



Charleston Board of Zoning Appeals

AGENDA

8:30 a.m., Thursday, September 26, 2024

City Service Center Conference Room · 915 Quarrier Street

I. Items for Review

CUP-24-0243

Application of Brent Sears requesting a conditional use permit in order to expand the current conditional use of a religious institution on the property located at **1105 Virginia St E.**

VAR-24-3043

Application by Phil Harich requesting a variance of the rear setback requirement of the property located at **3816 Virginia Ave SE.**

II. Approval of minutes for the June 13, July 11, and August 8 hearings.

III. Miscellaneous

 Board of Zoning Appeals
Application for Conditional Use Permit

CU # _____

Hearing Date: _____

Applicant Information	Property Information
Name: Brent Sears / Sears Monument Company	Address: 1105 Virginia St. E.
Address: P O Box 829 Charleston, WV 25323-0829	Tax Map and Parcel:
Phone: 304-342-4158 C-304-542-5854	Zoning District:
Agent Name, Address and Phone Number: (if other than applicant)	Property Owner and Mailing Address: (if other than applicant) First Presbyterian Church

IMPORTANT: This application must be typed or legibly printed and filed with the Planning Department in person or by mail to 915 Quarrier Street, Suite 1 Charleston, WV 25301. The following items must accompany this application: 1) a site plan drawn to scale; 2) a list of the owners, with their mailing addresses, of the properties within a 250 foot radius of the property for which the variance is being sought; 3) \$125.00 filing fee in the form of a check or money order made payable to the City of Charleston. You are also encouraged to submit any additional information, including photographs, elevations, testimonials or other documentation, which may support your application. You or your representative must be present at the scheduled public hearing in order to present your request and answer questions. THE PLANNING DEPARTMENT WILL NOT ACCEPT ANY INCOMPLETE APPLICATIONS.

Please describe the proposed use. Include information such as the activities to be conducted on the site, hours these activities will be conducted, and any other data pertinent to the proposed use. If the proposed use is a business, please attach a list of the officers and their contact information. The church has requested us to install 2 more columbarium's adjacent to the two they already have on site. These units will be used to hold urns of people who have been cremated. Services will be held by the church on their property when needed, just as they do presently

Applicable Section(s) of the Zoning Ordinance _____

Does the proposed use comply with the conditions set forth in the Zoning Ordinance? _____

Please describe any proposed work to be done on the property. We propose to pour 2 concrete slabs 7'-2" x 2'-8" x 8" to place the buildings on that are perpendicular to the units they presently have in place. The buildings will come in one piece. We will use a crane to lift the 2 units that are 5,000 pounds each from the street onto the concrete pads. Like was done some years ago for the first 2 units.

If your request for a conditional use permit is granted, how will others in the area be affected? These units will create a solemn place for people of the church to pay their respects to their loved ones. The property is fenced in. There will be no affect to others in the area because the area is already fenced off from the general public.

Will your request devalue the property of others in the vicinity by altering land use characteristics or diminishing the marketable value of adjacent land and structures or increasing congestion on public streets? This property belongs to a church. It is in a commercial area. It will not devalue the property it is sitting on or any adjoining property. Ingress and egress is normally made through the church itself or through the church parking lot. There will be no increase in congestion.

Is your request consistent with the purposes and intent of the Zoning Ordinance of the City of Charleston? I believe it is.

