

ZB# 94-26

Steve Prekas

69-1-11

Prelim.

July 11, 1994.

Notice to Paper - 7/15/94.
(Aps. furnished)

to Ap's engineer

① Fees paid 4.

② Title report 4.

③ ~~Deed 4.~~

④ Photos - need

Public Hearing

Public Hearing:

August 8, 1994.

Mea Vinculo

approved.

~~# 94-26-173~~

~~Robert D. ...~~

3 gro dek, S & J #9-6-8.
C/O #90-169

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

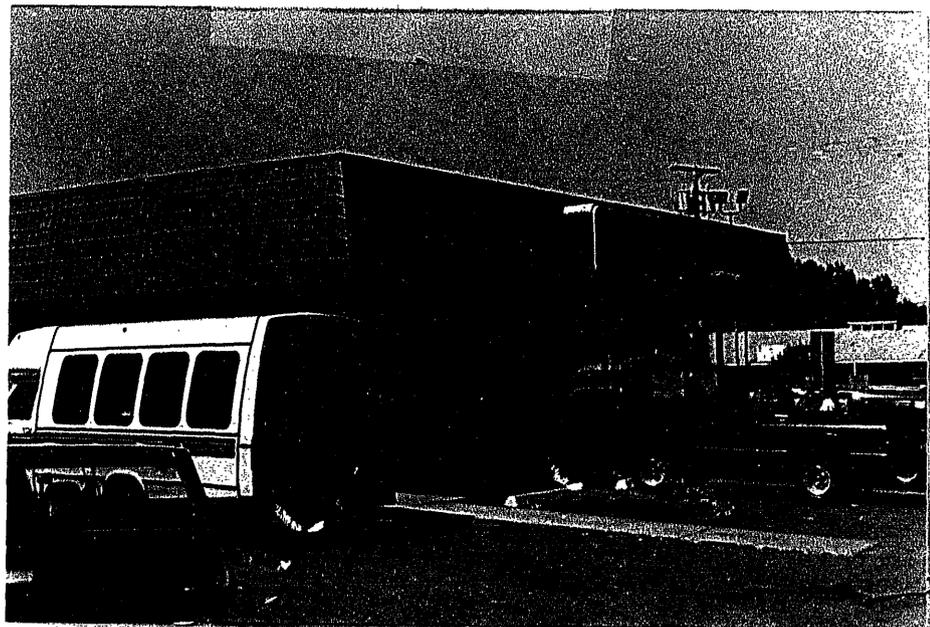
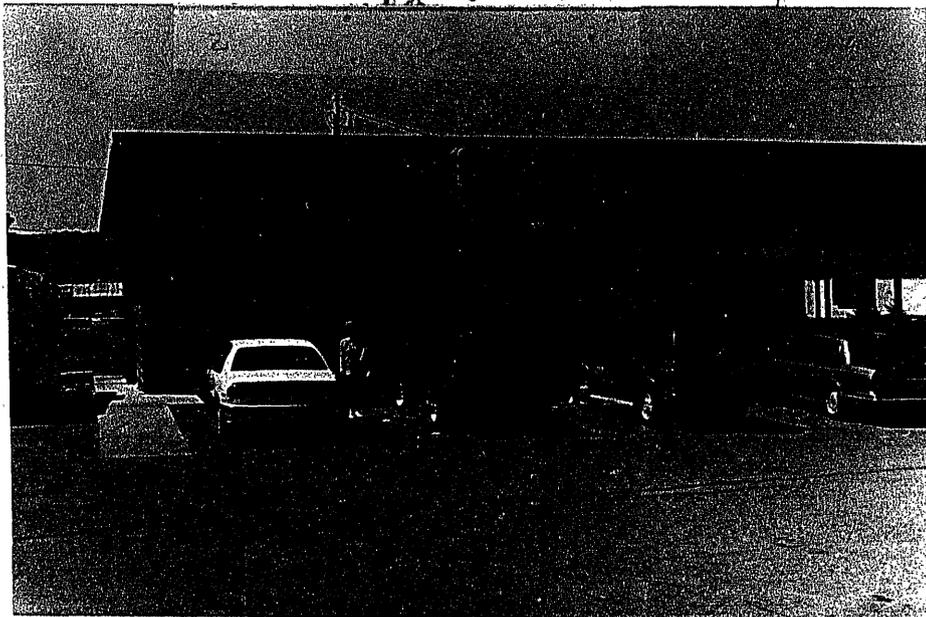
GENERAL RECEIPT

Received of Steve Prekas July 15 14162
19 94
\$ 150.00
One Hundred Fifty and 00/100 DOLLARS
For Zoning Board #94-26
DISTRIBUTION:

FUND	CODE	AMOUNT
<u>000#</u>	<u>3741</u>	<u>\$150.00</u>

By Dorothy Hansen
Town Clerk
Title

© WILLIAMSON LAW BOOK Co., VICTOR, N.Y. 14564



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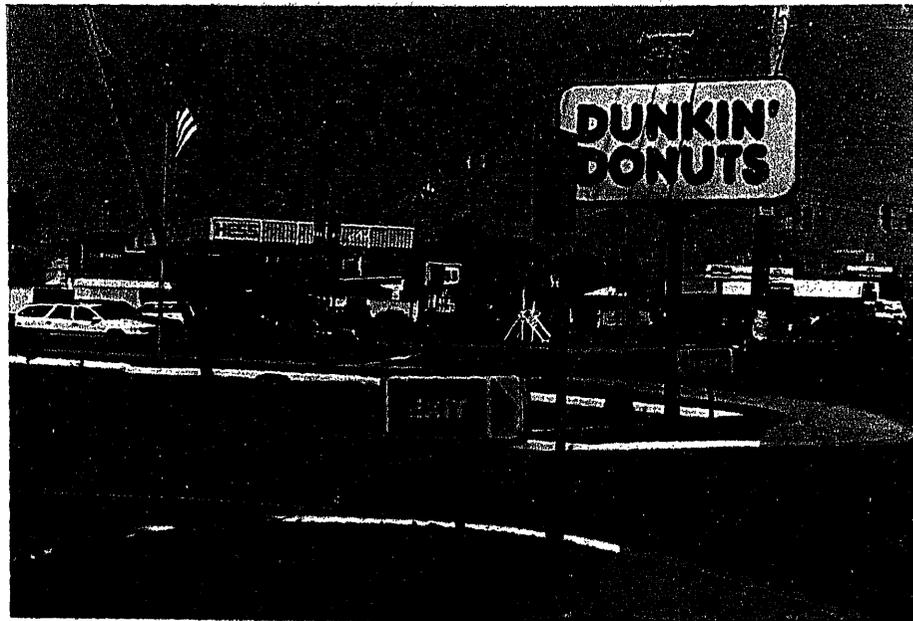
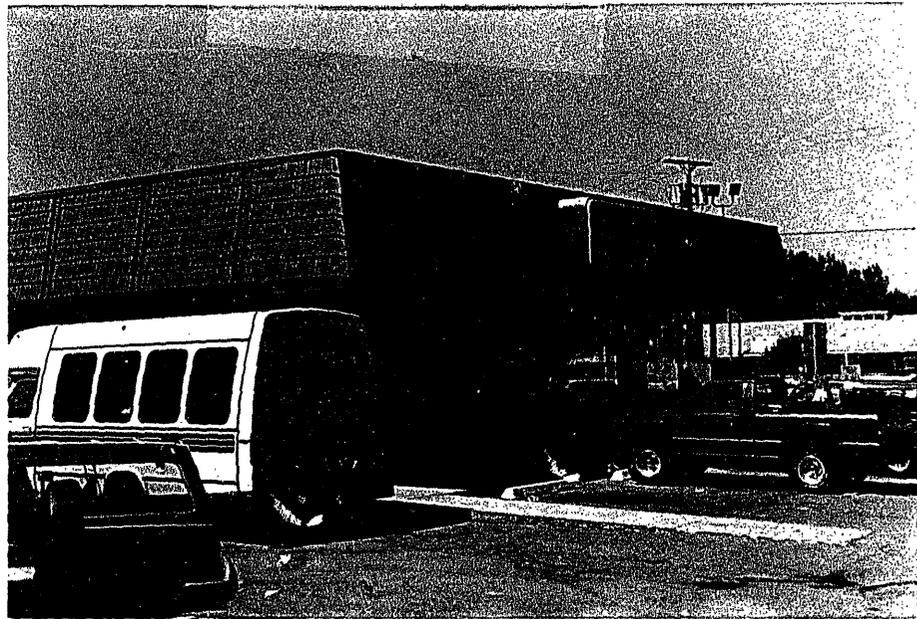
910 #90-169

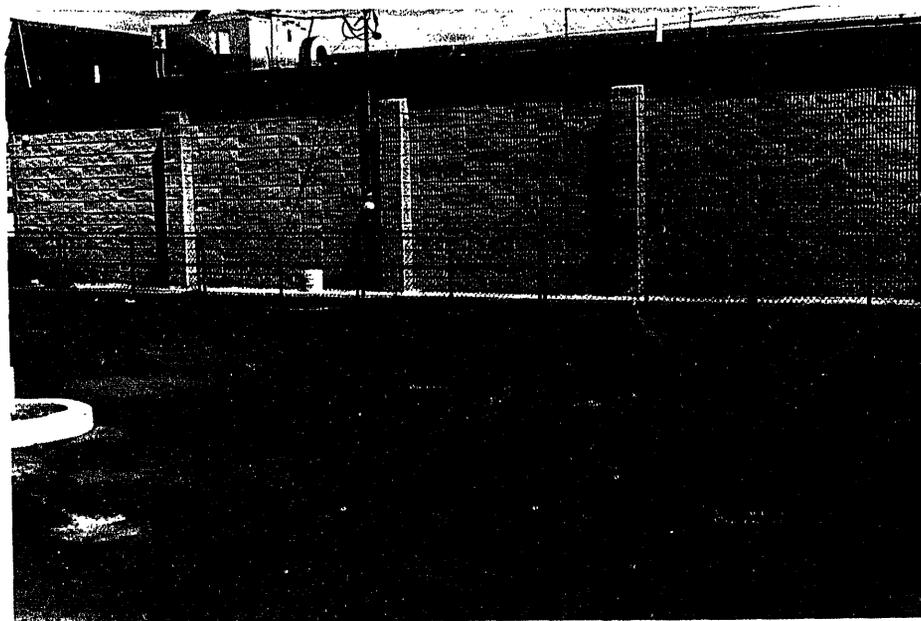
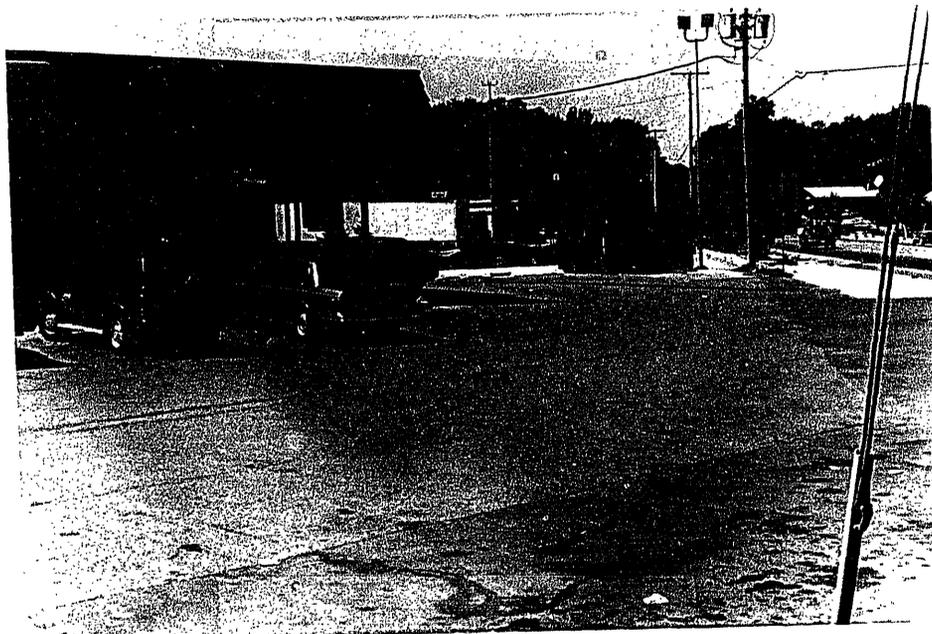
FUND	CODE	AMOUNT
0104	3741	\$150.00

By Worothy Hansen
Town Clerk

Title

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-----X
In the Matter of the Application of

STEVE PREKAS,

DECISION GRANTING
AREA VARIANCES

#94-8.
-----X

WHEREAS, STEVE PREKAS, residing at 3 Warden Court, Newburgh, New York 12550, has made application before the Zoning Board of Appeals for a 27.2 ft. rear yard variance, a 15 ft. 4 in. maximum building height variance and 0.07% floor area ratio variance for the DUNKIN DONUTS restaurant located at Five Corners in Vails Gate, New Windsor, New York in a C zone; and

WHEREAS, a public hearing was held on the 8th day of August, 1994, before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, applicant appeared by Paul V. Cuomo, P. E. and Steve Prekas; and

WHEREAS, there was one spectator appearing at the public hearing; and

WHEREAS, one spectator asked certain questions but expressed no opposition to the decision; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence presented by the applicant showed that:

(a) This is a commercial property located in the Five Corners area of the town, specifically on the corner of Route 94 West and Temple Hill Road.

(b) On or about April 23, 1979, this applicant obtained a number of variances from the Zoning Board of Appeals and site plan approval from the Planning Board, pursuant to which this applicant built a commercial structure now known as Dunkin Donuts.

(c) The applicant discovered when he sought to refinance the Dunkin Donuts property that it was not actually placed in accordance with the variances previously granted and is actually 1.2 ft. closer to the lot line than is permitted. The applicant also found out that a building height based on a prior variance did not cover the existing building, i.e. that this building is taller than would be allowed under either statute or variance, and that the floor area is 0.07% larger than is allowed.

(d) This building is built and exists and if variances were not granted it would have to be torn down. It is presently an operating business employing a number of persons.

(e) The rear yard variance sought here is 13 1/3%.

(f) The existing building is not taller than any of the surrounding buildings and is actually shorter than some of them.

(g) This building is located in an exclusively commercial neighborhood and is consistent with that neighborhood. There have been no complaints registered with the Building Department in connection with this building.

(h) This building is bordered by a parking lot and a bar/restaurant.

(i) The Zoning Local Law would only allow a building height of 8 inches which is not feasible.

(j) If the variances are approved, there would be no additions or changes to the building or site.

(k) This applicant received a site plan and variances at the time the building was erected and believed that that building was built in compliance with that site plan and those variances until recently discovering the slight discrepancy.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. The requested variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.

2. There is no other feasible method available to applicant which can produce the benefit sought other than the variance procedure.

3. Of the requested variances, the height variance sought is substantial but warranted since this building height is consistent with the surrounding neighborhood.

4. There will be no adverse impact to the neighborhood.

5. The difficulty the applicant faces in conforming to the bulk regulations is self-created because the applicant built the building but is nevertheless warranted because the applicant believed that he was constructing the building in accordance with the legal requirements, and the failure to do so is due to a mistake which is an honest mistake and for which the applicant should not be held legally responsible.

6. It is the finding of this Board that the benefit to the applicant, if the requested area variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community by such grant.

7. It is the further finding of this Board that the requested area variances are the minimum variance necessary and adequate to allow the applicant relief from the requirements of the bulk regulations and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

8. The interests of justice will be served by allowing the granting of the requested area variance.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a 27.2 ft. rear yard, 15 ft. 4 in. maximum building height and 0.07% floor area ratio variances to applicant at the Five Corners Dunkin Donuts location, in a C zone, as sought by the applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: October 24, 1994.


Chairman

(ZBA DISK#12-092994.SPA)

PUBLIC HEARING:

PREKAS, STEVE

Paul Cuomo appeared before the board for this proposal.

MR. NUGENT: Request for 27.2 ft. rear yard, 15 ft. 4 in. maximum building height and 0.07% floor area ratio for Dunkin Donuts located at Five Corners in Vails Gate.

