

In the Matter of the Appeal of
Clarence W. Dillon, Jr. from
Refusal of Barr Township Super-
visors to Grant a Permit for
Installation of Pipe.

X IN THE COURT OF COMMON PLEAS OF
X CAMBRIA COUNTY, PENNSYLVANIA
X CRIMINAL DIVISION
X No. _____ September Term, 1973

APPEAL

1.

Clarence W. Dillon, Jr. is an individual who resides at R. D. #2,
Box 107, Ebensburg, Pennsylvania.

2.

On May 8, 1968, Clarence W. Dillon, Jr. and his wife, Ruth Dillon,
entered into an Agreement with Clarence W. Dillon and Marie C. Dillon, husband
and wife, for the purchase of one tract of land in Cambria Township, Cambria
County, Pennsylvania, and three tracts of land in Barr Township, Cambria County,
Pennsylvania. Said Agreement being recorded in Cambria County in Deed Book
Volume 855, Page 342.

3.

The parcel of land described as II, No. 3 in said Agreement of Sale
contains 73.02 Acres and fronts on the northerly side of Township Route No. 500.

4.

Since May 8, 1968, the date of the aforesaid Agreement and for many
years prior thereto, Clarence W. Dillon, Jr. has engaged in farming on said
tract of land containing 73.02 Acres and access thereto with farm machinery
and equipment has been from said Township Route No. 500.

5.

In March of 1973 the Supervisors of Barr Township, Cambria County,
Pennsylvania, deepened the drainage ditch on the northerly side of Township
Route No. 500 to such an extent that Clarence W. Dillon, Jr. is no longer able
to gain access with farm machinery and equipment to the 73.02 Acre tract of
land from Township Route No. 500.

6.

On or about March 31, 1973, Clarence W. Dillon, Jr. installed a pipe in a portion of the said ditch for the purpose of enabling him to gain access to the 73.02 Acre tract of land with farm machinery and equipment.

7.

On April 4, 1973, the Solicitor for Barr Township, Cambria County, Pennsylvania, Blair V. Pawlowski, Esquire, filed a Criminal Complaint against Clarence W. Dillon, Jr. before Justice of the Peace Raymond M. Niebauer, Nicktown, Pennsylvania, for constructing a drainage facility without first submitting a plan thereof to the Supervisors of Barr Township, Cambria County, Pennsylvania, for their approval.

8.

Clarence W. Dillon, Jr. was not aware that any such approval was required under the circumstances until he received a copy of the aforesaid Criminal Complaint.

9.

Subsequent to March 31, 1973, Clarence W. Dillon, Jr. requested an application for a permit for the installation of said pipe from Barr Township Supervisors who refused to give an application therefor to Clarence W. Dillon, Jr.

10.

By letter dated August 17, 1973, the Solicitor for Barr Township Supervisors notified Attorney John W. Taylor who represents Clarence W. Dillon, Jr. that the Barr Township Supervisors had instructed him that the permit requested by Clarence W. Dillon, Jr. to install a drainage pipe was denied.

11.

In view of the action of the Barr Township Supervisors in refusing a permit, Clarence W. Dillon, Jr. is deprived of access to the aforesaid parcel of land in Barr Township from Township Route No. 500.

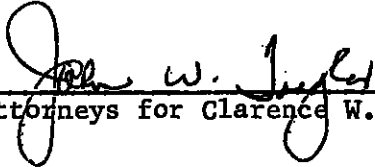
12.

The action of the Barr Township Supervisors in denying an application and a permit to Clarence W. Dillon, Jr. is arbitrary and capricious.

WHEREFORE, Clarence W. Dillon, Jr. appeals from the denial of the granting of a permit in accordance with the provision of the Second Class Township Code "53 P.S. 66141".

MYERS, TAYLOR & PEDUZZI

By


Attorneys for Clarence W. Dillon, Jr.

COMMONWEALTH OF PENNSYLVANIA)
 : SS.:
COUNTY OF CAMBRIA)

CLARENCE W. DILLON, JR., being duly sworn according to law, deposes and says that the statements set forth in the foregoing Appeal are true and correct to the best of his knowledge, information and belief.

Clarence W. Dillon, Jr.
Clarence W. Dillon, Jr.

Sworn to and subscribed before me,
this 29th day of August, 1973.

Georgina Ann Kempasky
GEORGINA ANN KREMPASKY, Notary Public
Ebensburg, Cambria Co., Pa.
My Commission Expires September 27, 1976

In the Matter of the Appeal of
Clarence W. Dillon, Jr. from
Refusal of Barr Township Super-
visors to Grant a Permit for
Installation of Pipe.

