

IN THE COURT OF QUARTER SESSIONS  
OF CAMBRIA COUNTY, PENNSYLVANIA  
NO. 3, JUNE SESSIONS, 1946

IN RE: APPOINTMENT OF VIEWERS TO  
VIEW AND MAKE RECOMMEND-  
ATION CONCERNING THE OPEN-  
ING AND LAYING OUT OF PUBLIC  
ROAD IN LOWER YODER TOWN-  
SHIP, CAMBRIA COUNTY,  
PENNSYLVANIA

ANSWER OF THE SUPERVISORS OF LOWER  
YODER TOWNSHIP TO THE ABOVE  
PETITION

*Filed 7/18/46*

**SAMUEL R. DI FRANCESCO**  
ATTORNEY AT LAW  
JOHNSTOWN, PENNSYLVANIA



d. That the said property owner has opened the said road without the consent and authority of your petitioners, and has done so in a negligent manner causing the diversion of water courses along the aforesaid road and by reason of the said diversion of water courses, the drainage water has been diverted on to the properties of other citizens and residents of the Township of Lower Yoder owning property below the aforesaid road, and the Supervisors have received many and numerous complaints of the damages now being caused to the aforesaid property by reason of the action of the said Mike Labuda.

e. The Township of Lower Yoder is without funds to pave and improve the aforesaid street or any other streets at the present time in the Township of Lower Yoder, and if the prayer of the petition to open said road were to be granted, the Township would not be able to improve the same at the present time.

WHEREFORE, your petitioners pray that the Viewers appointed by your Honorable Court refuse to recommend the laying out and opening of the aforesaid road for the reasons above set forth, and that your Honorable Court dismiss the petition at the costs of the petitioners.

And they will ever pray, etc.

Herman Zilke

Frank S. Patula  
SUPERVISORS OF LOWER YODER TOWNSHIP



IN THE COURT OF QUARTER SESSIONS  
OF CAMBRIA COUNTY, PENNSYLVANIA

NO. 3, JUNE SESSIONS, 1946

IN RE: APPOINTMENT OF VIEWERS TO  
VIEW AND MAKE RECOMMEND-  
ATION CONCERNING THE OPEN-  
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ROAD IN LOWER YODER TOWN-  
SHIP, CAMBRIA COUNTY,  
PENNSYLVANIA

ANSWER OF THE SUPERVISORS OF LOWER  
YODER TOWNSHIP TO THE ABOVE  
PETITION

SAMUEL, R. DI FRANCESCO

ATTORNEY AT LAW

JOHNSTOWN, PENNSYLVANIA

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

IN RE: APPOINTMENT OF VIEWERS TO VIEW AND            0  
MAKE RECOMMENDATION CONCERNING THE            :  
OPENING AND LAYING OUT OF PUBLIC            : No. 3 June Sessions, 1946  
ROAD IN LOWER YODER TOWNSHIP,            :  
CAMBRIA COUNTY, PENNSYLVANIA            0

ANSWER OF THE SUPERVISORS OF LOWER YODER TOWNSHIP  
TO THE ABOVE PETITION

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

The Supervisors of Lower Yoder Township, Herman Zilkie, Carl Kohler, and Frank S. Fatula, object to the laying out of the public road instituted by the above entitled proceedings and file this Answer thereto.

1. It is admitted that the Board of Supervisors of Lower Yoder Township, Cambria County, Pennsylvania have failed, refused and neglected to accept the road described in the petition as a public road.

2. It is further averred that the reasons for the refusal of the Supervisors to accept the aforesaid road as a public road are as follows:

a. It is denied "that said proposed public road is necessary for the convenience of the residents, property owners and tax payers of the Township of Lower Yoder."

b. That the petitioners have failed to attach to the aforesaid petition a release of damages releasing the Township of any damages that might be incurred by reason of the laying out and opening the said public road.

