

ZB# 99-24

Orwest Realty Corp.

12-2-1

Prelim.

June 28, 1999.

Public Hearing Granted

Notice to Paper 8/10/99.

Public Hearing:

Sept. 13, 1999.

Granted
Area Variance

Refund * 407.50

#99-24

Orwest Realty Corp.

Area

12-2-1





Wilson Jones - Computers - 5185-1000 Dupont - 51857N-CL, Tropicana



DATE August 20, 1999 RECEIPT 134254
 RECEIVED FROM M & H. Construction Inc.
 Address One Hundred Fifty and 1/2 DOLLARS \$150.00
 FOR Zoning Board application
File # 99-24

ACCOUNT		HOW PAID	
BEGINNING BALANCE		CASH	<u>#6408</u>
AMOUNT PAID		CHECK	<u>150</u> <u>20</u>
BALANCE DUE		MONEY ORDER	

Teresa Clark
 BY Dorothy N. Hansen

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Orwest Realty Corp.

FILE# 99-24

RESIDENTIAL: \$50.00
INTERPRETATION: \$150.00

COMMERCIAL: \$150.00

AREA

USE _____

APPLICATION FOR VARIANCE FEE \$ 150.00

*paid ck.
6408
8/20/99
ck. # 6409.*

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 500.00

DISBURSEMENTS:

STENOGRAPHER CHARGES: \$4.50 PER PAGE

PRELIMINARY MEETING-PER PAGE 6/28/99-2 \$ 9.00
2ND PRELIMINARY-PER PAGE 9/13/99-3 \$ 13.50
3RD PRELIMINARY-PER PAGE \$ _____
PUBLIC HEARING - PER PAGE \$ _____
PUBLIC HEARING (CONT'D) PER PAGE \$ _____
TOTAL \$ 22.50

ATTORNEY'S FEES: \$35.00 PER MEETING

PRELIM MEETING: 6/28/99 \$ 35.00
2ND PRELIM. 9/13/99 \$ 35.00
3RD PRELIM. \$ _____
PUBLIC HEARING. \$ _____
PUBLIC HEARING (CONT'D) \$ _____
TOTAL \$ 70.00

MISC. CHARGES:

..... \$ _____
TOTAL \$ 92.50

LESS ESCROW DEPOSIT \$ 500.00
(ADDL. CHARGES DUE) \$ _____
REFUND DUE TO APPLICANT. \$407.50

M & A CONSTRUCTION CO. INC.
181 NEW BRITAIN AVENUE
FARMINGTON, CT 06032

Memo:

Aug 16, 1999 *****\$500.00*

Five Hundred and 0/100 Dollars

DATE

AMOUNT

TO THE
ORDER

TOWN OF NEW WINDSOR

Marius Clausche

79-24.2BA

⑆006409⑆ ⑆211170101⑆10 4008801397⑆

Security features included. Details on 1888

M & A CONSTRUCTION CO. INC.
181 NEW BRITAIN AVENUE
FARMINGTON, CT 06032

Memo:

Aug 16, 1999 *****\$150.00*

One Hundred Fifty and 0/100 Dollars

DATE

AMOUNT

PAY
TO THE
ORDER
OF

TOWN OF NEW WINDSOR

Marius Clausche

#2BA 99-24

⑆006408⑆ ⑆211170101⑆10 4008801397⑆

Security features included. Details on 1888

-----X
In the Matter of the Application of
ORWEST REALTY CORP./D.B. COMPANIES, INC.

**MEMORANDUM OF
DECISION GRANTING
AREA VARIANCES**

#99-24.
-----X

WHEREAS, ORWEST REALTY CORP., a corporation having offices located at 168 Madison Road, Scarsdale, N. Y. 10583, owner, and **D.B. COMPANIES, INC.**, P. O.Box 9471, Providence, R. I. 02940, lessee, have made application before the Zoning Board of Appeals for a one ft. front yard variance for an existing canopy parallel to Route 32 (corner lot) at property located at 173 Windsor Highway and Union Avenue intersection in an NC zone; and

WHEREAS, a public hearing was held on the 13th day of September, 1999 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared by Andrew Romano of M & A Construction; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke in favor or in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

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

2. The evidence presented by the Applicant showed that:

(a) The property is a commercial property located on a busy state highway adjacent to and across from other commercial properties.

(b) The property contains two canopies over gasoline storage tanks which were installed approximately one year ago.

(c) During the construction of the canopy facing Route 32, a measurement error occurred, which resulted in the canopy being constructed 13 inches from Route 32, thus creating

a need for a one inch front yard variance on the Route 32 side.

(d) The location of the pump island parallel to Route 32, is consistent with other gasoline dispensing facilities in the area.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The 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 the Applicant which can produce the benefits sought.
3. The variance requested is substantial in relation to the Town regulations, but nevertheless is warranted.
4. The requested variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.
6. The benefit to the Applicant, if the requested variance is granted, outweighs the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variance as previously stated is reasonable in view of the size of the building, its location, and its appearance in relation to other buildings in the neighborhood.
8. The interests of justice will be served by allowing the granting of the requested area variance.

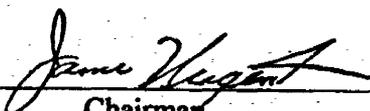
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for one inch front yard variance for existing canopy over gasoline pump parallel to Route 32 located at 173 Windsor Highway, 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: November 8, 1999.


Chairman

Date 9/25/99, 19.....

TOWN OF NEW WINDSOR
 TOWN HALL, 555 UNION AVENUE
 NEW WINDSOR, NEW YORK 12553

TO Frances Roth..... DR.
 168 N. Drury Lane
 Newburgh, N.Y. 12550.....

DATE		CLAIMED	ALLOWED
9/13/99	Zoning Board Mtg	75 00	
	Misc - 3		
	Ross - 5		
	TOS Assoc. - 6		
	Johnson - 5		
	Anderson - 3		
	Owest Realty - 3 13.50		
	Pospisil - 3		
	Rinaldi - 3	139 50	
	<u>31</u>		
		<u>214 50</u>	

PUBLIC HEARING:

ORWEST REALTY, INC.

MR. NUGENT: Is there anyone here for that other than the applicant? Let the record show that there's no one in the audience. This is a request for 1 ft. front yard variance to allow existing canopy at Dairy Mart Store at 173 Windsor Highway in NC zone.

Mr. Andy Romano of M & A Construction appeared before the board for this proposal.

MR. KANE: You have to repeat yourself from what you did last time.

MR. ROMANO: There was a calculation measure, I thought I had six inches from the curb and turned out the curb is in the wrong place and that's where we are.

