

ILLINOIS POLLUTION CONTROL BOARD

December 6, 1973

IN THE MATTER OF:)
)
THE PETITION FOR VARIANCE OF) PCB 73-389
)
HAROLD O. OGGEL)

OPINION AND ORDER OF THE BOARD (by Dr. Odell)

Mr. Harold P. Oggel, filed a petition for a sewer variance, which was received by the Illinois Pollution Control Board (hereinafter Board) on September 11, 1973. The Petitioner requests a variance from Order 7 of League of Women Voters v. North Shore Sanitary District, PCB 70-7, 70-12, 70-13, and 70-14; 1 PCB 369, 396, to allow a future sewer connection to a presently unimproved lot on the east side of the 1400 block of Forest Avenue in Highland Park, Illinois. The lot is zoned for a single-family dwelling.

The Petitioner has owned this lot 23 years, and has retained it as an asset to be used during his retirement. He has retired from high school teaching and indicates that he "sorely" needs to make use of this asset soon. Petitioner alleges that "several enthusiastic purchasers were turned off because of the sewer connection ban," according to his real estate broker. Petitioner apparently believes that if a variance is granted, the value of his vacant lot would be increased.

On October 25, 1973, the Board received from the Environmental Protection Agency (hereinafter Agency) a Recommendation concerning the variance request by the Petitioner. The proposed sewer connection would be tributary to the Ravine Drive sewage treatment plant, which is owned and operated by the North Shore Sanitary District (NSSD). This facility is a 0.9 MGD primary plant discharging chlorinated effluent into Lake Michigan. Data in the Agency Recommendation and in a report of October 31, 1973, "Concerning The Present Status Of The North Shore Sanitary District" from the Acting Director of the Agency, include the following information concerning the performance of the Ravine Drive plant from February through September 1973:

<u>Month during 1973</u>	<u>Average flow (MGD)</u>	<u>Average BOD (mg/l)</u>	<u>Average TSS (mg/l)</u>
September	0.48	37	263
August	0.36	15	109
July	0.41	42	174
June	0.49	62	162
May	0.58	73	108
April	0.84	35	101
March	0.82	23	52
February	0.44	45	53

The above data indicate that the Ravine Drive plant consistently discharges an effluent greatly in excess of the 20 mg/l BOD and 25 mg/l total suspended solids standard of Rule 404(b) in Chapter 3.

The Agency report of October 31, 1973, "Concerning The Present Status Of The North Shore Sanitary District" states that dry weather flows from the Ravine Drive plant will be diverted to the improved Clavey Road plant "upon completion of secondary facilities and construction of the interceptor (February 1, 1974). Total flows are to be pumped to Clavey by July 1, 1974."

Variances from the Order 7 sewer ban of League of Women Voters v. North Shore Sanitary District, PCB 70-7, 70-12, 70-13, and 70-14 have only been granted on a showing of extreme hardship or extremely unfavorable living conditions with no viable alternative solution, Lawler v. EPA, PCB 71-209. The Petitioner has failed to show an arbitrary or unreasonable hardship which, according to Section 35 of the Environmental Protection Act, is a necessary condition which must be proven before the Board may grant a variance. Petitioner's situation is similar to many other persons who own vacant lots that are zoned for single-family dwellings in areas affected by the sewer ban.

Since the Petitioner's hardship is not shown to be arbitrary or unreasonable and a sewer from his lot would be served by the Ravine Drive sewage treatment plant, which is consistently functioning below acceptable standards, this petition for a variance should be denied. However, after the Ravine Drive plant materials are diverted to the Clavey Road plant, the Petitioner may be able to obtain a sewer connection permit without a variance if the performance of the improved Clavey plant with increased loading continues as well as it has been since July 1973.

Since we deny this variance, we need not decide in this case the issue raised in the Agency Recommendation as to whether a sewer ban variance accompanies the land when the Petitioner plans to sell the land without a home on it.

ORDER

It is the Order of the Pollution Control Board that the Petitioner's request for a variance is denied without prejudice.

I, Christan L. Moffett, Clerk of the Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 6th day of December, 1973, by a vote of 4 to 0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board