

Filed Dec. 15, 1941

In the Court of Quarter Sessions
of Cambria County, Pennsylvania
No. *2*, December Term, 1941

IN RE LAYING OUT OF A PUBLIC
HIGHWAY IN THE TOWNSHIP OF
UPPER YODER, CAMBRIA COUNTY,
PENNSYLVANIA.

PETITION FOR APPOINTMENT OF
VIEWERS.

Filed 11/15/41

LAW OFFICES OF
FRANK P. BARNHART
JOHNSTOWN, PENNA.

S. E. DICKEY & CO.
CIVIL MINING AND CONSULTING ENGINEERS
809-811 JOHNSTOWN TRUST BLDG.
JOHNSTOWN, PENNA.

IN RE LAYING OUT OF A
PUBLIC HIGHWAY IN THE
TOWNSHIP OF UPPER YODER,
CAMBRIA COUNTY, PENNSYL-
VANIA

! In the Court of Quarter
: Sessions of Cambria County,
: Pennsylvania
: No. December Term, 1941
!

PETITION FOR APPOINTMENT OF VIEWERS

TO THE HONORABLE THE JUDGES OF THE COURT OF QUARTER SESSIONS
IN AND FOR CAMBRIA COUNTY, PENNSYLVANIA:

The petition of the undersigned inhabitants of the said
Township of Upper Yoder, in the county aforesaid, respectfully
represents:

That your petitioners labor under great inconvenience for
want of a public road or highway in the said Township of Upper
Yoder, to begin at a point in State Highway Route 11007 and
extending South $37^{\circ} 02'$ West nine hundred sixty-nine and seventy-
eight-hundredths (969.78) feet to a forty foot radius circle, the
place of ending. The exact location of the said place of be-
ginning from the nearest intersecting public highway, namely,
Derby Street, is at a distance of five hundred seventy (570) feet,
measured in a northwesterly direction along the center line of
State Highway Route 11007 from said Derby Street.

A print showing the location of said proposed road, as above
described, is hereto attached, made part hereof and marked
"EXHIBIT A".

Your petitioners further represent that notwithstanding the
fact that one of the termini named in the said petition, namely,
the point of ending of said proposed road, is at a point other
than in a public highway or place of public resort, that the said
proposed road is one necessary for public travel.

A copy of the written notice to the Supervisors of Upper Yoder Township of the intended presentation of this application, with the acceptance of service thereon, is hereto attached, made part hereof and marked "EXHIBIT B".

A release of damages whereby the owners of property abutting the aforesaid proposed road, releasing the said Township of Upper Yoder from all damages that they have sustained or may seem likely to sustain by reason of accepting, opening, grading, draining, improving and maintaining said proposed highway, is herewith filed, made part hereof and marked "EXHIBIT C".

Your petitioners therefore pray the Court to appoint three members of the Permanent Board of Viewers of Cambria County to view the ground proposed for such road, and if they see the necessity therefor, lay out the same and make a report of their proceedings to the next sessions of Court.

J. P. Tupper
Arster J. Stubbord
Roy E. Levingood
Peter Hohman Jr
William Heiber
Charles W. Reynolds Jr
Charles Edgar Stump
Ort Saruback

IN RE LAYING OUT OF A PUBLIC
HIGHWAY IN THE TOWNSHIP OF
UPPER YODER, COUNTY OF CAMBRIA
AND STATE OF PENNSYLVANIA

! In the Court of Quarter Ses-
: sions of Cambria County, Pa.
: :
! No. December Sessions, 1941

PRELIMINARY ORDER

NOW, December 15th 1941, the within petition having been presented and considered, a Rule is granted upon the Commissioners of Cambria County, Pennsylvania, to show cause, if any they have, why Viewers should not be appointed as within prayed for; and said Rule is returnable at ten o'clock, A. M. December 29th 1941. Service of this Rule, together with a copy of this petition, shall be made upon the said County Commissioners not less than ten (10) days before the said Return Day.

By the Court
McKenrick
Judge

ACCEPTANCE OF SERVICE BY THE COMMISSIONERS OF
CAMBRIA COUNTY, PENNSYLVANIA

Now, December 15th 1941, service of the above Rule is hereby accepted, together with a copy of the within petition.

