

ORDINANCE NO. 2255

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT BY AMENDING CONDITION NO. 2 AND NO. 3 OF ORDINANCE NO. 2055 (CONDITIONAL USE NO. 1765) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 38,054 SQUARE FEET, MORE OR LESS

WHEREAS, on the 29th day of November 2011, a conditional use application, denominated Conditional Use No. 1921 was filed on behalf of Judith Folmsbee; and

WHEREAS, on the 26th day of January 2012, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 9th day of February 2012 said Planning and Zoning Commission recommended that Conditional Use No. 1921 be denied; and

WHEREAS, on the 14th day of February 2012, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1921 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Broadkill Hundred, Sussex County, Delaware, and lying southwest of Road 226 (Orchard Road), 0.6 miles southeast of Route 16 and being more particularly described as:

BEGINNING at an iron pipe on the southwesterly right of way of Road 226, a corner for these lands and lands now or formerly of John and Frances Herbert; thence southeasterly 144.89 feet along the southwesterly right of way of Road 226 to an iron pipe; thence S 23°11'41" W 269.62 feet along lands now or formerly of Robert and Lori Warrington to an iron pipe; thence N 49°24'17" W 4.99 feet to an iron pipe, N 53°54'15" W 139.93 feet to a concrete monument, and N 23°12'00" E 269.61 feet along lands now or

formerly of John and Frances Herbert to the point and place of beginning, said parcel containing 38,054 square feet, more or less, per survey prepared by Coast Survey, Inc.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

This Ordinance was adopted subject to the following conditions:

1. That Conditions No. 2 and No. 3 of Ordinance No. 2055 (Conditional Use No. 1765) be removed.
2. No more than a total of five (5) bedrooms shall be permitted in the three (3) existing multi-family dwelling units.
3. Reaffirm by DNREC and appropriate agencies that septic is adequate with the new use.
4. All other conditions contained in Ordinance No. 2055 (Conditional Use No. 1765) remain in force and effect.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2255 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 8TH DAY OF MAY 2012.


ROBIN A. GRIFFITH
CLERK OF THE COUNCIL

The Council found that the Conditional Use was appropriate legislative action based on the following Findings of Fact:

1. This is an application for a Conditional Use of land in an AR-1 Agricultural Residential District by Amending Conditions No. 2 and No. 3 of Ordinance No. 2055 (Conditional Use No. 1765) to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 38,054 square feet, more or less, lying southwest of Road 226 (Orchard Road), 0.6 mile southeast of Route 16.
2. The property was approved for a Conditional Use in 2009 (Conditional Use No. 1765, Ordinance No. 2055) for a three (3) unit multi-family dwelling structure, approval of which was subject to five (5) conditions. Condition of Approval No. 2 stated that "the units shall only be occupied by the Applicants and their family members" and Condition of Approval No. 3 stated that "In the event the real estate is sold or transferred, this Conditional Use shall terminate."
3. The existing use of the property includes a three (3) bedroom Nanticoke Home and two (2) one bedroom units.

- 4. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the North Coastal Planning Area; that the use of an on-site septic system is proposed; that the site is not capable of being annexed into a County operated Sanitary Sewer District; that conformity to the North Coastal Planning Study will be required; that the proposed project is not in an area where the County currently has plans to provide sewer service; and that a Concept Plan is not required.**
- 5. There were no parties present in opposition to this Application.**
- 6. The request for removal of Conditions No. 2 and No. 3 of Ordinance No. 2055 (Conditional Use 1765) will not have an adverse impact on the neighboring roadways, properties or community.**
- 7. The Applicant's request for removal of Conditions No. 2 and No. 3 would allow the Applicant to offer the property for sale in a more marketable condition.**
- 8. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Council, the Conditional Use is approved subject to four (4) conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**