

HEARINGS, MEETINGS, LICENSES

10-29-12

Proposed vote for 407 Wareham Street WRPD

The Board finds that the proposed use:

- a. Is in harmony with the purpose and intent of the WRPD By-law and will promote the purposes of the Water Resource Protection Districts.
- b. Is appropriate to the natural topography, soils and other characteristics of the site to be developed.
- c. Will not, during construction or thereafter, have an adverse environmental impact on the aquifer, recharge areas, water resources of the Town.
- d. Will not adversely affect any existing or potential water supply.

The Board votes to grant a special permit to Leonard's Auto, LLC to allow for the sale of six (6) retail ready cars at 407B Wareham Street as requested in the Applicant's application under the Water Resource Protection District By-law pursuant to Section XII. F. 3 (a) based on the plan titled Site Plan Leonard's Auto, LLC and submitted during the hearing on October 15, 2012..

The Board grants the special permit with the following conditions:

- a. No additional pavement shall be added to create the parking spaces
- b. The parking areas shall be used for the sale of used retail ready cars
- c. There shall be no repairs or fluid additions on the premises
- d. There shall be a 6' chain link fence, with privacy slats, between the applicant's property and the nearest abutter
- e. They will maintain a treed and/or a landscaped buffer zone to the eastern side of the property
- f. The parking spaces shall be 10' x 20'.
- g. There shall be six retail ready parking spaces and two general parking spaces, for a total of eight.

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Town of Middleborough
Massachusetts

508-947-4095

ZONING BOARD OF APPEALS

October 19, 2012

Mr. Arthur Leonard
69 Miller Street
Middleborough, MA 02346

RE: 407 Wareham Street

Dear Mr. Leonard,

This letter is to inform you that the report of the Zoning Board of Appeals hearing which was first held on October 11, 2012 has been filed with the Town Clerk. The report was filed on October 19, 2012, and is a matter of public record.

Enclosed, for your record is a copy of the decision rendered by the Board.

Anyone who may wish to appeal the decision of the Board may do so, provided an action is taken to the Superior Court sitting in Plymouth County, Massachusetts, or Land Court, within twenty (20) day after the hearing has been filed.

After the twenty day appeal period has expired on November 9, 2012, you will be mailed a "Certificate of Decision", a copy of the report of the Zoning Board of Appeals, and a statement from the Town Clerk certifying that there were no appeals of your case. These forms must be filed with the Plymouth County Registry of Deeds on Russell Street in Plymouth, Massachusetts.

Sincerely,

Bruce G. Atwood, Chairman
ZONING BOARD OF APPEALS

Encl: 1

TOWN OF MIDDLEBOROUGH
ZONING BOARD OF APPEALS

APPROVED

09 27 2012
ZONING BOARD
OF APPEALS



The Board set the 11th day of October, 2012 at 7:30 o'clock P.M. as the time, and the Town Hall, 10 Nickerson Avenue, Middleborough, Massachusetts, as the place of the public hearing upon said petition/appeal.

The following notice was published in the Middleboro Gazette in the issues of 09/27/12 & 010/04/12 and a copy of said notice was set by mail to each of the interested parties and the owner of all property affected thereby, as they appear upon the most recent tax list:

NOTICE OF HEARING

The Middleborough Zoning Board of Appeals will hold a public hearing on Thursday, October 11, 2012, at 7:30 P.M., in the Selectmen's Room, Middleborough Town Hall, 10 Nickerson Avenue, Middleborough, to hear the petition of Arthur Leonard, 69 Miller Street, Middleboro, MA 02346 relative to his request to allow for the sale of six (6) retail ready cars located at 407 Wareham Street, Middleborough Assessor's Map 80, lot 3649. There will be no repairs done or fluids added on premises. Anyone desiring to be heard on this matter should appear at the time and place designated.

Zoning Board of Appeals
Bruce G. Atwood
Dr. Edward Braun
Dorothy Pulsifer
Norman Diegoli
Joseph Freitas

September 27 & October 4, 2012

p A hearing of said petition/appeal was held at the time and place specified.

