

IN THE COURT OF QUARTER SESSIONS
OF CAMBRIA COUNTY, PENNSYLVANIA
No. / December Sessions, 1944

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

PETITION FOR APPOINTMENT
OF VIEWERS

LAW OFFICES OF
FRANK P. BARNHART
JOHNSTOWN, PENNA.

Filed 12/11/44

map
Exhibit A

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 SESSIONS
OF CAMBRIA COUNTY, PENNSYLVANIA

No. / December Sessions, 1944

PETITION FOR APPOINTMENT OF VIEWERS

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

The petition of the undersigned inhabitants of the said Township of
Upper Yoder, 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 Goucher Street, a public highway, and extending over and across
Magdalene Street to the southerly side of Susquehanna Street; thence extending
along and over Susquehanna Street in a northerly direction to the Westmont
Borough line, all of which is shown in green on map as laid out by S. E.
Dickey & Company, Engineers, which map is hereto attached, made part hereof
and marked "EXHIBIT A".

The exact distance from the point of beginning of the proposed public
road from an intersecting public road, to wit: Luzerne Street, as shown on the
aforesaid map, is 869 feet; and the exact distance from the point of ending
of the proposed public road from an intersecting public road, to wit: Menoher
Highway, as shown on the aforesaid map, is 1600 feet.

The beginning of said proposed road is in a public highway, as stated
above, but the ending of said proposed road, that is the other of the termini
of the said proposed road is at a point other than in a public highway or
place of public resort; but the said proposed road is necessary for public
travel.

A copy of the written notice to the Supervisors of said 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 any
damages they have sustained, or may seem likely to sustain by reason of the
said accepting, opening, grading, draining, improving and maintaining of said
proposed highway is hereto attached, 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 report of this proceeding to the next Session of Court.

Blair Hunt,

Wm T Barnhart

D. H. Weiner

COMMONWEALTH OF PENNSYLVANIA :
: SS:
COUNTY OF CAMBRIA :

Personally appeared before me, a Notary Public in and for said State and County, CURT BARNHART, who being duly sworn according to law, deposes and says that he is one of the petitioners within set forth and that the statements contained in the said petition are true and correct.

Curt Barnhart

Sworn and subscribed before
me this 8th day of November, 1944.
Sec.

Jessie Byer Williams
Notary Public

NOTARY PUBLIC
MY COMMISSION EXPIRES
APRIL 11, 1945

"EXHIBIT B"

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 SESSIONS
: OF CAMBRIA COUNTY, PENNSYLVANIA
:
| No. / December Sessions, 1944


NOTICE TO SUPERVISORS

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

You will 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 11 day of ~~November~~ ^{SEP}, 1944, asking
the Court for the appointment of Viewers to view and lay out a proposed road
in the said Township of Upper Yoder to begin at a point in Goucher Street,
a public highway, and extending over and across Magdalene Street to the
southerly side of Susquehanna Street; thence extending along and over
Susquehanna Street in a northerly direction to the Westmont Borough line, all
of which is shown in green on map as laid out by S. E. Dickey & Company,
Engineers; which map is attached to said petition and made part thereof.

The exact distance from the point of beginning of the proposed public
road from an intersecting public road, to wit: Luzerne Street, as shown on the
aforesaid map, is 869 feet; and the exact distance from the point of ending
of the proposed public road from an intersecting public road, to wit:
Menohar Highway, as shown on the aforesaid map, is 1600 feet.

The beginning of said proposed road is in a public highway, as stated
above, but the ending of said proposed road, that is the other of the termini
of the said proposed road is at a point other than in a public highway or
place of public resort; but the said proposed road is necessary for public
travel.


ATTORNEY FOR PETITIONERS

November , 1944, service of the foregoing Notice is hereby
accepted.