H. J. Dow
clerk.

IN RE LAYING OUT OF A PUBLIC
HIGHWAY IN THE TOWNSHIP OF
UPPER YODER, COUNTY OF CAMBRIA
AND STATE OF PENNSYLVANIA

| In the Court of Quarter Ses-
: sions of Cambria County, Pa.
: |
| No. December Term, 1941

DECREE

AND NOW, this 29th day of December, 1941, the
within petition having been read and considered, the Court
appoints S. G. Dickey and James M. Gann
and L. E. Rayler Viewers to view the road herein referred
to and make a report of their proceedings to the next term of
the Court of Quarter Sessions of said County.

By the Court
M. Gann
(M.G.)

"EXHIBIT B"

IN RE LAYING OUT OF A PUBLIC		In the Court of Quarter Sessions
HIGHWAY IN THE TOWNSHIP OF	:	of Cambria County, Penna.
UPPER YODER, COUNTY OF CAMBRIA	:	
AND STATE OF PENNSYLVANIA		No. December Sessions, 1941

NOTICE TO SUPERVISORS

TO CURT BARNHART, D. H. WEIMER AND EPHRAIM HERSHBERGER, SUPERVISORS
OF UPPER YODER TOWNSHIP, CAMBRIA COUNTY, PENNSYLVANIA:

You will please take notice that there will be a petition presented to the Court of Quarter Sessions of Cambria County, at Ebensburg, Pennsylvania, in said county, at ten o'clock, A. M. the 15th day of December, 1941, asking the Court for the appointment of Viewers to view and lay out a proposed road in the Township of Upper Yoder, to begin at a point in State Highway Route 11007 and extending South $37^{\circ} 02'$ West nine hundred sixty-nine and seventy-eight-hundredths (969.78) feet to a forty foot radius circle, the place of ending. The exact location of the said place of beginning from the nearest intersecting public highway, namely, Derby Street, is at a distance of five hundred seventy (570) feet, measured in a northwesterly direction along the center line of State Highway Route 11007 from said Derby Street.

Frank P. Barnhart
ATTORNEY FOR PETITIONERS

December 11, 1941, service of the above stated notice
is hereby accepted.

