

DOCKET No. 5

Number	Term	Year
16	Sept	1923

Petition of Malinda Whittaker et al
for Appt. of Viewers to assess damages
in Pike Twp
Versus

X

RETURN OF VIEWERS

To the Honorable the Judge of the Court of Quarter Sessions of the Peace for the County of Clearfield:

We, the undersigned viewers, duly appointed by your Honorable Court by the foregoing order from and among the County Board of Viewers who have been duly appointed by your Honorable Court and have filed their oaths of office in the Court of Common Pleas of Clearfield County, be leave to report as follows:

That notice of the time of view and of the hearing day was duly served according to law upon the Commissioners of Clearfield County ~~and the Board of Supervisors of the Township of~~

~~Claimants and the~~ ----- ~~procession were posted along the route of the~~

~~viewers~~ that the said view would be held on the 16th day of August -----

A. D. 1923, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 17th day of August -----, 1923, at nine o'clock A. M. That

~~the~~ ----- viewers appointed by the said order viewed the ground proposed for the above mentioned road, and that there were present at the view George Whittaker -----

~~One of the~~ -----
parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 17th day of August A. D. 1923, when the following appearances were noted: George L. Whittaker, with his Attorney W. C. Miller ~~Esq~~ Esq representing the claimants and C. F. Hays, and E. F. Spencer as witnesses in the case and John M. Urey Esq representing the County;

After the view and hearing above mentioned, the undersigned, ~~the majority of the said~~ viewers, do agree that there is no occasion for a road as desired by the petitioner, and that the same is not necessary for a road: And having had respect to the shortest distance and the best ground for such road we have laid out in such manner as shall do the least injury to private property, and as far as practicable agreeable to the desire of the petitioner, and do return for use the following described road, to wit
Beginning viewers respectfully: Report.

That Malinda Whittaker, widow, Law S Whittaker, Reuben Whittaker, George L Whittaker and Sarah Orcutt the widow and heirs of Joseph Whittaker deceased, the claimants are the owners of a small tract of land situate at Bridgeport in Pike Township Clearfield County Pennsylvania, containing about eight (8) acres of which there are about four acres cleared and under cultivation, and has thereon erected, a large two story frame dwelling house, also a two story frame building 16, by 28, feet in size, formerly used as a carpet weaving shop, and other out buildings. Through which said tract of land, the State Highway Commissioner in 1922 and 1923 constructed a State Highway, on Route Number (59), leading from Gramplan to Curwensville through the entire length of the property of the claimants a distance of 1240 feet with a road bed including the cuts and fills of about fifty (50) feet in width. The greater part of the upper side of the road is along a steep stony side hill not fit for farming or other purposes and the lower side of the road is a wet swampy bottom land of very little value for farming or other purposes. The building used for a weve shop stood on the bed of the location of the State Highway and therefore had to be moved about 160 feet from its former location: And the part of the road bed over the cleared bottom land is about fifty (50) feet in width by three hundred (300) feet in length from the end of the bridge across Anderson Creek to the side hill is composed of a fill from five to eight feet in highth and covers about one third of an acre of ground. The balance of the road bed is the side hill cut and the fill through the swamp in the lower side of the road which only covers about one acre of ground.

Clearfield County, ss:

At a Court of Quarter Sessions of the Peace of the County of Clearfield, held at Clearfield, Pa., in and for said County, on the 3rd day of August in the year of our Lord one thousand nine hundred twenty three

MALINDA WHITTAKER
Judge of the same Court: Upon the petition of ~~sundry~~
~~habitants~~ of the Township of PIKE

in said County, setting forth that Malinda Whittaker, Law S.

