

BEFORE THE ENVIRONMENTAL APPEALS BOARD

STATE OF DELAWARE

Appeal of Raymond Brown            )  
  )  
  )  
November 30, 1987                    )  
  )        No. 87-10

FINAL ORDER

This matter came before the Environmental Appeal Board on November 18, 1987. The following Board members were present: Clifton W. Hubbard, Mary Sheldrake, Evelyn Greenwood, Harry E. Derrickson and Thomas J. Kealy, Chairman. Also present was the appellant, Raymond F. Brown and his wife, Barbara Brown. Jeanne Langdon, Deputy Attorney General, represented the Department of Natural Resources and Environmental Control ("DNREC"). The Board was advised by Deputy Attorney General Ann Marie Johnson.

SUMMARY OF THE EVIDENCE

This is an appeal of DNREC's denial of an on-site water disposal system permit pursuant to the DNREC "Regulations Governing the Design, Installation and Operation of On-site Waste Water Treatment and Disposal System." Sec. 6.0000, adopted July 10, 1985.

Mr. Raymond Brown testified that he wanted to put a trailer in near where his daughter lives and was applying for this reason. He testified that he was aware of other options for his property, including holding tanks and pressurized in-ground systems. The latter required him to put in a pump, which he viewed as unreliable and all were generally too expensive.

Mrs. Barbara Brown, the applicant's wife testified that they had heard about pumping systems, but that no one at DNREC had taken the time to explain why they needed a pressurized system.

Lyle Jones, Site Evaluator/Group Leader for the Soil Scientists testified that the area he tested had poorly or very poorly drained soils. He stated that a sand filter system or a holding tank were options. A rural area variance was also another option - except that it requires a full 10 acres to be reserved for one system, and also would have to be pressurized.

Al Farling, Manager of Ground Water Management and a professional engineer testified. He explained why the Brown's drawing outlining an alternate plan, submitted with their appeal, required a pump. He stated that even though the concept of "filled area" was acceptable, a pump would be required in all filled areas by septic regulation 6.01089. He further testified that many pumped systems are in use in Delaware and that a pump life of 20-30 years is not unusual.

#### FINDINGS OF FACT

The Board finds by unanimous vote that the seasonal high water table at the site of the proposed septic system on the Brown property is higher than twenty inches below the surface.

#### CONCLUSION OF LAW

The findings that the seasonal high water table is higher than required by the applicable regulations mandates that Mr. Brown's application be denied. The Board is satisfied that there are several other options for on-site disposal available to Mr. Brown.

ORDER

The Board affirms the decision of the Secretary to deny Mr. Brown's application. SO ORDERED

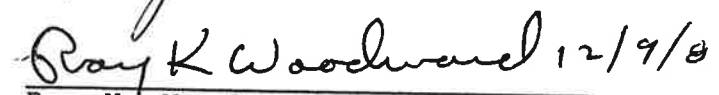
  
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Thomas J. Kealy, Chairman

  
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Mary Sheldrake 12/9/87

  
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Harry E. Derrickson

  
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Clifton W. Hubbard 12/9/86

  
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Evelyn Greenwood

  
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Ray K. Woodward 12/9/87

DATE: December 16, 1987

