

CITY OF AUSTIN
Board of Adjustment/Sign Review Board
Decision Sheet

DATE: Monday, February 9, 2015

CASE NUMBER: C15-2014-0168

☐ N ☐ Jeff Jack - Chair
☒ Y ☐ Michael Von Ohlen 2nd the Motion
☒ Y ☐ Melissa Whaley Hawthorne - Vice Chair - Motion to Grant
☐ - ☐ Sallie Burchett
☒ Y ☐ Ricardo De Camps
☐ N ☐ Brian King
☒ Y ☐ Vincent Harding
☐ - ☐ Will Schnier - Alternate
☒ Y ☐ Stuart Hampton - Alternate

OWNER/APPLICANT: Adrian Young

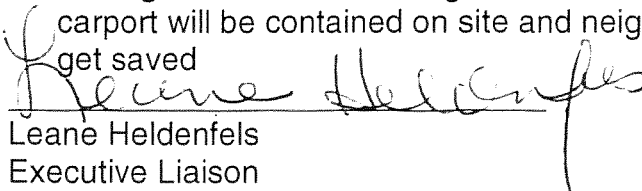
ADDRESS: 3216 LAFAYETTE AVE

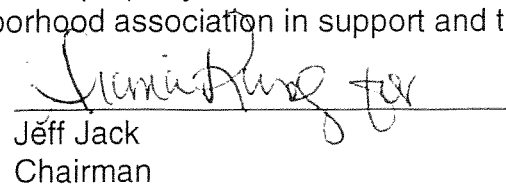
VARIANCE REQUESTED: The applicant has requested a variance(s) from Section 25-2-492 (D) (*Site Development Regulations*) to decrease the side street yard setback from 15 feet (required) to 0 feet (requested) in order to retain a recently constructed carport in a "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (Upper Boggy Creek)

BOARD'S DECISION: POSTPONED TO February 9, 2015 BY APPLICANT; FEB 9, 2015 The public hearing was closed on Board Member Melissa Hawthorne motion to Grant, Board Member Michael Von Ohlen second on a 5-2 vote (Board members Bryan King and Jeff Jack nay); DENIED.

FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because: tree preservation safety issue from trees, no location that is not within the building setback and support of neighborhood association for carport contain with property line
2. (a) The hardship for which the variance is requested is unique to the property in that: 4 very large trees that keep carport from being placed anywhere else on site
(b) The hardship is not general to the area in which the property is located because: no other well established trees in the neighborhood to be compared to others
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: as the carport will be contained on site and neighborhood association in support and trees get saved


Leane Heldenfels
Executive Liaison


Jeff Jack
Chairman

LAW OFFICES OF
CHARLES O. GRIGSON

604 W. 12TH STREET
AUSTIN, TEXAS 78701

(512) 477-5791
FAX (512) 479-6417
grigson@flash.net

February 19, 2015

Board of Adjustment
Leane Heldenfels
Planning and Review Department
1st Floor/Development Assistance Center
P.O. Box 1088
Austin, Texas 78767

Re: Variance Case No. C15-2014-0168
3216 Lafayette Avenue

Dear Members of the Board:

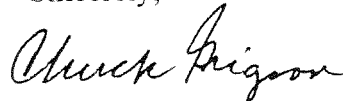
I have been retained by Adrian Young and Pam Atlas to represent them with respect to their variance request currently pending before the Board of Adjustment. Please note my appearance as their attorney and keep me apprised of any matters dealing with their property and the requested variance.

My understanding of the case is that the Board initially denied the request for a variance and that it is permissible to request that the matter be reconsidered.

Accordingly, I am enclosing the motion for reconsideration prepared by my clients along with ten copies. I also understand that the motion for reconsideration will be heard at the regularly scheduled Board meeting on March 9, 2015.

Please let me know if I am misinformed about any of the above matters. In addition, please let me know if you need any additional information from me or my clients.

Sincerely,



Charles O. Grigson

COG/gcc

cc: Adrian Young/Pam Atlas

Motion For Reconsideration From Board of Adjustment Decision of February 9, 2015
C15-2014-0168 3216 Lafayette Ave

Despite the Board of Adjustment's 5 to 2 vote in support of applicant's request for zoning variance, applicant is constrained to make this motion to have the Board reconsider its decision in view of the super-majority rule.

Denial of a variance in this case operates to magnify a public health and property hazard which applicant is attempting to avoid or at least reduce by having constructed a carport over his driveway. As applicant clearly demonstrated at the Board hearing on February 9, 2015, applicant's old-growth cedar-elms, having been adversely affected by drought conditions in the Austin area since at least 2009, are endangering applicant, his wife, other family and friends, and the general public. Applicant has undertaken extensive efforts to address this problem. Two entire trees have been removed and all of the original ten large trees have been trimmed and watered thoroughly over a period of years. Effectively dismissing the fact that entire trees and large parts of trees have recently fallen on or near applicant's driveway in denying this request for a setback variance based on public safety infringes upon fundamental constitutional interests of applicant, his family, and the general public.

Both the Texas and United States Constitutions provide that all citizens enjoy a fundamental constitutional right to their life, liberty, and property free from unreasonable and arbitrary governmental interference. This right includes a citizen's interest in avoiding an unnecessary risk of injury to life or property. Any precedential value of the City's denial of this setback variance should and must yield to the paramount safety concerns applicant has raised. Applicant recognizes that the Board as a whole has probably taken into account this concern. However because of the super-majority rule, the Board's action is nevertheless in derogation of the substantial constitutional interests involved. As applicant argued at the hearing, there is also a precedential value in protecting people and property in Austin from injury.

More than six different mishaps involving either entire trees falling or large parts of trees falling at 3216 Lafayette over the last few years have obligated applicant to attempt to take measures to mitigate an obvious risk to life and property. This is, as well, a community concern, and the Community has addressed it through the Cherrywood Neighborhood Association and the 9 of applicant's contiguous neighbors who have provided statements in support of applicant's request for variance. I would add there is also considerable value in Board action which respects the opinion of and has the support of the local neighborhood, one in which the truly fearsome risk of old trees falling does unfortunately exist. To suggest that the Board cannot grant carport variances in every neighborhood where trees might fall errs in failing to conform to the neighborhood's considered and well-reasoned position in this particular case. The Board's own decisional rule is to consider the case before it on its merits, rather than other hypothetical cases.

It appears that one or two members of the Board may have taken issue with the applicant's decision to not reconstruct his garage to accommodate two cars rather than one. Obviously, at some cost, however considerable, any structure can be reconstructed for any number of purposes. However, this is not the relevant issue in this case. As applicant argued and at least one of the yes voting Board members pointed out at the hearing, the safety of persons and property in the driveway itself, not the garage, is the concern. The carport as it now sits does much to protect persons and property in the street, as well as the driveway. The driveway sits precisely as it did when I bought the property 32 years ago. It is unrealistic to expect people not to use it. Moreover, numerous people walk in and next to the driveway and along Edgewood Street, often with children, every day and the heavily-timbered supporting roof of the carport acts as a considerable buffer against any of the 4 large cedar-elms extending out over the driveway and, in fact, into the street.*

One of the Board members also asked at the hearing whether applicant had considered cutting down the remaining trees on his property. This idea, if enacted, would probably create more problems than it would solve. And it would seem to operate in derogation of the City's express and

well-established policy of saving as many trees as possible in the Austin area. It also would not account for the great danger to life and property in removing large trees. Having witnessed first-hand last July 4 weekend a City of Austin utility department crew remove, piece by piece until well past midnight, one of my trees that had snapped off above the trunk and fallen into power lines, I can say with assurance that the process of large tree removal is not something to be lightly achieved. This fact was corroborated at the hearing by at least one Board member. As pointed out in my application for variance, this is a dangerous operation, even as to one tree, much less eight. No responsible person who has witnessed what is actually required to take down one of these large trees will fail to take measures to lessen the risks created by falling trees or tree limbs, even tree removals. It is unreasonable to suggest that because all risk cannot be avoided, none may be. This, however, is the plain effect of the two nay votes in this case.

The Board should join applicant's and his neighborhood's efforts to mitigate these risks, such as clearly exist at 3216 Lafayette. The City of Austin through its Board should not depend upon the absence of grave personal injury, so far, on or near this location, to avoid risk. These type risks are best avoided by proactive attempts to alleviate them, rather than waiting for an injury to occur.**

*


In applicant's opinion one substantial issue has been whether to insist on trying to keep the carport extended out over the driveway, as originally built, in order to provide the maximum protection affordable to people using the driveway and Edgewood Street. However, because the carport does extend about 6 feet into City right of way, in order to settle the issue with the neighborhood association and the City's right of way people, applicant has agreed to move the carport up on to his property and out of the right of way. The letter of Terrence Ortiz, Registered Structural Engineer, (of record in this case), states that it is structurally feasible to reposition the carport in accordance with the parties' agreement. As applicant's site plan shows, (also of record), the City's 15 foot setback actually runs through the middle of applicant's house (built around 1939 or 1940 I believe). It is therefore impossible to place any sort of protective covering over the driveway that is not in the City's setback, whether in the right of way or not.

More than one person has expressed to me the opinion that the City of Austin, consistent with its power and obligation to protect persons using Edgewood Street, (as well the driveway), should of its own accord permit and, in fact, insist that the carport remain where it is now to maximize public safety.

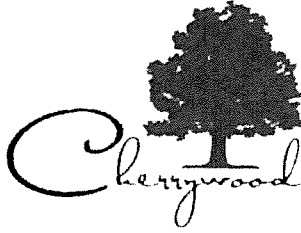
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Upon advice of my own legal counsel I am directed to state in this letter that because of the public safety concerns in the event of injury to person(s) or property caused by any falling tree or tree parts on or near 3216 Lafayette, applicant may find it necessary to bring legal action against the City of Austin for compensation, indemnification, or other relief, and to hold himself and his heirs harmless as to any injury consequent to any removal required by the City of Austin, of the protective covering over applicant's driveway at 3216 Lafayette Avenue, Austin, Texas.

Respectfully submitted,



ADIZIAN L. YOUNG



The Cherrywood Neighborhood is bounded by IH-35, Airport Blvd. and Manor Road and is a flourishing neighborhood of homes, businesses, and green spaces in East Austin.

P.O. Box 4631 | Austin, TX 78765 | steering@cherrywood.org | www.cherrywood.org

January 15, 2015

To: Board of Adjustment
Leane Heldenfels
Planning and Review Department
1st Floor/Development Assistance Center
P.O. Box 1088
Austin TX 78767

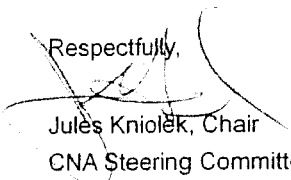
512 974-2202

Re: 3216 Lafayette Av Variance Case No. C15-2014-0168

Dear Members of the Board of Adjustment

This message is to inform the Board of Adjustment that at its regular monthly meeting on 14 January, 2015, the Cherrywood Neighborhood Association (CNA) Steering Committee voted unanimously in behalf of the membership of CNA not to oppose the existing carport being relocated so that it would be located completely on the private property, attached to the existing garage. We are aware that this structure is located, and will remain located, within the 15 foot secondary street front set back, but the mitigating circumstances in this case cause us not to oppose this particular variance request.

