

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Petition for Detachment
of Certain Real Property from the City of
Ivanhoe to Royal Township
MBAU Docket D-547

**ORDER APPROVING
DETACHMENT**

On May 18, 2015, a Petition for Detachment was filed with the Office of Administrative Hearings pursuant to Minn. Stat. § 414.06 (2014), requesting detachment of approximately 150 acres of real property (Property) owned by Lawrence Sterzinger, Paul Sterzinger, Patrick Sterzinger, and Martin Sterzinger. The Petition for Detachment was signed by 75 percent of the property owners.

On June 22, 2015, the City of Ivanhoe (City) adopted Resolution Number 150622 supporting the Petition or Detachment. The City's Resolution Number 150622 was filed with the Office of Administrative Hearings on June 23, 2015. No resolution was received from Royal Township (Township).

On June 29, 2015, a revised Petition for Detachment (Revised Petition) was filed with the Office of Administrative Hearings, which Revised Petition was signed by 100 percent of the property owners. The Revised Petition seeks detachment of the Property legally described as noted on Attachment A, which is incorporated by reference herein.

Paul E. Stoneberg, Stoneberg, Giles & Stroup, PA, appears on behalf of the Petitioners, Lawrence Sterzinger, Paul Sterzinger, Patrick Sterzinger, and Martin Sterzinger (Petitioners). Tammy Guza, City Clerk, appears on behalf of the City, without legal counsel. Michelle Rybinski, Township Clerk, appears on behalf of the Township, without legal counsel.

Based upon a review of the Revised Petition and the City's Resolution Number 150622, the Chief Administrative Law Judge makes the following:

ORDER

1. Pursuant to Minn. Stat. § 414.06, the revised Petition for Detachment and the City's Resolution Number 150622, are deemed adequate in all legal respects and found to properly support this Order.

2. Pursuant to the operation of Minn. Stat. § 414.06 and notwithstanding the concerns addressed in the attached Memorandum, the Property is **DETACHED** from the City of Ivanhoe.

3. The hearing currently scheduled for July 13, 2015 is **CANCELLED**.

4. Pursuant to Minn. Stat. § 414.06, subd. 7 (2014), the cost of these proceedings to date shall be 100 percent the responsibility of the Petitioners. An invoice memorializing these costs will be sent to the Petitioners under separate cover.

Dated: July 9, 2015



TAMMY L. PUST
Chief Administrative Law Judge

NOTICE

This Order is the final administrative order in this case under Minn. Stat. §§ 414.06, .07, .09, .12 (2014). Pursuant to Minn. Stat. § 414.07, subd. 2, any person aggrieved by this Order may appeal to Lincoln County District Court by filing an Application for Review with the Court Administrator within 30 days of this Order. An appeal does not stay the effect of this Order.

Any party may submit a written request for an amendment of this Order Approving Detachment within seven days from the date of the mailing of the Order pursuant to Minn. R. 6000.3100 (2013). No request for amendment shall extend the time of appeal from this Order.

MEMORANDUM

In enacting Minnesota Statutes Chapter 414, the legislature of the state of Minnesota made very clear findings related to the public policy purposes it was seeking to achieve. The municipal boundary adjustment statute is intended to support: “sound urban development and preservation of agricultural land and open spaces through land use planning;” the formation of municipalities “when there exists or will likely exist the necessary resources to provide for their economical and efficient operation;” and the encouragement of joint land use planning among counties, cities and towns in Minnesota.¹ To effectuate these goals, the legislature has directed the Chief Administrative Law Judge to promote and regulate municipal development in a manner that, inter alia, “protect[s] the integrity of land use planning in municipalities and unincorporated areas so that the public interest in efficient local government will be properly recognized and served.”²

Section 414.06 of the statute regulates the detachment of property from an incorporated municipality. This section specifies certain criteria that should guide a detachment decision in a case that is contested between a city and a township, including: (1) the rural and undeveloped character of the property; (2) its location within and abutting a city boundary; (3) the detachment’s effect on the symmetry of a city; (4) the property’s relationship to reasonably anticipated future development; and (5) the city’s ability to carry on the functions of government post-detachment.³

