

ILLINOIS POLLUTION CONTROL BOARD
November 23, 1977

ARLAN R. JOHNSON AND SALLY P. JOHNSON,)
)
 Petitioners,)
)
 v.) PCB 77-222
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

This matter comes before the Board upon the September 1, 1977 Petition for Variance filed by Arlan R. Johnson and Sally P. Johnson, requesting permission to connect two homes into a sewer extension built in 1976. That extension connects into the sewer system of Hanna City, Peoria County, Illinois, which has been on restricted status since April 16, 1974.

The Agency filed its Recommendation in favor of denying this variance on October 28, 1977 after the Petition had been amended by filing a waiver of hearing on September 27, 1977. No hearing was held in this matter.

In Arlan R. Johnson v. Environmental Protection Agency, PCB 76-176, 24 PCB 241, the Board granted permission to construct a sewer extension and connect one home into it. The rationale for that decision was not the hardship imposed on Johnson but rather the hardship imposed on the Baillez family, the purchasers of the lot who were waiting to move into their completed home. In the present matter, the Johnsons are requesting that two more homes be connected into the same sewer extension based upon arbitrary and unreasonable hardship to them. No purchasers are affected as all purchases are prospective and construction of homes has not begun.

The hardship alleged here is an inability to pay a note for \$10,591.00, used to finance the sewer extension, which comes due on December 4, 1977. However, this hardship is self-imposed. Construction of the Baillez home did not begin until July 26, 1976 (24 PCB 241 at 241) even though Hanna City was placed on restricted status in early 1974. Without that construction, the sewer extension would have been unnecessary.

The environmental impact of a variance grant would be to exacerbate an existing high level sanitary sewer overflow problem in Hanna City. In addition, the Hanna City sewage treatment plant is biologically overloaded.


Based on this evidence, the Board finds that Arlan and Sally Johnson have not demonstrated any hardship which is arbitrary or unreasonable when weighed against the necessity of maintaining the integrity of a restricted status and the possibility of environmental damage. The request for variance is denied.

This Opinion and Order constitute the findings of fact and conclusions of law of the Board.

ORDER

It is the Order of the Pollution Control Board that the Petition for Variance filed by Arlan Johnson and Sally Johnson on September 1, 1977 be and is hereby denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 23rd day of November, 1977 by a vote of 5-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board