



APPLICATION ACCEPTED: February 23, 2011

DATE OF PUBLIC HEARING: May 11, 2011

TIME: 9:00 a.m.

# County of Fairfax, Virginia

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May 4, 2011

## STAFF REPORT

**SPECIAL PERMIT APPLICATION NO. SP 2011-MV-013**

### MOUNT VERNON DISTRICT

**APPLICANT/OWNER:** Fredi G. Guerke

**LOCATION:** 7918 Grimsley Street

**SUBDIVISION:** Mount Vernon Valley

**TAX MAP:** 101-1 ((5)) (25) 5

**LOT SIZE:** 9,176 square feet

**ZONING:** R-3 (Cluster)

**ZONING ORDINANCE PROVISION:** 8-914

**SPECIAL PERMIT PROPOSAL:** To permit reduction to minimum yard requirements based on error in building location to permit dwelling (garage addition) to remain 4.3 feet from a side lot line such that side yards total 13.7 feet.

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:\dhedn\Special Permits\5-11) SP 2011-MV-013 Guerke (error)\SP 2011-MV-013 Guerke 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.**

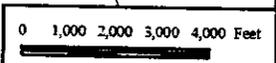
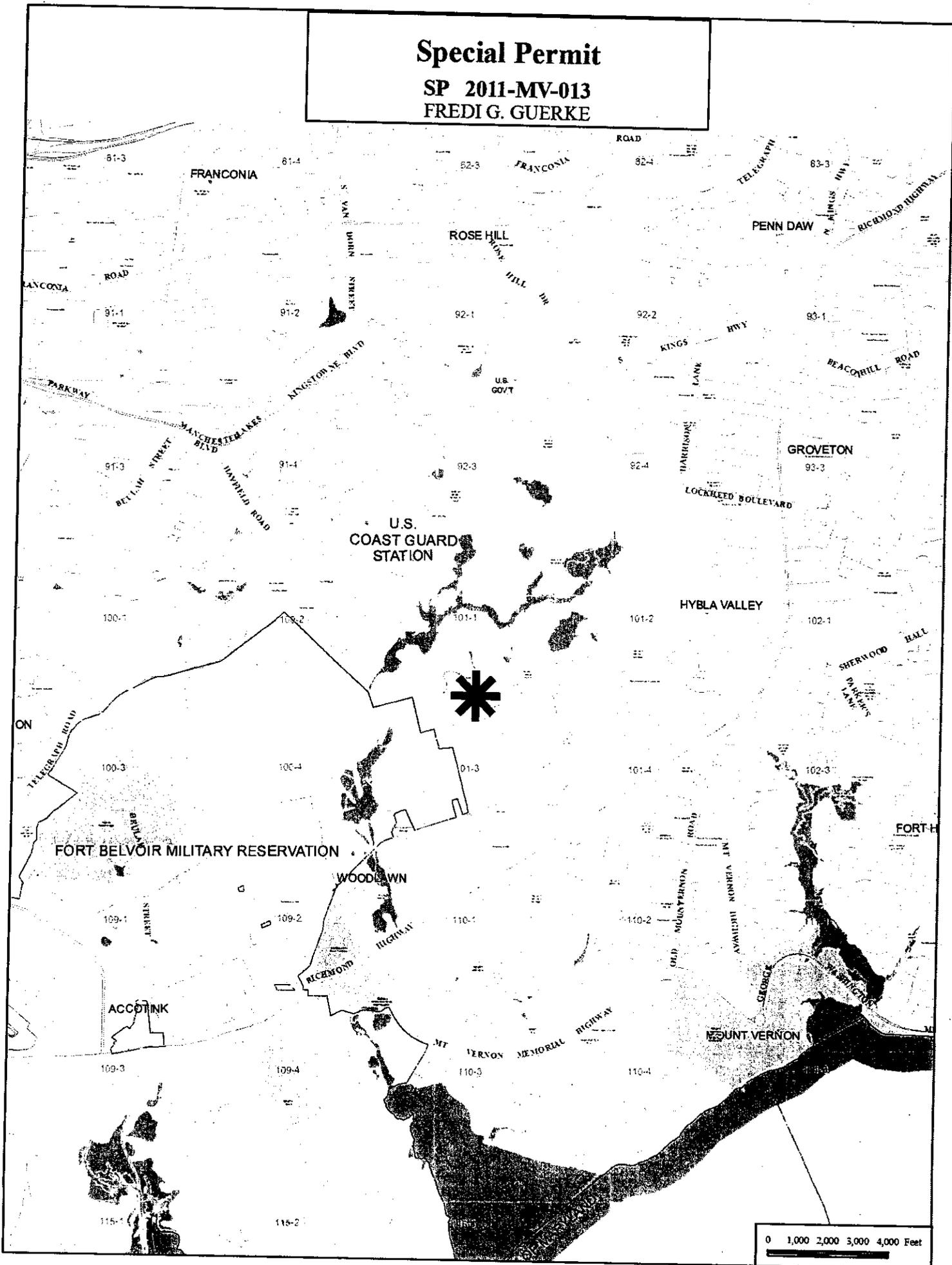


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

# Special Permit

SP 2011-MV-013

FREDI G. GUERKE





NOTES:

1. TAX MAP 101-1-05-250005
2. PROPERTY SHOWN HEREON IS ZONED:  
R-3C (R-3 W/CLUSTER DEV)
3. MINIMUM YARD REQUIREMENTS IN R-3C  
FRONT YARD: 20'  
SIDE YARD: 8', BUT A TOTAL MINIMUM OF 20'  
REAR YARD: 25'
4. PROPERTY IS SERVED BY PUBLIC WATER AND SEWER.
5. THE PROPERTY SHOWN HEREON IS LOCATED IN FLOOD ZONE "X" AS PER INSURANCE RATE MAP COMMUNITY PANEL NUMBER 51059C0405E EFFECTIVE DATE, SEPTEMBER 17, 2010.
6. THE RECORD PLAT DOES NOT SHOW ANY UTILITY EASEMENTS HAVING A WIDTH OF TWENTY-FIVE (25) FEET OR MORE EFFECTING THIS PROPERTY.
7. ELEVATION DATUM IS ASSUMED.

8. FLOOR AREA:

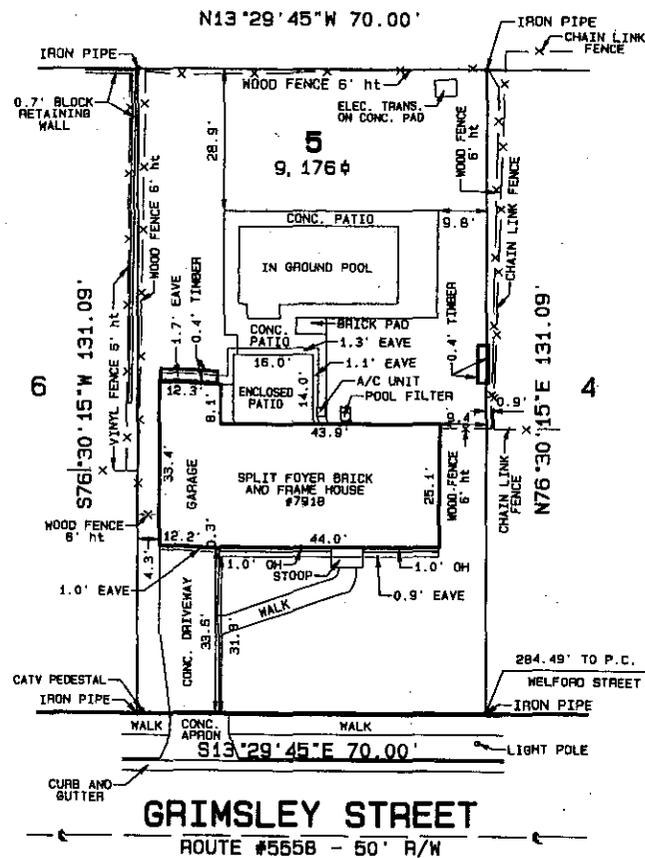
EXISTING GROSS FLOOR AREA HOUSE	1,138 SQ. FT.
EXISTING GROSS FLOOR AREA GARAGE	346 SQ. FT.
EXISTING GROSS FLOOR AREA ENCL. PATIO	224 SQ. FT.
<b>TOTAL FLOOR AREA</b>	<b>1,708 SQ. FT.</b>
FLOOR AREA RATIO: 0.18	

HEIGHT TABLE

EXISTING HOUSE:	16.0'
EXISTING GARAGE:	13.3'
EXISTING ENCLOSED PATIO:	13.7'



FAIRFAX COUNTY PARK AUTHORITY



CASE NAME: FREDI GUERKE  
SCHUYLER AHRENS

NO TITLE REPORT FURNISHED.  
PLAT SUBJECT TO RESTRICTIONS & EASEMENTS OF RECORD OR OTHERWISE.  
FENCE LOCATIONS, IF SHOWN, ARE APPROXIMATE ONLY  
AND DO NOT CERTIFY AS TO OWNERSHIP.

SCARTZ SURVEYS

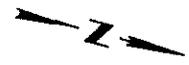
LARRY N. SCARTZ LOCAL (703) 494-4181  
CERTIFIED LAND SURVEYOR FAX (703) 494-3330  
WOODBRIIDGE, VIRGINIA LARRY.SCARTZ@SCARTZ.COM



SPECIAL PERMIT PLAT  
LOT 5, BLOCK 25, SECTION 11  
**MOUNT VERNON VALLEY**

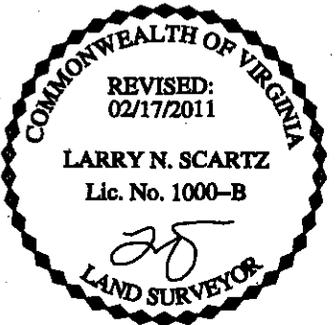
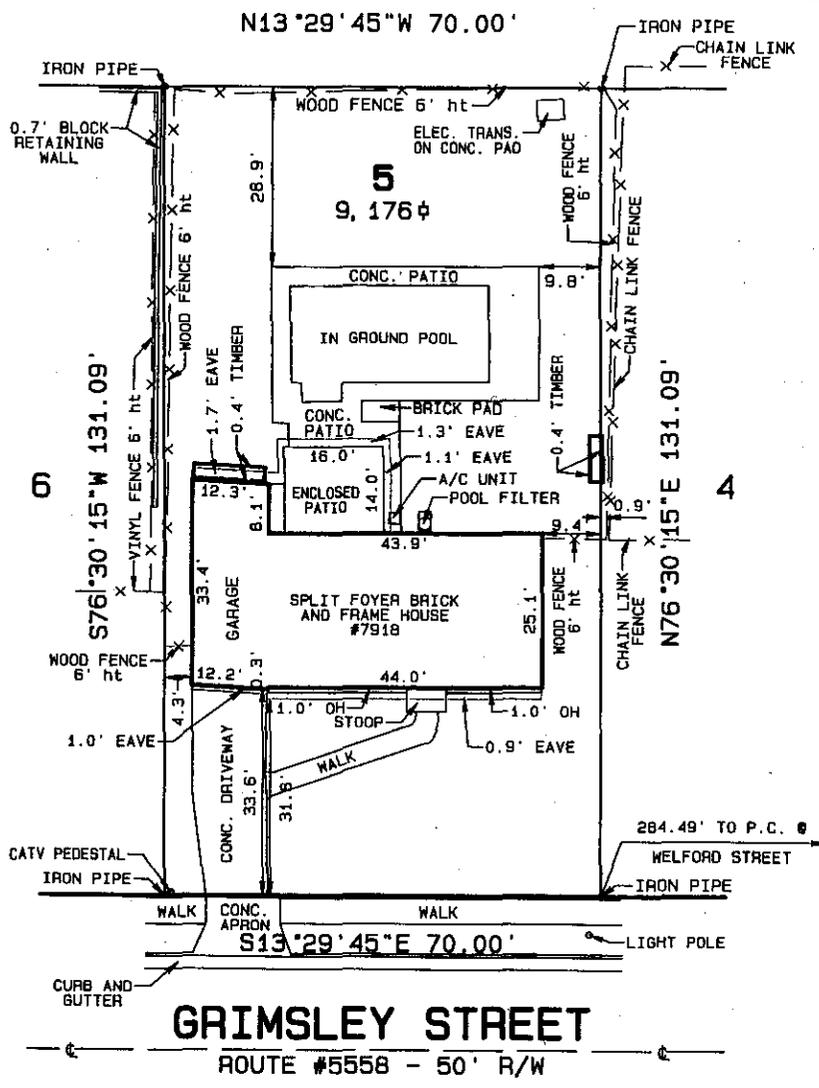
MOUNT VERNON MAGISTERIAL DISTRICT  
FAIRFAX COUNTY, VIRGINIA  
SCALE: 1"=25' DATE: JANUARY 5, 2011

FAIRFAX COUNTY PARK AUTHORITY



ONED:  
 IN R-3C  
 OTAL MINIMUM OF 20'  
 IC WATER AND SEWER.  
 IS LOCATED IN FLOOD  
 RATE MAP COMMUNITY  
 FFECTIVE DATE.  
 HOW ANY UTILITY  
 F TWENTY-FIVE (25)  
 S PROPERTY.

