



APPLICATION ACCEPTED: September 16, 2011  
BOARD OF ZONING APPEALS: December 7, 2011  
TIME: 9:00 a.m.

# County of Fairfax, Virginia

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November 30, 2011

## STAFF REPORT

**SPECIAL PERMIT APPLICATION NO. SP 2011-SU-084**

### SULLY DISTRICT

**APPLICANT:** Shalla Flores

**OWNERS:** Shalla Flores  
Terrance Flores

**SUBDIVISION:** Russell Lowe Property

**STREET ADDRESS:** 3425 West Ox Road

**TAX MAP REFERENCE:** 35-4 ((1)) 72

**LOT SIZE:** 37,103 square feet

**ZONING DISTRICT:** R-1

**ZONING ORDINANCE PROVISIONS:** 8-305

**SPECIAL PERMIT PROPOSAL:** To permit a home child care facility

**STAFF RECOMMENDATION:** Staff recommends approval of SP 2011-SU-084 for the home child care facility with adoption of the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicant/owner from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

*O:\rhorner\Special Permits\home daycare flores\Staff Report Flores Home Daycare.doc*

*Rebecca Horner*

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

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

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**

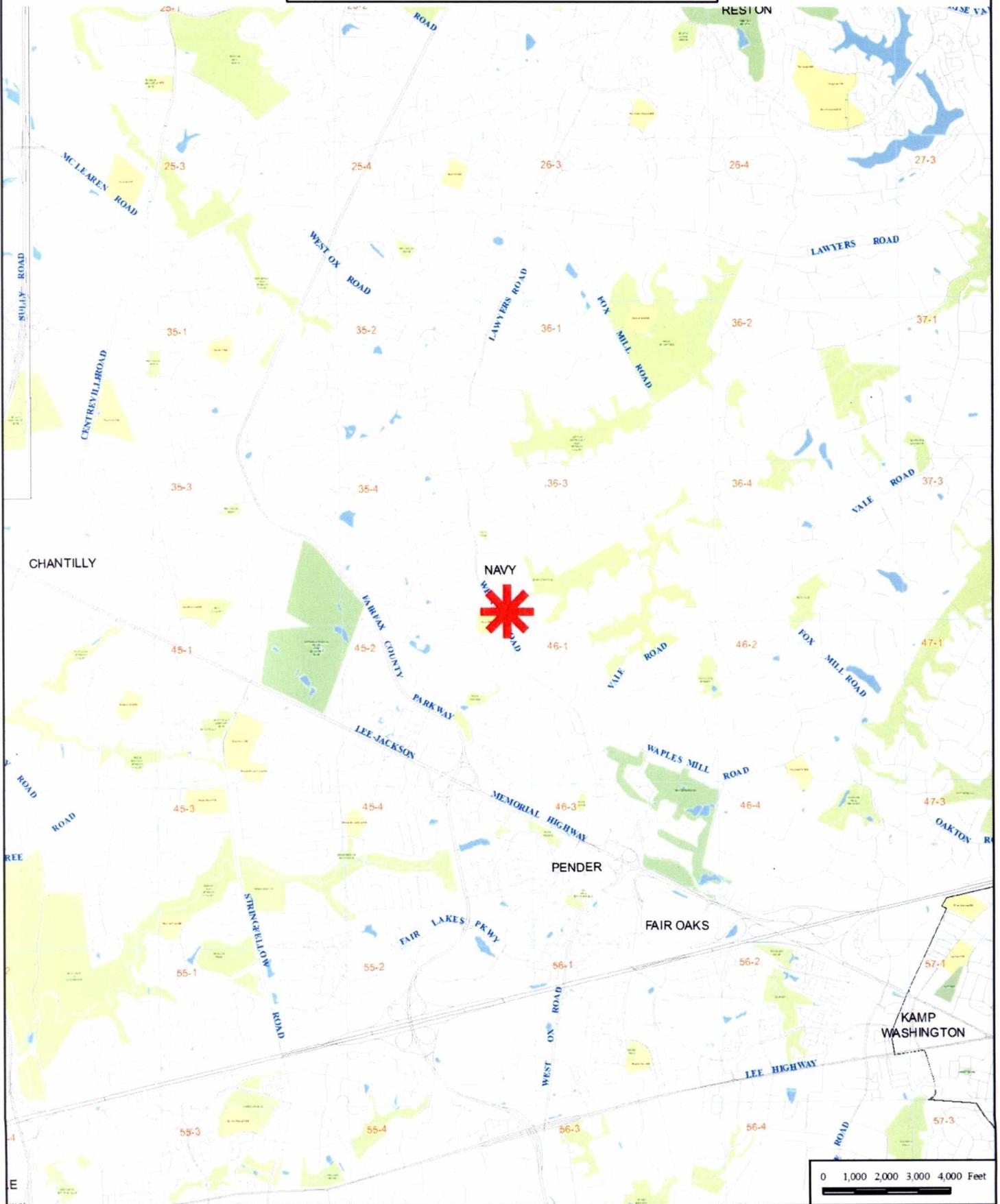


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

# Special Permit

SP 2011-SU-084

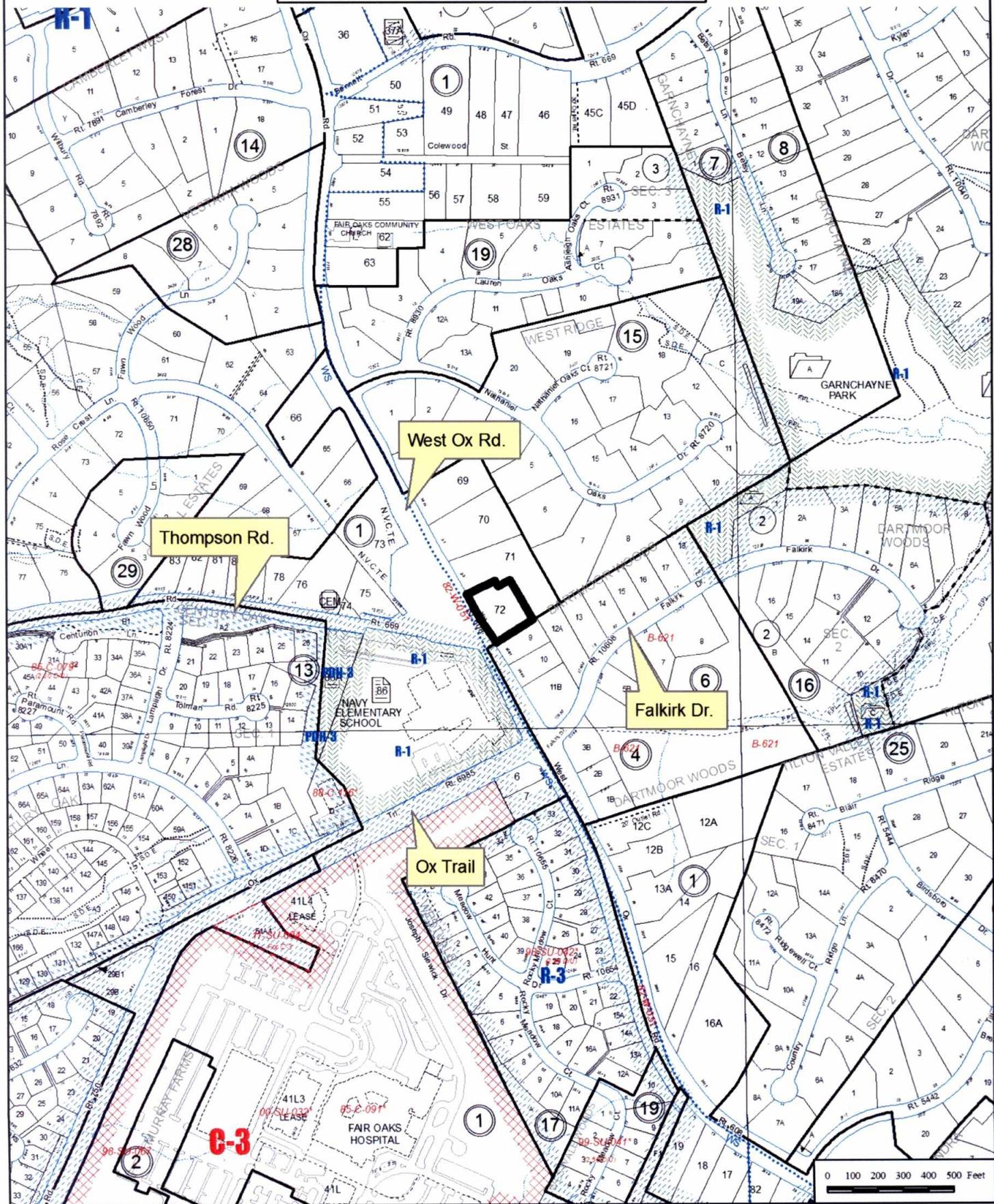
SHALLA FLORES

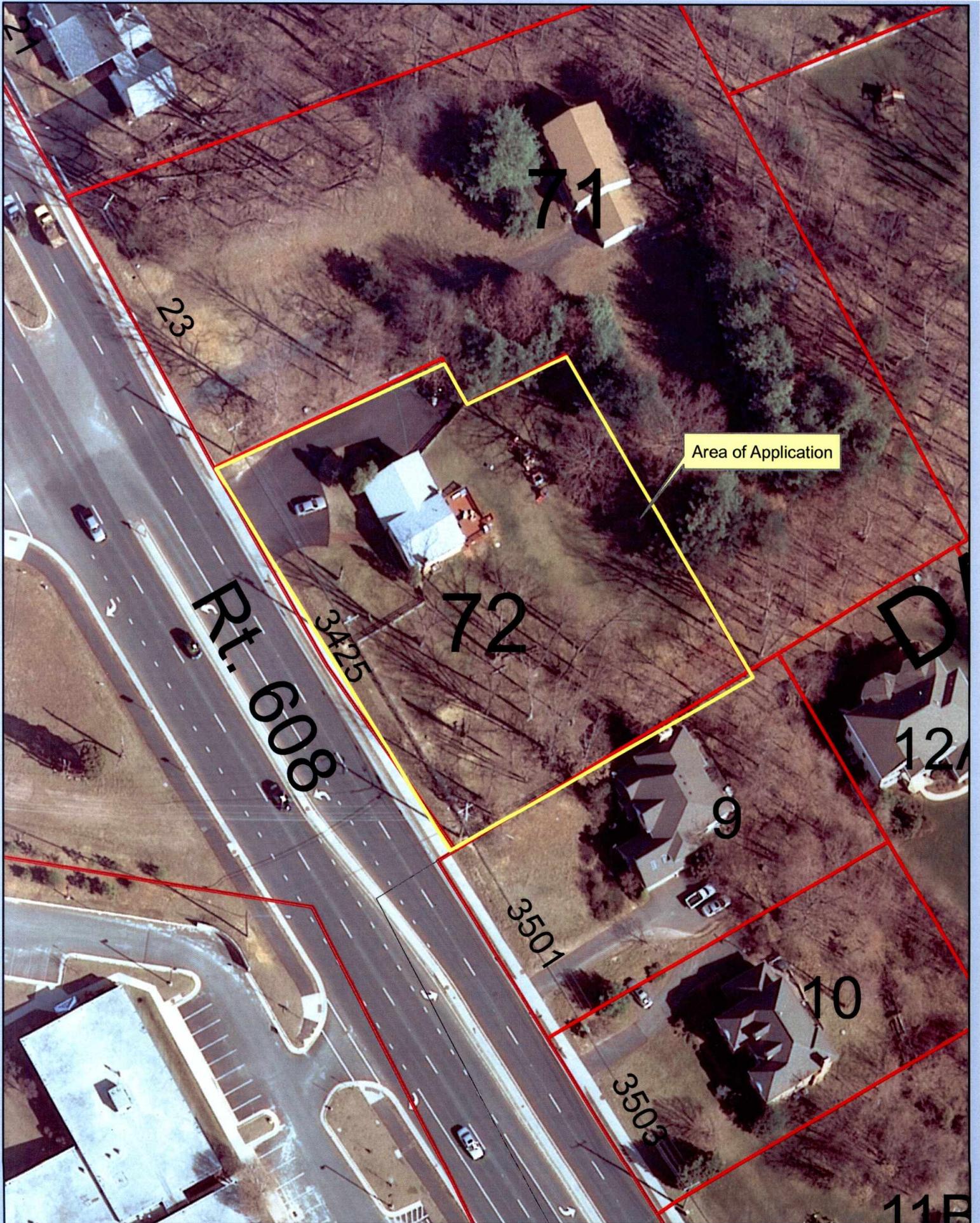


# Special Permit

SP 2011-SU-084

SHALLA FLORES





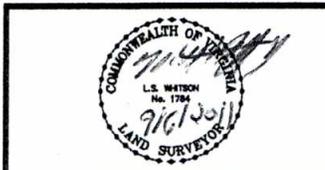
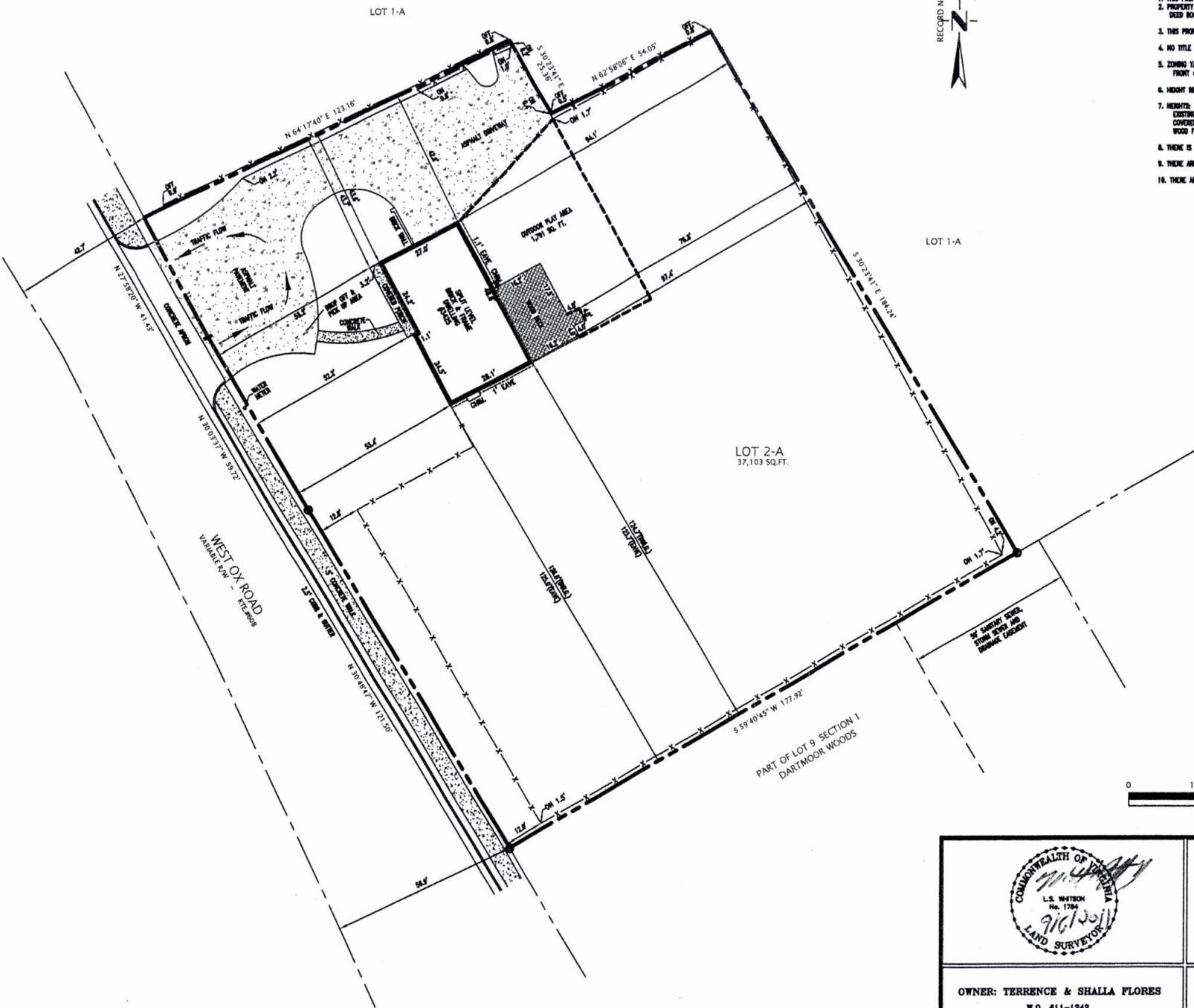
1 inch = 60 feet





**NOTES:**

1. THIS PROPERTY IS LOCATED IN TAX MAP 25-4-001-00-0072 AND IS ZONED R-1.
2. PROPERTY OWNERS ARE TERRENCE FLORES AND SHALLA FLORES AS RECORDED DEED BOOK 18405 AT PAGE 580 OF THE FAIRFAX COUNTY LAND RECORDS.
3. THIS PROPERTY IS SERVICED BY PUBLIC WATER AND SEPTIC SYSTEM.
4. NO TITLE REPORT FURNISHED AND ALL EASEMENTS OF RECORD MAY NOT BE SHOWN.
5. ZONING YARD REQUIREMENTS:  
FRONT = 40 FEET SIDE YARD = 20 FEET REAR = 25 FEET
6. HEIGHT REQUIREMENTS: 35 FEET
7. HEIGHTS:  
EXISTING 2 STORY = 18.4 FEET  
COVERED PORCH = 8.4 FEET  
WOOD FENCE = 4 FEET
8. THERE IS NO EVIDENCE OF A BURNAL SITE ON THIS PROPERTY.
9. THERE ARE NO EASEMENTS OF 25 FEET OR MORE IN WIDTH THAT AFFECTS THIS PROPERTY.
10. THERE ARE NO KNOWN HAZARDOUS OR TOXIC SUBSTANCES THAT AFFECTS THIS PROPERTY.



