

In Re: Petition of Theodore

Fegan and Eunice Fegan

versus

a Private Road

In the Court of Common Pleas of
Cambria County, Pa.

No. ~~8~~, June Term, 19~~88~~

TO Leopold J. Wendekier, Esq.,

Attorney for

Board of View

YOU ARE HEREBY NOTIFIED that Order for appointment of has been filed in the

above stated Case Leopold J. Wendekier, Esq., Martin C. Kirach, Theodore Hunt

this 11th day of June

A. D. 1971 Please acknowledge receipt of notice hereon and return.

Joseph J. [Signature]
Prothonotary.

NOW, June 12, 1971, I hereby acknowledge receipt of above notice.
Leopold J. Wendekier

No. Term, 19.....

COMMONWEALTH PLEAS

VERSUS

NOTICE

FILED FOR RECORD

1971 JUN 16 PM 1:14 *act*

SIGNATURE:

JOSEPH C. DOLAN, JR.

Joseph C. Dolan, Jr.

In Re: Petition of Theodore

Fegan and Eunice Fegan

versus

a Private Road

In the Court of Common Pleas of
Cambria County, Pa.

No. Term, 19.....

~~June~~ ~~1967~~

TO Theodore Hunt, Esq.,

Attorney for

YOU ARE HEREBY NOTIFIED that Board of View has been filed in the
Order for appointment of

above stated Case

Leopold J. Wendekier, Esq., Martin C. Kirsch, Theodore Hunt

this day of
11th June

A. D. 19..... Please acknowledge receipt of notice hereon and return.

71

Joseph A. Blum

Prothonotary.

NOW, *June 18* 19 *71*, I hereby acknowledge receipt of above notice.

Theodore Hunt

No. Term, 19.....

COMMONWEALTH PLEAS

versus

NOTICE

FILED FOR RECORD

1971 JUN 22 AM 11:17

SIGNATURE

JOSEPH C. FORNACE

CLERK OF SUPERIOR COURT

In Re: Petition of Theodore

Fegan and Eunice Fegan

versus

a Private Road

In the Court of Common Pleas of
Cambria County, Pa.

No. ~~10~~ June Term, 19 ~~71~~ 71 P.

TO Margin Kirsch, ~~Esq.~~

Attorney for

Board of View

YOU ARE HEREBY NOTIFIED that Order for appointment of has been filed in the

above stated Case Leopold J. Wendekier, Esq., Martin G. Kirsch, Theodore Hunt

this 11th day of June

A. D. 1971 Please acknowledge receipt of notice hereon and return.

Joseph A. Dolan
Prothonotary.

NOW, June 17, 1971, I hereby acknowledge receipt of above notice.

Martin G. Kirsch

No. Term, 19.....

COMMONWEALTH PLEAS

VERDICT

FILED FOR RECORD

1971 JUN 12 AM 10:11

NOTICE

SIGNATURE:
JOSEPH C. BOYD

In Re:, Petition of THEODORE FEGAN
and EUNICE FEGAN, for a private road.

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

No. 3 Sept. 1972 Term, 1972

PETITION FOR A PRIVATE ROAD

TO THE HONORABLE, THE JUDGES OF THE SAID COURT:

The Petition of the undersigned respectfully represents:

1. That your petitioners labor under inconvenience for want of a private road to lead from their dwelling house in the Township of White, Cambria County, Pennsylvania, to the public road known as Legislative Route 11052 leading from State Route 53 to State Route 36 at a point on said public road known as Legislative Route 11052 located approximately 15 feet north 9° West from the North Easterly corner of land of Floyd Oshall.

Wherefore application is hereby made for the appointment of a Board of View to view the ground and lay out such private road and make report thereon agreeably to the Acts of Assembly in such case provided.

Theodore Fegan
Eunice Fegan

Commonwealth of Pennsylvania X
 : SS:
County of Cambria X

Theodore Fegan and Eunice Fegan, being duly sworn according to law
depose and say that the matters and facts set forth in the foregoing Petition
are true and correct to the best of their knowledge, information and belief.

Theodore Fegan
Eunice Fegan

Sworn and subscribed before me
the undersigned Notary Public
this 9 day of June, 1971.

