

No. *1 Dec* Sessions, 193*8*

IN THE COURT OF QUARTER SESSIONS
OF CAMBRIA COUNTY, PENNSYLVANIA

WILLIAM T. ROBBINS

VS.

GALLITZIN TOWNSHIP

PETITION FOR APPOINTMENT OF
VIEWERS

Filed: Dec. 12, 1938

LAW OFFICES
CLARENCE E. DAVIS
EBENSBURG, PENNSYLVANIA
TRUST CO. BLDG.

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

WILLIAM T. ROBBINS

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No. 1 Dec. Sessions, 1938

VS.

GALLITZIN TOWNSHIP

TO THE HONORABLE, THE JUDGES OF THE ABOVE NAMED COURT:

The petition of William T. Robbins, of the Township of Gallitzin, County of Cambria and State of Pennsylvania, respectfully represents:

1.

That he is the owner of those certain two lots or pieces of ground situate in the Township of Gallitzin, County of Cambria and State of Pennsylvania, bounded and described as follows:

Beginning at Walnut Street; thence by lot formerly Charles McDermit, now Altoona Coal and Coke Co., 120 feet; thence West by land formerly James N. McGuire, now Annie Zachasky, 100 feet; thence South by lands formerly James N. McGuire, now Jacob Berman Estate, to Walnut Street 120 feet; thence along said Walnut Street 100 feet to the place of beginning. Being lots Nos. 10 and 11 on Plan of Delaney Town, now Coupon, Pa.

2.

Title to the above lots or piece of ground became vested in your petitioner by deed of Gallitzin Township School District, dated November 10, 1932, and of record in the Recorder's Office of Cambria County in Deed Book Vol. 453, page 229.

3.

That since the said lots or piece of ground was purchased by your petitioner he has erected thereon frame dwelling house, together with other out buildings of considerable value.

4.

That prior to and at all times subsequent to the acquisition of said lots by your petitioner there has been laid out and in use for public travel along said lots or piece of ground a public highway known as

Walnut Street.

5.

That in the early part of the year 1936 the Supervisors of Gallitzin Township, by virtue of the power of authority vested in them, relocated the said public road above described and changed the grade thereof in front of the land of your petitioner, whereby damage resulted thereto.

6.

That in changing the grade by said Supervisors there was a cut immediately in front of your petitioner's property of approximately two (2) feet, by reason of which your petitioner's dwelling house was located, after said change in grade, a distance of approximately five (5) feet above the level of said highway.

7.

That by reason of the change of grade as aforesaid petitioner's property has been considerably damaged and your petitioner has suffered considerable inconvenience by reason thereof.

8.

That your petitioner will at all times hereafter be deprived of the use of said lands as had been previously been enjoyed by him and that your petitioner has sustained damages by reason of the facts averred in this petition, and that the said damages sustained by him are payable and owing by the said defendant, Gallitzin Township, pursuant to the Act of Assembly in such case made and provided.

9.

That your petitioner and the Supervisors of Gallitzin Township have been unable to arrive at an amicable settlement thereof.

WHEREFORE, your petitioner prays your Honorable Court to appoint Viewers to examine said land and premises and make report of their proceedings according to law.

Chas. J. Robbins

STATE OF PENNSYLVANIA :
: SS.
COUNTY OF CAMBERIA :

WILLIAM T. ROBBINS, being by me, the undersigned authority, duly sworn according to law, deposes and says that the facts set forth in the foregoing petition are true and correct, to the best of his knowledge, information and belief.

Wm. T. Robbins

Sworn to and subscribed before me this 8th day of December, A.D. 1938.

Daniel Hoyt
Notary Public.

My commission expires April 13, 1941

Now, December 12, 1938, the within petition presented, read and considered, the Court does thereupon appoint A. M. Shunk, E. H. Jencks and M. P. Bays, members of the permanent Board of Viewers of Cambria County, as viewers to view and examine the premises in the within petition described, and for the purpose ascertaining the damages, if any, sustained by the petitioner, and make return of their proceedings according to law.

By the Court
M. G. ...
...

(COPY

No. 1 Dec. Sessions, 1938

IN THE COURT OF QUARTER SESSIONS
OF CAMBRIA COUNTY, PENNSYLVANIA

WILLIAM T. ROBBINS

VS.