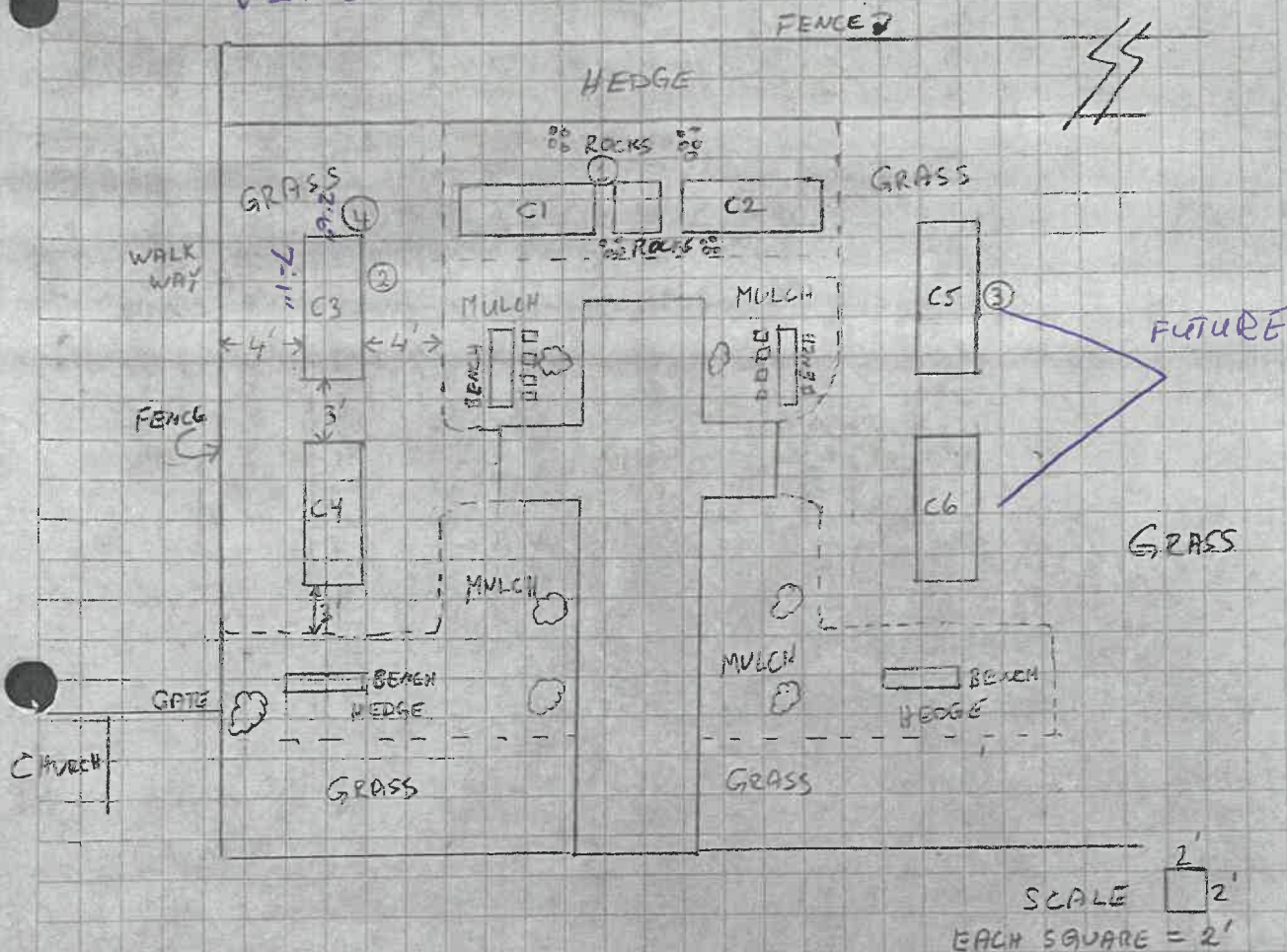
I hereby affirm that all of the statements and information contained in or filed with this application are true and correct to the best of my knowledge.

Brent W. Sears
Signature

8-5-2024
Date

Planning Department Use Only	
The following is a list of related cases:	
The following is a list of zoning ordinance violations, building code violations and enforcement actions relating to the subject property:	
Application reviewed by:	
Action: ☐ Approved ☐ Rejected	
If approved, were there any specific conditions or limitations imposed by the BZA?	
Planning Official Signature and Title	
Date	

VIRGINIA STREET EAST N4



NOTES

- ① C1 AND C2 ARE EXISTING COLUMBARIUMS
- ② C3 AND C4 WILL BE INSTALLED IN SEPT/OCT 2024
- ③ C5 AND C6 MAY BE PURCHASED IN THE FUTURE
- ④ THE NORTH SIDE OF C3 IS FLUSH WITH THE SOUTH SIDE OF C1

PROPOSED COLUMBARIUM LAYOUT

PAUL KINNEBERG
AUGUST 5, 2024

② C3 + C4 measure 7'-1" x 2'-6" x 3'-10" TALL

 Board of Zoning Appeals
Application for Variance

BZA # _____

Hearing Date: 9-26-24

Applicant Information	Property Information
Name: Philip L Harich	Address: 3816 Virginia Ave SE
Address: 3816 Virginia Ave SE	Tax Map and Parcel: 5 0089 0000 0000
Phone: 304-925-2981	Zoning District: R-4
Agent Name, Address and Phone Number: (if other than applicant)	Property Owner and Mailing Address: (if other than applicant)

INSTRUCTIONS: This application must be typed or legibly printed and filed with the Planning Department in person or by mail to 915 Quarrier Street, Suite 1 Charleston, WV 25301. The following items must accompany this application:

1. a site plan drawn to scale;
2. a list of the owners, with their mailing addresses, of the properties within a 100 foot radius of the property for which the variance is being sought; and
3. \$125.00 filing fee in the form of cash, personal check or money order made payable to the City of Charleston.

You are also encouraged to submit any additional information, including photographs, elevations, testimonials or other documentation which may support your application. You or your representative must be present at the scheduled public hearing in order to present your request and answer questions.

THE PLANNING DEPARTMENT WILL NOT ACCEPT INCOMPLETE APPLICATIONS.

A variance is a method by which a property owner receives permission to vary from the development standards established in the Zoning Ordinance governing such matters as building location, building dimensions, setback requirements, placement and quantity of parking, landscaping, signage, and other features included in site design. **Please describe your variance request.** The variance would be to allow a rear setback change.

Applicable Section(s) of the Zoning Ordinance Article 5

Please describe the proposed work to be done on the property. I wish to enlarge my existing ground floor. The addition would be to enlarge the existing ground floor bathroom in order to be ADA compliant along with a new dressing area, also ADA compliant. The addition would move a 15-foot wide section of my ground floor 6 feet to attach to the rear of my existing garage. The addition would be only on the ground floor and not encroach past the rear of the existing garage.

