

In the Court of Quarter Sessions
of Cambria County, Pennsylvania.
No. 5 December Sessions, 1936.
VACATING AND SUPPLYING PUBLIC ROAD

In Re: Vacating Two Roads and
Supplying One Road in the Township
of Richland, County of Cambria and
State of Pennsylvania.

9

PETITION
FOR APPOINTMENT OF VIEWERS.

Filed: Mar. 1, 1937

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

In Re: Vacating Two Roads and
Supplying one Road in the Township
of Richland, County of Cambria and
State of Pennsylvania

In the Court of Quarter Sessions
of Cambria County, Pennsylvania.
No. December Sessions, 1936.
VACATING AND SUPPLYING A PUBLIC ROAD

PETITION FOR APPOINTMENT OF VIEWERS

TO THE HONORABLE, THE JUDGES OF SAID COURT:

The petition of Fair Blough, F. H. Berkey and William N. Myers, duly qualified and acting supervisors of the Township of Richland, County of Cambria and State of Pennsylvania, respectfully represents:-

That a public road leading from the brick road between Geistown and Elton, known as Route 11009, distant approximately one thousand six hundred twenty-five (1625) feet from a road intersecting with Route 11009 and Route 11005 and ending on a public highway known as township Route 305 distant approximately one and five-tenths (1.5) miles from where said Route 305 intersects with Route 11009 and being approximately eight-tenths (0.8) mile long and known as township Route 312, is no longer necessary and has become useless, inconvenient and burdensome.

Your petitioners further represent that another public highway leading off said state highway Route 11009 and road to be vacated known as township Route 314, being distant approximately four thousand nine hundred thirty-seven (4937) feet from where said state Route 11009 intersects with Route 11005 and ending on township Route 305 intersects with Route 11009, likewise is no longer necessary and has become useless, inconvenient and burdensome.

Your petitioners further represent that the inhabitants of the township of Richland labor under great inconvenience for the want of a public road intersecting with state highway route 11009 distant approximately three thousand eight hundred thirty-seven (3837) feet from the intersection of said Route with Route 11005; thence continuing a distance of approximately seven-tenths (0.7) mile to Route 305, intersecting approximately one and one-fourth (1 $\frac{1}{4}$) miles from the intersection of Route 305 with state highway Route 11009.

Your petitioners, therefore, pray your Honorable Court to appoint three members of the Permanent Board of Viewers to inquire into the propriety of said vacations and determine whether said roads have become useless, inconvenient and burdensome; and further that the said three members of the Permanent Board of Viewers view and lay out the said road hereinabove prayed for.

Your petitioners further aver that they have the consent and approval of the Commissioners of Cambria County for the presentation of this petition for the appointment of Viewers for the purposes therein stated as provided for in Rule 301 $\frac{1}{2}$ of the Rules of Courts of Common Pleas and Oyer and Termini and Quarter Sessions of Cambria County.

And they will ever pray, etc.

Fair Blough Pres.

F. H. Berkey

William N. Myers

E. L. Giffie Secy.

Honorable Court.
The Board of County Commissioners
wears the due legal notice
for a hearing in this case
H. F. Jones
Clerk.

State of Pennsylvania |
County of Cambria | SS.

Personally appeared before me, the undersigned authority, a Justice of Peace in and for said State and County, FAIR BLOUGH, F. H. BERKEY AND WILLIAM N. MYERS, who having first been duly sworn according to law, do depose and say that they are each respectively duly elected, qualified and acting Supervisors of the Township of Richland, and that the facts set forth in the foregoing petition are true and correct.

Fair Blough Pres

F. H. Berkey

William N. Myers

Sworn to and subscribed before me
this 19th day of February A. D. 1937.

Edw. M. Baumgardner

Justice of the Peace
My commission expires Jan. 16, 1942

E. L. Giffen Secy

DECREE

AND NOW, this 1st day of March, A. D. 1937, the

within petition read and considered, the Court does hereby appoint St

Richy, Dixon Tomb,

and James M. Tom Viewers to view the said roads in said petition prayed to be vacated, and to consider and judge whether the said roads have become useless, inconvenient and burdensome; and for the further purpose of viewing and laying out a Public Road as prayed for in said petition.

By the Court
John
H.

In Re: Vacating two roads and
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Township of Richland, County
of Cambria and State of
Pennsylvania.

