

What authority does the Board of Appeals have?

The Board of Appeals obtains its authority under the Massachusetts General Laws Chapter 40A §14 and the Town of Littleton's Zoning By-law 173-6 to hear and decide *appeals*, to hear and decide applications for *Chapter 40A special permits*, and to hear and decide petitions for *variances*. The Board of Appeals also hears and decides applications for *special permits for low and moderate income housing* under Massachusetts General Laws Chapter 40B Sections 20, 21, 22, and 23.

What is an Appeal?

Pursuant to Massachusetts General Laws Chapter 40A §8 and Littleton Zoning By-law 173-6 B(3) and 173-6 B(5) the Board of Appeals hears and decides appeals by any person aggrieved by any written order or decision of the Zoning Enforcement Officer or other administrative official in violation of any provision of Massachusetts General Laws Chapter 40A or the Littleton Zoning By-laws. Building permits withheld by the Building Commissioner acting under MGL C. 41, §81Y as a means of enforcing the Subdivision Control Law may also be issued by the Board of Appeals. Action taken by the Building Commissioner acting under the Code of Littleton Chapter 152 will also be heard by the Board of Appeals. *If the Zoning Enforcing Officer or other administrative official does not issue a written order or decision, the Board of Appeals will not hear the appeal.* Appeals from the written decisions of the Zoning Enforcement Officer or other administrative official must be filed with the Office of the Town Clerk pursuant to Massachusetts General Laws Chapter 40A Section 15 within thirty (30) days from the date of the written order or decision which is being appealed. Failure to file a timely appeal is fatal.

What is a Chapter 40A Special Permit?

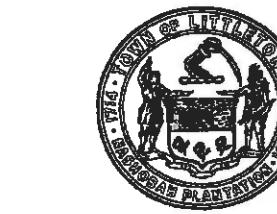
Certain uses of property are permitted as a matter of right. However, the Littleton Zoning By-laws provide that other uses are not allowed in certain zoning districts, and that specific types of uses shall only be permitted in specified zoning districts upon the issuance of a Special Permit from the Board of Appeals pursuant to Massachusetts General Laws Chapter 40A § 9, 9A, and 9B. Special Permits may be issued only for uses which are in harmony with the general purpose and intent of the By-law, and may be subject to general or specific provisions set forth therein, and such permits may also impose conditions, safeguards and limitations on time or use. A Special Permit, unlike a Variance, may be conditioned by limiting its duration to the term of ownership or use by the Applicant. When a Special Permit application is accompanied by plans or specifications detailing the work to be undertaken, the plans and specifications become conditions of the issuance of the permit. Therefore, once a Special Permit is granted, modification of the plans or specifications require as a prerequisite, modification of the Special Permit through the filing of a successive Special Permit application. No building permit may be issued by the Building Commissioner for a use or structure that requires a Special Permit until 1) a Special Permit has been granted by the Board of Appeals, 2) the expiration of the twenty (20) day appeal period pursuant to Massachusetts General Laws Chapter 40A Section 11, and 3) the Special Permit has been recorded at the Middlesex South District Registry of Deeds. The Building Commissioner shall require proof of recording at the Registry of Deeds from the Town Clerk prior to issuance of a building permit. No party is entitled "as a matter of right" to a Special Permit. The Board of Appeals, in the proper exercise of its discretion, is free to deny a Special Permit even if the facts show that such a permit could be lawfully granted. Special Permits 40A shall lapse 24 months following the granting unless substantial use or construction has commenced.

What is a Chapter 40B Special Permit?

Chapter 40B is a state statute, which enables local Boards of Appeals to approve affordable housing developments under flexible rules if at least 25% of the units have long-term affordability restrictions. Also known as the Comprehensive Permit Law, Chapter 40B was enacted in 1969 to help address the shortage of affordable housing statewide by reducing unnecessary barriers created by local approval processes, local zoning, and other restrictions. Its goal is to encourage the production of affordable housing in all communities throughout the Commonwealth. Special Permits 40B shall lapse 3 years from the date the permit becomes final unless construction authorized by a comprehensive permit has begun, or unless specifically noted otherwise in the permit by the Board of Appeals.

What is a Variance?

