

In re: Petition for the	:	No. 6 JUNE SESSIONS, 1953
Appointment of Viewers to	:	
Assess Damages or Benefits	:	IN THE COURT OF QUARTER SESSIONS
to land of Michael F. Volk	:	OF CAMBRIA COUNTY, PENNSYLVANIA
and Alma E. Volk in change	:	
of grade of Legislative	:	
Route 62 Section 11 O. R.	:	
092, locally known as	:	<u>CONDEMNATION PROCEEDINGS</u>
Traffic Route 219 or Main	:	
Street in the Borough of	:	
Carrolltown, Cambria County,	:	
Pennsylvania.	:	

EXCEPTIONS TO VIEWERS' REPORT

TO THE HONORABLE, THE JUDGES OF THE ABOVE NAMED COURT:-

AND NOW, to wit: this tenth day of February, 1954, comes the Borough of Carrolltown, by its Solicitor, Fred J. Fees, and takes Exception to the Report of the Board of Viewers filed January 11, 1954 in the above entitled proceeding as follows:-

1. That said Report of the Board of Viewers is defective for the reason that it fails to set forth in brief and concise paragraphic forms all Findings of Fact and Conclusions of Law.

2. That said Report of the Board of Viewers is defective for the reason that it fails to have filed with it a map or plan showing the property reportedly damaged by the change of grade.

3. That said Report of the Board of Viewers and Award of Damages are null and void and of no effect whatsoever for the reason that the Court of Common Pleas has exclusive jurisdiction in proceedings brought by an owner of property in a Borough, seeking an award of damages for a change in grade of an adjoining road against a Borough and these proceedings have been brought in the Court of Quarter Sessions.

4. That said Report of the Board of Viewers and Award of Damages are null and void for the reason that the records do not indicate that the Viewers were duly sworn in the manner required by law, namely, P. L. 1621 Section 43, as amended on the 10th day of July, 1947.

5. That the petitioners in the above captioned proceeding expressly indicated at the hearing before your Honorable Board that if the extreme superelevation of the highway complained of which caused the damages alleged should be eliminated, corrected and improved, that they would forego any claim they may have for damages against said Borough, and hence the Award of the Viewers fixing damages at this time is premature and of no necessity, due to the fact that the Highway Department of the Commonwealth of Pennsylvania has assured said Borough that the conditions which brought about the proceedings in question will be remedied, as is evidenced by copy of letter hereto attached, made a part hereof and marked Exhibit A, and this being done, no Award of Damages should be made or allowed.

6. That as late as Tuesday, February 9, 1954, Mr. C. R. Forbes, District Engineer, District 9 of the Department of Highways of the Commonwealth of Pennsylvania, informed Fred J. Fees, Borough Solicitor, that the Plans and Specifications were about ready for the correction of the present condition existing in said highway and that he hoped work would be begun to remedy and correct this condition not later than the first of May, 1954.

7. That said Report of the Board of Viewers and Award of Damages made thereon are in error for the reason that the damages awarded are based on a permanent change in grade,

when, in fact, the present change in grade is but a temporary change which will be corrected, remedied and alleviated by the Highway Department as hereinabove indicated, and this being accomplished, no damages should be awarded.

WHEREFORE, Fred J. Fees, Solicitor of Carrolltown Borough, pursuant to resolution adopted by said Borough, files these Exceptions hereinabove set forth to the Report of the Board of Viewers and Award of Damages against said Borough and prays that said Award and Report should be set aside.

  
Solicitor of  
Carrolltown Borough

COMMONWEALTH OF PENNSYLVANIA :

SS

COUNTY OF CAMBRIA

FRED J. FEES being duly sworn according to law, deposes and says that he is Solicitor of Carrolltown Borough, Cambria County, Pennsylvania, and that the averments set forth in the foregoing Exceptions to Viewers' Report are true and correct to the best of his knowledge, information and belief.

Sworn and subscribed before me  
this 10th day of February, 1954.

Martha C. Davis  
Notary Public

My commission expires Jan. 7, 1955

Fred J. Fees

EXHIBIT A

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF HIGHWAYS

Hollidaysburg  
October 5, 1953

In reply refer to

Cambria County  
L. R. 62  
O. R. 091

Honorable Fred J. Fees, District Attorney  
Cambria County  
Ebensburg, Pennsylvania

Dear Sir:-

I am pleased to inform you that Chief Engineer C. H. Buckius has approved the change of location of the super-elevated curve at the American Legion Home on Route 62, Carrolltown Borough, and I have been instructed to prepare the necessary plans for the correction of the present condition, which plans of course must be approved by the Borough Council. I know that you will be glad to have this information and can pass it along to those who are interested.

