



9/4/05

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Office of the County Recorder,
Hennepin County, Minnesota
Michael H. Cunniff, County Recorder
Deputy 43 TransID 185141,
Fees
\$35.50 DOC
\$10.50 SUR
\$2.00 COPY
\$48.00 Total

CLERK'S CERTIFICATION

The undersigned duly qualified and acting City Clerk of the City of the Village of Minnetonka Beach, Minnesota, hereby certifies that attached hereto is a true and correct copy of:

RESOLUTION NO. 2005-24

A RESOLUTION APPROVING A LAKE SETBACK VARIANCE
FROM THE REQUIRED 75 FEET TO 0 FEET AND
APPROVING A VARIANCE TO THE AVERAGE MINIMUM BUILDING
SETBACK LINE TO ALLOW THE ERECTION OF A FLAGPOLE

TO THE LAFAYETTE CLUB
FOR PROPERTY AT 2800 NORTHVIEW ROAD

LEGAL DESCRIPTION AS ATTACHED

MINNETONKA BEACH, HENNEPIN COUNTY, MINNESOTA

As approved by the City Council of the City of the Village of Minnetonka Beach, which originals are on file in the office of the City Clerk, City of the Village of Minnetonka Beach.

12/23/06
Date

Marilyn Regnier
Marilyn Regnier, City Clerk

Return to:
City of Minnetonka Beach
P.O. Box 146
Minnetonka Beach, MN 55361
952/471-8878

CITY OF THE VILLAGE OF MINNETONKA BEACH

RESOLUTION NO. 2005-24

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MINNETONKA BEACH, HENNEPIN COUNTY, MINNESOTA

Whereas, the Applicant has proposed to erect a flagpole on the property located at 2800 Northview Road in such a way as to be in violation of Chapter 2 Section 207, and

Whereas, The property owner has made an application to vary Section 207 i lake setback from the required 75.0 feet to 0.0 feet and to vary the average minimum building setback line for the purpose of erecting a flagpole, and;

Whereas, the City Clerk has caused a notice of publication to be published in the official newspaper, such notice of public hearing dated June 4, 2005, and has caused notification to be made to the property owners within 350 feet of the subject property of the public hearing and has notified the Commissioner of the Minnesota Department of Natural Resources as to the consideration of the proposed variance, and;

Whereas, the Planning Commission has held a public hearing on June 20, 2005, received a report from the Planning and Zoning Administrator recommending denial of the variance and the Applicant and others were present to provide testimony, and;

08/19/05

Whereas, the Planning Commission made findings and recommended approving the setback variance from the required 75 feet to 0 feet and recommending approving the variance to the average minimum building setback line, and;

Whereas, on July 11, 2005, the City Council acting as the Board of Adjustment and Appeals as prescribed in Minnesota State Statutes received a report from the Planning and Zoning Administrator recommending denial of the Variance, providing background and making a recommendation for findings, and;

Whereas, the City Council took additional testimony from the Applicant, and others present,

Now therefore be it resolved that the City Council, City of the Village of Minnetonka Beach approve the lake setback variance from the required 75 feet to 0 feet and approve the variance to the average minimum building setback line resolving:

Making findings of fact:

1. The proposal, as submitted by the Applicant, requires that a variance be granted in order for the City to issue the building permit to build the proposed structure;
2. The proposed improvement, as depicted in the submitted plans, consists of a 40-foot high flagpole located adjacent to the lake in the vicinity of the docks and slip;
3. The lot is large (46.8816 acres) with several options where this commercial size flagpole could be located;
4. The City Council and Planning Commission have received and reviewed the report prepared by the Planning and Zoning Administrator including the facts contained therein and the recommendations
5. The structure is located in a Residential Zoning District;
6. That the proposed improvement does conform to the City's adopted Comprehensive Plan.

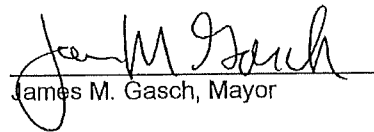
Making findings as required by Section 228 of the City Code:

1. Literal interpretation of the Ordinance does cause an undue hardship. Undue hardship is considered a literal interpretation of the ordinance in such a way as denying the owner a reasonable use of the property. What this means is that the property must be able to be put to a residential land use similar to other properties in the area.


2. There are special conditions or circumstances on this lot that are different from a number of lots in the same zoning district and from the lots in the neighborhood.
3. The application of the Ordinance does deprive the Applicant of property rights enjoyed by other properties in the same zoning district. There are several smaller flagpoles in the lake setback.
4. This structure that the variance is necessary for will materially or adversely affect the neighboring property.

Granting the variance does conform to the policies and strategies of the Comprehensive Plan. The Comprehensive Plan indicates that this area is Residential Lake Shore. The setbacks are determined by performance standards that recognize the existing situation and encourage improvements without being detrimental to the neighboring property or the neighborhood.

