

A variance from the Building Code Board of Appeals may be required for variances from the Zoning Board of Adjustment (no Sign Review Board cases need to call). Please consult a code specialist in the Plan Review Division at 974-2580.

If you need assistance completing this application (general inquires only) please contact Susan Walker, 974-2202; 505 Barton Springs Road, 2<sup>nd</sup> Floor (One Texas Center).

CASE #  
ROW #

C15-2012-0022  
10722389

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

TP-022907-07-06

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

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

STREET ADDRESS: 1210 Payne Ave

LEGAL DESCRIPTION: Subdivision - Violet Crown Heights Section One

Lot(s) 22 Block E Outlot Division

I/We Leo Leidlein on behalf of myself/ourselves as authorized agent for

John Bruce Moskow and Joyce Gibson Moskow  
affirm that on Jan-11, 2011,

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

(check appropriate items below)

\_\_\_ ERECT \_\_\_ ATTACH \_\_\_ COMPLETE ☒ REMODEL \_\_\_ MAINTAIN

Remodel an existing garage whose location and construction was previously permitted by the City of Austin and which is located within the 10' rear and 5' sideyard setbacks. (A Partial Release of Easement has been granted and is on record for the encroachment into the 5' rear PUE.) The remodel would consist of keeping the structure's existing footprint and walls, reframing its roofline to include living space and converting it to a garage apartment.

4'8" from rear p.l. - north  
4'9" from side p.l. - east

in a SF3-NP district.  
(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:

-The existing garage was permitted and approved by the City of Austin for construction on its current site and has been in this location since 1958. The footprint and walls will be retained with minimal height added to the roof line which will not encroach any farther from its current overhangs.

A lack of variance to the rear and sideyard setbacks will only place what would have to be a newly constructed building 5'3" further from the rear lot line and 2" further from the sideyard lot line.--

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**HARDSHIP:**

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

The existing garage was originally permitted by the City of Austin to be constructed in its present location within the 10' rear yard and 5' side yard setbacks. As the concrete slab footprint and walls of the structure will be retained for the proposed remodel it will be more ecological, as well as, a reduction in construction noise on neighbors (tearing down existing structure and jack hammering up existing slab) only to build the same structure 5'3" further from the rear lot line.--

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

There is not an abundance of pre-existing garages built into the 10' rear yard setback that are of adequate size to contain a second floor under the first floor roof line nor do they allow for access through the Public Utility Easement as this building does.

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#### **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:

—There are many 2 story garage apartments throughout the neighborhood and although this proposed remodel will have living space on a second floor this area will be contained within the roofline thus limiting the amount of additional roof size as compared to the existing structure. Additionally, the architecture of the design will be bungalow/craftsman in keeping with the character of the neighborhood. The proposed remodel does not go outside of the footprint of what is already existing. And has already been issued a Partial Easement Release for the area that it encroaches into the 5' Public Utility Easement at the rear of the lot.

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#### **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:
- 
- 