Mrs Inez G. Kitchen
Notary Public

MRS. INEZ G. KITCHEN, NOTARY PUBLIC
IRVONA BOROUGH, CLEARFIELD COUNTY
MY COMMISSION EXPIRES APRIL 21, 1975
Member, Pennsylvania Association of Notaries

In Re:, Petition of THEODORE FEGAN
and EUNICE FEGAN, for a private road

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

No. R.D. 3, December Term, 1971

ORDER FOR APPOINTMENT OF BOARD OF VIEW

AND NOW, this 10 day of June, 1971 upon

consideration of the within Petition and upon motion of John W. Taylor, Esquire,
Attorney for Petitioners, the Court appoints:

Leopold J. Wendrich Esq.

Martin C. Kersch

Theodore Hunt

as a Board of View, and further orders that the Board of View perform its
duties in accordance with law and Acts of Assembly in such case made and
provided.

BY THE COURT,

Michael
Judge

NO. *Rd. 3, December 1972*
~~6~~ TERM, ~~1971~~

IN THE COURT OF COMMON PLEAS OF
CAMBRIA COUNTY, PENNSYLVANIA

In Re:, Petition of THEODORE
FEGAN and EUNICE FEGAN, for a
Private Road.

PETITION FOR A PRIVATE ROAD

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

FILED FOR RECORD
1971 JUN 11, AM 11:58
Joseph Peduzzi
JUDGE

Page 2

In Re: Petition of THEODORE
FEGAN and EUNICE FEGAN, for
a private road

Y IN THE COURT OF COMMON PLEAS OF
Y CAMBRIA COUNTY, PENNSYLVANIA
Y
Y
Y No. 2-L-3, December Term, 1972

ORDER

AND NOW, this 17th day of October, 1972, the attached Viewers' Report is confirmed nisi, and the width of the private road described therein is established at twenty-five (25) feet, and IT IS ORDERED AND DECREED that all papers pertaining to this proceeding be filed in the Office of the Clerk of Courts of Cambria County, Pennsylvania, and indexed in the Road Docket Proceedings.

BY THE COURT,

John Williams
J.

In Re: Petition of THEODORE
FEGAN and EUNICE FEGAN, for
a private road

:: IN THE COURT OF COMMON PLEAS
:: OF
:: CAMBRIA COUNTY, PENNSYLVANIA
:: ~~Criminal Division~~
::
:: ~~NO. 6 JUNE TERM, 1971, C.P.~~
:: E.D. 3, December 1972

VIEWERS' REPORT

After consideration of a petition presented on behalf of the property owners by John W. Taylor, Esquire, the Court appointed Leopold J. Wendekier, Esquire, Martin C. Kirsch and Theodore Hunt as a Board of Viewers in this matter.

In pursuance of their appointment, the viewers caused notice to be served on all parties that a meeting would be held upon the premises at 10:30 o'clock, A.M., prevailing time, on Friday, September 10, 1971, for the purpose of viewing the premises. A copy of said notice is attached hereto and made a part hereof.

On the day and at the time appointed, the viewers met upon the premises and were met there by Mr. Floyd Oshali, the property owner; by William Oshali, son of the property owner, and by Harry Englehart, Jr., Esquire, counsel for the property owners. The petitioner, Theodore Fegan was present as was his son-in-law, Mr. Ronald Sinclair.

A meeting at which the testimony of witnesses could be taken had been previously scheduled for 1:00 o'clock, prevailing time on the same date and was held as scheduled in the Cambria County Courthouse, in Courtroom No. 4. This hearing was attended by counsel for the property owners, John W. Taylor, Esquire; the real estate appraiser for the property owners, Mr. H. Connell Lang; Mr. Ronald Sinclair; Mr. Robert McKee and Mr. Paul Gates.

The property owner, his son and his counsel, were also present.

Those who testified for the assistance of the Board of View, were the petitioner Theodore Fegan, Mr. Ronald Sinclair, Mr. Robert McKee, Mr. Paul Gates, and Mr. H. Connell Lang.

From the testimony and evidence submitted to it, and from their own investigation and observation, the viewers find the following

FACTS

1. The petitioners are the owners of certain real estate in White Township, Cambria County, Pennsylvania.

2. Said real estate is presently being occupied by the daughter and son-in-law of the petitioners.

3. The only means of access to the subject property is across land owned by another.

4. The petitioners were aware that their means of access of the subject property was across premises belonging to another.

5. The petitioners have instituted this proceeding to obtain a legal right-of-way across the property of said other person in order to reach the subject property.