GALLITZIN TOWNSHIP

PETITION FOR APPOINTMENT
OF VIEWERS

*Order to View
and
Report of Viewers.*

FEB 2 1939 CERTIFIED

Filed: Feb. 1, 1939

LAW OFFICES
~~WALTER H. GIBBS~~
EBENSBURG, PENNSYLVANIA

13 Mar. 1939 Copy more of

*By the Court
Westmoreland*

*12 June 1939 Confirmed absolutely
J. J. [Signature]*

R E P O R T O F V I E W E R S .

To the Honorable, the Judges of the Court of Quarter Sessions
of Cambria County, Pennsylvania.

We, the undersigned members of the Permanent Board of Viewers of Cambria County, appointed by your honorable Court and directed to view and determine the damages, if any, sustained or which seem likely to be sustained by William T. Robbins of Coupon, Gallitzin Township, Cambria County, Pa., by reason of the alleged relocating of Walnut Street and the changing of the grade thereof along and past the premises of said Robbins in said township, county and state, 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 said county, the Supervisors of the township of Gallitzin and to said William T. Robbins and having each accept service of notices hereto attached and having them waive newspaper publication as indicated on said attached notices and by printed hand bills posted at and by the premises to be viewed, and each being first duly sworn according to law to perform the duties of our appointment faithfully, impartially and to the best of our judgment and ability and true report to make concerning all matters and things submitted to us in relation to which we were authorized to enquire: We met upon the premises in said township of Gallitzin, in accord with the notices so given and having gone over and carefully viewed the same, noting in particular the improvements made along and in front of the said premises; later we met again in the Court House in Ebensburg, of which meeting the parties in interest had due notice and the petitioner and two of the Supervisors each with their attorney attended and were heard.

The property of William T. Robbins, the petitioner, alleged to have been affected is described as follows:

X Beginning at Walnut Street; thence by lot formerly of Charles McDermit, now Altoona Coal Company., 120 feet; thence west by land

formerly of James N. McGuire, now Annie Zachasky, 100 feet; thence south by land formerly of James N. McGuire, now Jacob Berman Estate, to Walnut Street 120 feet; thence along said Walnut Street 100 feet to the place of beginning.

Being lots Nos. 10 and 11 on Plan of Delaney Town, Now Coupon, Cambria County, Pennsylvania.

Relative to the matter of our inquiry we have ascertained as follows:

That over twenty six years ago said Walnut Street was made a public road by proceedings entered to No. 3 June Sessions 1916, and the Court of Quarter Sessions of Cambria County fixed the breadth thereof at forty feet.

That the said public highway passing the premises of said William T. Robbins has not been moved or shifted to any extent and the total width of said highway, including the berm on either side and the slope of the cut on the northerly side opposite the property of said Robbins is less than forty feet; and it is admitted by Mr. Robbins that no portion of his property or lots was taken for road purposes.

That the grade of the public highway in front of the Robbins property has not been materially changed altho the said road, in the course of the improvements, was widened out and leveled to approximately twenty eight feet.

That the stone wall complained of having been removed by the Supervisors in the course of said improvements was entirely and for the full length within the line of the right-of-way, and so admitted, and at the time of its removal was in such condition as to be a menace to the safety of the public.

In the opinion of the viewers it was the duty of the Supervisors of Gallitzin Township to remove the stone wall - which the petitioner claims the right to insist on being left in place and concerning which much testimony was brought out at the hearing - both on account of its delapidated and dangerous condition and because of its being on the right-of-way of the public road.

In compliance with our duties as viewers we have estimated and determined the benefits and damages sustained or which seem likely to be sustained, offsetting the one against the other and having prepared our schedule of benefits and damages, and after giving due notice of the exhibition of same to the parties in interest we have exhibited said schedule showing no benefits assessed and no damages sustained.

We have notified the parties interested that this report will be filed with the Clerk of the Court of Quarter Sessions of Cambria County, Pennsylvania on February 1st. 1939 and that unless exceptions to said report be filed or an appeal taken within thirty days from the date of filing same it shall be confirmed absolutely.

Witness our hands this twenty^{-eighth}~~-ninth~~ day of January, 1939.

A. M. Shoemaker

S. H. Jewers

Walter B. Bannister

Viewers.