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:
- 
- 

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

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

**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 [Signature] Mail Address 7301 Burnet Rd. Ste. 102-276

City, State & Zip Austin, TX 78757

email heritagewerks@gmail.com

Printed Leo Leidlein - HeritageWerks LLC Phone 512-799-0901  
Date 1/11/2012

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

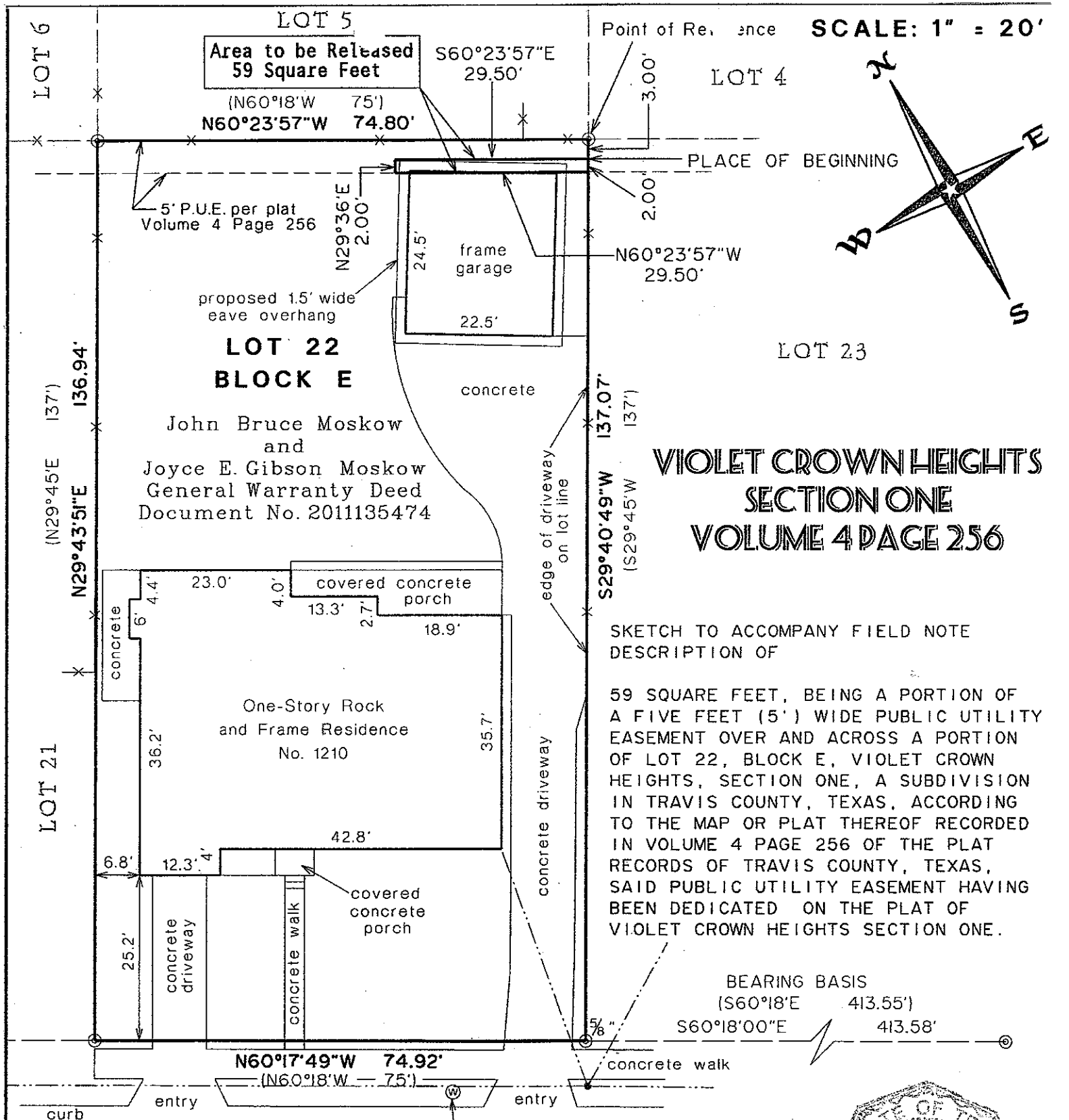
Signed [Signature] Mail Address 2201 Plumbrook Dr

City, State & Zip Austin, TX 78746-6233

Printed Joyce E Gibson Moskow Phone 512-294-7098  
Date 1/11/2012

### GENERAL INFORMATION FOR SUBMITTAL OF A VARIANCE REQUEST TO THE BOARD OF ADJUSTMENT

(The following is intended to provide assistance in explaining the variance process. These suggestions are not intended to be a complete or exhaustive guide in assisting you through this process.)



**PAYNE AVENUE (50')**

## Legend

© ½-Iron Rod Found

—x— Chain-Link Fence

----- Overhead Utility Line  
(Record Bearing and Distance)

PREPARED: November 3, 2011

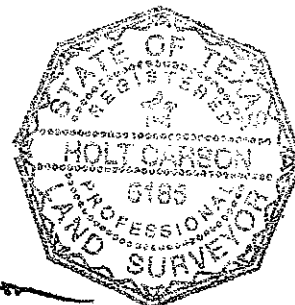
BY:

*Holt Carson*  
Holt Carson

Registered Professional Land Surveyor No. 5166

HOLT CARSON, INC.

1904 Fortview Road Austin, Texas 78704



C 880072



TRV  
5 PGS

2011183852

## PARTIAL RELEASE OF EASEMENT

**Description of Easement and Recording Data:** A 5 foot public utility easement ("Easement") dedicated by instrument recorded in Volume 4, Page 256, Travis County Plat Records, Travis County, Texas.

