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# THE LAW OFFICES OF BELLO & MORTON, LLC

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184 Main Street Wareham, Massachusetts 02571 · 508-295-2522

September 1, 2023

Wareham Zoning Board of Appeals  
54 Maron Road  
Wareham, MA 02571

Re: Variance Application for Plymouth Ave Realty Trust, Property Located at 303 &  
305 Plymouth Avenue, East Wareham, MA 02538;  
Assessor's Map 124, Lots A-3A, A-4A, 1005, 1006

Dear Members of the Board of Appeals:

Please find enclosed the following information and exhibits:

1. Petitioner:

Forrest Divine  
129 Lovers Lane  
Granville, MA 01034

2. Record Owner:

Plymouth Ave Realty Trust  
Paul A.M. Hunt, Jr. and Mary H. Mias, Trustees  
305 Plymouth Avenue  
East Wareham, MA 02538

3. Current Deed:

Both Systems, Plymouth County Registry of Deeds Book 57628, Page 272 and  
Plymouth Land Court Registry District as Certificate of Title No. 135002, Deed  
attached as Exhibit A.

4. Building Inspector's Denial Letter:

Revised Denial Letter attached here as Exhibit B from the Building Commissioner  
referencing Two Variances from the Zoning Board of Appeal is necessary.

5. Certified Abutters List:

Copy Attached as Exhibit C.

6. Proposed Site Plan:

Copy Attached as Exhibit D.

7. Architectural Plan:

Copy Attached as Exhibit E.

8. Pictures in Support of Petition:

Copies Attached as Exhibit F.

9. Letters in Support of Petition:

Copies Attached as Exhibit G.

10. Letter of Intent:

Dear Mr. Chairman,

We are seeking two Variances here. One being that the proposed demolition of the cottage as a second principal residence as well as a garage which is located in front of that new construction.

This case is one of a family who has owned the property for generations. Currently the cottage is closest to the Pond and does not have 4 season use. Ms. Mias and her husband stay at this property in the summer and it is their wish to make this place their primary residence. Mr. Paul Hunt, her brother lives at the other residence which is set already as a primary residence for him.

The Conservation Board approved this project and issued an Order of Conditions on the construction. Notably they loved the proposed location away from the pond and wetlands. In our case because the demolition would lose grandfathering the application for demolishing and rebuilding needs a Variance. These lots are surely unique in that the waterfront here, depending

on the rain, can rise and fall tremendously – so moving the structure away from the pond and to a new location was necessary due to the topography and soil conditions. In addition, the applicants, but for requesting this variance would seek hardship in not being able renovate the existing cottage. Rendering a denial would create a hardship of limited enjoyment of the property for Ms. Mias who would only be able to inhabit in the summer. This could not become her primary residence due to cold winters.

Surely the new location and building is not detrimental to the neighborhood as the letters of support indicate all are in favor of this. Further, we argue that it decreases the non-conformity of the lot as far as setbacks to the pond.

The garage in front of the proposed building is a Variance that has been granted by this Board in the case whereas the landowner has waterfront property. These properties are unique in that there is a protected wetland issue with placing the garage behind the residence. So specifically, the topography is the reason for the garage in front of the home. The intent of the bylaw prohibiting garages in front of residences is to protect street traffic and the aesthetics of the Town so garages will not block views of the primary residences. Here the garage is set off to the side and well away from the road and will not create any hazards for motorists or pedestrians alike.

We ask the Board to grant both Variances.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jillian A. Morton", with a long horizontal flourish extending to the right.

JILLIAN A. MORTON, ESQ.

508-295-2522

TOWN OF WAREHAM  
ZONING BOARD OF APPEALS

APPLICATION FOR A PUBLIC HEARING FOR A VARIANCE/SPECIAL PERMIT

Certain uses are allowed in several zoning districts only by means of a Variance and/or Special Permit from the Zoning Board of Appeals. Those uses are indicated in the Wareham Zoning By-Laws. To apply for a Variance/Special Permit from the Zoning Board of Appeals, please do the following:

- o Complete this form.
- o Complete information packets. (Directions attached)
- o Submit application form and packet to Town Clerk for signature.
- o Submit application form and packet to Town Collector for signature.
- o Submit completed form, packets, and appropriate fees\*\* to the Zoning Board of Appeals secretary.

\*\*Permits may be issued only after a public hearing. There is a filing fee of \$300.00 per lot, per application for all non-conforming residential lots, whether built upon or not. There is a filing fee of \$750.00 per lot, per application for all commercial applications. In the case of a multi-family development, the fee is \$300.00 plus an additional \$50.00 for every unit over two (2). Please make check payable to the Town of Wareham.

\*\*A check to cover two (2) legal advertisements for the public hearing should be made payable to Wareham Week in the amount of \$100.00.

\*\*The applicant will also be responsible for the costs of sending out abutter notifications by Certified Mail. The cost is \$6.90 per certified letter to each abutter. Please see Zoning Board secretary for cost of mailings. Please make check payable to the Town of Wareham.

I hereby apply for a Variance/Special Permit for a use to be made of the following described place:

STREET & NUMBER: 303 & 305 Plymouth Avenue LOT: 124 MAP: 1005, 1006  
ZONING DISTRICT: R130

USE REQUESTED: Residential Single Family

OWNER OF LAND & BUILDING: Plymouth Ave Realty Trust USSL.# \_\_\_\_\_

ADDRESS OF OWNER: 305 Plymouth Ave., East Wareham, MA 02538

PERSON(S) WHO WILL UTILIZE PERMIT: Forrest Divine

ADDRESS: 129 Lovers Lane, Granville, MA 01034

DATE: 9-1-2023 SIGNATURE: 

This application was received on the date stamped here:

WAREHAM TOWN CLERK  
2023 SEP 7 PM 12:03

Town Clerk: \_\_\_\_\_ Date: \_\_\_\_\_

Tax Collector: Danielle Cambria Date: 9-5-23

Planning/Zoning Dept.: Sonia Raposo Date: 9-7-23

Application fee paid: 300.00 Check #: 5152 Receipt: \_\_\_\_\_

Advertising fee paid: 150.00 Check #: 5154 Receipt: \_\_\_\_\_

Abutters fee paid: 198.00 Check #: 5156 Receipt: \_\_\_\_\_

TOWN OF WAREHAM

APPLICANT/CONTRACTOR/REPRESENTATIVE INFORMATION SHEET

Check One:  Variance  Special Permit  Site Plan  Appeal

Date stamped in: \_\_\_\_\_ Date decision is due \_\_\_\_\_

Applicant's Name: Forrest Divine

Applicant's Address: c/o Jilian Morton, Esq., 184 Main Street, Wareham, MA 02571

Telephone Number: 508-295-2522

Cell Phone Number: \_\_\_\_\_

Email Address: jam@mortonlawllc.com

Address of Property/Project: 303 & 305 Plymouth Avenue

Landowner's Name: Plymouth Ave Realty Trust

Owner's Address: 305 Plymouth Avenue, East, Wareham, MA 02538

Telephone Number: N/A

Contact Person: Jilian Morton, Esq. Telephone Number: 508-295-2522

Map 124 Lots A-3A, A-4A Zone R130  
1005, 1006

Date Approved \_\_\_\_\_ Date Denied \_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# EXHIBIT A

Property Address: 303, 305 and 378 Plymouth Avenue, East Wareham, MA 02538



2023 00839733  
Bk: 675 Pg: 2 Cert: 135002  
Doc: DEED 01/26/2023 09:25 AM  
ATTEST: John R. Buckley, Jr. Register  
Plymouth County Registry of Deeds

