



K-1



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2016-0061
LOCATION: 3104 E 13th Street




This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



1" = 164'



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1" = 89'



SPECIAL EXCEPTION INSPECTION



151
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Address:	3104 E. 13 th
Permit Number:	2016-063395
Property Owner Requesting Special Exception:	Nanette DiNunzio

Special Exception Requested:

Detached garage in side yard setback / no evidence that the garage was recently rebuilt evidence exit structure was maintained

Date Structure was originally constructed: verified to exist since 2003 COA GIS

Date of Inspection:	9-8-2015
Building Official or designated representative	Tony Hernandez
X	The granting of the variances requested will <u>Not</u> result in any hazard to the life, health or public safety for either the property for which the variance is requested or to an adjoining public or private property
	The granting of the variances request will result in a hazard to the life, health or public safety of the either the property for which the variance is requested or to an adjoining public or private property. The following hazards related to the variance request were noted in this inspection:



Special Exception

CITY OF AUSTIN

Development Services Department

One Texas Center | Phone: 512.978.4000

505 Barton Springs Road, Austin, Texas 78704

11/15

Board of Adjustment General/Parking Variance Application

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

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, [click here to Save](#) the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. *If more space is required, please complete Section 6 as needed.* All information is required (if applicable).

For Office Use Only

Case # C15-2016-006 | ROW # 11530313 Tax # 0210150917

TCADV

Section 1: Applicant Statement

Street Address: 3104 E. 13th St. Austin, TX 78702

Subdivision Legal Description:

LOT 3 BLK 3 OLT 26 DIV B MCKINLEY HEIGHTS

Lot(s): 3 Block(s): 3

Outlot: 26 Division: B

Zoning District: SF-3-NP (Rosewood)

☒ We Nanette DiNunzio on behalf of myself ourselves as
authorized agent for _____ affirm that on

Month April ☐, Day 21 ☐, Year 2016 ☐, hereby apply for a hearing before the
Board of Adjustment for consideration to (select appropriate option below):

☐ Erect ☐ Attach ☐ Complete ☐ Remodel ☐ Maintain ☒ Other: Keep

Type of Structure: Garage, detached

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Portion of the City of Austin Land Development Code applicant is seeking a variance from:

Code Enforcement received a complaint and based on that informed us that we need to seek a hardship exception from Austin City Code section 25-2-292 to keep the 64 year old garage.

SE

Section 2: Variance Findings

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 supporting documents.

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.

I contend that my entitlement to the requested variance is based on the following findings:

Reasonable Use

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

SE This structure was sited 64 years ago when this lot was developed. At the time, the lot on the left side of the property was undeveloped, and continued in that undeveloped condition for many years. As some point, a house was moved to the lot next door. Last December, the son of the original homeowner on the next door lot got a bee in his bonnet about our 64 year old garage. Code Enforcement told us we need a hardship exception to keep the structure. Ironically, the complaining next door neighbor has an accessory building that violates the current setbacks abutting our lot as well, we just aren't the complaining types.

Hardship

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

SE Many homes in our subdivision of McKinley Heights have accessory buildings that violate the current 5 foot setbacks. Because of the way Code Enforcement works in our city, the structures are fine until someone complains, at which point the homeowner has to apply for the hardship exception and incur the costs of the inspections, and perhaps tearing down the structure if the permits aren't granted. This is going to cause great disruption and unnecessary expense.

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

SE Our garage was so situated to allow access from our driveway. Other neighbors in our neighborhood no doubt have their own stories. This neighborhood isn't wealthy, so the disruption that will be caused our elderly neighbors having to deal with tearing down decades-old structures, which is costly, and the additional loss of property tax revenue, as the value of the properties will necessarily decline, doesn't seem ideal.

2/2

Area Character

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:

SE This garage was erected at the same time as the house, and years before our neighbor moved a house onto his lot (and an accessory building that violates the 5 foot setback abutting our lot). The structure conforms to the style of the house on the lot, and is used as a garage for the house, causing no additional traffic or noise for our neighborhood. The neighbor next door originally said he couldn't build his fence, which is ludicrous, as the garage doesn't encroach on his lot. Furthermore, he has since built his fence.

