

HEARINGS, MEETINGS, LICENSES

11-5-12



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 Multicame)

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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

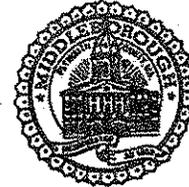
Encl: 1

TOWN OF MIDDLEBOROUGH
ZONING BOARD OF APPEALS

APPROVED

09/27/2012

ZONING BOARD
OF APPEALS



The Board set the 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)

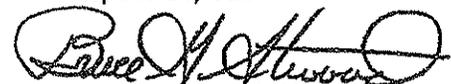
Upon a motion made by Dr. Edward Braun and seconded by Dorothy Pulsifer, the board

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

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.

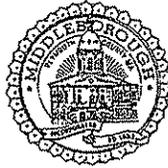
Dear Honorable Board,

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

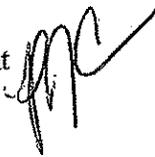


Town of Middleborough

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*

CRANBERRY CAPITAL OF THE WORLD



Phone: 508-946-2405 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 401B 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 automatic (internet) dealer's license #50

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.

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 I? 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. [Signature] (Duly 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**

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.



A hearing will be held in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, Middleborough, MA on Monday, October 15, 2012 at 7:30 PM, for the purpose of discussing an application filed by Silva Engineering Associates, P.C. on behalf of Robert and Susan Thomas for an Earth Removal Permit for property located at 182 Plympton Street, Assessors Map 026, Lot 5074, Middleborough, MA. The reason for this request is for the removal of excess sand from proposed site of new cranberry bog as shown on plan dated 8/20/12. Anyone desiring to be heard on this matter should appear at the time and place designated.

BOARD OF SELECTMEN

Alfred P. Rullo, Jr.

Allin Frawley

Steven P. Spataro

Ben Quelle

Stephen J. McKinnon

Publish: October 4, 2012

continued to 11.5.12 @ 8pm



October 12, 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
Earth Removal Application
182 Plympton Street
ADE Project #2518.20*

Dear Board Members:

Atlantic Design Engineers, LLC (ADE) has completed our initial engineering review of the site plans, drainage calculations and application materials for the above referenced project relative to a Special Permit request under the Earth Removal bylaw. The plans and calculations are dated 08/20/12 and are prepared by Silva Engineering Associates for Robert Thomas of Middleborough, MA.

We have the following comments:

1. The following items were checked off in the Appendix B Plan Checklist but could not be found in the information provided:
 - B.6 Treed buffer zone between edges of excavation and abutters - Not provided to the east abutter.
 - B.7 Buffer zone between property excavation and Town Streets - Appears to be open and not treed.
 - B.8 Distance of reservoir or excavations from property line of abutters - Only shown in a few areas.
 - B.12 Site of de-watering pond discharge or overflow - Not shown.
 - B.23 Fencing - Not shown.
2. The anticipated truck trips per day is not provided. It should be estimated for each phase of the project construction along with a timeline for each phase.
3. Are any improvements needed at the site entrance at Plympton Street to accommodate the size and volume of trucks entering/exiting the site?



Board of Selectmen
c/o Mr. Charles J. Christello, Town Manager
Initial Engineering Review
Earth Removal Application - 182 Plympton Street
October 12, 2012 - Page 2

4. Is there adequate sight distance at the Plympton Street entrance for trucks exiting/entering the site, particularly looking to the east? Provide an analysis to confirm.
5. De-watering plans, methodologies, details are needed as groundwater is likely to be encountered for the reservoir excavation and possibly for sections of the bog excavation also.
6. Calculations and the criteria for sizing the reservoir have not been provided.
7. The 25 foot no work zone along the wetland should be clearly labeled on the plans.
8. With an excavation of over 30 feet deep proposed for the reservoir, will blasting be required?
9. A 100 foot buffer to the property lines has not been provided to the north, east or west.
10. The excavation slope on the eastern side of the bog is immediately adjacent to the abutter driveway and property (It drops off over 10 feet near the abutting garages). Are any safety measures proposed?
11. The dust control note on the plan is not detailed enough to be effective or enforced. Please expand to include amounts, times, methods, etc.
12. The proposed operation times in the application do not coincide with the times listed in the Town's Typical Order of Condition.
13. The location of the tracking pad should be shown on the plans.
14. Temporary sedimentation basins should be shown for the different phases of construction.
15. The proposed slopes appear to vary throughout. Please label 3:1, 2:1, etc.
16. Slopes steeper than 3:1 should be stabilized with an erosion control blanket. Provide a detail.
17. Provide a detail for the sheet vinyl piling and clarify its purpose.
18. The grading (56 contour) near wetland flag 38WH appears to show grading within the 25 foot no work zone.
19. The grading (58 contour) near the reservoir appears to show grading within the 25 foot no work zone.
20. Provide a detail for the retaining wall proposed just south of the reservoir.



Board of Selectmen
c/o Mr. Charles J. Christello, Town Manager
Initial Engineering Review
Earth Removal Application - 182 Plympton Street
October 12, 2012 - Page 3

21. Provide a better detail of the rip-rap plunge pool at the level spreader outlet. (Rip-rap size, length, width, depth, elevations, etc.).
22. The haybale/silt fence detail is not provided on the plans.
23. TSS Calculations have not been provided in the Drainage Evaluation.
24. A Long-Term Pollution Prevention Plan could not be found even though it is checked off as being included in the Notice of Intent.
25. An Illicit Discharge Compliance Statement could not be found even though it is checked off as being included in the Notice of Intent.
26. The Tc path chosen for the Pre-Development Calculations is not the longest and should be revised as this may result in an inflation of predevelopment runoff rates.
27. The slope area east of the bog should be part of the Bog Subcatchment 4, not Developed Area Subcatchment 2. Also is there any area east of the project site that is upgradient and contributing to this subcatchment?
28. The CN calculations for the Pond Subcatchment Area 3 should reflect a CN value of 98 for the surface area of the water in the reservoir (assumed to be full when the storm occurs).
29. The modeling for the reservoir/pond is incorrect in that it assumes the pond is empty. It should be modeled as being full when the storm occurs and the outlet control structure should also be included in the analysis. (The design configuration of this outlet control structure could make modeling of it tricky). The outflow through the control structure should be combined with the flows from Subcatchment 2 when comparing to Pre-development flows/volumes.
30. The "Draft" SWPPP, when finalized, should be made a part of the permit conditions and should be provided to the Town. Copies of all inspection/correction reports should also be provided to the Town.

If you have any questions, please do not hesitate to call me at (508) 888-9282.

Sincerely,

ATLANTIC DESIGN ENGINEERS, INC.

Richard J. Tabaczynski, P.E.
Vice President

August 29, 2012

Town of Middleboro
Board of Selectmen
20 Centre Street
Middleboro, Massachusetts 02346

RE: Earth Removal Application
182 Plympton Street, Middleboro

Dear Board Members:

On behalf of Robert and Susan Thomas, I hereby request that the Board grant the Earth Removal permit needed to facilitate construction of a cranberry bog to the rear of his house located at 182 Plympton Street. The property is located on the northerly side of Plympton Street in a section of Middleboro that has many cranberry bogs and residential home sites with significant acreage.

The property is referred to as Assessor's Map 26 Lot 5074 and is 18.59 acres in size. Two thirds or 12.1 acres are useable uplands. The property which has 162 feet of frontage, fans outward toward the rear of the site with the majority of the contiguous uplands on the right or easterly portion of the site. The elevation of the property at Plympton Street is 60, rising to over elevation 70 before sloping downward at the rear of the property to elevation 54.

The front half of the property contains the house, pool and access drive that leads to the remaining land that is scarcely vegetated and is used to store equipment and vehicles. The rear portion of the property is mostly wooded most likely an agricultural field which has since revegetated. It is accessed from existing farm roads and paths which traverse the site.

The westerly portion of the property, 6.5 acres in area, is comprised of an intermittent stream and bordering vegetated wetlands. The soils on the site include a substantial deposit of sand and fine gravel in the front portion of the site with varied glacial till areas primarily in the existing wooded area.

The proposed project will include a 5.7 acre bog and an adjacent man made pond to supply water to the bog. The site will involve regrading much of the site and removal of surplus sand to create the pond. Excavation of the sand to create the pond will include a need to move approximately 30,000 to 40,000 cubic yards to offsite locations. It is expected that the construction period will last about 2-3 years. The loading and trucking of materials will be from the site to Plympton Street, connecting to various receiving stations. The truck types will vary from small dump trucks to tractor-trailers and would use main roads such as Plympton Street and Route 44.

TOWN OF MIDDLEBOROUGH

EARTH REMOVAL APPLICATION and renewal form

1. General Information

Name of Applicant: Robert Thomas

Address of Applicant: 182 Plympton Street

Town or City: Middleboro

Owner of Property: Robert Thomas

Location of Property: 182 Plympton Street

Assessor's Parcel and Map Numbers Map 26 Parcel 5074

Map Parcel

Map Parcel

2. Permit Status

New Application or Renewal: New application

Request for an Extension of Time for existing permit.

Existing Permit Number:

Parcel(s) Acreage: 18.59 acres

Estimated Number of Cubic Yards to be Removed: 30,000

Requested Time Frame of Permit 3 years

Brief Project Description and Reasons for Request:

Removal of excess sand from proposed site of new cranberry bog.