HOUSE	1,138 SQ. FT.
GARAGE	346 SQ. FT.
ENCL. PATIO	224 SQ. FT.
<b>TOTAL</b>	<b>1,708 SQ. FT.</b>



LE  
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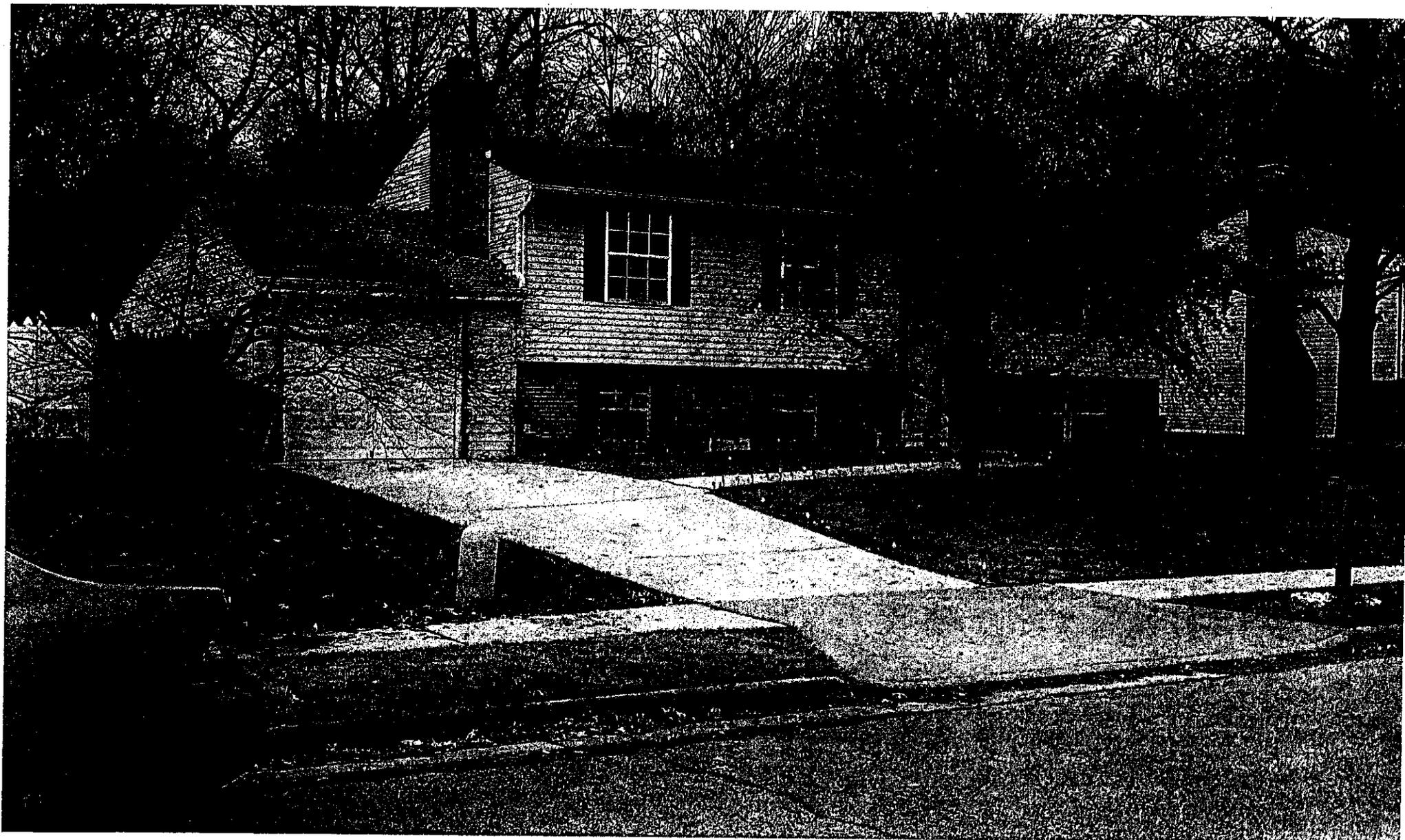
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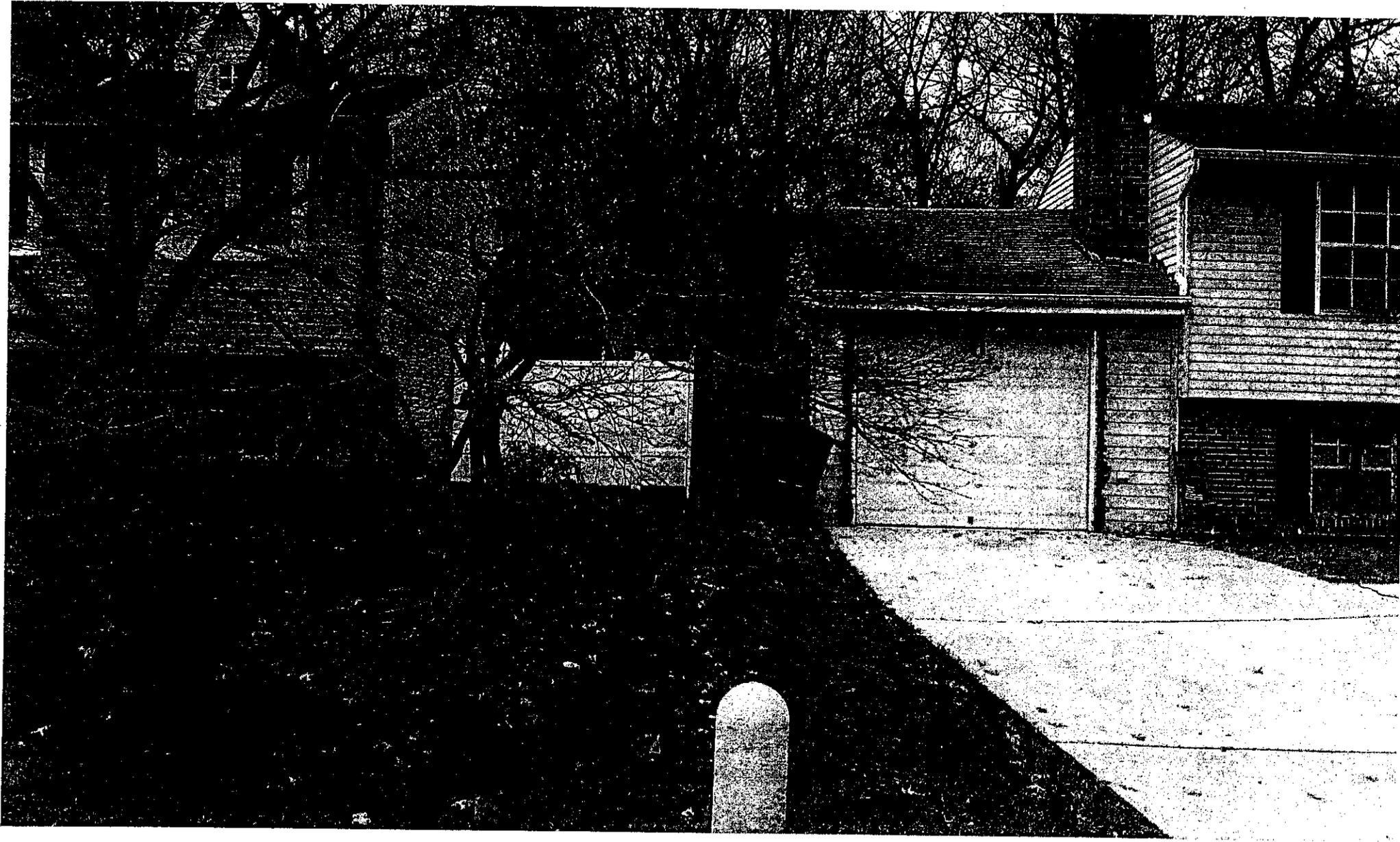
**SPECIAL PERMIT PLAT**  
 LOT 5, BLOCK 25, SECTION 11  
**MOUNT VERNON VALLEY**  
 MOUNT VERNON MAGISTERIAL DISTRICT  
 FAIRFAX COUNTY, VIRGINIA  
 SCALE: 1"=25' DATE: JANUARY 5, 2011