Very truly yours,

C. R. FORBES

District Engineer  
District 9

No. 6 June Sessions, 1953

IN THE COURT OF QUARTER  
SESSIONS OF CAMBRIA COUNTY,  
PENNSYLVANIA.

In Re: Petition for the  
Appointment of Viewers to  
Assess Damages or Benefits  
to land of MICHAEL F. VOLK  
and ALMA E. VOLK in change  
of grade of Legislative Route  
62, Section 11 O. R. 092,  
locally known as Traffic  
Route 219 or Main Street in  
the Borough of Carrolltown,  
Cambria County, Pennsylvania

EXCEPTIONS TO VIEWERS' REPORT

*Filed 2-10-1954*

LAW OFFICES  
FRED. J. FEES  
EBensburg, PENNSYLVANIA

RELEASE OF DAMAGES.

WHEREAS, the State Highway Department in the construction and improvement of State Highway Route No. 219 in Carrolltown, Cambria County, has damaged the property of Michael F. Volk and Alma E. Volk, his wife, and,

WHEREAS, by Agreement, the Borough of Carrolltown is liable for all damages caused by the change of location in the construction of the above mentioned highway route by the State Highway Department, and

WHEREAS, the Board of Viewers of Cambria County have awarded Michael F. Volk and Alma E. Volk, his wife, the sum of \$900.00 to be paid by the Borough of Carrolltown to compensate for damages to their properties.

AND WHEREAS, the State Highway Department is about to eliminate the causes of said damage by relocating the highway and reducing the grade in front of the property of Michael F. Volk and Alma E. Volk, his wife,

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that we, Michael F. Volk and Alma E. Volk, his wife, in consideration for the removal of the causes that are now damaging our property by the State Highway Department, we have remised, released, quitclaimed and forever discharged, and by these presents, for ourselves, our heirs, executors and administrators, do remise, release, quitclaim and forever discharge the said Borough of Carrolltown of and from all and all manner of actions, awards of viewers, suits, debts, accounts, reckoning claims and demands, which we now have or which our heirs, executors or administrators can have against the said/~~County of Cambria~~ Borough of Carrolltown for or by reason of the damage done to our property by the changing and improvement of State Highway Route No. 219 in Carrolltown, Cambria County.

IN WITNESS WHEREOF, we have hereunto set our hands and

seals this 19th day of May, 1954.

Signed, sealed and delivered in  
the presence of:

Michael F. Volk (SEAL)

James W. Volk

Alma E. Volk (SEAL)

STATE OF PENNSYLVANIA    I  
                                  I    SS.  
COUNTY OF CAMBRIA        I

On the 19th day of May, 1954, before me the subscriber,  
a Notary Public, in and for the County of Cambria, Commonwealth  
of Pennsylvania, came the above named Michael F. Volk and Alma E.  
Volk, his wife, and acknowledged the above Indenture to be their  
act and deed and desired that the same might be recorded as such.

WITNESS my hand and official seal the day and year  
aforesaid.

John P. Lantz

NOTARY PUBLIC

My Commission Expires January 15, 1959  
Spangler Boro, Pa.      Cambria County



*Read Docket June 1953*

RELEASE OF DAMAGES

From

MICHAEL F. VOLK and  
ALMA E. VOLK, his wife

-to-

BOROUGH OF CARROLLTOWN

*Filed - 2-6-58 - J.E.26*

LAW OFFICES  
**FRED. J. FEES**  
EBensburg, PENNSYLVANIA

25

RE: Petition for Appointment of : No \_ 6 June Sessions 1953  
Viewers to Assess Damages or Benefits to : In the Court of Quarter Sessions  
land of Michael F. Volk & Alma E. Volk : of Cambria County, Pennsylvania.  
in change of Grade of Legislative Route :  
62 Section 11, O. R. 092 , locally known :  
as Traffic Route 219 or Main Street, Boro :  
of Carrolltown, Cambria County, Penna. : CONDEMNATION PROCEEDINGS

REPORT OF VIEWERS

We, the undersigned Viewers members of the Permanent Board of Viewers of Cambria County having been appointed by the Court to view and inspect the land and premises owned by Michael F. Volk and Alma E. Volk, his wife of the Borough of Carrolltown, Cambria County, Penna., to view and inspect said premises and to determine and estimate the damages or benefits that have resulted or that may seem likely to result by reason of the change of grade of Legislative Route 62 Section 11, O. R. 092 locally known as Traffic Route 219 or Main Street in Carrolltown Borough, Cambria County and State of Pennsylvania bounded and described as follows:

BEING on the hand side of the public road leading from Carrolltown to Spangler: Beginning at a post and lot of Peter Gormish; thence along line of lot of said Gormish in a Northerly direction one hundred fifty feet to an alley; thence in a Westly direction twenty five feet to half lot of Emma Dericott; thence along lot of Emma Dericott in a Southerly direction one hundred fifty feet to public road; thence along said road twenty-five feet to the place of beginning.