**Description of portion of Easement to be Released:** That approximately 59 square foot portion of the Easement as described in the attached and incorporated **Exhibit A** (description) and **Exhibit B** (sketch) ("Released Property").

**Easement Grantee:** The City of Austin, Office of Real Estate Services, P.O. Box 1088, Austin, Travis County, Texas 78769-8839.

**Description of Property and Local Address:** Lot 22, Block E, Violet Crown Heights Section One Subdivision, the plat of which is recorded in Volume 4, Page 256 of the Travis County Plat Records, locally known as 1210 Payne Avenue, Austin, Texas.

**Current Owner of Property and Address:** John Bruce Moskow and Joyce E. Gibson Moskow, 2201 Plumbrook Drive, Austin, Travis County, Texas 78746.

**Consideration:** TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged.

Grantee, the City of Austin, has determined that the Released Property, which is a portion of the Easement, is not now needed and will not be required in the future, since the Released Property portion of the Easement is surplus.

Grantee, for the consideration herein recited, acting by and through its duly authorized City Manager or designee releases the Released Property from the Easement.

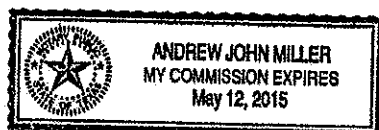
EXECUTED this the 15<sup>th</sup> day of December, 2011.

City of Austin

By: Lauraine Rizer  
Lauraine Rizer, Officer  
Office of Real Estate Services *CAW*

STATE OF TEXAS  
COUNTY OF TRAVIS

This instrument was acknowledged before me on December 15<sup>th</sup>, 2011, by Lauraine Rizer, Officer, Office of Real Estate Services, City of Austin, a Texas municipal corporation, on behalf of said corporation.



[Signature]  
Notary Public, State of Texas

# HOLT CARSON, INC.

## PROFESSIONAL LAND SURVEYORS

1904 FORTVIEW ROAD

AUSTIN, TEXAS 78704

TELEPHONE: (512) 442-0990

FACSIMILE: (512) 442-1084

www.hciaustin.com

Exhibit A

PARTIAL RELEASE OF EASEMENT

"EXHIBIT A"

Page 1 of 2

FIELD NOTE DESCRIPTION OF 59 SQUARE FEET, BEING A PORTION OF A FIVE FEET (5') WIDE PUBLIC UTILITY EASEMENT, TO BE RELEASED, OVER AND ACROSS A PORTION OF LOT 22, BLOCK E, VIOLET CROWN HEIGHTS SECTION ONE, A SUBDIVISION IN TRAVIS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 4 PAGE 256 OF THE PLAT RECORDS OF TRAVIS COUNTY, TEXAS, SAID LOT 22 HAVING BEEN CONVEYED TO JOHN BRUCE MOSKOW AND JOYCE E. GIBSON MOSKOW BY GENERAL WARRANTY DEED RECORDED IN DOCUMENT No. 2011135474 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND SAID PUBLIC UTILITY EASEMENT HAVING BEEN DEDICATED BY THE SUBDIVISION PLAT OF VIOLET CROWN HEIGHTS SECTION ONE, AND SAID 42 SQUARE FEET BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING FOR REFERENCE at a 1/2" iron rod found for the common corner of Lot 4, Lot 5, Lot 22, and Lot 23, Block E, Violet Crown Heights Section One, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 4 Page 256 of the Plat Records of Travis County, Texas, and from which a 5/8" iron rod found in the North right-of-way line of Payne Avenue for the South common corner of said Lot 22 and Lot 23 bears S 29 deg. 40' 49" W 137.07 ft., and also from which a 1/2" iron rod found for the common corner of Lot 5, Lot 6, Lot 21 and Lot 22, of said Block E, Violet Crown Heights Section One, bears N 60 deg. 23' 57" W 74.80 ft.;

THENCE entering the interior of that certain five feet (5') wide Public Utility Easement having been dedicated by the plat of Violet Crown Heights Section One, with the common line of said Lot 22 and Lot 23, S 29 deg. 40' 49" W 3.00 ft. to a point for the Northeast corner and **PLACE OF BEGINNING** of the herein described portion to be released;