3. Project Plan

Has a Project Plan being submitted with this Application? Yes.

An Application for an Earth Removal Permit will not be accepted by the Board of Selectmen for a public hearing, unless submitted with this application.

4. Planning Information

a. **Proposed Traffic Route** from site to unloading of materials.

Trucks will enter and exit subject site and will travel along Plympton Street to Route 44.

b. Has a plan and Notice of Applicability (NOA) or Intent (NOI) been submitted to the Town of Middleborough's Conservation Commission? Yes; NOI

c. Has Order of Conditions by Conservation Commission been issued: If so what is project number and date of conditions : SE220-1169-May 17, 2012

d. Provide a copy of the Order of Conditions so they may be attached to the permit.

e. Is there a Department of Environmental Protection – Water Management Act Registration or Permit for this property? No

Permit No. _____ Registration No. _____

f. Has a Farm Plan been completed? No Please provide a copy.

g. Expected Date of Project Completion: Spring 2016

5. Engineering General Information

Engineering Firm Name: Silva Engineering Associates, P.C.

Engineer's Contact/Name : Lawrence P. Silva

Street: 1615 Bedford Street

Town/City Bridgewater

Phone Number: 508-697-3100

7. Financial Obligations

Do you owe any property taxes, water, sewer or any other financial obligation to the Town of Middleborough that is not current?

 yes X no

8. Authorization of Applicant

a. Have you authorized the engineer to speak on your behalf regarding project questions that may come up prior to the public hearing?

 X yes no

b. I have reviewed this Application Package and attached information and deem it to be correct.



Signature of Applicant

Robert Thomas

Printed Name of Applicant

Date 8-29-12

Phone Number: 508-509-2049



2012 00050624

Bk: 41466 Pg: 32 Page: 1 of 15
Recorded: 06/04/2012 03:45 PM
ATTEST: John R. Buckley, Jr. Register
Plymouth County Registry of Deeds

Mail
Lawrence P. Silvy
Silvy Engineering Associates, P.C.
1615 Bedford Street
Bedgewater, MA 02324



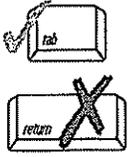
Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
SE220-1169
MassDEP File #
eDEP Transaction #
Middleborough
City/Town

A. General Information

Please note:
this form has
been modified
with added
space to
accommodate
the Registry
of Deeds
Requirements

Important:
When filling
out forms
on the
computer,
use only the
tab key to
move your
cursor - do
not use the
return key.



1. From: Middleborough
Conservation Commission

2. This issuance is for (check one):
a. Order of Conditions b. Amended Order of Conditions

3. To: Applicant:

Robert a. First Name Thomas b. Last Name

c. Organization

182 Plympton Street d. Mailing Address

Middleborough e. City/Town MA f. State 02346 g. Zip Code

4. Property Owner (if different from applicant):

Same a. First Name b. Last Name

c. Organization

d. Mailing Address

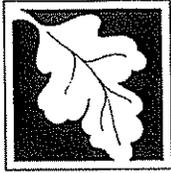
e. City/Town f. State g. Zip Code

5. Project Location:

182 Plympton Street a. Street Address Middleborough b. City/Town

Map 26 c. Assessors Map/Plat Number Lot 5074 d. Parcel/Lot Number

Latitude and Longitude, if known: 41d92m63s d. Latitude -70d83m75s e. Longitude



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 SE220-1169
 MassDEP File #
 eDEP Transaction #
 Middleborough
 City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
Plymouth
 a. County 14525 b. Certificate Number (if registered land) 220
 c. Book _____ d. Page _____
7. Dates: April 4, 2012 May 17, 2012 May 17, 2012
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
"Proposed Cranberry Bog" 182 Plympton Street, Middleborough, Massachusetts
 a. Plan Title _____
 b. Prepared By Silva Engineering Associates, P.C. c. Signed and Stamped by Lawrence P. Silva, P.E.
 d. Final Revision Date May 14, 2012 e. Scale 1" = 50'
 f. Additional Plan or Document Title Drainage Evaluation g. Date April 2, 2012

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

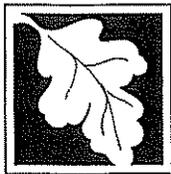
Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. Public Water Supply b. Land Containing Shellfish c. Prevention of Pollution
 d. Private Water Supply e. Fisheries f. Protection of Wildlife Habitat
 g. Groundwater Supply h. Storm Damage Prevention i. Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 SE220-1169
 MassDEP File # _____
 eDEP Transaction # _____
 Middleborough
 City/Town

B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 25-feet
 a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet e. c/y dredged	b. square feet f. c/y dredged	c. square feet	d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	<u>21,509</u> a. total sq. feet	<u>21,509</u> b. total sq. feet		
Sq ft within 100 ft	<u>3,009</u> c. square feet	<u>3,009</u> d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	<u>18,500</u> g. square feet	<u>18,500</u> h. square feet	i. square feet	j. square feet



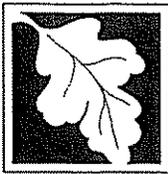
Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 SE220-1169
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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	_____	_____		
	a. square feet	b. square feet		
	_____	_____		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	_____	_____	_____ ^{cu yd}	_____ ^{cu yd}
	a. square feet	b. square feet	c. nourishment	d. nourishment
14. <input type="checkbox"/> Coastal Dunes	_____	_____	_____ ^{cu yd}	_____ ^{cu yd}
	a. square feet	b. square feet	c. nourishment	d. nourishment
15. <input type="checkbox"/> Coastal Banks	_____	_____		
	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	_____	_____		
	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	_____	_____		
	a. square feet	b. square feet		
	_____	_____		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	_____	_____		
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	_____	_____		
	a. square feet	b. square feet		



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B. Findings (cont.)

* #22. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

22. Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

23. Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on _____ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.



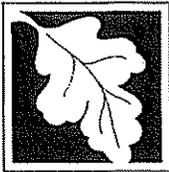
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number SE220-1169 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.



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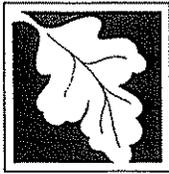
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. **The work associated with this Order (the "Project") is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**
- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
 - all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
 - any vegetation associated with post-construction BMPs is suitably established to withstand erosion.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.

- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See Attached

Standard Conditions

DEP File #: SE220-1169

Applicant: Robert Thomas

1. A member of the Conservation Commission or its agent may enter and inspect the property and the activity that are the subjects of this Order of Conditions (OOC) at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance (COC) is issued, for the limited purpose of evaluating compliance with this OOC.
2. The term "applicant" as used in this OOC shall refer to the owner, any successor in interest or successor in control of the property referenced in the Notice of Intent, supporting documents and this OOC. The Commission shall be notified in writing within 30 days of all transfers of title of any portion of property that take place prior to the issuance of the COC.
3. This document shall be included by reference in all contracts, plans and specifications dealing with the activity that is the subject of this OOC, and that are created or modified after the issuance date of this OOC, along with a statement that this OOC shall supersede any conflicting contractual arrangements, plans or specifications.
4. The applicant shall provide a copy of this OOC to the person or persons supervising the activity that is the subject of this OOC, and will be responsible for ensuring that all persons performing the permitted activity are fully aware of the terms and conditions of this OOC.
5. If any change is made in the above-described plan(s) which may or will alter an area subject to protection under the Wetlands Protection Act, 310 CMR 10.00, the applicant shall inquire from this Commission or its agent, prior to implementing the change in the field, whether the change is significant enough to require the filing of a new Notice of Intent. Any errors in the plans or information submitted by the applicant shall be considered changes and the above procedures shall be followed.
6. It is the responsibility of the applicant to complete any review required by all agencies with jurisdiction over the activity that is the subject of this OOC, and to procure all required permits or approvals before any work commences. These reviews, permits and approvals may include but are not limited to the following:
 - a. Review by the U.S. Army Corps of Engineers for any Category 2 or Individual Permit activity, and procurement of any permits or approvals identified by the Corps;
 - b. Review by the Department of Environmental Protection (DEP) and procurement of any permits or approvals identified by DEP;

Standard Conditions

DEP File #: SE220-1169
Applicant: Robert Thomas

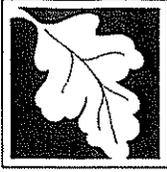
- c. Review by the Massachusetts Natural Heritage and Endangered Species Program for any projects within estimated and/or priority habitat and any permits or approvals identified by the Program;
 - d. Review by local planning boards, boards of health, zoning boards, and building inspectors, and procurement of any permits or approvals required by these boards or agencies.
7. All construction materials, earth stockpiles, landscaping materials, slurry pits, waste products, refuse, debris, stumps, slash, or excavate may only be stockpiled or collected in areas as shown and labeled on the approved plan(s), or if no such areas are shown must be placed or stored outside all resource areas and associated buffer zones (unless authorized to do so) under cover and surrounded by a double-staked row of hay bales to prevent contact with rain water.
 8. No material of any kind may be buried, placed or dispersed in areas within the jurisdiction of the Commission by activities that are the subject of this OOC, except as are expressly permitted by this OOC or the plans approved herein.
 9. There shall be no pumping of water from wetland resource areas.
 10. All waste products, grubbed stumps, slash, construction materials, etc. shall be deposited at least 100 feet from wetland resource areas unless specified in this OOC.
 11. No fuel, oil, or other pollutants shall be stored in any resource area or the buffer zone thereto, unless specified in this OOC or expressly authorized by the Commission or their agent.
 12. Any material placed in wetland resource areas by the applicant without express authorization under this OOC shall be removed by the applicant upon demand by the Conservation Commission or its agent.
 13. There shall be no underground storage of fuel or other hazardous substance in areas within the jurisdiction of the Conservation Commission.
 14. Removal and storage of hazardous waste, if in an area subject to protection under the Wetlands Protection Act shall be as follows:
 - a. Removal and storage shall be conducted only when approved and directed by DEP, the U.S. Environmental Protection Agency (EPA) or other applicable state or federal agency under which remedial activities are