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 in the City of Austin Land Development Code Chapter 25-6, Appendix A 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 reasonably require strict or literal interpretation and enforcement of the specific regulation because:

N/A

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:

N/A

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

N/A

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

N/A

Section 3: Applicant Certificate

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

Applicant Signature: Nanette DiNunzio Date: 04/21/2016

Applicant Name (typed or printed): Nanette DiNunzio

Applicant Mailing Address: 3104 E. 13th St.

City: Austin State: TX Zip: 78702

Phone (will be public information): (512) 475-4654

Email (optional – will be public information): _____

Section 4: Owner Certificate

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

Owner Signature: Nanette DiNunzio Date: 04/21/2016

Owner Name (typed or printed): Nanette DiNunzio

Owner Mailing Address: 3104 E. 13th St.

City: Austin State: TX Zip: 78702

Phone (will be public information): (512) 475-4654

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: _____

Agent Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

I filled out the application according to instructions that were provided to me from the Board of Adjustment Liaison. Please let me know if the application is in any way not complete or inadequate. We would hate to incur the expense of tearing down this structure, and the great loss of property value. This structure has not been a problem for 64 years, and is very much in keeping

1/8

Additional Space (continued)

with the neighborhood overall. Although our neighbor claimed he couldn't build a fence because of it, that never made sense, as the structure, while not in compliance with the current 5 foot setback, is nowhere near his lot, and he has since built the fence. He also made other unsubstantiated and false claims about the garage, and frankly, has been able to use Code Enforcement to harass us for over half a year. We don't agree with using Code Enforcement to harass our neighbors when no one's health or safety, or, for that matter, property values are being negatively impacted. However, there are many non-complying structures in our neighbor, including on our neighbor's lot, which technically violate the setback requirements. Generally, these structures have been there for decades. It makes no sense to use Code Enforcement in this way when our neighbor is also riddled with potholes, dangling wires, unoccupied structures that are vermin-invested (including our other next door neighbor, and unoccupied house with a dog that has been slowly decaying over the ten years we have lived in our house). Our neighborhood has many health and safety code enforcement issues that have been unaddressed for years--our 64-year-old detached garage, which has been maintained, is not one of them.

SE

SAVE

25-2-476 SPECIAL EXCEPTIONS.

(A) The Board of Adjustment shall grant a special exception for an existing residential structure, or portion of an existing structure, that violates a setback required under Chapter 25-2 (Zoning) if the board finds that the special exception meets the requirements of this section.

(B) The Board shall grant a special exception under Subsection (A) of this section if:

- (1) the residential use for which the special exception is sought is allowed in an SF-3 or more restrictive zoning district;
- (2) the building official performs an inspection and determines that the violation does not pose a hazard to life, health, or public safety; and
- (3) the Board finds that:
 - (a) the violation has existed for:
 - (i) at least 25 years; or
 - (ii) at least 10 years, if the application for a special exception is submitted on or before June 6, 2016; 2017
 - (b) the use is a permitted use or a nonconforming use;
 - (c) the structure does not share a lot with more than one other primary residence; and
 - (d) granting a special exception would not:
 - (i) alter the character of the area;
 - (ii) impair the use of adjacent property that is developed in compliance with city code;

or

(iii) grant a special privilege that is inconsistent with other properties in the area or in the district in which the property is located.

(C) A special exception granted under this section:

- (1) applies only to the structure, or portion of a structure, for which the special exception was granted and does not run with the land;
- (2) may not authorize an increase in the degree of noncompliance or excuse compliance with minimum health and safety requirements; and

(3) may not authorize a remodel or addition to the existing structure, except to the extent required by the building official to meet minimum life and safety requirements.

(D) A structure granted a special exception under this section shall be treated as a non-complying structure under Chapter 25-2, Article 8 (Noncomplying Structures).

Source: Ord. 20110526-098; Ord. 20121108-091; Ord. 20130822-126.