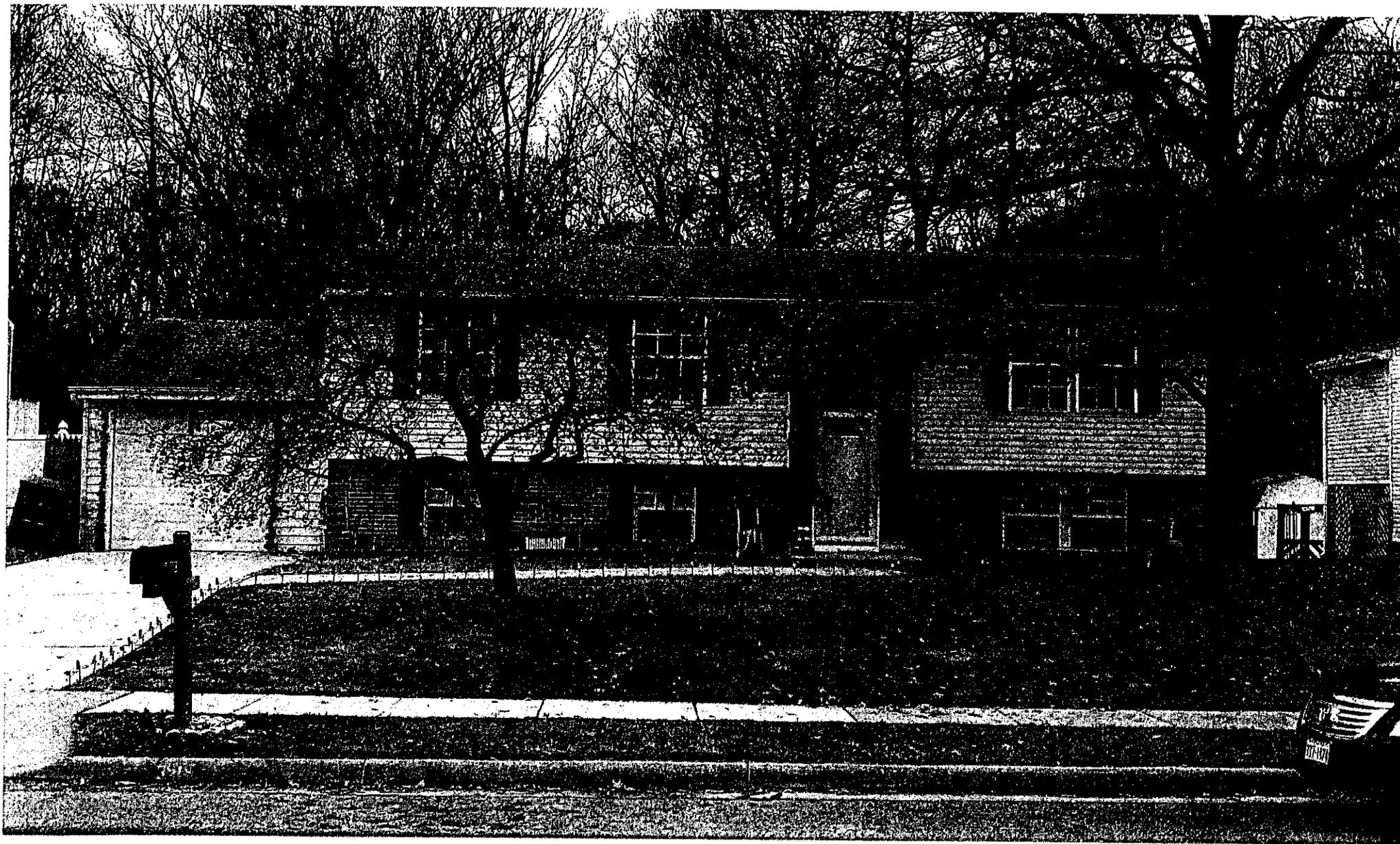


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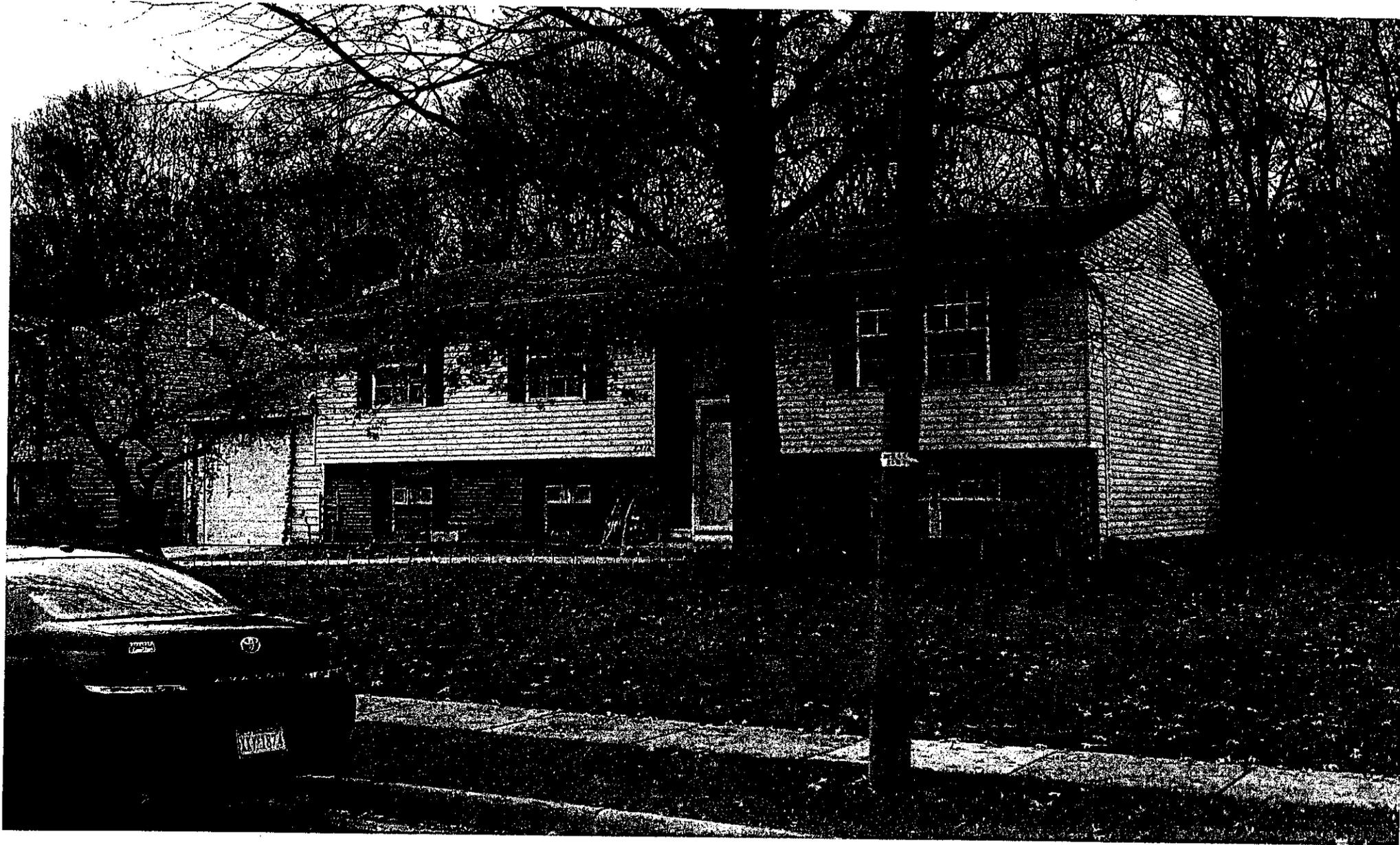


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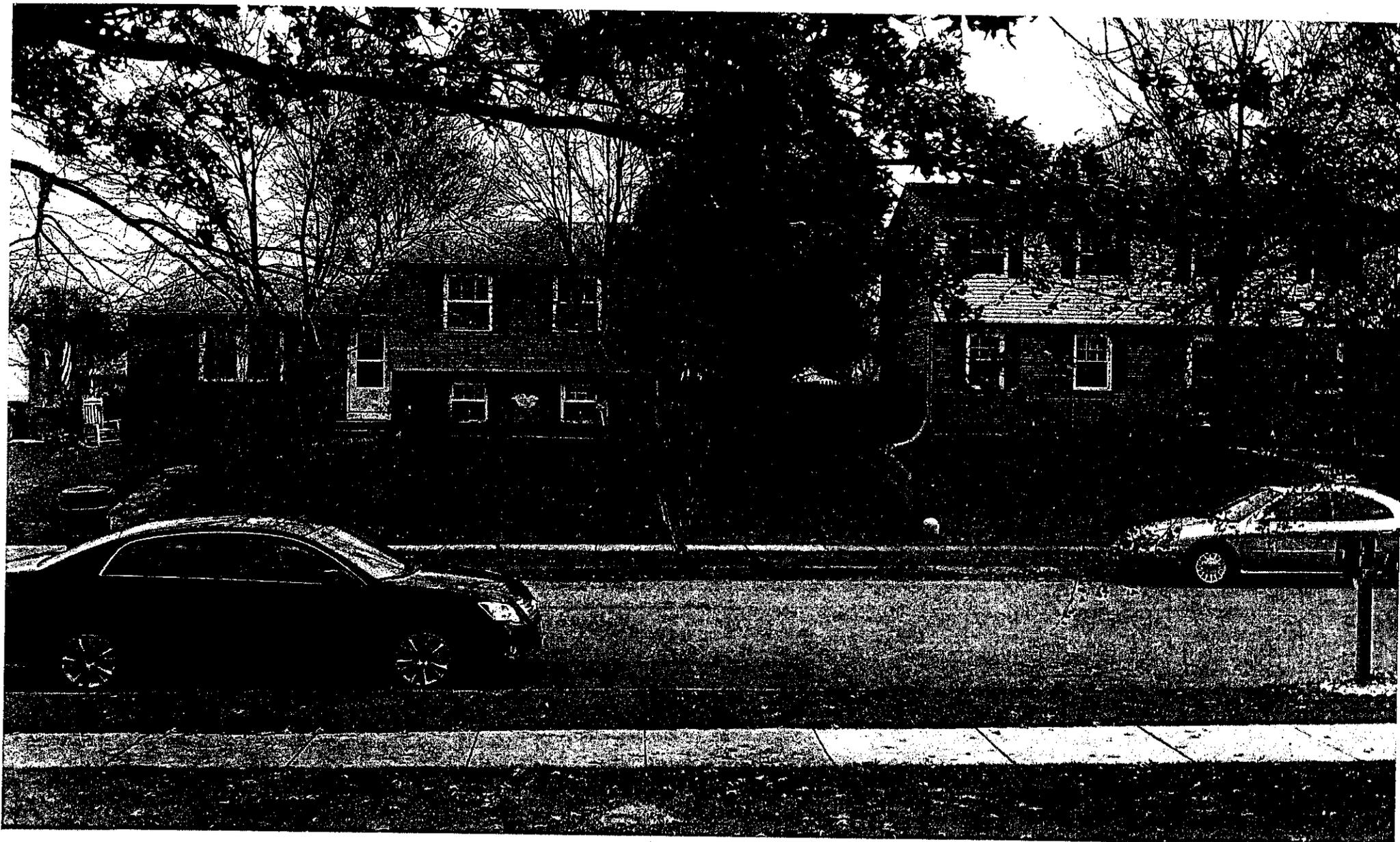
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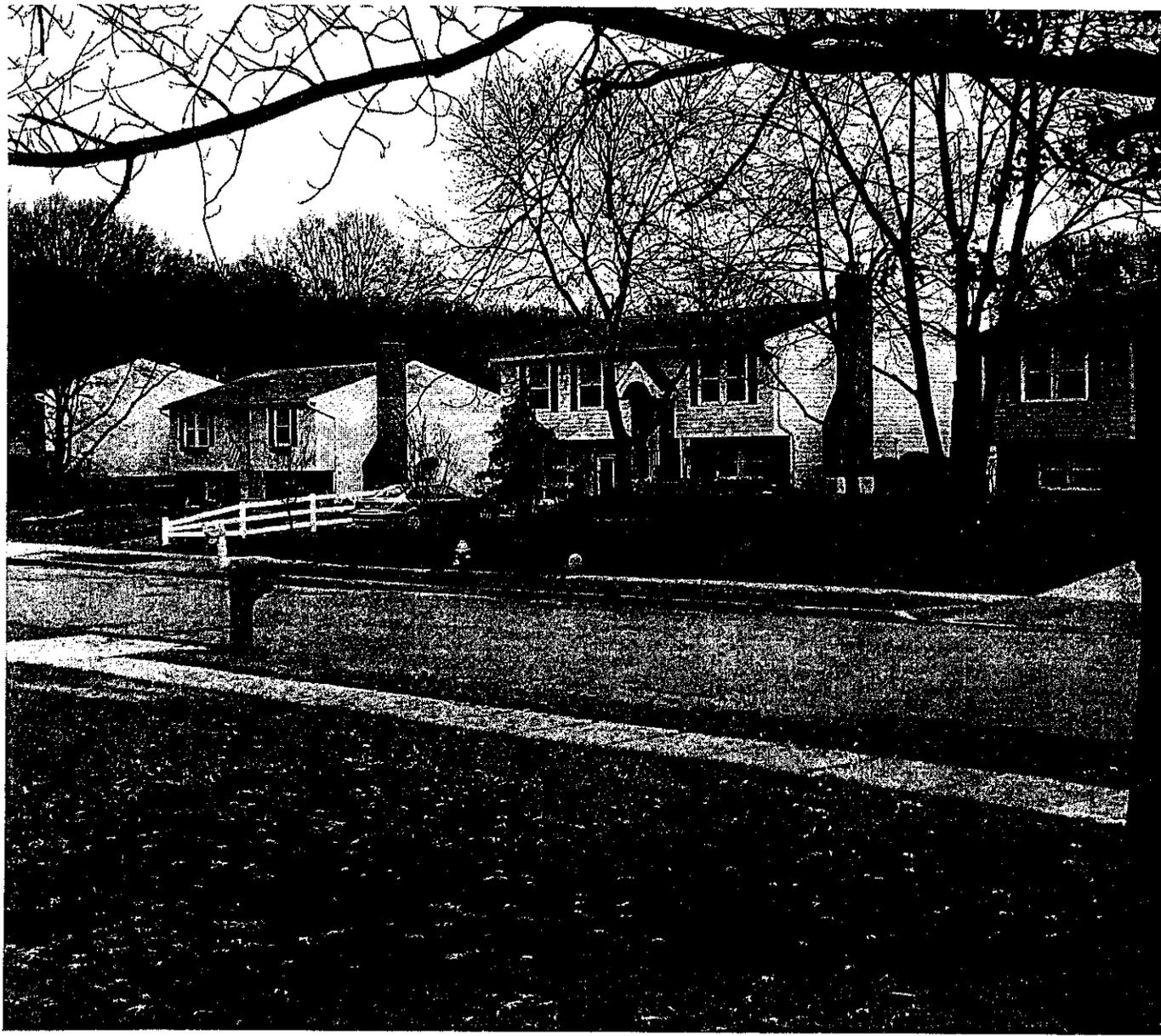


