

RESOLUTION NO. 81 -2011

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

City of Reading, Intervenor in the matter of In Re Appeal of Freedom Gate Ministries, Inc from the Decision of the Zoning Hearing Board of the City of Reading Dated January 12, 2011, Docket No. 11-2334, an appeal of the January 12, 2011 Decision of the Zoning Hearing for the City of Reading in Appeal 2010-48 granting with conditions the application for a non-conforming use of a group home at 132 South Ninth Street, Reading, Pennsylvania, agrees to settlement thereof through the amendment of Conditions of the Zoning Hearing Board Decision. Specifically, City of Reading agrees that the following Conditions shall be amended as follows:

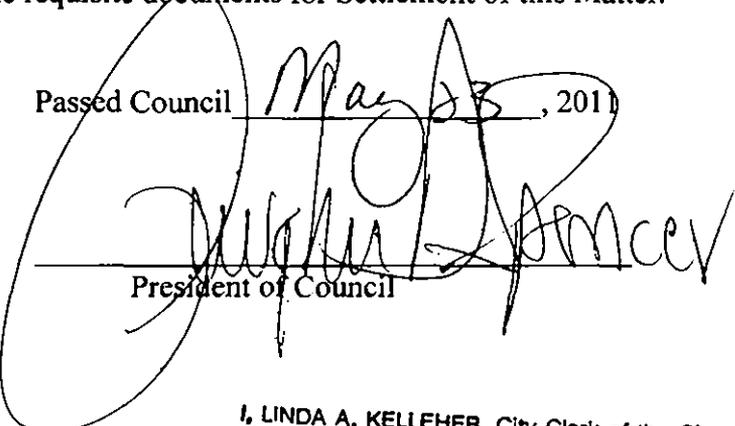
Condition D – Preparation of food and consumption of meals at the subject property shall be allowed however the food and meals shall be for consumption of the residents and live in supervisors of the property and shall not be consumed outside of the property.

Condition F – 2 live in supervisors shall be permitted to reside at the property in addition the 7 approved residents. The total number of people living at the property shall be limited to 9, inclusive of no more than 7 residents and 2 live in supervisors.

A copy of the Decision of the Zoning Hearing Board of January 12, 2011 in Appeal 2010-48 is attached hereto and made a part hereof.

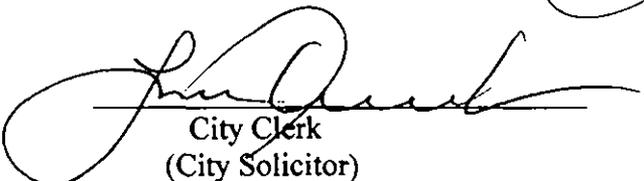
The Solicitor for the City of Reading or his designee is hereby authorized to prepare and/or review as well as execute the requisite documents for Settlement of this Matter.

Passed Council May 23, 2011



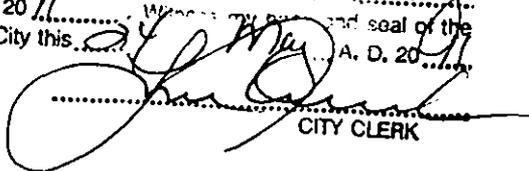
President of Council

Attest:



City Clerk
(City Solicitor)

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 23 day of May, A. D. 2011. Witness my hand and seal of the said City this 24 day of May, A. D. 2011.



CITY CLERK

**IN RE: APPEAL OF FREEDOM GATE : BEFORE THE ZONING HEARING
MINISTRIES RELATIVE TO A : BOARD OF THE CITY OF READING,
PROPERTY LOCATED AT 132 : PENNSYLVANIA
SOUTH NINTH STREET READING, :
BERKS COUNTY, PENNSYLVANIA : APPEAL NO. 2010-48
: :
: VARIANCE, INTERPRETATION
: AND/OR SPECIAL EXCEPTION**

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

AND NOW, this 12th day of January, 2011, a hearing having been held on December 8, 2010, upon the application of Freedom Gate Ministries, notice of such hearing having first been 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. The Applicant is Freedom Gate Ministries, Inc., a Pennsylvania Corporation with a business address of 347 South Seventh Street, Reading, Berks County, Pennsylvania (hereinafter referred to as the "Applicant").
2. Applicant is the fee simple owner of the property known as 132 South Ninth Street, City of Reading, Berks County, Pennsylvania (hereinafter referred to as the "Subject Property").
3. The Applicant was represented at the time of the hearing by Gregory Shantz, Esquire.

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, as amended (hereinafter referred to as the "Zoning Ordinance").

5. The Subject Property is a residential town home.

6. Applicant requests an appeal from the Decision of the Zoning Administrator relating to its prior non-conforming usage under Sections 27-301.H.1 and 27-607.G of the Zoning Ordinance.