Blair Hunt

Aust Benedict

D. H. Weiner

SUPERVISORS OF UPPER YODER TOWNSHIP,
CAMBRIA COUNTY, PENNSYLVANIA

TO THE SUPERVISORS OF UPPER MÖDER TOWNSHIP,
CALBRIA COUNTY, PENNSYLVANIA.

represents: We, the undersigned, your petitioners, respectively

THEREFORE, we respectfully petition your honorable Board to pass the necessary resolution accepting and adopting said portion of Magdalene Street and Susquehanna Street as Township highways.

Witness our hands and seals this _____ day of _____
A. D. 19 _____.

Signature

Owen P. Griffey

A. G. Williams

Martin P. Wolf

Steve G. Gombor

Leslie J. Gayson

E. J. Cornelius

Olbrant

E. J. Bailey

Joseph. R. Higley

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 SESSIONS
OF CAMBRIA COUNTY, PENNSYLVANIA
No. / December Sessions, 1944

PRELIMINARY ORDER

Dec. 11
AND NOW, ~~November~~, 1944, 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 10:00 O'clock,
A. M. the *26* day of *Dec.*, 1944. Service of the Rule, together with a
copy of this Petition, shall be made upon the said Commissioners not less than
ten (10) days before the said Return Day.

BY THE COURT:

M. E. ...
J.

ACCEPTANCE OF SERVICE BY THE COMMISSIONERS
OF CAMBRIA COUNTY, PENNSYLVANIA

Dec
AND NOW, ~~November~~ *11th*, 1944, service of the above Rule is hereby
accepted, together with a copy of the within Petition.

H. F. Dow
Clerk.

*Now Dec. 26-1944
Rule Absolute
By the Court
Hickman Judge*

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 SESSIONS
OF CAMBRIA COUNTY, PENNSYLVANIA
No. | December Sessions, 1944

DECREE

AND NOW, this 26 day of Dec, 1944, the within petition
having been read and considered, the Court appoint James McCann
Theodore Hunt and J. E. Dickey and
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:

McKernick
J.

Jan. 30. 1945 it appearing
that J. E. Dickey is deceased.
Robert D. Hayer is substituted as
a Viewer in the foregoing matter.
By the Court
McKernick
Judge

23

No. 1 DECEMBER SESSIONS, 1944

In Re Appointment of Viewers
to lay out a public road in
Upper Yoder Township, Cambria
County, Pennsylvania

REPORT OF VIEWERS

JAMES McCANN

THEODORE HUNT

ROBERT G. MAYER

VIEWERS

May 9-1945

Report approved.
By the Council
Hickman

June 25-1945 - confirmed absolutely
J. Deady, Jr.

Filed 3/20/45

mad
In Re Appointment of Viewers
to lay out a public road in
Upper Yoder Township, Cambria
County, Pennsylvania

No. 1 December Sessions, 1944

REPORT OF VIEWERS

To the Honorable, the Judges of the above named Court,
we the undersigned Viewers, appointed by the attached order of the
above Court to view the proposed road within mentioned, respect-
fully 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 said proposed new road, as
evidenced by copy of said notice hereto attached and by service
of said notice on the County Commissioners of Cambria County,
Curt Barnhart, Secretary of the Board of Supervisors of Upper
Yoder Township, and Frank P. Barnhart, Solicitor for the Supervisors
of Upper Yoder Township, evidence of which is shown by copies of
said notice hereto attached and made a part of this report; that
we met in accordance with the notice given on the 16th day of
March, 1945, at 10 o'clock A. M., and proceeded with the duties
of our appointment and viewed the premises and route of the pro-
posed new road. All three Viewers and one interested citizen were
present; that said proposed new road is now a dedicated highway,
Magdalene Street being 50 feet in width and Susquehanna Street
being 60 feet in width as shown on the John K. Miller Plan of Lots
and colored in green on the blue print hereto attached and made a
part hereof; 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, Goucher Street. 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 Goucher Street, the exact location of the place of beginning from the nearest intersecting public highway now Luzerne Street Extension is at a distance of 869 feet measured along the center line of Goucher Street in a northwesterly direction from said Luzerne Street Extension. The exact location of the place of ending is along Magdalene Street, S. 58° 18' W., 376 feet to the intersection of Susquehanna Street; thence along Susquehanna Street, N. 31° 42' W., 393.35 feet to the Westmont Borough Line.