From the testimony and evidence submitted, and from their own investigation and observation, the viewers have reached the following

CONCLUSIONS OF LAW

1. This proceeding was properly brought before the Court of Common Pleas of Cambria County, Criminal Division.

2. The Court has jurisdiction over both the subject matter and the parties hereto.

3. The petitioners are entitled to have a private road opened over the property adjoining the subject property in order to provide access to the subject property.

CONCLUSION AND DISCUSSION

This proceeding has been brought pursuant to the Act of June 13, 1836, P.L. 551, sec. 11, as amended; Purdens Pa. Statutes Ann., tit. 36, sec. 2731, which permits a Board of View to determine the necessity of a private road over lands of another.

It is the finding of the Board that such a private road is necessary in this instance to provide access to the petitioners' premises, which are entirely landlocked by other lands.

As the hearing opened, it was stipulated that petitioners had acquired ownership of the subject property by deed of Elmont M. Morrow, dated May 31, 1961, and recorded in Cambria County in Deed Book 755, page 299.

It was further stipulated that the access road of the subject property traverses land of Floyd Oshall and that the nearest public road is Legislative Route #11052.

The first witness to testify on behalf of the petitioners was Mr. Theodore Fegan, one of the petitioners.

Mr. Fegan stated that he together with his wife, had purchased the property which had erected thereon a frame dwelling with attached garage. He stated that the building had been erected by his predecessor in title and that he himself had lived there approximately six (6) years.

He said that after the premises had remained vacant for several years, his son-in-law and daughter began living there.

This witness said that he had assumed that a portion of the road traveled by him to reach his property had been a township road, because it had been in use for at least fifty (50) years

without objection from the property owner, and that it had been used by persons occupying the Glass farm and five or six other properties in the area.

Mr. Fegan said that after this road had been traveled for 1500 or 1600 feet that it was necessary to turn off to the left towards his premises and this turn-off was used not only by him but by his neighbor to the rear, one Mr. Fry.

He said the first question of access was approximately a year ago when his daughter had been informed by the Ushalls that they must find another way out of their property.

He said that he doesn't know who did it, but stakes were driven into the ground on either side of the road and a cable placed between the stakes. He said that he never talked to the property owner about it but removed the cable and continued to use the road.

The witness stated that he is the only person who maintains this access and had never received any objection from any body relative to his maintenance of it.

On cross examination Mr. Fegan said that he had always used the road because there was no other way into his property and he admitted that he knew that he was driving over another person's land without permission.

He said he was totally unaware that the road was on the land of another from the turnoff to his property from Legislative Route #11052, because he had always assumed that it was a township road because of the long prior use by other residents of the area.

He said he had asked the township supervisors for assistance in maintaining a road, but said that the township

supervisors had informed him that they would not assist in this matter because there was insufficient right-of-way for the township to take the road over as a public road. He said that was the first indication he had received that this might not be a public road.

He estimated that he had dumped approximately one hundred fifty (150) loads of ashes on the road.

He stated that there had been a ditch dug across the road in order that a water line be laid to the Oshall property. He said that he was aware that the Department of health had complained about the efficiency of the filtering system of the septic tank serving the subject property but had never received any complaint from Mr. Oshall.

He said that he knew of no other means of access to his property other than the road that he was presently using and was unaware that there might be other means of access to the property.

On redirect examination he stated that he had made no attempt to cross the open ditch that had been dug to lay the Oshall water line because it was about two feet deep and could not be driven over. He said he would drive up to the ditch and walk into his property, and later had filled in the ditch on the advice of his attorney.

He also stated that he was unaware that there was a road to the Esch farm because the Esch farm had been unoccupied for more than twenty (20) years, and, even if there was such a road, it would be impassible.

On recross examination he admitted that perhaps the road to the Esch farm could be put back into shape but that he would have objection to doing this because of the excessive cost.

The witness also admitted that if the prayer of his petition were granted, he would be expected to pay a reasonable fee for the right to use the access road.

The next witness called on behalf of the petitioners was Mr. Ronald Sinclair, the occupant of the subject property.

Mr. Sinclair said that he had resided continuously upon the property since July 4, 1967 and has had occasion to use the road in its present location at least two times per day, to and from work.

He said the first objection to its use that he had ever heard was approximately one year previously and that was at the time that the ditch was dug for the Oshall water line.

He stated that he was an operator of a garage and service station and had used waste oil from the garage to oil this road to keep the dust down every Summer.

