



County of Fairfax, Virginia

June 23, 2009

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2009-MV-023

MOUNT VERNON DISTRICT

APPLICANTS/OWNERS: Michael D. Sundsted
Lori J. Sundsted

SUBDIVISION: Hollin Hall Village

STREET ADDRESS: 1805 MacAdams Place

TAX MAP REFERENCE: 102-2 ((2)) (6) 28

LOT SIZE: 13,257 square feet

ZONING DISTRICT: R-3

ZONING ORDINANCE PROVISIONS: 8-914

SPECIAL PERMIT PROPOSAL: To permit reduction to minimum yard requirements based on error in building location to permit open deck to remain 2.1 feet and addition 8.3 feet from a side lot line.

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 application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

O:\dhedr\Special Permits(6-30) SP 2009-MV-023 Sundsted\SP 2009-MV-023 Sunsted staff report.doc Deborah Hedrick

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 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 2009-MV-023

Applicant:

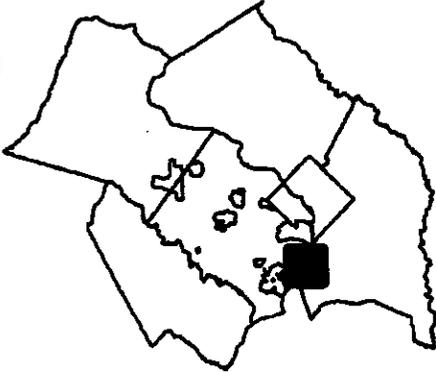
MICHAEL D SUNDSTED / LORI J. SUNDSTED

Accepted:

04/09/2009

Proposed:

REDUCTION TO MINIMUM REQUIRED YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO PERMIT OPEN DECK TO REMAIN 2.1 FEET FROM SIDE LOT LINE AND ADDITION TO REMAIN 8.3 FEET FROM SIDE LOT LINE



Area:

13,257 SF OF LAND; DISTRICT - MOUNT VERNON

Zoning Dist Sect: 08-0914

Art 8 Group and Use: 9-13

Located: 1805 MACADAMS PLACE

Zoning: R-3

Overlay Dist:

Map Ref Num: 102-2- /02/06/0028



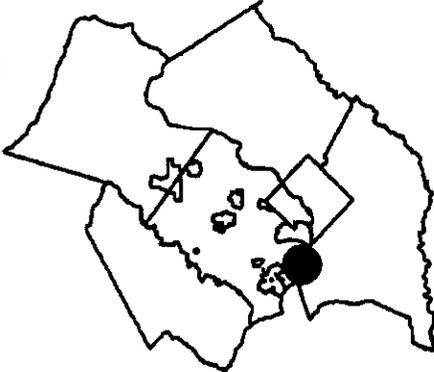
0 1,000 2,000 3,000 4,000 Feet

Special Permit

SP 2009-MV-023

Applicant:
Accepted:
Proposed:

MICHAEL D SUNDSTED / LORI J. SUNDSTED
04/09/2009
REDUCTION TO MINIMUM REQUIRED YARD
REQUIREMENTS BASED ON ERROR IN BUILDING
LOCATION TO PERMIT OPEN DECK TO REMAIN 2.1
FEET FROM SIDE LOT LINE AND ADDITION TO
REMAIN 8.3 FEET FROM SIDE LOT LINE



Area: 13,257 SF OF LAND; DISTRICT - MOUNT VERNON

Zoning Dist Sect: 08-0914

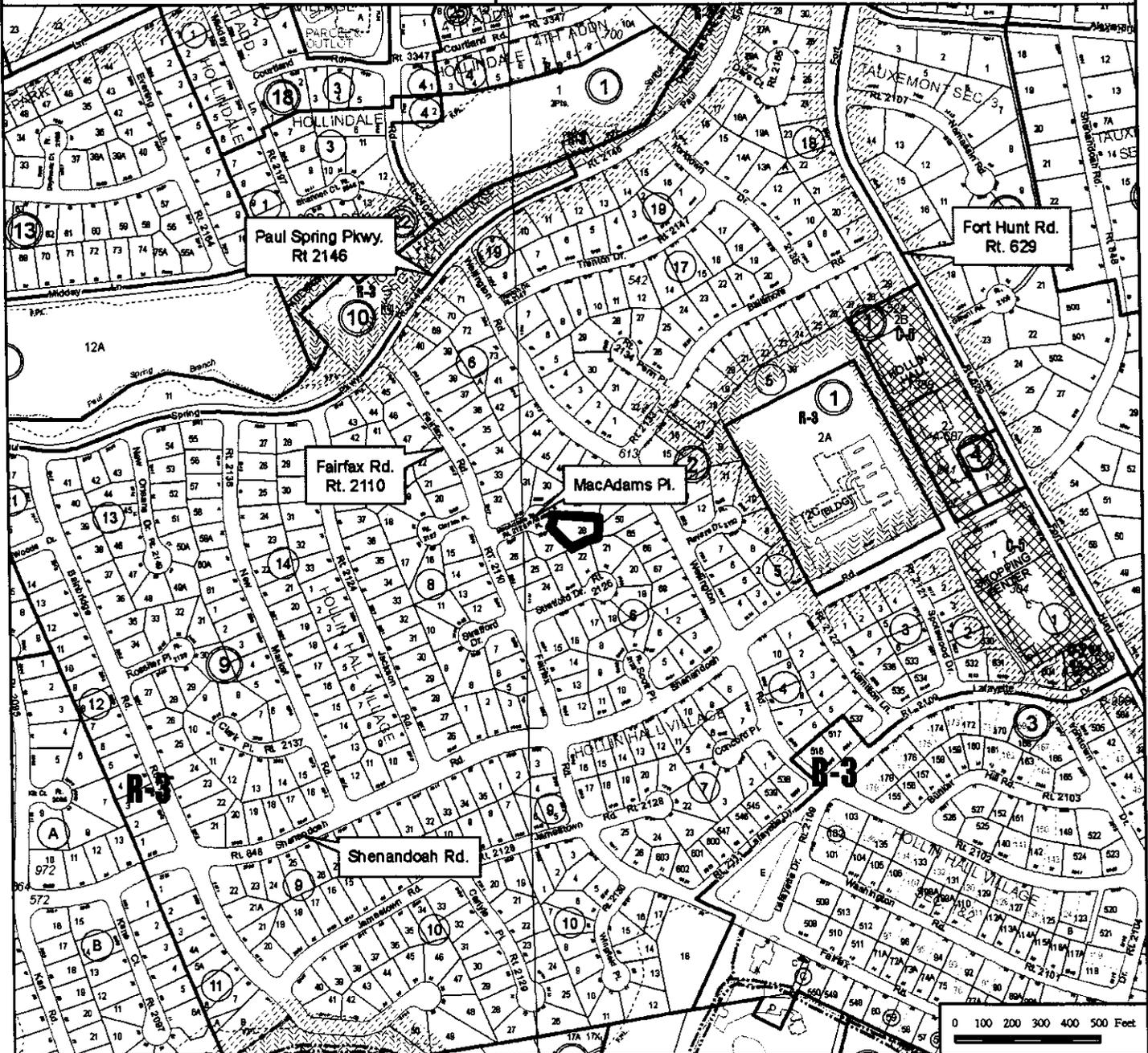
Art 8 Group and Use: 9-13

Located: 1805 MACADAMS PLACE

Zoning: R-3

Overlay Dist:

Map Ref Num: 102-2- /02/06/0028



NOTES

1. TAX MAP: 102-2-02-06-0028
2. ZONE: R-3
3. LOT AREA: 13,237 SQUARE FEET
4. MINIMUM REQUIRED YARDS:
 - FRONT: - 30 FEET
 - SIDE: - 12 FEET
 - REAR: - 25 FEET
5. HEIGHTS:
 - DWELLING SHED: - 12 FEET
 - ENCLOSED PORCH: - 9.7 FEET
 - ENCLOSED PORCH: - 10.5 FEET
6. THIS PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
7. THERE IS NO OBSERVABLE EVIDENCE OF GRAVE SITES OR BURIAL GROUNDS ON THIS PROPERTY.
8. THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
9. THERE ARE NO FLOOD PLAINS, FLOOD HAZARD AREAS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
10. APPROXIMATE FLOOR AREAS (BASED IN PART ON EXTERIOR WALL DIMENSIONS) EXISTING DWELLING: 1,378 SQUARE FEET
 EXISTING PORCH: 203 SQUARE FEET
 FLOOR AREA OF ENCLOSED PORCH EQUALS 15% OF THE EXISTING FLOOR AREA

PLAT
 SHOWING HOUSE LOCATION ON
 LOT 28 BLOCK 6 SECTION 5
HOLLIN HALL VILLAGE
 FAIRFAX COUNTY, VIRGINIA
 SCALE: 1" = 20'
 FEBRUARY 6, 2009 (ADD SHED NOTE)
 APRIL 28, 2009 (ADD SHED NOTE)

