

California Regional Water Quality Control Board
Santa Ana Region

STAFF REPORT

June 15, 2012

ITEM:

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SUBJECT: Appeal of Staff's Denial of an Exemption from the Minimum Lot Size Requirement for Subsurface Disposal System Use – Ronald Jones, 14392 Four Winds Drive, Riverside, Riverside County, APN 271-151-042

DISCUSSION:

On May 9, 2012, Ronald Jones contacted Regional Board staff requesting approval for the use of an existing septic tank-subsurface disposal system at the above-referenced site to serve an existing freestanding structure. Mr. Jones owns a home located at the site. An existing subsurface disposal system is utilized for the discharge of sanitary wastes from the home. The property is just under one-half acre in size (16,552 sq. ft. or 0.38 acre net). This area of Riverside County is unsewered and on-site septic tank-subsurface disposal systems are utilized for disposal of sanitary wastes.

Mr. Jones proposes to convert an existing detached workshop into a guest house and storage room to provide a residence for his 95-year old mother so that she could be nearby where he could care for her. The guest house will include a bathroom to be served by the existing 1,000-gallon septic system that currently serves the home. No other fixtures are proposed for the guest house.

On October 13, 1989, the Regional Board adopted a Basin Plan amendment that requires new developments for which on-site subsurface disposal system use is proposed to have a minimum of one-half acre of land per dwelling unit. The Board found that it was necessary to limit the density of new subsurface disposal systems to control the nitrate quality problems found in the groundwaters of the Region. The Board specifically exempted from the one-half acre requirement "existing" developments where septic tank-subsurface disposal systems had been installed by September 7, 1989 or for which conditional approval (e.g. conditional use permit, or conditional approval of tentative parcel or tract map) had been obtained by that date. Mr. Jones' home was constructed prior to the minimum lot size requirements (MLSR) and is therefore exempted from the MLSR. However, the proposed addition of a new free-standing structure (guest house/storage room) utilizing a septic tank-subsurface disposal system does not conform to these requirements. Accordingly, Board staff denied Mr. Jones' request for approval for the detached guest house to be served by the existing septic system. Mr. Jones seeks Regional Board consideration of this matter.

In adopting the MLSR, the Board recognized that there would likely be proposals for additions to existing developments that would result in increased wastewater flow. The Board's MLSR address these circumstances. Additions to existing dwellings (bedrooms/bathrooms) are exempt from the MLSR. However, the MLSR state that a proposal to add any free-standing structures that would result in additional wastewater flows must be considered a "new" development. As such, the development on the property as a whole (the existing house and the free-standing guest house/storage room) must now be considered a "new" development, to which the one-half acre minimum lot size requirement applies. Mr. Jones' new development does not comply with this requirement. Staff therefore denied his request for a clearance for the project.

The intent of distinguishing between additions that are attached to existing dwellings and free-standing structures was to guard against the use of the free-standing structure as a second single family residence on the property. Mr. Jones has indicated that he intends to install only a toilet, sink and shower in the 314 sq. ft. guest house. The remaining 126 sq. ft. of the structure will be utilized as a storage room with no fixtures proposed. He points out that the additional flows that would occur as a result of this project would be no greater than those that would be allowed if he were to construct an add-on to the existing house, which would be exempt from the minimum lot size requirement.

Board staff has conferred with Riverside County staff and they would have no objection to the proposed detached guest house/storage room to be served by the existing 1,000-gallon septic system on the lot.

While it is true that there would be no difference in wastewater flows on an immediate basis, i.e., while Mr. Jones owns the property and his mother resides with him, there can be no guarantee that wastewater flows would not increase considerably in the future. As stated above, it was on this basis that the Board determined not to exempt the construction of new freestanding structures from the minimum lot size requirements. Therefore, Mr. Jones has offered to remove the fixture units in the second residence once the second residence is no longer required for his use. Mr. Jones has also agreed to enter into an Agreement of Restriction to be recorded with the property Chain of Title that stipulates that this property may not be sold until the fixture units in the second dwelling (guest house) are removed and the connection to the existing septic system has been capped off from service.

RECOMMENDATION:

Approve Mr. Jones' request for an exemption from the minimum lot size requirement specified in Resolution No. 89-157, with the following conditions: 1) Once the second home (guest house) is no longer required for use by Mr. Jones' mother, the fixture units will be removed and the connection to the septic system will be capped off and removed from service; and, 2) Mr. Jones must enter into an Agreement of Restriction, which shall become a part of the Chain of Title, that the fixture units in the guest house must be removed and the connection to the septic system must be capped off prior to sale of the property. If Mr. Jones locates and implements an acceptable offset or connects the property to the sewer, the Agreement of Restriction shall be removed, allowing the continued use of the guest house. The Agreement of Restriction can also be removed if Mr. Jones obtains authorization from the Regional Board for the future installation and use of an alternative disposal system to serve the guest house.

Comments were solicited from the following agencies

Riverside County Environmental Health – Matt Riha / Greg Dellenbach
Riverside County Building and Safety – Chandra Thomas
AM/PAC and Associates, Inc. – David Ballinger