

ROAD

DOCKET No. 6

Number

17

Term

Sept. SS

Year

1938

Frank D. Millward & John W. Millward  
and May C. Wilson

Versus

Osceola Mills Borough

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PENNA.

IN RE:

FRANK D. MILLWARD  
JOHN W. MILLWARD  
MAY C. WILSON

:  
:  
: No. 17 September Term 1938  
:  
:

ANSWER OF CLEARFIELD COUNTY TO THE PETITION FOR APPOINTMENT OF  
VIEWERS

TO THE HONORABLE, W. WALLACE SMITH, PRESIDENT JUDGE OF SAID COURT:

The County of Clearfield, by its County Commissioners, makes answer to the petition in this case as follows:

(1). Petitioners allege their ownership of a certain parcel of land in the Borough of Osceola Mills, County of Clearfield, State of Pennsylvania, under a deed from John C. Millward, dated Nov. 4, 1925, recorded at Clearfield, Pa., in Deed Book Vol. 279, page 10.

(2). By resolution dated August 14, 1936, the County Commissioners of Clearfield County, agreed to certain reconstruction and improvement of State Highway Route No. 57, Section 2 A in Decatur Township, Clearfield County, Pennsylvania, between Station 35+12 and Station 45+24.21, and further agreed to assume responsibility for damages in connection with land appropriated in such reconstruction and improvement; a true and correct copy of said resolution is hereto attached as exhibit "A".

(3). The County Commissioners of Clearfield County have not agreed to reconstruction and improvement of said State Highway within the boundaries of the Borough of Osceola Mills, nor have they agreed to assume responsibility for property damages in connection therewith.

WHEREFORE, for the reasons assigned, Respondent prays that the petition be dismissed and that the rule granted in this case be discharged.

COUNTY OF CLEARFIELD

BY

J. C. Kesthouse  
D. R. Weaver  
M. V. Carr  
County Commissioners

STATE OF PENNSYLVANIA :  
: SS:  
COUNTY OF CLEARFIELD :

J. C. GATEHOUSE, T. R. WEIMER and W. V. CARR, County  
Commissioners of Clearfield County, being duly sworn according  
to law, depose and say that the facts set forth in their fore-  
going petition are true and correct.

Subscribed and sworn to before  
me this 31<sup>st</sup> day of  
1938.

Myra E. Lucas  
Chief Clerk.

J. C. Gatehouse  
T. R. Weimer  
W. V. Carr

COPY

Meeting August 14, 1936.

Commissioners J. C. Gatehouse, T. R. Weimer and W. V. Carr present, the following Resolution being read and adopted by unanimous vote:

Be it resolved by the County Commissioners of Clearfield County, that the plans submitted by the Department of Highways for the changing of State Highway Route 57, Section 2A, in Decatur Township, between Stations 35/12 and 45/24.21, have been examined and the County Commissioners agree that the County of Clearfield will assume liability for any or all property damages resulting from the construction of the highway as contemplated by these plans, and also all damages arising out of any change or alteration of drainage resulting from the construction or maintenance of the highway.

J. C. GATEHOUSE

T. R. WEIMER

(County Seal)

W. V. CARR

County Commissioners.

I hereby certify that the foregoing resolution was duly adopted at a meeting of the County Commissioners held August 14, 1936, and that it has been recorded as required by Law.

(County Seal)

MYRA E. LUCAS

CHIEF CLERK.

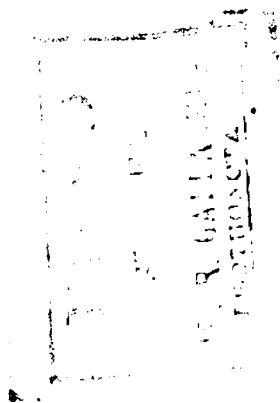
IN THE COURT OF QUARTER SESSIONS  
OF CLEARFIELD COUNTY, PENNA.

NO. 17 September Term 1938

IN RE:

FRANK D. MILLWARD  
JOHN W. MILLWARD  
MAY C. WILSON

ANSWER OF CLEARFIELD COUNTY  
TO THE PETITION FOR THE  
APPOINTMENT OF VIEWERS.



FRANK G. SMITH  
COUNTY SOLICITOR

*on my list*

*And Now that 12<sup>th</sup> day of September, 1938, service  
of the within answer is accepted.*

*Edw. J. Thompson by R.H.B.  
Atty for petitioners*

In re: Frank D. Millward

John W. Millward

May C. Wilson

versus

In the Court of Quarter Sessions  
of Clearfield County, Pa.

