

RICHLAND TOWNSHIP  
ZONING HEARING BOARD

- - - - -x  
Case Nos. :  
14-07 :  
- - - - -x

TRANSCRIPT OF PROCEEDINGS  
MONTHLY ZONING HEARING BOARD MEETING  
DECEMBER 2007

Before: Margo Jochims, Chairperson  
Betsy Kane, Member  
Date: December 18, 2007  
Place: Richland Township Municipal Building  
4011 Dickey Road  
Gibsonia, Pennsylvania 15044  
By: Karen L. Cross  
Court Reporter - Notary Public

ALSO PRESENT:

Dean E. Bastianini

P R O C E E D I N G S

- - -

MS. JOCHIMS: We'll call the meeting to order. Good evening. Anybody that's intending to give testimony tonight will you please stand and raise your right hand. Anybody planning on talking at all, giving comments or anything, if you're going to talk. Thank you. I'm about to administer an oath to you.

ALL WITNESSES,

having been first duly sworn, testified as follows:

MS. JOCHIMS: Thank you. Hearing 14-07, Mark and Tina-- And pronunciation for the last name?

MS. NICKL: Nickl.

MS. JOCHIMS: Ms. Nickl?

MS. NICKL: Yes.

MS. JOCHIMS: Come on up. State your name and address into the microphone so she can hear you.

MS. NICKL: My name is Tina Nickl, and it's 4045 Dickey Road. Basically we're here to request a variance to build a garage on our property. We want to build a 36 by 52 garage basically to pull all our vehicles, trailers, mower, quad, outdoor tools, et cetera, inside and keep our property looking nice and neat and basically security reasons to put everything in and lock it up in the building.

Right now only half of our stuff fits in the current building. We need to do something with our building, and

this is our opportunity to put everything inside the building.

We're requesting a setback due to the shape and size of our property. The one corner of the building is within the boundaries that we're allowed. It's really only one little corner of our building that goes beyond the boundaries because the way our property is is at an angle in the back of it.

So, therefore, the one side of our property we would be within 50 feet of the property line and then on the other side it would be ten feet within the property line.

I have a picture of the, well, a diagram that my husband drew of the garage, of what we would have in it -- it would be to scale -- to show the reason why we need the size building that we do. His truck, basically, doesn't even fit in the garage now that we have.

I think with the packet of stuff I did give you the diagram of what the building would look like as well as all the dimensions of the building. I also have in here, this is a booklet of where we were going to get the building built, a color picture of what it would look like.

So it's not going to be just like a shed in the back. It will be the same siding as our house. It's basically going to look just like our house. It will have the same siding. The garage doors will be facing toward our house. Right now our garage sits with the garage doors facing to the side of the house, or not the side of the house, but the side of the property.

Another reason we want the building to be set back that far in the driveway is right now there's no turning around in our driveway. Everybody that comes to our house, whether it be a delivery man, us, anybody, you have to back out of our driveway or you have to back into our driveway. My son has a little car. He can turn it around in the driveway. It's like a ten-point turn. You cannot turn around in our driveway.

We have a 28-foot travel camper that we take out. When we take it out we have to come, when we come home, we have to come down into the township building. We turn it around so that my husband can be aiming down toward Route 8, and we have to stop the traffic out on Dickey Road to back it down our driveway.

If we get the setback we want so we can set the building back as far as we want it to be set back, then we will be able to pull down the driveway, pull in, and then, like, pull it in so there will be enough driveway between the house and the building so we can pull in and then we can back it into the garage.

So this will, like, be a safety feature in that anybody, like I said, coming to our house, they end up right now backing out of our driveway or backing into it. Most people back out. My husband at night when he comes home he backs into the driveway at night.

MS. KANE: Could you show me on this sketch here where you would have what I would call the turnaround in front

of, if that were your garage and these were the garage doors.

MS. NICKL: Okay. Now, basically, like, this is the old garage. So this whole area here would be the turnaround area.

MS. KANE: If I did this that would kind of be a turnaround.

MS. NICKL: Right. The way this garage is in here, it's at an angle. We're going to take that out. So this whole area here, because the concrete that's underneath the current garage, that would be the turnaround area.

So then you'd be able to come in the driveway and pull in here and then he'd be able to back it in because this would be the stall we'd have to allow for the camper. Then actually anybody would be able to pull in here and give a turn and then come out.

Right now the way it is, as you can see here, I actually took pictures of our driveway with my car to give you an idea of how the width of-- Like that's me backing out of the garage. You can see it's just barely big enough for me to turn my car around.

