

City of Salem, Massachusetts



"Know Your Rights Under the Open Meeting Law, M.G.L. c. 39 §23B, and City Ordinance Sections 2-2028 through 2-2033."

The City Council Committee on Public Health Safety & Environment co-posted

with Committee of the Whole

met in the Council Chamber on Wednesday, February 13, 2013 at 6:30 P.M.

for the purpose of discussing the matter(s) listed below. Notice of this meeting was posted on February 7, 2013 at 6:50 P.M.

(This meeting is being recorded.)

ATTENDANCE

ABSENT WERE: Turiel, O'Keefe

Committee whole present Sargent, Legault

SUBJECT(S)

#120 - Status of Proposed Gas Station at 111 North Street (Trickett Realty)

Motion to keep in Committee by Councilor Prevey 2nd by Forey
All Approved -

move to adjourn Councilor Prevey 1st 2nd by Forey

SERAFINI, DARLING & CORRENTI, LLP

ATTORNEYS AT LAW

63 FEDERAL STREET

SALEM, MASSACHUSETTS 01970

JOHN R. SERAFINI, SR.
JOHN E. DARLING
JOSEPH C. CORRENTI

TELEPHONE
978-744-0212
FACSIMILE
978-741-4683

February 13, 2013

CITY OF SALEM, MA
CLERK'S OFFICE

2013 FEB 13 P 1:28

Cheryl A. Lapointe, Clerk
City of Salem
93 Washington Street
Salem, Massachusetts 01970

Re: 111 North Street, Salem

Dear Madam Clerk:

I am in receipt of the invitation to attend the City Council Committee on Public Health, Safety and Environment meeting to be held on Wednesday, February 13th. Unfortunately, my client, Trickett Realty Trust ("Trickett Realty"), owner of the property at 111 North Street, is unavailable to attend this meeting.

Since the purpose of the meeting is to discuss the status of the gas station, Trickett Realty would like to provide this brief update to the Council.

During the past several months, the owner of the property has been working with each and every City Department involved in the Routing Slip process for signoffs for a Certificate of Occupancy. All legal requirements of each Department are being addressed by the owner so that the property will be in a position to receive permits necessary to operate as a Shell gasoline filling station and convenience mart. The owner has undertaken considerable expense to get this property to this point, will continue to comply with all the requirements of the City Departments involved, and is expecting to open its business soon.

Sincerely,

Trickett Realty Trust
By its Attorney


Joseph C. Correnti

JCC:dl

February 13, 2013

Councilors and Members of the Committee, City Solicitor Rennard and all other interested parties present here tonight, on behalf of the abutters, I would like to thank you, once again, for your time and dedication in trying to get this zoning violation resolved.

A packet of historical information has been provided to familiarize new Council members regarding this situation, and to refresh the memories of those who are already somewhat familiar with it.

This zoning violation of the 1970 Board of Appeals decision to issue a special permit to Shell gas station occurred more than 4 1/2 years ago and has been an on-going dispute ever since.

In 2008, the developer, Mr. Sideropoulos, clear cut 35-40, 75-100 foot trees behind the North Street Shell Station, violating that decision which stated that all of the trees and vegetation to the rear and side of the building be left untouched, in order to provide a protected buffer zone to the abutters. That violation was officially acknowledged by Building Inspector Tom St. Pierre in a letter to Mr. S. in early 2009.

The overall intent of that 1970 decision was very explicit: to keep the commercial activity of the Shell Station and North Street out of sight and earshot of the residential neighborhood. That was one of the primary conditions upon which the special permit was granted.

During the last 4 years, the abutters have had to retain an attorney and a landscape architect. We have had to deal with flooding issues, the noise, sight and sounds of North Street, view huge piles of dirt and debris, deal with out-of control weeds of gigantic proportion that invaded our properties and choked out our grass and plantings, and most recently, stadium-type lighting intruding on our properties. As a direct result of all of this, we have suffered a measurable decrease in our property values. When each of us purchased our homes, we were assured by our realtors that the buffer could never be removed, that it was protected by law, and that our properties were therefore protected. We purchased our properties with that knowledge.

In a letter dated, February 11, 2009, from Attorney Correnti to Mr. Tom St. Pierre, Mr. Correnti stated and I quote "It is our intent to resolve this matter in a manner satisfactory to both you and the abutters." However, Mr. Sideropoulos has been uncooperative during the last 4 ½ years. The progress that has been made is not due to any willingness on his part, but rather due to the persistence and determination of the abutters, the support and pressure from the City Council, and the consistent messaging from both Tom St. Pierre and City Solicitor Beth Rennard that no CO will be issued until we have complete agreement on all issues. The letters in your packet will confirm this.

As you can see from the communications of the last 4 ½ years, Mr. Sideropoulos has never wanted to right the wrong, but rather carry out the absolute minimum in order to obtain a C/O to open his gas station, including, but not limited to, installing gasoline tanks in the ground and carrying out construction on the property, without obtaining the required permits from the City. He even installed an illegal drainage system without the City's knowledge and without the required permit. That drainage system was eventually ordered by the City to be removed, because it was illegal and was causing substantial flooding to abutters' properties.

We insisted on the restoration of that buffer via a densely planted landscape plan. However, the landscape plan that was eventually executed last spring was not the plan the abutters had worked on for two plus years with Michael Blier and which was agreed to by all parties in December, 2011, but rather a watered down version that was accepted by the City without the abutters' or their attorney's knowledge or approval. That cannibalized plan now serves as the basis for eventually issuing a C/O to Mr. S. Furthermore, it is clearly stated in a letter from Mr. St. Pierre to Mr. S. that the plan had been agreed to by the abutters. Nothing could be further from the truth, as none of us, including our attorney, even saw that letter and we were not polled by the City before that letter was sent. We only found out about it after the fact. Even this scaled back plan remains incomplete and does not provide a buffer in the best way possible. Tree sizes and quantities were dramatically reduced from the agreed upon plan without our knowledge. As a result, the intended denseness has been compromised. I invite each of you to drive up Buffum Street and decide for yourself if the best possible screening of the property has been created.

We have been requesting that the remaining eleven, 12-14 foot maples be planted and that the health of several trees and plantings be assessed, but have only gotten more pushback from Mr. Sideropoulos and his representatives. The assurance we were given, was that when all of the trees and plants were in the ground, the abutters would have the opportunity to determine if any gaps remained. And if so, additional trees would be planted to fill those empty spaces. Remember, we had woods behind our properties--the result of decades of tree and underbrush growth, all of which was destroyed one Fall afternoon in 2008.

But this dispute has two parts. One is the inadequate landscape plan I just spoke of, which remains incomplete. The other part concerns the conditions we are faced with and which exist as a direct result of eliminating that buffer, several of which have still not been addressed or not addressed adequately in Mr. St. Pierre's letter to Mr. Sideropoulos dated April 5, 2012. These conditions are, part and parcel, the result of that 1970 violation, and as such, cannot be ignored:

1. Lighting – to the rear and side of the property including the lamp post by the Yeannakopoulos' property
2. Landscape maintenance agreement – has still not been spelled out / sufficient escrow monies by property owner
3. Stipulation that no business activity will occur behind the building via the rear door; that the door is to be used only in an emergency
4. Trash pickup- want to make sure there are no early morning or late evening pickups
5. Repair/replacement of damaged fencing
6. Flooding/runoff – want to be assured that drainage is operating properly and all required permitting obtained.
7. Document stating that landscape/conditions run with the land in perpetuity and a reference made in abutters deeds.

We, the abutters, have been more than reasonable and patient over the last 4 years. We have worked diligently and in good faith to have these issues resolved. All we have gotten from Mr. Sideropoulos and/or his representatives are empty promises. Any delays that have occurred are solely on his end.

This whole nightmare could have, and should have, been resolved years ago. There has been no good will of any kind on the part of this property owner. That is why we are in this Chamber again tonight.

We implore the City once again to act responsibly and keep their word by not issuing a certificate of occupancy until the buffer is fully completed and the conditions have been met/carried out to the satisfaction of both the City and the abutters.

