

C15-2012-0071

NOTICE OF APPEAL INFORMATIONRow-
10769591
TP-014408-02-
25

Austin City Code ARTICLE 7. APPEALS, VARIANCES, SPECIAL EXCEPTIONS, AND ADJUSTMENTS.

Division 1. Appeals

(see page 2 of 2 for appeal process)

**Planning and Development Review Department**

Address of Property in Question

7600 DOWNRIDGE DR.

Permit Number

2012-032828 BP

Appellant Filing Appeal

BETTY EPSTEIN

Relationship to Property

INTERESTED PARTY Adjacent Property OWNER

Appellant's status as Interested Party

Registered see attached letter

Appellant Contact Information

Permit Holder Contact Information

Name

BETTY EPSTEIN

Name

Street

7620 PARKVIEW CR.

Street

City

Austin, TX. 78731

State

Zip

City

State

Zip

Telephone

(512) 413-8803

Telephone

E-Mail

betty_e@msn.com

E-Mail

Date of Decision Being Appealed:

Date Appeal is Filed:

Decision being appealed: (use additional paper as required)

25-1-182

Administrative Decision By Planning and Development
Review Department to Approve Application, Plans and
Resulting Issuance of Building Permit. 2012-028461 PR/
2012 032828 BP

Reason the appellant believes the decision does not comply with the requirements of the Land Development Code (Title 25)

* see Attached Notice of Appeal Information (cont.)
Addendum
(2 pages)

BELOW FOR CITY USE ONLY

Hearing Date:

Board or Commission:

Action on Appeal:

Date of Action

Form Bldg 101 Page 1 of 2

The applicant must complete page 2 of 2 and sign before this application of appeal is complete. The
application will not be processed unless the applicant reads and signs page 2 of 2.



SUBJECT TRACT



ZONING BOUNDARY

CASE#: C15-2012-0071
LOCATION: 7600 DOWNRIDGE DRIVE



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 the Planning and Development Review Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

Notice of APPEAL INFORMATION (continued)

Addendum

Re: 7600 Downridge Drive. 2012-028461 PR / 2012-032828 BP

Reason the appellant believes the decision does not comply with requirements of the LDC (Title 25)

1. LDC 25-2-555 was used to allow a 5 ft rear setback for a (re-labeled) 1 story accessory structure, which is labeled a cabana. Applicant has finished out the inside of this structure as a full 2nd residence on the property, as was noted by Code Enforcement. The City is only requiring the kitchen sink to be disconnected and is allowing all other aspects of this full dwelling unit to remain. Some City staff claims that without a kitchen sink, this structure does not meet the classification of a dwelling unit, despite the Applicant's statements that the purpose of this structure is to provide a living space for her Mother. A dwelling unit cannot be labeled as an Accessory Use.
2. In order to qualify for a 5 foot rear setback under 25-2-555, the structure must be an "Accessory **BUILDING**" (not USE); however, this building is claiming to be attached to the principle residence (as is required by Deed Restrictions) and therefore does not meet the requirement of being an Accessory Building, since there is only one building on the site.
3. You cannot have a detached structure that is attached. If it is all connected together then it is not an Accessory Building.
4. If it is attached to the house then it is a 2-story structure. Rear setback for a 2-story accessory structure is 10 feet.
5. 25-1-21 (120) defines USE. An Accessory Use is by definition 'incidental to' a principal use. A cabana is an accessory USE in the family of gazebos, storage rooms, playhouses, and patios per 25-2-893. This proposed structure is a nearly 400 square foot unit with a full bath, kitchen and living quarters. I believe this is an apartment intended to be inhabited as a residence and has been incorrectly classified.
6. Asst. Dir. Don Birkner has stated in writing that an accessory use cannot be used for habitation.
7. Leon Barba has stated that in order for a person to dwell in a structure, it **MUST** have a kitchen sink. Therefore, City has issued a permit for an intended use that will immediately be a violation of City Code. City should at least inform the Applicant that habitation of this structure is prohibited and provide a copy of same to the interested party.
8. If this structure is to be used as a residence/dwelling unit, a 10- foot rear setback is required.
9. Use of this structure as a 2nd dwelling unit will violate Deed Restrictions, which Applicant pledged to abide by on the BP application. The Vista West 3 deed restrictions, state: "No building will be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling.....with attached garage"
10. BP application and plans shows the NE corner of Cabana 'to be enclosed' labeled incorrectly as a 'covered PORCH'. BP is 'TO ENCLOSE existing covered

PORCH at NE corner of cabana'. This is/was a 'Covered DECK' not a porch as noted in applicant's BOA application & notification, on '97 site plan, and on 1980 BP when it was constructed. All these show this as COVERED WOOD DECK. I also have photos of this DECK. The permit is 'TO ENCLOSE' a porch.

