

IN RE: APPEAL OF BATISTA INVESTMENTS, LLC, RELATIVE TO A PROPERTY LOCATED AT 317 FRANKLIN STREET, CITY OF READING, BERKS COUNTY, PENNSYLVANIA : **BEFORE THE ZONING HEARING BOARD OF THE CITY OF READING, PENNSYLVANIA**
: **APPEAL NO. 2023-36**
: **VARIANCE, INTERPRETATION AND/OR SPECIAL EXCEPTION**

DECISION OF THE ZONING HEARING BOARD OF THE CITY OF READING

AND NOW, this 10th day of January, 2024, a hearing having been held on December 13, 2023, upon the application of Batista Investments, LLC, notice of such hearing having been first sent and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as amended, the Zoning Hearing Board of the City of Reading (hereinafter referred to as the “Zoning Board”) renders the following decision:

FINDINGS OF FACT

The Zoning Board finds the following facts:

1. Applicant is Batista Investments, LLC, a Pennsylvania Limited Liability Company, with a principal mailing address of 2803 Avon Avenue, Reading, Berks County, Pennsylvania (hereinafter referred to as the “Applicant”).
2. Applicant is the fee simple owner of the real property located 317 Franklin Street, City of Reading Berks County, Pennsylvania (hereinafter referred to as “Subject Property”).
3. The Subject Property is located in the CC – Commercial Core Zoning District as that term and district is defined by the Zoning Ordinance of the City of Reading, as amended (hereinafter referred to as the “Zoning Ordinance”).

4. Applicant was represented by Joan E. London, Esquire, of Kozloff Stoudt, 2640 Westview Drive, Wyomissing, Pennsylvania 19610.

5. Applicant is seeking a special exception for adaptive reuse to establish a commercial use on the first floor and four (4) apartments on the second and third floors (2 apartments each floor) and modifications to the required off-street parking to allow five (5) parking spaces on site as opposed to the required six (6) off-street parking spaces; or in the alternative, a variance from the off-street parking requirements. Should the Zoning Board not grant the modification or grant a variance for off-street parking, Applicant seeks a variance for the required walking distance of 300 feet to a separate lot as the proposed parking spaces are approximately 314 feet from the Subject Property.

6. Applicant is seeking relief from the following sections of the Zoning Ordinance: Sections 600-807.B.(4)(e), 600-1603.F.(2) and (3), 600-1603.A.(31)(a) and/or (d), 600-1603.I.(f) of the Zoning Ordinance.

7. Applicant stated that when it purchased the Subject Property there was a commercial space on the first floor and the second and third floors were empty.

8. Applicant states the first floor most recently housed a furniture store and Applicant is seeking a commercial/retail use for the existing commercial space.

9. The proposed adaptive reuse for four (4) apartments in an existing three (3) story building is a permitted use in the CC Zoning District.

10. Applicant states the second and third floors would each be converted to two (2) two-bedroom apartments for a total of four (4) apartments with each apartment having an area in excess of 1,000 square feet and each apartment will have the required living area, kitchen, full bath and will be fully Code compliant.

11. Applicant states there are five (5) off-street parking spaces at the Subject Property, and Applicant has an agreement with the Reading Parking Authority for two (2) non-reserved spaces at the Fourth and Cherry Street Parking Garage which is located approximately 314 feet from the Subject Property.

12. Applicant states the proposed adaptive reuse will not increase traffic congestion along a street or create a traffic safety hazard, will not create an undue concentration of population, will not impair an adequate supply of light and air to adjacent properties, will not create a significant threat to the public's health or safety, will not be detrimental to the appropriate use of adjacent properties and will not generate significant nuisances or hazards.

13. The proposed zoning relief is in keeping with the spirit and intent of the Zoning Ordinance and the ongoing revitalization of downtown Reading.

