



**CITY OF COLUMBUS
BOARD OF ZONING APPEALS
(September 27, 2016 Meeting)**

STAFF REPORT

Docket No. / Project Title: C/DS-16-35 (Robert & Lisa Owen)
Staff: Allie Keen
Applicant: Robert & Lisa Owen
Property Size: +/- 10,080 Square Feet
Current Zoning: RS3 (Residential: Single-Family 2)
Location: 8206 Buckingham Drive, in German Township

Background Summary:

The applicant has recently constructed a new accessory structure and fence on the subject property. The proposed location of the structure and the height of the fence have resulted in the need of the following 3 development standards variances:

1. A variance from Zoning Ordinance Section 6.1(E)(3) to allow an accessory structure to be located in the front yard.
2. A variance from Zoning Ordinance Section 3.10(C) to allow an accessory structure with a vehicle entrance to be located 15 feet from the property line, 10 feet less than the 25 foot minimum front setback.
3. A variance from Zoning Ordinance Section 9.3(C)(2) to allow a fence to be 8 feet 10 inches tall, 10 inches taller than the 8 foot maximum.

The applicant has indicated that the new structure will be used for storage and a workshop space for woodworking. Additionally, the structure has a garage door entrance facing Chaucer Drive.

Preliminary Staff Recommendation:

Variance #1 (Front Yard): Approval, all criteria have been met.

Variance #2 (Setback): Denial, Criteria #2 & #3 have not been met. (If the vehicle entrance was removed the setback variance would not be necessary because the structure setback is only 10 feet without a vehicle entrance).

Variance #3 (Fence Height): Denial, Criteria #3 has not been met.

Zoning Ordinance Considerations:

District Intent: The intent of the RS3 (Residential: Single-Family 3) zoning district is as follows: To provide areas for moderate to high density single-family residences in areas with compatible infrastructure and services. Development in this zoning district should generally be served by sewer and water utilities. Such development should also provide residents with convenient access to Collector and Arterial streets, parks and open space, and convenience goods.

Development Standards:

1. Section 6.1(E)(3) Accessory Structure Location: No accessory structures shall be permitted in any front yard, or within the required side and rear yard setbacks specified by the district in which it is located.

2. Section 3.10(C) Front Setback: The minimum front setback from a Local street for a structure with a vehicle entrance is 25 feet.
3. Section 9.3(C)(2) Fence Height: No fence or wall shall exceed a height of 8 feet in any side or rear yard or 42 inches in any front yard.

Current Property Information:	
Land Use:	Single-Family Residential
Site Features:	Single-Family house, pool, driveway, and landscaping.
Flood Hazards:	There are no flood hazards at this location.
Vehicle Access:	This property currently gains access from Buckingham Drive (Local, Residential, Rural). The property also has frontage on Chaucer Drive.

Surrounding Zoning and Land Use:		
	Zoning:	Land Use:
North:	RS3 (Residential: Single-Family 3)	Single-Family Residential
South:	RS3 (Residential: Single-Family 3) AP (Agriculture: Preferred)	Single-Family Residential Agricultural Field
East:	RS3 (Residential: Single-Family 3)	Single-Family Residential
West:	RS3 (Residential: Single-Family 3)	Single-Family Residential

Interdepartmental Review:	
County Highway Department:	County Highway does not have any issues with these requests.
Code Enforcement:	Approval of these variance requests will not create any building code violations.
County Fire Inspector:	No comments.

Planning Consideration(s):

The following general site considerations, planning concepts, and other facts should be considered in the review of this application:

1. The applicant has recently constructed a new 18 foot x 28 foot (504 square foot) accessory structure on the subject property. The structure has a garage door facing Chaucer Street. The applicant has indicated the structure is only used for storage of personal items and as workshop space for woodworking. The current location and presence of a vehicle entrance result in two development standards variances. The applicant has also recently removed an existing privacy fence and replaced

it with a new 8 foot 10 inch tall fence, which is taller than permitted. The fence height triggers the third variance request.

2. Per Zoning Ordinance Section 6.1(E)(3), no accessory structure is permitted to be located within a front yard. The subject property is a corner lot with 2 public street frontages, Chaucer Street and Buckingham Street. The accessory structure is located approximately 10 feet within the Chaucer Street front yard. According to the applicant the existing pool and small back yard resulted in the need for the structure to extend into the front yard. If this structure was attached to the home it could be constructed in this location. The Zoning Ordinance would allow the structure to be as close as 10 feet without a vehicle entrance if attached to the home, per Section 3.10(C).
3. Corner lots tend to have smaller back yards compared to others lots in the same neighborhood. The subject property's usable backyard area is approximately 3,711 square feet in size. The average back yard in the immediate area (approximately within 200 feet of the subject property) is approximately 4,857 square feet. However, due to the layout of the subdivision there are 7 other corner lots within the immediate area. The average back yard size of the corner lots is 3,849 square feet and none of the other corner lots have an accessory structure in the front yard. There are 2 other properties (both corner lots) within the same neighborhood, but not in the immediate area, that have accessory structures located in the front yard. One of those properties is approximately 1,010 feet away and the other is approximately ¼ of a mile away from the subject property. These other front yard accessory structures are likely violations of the Zoning Ordinance.
4. There are existing drainage and utility easements along the perimeter of the subject property. Along the western property line there is an approximately 17 foot wide drainage and utility easement. Per Zoning Ordinance Section 3.3(B)(2)(c), no building shall be located in any easement required by the Subdivision Control or Zoning Ordinance regulations. This easement was platted with the layout of the original subdivision and was a requirement of the Subdivision Control Ordinance for proper drainage. This easement further limits the usable back yard space for an accessory structure. Additionally, within this easement there is a small swale for drainage.
5. Per Zoning Ordinance Section 3.10(C), the minimum front setback for a structure with a vehicle entrance is 25 feet. The accessory structure is proposed at 15 feet from the Chaucer Drive right-of-way. If there was not a vehicle entrance to this structure the setback requirement is only 10 feet. The intent behind the larger setback with a vehicle entrance is to prevent vehicles that may be parked in the driveway from overhanging sidewalks or the street. There are no sidewalks throughout this neighborhood and although the structure will only be setback 15 feet from the property line, it will be setback approximately 33 feet from the edge of pavement.
6. The minimum front setback for a structure without a vehicle entrance is only 10 feet, per Zoning Ordinance Section 3.10(C). If the garage door was removed from the proposed entrance, the setback variance would not be necessary because the structure is setback 15 feet, 5 feet more than the minimum.
7. When looking at the surrounding context, all of the homes along Chaucer Drive on the north side of the street have approximately the same setback around 24 feet. The proposed structure with a setback of 15 feet is set significantly closer to the street than the existing homes in the immediate area.
8. There is an existing 2 car garage attached to the home on the subject property. This garage gains access from Buckingham Drive.
9. The new accessory structure, although located in the front yard and with a reduced setback does not fall within the Chaucer Drive and Buckingham Drive sight visibility triangle, as defined in Zoning Ordinance Section 7.3(Part 1)(Table 7.7).
10. The applicant intends to construct a new driveway to access the proposed structure from Chaucer Drive. Zoning Ordinance Section 7.3(Part 1)(C)(3)(b)(iii) permits a second access point to properties with more than one frontage, if the second access is on a local street and has a minimum of 50 feet of separation between the nearest driveways and intersections. There are two existing driveways across the street from the subject property. If the new driveway is aligned with the driveway directly across the street it would meet the separation distance from the second driveway further to the east. Additionally, per Zoning Ordinance Section 7.2(Part 3)(A)(1), within all single-family residential zoning districts, all driveways are required to be paved. If the applicant installed a new driveway it could not be constructed of gravel.

