

# Town of Millbury Board of Appeals

Paul Nigosian, Chairman  
Ken Perro, Vice Chairman  
Robert Simmarano, Clerk  
Harold Proodian  
Daniel Mezynski  
Anna Lewandowski, Alternate member



MUNICIPAL OFFICE BUILDING  
127 ELM STREET  
MILLBURY, MA 01527

2018 APR 26 PM 1:44

## Meeting Minutes

Wednesday, February 28, 2018

7:00 pm

**Board Members Present:** Paul Nigosian (Chairman), Ken Perro (Vice Chairman), Robert Simmarano (Clerk), Daniel Mezynski, Harold Proodian was unable to attend Anna Lewandowski resided as the alternate.

(See attached sign in sheet from abutters)

### 7:00 PM: Official Call to Order:

**7:05 PM:** A continued hearing from December 27<sup>th</sup>, 2017; Gary & Kerry Haines of 2 Sunset Drive Millbury, Ma relative to the property at 2 Sunset Drive, Millbury, Ma Map# 89, Lot# 23, S – 1 (AWPOD”B”). The owners, Gary & Kerry Haines are seeking a Special Permit to install a vinyl fence for privacy. Paul Nigosian pointed out that the Chief of Police Donald P. Desorcy was out to the area of the property, Dolan Road and Sunset Drive, on Tuesday, January 2<sup>nd</sup> to conduct a visual inspection to be sure that the police and fire department didn’t have any objections to the install of the fencing (please see attached letter) Daniel Mezynski read the letter for public knowledge. Gary and Kerry compiled all necessary information in regards to the install of the fence including several photographs of the install area and dropped off the compiled information in folders for the board members to review, (please see attached), Kerry reviewed with the board members the information that they had provided, the map/ plot plan and how the 8 foot sections of fencing will be placed, type of fencing (white vinyl) and several enclosed photos. After a lengthy discussion between Gary & Kerry Haines and the board members as to how the sections of fencing will be placed for the safety of the road way and traffic passing through and also what will be done with the large arborvitaes, (they will be torn up all the way to the root). Paul Nigosian then asked if anyone in the audience would like to speak; no one came forward. Paul Nigosian then entertained a motion to close the public hearing; Ken Perro motioned to close second by Daniel Mezynski carried unanimously 5 – 0.

After the board members discussed final details Anna Lewandowski made motion to grant the special permit to Gary & Kerry Haines for the property located at 2 Sunset Drive, Millbury, Ma 01527, Map# 89, Lot# 23, Book# 47807, Page# 146 with the Worcester District Registry of Deeds within the Suburban – 1 (AWPOD”B”) and Section 35.7 Fences of the Millbury Zoning Bylaws. To allow for a vinyl fence no higher than eight (8) feet high to provide privacy. Ken Perro second the motion carried unanimously 5 – 0.

(2) Waiver of the height of six (6) feet. Anna Lewandowski made the motion, Ken Perro second the motion, carried unanimously 5 – 0.

(3) Waiver of 30 inch height in front yard area within 20 feet of street. A motion was made by Anna Lewandowski, Ken Perro second the motion carried unanimously 5 – 0.

(a) There will be one section of fence starting from the Sunset Drive side of the property that will be four (4) feet tall this 4.0ft section of fence will be installed at a 22 degree or 45 degree angle toward the front corner of the house foundation to provide a clear site line when entering the ROW from the driveway. This fence shall be 10 feet from the edge of Right of Way.

(b) There will be five sections that are six (6) feet tall (from the front corner of the house foundation to the south side of the driveway) that will bring the fence to one side of the driveway. This fence shall be 10 feet from the edge of Right of Way.

(c) On the opposite side (North) of the driveway, running perpendicular to the road, one eight (8) foot section will extend from the shed toward the street must be installed at a 45 degree angle to the road to provide a clear site line when entering the ROW from the driveway.

(d) There will be eight sections of eight (8) foot tall fencing along Dolan Road.

(e) There will be two sections of eight (8) foot tall fencing that will return 90 degrees (west) along the rear line of property to make a privacy buffer.

There will be 136 total feet of fencing; 88 feet of the fence would be eight (8) feet tall.

(a through e, five descriptions) Anna Lewandowski made the motion Ken Perro second the motion carried unanimously 5 – 0.

**7:30 PM:** Russell & Marmay (Martha) Dow regarding 366 Greenwood Street, Millbury, Ma. The application is an appeal to the building inspector's decision regarding and allowing the current tenant at 366R Greenwood Street to remain as tenants at the property. Paul Nigosian read for the record from the applicants Application for Appeal section 8, We need the town of Millbury to enforce correctly the land and properties owned above lot 366R Greenwood Street to follow the rules of Suburban IV District Laws of Millbury and the Aquifer and Watershed Protection Overlay District Laws. The way it is presently used effects the environment in a negative way. Pollution from the residual toxic waste used by the paving company and the noise level has drastically increased. Paul Nigosian pointed out for the note that the fee for the application was not paid. Robert Simmarano opened the public hearing.

Paul Nigosian asked Mr. and Mrs. Dow if they paid the application fee, Mrs. Dow responded with a "no we didn't" she continued that they sent a letter to both Paul Nigosian and the building inspector Paul Stringer with the reasons why they couldn't pay the application fee, (please see attached letter). Paul Nigosian then asked Mr. and Mrs. Dow if they had received a letter of response from the building inspector and Mrs. Dow responded that they did not receive any letter. Paul Nigosian then stated that they were notified that they had to pay the application fee and Mrs. Dow claims she never received any notification from anyone. Paul Nigosian explained that by law the board is not suppose to hear the hearing, the board can deny the appeal based on the fact that the Dow's didn't pay the application fee and that it is a Millbury Town Ordinance. Paul Nigosian discussed with the board if all members had a chance to read the paper work? (All members responded that they had read all necessary paper work). Ken Perro responded since the application fee hadn't been paid then the application is considered incomplete, Daniel Mezynski agreed. Ken Perro stated having said that and Mrs. Dow just confirmed that they didn't pay the application fee that the board should go to a motion. Mrs. Dow argued her opinion to the board in regards to the property but Paul Nigosian pointed out again to Mrs. Dow since they are appealing the decision that was made by the building inspector you filed an application and you were informed that in order for the application to be complete you need to pay the application and advertising fee and you did not do that. Mrs. Dow attempted to argue her stance on the property situation however Paul Nigosian refused to continue in an argument and pointed out; "unfortunately the board does not have the ability to waive the fee according to a town bylaw the only people who can waive a fee is the board of selectman". Paul Nigosian reminded the board that they were still in a public hearing and does the board want to continue to hear the hearing or not? Ken Perro responded that the board is not allowed to continue due to nonpayment of the application fee.