**BOTH  
SYSTEMS**



2023 00005799  
Bk: 57628 Pg: 272 Page: 1 of 6  
Recorded: 01/26/2023 09:32 AM  
ATTEST: John R. Buckley, Jr. Register  
Plymouth County Registry of Deeds

DEED

PAUL A.M. HUNT, JR., of Wareham in the County of Plymouth and the Commonwealth of Massachusetts, and MARY H. MIAS of Agawam in the County of Hampden and the Commonwealth of Massachusetts, for consideration of ONE (\$1.00) dollar, grant;

PAUL A.M. HUNT, JR. AND MARY H. MIAS, as trustees of **Plymouth Ave Realty Trust** u/d/t dated January 17, 20 23 (Trustee Abstract Recorded Herewith) with an address of 305 Plymouth Avenue, East Wareham, MA,

with QUITCLAIM COVENANTS:

SEE EXHIBIT A

Being the same property as conveyed by transfer certificate of title to Grantors recorded May 26, 2015 at the Plymouth County Registry of Deeds Land Court at Book 609, Page 64 with a Certificate # 121864 and Document # 732221. See Also Deed Recorded with the Plymouth County Registry of Deeds in Book 39359, Page 211.

There is no spouse or former spouse entitled to an estate of homestead.

Title Not Examined

[SIGNATURE PAGE TO FOLLOW]

Return to:  
LAW OFFICES OF BELLO & MORTON, LLC  
184 Main Street  
Wareham, Massachusetts 02571

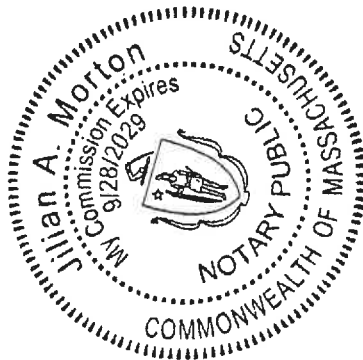
EXECUTED as a sealed instrument this January 17, 2023

Paul A M Hunt Jr  
PAUL A.M. HUNT, JR.

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF PLYMOUTH, ss.

On this January 17<sup>th</sup> 2023, before me, the undersigned notary public, personally appeared the above named individuals, PAUL A.M. HUNT, JR.,  
 who are personally known to me,  
 proved to me through satisfactory evidence of identification, which was Massachusetts driver's licenses or \_\_\_\_\_,  
to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.



Julian A. Morton  
Notary Public. Julian A. Morton  
My Commission Expires: 9-28-2029



EXECUTED as a sealed instrument this 17<sup>th</sup> JANUARY 2023.

  
\_\_\_\_\_  
MARY H. MIAS

COMMONWEALTH OF MASSACHUSETTS

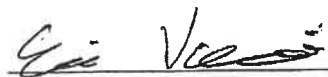
COUNTY OF PLYMOUTH, ss.

On this 17<sup>th</sup> Day, January 2023, before me, the undersigned notary public, personally appeared the above named individuals, MARY H. MIAS

who are personally known to me,

proved to me through satisfactory evidence of identification, which was Massachusetts driver's licenses or \_\_\_\_\_,

to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

  
\_\_\_\_\_  
Notary Public:  
My Commission Expires:



**ERIC VALENTINO**  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
November 30, 2029

EXHIBIT A

Four certain parcels of land, with the buildings thereon, situated in Wareham, in the County of Plymouth and the Commonwealth of Massachusetts, bounded and described as follows:

**PARCEL ONE:** (registered land)

- NORTHERLY** by Lot A2 on the plan hereinafter mentioned, five hundred, eight and 92/100 (508.92) feet;
- SOUTHEASTERLY** by land now or formerly of Charles C. Weston, et al., one hundred eight and 75/100 (108.75) feet;
- SOUTHWESTERLY** by Lot A4 on said plan, five hundred five and 90/100 (505.90) feet; and
- NORTHWESTERLY** by land now or formerly of Outram Bangs, et al., thirty-eight and 70/100 (38.70) feet.

All of said boundaries are determined by the Court to be located as shown on subdivision plan #6355C, drawn by George P. Morse, C.E., dated 1932 and filed with Certificate of Title No 3122 and the above-described land is shown as Lot A3 on said plan.

So much of the above-described land as is included within the limits of the Road as approximately shown on said plan in subject to the rights of all persons lawfully entitled thereto in and over the same.

Said lot is also subject to and has the benefit of a right of way ten (10) feet wide.

**PARCEL TWO:** (registered land)

- NORTHERLY** by Lot A3 on the plan hereinafter mentioned, five hundred, five and 90/100 (505.90) feet;
- SOUTHEASTERLY** by land now or formerly of Charles C. Weston, et al., one hundred eight and 75/100 (108.75) feet;
- SOUTHWESTERLY** by land now or formerly of Abbie M. Ramsdell, five hundred twelve and 80/100 (512.80) feet; and

NORTHWESTERLY by land now or formerly of Outram Bangs, et al., thirty-eight and 70/100 (38.70) feet.

All of said boundaries are determined by the Court to be located as shown on subdivision plan #6355C, drawn by George P. Morse, C.E., dated 1932 and filed with Certificate of Title No 3122 and the above-described land is shown as Lot A4 on said plan.

So much of the above-described land as is included within the limits of the Road as approximately shown on said plan in subject to the rights of all persons lawfully entitled thereto in and over the same.

Said lot is also subject to and has the benefit of a right of way ten (10) feet wide to White Island Pond as approximately shown on said plan, in common with others entitled thereto.

For title to said Parcels One and Two, see Plymouth County Registry District of Land Court, Certificate of Title No. 101471.

**PARCEL THREE:** (unregistered land)

Bounded on the NORTH by land now or formerly of Frederick L. Ramsdell, there measuring one hundred seventeen (117) feet;

On the SOUTHEAST by White Island Pond, there measuring between stone bounds on the above, one hundred twenty-one and 35/100 (121.35) feet;

On the SOUTHWEST by land now or formerly of Chester H. Ramsdell there measuring one hundred eight and 75/100 (108.75) feet; and

On the NORTHWEST by Parcel 1 (registered land above-described), there measuring one hundred eight and 75/100 (108.75) feet.

**PARCEL FOUR:** (unregistered land)

Bounded on the NORTH by land now or formerly of Jennie B. Kelley, one hundred seven (107) feet;

On the EAST by White Island Pond, one hundred thirty-two (132) feet, more or less;

On the SOUTH by land now or formerly of Chester H. Ramsdell, forty-five (45) feet more or less; and

On the WEST by Parcel Two (registered land above-described), one hundred thirteen and 75/100 (113.75) feet.

Subject to a right of way over an old road across said premises.

For title to said Parcels Three and Four, see deed recorded with the Plymouth County Registry of Deeds at Book 39359, Page 211.

**Property Information:**  
303, 305 and 378 Plymouth Avenue  
East Wareham, MA 02538

# EXHIBIT B



# TOWN of WAREHAM

*Massachusetts*

## BUILDING DEPARTMENT

Paul Turner  
Director of Inspectional Services

**REVISED:** August 21, 2023

Mr. Forrest Divine  
129 Lovers Lane  
Granville, Massachusetts 01034

**RE: 303 & 305 Plymouth Avenue/ Map 124, Lot's A-3A, A-4A, 1005, 1006**

Mr. Divine,

I have reviewed your Building Permit application B-23-413, submitted July 5, 2023 to demolish an existing 468 square foot, one story seasonal cottage and to construct a 2246 square foot, three story second principle building with a free standing 720 square foot garage (Revised as requested by Attorney Jilian A. Morton on August 2, 2023 to include the garage proposal.) located at 303 and 305 Plymouth Avenue, Wareham, Massachusetts. At this time I must deny your request.

