

HEARINGS, MEETINGS, LICENSES
6-18-12

Jacqueline Shanley

From: Jeanne Spalding
Sent: Thursday, June 14, 2012 2:14 PM
To: Jacqueline Shanley; Charles Cristello

tobacco regs



**TOWN OF MIDDLEBOROUGH
HEALTH DEPARTMENT**

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

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

MEMO

TO: Board of Selectmen

FROM: Jeanne Spalding, Health Officer

DATE: June 14, 2012

RE: Pharmacy notification of proposed regulation

Middleborough has three (3) retail establishments in town that have a pharmacy component. These include Hannafords, Rite Aid and CVS. All three businesses were supplied with a copy of the proposed regulation with the section relative to prohibition of sales of tobacco products in health care facilities highlighted. All were advised that the Board would be having a meeting on this issue this coming Monday evening. Two of the managers were well aware of this issue, but the manager of the 3rd retail operation was not available. I left my contact information if they have any additional questions prior to the hearing.

**Town of Middleborough
Middleborough Board of Health**

**Tobacco and Nicotine Delivery Product Sales Permit
Regulation Restricting the Sale of Tobacco Products
And Nicotine Delivery Products**

A. Statement of Purpose:

The Board of Health of the Town of Middleborough, Massachusetts, acting under the authority of Chapter 111, Section 31 of the Massachusetts General Laws and such other authority as it possess has enacted the following Regulations Affecting the Sale, Location, Vending and Distribution of Tobacco Products and Nicotine Delivery Products in the Town of Middleborough in the interest and preservation of public health effective [May 1, 2012], pursuant to a vote of the Board of Health.

B. Authority:

This regulation is promulgated pursuant to the authority granted to the Middleborough Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations".

C. Definitions:

For the purpose of this regulation, the following words shall have the following meanings:

Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece, not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

E-Cigarette: Any electronic Nicotine Delivery Product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine or any liquid. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

Educational Institution: Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

Employee: Any individual who performs services for an employer.

Employer: Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

Health Care Institution: An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under M.G.L. c. 112 or a retail establishment that provides pharmaceutical goods and services and subject to the provisions of 247 CMR 6.00. Health care institution includes, but is not limited to, hospitals, clinics, health centers, pharmacies, drug stores, doctor offices and dentist offices.

Minor: Any individual who is under the age of eighteen (18).

Nicotine Delivery Product: Any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a tobacco substitute prescribed by a licensed physician or a product that has been approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine Delivery Product includes, but is not limited to, e-cigarettes.

Permit Holder: Any person engaged in the sale or distribution of tobacco or nicotine delivery products directly to consumers who applies for and receives a tobacco and nicotine delivery product sales permit or any person who is required to apply for a tobacco and nicotine delivery product sales permit pursuant to these regulations, or his or her business agent.

Self-Service Display: Any display or RYO machine from which customers may select or make a tobacco product or a Nicotine Delivery Product without assistance from an employee or store personnel.

Tobacco Product: Cigarettes, cigars, chewing tobacco, pipe tobacco, bidis, kreteks, snuff, blunt wraps, loose tobacco or tobacco in any of its forms.

Bidis: A thin, often flavored Indian cigarette made of tobacco wrapped in a leaf.

Kreteks: A cigarette product composed of tobacco, ground cloves and other additives.

Snuff: A preparation of finely pulverized tobacco that can be drawn up into the nostrils by inhaling, also called smokeless tobacco.

Blunt Wraps: Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes cigarettes, any other tobacco product or Nicotine Delivery Product.

Roll-Your-Own (RYO) machine: A mechanical device, by whatever manufacturer made and by whatever name known, that is designed to roll and wrap tobacco into products.

D. Tobacco and Nicotine Delivery Product Sales to Minors Prohibited:

1. No person shall sell tobacco or nicotine delivery products or permit tobacco or nicotine delivery products to be sold to a minor; or not being the minor's parent or legal guardian, give tobacco or nicotine delivery products to a minor.

2. Required Signage

- a. In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post any additional signs required by the Massachusetts Department of Public Health.
- b. The owner or other person in charge of a shop or other place used to sell nicotine delivery products at retail shall conspicuously post a sign stating that "The sale of nicotine delivery products to minors under 18 years of age is prohibited." The notices shall be no smaller than 8.5" by 11" and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person standing at or approaching the cash register. These notices shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.