In the Court of Quarter Sessions
of Cambria County, Penna.
No. 5, December Sessions, 1936

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 roads 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 termini of the said proposed roads to
be vacated and the said road proposed to be supplied, as evidenced
by copy of said notice hereto attached, and by service of such
notice on the County Commissioners of Cambria County and the
Supervisors of Richland Township, acceptance of service of said
notice by the County Commissioners and the Supervisors of Richland
Township by their Solicitor being hereto attached; that we met in
accordance with the notice given on the 7th day of April A. D.
1937 at 10:00 o'clock A. M. and proceeded with the duties of our
appointment and viewed the premises and the routes of the proposed
roads to be vacated and supplied; the Viewers appointed by the
attached order, the Supervisors of Richland Township and their
Solicitor and a large delegation of residents and property owners
of Richland Township were present and heard during the view;
evidence was presented both in favor of and against the granting
of the prayer of the petitioners. During the view it was developed
that the Rachael Hill School situated near the intersection of the
second road proposed to be vacated, known as the Yoder Road, with
the brick road State Route 11009, has been abandoned as a school

property and that the school children are being transported by bus to other schools, which eliminates the former necessity for maintaining said Yoder Road as a public highway.

(1) Material objections were raised by the residents and tax payers as to the vacation of this road, known as the Wingard Road, Township Route 312, beginning at a point in a public road State Route 11009 known as the Brick Road between Geistown and Elton, said point of beginning being in a southeasterly direction a distance of 1526.7 feet measured along the center line of said Brick Road from the intersection of another public road known as Louther Road and designated as State Route 11005, and ending in a public road designated as Township Route 305, said place of ending being in a southwesterly direction a distance of 1.5 miles measured along the center line of said Township Route 305 from its intersection with State Route 11009 or the Brick Road leading from Geistown to Elton. After considering all evidence before us, we are of the opinion that said road is not inconvenient or burdensome to the Township but is convenient and necessary as a connecting road for the traveling public, therefore, we recommend that this section of road be not vacated or the prayer of the petitioners granted.

(2) Some objections were made against vacating this road, known as the Yoder Road, by Josiah Wingard and representatives of the Wilmore Real Estate Company the owners of all of the abutting property, beginning at a point in a public road State Route 11009 known as the Brick Road between Geistown and Elton, said point of beginning being in a southeasterly direction a distance of 4855.0 feet measured along the center line of said Brick Road from the intersection of another public road known as Louther Road and designated as State Route 11005, and ending in a public road designated as Township Route 305, said place of ending being in a southwesterly direction a distance of 1.0 miles measured along the center line of said Township Route 305 from its intersection with State Route 11009 or the Brick Road leading from Geistown to Elton. After considering all evidence before us, we are of the opinion that this road is not necessary for the traveling public as a public road and is burdensome to the tax payers. We find, however, that a portion of said road, 528.0 feet in length, colored red on the blue print hereto attached and made a part hereof, is necessary for a private road, therefore, we recommend that the entire road 3236.7 feet in length, colored red and green on said attached blue print, be vacated and that that section of said road colored red on said blue print be retained as a private road.

(3) After taking into consideration all of the evidence before us, we are of the opinion that only a section of said road, known as Lexington Street, extending S. 11° 43' E. 1440.0 feet from State Route 11009 is necessary. We also find that on account of the construction of a bridge and other conditions that said road to be supplied, beginning at a point in a public road State Route 11009 known as the Brick Road between Geistown and Elton, said point of beginning being in a southeasterly direction a distance of 3837.0 feet measured along the center line of said Brick Road from the intersection of another public road known as Louther Road and designated as State Route 11005, and ending in a public road designated as Township Route 305, said place of ending being in a southwesterly direction a distance of 1.25 miles measured along the center line of said Township Route 305 from its intersection with State Route 11009 or the Brick Road leading

from Geistown to Elton, is not necessary for the traveling public and will be burdensome to the tax payers; therefore, we recommend that same be not granted.

After considering all matters before us, we recommend that the prayer of the petitioners be not granted as to the first section of road proposed to be vacated, known as the Wingard Road, and the new road proposed to be supplied; and that the prayer of the petitioners be granted and the second section of road be vacated with the exception of 528.0 feet above described, which is to be retained as a private road.

Having not received any releases of damages, we assess no benefits and no damages to any of the abutting property owners.

Witness our hands this 14th day of April A. D. 1937.

S. E. Dickey
John Tomp
James M. Lane

Viewers

In Re: Vacating two roads and
Supplying one road in the
Township of Richland, County
of Cambria and State of
Pennsylvania.

