BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Re: Appeal of Darrel J. Grinstead, Esquire

BZA Appeal No. 16764
Public Hearings: September 25, October 16 and 23, 2001
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INTERVENOR'S POST-HEARING SUBMISSION

The Intervenor, by and through undersigned counsel, respectfully submits the following information and documents requested by the Board at the conclusion of the October 23, 2001 hearing:

1. Location Survey by West Consulting Group, Inc. (a licensed D.C. Land Surveyor) of the subject property showing the dimensions of each of the projections constructed and the actual side and rear yard measurements. Exhibit A.

2. Photographs showing the "front" of the single-family dwelling. Exhibits B ("Photo No. 1") and C ("Photo No. 2"). Also, Intervenor is providing a scaled site plan showing the location from which both photographs were taken on Friday, November 9, 2001. Exhibit D. At the same time, the Zoning Administrator's Office took photographs from the same locations.

3. Intervenor's definition of "front" from Webster's Encyclopedic Unabridged Dictionary of the English Language, 1989 Edition. Exhibit E. The definition of "front" submitted by the Zoning Administrator was taken from Webster's Third New International Dictionary of the English Language Unabridged, 1986 Edition, is attached as Exhibit F.

4. Documents on the evolution and subdivision of the subject property (formerly Lot 856, now Lot 30) and the adjacent Lot 859 which were in single ownership on November 1, 1957, including sketch of A&T plat for Lot 856 (Exhibit G), sketch of A&T plat for Lot 859

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Board of Zoning Adjustment
District of Columbia
CASE NO.16764
EXHIBIT NO.43

(Exhibit H), and Subdivision Plat for Lot 30 (Exhibit I) recorded in the records of the Office of D.C. Surveyor on May 4, 2000.

I. ZONING COMPLIANCE

A. Height:

In the R-1-A zone, the Zoning Regulations impose a height limit of forty (40) feet and three (3) stories. In determining compliance, both linear height and number of stories are measured from the same point - "from the finished grade level at the middle of the front of the building to the ceiling of the top story." §11 DCMR 199.1 (Emphasis added).

At issue is what constitutes the "front of the building." "Front" is undefined and therefore it's meaning is to be determined by "Webster's Unabridged Dictionary." § 11 DCMR 199.2(g).

The Zoning Administrator and Intervenor have relied on similar and common sense definitions of "front".

Intervenor: "the part or side of anything, as a house, which seems look at or be directed forward." Exhibit E.

Zoning Administrator: "something that confronts or faces forward: as a face of a building." Exhibit F.

Both definitions share the common concept of facing forward to establish what is the front. The site plan (Exhibit A) and photographs supplied by the Intervenor (Exhibits B and C) and Zoning Administrator, clearly show that the "front" or forward facing part of the building extends for the full width (46 feet) of the structure. Across this entire "front" all elements on the building face in the same direction – forward toward the street. By contrast, the rear of the building is undisputed, parallel and opposite to the "front" and the sides are perpendicular to the "front" and rear.

Based on this accepted definition of "front" and the resulting measuring point, no dispute exists as to compliance with the height limitations. The building constructed is three-stories tall with a non-story "cellar". Linear height is less than forty (40) feet to the peak of the roof ("worse case scenario") and approximately thirty-six (36) feet to the ceiling of the top story.

B. Side Yards:

As set forth in the current Location Survey (Exhibit A), each of the side yard dimensions (chimney, corners, porch) is equal to or greater than the 8-foot minimum with one permitted exception. The chimney on the northeast corner of the house has a side yard dimension of 6.56 feet. However, this chimney is a permitted projection into the side yard under § 11 DCMR 2502.8 ("chimney, smokestack, or flue may project into any required side yard for a distance not to exceed two feet (2 ft.)."). This chimney projects into the side yard for 1.43 feet, which is less than the two (2) feet permitted.

