15/1

N

SUBJECT TRACT

PENDING CASE

ZONING BOUNDARY

CASE#: C15-2015-0115

Address: 101 W 32ND ST

1 " = 200 '

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 complete

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CITY OF AUSTIN
Board of Adjustment
Decision Sheet

DATE: Monday, September 14, 2015 **CASE NUMBER: C15-2015-0115**

_____ Brooke Bailey
_____Michael Benaglio
_____ William Burkhardt
___n/a_ Eric Goff
_____ Vincent Harding (Chair)
_____ Melissa Hawthorne (Vice-Chair)
_____ Don Leighton-Burwell
__out__ Melissa Neslund
_____ James Valadez
_____ Michael Von Ohlen

OWNER/APPLICANT: David Michael Biven

ADDRESS: 101 32ND ST

VARIANCE REQUESTED: The applicant has requested a variance(s) from:
A. Section 25-2-899 (D) (Fences as Accessory Uses) to exceed the average height of six feet or a maximum height of seven feet for a solid fence constructed along a property line; and to
B. Ordinance #040826-58, Part 6, General Provisions, 10. Fences, to locate a fence in a front yard higher than four feet and more solid than 1 to 1.5 ratio in order to maintain a wall as tall as 9 feet along the property line of this lot in an "SF-3-NCCD-NP", Family Residence – Neighborhood Conservation Combining District – Neighborhood Plan zoning district. (North University)

BOARD'S DECISION: The public hearing was closed on Board Member Michael Von Ohlen motion to Postpone to September 14, 2015, Board Member Melissa Hawthorne second on a 8-0 vote; POSTPONED TO SEPTEMBER 14, 2015; SEPT 14, 2015 POSTPONED TO October 12, 2015 AT THE APPLICANT'S REQUEST

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

Vincent Harding
Chairman

C15-2015-0115

Heldenfels, Leane

L5
3

From: David Biven <[redacted]
Sent: Friday, September 04, 2015 12:26 PM
To: Heldenfels, Leane
Subject: Re: Monday August 10th Board of Adjustment Meeting

Hey Leane,

thanks as always for your quick reply and helpful information. As discussed, can you please move my next BOA meeting to October 12? I have a conflict at work and won't be able to make the 9/14 date.

Thank you!

-Dave

On Aug 7, 2015, at 4:11 PM, Heldenfels, Leane <Leane.Heldenfels@austintexas.gov> wrote:

Oops – I forgot to mention that if you provided color or large format sets of information, we did slip those into the packet before delivery – sorry for forgetting to mention that –
Leane

From: Alberto Rodriguez [[redacted]
Sent: Friday, August 07, 2015 3:50 PM
To: Heldenfels, Leane
Subject: Re: Monday August 10th Board of Adjustment Meeting

Thanks for the info Leane. I just want to make sure that the board will receive the color drawing set that I submitted to you.

Thanks,
Alberto

512.432.5137
nfarchitecture.com

On Fri, Aug 7, 2015 at 3:33 PM, Heldenfels, Leane <Leane.Heldenfels@austintexas.gov> wrote:
Greetings 8/10 Board of Adjustment Applicants:

CASE# C15-2015-0115
ROW# 11385918
TAX# 0216040313 TCAD

L5/4

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: 101 WEST 32ND ST. AUSTIN TEXAS 78705

LEGAL DESCRIPTION: Subdivision – UNIVERSITY HEIGHTS

Lot(s) 1 Block 1 Outlot 74 Division D

I/We DAVID BIVEN on behalf of myself/ourselves as authorized agent for

_____ affirm that on MAY 31, 2015,

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 X MAINTAIN

MAINTAIN A PRIVACY WALL WHICH CURRENTLY BORDERS THE RESIDENTIAL PROPERTY LISTED ABOVE AND SPEEDWAY AVENUE. WE SEEK A VARIANCE OF CODE 25-2-899 BECAUSE PORTIONS OF THE WALL EXCEED THE HEIGHT REQUIREMENTS IN THIS CODE SECTION.

in a SF-3-NCCD-NP district. (North University)
(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):

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REASONABLE USE:

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

A HEIGHT LIMIT FOR THE PRIVACY FENCE OF 6 TO 8 WOULD NOT ALLOW THE PROPERTY TO MAINTAIN PRIVACY IN OUR HOME. THE HOME SITS ATOP A HILL AND THE YARD DROPS APPROXIMATELY 4 FEET FROM THE BEGINNING OF FENCE LINE TO THE END. A HEIGHT OF 6 FEET AT THE BACK OF THE HOME WOULD GIVE PASSERBYS ON A BUSY STREET AND SIDEWALK VIEWS INTO THE WINDOWS AND YARD OF THE HOME. ADDITIONALLY THE YARD SLOPES DOWN TO THE SIDEWALK FROM THE SIDE OF THE PROPERTY MEANING THAT THE HEIGHT OF THE FENCE FROM THE INTERIOR YARD IS SHORTER THAN THE HEIGHT MEASURED FROM THE EXTERIOR SIDE. IN ORDER FOR THE FENCE TO STAY LEVEL FROM FRONT TO BACK ALONG THE STEEP GRADIENT, THE FENCE HEIGHT MUST GO UP IN CONJUNCTION WITH THE PROPERTY SLOPE.

HARDSHIP:

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

THIS HARDSHIP IS UNIQUE TO THIS PROPERTY BECAUSE OF THE UNIQUE PHYSICAL CHARACTERISTICS OF THE LOT AND THE PROXIMITY TO BUSY STREETS:

1. THE PROPERTY SITS ATOP A HILL AND THE YARD DROPS APPROXIMATELY 4 FEET FROM THE BEGINNING OF FENCE LINE TO THE END. SINCE OUR PROPERTY GRADING CHANGES 4-5FT FROM THE FRONT YARD TO THE BACK, THE FIRST FLOOR BEDROOM WINDOWS ARE LEVEL WITH THE FRONT YARD AND ~4FT ABOVE GROUND IN THE BACKYARD. THIS ROOM FACES NOT ONLY SPEEDWAY BUT ALSO ONCOMING TRAFFIC FROM 32ND ST. THE WALL OFFERS PRIVACY FROM ONCOMING HEADLIGHTS AND TRAFFIC NOISE FROM SPEEDWAY AND 32ND EAST OF SPEEDWAY.
2. BEING ON THE CORNER OF SPEEDWAY AND 32ND, PUTS THE PROPERTY AT A UNIQUE DISADVANTAGE OF HAVING TO MAINTAIN PRIVACY NOT JUST FROM A SINGLE NEIGHBOR, BUT ALL TRAFFIC (PEDESTRIAN, AUTO, BIKE) RUNNING NORTH/SOUTH ON SPEEDWAY AND TRAFFIC MOVING WEST TOWARDS SPEEDWAY ON 32ND ST.

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

1. THIS PROPERTY IS THE ONLY PROPERTY SITTING AT THIS HEIGHT AND SLOPING DOWN AT SUCH A STEEP ANGLE ALONG THE SPEEDWAY CURVE.
2. THIS PROPERTY IS A CORNER LOT WITH MEANINGFUL TRAFFIC ALONG THE PROPERTY LINE.

AREA CHARACTER:

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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 CURRENT WALL IS ONE OF SEVERAL WALLS CURRENTLY BUILT FOR THE PROPERTIES IN THE NEIGHBORHOOD ALONG SPEEDWAY. IN FACT, THE CURRENT WALL SEEMS TO FLOW SEAMLESSLY SOUTH ON SPEEDWAY WITH ANOTHER WALL RUNNING ALONG THE PROPERTY SOUTH OF OUR PROPERTY. ONLY A SMALL PORTION OF THE WALL IS OVER THE HEIGHT REQUIREMENT AND DROPPING THE HEIGHT DOWN AT JUST THAT SECTION WILL ACTUALLY DIMINISH THE BEAUTY OF THE CURRENT STRUCTURE WHICH IN ITS CURRENT STATE IS LEVEL AND SMOOTH, DROPPING DOWN SLOWLY ALONG THE CURVE OF THE PROPERTY SLOPE. THE WALL SEAMLESSLY ABUTS THE LIMESTONE ENTRANCES INTO THE NEIGHBORHOOD. THE WALL SITS ATOP THE ORIGINAL FENCE LINE FROM WHEN THE PROPERTY WAS PURCHASED; AND WILL EVENTUALLY BE COVERED IN IVY SIMILAR TO OTHER WALLS IN THE NEIGHBORHOOD. AFTER CONSTRUCTING THE WALL, SEVERAL NEIGHBORS EXPRESSED THEIR APPRECIATION THAT THE OLD DILAPIDATED FENCE AND WALL WERE REMOVED AND THE NEW WALL WAS ERECTING, GIVING PRIVACY TO NOT ONLY OUR PROPERTY BUT ALSO TO THE NEIGHBORHOOD FROM THE CONSTANT FLOW OF TRAFFIC, BIKERS AND WALKERS ALONG SPEEDWAY.

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.

