

ORDINANCE NO. 2330

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.20 ACRES, MORE OR LESS (Tax Map I.D. 2-33-5.00-189.05)

WHEREAS, on the 19th day of August 2013, a conditional use application, denominated Conditional Use No. 1972 was filed on behalf of Harry E. Miller; and

WHEREAS, on the 24th day of October 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1972 be approved with conditions; and

WHEREAS, on the 3rd day of December 2013, 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 VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1972 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 Dagsboro Hundred, Sussex County, Delaware, and lying south of Iron Branch Road (Road 331) 150 feet east of Thorogoods Road (Road 333) and being more particularly described in Deed Book 3978, Page 106 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.20 acres, more or less.

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:

- A. The use shall be limited to an automobile repair facility. There shall not be any boat repair or large truck repairs permitted on the site.**
- B. No towing operations shall occur from the site.**
- C. No junked, permanently inoperable, or unregistered vehicles shall be stored on the site.**
- D. No more than 4 vehicles awaiting repair shall be stored outside on the site at any one time, other than the owner's personal vehicles.**
- E. All repairs shall occur within the building.**
- F. The applicant shall comply with all State and Federal requirements regarding the storage, use and disposal of all fluids associated with the use.**
- G. One un-lighted sign shall be permitted, not to exceed 32 square feet and to be located on the side of the building per the applicant's request.**
- H. The hours of operation shall be from 8:00 a.m. to 7:00 p.m. Monday through Saturday.**
- I. All dumpsters or trash receptacles shall be screened from view of neighboring roadways or properties. All scrapped automobile parts shall also be stored in containers or behind screening fences so that they cannot be viewed from neighboring properties or roadways.**
- J. The Final Site Plan shall show the location of all parking areas, dumpster areas, outside containers, and screening required by this approval.**
- K. No used car sales or retail operations shall be conducted from the site.**
- L. The Final Site Plan will be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2330 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 3RD DAY OF DECEMBER 2013.


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 a GR General Residential District for an auto repair shop to be located on a certain parcel of land lying and being in Dagsboro Hundred, Sussex County, containing 1.20 acres, more or less, lying south of Iron Branch Road (Road 331) 150 feet east of Thorogoods Road (Road 333) (Tax Map I.D. 233-5.00-189.05).**
- 2. DelDOT commented that the existing Level of Service B of Iron Branch Road will not change as a result of this application.**
- 3. The Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the Dagsboro-Frankford Planning Area; that sewer service has not been extended to the area at this time; that an on-site septic system is proposed; that conformity to the Dagsboro-Frankford Planning Study will be required; that the parcel is in a planning area for sewer service; that when sewer service is provided to the area, connection is mandatory; that the County does not have a schedule to provide sewer service at this time; and that a Concept Plan is not required.**
- 4. The Applicant, Harry E. Miller, was present and stated that he would like to run an auto repair shop out of his shop as he moves into retirement; that it will not be a big operation; and that he has not received any complaints from the neighbors.**
- 5. All repairs will be performed inside of the one-story pole building; a dumpster will be placed to the rear of the building; the Applicant will not be offering any retail automobile sales; and he will have no more than 3 or 4 vehicles on site at any one time for repairs.**
- 6. Security lighting already exists on the building; all parts storage will be contained indoors; the Applicant will be required to comply with all waste disposal regulations and requirements associated with oils, lubricants, etc. associated with the use; there are several business uses in the area, i.e. beauty shop, concrete plant, auto/truck repairs, roofing company, etc.; and the Applicant will be performing mechanical and brake work but will not be doing any auto body work.**

- 7. The site is currently the residence of the Applicant. Based on the testimony of the Applicant, the use will be a family-run business and the size and scope of the auto repair business will be very consistent with that of a home occupation; and all repair work will be performed within the building located on the site.**
- 8. The use will not have any adverse impact on traffic on area roadways and the use, with the conditions and stipulations placed on it, will not have any adverse impact on neighboring properties or the community.**
- 9. The use, as an auto repair facility, is of a public or semi-public character that promotes the convenience of providing an auto repair service to Sussex County residents.**
- 10. There were no parties present in support of or in opposition to this application.**
- 11. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Council, the Conditional Use was approved subject to twelve (12) conditions (A through L) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**