

36-70-BZ

APPLICANT - Fischbein Badillo Wagner Harding, for 200 West 79th Street Owners, Inc., owner; Amstore Limited Partnership, lessee.

SUBJECT - Application April 22, 2003 - reopening for an amendment to the resolution.

PREMISES AFFECTED - 200-204 West 79th Street, a/k/a 380 Amsterdam Avenue, west side of Amsterdam between West 78th Street and 79th Streets, Block 1170,, Lot 7501 FKA 29, 30, 32, 34, 35, 36, Borough of Manhattan.

COMMUNITY BOARD #7M

APPEARANCES -

For Applicant: Barbara Hair.

ACTION OF THE BOARD - Application reopened and resolution amended.

THE VOTE TO GRANT -

Affirmative: Chairman Chin, Commissioner Caliendo and Commissioner Miele.....3

Negative:0

Absent: Vice-Chair Babbar1

THE RESOLUTION -

WHEREAS, a public hearing was held on this application on June 24, 2003, after due notice by publication in The City Record, laid over to September 9, 2003, October 7, 2003 and then to October 28, 2003 for decision; and

WHEREAS, the applicant has requested an amendment seeking to allow an open air café in summer and an enclosed café in winter, within a privately own public plaza; and

WHEREAS, the proposal would have also required the placement of public seating and tables where waiter service would not be permitted, and signage to inform the public; and

WHEREAS, on May 12, 1970, the Board granted a variance pursuant to Z.R. §72-21 permitting the construction of an 18-story residential building with ground floor commercial uses; and

WHEREAS, the Board notes that at the time of the variance, half of the zoning lot was in an R10 equivalent district and half in an R9 equivalent district and that a floor area increase was allowed as-of-right for a Plaza in the R10 portion of the lot but not in the R9 portion; and

WHEREAS, the variance required a certain amount of open space around the entire building including along Amsterdam Avenue and West 78th Streets; and

WHEREAS, subsequently, the Board permitted, in the R9 zoning district, an open sidewalk café for a term of five years under Calendar Number 374-75-BZ; and

WHEREAS, the record indicates that the café

increased the degree of non-compliance in floor area ratio and open space ratio; and

WHEREAS, therefore, on November 17, 1981, the Board permitted the applicant to withdraw an application to extend the term; and

WHEREAS, at the request of the West 78th Street Block Association and with the knowledge of the Department of City Planning, the applicant has revised the plans and eliminated public tables and seating; and

Resolved, that the Board of Standards and Appeals reopens and amends the resolution, pursuant to Z.R. § 72-01 and 72-22, said resolution having been adopted on May 12, 1970 so that as amended this portion of the resolution shall read:

"To permit, in a privately own public plaza, an open air café in the summer time and an enclosed café in winter," on condition

THAT all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received September 29, 2003"- (3) sheets; and on further condition;

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the above conditions and all conditions from prior resolutions shall appear on the certificate of occupancy;

THAT this approval is limited to the relief granted by the Board in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted."

(DOB Application # 103429176)

Adopted by the Board of Standards and Appeals, October 28, 2003.

A true copy of resolution adopted by the Board of Standards and Appeals, October 28, 2003.

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Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.