This is what the trailer and truck look like. This is what the driveway is without anything in it. This is our house. So the garage is basically going to look like our house, only set back in the yard.

MS. KANE: Well, you've pretty much laid out the reasoning for it and what you're requesting.

MS. NICKL: Right. The main reason for us is that basically we want to believe able to have the property look neat. We don't want stuff laying around in the yard. We always try to keep it nice, neat, and tidy. The main reason that we want it where we want is because this would allow an area in the front for everybody to turn around for safety reasons.

Right now the only property that is behind us that it would affect, because as far as the sides, we're well within the side allowances of what we can build it. It's just that one corner that we're running into an obstacle with because if we move forward any then it would defeat the purpose. You wouldn't actually be able to, there wouldn't be any turnaround area.

Plus there's a tree. My husband has had this property in his family since 1945. His sister planted a tree there 45 years ago. That's not an option of cutting that tree down. That would be right in front of the garage door of where, you know, if we moved it forward to the setback that we are given at this point.

MS. KANE: Well, we do want to hear from other people. But if you could be available for questions and stuff.

MS. NICKL: Yes.

MS. KANE: Do you have any questions?

MS. JOCHIMS: Not yet.

MS. KANE: Thank you. Is there anyone-- I'm taking over your duties.

MS. JOCHIMS: Anybody here that would like to ask questions or would like to give their testimony? Please stand up to the microphone and state your name and address.

MR. DAVID DICKEY: My name is Dave Dickey, and my family has been here since 1796. His problem is he only got a half an acre. He got the skinniest, smallest lot on Dickey Road. So he's going to have a problem.

The only reason he got his house built, he added on to a converted chicken house. If he'd have done it the way it should've been done with a 150 frontage, they put the damn house in sideways.

MS. KANE: I'm noting that the lot is, what, approximately--

MR. DAVID DICKEY: Probably not a half an acre.

MS. KANE: Ninety-two feet wide. Does that sound right?

MS. NICKL: Yes.

MS. JOCHIMS: I guess my question for you is, are you--

MR. DAVID DICKEY: I live right across the street.

MS. JOCHIMS: Are you speaking in opposition?

MR. DAVID DICKEY: You betcha, honey. When he got the garage the first time, all right, he kind of got a variance to get the house in and then he put the garage in. The poor old fellow next door, he was probably up here every other

week about the noise. In fact, he used to come up to give my dad-- My dad was twice the man I am. He wasn't anywhere about nothing. He would get dad to come up and complain about the noise.

MS. JOCHIMS: So you live across the street from the--

MR. DAVID DICKEY: Yeah. He's a grease monkey. He's nothing but a grease monkey in a pole barn. This is a damn pole barn is what it is.

MS. JOCHIMS: I need the comments to be constructive. Can you see the garage from your property?

MR. DAVID DICKEY: I see everything.

MS. JOCHIMS: So--

MR. DAVID DICKEY: Well, it's not very big.

MS. JOCHIMS: Would you see the garage?

MR. DAVID DICKEY: Huh?

MS. JOCHIMS: Would you see the garage from your property, yes or no?

MR. DAVID DICKEY: I mean, every morning when I look out my front window, yeah.

MS. JOCHIMS: Any questions for the gentleman?

MS. KANE: I don't have any questions.

MR. DAVID DICKEY: My father was on the original zoning commission, and the only reason they even got a zoning commission was to stop from building on less than one acre. That's a house. That's not a pole barn. That's the only reason

they started it. His name was R. Earl Dickey if you want to check.

MS. JOCHIMS: Okay. Thank you.

MR. DAVID DICKEY: All right.

MS. JOCHIMS: Anybody else like to speak?

MR. DRUDY: Mike Drudy, 4041 Dickey Road. I live next-door coming up this way down next to the folks. I don't necessarily have a concern about the setback. What I have is questions about the future use of the building.

So the two concerns I would have for the record is that Mark is, his business is working on mechanics and vehicles and things like that. So my concern would be that this could, not that he plans on doing this, but that what would be the recourse if he were to change his plans and build a different size building, a different--

MS. KANE: Well, we have a building inspector that once they apply for a building permit then the construction is inspected to make sure that it conforms to the plans that were submitted.

MR. DRUDY: Then also would be what if the use of it would change from what Tina described?

MS. JOCHIMS: You're not permitted to operate a business out of your home unless you apply with the ordinances. If by chance there was a business being run, again, you'd contact the municipality.

MR. DRUDY: So that would be a formal business, a

declared business. But what if it was less formal?