A Variance is a waiver of the zoning rules adopted by the Citizens of Littleton at Town Meeting. A Variance may be granted pursuant to the Littleton Zoning By-laws and Massachusetts General Laws Chapter 40A Section 10. Accordingly, it is only in rare instances and under exceptional circumstances that relaxation of the general restrictions established by the Zoning By-laws are permitted. A Variance is distinguished from a Special Permit. The Variance is used to authorize an otherwise prohibited use or to loosen dimensional requirements otherwise applicable to a structure. No person has a right to a Variance. *Variance of "use" is almost never granted by the Board of Appeals. Variance of "dimensional" requirements is granted in rare occasions.* The Board of Appeals has no discretion to grant a Variance unless the petitioner provides evidence, and that the Board of Appeals determines that, owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law. Even if the Board of Appeals find that such hardship exists, it may exercise its discretion and not grant a Variance. No building permit may be issued by the Building Commissioner for a use or structure that requires a Variance until 1) a Variance has been granted by the Board of Appeals, 2) the expiration of the twenty (20) day appeal period pursuant to Massachusetts General Laws Chapter 40A Section 11, and 3) the Variance has been recorded at the Middlesex South District Registry of Deeds. The Building Commissioner shall require proof of recording at the Registry of Deeds from the Town Clerk prior to issuance of a building permit. Rights authorized by a Variance must be exercised within 1 year of granting, or said variance shall lapse.



OFFICE OF THE
LITTLETON BOARD OF APPEALS
LITTLETON, MASSACHUSETTS 01460
LITTLETON, MASSACHUSETTS 01460

received
8/11/15

Board Use Only Case # 8591 Filing Date 8-10-15

The undersigned, having standing in this matter, hereby petitions the Littleton Board of Appeals for a VARIANCE SPECIAL PERMIT and/or APPEAL (Check all that apply)
as specified below and as provided by the Town of Littleton Zoning Bylaw

1. LOCATION OF THE PROPERTY: *Please print*

A. Street Address LOT 1 ELM RD.

B. Assessors' Map and Parcel # U17- P146

Zoning District Aquifer District Water Resource District

C. Deed Reference Book 63944 Page 596

2. LITTLETON ZONING BYLAW SECTION(S)

A. Variance 173-10 & 173-31

B. Special Permit

C. Appeal

3. STATE BRIEFLY REASONS FOR THIS PETITION *Use additional sheets, if necessary*

RETAINING WALL FOR SEPTIC

4. PETITIONER(S) MCKINLEY HOLDING INC

Owner Tenant Licensee Agreed Purchaser Agent Other

NOTE: If petitioner is not the owner, furnish written authorization from owner below.

Mckinley Holding Inc. leg. s/s

Signature

360 MASS AVE SUITE 200

Mailing Address

ACTON MA 01720

Date July 11, 2015

Telephone # 978-263-0428

Telephone # 617-978-771-8935

Town Clerk Use ONLY Filing Fee Paid \$ 200.00 1069
Registry Fee Paid \$ 75.00 1066 Date 8/11

Westchester Homes, Inc.
360 Massachusetts Avenue Suite 200
Acton, MA 01720

Littleton Board of Appeals
Shattuck Street
Littleton, Ma 01460

Re: Map U17 Parcel 146

Dear Members of the Board,

August 4, 2015

We are respectfully requesting relief from the Littleton Zoning Bylaw section 173-10 and 173-31.

We are requesting this relief due to the need for a retaining wall for the septic system for this property.

The subject property is a grandfathered lot, created prior to the adoption of the sub division control law.

Other properties in the area utilize these walls for their septic systems and therefore are considered part of the neighborhood and not detrimental to the overall intent of the bylaw.

Literal enforcement would diminish the use within the zoning for residential purposes and adversely affect the value of the property.

Sincerely,

Westchester Homes, Inc.

Variance

Under MGL c. 40A §. 10

The undersigned hereby petitions the Board of Appeals for the Town of Littleton to vary, in the manner and for the reasons hereinafter set forth, the applicable provisions of the Zoning By-law.

1. Specifically, from what Zoning bylaw section are you seeking relief? 173-10, 173-31
2. Why are you seeking relief from a literal enforcement of this Zoning Bylaw?
Attach a written statement that specifically describes existing conditions and your objectives, along with plans, specifications, certified plot plan and any documentation necessary to support your request.
3. Show evidence that you meet the minimum requirements of a variance under section 173-6 B (2) of the Littleton Zoning Bylaws.
Attach a written statement which specifically includes why, owing to conditions (soil, shape, or topography) especially affecting the premises, but not affecting generally the zoning district in which it is located, a literal enforcement of the Zoning By-law would result in a substantial hardship to you. Applicant must clearly demonstrate the lack of alternative remedies.
4. *I hereby certify that I have read the Board of Appeals Instructions for petitioners and that the statements within my petition and attachments are true and accurate to the best of my knowledge and belief.*