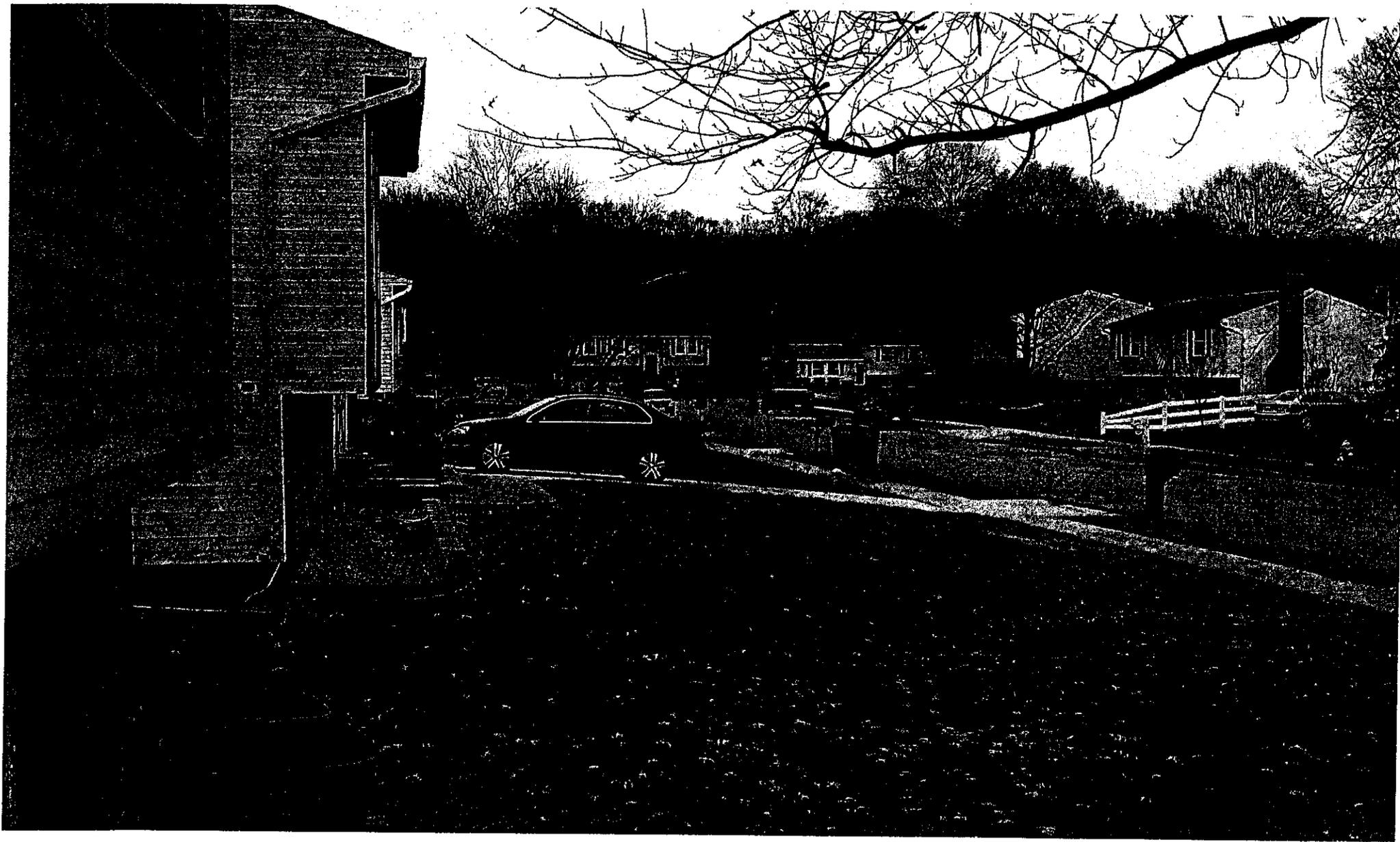
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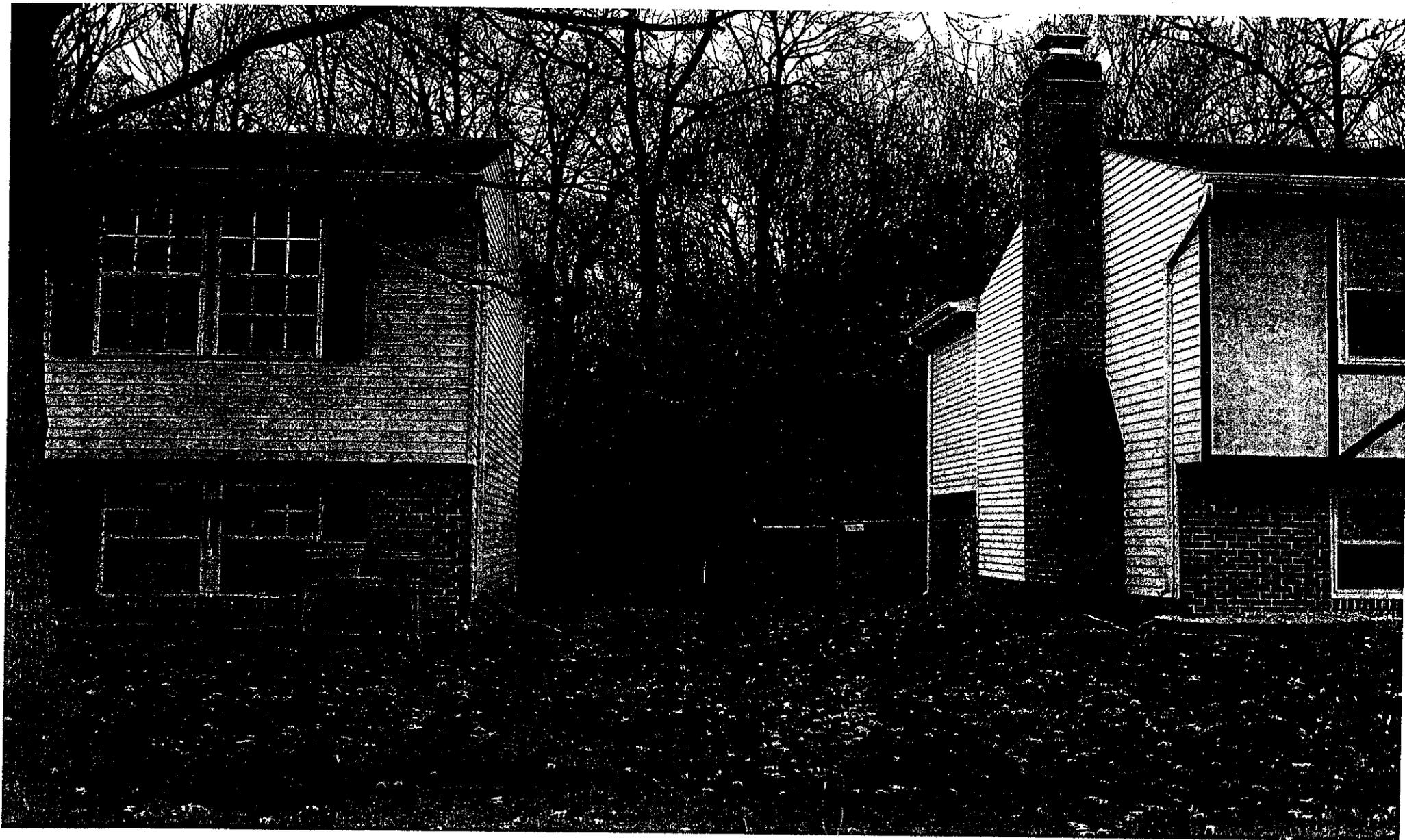
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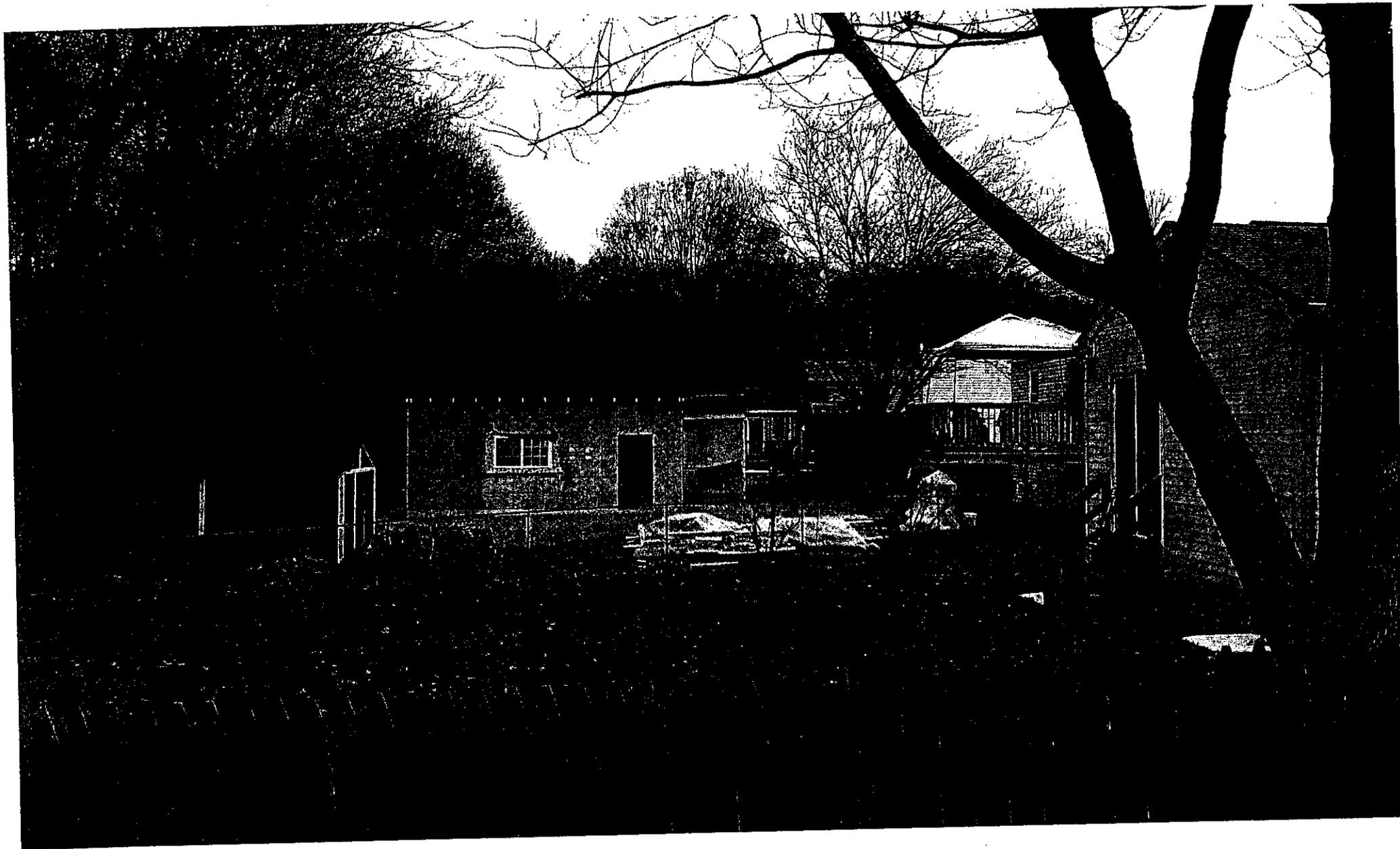




