



APPLICATION ACCEPTED: October 15, 2013
BOARD OF ZONING APPEALS: January 8, 2014
TIME: 9:00 a.m.

County of Fairfax, Virginia

January 1, 2014

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2013-BR-085

BRADDOCK DISTRICT

APPLICANTS/OWNERS: Jose Alfredo Guerra
Cindy M. Reyes

STREET ADDRESS: 5216 Garner Street, Springfield, 22151

SUBDIVISION: North Springfield

TAX MAP REFERENCE: 71-3 ((4)) (27) 15

LOT SIZE: 10,625 square feet

ZONING DISTRICT: R-3

ZONING ORDINANCE PROVISIONS: 8-914 and 8-918

SPECIAL PERMIT PROPOSAL: To permit an accessory storage structure to remain 4.3 feet from a side lot line and 4.8 feet from the rear lot line and to permit an accessory dwelling unit in a existing single family dwelling.

STAFF RECOMMENDATION: Staff recommends approval of SP 2013-BR-085 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 applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

O:\ehaley\1-8-14) SP 2013-BR-085 Guerra (ADU & Error)\SP 2013-BR-085 Guerra SR.doc

Erin M. Haley

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 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.**

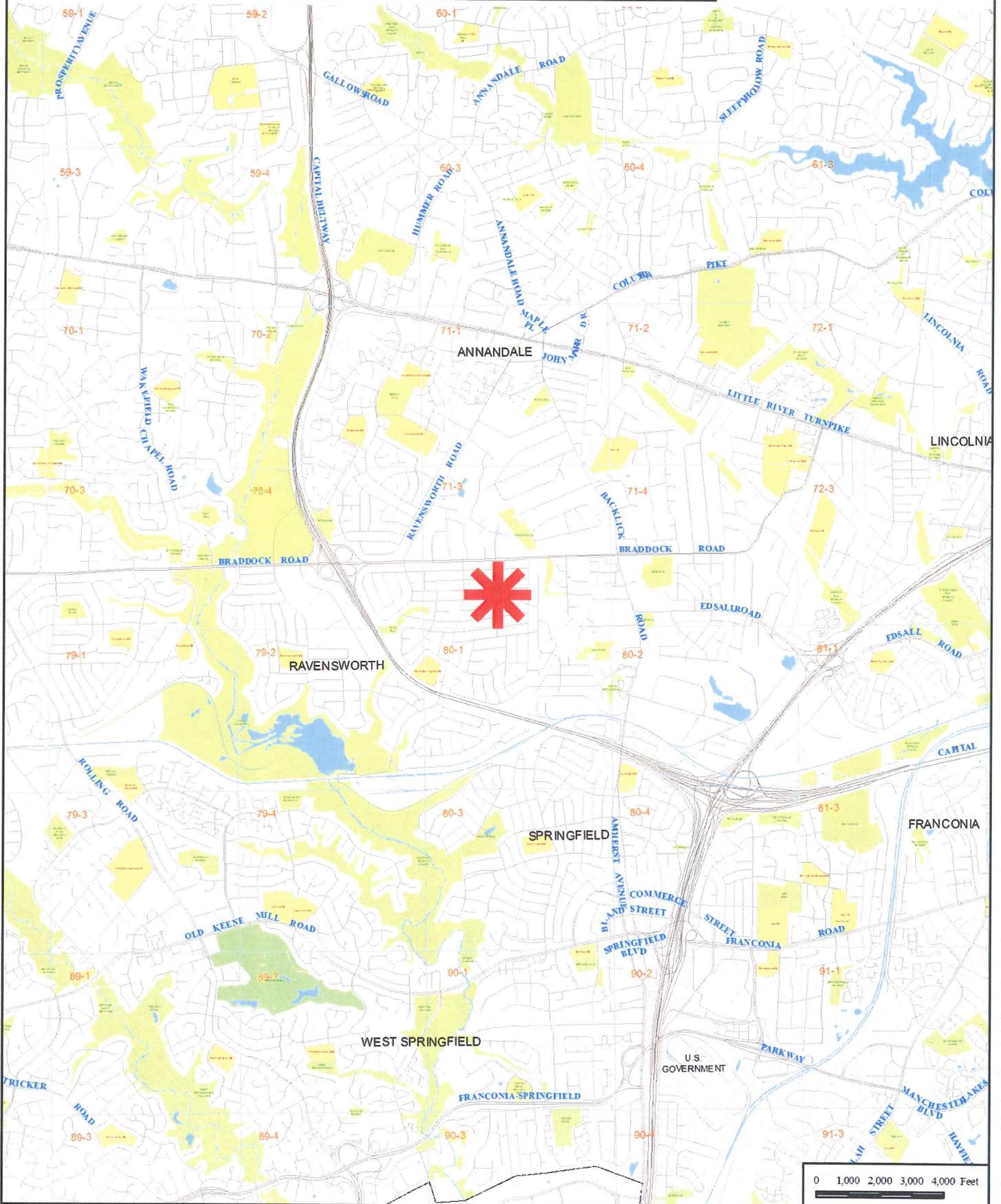


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

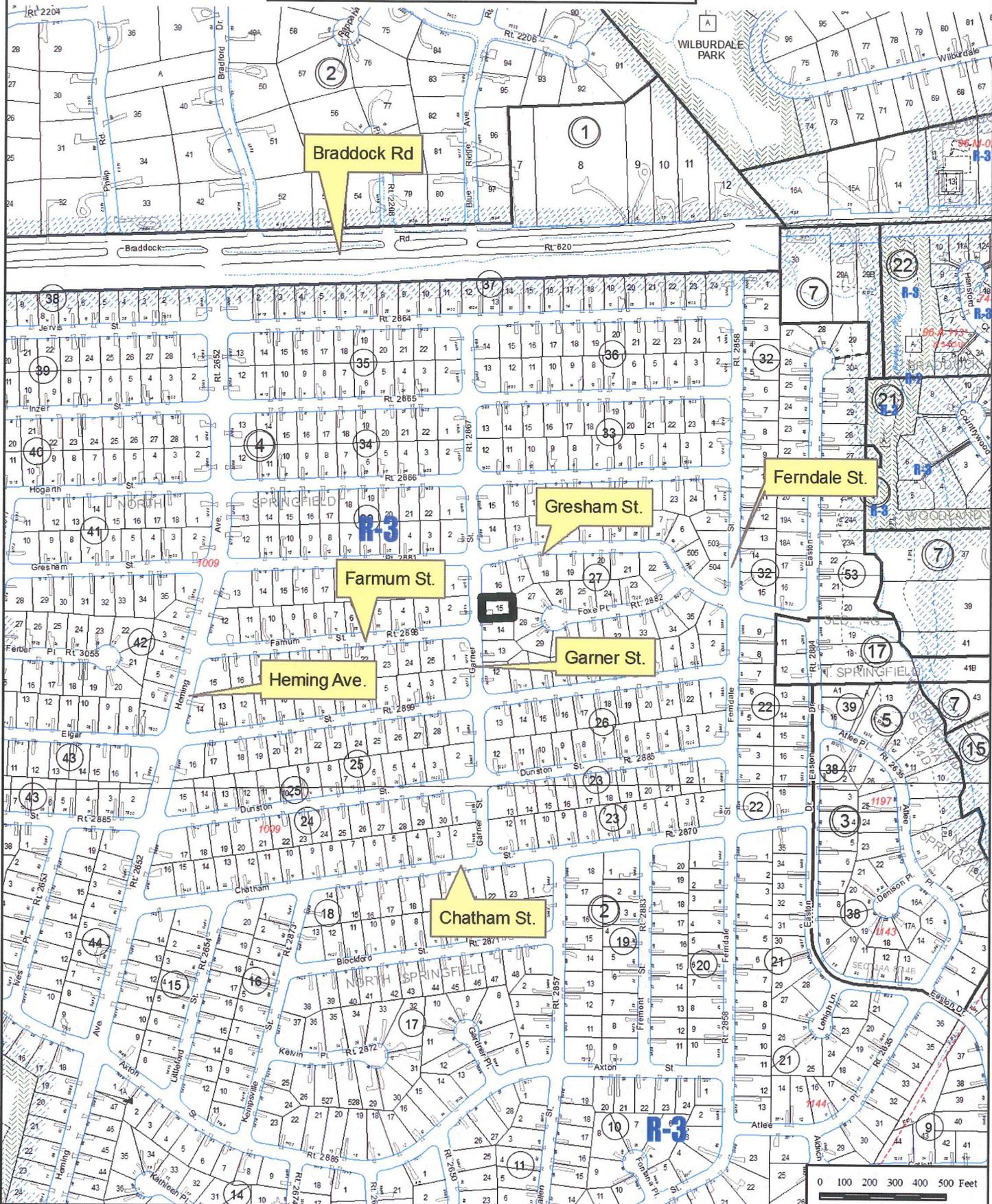
SP 2013-BR-085

JOSE ALFREDO GUERRA / CINDY M. REYES



Special Permit

SP 2013-BR-085
JOSE ALFREDO GUERRA / CINDY M. REYES



Braddock Rd

Gresham St.

Farmum St.

Garner St.

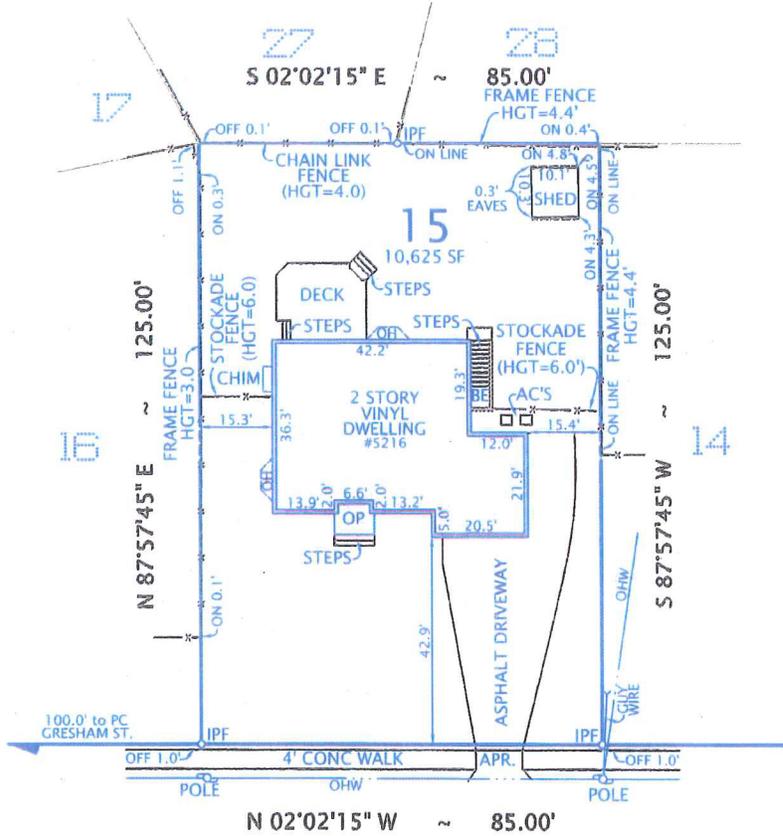
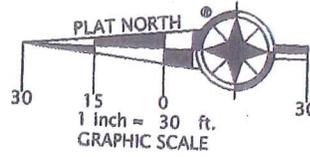
Heming Ave.