Respectfully,



Jules Kniolek, Chair

CNA Steering Committee, on behalf of CNA Membership

cc: Mr. Adrian Young

Steering Committee | Jules Kniolek, Chair | Terry Dyke, Secretary | Rebecca Kohout, Treasurer | Girard Kinney, Jennifer Potter-Miller, Mark Schiff, and Emily Schwartz Members

CITY OF AUSTIN
Board of Adjustment/Sign Review Board
Decision Sheet

DATE: Monday, December 8, 2014

CASE NUMBER: C15-2014-0168

____ Jeff Jack - Chair
____ Michael Von Ohlen
____ Melissa Whaley Hawthorne - Vice Chair
____ Sallie Burchett
____ Ricardo De Camps
____ Brian King
____ Vincent Harding
____ Will Schnier - Alternate
____ Stuart Hampton - Alternate

OWNER/APPLICANT: Adrian Young

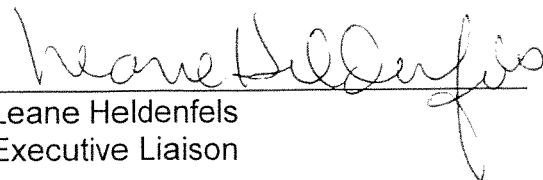
ADDRESS: 3216 LAFAYETTE AVE

VARIANCE REQUESTED: The applicant has requested a variance(s) from Section 25-2-492 (D) (*Site Development Regulations*) to decrease the side street yard setback from 15 feet (required) to 0 feet (requested) in order to retain a recently constructed carport in a "SF-3-NP", Family Residence – Neighborhood Plan zoning district. (Upper Boggy Creek)


BOARD'S DECISION: POSTPONED TO February 9, 2015 BY APPLICANT
FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:

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



Leane Heldenfels
Executive Liaison



Jeff Jack
Chairman

Heldenfels, Leane

C15-2014-0168

From: Pamelee Atlas pameleeatlas@yahoo.com
Sent: Thursday, December 04, 2014 2:32 PM
To: Heldenfels, Leane
Subject: Adrian Young postponement request Case: CV-2014-073031

Ms. Heldenfels,

This by way of follow-up to our telephone conversation this day, I am requesting a postponement of the Board of Adjustment hearing, concerning the 3216 Lafayette Ave. carport, set for December 8, 2014 until February 9, 2015, in order that the Cherrywood Neighborhood Association and the City of Austin Right of Way Department may explore options for resolution of the various interests in this matter. This request is by agreement of the concerned parties. It is a first such request.

Thank you for your assistance in this matter.
Adrian L. Young

PUBLIC HEARING INFORMATION

Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed application. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

During a public hearing, the board or commission may postpone or continue an application's hearing to a later date, or recommend approval or denial of the application. If the board or commission announces a specific date and time for a postponement or continuation that is not later than 60 days from the announcement, no further notice will be sent.

A board or commission's decision may be appealed by a person with standing to appeal, or an interested party that is identified as a person who can appeal the decision. The body holding a public hearing on an appeal will determine whether a person has standing to appeal the decision.

An interested party is defined as a person who is the applicant or record owner of the subject property, or who communicates an interest to a board or commission by:

- delivering a written statement to the board or commission before or during the public hearing that generally identifies the issues of concern (it may be delivered to the contact person listed on a notice); or
- appearing and speaking for the record at the public hearing; and:
- occupies a primary residence that is within 500 feet of the subject property or proposed development;
- is the record owner of property within 500 feet of the subject property or proposed development; or
- is an officer of an environmental or neighborhood organization that has an interest in or whose declared boundaries are within 500 feet of the subject property or proposed development.

A notice of appeal must be filed with the director of the responsible department no later than 10 days after the decision. An appeal form may be available from the responsible department.

For additional information on the City of Austin's land development process, visit our web site: www.austintexas.gov/development.

Written comments must be submitted to the contact person listed on the notice before or at a public hearing. Your comments should include the name of the board or commission, or Council; the scheduled date of the public hearing; the Case Number; and the contact person listed on the notice. All comments received will become part of the public record of this case.

Case Number: C15-2014-0168, 3216 Lafayette Avenue

Contact: Leane Heldenfels, 512-974-2202, leana.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, December 8th, 2014

Leanne Kinney Mgr Kinney Real Est
Your Name (please print) *3216 Lafayette Ave*

☐ I am in favor
☒ Object

3303 Lafayette Ave

Your address(es) affected by this application

Leanne Kinney *12/1/14*
Signature Date

Daytime Telephone: *512/476-2805*

Comments:

It is a well known law that one cannot build in the setback area. That law was ignored. I am sure it was not permitted. It should be removed.

Note: All comments received will become part of the public record of this case

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Or fax to (512) 974-2934

Or scan and email to leana.heldenfels@austintexas.gov

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Case Number: C15-2014-0168, 3216 Lafayette Avenue

Contact: Leane Heldenfels, 512-974-2202, leana.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, December 8th, 2014

Teddy Kinney Mgr. ☐ I am in favor
Your Name (please print) ☒ Object

3305 Lafayette
3305 Lafayette Series

Your address(es) affected by this application 3303

Signature ~~Leane Heldenfels~~

Date 12/1/14

Daytime Telephone: 512/476-2805

Comments: It's been against the law to build in set back lines prescribed by City of Austin. This certainly was not done by permit, and it should be removed.

Note: All comments received will become part of the public record of this case

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Or fax to (512) 974-2934

Or scan and email to leana.heldenfels@austintexas.gov

PUBLIC HEARING INFORMATION

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Case Number: C15-2014-0168, 3216 Lafayette Avenue

Contact: Leane Heldenfels, 512-974-2202, leana.heldenfels@austintexas.gov

Public Hearing: Board of Adjustment, December 8th, 2014

MARY O. BLACK

Your Name (please print)

3312 Lafayette

Your address(es) affected by this application

Mary O Black

Signature

12/1/2014

Date

Daytime Telephone: (512) 892-1999

Comments: It is wrong to build in the

Set back is set a very bad precedent for the Neighborhood

Note: All comments received will become part of the public record of this case

If you use this form to comment, it may be returned to:

City of Austin-Planning & Development Review Department/ 1st Floor

Leane Heldenfels

P. O. Box 1088

Austin, TX 78767-1088

Or fax to (512) 974-2934

Or scan and email to leana.heldenfels@austintexas.gov

tried to Fax it 12/1/2014

C15-2014-0168
CASE# ~~CV-2014-073051~~
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 ☒ MAINTAIN

see attached City Code 25-2-267 et seq

25-2-496(D)

in a SE-3-NP district. Upper Bagby 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 xxx~~ right of way at this time, and can be removed
xx 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

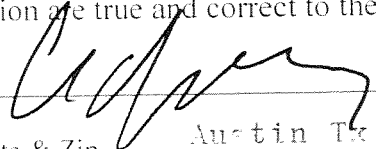
4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

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 5216 Lafayette Ave
City, State & Zip Austin Tx 78722

Printed ADRIAN L. YOUNG Phone 512 536 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-2014-073051 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~~ *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 *dangerous* circumstances.

Thank you for your consideration.

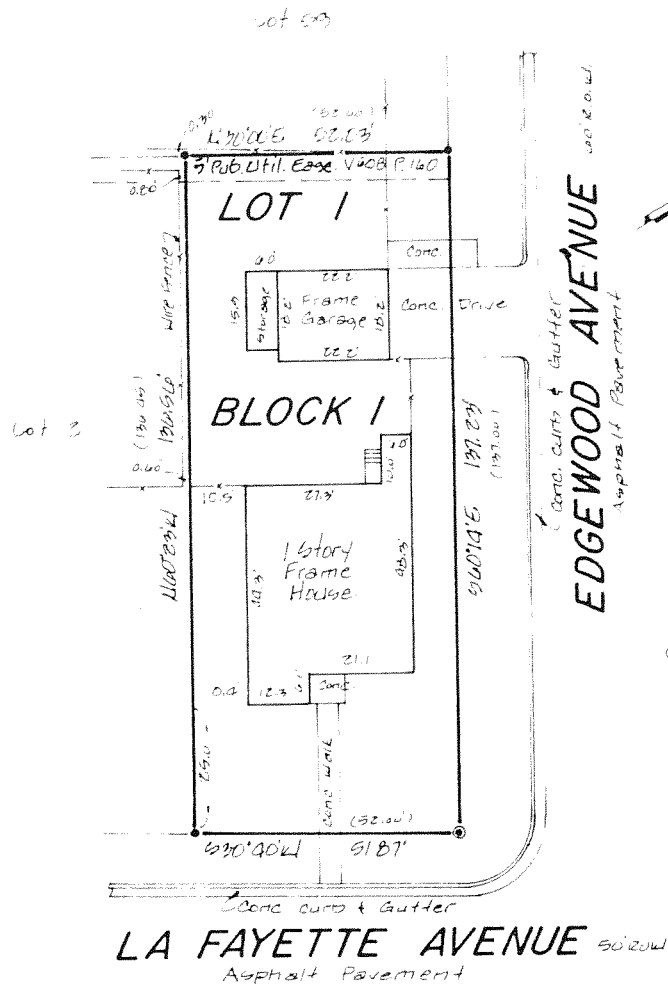
S/ ADIZAH L. YOUNG

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
Map Records of Travis County, Texas Ref. Zimmerman/Roth

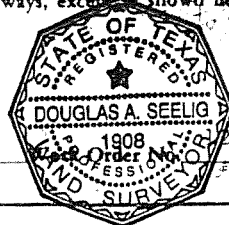


LEGEND

- Iron Pipe Foul
- Iron Pin Foul

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.

