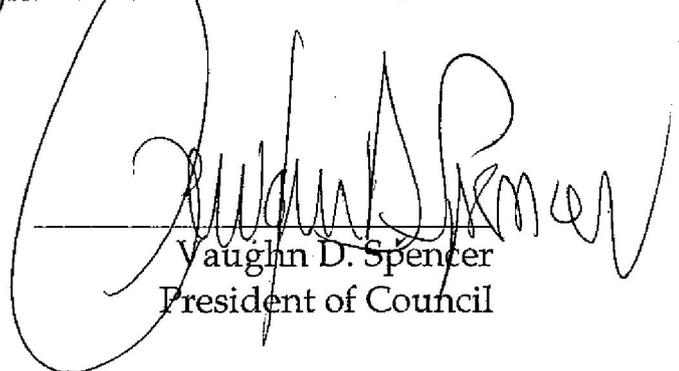


RESOLUTION NO. 41-2010

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

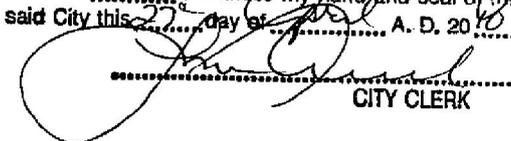
Denying the Conditional Use application submitted by Miguel Estrada for of two (2) additional rental units at 226 West Oley Street and ordering the deconversion of the property to a single family residence, per the attached Findings of Fact and Conclusion of Law

Adopted by Council April 26, 2010


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 26 day of April A. D. 20 10. Witness my hand and seal of the said City this 27 day of April A. D. 20 10.

CITY CLERK

IN RE: APPLICATION OF MIGUEL ESTRADA: BEFORE THE CITY COUNCIL
FOR A CONDITIONAL USE PERMIT : OF THE CITY OF READING,
RELATIVE TO THE PROPERTY : PENNSYLVANIA
LOCATED AT 226 WEST OLEY :
STREET, RADING, BERKS COUNTY :
PENNSYLVANIA : CONDITIONAL USE
: CONVERSION TO
: INCREASE
: NUMBER OF UNITS

**DECISION OF THE CITY OF READING
CITY COUNCIL ON A CONDITIONAL USE APPLICATION**

AND NOW, this 26th day of April, 2010, hearings have been held on March 10 and March 31, 2010, upon the application of Miguel Estrada, notice of such hearing having been first sent, posted and advertised in accordance with the provisions of the Pennsylvania Municipalities Planning Code and the City of Reading Zoning Ordinance, as amended, the City of Reading City Council (hereinafter "Council") renders the following decision:

FINDINGS OF FACT

City Council finds the following facts:

1. The Applicant is Miguel Estrada, "Applicant" with a registered address of 226 West Oley Street.
2. Applicant was the fee simple owner of the property of 226 West Oley Street at the time of application and at the time of the hearing.
3. The Subject Property is located in the R-3 Zoning District as that term and district is defined by the City of Reading Zoning Ordinance, as amended, (hereinafter referred to as "Zoning Ordinance").
4. Applicant is seeking a Conditional Use to undertake a conversion for the addition of two (2) rental units, for a total of three (3) units, at the Subject Property per §27-1203.4 of the City of Reading Zoning Ordinance.

5. Applicant seeks the conversion to permit two additional units to the Subject Property which is currently permitted as a single family rental unit.

6. Applicant testified that the Subject Property is a three story structure which contains three (3) apartment units with individual bathrooms, kitchens and bedrooms, one unit on each floor

7. Applicant testified that three (3) apartments existed at the Subject Property when he purchased the property in February 2009.

8. Applicant testified that he did not check to see if proper zoning for a three (3) unit rental property existed before the Subject Property was purchased.

9. Documentation in the zoning file shows that a permit was issued to the prior owner on December 23, 2005 to de-convert the property from a three (3) unit rental to a single family rental; however, per testimony it appears the de-conversion was never completed.¹

10. Applicant provided a hand drawn site plan. The site plan does not depict the garage or clearly delineate parking spaces conforming to the dimensional requirements of the Zoning Ordinance.

11. Applicant testified that there are only three (3) off-street parking spaces available to the occupants of the property. Per photographs and testimony, the off-street parking spaces are provided in the garage located on the Subject Property. The Applicant was informed that the requirements for a conversion as a Conditional Use per the Zoning Ordinance are 1.5 off-street parking spaces per unit. Applicant testified that no additional off-street parking is available.

12. Applicant cannot meet the 1.5 off-street parking spaces per unit requirement for a conversion for a total of three (3) units.

13. The City of Reading Planning Commission recommends that the Conditional Use application be denied due to over congestion and parking problems within this neighborhood.

14. Zoning Ordinance Section 27-1203 (4) B requires a two bedroom rental unit to have a minimum of 700 sq. ft and a one bedroom rental unit to have a minimum of 550 sq. ft. The application and site plan submitted with the application shows that the first floor one (1) bedroom unit has a square footage

¹ A Zoning Permit was issued to Applicant on 7/21/2009 for a one dwelling unit as part of the housing permitting process to which no appeal was taken.

of 743, the second floor two (2) bedroom unit has a square footage of 672, and the third floor one (1) bedroom unit has 616 square footage. The second floor two (2) bedroom unit does not comply with section 27-1203(4) B of the Zoning Ordinance, as it fails to meet the 700 sq ft minimum for a two (2) bedroom apartment.

