

#1 June 1948

IN THE COURT OF QUARTER SESSIONS  
OF CAMBRIA COUNTY, PENNSYLVANIA

IN RE: PETITION FOR APPOINTMENT OF  
VIEWERS TO ASSESS DAMAGES AS IT  
MAY AFFECT THE PROPERTY OF JOSEPH  
SHERRY OF THE TOWNSHIP OF ALLEGH-  
ENY, COUNTY OF CAMBRIA, PENNA.

*Filed 9/2/48*

G. RANDOLPH MYERS  
ALTON A. McDONALD

ATTORNEYS AT LAW

213 S. CENTER STREET - OPPOSITE COURT HOUSE  
EBENSBURG, PENNSYLVANIA

IN THE COURT OF QUARTER SESSIONS, CAMBRIA COUNTY, PENNSYLVANIA

No. 1 June Sessions, 1948

IN RE: PETITION FOR APPOINTMENT OF VIEWERS  
TO ASSESS DAMAGES AS IT MAY AFFECT THE  
PROPERTY OF JOSEPH SHERRY OF THE TOWNSHIP  
OF ALLEGHENY, COUNTY OF CAMBRIA, PENNA.

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The Petition of Joseph Sherry respectfully represents:

1.

That inadvertently the land in question in the above stated proceedings was mentioned as being situate in the Township of Allegheny, County of Cambria and State of Pennsylvania, while, as a matter of fact, said land is situate in the Township of Clearfield, County of Cambria and State of Pennsylvania.

WHEREFORE, your petitioner prays that the records in said proceeding be amended so as to show the correct location of said land.

*Joseph Sherry*

State of Pennsylvania    |  
                                  |  
County of Cambria       |

Joseph Sherry, being duly sworn according to law does depose and say that as the petitioner above named that the statements set forth in the foregoing petition are true and correct.

*Joseph Sherry*

Sworn and subscribed before

me this 7th day of August

A. D. 1948.

*Catherine Agas*  
Notary Public

My Commission expires May 1, 1949

D E C R E E

AND NOW, August 27 1948, the foregoing petition having been read and considered, it is ordered that the amendment within prayed for be allowed and the records in the above stated proceeding accordingly corrected, so as to show the location of the land in question to be Clearfield Township instead of Allegheny Township, Cambria County, Pennsylvania, as originally set forth.

A handwritten signature in cursive script, appearing to read "Griffith", is written over a horizontal line.

# I JUNE Sessions 1948

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In the Court of Quarter Sessions  
of Cambria County, Pennsylvania

In re: Claim of Joseph Sherry,  
Allegheny Township,  
Cambria County,  
Pennsylvania

Petition for the Appointment of  
Viewers

*Filed April 23-1948*

Alton A. McDonald  
C. RANDOLPH MYERS  
ATTORNEY AT LAW  
EBENSBURG, PENNSYLVANIA

AND NOW, ~~January~~ <sup>April</sup> 19<sup>th</sup>, 1948, Receipt is acknowledged of a copy of the within petition, the issuance of the Rule upon the County Commissioners of Cambria County to appear and show cause why viewers should not be appointed is hereby waived and it is agreed that viewers should be appointed as prayed for in said petition.

COMMISSIONERS OF CAMBRIA COUNTY

By Philip N. Young  
County Solicitor

IN THE COURT OF QUARTER SESSIONS OF CAMBRIA COUNTY, PENNSYLVANIA

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition of Joseph Sherry, respectfully represents:

1.

That by deed dated November 15, 1939 and recorded in Cambria County in Deed Book Volume 485 at Page 608, he became the owner of all that certain tract of land situate in the Township of Allegheny, County of Cambria and State of Pennsylvania, bounded and described as follows:

Beginning at a pine stump in line of land of heirs of Joseph A. Conrad; thence by said land South 58° West 28 perches to a post in public road; thence along center of public road and land of Ambrose Maloney the following two courses and distances: North 78° West 81 perches to a post and North 22° East 11 perches to pointers in line of land of John Kratzer heirs; thence partly by land of John Kratzer heirs and partly by land of Joseph A. Conrad heirs, South 29° East 123 perches to pine stump, the place of beginning; containing 36 acres and allowance of six per cent for roads, or 38 acres 25 perches net measure.

