

**PB# 93-22**

**Coastal Gasoline  
(SP)**

**70-1-1.1**

#93-22 - Coastal Gas. S.P. (Ninnie)  
Rt. 94 +32 (Corner)

Approved 3-2-94

Letter of Credit received 3/2/94

Special Permit Not  
Necessary - Pre Existing

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

**GENERAL RECEIPT** 13463

Received of Gasland Petroleum, Inc. July 15 1993  
\$ 150.<sup>00</sup>

One Hundred fifty and <sup>00</sup>/<sub>100</sub> DOLLARS

For Planning Board Application Dec #93-22

DISTRIBUTION:

FUND	CODE	AMOUNT
CP #0000895		150. <sup>00</sup>

By Pauline M. Townsend  
Town Clerk  
Title

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

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

**GENERAL RECEIPT** 13464

Received of Town Clerk July 15 1993  
\$ 750.<sup>00</sup>

Seven Hundred fifty and <sup>00</sup>/<sub>100</sub> DOLLARS

For Board #93-22 Screw Gasland Petroleum Inc

DISTRIBUTION:

FUND	CODE	AMOUNT
CP0000896		750. <sup>00</sup>

By J. L. L...  
Capital  
Title

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

**GENERAL RECEIPT** 13497

Received of Gasland Petroleum, Inc. Aug. 5 1993  
\$ 200.<sup>00</sup>

Two Hundred <sup>00</sup>/<sub>100</sub> DOLLARS

For P.B. #93-22 Special Permit Application Dec

DISTRIBUTION:

FUND	CODE	AMOUNT
CP0000997		200. <sup>00</sup>

By Pauline M. Townsend  
Town Clerk  
Title

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For Planning & Hazard Application Fee #93-22

FUND	CODE	AMOUNT
CP #0000895		150.00

By Pauline M. Townsend  
Town Clerk  
 Title

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

**TOWN OF NEW WINDSOR GENERAL RECEIPT** 13464

555 Union Avenue  
 New Windsor, NY 12550

July 15 1993

Received of Town Clerk \$ 750.00

Seven Hundred fifty and 00 00 DOLLARS

For Planning  
Braid #93-22 Snow Masland Petroleum Inc

FUND	CODE	AMOUNT
CP 0000896		750.00

By Lester  
Capullo  
 Title

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

**TOWN OF NEW WINDSOR GENERAL RECEIPT** 13497

555 Union Avenue  
 New Windsor, NY 12550

Aug. 5 1993

Received of Masland Petroleum, Inc. \$ 200.00

Two Hundred 00 DOLLARS

For P.B. #93-22 Special Permit Application Fee

FUND	CODE	AMOUNT
CP 0000997		200.00

By Pauline M. Townsend  
Town Clerk  
 Title

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**TOWN OF NEW WINDSOR GENERAL RECEIPT** 13855

555 Union Avenue  
 New Windsor, NY 12550

Dec 3 1994

Received of Masland Petroleum, Inc. \$ 150.00

One Hundred fifty 00 00 DOLLARS

For P.B. #93-22 Approval Fee

FUND	CODE	AMOUNT
CP 0001786		150.00

By Dorothy Hansen  
Town Clerk  
 Title

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Planning Board  
Town Hall  
555 Union Ave.  
New Windsor, N.Y. 12553

NO. 93-22

February 2, 1994

RECEIVED FROM S. Leonardo, Jr.

One Hundred Twenty-Four 50/100 DOLLARS

Addition to Payroll to cover professional fees

Account Total \$ 124.50

Amount Paid \$ 124.50

Balance Due \$ -0-

Myna Mason, Secy to the P.B.

"THE EFFICIENCY LINE" AN AMPAD PRODUCT

Planning Board  
Town Hall  
555 Union Ave.  
New Windsor, N.Y. 12553

NO. 93-22

February 2, 1994

RECEIVED FROM Constantine M. Leonardo

One Thousand Two Hundred Twenty-Two 12/100 DOLLARS

4% of \$30,553.00 Inspection Fee

Account Total \$ 1,222.12

Amount Paid \$ 1,222.12

Balance Due \$ -0-

Myna Mason, Secy to the P.B.

"THE EFFICIENCY LINE" AN AMPAD PRODUCT



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.

2 March 1995

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

**MEMORANDUM**

**TO:** Michael Babcock, Town Building Inspector

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

**SUBJECT:** CONSTANTINE LEONARDO (COASTAL) SITE PLAN  
NEW WINDSOR PLANNING BOARD NO. 93-22  
FIELD REVIEW FOR COMPLETION - 3/1/95

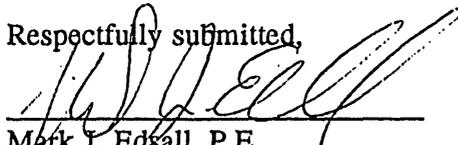
This memorandum shall confirm our field review on the afternoon of 1 March 1995 of the subject site. The review was a follow-up review for determination of general compliance with the site plan stamped by the Planning Board on 2 March 1994. The following items were noted:

1. All items listed in my memorandum of 18 August 1994 have been addressed in some manner, with the exception of the items further delineated below.
2. The one-way sign within the planter area on the south side of the building has not yet been installed.
3. As we discussed with Frank Lisi of your office at the site, it appears appropriate that the additional door added for handicapped access be reversed in swing. This issue involves handicapped access to the building, which was noted as being a problem in the past, relative to the main (front) entrance.

It is my understanding that you will coordinate the completion of the two (2) items listed above, such that a Certificate of Occupancy can be issued. Since, these items will be completed, the posting of a site completion bond will not be required.

Please contact me if you have any questions regarding the above.

Respectfully submitted,

  
 Mark J. Edsall, P.E.  
 Planning Board Engineer  
 MJEmk

cc: Myra Mason, Planning Board Secretary  
A:3-2-2E.mk

*5/1/95*

*All work complete as per Mike Babcock on 5/1/95. I informed Larry Reis of this for the letter of credit. He said he would take care of it.*

*Myra*

COASTAL 93-22

MR. EDSALL: One other item just of interest, Mike and I, our field review of the Coastal site plan and they seem to have had just about everything right. One problem that they appear to have is in grade for access to the building. Their elevations are screwed up. They apparently didn't coordinate the building elevation with the elevation of the pump islands. That is something that we normally warn people about during the workshop to make sure that they don't get into a handicapped access problem. Apparently, they didn't keep that in mind since they did all this work without the benefit of the Planning Board's review or the Planning Board's workshop, they now have a problem so we really don't know how they are going to solve it.

MR. PETRO: How big is the difference?

MR. BABCOCK: The ramp goes straight up to the door. There's no level area.

MR. PETRO: Can't fix it with blacktop?

MR. EDSALL: No. One of two ways, either the building can be lowered or the pump islands have to be raised. We don't know how they can do it.

MR. BABCOCK: Or get a variance from the State. Ramp goes from the concrete slab that is the island up to the door and put a level area there, you'd be out into the thing and you'd get run over by a car getting gas.

MR. EDSALL: Just another example of people not taking advantage of the Planning Board's work shop session.

MR. PETRO: How about making a vestibule inside the building and making that the--

MR. EDSALL: That is something they'll have to straighten out.

MR. PETRO: Take away the outer door.

PLANNING BOARD  
TOWN OF NEW WINDSOR

AS OF: 01/11/95

PAGE: 1

LISTING OF PLANNING BOARD ACTIONS

STAGE:

STATUS [Open, Withd]  
A [Disap, Appr]

FOR PROJECT NUMBER: 93-22

NAME: COASTAL GASOLINE - SITE PLAN & SPECIAL PERMIT  
APPLICANT: LEONARDO, CONSTANTINE

--DATE--	MEETING-PURPOSE-----	ACTION-TAKEN-----
04/13/94	P.B. APPEARANCE . EXTENDED DATE FOR DIRT REMOVAL FOR 45 DAYS FROM 4-13-94	EXT OF DIRT REMOVAL
03/02/94	PLANS STAMPED	APPROVED
12/22/93	P.B. APPEARANCE	LA:ND WAIVE P.H.
12/22/93	P.B. APPEARANCE CON'T. . SEE RESULT SHEET OF 12-22-93 FOR CONDITIONS . SEND PLAN TO NYSDOT FOR THEIR REVIEW	APPROVE SUB. TO MARK
12/15/93	WORK SESSION APPEARANCE	NEXT AGENDA
07/21/93	P.B. APPEARANCE . APPLICANT TO APPLY FOR SUBDIVISION ALSO SPECIAL PERMIT	REFER TO Z.B.A.
07/14/93	WORK SESSION APPEARANCE	SUBMIT APPLICATION
06/16/93	WORK SESSION APPEARANCE	TO RETURN
12/23/92	P.B. APP(DISCUSSION)DIVE SHOP	FIX BLDG. SHOW PRKG
12/01/92	WORK SESSION APPEAR(DIVE SHOP)	NEXT AGENDA:DISCUSS

PLANNING BOARD  
TOWN OF NEW WINDSOR

AS OF: 01/11/95

PAGE: 1

LISTING OF PLANNING BOARD AGENCY APPROVALS

FOR PROJECT NUMBER: 93-22

NAME: COASTAL GASOLINE - SITE PLAN & SPECIAL PERMIT

APPLICANT: LEONARDO, CONSTANTINE

	DATE-SENT	AGENCY-----	DATE-RECD	RESPONSE-----
ORIG	07/15/93	MUNICIPAL HIGHWAY	09/15/93	SUPERSEDED BY REV1
ORIG	07/15/93	MUNICIPAL WATER	09/15/93	SUPERSEDED BY REV1
ORIG	07/15/93	MUNICIPAL SEWER	07/27/93	APPROVED
ORIG	07/15/93	MUNICIPAL SANITARY	09/15/93	SUPERSEDED BY REV1
ORIG	07/15/93	MUNICIPAL FIRE	07/20/93	APPROVED
ORIG	07/15/93	PLANNING BOARD ENGINEER	09/15/93	SUPERSEDED BY REV1
REV1	09/15/93	MUNICIPAL HIGHWAY	09/25/93	APPROVED
REV1	09/15/93	MUNICIPAL WATER	09/25/93	APPROVED
REV1	09/15/93	MUNICIPAL SEWER	09/22/93	APPROVED
REV1	09/15/93	MUNICIPAL SANITARY	12/16/93	SUPERSEDED BY REV2
REV1	09/15/93	MUNICIPAL FIRE	09/24/93	APPROVED
REV1	09/15/93	PLANNING BOARD ENGINEER	12/16/93	SUPERSEDED BY REV2
REV2	12/16/93	MUNICIPAL HIGHWAY	12/23/93	APPROVED
REV2	12/16/93	MUNICIPAL WATER	12/23/93	APPROVED
REV2	12/16/93	MUNICIPAL SEWER	12/23/93	APPROVED
REV2	12/16/93	MUNICIPAL SANITARY	/ /	
REV2	12/16/93	MUNICIPAL FIRE	12/29/93	APPROVED
REV2	12/16/93	PLANNING BOARD ENGINEER	/ /	
REV2	12/29/93	N.Y.S. DEPT. OF TRANSPORTATION	01/05/94	APPROVED
		. ENTRANCE MUST CONFORM TO STATE HWY. WORK PERMIT		
		. SEE REVIEW SHEET IN FILE FOR DETAILS		



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.

18 August 1994

- 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

### MEMORANDUM

**TO:** Michael Babcock, Town Building Inspector

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

**SUBJECT:** CONSTANTINE LEONARDO (COASTAL) SITE PLAN  
NEW WINDSOR PLANNING BOARD NO. 93-22  
FIELD REVIEW FOR COMPLETION - 8/17/94

This memorandum shall confirm our field review on the afternoon of 17 August 1994 of the subject site. The review was for determination of general compliance with the site plan as stamped approved by the Planning Board on 2 March 1994. The following items were noted:

1. Generally, the site appears to conform to the layout and arrangement as shown on the referenced site plan.
2. The location of the planter curb on the south side of the building in relation to the "monitoring shed" has been somewhat revised. The face of the temporary shed now lines-up with the planter curb. As such, the stone walkway is not required. This does not seem to be a problem which requires any further action.
3. The painted directional arrows on the pavement of the site have not been installed.
4. The new flag pole proposed for the south side of the building has not been installed.
5. The new sidewalk to be installed on the south side of the building has not been constructed. Based on the finished work in this area, it is my opinion that this may not be necessary at this time.
6. The new sod along the front of the project, along the State highway, has not been installed.
7. The one-way sign within the planter area on the south side of the building has not been installed.

18 August 1994

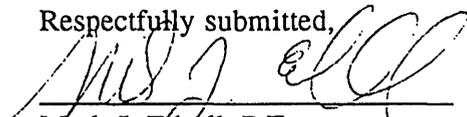
MEMORANDUM  
PAGE 2

8. The handicapped space delineation has not been completed as required by code.
9. The access to the building, at the front (near the pump islands), is sloped in such a manner that same does not meet code (see additional comments below).

With regard to the last comment above, it should be noted that the spacial arrangement at the front of the building is limited, based on the pump island/canopy location and building location. As such, the appropriate manner which this could have been handled would be grade adjustment to limit or eliminate elevation differences between the building floor and the area in front of the building. The developer and builder apparently did not take this into account and constructed the fuel island concrete deck at an elevation several inches lower than the building floor slab. This creates an entrance slope at the front door which does not meet code.

Usually, we attempt to caution the developers and/or their consultants of these type concerns during the Planning Board Work Session Forum; however, for this application, this could not occur since the project was constructed prior to approvals, in contradiction to the Planning Board's directive that work not proceed until proper approvals are obtained.

Respectfully submitted,



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

MJEmk

cc: James Petro, Planning Board Chairman

A:8-18-2E.mk

MR. PETRO: We're going to deter a little bit from the agenda because Mr. Leonardo is here with his 80 year old brother and he doesn't feel well so we'll go to a discussion item now.

LEONARDO, SAM

MR. PETRO: This is a letter requesting extension of dirt pile removal. State your name, sir, for the steno.

MR. SAM LEONARDO: Mr. Chairman and members of the board, my name is Samuel Leonardo and the purpose of me coming here tonight is to ask for an extension on the removing that pile of dirt plus ask for an extension to fix the building cause as you know, we went through the worst winter we ever had in 30 years and the Chairman has in his possession now a letter that I gave him from Clean Earth and Clean Earth has a contract with us now to remove that dirt. And he would have started but on account of the weather, he couldn't say we have to have, we'd like to ask for a 45 day extension on both projects, the dirt removal plus the fixing the building.

MR. PETRO: Let me read the letter dated April 11, 1994. I, President of Clean Earth hereby say that I have contracted with Mr. Sam Leonardo to remove the pile of dirt behind the Coastal Gas Station at the Five Corners in Vails Gate. I intend to commence the job as soon as the weather permits. To complete job should take only 2 or 3 days. This was April 11.

