APPLICATION ACCEPTED: March 26, 2010
DATE OF PUBLIC HEARING: June 9, 2010
TIME: 9:00 a.m.

County of Fairfax, Virginia

June 2, 2010

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2010-LE-022

LEE DISTRICT

APPLICANT/OWNER:	Rafael Gonzalez
LOCATION:	5908 Atteentee Road
SUBDIVISION:	Springfield
TAX MAP:	80-3 ((2)) (63) 13
LOT SIZE:	16,842 square feet
ZONING:	R-3
ZONING ORDINANCE PROVISION:	8-914
SPECIAL PERMIT PROPOSAL:	To permit reduction to minimum yard requirements based on error in building location to permit accessory storage structure to remain 3.3 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 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.

O:\dhedri\Special Permits\(6-9) SP 2010-LE-022 Gonzalas\SP 2010-LE-022 Gonzalas staff report.doc Deborah Hedrick

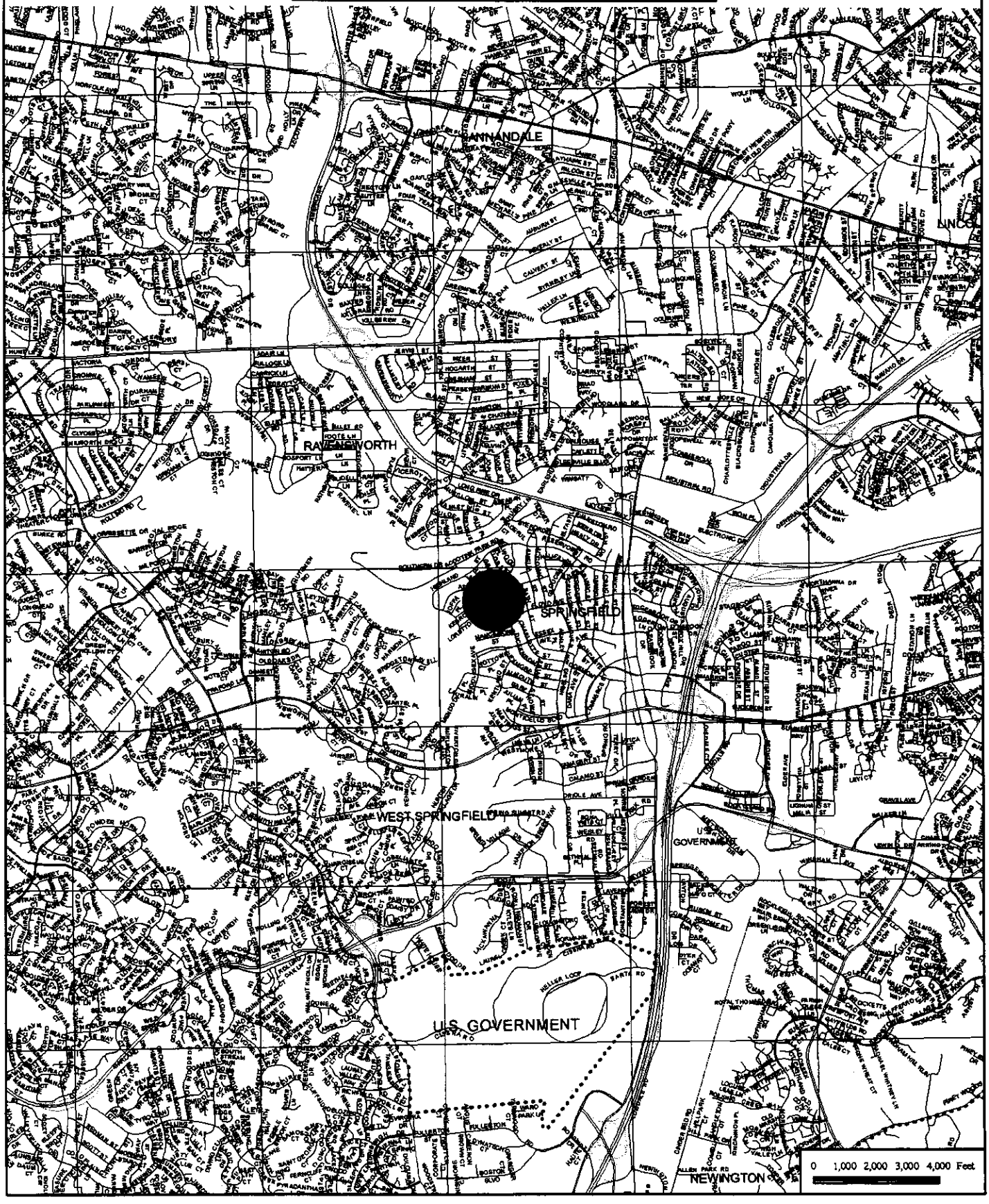
For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center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

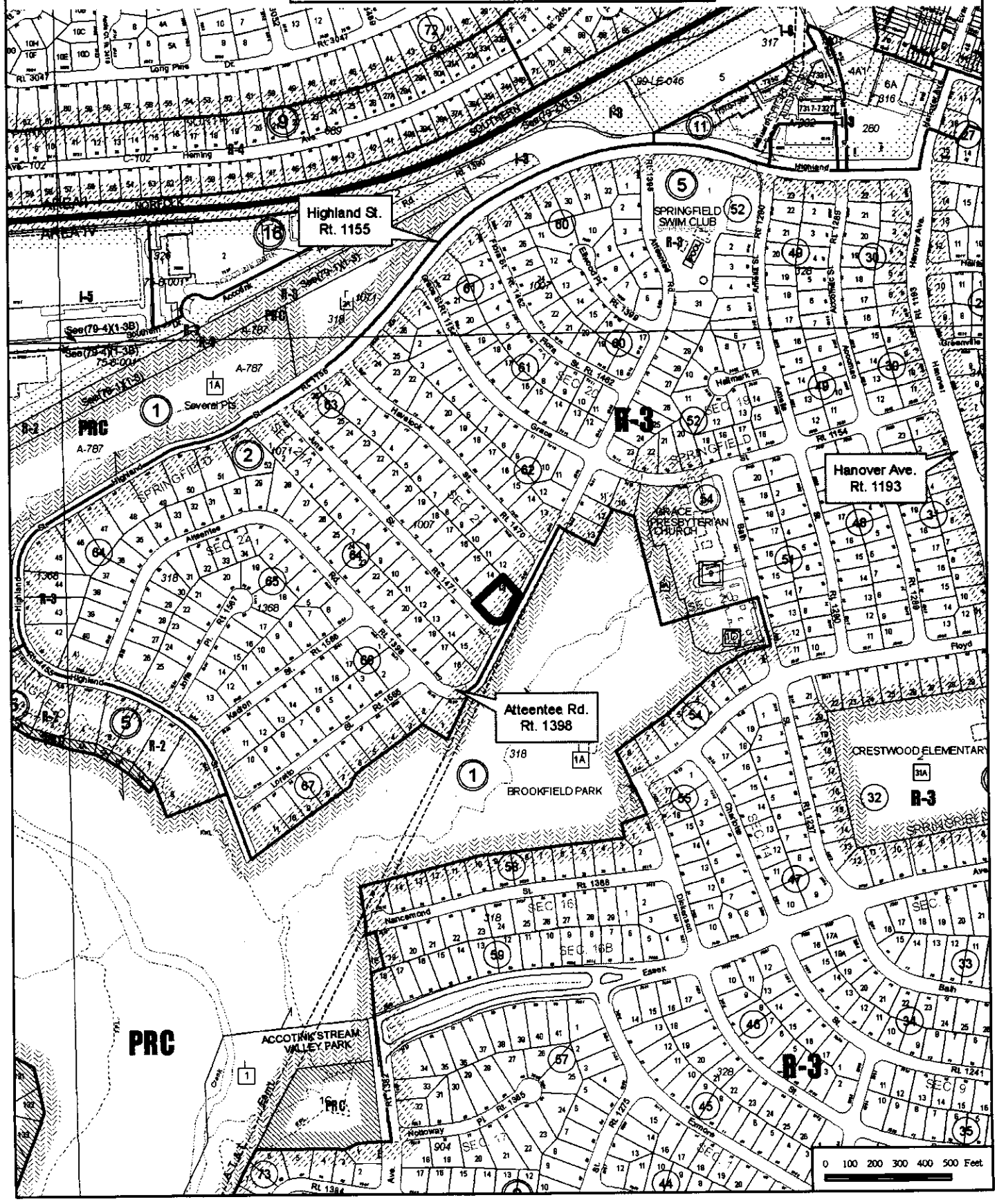
Special Permit

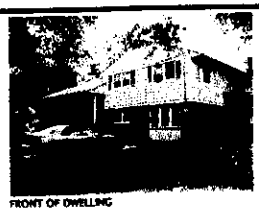
SP 2010-LE-022

RAFAEL GONZALEZ



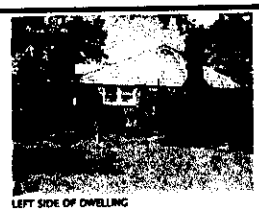
Special Permit
SP 2010-LE-022
RAFAEL GONZALEZ