C. Rear Yard:

As set forth in the current Location Survey (Exhibit A), the rear yard varies from 25.39 to 25.73 feet which exceeds the twenty-five foot minimum. The rear bay window projects into the required rear yard 2.8 feet which exceeds the 2.5 feet of flexibility previously approved by the Zoning Administrator under § 11 DCMR 407.1 by 0,30 feet or 3.6 inches. While the Intervenor could seek a variance for this minor projection into the rear yard, he has decided to voluntarily and immediately amend the existing building permit to eliminate four (4) inches in depth of the rear bay window. As amended (and reconstructed in accordance), the rear yard will comply with the rear yard requirements and on this issue, the Appeal will be moot.

II. HISTORY OF LOTS 856 AND 859

On November 1, 1957, the subject property (now Lot 30; formerly Lot 856) and Lot 859 were in single ownership. Then Lot 856 was unimproved; Lot 859 was improved with a single-family dwelling. Originally, Lots 856 and 859 where part of Parcel 58/108. On August 26, 1942, an Assessment and Taxation (A&T) Plat was recorded for Lot 856. Exhibit G.[1/] On November 9, 1942, an A&T plat was recorded for Lot 859. Exhibit H. On May 4, 2000, a Subdivision Plat (Exhibit I) was recorded with the D.C. Surveyor which converted Lot 856 into Record Lot 30. As part of the Subdivision approval process, the Zoning Administrator executed the plat certifying compliance with the Zoning Regulations applicable in the R-1-A zone.

III. CONCLUSION

As established in the hearing in this case, and fully supported by the Intervenor's Post-hearing Submission, this Appeal is untimely, barred by laches and estoppel and without merit and should be dismissed and/or denied.

Respectfully submitted,

GREENSTEIN DELORME & LUCHS, P.C.

By: _____
Jacques B. DePuy

By: _____
John Patrick Brown, Jr.

Counsel for Intervenor

November13, 2001

170587

1/ The D.C. Surveyor's Office does not allow xerox copies of A&T plats. The sketchs were traced from the original Surveyor's records.

CERTIFICATE OF SERVICE

The foregoing Intervenor's Post-Hearing Submission was served by hand-delivery, this 13th day of November, 2001, upon:

James T. Draude, Esquire
Driscoll & Draude
1230 31st Street, N.W.
Second Floor
Washington, D.C. 20007

Mr. Robert V. Maudlin
Advisory Neighborhood Commission 3F
2906 Ellicott Terrace, N.W.
Washington, D.C. 20008

Marie-Claire Brown, Esquire
Office of Corporation Counsel
441 Fourth Street, N.W.
Room 450N
Washington, D.C. 20001

John Patrick Brown, Jr.