11. Due to un-permitted additions and alterations, this structure has lost any legal non-complying status. All decks require modification to comply with 10-foot rear setback as per code. This existing COVERED DECK 'TO BE ENCLOSED' was OUTSIDE the existing accessory structure, not part of it. This EXISTING COVERED DECK ' cannot be given special privilege or amnesty having been recently illegally enclosed and must be required to have the same 10-foot rear setback as the rest of the same level decks to be compliant. The re-labeling appears to be an attempt to circumvent the 10-foot rear setback requirement of the LDC for this portion of the deck.
12. Article 2.6. in McMansion Ordinance SUBCHAPTER F: prescribes side and rear setback planes in order to minimize the impact of new development and rear development on adjacent properties. The NE corner DECK AREA 'to be enclosed' is in the most extreme close proximity to my home and creates the most negative impact to me in terms of privacy and incompatibility.
13. Numerous discrepancies, re-labeling and other contradictions and inconsistencies exist throughout BP and other applications, site plans, floor plans, and other support documents, backup material and permits scanned into system. Some examples: the accessory structure is variously represented as a 1-story, 2-story, 2nd story addition, guesthouse, garage apartment, cabana, 2-family residential, single-family, remodel, addition, variously attached/detached garage or BOTH as in application where garage is attached but cabana is detached (same structure), a deck re-labeled a porch. There are numerous others I can supply including in the permit itself. Applicant certified all information in the BP application to be complete and accurate.
14. Permit is for a 3.5 bath, the BP application is a 4-bath.
15. PR states proposed change of use- Yes. There are no existing permits for another use.
16. Permit states Rear setback is 10'
17. PR states existing garage is DETACHED
18. This structure has suddenly been re-labeled as a 1-story, which is semantics from my perspective. The building I look at appears to be a 2-story. The building is nearly 25 feet tall. Numerous support documents show this accessory building to be a 2-story. There is another BP entered specifying a 2nd story detached structure. A 2-story accessory structure requires a 10-foot setback. I do not agree with the classification now as a 1-story. I believe this re-labeling was used to circumvent the LDC.
19. Applicant failed to apply for the required demolition permit for removal of previously constructed exterior walls.
20. Applicant built structural piers (which the City approved) without any engineering design, plans or approvals.
21. Erosion and sedimentation controls have not been provided as required by 25-8-181 and referenced in the BP application.

Appeal Process

You may appeal by following the following Land Development Code requirements. You must complete the form with all information required as listed below.

ARTICLE 7. APPEALS, VARIANCES, SPECIAL EXCEPTIONS, AND ADJUSTMENTS.

Division 1. Appeals.

§ 25-1-181 STANDING TO APPEAL.

- (A) A person has standing to appeal a decision if:
- (1) the person is an interested party; and
 - (2) a provision of this title identifies the decision as one that may be appealed by that person.
- (B) A body holding a public hearing on an appeal shall determine whether a person has standing to appeal the decision.

Source: Section 13-1-250; Ord. 990225-70; Ord. 030828-65; Ord. 031211-11.

§ 25-1-182 INITIATING AN APPEAL.

An interested party may initiate an appeal by filing a notice of appeal with the responsible director or building official, as applicable, not later than:

- (1) the 14th day after the date of the decision of a board or commission; or
- (2) the 20th day after an administrative decision.

Source: Section 13-1-251(a); Ord. 990225-70; Ord. 031211-11.

§ 25-1-183 INFORMATION REQUIRED IN NOTICE OF APPEAL.

The notice of appeal must be on a form prescribed by the responsible director or building official and must include:

- (1) the name, address, and telephone number of the appellant;
- (2) the name of the applicant, if the appellant is not the applicant;
- (3) the decision being appealed;
- (4) the date of the decision;
- (5) a description of the appellant's status as an interested party; and
- (6) the reasons the appellant believes the decision does not comply with the requirements of this title.

Source: Section 13-1-251(a); Ord. 990225-70; Ord. 010329-18; Ord. 031211-11.

By signing this document, I attest to having read and understand my rights as granted by the Land Development Code for the process for appealing a ~~stop work order, remove or restore order, revocation, or suspension.~~ *the subject Building Permit.* *HB*

4/25/2012
Date:

BETTY EPSTEIN
Printed Name:

Betty Epstein
Signature:

April 24th. 2012

Aggrieved Party's Standing to Appeal
Interested Party Status:

Property: 7600 Downridge Drive
Austin, Tx. 78731
Lot 24, Block J, Vista West III
Zoning District SF3

Registered Interested Party: Betty Epstein
Adjacent Property Owner
7620 Parkview Circle
Austin, Tx. 78731
(512) 413-8803

25-1-181/ 25-1-183

I am registered as an interested party to this permit file 2012-028461 PR, 2012-032828 BP as well previous PR 2011-095626 files and BOA case file C15-2011-0138 for this property.