Your application is being denied under the following section of the Wareham Zoning By-Laws:

**Article 6: Density and Dimensional Regulations:**

**613 One Principle Residential Building per Lot;**

In all districts, not more than one principal residential building with accessory structures having a residential use allowed in the respective district shall be erected, placed or **converted** on any lot, except where multiple family dwellings, apartments or condominiums are allowed by Special Permit, the Special Permit may provide for more than one principle building.

**625 Accessory Buildings, R districts, Front Setback;**

**Note 2:** Front Setbacks of Accessory Buildings shall be equal to or greater than the existing principle building's Front Setback.

Mr. Divine, your application states that you are demolishing an existing cottage and replacing it with a second principle building on site. The Town of Wareham By-Laws does not define a cottage but does state that terms and words not defined herein but defined in the State Building Code or Subdivision Regulations shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, Third Edition.

The definition of a cottage according to Webster's Unabridged Dictionary is a small house, especially one in the country. The definition of a house is a residential building occupied by one or more families. The Town of Wareham Zoning By-Laws define a dwelling unit as one or more sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit with cooking, living, sanitary, and sleeping facilities. The By-Laws further defines a seasonal dwelling unit as a dwelling unit that cannot be

occupied on a year-round basis without alteration(s) being made requiring a permit from the Building Department. The structure that you refer to as a cottage in my determination does not even qualify as a seasonal dwelling unit due to the fact that there is not full sanitary, living and cooking facilities.

### **1360 Alteration or Extension of Other Structures**


**1361** A lawfully pre-existing nonconforming structure, other than a single or two family residential structure may be altered or extended provided that:

4. Any proposed change that adds a new nonconformity or aggravates/or intensifies an existing nonconformity will require a **Variance** from the Zoning Board of Appeals.

The proposed demolition of an accessory building and rebuilding it as a second principle residential building on the same lot will require a **Variance**. The proposed location of the garage will also require a **Variance**. Therefore two **Variances** must be secured from the Zoning Board of Appeals in order to proceed with your application.

The subject dwelling is located in **R130** zoning district.

Respectfully,

  
Paul E Turner  
Building Commissioner  
Zoning Enforcement Officer

**It is the owners' responsibility to check with other departments to ensure full compliance.**

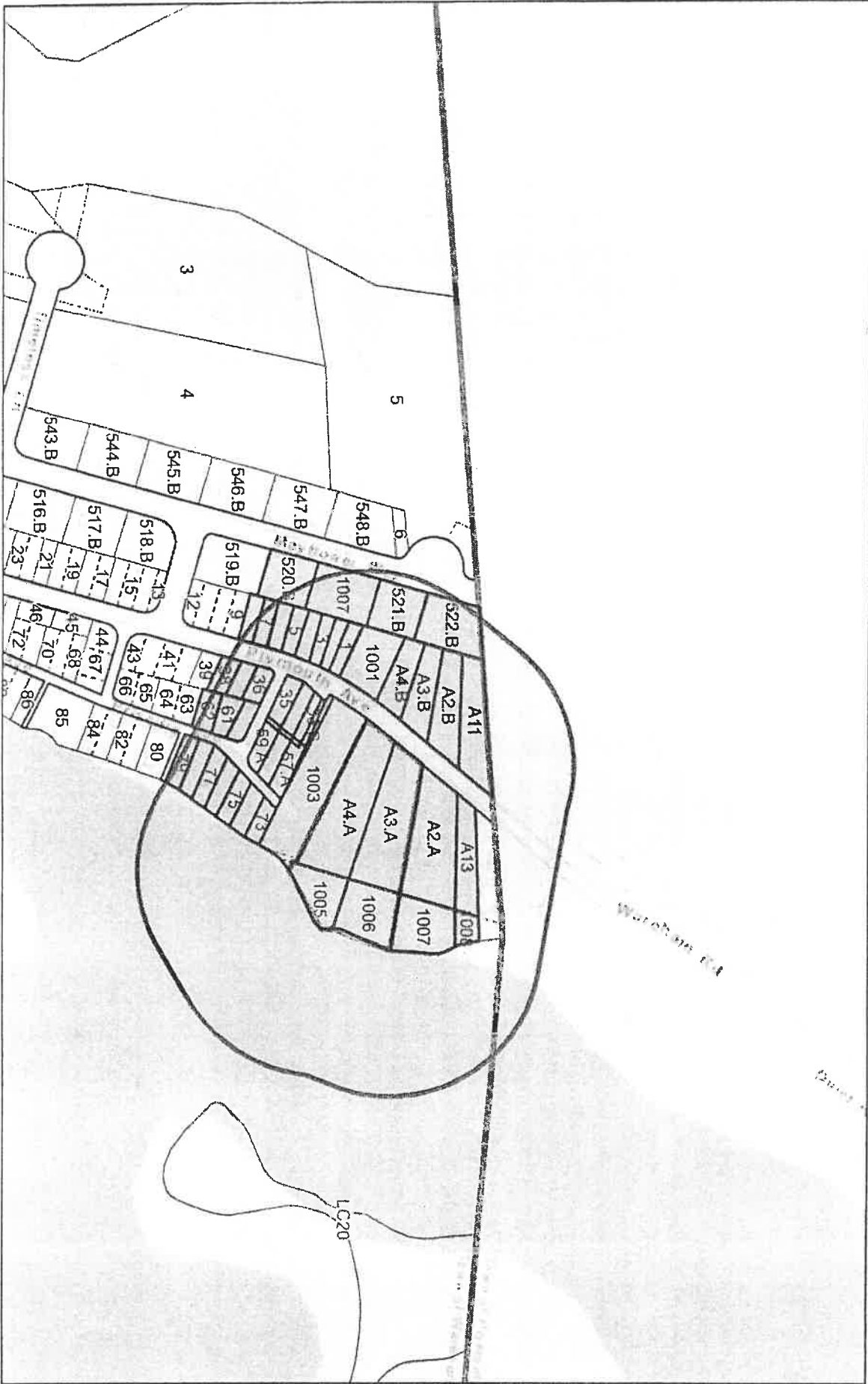
**In accordance with the provisions of MGL chapter 40A §§ 15, you may apply to the Zoning Board of Appeals for the above noted relief within thirty (30) days of receipt of this letter.**