He said that when his father-in-law filled in the ditch there had been no objection from the persons owning the property over which the road traveled.

He said that when the stakes and cable were strung across the road a "No Trespassing" sign was hung there, signed by Floyd Oshall, and that it was first taken down on Christmas night in order that he could get home. He said the same night Floyd Oshall replaced the cable, but that it was taken down by his brother-in-law the next day.

He said the next thing he knew about limiting the access to his property was that a railroad rail had been driven into the center of the road which he shortly thereafter began to dig out, at which time both Floyd and William Oshall approached him and he asked them for a right-of-way over their land. He said his request had been refused.

He said about three weeks later a rail was driven across the road and he walked from the rail to his house. Approximately one month later he removed the rail in order to allow his wife to drive her automobile to and from his property.

He stated that he knew of no other means of access and he is aware now that he had no legal right-of-way to his property.

On cross examination the witness stated that both he and Mr. Fry were using the same road but had never used the road to the Esch farm.

He stated that he knew that the reason a water line had been placed into the Oshall property was that his septic system had blocked and polluted the Oshall well, and that the Department of Health had ordered a correction to the septic system which had been made.

He stated that he plowed the snow on this road in the Winter time and oiled it in the Summer time, at his own expense.

He said he tried to purchase a right-of-way from the Oshalls when he realized that he did not have a right-of-way, but that his offer had been refused, and that his wife had attempted to purchase land from the Oshalls in order to get access to a public road.

On redirect examination he stated that he, not having been present, did not know what his wife's conversation with the Oshalls was. He also stated that there were five other houses using the private road from his property to the turnoff at three hundred fifty (350) feet.

The next witness called on behalf of the petitioners was Mr. Robert McKee who testified that he resided next to the Oshalls and had lived there for forty-two (42) years. He said

that the road up to the turnoff and out to the Glass farm was there as long as he could recall.

He said the turnoff had been opened up about 1945 because of a strip mining operation in the area, and had been open since that time. He said he recalled when the petitioners' predecessor in title built the house upon the subject property and that Mr. Morrow had used the strip mine road as an access to this property at that time.

On cross examination he admitted that this road was not a township road and stated that Mr. Sinclair oiled the road in the Summer time and plowed the road in the Winter time, and that the township supervisors did not maintain the same. He also admitted that he was aware that the Oshalls had never done any maintenance on the road beyond the McKee house.

He also stated that when he was a child he was aware that the road to the Esch farm was usable and passable, but that this road had more or less been abandoned since the opening of turnoff to the strip mine operation.

On redirect examination he stated that he personally had seen the petitioner, Theodore Fegan, use the ashes on the road to fill in chuck-holes and stabilize the road.

The next witness called on behalf of the petitioners was Mr. Paul Gates. He stated that he has resided with his nephew, the prior witness, Mr. Robert McKee. He said that he had lived in the area almost seventy (70) years and that he was aware that the road to the Glass farm was in existence for approximately thirty-five (35) to forty (40) years prior to his living in the area.

He said that when the strip mining was in full swing the road over the Oshall property had been filled to stabilize it. He said he first saw the turnoff to the left leading to the subject property when the petitioners and their predecessors in title began using it.

He said he did not see any work done on the road except that Mr. Sinclair, the present occupant, had used oil and calcium chloride in the Summer time to keep down the dust, and had plowed open the road in the Winter time.

On cross examination Mr. Gates said that his father was Harry Gates, the former owner of the Bolinger property which adjoins the Fegan property, and that his uncle, George Gates, had owned the Barnhart property which adjoins the Fegan property on another side.

He said there had been a road beside the Church approximately forty (40) or fifty (50) years ago which laed to an old abandoned coal mine, but that this road had never connected with the road leading to the Glass farm.

He said the mine was near the rear of the Church property and that this road did not connect with the property presently owned by the petitioners. He said that he had never seen the Oshalls work on the road at any time.

At this point counsel for the property owners asked for leave to submit an engineer's drawing of the proposed road at a later date when the same was received from the engineer. Permission was granted inasmuch as there was no objection by the counsel for the Oshalls.

