

C15-2014-0168
CASE# ~~CV-2014-073054~~
ROW# 11248342
TAX# 0214091509
(TCADV)

CITY OF AUSTIN
APPLICATION TO BOARD OF ADJUSTMENT
GENERAL VARIANCE/PARKING VARIANCE

WARNING: Filing of this appeal stops all affected construction activity.

PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.

STREET ADDRESS: 3216 Lafayette Austin Tx 78722

LEGAL DESCRIPTION: Subdivision - Lot 1 Block 1 Lafayette Subdivision

Lot(s) _____ Block _____ Outlot _____ Division _____

I/We Adrian Young on behalf of myself/ourselves as authorized agent for
myself affirm that on Oct 24 2014,

hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below and state what portion of the Land Development Code you are seeking a variance from)

 ERECT ATTACH COMPLETE REMODEL x MAINTAIN
see attached City Code 25-6-267 et seq

25-2-496(D)

in a SE-3-NP district. (Upper Boggy Creek)
(zoning district)

NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):

REASONABLE USE:

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

see attached statement of hardship and reasons

for variance

HARDSHIP:

2. (a) The hardship for which the variance is requested is unique to the property in that:

see attached statement and photographs

- (b) The hardship is not general to the area in which the property is located because:

to the best of my knowledge no other property in my

neighborhood has so many old-growth trees over driveway

AREA CHARACTER:

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

the area adjacent to my property is in no way affected by

the carport over my driveway; the carport affects no realistic
use of city ~~or~~ ~~my~~ right of way at this time, and can be removed
if the city does ever intend such use

PARKING: (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

see attached statement if this application is deemed relevant.

to a parking variance

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

the carport will result in parking off the street not on it

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

the carport will allow my wife and I to park in our driveway
and off the street to avoid the tree problem - see attached
statement

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

see attached statement and photographs

many uses of city right of way are allowed in my neighborhood
which are far more intrusive than the carport in my own driveway

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

APPLICANT CERTIFICATE - I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed  Mail Address 3216 Lafayette Ave

City, State & Zip Austin Tx 78722

Printed ADRIAN L. YOUNG Phone 512 656 2272 Date 10-24-14

OWNERS CERTIFICATE - I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed SAME AS APPLICANT Mail Address _____

City, State & Zip _____

Printed _____ Phone _____ Date _____

INVESTIGATION REPORT

Investigator: Moses Rodriguez

Case: CV-2014-073031

Address: 3216 LAFAYETTE AVE 78722

Zoned as SF-3-NP

The item(s) listed below are in violation of the Austin City Code. A required remedy may be specified after a violation and may include a time period for compliance. If no required remedy is specified for a violation, the **Required Remedy Summary** will be in effect. For questions concerning residential property, please contact the Zoning Review Division at (512) 978-4000. For questions concerning commercial property, please contact the Development Assistance Center (DAC) at (512) 974-6370.

LAND USE

Code Section: Site Development Regulations for Zoning Districts (§25-2-492)

Description of Violation: The carport is encroaching into the street side yard setback and a minimum of 15 feet is required in a SF3 zoning district.

Date Observed: July 11, 2014

Status: Not Cleared

Required Remedy: Need to obtain a variance or remove.

Code Section: Building Permit Requirement (§25-12-241 [2006 IRC R105.1])

Description of Violation: Residential construction performed without required permit(s).

Date Observed: July 11, 2014

Status: Not Cleared

Required Remedy: Need to obtain residential permit for carport.

Required Remedy Summary

Obtain a Permit in 7 days

Discontinue prohibited use in 14 days

NOTE: The time period(s) indicated in this summary reflect the total time allowed for compliance. A time period indicated in an individual violation's required remedy is the actual time allowed for compliance of that individual violation. If no time period is indicated in an individual violation's required remedy, the summary time period associated with the required remedy will be the time allowed for compliance.

Appeal

A person may appeal a Stop Work Order to the City of Austin's Code Official. A written appeal must be filed no later than 3 days after the posting of the Order and contain:

- the name and address of the appellant;
- a statement of facts;
- the decision being appealed; and
- the reasons the decision should be set aside.

Appeal of Notice of Violation Case CV-2014-073031 and Request
for Permit and or Variance 3216 Lafayette Austin, Tx

The carport that is the subject of the City of Austin's violation notice dated July 16, 2014, was put in this last summer in order to protect my and my wife's cars from further damage from several old-growth cedar elms that are unfortunately falling apart over our driveway. The carport is also an effort to save these beautiful old trees, that have been compromised by the drought Austin has been in since at least 2008. My wife and I are retired seniors on a fixed income and cannot afford to have our cars ruined by our trees, at the same time we would dearly hate to lose any of the cedar elms. Without the protection of the carport for our two cars we will ultimately be faced with having to take down 3 of the trees that are hanging directly over our driveway.

I believe that the only part of the carport that encroaches on the City's 15 foot setback would be the front 2 posts of the carport. My contractor mistakenly believed that the Edgewood side-street adjoining my driveway had a 5 foot setback and did not require permit since the carport was not attached to any existing structure, had no walls, plumbing, or electricity (basically is 4 posts and a roof, an entirely open-air structure), and was within size limits per zoning requirements. (I believe he may have misread zoning regulation 25-2-555 which pertains to rear setbacks, since the carport is toward the rear of my property, but I'm not sure.) Mr. Rodriguez's violation notice states that the setback is 15 feet for my neighborhood and since he covers it I suspect he is correct, he would know the zoning guidelines better than myself anyway. *(I have also received a violation letter from Public Works referring to 10 foot setback.)* I am asking that the City of Austin permit this carport (photos are attached) and allow variance to the 15 setback rule so that I will not have to either remove or drastically alter the carport, which would seem to me to be unnecessary and impractical given the fact that while the front 2 posts are within the 15 feet, the carport only covers my driveway and certainly does not interfere with any neighbors or, I think, any realistic plans of the City to use the setback in the near or foreseeable future. Of course if the City does ever need the setback for any reason I will be more than agreeable to remove the carport or alter it as may be necessary. It does though seem a waste to have to remove it until the City needs the space, as my wife and I have a concrete need for the carport.

I would add that the 3 cedar elms over our driveway have been trimmed up and cared for as carefully as possible - and at considerable expense - over the last few years. The carport is sort of a last resort to keep from having to take the trees down in order that our cars aren't destroyed. We've already had one windshield cracked and a car roof panel caved in by large branches breaking and falling. And last July 4 weekend the City's utility clean-up crew had to entirely remove another of my cedar elms that had snapped off 10 feet from the ground and fallen into utility lines and blown a transformer, knocking out electricity on the block for about 8 hours. The crew was working on that mishap until past midnight, under very precarious circumstances.

Thank you for your consideration.

