

O R D E R

D-26

BEFORE THE MUNICIPAL COMMISSION
OF THE STATE OF MINNESOTA

IN THE MATTER OF THE PETITION FOR THE DETACH-
MENT OF PROPERTY FROM THE VILLAGE OF NORWOOD,
CARVER COUNTY, MINNESOTA.

On the petition of requisite freeholders of the Village of Norwood, Carver County, Minnesota to detach certain lands from said Village which came regularly on for hearing before the Municipal Commission of the State of Minnesota on February 20, 1962 at the Village Hall in Norwood, Minnesota, at which time evidence was taken, testimony heard, and exhibits received, and upon all the files and records herein, and the Commission being fully advised in the premises.

IT IS ORDERED: That the following described lands lying and being in the County of Carver and State of Minnesota, described as follows, to-wit:

The Northwest Quarter of the Southeast Quarter of Section 14, Township 116, Range 26, excepting therefrom the following parcels of land, viz: 1. A strip of land 100 feet wide previously conveyed to the Hastings & Dakota Railway Co. for a right of way containing 3.7 acres; 2. A strip of land 100 feet wide previously conveyed to the Mpls. & St. Louis Railway Company for a right of way containing 1.92 acres; 3. 75/100 of an acre sold to the Mpls. & St. Louis Railway Co. being all that part of the West Half of the Southeast Quarter lying West of the right of way of the Mpls. & St. Louis Railway Co. 4. 75/100 acres sold to James Heap being all that part of the West Half of the Southeast Quarter lying North of the right of way of the Hastings & Dakota Railway Company.

be detached from the Village of Norwood, Carver County, Minnesota to become a part and parcel of Young America Township, Carver County, Minnesota.

IT IS FURTHER ORDERED: That the following described lands lying and being in the County of Carver and State of Minnesota, described as follows, to-wit:

That part of the Northeast Quarter of the Southeast Quarter of Section 14, Township 115, Range 26 lying South of the right of way of the Milwaukee, St. Paul and Pacific Railroad Company be detached from the Village of Norwood, Carver County, Minnesota to become a part and parcel of Young America Township, Carver County, Minnesota.

IT IS FURTHER ORDERED: That the following described lands lying and being in the County of Carver and State of Minnesota described as follows, to-wit:

That part of the Northeast Quarter of the Southeast Quarter of Section 14, Township 115, Range 26 lying North of the Milwaukee, St. Paul and Pacific Railroad right of way, be and remain a part and parcel of the Village of Norwood, Carver County, Minnesota.

MINNESOTA MUNICIPAL COMMISSION

Dated this 25th day of April, 1962

F. Robert Edman, Secretary

BEFORE THE MUNICIPAL COMMISSION
OF THE STATE OF MINNESOTA

IN THE MATTER OF THE PETITION FOR THE DETACH-
MENT OF PROPERTY FROM THE VILLAGE OF NORWOOD,
CARVER COUNTY, STATE OF MINNESOTA.

The petition of certain freeholders for the detachment of their property from the Village of Norwood, Carver County, Minnesota came regularly on for hearing before the Minnesota Municipal Commission in the Village Hall of the Village of Norwood, Minnesota on February 20, 1962 at 10:00 A.M. of said day. All the following members were present in person, viz: Joseph Robbie, Chairman; Robert W. Johnson, Vice-Chairman; F. Robert Edman, Exec. Secretary. Arthur H. Wagener of Waconia, Minnesota appeared as attorney for the petitioners and John A. Fahey of Chaska, Minnesota appeared as attorney for the Village of Norwood. Evidence was taken and testimony heard from all parties appearing at the hearing and indicating a desire to be heard. Certain exhibits were allowed in evidence.

The Commission having carefully considered all of the evidence and upon all the files and records now makes and files the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. That the petitioners Everett Exsted and Alice Exsted are the owners in fee simple as joint tenants of the following described land lying and being in the County of Carver and State of Minnesota, described as follows, to-wit:

The Northwest Quarter of the Southeast Quarter of Section 14, Township 116, Range 26, excepting therefrom the following parcels of land, viz: 1. A strip of land 100 feet wide previously conveyed to the Hastings & Dakota Railway Co. for a right of way containing 3.7 acres; 2. A strip of land 100 feet wide previously conveyed to the Mpls. & St. Louis Railway Company for a right of way containing 1.92 acres; 3. 75/100 of an acre sold to the Mpls. & St. Louis Railway Co. being all that part of the West half of the Southeast Quarter lying West of the right of way of the Mpls. & St. Louis Railway Co. 4. 75/100 acre sold to John Heap being all that part of the West Half of the Southeast Quarter lying North of the right of way of the Hastings & Dakota Railway Company which is a parcel of land less than 40 acres of land.

2. That the petitioners Kenneth Kloth and Ruth Kloth are the owners of the following described premises lying in the County of Carver and State of Minnesota, to-wit:

That part of the Northeast Quarter of the Southeast Quarter of Section 14, Township 115, Range 26 lying South of the right of way of the Milwaukee, St. Paul and Pacific Railroad Company.

3. That the remaining petitioners, being the heirs of James Heap, are the owners of the following described premises lying and being in the County of Carver and State of Minnesota described as follows, to-wit:

That part of the Northeast Quarter of the Southeast Quarter of Section 14, Township 115, Range 26 lying North of the Milwaukee, St. Paul and Pacific Railroad right of way.