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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 David M Biven Mail Address 101 W 32ND STREET

City, State & Zip AUSTIN, TX, 78705

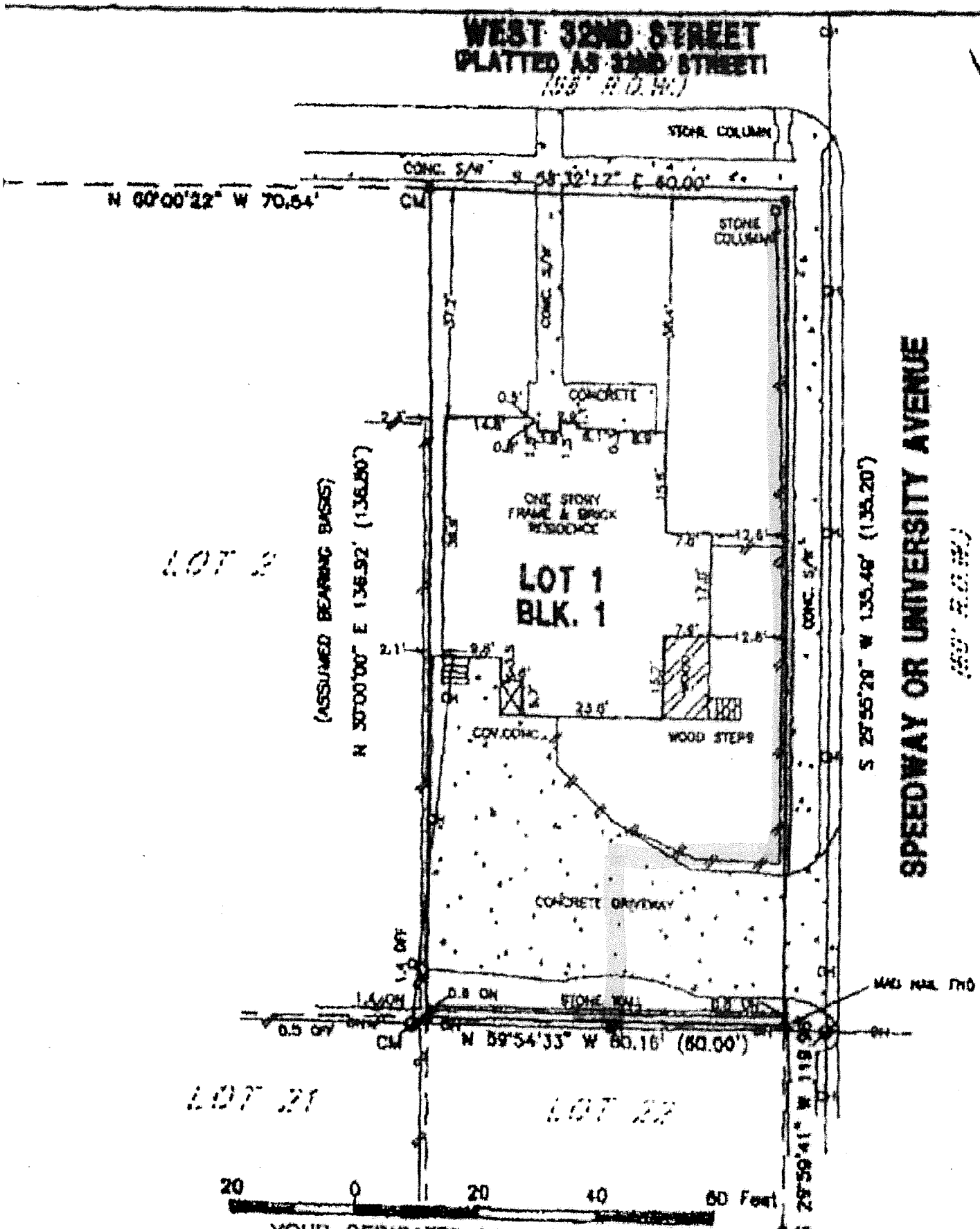
Printed DAVID M BIVEN Phone 5122844640 Date 5/31/2015

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 David M Biven Mail Address

City, State & Zip

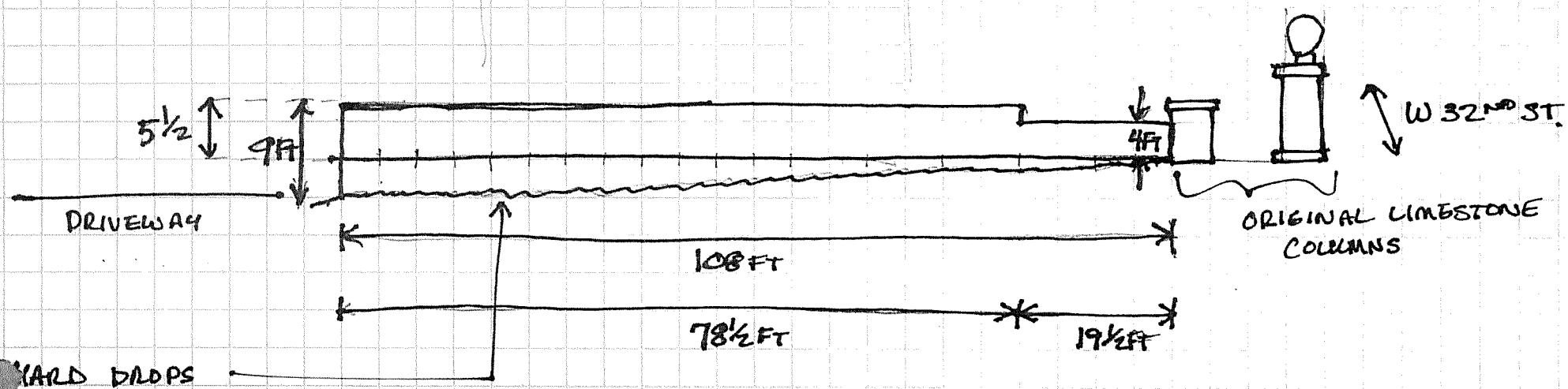
Printed SAME AS ABOVE Phone Date


WEST 32ND STREET
PLATTED AS 32ND STREET
STONE COLUMN
CONC. S/W
N 60°00'22" W 70.54'
CM
STONE COLUMN
CONCRETE
ONE STORY FRAME & BRICK RESIDENCE
LOT 1
BLK. 1
LOT 2
(ASSUMED BEARING BASIS)
N 30°00'00" E 136.92' (136.80')
S 29°55'29" W 135.48' (135.20')
SPEEDWAY OR UNIVERSITY AVENUE
WOOD STEPS
CONCRETE DRIVEWAY
STONE WALL
MAG NAIL FND
N 59°54'33" W 60.16' (60.00')
LOT 21
LOT 22
20 0 20 40 60 Feet
YOUR DEDICATED TEAM OF REAL ESTATE PROFESSIONALS

5/5

SPEEDWAY @ 32ND ST

SOUTH ⟷ NORTH



YARD DROPS ~4FT FROM BEGINNING TO END OF WALL

INSTALL CINDERBLOCK WALL
12-18 INCH FOOTING/BASE
LEVEL WITH FRONT YARD – 4FT HIGH AT START MOVING TO 5½FT
TO REMAIN LEVEL W/ HOUSE BACK/SOUTH END IS ~9 FT
WALL BUILT ON TOP OF ORIGINAL FENCE LINE

C15-2015-0115

101 West 32nd Street

David Biven - Owner/Occupier

015

Details

Mailing Date: July 30, 2015 **Case Number:** C15-2015-0115

Please be advised that the City of Austin has received an application for a variance from the Land Development Code.

Applicant:	David Michael Biven, (512) 284-4640
Owner:	Same
Address:	101 W 32ND ST

Variance Request(s): The applicant has requested a variance(s) from:

A. Section 25-2-899 (D) *(Fences as Accessory Uses)* to exceed the average height of six feet or a maximum height of seven feet for a solid fence constructed along a property line; and to

B. Ordinance #040826-58, Part 6, General Provisions, 10. Fences, to locate a fence in a front yard higher than four feet and more solid than 1 to 1.5 ratio

in order to construct a wall as tall as 9 feet along the property line of this lot in an "SF-3-NCCD-NP", Family Residence – Neighborhood Conservation Combining District – Neighborhood Plan zoning district. (North University)

Location

- Property is located on the SW corner of West 32nd Street and Speedway

N

SUBJECT TRACT
PENDING CASE
ZONING BOUNDARY

CASE#: C15-2015-0115
Address: 101 W 32ND ST

1 " = 200 '

