

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

John W. Carey Chair
Kenneth F. Sette Vice Chair
Shirley J. Mihelich Commissioner

IN THE MATTER OF THE PETITION FOR) FINDINGS OF FACT
THE DETACHMENT OF CERTAIN LAND FROM) CONCLUSIONS OF LAW
THE CITY OF WAYZATA PURSUANT TO) AND ORDER
MINNESOTA STATUTES 414)

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on June 25, 1990, at Wayzata, Minnesota. The hearing was conducted by Terrence A. Merritt, Executive Director, pursuant to Minnesota Statutes 414.01, Subdivision 12. Also in attendance were Kenneth F. Sette, Vice Chair, and Shirley J. Mihelich, Commissioner of the Minnesota Municipal Board. The petitioner appeared by and through Peter H. Watson, Attorney at Law, and the City of Wayzata appeared by and through Robert L. Meller, Jr. Desyl Peterson, City Attorney of Minnetonka noted her appearance, but did not participate in the proceeding. Testimony was heard and records and exhibits were received.

After due and careful consideration of all evidence together with all records, files and proceedings, the Minnesota Municipal Board hereby makes and files the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. On April 18, 1990 a petition for detachment from the City

of Wayzata, hereinafter referred to as Wayzata, was filed by the sole property owner with the Municipal Board. The petition contained all the information required by statute including a description of the property proposed for detachment, hereinafter referred to as the subject area, which is as follows:

All that part of the below-described property which lies westerly of the shore line of Gray's Bay of Lake Minnetonka and northerly of the shore line of Wayzata Bay of Lake Minnetonka which was annexed to the City of Wayzata pursuant to Petition dated June 29, 1956, to-wit: The Northerly 661.3 feet as measured down the center line of the road thereon as it existed on September 12, 1959 as shown by the survey prepared by Carlisle Madsen dated April 18, 1959 of Government Lot 7, Section 8, Township 117 North, Range 22 West of the 5th Principal Meridian which lies South of Carpenter's Point, Hennepin County, Minnesota, including the land under the right of way for highway purposes as described in that certain deed dated September 24, 1887 recorded at Book 232 of Deeds, Page 432 as Document No. 25030.

2. Due, timely and adequate legal notice of the hearing, necessitated by Wayzata's lack of a Resolution supporting the detachment was published, served and filed.

3. The majority of Wayzata lies north of the subject area, a portion of Wayzata lies south of the subject area. The remainder of the subject area's perimeter abuts Lake Minnetonka.

4. The subject area is approximately 1.4 acres in size.

5. Wayzata is approximately 516 acres in size.

6. The City of Minnetonka, hereinafter referred to as Minnetonka, is approximately 17,983 acres in size.

7. The subject area abuts Gray's Bay on its eastern border and Wayzata Bay on its western border. Both bays are in Lake

Minnetonka and Minnetonka. The shoreline abutting each bay is approximately 1,000 feet in length. The subject area varies in width between the two bays from approximately 33 to 100 feet.

That portion of the subject area east of Highway 101 is lower than that portion of the subject area west of Highway 101. Presently, the water level in Lake Minnetonka on the eastern portion of the subject area is approximately 2 feet lower than normal. The present level of water on the eastern portion of the subject area precludes construction of a road during normal water levels. A driveway could have been installed on the eastern length of the subject area during the dry years prior to the detachment request.

8. The subject area is bisected by and located along a segment of State Highway 101, which crosses Lake Minnetonka between Gray's Bay and Wayzata Bay. The Wayzata Comprehensive Plan classifies Highway 101 as a minor arterial roadway. Wayzata has federal trunk highways, state trunk highways, county state aid highways, county roads and local roads.

9. Minnetonka has State Trunk Highway 101 and local roads immediately south of Wayzata and close to the subject area.

10. Wayzata had a population of 3,700 in 1970, 3,621 in 1980, and its estimated population in 1989 was 3,938. The Metropolitan Council forecast projects 3,900 for the 1990 and the 2000 population.

11. Minnetonka had a 1970 population of 35,776, a 1980 population of 38,683, and for the 1989 population, a Metropolitan

Council estimate of 47,727. The Metropolitan Council had forecast a 1990 population of 46,000 and a year 2000 population of 49,000.

12. The subject area does not have any population at present and has not been populated since at least 1985.

There are no projections for any population in the subject area.