Since the application fee wasn't paid Paul Nigosian entertained a motion to close the public hearing, Daniel Mezynski made the motion second by Robert Simmarano carried unanimously 5 – 0.

Ken Perro made a motion to Deny with accordance to Mass General Laws Chapter 40 Section 57 and General Bylaw Section 17 for failure to pay the required application fee to the Town of Millbury and a waiver has not been received by the Board of Selectman to this board. Daniel Mezynski second the motion carried unanimously 5 – 0.

**7:45 PM:** Meeting Minutes from Wednesday January 31<sup>st</sup>, 2018. Paul Nigosian entertained a motion to approve the meeting minutes; Ken Perro made the motion, Robert Simmarano second the motion, Daniel Mezynski was not present at this meeting and did not vote, the vote was carried 3 – 0 Anna Lewandowski was opposed.

**8:00 PM:** Executive Meeting Session (closed to the public); Anna Lewandowski made a motion to go into executive session second by Daniel Mezynski carried unanimously 5 – 0.

Roll call vote for the Executive Session; Paul Nigosian, Ken Perro, Daniel Mezynski, Robert Simmarano and Anna Lewandowski "YES" carried unanimously 5 – 0.

**8:30 PM:** Anna Lewandowski made a motion to exit the Executive Session second by Ken Perro carried unanimously 5 – 0.

**8:30 PM: Adjournment:** Paul Nigosian entertained a motion to adjourn the meeting; Ken Perro made the motion, Robert Simmarano second the motion; carried unanimously 5 - 0.

Respectfully submitted by Nancy Young and submitted to Town Clerk.

**Town of Millbury  
Board of Appeals**

Paul Nigosian, Chairman  
Ken Perro, Vice Chairman  
Robert Simmarano, Clerk  
Harold Proodian  
Daniel Mezynski  
Anna Lewandowski, Alternate member



MUNICIPAL OFFICE BUILDING  
127 ELM STREET  
MILLBURY, MA 01527

**Board of Appeals Approval Signatures for Meeting Minutes from Wednesday, February 28<sup>th</sup>, 2018**

Paul Nigosian, Chairman

Daniel Mezynski

Robert Simmarano, Clerk

\_\_\_\_\_  
Kenneth Perro, Vice Chairman

\_\_\_\_\_  
Harold Proodian

\_\_\_\_\_  
Anna Lewandowski, Alternate





# TOWN OF MILLBURY

## ATTENDEE SIGN-IN SHEET

BOA HEARINGS WEDNESDAY, February 28<sup>th</sup>, 2018

7:05 Gary & Kerry Haines for 2 Sunset Drive, Millbury, Ma

7:20 Russell & Marmay Dow for 366R Greenwood St., Millbury, Ma

<u>PLEASE PRINT NAME</u>	<u>YOUR ADDRESS</u>	<u>HEARING ATTENDING</u>
William B. McElore	36 McCracken Rd	Konisky
Stephen McElore	" "	"
Beth Denning	28 Beach Rd Chatham	Konisky
Dana Chan	" "	Konisky
Mary Haines	31 Wards Lane	Konisky
Michael Willett	388 Greenwood St.	Konisky
Kerry & Gary Haines	2 Sunset Dr	Haines
Anthony Konisky	11 Warren St	
Linda Konisky	32 Briery Circle	Dow (Konisky)
James Rosenblum	<del>15</del> 15 Cape Ln. Brewster, MA	Konisky
Jim Gervilla	15 Triunh	Konisky
Mike Hoffman	6 Paul St	Konisky
Martha W. Dow	366 Greenwood St	Konisky
Russell S. Dow	366 Greenwood St	Konisky
Linda Perry	60 Twin Spring Dr	Bayliss
Bobby Fox	" "	"
Andie Schafel	255 Millbury St	Konisky



## MILLBURY POLICE DEPARTMENT

---

127 Elm Street, Millbury, MA 01527  
Telephone (508)865-3521 Fax (508)865-5164  
Donald P. Desorcy, Chief of Police

January 3, 2018

Mr. Paul Nigosian, Chairman  
Millbury Board of Appeals  
127 Elm Street  
Millbury, MA 01527

Dear Mr. Nigosian,

Please be advised that on Tuesday, January 2, 2018, I went to the area of Dolan Road and Sunset Drive to conduct a visual inspection concerning the Special Permit application filed by Mr. and Mrs. Gary R. Haines of 2 Sunset Drive. It is my understanding that the applicants proposed the removal of the large arborvitae shrubs that are currently located on the westerly side of Dolan Road and replace them with an eight foot high vinyl fence. Upon arrival I did speak with Mrs. Haines and later in the evening with Mr. Haines concerning their proposal. The removal of the extremely over grown arborvitae shrubs will be an immediate safety improvement. The shrubs are approximately 8 to 10 feet wide and currently obstruct the view of a motor vehicle operator exiting from Sunset Drive onto Dolan Road and at the driveway entrance onto Dolan Road. After speaking with the applicants, reviewing the application and making a visual inspection of the area, I make the following recommendations to the Millbury Board of Appeals:

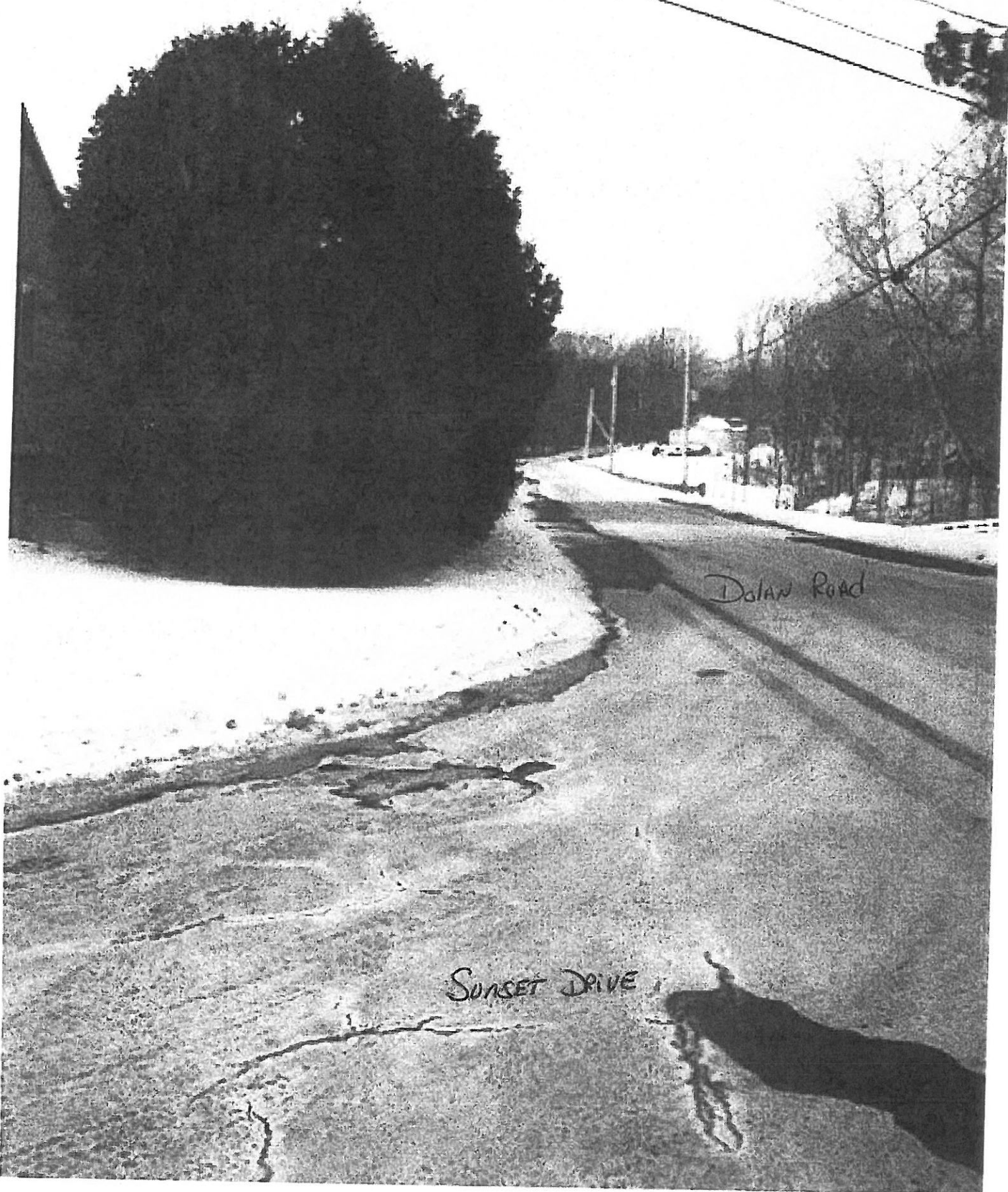
- If approved, the fence should be installed where the center of the current arborvitae shrubs are located. This would put the fence a safe distance back away from the roadway and would not create any obstructions.
- The fence must be stepped down near the intersection of Dolan Road at Sunset Drive to a height that will not obstruct the view of vehicles turning from Dolan Road onto Sunset Drive.
- Have the fence step down on each side of the Dolan Road driveway entrance / exit or possibly flare the end fence panels inward toward the property line to increase sight visibility for vehicles exiting the property and the vehicles travelling in both direction on Dolan Road.
- The remaining 8 foot high fence panels should not create any safety issues and I would not have any objections to them.

I have attached six photos that depict the current location for informational purposes. If you or any Board members have any further questions please forward them to me.