Taking into consideration all of 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 hereinafter 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; however we assess no benefits and no damages to any of the abutting owners.

Witness our hands and seals this 17th day of March
A. D., 1945.

James M. S. Quinn

Theodore W. Hunt

Robert M. Quinn
viewers

In Re Appointment of Viewers
to lay out a Public Road in
Upper Yoder Township, Cambria
County, Pennsylvania

No. 1 December Sessions, 1944

To JAMES McCANN, THEODORE HUNT, ROBERT G. MAYER, Dr.

To JAMES McCANN Dr.

Mar. 3--Gathering Data and preparing notices of view -----	\$ 12.00	
Stenographer & stationery-----	2.50	
5--Posting and serving Notices of View----	12.00	
6 miles @ \$.10-----	.60	
16--Making View-----	12.00	
6 miles @ \$.10-----	.60	
17--Making report-----	12.00	
Stenographer and stationery-----	3.00	
1 Linen print and 3 blue paper prints--	1.50	
19--Filing report of Viewers-----	12.00	
40 miles @ \$.10-----	4.00	\$ 72.20

To THEODORE HUNT Dr.

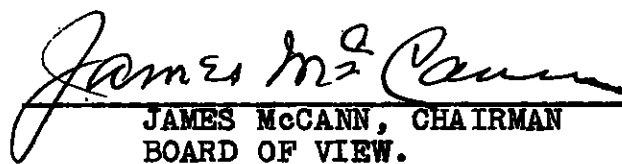
Mar. 16--Making View-----	\$ 12.00	
14 miles @ \$.10-----	1.40	13.40

To ROBERT G. MAYER DR.

Mar. 16--Making View-----	\$ 12.00	
28 miles @ \$.10-----	2.80	14.80

Total Cost of View----- \$100.40

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


JAMES McCANN, CHAIRMAN
BOARD OF VIEW.

JUL 17 1945 CERTIFIED

JUL 17 1945 CERTIFIED

JUL 17 1945 CERTIFIED

In Re Appointment of Viewers
to lay out a Public Road in
Upper Yoder Township, Cambria
County, Pennsylvania.

No. 1 December Sessions, 1944

NOTICE OF VIEW

We, the undersigned Viewers appointed by the above named court for the purpose of viewing land in Upper Yoder Township, Cambria County, Pennsylvania, and to lay out a new road beginning at a point on Goucher Street, a public highway, and extending over and across Magdalene Street to the southerly side of Susquehanna Street; thence extending along and over Susquehanna Street in a northerly direction to the Westmont Borough line and to determine if a necessity exists for such new road, and if so, what damages, if any, will be caused to abutting property, will meet at the place of beginning at the intersection of Goucher Street and Magdalene Street on the 16th day of March, A. D., 1945, at 10 o'clock A. M. to proceed with the duties of our appointment, at which time and place all persons interested may appear and be heard.

James McCann

Theodore Hunt

Robert G. Mayor

VIEWERS

In Re Appointment of Viewers
to lay out a Public Road in
Upper Yoder Township, Cambria
County, Pennsylvania.

No. 1 December Sessions, 1944

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James McCann

Theodore Hunt

Robert G. Mayer

VIEWERS

Now this 16th day of March, A. D., 1945, service of the above notice hereby accepted by the Commissioners of Cambria County.

By

H. J. Dow
Chief Clerk

In Re Appointment of Viewers
to lay out a Public Road in
Upper Yoder Township, Cambria
County, Pennsylvania.

No. 1 December Sessions, 1944

NOTICE OF VIEW

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James McCann

Theodore Hunt

Robert G. Mayer

VIEWERS

Now this 8 day of March, A. D., 1945, service of the above notice is hereby accepted by the Supervisors of Upper Yoder Township.

By Robert H. Hamillart
Secretary

In Re Appointment of Viewers
to lay out a Public Road in
Upper Yoder Township, Cambria
County, Pennsylvania.

