

**ZONING BOARD OF APPEALS**

City Hall, Room 303  
 133 William Street,  
 New Bedford, MA 02740  
 (508)979-1488  
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CITY OF NEW BEDFORD  
 JONATHAN F. MITCHELL, MAYOR

**NOTICE OF DECISION**

Case Number:	#4186			
Request Type:	Special Permit			
Address:	391 Bolton Street			
Zoning:	Mixed Use Business District			
Recorded Owner:	Perez Development LLC			
Applicant:	Perez Development LLC c/o Vincent Perez			
Applicant Address:	113 Eugenia Street Apt.2 New Bedford, MA 02745			
Application Submittal Date	Public Hearing Date	Decision Date		
May 29, 2015	June 25, 2015	June 25, 2015		
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
23	32	11340	313	

CITY CLERK'S OFFICE  
 NEW BEDFORD, MA  
 2015 JUL - 9 A 9 45  
 CITY CLERK

**Application:**

Special Permit under Chapter 9, Comprehensive Zoning Sections 2000 (Use and Dimensional Regulations), 2200 (Use Regulations), 2210 (General), 2230 (Table of Use Regulations-Appendix A-Commercial #18 Restaurant Fast Food), 5300-5330 & 5360-5390 (Special Permits).relative to property at 391 Bolton Street, Assessor's Map 23 Lot 32 in a Mixed-Use Business zoned district. To allow the petitioner to operate a Fast Food Restaurant as plans filed.

**Action:** GRANTED, WITH CONDITIONS, for the reasons set forth in the attached Decision with the Conditions as described in the attached Decision.  
 (See Attachment)

A copy of this Decision was filed with the City Clerk of the City of New Bedford on July 9<sup>th</sup>, 2015. Any person aggrieved by this decision has twenty (20) days to appeal the decision in accordance with the procedures set forth in Section 17 of Chapter 40A of the General Laws of Massachusetts.

July 9, 2015  
 Date

Allen Decker  
 Clerk, Zoning Board of Appeals

### 1.) APPLICATION SUMMARY

The petitioner is proposing to operate a Fast Food Restaurant as plans filed, which will require a Special Permit under Chapter 9, Comprehensive Zoning Sections 2000 (Use and Dimensional Regulations), 2200 (Use Regulations), 2210 (General), 2230 (Table of Use Regulations-Appendix A-Commercial #18 Restaurant Fast Food), 5300-5330 & 5360-5390 (Special Permits); relative to property at 391 Bolton Street, Assessor's Map 23 Lot 32 in a Mixed-Use Business zoned district.

### 2.) MATERIALS REVIEWED BY THE BOARD

#### Plans Considered to be Part of the Application

- Site Plan, drawn by unknown, not dated

#### Other Documents & Supporting Material

- Completed Petition for a Special Permit Form, Stamped Received by City Clerk's Office May 29<sup>th</sup>, 2015
- Letter to ZBA from Mr. Vincent Perez, not dated
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, dated June 1<sup>st</sup>, 2015.
- Letter to ZBA from City Planner Jill Maclean, dated June 19<sup>th</sup>, 2015.

### 3.) DISCUSSION

Board Members I. Comerford, A. Decker, R. Schilling, J. Walsh, and H. Tavares were present on the evening of the public hearing.

City of New Bedford Staff Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services), Kreg Espinola (Assistant City Solicitor), and Jennifer Gonet (Assistant Project Manager) were present during proceedings for the subject case review.

A .Decker read and motioned to receive and place on file the communications from Commissioner and Inspector of Buildings, Danny D. Romanowicz, dated June 1<sup>st</sup>, 2015; the Communication from the Office of City Planner dated June 19<sup>th</sup>, 2015; the appeal packet; the plan as submitted; and, that the owners of the lots as indicated are the ones deemed by the Board to be affected; and that the action of the Clerk in giving notice of the hearing as stated be and is hereby ratified. Motion seconded by J. Walsh. With all in favor, the motion carried.

Chairperson Comerford then declared the hearing open.

The petitioner: Mr. Vincent Perez (113 Eugenia Street Apt.2 New Bedford, MA 02745), owner of 391 Bolton Street, described the proposal for the Special Permit. Mr. Perez explained his plan to open a restaurant called "Pizzaritos" serving pizza and burritos at

the location. Mr. Perez also explained that he also wished to use the area where the garage door is currently as a walk-up ice cream service.