UNDISTURBED

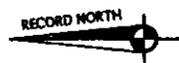
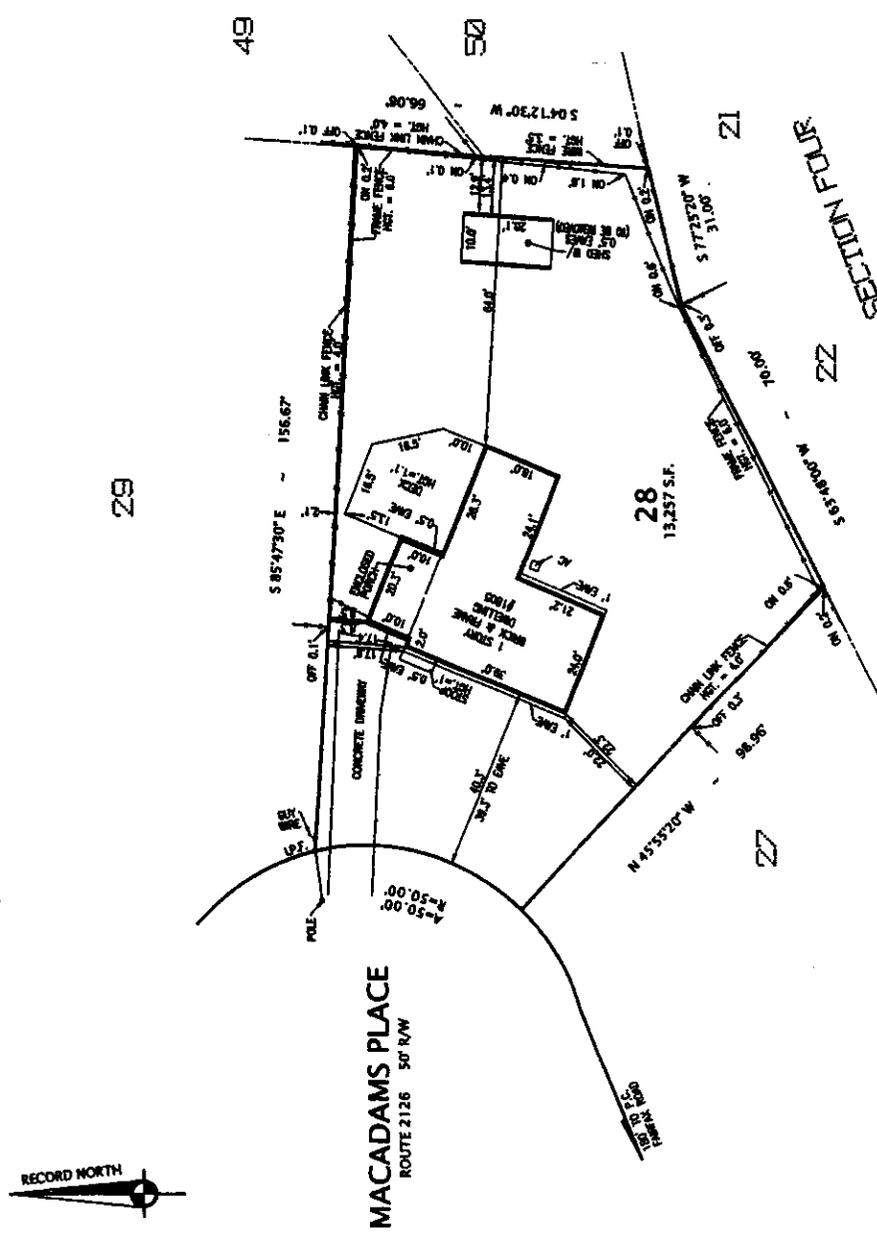
GRAPHIC SCALE

0 10 20 30 40 50

ALL INFORMATION ON THIS SURVEY WAS OBTAINED FROM THE PROPERTY OWNER AND THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND THE RECORDS OF THE FAIRFAX COUNTY DEPARTMENT OF RECORDS AND COURTS TO VERIFY THE INFORMATION PROVIDED BY THE PROPERTY OWNER AND THE RECORDS OF THE FAIRFAX COUNTY DEPARTMENT OF RECORDS AND COURTS. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE PROPERTY AND THE RECORDS OF THE FAIRFAX COUNTY DEPARTMENT OF RECORDS AND COURTS TO VERIFY THE INFORMATION PROVIDED BY THE PROPERTY OWNER AND THE RECORDS OF THE FAIRFAX COUNTY DEPARTMENT OF RECORDS AND COURTS.

ALEXANDRIA SURVEYS INTERNATIONAL, LLC
 4218 NORTH DUNDY HIGHWAY ALEXANDRIA, VIRGINIA 22304
 TEL. NO. 703-480-8115 FAX NO. 703-792-7742

STATE OF VIRGINIA
 JAMES L. WILSON
 J.C. No. 0074
 01/28/09
 LAND SURVEYOR



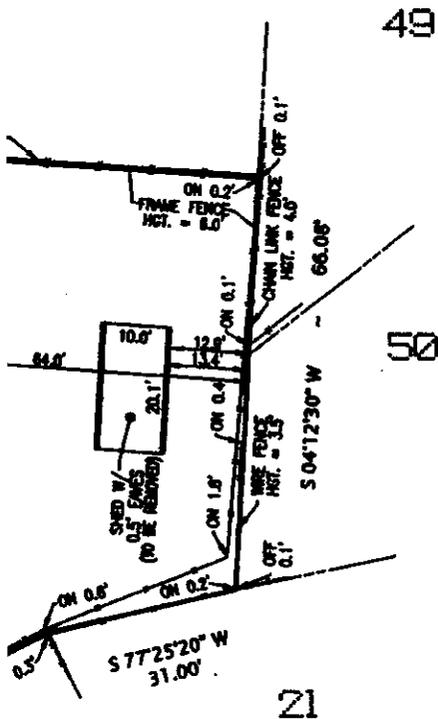
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SECTION FOUR

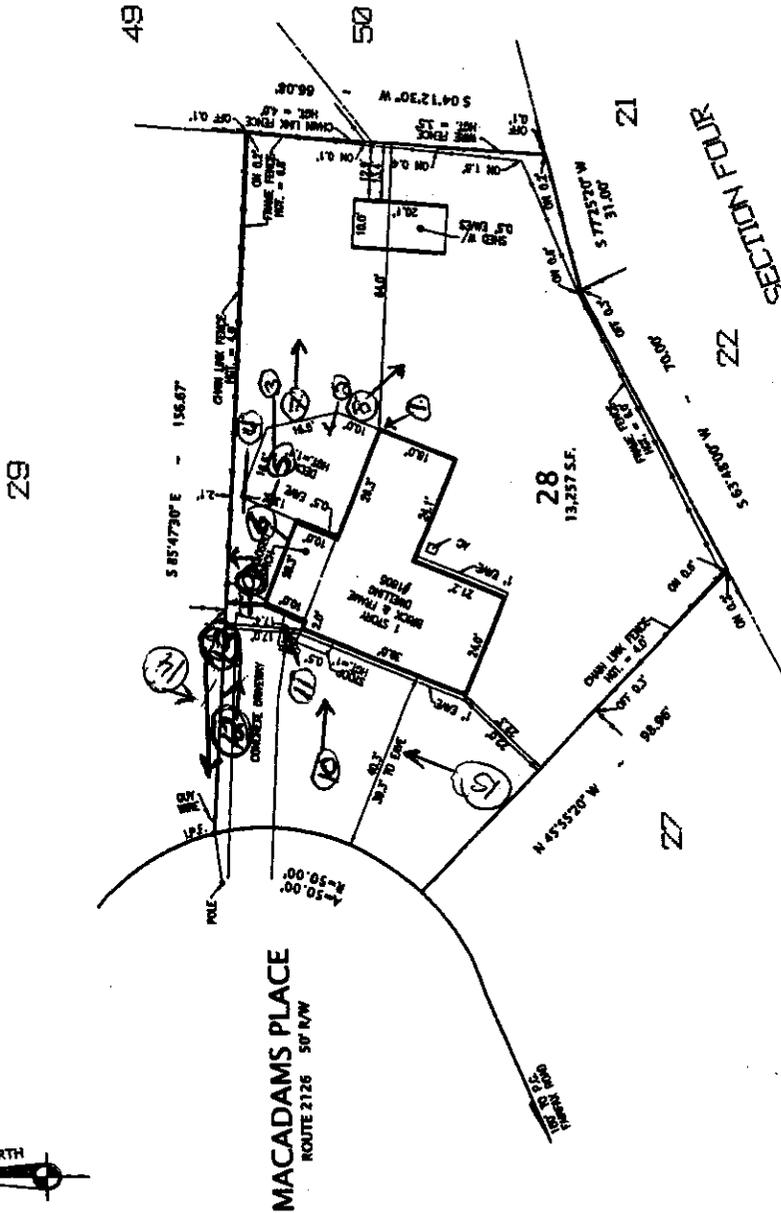
PLAT
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 SCALE: 1" = 20' FEBRUARY 6, 2009
 APRIL 28, 2009 (ADD SHED NOTE)