14. The Board finds the requested relief will not be a detriment to the health, safety and welfare of the neighborhood.

DISCUSSION

Applicant is seeking a special exception for adaptive reuse to establish a commercial use on the first floor and four (4) apartments on the second and third floors (2 apartments each floor) and modifications to the required off-street parking to allow five (5) parking spaces on site as opposed to the required six (6) off-street parking spaces; or in the alternative, a variance from the off-street parking requirements. In the event the Zoning Board does not grant the modification or grant a variance for off-street parking, Applicant seeks a variance for the required walking distance of 300 feet to a separate lot as the proposed parking spaces are approximately 314 feet from the Subject Property. The proposed use will not be a detriment to the health, safety and

welfare of the neighborhood and is in keeping with the spirit and intent of the Ordinance as long as Applicant complies with the conditions hereinafter set forth.

CONCLUSIONS OF LAW

1. Applicant is Batista Investments, LLC.
2. The Subject Property is located at 317 Franklin Street, Reading, Berks County, Pennsylvania.
3. The Subject Property is located in the CC – Commercial Core Zoning District.
4. Applicant is seeking relief from the following sections of the Zoning Ordinance: Sections 600-807.B.(4)(e), 600-1603.F.(2) and (3), 600-1603.A.(31)(a) and/or (d), 600-1603.I.(f) of the Zoning Ordinance.
5. The Zoning Board incorporates the findings of fact as though fully set forth at length herein.
6. The Zoning Board is permitted to provide interpretation and grant applications for variances, special exceptions and adaptive reuse as set forth in the relevant sections of the Zoning Ordinance.
7. In order to grant the requested relief, Applicant must show it has satisfied the relevant sections of the Zoning Ordinance.
8. After reviewing the Applicant's request in detail, the Zoning Hearing Board enters the following Decision:
 - a. Applicant is granted relief from all relevant sections of the Zoning Ordinance subject to the following conditions:
 - (1) Applicant shall comply with all pertinent provisions for Adaptive Reuse considering the Residential Apartment Uses, as prescribed by the Zoning Ordinance.
 - (2) Applicant shall install a fire alarm system and sprinkler system in

accordance with the Fire Marshall's requirements prior to the issuance of any Certificates of Occupancy for the dwelling units.

(3) Applicant shall place signs stating parking for tenants only at the five (5) off-street parking spaces at the Subject Property.

(4) Applicant shall provide to the Zoning Office a written Agreement with the Reading Parking Authority for the two (2) parking spaces at the Fourth and Cherry Street Parking Garage.

(5) Applicant shall clearly delineate all off-street parking spaces.

(6) A Preliminary Land Development Plan, if necessary, shall be prepared to address the provisions required by the Subdivision and Land Development Ordinance (Chapter 515 of the City of Reading Code).

(7) A Final Land Development Plan, if necessary, shall be prepared for approval by the City of Reading and recorded with the Berks County Recorder of Deeds.

(8) All sanitary sewage disposal issues shall be resolved to the satisfaction of the City of Reading, including the reservation, permitting, installation and connection of the required sanitary sewage disposal improvements.

(9) All water supply issues shall be resolved to the satisfaction of the City of Reading, including the reservation, permitting, installation and connection of the required water supply improvements.

(10) All proposed signs shall be located, designed, permitted and installed in accordance with the provisions specified by the City of Reading.

(11) The appropriate building and zoning permits shall be prepared and submitted to address all building code requirements for the proposed residential apartment units.

(12) The building shall comply with all fire, safety and accessibility requirements specified by the City of Reading prior to occupancy.

(13) Applicant shall comply with all relevant building and occupancy codes and ordinances as well as the plans and testimony submitted before the Zoning Board.

(14) Applicant may not use, expand, alter or otherwise use the Subject Property inconsistently with the contents of this Decision without making application requesting further relief from the Zoning Board.

(15) Failure to comply with any of the above-referenced conditions shall mean the immediate revocation of the relief granted herein.

The decision of this Board is by a vote of 4 to 0.

**ZONING HEARING BOARD OF THE
CITY OF READING**

/s/ Thomas Fox

THOMAS FOX

/s/ Jeffrey Gattone

JEFFREY GATTONE

/s/ William Harst

WILLIAM HARST

/s/ Jared Barcz

JARED BARCZ