MR. LANDER: I have no problem with granting 45 day extension in view of the dirt pile is going to be removed as soon as weather permits.

MR. PETRO: Even the house also 45, they are going to start with that.

MR. LEONARDO: We appreciate that.

MR. VAN LEEUWEN: The only thing is I know the part I think the Zoning Board has something to do with that.

MR. PETRO: I started all this, Mike and I were looking through some records and came up and it's close to the 45 days. I don't believe that they are going to have a problem. It's not going to be worth the time for a week one way or another.

MR. VAN LEEUWEN: The only thing I'd like to know where is the flag pole?

MR. LEONARDO: We talked about that, I didn't promise it, Coastal did. And I'll speak to the gentleman tomorrow I'll talk to him. Now, where would you like to have it put?

MR. VAN LEEUWEN: It's on the plan.

MR. LEONARDO: How many feet?

MR. PETRO: 25 feet.

MR. LEONARDO: High?

MR. PETRO: Yes.

MR. LEONARDO: I'll call him tomorrow and I'll remind him of the fact. I'll push him. I'll tell him.

MR. PETRO: I think the 45 days will run from the date of this letter, April 11.

MR. LANDER: Make a motion we grant 45 days from April 11 for the removal of the dirt and work on the existing house and for the property.

MR. VAN LEEUWEN: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant 45 day extension to Mr. Leonardo for the above stated items. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

April 13, 1994

31

MR. VAN LEEUWEN	AYE
MR. LANDER	AYE
MR. PETRO	AYE
MR. DUBALDI	AYE

MR. PETRO: Thank you very much for coming in.

MR. LEONARDO: Thank you and I'd like to bid you good night, thank you.



1763

# TOWN OF NEW WINDSOR

555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

March 24, 1994

Mr. Samuel Leonardo  
P.O. Box 236  
Vails Gate, NY 12584

SUBJECT: DIRT PILE AT THE LOCATION OF THE COASTAL GAS STATION  
TAX MAP #70-1-1.1

Dear Mr. Leonardo:

As discussed and agreed upon at the December 22, 1993 Planning Board meeting, the date for removal of the dirt pile at the above location was set at April 13, 1994.

The Planning Board has noticed that the pile, to date, has not been removed. We are aware that, due to weather conditions, it has been difficult to accomplish this, however, we would like to remind you of the date by which this pile is to be removed.

If you should have any questions in this matter, please contact our office.

Very truly yours,

  
James R. Petro, Chairman  
New Windsor Planning Board

JP:mm

cc: File #93-22

*Discussion*  
RESULTS OF P.B. MEETING

DATE: April 13, 1994

PROJECT NAME: Leonardo, Sam - Coastal PROJECT NUMBER 93-22

\*\*\*\*\*

LEAD AGENCY: \_\_\_\_\_ \* NEGATIVE DEC: \_\_\_\_\_

M) \_\_\_ S) \_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_ \* M) \_\_\_ S) \_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_

CARRIED: YES \_\_\_\_\_ NO \_\_\_\_\_ \* CARRIED: YES: \_\_\_\_\_ NO \_\_\_\_\_

\*\*\*\*\*

PUBLIC HEARING: M) \_\_\_ S) \_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_

WAIVED: YES \_\_\_\_\_ NO \_\_\_\_\_

SEND TO OR. CO. PLANNING: M) \_\_\_ S) \_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_ YES \_\_\_\_\_ NO \_\_\_\_\_

SEND TO DEPT. OF TRANSPORT: M) \_\_\_ S) \_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_ YES \_\_\_\_\_ NO \_\_\_\_\_

DISAPP: REFER TO Z.B.A.: M) \_\_\_ S) \_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_ YES \_\_\_\_\_ NO \_\_\_\_\_

RETURN TO WORK SHOP: YES \_\_\_\_\_ NO \_\_\_\_\_

APPROVAL:

M) \_\_\_ S) \_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_ APPROVED: \_\_\_\_\_

M) \_\_\_ S) \_\_\_ VOTE: A \_\_\_\_\_ N \_\_\_\_\_ APPR. CONDITIONALLY: \_\_\_\_\_

NEED NEW PLANS: YES \_\_\_\_\_ NO \_\_\_\_\_

DISCUSSION/APPROVAL CONDITIONS: \_\_\_\_\_

45 day extension of dirt pile removal

45 days from 4/11/94 (M) L (S) V <sup>4 days</sup> 0 days

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CLEAN EARTH**  
Mertes Lane  
New Windsor, N.Y 12553  
(914) 561-7680

Apr. 11, 1994

To: Whom It May Concern

I, president of Clean Earth, hereby state that I have a contract with C.M. Leonardo to remove the pile of dirt behind the Coastal Gas Station at the five corners in Vails Gate. I intend to commence this job as soon as the weather permits. The complete job should take only 2 or 3 days.

Sincerely,

*James M. Malone (Pres)*

Samuel Leonardo Jr.  
P.O.Box 236  
Vails Gate, N.Y. 12584

March 29,1994

To:

Town Of New Windsor  
Planning Board  
555 Union Ave.  
New Windsor, N.Y. 12550

Subject:

Request for extension of  
Dirt removal. Tax map # 70-1-1.1

Dear Mr. Chairman and Members of the Board:

As you stated in your letter of March 24, 1994, the weather conditions of the past few months have been adverse. As I am writing this letter, it is snowing and raining. I don't want you to think for one moment that we have been neglecting our commitment to the board. In matter of fact, I have one proposal on my desk now to take care of the dirt and another proposal due any day from another contractor.

Both contractors tell us that we have to have good weather to carry away the dirt for two reasons. One is they will not work in inclement weather and the other after the rain you must wait for days in order for the dirt to dry.

Because of these very valid reasons, we are requesting an extension of 45 days to remove the dirt.

Thanking you in advance for your cooperation.

Sincerely,

Samuel Leonardo

P.S. Enclosed is a copy of one of the dirt removal proposals.



# IRA D. CONKLIN & SONS, INC.

92-94 STEWART AVENUE • P.O. BOX 7457 • NEWBURGH, N.Y. 12550  
TELEPHONE 561-1512

March 28, 1994

Leonardo Foods  
ATTN: Mr. Samuel Leonardo  
Five Corners  
Vails Gate, NY 12584

Dear Mr. Leonardo:

Listed below is my proposal for disposal of contaminated soil at Vails Gate.

Incineration - \$ 60.00 per ton  
\$450.00 per day for testing

Landfill - \$ 62.00 per ton  
\$650.00 one time charge for testing.

If you should have any questions please feel free to contact me.

Very truly yours:

  
Joseph James  
Sales Representative

MAR/JJ87/CMB



# IRA D. CONKLIN & SONS, INC.

92-94 STEWART AVENUE • P.O. BOX 7457 • NEWBURGH, N.Y. 12550  
TELEPHONE 561-1512

March 29, 1994

Town of New Windsor Planning Board  
ATTN: Mr. James Petro, Chairman  
555 Union Avenue  
New Windsor, NY 12553

LOCATION: Leonardo Properties  
Coastal Gas Station, Rt. 32 & 94 Vails Gate

SUBJECT: Stock Piled Contaminated Soil Removal/Disposal

Dear Chairman Petro:

This letter is to confirm my answer to the Planning Board's question asked to me on March 23, 1994, with regards to status of contaminated soil removal/disposal for Mr. Samuel Leonardo. To reaffirm my answer to the question, as of March 29, 1994, Ira D. Conklin & Sons, Inc. does not have any contracts signed or work scheduled.

Listed below is the chronology of event to date:

Please be advised that Joseph James of Ira D. Conklin and Sons met with Messrs. Constantino and Samuel Leonardo on February 2nd and 3rd 1994. The purpose of the meeting was to discuss the cost of incinerating contaminated soil at Vails Gate.

Mr. Samuel Leonardo had received conflicting estimates on the amount of soil at the site. The estimates ranged from 100 tons to 600 tons. Mr. Leonardo requested time to investigate the tonnage as the amount of soil would ultimately effect the cost of the disposal.

RECEIVED MAR 30 1994

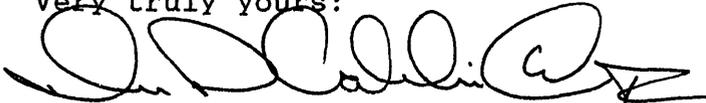
*(Handwritten initials)*

Town of New Windsor Planning Board  
March 29, 1994  
Page 2

On March 28, 1994 a proposal was submitted outlining the cost of landfill disposal in addition to incineration.

As of this date Ira D. Conklin and Sons, Inc. has not been contacted to dispose of the soil.

Very truly yours:

A handwritten signature in black ink, appearing to read 'Ira D. Conklin III', with a stylized flourish at the end.

Ira D. Conklin III  
Treasurer

CC: Mr. Mike Babcock  
Mr. Mark Edsall

MAR/JJ87/CMB

PLANNING BOARD  
TOWN OF NEW WINDSOR

AS OF: 03/02/94

PAGE: 1

LISTING OF PLANNING BOARD FEES  
SITE PLAN BOND

FOR PROJECT NUMBER: 93-22

NAME: COASTAL GASOLINE - SITE PLAN & SPECIAL PERMIT  
APPLICANT: LEONARDO, CONSTANTINE

--DATE--	DESCRIPTION-----	TRANS	AMT-CHG	AMT-PAID	BAL-DUE
03/02/94	SITE PLAN BOND	CHG	47839.00		
03/02/94	LTR OF CREDIT#94-002	PAID		47839.00	
		TOTAL:	47839.00	47839.00	0.00

PLANNING BOARD  
TOWN OF NEW WINDSOR

AS OF: 03/02/94

PAGE: 1

LISTING OF PLANNING BOARD FEES  
4% FEE

FOR PROJECT NUMBER: 93-22

NAME: COASTAL GASOLINE - SITE PLAN & SPECIAL PERMIT  
APPLICANT: LEONARDO, CONSTANTINE

--DATE--	DESCRIPTION-----	TRANS	AMT-CHG	AMT-PAID	BAL-DUE
02/03/94	4% OF \$30,553.00	CHG	1222.12		
02/03/94	REC. CK #0537	PAID		1222.12	
		TOTAL:	1222.12	1222.12	0.00

*Special Permit not necessary - pre-existing*

PLANNING BOARD  
TOWN OF NEW WINDSOR

AS OF: 03/02/94

PAGE: 1

LISTING OF PLANNING BOARD FEES  
ESCROW

FOR PROJECT NUMBER: 93-22

NAME: COASTAL GASOLINE - SITE PLAN & SPECIAL PERMIT  
APPLICANT: LEONARDO, CONSTANTINE

--DATE--	DESCRIPTION-----	TRANS	AMT-CHG	AMT-PAID	BAL-DUE
07/15/93	S.P. MINIMUM	PAID		750.00	
07/21/93	P.B. ATTY. FEES	CHG	35.00		
07/21/93	P.B. MINUTES	CHG	49.50		
12/22/93	P.B. ATTY. FEE	CHG	35.00		
12/22/93	P.B. MINUTES	CHG	135.00		
02/01/94	P.B. ENGINEER FEE	CHG	620.00		
02/03/94	ADDITIONAL ESCROW	PAID		124.50	
		TOTAL:	874.50	874.50	0.00

PLANNING BOARD  
TOWN OF NEW WINDSOR

AS OF: 03/02/94

PAGE: 1

LISTING OF PLANNING BOARD FEES  
APPROVAL

FOR PROJECT NUMBER: 93-22

NAME: COASTAL GASOLINE - SITE PLAN & SPECIAL PERMIT  
APPLICANT: LEONARDO, CONSTANTINE

--DATE--	DESCRIPTION-----	TRANS	AMT-CHG	AMT-PAID	BAL-DUE
02/03/94	APPROVAL FEE	CHG	150.00		
02/03/94	REC. CK #0001786	PAID		150.00	
		TOTAL:	150.00	150.00	0.00



**albany  
savings  
bank**

Albany Savings Bank, FSB  
833 Broadway  
Albany, New York 12207-2415

March 1, 1994

TOWN OF NEW WINDSOR  
Union Avenue  
New Windsor, NY 12552

**RE: Irrevocable Letter of Credit No. 94-002**

Gentlemen:

We hereby establish in your favor for the account of Constantine Leonardo our Irrevocable Standby Letter of Credit (this credit) in the amount of forty seven thousand eight hundred thirty nine dollars (\$47,839). Funds under this credit are available to you, in any number of draws, by your sight drafts, drawn on us identifying the above referenced credit number, if presented at our office at 833 Broadway, Albany, New York (attention: Commercial Loan Department) prior to the expiration of this credit together with the original of this credit and either of the following statements signed by you:

1. "We are drawing under standby letter of credit number 94-002 because, Constantine Leonardo is in default under the terms of one or more agreements with us"

or

2. We are drawing under standby letter of credit number of 94-002 because, Albany Savings Bank, FSB has elected not to renew such credit".

This credit expires at the close of business on February 28, 1995. However, unless we elect not to extend this credit, it will be automatically extended for indefinite additional consecutive one year periods. If we elect not to extend this credit beyond any applicable expiration date, we shall provide you with written notice, at least sixty (60) days prior to such expiration date, sent by certified mail, return receipt requested, of such election.



Drafts drawn under and in substantial conformity with the terms of this credit will be duly honored on presentation if presented on or before the then applicable expiration date of this credit. This credit is subject to the Uniform Customs and Practice for Documentary Credits (1983 revision), International Chamber of Commerce, Publication 400.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Michael J. Paparian', written over a horizontal line.

Michael J. Paparian  
Assistant Secretary

MJP/c

MEMORANDUM FOR FILE

DATE: March 2, 1994

On this date: I received a call from Andy Krueger regarding the letter of credit for Coastal (Leonards).

He said it was acceptable to him, however, he thought Tad should see it because it is to the Town of New Windsor.

I TALKED TO TAD ABOUT (M)  
THE LETTER OF CREDIT ON 3-2-94  
HE SAID THAT A LETTER OF CREDIT WAS  
BETTER THAN A BOND *Michael Krueger*



**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**  
400 Broad Street  
Millford, Pennsylvania 18337  
(717) 296-2765

3 February 1994

**MEMORANDUM**

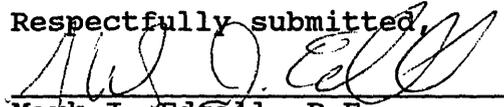
**TO: Myra Mason, Planning Board Secretary**

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

**SUBJECT: COASTAL GASOLINE SITE PLAN  
NEW WINDSOR PLANNING BOARD 93-22**

This memorandum shall confirm my review on 1 February 1994 of the final plan for the subject project. Based on my review, it appears that the plan includes all corrections requested and is acceptable for stamp of approval. Please contact me if you have any questions concerning the above.

