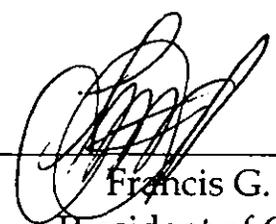


RESOLUTION NO. 11 2014

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

Approving the Conditional Use application submitted by Gabriel Quezada, owner/applicant, 1537 Farr Road, Wyomissing, 19610, expanding the zoning permit for a deli/grocery use to include a banquet hall at 34 North 6th Street with conditions. The application also indicated a request for expanded hours of operation and testimony indicated the applicants desire to offer BYOB which shall comply with City Code Chapter 127, Part 3 Bottle Clubs and outdoor seating which shall comply with City Code Chapter 479 Sidewalk Cafes.

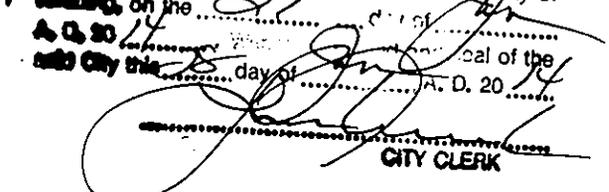
Adopted by Council Jan 27, 2014


Francis G. Acosta
President of Council

Attest:


Linda A. Kelleher CMC
City Clerk

(Council Staff)

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 27 day of Jan, A. D. 2014.

CITY CLERK

IN RE: APPLICATION OF : BEFORE THE CITY COUNCIL
GABRIEL QUEZADA :
FOR A CONDITIONAL USE : OF THE CITY OF READING,
PERMIT FOR A BANQUET HALL : PENNSYLVANIA
AT 34 NORTH 6th STREET :
READING, BERKS COUNTY :
PENNSYLVANIA :

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

AND NOW, this 27th day of January 2014, after a hearing held on December 17, 2013, upon the application Gabriel Quezada (hereinafter applicant), 1537 Farr Road, Wyomissing, 19610, owner of 34 North 6th 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 Gabriel Quezada (hereinafter applicant), 1537 Farr Road, Wyomissing, 19610, owner of 34 North 6th Street.
2. Applicant is the property owner for the fee simple owner of the property of 34 North 6th Street (hereinafter Subject Property) at the time of application and at the time of the hearing.
3. The Subject Property is located in the Commercial Core (CC) 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 expansion of his deli/grocery use to allow a banquet hall with expanded hours of operation and outside seating as per the Zoning Ordinance per §600-807 B 3 Zoning Districts CC and §600-1203 Conditional Use.
5. The Applicant attended the hearing.

6. The Solicitor for the City entered the agenda with all attachments and recommendations from the City's Zoning Administrator and Planning Commission on to the record along with two (2) letters supporting the banquet hall application from neighboring properties, without objection from the Applicant.
7. The Applicant stated that the Property has a first floor commercial space and a residential rental space on the 2nd floor. He stated that the original intent to operate a deli/grocery changed when customers requested permission to rent the seating area in the rear of the building for events.
8. The Zoning Administrator testified that the need to expand the deli/grocery zoning permit was initiated by a complaint filed by a police officer who observed parties/events at the property during hours when the business was not permitted to be operating. After a cease and desist order was issued by Zoning the property owner met with City staff in a One Stop meeting to learn what the City would require to expand the zoning to allow a banquet hall.
9. The Zoning Administrator stated that based upon the floor plan & seating layout, maximum occupancy is proposed for 92 persons. Total occupancy load is to be calculated by the Chief Building Officer and Fire Marshal. Any change to the occupancy load of the first floor will require a review of Building, Trades and Fire Code requirements. It is recommended that the applicant attend a One Stop session with the Building & Trades and Fire Inspectors prior to occupancy of the building for the banquet facility. The Office of the Fire Marshal has several safety concerns for this structure.
10. The Applicant stated that he is seeking permission for events on Friday, Saturday and Sunday evenings.
11. The Applicant testified that he intends to allow BYOB activity and he was informed that a special permit under Conditional Use §600-1203 C and City Code Chapter 127 Part 3 Bottle Clubs is required for that use.
12. The Applicant testified that he intends to offer outside seating during warm weather months, which requires a special permit under City Code §600-479 Sidewalk Cafes.
14. The Zoning Administrator testified that there are no off-street parking requirements for businesses located within the CC zoning district.