2.

That in the construction, re-construction and improvements of State Highway No. 36 between the Boroughs of Ashville and Chest Springs in the said County of Cambria, said property has sustained serious loss and damage and that compensation for such damage has not been fixed or agreed between the County of Cambria and your petitioner.

Your petitioner therefore prays your Honorable Court to appoint three viewers from the Board of Viewers of the County of Cambria to view the premises and assess the damages, if any, by reason of the construction, re-construction, and improvement of said highway, and to assess the benefits, if any, and to report the same to your Honorable Court in such case made and provided.

And your petitioner will ever pray.

*Joseph Sherry*

State of Pennsylvania |  
                                  : SS:  
County of Cambria ( |

Joseph Sherry, being duly sworn according to law, did depose and say that the statements set forth in the foregoing petition are true and correct to the best of his knowledge, information and belief.

Sworn and subscribed before me  
this 21 day of January,  
A. D., 1948.

Joseph Sherry

Joseph P. Liddell, Justice of the Peace  
My Com. expires Jan 1/1954

DECREE

And Now, <sup>April</sup> ~~January~~ 19, 1948, the foregoing petition having been read and considered, it is ordered that W. J. Bangardner  
William M. Laine and E. F. Drinegar  
these members of the permanent Board of Viewers of Cambria County, be, and hereby are appointed to view the said premises and make a return of their proceedings according to law.

William M. Laine

COURT OF QUARTER SESSIONS OF  
CAMBRIA COUNTY, PENNSYLVANIA

NO. 1 JUNE SESSIONS, 1948

REPORT OF THE VIEWERS

RE: Petition for Appointment  
of Viewers to assess damages as  
affecting land of JOSEPH SHERRY  
Clearfield Township, Cambria  
County, Pennsylvania.

PROCEEDINGS IN CONDEMNATION

*Filed Sept. 7, 1948*

MAHLON J. BAUMGARDNER  
ATTORNEY AT LAW  
JOHNSTOWN, PENNA.  
SWANK BLDG.

*Sept. 4-1948 - Report Viewers  
Approved  
By the Court  
W. H. K. M. JUDGE*

IN RE: Petition for Appointment of Viewers : In the Court of Quarter  
to Assess Damages as it may Affect the : Sessions, Cambria County,  
Property of Joseph Sherry , Clearfield : Pennsylvania.  
Township. Cambria County, Pennsylvania : No. 1 June Sessions, 1948.

REPORT OF VIEWERS

We, the undersigned Viewers appointed by the above Named Court for the purpose of viewing the above premises and determine and estimate the benefits or damages that have resulted or that may seem likely to result by reason of the construction, re-construction and improvement of State Highway Route Number 36 as affecting the property of Joseph Sherry in the above named Township and located between the Boroughs of Ashville and Chest Springs in the County of Cambria and state aforesaid respectfully report:

That we were duly sworn or affirmed as Members of the Permanent Board of Viewers of Cambria County, Pennsylvania, as shown by the records of the Court; that due public notice of the time and place of the meeting of the said Viewers was given by the posting of ten hand bills upon the premises and by personal service upon Joseph Sherry and upon Maurice Springer, Chief Clerk to the Commissioners of Cambria County and upon C. Randolph Myers, Esq., Attorney for Joseph Sherry the owner of the land affected at least ten days or more prior to the time of the meeting of the Viewers as is evidenced by copies of said Notices hereto attached and further that a copy of said Notice was given to each of the parties upon whom personal service was made.