MR. DAVID DICKEY: He already ran a business.

MS. KANE: You would come and complain to the zoning hearing officer and say someone is running a business out of their home in a residential district. This is a residential district. So they could investigate.

MR. DRUDY: And I don't even know if that's his plans or anything. But it's just a concern. So, for the record, that's the concern, that would be the concern of ours. So when the building is built as per the plans what's the height of the building? Is that listed there?

MS. JOCHIMS: Do you have a height on here?

MS. NICKL: Fourteen feet to the rafters. We have 12-foot doors so we can put our camper in it. That's the only thing. That's the reason we're planning ahead and then we have that and then we have the motorcycle trailer. So we want to get both of those in.

Basically we just want to get it all in and just shut the doors and it looks like a nice, neat, tidy building. It's definitely not for a business purpose. It's all storage.

MR. DRUDY: I'm good. I just wanted to get that on the record. Thank you.

MS. KANE: Anyone else?

MR. SAMUEL: My name is David Samuel, S-a-m-u-e-l. My wife and I live across the street from the Nickls. I just want to say that I'm supportive of this variance.

I think the Nickls are very responsible homeowners. They've always maintained a very tidy residence, unlike other neighbors, and I think this is just a technical issue.

They, unfortunately, have this odd-shaped lot. The lot behind them is basically unusable anyway because of the stream back there. I think the setback issues are irrelevant. So I hope you will grant them their variance.

MS. KANE: Thank you.

MS. JOCHIMS: If you'd like to speak, I'm going to have you come up to the microphone and state your name, please. We have to keep a record.

MR. PAUL DICKEY: Paul Dickey, 4040 Dickey Road. The question is, how high is it?

MS. NICKL: To the rafters it is 14 feet.

MR. DAVID DICKEY: How about the peak of the roof?

MR. PAUL DICKEY: Peak of the roof--

COURT REPORTER: Please speak one at a time.

MS. JOCHIMS: She needs to figure out who is speaking because in the event that this would either be granted or denied there is always the opportunity for someone to take an appeal. A judge will have to look at this. In order for him to look at the record, he needs to know who is speaking. She can't just write down what the person says. She has to attribute it to a person.

So, please, just rather than ask questions

freely, you may have another turn if you'd like to ask a specific question or we can ask the question for you. Just so we keep the record clear.

MR. PAUL DICKEY: I'm not as adamant about it as my father. I'm Paul Dickey. I'm at 4040 Dickey Road, as I said. But my wife also has concerns similar to my father and as close to adamant as he is about having that pole building put in.

I would be the one to take over the property once my father passes, and that would be directly across the street from me and my wife. So I guess on the record I would be against it. But I'm not nearly as excited about it as my father.

Any questions?

MS. JOCHIMS: Nothing, thanks.

MR. DRUDY: My treat again. I was not in opposition. I just wanted the concerns noted for the record.

MS. JOCHIMS: I actually have the same concern you do given the size of this. It is extremely large.

MR. PAUL DICKEY: Paul Dickey again. I don't know that you guys had a chance to explain what our situation would be in protecting ourselves against not having a business in that garage. I think you might have been cut off short. What is it that is stopping him from doing that I guess is the question.

MS. JOCHIMS: You need to have a permit to operate a business out of your home.

MS. KANE: In a residential area.

MS. JOCHIMS: In a residential district.

MS. KANE: And there are qualifications to that.

MS. JOCHIMS: There are some businesses you cannot operate out of your home for obvious reasons. If you believe or someone believes that there is a business being run out of the home you can contact the zoning office, contact the municipality, and then they can investigate.

Some of the ones that are more common are hairdressers will sometimes run a business out of their home. They'll set up a basement which is limited clients coming to the place. Nothing is done outside for you to see. The hours of operation allow it to be--

MS. KANE: Compatible.

MS. JOCHIMS: --compatible with the neighborhood.

MR. PAUL DICKEY: I guess my question would be, what is a definition of a business at that point?

MS. JOCHIMS: A for profit.

MR. PAUL DICKEY: Could it be \$50, five customers a day, anything along those lines?

MR. BASTIANINI: I'm not sure if any of this is germane to the issue tonight. I didn't mean to stop you, but I'll answer the question. It's illegal to operate a business out of a residentially zoned property. It's not permitted. He could apply for a use variance asking for permission to operate that business.

You can also apply for a home occupation, and the factors that are taken into consideration in granting that is the

amount of customers that would visit the property, site distance, things like that, parking, is parking adequate.

