



APPLICATION ACCEPTED: January 5, 2010
DATE OF PUBLIC HEARING: March 10, 2010
TIME: 9:00 a.m.

County of Fairfax, Virginia

March 3, 2010

STAFF REPORT

SPECIAL PERMIT APPLICATION No. SP 2010-DR-001

DRANEVILLE DISTRICT

APPLICANTS & OWNERS:	Middleburg Associates, LLC
ZONING:	R-3
LOCATION:	1253 Ingleside Avenue
SUBDIVISION:	Fairfax Land Company's Addition to Ingleside
ZONING ORDINANCE PROVISION:	8-914
TAX MAP:	30-2 ((3)) 1B
LOT SIZE:	18,050 Sq. Feet
SP PROPOSAL:	Reduction to minimum yard requirements based on error in building location to permit accessory structure to remain 10.2 with eave 9.5 feet from 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.

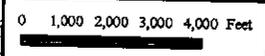
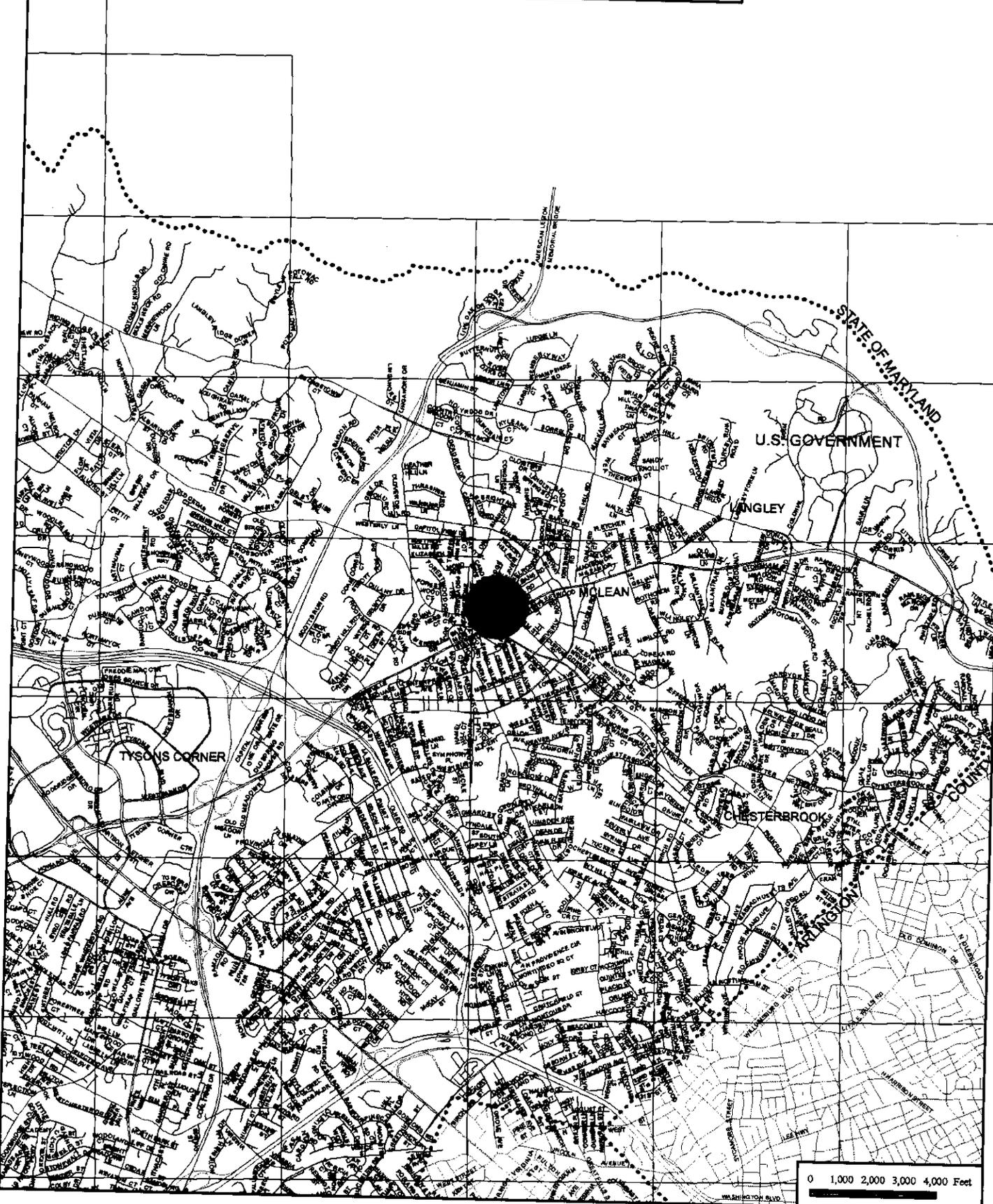
The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

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.**

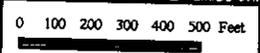
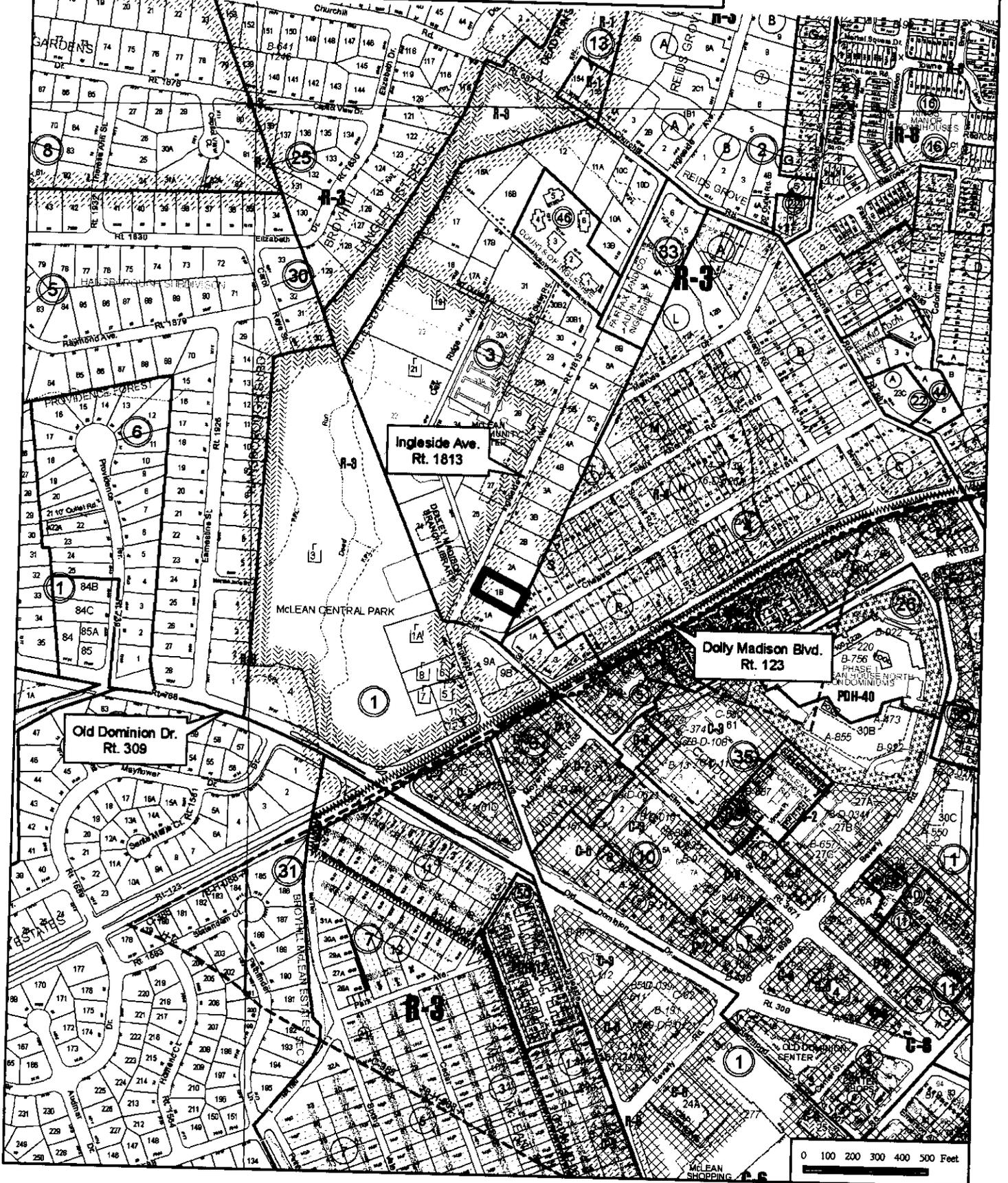