4. That each of said parcels are less than 40 acres of land, and that all of the lands described herein were at the time of the filing of the petition herein located and a part of the Village of Norwood, Carver County, Minnesota, is adjacent to the municipal boundary of the Village of Norwood, is unplatted and occupied and used exclusively for agricultural purposes and that said petition was signed by all of the owners of the lands described herein and affected by said petition.

5. That the lands described in paragraphs 1 and 2 herein is now presently used solely for agricultural purposes; that the detachment of said lands would not unreasonably affect the symmetry of the Village of Norwood and that the land is not needed for reasonably anticipated future development.

6. That the lands described in paragraph 3 herein being the property lying North of the Milwaukee, St. Paul and Pacific railroad right of way is presently within the Village of Norwood and the detachment therefrom would unreasonably affect the present symmetry of the Village of Norwood and may be needed for the reasonably anticipated future development of the Village of Norwood.

CONCLUSIONS OF LAW

A. That the lands described in paragraphs 1 and 2 of the Findings of Fact be detached from the Village of Norwood, Carver County, Minnesota and are to become a part of Young America Township, Carver County, Minnesota.

B. That the lands described in paragraph 3 of the Findings of Fact be and remain part and parcel of the Village of Norwood, Carver County, Minnesota and that the detachment from the Village of Norwood for said lands be denied.

MEMORANDUM

Two property owners have petitioned to detach approximately 66 acres of farm land from the Village of Norwood in Carver County. The statutory procedural requirements have been met.

The only residents of the area proposed for detachment are the petitioners and their families. On one tract of 32 acres, Petitioners Everett and Alice Exstedt live on the only residential building on the property. On the other tract, Kenneth and Ruth Kloth live with their three children on the only residential building. The only other buildings on either parcel consist of barns, sheds, silos, corn cribs and other farm buildings.

This Commission has not approved a detachment of land presently included in an existing village, since it was created in 1959. We are reluctant to approve detachment of property which has been included within a municipality since incorporation. In the present period of rapid urban growth which bulges the existing limits of our cities and villages, detachment proceedings are not the order of the day. We also recognize that in the rural areas or outside the developed metropolitan region, the move to the cities has reduced the population and the tax bases of many of our farm or semi-rural villages. We hesitate to approve any action which causes these villages further problems resulting from reduced revenue.

It seems fair to say generally that where land has been included within rural villages or municipalities lying outside the developed metropolitan area, and when such villages are not in close proximity or surrounded by other municipalities, there is little reason why the property was originally included in a rural village when it incorporated generally still exists. We note that village land is devoted to pastures, gardens, flowers, or small truck farming operations, or to help support the individual needs of the families living in the small villages in the rural areas of Minnesota, and

elsewhere. This is so extensively the character of land use in these rural villages that we must generally hold that such land may remain included within municipal limits.

But we administer a statute under which we are charged to "grant the petition for detachment if (we) find that the requisite number of property owners have filed the petition. . . that the property is unplatted and occupied exclusively for agricultural purposes, that the property is within the boundaries of the municipalities and is adjacent to a boundary, that the detachment would not unreasonably affect the symmetry of the settled municipality and that the land is not needed for reasonable anticipated future development."¹ Where all of these conditions exist, as they do here, we have no choice. We have no alternative but to approve a detachment if those statutory requirements are present.

The Commission by agreement of the parties viewed the property after completion of the hearing² for the purpose of observing what effect detachment would have on the symmetry of the settled municipality. The statute obligates the Commission to determine whether or not the detachment would "unreasonably affect the symmetry of the settled community" because of complications which might arise from a meandered or difficult boundary line that might result from the detachment. The problem is whether or not the proposed altered boundary would materially affect the administrative ability of the municipality to efficiently govern the people and remaining property in the village. This provision is not intended to require a geometrical square or rectangular shape in establishing boundaries after property is detached. So long as the new boundary lines of the municipality cause no new problems in establishing and maintaining

¹MSA 414.06, subd. 1.

²Public Hearing, Norwood, February 20, 1962.

streets, proper planning and municipal development, or installing and maintaining adequate water supply and sewage disposal, the detachment must be approved if all of the other statutory requirements exist as they do in the instant case.

The boundaries of Norwood will not be symmetrically affected in an adverse manner as a result of detachment. The resulting boundaries are not meandered. They will not interfere with furnishing services to the people remaining in Norwood.

The land is unquestionably used exclusively for agricultural purposes and has been since the village was established. There is no adequate showing that this land will be needed for reasonable anticipated future development. We must comment that much land remains within Norwood which is agricultural in character, but this does not give us discretion to deny the present petition. We must administer the law as we find it. If future detachment petitions become a threat to the tax bases of long-established rural communities, review by the Minnesota Legislature of the provisions relating to detachment may become desirable.

While Norwood is located in Carver County which is a part of the Minneapolis-St. Paul metropolitan area, it lies beyond the outer periphery of the heavily settled metropolis. It still retains its character as a rural village although there are some who commute from Norwood to the Twin Cities for their jobs.

We shall not hesitate to review this situation by annexation proceedings at any future time when the land involved appears about to become suburban in character. The petitioner has indicated that he had no plans to plat or subdivide the land or devote it to residential use. If this situation changes, so does the law that applies.

BY THE FULL COMMISSION:

Joseph Robbie, Chairman

Opinion by:
Robert W. Johnson and
Joseph Robbie
Dated: April 25, 1962