MR. CUOMO: This is Steve Prekas and his son. They own the establishment Dunkin' Donuts and they have been in operation since early 1980's, 1983. We've come before you tonight to straighten out a situation that happened back in '79 when we appeared before the Zoning Board of Appeals, Mr. Prekas, for a situation where he obtained a series of variances, one is area variance 40,000 square feet, 200 minimum lot width required front yard required side yard and then he obtained those variances but when he went to the required rear yard of four feet for building, somehow or another ended up with 2.8 feet from the rear yard, and we also wanted maximum building height then gets changed because we're not, it's four inches to the lot line and now lot line is not four feet anymore it's 2.8 and someone straighten out the floor area ratio so we come here tonight seeking 27.2 feet rear yard variance and 15, we're now seeking 27.2 rear yard variance, that is for the 2.8 feet and maximum building height we want a variance of 15 feet 4 inches and 0.07 floor area ratio. I have a couple of things to show you, one of them is number one the survey of the as-built condition of the Dunkin' Donuts shop and you can see the 2.8 feet rear lot line. This is a photograph of the rear lot line and these are photographs, general photographs of the area in which we're operating in here. It's in a commercial zone. C zone and next door is Demo's Cafe, which is also operated by Mr. Prekas. I just want to give you a general idea of the neighborhood, general flavor of the neighborhood.

MR. TORLEY: Refresh my memory. I haven't been on the board since 1979, did we change the dimension requirements for the zones since that time cause the

variance was for 4 foot rear yard variance and now we need 27.2.

MR. CUOMO: Well, what happened was I can only speculate what happened, the site plan that was approved by the Town Planning Board I scaled off about 2.8 feet on the site plan that was approved but there was no dimension there but it was built like that but somehow or another that variance of 4 feet I think you got the variance before you built the building, is that it.

MR. NUGENT: Variance was given April 23, 1979.

MR. TORLEY: But my question is the change. The building was a few inches one way or the other but going from a 4 foot granted rear yard variance to needing 27 feet.

MR. CUOMO: No, no, no, it was a 30 foot 6, it's a 30 foot requirement and then we asked for a 4 foot rear yard variance at that time.

MR. TORLEY: Maybe this is wrong here, it says you're asking for 27.2 foot rear yard variance.

MR. CUOMO: We have a building that is 2.8 feet away from the road and we should be 30 feet away so we have to ask for 27.

MR. TORLEY: Was it a misprint in the first variance 4 feet?

MR. KRIEGER: No, I think you're dealing in a way with a glass half full, glass half empty type of view point. If 30 feet are required and he was permitted to have it within four feet, therefore it means that he received in the past a 26 foot variance. Now four feet apparently is not adequate for reasons which the applicant stated and they come in seeking permission to have a--

MR. TORLEY: It says 4 foot rear yard variance.

MR. CUOMO: Yes, it does.

MRS. BARHNART: Based on the Notice of Disapproval we got from the Planning Board.

MR. CUOMO: That is the site plan.

MR. TORLEY: There may have been an error right then, you may have said 26, they put 4 foot instead of 26 but we actually need a little more than that 2.8.

MR. CUOMO: We need 27.2 now.

MR. KANE: Instead of 26?

MR. CUOMO: Right.

MR. TORLEY: That is why I was surprised when I saw 4 foot variance.

MR. CUOMO: But basically, we're here to make everything more uniform and straighten everything out for Mr. Prekas.

MR. LANGANKE: An error was made but to correct it, he's here for a variance of 27.2, he's been there for 15 years and hasn't hurt anybody, it's no problem.

MR. KANE: And because of the difference in it.

MR. LANGANKE: Generates the need for these other variances.

MR. NUGENT: Four inches to the lot line.

MR. CUOMO: Yeah, the lot line distance has changed.

MR. NUGENT: So he can have a 8 inch high building.

MR. LANGANKE: Pretty small.

MR. KRIEGER: Let the record reflect that there are two individuals who have signed.

MR. KANE: Actually, that is one, the first name is the owner of the building.

MR. NUGENT: At this time, I'd like to open it up to the audience. Anybody like to speak on the subject?

MS. HEIDI RITMEYER: I am here representing Mc Donald's at Five Corners. Were you going to be increasing the actual building, will the building change? You're just talking around the lot?

MR. TORLEY: What's there is there.

MR. KANE: What they are actually doing is fixing the official records. There were some numbers that were obviously put in wrong and they are adjusting those numbers so that it is correct. This has nothing to do with them expanding the building or changing it in any way.

MR. KRIEGER: What I think probably happened is that because the Zoning Board and the Planning Board operate independently, the law requires that they do so, the site plan was approved. When someone built a commercial building of this type, there are two separate independent requirements which they must fulfill. It must comply with the zoning or they get the necessary variances that is a one requirement. Two is they must have an approved site plan from the Planning Board. They built apparently in accordance with a site plan which had been approved but the problem is that what was on the site plan and what was approved didn't apparently comply with the zoning requirements, plus the variances they had received so there was a discrepancy there. As I understand the application, the purpose of it now is to make it, bring those two together and make them consistent.

MR. CUOMO: We're not going to change anything.

MR. NUGENT: Not going to be any additions to the building.

MS. RITMEYER: I was just wondering.

MR. NUGENT: Anyone else like to speak? I'll close the public hearing and open it back up to the board.

MR. TORLEY: Do we have sufficient information on the record for a decision?

MR. KRIEGER: Thank you, if I may inquire.

MR. NUGENT: Go right ahead.

MR. KRIEGER: Can you describe the neighborhood in which the building is located, in which the business is located?

MR. CUOMO: The building is located within a neighborhood of commercial use, like I said, we have Demo's Cafe, as you can see in my photographs, it's at Five Corners in Vails Gate and it's surrounded by, it's up against the shopping center, across the street we have Mobil gas station, then we have Club 32 across the street and then we have a convenient store and then we have McDonald's, Hess and Long John Silver, trying to remember all these places here.

MR. LANGANKE: That is good.

MR. KRIEGER: Is this building any higher than the tallest of those buildings in the neighborhood that are near it?

MR. CUOMO: No, this building, can I refer to my photographs?

MR. KRIEGER: Please do.

MR. CUOMO: This building is quite similar to the rest of the neighborhood, it's not as you can see from the photographs here, it's the same the height as Demo's and cross the street and in other words, it's not any higher than adjacent buildings.

MR. KRIEGER: And it's been there for 15 years?

MR. CUOMO: Yes.

MR. PREKAS: 14 years.

MR. KRIEGER: In order to bring this building in line with the requirements of the zoning law plus the variances also received, it would be, correct me if I am wrong, it would be necessary to demolish the building, obtain a new site plan, completely rebuild it?

MR. CUOMO: Yes.

MR. KRIEGER: That would be substantial in your view?

MR. CUOMO: That would be substantially hard to do.

MR. KRIEGER: That would be the only other method other than receiving a variance?

MR. CUOMO: Yes.

MR. KRIEGER: You believed at the time that you built this building that it was in compliance with both the site plan and the variances you had received?

MR. CUOMO: Yes, site plan was approved by the Planning Board and the building went according to the approved site plan, you have that site plan in your possession.

MR. KRIEGER: You believed you were in compliance with all requirements?

MR. CUOMO: Yes.

MR. KRIEGER: Wasn't until recently you found out there was a discrepancy?

MR. CUOMO: Wasn't until a few months ago we found this out.

MR. KRIEGER: I think that is enough.

MR. NUGENT: I'll accept a motion.

MR. LANGANKE: I make a motion we grant the variance as requested by the applicant.

MR. KANE: I'll second that motion.

August 8, 1994

18

ROLL CALL

MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553
(914) 563-4630

August 8, 1994
FAX: (914) 563-4693

Mr. Steve Prekas
% DUNKIN DONUTS
674 Broadway
Newburgh, N. Y. 12553

RE: APPLICATION FOR AREA VARIANCES #94-26

Dear Mr. Prekas:

This is to confirm that the following area variances were GRANTED at the August 8, 1994 session of the Zoning Board of Appeals:

- (1) 27.2 ft. Rear Yard;
- (2) 15 ft. 4 in. Maximum Building Height; and
- (3) 0.07% Floor Area Ratio

If we can be of further assistance please do not hesitate to contact this office.

Very truly yours,

A handwritten signature in cursive script that reads "Patricia A. Barnhart". The signature is written in black ink and is positioned above the typed name.

PATRICIA A. BARNHART,
Secretary to ZBA

/pab

cc: Paul V. Cuomo, P.E.
Jerald Fiedelholz, Esq.

Prelim.
July 11, 1994

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR
ORANG COUNTY, NEW YORK

7:30
p.m.
#94-26

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: 6-16-94

APPLICANT: STEVE PREKAS
674 BROADWAY
NEWBURGH NY 12550

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED: ~~_____~~

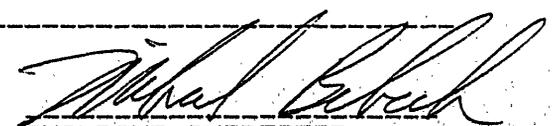
FOR (BUILDING PERMIT): _____

LOCATED AT: CORNER OF RT 300 AND RT 94 (Dunkin Donuts)
ZONE: C

DESCRIPTION OF EXISTING SITE: SECTION 69 BLOCK 1 LOT 11

IS DISAPPROVED ON THE FOLLOWING GROUNDS: _____

1. REQD REAR YARD 30'
2. Bldg. Hgt.
3. Floor area ratio
4. _____
5. _____


BUILDING INSPECTOR

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE: _____ USE _____	_____	_____
MIN. LOT AREA _____	_____	_____
MIN. LOT WIDTH _____	_____	_____
REQ'D FRONT YD _____	_____	_____
REQ'D SIDE YD _____	_____	_____
REQ'D TOTAL SIDE YD _____	_____	_____
REQ'D REAR YD. <u>30 FT</u>	<u>2.8 FT</u>	<u>27.2 FT</u>
REQ'D FRONTAGE _____	_____	_____
MAX. BLDG. HT. ^{4" PER FT TO LOT LINE} <u>8"</u>	<u>16 FT</u>	<u>15 FT 4 INCH</u>
FLOOR AREA RATIO <u>0.5</u>	<u>0.12</u>	<u>0.07</u>
MIN. LIVABLE AREA _____	_____	_____
DEV. COVERAGE _____	_____	_____

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT
914-563-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD

CC: Z.B.A., APPLICANT, B.P. FILES.



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

RICHARD D. McGOEY, P.E.
 WILLIAM J. HAUSER, P.E.
 MARK J. EDSALL, P.E.
 JAMES M. FARR, P.E.

- Main Office**
 45 Quassaick Ave. (Route 9W)
 New Windsor, New York 12553
 (914) 562-8640
- Branch Office**
 507 Broad Street
 Milford, Pennsylvania 18337
 (717) 296-2765

RECEIVED JUN 15 1994

14 June 1994

MEMORANDUM

TO: Michael Babcock, Town Building Inspector

FROM: Mark J. Edsall, P.E., Planning Board Engineer

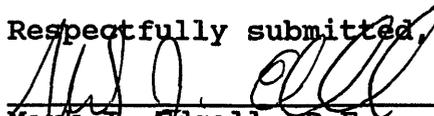
SUBJECT: DUNKIN DONUTS SITE PLAN
MHE JOB NO. 87-56/T1-3

4/23/79

At the recent Technical Work Sessions, Paul Cuomo, P.E., appeared before the representatives to discuss a problem with regard to the constructed Dunkin Donuts site at the 5 corners within the Town. Specifically, it appears that the Applicant is seeking refinancing of the property and, in doing so, obtained an as-built survey of the property which indicated that the rear yard setback is less than that required based on a variance granted by the Zoning Board of Appeals on 11 July 1983. A review of the site plan stamped approved by the Planning Board indicates no specific dimension for the rear yard setback; however, based on the variance paperwork, it appears that the building, as constructed, results in a non-conforming rear yard setback which does not conform with the granted variance.

Currently, the Applicant is requesting guidance from the Planning Board as to the need for a Planning Board application to correct this condition. It is my opinion, subject to your review and acceptance, that you could refer this matter to the Zoning Board of Appeals for the variance, as necessary. Inasmuch as no site features are proposed to be changed, it is questionable whether a reappearance before the Planning Board is necessary. Please review this matter and advise me of your opinion.

Respectfully submitted,


 Mark J. Edsall, P.E.
 Planning Board Engineer
 MJEmk
 A:6-14-3E.mk

file

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR

-----x

In the Matter of the Application of
NICHOLAS C. MARSHALL and STEVE PREKAS
Application #79-6.

DECISION GRANT.
AREA AND SIGN
VARIANCES.

-----x

WHEREAS, NICHOLAS C. MARSHALL of Route 94, Vails Gate, New York, and STEVE PREKAS of 674 Broadway, Newburgh, New York, have made application before the Zoning Board of Appeals for area and sign variance for the purposes of construction of a DUNKIN DONUTS shop on Route 94 in Vails Gate, Town of New Windsor, New York; and

WHEREAS, a public hearing was held on the 26th day of March, 1979 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the applicants were represented by Peter C. Patsa Esq. of 346 Broadway, Newburgh, N. Y. and MC GOEY, HAUSER & GREVAS, Consulting Engineers of Route 9W, New Windsor, N.Y. Mr. Grevas made the presentation on behalf of the applicants; and

WHEREAS, the application was unopposed; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings of fact in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Evening News, also as required by law.

2. The evidence shows that the variances sought will not alter the general character of the neighborhood.

3. The evidence shows that denial of the variances will result in significant economic injury to the applicants.

WHEREAS, the Zoning Board of Appeals makes the following findings of law in this matter:

1. That notices of the public hearing were duly sent to residents and businesses as prescribed by law and published in The Even News also required by law.

2. The applicants will encounter practical difficulty if the area variances requested are not granted.

3. The proposed variances will not result in substantial detriment to adjoining properties or change the character of the neighborhood.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor grants area and sign variances as follows: 13,136 sq. ft. area variance for lot; 100/150' lot width variance; 35'/69' front yard variance; 0'/33/46'-79' side yard variance; 4 ft. rear yard variance and 76 sq. ft. sign area variance, on the above-entitled application.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicants.

Dated: April ²³/₉, 1979.


Chairman

(b) The legal standard for a "Use" variance is undue hardship. Describe why you feel undue hardship will result unless the use variance is granted. Also, set forth any efforts you have made to all via hardship other than this application.

Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Part II Regs., Col. 4, 5, 6, 7, 8 and 10.

Requirements	Proposed or Available	Variance Request
Min. Lot Area <u>40,000 sf</u>	<u>13,136 sf</u>	<u>13,136 sf</u>
Min. Lot Width <u>200'</u>	<u>100'-150'</u>	<u>100'-150'</u>
Reqd. Front Yd. <u>60'</u>	<u>35'-69'</u>	<u>35'-69'</u>
Reqd. Side Yd. <u>30' / 70'</u>	<u>0'-33' / 46'-79'</u>	<u>0'-33' / 46'-79'</u>
Reqd. Rear Yd. <u>30'</u>	<u>4'</u>	<u>4'</u>
Reqd. Street Frontage*		
Max. Bldg. Hgt. <u>4" / ft. to lot line</u>	<u>16'</u>	<u>16'</u>
Min. Floor Area*		
Dev. Coverage* <u>%</u>	<u>%</u>	<u>%</u>
Floor Area Ratio** <u>0.5</u>	<u>0.12</u>	

* Residential Districts only

** Non-residential districts only

(b) The legal standard for an "AREA" variance is practical difficulty. Describe why you feel practical difficulty will result unless the area variance is granted. Also, set forth any efforts you have made to alleviate the difficulty other than this application.