THENCE continuing across the interior of said Public Utility Easement with the common line of said Lot 22 and Lot 23, S 29 deg. 40' 49" W 2.00 ft. to a point in the South line of said Public Utility Easement for the Southeast corner of this portion to be released;

end of Page 1

PARTIAL RELEASE OF PUBLIC UTILITY EASEMENT (59 Square Feet)

THENCE entering the interior of said Lot 22 with the South line of said Public Utility Easement, N 60 deg. 23' 57" W 29.50 ft. to a point for the Southwest corner of this portion to be released;

THENCE continuing across the interior of said Lot 22 and re-entering the interior of said Public Utility Easement, N 29 deg. 36' E 2.00 ft. to a point for the Northwest corner of this portion to be released;

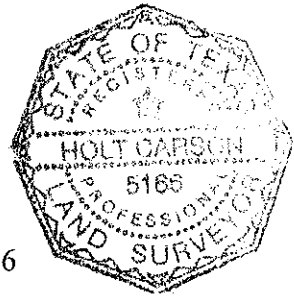
THENCE continuing across the interior of said Lot 22 and across the interior of said Public Utility Easement, S 60 deg. 23' 57" E 29.50 ft. to the **PLACE OF BEGINNING**, containing 59 square feet of land.

PREPARED: November 3, 2011



Holt Carson

Registered Professional Land Surveyor No. 5166



see accompanying sketch: C 880072

REFERENCES:

TCAD Parcel No. 02 2907 07 06

City of Austin Grid K28

FIELD NOTES REVIEWED

By: CLARK DANIEL Date 12-01-2011

Engineering Support Section  
Department of Public Works  
and Transportation





**AFTER RECORDING, RETURN TO:**

City of Austin  
Office of Real Estate Services  
505 Barton Springs Rd., Suite 1350  
Austin, TX. 78704

Attn: Jennifer Grant

File No. 9002-1111  
John Bruce Moskow and Joyce E. Gibson Moskow

Exhibit List  
Exhibit A – Property Description  
Exhibit B – Sketch

Recorders Memorandum-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

**FILED AND RECORDED**

OFFICIAL PUBLIC RECORDS

*Dana DeBeauvoir*

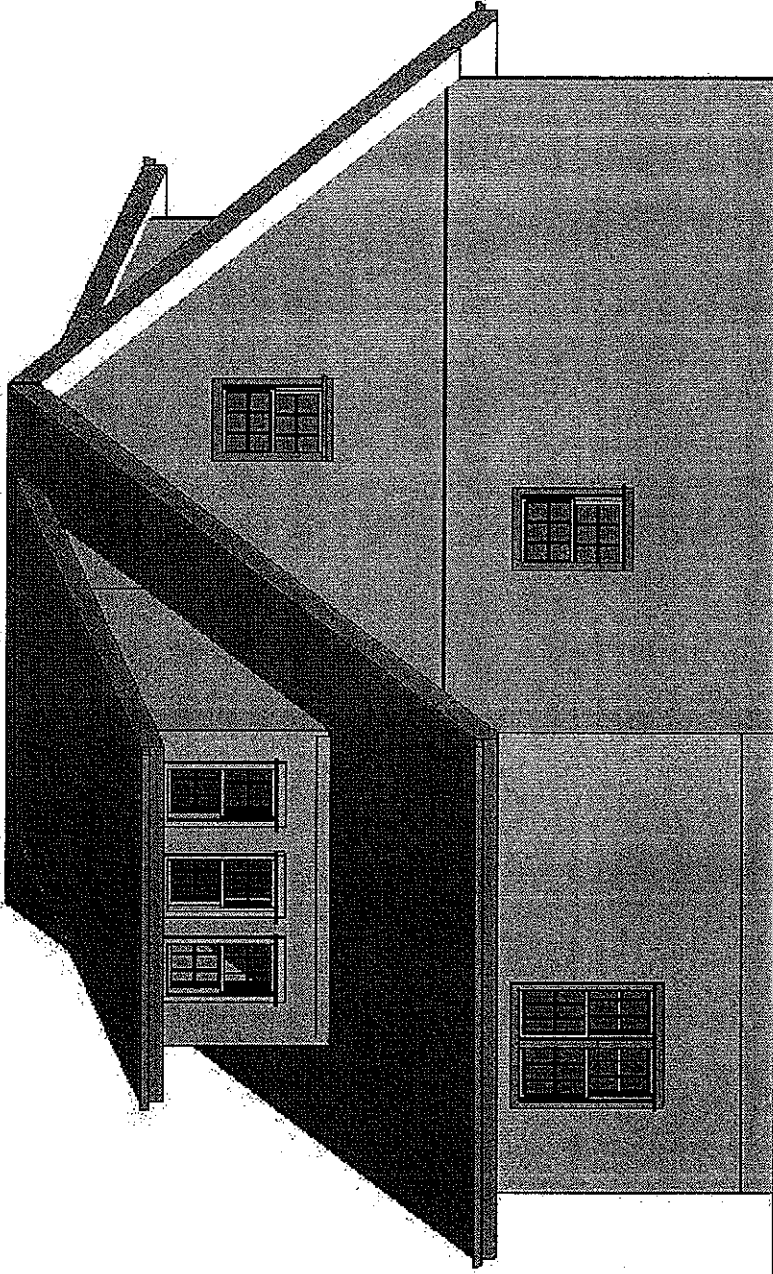
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2011183852

