

ILLINOIS POLLUTION CONTROL BOARD
June 13, 1974

WILLIAM MCKINLEY, JR.,)
)
 Petitioner,)
)
 v.) PCB 74-47
)
 ENVIRONMENTAL PROTECTION AGENCY,)
)
 Respondent.)

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

The Petitioner, William McKinley, Jr., filed a petition for a sewer variance, which was received by the Illinois Pollution Control Board (Board) on January 28, 1974. The Board's Order of January 31, 1974, stated that the petition "is inadequate in that the location of the lot for which a sewer connection is desired is not given. Petitioner also should state whether his connection, if granted, would be to an overloaded sewer. Petitioner is asked to review the Board's recent order in PCB 73-134, North Shore Sanitary District v. EPA to determine whether he can now secure a permit for connection after July 1, 1974."

Additional information from the Petitioner was received by the Board on March 5, 1974. The Petitioner, his wife, and three teenage girls and one boy live in a two-bedroom house at 2201 Argonne Drive, North Chicago, Illinois. Petitioner alleges that this house is too small for his family and "has created an undue and most unbearable hardship." To relieve this condition, Petitioner purchased a nearby lot at the corner of Argonne and Sherman Drive in North Chicago, Illinois, and plans to build on it a larger home for his family. Petitioner seeks relief from Order #7 of League of Women Voters v. North Shore Sanitary District, PCB 70-7, 12, 13, and 14, to allow a sewer connection for his proposed new single-family home. The sewer for this lot is not overloaded, but the proposed connection is tributary to the North Chicago sewage treatment plant of the North Shore Sanitary District (NSSD).

A Recommendation was received from the Environmental Protection Agency (Agency) on March 6, 1974. Data submitted for 1973 by NSSD indicate that the effluent biological oxygen demand and suspended solids concentration at the North Chicago treatment plant often fail to meet requirements under Rule 404(b) of Chapter 3, Water Pollution Regulations. However, the NSSD expects to complete a retention pond at the North Chicago treatment plant in the near future which will help prevent bypassing of sewage flows during wet periods. "All flow from the North Chicago plant will be diverted to the improved Gurnee plant when scheduled improvements are completed there...in May of 1975." On the basis of information

available on March 6, the Agency recommended denial of this request for a variance. Petitioner had not adequately established a case for unreasonable hardship nor explored other alternatives.

An Amended Petition for Variance was received from Mr. William McKinley, Jr. on March 18, 1974. The Amended Petition alleges additional circumstances by which Petitioner attempts to show an arbitrary and unreasonable hardship. Mrs. McKinley recently suffered a nervous breakdown forcing her to be hospitalized for several weeks and requiring her to quit her job. Mr. McKinley was hospitalized for five months in 1963 for a heart condition and recently he had to remain home from work for one month as a result of extreme heart palpitation. Petitioner's doctor referred to the stresses of the family's current living conditions as contributing to his condition. In addition to health problems, Petitioner alleged facts pertaining to his present situation that prevent him from seeking a home elsewhere and make it extremely difficult for him to find acceptable alternatives. Petitioner is presently serving as an elected member of the North Chicago School Board, thus he has an interest in maintaining a North Chicago residence. Petitioner's present home is so situated that it is impossible for him to construct an addition. Petitioner claims that the real estate market in North Chicago is extremely limited. Mortgage companies are reluctant to write mortgages for older homes for more than seventeen or eighteen years, thus placing the payments beyond Petitioner's means. The fact that Petitioner owns a lot that may not presently be developed compounds his problems. The capital investment ties up funds he might apply to purchasing other property and the sewer ban in the area makes a sale of the property difficult if not impossible. Septic tanks are not permitted in North Chicago and holding tanks provide an expensive temporary alternative that probably cannot be justified in Petitioner's situation.

On April 30, 1974, the Agency filed an Amended Recommendation in which they pointed out that the Amended Petition for Variance presented much more evidence of unreasonable hardship experienced by the McKinley family and that alternative solutions to their housing problem had been explored and rejected. On the basis of fuller information supplied by Petitioner, the Agency's Amended Recommendation suggested that the variance petition for William B. McKinley, Jr. be granted. The Board concurs.

This opinion constitutes the Board's findings of fact and conclusions of law.

ORDER

It is the Order of the Pollution Control Board that a Variance is hereby granted from Order #7 of League of Women Voters v. North Shore Sanitary District, PCB 70-7, 12, 13, and 14, so that Mr. William McKinley,

may obtain a sewer connection permit for a proposed single-family home on his lot at Argonne and Sherman Drive in North Chicago, Illinois.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 13th day of June 1974, by a vote of 4 to 0.


Christan L. Moffett, Clerk