



12/19/10
~~12/12/05~~ (2)

TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
Telephone (978) 264-9612
Fax (978) 264-9630

Don P. Johnson
Town Manager

November 18, 2005

Acton Beacon
BY FAX

Atten: LEGAL AD DIVISION

Please place the following ad in the Thursday December 1, 2005 legal Section of the Acton Beacon. Please bill the applicant at the address listed below:

Leo Bertolami
6 Proctor Street
Acton, MA 01720
978-430-4000 (cell)

Christine M. Joyce
Town Manager's Office

LEGALS:

PLEASE CONFIRM BY PHONE TO ME @ 978-264-9612

CC: Applicant
Filed: *Class/bin cmj*

**TOWN OF ACTON
NOTICE OF HEARING**

Notice is hereby given that the Board of Selectmen will hold a public hearing in the Faulkner Room in the Town Hall on Monday, December 12, at 7:15 p.m. on the application of Acton Suzuki, Inc., for a Class I Dealer's License at 60 Powder Mill Road, Acton, MA.

Acton Board of Selectmen



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Don P. Johnson
Town Manager

November 18, 2005

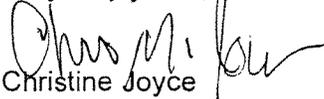
Mr. Leo Bertolami
6 Procter Street
Acton, MA 01720

Dear Mr. Bertolami:

Enclosed please find copies of the advertisements that have been placed, at your expense, in the Acton Beacon on December 1, 2005.

Your hearing is scheduled for December 12 at 7:15 P.M in the Faulkner Room of the Town Hall. If you have any questions prior to that date, please call the office.

Very truly yours,


Christine Joyce
Town Manager's Office

Enc. Advertisement
Cc: File

**Inter-Departmental
TOWN MANAGER'S OFFICE**

11/18/05

TO: Building, Police, Fire, Board of Health

FROM: Christine Joyce, Town Manager's Office

SUBJECT: Class 1 Application- 60 Powder Mill Road

Please find attached the request for a Class 1 License at 60 Powder Mill Road.

The hearing is scheduled for December 12 at 7:15 p.m.

THE COMMONWEALTH OF MASSACHUSETTS

Town Acton OF Acton

12-12-05
@ 7:15

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
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? Acton Suzuki, Inc.

Business address of concern. No. 60 Powder Mill Road St.,
..... Acton, MA. 01720 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.
n/a

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

5. If an association or a corporation, state full names and residential addresses of the principal officers.
President Leo Bertolami
Secretary TBD
Treasurer Leo Bertolami

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? yes
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.
Land and building located at 60 Powder Mill Road with associated
automotive sales, service, offices and showroom and all other
items to complete a vehicle dealership.

8. Are you a recognized agent of a motor vehicle manufacturer? yes
(Yes or No)
If so, state name of manufacturer American Suzuki Motors

9. Have you a signed contract as required by Section 58, Class 1? yes
(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 Acton, Concord, Maynard, Hudson, Hyannis

Did you receive a license? yes For what year? 1976-2005
(Yes or No)

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)

6 Proctor Street, Acton, MA.
Residence

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)

APPLICANT WILL NOT FILL THE FOLLOWING BLANKS

Application after investigation (Approved or Disapproved)

License No. granted 19..... Fee \$.....

Signed.....

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.....
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.....
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CHAPTER 140 OF THE GENERAL LAWS, TER. ED., WITH AMENDMENTS THERETO (EXTRACT)

SECTION 57. No person, except one whose principal business is the manufacture and sale of new motor vehicles but who incidentally acquires and sells second hand vehicles, or a person whose principal business is financing the purchase of or insuring motor vehicles but who incidentally acquires and sells second hand vehicles, shall engage in the business of buying, selling, exchanging or assembling second hand motor vehicles or parts thereof without securing a license as provided in section fifty-nine. This section shall apply to any person engaged in the business of conducting auctions for the sale of motor vehicles.

SECTION 58. Licenses granted under the following section shall be classified as follows:

Class 1. Any person who is a recognized agent of a motor vehicle manufacturer or a seller of motor vehicles made by such manufacturer whose authority to sell the same is created by a written contract with such manufacturer or with some person authorized in writing by such manufacturer to enter into such contract, and whose principal business is the sale of new motor vehicles, the purchase and sale of second hand motor vehicles being incidental or secondary thereto, may be granted an agent's or a seller's license; provided, that with respect to second hand motor vehicles purchased for the purpose of sale or exchange and not taken in trade for new motor vehicles, such dealer shall be subject to all provisions of this chapter and of rules and regulations made in accordance therewith applicable to holders of licenses of class 2.

Class 2. Any person whose principal business is the buying or selling of second hand motor vehicles may be granted a used car dealer's license.

Class 3. Any person whose principal business is the buying of second hand motor vehicles for the purpose of remodeling, taking apart or rebuilding the same, or the buying or selling of parts of second hand motor vehicles or tires, or the assembling of second hand motor vehicle parts, may be granted a motor vehicle junk license.

