



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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PLANNING DIVISION

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JOSH SAFDIE (ALT.)

Case #: ZBA # 2012-78
Site: 263 Elm Street (a/k/a 5 Davis Square)
Date of Decision: November 7, 2012
Decision: *Petition Withdrawn without Prejudice*
Date Filed with City Clerk: November 16, 2012

ZBA DECISION

Applicant Name:	NE Frog Pond, LLC
Applicant Address:	715 Boylston Street, 2 nd Floor, Boston, MA 02116
Property Owner Name:	The 5 Davis Square, LLC, c/o Dreyfus Realty
Property Owner Address:	1259 Broadway, Somerville, MA 02144
Agent Name:	Adam Dash, Esq.
Agent Address:	48 Grove Street, Suite 304, Somerville, MA 02144

Legal Notice: Owner, The 5 Davis Square, LLC, and Applicant, NE Frog Pond LLC, seek a Special Permit with Design Review under SZO §7.11.10.2.1.a to establish a fast order food establishment (frozen yogurt parlor), a Special Permit under SZO §4.4.1 to modify the existing storefront, including window openings, and a Special Permit under SZO §9.13.a for relief from parking requirements.

<u>Zoning District/Ward:</u>	CBD zone/Ward 6
<u>Zoning Approval Sought:</u>	§7.11.10.2.1.a, §4.4.1 & §9.13.a
<u>Date of Application:</u>	September 18, 2012
<u>Date(s) of Public Hearing:</u>	10/17, 11/7
<u>Date of Decision:</u>	November 7, 2012
<u>Vote:</u>	5-0

Appeal #ZBA 2012-78 was opened before the Zoning Board of Appeals at Somerville City Hall on October 17, 2012. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by



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M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After two hearings of deliberation, the Zoning Board of Appeals took a vote.

DECISION:

Present and sitting were Members Herbert Foster, Orsola Susan Fontano, Richard Rossetti, Danielle Evans and Josh Safdie. Upon making the above findings, Susan Fontano made a motion to approve the request to withdraw the application without prejudice. Richard Rossetti seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request to **WITHDRAW THE APPLICATION WITHOUT PREJUDICE**.

Attest, by the Zoning Board of Appeals:

Herbert Foster, *Chairman*
Orsola Susan Fontano, *Clerk*
Richard Rossetti
Danielle Evans
Josh Safdie (Alt.)

Attest, by the Administrative Assistant:

Dawn M. Pereira

Copies of this decision are filed in the Somerville City Clerk's office.
Copies of all plans referred to in this decision and a detailed record of the SPGA proceedings are filed in the Somerville Planning Dept.

CLERK'S CERTIFICATE

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.



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In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on _____ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

_____ there have been no appeals filed in the Office of the City Clerk, or
_____ there has been an appeal filed.

Signed _____ City Clerk Date _____