IMPORTANT: According to Section 8A of the Code of the State of West Virginia and Section 29-040 of the City of Charleston's Zoning Ordinance, the Board of Zoning Appeals may grant a variance if and only if **ALL** of the following four criteria can be satisfied:

- 1.) The variance, if granted, will not adversely affect the public health, safety and welfare or the rights of adjacent property owners or residents; and,
- 2.) The variance arises from special conditions or attributes which pertain to the property for which a variance is being sought and which were not created by the person or entity seeking the variance; and,
- 3.) The variance, if granted, would eliminate an unnecessary hardship and permit a reasonable use of the land; and,
- 4.) The variance, if granted, will allow the intent of the Zoning Ordinance to be observed and substantial justice done.

1.) If granted, your variance must not adversely affect the public health, safety and welfare or the rights of adjacent property owners or residents. For example, public safety cannot be compromised by limiting access for emergency vehicles, and neighboring property owners must not be hindered in the use their properties in any manner permitted in the Zoning Ordinance. If your variance request is granted, how will others in the area be affected? There will be no affect on any others in the area. Even visually, the change will be almost un-
noticeable.

2.) Your request must arise from special conditions or attributes which pertain to the subject property and which you did not create. The size, shape and topography of your lot are examples of the physical conditions which may satisfy this criterion. In comparison with other properties in the vicinity and under the same zoning regulations, what is unusual or different about the subject property? My house is located off-center on a 50-foot wide lot. The east side of my house is only about 7 feet from the property line whereas the west side of my house is almost 15 feet from the property line. Most houses in the neighborhood are more centered on their lots. Because of an addition in the 1980's, done by a previous property owner, the house layout does not allow a bathroom addition to the west side of my property without demolishing the older addition and rebuilding. The only viable room to expand my bathroom is toward my garage. The addition will not encroach past the existing rear of the garage.

3.) **An unnecessary hardship is neither personal nor financial in nature.** In this application, an unnecessary hardship is a problem created by some feature of the land which prevents the owner from making reasonable use of the property as permitted by the Zoning Ordinance. The following three questions help to determine if there is an unnecessary hardship with regard to your property.

Without a variance, are you deprived of all beneficial use of your land? Without the variance I cannot expand and remodel my existing bathroom to be accessible. My wife is disabled (WV Permit # P318378) she has spine, heart, diabetes, and bone/joint issues. She faces further disability in the future. At some point she will not be able to live on our second floor. Without an accessible bathroom she will not be able to live on the ground level and we will be forced to move.

Is your situation due to unique circumstances that are not shared by other land in the district? It is impossible to know whether my circumstances are unique. Certainly many households have handicapped persons. How many of them have circumstance exactly the same as mine I cannot say. Certainly my circumstances are not commonplace.

Would approval of your variance request alter the essential character of the surrounding neighborhood or community? Absolutely not. As mentioned, the change to my house would be difficult to see. It certainly would have no affect on the neighborhood. In fact, there are at least 6 houses within view of mine that have additions that would have required the same variance.

4.) The general purpose and intent of the Zoning Ordinance of the City of Charleston is to protect and promote the public health, safety, convenience, morals and general welfare. For more specific information in regard to the scope and intent of the Zoning Ordinance, please see Section 1-020 as well as the section from which you are requesting this variance. Will approval of the variance allow the intent of the Zoning Ordinance to be observed? Yes it will as there will be no affect on anyone.

Substantial justice is the idea that a standard of fairness has been satisfied according to the substance of the law. Does your variance request represent the least deviation from the Zoning Ordinance necessary to achieve an outcome that is fair to both you and to your community? It is my honest opinion that it does.

I hereby affirm that all of the statements and information contained in or filed with this application are true and correct to the best of my knowledge.

Philip Harich
Signature

August 22, 2024
Date

Philip Harich

Planning Department Use Only	
The following is a list of related cases:	
The following is a list of zoning ordinance violations, building code violations and enforcement actions relating to the subject property:	
Application reviewed by:	
Action: ☐ Approved ☐ Rejected	
If approved, were there any specific conditions or limitations imposed by the BZA?	
Planning Official Signature and Title	
Date	

EXISTING

**3816 Virginia Ave SE Lot
Size approx. 50'Wx100'D**

**Original House
27' W x 21'8" L**

6'10"

6"

6"

**Approx.
Location of
Breezeway
Roof**

7'4"

21'11"

17'8"

14'8"

10'10"

4'1"

3'

DECK

10'6"

6'0"

4'4"

