


ZONING BOARD OF APPEALS OFFICE
 City Hall, Room 303
 NEW BEDFORD, MA

133 William Street,

New Bedford, MA 02740 2015 MAY -6 A 9:14

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CITY CLERK

CITY OF NEW BEDFORD

JONATHAN F. MITCHELL, MAYOR

NOTICE OF DECISION

Case Number:	#4176			
Request Type:	Special Permit			
Address:	37 Rockdale Avenue			
Zoning:	Mixed Use Business District			
Recorded Owner:	37-41 Rockdale Avenue, LLC			
Applicant:	R&G Pizza Enterprises, Inc. c/o Ryan Lemmer			
Applicant Address:	35 Wood Duck Road Acushnet, MA 02743			
Application Submittal Date	Public Hearing Date		Decision Date	
March 20 th , 2015	April 23 rd , 2015		April 23 rd , 2015	
Assessor's Plot Number	Lot Number(s)	Book Number	Page Number	Certificate Number
19	49	9610	179	

Application:

Special Permit under provisions of 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), and 5300-5330 & 5360-5390 (Special Permit); relative to property located at 37 Rockdale Avenue, Assessor's Map Plot 19 Lot 49 in a Mixed Use Business Zoned District. To allow the petitioner to open a Little Caesars fast food take out establishment 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 May 6th, 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.

May 6, 2015
Date

Allen Decker
Clerk, Zoning Board of Appeals

1.) APPLICATION SUMMARY

The petitioner is proposing to open a Little Caesars fast food take out establishment 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), and 5300-5330 & 5360-5390 (Special Permit); relative to property located at 37 Rockdale Avenue, Assessor's Map Plot 19 Lot 49 in a Mixed Use Business Zoned District.

2.) MATERIALS REVIEWED BY THE BOARD

Plans Considered to be Part of the Application

- Site Plan, "Plan of Land-41 Rockdale Ave New Bedford, MA", drawn by tibbetts engineering corp., dated 10/21/06.

Other Documents & Supporting Material

- Completed Petition for a Special Permit Form, Stamped Received by City Clerk's Office March 20th, 2015.
- Unit Plan, "SEABRA Plaza 39 Rockdale Avenue New Bedford, Ma 20740", drawn by SPM Design, dated June 24, 2014.
- Letter to ZBA from the Commissioner of Buildings & Inspectional Services, dated March 30th, 2015.
- Letter to ZBA from City Planner Jill Maclean, dated April 15th, 2015.

3.) DISCUSSION

Board Members I. Comerford, A. Decker, L. Schick, and R. Schilling were present on the evening of the public hearing. D. Trahan recused herself from the hearing of this case and left the room.

City of New Bedford Staff Danny D. Romanowicz (Commissioner of Buildings & Inspectional Services), 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 March 30th, 2015; the Communication from the Office of City Planner dated April 15th, 2015; the appeal; and the plans 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 R. Schilling. With all in favor, the motion carried.

Chairperson Comerford then declared the hearing open.

The Petitioner: Mr. Ryan Lemmer and Mr. Garry McGowan of R&G Enterprise Inc. (35 Wood Duck Road, Acushnet, MA) presented to the board their reasoning for the board to grant the requested Special Permit. Mr. Lemmer wished to address the criteria necessary to grant a Special Permit. Mr. Lemmer explained that the social and economic needs being served by the proposal were that they would be providing a low cost food item to the local neighborhood of the south end of New Bedford. In regards to traffic flow and safety the issues they have already been addressed, he stated, as it will be located in an existing plaza, the SEABRA center. The center has adequate parking and the traffic flow is sufficient and safe for the neighborhood, he explained. Mr. Lemmer stated they have adequate utilities for what they are proposing. He stated they serve a middle class customer base which is the socioeconomic makeup of the neighborhood in that area. He did not foresee any impacts on the natural environment due to this proposal. They do not produce anything that negatively impacts the environment. In regards to fiscal impact, Mr. Lemmer stated this business is expected to have one-million dollars in revenue per year and provide employment for twenty-five individuals. This would be new job creating in the area, he said.

Following the petitioner's testimony, Chairperson I. Comerford invited to the podium anyone wishing to speak in favor of the application. No 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.

Chairperson I. Comerford stated he thought the petition was straight forward citing the property had been vacant, jobs will be created, and it will add to the tax base.

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 5300-5330 & 5360-5390 (Special Permit).

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 that this would be a fast-food restaurant and takeout facility that would be providing food to the south end of New Bedford.*

- Traffic flow and safety, including parking and loading;
 - *The Board found that these concerns were addressed because it is located in an existing shopping center, which has established parking, loading, and traffic flow and this will not change this.*
- Adequacy of utilities and other public services;
 - *The Board found that the shopping center provides adequate utilities and other public services for the functioning of this business.*
- Neighborhood character and social structures;
 - *The Board found that this proposal fits with needs of the immediate area and surrounding area.*
- Impacts on the natural environment;
 - *The Board found the impacts on the natural environment are neutral.*
- Potential fiscal impact, including impact on City services, tax base, and employment
 - *The Board found the above criteria were exhibited by the addition of up to twenty-five new employment/jobs and the potential one-million dollars in revenue expected by the franchisee/applicant.*

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 Special Permit under provisions of 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), and 5300-5330 & 5360-5390 (Special Permit); relative to property located at 37 Rockdale Avenue, Assessor's Map Plot 19 Lot 49 in a Mixed Use Business Zoned District. To allow the petitioner to open a Little Caesars fast food take out establishment 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 L. Schick by to grant the requested Special Permit, the vote carried 4-0 with members A. Decker, R. Schilling, L. Schick, and I. Comerford voting in the affirmative, no member voting in the negative. (Tally 4-0)

Filed with the City Clerk on:

May 6, 2015

Date

Allen Decker

Allen Decker, Clerk of the Zoning Board of Appeals