Thank you again,

Helen Papadopoulos
14 Buffum Street
Salem, MA 01970

ADDITION
DONE IN 2008-2009



JIM + TED

NORTH ST
ABUTTERS

NATURAL BUFFER ZONE
CONTAINING 35-40
100 FOOT (PLUS) HIGH
TREES, GRASS + THICK
VEGETATION DESTROYED
BY TRICKETT REALTY
IN THE FALL OF 2008
IN VIOLATION OF THE
1970 BOA ORDER

BUFFUM ST
ABUTTER

BUFFUM ST
ABUTTER

JENNIN +
TIM LOVE ST
ABUTTERS

PAT MORROW ST
PAT DE SAIN ST
16 ABUTTERS

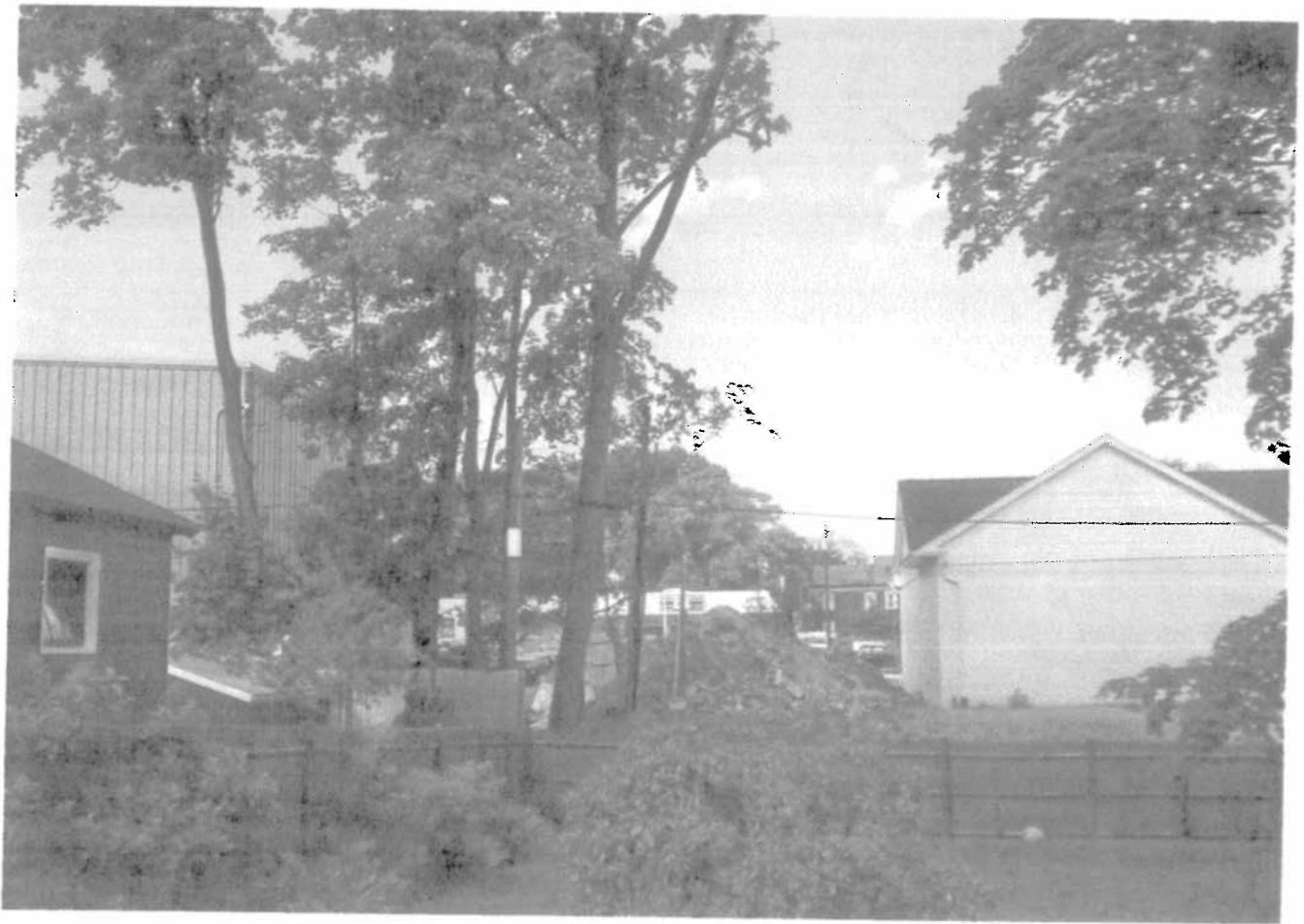
HELEN +
GEORGE
POP...
ABUTTERS

Before taking down 7 trees - 14 Buffers

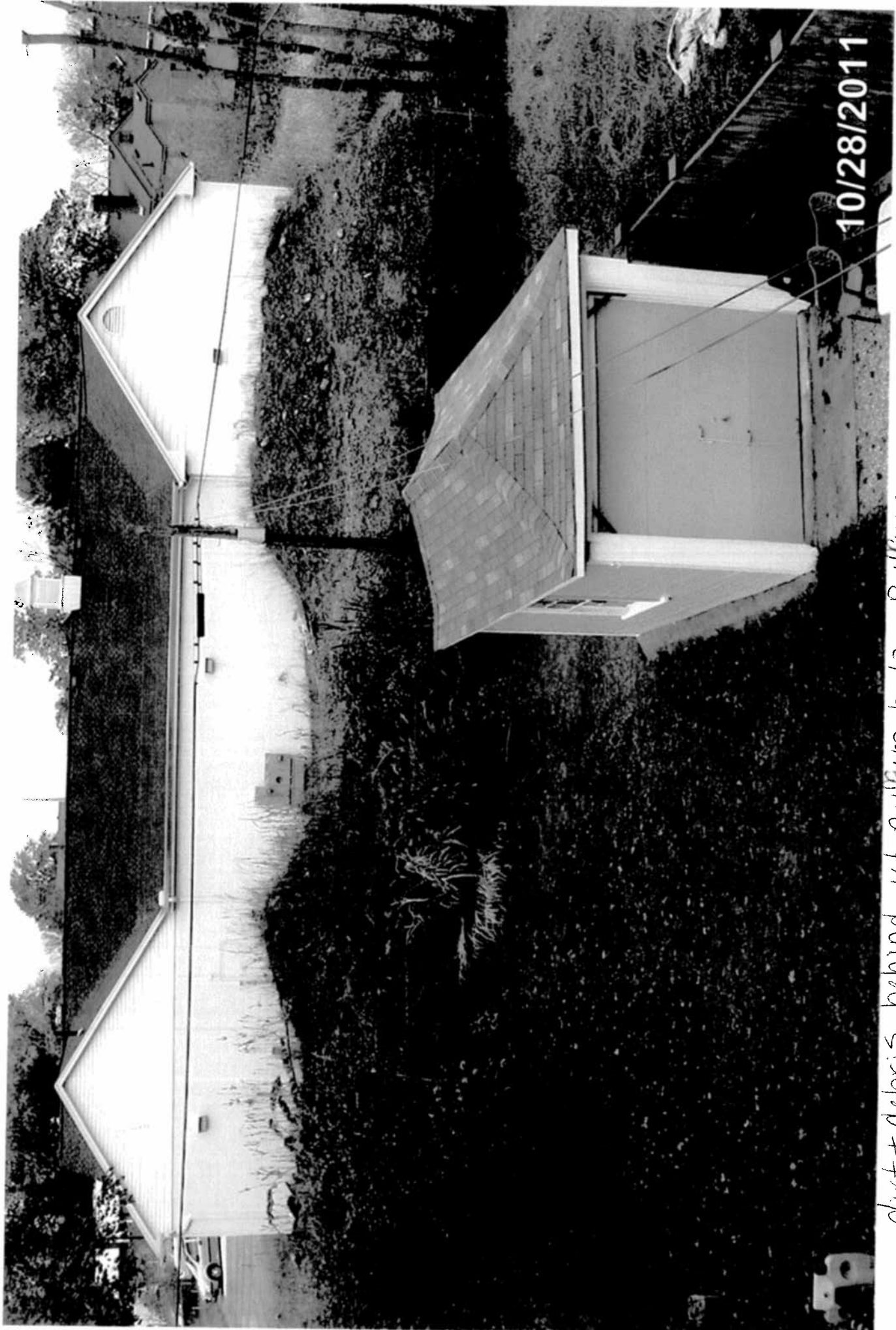


after





VIEW FROM BACKYARD OF 16 BUFFUM ST.
LOOKING AT REAR OF "SHELL GAS STATION" PROPERTY



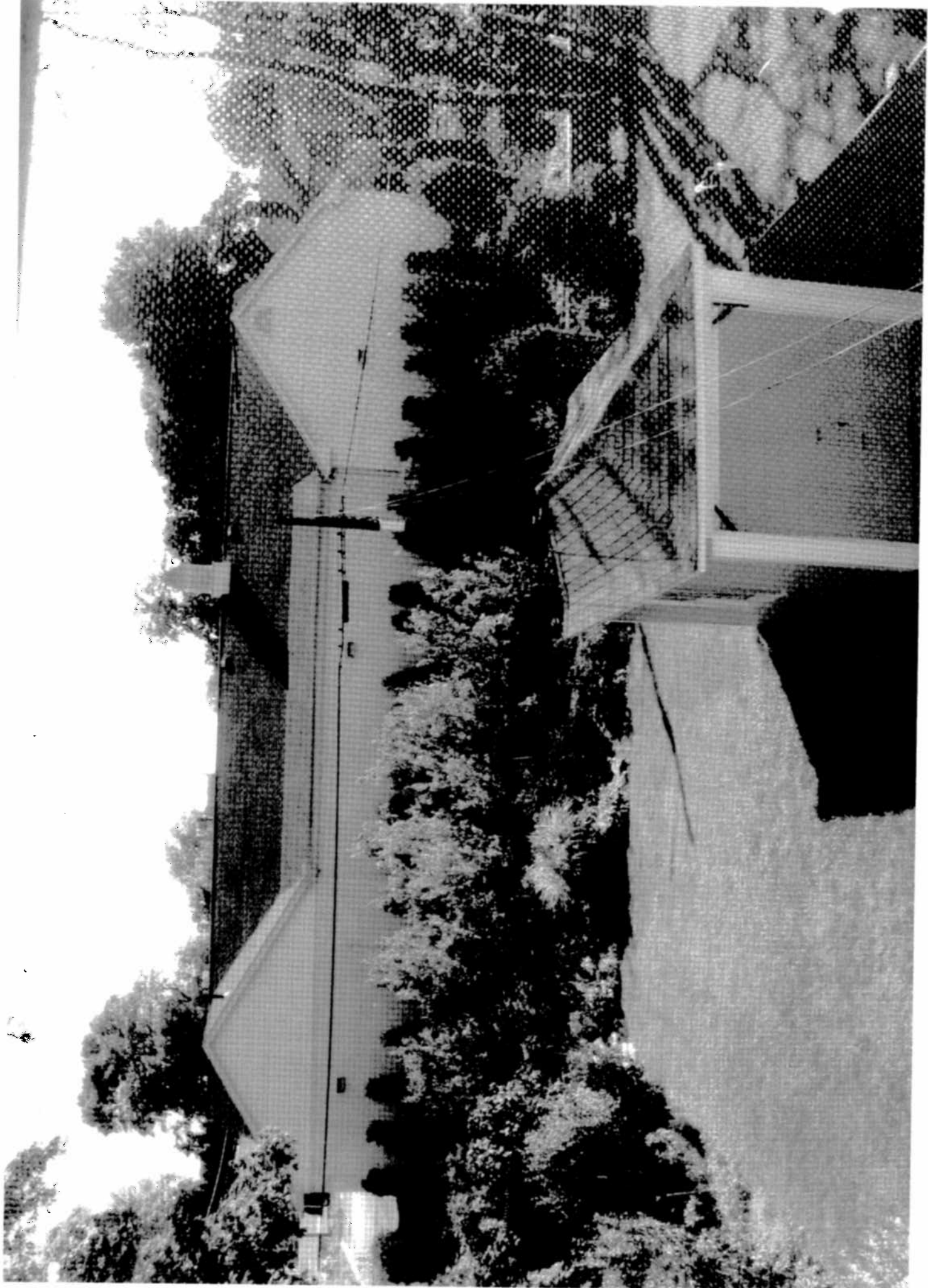
10/28/2011

dirt + debris behind 14 Butlum + 12 Butlum



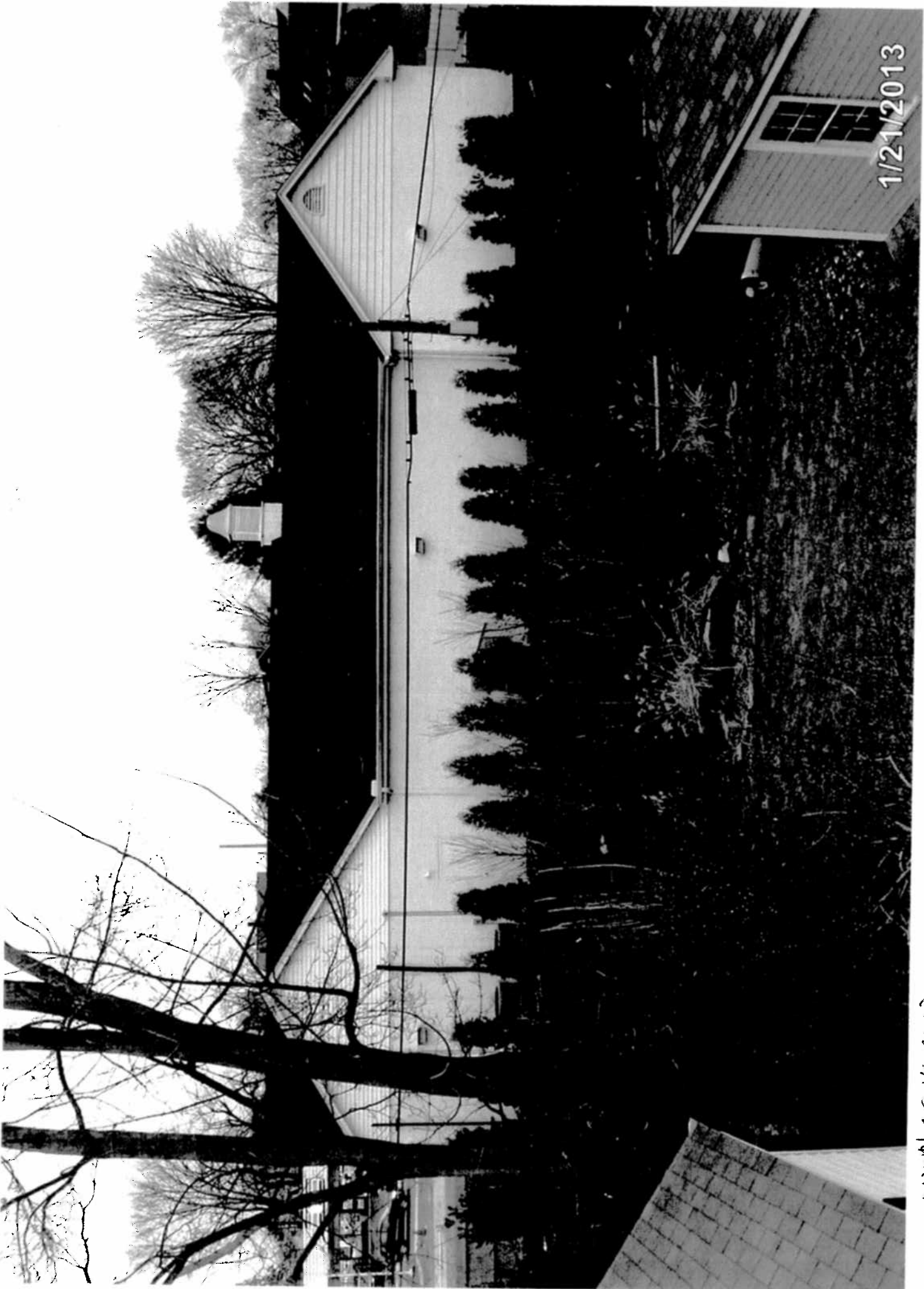
16 Buffum St

8/6/12



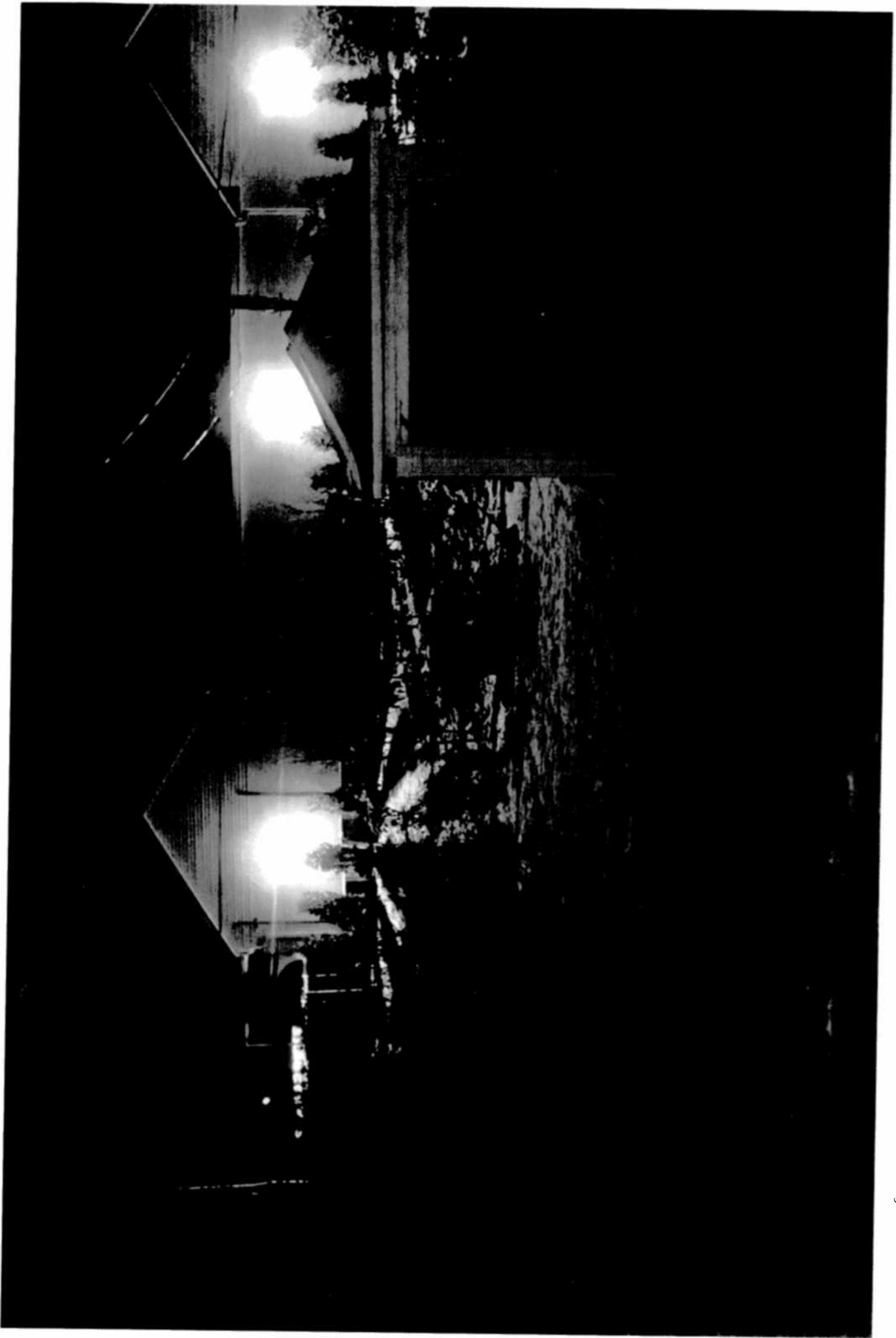
14 Buffum St

7/4/12

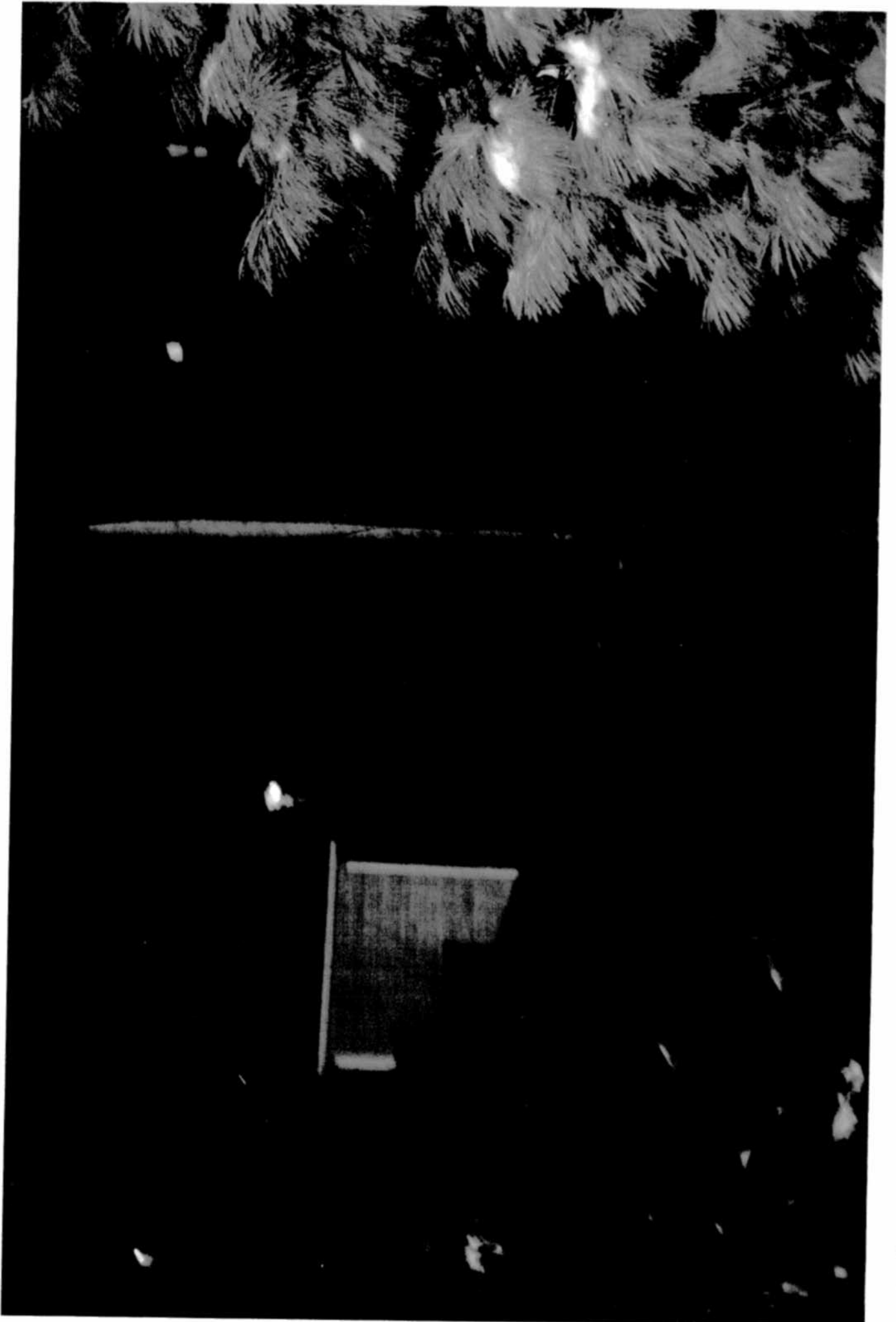


1/21/2013

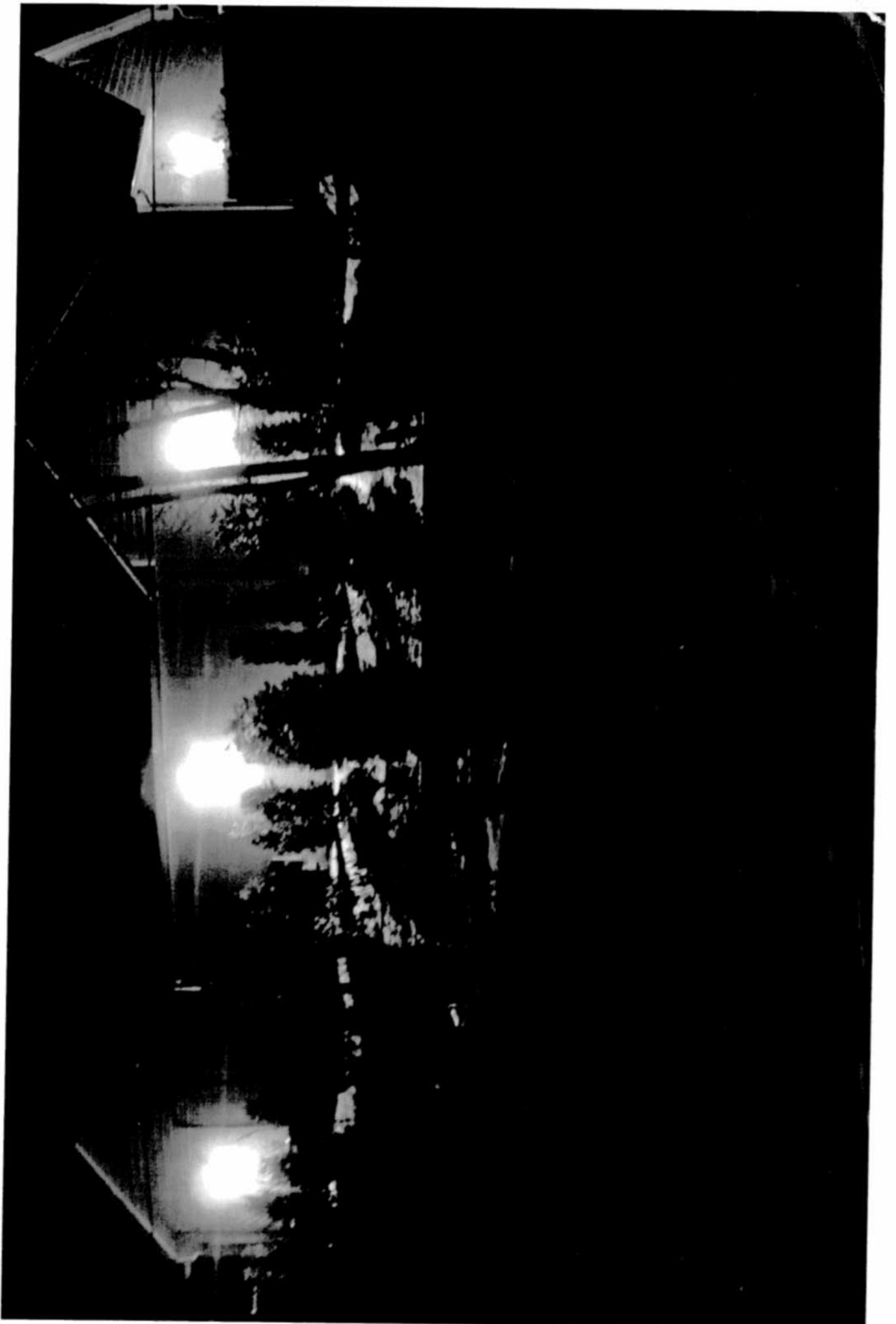
winter view



14 Buffum St - light spilling over onto abutters properties



14 Buffum + 16 Buffum st - lights hitting everbushes homes





RECEIVED City of Salem, Massachusetts

AUG 13 3 42 PM '70

Board of Appeal

- WILLIAM F. ABBOTT
- JAMES H. BOULGER
- JOSEPH F. DOYLE
- JOHN M. GRAY, SR.
- ARTHUR LAUREGQUE
- EMERY P. YANCH
- J. NORMAN WELCH, JR.

CITY DECISION FILE
 SALE SPICIAL PERMIT TO ALLOW CONSTRUCTION OF AN AUTOMOBILE SERVICE STATION AT 111-113 NORTH STREET AFTER DEMOLITION OF EXISTING SERVICE STATION AT SAID LOCATION.