No. 17 Sept Term, 19 38

~~Fix Ex, No.~~ 19

And now, 8th day of August, A. D. 1938, petition read and considered,  
and a rule is granted on County Commissioners of Clearfield County  
to show cause why viewers should not be appointed as prayed for in the  
foregoing petition

Returnable on First Monday of September next.

By the Court,

W. WALLACE SMITH

HON. SINGLETON BELL, P. J.

Certified from the record this 17th day  
of August, 19 38

H. R. Gallagher  
Prothonotary

8

1938

No. 17 Sept Term, 1938

Le re Frank D. Millward

John W. Millward

May C. Wilson

versus

RULE ON

Sheriff SHARKEY \$2.80

Edward J. Thomson

Attorney for Claimant

*[Signature]*

Attorney for Plaintiff

Attorney for Defendant

*Service accepted for Clearfield  
County, Aug 20, 1938.  
Frank G. Smith  
County Solicitor*

Now August 22nd, 1938. Service of the within Rule and Petition,  
accepted by Frank G. Smith, County Solicitor.

So Answers, *John J. Sharkey*  
Sheriff.

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PA.

IN RE: FRANK D. MILLWARD;  
JOHN W. MILLWARD, AND MAY  
C. WILSON.

No. 17... Sept. Sessions,  
1938

PETITION FOR THE APPOINTMENT  
OF A BOARD OF VIEW.

TO THE HONORABLE W. WALLACE SMITH, PRESIDENT JUDGE OF  
THE SAID COURT:

The petition of Frank D. Millward, John W. Millward,  
and May C. Wilson respectfully represents:

1. The petitioners herein are Frank D. Millward, a  
resident of Bellefonte, Centre County, Pa., John W. Millward  
and May C. Wilson, residents of Osceola Mills Borough, Clearfield  
County, Pennsylvania.

2. The petitioners are the owners of a certain piece  
of land, the same having been conveyed to them by John G. Millward  
under deed dated the 4th day of November, 1925 and recorded in the  
office for recording of deeds in Clearfield County in Deed Book  
Volume 279 at page 10, and being described as follows:

ALL that certain piece or parcel of land, situate  
in the Borough of Osceola Mills, County of Clearfield,  
and state of Pennsylvania, more fully bounded and  
described as follows to wit:

BEGINNING at the northwest corner of Blanchard  
street and second Ave., thence, along northeasterly on  
line of second avenue south 61-1/2 degrees East Forty-  
six and 7/10 rods to the west line of Lingle street;  
thence along the westerly line of lingle street north  
Twenty-eight and 3/4 degrees east six rods (6) to a post,  
thence north twenty-two degrees and six minutes west,  
twenty-three rods, to post, or Hemlock stump, on easterly  
side of road leading from Osceola to Philipsburg, thence,  
continuing by said line north, nine degrees east, sixty-  
three (63) rods to a post, or pine stump, on the northerly  
side of an old road leading to Philipsburg; thence, south  
seventy-four degrees and five minutes west, eighteen rods  
to a stump, or post on north side of said old road, being



the North-west corner of the Borough of Osceola Mills thence continuing by land formerly owned by Richard Burns, South forty-two degrees and twenty-five minutes, west twenty-three and  $\frac{4}{10}$  rods, in line of land now owned by F. H. McCully thence, along said land of McCully south thirty-three and  $\frac{1}{2}$  degrees east, thirteen and  $\frac{6}{10}$  rods; to corner of said field, and westerly line of Blanchard Street extending south twenty-eight and  $\frac{3}{4}$  degrees west and thirty-nine and  $\frac{6}{10}$  rods to the north-west corner of second Ave. and Blanchard Street and place of beginning containing fourteen acres more or less having thereon erected several small buildings, and being the residue or part of the premises, conveyed to the Grantor herein, by Eli Wertz, and his wife Mary Grace Wertz, by their deed bearing date April 6th A.D. 1903, and recorded in the office of Recorder of deeds, in the County of Clearfield, state of Pennsylvania, on the 11th day of July A.D. 1903, and in deed book Vol. 135 page 10, where further reference may be had thereto.

Reserving and excepting all that has been reserved and excepted in all former conveyance, of said premises.

3. ✓ During the summer, fall and winter months of 1937 the Commonwealth of Pennsylvania, ✓ Department of Highways, relocated and re-built the section of the highway between the Borough of Philipsburg, Centre County, Pa., and Osceola Mills Borough, Clearfield County, Pennsylvania, known as Legislative Route No. 57 from Station 12+ 00 to Station 45+24.21, the said changes constituting an entire relocation of the said highway and construction of a concrete road thereon. ✓

4. Before the said Department of Highways agreed upon the program of the improvement of the said highway the Secretary of Highways duly notified the County Commissioners of Clearfield County of these changes in conformity with Section 16 of the Act of May 31, 1911, P.L. 468 and its amendments.