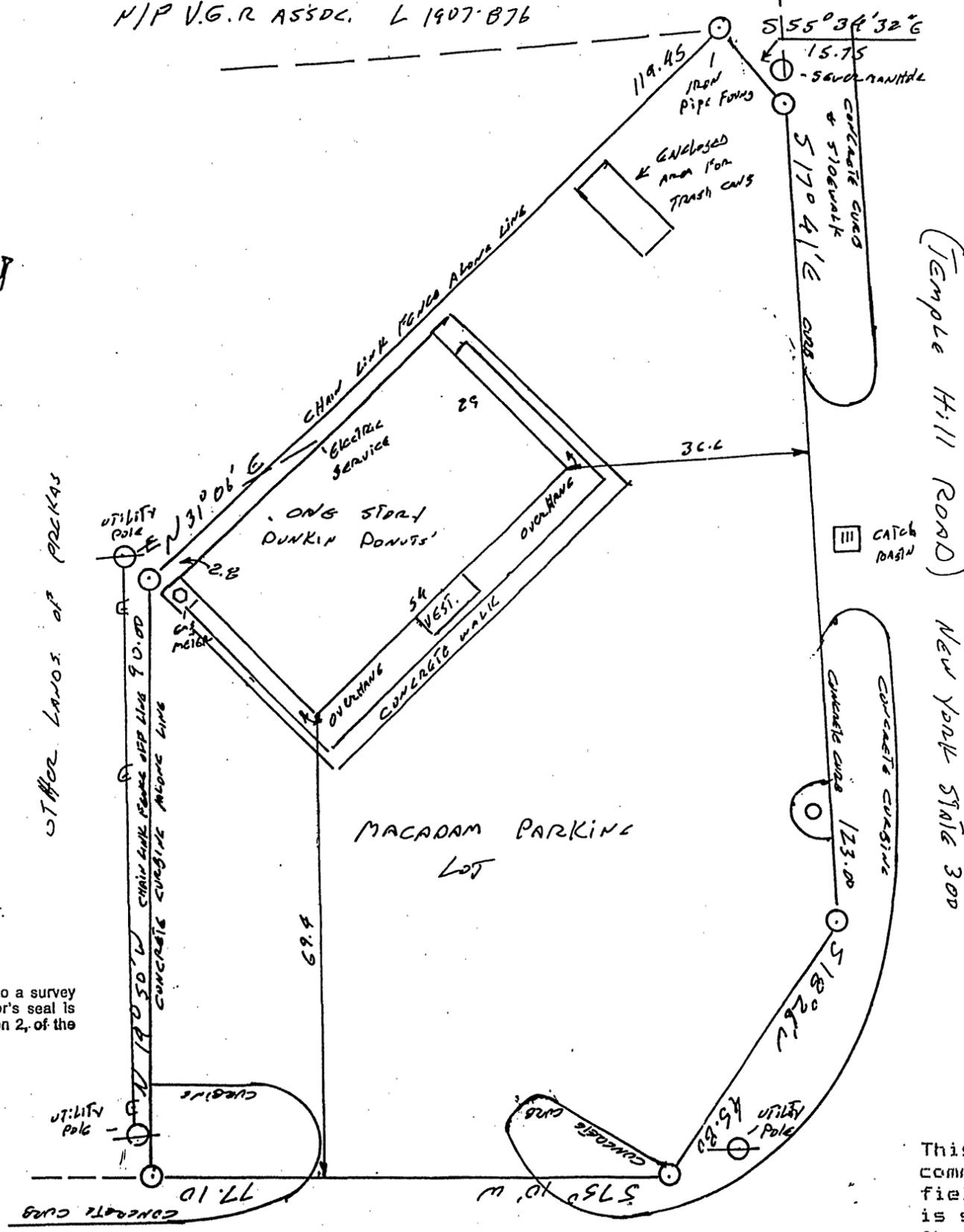
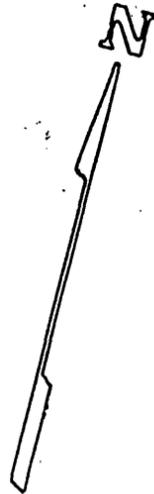
Property is less than required area; Setback and parking requirements limit available building location; In order to maximize use of property, and provide a workable traffic pattern, the area variances are necessary.

VI. Sign Variance:

(a) Variance requested from New Windsor Zoning Local Law, Section 48'9, Table of Use Regs., Col. D.

	Requirements	Proposed or Available	Variance Request
Sign 1	<u>10 s.f.</u>	<u>72 s.f. (DBI Face)</u>	<u>62 s.f. (Illuminated Pylon)</u>
Sign 2	<u>2.0 s.f.</u>	<u>4.5 s.f.</u>	<u>2.5 s.f. (Illum. Directional)</u>
Sign 3	<u>2.0 s.f.</u>	<u>4.5 s.f.</u>	<u>2.5 s.f. (Illum. Directional)</u>
Sign 4		<u>4.5 s.f.</u>	<u>4.5 s.f. (Illum. Directional)</u>
Sign 5		<u>4.5 s.f.</u>	<u>4.5 s.f. (Illum. Directional)</u>
Total	<u>14 sq.ft.</u>	<u>90 sq.ft.</u>	<u>76 sq.ft.</u>

N/P V.G.R ASSOC. L 1907-876



A SURVEY OF LANDS OF STEVE PREKAS
 Located in the Town of New Windsor, County of Orange
 State of New York
 Tax No-4800-Section 69-Block 01-Parcel 11

"Certifications indicated hereon signify that this survey was prepared in accordance with the existing Code of Practice for Land Surveyors adopted by the Delaware-Hudson Land Surveyors Association. Such certifications shall run only to those named individuals and/or institutions for whom the survey is prepared. Certifications are not transferable to additional individuals, institutions, their successors and/or assigns, or subsequent owners."

This map is the result of a field survey commencing Jan. 28, 1989 and subsequent field visits. It is true and correct and is so certified to Steve Prekas, CTI Abstract as agents for Lawyers Title Insurance Co., The Middletown Savings Bank.
 Francis E. Whitaker L.S.
 4 Central Ave. Newburgh, N.Y.



"Unauthorized alteration or addition to a survey map bearing a licensed land surveyor's seal is a violation of section 7209, sub-division 2, of the New York State Education Law."

FEBRUARY 26, 1994

SCALE 1"=20'

92-46

Route 94 Newburgh
 Route 94 Washingtonville

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 26

Request of STEVE PREKAS

for a VARIANCE of the Zoning Local Law to permit:

existing Dunkin Donuts Shop with insufficient rear yard and more than the allowable maximum building height and floor area ratio;

being a VARIANCE of Section 48-12 - Table of Use/Bulk Regulations,
Columns G, I, J,

for property situated as follows:

Intersection of Route 300 and Route 94, Vails Gate, New Windsor, N.Y.

known as tax lot Section 69 Block 1 Lot 11.

SAID HEARING will take place on the 8th day of August,
19 94, at New Windsor Town Hall, 555 Union Avenue, New Windsor,
New York, beginning at 7:30 o'clock P. M.

JAMES NUGENT
Chairman



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

(24)

July 8, 1994

Paul V. Cuomo, P.E.
Consulting Civil Engineer
38 Keats Drive
New Windsor, NY 12553

Re: Tax Map Parcel #69-1-11 Variance List
Owners Name: Steve Prekas

Dear Paul:

According to our records, the attached list of property owners are within five hundred (500) feet of the above referenced property.

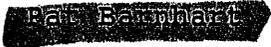
The charge for this service is \$45,00, minus your deposit of \$25.00.

Please remit the balance of \$20.00 to the Town Clerk's office.

Sincerely,

Leslie Cook
Leslie Cook
Sole Assessor

LC/po
Attachments

CC: 

TGS Associates, Inc.
15 E. Market St.
Red Hook, NY 12571

S & S Properties, Inc.
123 Quaker Rd.
Highland Mills, NY 10930

Conna Corporation
c/o Dairy Mart #6668
One Vision Dr.
Enfield, CT 06082

Central Hudson Gas & Electric Corp.
284 South Ave.
Poughkeepsie, NY 12601

Franchise Realty Interstate Corp.
c/o Colley & McCoy Co.
PO Box 360
Windham, NH 03087

Gardner, Fred ETAL
c/o Slepoy Family Trust
104 S. Central Ave., Room 20
Valley Stream, NY 11580-5461

Slepoy, Herbert & Gardner, Fred
104 S. Central Ave.
Valley Stream, NY 11580

Mobil Oil Corp.
Property Tax Department
PO Box 290
Dallas, TX 75221

Leonardo, Constantine
94 Maple St.
Newburgh, NY 12550

Leonardo, Samuel
7 Dogwood Hill Rd.
Newburgh, NY 12550

House of Apache Properties, Ltd.
52 Elm St.
Huntington, NY 11743

Windsor Enterprises, Inc.
PO Box 928
Vails Gate, NY 12584

Route 300 Associates
c/o John Yanaklis
550 Hamilton Ave.
Brooklyn, NY 11232

V.G.R. Associates
c/o Howard V. Rosenblum
300 Martine Ave.
White Plains, NY 10601

Korngold M.D., Louis
135 Strawtown Road
W. Nyack, NY 10994

R & S Foods Inc.
249 North Craig St.
Pittsburgh, PA 15213

NYS Dept. of Transportation
Office of the State Comptroller
A.E. Smith Office Building
Albany, NY 12236

Casaccio, Paul & Virginia
41 Barclay Road
New Windsor, NY 12553

Primavera Properties Inc.
PO Box 177
Vails Gate, NY 12584

Angelo Rosmarino
Enterprises Inc.
PO Box 392
Vails Gate, NY 12584

Amerada Hess Corp.
c/o Dean E. Cole, Manager
Property Tax Dept.
1 Hess Plaza
Woodbridge, New Jersey 07095

Brambury Associates
765 Elmgrove Road
Rochester, NY 14624

Gardner Plus 3
104 So. Central Ave.
Valley Stream, NY 11580

CP Mans
PO box 247
Vails Gate, NY 12584

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

-----x
In the Matter of Application for Variance of

Steve Prokas

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

94-26.

-----x
STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On July 19, 1994., I compared the 24. addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
19th day of July, 1994.

Deborah Green
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1995

(TA DOCDISK#7-030586.AOS)

July 11, 1994

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PRELIMINARY MEETING

PREKAS, STEVE

MR. NUGENT: Request for 27.2 ft. rear yard, 15 ft. 4 in. maximum building height and 0.07% floor area ratio for Dunkin Donuts located at Five Corners in Vails Gate.

Mr. Paul Cuomo appeared before the board for this proposal.

MR. CUOMO: I'm representing Steve Prekas.

MR. TORLEY: .07 percent?

MR. CUOMO: It has come to the Zoning Board of Appeals in the past and it did go to the Planning Board but apparently, when the bank with some financial dealings and the bank itself noticed that the Zoning Board of Appeals, what they had was for four feet rear yard and the actual rear yard is 2.8 feet, I have a map here, I'll show you.

MR. NUGENT: This is for the existing building.

MR. BABCOCK: Yes, they came into Planning Board and then they were referred to the Zoning Board and got variances for lot area, lot width, front yard, rear yard, side yard and signs and when they located the building, they didn't locate it properly.

MR. CUOMO: When they built it and the bank picked it up.

MR. LANGANKE: Just made a mistake?

MR. CUOMO: Well, really the plans, Mike, remember that we dug the plans out, the original plans were done by the engineer, not by me, but by McGoey, Hauser and Grevas and got the original plans, we measured the rear yards and it comes to about 2.8 feet so the plans are okay and the building's okay.

MR. NUGENT: The numbers are wrong.

MR. CUOMO: But this number is wrong, this four feet and some others.

MR. NUGENT: 15 foot building height that is because of them being so close to the property line?

MR. CUOMO: Exactly.

MR. NUGENT: So you could build a 2 inch high building.

MR. CUOMO: Yeah, we ended up with two inch high.

MR. BABCOCK: The only thing is the 4 foot, Jim, the 4 foot rear yard they got a variance to be 4 foot from the property line and they are 2.8 feet. When we reviewed the entire file, we realized that the building height changes and also the floor area ratio changes so we felt that since they are here, let's get it all straightened out and they really only wanted the rear yard variance but we figured we'd straighten everything out while they are here.

MR. CUOMO: When they saw the survey, they said wait a minute, 2.8 so they tied up all the money involved.

MR. TORLEY: I have a question for our attorney. Since that is technical changes and correction of some erroneous numbers, inadvertent errors, need we go through the whole public hearing to correct those?

MR. KRIEGER: Yeah, cause it's more than that he's asking for.

MR. TORLEY: All of these other variances are a result of that one error?

MR. KRIEGER: I understand now it's not clear to me whose error it was, you can't say it was a Zoning Board error, necessarily.

MR. CUOMO: They don't maker errors.

MR. KRIEGER: They may have gotten some time ago but they may have gotten the relief which they requested.

July 11, 1994

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MR. NUGENT: We granted and approved a variance predicated on the numbers put in front of us, we can't, that is like doing this all over again.

MR. KRIEGER: It's not as if it were a correction of a Zoning Board mistake, doesn't appear likely that it was a Zoning Board mistake.

MR. CUOMO: You just worked off what you had and you did the best you could with what you got.

MR. TORLEY: Save everybody a little time and trouble. You have to make sure you give us the right numbers, this is what happens.

MR. KRIEGER: Then the applicant gave the wrong numbers, the building may have been built not in accordance with the numbers that they got the mistake, the mistake may have been in the building.

MR. NUGENT: I think we need to address that as a new application, I feel we should.

MR. TORLEY: I move we set up Prekas for the public hearing in request for variances as listed.

MR. LANGANKE: I second it.

MR. NUGENT: Roll call.

ROLL CALL

MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. KRIEGER: If you would address yourself to the 5 criteria set forth there at the hearing, I would appreciate it, since those are the 5 criteria which the Zoning Board must legally make their decision.

MR. CUOMO: Thank you. So she'll set me up with a public hearing?

July 11, 1994

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MR. NUGENT: As soon as you get the information.

MR. CUOMO: Next time I'll see you will be at a public hearing.

MR. NUGENT: That is correct.

MR. KRIEGER: Officially, yes.

MR. CUOMO: Now I just want to ask a question if I do that and I get this all corrected, I assume that, I just want to some guidance here, that is it? If I can get the variance, I should be able to go back to the bank, right?

MR. KRIEGER: What you do with it once you get it, the ball's in your court.

MR. BABCOCK: You need the formal decision.

MR. CUOMO: I don't have to go back to the Planning Board?

MR. BABCOCK: No, no, there was a site plan that got approved?

MR. BABCOCK: Yes.

MR. CUOMO: I thought I'd have to start with the Planning Board.

MR. KRIEGER: No.

MR. NUGENT: No, you just need a variance.

MR. BABCOCK: There's a technical thing basically on the Planning Board matter, it's usually referred by the Planning Board, I don't, in my opinion, I didn't feel it had to go to the Planning Board, it's already been approved so I did the paperwork.

MR. KRIEGER: Usually.

MR. NUGENT: Just mathematical error.

July 11, 1994

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MR. KRIEGER: Usually they, in this case, we have a reversal of cart and horse.

MR. NUGENT: It was before us, we approved it and it was granted. I mean, that is a done deal. Now he has to come back, start all over again, do it right.

MR. CUOMO: They built the building in the wrong spot. Thank you.

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE
THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE

PRINT OR TYPE: BLACK INK ONLY

STEVE PREKAS
 TO
 BANK OF NEW YORK

SECTION 69 BLOCK 1 LOT 1

RECORD AND RETURN TO:
 (Name and Address)

FINKELSTEIN KAPLAN LEVINE GITTELSON & TETENBAUM
 COUNSELLORS AT LAW
 436 ROBINSON AVENUE
 NEWBURGH NY 12550

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH
 RECORDED INSTRUMENT ONLY.

DO NOT WRITE BELOW THIS LINE

CONTROL NO. 53168 DATE 3-5-91 AFFIDAVIT FILED _____ 19 _____

INSTRUMENT TYPE: DEED _____ MORTGAGE _____ SATISFACTION _____ ASSIGNMENT _____ OTHER Asst Pmt

BG20 Blooming Grove _____	SERIAL NO. _____	CHECK _____ CASH _____ CHARGE <input checked="" type="checkbox"/>
CH22 Chester _____	Mortgage Amount \$ _____	
CO24 Cornwall _____	Exempt Yes _____ No _____	MORTGAGE TAX \$ _____
CR26 Crawford _____	3-6 Cooking Units Yes _____ No _____	TRANSFER TAX \$ <u>Asst Pmt</u>
DP28 Deerpark _____	Received Tax on above Mortgage _____	ED. FUND \$ <u>5.00</u>
GO30 Goshen _____	Basic \$ _____	RECORD. FEE \$ <u>19.00</u> (3)
GR32 Greenville _____	MTA \$ _____	REPORT FORMS \$ _____
HA34 Hamptonburgh _____	Spec. Add. \$ _____	CERT. COPIES \$ _____
HI36 Highlands _____	TOTAL \$ _____	
MK38 Minisink _____		
ME40 Monroe _____		
MY42 Montgomery _____		
MH44 Mount Hope _____		
NT46 Newburgh (T) _____		
NW48 New Windsor <input checked="" type="checkbox"/>		
TU50 Tuxedo _____		
WL52 Walkkill _____		
WK54 Warwick _____		
WA58 Wawayanda _____		
WO58 Woodbury _____		
MN09 Middletown _____		
NC11 Newburgh _____		
PJ13 Port Jervis _____		
9999 Hold _____		

MARION S. MURPHY
 Orange County Clerk
 by C. Papic
 ORANGE COUNTY CLERK'S OFFICE S.S.
 Recorded on APR 1 1991
 at 2:31 O'Clock P. M.
 in Liber/Film 3427 and examined.
Marion S. Murphy
 County Clerk

Finkelstein
 RECEIVED
 \$ 19.00
 REAL ESTATE
 APR 1 1991
 TRANSFER TAX
 ORANGE COUNTY

LIBR 3427 PAGE 95

ORG 04/01/91 02:31:28 13316 19.00
 ***** EDUCATION FUND: 5.00 *****
 DEED CONTROL NO: 53168 .00 *
 ***** SERIAL NUMBER: 005395 *****

MEMORANDUM OF ASSIGNMENT OF RENTS

DATE OF ASSIGNMENT: March 5th, 1991

ASSIGNEE: THE BANK OF NEW YORK
280 Broadway, Newburgh, New York 12550

ASSIGNOR: STEVE PREKAS,
3 Warden Circle, Newburgh, New York 12550

LEASES:

All present and future leases for all or any part of the Premises as defined herein. Reference is hereby made to the Assignment for a description of the present leases.

