

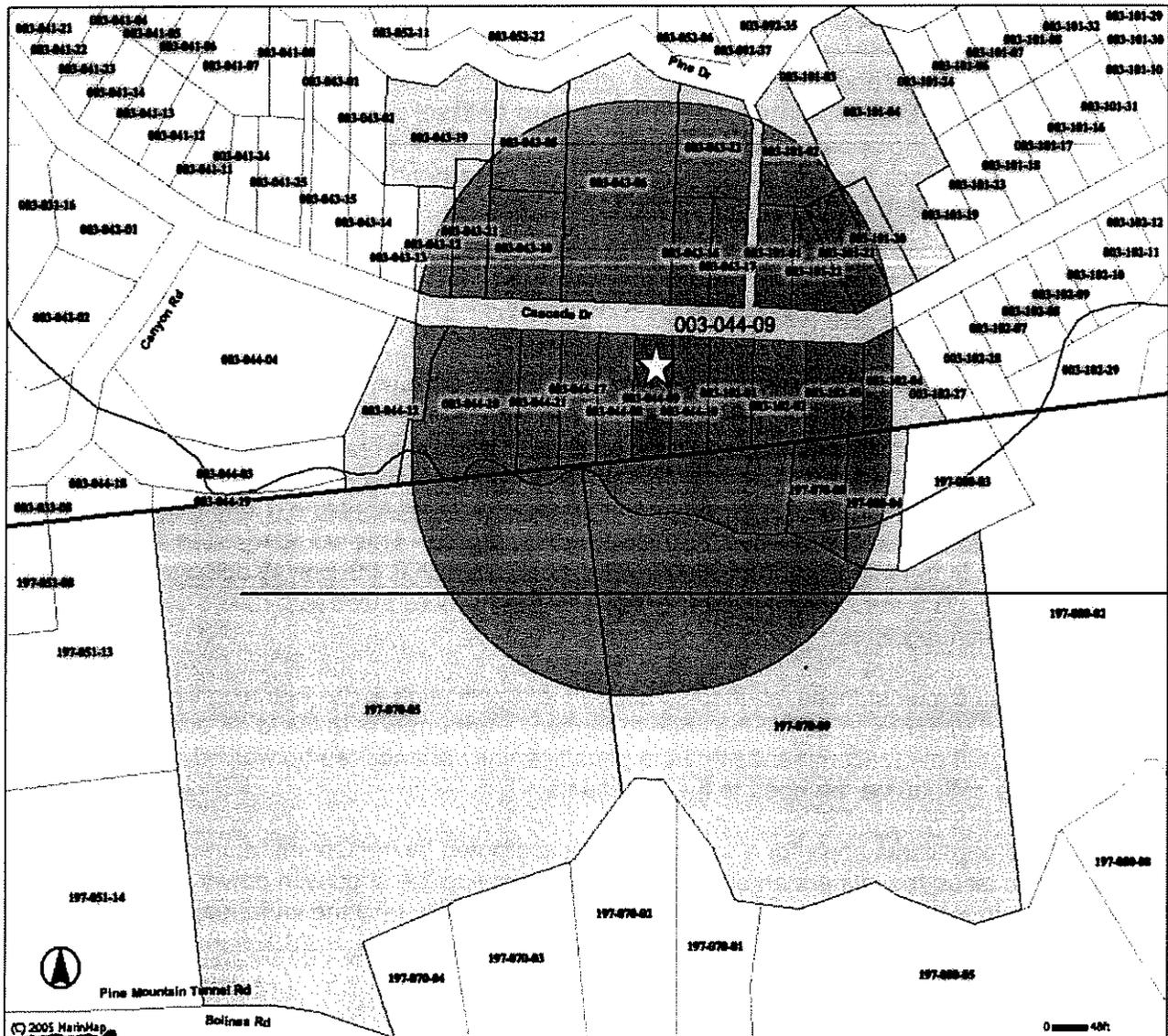
**TOWN OF FAIRFAX
STAFF REPORT**

TO: Mayor, Members of the Fairfax Town Council

FROM: Michael Rock, Town Manager *MJR*
Jim Moore, Director of Planning & Building Services
Linda Neal, Senior Planner
Mark Lockaby, Building Official