11. The City Planner stated that the Planning Commission reviewed the application at their November 26th meeting. He stated that the Commission recommends the approval of the banquet zoning permit with conditions expressed by the Zoning Administrator.

DISCUSSION

The Applicant is seeking a Conditional Use Permit to add a banquet use to the deli/grocery zoning permit for 34 North 6th Street. The building is located in a CC zoning district.

The Applicant testified that he would like to add BYOB activity at the banquet hall; however, special permits are required for this use under City Code §600-1203 C Conditional Use Bottle Clubs and City Code Chapter 127 Part 3 Bottle Clubs in part:

§600-1203 C. Bottle clubs shall only be allowed where listed in the zoning district regulations, and provided the following standards are met along with any other conditions set forth by City Council:

(1) Parking requirements shall be met as set forth in § 600-1603 of this chapter.

A site plan and architectural plans, drawn to scale, shall be submitted. These plans shall show the location and dimensions of off-street parking, private entrances, walkways, landscaping, the dimensions and square footage of each room and storage space and shall indicate the intended use of each room.

(2) A statement must be presented setting forth the full particulars of the use, including the hours of operation and any proposed entertainment and dancing.

(3) The applicant must demonstrate that the proposed use in the intended location will not adversely affect the value, or the safe and comfortable enjoyment of property rights for adjacent property owners.

(4) Any building of a bottle club shall not be located within 1,000 feet of any primary or secondary school, place of worship, day-care facility, municipal park, playground, library, sexually oriented business, or other bottle club.

(5) After-hours clubs that allow on-site consumption of alcoholic beverages between 2:30 a.m. and 6:00 a.m. in return for an admission charge or an annual membership fee are effectively prohibited by State Act 219 of 1990, as amended (18 Pa.C.S.A. § 7327). In the event that such use would be determined to be allowed, a two-hundred-foot setback shall apply from the building and any parking areas from any residential zoning district. The applicant shall prove that adequate on-site security will be in place.

(6) See also Chapter 127, Alcoholic Beverages, of the Code of the City of Reading, or the successor chapter. Where that provision and this chapter may differ, the strictest provision shall apply.

§ 600-807. C-C Commercial Core District.

Conditional uses. See § 600-1203.

(a) Banquet hall.

b) Gaming facility.

(c) Taverns and nightclubs.

§ 127-305. Club requirements.

Any and all bottle clubs, as that term is defined, shall comply with the following requirements:

- A. Obtain and carry general liability coverage in the minimum amount of \$1,000,000 per occurrence, proof of which shall be filed with the Codes Enforcement Office of the City of Reading, proof of which shall be filed annually when the permit is renewed with the Codes Enforcement Office.
- B. Possess a valid certificate of occupancy issued by the Pennsylvania Department of Labor and Industry and the City of Reading and prominently display said certificate as required, proof of which shall be filed annually when the permit is renewed with the Codes Enforcement Office.
- C. Obtain a valid business privilege and mercantile tax license from the City of Reading and prominently display said license as required, proof of which shall be filed annually when the permit is renewed with the Codes Enforcement Office.
- D. Obtain a City of Reading zoning permit and all other valid City of Reading permits and prominently display said permit as required, proof of which shall be filed annually when the permit is renewed with the Codes Enforcement Office.
- E. Obtain a valid bottle club permit pursuant to this Part and prominently display said permit as required.
- F. Conspicuously post the hours of operation at the business premises such that patrons are sufficiently apprised of same.
- G. Clubs may not store any alcohol of any type on their premises between the hours of 12:00 a.m. and 11:00 a.m.
- H. The owner and/or operator of the bottle club must provide proof that they are a resident of Berks County. If the owner and/or operator is not a Berks County resident, they must designate the name, mailing address and telephone number of a responsible agent who has a primary residence in Berks County and who has the oversight of the building's operations and is authorized to accept service on behalf of said property owner.
- I. The owner and/or operator of the bottle club may not have been convicted of a crime classified as a felony offense under the laws of the Commonwealth of Pennsylvania or the United States, or be convicted of any comparable crime under the laws of any other state in the United States.
- J. Have a valid and current trash collection contract with a licensed hauler, proof of which shall be filed annually when the permit is renewed with the Codes Enforcement Office.