Standard Conditions

DEP File #: SE220-1169
Applicant: Robert Thomas

- b. directed and shall be conducted in the manner specified in the Notice of Intent and appropriate agency directives.
 - c. All hazardous materials, products and waste produced , stored or removed must be handled, treated and disposed of in accordance with local, state and federal law regulating such materials and must be located outside of the buffer zone to wetland resource areas, unless specifically authorized by the OOC and appropriate state and federal licensing and permitting agencies.
 - d. No hazardous waste shall be introduced or discharged into or toward wetland resource areas.
 - e. No hazardous waste shall be introduced or discharged into the sanitary or sewage systems in such a manner which will result in an impact to wetland resource areas unless approved by the Conservation Commission, board of health, DEP and/or EPA.
 - f. Identification of all types of hazardous materials used, produced or stored shall be submitted to the Conservation Commission in writing.
15. No trash dumpsters will be allowed within 100 feet of areas subject to protection under the Wetlands Protection Act unless authorized by the OOC.
16. This OOC shall pertain to the roadways, utilities within the roadway layout, and associated drainage facilities. Individual lot construction, including driveways, lot utilities, sewage and water, if under the Commission's jurisdiction, shall require individual Notices of Intent and/or Requests for Determination.
17. This OOC authorizes only the activity described on the approved plans(s) and approved documents referenced in this OOC. Any other or additional activity in areas within the jurisdiction of the Commission will require separate review and approval by the Commission or its agent.

Strict compliance with these Standard Conditions may be waived when in the judgment of the Conservation Commission such action is in the public interest and not inconsistent with the Wetlands Protection Act.



WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

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D. Findings Under Municipal Wetlands Bylaw or Ordinance

- 1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
- 2. The _____ hereby finds (check one that applies):

Conservation Commission

- a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

1. Municipal Ordinance or Bylaw

2. Citation

- 3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):



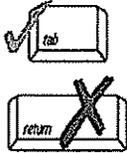
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3E220-1109
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E. Signatures

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Please indicate the number of members who will sign this form.
 This Order must be signed by a majority of the Conservation Commission.

May 17, 2012
 1. Date of Issuance
FIVE
 2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy must be mailed, hand delivered or filed electronically at the same time with the appropriate MassDEP Regional Office.

Signatures:

[Signature]
[Signature]
[Signature]

[Signature]
[Signature]

by hand delivery on

by certified mail, return receipt requested, on

Date

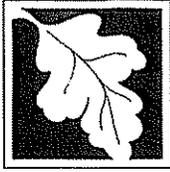
Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



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G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Middleborough
 Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Middleborough
 Conservation Commission

Please be advised that the Order of Conditions for the Project at:

182 Plympton Street
 Project Location

SE220-1169
 MassDEP File Number

Has been recorded at the Registry of Deeds of:

Plymouth
 County

14525
 Book

220
 Page

for: Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

May 17, 2012
 Date

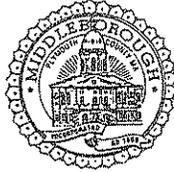
If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant



Town of Middleborough

CONSERVATION COMMISSION

MEMORANDUM

TO: Board of Selectmen
R. Geoffroy, Planning Director
A. Bagas, DPW Superintendent

FROM: Patricia J. Cassady, Conservation Agent 

RE: Earth Removal Application – 182 Plympton Street (Map 26, Lot 5074)

DATE: September 27, 2012

This memorandum is in response to the earth removal permit that the above-mentioned applicant has submitted to the Board of Selectmen.

This proposal has an Order of Conditions with the Conservation Commission under DEP file # SE220-1169, which was issued May 17, 2012 for site clearing and grading to develop cranberry bogs to the rear of existing dwelling. This Order of Conditions is valid until May 17, 2017 (3 years under the DEP Regulations and then 2 additional years under the updated Permit Extension Act legislation). The Order of Conditions has been recorded at the Plymouth County Registry of Deeds under Book 41466, Page 32.

Prior to the start of any earth removal a site inspection is required by the Commission to confirm that erosion controls have been installed properly to prevent impact to the wetland resource areas.

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

Thank you

pjc



**Town of Middleborough
Massachusetts**

BOARD OF SELECTMEN

MEMORANDUM

TO: R. Geoffroy, Town Planner
P. Cassady, Conservation Commission Agent
A. Bagas, DPW Superintendent

FROM: Jackie Shanley, Confidential Secretary to Board of Selectmen

DATE: September 20, 2012

SUBJECT: **Application for Earth Removal Permit, 182 Plympton Street**

Attached is a request filed by Silva Engineering Associates, P.C. on behalf of Robert & Susan Thomas, 182 Plympton Street, Assessors Map 26, Lot 5074 for an Earth Removal permit.

This request will be addressed at the Selectmen's meeting on Monday, **October 15, 2012 at 7:30 PM.**

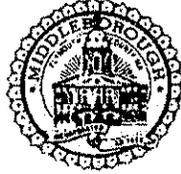
All remarks or concerns regarding the request must be returned to the Selectmen's Office no later than **Wednesday, October 10, 2012 by 12 Noon.**

Even if you have no comments to make regarding the plan, please indicate so in writing.

Please contact the Selectmen's Office if you have any further questions.

Attachments

cc: Board of Selectmen
Town Manager



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



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.

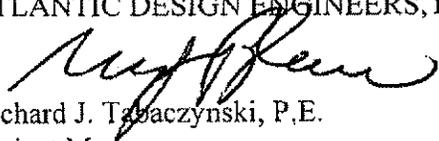
We have the following comments:

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
www.atlanticcompanies.com

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.

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

Board of Selectmen
10 Nickerson Ave.
Middleboro MA 02346

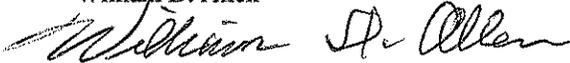
Dear Board of Selectmen:

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 cotage at 75 Faye Ave.

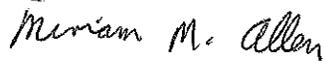
We believe that the completion of this project would be an improvement to the neighborhood as well as to their property. We have a cottage at 65 Faye Ave. and would like to see this project completed.

Sincerely,

William D. Allen

Handwritten signature of William D. Allen in cursive script.

Miriam M. Allen

Handwritten signature of Miriam M. Allen in cursive script.



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)

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 13, 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)

- 2nd Hand
Class I Automobile Dealer License
Class II Automobile Dealer License
Class III Automobile Dealer License
Entertainment
WRPD
Earth Removal Permit
Liquor License
Junk Dealer
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, 3rd 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
OCT 04 2012
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

To the Board of Selectmen
Middleborough, Massachusetts

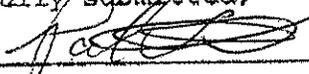
I/We hereby petition your Board for a public hearing for a Special Permit which is subject to Board of Selectmen approval under the Water Resource Protection Districts By-law.

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. Z3. 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*

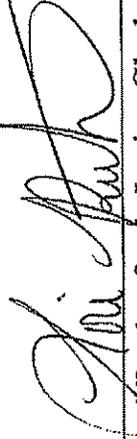
Date: 9/28/2012

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

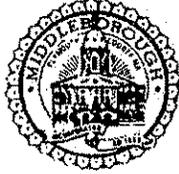
MAP 073 LOT 1974



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)



A hearing will be held by the Board of Selectmen on Monday, November 5, 2012 at 8:30 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 58 East Grove, Inc., d.b.a. Boston Tavern for a Transfer of an All Alcoholic Beverages Restaurant Liquor license, and approval of a Change in Manager, property located at 58 East Grove Street, Middleboro, MA Assessors Map 58, Lot 5557, 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: October 25, 2012

Payment forthcoming



Town of Middleborough
Massachusetts

BOARD OF SELECTMEN

APPLICATION FOR LICENSE
(PLEASE TYPE OR PRINT CLEARLY)

DATE 10/12/12
NAME OF APPLICANT DENNIS BARBATO
ADDRESS OF APPLICANT 3 NO. GREEN ST. PLYMOUTH, MA
ASSESSORS MAP & LOT 58-5557
DAYTIME TELEPHONE _____

NAME OF BUSINESS 58 EAST GREEN, INC DBA BOSTON TAVERN
OWNER OF PROPERTY TO BE LICENSED DAVID T + GIDA FISHER, TRS
ADDRESS OF PROPERTY TO BE LICENSED 58 EAST GREEN ST
ASSESSORS MAP & LOT 58-5557

TYPE OF LICENSE REQUESTED (Check One)

- 2nd Hand Furniture _____
- Class I License _____
- Class III License _____
- Common Victualler _____
- Entertainment _____
- 2nd Hand Clothing _____
- Class II License _____
- Liquor License
- Automatic Amusement _____
- Other _____

Anticipated Start Date for Business 12/1/12
Hours requested: _____

Has the Applicant previously held a similar license in the Town of Middleborough or elsewhere? NO
If yes, explain: _____

Signature [Handwritten Signature]

DATE OF HEARING 11.3.12 @ 8:30 AM 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

Virginia Matruciano

November 9, 2012

Board of Selectmen:

There is nothing in the CORI background records to cause concern in approving Dennis J. Barbato as a manager for the proposed Boston Tavern liquor license.