3. Identification: Each person selling or distributing tobacco or nicotine delivery products shall verify the age of the purchaser by means of valid government-issued photographic identification containing the bearer's date of birth and that the purchaser is 18 years old or older. Verification is required for any person under the age of 27. All tobacco retailers in the town of Middleboro are required to verify purchaser's age with an electronic age verification device on every tobacco purchase.

4. All retail sales of tobacco or nicotine delivery products must be face-to-face between the seller and the buyer.
(Exemption for approved vending machine.)

E. Tobacco and Nicotine Delivery Product Sales Permit:

1. No person shall sell or otherwise distribute tobacco or nicotine delivery products at retail within Middleborough without first obtaining a Tobacco and Nicotine Delivery Product Sales Permit issued annually by the Middleborough Board of Health. Only owners of establishments with a permanent, non-mobile location in Middleborough are eligible to apply for a permit and sell tobacco products or nicotine delivery products at the specified location in Middleborough.

2. As part of the Tobacco and Nicotine Delivery Product Sales Permit application process, the applicant will be provided with the Middleborough Board of Health regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco and nicotine delivery product sales about state and local laws regarding the sale of tobacco and nicotine products as indicated in this regulation.

3. Each applicant who sells tobacco is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a Tobacco and Nicotine Delivery Product Sales Permit can be issued.

4. The fee for a Tobacco and Nicotine Delivery Product Sales Permit shall be determined by the Middleborough Board of Health annually. All such permits shall be renewed annually by January 1. Renewal applications are to be submitted to the Health Department by November 30th prior to expiration of existing permits.

5. A separate permit is required for each retail establishment location selling tobacco or nicotine delivery products.

6. Each Tobacco and Nicotine Delivery Product Sales Permit shall be displayed at the retail establishment in a conspicuous location.

7. No Tobacco and Nicotine Delivery Product Sales Permit holder shall allow any employee to sell tobacco products or nicotine delivery products until such employee reads this regulation and state laws regarding the sale of tobacco and signs a statement that is written in the primary language of the employee that he/she has read and understands the regulation and applicable state and local laws, a copy of which will be placed on file in the office of the employer.

8. A Tobacco and Nicotine Delivery Product Sales Permit is non-transferable. A new owner/operator of an establishment that sells tobacco or nicotine delivery products must apply for a new permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.

9. Issuance of a Tobacco and Nicotine Delivery Product Sales Permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation and with the understanding that compliance checks may be conducted on a periodic basis.

10. A Tobacco and Nicotine Delivery Product Sales Permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired.

F. Free Distribution:

No commercial entity shall distribute or furnish or cause to be furnished or distributed without charge, any nicotine delivery products, cigarettes, cigars or other tobacco products in any public place or any event open to the public. A public place means public streets, sidewalks, buildings, parks, playgrounds and other public property or places of public assembly.

G. Out-of-Package Sales:

1. No person may sell or cause to be sold or distribute or cause to be distributed, any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.

2. Roll-Your-Own machines are prohibited.

H. Self-Service Displays:

All self-service displays of tobacco products and/or nicotine delivery products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked, unless location does not allow under-18 without parent or legal guardian.

I. Vending Machines:

All tobacco and/or nicotine delivery product vending machines are prohibited unless approved by the Health Department in a location that is only accessible by adults over 18 years of age.

J. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Health Care Institutions:

No health care institution located in Middleborough shall sell or cause to be sold tobacco or nicotine delivery products. No retail establishment that operates or has a health care institution within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco products.

K. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Educational Institutions:

No educational institution located in Middleborough shall sell or cause to be sold tobacco or nicotine delivery products. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

L. Violations:

1. It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections of this regulation pertaining to his or her distribution of tobacco and/or nicotine delivery products. For Section D (1) (Tobacco and Nicotine Delivery Product Sales to Minors Prohibited), each violation will be viewed as a separate violation, the violator shall receive:

- a. In the case of a first violation, a fine of one hundred dollars (\$100.00) and may include up to 7 day suspension consecutive business days.
- b. In the case of a second violation within thirty-six (36) months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the Tobacco and Nicotine Delivery Product Sales Permit may be suspended for up to 15 consecutive business days.
- c. In the case of three or more violations within a thirty-six (36) month period, a fine of three hundred dollars (\$300.00) and the Tobacco and Nicotine Delivery Product Sales Permit may be suspended for up to thirty (30) consecutive business days or the Board of Health may revoke the Tobacco and Nicotine Delivery Product Sales Permit.

