

HEARINGS, MEETINGS, LICENSES

3-2-09

2/26/09

BOARD OF SELECTMEN:

CHAIRMAN WILL OPEN PUBLIC HEARING RE

Class II license - 99 West Grove Street

**AND REFER TO ZONING BOARD OF APPEALS AS BUILDING COMMISSIONER
POINTS OUT THAT THIS LOCATION IS IN A RESIDENTIAL DISTRICT.**

**PLEASE NOTE THAT THE ATTORNEY OF THE APPLICANT HAS BEEN
CONTACTED BY THE SELECTMEN'S OFFICE AND THAT HE HAS BEEN IN
TOUCH WITH ZONING.**

**AT THIS POINT, APPLICANT AND HIS ATTORNEY WILL MOST LIKELY NOT
ATTEND MONDAY EVENING.**

JACKIE

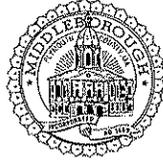
(Town Seal)

The Middleborough Board of Selectmen will hold a public hearing on Monday, March 2, 2009 at 7:30 PM in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, for the purpose of discussing an application filed by Naji (Nick) El Khoury, for a Class II License for the premises located at 99 West Grove Street, Middleboro, MA (Assessors Map57H, L2415). Anyone desiring to be heard on this matter should appear at the time and place designated.

Patrick E. Rogers
Steven P. Spataro
Muriel C. Duphily
Marsha L. Brunelle
BOARD OF SELECTMEN

Publish: February 12, 2009

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



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

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

February 24, 2009

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

RE: Class II License for 99 West Grove Street, Middleborough Assessor's Map 57H Lot 2415

Honorable Board,

I have reviewed the application submitted by Naji El Khoury for a Class II License for the property located at 99 West Grove Street. The above referenced property is not in the General Use Zoning District it is located in a Residence B District where the proposed use would not be allowed. The existing gas station is grandfathered under zoning and any use not directly related would require a special permit from the Middleborough Zoning Board of Appeals.

Respectfully submitted,

Robert J. Whalen
Building Commissioner
Zoning Enforcement Officer

CRANBERRY CAPITAL
OF THE WORLD



Phone: 508-946-2405

Fax: 508-946-0058

Town of Middleborough
Massachusetts

February 19, 2009

BOARD OF SELECTMEN

Super Petroleum
297 Quincy Ave.
Braintree, MA 02184

Patrick E. Rogers
Steven P. Spataro
Muriel C. Dumphily
Marsha L. Brunelle

To Whom It May Concern:

On 12/6/08, during a routine compliance check to enforce the town of Middleborough's Board of Health "Rules and Regulations Relative to the Sale, Vending, and Distribution of Tobacco within the town of Middleboro", an employee at the 'Super Petroleum' sold a tobacco product to a minor.

"It is prohibited for any person, firm, corporation, establishment or agency to sell or distribute any tobacco product without verifying the age of the purchaser. Each person, firm, corporation, establishment or agency shall verify by means of photographic identification containing the bearer's date of birth that no person purchasing or receiving the tobacco product is younger than eighteen (18) years of age."

"In the case of a first violation within three (3) years, the permit holder not in compliance with the provision of this regulation shall, after a hearing before the Middleboro Board of Health, have his/her Tobacco Sales and Location Permit suspended for a period not to exceed seven (7) consecutive days."

Your hearing in front of the Middleborough Board of Selectmen, acting as the Board of Health, has been scheduled for Monday, March 2, 2009 at 7:40 PM in the Selectmen's Meeting Room in the Town Hall, 10 Nickerson Avenue.

Please contact this office if you need any further information.

Sincerely,

Jackie Shanley, Confidential Secretary
BOARD OF SELECTMEN

cc: Board of Selectmen
Town Manager
Health Officer



TOWN OF MIDDLEBOROUGH HEALTH DEPARTMENT

Jeanne Spalding, RS, CHO
Health Officer

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

To: Board of Selectmen/Health
From: Jeanne Spalding, Health Officer
Date: 12/18/2008

Re: MHOA Tobacco Control Mini-Grant Sales Compliance Inspections.

This Memo is to inform The Board of Health that inspections have been conducted of tobacco retailers in regards to youth access compliance with the mini grant requirements.