The next witness to testify for the Board was Mr. H. Connell Lang, a Cresson realtor, whose qualifications were admitted for the purpose of this case.

he said he had visited the property on September 8, 1971, had inspected the road, and measured the same which he found to be approximately three hundred fifty (350) feet in length.

he said he did not measure from the turnoff to the legislative route but he believed that it would be approximately eleven hundred sixty (1160) feet, more or less, from the turnoff to the legislative route.

he said he had examined the records in Cambria County for comparable sales and had only found two that were really comparable, those being the sale of nineteen (19) acres from Strayer to McGill in 1971 by deed recorded in Cambria County in Deed Book Vol. 908, page 325, and a parcel of approximately one acre conveyed from Mckenrick to Barnhart in 1970 the deed being recorded in Deed Book Vol. 900, page 273.

he said that he had observed that the road in question was used by other people and that Mr. William Oshall told him that the other people had a right-of-way.

he said that he believed that under the statutes the private road requested in this proceeding would of necessity be limited to twenty-five (25) feet and that he therefore based his calculations upon a road of that width for a distance of three hundred fifty (350) feet.

It was his opinion that the tract over which this road had to be laid was valued at nineteen hundred (\$1,900.00) Dollars without the road and that eighteen hundred (\$1,800.00) Dollars after the road would be taken. Consequently, it was his opinion that the property owners would have suffered one hundred (\$100.00) Dollars damage by virtue of the taking of a private road.

he estimated that the damages for the use of the road from the turn-off to the Legislative Route was Seventy-five (\$75.00) Dollars, or a total damages due from the petitioners to the property owner of One hundred Seventy-five (\$175.00) Dollars.

he said that he had considered the present usage of the land and the use of the road by other persons in arriving at his estimate.

upon cross examination he stated that he was aware that the parcel of land consisting of 3.9 acres over which the access road adjoined 12 acre piece owned by the same parties.

he said he didn't consider any damages to a 12 acre piece, even though it might be said there was a severance. he said the 12 acre parcel might have been farmed at one time, but that there was no evidence at the time of his examination, and that if this parcel were used for grazing of cattle, it would necessarily have to be fenced on both sides of the road.

On redirect examination he noted that no fence was required under present conditions.

On recross examination he admitted that this 12 acre parcel would have to be fenced in order to keep the cattle out of the Fegan property.

At this point counsel for the petitioners rested and Mr. Floyd Oshall was called as the first witness to testify on behalf of the property owners.

he admitted that he was the owner of the land over which the access road would have to travel. he said that this road from the point in the other private road known as the turn-off, and leading to the Fegan property had been built where an area to the rear had been used as a strip-mining operation about

1950. He said that he does not own the stripped property, and, therefore, received a royalty from the stripper for use of the road over his land.

He said that this road had not been used after the strip mining operation shut-down and he stated that the Fegan's predecessor in title had used this road but he had also used a road leading to the Esch farm on occasion.

He said that he knew that Mr. Morrow, the petitioners' predecessor in title, had been using the road over his property. He said that he had never known the petitioners to use the road to the Esch property, but the present occupant Mr. Sinclair had done so.

He said that Mr. Fry who lives to the rear of the Fegan property uses both the Esch road and the Fegan road. He said that he had never given a right-of-way to Mr. Fry because he assumed that the Esch road was always the proper road for use for access to that property.

He said that he had dug the ditch to install the water line to his property because the water supply had been polluted and he had to get a new source of supply.

He said the tract of 3.9 acres over which the private road requested in this proceeding would be laid out, had formerly been used for raising pigs and had been entirely fenced, and that the 12 acre parcel which adjoined the smaller parcel had been at one time used for the raising of livestock and had been fenced.

He said that following the close down of the stripping operation the road remained but was not used until Mr. Morrow, the petitioners' predecessor in title, had begun to use it again.

he said that the small parcel over which this road would go could have been sold approximately three years ago, but he doesn't remember who made the offer to purchase, and that he had received offers to sell the 12 acre parcel but the prospective purchasers wanted to have both parcels together and that he would not sell. He said his son has lived in the house near the Legislative Route for two or three years, and said that no body had spoken to him about obtaining a right-of-way over his land to the Fegan property.

It was his opinion that his property would be damaged by the amount of Five Hundred (\$500.00) Dollars for the road from the turn-off to the Fegan property and by the sum of One Thousand (\$1,000.00) Dollars from the turn-off to the Legislative Route.

On cross examination he stated that he had last had livestock on the 12 acre piece approximately eight or ten years ago, and pigs upon the 3.9 piece about ten or twelve years ago. He said that he had nothing on it since except a small garden of approximately one acre in the 3.9 acre piece.