Sincerely,  
*Donald P. Desorcy*  
Donald P. Desorcy  
Chief of Police

***Community, Commitment & Pride***

TAKEN 01/02/2018

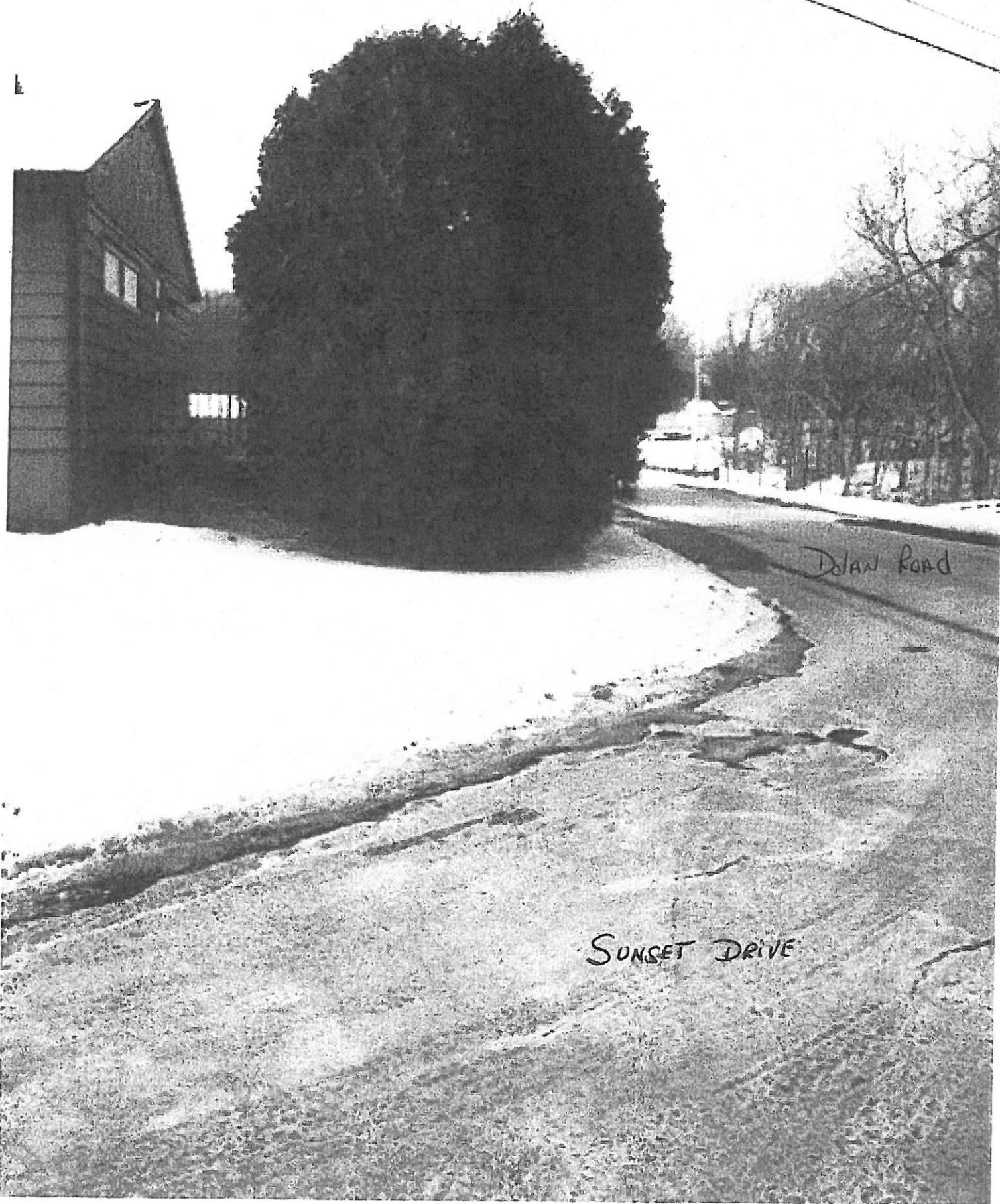


Dolan Road

SUNSET DRIVE



TAKEN 01/02/2018



DOLAN ROAD

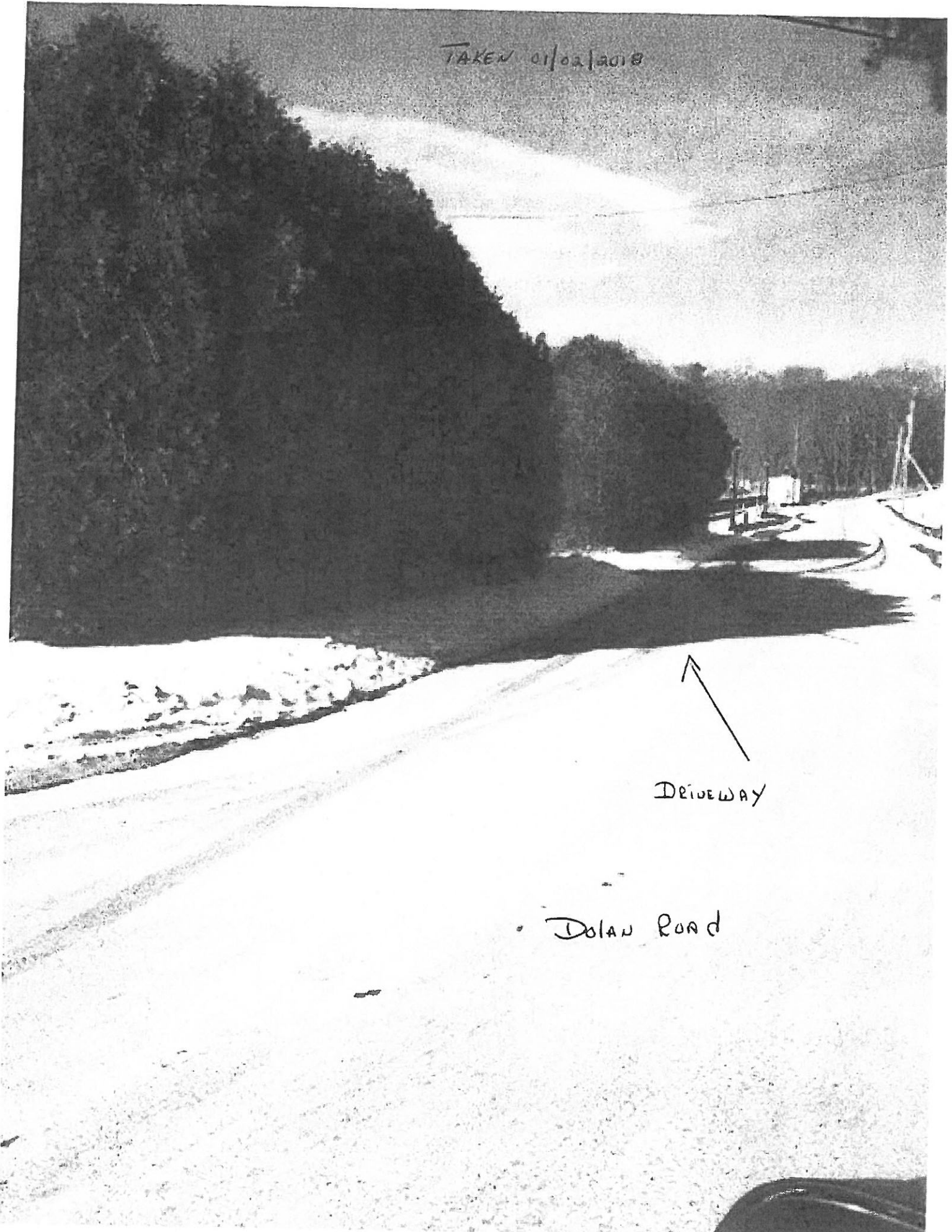