Whittaker, Reuben Whittaker, Geo. L. Whittaker & Sarah Orcutt are owners of a certain tract or piece of land in the Twp of Pike, being the same tract or piece of land conveyed to Jos. Whittaker By Isaac B. Norris by deed dated Nov 29 1879, recorded in Deed Book #14, Page 332, That the State Highway has re-located the State Highway route #59 from Curwensville to Grampian and its re-location runs through the aforesaid premises of your petitioners, and an entry has been made upon the premises and a re-location of route #59 is in fact made. The grading through the premises has been done and an appropriation of the necessary amount of land of your petitioners has been made for the purpose of re-constructing and re-building the aforesaid State Highway. Your petitioners have been unable to agree with Com. Clfd. Co as to amount of damage sustained.

and therefore, praying the Court to appoint proper persons to view and lay out the road between the points mentioned, whereupon the Court upon due consideration had of the premises, do order and appoint from and among the County Board of Viewers A. G. Kramer, Esq., E. D. Billotte, Esq and J. S. Micheals

who have been duly appointed by the Court and filed their oaths of office and are duly qualified to perform the duties of their appointment with impartiality and according to the best of their judgement, are to view the ground proposed for the said road, and if they view the same, and a majority of the actual viewers agree that there is occasion for such road they shall proceed to lay out the same, as agreeable to the desire of the petitioner as may, be, having respect to the best ground for a road and the shortest distance, in such a manner as to do the least injury to private property; and shall make report thereof, 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 the same may pass; (and wherever practicable, the viewers shall lay out the said road at an elevation not exceeding five degrees, except at the crossing of ravines and streams, when by moderate filling and bridging the declination of the road may be preserved within that limit,) to the next Court of Quarter Sessions to be held for the said County.

And if the viewers aforesaid shall decide in favor of locating a public road, they shall obtain from the persons through whose lands the said road shall pass, releases from any damages that may arise to them on opening the same; but if the owner or owners of such land refuse to release their claim to damages, the said viewers shall assess the same, taking into view the advantages as well as disadvantages arising from said location, and make report of such assessments; which report they shall in like manner transmit to the next Court of Quarter Sessions, with the draft or plot aforesaid. In which said reports they shall state that they have been sworn or affirmed according to law, and that due and legal notice was given of the time when, and place where, they should meet, to view and lay out said road, and the time and place of hearing

By order of the Court.

Geo. W. Ralston, Clerk.

TO: T R Weiner, Jesse E Dale and M L Farrell County Commissioners of Clearfield County Pa.

You are hereby notified; that the undersigned viewers appointed by the Court of Quarter Sessions of Clearfield County Pa, to view the premises of the claimant Malinda Whittaker and others the petitioners and assess the damages caused to their property; situate in Pike Township. Clearfield County Pa, by the change of State Highway Route Number 59, leading from Grampian to Carversville through the property of the said claimants by the change of the location of said road by which the said petitioners claim to be greatly damaged, for which damages the County of Clearfield is liable.

In pursuance whereof the said viewers will meet on the premises of the said petitioners in the County of Pike in the County and state aforesaid on Thursday the sixteenth (16th) day of August A D 1923 at one thirty (1.30) o'clock P. M. to attend to the duty assigned them, at which time and place aforesaid all parties interested will please take notice.

And that the public hearing required by the Act of Assembly and the Rules of Court to be held by the viewers before the filing of their report in Court, in order to give all parties interested in the case a chance to be heard by the viewers, will be held in the Arbitration Room in the Court House in Clearfield Pa on Friday August the 17th 1923 at nine o'clock A. M. when and where all parties interested may attend and be heard.

A. G. Kramer.
E. D. Billotte.
J. S. Michaels.
VIEWERS.

Now August 7 1923 service accepted for the County Commissioners of Clearfield Pa.

L. C. Norris

Clerk.

TO: Malinda, Whittaker, Law S Whittaker, Reuben Whittaker,
George L Whittaker and Sarah Orcutt.

You are hereby notified, that the undersigned viewers
appointed by the Court of Quarter Sessions of Clearfield County
Pa; to view the premises of Malinda Whittaker and others above
named the petitioners and assess the damages caused to their prop-
erty; situate in Pike Township Clearfield County Pa, by the chan-
ge of the route or location of the State Highway Route Number 59
leading from Grampian to Curwensville through their property by
which the said petitioners claim to be greatly damaged for which
said damages the County of Clearfield is liable.