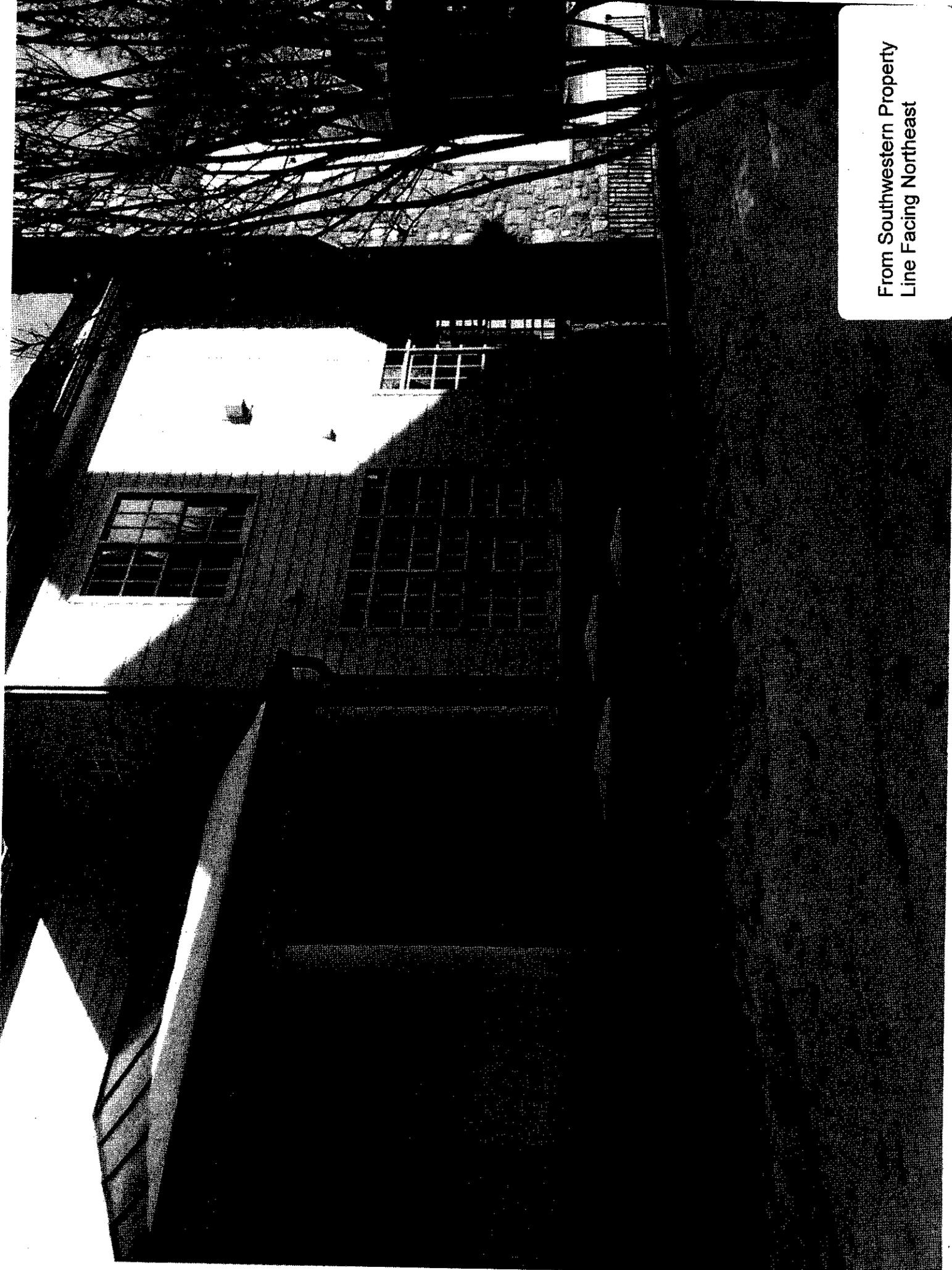
Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit
SP 2010-DR-001
MIDDLEBURG ASSOCIATES, LLC



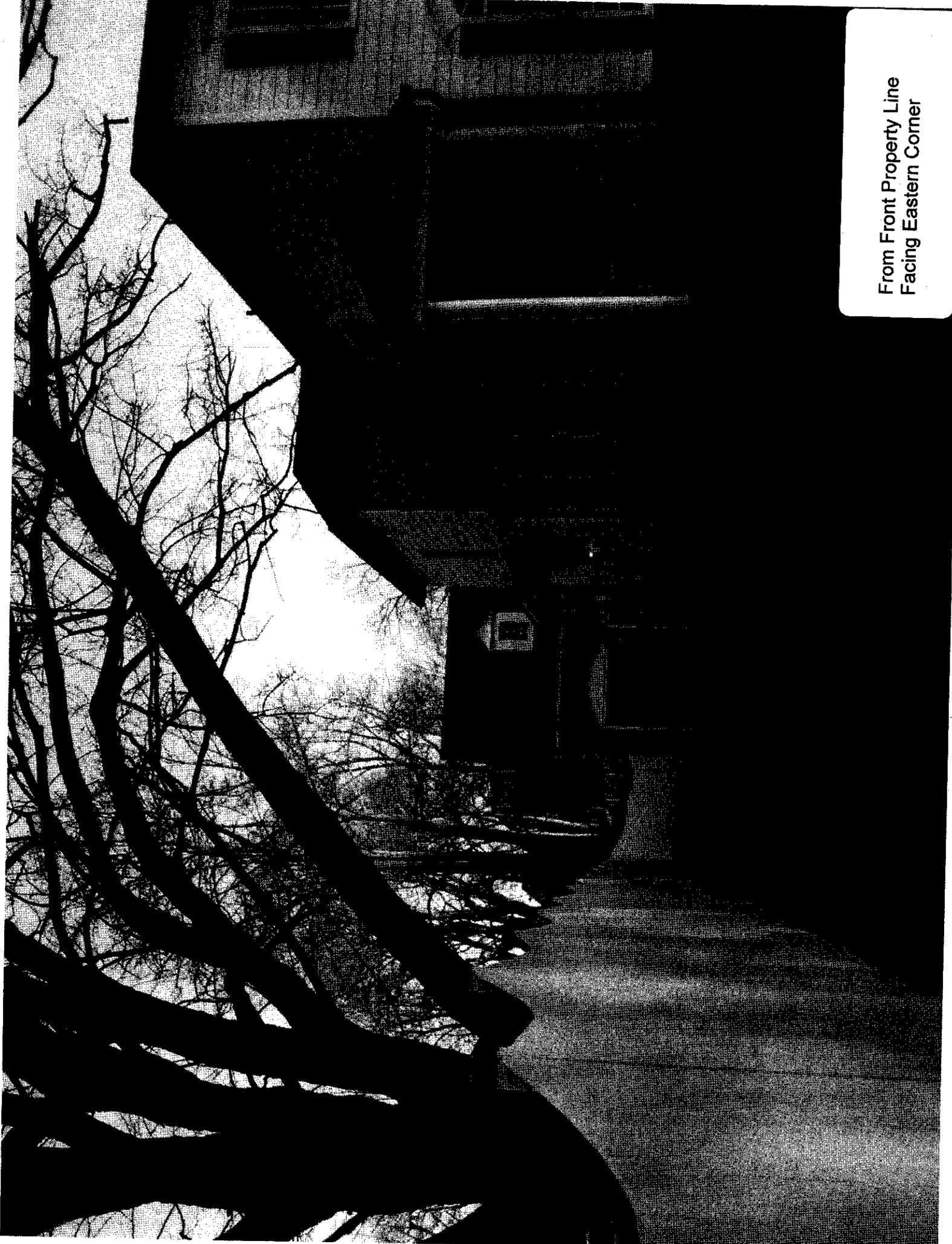
Special Permit
SP 2010-DR-001
MIDDLEBURG ASSOCIATES, LLC

