



APPLICATION ACCEPTED: November 9, 2011
BOARD OF ZONING APPEALS: March 28, 2012
Administratively Moved
TIME: 9:00 a.m.

County of Fairfax, Virginia

March 21, 2012

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2011-SP-095

SPRINGFIELD DISTRICT

APPLICANTS/OWNERS: Robert J. Cunningham, Jr.
Linda J. Cunningham

SUBDIVISION: The Singing Woods

STREET ADDRESS: 11407 Lilting Lane

TAX MAP REFERENCE: 86-2 ((03)) 29

LOT SIZE: 5.00 acres

ZONING DISTRICT: R-C, WS

ZONING ORDINANCE PROVISIONS: 8-918

SPECIAL PERMIT PROPOSAL: To permit an accessory dwelling unit.

STAFF RECOMMENDATION: Staff recommends approval of SP 2011-SP-095 for an accessory dwelling unit, subject to 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 applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

O:\gumk2\SP Cases\SP 2011-SP-095 (ADU)

Laura Gumkowski

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-SP-095

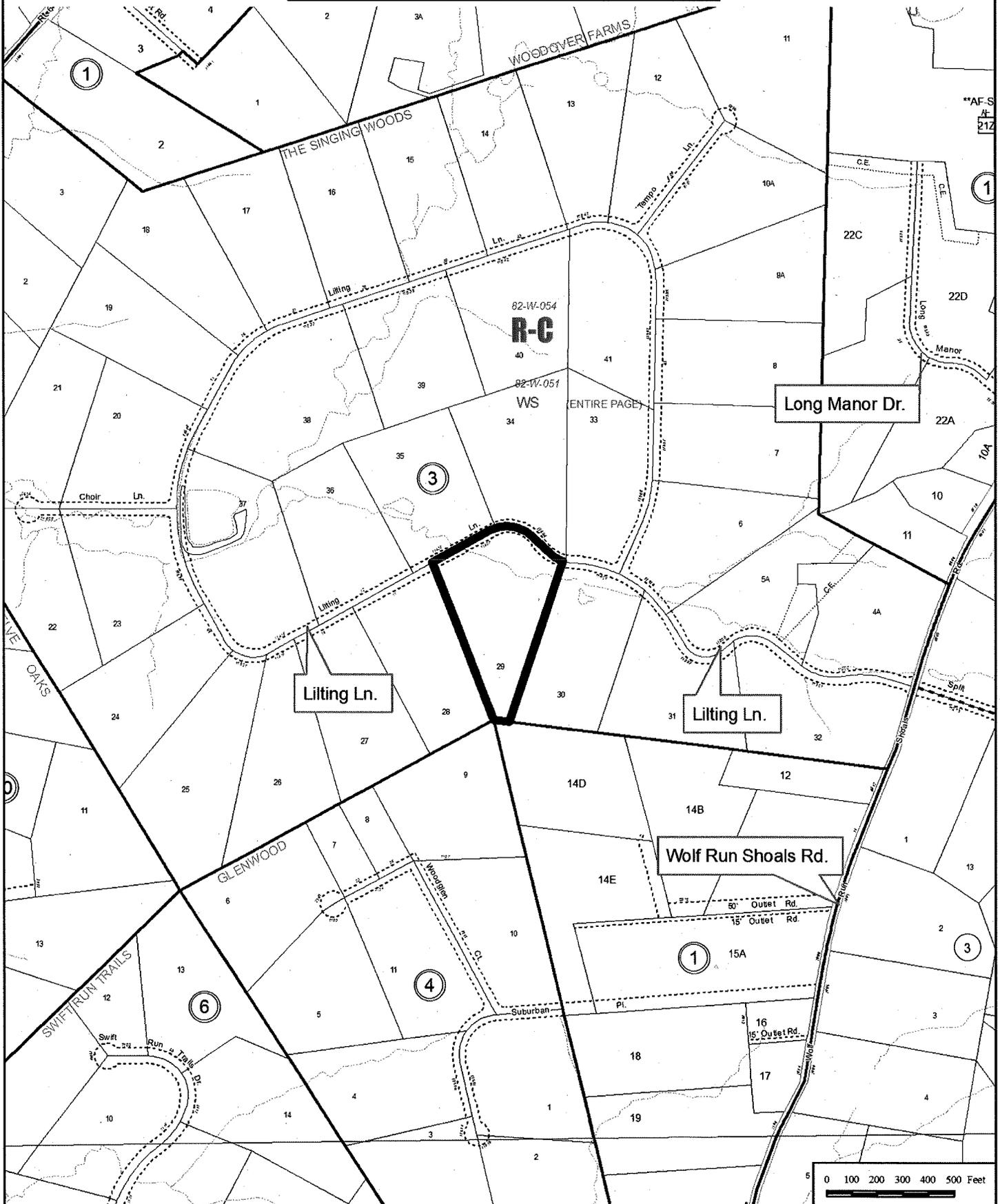
ROBERT J. CUNNINGHAM, JR. / LINDA J. CUNNINGHAM



Special Permit

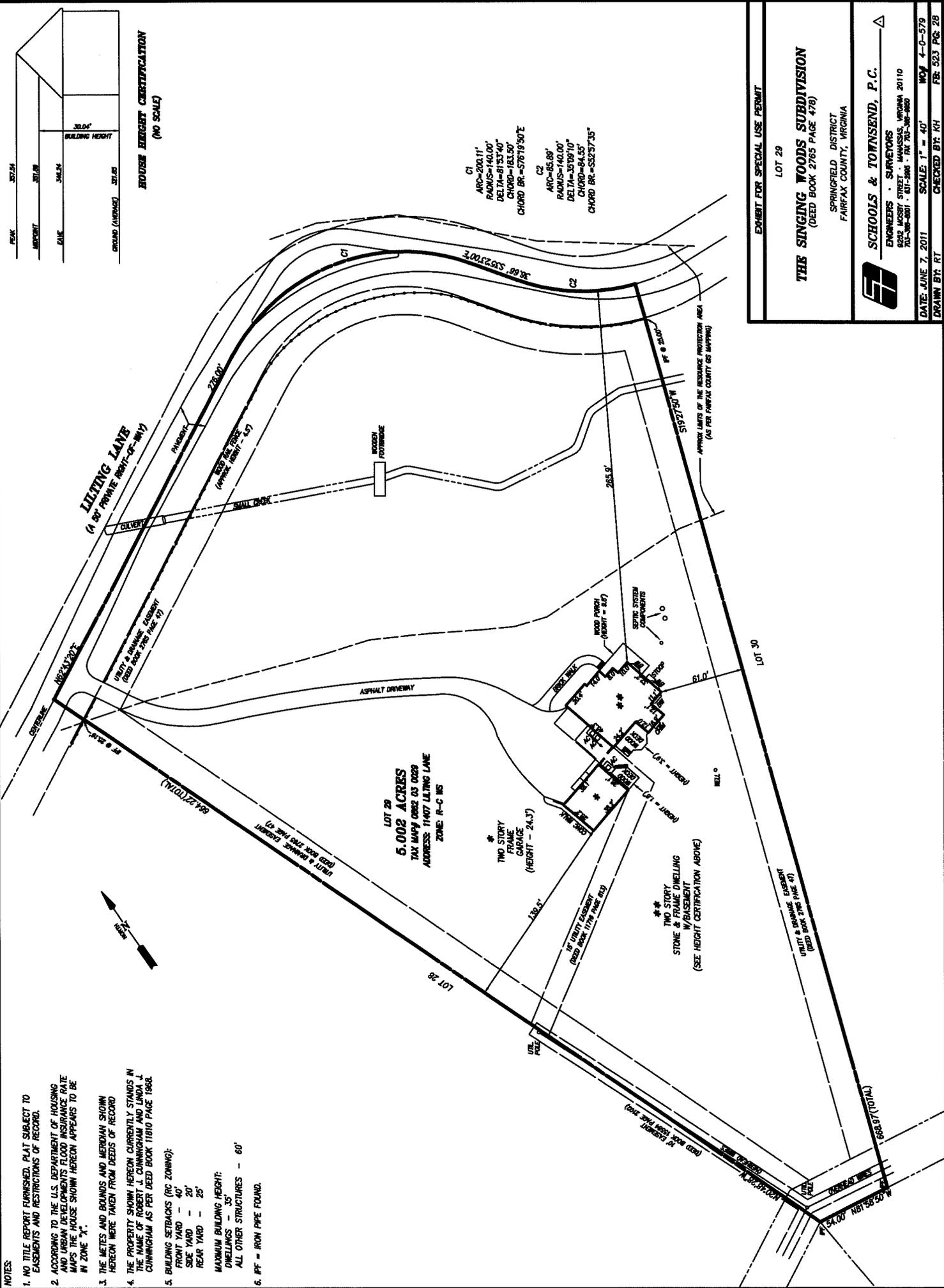
SP 2011-SP-095

ROBERT J. CUNNINGHAM, JR. / LINDA J. CUNNINGHAM



NOTES:

1. NO TITLE REPORT FURNISHED. PLAT SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
2. ACCORDING TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S FLOOD INSURANCE RATE MAPS THE HOUSE SHOWN HEREON APPEARS TO BE IN ZONE "X".
3. THE METES AND BOUNDS AND MERIDIAN SHOWN HEREON WERE TAKEN FROM DEEDS OF RECORD.
4. THE PROPERTY SHOWN HEREON CURRENTLY STANDS IN THE NAME OF ROBERT J. CUNNINGHAM AND LINDA J. CUNNINGHAM AS PER DEED BOOK 11810 PAGE 198B.
5. BUILDING SETBACKS (RC ZONING):
 FRONT YARD - 40'
 SIDE YARD - 20'
 REAR YARD - 25'
 MAXIMUM BUILDING HEIGHT:
 DWELLINGS - 35'
 ALL OTHER STRUCTURES - 60'
 6. PF = IRON PIPE FOUND.



C1
 ARC=200.11'
 RADIUS=140.00'
 DELTA=81°53'40"
 CHORD=183.50'
 CHORD BR.=57619.50°E

C2
 ARC=65.86'
 RADIUS=140.00'
 DELTA=35°09'10"
 CHORD=84.35'
 CHORD BR.=55257.35°E

**HOUSE HEIGHT CERTIFICATION
 (NO SCALE)**

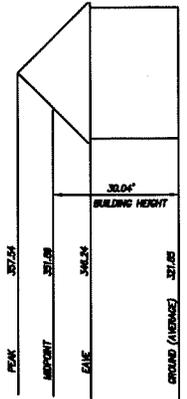


EXHIBIT FOR SPECIAL USE PERMIT

LOT 29

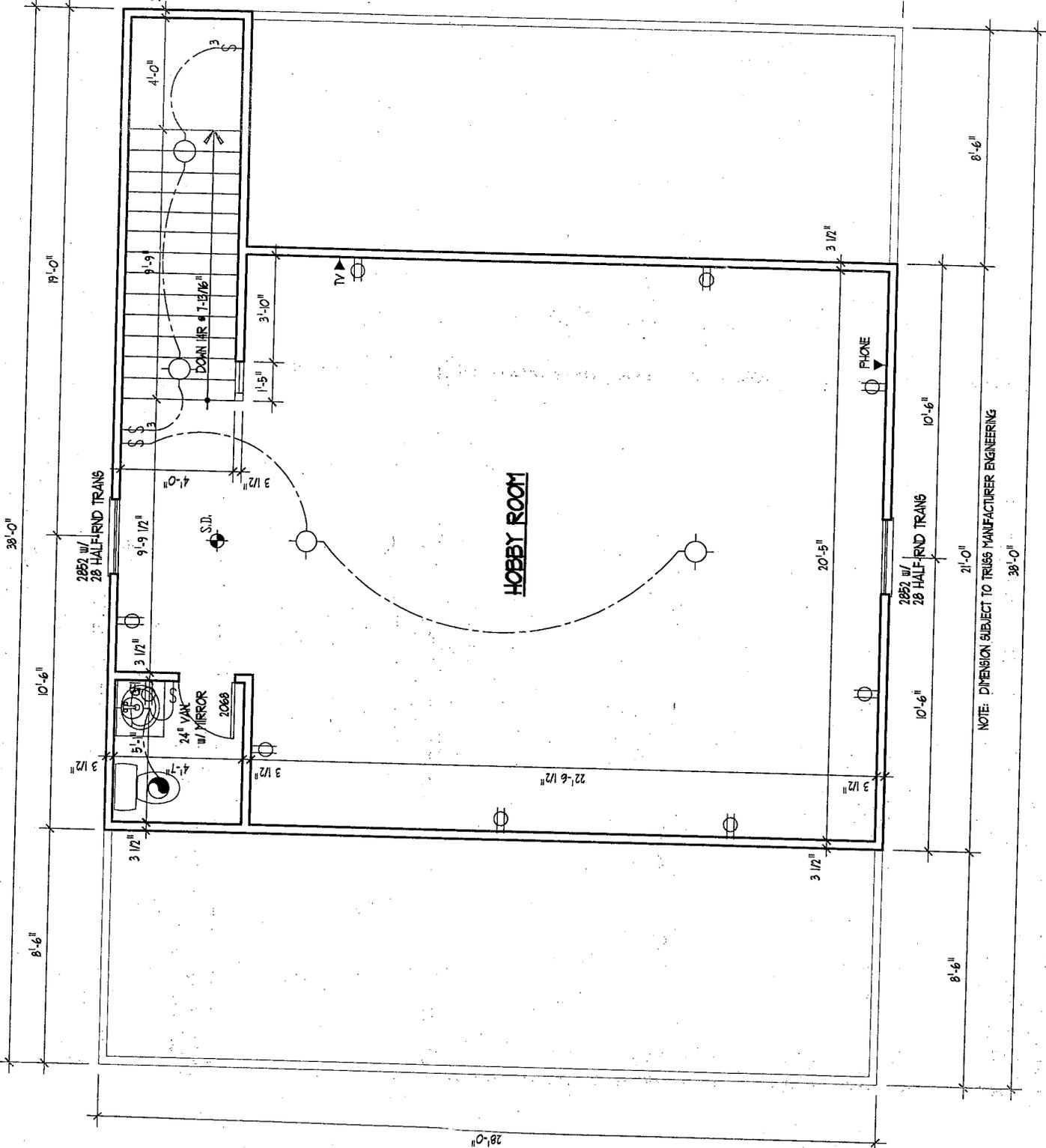
THE SINGING WOODS SUBDIVISION
 (DEED BOOK 2765 PAGE 478)