The Inspector of Buildings refused to issue a permit to construct a new service station at this location as the existing use is non conforming for this district, zoned B-1, Neighborhood business, and referred petitioning company to the Board of Appeals. The City Zoning Ordinance allows such a use in accordance with Section V-B-5 "Special Permit Uses, B-1 Districts", when permission is obtained from the Board of Appeals.

Hearing was held on this appeal pursuant to notices mailed postpaid to the petitioner, abutters, board members, and others, and advertisements published in the Salem Evening News.

All Board members were present, excepting Mr. Doyle who was unable to attend.

Counselor David T. Doyle appeared for petitioning company with Mr. Edward Gallagher of said company.

Appearing in opposition with the Ward Councilor George McCabe, were Mr. Yeannakopoulos, Mr. Ercha, Mr. and Mrs. Wm. Heffernan, Mr. James Godfrey, and Mr. and Mrs. Robert Nelson.

The Board studied the facts presented by the petitioner and opponents, and it was the opinion of the Board that since a service station was presently in existence at this location, that a Special Permit was warranted and would be in the best interests of the community and the district; it was the further opinion of the Board that the demolition of the present station and the construction of a new station of colonial design would promote the public health, safety, convenience, morals and the welfare of the inhabitants of the City.

At a meeting of the Board held on July 27, 1970, it was unanimously voted to issue a Special Permit to Shell Oil Company, Inc., to construct a gasoline service station of colonial design in conformity with the service station building presently existing at the corner of 934 Massachusetts Avenue in Arlington, Massachusetts, as shown in photograph of same submitted to this Board; the petitioner shall have the further obligation of the maintenance of the property to the rear line; the construction of the said building and the landscaping shall be in accordance with the new plans submitted by the petitioners to meet the objections of the neighbors, and which are further incorporated in a letter from the petitioners' attorney, David T. Doyle, to the Board, dated July 16, 1970, and said plans and letter become an integral part of this decision.

SPECIAL PERMIT GRANTED AS REQUESTED.

BOARD OF APPEALS

BY William F. Abbott
 (Act.) Secretary

DOYLE & DOYLE
ATTORNEYS - AT - LAW
81 WASHINGTON STREET
SALEM, MASSACHUSETTS 01970
PHONE: 744-0620

JOSEPH F. DOYLE
JOSEPH F. DOYLE, JR.
SAMUEL T. DOYLE
MAURICE A. CHOUINARD

RECEIVED
AUG 10 3 42 PM '70
CITY CLERK'S OFFICE
SALEM, MASS.

July 16, 1970

BOARD OF APPEALS
City of Salem
Salem, Massachusetts

Gentlemen:

This office represents the Shell Oil Company concerning a special permit for the construction of a gasoline service station at 111-113 North Street, Salem, Massachusetts. A hearing was held before the full Board on April 1, 1970, at which time the Board took the matter under advisement. Subsequent thereto the Board suggested that Attorney George F. McCabe in his capacity as Ward 6 Councillor and I as the Attorney for Shell Oil Company attempt to resolve the problems presented by the neighbors. In conformity with the Board's directive, we have had discussions with all parties concerned. To meet the objections of the neighbors, the plans have been modified in the following manner:

1. Changed landscaping on the left hand side of the property to alleviate complaint about grade conditions and to keep the retaining wall there. (Yeannakopolous side)
2. Moved the rear yard pavement line ten (10) feet further away from the rear property line.
3. Changed the location of the underground tanks so that they are now closer to the street.
4. Relocated the five foot Cedar screen fence to the top of the slope in the rear to further screen the service station yard from the rear and the side properties.
5. Relocated the rubbish area from the rear of the station to the side.

DOYLE & DOYLE
ATTORNEYS - AT - LAW
81 WASHINGTON STREET
SALEM, MASSACHUSETTS 01970
PHONE: 744-0520

RECEIVED

AUG 10 3 42 PM '70
CITY CLERK'S OFFICE
SALEM, MASS.

JOSEPH P. DOYLE
JOSEPH P. DOYLE, JR.
DAVID T. DOYLE
MAURICE A. CHOUMARD

Board of Appeals

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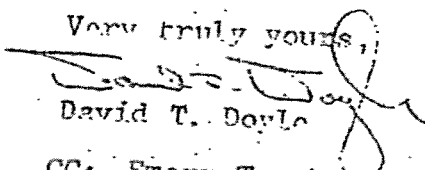
July 16, 1970

- 218 308
6. Changed the grade of the yard to reduce the overall height of the service station property.
 7. Agreed to ~~leave all the~~ trees to the rear, clear the underbrush and ~~plant weep~~ willows in the treeless area of the rear yard.
 8. Changed the landscaping on the right side of the station (Tobin side)
 9. Made known to the neighbors that Shell Oil Company, Inc. was agreeable to change from a Colonial to a Ranch Style design to reduce the overall height of the building as seen from a rear perspective. The Company is still willing to do this if the Board deems it advisable.

