

ORDINANCE NO. 2794

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR AN AUTO GLASS TINTING SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.021 ACRES, MORE OR LESS

WHEREAS, on the 12th day of December 2020, a conditional use application, denominated Conditional Use No. 2254 was filed on behalf of Richard L., Jr. & Kelsey R. Dickerson Tilghman; and

WHEREAS, on the 24th day of June 2021, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 8th day of July 2021, said Planning and Zoning Commission recommended that Conditional Use No. 2254 be approved with conditions; and

WHEREAS, on the 10th day of August 2021, 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 115, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 2254 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 Little Creek Hundred, Sussex County, Delaware, and lying on the north side of West Line Rd. (S.C.R. 512), approximately 0.24 mile east of Old Racetrack Road (S.C.R. 502) and being more particularly described in the attached deed prepared by Sergovic, Carmean, Weidman, McCartney & Owens, P.A., said parcel containing 1.021 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 a glass-tinting business. No other uses or sales shall occur on the property.**
- b. The glass-tinting operation shall only occur within the existing pole building, and all materials shall be stored within the building.**
- c. The hours of operation shall be limited to 7:00 a.m. until 5:00 p.m.**
- d. Signage shall be limited to one lighted sign along the roadway not to exceed thirty-two (32) square feet in size.**
- e. All parking areas shall be shown on the Final Site Plan and clearly marked on the site itself.**
- f. All entrances shall be subject to all DeIDOT requirements.**
- g. Failure to comply with any of these conditions of approval shall be grounds for termination of this Conditional Use approval.**
- h. 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. 2794 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 10TH DAY OF AUGUST 2021.

**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 Richard L. Tilghman, Jr. and Kelsey R. Dickerson Tilghman for a Conditional Use in a GR General Residential District for an auto glass tinting shop to be located on a parcel of land lying and being in Little Creek Hundred, Sussex County, containing 1.021 acres of land, more or less (property lying on the north side of West Line Road (S.C.R. 512), approximately 0.24 mile east of Old Racetrack Road (S.C.R. 502) (Tax I.D. 532-19.00-52.00) (911 Address: 8227 W. Line Road, Delmar).**
- B. Based on testimony before the Sussex County Planning & Zoning Commission and the public hearing before the Sussex County Council, Council found that the Applicant, Mr. Richard Tilghman, was present on behalf of the application; that he is applying for a Conditional Use to build a 26 x 30 pole building in which to operate a vehicle window tinting business; that he has been in the window tinting business for 11 years and his side projects have become great enough to venture on his own; that once the business is fully established he plans to work on up to four cars a day; that it will be about an 8-hour workday; that the average job takes approximately two hours; that he plans to begin at 9:00 a.m., but could begin as early as 7:00 a.m. based on his customers' availability; that a car may occasionally be dropped off the night before and picked up the day of the appointment; that it is rare that he would have a car overnight or more than 24 hours; that all material would be stored in the pole building; that no noise will be associated with his work; and that he would be the only employee.**

- C. Council also found that the nearest neighbor to the right of the property is about 0.5 mile down the road; that there are four manufactured homes to the left of the property and a home on the other side of the manufactured homes; that the area is mostly woods; that he has not spoken to the neighbors in the 5 years he has lived there; that he has spoken to Mr. Wiley Wise on Lot 49 who did not express any opposition; that he would like a small sign; that he does not plan to advertise near the road or publicly; that all business is by word of mouth; that he plans to start a small Facebook page but business will be by appointment only; and that his address will only be given after the appointment is made.**
- D. Based on the record and recommendation of the Planning and Zoning Commission and the Planning and Zoning Commission's Findings (1 through 6) and Conditions (7a. – h.), Council found that:**
- 1. The Applicant seeks approval for a small glass-tinting business to occur within an existing pole building.**
 - 2. The Applicant has stated that there will only be three to four cars serviced at any one time and the use will not require extensive deliveries to or from the site. As a result, the use will not generate a significant amount of traffic.**
 - 3. The use does not generate any noise or odors.**
 - 4. The Applicant has stated that all materials will be stored inside.**
 - 5. The use will not adversely affect neighboring properties.**
 - 6. No parties appeared in opposition to the application.**
 - 7. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Sussex County Council, the Conditional Use is approved subject to eight (8) conditions (a. – h.), which will serve to minimize any potential impacts on the surrounding area and adjoining properties.**