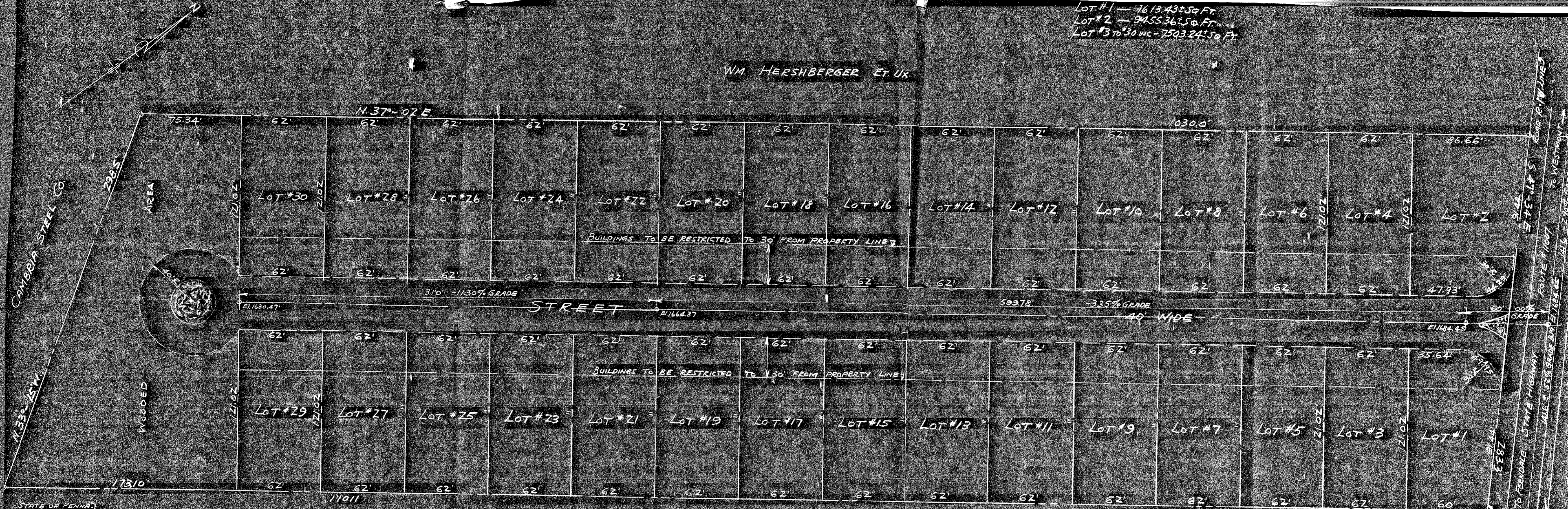
Dust Barnhart

D. H. Weiner

SUPERVISORS OF UPPER YODER TOWNSHIP
CAMBRIA COUNTY, PENNSYLVANIA

LOT #1 - 7613.43 SQ. FT.
 LOT #2 - 9455.36 SQ. FT.
 LOT #3 TO #30 INC - 7503.24 SQ. FT.

WM. HERSHBERGER ET UX.



STATE OF PENNA.
 COUNTY OF CAMBRIA

BEFORE ME A NOTARY PUBLIC IN & FOR SAID COUNTY & STATE PERSONALLY APPEARED CHARLES E STUMP & VIOLA D. STUMP WHO ACKNOWLEDGED THIS PLAN OF LOTS TO BE THE PLAN OF LOTS SURVEYED & LAID OUT BY THEM & DESIRED THE SAME TO BE RECORDED AS SUCH.

Charles E Stump
Viola D Stump

WITNESS MY HAND & NOTARIAL SEAL THIS 11th DAY OF MAY A.D. 1940
 My Commission Expires Dec 11 1941
James Royce Williams
 NOTARY PUBLIC

APPROVED BY
 CITY PLANNING COMMISSION
 May 21 1940
John J. Quinn PRESIDENT
 SECRETARY

GLESSNER HEIRS

HICKORY LANE
 PLAN OF LOTS

CHARLES E STUMP & VIOLA D STUMP
 SITUATE IN UPPER YODER TWP
 CAMBRIA CO. PENNA.
 SCALE 1"=40' FEB 28 1940
 KARL CHRISTIE-RP ENGR - JOHNSTOWN, PA.

7-D-157

"EXHIBIT C"

TO THE SUPERVISORS OF UPPER YODER TOWNSHIP,
CAMBRIA COUNTY, PENNSYLVANIA.

Petition and release of damages for the opening, grading, draining, improving and maintaining of a certain dedicated Highway in Upper Yoder Township, Cambria County, Pennsylvania.

We the undersigned, your petitioners, respectively represent:

That we are the owners of all the property abutting on a 40' width street, a dedicated Highway in the Hickory Lane Plan of Lots. That said 40' width street is necessary as a Public Highway.

Therefore, we respectfully petition your honorable body to proceed with the necessary legislation required for accepting, opening, improving and maintaining said 40' width street as a Public Highway in the Township of Upper Yoder, beginning at a point in State Highway Route 11007 and extending S.37° 02'W., 969.78' to a 40' radius circle to the place of ending. The exact location of said place of beginning from the nearest intersecting Public Highway, namely, Derby Street is at a distance of 570' measured in a Northwesterly direction along the center line of State Highway Route 11007 from said Derby Street. The exact place of ending is at the beginning of a 40' radius circle S.37° 02'W., 969.78' from the intersection of the center line of said 40' width street with the center line of State Highway Route 11007.

IN CONSIDERATION of the accepting, opening, grading and maintaining of said 40' width street above described, we the undersigned do hereby release the Township of Upper Yoder its officials, agents and employees of any and all damages we have sustained or may seem likely to sustain by reason of accepting, opening, grading, draining improving and maintaining said 40' width street.

Witness our hands and seals this _____ day of April A. D. 1941.