*5/AD12, Ann L. Young
10/14/14*

SURVEY PLAT

TO ALL PARTIES INTERESTED IN PREMISES SURVEYED:—

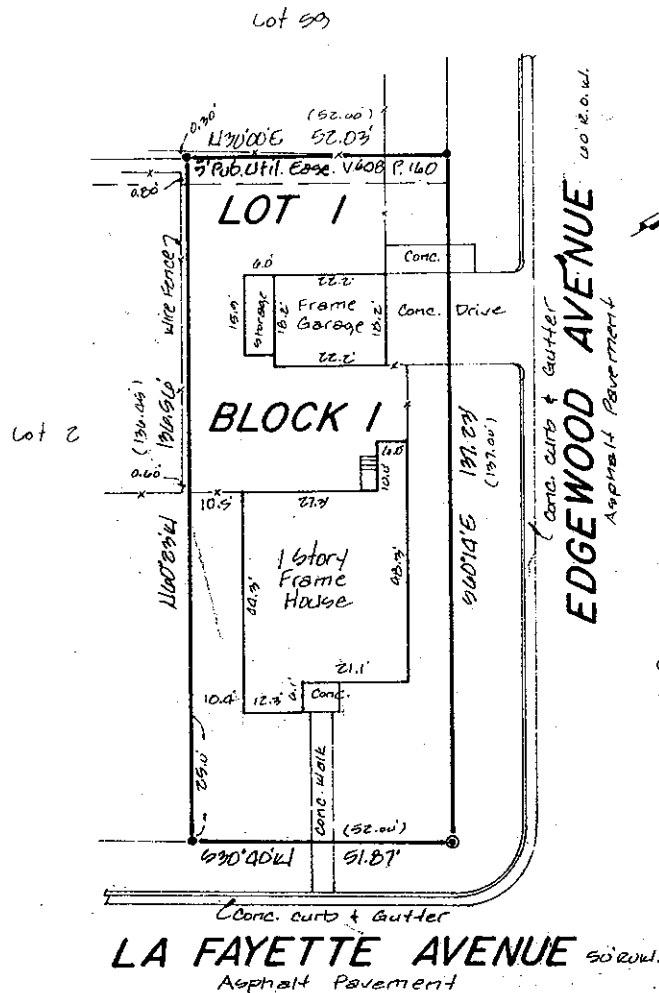
This is to certify that I have, this date, made a careful and accurate survey on the ground of property located at No. 3216 La Fayette Ave. in the City of Austin, Texas, being described as follows:

Lot No. 1, Block No. 1
of La Fayette Heights, an addition to the City of Austin

Texas, according to the final plat thereof recorded in Vol. 4, at page 43 of the Plat _____

~~XXX~~ Map Records of Travis County, Texas.

Ref. Zimmerman/Roth

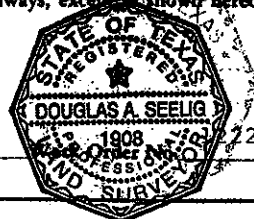


LEGEND

- Iron Pipe Found
- Iron Pin Found

I hereby certify that the property described hereon is not within a special flood hazard area, as identified by the Federal Emergency Management Agency/ Federal Insurance Administration on Flood Insurance Rate Map No. 480624 0045B dated September 2, 1981, for the City of Austin, Travis County, Texas.

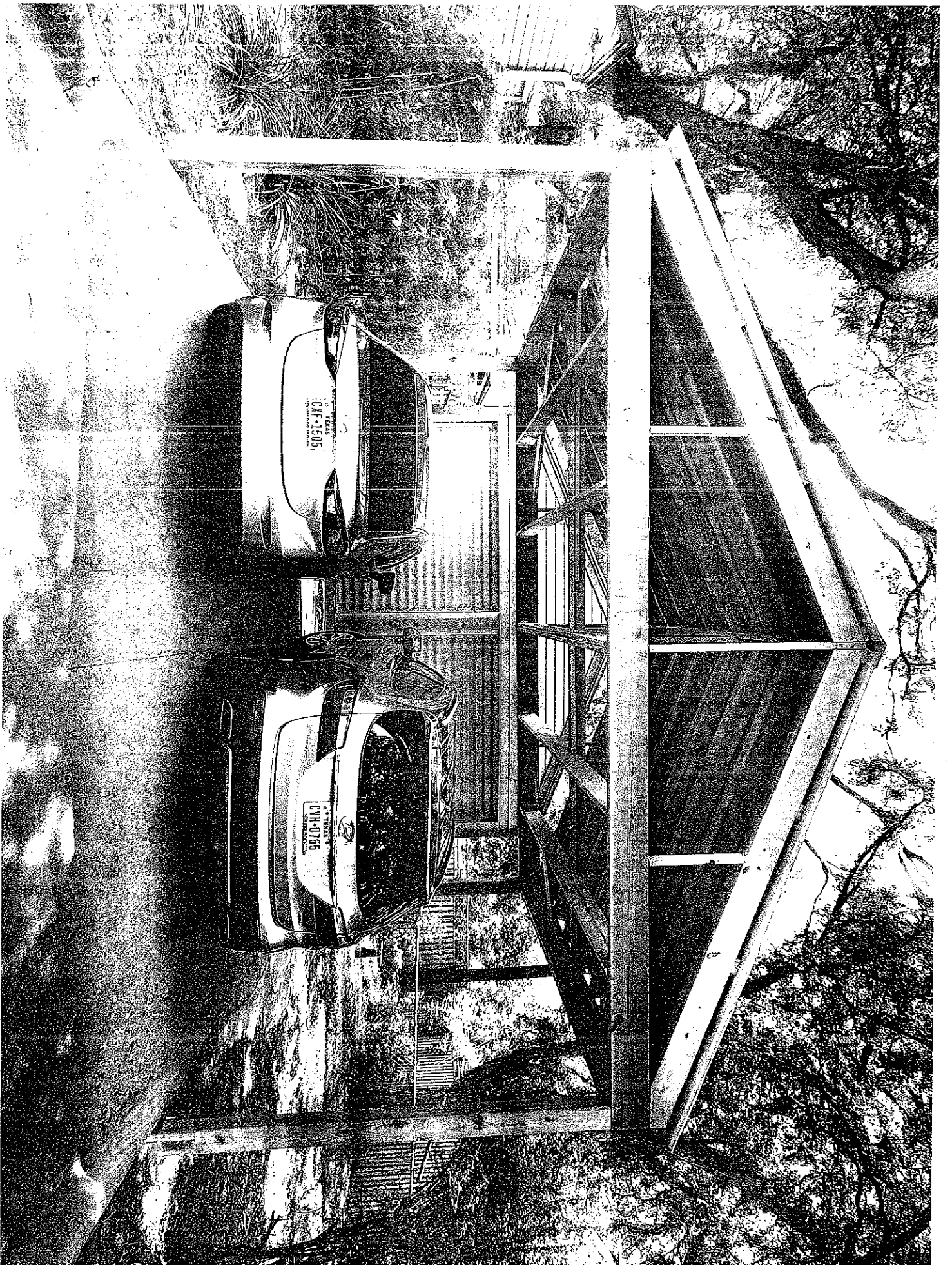
The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, visible utility easements or roadways, except as shown hereon, and that said property has access to and from a dedicated roadway, except as shown hereon.



