

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

FINDINGS AND ORDERS

WHEREAS, William A. Fischer and Erika M. Fischer ("Applicant") own 8631 Hayden Run Road; Plain City, Ohio 43064 (Brown Township, Tax District 120, Parcel ID #001319) ("Property"), have submitted a Sewage Treatment Site Review Application to Franklin County Public Health for the use of holding tanks as Home Sewage Treatment System ("HSTS") to serve the Property ("Application"). The Applicant proposes to temporarily use holding tanks as a HSTS;

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 3701-29-18(C)(6) states: "A holding tank permitted as a HSTS shall meet the following specifications when a variance has been granted by the board of health: On a temporary basis during inclement weather and/or during the non-installation season when the property owner must take occupancy until soil conditions are suitable for complete system installation";

WHEREAS, the Applicant wishes to obtain a variance from Franklin County Public Health Regulation 106, specifically OAC 3701-29-18(C)(6), to allow for the use of the septic tank as a temporary holding tank until the HSTS can be completed;

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, due to practical difficulties, or other special conditions, compliance with this chapter will cause unusual and unnecessary hardship. The variance would not defeat the spirit and general intent of OAC 3701-29 or be 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 Board heard testimony from Sarah Jensen, Assistant Health Commissioner/Environmental Health Director. Sarah Jensen presented the matter to the Board and recommended approval of the variance; and

WHEREAS, Applicants William A. Fischer and Erika M. Fischer, or their representative, were/were not present, were/were not represented by counsel.

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 request a variance pursuant to OAC 3701-29-19(C)(6) for the temporary use of a holding tank as an HSTS until a properly permitted HSTS can be installed.
2. Applicants have demonstrated that the strict application of this rule will cause unusual or unnecessary hardship.
3. 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.
4. The Board of Health approves the request for a variance from the Franklin County Public Health Regulation 106, specifically its incorporation of the OAC 3701-29-18(C), on condition that the holding tank permitted through this variance as an HSTS shall meet the following specifications:

(a) For temporary abatement of a public health nuisance for an existing system;

(b) The site with the holding tank shall be placed into an O&M monitoring program;

(c) A holding tank shall comply with the tank requirements of rule [3701-29-12](#) of the Administrative Code;

(d) A holding tank shall be located to meet the isolation distance requirements of the rules and shall be easily accessible for frequent pumping;

(e) The size of the holding tank shall take into account the design flow criteria established in rule. The board of health shall establish a required frequency of pumping for the tank or require the installation of a high water alarm in compliance with this rule as a condition of the variance; and

(f) On a temporary basis during inclement weather and/or during the non-installation season when the property owner must take occupancy until soil conditions are suitable for complete system installation.

(g) FCPH staff shall establish a required frequency of pumping for the tank as a condition of the variance. As an alternative to a scheduled pumping frequency, a high-water alarm may be installed and such tank shall be pumped at the specified frequency or within 24 hours of an alarm being activated.

5. This Order shall be in full force and effect from and immediately upon its adoption and shall apply to the Applicants, their heirs, successors and assigns.
6. The scope and term of this Order is strictly limited until soil conditions are suitable for complete installation of a permitted HSTS.
7. 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