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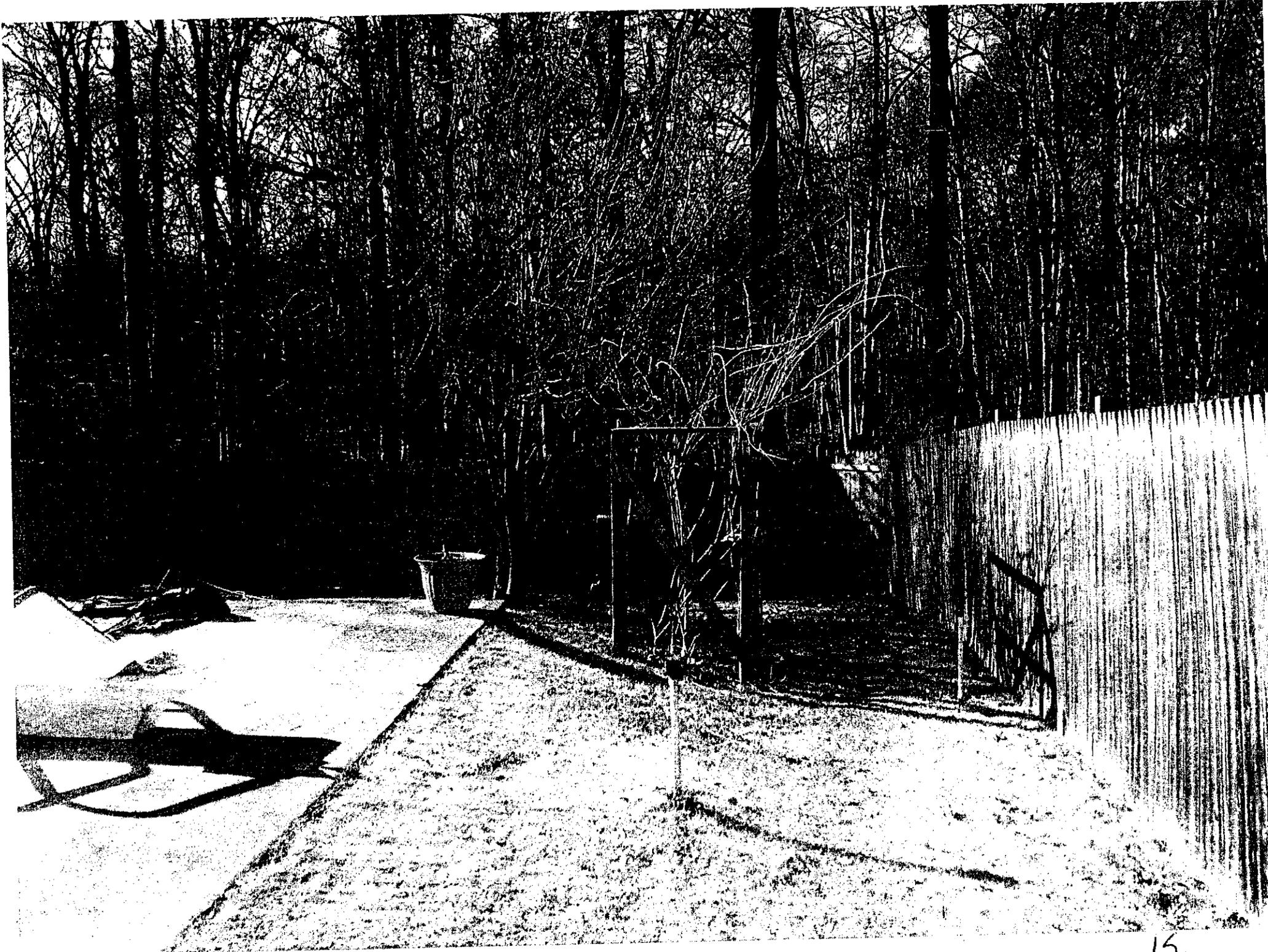
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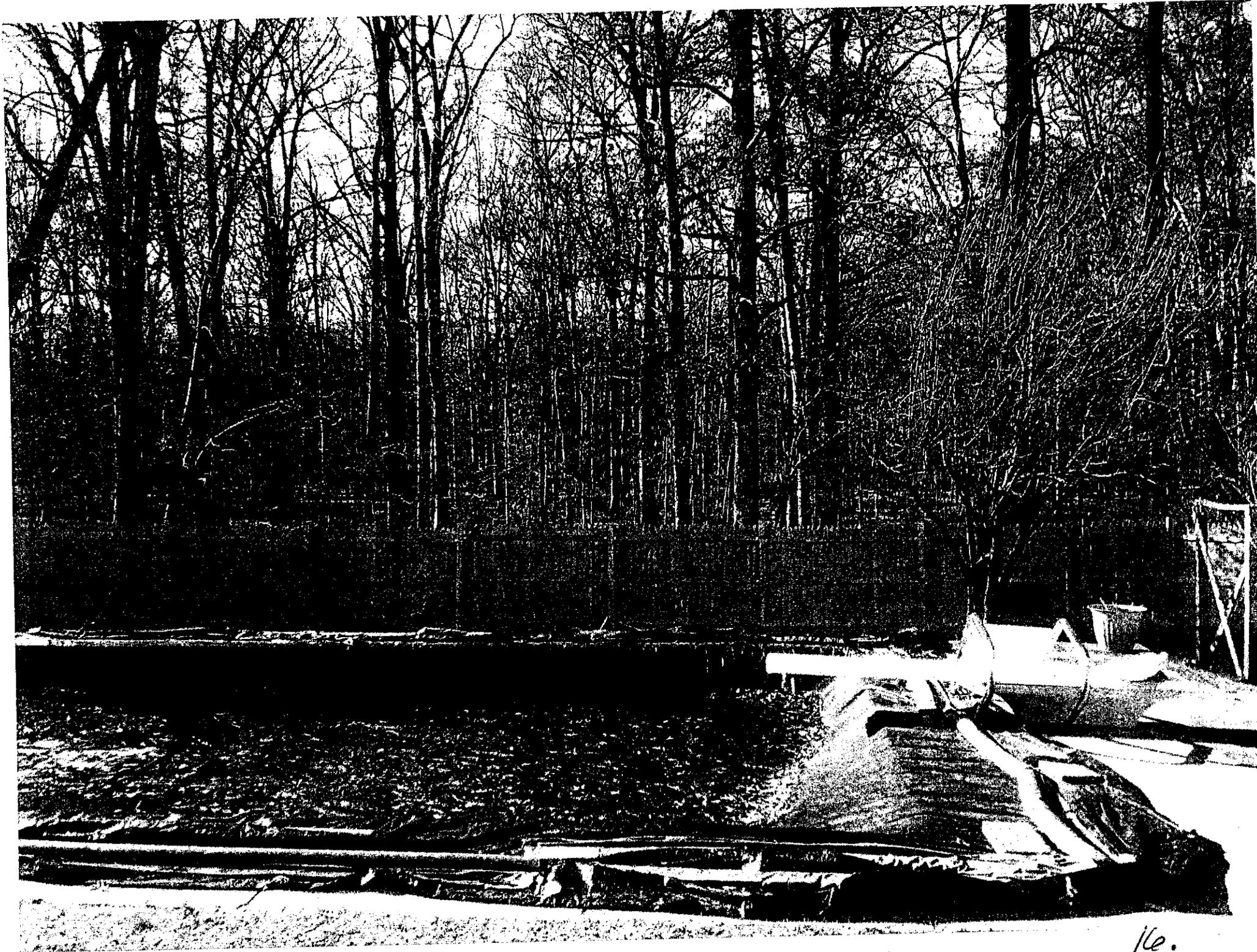


13.



14.

