

*No. 2 Sept. Sess. 1938*

In the Court of Quarter  
Sessions of Cambria County,  
Pennsylvania.

No. ~~December Term 1938~~

MINNIE S. DAVIS

VS.

THE BOROUGH OF EBENSBURG,  
CAMBRIA COUNTY, PA.

PETITION FOR APPOINTMENT  
OF VIEWERS TO ASSESS  
DAMAGES.

*Filed: Sept. 19, 1938*

H A ENGLEHART  
ATTORNEY AT LAW  
EBENSBURG, PA

MINNIE S. DAVIS : In the Court of Quarter Sessions  
 : of Cambria County, Pennsylvania.  
 :  
 VS. : No. 2 <sup>Sept</sup> ~~December~~ Term 1938.  
 :  
 THE BOROUGH OF EBENSBURG, :  
 CAMBRIA COUNTY, PA. :

PETITION FOR APPOINTMENT OF VIEWERS TO ASSESS DAMAGES

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition of Minnie S. Davis, of the Borough of Ebensburg, County of Cambria and State of Pennsylvania, respectfully represents:

1. That she is the owner of a certain piece, parcel or tract of land, with buildings thereon erected, situated, lying and being in the West Ward of the Borough of Ebensburg, County of Cambria and State of Pennsylvania, bounded and described as follows:

Beginning at a post on West Street, a corner of land of Thomas H. Heist; thence along the West side of West Street South 2 degrees West 16 3/4 perches to a post at High Street; thence along High Street South 46 1/2 degrees West 3 1/4 perches to a post at corner of lot of Catherine Davis; thence by said lot and also by lot of Thomas H. Heist North 69 degrees West 19 1/4 perches to a post; thence by land of said Thomas H. Heist North 2 degrees East 13 3/4 perches to a post; and still by the same South 85 degrees East 21 perches to a post at West Street, the place of beginning. Containing 2 acres and 33 1/4 perches, more or less.

2. That your petitioner has been the owner of said piece or parcel of ground prior to the time when the same was damaged as hereinafter complained of and when a part thereof was taken, injured and destroyed.

3. That prior to and at all times subsequent to the acquisition of said land by your petitioner, there has been laid out and in use for public travel a public highway, now known as Routes 22 and 422, and in the Borough of Ebensburg known as High Street, which said public highway ran adjoining to and in front of

said piece of ground of your petitioner in an easterly and westerly direction for a distance of fifty-three and six-tenths (53.6) feet.

4. That sometime in the year 1937, the Department of Highways of Pennsylvania, by virtue of the powers and authority vested in it, relocated public highway known as Route 422 through the land of your petitioner, by reason of which a part of your petitioner's land was taken and appropriated for highway and other purposes and damage resulted to the petitioner's said land.

5. That in relocating the said public highway known as Route 422, the said Highway Department took and appropriated for highway purposes a part of your petitioner's land described approximately as follows: being a triangular piece of ground beginning at a point on High Street, thence along High Street for a distance of 35 1/2 feet; thence along land now or formerly of George P. Dunegan and Marie L. Dunegan a distance of 47 1/2 feet; and thence along land of your petitioner 71 feet to the place of beginning.

6. That following the relocating of Route 422 the defendant, the Borough of Ebensburg, destroyed certain trees and shrubbery located on the lands of your petitioner and by reason of the taking of the piece of land hereinabove described it was necessary to move fifty-five (55) shrubs and trees, at a great cost to your petitioner, many of which shrubs and trees died as a result of such removing.

7. That in relocating said Route 422 the said Highway Department fixed the grade of said highway at such an elevation that it greatly damaged the land of your petitioner which was not taken and appropriated for highway purposes.

8. That in relocating said Route 422 the said highway is so close to the dwelling house on the land of your petitioner that it greatly damages same and makes said dwelling house less available for the purposes for which the same has been used.

9. That by appropriating the land of your petitioner as hereinabove described the concrete wall in front of said premises was greatly damaged and injured.