No. 1 December Sessions, 1944

NOTICE OF VIEW

We, the undersigned Viewers appointed by the above named court for the purpose of viewing land in Upper Yoder Township, Cambria County, Pennsylvania, and to lay out a new road beginning at a point on Goucher Street, a public highway, and extending over and across Magdalene Street to the southerly side of Susquehanna Street; thence extending along and over Susquehanna Street in a northerly direction to the Westmont Borough line and to determine if a necessity exists for such new road, and if so, what damages, if any, will be caused to abutting property, will meet at the place of beginning at the intersection of Goucher Street and Magdalene Street on the 16th day of March, A. D., 1945, at 10 o'clock A. M. to proceed with the duties of our appointment, at which time and place all persons interested may appear and be heard.

James McCann

Theodore Hunt

Robert G. Mayer

VIEWERS

Now this 5 day of March, A. D., 1945, Service of the above notice is hereby accepted by the Solicitor for the Supervisors of Upper Yoder Township.

By

Frank P. Zander
Solicitor for Upper
Yoder Township

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 26th day of December A. D. 1941, be-
fore 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 incon-
venience for want of a public road or highway in Upper Yoder Township

begin at a point in Goucher Street, a public highway, and
extending over and across Magdalene Street to the southerly side
of Susquehanna Street; thence extending along and over Susquehanna
Street in a northerly direction to the Westmont Borough line, all
of which is shown in ~~green~~ green in map as laid out by S. E. Dickey & Co.,
Engineers, which map is hereto attached, made part hereof and
marked Exhibit "A". The exact distance from the point of
beginning of the proposed public road from an intersecting public
road, to wit: Luzerne Street, as shown on the aforesaid map, is
869 feet; and the exact distance from the point of ending of the
proposed public road from an intersecting public road, to wit:
Menohar Highway, as shown on the aforesaid map, is 1600 feet.
The beginning of said proposed road is in a public highway, as
stated above, but the ending of said proposed road, that is the
other of the termini of the said proposed road is at a point
other than in a public highway or place of public resort; but the
said proposed road is necessary for public travel.

VIEWERS
PLEASE MAKE 3 COPIES OF ~~THE~~ REPORT.

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

James McCann surveyor, and Theodore
Hunt and S. E. Dickey

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.

Attest:

J. Dean Clerk.

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. 1 December Sessions, 1824.

Order to view public highway

in the Township of Upper

Yoder, Cambria County, Pa.