A new plan incorporating all of these changes has been filed with the Building Inspector, Mr. Daniel O'Brien, along with a letter from Attorney George McCabe. I do emphasize that the neighbors and Attorney George McCabe still object to the service station and no agreement could be reached that the special permit could be granted on the conditions as herein specified. As I said at the meeting before your Board, the old service station will remain in any event and the purpose of this special permit will be to construct a station of colonial design with construction and acquisition costs to approximate \$180,000.00.

I respectfully request that the Board act favorably on this permit at it's next meeting which is Monday, July 27, 1970. Thank you for your consideration.

Very truly yours,


David T. Doyle

DD:mmm

CC: William Abbott
James H. Boulger
John M. Gray, Sr.
Arthur E. LaBrecque

CC: Emory Tanch
Norman Welch
Attorney George McCabe

PP

TINTI, QUINN, GROVER & FREY, P.C.

27 CONGRESS STREET, SUITE 414
SALEM, MASSACHUSETTS 01970

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WILLIAM B. ARDIFF (1965 - 1995)

MARCIA MULFORD CINI
OF COUNSEL

JOHN D. KEENAN
OF COUNSEL

January 12, 2009

VIA TELECOPIER (978) 740-9846

Mr. Thomas St. Pierre
Director of Inspectional Services
120 Washington Street, 3rd Floor
Salem, MA 01970

RE: 111-113 North Street, Salem, Massachusetts

Dear Tom:

I represent a group of Salem residents whose properties abut the property at 111-113 North Street, Salem, Massachusetts (the "Property") owned by Haralampos Sidiropoulos, Trustee of Trickett Realty Trust ("Trickett").

After purchasing the Property last September, Trickett proceeded to completely clear all the existing trees, shrubbery and other vegetation behind and on both sides of the Property. This action was a clear violation of a Special Permit issued by the City of Salem Zoning Board of Appeals in August, 1970, notice of which was recorded with the Essex South District Registry of Deeds (copy attached). The Permit, which allowed the construction of a service station on the site, specifically required the property owner to leave all trees to the rear of the property undisturbed. The record of the proceedings before the Board of Appeals makes it abundantly clear that the Board issued the permit upon conditions which preserved the natural and dense screening between the residential properties on Buffum Street and commercial activity of a service station.

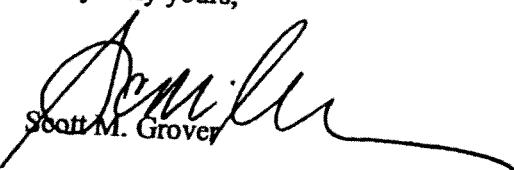
My clients have tried over the course of several months to work with Trickett to solve the problem, however, we have encountered nothing but empty assurances and missed deadlines.

Mr. Thomas St. Pierre
January 12, 2009
Page Two

I am writing now pursuant to M.G.L. c. 40, Section 7 to request that you take action to enforce the terms of the Special Permit by rescinding Trickett's Building Permit until the violation has been rectified.

I appreciate your attention to this matter.

Very truly yours,


Scott M. Grover

SMG:kr

C: Timothy Love (Via Email)
Paul Prevy (Via Email)
Joseph Correnti, Esquire (Via Telefax)

PP

January 12, 2009

Thomas J. St. Pierre
Director of Inspectional Services
Public Properties Department
120 Washington Street, 3th Flr.
Salem, Massachusetts 01970

Dear Mr. St. Pierre:

By way of this letter, I am requesting that enforcement action be initiated against Trickett Realty Trust, located at 111 North Street in Salem. Specifically, in the fall of 2008, Trickett Realty purchased the property at the aforementioned location and cut down approximately 30 to 40 trees. For decades, these trees acted as a natural buffer and barrier for the neighbors who abut the property in back on Buffum St. It was later learned that this action was in violation of a 1970 Salem Board of Appeals (BOA) order which prohibited the removal of the vegetation to the rear of the property.

As you aware, Trickett Realty expressed a willingness to create a new buffer area that would include landscaping and re-create many elements of what was lost by Trickett Realty's actions. Despite ongoing negotiations with Trickett Realty and myself, the neighbors, Attorney Scott Grover, Trickett Realty's counsel Attorney Joseph Correnti and yourself, no plan has been submitted to the satisfaction of the neighbors or the City. At this point, Trickett Realty has failed to demonstrate any good faith effort to any of the involved parties despite multiple deadlines over the course of several months.

In view of the aforementioned, I respectfully request that you begin enforcement action on Trickett Realty for violating the 1970 BOA order.

Very truly yours,

Paul C. Prevey
Councilor, Ward 6



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS

PUBLIC PROPERTY DEPARTMENT
120 WASHINGTON STREET, 3RD FLOOR
SALEM, MASSACHUSETTS 01970
TELEPHONE: 978-745-9595 EXT. 380
FAX: 978-740-9846

January 30, 2009

Haralampos Sidiropoulos, Trustee
Trickett Realty Trust
1180 Main Street
Tewksbury, MA 01876

Re: 111-113 North Street

Dear Mr. Sidiropoulos:

This Department has been working with all parties involved to resolve the landscaping issues behind your property. At this point, a Zoning Board of Appeals Decision as well as a landscape drawing, both dating back to August of 1970, have been located. This Decision and Landscaping Plan are still valid and in effect. I have supplied a copy of the Decision and a copy of the plan to your attorney, Joseph Correnti.

You are directed to submit plans, prepared by a Landscape Professional, showing your plan to bring the project into compliance with the 1970 Decision. A certificate of Occupancy will be held up until this issue is resolved. If you feel you are aggrieved by this order, your Appeal is to the Salem Zoning Board of Appeals.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas St. Pierre".

Thomas St. Pierre
Building Commissioner/Zoning
Officer

cc. Scott Grover, Esq.
Joseph Correnti, Esq.
Elizabeth Rennard, City Solicitor
Mayors Office
Councillor Paul Prevey

SERAFINI, SERAFINI, DARLING & CORRENTI, LLP

ATTORNEYS AT LAW

53 FEDERAL STREET

SALEM, MASSACHUSETTS 01970

JOHN R. SERAFINI, SR.
JOHN R. SERAFINI, JR.
JOHN E. DARLING
JOSEPH C. CORRENTI

TELEPHONE
978-744-0312
781-581-2743
TELECOPIER
978-741-4683

February 11, 2009

Thomas St. Pierre
Building Commissioner/Zoning Officer
City of Salem
Public Property Department
120 Washington Street, 3rd Floor
Salem, Massachusetts 01970

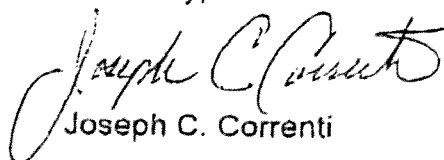
Re: 111-113 North Street

Dear Mr. St. Pierre:

As you know, this office represents Mr. Sidiropoulos, Trustee of the Trickett Realty Trust, which owns the property at 111-113 North Street. I am in receipt of your letter dated January 30, 2009, as well as the Decision and plan dating back to August, 1970.

After discussion with my client, it is his intent to submit further plans to your office to address the landscaping issue raised in your letter. While it may be impossible to know or replicate what was in place in 1970, a professional landscape plan will be prepared for your review. It is our intent to resolve this matter in a manner satisfactory to both you and the abutters.

Sincerely,



Joseph C. Correnti

JCC:dl

cc: Trickett Realty Trust



Kimberley Driscoll
Mayor

DAVID H. KNOWLTON, P.E.
CITY ENGINEER

CITY OF SALEM
SALEM, MASSACHUSETTS
ENGINEERING DEPARTMENT
120 WASHINGTON STREET, 4TH FLOOR
SALEM, MA 01970
Phone: (978) 745-9595 x5673
Fax: (978) 745-0349

October 27, 2010

Mr. Robert Sidiropoulos
Trustee
Trickett Realty Trust
1180 Main Street
Tewksbury, MA 01876

Re: Request to Provide Drainage Information
111 North Street, Salem, Massachusetts

Dear Mr. Sidiropoulos:

This correspondence has been prepared to follow-up on several requests for information relative to drainage improvements made at the above referenced property. We have requested as-built plans of what, if anything, has been constructed on the site, to determine if any drainage permitting is required. To date, we have received no information.

Please provide the requested information as soon as possible. If you have any questions, or require additional information, please call.

