



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: ZBA 2012-102

Date: January 3, 2013

Recommendation: Conditional Approval

PLANNING STAFF REPORT

Site: 514a Medford Street

Applicant Name: King of Wings

Applicant Address: 3 Wilbur Ct, Saugus MA 01906

Property Owner Name: Gluseppe Bologna LAB Trust

Property Owner Address: 105 Myrtle Street, Methuen, MA 01844

Alderman: Sean O'Donovan

Legal Notice: Applicant, King of Wings, and Owner, Gluseppe Bologna LAB Trust, seeks a Special Permit under SZO §7.11.10.2.1.A in order to establish a fast order food establishment with no seats and a special permit under §9.13.e to modify the parking requirements for a nonconforming lot.*

Zoning District/Ward: NB Zone / Ward 5

Zoning Approval Sought: Special Permit under SZO §7.11.10.2.1.A & 9.13.e

Date of Application: December 5, 2012

Dates of Public Hearing: Zoning Board of Appeals – January 9, 2013

*The special permit for modifications to parking requirements is not needed. See Nature of Application section for parking calculations.

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. Caprese Pizzeria and K2 Market are current tenants in building and there are three vacant spaces. The property received a special permit in

2001 for a special permit to expand the nonconforming catering business, Basil Tree, into 514a Medford. This catering business was the last use of the space.



514a Medford Street (storefront at left) when Basil Tree was still located in the space.

2. Proposal: The proposal is to establish a fast food use that will serve chicken wings and hamburgers. The restaurant will have a small waiting area and no seats. There will be three employees and the hours of operation will be 11am to 1am. Trash will be kept in a dumpster in the rear of the property.

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.

No parking relief is required for the use because of the nonconforming parking situation. The fast food parking requirement is 0.75 per employee plus 1 per 50 sf of customer waiting area. The fast food use will have 3 employees and a small (approx 100sf) waiting area. Therefore, the parking requirement is 4.

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 is 3. The requirement is based on 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, no additional parking shall be required if the new use requires 1 or less parking spaces than the prior use. Since the old use required 3 and the new use requires 4, no new parking is required.

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. A neighboring restaurant is concerned with the competition that the proposed restaurant will bring.

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

7. Comments:

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

Ward Alderman: Has been contacted but has not yet provided comments.

II. FINDINGS FOR SPECIAL PERMIT with DESIGN REVIEW (SZO §5.1 and 7.11.10.2.1.A):

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 4 ft by 4 ft sign above the door. The size of the sign complies with the Zoning Ordinance. The sign will be conditioned to not be internally illuminated so that it is not overly bright compared to the other signage on the building and in the area. The white window coverings should be removed so that pedestrians can see into the restaurant, which will make for a more interesting pedestrian experience.

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.

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.

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.

On one hand a neighboring business has expressed concern that a fast food restaurant will hurt the other restaurants in the neighborhood but on the other hand creating a cluster of similar uses can improve their success by creating a hub of activity. 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.

The use will not create negative impacts on the traffic circulation as no new parking will be created and the use does not require more parking than the last use. The appearance of the storefront will not change greatly from its current state. The sign will be conditioned to not be internally illuminated so that it is not overly bright compared to the other signage on the building and in the area. The white window coverings should be removed so that pedestrians can see into the restaurant.

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	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:	BP/CO	ISD/Plng.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>Dec 5, 2012</td><td>Initial application submitted to the City Clerk’s Office</td></tr><tr><td>(Jan 3, 2013)</td><td>Plans submitted to OSPCD (Plot Plan, building floor plan, restaurant floor plan, signage)</td></tr></table>				Date (Stamp Date)	Submission	Dec 5, 2012	Initial application submitted to the City Clerk’s Office	(Jan 3, 2013)	Plans submitted to OSPCD (Plot Plan, building floor plan, restaurant floor plan, signage)
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Any changes to the approved plans that are not <i>de minimis</i> must receive SPGA approval.										
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.							
3	To the extent possible, all exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.							
4	The storefront windows should not be blocked by more than 30% by interior storage, signage or window coverings.	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.							