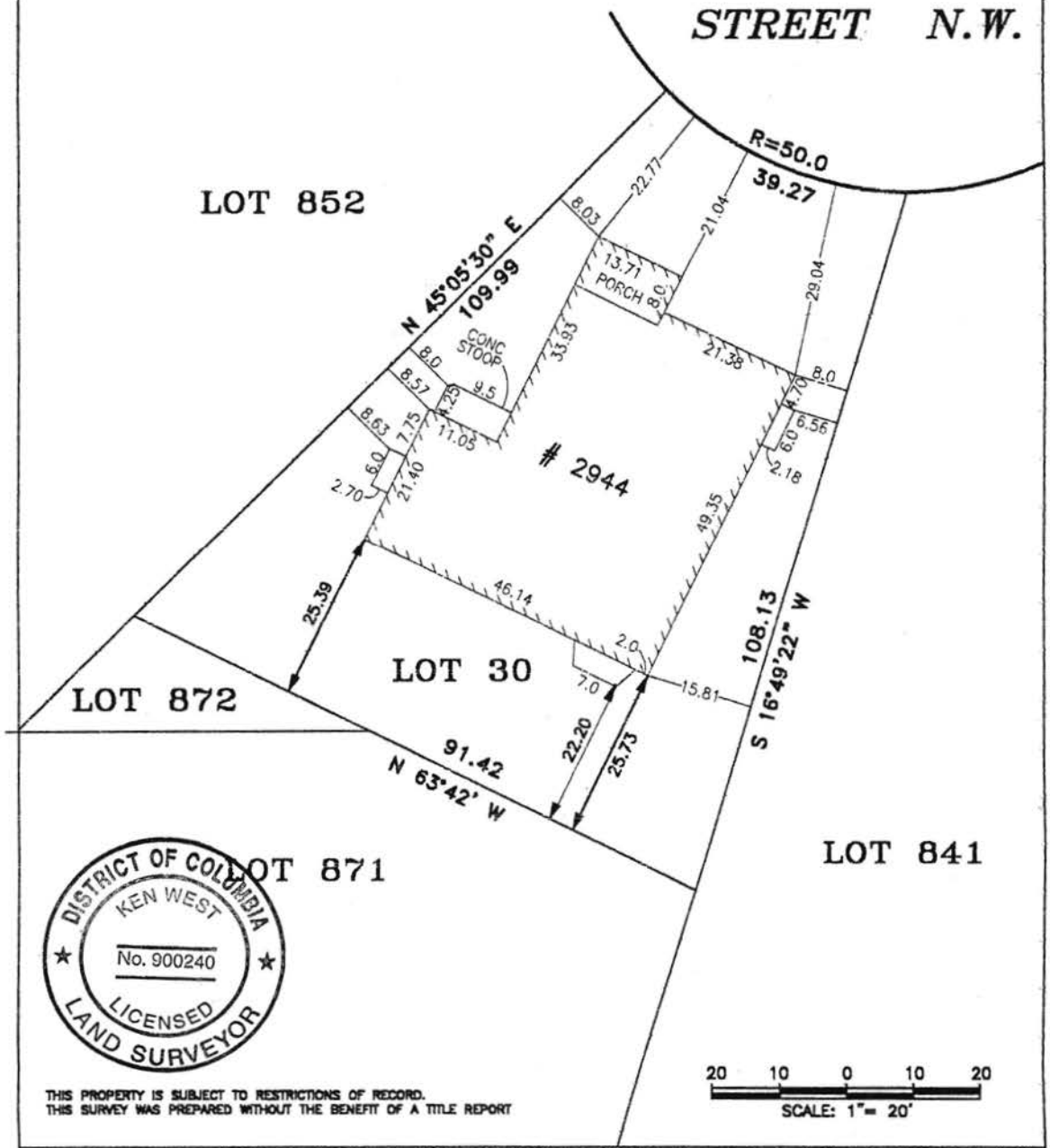
170587


Tyvek
HomeWrap
Tyvek
HomeWrap



LOCATION SURVEY
SQUARE 2256 LO. 30
2944 CHESAPEAKE ST,N.W.
WASHINGTON, DC.





DISTRICT OF COLUMBIA
KEN WEST
No. 900240
LICENSED
LAND SURVEYOR

THIS PROPERTY IS SUBJECT TO RESTRICTIONS OF RECORD.
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT

CERTIFICATE

I HEREBY CERTIFY THAT THE POSITION OF ALL THE EXISTING IMPROVEMENTS ON THE ABOVE DESCRIBED PROPERTY HAS BEEN CAREFULLY ESTABLISHED BY A TRANSIT-TAPE SURVEY.