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 APPROXIMATE PORCH: 203 SQUARE FEET
 APPROXIMATE FLOOR AREA OF ENCLOSED PORCH EQUALS 15% OF THE EXISTING FLOOR AREA

RECEIVED
 Department of Planning & Zoning
FEB 20 2009
 Zoning Evaluation Division

PLAT
 SHOWING HOUSE LOCATION ON
 LOT 28 BLOCK 6 SECTION 5
HOLLIN HALL VILLAGE
 FAIRFAX COUNTY, VIRGINIA
 FEBRUARY 6, 2009
 SCALE: 1" = 20'



CASE NAME: SUNDOSTED

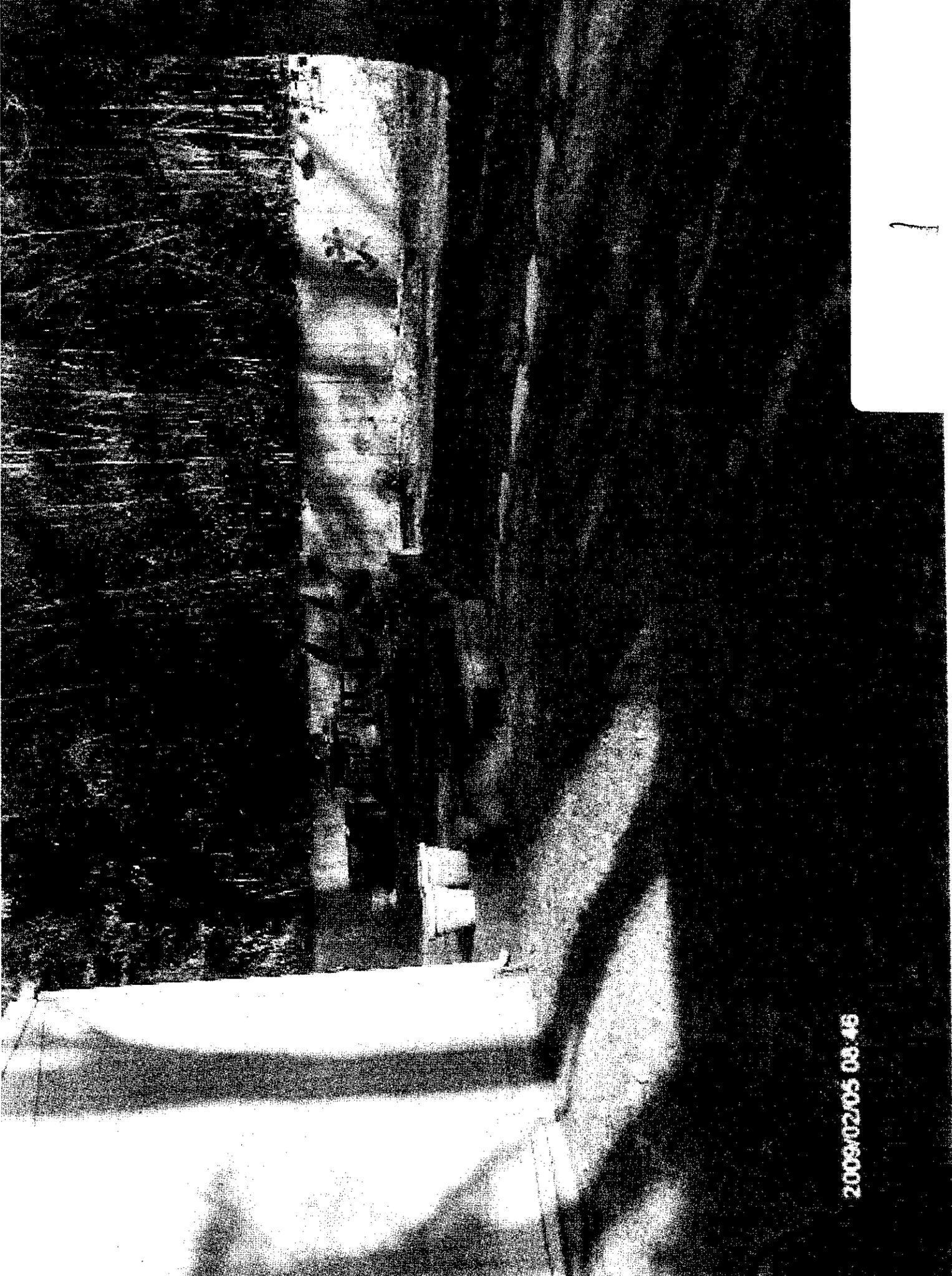
BY PERMISSION OF THE VIRGINIA BOARD OF SURVEYORS AND LAND ENGINEERS, THIS SURVEYOR IS AUTHORIZED TO RECORD AND TO FILE THIS REPORT IN VIRGINIA.

I HEREBY CERTIFY THAT THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND THAT I AM A LICENSED SURVEYOR IN THE STATE OF VIRGINIA.

Alexandria Surveys International, LLC
 INC. REG. NO. 8074
 08/23/09

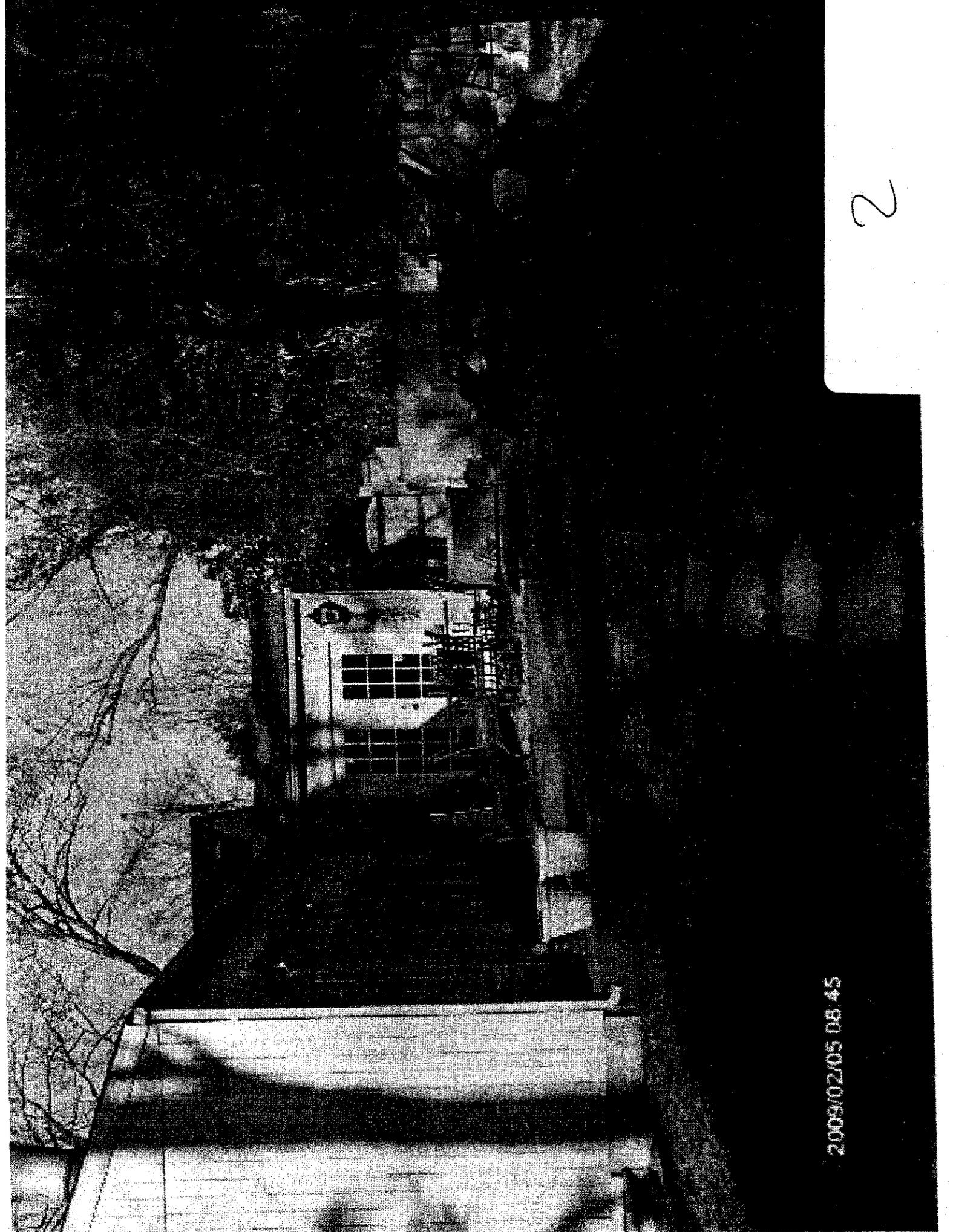
ALEXANDRIA SURVEYS INTERNATIONAL, LLC
 4218 NORTH BRIDGE HIGHWAY ALEXANDRIA, VIRGINIA 22304
 TEL. NO. 703-600-8615 FAX NO. 703-760-7794