MR. NUGENT: Remember this guy?

MR. KANE: Yes.

MR. NUGENT: This is down on the corner of 32 and Union Avenue gas station down there.

MR. KRIEGER: Now, the existing canopy is over the gas pumps?

MR. ROMANO: Yes, sir.

MR. KRIEGER: Which canopy, the one closest to 32 or one closest to Union Avenue?

MR. BABCOCK: 32.

MR. NUGENT: 32 side.

MR. BABCOCK: 32 side.

MR. KRIEGER: How long has the canopy been in existence?

MR. ROMANO: That one there?

MR. TORLEY: A year maybe?

MR. ROMANO: Yeah.

MR. TORLEY: This has occurred simply because of a measurement error in the construction.

MR. ROMANO: Yes.

MR. KANE: Canopy is the same size as was originally planned upon?

MR. ROMANO: Yes.

MR. KANE: Originally put in for the safety of the customers?

MR. ROMANO: Yes, and if I can say to the board three other people went and measured the same thing from the curb 15 foot, I always give six inches advantage and it's off, so actually, the curb is off 18 inches, I'm very sorry.

MR. REIS: Hasn't created any hazards or anything like that to anybody?

MR. ROMANO: No.

MR. NUGENT: Only for him.

MR. ROMANO: Hate to tell you, I've been here since 1 o'clock, make sure I made this meeting.

MR. KANE: Accept a motion?

MR. KRIEGER: One other question, the canopy was built in accordance with the prior variance?

MR. ROMANO: Yes, sir.

MR. KANE: Accept a motion?

MR. NUGENT: Yes.

September 13, 1999

24

MR. KANE: I move--you need to open and close the public hearing.

MR. NUGENT: I did it in the beginning.

MR. KANE: I move that we approve the requested variances by Orwest Realty, Inc. for 173 Windsor Highway.

MR. REIS: Second it.

ROLL CALL

MR. MCDONALD	AYE
MR. REIS	AYE
MR. KANE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

**PUBLIC NOTICE OF HEARING
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. 24

Marie:
M.A. Const. Co, Inc.
860-677-7256

Request of Orwest Realty Corp.

for a VARIANCE of the Zoning Local Law to Permit:

existing canopy w/ insufficient front yard,

being a VARIANCE of Section 48-12 - Table of Use/Bulk Regs - Col. E

for property situated as follows:

173 Windsor Highway (Rt. 32) at corner of Union Ave.,

known and designated as tax map Section 12, Blk 2, Lot 1.

SAID HEARING will take place on the 13th day of Sept., 1999 at the New Windsor Town Hall, 555 Union Avenue, New Windsor, New York beginning at 7:30 o'clock P.M.

James Nugent.
Chairman

OFFICE OF THE BUILDING INSPECTOR
TOWN OF NEW WINDSOR
ORANGE COUNTY, NEW YORK

Prelim.
June 28, 1999
99-246

NOTICE OF DISAPPROVAL OF CERTIFICATE OF OCCUPANCY

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT (914)563-4630 TO MAKE AN APPOINTMENT WITH THE ZONING BOARD OF APPEALS.

DATE: May 26, 1999

APPLICANT: Orwest Realty Corp.
P.O. Box 9471
Providence, RI 02940-9471

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: May 26, 1999

FOR : Existing Dairy Mart Store

LOCATED AT: 173 Windsor Highway

ZONE: NC

DESCRIPTION OF EXISTING SITE: 12-2-1

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. Existing Dairy Mart canopy on RT. 32 does not meet minimum 15' set-back as approved by Zoning Board of Appeals on 1/11/99.

Frank J. Jiri
BUILDING INSPECTOR

PERMITTED 40'

PROPOSED OR
AVAILABLE:

VARIANCE
REQUEST:

ZONE: N C USE: E-8

MIN. LOT AREA:

MIN LOT WIDTH:

REQ'D.. FRONT YD:

14'

1'

REQ'D. SIDE YD:

REQD. TOTAL SIDE YD:

REQ'D REAR YD:

REQ'D FRONTAGE:

MAX. BLDG. HT.:

FLOOR AREA RATIO:

MIN. LIVABLE AREA:

DEV. COVERAGE:

cc: Z.B.A., APPLICANT, FILE ,W/ ATTACHED MAP

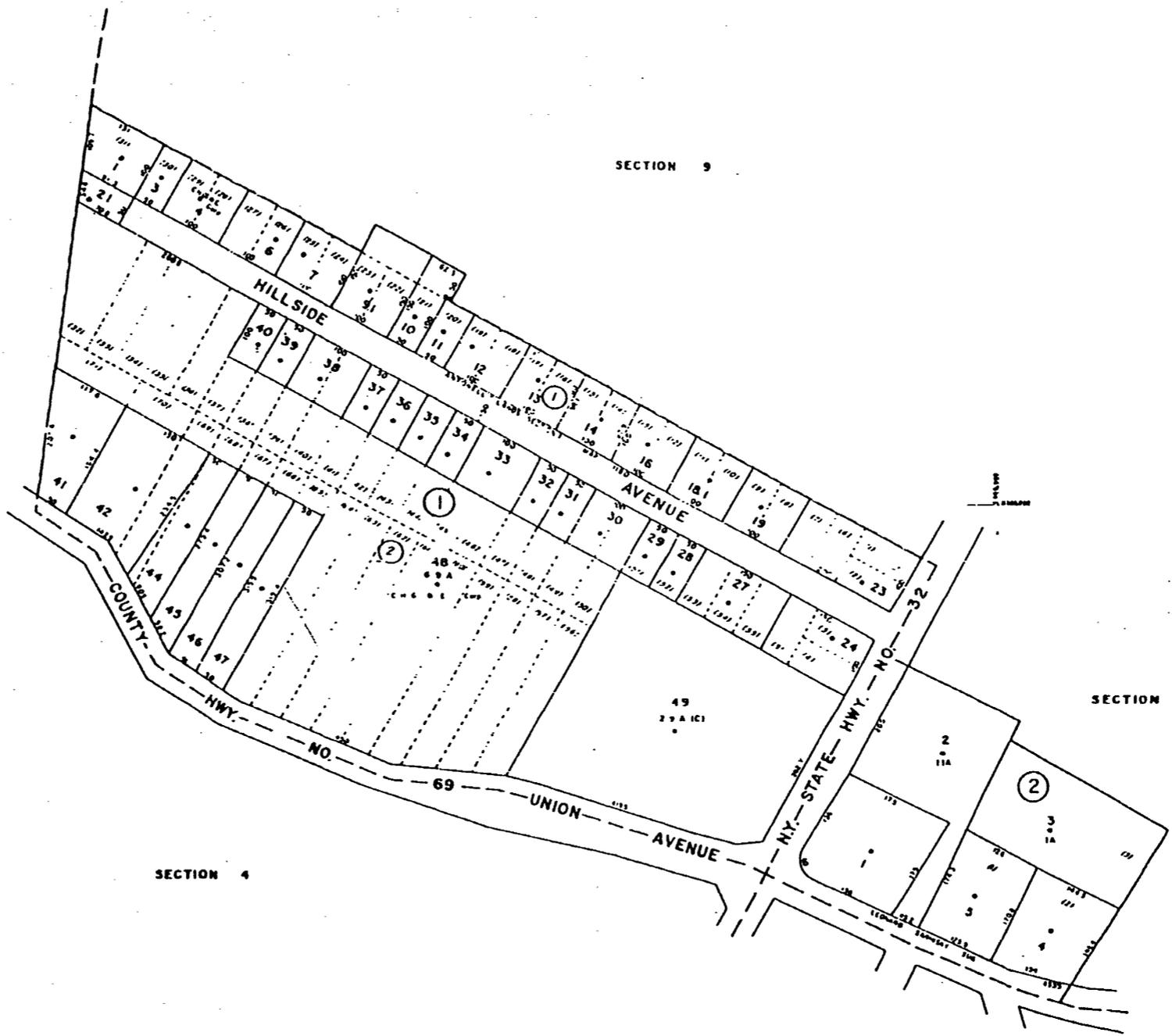
SECTION 4

SECTION 9

SECTION 9

SECTION 4

SECTION 24



ALL NEWBURGH SCHOOL DISTRICT
ALL QUASSICK BRIDGE FIRE DISTRICT

Prepared by
AERO SERVICE CORPORATION
 100-00 47th Avenue, Rego, N.Y. 11574
 (516) 426-1100
FOR TAX PURPOSES ONLY
 NOT TO BE USED FOR CONVEYANCE

LEGEND			
PLAT NO. OF PARCEL	PLAT NO. OF LOT	TAX MAP NO. OF PARCEL	PLAT NO. OF BLOCK
PLAT NO. OF BLOCK	PLAT NO. OF LOT	TAX MAP NO. OF LOT	PLAT NO. OF LOT
PLAT NO. OF LOT	PLAT NO. OF LOT	TAX MAP NO. OF LOT	PLAT NO. OF LOT
PLAT NO. OF LOT	PLAT NO. OF LOT	TAX MAP NO. OF LOT	PLAT NO. OF LOT
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PLAT NO. OF LOT	PLAT NO. OF LOT	TAX MAP NO. OF LOT	PLAT NO. OF LOT

ORANGE COUNTY-NEW YORK

Photo No. 14-3132 Date of Map 2-24-67
 Date of Photo 2-1-62 Date of Revision 3-1-91
 Scale 1" = 100'

TOWN OF NEW WINDSOR

Section No. 12

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

99-#24

Date: 8/20/99.

I. Applicant Information:

- (a) Orwest Realty Corp. 168 Madison Rd Scarsdale, NY
(Name, address and phone of Applicant) (Owner)
- (b) DB Companies Inc. PO Box 9471 Providence RI 02940
(Name, address and phone of purchaser or lessee)
- (c) _____
(Name, address and phone of attorney)
- (d) Decker & Co Inc. PO Box 258 Lc, MA 01238
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- Use Variance Sign Variance
- Area Variance Interpretation

III. Property Information:

- (a) NC 173 Windsor Hwy 12-2-1 30,000/sq. ft.
(Zone) (Address) (S B L) (Lot size)
- (b) What other zones lie within 500 ft.? _____
- (c) Is a pending sale or lease subject to ZBA approval of this application? _____
- (d) When was property purchased by present owner? _____
- (e) Has property been subdivided previously? _____
- (f) Has property been subject of variance previously? _____
If so, when? _____
- (g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? _____
- (h) Is there any outside storage at the property now or is any proposed? Describe in detail:
A gas station/convenience store now exists on property with underground fuel tanks

IV. Use Variance.

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

(b) 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.

N/A

This application is not a use variance request
it is a dimensional request.

(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 48-17 Table of Use/ Bulk Regs., Col. E, F.

Requirements	Proposed or Available	Variance Request
Min. Lot Area <u>15,000</u>	<u>30,000</u>	<u>N/A</u>
Min. Lot Width <u>125 ft.</u>	<u>135 ft.</u>	<u>N/A</u>
Reqd. Front Yd. <u>40 ft.</u>		
Reqd. Side Yd. <u>15/30 ft.</u>	<u>N/A</u>	<u>N/A</u>
Reqd. Rear Yd. <u>15 ft.</u>	<u>N/A</u>	<u>N/A</u>
Reqd. Street Frontage* <u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Max. Bldg. Hgt. <u>23 ft.</u>	<u>17 ft.</u>	<u>N/A</u>
Min. Floor Area* <u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Dev. Coverage* <u>N/A</u> %	<u>N/A</u> %	<u>N/A</u> %
Floor Area Ratio** <u>.5</u>	<u>N/A</u>	<u>N/A</u>
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:

We are requesting a dimensional
variance for a difference of 1" for the
existing canopy

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

VI. Sign Variance:

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

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

(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.

N/A

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

N/A

VII. Interpretation.

(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)

Date 7/27/99, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

(2)

TO Frances Roth DR.
168 N. Drury Lane
Newburgh, N.Y. 12550

DATE		CLAIMED	ALLOWED
6/28/99	Zoning Board Mtg (Denise Prodnick)	75 00	
	Misc. 2		
	Oswest Realty - 2 \$9.00		
	McGuinness, Karen - 4		
	Villa - 4		
	Estate of Zeccola - 2		
	Jennings - 2		
	Barbera - 2		
	Bigi - 3		
	Barton - 2		
	83	103 50	
		<u>178 50</u>	

STATE OF NEW YORK,
TOWN OF NEW WINDSOR

} ss.

.....
I hereby certify, that the items of this account are correct; that the disbursements and services charged therein have in fact been made and rendered, and that no part thereof has been paid or satisfied, that the amount herein mentioned is in full settlement for all services rendered and materials furnished.

Sign Here

No.

Town of New Windsor

.....
Nature

Amount Claimed \$

Amount Allowed \$

Filed

I hereby certify that at a meeting of
said Town Board held at the office of the
Town Clerk on the day
of, 19.....

the within claim was audited and allowed
for the sum of

\$

.....
Clerk

PRELIMINARY MEETING:

ORWEST REALTY

MR. NUGENT: Request for 1 foot front yard variance for canopy at existing Dairy Mart store on 173 Route 32 at Union Avenue intersection in a C zone.