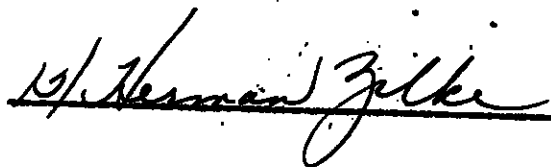
c. That there is only one property owner, namely, Mike Labuda, abutting along the course of the road which the petitioners seek to have opened and laid out, and the purpose of the said petition is so that the said property owner may sub-divide his land into lots and enter into a speculative venture for the purpose of the sale of the said lots.

d. That the said property owner has opened the said road without the consent and authority of your petitioners, and has done so in a negligent manner causing the diversion of water courses along the aforesaid road and by reason of the said diversion of water courses, the drainage water has been diverted on to the properties of other citizens and residents of the Township of Lower Yoder owning property below the aforesaid road, and the Supervisors have received many and numerous complaints of the damages now being caused to the aforesaid property by reason of the action of the said Mike Labuda.

e. The Township of Lower Yoder is without funds to pave and improve the aforesaid street or any other streets at the present time in the Township of Lower Yoder, and if the prayer of the petition to open said road were to be granted, the Township would not be able to improve the same at the present time.

WHEREFORE, your petitioners pray that the Viewers appointed by your Honorable Court refuse to recommend the laying out and opening of the aforesaid road for the reasons above set forth, and that your Honorable Court dismiss the petition at the costs of the petitioners.

And they will ever pray, etc.

  
\_\_\_\_\_

  
\_\_\_\_\_  
SUPERVISORS OF LOWER YODER TOWNSHIP

STATE OF PENNSYLVANIA :  
COUNTY OF CAMBRIA : SS:  
:

Personally appeared before me, a Notary Public in and for said County and State, HERMAN ZILKIE and FRANK S. FATULA, majority members of the Board of Road Supervisors of the Township of Lower Yoder, who being duly sworn according to law, depose and say that the Answer to the within petition is true and correct to the best of their knowledge and belief.

Herman Zilkie

Frank S. Fatula

Sworn and subscribed before me this 16th day of July, A.D., 1946.

Samuel R. Frances  
Notary Public

My commission expires at the end of the next session of Senate.

IN THE COURT OF QUARTER  
SESSIONS OF CAMBRIA CO.  
PENNSYLVANIA

No. 3 June Sessions 1946

IN RE: Appointment of  
Viewers to view and make  
recommendation concerning  
the opening and laying out  
of public road in Lower  
Yoder Township, Cambria  
Co., Pennsylvania.

REPORT OF VIEWERS.

*Filed 8/1/46*

Nov by 7 9-1946 ~~Report~~

~~file~~ ~~set~~ approved now.

By the Court  
Hester  
Judge

may  
In re: Order to view proposed  
public road in Lower Yoder  
Township, County of Cambria and  
State of Pennsylvania

In the Court of Quarter  
Sessions of Cambria County  
Pennsylvania.  
No. 3 June Sessions 1946.

REPORT OF VIEWERS

To the Honorable, the Judges of the above named Court,  
we, the undersigned Viewers, appointed by the annexed order of the  
Court to view the proposed road within mentioned, respectfully  
report:

That we have been duly sworn or affirmed as members of  
the Permanent Board of Viewers of Cambria County, as shown by the  
records of the Court; that having given due public notice of the  
time and place of meeting, by posting notices as required by law  
along the route and at the terminal of the said proposed new road,  
as evidenced by copy of said notice hereto attached and by service  
of said notice upon the Commissioners of Cambria County, the Super-  
visors of Lower Yoder Township and the solicitor of Lower Yoder  
Township, evidence of which is shown by copies of said notices hereto  
attached and made a part of this report; that we met in accordance  
with the notice given on the 23rd day of July A.D. 1946 at 10:30  
a.m. D.S.T. and proceeded with the duties of our appointment and  
viewed the premises and route of the proposed new road; that during  
the view two property owners and two supervisors of Lower Yoder  
Township and all three viewers were present; that the proposed new  
road is now temporarily opened as a private road and runs through  
a proposed plan of lots, upon which three houses are built; two  
at the end of Westmont Street and one at the extreme end of the  
road going on to Landon Street; that over almost the entire length  
of this road, there has been no building; that after hearing all  
interested persons present at the view and the Supervisors of  
Lower Yoder Township, we find that it would be an unwarranted hardship  
on the Township of Lower Yoder to open this road and maintain it  
for public use, therefore we recommend that the prayer of the  
petitioners be refused.

Signed by the Members of the Board of Viewers this  
twenty-sixth day of July, 1946.

Robert G. Mayer,  
CHAIRMAN

Theodore W. Hunt

James M. Carr

In re: Order to view proposed  
public road in Lower Yoder  
Township, County of Cambria  
and State of Pennsylvania.