Respectfully submitted,

  
\_\_\_\_\_  
Mark J. Edsall, P.E.  
Planning Board Engineer

MJEmk

A:2-3-3E.mk

1  
cc: Sup. Meyers  
Tad Seaman  
Larry Reis  
M. Edsall, P.E.

ANDREW S. KRIEGER  
ATTORNEY AT LAW  
219 QUASSAICK AVENUE  
SQUIRE SHOPPING CENTER, SUITE 3  
NEW WINDSOR, NEW YORK 12553  
  
(914) 562-2333

February 3, 1994

Town of New Windsor Planning Board  
555 Union Avenue  
New Windsor, New York 12553

Attn: Myra Mason, Secretary

Re: Leonardo/Coastal

Dear Myra:

Pursuant to our recent telephone conversation, I have reviewed the letter of Richard Clarino, Esq., dated January 27, 1994. I have also reviewed my memorandum to you dated January 13, 1994.

In spite of what is said by Mr. Clarino in his letter of January 27, 1994, it is still my opinion that the form of security offered by this applicant is unacceptable.

If the form of security offered here is to be accepted it appears that there must be specific Town Board authorization to do so. The wisdom of making such an exception is for the Town Board to determine and on the question of its legality the Town Board should seek the advice of the Town Attorney. The Planning Board has not ( and probably cannot) authorize such an exception and therefore it is my opinion that the offered "security" by the applicant may not be accepted.

Sincerely,  
  
ANDREW S. KRIEGER

ASK : mmt  
cc: Tad Seaman, Esq.  
Hon. George Meyers, Town of New Windsor, Supervisor

RECEIVED FEB - 7 1994 (7)

P.B. # 93-22  
Leonardo Site Plan

APPLICATION FEE (DUE AT TIME OF SUBMITTAL) \$ 150.00

PLAN REVIEW FEE: (APPROVAL)

\$ 150.00 ① Pd

PLAN REVIEW FEE (MULTI-FAMILY): A. \$150.00  
PLUS \$25.00/UNIT B. \_\_\_\_\_

TOTAL OF A & B: \_\_\_\_\_

SITE IMPROVEMENT COST ESTIMATE: \$ 30,553.00

A. 4% OF FIRST \$50,000.00  
B. 2% OF REMAINDER

A. 1,222.12  
B. \_\_\_\_\_

TOTAL OF A & B: \$1,222.12 ② Pd

Additional Prof. fees: \$ 124.50 ③ Pd

Bond to be posted: \$47,839.00 ④ —

PLANNING BOARD FILE NUMBER: 93-22

MEMORANDUM FOR FILE

DATE: February 1, 1994

On this date: I spoke to Steve Nissie re: the fees  
due for this project. I gave him all amounts  
due and told him once the money is received,  
the plans will be stamped.

(M)

2-2-94

received all fees except - <sup>S.P.</sup> Performance Bond Amt

(M)

PLANNING BOARD  
TOWN OF NEW WINDSOR

AS OF: 02/03/94

LISTING OF PLANNING BOARD FEES  
ESCROW

FOR PROJECT NUMBER: 93-22  
NAME: COASTAL GASOLINE - SITE PLAN & SPECIAL PERMIT  
APPLICANT: LEONARDO, CONSTANTINE

--DATE--	DESCRIPTION-----	TRANS	AMT-CHG	AMT-PAID	BAL-DUE
07/15/93	S.P. MINIMUM	PAID		750.00	
07/21/93	P.B. ATTY. FEES	CHG	35.00		
07/21/93	P.B. MINUTES	CHG	49.50		
12/22/93	P.B. ATTY. FEE	CHG	35.00		
12/22/93	P.B. MINUTES	CHG	135.00		
02/01/94	P.B. ENGINEER FEE	CHG	620.00		
02/03/94	ADDITIONAL ESCROW	PAID		124.50	
		TOTAL:	874.50	874.50	0.00

*PR # 93-22 Additional Escrow*

*561-2660*  
S. LEONARDO, JR.  
P.O. BOX 236  
VAILS GATE, NY 12584

476  
Feb 3 19 94  
29-7003/2213

PAY TO THE ORDER OF Town of New Windsor \$ 124 <sup>50</sup>/<sub>100</sub>  
One hundred twenty four and <sup>50</sup>/<sub>100</sub> DOLLARS

 **albany savings bank**  
Route 32 and Old Temple Hill Road  
Vails Gate, New York 12584

FOR Witch Leonardo Constantine

⑆ 221370030⑆ 24 02154 5⑈ 0476

PLANNING BOARD  
TOWN OF NEW WINDSOR

AS OF: 02/01/94

PAGE: 1

LISTING OF PLANNING BOARD FEES  
ESCROW

FOR PROJECT NUMBER: 93-22

NAME: COASTAL GASOLINE - SITE PLAN & SPECIAL PERMIT  
APPLICANT: LEONARDO, CONSTANTINE

--DATE--	DESCRIPTION-----	TRANS	AMT-CHG	AMT-PAID	BAL-DUE
07/15/93	S.P. MINIMUM	PAID		750.00	
07/21/93	P.B. ATTY. FEES	CHG	35.00		
07/21/93	P.B. MINUTES	CHG	49.50		
12/22/93	P.B. ATTY. FEE	CHG	35.00		
12/22/93	P.B. MINUTES	CHG	135.00		
02/01/94	P.B. ENGINEER FEE	CHG	620.00		
		TOTAL:	----- 874.50	----- 750.00	----- 124.50

CHRONOLOGICAL JOB STATUS REPORT

JOB: 87-56 NEW WINDSOR PLANNING BOARD (Chargeable to Applicant)

CLIENT: NEWWIN - TOWN OF NEW WINDSOR

TASK: 93- 22

FOR WORK DONE PRIOR TO: 02/01/94

										-----DOLLARS-----		
TASK-NO	REC	--DATE--	TRAN	EMPL	ACT DESCRIPTION-----	RATE	HRS.	TIME	EXP.	BILLED	BALANCE	
.....												
93-22	50492	01/06/93	TIME	MJE	FI ANTANORI S/P	70.00	0.80	56.00				
93-22	50508	01/09/93	TIME	MJE	FI ANTANORI S/P	70.00	0.30	21.00				
93-22	58066	06/16/93	TIME	MJE	WS COASTAL OIL	70.00	0.40	28.00				
93-22	58508	07/08/93	TIME	MJE	MC COASTAL S/P	70.00	0.40	28.00				
93-22	58576	07/14/93	TIME	MJE	WS COASTAL	70.00	0.40	28.00				
93-22	59084	07/21/93	TIME	MCK	CL C/REVIEW COMMENTS	25.00	0.50	12.50				
93-22	60763	07/21/93	TIME	MJE	NM DISAPP TO ZBA	0.00	0.10	0.00				
93-22	60556	08/18/93	TIME	MJE	WS COASTAL S/P	70.00	0.40	28.00				
93-22	62579	09/22/93	TIME	MJE	MC COASTAL S/P ZBA REF	70.00	0.20	14.00				
93-22	63176	10/02/93	TIME	MJE	MC COASTAL S/P ZBA	70.00	0.50	35.00				
93-22	65045	11/01/93	TIME	MJE	MC ZBA REF COASTAL S/P	70.00	0.40	28.00				
93-22	67216	12/15/93	TIME	MJE	WS COASTAL S/P	70.00	0.40	28.00				
93-22	67326	12/22/93	TIME	MJE	MC COASTAL S/P	70.00	0.80	56.00				
93-22	67448	12/22/93	TIME	MCK	CL C/RVW COMMENTS	25.00	0.50	12.50				
								375.00				
93-22	66582	12/06/93			BILL INV. 93-669	PD				-278.50		
										-278.50		
93-22	68504	01/06/94	TIME	MJE	MC COASTAL S/P	70.00	1.20	84.00				
93-22	68520	01/07/94	TIME	MJE	MC COASTAL S/P	70.00	0.50	35.00				
93-22	68537	01/10/94	TIME	MJE	MC COASTAL-WORK NYSDDT	70.00	0.10	7.00				
93-22	68538	01/10/94	TIME	MJE	MC COASTAL-COORD NYSDEC	70.00	0.40	28.00				
93-22	68539	01/10/94	TIME	MJE	MC LEONARDO TC/SUP	70.00	0.20	14.00				
93-22	68847	01/10/94	TIME	MCK	CL MEND-COASTAL GASOLIN	28.00	0.50	14.00				
93-22	68614	01/13/94	TIME	MJE	MC COASTAL BOND W/ATTY	70.00	0.40	28.00				
								585.00				
93-22	68113	01/18/94			BILL 94-117					-96.50		
										-375.00		
								=====	=====	=====	=====	
TASK TOTAL								585.00	0.00	-375.00	210.00	
.....												
								=====	=====	=====	=====	
GRAND TOTAL								585.00	0.00	-375.00	210.00	

2/1/94 h 35  
620.00



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  
400 Broad Street  
Millford, Pennsylvania 18337  
(717) 296-2765

TOWN OF NEW WINDSOR  
PLANNING BOARD  
REVIEW COMMENTS

PROJECT NAME: COASTAL GASOLINE GAS STATION SITE PLAN  
PROJECT LOCATION: NYS ROUTES 32 AND 94 (FIVE CORNERS)  
SECTION 70-BLOCK 1-LOT 1.1  
PROJECT NUMBER: 93-22  
DATE: 22 DECEMBER 1993  
DESCRIPTION: THIS APPLICATION INVOLVES A CHANGE IN USE FOR THE PREVIOUS GAS STATION TO A COMBINATION GAS STATION AND RETAIL STORE. THE SITE PLAN UTILIZES THE RESULTANT NORTH LOT FROM THE COASTAL/LEONARDO MINOR SUBDIVISION. THE SITE PLAN WAS PREVIOUSLY REVIEWED AT THE 21 JULY 1993 PLANNING BOARD MEETING, AND WAS REFERRED TO THE ZBA.

1. The previous review of the site plan indicated the need for a referral to the Zoning Board of Appeals for necessary variances. To my understanding, the Applicant has received all necessary variances. These variances are referenced on the latest plan submitted.
2. Although there appears to be no problem whatsoever with compliance, I suggest that the Applicant's Engineer verify the gross and retail square footage information indicated for the gas station building and "Dive Shop" building, comparing same to the parking calculation, prior to submitting the final plan for stamp of approval.

\* The Planning Board may wish to assume the position of Lead Agency under the SEQRA process.

\* The Planning Board should determine, for the record, if a Public Hearing will be necessary for this Site Plan, per its discretionary judgement under Paragraph 48-19.C of the Town Zoning Local Law.

The Planning Board may wish to make a determination regarding the type action this project should be classified under SEQRA and make a determination regarding environmental significance.

*5  
Corner  
Gross +  
Retail sq ft  
#1*

*④ Contact DEC  
Confirming info for  
to operate.*

*③ Bonding  
Dirt pile  
House repair*

*① Don Green  
Conservation ②*

*Agree not to  
open Dive shop  
until Dirt pile  
is removed.*

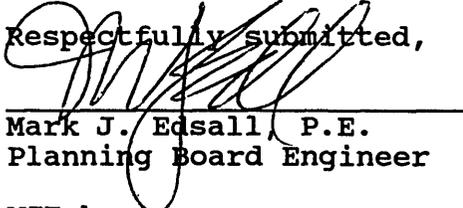
TOWN OF NEW WINDSOR  
PLANNING BOARD  
REVIEW COMMENTS

-2-

PROJECT NAME: COASTAL GASOLINE GAS STATION SITE PLAN  
PROJECT LOCATION: NYS ROUTES 32 AND 94 (FIVE CORNERS)  
SECTION 70-BLOCK 1-LOT 1.1  
PROJECT NUMBER: 93-22  
DATE: 22 DECEMBER 1993

6. The Planning Board should require that a bond estimate be submitted for this Site Plan in accordance with Paragraph A(1)(g) of Chapter 19 of the Town Code.
7. If the Planning Board acts favorably on the procedural items above, I am aware of no reason why this site plan application could not receive final approval at this time.

Respectfully submitted,

  
\_\_\_\_\_  
Mark J. Edsall, P.E.  
Planning Board Engineer

MJEmk

A:COASTAL3.mk

RICHARD CLARINO, Esq.

Attorney at Law  
100 Commerce Drive, Suite 107  
New Windsor, New York 12553  
(914) 562-8269 (FAX)  
(914) 562-8877

COPY

January 27, 1994

Tad Seaman, Esq.  
555 Union Avenue  
New Windsor, New York 12553

Re: Leonardo Performance Bond

Dear Tad:

I had an opportunity to discuss the pledging of shares of stock in a municipal bond fund with Andy Krieger, attorney for the Planning Board and with you.

I respectfully submit to you that the pledge of the Leonardo interest in the Putnam stocks is sufficient under Town Laws.

The word "fund" is not defined in the Town Law. However, in my view, the term is clearly applicable to the Leonardo securities.

Black's Law Dictionary, Fifth Edition, defines "fund" as, to "put into the form of bonds, stocks, or other securities...and to provide to the payment thereof an asset or group of assets set aside for a specific purpose."

The New York State State Finance Law defines "fund" in Section 2(8) as follows "a self balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances, and changes therein, which are segregated for the purpose of carrying on specific activities or attaining certain objectives in accordance with special regulations, restrictions, or limitations.

With respect to the Putnam Security Fund, I am enclosing a document explaining its liquidity and, since the shares of stock now have been placed in the name of the Town of New Windsor, they are readily liquid.

In my view, the requirements in Section 277 of the Town Law would be complied with with a pledge of the securities.

Please advise me how you wish to proceed.

Very truly yours,

RICHARD CLARINO  
RC/taf  
cc: Andrew Krieger, Esq.

RECEIVED JAN 31 1994 (m) La. d. 1-31-94

cc: G. Meyers  
T. Seaman  
M. Edsall



**McGOEY, HAUSER and EDSALL  
CONSULTING ENGINEERS P.C.**

RICHARD D. McGOEY, P.E.  
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400 Broad Street  
Millford, Pennsylvania 18337  
(717) 296-2765

10 January 1994

**MEMORANDUM**

**TO: Myra Mason, Planning Board Secretary**

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

**SUBJECT: COASTAL GASOLINE (LEONARDO) SITE PLAN  
SITE PLAN IMPROVEMENT ESTIMATE  
NEW WINDSOR PLANNING BOARD NO. 93-22**

Pursuant to the submission of numerous improvement cost estimates, I have recently received a complete cost estimate, in accordance with the guidelines set forth by the Planning Board, with the values of the estimate being determined reasonable and acceptable by the undersigned. Attached hereto, please find this estimate, as prepared by Civil Technologies and Engineering, the Applicant's consultant.