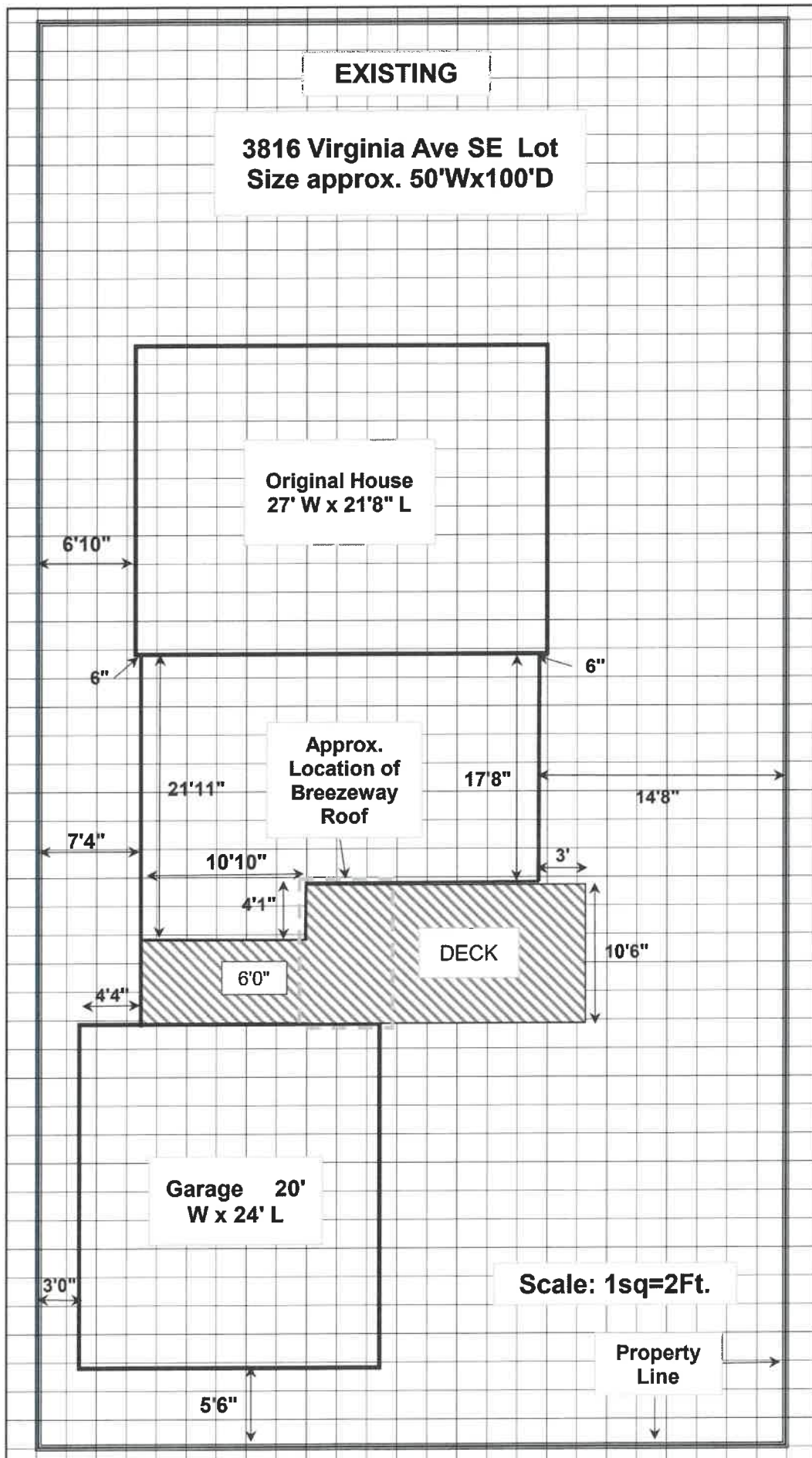
**Garage 20'
W x 24' L**

3'0"

5'6"

Scale: 1sq=2Ft.