FRONT OF DWELLING

RIGHT SIDE OF DWELLING



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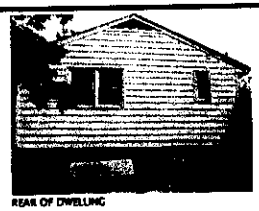

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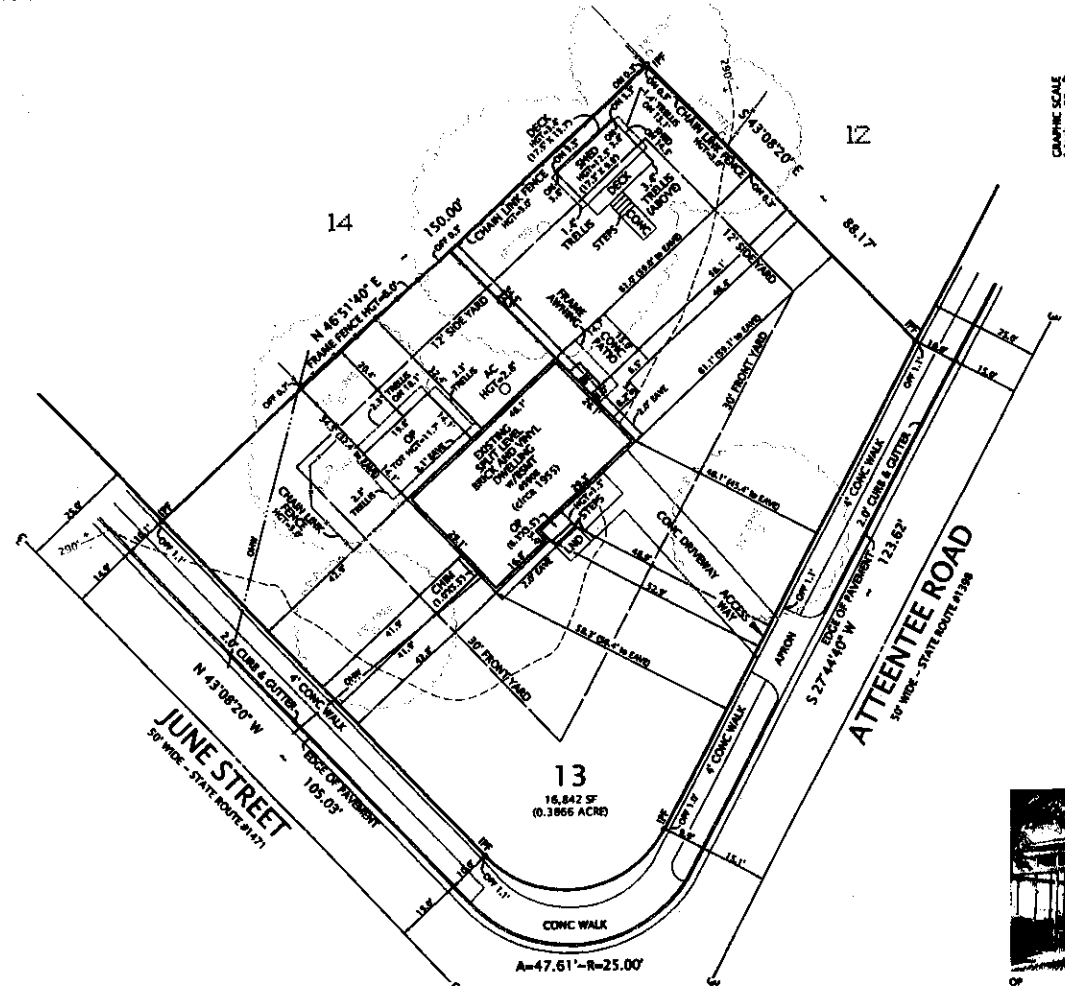

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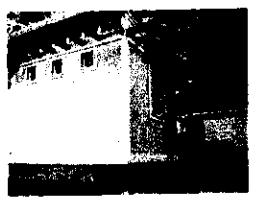

RIGHT SIDE OF SHED

NOTES

1. TAX MAP: 80-3-002-063-0013
2. ZONE: R-3 (RESIDENTIAL 3 DU/AC)
3. LOT AREA: 16,842 SF (0.3866 ACRE)
4. REQUIRED YARDS:

FRONT:	=	30 FEET
SIDE:	=	12 FEET
REAR (NONE):	=	25 FEET

5. HEIGHTS:

DWELLING	=	18.3 FEET
SHED	=	12.5 FEET
OP'S	=	AS NOTED
DECK	=	03.4 FEET
FENCES	=	AS NOTED

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. ALL IMPROVEMENTS SHOWN ON THIS PLAT ARE EXISTING UNLESS DENOTED AS PROPOSED.
9. THE SURVEYOR IS NOT AWARE OF ANY UTILITY EASEMENTS 25 FEET IN WIDTH OR GREATER AFFECTING THIS PROPERTY.
10. TOPOGRAPHY DELINEATED HEREON WAS TAKEN FROM AVAILABLE RECORDS, IS SHOWN AT 5' INTERVALS, AND IS AERIAL.
11. THERE ARE NO FLOODPLAINS OR RESOURCE PROTECTION AREAS ON THIS PROPERTY.
12. AREAS

EXISTING GROSS FLOOR AREA

BASEMENT	=	764 SF
FIRST FLOOR	=	487 SF
SECOND FLOOR	=	764 SF
GROSS FLOOR AREA	=	2,015 SF

FLOOR AREA RATIO
EX GFA (2015) / LOT AREA (16842) = 0.12

PLAT

SHOWING THE IMPROVEMENTS ON
LOT 13, BLOCK 63, SECTION TWENTY-ONE

SPRINGFIELD

(DEED BOOK 1281, PAGE 157)
FAIRFAX COUNTY, VIRGINIA
LEE DISTRICT
SCALE: 1" = 20' JUNE 22, 2009

I HEREBY CERTIFY THAT THE POSITIONS OF ALL THE EXISTING IMPROVEMENTS HAVE BEEN CAREFULLY ESTABLISHED BY A CURRENT FIELD SURVEY AND UNLESS SHOWN THERE ARE NO VISIBLE ENCROACHMENTS AS OF THIS DATE:

THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD.

A TITLE REPORT WAS NOT FURNISHED.

COMMONWEALTH OF VIRGINIA
06/22/2009
GEORGE M. O'QUINN
LICENSE NO. 2009
LAND SURVEYOR
George M. O'Quinn

CASE NAME:
RAFAEL GONZALEZ

DOMINION Surveyors Inc.
8808-H PEAR TREE VILLAGE COURT
ALEXANDRIA, VIRGINIA 22309
703-819-8555
FAX: 703-799-8412

#90619001

#30-09

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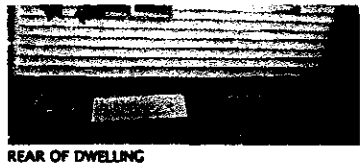
FRONT OF DWELLING

RIGHT SIDE OF DWELLING

LEFT SIDE OF DWELLING



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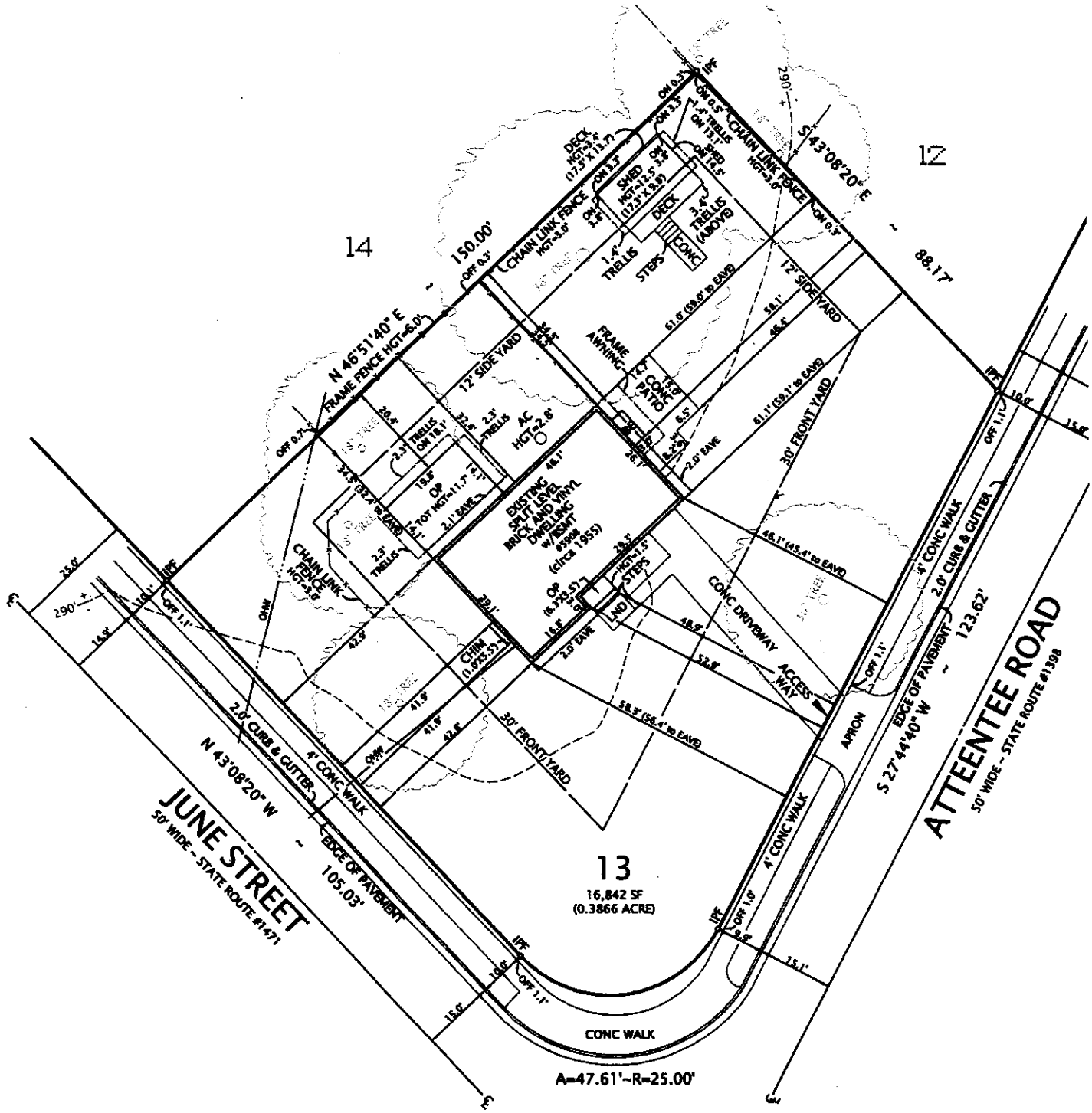

