

IN RE: APPEAL OF GERNIT BURGOS RELATIVE TO A PROPERTY LOCATED AT 109 UPLAND AVENUE, CITY OF READING, BERKS COUNTY, PENNSYLVANIA	: BEFORE THE ZONING HEARING : BOARD OF THE CITY OF READING, : PENNSYLVANIA : : APPEAL NO. 2403-0006 : : VARIANCE, INTERPRETATION : AND/OR SPECIAL EXCEPTION
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**DECISION OF THE ZONING HEARING
BOARD OF THE CITY OF READING**

AND NOW, this 8th day of May, 2024, a hearing having been held on April 10, 2024, upon the application of Gernit Burgos, 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 Gernit Burgos, an adult individual residing at 109 Upland Avenue, City of Reading, Berks County, Pennsylvania 19611(hereinafter referred to as the “Applicant”).
2. Applicant has a leasehold interest in the property located at 109 Upland Avenue, City of Reading, Berks County, Pennsylvania 19611 (hereinafter referred to as the “Subject Property”).
3. The fee simple owner of the Subject Property, Altragracia Paulino-Garcia, has granted Applicant permission to seek the requested zoning relief.
4. The Subject Property is located in the R-2 Residential 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”).
5. Applicant is requesting an appeal of the determination of the Zoning Administrator, a special exception to operate a home daycare on the first floor of the Subject Property, and a variance for the minimum square footage requirement.

6. Applicant's zoning permit was denied because the home daycare requires special exception approval and a variance is required to permit a habitable area less than the required minimum 480 square feet.

7. Applicant resides at the Subject Property along with her partner and three year old son.

8. Applicant would like to provide daycare for four to six children including her three year old son.

9. Applicant is proposing hours of operation from 6:00 a.m. to 11:00 p.m., prevailing time, Monday through Friday.

10. Applicant will have one employee.

11. The first floor of the Subject Property has a bathroom, kitchen and locker for each child.

12. Applicant will provide meals for the children.

13. Applicant has an outdoor play area, but she plans on also taking the children to the E.J. Dives Park which is across the street and approximately 60 feet from the front porch of the Subject Property.

14. Applicant states there is sufficient on-street parking for her employee and for parents dropping off and picking up their children.

15. Applicant will have security protocol in place with respect to who can pick up the children from the daycare.

16. The Zoning Board finds as a fact the square footage of the first floor is sufficient to accommodate the proposed use.

17. Applicant understands she must apply for the appropriate licenses and reviews by the Pennsylvania Department of Human Services and other agencies.

18. The Board finds the proposed use will not be detrimental to the health, safety and welfare of neighboring properties.

19. There were no objections presented at the hearing.

DISCUSSION

Applicant is requesting an appeal of the determination of the Zoning Administrator, a special exception to operate a home daycare on the first floor of the Subject Property, and a variance for the minimum square footage requirement.

The Zoning Board finds as a fact and concludes as a matter of law that the proposed use will not be detrimental to the health, safety and welfare of neighboring properties.

CONCLUSIONS OF LAW

1. Applicant is Gernit Burgos.
2. The Subject Property is located at 109 Upland Avenue, City of Reading, Berks County, Pennsylvania 19611.
3. The Subject Property is located in the R-2 Residential Zoning District.
4. The Zoning Board is permitted to provide interpretation and grant applications for variances and/or special exceptions as set forth in the relevant sections of the Zoning Ordinance.
5. The Zoning Board incorporates the findings of fact and conclusions of law as though fully set forth at length herein.
6. In order to grant the special exception, Applicant must show she has satisfied the relevant sections of the Zoning Ordinance.
7. After reviewing the Applicant's request in detail, the Zoning Hearing Board enters the following decision:
 - a. Applicant is granted a special exception and variance to operate a home daycare for four to six children including her three year old son on the first floor of the Subject Property.
 - b. Applicant shall comply with all applicable State requirements for a home daycare and a copy of the required PA Department of Human Services License shall be provided to the Zoning Administrator immediately upon receipt.
 - c. Applicant's hours of operation shall be limited to 6:00 a.m. to 11:00 p.m., prevailing time, Monday through Friday.

d. The relief granted herein is conditioned upon the Applicant complying with all relevant building and occupancy codes and ordinances as well as the plans and testimony submitted before the Zoning Board.

e. 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.

f. Failure to comply with any of these above-referenced conditions shall mean the immediate revocation of the relief granted herein.

The decision of this Board is by a vote of 5 to 0 .

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

/s/ Philip Rabena

PHILIP RABENA, CHAIRMAN

/s/ Thomas Fox

THOMAS FOX

/s/ Jeffrey Gattone

JEFFREY GATTONE

/s/ William Harst

WILLIAM HARST

/s/ Jared Barcz

JARED BARCZ