Please note that the estimate has a total site improvement estimate value of \$48,611.00, which includes the building improvements to the existing "dive shop", which were determined a key site improvement by the Planning Board and Applicant. The portion of the total bond estimate which applies to the dive shop is \$18,058.00 and the portion that applies to the site improvements is \$30,553.00. Inasmuch as the site improvement inspection fee applies only to the site related improvements (a separate building permit application will be required for the building improvements), the 4% site inspection fee is therefore \$1,222.12.

Also, please be advised that I have contacted the New York State Department of Environmental Conservation, as per the Planning Board's request. I spoke with the DEC representative familiar with this site, Mr. Jim Harder, who advised that he had no problem with the gas station opening, even though there is contaminated soil stockpiled on site and a vacuum extraction system in operation on site. He indicates that these are not areas of concern with regard to an operating business.

\$ 48,611.00  
- 772.00  
\$ 47,839.00

RECEIVED JAN 1 2 1994 *EN*

10 January 1994

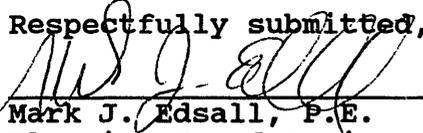
MEMORANDUM

-2-

Also please note that I have contacted the New York State Department of Transportation, and talked to Don Greene with regard to his commentary received by the Town. Dan indicates that he meant to check "no objection" for this project.

If you have any questions concerning the above, please do not hesitate to contact me.

Respectfully submitted,

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

MJEmk  
Encl.as

cc: Michael Babcock, Town Building Inspector

A:1-10-2E.mk

CIVIL TECHNOLOGIES & ENGINEERING

ROUTE 9D  
WAPPINGERS FALLS, NY 12590  
914-831-2829

JOB NAME LEONARDO

JOB NO. 93025 PAGE 1 OF 1

CALCULATED DATE

VERIFIED DATE

SCALE

TO: MARK EISSAH

	Quantity	Price	TOTAL
CONTAMINATED SOIL	104 CY	100/CY	10400
WINDOW DEMO	25 EA	50/EA	1250
BANK RUN	15 CY	7.09/CY	106.35
LANDSCAPE TIES	60 EA	30.34/EA	1820.40
BINDER COURSE	100 SY	10.63/SY	1063.00
TOP COURSE	260 SY	4.83/SY	1255.80
PAVEMENT MARKING	11 EA	8.1/EA	89.10
TREE'S GUINIS	4 EA	14.22/EA	57.68
PLANTING BED	50 YD	26.57/YD	1328.50
SODDING	25 SY	2.56/SY	64.00
MULCH	150 SY	2.57/SY	385.50
POLY	150 SY	.28/SY	41.40
SHRUBS	12 EA	29.50/EA	354.00
TREES (INSTALL)	4 EA	148.22/EA	592.88
VINYL SIDING	1000 SF	3.67/SF	3670.00
COMM. DOOR w/ LIGHT	3 EA	274.25/EA	822.75
ALUM. WINDOWS	8 EA	296.90/EA	2375.20
DBI HOOKS REPLACEMENT	4 EA	187.25/EA	749.00
INSULA. GLASS FOR ALUM. WINDOWS	150 SF	9.82/SF	1473.00

Dive Site - 18058  
 Site - 30553  
 \*Completed Site (portion of job is done) 772.42  
 BONDED SITE 29780.24

\$1222.12

TOTAL	27906
SALES TAX	7.25%
MATERIAL MU	20%
LABOR	"
EQUIP.	"
SUB CONTRACT	"
CONTINGENCY	"
CITY COST	112.90%
<b>TOTAL</b>	<b>48611</b>

From:

☐

P02

ANDREW S. KRIEGER

ATTORNEY AT LAW

219 QUASSAICK AVENUE

SQUIRE SHOPPING CENTER, SUITE 3

NEW WINDSOR, NEW YORK 12553

(914) 962-2333

January 13, 1994

Town of New Windsor Planning Board  
555 Union Avenue  
New Windsor, New York 12553

Attn: Myra Mason

Re: Leonardo/Coastal

Dear Myra:

The question "May an applicant for Site Plan Approval from the Planning Board (here Leonardo) assign a money market fund to the Town to satisfy his bonding requirements?" has been asked of me.

My answer to this question is no.

The facts as I understand them are these. This applicant, has applied for Site Plan Approval from the Planning Board. He was granted such approval by the Planning Board conditioned on his posting a bond as approved by the Planning Board Engineer. A cost estimate and amount for said bond has now been established and the applicant seeks to satisfy this bonding requirement by assigning to the Town a money market fund now in the name of the applicant.

Any applicant for Site Plan Approval must submit a cost estimate to the Planning Board Engineer and obtain his approval before the plan can be stamped (Town Code Sec. 19-3 (a) (1) (g) ). The Planning Board may require an applicant to post a bond in the manner set forth in the Town Subdivision Regulations, Sec. 48-19(c) (11). Here the Planning Board did make that requirement a condition of its approval.

An acceptable manner in which to post this bond or satisfy the security is set forth in the Town's Subdivision Regulations Sec. 6 (I) (1) as found on page 6124 of the Town Code. That section specifies that the bond must be either in the form of a certified check or a performance bond which complies with section

required under Section 6 of the Town Subdivision Regulations. The proffered Money Market Fund is not a certified check, does not comply with the requirements of Sec. 277, and has not been approved by the Town Board. Therefore, this offer is not acceptable.

Sec. 7 of the Town Subdivision Regulations allows "the Board" to vary the bonding requirements. The statute does not specify whether it means the Planning Board or the Town Board but here neither Board has varied the requirements and it would be unwise to allow the posting of this form of security. There are many questions involving such allowance which questions include but are not limited to the tax liabilities for any increase in its value while the Town has custody of the account, the Town's fiduciary responsibilities to the owner of the account while it is in the custody of the Town, and the Town's right to take security which fluctuates in value and which is not insured or guaranteed by the Federal Government.

In conclusion, the proffered "security" is not in an authorized form and must be rejected. If the applicant wishes to know what is authorized I suggest that he be referred to Sec. 277 (9) (c) of the Town Law.

If you have any further questions, do not hesitate to contact me.

Thank you.

Very truly yours,

  
ANDREW S. KRIEGER

ASK :mmt  
cc: Mark Edsall, P.E.

cc: G. Meyers  
T. Seaman

PLANNING BOARD FILE NUMBER: 93-22  
93-25

MEMORANDUM FOR FILE

DATE: January 31, 1994

On this date: I spoke to Andy Kreiger to find out the  
status of the Bond. He said he had a conversation  
with the attorney for Coastal and told him what needed  
to be done to post the bonds. as of this date he has  
not heard from them as far as what they are going  
to do.

I will wait to hear from Andy or Applicant.

(m)

PLANNING BOARD  
TOWN OF NEW WINDSOR

AS OF: 12/22/93

PAGE: 1

LISTING OF PLANNING BOARD AGENCY APPROVALS

FOR PROJECT NUMBER: 93-22

NAME: COASTAL GASOLINE - SITE PLAN & SPECIAL PERMIT

APPLICANT: LEONARDO, CONSTANTINE

	DATE-SENT	AGENCY-----	DATE-RECD	RESPONSE-----
ORIG	07/15/93	MUNICIPAL HIGHWAY	09/15/93	SUPERSEDED BY REV1
ORIG	07/15/93	MUNICIPAL WATER	09/15/93	SUPERSEDED BY REV1
ORIG	07/15/93	MUNICIPAL SEWER	07/27/93	APPROVED
ORIG	07/15/93	MUNICIPAL SANITARY	09/15/93	SUPERSEDED BY REV1
ORIG	07/15/93	MUNICIPAL FIRE	07/20/93	APPROVED
ORIG	07/15/93	PLANNING BOARD ENGINEER	09/15/93	SUPERSEDED BY REV1
REV1	09/15/93	MUNICIPAL HIGHWAY	09/25/93	APPROVED
REV1	09/15/93	MUNICIPAL WATER	09/25/93	APPROVED
REV1	09/15/93	MUNICIPAL SEWER	09/22/93	APPROVED
REV1	09/15/93	MUNICIPAL SANITARY	12/16/93	SUPERSEDED BY REV2
REV1	09/15/93	MUNICIPAL FIRE	09/24/93	APPROVED
REV1	09/15/93	PLANNING BOARD ENGINEER	12/16/93	SUPERSEDED BY REV2
REV2	12/16/93	MUNICIPAL HIGHWAY	/ /	
REV2	12/16/93	MUNICIPAL WATER	/ /	
REV2	12/16/93	MUNICIPAL SEWER	/ /	
REV2	12/16/93	MUNICIPAL SANITARY	/ /	
REV2	12/16/93	MUNICIPAL FIRE	/ /	
REV2	12/16/93	PLANNING BOARD ENGINEER	/ /	

PLANNING BOARD  
TOWN OF NEW WINDSOR

AS OF: 12/22/93

PAGE: 1

LISTING OF PLANNING BOARD ACTIONS

STAGE:

STATUS [Open, Withd]  
O [Disap, Appr]

FOR PROJECT NUMBER: 93-22

NAME: COASTAL GASOLINE - SITE PLAN & SPECIAL PERMIT

APPLICANT: LEONARDO, CONSTANTINE

--DATE--	MEETING-PURPOSE-----	ACTION-TAKEN-----
12/15/93	WORK SESSION APPEARANCE	NEXT AGENDA
07/21/93	P.B. APPEARANCE . APPLICANT TO APPLY FOR SUBDIVISION ALSO SPECIAL PERMIT	REFER TO Z.B.A.
07/14/93	WORK SESSION APPEARANCE	SUBMIT APPLICATION
06/16/93	WORK SESSION APPEARANCE	TO RETURN
12/23/92	P.B. APP(DISCUSSION)DIVE SHOP	FIX BLDG. SHOW PRKG
12/01/92	WORK SESSION APPEAR(DIVE SHOP)	NEXT AGENDA:DISCUSS

LEONARDO, CONSTANTINE

MR. LUCIA: They are so intertwined, it's easier to let the applicant come in and present his whole thing and at the end, unless there's some reason the board wants to break apart the separate variances or make motions that might be for less than what he is seeking, probably move it as a single motion to adopt them all unless anyone has any difficulties or you want to seek a more minimal variance than what he is applying for.

MR. NUGENT: It's up to the board if you want to do that, that is fine. If not, we can take it as one lump and address all the items on each one.

MR. TORLEY: I would suggest when and if we come to voting on the appropriate variances, then you may want to break them back down into these three sections.

MR. NUGENT: Take them in order. I'll read it into the minutes the way it is written here. Request for 92 ft. lot width, 50.4 ft. front yard and 18.8 ft. building height for canopy and various sign variances listed on site plan for Coastal Gas Station located at NYS Routes 94/32 in a C zone.

Eugene Ninnie, P.E. appeared before the board for this request.

MR. LUCIA: Why don't we get on the record exactly what those sign variances are just so we're clear. Follow me, this one looks like we have freestanding sign of 48 square feet, 40 square feet are permitted and that generates a variance request of 8 square feet. The height on that is proposed as 19 feet, 15 feet is, it generates 4 foot sign height variance. Wall signs it appers Coastal is 43 square feet and the Dive Shop is 50 square feet for a total of 93 square feet of wall signs permitted is 5 percent of the wall area which computes out to 20.5 square feet that generates a need for 69.5 square feet variance for wall sign area. Total signs, three are proposed, these are all freestanding I assume, three freestanding signs.

MR. BABCOCK: No, that is wall signs.

MR. LUCIA: Three wall signs proposed, one is permitted, we need a variance request for two wall signs. Setback from lot line sign setback from lot line, 6 1/2 inches proposed requirement is 15 feet generates a request for 14.45 foot setback from the lot line, that should be 6.05, 6.55 which is proposed, I guess last line on your--

MR. BABCOCK: I see there's a mistake on there. It might be 6.5 and the addition is wrong. Do you remember where it was again?

MR. NINNIE: Yes.

MR. BABCOCK: I don't.

MR. LUCIA: 6.55 setback.

MR. BABCOCK: What is it?

MR. LUCIA: 6.55, I would assume.

MR. NINNIE: So this has to change, this or this.

MR. BABCOCK: What it's got to say, 6.55.

MRS. BARNHART: Yes.

MR. LUCIA: Should be 6.55 inches provided instead of 6.5. Decimal point is in the wrong place.

MR. NINNIE: This is in feet and this is in inches.

MR. LUCIA: It looks like the Notice of Denial is correct, the sign setback from the lot line proposed is 6.5 inches, 15 feet is required that generates a variance request of 14.45 feet.

MR. TORLEY: Freestanding sign if I am looking at your chart, parcel 70-1, it is showing 4 by 5 which is pricing so that is, this is 40 square feet here and 56 square feet there.

MR. TORLEY: It is not 48 square, if the feet provided

it's 96 square feet, he's asking for a variance of not 8 square feet but 16 square feet, I'm sorry 56 square feet.

MR. LUCIA: We probably are going to have to amend those numbers if that has been consistent throughout. Your plans are only counting one side.

MR. NUGENT: There's only one freestanding sign, isn't there?

MR. NINNIE: That is right, just one.

MR. BABCOCK: You agree that each side of the sign is 48 square feet?

MR. NINNIE: Yes.

MR. BABCOCK: So we have to double that requirement.

MR. NINNIE: To 96 and then subtract.

MR. LUCIA: 56 square foot variance request for the freestanding sign area.

MRS. BARNHART: Mike, would you change my Notice of Denial?

MR. BABCOCK: Yes.

MR. BABCOCK: That is also an existing sign because they are putting the sign on.

MR. NINNIE: DOT took six feet so that made that closer because the back curb is the edge of the DOT right-of-way.

MR. NUGENT: Let's stop right here, right now and get some kind of law and order here because we'll be in a disaster in no time flat. I'll read 7 and 8 and then address them. How want to address them is up to you.

MR. NUGENT: Request for 25,179 s.f. lot area, 50 ft. lot width, 3.04 ft. building height on Subdivision of Lot #1 which includes gas station and retail sales on

property listed above in a C zone.

MR. TANNER: Number 7 doesn't address the residential aspect of this property. There's an apartment in there also we're talking about retail and Dive Shop and gas station they are not addressing the apartment at all.

MR. NUGENT: I was under the assumption that the apartment was pre-existing.

MR. SAMUEL LEONARDO: We have an affidavit proving that Mr. Leonardo lived there for 30 years, we have an affidavit taken.

MR. TANNER: I haven't seen that.

MR. LUCIA: We did ask that the one parking place be shown on the map.

MR. NINNIE: Which is it?

MR. TANNER: Should that be listed there also on that?

MRS. BARNHART: No, because they are not asking for a variance for it.

MR. NUGENT: It's a pre-existing use, right?

MR. BABCOCK: Yes, actually, the one family apartment Ted is a permitted use there, he won't need a variance to have that there, he would need a variance for lot area, wasn't pre-existing.