He said that both the 3.9 acre piece and the 12 acre piece are now growing wild.

Mr. William Oshall then testified on behalf of the property owners.

He stated that he was a son of the owner and had lived in the house with his wife and two children for approximately two years.

He said his father had last lived there about 1950 and then his grand parents had lived there until approximately 1965 at which time the property remained empty for approximately four years.

He said that he had used the 3.9 parcel until last Summer and had cultivated approximately three acres of it and he said the last that either parcel had been used for the raising of pigs was about 1948.

he said that the road wasn't there at that time but was there in 1961 but even then it was not traveled.

he said the petitioners' predecessor in title had first used the road to the Esch farm and then, when the strip mine road was fixed by Fry in approximately 1956 or 1957, Mr. Morrow used that road.

he said Mr. Fry first moved a mobile home on his land about 1956 or 1957 and then the property had remained unoccupied for considerable length of time until about two years ago.

he said during the past two years he had been filling in the 12 acre parcel to straighten out the road near the bridge which had been erected by the Department of Highways, when the Legislative Route had been repaired.

he pointed out that there were other means of access to the Fegan property, each of which, in his opinion, were available to the property owner if the property owner chose to use that method.

he said that approximately 2½ years previously the present occupant of the Fegan property had been advised that the road he was using to go to and from his property was located upon the Osnall property and that a right-of-way should be obtained therefor.

On cross examination he admitted that work on the road could have been done by Mr. Fegan or Mr. Sinclair, but he was unaware that such work had been done by them.

He stated that he had the water from his well tested by the water laboratories in Cresson and that the laboratories had found that the water from this well was contaminated, but it was not certain whether the report stated that the contamination was caused by the seepage from Mr. Sinclair's septic tank.

Mr. Sinclair was then recalled by counsel for the petitioners, and he denied that he had had any conversation with Mr. William Oshall relative to a right-of-way. He said the only time that there had been any conversation relative to a right-of-way was after the stakes had been driven in on either side of the road and a cable stretched across.

He noted that it was he who made the offer to purchase a right-of-way, which offer was refused by the Oshalls.

Mr. Floyd Oshall was recalled as a witness by counsel for the property owners and he testified that he had neither received nor given any money for the use of the Esch road.

There being no further testimony or evidence to present the hearing was declared closed.

The Act of 1836 gives the Court, acting through a Board of View, the right to lay out a private road over land of another and in favor of the owner of a parcel which is entirely landlocked.

It is no difference that the owner of the property requesting the private road knew his property was landlocked at the time of the purchase. In re Private Road in Monroeville Borough, Allegheny County, 204 Pa. Super, 552, 205 A. 2d 885 (1965). It has been held that this act authorizing Court proceeding to open a private road through land of another to the nearest public road when the owner has no means of ingress and egress in any other matter is not unconstitutional on the basis

that it violates the Fourteenth Amendment of the Constitution of the United States by depriving any person of property without due process of law. Marincin v. Erling, 252 F. Supp. 733 (1967).

In view of the testimony and the close examination of the affected property by the Board of View, the Board finds a private road is necessary and recommends to the Court that a private road 25 feet in width be opened by the Court following the description as follows and as shown on the map attached hereto and made a part thereof.

ALL that certain road and right-of-way situate in White Township, Cambria County, Pennsylvania, bounded and described as follows:

Beginning in the center line of Legislative Route No. 11052 at road station 326 + 40.19, which is also the point of curve leading to the East; thence by the chord of the said curve North 12° 42' West a distance of 244.87 feet to a point in the center line of said legislative route; thence North 71° 51' 30" West 27.6 feet to a point on the Westerly right-of-way line of said Legislative Route No. 11052 which point is also in the center line of and the beginning of the road right-of-way and having a maximum width of 25 feet, herein-after described; thence generally by the center line of said road, now in use, through the lands of Floyd O'Shall, the following ten (10) courses and distances: North 71° 51' 30" West 18.16 feet to a point; South 87° 43' 20" West 72.61 feet to a point; South 71° 36' 20" West 109.79 feet to a point; thence South 81° 36' 20" West 139.1 feet to a point; North 88° 32' 40" West 163.69 feet to a point, which point is the point of curve leading to the South, said curve having a radius of 50 feet and an arc length of 67.16 feet to a point, which is a point of tangent; thence South 14° 29' 20" West 191.51 feet to a point (which point is the forks of the road, the right fork of which leads to the South-west and the left fork is the one herein being described); thence South 1° 34' 20" West 99.5 feet to a point; thence South 14° 04' 20" West 146.52 feet to a point; thence South 23° 36' 20" West 123.78 feet to a point, the termination of this description, which point is opposite the private road leading Eastwardly through the Theodore Fegan land.

