

Grain bin

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Since Krall's farm had been zoned commercial and light industrial by the township in 1973, all buildings were required to be 100 feet off any roads.

Krall stated he built the grain bin where he did so that he could make use of his present equipment. He transfers the dried grain to a Harvestore silo which was built in 1967, about 80 feet from Hinkle Road.

The silo, which was said to be "non-conforming" in Judge Gate's comments, had been constructed six years prior to any township ordinances being in effect.

"When we built the silo, we placed it so we could fill it from the north side, the side toward Hinkle Road. So in order to unload the corn from the bin to the silo and make use of my 60 foot auger, the bin was put up where it is now," said Krall.

He went on to explain he could have put the grain bin on the other side of the silo, as was suggested by the zoning people, but this would have situated it on the wrong side for filling the silo. "I would have had to turn the silo around, or get a longer auger. And 61 feet is the longest length of auger I am aware of that you can buy."

By building the bin on the south side of the silo, Krall added, it would have been in the long-rows part of the field, where now it is where the field had a triangle of point rows. The grade also falls away on the south side of the silo, therefore there would have been more of an angle on the auger to fill the silo which would have made it harder on the equipment, he said.

The county judge made his determination on whether or not to grant variance from legal principles set forth in a case involving O'Neill versus Zoning Board of Adjustment.

"...variances should be granted only sparingly and

only under exceptional circumstances;... in order to obtain a variance, the petitioner must prove (1) that the variance will not be contrary to the public interest and (2) that unnecessary hardship will result if the variance is not granted;... a variance will not be granted solely because of the petitioner will suffer an economic hardship if he does not receive one..."

The Krall grain bin, located next to the farm's buildings, situated in the center of the owner's 170 acre farm, is 250 yards from any neighboring homes. And that home is owned by Krall's daughter and husband.

A neighbor, living further east along Hinkle Road, said you can sometimes hear the grain drier's fan, but then only for about a minute.

This same neighbor, who attended the court hearing last July, said it was obvious to him that the Township's attorney did not understand the engineering and reasoning behind the bin's location, and if he didn't, chances are the judge didn't either.

Krall said he tried to explain to the court the location was based on equipment and engineering, and that any other location would have meant a cost of \$5000 more to build the bin. To move the bin the distance needed to be in compliance, Krall estimated last July it would cost about \$3000.

He pointed out that there are about 28 yards of concrete in the base for the bin, which in 1976 cost around \$30 a yard.

court's decision when they picked up the local paper on March 19, 1980. About one week later, they said they finally received a letter from the attorney telling them what they had read was correct.

Judge Gates' comments stated, "The evidence here clearly discloses that the land is suitable for the intended purpose and that it can be accomplished in

conformity with the Township's Zoning Ordinance.

We will accept the assertion that a financial hardship will result. But as was noted previously, economic hardship standing alone is no valid basis for departing from the terms of a zoning ordinance.

Nor are we impressed with the petitioner's contention that he was misled by the grain bin salesman's asserted belief that no building permit was required. Petitioners were aware of the existence of the zoning ordinance as is demonstrated by their inquiry of the salesman as to whether or not a building permit was required."

Krall said he knew the township had adopted an ordinance and that he could either buy the book or read it in the municipal building. He said he could not remember reading any notice in the paper, and could have missed it because they don't get the newspaper on a regular basis.

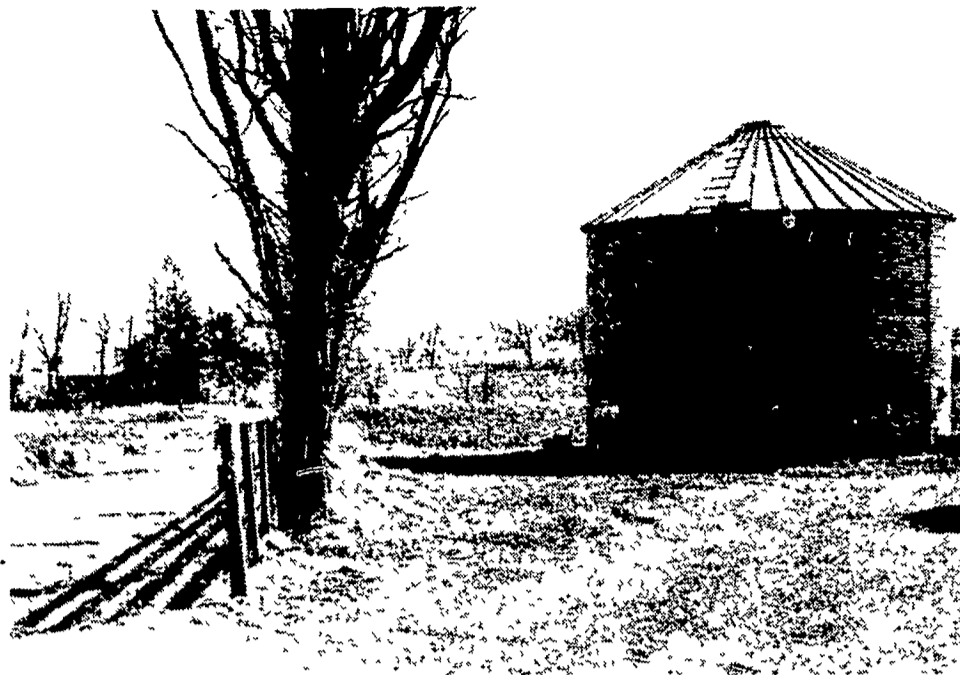
But, Krall said he felt when the contractor told him a permit wasn't necessary—it wasn't necessary. He said he found out about his error from neighbors and friends, later.