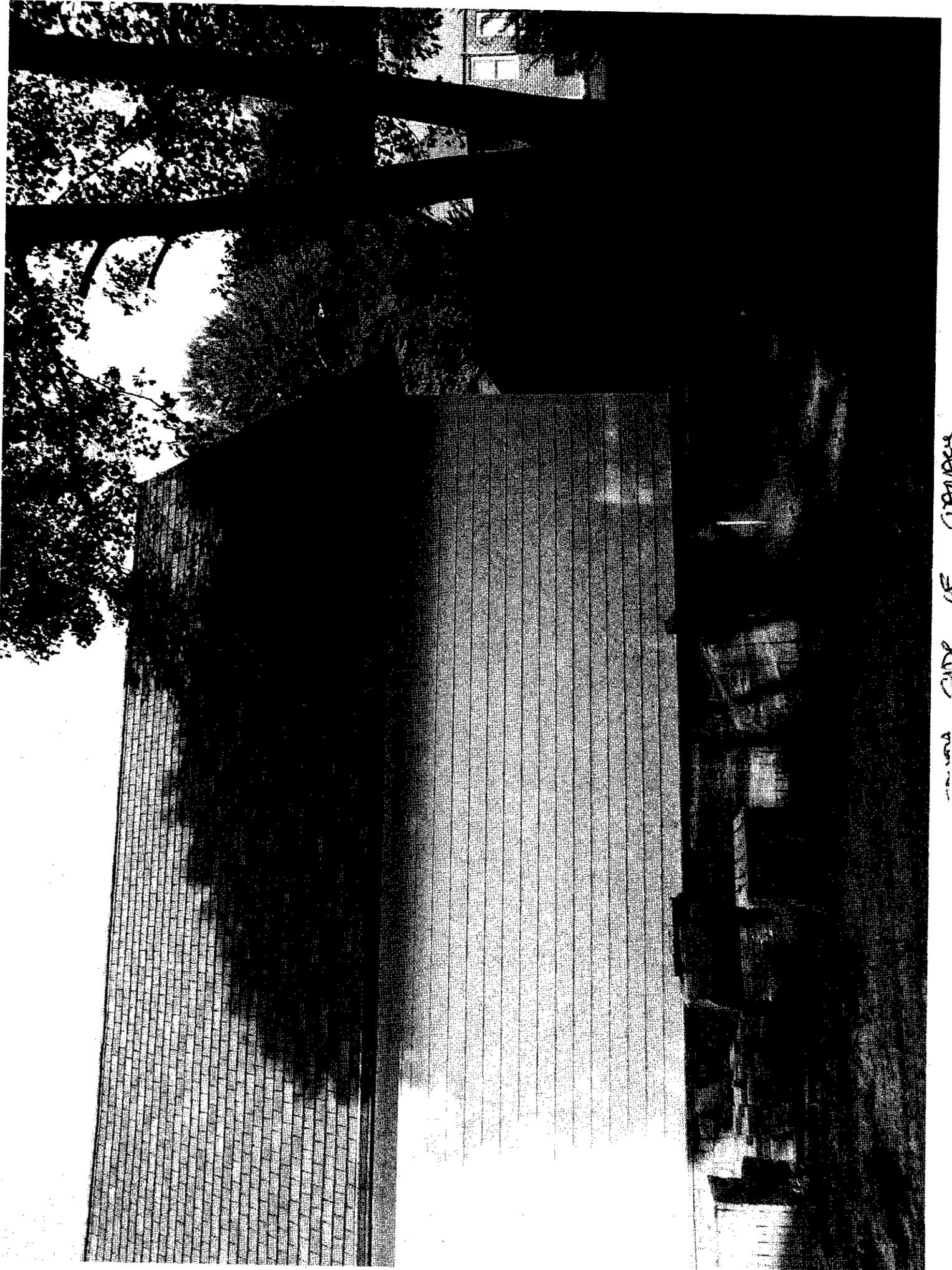




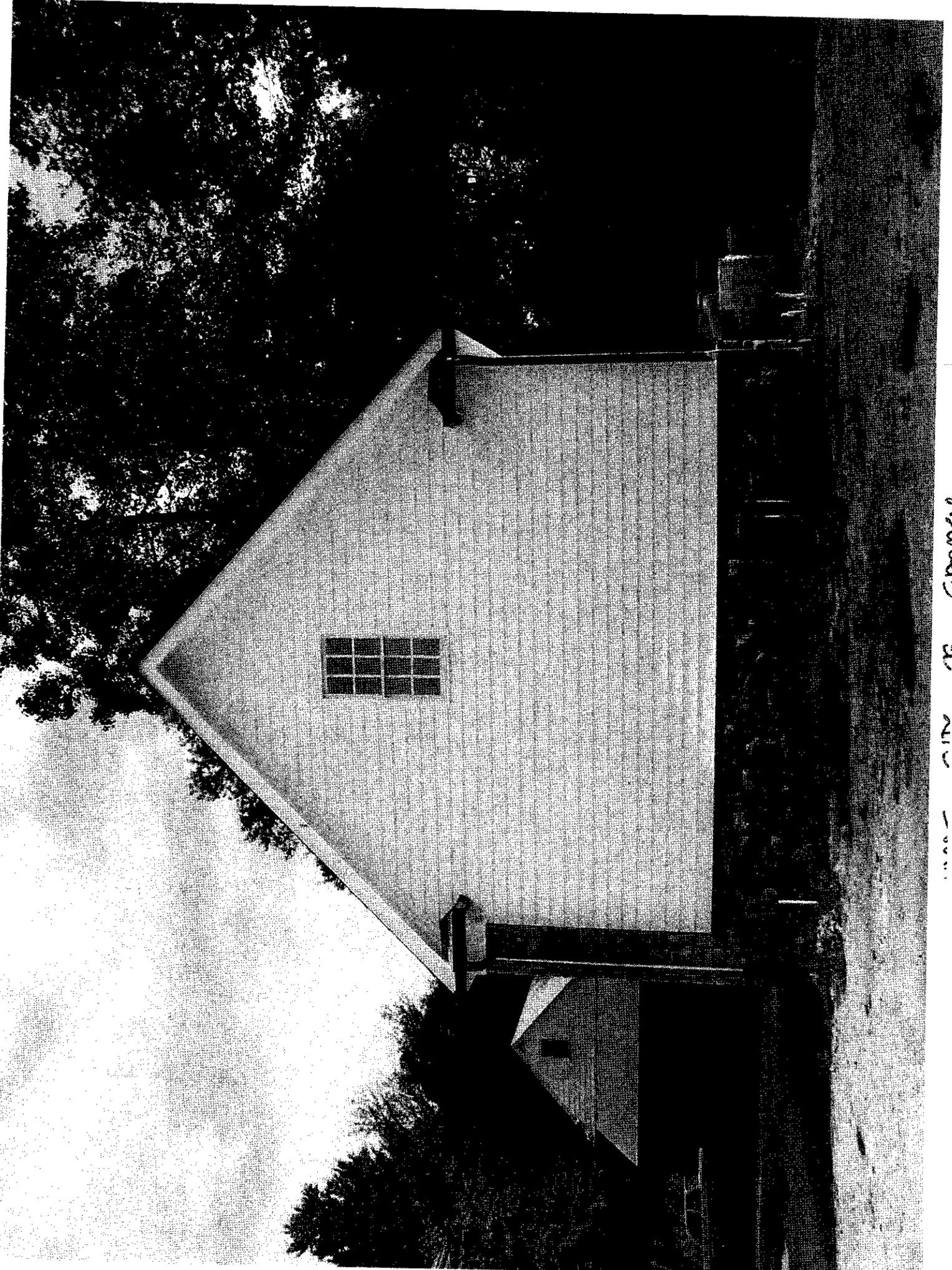
From Southwestern Property
Line Facing Northeast