Ken West PLS

PROFESSIONAL LAND SURVEYOR No. DC #96.7

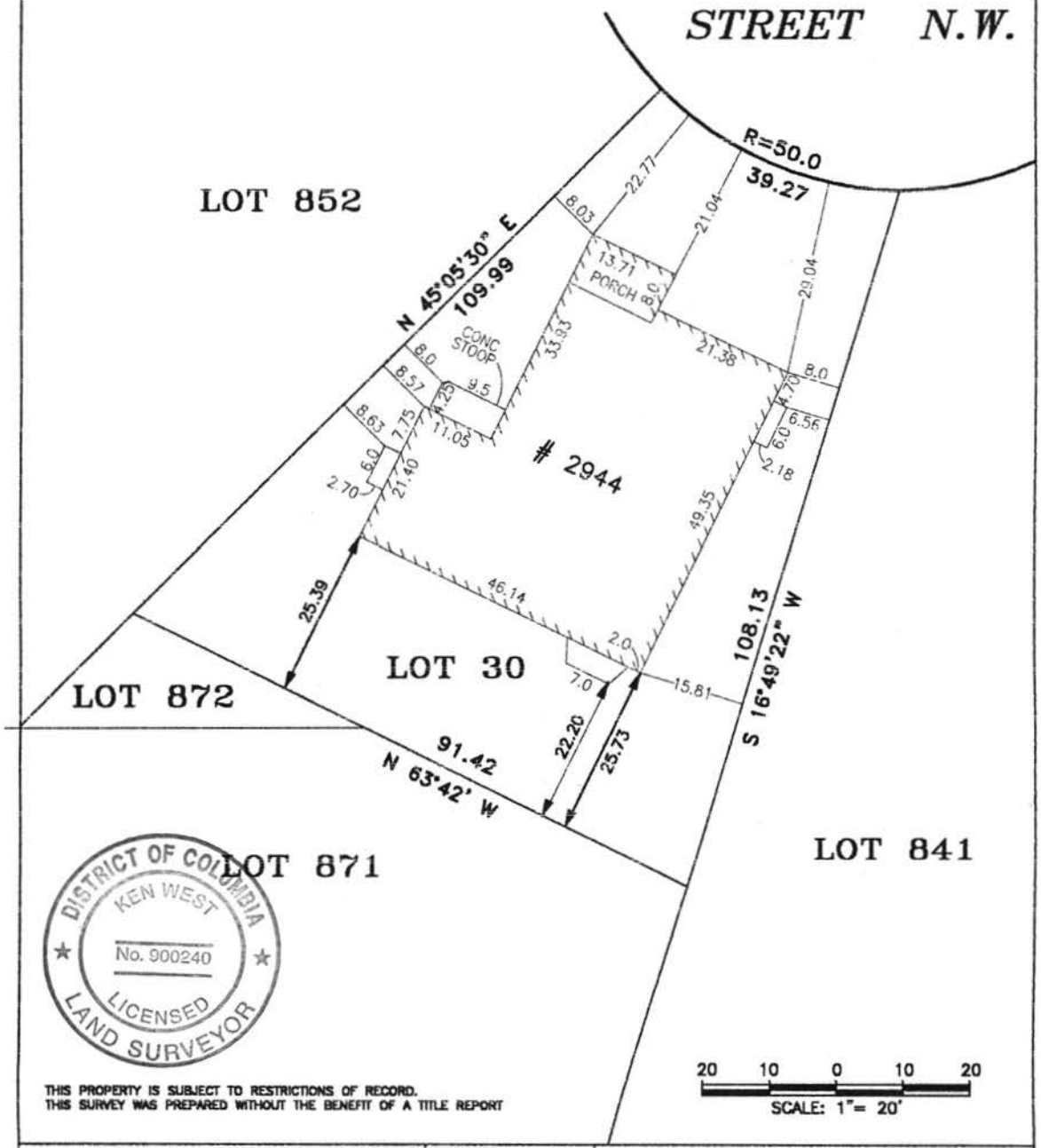
REFERENCES	
BOOK.	193
PAGE	144
LIBER	
FOLIO	
FIELD BOOK	
PAGE No.	