11. There was an 8 foot tall fence surrounding the subject property, which has recently been removed. The applicant has constructed a new fence around the backyard that is 8 feet 10 inches tall. Per Zoning Ordinance Section 9.3(C)(2) fences cannot exceed 8 feet in height on a residential property. According to the applicant there is a grade change around the perimeter of their property that required the fence to be taller in some areas in order for the fence to be a level height around the entire property. There are existing drainage and utility easements along the entire perimeter of the property. Within these easements there is a slight grade change for proper drainage. There are several properties in the immediate area with privacy fences similar to the proposed. These fences range between 6 and 9 feet in height. The tallest 2 fences are located across the street and are approximately 9 feet in height at their tallest points.

Provisional Findings of Fact/Decision Criteria (Variance #1 – Accessory in the Front Yard):

The Board of Zoning Appeals may approve or deny variances from the development standards of the City of Columbus Zoning Ordinance. The Board may impose reasonable conditions as part of an approval. A variance from the development standards may only be approved upon a determination in writing that:

1. **The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

Provisional Findings: The accessory structure in the front yard will not block visibility along Chaucer Drive or at the Buckingham and Chaucer Drives intersection and will not be injurious to the public health and safety. *This criterion has been met.*

2. **The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.**

Provisional Findings: The structure is constructed of similar materials as the primary residence and other structures in the neighborhood. Additionally, if this structure was attached to the home it could be constructed in this location as close as 10 feet from the property line. The structure at this location will not negatively affect the surrounding area. *This criterion has been met.*

3. **The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.**

Provisional Findings: Due to this property being a corner lot and the position of the home there are two larger front yards, which limits the possible locations of this type of structure. Further there is a pool in the back yard and a required 17 foot wide drainage and utility easement along the western property line that eliminates location options. If a structure was located outside of the easement and the front yard, it would likely consume a majority of the back yard. If this structure was attached to the home then it could be constructed in this location as close as 10 feet from the property line if there was not a vehicle entrance facing Chaucer Drive. *This criterion has been met.*

Provisional Findings of Fact/Decision Criteria (Variance #2 – Front Setback):

The Board of Zoning Appeals may approve or deny variances from the development standards of the City of Columbus Zoning Ordinance. The Board may impose reasonable conditions as part of an approval. A variance from the development standards may only be approved upon a determination in writing that:

1. **The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

Provisional Findings: The proposed 15 foot setback from Chaucer Street will not block visibility along Chaucer Drive or at the Buckingham and Chaucer Drives intersection. There are no

sidewalks throughout this neighborhood; therefore if a new driveway was constructed accessing this structure parked vehicles would not overhang the sidewalk. Additionally, the structure sits back approximately 33 feet from the edge of pavement and will not be injurious to the public health and safety. *This criterion has been met.*

- 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.**

Provisional Findings: All of the existing homes on the same side of the street are set back approximately the same distance from the road and do not have a vehicle entrance onto Chaucer Drive. The proposed structure with the vehicle entrance that is setback 15 feet will not be consistent with the context of the neighborhood and therefore could affect adjacent properties in a substantially adverse manner. *This criterion **has not** been met.*

- 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.**

Provisional Findings: If this structure is permitted to be located within the front yard, without a vehicle entrance it can be located 10 feet from the property line. There is already an existing 2 car attached garage for the house. The strict application of the terms of the Zoning Ordinance will not result in practical difficulty in the use of the property. *This criterion **has not** been met.*

Provisional Findings of Fact/Decision Criteria (Variance #3 – Fence Height):

The Board of Zoning Appeals may approve or deny variances from the development standards of the City of Columbus Zoning Ordinance. The Board may impose reasonable conditions as part of an approval. A variance from the development standards may only be approved upon a determination in writing that:

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

Provisional Findings: The increased height of the fence will not create a visibility issue along Chaucer Drive or at the intersection of Buckingham and Chaucer Drives. Approval of this request will not be injurious to the public health or safety. *This criterion has been met.*

- 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.**

Provisional Findings: There are several properties in the immediate area that have privacy fences in the back yard. These existing fences range in height between 6 and 9 feet and are similarly constructed to what is proposed by the applicant. *This criterion has been met.*

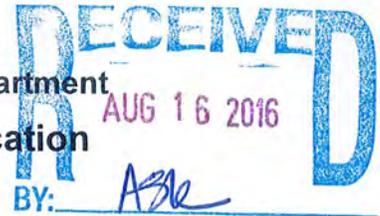
- 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.**

Provisional Findings: Although there are drainage easements around the perimeter of the property, the change in grade does not require a fence to be 8 feet in height in order to be level around the entire yard. The fence could be constructed a lower height and still be level and provide adequate privacy of the back yard. *This criterion **has not** been met.*

Board of Zoning Appeals Options:

In reviewing a request for development standards variance the Board may (1) approve the petition as proposed, (2) approve the petition with conditions, (3) continue the petition to a future meeting of the Board, or (4) deny the petition (with or without prejudice). Failure to achieve a quorum or lack of a positive vote on a motion results in an automatic continuance to the next regularly scheduled meeting.