GRAPHIC SCALE
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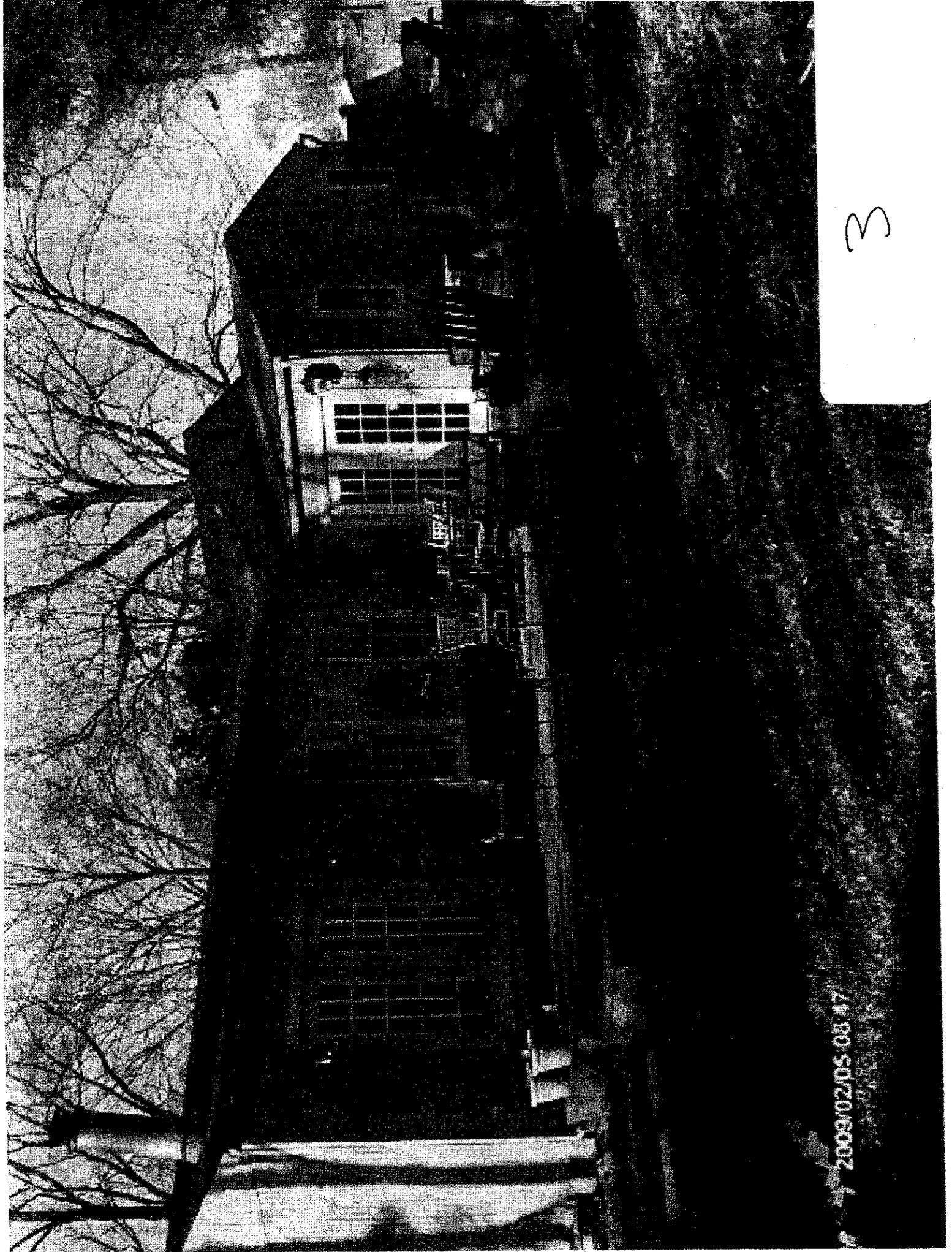
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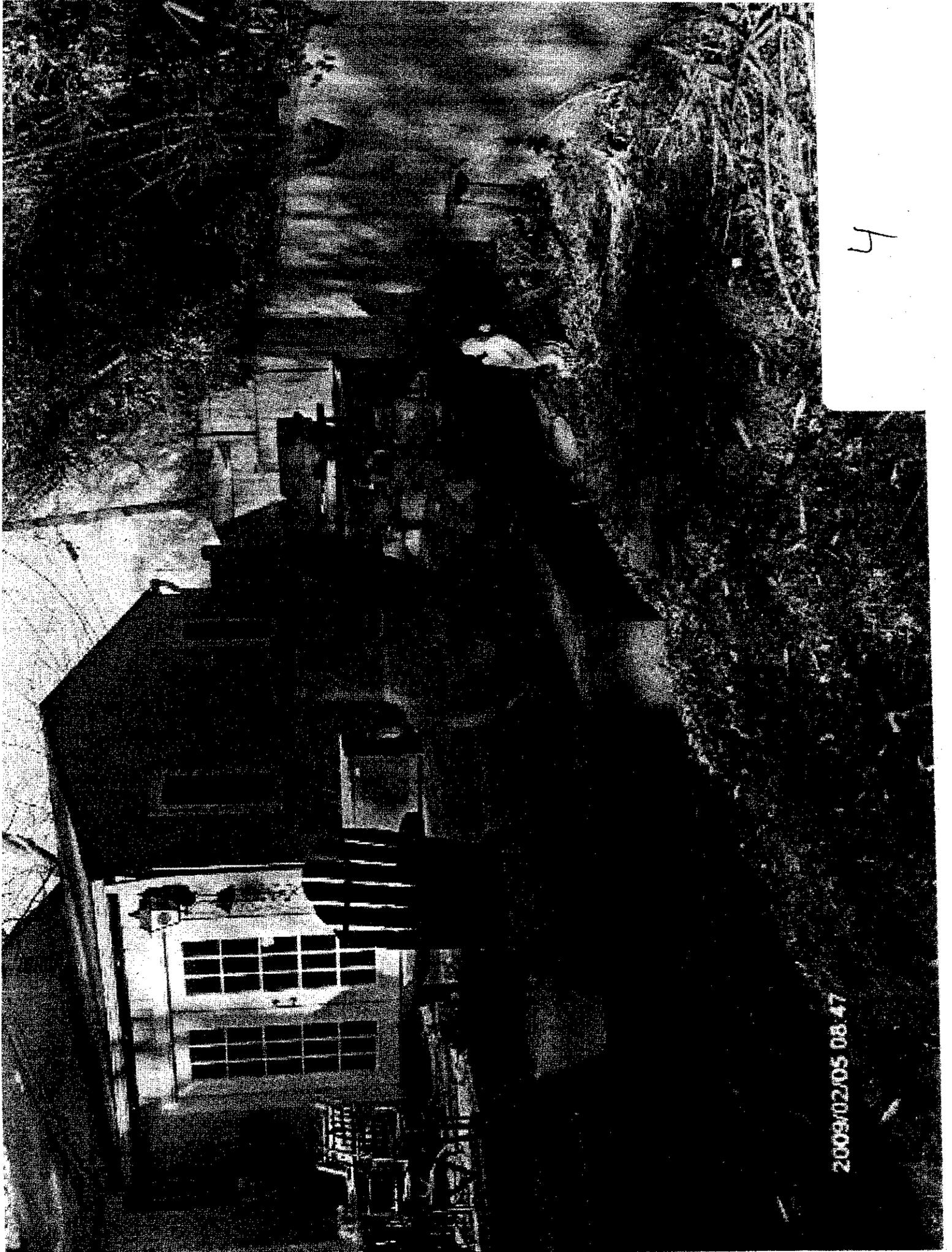