NOTICE OF VIEW

Notice is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania, and directed to view and determine the damages which have been sustained, or seem likely to be sustained, by reason of the change or alteration of the line and grade of Walnut Street by the Supervisors of the Township of Gallitzin, along and over property of one William T. Robbins, said property being situate in the Township of Gallitzin, County of Cambria and State of Pennsylvania, in the Village known as Delaney Town, or Coupon, bounded and described as follows:

Beginning at Walnut Street; thence by lot formerly of Charles McDermott, now Altoona Coal and Coke Corporation one hundred twenty (120) feet; thence West by land formerly of James N. McGuire, now Annie Zachasky, one hundred (100) feet; thence South by land formerly of James N. McGuire, now Jacob Berman Estate, to Walnut Street one hundred twenty (120) feet; thence by said Walnut Street one hundred (100) feet to place of beginning. Being lots Nos. 10 and 11 on Plan of Delaney Town now Coupon, Pennsylvania.

Said viewers appointed as aforesaid will meet upon the premises in said Township of Gallitzin, Cambria County, Pennsylvania for the purpose of viewing the said premises, hearing such testimony as the parties in interest may have to offer and performing such other duties as are required in the Act of Assembly, on the 12th day of January, 1939 at 10:00 a.m. O'clock.

Service of above notice is hereby accepted and waiver of general publication agreed to.

Walter Post

For Commissioners of Cambria Co.

A. M. Shoemaker
S. H. Jencks
M. J. Baumgardner

Viewers.

NOTICE OF VIEW

Notice is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania, and directed to view and determine the damages which have been sustained, or seem likely to be sustained, by reason of the change or alteration of the line and grade of Walnut Street by the Supervisors of the Township of Gallitzin, along and over property of one William T. Robbins, said property being situate in the Township of Gallitzin, County of Cambria and State of Pennsylvania, in the Village known as Delaney or Coupon, bounded and described as follows:

Beginning at Walnut Street; thence by lot formerly of Charles McDermott, now Altoona Coal and Coke Corporation one hundred twenty (120) feet; thence West by land formerly of James N. McGuire, now Annie Zachasky, one hundred (100) feet; thence South by land formerly of James N. McGuire, now Jacob Berman Estate, to Walnut Street one hundred twenty (120) feet; thence by said Walnut Street one hundred (100) feet to place of beginning. Being lots Nos. 10 and 11 on Plan of Delaney Town now Coupon, Pennsylvania.

Said Viewers appointed as aforesaid will meet upon the premises in said Township of Gallitzin, Cambria County, Pennsylvania for the purpose of viewing the said premises, hearing such testimony as the parties in interest may have to offer and performing such other duties as are required in the Act of Assembly, on the *12th* day of January, 1939, at *10:00 a.m.* O'clock.

Service of above notice. M. Shoemaker
is hereby accepted and S. H. Jencks
waiver of general publication agreed to. M. J. Baumgardner
Viewers.


Atty. for William T. Robbins.

NOTICE OF VIEW

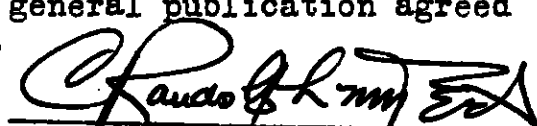
Notice is hereby given that the viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania, and directed to view and determine the damages which have been sustained, or seem likely to be sustained, by reason of the change or alteration of the line and grade of Walnut Street by the Supervisors of the Township of Gallitzin, along and over property of one William T. Robbins, said property being situate in the Township of Gallitzin, County of Cambria and State of Pennsylvania, in the Village known as Delaney or Coupon, bounded and described as follows:

Beginning at Walnut Street; thence by lot formerly of Charles McDermott, now Altoona Coal and Coke Corporation one hundred twenty (120) feet; thence West by land formerly of James N. McGuire, now Annie Zachasky, one hundred (100) feet; thence South by land formerly of James N. McGuire, now Jacob Berman Estate, to Walnut Street one hundred twenty (120) feet; thence by said Walnut Street one hundred (100) feet to place of beginning. Being lots Nos. 10 and 11 on Plan of Delaney Town now Coupon, Pennsylvania.

Said Viewers appointed as aforesaid will meet upon the premises in said Township of Gallitzin, Cambria County, Pennsylvania for the purpose of viewing the said premises, hearing such testimony as the parties in interest may have to offer and performing such other duties as are required in the Act of Assembly, on the 12th day of January, 1939, at 10:00 a.m. O'clock.

Service of above notice is hereby accepted and waiver of general publication agreed to.

A. M. Shoemaker
S. H. Jencks
M. J. Baumgardner.


Atty. for Supervisors of Gallitzin Township.

NOTICE OF EXHIBITION OF SCHEDULE.

