

Boston Inspectional Services Department
Building and Structures Division

1010 Massachusetts Avenue Boston, MA 02118 Telephone: (617) 635-5300

Martin J. Walsh
Mayor

Gary P. Moccia
Inspector of Buildings

PERMIT FOR USE OF PREMISES

Name of Property Owner/Agent:

Issue Date: 11/21/2014

Application/Permit No.: **U49341016**

Ward: 05

Permission to use premises is hereby granted to: James Fagan

Location: 70 Charles ST.

Use is: 16 Outdoor Seats (see plan submitted)

Provided that the person accepting this permit shall in every respect conform to the terms of the application on file in this office, and to the provisions of the Statutes relating to the Use, Construction, Alteration and Maintenance of Buildings or Premises in the City of Boston, and to the provisions of Chapter 665, Acts of 1956 as amended.

For the Commissioner



Martin J. Walsh
Mayor

Boston Inspectional Services Department Planning and Zoning Division

1010 Massachusetts Avenue Boston, MA 02118 Telephone: (617) 635-5300

ZONING CODE REFUSAL

Gary P. Moccia
Inspector of Buildings

JAMES FAGAN
77 CHARLES ST. SOUTH
BOSTON, MA 02116

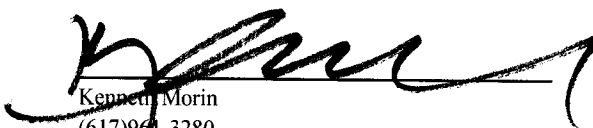
April 08, 2014

Location: 70 CHARLES ST BOSTON, MA 02114
Ward: 05
Zoning District: Boston Proper
Zoning Subdistrict: H-2-65
Appl. # : U49341016
Date Filed: March 04, 2014
Purpose: 16 Outdoor Seats (see plan submitted)

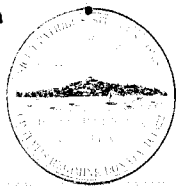
YOUR APPLICATION REQUIRES RELIEF FROM THE BOARD OF APPEAL AS SAME WOULD BE IN VIOLATION OF THE BOSTON ZONING CODE TO WIT: CHAPTER 665, ACTS OF 1956 AS AMENDED:

<u>Violation</u>	<u>Violation Description</u>	<u>Violation Comments</u>
Article 8, Section 7 ***	Use:Forbidden	Outdoor seating, unlisted.

THIS DECISION MAY BE APPEALED TO THE BOARD OF APPEAL WITHIN FORTY-FIVE (45) DAYS PURSUANT TO CHAPTER 665 OF THE ACTS OF 1956, AS AMENDED. APPLICATIONS NOT APPEALED WITHIN THAT TIME PERIOD WILL BE DEEMED ABANDONED. IF YOU HAVE INQUIRIES REGARDING THE NEIGHBORHOOD PROCESS AND PUBLIC PARTICIPATION, PLEASE CONTACT THE MAYOR'S OFFICE OF NEIGHBORHOOD SERVICES AT 617-635-3485.


Kenneth Morin
(617)961-3280
for the Commissioner

Refusal of a permit may be appealed to the Board of Appeal within 45 days. Chapter 802, Acts of 1972, and Chapter 656, Acts of 1956, Section 19.



CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

U 49341016

August 5, 2014
DATE

BZC 33661

Decision of the Board of Appeal on the Appeal of

Tzurit Or

to vary the terms of the Boston Zoning Code, under Statute 1956, Chapter 665, as amended, Section 8, at premises:

70 Charles Street, Ward 5

in the following respect: Variance

Article(s): 8(8-7)

Create outdoor seating for sixteen patrons.

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 BZC-33661 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, July 15, 2014

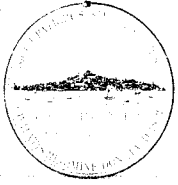
The Board took a view of the petitioner's land, examined its location, layout and other characteristics.

The Boston Redevelopment Authority was sent notice of the appeal by the Building Department and the legal required period of time was allotted to enable the BRA 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, August 5, 2014 in accordance with notice and advertisement aforementioned, 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 U49341016 and date March 04, 2014 plans submitted to the Board at its hearing and now on file in the Building Department.

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CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

70 Charles Street, Ward 5

August 5, 2014

BZC- 33661

Permit # U49341016

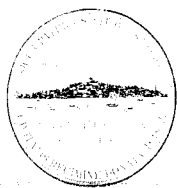
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Appellant, the operator of Tatte Bakery & Café, seeks a conditional use permit to operate at the property for the continued use of a retail bakery café that includes an extended use for seasonal outdoor seating (#37) and the deletion of any limitations found in the Board's prior decisions that a retail bakery with outdoor seating is personal to any applicant. In addition to allowing for the continued use, the grant of the conditional use permit will permit Appellant to undertake renovations to the existing wall, ceiling and floor finishes. The Board's prior decision regarding Café Vanille is found in BZC-# 20749, heard on December 14, 1999.