SUNSET DRIVE

TAKEN 01/02/2018



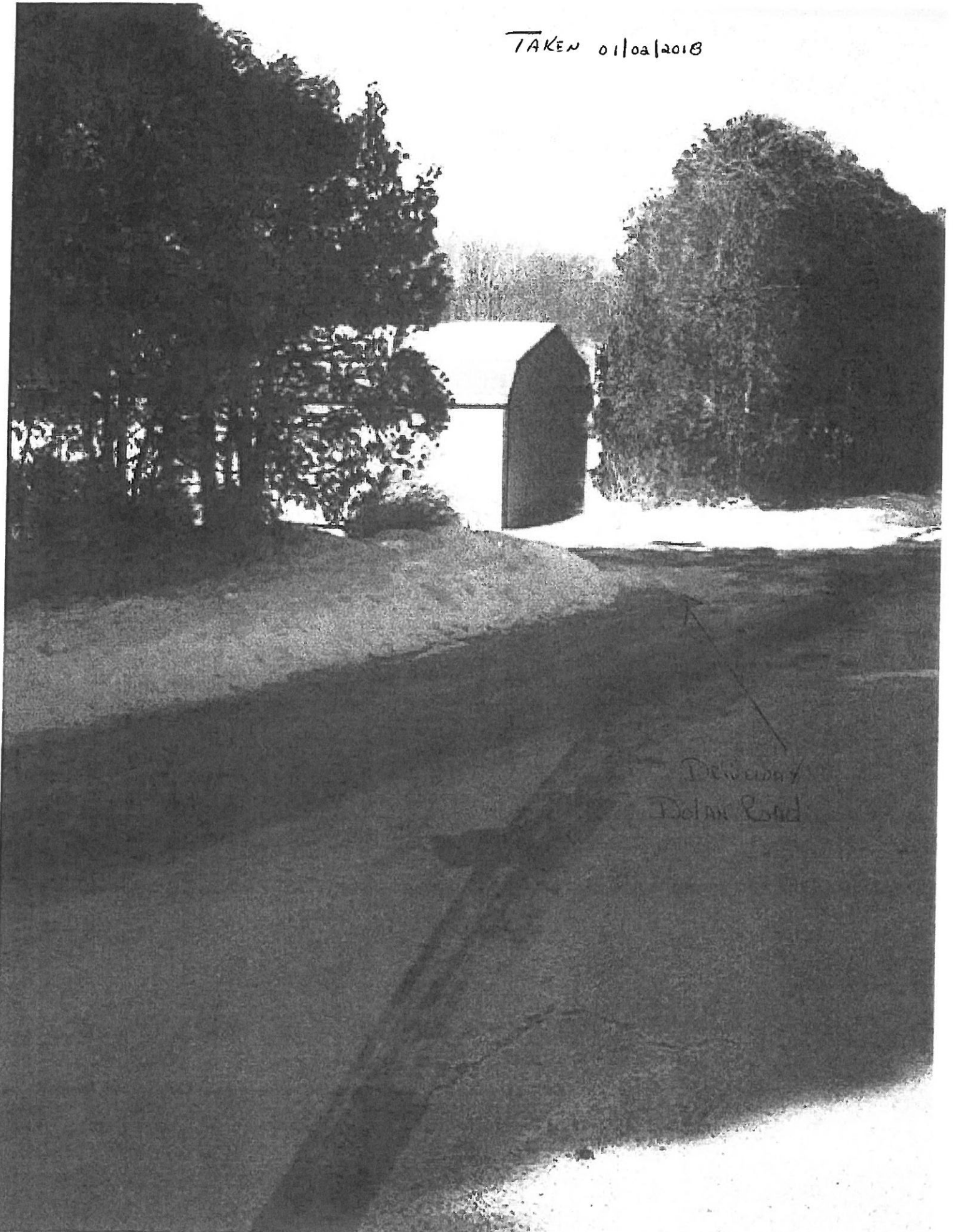
DRIVEWAY

• Dolan Road





TAKEN 01/02/2018



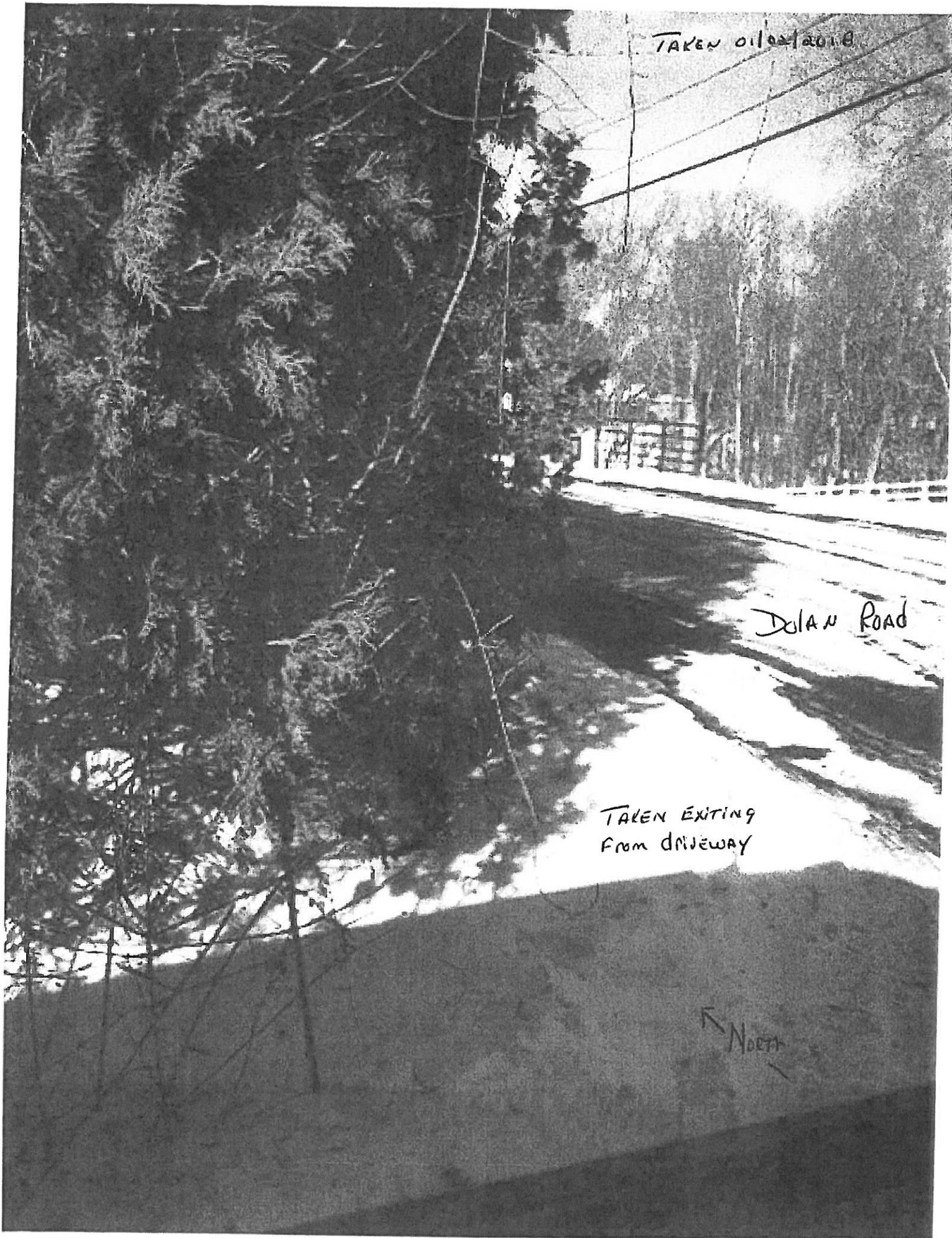
Dewey  
Dolan End

TAKEN 01/02/2018

Dolan Road

TAKEN EXITING  
FROM DRIVEWAY

← NORTH