So there's a whole gamut of issues as the zoning board members indicated. Where it gets difficult -- and we've had these problems in the past -- if somebody is working on a car for a friend. Is that a business? It may be. But unless you obtain copies of invoices that are proof that there's an exchange of money, which is what's usually required for there to be a business, it's difficult to prove those things.

If I work on cars in my garage and then all of a sudden I'm working on a car for my neighbor or a friend, is that any different or is that a business. So those kind of issues are sometimes difficult to enforce. But yet it's the responsibility of the zoning officer to investigate that.

But, if I'm correct, the issue tonight is regarding the size of this building and its use not as a business but its use to store equipment and materials that the property owners own and the need for a variance because it infringes on the setback in this zoning district.

I believe it's the responsibility of the owner to prove a hardship as to why those variances should be granted.

MR. PAUL DICKEY: So, just for clarification, one customer for money is a business?

MR. BASTIANINI: I can't define that for you. A business is when you do something and there's an exchange of money. That's generally a business.

MR. PAUL DICKEY: Thank you very much.

MR. PETROVICH: My name is Mark Petrovich, 4043 Dickey Road. Tina, how high is it going?

MS. NICKL: It has 12-foot garage doors, so it's a 14.2 pitch.

MR. PETROVICH: Looking about seven feet.

MS. NICKL: We're within the height restrictions. Everything is actually what we can build on our property except the setback as to where we want to put it to the back.

MR. PETROVICH: I just got one concern is how big is big.

MS. KANE: That's what we're--

MR. PETROVICH: I mean, a 56 by 36 foot building is more industrial size. Is there any regulation? I want to know for myself, too, because I'd like to build a garage.

MS. KANE: We're sort of checking on this.

MR. PETROVICH: For a square footage in an R3 that we're in or R2.

MS. KANE: You're in an R3.

MR. PETROVICH: What's the correlation between the size of the building you're allowed to build according to the primary structure which would be residential?

MS. KANE: It's more the size of the lot. It's the size of the lot and the setback that are determined, you know, if you built a thousand square foot house or a 5,000 square foot house, the important determinations are how far from the

building line you are.

MR. PETROVICH: So no relevancy? The size of the structure is--

MS. KANE: There might be something for an accessory structure, and that's what Margo is looking for right now. I do want to ask a question of Tina. You said ten feet to the rafters.

MS. NICKL: No, 14 feet to the rafters.

MS. KANE: Fourteen feet to the interior height of the building?

MR. PETROVICH: The ceiling height; right?

MS. KANE: So the height, if I can do this, the height from the ground to this edge here is, what, 14 feet?

MS. NICKL: Fourteen.

MS. KANE: Then given it looks like a 412 slope then that would mean that it's 20 feet high total to the peak.

MR. PETROVICH: To the peak because it's 36 feet deep; right?

MS. KANE: So it's six more feet, 14, 20 feet high. So that answers one of the questions.

MR. PETROVICH: One other question I had. Your finishes on the outside, are they going to match your house?

MS. NICKL: Exactly. Actually it will be vertical siding versus ours is horizontal, same color, all one color.

MS. KANE: Is this a double garage door on the

front? The smaller garage door, is it double width?

MS. NICKL: Yes. That's actually the door that we have on our current garage right now. We're going to put that on. The height we need because of the camper. We need a 12-foot door to get the camper in, and in order to get a 12-foot door that's why we need the 14. We also have a bike trailer that is the height also. So that's why we needed two 12-foot doors.

MR. PETROVICH: That's all my concerns.

MS. KANE: Thank you.

MS. JOCHIMS: Your placement of this garage is purely so you can have a turnaround area for folks to come in and out of your property?

MS. NICKL: Yes. Well, then in order to be able to, like I said, right now our garage sits on our property, like, our house is where I'm standing, the garage is back here, and the doors face this way to the neighbors.

We want to turn the building so that it's back like this with the garage door facing the house, and then this way this will allow the front between the garage and our house so that we can have people turning around in there plus with being able to--

The reason of setting it back is because we have to put it back so that we can actually get in and out of the garage, you know, I mean, because it would be too close to the house. As you can see, well, I don't know if you can see it on any of the diagrams that you have there.

But I actually printed out, I did a Google Earth. You can see right between-- This is the house right now. That's a well right there. So that's why we would need the building to be set back.

MS. KANE: Can I just have this a minute.

MS. JOCHIMS: This was submitted, your survey, who drew that on there?

MS. NICKL: Jerry asked my husband to draw it on there where it would be.

MS. JOCHIMS: It's not drawn to scale?

MS. NICKL: Well, yeah. Is it?