PREMISES:

All those certain lots, tracts or parcels of land, together with any improvements and buildings thereon and the appurtenances thereto pertaining described in Schedule A annexed to the Memorandum and made a part hereof.

TERM OF ASSIGNMENT:

The term of the Assignment commences on the date hereof and, subject to the provisions set forth in the Assignment of which this is a memorandum, expires upon payment in full of the loan made by the Assignee to the Assignor. Reference is made to the Assignment of which this is a memorandum for all of the terms and provisions with regard to the term of the Assignment.

OTHER TERMS AND CONDITIONS:

Reference to the Assignment will disclose the other terms and conditions thereof, but said Assignment provides that as long as no default shall exist under this Assignment, the Assignor shall have a license to manage and operate the Mortgaged Premises and collect, receive and apply for its own account, all rents, issues and profits accruing by virtue of such Assigned Rents, and to execute and deliver proper receipts and acquittances therefor.

NOTE:

This Memorandum of Assignment of Rents is entered into for recordation purposes only and shall not be deemed to be in substitution of, or to supersede the actual Assignment between the parties referred to therein.

FINKELSTEIN, KAPLAN,
LEVINE, GITTELSON
AND TETENBAUM
COUNSELLORS AT LAW
610 BUSINESS BLVD
NEWBURGH, NEW YORK 12550

LIBER 3427 PAGE 96

SCHEDULE A

All that certain lot, piece or parcel of land situate, lying and being in the Town of New Windsor, County of Orange, and State of New York, more particularly bounded and described as follows:

Beginning at a point in the northerly side of the Blooming Grove Turnpike at the westerly line of the taking by the State of New York for the West Point-Stewart Field Highway and running thence north 18 degrees 26' East 45.8 feet more or less along the westerly line of said taking to a point; thence still along the westerly line of said taking North 17 degrees 41' West 123 feet more or less to a point marking the end of said taking; thence northwesterly 20 feet more or less to a concrete post set in the line of lands now or formerly owned by Otto Miller; thence southerly along the line of lands of the parties of the first part which were formerly owned by Otto Miller 86 feet more or less to an iron pipe marking the northerly corner of the lands of the Central Hudson Gas and Electric Corporation; thence South 16 degrees East 90 feet more or less to the northerly line of the Blooming Grove Turnpike thence East along the northerly line of said Blooming Grove Turnpike 96 feet more or less to the point or place of beginning.

Said premises being also described in a survey of the premises prepared by McGooy, Hauser, and Grevas, Consulting Engineers, dated February 28, 1979, and revised on March 28, 1979, as follows:

All that certain piece or parcel of land lying, situate and being in the Town of New Windsor, Orange County, New York bounded and described as follows:

Beginning at a point in the northerly line of New York State Highway known as Route 94, said point being an iron pipe set in the ground at the southeasterly corner of lands now or formerly of Satterly and running thence, along said Satterly lands N14 degrees 50' 00" East 90.00 feet to an iron pipe set in the ground; thence, still along Satterly lands N31 degrees 06' 00" E 119.45 feet to an iron pipe set in the westerly line of the County Highway known as Route 59 (Temple Hill Road); thence, along said highway line the following three (3) courses:

- 1) S55 degrees 35" 00" E 15.75 feet to an iron pipe set in the ground;
- 2) S17 degrees 41' 00" E 123.00 feet to an iron pipe set in the ground;
- 3) S18 degrees 26' 00" W 45.80 to an iron pipe set in the ground in the northerly line of the aforementioned Route 94; thence, along said road line S75 degrees 10' 00" W 77.10 feet to the point or place of beginning.

Subject to any pole grants and easements of record, and to any covenants, reservations or restrictions of record.

ASSIGNMENT OF LEASES AND RENTS

THIS ASSIGNMENT, made this 20th day of February, 1992, by and between STEVE PREKAS residing at 3 Warden Circle, Newburgh, New York, (hereinafter referred to as the "ASSIGNOR"), the owner of an improved parcel of real property located at Route 94, Town of New Windsor, New York, and designated as Section 69, Block 1, Lot 11 on the tax map of Orange County and more fully described on Schedule "A" annexed hereto, and CHRYSLER FIRST BUSINESS CREDIT CORPORATION, a Delaware Corporation having a place of business at Suite 301, 1259 South Cedar Crest Boulevard, Allentown, Pennsylvania, 18103 (hereinafter referred to as "ASSIGNEE").

W I T N E S S E T H

WHEREAS, simultaneously herewith, the Assignor has executed, acknowledge and delivered to the Assignee a Promissory Note in the sum of \$200,000.00 together with a mortgage on certain real property, and

WHEREAS, in accordance with said Promissory Note and Mortgage the Assignee is desirous of further securing the payment of the indebtedness to it; and without such further security the Assignee would not loan the sums provided for in said Loan Agreement;

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the parties hereto agree as follows:

1. Subject to the Rights of the Bank of New York as contained in an Assignment of Rents dated March 5, 1991, the Assignor hereby sells, assigns, transfer and sets over unto the Assignee, its successors, and assigns, all of its right, title and interest which the Assignor as lessor has and may have in the leases now existing or hereafter made and affecting the aforesaid premises as said leases may have been or from time to time be hereafter, modified, extended and renewed, with all of the rents, issues, income and profits due and becoming due therefor, and the acceptance of this Agreement and the collection of rents or the monies due on the leases hereby assigned under the terms of the Note and Mortgage. The Assignee agrees it will not exercise any of its rights hereunder until and unless the Assignor defaults in the performance of any of its obligations contained in the Note and Mortgage and it is expressly understood and agreed by the parties hereto that before default occurs under the terms of the Note and Mortgage, the Assignor shall have the right to collect said rents, income and profits from the aforementioned leases and to retain, use and enjoy the same, and shall have the right to extend the leases, to evict tenants, to bring or defend any suits in connection with the possession of said premises in its own

TITLE INSURANCE COMPANY OF MINNESOTA

SCHEDULE A

Title #AA911087

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of New Windsor, County of Orange and State of New York, bounded and described as follows:

BEGINNING at a point in the northerly line of New York State Highway known as Route 94, said point being an iron pipe set in the ground at the southeasterly corner of lands now or formerly of Satterly and running thence along said Satterly lands North 14 degrees 50 minutes 00 seconds West 90.00 feet to an iron pipe set in the ground; thence still along said Satterly lands North 31 degrees 06 minutes 00 seconds East 119.45 feet to an iron pipe set in the westerly line of the County Highway known as Route 59 (Temple Hill Road); thence along said highway line the following three (3) courses: (1) South 55 degrees 35 minutes 00 seconds East 15.75 feet to an iron pipe set in the ground; (2) South 17 degrees 41 minutes 00 seconds East 123.00 feet to an iron pipe set in the ground; (3) South 18 degrees 26 minutes 00 seconds West 45.80 feet to an iron pipe set in the ground in the northerly line of the aforementioned Route 94; thence along said road line South 75 degrees 10 minutes 00 seconds West 77.10 feet to the point or place of BEGINNING.

EXCEPTING AND RESERVING THEREFROM that portion of the premises taken by New York State Appropriation as set forth in Liber 3396 Cp. 176.

SECTION 69 BLOCK 1 LOTS 2, 10, 11

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE
(This Page is Part of the Instrument)

PRINT OR TYPE: BLACK INK ONLY

STEVE PREKAS
TO
NYS DEPT. OF TRANSPORTATION
4 Burnett Boulevard
Poughkeepsie, NY 12603

RECORD AND RETURN TO:
(Name and Address)

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH
RECORDED INSTRUMENT ONLY.

DO NOT WRITE BELOW THIS LINE

CONTROL NO. 063142 DATE 12/6/89 AFFIDAVIT FILED _____ 19 _____

INSTRUMENT TYPE: DEED _____ MORTGAGE _____ SATISFACTION _____ ASSIGNMENT _____ OTHER Assignment

BG20 Blooming Grove _____	SERIAL NO. _____	CHECK _____ CASH _____ CHARGE _____
CH22 Chester _____	Mortgage Amount \$ _____	
CO24 Cornwall _____	Exempt Yes _____ No _____	MORTGAGE TAX \$ _____
CR26 Crawford _____	Received Tax on above Mortgage _____	TRANSFER TAX \$ <u>EXEMPT</u>
DP28 Deerpark _____	Basis \$ _____	
GO30 Goshen _____	MTA \$ _____	RECORD. FEE \$ <u>none</u>
GR32 Greenville _____	Spec. Add. \$ _____	REPORT FORMS \$ _____
HA34 Hamplonburgh _____	TOTAL \$ _____	CERT. COPIES \$ _____
HI36 Highland _____	MARION S. MURPHY	
MK38 Minisink _____	Orange County Clerk	
ME40 Monroe _____	by: _____	
MY42 Montgomery _____	ORANGE COUNTY CLERK'S OFFICE S.S.	
MH44 Mount Hope _____	Recorded on the <u>6th</u> day of	
NT46 Newburgh (T) _____	<u>Dec.</u> 19 <u>89</u> at <u>12:20</u>	
NW48 New Windsor <input checked="" type="checkbox"/>	Q'Clock <u>P.</u> M. In Liber/Film: <u>3224</u>	
TU50 Tuxedo _____	<u>Dated</u> at page <u>23</u> and examined.	
WL52 Wallkill _____	<u>Marion S. Murphy</u>	
WK54 Warwick _____	County Clerk	
WA56 Wawayanda _____		
WO58 Woodbury _____		
MN09 Middletown _____		
NC11 Newburgh _____		
PJ13 Port Jervis _____		
9999 Hold _____		

RECEIVED
\$ EXEMPT
REAL ESTATE
DEC 6 1989
TRANSFER TAX
ORANGE COUNTY

ROW 91-R1a (11/84)
(Section A)

NEW YORK STATE DEPARTMENT OF TRANSPORTATION
REAL ESTATE DIVISION

APPROPRIATION OF PROPERTY BY THE PEOPLE OF THE STATE OF NEW YORK

PROJECT: PIN 8460.22-221, PROC. 8762

DESCRIPTIONS AND MAPS	
MAP NOS.	PARCEL NOS.
129	156

S.H. 154

CHESTER-VALES GATE

ORANGE COUNTY

TOWN OF NEW WINDSOR

being a portion of Section 69, Block 1, Lots 9, 10 and 11, as shown on the Official Tax Map

NOTICE OF APPROPRIATION

Pursuant to the statute set forth in the above descriptions and maps

TO: STEVE PREKAS - 3 Warden Circle, Newburgh, NY 12550
DEMOSTHENES DONUTS CORP. - 674 Broadway, Newburgh, NY
DUNKIN DONUTS OF AMERICA, INC. - 5 Pacella Park Drive, POB 317, Randolph, MA 02368
CONTROL DATA BUSINESS CENTERS, INC. -
MARGARET M. SATTERLY - Box 277, R.D. #2, Riley Road, New Windsor, NY

TAKE NOTICE that on the 25th day of September, 1989, there was filed in the office of the Department of State a certified copy of each of the above designated descriptions and maps of property; and that on the day of DEC 6 1989, 19 there was filed in the office of the clerk of the county, in which such property is situated, a copy of each of such descriptions and maps.

TAKE FURTHER NOTICE that title to the property, easements, interests or rights described in said descriptions and maps vested in The People of the State of New York upon such filing in the office of said county clerk.

Dated: DEC 6 1989

1989 3224 PAGE 124

COMMISSIONER OF TRANSPORTATION
OF THE STATE OF NEW YORK



D.J. Gurnett, Director, Real Estate Division

(79) BB3583

This Indenture,

Made the 30th day of March, nineteen hundred and seventy-nine

Between NICHOLAS C. MARSHALL, residing at Route 94, Town of New Windsor, County of Orange, State of New York,

party of the first part, and

STEVE PREKAS, residing at No. 3 Warden Court, Newburgh, Orange County, New York,

party of the second part:

Witnesseth, that the party of the first part, in consideration of TEN AND 00/100 (\$10.00) Dollars, lawful money of the United States, and other good and valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, his heirs and assigns forever,

All that certain lot, piece or parcel of land situate, lying and being in the Town of New Windsor, County of Orange, and State of New York more particularly bounded and described as follows:

BEGINNING at a point in the northerly side of the Blooming Grove Turnpike at the westerly line of the taking by the State of New York for the West Point - Stewart Field Highway and running thence north 18° 26' east 45.8 feet more or less along the westerly line of said taking to a point; thence still along the westerly line of said taking north 17° 41' west 123 feet more or less to a point marking the end of said taking; thence northwesterly 20 feet more or less to a concrete post set in the line of lands now or formerly owned by Otto Miller; thence southerly along the line of lands of the parties of the first part which were formerly owned by Otto Miller 86 feet more or less to an iron pipe marking the northerly corner of the lands of the Central Hudson Gas and Electric Corporation; thence south 16° east 90 feet more or less to the northerly line of the Blooming Grove Turnpike thence east along the northerly line of said Blooming Grove Turnpike 96 feet more or less to the point or place of beginning.

SUBJECT to any pole grants and easements of record, and to any covenants, reservations or restrictions of record.

BEING the same premises described in a deed dated February 27, 1953 made by Thorvald Holm to Nicholas C. Marshall and recorded in the Orange County Clerk's Office on February 28, 1953, in Liber 1259 of Deed at page 333.

hundred and seventy-nine

Between NICHOLAS C. MARSHALL, residing at Route 94, Town of New Windsor, County of Orange, State of New York,

party of the first part, and
STEVE PREKAS, residing at No. 3 Warden Court, Newburgh, Orange County, New York,

party of the second part:

Witnesseth, that the party of the first part, in consideration of TEN AND 00/100---
----- (\$10.00) ----- Dollars,
lawful money of the United States, and other good and valuable consideration
paid by the party of the second part,
does hereby grant and release unto the party of the second part,
his heirs and assigns forever,

All that certain lot, piece or parcel of land situate, lying and being in the Town of New Windsor, County of Orange, and State of New York more particularly bounded and described as follows:

BEGINNING at a point in the northerly side of the Blooming Grove Turnpike at the westerly line of the taking by the State of New York for the West Point - Stewart Field Highway and running thence north 18° 26' east 45.8 feet more or less along the westerly line of said taking to a point; thence still along the westerly line of said taking north 17° 41' west 123 feet more or less to a point marking the end of said taking; thence northwesterly 20 feet more or less to a concrete post set in the line of lands now or formerly owned by Otto Miller; thence southerly along the line of lands of the parties of the first part which were formerly owned by Otto Miller 86 feet more or less to an iron pipe marking the northerly corner of the lands of the Central Hudson Gas and Electric Corporation; thence south 16° east 90 feet more or less to the northerly line of the Blooming Grove Turnpike thence east along the northerly line of said Blooming Grove Turnpike 96 feet more or less to the point or place of beginning.

SUBJECT to any pole grants and easements of record, and to any covenants, reservations or restrictions of record.

BEING the same premises described in a deed dated February 27, 1953 made by Thorvald Holm to Nicholas C. Marshall and recorded in the Orange County Clerk's Office on February 28, 1953, in Liber 1259 of Deeds at page 333.