**SPECIAL PERMIT PLAT**  
 LOT 2-A  
 RUSSELL LOWE PROPERTY  
 DEED BOOK 4038 PAGE 583  
 SULLY DISTRICT  
 FAIRFAX COUNTY, VIRGINIA  
 DATE: JULY 13, 2011 SCALE: 1" = 20'  
 DATE: SEPTEMBER 8, 2011 (REVISED)

**OWNER: TERRENCE & SHALLA FLORES**  
 W.O. #11-1242

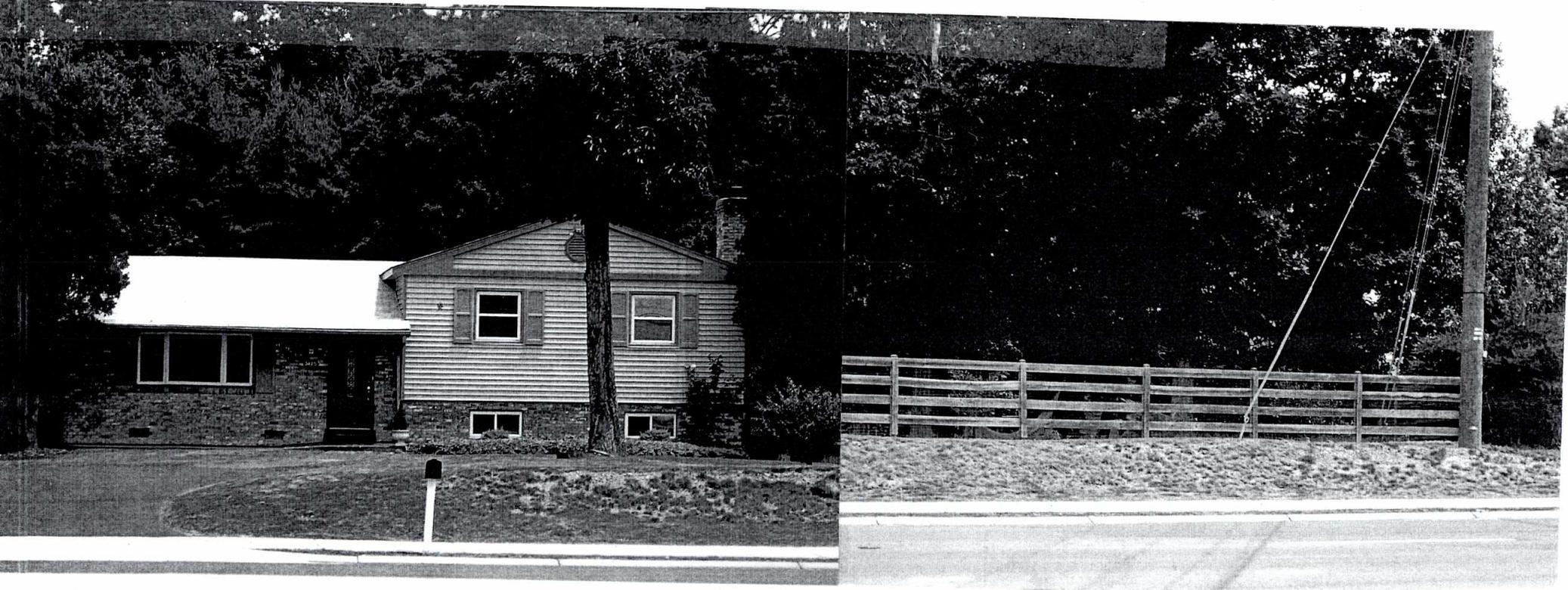
**SAM WHITSON LAND SURVEYING, INC.**  
 7001 GATEWAY COURT SUITE 150 MANASSAS, VIRGINIA 20108  
 PHONE: (703)890-0822 FAX: (703)890-8778

Boundary Pictures: 3425 West Ox Rd, Herndon VA 20171

Pictures taken: 5/30/11

Frontal View

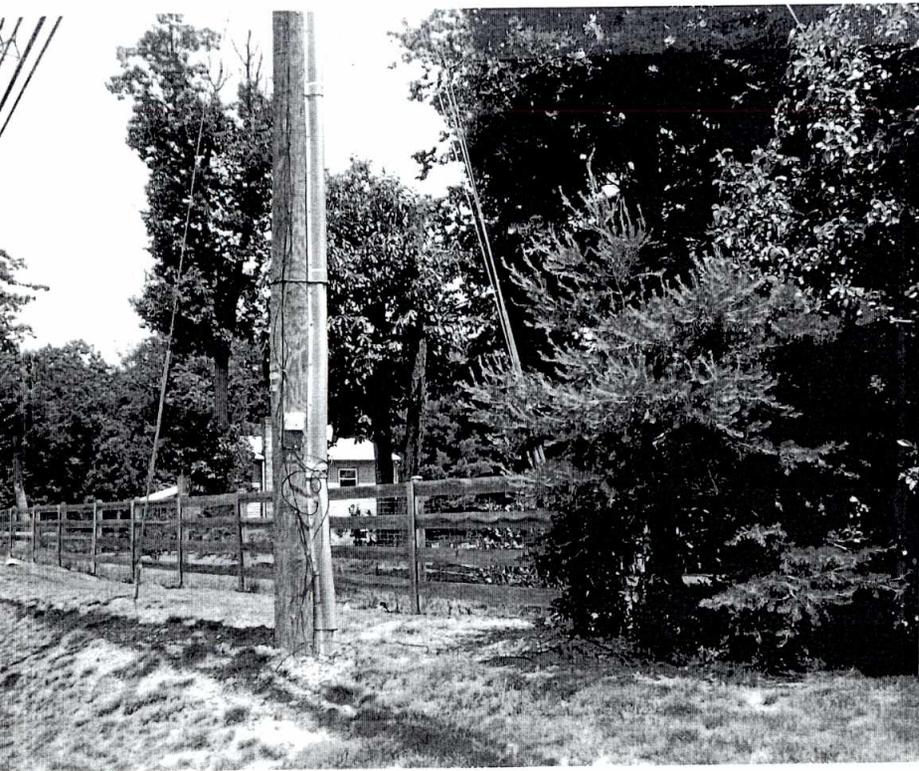
Front Middle



Boundary Pictures: 3425 West Ox Rd, Herndon VA 20171  
Pictures taken: 5/30/11

## Front Corner Views

Left Corner (In)



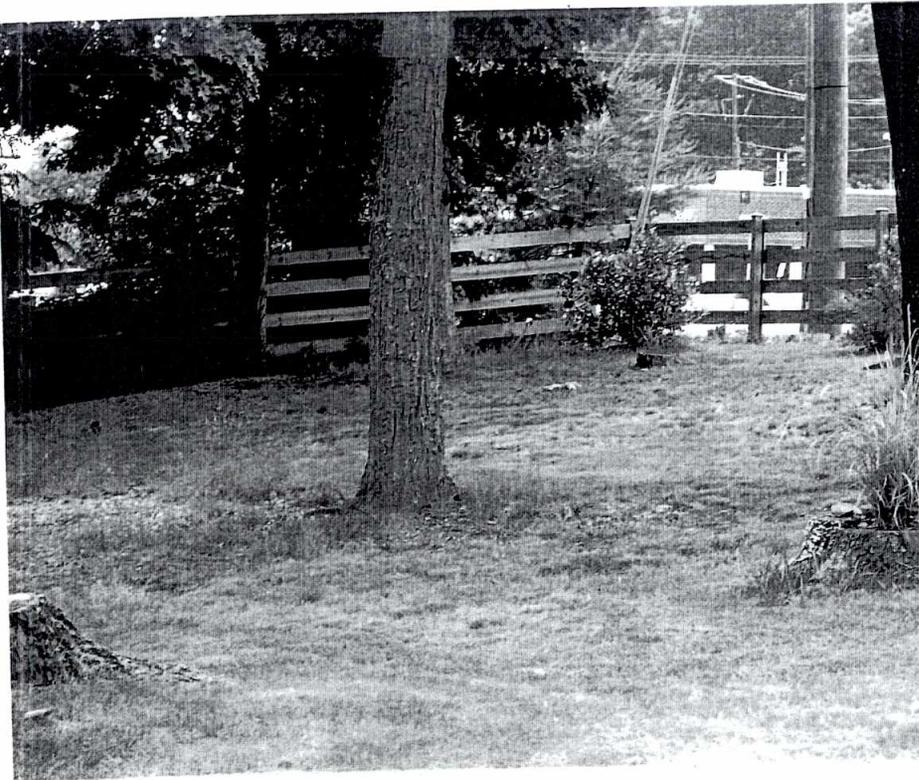
Left Corner (out)



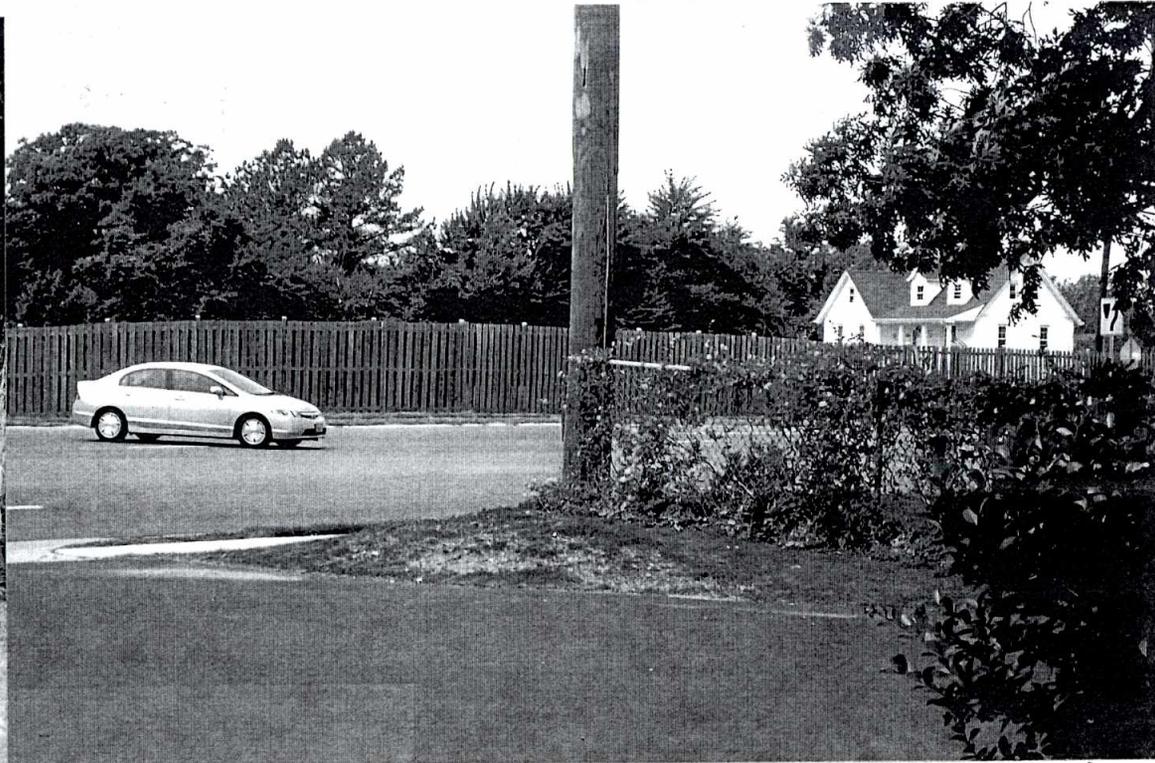
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Pictures taken: 5/30/11

Frontal view

Right Front



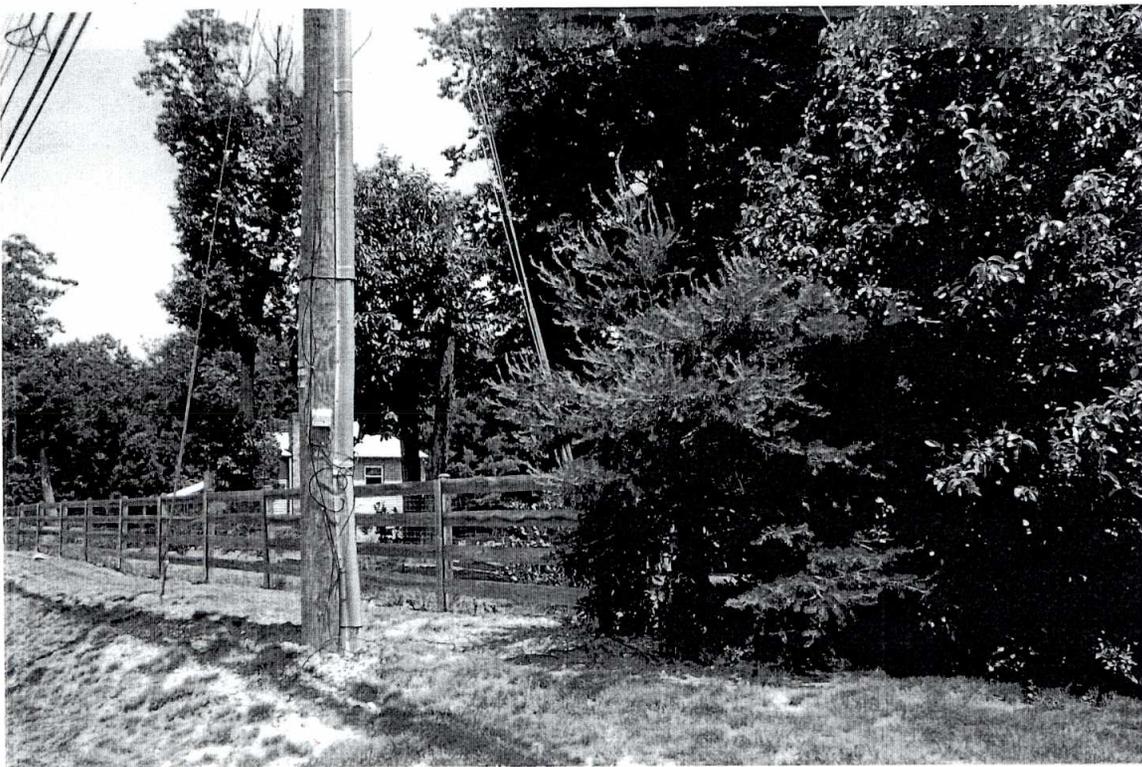
Left Front



Boundary Pictures: 3425 West Ox Rd, Herndon VA 20171  
Pictures taken: 5/30/11

## Front Corner Views

Right Corner (In)



