

ILLINOIS POLLUTION CONTROL BOARD

August 13, 1971

PARK MANOR )  
 )  
 v. ) PCB 71-190  
 )  
 ENVIRONMENTAL PROTECTION AGENCY )

Opinion of the Board (by Mr. Aldrich):

Park Manor filed a petition for variance seeking relief from the Board's Order of March 31, 1971, in the case of League of Women Voters of Illinois, et al. v. North Shore Sanitary District, PCB 70-7, 70-12, 70-13, and 70-14. That Order prohibited any new connections to the District's sanitary sewage facilities until adequate treatment is demonstrated. Petitioner plans to construct a nursing home on its lot in Zion, Illinois. Permission is sought to tie the new nursing home in to existing sewer lines.

In December of 1969, petitioner employed an architectural firm to prepare plans for the nursing home. To date this service has cost petitioner \$36,000.00. The sum of \$2,709.60 was paid to FHA as fees on a mortgage loan of \$903,200.00. Contracts were signed on February 8, 1971. However, on learning of the ban on new sewer connections, the lenders refused to close the loan until a letter is received from the Board stating that the nursing home can be tied in to existing sewer lines.

The nursing home is to be built on a site now occupied by a building which, until recently, was used as a funeral home. Plans for the nursing home have been approved by the State Fire Marshall and by the State Department of Health. A building permit has been issued and the City has granted its permission to utilize the sewer connection formerly used by the funeral home.

The statute requires that the Board, in deciding variance cases, balance the hardship which would result should the variance be denied against the harm done to the environment should it be granted. In the instant case, petitioner had already spent in excess of \$60,000.00 in preparations for constructing the nursing home before our sewer ban was imposed. Denial of a variance would, at the very least, delay a project which the Department of Health, by issuing a Certificate of Necessity, has indicated the City needs. Such a delay might increase costs sufficiently to make the project unattractive to investors, thereby causing it to fail.

Petitioner claims that wastes from the nursing home will not reach the amount disposed of by the funeral home for approximately 1 3/4 years. Moreover, petitioner states that these wastes will place considerably less burden on treatment facilities than did the largely chemical wastes of the funeral home. Thus to deny the variance would impose an arbitrary and unreasonable hardship on petitioner without sufficient offsetting benefits to the environment. (The effects on the environment of additional wastes are fully discussed in the Board Opinion in League of Women Voters of Illinois, et al. v. North Shore Sanitary District, PCB 70-7, 70-12, 70-13, and 70-14.) We will therefore grant petitioner's request for a variance.

The variance is hereby granted conditioned upon receipt of an affidavit verifying the statements in the petition. This opinion constitutes the Board's findings of fact and conclusions of law.

I concur

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*Samuel R. Aldrich*  
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*Herb D. Dymelle*  
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*Alfred J. Paul*  
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*Frank J. ...*

I dissent

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*David B. Currie*  
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I, Regina E. Ryan, Clerk of the Pollution Control Board, hereby certify that the Board adopted the above opinion this 13<sup>th</sup> day of August, 1971.

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*Regina E. Ryan*