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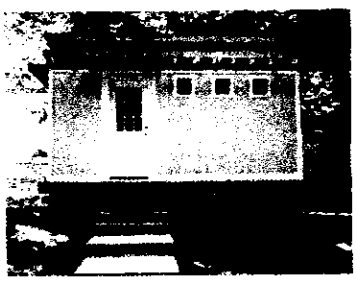

FRONT OF SHED

LEFT SIDE OF SHED

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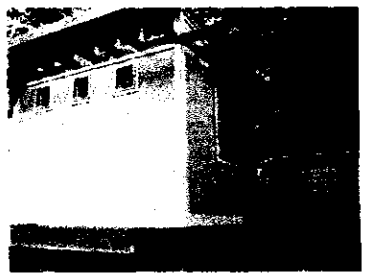

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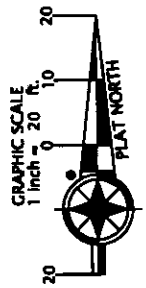

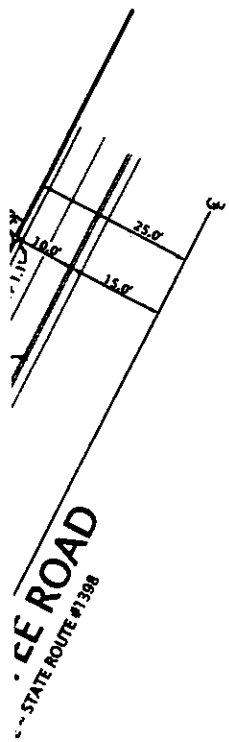

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PLAT

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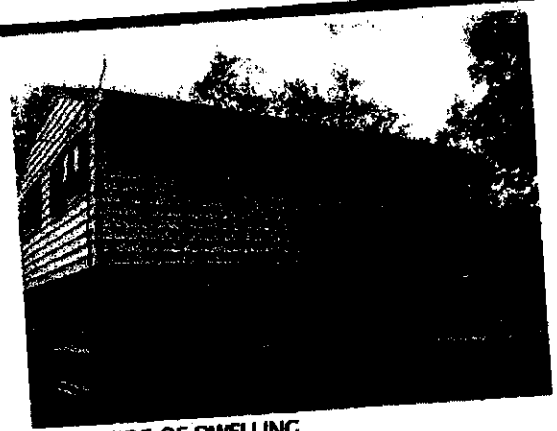
COMMONWEALTH OF VIRGINIA
06/22/2009
GEORGE M. O'QUINN

CASE NAME:

RAFAEL GONZALEZ

ST OF DWELLING



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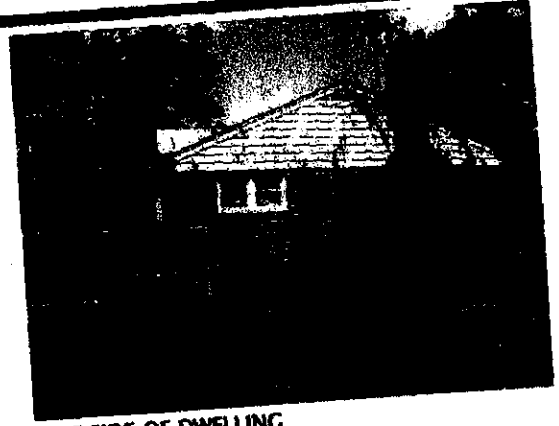

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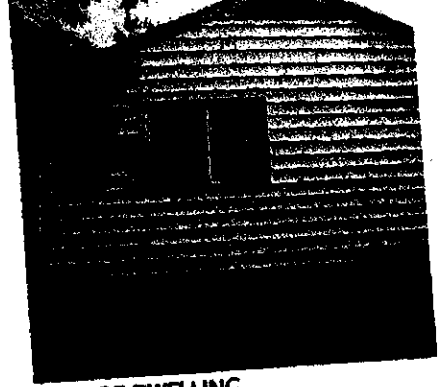

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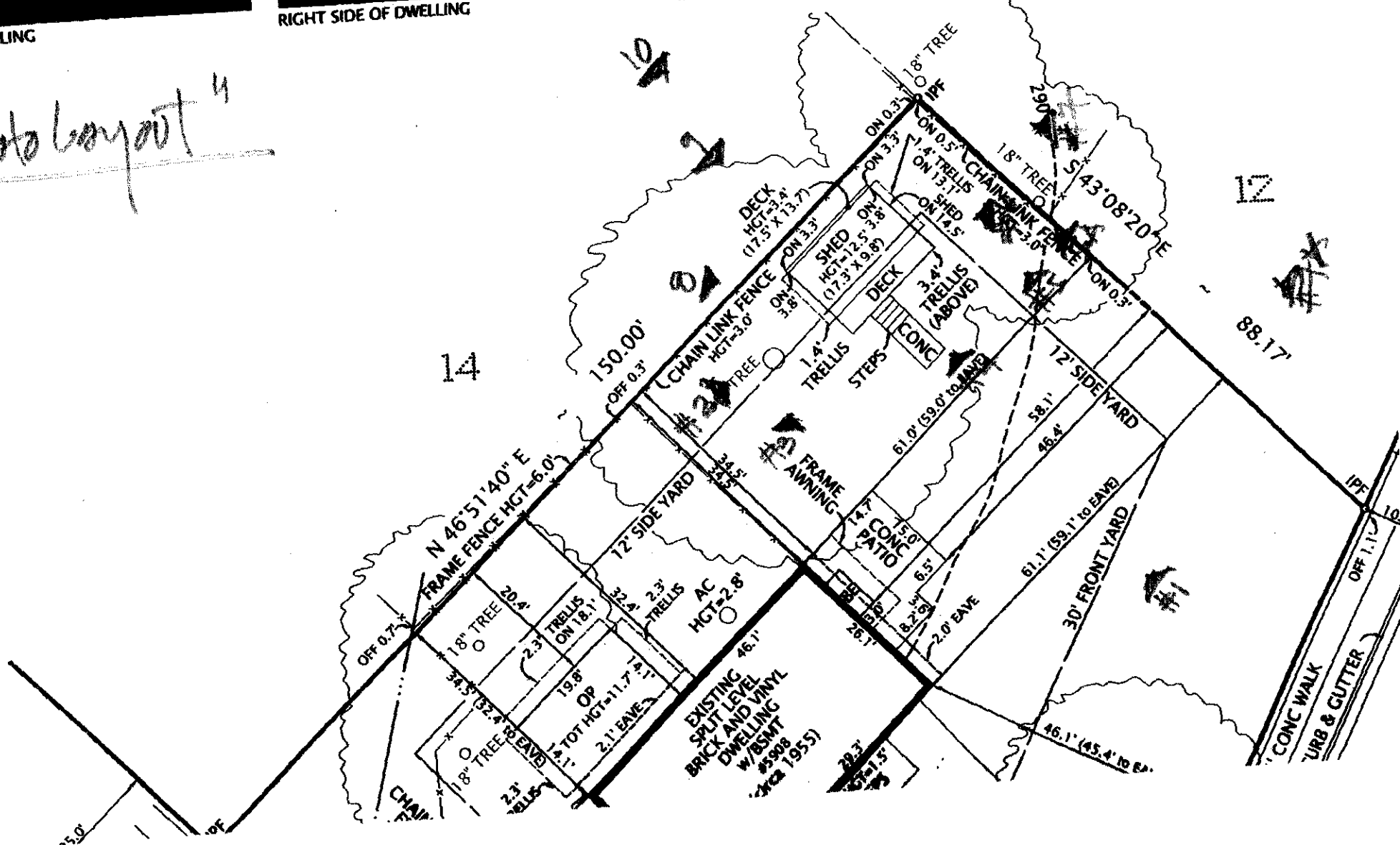