The following retailers sold tobacco products to a minor during compliance checks:

	<u>Retailer</u>	<u>Address</u>	<u>Sale Date</u>
1.	Middleboro Petroleum	99 West Grove Street	12/6/2008
2.	Super Petroleum	554 West Grove Street	12/6/2008
3.	New England Farms/Mobil	447 Wareham Street	12/6/2008

In order to complete the requirements of the mini-grant, a summary report must be submitted to MOHA following all enforcement actions.

In May of 2008, tobacco sales to minors were observed by (4) retailers in Middleborough. We are pleased to report that none of those retailers sold to minors in this round of compliance checks.

It is the Health Departments Recommendation at this time, that Middleboro Petroleum, Super Petroleum, and New England Farms/Mobil:

1. have a hearing with the Board of Health to address the violation,
2. receive a written warning stating that any further violations will result in a suspension of their tobacco sales permit for a period up to seven(7) days,
3. provide the Board of Health with written mitigation plan to avoid and address future violations.

SAMPLE OF
PRIOR VIOLATIONS

Tobacco Violation Hearing

At 10:22 PM Chairman opened Tobacco Violation Hearing and read aloud violation letter from Health Department.

Gas Depot:

No one representing Gas Depot was in attendance. Recommendation by Health Inspector Bart Harrison was to suspend Tobacco sales permit for the maximum 7 day period.

Upon motion by Selectman Rogers, to suspend for up to three days, with a written warning that any further violations will result in a suspension of up to 7 days.

Two in favor. Three opposed.

In response to question posed by Selectwoman Brunelle, as to how the Health Department ensures that the licensee complies with the suspension, Bart Harrison explained that this is a new experience for the Town. He suggested that random checks, having an inspector investigate. Health Agent J. Spalding said that the usually policy is to go in and advise them to remove all tobacco products until such time as the suspension has ended.

Upon motion by Selectwoman Brunelle and seconded by Selectwoman Duphily, Board

VOTED: To amended motion and to suspend the permit for 7 days with fourteen days notice.

Three in favor. Two opposed.

North Street Market (Quick Stop)

Manny Rosa, Owner of North Street Market (Quick Stop) spoke and indicated that he will do his best not to allow the sale of tobacco to minors again. Bart Harrison informed Board that this store has not had any prior violations. Mr. Rosa indicated that he has added more signs on the premises and has his son working there to assist in preventing future violations by requesting identification.

Upon motion by Selectwoman Brunelle and seconded by Selectman Rogers, Board

VOTED: To follow the recommendation of the Health Department to issue a written warning that any further violations will result in a 7 day suspension and that the business provide the Board of Health with a written mitigation plan
Unanimous vote.

Shellmart

The owner of Shellmart addressed the Board. He indicated that he met with his employees one-on-one to stress the importance of following the Town and State laws regarding the sale of tobacco products. He also called the NETC software company to provide him with software so that whenever they scan tobacco products, it will require identification. He had his employees sign a piece of paper saying that if they sell to minors, they will lose their jobs.

Upon motion by Selectwoman Duphily and seconded by Selectwoman Brunelle, Board

VOTED: To follow the recommendation of the Health Department to issue a written warning that any further violations will result in a 7 day suspension and that the business provide the Board of Health with a written mitigation plan
Unanimous vote.

Stop & Shop – Manager Paula Fernandez spoke with all employees and the specific associate who made the sale. The registers prompt employees to request identification, however, the employee did not follow this procedure. All actions will be taken, including termination, if it occurs again.

Upon motion by Selectwoman Duphily and seconded by Selectwoman Brunelle, Board

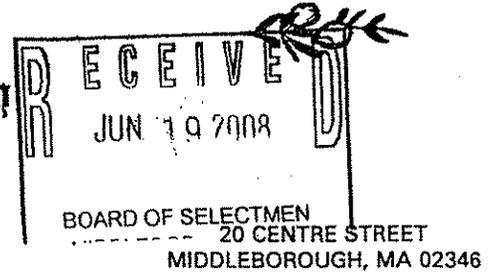
VOTED: To follow the recommendation of the Health Department to issue a written warning that any further violations will result in a 7 day suspension and that the business provide the Board of Health with a written mitigation plan
Unanimous vote.