Boundary Pictures: 3425 West Ox Rd, Herndon VA 20171  
Pictures taken: 5/30/11

Back View

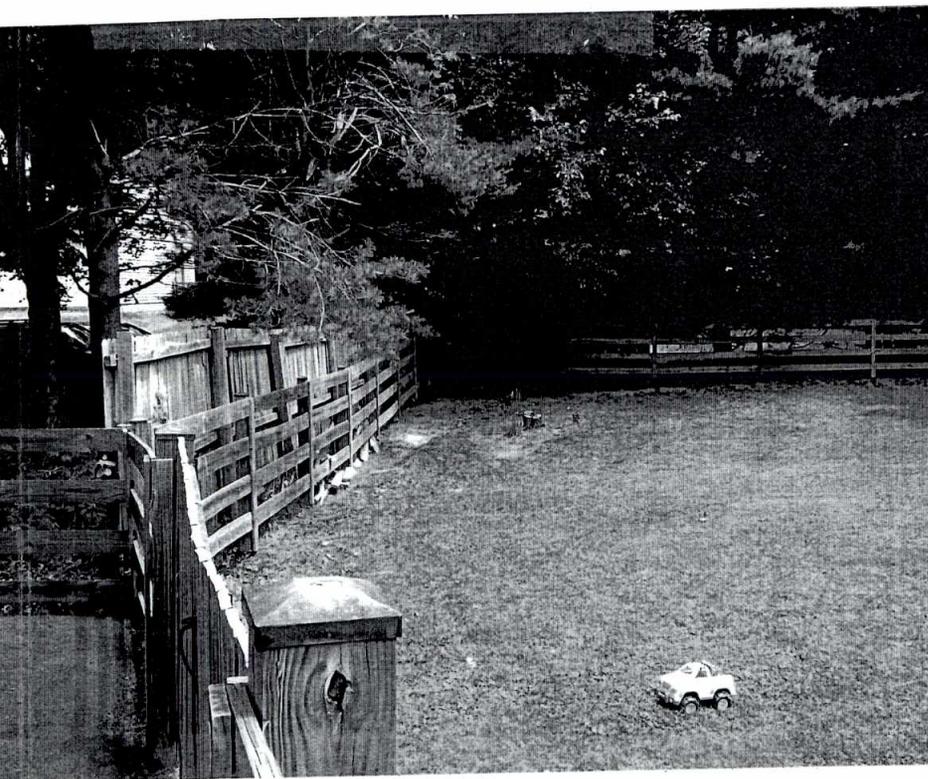
Right Back corner



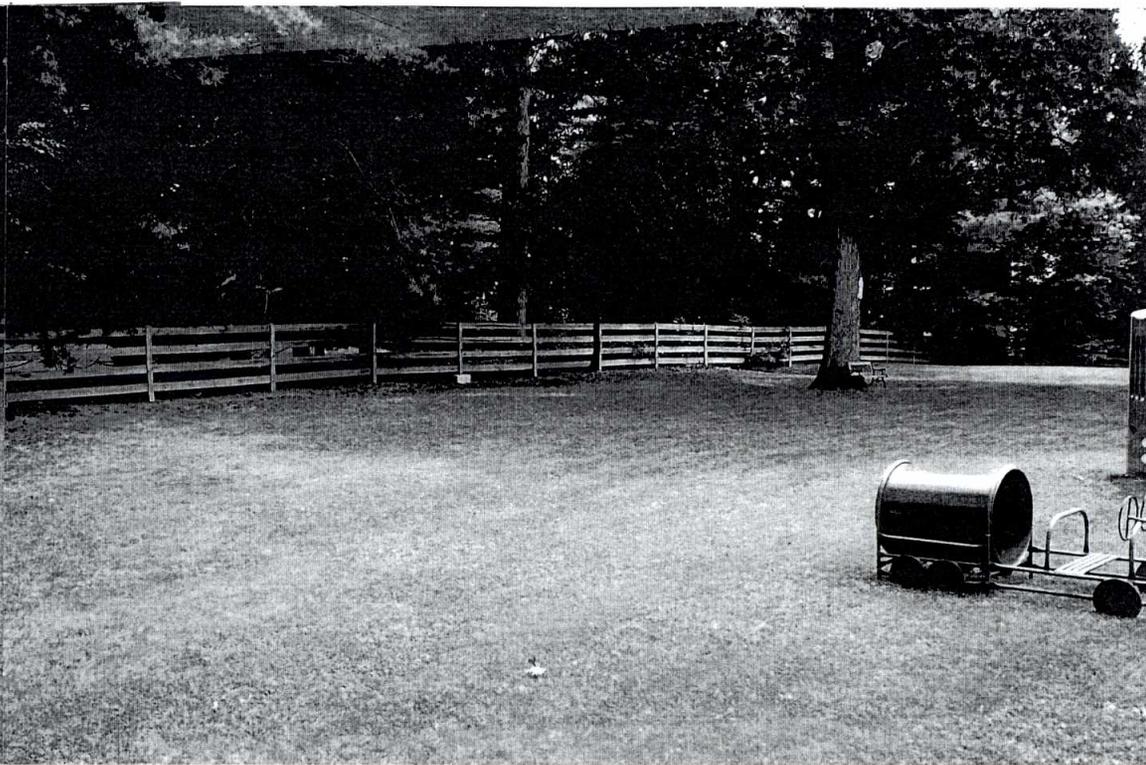
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Pictures taken: 5/30/11

### Back views

Left Back Corner



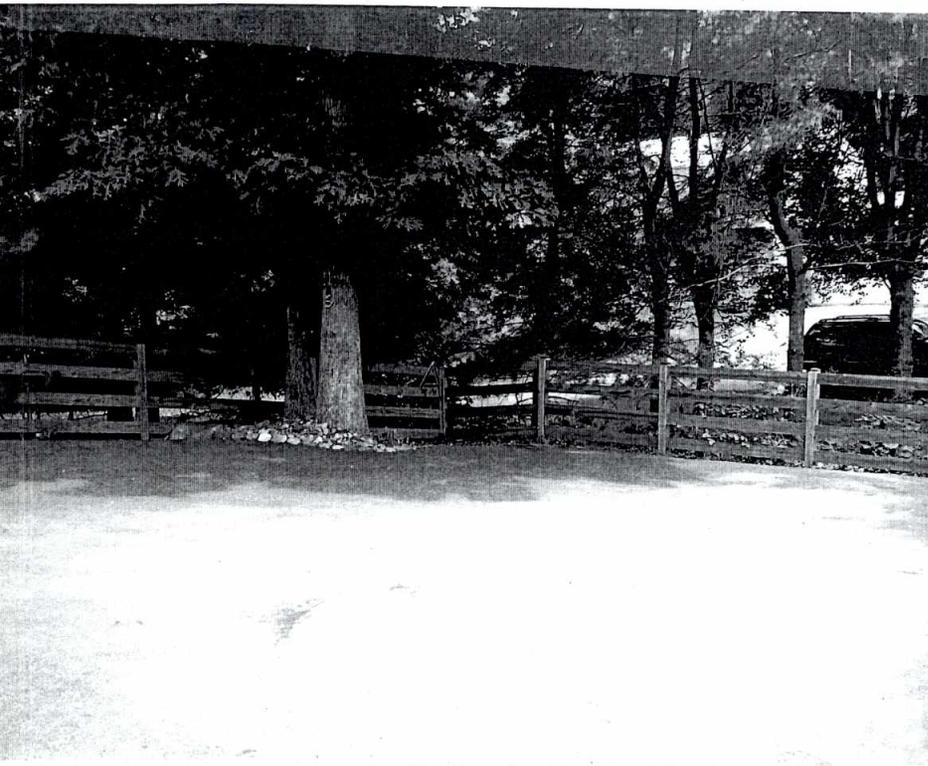
Back Middle



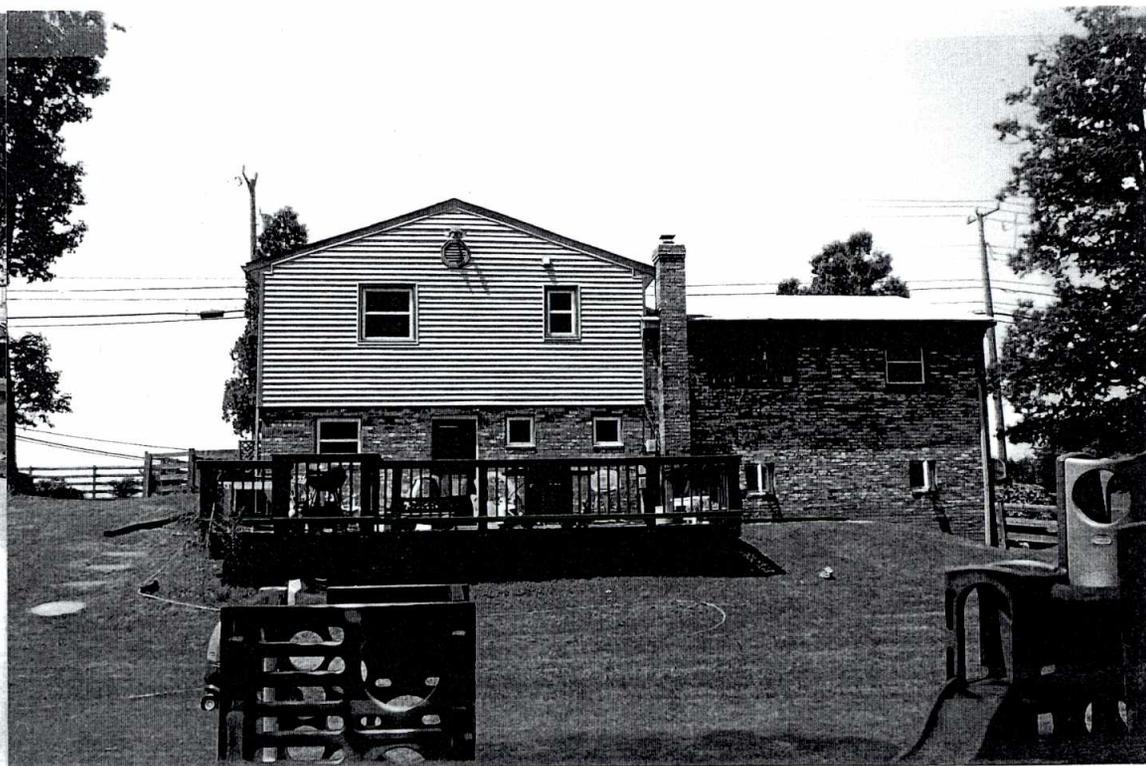
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Pictures taken: 5/30/11

Back views

Left Back Corner



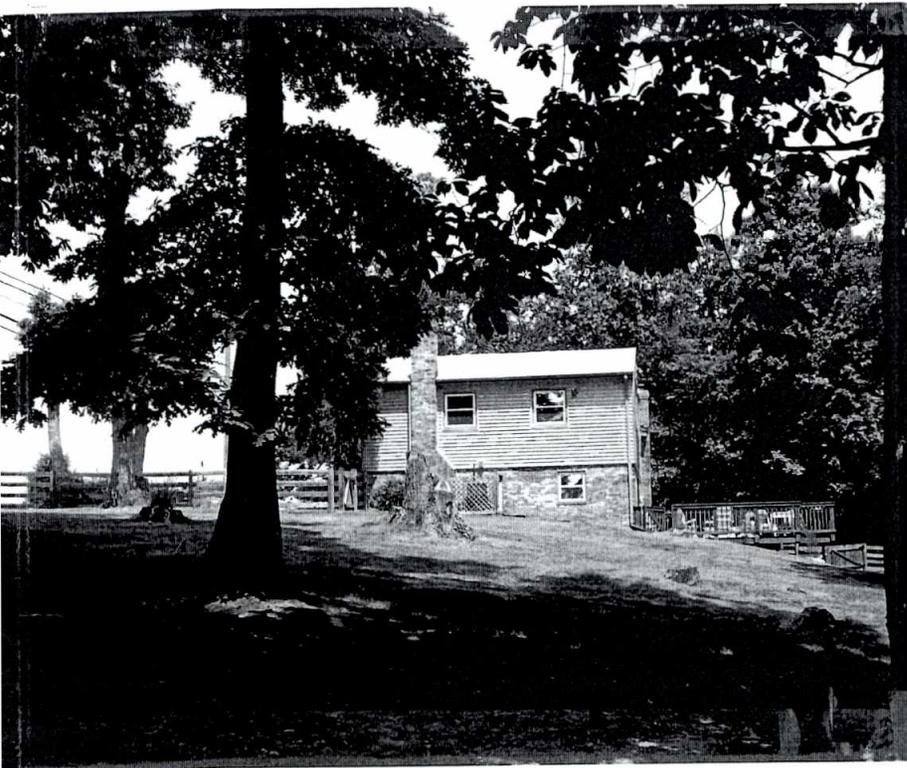
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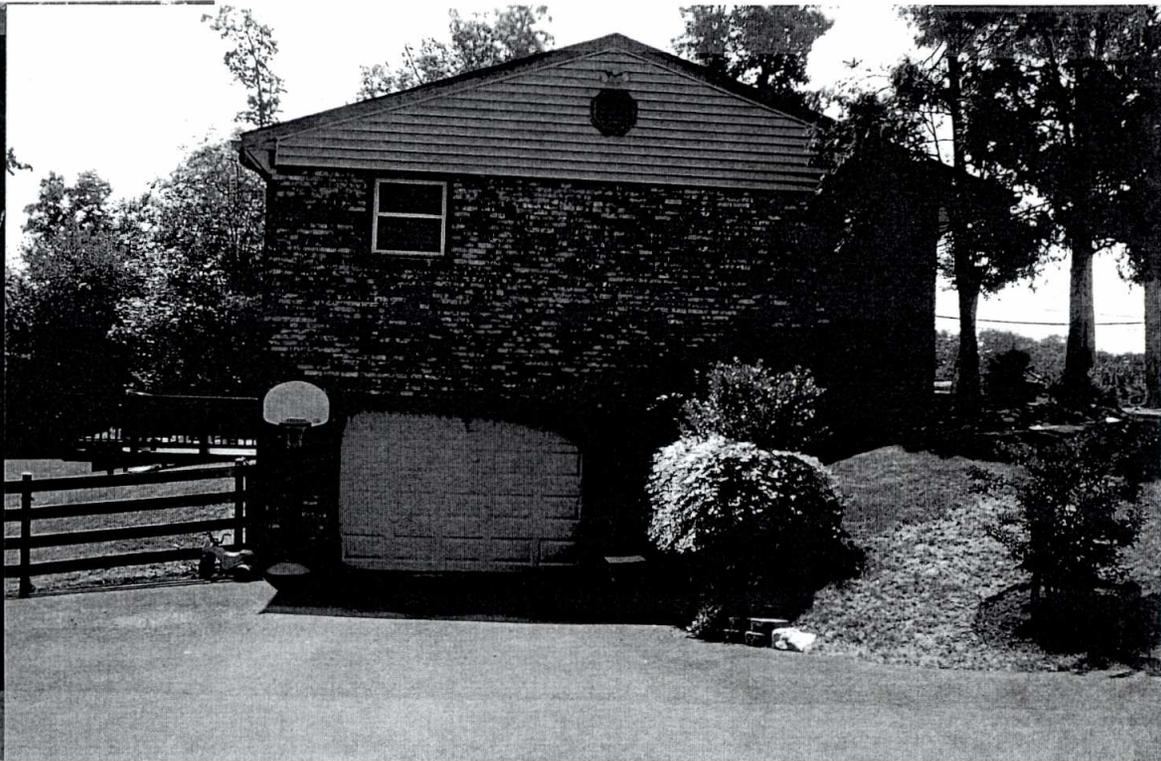
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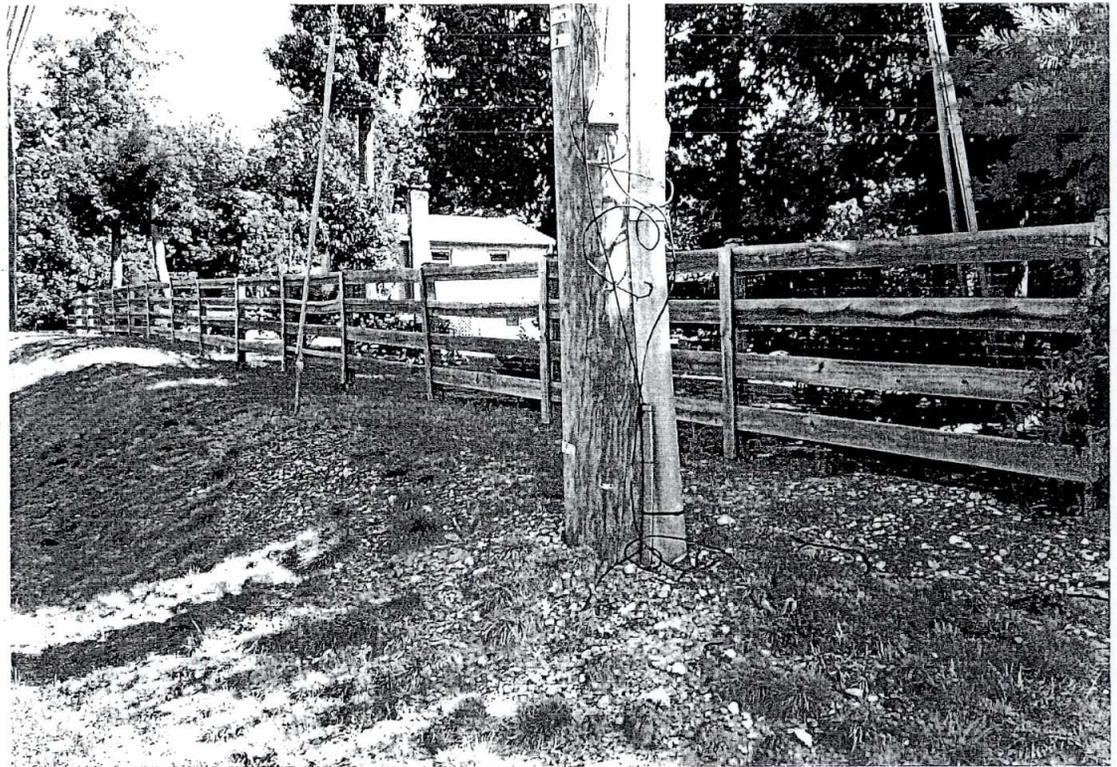
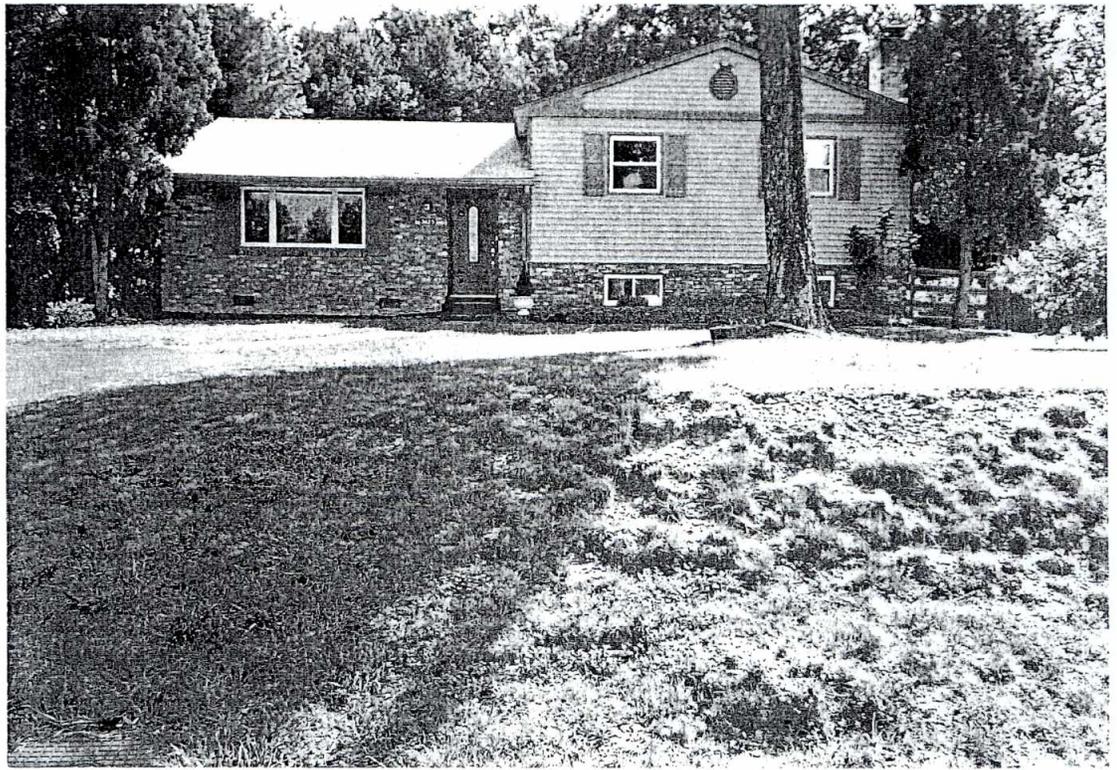
Side view

