

# THE CITY OF NEW YORK MANHATTAN COMMUNITY BOARD NO. 3

59 East 4th Street - New York, NY 10003 Phone: (212) 533-5300 - Fax: (212) 533-3659 www.cb3manhattan.org - info@cb3manhattan.org

David McWater, Board Chair

Susan Stetzer, District Manager

Zoning & Franchises Subcommittee hearing August 20, 2007 ULURP, NYLA Café, LLC, Manhattan (20075509TCM) LU 0514-2007

My name is Susan Stetzer, District Manager of Community Board 3, Manhattan, testifying on behalf of the Community Board.

To preface the testimony, Community Board 3 has not taken a position against sidewalk cafés. This is the first call up we have requested and it is in response to issues regarding the location of the café. Community Board 3 recognizes that restaurant sidewalk cafes provide an amenity to New York residents and visitors, contribute to a vibrant street life, and they are the source of additional revenues for business owners and the City. The original DCA guidelines reference sidewalk café licenses as "licenses(s) and revocable consent(s) to use public space, needed to operate a portion of a restaurant on a public sidewalk. "

Community Board 3 has several areas that are among the most densely used destination nightlife areas in the City—and Ludlow / Orchard is the most dense and loudest. Ludlow along with Orchard Street is living history of our immigrant residential community. It recently has become gentrified and is also home to others new to the community. The first floor and some second floors of these buildings are traditionally commercial. The point that I am trying to make is that this has always been a place were families have lived. There have always been neighborhood bars and restaurants—but they served the people who lived and worked here and did not cause problems of an overcrowded destination hotspot in middle of a residential area.

Another point I am making is that the original DCA sidewalk café guidelines reference only restaurants. The primary activity on Ludlow is drinking and loud partying by young people. The Community Board in June 2007 voted on a resolution asking DCA to protect the quality of life of its residents and promote public safety on its sidewalks by restricting the issuance of sidewalk café licenses to restaurants consistent with its Guidelines. This establishment features 50 beers on tap besides bottle beer. The establishment is currently applying for a full liquor license. I have included reviews and blogs about this place—to quote from one—"... approach... like you would any run-of-the-mill European beer chalet on the LES: Take a seat on a bench at the large communal table, grab a stein of beer and stare out one of the large open windows at the circus that is Rivington Street." The owner is quoted as saying they have the single greatest selection of beers ever assembled in the city. I know that the DCA must consider whether the applicant meets criteria. However, outdoor bars were not considered in the original licensing; only restaurants were referred to.

The City Council with the Mayor has just passed a new noise law that penalizes bars, among others, who have noise above a specified level that can be heard 15 feet from the source on the street. The noise code is obsolete when you locate the source of the noise on the street by locating outdoor bars on the sidewalk.

I would specifically like to describe the nature of this corner. The area is so congested that the Commanding Office of the Seventh Precinct requested board support to remove parking from the parking lane on Friday and Saturday nights to keep traffic moving and to try to cut down the horn honking that is a result of the congestion. DOT has since installed the signage. Last year the Community Board 3 SLA committee chair and I joined the Commanding Office, SLA Commissioner Noreen Healy, State Senator Martin Connor, and a representative from Council member Gerson's office to tour Ludlow and surrounding streets from midnight to 1:00 a.m. on a Saturday night. I would be happy to coordinate another tour like this because you cannot believe it otherwise. The sidewalks are packed and spill over into the streets. People hang out on the street and sit on the curbs and talk, smoke, drink, scream. Adding more loud drinkers to this mix not only adds to the noise, but presents safety issues by making the sidewalk more congested that are not addressed in DCA criteria. One resident at the CB committee meeting particularly referenced the elderly and disabled who would not be able to maneuver the congested sidewalks around the outdoor cafes on this street. The overcongestion and the many complaints by the community creates a drain on city resources that is not being met by increasing police staffing, which has become an annual CB 3 top budget priority.

Community Board 3 has more commercial noise complaints than any other Board in Manhattan by more than a thousand. Year to date is 3,504. The next highest is 2394. Of the over 3,000—over a thousand are from zip code 10002—which is the Seventh Precinct. A letter from the Commanding Office of the precinct states "The vast majority of my 311 calls for noise, which are in the 100's, come from this area, particularly on Friday and Saturday nights when the area is flooded with people into the early hours of the morning. The noise level is too often unacceptable—and is regularly caused by no single offender—but by the cacophony of sound of the 100's, if not 1000's of individuals on the street."