10. That along the land of your petitioner fronting on Route 22 or High Street, there was a stone curbing along the entire frontage and no provision has been made for any curbing fronting on the new highway or Route 422.

11. That the said defendant or the State Highway Department took and appropriated brick on a driveway leading into the garage of your petitioner, totalling about four hundred brick.

12. That by the relocating of said Route 422 and the taking of the land of your petitioner as hereinabove referred to, the driveway from the highway into the garage of your petitioner has been left at such an elevation that it is impossible to use the same in wet weather.

13. That your petitioner will at all times be deprived of the ownership of the land as aforesaid, and will also suffer injury and damage to the remaining land of your petitioner.

14. That your petitioner by reason of the facts averred in the petition and by reason of many other items of damage not herein set forth in detail, has suffered damages, and that the said damages are payable and owing to her by said defendant, the Borough of Ebensburg, pursuant to law.

15. That your petitioner, and the Borough of Ebensburg can neither agree upon the amount of damages sustained nor are they able to arrive at an amicable settlement thereof.

Wherefore, your petitioner prays your Honorable Court to appoint Viewers to examine the said land and premises, as well as the land appropriated and taken, injured and destroyed, and make report of their proceedings according to law. And she will ever pray.

*Missie L. Davis*



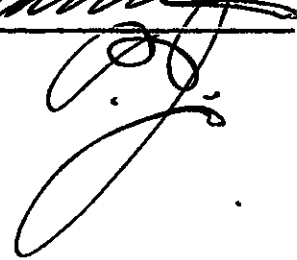
ORDER AND DECREE

And now, this 19<sup>th</sup> day of September, 1938, the within petition presented, read and considered, and the Court does thereupon appoint

A.M. Phoenander      James M. Lamm  
and S.E. Dickey, members of the Permanent

Board of Viewers of the County of Cambria, as Viewers to view and examine the premises in said petition described, for the purpose of ascertaining the damages, if any, sustained by petitioner, and to make return of their proceedings according to law.

BY THE COURT

James M. Lamm  


COPY

In the Court of Quarter Sessions  
of Cambria County, Pennsylvania  
No. 2 ~~December~~ Term 1938

*Sept*

MINNIE S. DAVIS

VS.

THE BOROUGH OF EBENSBURG,  
CAMBRIA COUNTY, PA.

PETITION FOR APPOINTMENT OF  
VIEWERS TO ASSESS DAMAGES.

*Order to View*

*and*  
*Report of Viewers*

*Filed Oct-31-1938*

H. A. ENGLEHART  
ATTORNEY AT LAW  
EBENSBURG, PA.

REPORT OF VIEWERS

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENN'A.  
TO THE HONORABLE, THE JUDGES OF SAID COURT:--

We, the undersigned members of the Permanent Board of Viewers of Cambria County, Pennsylvania, appointed by your Honorable Court to view and determine the damages, if any, sustained, or which seem likely to be sustained by Minnie S. Davis of Ebensburg, Cambria County, Pennsylvania, by reason of the change and alteration of the line and grade of State Highway Route No. 422, where the same crosses through and over a portion of the land of said Minnie S. Davis, petitioner, respectfully report:-

That having given due notice of the view and of the time and place of meeting of the viewers to the Commissioners of Cambria County, to the Solicitor of the Borough Council for the Borough of Ebensburg, and to the Attorney for the Petitioner, and having posted ten notices, as required by the rules of Court and the Act of the General Assembly, upon the premises to be viewed, and having said Commissioners, Borough Council and petitioner, through their representatives, accept service of said notices, which are hereto attached, waiving the necessity of newspaper publication and publication in the Legal Journal; and each of us having been first duly qualified according to law to perform the duties of our appointment, faithfully, impartially and to the best of our judgment, and true report to make concerning all matters and things submitted to us concerning which we were authorized to inquire: All of us met upon the premises in the West Ward of the Borough of Ebensburg, Cambria County, Pennsylvania in accord with the notices served and posted as aforesaid and having carefully viewed the same noting the amount of land taken and appropriated for Highway purposes, observing the conditions which now exist upon the premises and every detail, so far as we