Chatham St.

Ferndale St.

0 100 200 300 400 500 Feet

- NOTES: 1. FENCES ARE FRAME UNLESS NOTED.
 2. UTILITIES ARE UNDERGROUND.
 3. WALL IS 0.6' CONCRETE.
 4. SHED HEIGHT IS 9.0.



GARNER STREET
 50' WIDE - STATE ROUTE #2867

PLAT
 SHOWING HOUSE LOCATION ON
 LOT 15, BLOCK 27, SECTION THIRTEEN
NORTH SPRINGFIELD

(DEED BOOK 1358, PAGE 155)
FAIRFAX COUNTY, VIRGINIA
 BRADDOCK DISTRICT

SCALE: 1" = 30' MAY 20, 2013
 JUNE 07, 2013 (REVISED)

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

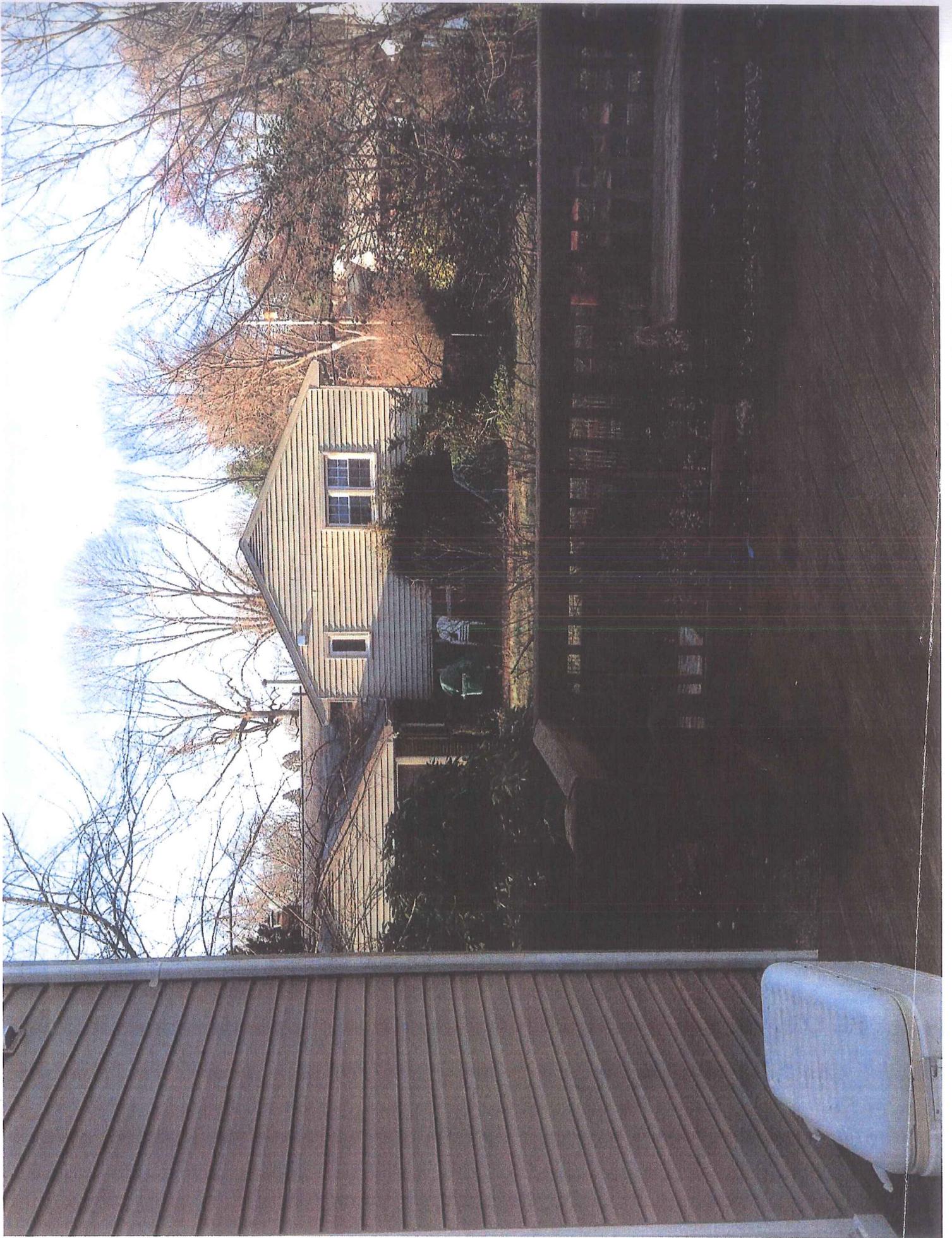
THIS PLAT IS SUBJECT TO RESTRICTIONS OF RECORD.
 A TITLE REPORT WAS NOT FURNISHED.
 NO CORNER MARKERS SET.

