

ILLINOIS POLLUTION CONTROL BOARD
August 30, 1971

MR. & MRS. WALLACE W. PIROYAN)
)
 v.) PCB 71-103
)
 ENVIRONMENTAL PROTECTION AGENCY)

and

RAY WICKSTROM)
)
 v.) PCB 71-105
)
 ENVIRONMENTAL PROTECTION AGENCY)

and

ARTHUR ZAMOST)
)
 v.) PCB 71-136
)
 ENVIRONMENTAL PROTECTION AGENCY)

and

ALFRED & HENRIET BEDERMAN)
)
 v.) PCB 71-173
)
 ENVIRONMENTAL PROTECTION AGENCY)

and

DALE & IRIS SCHLAFER)
)
 v.) PCB 71-184
)
 ENVIRONMENTAL PROTECTION AGENCY)

Dissenting Opinion (by Mr. Aldrich):

I disagree with the majority of the Board in each of the above-captioned cases. In each instance petitioners sought a variance to permit them to connect a single family dwelling to the sewer lines of the North Shore Sanitary District. I would grant the variance in each case.

In PCB 71-103, Mr. and Mrs. Piroyan had not begun construction of their new home at the time the sewer ban was imposed. However, petitioners had prepared plans and had begun negotiations with a bank regarding a mortgage. Mr. Piroyan had himself improved the property by clearing the land and doing some landscaping.

In PCB 71-105, Mr. Wickstrom requested a variance in order to construct a new home on property which he owns. His present home had been sold and he had made temporary arrangements for his family to live with relatives while the new home was being built. In effect the Wickstrom family is left without a home and, according to the petition, with few prospects for obtaining a place to rent.

In PCB 71-136, Mr. Zamost had purchased a lot in January of 1971, and had planned to begin building a new home the following May. Plans and specifications had been drawn up at petitioner's expense. There is evidence that petitioners must vacate their present home, having rented it to others in anticipation of moving to a new home.

In PCB 71-173, Mr. and Mrs. Bederman planned to construct a new home on a lot purchased by Mrs. Bederman in May of 1970. In October of that year petitioners contracted with an architect to design a house, incurring in the process expenses which they describe as "substantial". Petitioners indicate that septic systems, either permanent or temporary, are not feasible alternatives. Petitioners also stand to lose a permit granted by a gas company if construction is delayed.

In PCB 71-184, Mr. and Mrs. Schlafer purchased land adjoining their present property with the intent of subdividing the land and building a new home on part of it. Petitioners incurred additional expenses for architects' fees and had arranged for a loan contingent upon completion of the home within a specified period of time.

My position in cases involving new sewer connections is outlined in my dissent in the case of Robert C. Wagnon v. EPA, PCB 71-85. There I held that "anyone who has in good faith made investments beyond the purchase of a lot toward construction of buildings for occupancy is deserving of the right to complete and use the buildings". With the exception of the Wickstroms, all of the petitioners in the instant cases have allegedly incurred expenses beyond the purchase of a lot. In the Wickstrom case, the hardship on the family of finding temporary accommodations is particularly severe.

All additional sewer connections will undoubtedly be somewhat deleterious to receiving waters. However, in the instant cases the harm done to the environment would seem to be minimal in comparison with the hardship accruing to the petitioners from denial of their requests for variance. The evidence indicates that the hardship in each case will be substantial, and I would grant a variance to each petitioner.

I, Regina E. Ryan, Clerk of the Board, certify that Mr. Samuel R. Aldrich submitted the above opinion on this 30 day of August, 1971.

