

**HEARINGS, MEETINGS, LICENSES**

**11-19-12**

## Jacqueline Shanley

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**From:** Jacqueline Shanley  
**Sent:** Wednesday, November 14, 2012 11:12 AM  
**To:** eric goodnow (,  
**Subject:** VFW Informational Hearing 11-19-12

Good Morning Eric,

The Board will hold the scheduled Informational hearing on 11/19/12 at 7:30 PM. Please note that the following questions will need to be answered during the hearing:

- When was the last shipment of alcoholic beverages?
- When is the next delivery?
- What account is paying for this?
- What account is the money going into?
- Is the shipment being used by all three entities in the building?
- What do you mean when you say you have a "verbal" lease?
  - What does it entail?
  - Is another entity making lease payments?
  - With whom are you leasing to?
  - Since when?
  - Why?
  - How much do they pay?
- Does any other entity show ownership interest in the VFW license?

Please confirm that VFW representatives will be in attendance.

Thank you.

Jackie

Jackie Shanley  
Confidential Secretary to Board of Selectmen  
Town of Middleborough  
10 Nickerson Ave.  
Middleborough, MA 02346  
508 946-2405 Tel.  
508 946-0058 Fax  
[jshanley@middleborough.com](mailto:jshanley@middleborough.com)

## Jacqueline Shanley

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**From:** William Blight  
**Sent:** Thursday, November 15, 2012 2:38 PM  
**To:** Jacqueline Shanley  
**Cc:** jryder; Chuck Soule; davidamacneil2; louieandever; john.mahan; wepackard; skippah100; badandy0; Paul Provencher Home  
**Subject:** VFW Informational Hearing 11-19-12

I have set up a meeting on Tuesday, 11/20 at 3:00 PM for the Board of Directors to meet with attorney John Ryder, 67 Main Street Lakeville, MA 02347 (508) 947-0910

We will review our corporate structure at that meeting and make sure everything is proper and legal.

I would like to state for the record that none of the VFW or Corporate Officers are paid a salary or any kind of compensation for their time. We are all volunteers.

Any and all monies gained from the Canteen go into VFW Post 2188 infrastructure or into the community via the philanthropic activities of the club and its members.

We're in the process of, or have eliminated all references to the All Veterans Canteen.

The Town Managers office has asked us to supply info to the following questions:  
Those answers in blue are from the VFW Accountant, Chuck Soule and the answers in italic are from Eric or me.

1.) When was the last shipment of alcoholic beverages?

*November 15 2012.*

2.) When is the next delivery?

*November 21 or 23rd 2012- the trucks are scheduled to deliver in this area only on certain days of the week - with Thursday being a holiday, the delivery will be the Wednesday before or Friday after Thanksgiving.*

3.) What account is paying for this?

all beer & liquor purchase are being paid out of the VFW Post 2188 account ( Acct#51136)as of November 1<sup>st</sup>

4.) What account is the money going into?

all monies received from the downstairs and upstairs bar are being deposited into this same account. (51136)

5.) Is the shipment being used by all three entities in the building ?

*The John F Glass Post 2188 is the only entity paying for and receiving monies from liquor sales.*

6.) what do you mean when you say you have a verbal lease?

*we are dissolving the all veterans canteen Inc. and getting an attorney to help in this matter .*

The lease between All Vets and Middleboro Overseas Vets is \$1,200 per month. No actual monies are exchanged. This lease payment and income from rental are reflected as an expense on the books of All Veterans Canteen and income on the books of Middleboro Overseas Vets. This was the case when I took over the books and this practice has continued. The monthly amount has been adjusted over time. This income and expense are done by a monthly journal entry on the books of both corporations.

7.) Does any other entity show ownership interest in the VFW license ?

*The John F Glass Post 2188 is the owner with the Middleboro Overseas Veterans . There are no other interests at all besides these two*

11/19/12

Vote to close hearing. Applicant  
to Reapply.



A hearing will be held by the Board of Selectmen on Monday, June 4, 2012 at 7:30 PM in the Selectmen's Meeting Room at the Town Hall, located at 10 Nickerson Avenue, Middleborough, MA for the purpose of discussing application made by the John F. Glass, Jr., VFW Post 2188 for an Alteration of Premises and Change of Corporate Name All Alcoholic Beverages Club liquor license, property located at 12 Station Street, Middleboro, MA Assessors Map 50N, Lot 5974, Middleborough, MA. 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

Publish: May 17, 2012

Payment forthcoming

Continued to 9.10.12  
" " 10.15.12  
" " 11.19.12



The Board of Selectmen will hold a public hearing in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, Middleborough, MA on Monday, November 5, 2012 at 8:15 PM, for the purpose of discussing an application filed Paul E. Singley and Cheryl K. Letourneau for a Special Permit under the Water Resource Protection District By-law, to allow the raising of the existing dwelling and the installation of footings and foundation walls below the dwelling, along with associated site grading, portions of which will be located within twenty-five (25) feet of a fresh water wetland. This project is located as Map 73 Lot 1974, 75 Faye Ave., WRPD Z3. Anyone wishing 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: October 25, 2012 and November 1, 2012

Payment forthcoming – Advertiser #300074

Proposed vote for 75 Faye Avenue 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 Paul Singley and Cheryl Letorneau to allow for construction of a new foundation at 75 Faye Avenue as requested in the Applicant's application under the Water Resource Protection District By-law pursuant to Section XII. G. 3 (a), specifically alteration of an existing structure that does not conform, based on the plan titled A Special Permit Plan in Middleborough, MA for Paul Singley and Cheryl Letourneau by Senna Fitzgerald Gilbert Associates, dated October 2, 2012..