DATE: March 7, 2012

RE: Appeal of a Denial for an Electrical Permit for a Shed at 407 Cascade Dr.; Assessor's Parcel No. 003-044-09



RECOMMENDATION

Move to waive the \$1,125.00 Variance application fee and the \$2,250 penalties; and direct the appellant to apply for a Variance of the required 35 foot combined side yard setback requirement.

DISCUSSION

On January 3, 2012 the Code Enforcement Officer (Building Official) received a complaint that the owner was constructing a structure within the required setback areas. The Building Official inspected the site and determined that the owner was building a storage shed at the front of his property and that it did not comply with setback requirements. Staff informed the owner the same day that the shed would either need to be relocated or be granted a Variance by the Planning Commission to remain in the setbacks.

One of the owners indicated that he had called Town Hall and requested setback information and was mailed the attached "Summary of Fairfax Zoning Requirements" sheet with the 10 foot front setback for accessory structures highlighted by a member of the Town Hall Staff (**Exhibit A**). The appellant believes that the staff person failed to explain the combined setback requirements to him and failed to draw his attention to the last line in the "Setbacks Accessory Structures" table that stipulates a combined yard setback. Relying on the information provided to him, the appellant proceeded to construct the shed, including a poured concrete slab footing, 10 feet back from his front property line with an extended roof overhang that extends 5 feet into the required minimum 10 foot front setback.

The owners are requesting that the Town Council grant them an electrical permit and, waive the \$3,375.00 Variance and Penalty fees and direct staff to refund the \$500.00 appeal fee.

The residence is located over the rear property line with the rear portion of the structure located on the adjoining property which is located outside the Town limits within the County of Marin and is a portion of the San Anselmo creek channel (**Exhibit B** – Note the Fairfax Town Limit Line). This results in the house maintaining a 0 foot setback from the rear, southern property line. Therefore, in order to comply with the combined 35 foot front/rear setback for properties with over a 10% (property has a slope at the rear which is the San Anselmo Creek bank), the shed would have to be placed 35 feet from the front property line. This would result in the shed being located right in the middle of their level front yard area which is the only usable yard space for the property. The area is also the location for several mature fruit trees, raised vegetable beds and other mature plants.

Under these circumstances, staff could support an application to the Planning Commission for the required variance to permit the shed to remain. Furthermore, to avoid an undue financial hardship, staff also recommends that the penalties and variance fee be waived, and that the appeal fee of \$500 be refunded to the appellants.

Once the appellants apply for a variance and it is granted by the Commission then the staff will be able to issue the owners an electrical permit to provide the shed with power. Staff does not recommend issuance of an electrical permit for the structure until the variance is granted, however.

ATTACHMENTS

Exhibit A – Appeal Form

Exhibit B – Summary of Fairfax Zoning Requirements

Exhibit C – Property and City Limit line map



TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930
(415) 453-1584 / FAX (415) 453-1618

NOTICE OF APPEAL

RECEIVED

FOR STAFF USE

FEB - 8 2012

Date: _____ Fee: \$500.00 TOWN OF FAIRFAX
Appl.# _____
Receipt# _____
Recvd. By: _____
Action: _____

The purpose of the appeal procedure is to provide recourse in case it is alleged that there is an error in any order, requirement, permit, decision or determination by any administrative official, advisory body or commission in the administration or enforcement of the City Ordinances. Any person aggrieved by the action of any administrative official, advisory board or commission in the administration or enforcement of any ordinance in the Town Code may make verified application to the Town Clerk in the manner prescribed by the Town Council within ten (10) days of action that is appealed.