COMMONWEALTH OF VIRGINIA
05/20/2013
 GEORGE M. O'QUINN
 LICENSE NO. 2069
 LAND SURVEYOR
George M. O'Quinn

ORDERED BY:
 JOSE GUERRA

DOMINION Surveyors Inc.®
 8808-H PEAR TREE VILLAGE COURT
 ALEXANDRIA, VIRGINIA 22309
 703-619-6555
 FAX: 703-799-6412

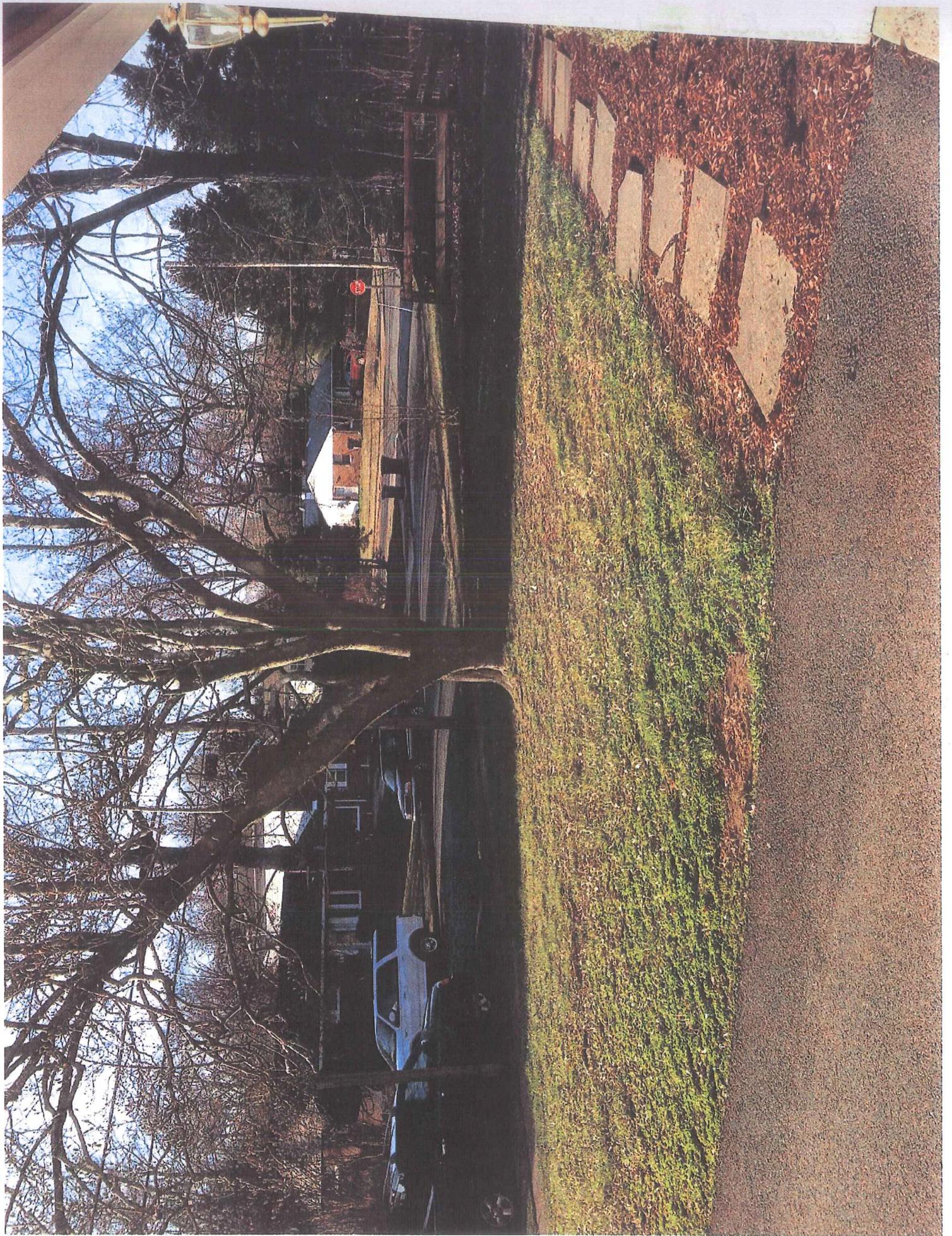






















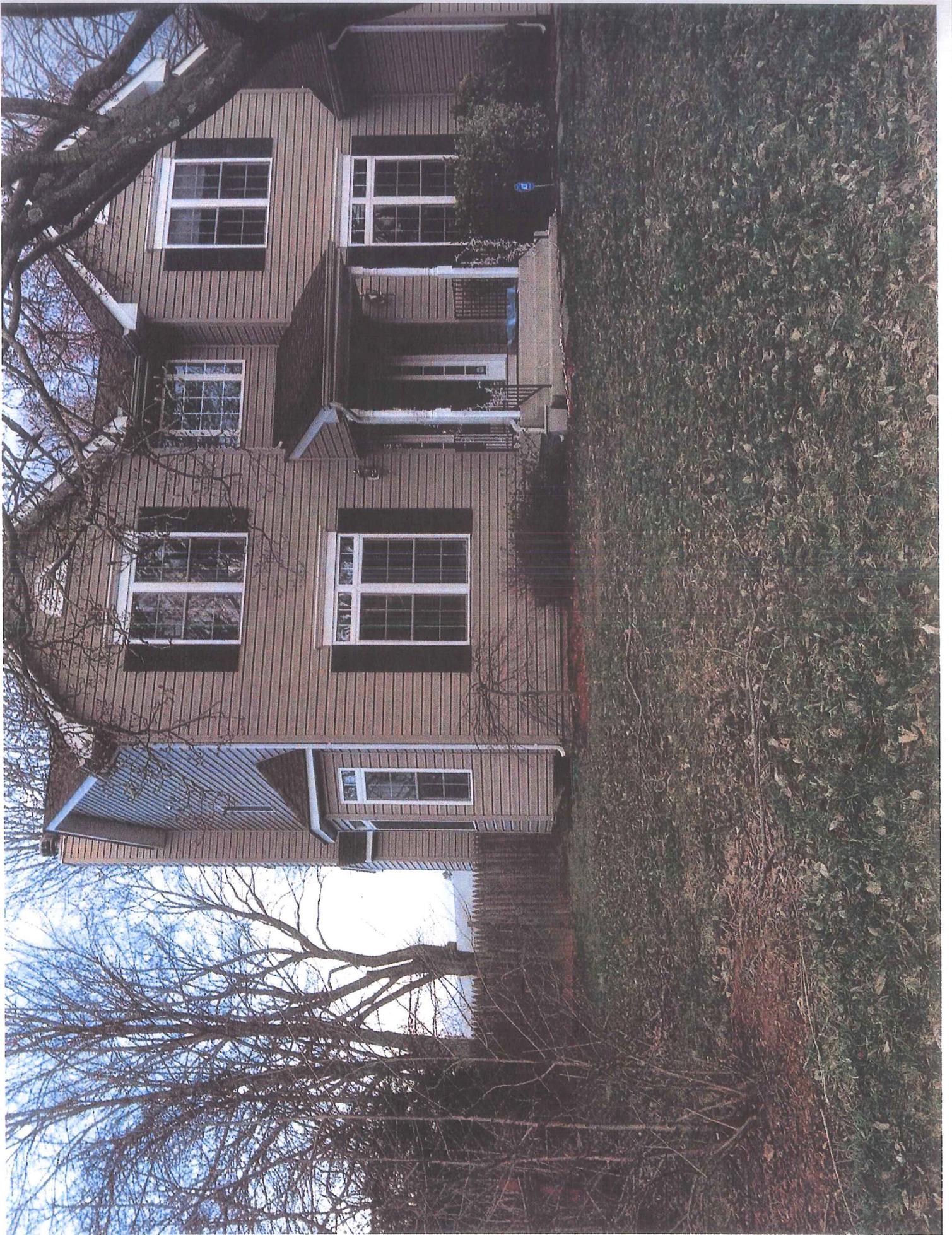








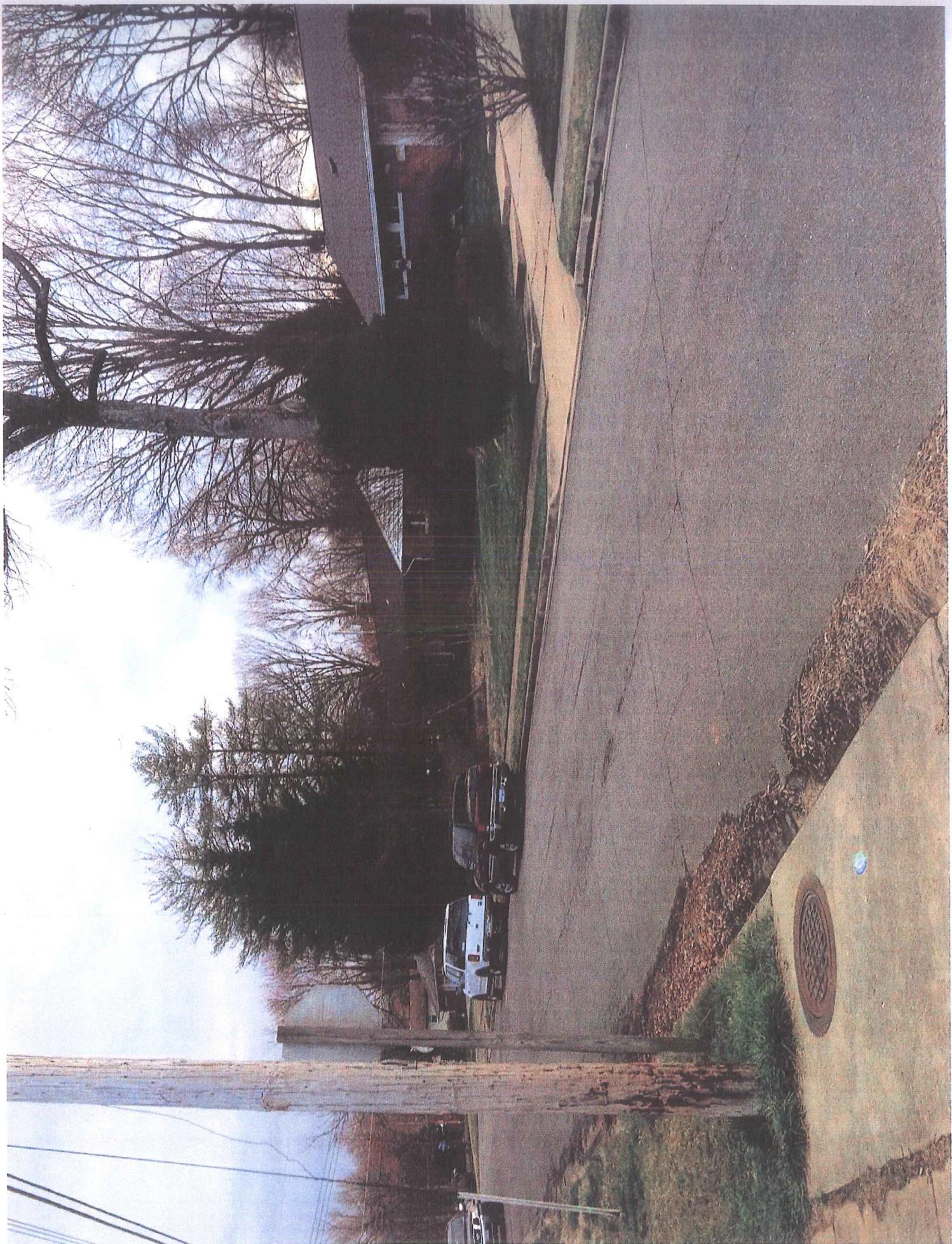


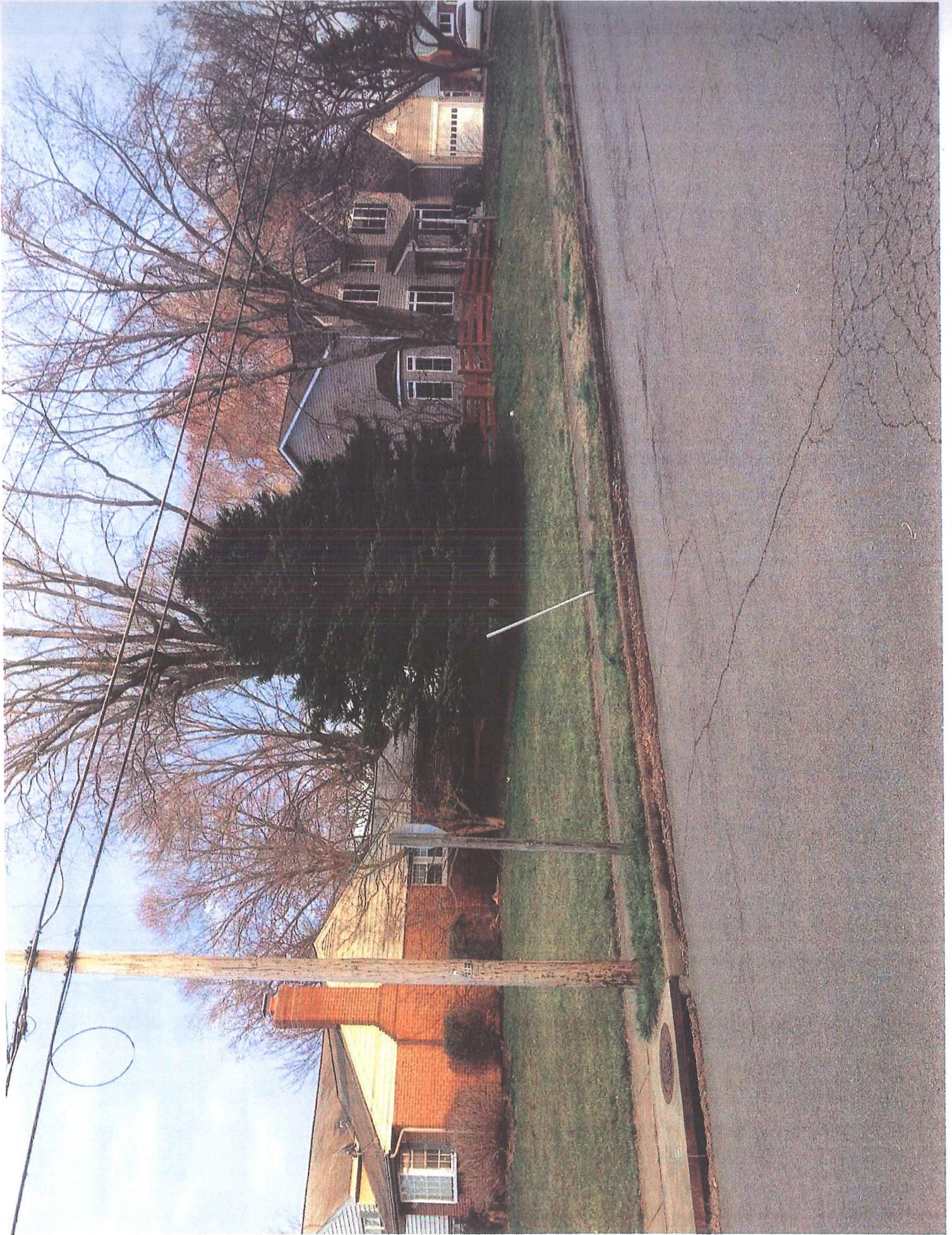




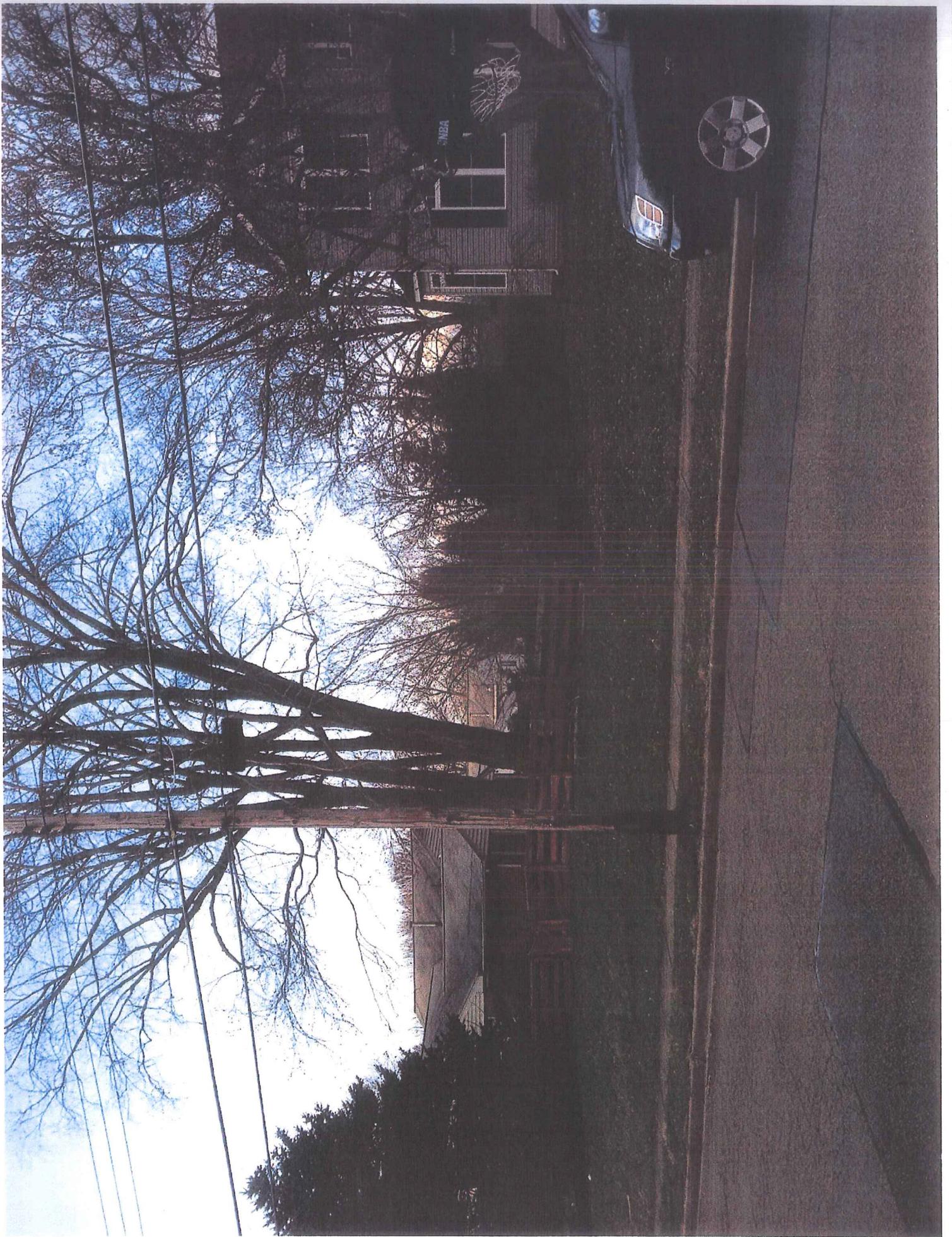
