Jackie Shanley, Confidential 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

October 29, 2012

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

Subject: Application for Transfer of Liquor License at 58 East Grove Street, Assessors'
Map: 058 Lot: 5557 Zoned GU/W.R.P.D. Z2.

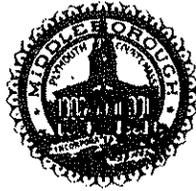
Dear Board,

I have reviewed the application for a Transfer of Liquor License & Change of Manger submitted by Boston Tavern located at 58 East Grove Street. I have no issues with the change of license however a building permit would be required for the purposed renovations.

Respectfully submitted,

Robert J. Whalen
Building Commissioner

RJW/d



**Town of Middleborough
Massachusetts**

BOARD OF SELECTMEN

MEMORANDUM

TO: Building Commissioner
Health Officer
Conservation Commission
Planning Board

FROM: Board of Selectmen's office

DATE: 10/18/12

RE: **Transfer of Liquor license from the Riverside restaurant to
58 East Grove, Inc., d.b.a. Boston Tavern & Change of
Manager**

Please be advised that the above referenced matter is scheduled before the Board of Selectmen on **11/5/12 at 8:30 PM.**

Please provide this office with any concerns, objections, and/or requirements in approving this application.

Thank you.

Attachments

cc: Board of Selectmen
Town Manager

The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
239 Causeway Street
Boston, MA 02114
www.mass.gov/abcc

For Reconsideration

FORM 43
MUST BE SIGNED BY LOCAL LICENSING AUTHORITY

ABCC License Number City/Town Local Approval Date

TRANSACTION TYPE (Please check all relevant transactions):

- | | | | |
|---|--|---|---|
| <input type="checkbox"/> New License | <input type="checkbox"/> New Officer/Director | <input type="checkbox"/> Pledge of License | <input type="checkbox"/> Change Corporate Name |
| <input checked="" type="checkbox"/> Transfer of License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Pledge of Stock | <input type="checkbox"/> Seasonal to Annual |
| <input checked="" type="checkbox"/> Change of Manager | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Transfer of Stock | <input type="checkbox"/> Change of License Type |
| <input type="checkbox"/> Cordials/Liqueurs Permit | <input type="checkbox"/> Issuance of Stock | <input type="checkbox"/> New Stockholder | <input type="checkbox"/> Other <input type="text"/> |
| <input type="checkbox"/> 6-Day to 7-Day License | <input type="checkbox"/> Management/Operating Agreement | <input type="checkbox"/> Wine & Malt to All Alcohol | |

Name of Licensee EIN of Licensee

D/B/A Manager

ADDRESS: CITY/TOWN: STATE: ZIP CODE:

Annual or Seasonal Category: (All Alcohol- Wine & Malt Wine, Malt & Cordials) Type: (Restaurant, Club, Package Store, General On Premises, Etc.)

Complete Description of Licensed Premises:

Application Filed: Advertiser: Abutters Notified: n/a Yes No
Date & Time Date & Attach Publication

Contact Person for Transaction Phone:

ADDRESS: CITY/TOWN: STATE: ZIP CODE:

Remarks:

The Local Licensing Authorities By: _____

Alcoholic Beverages Control Commission
Ralph Sacramone
Executive Director

ABCC Remarks: _____



The Commonwealth of Massachusetts
 Alcoholic Beverages Control Commission
 239 Causeway Street
 Boston, MA 02114
 www.mass.gov/abcc

MANAGER APPLICATION

All proposed managers are required to complete a Personal Information Form, and attach a copy of the corporate vote authorizing this action and appointing a manager.

1. LICENSEE INFORMATION:

Legal Name of Licensee: Business Name (dba):

Address:

City/Town: State: Zip Code:

ABCC License Number: Phone Number of Premise:
 (If existing licensee)

2. MANAGER INFORMATION:

A. Name: B. Cell Phone Number:

C. List the number of hours per week you will spend on the licensed premises:

3. CITIZENSHIP INFORMATION:

A. Are you a U.S. Citizen: Yes No B. Date of Naturalization: C. Court of Naturalization:

(Submit proof of citizenship and/or naturalization such as Voter's Certificate, Birth Certificate or Naturalization Papers)

4. BACKGROUND INFORMATION:

A. Do you now, or have you ever, held any direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages? Yes No

If yes, please describe:

B. Have you ever been the Manager of Record of a license to sell alcoholic beverages that has been suspended, revoked or cancelled? Yes No

If yes, please describe:

C. Have you ever been the Manager of Record of a license that was issued by this Commission? Yes No

If yes, please describe:

D. Please list your employment for the past ten years (Dates, Position, Employer, Address and Telephone):

I hereby swear under the pains and penalties of perjury that the information I have provided in this application is true and accurate:

Signature Date



The Commonwealth of Massachusetts
 Alcoholic Beverages Control Commission
 239 Causeway Street
 Boston, MA 02114
www.mass.gov/abcc

Print Form

**RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION
 MONETARY TRANSMITTAL FORM**

APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL LICENSING AUTHORITY.

ECRT CODE: RETA

CHECK PAYABLE TO ABCC OR COMMONWEALTH OF MA: \$200.00

(CHECK MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL)

CHECK NUMBER

IF USED EPAY, CONFIRMATION NUMBER

A.B.C.C. LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)

LICENSEE NAME

ADDRESS

CITY/TOWN STATE ZIP CODE

TRANSACTION TYPE (Please check all relevant transactions):

- Alteration of Licensed Premises
- Change Corporate Name
- Change of License Type
- Change of Location
- Change of Manager
- Other
- Cordials/Liqueurs Permit
- Issuance of Stock
- Management/Operating Agreement
- More than (3) §15
- New License
- New Officer/Director
- New Stockholder
- Pledge of Stock
- Pledge of License
- Seasonal to Annual
- Transfer of License
- Transfer of Stock
- Wine & Malt to All Alcohol
- 6-Day to 7-Day License

THE LOCAL LICENSING AUTHORITY MUST MAIL THIS TRANSMITTAL FORM ALONG WITH THE CHECK, COMPLETED APPLICATION, AND SUPPORTING DOCUMENTS TO:

**ALCOHOLIC BEVERAGES CONTROL COMMISSION
 P. O. BOX 3396
 BOSTON, MA 02241-3396**

19. PLEDGE: (i.e. COLLATERAL FOR A LOAN)

A.) Is the applicant seeking approval to pledge the license? Yes No

1. If yes, to whom:

2. Amount of Loan: 3. Interest Rate: 4. Length of Note:

5. Terms of Loan :

B.) If a corporation, is the applicant seeking approval to pledge any of the corporate stock? Yes No

1. If yes, to whom:

2. Number of Shares:

C.) Is the applicant pledging the inventory? Yes No

If yes, to whom:

IMPORTANT ATTACHMENTS (7): If you are applying for a pledge, submit the pledge agreement, the promissory note and a vote of the Corporation/LLC approving the pledge.

20. CONSTRUCTION OF PREMISES:

Are the premises being remodeled, redecorated or constructed in any way? If YES, please provide a description of the work being performed on the premises: Yes No

The following is a list of remodeling planned for Boston Tavern;

- Resurfacing the parking lot
- Painting the exterior of the Restaurant
- Paint the interior of the Rest.
- Refurbish the furniture
- New exterior lights and awning
- New interior lights.
- New carpeting in dining room.