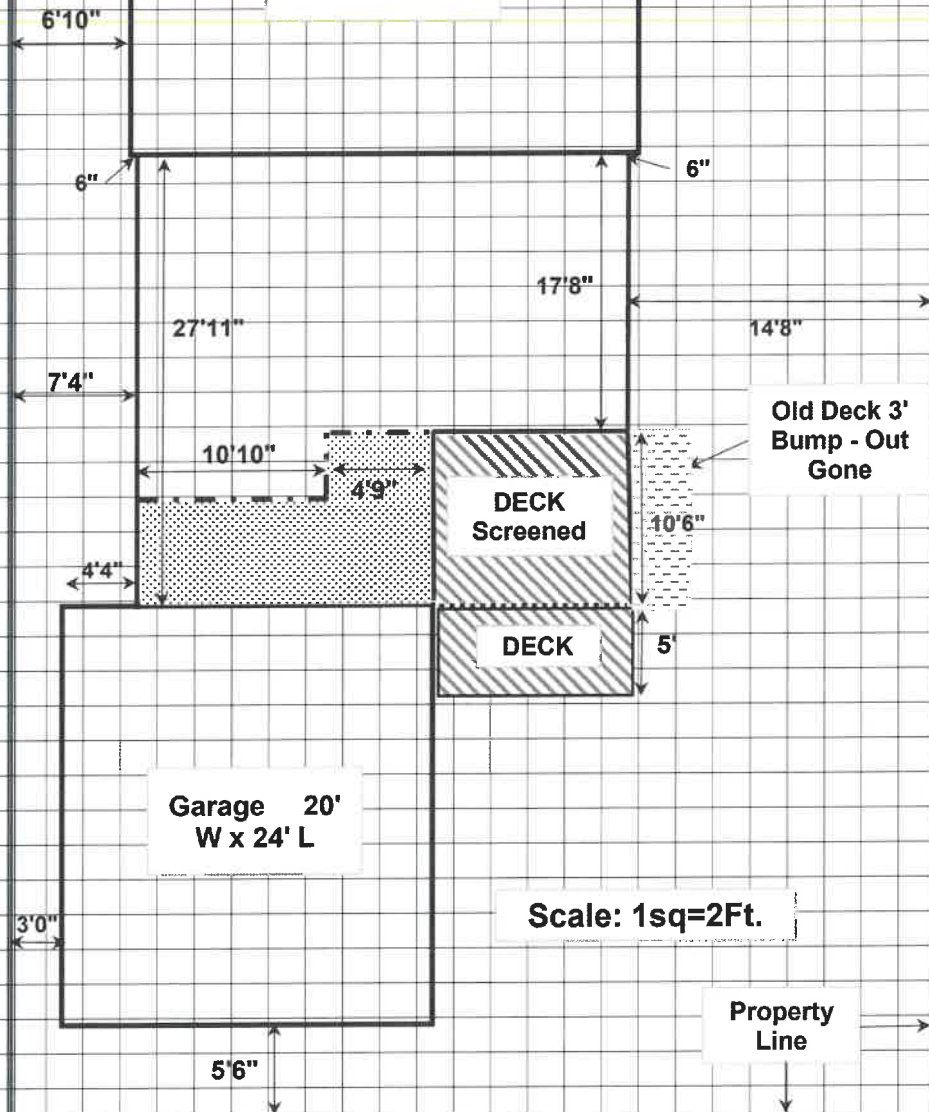
**Property
Line**



PROPOSED

**3816 Virginia Ave SE Lot
Size approx. 50'Wx100'D**