Date 9/6/05


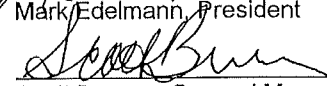

James M. Gasch, Mayor

ATTEST:

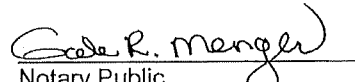

Marilyn Regnier, City Clerk

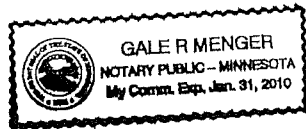
The undersigned applicants have read, understand, and hereby agree to the terms of this resolution and on behalf of him/her, his/her heirs, successors and assigns, hereby agree:
To the conditions set forth above, and to submit an 8 1/2 by 11 inch set of plans and survey as described above and to the recording of this resolution and attachments in the chain of title of the property.

Dated 9/9/05


Mark Edelman, President

Scott Bremer, General Manager

Subscribed and sworn to before me this 8th day of September 2005.


Notary Public



PREPARED FOR:

LAFAYETTE COUNTRY CLUB

2800 NORTHVIEW ROAD
MINNETONKA BEACH, MN 55361
PHONE (612) 471-8493

PID's 16-117-23-13-0001
16-117-23-42-0001
16-117-23-42-0027

PREPARED BY:

HEDLUND-PLANNING
ENGINEERING SURVEYING

9201 EAST BLOOMINGTON FREEWAY
BLOOMINGTON, MINNESOTA 55420
PHONE (612) 888-0289

LEGAL DESCRIPTION

Parcel 1:

That part of Government Lots 5, 6, and 7, that part, now vacated, of Minnetonka Beach on Lake Minnetonka, and that part of the vacated streets and alleys adjoining said parcels, all in Section 16, Township 117, Range 23, described as follows: Beginning at the intersection of the north line of the Great Northern Railroad right-of-way with the southeasterly line of Cottage Place; thence easterly along the northerly line of said right-of-way to the west line of Lafayette Place vacated; thence northerly along said west line to the shore of Crystal Bay; thence northwesterly, westerly, and southwesterly, along the shore of Crystal Bay, to the point of intersection with the northwesterly extension of the southwesterly line of Lot 115, now vacated Minnetonka Beach on Lake Minnetonka; thence southeasterly along said extension and said southwesterly line to the most southerly corner of said Lot 115; thence northeasterly along the southeasterly line of Lots 115 and 114, now vacated, Minnetonka Beach on Lake Minnetonka, to the point of intersection with the northwesterly extension of the southwesterly line of Lot 144, now vacated, Minnetonka Beach on Lake Minnetonka; thence southeasterly along said extension and said southwesterly line, and along the southeasterly extension of the southwesterly line of said Lot 144, to the southeasterly line of vacated Cottage Place; thence southwesterly along the southeasterly line of vacated Cottage Place to the point of beginning.

ALSO: That part of Government Lot 6, Section 16, Township 117, Range 23, described as follows:

Beginning at the intersection of the south line of the right-of-way of the Great Northern Railroad and the west line of Lafayette Place; thence south along the west line of Lafayette Place to the north line of Lafayette Ave.; thence westerly along the north line of Lafayette Avenue to the east line of the street lying east of Lots 166 and 167 in Minnetonka Beach on Lake Minnetonka; thence north on the east side of said street to the south line of said right-of-way line; thence easterly along same to beginning, in Section 16, Township 117, Range 23, EXCEPT that part lying within the following described tract; that part of vacated Lafayette Place as platted in Minnetonka Beach on Lake Minnetonka and that part of Government Lot 6, Section 16, Township 117, Range 23 described as follows: Beginning at the southwest corner of Lot 1 of said Minnetonka Beach on Lake Minnetonka; thence west along the westerly extension of the south line of said Lot 1, a distance of 71 feet; thence north parallel with the westerly line of said Lot 1, a distance of 82.45 feet; thence east parallel with said south extended line of said Lot 1, a distance of 19 feet; thence north parallel with the westerly line of said Lot 1, to an intersection with north line of said Lot 1 extended westerly; thence east along the westerly extension of the north line of said Lot 1 to the northwest corner of said Lot 1; thence south along the westerly line of said Lot 1 to the point of beginning, according to the United States Government Survey thereof and situated in Hennepin County, Minnesota.

And according to the plat thereof on file and of record in the office of the Register of Deeds in and for Hennepin County, Minnesota.

Parcel 2:

All that part of the Dakota Rail Inc. railroad right-of-way located in Section 16, Township 117, Range 23, Hennepin County, Minnesota which lies easterly of Northview Road, formerly Cottage Place as dedicated in the recorded plat of Minnetonka Beach on Lake Minnetonka, and which lies westerly of the extension of the centerline of vacated Lafayette Place as dedicated in the recorded plat of Minnetonka Beach on Lake Minnetonka. Except that part which lies 6 feet on each side of the centerline of the existing main line track.

Together with those parts of vacated Lafayette Place and Lafayette Avenue which accrue to the subject property by vacation thereof. Together with easements for crossing as set out in that certain Easement Agreement dated August 9, 1990, filed September 18, 1990 as Document Number 5702973.