A. Decker asked the petitioner to tell the board about the neighborhood in the neighborhood. Mr. Perez stated there is a park across the street; the building was vacant before he bought it. He explained how he cleaned up the lot and wished to bring something good to the neighborhood. He stated he had talked to some of the neighbors about his project. A. Decker asked how the petitioner planned to handle parking for his customers. Mr. Perez stated he expected seventy percent (70%) of his business to be delivery. The business will have eight seats inside, he said. Mr. Perez further explained he previously owned Little Anthony's pizzeria in the North End and 70-75% of his business was delivery. A. Decker asked where the delivery drivers would be parking, and if it would be on the street. Mr. Perez said yes, they will be parking on the street. I. Comerford stated he has driven by the property and there is plenty of parking in the area.

Following the petitioner's testimony, Chairperson I. Comerford invited to the podium anyone wishing to speak in favor of the application. No one in attendance spoke in support of the petition or wished to be recorded in favor of the petition.

Chairperson I. Comerford invited to the podium anyone wishing to speak in opposition of the petition. No one in attendance spoke in opposition of the petition or wished to be recorded in opposition of the petition.

With no further stated questions or concerns, Chairperson I. Comerford declared the hearing closed.

#### 4.) FINDINGS

The Board found that the applicant met all the requirements listed under Chapter 9, Comprehensive Zoning Sections 2000 (Use and Dimensional Regulations), 2200 (Use Regulations), 2210 (General), 2230 (Table of Use Regulations-Appendix A-Commercial #18 Restaurant Fast Food), 5300-5330 & 5360-5390 (Special Permits);

The Board found that in accordance with City of New Bedford Code of Ordinances Chapter 9 Section 5320, the benefit to the City and the neighborhood outweighs the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. This determination included consideration of each of the following:

- *Social, economic, or community needs which are served by the proposal;*
  - *The Board found the opening of food operation that hadn't existed previously served the community needs.*
- *Traffic flow and safety, including parking and loading;*
  - *The Board found these concerns were adequately addressed in the proposal.*

- *Adequacy of utilities and other public services;*
  - The Board found that the adequacy of utilities and other public service were neutral as proposed.
- *Neighborhood character and social structures;*
  - The Board found that this proposed use fits within the existing character of the neighborhood.
- *Impacts on the natural environment;*
  - The Board found the impacts on the natural environment are neutral as proposed.
- *Potential fiscal impact, including impact on City services, tax base, and employment*
  - The Board found that opening a business in a previously closed location adds to the City's tax base and provides employment.

#### **5.) RELIEF**

With respect to the relief requested by the Applicant, the Board has been presented with sufficient information at the hearing to justify the relief described below, subject to the conditions set forth below in Section 6.

The Board grants the Applicant's request for a Special Permit under Chapter 9, Comprehensive Zoning Sections 2000 (Use and Dimensional Regulations), 2200 (Use Regulations), 2210 (General), 2230 (Table of Use Regulations-Appendix A-Commercial #18 Restaurant Fast Food), 5300-5330 & 5360-5390 (Special Permits) relative to property at 391 Bolton Street, Assessor's Map 23 Lot 32 in a Mixed-Use Business zoned district. To allow the petitioner to operate a Fast Food Restaurant as plans filed.

#### **6.) THE FOLLOWING CONDITIONS AND RESTRICTIONS SHALL APPLY**

- a. The project shall be set forth according to plans submitted with the application;
- b. That the applicant shall ensure that a copy of this decision, bearing the certification of the City of New Bedford Clerk's Office, is recorded in the Registry of Deeds;
- c. And that the rights authorized by the granted Special Permit must be exercised, by issuance of a Building Permit by the Department of Inspectional Services and Acted upon within one year from the date they were granted or they will lapse.

**7.) DECISION**

Based on a review of the application documents, testimony given at the public hearing and the findings described above, the Zoning Board of Appeals hereby **GRANTS, WITH CONDITIONS**, the requested petition for a Special Permit.

On a motion by A. Decker seconded by J. Walsh to grant the requested Special Permit, the vote carried 5-0; with members I. Comerford, A. Decker, J. Walsh, R. Schilling, H. Tavares, and I. Comerford voting in the affirmative, no member voting in the negative. (Tally 5-0)

Filed with the City Clerk on:

July 9, 2015  
Date

Allen Decker

Allen Decker, Clerk of the Zoning Board of Appeals