2. For Sections D.(2) Required Signage, D.(3) Identification, D.(4) Face-to-Face Sales, E. Tobacco And Nicotine Delivery Product Sales Permit , F. Cigar Sales Regulated, G. Free Distribution, H. Out of Package Sales, I. Self-Service Displays, J. Vending Machines, K. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Health Care Institutions, and/or L. Prohibition of the Sale of Tobacco and Nicotine Delivery Products by Educational Institutions, the violator shall receive a fine of one hundred dollars (\$100.00) for each offense and for each day the offense occurs.

3. Refusal to cooperate with inspections pursuant to this regulation may result in the suspension of the Tobacco and Nicotine Delivery Product Sales Permit for up to thirty (30) consecutive business days or revocation of the Tobacco and Nicotine Delivery Product Sales Permit after a hearing before the Board of Health.

4. Any permit holder who engages in the sale or distribution of tobacco or nicotine delivery products directly to a consumer without a valid permit or while his or her permit is suspended may be subject to the suspension of all board of health issued permits for up to thirty (30) consecutive business days and/or fined up to two hundred dollars (\$200.00) accordingly after a Board of Health hearing. Subsequent violations may result in suspension or permanent revocation of the Tobacco and Nicotine Delivery Product Sales Permit, fines and/or legal action.

5. The Middleborough Board of Health shall provide notice of the intent to suspend a Tobacco and Nicotine Delivery Product Sales Permit, which notice shall contain the reasons therefore and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefore in writing. **After a hearing, the Middleborough Board of Health may suspend the Tobacco and Nicotine Delivery Product Sales permit, levy fines, or set conditions on the business operation if the Board finds that a sale to a minor occurred.** For purposes of such suspensions, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco products and nicotine delivery products shall be removed from the retail establishment location upon suspension of the Tobacco and Nicotine Delivery Product Sales Permit. Failure to remove all tobacco and nicotine delivery products shall constitute a separate violation of this regulation.

Each day any violation exists shall be deemed to be a separate offense.

M. Enforcement:

Enforcement of this regulation shall be by the Middleborough Board of Health or its designated agent(s).

Any citizen who desires to register a complaint pursuant to the regulation may do so by contacting the Middleborough Board of Health or its designated agent(s) in the Health Department.

N. Severability:

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

O. Effective Date:

This regulation shall take effect on May 1, 2012.



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, May 7, 2012 at 7:30 PM, for the purpose of discussing an application filed by Outback Engineering, Inc. on behalf of Fuller Street Development LLC for a Special Permit under the Water Resource Protection District By-law, to allow for the construction of a used car dealership consisting of an office/sales building and a paved vehicle display area allowing 15.6% of the total lot area to be impervious in the Water Resource Protection District Z3 at 352 Wareham Street. This project is located as Map 72 Lot 4657. 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: April 19, 2012 and April 26, 2012

Payment is forthcoming. Advertiser #300074

Outback
Engineering
Incorporated

165 East Grove Street
Middleborough, MA 02346

Tel # 508-946-9231

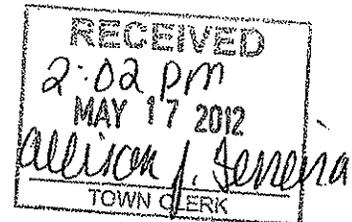
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May 16, 2012

Board of Selectmen
Town of Middleboro
10 Nickerson Avenue
Middleborough, MA 02346



Re: 354 Wareham Street Site Plan Revisions

Dear Board Members,

On behalf of Fuller Street Development LLC, we have updated the Site Plan for 354 Wareham Street in response to a review letter from Atlantic Design Engineers dated April 26, 2012. The following revisions have been made:

1. There are no wetlands on the property. The offsite wetlands have been added to the plans along with the 100' buffer line which extends into the property. No work is proposed within the buffer zone.
2. This area is not to be used for vehicle storage or for any other purpose. It is currently a disturbed area that was previously excavated with numerous piles of dirt and stones. The applicant intends to remove this debris to clean up the site and the area will be loamed and seeded when finished. A note has been added to the plan.
3. The typical cross section no longer applies to this project and has been removed.
4. Three additional test pits were performed in the area of the rear basin and 1 at the front basin. Test pits were witnessed by the Board of Health and the soil logs have been added to the plans.
5. The location of the nearest public wells and the boundaries of the Water Resource Protection District have been added to the Locus Plan on Sheet 1.
6. There will be no repair garage or repair area. With no oil or fluid changes, no storage of hazardous waste is contemplated or necessary. Any oil, transmission fluid, antifreeze and cleaning items will be stored in their original containers. Car washing will be done by others, at local car washes, if any car washing will be done on premises only bio degradable material will be used. Repair work will be subbed out to Middleboro garages, and local

businesses. A copy of this letter will be posted on the site and be given to all employees.