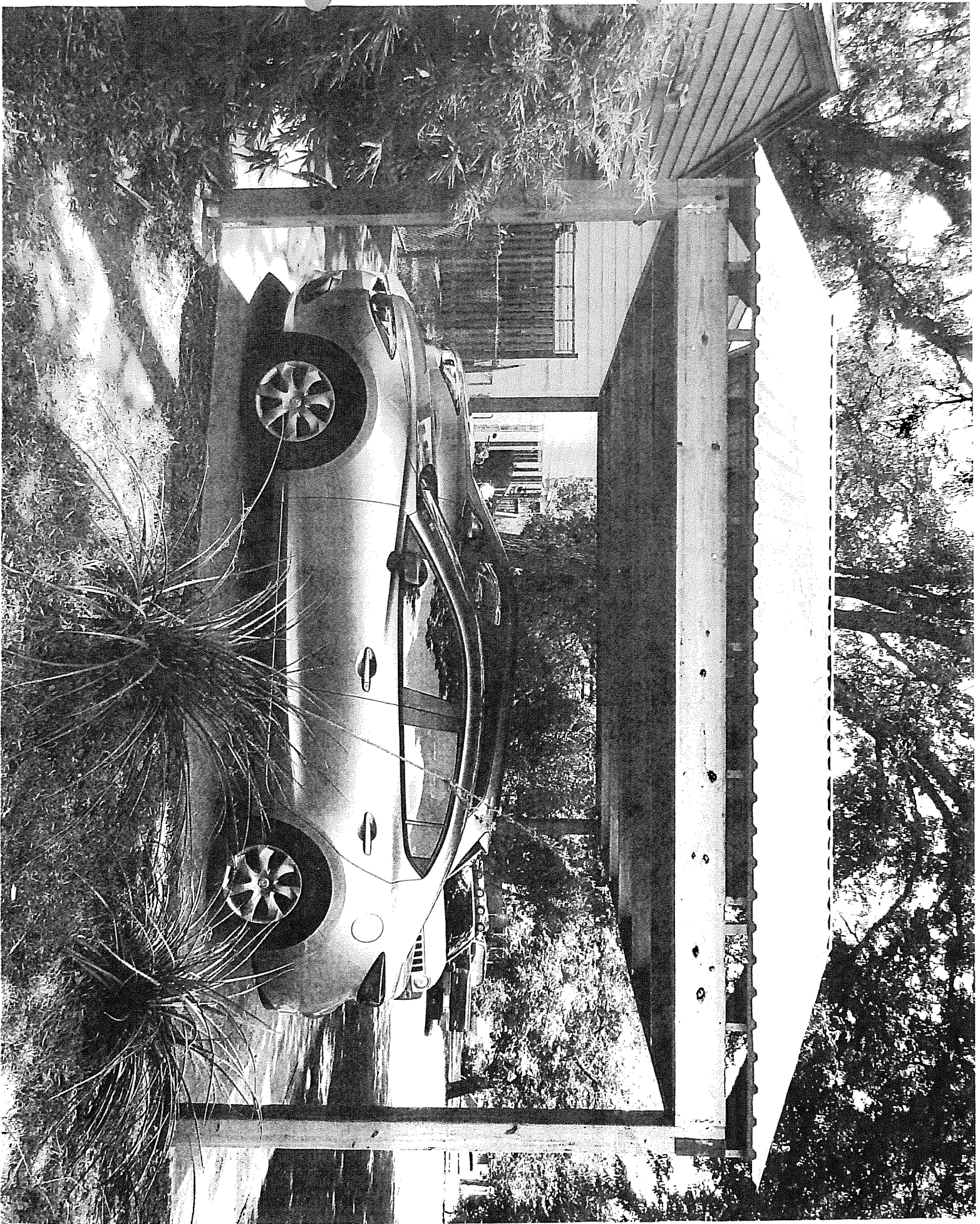


Douglas A. Seelig
Reg. Pub. Sur. #1222
917 E. 11th St.
Austin, Texas 78753

Date Jan. 21, 1983 Invoice No. 1222

Scale 1"=30'