were able to observe or which was brought to our attention which has affected the said premises by the change and alteration of said line and grade of State Highway Route No. 422, through and over her premises, and after carefully examining and inspecting same and having ~~given~~ due notice to the parties concerned we sat at the Court House in Ebensburg at 2:00 P. M. on the afternoon of the eighteenth day of October, 1938 to hear the testimony the parties in interest might have to offer; and which said hearing was attended by representatives of the Borough of Ebensburg and of the Petitioner, after which we met and carefully reviewed and considered the testimony offered, having in mind the conditions and the situation as we observed on the premises and as formerly existed, we proceeded to estimate and determine the amount of benefits and damages sustained by the petitioner and off-setting the one against the other, we arrived at an estimate of the damages sustained, over and above the benefits and again giving notice to the Attorneys for the Borough and the said petitioner, of the time and place we would sit to exhibit our schedule of benefits and damages and hear such further testimony as the parties in interest might have to offer--of which requirement of ten days notice of service of same was waived by said attorneys--and having met again in accord with said last mentioned notices in the Court House when and where we exhibited our schedule as aforesaid, after which we again reviewed the situation and the amount of benefits and damages as indicated on our schedule exhibited, we hereinafter report our final estimate of benefits and damages levied or accruing on account of the change of the location and grade of said highway Route No. 422 through and over her premises.

In the course of the change and alteration above referred to of said State Highway Route No. 422 Minnie S. Davis has sustained damages in diverse ways, viz:--By reason of the loss of

frontage along said property; the tearing down and removing of the wall in front of and along the driveway leading from High Street to the garage of your petitioner; to the elevation of the newly constructed highway which will necessitate the rebuilding of a considerable length <sup>of</sup> retaining wall of approximately twice the height of the former, in order to protect the house and property adjacent to the new highway; the taking away and destroying of a considerable number of shade trees and shrubbery which formerly added very materially to the appearance, value and attractiveness of said premises; that the new highway has been constructed within a few feet of the corner of the porch and house which formerly set back from the highway thus making the property less attractive and less valuable; that the new highway has been constructed so close to the residence of said Minnie S. Davis as to cause great annoyance to the owner or occupants by reason of the vibration caused by the passing of heavy trucks along and over said highway; that a new and different entrance and driveway will be required from the highway in order to gain access to the petitioner's garage; that the premises of the petitioner as a whole have been rendered less valuable and less attractive to tourists, much to the detriment of the petitioner; that a considerable number (approximately 400) bricks from the petitioner's driveway leading to the garage on her premises have been removed and taken away or destroyed, and that some changing or altering of water and drain pipes from the residence of your petitioner will be required to be made.

Accordingly, we have estimated and determined that no benefits should be levied, and that \$1950.00 damages has been sustained by her, which amount should be paid to her by the Borough of Ebensburg.

This report will be filed on the 31<sup>st</sup> day of October,  
A. D., 1938, and unless exceptions are filed to this report or an  
appeal taken from the amount of the award of the viewers within  
thirty days from the date of filing the same, it shall be con-  
firmed absolutely; notice of the filing of the same has been given  
to the parties in interest.

Witness our hands this 31<sup>st</sup> day of Oct., A.D., 1938.

A. M. Shoemaker

S. E. Dickey

James McCann  
VIEWERS.

N O T I C E O F V I E W .

Notice is hereby given that the Viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania, to view and examine the premises hereinafter described for the purpose of ascertaining the damages, if any, sustained or which seem likely to be sustained by Minnie S. Davis by reason of the laying out and opening of State Highway Route No. 422 - where said highway has been laid out or relocated through and over her property, situate in the West Ward of the Borough of Ebensburg, said county and state.