7. The grading for the parking lot has been revised and adequate cover over the pipes has been provided.
8. The small subsurface infiltration structures used at the front of the site are utilized to capture a portion of the runoff from the entrance drive only. It is a minimal amount of runoff and could not be piped to the rear basin due to elevation constraints. An open basin was not designed along Wareham Street at the front of the property for safety reasons of vehicles traveling along Wareham Street, and also for aesthetics. This area will be better utilized as a landscaped area to enhance the Site and Route 28.
9. A water quality tank has been added to the treatment of runoff entering the rear basin and deep sump hooded catch basins will treat runoff from the entrance. Calculations have been added to the revised drainage report to adequately size these structures.
10. TSS removal of 44% has been provided prior to the rear infiltration basin and calculations have been added in the drainage report. Deep sump, hooded catch basins have been provided for the treatment process of the small basins at the front of the site which captures only a small portion of runoff from the entrance drive. Runoff from the entrance drive is not a source of higher pollutant load, does not have a rapid infiltration rate, and does not discharge to a critical area and does not require the 44% TSS removal.
11. A water quality tank has been added to the treatment train of runoff entering the rear basin which collects all runoff from the parking lot. Deep sump hooded catch basins are proposed at the front of the site. Calculations have been added to the revised drainage report to adequately size the structures.
12. The snow stockpile areas have been relocated so that no snow melt goes directly into the infiltration basin.

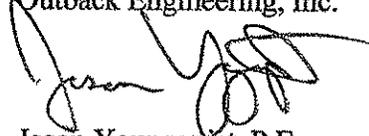
In addition to the comments from Atlantic Design the following revisions have been made in response to a Memorandum from the Middleborough Planning Department:

1. All vehicles that were previously stored on the property have been removed until all approvals have been obtained and construction completed.
2. Drainage calculations have been provided to the Board of Selectmen and can be forwarded to the Planning office as well.
3. Additional test pits have been performed in the location of the proposed infiltration structures. All test pits were witnessed by the Middleborough Board of Health and the soil logs have been added to the plans. Soils were found to be suitable for an infiltration basin and there is a note at the basin detail that any unsuitable material shall be removed and replaced.
4. All ten Stormwater Management Standards as set forth in the Department of Environmental Protection's Stormwater Management Regulations have been met.

5. The location of the nearest public wells and the boundaries of the Water Resource Protection District have been added to the Locus Plan on Sheet 1.
6. A Landscaping Plan has been added to the plans set.

Copies of the revised plans and calculations have been attached. If you have any further questions or comments please feel free to contact me at (508) 946-9231 ext. 207.

Sincerely,
Outback Engineering, Inc.

A handwritten signature in black ink, appearing to read "Jason Youngquist", written over a horizontal line.

Jason Youngquist, P.E.

Cc: Elliot Schneider

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 March 29, 2012

To the Board of Selectmen
Middleborough, Massachusetts

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

A. (Give location of property in question.)

To allow the construction of a used car dealership consisting of a office/sales building and a paved vehicle display area (15.6% impervious) in the WRPD Zone 3 at 352 Wareham Street, Assessors Map 72 Lot 4657.
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: Elliot Schneider

Printed Name: Elliot Schneider

Address: 10 Owl Drive

Sharon, MA

Telephone Number: 508 889 1218

RECEIVED
@ 10:45am
MAR 29 2012
Alison J. Ferrelia
TOWN CLERK

**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>✓</u>	___
2.	The plan has street location(s), number, buildings and driveway and shows the acreage of the lot in square feet.	<u>✓</u>	___
3.	The plan shows existing waterways adjacent, on or near the property.	<u>✓</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>✓</u>	___
5.	The plan contains topography, wetland delineations, local storm water discharge points, on site drainage systems and septic systems.	<u>✓</u>	___
6.	The plan provides details for work done or proposed for any component outlined in No. 5 (above).	<u>✓</u>	___
7.	The submittal contains the abutters list.	<u>✓</u>	___
8.	The submittal contains calculations for any proposed on site stormwater retainage, storage tanks and spill containment, on site drainage and recharge.	<u>✓</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>✓</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>✓</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>✓</u>	_____
12.	The submittal contains a statement that outside stored material will have no impact to the groundwater.	<u>✓</u>	_____



DESIGN ENGINEERS, INC.