WEST CONSULTING GROUP, INC.
4424 MONTGOMERY AVENUE,
BETHESDA, MARYLAND 20814
(301) 654-7907 654-7908 (FAX)

DATE OF SURVEYS	SCALE: 1"= 20'
WALL CHECK	DRAWN BY: R.D.P.
HOUSE LOC. 08-25-01	JOB No. 01-034
BOUNDARY	

LOCATION SURVE
SQUARE 2256 LOT 30
2944 CHESAPEAKE ST,N.W.
WASHINGTON, DC.





DISTRICT OF COLUMBIA
KEN WEST
No. 900240
LICENSED
LAND SURVEYOR

THIS PROPERTY IS SUBJECT TO RESTRICTIONS OF RECORD.
THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT

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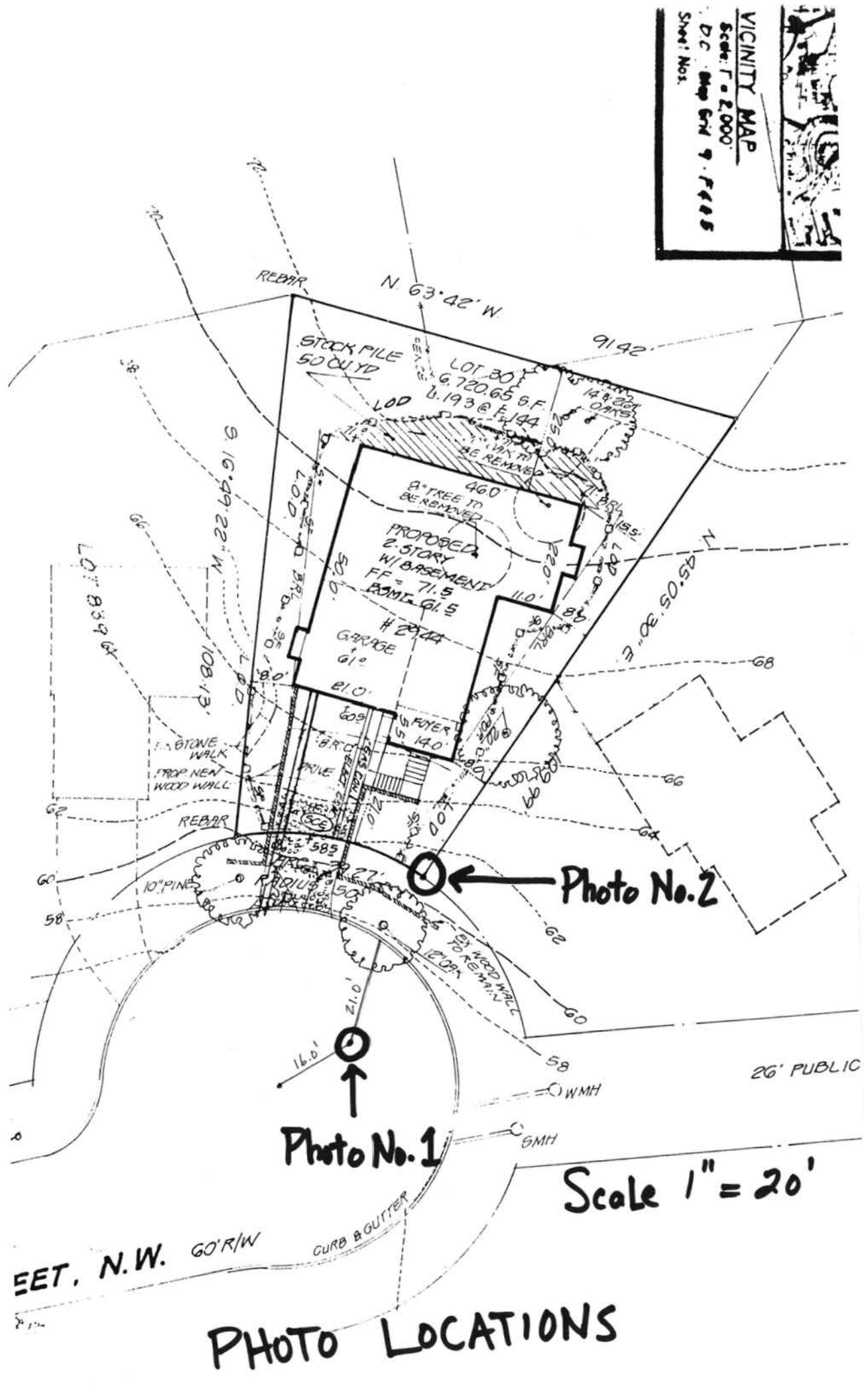
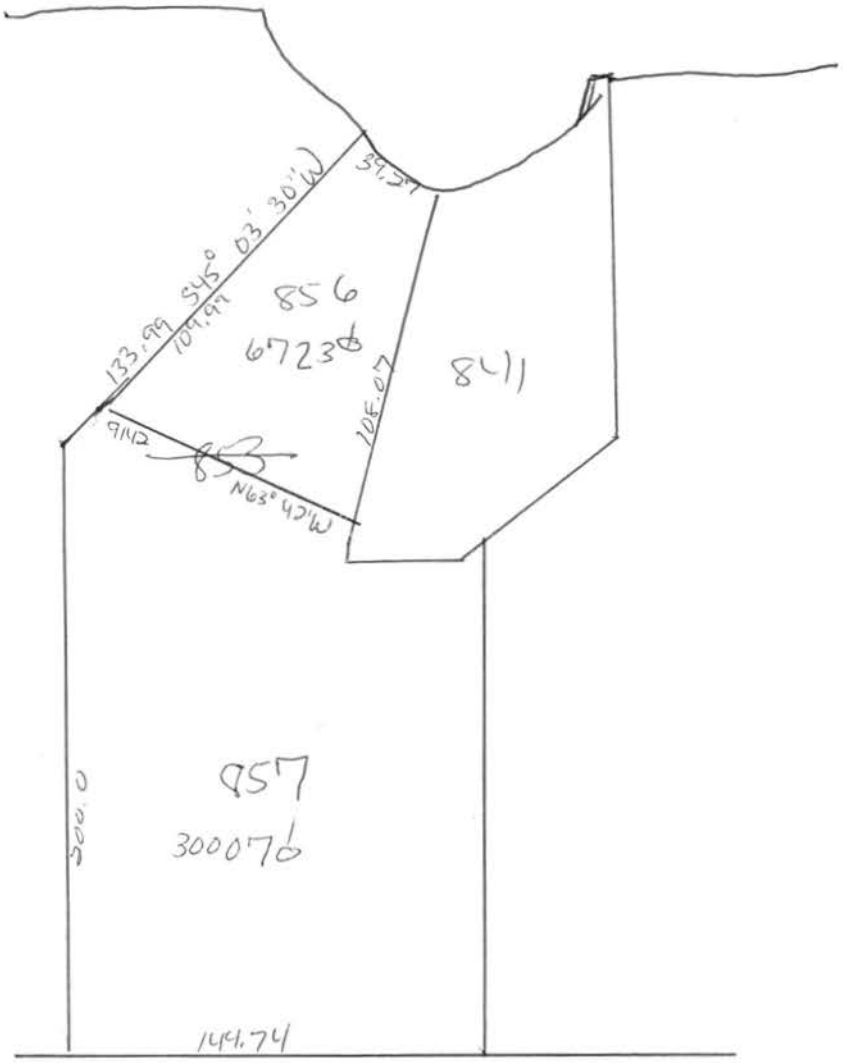


