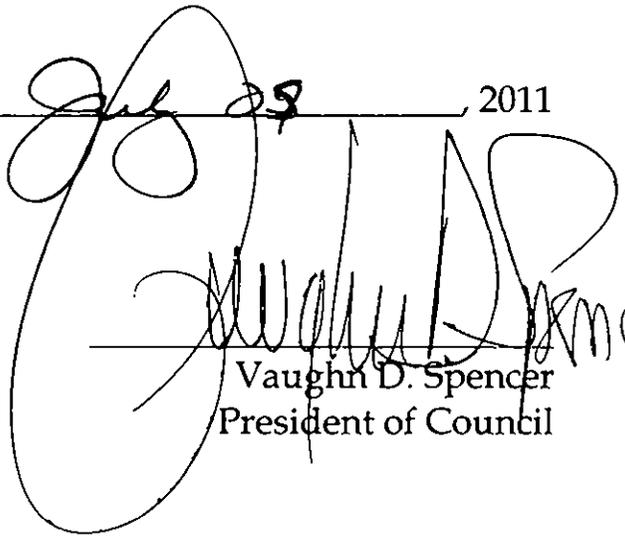


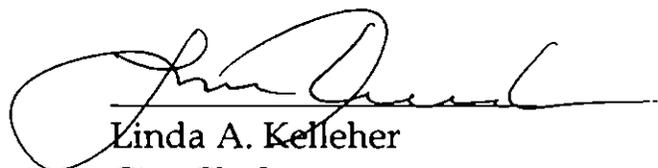
RESOLUTION NO. 143 2011

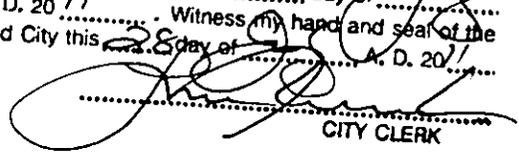
THE COUNCIL OF THE CITY OF READING HEREBY RESOLVES AS FOLLOWS:

Denies the Conditional Use application submitted by Ramon and Yulis Caraballo requesting a zoning permit for the addition of three (3) rental units in the upper floors of 1457 North 9th Street, but approves instead the addition of two (2) rental units for the second and third floor of 1457 North 9th Street, with conditions as attached herein.

Adopted by Council July 28, 2011

Vaughn D. Spencer
President of Council

Attest:


Linda A. Kelleher
City Clerk
Council Staff/Law Dept

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 25 day of July A. D. 2011. Witness my hand and seal of the said City this 28 day of July A. D. 2011.

CITY CLERK

IN RE: APPLICATION OF	: BEFORE THE CITY COUNCIL
RAMON AND YULIS	: OF THE CITY OF READING,
CARABALLO	:
FOR A CONDITIONAL USE	: PENNSYLVANIA
PERMIT FOR THE ADDITION	:
OF THREE (3) RENTAL UNITS	:
AT 1457 NORTH 9th	:
STREET, READING, BERKS	:
COUNTY, PENNSYLVANIA	:

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

AND NOW, this 25th day of July, 2011, hearings have been held on July 12, 2011, upon the application of Ramon and Yulis Caraballo, owners of 1457 North 9th Street, 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 Ramon and Yulis Caraballo, "Applicant" with a registered address of 54 Virginia Avenue, Reading PA 19609.
2. Applicant is the fee simple owner of the property of 1457 North 9th 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 for the addition of three (3) rental units in the upper floors of the Subject Property as per the City of Reading Zoning Ordinance per §27-1203.D.

5. The Applicant attended the hearing and provided testimony.

6. The City Solicitor for the City entered the agenda and all attachments on to the record and the Applicant did not object.

7. The Applicant testified that the three (3) units were added to this property before he purchased it. He stated he noticed the rental units when he toured the property with his Realtor, from the Century 21 Wyomissing office.

8. The Applicant stated that his Realtor told him that the property was zoned for Commercial Residential use and could be rented out. However, the Zoning Administrator clarified that the property is zoned R3.