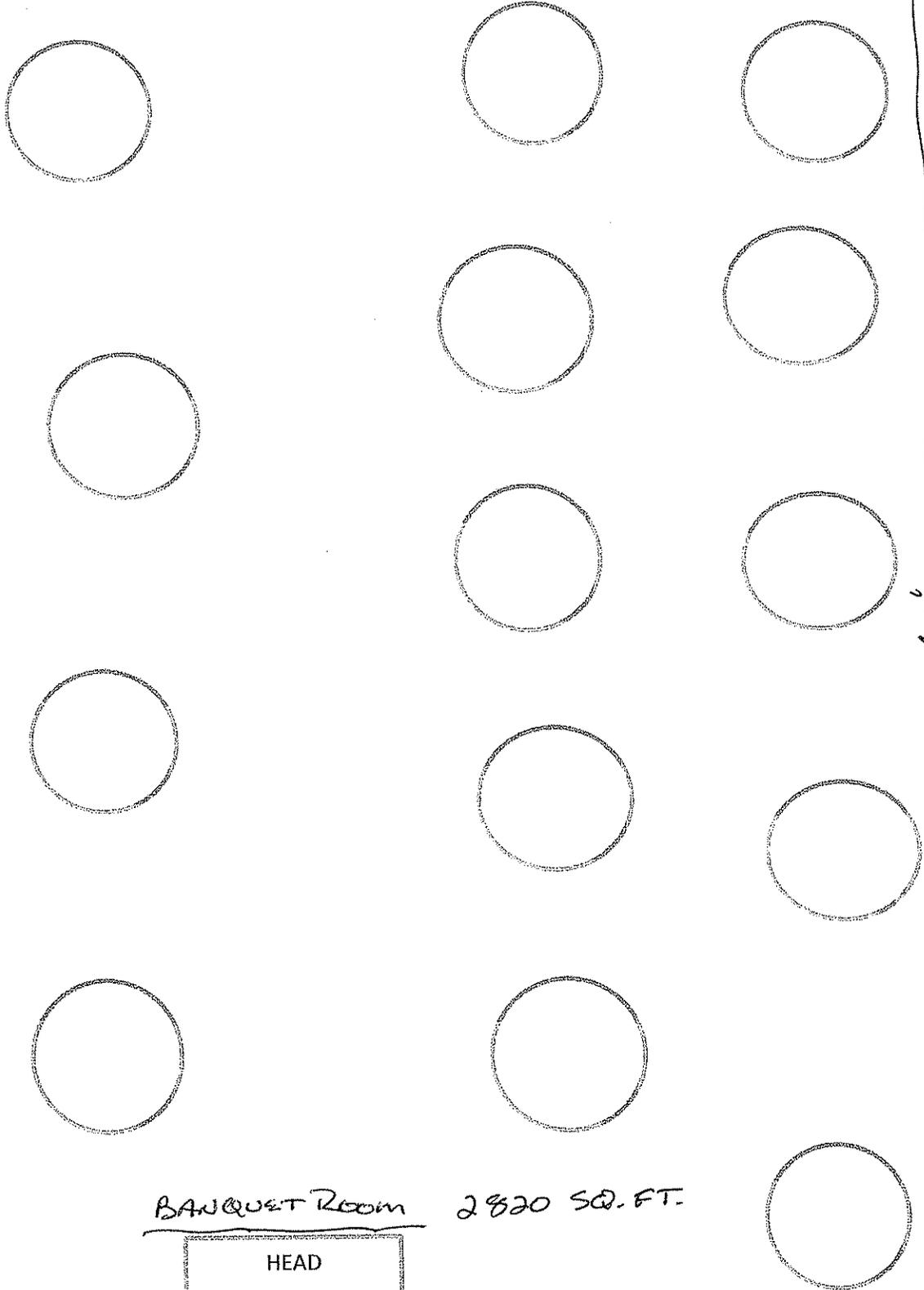
Remodeling

21. ANTICIPATED OPENING DATE:

**IF ALL OF THE INFORMATION AND
ATTACHMENTS ARE NOT COMPLETE
THE APPLICATION WILL BE
RETURNED**

DJ

47'
DANCE FLOOR



BANQUET ROOM

2820 SQ. FT.

HEAD
TABLE FOR 2

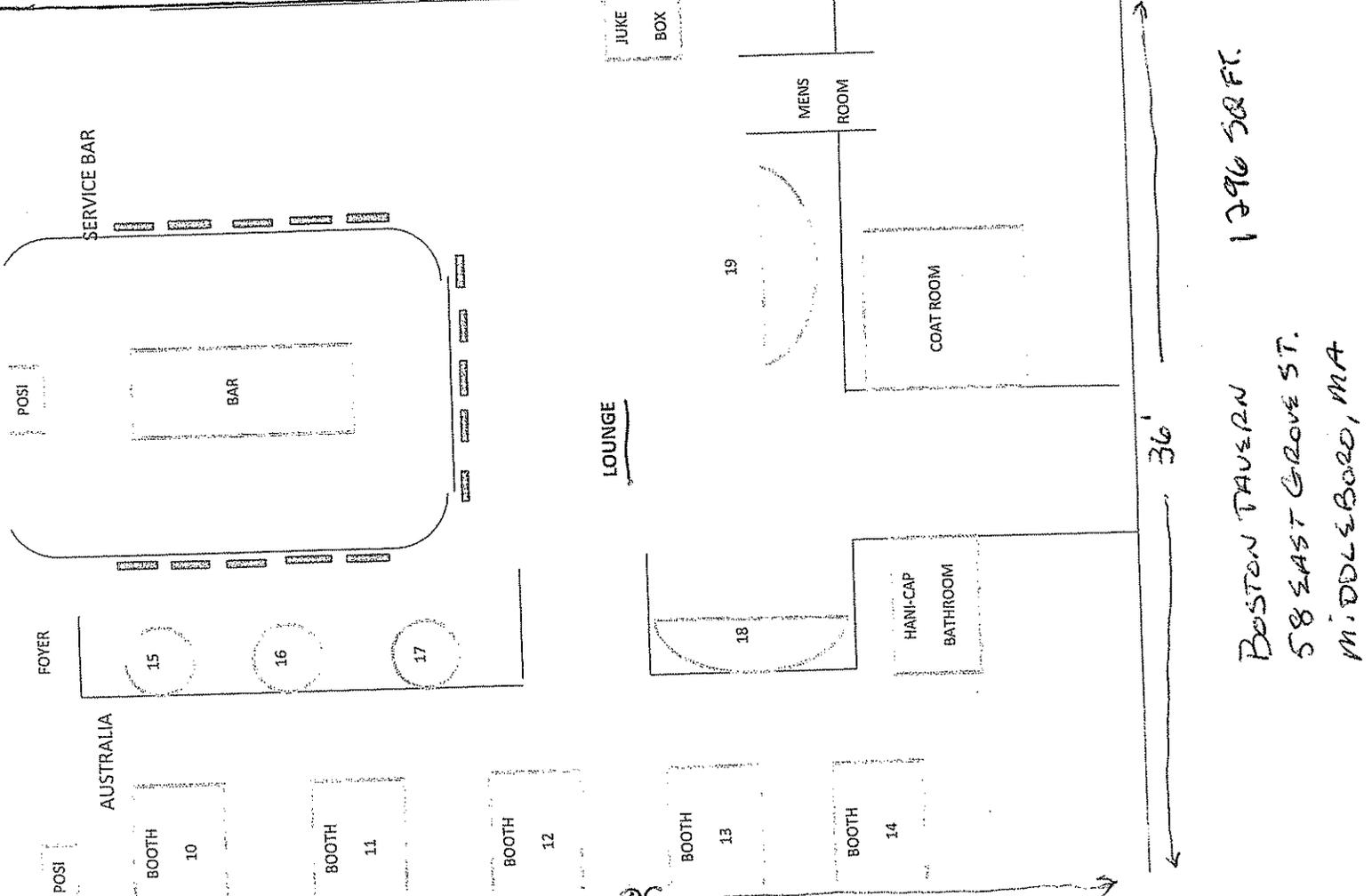
FIREPLACE

BOSTON TAVERN
58 EAST GROVE ST.
MIDDLEBORO, MA

NEMASKET ROOM DINNER



2430 SQ. FT.



1796 SQ. FT.

BOSTON TAVERN
58 EAST GROVE ST.
MIDDLEBURY, MA

58 EAST GROVE, INC.

CERTIFICATE OF VOTE

I, **PETER MORRISSEY**, of Foxboro, Norfolk County, Massachusetts, do hereby certify:

THAT I am the Secretary of **58 EAST GROVE, INC.**, a Massachusetts corporation having its principal place of business in Plymouth, Plymouth County, Massachusetts (hereinafter referred to as the "Corporation"), and that all the Directors and Stockholders of said Corporation have adopted the following resolutions:

VOTED: That Dennis Barbato, the Treasurer of the Corporation, is hereby appointed as Manager of the restaurant to be operated at 58 East Grove Street, Middleboro, Massachusetts.

VOTED: That Dennis Barbato, the Treasurer of the Corporation, is hereby authorized and directed in the name and on behalf of the Corporation to file an application and any other required documents with the Board of Selectmen of the Town of Middleboro for transfer to the Corporation of an annual all alcoholic restaurant license for the premises at 58 East Grove Street in Middleboro, Massachusetts, all on such terms as he shall deem expedient and proper in carrying out the business of the Corporation, and in connection therewith to sign in the name and on behalf of the Corporation, seal with the corporate seal, acknowledge and deliver any applications, certifications, affidavits and other instruments of every nature which may be necessary or proper in carrying on the business of the Corporation, and to do any and all acts necessary and proper therefor.

I DO FURTHER CERTIFY that the above Vote has not been altered, amended, rescinded or repealed.

I DO FURTHER CERTIFY that the Corporation is a duly organized Massachusetts corporation; that the foregoing Vote is in accordance with the Articles of Organization and By-laws of the Corporation; and that Peter Morrissey, President and Secretary, and Dennis Barbato, Treasurer, are the duly elected officers of the Corporation, as aforesaid.

[END OF PAGE – SIGNATURES ON NEXT PAGE]

EXECUTED as a sealed instrument this 10TH day of OCT., 2012.

