

**Community Board Ten Board Meeting Attendance
District Office – 8119 5th Avenue
Tuesday, July 27, 2010 – 7:45 pm**

Board Members Present: 29

Greg Ahl
Elizabeth Amato
Kevin Peter Carroll
Robert Cassara
Judith Collins
Doris Cruz
Ida D'Amelio
Anna DeMetz
Khader El-Yateem
Ann Falutico
Michael Festa
Ronald Gross
Stephen Harrison
Bob Hudock
Scott Klein
Dino Lamia
Nikolaos Leonardos
Jeannie May
Rhea McCone
Mary Nolan
Susan Pulaski
Mary Quinones
Susan Romero
Joanne Seminara
Joseph Sokoloski
Lawrence Stelter
Maureen Stramka
Fran Vella-Marrone
Mary Ann Walsh

Board Members Excused: 18

Ruth Berg
Allen Bortnick
Siti Eschrich
George Fontas
Barbara Germack
Judith Grimaldi
Habib Joudeh
Brian Kieran
Stella Kokolis
Luigi Lobuglio
Rita Meade
James O'Dea
Eleanor Petty
George Prezioso
Dean Rasinya
Jean Ryan
Dilia Schack
Eleanor Schiano

Board Members Absent: 3

Michael Casale
Charles Elias
Husam Rimawi

Ex-Officio:

Councilman Vincent Gentile

COMMUNITY BOARD TEN SPECIAL BOARD MEETING
July 27, 2010; District Office
MINUTES

Chair Seminara called the meeting to order at 7:50 pm. She explained that this Special Board Meeting was convened to address an application received at the Board office on July 2, 2010 from Department of Consumer Affairs for an unenclosed sidewalk café at 510 80th Street. Since our response is due within 45 days, Chair Seminara stated that she and District Manager Beckmann felt it was necessary to hold a special meeting and invite the public in order to formulate our response.

Chair Seminara began the meeting with The Pledge of Allegiance.

Chair Seminara stated that the Committee Chair would give an overview describing the application, which would be followed by a brief presentation by the applicant.

Zoning and Land Use Committee Chair Stephen Harrison introduced Ron Gross, the Sub Committee Chair on Sidewalk Cafes. Sub Committee Chair Gross rendered the Committee Report regarding an application made to the Department of Consumer Affairs for a sidewalk café at Mussels & More Ltd., 510 80th Street, for 24 tables and 48 seats, DCA License No. 1360728. Sub Committee Chair Gross explained that the proposed café spans both 5th Avenue and 80th Street. He added that the proposed sidewalk clearance is compliant with the 8 foot minimum, as required. He stated that one of the concerns of the residents is a street tree on 80th Street which encroaches on the 8 foot minimum clearance. Noise, rowdiness, smoking, and garbage placement on 80th Street for the residential garbage from the apartments upstairs were also concerns of the residents who attended the Committee Meeting.

Sub Committee Chair Gross went on to say that the Committee discussed the matter and decided that the six tables (12 seats) to the east of the entrance to the residential apartments and the one table (2 seats) to the immediate west of the same entrance should be eliminated. He added that Mr. Bantis, the applicant, did not agree with this proposal, however, the Committee voted to approve of the application based on the elimination of those 7 tables and 14 chairs, leaving 17 tables and 34 chairs.

Motion and Recommendation of the Committee: To approve of the application based on the elimination of those six tables (12 seats) to the east of the entrance to the residential apartments and the one table (2 seats) to the immediate west of the same entrance leaving 17 tables and 34 chairs.

Chair Seminara added that there were many people who came to speak out of concern for this application. She estimated that there were at least 30 people from the public present, who came mostly to express their opposition. She invited Mr. Jim Bantis to present his application.

Mr. Bantis disagreed with the estimate of 30 people who were in opposition. He feels there were only 3 or 4 people who were opposed to the application, then stated that maybe there were 4 or 5. He stated that he is eligible to go further in accordance with New York City rules to put tables and chairs, but he felt it was appropriate to stop at least 20 feet prior to where he is eligible to go. He added that all of his building tenants are aware of this application and none are opposed. He was told at the Committee Meeting that he would be hindering his tenants' lifestyles. He stated that if his tenants were here they would say that he runs a pretty tight ship and he does the right thing by them and he will do the right thing by his neighbors.