MS. JOCHIMS: It's not actually where it would be.

MS. NICKL: Because he had asked if we could draw approximately where the building would be on the survey.

MS. KANE: Question about your current house. On the survey it shows a rectangular house. Is your house actually L-shaped?

MS. NICKL: That's a back porch.

MS. KANE: So it's open. It just has a roof on it?

MS. NICKL: Yes.

MS. KANE: I think what's giving me cause to pause is the size of the structure. It's a really large garage. On a larger lot it would be still problematic maybe.

MS. JOCHIMS: Not to step in, it's the size, yes,

but it's the size that's presenting the problem for you. If you'd have a garage that was smaller, I don't think you'd have this issue, you would not need a variance for this issue. It's not that your size is the problem for us. It's just the size that's creating this issue for you.

MS. NICKL: We actually could have gotten a permit to build it without requesting this variance. We were told that if we would turn the property, because of the angle of the back of our property, if we would turn the building there would be no problem with the height, no problem with anything of building it. We would not even have had to request this hearing.

But then our garage doors would have been facing his house. So every time we went in and out of our garage all those lights would be shining right on his house and it wouldn't look like it should be there. It would be like you just plopped this building right like that in the middle of nowhere.

I mean, we were told, sure, we can give you a permit right now if you want to put the building on a crooked angle like that. We didn't want to do it. We want to do it so that it's neat. We want it to be uniform with the house. That's why we're going to put the siding on the same color as the house. We didn't want to infringe on lights going into neighbors.

I mean, we just want to just be able to just put it back as far back from everybody on the property. I mean, we could go tomorrow and get a permit and go with the size building

we want at an angle.

MR. BASTIANINI: But you couldn't pull your trailer in.

MS. NICKL: No. No, we could not pull the trailer in. I mean, it would be just as much of a hassle right now as the building. I mean, we have to build a new building because ours is not in good shape, it needs to be rebuilt. That's what started this whole process.

If we're going to build something we may as well build something that we can put all our stuff into. So when we came up to apply for the permit or to, you know, find out what options we have that was what we were told.

MR. BASTIANINI: Realistically you couldn't build the building within the current setbacks because you couldn't pull your trailer in anyway?

MS. NICKL: Right.

MR. BASTIANINI: If you build the building just straight forward why couldn't you do that?

MS. NICKL: What do you mean, instead of building it back further?

MR. BASTIANINI: Closer to your house.

MS. NICKL: Because there's a well between the house and the property where the building would be and basically there wouldn't be enough room to pull in and out of the garage. Plus there would be, like I said, that one tree that would be there would be in the way of the one tree that's there that's not

really an option to cut that tree down.

The way that tree looks is a shadow, I think, because the tree is actually right next to the building. If the size of the building is your concern, I mean, whenever we talked to Jerry Reichart, I think his name is, he said that, you know, the size and everything is fine. It's just that one corner that we're having problems with.

MS. JOCHIMS: Well, like I said, the size, yes, because the size is what's presenting the problem for you. I mean, you have a specific desire to house all of the things that you own. You say that you need it to be this size, and that's an interest that you have. If it doesn't comply with the zoning ordinance then there has to be--

One of the things that we struggle with as a zoning hearing board is that there needs to be a hardship on the owner and the hardship has to be something that's not self-created, meaning that, you know, I bought this lot, I want to build this house, and I want it to look like this. Well, if it doesn't comply with the zoning ordinance, it's a self-created issue.

It's not something that, say, the municipality came back in, you bought the lot, you had the plans for the house, and the municipality came in and said we're going to change your lot, you're going to be now a zoned commercial, and you cannot put your residential. It's not a hardship that was created by you, it was created by the municipality. That would

be your satisfaction of your hardship.

Where we're struggling is that the size is a size that you determined that you wanted and you determined that you wanted it placed in this particular way. That's where I'm struggling. It's not the size because I know you could put it a different way. But it's just that you want it in a place that is not complying, which is why you're asking for the variance.

MS. NICKL: It's just the one corner.

MR. BASTIANINI: Just for the record, what Mr. Reichart said has been talked about here. I just want to say for the record what the conditions are and what Mr. Reichart does have authority to grant.

This zoning district where the Nickl property is located is R3, and the minimum lot size required in an R3 district is 40,000 square feet. Now, the Nickls' lot is a nonconforming lot of only 21,000 square feet. The standard rear yard setback in an R3 district is 60 feet. The Richland Township Zoning Ordinance permits the zoning officer to grant a reduction from the requirements for nonconforming lots to be equal to 40 percent of the setback.