§ 25-1-131 INTERESTED PARTIES.

- I have registered my Interested party status with Greg Guernsey and John McDonald among others on multiple occasions. Please see attached emails.

A 2) I have communicated my interest in the matter.

I have both spoken to in person and by phone as well communicated via email with Greg Guernsey and John McDonald my interest and concerns regarding the re-development of this property numerous times over the last several months.

On March 29th, 2012 I discovered the PR file with building plan permit pending review for the above address. I communicated immediately that same day to both John McDonald and Greg Guernsey registering several concerns along with requesting the plans and information in the application file be provided me and re-registering my status. I did receive confirmation of my interested party status On March 30th from both Greg Guernsey and John McDonald for this building permit with the file still pending review. In recent days I have spoken also to Leon Barba and Don Birkner regarding concerns about this building permit.

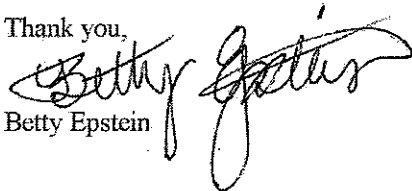
25-1-131

- A 2) a) I occupy a primary residence that is within 500 feet of the site of the proposed development. I am an adjacent property owner and share a back lot line with the subject property.

I am confirming my status to Appeal these administrative decisions.

Thank you,

Betty Epstein



Main Identity

From: "McDonald, John" <John.McDonald@austintexas.gov>
To: <betty_e@msn.com>
Cc: "Guernsey, Greg" <Greg.Guernsey@austintexas.gov>; "Villarreal, Victor" <Victor.Villarreal@austintexas.gov>; "Gibbs, Carol" <Carol.Gibbs@austintexas.gov>; "Haught, Kathy" <Kathy.Haught@austintexas.gov>; "Cain, Darren" <Darren.Cain@austintexas.gov>
Sent: Friday, March 30, 2012 10:22 AM
Subject: RE: 2012-028461 PR 7600 Downridge Drive (2011-095626 PR)

Betty,

I will make sure you are added to the interested party spreadsheet for the building permit number listed in the subject line above. The plans have not been reviewed to date and will more than likely be reassigned to another reviewer. If you need to stop by and take a look at the plans or make copies let me know and I can set that up.

Respectfully,
John M. McDonald
Development Services Manager
Residential Review/PDRD
974-2728 - Office
john.mcdonald@austintexas.gov

From: Guernsey, Greg
Sent: Friday, March 30, 2012 8:19 AM
To: 'betty_e@msn.com'; McDonald, John
Cc: Villarreal, Victor; Gibbs, Carol; Haught, Kathy
Subject: RE: 2012-028461 PR 7600 Downridge Drive (2011-095626 PR)

Hi Betty:

I will speak with Staff this morning about your request. Regarding interested party status, information is usually given to an interested party about a particular application once its reviewed staff.

I understand with your e-mail (e-mail attached) sent yesterday you are also registering as an interested party on the new application filed that was filed on March 26th and referenced in the link below.

https://www.austintexas.gov/devreview/b_showpublicpermitfolderdetails.jsp?FolderRSN=10739398

Greg

From: betty_e@msn.com [mailto:betty_e@msn.com]
Sent: Thursday, March 29, 2012 1:20 PM
To: Guernsey, Greg
Subject: 2012-028461 PR 7600 Downridge Drive (2011-095626 PR)

Greg-

I have become aware of plans submitted on this property. **Why wasn't I provided this information as a registered interested party?** Can you please follow up on this and what other information in the file I have not received. (last receipt of anything was from you on December 5th) I would like to have this information including the full application packet no later than noon tomorrow, March 29th.

Also per our earlier conversation, I understand no building permits can be issued for this latest non-

4/24/2012

To: betty_e@msn.com
Cc: Barba, Leon ; Birkner, Donald
Sent: Friday, April 13, 2012 11:38 AM
Subject: 7600 Downridge Drive - 2012-032828 BP

Betty,

Attached to this email is the 2 page Appeal Form ("Bldg 101") to be used for appealing the building permit (2012-032828 BP) that has been issued for 7600 Downridge Drive.

On the form, you will need to state your reasons for why you believe that the issuance of the building permit for 7600 Downridge Drive does not comply with the requirements of the Land Development Code (Title 25).