SECTION 59. The police commissioner in Boston and the licensing authorities in other cities and towns may grant licenses under this section which shall expire on January first following the date of issue unless sooner revoked. The fees for the licenses shall be fixed by the licensing board or officer, but in no case shall exceed fifty dollars. Application for license shall be made in such form as shall be approved by the registrar of motor vehicles, in sections fifty-nine to sixty-six, inclusive, called the registrar, and if the applicant has not held a license in the year prior to such application, such application shall be made in duplicate, which duplicate shall be filed with the registrar. No such license shall be granted unless the licensing board or officer is satisfied from an investigation of the facts stated in the application and any other information which they may require of the applicant, that he is a proper person to engage in the business specified in section fifty-eight in the classifications for which he has applied, that said business is or will be his principal business, and that he has available a place of business suitable for the purpose. The license shall specify all the premises to be occupied by the licensee for the purpose of carrying on the licensed business. Permits for a change of situation of the licensed premises or for addition thereto may be granted at any time by the licensing board or officer in writing, a copy of which shall be attached to the license. Cities and towns by ordinance or by-law may regulate the situation of the premises of licensees within class 3 as defined in section fifty-eight, and all licenses and permits issued hereunder to persons within said class 3 shall be subject to the provisions of ordinances and by-laws which are hereby authorized to be made. No license or permit shall be issued hereunder to a person within said class 3 until after a hearing, of which seven days' notice shall have been given to the owners of property abutting on the premises where such license or permit is proposed to be exercised. All licenses granted under this section shall be revoked by the licensing board or officer if it appears, after hearing, that the licensee is not complying with sections fifty-seven to sixty-nine, inclusive, or the rules and regulations made thereunder; and no new license shall be granted to such person thereafter, nor to any person for use on the same premises, without the approval of the registrar. The hearing may be dispensed with if the registrar notifies the licensing board or officer that a licensee is not so complying. Any person aggrieved by any action of the licensing board or officer refusing to grant or revoking a license for any cause may, within ten days after such action, appeal therefrom to any justice of the superior court in the county in which the premises sought to be occupied under the license or permit applied for are located. The justice shall, after such notice to the parties as he deems reasonable, give a summary hearing on such appeal, and shall have jurisdiction in equity to review all questions of fact or law and may affirm or reverse the decision of the board or officer and may make any appropriate decree. The decision of the justice shall be final.

INTEROFFICE MEMORANDUM

TO: CHRISTINE JOYCE, TOWN MANAGER'S OFFICE
FROM: ROBERT C. CRAIG, FIRE CHIEF
SUBJECT: CLASS 1 APPLICATION - 60 POWDERMILL ROAD
DATE: 11/29/05
CC:

PLEASE BE ADVISED THAT I HAVE NO COMMENT OR OBJECTION TO THE ABOVE NAMED LICENSE APPLICATION.



Robert C. Craig

Fire Chief

12/12/05 - (12)

TOWN OF ACTON
INTERDEPARTMENTAL COMMUNICATION
TOWN MANAGER'S OFFICE

DATE: December 9, 2005

TO: Board of Selectmen

FROM: Don P. Johnson

SUBJECT: 60 Powder Mill Road

There are three items on the December 12 agenda that relate to 60 Powder Mill Road ... Item 2, a new Class I Car Dealer's License for Acton Suzuki; Item 10, 2006 License Renewals (including the current Class I License for this location) and Item 12, a requested amendment to Site Plan Special Permit #02/19/03-388 related to this property. I will be strongly recommending that the Board not approve any of these requests Monday.

I will be happy to elaborate during the various agenda items but the basic problems are as follows:

1. When the Board of Selectmen approved the initial Site Plan for this property in 2003, the Board also approved a requested Class I License with a limit of 39 display vehicles.
2. After the Selectmen approved the Site Plan, the Conservation Commission settled several outstanding issues with the applicant and a Conservation Restriction was placed on part of this property. The Restriction limited the development of the property such that a significant portion of the originally proposed site plan could not be built.
3. The petitioner proceeded to secure a building permit from the Building Commissioner, apparently using the original Site Plan for approvals.
4. The petitioner has developed the property in accordance with the Conservation Restrictions and, in so doing, has limited the available parking to something significantly less than the Selectmen expected when the Site Plan and Class I License approvals were granted in 2003.
5. The petitioner has not provided adequate plans to allow review or analysis of the available parking for display vehicles.

6. All of the defined parking spaces shown on the revised Site Plan are required to satisfy zoning requirements for customers. They are not available for vehicle display and will need to be restricted accordingly.
7. Issuance of a new Class I License, without knowing how it should be limited, would further compound a problem situation.
8. Renewal of the existing Class I License is inappropriate inasmuch as it authorizes 3-4 times as many display vehicles as the property, as developed, can support.
9. The proposed Site Plan revision fails to provide a clear indication as to the extent or impact of revisions the petitioner seeks to have approved.

For all of the above reasons I recommend that the Board (1) deny the petitioner under Item 2, under the applicable portion of Item 10 and under Item 12, (2) direct the petitioner to prepare proper plans that will allow the Board to understand the full impact of the changed Site Plan as well as evaluate the availability of parking/storage space for display vehicles and (3) schedule an appointment with the Board to review all of these issues when the additional plans and information are available.

A handwritten signature in black ink, appearing to be 'J. M.', is centered below the text.

BoS



INTERDEPARTMENTAL COMMUNICATION

Acton Board of Health - Telephone 978-264-9634 - Fax 978-264-9630

December 12, 2005

TO: Christine Joyce, Town Manager's Office
FROM: Doug Halley, Health Director 
SUBJECT: Class 1 Application – 60 Powdermill Road

The Health Department has reviewed the request for a Class 1 License at 60 Powdermill Road by Leo Bertolami and has the following comment:

1. Prior to occupancy the Health Department will require an inspection for compliance with the Town's Hazardous Materials Control Bylaw.