Said premises being also described in a survey of the premises prepared by McGoey, Hauser & Grevas, Consulting Engineers, dated February 28, 1979, and revised on March 28, 1979, as follows:

ALL that certain piece or parcel of land lying, situate and being in the Town of New Windsor, Orange County, New York bounded and described as follows:

BEGINNING at a point in the northerly line of New York State

CONTINUED ON NEXT PAGE

LIBER 2127 PAGE 749

ME 2127 PAGE 750

Highway known as Route 94, said point being an iron pipe set in the ground at the southeasterly corner of lands now or formerly of Satterly and running thence, along said Satterly lands N14° 50' 00" W 90.00' to an iron pipe set in the ground; thence, still along Satterly lands N 31° 06' 00" E 119.45' to an iron pipe set in the westerly line of th County Highway known as Route 59 (Temple Hill Road); thence, along said highway line the following three (3) courses:

- 1) S55° 35' 00"E 15.75' to an iron pipe set in the ground;
- 2) S17° 41' 00"E 123.00' to an iron pipe set in the ground;
- 3) S18° 26' 00"W 45.80' to an iron pipe set in the ground in the northerly line of the aforementioned Route 94; thence, along said road line S75° 10' 00"W 77.10' to the point or place of beginning.

Containing 13,136 square feet, 0.30 acres of land more or less

Together with the appurtenances and all the estate and rights of the party of the first part in and to the said premises.

To have and to hold the premises herein granted unto the party of the second part, his heirs and assigns forever.

And the said party of the first part covenant that he has not done or suffered anything whereby the said premises have been incumbered in any way whatever.

And The grantor, in compliance with Section 13 of the Lien Law, covenant as follows: That he will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement, and that he will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

In Witness Whereof, the party of the first part has hereunto set his hand and seal the day and year first above written

In the Presence of:

Nicholas C. Marshall
Nicholas C. Marshall

And the said party of the first part covenant that he has not done or suffered anything whereby the said premises have been incumbered in any way whatever

And The grantor, in compliance with Section 13 of the Lien Law, covenant as follows: That he will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement, and that he will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

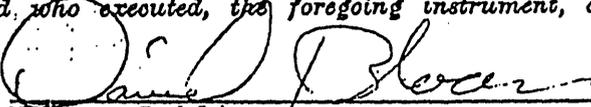
In Witness Whereof, the party of the first part has hereunto set his hand and seal the day and year first above written

In the Presence of:


Nicholas C. Marshall

State of New York, County of ORANGE ss.:

On the 30th day of March, , nineteen hundred and seventy-nine before me personally came Nicholas C. Marshall, , to me known to be the individual described in, and who executed, the foregoing instrument, and acknowledged that he executed the same.


Notary Public

LIBER 2127 PAGE 751

DANIEL J. BLOOM
Notary Public, State of New York
Residing in Orange
Commission Expires March 31, 1929

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

Deed.

(79) 1035285

NICHOLAS C. MARSHALL

TO

STEVE PREKAS

Dated, March 30, 1979

Record and Return to:

PETER C. PATSALOS, ESQ.
346 Broadway, P.O. Box 2177
Newburgh, New York 12550

RECEIVED
\$ 110.00
REAL ESTATE
APR 3 1979
TRANSFER I. O.
ORANGE
COUNTY

Orange County Clerk's Office, s.s.
Recorded on the 3rd day
of April 1979 at 8:10
A.M. in Liber 2127
at page 749.

XXXXXXXXXXXX
XXXXXXXXXXXX

XXXXXXXXXXXX

116 -

LIBER 2127 PAGE 752

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

94-26

Date: July 11, 1994

I. Applicant Information:

- (a) PREKAS, STEVE - 674 Broadway, Newburgh, N. Y. 12550 x
(Name, address and phone of Applicant) (Owner)
- (b) -
(Name, address and phone of purchaser or lessee)
- (c) -
(Name, address and phone of attorney)
- (d) CUOMO ENGINEERING, Stewart Intl. Airport, 2005 D Street, Bldg. #704, New Windsor, N. Y.
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- Use Variance Sign Variance
- Area Variance Interpretation

III. Property Information:

- (a) C Int. Rt. 300/94 at Five Corners 69-1-11 13,136 s.f. +
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? None
- (c) Is a pending sale or lease subject to ZBA approval of this application? No
- (d) When was property purchased by present owner? 3/30/79
- (e) Has property been subdivided previously? No
- (f) Has property been subject of variance previously? Yes
If so, when? 07/11/83
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail: n/a
- _____
- _____
- _____

IV. Use Variance. n/a

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow:
(Describe proposal) _____
- _____
- _____
- _____

(b) ^{n/a} The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes _____ No x.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section 48-12, Table of Use/Bulk Regs., Col. G,I,J.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. <u>30 ft.</u>	<u>2.8 ft.</u>	<u>27.2 ft.</u>
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. <u>8 in.</u> 4 in. per ft. to nearest lot line	<u>16 ft.</u>	<u>15'4"</u>
Min. Floor Area* <u>0.5%</u>	<u>0.12%</u>	<u>0.07%</u>
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area _____	_____	_____

* Residential Districts only

** No-residential districts only

(b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

(See narrative attached hereto)

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: n/a

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____
	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation. n/a

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

(b) Describe in detail the proposal before the Board:

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

(b) Variance: Granted (___) Denied (___)

(c) Restrictions or conditions: _____

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

(b) Applicant applied for and received a variance for 4 ft. rear yard on April 23, 1979, together with 13,136 s.f. lot area, 100/150 ft. lot width, 35/49 ft. front yard variance, 0'/33/46'=79' side yard and 76 s.f. sign area variances for the Dunkin Donuts Shop located in a C zone at the intersection known as Five Corners in Vails Gate. The rear yard variance of 4 ft. was insufficient since 27 ft. 2 in. was actually required because applicant had only 2.8 ft. available from the existing structure to the rear of the property line. Applicant is in the process of refinancing his mortgage and now finds that the as-built survey of the property is less than that required based on the previous variances granted by the ZBA in 1983. A Notice of Denial of a Building Permit application was issued from the Building Inspector on 06/16/94 which referred the applicant to the ZBA for the required approvals.

Applicant has operated his donut shop at the Five Corners intersection since the early 1980's and considers his operation to be an asset to the Town of New Windsor.

Applicant is now seeking 27.2 ft. rear yard variance, 15 ft. 4 in. maximum building height and 0.07% minimum floor area ratio in order to obtain a certificate of occupancy for the structure.

It is the opinion of the Applicant that the Dunkin Donuts Shop has benefitted the neighborhood and community and has not been a detriment to the health, safety and welfare of the neighborhood or community.

The requested variances will not result in substantial detriment to the adjoining properties or change the character of the neighborhood since the donut shop has been a successful addition to the intersection for longer than a decade.

Applicant believes that the proposal before the Board will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district since it has actually upgraded the area.

Applicant believes that the requested area variances are not substantial.

Applicant knows of no other feasible method available to pursue which can produce the necessary results other than the variance procedure.

When considering the proposal before the Board it should be noted that the difficulty is not self-created since applicant did apply for and received a 4 ft. rear yard variance in 1983. However, this figure proved to be an error since there were no specific dimension for the rear yard setback on the site plan which was presented to the Planning Board. Applicant feels that he actually went through the motions of applying for the necessary variances at the time and was under the impression at that time that he required a 4 ft. rear yard variance.

The requested variances will produce no effect on the population density on governmental facilities.

The interest of justice would be served by allowing the granting of the requested variances.

For the above reasons, applicant believes that the granting of the rear yard, maximum building height and minimum floor area ratio variances requested for the existing Dunkin Donuts Shop will be advantageous to the town.



TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

1763

AUGUST 15, 1991

AFFIRMATIVE ABSTRACT, INC.
P.O. BOX 4552
NEW WINDSOR, NY 12553

PROPERTY ASSESSED TO: STEVE PREKAS, C&O ACBIS FOODS, INC.
ROUTE 94 AND ROUTE 300
NEW WINDSOR, NY 12553
SECTION 69, BLOCK 1, LOT 11

DEAR SIR:

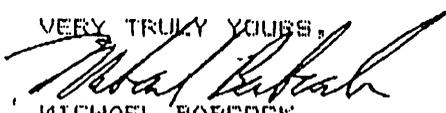
PLEASE FIND ENCLOSED A COPY OF THE CERTIFICATE OF OCCUPANCE #97
ISSUED OCTOBER 27, 1989 FOR THE ABOVE REFERENCED STRUCTURE.

ROUTE 94 AND ROUTE 300 IS OWNED AND MAINTAINED BY THE STATE OF
NEW YORK.

THE ADDRESSEE IS ADVISED THAT NEITHER STATE OR LOCAL CODES
REQUIRE ROUTINE INSPECTIONS OF PRIVATE DWELLING BY CODE
ENFORCEMENT OFFICERS. NO INSPECTION HAS BEEN MADE OF THE SUBJECT
PREMISES PRIOR TO PREPARATION OF THIS LETTER. HOWEVER, THERE ARE
NO BUILDING OR ZONING CODE VIOLATIONS AGAINST THE SUBJECT PROPERTY
ON FILE IN THE OFFICE AT THIS TIME.

TITLE #9 NYCRR REQUIRES THAT A SMOKE DETECTOR BE INSTALLED PRIOR
TO THE SALE OF THESE PREMISES. PLEASE SUBMIT TO THE FIRE
INSPECTOR AT THE ABOVE ADDRESS THE ENCLOSED AFFIDAVIT OF
COMPLIANCE INDICATING THAT A SMOKE DETECTOR HAS BEEN INSTALLED
AND IS IN OPERATION.

VERY TRULY YOURS,


MICHAEL BABCOCK
BUILDING INSPECTOR

MB:md

Application No. _____ Permit No. 2271

Building Department

~~CITY~~ TOWN ~~CORPORATION~~ OF New Windsor
(Address and Telephone Number)

County of: Orange

Location: N.W. Corner Rte. 94 & Rte 300

Map No.: _____ Section: 69 Block: 1 Lot: 11

Certificate of Occupancy

No. 97

Date October 27, 1983

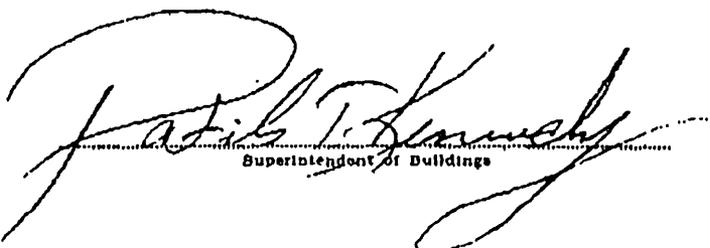
THIS CERTIFIES that the building located at premises indicated above, conforms substantially to the approved plans and specifications heretofore filed in this office with Application for Building Permit dated August 9, 1983, pursuant to which Building Permit was issued, and conforms to all the requirements of the applicable provisions of the law. The occupancy for which this certificate is issued is New

Commercial eating establishment - Dunkin Donuts

Temporary - Site Plan requirement still to be met

This certificate is issued to Steve Pekas
(owner, lessee or tenant)

of the aforesaid building.


Superintendent of Buildings

(The Certificate of Occupancy will be issued only after affidavits or other competent evidence is submitted to the Superintendent of Buildings that the completion of the construction in compliance with the State Building Construction Code and with other laws, ordinances or regulations affecting the premises, and in conformity with the approved plans and specifications. A final electrical, plumbing, heating or sanitation certificate or other evidence of compliance may be required before the issuance of the Certificate of Occupancy.)

TFHC

(FR) 02.11. '01 16

NO. 1400000362 PAGE 3

FROM CTI

9142340034

PLEASE FILL THIS IN BEFORE TRANSMITTING

TFHC FAX NO. 1-800-553-3424

DATE SENT

2/11

TIME SENT

CUSTOMER ID: 21650

TRANSAMERICA

JERALD FIEDELHOLTZ ATY TEL No. 9145627880

Feb 10.94 16:52 No. 016 P.11

20065

TRANSAMERICA FLOOD HAZARD CERTIFICATION

P.O. BOX 607, ELMTWOOD PARK, NEW JERSEY 07407-0607 (907) 347-3384 FloodFax™ (800) 553-3424

Please certify to:

If the Subject Property is in a special Flood Hazard Area as defined in the Flood Disaster Protection Act, unless TFHC is informed otherwise in writing at the time of this order, the party listed below is responsible for payment for this Certification.

FAX CERTIFICATION TO:

AFFIRMATIVE ABSTRACT, INC.

P.O. BOX 4552

New Windsor, New York 12553-4552

(914) 562-0162

(914) 562-0928 FAX

SUBJECT PROPERTY

County ORANGE State NEW YORK

Town or City NEW WINDSOR

Village or Boro

Section 69 Block 1

District (Suffolk only) Lot 11

Subdivision, Filled Map # or Condo Name and Unit #

Street Address Routes 94 & 300

Present Owner's Name PEEKAS

Your File Reference 911087

TERMS AND CONDITIONS OF CERTIFICATION

- 1. This certificate is void in the event of the lending institution shown herein, the applicability of other parties in interest.
2. This certificate is based upon the data furnished hereon and is based upon an assumed compliance with applicable regulations of the current Flood Hazard Area maps published Federal Insurance Administration.
3. This certification is intended solely for the purpose of compliance by the Lending Institution with the Flood Disaster Protection Act of 1973 and does not constitute any opinion as to the accuracy of the Flood Hazard Area maps, nor TFHC's liability for any errors or omissions in the certification.
4. MODER: This certification is based upon the applicant's identification of the property to be certified.
5. This certificate is not valid unless it bears signature authorized by TFHC.
6. TFHC is bound by its certification and its FAX to the same extent and in the same manner as it is by its mailed certification.

CERTIFICATION

- 1. We certify that the subject property is:
- Partially IN
- Totally IN
- Totally OUT of a Special Flood Hazard Area as identified by the Federal Insurance Administration, if "Partially IN" or "Totally IN," see "LENDER'S NOTICE TO THE BORROWER" if attached to this form.
2. We further certify that the subject property is in a community that:
- is participating in the National Flood Insurance Program (N.F.I.P.), for "LENDER'S NOTICE TO THE BORROWER" if attached to this form.
3. If the subject property is "Partially IN" or "Totally IN" a Special Flood Hazard Area and if the subject property is located in a community participating in the N.F.I.P., we further certify that the community is in the:
- REGULAR
- EMERGENCY phase of the N.F.I.P.

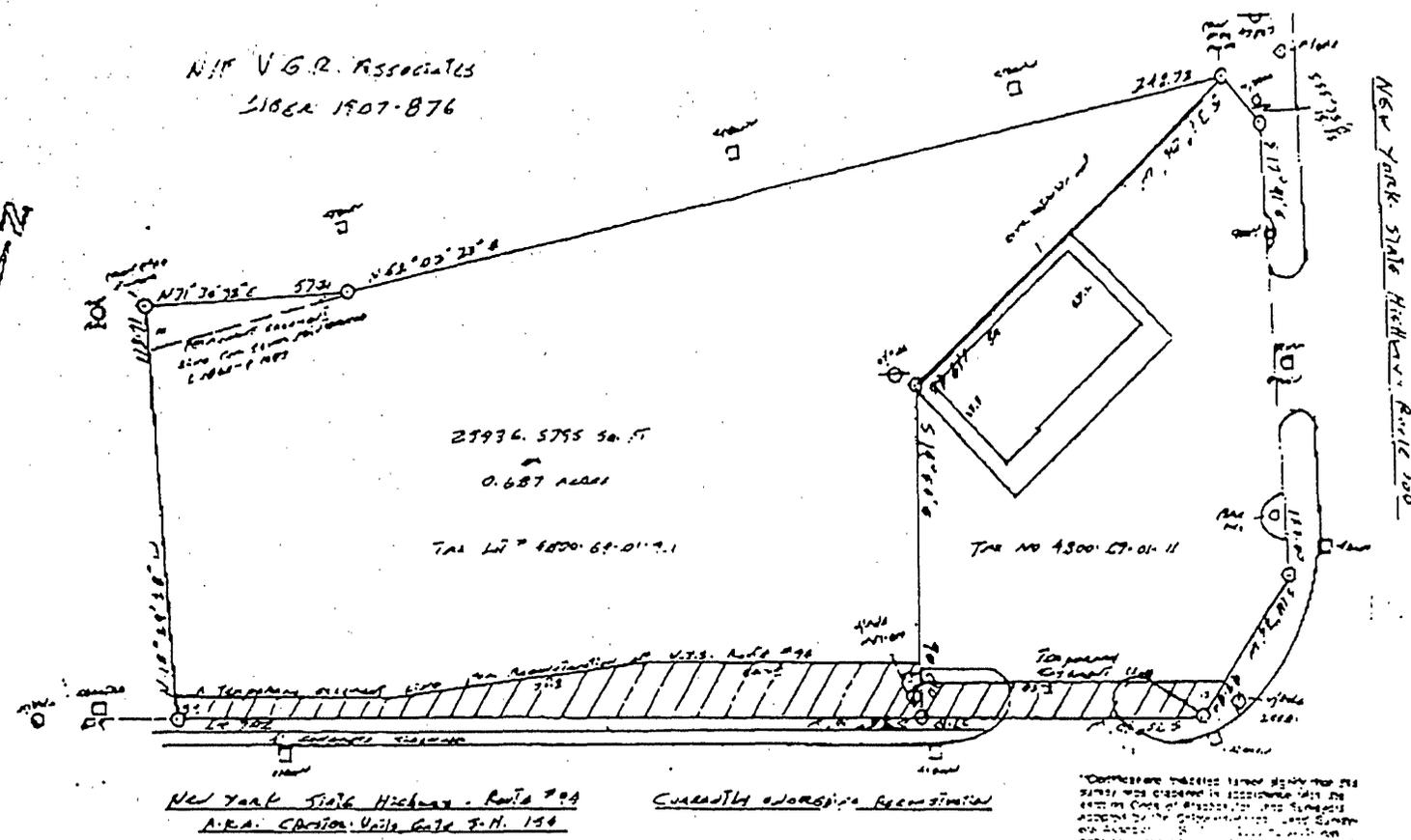
COMMUNITY # MAP PANEL # FURNIX
360628-0010-B
FLOOD ZONE BASE FLOOD ELEVATION
MAP PANEL DATE 12/15/78
LOCAL FLOOD HAZARD MAP

A. J. Ably
Authorized TFHC Signature

CERTIFICATION NO. 19910821HE0116

FOR TFHC USE ONLY

NIP V.G.R. Associates
SIBER 1907-876



"Unauthorized operation of section 26 & 27 of the Survey Law, 1909, which provides for a violation of section 26, subsection 1, of the New York State Education Law."