PHOTO LOCATIONS

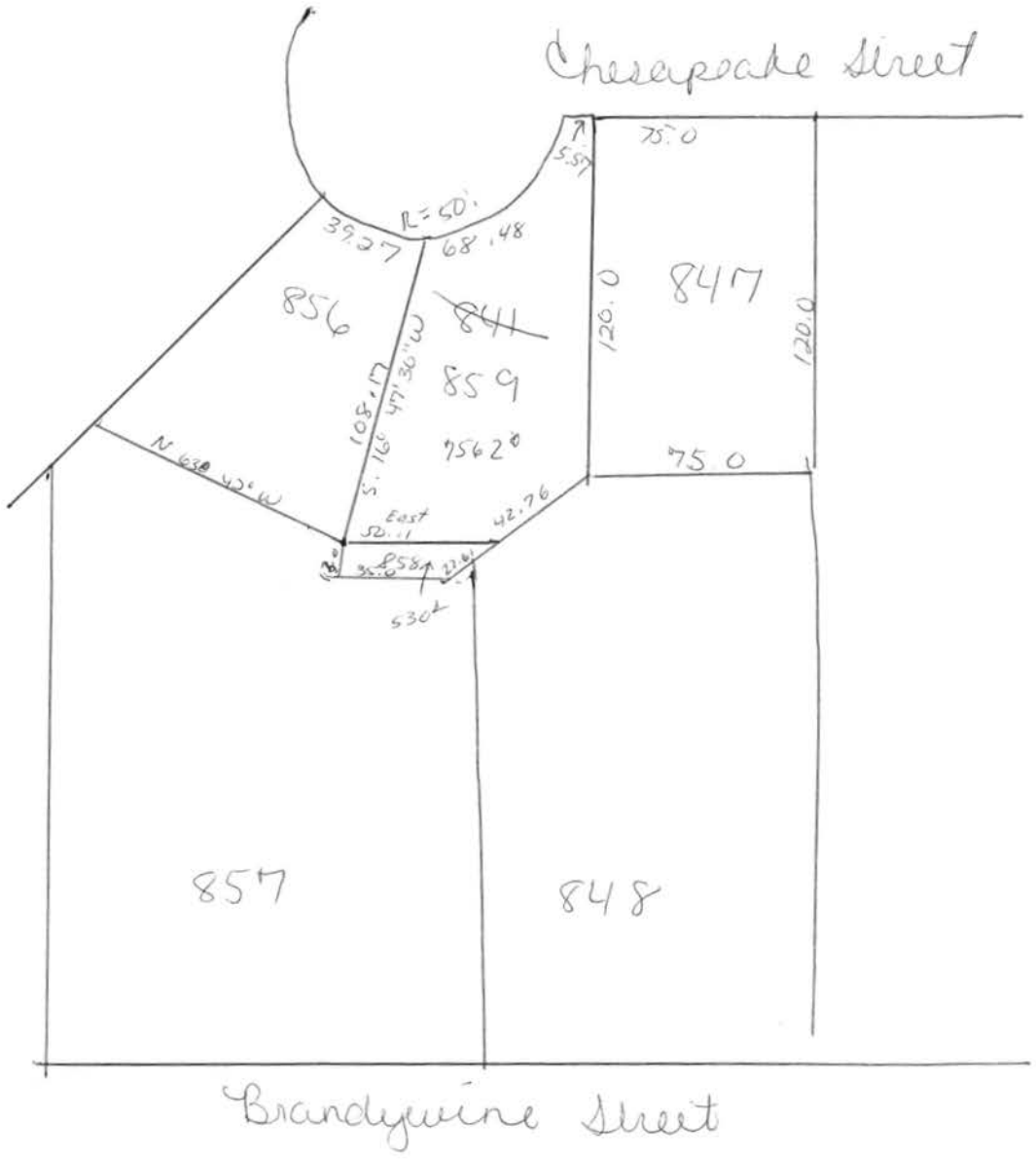
Square 2256
Lot 856

3172 H



August 26, 1942
Recorded

Square 2256 3173W
Lot 859



Nov. 9, 1942
Recorded