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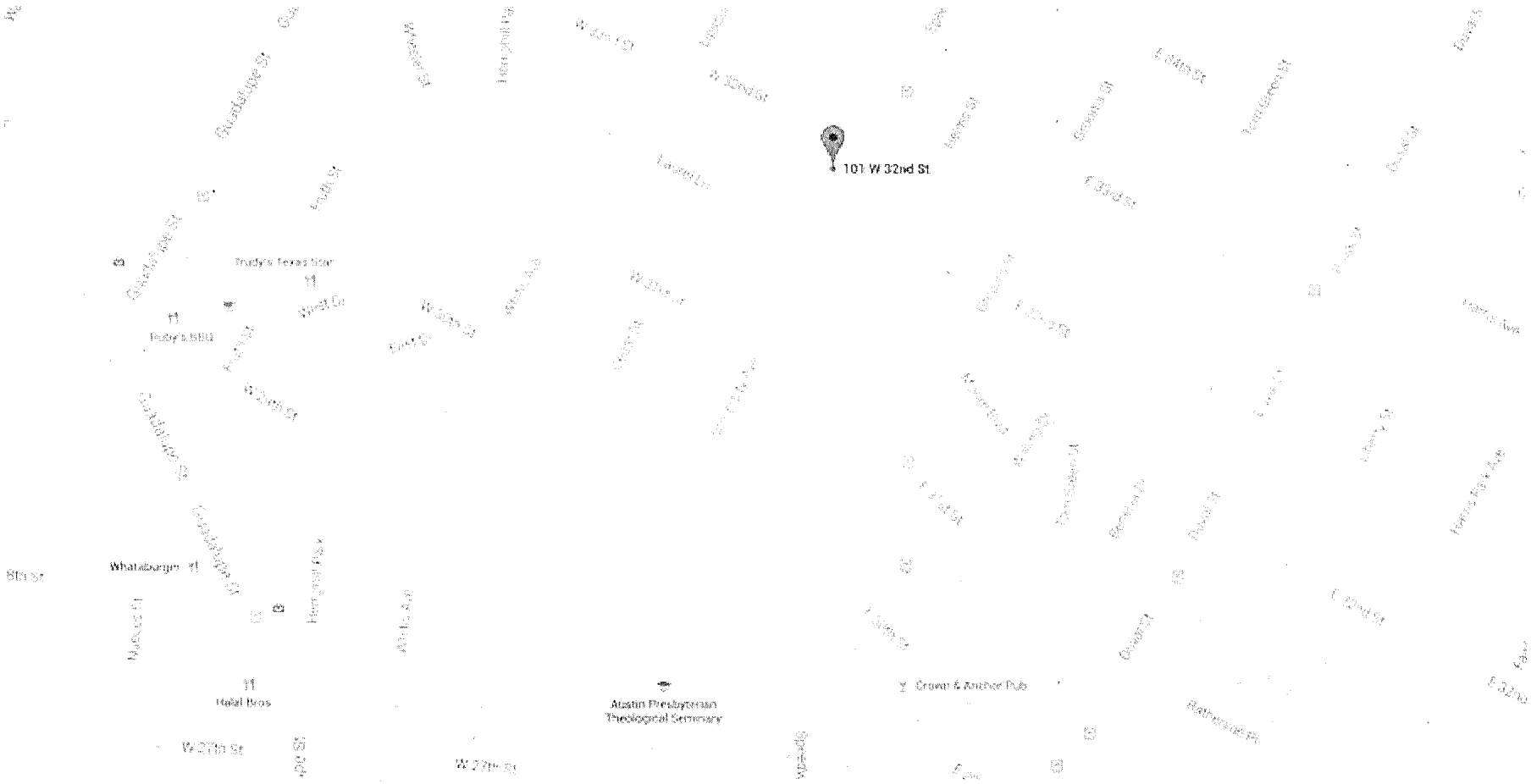
Location



- Corner lot within close proximity to UT, capitol, downtown, etc
- This consistent traffic along Speedway, as well as, the intersection at corner of 32nd and Speedway is unique to this property

History

- We purchased this house on 9/21/2013
- The first renovation projects completed was a new privacy wall along Speedway
- This wall was built on the existing location of a wood fence with a limestone base
- This previous fence was not level and was also starting to fail in some areas
- The new wall upgraded the aesthetic appeal of the property and also provided much needed privacy along one of the main thoroughfare's in the neighborhood
- The wall was designed to match the look and feel of the neighborhood, specifically the wall on the adjacent property to the south
- Although we were unaware of the height limitation for this project, the wall was designed to effectively obstruct traffic views into the house while also staying level across the property to enhance the aesthetic appeal

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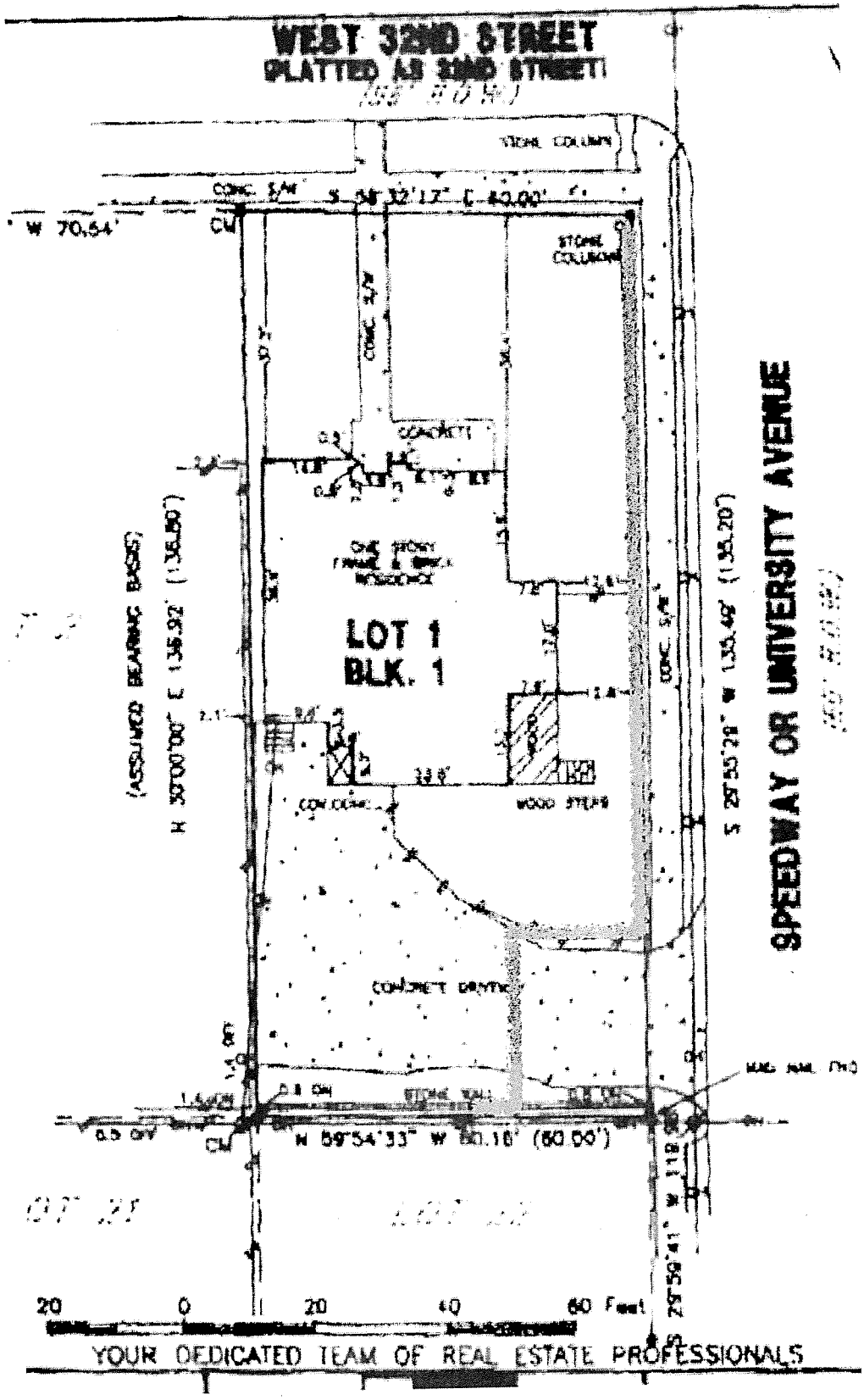
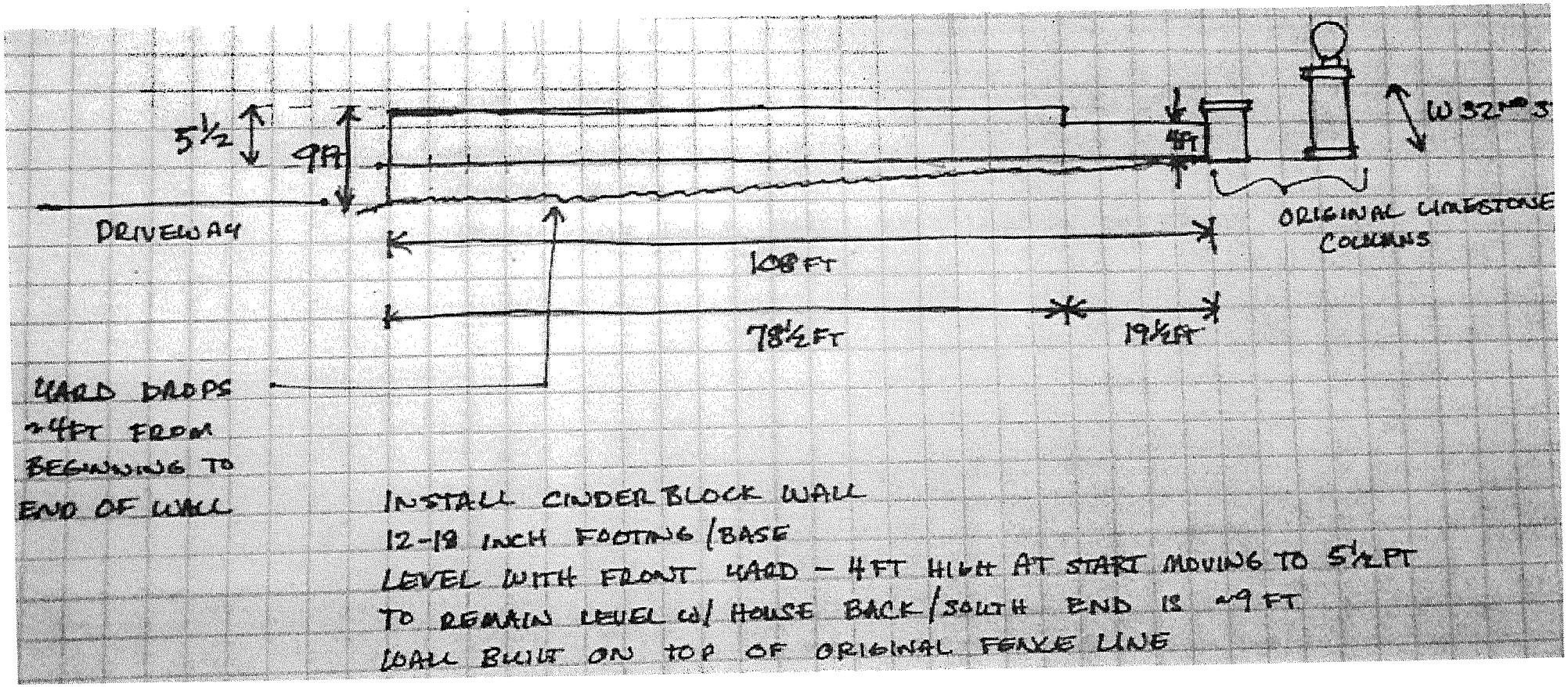
Survey