9/21




1984 Aerial

2003 Aerial

CITY OF AUSTIN DEVELOPMENT WEB MAP




Legend


 Lot Lines

 Streets

 Building Footprints

 Named Creeks

 Lakes and Rivers

 Parks

 County

 Lot ID

 Block ID


 Lot Line

 Zoning Text

 Zoning (Large Map Scale)


 Zoning (Small Map Scale)

 Not Classified

 Single Family (SF)

 Multi-family (MF)

 Mobile Home (MH)

 AG, DR, RR, LA

 CBD, DMU

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CITY OF AUSTIN DEVELOPMENT WEB MAP



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015-2016-0061

Heldenfels, Leane

From: Thomas HENDERSON [REDACTED]
Sent: Sunday, June 05, 2016 6:00 PM
To: Heldenfels, Leane
Subject: Fw: Board of adjustment meeting
Attachments: Board of adjustment meeting

VJ
13

3104

Hi Leane, Email is all i'm capable of. I hear my neighbor at ~~1204~~ 3104 East 13th is having a hearing on june 13th. My writing in caps is not screaming. I laid out the facts and my brothers will be attending to represent me and my family. My neighbors wife is an attorney. So what, rules are rules. Everything I've written is true. All things being equal I believe they are wrong and deserves no relief. Her husband is a contractor and builder. he built this structure inches from my fence. Thomas Henderson. sorry for the CAPS

Heldenfels, Leane

From: Thomas HENDERSON [REDACTED]
Sent: Sunday, June 05, 2016 5:12 PM
To: franchot
Subject: Board of adjustment meeting

4/14

I BOUGHT THIS HOME FOR MY MOM IN 1995. WE'VE HAD SEVERAL NEIGHBORS BEFORE OUR CURRENT NEIGHBORS. MY SISTER NETTIE LIVED THERE AFTER OUR MOTHER PASSED AWAY IN 2003. SHE WAS MENTALLY ILL. MY BROTHER JAMES LIVES THERE AND IS NOT KNOWLEDGABLE ON EASEMENTS OR SET BACKS. BUT, HE CUT THAT YARD NEXT DOOR FOR MANY YEARS BEFORE OUR CURRENT NEIGHBORS MOVED IN. HE COULD MOW UP AND BACK IN THE EASEMENT. OUR CURRENT NEIGHBOR IS A CONTRACTOR. NOT SURE HE'S A LICENSED CONTRACTOR BUT THAT'S WHAT HE DOES FOR WORK FROM OUR OBSERVATION. MOST CONTRACTORS KNOW WHAT AN EASEMENT AND SET BACK IS. WE BELIEVE OUR NEIGHBORS WERE USING THIS STRUCTURE FOR A BUSINESS AND ENTERTAINMENT. SINCE WE FILED THIS COMPLAINT OUR NEIGHBOR HAS PUT UP A TARP SO NO ONE CAN SEE HIS ALTERATIONS PRIOR TO AN INSPECTION. THIS STRUCTURE IS LESS THAN ONE FOOT FROM MY PROPERTY LINE AND INCHES FROM MY FENCE. I SPENT 500.00 FOR A SURVEY. WHEN THE RED STRING WAS PLACED MY NEIGHBORS ROOF OVER HANG WAS A FOOT OVER MY PROPERTY LINE. HE JUMPS UP THERE A SAWS IT BACK IN ONE DAY. WHATS INTERESTING IS HE STAYED HOME THAT WHOLE DAY WHILE SURVEY WAS BEING DONE. OUR NEIGHBOR KNOWS THEY ARE OUT OF ORDER. MY NEIGHBORS GOT PERMITS AND ACTUALLY ON PERMITS DREW LINES INTO EASEMENT. WHAT'S CLEAR ABOUT ALL THIS IS THAT MY NEIGHBORS NEVER CLOESD PERMITS OR GOT FINAL INSPECTIONS OR CERTIFICATES OF OCCUPANCY"COO",ON ANY BUILDING PERMIT. FOR THEM TO CLAIM HARDSHIP IS A JOKE. I HAVE BUILT 7 HOMES IN EAST AUSTIN. I HAVE REHABILITATED DOZENS OF PROPERTIES. I KNOW THE RULES AND NEVER BREAK THEM. I RESTORED THE STADIUM AT OLD ANDERSON HIGH SCHOOL. I GREW UP IN EAST AUSTIN. NOT SURE GENTRIFICATION IS AN ISSUE HERE BUT I DO THINK MY NEIGHBORS THINK THEY ARE SMARTER AND MORE CLEVER THAN US PEOPLE. IGNORANCE ISNT PART OF THE BOARD OF ADJUSTMENTS. OUR NEIGHBOR CAMOUFLAGED THIS BUILDING. I BELIEVE ON PURPOSE. YOU DRIVE DOWN 13TH STREET AND LOOK AT 1304 EAST 13TH STREET, THE DRIVEWAY IS COMPLETELY CAMOUFLAGED. YOU CAN NOT SEE THIS BUILDING AT ALL. OUR NEIGHBORS DID THAT ON PURPOSE. OUR NEIGHBORS,WE BELIEVE WERE RUNNING A BUSINESS OUT OF THE ILLEGAL STRUCTURE. I'M SURE THEY NEVER SUSPECTED AN INTELLIGENT OWNER TO CALL THEM ON THIS ILLEGAL BUILDING. I FEAR IF THAT STRUCTURE CATCHES FIRE IT WILL BURN DOWN MY FENCE AND MY HOMESTEAD. THERE IS NO HARDSHIP FOR A PREMEDITATED BREAKING OF BUILDING RULES."HE'S A CONTRACTOR'. THERE IS NO HARDSHIP FOR A SLABBED STRUCTURE INCHES FROM MY FENCE. OUR NEIGHBOR PULLED PERMITS BUT KNEW INSPECTIONS WOULD NOT BE APPROVED. I BELIEVE HIS WIFE WILL COME BEFORE YOU BECAUSE SHE'S A LAWYER. IT'S HER HUSBAND THAT'S THE CONTRACTOR AND CULPIT OF THIS. MY PRAYER IS THAT THE BOARD OF ADJUSTMENTS WILL SEE THIS FOR WHAT IT IS. ILLEGAL STRUCTURE 4 FEET IN EASEMENT OF NEIGHBOR. SAFETY FOR MY HOMESTEAD IS IMPERATIVE AS WELL. MY FAMILY HAS BEEN IN AUSTIN FOR OVER 150 YEARS. I HAVE LIVED IN AUSTIN 63 YEARS. PLEASE HOLD THESE NEIGHBORS ACCOUNTABLE. THANK YOU. THOMAS HOLLYWOOD HENDERSON