MACRADOP: \$32.00

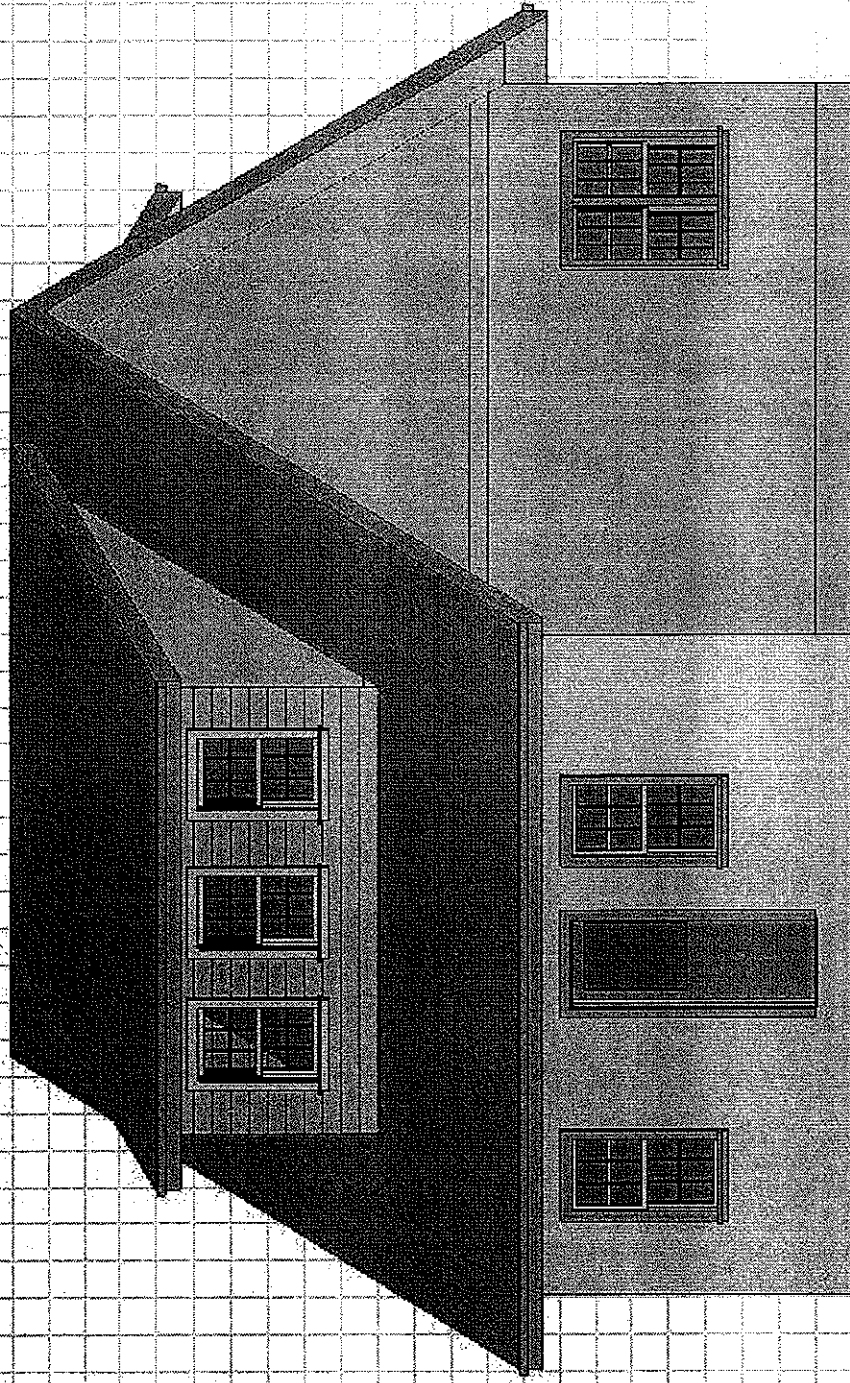
Dana DeBeauvoir, County Clerk

Travis County TEXAS



1210 PAYNE AVE  
NORTHWEST ELEVATION





1210 PAYNE AVE  
SOUTHEAST ELEVATION

1210 PAYNE AVE



N

[illegible]