That we were duly sworn or affirmed as Members of the Permanent Board of Viewers of Cambria County, Pennsylvania as shown by the records filed in said Court; that due public notice of the time and place of the meeting of the viewers was given by the posting of ten hand bills upon the premises of Michael F. Volk and Alma E. Volk at least ten days before said view and by personal service on Michael F. Volk and Alma E. Volk, his wife, owners of said land and petitioners herein and upon J. Harrison Westover, Esq., Counsel for them and on Fred J. Fees, Esq. Solicitor for the Borough of Carrolltown, aforesaid and upon C. R. Forbes, District Engineer of the Pennsylvania State

Highway Department with offices in Hollidaysburg, Blair County, Penna., all of whom accepted service thereof and acknowledge to have received a copy of said notice to view all of which are hereto attached and made a part of this report. This proceeding together with that of H. M. Mohler and wife partis in a similar proceeding under a different Number in said Quarter Sessions Court of Cambria County was confusing in getting the order of Court into the hands of the members of the Board of Viewers. Matters however, having been straightened out and adjusted in which all misunderstandings and confusing were quieted.

Pursuant to the notice designating the time and place of the meeting of the Viewers we met at the ground involved in the above proceedings in June 24th, 1953 at 10 o'clock in the morning daylight time and proceeded to carry out the duties of our appointment. All of the viewers presents and those interested in the petitioner but no one representing the Borough of Carrolltown were in attendance. The Viewers went over the property carefully making a thorough inspection of the conditions existing there and as affected by same. Methods of remedying conditions because of the very high elevation in the construction of the grade at the curve of said highway and its effect on the adjoining land of the owners and petitioners. The matter of taking care of the surface water which follows the highway during a rain storm were all taken into consideration. All of the elements of damages were carefully considered and explored. Not all of the parties in interest having been present no time for a Hearing could be arranged. At a later date the Viewers fixed July 8, 1953 at 10 o'clock in the morning daylight time and the Council Chambers of the Municipal Building in the Borough of Carrolltown, Cambria County, <sup>5</sup>Penna. as the place for the taking testimony in the above proceedings. All parties in interest, to wit: J. Harrison Westover, Esq., Counsel for the owners and petitioners Michael F. Volk and Alma E. Volk, his wife; Fred J. Fees, Esq. Solicitor for

the Borough of Carrolltown aforesaid and upon C. R. Forbes, District Engineer for the State Highway Department of the Commonwealth of Pennsylvania all of whom accepted service and acknowledged to have received a copy of the same.

Pursuant to said Notice and acceptances thereof we met in Council Chambers in the Municipal Building of said Carrolltown Boro on July 8th, 1953 at 10 o'clock A. M. DLT and proceeded with the hearing. Michael E. Volk and Anna E. Volk, his wife and petitioners and owners together with J. Harrison Westover, Esquire Counsel for said petitioners and owners together with Fred J. Fees, Esq., Solicitor for said Carrolltown Boro and a Mr. Wallace of the State Highway Department from the Hollidaysburg Office with a number of witnesses which were called by Mr. Westover. There was much discussion about an agreement which was in the process of being worked out between the owners and the State Highway Department. Mr. Wallace of the State Highway Office aforesaid not having been on the job when this work was being done could not express any opinion other than to point lines and so forth on the plans and specification. It was brought out that the owners do not wish money but merely to have the high elevation reduced which ofcourse to the viewers was not practical under the circumstances. The very high elevation of the grade at the curve of the highway is responsible for the trouble. The matter of proceeding with condemnation proceedings was almost prohibited because of the Statute of Limitations yet more time is being asked to work out a settlement. The time for the Exhibit of Schedule of Damages was continued from time to time finally the Viewers fixed 11 August at 10 o'clock as the time and Council Chambers at Carrolltown was fixed as the place. The owners merely want their property be put back in a position as it was before the improvement.

The Viewers met in the Offices of Gray and Claflin, Swank Building, Johnstown for the purpose of fixing damages. All evidence offered was discussed. We took in all of the elements of damages and matters pertinent thereto in determining and estimating the amount of damages. We had made a careful and

thorough inspection of the premises involved in the proceedings and after our view of same and hearing all of the testimony and evidence offered concerning the very high elevation of grade at curve of the State Highway and its relation or effects on land of said Michael F. Volk and Alma E. Volk, his wife owners and petitioners, we have estimated and determined the quality and quantity of the land used and injured by the said public highway and having made just allowances for any benefits accruing thereto and damages sustained thereby which have resulted or which may seem likely to result to said owners hereinabove named, we have estimated and determined the amount of the damages and have prepared a Schedule thereof.