At the CB 3 committee meeting, the applicant admitted that most of the petitions he submitted were from business owners, not residents of the area. The petitions state that the café will help business and decrease waiting time for seating during peak brunch and dinner hours of the summer. There is no proof that this sidewalk café will help decrease waiting time. History has shown that the more establishments there are, the more people come and the longer the waits. It would make more sense to have fewer establishments in the same way that narrowing a road decreases traffic because less cars use it.

There has been much confusion regarding this hearing. Friday morning I received a call from Council member Gerson's office that this hearing was on hold for Monday. Friday at 5:00 pm I was told that this hearing was being postponed. Sunday afternoon I received a call that this was a mistake and the hearing was being held. I have been working closely with the President of the Rivington Block Association, as I know Council member Gerson's office also has. Elvin Nunez, the president of the BA wanted to testify and bring his membership—but neither I nor Council member Gerson's office have been able to reach him on the weekend. It is quite unfortunate that the impacted community was told that this hearing would not be held today and therefore cannot testify. Elvin had taken photographs to show as part of his testimony.

The Seventh Precinct Commanding Office, Captain Frank Dwyer, also promised to have a letter supporting the community/community board position—but I told him that I did not need it Monday since the hearing was postponed. I had asked him to address safety concerns and the drain on city resources. I am still hoping to be able to get his letter for the committee before you vote.

In conclusion—CB 3 knows that the DCA and City Council must consider whether an applicant meets criteria for licensing. We believe that it goes without saying that the needs of the residents to have a strong economy and vibrant city must be balanced with the needs of the residents who live and work here. Issues of safety and the drain of city resources must also play a part in planning. We also point out that the DCA

Guidelines are for restaurants, not bars. The Guidelines do not address safety issues and issues of overcongestion and the need for planning—which must be taken into account.

I am including in this testimony:

- 1. Community Board 3 resolution of June 2007 recommending denial of this sidewalk café.
- 2. Community Board 3 resolution of June 2007 to City Council and DCA asking that sidewalk café licenses be restricted to restaurants per DCA Guidelines,
- 3. Community Board 3 resolutions of November 2006 and July 2007 asking DOT to remove parking from one lane on Ludlow and Orchard Streets on Friday and Saturday nights
- 4. Letter of July 2007 from Seventh Precinct's Commanding Officer, Frank Dwyer, to the SLA describing conditions in impacted area (letter to City Council / DCA to come).
- 5. Community Board 3 letter of July 2007 to the SLA asking that a liquor license be denied. (SLA hearing for full liquor license has not yet been held.)
- 6. Four pages downloaded from the internet describing this establishment.



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David McWater, Board Chair

Susan Stetzer, District Manager

June 28, 2007

Hon. Jonathan Mintz, Commissioner NYC Department of Consumer Affairs (DCA) 42 Broadway New York, New York 10004

Re:

NYLA Café LLC 101 Rivington Street New York, NY 10002

DCA License Number: 1254854

Dear Commissioner Mintz:

At its June 2007 monthly meeting, Community Board #3 passed the following resolution:

WHEREAS, Community Board #3 has long held that the increase in nighttime venues has resulted in persistent and numerous complaints regarding increased noise as well as increased pedestrian and vehicular traffic in specific areas within this district and said complaints have evolved over time from complaints that were once only about specific rowdy businesses to complaints that are now about noise and congestion resulting from the sheer volume of eating and drinking establishments; and

WHEREAS, said conditions are prevalent in and around Ludlow Street between Houston Street and Delancey Street which currently has twenty-one (21) eating and drinking establishments and Rivington Street between Norfolk Street and Orchard Street which currently has eleven (11) eating and drinking licenses; and

WHEREAS, the Seventh Precinct has recently requested that Community Board #3 ask the New York City Department of Transportation to change signage on the west side of Ludlow Street between Houston Street and Delancey Street to "NO STANDING FROM 11:00 P.M. TO 6:00 A.M. FRIDAYS AND SATURDAYS" because the street has been overwhelmed by nighttime businesses and their attendant vehicular and pedestrian traffic and noise (Community Board #3 motion of November 2006 attached hereto); and

