



County of Fairfax, Virginia

December 1, 2009

STAFF REPORT

VARIANCE APPLICATION NO. VC 2009-BR-004

BRADDOCK DISTRICT

APPLICANT/OWNER: Tsion Tesfaye
STREET ADDRESS: 7724 Heritage Drive
TAX MAP REFERENCE: 70-4 ((9)) 1
LOT SIZE: 11,053 square feet
ZONING DISTRICT: R-3
ZONING ORDINANCE PROVISIONS: 18-401
VARIANCE PROPOSAL: To permit construction of addition 2.0 feet from the 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.

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).

O:\Scaff2\Case Files\Variances\VC 2009-BR-004 TSION TESFAYE\Staff Report-Tesfaye.doc

Shannon Caffee

Variance Application

VC 2009-BR-004

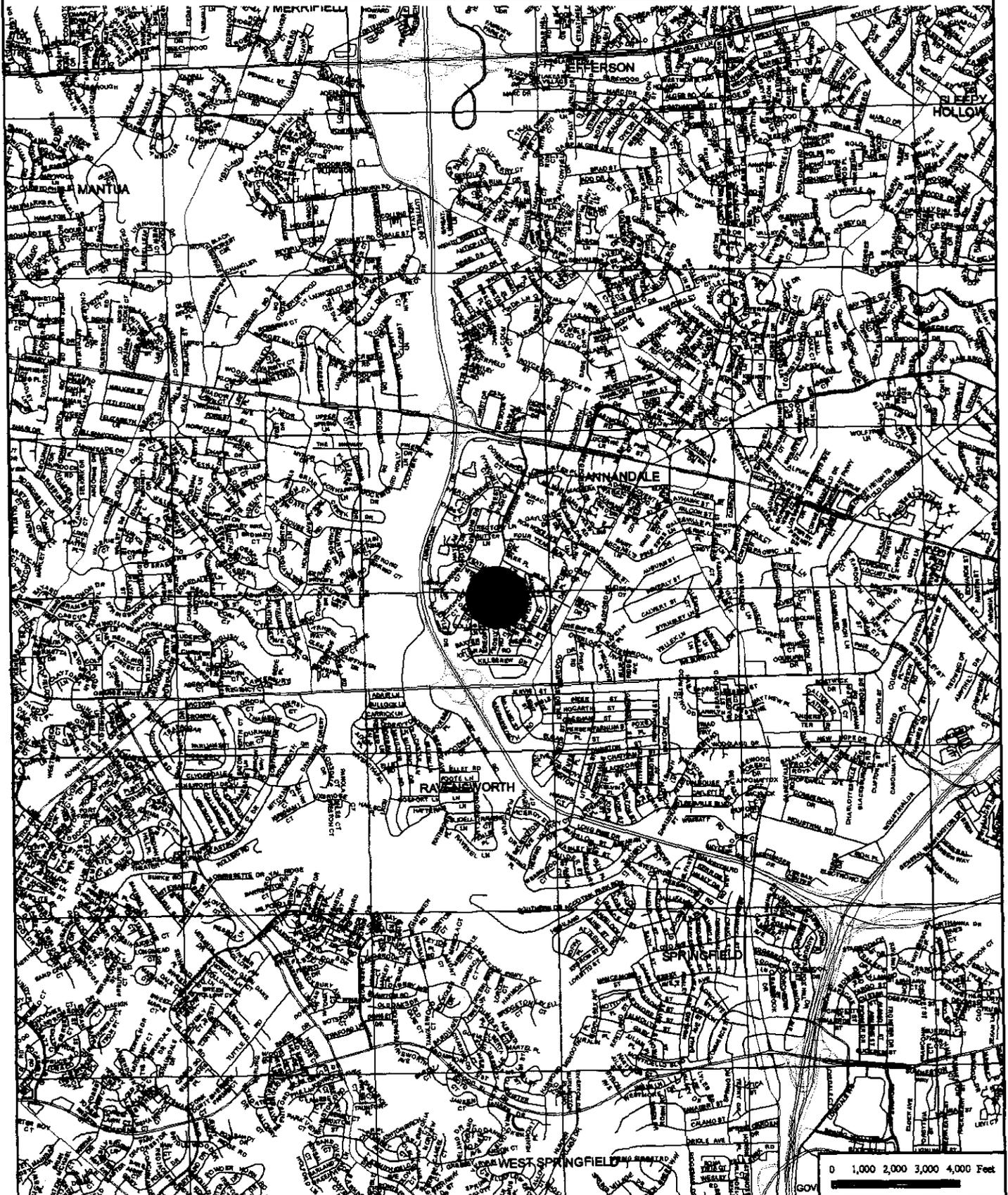
TSION TESFAYE



Variance Application

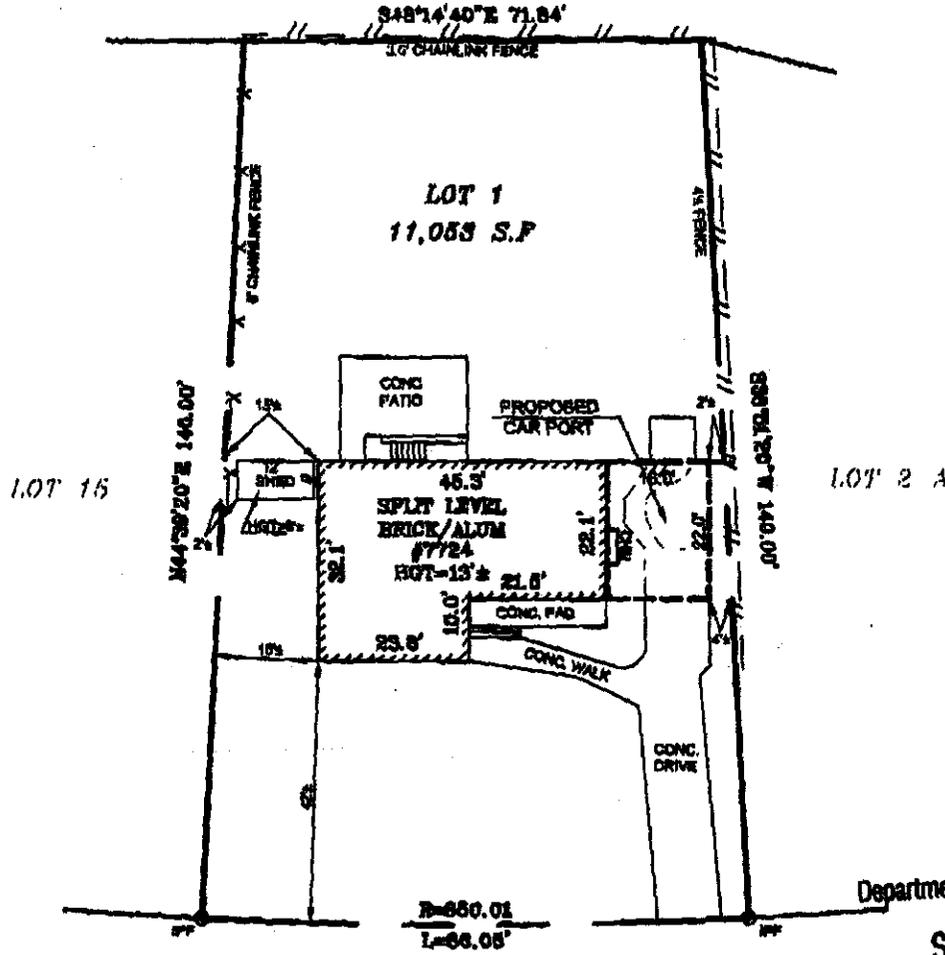
VC 2009-BR-004

TSION TESFAYE



ADDRESS: 7724 HERITAGE DRIVE
ANNANDALE, VA 22003

LOT 163



RECEIVED
Department of Planning & Zoning
SEP 09 2009
Zoning Evaluation Division

HERITAGE DRIVE
80' R/W