SPRINGFIELD DISTRICT
 FAIRFAX COUNTY, VIRGINIA

SCHOOLS & TOWNSEND, P.C.
 ENGINEERS & SURVEYORS
 8232 MOSBY STREET, MANASSAS, VIRGINIA 20110
 703-798-8001 • 671-596 • FN 703-968-9660

DATE: JUNE 7, 2011
 SCALE: 1" = 40'
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 DRAWN BY: RT

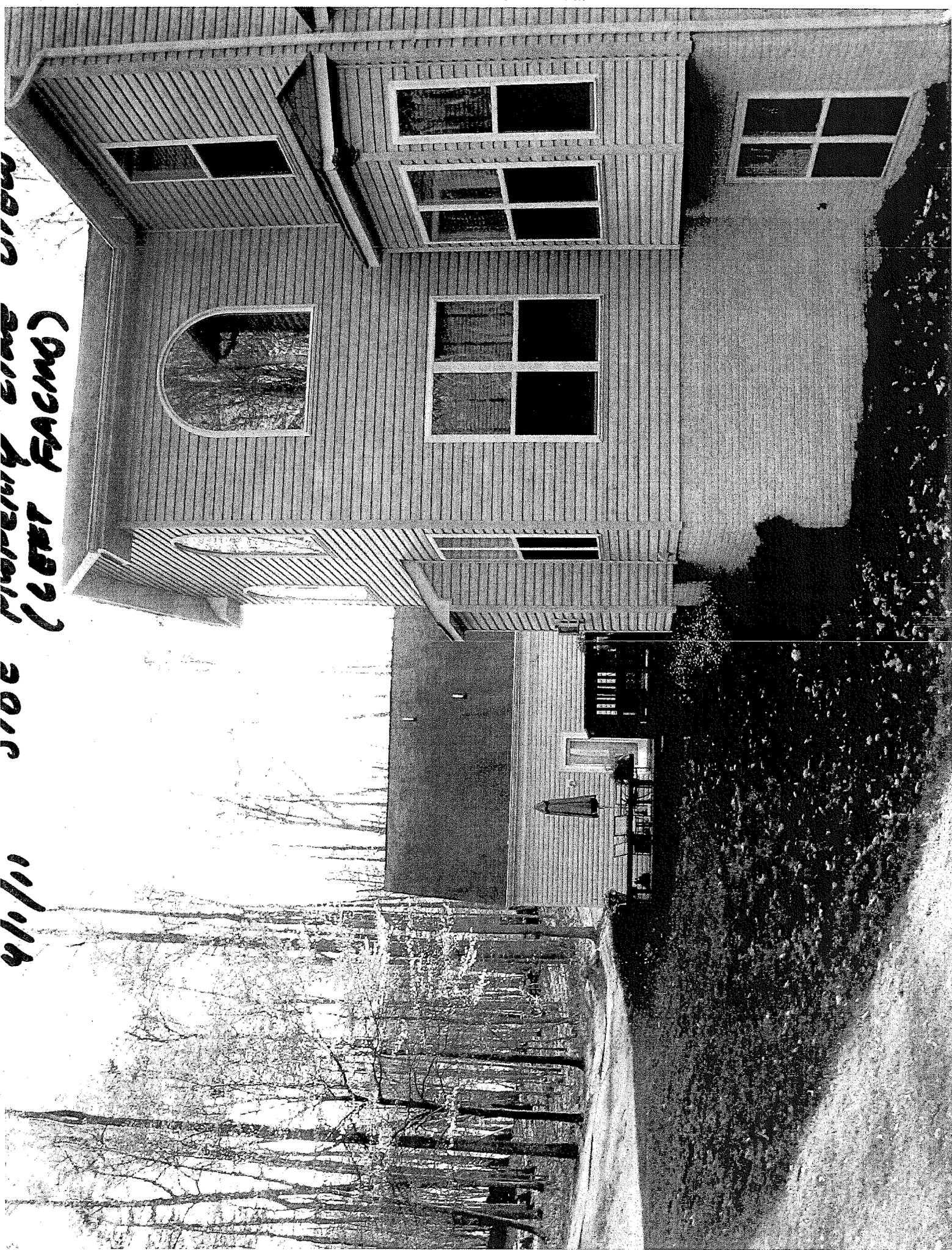
MOJ 4-0-578
 FEB 523 PG 28



NOTE: DIMENSION SUBJECT TO TRUSS MANUFACTURER ENGINEERING

SECOND FLOOR PLAN

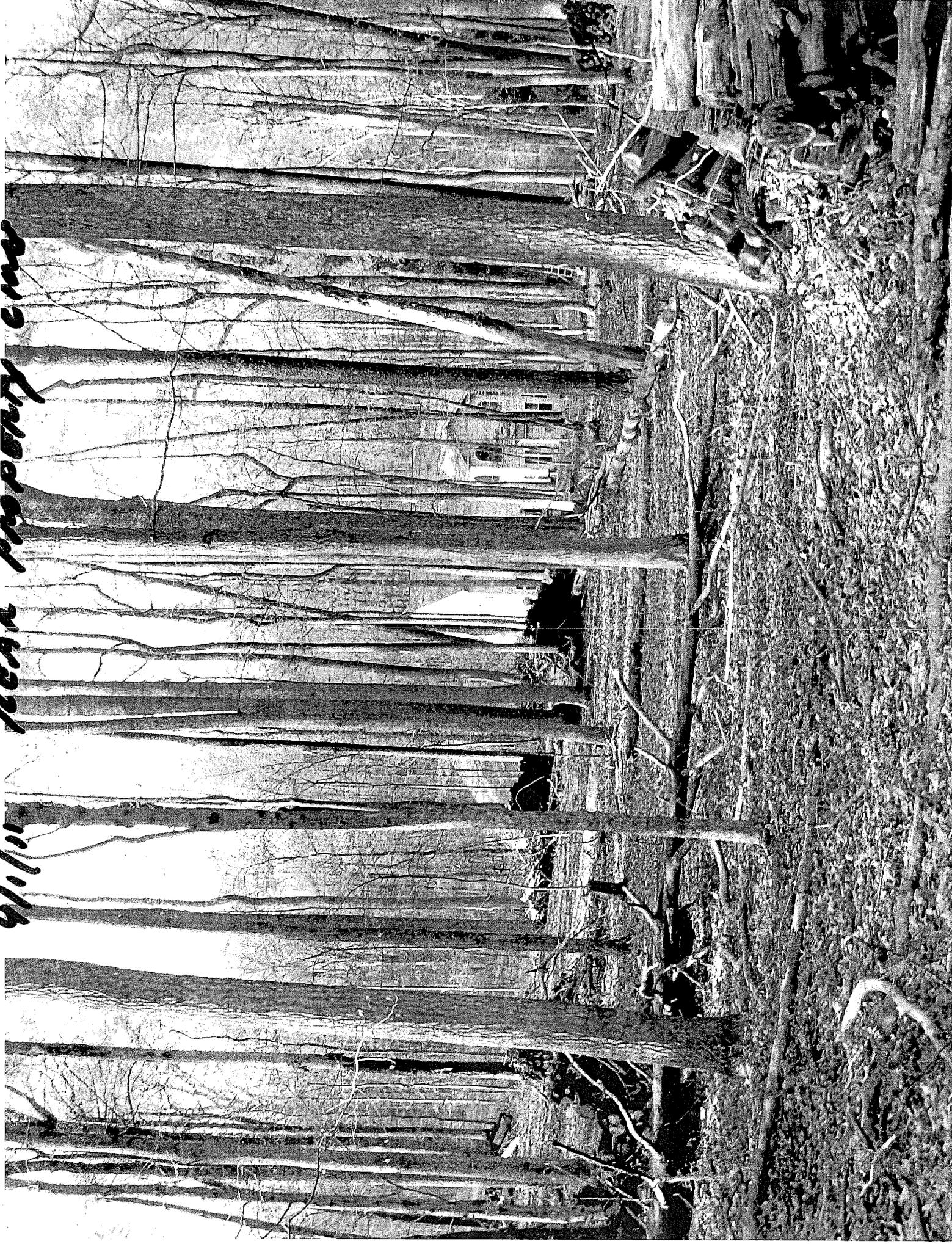
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2008 PROPERTY AND VIEW
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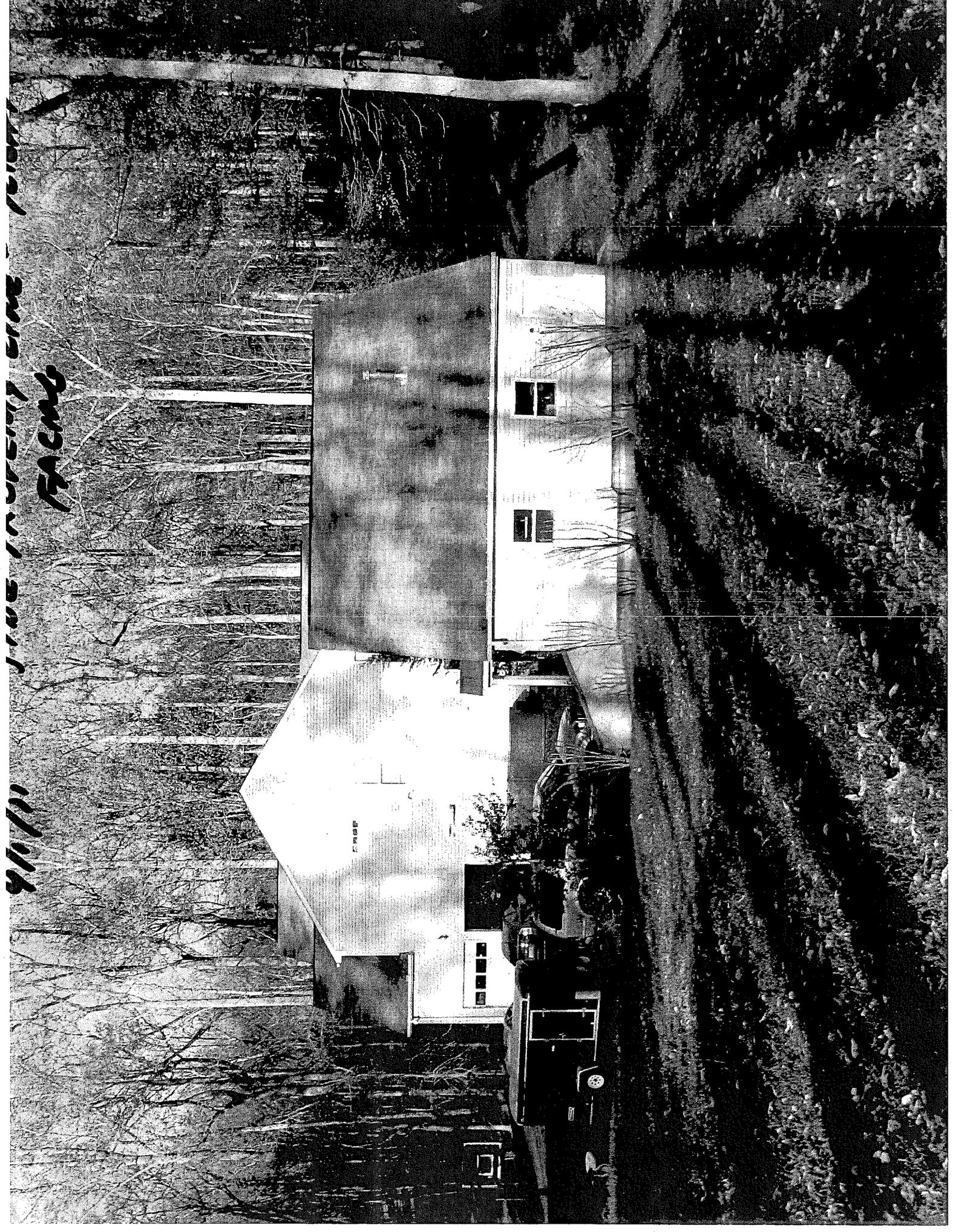