# EXHIBIT C



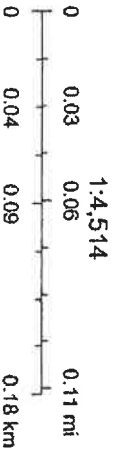
MAP & LOT	OWNERS	STREET ADDRESS	TOWN & STATE	ZIP CODE
TOWN OF WAREHAM ABUTTERS				
MAP 124 LOTS A-3A, A-4A, 1005, 1006				
OWNERS PAUL A M HUNT & MARY H MIAS				
118-0-520-B	SEVEN HILLS COMMUNITY SERVICES INC,	81 HOPE AVE,	WORCESTER, MA	01603
118-0-521-B	GAITANE MATTHEW J, GAITANE AMY M	101 MAYFLOWER LN,	E WAREHAM, MA	02538
118-0-522-B	BRADY PAUL S,	103 MAYFLOWER LN,	E WAREHAM, MA	02538
124-0-1	PETRUSEWICZ JOSEPH P, C/O CHRISTINA LUZAITIS EXEC	3 WARD CT,	S BOSTON, MA	02127
124-0-1001	DISEGLIO DENISE M,	160 ADAMS AVE,	W NEWTON, MA	02465
124-0-1002	KELLY JOHN P, KELLY EMILY	299 PLYMOUTH AVE	E WAREHAM, MA	02538
124-0-1003	LAMKIN BARRY D, LAMKIN JEAN T	324 SOUTH MAIN ST,	COHASSET, MA	02025
124-0-1005	HUNT PAUL A M JR & MIAS MARY H, HUNT WILLIAM A	305 PLYMOUTH AVE,	E WAREHAM, MA	02538
124-0-1008	PROTASOWICKI WALTER, PROTASOWICKI DELIA	42 JENNIFER ST,	LITTLETON, MA	01460
124-0-3	COOPER ALAN F, CAREY COOPER PATRICIA A	PO BOX 877,	E WAREHAM, MA	02538
124-0-33.A	BRITTON JAMES F, BRITTON ROBERT JR TRUSTEES	8 SADDLE HILL RD,	MEDWAY, MA	02053
124-0-37	MENZIES DIANE M,	318A POTTER RD,	FRAMINGHAM, MA	01701
124-0-6	WALKER AGNES F TRUSTEE OF THE, 69 REED STREET REAL ESTATE TRUST	1372 BUSH HILL RD UNIT A204,	MILTON, MA	02186
124-0-60	VERACKA ALAN P, VERACKA LISA A	44 PRISCILLA AVE,	E WAREHAM, MA	02538
124-0-74	SMITH RICHARD J TRUSTEE, LOD REALTY TRUST	PO BOX 790	E WAREHAM, MA	02538
124-0-78	SCHNETZER DOROTHY, ROSS GARY	79 LUNAR AVE,	BRAINTREE, MA	02184
124-0-A11	BROCCOLI CAROL M, BROCCOLI ANTHONY J	54 HIDDEN LAKE DR,	NO BRUNSWICK, NJ	08902
124-0-A13	PROTASOWICKI WALTER, PROTASOWICKI DELIA	42 JENNIFER ST,	LITTLETON, MA	01460
124-0-A2.A	ANTONINO JOHN P, ANTONINO DOLORES M	307 PLYMOUTH AVE,	E WAREHAM, MA	02538
124-0-A3.A	HUNT PAUL A M, MIAS MARY H TRUSTEES	305 PLYMOUTH AVE,	E WAREHAM, MA	02538
CERTIFIED ABUTTERS AS THEY APPEAR				
ON OUR TAX ROLLS AS OF 8/21/2023				
<i>Cheryl Morton</i>				
ASSESSORS OFFICE				
REQUESTED BY CHERYL SILVA				
508 295-2522				
CHERYL@MORTONLAW.COM				

# ArcGIS Web Map



8/21/2023, 1:42:30 PM

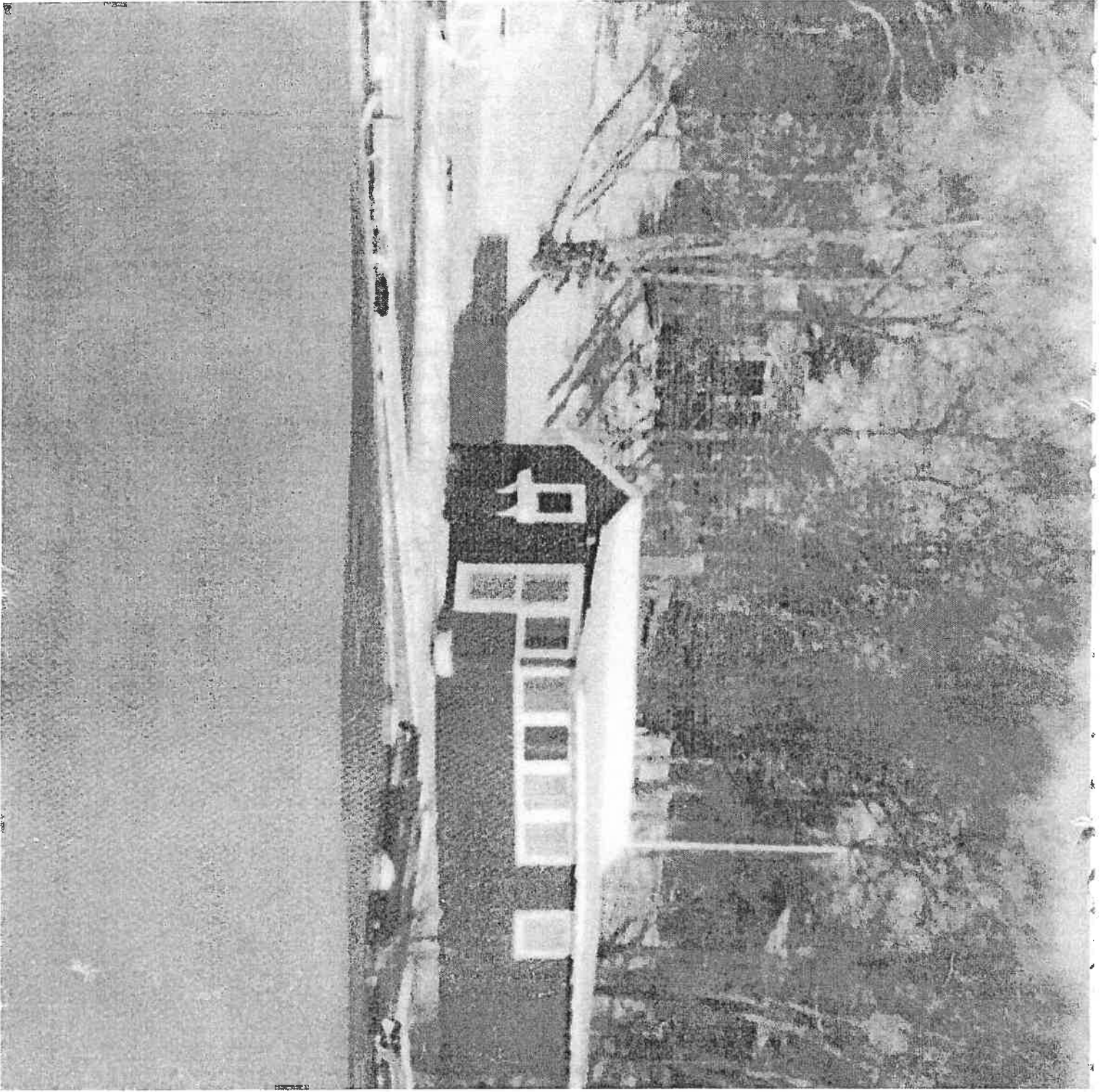
- Parcels with CAMA Data Parcel Lines
- Town Line
- Common Line
- Property Line
- MiscPolys
- Private Road ROW
- Right of Way
- Public Road
- PWater