NOTES:

- THIS IMPROVEMENT LOCATION DRAWING:
 - IS OF BENEFIT TO A CONSUMER ONLY INsofar AS IT IS REQUIRED BY A LENDER OR A TITLE INSURANCE COMPANY OR ITS AGENT IN CONNECTION WITH CONTEMPLATED TRANSFER, FINANCING OR REFINANCING;
 - IS NOT TO BE RELIED UPON FOR THE ESTABLISHMENT OR LOCATION OF FENCES, GARAGES, BUILDINGS, OR OTHER EXISTING OR FUTURE IMPROVEMENTS; AND
 - DOES NOT PROVIDE FOR THE ACCURATE IDENTIFICATION OF PROPERTY BOUNDARY LINES, BUT SUCH IDENTIFICATION MAY NOT BE REQUIRED FOR THE TRANSFER OF TITLE OR SECURING FINANCING OR REFINANCING.
- THE LEVEL OF ACCURACY OF APPARENT SETBACK DISTANCES IS ONE FOOT, MORE OR LESS.
- THIS PLAT WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT.
- SUBJECT TO ALL EASMENTS ON RECORD.

DRAWN BY: SF
FILE: 7724ELOC_2009

I HEREBY CERTIFY THAT IMPROVEMENTS ARE LOCATED AS SHOWN HEREON AND TO THE BEST OF MY INFORMATION, PROFESSIONAL KNOWLEDGE AND BELIEF, THERE ARE NO ENCROACHMENTS EXCEPT AS SHOWN.