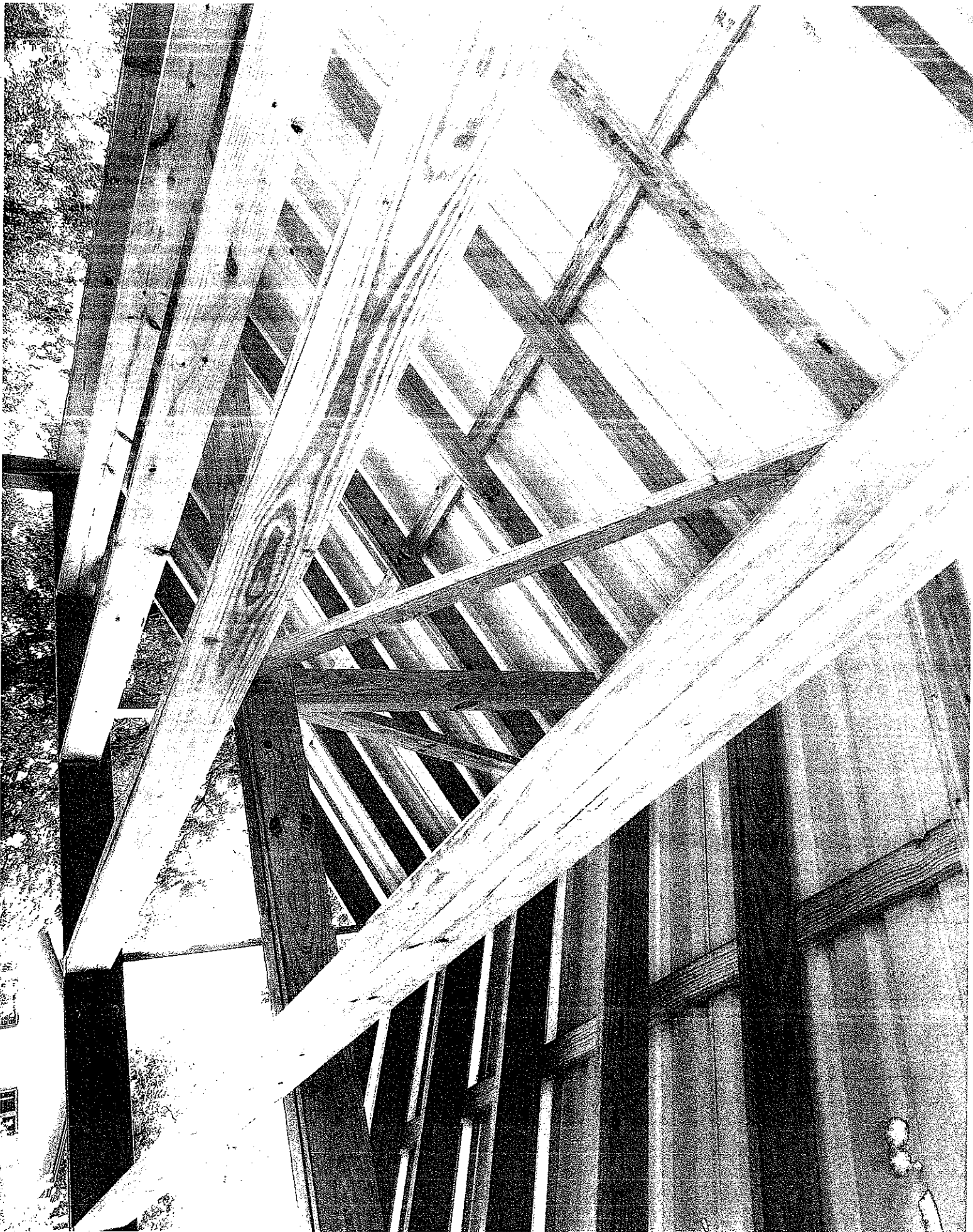
Douglas A. Seelig
Reg. Pub. Sur. #1908
917 East Oak Dr.
Austin, Texas 78753

Date Jan. 21, 1983 Invoice No. 1222

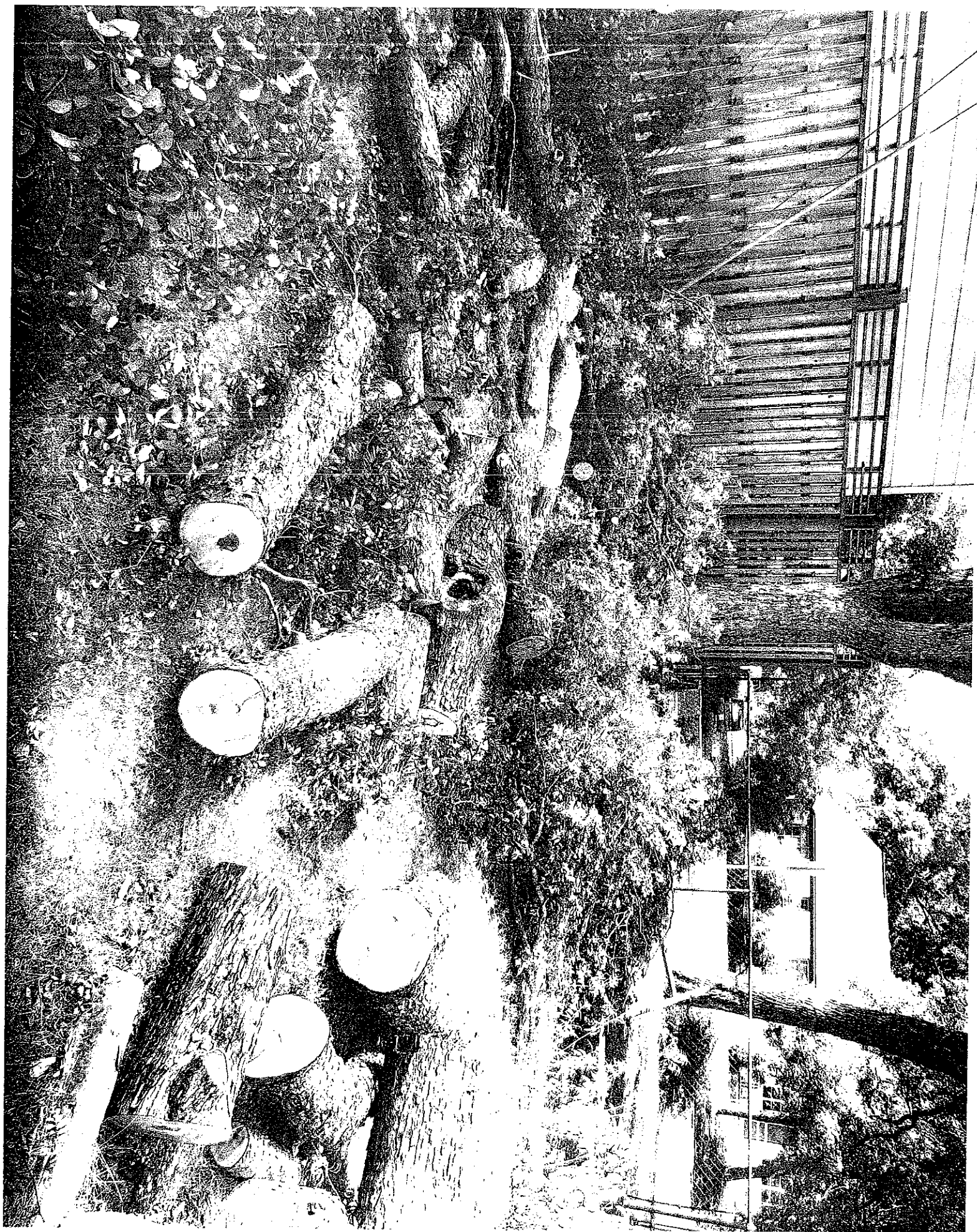
Scale 1" = 30'