After much delay in time of presenting said Schedule same was presented at the Municipal Chambers of Municipal Building in the Borough of Carrolltown on August 11, 1953 at 10 o'clock but the parties in interest felt that more time was needed to affect a settlement between themselves, the Borough of Carrolltown and the State Highway Department in some understanding that existed between said Boro and the State Highway Department. No information on the matter having been received by the Viewers by any of the above mentioned parties Notices for the presentation of the Exhibit of Schedule of Damages was sent to Michael F. Volk and Alma E. Volk, his wife, to J. Harrison Westover, Esq., Counsel for the owners and petitioners herein and to Fred J. Fees, Esq., Solicitor for the Borough of Carrolltown, County and State aforesaid fixing Wednesday December 23, 1953 at 10 o'clock A.M. and Council Chambers in the Municipal Building, Carrolltown as the place for presenting same.

Pursuant to the time set forth in said Notices, the Viewers met in the Council Chamber, Municipal Building in the Boro of Carrolltown aforesaid on Wednesday December 23, 1953 at 10 o'clock A.M. and proceeded with the duties of our appointment. The three Viewers, Mrs. Alma E. Volk her husband not being able to attend and Fred J. Fees, Solicitor for the Borough. No

When asked whether other testimony was to be offered we learned that no further testimony was to be adduced. Again much time was consumed discussing promises that were made by the State Highway Department at Hollidaysburg and the Borough Council but we proceeded with the duty for which the meeting was called. Having taken into consideration all of the facts and testimony offered and having viewed the premises of Michael F. Volk and wife we have agreed, estimated and determined the amount of damages and prepared a Schedule thereof. That after hearing all exceptions and all the testimony offered and giving all matters before us due consideration, we are of the opinion that the land of Michael F. Volk and Alma E. Volk, his wife and prtitioners that because of the high elevation of the grade at curve of said public highway and as it affects their land, we have assessed no benefits and damages in the amount of NINE HUNDRED (\$900.00) DOLLARS to be paid by the Borough of Carrolltown, Cambria Coujnty, Pennsylvania to Michael F. Volk and Alma E. Volk, husband and wife as their interest may appear.

IN WITNESS WHEREOF we have hereunto set our hand and seal this seventh day of January, A. D. 1954.

*Mahlon Baumgardner*  
MAHLON BAUMGARDNER

*Fred W. Claflin*  
FRED W. CLAFLIN

*Robert Mayer*  
ROBERT MAYER  
Viewers

5 January 1954

IN RE: Petition for the Appointment of Viewers to Assess Benefits or Damages to land of Michael F. Volk and Alma E. Volk, his wife in the change of the grade of Legislative Route 62 Section 11, O.R.092 locally known as Traffic Route 219 or Main Street in Boro of Carrolltown, Cambria County, Pa. : No 6 June Sessions 1953 : In the Court of Quarter Sessions : of Cambria County, Fenna. : CONDEMNATION PROCEEDINGS

EXHIBIT OF SCHEDULE OF DAMAGES

We, the undersigned Viewers appointed by the above named Court to View and examine the real estate of thenamed petitioners have performed the duty and have taken into consideration all of the benefits or damages that have resulted or that may seem likely to result to the land of Michael F. Volk and Alma E. Volk, his wife by reason of the change of the grade of Legislative Route 62 Section 11, O. R. 092, locally known as Traffic Route 219 or Main Street in the Borough of Carrolltown, Cambria County, Pennsylvania and having into consideration of all the elements and facts pertinent to the above proceedings have estimated, determined and assessed benefits and damages as follows:

<u>NAME</u>	<u>BENEFITS</u>	<u>DAMAGES</u>
MICHAEL F. VOLK	NONE	\$900.00
ALMA E. VOLK his wife		

The above damages in the sum of Nine Hundred (\$900.00) Dollars to be paid to Michael F. Volk and Alma E. Volk, his wife by the Borough of Carrolltown, County of Cambria and State of Pennsylvania as their interest may appear.

*Mahlon B. Ungardner*  
Mahlon B. Ungardner, Chairman  
*Fred W. Claflin*  
Fred W. Claflin

*Robert Mayer*  
Robert Mayer  
Viewers

RE: Petition for Appointment of Viewers : No 6 June Sessions 1953  
to Assess Damages or Benefits to Land of : In the Court of Quarter Sessions  
Michael F. Volk and Anna E. Volk in Charge : Of Cambria County, Penna.  
of Grade of Legislative Route 62 Section :  
11, O.R. 092, locally known as Traffic :  
Route 219 or Main Street, Boro of Car- :  
rolltown, Cambria County, Penna. : CONDEMNATION PROCEEDINGS

CAMBERIA COUNTY in Account with Mahlon Baumgardner, Fred W. Claflin & Robert Mayer.