From Front Property Line
Facing Eastern Corner

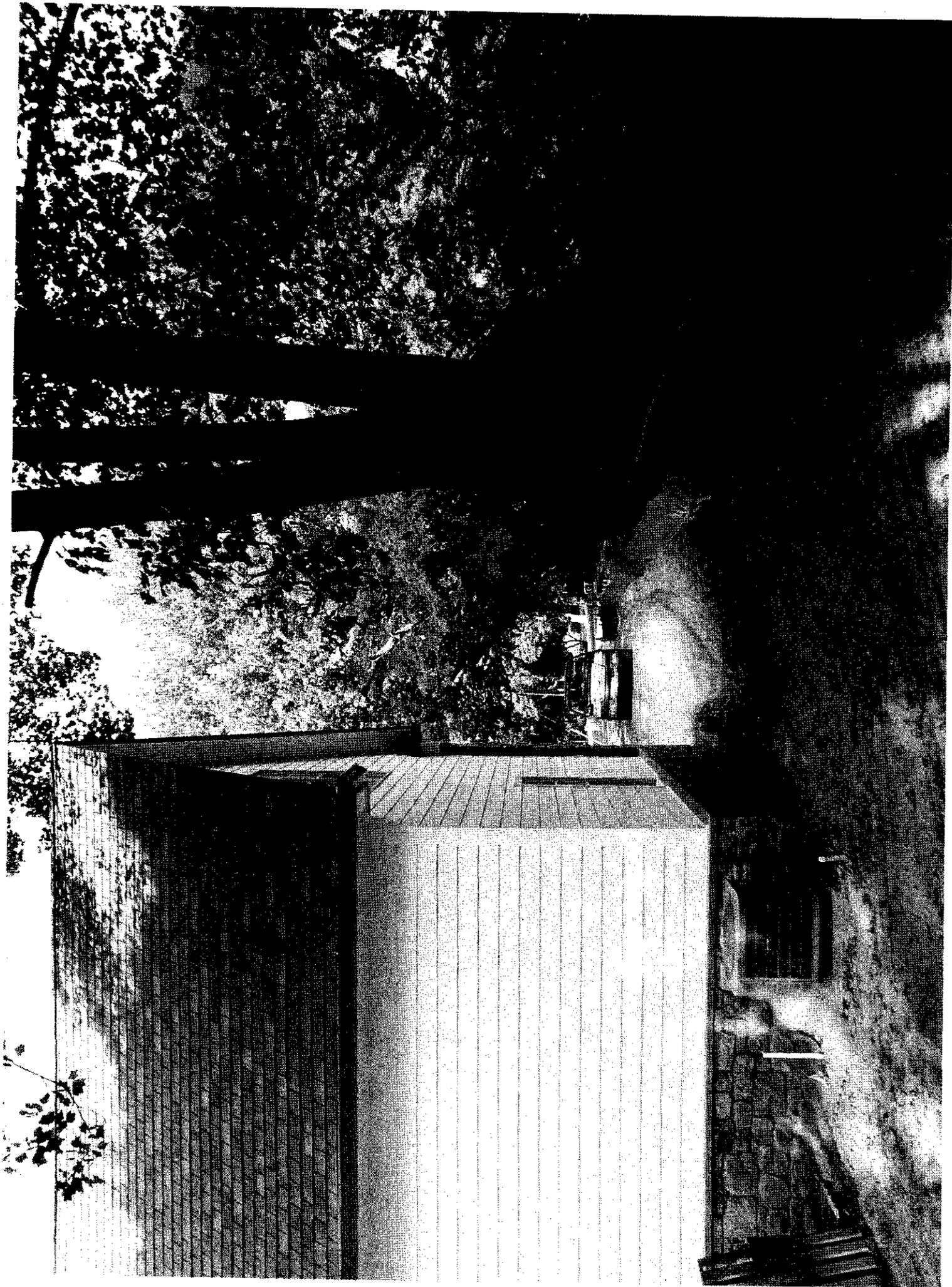




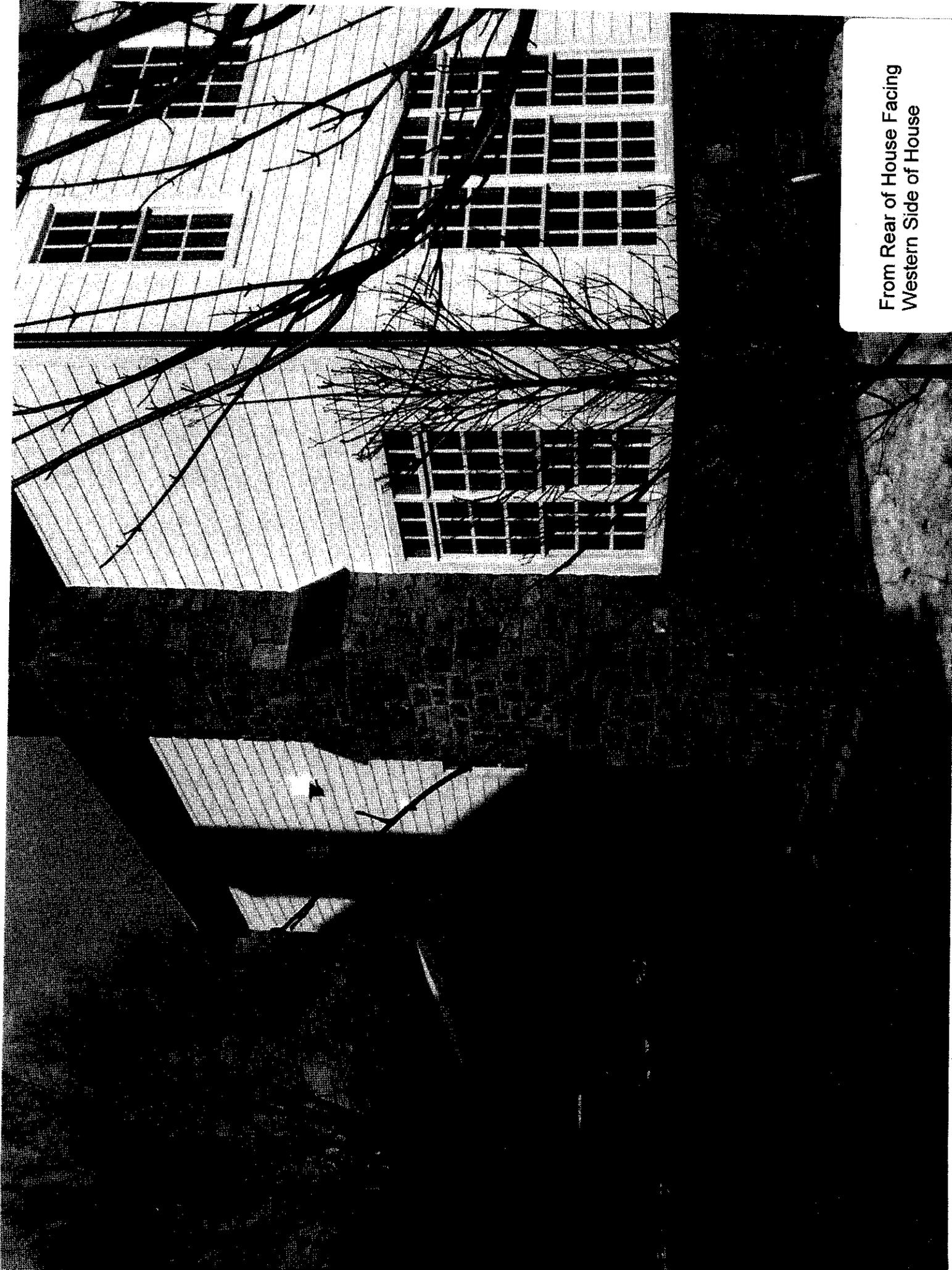
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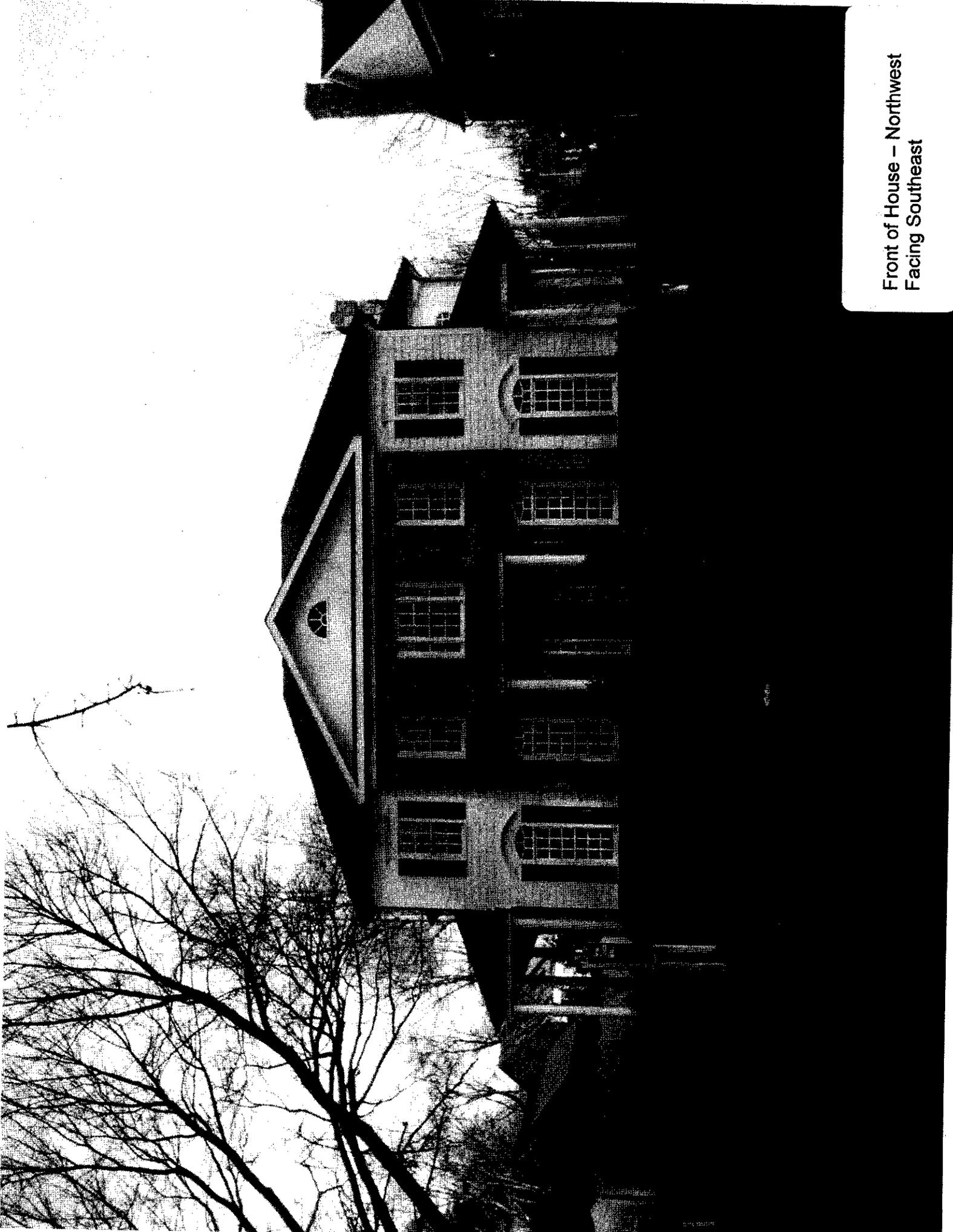
View from the Courtyard