Your reasons should include specifically what code section or sections you feel this permit approval does not comply with. If you do not know the exact code citations, you can use plain language to state specifically why you believe the permit should not have been issued.

The Code references to the appeal process can be found in Title 25, Article 7, Division 1 of that same Land Development Code. The decision you are wanting to appeal is an "administrative decision", as referenced under 25-1-182 (2) on page 2 of the attached form.

As the form also explains, this type of appeal must be filed within 20 days of the date the permit was approved, which was **April 6, 2012**. Therefore, the appeal must be received by the PDR Department before 5 PM on **Friday, April 26, 2012**.

You may submit the completed appeal form in any of 4 manners:

1. Hand-deliver it to the PDRD Receptionist on the 5th floor of One Texas Center, 505 Barton Springs Road, 5th floor, between 8:00AM and 4:45PM Monday-Friday. You may ask that the receptionist date-stamp it.
2. Mail it via US Postal Service to Mr. Leon Barba, Building Official, City of Austin, PO BOX 1088, Austin, TX 78767.
3. Scan it and attach it to an email addressed to Leon.Barba@austintexas.gov.
4. Fax it to **512-974-2235**, Attention: Leon Barba, Building Official

Mr. Barba can also be reached at or **512-974-7254**. He will be your contact from this point forward for this appeal and all related questions.

Jody Zemel

Jody Zemel | Neighborhood Advisor | Neighborhood Assistance Center
Planning and Development Review Department | City of Austin
505 Barton Springs Road, Room 530 | Austin, Texas 78704

Jody.Zemel@austintexas.gov
Phone: 512.974.7117
Fax: 512.974.2269

Please note: E-mail correspondence to and from the City of Austin is subject to requests for required disclosure under the Public Information Act

From: McDonald, John
Sent: Thursday, April 12, 2012 1:54 PM

4/24/2012

Notice of APPEAL INFORMATION (continued)