If these criteria were applied in the present case, the Chief Administrative Law Judge would deny the requested detachment on at least one sufficient ground: the detachment “unreasonably affect[s] the symmetry of the detaching municipality.”⁴ The term “symmetry” is not defined in the detachment statute or elsewhere in state statutes. The common definition of “symmetry” includes “balanced proportions” and “the property of being symmetrical; especially: correspondence in size, shape, and relative position of parts on opposite sides of a dividing line or median plane or about a center or axis.”⁵

One need look no further than the following maps to establish the fact that the detachment results in an unreasonably non-symmetric municipality. Below is an outline of the boundaries of the City of Ivanhoe both prior to (Exhibit A) and after (Exhibit B) the detachment. In the illustration, the Property is highlighted in yellow. The City’s boundaries are highlighted in pink.

¹ Minn. Stat. § 414.01, subd. 1a (2014).

² Minn. Stat. § 414.01, subd. 1b (2014).

³ Minn. Stat. § 414.06, subd. 3 (2014).

⁴ *Id.*

⁵ The Merriam-Webster on-Line Dictionary, <http://www.merriam-webster.com/dictionary/symmetry>.

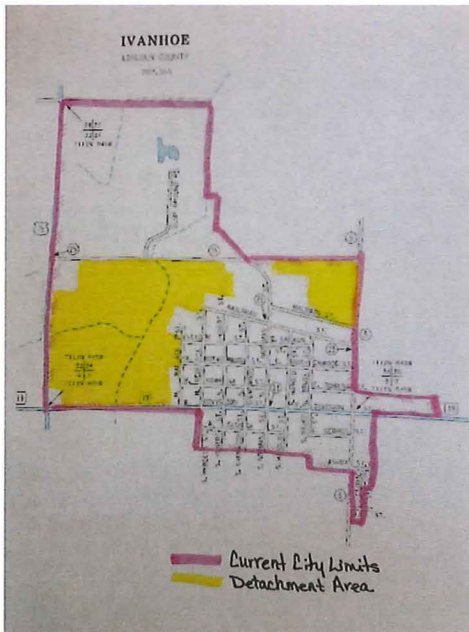


Exhibit A: Before Detachment

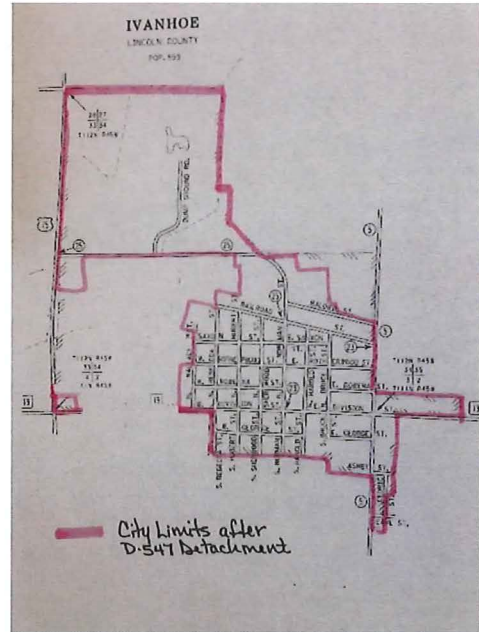


Exhibit B: After Detachment

Exhibit B makes clear that this detachment, in effect, dissects the City into two portions joined only by a short strip of Norman Street. It also leaves a piece of the City as an unattached island. By no stretch of the imagination can the resulting shape of the City boundary be described as symmetrical, nor can the detachment be seen as “protect[ing] the integrity of land use planning in municipalities and unincorporated areas so that the public interest in efficient local government will be properly recognized and served.”⁶

Nevertheless, the Chief Administrative Law Judge has no authority to deny the detachment in this uncontested case. The statute directs as follows:

If both a resolution of support from the municipality and a petition by all the property owners are submitted, and no resolution of opposition has been received from a town as provided in subdivision 1a, no hearing is necessary and the chief administrative law judge shall grant the petition.

As the City agreed to the requested detachment in its adoption of Resolution Number 150622, reportedly to avoid the financial costs associated with challenging it,⁷ the detachment must be granted.

T.L.P.

⁶ Minn. Stat. § 414.01, subd. 1b.