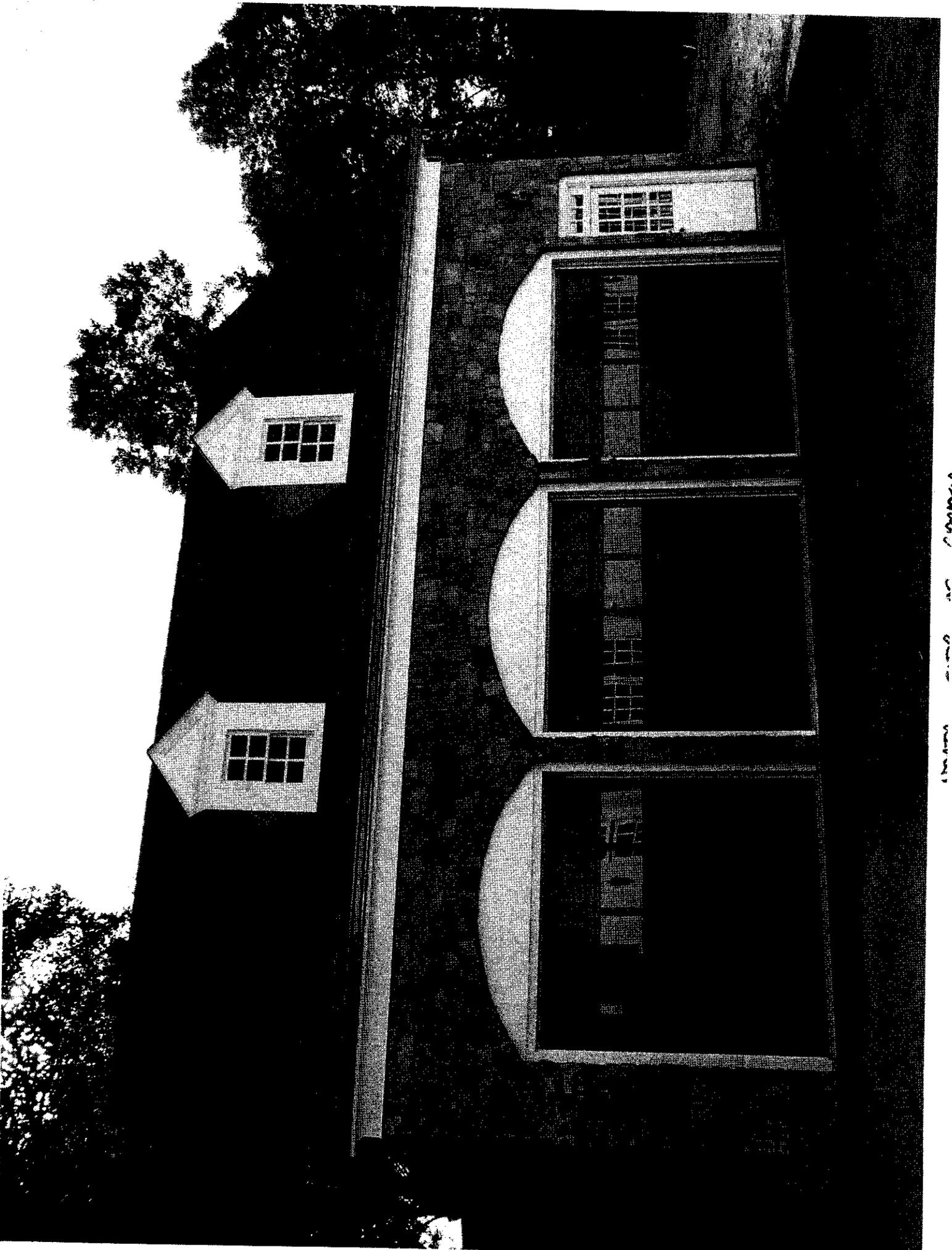
From Rear of House Facing
Western Side of House



Rear Yard from Southern
Property Corner



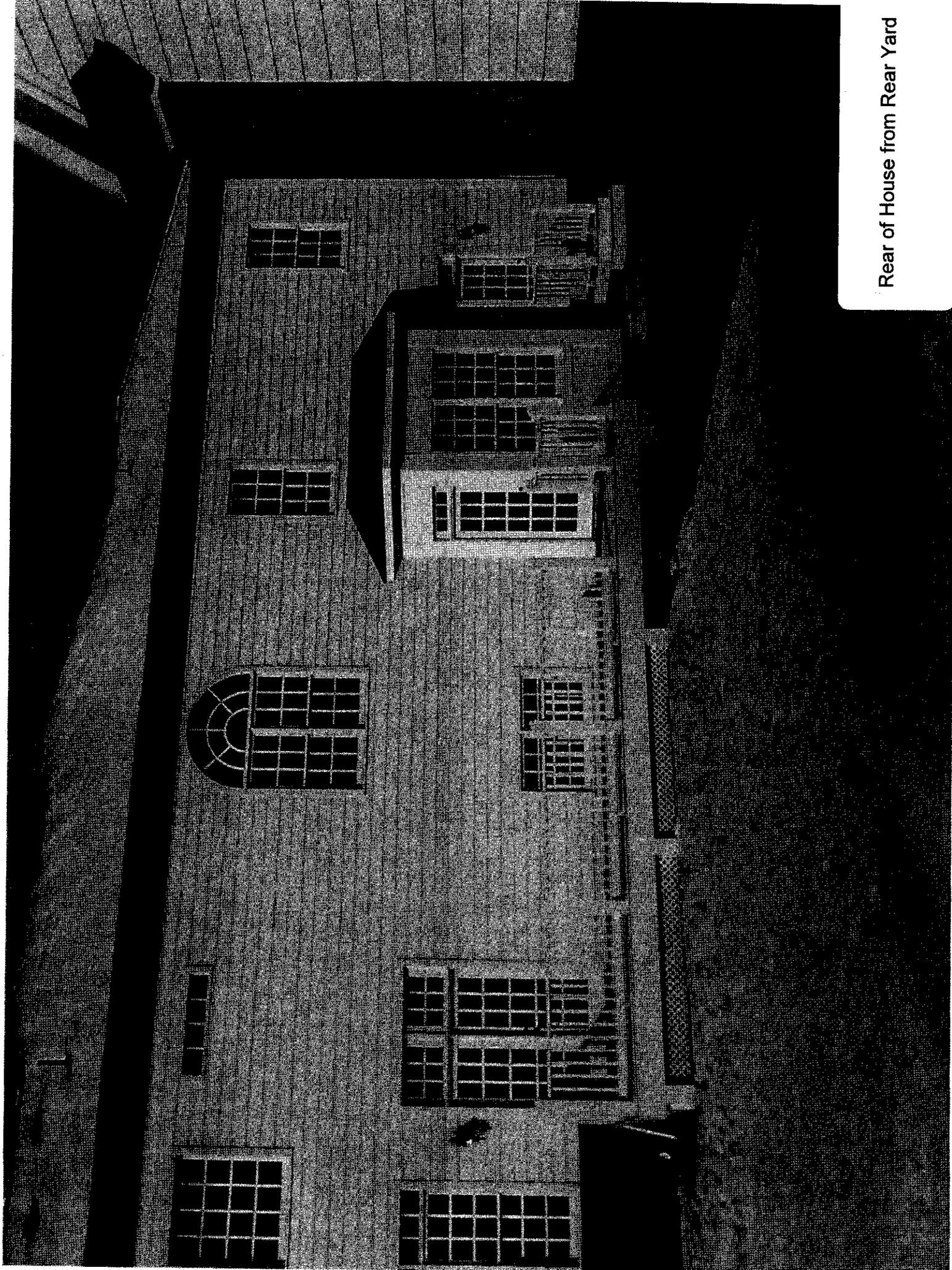
Front of House – Northwest
Facing Southeast