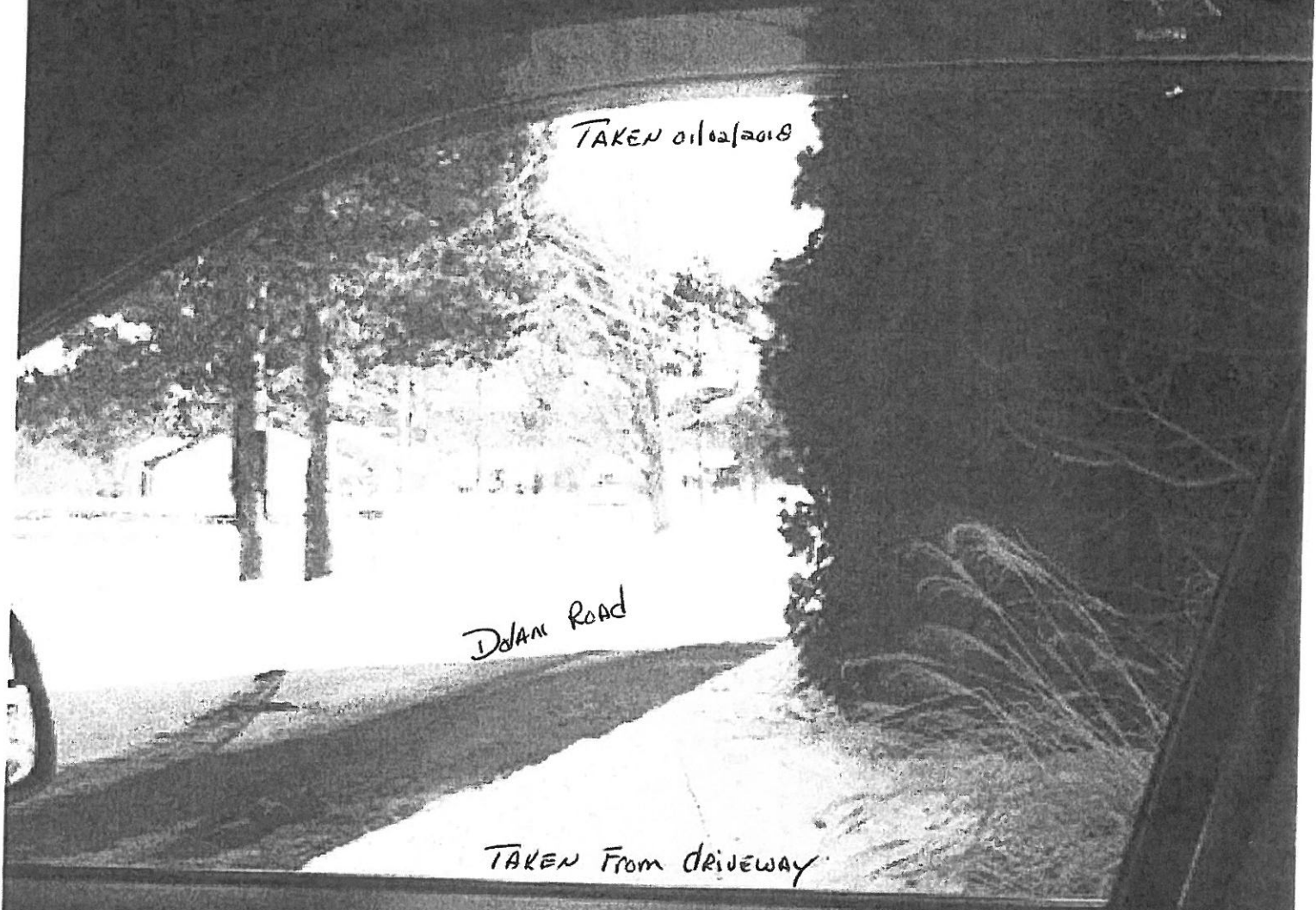




TAKEN 01/02/2018

Dolan Road

TAKEN FROM DRIVEWAY





# Untitled Map

2 Sunset Drive

## Legend

- 📍 2 Sunset Dr
- 📷 Feature 1
- 🔍 Feature 2



Google Earth

© 2017 Google  
© 2017 Europa Technologies

Description of photos (in order and numbered)