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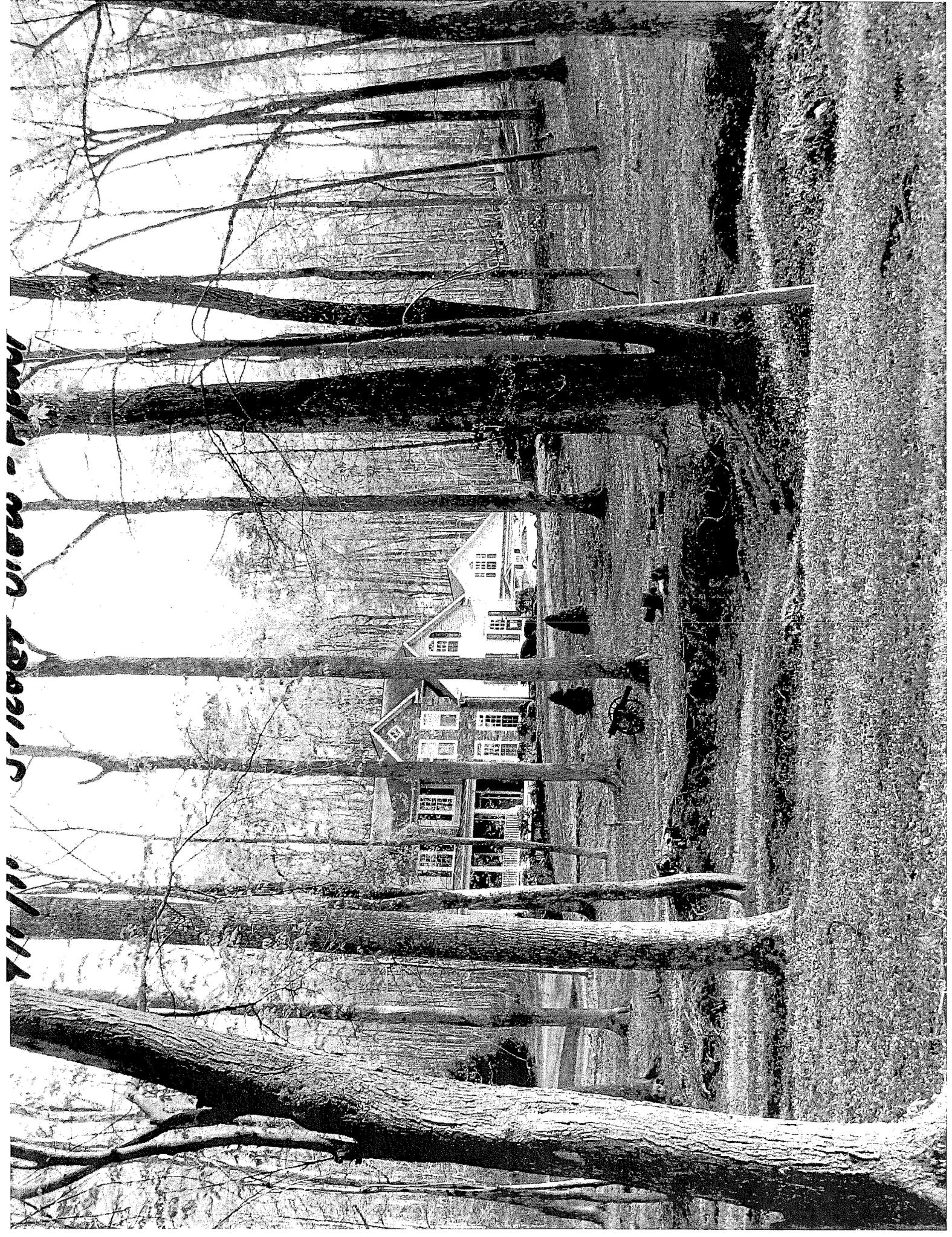
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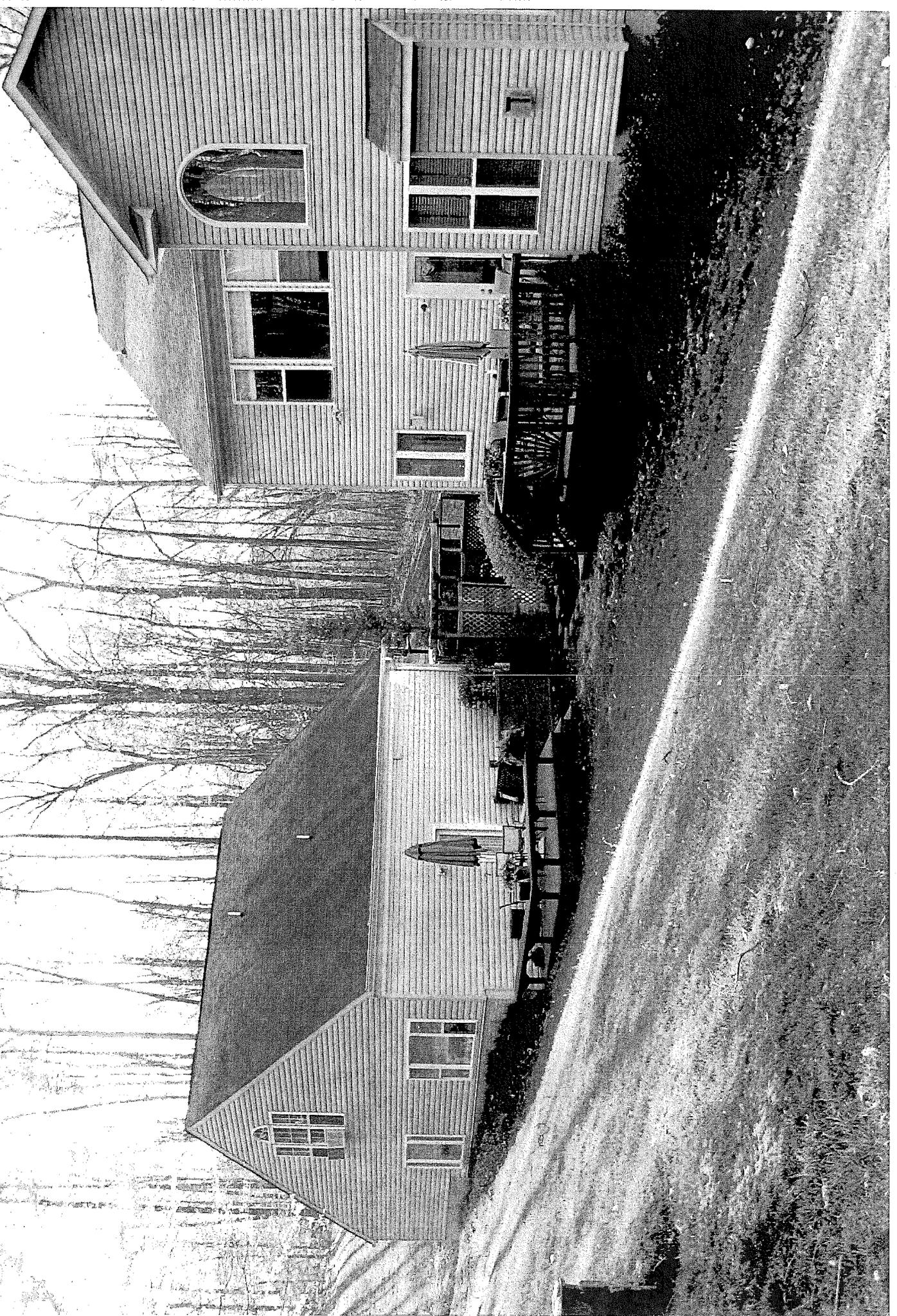
FACMS

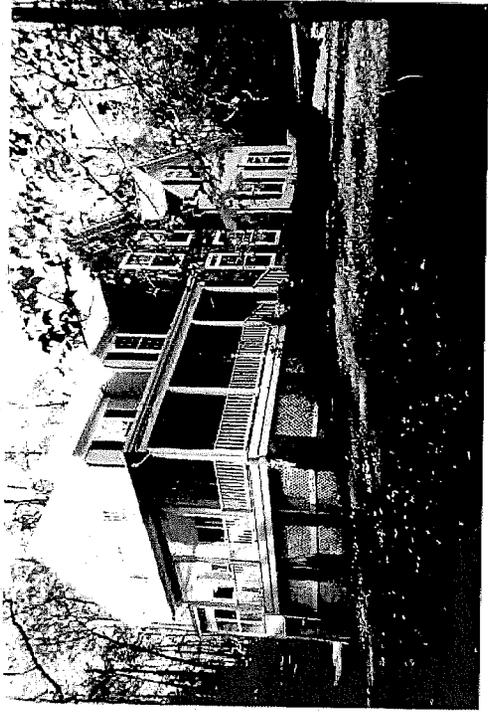


The view from the...