5. Your petitioners have been advised and believe that the County Commissioners of Clearfield County, upon receipt of said notice of the proposed reconstruction and improvement of said highway, agreed to the said proposed changes and further agreed

to assume liability for the property damages in connection with this project.

6. By virtue of the said relocation of the aforesaid highway by the Pennsylvania Department of Highways the petitioners' property was appropriated for said relocation from Station 35+ 46 being the boundary line between Osceola Mills Borough and Decatur Township, Clearfield County, Pennsylvania, to Station 45+ 24.21 in the said Township of Decatur, Clearfield County, and that the said land was damaged and its value greatly decreased by the said relocation and construction. ✓

7. The County Commissioners of Clearfield County have failed to comply with the requirements of the Act of Assembly of May 31, 1911 P.L. 468 Section 16 and its supplements and amendments and have made no attempt to enter into any agreement with the petitioners to reimburse them for the damages they have suffered as stated herein.

✓ WHEREFORE, your petitioners pray your Honorable Court to grant a rule upon the County Commissioners of Clearfield County to show cause why a Board of Views should not be appointed to view the premises of the petitioners and to assess such damages as they may find to have been suffered by the petitioners and to report the same to your Honorable Court in accordance with the laws as in such cases made and provided.

And your petitioners will ever pray, etc.

Thompson & Baird  
By Edward J. Thompson  
Attorneys for Petitioners.

AFFIDAVIT

COMMONWEALTH OF PENNA. }

COUNTY OF CENTRE }

SS:

Frank D. Millward, John W. Millward,  
and May C. Wilson, say that they are the petitioners  
above mentioned and the facts set forth in the foregoing  
petition are true and correct to the best of their  
knowledge and belief.

Frank D. Millward

John W. Millward

May C. Wilson

Sworn to and subscribed before me this <sup>6<sup>th</sup></sup> day of June, 1938.

Jm Beane

MY COMMISSION EXPIRES FIRST MOND.  
IN JANUARY 1940

ORDER OF COURT

AND NOW this ~~8th~~ <sup>August</sup> day of ~~July~~, 1938, a rule is granted on the County Commissioners of Clearfield County to show cause why viewers should not be appointed as prayed for in the foregoing petition. The said rule to be returnable on *First Monday* *7 September next.*

BY THE COURT:

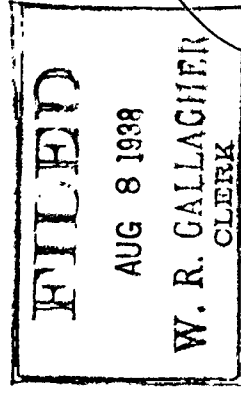
*H. Waller Smith* P.J.  
1

IN THE COURT OF QUARTER SESSIONS  
OF CLEARFIELD COUNTY, PA.

No. *17*...., Sept, Term, 1938  
*B.*

Re: Frank D. Millward, John W.  
Millward and May C. Wilson

PETITION FOR THE APPOINTMENT  
OF A BOARD OF VIEW.



THOMPSON & BAIRD  
ATTORNEYS AT LAW  
PHILIPSBURG, PENNSYLVANIA

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PA.

IN RE: FRANK D. MILLWARD, :  
JOHN W. MILLWARD, AND MAY : No....., Sept. Sessions,  
C. WILSON. : 1 9 3 8

AMENDED PETITION FOR THE  
APPOINTMENT OF A BOARD  
OF VIEW.

TO THE HONORABLE W. WALLACE SMITH, PRESIDENT JUDGE  
OF THE SAID COURT:

The petition of Frank D. Millward, John W. Millward,  
and May C. Wilson respectfully represents:

1. The petitioners herein are Frank D. Millward, a  
resident of Bellefonte, Centre County, Pa., John W. Millward  
and May C. Wilson, residents of Osceola Mills Borough,  
Clearfield County, Pennsylvania.