WEST 32ND STREET
(PLATTED AS 32ND STREET)
STONE COLUMN
CONC. S/W
S 58°32'17" E 40.00'
W 70.54'
CM
STONE COLUMN
CONC. S/W
CONCRETE
ONE STORY FRAME & BRICK RESIDENCE
LOT 1
BLK. 1
(ASSUMED BEARING BASIS)
N 30°00'00" E 136.92' (136.80')
S 29°55'29" W 135.49' (135.20')
SPEEDWAY OR UNIVERSITY AVENUE
WOOD STEPS
CONCRETE DRIVEWAY
STONE WALL
N 59°54'33" W 60.18' (60.00')
S 29°59'41" W 119.98'
20 0 20 40 60 Feet
YOUR DEDICATED TEAM OF REAL ESTATE PROFESSIONALS

Submitted Plans



Original from Speedway

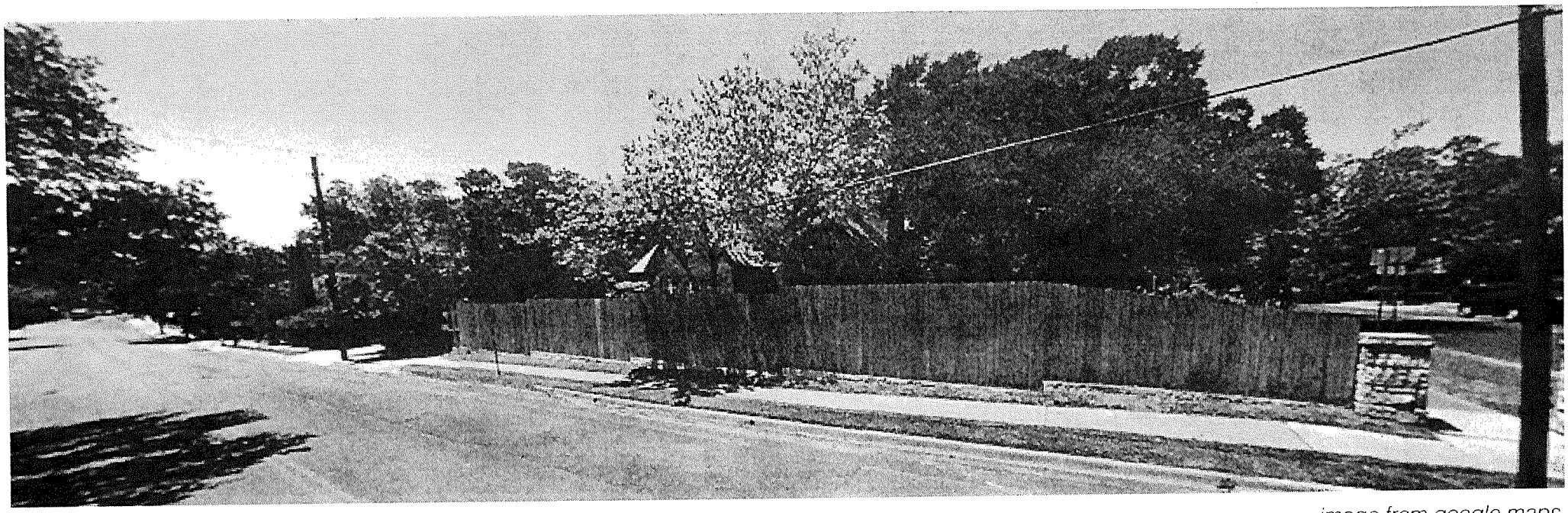


image from google maps

- Corner lot is along Speedway, a main north south thoroughfare to the university
- Property grading drops 4ft from north side of fence to south side
- Original fence did not take into account the lot grading, was in need of repair, was not level, did not provide appropriate privacy, and was also much taller in the front yard than the new wall

Updated from Speedway

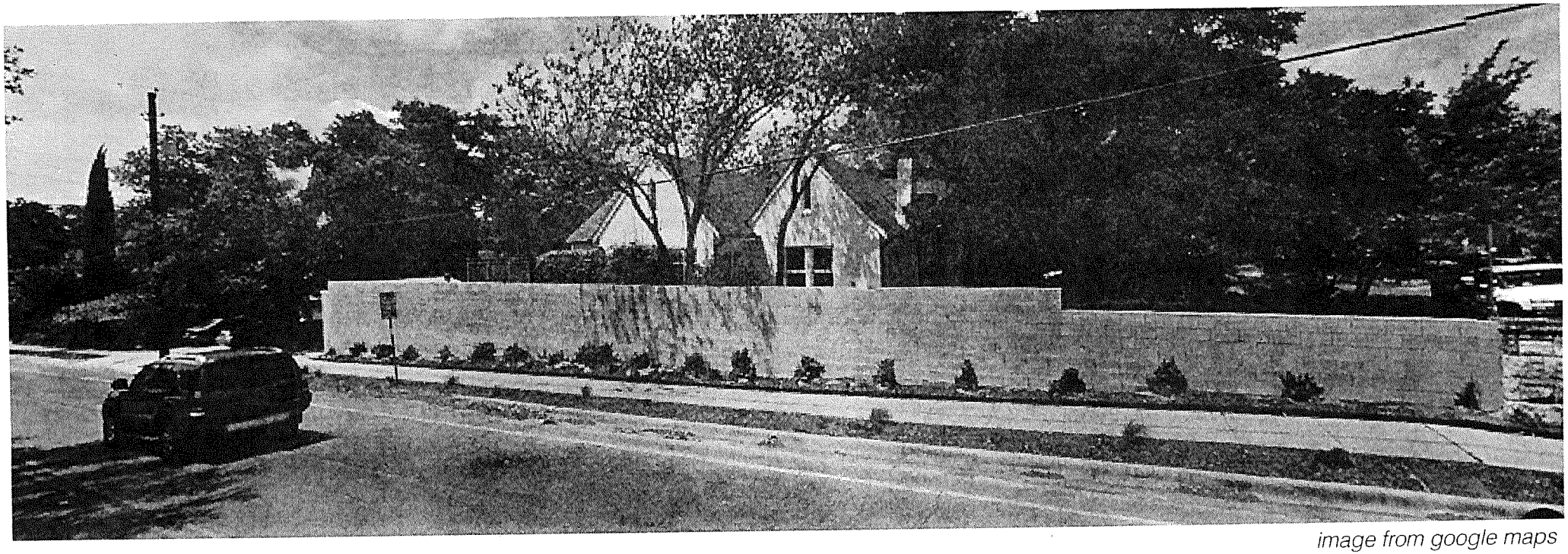


image from google maps

- New wall is built on existing fence line but is level across the entire yard, provides much needed privacy in the living rooms and bed rooms and also better fits the look of the neighborhood (matching the adjacent neighbor and allowing for better view of front yard and 32nd street)