Re: 7600 Downridge Drive. 2012-028461 PR / 2012-032828 BP

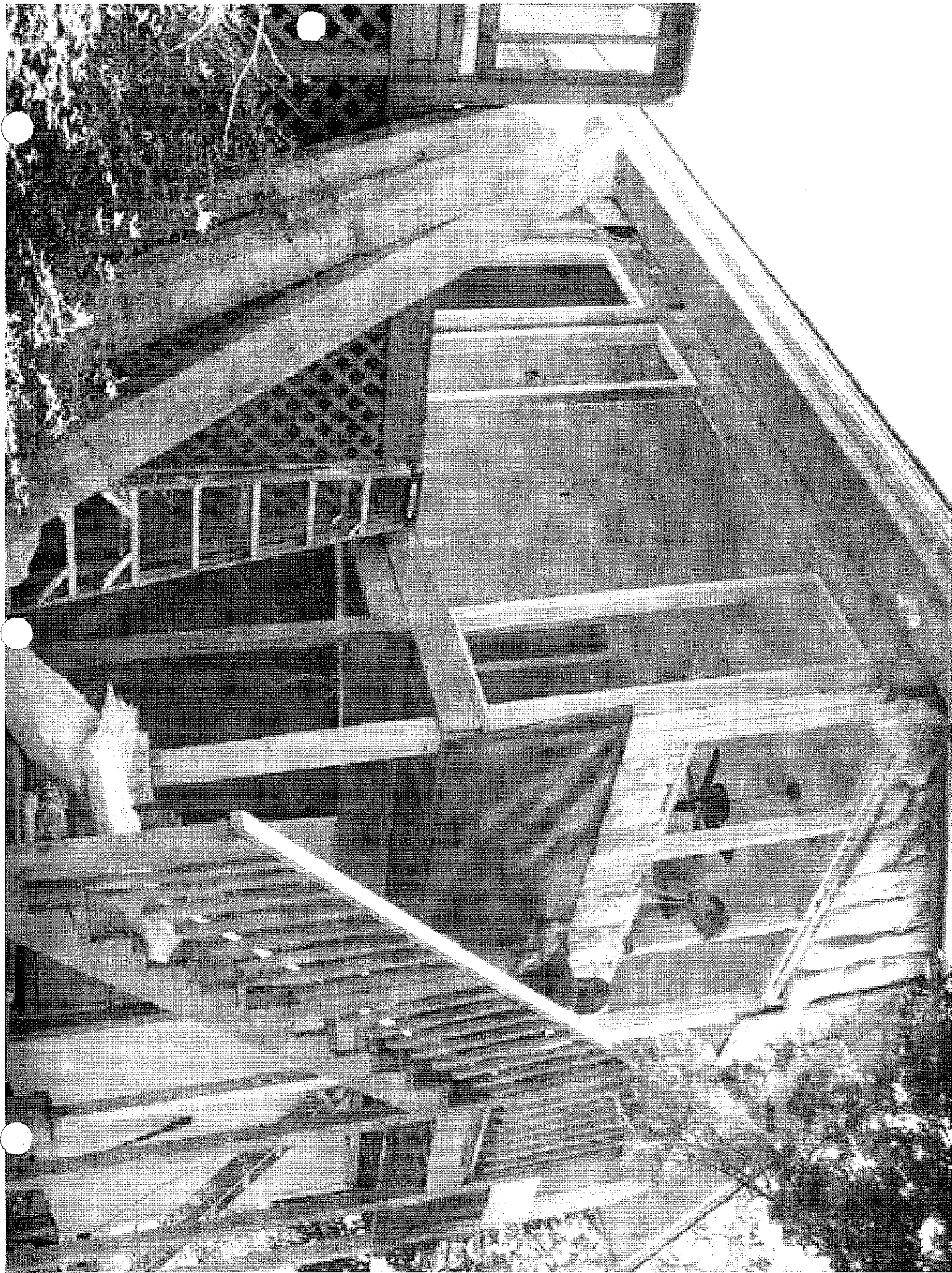
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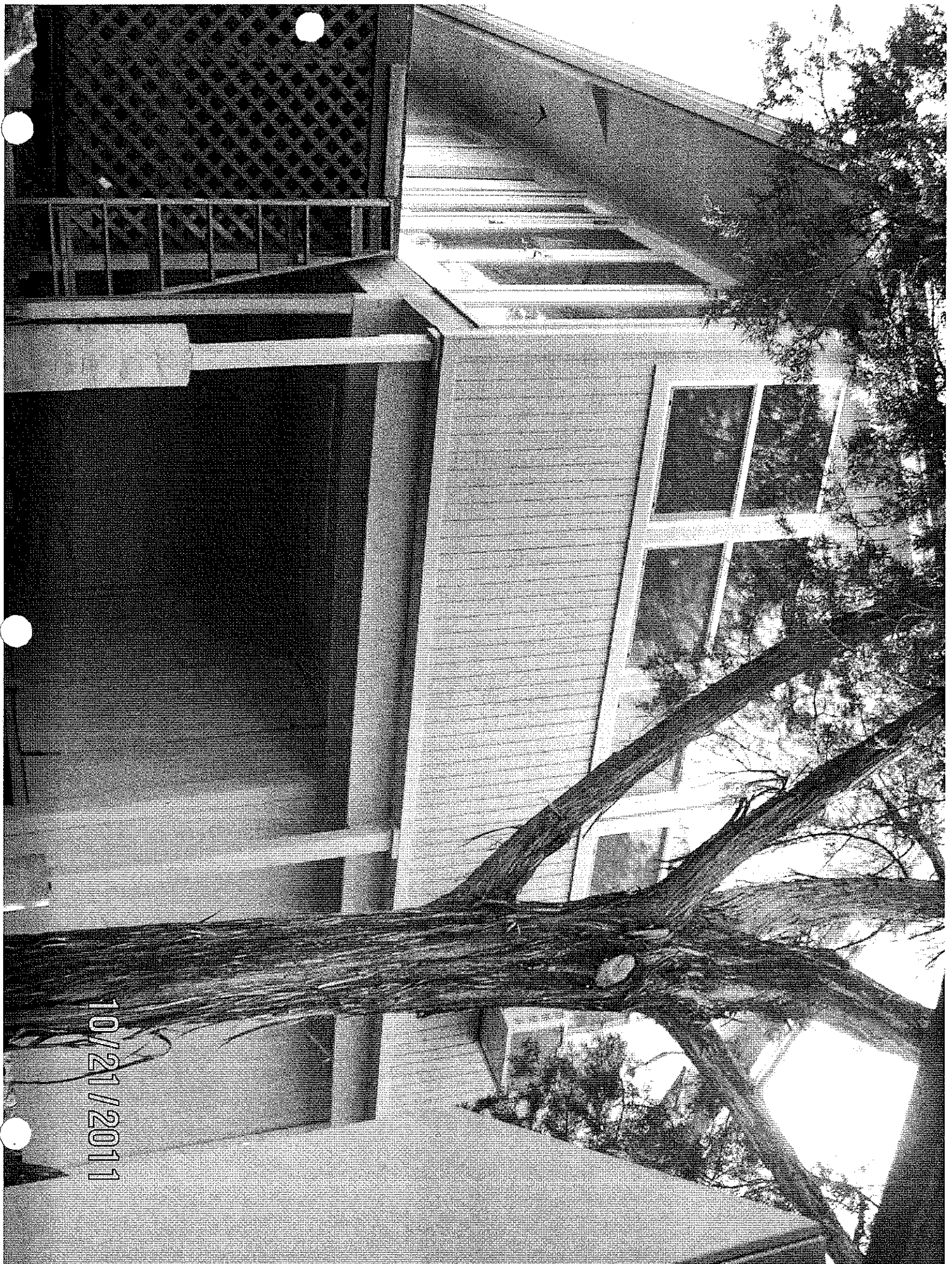
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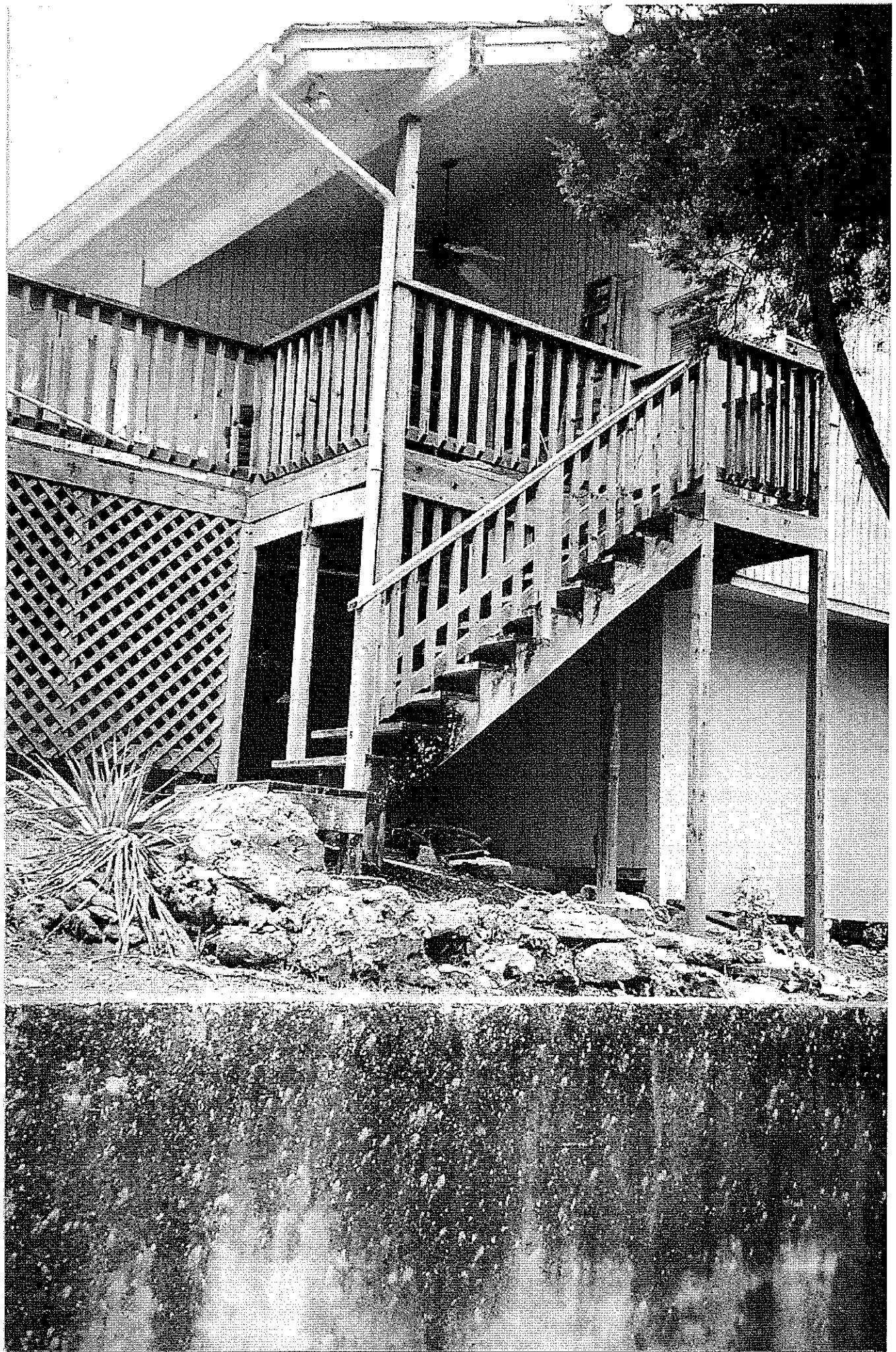
21. Erosion and sedimentation controls have not been provided as required by 25-8-181 and referenced in the BP application.
22. Applicant's accessory structure causes concentrated stormwater flows to adversely impact the adjacent downstream properties by flooding, and erosion.
23. Applicant's structure was reviewed under Subchapter F (McMansion Rules), yet violates Section 1.1 of the ordinance: which is designed to protect adjacent property owners. The INTENT is to minimize impact of new construction, remodeling and additions to existing buildings on surrounding properties in residential neighborhoods. Standards are designed to protect the character of Austin's older neighborhoods by ensuring that new construction and additions are compatible in scale and bulk with existing neighborhoods. The proximity of the proposed cabana enclosure/addition and other modifications to the accessory structure do not meet the criteria.
24. This structure, especially this proposed deck area enclosure with walls of glass and most certainly as living quarters, is not compatible in scale or bulk and greatly impacts my quality of life and privacy. Factoring the severe slope between our properties, the finished floor of their structure towers over my kitchen, master and office windows, all the rooms I spend the most time in on a daily basis, by 20 feet. Because of their higher elevation, the impact of this building is equivalent to a 3-story structure approximately 18 feet from my back door.
25. The cumulative impact of their addition and modifications and addition to this structure has impaired the use of my adjacent property in terms of privacy, drainage, erosion, resale value, exterior lighting glare, air conditioning systems placement and noise.
26. I believe the terms of the ordinance should be applied with and understanding of the purpose of the ordinance.

