

DOCKET No. 6

Number	Term	Year
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3

May

1926

Petition of Margaret Eisenhauer et al
to assess damages in Cooper Twp

Versus

IN THE COURT OF QUARTER SESSIONS FOR CLEARFIELD COUNTY, PENNSYLVANIA

In the matter of damages to property)
of Margaret Eisenhauer and Ella)
Eisenhauer, caused by the building) NO.
of the State Highway from Allport to)
Kylertown)

FEBRUARY SESSIONS 1926

TO THE HONORABLE A.R.CHASE, PRESIDENT JUDGE OF SAID COURT:

The petition of MARGARET EISENHAUER and ELLA EISENHAUER respectfully
represents:

- 1: That they are the joint owners in fee of certain two lots of land situate in the Village of Kylertown, Township of Cooper and County of Clearfield.
- 2: That in the building of the state highway from Allport to Kylertown the said roadway was changed and passed directly over the said two lots of land, thereby damaging the same as to further use and enjoyment by your petitioners.

WHEREFORE your petitioners pray that your Honorable Court appoint viewers to view and assess the damages caused your petitioners by the road as aforesaid.

Ella Eisenhauer
Margaret Eisenhauer

STATE OF PENNSYLVANIA }
COUNTY OF CENTRE } SS

ELLA EISENHAUER, one of the above named petitioners, being duly sworn according to law deposes and says that the facts set forth in the above petition are true.

Sworn and subscribed before me }
this 30th day of January A.D.1926 }
A. D. Nease }
NOTARY PUBLIC
Commission expires March 9th 1927

Ella Eisenhauer

In the Court of Quarter Sessions
of Clearfield County

No. 3
May
February Sessions 1926

In the matter of the damages to
property of Margaret Eisenhauer
and Ella Eisenhauer, caused by
the building of the State Highway
from Aliport to Kylertown.

PETITION FOR VIEWERS.

February 2nd 1926

Frank Hutton Esq.

J. E. Drye 2nd George

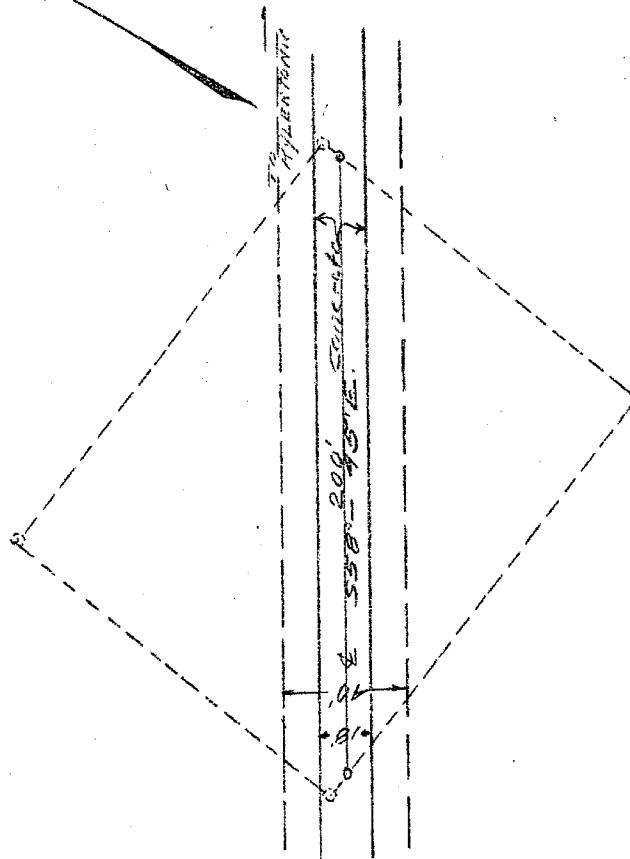
Walter C. Zimmerman

Members to view over

property of the court.

H. P. Chase

FILED
FEB 2 1926
GEO. W. RAISLTON
CLERK



ROAD VIEW - - ASSESSMENT OF DAMAGES -
CAUSED BY CONSTRUCTION OF STATE HIGHWAY -
TO PROPERTY OF MARGARET AND ELLEN EISENHAUER -

NEAR KYLERTOWN - COOPER TOWNSHIP - CLEARFIELD CO. - PA.

VIEWED APRIL 12TH, 1926.

FRANK HUTTON)
GEO. K. WEBER) VIEWERS.
J. E. FRY)

SCALE: 1" = .40'

To the COMMISSIONERS OF CLEARFIELD COUNTY, PENNA.