Mahlon Baumgardner:

1953.			
June 11-	Data and Preparing Notices to View	\$12.00	
" 8-	Posting Notices to View	12.00	
" 24-	View at Carrolltown	12.00	
	Mileage 14 mi	1.40	
" 25-	Preparing Notice of hearing & acceptances service	12.00	
July 8-	Hearing at Carrolltown	12.00	
	Mileage 14 mi	1.40	
" 17-	Conference estimating and determining damages	12.00	
Aug 5-	Prepared Notice of Exhibit of Schedule	12.00	
" 11-	Exhibit of Schedule Carrolltown more conferences asked	12.00	
	Mileage 14 mi	1.40	
Dec 6-	Notified all parties in interest Schedule Damages	12.00	
" 23-	Exhibit of Schedule	12.00	
	Mileage 14 mi	1.40	
Jan 5-	1954 Prepared Report	12.00	\$137.60

Fred Claflin

June 24-	View at Carrolltown	12.00	
"	Mileage 64 mi	6.40	
July 8-	Hearing at Carrolltown	12.00	
	Mileage 62 mi	6.20	
" 17-	Conference fixing amount of damages	12.00	
	Mileage 6 mi	.60	
Aug 11-	Exhibit Schedule continuance for further conferences	12.00	
	Mileage 62 to Carrolltown	6.20	
Dec 23-	Exhibit Schedule at Carrolltown	12.00	
	Mileage 62 mi	6.20	\$85.60

ROBERT Mayer

June 24-	View at Carrolltown	12.00	
	Mileage 62 mi	6.20	
July 8-	Hearing at Carrolltown	12.00	
	Mileage 60 mi	6.00	
July 17-	Conference determining & estimating damages	12.00	
	Mileage 4 mi	.40	
Aug 11-	Exhibit Schedule more time for conferences	12.00	
	Mileage 60 mi	6.00	
Dec 23-	Exhibit Schedule of Damages Carrolltown	12.00	
	Mileage 60 mi	6.00	\$84.60



IN RE: Petition for the Appointment of Viewers to Assess Damages or Benefits to land of Michael F. Volk and Alma E. Volk, in the change of grade of Legislative Route 62 Section 11, O. R. 602, locally known as Traffic Route 219 or Main Street in Boro of Carrolltown, Cambria County, Pa

: Do 6 June Sessions 1953  
: In the Court of Quarter Sessions  
: of Cambria County, Penna

CONDEMNATION PROCEEDINGS

NOTICE TO VIEW

We, the undersigned Viewers appointed by the above Court to View and Inspect a certain lot owned by Michael E. Volk and Alma E. Volk of the Borough of Carrolltown, Cambria County, Penna. and to determine and estimate the damages or benefits that have resulted or that may seem likely to result to the land and property of the petitioners and owners by reason in the change of grade of Legislative Route 62 Section 11, O. R. 602, locally known as Traffic Route 219 or Main Street in the Borough of Carrolltown, county and state aforesaid, bounded and described as follows, to wit:

Being on the right hand side of the public road leading from Carrolltown to Spangler: Beginning at a post and lot of Peter Cornish; thence along line of lot of said Cornish in a Northerly direction one hundred fifty feet to an alley; thence in a Westerly direction twenty five feet to half lot of Bern Dorisett; thence along line of lot of Bern Dorisett in a Southerly direction one hundred fifty feet to public road; thence along said road twenty-five feet to the place of beginning:

Will meet upon the premises on June 26, 1953 at 10:30 p'clock

A. M. Eastern Daylight Time for the purpose of performing the duties of our Appointment.

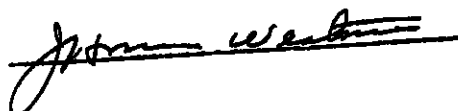
Mahlon J. Dzungardner

Fred W. Claflin

Robert Lhyer  
Viewers

June 11, 1953

NOW 12 June I hereby accept service of the above Notice to View as Attorney for Michael F. Volk and Alma E. Volk owners and acknowledge to have received a copy of said Notice to View.