⁷ Telephone communication from City representative to staff of the Office of Administrative Hearings' Municipal Boundary Adjustment unit in reference to OAH Docket No. 84-0330-32545.

Attachment A Legal Description

All that part of the South half ($S\frac{1}{2}$) of Section Thirty-four (34), in Township One Hundred Twelve (112) north, of Range Forty-five (45) west of the Fifth Principal Meridian described as follows, to-wit:

Beginning at the northeast corner of the Southeast quarter ($SE\frac{1}{4}$) of said Section 34; thence West along the north line of the Southeast quarter of said Section 34 to the extended (produced) east line of Norman Street in the Town of Ivanhoe; thence South along the extended (produced) east line of said Norman Street to a point distant 500 feet north, as measured along said extended (produced) east line of Norman Street, from a line drawn parallel with and distant 200 feet North-easterly at right angles from the center line of the main track of the Chicago and North Western Railway Company; thence East at right angles 400.29 feet; thence South along a line parallel with said extended (produced) east line of Norman Street to a point distant 205 feet, measured along said parallel line from a line drawn parallel with and distant 200 feet Northeasterly at right angles from said railway center line; thence East at right angles 200 feet; thence South parallel with said extended (produced) east line of Norman Street to a point distant 200 feet Northeasterly at right angles from said railway center line; thence Southeasterly parallel with said center line to the east line of the Southeast quarter ($SE\frac{1}{4}$) of said Section 34; thence North along the east line of the Southeast quarter ($SE\frac{1}{4}$) of said Section 34 to the point of beginning;

ALSO, That part of the Southeast quarter ($SE\frac{1}{4}$) of said Section 34 which is bounded on the north by a line drawn parallel with and distant 67 feet South at right angles from the north line of the Southeast quarter of said Section 34; on the East by the extended (produced) east line of the alley of Block 3 in the Town of Ivanhoe; on the South by a line drawn parallel with and distant 200 feet Northeasterly at right angles from the center line of the main track of the Chicago and North Western Railway Company; and on the West by the west line of the Southeast quarter of said Section 34;

ALSO That part of the Southwest quarter ($SW\frac{1}{4}$) of said Section 34 which is bounded on the North by a line drawn parallel with and distant 67 feet South at right angles from the north line of the Southwest quarter ($SW\frac{1}{4}$) of said Section 34; on the East by the east line of the Southwest quarter ($SW\frac{1}{4}$) of said Section 34; on the South by a line drawn parallel with and distant 50 feet Northeasterly at right angles from the center line of the main track of the Chicago and North Western Railway Company; and on the West by a line drawn parallel with and distant 133 feet East at right angles from the west line of the Southwest quarter ($SW\frac{1}{4}$) of said Section 34;

ALSO That part of the Southwest quarter ($SW\frac{1}{4}$) of said Section 34 bounded and described as follows: Beginning at the point of intersection of the extended (produced) west line of the alley in Blocks 20, 21, 22 and 23 in the subdivision entitled "Blocks 16 to 27 inclusive to the Town of Ivanhoe" with the south line of the Southwest quarter of said Section 34; thence North along said extended (produced) west line of the alley of said Blocks 20, 21, 22 and 23 to a point distant 50 feet South-westerly at right angles from the center line of the main track of the Chicago and North Western Railway Company; thence Northwesterly parallel with said railway center line to a point 417.4 feet East at right angles

From the west line of the Southwest quarter ($SW\frac{1}{4}$) of said Section 34; thence South parallel with the west line of the said Southwest quarter ($SW\frac{1}{4}$) of said Section 34, 417.4 feet; thence West at right angles 417.4 feet to the west line of the Southwest quarter of said Section 34; thence South along the west line of the Southwest quarter ($SW\frac{1}{4}$) of said Section

34 to a point distant 241.7 feet north of the southwest corner of the Southwest quarter (SW $\frac{1}{4}$) of said Section 34; thence East parallel with the south line of the Southwest quarter of said Section 34, 241.7 feet; thence South parallel with the west line of the Southwest quarter (SW $\frac{1}{4}$) of said Section 34, 241.7 feet to the South line of the Southwest quarter (SW $\frac{1}{4}$) of said Section 34; thence East along the south line of the Southwest quarter (SW $\frac{1}{4}$) of said Section 34 to the point of beginning