The Board grants the special permit with the following conditions:

- a. That there be no additional lawn area, clearing or structures and that the dwelling not be expanded.



DESIGN ENGINEERS, INC.

ENGINEERS & ENVIRONMENTAL SCIENTISTS



October 31, 2012

Board of Selectmen  
c/o Mr. Charles J. Christello, Town Manager  
Town Hall Building  
10 Nickerson Avenue  
Middleborough, MA 02346

**Re: Initial Engineering Review – 75 Faye Avenue  
ADE Job Number 2518.21**

Dear Board Members:

Atlantic Design Engineers, Inc. has completed our initial engineering review of the site plans for the above referenced project relative to a Special Permit request under the Water Resource Protection District (WRPD) bylaw. The plan is dated 10/02/12 and is prepared by Senna Fitzgerald Gilbert Associates for Paul Singley and Cheryl Letourneau of Middleborough, MA.

We have the following comments:

1. The project involves construction of a new foundation under an existing single family dwelling which is located as close as 10 feet from the adjacent wetland. There is no additional lawn area, clearing, or structures shown on the plans and the dwelling is not being expanded. Therefore, this can be considered an alteration of an existing structure that does not conform to the WRPD bylaw and the alteration does not increase the existing non-conformity or create a new non-conformity.
2. Based on the above, in our opinion, the project complies with Section XII.G.3.a of the WRPD bylaw.

Please call if you have any questions or comments.

Sincerely,

ATLANTIC DESIGN ENGINEERS, INC.

  
Richard J. Tabaczynski, P.E.  
Project Manager

P.O. Box 1051  
Sandwich, MA 02563  
(508) 888-9282 • FAX 888-5859  
email: [ade@atlanticcompanies.com](mailto:ade@atlanticcompanies.com)  
[www.atlanticcompanies.com](http://www.atlanticcompanies.com)

Miriam and Bill Allen  
7 Williams Rd.  
North reading MA 01864  
10/22/2012

Board of Selectmen  
10 Nickerson Ave.  
Middleboro MA 02346

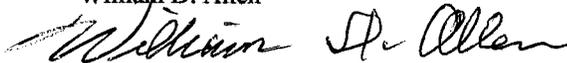
Dear Board of Selectmen:

This is in response to the notice of a hearing to be held on Nov. 5 concerning Paul Singley and Cheryl Letourneau's application for a permit to raise their cottage at 75 Faye Ave.

We believe that the completion of this project would be an improvement to the neighborhood as well as to their property. We have a cottage at 65 Faye Ave. and would like to see this project completed.

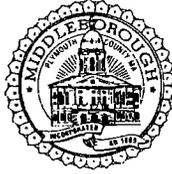
Sincerely,

William D. Allen



Miriam M. Allen





## Town of Middleborough

CONSERVATION COMMISSION

### MEMORANDUM

TO: Board of Selectmen

FROM: Patricia J. Cassady, Conservation Agent 

DATE: October 26, 2012

SUBJECT: W.R.P.D. Application – 75 Faye Avenue (Map 73, Lot 1974)

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The above-mentioned is for the raising of the existing dwelling that currently exists within 25-feet of a fresh water wetland. The wetland is Tispaquin Pond. The property also lies within Zone 3 based on the Zoning Map dated May 13, 2008.

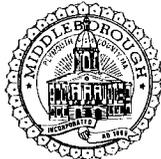
The Conservation Commission issued an Order of Conditions on September 20, 2012 to approve the raising of an existing dwelling and the installation of footings and foundation walls below the dwelling, along with associated site grading, to be done within the 100' buffer zone of Tispaquin Pond.

I don't believe there is another alternative for the proposed work. According to the plan dated October 2, 2012 from Senna Fitzgerald Gilbert Associates the grading work will be taking place outside of the 25-foot no disturb zone and there will be erosion controls installed prior to work taking place. The Conservation Commission and I will be monitoring this work very closely.

Mr. Paul Singley still needs to record the Order of Conditions at the Plymouth County Registry of Deeds.

 If you have any further questions regarding this matter I can be contacted at the Conservation Office at 508-946-2406.

pjc



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

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

October 29, 2012

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

RE: W.R.P.D. Application for 75 Faye Avenue Assessor's Map: 073 Lot: 1974,  
Residential Rural/WRPD Z3

Honorable Board,

I have reviewed the plan submitted by Paul E. Singley and Cheryl LeTourneau to pour a foundation to an existing dwelling at 75 Faye Avenue.