On April 8, 2014, responding to Appellant's application for a building permit, the Commissioner issued a Zoning Code Refusal letter on the grounds of a violation of Boston Zoning Code Article 8, Section 7. On May 14, 2014, Appellant filed her appeal requesting relief that would allow her to continue to operate for the same bakery-café use with outdoor seating as presently operated. Appellant stated that intended enhancements of the current patio space would result from improvements to the concept of the current bakery-café space and would reflect her commitment to serve the needs of the Beacon Hill community.

Café Vanille has operated at the property as a bakery-café with seasonal outdoor seating since 2000. It replaced a bakery-café, also with outdoor seating, that operated in the space prior to that, known as Rebecca's. With Rebecca's having first opened in 1990, the subject property has been the site of a bakery-café for nearly 25 years. At the hearing, Appellant represented that Café Vanille was scheduled soon to close, with occupancy by Appellant's Tatte Bakery & Café shortly to follow.

Appellant presented evidence that she currently operates four (4) Tatte Bakery & Café locations in Brookline and Cambridge, Massachusetts. All are upscale bakery-café with dine-in and take-out service selling high quality breads, pastries, sandwiches and other light food items, coffees, teas, juices and soft drinks. They are well-run and cared for by Appellant who takes an active role in the management of each. Appellant indicated that she will do the same for the Tatte Bakery & Café proposed for 70 Charles Street. Expected to attract primarily foot traffic, the Tatte Bakery & Café at the property will continue a convenience which has been available to



CITY OF BOSTON
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Decision of the Board of Appeal on the Appeal of

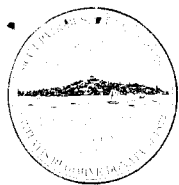
70 Charles Street, Ward 5
 August 5, 2014
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local residents, visitors and tourists and which is in harmony with the general purpose and intent of the Zoning Code as an appropriate street level business in this commercial location committed to serving the needs of the Beacon Hill community.

In prosecuting her appeal, Appellant reached out to the Beacon Hill Civic Association, the Mayor's Office of Services and City Councilor Joshua Zakim's office. At the hearing, representatives from each of these offices spoke in support of the operation of a Tatte Bakery & Café at the property and the Board's approval of the zoning relief sought by Appellant. A representative from City Councilor-at-Large Stephen Murphy's office also spoke in support.

Based on the above facts, the Board finds that with respect to the grant to Appellant of a conditional use permit at the property for the continued operation of a bakery-café with seasonal outdoor seating, and the deletion of any requirement found in the Board's prior decisions relating to this property that the bakery-café with outdoor seating be personal to any prior operator:

- (a) The property is an appropriate location for such use, since it currently houses an identical use and has housed a bakery-café with outdoor seating since 1990 with no adverse impact;
- (b) The use, including the outdoor seating, will not adversely affect the neighborhood, since it will not involve any change in impact on the neighborhood nor any disruption to existing traffic patterns or uses;
- (c) There is no serious hazard to vehicles or pedestrians from this use;
- (d) No nuisance will be created by this use, as the store will be owned and operated by Appellant whose other stores are well maintained and managed; and
- (e) Adequate and appropriate facilities will be provided for the proper operation of the use, including proper facilities for the operation of a bakery-café with outdoor seating.



CITY OF BOSTON BOARD OF APPEAL

OFFICE OF THE BOARD OF APPEAL

Decision of the Board of Appeal on the Appeal of

70 Charles Street, Ward 5
August 5, 2014
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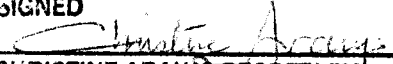
The Board finds that all conditions required for the granting of a Conditional Use Permit under Article 6, Section 6-3 of the Code have been met and that the allowance of the use outlined above will not conflict with the intent and spirit of the Zoning Code. Therefore, the Board, acting under its discretionary power, on a unanimous vote, grants the requested Conditional Use Permit, annuls the refusal of the Building Commissioner and orders him to grant permits in accordance with this decision.

Approved as to form:


Assistant Corporation Counsel

SEP 02 2014

SIGNED


CHRISTINE ARAUJO-SECRETARY


MARK FORTUNE


PETER CHIN


BRUCE BICKERSTAFF


MICHAEL MONAHAN


ANTHONY PISANI-AIA


ROBERT SHORTSLEEVE-CHAIRMAN