AND

A strip of land 100 feet in width extending over and across the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section Thirty-four (34), Township One Hundred Twelve (112) North, Range Forty-five (45) West of the Fifth Principal Meridian, lying East of a line drawn parallel with and distant 617.4 feet East at right angles from the West line of the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$), said strip of land being 50 feet in width on each side of the center line of the main track (now removed) of the Minnesota and North Dakota Railway Co., (later the Chicago and Northwestern Transportation Company) as said main track center line was originally located and established over said Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$),

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCELS:

1. The premises described in a conveyance to the State of Minnesota by a warranty deed dated April 4, 1952 recorded May 16, 1952 in Book 69 of Deeds, page 230, described as follows:

All that part of the following described tract:

That part of the south half of the southwest quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$) of section 34, township 112 North, range 45 west, lying west of a line parallel with and distant 530 feet west of the west line of Rebecca Street, Village of Ivanhoe, according to the plat thereof now on file and of record in the office of the Register of Deeds in and for Lincoln County; which lies southerly of the westerly extension of the northerly line of Rowena Street in said Village of Ivanhoe and easterly of a line run parallel with and distant 740 feet westerly of the west line of Rebecca Street, said Village of Ivanhoe; containing 1.68 acres, more or less, in addition to existing highways.

2. The premises described in a conveyance to the County of Lincoln dated August 13, 1948 recorded August 31, 1948 in Book 66 of Deeds, page 338, described as follows:

All that part of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section numbered Thirty-four (34) in Township numbered one hundred twelve North (112 N) of Range numbered forty-five West (45 W) of the Fifth (5th) Principal Meridian, IN THE VILLAGE OF IVANHOE, COUNTY OF LINCOLN, STATE OF MINNESOTA, bounded and described as follows: ON THE EAST by a line parallel with and distant one hundred sixty (160) feet West of the West line of Rebecca Street in said Village of Ivanhoe; ON THE NORTH by the South line of Rowena Street in said Village of Ivanhoe; ON THE WEST by a line parallel with and distance Five hundred thirty (530) feet West of the West line of Rebecca Street in said Village of Ivanhoe; ON THE SOUTH by the South line of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ of SW $\frac{1}{4}$) of Section numbered thirty-four (34) in Township numbered one hundred twelve North (112 N) of Range numbered forty-five West (45 W) of the Fifth (5th) Principal Meridian, AS SAID STREETS ARE LAID DOWN, DESCRIBED AND DEDICATED ON THE PLATS OF THE SUBDIVISION ENTITLED "Blocks 16 to 27 inclusive to the Town of Ivanhoe" and "Blocks 28-29-30-31 and Outlots A to D inclusive to the Town of Ivanhoe" AS RECORDED, ON FILE AND OF RECORD IN THE OFFICE OF THE REGISTER OF DEEDS IN AND FOR SAID COUNTY AND STATE.

3. The premises described in a conveyance to the Church of Saint Peter and Paul dated May 23, 1956 recorded June 11, 1956 in Book 70 of Deeds, page 360, described as follows:

All that part of the northwest quarter of the southwest quarter of Section 34, Township 112 North, Range 45 West of the 5th Principal Meridian in Lincoln County, Minnesota, described as follows: Commencing at the intersection of the west line of said section with a line drawn parallel with and distant southerly fifty (50) feet from the center line of the main track of the Chicago and Northwestern Railway Company's railway running thence easterly on said parallel line to a point six hundred seventeen and four tenths (617.4) feet east of the west line of said section measured at right angles thereto for a point of beginning, thence south parallel with said west section line four hundred four and three tenths (404.3) feet, thence west at right angles for a distance of six hundred seventeen and four tenths (617.4) feet to said west section line, thence north on said west section line for a distance of thirty (30) feet, thence east at right angles for a distance of four hundred seventeen and four tenths (417.4) feet, thence north parallel to said west section line for a distance of four hundred seventeen and four tenths (417.4) feet to a point fifty (50) feet as measured at right angles from the center line of said main track, thence east and southerly two hundred four and six tenths (204.6) feet to the point of beginning; said tract containing 2.243 acres.

