

**ORDINANCE NO. 2389**

**AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOBILE REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.5 ACRES, MORE OR LESS”**

**WHEREAS, on the 2nd day of May 2014, a conditional use application, denominated Conditional Use No. 1994 was filed on behalf of Robert Wilkerson; and**

**WHEREAS, on the 21st day of August 2014, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of September 2014, said Planning and Zoning Commission recommended that Conditional Use No. 1994 be approved with conditions; and**

**WHEREAS, on the 14th day of October 2014, 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. 1994 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 north of Route 88 (Cave Neck Road) 340 feet east of Road 261 (Sweetbriar Road) and being more particularly described as the residual parcel in Plot Book 186, Page 86, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.5 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 the existing structure on the property. No additional structures will be permitted.**
- B. The use shall be operated solely by the Applicant. As stated by the Applicant, there shall not be any other employees associated with the business.**
- C. No outside repairs shall be permitted.**
- D. No junked, unlicensed or unregistered vehicles, trucks or trailers shall remain on the property for longer than six (6) months.**
- E. No more than ten (10) vehicles, trucks or trailers shall be located outside at any one time.**
- F. The use shall include porta-toilet facilities. The nature and location of these facilities shall be shown on the Final Site Plan and shall be screened from neighboring properties.**
- G. There shall not be any outside storage of vehicle parts, equipment, scrap, or similar materials.**
- H. There shall not be any vehicle sales occurring on the site.**
- I. All dumpsters or trash receptacles shall be screened from view of neighboring properties or roadways.**
- J. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- K. One unlighted sign, not to exceed 32 square feet in size per side, shall be permitted.**
- L. The areas for outside vehicles shall be shown on the Final Site Plan and clearly marked on the site itself.**
- M. All oils, hazardous substances, fluids and similar substances shall be stored inside in accordance with all applicable laws and regulations and shall be disposed of the same way.**
- N. The hours of operation shall be between 8:30 a.m. and 5:00 p.m., Monday through Saturday.**
- O. The Final Site Plan shall 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. 2389 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 17TH DAY OF MARCH 2015.**



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**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:

- A. This is the application of Robert Wilkerson to consider the Conditional Use of land in an AR-1 Agricultural Residential District for an automobile repair shop to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 1.5 acres, more or less, land lying north of Route 88 (Cave Neck Road) 340 feet east of Road 261 (Sweetbriar Road) (911 Address - None Available) (Tax Map I.D. #235-22.00-18.09).
- B. Council found that DelDOT commented that a Traffic Impact Study was not recommended, and that the current Level of Service "C" of Cave Neck Road (Route 88) will not change as a result of this application proposing to utilize the property for auto repair.
- C. Council found the Sussex County Engineering Department, Utility Planning Division, commented that the property is not located in a County operated or maintained sanitary sewer and/or water district; that the property is located in the North Coastal Planning Area; that an on-site septic is proposed; 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 a schedule to provide sewer service; and that a Concept Plan is not required.
- D. Based on testimony before the Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that the Applicant was present and stated that he is proposing to use an existing garage on the property for an auto repair shop to repair cars for the general public; that he has been utilizing the site for this purpose for approximately 5 years; that waste oils are picked up and handled by a waste oil handler; that parts removed from vehicles are disposed of or hauled away to salvage yards; that he does not want to have more than 10 vehicles on the site at any one time; that he works on a lot of older cars and sometimes has to order parts for the older cars, which results in the cars being on the property for a longer period of time; that he tries to get them out as quickly as possible; that he has cleaned up the property and properly maintains it; that there are no other businesses in the area; that the area is predominantly residential and agricultural; that his normal business hours are from 8:30 a.m. to 5:00 p.m. Monday through Saturday; that there are no sanitary facilities on the site; that there are no vehicles for sale on the site; that he does not offer any towing services; that he does not offer any repossession storage; that the service is needed in the area; that his father owns the property; that his family owns the adjacent acreage as the Holland Family Land Corp.; that he has five or six people to and from the site daily; that he has no employees; that the building has a concrete floor; that he uses oil dry if any spill occurs; that he utilizes a parts cleaner system for cleaning parts; that there is no water on site; that security lighting exists; that he has an approved business license; and that he does not have a car lift in the shop, but utilizes jacks and jack-stands to service vehicles.
- E. Based on the Findings (1 through 8) and the Conditions (A through O) of the Planning & Zoning Commission and the record created before the Sussex County Council, Council found that:
  - 1. Contrary to some of the statements made during the public hearing, this is not a conversion to a commercial or business zoning district. The use will be specific, with conditions and limitations placed upon it. Like any conditional use, if these requirements are violated, the conditional use can be terminated.
  - 2. The use is relatively small in scope. If there was a home on this property, it is a small enough of a use with no employees that it is similar to a home occupation.
  - 3. While there are some relatively new developments in this area, it is still a predominantly rural agricultural/residential area.

- 4. The use is adjacent to a much larger parcel owned by the Applicant's family.**
- 5. Although there was some opposition to this application, these issues can be addressed through appropriate conditions.**
- 6. This use does not adversely affect traffic in the area.**
- 7. With the conditions and limitations placed upon this use, it will not adversely affect neighboring properties or the community.**
- 8. The use provides a benefit to Sussex County residents by providing a convenient location for automobile services.**
- 9. Based on the record and recommendation of the Planning & Zoning Commission and the record created before the Council, the Conditional Use is approved subject to fifteen (15) conditions (A – O) which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**