Mr. Andre Romano appeared before the Board for this proposal.

MR. NUGENT: What are we doing?

MR. ROMANO: I made a big mistake, sir. I missed it by a foot.

MR. TORLEY: Mismeasured.

MR. NUGENT: This is the one down there on the corner.

MR. TORLEY: Yes, sir.

MR. ROMANO: Here are the pictures. This is the canopy. I put an extra 9 inches I guess I was off even with 9 inches I put in there. I thought the curb was the line but I was wrong.

MR. NUGENT: It's not a problem. Just we got to go through this whole thing all over again. That's the only problem.

MR. TORLEY: When you came before the Board initially, didn't you have a survey on this?

MR. KANE: He thought the curb line was his plot line.

MR. KANE: It's a mistake. It's just going to cost him more money to go through the whole thing again. They were definitely good improvements.

MR. ROMANO: I made a mistake.

MR. TORLEY: That happens.

MR. NUGENT: If you don't make mistakes, you're not doing anything. Any questions by the Board?

MR. KANE: Mr. Chairman, accept a motion?

MR. NUGENT: Second, Mr. Torley?

MR. TORLEY: Yes.

MR. NUGENT: I move we set up Orwest Realty for a public hearing on the requested variance.

ROLL CALL

MR. TORLEY AYE

MR. KANE AYE

MR. NUGENT AYE

MR. NUGENT: Did she give you the paperwork?

MR. ROMANO: No, sir.

MR. TORLEY: Sir, fill these out. You actually have decent instructions. Take it back to Pat, and she'll -- Pat's going to be back next week?

MR. BABCOCK: Yeah, I think Monday.

MR. NUGENT: She'll be back Monday.

MR. ROMANO: Can I ask the Board what happens after this?

MR. NUGENT: You go through public hearing. If anybody has any complaints or comments, they bring them here.

MR. TORLEY: Just like you did for the first time. State law says we have it do it that way.

MR. ROMANO: No problem. I appreciate it.



Town of New Windsor

555 Union Avenue
New Windsor, New York 12553
Telephone: (914) 563-4631
Fax: (914) 563-4693

Assessors Office

July 13, 1999

(31)

M & A Construction Co
1814 New Britain Ave
Farmington, CT 06032

Re: 12-2-1

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 \$55.00, minus your deposit of \$25.00.

Please remit the balance of \$30.00 to the Town Clerk's office.

Sincerely,

S. COOK (ev)

LESLIE COOK
Sole Assessor

/ev
Attachments

cc: Pat Barnhart, ZBA

4-2-21
RPA Assocs.
C/o: AVR Realty Co. X
1 Executive Blvd.
Yonkers, NY 10701

12-1-30
Joseph & Carmela DeLeonardo
1647 Roland Ave.
Wantagh, NY 11793 X

24-2-1
Joan & Rainer Thiele X
C/o: Joan Thiele
222 Daniher Ave.
New Windsor, NY 12553

9-1-11
Andre & Anna Honch X
4 Hillside Ave.
New Windsor, NY 12553

12-1-48
Central Hudson Gas & Electric Corp.
C/O: Tax Agent X
South Rd.
Poughkeepsie, NY 12602

24-2-2
Lillian M. Adolino X
224 Daniher Ave.
New Windsor, NY 12553

9-1-12.1
LaCasa D'oro/ Heritage Realty
C/o: Anthony Clemenza X
PO Box 284
Chester, NY 10918

12-2-2
Leonard Sarinsky X
171 Windsor Hgwy.
New Windsor, NY 12553

24-2-3
Wm. & Marie Murphy X
228 Daniher Ave.
New Windsor, NY 12553

9-1-25.3
Herbert H. Redl X
80 Washington St., Suite 310
Poughkeepsie, NY 12601

12-2-5
David & Jacie Sarinsky X
298 Union Ave.
New Windsor, NY 12553

24-2-6
Clinton & Marion Adams X
232 Daniher Avenue
New Windsor, NY 12553

24-2-8
Joseph Cocchia, Anna Gaydos,
Mary Casullo X
86 Westwood Drive
Newburgh, NY 12550

24-2-15
Truman D. Adams X
13 Boulevard
Cornwall on Hudson, NY 12520

24-2-16
Donald & Diane McKee Jr. X
227 James Ave.
New Windsor, NY 12553

09-1-25.4
Pleasant Acres Nursery Inc X
161 Windsor Hgwy.
New Windsor, NY 12553

24-1-1
Joseph Bucciarelli X
3 Breezy Knoll
Newburgh, NY 12550

24-3-1
Genevieve Malinowski X
293 Union Ave.
New Windsor, NY 12553

12-1-18.1
Samuel & Madelyn Acquaro X
16 Hillside Ave.
New Windsor, NY 12553

24-1-5
John & Rose Mitchell X
228 James St.
New Windsor, NY 12553

24-3-2.2
Robert & Margaret Millspaugh X
226 Spruce St.
New Windsor, NY 12553

12-1-19
Jaroon R. Buthakurn X
12 Hillside Ave.
New Windsor, NY 12553

24-1-6
Edith Kessel X
230 James St.
New Windsor, NY 12553

24-3-3
Theresa K. Bush X
227 Daniher Ave.
New Windsor, NY 12553

12-1-28
Joseph & RoseAnn Cubito X
15 Hillside Ave.
New Windsor, NY 12553

24-1-7.1
Joel & Nancy Barker X
187 Windsor Hgwy.
New Windsor, NY 12553

24-3-34
Frank & Darleen Mezzatesta X
225 Daniher Ave.
New Windsor, NY 12553

12-1-24
Louis & Kathleen Antonelli X
3 Hillside Ave.
New Windsor, NY 12553

24-1-21
Florence Boersma f/k/a Marullo X
181 Windsor Hgwy.
New Windsor, NY 12553

24-1-22
Carmen Correa X
Unionville Rd.
PO Box 125
Plattekill, NY 12568

12-1-27

Frank Antonelli Sr. & John Antonelli

360 Union Ave.

New Windsor, NY 12553

TO <i>CONNOR JERKINS</i>		FROM <i>THOMAS JERKINS</i>	
Co./Dept.		Co.	

Not

LEASE AGREEMENT

THIS LEASE made as of the 28th day of July, 1978, between ORWEST REALTY CORP., having an office at 1007 Park Street, Peekskill, New York ("LESSOR"), and NYCREST CORP., incorporated in New York with offices at Cold Spring, New York ("LESSEE").

