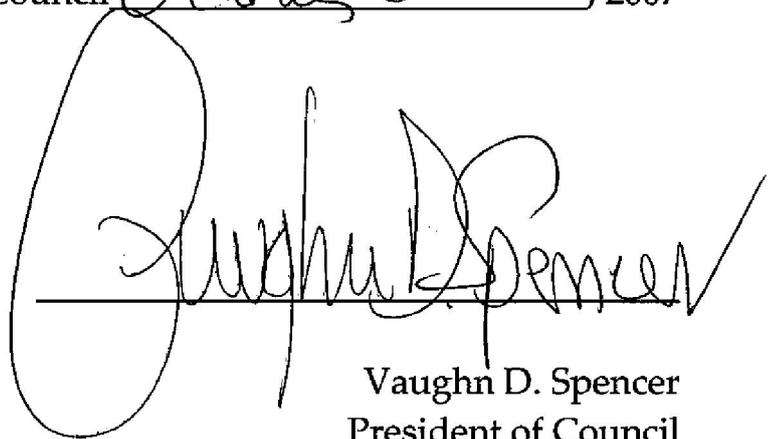


RESOLUTION NO. 138-2007

THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS FOLLOWS:

Denying the conditional use approval, as attached, for 101 South 10th Street, owner Henry Cruz, to expand the nonconforming bar use to the second floor of subject property.

Adopted by Council October 8, 2007



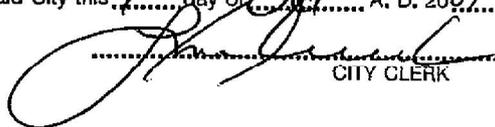
Vaughn D. Spencer
President of Council

Attest:



Linda A. Kelleher, City Clerk

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original Resolution passed by the Council of the City of Reading, on the 8th day of Oct A. D. 2007. Witness my hand and seal of the said City this 9th day of Oct A. D. 2007.



CITY CLERK

**IN RE: CONDITIONAL USE APPEAL OF : BEFORE THE CITY COUNCIL OF THE
HENRY CRUZ RELATIVE TO A : CITY OF READING, PENNSYLVANIA
PROPERTY LOCATED 101 SOUTH :
TENTH STREET, CITY OF READING, : APPEAL ON REMAND FROM THE
BERKS COUNTY, PENNSYLVANIA : COURT OF COMMON PLEAS OF BERKS
: COUNTY
:**

DECISION OF CITY COUNCIL OF THE CITY OF READING

AND NOW, this 8th day of October, 2007, a hearing having been held on August 28, 2007, upon the application of Henry Cruz, 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, City Council of the City of Reading renders the following decision:

FINDINGS OF FACT

1. Applicant is Henry Cruz, an adult individual residing at 2034 Franklin Place, Wyomissing, Berks County, Pennsylvania (hereinafter referred to as the "Applicant").
2. The Applicant seeks conditional use approval for property located 101 South Tenth Street, City of Reading, Berks County, Pennsylvania (hereinafter referred to as the "Subject Property").
3. The Applicant is the fee simple owner of the Subject Property.
4. The Subject Property is located in the R-3 Residential Zoning District as that term and district is defined by the Zoning Ordinance of the City of Reading, adopted June 2001, as amended (hereinafter referred to as the "Zoning Ordinance").
5. A hearing on this matter was held on August 28, 2007, commencing at 5:15 p.m., prevailing time, in City Council Chambers, City Hall, 815 Washington Street, City of Reading, Berks County, Pennsylvania.
6. Applicant requests relief from Sections 27-1203 of the Zoning Ordinance to expand his nonconforming bar business to the second floor (apartment area) at the Subject Property.

7. Applicant testified that the Subject Property was formerly Al Kline's Paddock and Vicaro's Bar.

8. Applicant testified that the Subject Property currently has a bar with DJ music and/or live bands.

9. Applicant testified that all activities currently take place on the first floor of the Subject Property.

10. Applicant testified that the second floor of the Subject Property had been used as an apartment and now is one large room for storage.

11. Applicant testified that he can currently accommodate up to 160 people on the first floor of the Subject Property.

12. Applicant estimates if he is allowed to expand his use to the second floor, he could accommodate an additional 75 people.

13. There is no off-street parking owned by Applicant.

14. The neighborhood is predominately residential.

15. The proposed increased intensity is not in harmony with the zoning district or the neighborhood in general.

16. The proposed increased intensity would adversely affect neighboring property values and the health, safety and welfare of the neighborhood due to:

- a. traffic congestion;
- b. pedestrian congestion; and
- c. noise.

17. The proposed increased intensity is not necessary to reasonable use of the Subject Property because it has been used and continues to be used as a bar.

18. The Applicant purchased the Subject Property with actual or implied knowledge that the nonconforming use was limited to the first floor of the Subject Property.

DISCUSSION

Applicant desires to expand his nonconforming bar business to the second floor (apartment area) at the Subject Property. The proposed expansion is too intense for the Subject Property and the neighboring properties. The increased pedestrian and vehicle congestion as well as increased noise would be detrimental to the health, safety and welfare of the neighborhood, would decrease property values, and is not in keeping with the spirit and intent of the Zoning Ordinance.

CONCLUSIONS OF LAW

1. The Applicant is Henry Cruz, an adult individual residing at 2034 Franklin Place, Wyomissing, Berks County, Pennsylvania.
2. Applicant seeks conditional use approval for property located 101 South Tenth Street, City of Reading, Berks County, Pennsylvania.
3. The Subject Property is located in the R-3 Zoning District.
4. Applicant specifically requests relief from Sections 27-1203 of the Zoning Ordinance to expand his nonconforming bar business to the second floor (apartment area) at the Subject Property.
5. Applicant's proposed use is too intense for the Subject Property and the neighboring properties.
6. Applicant's proposed use would increase pedestrian and vehicle congestion as well as increased noise and would be detrimental to the health, safety and welfare of the neighborhood, would decrease property values, and is not in keeping with the spirit and intent of the Zoning Ordinance.
7. Based upon the findings of fact which are incorporated herein as though fully set forth at length, the City Council of the City of Reading hereby concludes as a matter of law that the Applicant has not met his burden of proof and persuasion with respect to Sections 27-1203 of the Zoning Ordinance.

8. Based upon the findings of fact and conclusions of law as set forth herein, the City Council of the City of Reading hereby denies Applicant's requested relief to expand his nonconforming bar business to the second floor (apartment area) at the Subject Property.

The decision of City Council is by a vote of _____ to _____.

CITY COUNCIL OF THE CITY OF READING

VAUGHN SPENCER, COUNCIL PRESIDENT

MARCIA GOODMAN-HINNERSHITZ

MARIA BAEZ

DENNIS STERNER

STRATTON MARMAROU

STEVEN FUHS

JEFFREY WALTMAN