1. Obstructed view turning onto Dolan Rd from Sunset Drive
2. Property marker from town's survey, view from standing on the dam
3. Close proximity and clear view to strangers on dam, view from our property
4. Clear view of our property from dam (where proposed fence would offer our only privacy)
5. View from dam, overlooking our entire property and swim area
6. Dam and the corner of our property and swim area, view from our dock
7. View of where we used to privately enjoy our property, which is now all on display

Description and measurements of fence, see attached plot plan for image of the following letters A-E.

All sections of fencing will be 8 feet wide, and the fence will begin in line with the corner of the house, 12 feet out from the dwelling

A - There will be one section of fence starting from the Sunset Drive side of the property that initially is 4 feet tall and tapers up to 6 feet

B - There will be five sections that are 6 feet tall that will bring the fence to one side of the driveway

C - On the opposite side of the driveway, running perpendicular to the road, one 8 foot tall section will extend from the shed toward the road

D - There will be eight sections of 8 foot tall fencing along Dolan Road

E - There would be two sections of 8 foot tall fencing that would cut into our property to make a privacy buffer

There will be 136 total feet of fencing, 88 feet of the fence would be 8 feet tall



**MORTGAGE INSPECTION PLAN**

ADDRESS: 2 SUNSET DRIVE  
CITY/TOWN of MILLBURY, MASSACHUSETTS  
SCALE: 1" = 30 FEET DATE: AUGUST 16, 2011

**DEED & PLAN REFERENCE**

WORCESTER Registry of Deeds  
DEED BOOK 20028 PAGE 33  
PLAN BOOK 219 PLAN 63

**Certification is hereby made by:**  
**SHREWSBURY FEDERAL CREDIT UNION**

The permanent structures are approximately located on the ground as shown and they either conform to the setback requirements of the local zoning ordinance in effect at the time of construction or are exempt from enforcement action under M.G.L., Chapter 40A, Section 7, unless otherwise noted.

Qualification is hereby made that the structure shown on this plan is NOT located within a special flood hazard area as delineated on the map of

Community Panel No. 28027C

Effective/Revised Date: JULY 4, 2011  
by the Federal Emergency Management Agency  
Federal Insurance Administration.

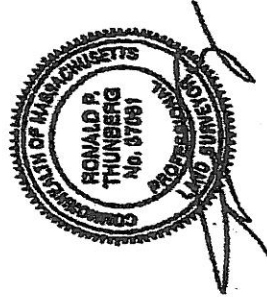
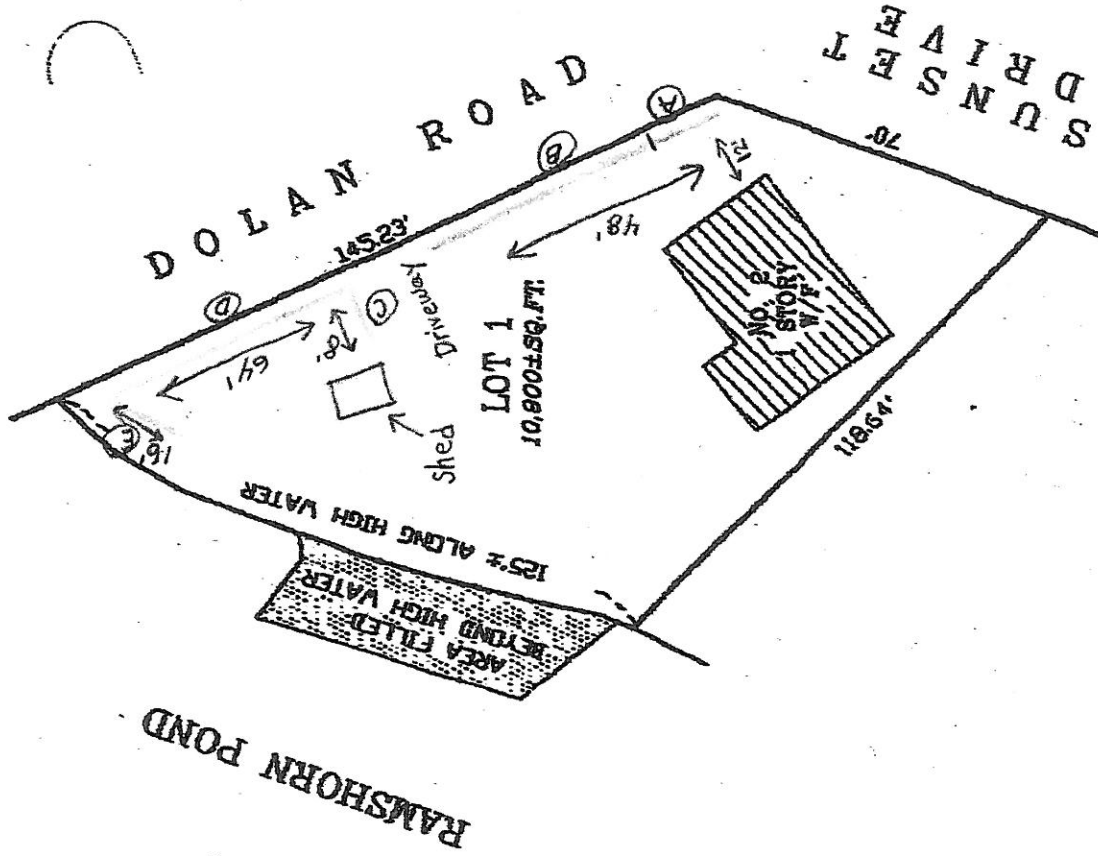
NOTE: This inspection was prepared in accordance with the technical standards for Heritage Loan Inspections as adopted by the Commonwealth of Massachusetts, and was for any other purpose is prohibited.