4110
PROPERTY OWNERS
FACMS





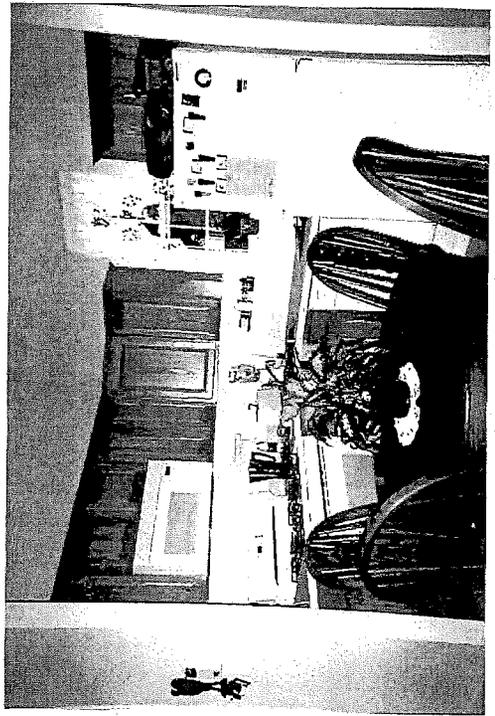
MAIN HOUSE



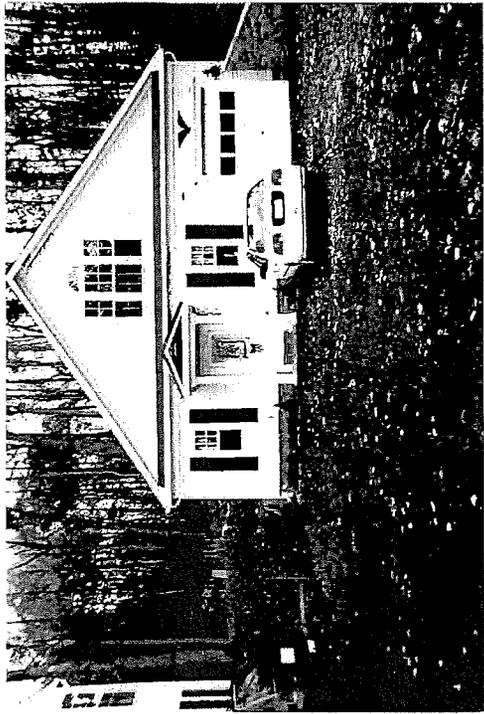
ENTRANCE TO SINGING WOODS



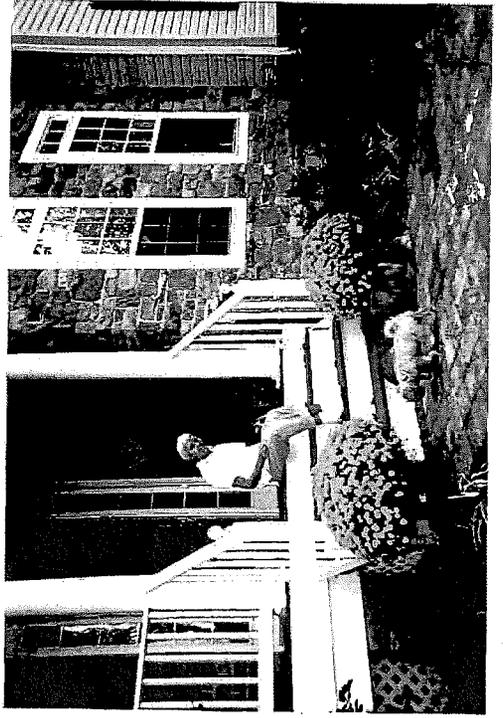
BEDROOM IN OVERLAND CAMP



KITCHEN IN OVERLAND CAMP

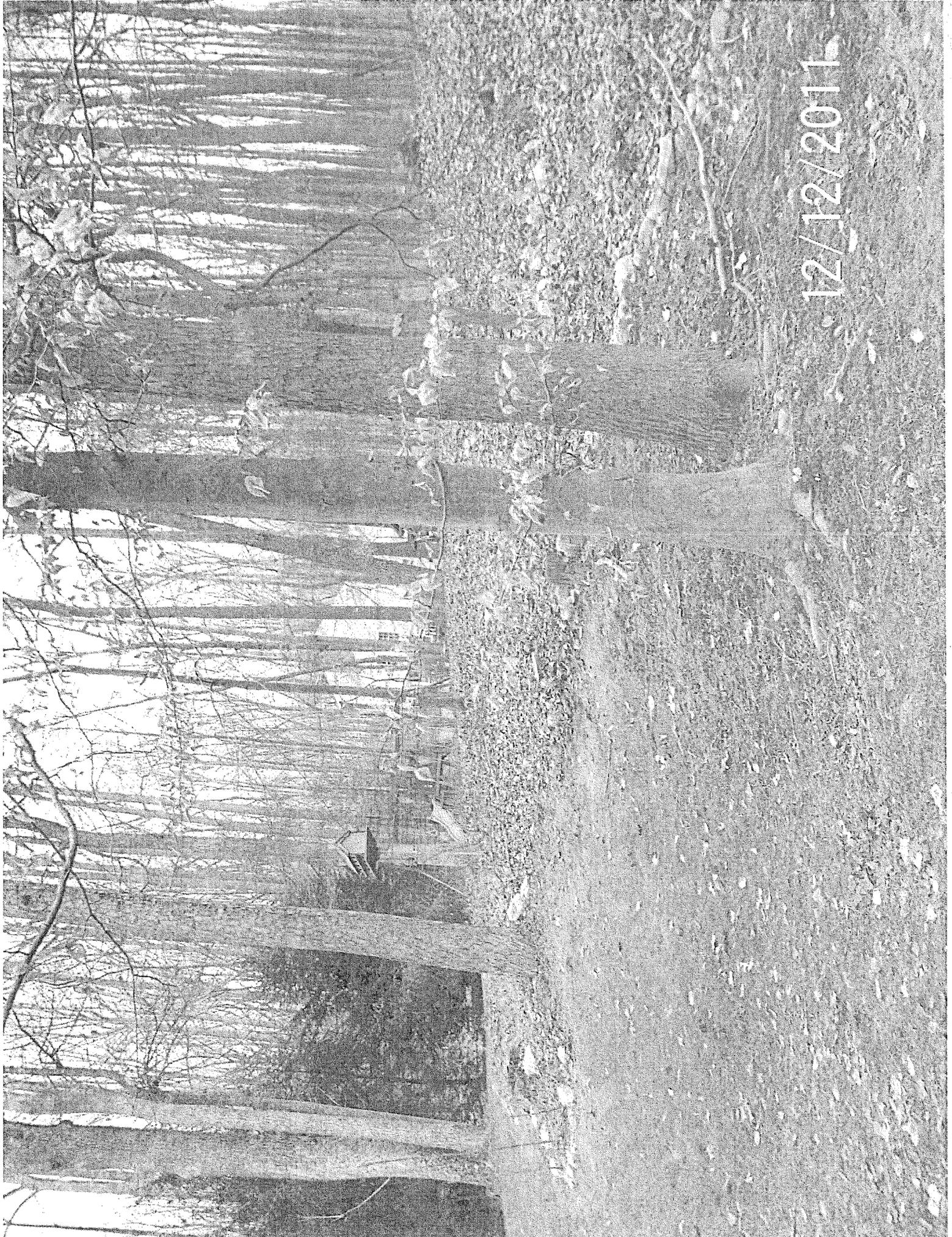


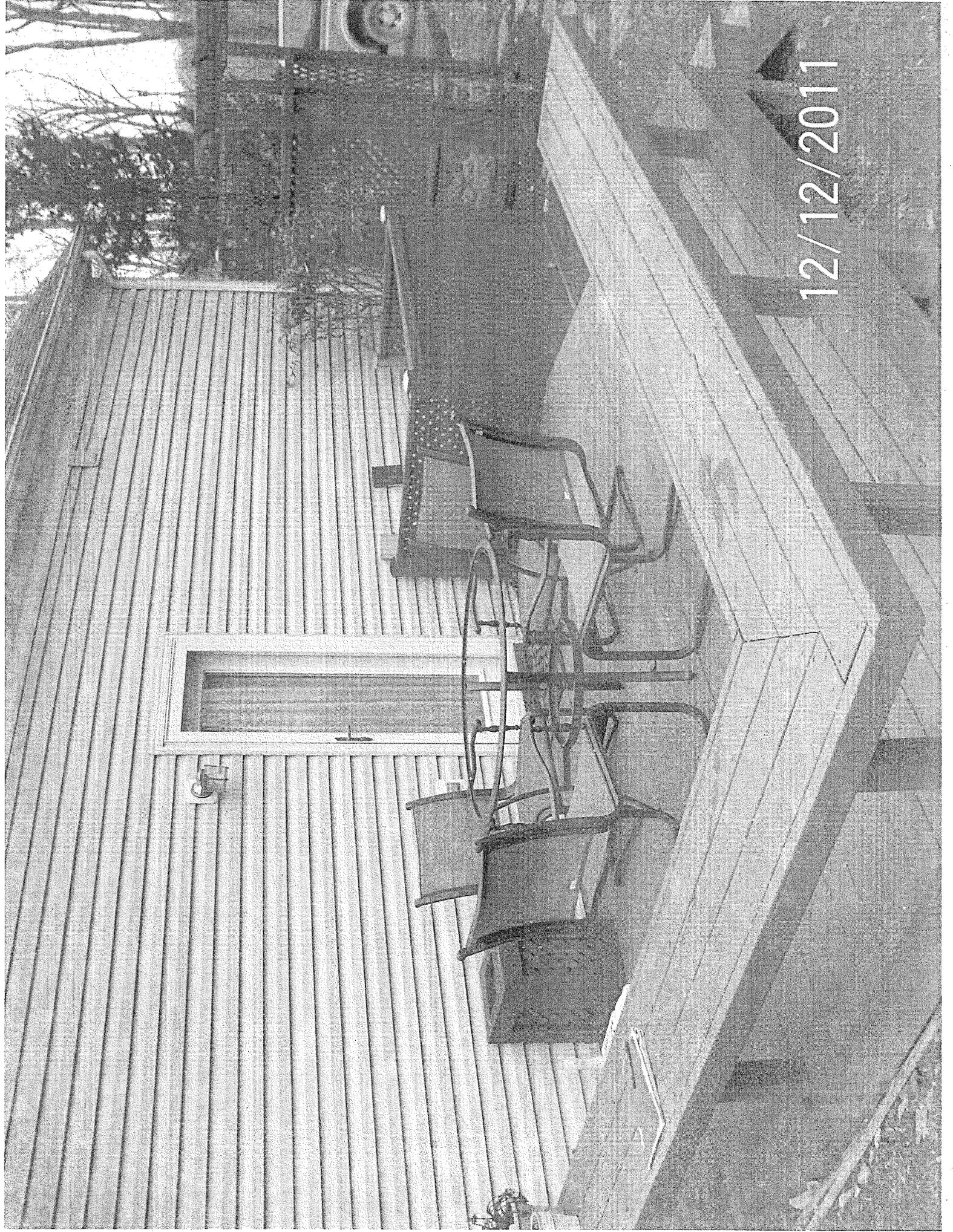
EXISTING DWELLING UNIT (FRONT)



RESIDENT (MRS. HAMMILL)

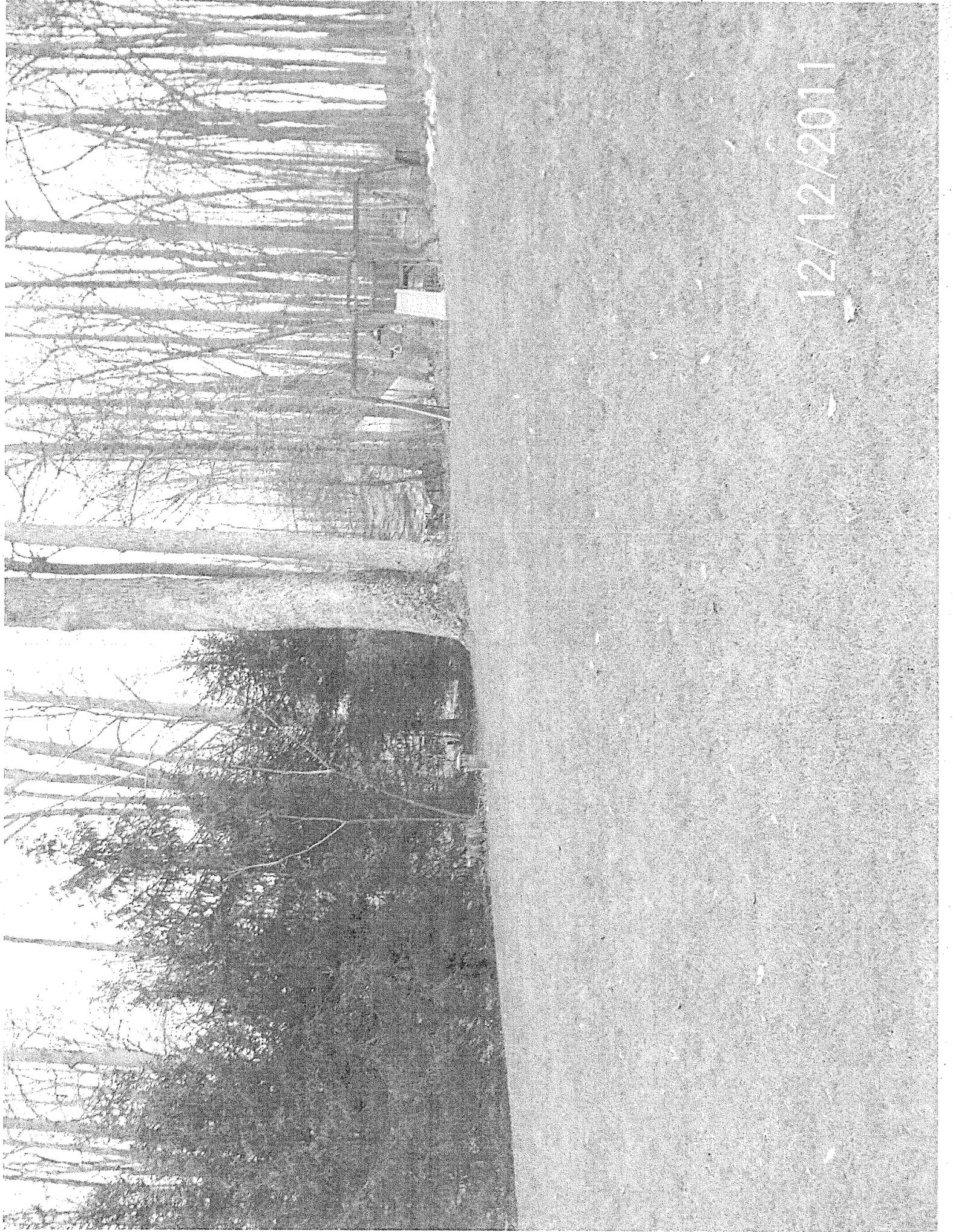
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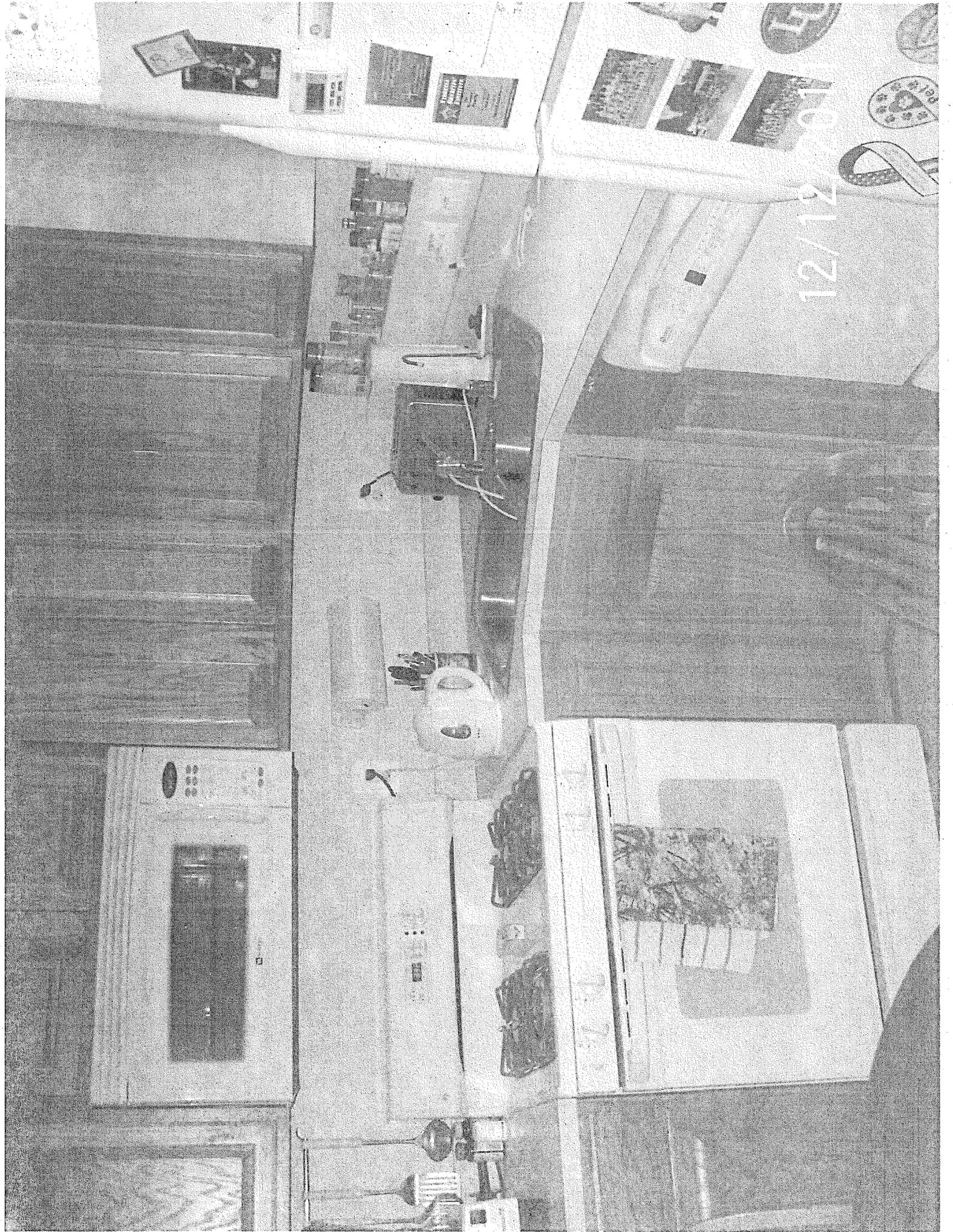