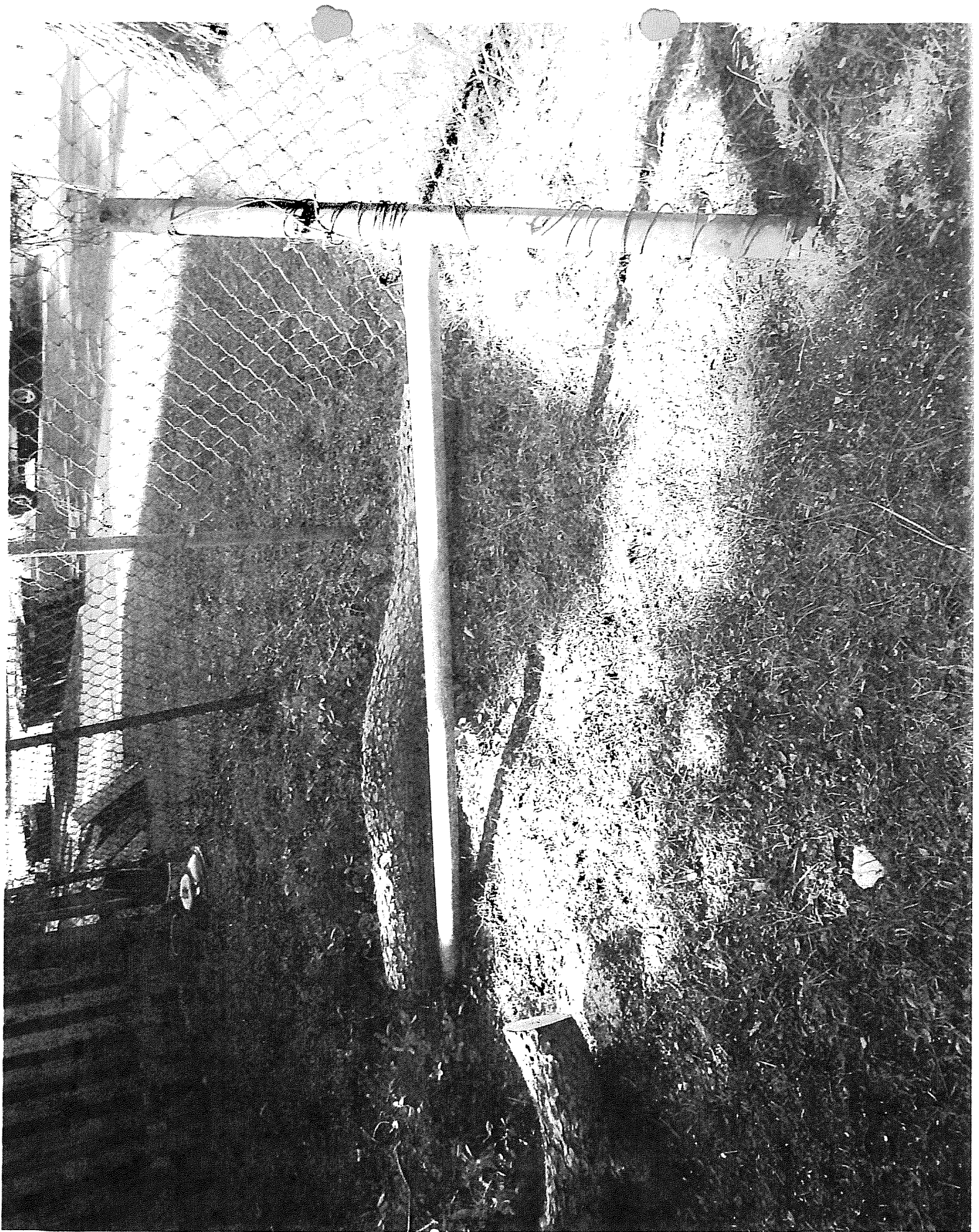




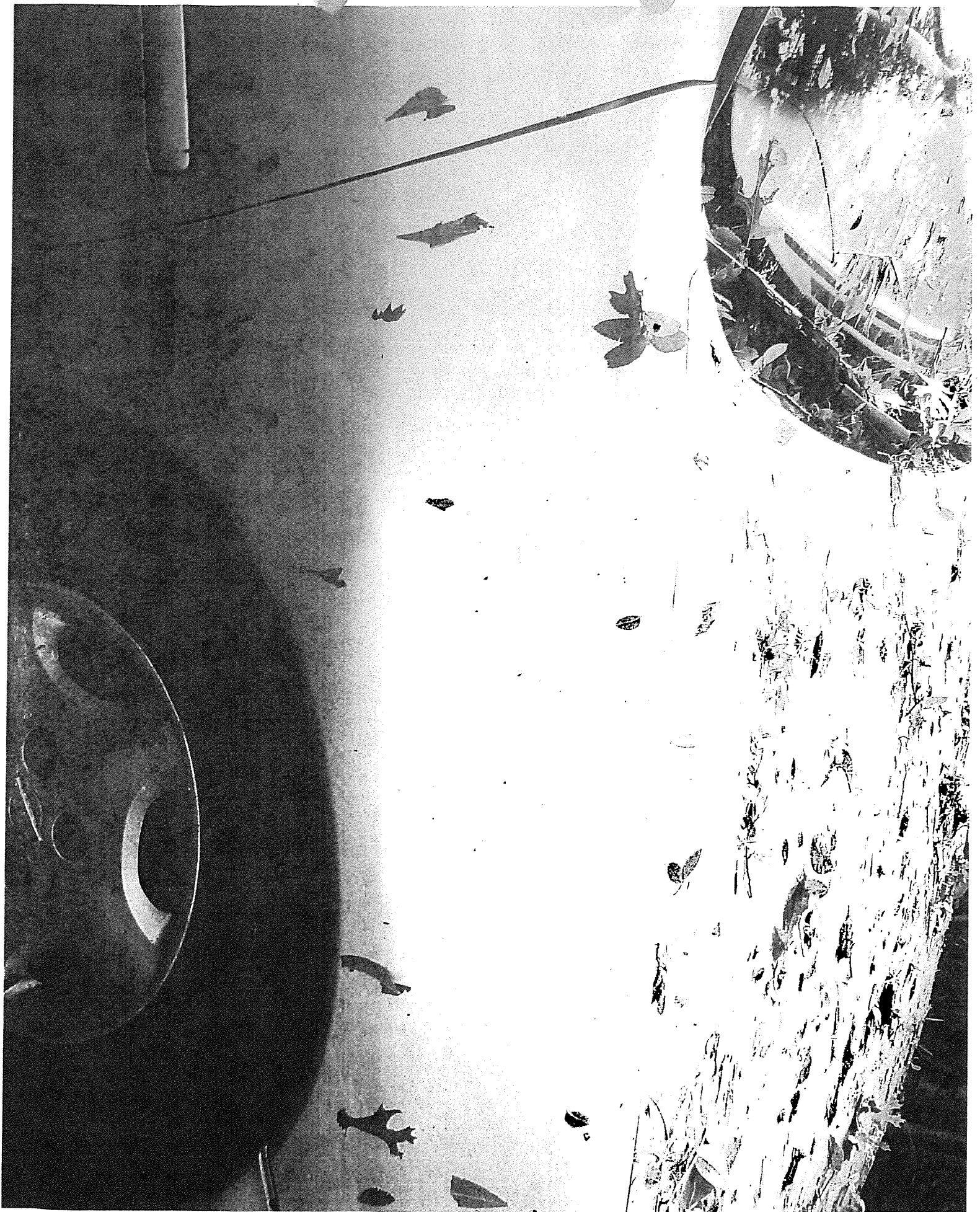


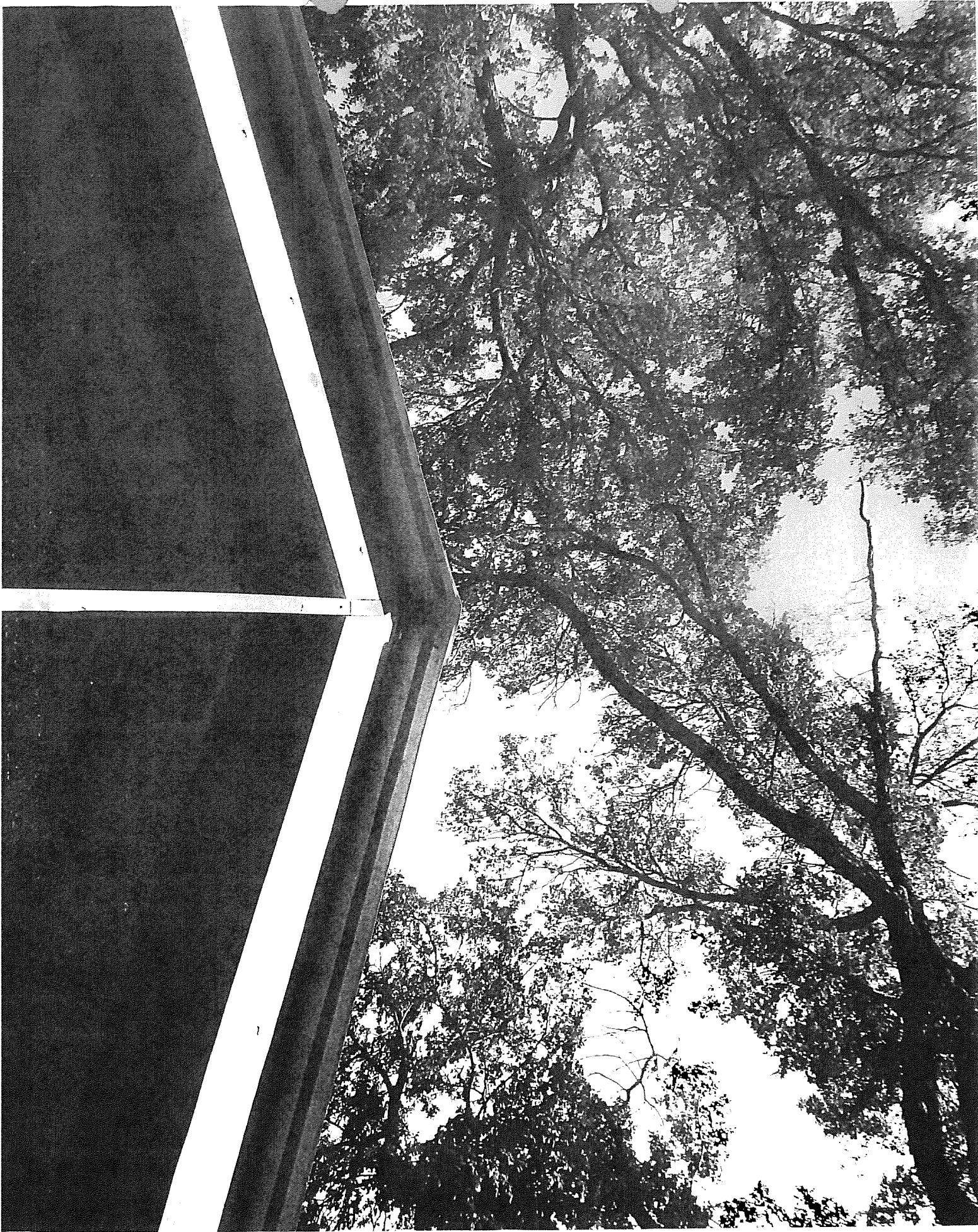






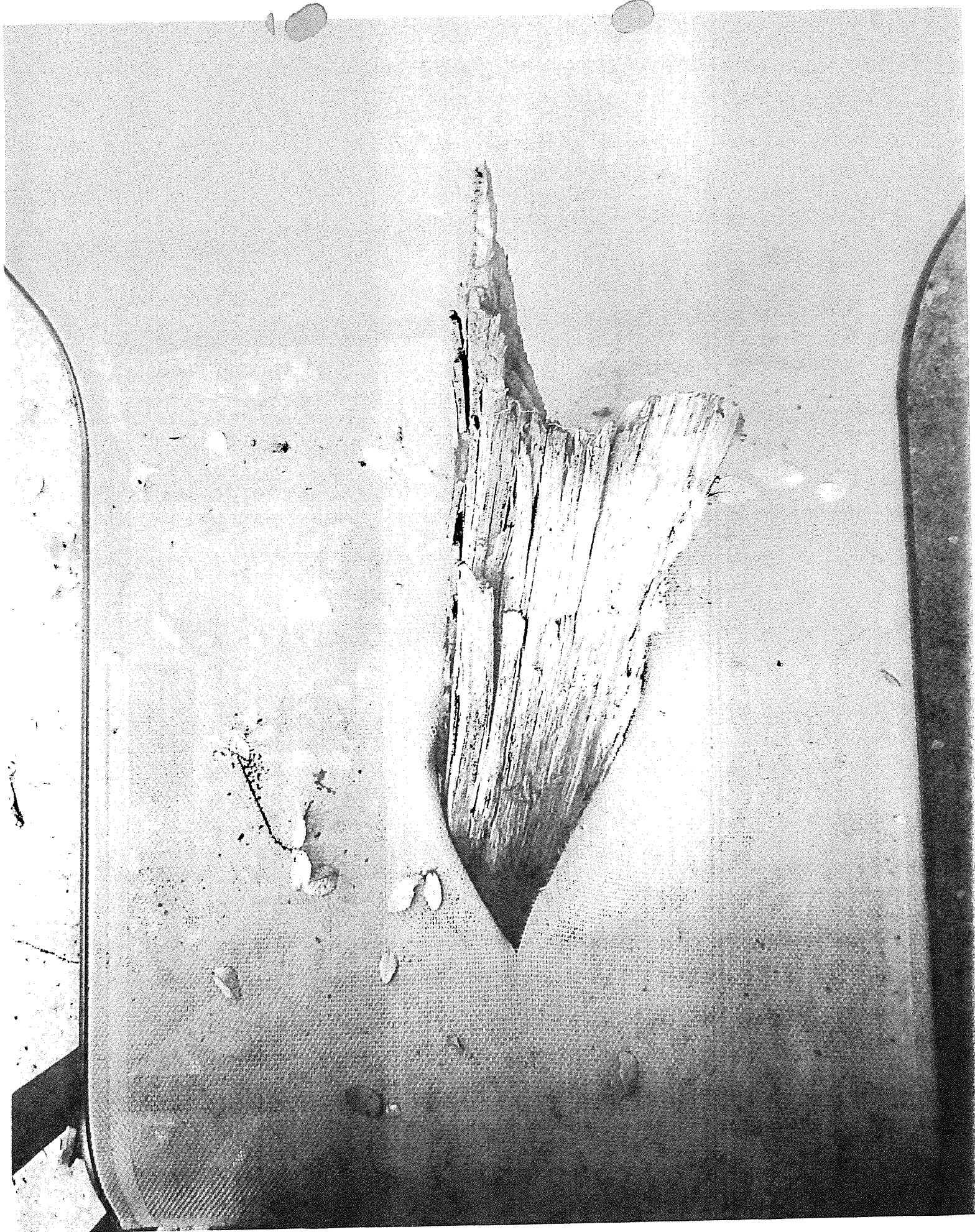


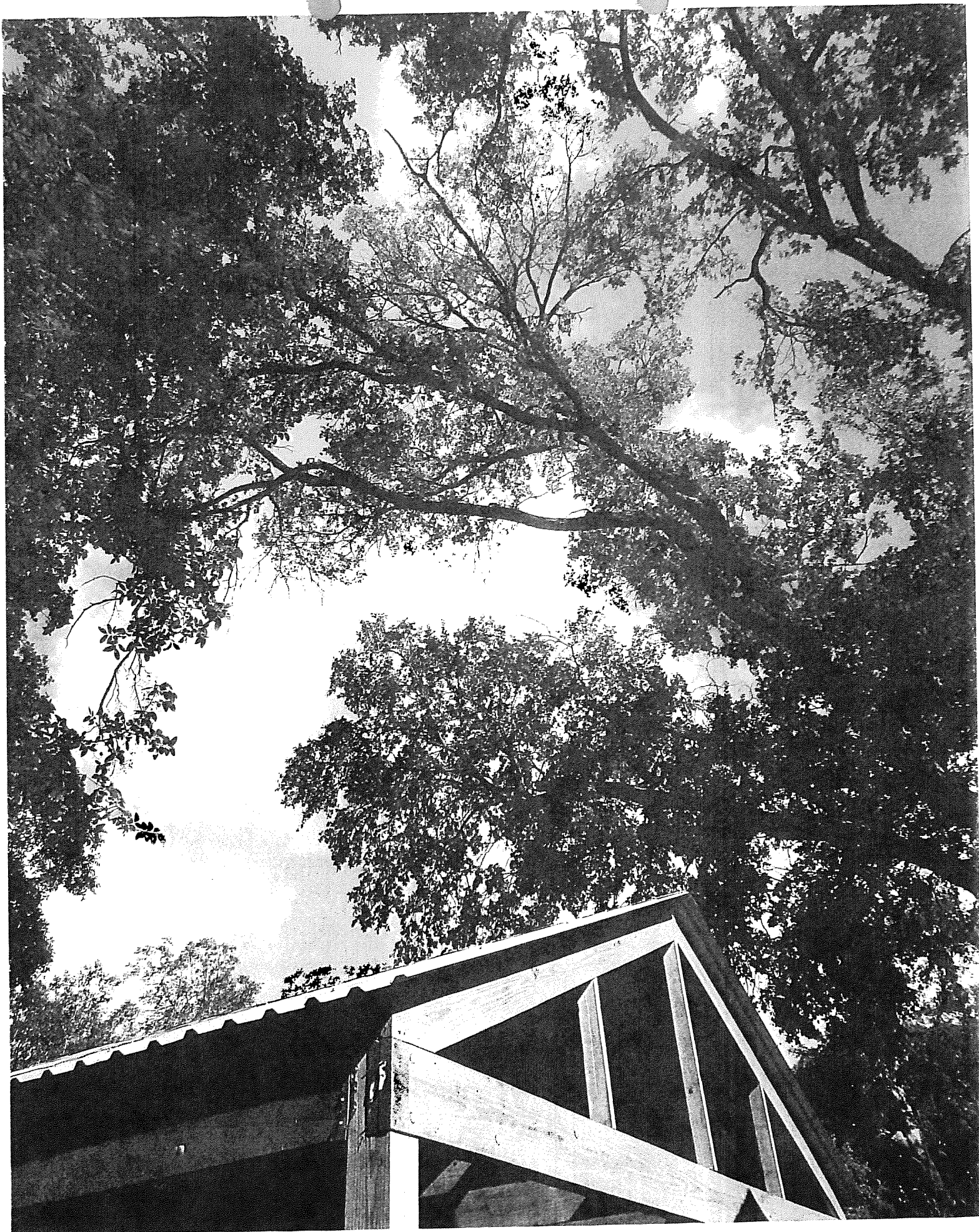




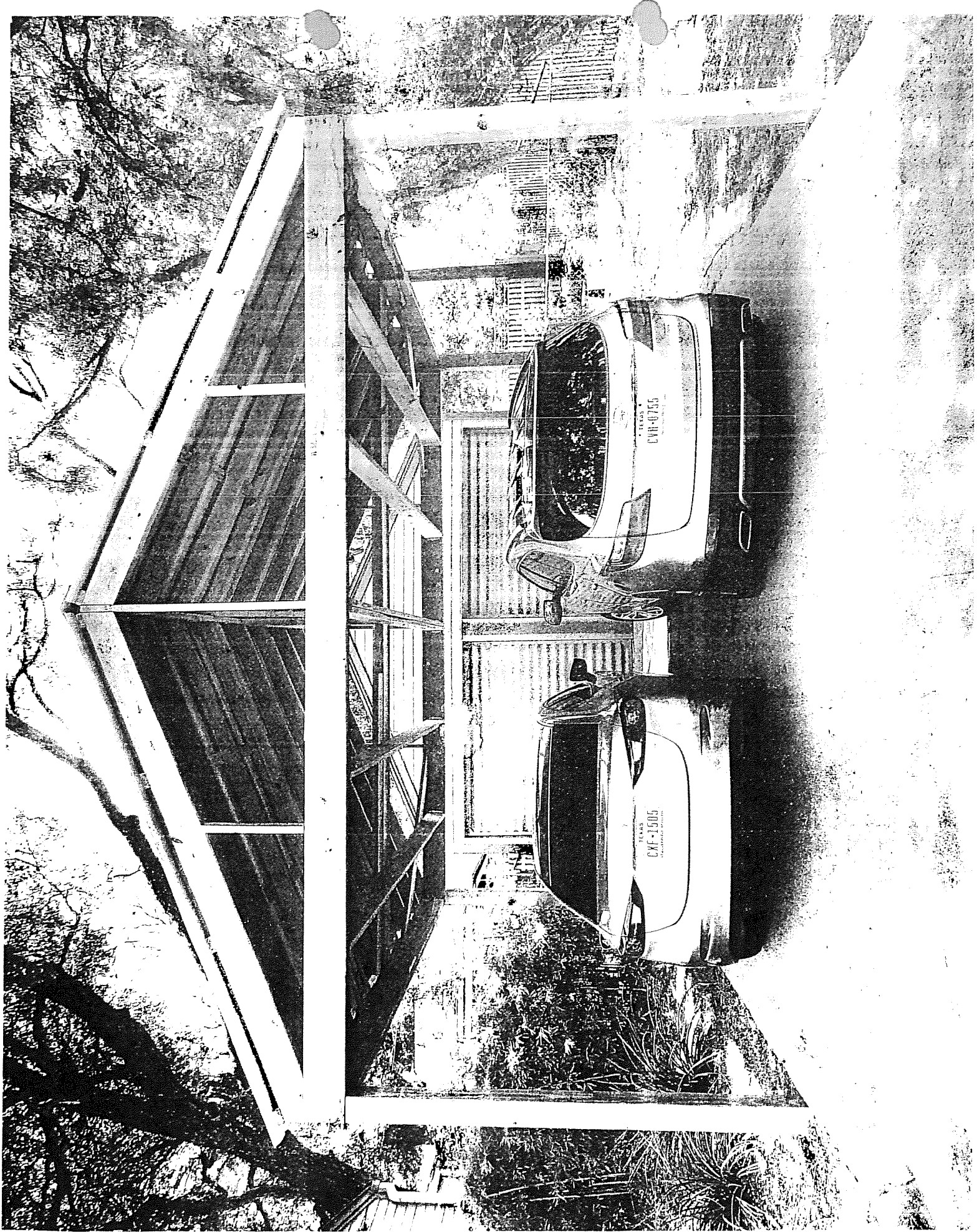


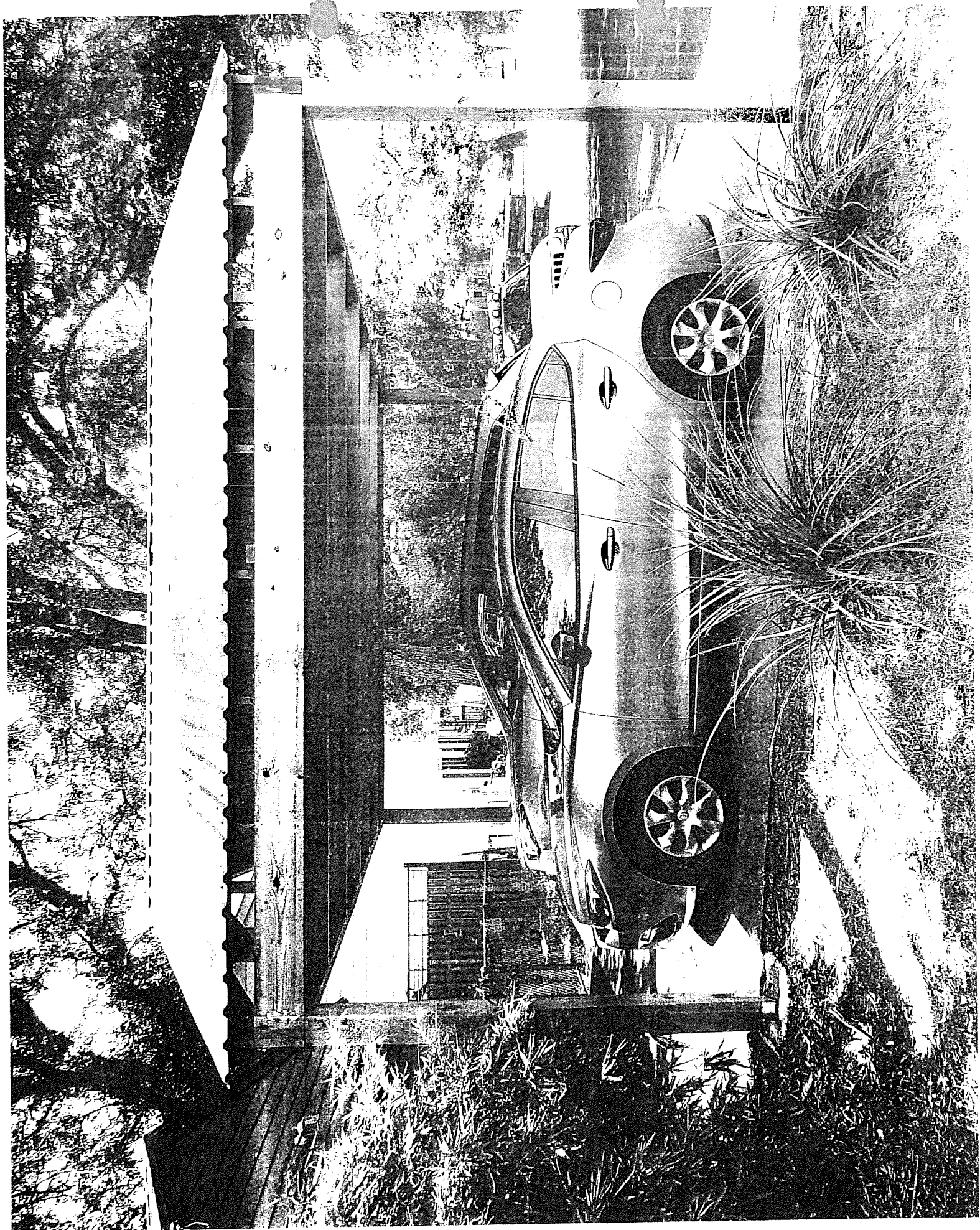












Appeal of Notice of Violation Case CV-2014-073031 and Request
for Permit and or Variance 3216 Lafayette Austin, Tx

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 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 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.

ADD: AM 1 10/14/14

 10/14/14

To Whom It May Concern:

DATE: 10/19/14

My name is Kevin Minack and I live at 3300
LA Fayette Austin, Texas 78704. I am a homeowner across
the street from the subject property at 3314 Lafayette Ave.

The subject is most visible from the south side of the
Highway side- street. The subject property is a lot with
no use or enjoyment of my own property, 3300 LA Fayette,
or my use or enjoyment of my own property, 3300 LA Fayette,
The subject blocks in with the subject property and is on
the lot at 3314 Lafayette. The subject property is a whole,
It is a construction of a house that is a lot of work and money,
aesthetic or otherwise, to the surrounding neighborhood.

The subject is a house that is a lot of work and money,
with a large number of windows and a lot of work and money,
covers the top portion of the subject property, a house that is a lot of work and money,

Kevin Minack

Kevin Minack

To Whom It May Concern :

Date: 11/15/2014

My name is JAN E. MULLER, owner of 3217 LAFAYETTE
AVENUE Austin, Texas 78702, which I own and live across
the street down the street, from the 3216 Lafayette Ave.

The airport ramped over the driveway, including the
driveway side of the lot, 3216 Lafayette, which interferes with
my use or enjoyment of my property at 3217 LAFAYETTE AVENUE,
or my use or enjoyment of my property, including the lot,
The airport bleeds in tall grass, the house and trees and yard on
the lot at 3216 Lafayette, which is the neighborhood as a whole,
It is a nice-looking property and it is a nice property no problem,
aesthetic or otherwise, to the surrounding neighborhood.

The airport is far enough off the lot, that it does not interfere
with anyone's parking or other use of the street. It merely
covers the top portion of the driveway, including the driveway.

JAN E. MULLER
JAN E. MULLER

To Whom It May Concern :

Date :

11/19/14

My name is Wade Miller and I live at 3214 LaFayette Ave

Austin, Texas 78703, which is 111 feet across
the street down the street, in between 7216 LaFayette Ave.