ATTEST: Peter Morrissey
Peter Morrissey, Secretary

A TRUE COPY:

ATTEST: Peter Morrissey
Peter Morrissey, President

ATTEST: Dennis Barbato
Dennis Barbato, Treasurer

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

On this 12th day of October, 2012 before me, the undersigned notary public, personally appeared Peter Morrissey, Secretary of 58 East Grove, Inc., a corporation, proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, oath or affirmation of a credible witness who is personally known to me and who has stated to me that he/she is unaffected by the document or transaction and that he/she knows the person(s) whose name(s) is/are signed on the preceding/attached document, personal knowledge of the undersigned, to be the person(s) whose name is/are signed on the preceding/attached document, and acknowledged to me that he/she/they signed it voluntarily for its stated purpose.



HANWAR HARNETT
Notary Public
Commonwealth of Massachusetts
My Commission Expires June 8, 2018

[Signature]

Notary Public
My commission expires:



The Commonwealth of Massachusetts
William Francis Galvin

Minimum Fee: \$250.00

Secretary of the Commonwealth, Corporations Division
 One Ashburton Place, 17th floor
 Boston, MA 02108-1512
 Telephone: (617) 727-9640

Articles of Organization

(General Laws, Chapter 156D, Section 2.02; 950 CMR 113.16)

Federal Employer Identification Number: 001089110 (must be 9 digits)

ARTICLE I

The exact name of the corporation is:

58 EAST GROVE, INC.

ARTICLE II

Unless the articles of organization otherwise provide, all corporations formed pursuant to G.L. C156D have the purpose of engaging in any lawful business. Please specify if you want a more limited purpose:

ARTICLE III

State the total number of shares and par value, if any, of each class of stock that the corporation is authorized to issue. All corporations must authorize stock. If only one class or series is authorized, it is not necessary to specify any particular designation.

Class of Stock	Par Value Per Share Enter 0 if no Par	Total Authorized by Articles of Organization or Amendments		Total Issued and Outstanding Num of Shares
		Num of Shares	Total Par Value	
CNP	\$0.00000	275,000	\$0.00	2,000

G.L. C156D eliminates the concept of par value, however a corporation may specify par value in Article III. See G.L. C156D Section 6.21 and the comments thereto.

ARTICLE IV

If more than one class of stock is authorized, state a distinguishing designation for each class. Prior to the issuance of any shares of a class, if shares of another class are outstanding, the Business Entity must provide a description of the preferences, voting powers, qualifications, and special or relative rights or privileges of that class and of each other class of which shares are outstanding and of each series then established within any class.

ARTICLE V

The restrictions, if any, imposed by the Articles of Organization upon the transfer of shares of stock of any class are:

ANY STOCKHOLDER, INCLUDING THE HEIRS, ASSIGNS, EXECUTORS OR ADMINISTRATORS OF A DECEASED STOCKHOLDER, DESIRING TO SELL OR TRANSFER SUCH STOCK OWNED BY HIM OR THEM, SHALL FIRST OFFER IT TO THE CORPORATION THROUGH THE BOARD OF DIRECTORS, IN THE MANNER FOLLOWING: HE SHALL NOTIFY THE DIRECTORS OF HIS DESIRE TO SELL OR TRANSFER BY NOTICE IN WRITING, WHICH NOTICE SHALL CONTAIN

THE PRICE AT WHICH HE IS WILLING TO SELL OR TRANSFER, AND THE NAME OF ONE ARBITRATOR. THE DIRECTORS SHALL WITHIN THIRTY DAYS THEREAFTER EITHER ACCEPT THE OFFER, OR, BY NOTICE TO HIM IN WRITING, NAME A SECOND ARBITRATOR, AND THESE TWO SHALL NAME A THIRD. IT SHALL THEN BE THE DUTY OF THE ARBITRATORS TO ASCERTAIN THE VALUE OF THE STOCK, AND IF ANY ARBITRATOR SHALL NEGLECT OR REFUSE TO APPEAR AT ANY MEETING APPOINTED BY THE ARBITRATORS, A MAJORITY MAY ACT IN THE ABSENCE OF SUCH ARBITRATOR. AFTER ACCEPTANCE OF THE OFFER, OR THE REPORT OF THE ARBITRATORS AS TO VALUE OF THE STOCK, THE DIRECTORS SHALL HAVE THIRTY DAYS WITHIN WHICH TO PURCHASE THE SAME AT SUCH VALUATION, BUT IF AT THE EXPIRATION OF THIRTY DAYS, THE CORPORATION SHALL NOT HAVE EXERCISED THE RIGHT SO TO PURCHASE, THE OWNER OF THE STOCK SHALL BE AT LIBERTY TO DISPOSE OF THE RIGHT IN ANY MANNER HE MAY SEE FIT. NO SHARES OF STOCK SHALL BE SOLD OR TRANSFERRED ON THE BOOKS OF THE CORPORATION UNTIL THESE PROVISIONS HAVE BEEN COMPLIED WITH, BUT THE BOARD OF DIRECTORS MAY IN ANY PARTICULAR INSTANCE WAIVE THE REQUIREMENTS.

ARTICLE VI

Other lawful provisions, and if there are no provisions, this article may be left blank.

Note: The preceding six (6) articles are considered to be permanent and may be changed only by filing appropriate articles of amendment.

ARTICLE VII

The effective date of organization and time the articles were received for filing if the articles are not rejected within the time prescribed by law. If a *later* effective date is desired, specify such date, which may not be later than the 90th day after the articles are received for filing.

Later Effective Date: Time:

ARTICLE VIII

The information contained in Article VIII is not a permanent part of the Articles of Organization.

a,b. The street address of the initial registered office of the corporation in the commonwealth and the name of the initial registered agent at the registered office:

Name: DENNIS BARBATO
 No. and Street: 3 NORTH GREEN STREET
 City or Town: PLYMOUTH State: MA Zip: 02360 Country: USA

c. The names and street addresses of the individuals who will serve as the initial directors, president, treasurer and secretary of the corporation (an address need not be specified if the business address of the officer or director is the same as the principal office location):

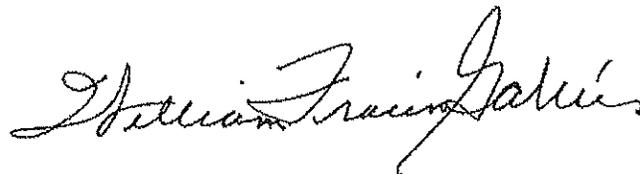
Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
PRESIDENT	PETER MORRISSEY	5 CAPONE ROAD FOXBORO, MA 02035 USA
TREASURER	DENNIS BARBATO	3 NORTH GREEN STREET PLYMOUTH, MA 02360 USA
SECRETARY	PETER MORRISSEY	5 CAPONE ROAD

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are

deemed to have been filed with me on:

October 01, 2012 12:58 PM

A handwritten signature in cursive script, reading "William Francis Galvin". The signature is written in black ink and is centered on the page.

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth



**The Commonwealth of Massachusetts
William Francis Galvin**

Secretary of the Commonwealth, Corporations Division
One Ashburton Place, 17th floor
Boston, MA 02108-1512
Telephone: (617) 727-9640

58 EAST GROVE, INC. Summary Screen

Help with this form

[Request a Certificate](#)

The exact name of the Domestic Profit Corporation: 58 EAST GROVE, INC.

Entity Type: Domestic Profit Corporation

Identification Number: 001089110

Date of Organization in Massachusetts: 10/01/2012

Current Fiscal Month / Day: 12 / 31

The location of its principal office:

No. and Street: 3 NORTH GREEN STREET
City or Town: PLYMOUTH State: MA Zip: 02360 Country: USA

If the business entity is organized wholly to do business outside Massachusetts, the location of that office:

No. and Street:
City or Town: State: Zip: Country:

Name and address of the Registered Agent:

Name: DENNIS BARBATO
No. and Street: 3 NORTH GREEN STREET
City or Town: PLYMOUTH State: MA Zip: 02360 Country: USA

The officers and all of the directors of the corporation:

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code	Expiration of Term
PRESIDENT	PETER MORRISSEY	5 CAPONE ROAD FOXBORO, MA 02035 USA	
TREASURER	DENNIS BARBATO	3 NORTH GREEN STREET PLYMOUTH, MA 02360 USA	
SECRETARY	PETER MORRISSEY	5 CAPONE ROAD FOXBORO, MA 02035 USA	
DIRECTOR	DENNIS BARBATO	3 NORTH GREEN STREET PLYMOUTH, MA 02360 USA	
DIRECTOR	PETER MORRISSEY	5 CAPONE ROAD FOXBORO, MA 02035 USA	

business entity stock is publicly traded:

The total number of shares and par value, if any, of each class of stock which the business entity is authorized to issue:

Class of Stock	Par Value Per Share Enter 0 if no Par	Total Authorized by Articles of Organization or Amendments		Total Issued and Outstanding Num of Shares
		Num of Shares	Total Par Value	
CNP	\$0.00000	275,000	\$0.00	2,000

Consent
 Manufacturer
 Confidential Data
 Does Not Require Annual Report
 Partnership
 Resident Agent
 For Profit
 Merger Allowed

Select a type of filing from below to view this business entity filings:

- ALL FILINGS
- Administrative Dissolution
- Annual Report
- Application For Revival
- Articles of Amendment

Comments

COMMERCIAL LEASE

BARMOR REALTY LLC, a duly organized Massachusetts limited liability company with a mailing address of 3 North Green Street, Plymouth, Massachusetts 02360 (hereinafter referred to as “Lessor”, which expression shall include its successors and assigns, where the context so admits), does hereby lease to **58 EAST GROVE, INC.**, a duly organized Massachusetts corporation with a mailing address of 3 North Green Street, Plymouth, Massachusetts 02360 (hereinafter referred to as “Lessee”, which expression shall include its successors and assigns, where the context so admits), and the Lessee hereby leases the following described premises (hereinafter referred to as the “Demised Premises”):

The building situated on a certain parcel of land at 58 East Grove Street in Middleboro, Massachusetts, being shown on plan #18132A filed and registered with the Plymouth County Registry District of the Land Court, which description is incorporated herein by reference.