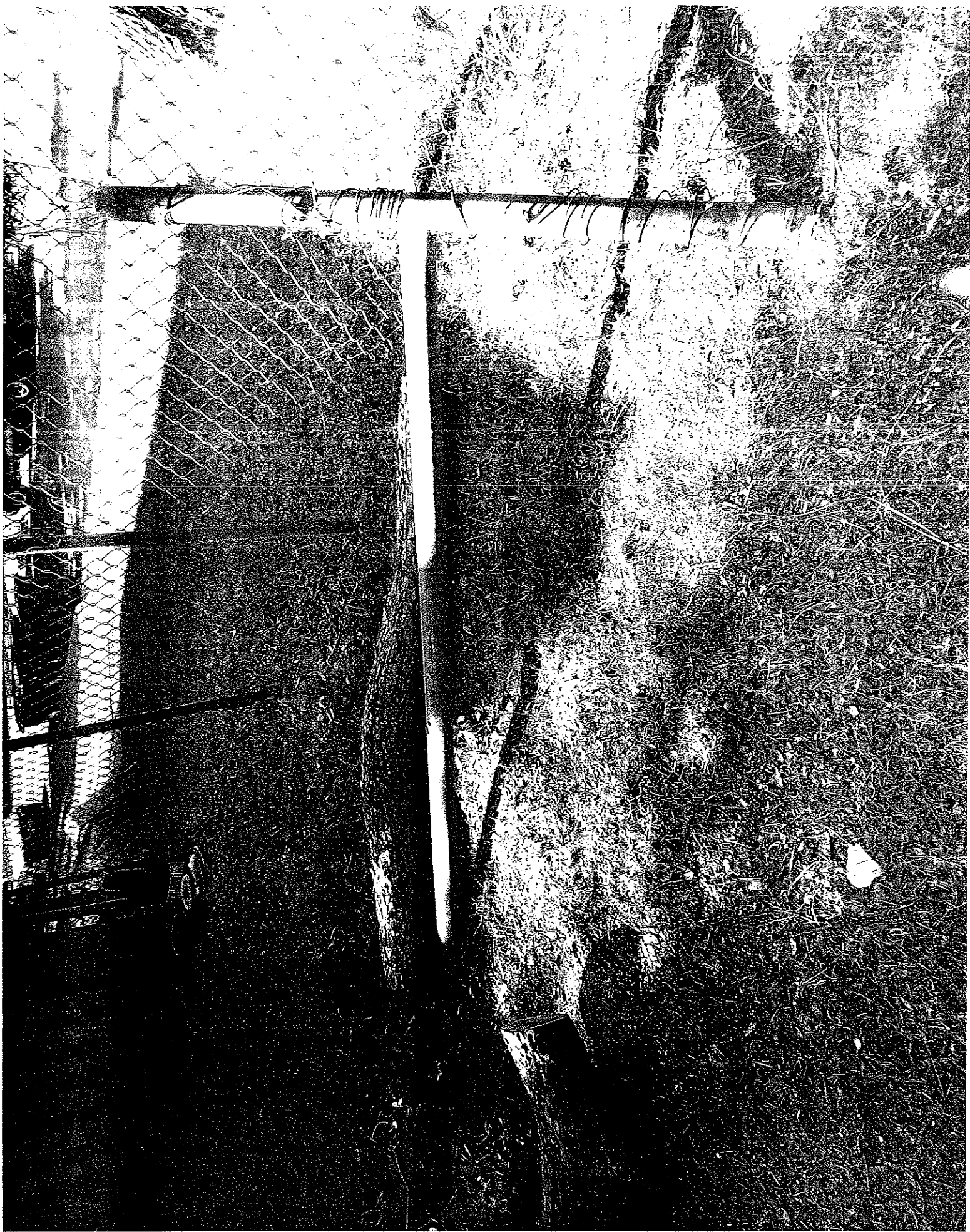


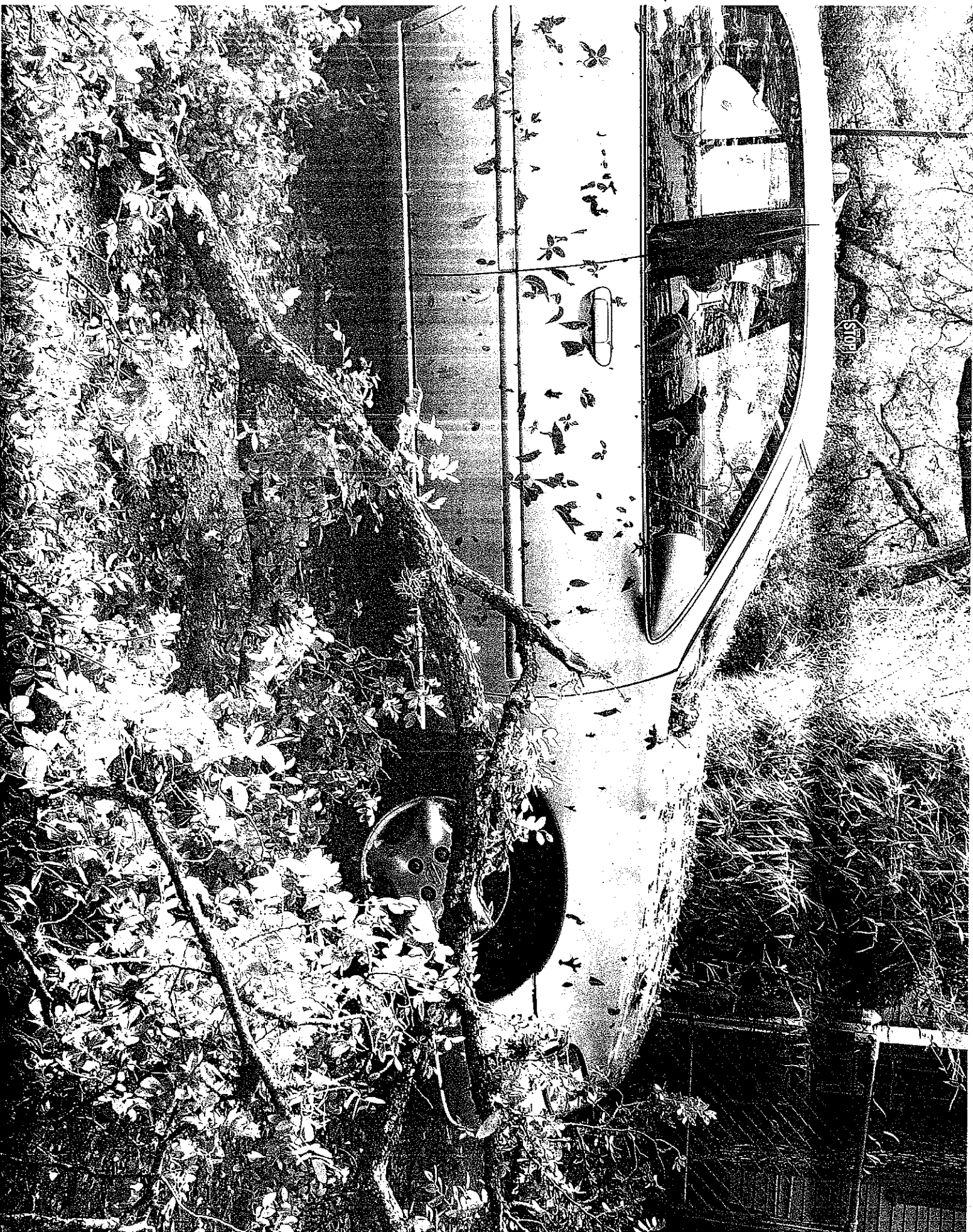


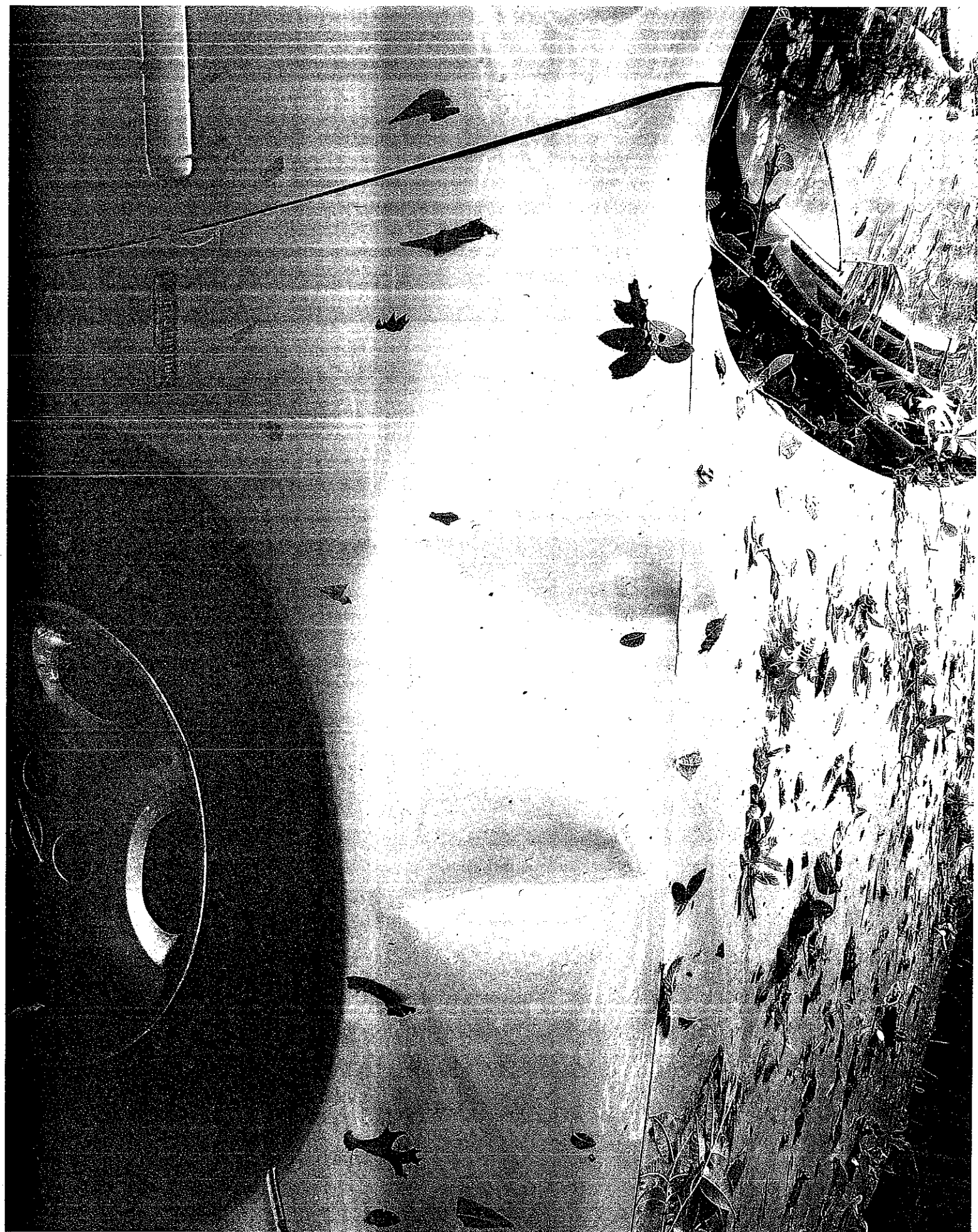


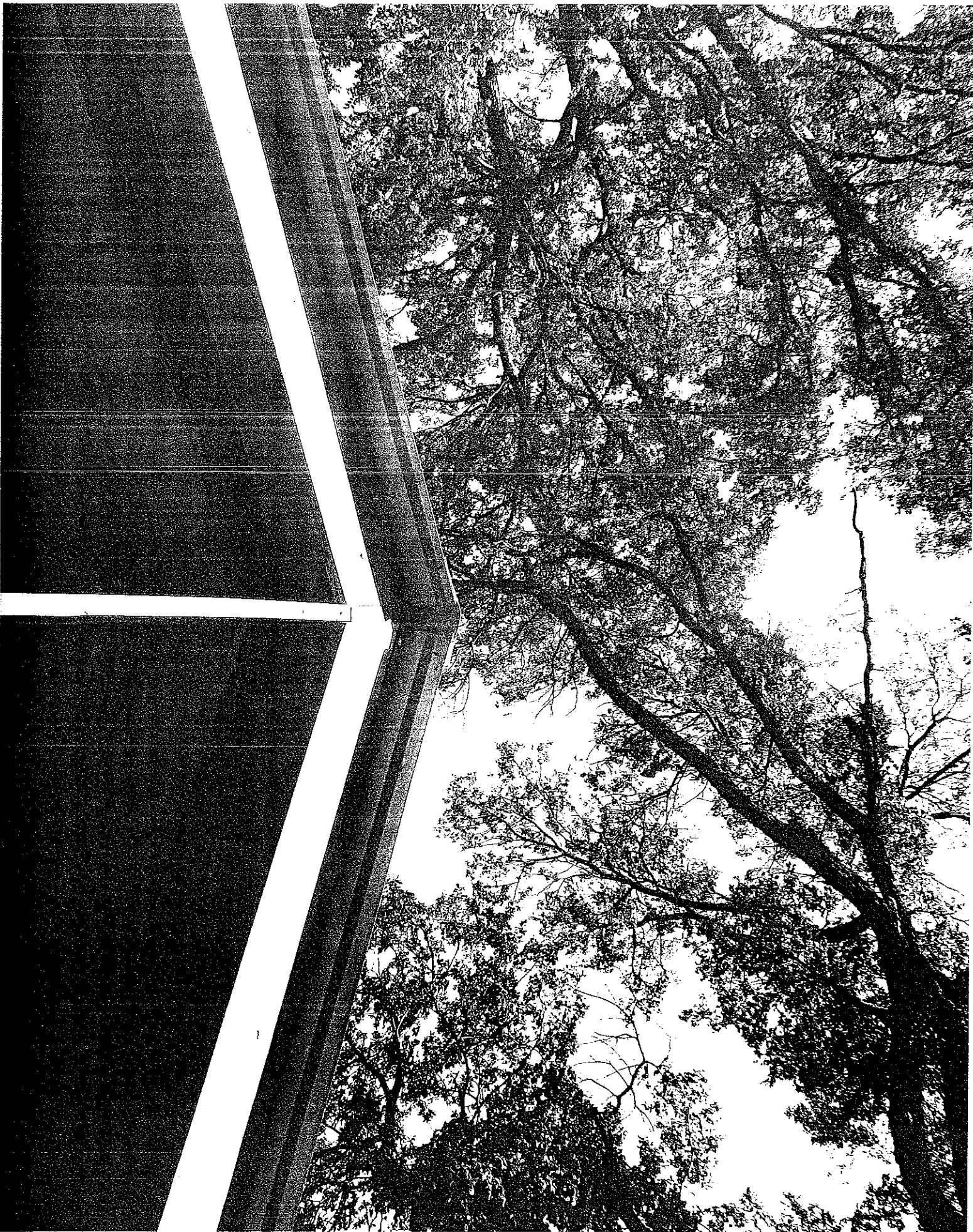


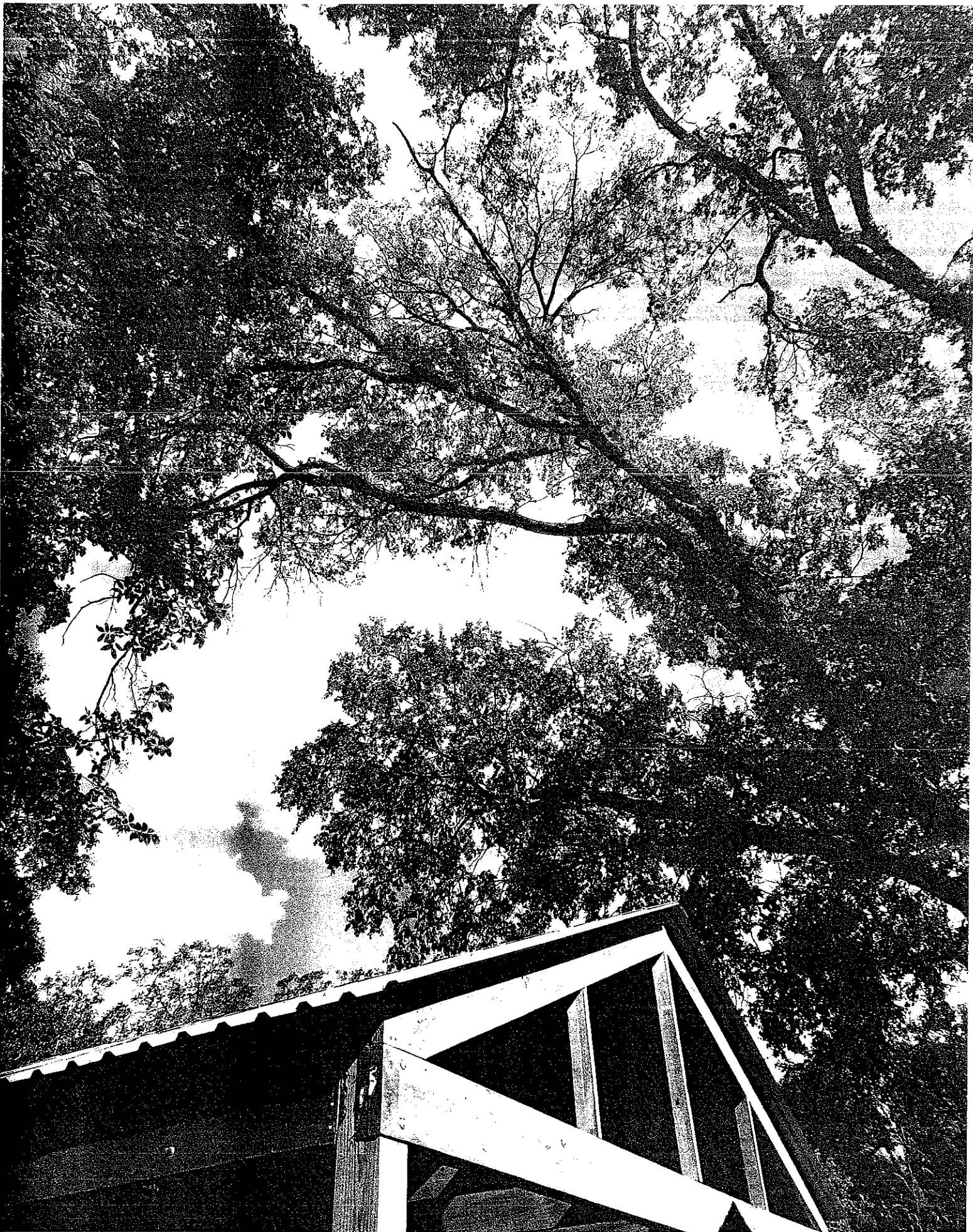


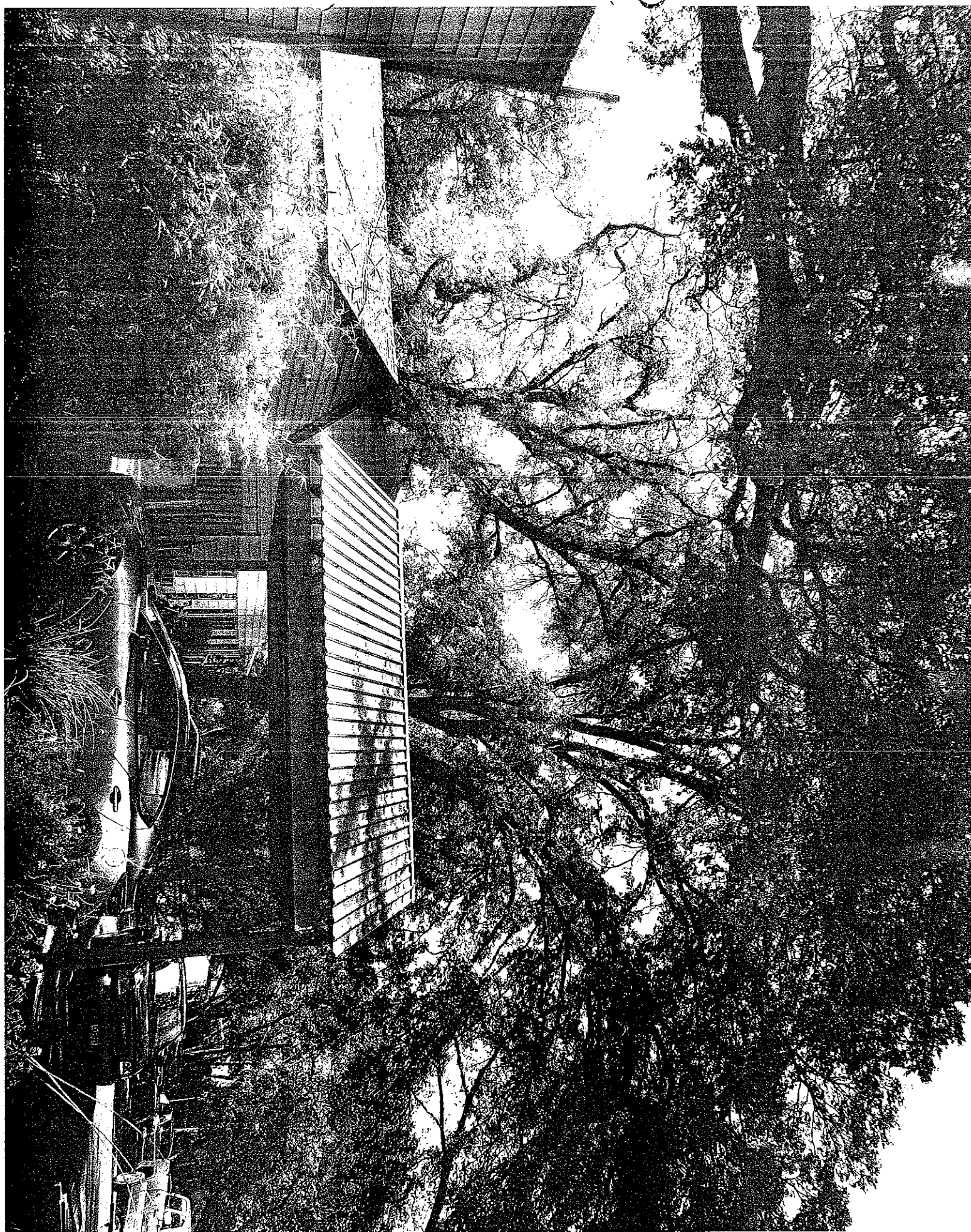




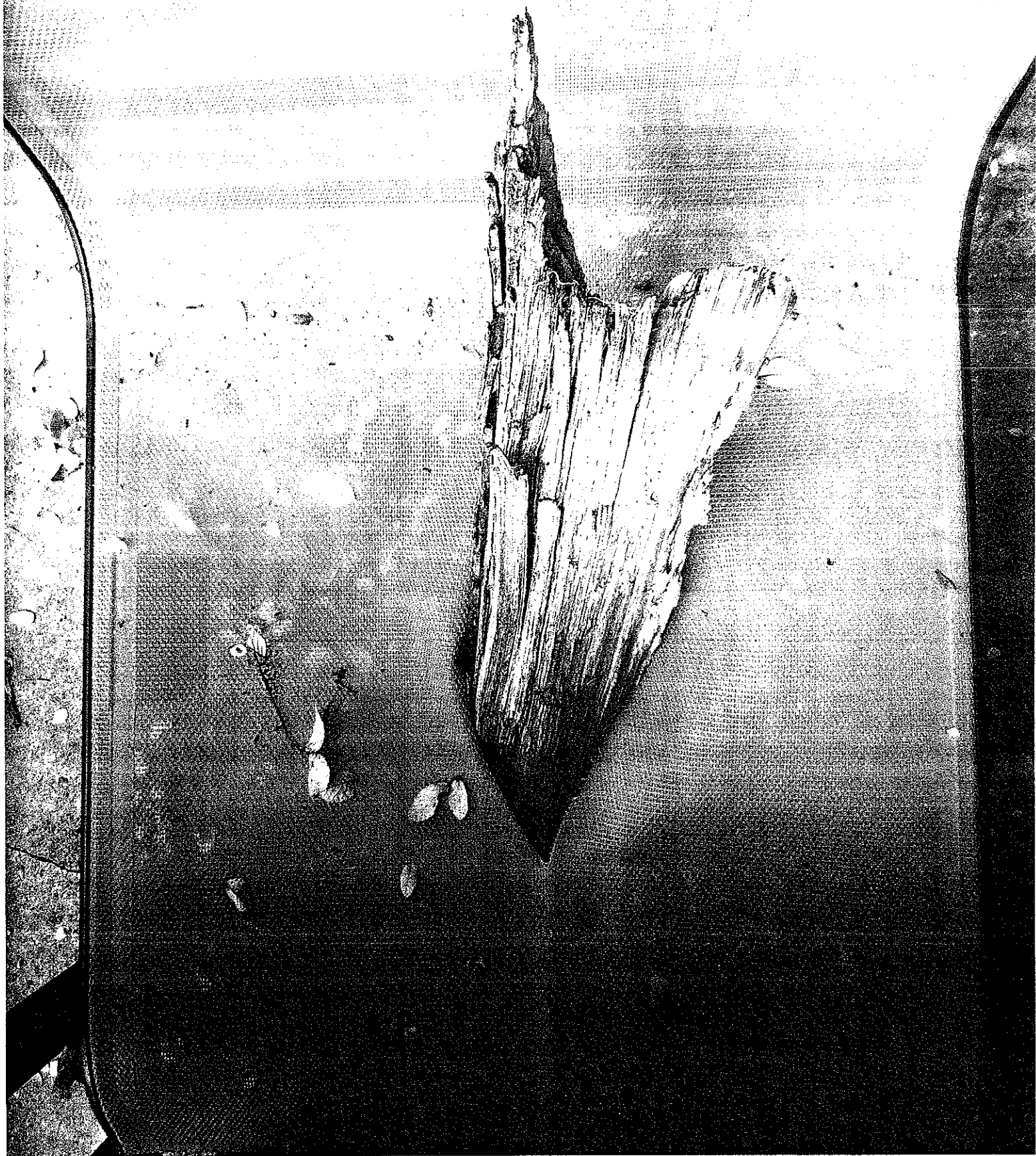
















City of Austin

Founded By Congress, Republic of Texas 1839

Code Compliance Department

P.O. Box 1088, Austin, Texas 78767 - 1088

July 16, 2014

NOTICE OF VIOLATION

via Certified Mail #7012 3460 0001 0341 4233

Adrian L Young
3216 Lafayette Avenue
Austin Texas 78722-2226

RE: 3216 LAFAYETTE AVE 78722

Legally described as LOT 1 BLK 1 GLT 28&31 DIV C LAFAYETTE HEIGHTS

Zoned as SF-3-NP

Parcel Number 0214091509

Dear Adrian L Young:

An investigation by the City of Austin's Code Compliance Department was conducted relating to the property indicated above and violations of Austin City Code