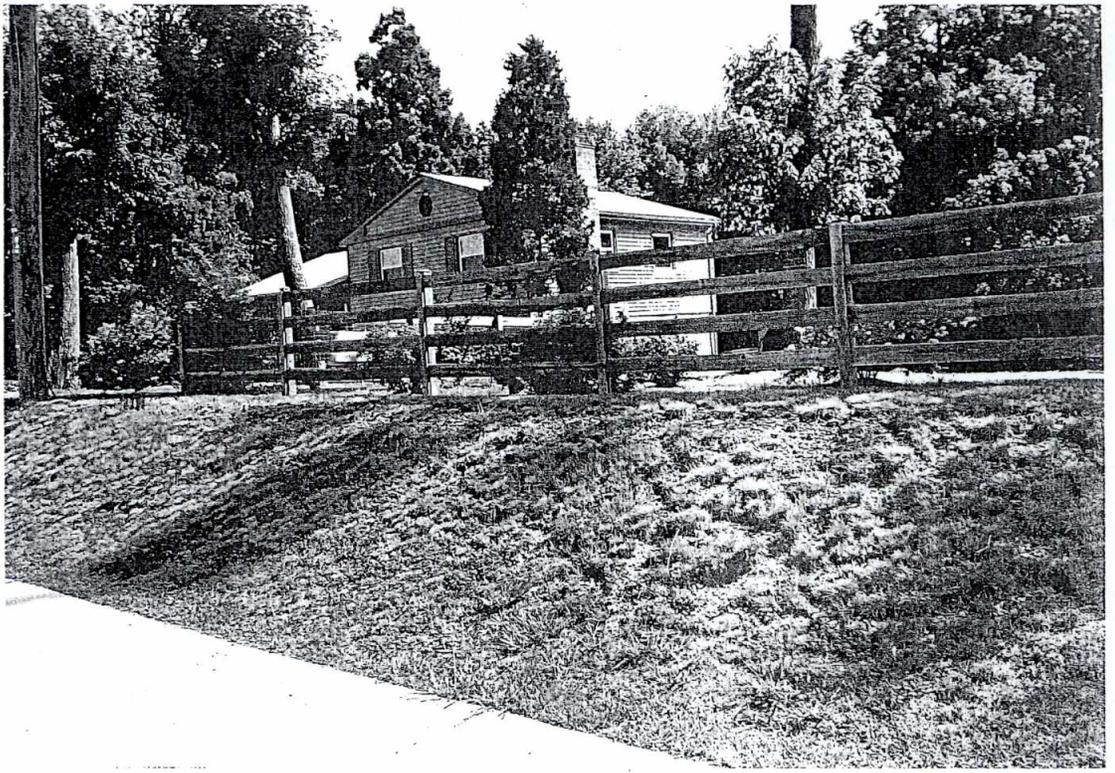
Left Side View

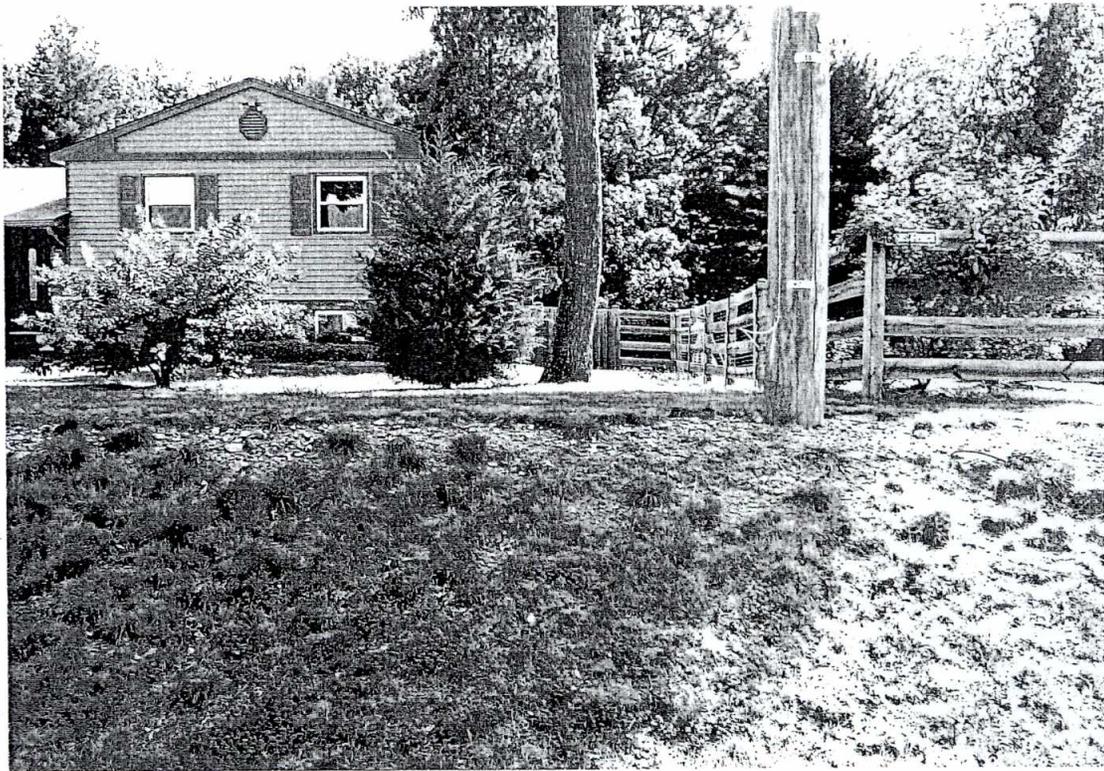


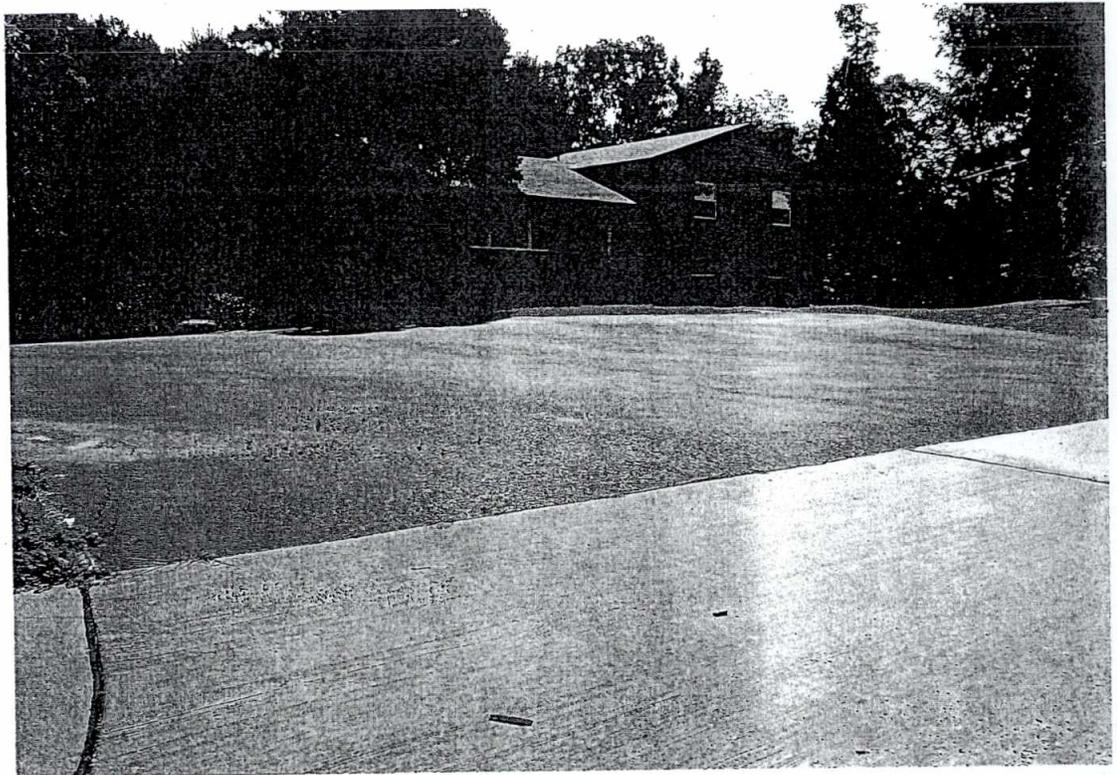
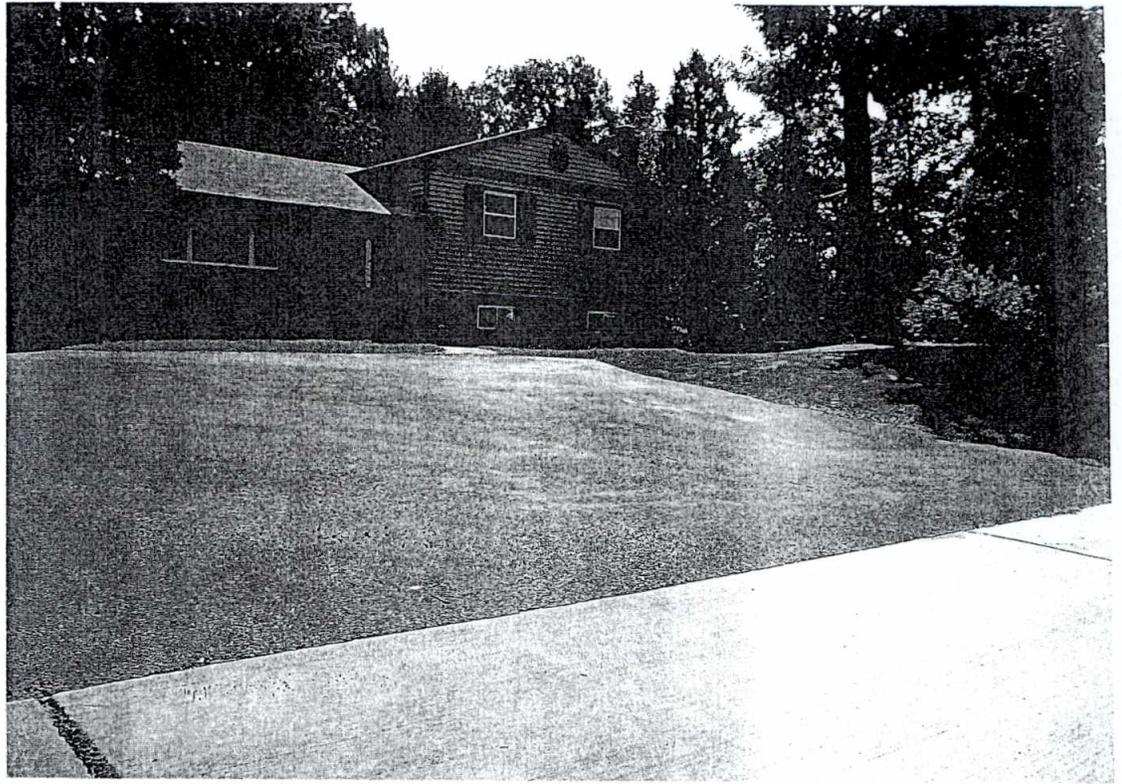
Right Side View