COMMONWEALTH OF VIRGINIA

FITZROY J. BERTRAND
NO. 001993

Fitzroy J. Bertrand

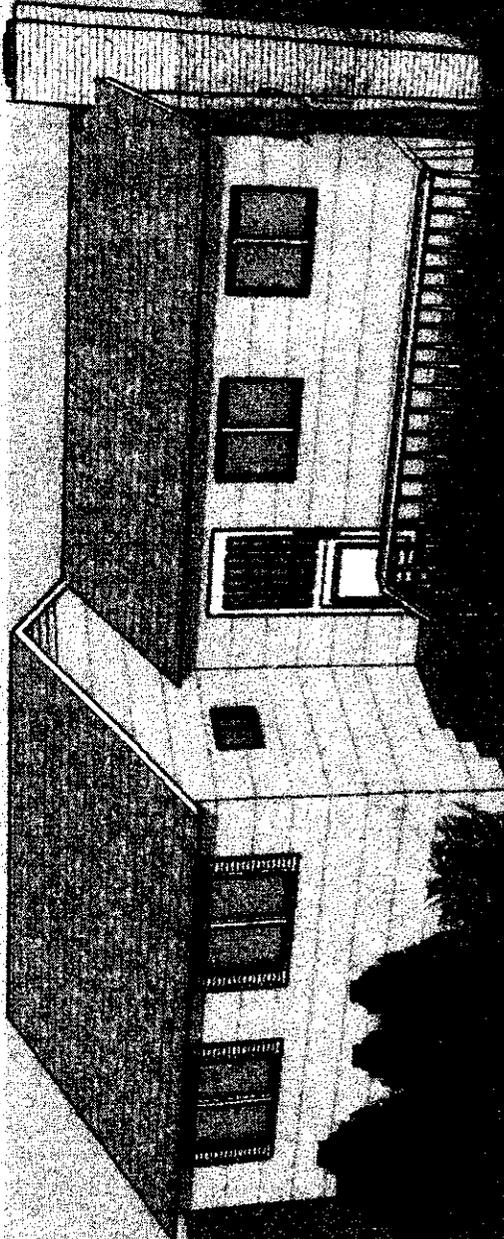
9/4/09
DATE

LOCATION DRAWING
LOT 1
SECTION 1
HERITAGE HILLS
FAIRFAX COUNTY, VIRGINIA
SCALE: 1" = 30'
DATE: 9/22/09 REVISED 9/4/09

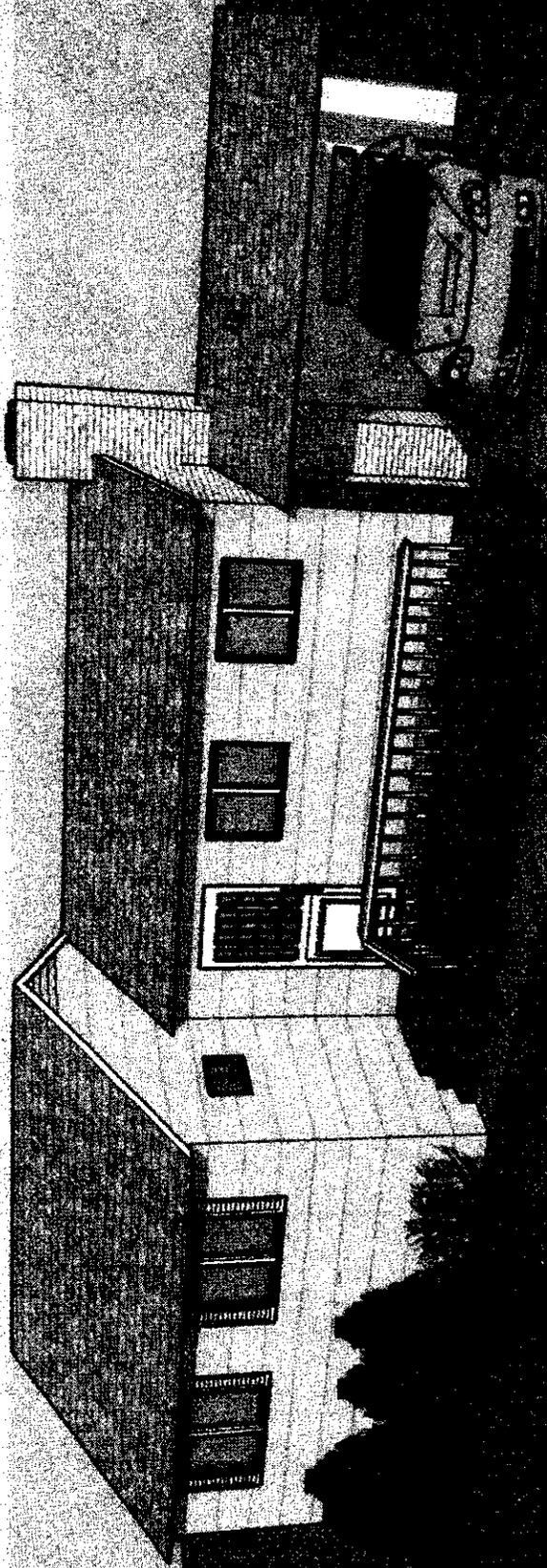
REAL ESTATE SURVEYORS & DEVELOPERS, LLC

Residential, Commercial, Industrial and Land
WWW.REALESTATESURVEYORS.NET
LAUREL LAKES EXECUTIVE PARK
8325 CHERRY LANE
LAUREL, MARYLAND 20707
TEL: (301)804-3105 FAX: (301)804-3108

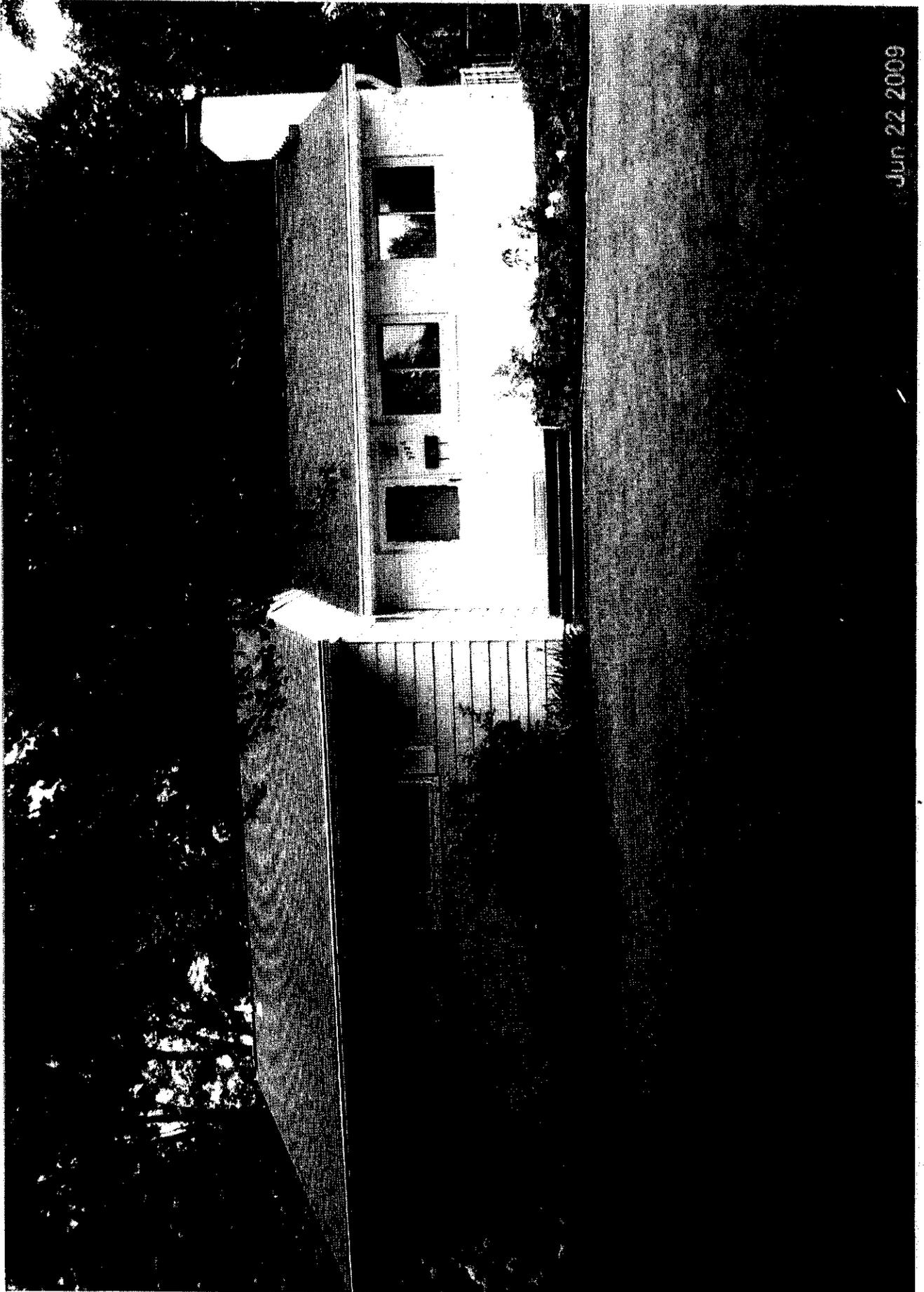
Defor - m. p. m.