Columbus – Bartholomew County Planning Department
Development Standards Variance Application



Planning Department Use Only:

Jurisdiction: Columbus Bartholomew County

Zoning: _____

Docket No.: C/DS-110-35

Hearing Procedure: Board of Zoning Appeals Hearing Officer

Development Standards Variance Application:

Note: It is recommended that all variance applications are reviewed in a meeting with a Planning Department staff member prior to being filed. Please contact the Planning Department at 812.376.2550 to schedule that review meeting.

Applicant Information (the person or entity that will own and/or execute what is proposed):

Name: Robert and Lisa Owen

Address 8206 Buckingham Dr Columbus IN 47201
(number) (street) (city) (state) (zip)

Phone No.: 317/716-2687 Fax No.: _____ E-mail Address: mrsupt67@yahoo.com

Property Owner Information (the "owner" does not include tenants or contract buyers):

Name: Lisa Owen

Address 8206 Buckingham Dr Columbus IN 47201
(number) (street) (city) (state) (zip)

Phone No.: 812/344-0877 Fax No.: _____ E-mail Address: lowen8206@yahoo.com

Notification Information (list the person to whom all correspondence regarding this application should be directed):

Name: Robert Owen

Address 8206 Buckingham Dr Columbus IN 47201
(number) (street) (city) (state) (zip)

Phone No.: 317/716-2687 Fax No.: _____ E-mail Address: mrsupt67@yahoo.com

How would you prefer to receive official documentation regarding this request (please check one)? If no or multiple selections are made e-mail will be used.

Email Fax Mail

Property Information:

Address 8206 Buckingham Dr Columbus IN 47201
(number) (street) (city) (state) (zip)

or General Location (if no address has been assigned provide a street corner, subdivision lot number, or attach a legal description):

Variance Requested:

I am requesting a variance from Section 6.11 (E) (3) of the Zoning Ordinance to allow the following:

To allow an Accessory Structure to be located in the front yard.

Variance Request Justification:

The Indiana Code and the Columbus & Bartholomew County Zoning Ordinance establish specific criteria that must be met in order for a development standards variance to be approved. Describe how the variance request meets each of the following criteria.

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

The new Structure has no obstruction to any of the neighbors drive ways. There is no obstruction to any sidewalks that the structure is near. There is no obstruction to any stop signs or crossing. The structure will not House a vehicle.

- 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.**

The house and property adjacent to the structure are not affected in an adverse manner. We continuously spoke with the neighbor, 2553 Chaucer Dr., throughout the building process. He is happy with the work that has been done and has actually stated that it has increased the value of his property.

- 3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed; nor be based on a perceived reduction of, or restriction on, economic gain.**

Due to limited space in the back yard, we opted to place the structure inside the existing fence where a swingset and trampoline were in the past. There is no economic gain to this structure. It will be used soley for storage and woodworking, which is a hobby.

Variance Requested:

I am requesting a variance from Section 3.10 (C) of the Zoning Ordinance to allow the following:

To allow an access to the structure i.e. driveway with a vehicle to overhead garage door to be setback of 15'-0" from the front of the property line. 10 foot less than the 25'-0" requirement.

Variance Request Justification:

The Indiana Code and the Columbus & Bartholomew County Zoning Ordinance establish specific criteria that must be met in order for a development standards variance to be approved. Describe how the variance request meets each of the following criteria.

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

The new Structure has no obstruction to any of the neighbors drive ways. There is no obstruction to any sidewalks that the structure is near. There is no obstruction to any stop signs or crossing. The structure will not House a vehicle.

- 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.**

The house and property adjacent to the structure are not affected in an adverse manner. We continuously spoke with the neighbor, 2553 Chaucer Dr., throughout the building process. He is happy with the work that has been done and has actually stated that it has increased the value of his property. The adjacent neighbor asked if they could back into the proposed driveway when backing out of their own, due to their limited space from cars parked in their drive.

- 3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed; nor be based on a perceived reduction of, or restriction on, economic gain.**

Due to limited space in the back yard, we opted to place the structure inside the existing fence where a swingset and trampoline were in the past. There is no economic gain to this structure. It will be used soley for storage and woodworking, which is a hobby.

Variance Requested:

I am requesting a variance from Section 9.3 (C) (2) of the Zoning Ordinance to allow the following:

To allow Privacy Fence height to be 8 feet 10 inch instead of 8 feet.

Variance Request Justification:

The Indiana Code and the Columbus & Bartholomew County Zoning Ordinance establish specific criteria that must be met in order for a development standards variance to be approved. Describe how the variance request meets each of the following criteria.

- 1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community.**

The new privacy fence has no obstruction to any of the neighbors drive ways. There is no obstruction to any sidewalks that the privacy fence is near. There is no obstruction to any stop signs or crossing.

- 2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.**

The house and property adjacent to the structure are not affected in an adverse manner. We continuously spoke with the neighbor, 2553 Chaucer Dr., throughout the building process. He is happy with the work that has been done and has actually stated that it has increased the value of his property. The new fence was installed in the same location as the old fence and constructed a lot stronger.

- 3. The strict application of the terms of the Zoning Ordinance will result in practical difficulties in the use of the property. This situation shall not be self-imposed; nor be based on a perceived reduction of, or restriction on, economic gain.**

Due to the grade of the land we started out at the house 8 feet tall. We wanted the fence to be level all around so the fence needed to be adjusted to the height of the grade of the back yard, The fence went from 8 feet too 8 feet 10 inches. There is no economic gain to this structure. It will be used solely for privacy.