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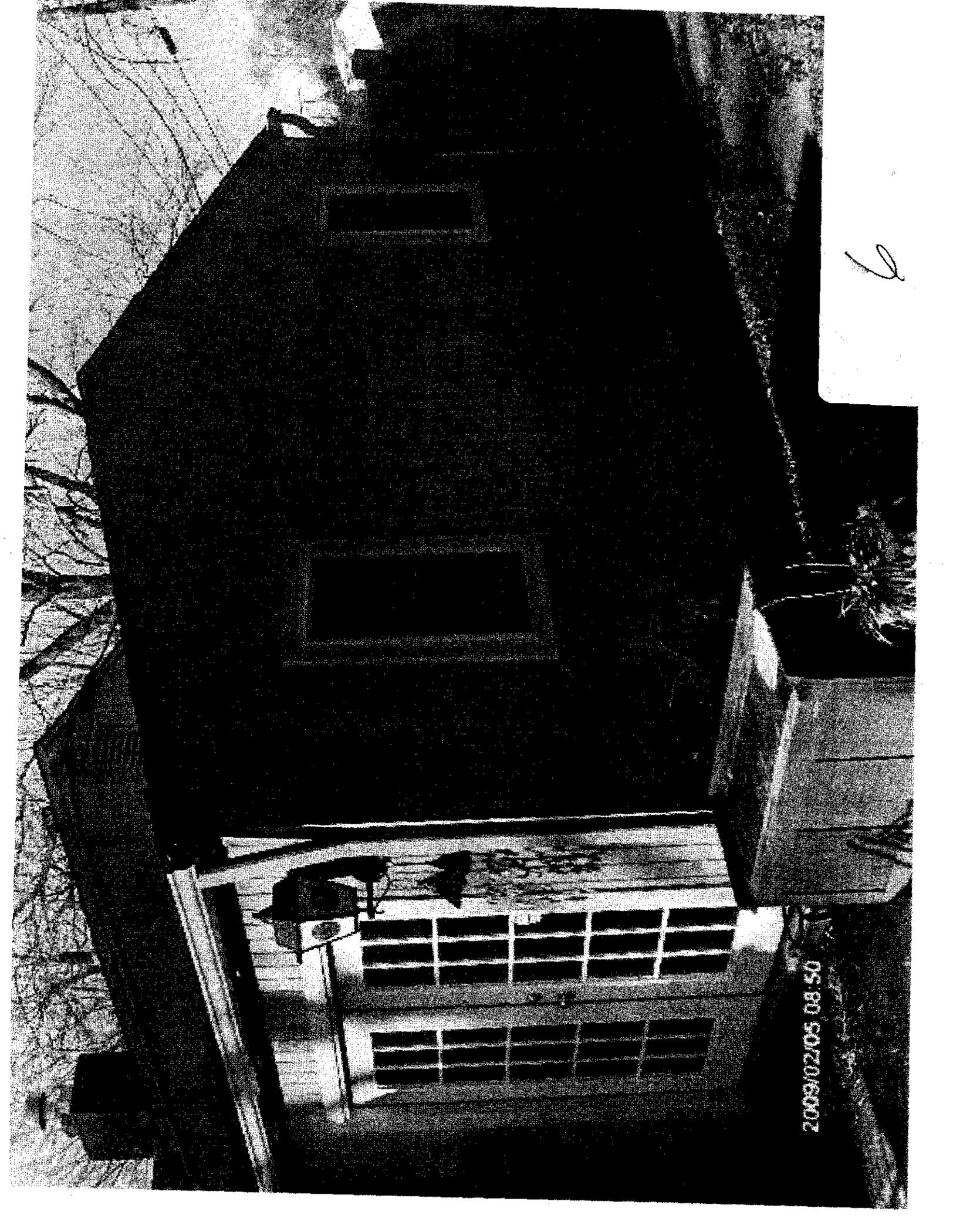