9. The Applicant stated that the City's Building Inspector and Fire Marshall inspected the building after he purchased it and stated that due to the type and style of tile and fixtures they could tell that the rental units were installed many years ago.

10. The Applicant testified that he obtained a zoning permit for the grocery store on the first floor. The grocery store has been operating for approximately one (1) year. The Applicant stated that he needs to lease the rental units to cover the cost of the building's maintenance. He stated that he resides in Berks County and will be a responsible property owner. He also promised to rent to law abiding tenants.

11. The Applicant testified that the attached garage has space to hold three (3) to four (4) vehicles and that there is sufficient curb-side parking on Amity Street to accommodate and overflow parking needs.

12. The Applicant admitted that he should have contacted the City's Zoning Office to see if the proper zoning permits were in place, rather than trusting the information provided by his Realtor.

13. Councilor Marmarou provided the historical background of the building which started as a "mom and pop" operation with the owners residing on the upper floors of the building. He stated that for the past 25+ years the entire building was used as an antique furniture store, Keystone Antiques and operated by Mr. Bohn. He questioned the pre-existence of the three (3) rental units.

14. The Zoning Administrator testified that she reviewed the property file that begins in the early 1970s. She stated that there have been commercial zoning permits for the first floor of this building since 1974. However, there is no evidence of rental zoning permits or rental registration in the Property Maintenance Division. She also stated that there are also no Trades or Building Permits showing when the rental units were added to the building.

15. The Zoning Administrator testified that the proposed rental units, two 1 bedroom units and one 3 bedroom unit meet the size requirements listed in the City's Zoning Ordinance. She also testified that the garage is large enough to accommodate three (3) to four (4) vehicles.

16. The Zoning Administrator recommended the approval of the application.

17. The City Planner stated that the Reading Planning Commission reviewed this application at their regular business meeting on Tuesday, June 28, 2011 and that the Commissioners recommended the approval of the application, as they believe sufficient parking exists at the garage and curb-side on Amity Street.

18. The Applicant agreed that he would comply with any conditions required to ease the parking strain described by a citizen making public comment and several of the Councilors at the hearing, including but not limited to providing additional garage doors to increase the number of vehicles that can access off-street parking.

DISCUSSION

The Applicant is seeking a Conditional Use Permit to add three (3) rental units to the upper floors of 1457 North 9th Street, which is located in an R3 zoning district. The City of Reading Zoning Ordinance §27-1203.D Conversions provides that the following standards are met:

D. Conversions. This section applies to an existing building where it is allowed by the zoning district regulations to be converted into new dwelling units:

1. A site plan, drawn to the scale, showing the location and dimensions of all off-street parking, private entrances, walkways and landscaping, shall be submitted, as well as, architectural plans showing the dimensions and square footage of all rooms and storage spaces and indicating the intended use of all rooms.
2. The conversion shall have the minimum floor area as designated by the following schedule:

Apartment Square Feet	
Efficiency or Studio	Not Allowed
One Bedroom	550
Two Bedroom	700
Three or More Bedroom	850

3. For each dwelling unit, there shall be a minimum 1.5 off-street parking spaces per unit.
4. Documents indicating to the City Codes Staff's satisfaction that all plumbing, heating and electrical equipment and facilities are adequate and appropriate for the proposed use. The entire building shall also be made available for a code inspection.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Subject Property is located in the R-3 Zoning District.
2. The Hearing was held on July 12, 2011.
3. The Applicant requests a Conditional Use for the addition of three rental units to the 2nd and 3rd floors of the Subject Property.
4. The burden of proof in an application for a Conditional Use is upon the Applicant.
5. The 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 therefore set forth in the Zoning Ordinance.
6. In order to grant the relief, Applicant must show that it has satisfied §27-1203.D of the City of Reading Zoning Ordinance and met the conditions applied by City Council.
7. At the hearing, Applicant provided proof that he satisfied some of conditions of §27-1203.D of the City of Reading Zoning Ordinance.