The Applicant testified that he also wishes to offer outdoor seating when weather permits; however, special permits are required for this activity under City Code §600-479 Sidewalk Cafes, in part.

§ 479-107. Regulations.

A sidewalk cafe authorized and operated pursuant to this chapter shall:

- A. Comply with all plans submitted to and approved by the Codes Enforcement Office.
- B. Serve alcoholic beverages only in conformance with Pennsylvania Liquor Control Board requirements.
- C. Operate only during the same hours that the kitchen is open for service. All patrons must be vacated from the sidewalk cafe and all utensils, containers or any other serving materials used in the operation of the sidewalk cafe or within the area used by the sidewalk cafe shall be removed from the sidewalk cafe area within one hour after the kitchen closes; provided, however, that any railing, flooring or other support or enclosure used in the assembly, operation or

enclosure of the sidewalk cafe may be allowed to remain on the sidewalk area if specifically permitted in the Code Enforcement Office's approval of the sidewalk café plans as described under § 479-107 below.

D. Remove all sidewalk cafe structures by October 30, and not install prior to April 1, in any year for which a permit is granted.

(1) In the event that favorable weather conditions should prevail, a sidewalk cafe may temporarily reopen on a daily basis during the time period set forth in Subsection D above, with the approval of the Codes Enforcement Office. All tables, chairs and other materials must be removed every day by sundown.

E. Use no food serving or food service equipment to hold, store, heat, warm, cool, chill or otherwise keep food to be served outside of the sponsoring restaurant for use in or by a sidewalk cafe.

F. Serve no food or beverages to a patron at a sidewalk cafe unless that patron is seated at a table.

(1) If the sidewalk cafe is located adjacent to the sponsoring restaurant, in lieu of Subsection E above, the following is allowed:

(a) Self-service by patrons, without table service.

(b) Facilities for standing instead of sitting.

G. Play no music, from whatever source (acoustical, electric, or other) on the premises outdoors, except in conformance within Chapter 387, Noise, of the Code of the City of Reading.

H. Police for trash and debris an area extending 15 feet in each direction from the outermost portion or boundary of the sidewalk cafe at least twice daily

I. Comply with all other provisions of the Code of the City of Reading.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Subject Property is located in the CC Zoning District.

2. Hearing was held on December 17, 2013.

3. Applicant requests a Conditional Use for the addition of a banquet hall use to the deli/grocery permit at the Subject Property.

4. The burden of proof for the application for a Conditional Use is upon the Applicant.

5. City of Reading City Council is permitted to grant Conditional Uses, with conditions 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. Applicant did not file an application for other relief with the City of Reading Zoning Hearing Board.

DECISION

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

The application of Gabriel Quezada (hereinafter applicant), 1537 Farr Road, Wyomissing, 19610, owner of 34 North 6th Street for a conditional use permit for the addition of a banquet hall at 34 North 6th Street is hereby approved with the following conditions:

1. All applicable Building, Trades and Fire Code requirements shall be met due to the expansion of use to include a banquet hall. The applicant shall attend a one stop meeting with the Building and Trades Inspectors and the Fire Marshall prior to the issuance of a Certificate of Occupancy and prior to the issuance of the Conditional Use permit.
2. The occupancy load shall be determined by the City of Reading's Division of Building & Trades and the Office of the Fire Marshall.
3. Live entertainment was not indicated in the application. If the applicant proposes to include live entertainment, it shall be limited to an indoor activity and shall comply with §27-917 Noise Control.
4. Alcohol was not indicated on the application; however, the applicant testified that he intends to allow BYOB activity. If the applicant proposes to allow BYOB service, then he shall secure requisite permits and approvals from the City and State Liquor Control Board. Bottle clubs are not permitted in the CC zoning district. Also, as the subject property is located within 1,000 feet of Trinity Lutheran Church, the property is ineligible for a bottle club under §600-1203 C.
5. In addition, the applicant shall apply and obtain a Sidewalk Café permit from the Property Maintenance (Codes Enforcement) Office as per Chapter 479 Sidewalk Cafes before undertaking any such activity outdoor dining and shall comply with the conditions hereof.

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