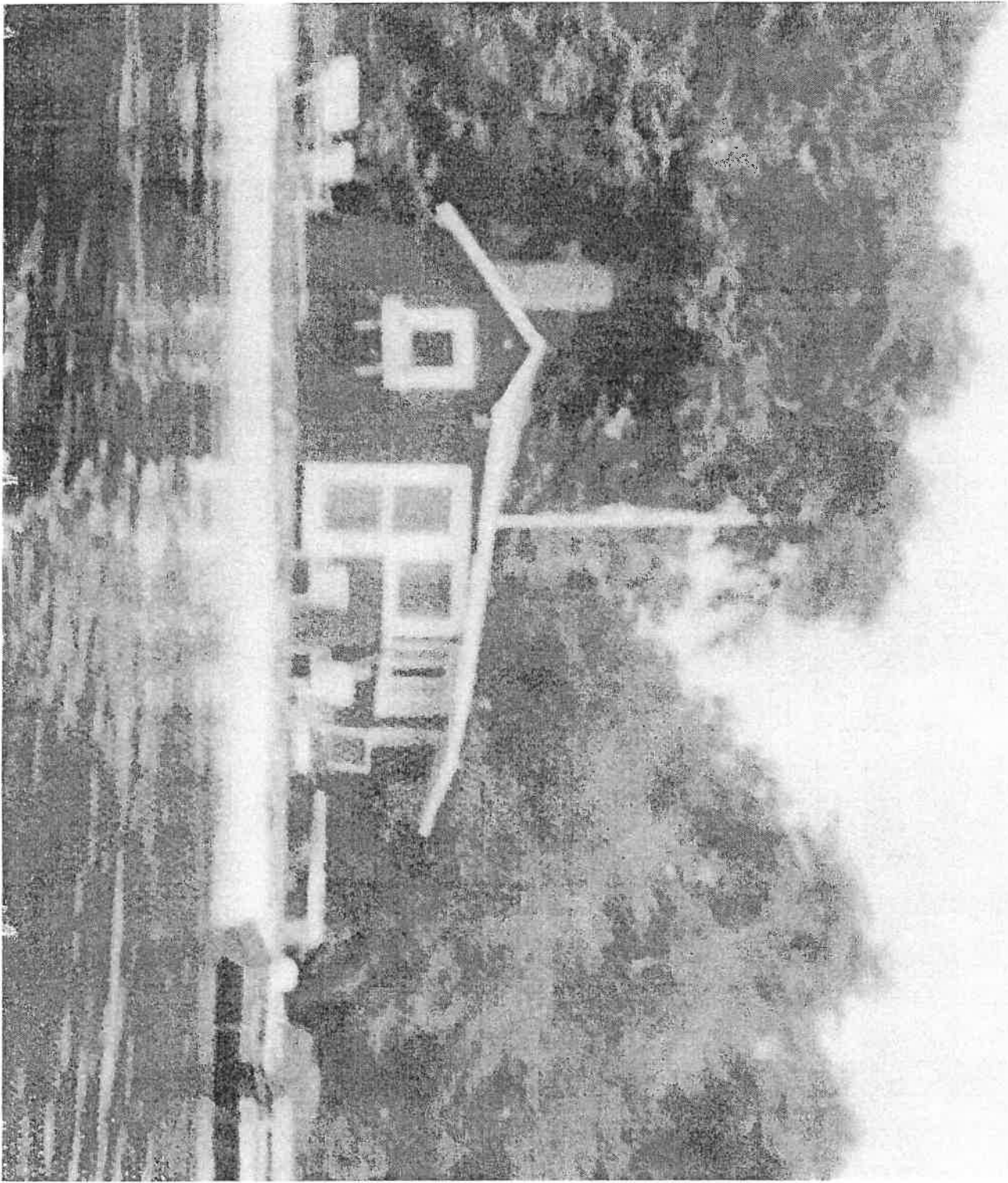


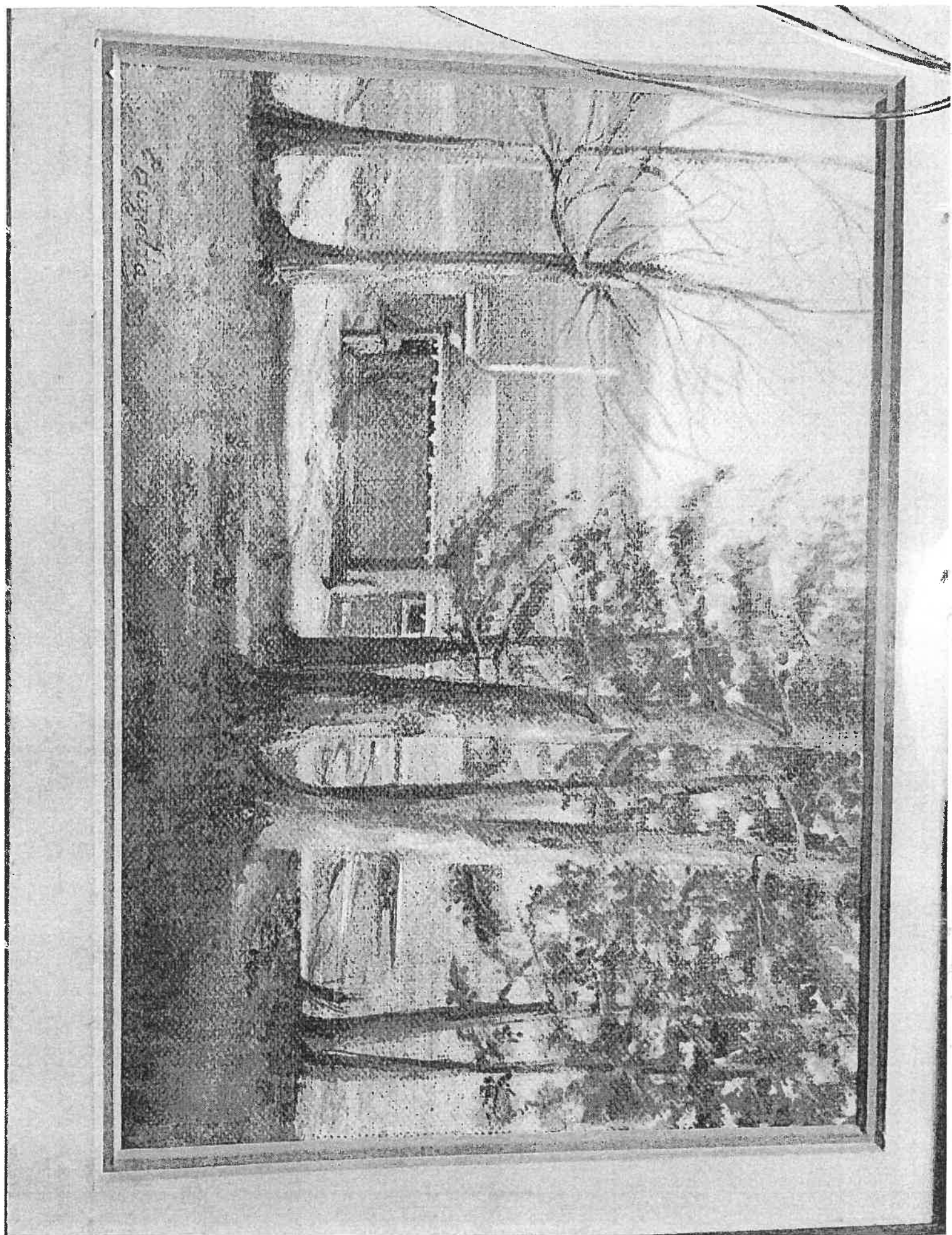
# EXHIBIT D

# EXHIBIT E

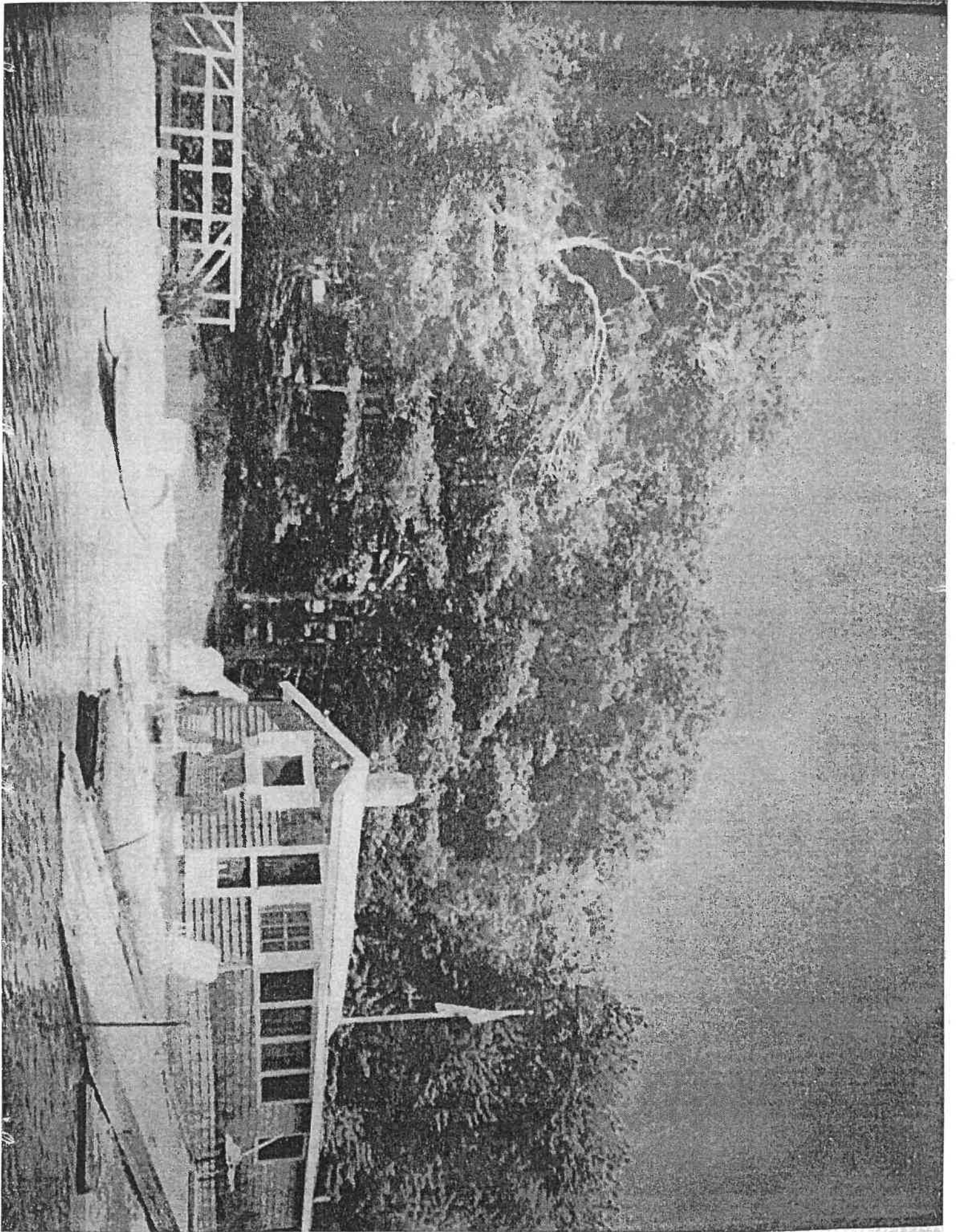
# EXHIBIT F

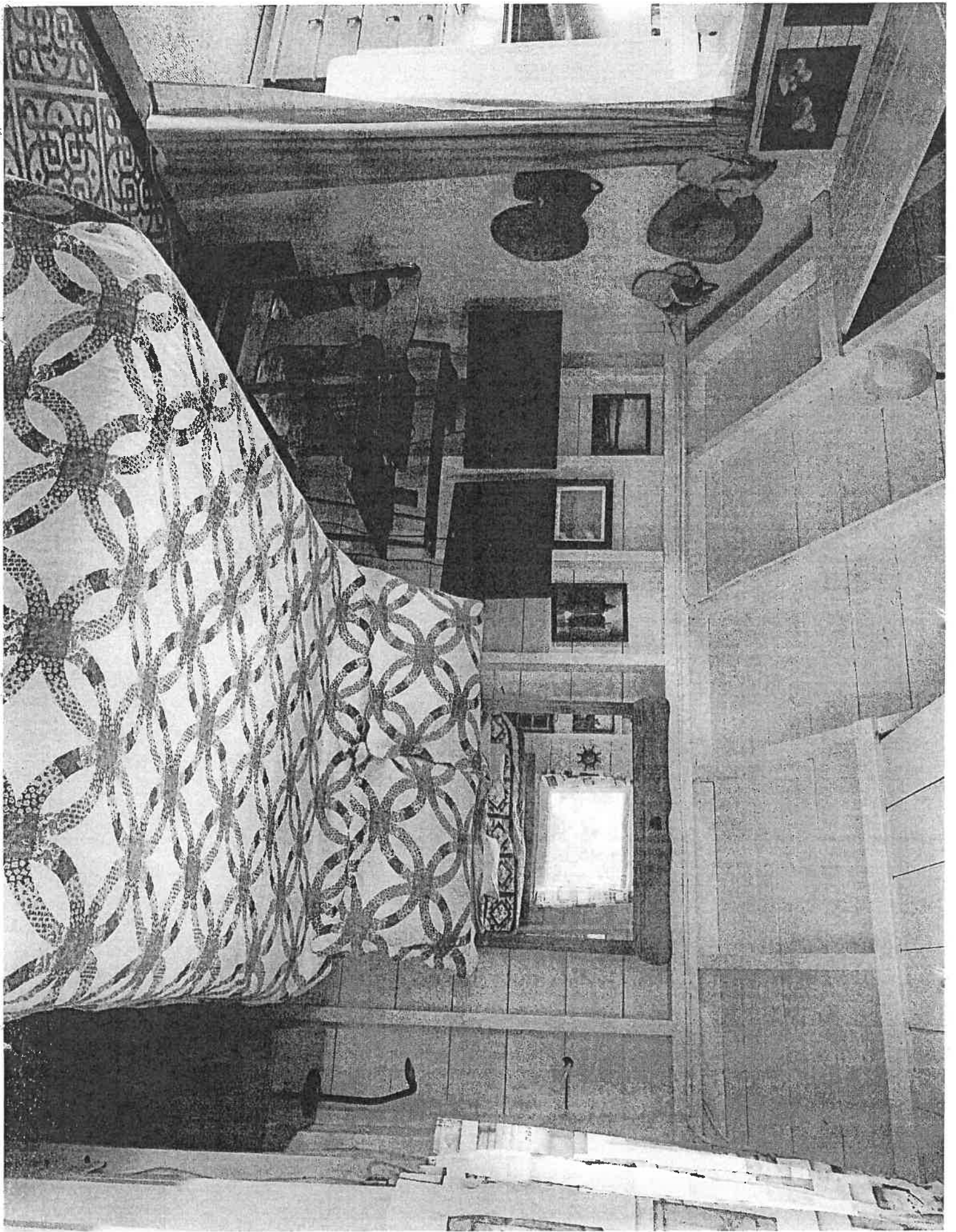


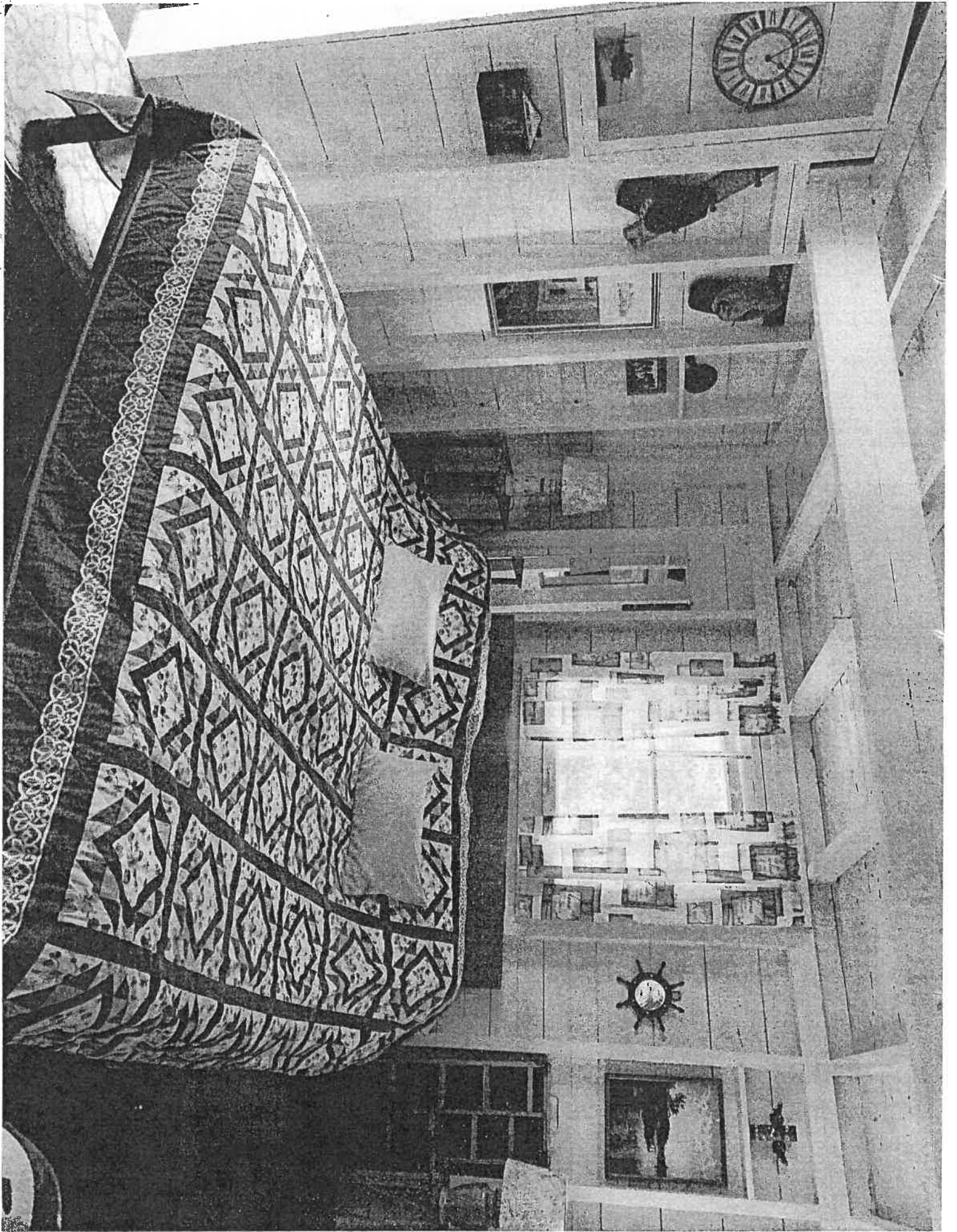


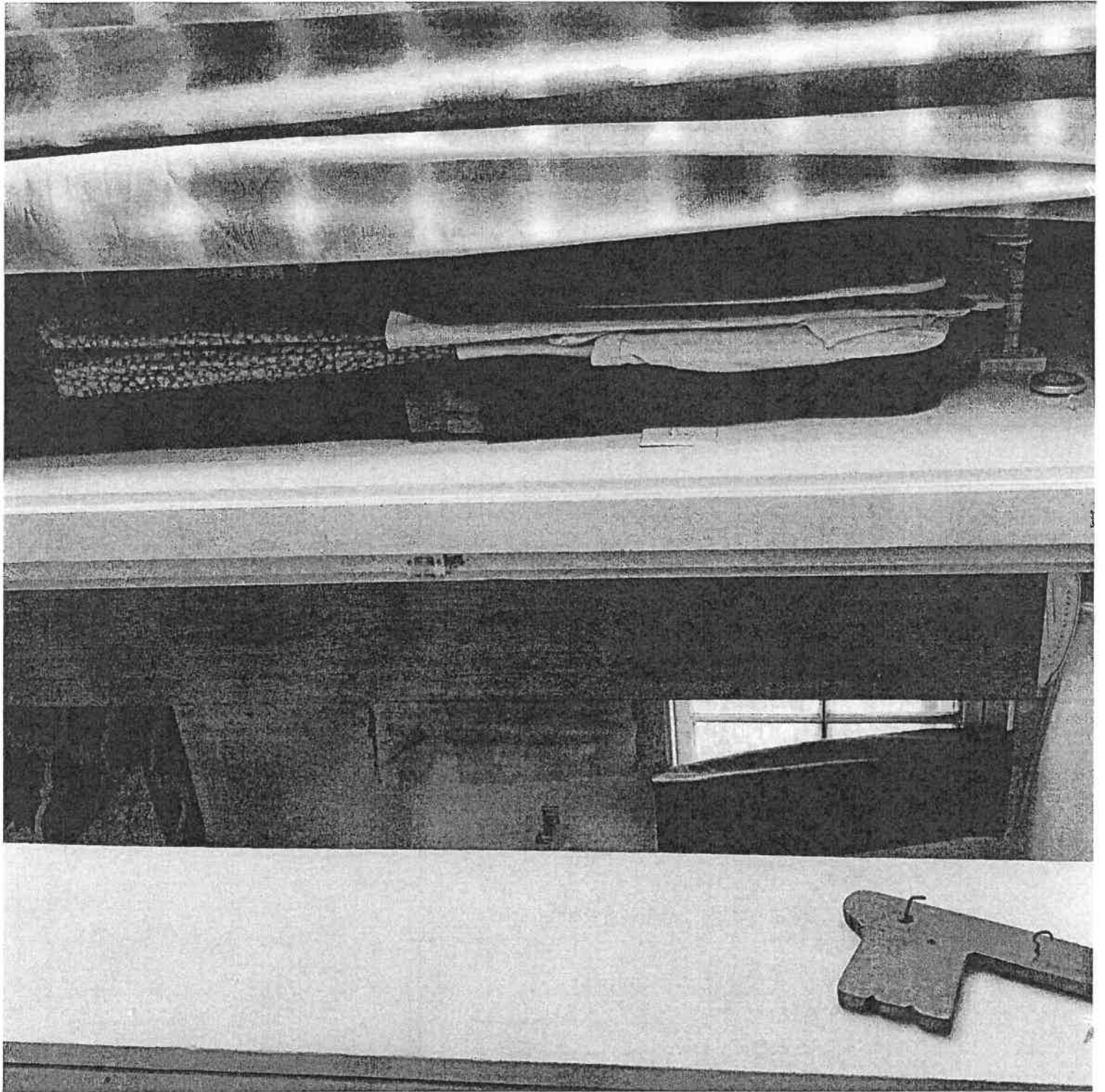




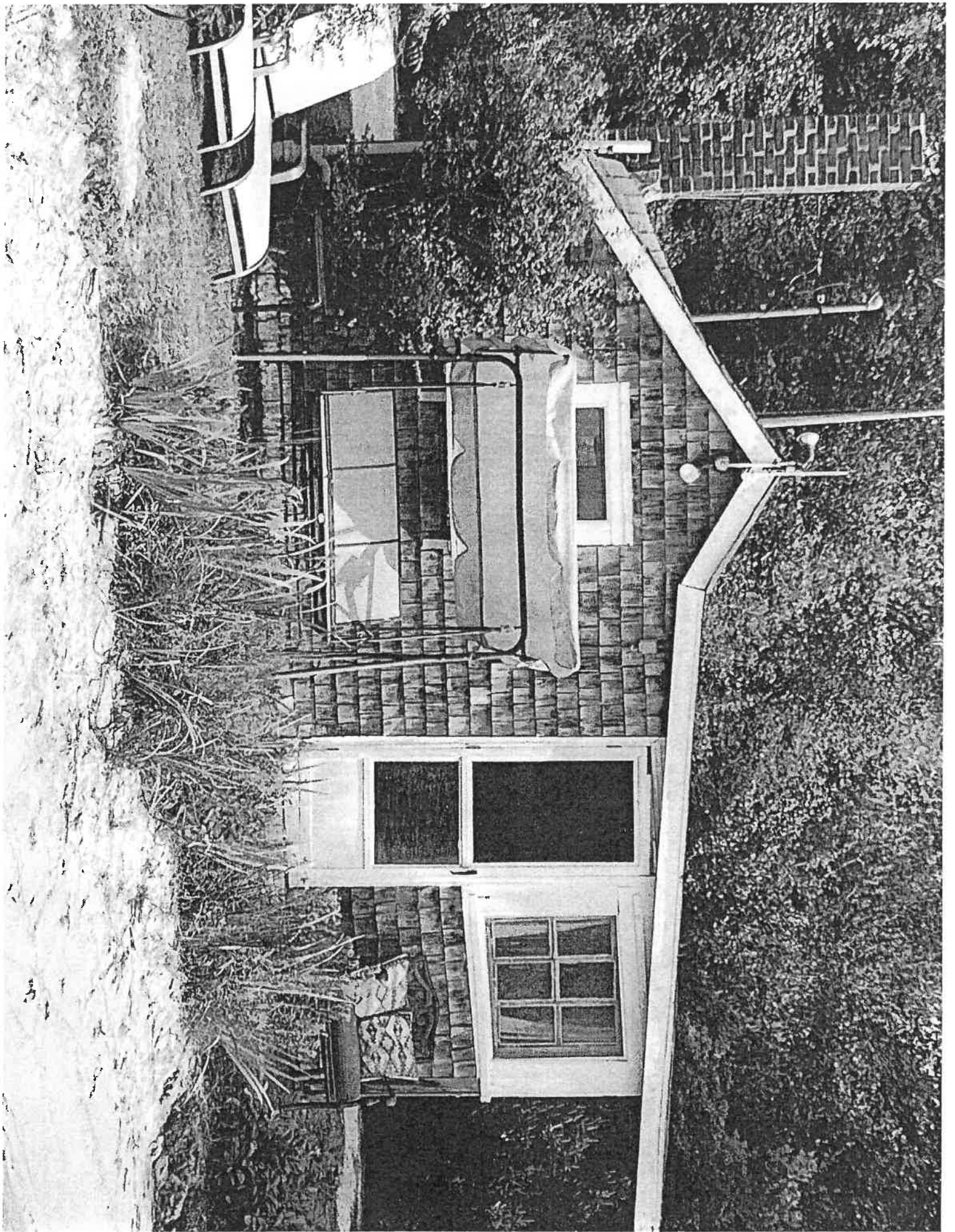












# EXHIBIT G

August 19, 2023

Dear Members of the Zoning Board of Appeals,

I am writing to support Mary and Dave Mias' application for a special building permit for a new house on their property at 303-305 Plymouth Ave East Wareham Ma.

The Hunt-Mias Family are long time neighbors.

This new construction in no way bothers us and will enhance the property.

I encourage you to grant the special permit to begin this construction.

Kind regards,



39 Plymouth Ave  
E. Wareham, MA  
02538

P.O. Box 790  
E. Wareham, MA  
02538



August 19, 2023