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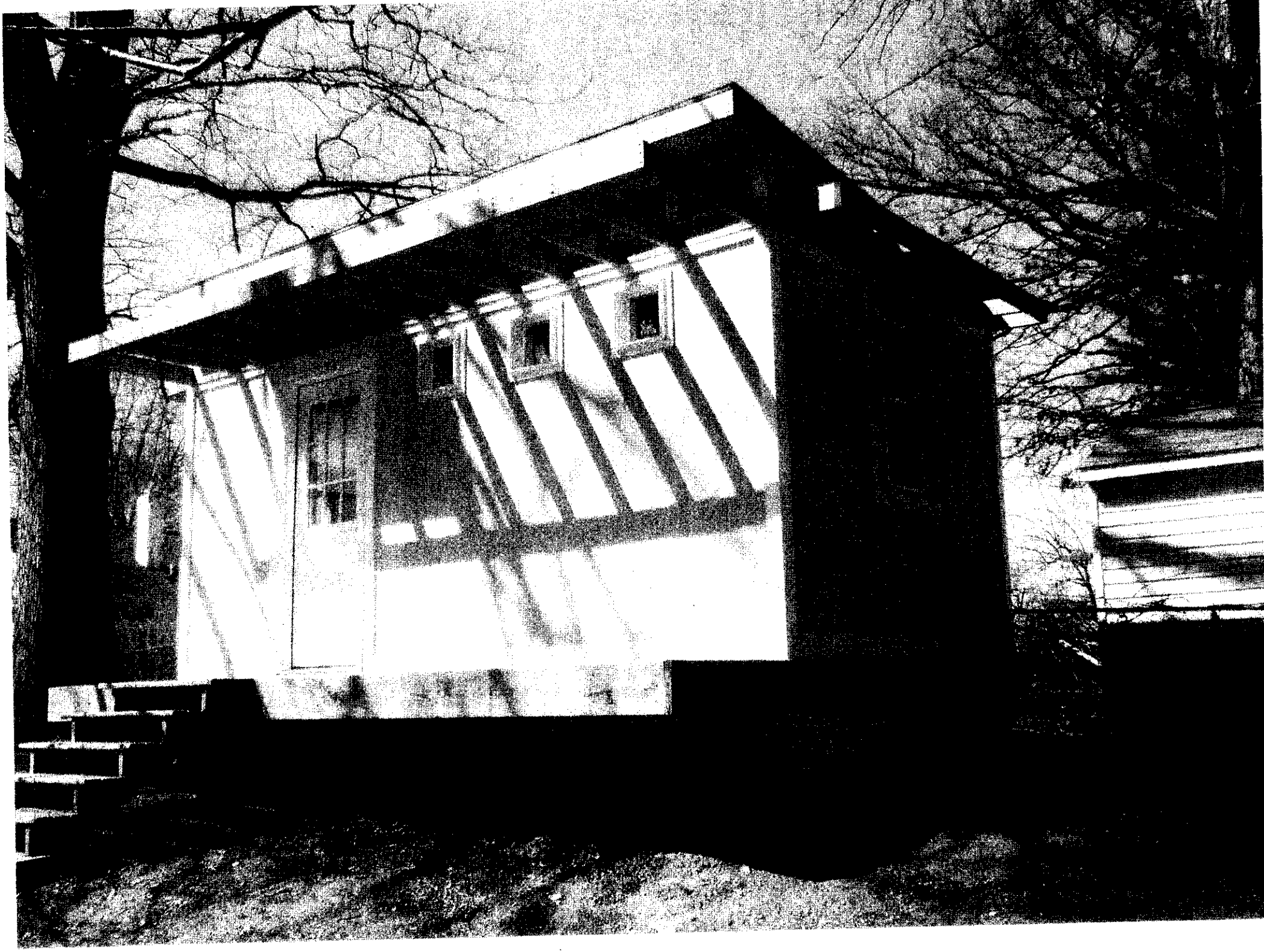