WHEREAS, said request has resulted in the New York City Department of Transportation changing signage and eliminating residential parking on the west side of Ludlow Street between Houston Street and Delancey Street in response to the overwhelming street and sidewalk congestion; and

WHEREAS, NYLA, located at 101 Rivington Street, on the southeast corner of Ludlow Street and Rivington Street, has now applied for a sidewalk café permit for twenty (20) seats with forty (40) seats, with sixteen (16) tables with thirty-two (32) seats to be located on Ludlow Street and four (4) tables with eight (8) chairs to be located on Rivington Street, and with proposed closing hours of 11:00 P.M. weeknights and 12:00 A.M. Fridays and Saturdays; and

WHEREAS, the applicant has inconsistently stated to this board that he believes there is no street and sidewalk congestion where his establishment is located although her has conceded that there is street and sidewalk congestion from eating and drinking establishments on both sides of Ludlow Street on the blocks north and south of his establishment and immediately opposite his establishment, as well as on Rivington Street; and

WHEREAS, the applicant submitted petitions of support from the surrounding community which he concedes consisted in large part of business owners rather than residents; and

WHEREAS, residents from buildings on Ludlow Street, both adjacent to and across the street from this location, appeared before the board to complain of existing noise and impassable sidewalks and streets because of too many people and cars, including the testimony of one walker-bound tenant from the adjacent building, 124 Ludlow Street, that the sidewalks are currently too congested and dangerous for her to safely maneuver due to congestion from the patrons of existing businesses; and

WHEREAS, Community Board #3 had requested that the applicant, NYLA, agree by signing a change order to 1) decrease the size of his proposed sidewalk caféto eleven (11) tables with twenty-two (22) seats on Ludlow Street, all of which would be flush against his façade to maximize sidewalk space for pedestrians, and 2) to close the sidewalk café at 10:00 P.M. every night, to minimize additional nighttime noise and congestion on Ludlow and Rivington Streets; and

WHEREAS, said applicant has refused to sign such an agreement or change order;

BE IT THEREFORE RESOLVED THAT Community Board #3urges that the sidewalk cafépermit for twenty (20) tables with forty (40) seats for NYLA, located at 101 Rivington Street, be denied given the longstanding and documented history by Community Board #3 of pedestrian and vehicular traffic and noise on Ludlow Street and Rivington Street and given the applicant's refusal to sign a change order decreasing the size and hours for his proposed sidewalk café.

If you have any questions, please do not hesitate to call.

Sincerely,

David McWater, Chair Community Board #3 Alexandra Militano, Chair

SLA & Economic Development Committee

cc: Robert Shamlian, Managing Member/NYLA Café Michael Ben-Asher, Legal Department/DCA MBP Stringer CCM Gerson



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DAVID MCWATER, BOARD CHAIR

SUSAN STETZER, DISTRICT MANAGER

July 2, 2007

Hon. Jonathan Mintz, Commissioner NYC Department of Consumer Affairs (DCA) 42 Broadway New York, New York 10004

Hon. Christine C. Quinn, Speaker New York City Council City Hall New York, New York 10007

Dear Commissioner Mintz and Speaker Quinn:

At its June 2007 monthly meeting, Community Board #3 passed the following resolution:

WHEREAS, Community Board #3 recognizes that restaurant sidewalk cafés provide an amenity to New York residents and visitors, contribute to a vibrant street life and are the source of additional revenue for business owners and the City; and

WHEREAS, Community Board #3 generally supports the licensing of sidewalk cafés for restaurants consistent with the New York City Department of Consumer Affairs guidelines which describe such licenses as "license(s) and revocable consent(s) to use public space, needed to operate a portion of a *restaurant* on a public sidewalk" (emphasis added); and

WHEREAS, sidewalk cafés in the Lower East Side and East Village are licensed to occupy public thoroughfares utilized by pedestrians during all hours of the day and are often located below residential apartments; and

WHEREAS, a large number of sidewalk café licenses are now being issued to bars and lounges in the Lower East Side and East Village which are primarily using this outdoor space for the primary purpose of drinking alcoholic beverages outside, rather than for the incidental consumption of alcohol during dining; and

WHEREAS, Community Board #3 has observed that the extension of bars and lounges to outdoor space through the licensing of sidewalk cafés for said establishments has resulted in patron noise and congestion on the sidewalks and has disturbed residents surrounding said cafés and in the surrounding community; and

