

ILLINOIS POLLUTION CONTROL BOARD
November 5, 1981

WESTOWN LANDS WEST SUBDIVISION AND STELLA ANNES,)
)
) Petitioner,)
)
) v.) PCB 81-43
)
) ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
)
) Respondent.)

OPINION AND ORDER OF THE BOARD (by I. Goodman):

On March 17, 1981 Westown Lands West Subdivision (Westown) filed a petition for variance before the Board requesting that certain citizens be allowed to disconnect malfunctioning septic systems and connect instead to the Lombard sewer system which had been placed on restricted status on July 16, 1980. Certain deficiencies in the petition were subsequently corrected and Westown waived hearing in this matter. The Board has received no public comment.

Westown is a subdivision located in the Village of Lombard, Illinois which consists of 37 lots, all serviced by individual septic systems. Westown claims that 9 of 37 lots have malfunctioning septic systems and requests that they be allowed to connect to the Village of Lombard (Lombard) sewer system which is presently on restricted status. Prior to the imposition of restricted status, Lombard had been issued a construction permit for the construction of a sewer extension to serve this subdivision. This extension has been constructed but is not operating. Currently, Lombard is upgrading its sewer system and may be removed from restricted status as early as Spring, 1982 according to the Recommendation filed by the Illinois Environmental Protection Agency (Agency).

According to the Agency's Recommendation, the DuPage County Health Department (Health Department) has inspected the nine septic systems in the subdivision which are alleged to be malfunctioning. It is the opinion of the Health Department that 8 of these 9 lots are indeed malfunctioning and that it can be reasonably expected that the balance of the 37 lots will experience similar problems in the near future. The Health Department found that the swampy nature of the soil in which the systems are placed; the subdivision lots being generally only one-third the size requirement for new subdivisions in which private sewerage disposal facilities are used; and the age of the septic field would make repairs difficult.

In its Recommendation, the Agency concludes that the present situation presents a danger to public health due to the malfunctioning septic systems. In addition any attempt to repair the malfunctioning systems would entail expenditures approximately \$4,000 per system while connection to the sewer system is estimated to cost \$1,500 per connection. On the other hand, the Agency's files indicate manhole surcharging downstream from the proposed connections. (Lombard claims this is caused by problems at a lift station which are presently being corrected.) The Agency concludes that denial of the variance petition would, in these circumstances, work an arbitrary and unreasonable hardship upon Westown's lots who actually have currently malfunctioning septic systems. The Board agrees. The Board will grant variance from Rule 962(a) of Chapter 3: Water Pollution for the purpose of connecting the eight septic systems determined by the Health Department to be malfunctioning.

On October 19, 1981 a letter from Lombard to the Agency was filed by Westown. Lombard in the letter stated that they did not wish to be joined as a party apparently because it would be inconsistent with their imposition of a building moratorium in the Village. Nonetheless, Lombard must be made a party to this action. Therefore, the Board on its own motion will make the Village of Lombard a party to PCB 81-43 pursuant to Rule 303(c) of the Board's Procedural Rules. The letter also indicates that the Agency's reservation concerning the surcharging of the downstream manhole has been corrected by the installation of two new pumps at the lift station and the acquisition of a secondary power source for the lift station.

The Board notes that this variance is for the purpose of alleviating a health hazard situation caused by the eight subject septic systems. The sewer extension is to be operated for these connections only and is unavailable for additional connections regardless of size. Any other use of the sewer constitutes a violation of the restricted status and this Board Order.

This Opinion constitutes the findings of fact and conclusions of law of the Board in this matter.

ORDER

1. Westown Lands West Subdivision is hereby granted variance from Rule 962(a) of Chapter 3: Water Pollution for the purpose of connecting the 8 lots in the subdivision identified by the DuPage County Health Department to have malfunctioning septic systems to the sewer system of the Village of Lombard.

2. The Village of Lombard is hereby made a party to docket number PCB 81-43 for the purpose of notice.

3. Within forty-five days of the date of this Order, Petitioner shall execute and forward to the Illinois Environmental Protection Agency, Division of Water Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706, a Certificate of Acceptance and Agreement to be bound to all terms and conditions of this variance. This forty-five day period shall be held in abeyance for any period this matter is being appealed. The form of the certificate shall be as follows:

CERTIFICATE

I, (We), _____, having read the Order of the Illinois Pollution Control Board in PCB 81-43, dated _____, understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner

By: Authorized Agent

Title

Date

IT IS SO ORDERED.

Boardmember Donald B. Anderson dissented.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 5th day of November, 1981 by a vote of 4-1.

Christan L. Moffett
Christan L. Moffett, Clerk
Illinois Pollution Control Board