



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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**Case #:** ZBA 2013-45

**Date:** July 3, 2013

**Recommendation:** Conditional Approval

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**PLANNING STAFF REPORT**

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**Site:** 517 Medford Street

**Applicant Name:** Nerissa Clarke  
**Applicant Address:** 39 St. Sauveur Ct. Cambridge, MA 02138  
**Property Owner Name:** Michael Davis  
**Property Owner Address:** 39 St. Sauveur Ct. Cambridge, MA 02138  
**Alderman:** Courtney O'Keefe

Legal Notice: Applicant, Nerissa Clarke, and Owner, Michael Davis, seek a Special Permit with Design Review under SZO §7.11.10.2.1.a to establish a fast order food establishment and a Special Permit under §9.13 for approx 2 spaces of parking relief. NB Zone. Ward 5.

Zoning District/Ward: NB / Ward 5

Zoning Approval Sought: Special Permit w/ Design Review under SZO §7.11.10.2.1.A & 9.13.e

Date of Application: June 10, 2013

Dates of Public Meeting • Zoning Board of Appeals – July 10, 2013

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**I. PROJECT DESCRIPTION**

1. Subject Property: The subject property is a 1,135 square foot parcel with a two-story mixed-use building on it. The first floor has a storefront and entrance on Medford Street. The space is 500 square feet. The second floor is residential and has access along the south side of the building.



*517 Medford Street Storefront*

2. Proposal: The proposal is to establish a fast food use, a bakery and ice cream shop, in a vacant storefront. The shop will have seating for 7 people. The hours of operation will be 10am to 9pm, seven days a week. There will be an awning with the establishment's name hung on the building. The restaurant needs 2 spaces of parking relief, there is no parking associated with the building.

3. Nature of Application: In the NB zoning district a Special Permit with Design Review is required to establish a fast order food establishment under SZO §7.11.10.2.1.A.

The applicant is seeking relief for the 2 parking spaces required. The fast food parking requirement is 0.75 per employee plus 1 space per 4 seats or 1 per 110 gross square feet, whichever is greater. There will be 2 employees. In this case, the greater calculation is the gross square footage measurement. The space is 500 square feet which makes the parking requirement 5 spaces.

The last use, an office, required 1 space per 475 square feet. The parking requirement was 1 space.

SZO Section 9.4.1.d states that when there is a nonconforming parking situation and a change in use with no change in floor area, only 50% of the additional parking spaces shall be provided. Since the old use required 1 space and the new use requires 5, 2 parking spaces are required. Under SZO section 9.13, where the total number of parking spaces required by the Ordinance is six or fewer, the requirements for lots or sites that are nonconforming with respect to parking may be modified by special permit.

4. Surrounding Neighborhood: The property is in the heart of Magoun Square. There is a mix of restaurants, retail stores, and offices in the Square. There are two residential buildings (both facing Broadway) directly behind the property. Some of the businesses include CVS Pharmacy, Olde Magoun's Saloon, Daddy Jones, Panificadora Model, Pini's Pizzeria, Wan's Chinese Cuisine, On the Hill Tavern, Dunkin Donuts, Caprese Pizzeria and K2 Market.

5. Impacts of Proposal: The fast food restaurant will fill a vacant storefront, which will improve the vitality of the Square which has been struggling since 2007. This is another fast food use in the Square that is only represented by one other store, Modelo Bakery and Coffee (open till 8 pm Monday-Saturday).

This proposal is for a bakery and ice cream shop which is slightly different than what is currently offered in the Square. The proposed operating hours are one hour later than Modelo which could capture more of a dessert clientele.

6. Green Building Practices: Low energy lighting and recycled and reused materials will be used where possible.

7. Comments:

*Fire Prevention*: Has been contacted but has not provided comments.

*Traffic & Parking*: Has been contacted but has not provided comments.

*Ward Alderman*: Alderman O'Keefe will not be able to make it to the hearing but is supportive of the proposal.

## **II. FINDINGS FOR SPECIAL PERMIT (SZO §5.1, 7.11.10.2.1.A, and 9.13):**

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied: The Staff finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

2. Compliance with Standards: The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."

Section 6.1.4.b includes standards and guidelines for the Neighborhood Business Districts for all development that requires a special permit with design review. The standards are to step back the fourth story of a building and locate parking behind the building or below street level. Since there are no renovations to the exterior of the property these standards do not apply. There will be an awning with the establishment's name added to the storefront. A condition of this report is that the applicant will submit the final awning design to Planning Staff for approval. The awning will have to comply with the signage regulations of the Somerville Zoning Ordinance. The lettering, wording, and accompanying designs of the awning cannot be larger than 36 square feet.

In considering a special permit under §9.13 of the SZO the Applicant must be able to demonstrate that granting the requested special permit would not cause detriment to the surrounding neighborhood through any of the criteria as set forth under SZO §9.13, which are as follows:

- 1) increase in traffic volumes;
- 2) increased traffic congestion or queuing of vehicles;
- 3) change in the type(s) of traffic;
- 4) change in traffic patterns and access to the site;
- 5) reduction in on-street parking;
- 6) unsafe conflict of motor vehicle and pedestrian traffic.