In the Court of Quarter  
Sessions, of Cambria County  
Pennsylvania.  
No. 3 June Sessions 1946.

To Robert Mayer, Theodore Hunt and James McCann

To Robert Mayer

July 11	Data and preparing notices of View	\$ 12.00	
	Stenographer, stationery and stamps	2.80	
12	Postings and serving notices of View	12.00	
	Mileage, 15 miles @ \$.10	1.50	
23	Making View	12.00	
	Mileage, 12 miles @ \$.10	1.20	
24	Securing data, and making draft -Engineering	11.00	
	Tracing paper, 1 linen print and two paper prints	1.50	
26	Data and preparing report Stenographer and Stationery	12.00	
		2.35	
31	Filing report of Viewers	12.00	
	Mileage - 40 miles @ \$.10	4.00	
			<u>\$84.35</u>

OCT 9 1946 CERTIFIED

To Theodore Hunt

July 23	Making View	\$ 12.00	
	Mileage, 39 miles @ \$.10	3.90	\$ 15.90

OCT 9 1946 CERTIFIED

To James McCann

July 23	Making View	\$ 12.00	
	Mileage, 17 miles @ \$.10	1.70	13.70

1946 CERTIFIED

TOTAL AMOUNT OF VIEW- - - - - \$ 113.95

OCT 9 1946 CERTIFIED

I hereby certify that the above bill is an exact duplicate  
of the bill presented to the Cambria County Commissioners.

*Robert Mayer, Chairman*

Robert Mayer, Chairman  
Board of View

In re: Order to view proposed  
public road in Lower Yoder  
Township, County of Cambria and  
State of Pennsylvania.

In the Court of Quarter  
Sessions of Cambria County  
Pennsylvania.  
No. 3 June Sessions 1946.

Notice of View

We, the undersigned viewers, appointed by the above named Court for the purpose of viewing and acting upon petition of the Owners to have a township road accepted. Beginning at the intersection of the Township Road, described as Westmont Street on the hereinafter mentioned Plan of Lots and Arlington Avenue; thence, in a northwesterly direction along Arlington Avenue to the intersection of Arlington Avenue and Landon Street, a distance of approximately 2,000 feet. Being marked, known and designated on the plan of lots, situate in Edgewood, Lower Yoder Township, County of Cambria and State of Pennsylvania, as laid out by the S. E. Dickey & Company, on June 26, 1923, for Clark C. Grazier Estate, and shown by blue print. Will meet at the place of beginning on the twenty-third day of July, 1946, at 10:30 o'clock a.m. D.S.T. for the purpose of performing the duties of our appointment at which time and place all interested persons may appear and be heard.

Robert G. Mayer  
Theodore Hunt  
James McCann

Viewers

July 12, 1946

*July - 1946 - 1946*

*Accepted  
H. F. Don*

In re: Order to view proposed  
public road in Lower Yoder  
Township, County of Cambria and  
State of Pennsylvania.

In the Court of Quarter  
Sessions of Cambria County  
Pennsylvania.  
No. 3 Aug Sessions 1946.

Notice of View

We, the undersigned viewers, appointed by the above  
named Court for the purpose of viewing and acting upon petition  
of the owner to have a township road accepted. Beginning at  
the intersection of the Township Road, described as Westmont Street  
on the hereinafter mentioned Plan of Lots and Arlington Avenue,  
thence in a northwesterly direction along Arlington Avenue to  
the intersection of Arlington Avenue and Linden Street, a distance of  
approximately 2,000 feet. Being marked, known and designated on the  
plan of lots, situate in Edgewood, Lower Yoder Township, County of  
Cambria and State of Pennsylvania, as laid out by the S. E. Dickey,  
& Company, on June 23, 1925, for Clark G. Graziop Estate, and shown  
by blueprint. Will meet at the place of beginning on the twenty-third  
day of July, 1946, at 10:30 a.m. P.M.T. for the purpose of performing  
the duties of our appointment at which time and place all interested  
persons may appear and be heard.

Robert G. Hayer  
Theodore Rued  
James McGinn

Viewers

July 12, 1946

July 11, 1946

Attorney Samuel DiFrancesco  
702 First National Bank Bldg.,  
Johnstown, Pa.

Dear Sir:

Enclosed herewith please find copy of  
"Notice of View" for No. 3 June Sessions 1946.