HERITAGEWERKS LLC  
7301 BURNET RD  
STE. 102-276  
AUSTIN, TX 78757

PREPARED 1/10/2012

Google

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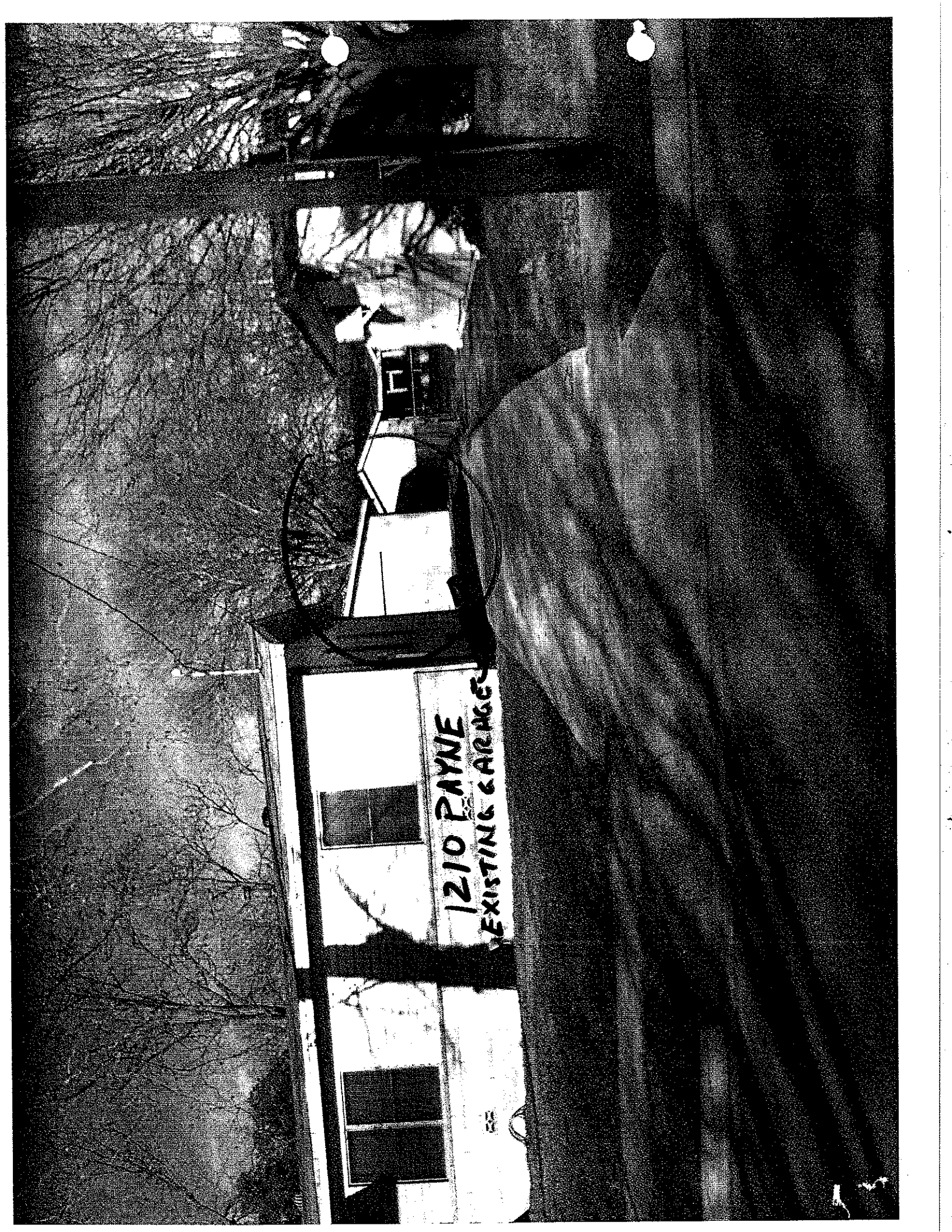
Existing garage at 1210 Payne Ave.