Signature


Print name

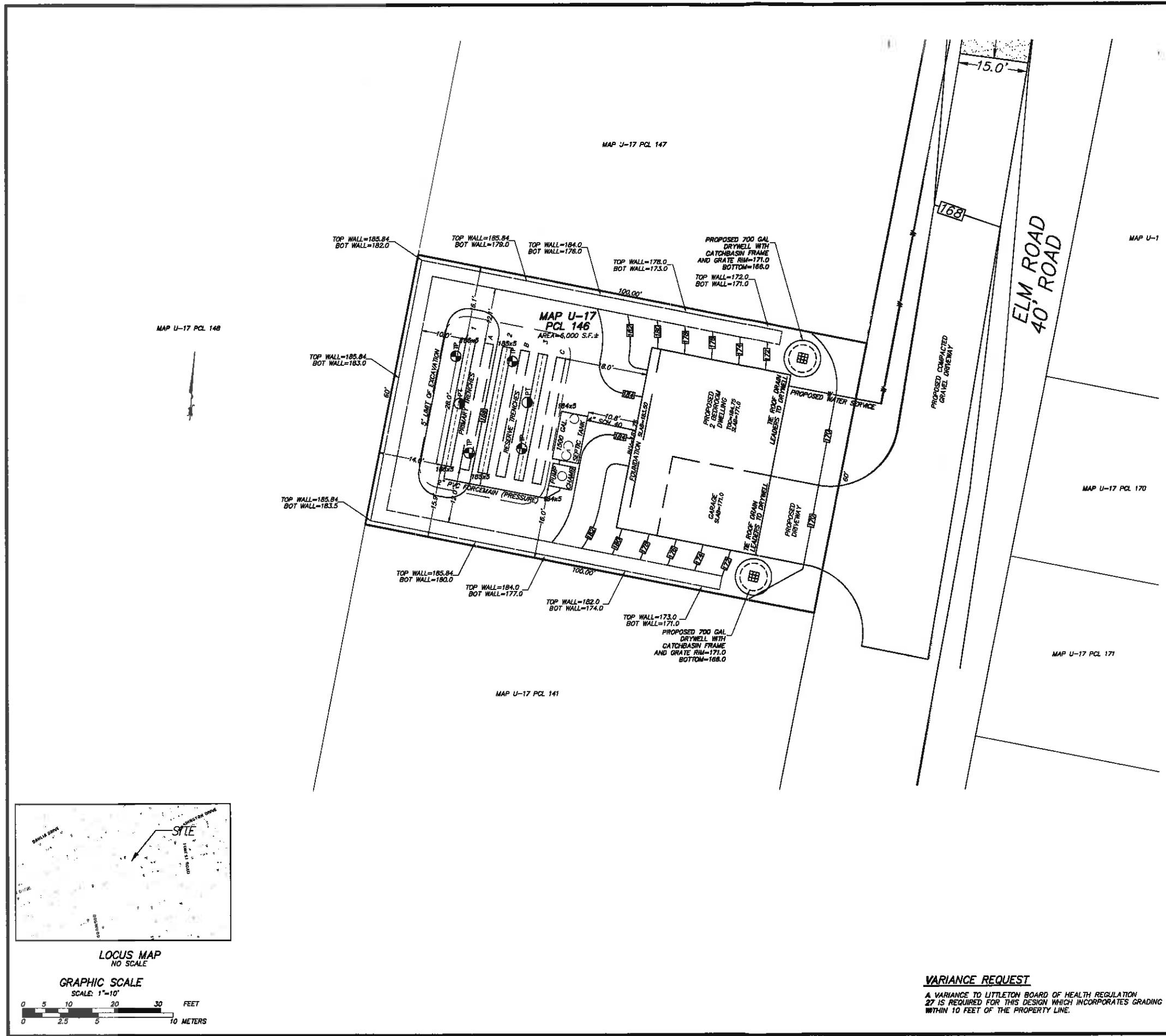
Filing Instructions

1. **IMPORTANT: SEE THE BUILDING COMMISSIONER/ZONING ENFORCEMENT OFFICER BEFORE YOU FILL OUT THIS APPLICATION.** He will assist you with the proper zoning sections and application request(s). His review may save time by preventing delays in the hearing process.
2. Apply for a certified abutters list with the Assessors office (request for certified list of abutters form enclosed)
3. Bring the completed application packet to the Administrative Assistant to the Building Commissioner who will assist you in filing with the Town Clerk.