4. The premises described in a conveyance to Independent School District No. 65 of Lincoln County dated September 6, 1957 recorded October 30, 1957 in Book 70 of Deeds, page 501, described as follows:

All that part of the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section numbered Thirty-four (34) in Township numbered One Hundred Twelve (112) North of Range numbered Forty-five (45) West of the Fifth (5th) Principal Meridian, in the Village of Ivanhoe, County of Lincoln, State of Minnesota bounded and described as follows, to-wit: Beginning at a point in the extended (produced) North line of Lot numbered Three (3) of Block numbered Twenty-one (21) of the subdivision entitled "Blocks 16 to 27 inclusive to the Town of Ivanhoe" which point is ten (10) feet West of the Northwest corner of said lot numbered Three (3); thence running North parallel with the West line of said Block numbered Twenty-one (21) and parallel with the West line of Block numbered Twenty (20) for a distance of Five Hundred Sixty Nine and Six-tenths (569.6) feet to the Southerly right of way line of the Chicago and North Western Railway Company, thence Westerly at an interior angle of 102 degrees-seven minutes on and along said Southerly railroad right of way line for a distance of One Hundred Twenty four (124) feet, thence Southerly at an interior angle of 89 degrees-fifty-six minutes for a distance of two Hundred Thirty-three and five-tenths (233.5) feet, thence Southwesterly at an angle of 27 degrees Fifty-eight minutes to the right for a distance of three hundred eighty (380) feet, thence Southerly at an angle of 12 degrees naught minutes to the left for a distance of sixty-five (65) feet, thence Easterly at an interior angle of 66 degrees seven minutes and on the extended (produced) North line of said Lot numbered Three (3) of Block numbered Twenty-one (21) for a distance of Four Hundred Twenty-three (423) feet to the point of beginning, containing 3.31 acres, more or less.

5. The premises described in a conveyance to the Village of Ivanhoe dated October 7, 1971 recorded November 22, 1971 in Book 79 of Deeds, page 228, described as follows:

The following tracts being all that part of the Southeast Quarter (SE $\frac{1}{4}$) of Section Thirty-four (34), Township One Hundred Twelve (112) North, Range Forty-five (45) West of the 5th Principal Meridian, bounded and described as follows:

Tract 1:

On the South by a line commencing at a point on the East line of Norman Street in the Village of Ivanhoe, extended North, 500 feet North of the intersection of the East line of Norman Street and the Northerly line of the station grounds being parallel with and distant northerly 200 feet from the center line of the main track of the railway of the Chicago and Northwestern Railroad Company, thence extending east at right angles from said east line of Norman Street extended Northerly; On the West by the East line of Norman Street extended Northerly; On the North by a line commencing at a point on the East line of Norman Street in the Village of Ivanhoe, extended North, 575 feet North of the intersection of the East line of Norman Street and the Northerly line of the station grounds being parallel with and distant northerly 200 feet from the center line of the main track of the railway of the Chicago and Northwestern Railroad Company, thence extending east at right angles from said East line of Norman Street extended northerly; On the East by a line parallel to and distant East from the East line of Norman Street extended Northerly 475.29 feet.

Tract 2.

On the South by the Northerly line of the station grounds being parallel with and distant northerly 200 feet from the center line of the main track of the railway of the Chicago and Northwestern Railroad Company; On the West by a line parallel to and distant east from the east line of Norman Street extended northerly 400.29 feet; On the North by a line commencing at a point on the East line of Norman Street in the Village of Ivanhoe, extended North, 500 feet North of the intersection of the East line of Norman Street and the Northerly line of the station grounds being parallel with and distant northerly 200 feet from the center line of the main track of the railway of the Chicago and Northwestern Railroad Company, thence east at right angles from said East line of Norman Street extended Northerly; On the East by a line parallel to and distant east from the east line of Norman Street extended Northerly 475.29 feet.

