



**NOTICE OF DECISION
CASE NO. BOA1162927
PERMIT #ALT1138941
APPEAL SUSTAINED
WITH PROVISOS**

In reference to appeal of

Sweetgreen, Inc.

Concerning premises

296-302 Cambridge Street, Ward 05

to vary the application of the Zoning Act, Ch. 665, Acts of 1956, as amended, in this specific case, I beg to advise that the petition has been granted.

Decision has been filed in the office of the Commissioner of the Inspectional Services Department, 1010 Massachusetts Avenue, fifth floor, Boston, MA 02118, and is open for public inspection. Date of entry of this decision in the Inspectional Services Department was August 11, 2021.

Please be advised, due to the ongoing COVID-19 public health emergency, this decision of the Board has been reviewed and signed electronically by the signing Board Members. The addition of the certification of the Executive Secretary to the signature page attests that each Board Member who has signed this decision electronically has had an opportunity to review the written decision and has given his or her express written permission to the Executive Secretary to sign this decision electronically.

FOR THE BOARD OF APPEAL

/s/Thomas J. Broom

**Thomas J. Broom
Principal Administrative Assistant**



DECISION OF THE BOARD ON THE APPEAL OF

May 18, 2021
DATE

Sweetgreen, Inc.

to vary the terms of the Boston Zoning Code, under Statute 1956, Chapter 665, as amended, Section 8,
at premises: 296 - 302 Cambridge Street, Ward - 05

For the terms of the Boston Zoning Code (see Acts of 1956, c. 665) in the following respect: **Conditional Use**

<u>Violation</u>	<u>Violation Description</u>	<u>Violation Comments</u>
Article 8 Section 7	Use Regulations	Restaurant Use: Conditional

Purpose: Change of Occupancy from Spinning Studio to Restaurant. Renovation an existing 3,361 SF ground floor space There will be no internal or external structural changes but will propose façade changes.

In his formal appeal, the Appellant states briefly in writing the grounds of and the reasons for his appeal from the refusal of the Building Commissioner, as set forth in papers on file numbered BOA-1162927 and made a part of this record.

In conformity with the law, the Board mailed reasonable notice of the public hearing to the petitioner and to the owners of all property deemed by the Board to be affected thereby, as they appeared on the then most recent local tax lists, which notice of public hearing was duly advertised in a daily newspaper published in the City of Boston, namely:

THE BOSTON HERALD on Tuesday, April 27, 2021

The Board took a view of the petitioner's land, examined its location, layout and other characteristics.

The Boston Planning & Development Agency was sent notice of the appeal by the Building Department and the legal required period of time was allotted to enable the BPDA to render a recommendation to the Board, as prescribed in the Code.

After hearing all the facts and evidence presented at the public hearing held on Tuesday, May 18, 2021 in accordance with notice and advertisement forementioned, the Board finds as follows:

The Appellant appeals to be relieved of complying with the aforementioned section of the Boston Zoning Code, all as per Application for Permit# **ALT-1138941** and November 20, 2020 plans submitted to the Board at its hearing and how on file in the Building Department.



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This appeal seeks permission to change the legal use and occupancy of the storefront known and numbered as 296-302 Cambridge Street, Ward 5, Boston, MA (the "Premises") to include Restaurant Use (the "Proposed Use"), along with an interior fit out to permit a Sweetgreen to be opened and operated at this location.

The requested conditional use permit will allow Sweetgreen, Inc. (the "Appellant") to renovate the existing commercial space with a new Restaurant Use and operate a fresh, seasonal, healthy option at this location, providing a much-needed service to the surrounding neighborhood for the community's residents, commuters and visitors in this high pedestrian foot traffic location. The appeal is necessary, as the requested relief requires a Conditional Use Permit under the terms of the Boston Zoning Code ("Zoning Code") as follows: Article 8, Section 7, Use: Restaurant (Conditional). In this regard, the Appellant herein specifically seeks, and by this Decision is hereby granted, relief from the aforementioned zoning violation identified in the Building Commissioner's written denial dated January 20, 2019, and subsequently appealed on February 10, 2021. At the public hearing before the Board, the Appellant was joined and represented by its legal counsel, Stephen V. Miller, Esq. and Thomas P. Miller, Esq. of McDermott, Quilty & Miller, LLP of Boston, who presented the case for the relief requested.

The Appellant submits that the Board should grant the requested relief, as to do so would not be detrimental to the surrounding neighborhood. Rather, the Proposed Use is consistent with the Uses at numerous other properties in the immediate area, including other Restaurants and Restaurants with Take-out. Further, the Appellant submits that the granting of the requested relief would be in harmony with the general purpose and intent of the Zoning Code, as this would result in an appropriate street level business at the Premises. The requested relief will



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result in a first-class restaurant run by an experienced operator that will serve the needs of the surrounding neighborhood and its visitors and will provide an updated and modern amenity to the area that is consistent with the character of the surrounding neighborhood.

The requested relief will allow the Appellant to provide the neighborhood with a seasonal and healthy option for food in its new space. There is a continuing demand for such food options in the community. The Appellant operates many other restaurants in the City of Boston and is aware of the duties related to the operation of a restaurant in the City. They intend to operate this establishment in a friendly and responsible manner. Other such Uses are operated in the surrounding neighborhood without detriment to the community. The site and building can accommodate the proposed Use as the Appellant's new restaurant will require no exterior modifications. The Appellant serves and sells high quality salads, bowls, plates and other items for their patrons as mentioned above, the Appellant is an operator with extensive experience in operating its restaurants at numerous other locations in Boston and the surrounding area that are similar in size and scope to the proposed space.