after carport



Front

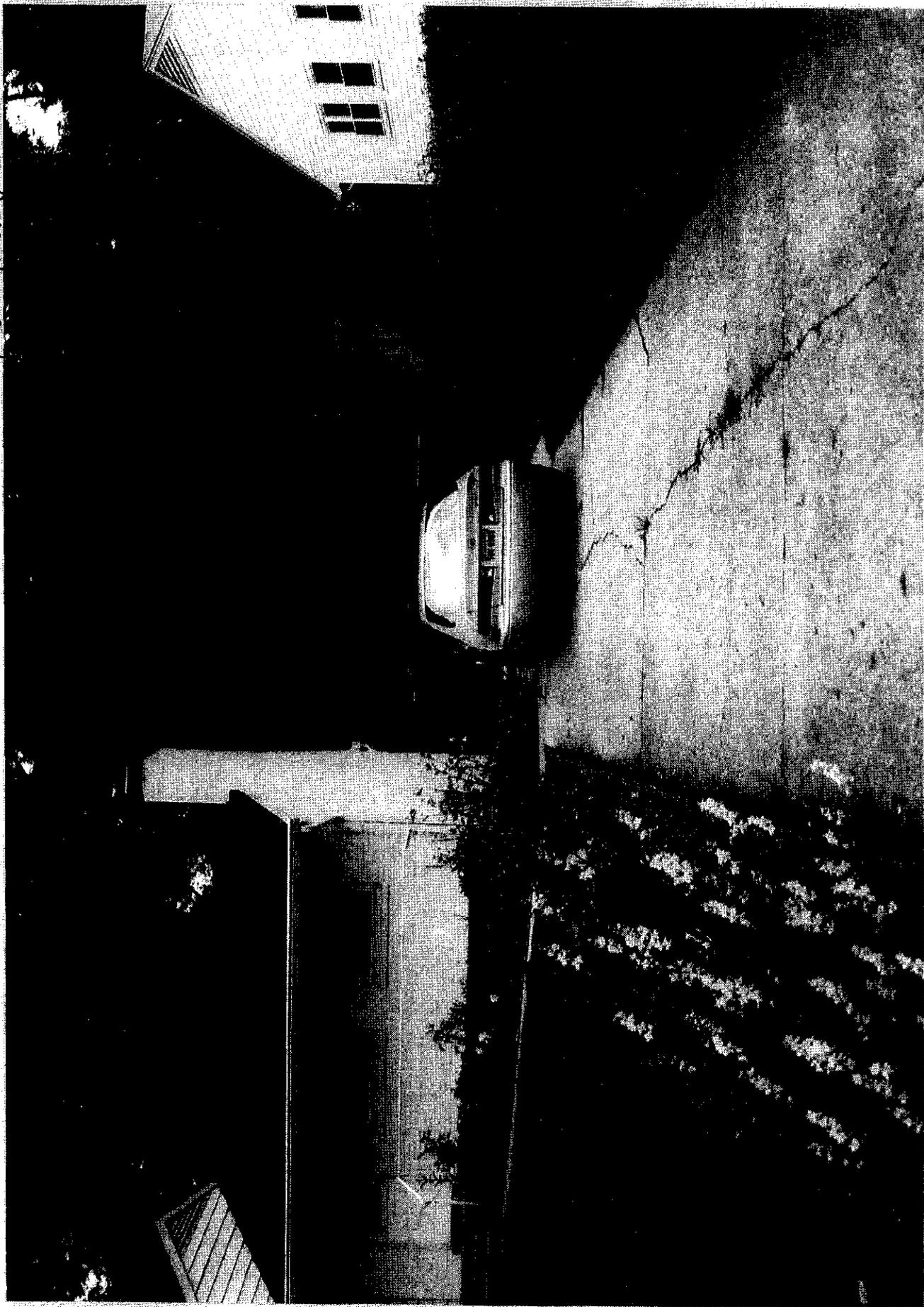


Jun 22 2009

From street
Judith
Carport



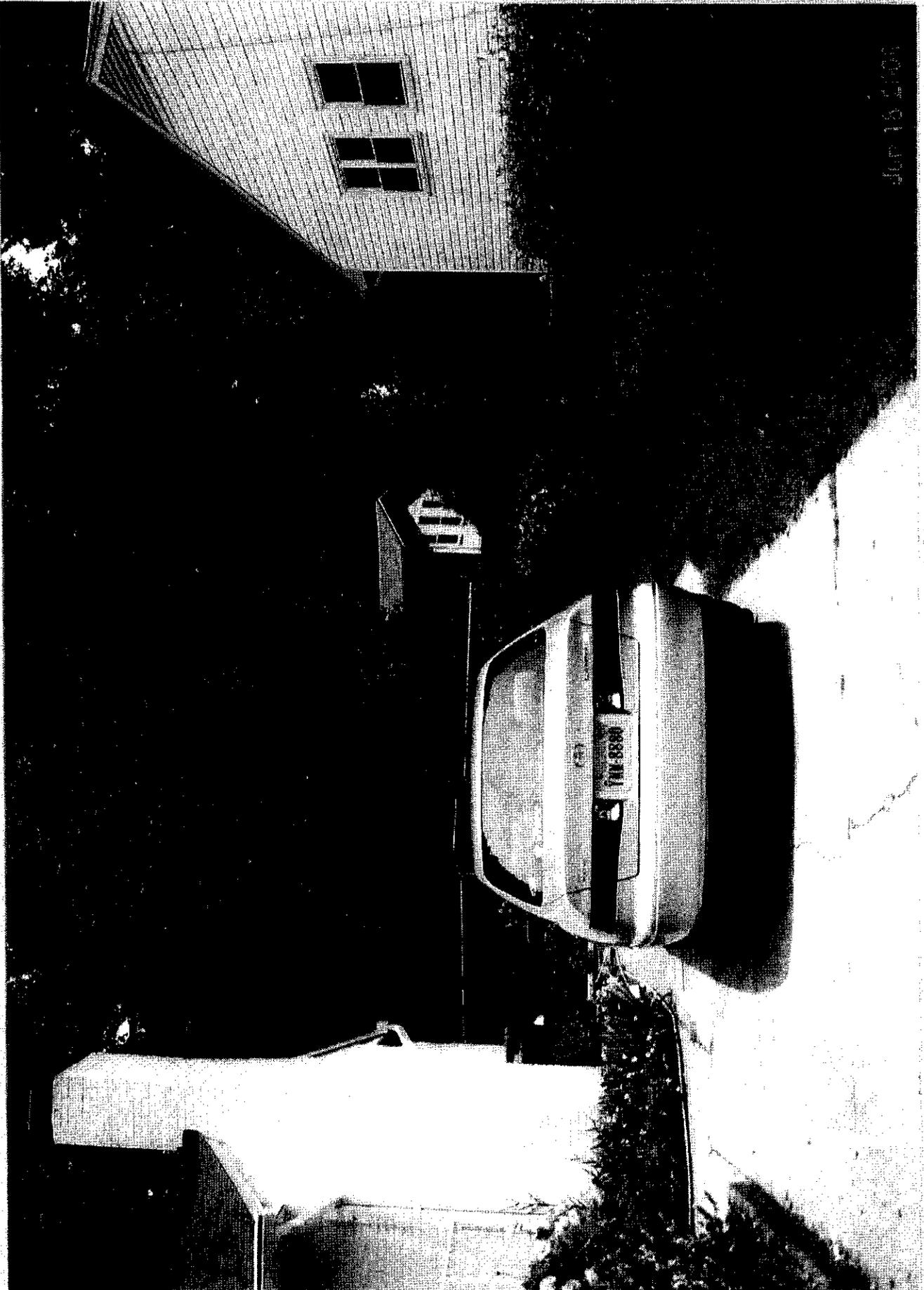
02/11/80



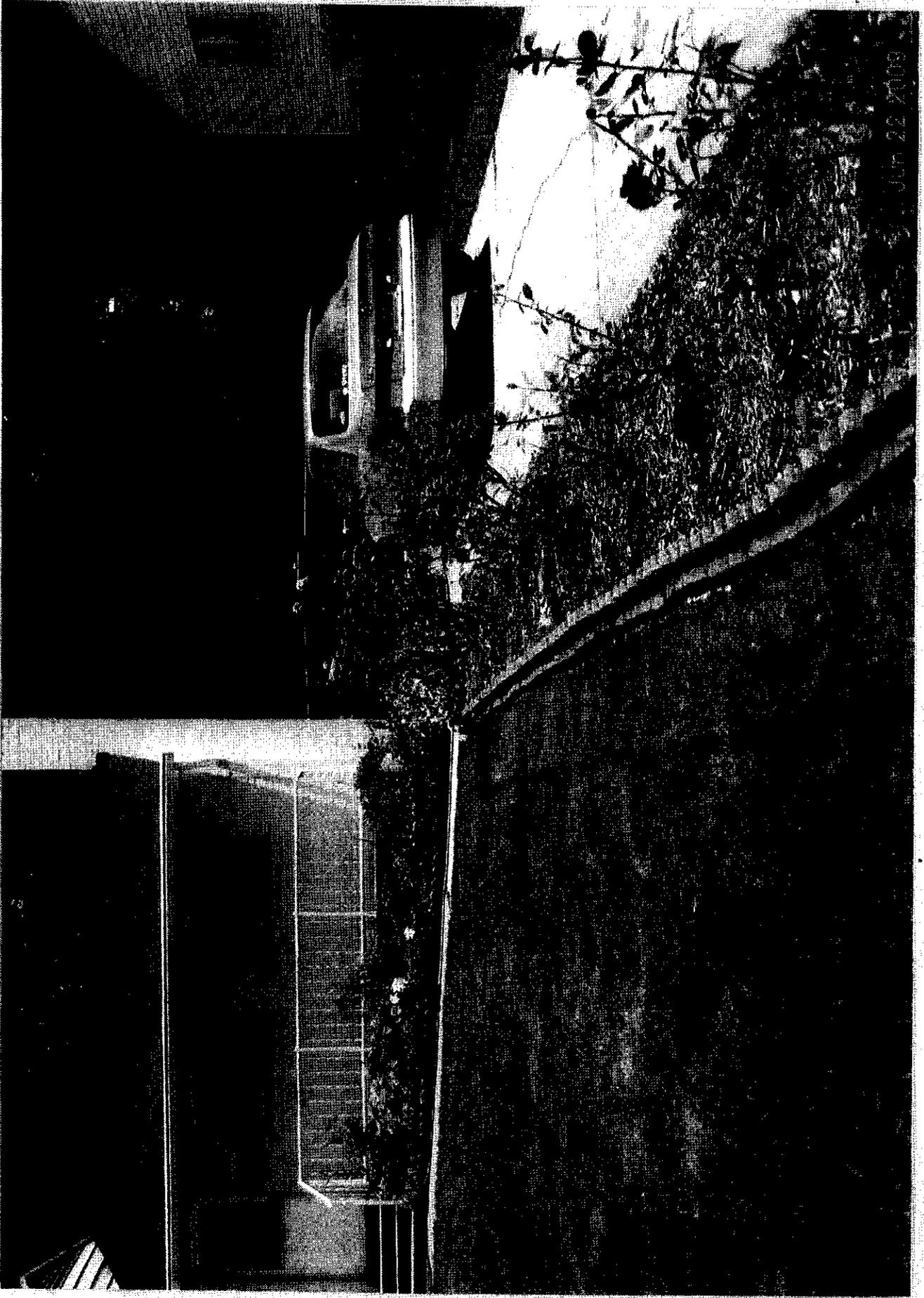
N 1 R -00011

1005 SL 477

1005



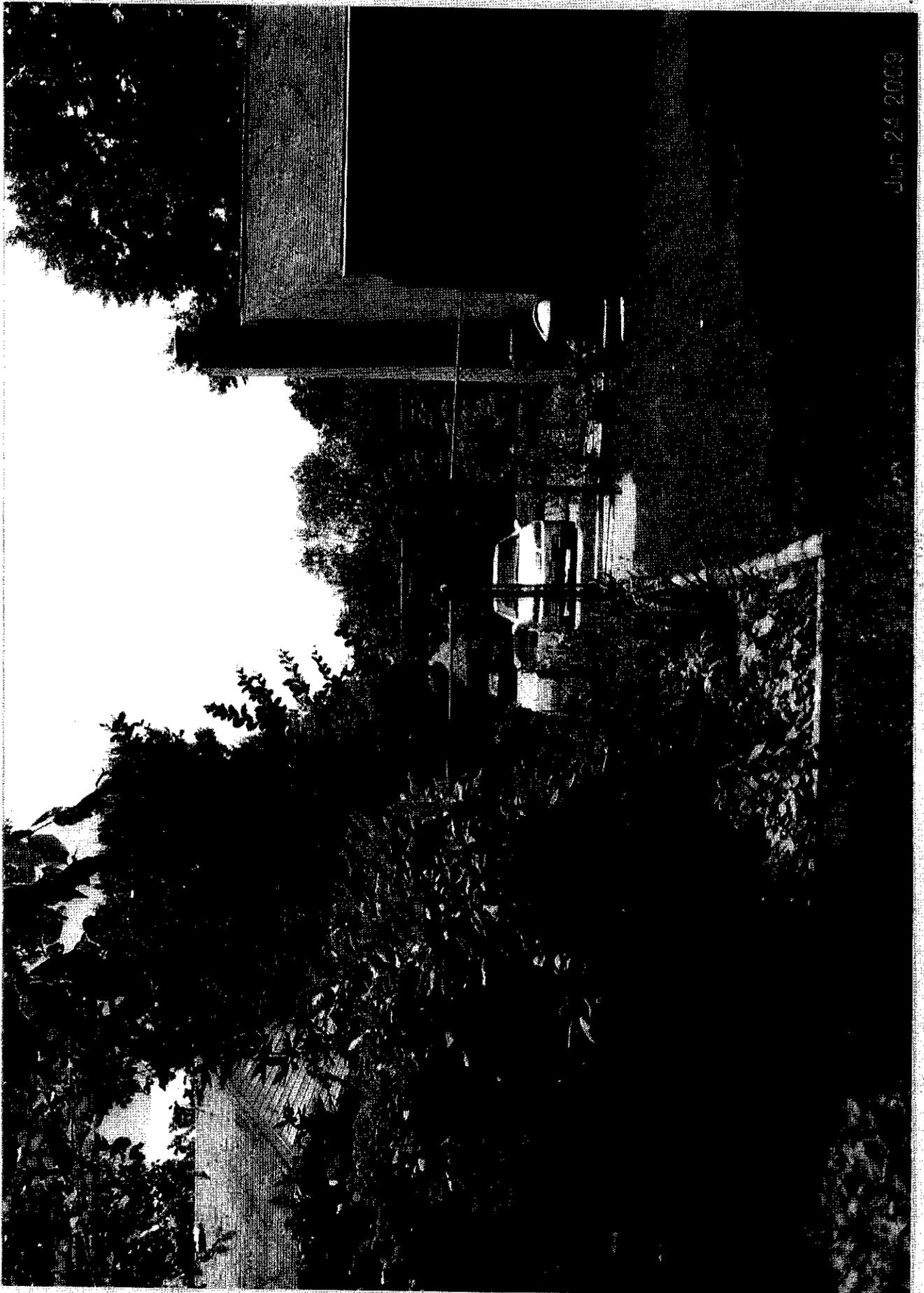
Front Stair



JUN 22 2010

0

1



Jun 24 2009



Shade from the
Back yard



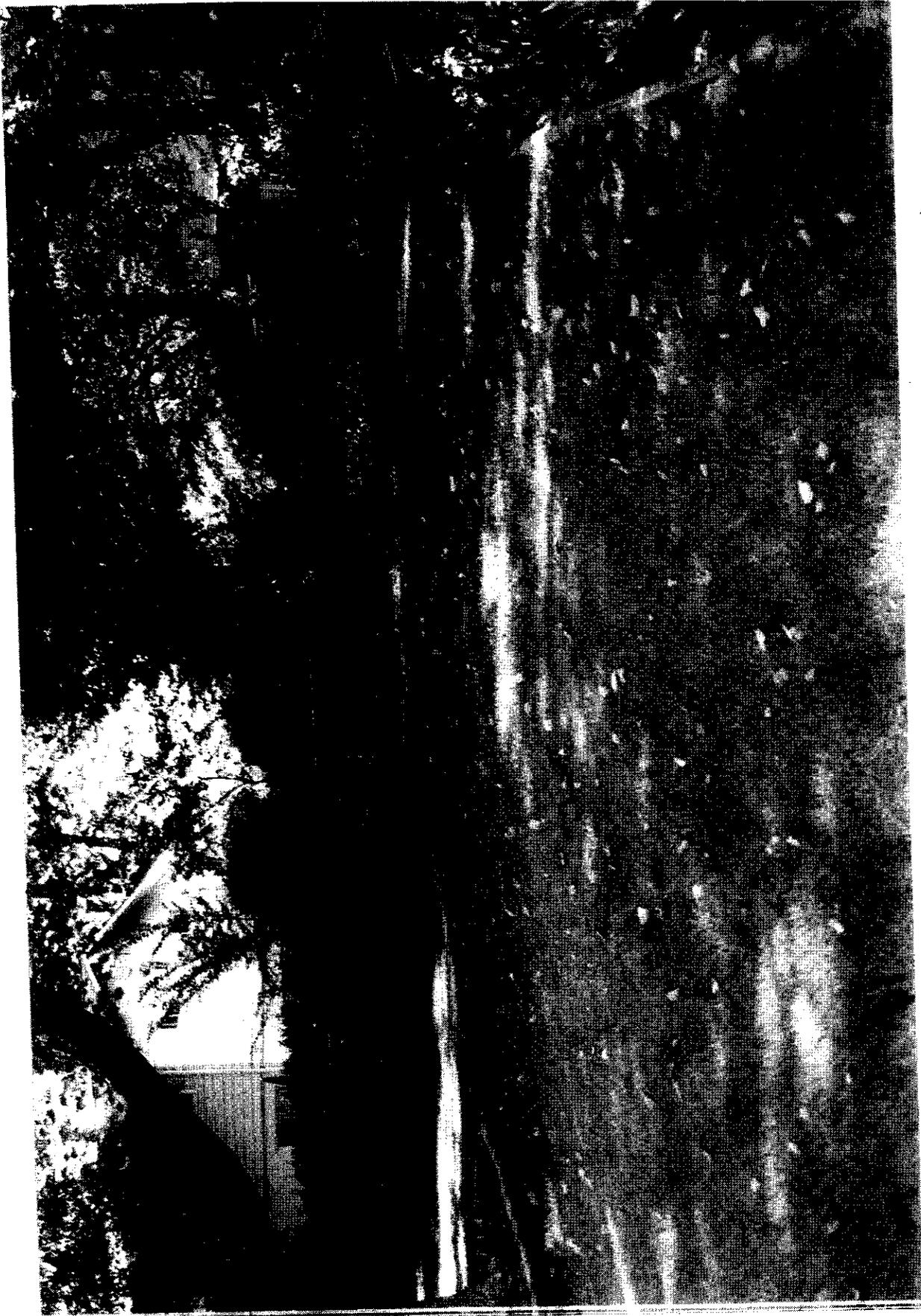
Back yard

Corner





Back yard from the
back of the ~~shed~~ sheds
Picture taken from
the front yard corner



Back yard

DESCRIPTION OF THE APPLICATION

The applicant is seeking approval of a variance to permit construction of a carport addition 2.0 feet from the eastern side lot line.