Said property being bounded and described as follows, to wit:

Beginning at a post on West Street, a corner of land of Thomas H. Heist; thence along the west side of West Street south 2 degrees west 16  $\frac{3}{4}$  perches to a post at High Street; thence along High Street south 46  $\frac{1}{2}$  degrees west 3  $\frac{1}{4}$  perches to a post corner of lot of Catherine Davis; thence by said lot and lot of Thomas H. Heist north 69 degrees west 19  $\frac{1}{4}$  perches to a post; thence by land of Thomas H. Heist north 2 degrees east 13  $\frac{3}{4}$  perches to a post; and still by same south 85 degrees east 21 perches to a post at West Street, the place of beginning. Containing 2 acres 55  $\frac{1}{4}$  perches, more or less.

Said viewers will meet upon the premises in the West Ward of the Borough of Ebensburg, Pennsylvania, October 18th., 1938, at 10:00 o'clock a. m., for the purpose above set forth, and will meet again at the Court House, Ebensburg, Pa., at 1:30 o'clock p. m., on the same day, for the purpose of hearing such testimony relative to the matter of our enquiry as the parties in interest may have to offer.

A. M. Shoemaker,

James McCann and

S. E. Dickey,

Viewers.

Services of the above notice is hereby accepted and waiver of advertisement in newspapers and Legal Journal agreed to by

*H. F. Dow*

For the County Commissioners.

N O T I C E O F V I E W .

Notice is hereby given that the Viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania, to view and examine the premises hereinafter described for the purpose of ascertaining the damages, if any, sustained or which seem likely to be sustained by Minnie S. Davis by reason of the laying out and opening of State Highway Route No. 422 - where said highway has been laid out or relocated through and over her property, situate in the West Ward of the Borough of Ebensburg, said county and state.

Said property being bounded and described as follows, to wit:

Beginning at a post on West Street, a corner of land of Thomas H. Heist; thence along the west side of West Street south 2 degrees west 16  $\frac{3}{4}$  perches to a post at High Street; thence along High Street south 46  $\frac{1}{2}$  degrees west 3  $\frac{1}{4}$  perches to a post corner of lot of Catherine Davis; thence by said lot and lot of Thomas H. Heist north 69 degrees west 19  $\frac{1}{4}$  perches to a post; thence by land of Thomas H. Heist north 2 degrees east 13  $\frac{3}{4}$  perches to a post; and still by same south 85 degrees east 21 perches to a post at West Street, the place of beginning. Containing 2 acres 33  $\frac{1}{4}$  perches, more or less.

Said viewers will meet upon the premises in the West Ward of the Borough of Ebensburg, Pennsylvania, October 16th., 1938, at 10:00 o'clock a. m., for the purpose above set forth, and will meet again at the Court House, Ebensburg, Pa., at 1:30 o'clock p. m., on the same day, for the purpose of hearing such testimony relative to the matter of our enquiry as the parties in interest may have to offer.


A. M. Shoemaker,

James McCann and

S. E. Dickey,

Viewers.

Service of the above notice is hereby accepted and waiver of advertisement of same in newspapers and the Legal Journal agreed to by

  
For the Borough Council of the  
Borough of Ebensburg, Pa.

N O T I C E O F V I E W .

Notice is hereby given that the Viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania, to view and examine the premises hereinafter described for the purpose of ascertaining the damages, if any, sustained or which seem likely to be sustained by Minnie S. Davis by reason of the laying out and opening of State Highway Route No. 422 - where said highway has been laid out or relocated through and over her property, situate in the West Ward of the Borough of Ebensburg, said county and state.

Said property being bounded and described as follows, to wit:

Beginning at a post on West Street, a corner of land of Thomas H. Heist; thence along the West side of West Street south 2 degrees west 16 3/4 perches to a post at High Street; thence along High Street south 46 1/2 degrees west 3 1/4 perches to a post at corner of lot of Catherine Davis; thence by said lot and lot of Thomas H. Heist 69 degrees west 19 1/4 perches to a post; thence by land of Thomas H. Heist north 2 degrees east 13 3/4 perches to a post; and still by same south 85 degrees east 21 perches to a post at West Street, the place of beginning.

Containing 2 Acres 33 1/4 perches, more or less.