were found that require your immediate attention. An investigation report is enclosed which defines the code violation(s) found with required remedies for attaining compliance with the City Code.

After receipt of this notice, you may not sell, lease, or give away this property unless you have provided the buyer, lessee, or other transferee a copy of this notice, and provided the name and address of the buyer to the Code Official.

In the event the property is vacant or becomes vacant on or after the date of this notice the property may not be leased, as stated in §25-12-213 Chapter 11 of the City Code.

If you have any questions, please contact me by telephone at 512-974-3594 between 7:30AM - 4:00PM. You may leave a voicemail message at any time.

Si usted tiene alguna pregunta, contácteme por favor por teléfono en 512-974-3594 de lunes a viernes o puede dejar un mensaje de correo vocal en cualquier momento.

Ownership Information

According to the applicable records of the County, you own the real property described in this notice. If you no longer own this property, you must execute an affidavit stating that you no longer own the property and stating the name with the last known address of the person who acquired the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to our office not later than the 20th day after the date you receive this notice. If you do not submit an affidavit, it will be presumed that you own the property described in this notice, even if you do not.

An affidavit form is available at our office located at 1520 Rutherford Lane. An affidavit may be mailed to:

City of Austin
Code Compliance Department
P.O. Box 1088
Austin, Texas 78767

Additionally, if this property has other owner(s), please provide me with this information.

Failure to Correct

If a violation is not corrected, any existing site plan, permit, or certificate of occupancy may be suspended or revoked by the City. If the site plan, permit or certificate of occupancy is suspended or revoked, the utility service to this property may be disconnected.

If the violation continues, the City may take further legal action to prevent the unlawful action as authorized by State law and may seek civil injunctions or penalties in State court.

For dangerous or substandard buildings, the City may also take further action to require the vacation, relocation of occupants, securing, repair, removal or demolition of a building.

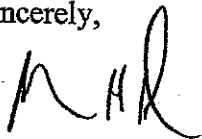
If the violations are not brought into compliance within the timeframes listed in the investigation report, criminal charges may be filed against you in the City of Austin Municipal Court subjecting you to fines of up to \$2,000 per violation, per day.