LAND SURVEY ASSOCIATES INC.  
10 FLYING FLAG  
WEST BOSTON, MA 01580

FILE REFERENCE: H085-411

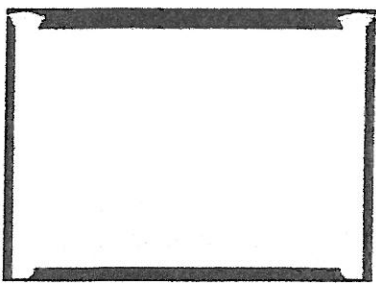
*\* Proposed fence*



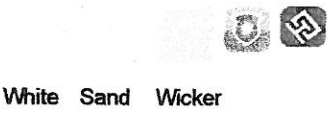
# Dogwood

## HAVEN SERIES

\$\$\$

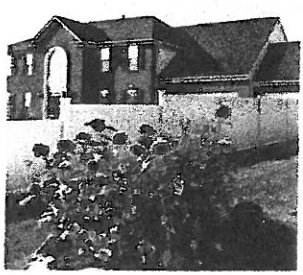
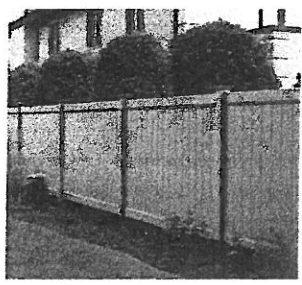


Colors Available  
*Click to view color samples*



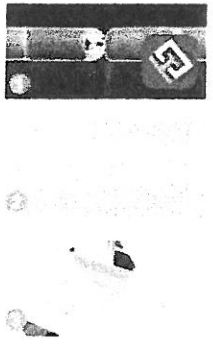
White Sand Wicker

Please click on the images below to enlarge



### Best

- 6" GlideLock™ 'Haven' Boards
- 5" x 5" Posts
- 2" x 6" Decorative Rails
- Aluminum Insert
- 8' Width Panels
- 4', 5', 6', 8' Heights Available



## HOME SERIES

\$\$\$



## TOWN OF MILLBURY

MUNICIPAL OFFICE BUILDING • 127 ELM STREET • MILLBURY, MA 01527-2632 • TEL. 508 / 865-0438 • FAX. 508 / 865-0857

Department of  
Building & Inspections  
Paul F. Stringham  
Inspector of Buildings

January 8, 2018

TO: Board of Appeals  
FROM: Paul F. Stringham Inspector of Building  
CC: Planning, Applicant, file

RE: Notice of Correction of Zoning Determination  
@ 58 West Main Street originally dated 12/15/17

Be advised an application for Appeal has been submitted with the Town Clerk. First the applicant incorrectly identified their property as being in S-1 Suburban District. They did not list the district that was listed in my original letter dated 12/15/17.

The property is actually located in R-1 Residential District, which I was informed by the Planning Director today. This corrected information requires a revision in the amount of dimensional variance relief needed by the applicant.

If you have any further questions feel free to contact me I trust you will have ample time to adjust public notice posting properly.

RECEIVED  
TOWN CLERK  
18 JAN -8 PM 3:26  
MILLBURY, MASS





## TOWN OF MILLBURY

MUNICIPAL OFFICE BUILDING • 127 ELM STREET • MILLBURY, MA 01527-2632 • TEL. 508 / 865-0438 • FAX. 508 / 865-0857

Department of  
Building & Inspections  
Paul F. Stringham  
Inspector of Buildings

DATE: December 15, 2017

TO: Mogren Family Irrevocable Trust c/o 58 West Main Street, Millbury, Ma. 01527

RE: Building Permit Application Denial

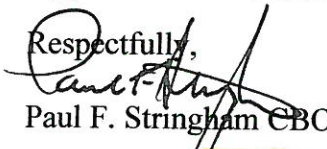
To: WHOM IT MAY CONCERN:

The Building Department has received an Application for a Building Permit to reconstruct a new building, on your property that was been damaged by a Fire and has been permitted to be demolished. After reviewing the proposed project I have performed a Zoning Determination that results in your application being denied until you obtain the required legal Zoning Relief and Approval. My determination is as Follows:

- 1.) The Subject parcel referenced above is located within the R-1 Residential District.
- 2.) The subject parcel contained a single wood frame structure containing 6-residential units. Our records further indicates that this structure and use predates adoption of 1957 Zoning Bylaws and is thereby grandfathered protected under MGL. Chapter 40A Section 6 from requiring a new Special Use Permit, which is now required for this district. The nature of the change that is proposed will need to be granted a Section 6 Finding and Special Permit from the Board of Appeals under Section 13.21 Section 14.12. Where upon the finding shall be made and that the proposed change will not be more detrimental and in harmony to the district and neighborhood.
- 3.) The proposed site has 2 street front yard setbacks a Dimensional Zoning Variance is required to allow construction within the 25' foot front yard setback for this District along West Main Street side in the amount of 14.5' feet from the Board of Appeals under Section 13.22.
- 4.) The proposed site plan indicates that a Dimensional Zoning Variance is required to allow total building coverage in excess of 30% maximum, proposed plan indicates building construction coverage to be 32.38% under Section 13.22.
- 5.) The proposed construction will require a Site Plan Review by the Planning Board under Section 12.4.

Applications are available through the Town Clerk for both boards.

Respectfully,

  
Paul F. Stringham CBO

CC: PLANNING, BOARD of APPEALS File

REVISED 1-8-'18