In pursuance of their said appointment the aforesaid
viewers will meet on the premises of the said petitioners in Pike
Township; County and State aforesaid on Thursday the sixteenth,
day of August A. D. 1923 at one thirty (1.30) o'clock P. M. to
attend to the duty assigned them, when all parties interested the-
rein will please take notice.

And that the public hearing required by the Act of
Assembly and the Rules of Court, to be held by the viewers before
the filing of their report in court, in order to give all parties
interested in the case a chance to be heard by the viewers, will
be held in the Arbitration Room in the Court House in Clearfield
Pa on Friday August the 17th 1921 at nine o'clock A. M. when and
where all parties interested may attend and be heard.

A. J. Kramer
E. D. Billotte
J. L. Michaels
VIEWERS.

Aug 7/1923

Served on us by copy

Mumtaz Ahmad

Atty for Petitioner

The only land taken fit for farming purposes or that can be used for building is between three and four acres of bottom land on the lower side of the State road between the the State Highway and Anderson Creek and the right of way of Pennsylvania Railroad and the only part of the land occupied by the roadway of any value in the opinion of the viewers is the strip from the foot of the hill to the end of the bridge across Anderson Creek only about one third of an acre.

The viewers are there fully convinced, that all the damages the claimants have sustained, or that the property has been depreciated in value is the value of the one third ($1/3$) of the ~~acres~~ of the bottom land used for the road bed from the slope of the hill to the end of the bridge across Anderson Creek; The value of the ~~eight~~ fraction over an acre of of the land along the stony side hill cut on; the upper side of the road and the swamp on the lower side of the road or fill altogether about (940) feet in length; The cost of the moving of the house or carpet weaving shop and the completion of a road over the state road to enable them to get over the State road to the cleared land on the lower side of the road; which all told does not exceed the sum of four Hundred (\$400.00) Dollars.

The viewers therefore after a careful investigation of the benefits they derive from the said road are fully convinced that the damages the claimants sustained by the construction of the said road does not exceed the sum of Four Hundred (\$400.00) Dollars. They therefore assess the damages to the claimants at the sum of Four Hundred (\$400.00) Dollars.

and that a plan or draft of said road showing courses and distances and the properties affected is hereto attached and made a part hereof, said road being at an elevation not exceeding five degrees, excepting

when it was not practical to preserve it within that limit.

The undersigned further report that they endeavored to procure from all the owners of the land over which the said road passes releases in writing of all claims to damages that may arise from opening the same, and that they procured such releases from

the following persons having refused to release the damages to which they respectively may be entitled by reason of the location and opening of the said road, we, the undersigned viewers, after having considered the advantages to be derived to them, do assess them damages and make report thereof as follows:

~~and we the undersigned viewers do hereby certify that the above is a true and correct copy of the report of the viewers as made to the commissioners of the State of Pennsylvania.~~

WITNESS our hands and seals this 27th day of August; -----
A. D. 1923.

A. G. Kramer Seal
E. B. Billotte Seal
J. S. Michaels Seal
Seal

No. 16 Sept Sessions, 1923

ORDER

To view and assess damages to
road for MALINDA WHITTAKER ET AL
use in the
township of Pike
Clearfield County

Sessions, 19

read and confirmed Ni. Si. Road to be
opened 33 feet wide, except where there
is side hill cutting or embankment and
bridging, there to be 16 feet wide.

Filed 19

Fees \$1.25 paid by

Miller & Hartswick, Atty's.

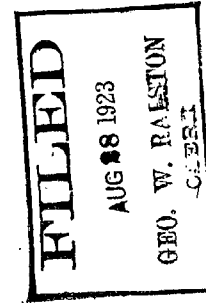
NOTE.—In case of a private road, the release must be executed in favor of the petitioner for said road.

Also, viewers will carefully note the number of days employed and set the amount out at the foot of their return.

Reviewers cannot interfere with the damages assessed by the original viewers, except so far as the location may be changed by the reviewers.

N. B.—If the viewers believe the parties are not entitled to damages, taking into consideration the advantages as well as the disadvantages of the road, they will report to that effect.