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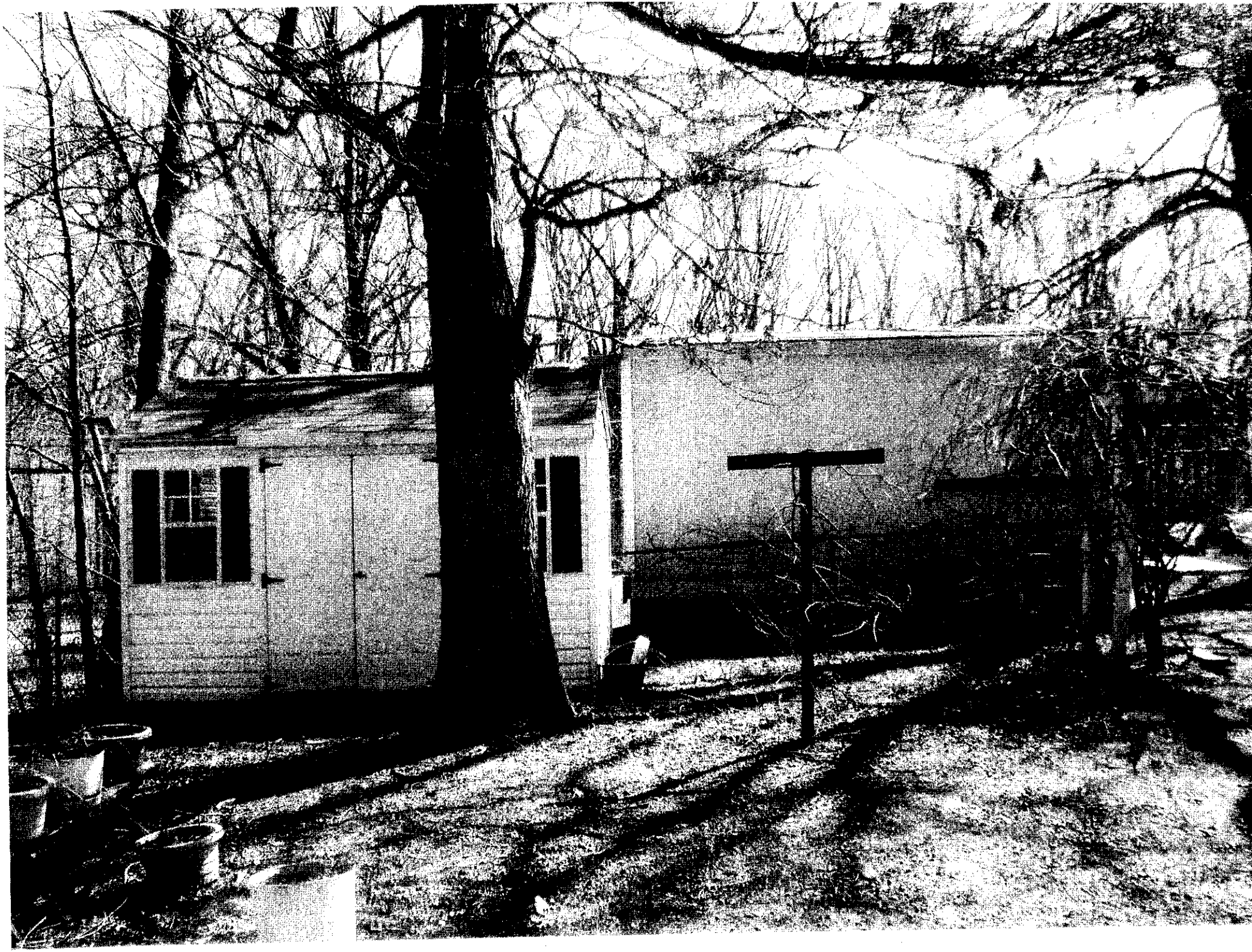
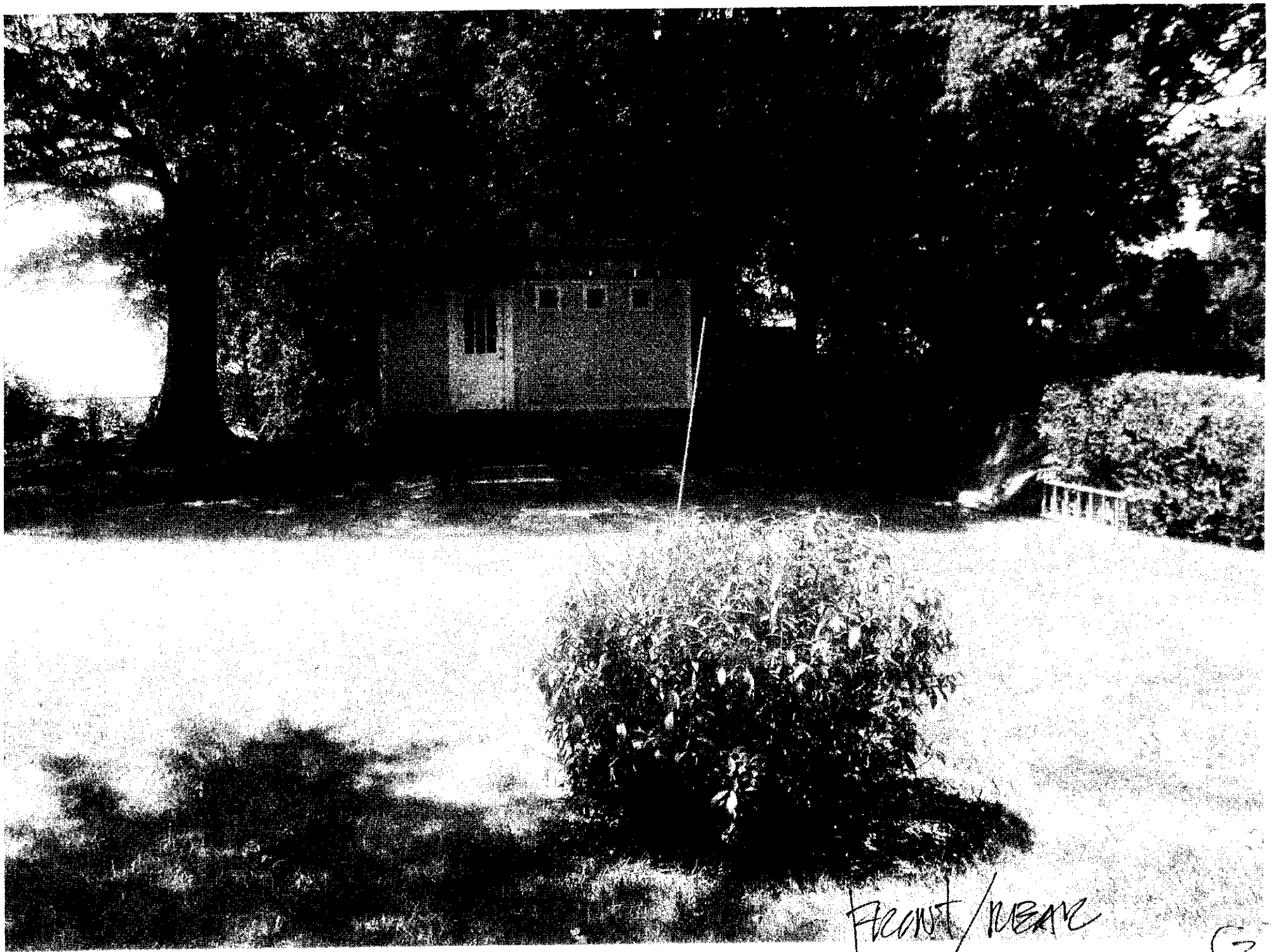
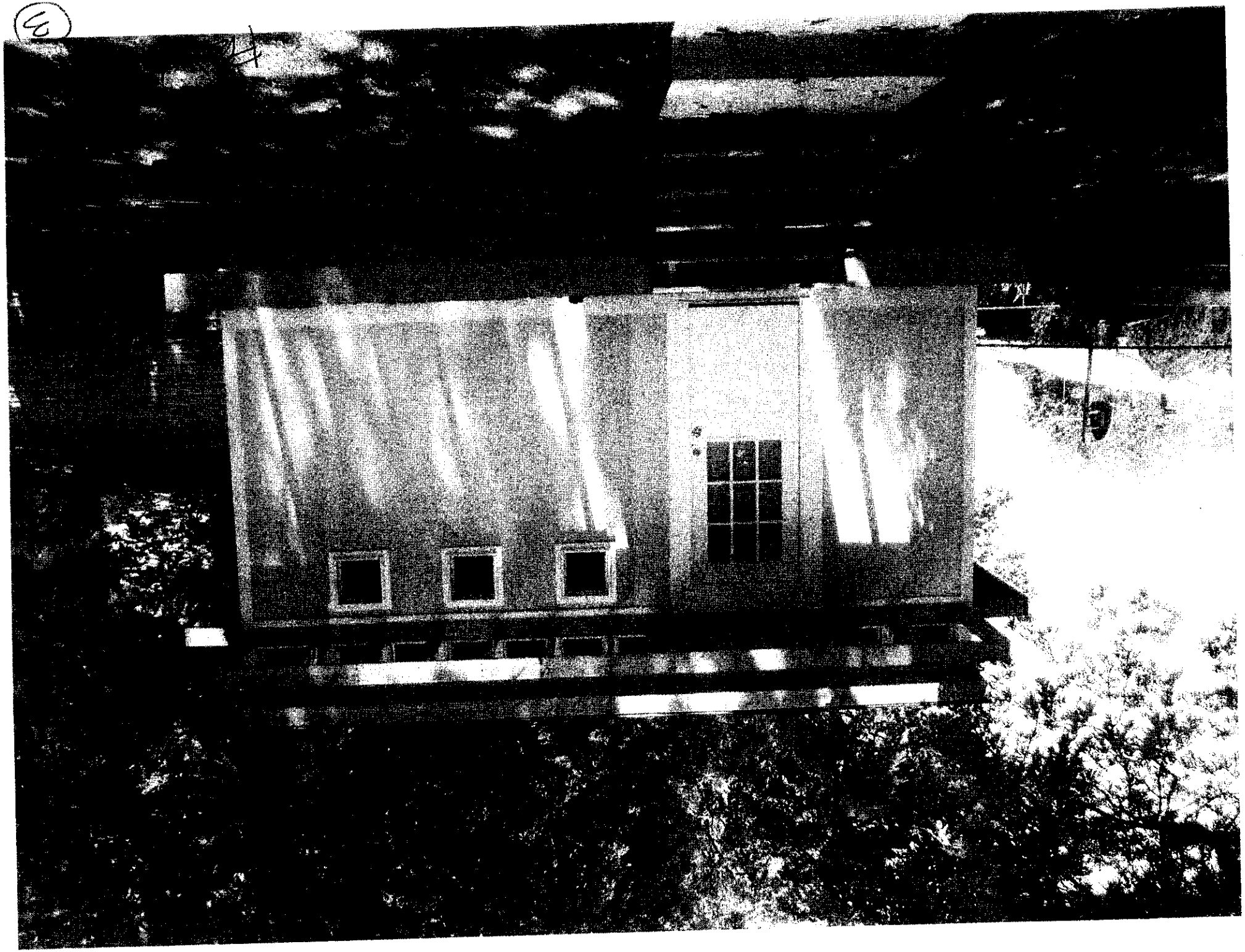
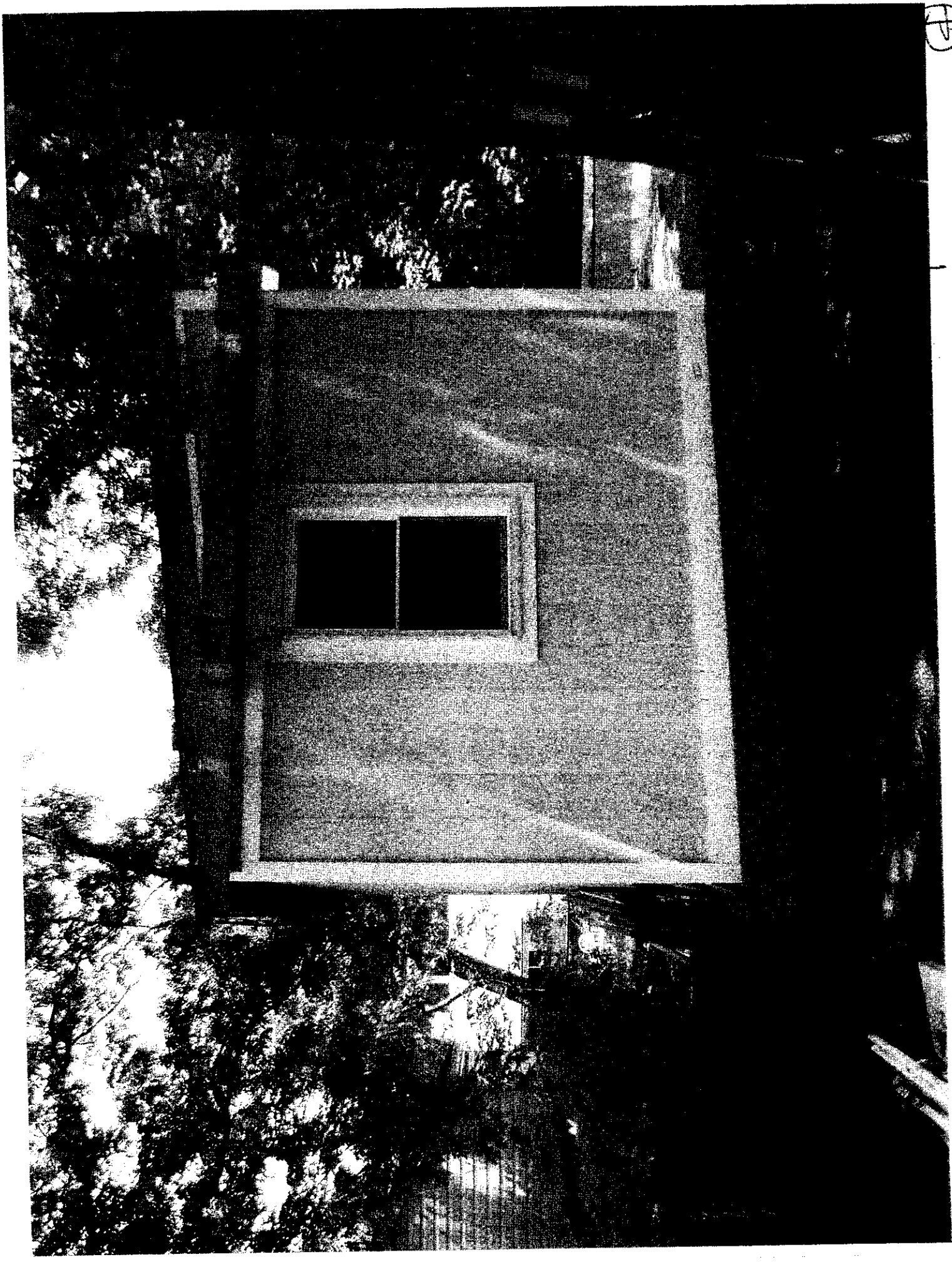