WHEREAS, the existing and future New York City noise code inadequately addresses noise emanating from sidewalk cafés on the public sidewalks because it measures noise from real property rather than from a licensed portion of the

WHEREAS, City agencies have insufficient resources to fully respond to all of the quality of life complaints made by the community residents regarding noise and congestion on the sidewalks attendant to the operation of said sidewalk cafés in this District; now

THEREFORE, BE IT RESOLVED, that in order to protect the quality of life of its residents and promote public safety on its sidewalks, Community Board #3 urges the New York City Department of Consumer Affairs to restrict the issuance of sidewalk café licenses to restaurants consistent with its guidelines; and

BE IT FURTHER RESOLVED, that Community Board #3 urges the New York City Council to create more specific legislation to restrict the issuance of sidewalk cafés to dining establishments.

Alexandra Militano, Chair

SLA & Economic Development Committee

If you have any questions, please do not hesitate to call.

Sincerely,

David McWater, Chair

Community Board #3

cc: Vivien Krieger, DCA Michael Ben-Asher, DCA Lolita Jackson, CAU

MBP Stringer

CCM Mendez

CCM Gerson



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David McWater, Board Chair

Susan Stetzer, District Manager

December 1, 2006

Hon. Iris Weinshall, Commissioner NYC Department of Transportation (DOT) 40 Worth Street New York, New York 10013

Dear Commissioner Weinshall:

At its November 2006 monthly meeting, Community Board #3 passed the following motion:

Because the area on Ludlow Street between East Houston and Delancey Streets and on Orchard Street between Stanton and East Houston Streets are oversaturated with nightlife businesses and their attendant vehicular and pedestrian traffic and noise, Community Board 3 (CB3) approves the 7th Precinct proposal for a pilot program to change the signage on the west side of Ludlow Street between East Houston and Delancey Streets and on the west side of Orchard Street between Stanton and East Houston Streets to "No Standing 11PM-6AM Friday and Saturday."

CB3 requests that DOT expedite this signage so the pilot program can begin before the holidays. At the end of 3 months, CB3 could evaluate whether to extend the pilot program for another 3 months during the warm spring weather.

If you have any questions, please do not hesitate to call.

Sincerely,

David McWater, Chair

in Matter

Community Board #3

Transportation Committee

David Cranelc. R.

cc: Margaret Forgione, Manhattan Borough Commissioner/DOT Mary Cooley, MBPO Alan Gerson, Council Member

Frank Dwyer, Commanding Officer/7th Precinct



# THE CITY OF NEW YORK MANHATTAN COMMUNITY BOARD NO. 3

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David McWater, Board Chair

Susan Stetzer, District Manager

August 2, 2007

Hon. Janette Sadik-Khan, Commissioner NYC Department of Transportation (DOT) 40 Worth Street New York, New York 10013

Dear Commissioner Sadik-Khan:

At its July 2007 monthly meeting, Community Board #3 passed the following motion:

To approve of the 7<sup>th</sup> Precinct's request for installation of "No Standing" signage on the west side of Orchard Street from Stanton Street to Delancey Street for 11:00 P.M. Friday until 6:00 A.M. Saturday, and from 11:00 P.M. Saturday until 6:00 A.M. Sunday. This would extend the night cabaret hour's zone already in effect on Orchard Street between Stanton Street and East Houston Street, similar to the zone on Ludlow Street. The goal is to create a two-lane road on these streets during the weekend night cabaret hours so that taxis and other cars may pull over for dropping off and picking up. This area continues to have more bars open, which bring crowds and large numbers of taxicabs and cars. By eliminating parked traffic on one side of the street during these hours, the precinct hopes to reduce congestion and horn blowing by providing room for vehicles to pull over when they are dropping off and picking up.

If you have any questions, please do not hesitate to call.

Sincerely,

David McWater, Chair Community Board #3

cc: MBC Forgione, DOT

Commanding Officer Dwyer, 7th Precinct

MBP Stringer CCM Gerson

David Crane, Chair

Transportation Committee



## POLICE DEPARTMENT

July 4, 2007

Hon. Fred J. Gioffre
Deput, Commissioner
SLA Licensing Division
317 Lenox Avenue, 4<sup>th</sup> Floor
New York, New York 10027

Dear Deputy Commissioner Gioffre:

I have been informed by Community Board 3 that a liquor license has been reques ed for NYLA Café at 126 Ludlow aka 101 Rivington Street.