There were five (5) members of the Board present, they being:

Chairman Atwood, Dr. Edward Braun, Norman Diegoli, Dorothy Pulsifer and Joseph Freitas

p There were four (4) members of the Board present

It was explained to the appellant that he had the right to ask for a continuance until five (5) Members of the board could meet at everyone's convenience, or he could proceed with the four (4) members present, which would require a unanimous vote in his favor for the request to be granted. The appellant decided to continue/postpone his petition until the next meeting.

Members present:

Chairman Atwood read into the record the legal advertisement and declared the hearing open at 7:55 P.M. Chairman Atwood, Dr. Edward Braun, Norman Diegoli, Dorothy Pulsifer, Joseph Freitas, Liz Elgosin and Eric Priestly were present.

Attorney Adam Bond is representing the applicant Arthur Leonard of Arthur Leonard, LLC. He informed the board that a Class II license is currently pending before the Board of Selectmen.

The Board of Selectmen, Town Counsel, and Town Manager discussed this application and informed him that they need to make an application to the Zoning Board of Appeals for a determination. They are requesting a determination that this will not increase the non-conformity, it will not create a new non-conformity and it would not be substantially more detrimental than the existing non-conformity.

Attorney Bond said they do not believe it will increase the non-conformity. It is a sale of used retail ready cars, with no fluid storage or repairs on site. This location is already a gas station and parking is already taking place on the area proposed for the eight parking spaces. The parking area is already an impervious surface, and predates the WRPD bylaw. There is no proposal to add any impervious area that already exists.

This will not create a new non-conformity because it is not a prohibited use. The only issue is the impervious surface percentage, which they are not adding to.

As to the zoning regulations this proposed use is not substantially more detrimental to the existing non-conformity. They are just parking retail ready cars. They are here tonight to ask that this board issue a determination that the sale of used, retail ready cars, with no repairs or fluid additions on the premises, and parking spaces as indicated on the plan will not increase the non-conformity conditions that exist on site.

Norman Diegoli asked what size the parking spaces are. Attorney Bond said they are 10' x 20'.

Dr. Edward Braun read into the record a letter dated October 11, 2012, from Robert Whalen, Building Commissioner.

Chairman Atwood said the Building Commissioner's letter indicates seven parking places, the plan shows eight, and the application says six. Adam bond said there are eight spaces. They are proposing six spaces for the retail cars and the other two will be general parking.

Dr. Edward Braun asked if the landscaping on the plan is already there or if it is something they are going to create. Attorney Bond said the landscaping is very thick there. He submitted pictures for the board to review. There is a chain link fence in the back that they are going to install privacy slats through. There is a buffer zone of 15' – 20' on the sideline. They believe they meet the requirements for the landscaped buffer zone.

Chairman Atwood asked if anyone would like to be heard on this matter. Hearing no comments Chairman Atwood called for a motion.

Upon a motion made by Dr. Edward Braun and seconded by Dorothy Pulsifer, the board

VOTED: to approve the petition of Arthur Leonard, 69 Miller Street, Middleboro, MA 02346 relative to his request to allow for the sale of six (6) retail ready cars located at 407 Wareham Street, Middleborough Assessor's Map 80, lot 3649. There will be no repairs done or fluids added on premises. This is approved subject to the following stipulations:

- 1. The parking areas shall be used for the sale of used retail ready cars.**
- 2. There will be no repairs or fluid additions on the premises.**
- 3. As per the plan dated September 24, 2012.**
- 4. There shall be a 6' chain link fence, with privacy slats, between the applicant's property and their nearest abutter.**
- 5. They will maintain a treed and/or a landscaped buffer zone to the eastern side of the property.**
- 6. The parking spaces shall be 10' x 20'.**
- 7. There shall be six retail ready parking spaces and two general parking spaces, for a total of eight (8).**

Chairman Atwood, Dr. Edward Braun, Norman Diegoli, Joseph Freitas, and Dorothy Pulsifer were in favor. (5-0)

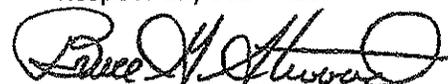
Upon a motion made by Dr. Edward Braun and seconded by Dorothy Pulsifer, the board

VOTED: to adopt the following findings:

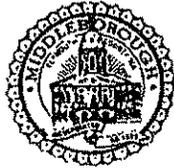
- 1. The proposed site is appropriate for the use or structure. It is noted that there are several commercial entities located in the area.**
- 2. Public water and on site sewerage facilities are available which will adequately service the site.**
- 3. The use involved will not be detrimental to the established or future character of the neighborhood and Town and is subject to appropriate conditions and safeguards. It is noted that appropriate buffer and fencing has been provided.**
- 4. There will be no nuisance or serious hazard to vehicles or pedestrians.**
- 5. Adequate and appropriate facilities have been provided to insure the proper operation of the use and structure.**
- 6. This will not increase the pre-existing non-conforming conditions present.**
- 7. This will not create any new non-conformity.**
- 8. This will not be substantially more detrimental than the existing non-conformity.**

Chairman Atwood, Dr. Edward Braun, Norman Diegoli, Joseph Freitas, and Dorothy Pulsifer were in favor. (5-0)

Respectfully Submitted:



Bruce G. Atwood, Chairman
Zoning Board of Appeals



The Middleborough Board of Selectmen will hold a public hearing on Monday, August 20, 2012 at 7:45 PM in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, for the purpose of discussing an application filed by Leonard's Auto LLC, for a Class II Automobile Dealer's license for the premises located at 407B Wareham Street, Middleboro, MA (Assessors Map 080, L3649). Anyone desiring to be heard on this matter should appear at the time and place designated.

Alfred P. Rullo, Jr.
Allin Frawley
Steven P. Spataro
Ben Quelle
Stephen J. McKinnon
BOARD OF SELECTMEN

Publish: August 9, 2012

Payment will be forwarded to S. Coast Media, 25 Elm St., New Bedford, MA 02740. Advertiser #300074

continued to 9.10.12
continued to 10.15.12
continued to 10.22.12
continued to 10.29.12

August 20, 2012

Board of Selectmen:

There is nothing in the CORI background records to cause concern in approving Arthur Leonard, Jr. for a Class II Automobile Dealer's license.

Jackie Shanley, Secretary



Town of Middleborough
20 Centre Street, Second Floor
Middleborough, Massachusetts 02346

Robert J. Whalen
Building Commissioner
Tel. 508-946-2426
Fax 508-946-2305

August 14, 2012

Middleborough Board of Selectmen
Middleborough Town Offices
10 Nickerson Ave
Middleborough, MA 02346

RE: Class II License for property located at 407 Wareham Street, Assessors Map: 080 Lot: 3649.

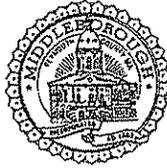
Dear Honorable Board,

I have reviewed the layout plan submitted by Arthur Leonard for a Class II License for Leonard's Auto LLC. This property is located at 407 Wareham Street.

1. This property is located within the General Use Zoning District so the proposed use is allowed. The property is also located in Water Resource Protection District, Zone II. A used car lot would require a special permit under W.R.P.D regulations Section XII. F. 3.
2. The site plan shows that seven cars would be parked on the outside perimeter of the property. I have concerns with the pervious areas on the lot. The existing paving does not extend to the proposed parking area.
3. Middleborough Zoning requires a landscaped buffer zone 25 feet in depth along the street and 15 feet along the side or rear lot lines. The site plan provided does not show the required buffer area.

Respectfully submitted,

Robert J. Whalen
Building Commissioner
Zoning Enforcement Officer

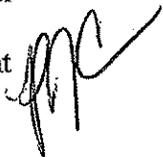


Town of Middleborough

CONSERVATION COMMISSION

MEMORANDUM

TO: Board of Selectmen
Ruth Geoffroy, Planning Director
Jeanne Spalding, Health Officer
Robert Whalen, Building Commissioner

FROM: Patricia J. Cassady, Conservation Agent 

DATE: July 30, 2012

RE: Request for Class II Automobile Dealer's license – Leonard's Auto, LLC,
407B Wareham Street

After reviewing this application I found that there are no wetland resource areas close to enough to this property to require the applicant to file with the Conservation Commission. This was observed by viewing the Department of Environmental Protection Wetlands mapping.

You should be aware that the site appears to be within the Water Resource Protection District (W.R.P.D.) Zone II. Under the W.R.P.D. Zone II Regulations (F) (3) h. Special Permit Uses – "Automobile service and repair shops including those accessory to new and used car dealerships." This type of use requires a special permit.