W I T N E S S E T H :

1. LESSOR does hereby demise and lease unto LESSEE ALL THAT CERTAIN parcel of ground situate in the Town of New Windsor County of Orange, State of New York, together with the buildings and improvements now and hereafter erected thereon, and more particularly described as follows:

New ALL that tract or parcel of land situate in the Town of Windsor, County of Orange, State of New York, more particularly bounded and described as follows:

BEGINNING at a point marked by a pin set in the intersection of the southeasterly right-of-way line of New York State Highway Route 32 leading from Newburgh to Vails Gate (no uniform right-of-way width) with the northeasterly right-of-way line of Union Avenue (formerly Little Britain Road- no uniform right-of-way width); extending thence (1) along said southeasterly line of Route 32 North 28 degrees 15 minutes East 38.82 feet to a point marked by a pipe set in an angle of said southeasterly line of Route 32; thence (2) continuing along said southeasterly line of Route 32 North 32 degrees 21 minutes East 120.60 feet to a point marked by a New York State Monument set in an angle of said southeasterly line of Route 32; thence (3) continuing along said southeasterly line of Route 32 North 27 degrees 37 minutes East 15.58 feet to a point marked by a pipe set in the southwesterly line of other lands now or formerly of the party of the first part (said other lands being known as "Pleasant Acres Nursery"; thence (4) along said southwesterly line of other lands of the party of the first part South 63 degrees 53 minutes 36 seconds East 175.00 feet to a point marked by a pipe set in the northwesterly line of other lands of the party of the first part (the last said other lands also known as "Pleasant Acres Nursery"; thence (5) along said northwesterly line of other lands of the party of the first part South 31 degrees 00 Minutes 56

seconds West 175.00 feet to a point marked by a pipe set in the
aforesaid northeasterly line of Union Avenue; thence (6) along
said northeasterly line of Union Avenue North 63 degrees
51 minutes 30 seconds West 175.00 feet to the point and place
of beginning.

*Refers to Mary C. Schaefer the Grantor in Liber 1797 op 830.

1. (a) Premises shall be used as a convenience
food store with self-service gasoline only. Any other operation
shall be only with the consent of the landlord, said consent not
to be unreasonably withheld.

2. The term of this lease shall be for twelve
(12) years beginning on the first day of Sept. 1978 and expiring
the last day of August, 1990. LESSEE yielding and paying therefor
during said term a monthly rental of [REDACTED]

[REDACTED] six (6) years and [REDACTED]
[REDACTED] monthly rent for the
second six (6) years, in advance on the first day of each
calendar month during said term. LESSEE shall have the option
to renew this lease for an additional five (5) years at a monthly
rental of [REDACTED]
per month.

3. All rental and other sums payable by LESSEE to
LESSOR pursuant to this lease shall be paid at such place as
lessor from time to time designates.

4. During the continuance of the lease, LESSEE
shall pay all ad valorem taxes and all assessments which are

levied or assessed against the leased premises and the buildings and improvements thereon by any governmental agency or subdivision.

5. LESSEE agrees to use the premises for lawful purpose and LESSEE will not use premises for any purpose which violates any zoning laws or regulations now or hereinafter enacted.

6. LESSEE shall exercise and be responsible for the exclusive control of the premises and all activities conducted thereon.

7. LESSEE agrees to obtain and maintain all licenses and permits required by Federal, state or local governmental authorities for the installation and operation of the businesses to be conducted on the property.

LESSEE agrees to pay when due all fees and sales, rental, excise and income taxes, imposed in connection with all operations and business conducted upon the premises and upon all property located on or used in connection with the operation of the premises or any tax on rents payable hereunder.

8. LESSEE agrees to pay promptly when due all charges for utilities on the premises including, without limiting the foregoing, all charges for telephone, water, gas, electricity, heat, sewage disposal (whether on or off-site systems) and cesspool cleaning.

9. During the term of this lease, LESSEE agrees to be responsible for all maintenance and upkeep on the Premises, dwellings and buildings and to make all repairs of every nature whatsoever, including structural repairs on the building whenever

TO: <i>CONRAD DECKER</i>		FROM: <i>CHUCK DEBLAIS</i>	
Co./Dept.	Ca.	(6)	

NOT
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LEASE AGREEMENT

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W I T N E S S E T H :

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1. (a) Premises shall be used as a convenience food store with self-service gasoline only. Any other operation shall be only with the consent of the landlord, said consent not to be unreasonably withheld.

2. The term of this lease shall be for twelve (12) years beginning on the first day of Sept. 1978 and expiring the last day of August, 1990. LESSEE yielding and paying therefor during said term a monthly rental of [REDACTED] [REDACTED] six (6) years and [REDACTED] [REDACTED] monthly rent for the second six (6) years, in advance on the first day of each calendar month during said term. LESSEE shall have the option to renew this lease for an additional five (5) years at a monthly rental of [REDACTED] per month.

3. All rental and other sums payable by LESSEE to LESSOR pursuant to this lease shall be paid at such place as lessor from time to time designates.

4. During the continuance of the lease, LESSEE shall pay all ad valorem taxes and all assessments which are

levied or assessed against the leased premises and the buildings and improvements thereon by any governmental agency or subdivision.

5. LESSEE agrees to use the premises for lawful purpose and LESSEE will not use premises for any purpose which violates any zoning laws or regulations now or hereinafter enacted.

6. LESSEE shall exercise and be responsible for the exclusive control of the premises and all activities conducted thereon.

7. LESSEE agrees to obtain and maintain all licenses and permits required by Federal, state or local governmental authorities for the installation and operation of the businesses to be conducted on the property.

LESSEE agrees to pay when due all fees and sales, rental, excise and taxes in connection with all operations and business conducted upon the premises and upon all property located on or used in connection with the operation of the premises or any tax on rents payable hereunder.

8. LESSEE agrees to pay promptly when due all charges for utilities on the premises including, without limiting the foregoing, all charges for telephone, water, gas, electricity, heat, sewage disposal (whether on or off-site systems) and cesspool cleaning.

9. During the term of this lease, LESSEE agrees to be responsible for all maintenance and upkeep on the Premises, dwellings and buildings and to make all repairs of every nature whatsoever, including structural repairs on the building whenever

needed.

Upon LESSEE's failure to make designated repairs within thirty (30) days of LESSOR's written request to LESSEE to do so, LESSOR at its option may terminate this lease. LESSOR shall have the additional option of making the repairs and in such event LESSEE agrees to pay LESSOR its full cost as additional rent pursuant to the provisions of the Additional Rent Clause of this lease.

