

ILLINOIS POLLUTION CONTROL BOARD
January 10, 1974

KENNETH H. HANSON,)
)
 Petitioner,)
)
 vs.) PCB 73-442
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

On October 19, 1973, Petitioner, Kenneth H. Hanson, a resident of Lake Forest, County of Lake, Illinois, filed his Petition for Variance requesting relief from Order #7 of League of Women Voters v. North Shore Sanitary District, PCB 70-7, 12, 13 and 14, to allow connection of his single-family residence to the Lake Forest sewer system, which is tributary to the Clavey Road sewage treatment plant of the North Shore Sanitary District.

Petitioner's residence is currently served by a septic tank system. Petitioner alleges that his septic tank system is inadequate and that it has backed up on four separate occasions within the last year. Petitioner alleges further that it is "impossible" to prevent such backups because of "existing conditions" of the septic tank and the age thereof. Petitioner submits no further information regarding the alleged impossibility, nor does he describe with particularity the existing conditions of the septic tank, other than to allege that, during rains, said septic system becomes flooded by ground water.

There is no indication that the subject septic system cannot be inexpensively repaired, or that inexpensive repairs would not suffice as a long-term solution to Petitioner's problem.

The Board has granted variances in cases similar to the present one where a Petitioner has shown that a) a public health hazard exists in regard to the operation of the subject septic tank system in its present condition, and b) this health hazard cannot be eliminated through the improved maintenance or relatively minor repairs of the subject septic tank system. (See e.g. Miller v. Environmental

Protection Agency, PCB 73-43; Clark v. Environmental Protection Agency, PCB 73-38; Winsor v. Environmental Protection Agency, PCB 71-334; and Bartell v. Environmental Protection Agency, PCB 72-382.) The present case is distinguishable from those cited above since Petitioner has failed to show that a health hazard presently exists and that even if a health hazard did exist that it could not be easily eliminated.

It is clear, therefore, that the Petition herein is inadequate in that it fails to allege sufficient facts to enable this Board to adopt a reasoned decision. The Petition is denied without prejudice.

Further, Petitioner's attention is directed to North Shore Sanitary District v. Environmental Protection Agency (PCB 73-134), decided on January 10, 1974, wherein we granted the District permission to issue 2,000 permits (8000 P.E.) authorizing connection to its Clavey Road Plant, subject to certain conditions.

Petitioner's cause, therefore, has become moot, since the basis of his Petition is that permits for sewer connections are unavailable. Petitioner is urged to file with the North Shore Sanitary District application for permit to connect as soon as possible.

We note that PCB 73-134 would not foreclose a petitioner from requesting a variance to complete connection prior to July 1, 1974, based on a showing of hardship and urgency, since our Order in PCB 73-134 specifically states that connections permitted thereunder shall not be made prior to July 1, 1974.

This Opinion constitutes 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 of Kenneth H. Hanson be denied without prejudice.

IT IS SO ORDERED.

Mr. Henss was not present.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted on this 10th day of November, 1974 by a vote of 4-0.

Christan L. Moffett