Necessary Exhibits— provide 14 copies of the following with the completed application:

1. A copy of the most recently recorded plan of land or where no such plan exists, a copy of a plot plan endorsed by a registered engineer or land surveyor. The plan should show:
 - A) metes and bounds of the subject land
 - B) adjacent streets and other names and readily identifiable landmarks and fixed objects
 - C) dimensional layout of all buildings
 - D) distances and setbacks from the various boundaries
 - E) exact dimensions, setbacks and specifications of any new construction, alterations, additions or installations
 - F) direction of North
 - G) the name of each abutting property owner
2. Copy of the latest recorded deed
3. A written statement which details the basis for your petition
4. Pictures, plans, maps, drawings and models are always helpful in explaining the problem
5. In cases pertaining to signs, a scale print of the sign lettering and colors
6. In cases pertaining to subdivisions of land, prints should show the proposed subdivision endorsed by a registered engineer or land surveyor
7. In cases pertaining to Accessory dwellings evidence that the Board of Health has approved the septic system
8. The date of the building construction and the history of ownership are useful in finding facts about the case

Completed applications filed with the Town Clerk by the third Thursday of the month will be considered at the next regularly scheduled Zoning Board of Appeals meeting, held on the third Thursday of the following month. The Board in its discretion may dismiss an application or petition for failure to comply with any of the foregoing rules.



GENERAL NOTES

1. THIS DESIGN PLAN IS INTENDED SOLE FOR THE PURPOSE OF CONSTRUCTION THE SEWAGE DISPOSAL SYSTEM ONLY. ADDITIONAL TOWN AND STATE REGULATIONS MAY BE APPLICABLE TO THIS PROJECT INCLUDING BUT NOT LIMITED TO ZONING AND WETLANDS.
2. SITE PLAN BASED ON EXISTING CONDITIONS. ALTHOUGH CARE HAS BEEN TAKEN TO DETERMINE SUBSURFACE CONDITIONS, THIS PLAN MAY NOT SHOW ALL UTILITIES, BEDROCK, BURIED DEBRIS OR OTHER SUBSURFACE ITEMS THAT MAY BE ENCOUNTERED DURING EXCAVATION. THE CONTRACTOR SHALL INFORM THE DESIGNING ENGINEER UPON ENCOUNTERING SUCH DISCREPANCIES.
3. PROPERTY BOUNDARIES SHOWN ARE THE RESULT OF A SITE PLAN SURVEY, BASED ON MAP A OF LONG LAKE PLAN 26 OF BOOK 362 RECORDED AT MIDDLESEX SOUTH REGISTRY.
4. THE SEPTIC TANK SHALL BE PUMPED WHEN THE SLUDGE DEPTH IS WITHIN 12" OF THE BOTTOM OF THE OUTLET TEE, WHEN THE TOP OF THE SCUM LEVEL IS WITH 2" OF THE TOP OF THE OUTLET TEE OR 2" OF THE BOTTOM OF THE OUTLET TEE (310 CMR 15.340) ABOUT EVERY 2 YEARS OR WHEN REQUIRED BY THE LOCAL BOARD OF HEALTH.
5. ANY SITE WORK WITHIN 100' OF A WETLAND IS SUBJECT TO REGULATION UNDER THE WETLANDS PROTECTION ACT, AND REQUIRES FILING WITH THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE LOCAL CONSERVATION COMMISSION.
6. ALL KNOWN DRINKING WATER WELLS WITHIN 200 FEET OF THE PROPOSED SEWAGE DISPOSAL SYSTEM ARE SHOWN OR INDICATED.
7. THE PROPOSED SEWAGE DISPOSAL SYSTEM IS NOT DESIGNED FOR THE USE OF A GARBAGE GRINDER.
8. THE PROPOSED SEWAGE DISPOSAL SYSTEM IS INTENDED FOR TREATMENT OF SANITARY SEWAGE PRODUCED BY SINGLE FAMILY DWELLING UNITS ONLY. WATER TREATMENT DISCHARGES SUCH AS WATER SOFTENERS SHALL BE DISCHARGED TO A SEPARATE DRYMELL.
9. THERE ARE NO WATER SUPPLIES OR TRIBUTARIES THERETO LOCATED WITHIN 400' OF THE PROPOSED SYSTEM (SOURCE DEP WSPA)