James McCann

Theodore Hunt

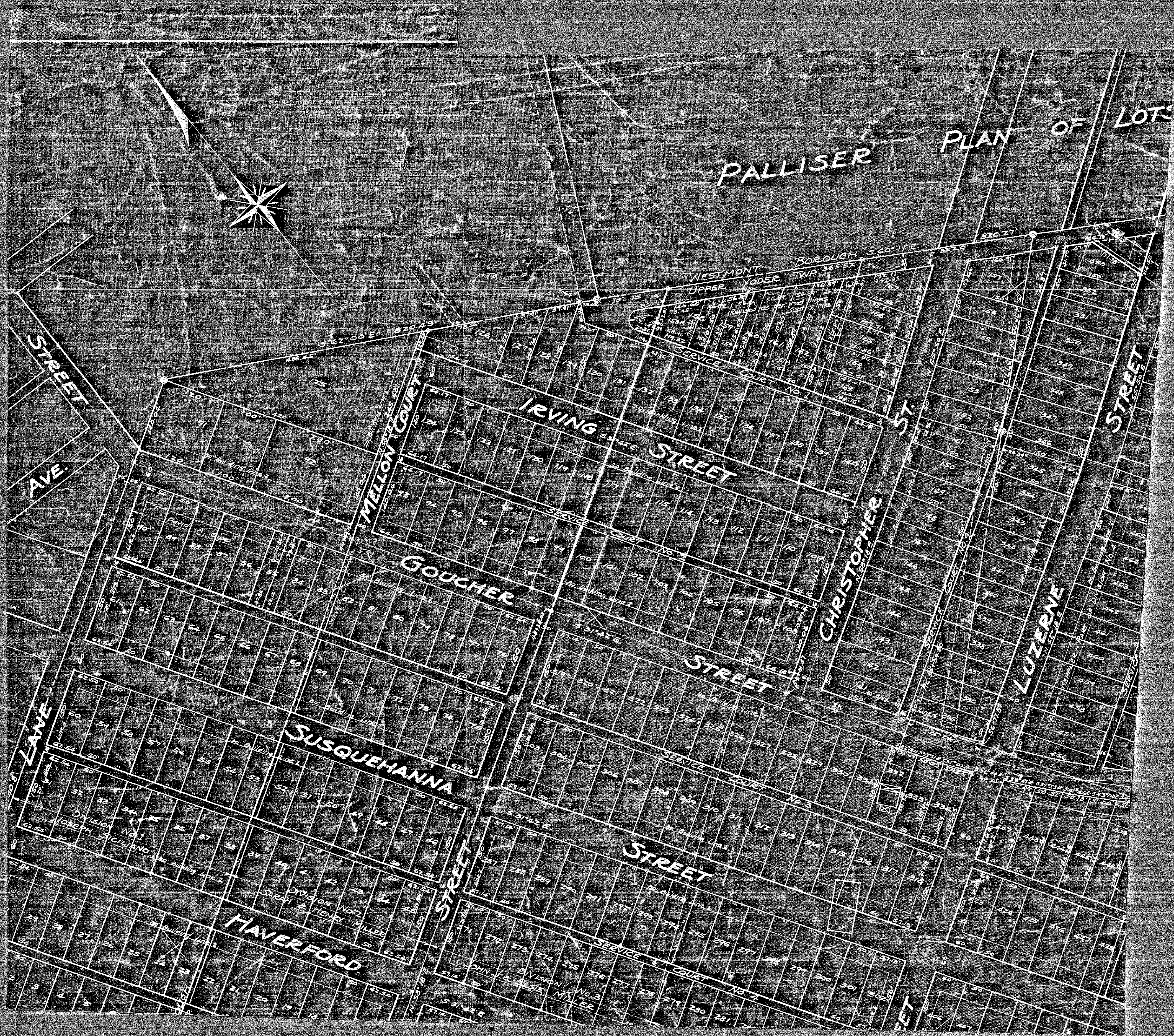
S. E. Dickey

Clerk

90 cts.

Not Microfilmed

R.O.# 1 Dec. 1944



Not Microfilmed

RD# 1 Dec. 1944

Exhibit A



JOHN K. MILLER
PLAN OF LOTS
LAYOUT OF SUB-DIVISIONS

SITUATE IN
UPPER YODER TWP. & BORO. OF WESTMONT
CAMBRIA COUNTY, PA.

SCALE
1" = 100'

NOTE
Revised on Goucher St. from Service Court No. 9
To Property of A.E. Road Aug 12-1937

Approved By
CITY PLANNING COMMISSION
August 14, 1934
Attest *George S. Dockler* Secretary

Approved By
UPPER YODER TOWNSHIP
Scott Beane Supervisor

NOTE
Building Line indicates extreme
limit of building. No part of area outside
of building line shall be occupied except by
shrubbery and steps.

STATE OF PENNA.
COUNTY OF CAMBRIA
ss
Before me, a Notary Public, in and for
said County and State, personally appeared
JOHN K. MILLER and ELIZABETH WIFE, ADAM J.
MILLER, HENRY J. MILLER and ELIZABETH WIFE,
ADAM KEPLER and MARY WIFE, and
SICILIANO, who acknowledged this Plan of Lots
to be the Plan of Lots, Streets, Courts and
Roads surveyed and laid out by them and desired
the same to be recorded as such.
John K. Miller
Adam Kepler
Henry Kepler
Adam Miller
Henry Miller
Elizabeth Miller
Joseph Kepler
Witness my hand and Notarial Seal
this 20th day of July, 1934 A.D. 1934
Mary G. Miller Notary Public
My Commission expires April 3, 1935.