If you have any questions regarding this, don't hesitate to contact the Conservation Department at 508-946-2406.

pjc



TOWN OF MIDDLEBOROUGH HEALTH DEPARTMENT

Jeanne Spalding, RS, CHO
Health Officer
Hours: 9am-5pm

PH: 508-946-2408
FX: 508-946-2321

MEMO

Memo To: Board of Selectmen

From: Jeanne C. Spalding, Health Officer

*Subject: Application for Class II License at 407 Wareham Street,
Leonard's Auto, LLC*

Date: August 6, 2012

A review of the information provided to the Health Department indicates the existing use is an office and vehicle inspection operation with a proposed expanded use to include an auto dealer operation.

A septic system was installed in early 1998. The above application would be considered an expansion of operations and would require a Title 5 inspection and evaluation to determine existing conditions and capacity for the proposed additional operations.

Under the W.R.P.D. Bylaw, it appears that the proposed use may be allowed subject to a special permit.

The following concerns should be addressed with the applicant if any work will be done on the vehicles on site.

- 1. Quantity and types of hazardous materials.*
- 2. Storage/containment of these materials.*
- 3. On site spill containment and cleanup products/procedures.*
- 4. Employee work area to have a cleanup station prior to rest room facilities to eliminate any products getting into the on site disposal system.*
- 5. Hazardous material generator registration and identity of waste hauler.*
- 6. All MSDS should be available on site.*
- 7. Also, will there be any washing down of the vehicles on site and if so, what is proposed for the waste water and cleaning agents/solvents.*
- 8. Floor drains should not be allowed.*
- 9. Parking of vehicles on pervious areas of the lot.*

Please contact this office if you have any questions.

*cc: Charles Cristello, Town Manager
Robert Whalen, Commissioner of Buildings*

Jul. 11. 2012 10:31AM

Town Manager Middleborough

Phone: 508-948-2406
Fax: 508-946-0058

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OF THE WORLD



Town of Middleborough

Massachusetts
Board of Selectmen

APPLICATION FOR LICENSE (PLEASE TYPE OR PRINT CLEARLY)

DATE 7.10.12
NAME OF APPLICANT Arthur Leonard
ADDRESS OF APPLICANT 69 Miller Street, Middleboro, MA
ASSESSORS MAP & LOT 087 989
DAYTIME TELEPHONE _____

NAME OF BUSINESS Leonard's Auto, LLC
OWNER OF PROPERTY TO BE LICENSED Kostas Geroukos
ADDRESS OF PROPERTY TO BE LICENSED 4033 Wareham Street, Middleboro, MA
ASSESSORS MAP & LOT 080-3649

TYPE OF LICENSE REQUESTED (Check One)

- 2nd Hand _____
- Class I License _____
- Class III License _____
- Class II License
- Entertainment _____
- WRPD _____
- Earth Removal Permit _____
- Liquor License _____
- Junk Dealer _____
- Other _____

Anticipated Start Date for Business: July 15, 2012
Days & Hours of Operation: Mon - Fri 8am - 5pm

Has the applicant previously held a similar license in the Town of Middleborough or elsewhere?
If yes, explain:
yes, class II automatic (internet) dealer's license #80

Signature Arthur Leonard

DATE OF HEARING: 7.23.12

APPROVED/DENIED

Do not write below line: To be Completed by Treasurer/Collector:

Please inform this department as to whether or not the above listed property owner/applicant/petitioner owes the Town of Middleborough any outstanding taxes and/or municipal charges that remain unpaid for more than one year.

Does Property Owner/Applicant/Petitioner owe Taxes/Municipal Charges? NO

THE COMMONWEALTH OF MASSACHUSETTS

Town of Middleboro

APPLICATION FOR A LICENSE TO BUY, SELL, EXCHANGE
OR ASSEMBLE SECOND HAND MOTOR VEHICLES
OR PARTS THEREOF

I, the undersigned, duly authorized by the concern herein mentioned, hereby apply for a Second... class license, to Buy, Sell, Exchange or Assemble second hand motor vehicles or parts thereof, in accordance with the provisions of Chapter 140 of the General Laws.