Heldenfels, Leane

From: Thomas HENDERSON [REDACTED]
Sent: Wednesday, June 08, 2016 8:18 PM
To: Heldenfels, Leane; Rodriguez, Moses
Subject: Fw: Pic of Neighbors Shed
Attachments: Pic of Neighbors Shed

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Leane, this is 8 years ago when it was a car port and laundry shed. The building is 5-6 years old. pictures don't lie. This original shed respected the easement. Sorry for blowing up your email. Thomas



Heldenfels, Leane

From: Thomas HENDERSON [REDACTED]
Sent: Wednesday, June 08, 2016 7:58 PM
To: Heldenfels, Leane; Rodriguez, Moses
Subject: Fw: Other pic INCHES FROM PROPERTY LINE.
Attachments: Other pic

Leane and Moses, My fence is cedar. His is junk. IS THE BUILDING TOO CLOSE TO MY PROPERTY LINE? THE RED STRING ON THE GROUND IS THE SURVEY STRING. THOMAS HENDERSON. MORE TO COME. BUILDING HAS NOT BEEN THERE 10 YEARS. I HAVE 5 WITNESSES.

Heldenfels, Leane

From: Thomas Henderson [REDACTED]
Sent: Thursday, June 09, 2016 1:22 PM
To: Heldenfels, Leane; moresrodriguez@austintexas.gov
Subject: Fwd: Here are dates and facts from city files. Please include.