I would support this request.

Respectfully submitted,

Robert J. Whalen  
Building Commissioner

## Jacqueline Shanley

---

**From:** Jeanne Spalding  
**Sent:** Monday, October 22, 2012 2:35 PM  
**To:** Jacqueline Shanley  
**Subject:** WRPD-75 Faye Ave

The Health Dept has no objection to this application if there is no increase in habitable space within the unit. Please contact this office if there are any questions.

*Jeanne C. Spalding, Health Officer  
Middleborough Health Dept.  
20 Centre St.  
Middleborough, MA 02346  
508-946-2408*



Town of Middleborough  
Massachusetts

BOARD OF SELECTMEN  
APPLICATION FOR LICENSE (PLEASE TYPE OR PRINT CLEARLY)

DATE Oct.  
NAME OF APPLICANT Paul E. Singley and Cheryl K. Letourneau  
ADDRESS OF APPLICANT 75 Faye Avenue, Middleborough  
ASSESSORS MAP & LOT Map 73, Lot 1974  
DAYTIME TELEPHONE (508) 525-6500

NAME OF BUSINESS \_\_\_\_\_  
OWNER OF PROPERTY TO BE LICENSED \_\_\_\_\_  
ADDRESS OF PROPERTY TO BE LICENSED \_\_\_\_\_  
ASSESSORS MAP & LOT \_\_\_\_\_

TYPE OF LICENSE REQUESTED (Check One)  
2<sup>nd</sup> Hand \_\_\_\_\_ WRPD   
Class I Automobile Dealer License \_\_\_\_\_ Earth Removal Permit \_\_\_\_\_  
Class II Automobile Dealer License \_\_\_\_\_ Liquor License \_\_\_\_\_  
Class III Automobile Dealer License \_\_\_\_\_ Junk Dealer \_\_\_\_\_  
Entertainment \_\_\_\_\_ Other \_\_\_\_\_

Anticipated Start Date for Business: \_\_\_\_\_  
Days & Hours of Operation: \_\_\_\_\_

Has the applicant previously held a similar license in the Town of Middleborough or elsewhere?  
If yes, explain:

Signature [Handwritten Signature]

DATE OF HEARING: \_\_\_\_\_

Please bring to the Treasurer/Collector's office @ the Town Hall Annex, 20 Center Street, 3<sup>rd</sup> floor to obtain confirmation/signature that no outstanding taxes/municipal charges exist.

Dear 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

Judy M. MacDonald [Handwritten Signature]

RECEIVED  
211.29am/10  
OCT 04 2012  
Allison J. Ferrelia  
TOWN CLERK

BOARD OF SELECTMEN  
MIDDLEBOROUGH, MASSACHUSETTS

PETITION  
FOR PUBLIC HEARING

This Petition, when completed and signed, must be filed with the Town Clerk, Town Hall, Middleborough, Massachusetts.

Middleborough, MA October 3, 2018, ~~10~~

To the Board of Selectmen  
Middleborough, Massachusetts

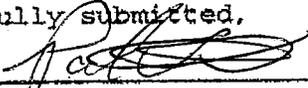
I/We hereby petition your Board for a public hearing for a Special Permit which is subject to Board of Selectmen approval under the Water Resource Protection Districts By-law.

A. (Give location of property in question.)

To allow the raising of the existing dwelling and the installation of footings and foundation walls below the dwelling, along with associated site grading, portions of which will be located within 25' of Tispaquin Pond, at 75 Faye Avenue, Assessor's Map 73, Lot 1974. The property is located in a Residence Rural zone and a W.R.P.D. 23. As shown on the attached plan.

B. State full names and addresses of last known abutting property owners, and the owners of land within 350 feet of the land which is the subject of this petition. Also state the owners of the land immediately across the street from the subject property. Please attach a certified list of these property owners to this petition.

C. Respectfully submitted,

Signature: 

Printed Name: Paul Singley

Address: 75 Faye Avenue  
Middleborough, MA 02346

Telephone Number: (508) 525-6500

**TOWN OF MIDDLEBOROUGH  
WATER RESOURCE PROTECTION DISTRICT  
PETITION SUBMITTAL CHECKOFF SHEET**

Applicant must initial each item or the application/petition will not be accepted.

No.	Description	Initial	N/A
1.	The plan has a cover page showing the location of the water supply Zone 2 and 3, with the proposed project site identified.	<u>PES</u>	___
2.	The plan has street location(s), number, buildings and driveway and shows the acreage of the lot in square feet.	<u>PES</u>	___
3.	The plan shows existing waterways adjacent, on or near the property.	<u>PES</u>	___
4.	The plan is stamped by BOTH a registered Land Surveyor and a Civil Professional Engineer.		
	Note: If the site has no approval required other than a home lot then a Land Surveyor stamp will be accepted.	<u>PES</u>	___
5.	The plan contains topography, wetland delineations, local storm water discharge points, on site drainage systems and septic systems.	<u>PES</u>	___
6.	The plan provides details for work done or proposed for any component outlined in No. 5 (above).	<u>PES</u>	___
7.	The submittal contains the abutters list.	<u>PES</u>	___
8.	The submittal contains calculations for any proposed on site stormwater retainage, storage tanks and spill containment, on site drainage and recharge.	<u>PES</u>	___
9.	The submittal contains a statement that the project has been designed to minimize large scale lot disturbances and has implemented methods to encourage infiltration of site runoff and preservation of groundcover.	<u>PES</u>	___
10.	The submittal contains a statement that there will be no removal of soil closer than four (4) feet to the groundwater table, as determined through Title 5 Soil Evaluation methods.	<u>PES</u>	___