15. The Zoning Ordinance requires documents showing that all plumbing, heating and electrical equipment and facilities are adequate and appropriate for the proposed use.

16. Applicant presented no exhibit or documentation that all plumbing, heating and electrical equipment and facilities are adequate and appropriate for three (3) units in the Subject Property. However, the Applicant agreed to comply with the Building and Trades regulation. Additionally, he presented documentation that in October 2009 the property complied with the City of Reading Property Maintenance Code.

17. Applicant testified that he would comply with the decision of Council.

18. Neighbors of the Subject Property, Mark Burford and Kevin Devera, testified in opposition to the conversion at the hearing held on March 10th and Michael Wood and Reverend Ernestine Boles provided written comment in opposition to the application for the additional rental units noting the overcrowding in this neighborhood and the existing stress on parking.

DISCUSSION

Applicant requests a Conditional Use to undertake the conversion of the Subject Property located in an R-3 Residential Zoning District to obtain an additional two permitted units to make the property a permitted a three (3) unit rental property. Applicant has not met the requisite criteria for off-street parking per the City of Reading Zoning Ordinance for a conversion to a three (3) unit rental as a Conditional Use in the R-3 Residential Zoning District. The second floor unit at the Subject Property also does not meet the minimum square footage requirements defined in the Zoning Ordinance.

CONCLUSIONS OF LAW

1. The Subject Property is located in the R-3 Zoning District.
2. Hearings were held on March 10th and March 31, 2010.
3. Applicant requests a Conditional Use for a conversion to add two (2) rental units to this single family rental property, for a total of three (3) units.
4. The burden of proof in an application for a Conditional Use is upon the Applicant.
5. City of Reading City Council is permitted to grant Conditional Uses and other relief as set forth in the Zoning Ordinance of the City of Reading and Pennsylvania Municipalities Planning Code upon compliance with the requirements therefor set forth in the Zoning Ordinance.
6. The requirements for a conversion as a Conditional Use in an R-3 Zoning District are set forth in §27-1203.4 of the City of Reading Zoning Ordinance.
7. In order to grant the relief, Applicant must show that it has satisfied §27-1203.4 of the City of Reading Zoning Ordinance.
8. Applicant failed to meet the burden of proof to meet the requirements of conversion as a Conditional Use for a three (3) unit rental as set forth in §27-1203.4 of the City of Reading Zoning Ordinance. Specifically, Applicant failed to prove:
 - a. The minimum floor area of the second floor rental unit does not meet the requirements as set forth in §27-1203.4.B and
 - b. There are at least 1.5 off street parking spaces delegated to each rental unit requested at the Subject Property per §27-1203.4.C.
 - c. Documentation that all plumbing, heating and electrical equipment and facilities are adequate and appropriate for three (3) rental units in the Subject Property.
9. Applicant did not file an application for a non-conforming use or other relief from the Zoning Hearing Board for the City of Reading.

DECISION

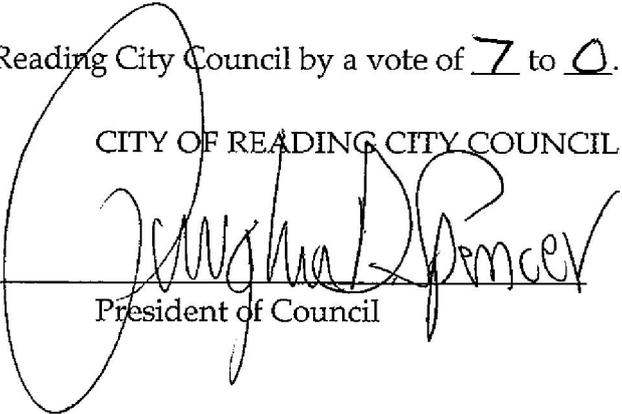
After reviewing the Applicant's request in detail and hearing testimony, City Council enters the following decision:

Applicant is hereby denied a Conditional Use for a Conversion of the Subject Property to a three (3) unit rental because Applicant failed to meet the requirements therefore pursuant to the City of Reading Zoning Ordinance. The de-conversion from three (3) to one single family unit must occur within three (3) months of the date of this order. The de-conversion must comply with all City regulations and be approved by the Chief Building Inspector.

If the current or subsequent property owner fails to deconvert the property to a single unit within three (3) months, the City may begin enforcement actions as specified in Zoning Ordinance Sections 27-204, 205 and 206.

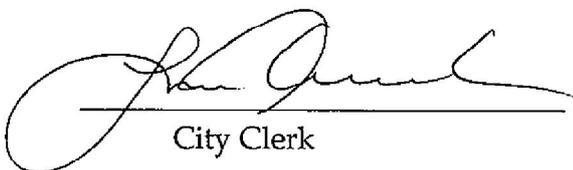
This is the decision of the City of Reading City Council by a vote of 7 to 0.

CITY OF READING CITY COUNCIL



President of Council

Attest:



City Clerk