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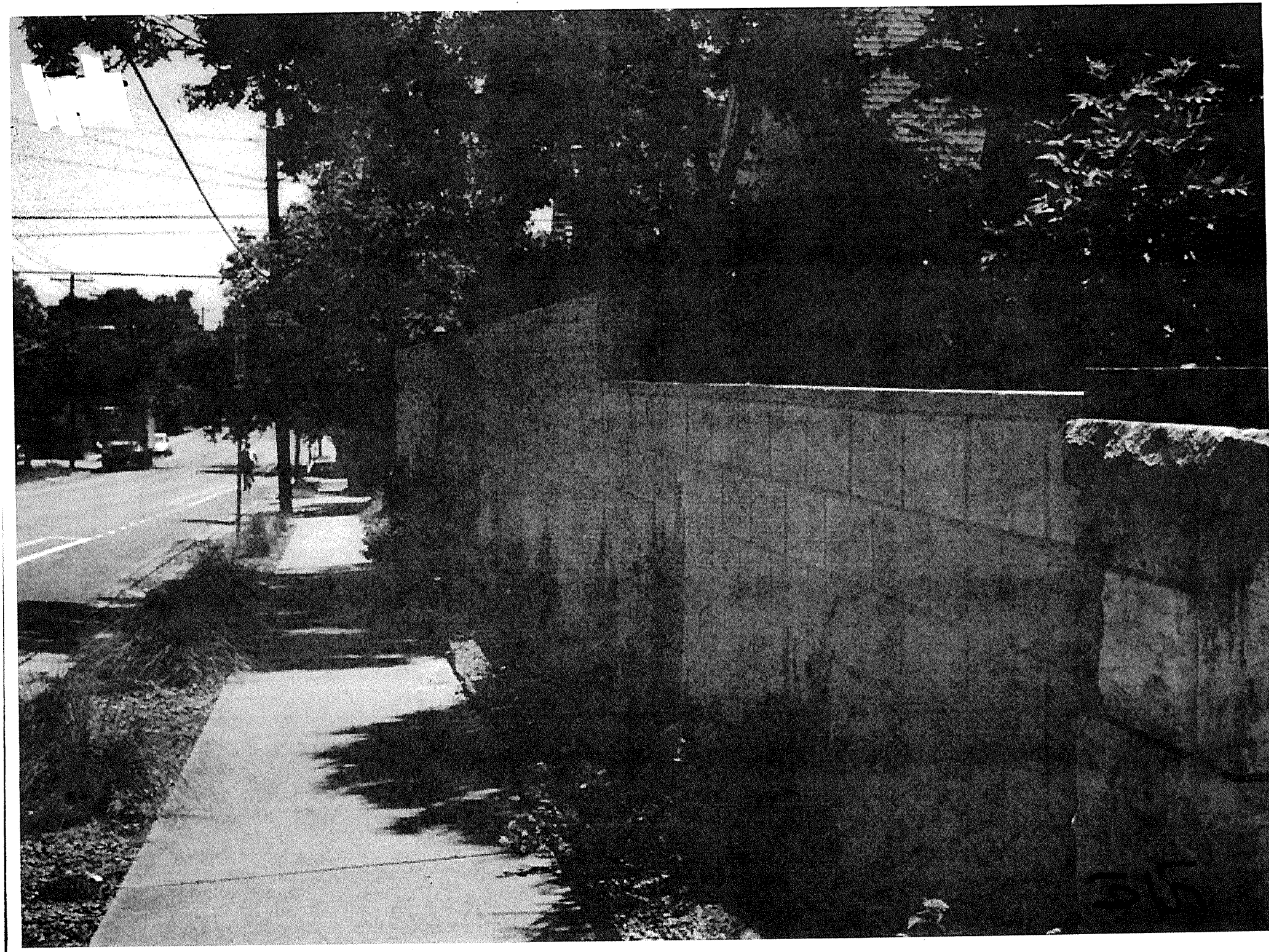