No.	Description	Initial N/A
11.	The submittal contains a statement that if there is to be storage of hazardous wastes, sludges, deicing chemicals, fertilizers or oil, that appropriate methods have been provided to contain any spillage.	<u>PES</u> _____
12.	The submittal contains a statement that outside stored material will have no impact to the groundwater.	<u>PES,</u> _____



Middleborough Assessor's Office  
10 Nickerson Avenue  
Middleborough, MA 02346

### ABUTTER'S LIST CERTIFICATION PAGE\*

Date: 9/28/2012

BOARD OF SELECTMEN

Board Name for Certification

This is a certified abutter's list for 300 feet in every direction including across the street of

MAP 073 LOT 1974

Lori Rutherford, Junior Clerk  
Middleborough Board of Assessors

(This list consists of 1 pages with 8 abutter's lots)

\*Please note there is no additional charge for this page and it is intended to certify the information on the preceding or attached document (s)







The Board of Selectmen will hold a public hearing in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, Middleborough, MA on Monday, November 19, 2012 at 7:55 PM, for the purpose of discussing an application filed by Arthur Leonard/Leonard's Auto, LLC for a Special Permit under the Water Resource Protection District By-law to allow the parking of six retail ready cars for sale and two general parking spaces on the property located at 407 Wareham Street. This project is located as Map 080 Lot 3649, WRPD Z2. Anyone wishing 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: November 8 and November 15, 2012

Payment forthcoming – Advertiser #300074

**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.

CRANBERRY CAPITAL  
OF THE WORLD



Phone: 508-946-2405  
Fax: 508-946-0058

# Town of Middleborough

Massachusetts

RECEIVED  
210.40  
NOV 02 2012  
Allison J. Ferrara  
TOWN CLERK

BOARD OF SELECTMEN  
Marsha L. Brunelle

## APPLICATION FOR LICENSE (PLEASE TYPE OR PRINT CLEARLY)

Patrick E. Rogers  
Wayne C. Perkins  
Steven P. Spataro

DATE 11/2/12  
NAME OF APPLICANT Arthur Leonard  
ADDRESS OF APPLICANT 69 Miller Street, Middleboro, MA  
ASSESSORS MAP & LOT \_\_\_\_\_  
NAME OF BUSINESS Leonard's Auto, LLC  
OWNER OF PROPERTY TO BE LICENSED Kostas Geroukas  
ADDRESS OF PROPERTY TO BE LICENSED 407 Wareham St, Middleboro, MA  
ASSESSORS MAP & LOT 080-3649

TYPE OF LICENSE REQUESTED (Check One)

2<sup>nd</sup> Hand Furniture \_\_\_\_\_      2<sup>nd</sup> Hand Clothing \_\_\_\_\_  
Class I License \_\_\_\_\_      Class II License  \_\_\_\_\_  
Class III License \_\_\_\_\_      Liquor License \_\_\_\_\_  
Common Victualler \_\_\_\_\_      Other \_\_\_\_\_

Anticipated Start Date for Business November 19, 2012  
Hours requested: Mon - ~~Thu~~ Friday 8am - 6pm, Sat 9am - 2pm

Has the Applicant previously held a similar license in the Town of Middleborough or elsewhere? If yes, explain:

yes, Class II Internet Dealers License (#80)

Signature Arthur Leonard

DATE OF HEARING \_\_\_\_\_

APPROVED/DENIED

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

Please inform this department, as well as the Board of Selectmen, 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

BOARD OF SELECTMEN  
MIDDLEBOROUGH, MASSACHUSETTS

PETITION  
FOR PUBLIC HEARING

This petition, when completed and signed, must be filed with the Town Clerk, Town Hall, Middleborough, Massachusetts.

Middleborough, MA November 2, ~~19~~ 2012

To the Board of Selectmen  
Middleborough, Massachusetts

I/We hereby petition your Board for a public hearing for a Special Permit which is subject to Board of Selectmen approval under the Water Resource Protection Districts By-law.

A. (Give location of property in question.)

To allow 6 retail ready cars for sale on property (400 Wareham St, Middleboro, MA). No repairs or fluids will be done on site or stored

As shown on the attached plan.

B. State full names and addresses of last known abutting property owners, and the owners of land within 350 feet of the land which is the subject of this petition. Also state the owners of the land immediately across the street from the subject property. Please attach a certified list of these property owners to this petition.