2. The petitioners are the owners of a certain piece  
of land which is located in the Borough of Osceola Mills and  
Decatur Township, Clearfield County, Pa., the same having been  
conveyed to them by John G. Millward under deed dated the  
4th day of November, 1925 and recorded in the office for the  
recording of deeds in Clearfield County in Deed Book, Vol.  
279 at page 10, and being described as follows:

ALL that certain piece or parcel of land,  
situate in the Borough of Osceola Mills, County  
of Clearfield, and State of Pennsylvania, more  
fully bounded and described as follows to wit:

BEGINNING at the northwest corner of Blanchard  
Street and Second Ave., thence, along northeasterly  
on line of Second Avenue south  $61\frac{1}{2}$  degrees East  
Forty-six and  $\frac{7}{10}$  rods to the west line of Lingle  
Street; thence along the westerly line of Lingle  
Street north twenty-eight and  $\frac{3}{4}$  degrees east six  
rods (6) to a post, thence north twenty-two degrees  
and six minutes west, twenty-three rods, to post,

or Hemlock stump, on easterly side of road leading from Osceola to Philipsburg, thence, continuing by said line north, nine degrees east, sixty-three (63) rods to a post, or pine stump, on the northerly side of an old road leading to Philipsburg; thence, south seventy-four degrees and five minutes west, eighteen rods to a stump, or post on north side of said old road, being the North-west corner of the Borough of Osceola Mills thence continuing by land formerly owned by Richard Burns, South forty-two degrees and twenty-five minutes, west twenty-three and  $\frac{4}{10}$  rods, in line of land now owned by F. H. McCully thence, along said land of McCully south thirty-three and  $\frac{1}{2}$  degrees east, thirteen and  $\frac{6}{10}$  rods; to corner of said field, and westerly line of Blanchard Street extending south twenty-eight and  $\frac{3}{4}$  degrees west and thirty-nine and  $\frac{6}{10}$  rods to the north-west corner of second ave. and Blanchard Street and place of beginning containing fourteen acres more or less having thereon erected several small buildings, and being the residue or part of the premises, conveyed to the Grantor herein, by Eli Wertz, and his wife Mary Grace Wertz, by their deed bearing date April 6th A.D. 1903, and recorded in the office of Recorder of Deeds, in the County of Clearfield, State of Pennsylvania, on the 11th day of July A.D. 1903, and in deed book Vol. 135 page 10, where further reference may be had thereto.

Reserving and excepting all that has been reserved and excepted in all former conveyance, of said premises.

3. That said land is located both in the Borough of Osceola Mills and in the Township of Decatur in Clearfield County, Pennsylvania.

4. During the summer, fall and winter months of 1937 the Commonwealth of Pennsylvania, Department of Highways, relocated and re-built the section of the highway between the Borough of Philipsburg, Centre County, Pa., and Osceola Mills Borough, Clearfield County, Pennsylvania, known as Legislative Route No. 57 from Station 12+00 to Station 45+24.21, the said changes constituting an entire relocation of the said highway and construction of a concrete road thereon.

5. The boundary line between the Borough of Osceola Mills and Decatur Township is located at Station 35+46, on the road between Osceola Mills and Philipsburg Centre County,

Pennsylvania.

6. Before the said Department of Highways agreed upon the program of the improvement of the said highway, the Secretary of Highways duly notified the County Commissioners of Clearfield County of the changes taking place between the Borough line above mentioned and Station 45 + 24.21, in conformity with Section 16 of the Act of May 31, 1911, P. L. 468 and its amendments.

7. Your petitioners have been advised and believe that the County Commissioners of Clearfield County, upon receipt of said notice of the proposed reconstruction and improvement of said highway, agreed to the said proposed changes and further agreed to assume liability for the property damages in connection with this project.

8. By virtue of the said relocation of the aforesaid highway by the Pa. Department of Highways, the petitioners' property was appropriated for said relocation from Station 35 + 46, being the boundary line between Osceola Borough and Decatur Township, Clearfield County, Pennsylvania, for a distance of approximately 450 feet in the aforesaid Township, and the said land was damaged and its value greatly decreased by the said relocation and construction.

9. The County Commissioners of Clearfield County have failed to comply with the requirements of the Act of Assembly of May 31, 1911 P.L. 468 Section 16 and its supplements and amendments and have made no attempt to enter into any agreement with the petitioners to reimburse them for the damages they have suffered as stated herein.



WHEREFORE, your petitioners pray your Honorable Court to grant a rule upon the County Commissioners of Clearfield County to show cause why a Board of Views should not be appointed to view the premises of the petitioners and to assess such damages as they may find to have been suffered by the petitioners and to report the same to your Honorable Court in accordance with the laws as in such cases made and provided.

And your petitioners will ever pray, etc.

THOMPSON & BAIRD

BY *David L. Baird*  
Attorneys for Petitioners.