IN RE: Petition for the Appointment of Viewers to Assess Damages or Benefits to the lands of Michael F. Volk and Alma E. Volk, in the change of grade of Legislative Route 62 Sec 11, O.R. 092, locally known as Traffic Route 219 or Main Street : No 6 June Sessions 1953  
Boro of Carrolltown, Cambria County, Pa. : In the Court of Quarter Sessions of Cambria County, Penna.  
: CONDEMNATION PROCEEDINGS

NOTICE TO VIEW

We, the undersigned Viewers appointed by the above Court to View and Inspect a certain lot of land owned by Michael E. Volk and Alma E. Volk of the Borough of Carrolltown, Cambria County, Penna. and to determine and estimate the damages or benefits that have resulted or that may seem likely to result to the land and property of the petitioners and woener by reason in the change of grade of Legislative Route 62 Section 11, O. R. 092, locally known as Traffic Route 219 or Main Street in the Borough of Carrolltown, county and state aforesaid bounded and described as follows, to wit:

Being on the right hand side of the public road leading from Carrolltown to Spangler; Beginning at a post and lot of Peter Gormish; thence along line of lot of said Gormish in a Northerly direction one hundred fifty feet to an alley; thence in a Westerly direction twenty-five feet to half lot of Emma Dericott; thence along line of lot of Emma Dericott in a southerly direction one hundred fifty feet to public road; thence along said road twenty-five feet to the place of beginning:

Will meet upon the premises on Wednesday June 24, 1953 at 10:30 A. M. Eastern Daylight Time for the purpose of performing the duties of our appointment.


Mahlon J. Baumgardner

Fred W. Claflin

Robert Mayer  
Viewers

June 11, 1953

NOW 11th June 1953 I hereby accept service of the above Notice to View as Solicitor for the Borough of Carrolltown, Cambria County, Pa., and acknowledge receipt of copy of said Notice to View.

  
Solicitor Boro of Carrolltown

III RE: Petition for the Appointment of Viewers to Assess Damages or Benefits to land of Michael F. Volk and Alma E. Volk, in the change of grade of Legislative Route 62 Section 11, O. R. 002, locally known as Traffic Route 219 or Main Street in Borough of Carrolltown, Cambria County, Pa

: No 6 June Sessions 1953  
: In the Court of Quarter Sessions  
: of Cambria County, Penna

: CONDEMNATION PROCEEDINGS

#### NOTICE TO VIEW

We, the undersigned Viewers appointed by the above Court to View and Inspect a certain lot owned by Michael E. Volk and Alma E. Volk of the Borough of Carrolltown, Cambria County, Penna. and to determine and estimate the damages or benefits that have resulted or that may soon likely to result to the land and property of the petitioners and owners by reason in the change of grade of Legislative Route 62 Section 11, O. R. 002, locally known as Traffic Route 219 or Main Street in the Borough of Carrolltown, county and state aforesaid, bounded and described as follows, to wit:

Being on the right hand side of the public road leading from Carrolltown to Spangler: Beginning at a post and lot of Peter Gormish; thence along line of lot of said Gormish in a Northerly direction one hundred fifty feet to an alley; thence in a Westerly direction twenty five feet to half lot of Emma Dericott; thence along line of lot of Emma Dericott in a Southerly direction one hundred fifty feet to public road; thence along said road twenty-five feet to the place of beginning;

Will meet upon the premises on June 24, 1953 at 10:30 p'clock

A. M. Eastern Daylight Time for the purpose of performing the duties of our Appointment.

Mahlon J. Baumgardner

Fred W. Claflin

Robert Laylor  
Viewers

June 11, 1953

NOW 12 June 1953 we hereby accept service of the above Notice to View as the petitioners and owners and acknowledge to have received a Copy of said Notice to View.

Michael F. Volk  
Alma E. Volk

IN RE: Petition for the Appointment of Viewers to Assess Damages or Benefits to land of Michael F. Volk and Alma E. Volk in change of grade of Legislative Route 62 Section 11 O.R. 692, locally known as Traffic Route 219 or Main Street in the Boro of Carrolltown, Cambria County, Pa

: No 6 J no Sessions 1953  
: In the Court of Quarter Sessions  
: of Cambria County, Pennsylvania.  
:  
:  
:  
: CONDEMNATION PROCEEDINGS

NOTICE OF HEARING

We, the undersigned Viewers appointed by the above named Court to View and Inspect the premises and land of Michael F. Volk and Alma E. Volk of the Boro of Carrolltown, Cambria County, Penna. and to determine and estimate the benefits or damages that have resulted or that may seem likely to result by reason in the change of grade of Legislative Route 62 Section 11, O. R. 692 locally known as Traffic Route 219 or Main Street in the Borough of Carrolltown, County and State aforesaid being more particularly described as follows: to wit:

Being on the right side of the public road leading from Carrolltown to Spangler; Beginning at a post and lot of Peter Gormish; thence along line of lot of said Gormish in a Northerly direction one hundred fifty feet to an alley; thence in a Westerly direction twenty-five feet to half lot of Emma Dericott; thence along line of lot of Emma Dericott in a Southerly direction one hundred fifty feet to the public road; thence along said road twenty-five feet to the place of beginning

Will meet for the purposes of a Hearing in the above proceedings in the Council Rooms of the Borough of Carrolltown on Wednesday July 8, 1953 at 10 o'clock fast time in the morning for the purpose of taking testimony

Mahlon Baumgardner

Fred W. Claflin

Robert Mayer  
Viewers

1  
NOW 26th June 1953 I hereby accept service of the within notice of Hearing as Solicitor for the Borough of Carrolltown, Cambria County, Penna. and acknowledge to have received a copy of same.