MR. TANNER: I just don't want him to get in a situation where later on he runs into a problem.

MR. BABCOCK: Lot area of 20 acres is required in a C zone, that would be the variance that they would request but the caretaker's apartment is a permitted use in that building.

MR. TANNER: I just don't want him to be back here.

MR. LUCIA: In that same connection, Mr. Leonardo, Anthony Marshall's affidavit says that he knows you

occupied it from 1957 through April of 1993, what happened after April of 1993?

MR. SAMUEL LEONARDO: Young lady that works for me, he moved out and she moved in the same day.

MR. LUCIA: My concern is if you abandon for more than a year, you're going to lose it so it is presently still occupied.

MR. SAMUEL LEONARDO: Right, for my personal preference, the lot is, the area variances are reflecting the lot line changes that the changes that were done as far as the County is concerned quite some time ago really just getting back to us and personally I have no problem with drawing the lot line where it is. But I do have some substantial questions in regard to the gas station. If you want to yield to you, how you want to handle it.

MR. TANNER: No problem with doing it that way, that is probably a good way.

MR. LUCIA: We probably should have--

MR. TORLEY: Get the lot line change out.

MR. BABCOCK: It's a subdivision.

MR. TORLEY: Sorry, subdivision which is reflecting reality.

MR. LUCIA: Have the applicant lay out, I know you have done this but the history of how the lots came to have this configuration.

MR. NINNIE: I've written you a letter for all of you to follow but I'm going to read it out loud for the public hearing. Dear Members of the Board: It was proposed back in August, 1993, that the present use of gasoline filling at Lot 1.1 be changed to gasoline filling/retail. The use change required a site plan approval from the planning board. In its review of the proposed site plan, the planning board and consultants had determined that a sub-divide of the property was

needed. The sub-divide was needed to legally divide the two lots, since only a boundary agreement separated the two parcels yet two tax numbers existed, one for Lot 1.1 and 1.2. The boundary agreement was drawn up as part of probate of the estate of the late Catherine Leonardo, to separate the site into two lots for her two surviving sons. One lot for Constantine and the other for Samuel. These are Lots 1.1 and 1.2 respectively. Known variances were there recognized from the proposed subdivision and site changes on Lot 1.1. Therefore, an appearance before zoning board was warranted. It is through the subdivision process that most of the variances occur. The variances created by the subdivision consist of area, set-back and parking space variances on both lots. The above mentioned site, Lots 1.1 and 1.2, predates Town of New Windsor zoning laws by 2 years. The pre-existing conditions are substantiated through Town Assessor records and deed dated in 1933, enclosed. Upon the adoption of the zoning laws in 1960, both lots automatically became undersized. These variances associated with the subdivision cannot be mitigated or rectified due to this condition. The adoption of the zoning law after the establishment of lot 1.2, the lot that has no proposed site improvements. Again, the adoption of the zoning law after the establishment of lot 1.2 had rendered the site undersized. Zoning law regulations pertaining to parking are directly related to retail space and site area, in which to accommodate the spaces, therefore a variance for parking is needed and therefore requested. The site plan application will create variances by virtue of the site improvements that are proposed under that application. The site plan has created variances pertaining to lot width, setback, height and signage. Variances associated with lot width is connected to the lot predating zoning law. This variance cannot be mitigated or rectified, since the site is pre-existing zoning regulation adoption and the adoption of the zoning law after the establishment of lot 1.1 has rendered the site undersized and hence lot width also becomes non-conforming. Variances associated with setback, height and signage pertain to the proposed use of the lot. Setback variances created by the canopy cannot be rectified since the DOT takings over the last 20 years has limited setback to the 9/6

feet shown. Even without the canopy, the building itself cannot meet this setback condition, due to the building and lot pre-dating zoning law adoption. The height variance cannot be met due to similar circumstances that the setback variance cannot be met. Building height requirements are based upon building setback. Since building setback cannot be met due to the pre-dated condition, building height cannot be met. Even without the canopy, the building itself cannot meet the height regulations, due to the building and lot pre-dating zoning law adoption. Variances associated with signage are needed to properly market the produce in competition with the other three petroleum establishments. The three other petroleum marketing establishments, all within 200 feet of each other have signage similar if not larger than the proposed signage. Their facade sizes are smaller or the same as the building in question. Since signage is based upon percent area of building facade, the other three establishments must be at variance with town zoning as well, including setback. Enclosed photographs substantiate this variance of sign setback with their property lines and sign square footage greater than what is being proposed at Lot 1.1. Therefore the inclusion of signage similar to other establishments within 200 feet of one another and in a neighborhood that is similar in character will not be a detriment to the public health, safety and character of the neighborhood, that the other three similar facilities now possess. The area of the 5 corners is built up with three other petroleum marketing establishments, all within 200 feet of each other. These too have canopies the same height and larger footprint than the proposed canopy. Additionally, photographs enclosed indicate a greater variance with their property lines and canopies. Therefore, the inclusion of another canopy with similar characteristics and sitting in an area that is similar in use will not be a detriment to the public health, safety and character of the neighborhood, that the other three similar facilities now provide. Canopies are now becoming the favored structure with petroleum companies, since the canopy serves a two fold purpose. One is life safety. The canopy is an excellent structure to hang Halon fire suppression systems

attractively. The canopy also serves to protect the customer from adverse weather conditions that can affect safety of mobility when dispensing petroleum products. Therefore the canopy will be beneficial to the safety of the neighborhood, by making it safer for all who use the facility and to bring the present filling station up to safety similar to the other three facilities. Overall, the applicant is not asking for variances that do not exist in the neighborhood that do not presently exist with the other establishments now. Similarly, the applicant is proposing improvements to a site that before did not conform to neighborhood characteristics. The site has been in disarray for years. The owner, Mr. Leonardo, is attempting to improve and appreciate Lot 1.1 through a lease agreement with Gasland Petroleum Company. Under the lease agreement, Gasland will renovate the gasoline station and provide site improvements. The landowner will refurbish the dive shop to improve the building and provide site improvements, through proceeds generated by the lease agreement. Without Gasland Petroleum as a new tenant, the present owner cannot afford to improve the site. The inclusion of a new tenant, Gasland Petroleum Company, has only improved the site and blend the site with the present character of the neighborhood. Gasland is the key to improving the above mentioned property. Without the Gasland agreement, the property will remain as it is. Not granting the variances requested for will terminate the lease agreement between Gasland and Mr. Leonardo and leave the site uncompleted and non-conforming to neighborhood character. The applicant is only proposing a use and variances that the neighborhood presently accommodates with three other similar establishments. We therefore ask the board to grant the necessary variances to complete this part of the planning process and improve a site which needs improvement.

MR. LUCIA: It sounds like you're saying the lots in the present configuration pre-date zoning, that is not really true, the unsubdivided lot pre-dates zoning. One thing just for the board's etification, and if you go through this and look at what's pre-existing non-conforming, nothing has to do with the subdivision

is pre-existing, there are certain setbacks that may be pre-existing but as far as the subdivision of lots 1 and 2, that is an initial application to this board at this point.

MR. NINNIE: We have some photographs here too that we have, I don't know if Steve has circulated them.

MR. LUCIA: Mr. Leonardo, Mr. Babcock corrected me before there's a 12 year time period during which you'd have to abandon that apartment, before you'd lose it as a pre-existing use. I think I said one year. I want to correct that.

MR. SAMUEL LEONARDO: That young lady has been with me 16 years, I think she's going to remain with me another 16 years.

MR. TORLEY: Right now we're talking about the subdivision.

MR. NUGENT: What would you like to do? You were concerned about doing 7 and 8 first.

MR. TORLEY: Personally, I have no problems accepting the reality of a lot line.

MR. BABCOCK: So, you keep saying lot line, I don't mean to correct you but it is a subdivision so we should refer to item number 7 on the agenda and make a separate vote on 7, I think there should be a separate on each is that what you're asking?

MR. TANNER: Let's get the subdivision out of the way.

MR. NUGENT: That would be 7 and 8.

MR. BABCOCK: One at a time.

MR. NUGENT: We'll go 7 first then 8 and go back to 6.

MR. LUCIA: I want to get more evidence on the record. I know you covered a large part of this in your presentation but just let me have you respond to some of these items. Do you feel an undesirable change will

be produced in the character of the neighborhood or detriment to nearby properties by granting all these area variances?

MR. NINNIE: No.

MR. LUCIA: Could you describe the character of the neighborhood surrounding the subject site?

MR. NINNIE: Character of the neighborhood is presently occupied by commercial retail establishments specifically petroleum, marketing and like a convenience type of stores, snack shop, all within 200 feet of this particular site plan.

MR. LUCIA: And do you find that those competing establishments within 200 feet have similar setbacks, similar signage and similar area variance problems that you are presenting to this board?

MR. NINNIE: Yes.

MR. LUCIA: Some of them you think are even worse than yours?

MR. NINNIE: They are close, I wouldn't say worse but I would say they are very, very close because some of the for example the Hess station I've noticed when I was there I did a walk-around all the sites and took a photograph I believe one of them is a black and white, the canopy is right tight up against the fence and then there's an adjacent building obviously Hess does not own that adjacent building has to be neighboring property.

MR. LUCIA: Is the benefit which you seek here achievable by some other method feasible for you to pursue other than an are variance?

MR. NINNIE: No.

MR. LUCIA: Are the requested area variances substantial in terms of numbers?

MR. NINNIE: I don't feel they are, no.

MR. LUCIA: Some of these, especially with regard to--

MR. NINNIE: Not under the present circumstances that these lots have existed for so many years like this, even without the subdivide, the lot itself was non-conforming the day that the zoning law was adopted.

MR. LUCIA: You have drawn this to minimize as much as possible the requested area variances?

MR. NINNIE: Yes.

MR. LUCIA: Will the proposed variance have an adverse effect on physical or environmental conditions in the neighborhood or district?

MR. NINNIE: No.

MR. LUCIA: You're improving the environmental conditions of the neighborhood or seeking to?

MR. NINNIE: Yes.

MR. LUCIA: And was this difficulty self-created?

MR. NINNIE: No.

MR. LUCIA: I guess the subdivision being unilateral act by the Leonardo's was self-created but you are now here doing what you can to make it legal?

MR. NINNIE: We want to rectify and correct the situation.

MR. LUCIA: At the last meeting it was mentioned that the board members were going to visit the site individually since we're now meeting together, I don't know if anyone observed anything with respect to visits, if they want to share with other board members.

MR. TORLEY: Reflecting the area variances, no.

MR. NUGENT: No.

MR. LUCIA: Okay, you had a question Herb?

MR. LANGANKE: No, I was just going to proceed.

MR. LUCIA: Motion is in order unless the board has any additional questions?

MR. NUGENT: I thought you weren't finished yet.

MR. LANGANKE: I make a motion that we grant the applicant the variance requested in item 7 as stated in the Zoning Board of Appeals agenda dated December 13, 1993.

MR. TANNER: Second it.

ROLL CALL

MR. TANNER	AYE
MR. HOGAN	AYE
MR. TORLEY	AYE
MR. LANGANKE	AYE
MR. NUGENT	AYE

MR. NUGENT: I think we should address number 8.

MR. LUCIA: Without being repetitive, if I were to ask you each of those specific questions under Section 267B would your answers be substantially the same for this lot?

MR. NINNIE: Absolutely.

MR. TORLEY: And once again having walked there I have no objection to these area variances.

MR. NUGENT: I'll accept a motion on number 8 then.

MR. LANGANKE: I make a motion that we grant the applicant the variance requested in item 8 as stated in the Zoning Board of Appeals agenda dated December 13, 1993.

MR. TORLEY: Second it.

ROLL CALL

MR. TANNER                    AYE  
MR. HOGAN                    AYE  
MR. TORLEY                   AYE  
MR. LANGANKE                AYE  
MR. NUGENT                   AYE

MR. NUGENT: Now we're back to number 6.

MR. TANNER: I have a question about signage here, we have been talking about all these Coastal signs, the Dive Shop goes in, there's no reflection of signs, I would assume they are not going to do business without a sign?

MR. BABCOCK: I can address that. I talked to the applicant, there will be no freestanding sign for the Dive Shop. There will only be a facade sign that is how we wrote it up.

MR. NUGENT: What's on the building now?

MR. BABCOCK: Yes, well, there's a temporary promotional sign that he was using.

MR. TANNER: Should that be reflected on here?

MR. BABCOCK: It is on the map.

MR. BABCOCK: There's a formula you have to compute it.

MR. LUCIA: 5 percent of all area, wall area, not all.

MR. BABCOCK: Which he called 50 square feet.

MR. LUCIA: One of the sign variances on the Dive Shop is 50 square foot proposed wall sign combined with the 43 square foot for Coastal.

MR. TANNER: Just so they are not back in here for another sign variance.

MR. LUCIA: Once again, if I were to ask you each of those--

MR. TORLEY: Before we get to the signs, I have one

overwhelming problem that I saw when I walked through the area as I have gone by I went over this past weekend, there's a huge pile of dirt in the back and two, 55 gallon drums with no clear legible label that I saw.

MR. SAMUEL LEONARDO: The two, 55 gallon drums belongs to the DEC which we have no jurisdiction, the dirt we're going to take the dirt away.

MRS. BARNHART: They are monitoring wells.

MR. TORLEY: That dirt has been there since August, is that dirt considered contaminated soil?

MR. SAMUEL LEONARDO: Yes, it is.

MR. TORLEY: You have had it sitting there uncovered since August?

MR. SAMUEL LEONARDO: We're waiting for this gentleman to open up so he can pay rent and we'll move the dirt.

MR. NINNIE: Most times the way the situation works not even with this station, I deal with a lot of them, it's more economical for the owner to let it sit there. Once they haul it off-site now they are liable even if you have something in writing from the DEC, the federal government can come back to you and say you're under lawsuit you have to remove it from a site 50 miles away because we have your map here.

MR. TORLEY: We know that I have a pile of dirt which you admit could be contaminated, it's uncovered and you're letting it leach out into the ground water. Personally I will not want to go forward with any of these things until the dirt is out of there and properly disposed of.

MR. STEVE KALKA: One, it's obvious to the benefit of the land owner to remove it. Two, there's nothing in the DEC regulations that require it to be moved off the site. That dirt can sit there forever literally. It's not considered hazardous waste material because of the level of contamination. One of the problems we have in

the industry is the analytical tests become more and more sensitive, the description of what's contaminated becomes larger and larger. Ten years ago parts per million were tested now we test parts per billion so consequently, what's legal to drink in Pennsylvania is contaminated in New York. So yes, the dirt is contaminated. You're concern is addressed, the DEC is aware of it. There's no wells in this particular area and the leaching effect from the dirt is basically minimal. If you take a pile of dirt even after a heavy rain storm, it doesn't penetrate very much into it. If you'd like, I would agree to it and I don't think we'd have a problem we'll cover it with plastic and keep it covered until we do get it off-site.