1. 1st floor
2. 2nd floor
3. 3rd floor
4. 4th floor

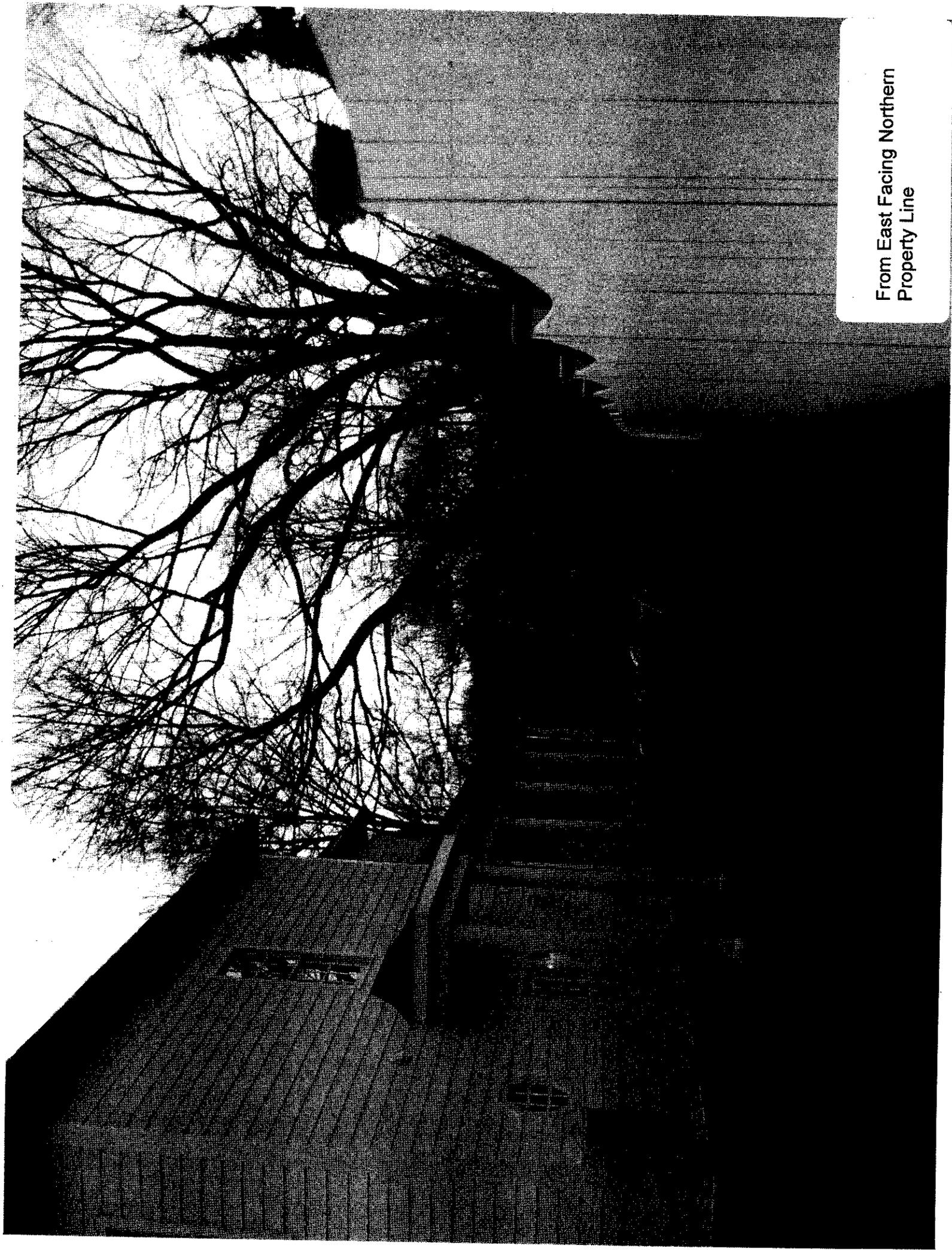


1100 S 101st AVE - 7 FT from driveway (in house)



Rear of House from Rear Yard

From East Facing Northern
Property Line



DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of a special permit for an error in building location to permit an accessory structure (detached garage) to remain 10.2 with eave 9.5 feet from the eastern side lot line.

	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Special Permit	Side	12 feet	9.5 feet	2.5 feet	20.8 %

* Minimum yard requirement per Section 10-104

LOCATION AND CHARACTER

Character of the Area

	Zoning	Use
North	R-3	Single Family Detached Dwellings and Mclean Community Center
South	R-3	Single Family Detached Dwellings
East	R-3	Single Family Detached Dwellings
West	R-3	Single Family Detached Dwellings & Fairfax County Park Authority Property (Mclean Central Park)

Existing Site Description

The 18,050 square foot lot is developed with a two story with full basement, 5,632 square foot single family detached dwelling constructed in 2009. The subject property has no change in topography and little vegetation since the new home was only recently constructed.

ANALYSIS OF SPECIAL PERMIT APPLICATION

- **Title of SP Plat:** Special Permit, Lot 1B, Fairfax Land Co's Addition to Ingleside

- **Prepared By:** Harold A. Logan, Harold A. Logan Associates P.C., dated December 9, 2009 and signed through December 10, 2009.
- **Building Permit Required for the Detached Garage:** Yes
- **Obtained:** Yes (part of the building permit for the new house)
- **Location Error Made By:** Contractor/Current Owner

BACKGROUND

Building permit #82040079 was issued on August 12, 2008 for a new single family detached dwelling, a detached garage and a deck. The detached garage was identified on the building permit application to be constructed 12 feet from the side lot line. A copy of the building permit application can be found in Appendix 4.

A Notice of Violation (NOV) was issued on July 16, 2009 for the subject property for a detached garage constructed too close to the side lot line. A copy of the NOV can be found in Appendix 5.

The Board of Zoning Appeals (BZA) has not heard any similar applications in the neighborhood.

ZONING ORDINANCE REQUIREMENTS (See Appendix 6)

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Provisions for Approval of Reduction of the Minimum Yard Requirements Based on an Error in Building Location (Sect. 8-914)
- Location Regulations (Sect. 10-104)

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.

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. Building Permit # 82040079
5. Notice of Violation
6. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2010-DR-001****March 3, 2010**

1. This special permit is approved for the location of an existing detached accessory structure (detached garage) as shown on the plat prepared by Harold A. Logan, Harold A. Logan Associates P.C., dated December 9, 2009 and signed through December 10, 2009, submitted with this application and is not transferable to other land.