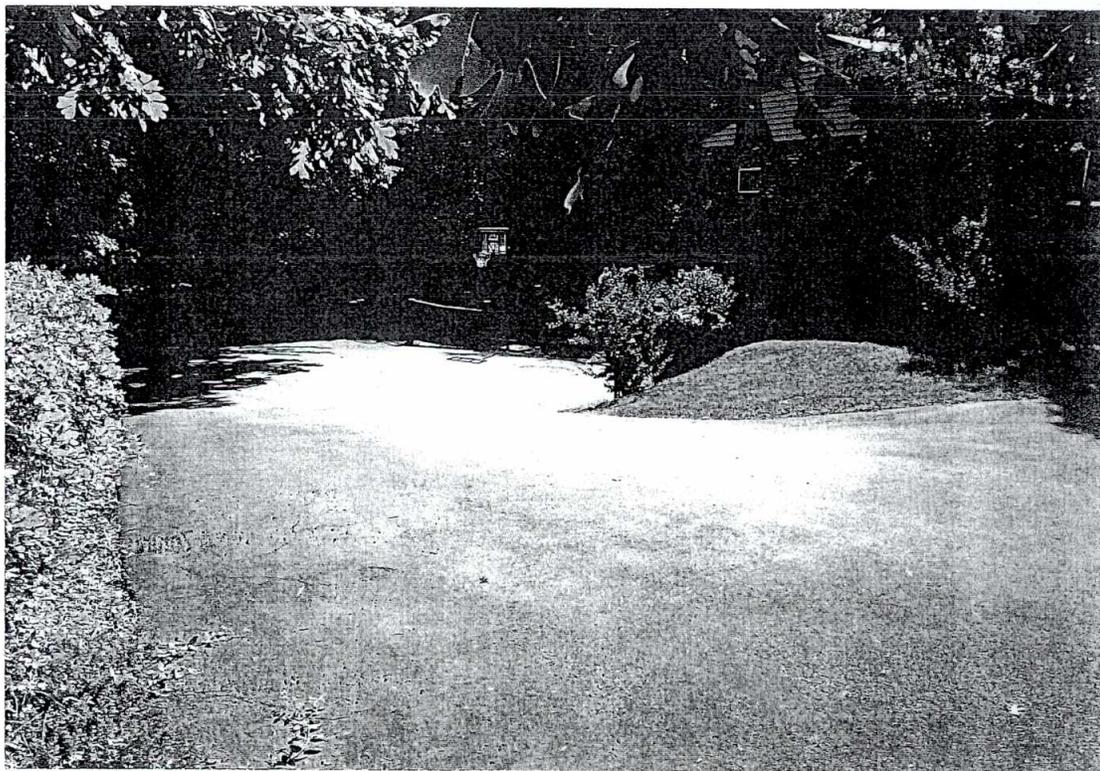
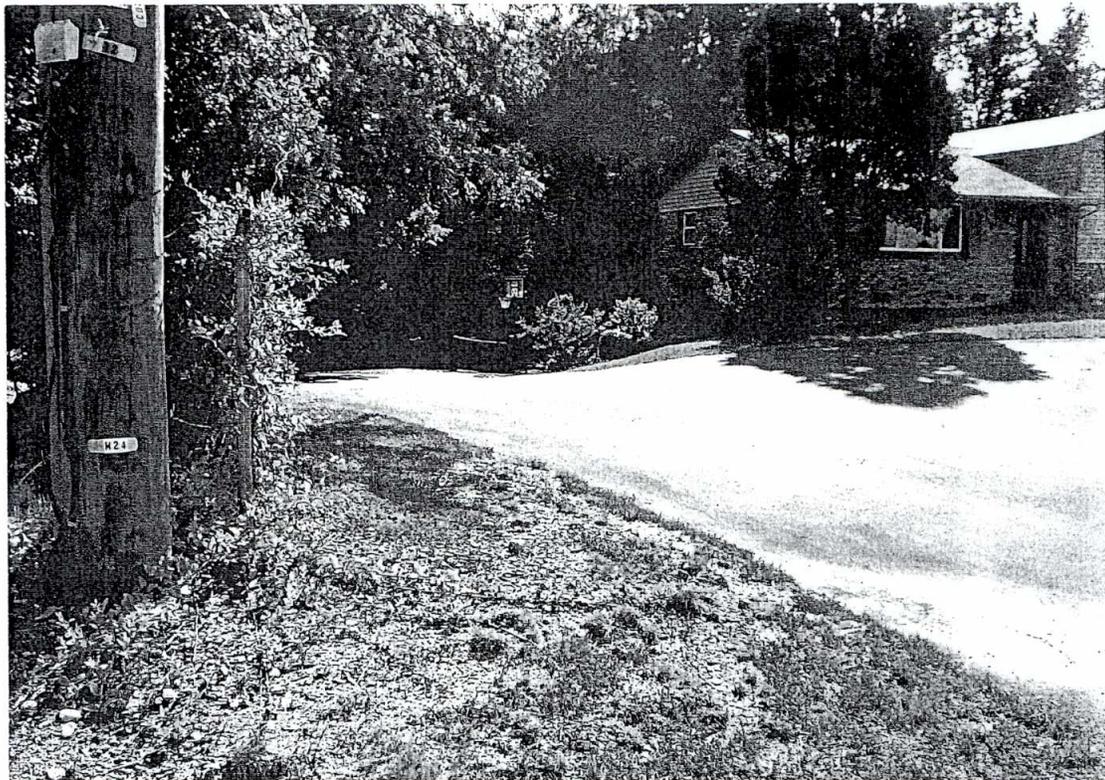


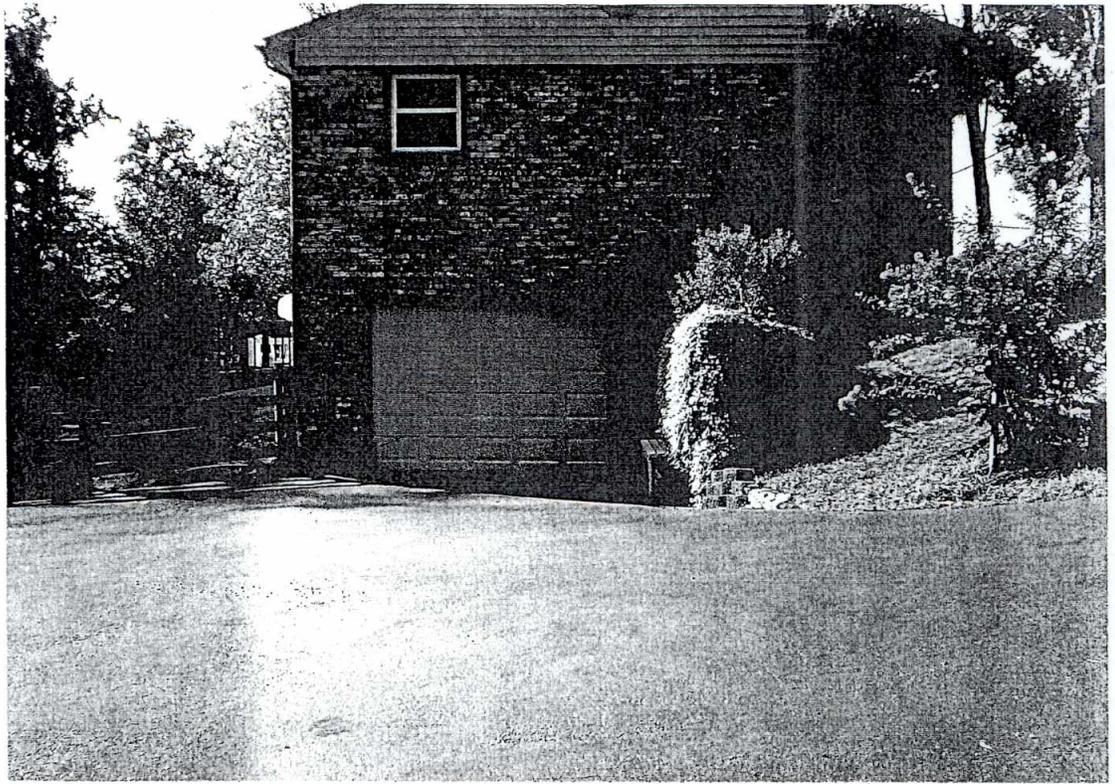


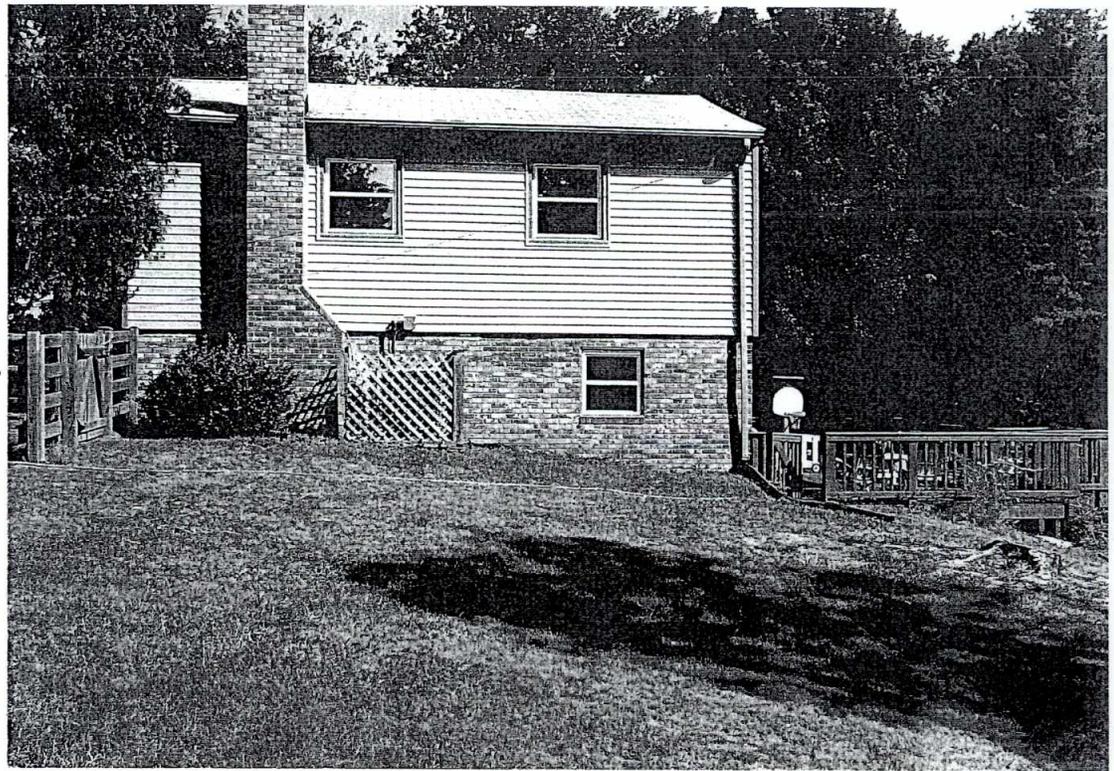


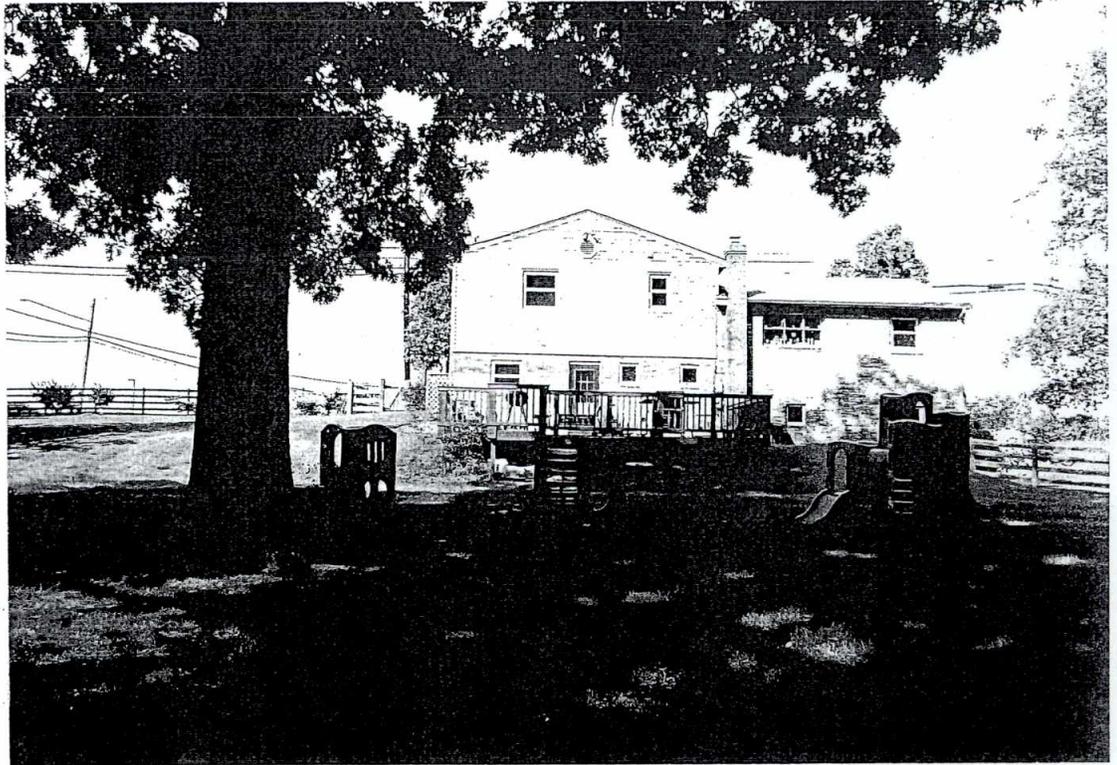
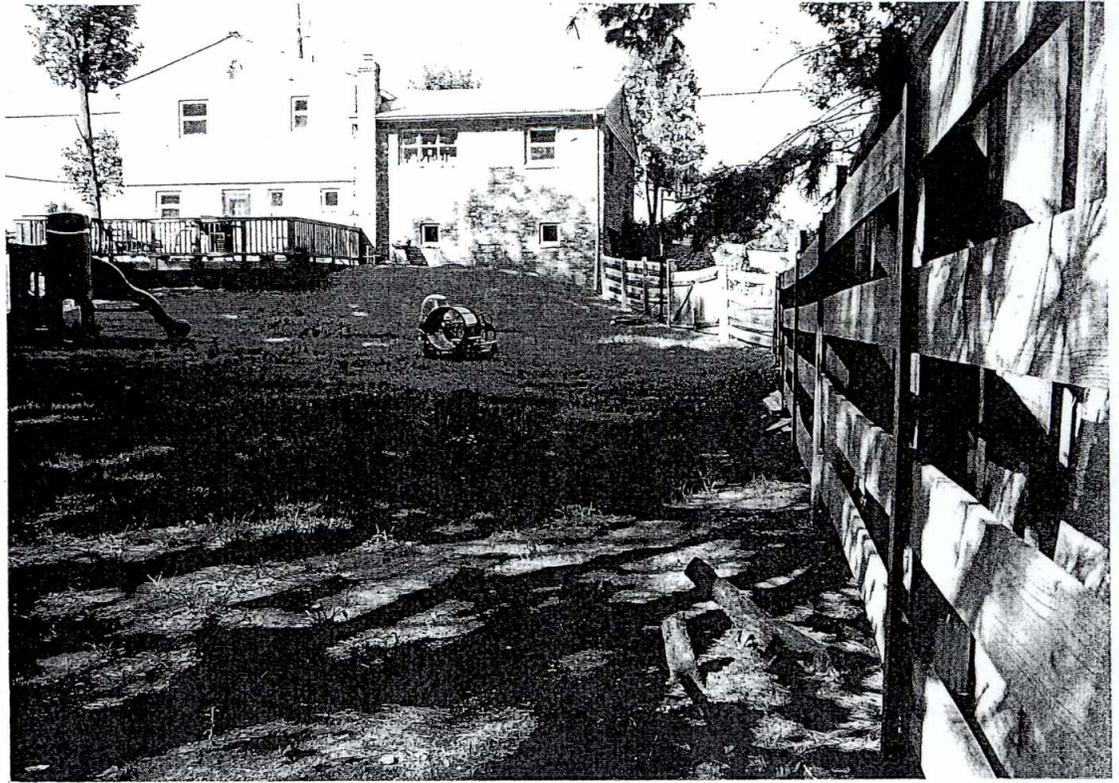