1. TERM

The term of this Lease shall be for twenty (20) years, commencing on January 1, 2013 (the “Commencement Date”), and terminating on December 31, 2032.

2. BASE RENT

Lessee shall pay to Lessor base rent (“Base Rent”) during the initial year of the term of this Lease in the annual amount of One Hundred Eight Thousand and 00/100 (\$108,000.00) Dollars, payable in monthly installments of Nine Thousand and 00/100 (\$9,000.00) Dollars due on the 1st day of each month in advance. Said Base Rent shall be adjusted as follows:

- (a) Lessee agrees that in the event the “Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), U.S. City Average, All Items (1982-84 = 100)” (hereinafter referred to as the “Price Index”) published by the Bureau of Labor Statistics of the United States Department of Labor, or any comparable successor or substitute index designated by the Lessor appropriately adjusted, reflects an increase in the cost of living over and above the cost of living as reflected by the Price Index for the month of January, 2013 (hereinafter called the “Base Price Index”), the Base Rent shall be adjusted in accordance with sub-paragraph (b) of this Section.
- (b) Commencing as of the first anniversary of the Commencement Date, and annually thereafter, there shall be an adjustment (hereinafter referred to as the “Adjustment”) in the Base Rent calculated by multiplying the Base Rent by a fraction, the numerator of which shall be the Price Index for the month of January in the applicable year, and the denominator of which (for each such fraction) shall be the Base Price Index; PROVIDED, HOWEVER, no Adjustment shall reduce the Base Rent as previously payable in accordance with this Section of the Lease.

- (c) In the event the Price Index ceases to use the 1967 average of 100 as the basis of calculation, or if a substantial change is made in the terms or number of items contained in the Price Index, then the Price Index shall be adjusted to the figure that would have been arrived at had the manner of computing the Price Index in effect at the date of this Lease not been changed.

3. UTILITIES, ETC.

Lessee shall pay, as they become due, all bills for water, sewer, electricity, telephone and other such services or utilities that are furnished to the Demised Premises and all bills for fuel furnished to the Demised Premises. Lessor shall have no obligation to provide utilities or equipment other than the utilities and equipment within the Demised Premises as of the Commencement Date of this Lease. In the event Lessee requires additional utilities or equipment, the installation and maintenance thereof shall be Lessee's sole obligation, provided that such installation shall be subject to the written consent of Lessor, which shall not be unreasonably withheld or delayed.

4. REAL ESTATE TAXES

Lessee will pay to Lessor, as additional rent hereunder, when and as designated by notice in writing by Lessor, one hundred (100%) percent of the real estate taxes on the Demised Premises that may be assessed in each year of the term of this Lease, or any extension or renewal thereof, and proportionately for any part of a fiscal year. If Lessor obtains an abatement of any such real estate tax for any fiscal year during the term of this Lease, a proportionate share of such abatement, less the reasonable fees and costs incurred in obtaining the same, if any, shall be refunded to Lessee.

5. INSURANCE PREMIUMS

Lessee shall pay to Lessor, as additional rent hereunder, when and as designated by notice in writing by Lessor, one hundred (100%) percent of any insurance premiums covering the Demised Premises. Insurance premiums are defined for the purposes of this Lease as those incurred by Lessor for insuring the building on the Demised Premises against fire and other casualty, including extended coverage, and for property damage insurance, general liability, loss of rents coverage, and any required workmen's compensation coverage. These premiums shall be prorated should this Lease be in effect with respect to only a portion of the term of this Lease.

6. TRIPLE NET PROVISIONS

This Lease is intended as a so-called "triple net" Lease, and consequently Lessee shall be responsible for one hundred (100%) percent of the following items with respect to the Demised Premises: (a) utilities, fuel and other such expenses, as provided in Paragraph 4 above; (b) real estate taxes, as provided in Paragraph 5 above; (c) insurance, as provided in Paragraph 6 above; (d) repairs and maintenance, as provided in Paragraph 12 below; (e) snow removal and sanding; (f) lighting; and (g) any other item or expense with respect thereto commonly included within triple net provisions. With the exception of the expenses referenced in subsections (b) and (c) in this Paragraph above, Lessee shall carry in its name and pay for the items specified in this Paragraph.

7. LESSEE'S WORK

Lessee hereby acknowledges that (a) upon Lessee's taking possession of the Premises as of the Commencement Date, Lessee is accepting the Demised Premises in "as is" condition, and (b) Lessee shall be solely responsible for build-out of the interior of the Demised Premises to ready the Demised Premises for Lessee's use and occupancy, and for obtaining all necessary permits and approvals for such work. As specified in Paragraph 14 below, Lessee shall obtain Lessor's consent prior to beginning such work, which consent shall not be unreasonably withheld or delayed.

8. USE OF DEMISED PREMISES

Lessee shall use the Demised Premises only for the purpose of a restaurant and tavern, and for catering.

9. COMPLIANCE WITH LAWS

Lessee acknowledges that no trade or occupation shall be conducted in the Demised Premises or use made thereof which will be unlawful, improper, noisy or offensive, or contrary to any law or any municipal by-law or ordinance in force in the Town of Middleboro.

10. FIRE INSURANCE

Lessee shall not permit any use of the Demised Premises that will make voidable any insurance on the property of which the Demised Premises are a part, or on the contents of said property, or which shall be contrary to any law or regulation from time to time established by the New England Fire Insurance Rating Association, or any similar body succeeding to its powers.

11. MAINTENANCE – LESSEE'S OBLIGATIONS

Lessee agrees to maintain, repair and replace, as necessary, one hundred (100%) percent of the interior and exterior of the Demised Premises (including but not limited to the structure and roof of the building) in good condition, damage by fire and other casualty only excepted, and to maintain, repair and replace, as necessary, the HVAC, electrical, plumbing and other systems within the Demised Premises, and whenever necessary, to replace plate glass and other glass therein. Lessee shall be responsible for snow removal with respect to the walkways within or adjoining the Demised Premises. With respect to the HVAC system, Lessee shall provide and pay for at least bi-annual cleaning and maintenance in accordance with a maintenance contract, a copy of which shall be provided to Lessor within thirty (30) days after the Commencement Date. Lessee shall not permit the Demised Premises to be overloaded, damaged, stripped or defaced, nor suffer any waste. Lessee shall be responsible for the disposal of its refuse.

12. IDENTIFICATION SIGNS

Lessee is responsible for the cost, construction, erection and maintenance of business identification signs, and any other signs for the Demised Premises. All signs shall be approved in writing by Lessor, which approval shall not be unreasonably withheld or delayed, and shall be subject to Lessee's obtaining all required permits from applicable authorities of the Town of Middleboro.

13. ALTERATIONS; ADDITIONS

Lessee may make structural and non-structural alterations or additions to the Demised Premises, provided that Lessor consents thereto in writing, which consent shall not be unreasonably withheld or delayed. All such allowed alterations shall be at Lessee's expense and shall be in quality at least equal to the present construction. Lessee shall not permit any mechanics' or similar liens to remain upon the Demised Premises for labor and material furnished to Lessee or claimed to have been furnished to Lessee in connection with work of any character performed or claimed to have been performed at the direction of Lessee, and shall cause any such lien to be released of record forthwith without cost to Lessor. Any alterations or improvements made by Lessee shall become the property of Lessor at the termination of occupancy as provided herein, PROVIDED, HOWEVER, that Lessee shall be entitled to remove Lessee's equipment, furniture and trade fixtures, so long as any and all repairs to the Demised Premises necessitated or caused by such removal are made by Lessee at the time of such removal.

14. ASSIGNMENT; SUBLETTING

Lessee shall not assign or sublet the whole or any part of the Demised Premises without Lessor's prior written consent, which consent shall not be unreasonably withheld or delayed. Notwithstanding such consent, Lessee shall remain liable to Lessor for the payment of all rent and for the full performance of the covenants and conditions of this Lease.

15. SUBORDINATION

This Lease shall be subject and subordinate to any and all mortgages, deeds of trust and other instruments in the nature of a mortgage, now or at any time hereafter a lien or liens on the property of which the Demised Premises are a part, and Lessee shall, when requested, promptly execute and deliver such written instruments as shall be necessary to show the subordination of this Lease to said mortgages, deeds of trust or other such instruments in the nature of a mortgage.