**Original House
27' W x 21'8" L**





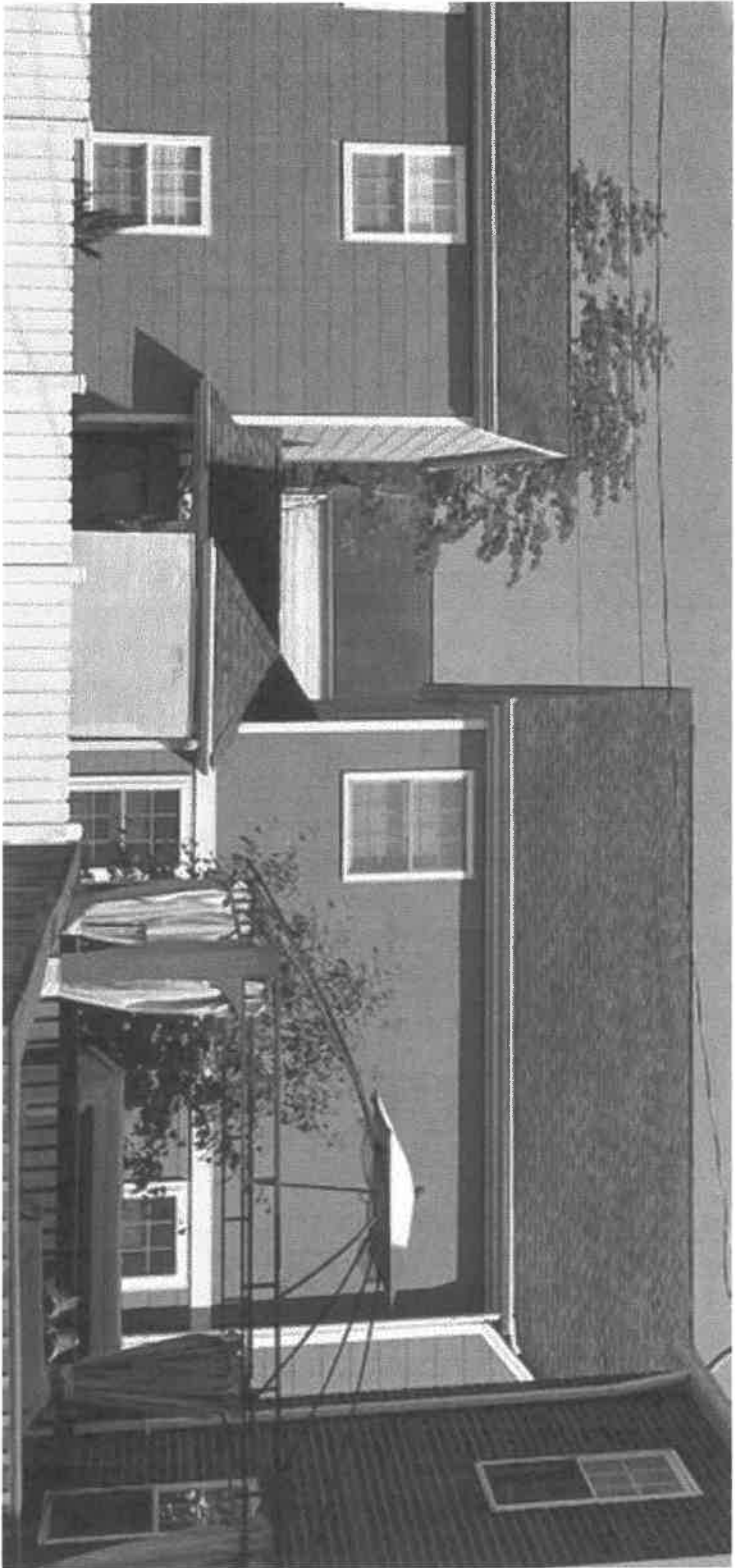
East View



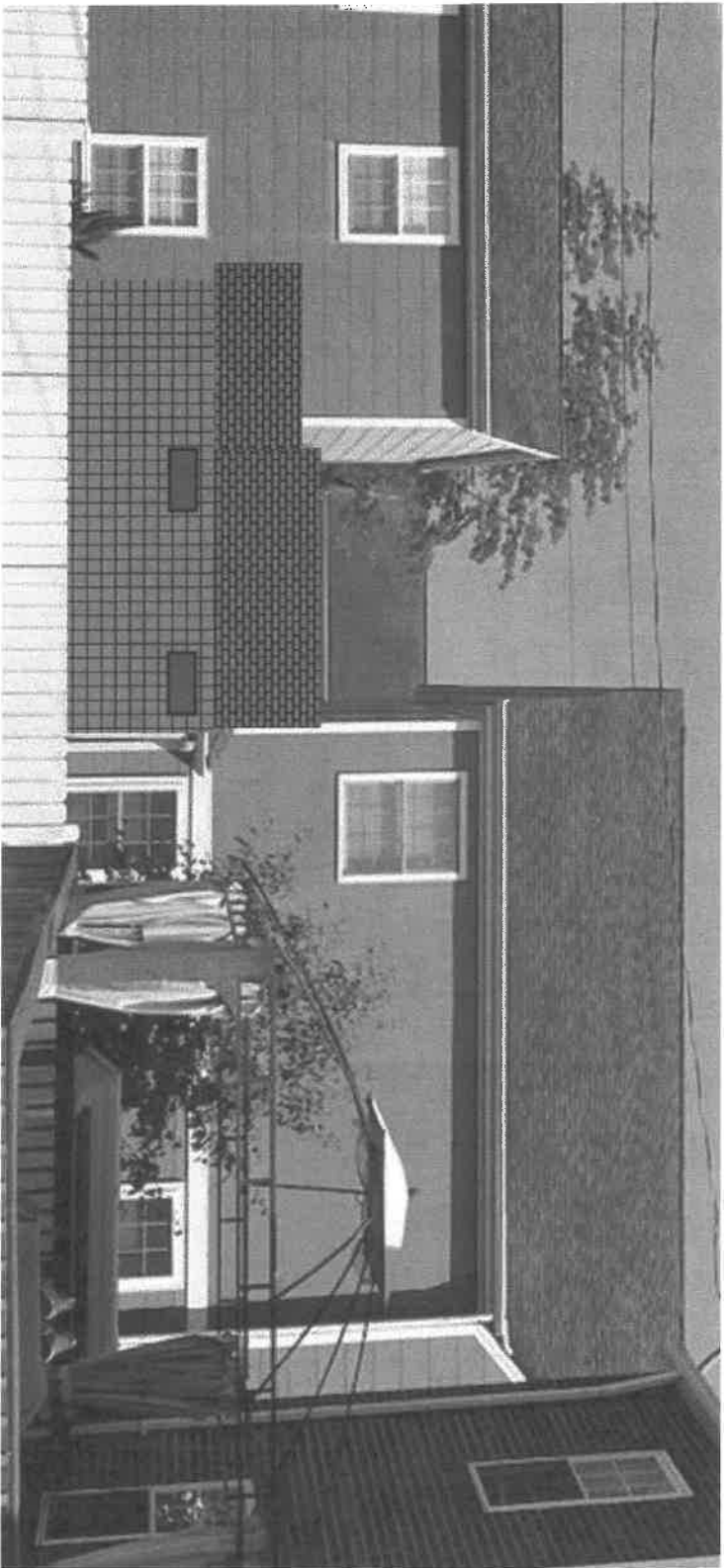
East View No Variance