FRONT / REAR

(2)





LEF/REAR

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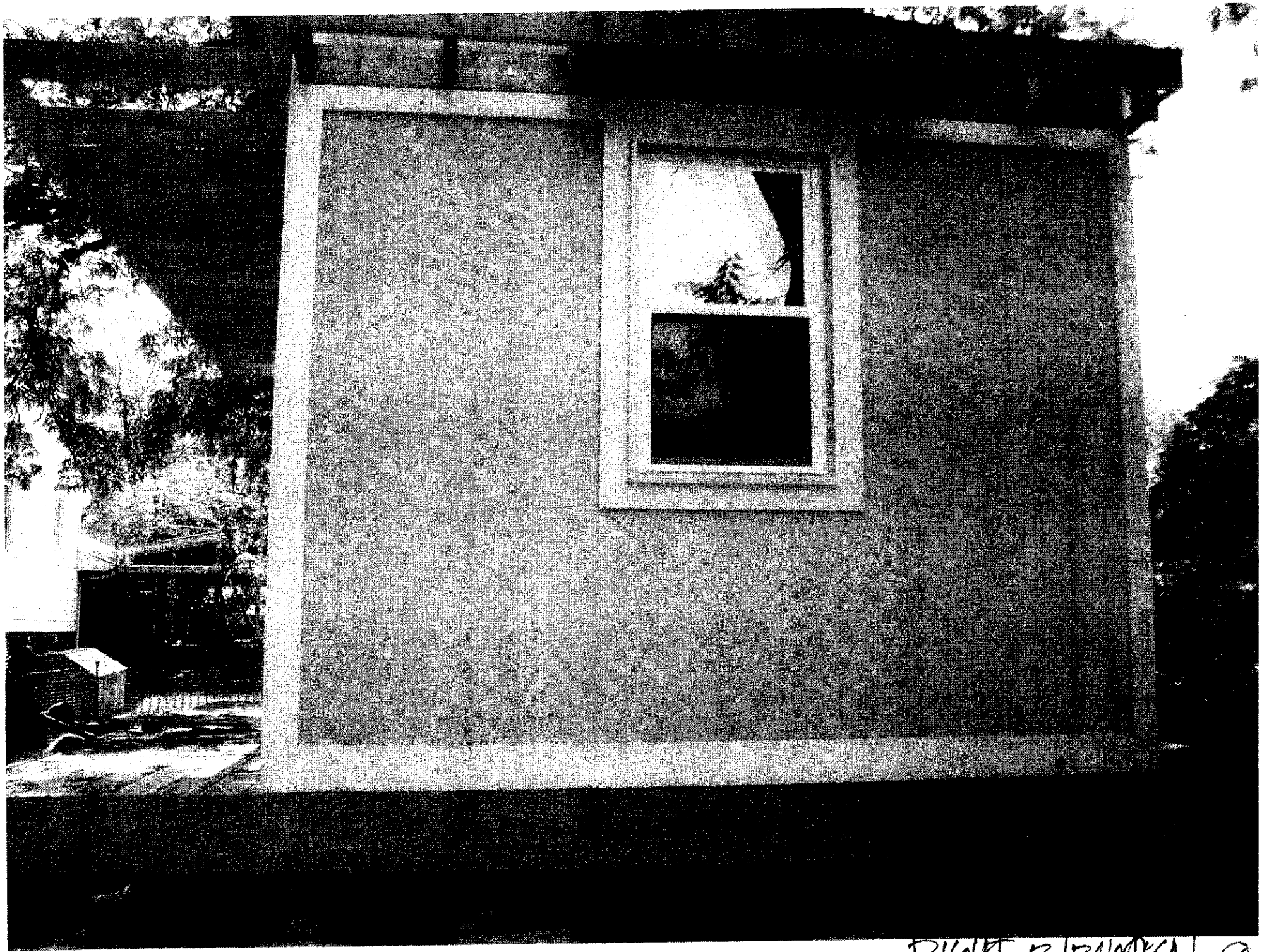

RIGHT ELEVATION (G)

DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of a special permit for an error in building location to permit a 12 ½ foot tall accessory storage structure to remain 3.3 feet from the western side lot line.

	Structure	Yard	Min. Yard Req.*	Structure Location	Amount of Error	Percent of Error
Special Permit	**Accessory Storage Structure**	Side	12.0 feet	3.3 feet	8.7 feet	73%

* Minimum yard requirement per Section 10-104

LOCATION AND CHARACTER

Character of the Area

	Zoning	Use
North	R-3	Single Family Detached Dwelling
South	PRC	Fairfax County Park Authority – Brookfield Park
East	R-3	Single Family Detached Dwelling
West	R-3	Single Family Detached Dwelling

Existing Site Description

The 16,842 square foot lot is developed with a split-level brick and vinyl single family detached dwelling constructed in 1955. The corner lot is a flat lot and contains some mature vegetation scattered throughout the yard. There are two (2) additional small portable storage units located behind the large accessory storage structure; however, they would be permitted by-right since they do not exceed 8.5 feet in height.

ANALYSIS OF SPECIAL PERMIT APPLICATION

- **Title of SP Plat:** Plat Showing the Improvements on Lot 13, Block 63, Section Twenty-one, Springfield
- **Prepared By:** Dominion Surveyors, Inc., dated June 22, 2009
- **Building Permits Required:** Yes, since the structure measures 239.75 square feet in size
- **Obtained:** No
- **Location Error Made By:** Applicant

BACKGROUND

On May 8, 2009, the applicant was issued a Notice of Violation (NOV) for the location of the accessory storage structure, as well as no building permits for the construction of the accessory storage structure. The NOV is attached as Appendix 4.

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

ZONING ORDINANCE REQUIREMENTS (See Appendix 5)

- 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)

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. Notice of Violation dated May 8, 2009
5. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2010-LE-022

June 2, 2010

1. This special permit is approved for the location of an existing detached accessory storage structure as shown on the plat prepared by Dominion Surveyors, Inc., dated June 22, 2009, submitted with this application and is not transferable to other land.

2. Within 120 days of approval of this application, all applicable permits and final inspections shall be obtained for the detached accessory storage structure or the structure shall be removed or brought into compliance with Zoning Ordinance requirements.

3. The accessory structure shall not be converted into livable space.

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-LE-022
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 13, 2009
(enter date affidavit is notarized)

I, Rafael Gonzalez, 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

105556

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)
Rafael Gonzalez	5908 Atteentee Road Springfield, VA 22150	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): SP 2010-LE-022
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 13, 2009
(enter date affidavit is notarized)

105556

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): SP 2010-LE-022
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 13, 2009 105556
(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**)

N/A

(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.

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SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 13, 2009 105556

(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:

N/A

[✓] 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-LE-022

(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: July 13, 2009 105556

(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 [ ] Applicant's Authorized Agent

Rafael Gonzalez

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

Subscribed and sworn to before me this 13th day of July 2009, in the State/Comm. of Virginia, County/City of Fairfax.