Said viewers will meet upon the premises in the West Ward of the Borough of Ebensburg, Pennsylvania October 18th., 1938, at 10:00 a. m., for the purpose above set forth, and will meet again at the Court House, Ebensburg, Pa., at 1:30 p. m., on the same day, for the purpose of hearing such testimony relative to the matter of our enquiry as the parties in interest may have to offer.

A. M. Shoemaker,  
James McCann and  
S. E. Dickey,

Viewers.

Service of the above notice is hereby accepted and waiver of advertisement in newspapers and the Legal Journal agreed to by

  
Attorney for Minnie S. Davis.

NOTICE OF VIEW.

Notice is hereby given that the Viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania, to view and examine the premises hereinafter described for the purpose of ascertaining the damages, if any, sustained or which seem likely to be sustained by Minnie S. Davis by reason of the laying out and opening of State Highway Route No. 428 - where said highway has been laid out or relocated through and over her property, situate in the West Ward of the Borough of Ebensburg, said county and state.

Said property being bounded and described as follows, to wit:

Beginning at a post on West Street, a corner of land of Thomas H. Heist; thence along the West side of West Street south 2 degrees west 15 3/4 perches to a post at High Street; thence along High Street south 46 1/2 degrees west 3 1/4 perches to a post at corner of lot of Catherine Davis; thence by said lot and lot of Thomas H. Heist 89 degrees west 19 1/4 perches to a post; thence by land of Thomas H. Heist north 2 degrees east 13 3/4 perches to a post; and still by same south 85 degrees east 21 perches to a post at West Street, the place of beginning.  
Containing 2 Acres 33 1/4 perches, more or less.

Said viewers will meet upon the premises in the West Ward of the Borough of Ebensburg, Pennsylvania October 18th., 1938, at 10:00 a. m., for the purpose above set forth, and will meet again at the Court House, Ebensburg, Pa., at 1:30 p. m., on the same day, for the purpose of hearing such testimony relative to the matter of our enquiry as the parties in interest may have to offer.

A. M. Shoemaker,

James McCann and

S. E. Dickey,

Viewers.

NOTICE OF EXHIBITION OF SCHEDULE

Notice is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania, to view and determine the damages, if any, sustained by Minnie S. Davis by reason of the relocating, grading and constructing of State Highway Route No. 422, through and over her property situate in the West Ward of Ebensburg Borough, Cambria County, Pennsylvania; having viewed the premises, heard and considered the testimony offered and estimated and determined the benefits and damages resulting to the said Minnie S. Davis, the petitioner, and having prepared a schedule of benefits and damages: we will sit at the Court House, Ebensburg, Pennsylvania, October 25, 1938 at 2:00 P. M., for the purpose of exhibiting said schedule and hearing any further testimony the parties in interest may have to offer.

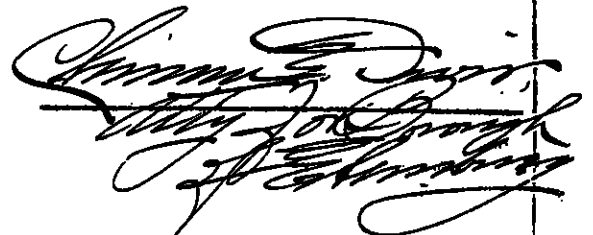
A.M. Shoemaker

S.E. Dickey

James McCann

Viewers.

Service of the above notice is hereby accepted and general publication of same waived.

A handwritten signature in cursive script, appearing to read "Minnie S. Davis", is written over a horizontal line. Below the line, there are additional, less legible handwritten marks.

NOTICE OF EXHIBITION OF SCHEDULE

Notice is hereby given that the viewers appointed by the Court of quarter Sessions of Cambria County, Pennsylvania, to view and determine the damages, if any, sustained by Minnie S. Davis by reason of the relocating, grading and constructing of State Highway Route No. 432, through and over her property situate in the West Ward of Ebensburg Borough, Cambria County, Pennsylvania; having viewed the premises, heard and considered the testimony offered and estimated and determined the benefits and damages resulting to the said Minnie S. Davis, the petitioner, and having prepared a schedule of benefits and damages: we will sit at the Court House, Ebensburg, Pennsylvania, October 25, 1938 at 3:00 P. M., for the purpose of exhibiting said schedule and hearing any further testimony the parties in interest may have to offer.