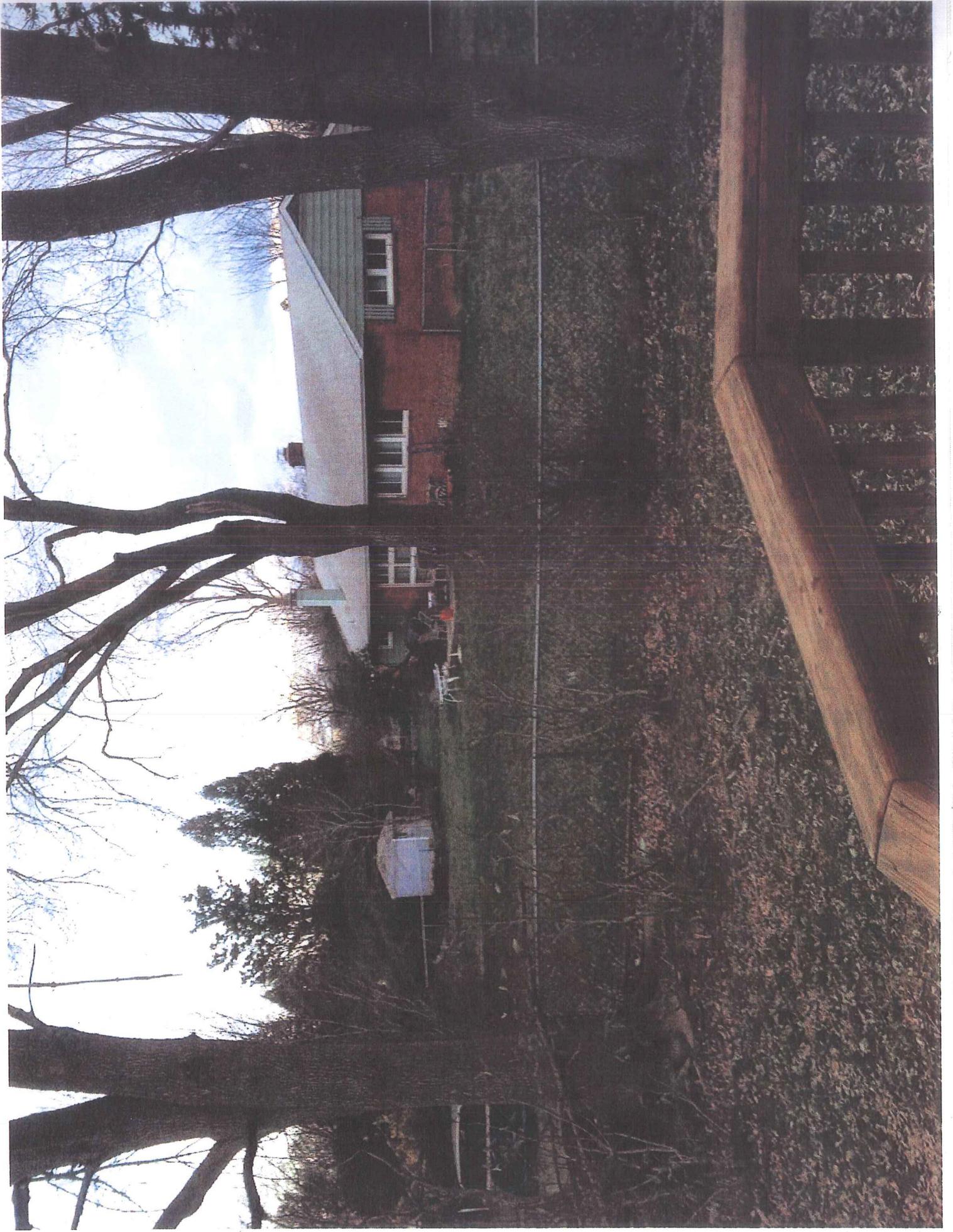










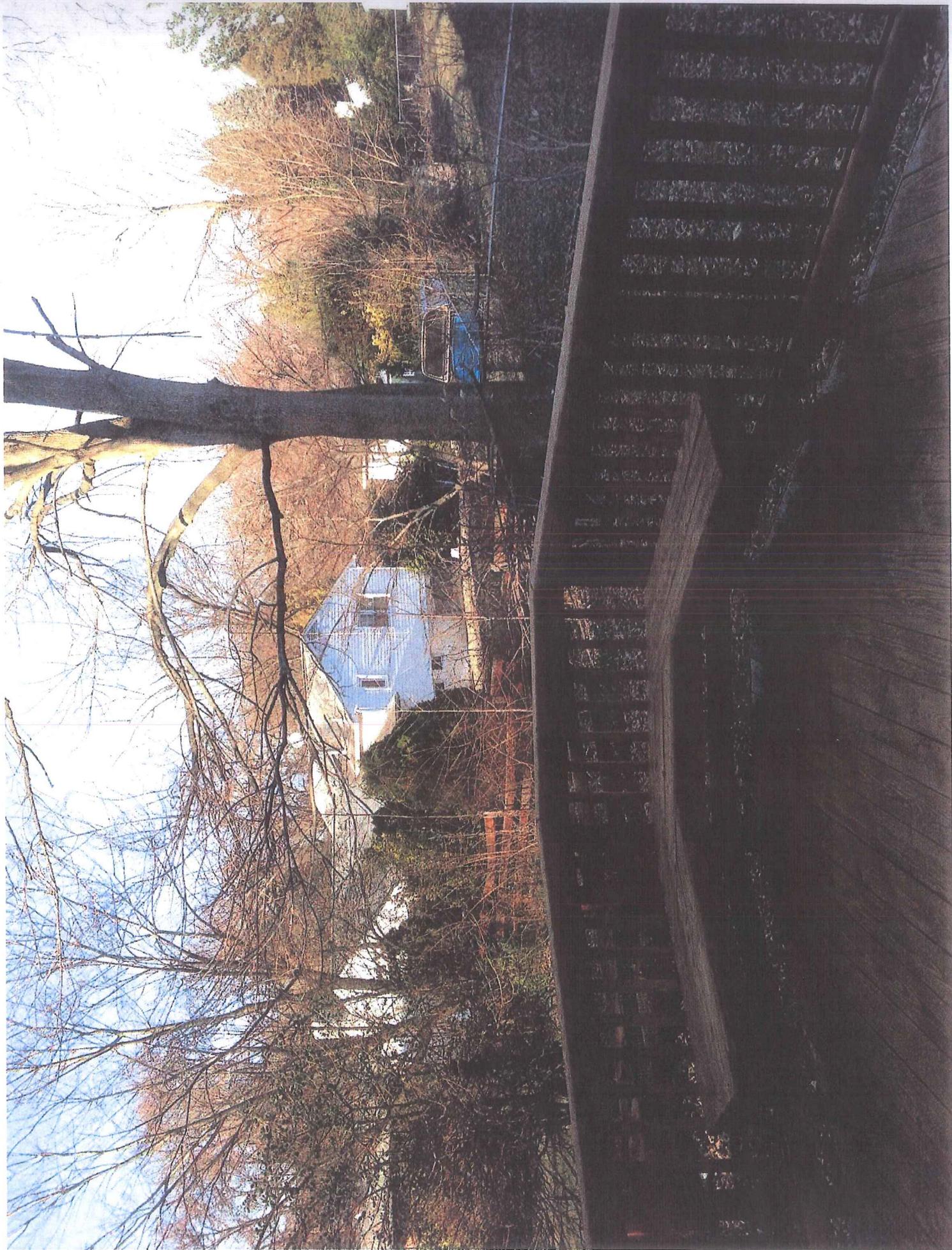


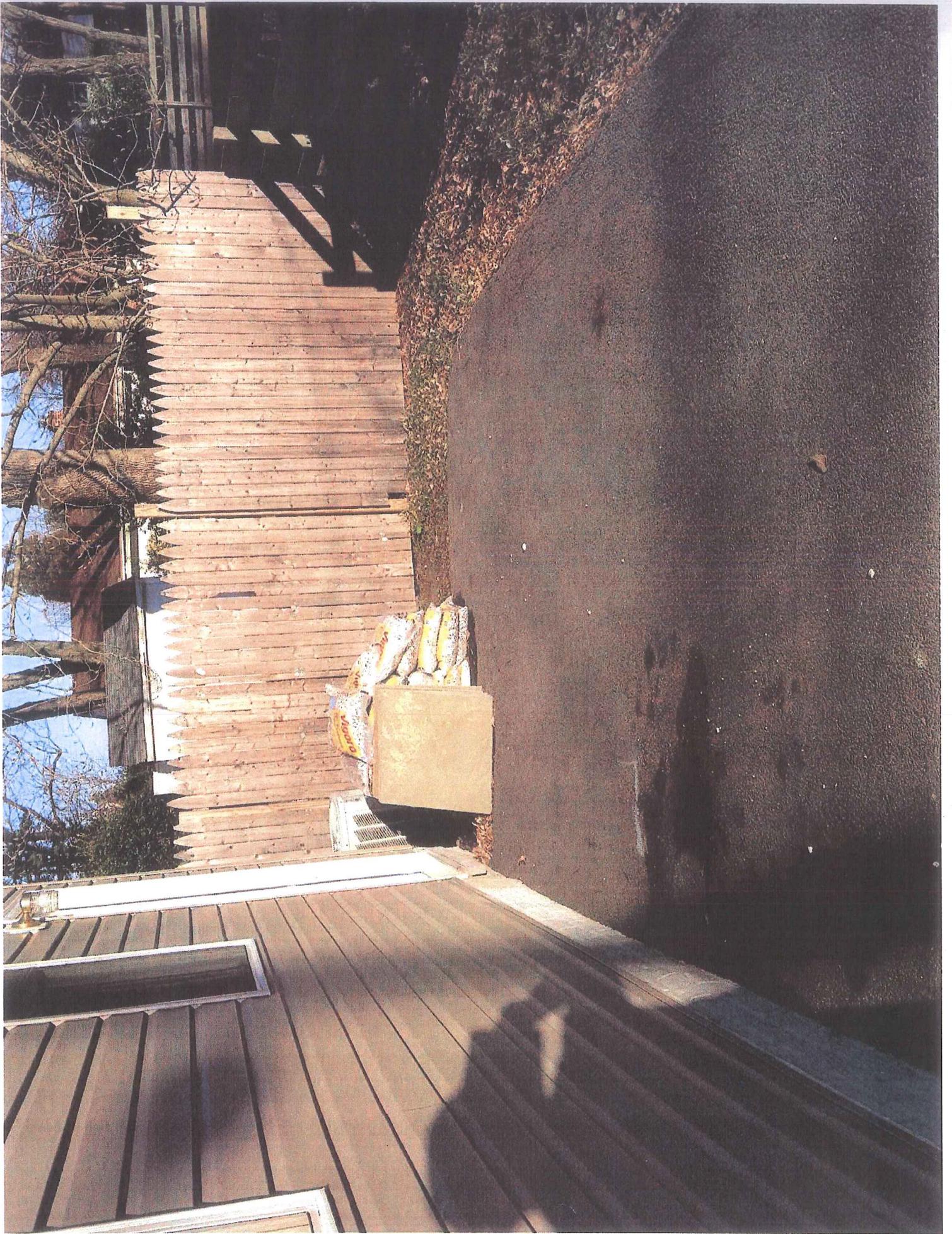






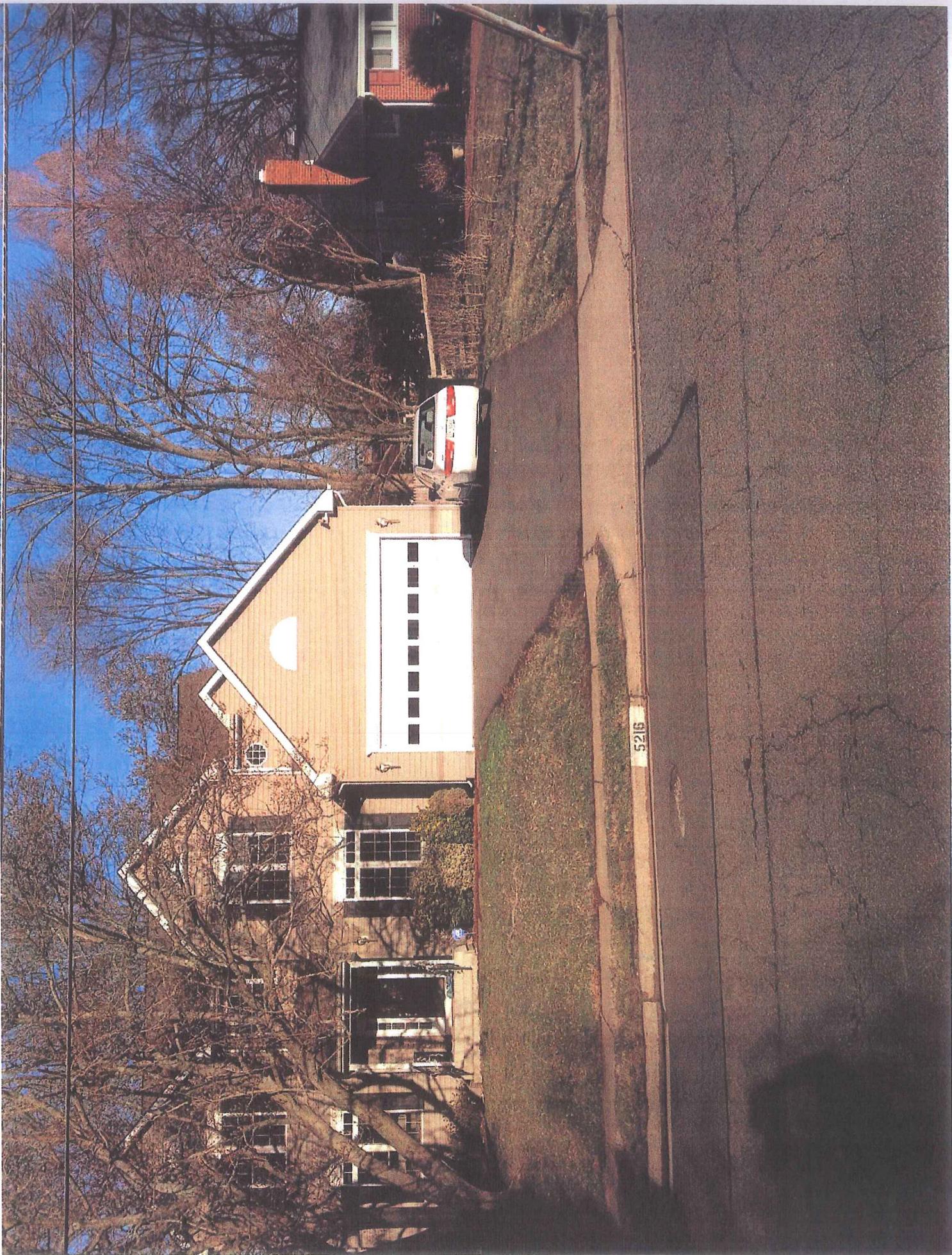




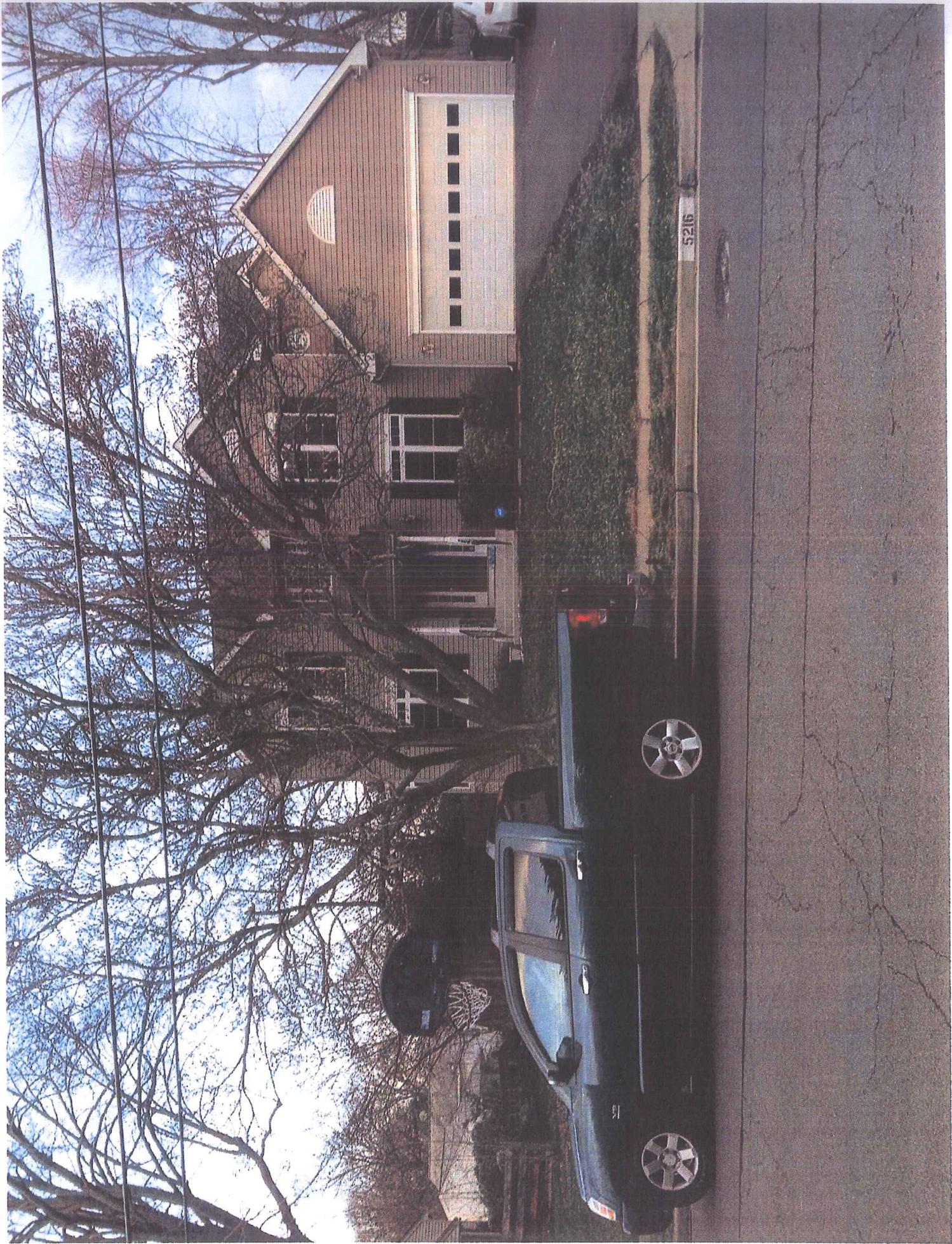