By way of background, the Premises is located at 296-302 Cambridge Street, on the Strong Place corner, in the Boston Proper Zoning District. This space at the Premises was previously being used as spinning studio. The proposed hours of operation for the restaurant are from 10:30 a.m. to 11:00 p.m. and which is similar to those in the neighborhood and in line with other similar uses in the immediate area. This project went through an extensive community outreach process, as detailed below. This supports that the granting of the requested relief would be appropriate and result in no negative impact on the surrounding area or its residents. The Appellant further submits that granting relief would result in an appropriate Restaurant Use



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committed to serving the needs of its patrons and the surrounding community.

The Appellant conducted community outreach to seek input from members of community civic associations, immediate abutters, nearby residents, local elected and appointed officials, and other interested parties. Specifically, the Appellant met with the Beacon Hill Civic Association's Zoning and Licensing Committee regarding the proposed Use and the requested relief. The Appellant also participated in the Abutter's Meeting held by the Mayor's Office of Neighborhood Services on March 29, 2021. As a result of the community's input, the Appellant modified their plans to address the community's concerns. As a result of this outreach, the Mayor's Office of Neighborhood Services and a representative of City Councilor Essaibi George's Office testified in support at the public hearing before the Board. The Beacon Hill Civic Association, a representative of City Councilor Bok's Office and an abutter were recorded in opposition. The Board received one letter of support. Thus, the Board finds that such neighborhood support is evidence that the requested relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the Code, and the grant of relief is in the public interest.

The Board of Appeal makes the following findings:

- a) **The specific site is an appropriate location for such use:** The Cambridge Street area where this project is proposed is well populated with similar uses and will conform with the existing nature and character of the surrounding community;
- b) **The use will not adversely affect the neighborhood:** A Sweetgreen at this location will be an amenity for members of the Beacon Hill Community. The Premises is located in an area with an already high volume of foot traffic. The Appellant is an experienced



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operator with an outstanding track record. The space and operations have been in a way as to limit their impact its neighbors. Sweetgreen's addition will not negatively affect the neighborhood;

c) **There will be no serious hazard to vehicles or pedestrians from the use:** In order to minimize hazards for both vehicles of pedestrians, the Appellant will schedule deliveries and trash pick-ups at times when the vehicular and pedestrian traffic is at a minimum. In order to facilitate a smooth flow of traffic, the Appellant will use the loading zone directly in front of the Premises whenever possible. Additionally, the Appellant is going to work with the community to designate an area outside of the location for short term parking only to minimize double parking on Cambridge Street;

d) **No nuisance will be created by the use:** Through mitigation efforts this Use will not create a nuisance. The kitchen is designed in a way as to not vent odors into the neighborhood but through the roof of the existing building. Additionally, the delivery and pickup schedules to minimize any impact on vehicular traffic from deliveries and trash pick-ups; and

e) **Adequate and appropriate facilities will be provided for the proper operation of the use:** This operator has many years of experience operating this type of Use in many locations in and around Boston as well as nationally. They have had no violation during that time, and because of this experience, this project has been designed adequate and appropriate facilities for this type of use.

The Board is of the opinion that all conditions required for the granting of a Conditional Use Permit under Article 6, Section 6-3 of the Zoning Code have been met and that the varying



City of Boston
Board of Appeal

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of the terms of the Zoning Code as outlined above will not conflict with the intent and spirit of the Zoning Code.



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Therefore, acting under its discretionary power, the Board (the members and substitute member(s) sitting on this appeal) voted to grant the requested Conditional Use Permit as described above, annuls the refusal of the Building Commissioner and orders him to grant a permit in accordance with this decision, with the following proviso, which, if not complied with, shall render this decision null and void.

APPROVED AS TO FORM:

Assistant Corporation Counsel

PROVISOS:

1. Imprint logo on all paper products.
2. Provide and maintain trash receptacle on sidewalk in front of premises.
3. Garbage be stored in a rodent proof facility and put out one half hour before pickup.
4. Side door on Strong Place to be use an emergency exit only.
5. BPDA design review.
6. Relief is granted to this applicant only.

Signed, August 04, 2021

/s/ Mark Erlich
Mark Erlich – Acting Chair (Voted In Favor)

/s/ Mark Fortune
Mark Fortune – Secretary (Voted In Favor)

/s/ Kerry Walsh Logue
Kerry Walsh Logue (Alternate) (Voted In Favor)

/s/ Joseph Ruggiero
Joseph Ruggiero (Voted In Favor)

/s/ Tyrone Kindell, Jr.
Tyrone Kindell, Jr. (Alternate) (Voted In Favor)

/s/ Eric Robinson
Eric Robinson (Voted In Favor)

/s/ Sherry Dong
Sherry Dong (Voted In Favor)

With my affixed signature I, the Executive Secretary of the Board of Appeal, hereby certify that the signatories of this decision have given their express permission for electronic signature:

Thomas J. Broom, Esq.
Executive Secretary
Board of Appeal