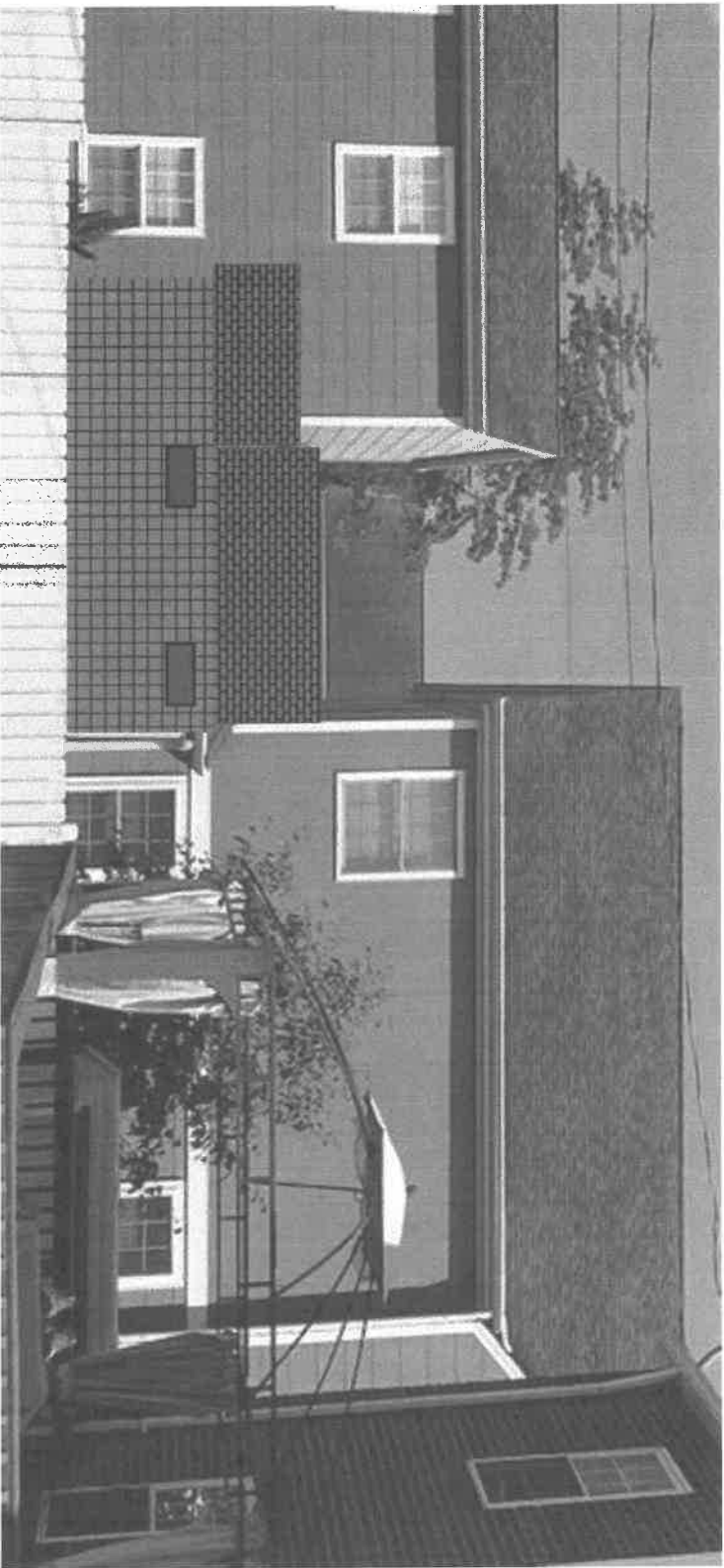
East View Variance



West View



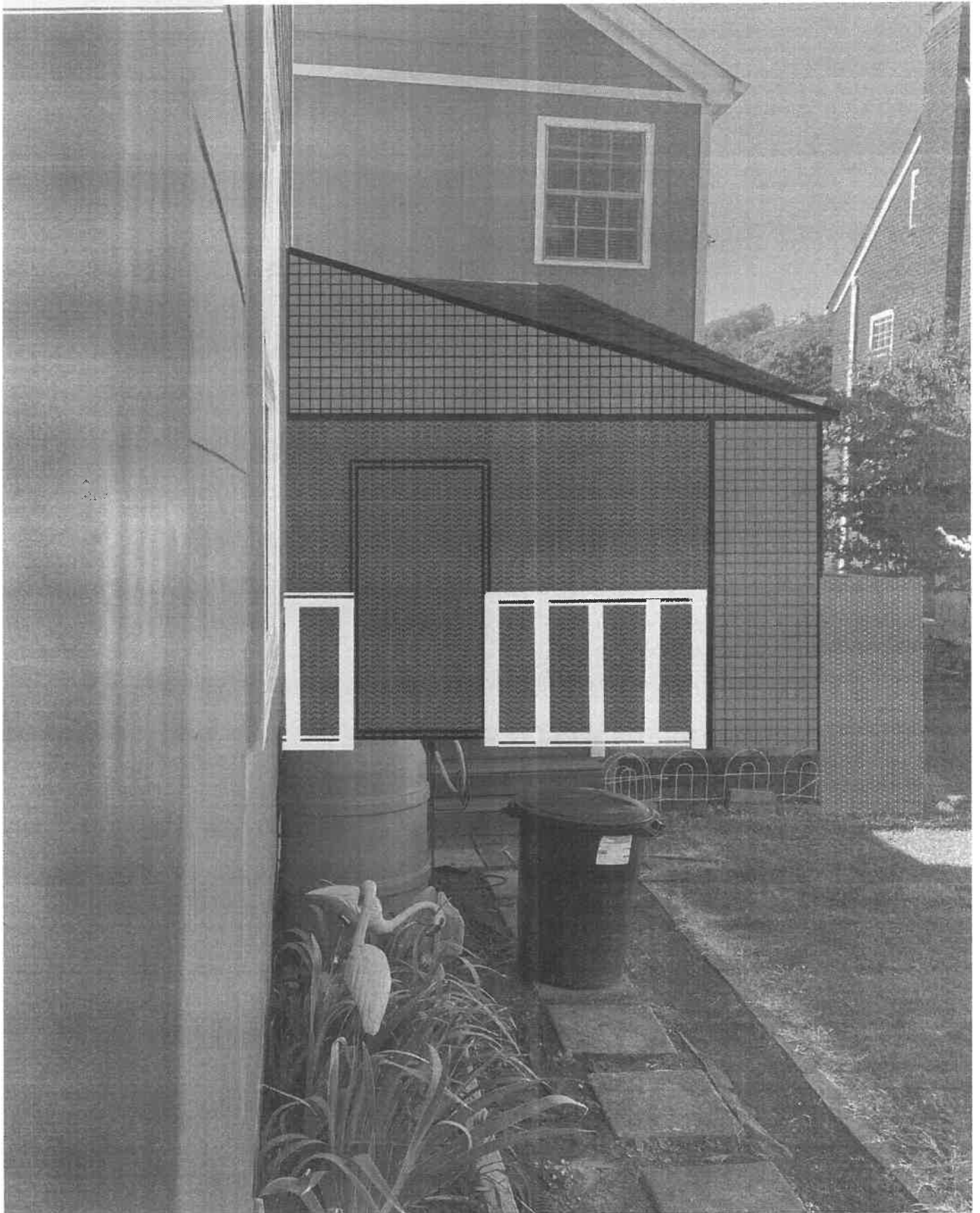