Township Supervisor Raymond Phillippy, who was elected to his local government position last Fall, says he needs to look into this situation in more depth.

He said he has been studying the Pennsylvania Municipality Planning Code Act 247 which states that the purpose of zoning is to protect, promote, and facilitate public health, safety, morals, and general welfare.

But, he said, he can understand what happened to Krall because the same thing almost happened to him when he wanted to construct a swimming pool.

"The pool salesman said I could locate the pool within 5 feet of my boundary, and I believed him. But, one day when I was in Lebanon, I thought I'd better check it



Harvey Krall's grain bin, located in South Londonderry Township, was erected 40½ feet off Hinkle Road. If he does not receive a variance from the township, he will be forced to move the structure an additional 59½ feet away to be in compliance with the local ordinance.

out—I found out he was not giving me the right information. Luckily, I found out before I was in violation."

"These salesmen have a way of working around to sell their stuff, and it's up to the individuals to check it out before they sign anything," he added.

To stop this sort of thing from happening in their township, Krall said the supervisors have instructed the police to notify them of any construction going on and check to see if the needed permits were obtained. "This way we can stop the people before they get into trouble, and ask them if they know they need to get a permit under Act 247."

When asked whether the

township will enforce the Lebanon County decision and require Krall to move his grain bin, Phillippy said he could not say. He added he is not sure whether the township has the power to accept or change the zoning regulations. "Under Section 605, I read it to mean we can, but I read on and then I'm not sure."

Phillippy stated that the supervisors have to be very careful not to bend the rules for one individual or another one may come to them with a request to change. He added he hopes something can be done peacefully to settle this situation reasonably, but he pointed out he is just one-third of the board.

"I am a Christian, and I like to see people treated like

human beings," he said. "I'll have to dig into this and see what I can do."

This seems to be a candle of hope for Krall who said if he has to move the bin, he might just as well give up farming. "But, if all the farmers give up, we'll be in a lot of trouble. You can't raise food in rule books."

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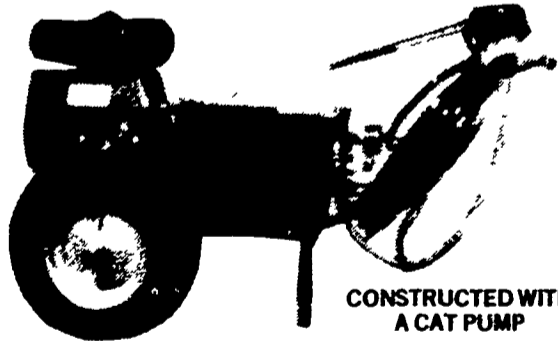
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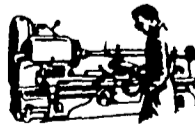
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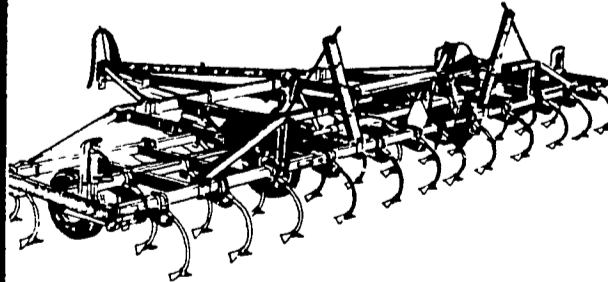
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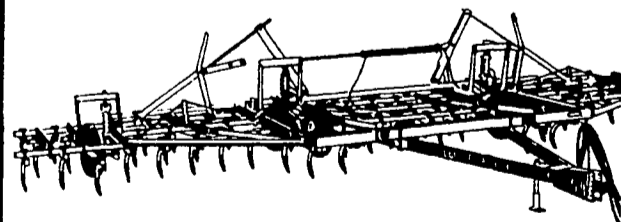
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