ENGINEERS & ENVIRONMENTAL SCIENTISTS



April 26, 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*
WRPD Application
Used Car Dealership – 352 Wareham Street
ADE Project #2518.18

Dear Board Members:

Atlantic Design Engineers, Inc. has completed our initial review of the site plans and calculations for the above referenced project relative to a Special Permit request under the Water Resource Protection District (WRPD) bylaw. The Site Plans and Drainage Report are dated March 27, 2012 and both are prepared by Outback Engineering, Inc. for Fuller Street Development, LLC of Sharon, MA.

We have the following comments:

1. The locus map shows wetlands to the rear of the property. Have these wetlands been investigated or flagged to determine that none of the proposed work, such as the drainage outflow culvert, is within the 100 foot Conservation Commission jurisdiction or within the 25 foot WRPD no-work zone?
2. What is the purpose of the large flat area north of the gravel drive? If this is to be used for parking or vehicle storage, the WRPD bylaw requires it to be paved/impervious.
3. The Typical Section on Sheet 3 indicates it is for a Gravel Parking Area which is not allowed in the WRPD.
4. Soil evaluated test pits are required in the area of the infiltration basin to confirm the minimum of four (4) foot separation to high groundwater.
5. The location of the nearest public wells need to be provided on the plan or in the application package or drainage report.
6. The O&M Schedule on the plans and the Long Term Pollution Prevention Plan provided in the drainage report does not address the Source Control/Pollution Prevention requirements relative to hazardous materials storage and use, such as gasoline, oil, car cleaning products, solvents, fertilizers, etc., that would likely be present on a used automobile dealership.

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



Board of Selectmen
c/o Mr. Charles J. Christello, Town Manager
Initial Engineering Review - WRPD Application
Used Car Dealership - 352 Wareham Street
April 26, 2012 - Page 2

7. The three drainage pipes from CB's 1, 2, & 3 have no cover and the top of pipes are equal to the catch basins rims.
8. Per the WRPD bylaw, dry wells/leaching structures shall only be used where other methods are infeasible. Why are open vegetated basins infeasible at the entrance of Wareham Street?
9. The WRPD bylaw requires oil, grease and sediment traps prior to any infiltration structures. The water quality calculations used to size these devices cannot utilize any volume in the infiltration structures.
10. TSS removal of 44% is required prior to the infiltration structures.
11. A properly sized BMP to remove oil and grease such as an oil grit separator is required in the treatment train for fleet storage areas.
12. The snow stockpile area south of the gravel driveway should be relocated so that snow melt does not go directly into the infiltration basin.

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

Sincerely,

ATLANTIC DESIGN ENGINEERS, INC.

A handwritten signature in black ink, appearing to read 'Richard J. Tabaczynski', written in a cursive style.

Richard J. Tabaczynski, P.E.
Vice President

RJT/sal



Town of Middleborough
Massachusetts

PLANNING DIRECTOR
Ruth McCawley Geoffroy

Planning Board

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

MEMORANDUM

To: Board of Selectmen
Cc: Conservation Commission
Health Officer
Building Commissioner
From: Ruth McCawley Geoffroy, Planning Director
Date: April 25, 2012
Re: **WRPD Application 352 Wareham Street Assessors Map 72 Lot 4657**

This memo is in response to your request dated 4/10/12, to review and comment upon the above referenced WRPD Application for the construction of a Used Car Lot on Wareham Street.