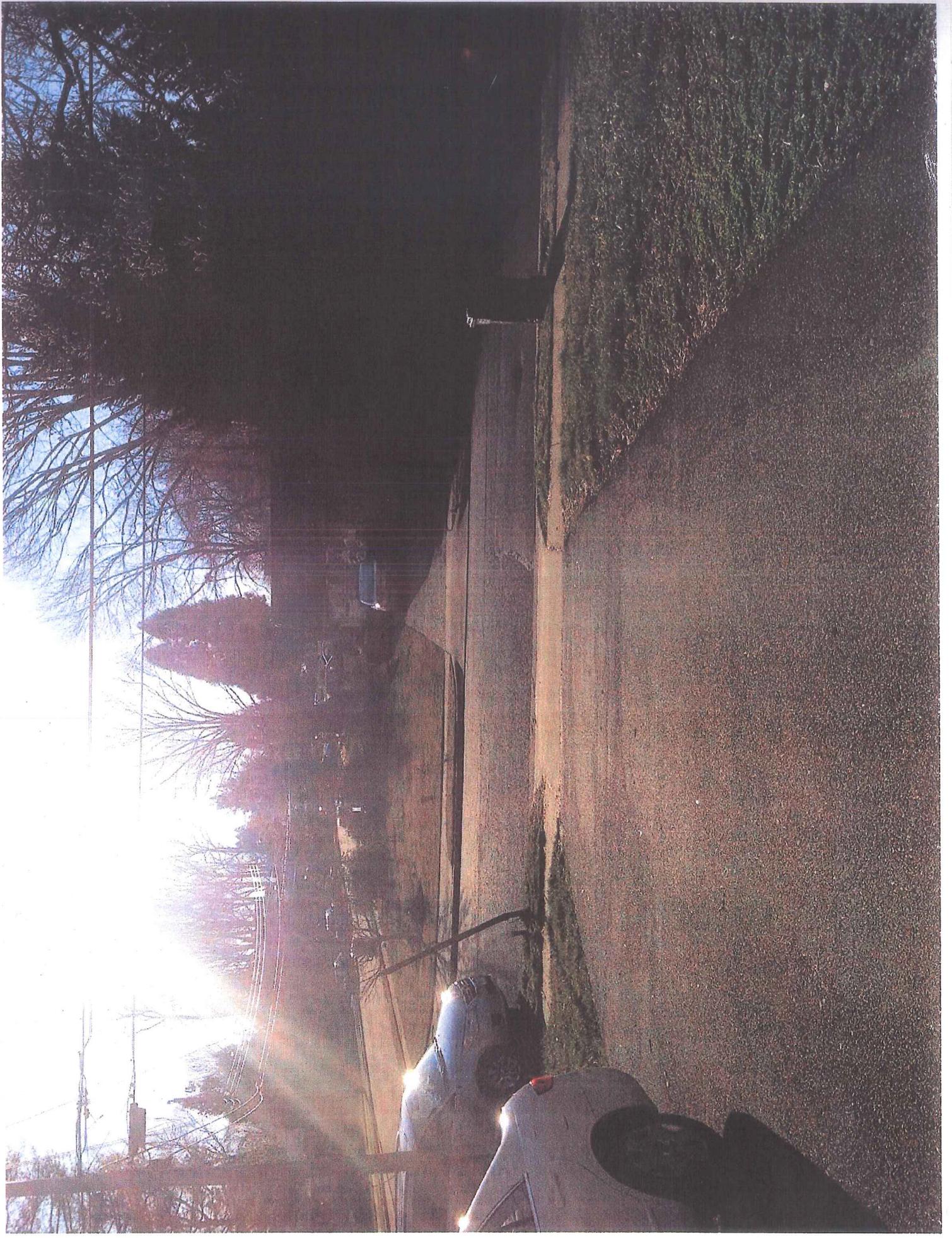


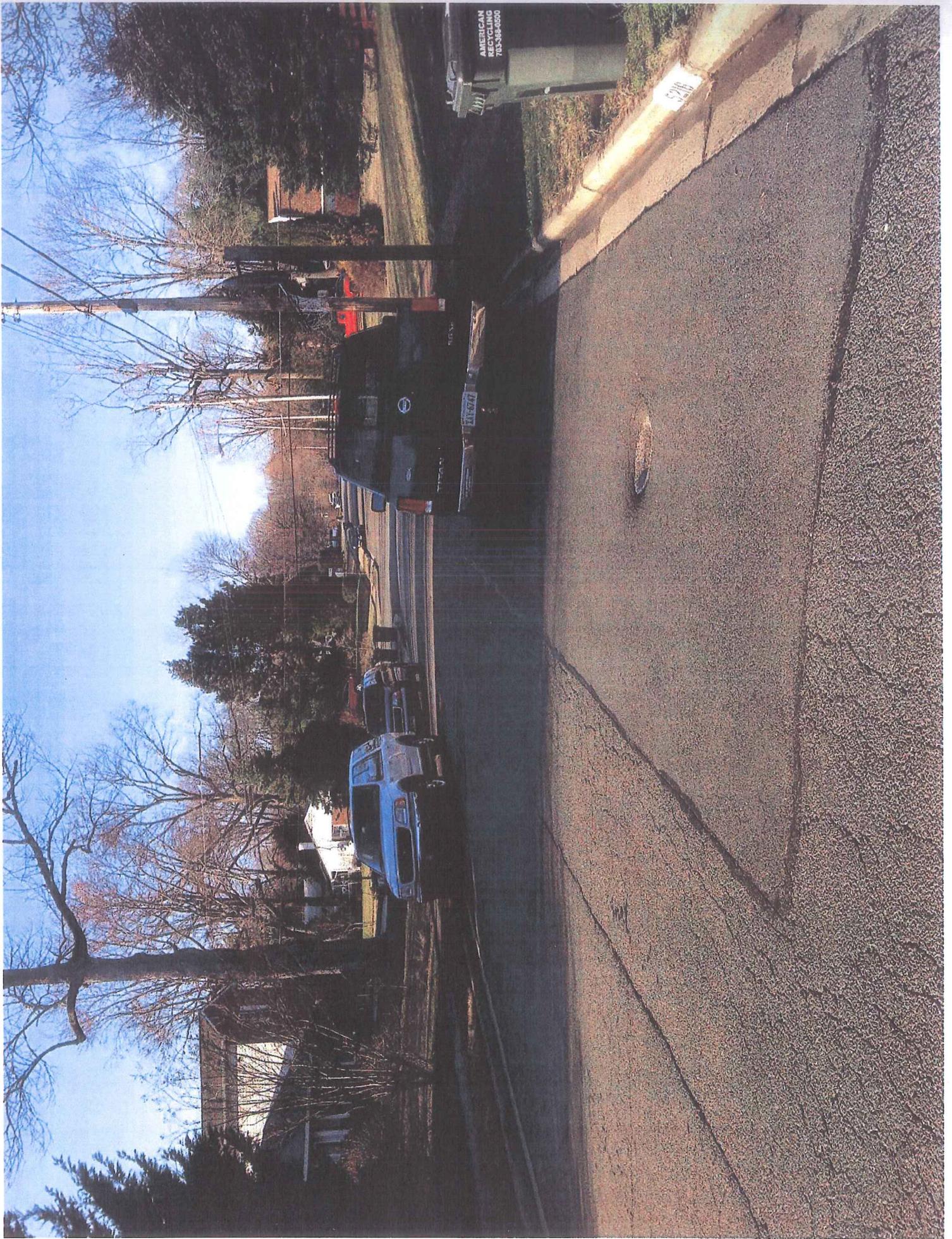


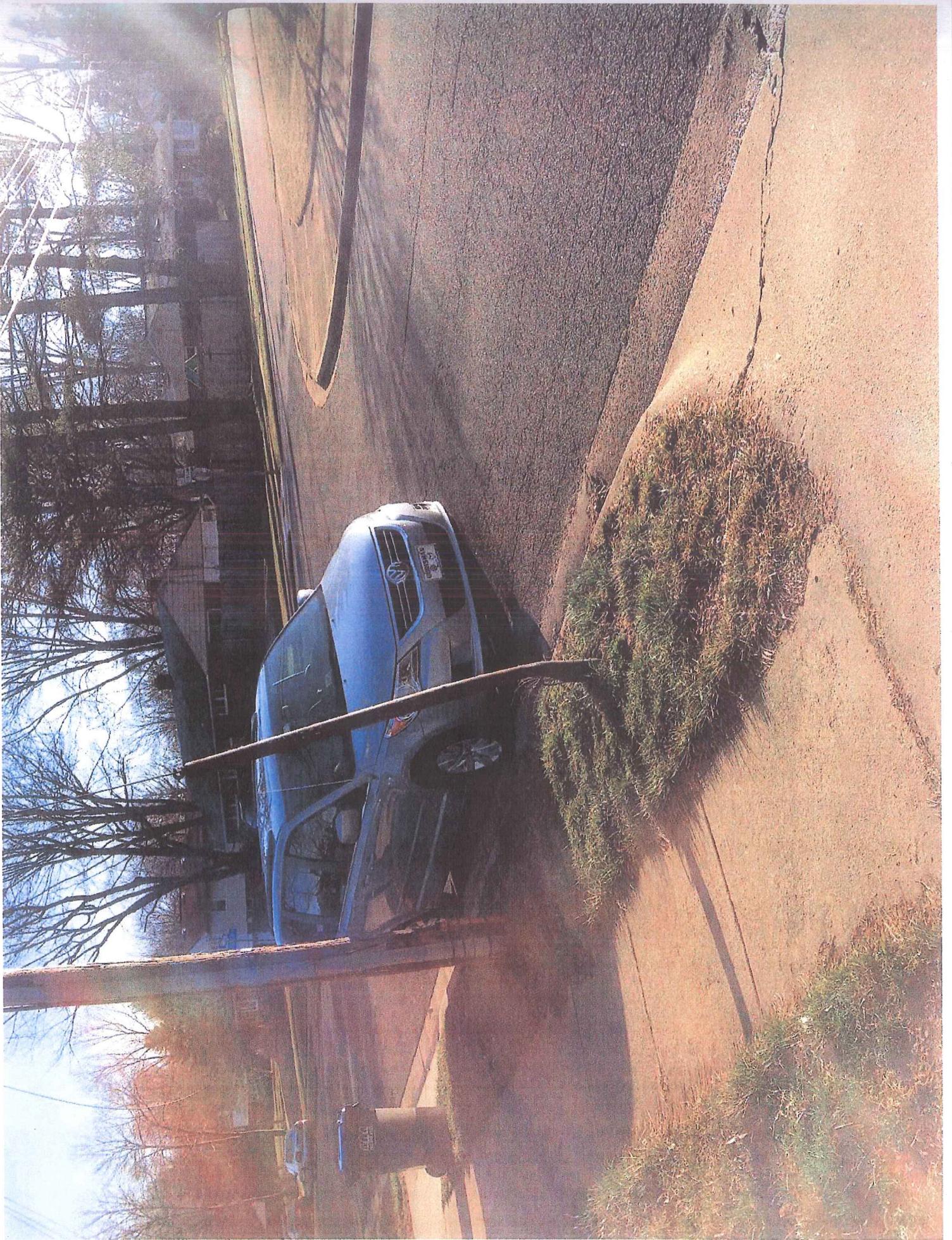
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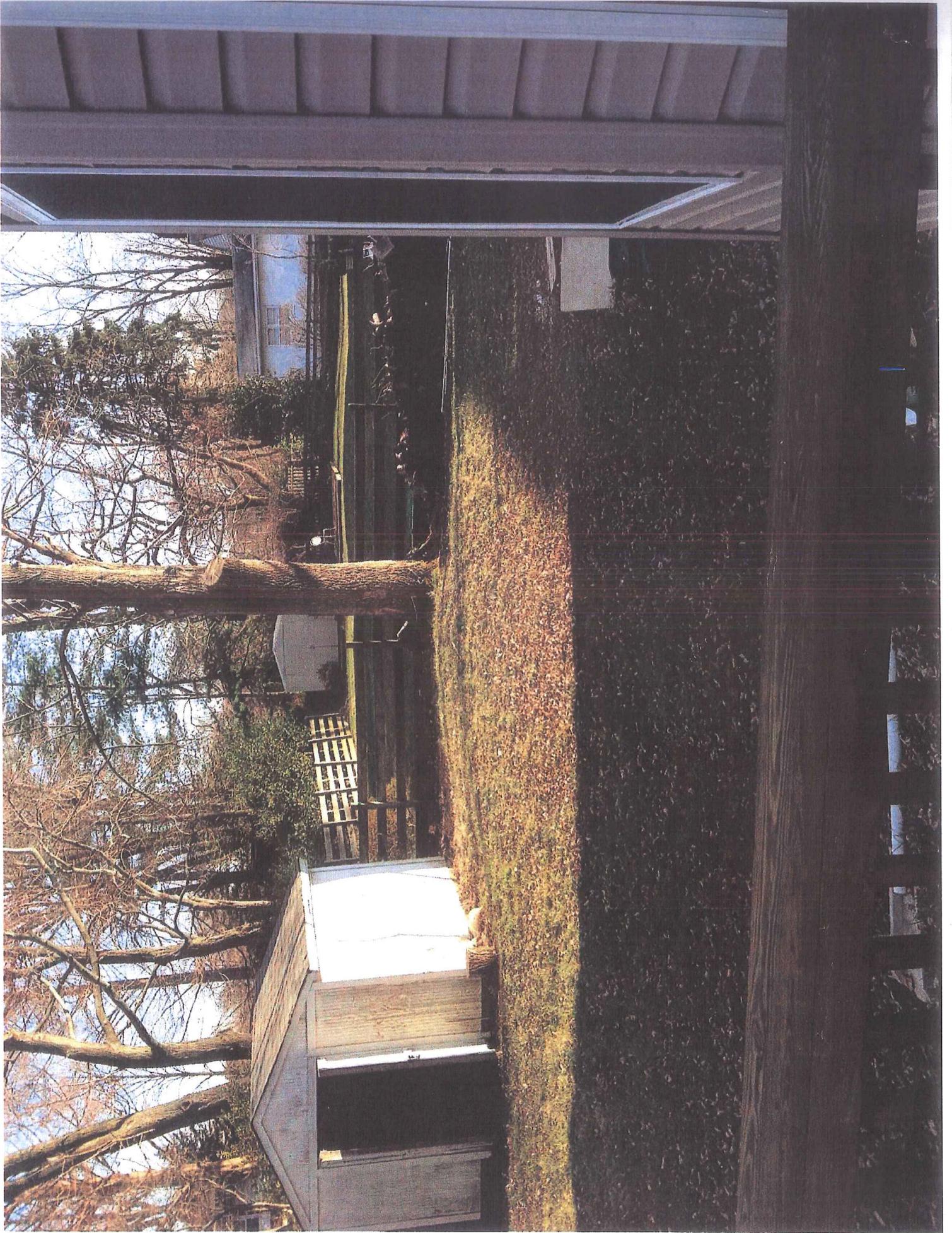