Witness

Signature

Lot Number

Mrs. Geraldine Shaffer	Austin M. Dawson	No 1
Mrs. Geraldine Shaffer	Roy E. Levergood	No 2
Mrs. Geraldine Shaffer	Peter Hohmann Jr.	No 3
Mrs. Mary Hohmann	J. P. Tresser	No 4
Mrs. Geraldine Shaffer	Edgar Stump	

Granted

No. 2 December Sessions 1941.

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

Filed Feb. 3, 1942
J. M. ...

REPORT OF VIEWERS

In Re: order to view and
layout a public road in
Upper Yoder Township, to
begin at a point in state
highway Route 11007.

S. E. DICKEY
JAMES McCANN
L. E. KAYLOR
VIEWERS

*Approved by the Court
this 9th day of March
1942. Breadth fixed at
twenty feet. By the Court
McKenrick
attest A. M. ...*

In re: order to view and lay out | In the Court of Quarter Sessions
a public road in Upper Yoder | of Cambria County, Pennsylvania.
Township, to begin at a point |
in state highway Route 11007. | No. 2 December Sessions, 1941.

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 re-
quired by law along the route and at the termini of the said
proposed new road, as evidenced by copy of said notice hereto
attached, and by service of said notice on the County Com-
missioners of Cambria County and Solicitor for the Supervisors
of Upper 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 27th
day of January A. D. 1942 at 10:00 o'clock A. M. and proceeded
with the duties of our appointment and viewed the premises
and route of the proposed new road. All three Viewers were
present; that said proposed new road is now a dedicated
highway 40' in width and known as Hickory Lane in the Hickory
Lane Plan of Lots as shown on the blue print attached hereto
and made a part hereof, said proposed road being colored
green thereon; that one of the termini, named in the Petition
and in this Report is at a point other than in a public
highway or place of public resort. The other terminus is in
a public highway, namely, State Highway Route 11007. We find
however, that said proposed road is necessary for public travel
and for the use of property owners abutting thereon. The

description of said proposed road is as follows:

BEGINNING at a point in State Highway Route 11007; thence S.37° 02'W., 969.78' to a circle having a 40' radius the place of ending. The exact location of the place of beginning from the nearest intersecting public highway, namely, Derby Street is at a distance of 570' measured along the center line of State Highway Route 11007 in a Northwesterly direction from said Derby Street. The exact location of the place of ending is S.37° 02'W., 969.78' from State Highway Route 11007 a public highway and the place of beginning; that we have been informed by the Township Solicitors of Upper Yoder Township that they have no objections to the opening of said proposed road; that after taking into consideration all the matters before us we are of the opinion that said road as prayed for by the Petitioners and laid out by us is necessary and convenient for the several houses erected thereon and those hereafter to be erected and will not be burdensome to the taxpayers of Upper Yoder Township. Therefore, we recommend that the prayer of the Petitioners be granted.

We are informed by the Supervisors of Upper Yoder Township that all of the abutting property owners have signed a release of damages, being part of the Petition for said proposed new road which was filed with the court. However, we assess no benefits and no damages to any of the abutting property owners.

Witness our hands and seals this 2nd day of February A. D. 1942.

S. E. Dieker
James McEwen
R. E. Taylor
Viewers.

In Re: order to view and lay out a public road in Upper Yoder Township, to begin at a point in state highway Route 11007. | In the Court of Quarter Sessions of Cambria County, Pennsylvania. | No. 2 December Sessions, 1941.

To S. E. DICKEY, JAMES McCANN, L. E. KAYLOR Dr.

To S. E. DICKEY Dr.

Jan. 17 - Preparing, posting and serving Notices	---	\$ 12.00	
Stenographer	-----	2.00	
Stationery and stamps	-----	.40	
Mileage, 8 miles @ \$.10	-----	.80	
Jan. 27 - Making View	-----	12.00	
Mileage, 8 miles @ \$.10	-----	.80	
Jan. 29 - Data and preparing plan	-----	12.00	
Drawing material, 2 paper and 1 linen blue prints	-----	1.20	
Feb. 2 - Data and preparing report	-----	12.00	
Stenographer	-----	2.00	
Stationery etc.	-----	.30	\$ 55.50

JAN 30 1942 CERTIFIED

To JAMES McCANN Dr.

Jan. 27 - Making View	-----	\$ 12.00	
Mileage, 14 miles @ \$.10	-----	1.40	13.40

To L. E. KAYLOR Dr.