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): SP 2010 - DR - 001
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: October 28, 2009
(enter date affidavit is notarized)

I, Sara V. Mariska, attorney/agent, 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 106578

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)
Middleburg Associates, LLC Agents: Robert C. Moesle Hugh S. Winstead	9495B Silver King Court Fairfax, VA 22031	Applicant/Title Owner of Tax Map 30-2 ((3)) 1B
Harold A. Logan Associates, P.C. Agent: Harold A. Logan	9114 Industry Drive Manassas Park, VA 20111	Surveyor/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): SP 2010-DR-001
(county-assigned application number(s), to be entered by County Staff)

Page 1 of 1

Special Permit/Variance Attachment to Par. 1(a)

DATE: October 28, 2009
(enter date affidavit is notarized)

106578

(NOTE: All relationships to the application are to 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)
--	---	--

Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.	2200 Clarendon Boulevard 13th Floor Arlington, Virginia 22201	Attorneys/Planners/Agent
---	---	---------------------------------

Agents:
Martin D. Walsh
Lynne J. Strobel
Timothy S. Sampson
M. Catharine Puskar
Sara V. Mariska
G. Evan Pritchard
Elizabeth D. Baker
Inda E. Stagg
Kara M. W. Bowyer
Megan C. Shilling
Elizabeth A. McKeeby

(check if applicable)

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

Application No.(s): SP 2010-DR-001
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: October 28, 2009
(enter date affidavit is notarized)

106578

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)
Middleburg Associates, LLC
9495B Silver King Court
Fairfax, VA 22031

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)
Robert C. Moesle, Managing Member
Hugh S. Winstead, Member

(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): SP 2010-DR-001
(county-assigned application number(s), to be entered by County Staff)

Page 1 of 1

Special Permit/Variance Attachment to Par. 1(b)

DATE: October 28, 2009
(enter date affidavit is notarized)

106578

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

Harold A. Logan Associates, P.C.
9114 Industry Drive
Manassas Park, VA 20111

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 THE SHAREHOLDERS: (enter first name, middle initial, and last name)

Harold A. Logan

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

Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, Virginia 22201

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 THE SHAREHOLDERS: (enter first name, middle initial, and last name)

David J. Bomgardner, E. Andrew Burcher,	J. Randall Minchew, M. Catharine Puskar,
Thomas J. Colucci, Peter M. Dolan, Jr., Jay	John E. Rinaldi, Lynne J. Strobel, Garth M.
du Von, Jerry K. Emrich, William A.	Wainman, Nan E. Walsh, Martin D. Walsh
Fogarty, John H. Foote, H. Mark Goetzman,	
Bryan H. Guidash, Michael D. Lubeley,	

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

Application No.(s): SP 2010-DR-001
(county-assigned application number(s), to be entered by County Staff)

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: October 28, 2009
(enter date affidavit is notarized)

106578

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)
None

(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): SP 2010-DR-001
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: October 28, 2009
(enter date affidavit is notarized)

106578

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): SP 2010-DR-001
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: October 28, 2009
(enter date affidavit is notarized)

106578

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)

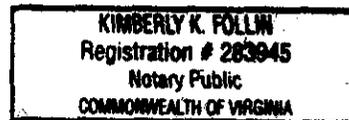
Sara V. Mariska
 Applicant Applicant's Authorized Agent

Sara V. Mariska, attorney/agent
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 28 day of October 2009, in the State/Comm. of Virginia, County/City of Arlington.

Kimberly K. Follen
Notary Public

My commission expires: 11/30/2011





Sara V. Mariska
 (703) 528-4700 Ext. 5419
smariska@arl.thelandlawyers.com

WALSH COLUCCI
 LUBELEY EMRICH
 & WALSH PC

December 14, 2009

Via Hand Delivery

Regina C. Coyle, Director
 Fairfax County Department of Planning & Zoning
 Zoning Evaluation Division
 12055 Government Center Parkway, Suite 801
 Fairfax, Virginia 22035

Re: Special Permit Application
 Applicant: Middleburg Associates, LLC

Dear Ms. Coyle:

Please accept the following as a statement of justification for a special permit application on property identified among the Fairfax County tax map records as 30-2 ((3)) 1B (the "Subject Property").

The Subject Property contains approximately 18,050 square feet and is located on the eastern side of Ingleside Avenue to the north of its intersection with Elm Street. The Subject Property is developed as a single family home with a detached garage. On July 16, 2009, a notice of violation was issued by Tammy R. Brown, Senior Zoning Inspector, to the Applicant regarding the Subject Property. An inspection of the Subject Property on June 23, 2009 revealed the presence of a detached garage approximately ten (10) feet from the side lot line. The Fairfax County Zoning Ordinance (the "Ordinance") permits accessory structures that are seven (7) feet or less in height to be located in a minimum required yard. Because the structure measures approximately twenty-seven (27) feet in height, it must be located on the lot so as to comply with the required side yard pursuant to Paragraph 12D of Section 10-104 of the Ordinance. The Subject Property is zoned to the R-3 District and is required to have a minimum side yard of twelve (12) feet. Because the accessory structure exceeds seven (7) feet in height, and is not located in accordance with the provisions of Paragraph 12D of Section 10-104, it is in violation of both Paragraph 12D of Section 10-104 and Paragraph 6 of Section 2-302 of the Ordinance.

This application requests a special permit to allow the existing detached garage to remain at its present height in its present location. The Applicant purchased the Subject Property in 2007 and designed a two-story house with a detached garage. The approved architectural plans show the detached garage located twelve (12) feet from the side lot line in order to comply with Ordinance requirements. Subsequent to the construction of the house and the garage, the Applicant discovered an error in the location of the garage. A copy of the approved architectural plans and the wall check survey that revealed the error in building location are enclosed.

PHONE 703 528 4700 ■ FAX 703 525 3197 ■ WWW.THELANDLAWYERS.COM
 COURTHOUSE PLAZA ■ 2200 CLARENDON BLVD., THIRTEENTH FLOOR ■ ARLINGTON, VA 22201-3359

LOUDOUN OFFICE 703 737 3633 ■ PRINCE WILLIAM OFFICE 703 680 4664

ATTORNEYS AT LAW

In accordance with Sections 8-011 and 8-914, Paragraph 2 of the Ordinance, please accept the following information with respect to the error in building location on the Subject Property:

- The detached garage is required to be twelve (12) feet from the side yard lot line. In this instance, the foundation of the garage was constructed 10.2 feet from the side yard lot line, and the eave measures 9.5 feet from the side yard lot line. Based on these measurements, the error exceeds 10% of the measurement involved.
- The side yard setback of 10.2 feet instead of the required twelve (12) feet was the result of a building error that occurred subsequent to the issuance of a building permit.
- The reduction of the required side yard setback will not impair the purpose and intent of the Ordinance.
- Allowing the garage to remain in its current location will not be detrimental to the use and enjoyment of other property in the immediate vicinity. A photo of the detached garage and the neighboring property is enclosed. This photo reveals that an accessory structure is located on the adjacent property close to the side lot line. Moreover, the detached garage on the Subject Property is not immediately adjacent to a single family dwelling, nor would it impede the use and enjoyment of the adjacent property by its owner.
- The attached garage will not create an unsafe condition with respect to surrounding properties or the public street. The garage is simply 1.8 feet closer to the side lot line than is required under the Ordinance. The presence of this garage at this location does not impede the use of surrounding properties or public streets.
- To enforce compliance with the Ordinance's minimum yard requirements would cause unreasonable hardship for the property owner. The garage has simply been constructed 1.8 feet closer to the side lot line than is permitted under the Ordinance requirements. Removing the structure, which has been fully constructed, would be a substantial expense for the Applicant. The Applicant has complied with all County requirements including approval of architectural plans, an application for a building permit, and the construction of the garage is a result of a slight error in building location.
- The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
- The single-family residence and detached garage are traditional in style and feature high-quality stone work, metal roof, and attractive front cornice.

- The Applicant is unaware of any hazardous or toxic substances on the Subject Property.
- The proposed development complies with the provisions of all applicable ordinances, regulations, and standards except as may be noted on the special permit plat and in this letter.

In sum, the special permit simply requests that the detached accessory structure be allowed to remain 10.2 feet from the side yard lot line. The granting of the special permit will not detrimentally affect adjacent properties and requiring the removal and reconstruction of the detached garage will be a substantial hardship on the Applicant.

Should you have any questions regarding this application, or require additional information, please do not hesitate to contact me. I would appreciate the acceptance of this application and the scheduling of a public hearing before the Fairfax County Board of Zoning Appeals at your earliest convenience. As always, I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.