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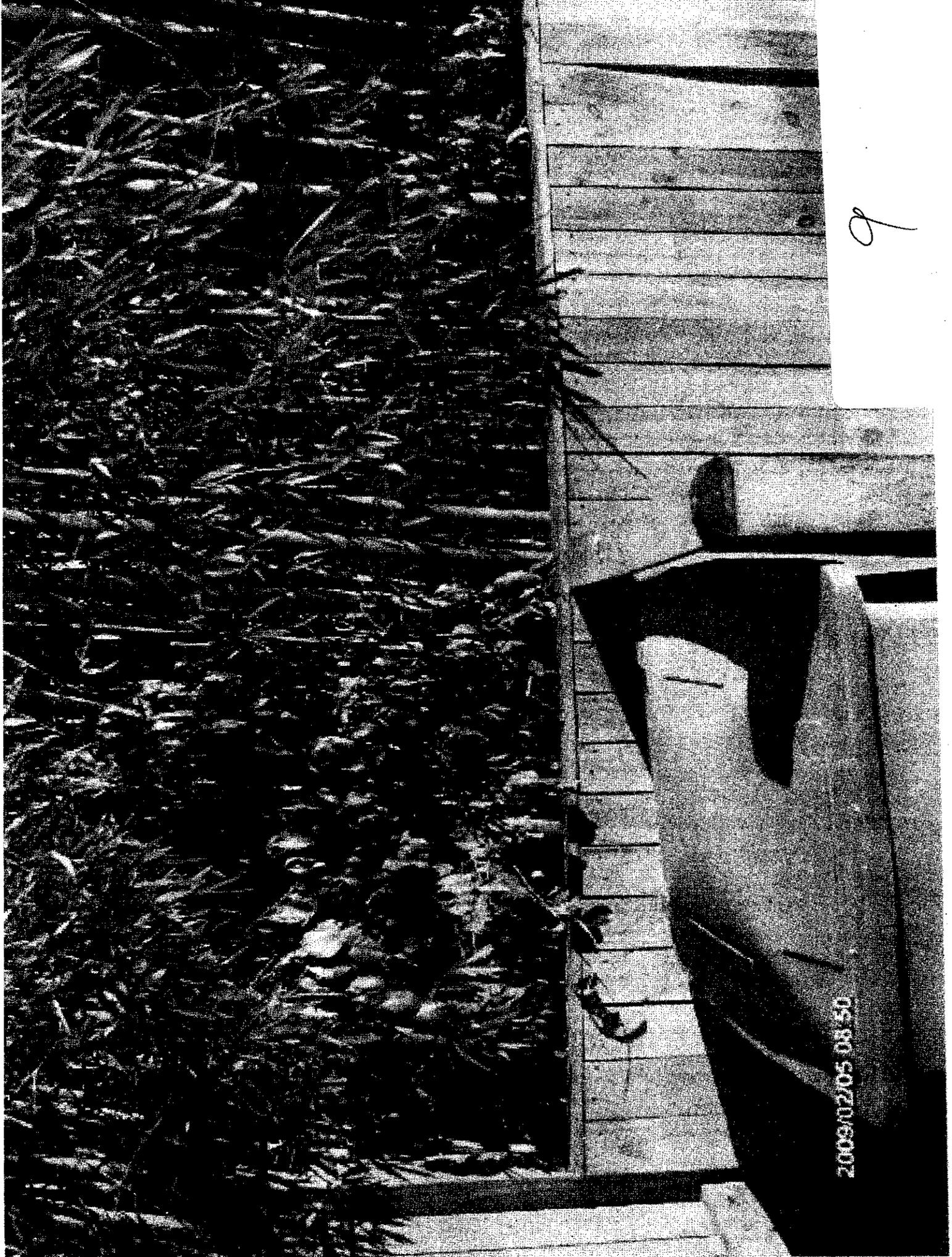
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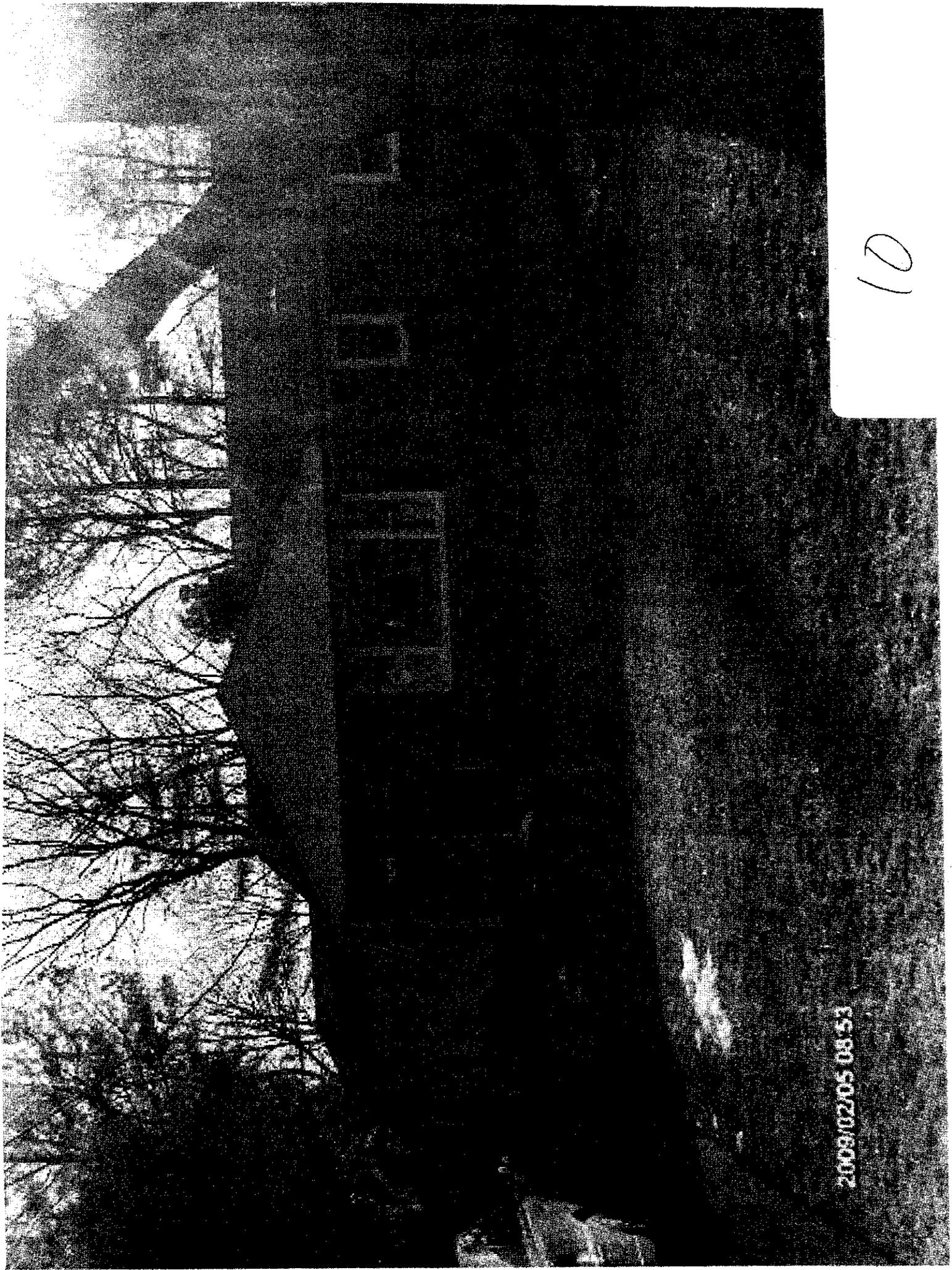
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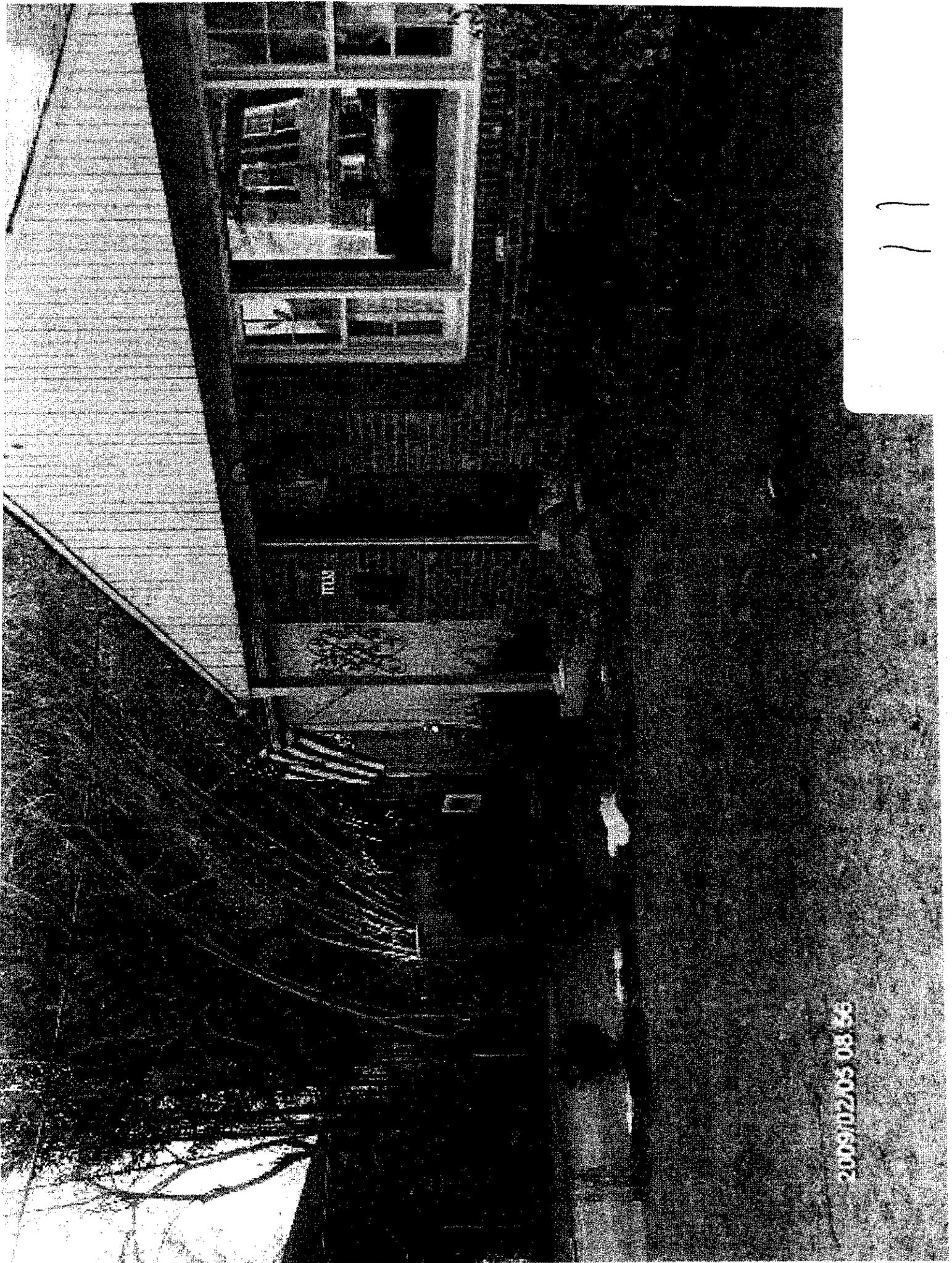
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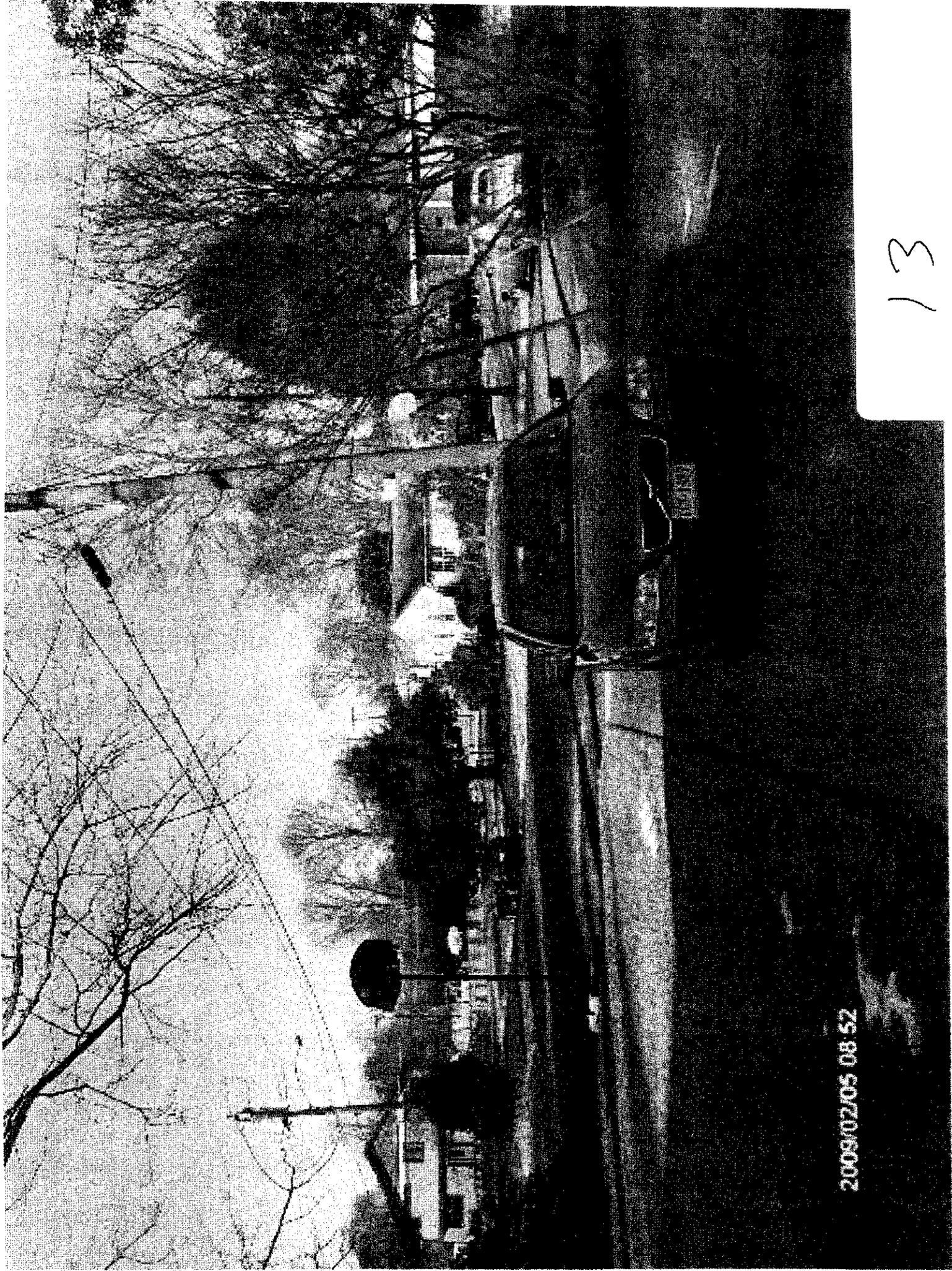