Very truly yours,

David H. Knowlton, P.E.
City Engineer

cc: Atty. Joseph Correnti
Jason Silva, Chief Administrative Aide to the Mayor

John H. Carr, Jr., Esq.
9 North Street
Salem, MA 01970
Phone: 978-825-0060
Fax: 978-825-0068

March 22, 2011

By Mail & By Facsimile: (978) 741-4683
Joseph C. Correnti, Esq.
Serafini, Serafini, Darling, & Correnti, LLP
63 Federal Street
Salem, MA 01970

RE: North Street Shell Station

Dear Joe:

It is now the afternoon of Tuesday, March 22, 2011, ie. 20 days after my March 2, 2011 letter, and 13 days after my March 9, 2011 letter, and I very much regret having to inform you that, notwithstanding your client's latest promises and statement of good intentions, as expressed during your 5:41 p.m. telephone call to me of Monday evening, March 8, 2011, particularly that he would have Tony Guba's engineering plans to Michael Blier "within two weeks," Michael has not still not heard or received anything, and of course, the two weeks were up as of yesterday.

I hope that Tony's failure to communicate with Michael does not mean that he and Mr. Sidiropolous have chosen to ignore the suggestion I made in my March 9, 2011 confirmation letter (and several times before that) that Tony work closely with Michael in the preparation of both plans, as that would be regrettable indeed.

I am herewith enclosing new copies of my March 9, 2011 confirmation letter, and my March 2, 2011 and November 12, 2010 letters as well.

Would you kindly let me know when we may reliably expect to receive the plans.

Especially in light of this latest delay, I would like to repeat my suggestion that Tony work closely with Michael in the preparation of both plans, which in the long run will very likely save Mr. Sidiropolous both time and money, and produce a better result for him, as well as for the City and the neighbors. After all, it would seem to make no sense for Tony to unilaterally prepare a grading and slope plan if (for instance) the pitch turns out to be too great to accommodate Michael's planting scheme, and similar considerations apply with respect to the drainage plan that Tony is supposedly preparing.

Alternatively, would Tony at least transmit copies of evolving drafts of his grading and slope plan, and his drainage plan, to Michael so that may we react to same before he casts them in concrete (metaphorically speaking).

Should Mr. Sidiropolous or Tony decline this suggestion as well, please don't complain about the expense or time delays if we end up having a problem with the plans Tony unilaterally prepares, as all of that could have been avoided had they simply accepted either of our above two common sense suggestions, which we have been making (literally) for months.

Again, would you kindly call me on my cell phone (978-807-3264) and let me reliably know where things stand.

Thank you.

I might also add that it has been one year, two months, and three days since our 3:00 p.m. conference with the Mayor and several others at her office on January 19, 2010, and since then the delay has been entirely on your end.

Very truly yours,

John H. Carr, Jr.

Cc. Michael Blier-By Mail & By Facsimile: 617-426-3033
Mayor Kimberley L. Driscoll
Ward 6 Councilor Paul Prevy
City Solicitor Elizabeth M. Rennard-By Mail & By Facsimile: 978-744-1279
Assistant City Solicitor Robin Stein
City Engineer David Knowlton
Mr. Richard Wilcock
George & Helen Papadopoulos
Patricia P. Morrow & Patricia DeSantis ✓
Timothy & Jennifer Love
James & Ted Yeannakopoulos



City of Salem, Massachusetts

Office of the City Council
City Hall

COUNCILLORS-AT-LARGE

2011
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November 17, 2011

Thomas St. Pierre
Building Commissioner/
Zoning Enforcement Officer
120 Washington Street
Salem, Massachusetts 01970

**Re: Trickett Realty Trust
111 North Street**

Dear Commissioner St. Pierre:

By way of this letter, we, the members of the Salem City Council, would like to express our firm belief that a certificate of occupancy should not be issued to the owner of 111 North Street, Trickett Realty Trust (TRT), until all unresolved issues on the property have been satisfactorily addressed. These issues include removal of the un-permitted drainage/recharge system which was installed without authorization from and knowledge of the City Engineer, removal of the mounds of dirt and fill, re-grading of the slopes, establishment of previously discussed retaining wall and fencing, and implementation of the proposed landscaping/planting of trees, shrubs and bushes contained in a separate landscaping plan. In addition, all of the various conditions which were ordered by the Salem Zoning Board of Appeals order issued in August, 1970, should be complied with as well.

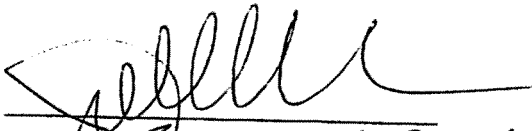
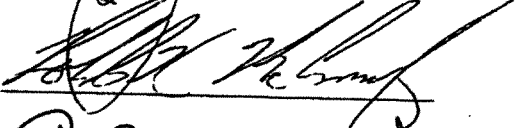
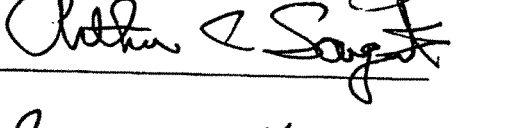
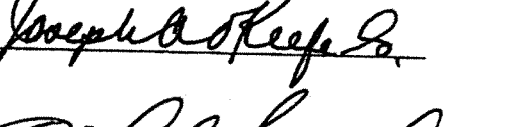

As you are aware, the City Council, and its Committee on Public Health, Safety and Environment have had numerous public meetings about this particular site and the ongoing unresolved problems which gave rise to the Council's involvement. The Council feels very strongly that TRT has been uncooperative with the abutters, as well as with city officials in trying to resolve all of the issues which have created a serious negative impact on the abutting neighbors. Despite efforts by the abutters, their counsel, city officials and members of the Council to move this forward in a productive manner, the property owner has consistently failed to cooperate in any demonstrable fashion.


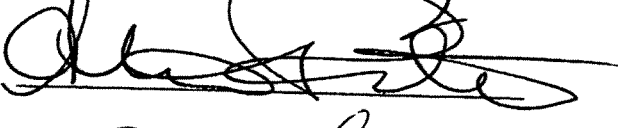
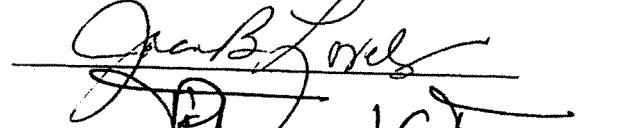
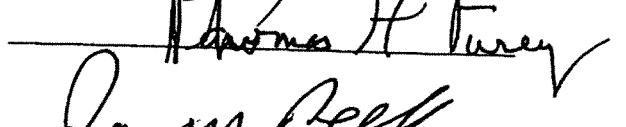
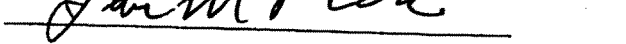
Most recently, a proposal to grant TRT a certificate of occupancy contingent upon the owner signing an agreement and performance bond assuring completion of all of these matters in the spring was offered to the abutters and the Council. It is the unequivocal sense of the Council, and the neighbors, that this proposal is completely unacceptable. Trickett Realty Trust has

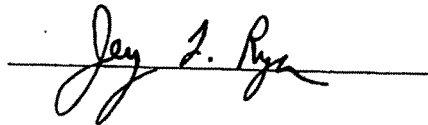
demonstrated no good will from the very beginning, and as such, there is no reason to believe that signing an agreement or making promises of any sort will guarantee a different result. TRT has made no convincing argument that the issuance of a certificate of occupancy is warranted or necessary in light of everything that remains outstanding. Lastly, the Council does not believe that Trickett Realty Trust is eligible for a certificate of occupancy based upon the stated requirements of the Massachusetts Building Code.

Based upon the aforementioned reasons, the Council urges you not to issue a certificate of occupancy to the property at 111 North Street. In conclusion, the Council would also request that you respond in writing to this letter so that the Council is aware of your position on this matter.

Respectfully yours,





KIMBERLEY DRISCOLL
MAYOR

P.P.

CITY OF SALEM, MASSACHUSETTS

BUILDING DEPARTMENT
120 WASHINGTON STREET, 3RD FLOOR
TEL. (978) 745-9595
FAX (978) 740-9846

THOMAS ST. PIERRE
DIRECTOR OF PUBLIC PROPERTY/BUILDING COMMISSIONER

December 6, 2011

Council President and Members
Salem City Council
93 Washington Street
Salem Ma. 01970

Re: 111 North Street

Dear Members,

I am in receipt of your letter regarding the issuance of a C/O for this property. For the record, neither Trickett Realty nor their representatives have asked for a Certificate of Occupancy. Early in this project, I informed Trickett Realty of the zoning violation and that a C/O would not be issued until such time as the zoning issue was resolved. Trickett Realty responded and understood that no C/O would be issued. The "New Drainage" plan approved by David Knowlton is being implemented as we speak. This project shall be treated the same as any other project that comes before this office. A routing slip is circulated to the various Departments for a signature. When all signatures are collected and the Building Code requirements are met, the Applicant must be issued a C/O. I am well aware of the issues surrounding this property and I have been in regular communications with the City Solicitor's office and will continue to do so.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas St. Pierre".

