

151.062

DOC. NO. _____

OFFICE OF COUNTY RECORDER

State of Minnesota, } ss.
COUNTY OF LAKE

I hereby certify that the within instrument was filed for record in this office on the 9th day of June 2003 at 11:35 o'clock A.M., and was duly recorded in book 43 of Misc records page 200

Erica Karki
County Recorder

By _____
Deputy

TOWN OF SILVER CREEK
BOARD OF ADJUSTMENT RESOLUTION
NO. SCBAR-03-01
AND
VARIANCE ORDER

ADOPTED FEBRUARY 24, 2003

TOWN OF SILVER CREEK BOARD OF ADJUSTMENT RESOLUTION
FEBRUARY 24, 2003
SCBAR-03-01

WHEREAS, the Town of Silver Creek Board of Adjustment sat in session on this date and conducted a public hearing for a Variance Permit application submitted by David & Laura Gordon to allow relief from the minimum building side setback of twenty feet in a residential district, for the placement of a porch/sound wall six feet from the property line, for property described as the easterly 115 feet of Outlot #1 of the NW Quarter lying SE of the centerline of Hwy #61 Govt. Lot #4, Section 32, Township 54, Range 9, 1.014 acres, Town of Silver Creek, Lake County, Minnesota, zoned RS – Residential Service, and

WHEREAS, the application was received on October 30, 2002 and legal notice was published on November 22, 2002 in the Lake County News Chronicle, and notices were sent on November 19, 2002 to the applicant and 27 adjoining property owners as well as the appropriate governmental units. No written responses were received. The hearing began on December 4, 2002, was recessed and reconvened on December 16, 2002 at which time an additional 60 days was requested by the applicants to gather information. Hearing was recessed again and reconvened on February 24, 2003.

WHEREAS, the board has found the following facts for this application:

1. The requested variance is not in harmony with the general purpose and intent of the Ordinance
2. The road noise creates a hardship unique to the property due to placement of dwelling
3. The proposed use is a reasonable use
4. The circumstances of the variance are not unique to the property
5. The hardship is not economic alone
6. The essential character of the locality will be altered by the structure
7. The applicant has agreed to tear the structure down as described in the conditions listed below

RESOLVED, the Town of Silver Creek Board of Adjustment approves this Variance Permit application with the following conditions:

1. Structure will be removed upon termination of ownership
2. Structure will be removed upon construction of a structure by an adjoining land owner within 40 feet of the Gordon residence
3. A performance bond be posted in the amount of \$10,000 renewable every 5 years with an escalator clause based on cost of demolition and removal.

Board member Mike Hoops moved, with John Lind seconding, for the adoption of this resolution and the same was declared adopted unanimously by all members present.

Adopted February 24, 2003

ATTEST:



Wendy Langanki, Clerk

TOWN OF SILVER CREEK BOARD OF ADJUSTMENT VARIANCE ORDER

At a public hearing in the Town of Silver Creek Town Hall on February 24, 2003; the Town of Silver Creek Board of Adjustment **approved** a variance for:

David & Laura Gordon
133 West 50th Street
Minneapolis, MN 55419

requesting relief from the requirements of the Castle Danger Subordinate Service District Phase I Land Use Ordinance, this approval was rendered in accordance with the provisions of Section VII of that same ordinance and pursuant to the requirements of Chapter 462.357, Subd. 6, Minnesota Statutes.

The variance requested the following consideration: relief from the minimum building side setback of twenty feet in a residential district, for the placement of a porch/sound wall ("the structure") six feet from the property line.

The affected parcel of land is legally described as follows: the easterly 115 feet of Outlot #1 of the NW Quarter lying SE of the centerline of Hwy #61 Govt. Lot #4, Section 32, Township 54, Range 9, 1.014 acres, Town of Silver Creek, Lake County, Minnesota, zoned RS – Residential Service.

It is expressly understood and agreed that this approval is subject to the following conditions:

1. The structure is to be removed upon the death, termination of ownership, or termination of occupancy of the property by David or Laura Gordon. The voluntary sale, conveyance, gift, or lease, in whole or in part, of the property shall be considered a termination of ownership. Likewise, involuntary loss of ownership through bankruptcy, divorce, foreclosure or otherwise shall be considered termination of ownership.
2. The structure shall be removed upon construction of a structure by an adjoining land owner within 40 feet of the Gordon residence.
3. The structure shall be removed in the event of its destruction in whole or in part.
4. These conditions attach to and run with the land.
5. David and Laura Gordon, their heirs or assigns, and any subsequent owner of the property, in whole or in part, shall be personally liable for removal of the structure. The Town of Silver Creek may proceed at law for damages or in equity for removal of the structure. Damages or equitable remedy may include all costs and expenses of removal and the Town's attorney fees.
6. A performance bond for cost of removal or damages shall be posted in the principal amount of \$10,000 renewable every 5 years with an annual 5% increase in the principal amount.

The Town of Silver Creek Land Use Administrator is herewith authorized to issue the appropriate permits pursuant to this Variance Permit Order.

THIS ORDER SHALL REMAIN IN EFFECT FOR SO LONG AS THE CONDITIONS AGREED UPON ARE OBSERVED. WHERE A VARIANCE DOES NOT CONTINUE IN CONFORMITY WITH THE CONDITIONS OF THE ORIGINAL APPROVAL, THE PERMIT SHALL BE TERMINATED.

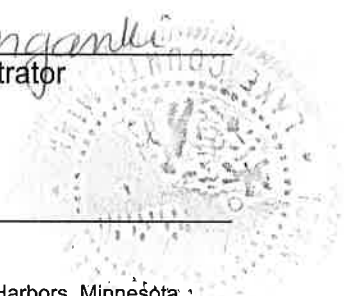
Michael Hoogen
Chairman, Town of Silver Creek
Board of Adjustment

ATTEST:

Wendy Langomli
Land Use Administrator

5/7/03
Date

5/7/03
Date



This instrument is also filed at the office of the County Recorder, Lake County Courthouse, Two Harbors, Minnesota.

Read and accepted by the undersigned, David and Laura Gordon.

David Gordon
David Gordon

Laura Gordon Laura Gordon
Laura Gordon

Subscribed to before me this 1st day of June, 2003, by David Gordon and Laura Gordon.

J. Eneboe
Notary Public