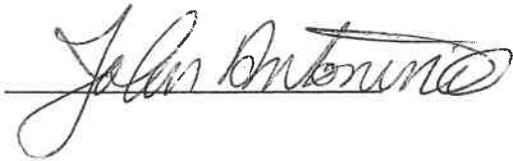
Dear Members of the Zoning Board of Appeals,

We support Mary and Dave Mias' application for a special building permit for a new house on their property at 303-305 Plymouth Ave East Wareham Ma.

This new construction is fine with us and will enhance the property and the neighborhood.

Please grant the special permit to begin this construction.

Kind regards,

A handwritten signature in cursive script, appearing to read "John Antonino". The signature is written in dark ink and is positioned above a horizontal line.

380 PLYMOUTH AVE

August 19, 2023

Dear Members of the Zoning Board of Appeals,


We support Mary and Dave Mias' application for a special building permit for a new house on their property at 303-305 Plymouth Ave East Wareham Ma.

The Hunt-Mias Family are long time neighbors and we are direct abutters.

This new construction is fine with us and will enhance the property and the neighborhood.

We encourage you to grant the special permit needed for this project.

Kind regards,

  
307 PLYMOUTH AVE

August 19, 2023

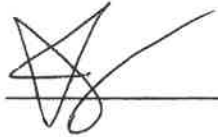
Dear Members of the Zoning Board of Appeals,

We support Mary and Dave Mias' application for a special building permit for a new house on their property at 303-305 Plymouth Ave East Wareham Ma.

This new construction is fine with us and will enhance the property and the neighborhood.

Please grant the special permit to begin this construction.

Kind regards,



---

299 Plymouth Ave

East Wareham, MA

August 19, 2023

To whom it may concern,

I am writing to support Mary and Dave Mias' application for a special building permit for a new house on their property at 303-305 Plymouth Ave East Wareham Ma.

I have known the Mias Family for years and they have always been good neighbors.

This new construction will be good for the neighborhood and in no way bothers us.

Please support and approve the special permit needed.

Kind regards,

Denise DiSeglio

374 Plymouth Ave  
E. Wareham

August 29, 2023

To whom it may concern,

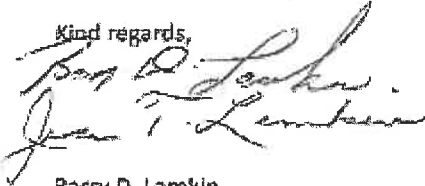
We endorse Mary and Dave Mias' application for a special building permit for a new house on their property at 303-305 Plymouth Ave East Wareham Ma.

The Hunt-Mias Family are long time neighbors and we are direct abutters.

This new construction is fine with us and will enhance the property and the neighborhood.

We encourage you to grant the special permit needed for this project.

Kind regards,



Barry D. Lamkin  
Jean T. Lamkin

Owners of:  
301 Plymouth Ave.  
East Wareham, MA

Mailing address:  
324 South Main Street  
Cohasset, MA 02025

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