1. What is the name of the concern? Leonard's Auto, LLC

Business address of concern. No. 407B Wareham Street St.,
Middleboro City — Town.

2. Is the above concern an individual, co-partnership, an association or a corporation? Corporation

3. If an individual, state full name and residential address.

4. If a co-partnership, state full names and residential addresses of the persons composing it.

5. If an association or a corporation, state full names and residential addresses of the principal officers.

President Arthur Leonard Jr., 69 Miller Street, Middleboro, MA 02346

Secretary

Treasurer

6. Are you engaged principally in the business of buying, selling or exchanging motor vehicles? yes

If so, is your principal business the sale of new motor vehicles? no

Is your principal business the buying and selling of second hand motor vehicles? yes

Is your principal business that of a motor vehicle junk dealer? no

7. Give a complete description of all the premises to be used for the purpose of carrying on the business.

407B Wareham Street, Middleboro, MA

8. Are you a recognized agent of a motor vehicle manufacturer? NO (Yes or No)

If so, state name of manufacturer

9. Have you a signed contract as required by Section 58, Class 1? NO (Yes or No)

10. Have you ever applied for a license to deal in second hand motor vehicles or parts thereof? YES (Yes or No)

If so, in what city - town Middleboro

Did you receive a license? YES - internet only (Yes or No) For what year? 2012

11. Has any license issued to you in Massachusetts or any other state to deal in motor vehicles or parts thereof ever been suspended or revoked? NO (Yes or No)

Sign your name in full. Peter Lead (Duty authorized to represent the concern herein mentioned)

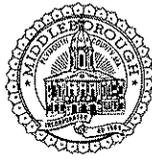
Residence 69 Miller Street, Middleboro MA 02346

IMPORTANT

EVERY QUESTION MUST BE ANSWERED WITH FULL INFORMATION, AND FALSE STATEMENTS HEREIN MAY RESULT IN THE REJECTION OF YOUR APPLICATION OR THE SUBSEQUENT REVOCATION OF YOUR LICENSE IF ISSUED.

NOTE: If the applicant has not held a license in the year prior to this application, he must file a duplicate of the application with the registrar. (See Sec. 59)

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OF THE WORLD**



Town of Middleborough

Massachusetts

Town Manager

508-947-0928
FAX 508-946-2320

MEMORANDUM

TO: Board of Selectmen

FROM: Charles J. Cristello, Town Manager 

RE: Proposal for One-Way Traffic on Clay Street from Bedford Street (Route 18/28) to Ash Street

DATE: October 26, 2012

c: Andy Bagas, DPW Director, Ruth Geoffroy, Planning Director
Bruce Gates, Police Chief, Lance Benjamino, Fire Chief

As you know Clay Street is a residential street between our two main industrial parks on Bedford Street (Route 18/28), see map attached. The subdivision plans for the completion of the ring road through Middleborough Park @495 called for the dead ending of Clay Street on both sides of Commerce Boulevard Extension to prevent Clay Street from being used as a short-cut or alternative route by the industrial park users. In fact, when it appeared that Commerce Boulevard and Commerce Boulevard Extension would be funded by a MassJobs grant the staff discussed the appropriate time to recommend to cut off access to Clay Street from Commerce Boulevard Extension.

While the development of Middleborough Park @ 495 and its road network remains in limbo the problem of cut-through traffic on both Clay and Ash Streets has grown nonetheless. The long back-ups at the Middleborough Rotary, particularly in the AM peak hours, has let to commuters using the route of Old Center to Ash to Clay as a way to cut minutes off their morning commutes. This had resulted in high volumes of traffic using our residential roads at high speeds rather than the roads that were designed to handle such traffic.

We have consulted our traffic engineer, Gary McNaughton of McMahan Associates, on how to alleviate this problem. His recommendation is to make Clay Street a one-way street from Bedford Street to Ash Street so that morning commuters will have to stay on Route 44 or on Old Center Street all the way to Bedford Street. However, emergency vehicles would still be able to use Clay Street, if necessary. We have discussed this proposal with both the Police and the Fire Chief and they do not have any objection to it.

We look forward to discussing this proposal with you on Monday.