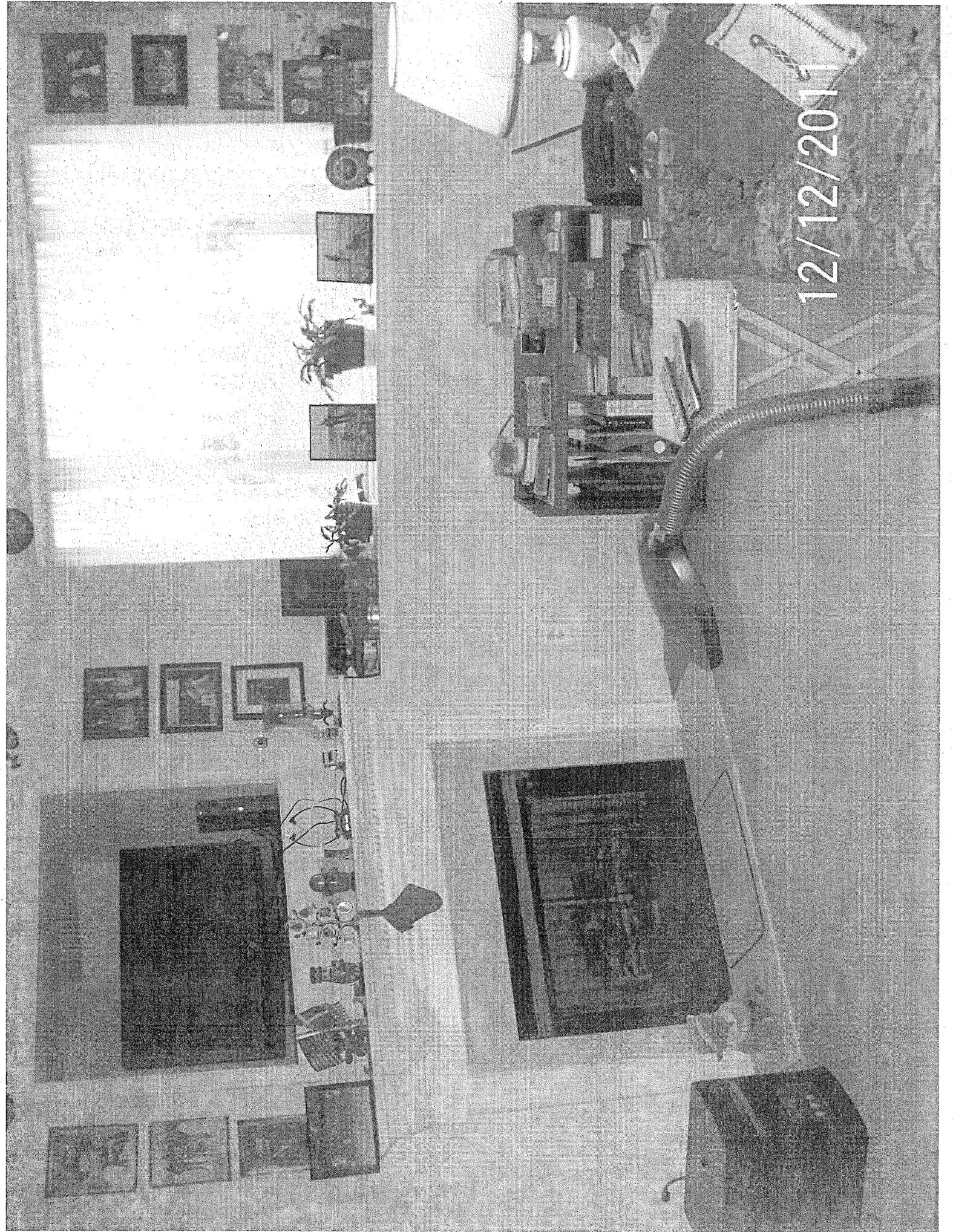
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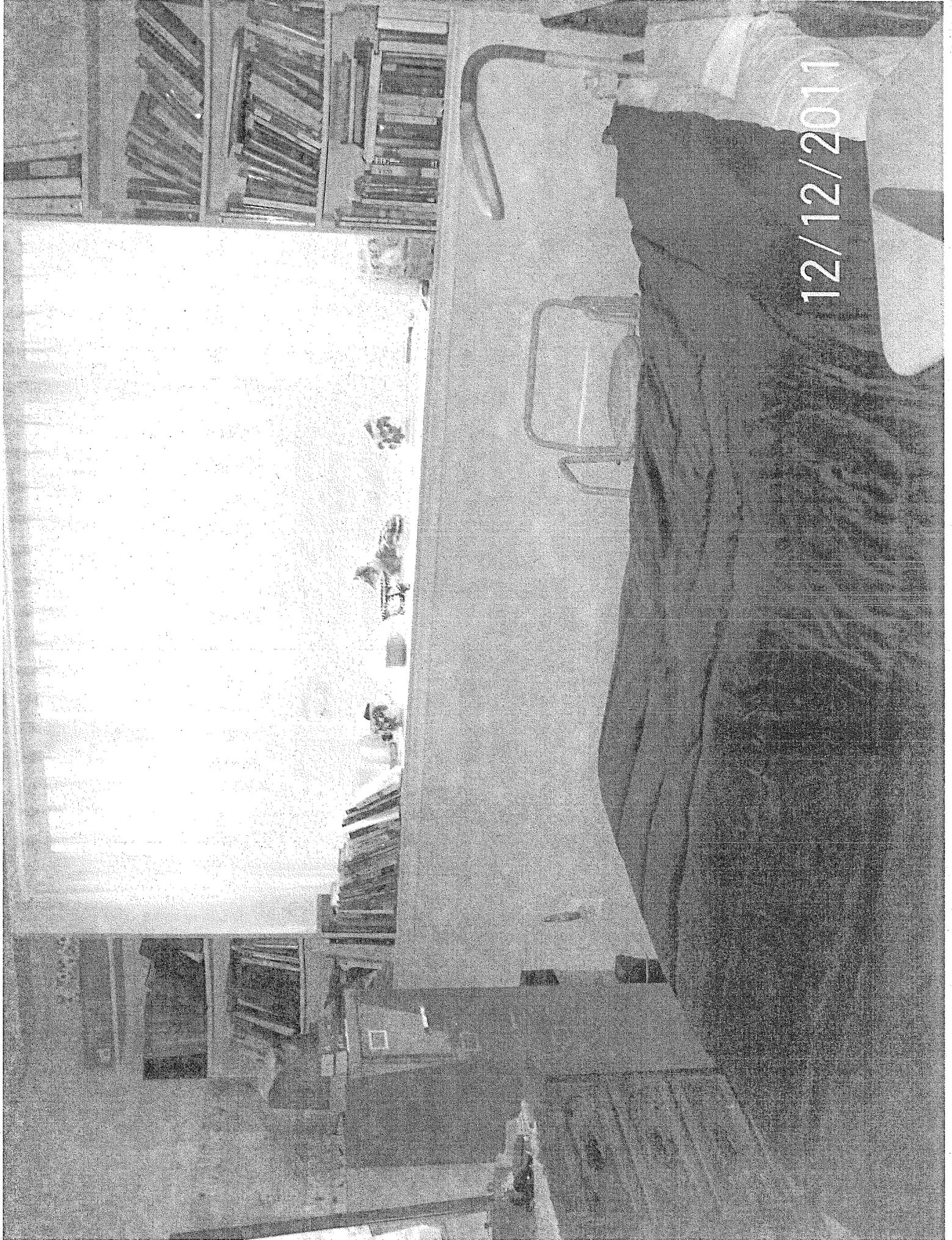


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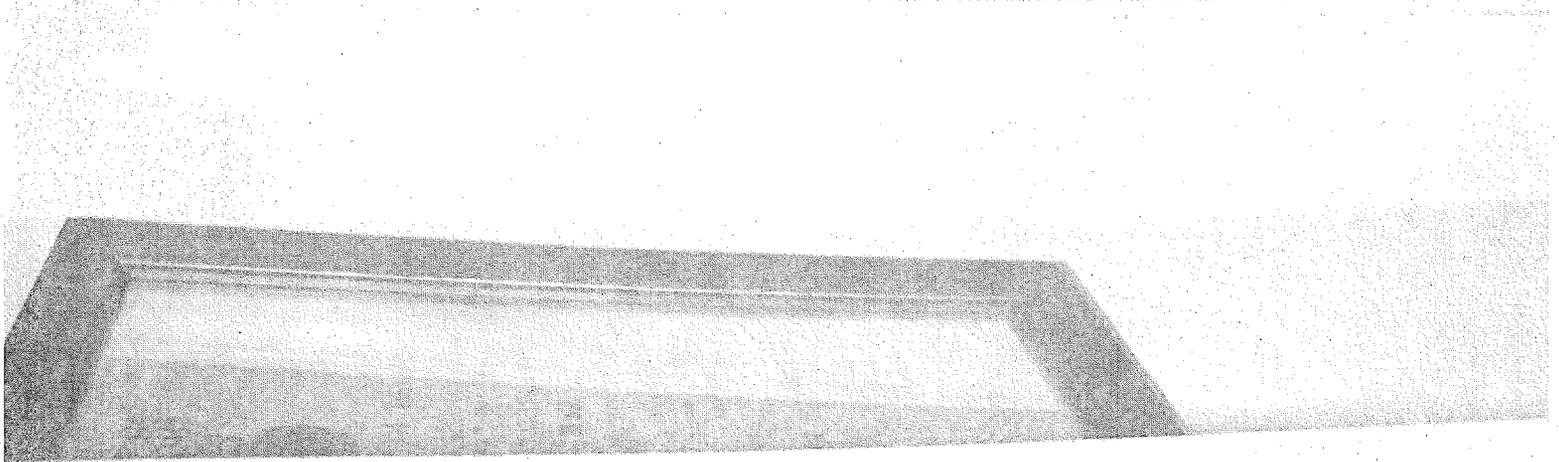


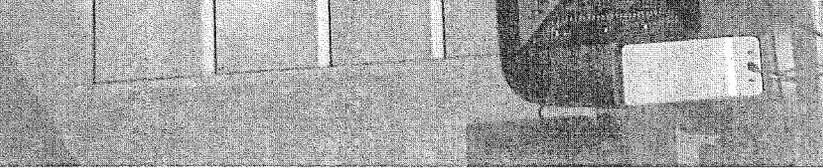
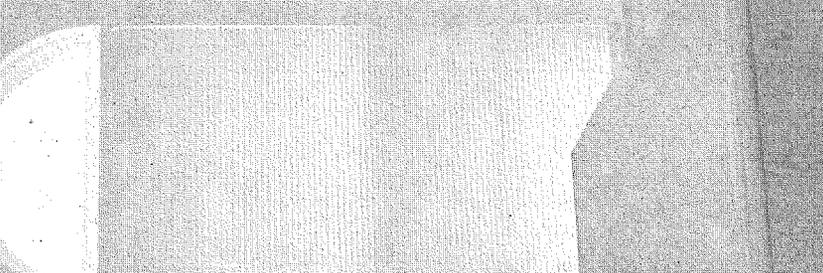
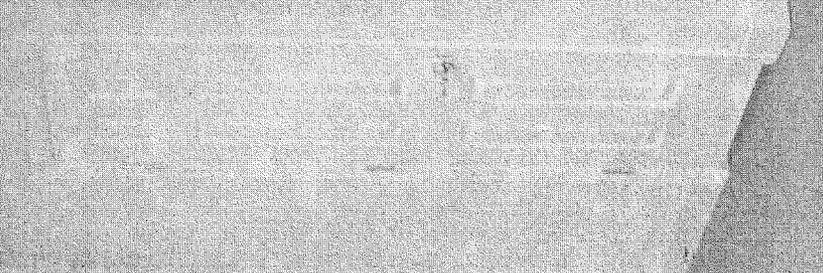
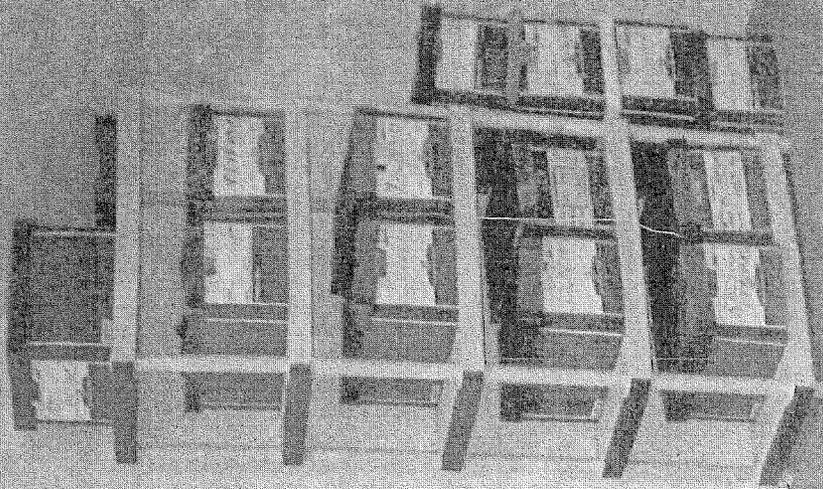
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DESCRIPTION OF THE APPLICATION

Special Permit Request: To permit an accessory dwelling unit on the first floor of a two story accessory structure.