In the Court of Quarter Sessions
of Cambria County, Penna.
No. 5, December Sessions, 1936

To S. E. DICKEY, DIXON TOMB & JAMES McCANN DR.

To S. E. DICKEY Dr.

Preparing, posting & serving notices of view	\$ 18.00	
Mileage, 20 miles @ 10 cts.	2.00	
Stenographer & stationery	2.20	
Making View	12.00	
Mileage, 20 miles @ 10 cts.	2.00	
Data and preparing map	12.00	
Blue prints	1.00	
Data, preparing report & filing	12.00	
Stenographer & stationery	<u>2.75</u>	\$ 63.95

To DIXON TOMB Dr.

Making View	\$ 12.00	
Mileage, 20 miles @ 10 cts.	2.00	
Receiving & considering further evidence and determining conclusions for report	<u>12.00</u>	\$ 26.00

To JAMES McCANN Dr.

Making View	\$ 12.00	
Mileage, 20 miles @ 10 cts.	2.00	
Receiving & considering further evidence and determining conclusions for report	<u>12.00</u>	\$ 26.00

Total cost of View \$ 115.95

CERTIFIED
James P. Brown
COUNTY CONTROLLER

APPROVED FOR PAYMENT

James Thomas

Grant P. Allen
COMMISSIONERS

In Re: Vacating two roads and
Supplying one road in the
Township of Richland, County
of Cambria and State of Penna.

In the Court of Quarter Sessions
of Cambria County, Penna.
No. 5, December Sessions, 1936

NOTICE OF VIEW

We, the undersigned Viewers appointed by the above named
Court, for the purpose of viewing certain roads to be vacated and
supplied in Richland Township, Cambria County, Pennsylvania,
described as follows:

(1) To be Vacated: Beginning at a point in a public road
State Route 11009 known as the Brick Road between Geistown and
Elton, said point of beginning being in a southeasterly direction
a distance of 1526.7 feet measured along the center line of said
Brick Road from the intersection of another public road known as
Luther Road and designated as State Route 11005, and ending in
a public road designated as Township Route 305, said place of
ending being in a southwesterly direction a distance of 1.5 miles
measured along the center line of said Township Route 305 from
its intersection with State Route 11009 or the Brick Road leading
from Geistown to Elton, this section proposed to be vacated being
designated as Township Route 312 or Wingard Road.

(2) To be Vacated: Beginning at a point in a public road
State Route 11009 known as the Brick Road between Geistown and
Elton, said point of beginning being in a southeasterly direction
a distance of 2858.0 feet measured along the center line of said
Brick Road from the intersection of another public road known as
Luther Road and designated as State Route 11005, and ending in
a public road designated as Township Route 305, said place of
ending being in a southwesterly direction a distance of 1.0 mile
measured along the center line of said Township Route 305 from
its intersection with State Route 11009 or the Brick Road leading
from Geistown to Elton, this section proposed to be vacated being
designated as Township Route 314 or Yoder Road.

(3) To be Supplied: Beginning at a point in a public road
State Route 11009 known as the Brick Road between Geistown and
Elton, said point of beginning being in a southeasterly direction
a distance of 5837.0 feet measured along the center line of said
Brick Road from the intersection of another public road known as
Luther Road and designated as State Route 11005, and ending in
a public road designated as Township Route 305, said place of
ending being in a southwesterly direction a distance of 1.25 miles
measured along the center line of said Township Route 305 from
its intersection with State Route 11009 or the Brick Road leading
from Geistown to Elton.

Will meet at the intersection of Township Route 312 or
Wingard Road with the Brick Road leading from Geistown to Elton
first above described, on the 7th day of April A. D. 1937 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.

March 25, 1937

E. E. DICKEY
DIXON TOMB
JAMES MCGANE } VIEWERS

Now this 27 day of Mar A. D. 1937, service of
the above notice is hereby accepted by the Supervisors of
Richland Township.

By

Walter J. Baumgardner
Solicitor

In Re: Vacating two roads and
Supplying one road in the
Township of Richland, County
of Cambria and State of Penna.