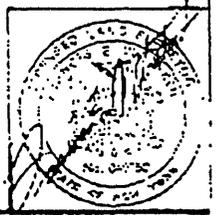
**A BOUNDARY SURVEY OF LANDS OF
STEVE FREKAS**

Located in the Town of New Windsor, County of Orange
State of New York
Tax No-4800-Section 69-Block 01-Parcel 9.1

MAY 22, 1992
SCALE 1"=30'
89-10

"Certificate recorded under 2604 for this survey was obtained in accordance with the section 26 of the Survey Law, 1909, and is subject to the provisions of section 26, subsection 1, of the New York State Education Law. The City of New York is hereby notified that the survey has been completed and the same is hereby certified to be correct and true to the best of my knowledge and belief, and that the same is subject to the provisions of section 26, subsection 1, of the New York State Education Law."

This map is the result of field surveys, the latest being May 22, 1992 and is true and correct to the best of my knowledge. It is so certified to Steve Prekas, Demo's Cafe Inc, Gray Credit Alliance, Inc., Marvin Abstract as agents for TransAmerica Title Insurance Company
Francis S. Whitaker L.S.
6 Central Ave. Newburgh, N.Y.



69-1-11
To New
Windsor

68



4.3
4A(C)

①

6
10.8A(C)

②

12
2.2A(C)

③

100
26.3

26.13
1.4A(C)

26.11

26.12
1.2A(C)

SECTION 70



Lawyers Title Insurance Corporation

NATIONAL HEADQUARTERS
RICHMOND, VIRGINIA

SCHEDULE B

The following estates, interests, defects, objections to title, liens and encumbrances and other matters will be excepted from the coverage of any policy or policies to be issued.

1. Defects and encumbrances arising or becoming a lien after the date of the policy to be issued, except as therein provided.
2. Consequences of the exercise and enforcement or attempted enforcement of any governmental war or police powers over the premises.
3. Any laws, regulations or ordinances (including, but not limited to zoning, building, and environmental protection) as to the use, occupancy, subdivision or improvement of the premises adopted or imposed by any governmental body, or the effect of any noncompliance with or any violation thereof.
4. Judgments against the insured or estates, interest, defects, objections, liens or encumbrances created, suffered, assumed or agreed to by or with the privity of the insured.
5. Title to any property beyond the lines of the premises, or title to areas within or rights or easements in any abutting streets, roads, avenues, lanes, ways or waterways, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement, unless this Commitment specifically provides that such titles, rights, or easements are insured. Notwithstanding any provisions in this paragraph to the contrary, the policy to be issued, unless otherwise excepted in this Commitment, will insure the ordinary rights of access and egress belonging to abutting owners.
6. Title to any personal property, whether the same be attached to or used in connection with said premises or otherwise. (No search has been made for financing statements except as may have been ordered and reported separately.)

Note: Items 1 through 6 will not appear in Schedule D of the Policy if this Commitment calls for an ALTA Policy since the matters addressed by these items are provided for elsewhere in said ALTA Policy.

Schedule D of the policy or policies to be issued will further contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

7. If the application is for insurance under a master or blanket policy all items under this Schedule B will be excepted from coverage in the Certificate of Title Insurance to be issued hereon unless disposed of to the satisfaction of the Company on or prior to closing.

8. The identity of parties at the closing of this title should be established to the satisfaction of the closer and the affidavit attached to this certificate filled out, signed and sworn to.

9. Deeds and mortgages must contain the covenant required by Section 13 of the Lien Law and such covenant must be absolute and not conditional. The covenant is not required in deeds from referees or other persons appointed by a court for the sole purpose of selling property.

10. When the transaction is an assignment of a mortgage or other lien, an estoppel certificate executed by the owner of the fee and by the holders of all subsequent encumbrances must be obtained. When the transaction is a mortgage, the amount actually advanced should be reported to the Company.

11. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value or record the estate or interest or mortgage thereon covered by this Commitment.

12. If the present transaction consists in whole or in part of a conveyance or lease by a corporate grantor or lessor, there must be compliance with Section 909 of the Business Corporation Law. We will require the written consent to such conveyance or lease by all of the holders of the outstanding shares of the said corporation and the instrument on closing should so recite. In lieu thereof the consent of the holders of two-thirds of all of the outstanding shares entitled to vote thereon obtained at a meeting duly noticed and called for the purpose of obtaining such consent in the manner provided for in Section 605 of the Business Corporation Law is requested and the instrument on closing should so recite.

If neither of the above is obtained, then, the proofs showing the basis upon which the conveyance or lease is to be made must be submitted to counsel prior to closing.

13. If the present transaction consists in whole or in part of the making of a new mortgage there must be compliance with Section 911 of the Business Corporation Law. We will require a certified copy of the resolution of the board of directors of any corporate mortgagor authorizing the making of said mortgage.

Proof must also be shown that the consent of stockholders of the mortgagor corporation is not required by its certificate of incorporation or amendments thereto for the making of said mortgage.

The mortgage should contain a recital showing that it was made and executed pursuant to the resolution of the board of directors of the mortgagor.

14. If this Commitment requires a conveyance of the fee estate and the contract therefor has not been submitted to the Company, it should be furnished for consideration prior to closing.

(Continued)

Lawyers Title Insurance Corporation

NATIONAL HEADQUARTERS
RICHMOND, VIRGINIA

SCHEDULE B (Continued)

Commitment No.

NOTE: The County Clerks require that all documents submitted for recording must be signed in black ink.

NOTE: This company has recently suffered considerable delay and expense in recording instruments due to the rejection of uncertified checks by various County Clerks. By reason thereof, any check made payable to a County Clerk (other than the Orange County Clerk which has a \$500.00 limit) in excess of \$1,000.00 must be certified funds.

yers Title Insurance Corporati

NATIONAL HEADQUARTERS
RICHMOND, VIRGINIA

MORTGAGES

Commitment No. 941117

Mortgagor STEVE PREKAS

Mortgagee CONTROL DATA BUSINESS CENTERS, INC.

Amount \$ 300,000.00

Dated August 4, 1983

Recorded August 8, 1983

Liber Liber 1878 mp 57



ASSIGNMENT OF MORTGAGE

COMMERCIAL CREDIT SERVICES CORPORATION, f/k/a CONTROL DATA BUSINESS
CENTERS, INC.
to
BENEFICIAL CREDIT CORP.

Dated: February 28, 1986

Recorded: April 22, 1987

Liber 2627 ap. 340

ASSIGNMENT OF MORTGAGE

BENEFICIAL CREDIT CORP.
to
CHRYSLER FIRST BUSINESS CREDIT CORP.

Dated: March 13, 1987

Recorded: July 30, 1987

Liber 2765 ap. 1

Assigns Mortgage in Liber 1878 mp. 57.

* * * * *

Mortgagor: STEVE PREKAS

Mortgagee: CHRYSLER FIRST BUSINESS CREDIT CORPORATION

Amount: \$7,601.13

Dated: February 20, 1992

Recorded: March 18, 1992

Liber 4223 p. 55

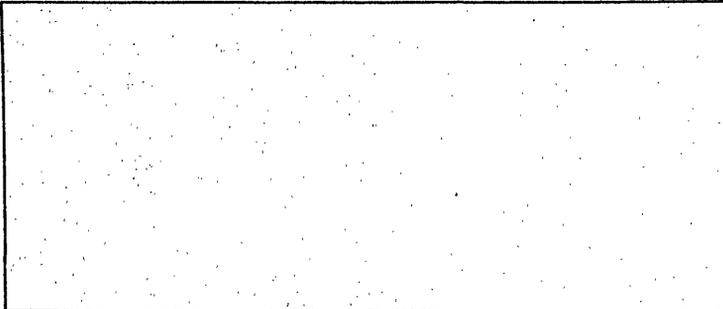


Lawyers Title Insurance Corporation.

**NATIONAL HEADQUARTERS
RICHMOND, VIRGINIA.**

Commitment No. 941117

Diagram of Tax Map



City
Town New Windsor
Village
Borough
County Orange

Section 69 Block 1 Tax Lot 11 Ward

School Dist. Newburgh City Volume

Assessed Valuation: Land\$ \$33,600.00 Total\$ \$162,200.00
Bus. Imp. Exemption #47600: \$12,800.00 Net: \$149,340.00
Assessed in the name of STEVE PREKAS

TAXES, ASSESSMENTS, WATER RATES AND SEWER CHARGES
which are liens on real property

1994 State, County and Town \$7,112.27 PAID 1-31-94
1993-94 School \$2,215.89 + penalties & interest = \$2,602.61 OPEN
Payment in full by certified or cashier check to Commissioner of
Finance
1993 State, County and Town \$6,761.36 PAID 2-23-93
Sewer and Water if any, receipts to be produced.

Unless there is a final reading or an up to date receipt presented at closing, Policy will except all water, sewer and garbage charges.

Recent payments of any open items returned on this tax search may not yet be reflected on the public records. THEREFORE, PLEASE REQUEST THE SELLER OR BORROWER TO HAVE THE RECEIPTED BILL AVAILABLE AT THE CLOSING.

This commitment includes only such unpaid taxes, assessments, water and sewer charges and any open or unredeemed tax sales which are indexed, as of the date of this commitment, against the above lot on the official tax ledger sheets of the tax office or offices searched. No responsibility is assumed for any error or omission on these sheets, nor for any taxes levied after the date of this commitment. Proposed assessments reported herein are for information only and no responsibility is assumed by the Company for the accuracy or completeness thereof. If a Tax exemption is noted above, same will terminate on the date when premises are conveyed by the certified owner, and the full tax rate will thereupon be reinstated.
NOTE: Some of these items may have been paid, but the payment not officially posted.

vyers Title Insurance Corporation

NATIONAL HEADQUARTERS
RICHMOND, VIRGINIA

SCHEDULE B (Continued)

Commitment No.

CONSOLIDATION, EXTENSION AGREEMENT

STEVE PREKAS
with
CHRYSLER FIRST BUSINESS CREDIT CORPORATION

Dated: February 20, 1992 Recorded: December 18, 1992
Liber 3724 cp. 257

Consolidates Mortgages in Liber 1878 mp. 57 and Liber 4223 mp. 55 to form a single lien of \$200,000.00

* * * * *

Mortgagor: STEVE PREKAS

Mortgagee: CONTROL DATA BUSINESS CENTERS, INC.

Amount: ~~\$31,781.00~~

Dated: April 6, 1987

Recorded: ~~April 13, 1987~~

Liber 1907 mp. 727

SUBORDINATION AGREEMENT

CONTROL DATA BUSINESS CENTERS, INC. N/K/A COMMERCIAL CREDIT SERVICE CORPORATION

with
CHRYSLER FIRST BUSINESS CREDIT CORPORATION

Dated: November 20, 1991 Recorded: March 18, 1992
Liber 3576 cp. 142

Subordinates Mortgage in Liber 1907 mp. 727 to Mortgages in Liber 1878 mp. 57 and Liber 4223 mp. 55.

NOTE: All the terms and conditions of the mortgage noted herein are not set forth. The applicant should acquaint himself with such facts before closing title.

For use where Franchisee leases from third party lessor.

DUNKIN' DONUTS OF AMERICA, INC. LEASE OPTION AGREEMENT

AGREEMENT made this 4th day of August, 19 83, by and between STEVE PREKAS residing 3 Marden Circle, Newburgh, New York (hereinafter referred to as "Lessor"); DEMOTHEIES DONUTS, CORP. New York (hereinafter referred to as "Lessee"); and 674 Broadway, Newburgh, New York (hereinafter referred to as "Lessee"); and DUNKIN' DONUTS OF AMERICA, INC., a Massachusetts corporation with principal offices at 5 Pasella Park Drive, P.O. Box 317, Randolph, Massachusetts 02368 (hereinafter referred to as "Dunkin').

Lessor has agreed to lease to Lessee premises located at N/W/C Routes 94 & 300, (Vails Gate) New Windsor, New York

RECITALS

for use by Lessee as a DUNKIN' DONUTS SHOP under a Franchise Agreement between Dunkin', as franchisor, and Lessee, as franchisee. A copy of the Lease dated August 4, 19 83, between Lessor and Lessee (the "Lease") is attached hereto as Exhibit A. This Lease Option Agreement is entered into in connection with Dunkin's approval of the above location as a DUNKIN' DONUTS SHOP and grant of a franchise to Lessee. It is intended to provide Dunkin' with the opportunity to preserve the premises as a DUNKIN' DONUTS SHOP, should the Lease or the Franchise Agreement be terminated, and to assure Lessor that if Dunkin' exercises the option herein contained, any defaults of Lessee under the Lease will be cured by Dunkin' before it takes possession of the premises.

NOW THEREFORE, IN CONSIDERATION OF THE MUTUAL CONVENANTS HEREIN CONTAINED, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, IT IS AGREED AS FOLLOWS:

1. Lessor shall mail to Dunkin' copies of all notices of default it gives to Lessee concurrently with giving such notices to Lessee. If Lessee fails to cure any defaults within the period specified in the Lease, Lessor shall give Dunkin' immediate written notice of that fact and Lessor shall thereupon offer to Dunkin' (and Dunkin' shall have) the right to accept either an assignment of the Lease or a new lease containing the same terms and conditions as the Lease, whichever Dunkin' elects. If Dunkin' elects to continue the use of the premises as a DUNKIN' DONUTS SHOP, under an assignment of the Lease or a new lease, it shall so notify Lessor in writing within (thirty (30)) days after it has received written notice from Lessor specifying the defaults Lessee has failed to cure within the period specified in the Lease. Upon receipt of such notice from Dunkin', Lessor shall promptly execute and deliver to Dunkin' an assignment of the Lease or a new lease, whichever Dunkin' requests, and shall deliver to Dunkin' possession of the premises, free and clear of any rights of Lessee or any third party. Dunkin', before taking possession of the premises, shall promptly cure the defaults specified by Lessor in its notice to Dunkin' and shall execute and deliver to Lessor its acceptance of the assignment of Lease or of the new lease, as the case may be.