Yours very truly,

Robert G. Mayer  
Chairman of Board of Viewers

RGM:wb  
Encl:1

July 11, 1946

Mr. Herman Zilke  
839 Virginia Avenue  
Johnstown, Pa.

Dear Sir:

Enclosed herewith please find copy of  
"Notice of View" for No. 3 June Sessions 1946.

Yours very truly,

Robert G. Mayer  
Chairman of Board of Viewers

RGM:wb  
Encl: 2

July 11, 1946

Mr. Carl J. Kohler  
520 Fairfield Avenue  
Johnstown, Pa.

Dear Sir:

Enclosed herewith please find copy of  
"Notice of View" for No. 3 June Sessions 1946.

Yours very truly,

Robert G. Mayer  
Chairman of Board of Viewers

RGM:wb  
Encl:1

July 11, 1946

Mr. Frank S. Fatula  
R.D.#5,  
Johnstown, Pa.

Dear Sir:

Enclosed herewith please find copy of  
"Notice of View" for No. 3 June Sessions 1946.

Yours very truly,

Robert G. Mayer  
Chairman of Board of Viewers

RGM:wb  
Encl:1

SAMUEL R. DI FRANCESCO

ATTORNEY AT LAW

JOHNSTOWN, PENNSYLVANIA

July 16, 1946

Mr. Robert G. Mayer  
1092 Estey Street  
Johnstown, Pa.

Dear Sir:

I am herewith enclosing copy of Answer I filed to the petition to open and lay out a public road in Lower Yoder Township. We trust that you will take into consideration the objections therein raised.

Yours very truly,

*Samuel R. Di Francesco*  
Samuel R. Di Francesco

SRD/mm

Commonwealth of Pennsylvania, }  
County of Cambria. } SS.

At a Court of Quarter Sessions of the Peace of the County of Cambria held at Ebensburg, in the said County, on the 8th day of July A. D. 1946, before the Honorable Judge of the said Court: Upon the petition of divers inhabitants of the Township of Lower Yoder, in the said County, setting forth that they labor under inconvenience for want of a Public road or highway, ~~to lead from~~

BEGINNING at the intersection of the Township Road, described as Westmont Street on the hereinafter mentioned Plan of Lots and Arlington Avenue; thence, in a northwesterly direction along arlington Avenue to the intersection of Arlington and Landon Street, a distance of approximately 2,000 feet.

BEING marked, known and designated on the Plan of Lots, situate in Edgewood, Lower Yoder Township, County of Cambria and state of Pennsylvania, as laid out by the S.E. Diokey and Company, on June 26, 1923, for Clark C. Grazier Estate, and shown by blue print.

and therefore praying the Court to appoint proper persons to view and lay out the same according to law. The Court, upon due consideration had of the premises, do order and appoint

Robert G. Mayer, Theodore Hunt ~~McKenrick~~ and James McCann

viewers, to view the ground proposed for said road, and if they view the same, and shall agree that there is occasion for such road, they shall proceed to lay out the same, having respect to the shortest distance and the best ground for a road, and in such manner as shall do the least injury to private property, and also be as far as practicable, agreeable to the desires of the petitioners, and that they make a report of their proceedings to the next Court of Quarter Sessions to be held for said County, stating particularly whether they judge the same necessary for a public or private road, together with a plot or draft thereof, and the courses and distances, and references to the improvements through which it may pass.



By the Court.  
MCKENRICK, J.

Attest:

J. Dean Joy, Clerk.  
J. DEAN JOY

NOTE. "It shall be the duty of all persons appointed in the several counties of this Commonwealth to view and review any public or private road or bridge, if they shall decide in favor of locating said road or bridge, to endeavor to procure from the person or persons over whose land such location may be made releases from all claims for damages that might arise from the opening of such road or the building of such bridge; and in every case where said viewers shall fail to procure such releases, and it shall appear to them that any damages will be sustained, it shall be their duty to assess the damages and make report thereof signed by a majority of their number, and return the same, together with all releases obtained, to the Court of Quarter Sessions, and the damages so assessed shall be conclusive, or may be subject to appeal, review or modification, as may be provided by existing laws in the different counties of this Commonwealth."

"The persons appointed as aforesaid shall view such ground, and if they shall agree that there is occasion for a road, they shall proceed to lay out the same, having respect to the shortest distance, and the best ground for a road, and in such manner as shall do the least injury to private property, and also be, as far as practicable, agreeable to the desire of the petitioners."

