

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ADMINISTRATIVE LAW APPEALS

April 7, 2008

In the Matter of

Docket No. DEP-08-132

DONALD SZCZEBAK

DEP File No. W121338
Wellfleet

FINAL DECISION - ORDER OF DISMISSAL

Title 5 variance denial appeal dismissed as moot based upon the parties' joint stipulation of dismissal.

Sarah A. Turano-Flores, Esq. (Nutter, McClennen & Fish, LLP), Hyannis, for petitioner Donald Szczebak.

Deirdre C. Desmond, Esq., Senior Counsel, Boston, for the Department of Environmental Protection.

MARK L. SILVERSTEIN, Administrative Magistrate.

Petitioner Donald Szczebak appealed a decision of the Massachusetts Department of Environmental Protection, dated November 20, 2007, denying, pursuant to 310 CMR 15.410, his application for a Title 5 variance allowing him to locate a new water supply well for a proposed dwelling less than 100 feet from an existing subsurface sewage disposal system on an adjoining lot, the minimum separation between a private water supply well and a soil absorption system required by 310 CMR 15.211.

The parties have filed a joint stipulation of dismissal based upon the petitioner's decision, with DEP's agreement, to pursue this appeal no further. Accordingly, this appeal is dismissed as moot. The dismissal makes the appealed Title 5 variance denial final. See Matter of Bellingham Realty Corp, Docket No. 2002-083, Final Decision - Order of Dismissal (Jan. 21, 2003).

Notice of Reconsideration and Appeal Rights

The parties to this proceeding are notified of their right to file a motion for reconsideration of this final decision. The motion must be filed with the DALA Docket Clerk and served on all parties within seven business days of the postmark date of this Decision. Any party may appeal this final decision to the Superior Court pursuant to M.G.L. c. 30A, sec. 14(1). The complaint must be filed in the Court within thirty days of receipt of this final decision.

Mark L. Silverstein
Administrative Magistrate