MR. TANNER: I don't see how you're going to do the site plan improvements without moving the dirt.

MR. KALKA: It's already been done.

MR. TANNER: This landscaping?

MR. NINNIE: Yes but in order for him to get the dirt of site which is very expensive, he has to get the proceeds from the lease agreement so he can pay for having the dirt removed.

MR. TANNER: Aesthetically, I have a real problem with the dirt to be honest with you and if you grant approval and then he says well, I got my rents, I don't need to move the dirt.

MR. SAMUEL LEONARDO: We'll put it in writing that after we collect the rent, the first rent 90 days the dirt will be out of there in 90 days. We'll put it in writing.

MR. TANNER: That is fine with me.

MR. SAMUEL LEONARDO: Right now.

MR. KALKA: As part of the approval.

MR. NUGENT: Put it right in the minutes.

MR. SAMUEL LEONARDO: Within 90 days we'll have it out of there.

MR. KALKA: Ira Conklin and another outfit by the name of Clean Earth, they are in Newburgh now so we don't want to ship it to Jersey or Buffalo or Cincinnati. What's happening right now--

MR. SAMUEL LEONARDO: The DEC just took 50 or 60 yards away. They were there yesterday and the guy told me it costs \$5,000 for the 60 yards.

MR. TANNER: It's not a reflection on Mr. Leonardo but people do just leave it and say--

MR. SAMUEL LEONARDO: We'll put it in writing. We can't have it there. And the DEC guy asked me if I can turn it over he said if you can turn it over that would help the contamination.

MR. NINNIE: Requires to turn it on over, turn it over to aerate it because it's a hydrocarbon.

MR. SAMUEL LEONARDO: We don't want to do it, we want to move it out.

MR. LANGANKE: I don't have any reason to disbelieve what Mr. Leonardo is saying. He wants the dirt out of there, he's willing to put it in writing I think it's fine.

MR. LUCIA: If the board would feel more comfortable you can make the motion subject to it being removed by a certain date so you are not always tied to his collection of rents or tenant going belly up or something that is completely beyond our control.

MR. TORLEY: No reflection, sir, we put that into the minutes so it has to be gone by February 1st, pick an arbitrary date, comes February 1st it's still there, what recourse do we have?

MR. LUCIA: He no longer has a variance. He can't build out the site plan.

MR. TORLEY: Well if he has gone beyond the point there are a lot of things that do not have variances that are churning along quite happily.

MR. LUCIA: Building inspector can cite him then.

MR. NINNIE: That is a Planning Board matter, they are definitely going to pick up on that and we're going to be held to the same type of conditions that you are requesting for here. So in order for them to grant us a viable site plan, they are going to have to somehow remove the dirt within a stipulated basis of time even if it is in writing contingent on this being removed.

MR. SAMUEL LEONARDO: Even if gasoline doesn't become the operator we have no choice, we have to get it out of there.

MR. NINNIE: Looking at parking spaces and part of the landscaping that is part of the site plan.

MR. TANNER: Why don't we take Mr. Leonardo up on his offer and take him up from there.

MR. TORLEY: My second problem is in the freestanding sign. Now, it is true that there are other signs around there that clearly are out of variance, but they are not before us now we have no control over them unless and until they do show up.

MR. NINNIE: We're just bringing out a point as comparison as part of the process of showing hardship and neighborhood character.

MR. TORLEY: Mobil lot came to the board before they put up the signs and in fact they reduced the initial requested sign areas and made substantial changes to meet the concerns of the board. We come up, we find gee, there's the sign now you're saying give us the sign regulations.

MR. SAMUEL LEONARDO: You have to remember, the base is in and the sign posts were already there.

MR. TORLEY: That doesn't matter, that sign is very

large, it's very close to the road and I'd like you to explain to me why you cannot get the same advertising coverage by putting your coverage on the canopy.

MR. MITCH NESHUWIT: If you bring the sign a little bit in, it will be a safety thing. My name is Mitch, I'm the tenant for that location.

MR. TORLEY: Get rid of the freestanding sign and put your signage on the canopy.

MR. KALKA: One thing the public has become accustomed to it, if you look at the signs in the neighborhood use the major marketing which is Mobil that the signs have become a stack system. In other words, you have vertical stack with a trademark, another trademark and price and what happens is you you have to put on the canopy you have to go horizontal. Try to think about it you don't even see a price sign on a canopy marquee type of sign but the thing is your eye tends to go where it's used to looking. Marketing and gasoline is extremely price sensitive. So if you say well, you're here in front of us so we're going to to the mark and paraphrase with you, it's not a fair situation we're asking for a variance so that we can compete on a level playing field with the people that are within 200 feet foot area. If this was the only site in a residential area, I wouldn't even be trying to make this argument. I think the reasons for granting a variance are very obvious. I want to be treated the same as our competition. We're not asking for more or less.

MR. SAMUEL LEONARDO: I'm glad you brought up the sign thing. If you will allow me to say a few words that touches a very tender spot in my heart. It hurts me because I had a sign up there before the ordinance was in effect, and it was three, 4 by 8 plywood boards nailed together so that would be 12 by 8, right, and the wind blew it down and I wasn't allowed to put it up and the building inspector at that time told me you only can put up a 3 by 5 sign so we couldn't fit Orange County Importing Company on a 3 by 5 sign so we had to put up Cheese Store. See so we're known as three different things. I bought the company was Orange County Importing Company, Leonardo Food Products so

we're known as Leonardo and I had to put the sign back up so what do we sell in the retail outlet, we sell mostly cheese. When I complained about it I said look I like to obey the law but how come Johnny-come-lately on the spot McDonald's we're here 70 years and we have been paying taxes for 70 years, McDonald's comes Johnny-come-lately and they ask for a variance and they get it right away. Then to add insult to injury, then comes Friendly's next door our neighbor and we look to be friendly so we're always friendly but anyway, what happened, they asked for a variance and they get it, no problem. So we're begging you that we only want you to treat us like you treated our friendly neighbors, be friendly to us.

MR. HOGAN: While you own that cheese store sign just a little aside I think I'd be happy to vote for a variance for a larger sign if the condition of the sign was much better. How long--

MR. LEONARDO: That's been there about 20 years. We have the trucks come out at nighttime from Club 32 and they have to get rid of all of that meanness in there and they throw rocks at it. That is better than breaking into the place. You know how many times I have been called down there at nighttime because one of the those drunks come out and there's a bottle through my window, you know and the alarm goes off and they call me. I bet you I have been called out ten times in 20 years. I'd like to catch one just once, I'd have him pay for the ten times.

MR. NUGENT: Let's get back to this.

MR. LEONARDO: So remember about McDonald's and remember about Friendly's, we don't ask for anymore, Mobil, Hess, you know what there excuse was.

MR. LANGANKE: I have no problem with the freestanding sign after hearing the discussion.

MR. BABCOCK: How can you do site improvements under a dirt pile, they'll bond it. It's one of the requirements. It's going to be called a cost estimate once they are ready for the C.O. I'm going to walk on

the site and look at the cost estimate what they haven't completed they are going to have to bond.

MR. NINNIE: That will probably be brought up at the Planning Board and we're anticipating it.

MR. KALKA: What we need to be able to proceed to that step which is through here and then we'll go on to that one.

MR. TORLEY: Did you ever ask for a variance for that cheese store sign?

MR. LEONARDO: Well, in order to put that one up, I had to get a permit or a variance, I don't know which in order to put up the 3 by 5.

MR. BABCOCK: Twenty years ago he probably wasn't, Jimmy, that has been changed several times.

MR. LEONARDO: Had to come before somebody, I forget, must have been the Planning Board or the Zoning Board, I don't know which and I had to get the variance to put up the sign 3 by 5. They only allowed then.

MR. BABCOCK: 1958 it was updated so I'm not sure what it changed to.

MR. LEONARDO: I think it's 6 by something now, isn't it?

MR. BABCOCK: It's 40 square feet total.

MR. TANNER: Can we get back to the Coastal signs here and try and complete this? The building signs, which ones are going on the canopy and which are going on the building?

MR. NINNIE: Okay, this one, these are going on the canopy at this location, number one, designates here on this side and this side, and C is going on this side here and here on the canopy edge and the building and the labeled number 3 that is going right here.

MR. LUCIA: Mr. Ninnie was taking the blocks labeled

building signs on sheet S 1 and relating the numbers on those 3 signs to the numbers shown on the block labeled building sign placement.

MR. TORLEY: You're putting the C on both faces on Coastal on the one face in addition to the C?

MR. NINNIE: That is correct.

MR. TORLEY: And the C markings on the front of the building?

MR. NINNIE: Yes.

MR. TANNER: That is the only one I would have a problem with. I think they are kind of being redundant with it. It's saying exactly what you already got there putting it up again. I don't know why it necessities 18 square feet. I don't feel it's necessary. I'm talking about number 2, the small C.

MR. NUGENT: That is the one on this sign right here?

MR. TANNER: It's up there already, it's also on the building evidently.

MR. NINNIE: It's on the building but not on the canopy.

MR. TANNER: I have less of a problem with it on the building than I do on the canopy.

MR. LANGANKE: On the ends there's only Coastal, this is on the ends, right?

MR. TANNER: All right, I don't have a problem with it that way at all.

MR. NUGENT: Want to explain to me what you just found out?

MR. TANNER: What he just said I don't have a problem with it.

MR. LUCIA: I think Mr. Hogan had a question on parking

and we now have an amendment.

MR. HOGAN: I still have a problem with parking. I don't have a problem with signs at all. With regard to this amendment to the lease and the amendment to the drawing, that course to this document here, just in way of summary I show that the ingress egress and the area for deliveries effects 5 of the 15 provided spots. You want me to point them out or just keep going?

MR. NINNIE: Yes, please.

MR. HOGAN: I've penciled in to the best of my ability where these number 6, number 5 is cut in half, number 6 is cut almost entirely.

MR. NINNIE: Now this piece you're getting from?

MR. HOGAN: From the original lease, this is prior I'm going back and number 9 is entirely within this area, 10 is partially within this area and 10 and 1 are also effected by the ingress egress triangle here.

MR. NINNIE: Well, this supersedes that which makes this null and void.

MR. HOGAN: That is fine. However, in terms of legality I want to take this a step further, the lease that was provided to us was between M & A Realty, I believe and Constantine Leonardo.

MR. SAMUEL LEONARDO: That is my brother.

MR. HOGAN: The problem I have this is really a question for Dan and if necessary I want to take it a step further but is this document that we're now looking at, is this going to bind all tenant, tenant and landlord to this agreement for a period of time that we're talking about, we have a ten year lease here.

MR. LUCIA: Yes it's difficult to say. You're correct the amendment says between the realty company and Constantine Leonardo which seems to be a stranger. It's signed by Leonardo, Constantine Leonardo, who is

the landlord on the basic lease. It's signed by someone indicated as Mitch Neshuwit, manager of M & A Realty Corporation. It's ambiguous to be honest.

MR. HOGAN: Because at some point in the future, once we have approved this, there's nothing stopping anyone of these three or all three together to assigning these spots strictly to other uses within this property here. I'd like this --

MR. SAMUEL LEONARDO: Doesn't it say it was agreed that both parties have permission of have ingress and access in order to park?

MR. HOGAN: I understand.

MR. LUCIA: Question is who signed it and on behalf of whom? In other words, this name the realty company is different than the name in the lease, this guy signing here doesn't indicate who he is signing on behalf of and in the lease it says he was signing on behalf of a realty corporation.

MR. SAMUEL LEONARDO: That is my nephew, that is the Dive Shop. Now Mitch is here, he's present and he can sign as M & A Realty. Can you put underneath your name M & A Realty?

MR. NESHUWIT: Yes.

MR. HOGAN: You're getting way ahead of us here. Just from my understanding, Mitch, you are in what position with M & A Realty?

MR. NESHUWIT: I'm the chairman for M & A Realty.

MR. HOGAN: I'm asking our attorney to have approve whatever document here and I'd like to make whatever we do today conditional upon document that tightens this up to the point where all of this parking is now and will forever more for at least next ten years jointly useable by both tenants on that property.

MR. LANGANKE: Can't you put that on the map and on the map put a note saying that therein.

MR. HOGAN: It's on the map.

MR. LANGANKE: In the minutes your approval per the map you referred to in the minutes.

MR. HOGAN: I don't want to drive into Coastal to run in and get a can of oil and see a sign Dive Shop parking only.

MR. NINNIE: Dan would they have to amend the deed?

MR. LUCIA: I don't think it's a matter of amending the deed, as getting the amendment to the lease to conform as to parties to the lease itself and to bring in the Dive Shop operator as by indicating exactly in what capacity he's signing it cause it looks just on the face of it he looks like he's a stranger to the whole transaction just to read the amendment.

MR. SAMUEL LEONARDO: He's my nephew and we don't know how long he's going to stay. He put a lot of money and if it doesn't work out, I don't think it's going to be much longer.

MR. LUCIA: Mr. Hogan's concern is we want to tie this parking to whomever operates the Dive Shop and that is what we need to get nailed down.

MR. NINNIE: There's some legal terms that have to be added to that.

MR. SAMUEL LEONARDO: Or to any successor.

MR. LUCIA: It can be done, it's just a matter of how we're going to present it at this board. The other thing the board may once again want to take a look at on parking they are showing 15 spaces provided and you'll note as we discussed before 4 of those spaces are at the gas pumps which is not something we have ever seen in my tenure on the board and any other gas station application so depending on how you want to view that, it may increase his variance request for the number of parking spaces.

MR. BABCOCK: Dan, he only needs to provide 9 according to my calculation and if I take the four out, he will still be one over.

MR. HOGAN: My concern comes in if I take those 4 spots out and I take the fifth out could be effected by at any point in time by ingress deliveries et cetera then we're down to 6 spots for the entire site.

MR. NINNIE: If we go this route here but this has to be changed.

MR. KALKA: We'll tie that back into the lease.

MR. HOGAN: I'd like to make it conditional on whatever we do.

MR. KALKA: That is acceptable, it's reasonable.

MR. TANNER: Do we have any precedent for using gas pumps as parking spaces?

MR. LUCIA: Not that I have seen.

MR. KALKA: We discussed this at the last meeting and one of the problems in the Town of New Windsor and other jurisdictions where we go in front of converting service stations into convenient stores is that convenient store has been around for a long time, used to be called general store with a couple gas pumps out in front. In the zoning laws, as they have been rewritten, it is not addressed. If you look, you'll not find the word convenient store. It's like a hole, what's a convenient store and it doesn't fit the normal retailing. It's like delivery areas some of the zoning regulations require 15 by 65 foot long spot for a trailer truck to unload at a retail establishment that would be a year's supply at a convenience store. it doesn't fit and that is why I said to you when we addressed it the first time it's almost an educational process not a smoking mirrors type of thing. People do use the gas pumps for parking. They don't at a full service gas station because the attendant is going to show them out but at a convenient store, where you don't control them I get annoyed, I pull into the

convenient store and the guy, a driver in front of me being non-sexist, isn't getting gas but they park at the closest place where the gas pump is and decide to do the shopping. So in effect, I don't think we're pushing it. I think they truly are used for both.