Thomas St. Pierre

cc. Mayor Driscoll, Elizabeth Rennard



KIMBERLEY DRISCOLL
MAYOR

CITY OF SALEM, MASSACHUSETTS

PUBLIC PROPERTY DEPARTMENT
120 WASHINGTON STREET, 3RD FLOOR
SALEM, MASSACHUSETTS 01970
TELEPHONE: 978-745-9595 EXT. 380
FAX: 978-740-9846

April 5, 2012

Trickett Realty Trust
111 North Street
Salem, Massachusetts 01970

c/o Attorney Joseph C. Correnti

Re: Landscape Plan

Dear Attorney Correnti:

I am in receipt of your letter and plan dated March 16, 2012 on behalf of your client, Trickett Realty Trust, owner of the property at 111 North Street.

Your correspondence is in response to my Order dated January 30, 2009, in which I directed that plans be submitted, prepared by a landscape professional, addressing the landscaping issues behind the building to the rear of the property.

You have submitted a professionally prepared Planting Plan dated March 2, 2012, stamped by Lorayne Black, ASLA, Registered Landscape Architect in the Commonwealth of Massachusetts. You have stated and I have confirmed that this plan is the result of collaboration with the landscape architect hired by the abutters to the property.

The Plan, as submitted, includes 85 new trees and 94 new shrub plantings, as well as ground seeding and a new retaining wall, all built upon an engineered Grading Plan as referenced in the Plan Notes. The plan is intended to provide an adequate landscape buffer between the 111 North Street property and the residential neighbors.

After reviewing the plan, I find that this plan meets with the requirements set forth by this office and adequately addresses the landscape buffer requirements intended in the 1970 Zoning Board of Appeal Decision for the property.

However, because this plan incorporates all new plantings, which will take time to mature, the following conditions are put into place to insure successful and maintained growth of the landscaping, so as to achieve fuller screening and buffering of the property in the future.

Conditions:

1. All plantings, seedings, mulch, grading and other work shown on the Planting Plan is to be done per plans and dimensions as submitted, with a stamped as-built plan to be submitted by the property owner upon completion of the work;
2. All debris, dirt piles, etc. are to be removed from the property prior to the issuance of a Certificate of Occupancy;
3. The ongoing future maintenance of the landscaping shown on the Planting Plan becomes an obligation of any owner of the property and a condition to a Certificate of Occupancy for the property.

As a result of negotiations with the City, your client has agreed to the following:

1. An appropriate in-ground irrigation system shall be installed to water the plantings;
2. The rear of the building is to be painted brown so as to prevent glare to abutting neighbors to the rear of the property;
3. To insure the plant material thrives and matures, the owner shall not stockpile snow and ice, often containing salt and sand, on the planting beds;
4. Soft security lighting only shall be installed to the rear of the building; and
5. The plantings are to be guaranteed by owner for a minimum of two years. Any planting that dies or fails to thrive is to be replaced at owner's expense. To ensure plantings are replaced as necessary or that more may be added if deemed necessary by the City, the owner agrees to deposit \$3,000.00 in an escrow account held by the City of Salem for a period of two years with any unused balance to be returned to the owner after two years.

Very truly yours,



Thomas St. Pierre
Zoning Enforcement Officer

John H. Carr, Jr., Esq.
9 North Street
Salem, MA 01970
Phone: 978-825-0060
Fax: 978-825-0068

May 21, 2012

By Facsimile: 978-744-1279
Elizabeth M. Rennard, City Solicitor
City of Salem
93 Washington Street
Salem, MA 01970

RE: North Street Shell Station

Dear Beth:

The landscape architect for the Shell Station, Lorayne Black, has informed Michael Blier by email that planting is set to commence tomorrow.

This raises an altogether immediate, different and fundamental issue, namely the preparation of the site for planting, since the ground currently looks like a moonscape. Obviously, no matter how healthy or big the plants, the whole effort is doomed if the site is not properly prepared for planting.

Michael Blier has maintained throughout this controversy that the ground should be "scraped" to a depth of approximately 18 inches and replaced with rich organic material to maximize the chances that the new plantings will take root and thrive. I in turn have emphasized the same with you and with Joe as one of the issues that is outside of the landscape plan, most recently with you at the last meeting at City Hall, and with Joe over the phone on Friday, March 11, 2012.

Again, this is not a new concept; it has been on the table literally for years.

Early last Friday (May 18) Michael Blier went to the site, and confirmed that it had only been "rough graded," and that he could "see no improvement to the planting areas," adding that "there's still a lot of debris, large stones etc strewn throughout." He took photographs of the conditions, reduced his foregoing observations to writing, and forwarded both to Lorayne by email at 7:43 AM last Friday, together with a request that she let him know what the plans were for the site preparation.

Michael is in New City on business. I left a message on his cell phone voice mail earlier today, which he returned a short time ago to say that he has still not heard back from Lorayne.

So, as I see it, the situation basically boils down to the following:

1. The current owner removed all of the mature vegetation which was and is a condition of an August 1970 Special Permit;
2. My clients, the neighbors who are the real beneficiaries of the August 1970 Special Permit conditions, were always assured by you and Tom St. Pierre, including in writing, that nothing would be decided until the parties came to a complete agreement;
3. While substantial progress has been made, there is still no complete agreement;
4. That someone misrepresented to you and to Tom that there was complete agreement, even though Michael's April 4, 2012 email response to Lorayne's March 14, 2012 email to Michael (purportedly setting forth her complete changes to Michael's earlier landscaping plan) clearly indicated this was not the case;
5. I immediately faxed that email exchange to you at the time;
6. That Lorayne's March 14, 2012 email did not disclose other aspects of Michael's earlier plan that had been changed;
7. That site preparation was also a major issue that would have to be resolved;
8. That had the promises that had been made been kept, we would not be in the predicament we are now in;
9. That because anything that Tom may have sent out was the product of misrepresentation (or, at the very least, mistake) it can be easily revoked;
10. That there were also four other relatively minor issues having to do with the contour of the footprint of the North Street grade at the left rear corner of the service station structure, the grade of the hill at that corner, construction debris remaining above grade in the bottom flat area at the right and left corners of the property, and the North Street sidewalk swale.

I had suggested to Joe in a phone call on Friday, May 11, 2012 that his client could go a long way toward mending fences by putting in the original number and size of plants in the four enumerated areas of Michael's original plan that Lorayne proposed changes to in her March 14, 2012 email to Michael, and which Michael had expressly not okayed in his April 4, 2012 email response to Lorayne, especially since the neighbors approved the other four changes she proposed to Michael in her March 14, 2012 email, but apparently he or his client did not agree.

And now we hear that something as fundamental and as important to the success of the whole project as soil preparation is unknown, with (we are told) the planting about to begin tomorrow.

Can you imagine why the neighbors are upset and feel they have been worn down?

We too don't want to miss the spring planting season, but if the soil is not prepared properly first, or if the plants don't do the job they are supposed to do on day one, or if adequate measures are not put in place to insure that the landscaping buffer will be properly maintained going forward, the neighbors will have been betrayed.

Especially in view of the past promises that have been made, I trust that you and Tom will see to it that that does not happen.

Thank you both in advance for your anticipated cooperation in this matter.

Very truly yours,

John H. Carr, Jr.

Enc.

Cc. Thomas St. Pierre, Zoning Enforcement Officer-By Facsimile: 978-744-1279

Michael Blier-By Facsimile: 617-426-3033

Joseph C. Correnti, Esq.-By Facsimile: 978-741-4683

Ward 6 Councilor Paul Prevy-By Hand

Mr. Richard Wilcock-By Hand

George & Helen Papadopoulos-By Hand

Patricia P. Morrow & Patricia DeSantis-By Hand

Timothy & Jennifer Love-By Hand

James & Ted Yeannakopoulos-By Hand