Complaints

To register a complaint regarding a Code Compliance Department investigator, you may submit your complaint in writing no later than 3 days after receipt of this letter to:

City of Austin
Code Compliance Department Manager
P.O. Box 1088
Austin, Texas 78767

Sincerely,



Moses Rodriguez, Code Compliance Inspector
Code Compliance Department
Case CV-2014-073031

INVESTIGATION REPORT

Investigator: Moses Rodriguez

Case: CV-2014-073031

Address: 3216 LAFAYETTE AVE 78722

Zoned as SF-3-NP

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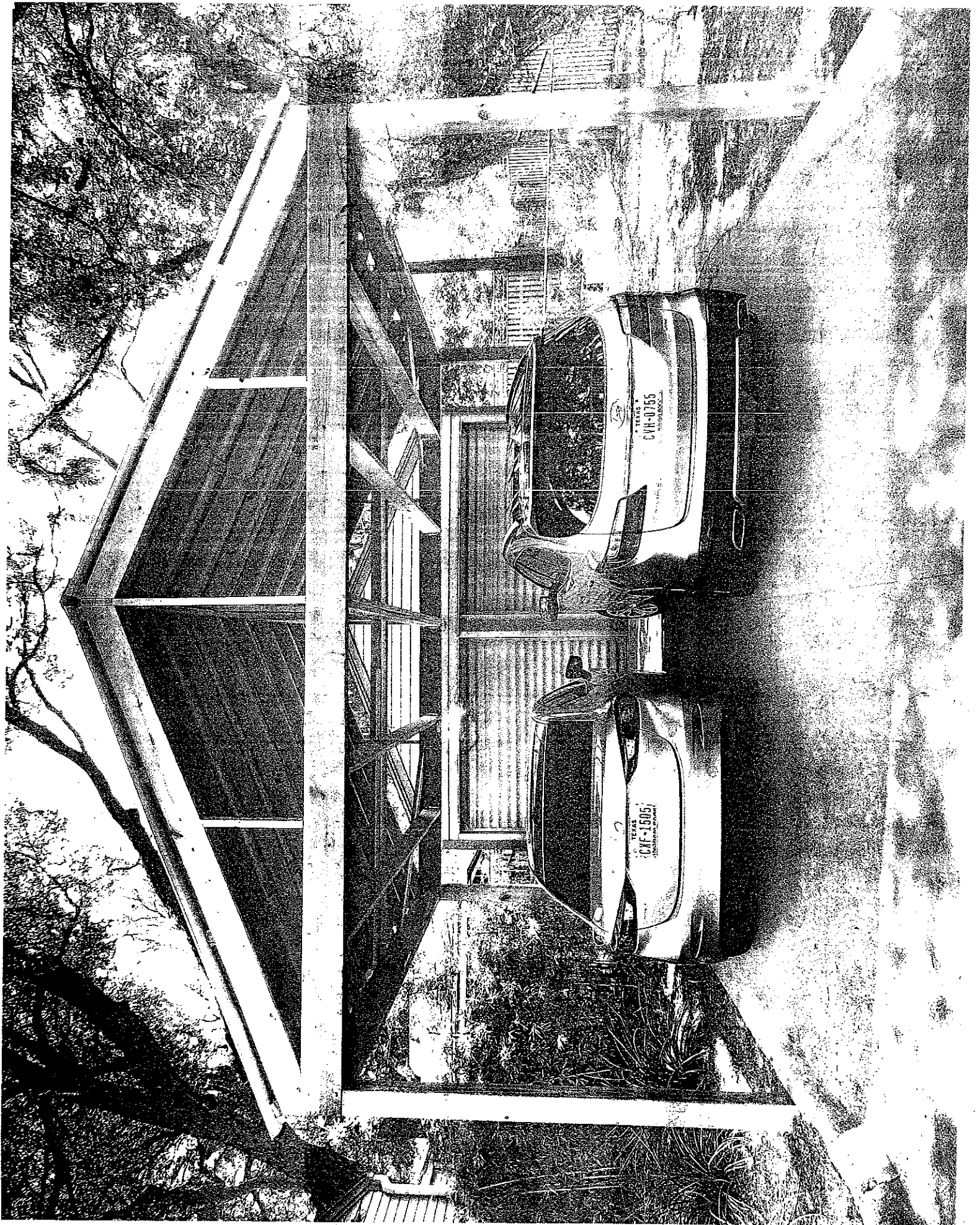
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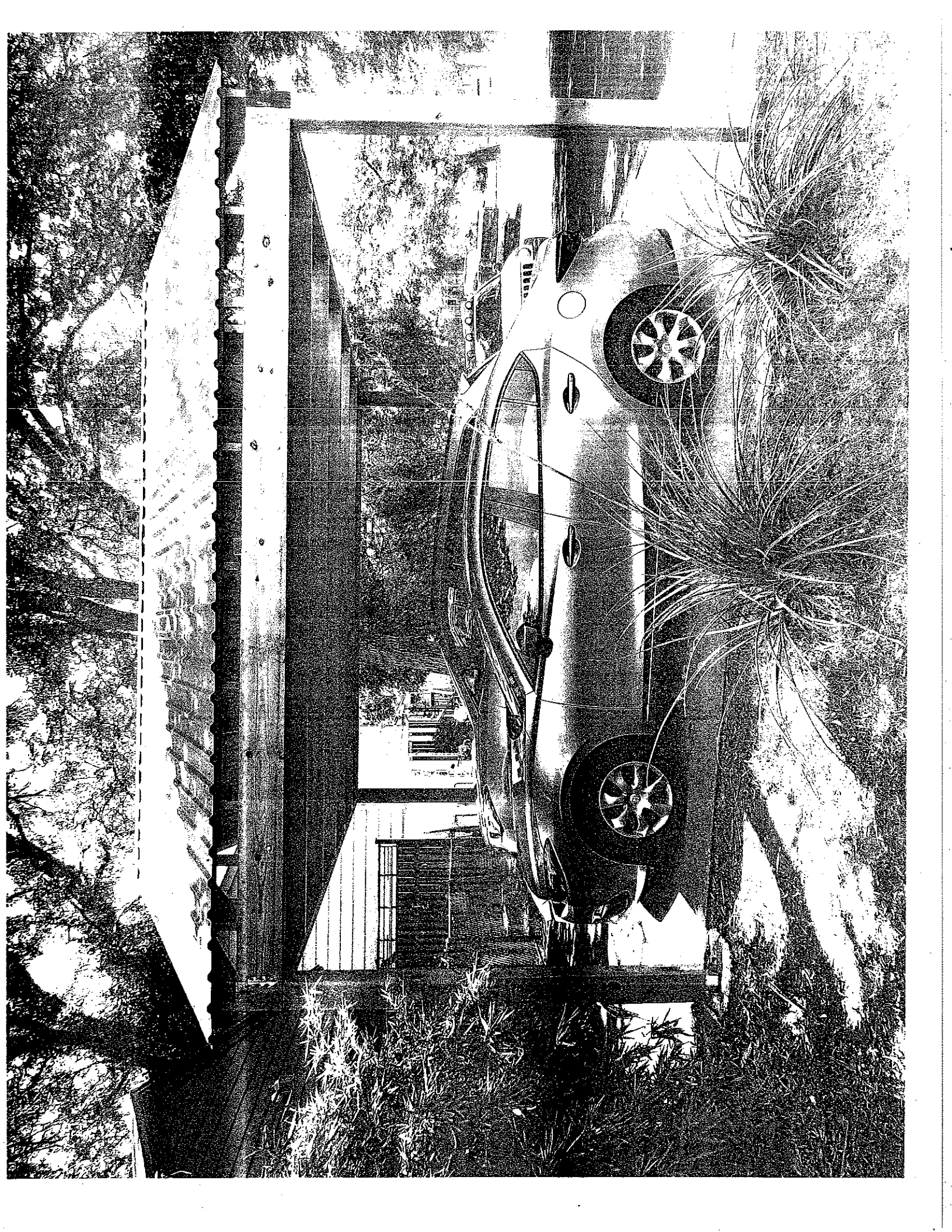
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ADRIAN L. YOUNG

 10/14/14