Default of Lessee under Lease

2. If the Franchise Agreement between Dunkin' and Lessee is terminated for any reason during the term of the Lease or any extension thereof, Lessee, upon the written request of Dunkin', shall assign to Dunkin' all of her right, title and interest in and to the Lease. If Dunkin' elects to accept the assignment of the Lease from Lessee, it shall give Lessee and Lessor written notice of its election to acquire the leasehold interest. Lessor hereby consents to the assignment of the Lease from Lessee to Dunkin', subject to Lessee's and/or Dunkin's curing any defaults of Lessee under the Lease before Dunkin' takes possession of the premises. Alternatively, in the event of a termination of the Franchise Agreement, Dunkin' may elect to enter into a new lease with Lessor containing the same terms and conditions as the Lease. Upon Lessor's receipt of written notice from Dunkin' advising Lessor that Dunkin' elects to enter into a new lease, Lessor shall execute and deliver such new lease to Dunkin' for its acceptance. Lessor and Lessee shall deliver possession of the premises to Dunkin', free and clear of all rights of Lessee or third parties, subject to Dunkin's curing any defaults of Lessee, under the Lease and executing an acceptance of the assignment of Lease or of the new lease, as the case may be.

Termination of Franchise Agreement

3. Lessee hereby designates Lessor and Dunkin' as its agents to execute any and all documents, agreements and to take all action as may be necessary or desirable to effectuate the assignment of the Lease and the relinquishment of any and all of Lessee's rights thereunder in the event of Lessee's failure to timely cure defaults under the Lease or of termination of the Franchise Agreement. Lessor and Lessee agree not to amend the Lease except with the prior written consent of Dunkin'. Lessee, further agrees to peaceably and promptly vacate the premises and to remove its personal property therefrom at the written request of Lessor or Dunkin' upon Lessee's failure to timely cure defaults under the Lease or upon the termination of the Franchise Agreement, for any reason. Any property not so removed by Lessee within ten (10) days following receipt of such written notice shall be deemed abandoned by Lessee. Dunkin' shall not be required to cure defaults and/or to begin paying rent until delivery to it of possession of the premises, free and clear of any of Lessee's rights or rights of third parties. If it becomes necessary for Lessor to pursue legal action to evict Lessee in order to deliver possession of the premises to Dunkin', Dunkin' shall, at the written request of Lessor, pay into escrow amounts necessary to cure the defaults, pending delivery of the premises to Dunkin'. If Lessor is unable to deliver the premises to Dunkin' within (6) months from the date Dunkin' notifies Lessor of its election to continue the use of the premises as a DUNKIN' DONUTS SHOP, Dunkin' shall have the right at any time thereafter to withdraw its election to acquire a leasehold interest in the premises whereupon all amounts deposited by Dunkin' in escrow, together with interest earned thereon, shall be returned forthwith to Dunkin'. Lessee shall remain liable for all of its obligations under the Lease

General Provisions

10/22/83 11/73

REC-2269 1176

notwithstanding the assignment thereof to Dunkin' or the execution of a new lease between Dunkin' and the Lessor and Dunkin' shall be entitled to recover from Lessee all amounts it has paid to Lessor to cure Lessee's defaults under the Lease. Dunkin' may assign without recourse its rights under this Lease Option Agreement or its rights under the assignment of lease or the new lease without the consent of the Lessor or may sublet the premises or any part thereof without the consent of the Lessor; provided, however, that in the case of an assignment, the assignee shall execute and deliver to Lessor an assumption agreement by which assignee agrees to assume the Lease or new lease and to observe the terms and conditions and agreements on the part of Lessee to be performed under the Lease or new lease, as the case may be. All notices hereunder shall be by certified mail to the addresses herein described or to such other addresses as the parties hereto may, by written notice, instruct that notices be given.

4. If the Lease is terminated or the Franchise Agreement is terminated and Dunkin' does not elect to continue the location as a DUNKIN' DONUTS SHOP, Lessee agrees to de-identify the premises as a DUNKIN' DONUTS SHOP and to promptly remove signs, decor and other items which Dunkin' reasonably requests be removed as being distinctive and indicative of a DUNKIN' DONUTS SHOP. Dunkin' may enter upon the premises without being guilty of trespass or tort to effect such de-identification if Lessor or Lessee fail to effect such de-identification within ten (10) days after the termination of the Franchise Agreement or Lease and may bill Lessor and/or Lessee for its reasonable costs and expenses in effecting de-identification.

5. This Lease Option Agreement shall run with the land and be binding upon the parties hereto and their successors, assigns, executors and administrators and representatives. The rights and obligations herein contained shall continue, notwithstanding changes in the persons or entity that may hold any leasehold or ownership in the land or building. Any party hereto may record this agreement or a memorandum hereof. Any party hereto may seek equitable relief or injunctive relief including, without limitation, specific performance for actual or threatened violation or non-performance of this Agreement by any other party. Such remedies shall be in addition to all other rights provided for in this Lease Option Agreement or by law.

Remedies and Additional Provisions

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE HEREUNDER CAUSED THIS LEASE OPTION AGREEMENT TO BE EXECUTED THE DAY AND YEAR FIRST ABOVE WRITTEN.

Douglas Kydd

Steve Prekas (LESSOR)
STEVE PREKAS

Douglas Kydd

DEMOSTHENES DONUTS, CORP. (LESSEE)
Steve Prekas
STEVE PREKAS, PRESIDENT

ATTEST: Gilbert Rosenberg
Gilbert Rosenberg
Secretary

(FRANCHISOR)
DUNKIN' DONUTS OF AMERICA, INC.
BY: James M. Orlando
James M. Orlando
Senior Vice President



Location is Section 69, Block 1, Lot 11.

Please return recorded documents to: Douglas A. Kydd, Jr.
DUNKIN' DONUTS OF AMERICA, INC.
525 George Road
North Brunswick, New Jersey 08802

This Agreement

made this 4th day of August, 1983 between

STEVE PERKAS, 3 Warden Circle, Newburgh, New York

as Landlord

and **DEMOSTHERES DONUTS, CORP., 574 Broadway, Newburgh, New York**

WITNESSETH: The Landlord hereby leases to Tenant and Tenant hereby, Mrs. Irina Landlord The Land and building at N/W/C of Routes 94 & 300, Vails Gate, New Windsor, New York, as further described in Exhibit A attached hereto.

for the term of **twenty years** to commence on the **1st day of November, 1983** and to end on the **31st day of October, 2003** upon the conditions and covenants following:

1st. Tenant shall pay the annual rent of **Forty-eight thousand and 00/100 (\$48,000) dollars**

said rent to be paid in equal monthly payments in advance on the 1st day of each and every month during the term hereof, as follows: **Beginning with November 1, 1983 and on the 1st day of each and every month thereafter the sum of four thousand (\$4,000) dollars with the right of the landlord to increase the rental after each 12 month period to reflect cost of living increase based on the index for this area, but not to exceed \$6,000 per month.**

2nd. Tenant shall use and occupy the leased premises for no purpose other than **Dunkin Donuts franchised store.**

3rd. Tenant shall take good care of the premises and fixtures, make good any injury or damage done by Tenant or Tenant's agents, employees or visitors, and shall quit the premises and fixtures, at the end of said term, in as good condition as the reasonable use thereof will permit; shall not make any additions, alterations or improvements in said premises, or permit any additional work or fixtures on any part, without the written consent of Landlord; and all alterations, partitions, additions or improvements, which may be made by either of the parties hereto upon the premises, shall be the property of Landlord, and shall remain upon and be surrendered with the premises, as a part thereof, at the termination of this lease, without disturbance, molestation or injury.

4th. Tenant shall promptly execute and comply with all statutes, ordinances, rules, orders, regulations and requirements of the Federal, State and City Government and of any one of their Departments and Bureau applicable to said premises, for the protection, preservation, and abatement of nuisances at other premises, in, upon, or connected with said premises during said term; and shall also comply with any and all rules, orders and regulations of the New York Board of Fire Underwriters for the protection of fire of Tenant's own and adjacent premises.

5th. Tenant, successors, heirs, executors or administrators shall not assign this agreement, or transfer or sublet the premises, or any part thereof, without Landlord's consent in writing; or accept, or permit or suffer the same to be occupied for any business or purpose deemed objectionable or ultra-hazardous on account of fire, under the penalty of damages and forfeiture, and in the event of a breach thereof, the term hereof shall immediately cease and determine at the option of Landlord as if it were the expiration of the original term.

6th. In case of damage, by fire or other action of the elements, to the building or the leased premises, the Tenant shall immediately notify the Landlord in writing of the damage with reasonable dispatch after notice of damage, and if the damage has rendered the premises untenable, in whole or in part, there shall be an abatement of the rent until the damage has been repaired, in determining what constitutes reasonable dispatch consideration shall be given to delay caused by strikes, adjustment of insurance and other causes beyond Landlord's control.

7th. Tenant agrees that Landlord and Landlord's agents and other representatives shall have the right to enter into and upon said premises, at any part thereof, at all reasonable hours for the purpose of examining the same, or for making such repairs, alterations, additions or improvements therein as may be necessary or deemed advisable by Landlord. Tenant also agrees to permit Landlord or Landlord's agents to show the premises to persons wishing to hire or purchase the same; and Tenant further agrees that during the 6 months next preceding the expiration of the term hereby granted, Landlord or Landlord's agents shall have the right to place notices on the front of said premises, or any part thereof, stating the premises "To Let" or "For Sale", and Tenant hereby agrees to permit the same to remain thereon without hindrance or molestation.

8th. If, before the commencement of the term, Tenant takes the benefit of any insolvent act, or if a Receiver or Trustee be appointed for Tenant's property, or if the estate of Tenant hereunder be transferred or pass to or devolve upon any other person or corporation, or if Tenant shall default in the performance of any agreement by Tenant contained in any other lease to Tenant by Landlord or by any corporation of which an officer of Landlord is a Director, this lease shall thereby, at the option of Landlord, be terminated and in that case, neither Tenant nor anybody claiming under Tenant shall be entitled to go into possession of the demised premises. If after the commencement of the term, any of the events mentioned above in this subsection shall occur, or if Tenant shall make default in fulfilling any of the covenants of this lease or the rules and regulations, other than the covenants for the payment of rent or "additional rent" or if the demised premises become vacant or deserted, Landlord may give to Tenant ten days notice of intention to end the term of this lease, and thereupon at the expiration of said ten days (if said condition which was the basis of said notice shall continue to exist) the term under this lease shall expire as fully and completely as if that day were the date herein definitely fixed for the expiration of the term and Tenant will then quit and surrender the demised premises to Landlord but Tenant shall remain liable as possessor provided.

9th. If Tenant shall make default in the payment of the rent reserved hereunder, or any item of "additional rent" herein mentioned or any part of either or in making any other payment herein provided for, or if the notice set above provided for shall have been given and if the condition which was the basis of said notice shall exist at the expiration of said ten days' period, Landlord may, immediately, or at any time thereafter, re-enter the demised premises and remove all persons and all of any property thereon, either by summary dispossession proceedings, or by any suitable action or proceeding at law, or by force or otherwise, without being liable to indictment, prosecution or damages therefor, and re-possess and enjoy said premises together with all additions, alterations and improvements, in any even case or in the event that this lease be "terminated" before the commencement of the term, as above provided. Landlord may either accept the demised premises or any part or parts thereof for Landlord's own account, or may, at Landlord's option, relet the demised premises or any part or parts thereof as the agent of Tenant, and receive the rents therefor.

**EXHIBIT A - LEASE OPTION AGREEMENT
DATED 8/4/83**

This FINANCING STATEMENT is presented to a Filing Officer for filing pursuant to the Uniform Commercial Code.

No. of Additional Sheets Presented:

3. The Debtor is a transmitting utility.

1. Debtor(s) (Last Name First) and Address(es):

Prekas, Steve
3 Warden Circle
Newburgh, NY

2. Secured Party(ies) Name(s) and Address(es)

Chrysler First Business
Credit Corporation
Suite 301
1259 So. Cedar Crest Blvd.
Allentown, PA 18103

4. For Filing Officer: Date, Time, No. Filing Office

ORANGETOWN, NY

1992 MAR -3 4:10 02

01052

5. This Financing Statement covers the following types (or items) of property:

All fixtures, equipment, inventory, receivables and contract rights now owned by debtor or hereafter acquired and all proceeds received from the disposition of such inventory or other property now owned or hereafter acquired, if any.

Products of the Collateral are also covered.

6. Assignee(s) of Secured Party and Address(es)

7. The described crops are growing or to be grown on:

The described goods are or are to be affixed to:

The lumber to be cut or minerals or the like

(including oil and gas) is on:

(Describe Real Estate Below)

8. Describe Real Estate Here:

This statement is to be indexed in the Real Estate Records:

Section 69, Block 1, Lot 11

Route 94, Town of New Windsor, NY

9. Name of a Record Owner:

Prekas, Steve

No. & Street

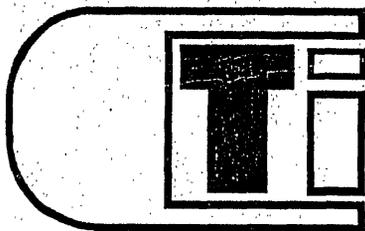
Town or City

County

Section

Block

Lot



ABSTRACT
CORP.

176 MAIN STREET • GOSHEN, NEW YORK 10924 • (914) 294-5428
FAX # 294-3894

20

3/04/94

Jerald Fiedelholtz
P.O. Box 4080
New Windsor, NY 12553

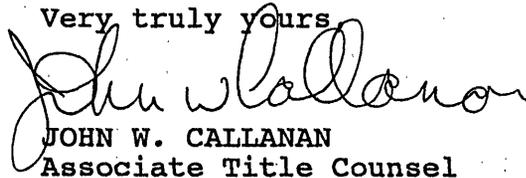
RE: STEVE PREKAS and EKATERINI PREKAS with MIDDLETOWN SAVINGS BANK
Title No. 941117

Dear Mr. Fiedelholtz:

Enclosed herewith is revised schedule B including the survey
reading and revised description for the above captioned transaction.

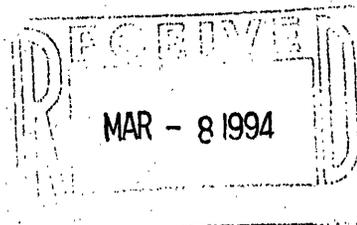
Please affix this letter to your title report and consider
it a part thereof.

Very truly yours


JOHN W. CALLANAN
Associate Title Counsel

JWC:me
enc.

cc: MacVean, Lewis, et al.



SCHEDULE B (Continued)

Commitment No.

941117

DESCRIPTION

All that certain lot, piece or parcel of land, situate, lying and being in the Town of New Windsor, County of Orange and State of New York bounded and described as follows:

Beginning at the intersection of the westerly line of New York State Route 300, (A/K/A Temple Hill Road) with the northerly line of New York State Route 94, thence along the road line of New York State Route 94, South 75 degrees 10' 00" West 77.10 feet to a point, thence along other lands of Prekas, North 14 degrees 50' 00" West 90.00 feet to a point, and continuing along other lands of Prekas, North 31 degrees 06' 00" East 119.45 feet to a point marked by a found iron pipe, thence along the roadline of New York State Route 300, the three following courses: (1) South 55 degrees 34' 32" East 15.75 feet, (2) South 17 degrees 41' 00" East 123.00 feet and (3) South 18 degrees 26' 00" West 45.80 feet to a point on the northerly line of Route 94 and the point of beginning.

SCHEDULE B (Continued)

Commitment No. 941117

15. Proof is required to show that STEVE PREKAS

has (have) not been known by any other name(s) in the 10 years last past. If that (those) person(s) has (have) been known by another name, all searches must be amended and run against such name(s) and title is subject to returns, if any, on such amended searches.

16. Rights of present tenants, lessees or parties in possession.
17. The following mortgages (if not shown on separate page 3 of this Schedule B), taxes and assessment (if not shown on separate page 4 of this Schedule B), easements, conditions, restrictive covenants, judgments, mechanic's liens, other liens, encumbrances, defects and objections to title. (Copies of any restrictive covenants, easements or conditions are attached):
18. Our policy does not insure against taxes, water rates, assessments and other matters relating to taxes which have not become a lien up to the date of the policy or installments due after the date of the policy. Neither our tax search nor our policy covers any part of streets on which the premises abut.
19. The exact acreage of the premises herein is not insured.
20. Rights, if any, in favor of any electric light or telephone company to maintain guy wires extending from said premises to poles located on the roads on which the premises abut, but policy will insure, however, that there are no such agreements of record in connection therewith, except as may be shown herein.
21. Underground encroachments and easements, if any, including pipes and drains, and such rights as may exist for entry upon said premises to maintain and repair the same, but policy will insure, however, that there are no such easements of record in connection therewith, except as may be shown herein.
22. No title is insured to that portion of the premises lying in the bed of any street or roadway.
23. The mortgages reported herein must be properly disposed of at or prior to closing.
NOTE: If the mortgage to be satisfied is a Home Equity Loan, the Title Company requires the following:
(A) Proof that the Lender has received ten (10) days written Notice prior to the date of closing that the account has been frozen;
(B) All unused checks must be returned at the date of closing to the lender.
24. Grants in Liber 717 cp. 92; Liber 743 cp. 222 and Liber 918 cp. 16. Policy insures that same will not interfere with the use and enjoyment of the premises for residential purposes.