C. Respectfully submitted,

Signature: Arthur Leonard

Printed Name: Arthur Leonard

Address: 69 Miller Street

Middleboro, MA

Telephone Number: 508 648 0294

**TOWN OF MIDDLEBOROUGH  
WATER RESOURCE PROTECTION DISTRICT  
PETITION SUBMITTAL CHECKOFF SHEET**

Applicant must initial each item or the application/petition will not be accepted.

No.	Description:	Initial	N/A
1.	The plan has a cover page showing the location of the water supply Zone 2 and 3, with the proposed project site identified.	___	<input checked="" type="checkbox"/>
2.	The plan has street location(s), number, buildings and driveway and shows the acreage of the lot in square feet.	<u>AL</u>	___
3.	The plan shows existing waterways adjacent, on or near the property.	<u>AL</u>	___
4.	The plan is stamped by BOTH a registered Land Surveyor and a Civil Professional Engineer.	___	___
	Note: If the site has no approval required other than a home lot then a Land Surveyor stamp will be accepted.	___	___
5.	The plan contains topography, wetland delineations, local storm water discharge points, on site drainage systems and septic systems.	<u>AL</u>	___
6.	The plan provides details for work done or proposed for any component outlined in No. 5 (above).	<u>AL</u>	___
7.	The submittal contains the abutters list.	<u>AL</u>	___
8.	The submittal contains calculations for any proposed on site stormwater retainage, storage tanks and spill containment, on site drainage and recharge.	<u>AL</u>	___
9.	The submittal contains a statement that the project has been designed to minimize large scale lot disturbances and has implemented methods to encourage infiltration of site runoff and preservation of groundcover.	<u>AL</u>	___
10.	The submittal contains a statement that there will be no removal of soil closer than four (4) feet to the groundwater table, as determined through Title 5 Soil Evaluation methods.	<u>AL</u>	___

- | No. | Description   | Initial   | N/A   |
|-----|---|-----------|-------|
| 11. | The submittal contains a statement that if there is to be <sup>no</sup> storage of hazardous wastes, sludges, deicing chemicals, fertilizers or oil, that appropriate methods have been provided to contain any spillage. | <u>AL</u> | _____ |
| 12. | The submittal contains a statement that outside stored material will have no impact to the groundwater.   | <u>AL</u> | _____ |

# MEMORANDUM

TO: Planning Board  
Conservation Commission  
Jeanne Spalding, Health Officer  
Robert Whalen, Building Commissioner

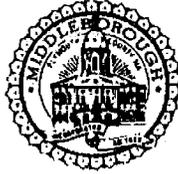
FROM: Jackie Shanley  
Confidential Secretary to the Board of Selectmen

DATE: November 8, 2012

SUBJECT: **W.R.P.D. Application – Leonard’s Auto, LLC, 407 Wareham Street  
Map 080, L 3649**

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Attached is a W.R.P.D. application filed by Arthur Leonard for a Special Permit under the Water Resource Protection District By-law.



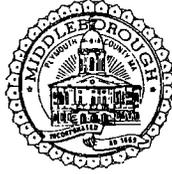
The Board of Selectmen will hold a public hearing in the Selectmen’s Meeting Room at the Town Hall, 10 Nickerson Avenue, Middleborough, MA on Monday, November 19, 2012 at 7:55 PM, for the purpose of discussing an application filed by Arthur Leonard/Leonard’s Auto, LLC for a Special Permit under the Water Resource Protection District By-law to allow the parking of six retail ready cars for sale and two general parking spaces on the property located at 407 Wareham Street. This project is located as Map 080 Lot 3649, WRPD Z2. Anyone wishing 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: November 8 **and** November 15, 2012

All remarks or concerns regarding the request must be returned to the Selectmen’s Office no later than **Wednesday, November 14, 2012 by 12 Noon.**

Thank you.



## Town of Middleborough

### CONSERVATION COMMISSION

#### MEMORANDUM

TO: Board of Selectmen

FROM: Patricia J. Cassady, Conservation Agent 

DATE: November 13, 2012

RE: W.R.P.D. Application – Leonard's Auto, LLC, 407 Wareham Street (Map 80, Lot 3649)

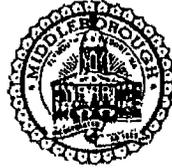
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I have reviewed the above-mentioned application and after the review of wetland mapping the above-mentioned property does not have any wetland resource areas.

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

Thank you

pjc



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

Continued to 11.5.12  
(due to 10.29.12. Nutricome)  
Continued to 11.19.12

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.