The undersigned viewers appointed by the Court of Quarter Sessions of Cambria County, Pa., to view and determine the damages, if any, which have been sustained or which seem likely to be sustained by William F. Robbins of Gallitzin Township, Cambria Co., Pa., by reason of the change or alteration of the line and grade of the public highway along and past the premises of said Robbins situate in the Village of Delaney or Coupon, in said township, county, and state, by the Supervisors of the said Township of Gallitzin, said county and said state.

Having viewed the said premises and considered the situation as pointed out to us, we will sit at the Court House, Ebensburg, Pa., January 24th. at 10:00 O'clock a. m., 1938, to hear whatever testimony the parties in interest may have to offer and exhibit our schedule of benefits and damages resulting from the action of said Supervisors, if any.

A. M. Shoemaker,
S. H. Jencks and
M. J. Baumgardner,
Viewers.

Service of above notice is hereby accepted for _____

William F. Robbins

James E. Davis
Atty. for William F. Robbins

NOTICE OF EXEBITION OF SCHEDULE.

The undersigned viewers appointed by the Court of Quarter Sessions of Cambria County, Pa., to view and determine the damages, if any, which have been sustained or which seem likely to be sustained by William T. Robbins of Gallitzin Township, Cambria Co., Pa., by reason of the change or alteration of the line and grade of the public highway along and past the premises of said Robbins situate in the Village of Delaney or Coupon, in said township, county, and state, by the Supervisors of the said Township of Gallitzin, said county and ~~xxx~~ state.

Having viewed the said premises and considered the situation as pointed out to us, we will sit at the Court House, Ebensburg, Pa., January 24th. at 10:00 O'clock a. m., 1939, to hear whatever testimony the parties in interest may have to offer and exhibit our schedule of benefits and damages resulting from the action of said Supervisors, if any.

A. M. Shoemaker,
S. H. Jencks and
M. J. Baumgardner,
Viewers.

Service of above notice is hereby accepted for Supervisors
of Gallitzin Township

Charles E. Myers
Atty. for Gallitzin Twp
Supervisors

SCHEDULE.

In re View to determine the damages, if any, which have been sustained or which seem likely to be sustained by William T. Robbins of Gallitzin Township, Cambria County, Pa., by reason of the change or alteration of the line and grade of Walnut Street in the Village of Delano or Coupon, in said township, county and state, along and in front of his premises by the Supervisors of said Township.

The undersigned Viewers appointed by the Court of Quarter Sessions of Cambria County, Pa., having viewed the premises, heard and considered the testimony offered by the parties in interest, have prepared the following schedule of benefits and damages, viz:

Benefits accruing to William T. Robbins	-	-	-	none.
Damages sustained by William T. Robbins	-	-	-	none.

A. M. Shoemaker,
S. H. Jencks and
M. J. Baumgardner,
Viewers.

V I E W E R S N O T I C E .

In re Appointment of Viewers to View and Determine the Damages, if any, sustained or which seem likely to be sustained by William T. Robbins of Gallitzin Township, Cambria County, Pennsylvania.

The undersigned Viewers appointed by the Court of Quarter Sessions of Cambria County, Pennsylvania, and directed to view and determine the damages which have been sustained or which seem likely to be sustained by William T. Robbins by reason of the change or alteration of the public road in the Village of Delano or Coupon, said township, county and state by the Supervisors of said Township of Gallitzin: Having viewed the premises, heard the testimony offered by the parties in interest, prepared and exhibited a schedule of benefits and damages; showing no benefite levied and no damages sustained; we have prepared our report which we will file in the office of the Clerk of Courts of Cambria County, Pa., this *1st* day of *Feby.*, 1939, and unless exceptions thereto are filed or an appeal taken within thirty days from the date of filing same it shall be confirmed absolutely.

A. M. Shoemaker,
S. H. Jencks and
M. J. Baumgardner,
Viewers.

I hereby certify that the above referred to report was filed as and on the date hereinabove indicated and a copy of the above notice served at the office of the respective attorneys for the parties in interest.

A. M. Shoemaker

COUNTY OF CAMBRIA?