A parking memo was submitted as part of the application for relief of two parking spaces. The memorandum found that there is sufficient parking in the area to accommodate the relief. During weekday mid-day, weekday

evening, and Saturday mid-day hours there were 40-58 parking spaces available within 500 feet of the project site. The relief of 2 spaces will not cause detriment to the surrounding neighborhood because there's available parking in the area, there is no reduction in on-street parking, the site has access via the 89 and 80 bus routes, and it will not change traffic patterns.

3. Consistency with Purposes: The Applicant has to ensure that the project "is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles."

The proposal is consistent with the general purposes of the Ordinance as set forth under §1.2, which includes, but is not limited to conserving the value of land and buildings.

The proposal is consistent with the purpose of the district. A small scale restaurant fits the goal of establishing and preserving areas for small-scale retail stores, services and offices which are located in close proximity to residential areas and which do not have undesirable impacts on the surrounding neighborhoods.

In considering a special permit under §9.13 of the SZO the SPGA may grant such a special permit only when consistent with the purposes set forth in Section 9.1.

4. Site and Area Compatibility: The Applicant has to ensure that the project "(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses."

For Special Permits with Design Review approval, the proposal needs to comply with the design guidelines for business zones in §5.1.5. This proposal as conditioned meets the applicable guidelines: the building maintains a strong building presence along the primary street edge, the store entrances are differentiated by being recessed from the rest of the street elevation that create modulations in the façade, the roof is flat, which is a typical type for commercial buildings in the area, the building is an encouraged material (brick and stucco), there is no parking on-site and therefore driveways do not break the street wall, and finally there are no transformers, heating or cooling systems or similar equipment or dumpsters that are visible from the right of way.

The appearance of the storefront will not change greatly from its current state. An awning with the establishments name will be designed when the Applicant has a selected a name. A condition of this report is that the applicant will submit the final awning design to Planning Staff for approval.

7. Fast food establishments: In special permit applications for fast-order, take-out or automobile oriented food service establishments, there shall be establishment of a need for such a facility in the neighborhood or in the City, and impacts on traffic circulation, parking and visual, physical, or historical characteristics of the particular location shall not be detrimental.

In the previous case, ZBA 2012-102 for King of Wings, a neighboring business had expressed concern that a fast food restaurant will hurt the other restaurants in the neighborhood. However, creating a cluster of similar uses can improve their success by creating a hub of activity. Pending this application, the case for Gaka's Asian Eatery (ZBA 2013-47), and the previously approved Pennypackers Fine Foods (ZBA 2013-22) Magoun Square will have a cluster of foodie activity. In addition, the need for a fast-order food establishment should be balanced with the benefit of filling a vacant storefront in a Square that is in need of more private commercial investment. This will fill a vacant storefront. Space that has been vacant for some time negatively impacts the other businesses due

to the appearance of disinvestment and the reduction in pedestrians in the square that would come for a specific business and stop into another business along the way.

### III. RECOMMENDATION

#### Special Permit under §5.1, 7.11.10.2.1.A, and 9.13

Based on the materials submitted by the Applicant, the above findings and subject to the following conditions, the Planning Staff recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT WITH DESIGN REVIEW**.

The recommendation is based upon a technical analysis by Planning Staff of the application material based upon the required findings of the Somerville Zoning Ordinance, and is based only upon information submitted prior to the public hearing. This report may be revised or updated with new recommendations, findings and/or conditions based upon additional information provided to the Planning Staff during the public hearing process.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes								
1	Approval is for a Special Permit with Design Review under SZO §7.11.10.2.1.a to establish a fast order food establishment and a Special Permit under §9.13 for approx 2 spaces of parking relief. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	ISD/Plng.									
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>June 10, 2013</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>April 13, 2013 (July 1, 2013)</td><td>Plans submitted to OSPCD (Plot Plan)</td></tr><tr><td>January 23, 2013 (July 1, 2013)</td><td>Plans submitted to OSPCD (A-1 Proposed Floor Plan)</td></tr></table>				Date (Stamp Date)	Submission	June 10, 2013	Initial application submitted to the City Clerk’s Office	April 13, 2013 (July 1, 2013)	Plans submitted to OSPCD (Plot Plan)	January 23, 2013 (July 1, 2013)	Plans submitted to OSPCD (A-1 Proposed Floor Plan)
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Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.												
2	The Applicant will submit the awning and signage design to Planning Staff for approval. The signage will comply with the SZO. The lettering, wording, and accompanying designs cannot be larger than 36 square feet.	CO	Plng.									
4	The storefront windows should not be blocked by more than 30% by interior storage, signage or window coverings. The current white window coverings should be removed.	CO	Plng									
5	Approval is for the fast food use for the Applicant, Nerissa Clark. A future tenant of this space for the fast order food use would have to come back to the ZBA for special permit approval in order to operate in this location.	Perpetual	ISD									

6	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	PIng.	
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