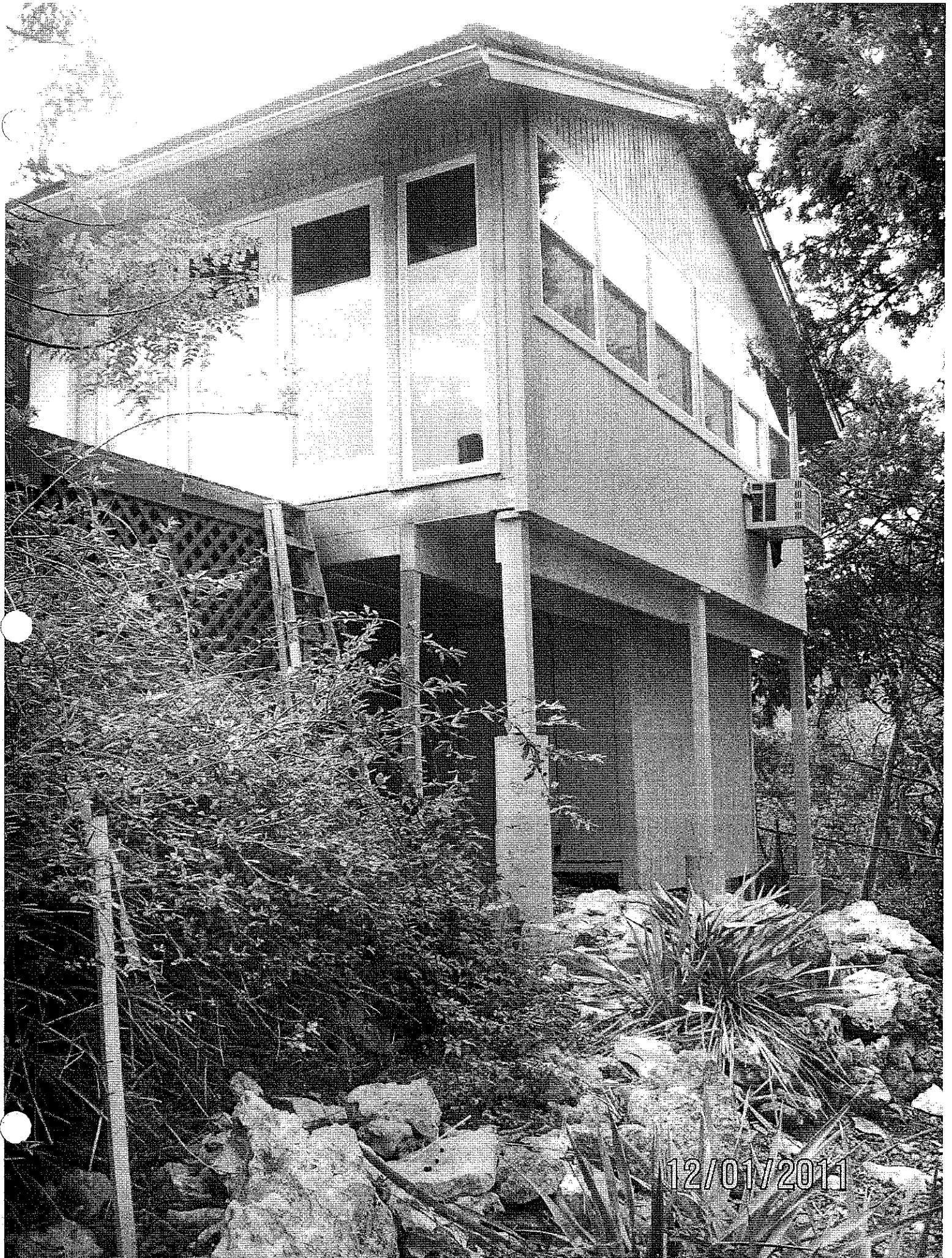
- If permit issued allows someone to live in reside or dwell in the accessory unit then I challenge the interpretation as a single-family accessory 'cabana'.
- It is not reasonable to approve a permit that will establish a structure for an illegal use.