FEE: Fees are set by resolution of the Town Council. See fee schedule for current application fees. 003-044-09

PLEASE PRINT

Appellant's name Lee & Susan Collet

Mailing address 407 Cascade Dr Zip: 94930 Day phone 453-0967

Property Address: 407 Cascade Dr.

I appeal the decision of: (list board, commission, or department and decision, for example: Planning Commission denial of variance) application # _____

the Dept. of Planning & Bldg. services denial of electrical permit for shed.

The following are my reasons for appeal: We received incorrect information from a staff person that led us to believe only a 10' setback was required for our shed. We ask to be granted a variance, with all fees waived, our \$500 appeal fee returned & our permit for electrical granted.

I hereby declare that I have read the foregoing Notice of Appeal and know the contents thereof. I further declare under penalty of perjury that the information supplied by me is true and correct.

Executed this 3rd day of February, 2012

SIGNATURE OF APPELLANT: Susan E. Collet

TOWN OF FAIRFAX
142 BOLINAS ROAD
FAIRFAX, CA. 94930

SUMMARY OF FAIRFAX ZONING REQUIREMENTS
SINGLE FAMILY AND DUPLEX ZONES

For complete information, please refer to the Fairfax Town Code book.

SETBACKS PRINCIPAL STRUCTURES	RS 6 Zone (chpt. 17.080)	RS 7.5 Zone (chpt. 17.076)	RD 5.5-7 Zone (chpt. 17.084)
Front setback - 10% slope or less	6 ft.	10 ft.	6 ft.
Over a 10% slope	6 ft.	6 ft.	6 ft.
Rear setback - 10% slope or less	6 ft.	10 ft.	6 ft.
Over a 10% slope	12 ft.	15 ft.	10 ft.
Front/Rear combined			
10% slope or less	25 ft.	30 ft.	25 ft.
Over a 10% slope	35 ft.	40 ft.	35 ft.
Side setback - 10% slope or less	5 ft.	5 ft.	5 ft.
Over a 10% slope	5 ft.	10 ft.	5 ft.
Two sides combined			
10% slope or less	15 ft.	20 ft.	15 ft.
Over a 10% slope	20 ft.	25 ft.	20 ft.

SETBACKS ACCESSORY STRUCTURES (Chapter 17.040.020)	CORNER LOT SETBACKS (Chapter 17.040.020)
Front - 10 ft. in all zones *	10 ft. from any property line which parallels a street in all zones
Rear - 10 ft. in all zones *	
Sides - 5 ft. in all zones *	
see also combined setbacks in above table	

CREEK SETBACK (Town Code § 17.040.040) - 20 feet from the top of the creek bank or twice the depth of the creek, whichever is greater.

FLOOR AREA RATIO (FAR) (Town Code Chpt. 17.136) - the maximum floor area for single family residences and duplexes shall not exceed a ratio between house size and lot area of .40. No single-family residence or duplex shall exceed 5,000 sq. ft. Garages or parking structures that are less than 500 s.f. in size are not included in the Floor Area Ratio.

LOT COVERAGE - structures and paved areas (other than driveways) may only cover 35% of the property.

HEIGHT	MAXIMUM HEIGHT AND # OF STORIES
Principal Structures - 10% slope or less	28.5 ft. above natural grade and 2 stories
10% slope or more and uphill	28.5 ft. above natural grade and 3 stories
10% or more downhill slopes	35 ft. above natural grade and 3 stories
Accessory Structures	15 ft. above natural grade and 1 story

HEIGHT OF BUILDING (Chapter 17.008.020) - means the vertical distance measured from a point on the natural grade to the highest point of the structure directly above. At no point shall the height of the building exceed the allowable height above natural grade.