In other words, Mr. Reichart could grant a reduced rear yard setback of 36 feet. What's being requested is the rear yard setback would be within feet of the rear property line and the magnitude of a 26-foot variance. Those are just the facts. That's why you're before the zoning hearing board today, because that exceeded the authority that Mr. Reichart had to

grant.

MS. NICKL: Right, I understand that.

MR. BASTIANINI: But I think it's important to get it on the record. Again, I think Ms. Jochims was speaking towards the responsibility of the property owner to document the hardship that exists, and I think she did a good job explaining that it can't be something created by the owner themselves.

MS. KANE: If we could get a ruler I could draw this to scale.

MR. BASTIANINI: I have one if you want.

MS. KANE: If you have an engineer's scale.

(Pause in the proceedings.)

MS. KANE: Do you need to have that turnaround area come all the way up to that brick walkway?

MS. NICKL: Yes.

MS. KANE: Do you feel you need that much? You couldn't compromise that a little bit?

MS. NICKL: Maybe five feet at the most. I mean, with that tree being right there that's where we run into a problem.

MS. KANE: Where is the tree?

MS. JOCHIMS: It's the big one on the right?

MS. NICKL: Actually, if you look-- Can I come up?

MS. KANE: Yes.

MS. NICKL: If you look at it, I don't know if

it's the way that printed out with Google because even the way the shadow shows this one right there. But actually, I mean, it's like at the corner of our building right there.

MS. KANE: So the tree maybe is right there?

MS. NICKL: Yeah.

MS. KANE: Mike, you're the adjacent property owner?

MR. DRUDY: Yes.

MS. KANE: Could you answer a couple of questions for me?

MR. DRUDY: Sure.

MS. KANE: As it is right now, how much can you see of the current garage and the vehicles that are parked outside?

MR. DRUDY: A clear view. We took or we let Mark take down a few pines, two large pines, a number of years ago or a few years ago, I guess. So we can see it. I mean, I would reiterate, from that perspective only, I would reiterate what they've said.

I mean, Barb keeps a very nice clean property. It's better than I take care of mine, all but that one spot where the pines used to be. But it's never been an issue to look over and see any kind of, you know, mess or anything like that.

MS. KANE: Because even though they would change the orientation of the garage doors from facing your property to being parallel to the street, it seems to me that from the back

of your house you'd still be able to see all the doors to this garage.

MR. DRUDY: Again, that's never been an issue for us. It goes back to the same concerns, if it's used for what, the stated use.

MS. KANE: For storage. I guess, you know, my issue is just that I could even go with sort of averaging that back property line and saying 40 plus ten is 50 and the average is 25. But that still doesn't meet the 36 which is the, you know, which is the compromised rear yard setback based on the size of your lot and the fact that it's nonconforming.

So in my mind I want to question whether you can't pull that forward a little bit to be a little bit more conforming. You can't turn it 90 degrees because then you won't be able to bring your vehicles down and turn in. So then there would be no sense in having it.

MS. NICKL: Right. Plus I feel it's infringing on the neighbors then because the lights, any spotlights, or any time the garage doors would be open the lights would be shining towards their house.

MS. KANE: I still think that's going to happen the way it's located because it's set so far back on the property that if you were right next door it's just off at an angle to you, you'd still be able to see all that.

MS. NICKL: You still would be able to see the light, I think, when we pull into the garage, but it's not going

to be aiming directly at the house.

MS. KANE: This Google Earth view is very good, but it kind of shows or leads you to believe that the back of the property is squared off, and it's not. Does your property extend beyond these trees?

MS. NICKL: They're forsythia bushes. No, it doesn't even go to that.

MS. KANE: So your property ends in that grassy area behind your garage?

MS. NICKL: Yes.

MS. KANE: There's nothing back there. It's owned by the cemetery. Is that correct?

MS. NICKL: No. That's owned by the township.

MR. BASTIANINI: The township owns both those properties.

MS. KANE: Is anything built on that lot one?

MR. BASTIANINI: It's a very big lot. The public works garage and salt storage building are on that lot.

MS. KANE: But quite a distance from the property line?

MS. NICKL: They're up on a hill. It's just a wooded lot that's behind us, and the sewer line runs through there. Like I said, because of the angle of the property, I mean, we're well within our, like, limits of what we're allowed on the one corner of the property. It's just really just a corner of the building that would go beyond where we were allowed

to be.

MS. JOCHIMS: So it's actually the majority of the building is not compliant.