DAYS	MILES	AM'T.



RELEASE OF DAMAGES

Know all Men by these Presents, that we, the undersigned, owners of lands through which the road located by the viewers, under the annexed order, passes for and in consideration of the sum of one dollar to us respectively paid by

at and before the ensealing and delivery hereof, have remised, released and forever quit-claimed, and do hereby remise, release and forever quit-claim to the said

all damages that may arise to us respectfully by reason of the location and opening of the said road, so that neither we nor any of us, nor any person claiming under us, can or may hereafter ask, sue for, demand, have or receive any damages for injuries arising or growing out of the location and opening of the road aforesaid.

Witness our hands and seals this day of
A. D. 192

Seal

Seal

Seal

Seal

TO THE HONORABLE SINGLETON BELL, PRESIDENT JUDGE OF THE COURT OF
QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNSYLVANIA:

The petition of Malinda Whittaker, Law S. Whittaker,
Reuben Whittaker, George L. Whittaker and Sarah Orcutt respectfully
represents:

FIRST: That you r petitioners are the owners of a certain
tract or piece of land in the Township of Pike, Clearfield County
Pennsylvania, being the same tract or piece of land conveyed to
Joseph Whittaker by Isaac B. Norris by deed dated November 29, 1879,
recorded in Deed Book #14, page 332, and the Joseph Whittaker
having died your petitioners are the widow and heirs of the said
decedent.

SECOND: That your petitioners use said tract of land
and have erected thereon a house, barn, garage, weaving shop and
other farm buildings and improvements.

THIRD: That the State Highway has re-located the State
Highway route #59 from Curwensville to Grampian and its re-location
runs through the aforesaid premises of your petitioners, and an
entry has been made upon the aforesaid premises and a re-location
of route #59 is in fact made. The grading through the aforesaid
premises has been done and an appropriation of the necessary amount
of land of your petitioners has been made for the purpose of re-
constructing and re-building the aforesaid State Highway.

FOURTH: Your petitioners have been unable to agree with
the Commissioners of Clearfield County upon the amount of damages
to be paid by your petitioners for the land appropriated and the
injury done to them by reason of the taking of a part of the land
aforesaid and the other damages resulting to your petitioners.

Your petitioners therefore pray your Honorable Court to
appoint proper viewers to appear on the premises and to view and
assess the damages and injuries which they are entitled to re-

ceive for and on account of the appropriation of their land, and other injuries thereto as a result of the re-location and construction of said State Highway.

Marion Whitaker
Reuben Whitaker
L S Whitaker
Sarah A Orcutt
Geo. L. Whitaker

STATE OF PENNSYLVANIA)
COUNTY OF CLEARFIELD) SS:

On this 30th day of July, 1923, before me, a Justice of the Peace in and for said County, personally appeared George L. Whittaker, who being duly sworn according to law doth depose and say that the facts set forth in the foregoing petition are true and correct to the best of his knowledge and belief.

Geo L. Whittaker

Sworn and subscribed before me the day
and year aforesaid.

John A. Dale
Justice of the Peace

MY COMMISSION EXPIRES FIRST
MONDAY OF JANUARY 1924

ORDER OF COURT

Now the ..^{3rd}.....day of August.....1923, within petition
presented, and upon due consideration thereof A.G. Kramer.....
..... and E.D. Bellotti..... and...
J.S. Melhau..... are appointed viewers as prayed for,
to view the aforesaid premises and report the amount of compensa-
tion to be paid to said petitioners for the damages and injuries
resulting to them by reason of the re-location and construction of
the State Highway upon and through their real estate.

My McComb
Mykeland Bell
D

IN THE COURT OF QUARTER
SESSIONS OF CLEARFIELD COUNTY
#16 Sept 14 1923

In re Petition for
appointment of Viewers
to assess damages on
lands of Melinda Whitte-
ker, et al - Pike Twp.

FILED
AUG 1 1923
GEO. W. BAISTON
CLERK

MILLER & HARTSWICK
ATTORNEYS AT LAW
CLEARFIELD, PA.

272 by atty