PARKING (Chapter 17.052)

Studio Units - 1 space, 9' x 19' in size

Units of 1 bedroom or more - 2 spaces, 9' x 19' in size and 1 guest space, 9' x 19' in size, if legal on street parking is not available along the immediate frontage of the property

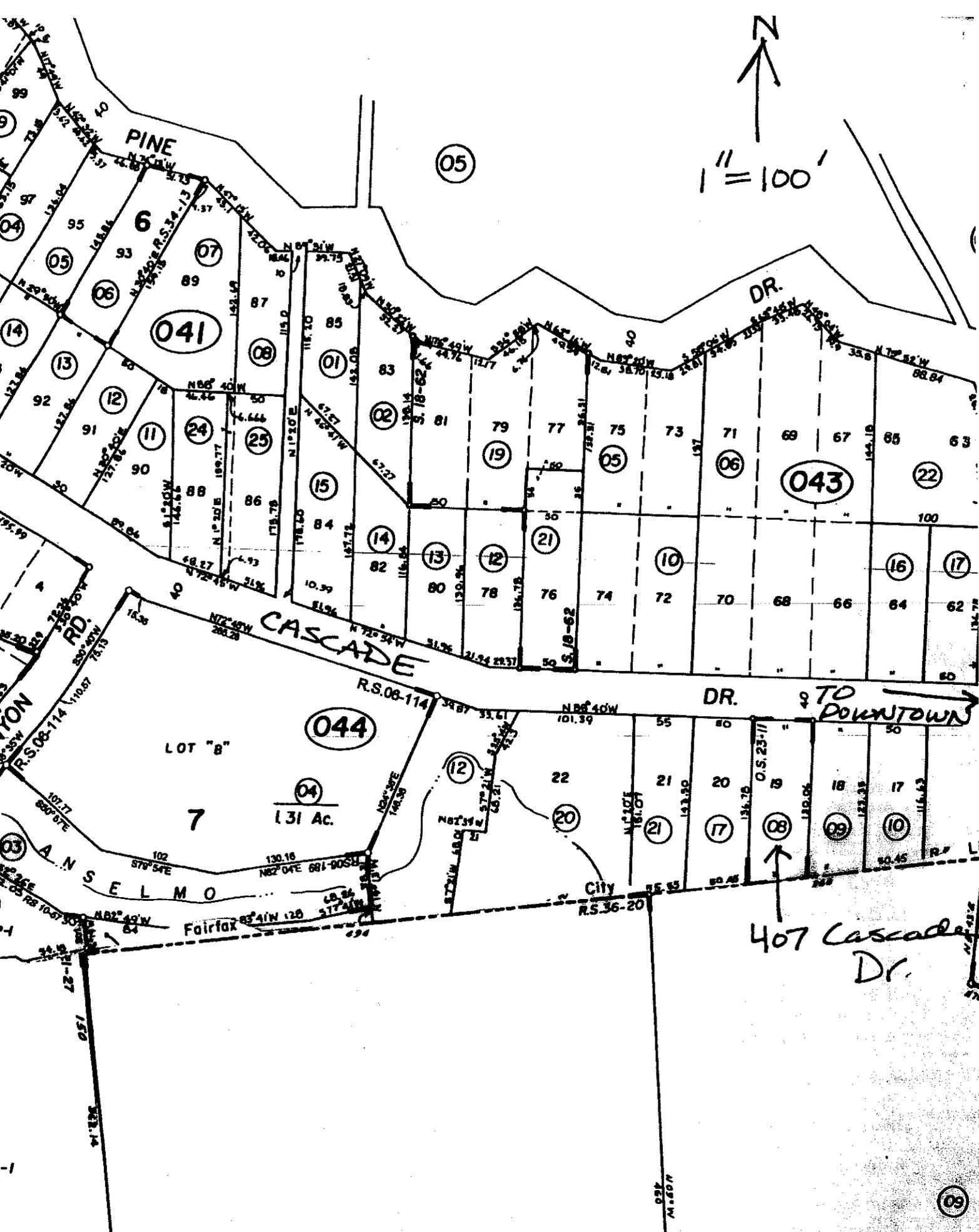
Spaces located parallel to another structure, the curb, sidewalk, or a sloped area, must be a minimum of 9' x 22' in size

In all residential zones, at least one of the required parking spaces must be covered in all zones

Uncovered parking spaces may be located in the front yard setback but not in the side yard setback



1" = 100'



407 Cascade Dr.

TO DOWNTOWN

09
8.0 Ac.