Notary Public

My commission expires: July 31, 2011

PATRICIA ACEVEDO
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #333087
My Commission Expires July 31, 2011

Rafael Gonzalez
5908 Atteentee Road
Springfield, VA 22150
(703) 644-4384

March 22, 2010

Virginia H. Ruffner
Clerk, Board of Zoning Appeals
Zoning Evaluation Division
Department of Planning & Zoning
12055 Government Center Parkway Suite 801
Fairfax, VA 22035-5508

RECEIVED
Department of Planning & Zoning
MAR 24 2010
Zoning Evaluation Division

RE: SP-2009-0216

Gentlemen:

As requested in your correspondence dated **August 17th, 2009**, we are re-submitting the indicated items, in an effort to expedite the **Special Permit Application** process. The items will be addressed in the order prescribed as per **8-914 Standards**, **Section 2A through G.**

Sub-Section 2.A

The accessory **Storage Shed** built in the **Rear Yard**, does **not comply** with the **zoning requirements** stipulated by the county. The specific requirements are **12'-0 Side and 24'-0" on the Rear Yard.** The built structure is actually encroaches into those requirements, having a **Side Yard of 3'-3"** and a **Rear Yard of 14'-6"** respectively. Additionally, because the **terrain slopes** in **2 directions**, the structure was floated on columns to adapt to the sloping terrain permitting natural drainage, below the structure. The effort to work with the terrain created the issue with the height of the structure. At the most critical corner (east façade), it has a **height** of **12'-1".** At the lowest roof line it is **10'-8-1/2"**. All these heights are taken from the line of terrain, which varies at the **4 corners** of the structure.

Sub Section 2B

The **non compliance** was done in **good faith**. Location was chosen on the basis of the existing location of our rear neighbor's existing shed, in an effort to maintain a **"Shed zone"** and thereby liberating the remaining property for future development (house expansion and Garage). The size of our **Shed** was computed on the basis of the enclosed area (**168 SF**), never thinking the **Access Balcony's** area (**56 SF**), had to be computed in the equation. Because the built area exceeds the **150 SF limit** specified for

non permitted construction, we've been requested to obtain **Permits & subsequent inspections**, for the construction. It is my understanding this step must be complied with after the **Special Permit** is granted. However, we are presently preparing the construction drawings for submission in the eventuality the **Special Permit** is granted.

The location of the **Shed** is not **detrimental** to the **properties** of our **immediate neighbors**, as **attested** by their letters submitted in the initial package and the attached photos. It will definitely **not create** any **unsafe conditions** and it is so **far removed** from the street that it will **not have any impact what so ever.**

I understand there are **significant & obvious** grounds for **non approval** of the **Special Permit.** However, we hope it is evident the construction **does not** have any **negative impact** on our **immediate neighbors** or the **street**.

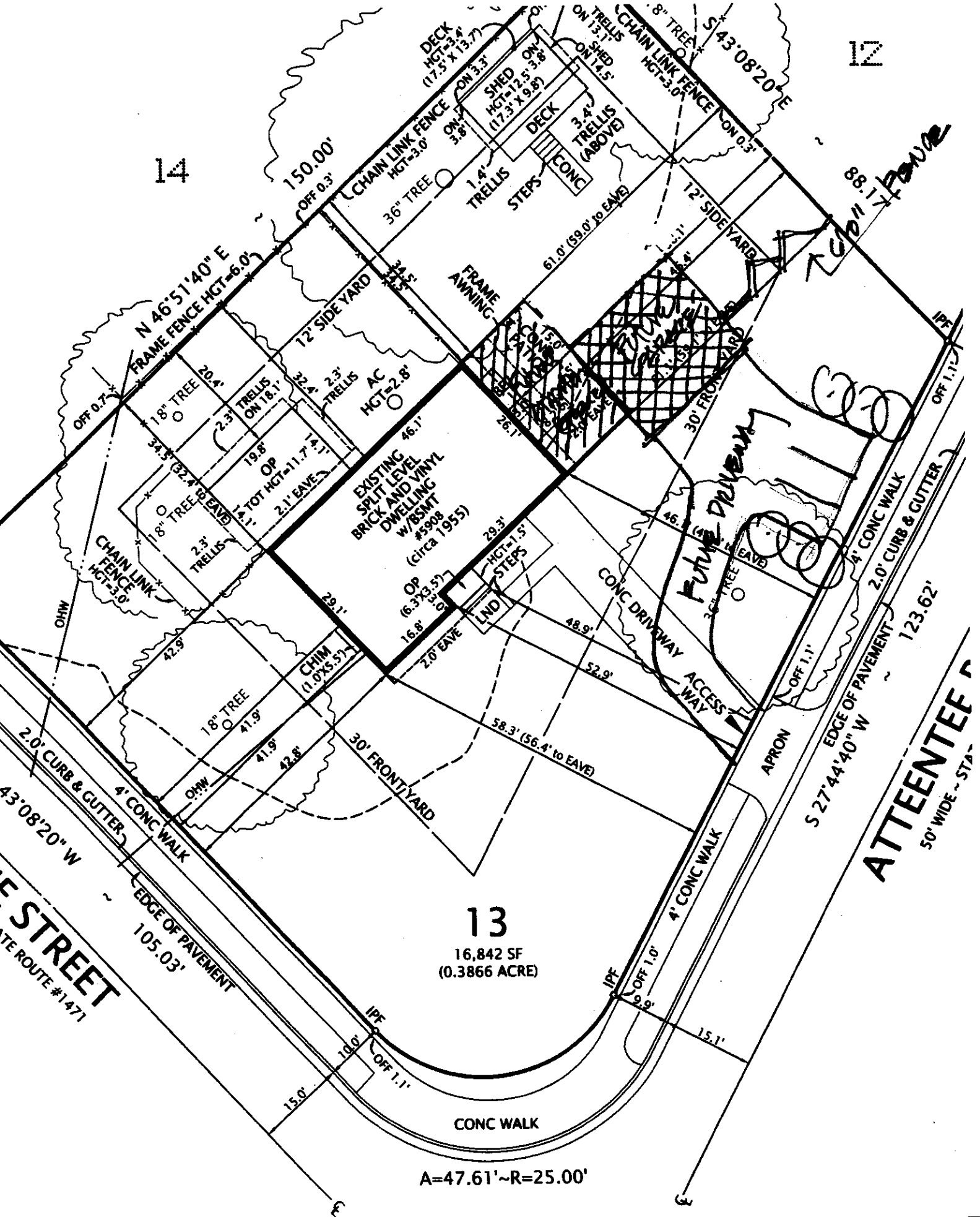
The **Shed** was designed to **store** the typical tools and amenities **intrinsic** in its function. We even use to store **plans**. **Hazardous materials** are **never** stored within and we've taking advantage of the **floating aspect** of the structure, to store materials generally considered **unsightly** within the space below the floor. The unit is extremely well constructed. It is supported on **2 rows of 12" diameter Concrete Columns**. These are spanned longitudinally, by **2 parallel 10" x 16** gauge **Box Beams**, transferring the loads received from the **floor framing**, **Perimeter Load Bearing Walls** and **Roof Assembly**, to the **columns & foundations**, The exterior finish is **HardiBoard** panels over an exterior wall assembly of **Tyvek + Plywood sheathing + insulation**. The interior walls are **painted drywall. Punched fenestration** provides **natural lighting** without the need for electricity and the exterior is adorned with **Wood Pergolas** designed to **humanize** the **"Shed",** making it very attractive to the eye.

The **Special Permit Application**, is being requested in an effort to bring the structure to **compliance** with the requirements of the **Fairfax County Zoning Ordinance**, albeit with **modifications** to the **yard requirements**. If the **Special Permit** is **denied**, we'd have to evaluate the **practical & cost implications** of **detaching** the main structure from the **supports** (columns), **lifting** the entire unit with the **equipment** necessary (if possible), prior to setting in new **foundations** to be **constructed** at a new location. Cost considerations could determine the ultimate solution be to **demo the structure**. Additionally, relocating it within the **yard stipulations** would satisfy the **zoning** requirements, however, in terms of the over all **planning of the site**, including the **planned addition** of a **Master Suite** and **Garage,** the relocation will not do very much **justice** to the over all development of the site. The idea is to **define** the **enclosure** of the **exterior spaces** with the **new construction**. In the event of **granting** the approval, we are ready to **comply** with **recommendations** made to the effect and to proceed with the **permitting process,** as required by the **Department of Code Enforcement.** The **intent** is to **comply** in one way or the other and bring the situation to closure.

We hope the attached information fulfills the submission requirements. Please call if you have questions and or comments.

