

**BEFORE THE
FRANKLIN COUNTY DISTRICT BOARD OF HEALTH
COLUMBUS, OHIO**

FINDINGS AND ORDERS

WHEREAS, Gerald F. Pennington and Judith A. Pennington ("Applicants") own 2465 McComb Road; Grove City, Ohio 43123 (Jackson Township, Tax District 160, Parcel ID #000566) ("Property"), have applied for a Variance to install a replacement aeration (HSTS) tank that will be less than the required ten (10) feet from the property line;

WHEREAS, the Franklin County Board of Health has adopted Franklin County Public Health Regulation 106 "Sewage Treatment Systems", which incorporates by reference relevant portions of Ohio Administrative Code ("OAC") Chapter 3701-29 "Sewage Treatment System Rules";

WHEREAS, OAC 3701-29-06(G)(3)(a) states: "All components of a STS shall be at least ten (10) feet from any utility service line, roadway or road surface, driveway or other hardscape, property line or right-of-way boundary, properly sealed well, any building or other structure, areas with recorded easements, intermittent streams, swales, geothermal horizontal closed loop systems, irrigation lines and gray water recycling systems" (emphasis added);

WHEREAS, the Applicant wishes to obtain a variance from Franklin County Public Health Regulation 106, specifically OAC 3701-29-06(G)(3), to allow the placement of an aeration (HSTS) tank less than the required ten feet (10') from the north property line;

WHEREAS, pursuant to OAC Chapter 3701-29-22(A), the Board of Health may grant a variance from the requirements of Chapter 3718 of the Ohio Revised Code ("R.C.") when a person has made written application for a variance to the board requesting the variance from a specified rule or rules and the applicant shows that because of practical difficulties, or other special conditions, compliance with this chapter will cause unusual and unnecessary hardship. The board of health shall not grant a variance that would defeat the spirit and general intent of this chapter or is otherwise contrary to the public interest, adversely affect the public health, cause contamination of the environment, or not comply with the requirements of R.C. Chapter 3718;

WHEREAS, the Applicants indicate that it will create a hardship if the requested variance is not approved;

WHEREAS, the Board heard testimony from Jeff Gibbs, Environmental Health Division Manager. Jeff Gibbs presented the matter to the Board and recommended approval of the variance;

WHEREAS, Gerald F. Pennington and Judith A. Pennington, representing themselves, were present for questions and information regarding the Variance.

Now, therefore, upon motion of Board Member _____, second by Board Member _____;

THE FINDINGS AND ORDERS OF THE FRANKLIN COUNTY BOARD OF HEALTH, BOARD MEMBERS ARE AS FOLLOWS:

1. Applicants Gerald F. Pennington and Judith A. Pennington request a variance from the ten foot (10') distance requirement to allow the placement of their aeration (HSTS) tank where it will be less than ten feet (10') from the north property line; the Application documenting such request is admitted into the record.

2. The structure will not create a public nuisance/potential health hazard and allow continued use of the Property.
3. Applicant has demonstrated that the strict application of this rule will cause unusual or unnecessary hardship.
4. The requested variance will not defeat the spirit and general intent of OAC Chapter 3701-29, or be otherwise contrary to the public interest or adversely affect the public health, or cause contamination of the environment, or not comply with the requirements of R.C. Chapter 3718.
5. The Board of Health approves the request for a variance from the Franklin County Public Health Regulation 106, specifically its incorporation of the OAC 3701-29-06(G)(3) requirement that a HSTS shall be at least ten feet (10') from any utility service line, driveway or other hardscape, property line, or any building or other structure.
6. This Order shall be in full force and effect from and immediately upon its adoption.
7. The scope of this Order is strictly limited to the ten feet (10') distance requirement from any utility service line, driveway or other hardscape, property line, or any building or other structure, as contained in OAC 3701-29-06(G)(3)(a), and does not address any of the other legal requirements that may apply to the HSTS installation proposed by Applicant, specifically including but not limited to other requirements contained in OAC Chapter 3701-29 and R.C. Chapter 3718. Applicant must comply with all applicable legal requirements.
8. This Order may be appealed pursuant to R.C. 3718.11 by filing a notice of appeal with Franklin County Public Health, the Franklin County Sewage System Appeals Board, or the Franklin County Court of Common Pleas. In addition, the Franklin County Municipal Court, Environmental Division, may have jurisdiction for such an appeal, pursuant to R.C. 1901.181. This notification does not in any way preclude Franklin County Public Health from arguing any jurisdictional matters.

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IT IS SO ORDERED.

Franklin County Board of Health
Board Members