In the Court of Quarter Sessions
of Cambria County, Penna.
No. 5, December Sessions, 1936

NOTICE OF VIEW

We, the undersigned Viewers appointed by the above named Court, for the purpose of viewing certain roads to be vacated and supplied in Richland Township, Cambria County, Pennsylvania, described as follows:

(1) To be Vacated: Beginning at a point in a public road State Route 11009 known as the Brick Road between Geistown and Elton, said point of beginning being in a southeasterly direction a distance of 1526.7 feet measured along the center line of said Brick Road from the intersection of another public road known as Louthor Road and designated as State Route 11005, and ending in a public road designated as Township Route 305, said place of ending being in a southwesterly direction a distance of 1.5 miles measured along the center line of said Township Route 305 from its intersection with State Route 11009 or the Brick Road leading from Geistown to Elton, this section proposed to be vacated being designated as Township Route 312 or Wingard Road.

(2) To be Vacated: Beginning at a point in a public road State Route 11009 known as the Brick Road between Geistown and Elton, said point of beginning being in a southeasterly direction a distance of 4855.0 feet measured along the center line of said Brick Road from the intersection of another public road known as Louthor Road and designated as State Route 11005, and ending in a public road designated as Township Route 305, said place of ending being in a southwesterly direction a distance of 1.0 mile measured along the center line of said Township Route 305 from its intersection with State Route 11009 or the Brick Road leading from Geistown to Elton, this section proposed to be vacated being designated as Township Route 314 or Yoder Road.

(3) To be Supplied: Beginning at a point in a public road State Route 11009 known as the Brick Road between Geistown and Elton, said point of beginning being in a southeasterly direction a distance of 3837.0 feet measured along the center line of said Brick Road from the intersection of another public road known as Louthor Road and designated as State Route 11005, and ending in a public road designated as Township Route 305, said place of ending being in a southwesterly direction a distance of 1.25 miles measured along the center line of said Township Route 305 from its intersection with State Route 11009 or the Brick Road leading from Geistown to Elton.

Will meet at the intersection of Township Route 312 or Wingard Road with the Brick Road leading from Geistown to Elton first above described, on the 7th day of April A. D. 1937 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.

March 25, 1937

S. E. DICKEY)
DIXON TOMB) VIEWERS
JAMES McCANN)

Now this 29 day of March A. D. 1937, service of the above notice is hereby accepted by the County Commissioners of Cambria County.

By

J. L. Lou

Chief Clerk

1936

NO. 5. December SESSIONS, 1936

Order to view ~~Vacating two roads and~~
Supplying one road in the Township of
Richland, County of Cambria,

and

Report of Viewers

Filed: April 30, 1937

S. E. Dickey

Dixon Tomb

James McCann

} Viewers

Clerk 90 cts.

CERTIFIED
Henry E. Brown
COUNTY CONTROLLER

14 June 1937 Approved.

By the Court

13 Sept. 1937. Confirmed Absolutely McKernigan

Jr Justice
Clark

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."

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 1st day of March A. D. 1927, before the Honorable Judge of the said Court: Supervisors of the Township of Richland, in the said County, setting forth that ~~they labor under great~~

~~inconvenience for want of a~~ ~~public road leading from the brick road between Geistown and Elton, known as Route 11009, distant approximately one thousand six hundred twenty-five (1625) feet from a road intersecting with route 11009 and Route 11005 and ending on a public highway known as township Route 305 distant approximately one and five-tenths (1.5) miles from where said Route 305 intersects with Route 11009 and being approximately eight-tenths (0.8) mile long and known as township Route 312, is no longer necessary and has become useless, inconvenient and burdensome.~~

Your petitioners further represent that another public highway leading off said state highway Route 11009, and road to be vacated known as township Route 314, being distant approximately four thousand nine hundred thirty seven (4937) feet from where said state Route 11009 intersects with Route 11005 and ending on township Route 305 intersects with Route 11009, likewise is no longer necessary and has become useless, inconvenient and burdensome.

Your petitioners further represent that the inhabitants of the township of Richland labor under great inconvenience for the want of a public road beginning at a point intersecting with state highway Route 11009 distant approximately three thousand eight hundred thirty-seven (3837) feet from the intersection of said Route with Route 11005; thence continuing a distance of approximately seven-tenths (0.7) mile to Route 305, being the end thereof, intersecting approximately one and one fourth ($1\frac{1}{4}$) miles from the intersection of Route 305 with state highway Route 11009.

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

surveyor, and Dixon Tomb

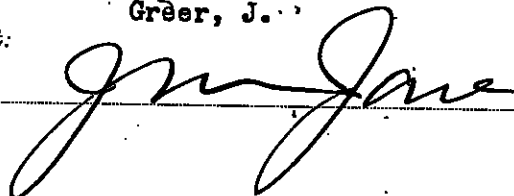
James McCann

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.

Greer, J.

Attest:

 Clerk.