Sent from my iPhone

Begin forwarded message:

From: Franchot Rivers [REDACTED]
Date: June 9, 2016 at 2:01:15 PM EDT
To: Thomas HENDERSON [REDACTED]
Reply-To: Franchot Rivers [REDACTED]

There are four permits that were filed by our neighbors. All permits that were issued were filed with the intent of removing the current patio structure and replacing it with rebuilt patio. A covered patio is totally different than putting up a new building complete with plumbing, electrical and air conditioning. They never intended to put up a covered patio, This was deceptive from the start and an attempt to dupe the city code office. The oldest permit filed was dated 11-30-2007 (Approx 8.5 years ago). This is considerably less than 10 years:

Permit Application Dates

11-30-2007 -

12-07-2007

12-07-2007

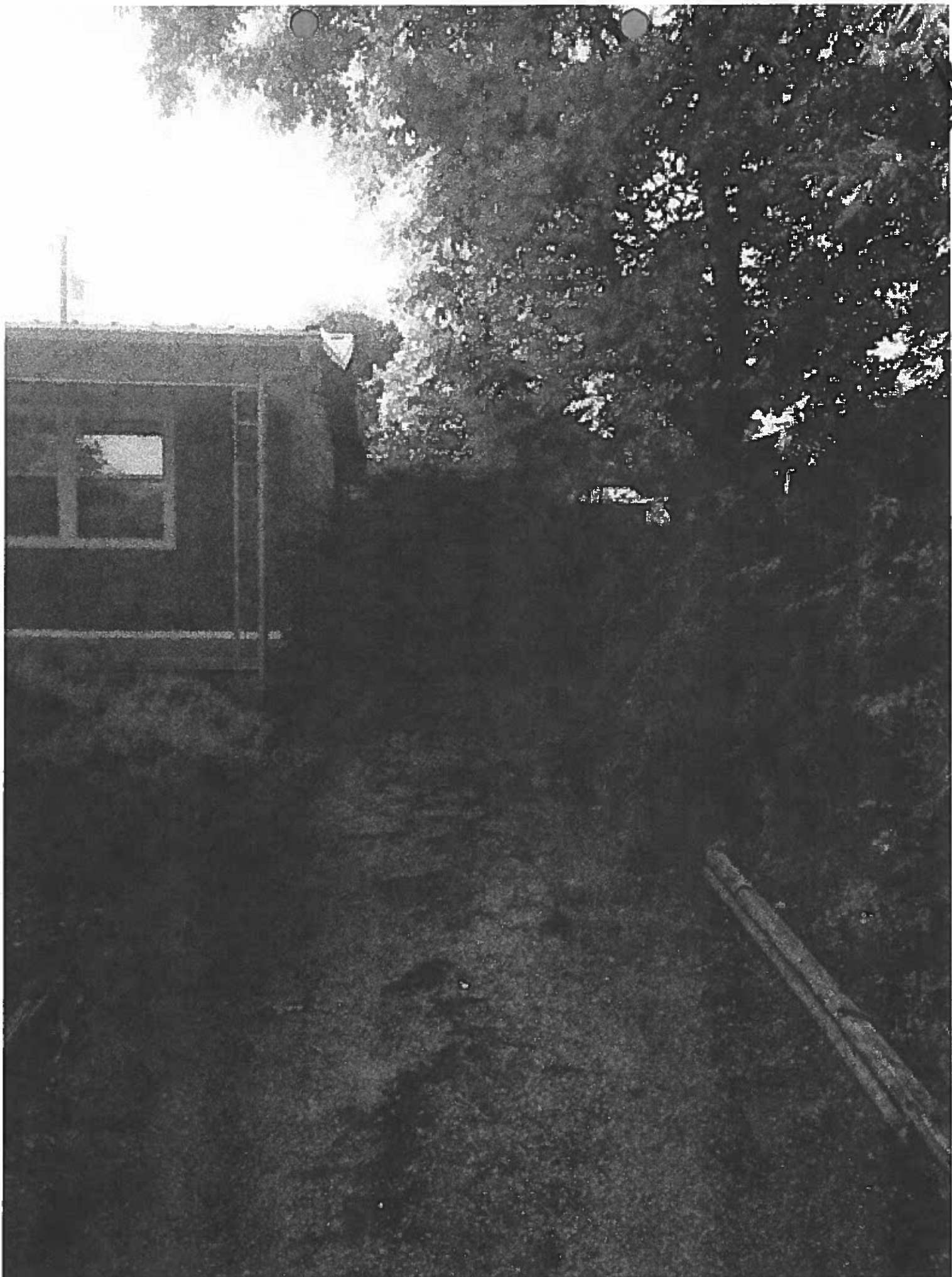
05-20-2008

Heldenfels, Leane

From: thomas henderson [REDACTED]
Sent: Wednesday, June 08, 2016 9:31 PM
To: Heldenfels, Leane
Subject: camoflodged the building from street view. brown fence and trees. guilty