I share the Board's concerns in this matter and concur with their conclusion that the area where this license is requested is "over saturated with many licensed establishments which cause quality of life problems for the residents living on the block," and I would add the community in general. The vast majority of my 311 calls for noise, which are in the 100's come from this area, particularly on Friday and Saturday nights when the area is flooded with people into the early hours of the morning. The noise level is too often unacceptable—and is regularly caused by no single offender—but by the cacophony of sound of the 100's, if not 1000's of individuals on the street. Additional problems that we encounter are individuals urinating in the streets after leaving licensed premises and other disorderly conduct related to drinking.

In summary, I receive constant complaints about Ludlow and the neighboring streets and do not believe that the addition of another licensed establishment will in anyway help abate these conditions. It will, rather, add to them. I recommend no addition licenses be issued in this area.

Sincerety

Captain



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David McWater, Board Chair

Susan Stetzer, District Manager

July 2, 2007

Hon. Fred J. Gioffre, Deputy Commissioner Licensing Division 317 Lenox Avenue, 4<sup>th</sup> Floor New York, New York 10027

#### Dear Commissioner Gioffre:

Community Board 3 affirms its recommendation that a liquor license be denied for NYLA Café at 126 Ludlow aka 101 Rivington. The applicant did not fill out the CB 3 questionnaire section that asks for the number of licenses establishment within 500 feet and within one block. He also did not fill out the section that asked for history of complaints. The principal has received complaints for his establishment, The Dark Room at 167 Ludlow, which he did not list on the CB application and which has received summons from the 7<sup>th</sup> precinct.

A review of the area shows within one block on each side of this location some of the establishments with the most complaints in the area. Following are the licensed establishments within one block: Libation at 137 Ludlow-with cabaret license (CB 3 has received many complaints regarding this location), Pianos at 158 Ludlow with cabaret license and many complaints, Inoteca at 113 Rivington (which has received summons), Motor City at 127 Ludlow (which has received summons), Chickie Pig (pending) at 121 Ludlow, 113 Ludlow (SAPA), The Hotel on Rivington at 107 Rivington, which has a large lounge crowd and rooftop bar as well as a restaurant, El Castillo at 113 Rivington, Fat Baby at 112 Rivington (same principal), Verlaine at 110 Rivington, Iggy's Keltic Lounge at 132 Ludlow, which has failed noise test, Bakeshop at 152 Ludlow, Living Room at 152 Ludlow.

This area is extremely crowded and over saturated and is in an area that by community request CB 3 no longer approves new licenses. The area is so crowded that the Seventh Precinct has experimented with closing the street on weekend nights, and then asked the Board to support removal of parking in the west lane of Ludlow from Houston to Delancey because the area is so congested that traffic does not move and there are many complaints of horn honking. The Board did support this request and the Department of Traffic now has signage that does not allow parking in the west lane on Friday and Saturday nights.

The Community Board receives complaints about Ludlow and the neighboring street, Orchard, on a constant basis. The over saturation of people who have been drinking has an extremely detrimental effect on the quality of life of the residents of the tenements above all of these establishments. This applicant, instead of soundproofing to mitigate the noise, is planning: floor-to-ceiling retractable windows, which will fold up to provide an open-air feeling. This will create the most noise possible from the establishment. This does not show any consideration for the residents who are already living there.

The applicant had the following advertisement, which is indicative of the type of establishment intended, which was featured in the Village Voice as "my least favorite ad ever:

\$ Cool LES Spot looking for Cool people \$\$\$ (Lower East Side)

Neighborhood joint meets three stars!

Great restaurant and wine bar in the heart of LES seeks:

- Cool rock chick servers...tats a plus. Please don't be addicted to heroine.

- Awesome funky bus boy...fresh kicks and cool style a plus. Must be fast and have solid communication skills...OK this basically means you speak english.

- Salad prep person. Great for a culinary student or a future celebrity chef.

Should love having fun at work and laughing all day.

Very cool management/owners. CASH MONEY DAILY!!!!

BRING IT. Hit us up with your resume ASAP!

This has been removed from the internet since it was questioned at the Community Board meeting when the applicant appeared for a sidewalk café license.