	Structure	Yard	Min. Yard Required*	Permitted Extension**	Minimum Yard Permitted	Proposed Location	Proposed Reduction
Variance	Carport Addition	Side	12 feet	5 feet	7 feet	2 feet	5 feet

* Minimum yard requirement per Section 3-307

**Extension per Sect. 2-412, unless wall on side of carport is required per Va. Statewide Bld. Code

LOCATION AND CHARACTER

Character of the Area

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

Existing Site Description

The subject property is developed with a one story with full basement single family detached dwelling which was constructed in 1961. The applicant, Tsion Tesfaye, is the owner of Lot 1, which is 11,053 square feet in size and zoned R-3. There is an existing concrete driveway which extends from Heritage Drive along the eastern side of the property. Currently there is no carport or garage on the property. There is no significant change in topography and there are three mature trees on the property. Two of the trees are in the rear yard, unobstructed by the proposed addition. The third tree is in the front yard also unobstructed by the proposed addition.

BACKGROUND

The Board of Zoning Appeals (BZA) has not heard any similar applications in the vicinity of the subject property:

DETAILS OF VARIANCE APPLICATION

- **Title of VC Plat:** Location Drawing, Lot 1, Section 1, Heritage Hills
- **Prepared By:** Fitzroy J. Bertrand, Real Estate Surveyors & Developers, LLC, dated June 22, 2009, revised and signed through September 4, 2009.