Sincerely,

Rafael Gonzalez



14
12
13
16,842 SF
(0.3866 ACRE)
N 46°51'40" E
FRAME FENCE HGT=6.0'
150.00'
CHAIN LINK FENCE HGT=3.0'
DECK HGT=3.4' (17.5' X 13.7')
SHED HGT=12.5' (17.3' X 9.8')
DECK
CONC
STEPS
3.4' TRELLIS (ABOVE)
1.4' TRELLIS
36" TREE
12' SIDE YARD
FRAME AWNING
AC HGT=2.8'
OP TOT HGT=11.7'
2.1' EAVE
EXISTING SPLIT LEVEL BRICK AND VINYL DWELLING W/BSMT #5908 (circa 1955)
OP (6.3'X3.5')
HGT=1.5'
STEPS
LND
CHIM (1.0'X5.5')
30' FRONT YARD
CONC DRIVEWAY
ACCESS WAY
APRON
4' CONC WALK
2.0' CURB & GUTTER
EDGE OF PAVEMENT
S 27°44'40" W
123.62'
ATTEENTEE
50' WIDE ~ STA
S 43°08'20" E
88.17'
105.03'
43°08'20" W
STREET
TE ROUTE #1471
CONC WALK
A=47.61'~R=25.00'

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Department of Planning & Zoning

JUL 27 2009

Zoning Evaluation Division

Rafael Gonzalez
5908 Atteentee Road
Springfield, VA 22150
(703) 644-4384

July 27, 2009

Zoning Evaluation Division
Fairfax County
Department of Planning & Zoning
12055 Government Center Parkway Suite 801
Fairfax, VA 22035-5508

RE: Case #: 200901527
SR#: 48654

Gentlemen:

In response to the above **referenced violation**, I'm submitting a request for a **Group 9 Special Permit** from the **Board of Zoning and Appeals (BZA),** for the **Storage Shed** I constructed in my rear yard (see the attached plans). The initial issue is the location within the property. Considering the function of the structure (storage) and the stipulated area was to be approximately 144 SF, I located the structure in an area unfortunately conflicts with the **side and rear yard requirements** stipulated by **Zoning**. This conforms to the location of many of the **Sheds** in the neighborhood. The distance from the **side property line to the structure is 3'-6"**and from the **rear property line** to the structure **is 14'-6".** The intent was to locate the **Shed** in the area that would **least** affect the future expansions **Master Suite & Garage (see drawing)** and creation of a physical enclosure for the exterior spaces to be developed, through the physical elements themselves. In conversations with immediate neighbors, they have **no issues** with the location (see attached letters). In essence we are presently negotiating the joint construction of the fencing limiting our properties. This will make the **Shed** even **less evident** to them and once the **projected additions** are constructed, the **Shed** would be totally hidden from the street.

The intent was to build a unit **9' x 16' (144 SF).** There was mistake in the layout process the actual finished dimensions of the envelope turned out to be **13'-2" x 17'-4" (229 SF).**I did not contemplate the **Access Balcony** and decorative **Pergolas** had to be computed into stipulated area and adds **61 SF**. Without the **Access Balcony** space, the **interior storage** area is actually **168 SF**. Because the terrain slopes in two directions,

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Department of Planning & Zoning
JUL 27 2009
Zoning Evaluation Division

July 27, 2009

Zoning Evaluation Division
Fairfax County
Department of Planning & Zoning
12055 Government Center Parkway Suite 801
Fairfax, VA 22035-5508

RE: Case #: 200901527
SR#: 48654

the structure is floating off the ground **1'-8" at Point A, 2'-4" at Point B, 3'-4" at Point C and 2'-2 ½" at Pont D**, letting the terrain drain naturally under the structure. This approach resulted in **second issue** indicated in the **Notice of Violation**, **height**. The height was established from the **finished floor** and not from the **ground level**, which varies at each corner (see photographs).

As stated above, the intent was to build **Shed** within the design criteria stipulated by **BZA**. Unfortunately there was **issue of interpretation** and of course, **miscommunication** with the construction crew, resulting in the actual situation. This is not to excuse the occurrence. It is simply a reality. The structure is well constructed. We are in the process of **submitting** the necessary paperwork to obtain a **Special Permit**. If is granted, we will proceed with the procurement of the **Building Permit**.

The option of relocation seems **impractical** from the point of view of the **physical implications** of the move and of course from the point of **site utilization.** In reality the options available are 1 to **demolish** it or 2, to obtain the **Special Permit from the BZA.** We are therefore **submitting** the corresponding paper-works, **requesting the Special Permit.**

It is our hope the **Special Permit** will be **approved**. We understand the issues brought forth in the **Notice of Violation** are correct. However there was never an **overt intent** to override the criteria of the **BZA** and we are **extremely** sorry. The resulting product is rather attractive and the same seems to work within the framework of the criteria of **optimizing the site planning** and obtaining a **coherent product,** once the remaining expansions are undertaken and completed.

If you have any questions please contact us at the indicated address or call at the above indicated number or at **(703) 462-8870**.

Sincerely,

Rafael González

RECEIVED
Department of Planning & Zoning
JUL 27 2009
Zoning Evaluation Division

Ron Willis
5906 Atteentee Road
Springfield, VA 22150

July 13, 2009

County of Fairfax
Department of Planning & Zoning
12055 Government Center Parkway Suite 829
Fairfax, VA 22035-5508

RE: Case #: 200901527
SR#: 48654

Gentlemen:

In the case of above **referenced violation**, we are submitting this letter supporting our neighbor **Rafael Gonzalez'** request for **Group 9 Special Permit** from the **Board of Zoning and Appeals (BZA),** for the **Storage Shed** he constructed. We the neighbors on the right side of his property have no objections to its **location or configuration. Mr. Gonzalez** has been our neighbor since **August 2002** and it is rather unfortunate this situation has arisen. We hope you'll **grant** him the requested **Special Permit.**

If you have any questions please contact me at the indicated address or call at **(703) 923-0134.**

Sincerely,

Ron Willis

RECEIVED
Department of Planning & Zoning
JUL 27 2009
Zoning Evaluation Division

Toni Fewell
7504 June Street
Springfield, VA 22150

July 13, 2009

County of Fairfax
Department of Planning & Zoning
12055 Government Center Parkway Suite 829
Fairfax, VA 22035-5508

RE: Case #: 200901527
SR#: 48654

Gentlemen:

In the case of above **referenced violation**, we are submitting this letter supporting our neighbor **Rafael Gonzalez'** request for **Group 9 Special Permit** from the **Board of Zoning and Appeals (BZA),** for the **Storage Shed** he constructed. We the neighbors on the **rear side** of his property have no objections to its **location or configuration. Mr. Gonzalez** has been our neighbor since **August 2002** and it is rather unfortunate this situation has arisen. We hope you'll **grant** him the requested **Special Permit.**

If you have any questions please contact me at the indicated address or call at **(703) 635-4521.**

Sincerely,

Toni Fewell

County of Fairfax, Virginia

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

RECEIVED
Department of Planning & Zoning
JUL 27 2009
Zoning Evaluation Division

NOTICE OF VIOLATION

DATE OF ISSUANCE: May 8, 2009

SHERIFF'S LETTER

CASE #: 200901527 **SR#:** 48654

SERVE: Rafael Gonzalez
5908 Atteentee Road
Springfield, VA 22150

LOCATION OF VIOLATION 5908 Atteentee Road
Springfield, VA 22150-3907
Springfield, Sec. 21, Blk. 63, Lot 13
Tax Map #: 080-3 ((2)) (63) 13
Zoning District: **R-3**

Dear Property Owner:

An inspection of the above referenced property on May 6, 2009 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 10-104 (10F) Accessory Storage Structure Location on a Corner Lot
§ 2-302 (6) Accessory Use must comply with Article 10:

The presence of an accessory storage structure which measured approximately 12 feet in height, is approximately 17 feet 4 inches by 13 feet 2 inches (229 square feet in area) and is located approximately 13 feet and approximately 3 feet 3 inches respectively from the side and rear lot lines.

The Fairfax County Zoning Ordinance permits accessory storage structures to be located in minimum required yards; however, if the structure exceeds eight and one-half (8½) feet in height, it must be located on the lot so as to comply with Par. 10F of Sect. 10-104 of the Zoning Ordinance which states:

> On a corner lot, the rear lot line of which adjoins a side lot line of a lot to the rear, an accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located:
>
> (1) Nearer to any part of the rear lot line that adjoins the side yard on the lot to the rear than a distance equal to the minimum required side yard on such lot to the rear, or
>
> (2) Nearer to the side street line than a distance equal to the minimum required front yard on the lot to the rear.

The minimum yard requirements for the R- 3 District are delineated in Par. 2(A)1 of Sect. 3-307 of the Zoning Ordinance are:.

> Minimum yard requirements:
>
> A. Single family dwellings
> (1) Conventional subdivision lot
> (a) Front yard: 30 feet
> (b) Side yard: 12 feet
> (c) Rear yard: 25 feet

Therefore, as this accessory storage structure exceeds eight and one-half (8 ½) feet in height and is not located in accordance with the provisions of Par. 10F of Sect. 10-104 above, it is in violation of Par. 10F 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 are hereby directed to clear this violation within fifteen (15) days of the date of this Notice. Compliance can be accomplished by:

- Removing the storage structure from the property in its entirety; or
- Reducing the height of the structure to eight and one-half (8 ½) feet or less to allow it to remain at its present location; or
- Relocating the structure to a distance from the rear and side lot lines in accordance with Par. 10F of Sect. 10-104 of the Zoning Ordinance as outlined above; or
- Making an application for and ultimately obtaining approval of a Group 9 Special Permit from the Board of Zoning Appeals (BZA) for an error in building location to allow the addition to remain at

its present location on the property and obtain approval of a Building Permit for the addition.

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 $375.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Specific instructions and requirements relative to the Special Permit Application can be obtained by contacting the Zoning Evaluation, Zoning Permit, 12055 Government Center Parkway, Fairfax, Virginia, telephone (703) 324-1290 between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

Should you have any questions or need additional information, please do not hesitate to contact me at (703)324-1414 or 703-324-1300.

Sincerely,

Michael Adams
Property Maintenance/Senior Zoning Inspector

MAA

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.