Application Fee Refund Information:

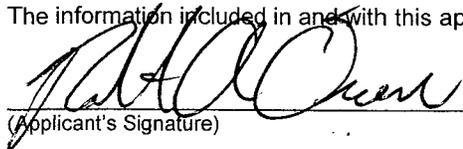
The adopted Planning Department Schedule of Application Fees provides for the refunding of application fees for this request if it is approved by the Board of Zoning Appeals. The refund will be provided by mail in the form of a check. It may take several weeks after the Board of Zoning Appeals approval to process the refund and issue the check. Please indicate to whom the refund should be provided:

Name: Robert Owen

Address 8206 Buckingham Dr Columbus IN 47201
(number) (street) (city) (state) (zip)

Applicant's Signature:

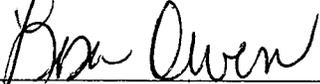
The information included in and with this application is completely true and correct to the best of my knowledge and belief.


(Applicant's Signature)

8/15/16
(Date)

Owner's Signature (the "owner" does not include tenants or contract buyers):

I authorize the filing of this application and will allow the Planning Department staff to enter this property for the purpose of analyzing this request. Further, I will allow a public notice sign to be placed and remain on the property until the processing of the request is complete.


(Owner's Signature)

081516
(Date)

Lisa Owen
(Owner's Printed Name)

If the person signing as the "owner" is not specifically listed as such in the records of Bartholomew County please indicate their relationship to that officially listed person, corporation or other entity.

Dear Planning, Zoning and Review Board:

Our dearest apology for building our storage shed/work shop without going through the proper channels. We understand that ignorance is no excuse. We were unaware that we needed a permit or zoning at the time we started the project.

After seeing several structures in our neighborhood similar to what we wanted, we spoke with our surrounding neighbors for their input. There were no issues.

We started the back yard project in 2013, which was constructed inside our 8' tall privacy fence that was built 16 years ago. Although the structure was completed in 2015, we would like to do some landscaping by surrounding it with some river rock and plants. We would also like to insert a nice stone pathway from Chaucer Dr. up to the door for easier material loading and unloading.

We are pleading for your forgiveness and acceptance to allow us to keep our shed/work shop. We are attaching pictures of the existing structure for your consideration. Again we are hoping for your approval.

Thank You

Robert and Lisa Owen

Dear Planning Department:

We are coming to you to ask for a Variance for our privacy fence that we have installed on 8206 Buckingham Dr. We have installed the privacy fence taller than the Ordinance requires. The reason we install the fence taller was because of the grade change from our house to the back of the yard. I did go to the building department and I did ask if we needed a permit to replace our old fence. I was told no. I was told by Planning department that I could not install my fence past our house like it used to be. I was told The fence needed to be even with the house. So it is my fault for not asking the height requirements. The old fence was 8'0" tall in some areas. There were some areas of the old fence that was taller than 8 feet due to the grade change. The new fence started at the house at 8'-0" tall, the grade of my yard dropped I kept our fence level. There is dirt that I'm going to be grading along the fence in our back yard so there is not a dramatic drop but still has positive flow from the house. The new fence is a shadow box fence with pickets on both sides and double reinforcements for the pickets to attach to. The new fence is built far better than the old fence that I removed and it looks far better than it did. I'm asking for a variance of 10" taller going from 8'-0" to 8'-10"

Thank You for your Consideration.

Robert and Lisa Owen

**PLOT PLAN FOR
LOT 65 MODEL 46
COLONY PARKE, SECTION TWO**

JOB NO. 2043-65

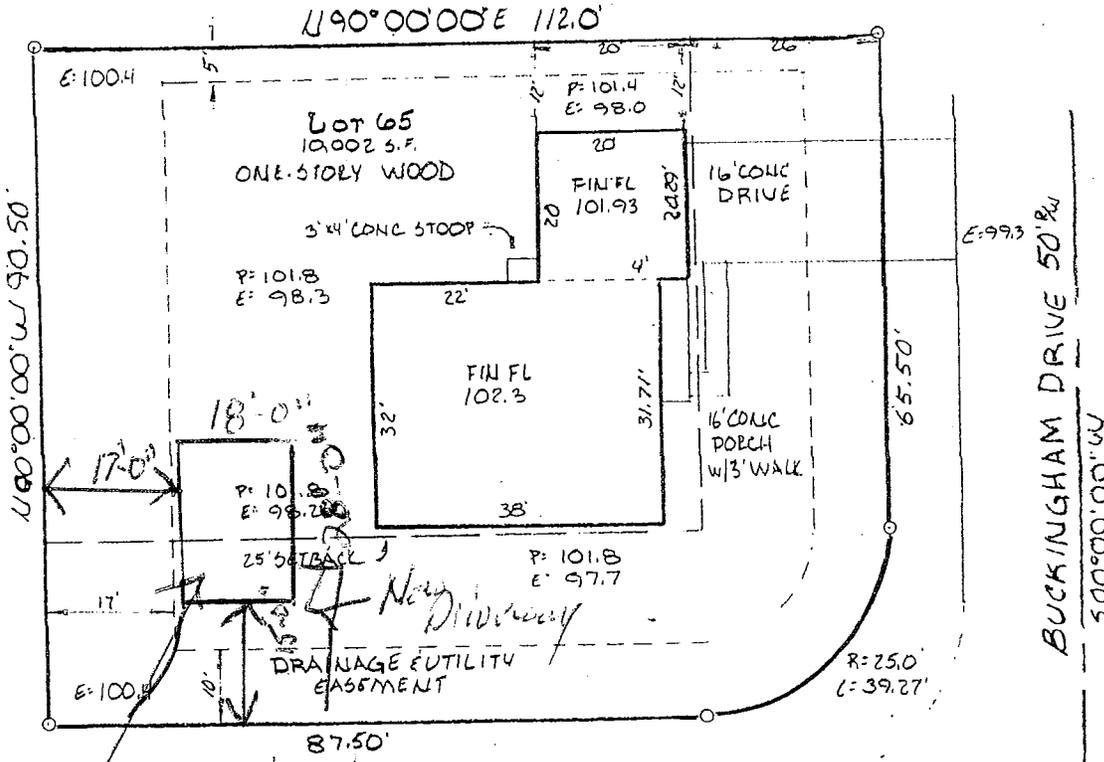
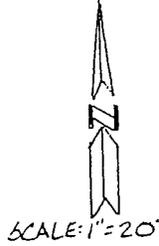
(PATRICK)

This is to certify that a plot plan was prepared under my direction for the following described real estate:
Lot 65 in Colony Parke, Section Two, the recorded plat thereof, recorded in Plat Book P, Page 306 A, in the office of the Recorder of Bartholomew County, Indiana.