MR. LUCIA: You can make the argument I think the board's concern is since we have had a number of convenient store gas stations before us and we haven't previously counted spaces at the pumps, I'm not sure they want to set a precedent for saying I've got 4 spaces under the canopy.

MR. KALKA: We don't need it, we can, I have waive that requirement.

MR. BABCOCK: They don't need the parking spaces for the gas station. It's not required. The parking spaces are there for the retail store. So if you just for a second thought about it and took the gas pumps out, you would have 4 retail parking spaces there so basically, like you said, you don't want to set a precedence where you are counting them but you could count them because they are there for retail not there for the gas pump.

MR. NUGENT: He has enough with or without so it's irrelevant really. Is there any other questions?

MR. LUCIA: On the cheese factory for parking we do have the 2 parking space variance requests?

MR. BABCOCK: That was on number 8.

MR. LANGANKE: That is already done.

MR. TANNER: Even if we eliminate the 4 spaces we have enough parking for the Dive Shop apartment and retail space?

MR. BABCOCK: Yes.

MR. LANGANKE: I have no further questions.

MR. TANNER: No questions.

MR. TORLEY: No.

MR. NUGENT: At this point, I'll open it up to anyone in the audience that would like to comment. Hearing none, I'll open it back to the board.

MR. LUCIA: Mr. Ninnie, if I were to ask you once again all the specific requirements of Section 267B of the Town Law would your answers be substantially the same as you gave them on the earlier operation?

MR. NINNIE: Absolutely yes.

MR. HOGAN: Before we go any further, in terms of back to this amendment to a lease, how just in the matter of mechanics how would you like that to be handled?

MR. LUCIA: I think if you want to condition your motion on them providing us with an amendment to the lease that is signed by the same parties to the original basic lease and is also signed by the leasee of the Dive Shop agreeing to the disposition of the parking spaces, I think that would be a, would meet our requirements as long as Mr. Leonardo says it will apply to assessors and assigns to those leases in case the tenant should change over the years.

MR. HOGAN: Do we need a copy of the lease between Constantine and--

MR. LUCIA: Yes, to establish his interest in the Dive Shop property, if there's a lease. If not, we can cover it by recitation of this agreement that this is your only agreement.

MR. SAMUEL LEONARDO: He's leaving anyway.

MR. KALKA: There's no problem.

MR. LUCIA: If you are in possession of the property, as the owner then you can represent that whoever you lease it to would be bound by the same terms.

MR. SAMUEL LEONARDO: Constantine will have to do it,

we'll do it, no problem.

MR. NUGENT: Also Mr. Hogan are you going to make the motion?

MR. HOGAN: I'll make the motion.

MR. NUGENT: Included in that has to be the stipulation on the dirt that it will be within 90 days or 120 days you want to give them a little leeway to have it removed?

MR. HOGAN: We're talking whatever date we a sign on the pile of dirt, whether it's 90 days which is what Mr. Leonardo is agreeing to, if it is 90 days from the day we grant the variance.

MR. NUGENT: 90 days from the formal decision.

MR. NINNIE: It will be a Planning Board decision I'm sure.

MR. LUCIA: It's kind of a belt and suspenders type thing. You may get a separate condition by the Planning Board hopefully the signatures will coincide. You can do it either way, it can be a date from tonight or from the formal decision that is up to you.

MR. NESHUWIT: Go for 120 days.

MR. NUGENT: From the formal decision.

MR. HOGAN: Mr. Leonardo, I don't mean to be presumptuous at all, you're speaking here for your brother, Constantine and can we get Constantine on the record that he is in agreement with everything?

MR. LUCIA: There was the lease that you originally signed with M & A Realty for the Coastal Gas Station. The board is concerned about how the parking is distributed between the gas station and the dive shop so they asked for an amendment to the lease, a change in the lease to tell us how that is going to be handled. The problem is that the amendment came in signed by you, that is fine, signed by Mitch and he

doesn't indicate that he is M & A Realty. So we need to change that. We also need to have John Antonori, we need some lease with him to show that he is also agreeing to the same thing or if he is leaving just as the owner agreeing that this is the deal on the parking and if you lease the property to somebody else, you don't know who it is but somebody in the future, he is going to be bound by it too.

MR. CONSTANTINE LEONARDO: No problem.

MR. LUCIA: We want you under agreement that you'll do all these things.

MR. CONSTANTINE LEONARDO: No problem.

MR. NUGENT: Then we'll accept that motion now.

MR. HOGAN: I move that we grant the variances requested, 92 foot lot width, 50.4 foot front yard and 18.8 foot building height for the canopy and sign variances as we previously discussed earlier in the record.

MR. LUCIA: Spell them out again, just clarity, 56 square foot variance for freestanding sign, a 4 foot height variance for freestanding sign, a 69.5 square foot area variance for total wall signs, a variance of 2 wall signs where only one is permitted and 3 are requested and a 14.45 foot setback from the lot line variance for the freestanding sign.

MR. HOGAN: All applying to the Coastal sign owned by Constantine Leonardo subject to the pile of dirt located on the southeast side of the parcel being removed within 120 days of the date of the formal variance being granted. And additionally conditioned on--

MR. LUCIA: Formal decision.

MR. HOGAN: And conditionally conditioned on all of the, we're saying 11 parking spots all of the 11 parking spots being shown as available for use of the 2 tenants identified and their successors.

MR. LUCIA: And an agreement to the satisfaction of the board that those terms will be incorporated in present leases and all future leases in the property.

MR. HOGAN: Evidenced by the amendment that is satisfied to you, our attorney.

MR. LANGANKE: I'll second it.

ROLL CALL

MR. TANNER	AYE
MR. HOGAN	AYE
MR. TORLEY	AYE
MR. LANGANKE	AYE
MR. NUGENT	AYE

RESULTS OF P.B. MEETING

DATE: December 22, 1993

PROJECT NAME: Coastal Oil - S.P. PROJECT NUMBER 93-22

\*\*\*\*\*  
\* (Dubbaldi + Schio (r)) \*

LEAD AGENCY: 2 \* Abstain \* NEGATIVE DEC: 1 abstain (Dubbaldi)

M) D S) V VOTE: A 3 N 0 \* M) L S) V VOTE: A 4 N 0

CARRIED: YES ✓ NO        \* CARRIED: YES:        NO       

\*\*\*\*\*

PUBLIC HEARING: M) V S) S VOTE: A 5 N 0

WAIVED: YES ✓ NO       

SEND TO OR. CO. PLANNING: M)    S)    VOTE: A    N    YES    NO   

SEND TO DEPT. OF TRANSPORT: M)    S)    VOTE: A    N    YES ✓ NO   

DISAPP: REFER TO Z.B.A.: M)    S)    VOTE: A    N    YES    NO   

RETURN TO WORK SHOP: YES        NO       

APPROVAL:

M)    S)    VOTE: A    N    APPROVED:       

M) V S) L VOTE: A 5 N 0 APPR. CONDITIONALLY: 12-22-93

NEED NEW PLANS: YES        NO        (Gross + Retail sq. ft. #5)

DISCUSSION/APPROVAL CONDITIONS: ⑤ Correct #'s on bulk tables (Parking)

- ① Send to D.O.T. for review
- Dirt pile must be removed 120 days from (Z.B.A. Approval date) 12-13-93
- ② Dive shop not to be open until dirt pile is removed for reason of required parking.
- ③ \* Bond - Building resided + renovated (Dive Shop Bldg.)  
Dirt removing + site improvements
- ④ Mark to ask D.E.C. if we can declare Neg. Dec.  
Time Schedule: Work to be complete by  
6/1/94
- ⑥ Show flagpole on plan 35'

COASTAL GASOLINE SITE PLAN (93-22) CORNER OF RT. 32 &  
RT. 94 VAILS GATE

MR. PETRO: Next on tonight's agenda we have Coastal Gasoline Station site plan.

Mr. Eugene Ninnie and Mr. Steven Kalka appeared before the board for this proposal.

MR. LANDER: Myra, do we have a proxy statement on this?

MRS. MASON: Yes, we do.

MR. LANDER: What all do we have on this project?

MR. PETRO: Highway 9/25/93 is approved, water, sewer is approved same dates and I'm looking for the fire, 9/24/93 approved, no restrictions. Proceed.

MR. NINNIE: Naturally, this site plan also had variances pertaining to the site improvements, one which was lot width, front yard setback, building height and the sign and there are variances associated with the sign of square footage, sign setback, number of signs, facade and sign square footage which I believe I already said, okay. Also approved by the Zoning Board.

MR. DUBALDI: Didn't you also need a use variance for the convenient store?

MR. BABCOCK: No, that is a C Zone permitted retail.

MR. EDSALL: It was the change in use that made the requirement for the site plan.

MR. PETRO: It's because of the convenient store or the food being dispensed within that they are here in the first place. If it was just going to be a gasoline station, it's my understanding that they'd not need site plan approval.

MR. BABCOCK: It's an existing site gas station, what they decided to do was have some 604 square feet of

retail which changed the use from a gas station to a convenient shop which required site plan approval.

MR. SCHIEFER: There's two way traffic in both of these entrances, correct?

MR. NINNIE: Yes, there is.

MR. LANDER: These curbs are already here, right, Mr. Ninnie?

MR. NINNIE: Yes, they are. State put those in.

MR. SAMUEL LEONARDO: On 94 you can only turn right when you come out, can't turn left.

MR. VAN LEEUWEN: I see that.

MR. LANDER: Has the Department of Transportation seen this site plan? Has that gone to DOT with this layout, traffic flow and everything else?

MR. NINNIE: We didn't change any of the curb cuts so.

MR. LANDER: As far as no left turn here and I don't know we're so close to this corner in this intersection here.

MR. NINNIE: There's no right turn here, just a left coming out of here but somebody can pull in but they can't pull out and make a left, I'm sorry.

MR. LANDER: Where this sits now, there's more traffic there than you can shake a stick at, McDonald's, the gas station across the street and Friendly's, it's a nightmare so I was just wondering whether DOT had to see this again or not with the traffic patterns that you have stated on here.

MR. SAMUEL LEONARDO: Don Green came down and he put in those himself.

MR. LANDER: I know he did. The way you have it laid out now, I was wondering whether the State had to see this or not.

MR. SAMUEL LEONARDO: It was done with his approval.

MR. LANDER: But the parking wasn't laid out and it was all one lot.

MR. SAMUEL LEONARDO: They are not really interested in the parking, just in the egress.

MR. NINNIE: Basically the traffic patterns have stayed the same.

MR. LANDER: You know what I am saying.

MR. SAMUEL LEONARDO: It's only a year that they made those improvements so it's up to date, it's up to date.

MR. LANDER: The way the parking is laid out and everything else, maybe it should be, not entrance and exit here but entrance here exit there. I don't know what the State has in mind. But there's no parking spaces per se.

MR. NINNIE: Sure there is, yes there is.

MR. LANDER: These are here.

MR. NINNIE: Yes.

MR. LANDER: They are delineated just like this here.

MR. NINNIE: They are not delineated.

MR. LANDER: I know they put the curb cuts in but now we've got a traffic pattern I just don't want to see them come back to you and say well, who approved this?

MR. NINNIE: I don't think there's any reason to. I think that is part of the requirements or even part of the submittal process to give the notes to the DOT unless you change the curb cuts, then that would become a DOT matter.

MR. SCHIEFER: Dan, I agree with you because we haven't changed the curb cuts but we've changed what's going on

that curb cut is now serving the two pieces of property.

MR. EDSALL: I can understand the concern but I functionally as far as the store which was always an office, gas station office and the fuel pump locations that is the same and I would assume that when the State laid out the curb cuts and put them in, they laid them out based on the building location and fuel pump island location. The fact that we're not allowing parking for the Dive Shop building near the entrance, I think that is helping out by keeping the traffic straight and keeping the parking away. I'm saying that anything we've changed has been to keep the parking further inside and we've left the through pattern for the gas station exactly as it was when DOT laid out their curb cuts. My guess would be that if they did their job, it's okay and I would assume that they looked at that when they did their curb cuts.

MR. SAMUEL LEONARDO: I was already operating there when they put those curb cuts in so they had to make sure that they had to protect them. That was the reason why ATI left, they said there wasn't enough.

MR. VAN LEEUWEN: We can make that subject to if they don't take this and Don Green does not approve of it. Remember what happened on 32 the old restaurant when they converted that into a couple of buildings.

MR. LANDER: Across from Pleasant Acres you mean?

MR. EDSALL: They needed a highway work permit, this needs nothing, the curb cuts were done by the State.

MR. VAN LEEUWEN: We can do it if we're going to approve this we can make it subject to.

MR. EDSALL: Subject to Don writing off on it.

MR. VAN LEEUWEN: That way you're safe.

MR. PETRO: Is Don still reviewing these?

MR. VAN LEEUWEN: Yes, he is.

MR. EDSALL: I'm sure he will review as a courtesy even though he's not giving a permit.

MR. PETRO: If Don was going to review anything, he'd review the subdivision and not the site plan.

MR. SCHIEFER: That is done now and I have no problem approving this subject to his getting a look see at it, the DOT.

MR. BABCOCK: I don't think that hurts anything, it was just that--

MR. VAN LEEUWEN: He just might say forget about it, let him give us a letter stating that everything is okay and we're satisfied no problem. We don't want any arguments with the DOT. That is what we don't want. We already got chastised by them once.

MR. LANDER: We went round and round a couple times.

MR. VAN LEEUWEN: He was hot.

MR. KALKA: Make a motion, put that in and we'll go on to the next one.

MR. VAN LEEUWEN: We're not done yet, you're rushing us. What are you in a hurry to go home?

MR. PETRO: Let's talk about the parking a little bit. Is there plenty of, are the parking requirements met and in what manner?

MR. EDSALL: It meets the parking requirements exactly, the parking total required is 11 and they provide 11.

MR. BABCOCK: Mr. Chairman, if you read the Zoning Board minutes, the ZBA did have some discussion whether they were actually a parking space under the canopy or not. There's an argument you can argue that either way, basically you can park there for retail or you can park there and get gas. At a convenient shop, many people do park at the gas pumps, get gas, go in and get some milk.

MR. PETRO: It serves as an alternate spot.

MR. BABCOCK: Without the four spaces they still comply with the zoning ordinance so we left them on the plan and the ZBA was satisfied with that.

MR. LANDER: Space number 1 and 2, I don't know what it is called, the one story frame building, not the gas station the other lot 1 and 2 that is handicapped there?