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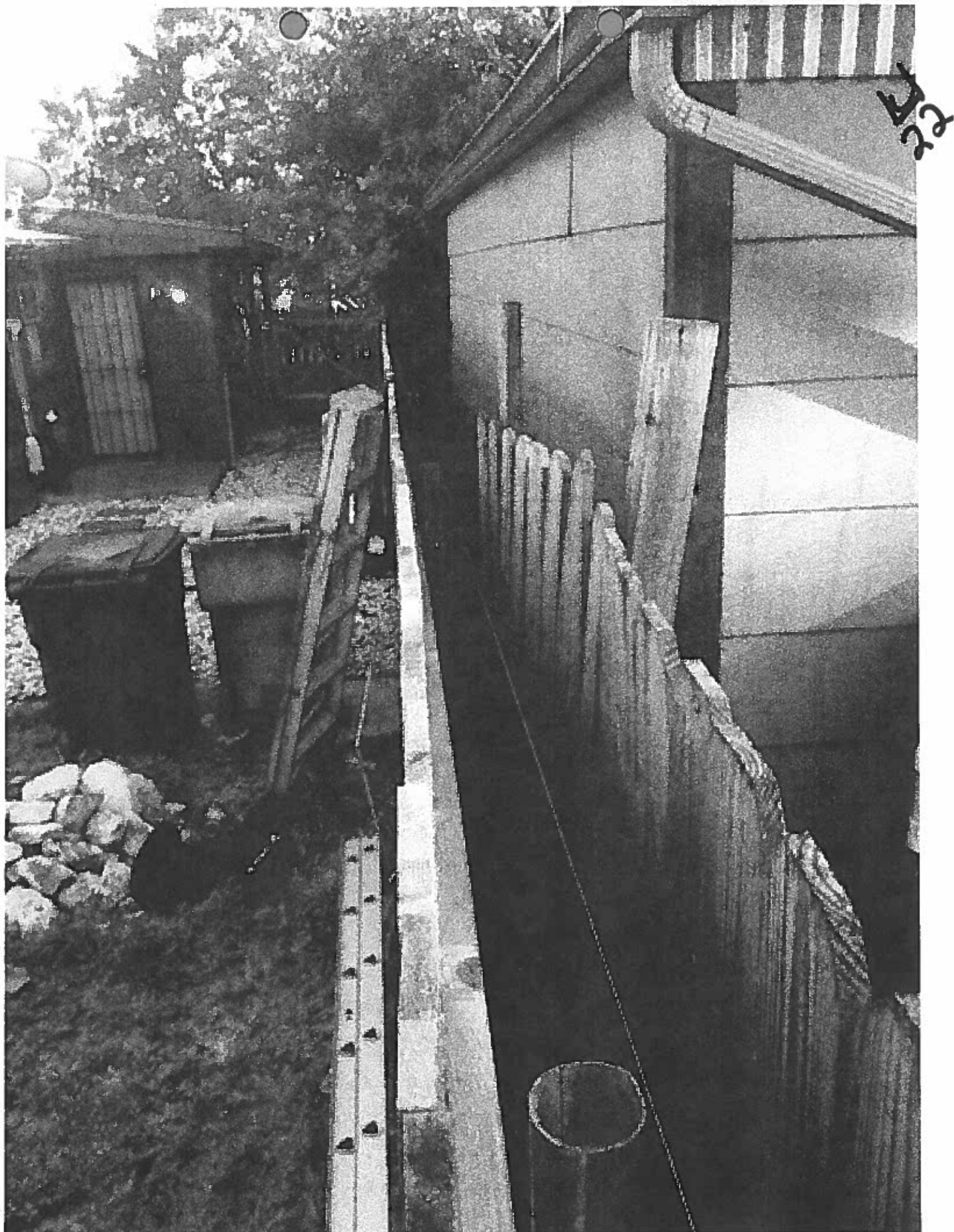