1. It appears that this used car lot has been operating for the past 2 years in violation of the WRPD Bylaw, in that the vehicles are parked on a gravel rather than impervious parking lot. It is good to see that this plan corrects this problem.
2. Drainage calculations were not submitted for departmental review. Have calculations been received in compliance with Section I.4.b and will they be reviewed by the Town's review engineer to insure compliance with the WRPD Bylaw?
3. The detention basin and infiltration pits that are proposed on the property drain into the ground. Have soil tests been performed in the locations of these drainage structures that were witnessed by a Town representative, to confirm depth to ground water and infiltration rate of the soils? Has this soil data been submitted in compliance with Section I.4.d, the soil logs shown on the plan are for the location of the proposed septic system? A note specifying removal and replacement of fill should be added to the plan, specifically in the area of the infiltration pits at the entrance, since the soil logs provided show fill in the top 3.5' of soil.
4. Has a Stormwater Management Plan in compliance with Section I.4.f been submitted? The forebays should be constructed with impervious material to comply with MADEP Stormwater Standards.
5. The plan should indicate the location of the closest public water supply well and its distance from the locus property in accordance with Section I.4.c of the Bylaw.
6. Landscaping in the 25' front yard setback area and the cleared areas of the 15' side yard setback areas should be shown in compliance with Section XIII.C.4 of the Zoning by-law.



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

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

April 23, 2012

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

Subject: Application for W.R.P.D. Special Permit for 354 Wareham Street, Assessors' Map: 072
Lot: 4657 Zoned GU/W.R.P.D. Z3.

Honorable Board,

I have reviewed the application filed by Outback Engineering Incorporated, drawn by Jason A. Youngquist, Registered Professional Engineer, dated: March 27, 2012 for a special permit under the Water Resource Protection District By-Law to allow 15.6% of the total lot area to be impervious in the Water Resource Protection District Z3 (WRPD Z3). The project site is located on the southerly side of Wareham Street on the corner of Ashley Lane in the General Use Zoning District. The property in question is legally 354 Wareham Street as per E-911 coordinator of the Middleborough Police Department, not 352 Wareham Street as presented to. This project has a 20' x 24' commercial office building with one bathroom beginning to be built and has proposed associated parking area on the property. This project has not had any inspections in over eleven (11) months and would need to reapply to this Building Department to continue this project as issued.

The property has also been in violation for over two years of the Water Resource Protection District By-Law, Section XII, G. 3. j. * The owner has been storing unregistered cars on the gravel parking lot.

I would not support this request until all issues with this department have been resolved.

Respectfully submitted,

Robert J. Whalen
Building Commissioner
Zoning Enforcement Officer
RJW/d

Section 5

33CFR 328.3 and 40 CFR 230.3, the regulations promulgated under Section 404 of the Federal Clean Water Act, as of the effective date of this By-law except that necessary for:

- i. limited projects as defined by 310 CMR 10.53 (3);
- ii. creation of wetland replacement or flood storage mitigation;
- iii. installation of drainage outfalls or outlet swales where no alternative is feasible due to elevation or hydraulic connection but not including primary drainage structures such as detention/retention basins, berms, water quality swales, etc.;
- iv. maintenance and construction of trails, creation of public parks or resource improvement projects such as the cleaning of streams may be permitted upon issuance of a Special Permit by the SPGA which shall consider the report and recommendations of the Board of Health, Planning Board and Conservation Commission. Such Special Permit may be conditional upon safeguards and requirements to protect water resources, health, safety and welfare, and shall be in compliance with the provisions of Section I. below. The SPGA shall determine to its satisfaction that any land disturbing activity or activities shall be in compliance with this provision and to that end may reasonably require any of the following:
 - v. determination of Applicability by the Conservation Commission;
 - vi. a plan certified by a Registered Land Surveyor which shows the location of all wetlands as set forth above and the area which is within twenty-five (25) feet of the wetland.
- j. Any use that will render more than 40 % of any lot impervious. Special Permits may be issued for alterations resulting in less than 40% impervious area provided that pre-development runoff rates from a lot shall not exceed post-development runoff rates for storms up to and including the 100-year storm. Except for single or two (2) family residential uses, all parking areas shall be impervious and be equipped with oil, grease, and sediment traps to facilitate removal of contamination and these devices shall precede any infiltration structure or drainage outfalls. Stormwater from parking areas, if recharged, shall be via infiltration basins or similar systems covered with natural vegetation and dry wells/leaching structures shall be used only where other methods are infeasible. The owner shall permanently maintain any and all recharge areas in full working order. Not less than 50% of any lot area shall be maintained as a Natural Vegetation Area. This provision does not apply to lots within the Downtown Business District.

