



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
**JOSEPH A. CURTATONE**  
**MAYOR**

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

**PLANNING DIVISION STAFF**

GEORGE PROAKIS, *DIRECTOR OF PLANNING*  
LORI MASSA, *SENIOR PLANNER*  
DAN BARTMAN, *SENIOR PLANNER*  
AMIE HAYES, *PLANNER*  
MELISSA WOODS, *PLANNER*  
DAWN PEREIRA, *ADMINISTRATIVE ASSISTANT*

**Case #:** ZBA 2013-22  
**Date:** May 9, 2013  
**Recommendation:** Conditional Approval

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**PLANNING STAFF REPORT**

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**Site:** 514c Medford Street

**Applicant Name:** Pennypackers Fine Foods, Inc.  
**Applicant Address:** 63 Marshside Drive Yarmouthport, MA 02675  
**Property Owner Name:** LAB Realty Trust  
**Property Owner Address:** 105 Myrtle Street, Methuen, MA 01844  
**Alderman:** Courtney O'Keefe

Legal Notice: Applicant, Pennypackers Fine Foods, and Owner, LAB Realty Trust, 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 3 spaces of parking relief. NB Zone. Ward 5.

Zoning District/Ward: NB Zone / Ward 5

Zoning Approval Sought: Special Permit with Design Review

Date of Application: April 2, 2013

Dates of Public Hearing: Zoning Board of Appeals – May 15, 2013

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**I. PROJECT DESCRIPTION**

1. Subject Property: The subject property is a 5,115 sf parcel with a one-story commercial structure on it. The building is divided up into 5 different retail spaces roughly 1,000 square feet each. King of Wings (under construction for tenant fitout), Caprese Pizzeria and K2 Market are the current tenants in building and there are two vacant spaces.



The property received a special permit in 2001 to expand the nonconforming catering business, Basil Tree, into 514a Medford. This catering business has since relocated. In 2012, a special permit with conditions was approved for 514a Medford Street for King of Wings.



*514c Medford Street when Basil Tree was occupying 314a, 314b, and 314c Medford Street.*

2. Proposal: The proposal is to establish a fast food use in a vacant storefront that will be the first brick and mortar location for Pennypackers Fine Foods. They currently have two food trucks in the metro area. Pennypackers will serve a variety of 'high end' fast foods. Menu items include soups and sandwiches including their mainstay Porchetta sandwich. The restaurant will have seating for ten people. The hours of operation will be 11am to 7pm. There will be a 2.5' x 6' painted vinyl sign hung above the door. The restaurant needs 3 spaces of parking relief although no on-site parking is being provided.

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 3 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. In this case, the greater calculation is the gross square footage measurement. The space is 1,023 square feet which makes the parking requirement 9.3 or 9 spaces.

The last use, a catering business, required whichever is greater: 1 space per employee or 1 space per 450 sf. There were at least 3 employees and therefore the parking requirement was 3. The requirement is based on the number of employees because it yields a higher requirement, 3, as opposed to the requirement based on square footage, which is 2.2.

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 3 spaces and the new use requires 9, 3 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 located in Magoun Square. There is a mix of restaurants, retail stores, and offices in the Square and a residential neighborhood 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. However, this will be another fast food use.

6. Green Building Practices: None listed on the application form.

7. Comments:

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

*Traffic and Parking:* The applicant is proposing to open a restaurant at 514C Medford St. The applicant is seeking zoning relief for three off street parking spaces as required by the Somerville Zoning Ordinance.

The applicant has hired a professional transportation firm, Design Consultants, Inc. (DCI) to provide a parking assessment to determine the impact of not providing the three off street parking spaces on the parking supply in the immediate neighborhood's on street and municipal parking spaces. DCI has submitted a thorough and well prepared Parking Memorandum. The Parking Memorandum concludes that the existing parking supply in the immediate neighborhood's on street and municipal parking spaces will be more than sufficient to support the three off street parking space that are not being provided.

Traffic and Parking does concur that the surrounding neighborhood's parking supply can meet the demands of the three off street parking space not being supplied by the proposed restaurant.

Traffic and Parking has no objections to this application.

*Ward Alderman:* Alderman O'Keefe feels that the constituents are pleased about the restaurant and Magoun Square will benefit by having another storefront filled.

## **II. FINDINGS FOR SPECIAL PERMIT with DESIGN REVIEW (SZO §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 the building is one-story and there is no parking on site, the standards do not apply. There will be no changes to the current

storefront except for the addition of a 6' x 2.5' sign above the door. The size of the sign complies with the Zoning Ordinance. The sign will be not be lighted.

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 three 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 3 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. The sign will be not be light. A condition of this report is that the white window coverings should be removed so that pedestrians can see into the restaurant.

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. King of Wings has not opened yet. 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. The retail space and the adjacent retail spaces have been vacant for some time, which 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 and 7.11.10.2.1.A**

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**.

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	<p>Approval is for the establishment of a fast order food establishment. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>April 2, 2013</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td>(May 3, 2013)</td> <td>Plans submitted to OSPCD (Plot Plan, Building Floor Plan, Restaurant Floor Plan, Signage Design, Signage Elevation)</td> </tr> </tbody> </table> <p>Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	April 2, 2013	Initial application submitted to the City Clerk's Office	(May 3, 2013)	Plans submitted to OSPCD (Plot Plan, Building Floor Plan, Restaurant Floor Plan, Signage Design, Signage Elevation)	BP/CO	ISD/Plng.	
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2	Signage will be limited in size and location to that shown in the elevation diagrams. The sign shall not be internally illuminated.	CO/Cont.	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	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	Plng.							
6	Approval is for the fast food use for the Applicant, Pennypackers Fine Foods, Inc. 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							