Certified: November 4, 1993

[Signature]

Stephen L. Smith
Registered Land Surveyor No. S0427
State of Indiana



CHAUCER DRIVE 50' RW
S 90°00'00" W



Prepared By:
Smith Quillman Associates, Inc.

4825 Morningside Drive
Post Office Box 155
Bloomington, Indiana 47402
Telephone 812 336-6536
Fax 812 336-0513



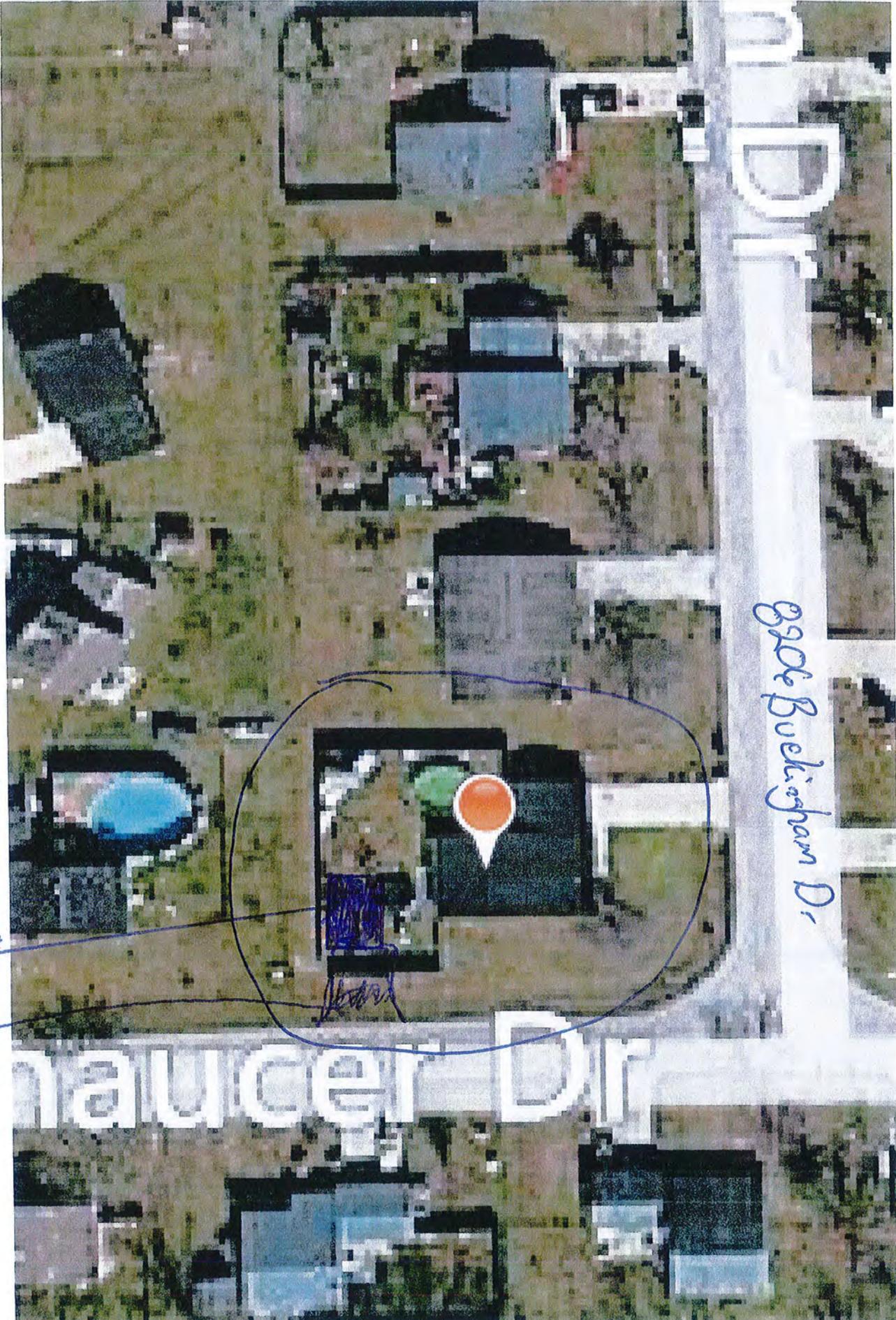
CONSULTING ENGINEERS

Robert and Lisa Owen
Structure that is up for Planning
and Zoning Review.
8206 Buckingham Dr



