

ILLINOIS POLLUTION CONTROL BOARD
January 19, 1978

C. A. HEMPHILL AND ASSOCIATES)
and the VILLAGE OF LAKE BLUFF.)
)
Petitioners,)
)
v.) PCB 77-272
)
ENVIRONMENTAL PROTECTION AGENCY,)
)
Respondent.)

OPINION AND ORDER OF THE BOARD (by Mr. Dumelle):

This case comes before the Board on a Petition for a variance from the requirements of Rule 962 of Chapter 3: Water Pollution of the Board's Rules and Regulations. The Agency denied a permit for the Village of Lake Bluff which would have allowed construction of a sewer extension to serve Petitioner Hemphill's subdivision of 17 homes, 5 of which can be connected to an existing sewer. Hemphill appealed the permit denial, and a hearing was held on October 14, 1977 in Lake Forest. On November 10, 1977 the Board held that the permit denial was correct (PCB 77-204). The transcript of the October 14, 1977 hearing, the exhibits admitted at the hearing, the Petition in this case as well as the Agency's Recommendation herein have been stipulated as the record for the Board's decision. No additional hearing was held. The village was joined as a party by a Board Order dated November 10, 1977.

Hemphill has claimed that it will suffer hardship in that any delay in construction will result in greater costs; the overall marketability of this development is being negatively affected; and two homes can be connected without permits but only at additional costs of \$500 each. There are additional claims of hardship on prospective homeowners who cannot move in and lost tax revenues to the village. Hemphill asserts that these hardships must be balanced against insignificant environmental harm. It is agreed that the East Terrace Subdivision sanitary sewer system, which will receive sewage from Hemphill's subdivision, is subject to surcharging due to infiltration and inflow. Hemphill feels, however, that there will be no perceptible contribution from the proposed extension and that the problem will be remedied in the near future through construction of an emergency pumping station.

The Agency has recommended that the variance be denied or dismissed. This position is based on the fact that a permit has already been issued to the Village to construct the emergency

pumping station. Consequently, Hemphill may be eligible for a conditional installation or "construct only" permit which would allow for construction of the proposed sewer extension immediately and operation of the extension upon completion of the pumping station in June 1978 provided all the necessary Agency permits are obtained.

At the hearing Hemphill claimed that it had relied on the fact that the village had not been placed on either of the Agency's "Restricted Status" or "Critical Review" lists. In its prior Opinion the Board has already characterized such reliance as "...at best, ill advised". Hemphill must have been aware of the problems in the receiving sewer since the surcharging of that line was the subject of the Bleck Report which Hemphill placed in evidence at the hearing. Any hardship experienced as a result is simply self-imposed. No evidence was introduced to support the claims of hardship on the village or the prospective homeowners.

The Board does not agree that no significant adverse environmental effects would result from granting the requested relief. More sanitary sewage would be placed into an admittedly inadequate system which now floods basements. That additional sewage, in borderline situations, might make the difference between flooding and not flooding or the creation of an electrocution hazard or the absence of one. The variance must be denied since no legitimate hardship has been proven to support it--only a self-imposed one. Hemphill would be well advised to seek a conditional permit, particularly since it requested that relief in the prior proceeding.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

It is the Order of the Pollution Control Board that Petitioner's request for a variance from Rule 962 of Chapter 3: Water Pollution of the Board's Rules and Regulations be denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 19th day of January, 1978 by a vote of 5-0.


Christan L. Moffett, Clerk
Illinois Pollution Control Board