

IN RE: APPEAL OF VICTOR SANTIAGO RELATIVE TO A PROPERTY LOCATED AT 746 AND 748 N. NINTH STREET, CITY OF READING, BERKS COUNTY, PENNSYLVANIA	: BEFORE THE ZONING HEARING : BOARD OF THE CITY OF READING, : PENNSYLVANIA : : APPEAL NO. 2409-0026 : : VARIANCE, INTERPRETATION : AND/OR SPECIAL EXCEPTION
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**DECISION OF THE ZONING HEARING
BOARD OF THE CITY OF READING**

AND NOW, this 13th day of November, 2024, a hearing having been held on October 9, 2024, upon the application of Victor Santiago, 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:

The Zoning Board finds the following facts:

1. Applicant is Victor Santiago, an adult individual residing at 748 N. Ninth Street, Reading, Berks County, Pennsylvania (hereinafter referred to as “Applicant”).
2. Applicant is the spouse of the fee simple owner of the property located at 746 and 748 N. Ninth Street, City of Reading, Berks County, Pennsylvania (hereinafter referred to as the “Subject Property”).
3. The fee simple owner of the Subject Property, Milagros Santiago, has granted Applicant permission to seek the requested relief.
4. The Subject Property is located in the Commercial Neighborhood (C-N) 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 was represented by Joan London, Esquire, of Kozloff Stoudt, 2640 Westview Drive, Wyomissing, PA 19610.

6. Applicant seeks a variance to permit the conversion of two (2) single-family dwellings into a ground floor restaurant and three (3) dwelling units, a variance from the minimum floor area for one (1) dwelling unit, and a variance for the required number and/or dimensional requirement for off-street parking spaces.

7. Applicant is seeking relief from Sections 1203.D, 1203.D(2), 600-809.B(1)(a) and 600-804.C(3)(a) and 804.C(4).

8. The two (2) single-family dwellings are currently vacant.

9. On the property known as 746 N. 9th Street Applicant seeks relief to allow a pizza restaurant on the ground floor which would be takeout and delivery only and one (1) apartment.

10. On the property known as 748 N. 9th Street Applicant seeks relief for two (2) apartments, one being a two-bedroom unit and the other a three-bedroom unit.

11. Applicant and his wife, the fee simple owner of the Subject Property, will live in the ground floor apartment at 746 N. 9th Street.

12. A variance is requested for the ground floor apartment because it has approximately 665 usable square feet as opposed to the required 700 square feet.

13. Applicant requests a de minimis dimensional variance for the ground floor unit at 746 N. 9th Street due to pre-existing design limitations.

14. Applicant stated there are two (2) parking spaces behind each of the dwellings at 746 and 748 N. 9th Street.

15. Applicant stated there are two (2) additional parking spaces available to lease at a parking lot immediately adjacent to the Subject Property across an alley known as Little Cedar

Street, also known as 817 Oley Street, owned by Alex Frutos of Frutos Real Estate, which parking lot is less than 300 feet from the Subject Property.

16. Applicant stated the pizza restaurant will have two (2) employees.

17. Applicant stated the Subject Property cannot be reasonably and viably used in the manner provided in the C-N Zoning District as the structures are larger than most of the homes in the immediate area and are not marketable as a single family residence.

18. Applicant stated the conversion would allow for a reasonable use of the Subject Property as low-rise apartments and a takeout restaurant which are otherwise permitted by right in the C-N Zoning District.

19. A neighboring property owner objected to the granting of the requested relief due to ongoing double-parking issues as a result of another restaurant located in the same block at 742 N. 9th Street which results in the police being called at least once a week to move the double-parked cars.

20. The Zoning Board finds the Subject Property can be used in accordance with the strict terms of the Zoning Ordinance.

21. There is no hardship.

22. The Zoning Board finds the proposed use is not in keeping with the spirit and intent of the Zoning Ordinance and will be detrimental to the health, safety and welfare of the neighborhood or the zoning district.

DISCUSSION

Applicant seeks a variance to permit the conversion of two (2) single-family dwellings into a ground floor restaurant and three (3) dwelling units, a variance from the minimum floor area for one (1) dwelling unit, and a variance for the required number and/or dimensional

requirement for off-street parking spaces. The Zoning Board finds the proposed use is not in keeping with the spirit and intent of the Zoning Ordinance and will be detrimental to the health, safety and welfare of the neighborhood or the zoning district.

CONCLUSIONS OF LAW

1. Applicant is Victor Santiago.
2. The Subject Property is located at 746 and 748 N. 9th Street, Reading, Berks County, Pennsylvania.
3. The Subject Property is located in the Commercial Neighborhood (C-N) Zoning District.
4. The specific sections of the Zoning Ordinance appealed are Sections 1203.D, 1203.D(2), 600-809.B(1)(a) and 600-804.C(3)(a) and 804.C(4).
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 and/or special exceptions as set forth in the relevant sections of the Zoning Ordinance.
7. In order to grant the requested variance and/or special exception, Applicant must show he 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 denied the variance to convert the two (2) single-family dwellings as set forth herein because:
 - (1) Applicant can use the Subject Property within the strict terms of the Zoning Ordinance;
 - (2) There is no hardship; and

(3) The creation of a pizza restaurant for takeout and delivery with three (3) dwelling units is detrimental to the neighborhood and will increase street and parking congestion.

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

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

/s/ Philip Rabena

PHILIP RABENA, CHAIRMAN

/s/ Jeffrey Gattone

JEFFREY GATTONE

/s/ Jared Barcz

JARED BARCZ

/s/ Charles Jones

CHARLES JONES