8. The Zoning Administrator testified that the three (3) units comply with the size requirements specified in the City's Zoning Ordinance. She also testified that the first floor of the Subject Property had zoning permits for various commercial uses since approximately 1974; however, there is no evidence of pre-existing residential rental units in the upper floor.
9. The Applicant testified that the City's Building Official and Fire Marshal inspected the building and observed that the three (3) units were pre-existing due to the style and types of building materials and fixtures used.
10. The Applicant did file an application for other relief from the City of Reading Zoning Hearing Board.
11. The Applicant did provide sufficient proof that the existing facility conforms to the general character of other properties in the neighborhood and will not adversely affect the safety of the affected property owners.
12. The Applicant also failed to provide the required documents showing that the property's plumbing, heating and electrical equipment and facilities are adequate and appropriate for the proposed use.
13. The City's Planning Commission recommended that Council approve the request for the three (3) rental units.
14. One person who owns a single family owner occupied home and one rental unit in this neighborhood, testified about the over population in this neighborhood and the difficult parking situation that exists.
15. Although City zoning records show that the first floor of this building has been used for commercial purposes since the mid 1970s, there is no evidence in the zoning and property maintenance records showing that this property was a rental property. There is also no evidence that the required trades permits were pulled to convert this building to a three (3) unit property.

DECISION

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

City Council has observed the overpopulation of rental properties within the City of Reading and this neighborhood and the subsequent parking problems this population concentration has caused and therefore denies a Conditional Use permit for three (3) rental units in this building. However, City Council approves a Conditional Use permit for two (2) rental units (one 2 bedroom unit and one 3 bedroom unit) at 1457 North 9th Street, owned by Ramon and Yulis Caraballo , with conditions as follows:

1. After the City Building and Trades Office provides a certificate showing that the property is in compliance with all Building and Trades regulations, and
2. After the applicant has installed additional garage doors onto the attached garage to provide off-street garage parking for a minimum of three (3) vehicles.
3. Mr. and Mrs. Caraballo shall require a minimum of three (3) tenants to park in the garage parking spaces and such requirement shall be included in the tenants lease agreement.
4. Mr. and Mrs. Caraballo shall also contact the owners of surrounding businesses to acquire additional leases for off-street tenant parking, unless they obtain relief from the City's Zoning Hearing Board.

City Council also orders the removal one kitchen that would be required for the third rental unit within one (1) year.

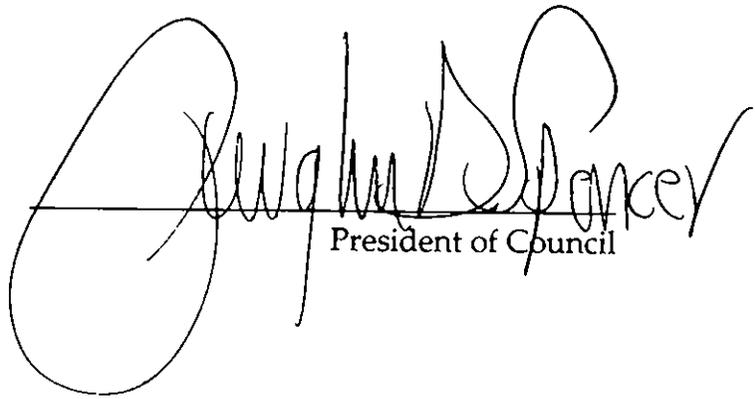
However, the zoning permit allowing two (2) rental units at 1457 North 9th Street shall be revoked upon the following:

1. The issuance of any Disruptive Conduct Report by the City of Reading, or
2. If the current or future property owner fails to comply with the City's Property Maintenance regulations, or
3. If the current or subsequent property owner fails to obtain a current housing permit or business license, or
4. If the current or subsequent property owner fails to meet the conditions ordered within this decision

If the zoning permit is revoked as herein provided, the property owner shall de-convert the property to a single unit that encompasses the 2nd and 3rd floors of 1457 North 9th Street within three (3) months.

This is the decision of the City of Reading City Council by a vote of 6 to 0.

CITY OF READING CITY COUNCIL



Douglas M. Spencer
President of Council

Attest:

City Clerk