Y
Y
Y
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Y

IN THE COURT OF COMMON PLEAS OF
CAMBRIA COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

No. _____ September Term, 1973

ORDER

AND NOW, this 30th day of August, 1973, a hearing on the
within Appeal is scheduled for Tuesday, the 5th day of October,
1973, at 10:00 o'clock A.M. in Court Room No. _____ at the Court
House, Ebensburg, Pennsylvania.

BY THE COURT,

McWilliam
J.

No. R.D. 5 September Term, 1973

IN THE COURT OF COMMON PLEAS OF
CAMBRIA COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

In the Matter of the Appeal of
Clarence W. Dillon, Jr. from
Refusal of Barr Township Super-
visors to Grant a Permit for
Installation of Pipe.

APPEAL

LAW OFFICES
MYERS, TAYLOR & PEDUZZI
213 SOUTH CENTER STREET
EBENSBURG, PENNSYLVANIA 15931

FILED
CLERK OF COURTS
CAMBRIA CO. PA.

AUG 31 10 57 AM '73
STEPHEN D. OSLAKOVICH
CLERK OF COURTS

In the Matter of the Appeal of
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Refusal of Barr Township Super-
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Y IN THE COURT OF COMMON PLEAS OF
Y CAMBRIA COUNTY, PENNSYLVANIA
Y CRIMINAL DIVISION
Y
Y R.D. No. 5 September Term, 1973

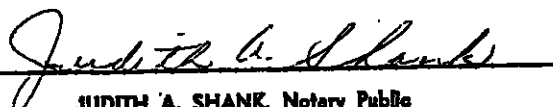
AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA Y
: SS.:
COUNTY OF CAMBRIA Y

DALE M. SINGER, being duly sworn according to law, deposes and says
that he is Deputy Constable for Jackson Township, Cambria County, Pennsylvania;
that he served a copy of the attached Appeal on Vincent J. Reber, Chairman of
the Board of Supervisors of Barr Township, Cambria County, Pennsylvania, by
handing a true and correct copy to him personally at the Nicktown Hotel located
in Nicktown, Pennsylvania, at 10:05 o'clock A.M., E.D.S.T, on Saturday, Septem-
ber 1, 1973.


Dale M. Singer

Sworn to and subscribed before me,
this 4th day of September, 1973


JUDITH A. SHANK, Notary Public
Ebensburg, Cambria Co., Pa.
My Commission Expires Dec. 16, 1974

In the Matter of the Appeal of
Clarence W. Dillon, Jr. from
Refusal of Barr Township Super-
visors to Grant a Permit for
Installation of Pipe.

I IN THE COURT OF COMMON PLEAS OF
I CAMBRIA COUNTY, PENNSYLVANIA
I CRIMINAL DIVISION
I R.D.
I No. 5 September Term, 1973

APPEAL

1.

Clarence W. Dillon, Jr. is an individual who resides at R. D. 02,
Box 107, Ebensburg, Pennsylvania.

2.

On May 8, 1968, Clarence W. Dillon, Jr. and his wife, Ruth Dillon,
entered into an Agreement with Clarence W. Dillon and Marie C. Dillon, husband
and wife, for the purchase of one tract of land in Cambria Township, Cambria
County, Pennsylvania, and three tracts of land in Barr Township, Cambria County,
Pennsylvania. Said Agreement being recorded in Cambria County in Deed Book
Volume 855, Page 342.

3.

The parcel of land described as II, No. 3 in said Agreement of Sale
contains 73.02 Acres and fronts on the northerly side of Township Route No. 500.

4.

Since May 8, 1968, the date of the aforesaid Agreement and for many
years prior thereto, Clarence W. Dillon, Jr. has engaged in farming on said
tract of land containing 73.02 Acres and access thereto with farm machinery
and equipment has been from said Township Route No. 500.

5.

In March of 1973 the Supervisors of Barr Township, Cambria County,
Pennsylvania, deepened the drainage ditch on the northerly side of Township
Route No. 500 to such an extent that Clarence W. Dillon, Jr. is no longer able
to gain access with farm machinery and equipment to the 73.02 Acre tract of
land from Township Route No. 500.

6.

On or about March 31, 1973, Clarence W. Dillon, Jr. installed a pipe in a portion of the said ditch for the purpose of enabling him to gain access to the 73.02 Acre tract of land with farm machinery and equipment.