In pursuance to said notices we met upon the premises on June 19th, 1948 at 9:30 o'clock A. M. Eastern Daylight time and proceeded with the duties of our appointment. There were present as said view Mahlon

Baumgardner, William J. McGrain and E. F. Dunagan, Viewers, Joseph Sherry the owner and C. Randolph Myers, Attorney for Mr. Sherry. No member of the Board of County Commissioners nor the Chief Clerk nor their Solicitor were in attendance. We made a careful inspection of all the elements of damages going through the house of Mr. Sherry and also the barn, the taking of fruit trees and all other matters appertaining to the said construction, re-construction and improvement of said Route Number 36 as affecting the real estate of the petitioner. We traveled over the entire route of highway as it affects the aforesaid ground. C. Randolph Myers, Esq., attorney aforesaid asked that the time for the taking of testimony be continued to July 3 because of the inability of one of his witnesses being able to attend the view today. In lieu of the fact that no party in interest of the County of Cambria the time of the hearing was continued to July 3, 1948 at 9:30 o'clock A. M. Eastern Daylight time at Grange Hall, Chest Springs. On Monday July 5, 1948 notice of the time and place of the hearing was given to Maurice Springer, Chief Clerk to the County Commissioners. Some days later the Chairman of the View was interviewed with reference to the changing of the place of the taking of testimony- to wit Grange Hall, Chest Springs. C. Randolph Myers, Esq, Attorney for the petitioner and the other two members of the Board were notified as to the change of the place of the taking of testimony from Grange Hall, Chest Springs to Court Room Number 4, Court House, Ebensburg, Cambria County, Pennsylvania. All parties in interest were agreeable to the change of place. Pursuant to adjournment had on June 19th, 1948 the three viewers met in Court Room Number 4, on July 5th, 1948 at 9:30 o'clock A. M. EDT and proceeded with the duties of our appointment. Present were the three viewers, C. Randolph Myers, Attorney for the Petitioner- Joseph Sherry, the owner and G. C. Dietrick, H. E. Krug, John L. Little; Maurice Springer, Chief Clerk to the County Commissioners, Philip N. Shettig, Solicitor for the Board and Cyrus Davis, member of the Board of County Commissioners. After considerable delay

it was agreed upon that the hearing be continued until Thursday July 15, 1948 at 7:30 P. M. and the Office of the County Commissioners in the Court House as the time and place for the taking of testimony. The County Commissioners had no witnesses at the hearing .

Pursuant to the continuance agreed upon the three viewers met in the County Commissioners Office, Court House, Ebensburg, Cambria County, Pennsylvania on Thursday evening July 15, 1948 for the purpose of hearing all evidence. Present at the hearing were C. Randolph Myers, Esq. Attorney for Joseph Sherry, owner, Joseph Sherry, G. C. Dietrick, H. E. Krug, John L. Little witnesses for the Petitioner and Philip N. Shettig, Solicitor for the Commissioners of Cambria County, Maurice Springer, Chief Clerk to the County Commissioners and Thomas A. Owens, Member of the Board of County Commissioners. Joseph Sherry, G. C. Dietrick, H. E. Krug and John L. Little after being qualified were called by the owner to establish the value of the real estate in question immediately before the improvement was made and immediately after the improvement as affected by same. The witnesses were cross examined by the Solicitor for the County, Mr. Shettig. The County of Cambria presented no testimony at the hearing . The hearing therefore gave only the one side of the testimony which was discussed after the witnesses testified. After further discussion by all of the parties it was decided that an Exhibit of Schedule be prepared and presented on July 29 at 7:30 o'clock P. M. in the County Commissioners Office aforesaid. The three viewers met after the hearing and discussed the testimony and having been on the ground and having taken into consideration all the elements and matters pertinent thereto were discussed and taken into consideration in determining and estimating the amount of damages.