Size of Principal Dwelling: 4, 282 square feet

Size of Accessory Dwelling Unit: 1,176 square feet (21.55%) (per Fairfax County Tax Assessment Records)

Lot Size: 5.00 acres

LOCATION AND CHARACTER OF THE AREA

Existing Site Description

The application property is located at 11407 Lilting Lane within the Singing Woods subdivision. The 5.00 acre site is developed with a single family detached two-story dwelling, built in 2001. An existing paved driveway is accessed from Lilting Lane and terminates at the attached two-car garage for the main dwelling and in front of the accessory dwelling unit. A portion of the front yard of the property is located in a Resource Protection Area. A creek with mature trees exists in the Resource Protection Area. A play set exists approximately 20 feet from the eastern lot line and in the rear yard of the single family dwelling.

Surrounding Area Description

Direction	Use	Zoning
North	Single Family Detached Dwellings	R-C, WS
South	Single Family Detached Dwellings	R-C, WS
East	Single Family Detached Dwellings	R-C, WS
West	Single Family Detached Dwellings	R-C, WS

BACKGROUND

The accessory dwelling unit is in a separate detached structure from the single family dwelling located on this property. The construction of the single family dwelling was completed in 2001. A building permit was obtained by Calvert Homes Inc. in December of 2000 to build "a detached garage with storage and hobby room above" (see Appendix 4). A building permit amendment was filed in March of 2001, which allowed for a finished "garage with bath/living/dining/bedroom/storage room" and "guest quarters in the garage." The building permit amendment included a request for a kitchen; however, the request was subsequently marked out on the permit (see Appendix 5).

The applicants purchased the property in April of 2001, according to Fairfax County Tax Records. The property was purchased after the completion of the single family dwelling and accessory dwelling unit, which the applicants state had a kitchen in place. The applicants state that they did not know that an accessory dwelling unit required the submittal of a special permit.

A Notice of Violation (NOV) letter was issued to the applicants on August 13, 2010. The letter outlined the corrective actions needed to comply with the requirement in the Zoning Ordinance for a guest house on the property, including the violation of the installation of a kitchen facility and permanent residency of the mother of the Mrs. Cunningham (see Appendix 6).

A Corrective Work Order was issued to the applicants on August 25, 2010, and outlines the failures to obtain the required permits for the kitchen and also the required inspections for the kitchen facilities in the accessory dwelling unit (see Appendix 7).

Records indicate there were no other applications for accessory dwelling units for properties in the vicinity of the application site have been heard by the BZA.

ANALYSIS

Special Permit Plat (Copy at front of staff report)

Title of SP Plat: Exhibit for Special Use Permit, Lot 29, The Singing Woods Subdivision.

Prepared By: Schools and Townsend, P.C.

Dated: June 16, 2011

Proposed Use

The applicants propose an accessory dwelling unit to be located in a detached building adjacent to the main dwelling. The applicants reside in the single family dwelling and the eighty-seven year old mother-in-law of one of the applicants proposes to reside in the accessory dwelling unit.

According to 8-918 of the Fairfax County Zoning Ordinance, the accessory dwelling unit is permitted to be freestanding as the property is over two acres. The principal dwelling consists of 4,282 square feet and the accessory dwelling unit is 1,176 square feet, or 21.55% of the gross floor area. The accessory dwelling unit only consists of the first floor of the detached structure. A one car attached garage is located to the west of the living area. The second floor of accessory structure is a hobby room with a half bathroom located in the northeast corner of the room. There is an exterior entrance to the second floor located on the southwest corner of the accessory structure. There is no direct access from the first floor of the accessory structure to the second floor.

The applicants request approval to continue the use of this space for their mother-in-law and indicate to staff that they do not intend to rent the space to anyone outside of their immediate family members. Based on this information, staff has included a development condition which ensures the space will only be occupied by the members of the immediate family.

Parking for both structures is contained in the existing driveway.

Health Department Analysis

In January 2012, staff contacted the Division of Environmental Health of the Fairfax County Health Department to inquire about the septic capacity of the property and if the accessory dwelling unit was included in the approved capacity. According to the records of the Department, the property has a septic tank capacity that is approved for five bedrooms and one kitchen. The main dwelling has four bedrooms and one kitchen. The accessory dwelling unit has one bedroom and one kitchen. Therefore, the accessory dwelling unit is in violation of the approved septic tank capacity determined by the health department.

In a letter dated February 7, 2012, the Director of the Division of Environmental Health outlined the items the applicant needs to complete in order to be eligible for Health Department approval of the second kitchen. The following conditions must be met:

- “1. The existing drainfield must be expanded by installing two additional lines at a length of 57 feet and at a depth of 46 inches.

2. No additional soil evaluations will be required to upgrade the system.
3. A reserve area equal to 50% of the original systems is available on the lot. This area will be shown on the "Expansion Permit". The reserve area must be protected at all times.
4. An application must be completed and an "Expansion Permit" fee of \$350.00 paid to the Fairfax County Health Department.
5. Prior to issuing a permit to upgrade the onsite sewage disposal system the existing drainfield must be inspected by the Health Department. The system must be functioning satisfactorily."

A copy of the letter from the Health Department is included as Attachment 1 to the proposed development conditions and the requirements have been incorporated into the development conditions located in Appendix 1. Additionally, the applicant received a copy of the above referenced letter.

ZONING ORDINANCE PROVISIONS

The existing single family dwelling with accessory dwelling unit on site currently meets all bulk regulations for the R-C Zoning District.

OTHER ZONING ORDINANCE REQUIREMENTS

Special Permit Requirements (See Appendix 8)

- General Special Permit Standards (Sect. 8-006)
- Group Standards for All Group 9 Uses (Sect. 8-903)
- Additional Standards for Accessory Dwelling Units (Sect. 8-918)

Summary of Zoning Ordinance Provisions

This special permit is subject to Sects. 8-006, 8-903 and 8-918 of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 8. Subject to development conditions, the special permit must meet these standards.

CONCLUSIONS AND RECOMMENDATIONS

Staff believes that all applicable standards for the accessory dwelling unit as outlined in Sects. 8-006, 8-903 and 8-918 will be satisfied only with adoption of the proposed development conditions which require the upgrade to the septic system. The applicants have worked with staff to remedy the few issues and concerns originally raised with the applicant. These have been addressed by incorporating additional development conditions. Therefore staff recommends approval of SP 2010-SP-095 subject to the Proposed Development Conditions contained in Appendix 1 of this staff report.

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.

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.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification and Attachments
4. Building Permit- Initial Building of Accessory Structure
5. Building Permit- Interior Finish of Accessory Structure- No kitchen permitted
6. Notice of Violation
7. Corrective Work Order
8. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2011-SP-095****March 21, 2012**

If it is the intent of the Board of Zoning Appeals to approve SP 2011-SP-095 located at Tax Map 86-2 ((03)) 29 to permit an accessory dwelling unit under Section 8-918 to the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the kitchen. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicants only, Robert J. Cunningham and/or Linda J. Cunningham, and is not transferable without further action of this Board, and is for the location indicated on the application, 11407 Liting Lane (5.00 acres) and is not transferable to other land.
3. A copy of this special permit SHALL BE POSTED in a conspicuous place on the property of the use and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The existing onsite sewage disposal system shall be upgraded as per the requirements in the letter from the Division of Environmental Health, Fairfax County Health Department, dated February 7, 2012, included as Attachment 1 to these conditions. These improvements shall be installed by a licensed contractor within six months of the approval of this special permit.
5. No one shall occupy the accessory dwelling unit until the Fairfax County Health Department requirements have been satisfied.
6. The occupants of the accessory dwelling unit shall be limited to the applicant's immediate family members.
7. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.
8. The accessory dwelling unit shall contain a maximum of 1,176 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 2 to these conditions. The unit shall only occupy the first floor of

the structure.

9. All applicable building permits and final inspections shall be obtained for kitchen in the accessory dwelling unit.
10. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.
11. The accessory dwelling unit shall be approved for a period of five (5) years from the final approval date of the special permit and may be extended for five (5) year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
12. If the use of the accessory dwelling unit ceases for the applicant's immediate family members and/or the property is sold or otherwise conveyed, the accessory structure shall be converted to a use permitted by the Zoning Ordinance or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
13. All parking shall be provided on site as shown on the special permit plat.
14. The play set shall meet the locational guidelines outlined in Section 10-104.12 of the Zoning Ordinance and shall be located outside of the Resource Protection Area.

This approval, contingent on 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, six (6) months after the date of approval unless the use has been established as outlined above. 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.



County of Fairfax, Virginia

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

February 7, 2012

Rob Cunningham
11407 Lilting Lane
Fairfax Station, VA 22039

RE: Request to Approve the Use of a Second Kitchen at 11407 Lilting Lane, Fairfax Station, VA 22039; TM: 86-2-003-29; Singing Woods Subdivision

Dear Mr. Cunningham:

I have reviewed your request to approve the use of a second kitchen located in the living area of the detached garage. The basis of your request is to have the Health Department approve the kitchen use without any additional upgrades to the existing onsite sewage disposal system.

Health Department policy regarding adding additional waste sources such as a second kitchen requires the onsite sewage system be upgraded to accommodate the additional waste. The required upgrade is based on the potential use of the system.

Your request to use the second kitchen in the detached garage cannot be approved until the following requirements are completed:

1. The existing drainfield must be expanded by installing two additional lines at a length of 57 feet and at a depth of 46 inches.
2. No additional soil evaluations will be required to upgrade the system.
3. A reserve area equal to 50% of the original system is available on the lot. This area will be shown on the "Expansion Permit". The reserve area must be protected at all times.
4. An application must be completed (see attachment) and an "Expansion Permit" fee of \$350.00 paid to the Fairfax County Health Department.
5. Prior to issuing a permit to upgrade the onsite sewage disposal system the existing drainfield must be inspected by the Health Department. The system must be functioning satisfactorily.

To schedule an inspection of the existing system please call the Onsite Sewage and Water Section at 703-246-2201.

Fairfax County Health Department
10777 Main Street, Suite 203, Fairfax, VA 22030
Phone: 703-246-2411 TTY: 703-591-6435
Fax: 703-273-0825
www.fairfaxcounty.gov/hd



If you have any additional questions regarding this matter please contact Kevin R. Wastler,
Environmental Health Supervisor at 703-246-8472.

Sincerely,



Thomas E. Crow, R.S., Director
Division of Environmental Health

Attachment

cc: Laura Gumkowski
Department of Planning and Zoning
Kevin R. Wastler
Division of Environmental Health



**FAIRFAX COUNTY HEALTH DEPARTMENT
BUILDING PERMIT APPLICATION**

CHECK ALL APPLICABLE:

- () NEW CONSTRUCTION () SEWAGE DISPOSAL SYSTEM PERMIT () INDIVIDUAL WELL WATER SUPPLY PERMIT
 () ADDITION/REMODELING () WELL ABANDONEMENT () SEWAGE SYSTEM EXPANSION () DEMO PERMIT
 () BETTERMENT LOAN ELIGIBILITY (\$50.00 FEE)

TO BE COMPLETED BY THE APPLICANT (PLEASE PRINT CLEARLY)

OWNER _____ PHONE _____ EMAIL _____
 ADDRESS _____ CITY _____ ZIP _____
 AGENT _____ PHONE _____ EMAIL _____
 ADDRESS _____ CITY _____ ZIP _____
 PROPERTY ADDRESS _____ TAX MAP _____
 SUBDIVISION _____ SECTION _____ BLOCK _____ LOT _____

PERMIT TO BE MAILED TO: OWNER () AGENT ()

() RESIDENTIAL

Sewage: () Septic Tank () Public () Other _____ () Basement -- Plumbing in Basement () Yes () No
 Proposed Septic usage \geq 1000 GPD () Yes () No
 Number of Potential Bedrooms _____ Number of Kitchens _____ Number of Laundry Rooms _____
 Water: () Well () Public () Other _____ No. of Geothermal Wells: _____
 Will foundation be chemically treated for termites () Yes () No

() COMMERCIAL

Sewage: () Septic Tank () Public () Other _____ Estimated Number of Patrons _____ using sanitary facilities;
 Number of Employees _____ using sanitary facilities; Total Estimated Daily Water Usage _____ Gallons
 Water: () Well () Public () Non-Community () Other _____
 Will foundation be chemically treated for termites () Yes () No

DESCRIBE CONSTRUCTION: _____

I GIVE PERMISSION TO THE HEALTH DEPARTMENT TO ENTER ONTO THE PROPERTY DESCRIBED FOR THE PURPOSE OF PROCESSING THIS APPLICATION. I UNDERSTAND A SUBSTANTIAL PHYSICAL CHANGE TO THE PROPERTY MAY VOID APPROVAL OF THE LOT FOR AN ONSITE SEWAGE DISPOSAL SYSTEM.

