

ILLINOIS POLLUTION CONTROL BOARD
December 13, 1973

ANNA G. BACIK)	
)	
)	
v.)	PCB 73-433
)	
ENVIRONMENTAL PROTECTION AGENCY)	
)	

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

On November 21, 1973, Anna G. Bacik filed a Petition for Variance from Order No. 7 of League of Women Voters v. North Shore Sanitary District, PCB 70-7, 12, 13, and 14, in order to obtain sewer connection permits for two proposed single family residences to be located in Lake County, proximate to the intersection of Broadview and Washington Streets, in Highland Park, Illinois. The Agency filed a Recommendation to deny the variance request on November 21, 1973. Mrs. Bacik alleges that the contract to sell the two lots, subject to obtaining a sewer permit, will expire on December 15, 1973. Mrs. Bacik alleges that because of the cost associated with confining her husband in a nursing home for the elderly, she is suffering from a financial crisis. The variance petition states that Mrs. Bacik and her husband raised and sold flowers on the lots in question, deriving a substantial portion of their annual income from the proceeds of the sale of these flowers. Because Mr. Bacik has been confined to a nursing home, Mrs. Bacik alleges that she has not been able to raise and sell the flowers on the two lots. She therefore alleges the need for the revenue of the sale of the two lots to avert a financial crisis.

The proposed sewer connections would presently be tributary to the Cary Avenue Sewage Treatment facility. However, dry weather flows from the Cary Plant will be diverted to the Clavey Plant no later than December 1, 1973. Total flows from the Cary Plant are scheduled for diversion by July 1, 1974. Thus, when the proposed homes are ready for connection, the connection will be made to the Clavey Road Sewage Treatment Plant. Data furnished by the Agency shows that during September, 1973 the Clavey Road Sewage Treatment Plant effluent averaged 7 mg/l BOD and 18 mg/l suspended solids.

The Agency objects to the connection regardless of Clavey's present treatment levels and regardless to the expansion of secondary treatment to 18 mg/l MGD expected by March 1, 1974 at the Clavey plant. The Agency states that the diversion program being implemented to divert flows from Lake Bluff, Lake Forest, and the Lakefront plants to Clavey on or about February 1, 1974, may again overload the Clavey plant. The Agency notes that when the plant expansion 18 mg/l MGD in March, 1974 is completed, additional connections may be permitted. The Agency believes that additional sewer connections should not be allowed until the Clavey Plant has exhibited proper operation at sufficient capacity.

The Agency objects to the grant of a variance stating that Mrs. Bacik's hardship is only temporary in nature. Mrs. Bacik has alleged that the confinement of her husband to a nursing home is for an indefinite period. The Board implied in Roach v. Environmental Protection Agency, PCB 73-324, November 1, 1973, that it could grant a variance to a petitioner to enable a petitioner to sell a vacant lot with a sewer connection permit. The Agency objected in Roach stating that a variance does not run with the land and it has again raised this objection.

Because Mrs. Bacik is suffering a financial hardship due to the confinement of her husband and the limitation on her income resulting from her husband's confinement in a nursing home, the Board feels that a variance is warranted.

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

ORDER

The Board hereby grants to Mrs. Anna G. Bacik a variance in order to obtain sewer connection permits for the two proposed single-family residences.

IT IS SO ORDERED.

Dr. Odell abstained.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the 13th day of December, 1973 by a vote of 4-0.



Christan L. Moffett, Clerk
Illinois Pollution Control Board