Community Board 3 asks that you deny this license because it is not in the public interest of the community, and is in an area already over saturated with many licensed establishments which cause quality of life problems for the residents living on the block. Although there are some "bad neighbors" in the Ludlow area causing problems, the majority of complaints center around the immense noisy crowds in this residential area that have destroyed the quality of life of residents on weekends by the sheer number of people on the streets until after the 4:00 am closing. There are also traffic issues that cause a drain of police staffing because of congestion and noise. The applicant has received at lease one summons from the 7<sup>th</sup> precinct for The Dark Room.

The community board has also recommended denial for a sidewalk café for this establishment, for which applicant has stated that he will apply for an additional license. Attached is the CB resolution recommending denial for the sidewalk café license.

Sincerely,

Susan Stetzer

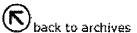
District Manager

Juson Stetzer

August 10, 2007

#### **Corner Pocket**

Introducing Spitzer's Corner





Nothing goes better with a cold beer than...a choice of 39 other cold beers. And pork fat popcorn. Hidden in plain sight for months on the high-traffic, high-profile corner of Rivington and Ludlow, *Spitzer's Corner* is finally set to unleash a hoard of strong-yet-tasty beers, gourmet salty bites and a convivial drinking vibe on the unsuspecting Lower East Side.

Below, in preparation for this weekend's soft opening (just beer and raw bar, with food to follow in a couple weeks), we bring you a first look inside.

Approach Spitzer's Corner like you would any run-of-the-mill European beer chalet on the LES: Take a seat on a bench at the large communal table, grab a stein of beer and stare out one of the large open windows at the circus that is Rivington Street.

The décor is simple—pickle barrel wood for the floors and walls, unfinished metal for the bar and lighting—but a perfect foil to the melee-prone exterior. And then there's the beers. Modestly billed by owner Rob Shamilian as the single greatest selection of beers ever assembled in the city (fighting words if we've ever heard them), Spitzer's brings you 40 flavor-heavy beer-drinkers beers with names that sound like old European monks and despots (Aventinus, Old Rasputin, St. Bernardus). The food is designed to complement the beer's bite: Try the *PBLT* (a traditional BLT with the genius addition of crispy pork belly) or maybe the beer-battered oysters.

You know, in case you haven't had enough beer. Spitzer's Corner, 101 Rivington (at Ludlow), 212-228-0027





Time Out New York / Issue 620 : August 15, 2007 - August 21, 2007

### New this week

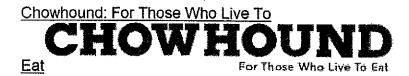
Grilled veal chop with roasted vegetables

**Spitzers Corner** Chef Michael Cooperman (Le Bernardin) took the reins when Top Chef contestant Sam Talbot bailed on this dress-shop-turned-gastropub this past spring. The 95-seat eatery from the brothers Shamlian (Fat Baby) will feature 50 beers on tap, a raw bar and floor-to-ceiling windows ideal for taking in the LES scene. *101 Rivington St at Ludlow St (212-228-0027)* 



Rocky Sullivan's of Red Hook Photo: Katle Ackerman

On Webshots: New photos, every hour, on the hour



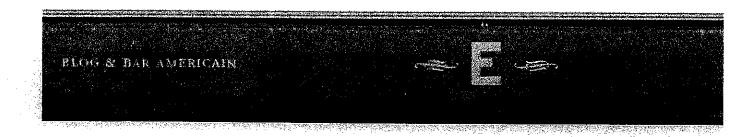
## Manhattan

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Spitzers Corner- Mini Review

Stopped by yesterday afternoon for a drink. The space is much bigger than I expected. There are large wooden communal tables in the center and then wooden benches along the sides. We sat on one of the side benches and were basically sitting outside. The whole wall is open which makes it nice and airy.

They have a nice selection of good beers on tap and a small but decent selection of bottles. We didn't eat any food but the menu looked very good. The whole place is just very comfortable. This is a great place to just hang out and relax. It may be one of my new go-to places.



LES Delay Check: Spitzer's Corner vs. The Blue Seats Monday, August 13, 2007



Yesterday, Eater inspectors arrived on Ludlow Street to ascertain the fate of two longdelayed venues:

1) Spitzer's Corner: This <u>Plywood vet</u>, from the Fat Baby crew, finally soft-opened over the weekend, as reported by <u>The RG</u>. A drop-by last night found the front room, which features two large communal drinking tables, full of revelers. Given its location fronting the very center of Hell Square, this place is going to need some serious crowd-control come next weekend.