The LaFayette street over the LaFayette street, by obtaining the
adjoined side-street of 111 feet across, I do not interfere with
my use or enjoyment of my property at 3214 LaFayette Ave,
or my use or enjoyment of other 111 feet or adjoined streets.
The LaFayette blocks in all with the house and trees and yard on
the lot at 7216 LaFayette, as well as the neighborhood as a whole.
It is a nice-looking LaFayette street and a nice LaFayette - no problem,
aesthetic or otherwise, to the surrounding neighborhood.

The LaFayette is far enough off the LaFayette that it does not interfere
with anyone's parking or otherwise using the street. It merely
covers the far portion of an already existing concrete driveway.

Wade Miller
Wade Miller

Wade Miller

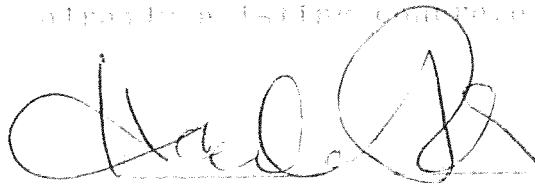
To Whom It May Concern :

Dated : November 19, 2014

My name is Hannah Miller I live at 3214 Lafayette
Av Austin, Texas 78722, which is on across
the street close the street, in as out of 3216 Lafayette Ave,

The Asphalt carport over the existing driveway adjoining the
adjacent side-street of 3214 Lafayette, in no way interferes with
my use or enjoyment of my property at 3214 Lafayette Ave,
or my use or enjoyment of other side-street and road streets,
the carport blends in with the house and trees and yard on
the lot at 3216 Lafayette, as well as the neighborhood as a whole,
It is a nice-looking carport and is a lotus present no problem,
aesthetic or otherwise, to the surrounding neighborhood.

The carport is far enough off the street that it does not interfere
with anyone's parking or otherwise using the street. It merely
covers the top portion of an already existing concrete driveway.



Hannah Miller

Witnessed by _____

To Whom It May Concern :

Date: 11-16-14

My name is PAULA DAVISON residing at 3015 Lafayette

Austin, Texas 78704, which is just across
the street down the street, from the back of 3015 Lafayette Ave.

The A-land company, for the past 10 years, has been utilizing the
edge-on side-view of the car, which is a interference with
my use or enjoyment of my own car at 3015 Lafayette Ave,
or my use or enjoyment of other vehicles on this road streets.
The garbort blocks in tall with the house and trees and yard on
the lot at 3015 Lafayette, making the neighborhood as a whole,
in the area-looking a mess, which as a whole presents no problem,
aesthetic or otherwise, to the surrounding neighborhood.

The garbort is the main problem, in that it does not interfere
with anyone's parking or otherwise using the street. It merely
covers the rear portion of an already in the extreme driveway.

Paula Davison

Paula Davison


To: (Name) 11 May 1964

11/13/14

My name is MARK COLLINS, owner of 3304 Lafayette Ave
Ave. In 1958, I built a new house across
the street from the 3304 Lafayette Ave.

The house is a two-story house with a side-entrance to
the rear side-street of 3304 Lafayette Ave. I have no interference with
my use or enjoyment of my two acres of 3304 Lafayette Ave,
or my use or enjoyment of either of the two acres of land, or
the garden stands in front of the house and trees and yard on
the lot at 3304 Lafayette Ave. I have no interference as a whole,
in its appearance or in its use or in its enjoyment, or in its
aesthetic or otherwise, to the neighborhood or neighborhood.

The report is for a house of 3304 Lafayette Ave. It does not interfere
with anyone's within or without the house. It merely
covers the rear portion of the house.


MARK COLLINS

To Whom It May Concern :

Dated : 11-23-14

My name is CHRIS MARTIN , I live at 3302 LAFAYETTE AVE.

My lot is 7116 Lafayette Ave. It is a 4-lane street across
the street (down the street) by my lot at 3302 Lafayette Ave.

The 4-lane street over the existing drive by eliminating the
Edgewood side-street at 3302 Lafayette Ave. It does not interfere with
my use or enjoyment of my property at 3302 LAFAYETTE AVE
or my use or enjoyment of other lots, streets or roads and streets.
The current blends in well with the house and trees and yard on
the lot at 3302 Lafayette, as well as the neighborhood as a whole.
It is a nice-looking street and it is a lot better than no problem,
aesthetic or otherwise, to the surrounding neighborhood.

The current is far enough off the lot so that it does not interfere
with anyone's parking or other use using the street. It merely
covers the rear portion of an already existing concrete driveway.

CHRIS MARTIN

Chris J. Martin

To Whom It May Concern :

Date : 11/24/2014

My name is Michael Wiggan I live at 3303 Lafayette Ave
Austin, Texas 78712, on a 4' x 12' lot across
the street down the street in the back of 3216 Lafayette Ave.

The 4-foot carport over the existing driveway adjoining the
Ridgewood side street of 3216 Lafayette, in no way interferes with
my use or enjoyment of my property at 3303 Lafayette Ave,
or my use or enjoyment of either Lafayette or Ridgewood streets.
The carport blends in well with the house and trees in yard on
the lot at 3216 Lafayette, as well as the neighborhood as a whole.
If the nice-looking carport and its awning presents no problem,
aesthetic or otherwise, to the surrounding neighborhood,

The carport is far enough off the street that it does not interfere
with anyone's parking or otherwise using the street. It merely
covers the rear portion of the driveway leading to the driveway.



Michael Wiggan

To Whom It May Concern :

Dated : 11/23/2014

My name is Juliana Sheffield , owner of 3303 Lafayette Ave
Austin, Texas 78704, which is a lot across
the street from the street on west of 3216 Lafayette Ave.

The Airport canopy over the existing driveway abutting the
paved side street at 3216 Lafayette, Texas, interferes with
my use or enjoyment of my property at 3303 Lafayette Ave ,
or my use or enjoyment of other streets or paved streets.
The canopy blocks in tall trees and trees and yard on
the lot at 3216 Lafayette, and the neighborhood as a whole.
It is a nice-looking canopy and it is a nice present no problem,
aesthetic or otherwise, to the surrounding neighborhood.

The canopy is far enough off the street that it does not interfere
with anyone's parking or other use using the street. It merely
covers the top portion of the driveway existing concrete driveway.

Juliana Sheffield
Signature

To Whom It May Concern :

Dated : _____

My name is _____. I live at _____
_____ Austin, Texas 78722, which is next door/across
the street/ down the street, in respect of 3216 Lafayette Ave.

The 4-post carport over the existing driveway adjoining the
Edgewood side-street at 3216 Lafayette, in no way interferes with
my use or enjoyment of my property at _____,
or my use or enjoyment of either Lafayette or Edgewood streets.
The carport blends in well with the house and trees and yard on
the lot at 3216 Lafayette, as well as the neighborhood as a whole.
It is a nice-looking carport and in my opinion presents no problem,
aesthetic or otherwise, to the surrounding neighborhood.

The carport is far enough off the street that it does not interfere
with anyone's parking or otherwise using the street. It merely
covers the top portion of an already existing concrete driveway.

Printed Name

To Whom It May Concern :

Dated : _____

My name is _____. I live at _____

_____ Austin, Texas 78722, which is next door/across
the street/ down the street, in respect of 3216 Lafayette Ave.

The 4-post carport over the existing driveway adjoining the
Edgewood side-street at 3216 Lafayette, in no way interferes with
my use or enjoyment of my property at _____,
or my use or enjoyment of either Lafayette or Edgewood streets.
The carport blends in well with the house and trees and yard on
the lot at 3216 Lafayette, as well as the neighborhood as a whole.
It is a nice-looking carport and in my opinion presents no problem,
aesthetic or otherwise, to the surrounding neighborhood.

The carport is far enough off the street that it does not interfere
with anyone's parking or otherwise using the street. It merely
covers the top portion of an already existing concrete driveway.

Printed Name



Department of Public Works
Street and Bridge Operations
City of Austin, 4411-A Meinardus Dr
Austin Texas 78744
Phone (512) 974-8777 Fax (512) 974-8770

October 13, 2014

USPS delivered
Certified Mail #7014-0150-0000-1957-1856

Adrian L. Young
3216 Lafayette Avenue
Austin, TX 78722

Dear Owner,

Please be advised, the City of Austin Public Works Department acknowledges that there has been a carport installed in the public right-of-way at 3216 Lafayette Avenue. Current available tax records show that you are the owner of the property located at 3216 Lafayette Avenue. The placement of unauthorized object, temporary or permanent, in the public right-of-way is a violation of City Code 25-6-267.

In accordance with City Code 25-6-267, the Director of Public Works shall regulate the placement of improvements and facilities on public property, and order the removal of unauthorized obstruction or encroachment from the public property. Public right-of-way normally extend ten feet from the back of curb, is defined as follows:

§ 25-1-21 DEFINITIONS

(91) RIGHT-OF-WAY means land dedicated or reserved for streets, utilities, or other public facilities.

The City of Austin, Public Works Department is requesting you to move the carport from the public right-of-way within **30** days of the date of the letter. Please contact Markus Roby with the City of Austin Transportation Right of Way Management Division at 512-974-7653 prior to working in the public right-of-way to get the appropriate permits and pay any associated fees. The city would like to see voluntary compliance of the stated violation but is ready to take necessary action to remove unauthorized obstructions or encroachments in the public right-of-way.

You are requested to contact Ms. Sharon Warren of the Street & Bridge Operations at 512-974-2879 within **7 days** of receipt of this letter to provide a schedule of your intention to move the carport, and receive assistance in determining the public right-of-way line. Your assistance in keeping the public right-of-way clear of obstruction is appreciated.

