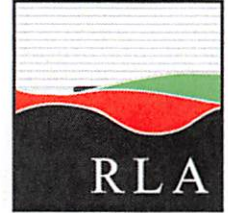


R LEVESQUE ASSOCIATES, INC.

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December 13, 2019

Mr. Mark Cavanaugh, Chairman
Town of South Hadley Planning Board
116 Main Street, Room 204
South Hadley, MA 01075

RE: Response Letter to Board of Health Comments – December 5, 2019
North Pole Estates – Definitive Subdivision
RLA Project #190310

Dear Chairman Cavanaugh & Board Members,

On behalf of the applicant, Chicopee Concrete Service, Inc., R Levesque Associates, Inc is herein submitting a response letter to comments received from the Board of Health dated December 5, 2019, regarding the North Pole Estates Subdivision proposal.

It's our understanding, as the Public Health Director for the Town of South Hadley indicated, the review and approval of septic systems designed and submitted in conjunction with a Disposal Works Permit under 310 CMR 15.00 (Title 5) is under Ms. Hart's purview. It is also our understanding that her duties include the review and approval of septic systems designed in nitrogen sensitive areas such as an Aquifer Zone II.

Title 5 regulations provide very specific design criteria for systems in nitrogen sensitive areas. As you know, the Town has conducted many septic reviews and approvals for septic systems within the Aquifer Zone II. Therefore, it's our understanding that the concerns raised by the Board of Health office are directly related to the cut and fill for the proposed subdivision, and not the review of septic systems within nitrogen sensitive areas. Therefore, the applicant is currently redesigning the project to eliminate any and all uncharacteristic cut and fill within and directly adjacent to the areas proposed for septic systems on each lot.

We believe the request for detailed septic system designs is premature. Based on Massachusetts case law, the Board of Health cannot and should not require the applicant to design septic systems and file a disposal works permit at this stage of the subdivision design and permitting process. In *Fairbairn*, 5 Mass App. Ct. at 176, the Court found that "The Board would however be acting prematurely and unreasonably if it were to take any action...other than to require the planning board to endorse a condition on the definitive plan to the effect that no dwelling shall be built on any lot without first securing from the board of health the disposal works permit required by the (sanitary) code." *Id.* At 185.

Based upon the above, the applicant will be requesting a waiver of the Town of South Hadley Subdivision regulations Section 360-22 A (1) under separate cover, to allow for septic designs to be submitted at the appropriate time prior to the issuance of a building permit.

The feasibility information provided on the original plan set is being supplemented and transferred to individual feasibility reports for each lot. We will also include soil evaluation data for each of the lots that include new septic systems. Lots with existing homes and septic systems will be omitted as they are not applicable.

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The Board of Health's assessment of the proposed subdivision is at least partially inaccurate. For clarification purposes, and for ease of review, our office is providing herein, a lot by lot description of the conditions that affect the review and approval of septic system feasibility within the subject properties. Specifically:

1. Parcel A and Parcel B are not proposed building lots. (no review required)
2. Lot # 1 already contains an existing single-family home and associated septic system (no review required)
3. Lot #2 can and will be easily regraded so that the septic system is proposed in native soil at or about existing grade in the location of the percolation tests/test pits approved by the Board of Health. (no unique review required)
4. Lot #3 can and will be easily regraded so that the septic system is proposed in native soil at or about existing grade in the location of the percolation tests/test pits approved by the Board of Health. (no unique review required)
5. Lot # 4 already contains an existing single-family home and associated septic system. (no review required)
6. Lot # 5 already contains an existing single-family home and associated septic system. (no review required)
7. Lot # 6 can and will be revised and combined with Lot # 7 under the current proposal. (no longer a lot- no review required)
8. Lot # 7 has a septic system proposed at or about existing grade (no unique analysis required)
9. Lot # 8 will have a septic system proposed at or about existing grade. The schematic septic system location will be added to the plans.
10. Lot # 9 already contains an existing single-family home and associated septic system. (no review required)

Based on the foregoing and the information to be provided, we believe the applicant will completely eliminate the need to seek outside review by a peer review consultant as there will be nothing in the proposal that is outside the Board of Health's Agent normal duties. Therefore, we are hereby respectfully requesting a revised response from the Board of Health once the updated information has been provided. We trust that you will find that the proposed changes in the subdivision and lots associated therewith will eliminate any questions or concerns related to cut and fill within the subdivision thereby allowing the Board of Health Agent, Ms. Hart, to review the septic system feasibility.

We look forward to reviewing the updated comment letter. Should you have any questions, please do not hesitate to contact our office at your convenience.

R. LEVESQUE ASSOCIATES, INC.

A handwritten signature in blue ink, appearing to read 'RLA', is written over the company name.

Robert M. Levesque, RLA, ASLA
President

Cc: Town of South Hadley – Town Clerk
Jason Ouellette