You are hereby notified that the undersigned Viewers, appointed by the Court of Quarter Sessions of Clearfield County, Pennsylvania to view the damages caused to the premises of Margaret and Ellen Eisenhauer in Cooper Township, caused by the construction of a drain under the sidewalk of said premises, which drain is a part of the State Highway leading from Aliport to Kylertown and is in the Township of Cooper. The Viewers will meet at the premises to be viewed, in the Township of Cooper on Monday the 13th day of April 1926 at ten o'clock A.M. to attend to the duties assigned them.

And that the required Public Hearing will be held in the Borough of Clearfield, in the Court House, on Wednesday the 14th day of April, 1926 at ten o'clock A.M. when and where you may attend and be heard if you so desire.

DuBois, Pa. March 25th 1926

Marg. L. Ladd
J. C. Foy
George Lecher

Viewers

25
Now March ¹⁹²⁶ ₁₉₂₆ service of the above notice is accepted
for the Commissioners of Clearfield County.

L. C. Morris
clerk

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 2nd day of February in the year of our Lord one thousand nine hundred twenty six

Margaret Eisenhauer & Ella Eisenhauer

Judge of the same Court: Upon the petition of ~~subscribers~~
~~habitants~~ of the Township of Cooper

in said County, setting forth that they are the joint owners in fee of certain two lots of land situate in the Village of Kylertown, Twp of Cooper and County of Clearfield. That in the building of the State Highway from Allport to Kylertown the said roadway was changed and passed directly over the said two lots of land, thereby damaging the same as to further use and enjoyment by your petitioners.

assess damages

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 Frank Hutton, Esq. J. E. Fry and George Weber

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. Palstone, Clerk.

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

Cooper and that three notices thereof were posted along the route of the proposed road, that the said view would be held on the 12th day of April A. D. 1926, and the hearing to be held in the Arbitration Room, at the Court House, in Clearfield, Pa., on the 14th day of April, 1926, at 10 o'clock A. M. That all the viewers appointed by the said order viewed the ground proposed for the above mentioned road, and that there were present at the view Ella Eisenhauer petitioner

postponed and parties in interest. That the hearing was held in the Arbitration Room, in the Court House, at Clearfield, Pa., on the 21st day of April A. D. 1926, when the following appearances were noted: Ellen Eisenhauer one of the petitioners and Fred Eisenhauer, one # the part of the petitioners Albert Liveright Esq County Solicitor and J. EDale B. W. McCracken and T. E. Weimer County Commissioners

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 new 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 agreeably to the desire of the petitioner, and do return for the use the following described road, to wit Beginning The Viewers find that Margaret and Ellen Eisenhauer are the owners of two adjacent lots in Cooper Twp located on the outskirts of the Village of Kylertown; That these lots are each approximately 65 by 170 feet in size; That the Commonwealth of Penna. through its State Highway Department entered upon said lots in the construction of the Concrete Highway leading from Philipsburg to Kylertown and beyond and constructed its Highway diagonally through said lots leaving two triangular pieces of land and materially impairing the value of the w hole; That said Roadway at this point was entirely changed from its former location, no part of it at this point, being old location, as will appear by the attached plan or draft it would not have been possible to cross these lots in a manner to do more damage to them than has been done in this case, no buildings are on the lots.

After viewing the same and after hearing the testimony of the witnesses as to the value of the land taken your viewers find that this property has been damaged by the construction of said State Highway

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 respectfully 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: to Margaret Eisenhauer and Ellen Eisenhauer joint owners the sum of One Hundred and Twenty Five (\$125.00) dollars

and we herewith return releases obtained and copy of the notices.

WITNESS our hands and seals this 22nd day of April
A. D. 1926.

Frank Hutton Seal
J. L. Taylor Seal
Frank Hutton Seal
Frank Hutton Seal

No. 3 May 1926 Sessions, 19 26

Sessions, 1928

ORDER

To view and assess damages to
Margaret Eisenhauer & Ella
Eisenhauer
township of _____
Cooper _____
Clearfield County _____

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

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.

May 18 Sessions, 19 ~~26~~
read and confirmed Ni. Si. ~~Report to~~
opened 33 feet wide, except where there
is side hill cutting or embankment - end
bridging there to be 16 feet wide.

By the court
A. H. Hass
P. J.

Filed 19
Fees \$1.25 paid by _____

Mr. Ward Fleming, attorney

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.