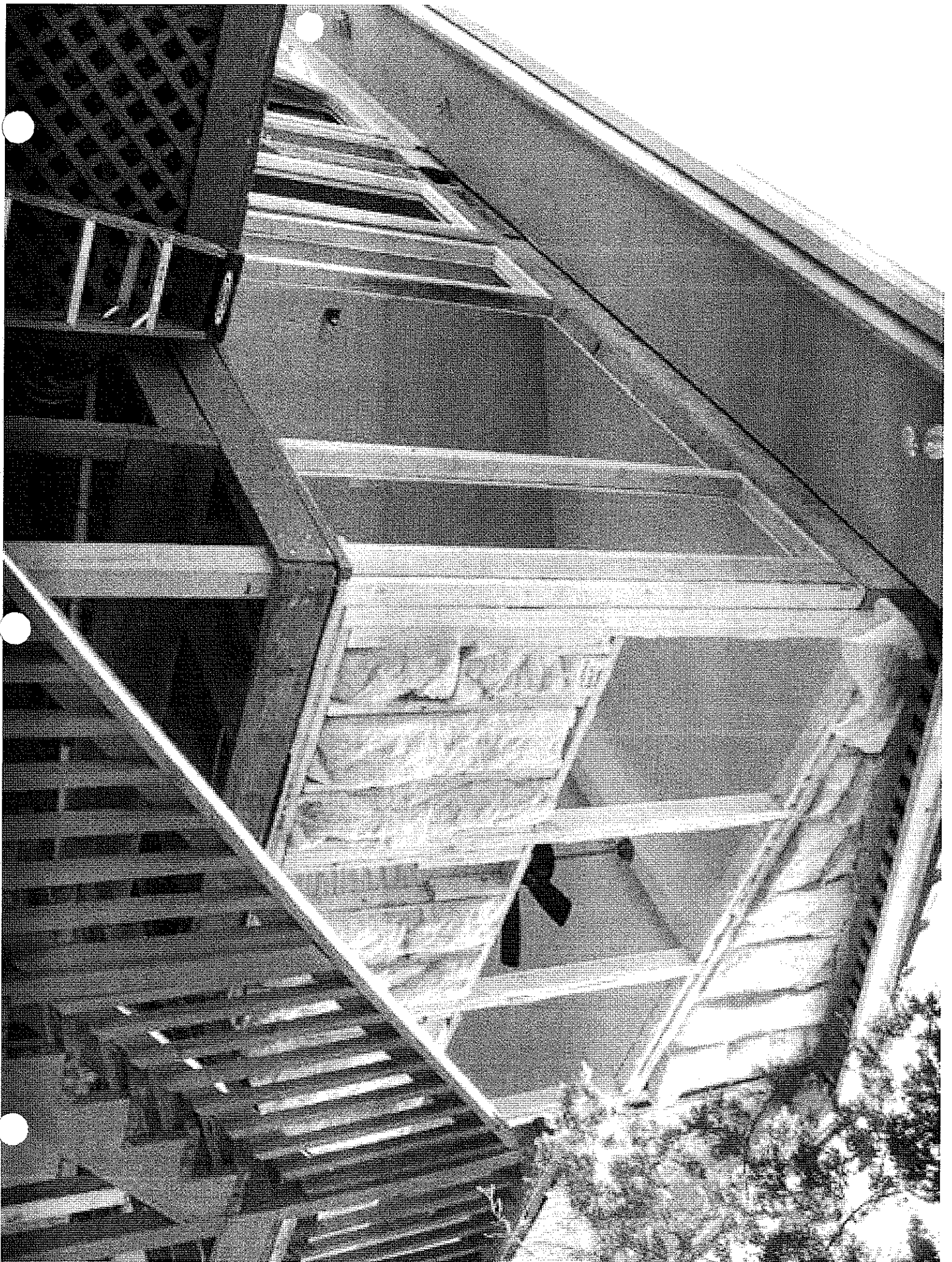


10/21/2011





12/01/2011



10/21/2011

