

VERMONT ENVIRONMENTAL BOARD
10 V.S.A. Chapter 151

RE: Gloria Lefebvre and
Theresa Lefebvre by
Allen F. Gear, Esq.
Gear & Davis, Inc.
P.O. Box 412
Burlington, VT 05402

Findings of Fact and
Conclusions of Law
and Order
Application #4C0803-EB

This decision pertains to an appeal filed with the Environmental Board on December 4, 1989, from the decision of the District #4 Environmental Commission dated November 7, 1989 approving the development of Lots #13 and 14 in a previously-approved subdivision on Lakeshore Drive and Bay Road in Colchester. The District Commission initially prohibited development of Lots #13 and 14, pending submission of additional evidence demonstrating that the proposed community wastewater disposal field would not endanger a downgradient spring on adjoining property. The Applicants subsequently submitted a copy of a decision by the Commissioner of Environmental Protection that the Appellants' spring is not a potable water supply. The District Commission sent a memo to the parties giving them one week to submit any responses to the Applicants' assertion that since the spring is not a **potable** water supply, the wastewater systems on Lots #13 and 14 will not have an undue adverse effect on an existing water supply. Within the week, the Appellants responded and requested a hearing. On November 7, the District Commission approved the development of Lots #13 and 14 without convening a hearing or otherwise responding to the Appellants' request.

A prehearing conference was convened on January 19, 1990. Participating in the conference were Gloria Lefebvre and Theresa Lefebvre by Allen F. Gear, Esq. and Ann and Paul DesLauriers by Michael Marks, Esq. A hearing scheduled for March 13 was cancelled at the request of the parties, who were attempting to work out a settlement. On July 2, 1990, the parties filed a stipulation. On September 26 the Board deliberated in St. Albans. This matter is now ready for decision.

I. FINDINGS OF FACT

1. On October 5, 1989, the District #4 Environmental Commission issued a decision that authorized the subdivision of a **31.47-acre** parcel of land into 14 residential lots plus an open space lot, with municipal water and on-site sewage systems, located on **Lakeshore Drive** and **Bay Road** in the Town of **Colchester**.

2. The Appellants' property adjoins the project's lands and is downgradient from the leachfields proposed for Lots #13 and 14. The Appellants are concerned that the effluent will pollute a spring located on their property.
3. The Permittees agree that Lots #13 and 14 will not be used for a sewage disposal field.

II. CONCLUSIONS OF LAW

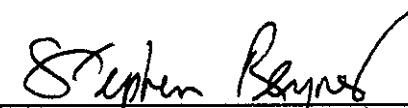
The Board concludes that the agreements contained in the stipulation submitted by the parties participating in this appeal satisfactorily resolve the issues raised in the appeal and do not contravene the values which Act 250 is designed to protect. Therefore, the Board will amend the permit in accordance with the stipulation.

III. ORDER

Land Use Permit Amendment #4C0803-EB is hereby issued. Jurisdiction is returned to the District #4 Environmental Commission.

Dated at Montpelier, Vermont this 4th day of October, 1990.

ENVIRONMENTAL BOARD


Stephen Reynes, Chairman
Ferdinand Bongartz
Elizabeth Courtney
Rebecca J. Day
Arthur Day
Samuel Lloyd
Charles F. Storrow

c:lefebvre (P)