

RESOLUTION NO. 52 2014

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

Approving the rezoning application submitted by Domenico and Lucia Brutto, 290 Morgantown Road (owners) changing the zoning of 15 Prospect Street from R2 to CH with conditions.

Adopted by Council April 14, 2014


Francis G. Acosta
President of Council

Attest:


Linda A. Kelleher CMC
City Clerk

(Council Staff)

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 14 day of April, A. D. 20 14.
said City this 15 day of April, 20 14.

CITY CLERK

IN RE: APPLICATION OF : BEFORE THE CITY COUNCIL
DOMENICO AND LUCIA BRUTTO :
FOR THE REZONING OF : OF THE CITY OF READING,
15 PROSPECT STREET : PENNSYLVANIA
FROM R2 TO CH :

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

AND NOW, this 14th day of April, after a hearing held on April 1, 2014, upon the application Domenico and Lucia Brutto (hereinafter applicant), of 290 Morgantown Road, Reading 19611, owner of 15 Prospect Street (hereinafter subject property) 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 Domenico and Lucia Brutto of 290 Morgantown Road, Reading, PA 19611.
2. Applicant is the fee simple property owner of 15 Prospect Street (Subject Property) at the time of application and at the time of the hearing.
3. The Subject Property is located in the R2 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 zoning change as per the Zoning Ordinance and the Municipal Planning Code.
5. The Applicant and their legal counsel 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, without objection from the Applicant.
7. The Applicant testified that they received a zoning permit to operate an office in the basement of 15 Prospect Street and to install a temporary

walkway joining 15 Prospect with the restaurant at 290 Morgantown Road. However, they admitted that they did not obtain building/trades permits or a certificate of occupancy and that the walkway was larger than what the permit allows.

8. The Applicant stated that if the zoning change is approved they plan to apply for a new zoning permit for the installation of a permanent walkway between the buildings which will include a storage area and a larger dining area or banquet hall. Renderings of the plans were displayed.

9. The Applicant testified that the change in zoning will not increase the intensity of traffic in the residential neighborhood where 15 Prospect Street is located.

10. The Zoning Administrator stated that 15 Prospect Street is a ranch style residential property built in 1965 and the restaurant at 290 Morgantown Road was built in 1978. The Applicants purchased these properties in 2000 and 1997 respectively. He provided the zoning history of 290 Morgantown Road as follows:

- 1999 – Zoning permit for an outdoor patio area and the applicant enclosed the patio without zoning or building permits around 2000
- 2004 – application for rezoning denied
- 2004 – Zoning permit for an office in the basement of 15 Prospect St
- 2004-06 – Zoning and building permits for a concrete walkway between the restaurant and the residential property. However, the walkway was enlarged and enclosed without zoning or building permits.

11. The Zoning Administrator recommended approving the zoning change with conditions.

12. The City Planner stated that the Planning Commission reviewed this application at their November 16, 2013 and recommended denying the request as per Resolution 30-2013. The Commission noted that this is the Applicants second request for rezoning and he also noted that the Applicants illegally installed the enclosed walkway connecting the restaurant and the residential property approximately 6-7 years ago.

13. The Hearing Solicitor noted that Judge Sprecher's Order in 2009 approved only a zoning permit for the temporary walkway structure. The Order did not approve permits for building/trades or a certificate of occupancy. He noted the need for inspections of this structure and a certificate of occupancy.

14. The Applicants questioned when permits for the permanent structure are required. The Hearing Solicitor stated that after zoning permits are obtained

for the new walkway permanent structure and banquet hall, then the Applicant needs to apply for building/trades permits.

DISCUSSION

The Applicant is seeking the rezoning of 15 Prospect Street from R2 low density residential to CH (Commercial Highway).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Subject Property is located in the R2 Zoning District.
2. Hearing was held on April 1, 2014.
3. Applicant requests that 15 Prospect Street be changed from R2 to CH.
4. City of Reading City Council is permitted to consider zoning changes 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.
5. The proposed zoning amendment creates a natural extension of the CH District.
6. At the hearing, the Zoning Administrator recommended approving the change in zoning of the Subject Property with conditions. The Applicant did not object to the conditions.
7. Applicant did not file an application for other relief from the City of Reading Zoning Hearing Board at this time.

DECISION

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

The application of Domenico and Lucia Brutto of 290 Morgantown Road, Reading, PA 19611 for the rezoning of 15 Prospect Street is hereby approved with the following conditions:

1. The applicant shall survey both parcels – 290 Morgantown Rd and 15 Prospect Street and record them as one parcel, under common ownership with the Berks County Recorder of Deeds;

3. The applicant shall bring the parking lot into compliance with the City's land development approval
4. The applicant shall apply for zoning for the expansion of the restaurant and the new permanent walkway and obtain all required building/trades permits and certificates of occupancy
5. The applicant shall also apply for land development approval for expansion of the restaurant and the parking area and obtain all required building/trades permits and certificates of occupancy.

This is the decision of the City of Reading City Council by a vote of 6 to 2.