West View No Variance



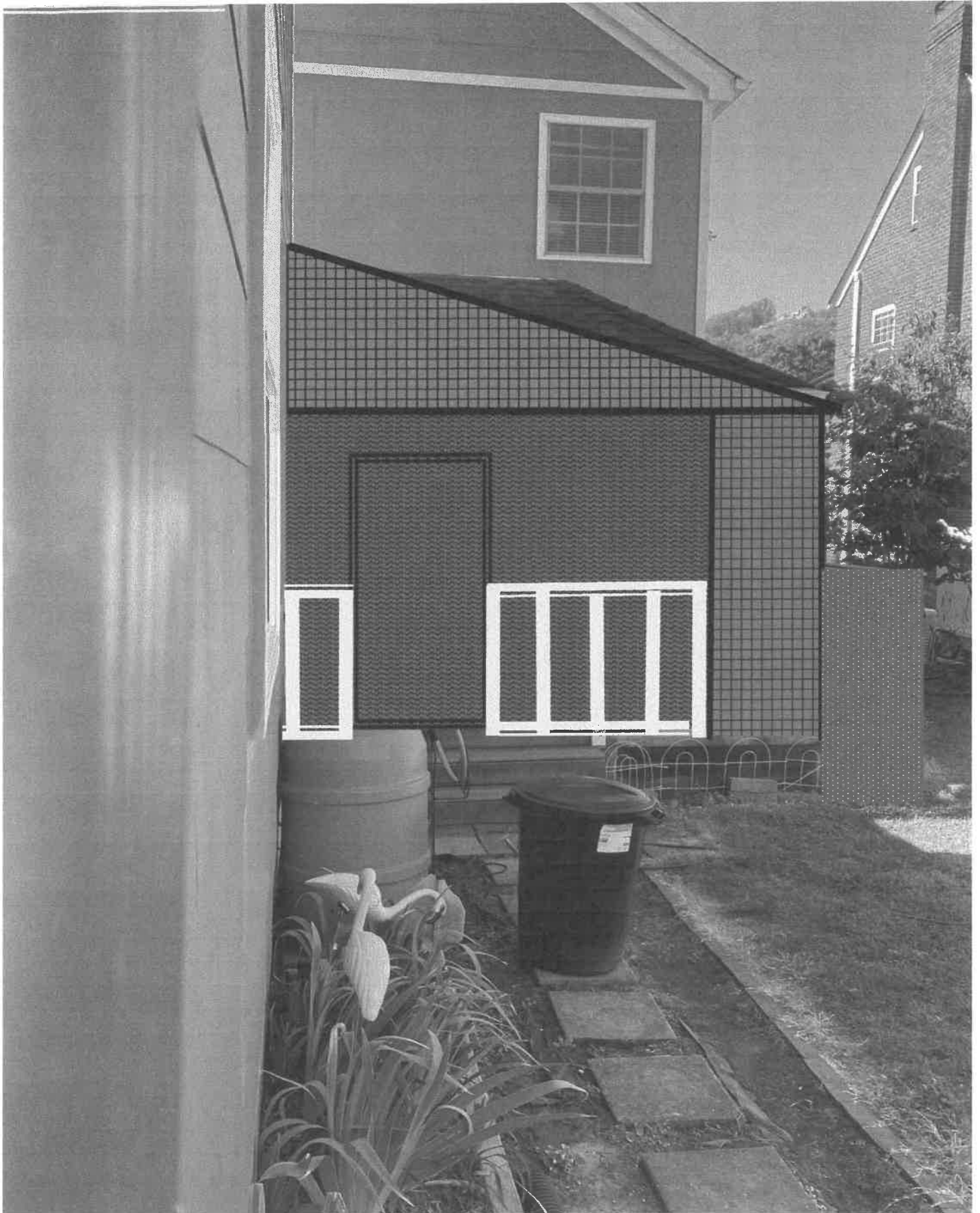
West View Variance



North View



North View No Variance



North View Variance