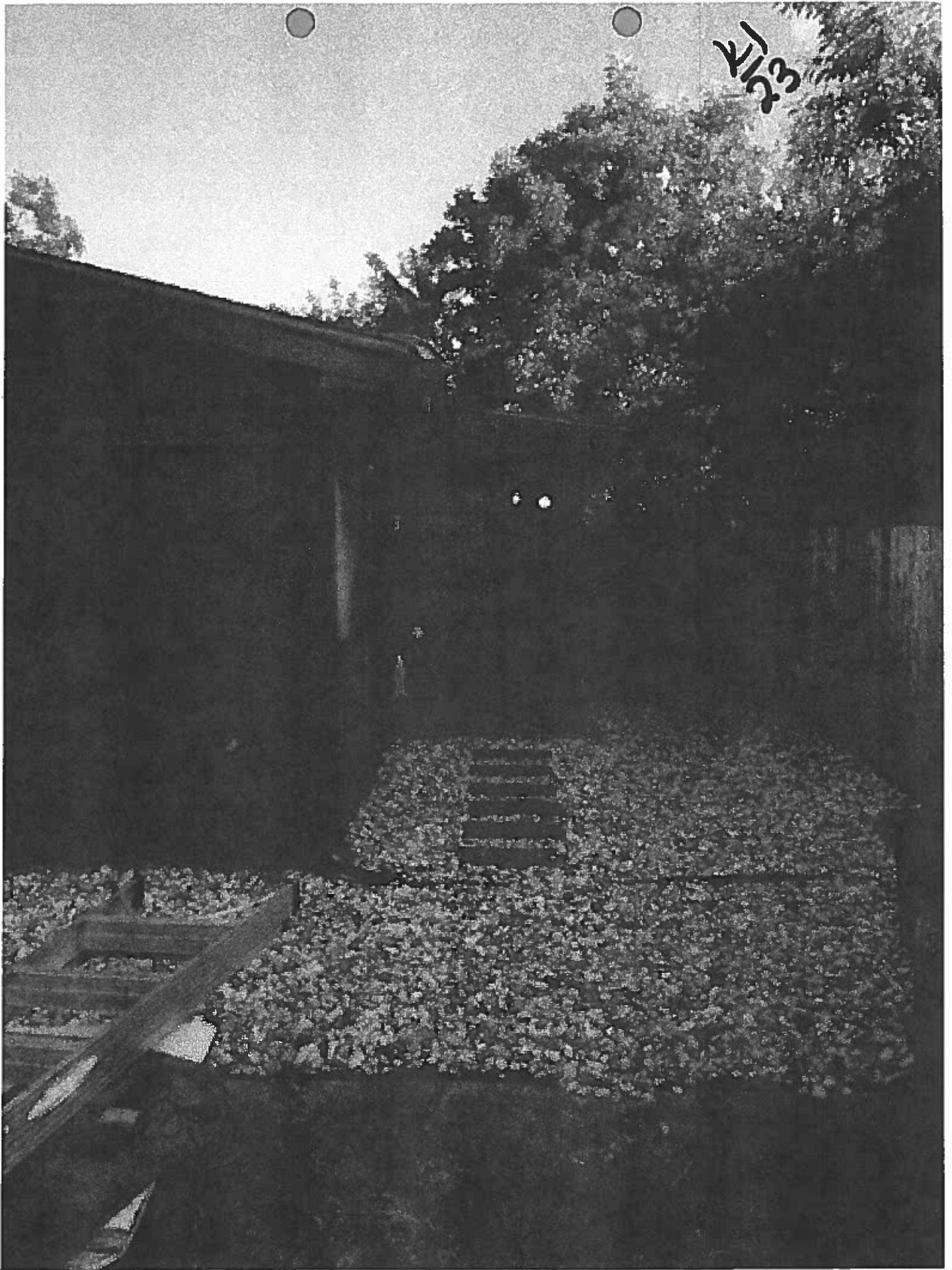


1502

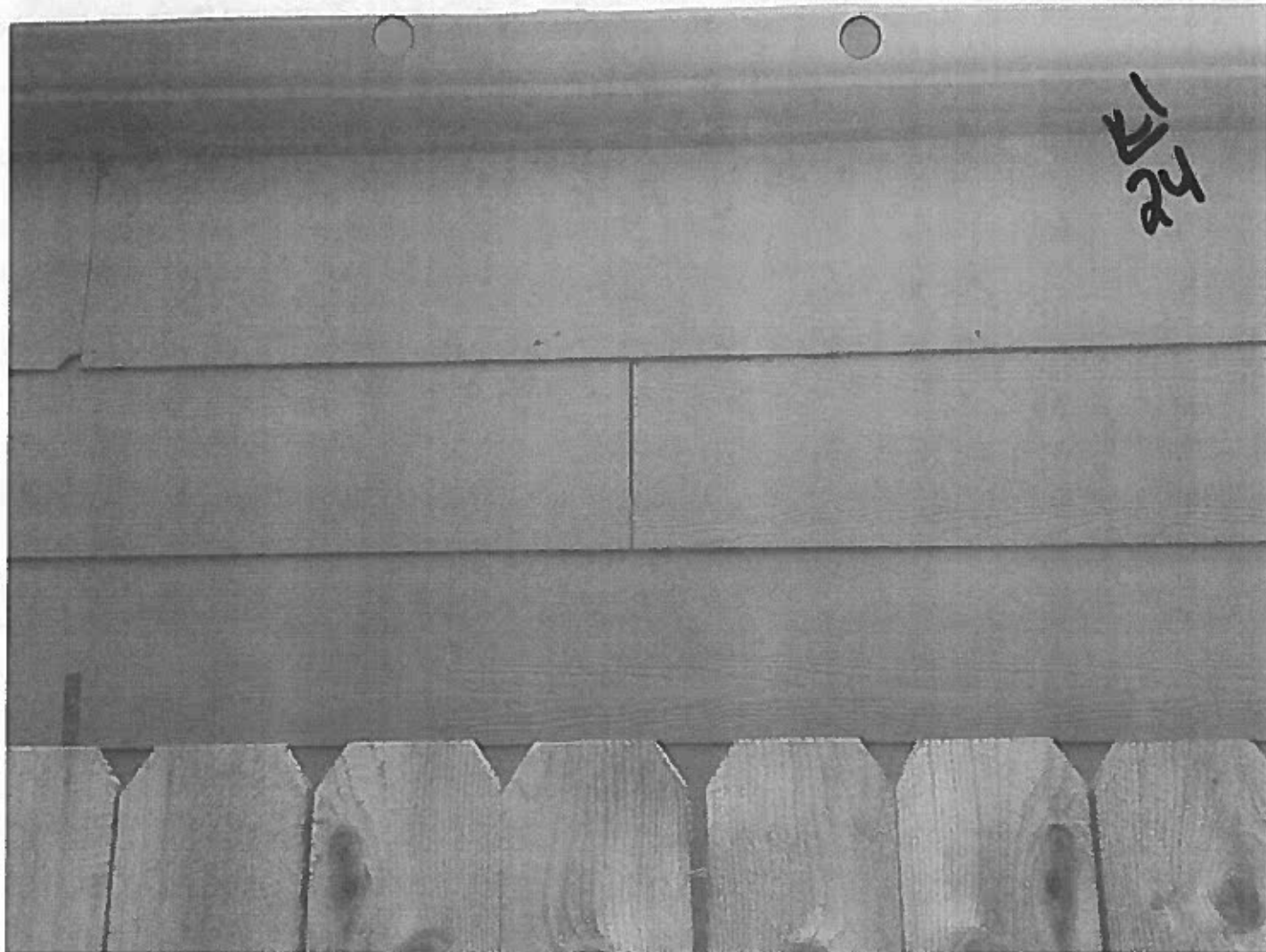


12/2





1
24





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