MS. NICKL: No, actually it's just--

MS. JOCHIMS: You need a 36-foot setback your angle--

MR. BASTIANINI: All but ten feet of the building would be within the 36.

MS. JOCHIMS: That's right. Anything else?

MS. KANE: No, I don't have any other questions. I can't think of any solution.

MS. JOCHIMS: Anything else from the floor?

(No response.)

MS. JOCHIMS: Motions?

(No response.)

MS. JOCHIMS: I'm struggling. You're not even within striking distance even with the nonconforming lot and having just a 36-foot setback. I understand your stated intent, that you want to use it for a residential use, that you want to house a number of things that are currently not housed in the current garage.

But because of the size that you've chosen, you're asking for a huge variance and I'm going to make a motion that the application be denied, that the hardship was created by the applicant and as it is stated currently as you've given it to us today. Any second? Different motion?

MS. KANE: Another question. These are all drawn to scale. So is there any compromise you can make on the size of the building, have it be shallower?

MS. NICKL: Our camper is 28 feet. By the time you get it in there, I mean, the 36 and be able to walk in front of it or walk behind it or anything, there really is, I mean, we went with, like, the smallest size that would house all of our stuff inside the building.

MS. KANE: When I look at this and I look at the satellite picture, I mean, I realize it is a big variance. I'd really like to be able to make it a smaller variance if I could get the average between these two 40 feet and 10 feet that would average out to 36 feet. I'd be a little bit more willing to grant it.

But then I also look at the fact that it is all wooded behind them. It's not a lot that anyone is ever going to build a house on or be near. It's owned by the township. The township has already built on it, and there's very little likelihood that it would build anything down in this area.

The parcel that's part of the Wedgewood plan, is that someone's lot?

MS. JOCHIMS: That's also owned by the township.

MR. DAVID DICKEY: I'm pretty sure-- Over there on Morrow Road, Chip Kohser. I think Chip Kohser owns part of that.

MS. JOCHIMS: The township owns them now.

MR. DAVID DICKEY: Did they buy it off of him?

MR. BASTIANINI: They bought it.

MS. NICKL: We didn't feel as though we were infringing on anybody by wanting to set it back because, like I said, with it being all the woods back there and these sewer lines there, we really didn't think we were infringing on anybody. If anything, we figured it would make both sides neighbors happier set back a little bit further.

MR. DRUDY: I'll reiterate that I don't have a problem for that reason, and I haven't said that I have a problem for that reason. I don't feel infringed upon. I don't feel any of that. I'm concerned about the future use of the property.

MS. NICKL: I can give you a hundred percent guarantee that it will not--

MR. DRUDY: I came just to get it on the record because people change over time.

MS. KANE: And people sell property.

MS. JOCHIMS: You sell that property, I can't guarantee that forever.

MR. DRUDY: But, again, it's not an infringement issue, not from my side.

MS. JOCHIMS: He's a good neighbor.

MS. NICKL: I spoke to the other neighbors on the other side, Drambels, and they're fine with it also. We're well within the means of where we're keeping it from the property lines on the sides.

MR. DRUDY: I mean, from a perspective of it being back in the wooded area, in fact, again there's nothing back there. I mean, there's nothing you can see. If you make an exception this variance, that's a precedent. Maybe I'll want one.

MR. BASTIANINI: Or Mr. Dickey.

MR. DRUDY: Or Mr. Dickey.

MS. KANE: Couple other questions. It would be oriented like this so that the door would be-- Is Mr. Drambel next to you?

MS. NICKL: Yes. The Drambel side would be the double side.

MS. KANE: This is the side that you would be next to?

MS. NICKL: Right.

MS. KANE: So your bigger vehicles would have the straighter shot into there?

MS. NICKL: Yes. That's why we would have to be able so that we would have the turnaround so that we would be able to come down our driveway, pull straight in our driveway, and we pull in front of the building so we'd be parallel to the building and then he could back the trailer and then just be able to back it right into that one right on the side.

MS. KANE: Well, right now the way it's drawn, if I'm scaling it correctly, you know, your turnaround area is going to be on one side approximately 32 feet from that brick wall and

on the other side approximately 30 feet from that brick wall. Would you consider reducing that turnaround area by about five feet?

MS. NICKL: I'm confused at what you're saying.

MS. KANE: Less distance between the brick wall and the building, your turnaround area would be a little smaller.

MS. NICKL: The walkway?

MS. KANE: It just says brick, oh, it says walk. I'm sorry. I'm calling it a wall.

MS. NICKL: We could do five feet.

MS. KANE: Are you any closer?

(No response.)