*Incorporated 1669*  
*338 Years of Progress*



CRANBERRY CAPITAL  
OF THE WORLD



**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

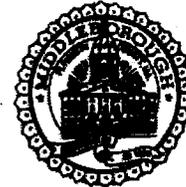


TOWN OF MIDDLEBOROUGH  
ZONING BOARD OF APPEALS

APPROVED

09/27/2012

ZONING BOARD  
OF APPEALS



The Board set the 11<sup>th</sup> 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

ρ 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

ρ 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)

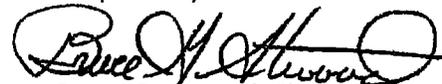
Upon a motion made by Dr. Edward Braun and seconded by Dorothy Pulsifer, the board

**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

**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.

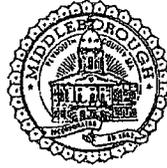
Dear Honorable Board,

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

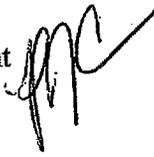


## Town of Middleborough

### 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

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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*

CRANBERRY CAPITAL OF THE WORLD



Phone: 508-946-2408 Fax: 508-946-0058

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 403B Wareham Street, Middleboro, MA ASSESSORS MAP & LOT 080-3649

TYPE OF LICENSE REQUESTED (Check One)

- 2nd Hand \_\_\_ WRPD \_\_\_ Class I License \_\_\_ Earth Removal Permit \_\_\_ Class III License \_\_\_ Liquor License \_\_\_ Class II License [checked] \_\_\_ Junk Dealer \_\_\_ Entertainment \_\_\_ 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 automobile (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

[Handwritten signature]

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.

407 B 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. Arthur 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)

# **TOWN OF MIDDLEBORO NON-ZONING WETLAND BY-LAW**

## **WETLANDS PROTECTION BYLAW/ORDINANCE**

### **I. Purpose**

The purpose of this bylaw is to protect the wetlands, water resources, flood prone areas, and adjoining upland areas in the Town of Middleboro by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect on resource area values, including but not limited to the following: public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention including coastal storm flowage, water quality, prevention and control of pollution, fisheries, shellfisheries, wildlife habitat, rare species habitat including rare plant and animal species, agriculture, aquaculture, and recreation values, deemed important to the community (collectively, the "resource area values protected by this bylaw").

This bylaw is intended to utilize the Home Rule authority of this municipality so as to protect the resource areas under the Wetlands Protection Act (G.L. Ch.131 §40; the Act) to a greater degree, to protect additional resource areas beyond the Act recognized by the Town as significant, to protect all resource areas for their additional values beyond those recognized in the Act, and to impose in local regulations and permits additional standards and procedures stricter than those of the Act and regulations thereunder (310 CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of Middleboro.

### **II. Jurisdiction**

Except as permitted by the Conservation Commission no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater or coastal wetlands, marshes, wet meadows, bogs, swamps, vernal pools, springs, banks, reservoirs, lakes, ponds of any size, beaches, dunes, estuaries, the ocean, and lands under water bodies; intermittent streams, brooks and creeks; lands adjoining these resource areas out to a distance of 100 feet, known as the buffer zone; perennial rivers, streams, brooks and creeks; lands adjoining these resource areas out to a distance of 200 feet, known as the riverfront area; lands subject to flooding or inundation by groundwater or surface water; and lands subject to tidal action, coastal storm flowage, or flooding (collectively the "resource areas protected by this bylaw"). Said resource areas shall be protected whether or not they border surface waters.

The jurisdiction of this bylaw shall not extend to uses and structures of agriculture that enjoy the rights and privileges of laws and regulations of the Commonwealth governing agriculture, including work performed for normal maintenance or improvement of land in agricultural or aquacultural uses as defined by the Wetlands Protection Act regulations, found at 310 CMR 10.04.

### **III. Exemptions and Exceptions**

The applications and permits required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural and aquacultural use as defined by the Wetlands Protection Act regulations at 310 CMR 10.04.

The applications and permits required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Conservation Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

The applications and permits required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

Other than stated in this bylaw, the exceptions provided in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) shall not apply under this bylaw.

#### **IV. Applications and Fees**

Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The Commission in an appropriate case may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00), but the Commission is not obliged to do so.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a Request for Determination of Applicability (RDA) or Abbreviated Notice of Resource Area Delineation (ANRAD) filed under the Act shall include information and plans as are deemed necessary by the Commission.

At the time of an application, the applicant shall pay a filing fee specified in regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act and regulations. Pursuant to G.L. Ch. 44 §53G and regulations promulgated by the Commission, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants including engineers, wetlands scientists, wildlife biologists or other experts in order to aid in the review of proposed projects. Such funds shall be deposited with the town treasurer, who shall create an account specifically for this purpose. Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.

Only costs relating to consultant work done in connection with a project for which a consultant fee has been collected shall be paid from this account, and expenditures may be made at the sole discretion of the Commission. Any consultant hired under this provision shall be selected by, and report exclusively to, the Commission. The Commission shall provide applicants with written notice of the selection of a consultant, identifying the consultant, the amount of the fee to be charged to the applicant, and a request for payment of that fee. Notice shall be deemed to have been given on the date it is mailed or delivered. The applicant may withdraw the application or request within five (5) business days of the date notice is given without incurring any costs or expenses.

The entire fee must be received before the initiation of consulting services. Failure by the applicant to pay the requested consultant fee within ten (10) business days of the request for payment shall be cause for the Commission to declare the application administratively incomplete and deny the permit without prejudice, except in the case of an appeal. The Commission shall inform the applicant and Department of Environmental Protection (DEP) of such a decision in writing.