CONSTRUCTION NOTES

1. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO CONTACT DIGSAFE AT LEAST 72 HOURS PRIOR TO EXCAVATION OF PUBLIC OR PRIVATE PROPERTY. 1-888-DIG-SAFE
2. EXCAVATION AND CONSTRUCTION PROCEDURES, AND MATERIALS SHALL CONFORM TO THIS PLAN, TITLE 5, AND THE REQUIREMENTS OF THE BOARD OF HEALTH.
3. ANY DEVIATION IN CONSTRUCTION FROM THIS PLAN SHALL VOID ANY CERTIFICATION MADE RELATIVE TO THE SYSTEM UNLESS APPROVED IN WRITING BY THE LOCAL APPROVING AUTHORITY AND THE DESIGNING ENGINEER.
4. ALL PRECAST SYSTEM COMPONENTS SHALL BE EITHER WATERTIGHT BY MANUFACTURER'S SPECIFICATION AND WARRANTY, OR MADE WATERTIGHT USING ASPHALT OR SYNTHETIC POLYMER SEALER SPECIFIED BY THE CONCRETE OR SEALER MATERIAL MANUFACTURER.
5. PRECAST CONCRETE TANKS SHALL BE SET ON A MINIMUM OF SIX INCHES OF MECHANICALLY COMPAKTED CRUSHED STONE.
6. DISTRIBUTION BOX OUTLET PIPES SHALL BE LAID LEVEL FOR THE FIRST TWO FEET OUT OF THE DISTRIBUTION BOX.
7. DISTRIBUTION BOX SHALL BE SET ON EITHER SIX INCHES OF MECHANICALLY COMPAKTED CRUSHED STONE, OR A SIX-INCH THICK CONCRETE PAD WITH AN AREA 1.5 TIMES THE BOTTOM AREA OF THE DISTRIBUTION BOX.
8. SYSTEM SHALL BE VENTED THROUGH THE BUILDING PLUMBING OR AS SHOWN ON THE SYSTEM PROFILE.
9. ALL UNSUITABLE MATERIAL ENCOUNTERED IN THE EXCAVATION SHALL BE REMOVED.
10. ALL AGGREGATE USED FOR LEACHING STRUCTURES SHALL CONSIST OF DOUBLE WASHED STONE, THE SIZE SPECIFIED, AND FREE FROM IRON, FINES, AND DUST IN PLACE.
11. THE 5' LIMIT OF EXCAVATION REQUIRES ALL ORGANIC MATERIAL WITHIN 5 FEET OF THE LEACHING FACILITY BE REMOVED AND REPLACED WITH WELL COMPAKTED GRANULAR FILL MEETING THE REQUIREMENTS OF 310 CMR 15.255.
12. ALL BACKFILL AND BREAKOUT FILL MUST BE CLEAN AND FREE OF STONES OR BOULDERS GREATER THAN 6" IN SIZE. TAULINGS, CLAY, OR SIMILAR MATERIALS ARE PROHIBITED. SYSTEM SHALL BE GRADED TO PREVENT PONDING OF STORMWATER OVER THE LEACHING FACILITY.
13. PRIOR TO EXCAVATION, THE SEWAGE DISPOSAL SYSTEM CORNERS SHALL BE STAKED AND FLAGGED BY THE DESIGN ENGINEER OR A PROFESSIONAL LAND SURVEYOR.
14. THE BOTTOM AND SIDES OF THE EXCAVATION SHALL BE LEVEL AND SCARIFIED. VEHICULAR TRAFFIC IN THE EXCAVATION SHOULD BE AVOIDED.
15. PRIOR TO PLACEMENT OF FILL, THE BOTTOM SURFACE SHALL BE SCARIFIED AND RELATIVELY DRY. THE WATER TABLE IS ABOVE THE ELEVATION OF THE BOTTOM OF THE EXCAVATION, THE EXCAVATION SHALL BE DE-WATERED AS NECESSARY.
16. PRIOR TO BACKFILL, ALL SYSTEM COMPONENTS SHALL BE MARKED WITH MAGNETIC MARKING TAPE IN ORDER TO LOCATE THEM ONCE BURIED.

VARIANCE REQUEST

A VARIANCE TO LITTLETON BOARD OF HEALTH REGULATION
27 IS REQUIRED FOR THIS DESIGN WHICH INCORPORATES GRADING
WITHIN 10 FEET OF THE PROPERTY LINE.

CIVIL ENGINEERING		DATE	REVISION COMMENT
380 MASSACHUSETTS AVE, SUITE 200 ACTON, MASSACHUSETTS 01720 P(978) 263-0430 F(978) 263-0447 www.MckinneyAndRugh.com		4/1/15	DATE: 4/1/15 COPYRIGHT 2013, MCKINNEY & RUGH, INC.
MCKINNEY HOLDINGS INC. 171 VERNON ST GARDNER, MASSACHUSETTS		4/1/15	
SUBSURFACE SEWAGE DISPOSAL DESIGN SITE PLAN PCL 146 ELM ROAD LITTLETON, MASSACHUSETTS			

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