"The viewers, as aforesaid, shall make report at the next term of said Court, and in the said report shall state particularly: First, who of them were present at the view, second, whether they were severally sworn or affirmed; third, whether the road desired be necessary for a public or private road; they shall also annex and return to the Court a plot or draft thereof, stating the courses and distances, and noting briefly the improvements through which it may pass; and, whenever practicable, the viewers shall lay out the said roads at an elevation not exceeding five degrees (except at the crossing of ravines and streams), where, by moderate filling and bridging, the declination of the road may be preserved within that limit."

NO. 3, June SESSIONS, 19/46

Order to view Proposed Public

Road, Lower Yoder Township

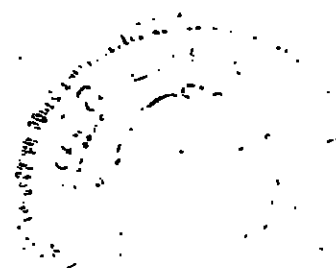
Viewers

Robert G. Mayer

Theodore Hunt

James McCann

Clerk: \_\_\_\_\_ 90 cts.



No. 3

JUNE  
September Term 1946

IN THE COURT OF QUARTER  
SESSIONS OF CAMBRIA COUNTY,  
PENNSYLVANIA.

In Re:

APPOINTMENT OF VIEWERS TO  
VIEW AND MAKE RECOMMENDA-  
TION CONCERNING THE OPEN-  
ING AND LAYING OUT OF  
PUBLIC ROAD IN LOWER YODER  
TOWNSHIP, CAMBRIA COUNTY,  
PENNSYLVANIA

PETITION TO OPEN  
AND  
LAY OUT PUBLIC ROAD

*Filed 7/8/46*

Harry E. Simmons, Esquire  
614-615 U.S. Nat'l. Bank  
Johnstown, Penna. Bldg.

and, now, July 8, 1946, acceptance of notice  
of intention to file the within petition for the  
Appointment of trustees to open and keep out  
of public road in Tappan York Township,  
Columbia County is hereby acknowledged  
and the issuance of a rule is waived.  
Commissioner of Columbia County  
By H. J. Don  
clerk





D E C R E E

AND, NOW, *July 8* A. D., 1946, the foregoing petition having been presented in open Court, read and duly considered, IT IS ORDERED AND DECREED THAT

*Robert G. Meyer, Theodore Hunt and James McCann*  
are hereby appointed to view the portions of highway described in the foregoing petition and to make recommendations concerning the opening and laying of the said portion of highway, according to law. *Returnable first Monday Sept Term 1946*

BY THE COURT:

*J. M. Kenner*  
\_\_\_\_\_  
J.

Nat Microfilm  
RO# 3 June 1946  
Map#1

LANDON

STREET

ARLINGTON

10  
11  
12

2280.23'

15  
16  
17  
18

AVENUE

ST.

GRADIER

WESTMONT

STREET

IN RE: ORDER TO VIEW PROPOSED  
PUBLIC ROAD IN LOWER YODER  
TOWNSHIP, COUNTY OF CAMBERN  
& STATE OF PENNA.