Incorporated 1669



CRANBERRY CAPITAL OF THE WORLD

Town of Middleborough
Massachusetts



HEALTH DEPARTMENT
508-946-2408

BM

To: Board of Selectmen/Health
From: Health Department
Date: 6/17/2008
Re: MHOA Tobacco Control Mini-Grant Sales Compliance Inspections.

This memo is to inform The Board of Health that inspections have been conducted of tobacco retailers in regards to youth access compliance in accordance with the mini-grant requirements.

The following retailers sold tobacco products to a minor during compliance checks:

	Retailer:	Address:	Sale Date:
> 1.	Gas Depot	5 Station St.	5/28/2008
2.	North Main Street Market (Quick-Stop)	21 North Main St.	5/28/2008
3.	Shellmart	63 Bedford St.	5/28/2008
4.	Stop and Shop Supermarket	438 West Grove St.	5/28/2008

7 days warning that 14 days to come.

Warning

In order to complete the requirements of the mini-grant, a summary report must be submitted to MHOA following all enforcement actions.

In February of 2005, tobacco sales to minors were observed by five (5) retailers in Middleborough. We are pleased to report that none of those retailers sold to minors in this round of compliance checks.

It is the Health Departments recommendation at this time, that North Main Street Market (Quick-Stop), Shellmart, and Stop and Shop Supermarket:

1. have a hearing with the Board of Health to address the violation,
2. receive a written warning stating that any further violations will result in a suspension of their tobacco sales permit for a period of up to seven (7) days,
3. provide the Board of Health with a written mitigation plan to avoid and address future violations.

2nd OFFENSE

In addition to the sale to a minor on 5/28/2008, the Health Department received a report from the Middleborough Police stating minors were observed purchasing tobacco products from the Gas Depot on 5/29/2008.

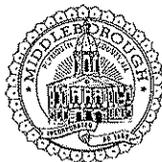
(Town Seal)

The Middleborough Board of Selectmen will hold a public hearing on Monday, March 2, 2009 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 Tiffany Cesero, for a Class II License for the premises located at 491 Wareham Street, Middleboro, MA (Assessors Map094, L137). Anyone desiring to be heard on this matter should appear at the time and place designated.

Patrick E. Rogers
Steven P. Spataro
Muriel C. Duphily
Marsha L. Brunelle
BOARD OF SELECTMEN

Publish: February 12, 2009.

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



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20 Centre Street, Second Floor
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Robert J. Whalen
Building Commissioner
Tel. 508-946-2426
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February 24, 2009

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

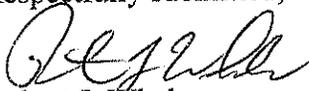
RE: Class II License for property located at 491 Wareham Street, Assessors Map: 094
Lot: 137.

Dear Honorable Board,

I have reviewed the application for a Class II license filed by Tiffany Cesero of 18 Kayla Circle, for the property located at 491 Wareham Street, Assessors Map: 094 Lot: 137 and I offer the following:

1. This property is located within the General Use Zoning district so the proposed use is allowed.
2. The site plan shows that the cars would be parked on the property line. Middleborough Zoning By-law section XIII 4.a.* requires a 15' landscaped buffer along the side and rear lot lines were commercial property abuts residential property.
3. I would only support this request if the cars are moved and meet the requirements of the Zoning By-law.

Respectfully submitted,


Robert J. Whalen
Building Commissioner
Zoning Enforcement Officer
*(see attached)

SECTION XIII
GENERAL USE DISTRICT

A. PURPOSE

These General Use District regulations are adopted to promote the orderly and efficient use of land, to permit a variety of compatible uses of land and structures, to encourage planned development of business and residential uses which protect the town's water and other resources and to protect the public health, safety and convenience.

B. APPLICABILITY (Effective 11-16-87)

1. The provisions of this section of the By-law shall apply to all land, structures, uses and changes or expansion of structures or uses within the General Use District. "No restriction or regulation is imposed by this By-law on the use made of buildings, structures or premises in this District, except as provided below and in other applicable sections of this Zoning By-law. 2. This Section XIII of the Zoning By-law applies only to non-residential uses.

C. REQUIREMENTS

1. Site Plan Required

No structure shall be constructed on any lot unless a site plan prepared in accordance with Section VII-A-1 of this By-law has been filed with the building inspector. Such plan shall provide sufficient information to show compliance with the requirements of this Section.