Sara V. Mariska

SVM:kae

Enclosures

cc: Bob Moesle
Martin D. Walsh

BUILDING PERMIT APPLICATION
FAIRFAX COUNTY GOVERNMENT
PERMIT APPLICATION CENTER
 12835 Government Center Parkway, 2nd Floor
 Fairfax, Virginia 22035-5504
 Telephone: 703-222-0901
 Web site: <http://www.fairfaxcounty.gov/dpwes>

PERMIT # 82040079
 FOR INSPECTIONS CALL 703-222-0455 (see back for more information)
 OR VISIT US ON THE WEB AT
http://www.fairfaxcounty.gov/online/inspection_sched.asp

FILE IN ALL APPROPRIATE INFORMATION IN THIS COLUMN
 (PLEASE PRINT OR TYPE)

JOB LOCATION
 ADDRESS 1253 INGLETSIDE AVE
 LOT # 1B BUILDING -
 FLOOR - SUITE -
 SUBDIVISION ADJACENT TO INGLETSIDE
 TENANT'S NAME Highlor Hand Company
 EMAIL -
 CONTACT ID -

OWNER INFORMATION OWNER TENANT
 NAME MIDDLEBURG ASSO. LLC.
 ADDRESS 9495-B SILVER WING CT
 CITY Fairfax STATE VA ZIP 22031
 TELEPHONE 703-795-4340
 EMAIL BOB@MIDDLEBURGASSOCIATES.COM
 CONTACT ID 293532

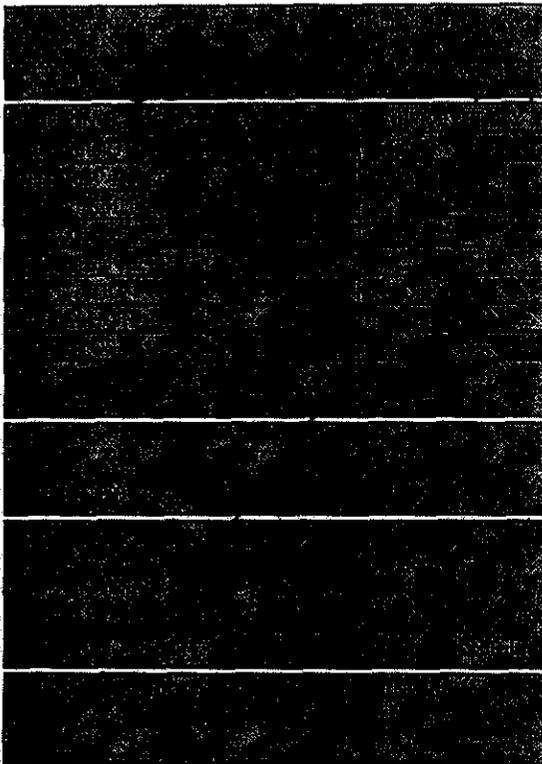
CONTRACTOR INFORMATION SAME AS OWNER
 CONTRACTORS MUST PROVIDE THE FOLLOWING:
 COMPANY NAME _____
 ADDRESS _____
 CITY _____ STATE _____ ZIP _____
 TELEPHONE _____
 EMAIL _____
 STATE CONTRACTORS LICENSE # 275-629129A
 COUNTY BPOL # 27-3362
 CONTACT ID 293532

APPLICANT
 NAME Bob MDESLE
 ADDRESS _____
 CITY _____ STATE _____ ZIP _____
 TELEPHONE _____
 EMAIL _____
 CONTACT ID 3077576

DESCRIPTION OF WORK
NEW S.F.D. + DETACHED GARAGE
DECK 12' x 30'

HOUSE TYPE Alexander
 ESTIMATED COST OF CONSTRUCTION 600,000
 USE GROUP OF BUILDING R5
 TYPE OF CONSTRUCTION 5B

DESIGNATED MECHANICS' LIEN AGENT
 (Residential Construction Only) # 3077576
 NAME Commonwealth Title & Land Ins. Co.
 ADDRESS 10513 JUDICIAL PL
FALLS CHURCH, VA 22030
 NONE DESIGNATED PHONE 703-591-2409



ZONING REVIEW
 USE SD
 ZONING DISTRICT R-3 HISTORICAL DISTRICT _____
 ZONING CASE # _____
 GROSS FLOOR AREA OF TENANT SPACE _____

YARDS:	GARAGE	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>
FRONT <u>31</u>	OPTIONS	YES <input type="checkbox"/>	NO <input type="checkbox"/>	
FRONT <u>18</u>	REMARKS	<u>May SFD Alexander</u>		
R SIDE <u>14</u>		<u>w/ detached garage w/ deck</u>		
REAR <u>103'</u>		<u>+ no steps + the lot til</u>		
		<u>per co. detail L. H. H. G. H.</u>		
	REMARKS	<u>basic</u>		

Notes
Need copy of arch. plans + review at

Other setbacks:
low deck in rear: 9'
Detached garage: rear: 9'
left: 12'
right: 50.5'

Roofing height - 29.06'
Garage height - 25.91'

Any and all information and/or stamps on the reverse side of this form are a part of this application and must be compiled with. I hereby certify that I have authority of the owner to make this application, that the information is complete and correct, and that the construction and/or use will conform to the building code, the zoning ordinance and other applicable laws and regulations which relate to the property.

Bob Mdesle 0-04-07
 Signature of Owner or Agent Date

Bob Mdesle
 Printed Name and Title

(Notarization of signature is required if owner is listed as the contractor and is not present at time of application)

NOTARIZATION (if required)
 State (or territory or district) of _____
 County (or city) of _____, to-wit: I, _____
 Notary Public in the State and County aforesaid, do certify that _____
 whose name is signed to this application, appeared before me in the State and County aforesaid and executed this affidavit.
 Given under my hand this _____ day of _____, 20____
 My commission expires the _____ day of _____, 20____

 (Notary Signature)



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF VIOLATION

DATE OF ISSUANCE: July 16, 2009

SHERIFF'S LETTER

CASE #: 200903221 **SR#:** 50902

SERVE: Middleburg Associates LLC
c/o Joseph E. Bankert, Registered Agent
5845 Colfax Avenue
Alexandria, Virginia 22311

LOCATION OF VIOLATION 1253 Ingleside Avenue
McLean, Virginia 22101
Subdivision: Fairfax Land Companys Addition to Ingleside, Lot 1-B
Tax Map #: 30-2 ((3)) 1B
Zoning District: R-3

Dear Mr. Bankert:

An inspection of the above referenced property on June 23, 2009 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 10-104 (12D) Accessory Structure Location in the Side Yard
§ 2-302 (6) Accessory Use must comply with Article 10:

The presence of an accessory structure (detached garage) which measured approximately twenty-seven (27) feet in height is approximately 28' x 25' feet in area and is located approximately ten (10) feet from the side lot line. The minimum required side yard distance in the R-3 District is twelve (12) feet.

The Fairfax County Zoning Ordinance permits accessory structures to be located in minimum required yards; however, if the structure exceeds seven (7) feet in height, it must be located on the lot so as to comply with Par. 12D of Sect. 10-104 of the Zoning Ordinance which states:

Department of Planning and Zoning
Zoning Administration Division
Zoning Enforcement Branch
12055 Government Center Parkway, Suite 829
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-1343
www.fairfaxcounty.gov/dpz/



No accessory structure or use which exceeds seven (7) feet in height shall be located in any minimum required side yard.

Therefore, as this accessory structure exceeds seven (7) feet in height and is not located in accordance with the provisions of Par. 12D of Sect. 10-104 above, it is in violation of Par. 12D of Sect. 10-104 and Par. 6 of Sect. 2-302 of the Zoning Ordinance which states:

No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Par. 1 of Article 10.

You, as the registered agent are hereby directed to clear this violation within sixty (60) days of the date of this Notice. Compliance can be accomplished by:

- Removing the accessory structure from the property in its entirety;
or
- Reducing the height of the structure to seven (7') feet in height or less to allow it to remain at its present location; or
- Relocating the structure to a distance from the side lot lines in accordance with Par. 12D of Sect. 10-104 of the Zoning Ordinance as outlined above.

As an alternative, you may apply to the Fairfax County Board of Zoning Appeals (BZA) and actively pursue and ultimately obtain approval of a Group 9 Special Permit for an error in building location to allow the accessory storage structure to remain at its present height and at its present location. For information and answers to any questions regarding this application process, you may contact the Zoning Evaluation Division at 703-324-1290.

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$2455.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Middleburg Associates LLC
c/o Joseph E. Bankert, Registered Agent
July 16, 2009
Page 3

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1336 or (703) 324-1300.

Sincerely,

A handwritten signature in black ink that reads "Tammy R. Brown". The signature is written in a cursive, flowing style.

Tammy R. Brown
Senior Zoning Inspector

TRB/seg

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.