Map

Bird's Eye

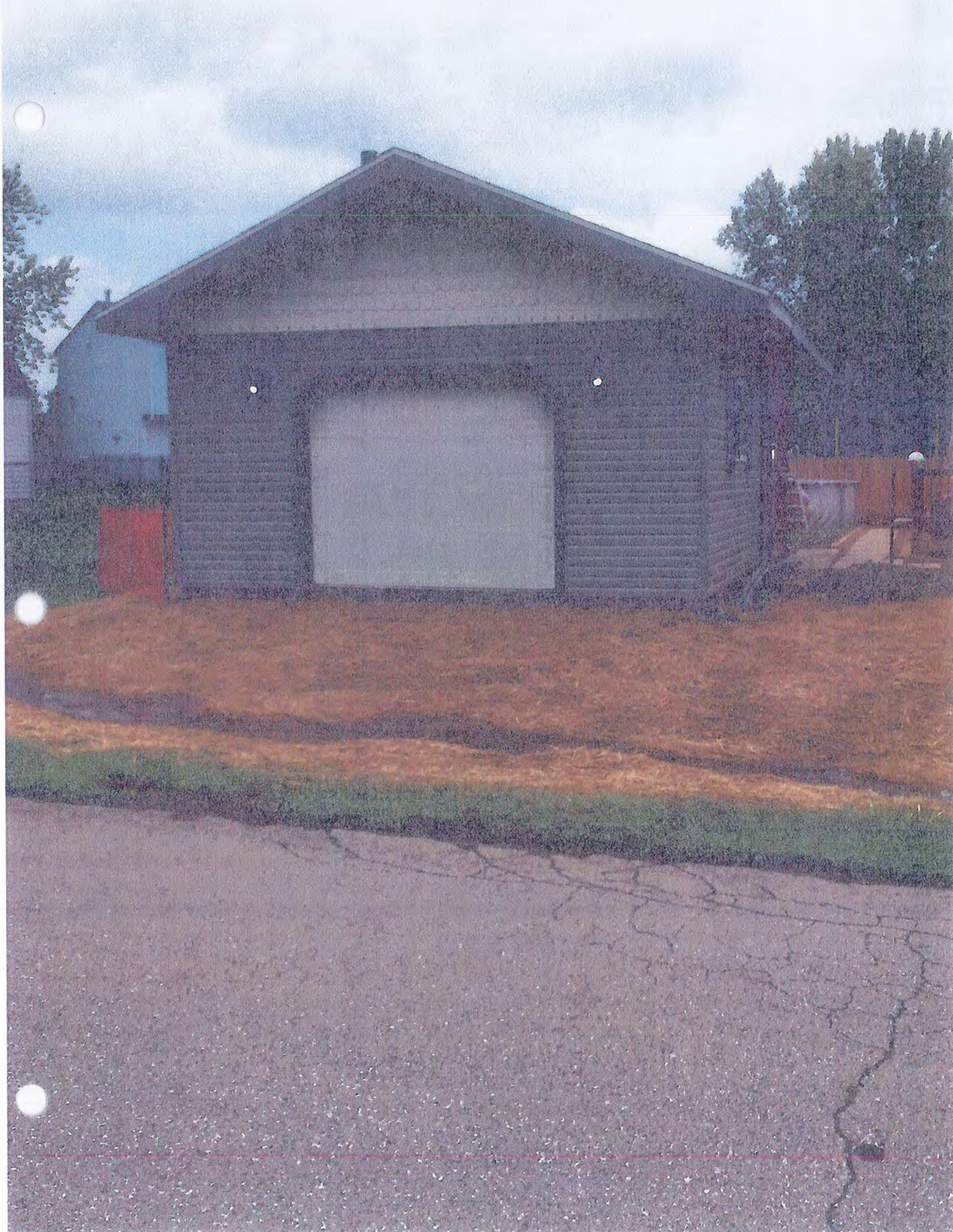


Buckingham Dr

Maucier Dr

New Structure

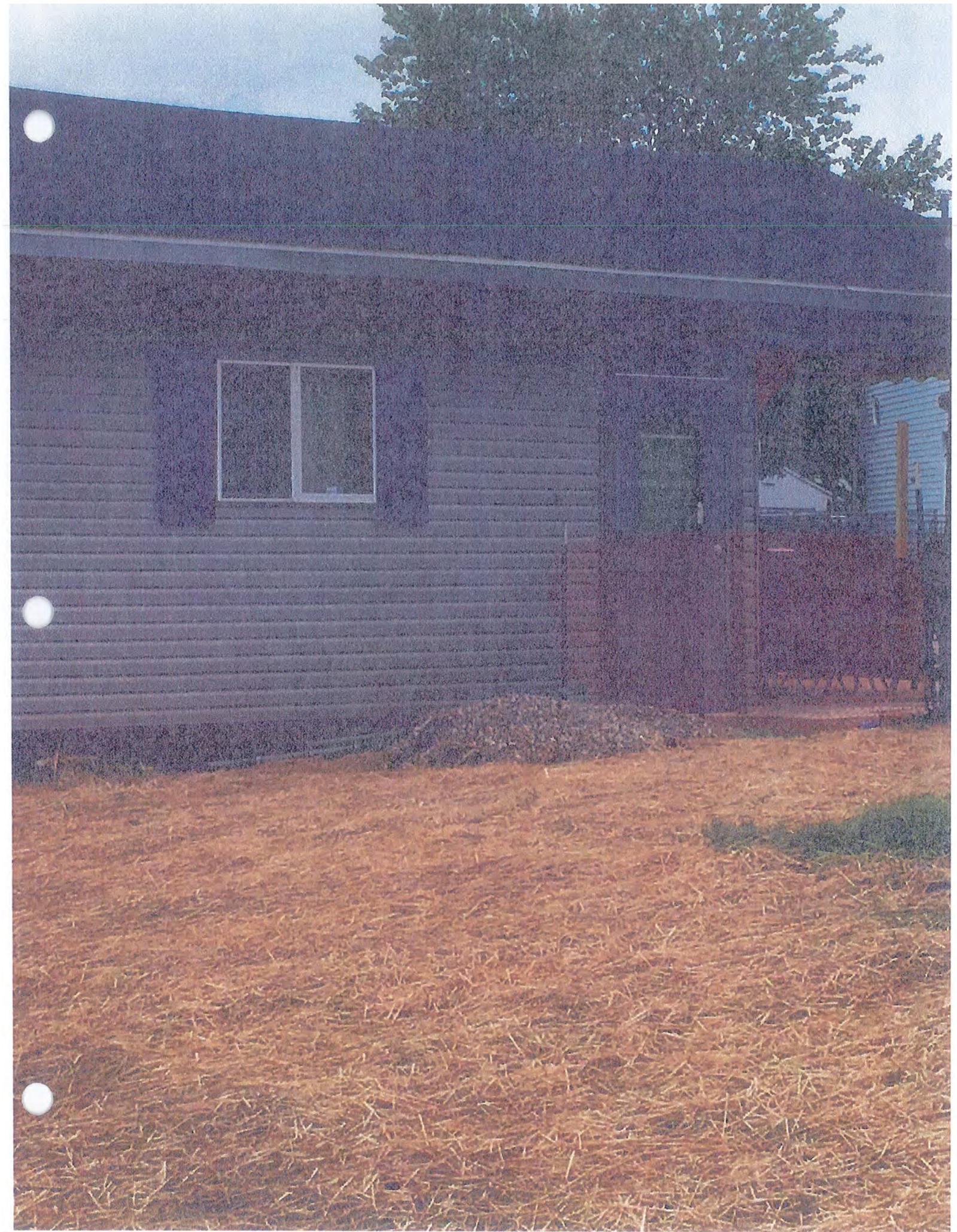
New Access Drive

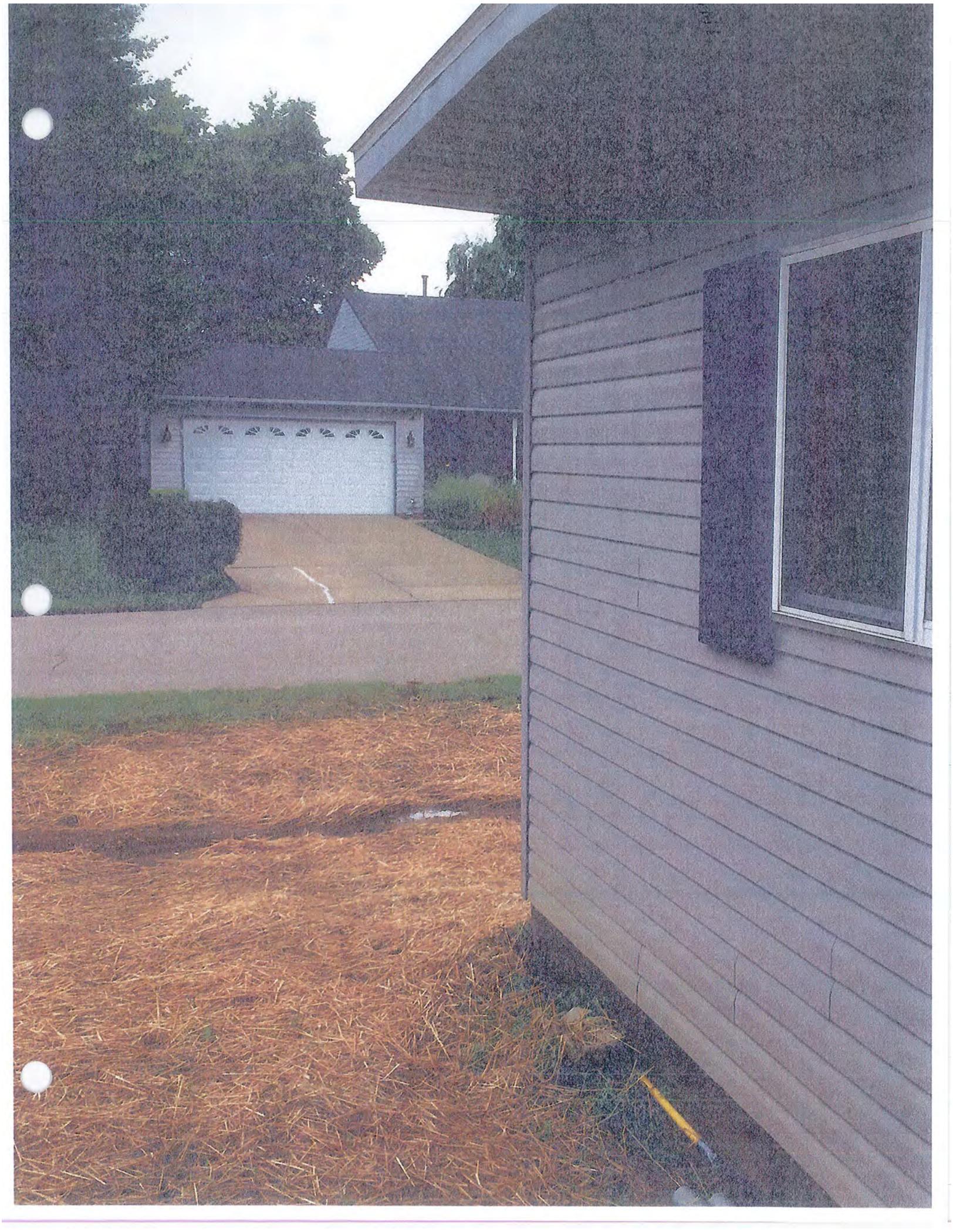














Houses in the Neighborhood that have a similar situation.

1. 2311 Random Rd and Devonshire Rd 2 car Garage. Not lining up with front of house.
2. 8422 Devonshire Rd 1 car pole barn Garage.
3. 8693 Burbink Dr 2- storage barns on a post foundation Not lining up with front of house