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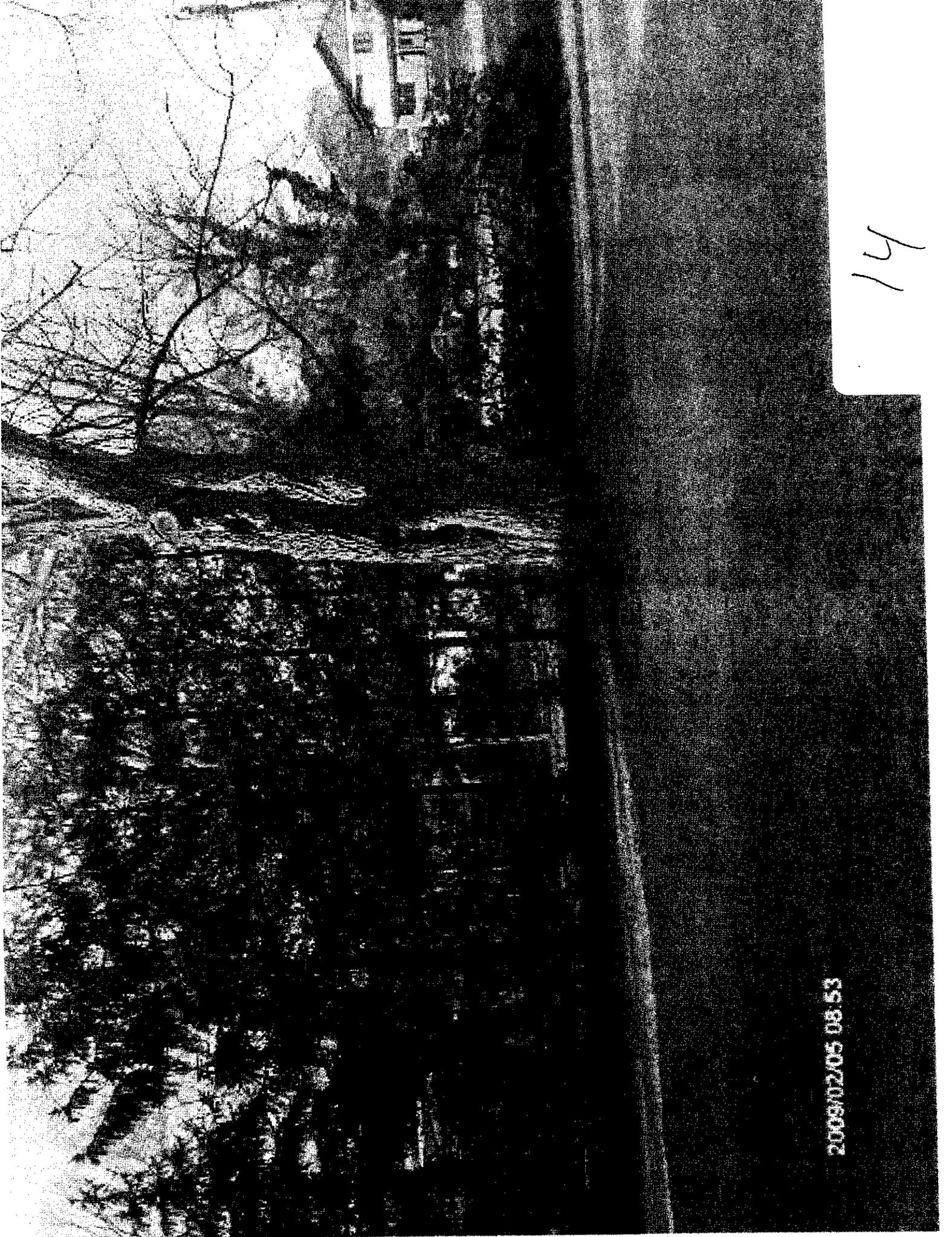
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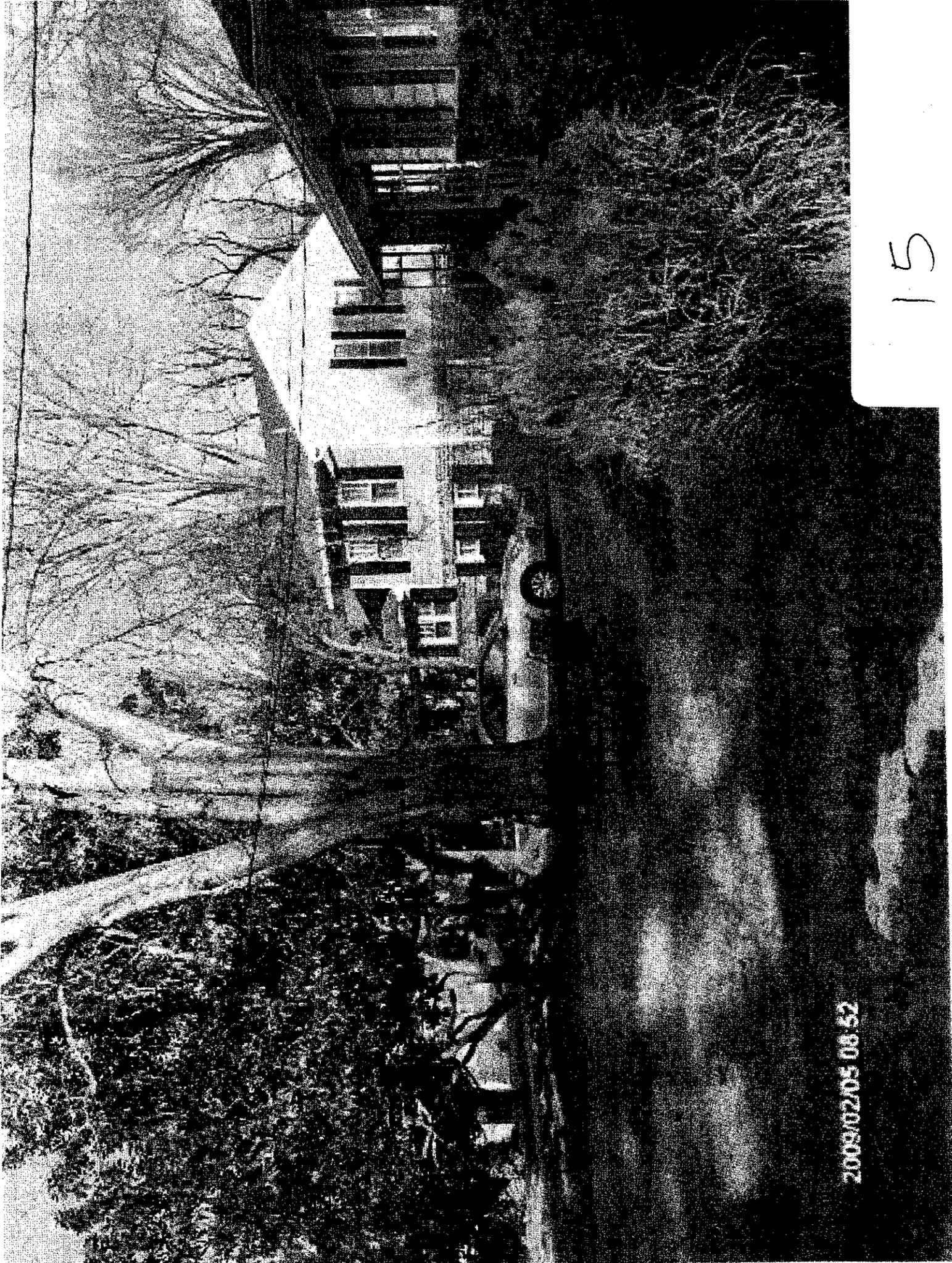
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DESCRIPTION OF THE APPLICATION

To permit reduction to minimum yard requirements based on error in building location to permit 1) an open deck to remain 2.1 feet and 2) a screened porch addition to remain 8.3 feet from the northern side lot line.

Description of Special Permits

	Structure	Yard	Minimum Yard Required*	Permitted Extension	Minimum Yard Required	Structure Location	Amount of Error	Percent of Error
Special Permit #1	Open Deck	Side	12.0 feet	5.0 feet**	7.0 feet	2.1 feet	4.9 feet	70%
Special Permit #2	Addition	Side	12.0 feet	N/A	12.0 feet	8.3 feet	3.7 feet	31%

*Minimum yard requirement per Section 3-307

**Permitted extension per Section 2-412

ANALYSIS OF THE APPLICATION

- **Title of Plat:** Plat, Showing House Location, Lot 28, Block 6, Section 5, Hollin Hall Village
- **Prepared by:** Alexandria Surveys International, LLC, dated February 6, 2009 as revised through April 28, 2009
- **Building Permits required:** Yes; however, were not obtained.
- **Error Made by:** Applicants.