JAN 30 1942 CERTIFIED

Jan. 27 - Making View	-----	\$ 12.00	
Mileage, 44 miles @ \$.10	-----	4.40	16.40

TOTAL COST OF VIEW ----- \$ 85.30

JAN 30 1942 CERTIFIED

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

S. E. Dickey
Chairman of Board of View.

In Re: order to view and lay out
a public road in Upper Yoder
Township, to begin at a point
in state highway Route 11007.

§ In the Court of Quarter Sessions
of Cambria County, Pennsylvania.
No. 2 December Sessions, 1941.

NOTICE OF VIEW

We, the undersigned Viewers, appointed by the above named Court for the purpose of viewing for a proposed public road in Upper Yoder Township, Cambria County, Pennsylvania, beginning at a point in State Highway Route 11007 and extending S.37° 02'W., in the Hickory Lane Plan of Lots, to a circle having a radius of 40' to the place of ending. The exact location of said place of beginning from the nearest intersecting public Highway, namely, Derby Street, is at a distance of 570' measured in a Northwesterly direction along the center line of State Highway Route 11007 from said Derby Street, will meet at the place of beginning at the intersection of Hickory Lane with said Route 11007 on the 27th day of January A. D. 1942 at 10:00 o'clock A. M. for the purpose of performing the duties of our appointment, at which time and place all interested persons may appear and be heard.

S. E. DICKEY
JAMES McCANN
L. E. KAYLOR
VIEWERS

January 16, 1942.

Now this 21st day of January A. D. 1942, service of the above Notice is hereby accepted for the County Commissioners of Cambria County.

By *H. J. Dow*
Chief Clerk.

Return to Mr. Dickey

In Re: order to view and lay out
a public road in Upper Yoder
Township, to begin at a point
in state highway Route 11007.

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

No. 2 December Sessions, 1941.

NOTICE OF VIEW

We, the undersigned Viewers, appointed by the above named Court for the purpose of viewing for a proposed public road in Upper Yoder Township, Cambria County, Pennsylvania, beginning at a point in State Highway Route 11007 and extending S.37° 02'W., in the Hickory Lane Plan of Lots, to a circle having a radius of 40' to the place of ending. The exact location of said place of beginning from the nearest intersecting public Highway, namely, Derby Street, is at a distance of 570' measured in a Northwesterly direction along the center line of State Highway Route 11007 from said Derby Street, will meet at the place of beginning at the intersection of Hickory Lane with said Route 11007 on the 27th day of January A. D. 1942 at 10:00 o'clock A. M. for the purpose of performing the duties of our appointment, at which time and place all interested persons may appear and be heard.

S. E. DICKEY,
JAMES McCANN
L. E. KAYLOR

January 16, 1942.

Now this 17 day of January A. D. 1942, service of the above Notice is hereby accepted for the Supervisors of Upper Yoder Township.

By

Frank P. Baruberson
Solicitor.

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 2 Dec. SESSIONS, 1841

Order to view and lay out a public

road in Upper Yoder Township, to begin

at a point in state highway Route

11007.

Viewers

S. E. Dickey

James McCann

J. E. Keylor

Clerk Joseph C. Wess

90 cts.

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 29th day of December A. D. 1924, before the Honorable Judge of the said Court: Upon the petition of divers inhabitants of the Township of Upper Yoder, in the said County, setting forth that they labor under inconvenience for want of a Public road or highway, to lead from

To begin at a point in State Highway Route 11007 and extend South 37^o 02' West nine hundred sixty-nine and seventy-eight-hundredths (969.78) feet to forty foot radius circle, the place of ending. The exact location of said place of beginning from the nearest intersecting public highway, namely, Derby Street, at a distance of five hundred seventy (570) feet, measured in a northwesterly direction along the center line of State Highway Route 11007 from said Derby Street.

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

S.E. Dickey, James McCann surveyor, and

L.E. Kaylor

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.

McCann P.J.

Attest:

Joseph C. Wess, Clerk.

Roll # 2 Dec. 1944

Rot Microfilm

Ad # 2 Dec. 1941
Not Microfilmed