13. On the western side of the subject area there is a driveway, a dock with a boat and rip rap along the western shoreline adjacent to the driveway.

The driveway is approximately 100-150 feet in length and is black topped. It is projected that approximately twelve cars could be parked on the driveway. The driveway has access on both the northern and southern end of the subject area to Highway 101.

14. If the subject area is detached from Wayzata, the property owner anticipates commercial zoning for the subject area, with the ability to park approximately a dozen or so cars. The property owner estimates there is additional room for ten to twenty boat slips without too much congestion. Based on the property owner's understanding of the Lake Minnetonka Conservation District Ordinance and the amount of shoreline in the subject area, the subject area may be able to accommodate between 43 and 216 boat slips.

The property has had 2 boat docks on it.

15. The subject area has been valued for tax purposes as follows: 1978, \$13,000; 1979, \$14,000; 1980, \$18,000; 1981, \$21,000; 1982, \$24,000; 1983, \$27,000; 1984, \$29,700; 1985,

\$32,000; 1986, \$35,000; 1987, \$50,000, (which is the year the petitioner, The Emerson Property Company, purchased the subject area, giving a \$50,000 note to each of the two owners, for a total purchase price of \$100,000), 1988, \$57,500; and 1989, \$63,200.

The Wayzata City Council lowered the assessed value of the subject area from \$63,200 to \$15,000, payable in 1991 at the Board of Review and Adjustment on May 3, 1990. The reduction lowered the value of the subject area so that the taxes payable would be approximately equal to the cost per year for renting one boat slip from the marina.

16. Wayzata's land use controls designates that the subject area can support one boat slip.

17. Highway 101 is used by thousands of cars per day traveling to and from work or for pleasure.

18. There is no sewer or water presently servicing the subject area.

19. The lack of depth from the shoreline to the road on the subject area prevents the probable construction of any residential development.

20. The subject area was originally a part of the property located north of the subject area in Wayzata.

21. If the subject area is detached from Wayzata there would be a portion of Wayzata located south of the subject area. The subject area would be surrounded on its two landed sides by Wayzata and on its two water sides by Minnetonka. If the detachment is granted, the subject area would be an island unto itself and would

sever that area of Wayzata into two non-contiguous parts.

22. There is no township in Hennepin County adjacent to or within fifteen miles of the subject area.

If detached, the subject area would be a 1.4 acre entity with: no planned residential, institutional or industrial development potential; the only anticipated use of the subject area would be a commercial type marina; no stated administrative capability, no known Comprehensive Plan or Zoning Ordinance.

23. The petitioner presented no plans for development of on-site sanitary sewer or water or central sanitary sewer or water for the subject area if the detachment is granted.

24. The petitioner offered no specific plans for the provision of fire protection or police protection for the subject area if the detachment is granted.

Wayzata presently provides both fire and police protection to the subject area.

25. The Wayzata Comprehensive Plan was reviewed by the Metropolitan Council on May 20, 1981. Since that time there have been minor plan amendments.

26. The Minnetonka Comprehensive Plan review by Met Council was completed on May 21, 1981. The plan has had minor amendments since then.

27. Minnetonka Comprehensive Plan does not include the subject area.

Hennepin County basically lacks land use control over the subject area.

28. The present zoning for the subject area is R-1A, low density single family residential and is the same zone that the subject area has had for over 10 years.

29. The shoreland overlay district also controls use on the subject area.

CONCLUSIONS OF LAW

1. The Minnesota Municipal Board duly acquired and now has jurisdiction of the within proceeding.

2. The detachment of the area proposed for detachment would unreasonably affect the symmetry of Wayzata.

3. Because the area presently is used for a boat slip, and if detached, is proposed to be commercially zoned to accommodate additional boat slips, the subject area is not rural in nature.

4. An order should be issued by the Minnesota Municipal Board denying the petition for detachment of the area described herein.

O R D E R

1. IT IS HEREBY ORDERED: That the petition for the detachment of the property described herein in Findings of Fact 1 be, and the same hereby is denied.

2. IT IS FURTHER ORDERED: That the effective date of this order is January 24, 1991.

Dated this 24th day of January, 1991.

MINNESOTA MUNICIPAL BOARD
165 Metro Square Building
St. Paul, Minnesota 55101



Terrence A. Merritt
Executive Director