Mr. Bantis questioned why the Community Board would want to oppose a city law and regulation. He added that his real estate tax is based on what the city tells him to pay; they are not based on the Community Board.

seem fair to him, since he pays an exorbitant amount of real estate taxes. He is being told by a community that yes, he is doing the right thing, but they want him to do the right thing even more. Meanwhile, the city will not lower his real estate taxes. He intends to add additional lighting, he intends to fix the sidewalk where there are issues, he intends to have a family restaurant that we will all be able to go to, not what was there for the past 20-25 years. He stated that he is the building owner, not a tenant, and that we should appreciate what he is trying to bring to the community.

PUBLIC SESSION

Patricia Adnosforia, who lives on 80th Street three doors from the property, spoke in opposition. She stated that the past 5 – 7 years have been very difficult living there. She has had to install security gates on her driveway because in addition to other incidents, she has had people fornicating in her driveway. Having people out on the sidewalk until all hours smoking and eating is not appealing. She stated that she pays taxes too, and for years could not sleep in her own house on the weekends because of the disruptions. She did not get help for many years, even though she complained to the police department, to the Community Board and to 311. Now finally, with the closing of the former establishment, she has slept and it has been more peaceful on the block. She addressed Mr. Bantis and stated that she also pays very high real estate taxes, and now her right as a citizen of 80th Street seems less than his. She finds that offensive. She stated that Mr. Bantis may be the owner, but he does not live there. She addressed Mr. Bantis' comment that his tenants were in support, and said that the honest truth is that the tenants were not present and her tenants wouldn't come out in opposition of her either. She doesn't see why he should have tables on 80th Street at all, which is not commercial. This is her home. Her mother is on a scooter and she wonders how she will get to 5th Avenue with the tables out on the sidewalk.

BOARD MEMBER DISCUSSION

Board Member McCone explained that we have hearings every week for establishments that want to have outdoor cafes that lease space in a building. Sometimes they are approved, and sometimes they are not. Just because Mr. Bantis owns the building, it does not make him different from any other person that runs an establishment.

Board Member Stelter questioned the applicant's plan to have the existing metal bench on 5th Avenue removed and whether that can be done. DM Beckmann explained that the green benches can be removed at the request and possibly at the cost of the building owner. She added that it would be relocated elsewhere in the District. Sub Committee Chair Gross asked if it could be lost to the Avenue, and DM Beckmann confirmed that this is a possibility.

BM Cassara stated that the community is asking us to basically not approve of the outdoor café, at least on the side street, and he would hold his comments until there was a motion on the floor.

BM El-Yateem asked for the Committee's Recommendation to be repeated. Sub Committee Chair Gross said the Committee Recommendation is to accept the application as written with the stipulation that he reduces the number of tables on the side street to the residential entrance, which is 7 tables and 14 chairs less, closer to 5th Avenue. BM Ahl asked how many tables would be left. Sub Committee Chair Gross responded that there would be 12 tables on 80th Street and 5 tables on 5th Avenue.

BM Romero asked what the reason is for cutting back the number of tables. Sub Committee Chair Gross responded that block residents' concerns regarding garbage placement, which would put it closer to the residents is a concern. Residents entering the apartment building would have to enter through the middle of the café. The Committee felt that it was a compromise situation to allow some tables closer to 5th Avenue, and the

services. Sub Committee Chair Gross asked what BM Romero meant by community, and she responded that she was referring to the residents that were present at the Committee Meeting. Sub Committee Chair Gross stated that there were a lot more residents present than spoke, but the ones that did speak did not want the café at all.

DM Beckmann added to the record two letters received at the District Office that were not mentioned earlier. Two residents from 80th Street expressed opposition to the sidewalk café, and one business owner, from Long's Wines and Liquors, who voiced support of the sidewalk seating, however was concerned about noise and asked that it not be used after 10:00 pm.