7.

On April 4, 1973, the Solicitor for Barr Township, Cambria County, Pennsylvania, Blair V. Pawlowski, Esquire, filed a Criminal Complaint against Clarence W. Dillon, Jr. before Justice of the Peace Raymond M. Niebauer, Nicktown, Pennsylvania, for constructing a drainage facility without first submitting a plan thereof to the Supervisors of Barr Township, Cambria County, Pennsylvania, for their approval.

8.

Clarence W. Dillon, Jr. was not aware that any such approval was required under the circumstances until he received a copy of the aforesaid Criminal Complaint.

9.

Subsequent to March 31, 1973, Clarence W. Dillon, Jr. requested an application for a permit for the installation of said pipe from Barr Township Supervisors who refused to give an application therefor to Clarence W. Dillon, Jr.

10.

By letter dated August 17, 1973, the Solicitor for Barr Township Supervisors notified Attorney John W. Taylor who represents Clarence W. Dillon, Jr. that the Barr Township Supervisors had instructed him that the permit requested by Clarence W. Dillon, Jr. to install a drainage pipe was denied.

11.

In view of the action of the Barr Township Supervisors in refusing a permit, Clarence W. Dillon, Jr. is deprived of access to the aforesaid parcel of land in Barr Township from Township Route No. 500.

12.

The action of the Barr Township Supervisors in denying an application and a permit to Clarence W. Dillon, Jr. is arbitrary and capricious.

WHEREFORE, Clarence W. Dillon, Jr. appeals from the denial of the granting of a permit in accordance with the provision of the Second Class Township Code "53 P.S. 66141".

MYERS, TAYLOR & PEDUZZI

By /s/ John W. Taylor
Attorneys for Clarence W. Dillon, Jr.

COMMONWEALTH OF PENNSYLVANIA I
 : SS.:
COUNTY OF CAMBRIA I

CLARENCE W. DILLON, JR., being duly sworn according to law, deposes and says that the statements set forth in the foregoing Appeal are true and correct to the best of his knowledge, information and belief.

 /s/ Clarence W. Dillon, Jr.
Clarence W. Dillon, Jr.

Sworn to and subscribed before me,
this 29th day of August, 1973.

(SEAL) /s/ Georgina Ann Krempasky

GEORGINA ANN KREMPASKY, Notary Public
Ebensburg, Cambria Co., Pa.
My Commission Expires September 27, 1976

In the Matter of the Appeal of
Clarence W. Dillon, Jr. from
Refusal of Barr Township Super-
visors to Grant a Permit for
Installation of Pipe.

I IN THE COURT OF COMMON PLEAS OF
I CAMBRIA COUNTY, PENNSYLVANIA
I CRIMINAL DIVISION
I R.D. No. 5 September Term, 1973

ORDER

AND NOW, this 30th day of August, 1973, a hearing on the
within Appeal is scheduled for Tuesday, the 5th day of October,
1973, at 10:00 o'clock A.M. in Court Room No. _____ at the Court
House, Ebensburg, Pennsylvania.

BY THE COURT,

/s/ McWilliams

J.

R.D. No. 5 September Term, 1973

IN THE COURT OF COMMON PLEAS OF
CAMBRIA COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

In the Matter of the Appeal of
Clarence W. Dillon, Jr. from
Refusal of Barr Township Super-
visors to Grant a Permit for
Installation of Pipe.

AFFIDAVIT OF SERVICE

LAW OFFICES
MYERS, TAYLOR & PEDUZZI
213 SOUTH CENTER STREET
EBENSBURG, PENNSYLVANIA 15931

FILED
CLERK OF COURTS
CAMBRIA CO. PA.

SEP 5 9 42 AM '73

STEPHEN D. GOLACKOVICH
CLERK OF COURTS

In the Matter of the Appeal of
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Refusal of Barr Township Super-
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IN THE COURT OF COMMON PLEAS OF
CAMBRIA COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

R.D. No. 5 September Term, 1973

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA

Y

: SS.:

COUNTY OF CAMBRIA

Y

DALE M. SINGER, being duly sworn according to law, deposes and says
that he is Deputy Constable for Jackson Township, Cambria County, Pennsylvania;
that he served a copy of the attached Appeal on Vernon Krug, Secretary of the
Board of Supervisors of Barr Township, Cambria County, Pennsylvania, by handing
a true and correct copy to him personally at his residence located in Nicktown,
Pennsylvania, at 9:50 o'clock A.M., E.D.S.T., on Saturday, September 1, 1973.