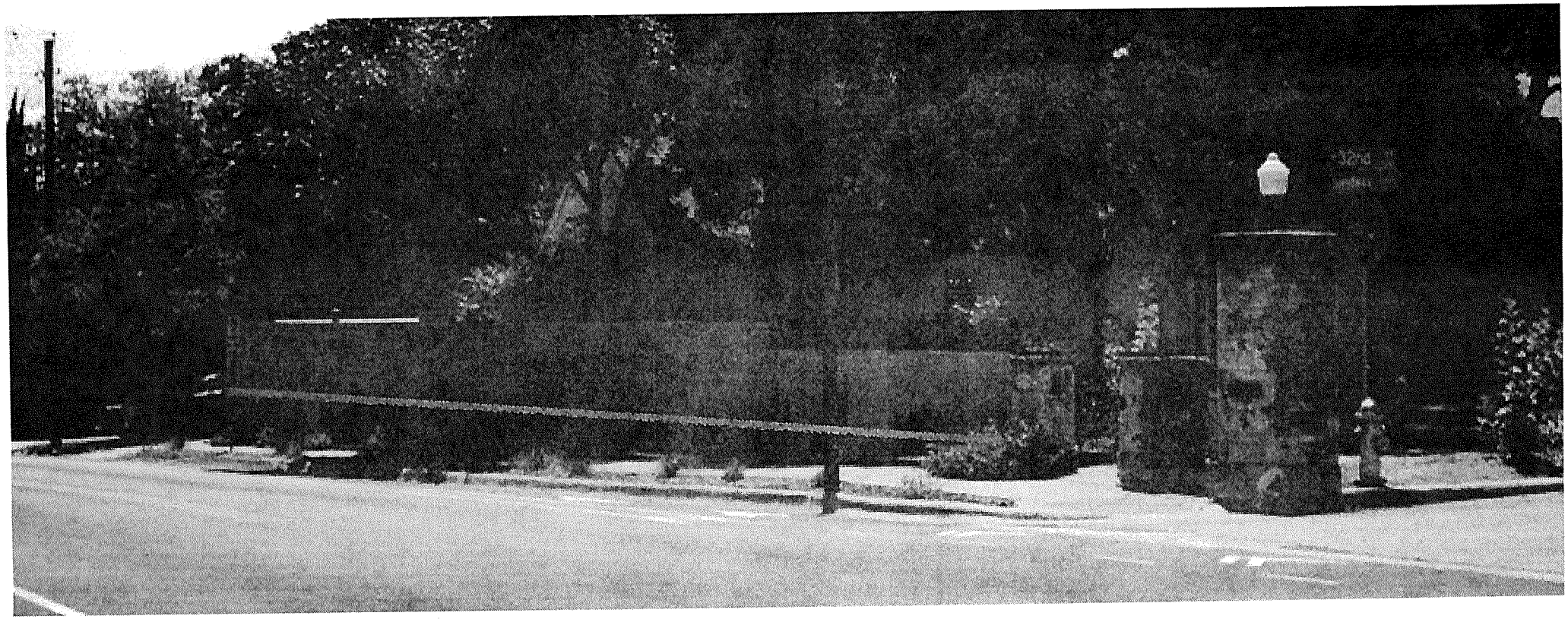
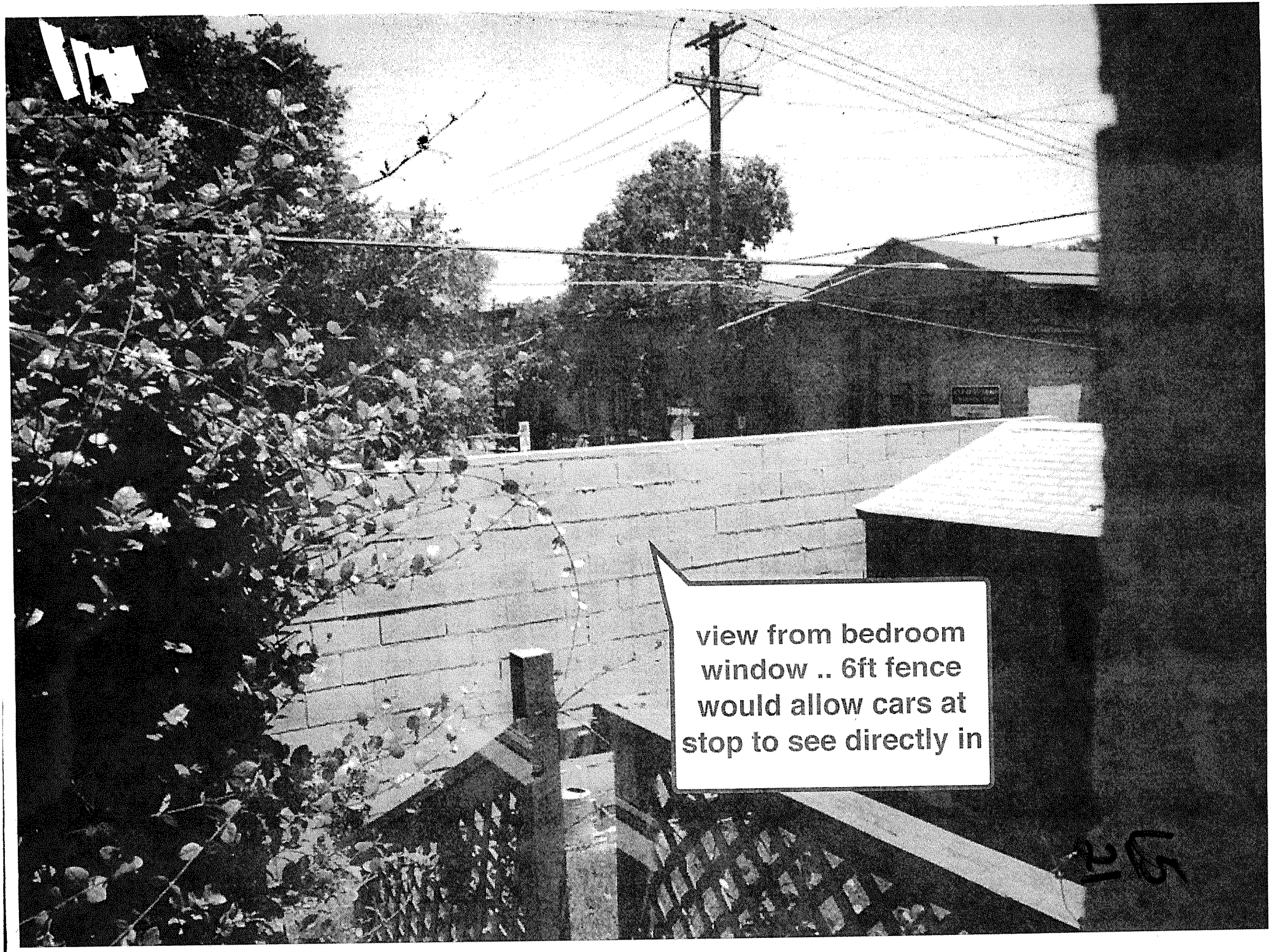
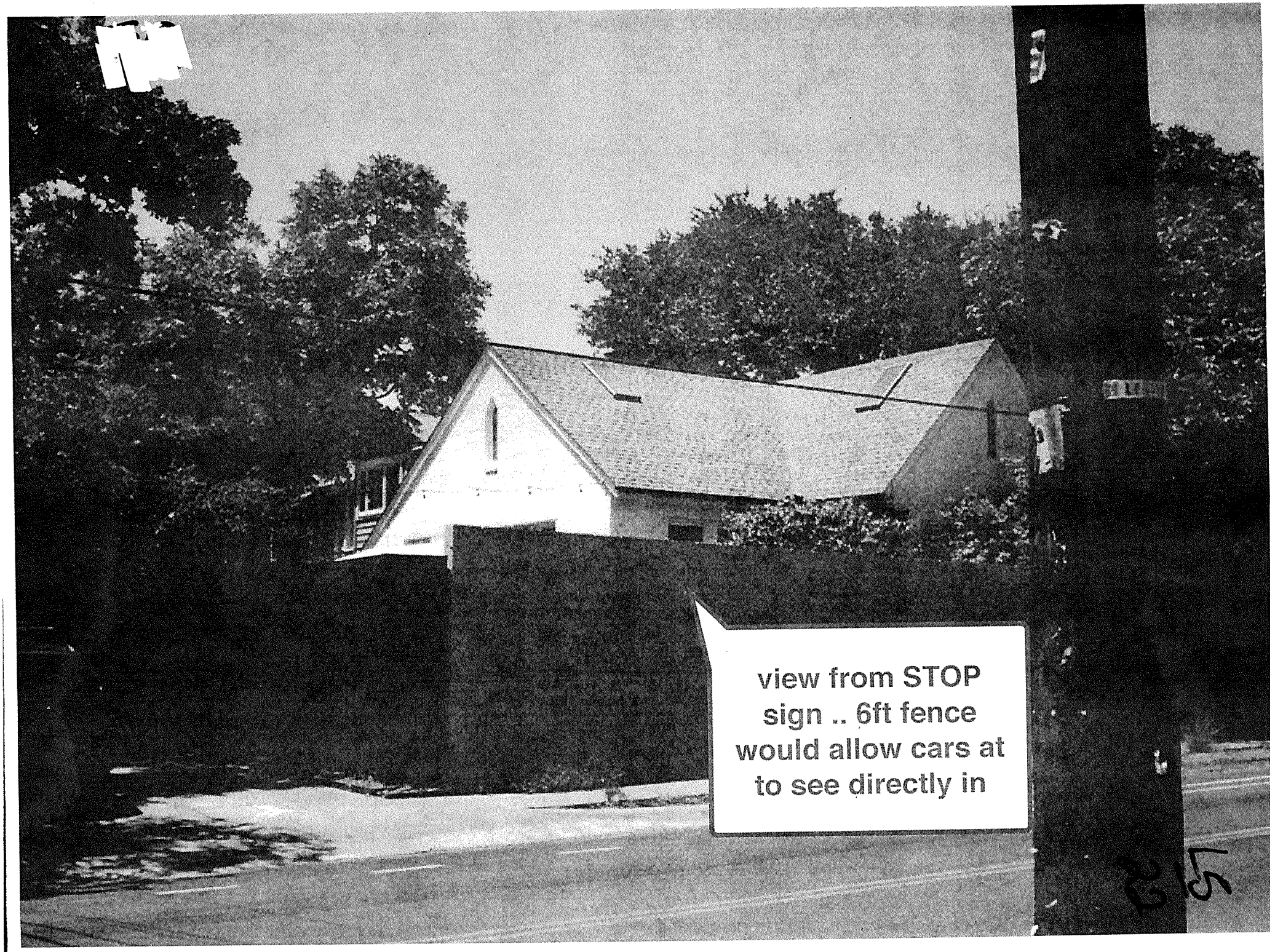