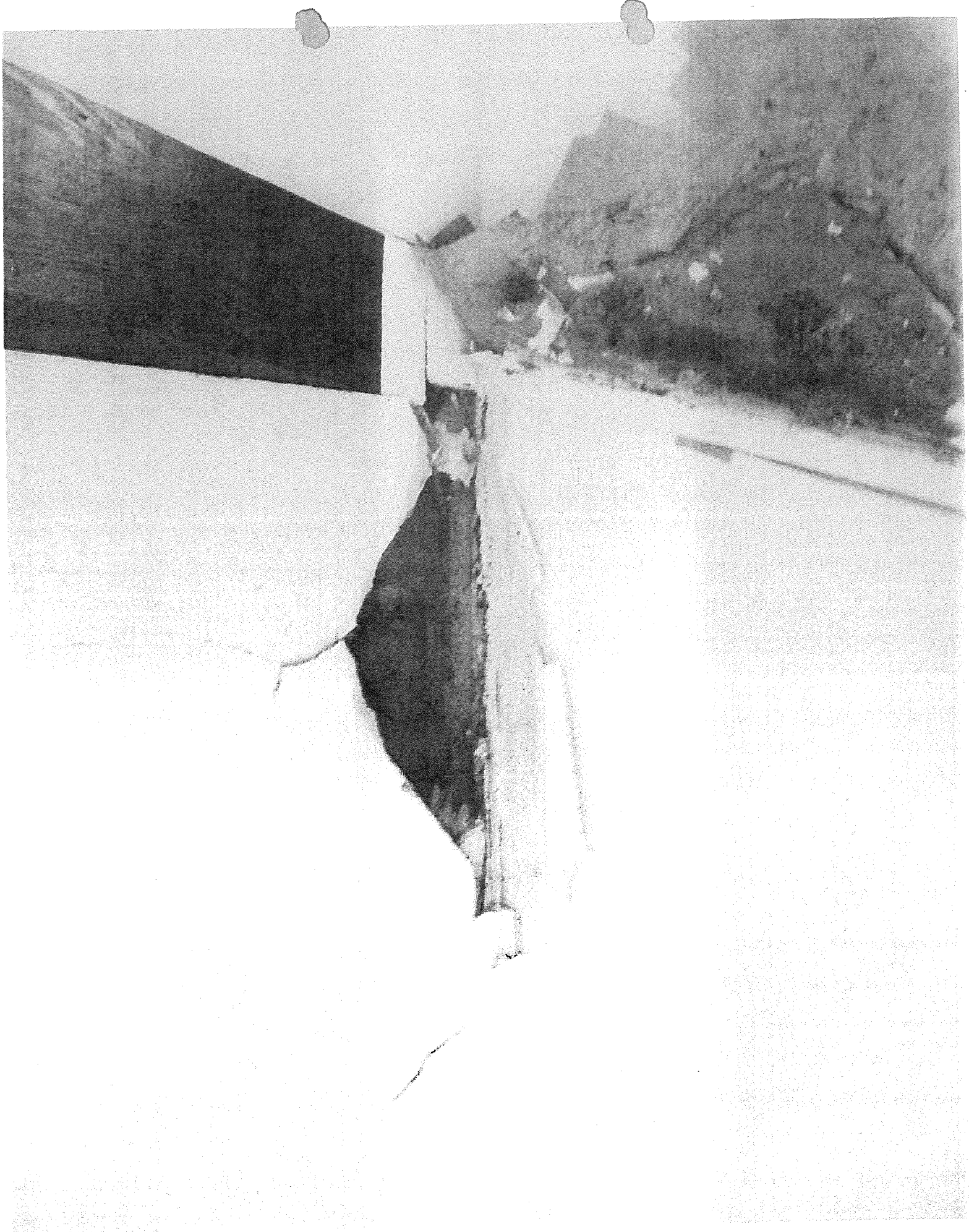
Sincerely,

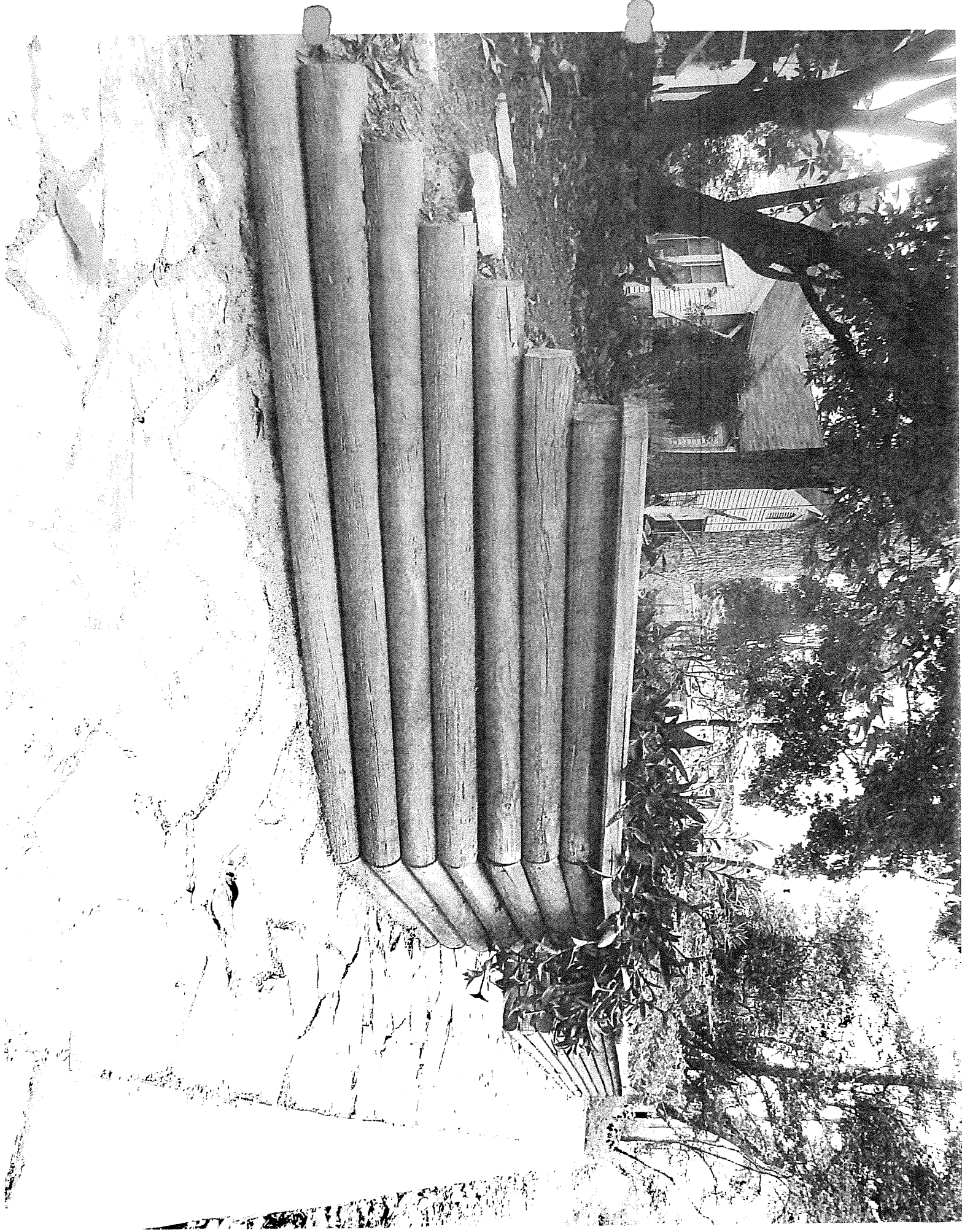
Robert Hinojosa, P.E.
Assistant Director of Public Works