(Open Space District Easement)

EXHIBIT # C

RECEIVED

MAR 01 2012

TOWN OF FAIRFAX

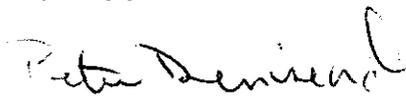
To: Mayor, Members of the Fairfax Town Council
From: Peter Denisevich, 402 Cascade Dr, Fairfax
Date: 29 February 2012
Subject: 407 Cascade Dr Construction

I urge the Council to reject Mr. and Mrs. Collet's appeal of staff's denial of an electrical permit for the shed in the front yard of 407 Cascade Drive. I have lived at 402 Cascade – directly across the street – since 1982. The shed is an eyesore: far too tall and of a style that is best described as ramshackle. The Collets have added an extension to the shed roof that projects even further toward the street, aggravating the problem. Figures 1 and 2 show the impact of the shed on views from the street and from my house. Note that the front fence is at the property line and that the roof extension thus violates even a 10-foot front setback in that it projects more than 2 feet.

The rear yard requirement has already been violated by the major *unpermitted* addition to the house that the Collets have constructed at the rear of the lot (Figure 3). This two-story structure also violates the creek setback *as well as the property lines*. Further encroachment into the combined setback should not be permitted.

The Collets have shown a disregard for the building and planning process and should not be given any leniency in these matters. At the very minimum the shed should be moved back to lessen its visual impact. The proper remedy, however, is abatement.

Very truly yours,



Peter Denisevich
402 Cascade Dr.
Fairfax, CA 94930
(415)-456-7308

Late submittal
from neighbor
AGENDA ITEM # 16

Figure 3: Google Maps view of construction at rear of 407 Cascade; dashed line [added] indicates approximate original structure. (maps.google.com; search "407 Cascade Dr, Fairfax, CA")



Figure 1: View of shed from Cascade Dr.

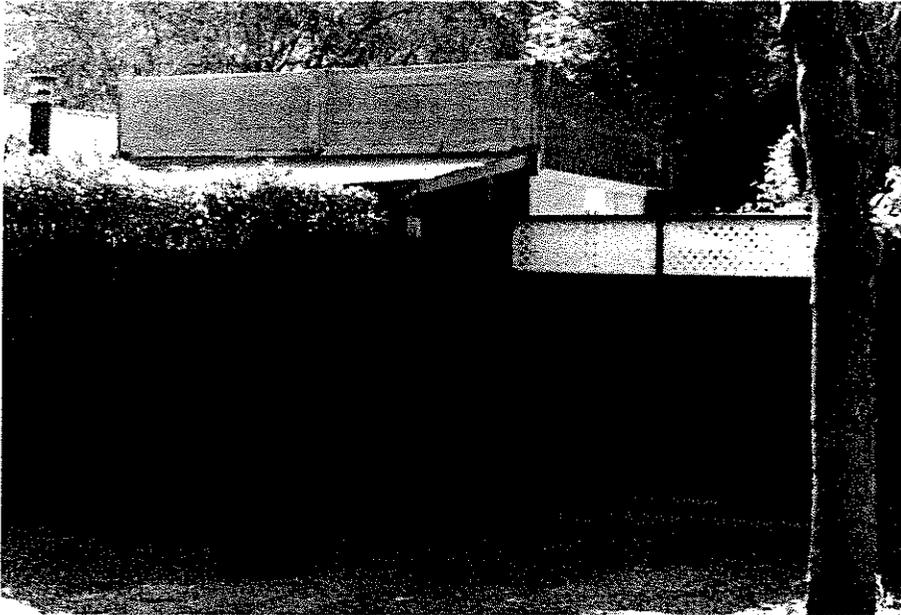


Figure 2: View of from my front windows