Proposal:

The applicant is seeking approval of a variance to permit construction of a carport addition 2.0 feet from the south side lot line. The required side yard in the R-3 District is 12 feet.

Thus, the applicants are requesting a variance of 10 feet to the minimum side yard requirement.

Since the structure is proposed to be closer than 5 feet to the side lot line, there are provisions of the State Code in regard to fire prevention that must be addressed. This could require that a wall be constructed using appropriate fire resistant materials on the side of the carport closest to the side lot line. A development condition has been included to address this issue.

ZONING ORDINANCE REQUIREMENTS (See Appendix 4)

This variance application must satisfy all of the nine (9) enumerated requirements contained in Sect. 18-404, Required Standards for Variances. If the BZA determines that a variance can be justified, it must then decide the minimum variance, which would afford relief as set forth in Sect. 18-405.

CONCLUSION

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

APPENDICES

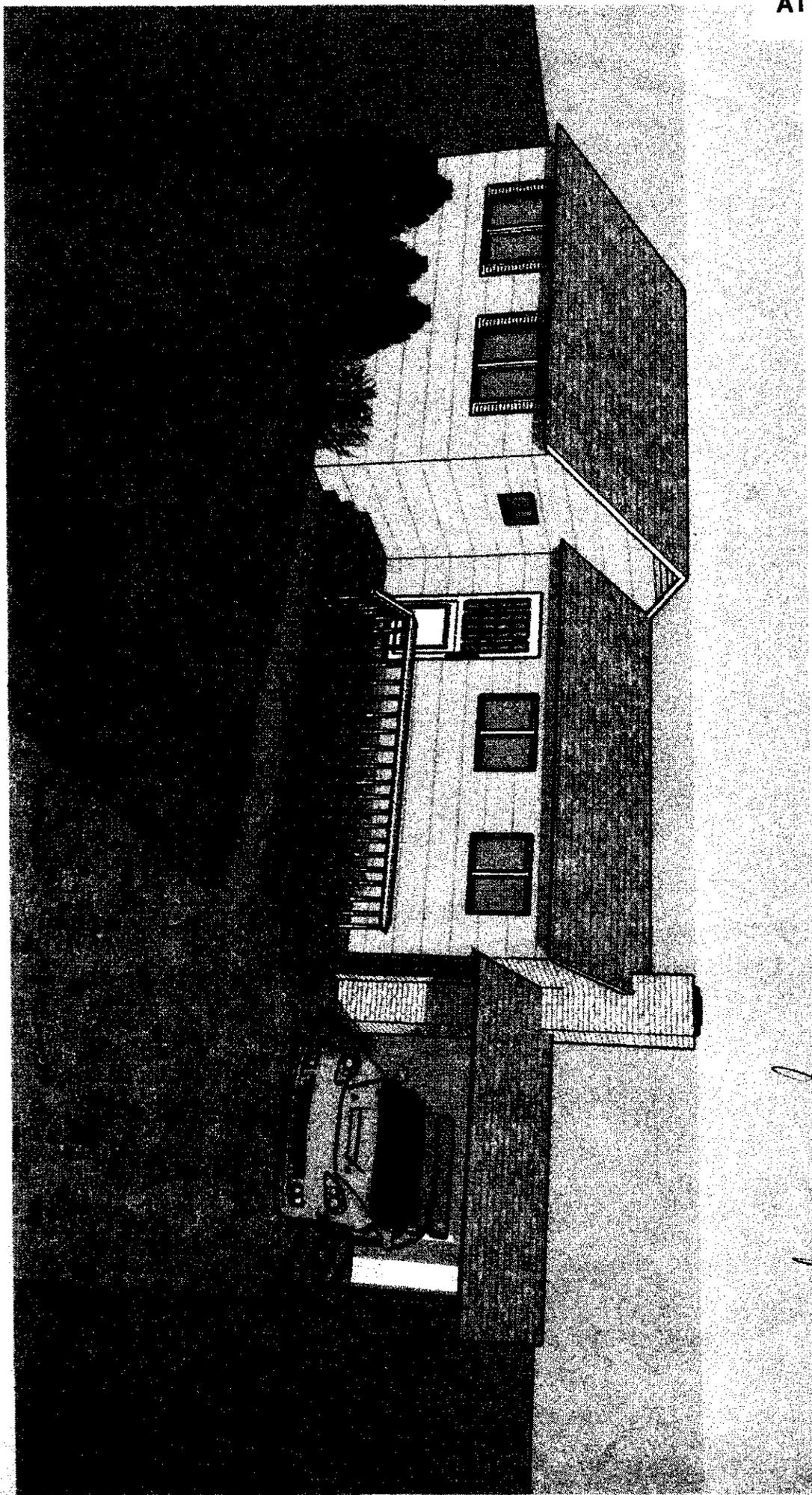
1. Proposed Development Conditions
2. Applicants' Affidavit
3. Applicants' Statement of Justification with Attachments
4. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**VC 2009-BR-004****December 1, 2009**

1. This variance is approved for the minimum side yard of 2.0, as shown on the plat prepared by Fitzroy J. Bertrand, Real Estate Surveyors & Developers, LLC, dated June 22, 2009, revised and signed through September 4, 2009, submitted with this application and is not transferable to other land.
2. The addition shall be consistent with the architectural renderings and materials depicted on the plat and included in Attachment 1 to these conditions.
3. If required by the Virginia Uniform Statewide Building Code, the carport addition may be partially or completely enclosed along the eastern side lot line to comply with fire prevention code requirements.

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

Pursuant to Sect. 18-407 of the Zoning Ordinance, this variance shall automatically expire, without notice, thirty (30) months after the date of approval unless construction has commenced and has been diligently prosecuted. The Board of Zoning Appeals may grant additional time to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the variance. 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.



after carpet

Application No.(s): VC 2009-BL-004
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8/24/09 9/9/09
(enter date affidavit is notarized)

I, TSION TESFAYE, 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

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.)

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)
TSION TESFAYE	7724 Heritage Drive Annandale, VA 22003	owner/Applicant

(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): NC 2009-BL-004
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8/24/09 9/9/09
(enter date affidavit is notarized)

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)

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): VC 2009-BR-004
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: ~~8/24/09~~ 9/9/09
(enter date affidavit is notarized)

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): VC 2009 - BR - 004
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: ~~8/22/09~~ 9/9/09
(enter date affidavit is notarized)

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): VC 2009-BR-004
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: ~~8/24/09~~ 9/9/09
(enter date affidavit is notarized)

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)

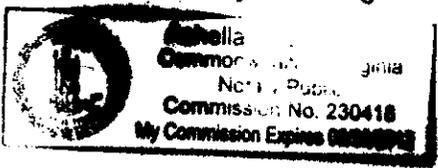
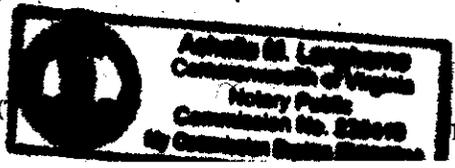
Applicant *[Signature]* [] Applicant's Authorized Agent

VISION TESFAYE
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 9th day of September 2009, in the State/Comm. of Virginia, County/City of Fairfax.