Affidavit

COMMONWEALTH OF PENNA. :  
COUNTY OF *Clearfield* : SS:

~~Frank D. Millward~~, John W. Millward, and May C. Wilson, say that they are the petitioners above mentioned and the facts set forth in the foregoing petition are true and correct to the best of their knowledge and belief.

*Frank D. Millward*  
*John W. Millward*  
*May C. Wilson*

Sworn to and subscribed before me this *27th* day of Oct., 1938.

*Chas. T. Hill*  
My Commission Expires  
First Monday in January, 1944.

4.

Commonwealth of Penna.)  
County of Centre

Personally appeared before me a Notary Public in and for the county and state aforesaid, Frank D. Millward, who being sworn according to law, stated that he was one of the petitioners mentioned in the document to which this is attached, and that the facts as set forth therein are true and correct to the best of his knowledge and belief.

*Frank D. Millward*

Sworn to and subscribed before me this 27th day of October, 1938.

*L. Ward Hile*  
NOTARY PUBLIC  
MY COMMISSION EXPIRES MAR. 9, 1939

WHEREFORE, your petitioners pray your Honorable Court to grant a rule upon the County Commissioners of Clearfield County to show cause why a Board of Views should not be appointed to view the premises of the petitioners and to assess such damages as they may find to have been suffered by the petitioners and to report the same to your Honorable Court in accordance with the laws as in such cases made and provided. And your petitioners will ever pray, etc.

THOMPSON & BAIRD

BY John W. Williams  
Attorneys for Petitioners

Attest

COMMONWEALTH OF PENNSYLVANIA  
COUNTY OF CENTRE  
: ss: John W. Williams  
:

~~Frank D. Williams, John W. Williams, and Mary C. Wilson~~, say that they are the petitioners above mentioned and the facts set forth in the foregoing petition are true and correct to the best of their knowledge and belief.

John W. Williams  
Mary C. Wilson

Sworn to and subscribed before me this 1st day of Oct., 1939.  
John W. Williams

ORDER OF COURT

AND NOW this 28<sup>th</sup> day of November, 1938, a rule is granted on the County Commissioners of Clearfield County to show cause why viewers should not be appointed as prayed for in the foregoing amended petition. The said rule to be returnable on Monday, Dec. 12<sup>th</sup> 1938

BY THE COURT

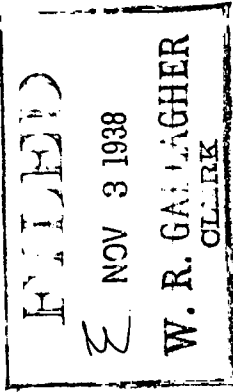
J. Walker Smith P.J.

IN THE COURT OF QUARTER SESSIONS  
OF CLEARFIELD COUNTY, PA.

No. 17., Sept. Sessions, 1938

IN RE: Frank D. Millward,  
John W. Millward, and May  
C. Wilson.

AMENDED PETITION FOR THE APPOINT-  
MENT OF A BOARD OF VIEW.



THOMPSON & BAIRD  
ATTORNEYS AT LAW  
PHILIPSBURG, PENNSYLVANIA

*Dec 7, 1938 service accepted by  
copy Frank & Smith  
County Solicitor*

IN THE COURT OF QUARTER SESSIONS OF CLEARFIELD COUNTY, PA.

Re: Petition of Frank D. Millward, :  
John W. Millward and May C. Wilson. : No. 2000, Sept. Sessions,  
1938

NOW this 27<sup>th</sup> day of January, 1939, after reading the  
above petition and upon the motion of Edward J. Thompson, as  
counsel for the petitioner, it appearing that a copy of the  
amended petition has been duly served upon the County Commissioners  
of Clearfield County, Pa., and service thereof accepted by their  
attorneys of record, and further that no answer has been filed  
thereto, the rule granted in the above matter is hereby made  
absolute and the court appoints .....  
.....and....., as viewers  
in accordance with the prayer of the petition, .....  
or such other time as the viewers may fix  
1939, at 10:00 A.M.,/is fixed as the date for the view upon the  
said premises.

BY THE COURT

W. WALLACE SMITH  
\_\_\_\_\_  
P.J.

Certified from the record this 27th day of January, A. D. 1939

W. R. Gallagher  
Prothonotary

In the Court of Quarter Sessions  
of Clearfield County, Pa.

No....., Sept. Sessions, 1938

Re: Petition of Frank D.  
Millward, John W. Millward,  
and May C. Wilson.

THOMPSON & BAIRD  
ATTORNEYS AT LAW  
PHILIPSBURG, PENNSYLVANIA

*Certified by duplicate to original*