SIGNATURE _____ PRINT NAME _____
 DATE _____ () OWNER () AGENT

For Department Use Only

HWELL: _____ HSEPTIC: _____
 Date Lot Approved: _____ Type System _____ Design for _____ Bedrooms or _____ Gallons per Day
 Perc Rate _____ Depth _____ Septic Tank Gallons _____ Absorption Field _____ (Lin. Ft.) Reserve Area _____ (Lin. Ft.)
 Building Permit No. _____ Receipt Number _____
 Remarks _____

REVIEWED BY _____ TITLE _____ DATE _____

**THE FOLLOWING INFORMATION IS REQUIRED
FOR A COMPLETE SUBMISSION PACKAGE:**

Grading Only Plans:

- 9 copies of the site/grading plan
- Special "Grading Only" Notice on each copy

First Submission of Site/Grading Plans for Building Permit

- 9 copies of site/grading plan
- 2 copies of pump plans or hydraulic designs (if required for design)
- 1 copy of architectural plan (floor plan)
- Fairfax County Building Permit Application

Revisions to Site/Grading Plans

- 9 copies of site/grading plan
- 2 copies of pump plans or hydraulic designs (if changes to design are made)

**Building Additions and Pool Reviews (with less than 2500 ft²
site disturbance)**

- Fairfax County Building Permit Application
- 2 copies of site plan (1:50 scale minimum)
- 1 copy of architectural plans

**Building Additions and Pool Reviews (with 2500 ft² or greater
site disturbance)**

- Fairfax County Building Permit Application
- 9 copies of site/grading plans
- 1 copy of architectural plans

NOTE: If the plans are rejected the Engineer listed on the plans will be contacted with an explanation for the rejection, regardless of whom submitted the plans

The information required for the complete submission package has been provided to the Health Department for review.

(Signature of owner or agent)

(Date)

Application No.(s): SP 2011-SP-095
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 5, 2011
 (enter date affidavit is notarized)

I, Robert J. Cunningham, Jr., 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 11/31/11

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
Robert J. Cunningham, Jr. Linda J. Cunningham	11407 Lilting Lane Fairfax Station VA 22039	Applicant/Title Owner

(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 - SP - 095
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 5, 2011
(enter date affidavit is notarized)

111311a

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)

N/A

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-SP-095
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 5, 2011
(enter date affidavit is notarized)

111311a

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

PARTNERSHIP INFORMATION

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

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

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

N/A

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

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

Application No.(s):

SP 2011 - SP - 095

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

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 5, 2011

(enter date affidavit is notarized)

111311a

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

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

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

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

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

NONE

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

Application No.(s): SP 2011 - SP - 095
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: April 5, 2011
(enter date affidavit is notarized)

111311a

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

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

NONE

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

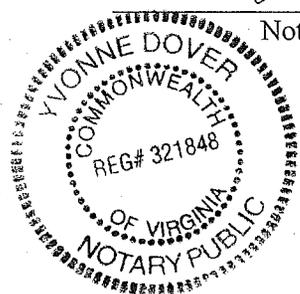
Applicant [Signature] Applicant's Authorized Agent

ROBERT J. CRAWFORD, JR
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 5th day of April 2011, in the State/Comm. of VIRGINIA, County/City of FAIRFAX.

[Signature]
Notary Public

My commission expires: August 31, 2014

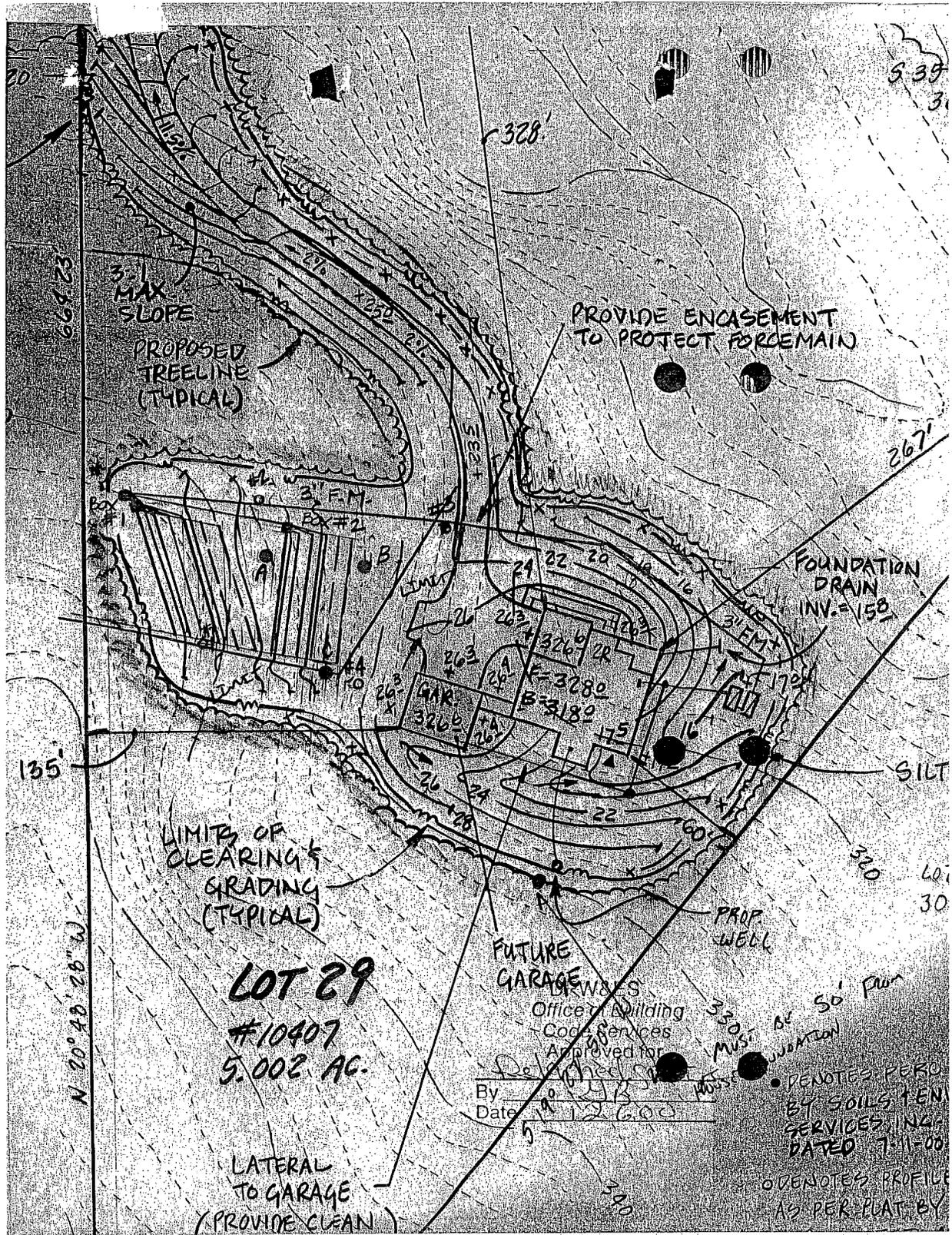


**SPECIAL PERMIT STATEMENT OF JUSTIFICATION
ACCESSORY DWELLING UNIT
11407 LILTING LANE
FAIRFAX STATION, VIRGINIA 22039**

- A. **TYPE OF OPERATION** – Accessory dwelling unit (one bedroom with small kitchenette) for living quarters for member of immediate family (mother) who is 87 years old.
- B. **HOURS OF OPERATION** – N/A
- C. **ESTIMATED NUMBER OF PATRONS/CLIENTS/PATIENTS/PUPILS, ETC.**
– N/A
- D. **PROPOSED NUMBER OF EMPLOYEES/ATTENDANTS/TTEACHERS, ETC.** – N/A
- E. **ESTIMATE OF TRAFFIC IMPACT** – None
- F. **VICINITY OR GENERAL AREA TO BE SERVED BY THE USE** – Structure is next to main house on 5 acre property
- G. **DESCRIPTION OF BUILDING FAÇADE**- garage/apartment – one entrance door, with windows and matching trim and color to main house (see photos)
- H. **HAZARDOUS OR TOXIC SUBSTANCES** – none
- I. **STATEMENT OF CONFORMITY** – The structure conforms in all respects to the requirements of §8-918 of the Fairfax County Zoning Ordinance as follows:
1. It is built in association with a single family detached dwelling unit
 2. The lot is 5 acres; accordingly, the accessory dwelling unit can be freestanding
 3. The gross floor area of the accessory dwelling does not exceed 35% of the gross floor area of the accessory freestanding structure and the principle dwelling unit
 4. The accessory dwelling has one bedroom (two are permitted under the ordinance)
 5. The principal dwelling unit is owner-occupied

RECEIVED
Department of Planning & Zoning
MAR 02 2011
Zoning Evaluation Division

6. **The accessory dwelling shall be occupied by Minna Hamner, mother of applicant, who is 87 years old, who shall be the sole occupant of the dwelling**
7. **The accessory dwelling unit meets all applicable building regulations for safety, health and sanitation – was inspected and approved by Fairfax County when completed in 2001.**
8. **C:\Documents and Settings\rjc\Desktop\Working documents\Special Permit Application\SPECIAL PERMIT STATEMENT OF JUSTIFICATION.doc**



339
31

328

669' 23"

3' MAX SLOPE
PROPOSED TREELINE (TYPICAL)

PROVIDE ENCASEMENT TO PROTECT FOREMAIN

267'

FOUNDATION DRAIN INV. = 158'

135'

SILT

LIMITS OF CLEARING & GRADING (TYPICAL)

N 20° 48' 28" W

LOT 29
#10407
9.002 AC.

FUTURE GARAGE
DRWAYS
Office Building
Code Services
Approved for
By _____
Date 12.6.00

PROP WELL

330' MUST BE 50' FROM JUNCTION

NOTES PER SOILS TEST SERVICES INC. DATED 7-11-00
NOTES PROFILE AS PER PLAT BY

LATERAL TO GARAGE (PROVIDE CLEAN)

BUILDING PERMIT AMENDMENT APPLICATION

FAIRFAX COUNTY OFFICE OF BUILDING CODE SERVICES
 PERMIT APPLICATION CENTER
 12055 Government Center Parkway, 2nd Floor Telephone: 703-222-0801
 Fairfax, Virginia 22035-5504 Web site: http://www.co.fairfax.va.us/dpwes

AMENDED PERMIT # 00340B0631

FOR INSPECTIONS CALL 703-222-0455 (see back for more information)

DO NOT WRITE IN GRAY SPACES - COUNTY USE ONLY
 PLAN # R-00-01459
 TAX MAP # 086-2-103/10029

ROUTING	DATE	APPROVED BY
ZONING		
SITE PERMITS	3/19/01	W
SANITATION	1/1	A
HEALTH DEPT.	3/14/01	A
BUILDING REVIEW	3-13-01	W

AMOUNT DUE = \$ 1275.75

APPROVED FOR ISSUANCE OF AMENDMENT
 (LOG OUT) BY GJ DATE 3/5-01

ZONING REVIEW ZONING CLASS R-C

YARDS	REMARKS
FRONT	FRISK Garage w
FRONT	Balk / Living / Dining
L SIDE	Bed Room / Garage
R SIDE	Garage quarters
REAR	Garage w/d deck

GRADING AND DRAINAGE REVIEW
 SOILS # A B C

HISTORICAL DISTRICT
 AREA TO BE DISTURBED (SQ FT ADDED THIS AMEND) _____
 IMPERVIOUS AREA (SQ FT ADDED THIS AMEND) _____
 PLAN # _____ APPR. DATE _____

STAMPS
 (See reverse side of application)

REMARKS
 ok for 3/5/01
 ok from M.R.

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

JOB LOCATION PERMIT # 00340B0630
 ADDRESS 11407 Liltine Lane
 LOT # 29 BUILDING
 FLOOR SUITE
 SUBDIVISION Singing Woods
 TENANT'S NAME

OWNER INFORMATION OWNER TENANT
 NAME Calbert Homes, Inc.
 ADDRESS 12872 Harbor Dr.
 CITY WNLB STATE VA ZIP 22192
 TELEPHONE 703-5001

APPLICANT Diana Trader

ESTIMATED COST OF CONSTRUCTION \$ 5,500.
 (Cost of change, not total construction costs) 5,000.