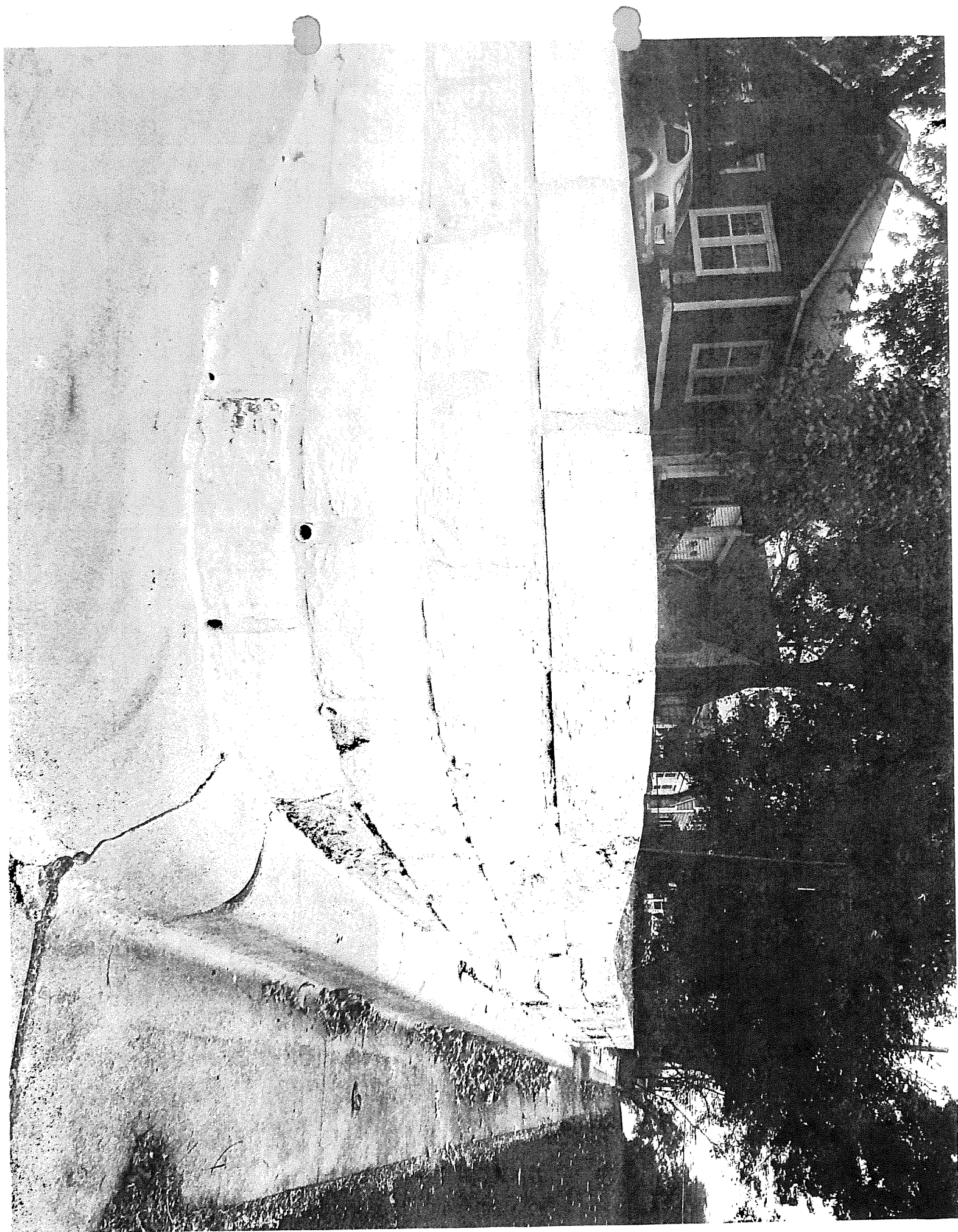


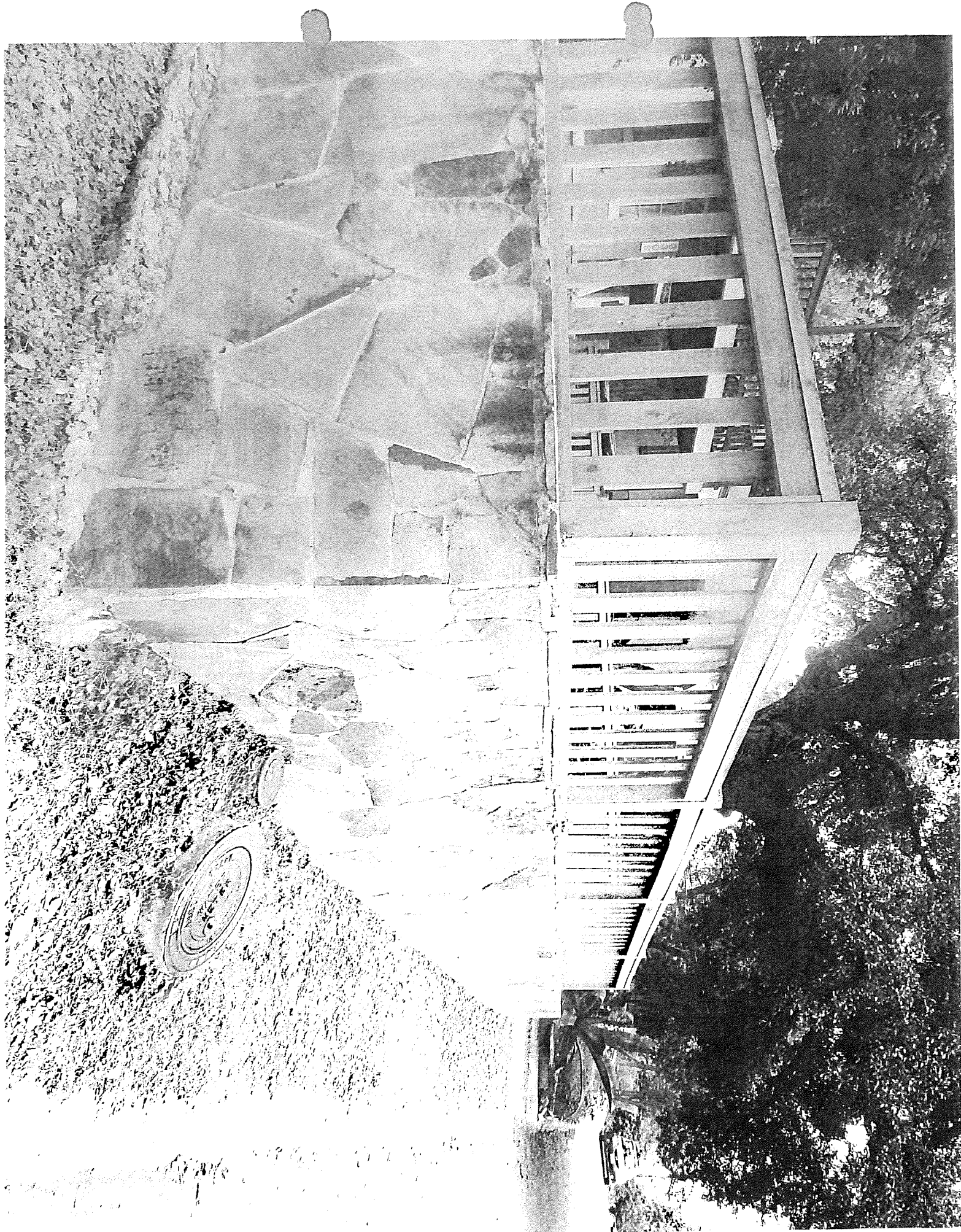


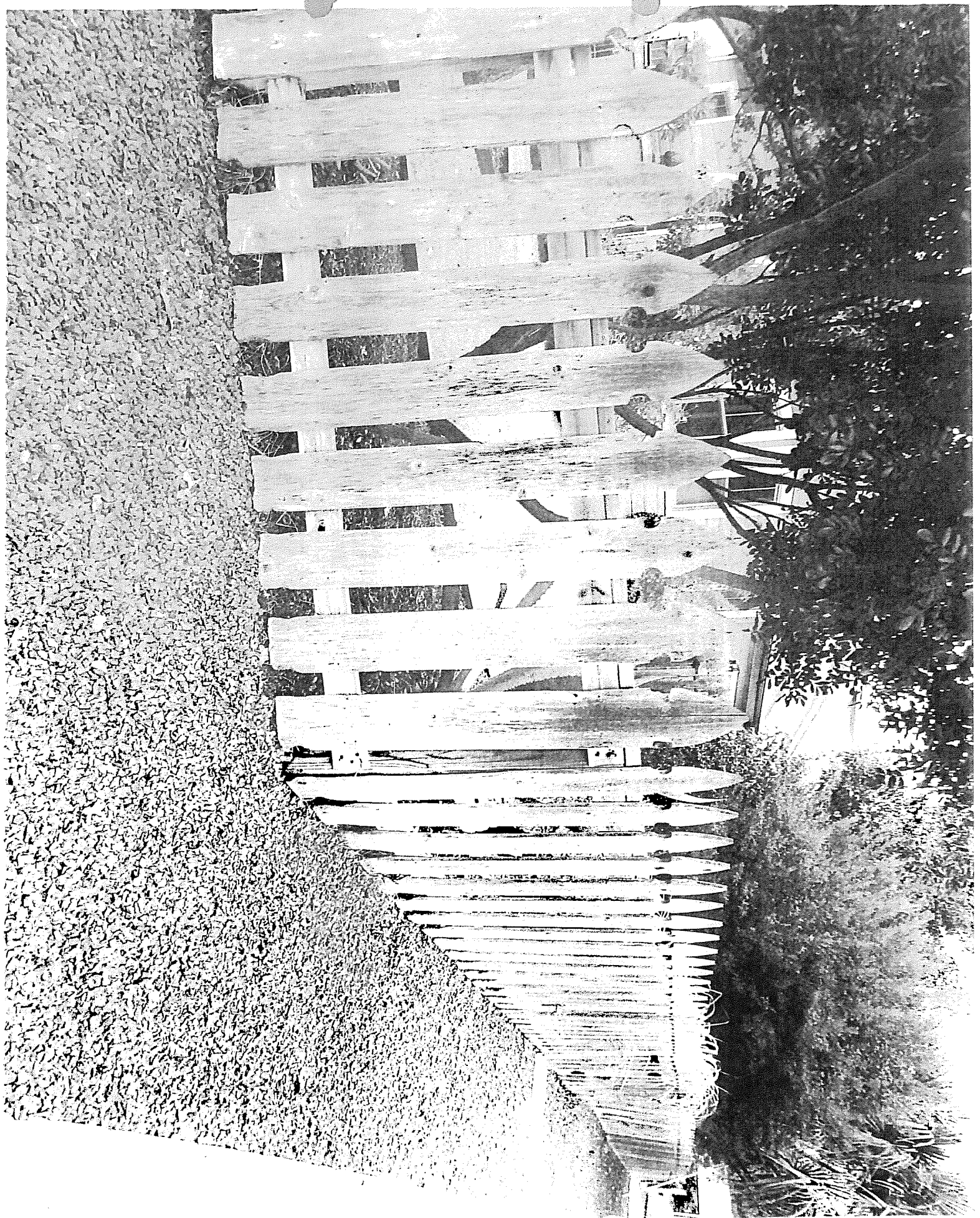




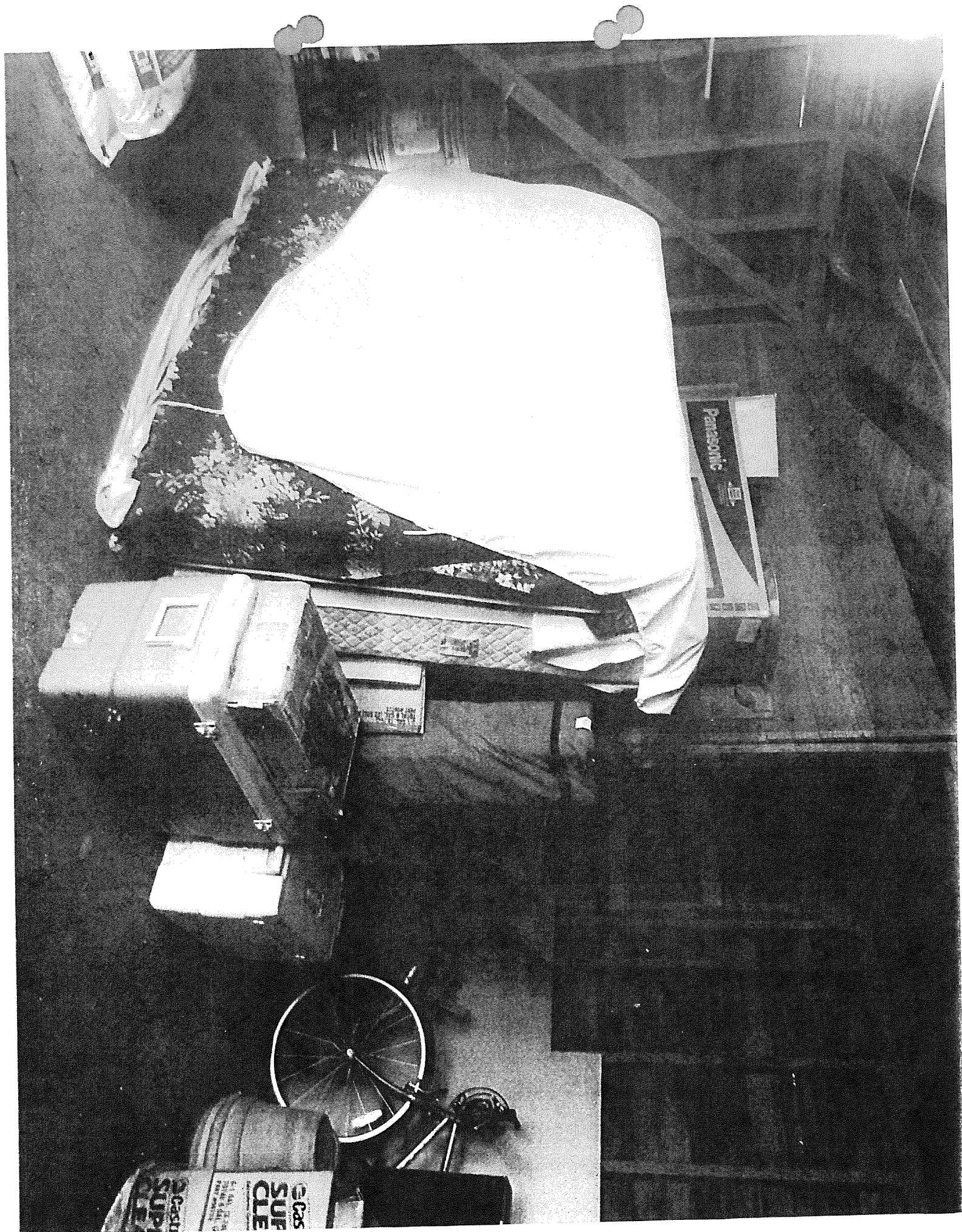














panasonic
VIERA

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