

**AFFIDAVIT OF RICK MILER IN SUPPORT OF NONCONFORMING USE STATUS  
FOR SPIVEY PAINT BOOTHS**

I, RICK MILER, having been duly sworn depose and state the following:

1. I am over eighteen years of age, have personal knowledge of the facts to which I attest to herein, am competent to give this affidavit and do so voluntarily.
2. I am currently, and have been since 1980, the owner and operator of a business known as Myco Imported Parts. I currently rent space at 465 North Clarendon Avenue in Scottdale, Georgia, for the operation of my business and have done so since 2016. The Lessor is 465 North Clarendon, LLC. The principal of the LLC is Jackie Spivey, the owner of Spivey's Body Shop at 447 N. Clarendon.
3. I have known Jackie Spivey since the 1980's when he purchased 447 North Clarendon for the operation of a body shop at that location. Spivey's Body Shop has provided auto repair, including car painting, since the 1980's at the 447 location. At the time of Jackie's purchase, I owned 465 North Clarendon and ran my business there. I sold 465 North Clarendon in 1999 to Frank Fletcher who owned and operated Atlanta Racing and Frank's Custom Paint from 1999 to 2016 at the 465 North Clarendon property. Frank installed a painting booth at 465 North Clarendon shortly after he purchased it for the purposes of providing auto painting as a service. He maintained and operated the painting operation on site until he sold 465 to Jackie Spivey in 2016. Jackie continued to provide automobile painting in the paint booth on site from 2016 to the present.



4. Since 1999 to the present businesses at 465 North Clarendon have continuously operated a paint booth for automobile painting on that site. Moreover, since the 1980's Mr. Spivey has continuously operated a paint booth for automobile painting on 447 North Clarendon.

FURTHER AFFLIANT SAITH NAUGHT

  
Rick Miler



Notary Public  
this 7<sup>th</sup> day of November, 2022.

Gloria Ann WoodwardGlasser  
NOTARY PUBLIC  
DeKalb County, GEORGIA  
My Commission Expires 08/18/2026

Sworn to and subscribed before me  
this 7<sup>th</sup> day of November, 2022

## **AFFIDAVIT OF JACKIE SPIVEY**

STATE OF GEORGIA       )  
DEKALB COUNTY        )

**AFFIDAVIT OF JACKIE SPIVEY IN SUPPORT OF NONCONFORMING USE STATUS  
FOR SPIVEY PAINT BOOTHS**

I, JACKIE SPIVEY, having been duly sworn depose and state the following:

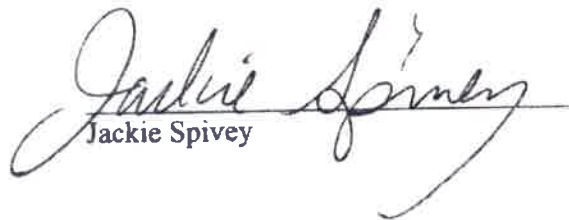
1. I am over eighteen years of age, have personal knowledge of the facts to which I attest to herein, am competent to give this affidavit and do so voluntarily.
2. I am currently, and have been since 1974, the owner and operator of a business known as Spivey's Bodyshop. We provide body work, minor car repairs and painting for cars that have been damaged and/or involved in collisions.
3. Our first location was 447 North Clarendon Avenue in Scottdale. At all times since commencement of the business at that location Spivey's Body Shop has provided auto repair, including car painting. We have had a fully operational body shop with a paint booth in continuous operation at that location since 1974 at 447 North Clarendon. In 2015, I purchased 455 North Clarendon to use for our administrative offices and non-auto repair activities. A couple years later I purchased 465 North Clarendon from Frank Fletcher who owned and operated Atlanta Racing and Frank's Custom Paint from 1999 to 2016 at the 465 North Clarendon property. When I purchased 465 North Clarendon it contained two automobile painting booths which Frank had installed shortly after he purchased the Subject Property in 1999. Frank had maintained and operated the painting operation on site during the entire period of his ownership and I continued to provide automobile painting in those two paint booths on site from January of 2017 (when I purchased it) to the present.

the paint booths are showing their age and need replacing. As such, I engaged Jack Hughes of Autotality to tear out one of the old booths at 465 Clarendon and replace it with a new more efficient, environmentally friendly paint booth. Unfortunately, he encountered difficulty with DeKalb County when he applied for a building permit. They denied the permit.

5. It took us a while to get something definitive from DeKalb County telling us why the permit application was denied but finally we received an email from Howard L. Johnson on October 21, 2022, advising us that "Auto Repair/Mechanic Shops" were not allowed in the Scottdale Overlay. This came as a big surprise to me since I have been operating essentially the same business in essentially the same location for more than 40 years. I understand this was communicated to Mr. Johnson by Mr. Hughes but we were told simply to apply for a variance –that was our only solution.

6. I believe that we are entitled to grandfathered status since we (and my predecessors) have operated auto repair businesses with painting services continuously on the Subject Property for many years and have received business permits annually for this business from the County.

FURTHER AFFIANT SAITH NAUGHT

  
Jackie Spivey



Notary Public

Sworn to and subscribed before me  
this 7<sup>th</sup> day of November 2022

Gloria Ann Woodward Glasser  
NOTARY PUBLIC  
DeKalb County, GEORGIA  
My Commission Expires 08/18/2026