AMENDMENT REQUESTED

- CHANGE HOUSE TYPE
- RELOCATE HOUSE ON LOT
- FINISH BASEMENT
- ADD DECK/PORCH/SUNROOM
- ADD GARAGE
- ADD CARPORT
- DELETE
- CHANGE MECHANICS' LIEN INFORMATION

DESIGNATED MECHANICS' LIEN AGENT
 NAME Lawyers Title Co.
 ADDRESS P.O. Box 1030
 Fairfax, VA 22033

NONE DESIGNATED PHONE 691-0050

OTHER (PLEASE SPECIFY) finished detached
 1 car garage w/ 1 1/2 baths,
 kitchen, living & bedroom
 storage room

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

Diana Trader 2-9-01
 Signature of Owner or Agent Date

Diana Trader Agent
 Printed Name and Title

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

NOTARIZATION (if required)

State (or territory or district) of _____
 County (or city) of _____ to wit:

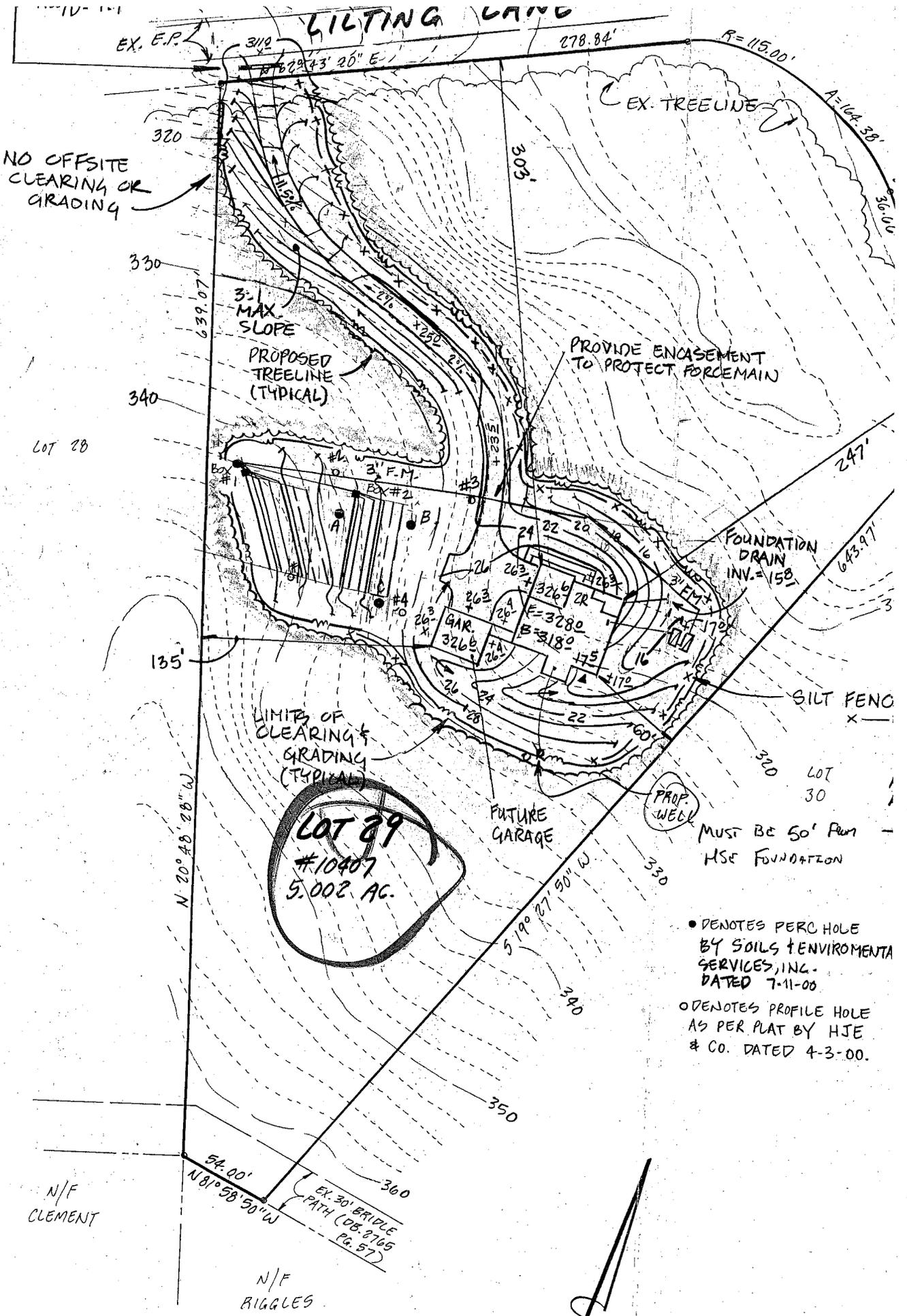
I, _____
 a Notary Public in the State and County aforesaid, do certify that

whose name is signed to this application, appeared before me in the State and County aforesaid and executed this affidavit.

Given under my hand this _____ day of _____, 20____
 My commission expires the _____ day of _____, 20____

(Notary Signature)

TILTING LAND



NO RPA'S ARE INDICATED ON THIS LOT OR WITHIN 100' OF THIS LOT AS PER THE FAIRPLAY ACT



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: August 13, 2010

SHERIFF'S LETTER

CASE#: 201001488 SR #: 59031

SERVE: Robert J. Cunningham
Linda J. Cunningham
11407 Lilting Lane
Fairfax Station, Virginia 22039-1717

LOCATION 11407 Lilting Lane
OF VIOLATION The Singing Woods, Lot 29
Tax Map Ref #: 86-2 ((3)) 29
Zoning District: R-C

Dear Responsible Party:

An attempted inspection of the above referenced property on April 23, 2010, a discussion with Robert J. Cunningham, and an e-mail from Mr. Cunningham dated May 26, 2010 revealed that kitchen facilities have been added to a guest house facility being lived in by Mr. Cunningham's mother on a permanent basis on the above referenced property which constitute the following violations of the Fairfax County Zoning Ordinance:

§ 2-302(6) Accessory Use must comply with Article 10
§ 10-102 (11) Permitted Accessory Uses

The Fairfax County Zoning Ordinance allows a guest house as a permitted accessory use, provided it complies with Par. 11 of Sect. 10-102 of the Fairfax County Zoning Ordinance that states:

Guest house or rooms for guests in an accessory structure, but only in the R-A through R-E Districts, and provided such house is without kitchen facilities and is used for the occasional housing of guests of

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, VA 22035
Phone 703-324-1300, Fax 703-324-9346
www.fairfaxcounty.gov

Robert J. Cunningham
Linda J. Cunningham
August 13, 2010
Page 2

the occupants of the principal structure, and not as rental units or for permanent occupancy as housekeeping units.

Therefore, as the guest house contains kitchen facilities and the current occupancy does not comply with the provisions of Par. 11 of Sect. 10-102, above, it is 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 provisions of Part 1 of Article 10.

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

- Removing all kitchen facilities from the guest house. This requires that you do the following, at a minimum, with respect to the guest house:
- Removing, on a permanent basis, the microwave, oven, stove, sink, cabinets, countertops, refrigerator, and freezer or combinations thereof; all other appliances and accoutrements used or intended for use for cooking or eating, and all plumbing, electrical, and gas connections and piping; and
- Utilities referenced above for the kitchen to be demolished are to be capped and sealed in the wall cavities; and
- Limiting the occupancy of the guest house facility to the occasional housing of guests of the occupants of the principal structure, and not for permanent occupancy as a housekeeping unit; or
- Removing the guest house from the property.

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance. You may have the right to appeal this Notice of Zoning Violation within thirty (30) days 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 thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of

Robert J. Cunningham
Linda J. Cunningham
August 13, 2010
Page 3

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.

Should you have any questions or need additional information, please do not hesitate to contact me at (703) 324-1395.

Sincerely,

Charles P. Fitzhugh
Property Maintenance/Senior Zoning Inspector

CPF



County of Fairfax, Virginia

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

LEGAL NOTICE CORRECTIVE WORK ORDER

SHERIFF'S LETTER

DATE OF ISSUANCE: August 25, 2010 **COMPLAINT #:** 201001488
SERVICE REQUEST#: 61027

LEGAL NOTICE ISSUED TO: Robert J. Cunningham
Linda J. Cunningham

ADDRESS: 11407 Lilting Lane
Fairfax Station, VA 22039

PROPERTY OWNER(S): Robert J. Cunningham
Linda J. Cunningham

LOCATION OF VIOLATION: 11407 Lilting Lane
Fairfax Station, VA 22039-1717

TAX MAP NUMBER: 0862 03 0029

A search of Fairfax County records indicate that no permits have been issued for the installation of the kitchen in the guest house.

Violation 1: FAILURE TO OBTAIN REQUIRED PERMIT

A kitchen has been installed in the guest house without the required permits. You are directed to obtain the required permits for the work already in progress or completed, or demolish the work entirely after first obtaining a permit to demolish. You may call or visit the permit application center for further details. The permit application center is located at 12055 Government Center Parkway, Suite 230, Fairfax, VA 22035. The phone number is 703 222-0801.

Virginia Uniform Statewide Building Code (VUSBC), 2006 edition, effective May 1, 2008. Section 108.1 states:

108.1 When applications are required. Application for a permit shall be made to the building official and a permit shall be obtained prior to the commencement of any of the following activities, except that applications for emergency construction, alterations or equipment

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5500
Phone 703-324-1300

replacement shall be submitted by the end of the first working day that follows the day such work commences. In addition, the building official may authorize work to commence pending the receipt of an application or the issuance of a permit.

1. Construction or demolition of a building or structure. Installations or alterations involving (i) the removal or addition of any wall, partition or portion thereof, (ii) any structural component, (iii) the repair or replacement of any required component of a fire or smoke rated assembly, (iv) the alteration of any required means of egress system, (v) water supply and distribution system, sanitary drainage system or vent system, (vi) electric wiring, (vii) fire protection system, mechanical systems or fuel supply systems or (viii) any equipment regulated by the USBC.
2. For change of occupancy, application for a permit shall be made when a new certificate of occupancy is required under Section 103.3.
3. Movement of a lot line that increases the hazard to or decreases the level of safety of an existing building or structure in comparison to the building code under which such building or structure was constructed.
4. Removal or disturbing of any asbestos containing materials during the construction or demolition of a building or structure, including additions.

Violation 2: FAILURE TO OBTAIN REQUIRED INSPECTIONS

A kitchen has been installed in the guest house without the required inspections. You are directed to schedule, obtain and successfully pass all required inspections for this work, after first obtaining the required permits.

Virginia Uniform Statewide Building Code (VUSBC), 2006 edition, effective May 1, 2008. Section 113.3 states:

113.3 Minimum inspections. The following minimum inspections shall be conducted by the building official when applicable to the construction or permit:

1. Inspection of footing excavations and reinforcement material for concrete footings prior to the placement of concrete.
2. Inspection of foundation systems during phases of construction necessary to assure compliance with this code.
3. Inspection of preparatory work prior to the placement of concrete.
4. Inspection of structural members and fasteners prior to concealment.
5. Inspection of electrical, mechanical and plumbing materials, equipment and systems prior to concealment.

Robert J. Cunningham
Linda J. Cunningham
August 25, 2010
Page 3

6. Inspection of energy conservation material prior to concealment.

7. Final inspection.

CORRECTIVE WORK ORDER: Pursuant to the VUSBC, Section 115, Violations, 115.2, Notice of Violation, you are directed to correct these defects within twenty (20) days of receipt of this Corrective Work Order. Failure to follow this order within the specified time may result in the issuance of a Notice of Violation under the applicable State and County codes.

Should you have any questions or need additional information about this Corrective Work Order, please do not hesitate to contact the Code Enforcement Case Management staff at 703 324-1937 between the hours of 8:00 a.m. and 3:30 p.m. Monday through Friday.

LEGAL NOTICE ISSUED BY: Robert Burk
TITLE: Combination Inspector

SIGNATURE: _____

NOTICE DELIVERED BY SHERIFF

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.

8-918 Additional Standards for Accessory Dwelling Units

As established by the Fairfax County Board of Supervisors' Policy on Accessory Dwelling Units (Appendix 5), the BZA may approve a special permit for the establishment of an accessory dwelling unit with a single family detached dwelling unit but only in accordance with the following conditions:

1. Accessory dwelling units shall only be permitted in association with a single family detached dwelling unit and there shall be no more than one accessory dwelling unit per single family detached dwelling unit.
2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any added external entrances for the accessory dwelling unit shall be located on the side or rear of the structure.
On lots two (2) acres or greater in area, an accessory dwelling unit may be located within the structure of a single family detached dwelling unit or within a freestanding accessory structure.
3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor area of the accessory freestanding structure and the principal dwelling unit.
4. The accessory dwelling unit shall contain not more than two (2) bedrooms.
5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:
 - A. One of the dwelling units shall be owner occupied.
 - B. One of the dwelling units shall be occupied by a person or persons who qualify as elderly and/or disabled as specified below:
 - (1) Any person fifty-five (55) years of age or over and/or
 - (2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security

Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration signed by two (2) medical doctors licensed to practice medicine, to the effect that such person is permanently and totally disabled. The written statement of at least one of the doctors shall be based upon a physical examination of the person by the doctor. One of the doctors may submit a written statement based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability.

For purposes of this Section, a person shall be considered permanently and totally disabled if such person is certified as required by this Section as unable to engage in any substantial gainful activity by reasons of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person's life.

- C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:
 - (1) One (1) family, which consists of one (1) person or two (2) or more persons related by blood or marriage and with any number of natural children, foster children, step children or adopted children.
 - (2) A group of not more than four (4) persons not necessarily related by blood or marriage.
- 6. Any accessory dwelling unit established for occupancy by a disabled person shall provide for reasonable access and mobility as required for the disabled person. The measures for reasonable access and mobility shall be specified in the application for special permit. Generally, reasonable access and mobility for physically disabled persons shall include:
 - A. Uninterrupted access to one (1) entrance; and
 - B. Accessibility and usability of one (1) toilet room.

7. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient to meet the needs of the principal and accessory dwelling units. If it is determined that such parking is insufficient, the BZA may require the provision of one (1) or more off-street parking spaces. Such parking shall be in addition to the requirements specified in Article 11 for a single family dwelling unit.
8. The BZA shall determine that the proposed accessory dwelling unit together with any other accessory dwelling unit(s) within the area will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood. In no instance shall the approval of a special permit for an accessory dwelling unit be deemed a subdivision of the principal dwelling unit or lot.
9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
10. Upon the approval of a special permit, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the Grantor Index in the name of the property owners.
11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.
12. Special permits for accessory dwelling units shall be approved for a period not to exceed five (5) years from the date of approval; provided, however, that such special permits may be extended for succeeding five (5) year periods in accordance with the provisions of Sect. 012 above.
13. Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.