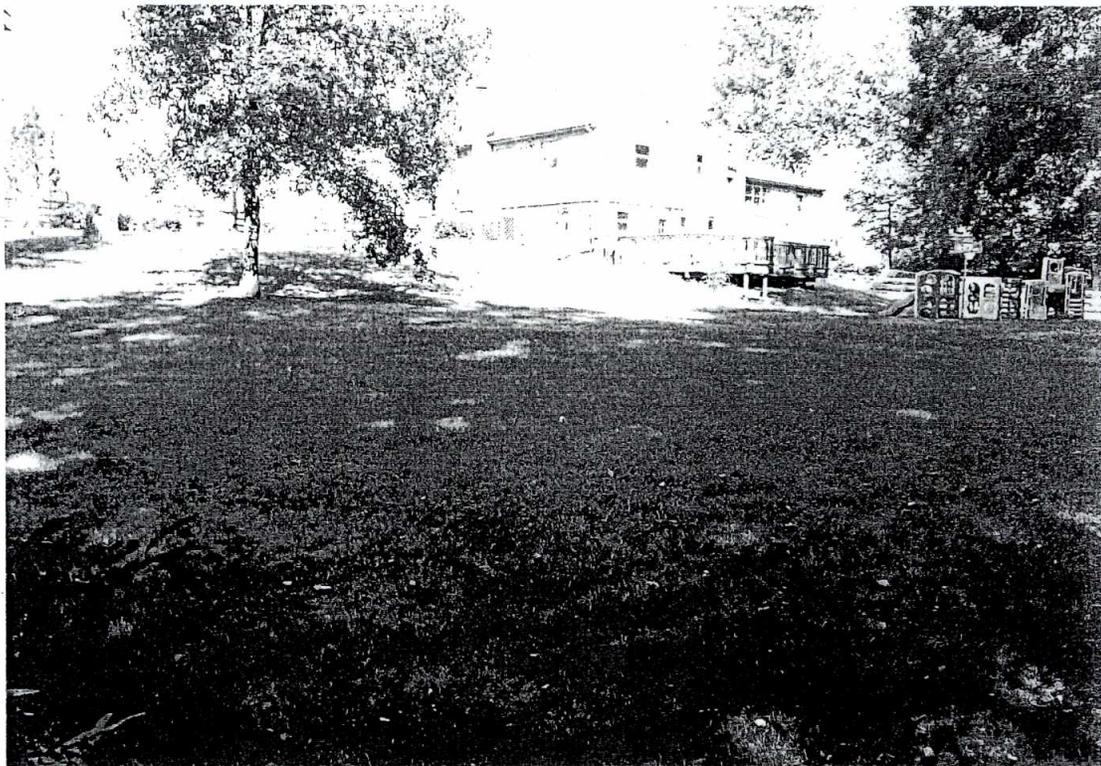
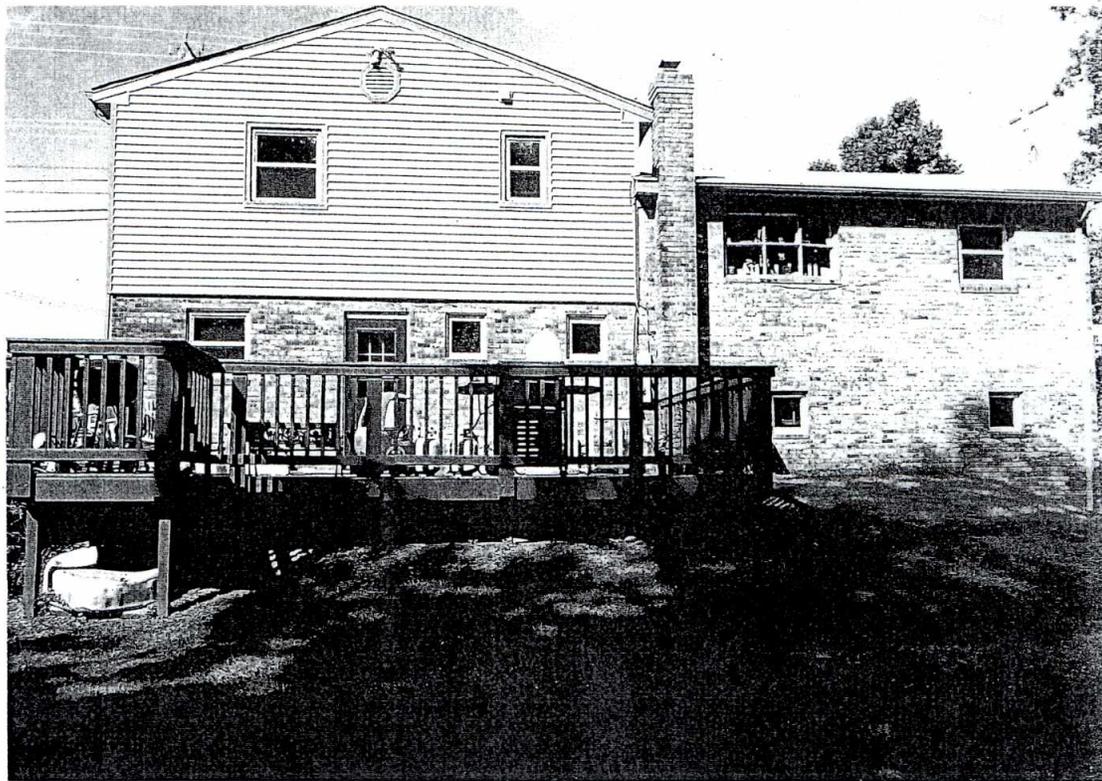