PHOTOGRAPH BY [unreadable]



SPECIAL PERMIT REQUESTS

The applicant is requesting approval of two special permit requests. The first request is for a reduction of minimum yard requirements to permit an accessory storage structure, a shed, to remain 4.3 feet from the southern side lot line and 4.8 feet from the rear lot line. The second request is to allow an accessory dwelling unit in the basement of the existing single family detached dwelling.

A copy of the special permit plat titled "Plat Showing House Location on Lot 15, Block 27, Section Thirteen, North Springfield," prepared by George M. O'Quinn, of Dominion Surveyors, Inc., dated May 20, 2013 as revised through June 7, 2013, is included in the front of the staff report.

A more detailed description of the proposal is provided on page two.

CHARACTER OF THE SITE AND SURROUNDING AREA

The 10,625 square foot lot contains a two story vinyl-sided single family dwelling. A wood deck is attached to the rear of the dwelling. A paver stone walkway leads from the front stoop to an asphalt driveway which provides vehicular access to Garner Street and terminates at a two-car garage. The lot is flat with a grassed lawn and has mature trees in the southeast corner of the property.



The subject property is south of Braddock Road. As illustrated on the previous page, the subject property and surrounding parcels are zoned R-3 and developed with single family detached dwellings.

BACKGROUND

Fairfax County Tax Records indicate that the single family dwelling was constructed in 2005 and the property was purchased by the applicant in December, 2012.

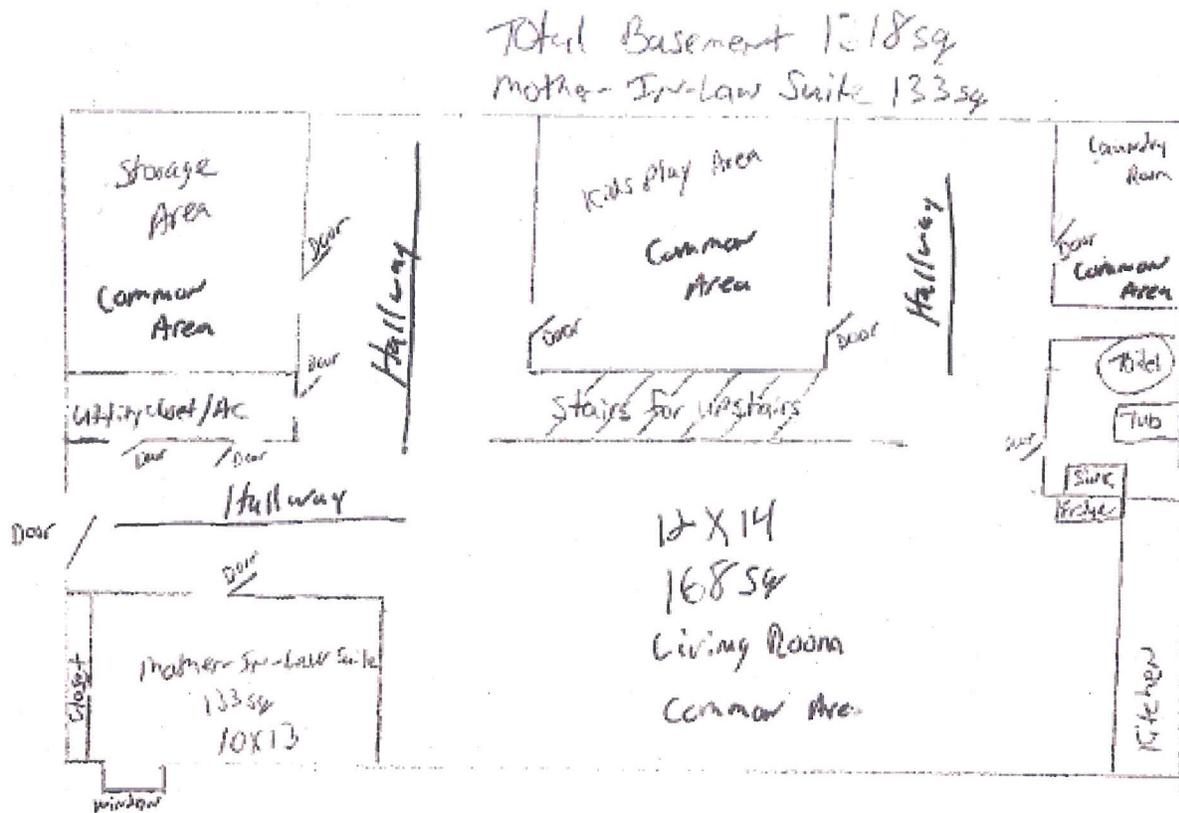
Since the adoption of the Zoning Ordinance, the Board of Zoning Appeals has heard similar applications on surrounding properties. These are listed in Appendix 4.

DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of a special permit for an accessory storage structure, a shed, to remain 4.3 feet from the southern side lot line and 4.8 feet from the rear lot line. The shed measures 9.0 feet in height and is approximately 104 square feet in size.

The applicant is also requesting approval of a special permit for an accessory dwelling unit within the basement of the existing single family dwelling. The proposed accessory dwelling unit will be 885 square feet in size and accounts for 31 % of the total gross floor area of the structure (which is 2,830 square feet). The accessory dwelling unit contains one bedroom, a bathroom, kitchen, living/dining room, and play area.

Upon approval of the special permit, a parent of one of the applicants, over the age of 55, will reside in the accessory dwelling unit. Stairs are located in the ADU that can access the main level of the dwelling and also a set of stairs provides access to the rear yard. Two parking spaces exist within an existing garage and a minimum of two more cars can park in the asphalt driveway, for a total of four parking spaces. The resident of the ADU does not have a car. Therefore, adequate parking exists in the current driveway and garage for all of the residents of the dwelling.



ANALYSIS

Comprehensive Plan Provisions

Plan Area: Area I, Annandale Planning District
Planning Sector: North Springfield Community Planning Sector (AN 05)
Plan Map: Residential uses at 3 dwelling units/acre (du/ac)

Zoning Ordinance Requirements

The existing single family dwelling with accessory dwelling unit on site currently meets all bulk regulations for the PDH-3 Zoning District.

- Sect. 8-006 General Special Permit Standards
- Sect. 8-903 Group 9 Standards
- Sect. 8-914 Provisions for Reduction of Minimum Yard Requirements Based on an Error in Building Location
- Sect. 8-918 Additional Standards for Accessory Dwelling Units

This special permit is subject to sections of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 5. Subject to development conditions, the special permit must meet these standards.

Fire Safety

During a site visit by staff, it was discovered that the room intended for use as a bedroom in the accessory dwelling unit did not have proper emergency egress. The applicant has agreed to alter the doorway and entrance to the accessory dwelling unit bedroom by enclosing a portion of the adjacent hallway and including the egress point already established in the basement. This new configuration would meet the fire safety regulations. A development condition has been included to address this alteration.

CONCLUSION

Staff believes that the request is in conformance with the applicable Zoning Ordinance provisions with the implementation of the Proposed Development Conditions contained in Appendix 1 of the staff report.

RECOMMENDATION

Staff recommends approval of SP 2013-BR-085 for the accessory dwelling unit with adoption of the Proposed Development Conditions contained in Appendix 1 of the 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 applicants/owners 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.