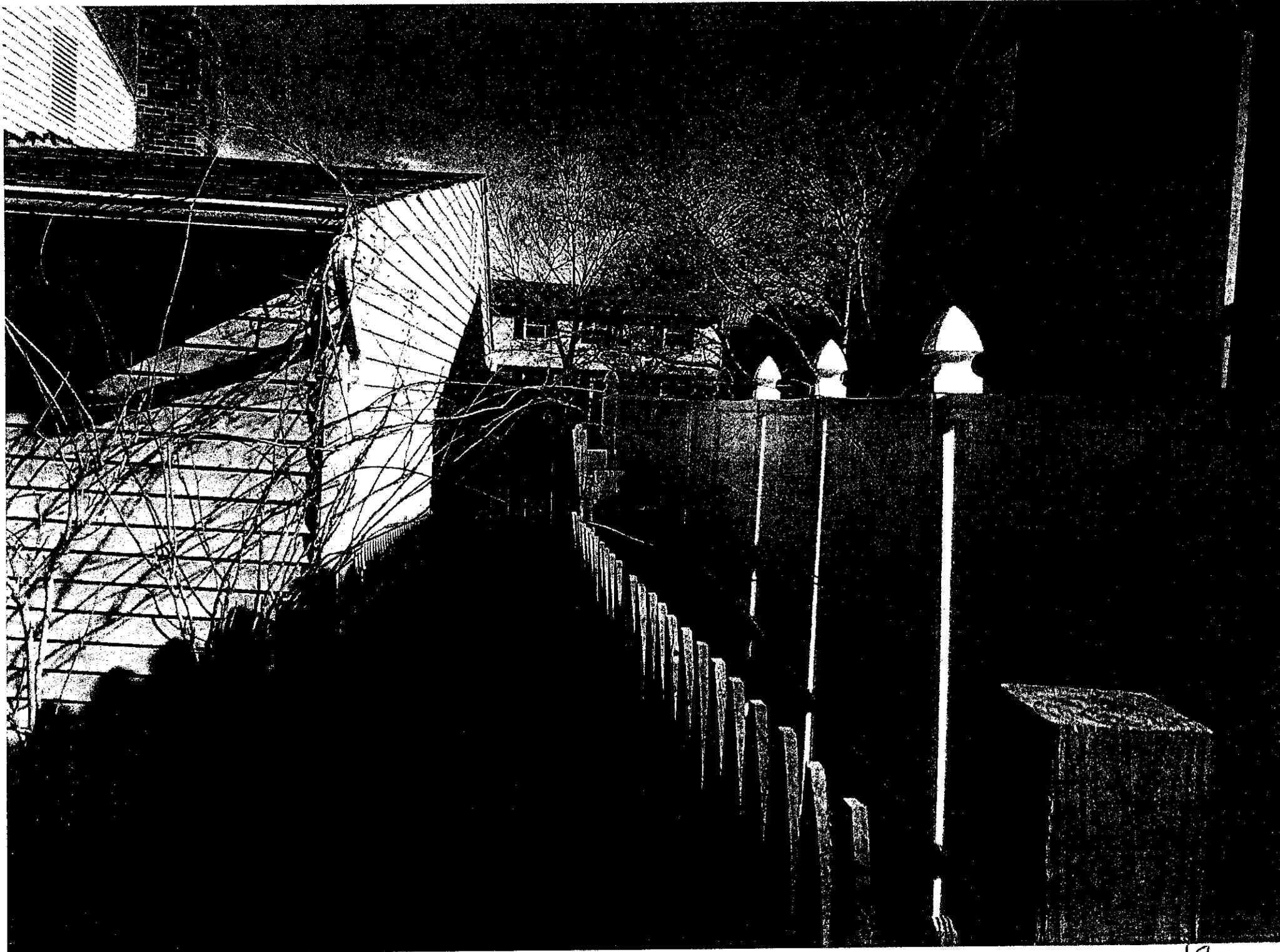


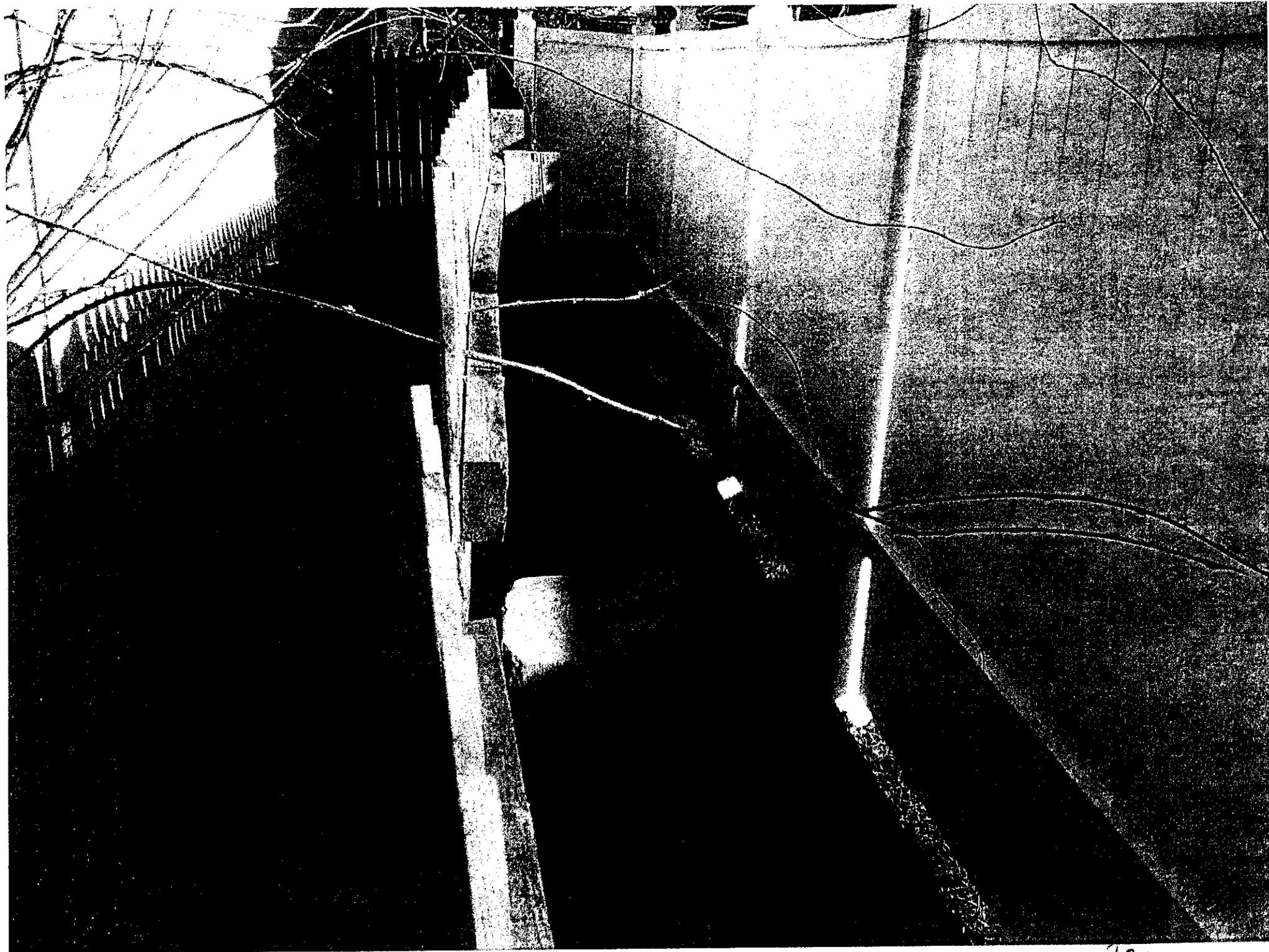


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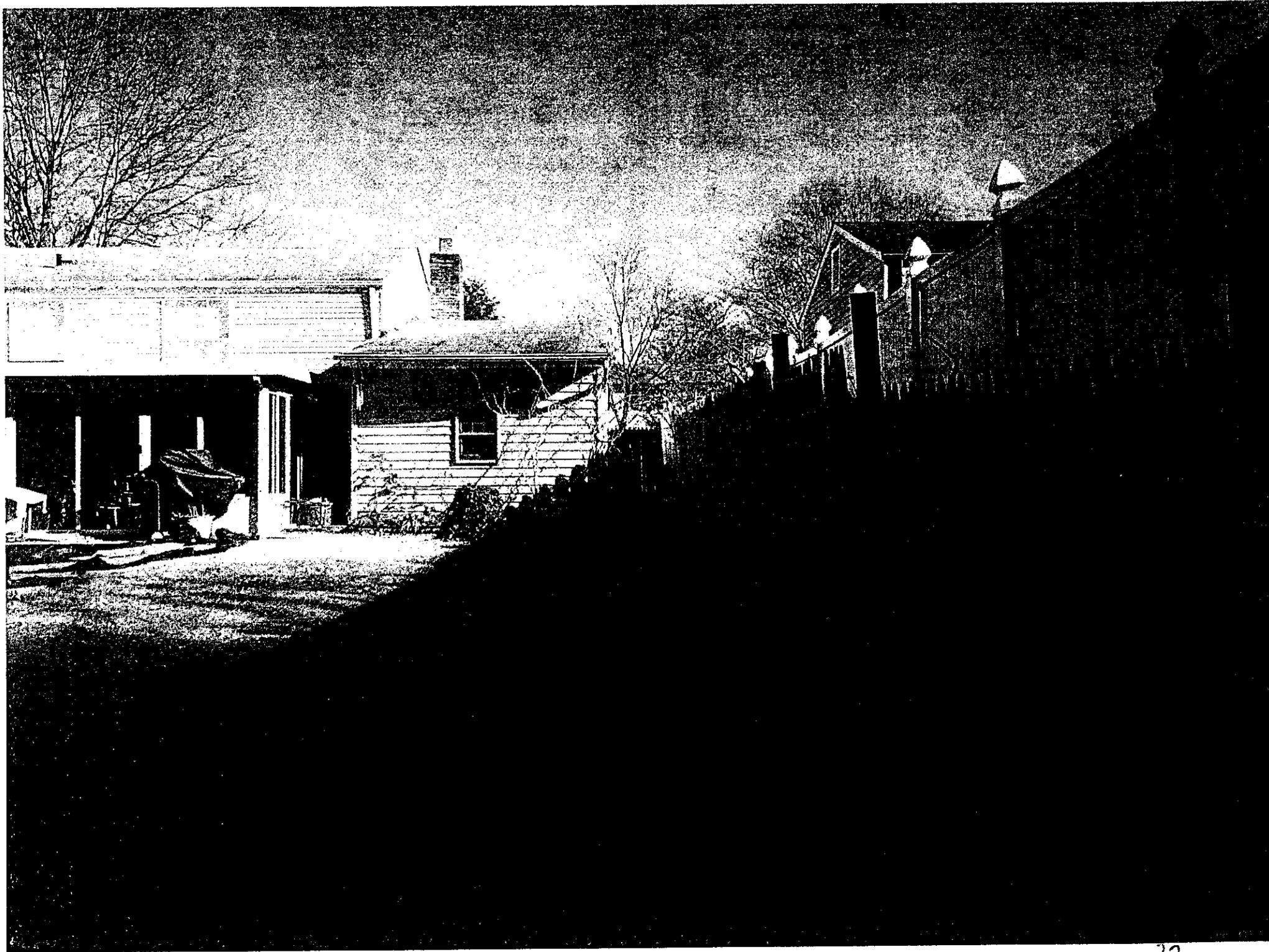