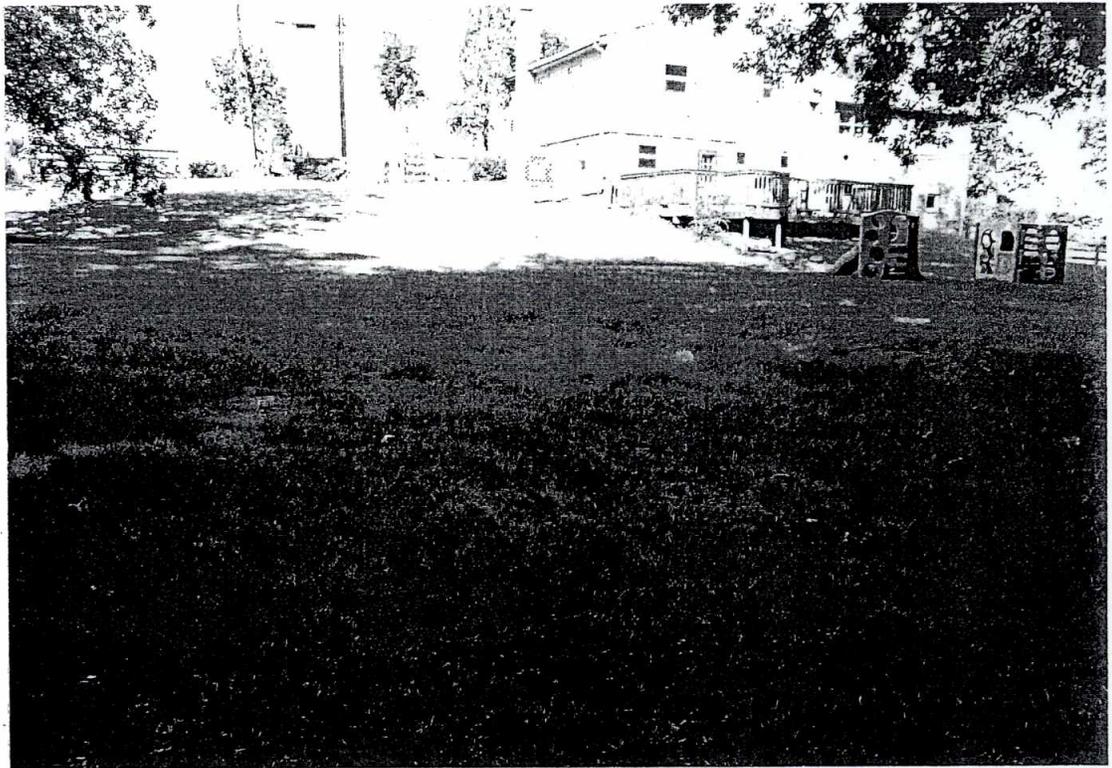


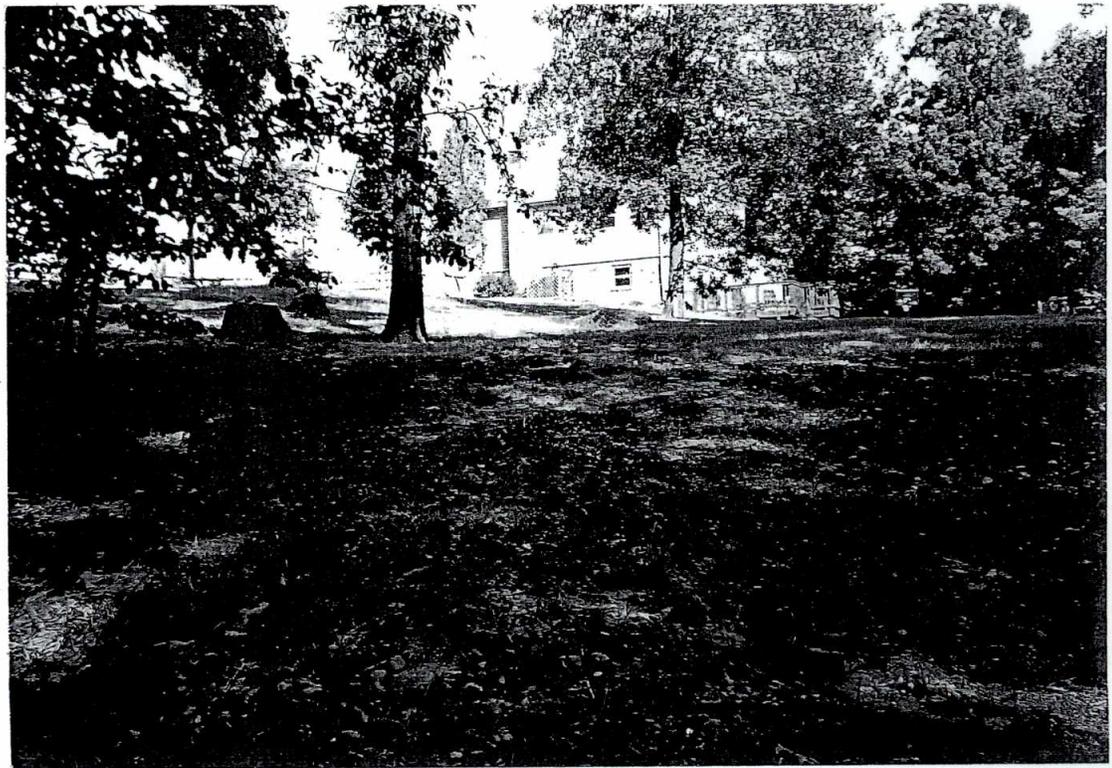


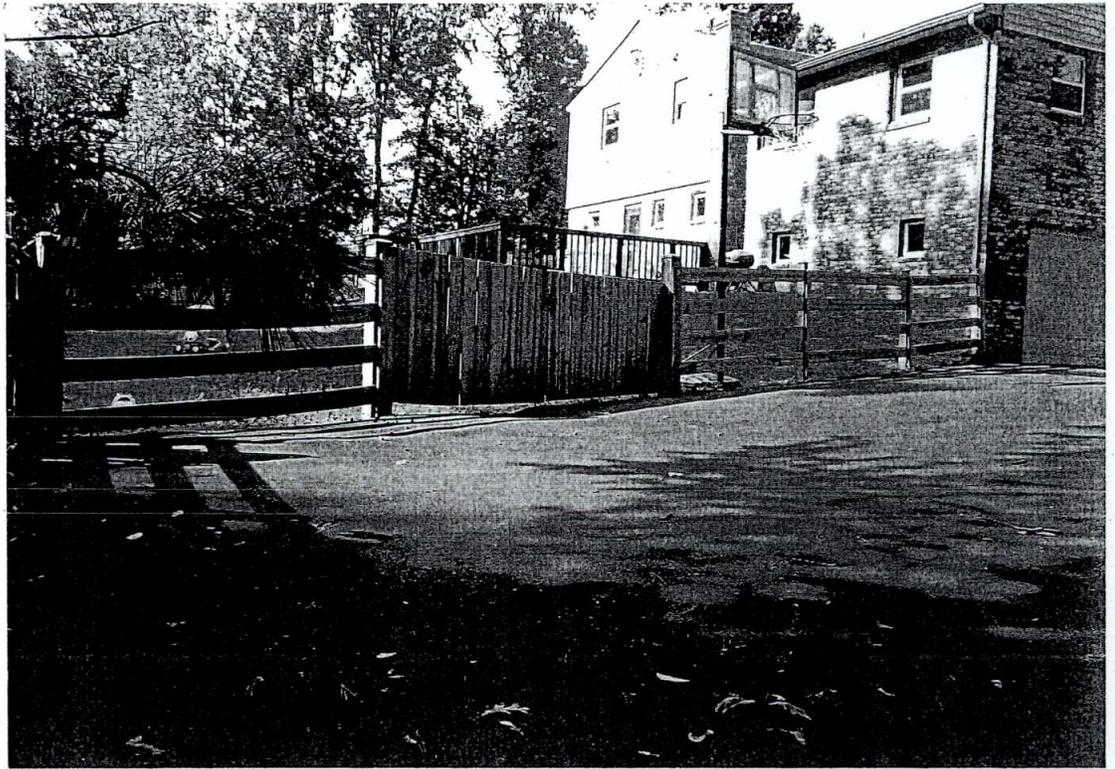


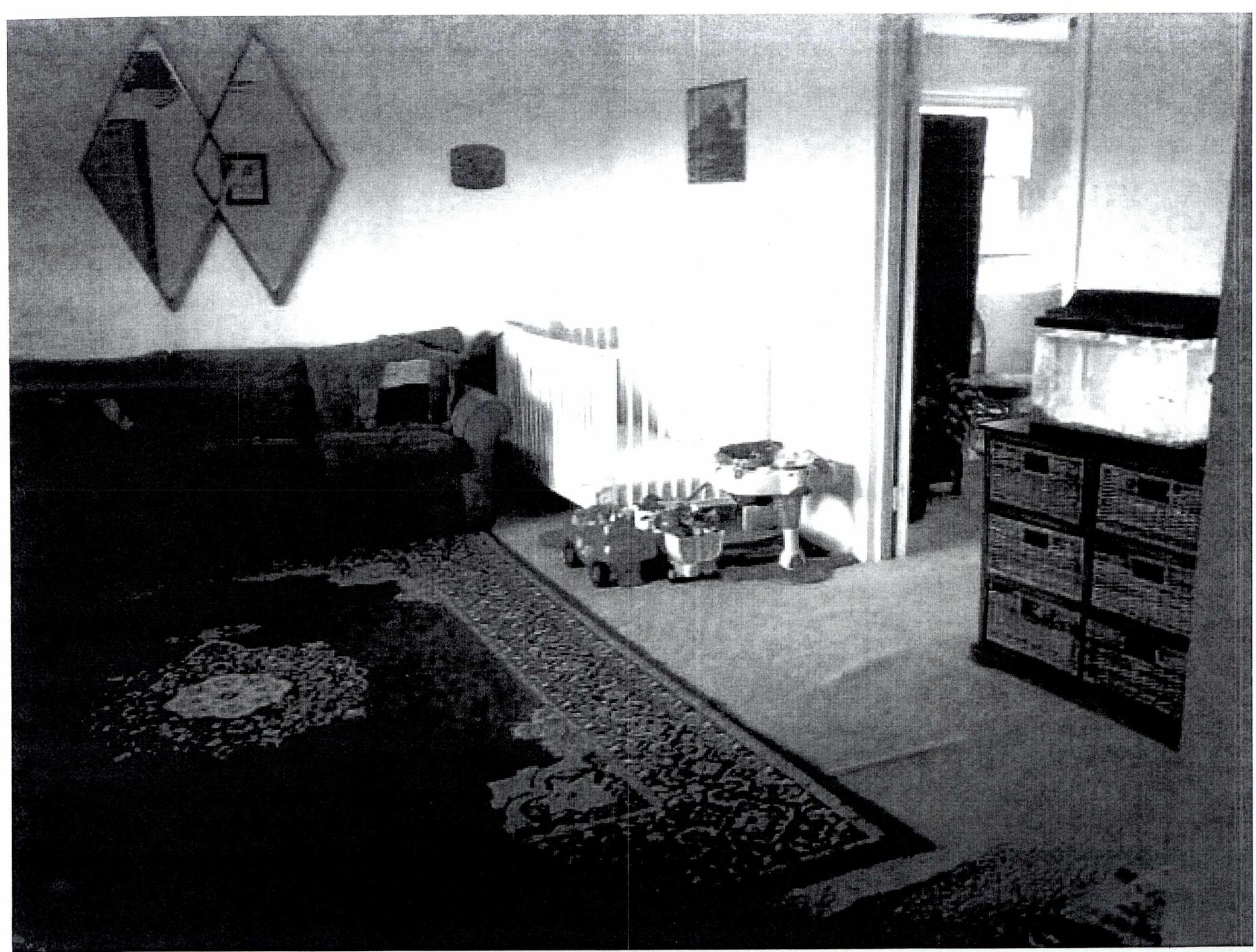








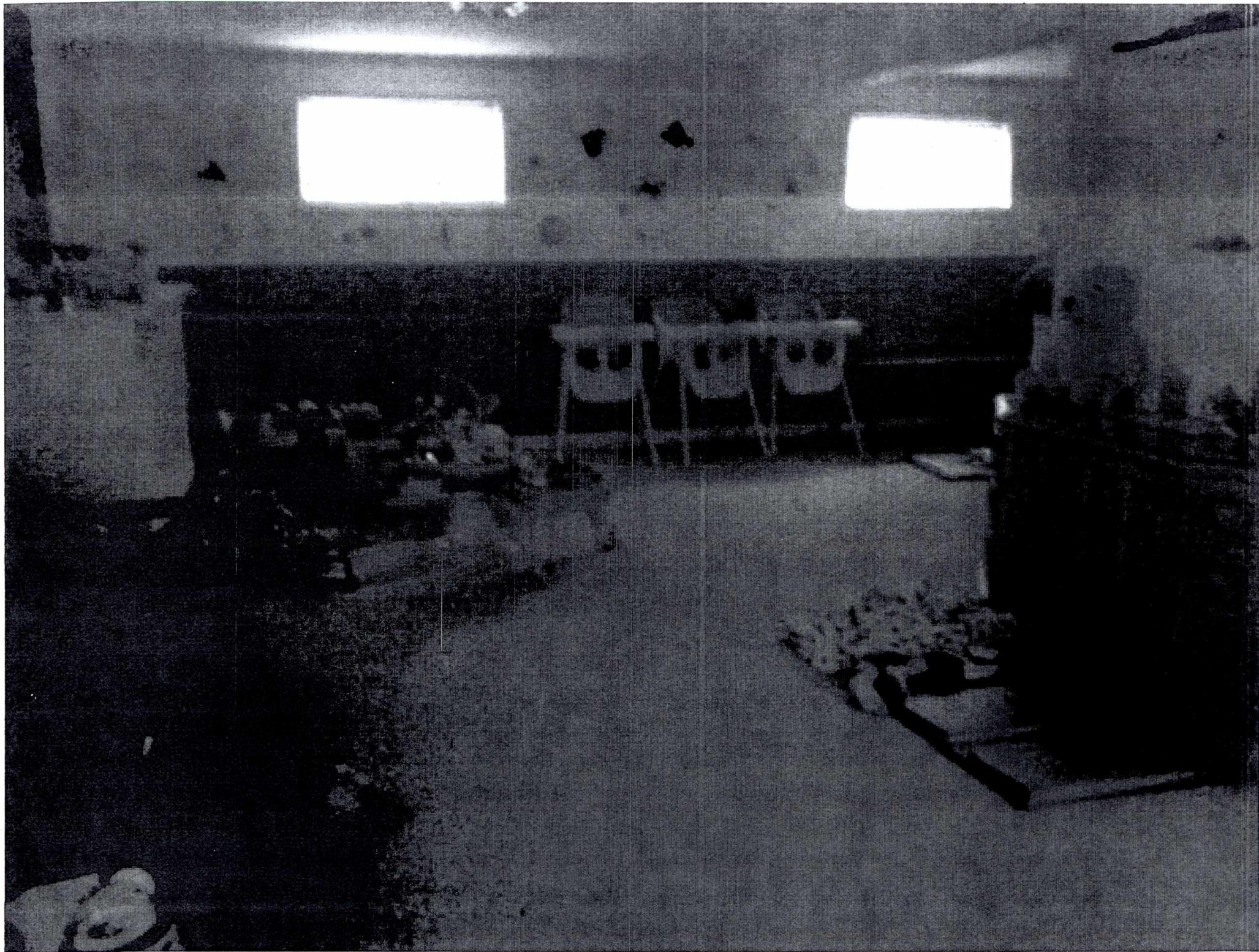


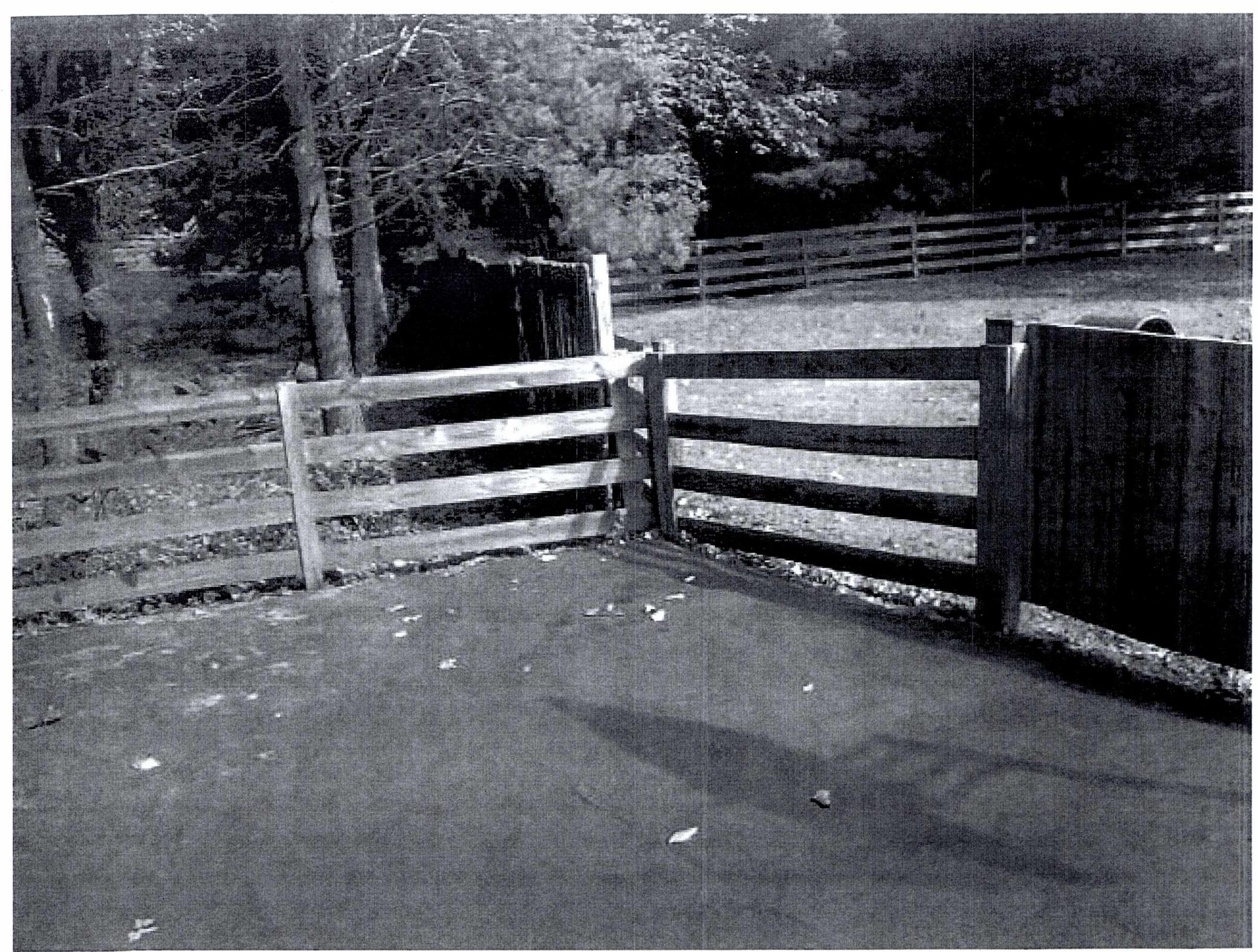


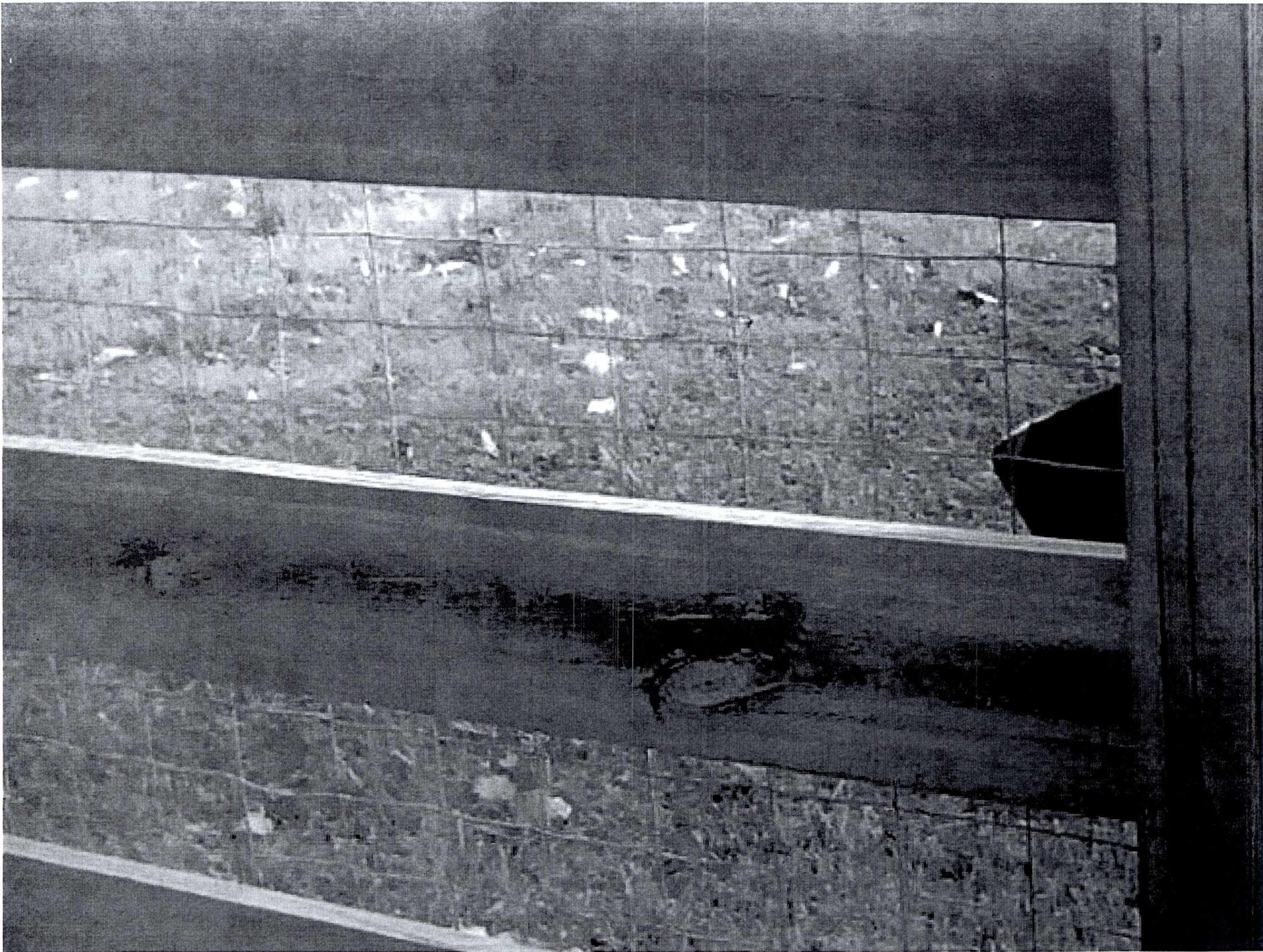












## DESCRIPTION OF THE APPLICATION

The applicant is seeking approval of a special permit to permit a home child care facility for a total of up to ten (10) children at any one time.

**Parking:** 5 spaces: 1 in the garage and 4 in the existing driveway off West Ox Road.

**Hours of Operation:** Monday through Friday: 7:00 a.m. – 6:00 p.m.

**Number of Employees:** Two; Terrance and Shalla Flores, the property owners.

## BACKGROUND

County Records show that the dwelling was constructed in 1969.

On April 27, 2010, a Notice of Violation was issued for the presence of a home child care facility wherein 8 children, one of which is the applicant's, were being cared for in a single family detached dwelling that did not meet the limitations of the required Home Occupation Permit and the displaying of an exterior sign and found to be in violation of Par. 6 of Sect. 2-302 and Par. 9 of Sect. 2-302. A copy of the Notice of Violation is included as Appendix 4.

## EXISTING SITE DESCRIPTION

The 37,103 square-foot site is located in the Russell Lowe Property Subdivision east of West Ox Road and the Navy Elementary School. The lot is zoned to the R-1 Zoning District and is developed with a split-level, brick and frame, single family detached dwelling. County Records indicate that the dwelling was constructed in 1969 and consists of approximately 1,324 square feet of above-grade gross floor area. Ingress and egress to the site is provided via a 24-foot driveway accessed from West Ox Road and terminates at a single car garage. The driveway appears to be able to accommodate at least four (4) vehicles plus one within the garage. There is a wooden deck attached to the southeast corner of the dwelling which appears to be in conformance with the Zoning Ordinance minimum yard requirements. The yard is enclosed with a 4 foot tall combination wood and wire fencing.

<b>SURROUNDING AREA DESCRIPTION</b>			
<b>Direction</b>	<b>Use</b>	<b>Zoning</b>	<b>Plan</b>
<b>North</b>	Single Family Dwellings	R-1	Residential; 1 du/ac
<b>South</b>	Single Family Dwellings	R-1	Residential; 1 du/ac
<b>East</b>	Single Family Dwellings	R-1	Residential; 1 du/ac
<b>West</b>	Navy Elementary School	R-1	Residential; 1 du/ac

### **COMPREHENSIVE PLAN PROVISIONS**

**Plan Area:** Area III, Upper Potomac Planning District  
**Planning Sector:** West Ox Community Planning Sector (UP7)  
**Plan Map:** Residential use at 0.2-0.5 dwelling units per acre (du/ac)

### **ANALYSIS**

**Special Permit Plat** (Copy at front of staff report)

**Title of SP Plat:** Special Permit Plat, Lot 2-A, Russell Lowe Property

**Prepared by:** Sam Whitson Land Surveying, Inc., signed by L.S. Whitson

**Dated:** September 6, 2011

### **Proposed Use:**

The applicant is requesting approval of a special permit for a home child care facility for up to ten (10) children on site at any one time between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday. The children arrive between 7:00 a.m. and 8:00 a.m. and depart between 5:00 p.m. and 6:00 p.m. Employees include the two married home occupants.

The applicant holds a current license, issued June 3, 2011 and valid through June 2, 2012, from the Commonwealth of Virginia, Department of Social Services for a Family Day Home with a capacity of 10 children, aged birth through 12 years. A copy of the

SP 2011-SU-084

license is included as Appendix 5.