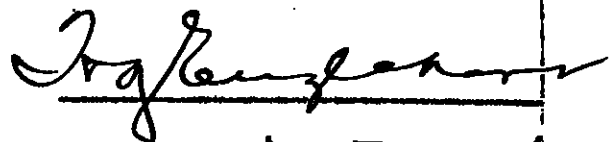
A. M. Shoemaker

S. E. Dickey

James McCann

Viewers.

Service of the above notice is hereby accepted and general publication of same waived.

  
Atty for Mrs. Minnie A.  
Davis

SCHEDULE

In re view to determine the damages which have resulted or which seem likely to result to Minnie S. Davis by reason of the taking and appropriating of certain land, situate in the West Ward of Ebensburg Borough, Cambria County, Pennsylvania, belonging to said Minnie S. Davis, in connection with the re-locating, grading and reconstructing of State Highway Route No. 422 through and over her said premises.

The undersigned viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania, having viewed the premises, heard and considered the testimony offered by the parties in interest, have prepared and herewith submit the following schedule of benefits and damages, viz:---

Benefits accruing to Minnie S. Davis.....*None*

Damages sustained by said Minnie S. *\$1,950<sup>00</sup>*  
Davis.....

Submitted by:

A. M. Shoemaker

S. E. Dickey

James McCann

Viewers.

VIEWERS' NOTICE.

In re change of line and grade of State Highway Route 422 through and over premises of Minnie S. Davis, situate in the West Ward, Ebensburg Borough, Cambria County, Pennsylvania.

The undersigned viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania to view and determine the damages, if any, which have been sustained or which seem likely to be sustained by Minnie S. Davis by reason of the aforementioned change or alteration of the line and grade of said Highway Route No. 422 through and over their premises having viewed the same, heard and considered the testimony, fixed and exhibited a schedule of benefits and damages:

We have this *3<sup>rd</sup>* day of *Oct.*, A. D., 1938 filed our report in the office of the Clerk of Courts of Cambria County, at Ebensburg, Pennsylvania and unless exceptions thereto are filed or an appeal taken, from said award, within thirty days from the date of filing the same it shall be confirmed absolutely.

The schedule contained in said report shows the damages which have been sustained by Minnie S. Davis, ~~over and above any sum or sums already expended by the Borough of Ebensburg or the County of Cambria~~ to be *\$1950<sup>00</sup>* and the benefits accruing to the said Minnie S. Davis to be none. Which said amount of *\$1950<sup>00</sup>* should be paid to Minnie S. Davis by the said Borough of Ebensburg, Cambria County, Pennsylvania.

A. M. Shoemaker

James McCann

S. E. Dickey

We hereby accept service of the above notice and waive newspaper publication of the same.



VIEWERS' NOTICE.

In re change of line and grade of State Highway Route 422 through and over premises of Minnie S. Davis, situate in the West Ward, Ebensburg Borough, Cambria County, Pennsylvania.

The undersigned viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania to view and determine the damages, if any, which have been sustained or which seem likely to be sustained by Minnie S. Davis by reason of the aforementioned change or alteration of the line and grade of said Highway Route No. 422 through and over their premises having viewed the same, heard and considered the testimony, fixed and exhibited a schedule of benefits and damages:

We have this 31<sup>st</sup> day of Oct., A. D., 1938 filed our report in the office of the Clerk of Courts of Cambria County, at Ebensburg, Pennsylvania and unless exceptions thereto are filed or an appeal taken, from said award, within thirty days from the date of filing the same it shall be confirmed absolutely.