10. In addition to the rent provisions contained in Paragraph 3, LESSEE agrees to be responsible for LESSOR's cost in the event LESSOR elects to correct a failure on LESSEE's part to assume any of its obligations set forth herein including, but not limited to:

(1) Failure of LESSEE to pay any taxes, assessments, levies garnishments licenses or other charges or liens affecting the premises during the term of this lease.

(2) LESSEE's failure to fully perform its maintenance obligations imposed hereunder.

(3) In the event either party commences legal proceedings to enforce compliance with the provisions of this lease, the losing party in such legal proceedings shall pay reasonable attorney's fees to the winning party.

11. Upon termination or expiration of this lease, LESSEE shall deliver the Premises and building to LESSOR in the condition in which LESSEE is obligated to maintain them, subject only to normal wear and tear.

12. Except with prior written consent, which consent shall not be unreasonably withheld by LESSOR, LESSEE shall make no alterations or changes to the premises and building.

13. LESSEE shall maintain and be responsible to obtain Fire and Casualty Insurance coverage on the premises and building to fully cover and protect LESSOR, including installation cost, in the event said equipment or building is damaged or destroyed by fire or other casualty during the term of this agreement. (But in no event in excess of ^{EIGHT} ~~Five~~ Thousand ~~(\$50,000.00)~~ Dollars.) In the event the building is partially or completely damaged or destroyed, regardless of the cause of same, the LESSEE shall be responsible at its own expense for the repairing and rebuilding of any damage suffered. LESSEE shall be reimbursed from insurance monies received by the landlord for the cost of repairing and rebuilding. Any deficiency between the cost of repairing and rebuilding, and the monies received from insurance, shall be borne by the LESSEE. In the event the building is partially or completely damaged or destroyed, regardless of the cause of same, and is not repaired by LESSEE within sixty (60) days of the date of LESSOR's notice in writing to do so, LESSOR may at its own option terminate this lease.

13. (a) LESSEE shall carry liability insurance covering subject premises in the amount of \$300,000.00/\$1,000,000.00 and LESSOR as a named insured on said policy and submit proof thereof.

M. J. [Signature]

13. (b) Landlord shall not be responsible for any failure of water supply, electrical current, sewer service, or for pipes servicing subject premises or for any interference caused by public or quasi-public authorities.

13. (c) This lease shall be subject and subordinate at all times to the lien of any mortgage now on the subject property, and subject and subordinate to the lien of any mortgage or mortgages which at any time may be made a lien on the subject premises. The tenant hereby appoints the landlord the attorney-in-fact, irrevocable, to execute and delivery any instruments necessary to effectuate same.

14. If premises or any portion thereof shall be acquired under the power of eminent domain or conveyed in any other manner for public purposes, this lease shall terminate on the date title passes to or on the twentieth (20th) day immediately preceding the date possession must be surrendered to the acquiring public authority, whichever is earlier; provided, however, if less than the entire premises is acquired and the remaining portion of the premises is suitable for continuation of operations as originally contemplated, this lease shall terminate as provided above only as to the portion of the premises acquired or rendered usable by such acquisition and all terms and provisions of this lease shall otherwise remain in full force and effect. In the event that twenty percent or more of the entire premises is acquired, and in the opinion of either party the remaining land is insufficient for continued operations as originally contemplated by the parties, either party may terminate this lease upon thirty (30) days'

written notice to the other party.

15. INDEMNITY

LESSEE covenants and agrees to indemnify, hold harmless and defend LESSOR from and against all claims, losses and damages for personal injury or death or damage to property occurring on the premises, arising out of LESSEE's use or occupancy of the premises, or arising out of LESSEE's operation of the premises, excepting any damage or loss caused by LESSOR's negligence or failure to perform its obligations hereunder.

16. LESSOR hereby reserves the right of entry upon proper identification of its representatives, agents and employees for the purpose of examination or inspection of the premises and building and to ascertain LESSEE's compliance with the terms and conditions of this lease. LESSEE hereby covenants and agrees that LESSOR shall have such right of entry to examine and inspect the premises and building.

17. Failure by LESSEE to comply with any of the provisions contained in this agreement, including all subparagraph thereof, shall constitute a default. If he fails to correct such default within thirty (30) days of receiving written notice thereof, LESSOR may terminate this lease. If during the term of this lease bankruptcy, insolvency or reorganization proceedings, either State or Federal, are instituted against LESSEE or should LESSEE enter into an arrangement with creditors or make an assignment for the benefit of creditors, LESSOR may terminate

the lease immediately. In the event of a default LESSOR shall have the right to collect the rent specified herein as well as the right to terminate this lease.

18. This lease may be assigned in whole or in part by LESSEE or sublet in whole or in part, provided LESSEE remain liable for performance of the terms of this lease.

19. The parties agree that at the termination of the lease, landlord shall pay to tenant all prepaid taxes on the demised premises.

20. In the event of insolvency of tenant, the lease shall immediately be cancelled, unless tenant shall immediately in writing reaffirm the lease.

21. (a) This lease contains the entire lease and understanding between LESSOR and LESSEE pertaining to the lease of the premises and building. There are no oral representations, stipulations, warranties or understandings with respect to the subject matter of this lease which are not fully set forth herein.

(b) Any notice, request or other communication required or permitted by or pertaining to this lease shall be in writing and if to LESSEE, shall be addressed to LESSEE at its home office: Route 9, Cold Spring, New York 10536; if to LESSOR, to the address specified in the first paragraph of this lease. Any such notice, request or other communication shall be sent by prepaid certified or registered mail.

(c) WAIVER

Failure of either LESSOR or LESSEE to require performance of any provision of this lease shall not affect either party's right to require full performance thereof at any time thereafter and the waiver by either LESSOR OR LESSEE of a breach of any provision hereof shall not constitute or be deemed a waiver of a similar breach in the future or of any other breach or nullify the effectiveness of such provision.

(d) AMENDMENTS

No amendment, addition to or alteration, modification or waiver of any provision of this lease shall be of any effect unless in writing and signed by LESSEE and an authorized representative of LESSOR.

(e) PRONOUNS

The use herein of any personal pronoun shall include the masculine, feminine and neuter pronouns.

IN WITNESS WHEREOF, LESSOR and LESSEE have executed this lease as of the date first above written.

Witness:

ORWEST REALTY CORP.

BY: Michael DiBart
Michael DiBart, Pres.

NYCREST CORP.

by:

Hubert A. Harwood
Hubert A. Harwood

(c) WAIVER

Failure of either LESSOR or LESSEE to require performance of any provision of this lease shall not affect either party's right to require full performance thereof at any time thereafter and the waiver by either LESSOR OR LESSEE of a breach of any provision hereof shall not constitute or be deemed a waiver of a similar breach in the future or of any other breach or nullify the effectiveness of such provision.