Uneven Lot

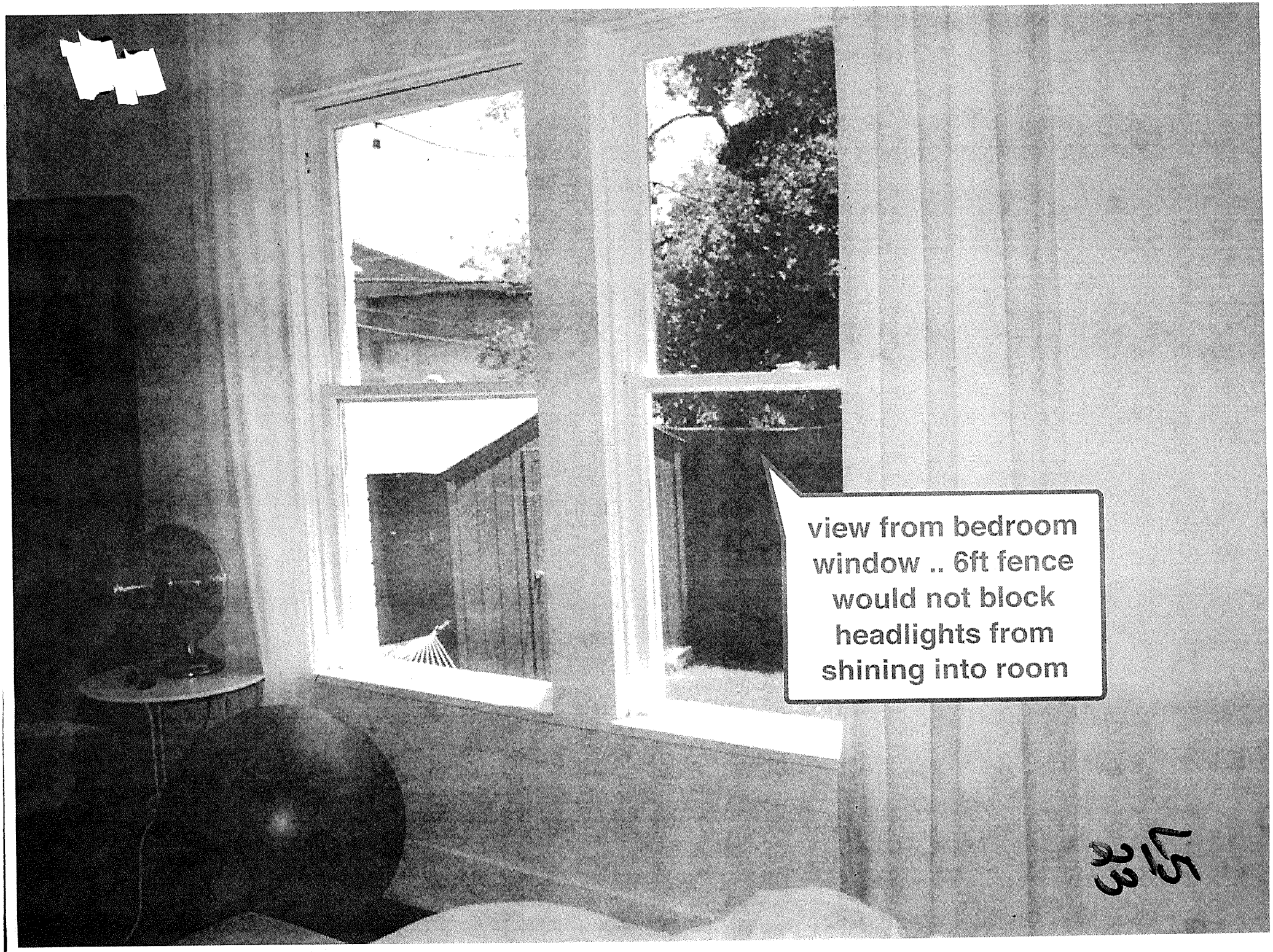


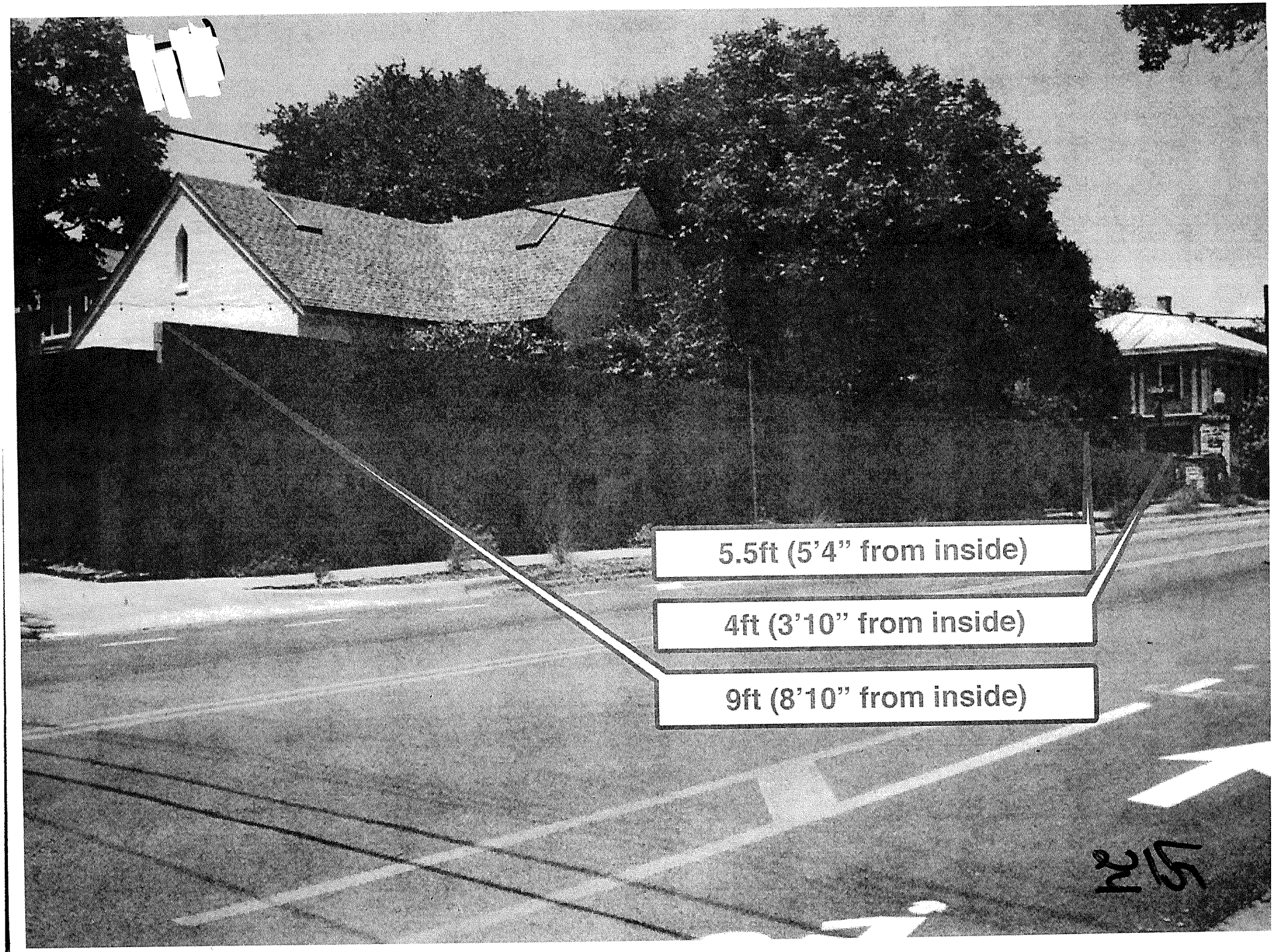
- Lot slopes downward ~4ft from the north to south end of the wall
- Keep the wall level enhances the aesthetics and maintains privacy in the back of the house
- The house is built level to the front yard so back of house is ~4ft higher than backyard

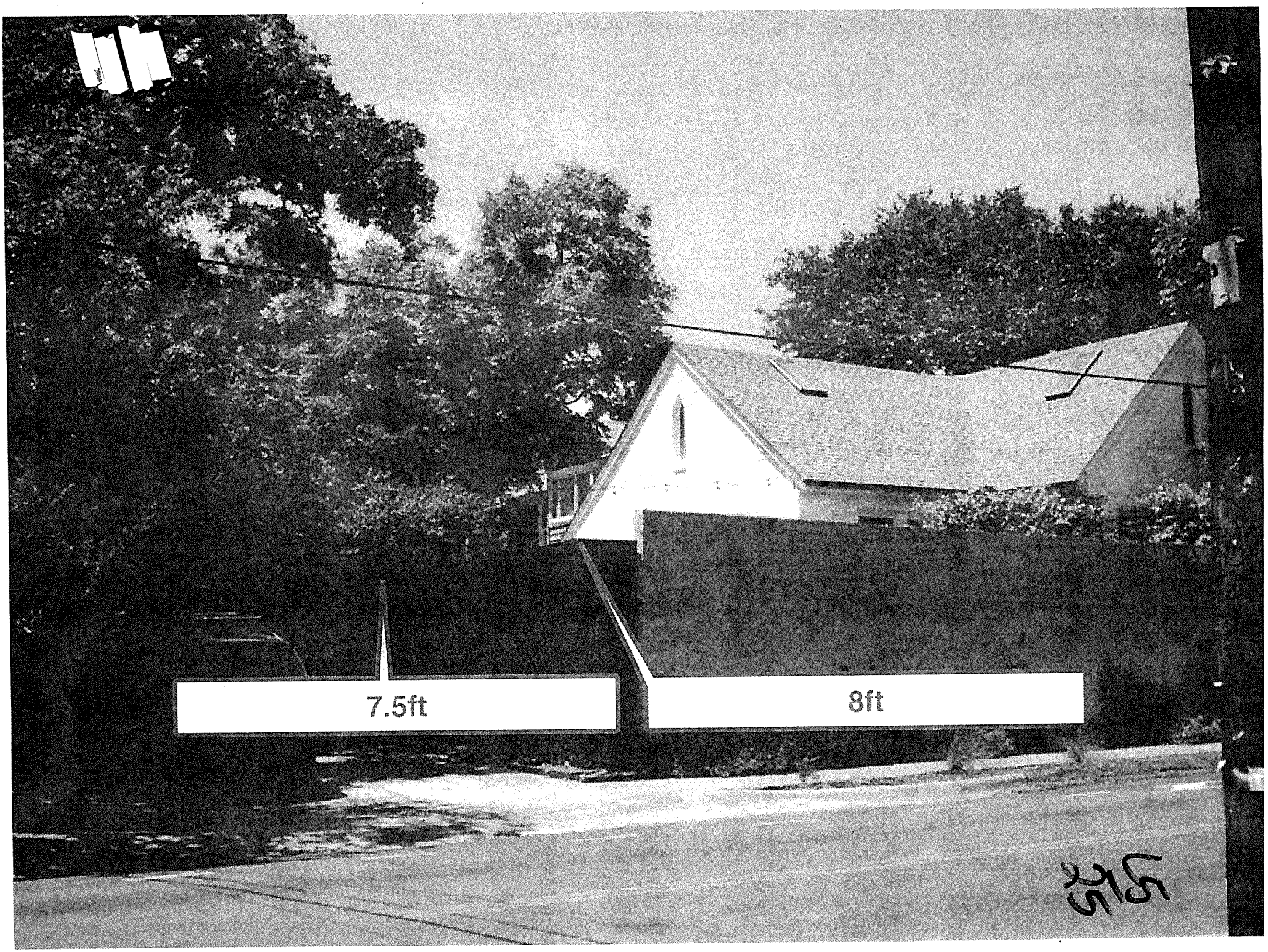

view from bedroom window .. 6ft fence would allow cars at stop to see directly in