Ashella M. Longene
Notary Public

My commission expires: June 30, 2012



September 12, 2009

RECEIVED
Department of Planning & Zoning

SEP 15 2009

Zoning Evaluation

18.404 (1)

I bought this house in 1973 and I am attaching a copy the Title

18.404

Building a carport is an issue of safety and independence for me. I have owned and lived in this house since July of 1977 and I am a 66 years retiree. I did not think of building a carport until now because I was surrounded by my children who would carry things from the care to the house and clean the snow in the winter.

(2 (g))

The carport will not affect my current house nor my neighbors. The attached letter states that my next-door neighbors have no objections to my building a carport.

(6 (b))

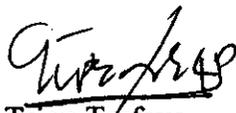
The reason that I decided to build a carport at this time even with the hard economic situation is because now I live alone since my children are all gone to lead their own life, and my health is not as it use to be, having arthritis in my hips, knees and hands, I thought that building a carport would keep the now off of my car and off of the area where I walk to get to the front of my house. The distance from the car to the front door would be much shorter and safer to walk when I have things to carry especially during the winter snow come.

18.404 (7)

I am requesting a special permit/variance to reduce to minimum left setback from 7 ft. to 5 ft. to make it possible for me to be able to build a carport addition to my split level house.

I would like to continue to live independently in this house and in this county for many more years to come. I believe a carport would make that much more possible.

I sincerely hope that I will be granted the permit in good time to enable me to build the carport before the winter season.



Tsion Tesfaye

September 8, 2009

Application for Variance

Applicant: Tsion Tesfaye

Address: 7724 Heritage Drive, Annandale, VA. 22003

**Written statement of justification describing the proposed use and other pertinent
Data which complies with Section _____**

I am requesting a special permit/variance to reduce the minimum left side setback from 7 feet to 5 feet to make it is possible for me to be able to build a carport addition to my split level house.

I have lived in this house since July of 1973 and I am 66 years old retiree. I didn't think of building a carport because it was not as difficult for me to bring in my groceries or anything I need from the car into the house and I was also surrounded by my children who would carry things from the car to the house and clean the snow in the winter. The reason that I decided to build this carport at this time even with the harder economic situation is because now I live alone since my children are gone to lead their own life, and my health is not as it use to be, having arthritis problem, I thought that building this carport will help me to make my life a little easier when I walk from my car to the door of my house which will then be a shorter distance to walk specially during the winter snow.

My building the carport will not have an impact on my current house and as you can see from the attached letter my next door neighbor's have no objections to my building a carport.

I sincerely hope that I will be granted the permit so I can start building the carport before the winter season.

Regards,


Tsion Tesfaye
Applicant.

RECEIVED
Department of Planning & Zoning
SEP 09 2009
Zoning Evaluation: [unclear]

June 25, 2009

Application for Special Permit

Applicant: Tsion Tesfaye

Address: 7724 Heritage Drive Annandale, VA 22003

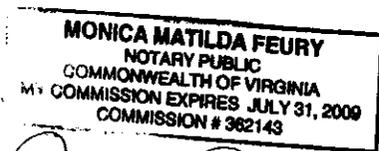
**Written statement of justification describing the proposed use and other pertinent
Data which complies with Section**

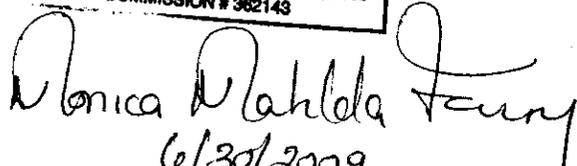
The special permit is requested to reduce the minimum left side setback from 7 feet to 5 feet in order to be able to build a carport addition of my split level home.

The reduction of the left-side setback would provide me with sufficient space to add a carport which will make my life a little easier during the summer season of harsh heat and safer during the winter season of snow.

The proposed addition will not have an impact on my current house or my next door neighbor's fence.


Tsion Tesfaye




6/30/2009

RECEIVED
Department of Planning & Zoning

JUN 30 2009

Zoning Evaluation Division

September 3, 2009

To Whom It May Concern:

We reside at 7722 Heritage Drive in Annandale Virginia. Our neighbor at 7724 Heritage Drive has informed us that she would like to build a car port. We do not have any objections to this.

Sincerely,

Gregory Fulton

Patricia Fulton

Gregory Fulton

Patricia Fulton

RECEIVED
Department of Planning & Zoning
SEP 09 2009
Zoning Evaluation Division

18-401 Initiation

A property owner, tenant, government official, department, board, bureau or condominium, in accordance with the provisions of Sect. 2-518, may apply to the BZA for a variance of the strict application of the terms of this Ordinance; provided, however, application shall be made to the Board of Supervisors for a special exception pursuant to those provisions set forth in Part 6 of Article 9.

18-404 Required Standards for Variances

To grant a variance the BZA shall make specific findings based on the evidence before it that the application satisfies all of the following enumerated requirements:

1. That the subject property was acquired in good faith.
2. That the subject property has at least one of the following characteristics:
 - A. Exceptional narrowness at the time of the effective date of the Ordinance;
 - B. Exceptional shallowness at the time of the effective date of the Ordinance;
 - C. Exceptional size at the time of the effective date of the Ordinance;
 - D. Exceptional shape at the time of the effective date of the Ordinance;
 - E. Exceptional topographic conditions;
 - F. An extraordinary situation or condition of the subject property; or
 - G. An extraordinary situation or condition of the use or development of property immediately adjacent to the subject property.
3. That the condition or situation of the subject property or the intended use of the subject property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted by the Board of Supervisors as an amendment to the Zoning Ordinance.
4. That the strict application of this Ordinance would produce undue hardship.
5. That such undue hardship is not shared generally by other properties in the same zoning district and the same vicinity.
6. That:
 - A. The strict application of the Zoning Ordinance would effectively prohibit or unreasonably restrict the utilization of the subject property, or

B. The granting of a variance will alleviate a clearly demonstrable hardship as distinguished from a special privilege or convenience sought by the applicant.

7. That authorization of the variance will not be of substantial detriment to adjacent property.
8. That the character of the zoning district will not be changed by the granting of the variance.
9. That the variance will be in harmony with the intended spirit and purposes of this Ordinance and will not be contrary to the public interest.