That having viewed said premises and making a careful inspection of same and hearing all evidence and testimony concerning said real estate and taking into consideration all the elements of damages and benefits accruing to said construction, re-construction and improvement of of said Highway

Route #36 as well as all matters before us, we estimated and determined the quality, quantity of land taken, occupied and injured by the widening of said state highway as well as all other damages, and having due regard to and making just allowances for the damages which have resulted or which may seem likely to result to the said owner of the land aforesaid, we estimated and determined the amount of damages and prepared a schedule thereof. All parties in interest by agreement waived the legal requirements of advertising the time and place of the Exhibit of Schedule and mutually set the County Commissioners Office and July 29, 1948 at 7:30 o'clock P.M. as the place and time for said Exhibit of Schedule. Pursuant to said understanding all the parties in interest appeared at said County Commissioners Office at stated time and having agreed, estimated and determined the amount of damages and Schedule of damages was offered and all testimony and exceptions thereto heard. That after hearing all exceptions and testimony offered and giving all matters before us due consideration, we are of the opinion that the said land of Joseph Sherry affected by the said improvements have been damaged; therefore we assess with no benefits and damages in the amount of FOURTEEN HUNDRED SEVENTY (\$1470.00) DOLLARS.

That we are of the opinion that the damages above referred and shown should be paid to Joseph Sherry by the County of Cambria as the interest of Joseph Sherry may appear.

WITNESS our hands this fourth day of September A. D. 1948.

Melton Bannard  
E. F. Durigan  
W. M. Grier  
Viewers

IN RE: Petition for Appointment of Viewers : In the Court of Quarter  
to assess Damages as it may affect the : Sessions, Cambria County,  
property of Joseph Sherry of Clearfield : Pennsylvania.  
Township, Cambria County, Penna. : No. 1 June Sessions, 1948

The County of Cambria in account with Mahlon Baumgardner, William J. McGrain and E. F. Dunegan.

To Mahlon Baumgardner:

2 June 1948-	Data and Preparing Notices to View	-	\$12.00
55 June 1948-	Posting Notices to View	-	12.00
	Mileage 28 miles	-	2.80
119 June 1948-	Making of View	-	12.00
	Mileage 23 miles	-	2.80
3 July 1948-	Taking of Testimony- hearing continued	-	12.00
15 July 1948-	Taking of Testimony concluded	-	12.00
28 July 1948-	Preparing and Exhibit of Schedule	-	12.00
4 Sept 1948-	Preparing and filing of Report	-	<u>12.00</u> \$89.60

To William J. McGrain

19 June 1948-	Making of View	-	\$12.00
	Mileage 30 miles	-	3.00
3 July 1948-	Taking of Testimony- Hearing continued	-	12.00
	Mileage 16 miles	-	1.60
15 July 1948-	Taking of Testimony concluded concluded	-	12.00
	Mileage 16 miles	-	1.60
28 July 1948-	Exhibit of Schedule	-	12.00
	Mileage 16 miles	-	<u>1.60</u> \$55.80

To E. F. Dunegan

19 June 1948-	Making of View	-	\$12.00
19 June 1948-	Mileage 30 miles	-	3.00
3 July 1948-	Taking Testimony- Hearing Continued	-	12.00
	Mileage 16 miles	-	1.60
15 July 1948-	Taking of Testimony concluded	-	12.00
	Mileage	-	1.60
28 July 1948-	Exhibit of Schedule	-	12.00
	Mileage	-	<u>1.60</u> \$55.80

NO 1.20

IN RE: Petition for Appointment of Viewers : In the Court of Quarter Sessions  
to Assess damages as it may affect the : of Cambria County, Penna.  
property of Joseph Sherry of the Township :  
of Allegheny, County of Cambria, Penna. : No. 1 June Sessions, 1948

NOTICE TO VIEW

We, the undersigned Viewers, appointed by the above named Court to view the above named premises and determine and estimate the damages that have resulted or that may seem likely to result by reason of the construction, re-construction and improvement of State Highway Route Number 36 as affecting the property of Joseph Sherry situate in the above named Township and located between the Boroughs of Ashville and Chset Springs in the County of Cambria will meet on the premises on June 19th, 1948 at 9:30 o'clock A. M. Eastern Daylight time for the purpose of performing the duties of our appointment and for the further purpose of hearing all evidence and the taking of testimony pertinent thereto.

