the proposed reduction represents the minimum amount of reduction necessary to accommodate the proposed structure on the lot. Specific factors to be considered include, but are not limited to, the layout of the existing structure; availability of alternate locations for the addition; orientation of the structure(s) on the lot; shape of the lot and the associated yard designations on the lot; environmental characteristics of the site, including presence of steep slopes, floodplains and/or Resource Protection Areas; preservation of existing vegetation and significant trees as determined by the Director; location of a well and/or septic field; location of easements; and/or preservation of historic resources.

**8-914**

**Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location**

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than

one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:

- A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
- B. Total area of the property and of each zoning district in square feet or acres.
- C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
- D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
- E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
- F. Means of ingress and egress to the property from a public street(s).
- G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
- H. If applicable, the location of well and/or septic field.
- I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.
- J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
- K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

- 2. The BZA determines that:
  - A. The error exceeds ten (10) percent of the measurement involved, and

- B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
  - C. Such reduction will not impair the purpose and intent of this Ordinance, and
  - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
  - E. It will not create an unsafe condition with respect to both other property and public streets, and
  - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
  - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
  4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
  5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.