1210 PAYNE GARAGE



1210 PAYNE

EXISTING GARAGE

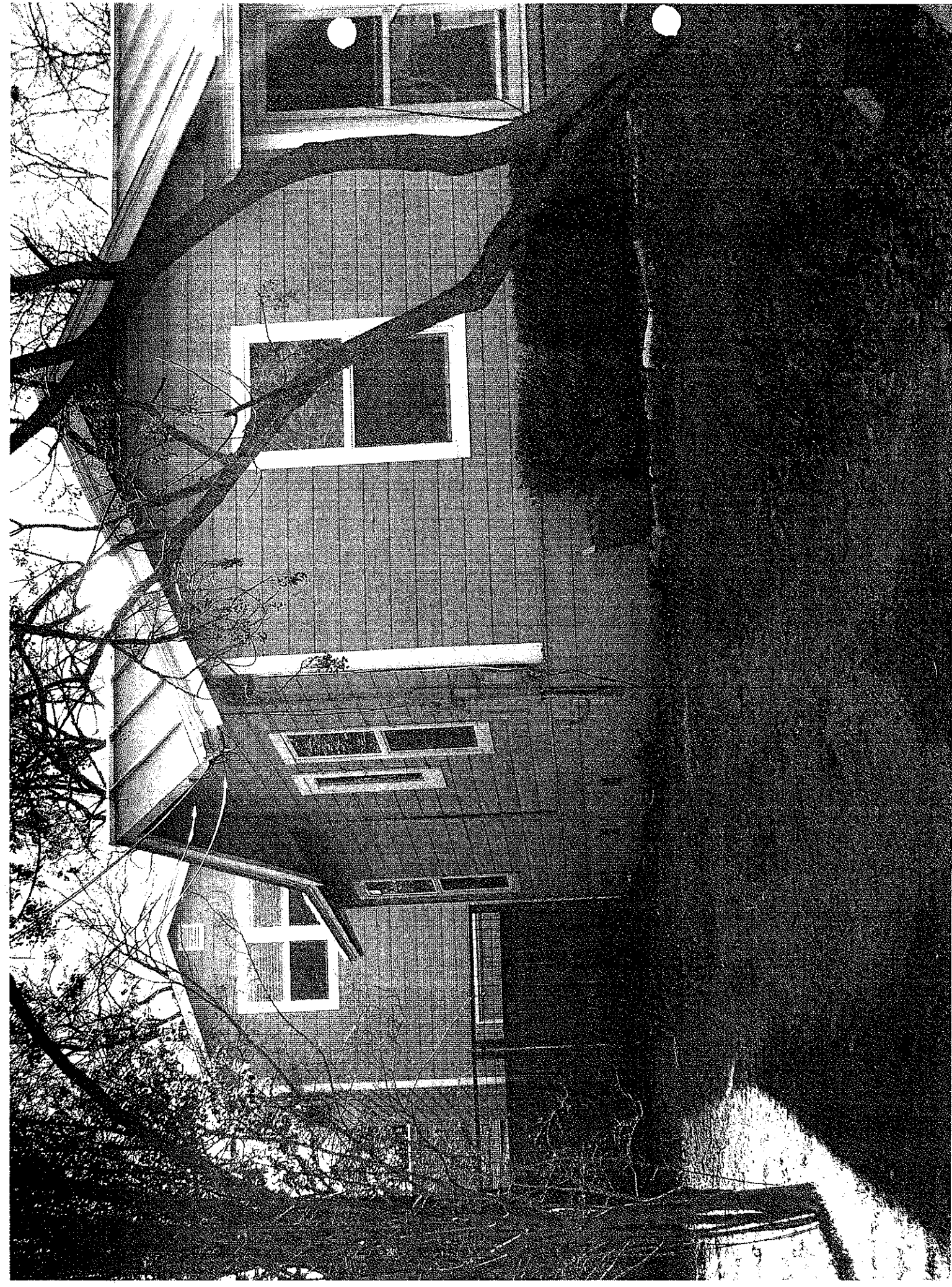




1207 KAREN AVE



1903 ALGONO



1307 PAYNE AVE



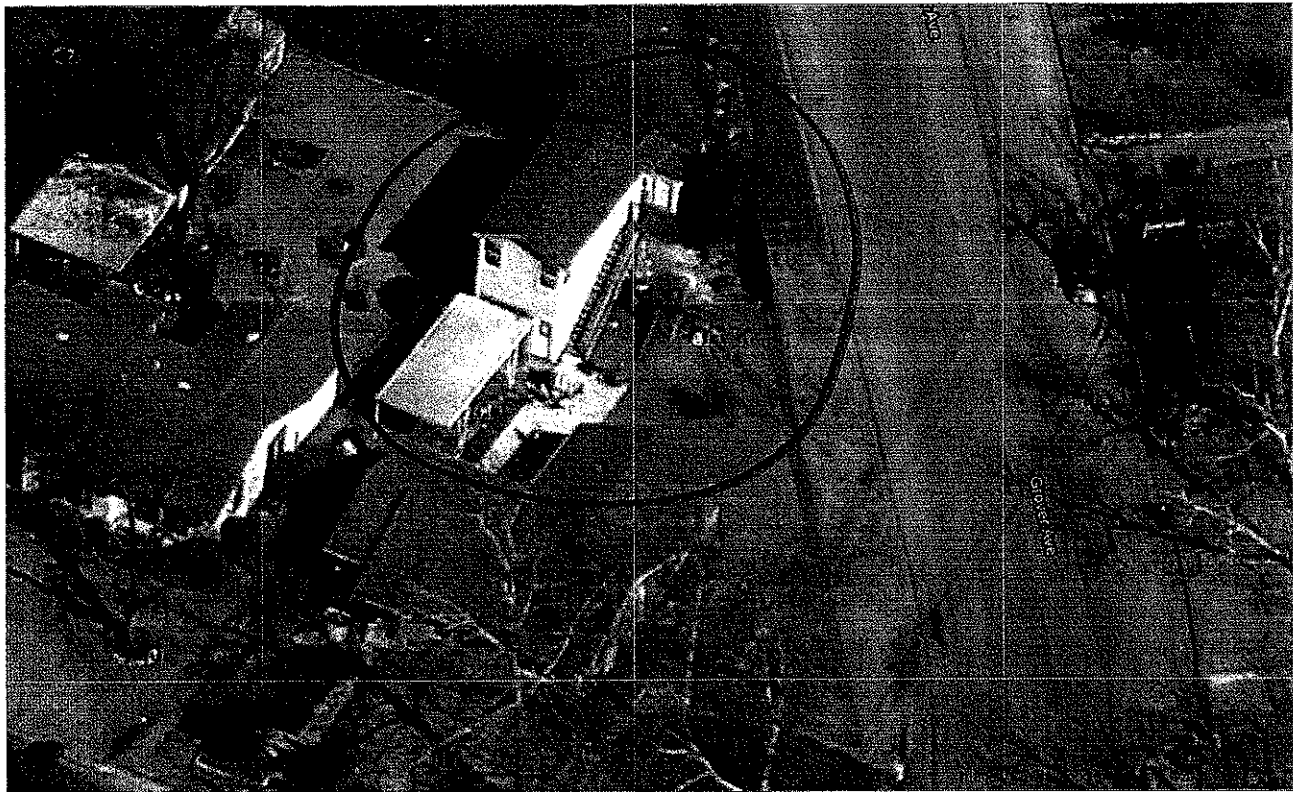




1307 PAYNE AVE

Google

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1200 MADISON

Google

To see all the details that are visible on the screen, use the "Print" link next to the map.



1710 CULLEN GARAGE

Google

To see all the details that are visible on the screen, use the "Print" link next to the map.



1710 CULLEN



H. O. Raven

1210 Payne Ave.

312

22

E

Violet Crown Heights

Double Garage Detached

68774

3/25/58

1300.00

Allied Lbr. Co.

none

DOUBLE GARAGE

Zoning Ordinance  
in 1956

Required a 5'  
rear setback, and  
a 5' side yard  
setback.