16. LESSOR'S ACCESS

Lessor or agents of the Lessor may, at reasonable times, enter to view the Demised Premises and may remove placards and signs not approved or affixed as herein provided, and at any time within six (6) months before the expiration of the term, may affix to any suitable part of the Demised Premises a notice for letting or selling the Demised Premises or property of which the Demised Premises are a part and keep the same so affixed without hindrance or molestation.

17. LIABILITY AND INDEMNIFICATION

Lessee shall save Lessor harmless and indemnified from all loss and damage, including but not limited to reasonable attorneys' fees, occasioned by the use or escape of water or by the bursting of pipes, as well as from any claim or damage resulting from neglect in not removing snow and ice from the sidewalks, or by any nuisance or negligence of Lessee, its agents, servants or employees, made or suffered on the Demised Premises, unless such loss is caused by the neglect of Lessor. Lessee shall not do or permit any act or thing upon the Demised Premises that may subject the Lessor to any liability by reason of any conduct upon the Demised Premises, or by reason of any violation of any requirements of this Lease, but shall exercise such control over the Demised Premises so as to protect the Lessor fully. After the Commencement Date, notwithstanding that joint or concurrent liability may be imposed upon

Lessor by statute, ordinance, rule, regulation, order or court decision, Lessee shall, notwithstanding any insurance furnished by Lessee to Lessor pursuant hereto or otherwise, indemnify and hold harmless Lessor from and against any and all liability, fines, suits, claims, demands and actions, and costs and reasonable expenses of any kind or nature or by anyone whomsoever, due to or arising out of (a) any default in the observation, violation or nonperformance of any covenant, condition or agreement in this Lease set forth on the part of Lessee to be fulfilled, kept, observed and performed, and/or (b) any damage to person or property occasioned by Lessee's use and occupancy of the Demised Premises, or by any use or occupancy which Lessee may permit or suffer to be made of the Demised Premises, and/or (c) any injury to person or persons, including death, resulting at any time therefrom, occurring in or about the Demised Premises. If Lessee is required to defend any action or proceeding pursuant to this Paragraph, to which action or proceeding Lessor is made a party, Lessor shall be entitled, at Lessee's sole expense, to appear, defend or otherwise take part in the matter involved, at Lessor's election, by counsel of Lessor's own choosing, provided such action by Lessor does not limit or make void any liability of any insurer of Lessor or Lessee hereunder in respect to the claim or matter in question, and provided the aforesaid is not prohibited by law.

18. LESSEE'S LIABILITY INSURANCE

Lessee shall secure and maintain with respect to the Demised Premises and the property of which the Demised Premises are a part, at its sole expense, comprehensive public liability insurance in the minimum amount of One Million and 00/100 (\$1,000,000.00) Dollars, combined single-limit, in responsible companies qualified to do business in Massachusetts and in good standing therein insuring Lessor as well as Lessee against injury to persons or damage to property. In addition, Lessee shall, at its expense, for the mutual benefit of Lessor and Lessee, secure and maintain so-called "dram shop" liability insurance against claims for personal injury, death or property damage resulting from the serving of alcoholic beverages from the Demised Premises in the minimum amount of Two Million and 00/100 (\$2,000,000.00), combined single-limit, naming Lessor as an additional insured. Lessor shall be entitled to require increase of such minimum amounts of insurance during the term of this Lease, consistent with such coverages as may generally be required for similar commercial uses and/or commercial leases generally in this area. Lessee shall deposit with Lessor certificates for such insurance at or prior to the Commencement Date, and thereafter within thirty (30) days prior to the expiration of any such policies. All such insurance certificates shall provide that such policies shall not be cancelled without at least ten (10) days prior written notice to each insured named therein. Lessee agrees that it will keep its fixtures, merchandise and equipment insured against loss or damage by fire with the usual extended coverage endorsements. It is understood and agreed that Lessee assumes all risk of damage to its own property arising from any cause whatsoever, including, without limitation, loss by theft or otherwise.

19. FIRE; CASUALTY; EMINENT DOMAIN

Should a substantial portion of the Demised Premises or of the property of which they are a part, be substantially damaged by fire or other casualty, or be taken by eminent domain, Lessor may elect to terminate this Lease. When such fire, casualty or taking renders the Demised Premises substantially unsuitable for their intended use, a just and proportionate abatement of rent shall be made, and Lessee may elect to terminate this Lease if:

- (a) Lessor fails to give written notice within thirty (30) days of its intention to restore the Demised Premises, or

- (b) Lessor fails to restore the Demised Premises to a condition substantially suitable for their intended use within one hundred eighty (180) days of said fire, casualty or taking.

Lessor reserves, and Lessee grants to the Lessor, all rights which the Lessee may have for damages or injury to the Demised Premises for any taking by eminent domain, except for damage to Lessee's fixtures, property or equipment.

20. DEFAULT AND BANKRUPTCY

In the event that:

- (a) Lessee shall default in the payment of any installment of rent or other sum herein specified and such default shall continue for ten (10) days after written notice thereof; or
- (b) Lessee shall default in the observance or performance of any other of Lessee's covenants, agreements or obligations hereunder and such default shall not be corrected within thirty (30) days after written notice thereof; or
- (c) Lessee shall be declared bankrupt or insolvent according to law, or if any assignment shall be made of Lessee's property for the benefit of creditors,

then Lessor shall have the right thereafter, while such default continues, to re-enter and take complete possession of the Demised Premises, to declare the term of this Lease ended, and remove Lessee's effects, without prejudice to any remedies which might be otherwise used for arrears of rent or other default. Lessee shall indemnify Lessor against all loss of rent and other payments which Lessor may incur by reason of such termination during the residue of the term. If Lessee shall default, after reasonable notice thereof, in the observance or performance of any conditions or covenants on Lessee's part to be observed or performed under or by virtue of any of the provisions in any Paragraph of this Lease, Lessor, without being under any obligation to do so and without thereby waiving such default, may remedy such default for the account and at the expense of Lessee. If Lessor makes any expenditures or incurs any obligations for the payment of money in connection therewith, including, but not limited to reasonable attorneys' fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred, with interest at the rate of fifteen (15%) percent per annum and costs, shall be paid to Lessor by Lessee as additional rent.

21. NOTICES

Any notices required or permitted to be given hereunder shall be in writing and delivered (a) by hand, (b) by recognized overnight courier service, or (c) by registered or certified mail, postage prepaid, return receipt requested, addressed to the parties as follows:

If to Lessor:

BARMOR REALTY LLC
Dennis Barbato, Manager
Peter Morrissey, Manager
3 North Green Street
Plymouth, MA 02360

If to Lessee:

58 EAST GROVE, INC.
Attn: Dennis Barbato, Treasurer
3 North Green Street
Plymouth, MA 02360

Any such notice so mailed shall be deemed properly served or delivered for all purposes hereunder: (a) on the date of delivery, if by hand; (b) on the following business day, if sent by overnight courier service; or (c) three (3) business days after such notice is deposited in any post office regularly maintained by the United States Postal Authority, if sent pursuant to subparagraph (c) above.

The notice addresses or other information set forth above may be amended by either party pursuant to any of the notice provisions set forth above.

22. SURRENDER

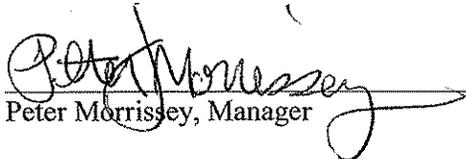
Lessee shall at the expiration or other termination of this Lease remove all Lessee's goods and effects from the Demised Premises (including, without hereby limiting the generality of the foregoing, all signs and lettering affixed or painted by Lessee, either inside or outside the Demised Premises). Lessee shall deliver to Lessor the Demised Premises and all keys, locks thereto and other fixtures connected therewith and all alterations and additions made to or upon the Demised Premises, in good condition, damage by fire or other casualty only excepted. In the event of Lessee's failure to remove any of Lessee's property from the Demised Premises, Lessor is hereby authorized, without liability to Lessee for loss or damage thereto, and at the sole risk of Lessee, to remove and store any of the property at Lessee's expense, or to retain same under Lessor's control or to sell at public or private sale, without notice any or all of the property not so removed and to apply the net proceeds of such sale to the payment of any sum due hereunder, or to destroy such property.

[END OF PAGE – SIGNATURES ON NEXT PAGE]

EXECUTED as a sealed instrument this _____ day of _____, 2012.

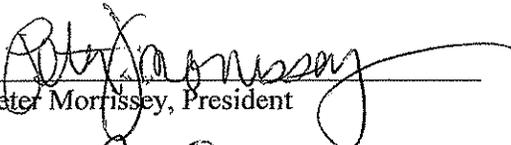
BARMOR REALTY LLC

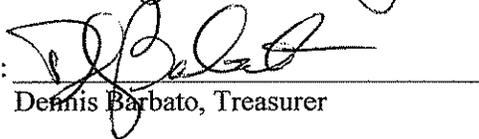
By: _____
Dennis Barbato, Manager

By: 
Peter Morrissey, Manager

(Lessor)

58 EAST GROVE, INC.

By: 
Peter Morrissey, President

By: 
Dennis Barbato, Treasurer

(Lessee)

lv.barbato.58eastgrove.lease:9350