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
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Similar Case History
5. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2013-BR-085****January 1, 2014**

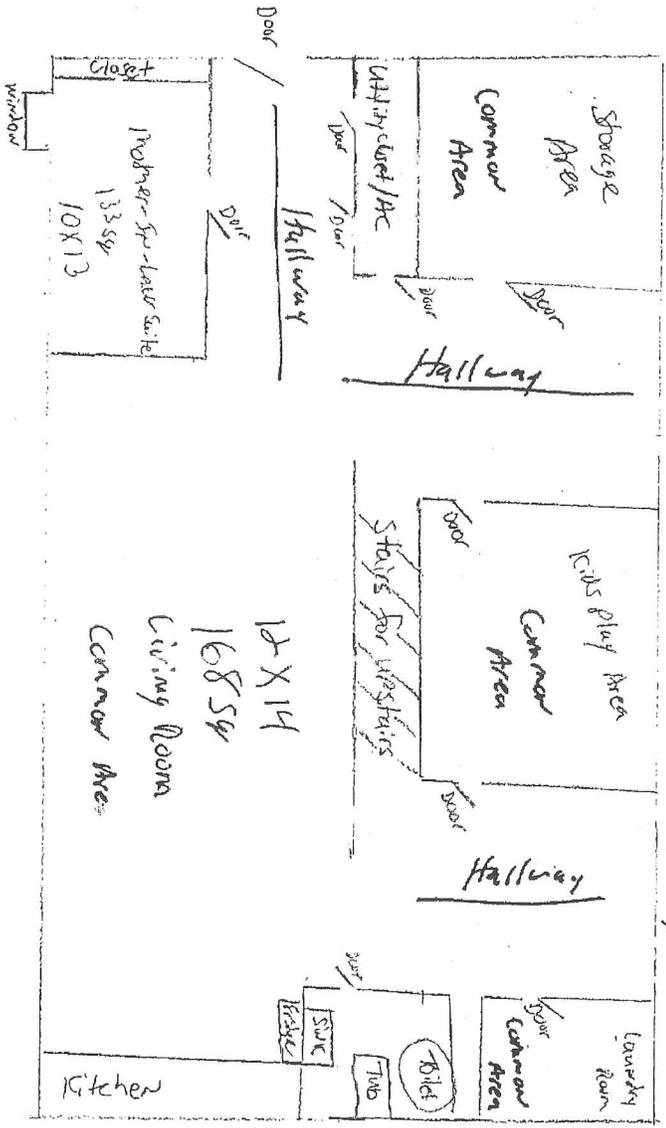
If it is the intent of the Board of Zoning Appeals to approve SP 2013-BR-085 located at Tax Map 71-3 ((4)) (27) 15 to permit an accessory storage structure and an accessory dwelling unit under Section 8-914 and Section 8-918 to the Fairfax County Zoning Ordinance, staff recommends that the Board condition 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 accessory dwelling unit. 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, Jose Alfredo Guerra and/or Cindy M. Reyes, and is not transferable without further action of this Board, and is for the location indicated on the application, 5216 Garner Street (10,625 s.f.) and is not transferable to other land.
3. This special permit is approved for the location of the accessory storage structure as shown on the plat prepared by Dominion Surveyors, Inc., dated May 20, 2013, as revised through June 7, 2013, as submitted with this application and is not transferable to other land
4. A copy of this special permit **SHALL BE POSTED in a conspicuous place in the accessory dwelling unit** and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
5. The doorway the "mother-in-law suite" (as identified on the floor plan included as Attachment 1 to these conditions) shall be altered to enclose a portion of the adjacent hallway and include the egress point already established in the basement, as required by fire safety regulations for emergency egress.
6. 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.

7. The accessory dwelling unit shall contain a maximum of 885 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
8. 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.
9. All applicable permits and final inspections shall be obtained for the kitchen components in the accessory dwelling unit.
10. The accessory dwelling unit shall be approved for a period of five years from the final approval date of the special permit and may be extended for five year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
11. If the use of the accessory dwelling unit ceases 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.
12. All parking shall be provided on site as shown on the special permit plat.

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.



Top Basement 1518sq
 Mother-Son-Later Suite 133sq

12x14
 168sq
 Living Room
 Common Area

5/8/2013
 Sale Garner St.
 Springfield VA 22151
 Dale A. Guerra
 Joe C. Guerra

Application No.(s): SF 2013-BR-085
 (county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4/10/13
 (enter date affidavit is notarized)

I, JOSE A. GUERRA, 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 120282

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)
JOSE A. GUERRA	5216 GARNER STREET SPRINGFIELD, VA 22151	APPLICANT/TITLE OWNER
CINDY M. REYES	(SAME)	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 2013-BR-085
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4/10/13
(enter date affidavit is notarized)

120282

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 2013-BR-085
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4/10/13
(enter date affidavit is notarized)

120282

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)

N/A

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

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

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

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

Application No.(s): SP-2013-BR-085
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4/10/13
(enter date affidavit is notarized)

120282

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 2013-BR-085
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 4/10/13 120282
(enter date affidavit is notarized)

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

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

NONE

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

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

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

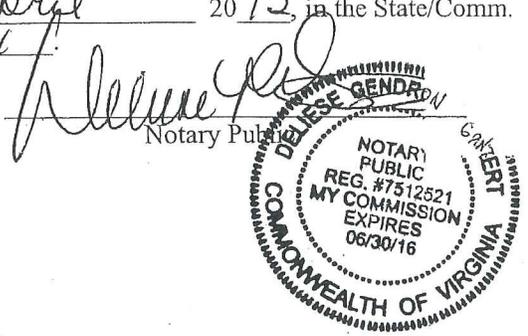
WITNESS the following signature:

(check one) Applicant Applicant's Authorized Agent

JOSE A. GUERRA
(type or print first name, middle initial, last name, and title of signer)

Subscribed and sworn to before me this 10th day of April 2013, in the State/Comm. of Virginia County/City of Fairfax.

My commission expires: June 30, 2016



Special Permit Statement of Justification

- A. **Type of operation(s):** Mother in law-suite
- B. **Hours of operation:** Mother in law living with us
- C. **Estimated number of patrons/clients/patients/pupils/etc:** Mother in law and sometimes visitors.
- D. **Proposed number of employees/attendants/teachers/etc.:** None
- E. **Estimate of traffic impact of the proposed use, including the maximum expected trip generation and the distribution of such trips by mode and time of day:** No vehicle
- F. **Vicinity or general area to be served by the use:** Basement
- G. **Description of building façade and architecture of proposed new building or additions:** N/A, no new building or additions being added to residence
- H. **A listing, if known, of all hazardous or toxic substances as set forth in Title 40, Code of Federal Regulations parts 116.4, 302.4 and 355; all hazardous waste as set forth in Virginia Department of Environmental Quality Hazardous Waste Management Regulations; and/or petroleum products as defined in Title 40, Code of Federal Regulations Part 280; to be generated, utilized, storage tanks or containers.** N/A, the use of electric stove, no hazardous waste
- I. **A statement of how the proposed use conforms to the provisions of all applicable ordinances, regulations, adopted standards and any applicable conditions, or, if any waiver, exception or variance is sought by the applicant from such ordinances, regulations, standards and conditions, such shall be specifically noted with the justification for any such modification:** Mother in law will be living in the basement, which she will have her own bathroom, bedroom, dishwasher, washer & dryer and electric stove. My mother in-law at times has difficulties going up and down the stairs and while living in the basement she will have a one level to move around and her own privacy.

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Department of Planning & Zoning

MAR 13 2013

Zoning Evaluation Division

Check List Item

Item 5.07:

Single family home, 3 levels,

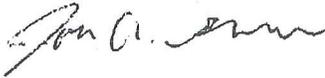
Third Floor 1415sq

Second Floor 1415sq

Basement 1195sq

2830

Total living space: 4125sq



Jose A. Guerra

5216 Garner St. Springfield Va. 22151

File: SP 2013-0069

If you have any other questions please call me at 703-989-5628

Thank you

J. Alfredo Guerra

March 27th 2013

Checklist item

(5.09) The proposed development conforms to the provisions of all applicable ordinance, regulations, and adopted standards.

(7.00) Applying for waiver towards Special Permit Plat since I will not be building any type of structure outside the house.

Jose A. Guerra
Jose A. Guerra

RECEIVED
Department of Planning & Zoning
MAR 28 2013
Zoning Evaluation Division

March 28, 2013

8-9.1B Additional Standards for Accessory Dwelling Units

1. Finished basement in a single family home, which has one bedroom, full bathroom, and kitchen with electric stove.
2. Single family home
3. The Dwelling unit does not exceed thirty-five (35) percent of the total gross floor area.
4. The dwelling unit contains one (1) bedroom.
5. A. I am the owner of the single family home
B. The basement will be used by my mother-in-law which she is over 65yrs old.
C. One (1) family member (mother-in-law) will be living in the basement.
6. There will not be a disabled person.
7. Mother-in-law will not be having a car.
8. N/A
9. The basement meets all regulations, health and sanitation.

Jose A. Guerra

Jose A. Guerra

File: SP 2013-0069

Additional Standards for Accessory Dwelling Units

Item 5.00

Basement is more than 50 percent underground, total living space in basement is 1195sq; Basement has one bedroom, one office space, full bathroom, washer and drying and full kitchen.

Jose A. Guerra

5216 Garner St. Springfield Va. 22151

File: SP 2013-0069

If you have any other questions please call me at 703-989-5628

Thank you

J. Alfredo Guerra

9/23/2013

2. The BZA determines that:

- A. the Rear shed structure 4.8 and the Side 4.3.
- B. the non-compliance was done in good faith, when we bought the house the shed came with it.
- C. Such Reduction will not impair the purpose and intent of this ordinance.
- D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, the Shed structure is in a spot where no other structure is located. there has not been any complaints from my neighbors.
- E. The structure will not create an unsafe condition with respect to both the property and public streets.
- F. To force compliance with the minimum yard requirements we need the shed for storage, law, mower, yard stuff etc.
- G. The shed will not result in an increase in density or floor area, the shed is smaller than the house structure.

X John A. Johnson

Similar Case History

Group: 2012-BR-025

SP 2012-BR-025

[STAFF REPORT](#)

[LOCATOR MAP](#)

APPLICANT:	GLENDASUE STUMP
STATUS:	APPLICATION APPROVED
STATUS/DECISION DTE:	07/18/2012
ZONING DISTRICT:	R-3
DESCRIPTION:	ACCESSORY DWELLING UNIT AND REDUCTION IN MINIMUM YARD REQUIREMENT BASED ON ERROR IN BUILDING LOCATION TO PERMIT SHED TO REMAIN 2.5 FEET FROM REAR LOT LINE AND 4.4 FEET FROM SIDE LOT LINE
LOCATION:	7321 JERVIS STREET, SPRINGFIELD, VA 22151
TAX MAP #S:	0713 04360015

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards For All Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
 - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of well and/or septic field.
 - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.
 - J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.
 - K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

2. The BZA determines that:
 - A. The error exceeds ten (10) percent of the measurement involved, and
 - B. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
 - C. Such reduction will not impair the purpose and intent of this Ordinance, and
 - D. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
 - E. It will not create an unsafe condition with respect to both other property and public streets, and
 - F. To force compliance with the minimum yard requirements would cause unreasonable hardship upon the owner.
 - G. The reduction will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

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.