The applicant may appeal the selection of an outside consultant to the selectboard, who may disqualify the consultant only on the grounds that the consultant has a conflict of interest or is not properly qualified. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue, or a related field. The applicant shall make such an appeal in writing, and must be received within ten (10) business days of the date that request for consultant fees was made by the Commission. Such appeal shall extend the applicable time limits for action upon the application.

## ADMINISTRATIVE FEES

**Fee Schedule  
Administrative Fees  
Middleborough Conservation Commission  
March 31, 2011**

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Request for Determination of Applicability (RDA):	\$50.00
Notice of Intent (NOI) / OOC for Commercial, Residential, Agricultural:	\$0.00
Abbreviated Notice of Resource Area Delineation (ANRAD)	\$0.00
Certificate of Compliance (COC):	\$25.00
Bank Letter for Closings:	\$50.00
Request for an Amended Order of Conditions – Residential:	\$25.00
Request for an Amended Order of Conditions – Commercial/Subdivision:	\$100.00
Request for an Extended Order of Conditions:	\$50.00
Duplicate Original Order of Conditions:	\$25.00
Building Permit Application Review:	\$5.00
After the Fact Filing:	\$50.00
Site Inspections (second inspection, first one free):	\$25.00

**Note:** *M.G.L. Ch. 40, Sec 22F. The Town accepted the Statute on 5/14/2001*

## **V. Notice and Hearings**

Any person filing a permit or other application or RDA or ANRAD or other request with the Conservation Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice shall state a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall include a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

The Commission shall conduct a public hearing on any permit application, RDA, or ANRAD with written notice given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in the municipality. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application, RDA, or ANRAD unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others as deemed necessary by the Commission in its discretion, based on comments and recommendations of the boards and officials listed in §VI.

The Commission shall issue its permit, other order or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant. The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (G.L. Ch.131 §40) and regulations (310 CMR 10.00).

## **VI. Coordination with Other Boards**

Any person filing a permit application, RDA, or ANRAD with the Conservation Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested), electronically (PDF, e.g.) or hand delivery, to the selectboard, planning board, board of appeals, board of health, agricultural commission, town engineer, and building inspector. A copy shall be provided in the same manner to the Commission of the adjoining municipality, if the application or RDA pertains to property within 300 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until the above boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

## **VII. Permits and Conditions**

If the Conservation Commission, after a public hearing, determines that the activities which are subject to the permit application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect. The Commission also shall take into account any loss, degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the

community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt, and foreseeable future activities.

If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect said resource area values, and all activities shall be conducted in accordance with those conditions. Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. It may also deny a permit: for failure to submit necessary information and plans requested by the Commission; for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing. The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

In reviewing activities within the buffer zone, the Commission shall presume the buffer zone is important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, and other work limits for protection of such lands, including without limitation strips of continuous, undisturbed vegetative cover, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw.

In reviewing activities within the riverfront area, the Commission shall presume the riverfront area is important to all the resource area values unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives, and overall project costs.

To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication. The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, or actual or possible presence of rare plant or animal species in the area. The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60).

The Commission shall presume that all areas meeting the definition of "vernal pools" under §IX of this bylaw, including the adjacent area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications under the wildlife habitat section of the Wetlands Protection Act regulations.

A permit, Determination of Applicability (DOA), or Order of Resource Area Delineation (ORAD) shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one-year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.

For good cause the Commission may revoke any permit, DOA, or ORAD or any other order, determination or other decision issued under this bylaw after notice to the holder, the public, abutters, and town boards, pursuant to §V and §VI, and after a public hearing.

Amendments to permits, DOAs, or ORADs shall be handled in the manner set out in the Wetlands Protection Act regulations and policies thereunder.

The Commission in an appropriate case may combine the decision issued under this bylaw with the permit, DOA, ORAD, or Certificate of Compliance (COC) issued under the Wetlands Protection Act and regulations.

No work proposed in any application shall be undertaken until the permit, or ORAD issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform such recording, the Commission may record the documents itself and require the applicant to furnish the recording fee therefore, either at the time of recording or as a condition precedent to the issuance of a COC.

### **VIII. Regulations**

After public notice and public hearing, the Conservation Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw, effective when voted and filed with the town clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. At a minimum these regulations shall reiterate the terms defined in this bylaw, define additional terms not inconsistent with the bylaw, and impose filing and consultant fees.

### **IX. Definitions**

The following definitions shall apply in the interpretation and implementation of this bylaw.

The term "agriculture" shall refer to the definition as provided by G.L. Ch. 128 §1A.

The term "alter" shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind

- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage, or other disturbance of water level or water table
- D. Dumping, discharging, or filling with any material which may degrade water quality
- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection, expansion or repair of buildings, or structures of any kind
- G. Placing of obstructions or objects in water
- H. Destruction of plant life including cutting or trimming of trees and shrubs
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater
- K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

The term "bank" shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

The term "pond" shall follow the definition of 310 CMR 10.04 except that the size threshold of 10,000 square feet shall not apply.