The schedule contained in said report shows the damages which have been sustained by Minnie S. Davis, ~~ever and above any sum or sums already expended by the Borough of Ebensburg or the County of Cambria~~ to be \$1950<sup>00</sup> and the benefits accruing to the said Minnie S. Davis to be none. Which said amount of \$1950<sup>00</sup> should be paid to Minnie S. Davis by the said Borough of Ebensburg, Cambria County, Pennsylvania.

A. M. Shoemaker

James McCann

S. E. Dickey

We hereby accept service of the above notice and waive newspaper publication of the same.

*J. J. [Signature]*  
Atty for Mrs Minnie S. Davis

In re View of Property of Minnie S. Davie, Ebensburg, PA  
 Entered to No. 2 Sept. Sessions 1938.

County of Cambria - - - - - Dr.

To A. M. Shoemaker,

Collecting data, preparing, posting and serving notices of view and obtaining waiver of newspaper publication	-	-	-	-	\$18.00.
Stenographer and stationery	-	-	-	-	2.00.
View and hearing	-	-	-	-	12.00.
Meeting of Viewers to fix award; preparing and serving notices of exhibition of schedule and preparing schedules	-	-	-	-	12.00.
Exhibition of schedules and preparing and serving notices of filing report	-	-	-	-	12.00.
Stenographer and stationery	-	-	-	-	2.25.
Preparing and filing Report of Viewers	-	-	-	-	12.00.
Stenographer and stationery	-	-	-	-	1.40.
					<u>\$ 71.65.</u>

**CERTIFIED**  
*James McCann*  
 COUNTY CONTROLLER

To E. Dickey,

Day on View and Hearing	-	-	-	-	\$12.00.
36 miles at 10¢ per mile	-	-	-	-	3.60.
Exhibition of Schedule	-	-	-	-	12.00.
36 miles	-	-	-	-	3.60.
					<u>\$31.20.</u>

**CERTIFIED**  
*James McCann*  
 COUNTY CONTROLLER

To James McCann,

Day on View & Hearing	-	-	-	-	\$12.00.
36 Miles to Ebg. and return	-	-	-	-	3.60.
Fixing award and Exhibiting Schedule	-	-	-	-	12.00.
36 Miles @ 10 ¢ per mile	-	-	-	-	3.60.
					<u>\$31.20.</u>

**CERTIFIED**  
*James McCann*  
 COUNTY CONTROLLER

MINNIE S. DAVIS : In the Court of Quarter Sessions  
 : of Cambria County, Pennsylvania.  
 :  
 :  
 VS. : No. 2 <sup>Sept.</sup> December Term 1938.  
 :  
 :  
 THE BOROUGH OF EBENSBURG,  
 CAMBRIA COUNTY, PA. :

PETITION FOR APPOINTMENT OF VIEWERS TO ASSESS DAMAGES

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition of Minnie S. Davis, of the Borough of Ebensburg, County of Cambria and State of Pennsylvania, respectfully represents:

1. That she is the owner of a certain piece, parcel or tract of land, with buildings thereon erected, situated, lying and being in the West Ward of the Borough of Ebensburg, County of Cambria and State of Pennsylvania, bounded and described as follows:

Beginning at a post on West Street, a corner of land of Thomas H. Heist; thence along the West side of West Street South 2 degrees West 16 3/4 perches to a post at High Street; thence along High Street South 46 1/2 degrees West 3 1/4 perches to a post at corner of lot. of Catherine Davis; thence by said lot and also by lot of Thomas H. Heist North 69 degrees West 19 1/4 perches to a post; thence by land of said Thomas H. Heist North 2 degrees East 13 3/4 perches to a post; and still by the same South 85 degrees East 21 perches to a post at West Street, the place of beginning. Containing 2 acres and 33 1/4 perches, more or less.

2. That your petitioner has been the owner of said piece or parcel of ground prior to the time when the same was damaged as hereinafter complained of and when a part thereof was taken, injured and destroyed.