MS. KANE: Well, I move to grant the variance on the condition that the--

MR. BASTIANINI: Hold on. Wasn't there a motion to deny?

MS. KANE: Well, I didn't second it. So what happens? It dies.

MS. JOCHIMS: My motion?

MS. KANE: Your motion dies if it's not seconded. I will second it. Oh, no, you can't.

MS. JOCHIMS: It's a tie.

MS. KANE: Well, that's what I want.

MS. JOCHIMS: My motion was not seconded. But she's going to move forward.

MS. KANE: Well, this may end up in the same

boat. But I was going to propose a motion that the variance be granted provided the building be moved five-- I'd even like more than five. How wide-- I'm going to propose that it be moved ten feet forward.

MS. NICKL: So then you're telling me that it would be 20 feet from the property line?

MS. KANE: It would be 20 feet from the property line on the short end, and it would be 60 feet on the other end. In my mind, when we average that, that would be 80 feet, which would give you an average distance from the property line of 40 feet, which is greater than 36 feet, which is the variance. So that's my motion.

MS. JOCHIMS: Okay.

MS. KANE: And I think you could achieve that between five feet, moving the building--

MS. JOCHIMS: You can't do that. You can't change their application. Their application is what it is. I think you want to deal with what's here and if they want to alter their plan--

MS. KANE: We've put conditions on things in the past.

MS. JOCHIMS: But the applicant was willing to agree to them.

MS. NICKL: Whenever I had filled out that application, I was told by Jerry-- We told him we needed a 15-foot. He said go for the 10-foot and then bargain. That is what

he told me.

MR. BASTIANINI: What you said is that you want to set this to a 15-foot setback.

MS. NICKL: Yes.

MR. BASTIANINI: Ms. Kane suggested a 20-foot setback. Are you agreeable to that?

MS. NICKL: Twenty feet is going to be real tough, I mean, as far as that tree. What's going to happen is you're going to have a tree here and a garage door. For me to back out is going to be right here. So I'm going to have an obstacle of a tree to deal with. That's why we wanted the setback that we did. That extra five feet would mean all the world to us.

MS. KANE: But let me say that if you have the car garage on the same side as the tree, I mean, that's easier than the camper and so forth.

MS. NICKL: Yeah. But what I'm saying is it's going to bring this building up so close to the tree that the tree will be right in front of where I park. So for me to try to back out--

MS. KANE: What I'm suggesting is you would have 20 feet to back out before you would hit that tree. If you backed straight out of the garage, right now you have 30 feet there until you hit that corner of the old building which is where the tree is.

MS. NICKL: But the tree, it's right beside.

Like if this was the garage, the tree is right here right beside the garage. It's not in front of the garage.

MS. KANE: Oh, okay.

MS. NICKL: Did I leave my pictures up there? It might even have-- Can I come up?

MS. KANE: Sure.

MS. NICKL: There might be a picture here that shows the tree.

MS. KANE: I was thinking the tree was right there, but it's not.

MS. NICKL: No. The tree is actually on the man door side of the garage, which I thought I had a picture of showing you the garage. Maybe not the front of the garage, just the end on the driveway.

MR. DAVID DICKEY: Do you think maybe this is the reason they wanted you to build on an acre? Do you think possibly this is a reason the old-timers wanted yins all to build--

MS. KANE: Well, quite possibly. But did you subdivide this property to get your property?

MS. NICKL: No.

MS. KANE: You bought it from someone?

MR. DAVID DICKEY: It was grandpapped in.

MS. KANE: But it was a lot. It was a lot that had been subdivided at some point into a lot. Is that correct?

MS. NICKL: Yes.

MS. KANE: This predates any of us, and it's a legitimate lot that can be built upon. It's nonconforming, but it's there. So they have the right to petition for this. I'm just trying to reach a nice compromise. My motion is on the table.

MS. JOCHIMS: You said 20 feet? No.

MS. KANE: That was my last motion. I withdraw my motion.

MR. BASTIANINI: Would it be appropriate to call for a vote on the variance as presented? I don't think it needs seconded.

MS. JOCHIMS: Nay.

MS. KANE: Nay. I'm not going to vote on the variance as presented. If we could be off the record.

MS. JOCHIMS: We're going to adjourn the meeting.

(Whereupon, at 8:00 p.m., the proceedings adjourned.)

C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings and that this copy is a correct transcript of the same.

Dated at Economy Borough, Pennsylvania this 10th day of January 2008.

---

Karen L. Cross  
Reporter - Notary Public

(The foregoing certificate of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or supervision of the certifying reporter.)