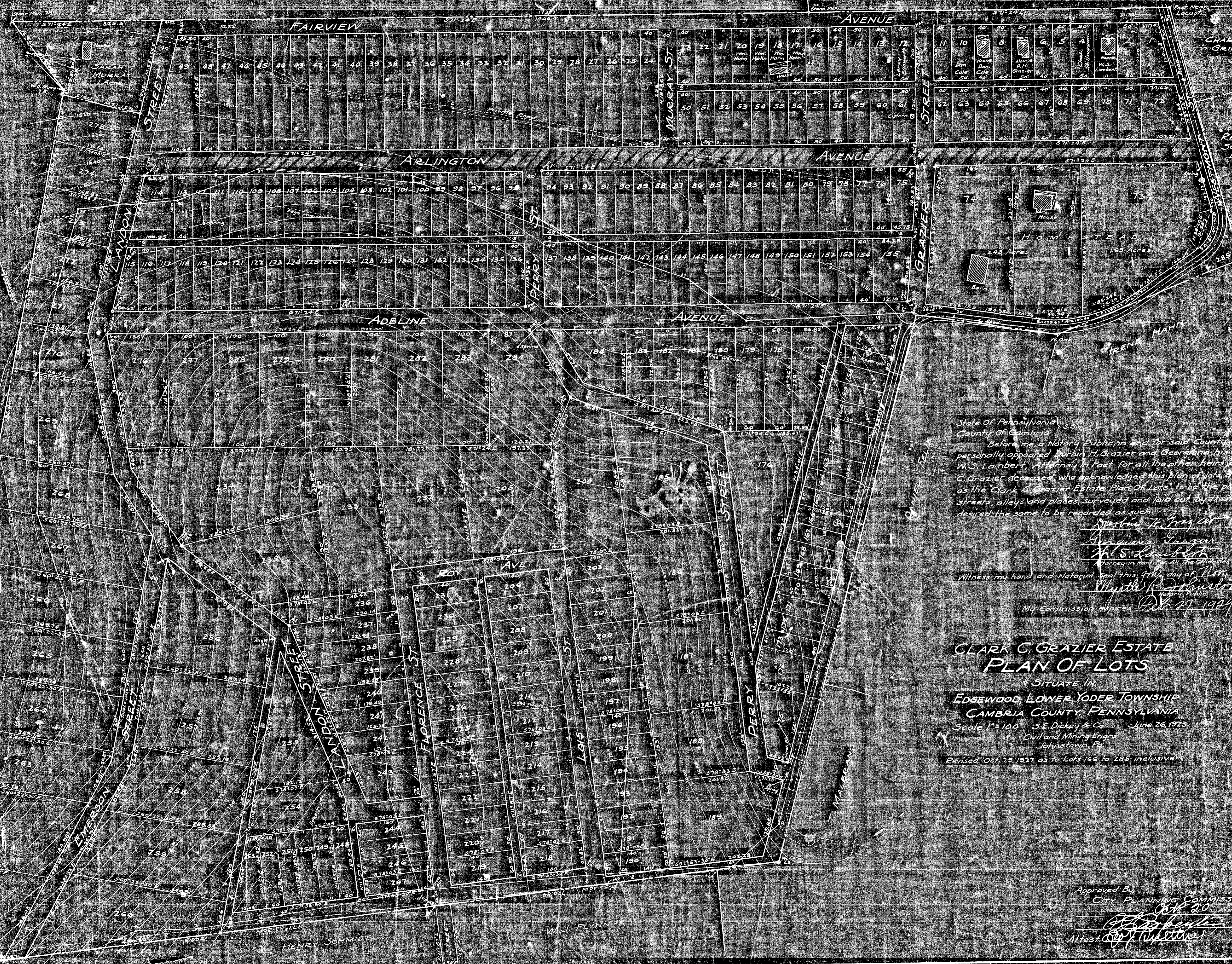
IN THE COURT OF QUARTER  
SESSIONS OF CAMBERN COUNTY  
PENNSYLVANIA.  
NO. 5 JUNE SESSION, 1946.

TRACED BY GRANT & CAFFLIN, ENGRS. JOHNSTOWN, PA. 7-12-46

Q2-1A-59

Rat Microfilm

RD#3 June 1946  
map #2



State of Pennsylvania  
 County of Cambria  
 Before me, a Notary Public in and for said County and State, personally appeared **Arbin H. Grazier and Georgiana his wife**, and **W.S. Lambert**, Attorney in Fact for all the other heirs of **Clark C. Grazier**, deceased, who acknowledged this plan of lots, designated as the **Clark C. Grazier Estate Plan of Lots**, to be the plan of lots, streets, alleys and places surveyed and laid out by them and desired the same to be recorded as such.

*Arbin H. Grazier*  
*Georgiana Grazier*  
*W.S. Lambert*  
 Attorney in Fact for all the other heirs

Witness my hand and Notarial Seal this 4th day of **Nov** A.D. 1927  
*Myself*  
 My Commission expires **Dec 27, 1929**

**CLARK C. GRAZIER ESTATE**  
**PLAN OF LOTS**  
 SITUATE IN  
**EDGEWOOD, LOWER YODER TOWNSHIP**  
**CAMBRIA COUNTY, PENNSYLVANIA**  
 Scale 1" = 100' S.E. Dickey & Co. June 26, 1923  
 Civil and Mining Engineers  
 Johnstown, Pa.  
 Revised Oct. 29, 1927 as to Lots 166 to 285 inclusive

Approved By  
 CITY PLANNING COMMISSION  
 Oct 20 1927  
*[Signature]* Pres.  
*[Signature]* Secy.