BM Leonardos asked what the standard requirement is for a sidewalk café. Chair Seminara responded that there are minimum requirements regarding placement of tables, and the width that must be available for public access to walk. Notwithstanding those, she continued, as a Community Board we are asked to weigh in and give our recommendation regarding the café. She asked Sub Committee Chair Gross to go over some of the city regulations, which he did. BM Leonardos questioned if Mr. Bantis would have to comply with all city regulations. Chair Seminara confirmed that anyone operating a sidewalk café must comply with the city regulations, which include that the café would have to be closed on weekdays by 12 midnight and weekends by 1 am. They would have to comply with the minimum width distances for the public to walk. Those regulations cannot be altered. In addition, this community has the power to make other recommendations which the Department of Consumer Affairs can accept or not accept.

BM Falutico understands that some people from the community are leaning toward having no tables at all on 80th Street, and she asked how this application differs from other sidewalk cafes we have approved in the past.

ZALUC Chair Harrison responded that repeatedly over the years since the creation of the idea of sidewalk cafes, he has been in favor of sidewalk cafes, but not on the residential side of the street. In Manhattan, virtually everything is a commercial side of the street. Around here the commercial side only goes 100 feet back and creates a commercial side. In reality, when people bought their homes 20 or 30 years ago, they couldn't look up and find that their house was going to be across the street from a sidewalk café. In fact, if they looked it up, they would have found out that it couldn't be. So now, after paying taxes for many years people are now getting more than they ever thought they were going to get for it. The problem is that the law exists and allows him to do that. He added that the law also allows the Community Board to put in comments to say that we disagree with it to this extent. He stated that in the past when he has voted, he has always stated very clearly on the record that he opposes and always will oppose allowing these to go on the residential side. In this particular case, ZALUC Chair Harrison stated that he will vote in favor of the Committee Recommendation because we've expressed ourselves in getting rid of what we've done in the past. The big difference is, in the past when we have asked on every single occasion where people have tried to put tables behind the apartment door further down, we've asked the owner to consent to taking those tables away. And in every single case, the owners have agreed to take away those tables, receiving unanimous approval on almost every occasion. In this case, ZALUC Chair Harrison recommended that we say we oppose it unless he does not have those tables back there.

BM Nolan asked what the timeframe is for this application to come up for renewal. Chair Seminara responded that this would come up for renewal every two years, if the applicant chooses to remove it.

BM Leonardos asked what would happen if we disapprove the application. Chair Seminara responded that we make our recommendation to Department of Consumer Affairs, and they make the final decision.

BM Stelter questioned how the building's fire escape is affected by the café. Chair Seminara clarified that no

BM Vella-Marrone asked if other sidewalk cafés on a side street have liquor licenses. BM Pulaski mentioned Rustica, Agnante and Cebu. Chair Seminara confirmed that there may be several.

BM Cassara made a motion to disapprove of the application unless all the tables on 80th Street are removed.

The Committee Recommendation was repeated by Sub Committee Chair Gross. CB 10 would approve the application as written, on condition that the 6 tables and 12 seats tables from the residential entrance east and 1 table and 2 chairs to the immediate west of the residential entrance would be removed, resulting in 17 tables and 34 seats, instead of what the applicant had requested which was 24 tables and 48 seats.

BM Cassara clarified that his motion is to amend the Committee Recommendation to eliminate all the tables in the sidewalk café on 80th Street. Second by BM Ahl.

Motion: To amend the Committee Recommendation to eliminate all the tables in the sidewalk café on 80th Street. 14 in favor; 15 opposed. Motion defeated.

Discussion continued on the Committee Recommendation. BM Falutico made a motion to amend the Committee Recommendation by rewording it, but to retain the content. The motion would be to disapprove the concept of the entire café, unless the 7 easterly most tables removed. Second by ZALUC Chair Harrison.

BM Cassara clarified that if we vote in favor of this motion, then it will go through. He recalled that the Board was closely divided on his amendment to eliminate all the seating on 80th Street, now we are voting on just eliminating 7 tables.

BM Cruz suggested including in our recommendation to Department of Consumer Affairs that whenever we have asked applicants in the past to eliminate tables near the residential entrance, they have agreed. BM Vella-Marrone responded that we are stating our recommendation in a very strong negative fashion because the applicant did not agree to do it voluntarily.