Fred Fees  
Solicitor Boro of Carrolltown

IN RE: Petition for the Appointment of Viewers to Assess Damages or Benefits to land of Michael F. Volk and Alma E. Volk in change of grade of Legislative Route 62 Section 11 O.R. 092, locally known as Traffic Route 219 or Main Street in the Boro of Carrolltown, Cambria County, Pa : No 6 June Sessions 1953  
: In the Court of Quarter Sessions  
: of Cambria County, Pennsylvania.  
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: CONDEMNATION PROCEEDINGS

NOTICE OF HEARING

We, the undersigned Viewers appointed by the above named Court to View and Inspect the premises and land of Michael F. Volk and Alma E. Volk of the Boro of Carrolltown, Cambria County, Penna. and to determine and estimate the benefits or damages that have resulted or that may seem likely to result by reason in the change of grade of Legislative Route 62 Section 11, O. R. 092 locally known as Traffic Route 219 or Main Street in the Borough of Carrolltown, County and State aforesaid being more particularly described as follows: to wit\*

Being on the right side of the public road leading from Carrolltown to Spangler; Beginning at a post and lot of Peter Gormish; thence along line of lot of said Gormish in a Northerly direction one hundred fifty feet to an alley; thence in a Westerly direction twenty-five feet to half lot of Emma Dericott; thence along line of lot of Emma Dericott in a Southerly direction one hundred fifty feet to the public road; thence along said road twenty-five feet to the place of beginning

Will conduct a hearing in the above proceedings in the Council Room of the Borough of Carrolltown on Wednesday July 8, 1953 at 10 o'clock fast time in the morning for the purpose of taking testimony and you are requested to bring with you the plans, specifications and blue prints used during the construction of the above highway as it affects the land of the petitioner and owner.

Mahlon Baumgardner  
Fred W. Claflin  
Robert Mayer  
Viewers.

NOW 29 June 1953 I hereby accept service of the within Notice of Hearing for the State Highway Department of the Commonwealth of Pennsylvania and acknowledge to have received a copy of same.

*C.R. Forbes*

**Commonwealth of Pennsylvania,** } **SS.**  
**County of Cambria**

At a Court of Quarter Sessions of the Peace of the County of Cambria held at Ebensburg, in the said County, on the 23rd day of April A. D. 1953, before the Honorable Judge of the said Court: Upon the petition of divers inhabitants of the Town of Carrolltown, in the said County, setting forth that they labor under a great and excessive burden of taxes for work of a public nature, to wit: the improvement of a road or highway, to lead from the said Town of Carrolltown to the lands of Michael F. Volk and Alma E. Volk, in the change of grade of Legislative Route 62, Section 11, O.R. 092, locally known as Traffic Route 219 or Main Street in the Borough of Carrolltown, Cambria County, Pa.

and therefore praying the Court to appoint proper persons to view and assess & ascertain  
to law. The Court, upon due consideration had of the premises, do order and appoint .....  
Mahlon J. Baumgardner ..... surveyor, and Fred W. Claflin  
and Robert Mayer .....  
viewers, to view the same proposed road, and if they find the same, and shall  
therein set out the course and distance thereof, 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, to-  
gether 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:**

McKenrick, Judge

Joseph C. Weiss, Clerk

Order to view property of Petitioners  
Michael F. Volk and Alma E. Volk  
and assess and ascertain damages  
to said lands.

Mahlon J. Baumgardner  
Fred W. Claflin  
Robert Mayer

Viewers

Clerk

Joseph C. Weiss

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 6 June Sessions 1953  
Court of Quarter Sessions  
Cambria County, Penna

Petition of Michael F. Volk  
and Alma E. Volk, his wife for  
Viewers to inspect their land  
in Carrolltown Boro, Cambria  
County, Penna. to assess damag-  
es because of improvement of  
State Highway Route #219

REPORT OF VIEWERS

*Filed*  
*1-11-54*  
*10:00 A.M.*

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



Petition for the Appointment of Viewers to assess damages to the lands of Michael F. Volk and Alma E. Volk in the change of grade of Legislative Route 62 Section 11, O. R. 092, locally known as Traffic Route 219 or Main Street in the Borough of Carrolltown, Cambria County, Pennsylvania,

In the Court of Quarter Sessions of Cambria County, Pennsylvania.