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Witness:

ORWEST REALTY CORP.

BY: Michael D. Bart
Michael D. Bart, Pres.

MYCKETT CORP.

by: Hubert A. Harwood
Hubert A. Harwood

#6666

Lease
file
NO 666

CIA FOOD MARTS, INC.

LEASE EXTENSION AND MODIFICATION AGREEMENT

THIS AGREEMENT, made this 19th day of October, 1995 by and between ORWEST REALTY CORP., a New York corporation (hereinafter known as "Lessor"), and CIA FOOD MARTS, INC., a New York corporation (hereinafter known as "Lessee").

WHEREAS, on the 28th day of July, 1978, ORWEST REALTY CORP. and NYCREST CORP., entered into a Lease for the retail store premises (Premises) situated at 173 Windsor Highway, Town of New Windsor, County of Orange, and State of New York; and

WHEREAS, by a subsequent assignment dated June 1, 1980, CIA FOOD MARTS, INC. acquired all right and title to said premises and thereby acquired all rights of Lessee; and

WHEREAS, the original term of said Lease did expire on August 31, 1990; and

WHEREAS, the said Lease was extended by a subsequent option renewal period which term did expire on August 31, 1995 and has continued on a month to month basis; and

WHEREAS, Lessor and Lessee are desirous of modifying and amending said Lease as follows:

NOW THEREFORE, it is mutually covenanted and agreed by and between the Lessor and Lessee that:

1. Commencing September 1, 1995, the primary term of said Lease shall be extended for a period of five (5) years and will expire on August 31, 2000.

2. Effective September 1, 1995, the annual minimum rentals during the primary term of said Lease shall be

[REDACTED]

3. Lessor hereby grants Lessee the right and option to extend and renew said Lease for two (2) additional periods of five (5) years each on the same covenants and conditions, except Base Rent and Additional Rent, which options Lessee may exercise by giving Lessor notice at least ninety (90) days prior to the expiration of the original or any extended term hereof.

4. Should Lessee elect to exercise the renewal option as set forth herein, then in such event the annual rental shall be:



5. The following provisions shall be added to the said Lease and incorporated therein:

22. No representations by Lessor - Lessee accepts and continues its possession of the demised premises in its present condition and in its condition at the commencement of the term of this Lease, and without any representation or warranty by Lessor as to the condition on the demised premises now or then or as to the lawful use or occupancy which may be made thereof, the expenses, including taxes, of operation or any other matter or thing affecting or relating to the demised premises, and, further, Lessor shall not be responsible for any latent or other defect or change of condition in the demised premises caused by Lessee (including any asbestos, underground tank(s) or any other hazardous or toxic material, condition, discharge, leakage or activity caused by or arising from Lessee's operation), and the rent and any other payments hereunder shall in no event be withheld, abated or diminished on account of any defect in the demised premises nor for any change in its condition, nor for any damage occurring thereto.

23. Existing Conditions - Lessee warrants that to the best of its knowledge the premises are in full compliance with all laws, regulations, rules, or requirements of law of federal, state and local municipalities relating to the pollution or protection of the environment (including without limitation, air, water and land) and with all permits or licenses issued thereunder. To the best of Lessee's knowledge, no event has occurred which, with the passage of time or the giving of notice or both, would constitute non-compliance with such environmental laws.

24. Costs of Compliance - Lessee at its sole cost and expense, including necessary litigation costs, shall perform and comply with all orders, regulations, rules and requirements of every kind and nature of the municipal, county, town, village, state and federal authorities arising from Lessee's operation of a convenience store with self service gasoline facilities on the demised premises "Lessee's Operation", and of any applicable board of fire underwriters and of any other body, board, commission, governmental or quasi-governmental authority or sovereign concurrently or successively exercising fire and other hazard safety ratings and requirements arising from Lessee's operation (including any orders and requirements for investigating and rectifying any possible hazardous or toxic materials, conditions, discharge, leakage or activity caused by or arising from Lessee's operation), and Lessee shall so perform and comply, whether or not such laws, rules, orders, ordinances, regulations or zoning regulations shall now exist or shall thereafter be enacted or promulgated and whether or not such laws, rules orders, ordinances, regulations or zoning regulations may be said to be within the present contemplation of the parties hereto. Lessee shall also reimburse Lessor for any costs incurred by Lessor as a result of any failure by Lessee to comply with this section.

25. Surrender - Lessee shall on or before the last day of the term hereby granted or any extension thereof surrender to Lessor the demised premises, and all buildings, replacements and changes, with all equipment in, or appurtenant thereto, except all movable trade fixtures installed by Lessee, broom clean, and in good order, condition and state of repair, reasonable wear and tear excepted. Lessee shall hold Lessor harmless from all damages resulting from Lessee's failure to surrender the demised premises as required by this section, including, without limitation, claims made by a succeeding Lessee resulting from Lessee's failure to surrender the demised premises.

26. Storage Tanks - Notwithstanding the above, at the option of Lessor and upon surrender to Lessor of the demised premises, Lessee shall, at its sole, expense remove all of Lessee's storage tanks (including without limitation any underground or above ground gasoline, diesel fuel, fuel oil, propane or other type of tank) shall be removed from the premises, any resulting excavation shall be back filled with clean material, and any hazardous or toxic discharge, leakage or activity from such tanks shall likewise be removed."

10. Except as expressly modified and amended by this Agreement, all other terms and conditions of said Lease dated July 28, 1978 shall continue in full force and effect.

11. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

Signed in the presence of:

Lessor: **ORWEST REALTY CORP.**

Samara D. Gradowitz

By: [Signature]
Its: **PRESIDENT**

[Signature]

Lessee: **CIA FOOD MARTS, INC.**

John L. Murray

By: [Signature]
GARY A. PAYNE
Its Vice President

James M. Bernini

COUNTY OF (Westchester)) ss.

Before me, a Notary Public in and for said County and State, personally appeared the above-named Corporation, **ORWEST REALTY CORP.**, by its President Ralph Di Bart who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed personally and as such officer.

Witness my hand and official seal at Scarsdale, New York, this 4th day of December, 1995.

Laura G. Johnson
NOTARY PUBLIC STATE OF NEW YORK
NUMBER 461828
QUALIFIED IN ROCKLAND COUNTY
COMMISSION EXPIRES 10/31/97

[Handwritten Signature]
Notary Public

STATE OF CONNECTICUT)
) ss.
COUNTY OF HARTFORD)

Before me, a Notary Public in and for said County and State, personally appeared the above-named Corporation, **CIA FOOD MARTS, INC.** by its Vice President, **GARY A. PAYNE** who acknowledged that he did sign the foregoing instrument and that the same is his free act and deed personally and as such officer.