BM May stated that all around Manhattan there are signs up requesting the sidewalk café patrons keep the noise down for the neighbors. We are seeing that this is in a residential neighborhood and we all have to share the space.

BM Falutico suggested that we add the phrase “eliminate the 7 tables which lie beyond the service entrance” to help convey our reason for our recommendation. Sub Committee Chair Gross pointed out that six tables are beyond the service entrance, 1 is not. Chair Seminara suggested we say “in part.”

BM Stelter had a question for the owner, and was told that we are only addressing the Committee Recommendation at this time.

Motion: Community Board Ten disapproves of this application unless all the 6 tables to the east of the residential entrance and 1 table to the immediate west of the residential entrance, 7 in total closest to the residential portion of the block, are removed. The final café would consist of 17 tables and 34 seats. 22 in favor; 7 opposed. Motion carried.

Chair Seminara thanked all for their effort to come out for this Special Board Meeting and adjourned the meeting at 8:35 pm.

**ZALUC Subcommittee for Outdoor Cafés
Meeting Minutes
July 27, 2010
Community Board 10 Offices – 6:30 pm**

The ZALUC Special meeting met on July 27th 2010. A quorum was met.

A new application for an unenclosed sidewalk café was discussed for 24 tables and 48 seats at Mussels & More, Ltd, Located at 510 80th Street, Brooklyn, NY 11209. The Consumer Affairs License Number is 1360728.

Mr. Jim Bantis, representing the applicant, was present. This meeting was attended by a large number of local residents.

Mr. Bantis, operator of Mussels & More, was asked to give a presentation about his application for a proposed unenclosed sidewalk café.

Following his presentation, Subcommittee Chair Gross asked for questions, first from the public then from members of the committee. A few members of the public asked several questions, which were answered by Mr. Bantis. This was followed by a number of questions from ZALUC members.

Subcommittee Chair Gross then asked the public for comments. A few people raised concerns which included:

- ❖ The encroachment of commercial activity on the residential portion of 80th Street;
- ❖ Opposition to the size of the café, specifically the 19 tables and 38 seats along 80th Street;
- ❖ That the addition of 19 tables on 80th Street would result in the placement of residential and commercial garbage alongside the café closer toward residential properties in the mid-block;
- ❖ Concern that the number of tables proposed would double the occupancy of the restaurant and thus cause additional traffic problems, including double and illegal parking, and noise on 80th Street;
- ❖ Residents of 510 80th Street – a multiple dwelling – would be forced to walk between tables of the café to enter and exit their apartment, even to dispose of their garbage;

- ❖ As the proposed café would occupy virtually all of the available frontage along both streets, smokers will be more likely to continue down the side street, smoking in front of residential properties; and
- ❖ Concerns about restricting sidewalk access (especially for handicapped and senior residents of the block) because the pedestrian clearance near the street tree would likely be less than 5 feet.

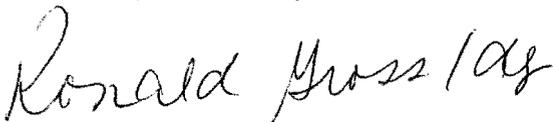
Members of ZALUC were asked for their comments. Many of the comments echoed those of the residents. Some ZALUC members commented that the placement of sidewalk cafés on residential side streets constituted a nuisance for the residents and should be banned altogether.

Chair Harrison stated that in recent years all applications that included tables and chairs beyond the entrance to the apartments above the café had been modified at our request so that no tables would exist beyond the residential entrance. In each and every case the applicant had agreed to such modifications. Mr. Bantis was asked if he would agree to such a modification. He indicated that he would not.

After discussion a motion was proposed and seconded to approve the application as written on condition that the six tables (12 seats) to the east of the entrance to the residential apartments and the one table (2 seats) to the immediate west of the same entrance are removed. This would result in a café with 17 tables and 34 seats.

The committee voted to approve this motion and so moves.

Respectfully submitted,

A handwritten signature in cursive script that reads "Ronald Gross".

Ronald Gross
Chair, ZALUC Subcommittee for Outdoor Cafés