ILLINOIS POLLUTION CONTROL BOARD
April 2, 1981

WESTTOWN LANDS WEST SUBDIVISION, Petitioner,	)	
v.	)	PCB 81-43
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, Respondent.	)	

ORDER OF THE BOARD (by J.D. Dumelle):

Westtown Lands West Subdivision (Westtown) filed this petition for variance on March 17, 1981. This petition, signed by ten homeowners, seeks variance from condition #1, Permit 1980-HC-0727 issued to the Village of Lombard. There are several reasons the requested relief cannot be granted: first, the Board has no power to grant variance from a permit condition since that is not a "rule or regulation, requirement or order of the Board" (Environmental Protection Act, Section 35(a)); second, hearing is neither clearly requested nor waived (Procedural Rule 401(b)); and third, the Village of Lombard has not been joined as a party. The Board also notes that if hearing is waived, such waiver must be accompanied by an affadavit swearing to the truth of the facts alleged. Finally, the allegations concerning hardship and costs of compliance are somewhat scanty.

The Board will not dismiss the petition at this time in that it appears that the equivalent to the relief requested could be accomplished procedurally by a request for variance from Rule 962(a) of Chapter 3: Water Pollution, if the other procedural defects are also cured.

Therefore, the Board hereby orders that Westtown amend its petition within 45 days of the date of this order to cure the above-noted defects or the petition will be subject to dismissal.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 2nd day of April, 1981 by a vote of _____.

Christan L. Moffett, Clerk
Illinois Pollution Control Board