The term "rare species" shall include, without limitation, all vertebrate and invertebrate animals and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless whether the site in which they occur has been previously identified by the Division.

The term "vernal pool" shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be the mean annual high-water line defining the depression.

Except as otherwise provided in this bylaw or in associated regulations of the Conservation Commission, the definitions of terms and the procedures in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00).

#### **X. Security**

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Conservation Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or both of the methods described below:

A. By a proper bond, deposit of money or negotiable securities under a written third-party escrow arrangement, or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a COC for work performed pursuant to the permit.

B. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

#### **XI. Enforcement**

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

The Conservation Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by letters, phone calls, electronic communication and other informal methods, violation notices, non-criminal citations under G.L. Ch. 40 §21D, and civil and criminal court actions. Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the selectboard and town counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the chief of police shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

As an alternative to criminal prosecution in a specific case, the Commission may issue citations with specific penalties pursuant to the non-criminal disposition procedure set forth in G.L. Ch. 40 §21D.

#### **XII. Burden of Proof**

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

#### **XIII. Appeals**

A decision of the Conservation Commission shall be reviewable in the superior court in accordance with G.L. Ch. 249 §4.

#### **XIV. Relation to the Wetlands Protection Act**

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) thereunder. It is the intention of this bylaw that the purposes, jurisdiction, authority, exemptions, regulations, specifications, standards, and other requirements shall be interpreted and administered as stricter than those under the Wetlands Protection Act and regulations.

#### **XV. Severability**

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof, nor shall it invalidate any permit, approval or determination which previously has been issued.

*Incorporated 1669*  
*335 Years of Progress*



**CRANBERRY CAPITAL  
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.



# Town of Middleborough

Massachusetts

PLANNING DIRECTOR  
Ruth McCawley Geoffroy

## Planning Board

Telephone (508) 946-2425  
Fax (508) 946-1991

November 13, 2012

Alfred P. Rullo, Jr., Chairman  
Middleborough Board of Selectmen  
10 Nickerson Avenue  
Middleborough, MA 02346

Re: Recommendation to Designate Clay Street, Between Ash and Bedford Streets, as "One-Way",

Honorable Board,

The Planning Board, at their October 30, 2012 meeting, discussed the proposal made by the Town Manager to designate Clay Street, between Ash and Bedford Street, as "one-way", prohibiting travel in the south-bound direction. The Board voted to recommend that this action be taken to prevent the use of Clay and Ash Streets as a regional cut through during the morning commute. This cut through is used to avoid the grid-lock at the Middleborough Rotary, whose function has significantly deteriorated since the opening of the new Route 44 between Routes 3 in Plymouth and 58 in Carver in 2005.

The Town of Middleborough has known that the Rotary would be inadequate to handle traffic from regional growth since the 1980's when a number of traffic studies were commissioned to assist the Town in its economic development planning. As a result, Middleborough proposed the "Ring Road" alternative to replace the Rotary and proceeded to regulate the design of the D. O. District industrial parks to alleviate traffic congestion and protect the existing neighborhoods in the Rotary area. The Planning Board has written conditions into the Special Permits of the industrial parks that access to the Parks shall be exclusively through their subdivision roads and Route 18/28 (Bedford Street) and not local roads. The Ring Road concept required that Commerce Blvd be connected to Campanelli Drive to allow two points of access to these parks; this connection anticipated and required the dead-ending of Clay Street to prevent diversion of industrial park traffic to the Clay/Ash Street neighborhood. At the present time it is unclear whether Commerce Blvd will ever be completed and connected to Campanelli Drive resulting in the once envisioned dead-ending of Clay Street.

In the interim, the proposal to designate Clay Street one-way between Ash and Bedford Streets, resolves a very dangerous condition of rush hour traffic speeding through this neighborhood. It is our understanding that vehicles travel from Rte 44 east of the Rotary, up Old Center Street, taking a left onto Ash Street and then travelling down Clay to Bedford Street to approach the Rotary from the north; this by-pass saves regional commuters 3-5 minutes. Clay and Ash Streets are very narrow, deteriorated local roads whose widths are as narrow as 16' and 17' respectively. See attached photographs. The speeding vehicles are endangering pedestrians as well as residents attempting to leave their homes by car in the morning. By making Clay Street one-way in the north bound direction, from Bedford to Ash Street, rather than dead-ending it, residents will be able to continue to,

Mr. Alfred P. Rullo, Jr., Chairman  
November 13, 2012  
Page 2

use the road to access their homes from Bedford Street as will emergency vehicles, responding to this area of Town from the North Middleborough Fire Station.

If you have any questions or wish to discuss this matter further, please do not hesitate to contact me or Planning Director, Ruth M. Geoffroy.

Sincerely,



Michael J. Labonte, Chairman  
For the Planning Board

Cc: Charles Cristello, Town Manager  
Andy Bagas, Public Works Director  
Chief Bruce Gates, Police Department  
Gary McNaughton, McMahon Associates

cc: Ruth M. Geoffroy, Planning Director

14'3"

11/15/2012

Clay Street  
New North

11/15/2012

11/15/2012