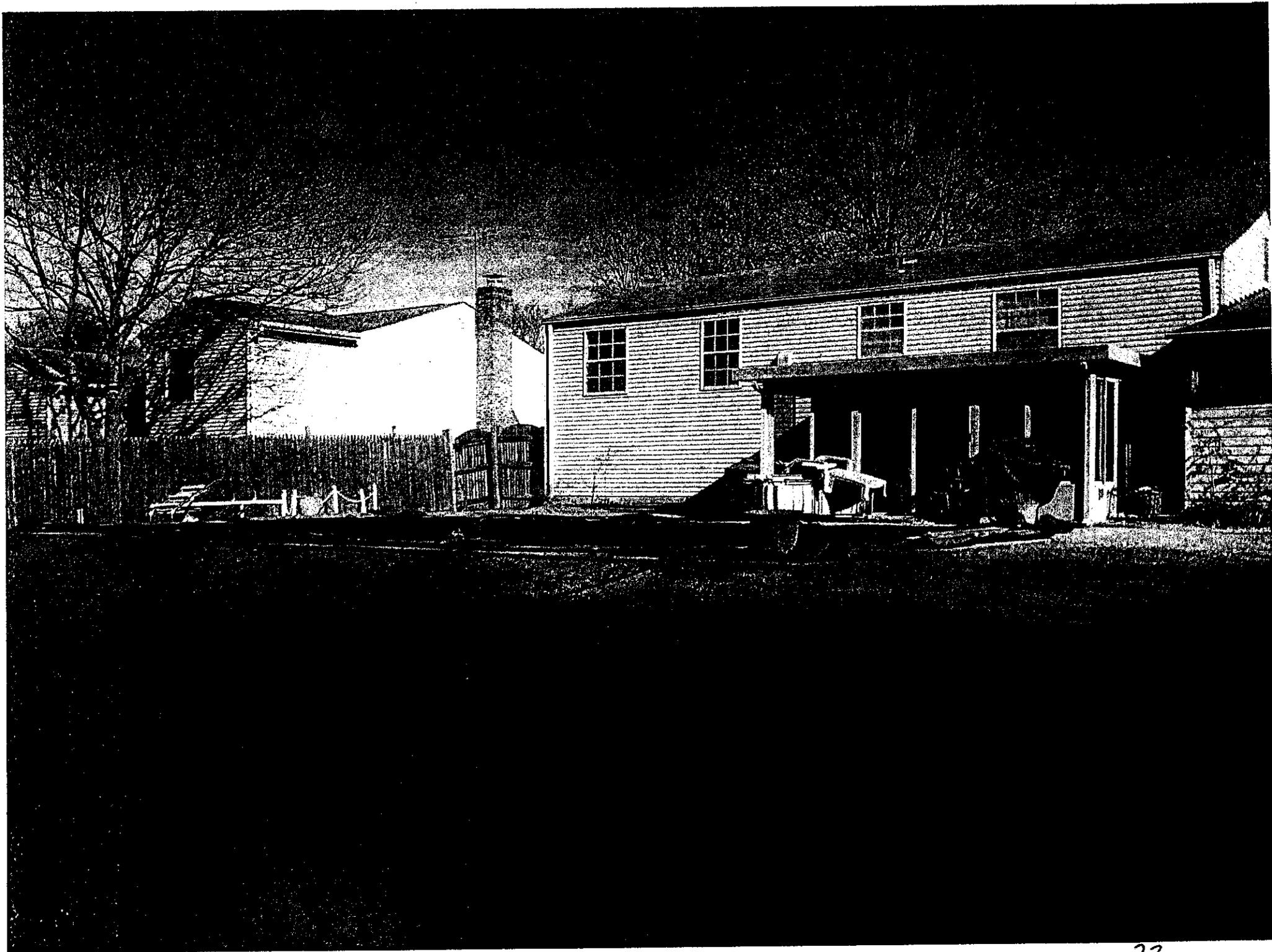




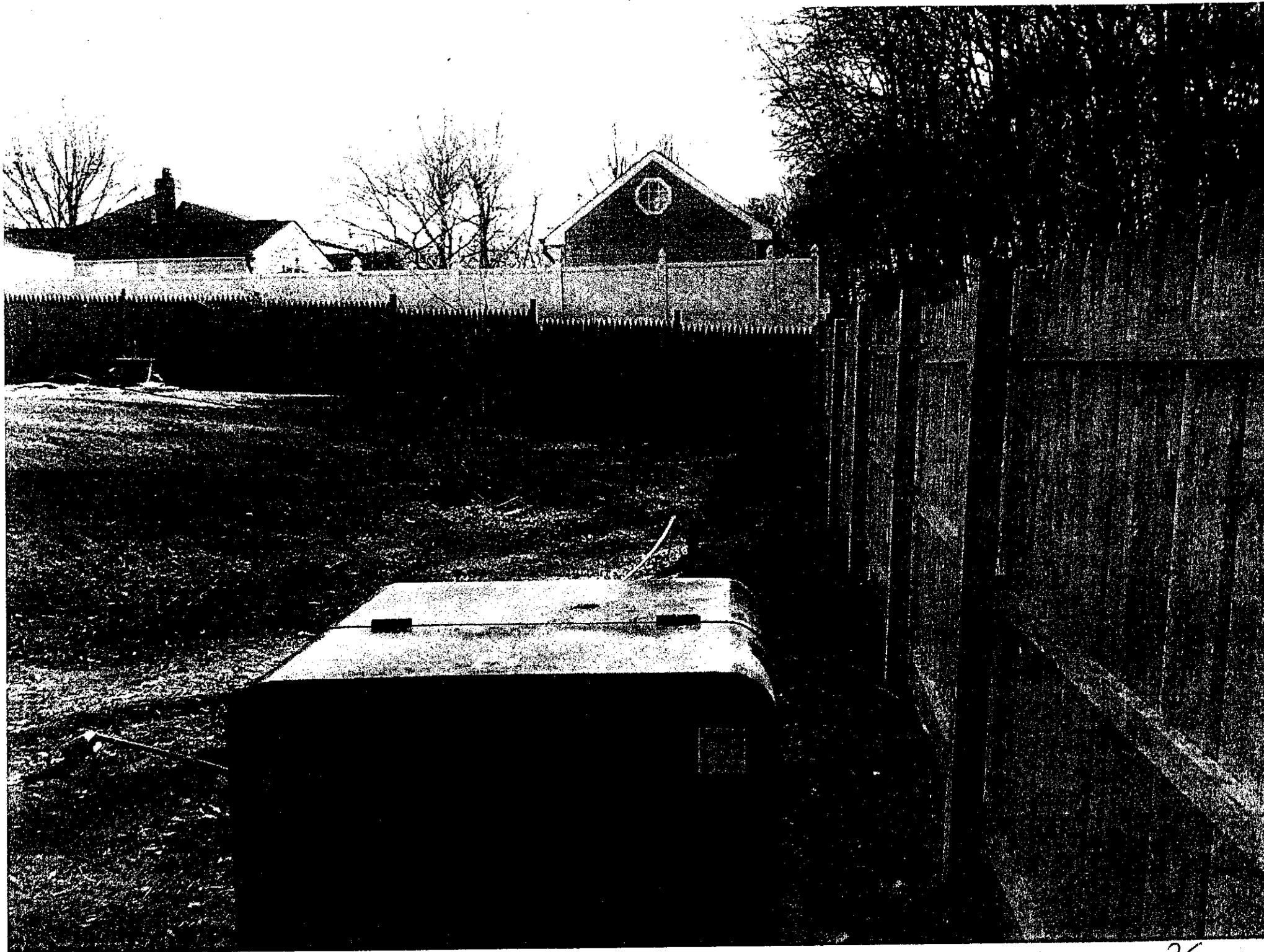


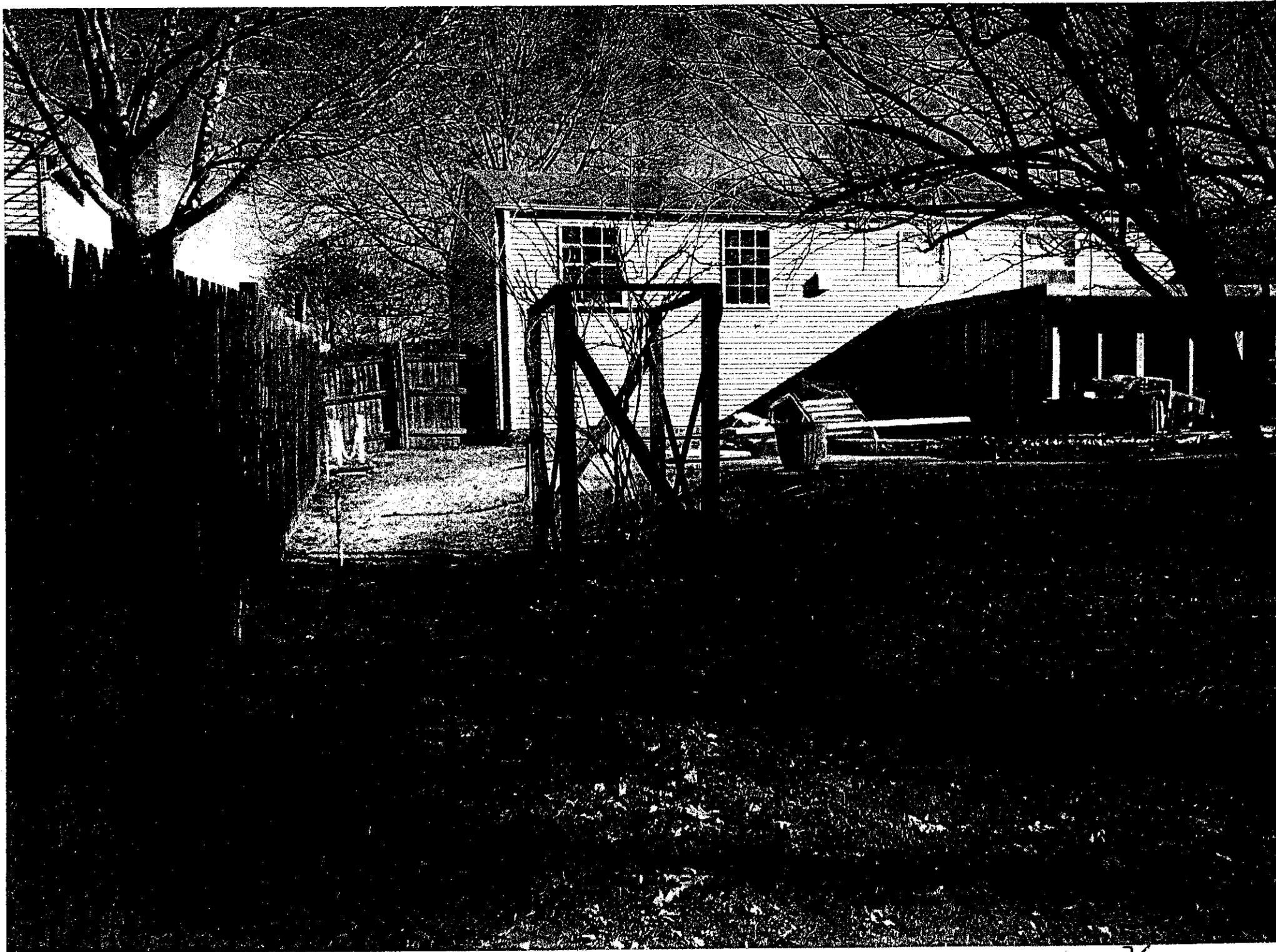














**DESCRIPTION OF THE APPLICATION**

The applicant is requesting approval of a special permit for an error in building location to permit a garage addition to be located 4.3 feet to its eave from the southern side lot line such that side yards total 13.7 feet.

	<b>Structure</b>	<b>Yard</b>	<b>Min. Yard Req.*</b>	<b>Structure Location</b>	<b>Amount of Error</b>	<b>Percent of Error</b>
<b>Special Permit</b>	<b>Dwelling</b>	Side	8.0 feet	4.3 feet	3.7 feet	46%
<b>Special Permit</b>	<b>Dwelling</b>	Total Side Yards	20.0 feet	13.7 feet	6.3 feet	32%

\*Minimum Yard Requirement per Section 3-307

**LOCATION AND CHARACTER**

**Character of the Area**

	<b>Zoning</b>	<b>Use</b>
<b>North</b>	R-3 (Cluster)	Single Family Detached Dwellings
<b>South</b>	R-3 (Cluster)	Single Family Detached Dwellings
<b>East</b>	R-3 (Cluster)	Single Family Detached Dwellings
<b>West</b>	R-3	Fairfax County Park Authority – Huntley Meadows Park

**Existing Site Description**

The 9,176 square foot lot was developed under the cluster regulations and contains a split-foyer brick and frame single-family detached dwelling constructed in 1974. An enclosed patio and an in-ground swimming pool with an associated concrete patio are located in the rear yard, which have approved building permits. A 6-foot wood privacy fence surrounds the rear and side yards.

## BACKGROUND

On March 2, 2009 and October 1, 2009, the applicant was issued Notices of Violation (NOV) for constructing an attached one-story garage located adjacent to the southern side lot line. A copy of the NOV's are attached as Appendix 4. The applicant did not obtain applicable building permits for this construction and will be required to do so if this application is approved. The applicant's agent has indicated to staff that the garage addition was constructed in approximately 1995. The Department of Tax Administration performed a field inspection and determined that based on pictometry photographs the garage has been in existence since at least April of 2003; however, has not been taxed. The applicant currently resides outside of the State of Virginia and the property is rented. A copy of the submitted special permit plat titled "Special Permit Plat, Lot 5, Block 25, Section 11, Mount Vernon Valley" prepared by Larry N. Scartz, dated January 2, 2011, revised February 17, 2011, is included at the front of the staff report.

Following the adoption of the current Ordinance, the BZA has heard the following similar applications in the vicinity of the subject parcel:

- Special Permit SP 2009-MV-052 was approved on September 15, 2009 for Tax Map 101-1 ((5)) (25) 6, zoned R-3, at 7920 Grimsley Street, to permit reduction to minimum yard requirements based on error in building location to permit addition to remain 7.2 feet from side lot line such that side yards total 17.9 feet and accessory storage structure to remain 3.9 feet from rear lot line.
- Special Permit SP 2004-MV-015 was approved on August 11, 2004 for Tax Map 101-1 ((5)) (19) 9, zoned R-3, at 7910 Frye Road, to permit reduction to minimum yard requirements based on error in building location to permit accessory storage structure to remain 1.9 feet from rear lot line and 1.6 feet with eave 0.2 feet from a side lot line, deck 2.5 feet from rear lot line and addition 4.4 feet from side lot line such that side yards total 16.8 feet.
- Special Permit SP 2003-MV-014 was approved on July 9, 2003 for Tax Map 101-1 ((5)) (12) 13, zoned R-3, at 8003 Imperial Street, to permit reduction to minimum yard requirements based on error in building location to permit accessory structure to remain 2.1 feet from a side lot line and eave 1.2 feet from a side lot line.

## ZONING ORDINANCE REQUIREMENTS

- 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)

This special permit is subject to Sects. 8-006, 8-903 and 8-914 of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 5. Subject to development conditions, the special permit must meet these standards.

## **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. Notices of Violation dated March 2, 2009 and October 1, 2009
5. Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS**

**SP 2011-MV-013**

**May 4, 2011**

1. This special permit is approved only for the location of an addition (attached garage), as shown on the plat prepared by Scartz Surveys dated January 5, 2011 as revised through February 17, 2011, submitted with this application and is not transferable to other land.
2. All applicable permits and final inspections shall be obtained for the garage addition within 180 days of approval of this special permit.