SCHEDULE B (Continued)

Commitment No. 941117

25. Subject to a temporary easement as described in Final Order No. 2061-1971.
26. Survey made by Francis E. Whitaker, dated February 26, 1994 shows no encroachments or lot line variations except the following: (2) Concrete curb located off the easterly and southerly side of premises.
27. For Information Only - U.C.C. Financing Statement #1052/92 Filed in the Orange County Clerk's Office on March 3, 1992. Chrysler First Business Credit Corporation (Secured Party) v. Steve Prekas, (Debtor)
28. Lease Option Agreement between Steve Prekas and Demosthenes Donuts Corp. dated August 4, 1983, recorded December 7, 1983 in Liber 2269 cp. 1175.
29. Assignment of Leases and Rents to The Bank of New York recorded in Liber 3427 cp. 95.
30. Assignment of Leases and Rents to Chrysler First Business Credit Corporation in Liber 3576 cp. 162.
31. Notice of Appropriation by New York State Department of Transportation recorded in Liber 3224 cp. 23.
32. Premises herein are listed as partially exempt from taxation at the present time, but may be subject to discontinuance of such exemption and possibly the restoration of taxes by reason of prior transfer of title from an exempt owner. Policy will except the provisions of Section 494 of the Real Property Tax Law, as amended by Section 302 (3), 520, amending Section 494.
33. Attention is called to the fact that any instrument covering premises in the State of New York must be endorsed with the Section, Block and Lot of the Tax Map of the City or Town in which the premises are situated before it will be acceptable for recording.

NOTE: Municipal searches are attached herewith.

NOTE: Flood Certification is attached herewith.

Lawyers Title Insurance Corporation

NATIONAL HEADQUARTERS
RICHMOND, VIRGINIA

SCHEDULE B (Continued)

Commitment No.

NOTE: The County Clerks require that all documents submitted for recording must be signed in black ink.

NOTE: This company has recently suffered considerable delay and expense in recording instruments due to the rejection of uncertified checks by various County Clerks. By reason thereof, any check made payable to a County Clerk (other than the Orange County Clerk which has a \$500.00 limit) in excess of \$1,000.00 must be certified funds.

A T T A C H M E N T I

Prekas

11. SPECIFIC CONDITIONS WHICH APPLY TO YOUR LOAN CON'T.

- a. It is understood that, in the event the borrower(s) prepay the entire amount of the loan during the first year, a prepayment penalty of 1% of the original amount of the mortgage is required. After the first year, the borrower(s) may prepay the entire amount of the loan or any portion thereof without penalty.
- b. It is understood that rent rolls on this property will be submitted to Middletown Savings Bank annually.
- c. It is understood that a current financial statement, including income and expense, and a current rent roll, if applicable, on this property will be submitted to Middletown Savings Bank annually.
- d. This commitment is subject to Rent Assignment(s), both present and future, of all tenant(s); enforcement of said Assignments contingent upon the discretion of Middletown Savings Bank.
- e. This commitment is subject to our receipt, 10 days before the closing, of a satisfactory Phase I Environment Assessment Report performed on the property by a local engineer. We suggest asking either William L. Going & Associates, Inc., 43A Koblet Drive, Walkkill, NY 12589, Telephone No. (914) 895-5448 or Silvers Engineering, 26 North Street, Middletown, NY 10940, Telephone No. (914) 343-0781 or Eikon Planning and Design Corp. P.O. Box 469, 221 High Street, Hackettstown, NJ 07840, Telephone No. (908) 813-2323 to perform this assessment. The expense for this report will be paid for by the borrowers.
- f. This commitment is subject to our receipt, at closing, of a recent letter from the Building Inspector, in the Town of New Windsor stating that there are no code violations of record in connection with the building on 101 Highway Route 94, New Windsor, New York.
- g. It is understood that the First Mortgage in the approximate amount of \$200,000.00, and the vehicle loan and two business loans, in the approximate amount of \$50,000.00, plus any accrued interest, will be paid at the time of the closing.
- h. Lender's attorneys' fees for this loan will be determined by Lender's attorneys'. Please contact our law firm which is indicated on page 7, Section 13 CLOSING REQUIREMENTS of the commitment for the fees.
- i. 1991 and 1992 U.S. Individual Income Tax Returns to be signed by Steve Prekas and Ekaterini Prekas and returned with the signed commitment.
- j. 1991 and 1992 U.S. Income Tax Return for an S Corporation to be signed by an appropriate representative of S. G. Acropolis Donut, Inc. and returned with the signed commitment.

ordered

895-5448

J.B.H.

J.B.H.



C.T.I. ABSTRACT CORP.

AGENT FOR
LAWYERS TITLE INSURANCE COMPANY

176 MAIN STREET, GOSHEN, NEW YORK 10924 • (914) 294-5428 • FAX # 294-3894



SERVING: ORANGE, ROCKLAND, SULLIVAN, ULSTER AND UPSTATE COUNTIES

TITLE NO. 94 1117

TO: Jerald Fiedelholz, Esq.

P.O. Box 4080
New Windsor, NY 12553

94 - 1117

RE: Prekas With Middletown S.B.

REMARKS — SPECIAL INSTRUCTIONS
MTG TAX — (DIRECT CHECK) AMOUNT:

RECEIPTS	AMOUNT
CHECKS:	
CASH:	
TOTAL \Rightarrow	

	CHARGES	
1. MORTGAGE INSURANCE (\$ 325,000.)	1017. 1283	00 00
2. FEE INSURANCE (\$)		
3. SURVEY INSPECTION		
4. MUNICIPAL SEARCHES	95.	00
5. MISC. CHARGES c/o Charge	75.	00
RECORDING CHARGES:		
() DEEDS		
() MORTGAGES		
() MORTGAGE SATISFACTION		
() POWER OF ATTORNEY		
() MORTGAGE ASSIGNMENT		
() B/L AGREEMENT		
() Flood	35.	00
() Environmental	25.	00
TRANSFER TAX		
MORTGAGE TAX	3500	-
MORTGAGE TAX		
SURVEYORS FEE Variable Rate	25. 128	00 00
ESCROW 7000-3		
TOTAL		
CLOSER		
DATE		

BILL: _____
NAME _____
ADDRESS _____

FOR THE FOLLOWING:

Lawyers Title Insurance Corporation

NATIONAL HEADQUARTERS

RICHMOND, VIRGINIA

Commitment No. 941117

COMMITMENT FOR TITLE INSURANCE

Issued by

LAWYERS TITLE INSURANCE CORPORATION

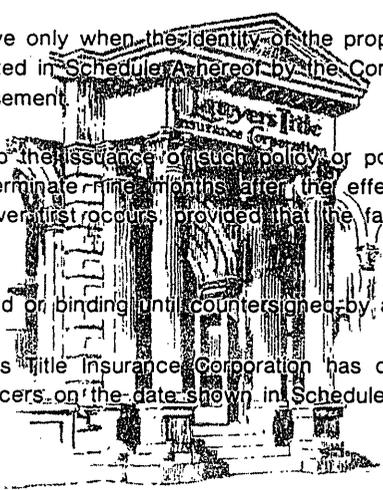
Lawyers Title Insurance Corporation, a Virginia corporation, herein called the Company, for a valuable consideration, hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest covered hereby in the land described or referred to in Schedule A, upon payment of the premiums and charges therefor; all subject to the provisions of Schedules A and B and to the Conditions and Stipulations on the reverse hereof.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by the Company, either at the time of the issuance of this Commitment or by subsequent endorsement.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate nine months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company.

This Commitment shall not be valid or binding until countersigned by an authorized officer or agent.

IN WITNESS WHEREOF, Lawyers Title Insurance Corporation has caused its corporate name and seal to be hereunto affixed by its duly authorized officers on the date shown in Schedule A.



CTI ABSTRACT CORP.

176 Main Street

Goshen, New York 10924

914-294-5428

Countersigned by:

by Donald W. Melic
Authorized Officer or Agent

Telephone number:

This Commitment is intended for lawyers only. Such exceptions as may be set forth herein may affect marketability of title. Your lawyer should be consulted before taking any action based upon the contents of this Commitment. The Company's representative at the closing hereunder may not act as legal advisor to any of the parties or draw legal instruments for them. Such representative is permitted to be of assistance only to an attorney. It is advisable to have your attorney present at the closing.

Lawyers Title Insurance Corporation

By:

Janet A. Alpert

President

Attest:

John Alpert

Secretary.

ABSTRACT
CORP.

C. T. I. ABSTRACT CORP.

176 MAIN STREET, GOSHEN, NEW YORK 10924 - (914) 294-5428 - TOLL FREE 800 942-7130

SERVING: ORANGE, ROCKLAND, SULLIVAN, ULSTER, DUTCHESS, WESTCHESTER AND UPSTATE COUNTIES

Number	Date		Insurance
941117	(84BC 628 619)	02/10/94 ORANGE	Mtg \$325,000.00 Fee

TITLE VESTED IN: STEVE PREKAS and EKATERINI PREKAS

INSURED, FEE: NA

INSURED, MTG: (3) MIDDLETOWN SAVINGS BANK

REMISES: 101 Rt 94, New Windsor, New York
T/O New Windsor 69 - 1 - 11

REMARKS: Order Muni, Flood, Applicant to advise re: Survey
Applicant to p/u municipals SUPER RUSH

APPLICANT: Jerald Fiedelholtz, P.O. Box 4080, New Windsor, NY 12553
5624630

SELLER'S ATTORNEY:

BUYER'S ATTORNEY: MacVean, Lewis, et al., 34-36 Grove St., Middletown,
NY 10940

THANK YOU FOR YOUR APPLICATION FOR THE EXAMINATION OF TITLE TO THE ABOVE DESCRIBED PREMISES.
WE SHALL DO OUR BEST TO REPORT THIS TITLE PROMPTLY AND FACILITATE ITS CLOSING.

VERY TRULY YOURS,

Lawyers Title Insurance Corporation

NATIONAL HEADQUARTERS
RICHMOND, VIRGINIA

SCHEDULE A

1. Effective Date: **January 24, 1994** Commitment No. **941117**
2. Policy (or policies) to be issued:
- (a) ALTA Owner's Policy 1990 (with N.Y. Endorsement Modifications) Policy Amount
Proposed Insured:
- (b) ALTA Loan Policy 1990 (with N.Y. Endorsement Modifications) Policy Amount
Proposed Insured: **\$325,000.00**
MIDDLETOWN SAVINGS BANK
Its Successors and/or Assigns
- (c) Policy Amount
Proposed Insured:
3. Title to the **fee simple** estate or interest in the land
described or referred to in this Commitment is at the effective date hereof vested in:
STEVE PREKAS, who acquired title by deed from Nicholas C. Marshall
dated March 30, 1979 and recorded April 3, 1979 in Liber 2127 cp. 745.
4. The land referred to in this Commitment is described as follows: (If not described here, as on page 2 of this Schedule).

SEE ANNEXED DESCRIPTION

Issued at Goshen, New York
Donald W. Mirro

DESCRIPTION

ALL that certain piece or parcel of land lying, situate and being in the Town of New Windsor, Orange County, New York bounded and described as follows:

BEGINNING at a point in the northerly line of New York State Highway known as Route 94, said point being an iron pipe set in the ground at the southeasterly corner of lands now or formerly of Satterly and running thence, along said Satterly lands $N14^{\circ} 50' 00'' W 90.00'$ to an iron pipe set in the ground; thence, still along Satterly lands $N 31^{\circ} 06' 00'' E 119.45'$ to an iron pipe set in the westerly line of the County Highway known as Route 59 (Temple Hill Road); thence, along said highway line the following three (3) courses:

- 1) $S55^{\circ} 35' 00'' E 15.75'$ to an iron pipe set in the ground;
 - 2) $S17^{\circ} 41' 00'' E 123.00'$ to an iron pipe set in the ground;
 - 3) $S18^{\circ} 26' 00'' W 45.80'$ to an iron pipe set in the ground
- in the northerly line of the aforementioned Route 94; thence, along said road line $S75^{\circ} 10' 00'' W 77.10'$ to the point or place of beginning.

Lawyers Title Insurance Corporation

NATIONAL HEADQUARTERS
RICHMOND, VIRGINIA

SCHEDULE B (Continued)

Commitment No. 941117

15. Proof is required to show that STEVE PREKAS
- has (have) not been known by any other name(s) in the 10 years last past. If that (those) person(s) has (have) been known by another name, all searches must be amended and run against such name(s) and title is subject to returns, if any, on such amended searches.
16. Rights of present tenants, lessees or parties in possession.
17. The following mortgages (if not shown on separate page 3 of this Schedule B), taxes and assessment (if not shown on separate page 4 of this Schedule B), easements, conditions, restrictive covenants, judgments, mechanic's liens, other liens, encumbrances, defects and objections to title. (Copies of any restrictive covenants, easements or conditions are attached):
18. Our policy does not insure against taxes, water rates, assessments and other matters relating to taxes which have not become a lien up to the date of the policy or installments due after the date of the policy. Neither our tax search nor our policy covers any part of streets on which the premises abut.
19. The exact acreage of the premises herein is not insured.
20. Rights, if any, in favor of any electric light or telephone company to maintain guy wires extending from said premises to poles located on the roads on which the premises abut, but policy will insure, however, that there are no such agreements of record in connection therewith, except as may be shown herein.
21. Underground encroachments and easements, if any, including pipes and drains, and such rights as may exist for entry upon said premises to maintain and repair the same, but policy will insure, however, that there are no such easements of record in connection therewith, except as may be shown herein.
22. No title is insured to that portion of the premises lying in the bed of any street or roadway.
23. The mortgages reported herein must be properly disposed of at or prior to closing.
- NOTE: If the mortgage to be satisfied is a Home Equity Loan, the Title Company requires the following:
- (A) Proof that the Lender has received ten (10) days written Notice prior to the date of closing that the account has been frozen;
- (B) All unused checks must be returned at the date of closing to the lender.
24. Grants in Liber 717 cp. 92; Liber 743 cp. 222 and Liber 918 cp. 16. Policy insures that same will not interfere with the use and enjoyment of the premises for residential purposes.

Lawyers Title Insurance Corporation

NATIONAL HEADQUARTERS
RICHMOND, VIRGINIA

SCHEDULE B (Continued)

Commitment No. 941117

25. Subject to a temporary easement as described in Final Order No. 2061-1971.
26. Survey made by Francis E. Whitaker, dated May 22, 1992 shows premises to be insured and other lands, having no encroachments or lot line variations except the following: (1) Temporary Easement located within the southerly side of premises; (2) Concrete curb located off the easterly and southerly side of premises. Inspection dated February 14, 1994 shows no changes that would encroach on or vary with lot lines.
27. For Information Only - U.C.C. Financing Statement #1052/92 Filed in the Orange County Clerk's Office on March 3, 1992. Chrysler First Business Credit Corporation (Secured Party) v. Steve Prekas, (Debtor)
28. Lease Option Agreement between Steve Prekas and Demosthenes Donuts Corp. dated August 4, 1983, recorded December 7, 1983 in Liber 2269 cp. 1175.
29. Assignment of Leases and Rents to The Bank of New York recorded in Liber 3427 cp. 95.
30. Assignment of Leases and Rents to Chrysler First Business Credit Corporation in Liber 3576 cp. 162.
31. Notice of Appropriation by New York State Department of Transportation recorded in Liber 3224 cp. 23.
32. Premises herein are listed as partially exempt from taxation at the present time, but may be subject to discontinuance of such exemption and possibly the restoration of taxes by reason of prior transfer of title from an exempt owner. Policy will except the provisions of Section 494 of the Real Property Tax Law, as amended by Section 302 (3), 520, amending Section 494.
33. Attention is called to the fact that any instrument covering premises in the State of New York must be endorsed with the Section, Block and Lot of the Tax Map of the City or Town in which the premises are situated before it will be acceptable for recording.

NOTE: Municipal searches are attached herewith.

NOTE: Flood Certification is attached herewith.