The Board so finding awards damages to Floyd Ushall and payable by the petitioners Theodore and Eunice Fegan in the amount of Three Hundred Fifty (\$350.00) Dollars, the petitioners to bear the cost of this proceeding.

Respectfully submitted this 28th day of August, 1972.

BOARD OF VIEW

by Leopold J. Wendekier
Leopold J. Wendekier, Chairman

In Re: Petition of THEODORE :: IN THE COURT OF COMMON PLEAS
FEGAN and EUNICE FEGAN, for :: OF
a private road :: CAMBRIA COUNTY, PENNSYLVANIA
 :: Criminal Division
 ::
 :: No. 6 June Term, 1971, C.P.

VIEWERS' NOTICE

The Board of View appointed by the Court in the above entitled matter to determine the necessity of a private road to lead from their dwelling house in the Township of White Cambria County, Pennsylvania, to the public road known as Legislative Route 11052 leading from State Route 53 to State Route 36 at a point on said public road known as Legislative Route 11052 located approximately 15 feet north 9° West from the North Easterly corner of land of Floyd Oshall, and if same is necessary, the location, the breadth of such road, and the amount of damages sustained by the owners of the land through which such road may pass by reason of said opening, hereby give notice that they will meet upon the premises on Friday, September 10, 1971, at 10:30 o'clock, A.M., prevailing time, when and where all persons interested may appear if they so desire.

You are also notified that the Board will hear the testimony of witnesses and receive other relevant evidence at 1:00 o'clock, P.M., prevailing time, on Friday, September 10, 1971, in Courtroom No. 4, Cambria County Courthouse, Ebensburg, Pennsylvania.

Kindly be present with your witnesses at that time.

BOARD OF VIEW

by Leopold G. Wandekier
Chairman

In Re: Petition of THEODORE :: IN THE COURT OF COMMON PLEAS
 FEGAN and EUNICE FEGAN, for :: OF
 a private road :: CAMBRIA COUNTY, PENNSYLVANIA
 :: Criminal Division
 ::
 :: No. 6 June Term, 1971, C.P.

VIEWERS' NOTICE

The Board of View appointed by the Court in the above entitled matter to determine the necessity of a private road to lead from their dwelling house in the Township of White Cambria County, Pennsylvania, to the public road known as Legislative Route 11052 leading from State Route 53 to State Route 36 at a point on said public road known as Legislative Route 11052 located approximately 15 feet north 9° West from the North Easterly corner of land of Floyd Oshall, and if same is necessary, the location, the breadth of such road, and the amount of damages sustained by the owners of the land through which such road may pass by reason of said opening, hereby give notice that they will meet upon the premises on Friday, September 10, 1971, at 10:30 o'clock, A.M., prevailing time, when and where all persons interested may appear if they so desire.

You are also notified that the Board will hear the testimony of witnesses and receive other relevant evidence at 1:00 o'clock, P.M., prevailing time, on Friday, September 10, 1971, in Courtroom No. 4, Cambria County Courthouse, Gettysburg, Pennsylvania.

Kindly be present with your witnesses at that time.

BOARD OF VIEW

by Lopold G. Wendt
 Chairman

AND NOW, this 20 day of August, 1971, I hereby accept
service of the above notice.

John W. Taylor
Atty. for Petitioners

R. D. 3, December 1972
No. ~~6~~ ~~1000~~ ~~Form~~ ~~1071~~ ~~G.P.~~

IN THE COURT OF COMMON PLEAS
OF
CAMBRIA COUNTY, PENNSYLVANIA
~~Criminal Division~~