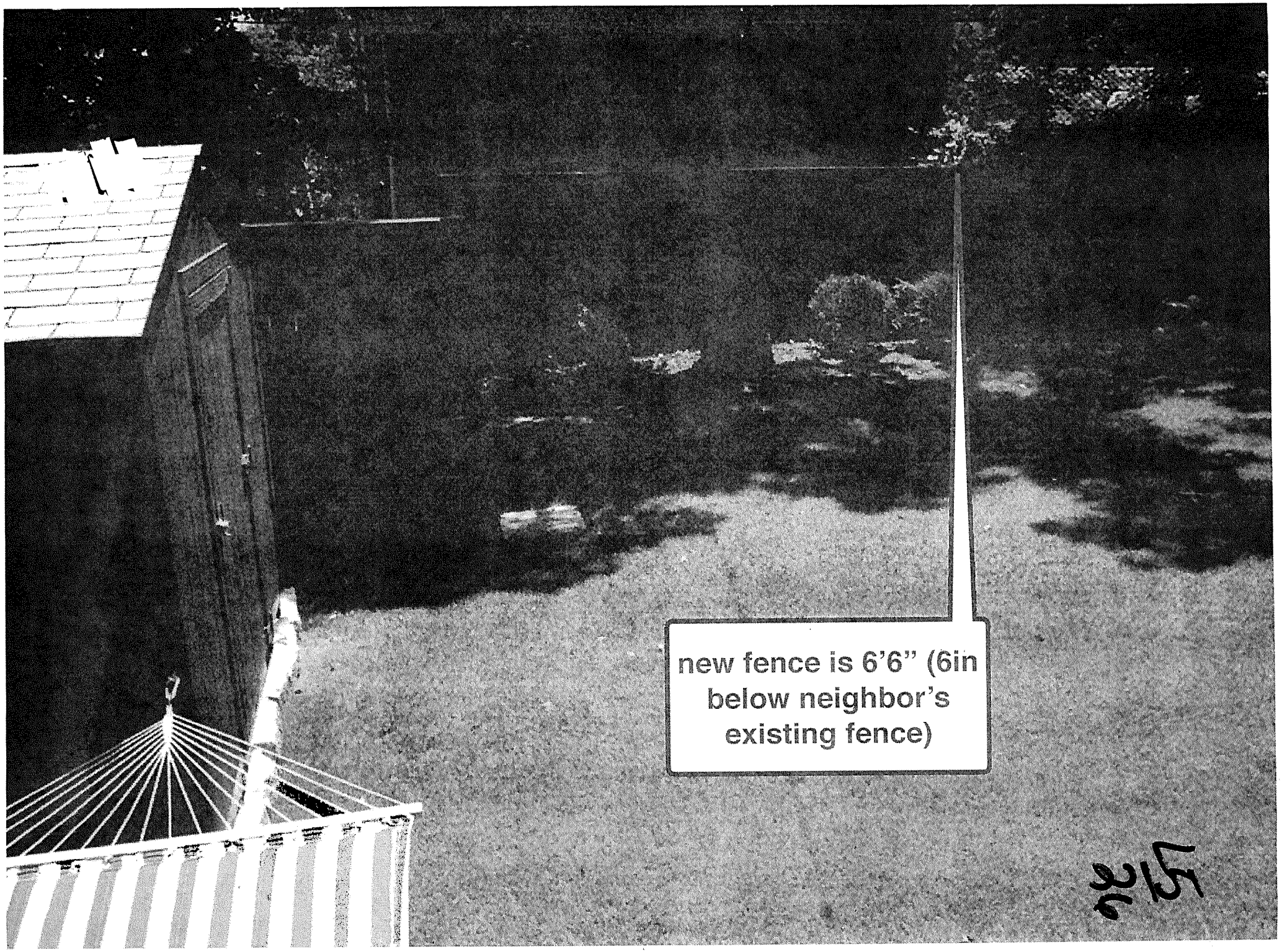

view from STOP
sign .. 6ft fence
would allow cars at
to see directly in

315

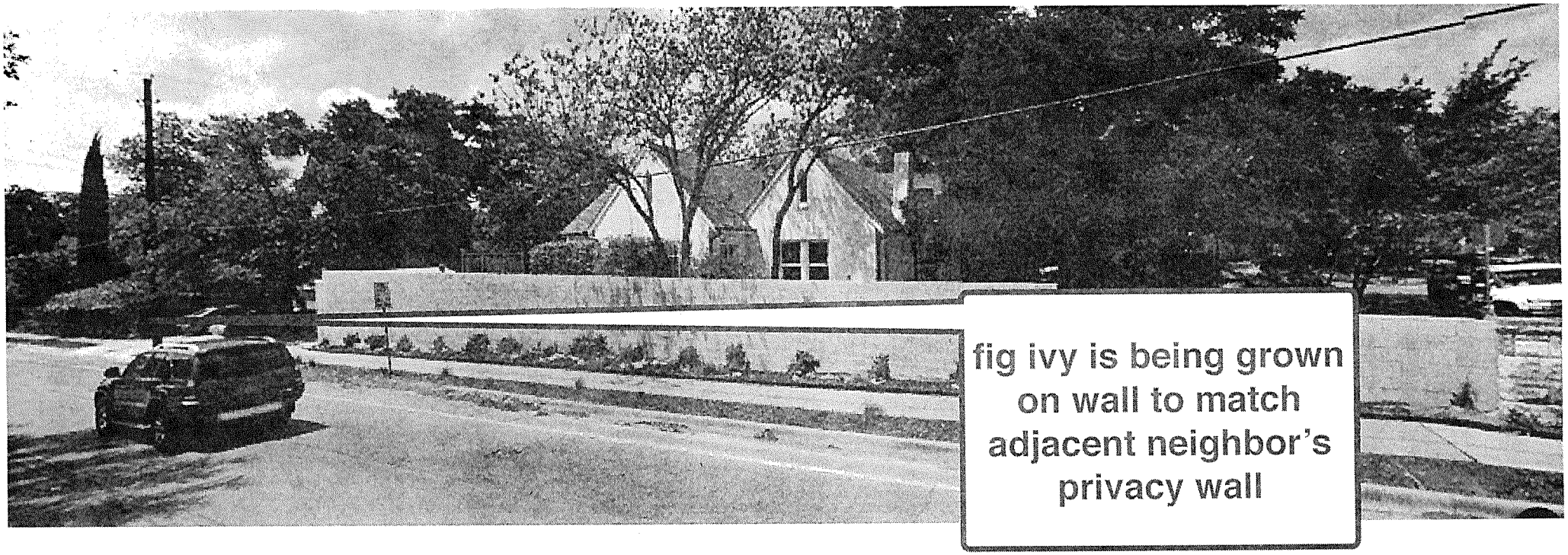

view from bedroom window .. 6ft fence would not block headlights from shining into room


5.5ft (5'4" from inside)
4ft (3'10" from inside)
9ft (8'10" from inside)


7.5ft
8ft


new fence is 6'6" (6in below neighbor's existing fence)

Aesthetics



- New wall is built on new solid footing, is level across the entire yard, provides much needed privacy in the living rooms and bed rooms, and also better fits the look of the neighborhood (matching the adjacent neighbor and allowing for better view of front yard and 32nd street)

- image from google maps

Key Points

- Reasonable Use:
  - The 6ft fence height restriction generally offers enough height to provide privacy for residents; this corner lot, with 4ft of grading change, alongside a busy street, does not allow for privacy with a 6ft fence
- Hardship:
  - Corner lot with 4 feet of height difference along fence line from north to south side of property
  - Busy street / Intersection / STOP sign in line sight of bedroom window
- Area Character
  - Matches neighbors wall along Speedway
  - Enables privacy in house

Summary

- Although we were unaware of the height limitation for this project, the wall was designed to effectively obstruct traffic views into the house while also staying level across the property to enhance the aesthetic appeal

- This project and the many other renovations done to the property have all been upgrades improving not only the property, but also Aldridge Place as a whole

- Since completion we have received overwhelmingly positive feedback and believe we have the support of the broader Aldridge Place community and North University Neighborhood Association

- We sincerely appreciate your time and consideration

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/devservices**

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: C15-2015-0115, 101 West 32nd St.
Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, August 10th, 2015

Janice Moyle
Your Name (please print)

☐ **I am in favor**
☐ **I object**

200 W. 32nd St.
Your address(es) affected by this application

Janice Moyle — *Signature*
9-10-15 — *Date*

Daytime Telephone: 512-469-9304

Comments:
The ~~fence~~ wall is too high & doesn't fit in with the look of the neighborhood
Also the wall is attached ~~to~~ with mortar historic stone column.

If you use this form to comment, it may be returned until noon the day of the hearing (comments received after noon may not be seen by the Board at this hearing) to:

City of Austin-Development Services Department/ 1st Floor
Leane Heldenfels
P. O. Box 1088
Austin, TX 78767-1088
Fax: (512) 974-6305
Scan & Email to: leane.heldenfels@austintexas.gov

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.

LS 31

Case Number: C15-2015-0115, 101 West 32nd St.
Contact: Leane Heldenfels, 512-974-2202, leane.heldenfels@austintexas.gov
Public Hearing: Board of Adjustment, August 10th, 2015

ROGER BINKLEY
Your Name (please print)

☐ I am in favor
☑ I object

105 W. 33RD ST, AUSTIN, TX 78705
Your address(es) affected by this application

Signature

9/9/2015
Date

Daytime Telephone: 512-415-4400

Comments: I OBJECT ON MULTIPLE LEVELS:

1. THE WALL IS NOT A FENCE
2. THE WALL IS AT LEAST FOUR FEET HIGHER THAN THE SIX FOOT CODE
3. THE VARRIANCE SHOULD NOT FOLLOW THE CONSTRUCTION, IT SHOULD PRECEED IT.
4. IT SENDS A HARSH MESSAGE TO NEIGHBORS AND PASSERS BY.

If you use this form to comment, it may be returned until noon the day of the hearing (comments received after noon may not be seen by the Board at this hearing) to:

City of Austin-Development Services Department/ 1st Floor
Leane Heldenfels
P. O. Box 1088
Austin, TX 78767-1088
Fax: (512) 974-6305
Scan & Email to: leane.heldenfels@austintexas.gov