3. That prior to and at all times subsequent to the acquisition of said land by your petitioner, there has been laid out and in use for public travel a public highway, now known as Routes 22 and 422, and in the Borough of Ebensburg known as High Street, which said public highway ran adjoining to and in front of

said piece of ground of your petitioner in an easterly and westerly direction for a distance of fifty-three and six-tenths (53.6) feet.

4. That sometime in the year 1937, the Department of Highways of Pennsylvania, by virtue of the powers and authority vested in it, relocated public highway known as Route 422 through the land of your petitioner, by reason of which a part of your petitioner's land was taken and appropriated for highway and other purposes and damage resulted to the petitioner's said land.

5. That in relocating the said public highway known as Route 422, the said Highway Department took and appropriated for highway purposes a part of your petitioner's land described approximately as follows: being a triangular piece of ground beginning at a point on High Street, thence along High Street for a distance of 35 1/2 feet; thence along land now or formerly of George P. Dunegan and Marie L. Dunegan a distance of 47 1/2 feet; and thence along land of your petitioner 71 feet to the place of beginning.

6. That following the relocating of Route 422 the defendant, the Borough of Ebensburg, destroyed certain trees and shrubbery located on the lands of your petitioner and by reason of the taking of the piece of land hereinabove described it was necessary to move fifty-five (55) shrubs and trees, at a great cost to your petitioner, many of which shrubs and trees died as a result of such moving.

7. That in relocating said Route 422 the said Highway Department fixed the grade of said highway at such an elevation that it greatly damaged the land of your petitioner which was not taken and appropriated for highway purposes.

8. That in relocating said Route 422 the said highway is so close to the dwelling house on the land of your petitioner that it greatly damages same and makes said dwelling house less available for the purposes for which the same has been used.

9. That by appropriating the land of your petitioner as hereinabove described the concrete wall in front of said premises was greatly damaged and injured.

10. That along the land of your petitioner fronting on Route 22 or High Street, there was a stone curbing along the entire frontage and no provision has been made for any curbing fronting on the new highway or Route 422.

11. That the said defendant or the State Highway Department took and appropriated brick on a driveway leading into the garage of your petitioner, totalling about four hundred brick.

12. That by the relocating of said Route 422 and the taking of the land of your petitioner as hereinabove referred to, the driveway from the highway into the garage of your petitioner has been left at such an elevation that it is impossible to use the same in wet weather.

13. That your petitioner will at all times be deprived of the ownership of the land as aforesaid, and will also suffer injury and damage to the remaining land of your petitioner.

14. That your petitioner by reason of the facts averred in the petition and by reason of many other items of damage not herein set forth in detail, has suffered damages, and that the said damages are payable and owing to her by said defendant, the Borough of Ebensburg, pursuant to law.

15. That your petitioner, and the Borough of Ebensburg can neither agree upon the amount of damages sustained nor are they able to arrive at an amicable settlement thereof.

Wherefore, your petitioner prays your Honorable Court to appoint Viewers to examine the said land and premises, as well as the land appropriated and taken, injured and destroyed, and make report of their proceedings according to law. And she will ever pray.

(Sgd) Minnie D. Davis



ORDER AND DECREE

And now, this 19<sup>th</sup> day of September, 1938, the within petition presented, read and considered, and the Court does thereupon appoint

A. M. Shpemaker

James McCann

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and S. E. Dickey, members of the Permanent Board of Viewers of the County of Cambria, as Viewers to view and examine the premises in said petition described, for the purpose of ascertaining the damages, if any, sustained by petitioner, and to make return of their proceedings according to law.

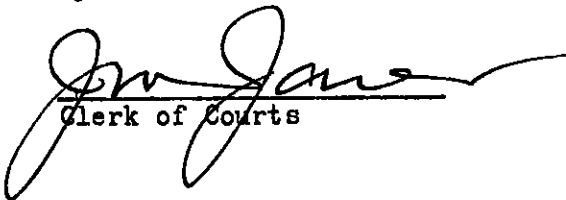
BY THE COURT

McCann, P.J.

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Extract from the Record.

Certified this 19th day of  
September A. D. 1938.

  
Clerk of Courts