In Re: Petition of
THEODORE FEGAN and
EUNICE FEGAN, for a
private road

VIEWERS' REPORT

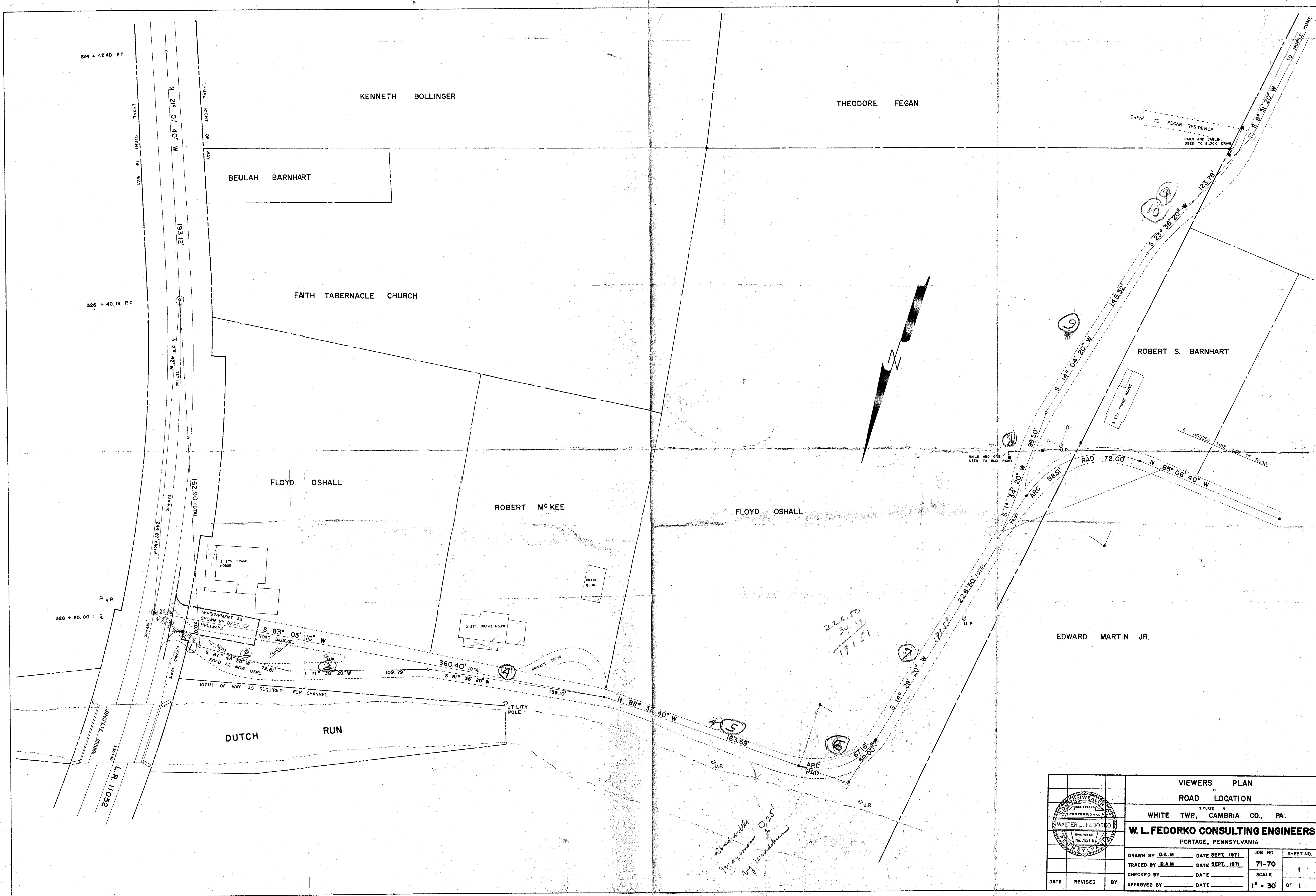
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WENDERKIER & PAWLOWSKI
Attorneys at Law
PATTON, PA. EBENSBURG, PA.

FILED
CLERK OF COURTS
CAMBRIA CO. PA.
Nov 30 10 44 AM '72
STEPHEN D. OBLACKOVICH
CLERK OF COURTS

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STEPHEN D. OBLACKOVICH
CLERK OF COURTS

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ANDREW BILLOW JR.
CAMBRIA COUNTY, PA.
164



VIEWERS PLAN OF ROAD LOCATION			
SITUATE IN WHITE TWP., CAMBRIA CO., PA.			
W. L. FEDORKO CONSULTING ENGINEERS			
PORTAGE, PENNSYLVANIA			
DRAWN BY D.A.M.	DATE SEPT. 1971	JOB NO.	SHEET NO.
TRACED BY D.A.M.	DATE SEPT. 1971	71-70	1
CHECKED BY	DATE	SCALE	
APPROVED BY	DATE	1" = 30'	OF 1