H. WRPD Z4 USE REGULATIONS

1. WRPD Z4 – Permitted Uses: Except as specified in H.2 and H.3 below, those principal and accessory uses authorized in the underlying district are permitted in WRPD Z4.

5/14/01 Town Meeting

Jacqueline Shanley

From: Amy Hughes <agsdevelopment@gmail.com>
Sent: Wednesday, April 25, 2012 11:10 AM
To: Jacqueline Shanley, BuildingWeb; Jason Youngquist; Adam Bond; Jeanne Spalding
Subject: 354 Wareham Street
Attachments: Building dept letter 42512.pdf

Attached is a letter in response to the Building Departments Concerns for 354 Wareham Street

FULLER STREET DEVELOPMENT, LLC
10 OWL DRIVE, SHARON, MA 02067
781-784-6248 FAX 781-784-8736

April 25, 2012

Town of Middleboro
Building Department
20 Centre Street
Middleboro, MA 02346

RE:

Dear Mr. Whalen,

In response to your concerns of our application at 354 Wareham Street, Middleboro, MA. We were unaware that it was improper to keep unregistered motor vehicles at this location, and it was a violation of town bylaws. We will no longer store cars at this location until licensed to do so. All unregistered vehicles will be removed as of this date as this is the first time we have been given notice of this violation.

The reason the building department has not done any inspections on this site for 11 months is we have decided to redesign the site, and no further work under the permit was done. I've asked Marty, our foreman to arrange a meeting with you so that you can inspect the site as to its present condition. We further realize that before any more work is contemplated, a new or reissued permit is necessary.

Sincerely,

Elliot Schneider

CC:

Jacqueline Shanley, Board of Selectmen
Jason Youngquist, Outback Engineering
Adam Bond, Law offices of Adam Bond
Jeanne Spalding, Health Department

MEMORANDUM

TO: Board of Selectmen

CC: Ruth Geoffroy, Town Planner
Jeanne Spalding, Health Officer
Robert Whalen, Building Commissioner

FROM: Patricia Cassady, Conservation Agent

DATE: April 18, 2012

RE: W.R.P.D. Application: 352 Wareham Street (Map 72, Lot 4657)

The above-mentioned site within the W.R.P.D Zone 3 is *not* within a wetland resource area or buffer zone under the Massachusetts Wetland Protection Act (M.G.L. Ch. 131, Section 40 and regulations 310 CMR 10.00). Therefore this site is not under local Conservation Commission jurisdiction.

The applicant should also keep in mind that the Clean Water Act under the Federal Environmental Protection Agency regulates construction impacting an acre or more and they *may* need to file under the Phase I National Pollutant Discharge Elimination System (NPDES) permit.

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

pjc

Jacqueline Shanley

From: Amy Hughes <agsdevelopment@gmail.com>
Sent: Wednesday, April 25, 2012 10:46 AM
To: Jacqueline Shanley; BuildingWeb; Jeanne Spalding; Jason Youngquist; Adam Bond
Subject: 354 Wareham Street
Attachments: BOH Letter 42512.pdf

Attached is a letter in response to the Health departments questions.

FULLER STREET DEVELOPMENT, LLC
10 OWL DRIVE, SHARON, MA 02067
781-784-6248 FAX 781-784-8736

April 25, 2012

Town of Middleboro
Health Department
20 Centre Street
Middleboro, MA 02346

RE: Operation and maintenance plan proposed for car lot, 354 Wareham Street, Middleboro, MA

Dear Jean,

The proposed car lot will have an office and paved parking lot. There will be no repair garage or repair area, therefore with no oil or fluid changes. No storage of hazardous waste is contemplated or necessary. Any oil, transmission fluid, antifreeze and cleaning items will be stored in their original containers, e.g. Quart containers. Gasoline if necessary will be stored in 2 gallon approved containers.

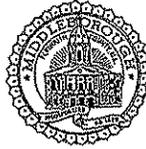
Car washing mostly will be done by others, at local car washes, if any car washing will be done on premises only bio degradable material will be used. In almost all cases repair work will be subbed out to Middleboro garages and local business. A copy of this letter will be posted on site and given to all employees.