Witness my hand and official seal at Enfield, Connecticut, this 5th day of December, 1995.

[Handwritten Signature]
Notary Public **JOANNA M. BERNIER**
NOTARY PUBLIC
NY COMMISSION EXPIRES MAY 31, 2000

This Instrument Prepared By:

CIA Food Marts, Inc.
Legal Department
One Vision Drive
Enfield, CT 06082
(203) 741-4444

6666

ASSIGNMENT OF LEASE

In consideration of \$1.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Mycrest Corporation of New York, hereinafter referred to as "Lessees", does hereby sell, assign, transfer and set over unto CIA FOOD MARTS, INC., a New York Corporation, hereinafter referred to as "Assignee", a certain lease of a Convenient Food Mart by and between Lessee and Orvest Realty Corporation, hereinafter referred to as "Lessor", dated the September 1, 1978, for the real property situated at 173 Windsor Highway, in the City of New Windsor, and State of New York, and described as a food and grocery store building with common parking and common service area for any other tenants of Lessor or tenants of the Owner of the real property ("Premises").

And all the estate, title and interest of Lessee in and to the lease and Premises to have and to hold the same from the 1st day of June, 1980, for and during the residue of the term of the lease, which will end on August 31, 1990 ; subject, however, to all the conditions, covenants and rents in the lease.

Lessee further warrants and covenants that Lessee has good right to assign the lease, with the consent of Lessor and that the interest hereby assigned is free and clear from all encumbrances.

In consideration of said assignment, and of the consent thereto of Lessor, Assignee hereby assumes and agrees to pay all rent due from and after June 1, 1980, and to keep and perform all the covenants, agreements and conditions of the lease on the part of Lessee to be kept and performed.

IN WITNESS WHEREOF, the parties have executed this Assignment of Lease this 1st day of June, 1980.

ASSIGNOR:

CIA FOOD MARTS, INC.

By:

Its:

Gregory H. White
President

ASSIGNEE:

MYCREST CORPORATION

By:

Its:

Gregory H. White
President

In the Matter of the Application of

MEMORANDUM OF
DECISION GRANTING
AREA VARIANCES

ORWEST REALTY CORP./D.B. COMPANIES, INC.

#98-55.

WHEREAS, ORWEST REALTY CORP., a corporation having offices located at 168 Madison Road, Scarsdale, N. Y. 10583, owner, and **D.B. COMPANIES, INC.**, P. O.Box 9471, Providence, R. I. 02940, lessee, have made application before the Zoning Board of Appeals for a 25/20 ft. front yard variance for the installation of two canopies over the gasoline pump islands, plus 135 sq. ft. area and 5.5 ft. height variance for a freestanding replacement sign at property located at 173 Windsor Highway and Union Avenue intersection in an NC zone; and

WHEREAS, a public hearing was held on the 11th day of January, 1999 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared by Conrad Decker; and

WHEREAS, there were no spectators appearing at the public hearing; and

WHEREAS, no one spoke in favor or in opposition to the Application; and

WHEREAS, a decision was made by the Zoning Board of Appeals on the date of the public hearing granting the application; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor sets forth the following findings in this matter here memorialized in furtherance of its previously made decision in this matter:

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

2. The evidence presented by the Applicant showed that:

(a) The property is a commercial property located on a busy state highway adjacent to and across from other commercial properties.

(b) The property contains inground gasoline storage tanks which must be removed by federal requirement.

(c) In replacing the gasoline tanks the Applicant wishes to relocate the gasoline islands

to a more convenient spot so as to promote traffic flow and the convenience of the public. The Applicant also wishes to cover these tanks with updated canopies which would contain state-of-the-art fire suppression equipment and would protect the motorist from the weather while providing an increased level of safety.

(d) If the application were granted, the Applicant would reconfigure the parking on the site so as to promote better traffic flow.

(e) The existing curb cuts on both Union Avenue and Route 32 would remain.

(f) It appears from the existence of old concrete mats on the ground that there were at one time four pump islands on the property. While this Applicant proposes to increase the existing pump islands from one to two, it is still less than what was on the property previously.

(g) If the canopy on the island fronting Route 32 were placed in accordance with the existing statute, it would have to be placed well into the building, thus compromising the improved parking and traffic flow.

(h) The canopies will be supported by two steel columns and will have no walls. The proposed location of the canopies would not interfere with the vision of motorists using either Route 32 or Union Avenue.

(i) The proposed height of the canopies will not be significantly different than the height of the buildings and structures in the neighborhood.

(j) If the variances were granted the number of cars parked at the facility would be the same as in the existing facility but would be configured differently so as to promote internal traffic flow.

(k) The proposed location of the pump islands, and especially the one to be parallel to Route 32, are consistent with other gasoline dispensing facilities in the area. The Applicant's engineer testified that the Applicant considered a number of possible configurations and that the one presented to the Zoning Board of Appeals was the one that would both allow travel lanes on either side of the facility and the least amount of zoning requests. The proposed sign will be substantially larger in area but will also be, if allowed, substantially the same height as the existing sign.

(l) The proposed sign will end approximately 8 ft. front the ground providing no obstacle to the vision of driver's of motor vehicles cars on the adjacent street.

(m) The proposed sign must accommodate the brand of gas, gas pricing for four grains of gasoline and identification of the convenience mart. Displaying gasoline prices is different from and in addition to the requirements of regular retailers.

WHEREAS, The Zoning Board of Appeals of the Town of New Windsor makes the

following conclusions of law here memorialized in furtherance of its previously made decision in this matter:

1. The variances 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 the Applicant which can produce the benefits sought.
3. The variances requested are substantial in relation to the Town regulations, but nevertheless are warranted.
4. The requested variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.
5. The difficulty the Applicant faces in conforming to the bulk regulations is self-created but nevertheless should be allowed.
6. The benefit to the Applicant, if the requested variances are granted, outweigh the detriment to the health, safety and welfare of the neighborhood or community.
7. The requested variances as previously stated are reasonable in view of the size of the building, its location, and its appearance in relation to other buildings in the neighborhood.
8. The interests of justice will be served by allowing the granting of the requested area variances.

NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor GRANT a request for 25/20 ft. front yard variance for the installation of two canopies over gasoline pump islands, plus 135 sq. ft. area and 5.5 ft. height variances for a freestanding sign at the Dairy Mart located at 173 Windsor Highway, 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: April 12, 1999.



Chairman