No. \_\_\_\_\_ June Term 1953

Petition for Appointment of Viewers.

To the Honorable, the Judges of said Court:

The petition of Michael F. Volk and Alma E. Volk, respectfully represents:

1. That they are resident citizens of the Borough of Carrolltown, County of Cambria and State of Pennsylvania.

2. That they are the owners of all that certain lot or piece of ground situate in the Borough of Carrolltown, Cambria County, Pennsylvania, bounded and described as follows, to wit:

Being on the right hand side of the public road leading from Carrolltown to Spangler; Beginning at a post and lot of Peter Gormish; thence along line of lot of said Gormish in a Northerly direction one hundred fifty feet to an alley; thence in a Westerly direction twenty five feet to half lot of Emma Dericott; thence along line of lot of Emma Dericott in a Southerly direction one hundred fifty feet to public road; thence along said road twenty five feet to the place of beginning.

Subject, however, to any and all exceptions, provisions, conditions and reservations, if any, appearing in previous deeds in the line of this title.

Title to above described premises vested in petitioners by deed dated April 6, 1952 and recorded in Cambria County in Deed Book Vol. 640 page 399.

3. On or about the 25th day of April, 1947, the above mentioned change of grade in the Borough of Carrolltown was approved by the Commonwealth of Pennsylvania.

4. On or about the 25th day of April, 1947, the above

mentioned change of grade in the Borough of Carrolltown was approved by the Council of the Borough of Carrolltown.

5. That pursuant to the said approvals, the grade on Main Street was changed by raising the same approximately two feet in front of the property of petitioners, said raise in the grade of said street having been consummated in 1947 or early 1948.

6. That the property of the said Owners above mentioned abuts on said street and that the change so made in the grade of the said street by the Commonwealth of Pennsylvania and the Borough of Carrolltown, was without the consent of said owners and that the officers of said Borough have failed to agree with the owners for the proper compensation for the damages done and sustained by reason of the change of grade of said street, and that although damage has been caused to the owners of said property above mentioned, no compensation can be agreed upon between the said owners and the officers of said Borough.

7. The damages that have resulted from said change of grade are extensive, serious and permanent.

Wherefore, your petitioners pray your Honorable Court to appoint Viewers to assess and ascertain the damages done to said property of your petitioners and to make report thereof to the Court in accordance with the Acts of Assembly in such cases made and provided.

  
Michael F. Volk

  
Alma E. Volk

STATE OF PENNSYLVANIA    |  
                                  |    SS.  
COUNTY OF CAMBRIA        |

Before the undersigned, a Notary Public  
in and for said County and State, personally appeared Michael F.  
Volk and Alma E. Volk, petitioners within named, who being duly  
sworn according to law, say that the matters set forth in the  
foregoing petition are true and correct.

Michael F. Volk

Alma E. Volk

Sworn to and subscribed before me this 23 day of  
April, 1953.

W. B. Strick  
Notary Public  
My Commission Expires  
March 9, 1957

D E C R E E

And now, April 23rd <sup>at 11 am</sup> 1953, on consideration of the  
within petition, the Court appoints William J. Baumgardner  
Frank W. Chaplin and Robert Meyer  
Viewers to assess and ascertain the damage done by raising of  
the grade of Main Street, Carrolltown, Pennsylvania, to the  
property of petitioners referred to in the within petition in  
accordance with the prayer thereof, and to make report thereof  
to Court in accordance with the Acts of Assembly in such cases  
made and provided.

BY THE COURT.

McKenrick  
Judge.

Now Sept 8-1953 Rapid 7 names to be  
continued to present Sunday / December 1953

By the Court

*W. C. L. W. C. L. W. C. L.*  
*Spangler*

*Road Docket*

IN THE COURT OF QUARTER  
SESSIONS OF CAMBRIA COUNTY,  
PENNSYLVANIA  
NO. *6* JUNE TERM 1953

Petition for the Appointment  
of Viewers to assess damages  
to the lands of Michael F.  
Volk and Alma E. Volk, in  
the change of grade of  
Legislative Route 62 Section  
11, O. R. 092, locally known  
as Traffic Route 219 or Main  
Street in the Borough of  
Carrolltown, Cambria County,  
Pennsylvania.

*Filed*  
*4/23/53*

*J. H. W. C. L. W. C. L. W. C. L.*  
LAW OFFICES OF  
~~WESTOVER & LANTIER~~  
FIRST NATIONAL BANK BUILDING  
SPANGLER, PENNSYLVANIA