2331 Random Rd
and
Devonshire Rd



My Neighborhood

2311 Random Rd
and
Devonshire Rd

Over → Aerial View
2-Car Garage Does Not line up
with Adjacent House's



2311 Devonshire Rd
Raymond Rd
and
Devonshire Rd

Devonshire Rd



Map

Bird's Eye

2-Storage Barn
Post Framing

Random Rd



Burbrink Dr

0693
Burbrink Dr

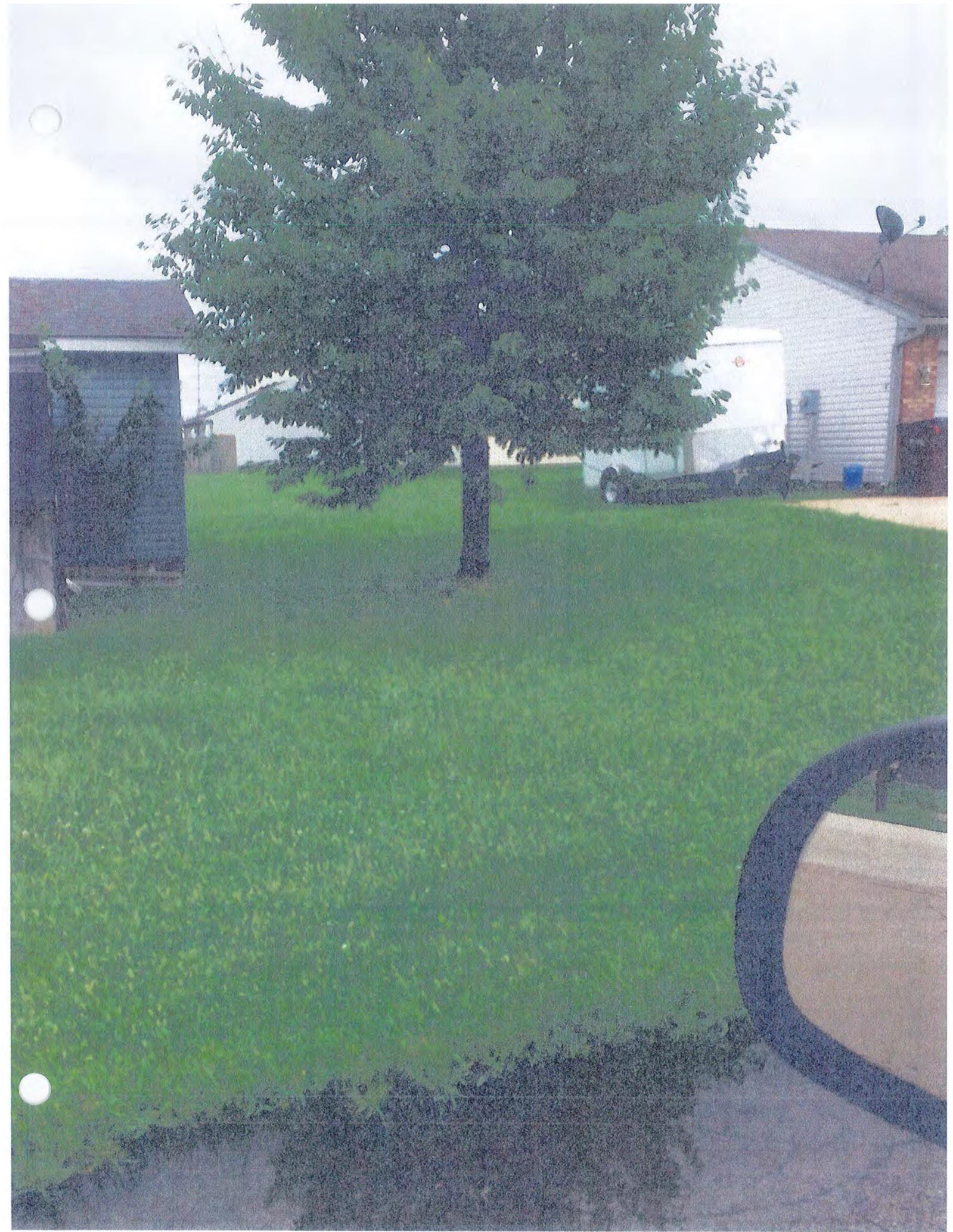
25 feet

10 m

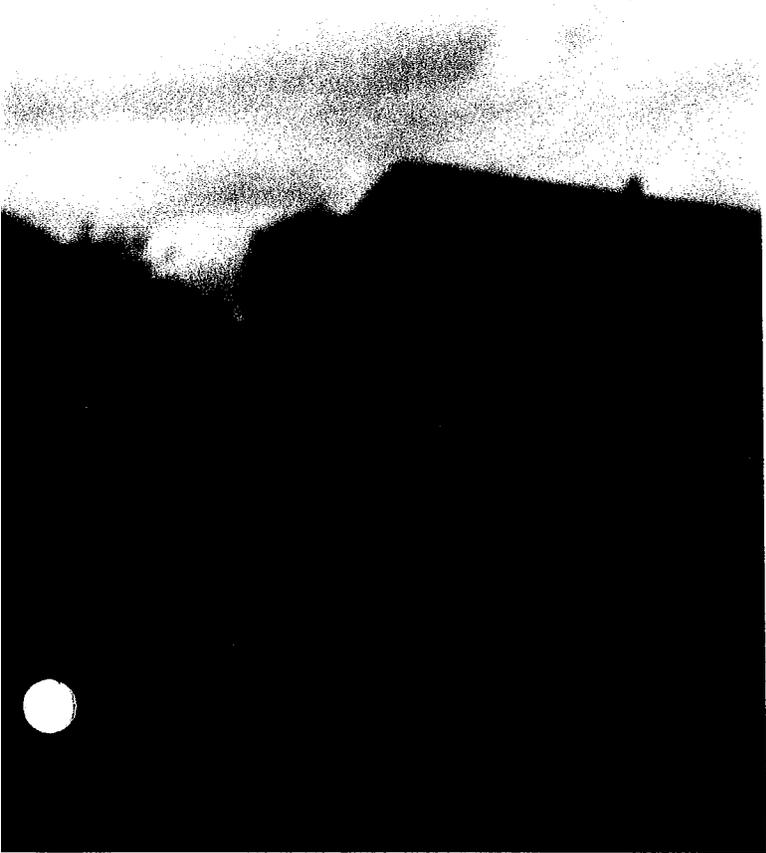
8593 Burbrink Dr
And
Random Rd







8422 Devonshire Rd







RECEIPT

COLUMBUS PLAN COMMISSION

№ 9037

General FUND

COLUMBUS IN., August 16 2016

RECEIVED FROM Robert Owen \$ 100.00

THE SUM OF One hundred & 00/100 DOLLARS

ON ACCOUNT OF 2 Dev. Standards

PAYMENT TYPE & AMOUNT

CASH CHECK M.O.

E.F.T. C.C./BC OTHER

Alexandra Keen
AUTHORIZED SIGNATURE