Dale M. Singer

Sworn to and subscribed before me,
this 4th day of September, 1973



JUDITH A. SHANK, Notary Public
Ebensburg, Cambria Co., Pa.
My Commission Expires Dec. 16, 1976

In the Matter of the Appeal of
Clarence W. Dillon, Jr. from
Refusal of Barr Township Super-
visors to Grant a Permit for
Installation of Pipe.

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IN THE COURT OF COMMON PLEAS OF
CAMBRIA COUNTY, PENNSYLVANIA
CRIMINAL DIVISION
R.D.
No. 5 September Term, 1973

APPEAL

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Pennsylvania, deepened the drainage ditch on the northerly side of Township
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to gain access with farm machinery and equipment to the 73.02 Acre tract of
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In view of the action of the Barr Township Supervisors in refusing a permit, Clarence W. Dillon, Jr. is deprived of access to the aforesaid parcel of land in Barr Township from Township Route No. 500.

12.

The action of the Barr Township Supervisors in denying an application and a permit to Clarence W. Dillon, Jr. is arbitrary and capricious.

WHEREFORE, Clarence W. Dillon, Jr. appeals from the denial of the granting of a permit in accordance with the provision of the Second Class Township Code "53 P.S. 66141".

MYERS, TAYLOR & PEDUZZI

By /s/ John W. Taylor
Attorneys for Clarence W. Dillon, Jr.

COMMONWEALTH OF PENNSYLVANIA I
 : SS.:
COUNTY OF CAMBRIA I

CLARENCE W. DILLON, JR., being duly sworn according to law, deposes and says that the statements set forth in the foregoing Appeal are true and correct to the best of his knowledge, information and belief.

 /s/ Clarence W. Dillon, Jr.
Clarence W. Dillon, Jr.

Sworn to and subscribed before me,
this 29th day of August, 1973.

(SEAL) /s/ Georgina Ann Krempasky

GEORGINA ANN KREMPASKY, Notary Public
Ebensburg, Cambria Co., Pa.
My Commission Expires September 27, 1976

In the Matter of the Appeal of
Clarence W. Dillon, Jr. from
Refusal of Barr Township Super-
visors to Grant a Permit for
Installation of Pipe.

I IN THE COURT OF COMMON PLEAS OF
I CAMBRIA COUNTY, PENNSYLVANIA
I CRIMINAL DIVISION
I
I No. 5 September Term, 1973

ORDER

AND NOW, this 26th day of August, 1973, a hearing on the
within Appeal is scheduled for Tuesday, the 5th day of October,
1973, at 10:00 o'clock A.M. in Court Room No. _____ at the Court
House, Ebensburg, Pennsylvania.

BY THE COURT,

/s/ McWilliams

J.

R. D. No. 5 September Term, 1973

IN THE COURT OF COMMON PLEAS OF
CAMBRIA COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

In the Matter of the Appeal of
Clarence W. Dillon, Jr. from
Refusal of Barr Township Super-
visors to Grant a Permit for
Installation of Pipe.

AFFIDAVIT OF SERVICE

LAW OFFICES
MYERS, TAYLOR & PEDUZZI
213 SOUTH CENTER STREET
EBENSBURG, PENNSYLVANIA 15931

FILED
CLERK OF COURTS
CAMBRIA CO. PA.

SEP 5 9 42 AM '73

STEPHEN D. GOLACKOVICH
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA
ROAD DOCKET DIVISION

In the Matter of the Appeal of :
Clarence W. Dillon from refusal :
of Barr Township Supervisors to : No. R. D. 5, September 1973
grant a permit for installation of :
pipe. :

O R D E R

AND NOW, this *28th* day of February, 1974, the Appeal in the
above captioned matter is sustained. Costs to be paid by Barr Township.

BY THE COURT:

O'Keefe

J.

No. R.D. 5, September, 1973

IN THE
COURT OF COMMON PLEAS OF
CAMBRIA COUNTY, PENNSYLVANIA

In the Matter of the Appeal
of Clarence W. Dillon from
refusal of Barr Township
Supervisors to grant a permit
for installation of pipe.

O R D E R

Judges' Chambers
Joseph F. O'Kicki
47th Judicial District
Ebensburg, Pennsylvania 15931

FILED
CLERK OF COURTS
CAMBRIA CO. PA.

MAR 8 9 31 AM '74

STEPHEN D. USLAKOVICH
CLERK OF COURTS