7. Applicant indicates that it had ownership of the Subject Property from 1990 to the present.

8. Prior to Applicant's ownership of the Subject Property, the Subject Property was owned by JAIR Community Services, Inc., which used the Subject Property as a group home.

9. JAIR Community Services, Inc. changed its name and became Freedom Gate Ministries, Inc. in 1990 according to the testimony provided.

10. Applicant has indicated that it desires to continue what it maintains was a prior non-conforming use by operating a group home for recently released prisoners.

11. Applicant's typical operation of a group home includes treatment, by providing a home, shelter, counseling, work training and religious meetings.

12. Applicant has indicated that the Subject Property has always been used as part of its rehabilitation program.

13. However, Applicant concedes that from the period of 2005 until the present, the Subject Property had not been used to shelter men involved in the program.

14. Applicant maintains that the reason the Subject Property was not used to shelter men in the program was due to a lack of sufficient funds, not abandonment.

15. Applicant further states that the Subject Property was still used for meetings, prayers and other activities relating to the program.

16. Applicant also indicated that at no point do any of its group homes allow more than seven (7) individuals to be housed at these homes.

17. The Zoning Administrator became involved when Applicant began seeking permission to renovate the Subject Property.

18. After review of the Subject Property's records, the Zoning Administrator determined that the Subject Property had abandoned its prior non-conforming usage and issued an opinion as such.

19. Applicant subsequently appealed the Zoning Administrator's decision to the Zoning Hearing Board.

20. City Council President Vaughn Spencer spoke against overturning the decision of the Zoning Administrator.

21. A property owner in the neighborhood of the Subject Property, Renee Kirkland Hinton, spoke in favor of overturning the decision of the Zoning Administrator.

DISCUSSION

Applicant proposes that the Zoning Hearing Board overturn the decision of the Zoning Administrator which determined that Applicant had abandoned the prior non-conforming usage of the Subject Property. Applicant testified the proposed group home shall not have more than seven (7) people residing in the Subject Property. Based upon the review of the record, and with appropriate conditions, the Board finds that Applicant's usage is a prior non-conforming use and the proposed use is in keeping with the spirit and intent of the Zoning Ordinance and will not be a detriment to the health, safety and welfare of the neighborhood.

CONCLUSIONS OF LAW

1. The Applicant is Freedom Gate Ministries, Inc., a Pennsylvania corporation.
2. The Subject Property is located in the R-3 Residential Zoning District.
3. Applicant seeks relief under Sections 27-301.H.1 and 27-607.G of the Zoning Ordinance relating to a prior non-conforming use.
4. The Zoning Board is permitted to grant the status of a prior non-conforming use pursuant to Sections 27-301.H.1. and 27-607.G. of the Zoning Ordinance.
5. In order to grant the requested relief, the Applicant must show that he has satisfied the relevant sections of the Zoning Ordinance.
6. After reviewing the Applicant's request in detail, the Zoning Board enters the following decision:
 - a. Applicant's request for relief pursuant to Sections 27-301.H.1 and 27-607.G. are hereby granted.
 - b. Applicant shall be permitted to operate a group home on the Subject Property.
 - c. Visiting hours for the Subject Property shall be daily from 9:00 a.m. to 9:00 p.m.
 - d. Applicant shall not permit the preparation of food or meals at the Subject Property.
 - e. Applicant shall not install soda machines, juke boxes, video games, or other similar commercial devices on the interior or exterior of the Subject Property.
 - f. Applicant shall not permit the lodging of more than seven (7) people at the Subject Property.

g. Applicant shall not permit any form of sound amplification at the Subject Property.

h. Applicant must notify the Zoning Administrator of any potential change in name or ownership of Freedom Gate Ministries, Inc.

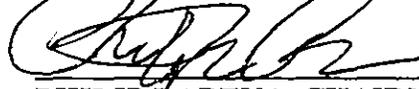
i. The relief granted herein is conditioned upon the Applicant complying with all relevant building and occupancy codes and ordinances as well as the plans and testimony submitted before the Zoning Board including the conditions applicant agreed to on the record which are incorporated herein by reference.

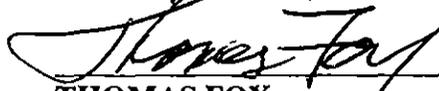
j. Applicant may not use, expand, alter or otherwise use the Subject Property inconsistent with the contents of this Decision without making application requesting further relief from the Zoning Board.

k. Failure to comply with any of these conditions shall mean the immediate revocation of the relief granted herein.

The decision of this Board is by a vote of ____ to ____.

ZONING HEARING BOARD OF THE CITY OF READING


PHILIP BABENA, CHAIRMAN


THOMAS FOX


JEFFEREY E. GATTONE


JOHN D. OLSON