The home is a split level single family dwelling. The home child care facility is operated throughout the house which includes bedrooms, bathrooms, kitchen, living spaces, laundry, and storage room. There is a fenced yard and wood deck where the children play outside. A combination of wire and wood fencing measuring approximately 4 feet in height encloses a large portion of the lot within which is an outdoor play area, as shown on the SP Plat. Pictures provided by the applicant show toys located in this area. The existing driveway and garage appears to be able to accommodate five vehicles: four (4) vehicles in the driveway area plus one vehicle inside the garage. Based on the number of children proposed in the home child care, two off street parking stalls are required, in addition to the two off street parking stalls required for the dwelling.

### On-site Parking and Site Circulation

All parking and circulation for the proposed is contained on site. Access to the site is from West Ox Road. The driveway is wider than a typical residential drive and appears to easily accommodate the limited number of cars entering and exiting the site. There is an existing median in West Ox Road which prevents a left hand turning movement from the site, therefore cars exit in a right hand motion onto West Ox Road. There appears to be adequate sight distance for the existing drive and there are no concerns related to traffic and site circulation with the proposed use. A copy of the Transportation memo is included as Appendix 6.

### ZONING ORDINANCE PROVISIONS

<b>Residential District, One Dwelling Units/Acre (R-1)</b>		
<b>Standard</b>	<b>Required</b>	<b>Proposed</b>
Lot Size	36,000 sq ft (minimum)	37,103
Lot Width	150 feet – interior lot (minimum)	222.65 feet
Building Height	35 feet (maximum)	18.6 feet
Front Yard	40 feet (minimum)	53.4 feet
Side Yard	20 feet (minimum)	42.6 feet (north yard) 124.7 feet (south yard)
Rear Yard	25 feet (minimum)	76.8 feet
Parking Spaces	2 space for single family dwelling. Child care use minimum 2 spaces.	5 spaces

## **OTHER ZONING ORDINANCE REQUIREMENTS**

### Special Permit Requirements (Appendix 7)

- Sect. 8-006 General Special Permit Standards
- Sect. 8-303 All Group 3 Uses
- Sect. 8-305 Additional Standards for Home Child Care Facilities

### **Summary of Zoning Ordinance Provisions**

Only with adoption of the proposed development conditions does the application meet all special permit standards of the Zoning Ordinance.

## **CONCLUSION AND RECOMMENDATIONS**

Staff believes that the subject application is in conformance with the applicable Zoning Ordinance provisions with the adoption of the Proposed Development Conditions contained in Appendix 1 of the staff report. Staff recommends approval of SP 2011-SU-084.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

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

## **APPENDICES**

1. Proposed Development Conditions with Attachment 1
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notice of Violation
5. Day Home License
6. Transportation Analyses
7. Applicable Zoning Ordinance Provisions

**PROPOSED DEVELOPMENT CONDITIONS****November 30, 2011**

If it is the intent of the Board of Zoning Appeals to approve SP 2011-SU-084 located at Tax Map 35-4 ((1)) 72 for a home child care facility pursuant to Section 3-303 of the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. This approval is granted to the applicant, Shalla Flores, only and is not transferable without further action of the Board, and is for the location indicated on the application, 3425 West Ox Road, and is not transferable to other land.
2. This special permit is granted only for the purpose(s), structure(s) and/or use(s) indicated on the Special Permit (SP) Plat prepared by L.S. Whitson, Sam Whitson Land Surveying, Inc., dated September 6, 2011, and approved with this application, as qualified by these development conditions.
3. A copy of this Special Permit SHALL BE POSTED in a conspicuous place on the property of the use and be made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The maximum hours of operation of the home child care facility shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday.
5. The maximum number of employees shall be limited to one (1) on-site at any one time in addition to the applicant.
6. The dwelling that contains the child care facility shall be the primary residence of the applicant.
7. A minimum of five (5) parking spaces shall be provided on the subject parcel within areas of existing paving. In no instance shall the driveway or parking areas exceed 30% of any front yard.
8. There shall be no signage associated with the home child care facility.
9. The existing one car garage shall not be converted to a use other than for off-street parking and shall be kept clear of debris at all times in order to accommodate parking for the principal and home child care uses.

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.

Pursuant to Sect. 8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established as outlined above. The number of children shall not be increased above seven (7) until all conditions are met. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 7-6-2011  
 (enter date affidavit is notarized)

I, Shalla Flores, 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      112230 a

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)
Shalla Flores	3425 West Ox Rd, Herndon VA, 20171	Owner/ <b>APPLICANT</b> <b>SP</b>
Terrance Flores	3425 West Ox Rd, Herndon VA, 20171	Husband/ <b>OWNER</b> <b>SP</b>

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

\* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.  
 \*\* List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

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

Page Two

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 7/6/11  
(enter date affidavit is notarized)

112230a

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 7/6/11  
(enter date affidavit is notarized)

112230a

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

PARTNERSHIP INFORMATION

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

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

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

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

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

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 7/6/11  
(enter date affidavit is notarized)

112230a

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

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

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

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

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

NONE

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

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

**SPECIAL PERMIT/VARIANCE AFFIDAVIT**

DATE: 7-6-2011  
(enter date affidavit is notarized)

112230a

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)

Shalla Flores  
 Applicant [ ] Applicant's Authorized Agent

Shalla Flores

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

Subscribed and sworn to before me this 06 day of July, 2011, in the State/Comm. of VA, County/City of Fairfax.

Rekha K Patel  
Notary Public

My commission expires: 6/30/2012

**REKHA K PATEL**  
**NOTARY PUBLIC**  
**REG. #354105**  
**COMMONWEALTH OF VIRGINIA**  
**MY COMMISSION EXPIRES JUNE 30, 2012**

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

**RE: Statement of Justification**

Dear Sir/Madam,

We, Terrance and Shalla Flores hereby certify that we are owners of the property located at 3425 West Ox Rd, Herndon, VA 20171.

Shalla's Daycare, a daycare service provider, has been and will continue to be the use of this property, serving children of various age groups, with particular attention given to children from birth to 12 yrs of age. The business hours are 7am-6pm, Mon-Fri, with some after care services, upon request.

On an average day there are no more than seven (7) kids in the daycare, with two employees providing supervision and meals.

The Daycare is situated approximately 60 feet from the main st and has not caused, and is not causing any traffic impact to the residents in the neighborhood. Patrons are provided parking on the premises. This Daycare does not take trips, but kids are exposed to some outside fun in the jungle gym, in the secured backyard. Kids have access to the entire kids-friendly property.

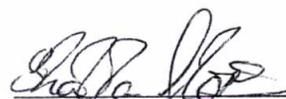
This daycare has been in operation for the past three (3) years and there has not been any additions to the property.

There are no known hazardous or toxic substances on this site.

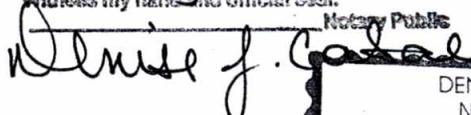
We further certify that the use of this property is consistent with all applicable Daycare ordinances, regulations and adopted standards.

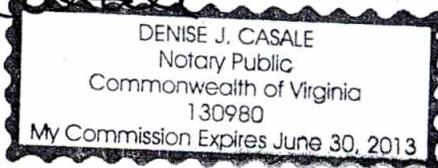
If you have any questions, please do not hesitate to contact us at 703 860 3939.

Sincerely

  
\_\_\_\_\_  
Terrance & Shalla Flores

City/County of va Fairfax  
Commonwealth of Virginia  
Sworn to and subscribed before me this 31  
day of may, 2011  
Witness my hand and official seal.

  
\_\_\_\_\_  
Notary Public





# 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: April 27, 2010



### SHERIFF'S LETTER

CASE #: 201001068 SR#: 58452

**SERVE:** Terrance Flores  
Shalla Flores  
3425 West Ox Road  
Herndon, VA 20171

**LOCATION OF VIOLATION** 3425 West Ox Road  
Fairfax, VA 22033-1711  
Tax Map #: 0354 01 0072  
Zoning District: R-1

Dear Property Owners:

An inspection of the above referenced property on April 3, 2010 revealed the following violations of the Fairfax County Zoning Ordinance.

### **Home Occupation:**

The inspection revealed that you are conducting a Child Day Care Business at your residence on a regular basis. You are currently watching 8 children, one child which is yours. While a Child Day care business is permissible under Article 10 of the Fairfax County Zoning Ordinance, a Home Occupation Permit must be obtained from Fairfax County. A review of Home Occupation Permit records, maintained by the Department of Planning and Zoning confirmed that no such permit has been issued for the business operation located on the above-referenced property.

Additionally, in accordance with Sect. 10-304 of the Zoning Ordinance, all home occupations shall be subject to the following use limitations:

- A home occupation must be conducted by the Home Occupation Permit applicant,

within the dwelling, which the primary residence of the applicant or in an accessory building thereto which is normally associated with a residential use, and shall be clearly subordinate to the principal use of the lot as a dwelling.

- Except for articles produced, on the premises, no stock in trade shall be stored, displayed or sold on the premises.
- There shall be no exterior evidence that the property is used in any way other than for a dwelling.
- No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home, associated with a hobby, or a vocation not conducted for gain or profit, or customary for a small office.
- No outside display or storage of goods, equipment, or materials used in connection with the home occupation shall be permitted.
- The Home Occupation Permit applicant and other persons, who use the dwelling, as their primary residence, may be involved in the home occupation use. In addition, one (1) non-resident person, whether or not paid for their services, may be involved in the home occupation use on the property provided that there is only one (1) such person on the property and the hours, of such attendance, shall be limited to 8:00 a.m. to 5:00 p.m., Monday through Friday.
- Only one commercial vehicle shall be permitted, per dwelling unit, subject to the provisions of Sect. 102 above.
- The dwelling, in which the home occupation is being conducted, shall be open for inspection to County personnel during reasonable hours.
- A permit, for a home occupation, is valid for only the original applicant and is not transferable to any resident, address or any other occupation. Upon termination, of the applicant's residency, the Home Occupation Permit shall become null and void.
- No sign shall be permitted.
- There shall be no customers or clients.

Based on the inspection of above-referenced property, the current operation of the Child Day Care business does not meet the limitations of the required Home Occupation Permit and the displaying of an exterior sign. This signage is a violation of Sect. 10-304, as outlined above.

You are in violation of Par. 6 of Sect. 2-302 of the Zoning Ordinance that 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 comply with the Zoning Ordinance immediately upon receipt of this notice. Compliance can be accomplished by:

- Ceasing operation of the business use: or
- Obtaining a Home Occupation Permit for conducting a Child Day Care business.
- Complying, on a permanent basis, with all limitations of the Home Occupation Permit.

**§ 2-302 (9) Sign Not Permitted**

The inspections revealed that you have installed or have allowed the installation of a sign on the above referenced property. This sign advertises the day care center and also provides a phone number. A sign is defined in Article 20 of the Fairfax County Zoning Ordinance in part, as:

Any writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag, banner or pennant or any other device, figure or similar character which:

- Is used to announce, direct attention to, identify, advertise or otherwise make anything known; and
- Is visible from the public right-of-way or from adjoining property.

This sign is not permitted in accordance with Article 12 of the Zoning Ordinance. Therefore, the display of this sign is a violation of Par. 9 of Sect. 2-302 which requires that:

No sign shall hereafter be erected, built or displayed and no existing sign shall be moved, remodeled, altered or enlarged unless such sign complies, or will thereafter comply, with the provisions of Article 12.

You are hereby directed to clear this violation within 24 hours after receipt of this Notice. Compliance can be accomplished by:

- Removing, on a **permanent** basis, the aforementioned unpermitted sign from the property.
- Ensure that in the future no exterior signage advertising **any** business will be displayed.

---

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance.

Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$2455.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Terrance Flores  
Shalla Flores  
April 27, 2010  
Page 4

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1319 or (703) 324-1300.

Sincerely,



David B. Grigg  
Senior Zoning Inspector

DBG/seg

# Commonwealth of Virginia

DEPARTMENT OF



SOCIAL SERVICES

## FAMILY DAY HOME LICENSE

Issued to: Shalla Maria Flores

Address: 3425 West Ox Road, Herndon, Virginia 20171

This license is issued in accordance with provisions of Chapters 1, 17 and 18, Title 63.2, Code of Virginia and other relevant laws, the regulations of the State Board of Social Services and the specific limitations prescribed by the Commissioner of Social Services as follows:

<u>CAPACITY</u>		<ul style="list-style-type: none"><li>• An assistant must be provided based on the numbers and ages of children in care as required by the Standards.</li><li>• This license does not exempt the licensee from maintaining compliance with local ordinances and laws.</li></ul>
10		
<u>GENDER</u>	<u>AGE</u>	
Both	Birth through 12 years	

This license is not transferable and will be in effect June 3, 2011 through June 2, 2012 unless revoked for violations of the provisions of law or failure to comply with the limitations stated above.

ISSUING OFFICE:

Virginia Department of Social Services  
Division of Licensing - Fairfax Licensing Office  
1701 Pender Drive, Suite 125  
Fairfax, VA 22030

Telephone: (703) 934-1505

FDH 1105119-1110  
LICENSE NUMBER

MARTIN D. BROWN

COMMISSIONER OF SOCIAL SERVICES

By

James J. Parcelli

Title

LICENSING ADMINISTRATOR

Date

May 27, 2011



# County of Fairfax, Virginia

## MEMORANDUM

November 1, 2011

**TO:** Rebecca Horner, Senior Staff Coordinator  
Zoning Evaluation Division, DPZ

**FROM:** Nicholas J. Drunasky, Urban Forester II  
Forest Conservation Branch, UFMD

**SUBJECT:** Russell Lowe Property, Lot 2-A, SP 2011-SU-084

**RE:** Request for assistance dated September 16, 2011

This review is based upon the Special Permit Application SP 2011-SU-084 stamped as "Received by the Department of Planning & Zoning May 31, 2011."

1. **Comment:** No transitional screening or barrier is being provided with this application. According to ZO 13-303, a childcare center that is adjacent to residential requires landscaping and a barrier be provided in accordance with Transitional Screening Type 1 (TS1).

**Recommendation:** The applicant should provide 25 foot wide transitional screening yards on the northern, eastern, and southern property boundaries to screen the use from adjacent residential. Within each transitional screening yard, landscaping should be provided according to 12-303.3A along with a barrier (D, E, or F).

If you have any questions, please feel free to contact me at 703-324-1770.

NJD/  
UFMID #: 165163

cc: RA File  
DPZ File



**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.

**8-303 Standards for all Group 3 Uses**

In addition to the general standards set forth in Sect. 006 above, all Group 3 special permit uses shall satisfy the following standards:

1. Except as may be qualified in the following Sections, all uses shall comply with the lot size and bulk regulations of the zoning district in which located; however, subject to the provisions of Sect. 9-607, the maximum building height for a Group 3 use may be increased.
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, except home child care facilities, shall be subject to the provisions of Article 17, Site Plans.

**8-305 Additional Standards for Home Child Care Facilities**

1. The number of children that may be cared for in a home child care facility may exceed the number of children permitted under Par. 6A of Sect. 10-103, but in no event shall the maximum number of children permitted at any one time exceed ten (10), excluding the provider's own children. The BZA may also allow more than one nonresident person to be involved with the use.
2. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient. The BZA may require the provision of additional off-street parking spaces based on the maximum number of vehicles expected to be on site at any one time and such parking shall be in addition to the requirement for the dwelling unit.
3. The provisions of Article 13 shall not apply to home child care facilities, however, the BZA may require the provision of landscaping and screening based on the specifics of each application.
4. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plan drawn to scale. The plan, which may be prepared by the applicant, shall contain the following information:
  - A. The dimensions, boundary lines and area of the lot or parcel.
  - B. The location, dimensions and height of any building, structure or addition, whether existing or proposed.
  - C. The distance from all property lines to the existing or proposed building, structure or addition, shown to the nearest foot.
  - D. The dimensions and size of all outdoor recreation space and the location of such space in relation to all lot lines.
5. All such uses shall be subject to the regulations of Chapter 30 of The Code or Title 63.2, Chapter 17 of the Code of Virginia.