6. The premises described in a conveyance to Minnesota-Dakota Generating Company by Personal Representative's Deed dated August 15, 1993 recorded October 1, 1993 in Book 109 of Deeds, page 589, described as follows:

All that part of the Southeast quarter to Section 34, Township 112, Range 45, Lincoln County, Minnesota, described as follows: Beginning at the intersection of the northerly extension of the East line of the alley in Block 3, Town of Ivanhoe, according to the recorded plat thereof, and a line drawn parallel with and distant 67 feet South at right angles to the North line of said Southeast quarter; thence on an assumed bearing of South along said northerly extension of the East line of the alley in Block 3, a distance of 150 feet; thence South 89 degrees 00 minutes 45 seconds West parallel with said North line of the Southeast quarter, a distance of 150.00 feet; thence on a bearing of North parallel with said northerly extension of the East line of the alley in Block 3, a distance of 150.00 feet to a line drawn parallel with and distant 67 feet South at right angles to the North line of said Southeast quarter; thence North 89 degrees 00 minutes 45 seconds East parallel with said North line of the Southeast quarter, a distance of 150.00 feet to the point of beginning.

AND,

All that part of the Southeast quarter of Section 34, Township 112, Range 45, Lincoln County, Minnesota, described as follows: Commencing at the intersection of the northerly extension of the East line of the alley in Block 3, Town of Ivanhoe, according to the recorded plat thereof, and a line drawn parallel with and distant 67 feet South at right angles to the North line of said Southeast Quarter; thence on an assumed bearing of South along said northerly extension of the East line of the alley in Block 3, a distance of 150.00 feet to the point of beginning of the land to be described; thence South 89 degrees 00 minutes 45 seconds West parallel with said North line of the Southeast quarter, a distance of 25.00 feet; thence on a bearing of South parallel with said northerly extension of the East line of the alley in Block 3, a distance of 444.27 feet to a line parallel with and distant 200 feet northeasterly at right angles to the centerline of the main track of the Chicago and Northwestern Railway Company;

thence South 77 degrees 35 minutes 46 seconds East parallel with said centerline of the main track of the Chicago and Northwestern Railway Company, a distance of 25.60 feet to said northerly extension of the East line of the alley in Block 3; thence on a bearing of North along said northerly extension of the East line of the alley in Block 3, a distance of 450.20 feet to the point of beginning, RESERVING, HOWEVER, unto the devisees, heirs and assigns of the said decedent, Lawrence V. Sterzinger, a perpetual easement for ingress to and egress from the lands lying immediately West and adjoining said above described premises over and across the Northerly twenty-five (25) feet of said above described premises;

7. The premises described in a conveyance to the County of Lincoln dated May 19, 1998 recorded November 24, 1998 as Document No. 149100, described as follows:

All that part of the South Half of the Southwest Quarter (S ½ SW ¼) of Section Thirty-four (34), Township One Hundred Twelve (112) North, Range Forty-five (45) West, lying West of a line parallel with and distant 530 feet West of the West line of Rebecca Street, City of Ivanhoe, according to the plat thereof now on file and of record in the office of the County Recorder in and for Lincoln County; which lies Northerly of the Westerly extension of the Northerly line of Rowena Street in said City of Ivanhoe and Easterly of a line run parallel with and distant 740 feet Westerly of the West line of Rebecca Street, said City of Ivanhoe, and lies Southerly of a line parallel with and distant 300 feet North of the North line of the Westerly extension of Rowena Street in said City of Ivanhoe containing 1.45 acres, more or less, subject to easements of record if any.

8. The premises conveyed to S.S. Peter & Paul Catholic Church of Ivanhoe by conveyance dated June 8, 2009 recorded February 5, 2015 as Document No. 2015-000116, legally described as follows:

That part of the Southwest Quarter (SW¼) of Section Thirty-four (34) in Township One Hundred Twelve (112) North of Range Forty-five (45) West of the Fifth Principal Meridian described as follows:

Bounded on the North by a line drawn parallel with and distant 67 feet South at right angles from the North line of the Southwest Quarter (SW¼) of said Section 34; on the East by a line drawn parallel with and distant 617.4 feet East at right angles from the West line of the Southwest Quarter (SW¼) of said Section 34; on the South by a line drawn parallel with and distant 50 feet Northeasterly at right angles from the center line of the main track (now removed) of the Minnesota and North Dakota Railway Company, (later the Chicago and Northwestern Transportation Company) as said main track center line was originally located and established over said Northwest Quarter of the Southwest Quarter (NW¼SW¼); on the West by a line drawn parallel with and distant 133 feet East at right angles from the West line of the Southwest Quarter (SW¼) of said Section 34,