	To A. M. Shoemaker	-	Dr.
Procuring data, preparing, posting and serving notices of view and having parties waive newspaper publication	-	-	\$18.00
Thirty six (36) miles at 10¢ per mile	-	-	3.60
Stenographer and stationery	-	-	1.80
Day on View	-	-	12.00
Thirty six (36) miles	-	-	3.60
Preparing and serving notices of exhibition of schedule, preparing schedules and preparing and serving notices of filing report	-	-	6.00
Day hearing testimony and exhibiting schedules	-	-	12.00
Preparing, having signed and filing report	-	-	12.00
Stenographer and stationery	-	-	2.20
			<u>\$71.20</u>

	To S. H. Jencks	
Day on View	-	\$12.00
Thirty six (36) miles at 10¢ per mile	-	3.60
Day hearing testimony and exhibiting schedule	-	12.00
		<u>\$27.60</u>

	To M. J. Baumgardner	
Day on View	-	\$12.00
Seventy two (72) miles, Johnstown to place of view	-	7.20
Day at hearing and Exhibition of schedule	-	12.00
Thirty six (36) miles, Johnstown to Ebensburg	-	3.60
		<u>\$34.80</u>

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

WILLIAM T. ROBBINS

No. 1 Dec. Sessions, 1938

VS.

GALLITZIN TOWNSHIP

TO THE HONORABLE, THE JUDGES OF THE ABOVE NAMED COURT:

The petition of William T. Robbins, of the Township of Gallitzin, County of Cambria and State of Pennsylvania, respectfully represents:

1.

That he is the owner of these certain two lots or pieces of ground situate in the Township of Gallitzin, County of Cambria and State of Pennsylvania, bounded and described as follows:

Beginning at Walnut Street; thence by lot formerly Charles McDermit, now Altoona Coal and Coke Co., 120 feet; thence West by land formerly James N. McGuire, now Annie Eachasky, 100 feet; thence South by lands formerly James N. McGuire, now Jacob Berman Estate, to Walnut Street 120 feet; thence along said Walnut Street 100 feet to the place of beginning. Being lots Nos. 10 and 11 on Plan of Delaney Town, now Coupon, Pa.

2.

Title to the above lots or piece of ground became vested in your petitioner by deed of Gallitzin Township School District, dated November 10, 1932, and of record in the Recorder's Office of Cambria County in Deed Book Vol. 453, page 229.

3.

That since the said lots or piece of ground was purchased by your petitioner he has erected thereon frame dwelling house, together with other out buildings of considerable value.

4.

That prior to and at all times subsequent to the acquisition of said lots by your petitioner there has been laid out and in use for public travel along said lots or piece of ground a public highway known as

Walnut Street.

5.

That in the early part of the year 1936 the Supervisors of Gallitzin Township, by virtue of the power of authority vested in them, relocated the said public road above described and changed the grade thereof in front of the land of your petitioner, whereby damage resulted thereto.

6.

That in changing the grade by said Supervisors there was a cut immediately in front of your petitioner's property of approximately two (2) feet, by reason of which your petitioner's dwelling house was located, after said change in grade, a distance of approximately five (5) feet above the level of said highway.

7.

That by reason of the change of grade as aforesaid petitioner's property has been considerably damaged and your petitioner has suffered considerable inconvenience by reason thereof.

8.

That your petitioner will at all times hereafter be deprived of the use of said lands as had been previously been enjoyed by him and that your petitioner has sustained damages by reason of the facts averred in this petition, and that the said damages sustained by him are payable and owing by the said defendant, Gallitzin Township, pursuant to the Act of Assembly in such case made and provided.

9.

That your petitioner and the Supervisors of Gallitzin Township have been unable to arrive at an amicable settlement thereof.

WHEREFORE, your petitioner prays your Honorable Court to appoint Viewers to examine said land and premises and make report of their proceedings according to law.

(Signed) WM. T. ROBBINS

STATE OF PENNSYLVANIA :
: SS.
COUNTY OF CAMBERIA :

WILLIAM T. ROBBINS, being by me, the undersigned authority, duly sworn according to law, deposes and says that the facts set forth in the foregoing petition are true and correct, to the best of his knowledge, information and belief.

(Signed) WM. T. ROBBINS

Sworn to and subscribed before me this 8th day of December, A.D. 1938.

(Signed) DOROTHY HOYT
Notary Public.

(N. P. Seal)

My commission expires April 13, 1941

Now, December 12, 1938, the within petition presented, read and considered, the Court does thereupon appoint *A. M. Shoemaker, S. H. Jewell* and *M. J. Baumgardner*, members of the permanent Board of Viewers of Cambria County, as viewers to view and examine the premises in the within petition described, and for the purpose ascertaining the damages, if any, sustained by the petitioner, and make return of their proceedings according to law.

By the Court
McCann P J

*Extract from Record.
Certified this 13th
day of Dec. 1938
J. J. J. J.
Clerk*