Mahlon J. Baumgardner

William J. McGrain

E. F. Dunegan

2 June 1948

Viewers

AND NOW 19th day of June, 1948 I hereby acknowledge receipt of the above Notice to View and accept service of same as Chief Clerk to the Commissioners of Cambria County, Penna.

Maaurice A. Springer  
Chief Clerk County Commissioners.

IN RE: Petition for Appointment of Viewers  
to assess damages as it may affect the  
property of Joseph Sherry of the Township  
of Allegheny, County of Cambria, Penna.

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

No. 1 June Sessions, 1948.

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We, the undersigned Viewers, appointed by the above named Court to view the above named premises and determine and estimate the damages that have resulted or that may seem likely to result by reason of the construction, re-construction and improvement of State Highway Route Number 36 as affecting the property of Joseph Sherry situate in the above named Township and located between the Boroughs of Ashville and Chest Springs in the County of Cambria will meet on the premises on June 19th, 1948 at 9:30 o'clock A. M. Eastern Daylight time for the purpose of performing the duties of our appointment and for the further purpose of hearing all evidence and the taking of testimony pertinent thereto.

Mahlon J. Baumgardner



William J. McGrain

E. F. Dunegan.

2 June 1948

Viewers.

AND NOW 4 June 1948 I hereby accept service of the above Notice to View as Attorney for Joseph Sherry and acknowledge receipt of copy of said Notice.

  
Attorney for Joseph Sherry  
and Petitioner  


IN RE: Petition for Appointment of Viewers  
to assess damages as it may affect the  
property of Joseph Sherry of the Township  
of Allegheny, County of Cambria, Penna.

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

No. 1 June Sessions, 1948.

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Mahlon J. Baumgardner

William J. McGrain

E. F. Dunegan.

Viewers.

8 June 1948

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

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition of Joseph Sherry, respectfully represents;

1.

That by deed dated November 15, 1939, and recorded in Cambria County in Deed Book, Volume 485 at Page 608, he became the owner of all that certain tract of land situate in the Township of Allegheny, County of Cambria and State of Pennsylvania, bounded and described as follows:

Beginning at a pine stump in line of land of heirs of Joseph A. Conrad; thence by said land South 58° West 28 perches to a post in public road; thence along center of public road and land of Ambrose Maloney the following two courses and distances: North 78° West 81 perches to a post and North 22° East 11 perches to pointers in line of land of John Kratzer heirs; thence partly by land of John Kratzer heirs and partly by land of Joseph A. Conrad heirs, South 29° East 123 perches to pine stump, the place of beginning; containing 36 acres and allowance of six per cent for roads, or 38 acres 25 perches net measure.

2.

That in the construction, re-construction and improvements of State Highway No. 36 between the Boroughs of Ashville and Chest Springs in the said County of Cambria, said property has sustained serious loss and damage and that compensation for such damage has not been fixed or agreed between the County of Cambria and your petitioner.

Your petitioner therefore prays your Honorable Court to appoint three viewers from the Board of Viewers of the County of Cambria to view the premises and assess the damages, if any, by reason of the construction, re-construction, and improvements of said highway, and to assess the benefits, if any, and to report the same to your Honorable Court in such case made and provided.

And your petitioner will ever pray.

JOSEPH SHERRY.

STATE OF PENNSYLVANIA

COUNTY OF CAMBRIA

SS:

Joseph Sherry, being duly sworn according to law, did depose and say that the statements set forth in the foregoing petition are true and correct to the best of his knowledge, information and belief.

JOSEPH SHERRY.

SWORN AND SUBSCRIBED BEFORE ME

this 21 day of January, A. D.

1948.

JOSEPH P. LIDWELL, JUSTICE OF THE PEACE

My Com. expires Jan. 1, 1954.

(J. P. Seal)

DECREE.

And Now, April 19, 1948, the foregoing petition having been read and considered, it is ordered that M. J. Baumgardner, William McGrain and E. F. Dunnegan three members of the permanent Board of Viewers of Cambria County, be, and hereby are appointed to view the said premises and make a return of their proceedings according to law.

McCANN, P. J.