CHARACTER OF THE AREA

	Zoning	Use
North	R-3	Single Family Detached Dwellings
East	R-3	Single Family Detached Dwellings
South	R-3	Single Family Detached Dwellings
West	R-3	Single Family Detached Dwellings

BACKGROUND

Records indicate the dwelling was originally constructed in 1951, with an addition constructed in 1972. According to the applicants' statement of justification, they purchased the home in 2004 with an existing screened porch; however, there are no building permit records indicating approval of the construction of the screened porch. The applicants have stated that they hired an individual to construct the open deck and were informed no permits were required. They then hired a contractor at a later date to enclose the existing screened porch, at which time the contractor was informed that a building permit was not required; therefore, the enclosure of the screened porch was also done without obtaining a building permit.

Upon review of the application, it was also determined that the shed with eaves located in the rear yard of the property exceeds the maximum size permitted by-right under the Zoning Ordinance without the approval of a variance as it is over 200 square feet in size. After discussion with the applicants regarding this issue, they have indicated to staff that they will remove the structure in its entirety in order to conformance to Zoning Ordinance regulations. Staff has included a development condition which addresses this concern.

Following the adoption of the current Ordinance, the BZA has heard the following similar special permits or variances in the vicinity of the application parcel:

- Variance VC 2003-MV-139 was approved December 3, 2003 for Tax Map 102-2 ((2)) (6) 7, zoned R-3, at 8001 Scott Place, to permit construction of addition 6.0 feet from side lot line and 12.5 feet from rear lot line.
- Variance VC 2003-MV-119 was approved on November 5, 2003 for Tax Map 102-2 ((2)) (7) 2, zoned R-3, at 1603 Concord Place, to permit construction of additions 27.6 feet with eave 26.9 feet from front lot line and 11.0 feet with eave 10.7 feet from side lot line.
- Variance VC 2003-MV-107 was approved on October 22, 2003 for Tax Map 102-2 ((2)) (7) 601, zoned R-3, at 1612 Lafayette Drive, to permit construction of addition 11.1 feet from side lot line.
- Special Permit SP 2003-MV-033 was approved November 5, 2003 for Tax Map 102-2 ((2)) (7) 2, zoned R-3, at 1603 Concord Place, to permit reduction to minimum yard requirements based on error in building location to permit dwelling to remain 11.0 feet with eave 10.7 feet from side lot line, deck to remain 10.1 feet from side lot line and shed to remain 2.9 feet with eave 2.0 feet from rear and 2.8 feet with eave 1.8 feet from side lot lines.
- Variance VC 01-V-004 was approved on March 28, 2001 for Tax Map 102-2 ((2)) (6) 16, zoned R-3, at 1807 Stratford Drive, to permit construction of addition 7.8 feet from side lot line.

ZONING ORDINANCE REQUIREMENTS

Special Permit Requirements (See Appendix 4)

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provision for Approval of Reduction to Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)

CONCLUSION

If it is the intent of the BZA to approve this application, staff suggests the BZA condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, Proposed Development Conditions.

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

APPENDICES

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

PROPOSED DEVELOPMENT CONDITIONS

SP 2009-MV-023

June 23, 2009

1. This special permit is approved for the locations of the open deck and addition as shown on the plat prepared by Alexandria Surveys International, LLC, dated February 6, 2009, as revised through April 28, 2009, as submitted with this application and is not transferable to other land.
2. Within 120 days of approval of this application, building permits and final inspections shall be obtained for the addition and open porch.
3. Within 120 days of approval of this application, the shed shall be removed, moved or reduced in size to meet Zoning Ordinance requirements.

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.

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

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 16, 2009
 (enter date affidavit is notarized)

Schuyler P. Ahrens, 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

103789a

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

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.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Michael D. Sundsted	1805 Macadam's Pl. Alexandria VA, 22308	Applicant/Title owner
Lori J. Sundsted	1805 Macadam's Pl. Alexandria VA, 22308	Applicant/Title owner
Schuyler P. Ahrens 1/8/1A Ec Cad Designs	4871 Benecia Ln. Dumfries VA, 22025	Agent

(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)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 16, 2009
(enter date affidavit is notarized)

103789a

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)

*(Sole Proprietor) Schuyler P. Ahrens D/B/A Ez Cad Designs
4871 Benecla Lane Dumfries VA, 22025*

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)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 16, 2009
(enter date affidavit is notarized)

103789a

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)

(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: March 16, 2009
(enter date affidavit is notarized)

103789a

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.

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: March 16, 2009
(enter date affidavit is notarized)

103789a

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

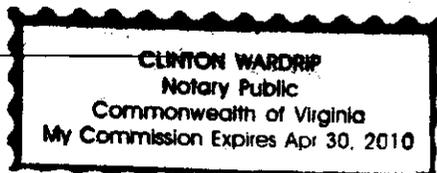
[x] Applicant's Authorized Agent

Schuyler P. Ahrens
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 16 day of MARCH, 2009, in the State/Comm. of VA, County/City of PRINCE WILLIAM.

[Signature]
Notary Public

My commission expires: _____



Statement of Justification

**Re: Michael and Lori Sundstead
1805 Macadams Place
Alexandria VA, 22308
Existing Rear/Side Deck and Enclosed Side Porch**

RECEIVED
Department of Planning & Zoning

MAR 30 2009

Zoning Evaluation Division

- A. The error made on the property exceeds ten (10) percent of the measurement involved.
- B. The noncompliance was done through no fault of the property owner, or was the result in the relocation of the building subsequent to the issuance of a building permit, if such was required. The current homeowners have lived at there residence for Five years and always try to do things within the limitations of the local laws, codes, and ordinances. The homeowners had retained an individual to build there rear deck about three years ago, and were told that the deck did not need a permit because it was a free standing structure- not attached to the house and was less than 16” in height. When the owners bought there home in 2004, there was an existing screened in porch at the side of the house. Previous home inspection documents given to the current owners at the time of purchase- place the existing screened in porch- in its current location, in 1990. The homeowners had recently retained a different contractor to fully enclose that existing porch. The contractor had done some research- to find out if a permit was necessary. The contractor was told by a zoning reviewer that a screened in porch has the same setback requirements as an enclosed porch- thus, leading him to believe that a permit was not needed- the contractor then proceeded to enclose the porch. When the Contractor was again hired- to construct a new addition at the rear of the house, he went to obtain the appropriate permits for the new addition and learned that the previous porch project that he had completed, did not meet the zoning ordinance. Even if the contractor had not enclosed the screened in porch- it would had still been regarded as a structure built in violation. The homeowners never intentionally built any structure without a necessary permit, and where simply misled by incorrect information.
- C. Such a reduction will not impair the purpose and intent of this ordinance. There are many houses in the neighborhood that have similar structures. Ours in particular, has been constructed with

materials of good quality and a strong effort to match the newly enclosed structure's outer facade to the outer facade of the existing house

- D. The existing deck and enclosed porch- will not be detrimental to the use and enjoyment of other properties in the immediate vicinity. Directly adjacent to these structures and closest- is the neighbor to the left, there is a thick patch of twenty-foot-tall bamboo trees acting as a natural barrier between these structures and the adjacent property closest to these structures. There are many neighbors in the neighborhood, that have a similar enclosed structure located at the side of there property. The current neighbor directly right adjacent to this property has an enclosure of similar size and location. Other neighbors in the neighborhood- have similar decks located at the rear of there properties.**
- E. The existing deck and enclosed porch- will not create an unsafe condition with respect to all other property and public property. The deck is just used for family gatherings and events, also- giving a more complete look to the rear yard. The primary use of the enclosed porch, if for dining purposes. The previous dining area was not sufficient to meet the owner's needs. The enclosed porch made an ideal area for dining.**
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owners. The enclosed porch was an existing screened in porch that was reinforced and enclosed with materials of good and costly quality. All work was constructed to meet all local and state codes. The deck was built at a low level with pier footings, which have been permanently cemented two feet below grade and built to meet all local and state codes.**
- G. The reduction will not result in an increase in density or floor area ratio from that of permitted by the applicable zoning district regulation.**
- H. No hazardous or toxic substances will be generated, utilized, stored, treated, and/or disposed of at this residence and the size and contents of any existing or proposed storage tanks or containers.**
- I. A special permit is requested for the reduction of minimum side yard requirements based on an error in building location, to permit the open deck to remain 2.1 feet from the side lot property line. A special permit is also requested for the reduction of minimum side yard requirements based on an error in building location, to permit the enclosed porch to remain 8.3 feet from the side lot property line.**

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.

8-914 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.