2. Dimensional Requirements

- a. The maximum height of any building shall not exceed 42 feet.
- b. No building shall be constructed less than 35 feet from a street line nor less than 25 feet from a side or rear lot line. "Open

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entrance steps may be excluded from the 35 (thirty-five) foot front set back requirement." (Effective 11-16-87)

c. Total impervious area shall not exceed sixty (60%) percent of the lot area. Minimum open space shall be no less than forty (40%) percent of the lot area.

d. The minimum continuous street frontage on any lot shall be 75 (seventy-five) feet. (Effective 11-16-87)

e. Either the side lot line or the rear lot line requirements shall not apply to a side lot line or rear lot line which abuts a railroad line or siding.

3. Parking and Access

Off-street parking facilities shall be provided on the same lot as the building for each use within the District. Parking areas shall be designed to prevent the necessity of any vehicles backing into a public way. Each parking space shall have a usable area of at least 180 square feet and be served by access and maneuvering areas of sufficient size to permit safe and convenient movement of vehicles. No parking area shall be located less than 25 feet from a street line nor less than 15 feet from a side or rear lot line. Access drives connecting parking areas with the street shall be clearly delineated by the use of curbing, directional signs (if applicable), landscaping or other means and shall be located in a manner which provides motorists with an unobstructed view of approaching traffic, in accordance with Section VI-B of this By-law. The number of spaces required for each use shall be consistent with the following minimum standards.

Retail Sales or Service Businesses - one space for each 300 square

11/88

feet of gross floor area.

Wholesale or Warehouse Facilities - one space for every 1,000 square feet of gross floor area.

Industrial or Manufacturing Facilities - one space for every 600 square feet of gross floor area.

Professional or Business Offices - one space for every 300 square feet of gross floor area.

Churches - one space for every 3 seats.

Theaters, Restaurants or Other Places of Public Assembly - one space for every 3 seats.

Hotels/Motels - one space per guest unit plus one space for every 3 restaurant seats.

4. Landscaping and Screening.

- a. A landscaped buffer zone shall be provided not less than 25 feet in depth along a street line and not less than 15 feet in depth along a side or rear lot line. Where commercial property abuts residential property, adequate screening will be provided in the side and rear landscaped buffer zones.
- b. Earth berms, landscaping or screening shall be provided to control noise and dust, to prevent soil erosion, to provide shade, to screen from public view areas for waste disposal or outdoor storage, and to protect the visual character and natural resources of the town. Earth berms where used should vary in width and height throughout their length in order to achieve topographical relief and to appear to occur naturally.
- c. All land located between the street line and parking areas as required by Section XIII-C-3 of this By-law shall be provided with

Jacqueline Shanley

From: Jeanne Spalding
Sent: Friday, February 20, 2009 10:11 AM
To: Jacqueline Shanley
Subject: CI II

The Health Dept. has reviewed the information for Class II licenses and has no comment for:
491 Wareham St. and 99 West Grove St.I

CRANBERRY CAPITAL
OF THE WORLD



Phone: 508-946-2403
Fax: 508-946-0068

Town of Middleborough

Massachusetts

BOARD OF SELECTMEN

Marsha L. Brunelle
Adam M. Bond
Patrick E. Rogers
Wayne C. Perkins
Steven P. Spataro

APPLICATION FOR LICENSE (PLEASE TYPE OR PRINT CLEARLY)

DATE 2-19-09
NAME OF APPLICANT T. Tony Cesaro
ADDRESS OF APPLICANT 18 Bayla Circle, Plymouth 02160
ASSESSORS MAP & LOT _____
NAME OF BUSINESS Wareham Street Motors
OWNER OF PROPERTY TO BE LICENSED T. Tony Cesaro, Wareham St, LLC
ADDRESS OF PROPERTY TO BE LICENSED 141 Wareham St
ASSESSORS MAP & LOT 94, 1137

TYPE OF LICENSE REQUESTED (Check One)

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

Anticipated Start Date for Business _____
Hours requested: _____

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

Signature _____

DATE OF HEARING 3/2/08

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

Tony M. MacDonald

491 WAREHAM STREET

House

Parking

Office

Entrance →

CARS