Sincerely,

Elliot Schneider

CC:

Jacqueline Shanley, Board of Selectmen
Jason Youngquist, Outback Engineering
Adam Bond, Law offices of Adam Bond
Robert Whalen, Building Commissioner



Town of Middleborough

Massachusetts

Board of Selectmen

MEMORANDUM

TO: Ruth Geoffroy, Town Planner
Patricia Cassidy, Conservation Commission Agent
Jeanne Spalding, Health Officer
Robert Whalen, Building Commissioner

FROM: Jackie Shanley
Confidential Secretary to the Board of Selectmen

DATE: April 10, 2012

SUBJECT: W.R.P.D. Application

Attached is a W.R.P.D. application filed by Outback Engineering, Inc. on behalf of Fuller Street Development LLC for a Special Permit under the Water Resource Protection District By-law.

The Selectmen will conduct a hearing on this application on Monday, May 7, 2012, at 7:30 PM.

Further information and a copy of the plan are attached.

All remarks or concerns regarding the request must be returned to the Selectmen's Office no later than **Wednesday, May 2nd by 12 Noon.**

Even if you have no comments to make regarding the plan, please send a note stating that you have reviewed the plans.

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

Attachments

xc: Board of Selectmen
Town Manager

**Outback
Engineering**
Incorporated

165 East Grove Street
Middleborough, MA 02346

Tel # 508-946-9231

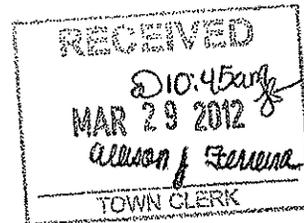
Fax # 508-947-8873

www.outback-eng.com

Civil Engineers + Land Surveyors + Wetland Scientists + Soils Laboratory

March 27, 2012

Board of Selectmen
Town of Middleboro
10 Nickerson Avenue
Middleborough, MA 02346



Re: Special Permit for Site Plan in WRPD Z3 at 352 Wareham Street

Dear Board Members,

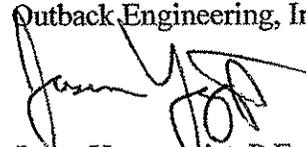
On behalf of Fuller Street Development LLC, we are requesting a Special Permit per Section XII.G.3.j of the Middleborough Zoning By-Laws to allow 15.6% of the total lot area to be impervious in the Water Resource Protection District Z3 (WRPD Z3). The project site is located on the southerly side of Wareham Street (Route 28) on the corner of Ashley Lane in the General Use (GU) zoning district. The lot is partially wooded with an existing home and contains an area of 2.89 acres of all uplands. The topography of the site slopes towards Wareham Street and towards the rear of the property. Soil conditions taken from the soil map of Plymouth County indicate an Essex soil type (EtB) that is well drained.

The project involves the construction of a 480 s.f. used car sales office with a 28 space vehicle display area along with a small utility shed to be located at the rear of the property. The site will be accessed from Wareham Street by a single 24' wide paved entrance driveway to the paved parking area. Each parking space will be 9' wide by 20' long. The existing house is to remain and the natural vegetation will be maintained along Ashley Lane. All areas not used for parking will be loamed and seeded.

Runoff from the parking area will be directed along gutter lines to deep sump hooded catch basins which will remove suspended solids and sediment and have oil hoods to remove any floatables such as gas or oil. Runoff will be conveyed from the catch basins to a sediment forebay where the treated runoff will then be discharged to an infiltration basin to recharge runoff to the groundwater. There will be no increase in runoff flow rate offsite to either Wareham Street or abutting property. Drainage calculations are in conformance with the Department of Environmental Protection's Stormwater Management Policy and detailed drainage methodology and calculations have been submitted.

The proposed use for the site is allowed in the GU District, and a Special Permit is required to allow 15.6% of the total lot area to be impervious (i.e. pavement and buildings). The applicant does not propose any uses of the property that are prohibited in the WRPD Z3 zone. In fact, the proposed project has been designed in full compliance with the town's zoning by-laws for the GU and WRPD Z3 districts. The project design is in harmony with the purpose and intent of the WRPD By-Law and all reasonable attempts to eliminate the potential for groundwater and soil pollution have been taken into consideration in the site design. Therefore, the proposed use for the site should not have any adverse environmental impacts on the groundwater, aquifer or recharge areas. We look forward to meeting with the Board to discuss this project. Please notify me of the hearing date and time so I may attend to answer any questions the Board may have. If you have any questions or comments in the meantime, feel free to contact me at (508) 946-9231 ext. 207.

Sincerely,
Outback Engineering, Inc.



Jason Youngquist, P.E.

Cc: Elliot Schneider