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 2011-MU-013  
 (county-assigned application number(s), to be entered by County Staff)

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 2/18/11  
 (enter date affidavit is notarized)

I, Schuyler P. Ahrens, do hereby state that I am an  
 (enter name of applicant or authorized agent)

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

110819a

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 <b>BOLD</b> above)
Fredi G. Guerke	215 loblolly Circle Ladson SC, 29456	Title Owner/Applicant
Troy & Tammy Dennison	7918 Gainsley St. Alexandria VA, 22309	Lessees
Schuyler P. Ahrens D/B/A Ez Cad Designs	4871 Benecia Lane Dumfries VA, 22025	Agent

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

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

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

Application No(s):

SP 2011-MU-013

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

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE:

2/18/11

(enter date affidavit is notarized)

110819a

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)

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

DESCRIPTION OF CORPORATION: (check one statement)

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

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

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

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

Application No.(s): SP 2011-MU-013  
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**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 2/18/11  
(enter date affidavit is notarized)

110819a

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

**PARTNERSHIP INFORMATION**

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

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

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

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

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

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

Page Four

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 2/18/11  
(enter date affidavit is notarized)

110819a

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

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

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

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

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

*None*

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 2/18/11  
(enter date affidavit is notarized)

110819a

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)

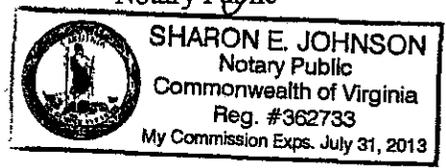
*Schuyler P. Ahrens*  
[ ] Applicant [x] Applicant's Authorized Agent

*Schuyler P. Ahrens (Applicant's Agent)*  
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 18 day of FEBRUARY, 2011, in the State/Comm. of VIRGINIA, County/City of FAIRFAX

*Sharon E. Johnson*  
Notary Public

My commission expires: July 31, 2013



## Statement of Justification

Re: 7918 Grimsley St.  
Alexandria VA, 22309  
Existing Side Garage

RECEIVED  
Department of Planning & Zoning  
JAN 11 2011  
Zoning Evaluation Division

- A. The error made on the property exceeds ten (10) percent of the measurement involved.
- B. The noncompliance and alterations were done in good faith. The homeowner is not native to the United States and was unfamiliar with the permit procedures in Fairfax County. Mr. Guerke built the garage himself back in 1995 and never even received a notice of violation until 2008.
- C. Such reduction will not impair the purpose and intent of this ordinance. The current zone of the neighborhood is R-3 cluster and many neighbors in the community have very similar garages located on their property.
- D. The garage will not be detrimental to the use and enjoyment of other property in the immediate vicinity. Most neighbors in the surrounding properties also have the very same garage, of similar size and location on their properties, including both neighbors on both the left and right side of this property.
- E. The garage will not create an unsafe condition with respect to all other properties and public streets. And will provide safer means of storage for the current and future owner's vehicle during harsh weather.
- F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner. During the Special Permit process in providing a new plat, it was determined that most of the owners on the same side of this street, had fences and sheds at the rear of their properties that extended well into the adjacent property of the Fairfax County Park Authority. In order to comply with current regulations, the owner has since had two sheds, and the rear fence that had once stood for 28 years- demoed. The fence was then rebuilt in the correct location at the rear of the property. All of which has thus far cost the homeowner a lot of money in hopes to best comply with the current regulations.
- G. The reduction will not result in an increase in density or floor area ratio from that of permitted by the applicable zoning district regulation. And with the demolition of the two sheds, the ratio has actually even decreased slightly.
- H. No hazardous or toxic substances will be generated, utilized, stored, treated, and/or disposed of at this residence and the size and contents of any existing or proposed storage tanks or containers. The Garage is just being used to house a vehicle while not being used. And to store household items and items that were removed from the two demoed storage sheds in the back of the property.
- I. A waiver is requested for the existing side garage- encroaching into the side lot property line in an R-3 Cluster zone within 4.3' from the existing eave.

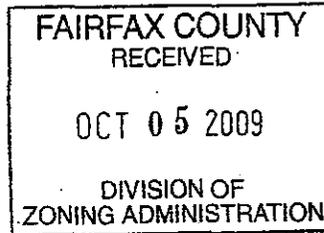


Street

# 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:** October 1, 2009  
**CERTIFIED MAIL #:** 7008 3230 0001 2362 4726

**CASE #:** 43692

**SERVE:** Fredi G. Guerke  
Ruth M. Guerke  
215 Loblolly Circle  
Ladson, SC 29456

**LOCATION OF VIOLATION** 7918 Grimsley Street  
Alexandria, VA 22309  
Mt. Vernon Valley, Lot 5, Block 25, Section 11  
Tax Map #: 101-1 ((5)) (25) 5  
Zoning District: R-3C

Dear Property Owners:

A review of construction records maintained by both DPWES and DPZ verified that no Building Permit Application was applied for or approved by the Zoning Administrator for the addition which had been added to the existing dwelling structure and which is most similar to that of an attached garage. Being that the addition is attached to the principal building by wall and roof construction, it is deemed to be a part of the principal building and must comply in all respects with requirements of the Fairfax County Zoning Ordinance which are applicable to a principal building. This is a violation of Sect. 18-601, which states:

The erection of all buildings and all structures, as well as additions, deletions and modifications thereto, shall be subject to the provisions of Chapter 61 of The Code, Buildings. No building or structure which is required to have a Building Permit pursuant to Chapter 61 of The Code shall be erected until a Building Permit Application has been approved by the Zoning Administrator.

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance must be accomplished by the following:



- Obtaining the Zoning Administrator's approval retroactively of a Building Permit Application for addition, garage, which had been added to the existing dwelling structure at this property. As a courtesy, this will also entail, based on the nature of the existing improvements, obtaining the various trade approvals (plumbing, mechanical, electrical, etc.) as is deemed appropriate by the Building Official per the Virginia Uniform Statewide Building Code (VUSBC) and the International Residential Code (IRC). These construction codes are administered by the Department of Public Works and Environmental Services (DPWES)], or
- Demolishing the addition, garage, or any portions thereof which has been added to the existing dwelling structure that is not subject to the retroactive Building Permit approval by the Zoning Administrator. (Based on the authority of the Virginia Maintenance Code, 2003 Edition of the VUSBC, a separate Property Maintenance Notice will direct the removal of the illegally constructed additions).

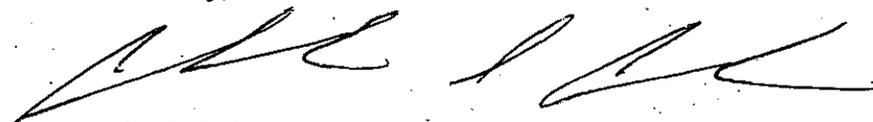
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A follow-up inspection will be made at the expiration of the time periods outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

You may have the right to appeal this Notice of Zoning Violation within ten (10) days of the date of this letter in accordance with Sec. 15.2-2311 and Sec. 15.2-2286 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such ten (10) 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 \$2,455.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1323 or (703) 324-1300.

Sincerely,



Chuck Cohenour  
Senior Zoning Inspector



# County of Fairfax, Virginia

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

Street File

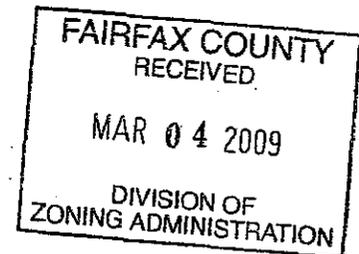
## NOTICE OF VIOLATION

**DATE OF ISSUANCE:** March 2, 2009  
**CERTIFIED MAIL #:** 7008 0150 0000 4655 3770

**SERVE:** Fredi G. Guerke  
Ruth M. Guerke  
215 Loblolly Circle  
Ladson, SC 29456

**LOCATION OF VIOLATION** 7918 Grimsley Street  
Alexandria, VA 22309  
Mt. Vernon Valley, Lot 5, Block 25, Section 11  
Tax Map #: 101-1 ((5)) (25) 5  
Zoning District: R-3C

**CASE #:** 43692



Dear Property Owners:

An inspection of the above referenced property on February 5, 2009 and February 12, 2009 revealed the following violations of the Fairfax County Zoning Ordinance.

**§ 3-307 (2A) (2) (b) Permitted Extensions into Side Yard**  
**§ 2-412 (2C) Bulk Regulations**

The inspections revealed that you have built or that you have allowed to be built an addition to the existing home, whose dimensions are approximately thirty three feet five inches (33' 5") in length by approximately twelve feet two inches (12' 2") and which is deemed most similar to that of an attached garage. This structure is attached to the primary residence and is on the ground level. The structure is approximately five feet six inches from the left side lot line and the right side of the main house is approximately ten feet (10') from the right side lot line. This gives the home a combination of side yards of approximately fifteen (15') feet.

This lot is zoned R-3 Cluster and accordingly, any additions or permitted extensions must meet the R-3C District regulations. For your information, the bulk regulations for this district include: minimum yard requirements for a single family attached dwelling, which are delineated in Par. 2A (2) (b) of Sect. 3-307 of the Fairfax County 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/](http://www.fairfaxcounty.gov/dpz/)



Excellence \* Innovation \* Stewardship  
Integrity \* Teamwork \* Public Service

## 2. Minimum yard requirements

### A. Single family dwellings

#### (2) Cluster subdivision lot

- (a) Front yard: 20 feet
- (b) Side yard: 8 feet, but a total minimum of 20 feet
- (c) Rear yard: 25 feet

The Fairfax County Zoning Ordinance permits accessory structures to be located in the minimum required side yard, however, if the structure exceeds seven (7) feet in height, it must be located on the lot so as to comply with Par. 2D of Section 10-104 of the Zoning Ordinance which states;

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

The extension of the addition into the minimum required side yard does not satisfy the aforementioned provision, and therefore is a violation of Par. 6 of Sect. 2-302 of the Fairfax County 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 Part 1 of Article 10.

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance can be accomplished by the following:

- Removing the offending addition from the property in its entirety;  
or
- Obtaining the Zoning Administrator's approval of a Building Permit Application for the reduction of the accessory structure's height, and reducing its height to seven feet (7) feet to allow the addition to remain at it's present location; or
- Applying for and ultimately obtaining approval of a Group 9 Special Permit from the Board of Zoning Appeals that would allow for a reduction to the minimum yard requirements based on error in building location. (Enclosed)

**§ 10-104 (12C) Accessory Structure**

**§ 2-302 (6) Accessory Use must comply with Article 10:**

The inspection also revealed an accessory storage structure that has been erected in the rear yard. This structure is approximately twelve feet four inches (12' 4") by twelve feet (12') (147 square feet in area) and is approximately eleven (11') feet in height. This accessory storage structure is approximately five feet eight inches (5' 8") from the rear lot line.

Accessory storage structures are permitted as accessory uses in the R-3 Cluster District, subject to location regulations outlined in the Fairfax County Zoning Ordinance. However, if the structure exceeds eight and one-half (8 ½) feet in height, it must be located so as to comply with Par. 10E of Sect. 10-104 of the Zoning Ordinance which states:

An accessory storage structure which exceeds eight and one-half (8 ½) feet in height shall not be located closer than a distance equal to its height to the rear lot line, or located closer than a distance equal to the minimum required side yard to the side lot line.

Therefore, since your accessory storage structure in the rear yard exceeds eight and one-half (8 ½) feet in height, and is located closer than a distance equal to its height to the rear lot line yard you are in violation of 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 Part 1 of Article 10.

You are hereby directed to clear these violations within thirty (30) days of receipt of this Notice. Compliance can be accomplished by the following:

- Removing the accessory storage structure from the property in its entirety; or
- Reducing the height of the accessory storage structure in the rear yard to eight and one-half (8 ½) feet to allow it to remain at its present location; or
- Relocating all accessory structures to an area of the lot that provides the minimum yard requirements as stipulated in Part 1 of Article 10 of the Zoning Ordinance.

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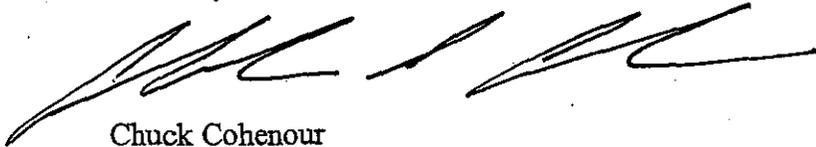
A follow-up inspection will be made at the expiration of the time periods outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

Fredi G. Guerke  
Ruth M. Guerke  
March 2, 2009  
Page 4

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.

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1323 or (703) 324-1300.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chuck Cohenour', written over a horizontal line.

Chuck Cohenour  
Senior Zoning Inspector

CAC/seg  
Attachment: Group 9 Special Permit

## **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.