MR. NINNIE: No.

MR. BABCOCK: I don't think that we're--

MR. EDSALL: One thing that we didn't do, we didn't get into a review of the site because they are not proposing anything on that site that is just shown as a reference for what's adjoining. All the improvements and the review that we're doing for this application is purely the gas station lot.

MR. LANDER: I thought we're reviewing the whole thing here?

MR. EDSALL: Subdivision to create the line but then once you create the line, the application for the site plan is just one side, the other side they are not proposing any canopy, any additions, anything else. So we kept away from that one.

MR. BABCOCK: One other thing I'd like to add at the Zoning Board meeting on lot 1, at one point I don't know whether it was the Planning Board or Zoning Board asked for the parking spaces to be shown on lot 1, the cheese store if you will, so they did show it for zoning compliance which they did not meet. They were two short and they asked for that zoning variance and did receive it.

MR. PETRO: Also at this time, sir, can you state your name for the steno?

MR. SAMUEL LEONARDO: Samuel Leonardo, Jr.

MR. PETRO: You're the owner of the property?

MR. LEONARDO: One side, the cheese store and the bar my brother, Constantine, is the owner. He's 80 years old and he has prostate cancer and he's not feeling well tonight so he couldn't get here but I'm here to represent him also.

MR. PETRO: Thank you. When this site was improved, the station I'm asking for a specific reason evidently you had new tanks installed and there was borings done on the site for testing, core borings for contamination, obviously they came up with nothing.

MR. NINNIE: No.

MR. PETRO: I'm talking about where the dirt pile is because we're going to get into a negative or positive dec and basically we're going to talk about just the dirt above the ground that is in the pile to be removed but there were no contaminations on the site anywhere?

MR. NINNIE: Not that I am aware of, no.

MR. BABCOCK: Mr. Chairman, that whole complete removal and installation was done per the DEC so they've monitored that site completely 100 percent.

MR. PETRO: Reason I'm saying it we're going to talk about the dirt pile and that is what we're concerned with.

MR. KALKA: May I make a comment on the dirt pile? The applicants I work for Gasland Petroleum, my name is Steve Kalka, I think you have got that from the ZBA meetings, the dirt pile under the DEC regulations does not have to be removed from the site. In fact, you get in a lot more trouble by improperly removing it, the applicant owner and tenant everybody wants it off the property. It's not considered an immediate or even a long term hazard because of the amount of the contamination. What we're waiting for and we had agreed to a stipulation of taking it off in a set time. There are two burn units being licensed right now to

properly dispose of it in the Town of Newburgh.

MR. VAN LEEUWEN: Town of New Windsor.

MR. KALKA: Excuse me but so that would make it a lot less expensive than hauling it to Massachusetts or somewhere else to do the same thing and that is expected to be within the next couple of months and then the dirt will be removed and that shed by the way is a remediation device that is being operated by the DEC pulling vapors out of the soil so there's a certain amount of contamination on that site. For the record, that is being treated under New York State DEC supervision and they are paying for it.

MR. VAN LEEUWEN: State's paying for it?

MR. KALKA: Yes, that is why we couldn't do anything with the shed, it's a DEC matter because of the unknown source. Yes, it came probably from some old tanks but nobody can pinpoint it so the DEC under public health and well-being is running a soil extraction system.

MR. BABCOCK: We have one of these systems at our own Town Garage so they are not, it's not unlikely for them to have that, not with a shed but--

MR. VAN LEEUWEN: Only thing is that is a neg dec question is a problem with me. I think everybody here has the same problem if we give this negative dec and it turns out to be a positive declaration then we're in trouble. We can be liable as a board and the Town could be liable.

MR. KALKA: I would suggest that the board not give a negative dec unconditionally.

MR. VAN LEEUWEN: We can't give you approval without a negative dec.

MR. KALKA: You can know the fact that there's a situation on the property that is being handled in a matter that the State of New York feels is sufficient. They are not telling us not to use the site.

MR. NINNIE: It's in the process of being handled through the DEC.

MR. KALKA: It's not affecting the neighbors or water supply or sewer or anything else.

MR. NINNIE: That is why they are monitoring it so it does not happen.

MR. DUBALDI: Can we give a negative dec if we know that there's contamination on the site?

MR. EDSALL: Referring to the pile of contaminated soil?

MR. DUBALDI: Yes, soil monitoring of vapors.

MR. EDSALL: Yes, a system for removing the vapors from the pile.

MR. KALKA: From the site, I'm trying to be a hundred percent up front with the board.

MR. EDSALL: If there was an imminent hazard or significant impact, I believe DEC would have come to that conclusion already being the experts. They are the ones that are operating the recovery system. They are the ones that are allowing the soil to stay on site. If it was an imminent hazard or public health hazard, I'm sure that we wouldn't be sitting here.

MR. PETRO: We can handle it that way.

MR. EDSALL: What you're reviewing is something that is separate from what the DEC has already done because DEC has already made the review of the impact of that soil.

MR. PETRO: How long has the DEC been working on that site?

MR. SAMUEL LEONARDO: About six or seven years. They had the shed before next to the ATI station then they asked permission.

MR. BABCOCK: There it was a Texture 111 shed but it

was there when ATI was there with plastic pipes sticking out of the roofs, that is the same shed basically that they've used the equipment in and moved it off behind the building. It's not practical to have it in front of your building.

MR. EDSALL: To finish my answer for Carmen, the bottom line is the situation that you are concerned about is one that is fully disclosed, the DEC is controlling that aspect of the project or the site as long as you don't have to actively be involved in what's happening with that contamination, you're not part of the decision. Your approval a site plan that is separate.

MR. SCHIEFER: Yeah but look, parking space, 2, 3, 4, 5, 10 and 11 do not exist right now.

MR. BABCOCK: That is right.

MR. EDSALL: What you should be concerned about is that you believe that a C.O. cannot be issued until that pile is gone because the site cannot function with all the parking or without all the parking being there, say that that is your decision we believe the parking has to be there or they can't have a C.O. and operate.

MR. SCHIEFER: Required parking spaces do not exist. They'll exist when the DEC is done.

MR. EDSALL: That is not a bondable item, all the parking must be there for you to get your C.O. that is what you're saying?

MR. SCHIEFER: That is the way.

MR. SAMUEL LEONARDO: We promised the Zoning Board that within 120 days the dirt will be removed.

MR. KRIEGER: 120 days from when?

MR. SAMUEL LEONARDO: From time of approval.

MR. KRIEGER: Time of approval in your view the time when they voted on it, the time when the minutes get approved, the time when the minutes get recorded with

the clerk when exactly is the time of approval?

MR. PETRO: It says on May 12, '93.

MR. KRIEGER: That is what you're referring to?

MR. SAMUEL LEONARDO: 12/13.

MR. KRIEGER: We can't figure out when 120 days ends unless we knew when it starts so what I am trying to figure out when does it start, if that is the date you believe that it starts, that is the date then, it's 120 days from there.

MR. SAMUEL LEONARDO: That is all right with us.

MR. PETRO: This may be a moot point for the point that Mr. Schiefer's concern, he doesn't want it to be open one day without adequate parking spaces, if that is what I am reading, right?

MR. SCHIEFER: If that is gone, fine, I don't see where it's a bondable item. We don't have enough parking space in my opinion to do all the construction, do everything you want to finish the place but you're not going to get a C.O. until the pile of dirt is gone and we have parking spaces there.

MR. NINNIE: That is exactly right, it's chicken and egg, we're trying to generate money to remove the pile.

MR. KALKA: With the soil remediation going on, it's going to cost the owner that much more money, \$1,500 a truck load here.

MR. SAMUEL LEONARDO: We had to pull the tanks out, it was supposed cost \$8,500 and it ended up being \$25,000, you understand. We're not getting any rent until the man can operate out over there.

MR. PETRO: We're saying we don't feel he can operate without the parking spots.

MR. LEONARDO: He doesn't need those 4 parking spots.

MR. PETRO: It's 6, number one.

MR. SCHIEFER: Two for the shed and four for the pile.

MR. NINNIE: No, no, that shed has been removed, relocated, vapor recovery unit is labeled on here as being re-related over to the side.

MR. EDSALL: Five spaces you can't use 1, 2, 3, 4 and 5.

MR. PETRO: The Zoning Board has stated that they do not want to accept the parking spots under the canopy. I don't particularly agree with that a hundred percent because I do own a convenient store, you do pull into the gas pumps, get your cigarettes and leave so whether or not they are parking spots or not, I would tend to go in your favor with that. And that would make up for the four spots, Carl. The four spots under the canopy for the 120 days.

MR. SCHIEFER: I know what you are saying.

MR. EDSALL: I prefer that we not count those since we've never counted those in the past but we have another alternative the Dive Shop building currently is not open retail business now, correct?

MR. SAMUEL LEONARDO: Right.

MR. EDSALL: Would you have a problem committing to not opening that retail use until the pile is gone.

MR. SAMUEL LEONARDO: Sure, yeah.

MR. EDSALL: Because that building not being used for retail has the equivalent demand of 4 spaces which if that will not open until that pile is gone, you're only one space short and that I don't think is a significant shortcoming.

MR. SCHIEFER: I have no problem with that at all.

MR. EDSALL: You're saying that the Dive Shop occupancy which is the building to the northeast corner will not

be used for retail purposes at all until the pile is gone, that way you don't have a parking shortage.

MR. SAMUEL LEONARDO: I'll agree with that.

MR. VAN LEEUWEN: With the pile and the building how much of a bond are you guys willing to put up?

MR. NINNIE: That will be an estimate that Mark and I will come up with.

MR. EDSALL: What you have got to do today if you gentlemen could describe what you want bonded, I can work with Eugene on the amount.

MR. VAN LEEUWEN: I want the stuff taken off the outside of the building, all that boxing. I want it resided, doors, windows replaced, not what I want, it's what I think should happen, okay. You have already located a couple planters, fine, just get that building eyesore cleaned up a little bit so it looks better for the people of the Town of New Windsor.

MR. SAMUEL LEONARDO: Could I say a few words? I think you got a hell of a nerve saying that. I'll tell you why because I just spent \$1,100 blacktopping my side. I just spent \$1,500 painting the bar so I don't know what you mean when you say that.

MR. VAN LEEUWEN: I'm talking about this building.

MR. LEONARDO: I was able to do that because I have an operating base and I paid out.

MR. SCHIEFER: We're not even talking about your lot, we don't care what you did on your lot.

MR. SAMUEL LEONARDO: I'm talking about my brother's place, Constantine's. You have to give him a chance to get some revenue in so he can correct that building.

MR. VAN LEEUWEN: We're going to do that. We're trying to bond it. We're trying to be nice to you. We're trying to help you.

MR. LEONARDO: I don't think so.

MR. KRIEGER: Didn't he have revenue at the time he had the ATI?

MR. SAMUEL LEONARDO: Sure, he did.

MR. KRIEGER: Nothing was done it just sat there for years.

MR. SAMUEL LEONARDO: That was AIT's responsibility, it was written in the contract, just like it is with Gasland.

MR. PETRO: We're losing control. Ron, would you like to address something?

MR. LANDER: It says on here if I am reading this right replace existing low profile windows, new vinyl siding to match filling station, remove I think it's on the plan here.

MR. BABCOCK: That is correct.

MR. SAMUEL LEONARDO: We're going to fix it up.

MR. LANDER: Let's, I think that is what we're looking for.

MR. BABCOCK: It's part of the bond as we explained it's going to be part of his bond.

MR. NINNIE: Something that Mark and I will work together on, we'll come up with a number that will be bonded for that on the list that you provided so you just said we already have it on here.

MR. VAN LEEUWEN: I saw it on there.

MR. LANDER: New windows and vinyl siding.

MR. VAN LEEUWEN: Fix the building up.

MR. LANDER: Remove the tin shades.

MR. VAN LEEUWEN: They have been there 15 or 20 years.

MR. LANDER: I know who put them in.

MR. SAMUEL LEONARDO: He went to jail.

MR. VAN LEEUWEN: That is right, he did go to jail.

MR. LANDER: No, I mean the guy that actually put them there.

MR. PETRO: We're going to bond the building, is that what we're talking about?

MR. KALKA: And the dirt removal.

MR. VAN LEEUWEN: I'd like to know approximately the amount of the bonding before I vote for it. We have to approve that, we have to approve the amounts.

MR. NINNIE: Could we make that contingent?

MR. LANDER: Couldn't we have that subject to?

MR. VAN LEEUWEN: Planning Board has to know the amount of the bond before they approve it, am I right?

MR. BABCOCK: Normally, Mr. Van Leeuwen, we handle that internally with Mr. Edsall, that is the normal procedure.

MR. LANDER: I think he can handle that.

MR. EDSALL: The Town Law leaves that burden unfortunately to me but if you have given me what the scope of what you want, I'll see that the amounts are reasonable.

MR. BABCOCK: Our intent is not to bond and not to do the work. Our intent is to have the work done, that is our intent.

MR. PETROA; Let's not labor that any further. Mr. Edsall can handle the bonding estimate internally and the schedule.

MR. EDSALL: Schedule I think should be ahere if you have a particular schedule that you'd like to see that work completed by, why don't you discuss that with the applicant now.

MR. VAN LEEUWEN: I've got a suggestion, the Zoning Board said the pile 120 days and I suggest the building in six months, how is that?

MR. PETRO: Very reasonable, June 1, 1994.

MR. KRIEGER: I prefer the exact date.

MR. PETRO: June 1, 1994. I want to remind Mr. Edsall on the bonding the dirt pile is not going to be treated as normal dirt so you have to come up with a contaminated price on the bonding.

MR. EDSALL: Absolutely.

MR. PETRO: I don't know how many tons are there.

MR. SAMUEL LEONARDO: We can't touch that dirt without DEC approval though.

MR. DUBALDI: We're going to let him open the Coastal part with the contaminated dirt on the site?

MR. SCHIEFER: DEC has no objection, that is the reason I'm saying it's not going to happen.

MR. VAN LEEUWEN: We're bonding it.

MR. SCHIEFER: I'm not going to vote against it but I want to make sure all these things happen.

MR. PETRO: We're only bonding the removal of the dirt.

MR. EDSALL: You have got two degrees of protection. One being the fact that the removal of the contaminated soil is bonded. But secondly, they are committing themselves to make improvements to the Dive Shop building. If they make those improvements, well they sure as heck are going to want to rent it and they

can't rent it until the pile is gone anyway so it goes down to cash flow.

MR. BABCOCK: If they don't do it within 120 days of whenever the ZBA minutes were, they lose their ZBA approval.

MR. EDSALL: So there's plenty of hooks in this.

MR. PETRO: Any other concerns on the site plan, how about landscaping? I see some on the southerly side.

MR. NINNIE: Yes, we have some hews planted in here, small honey locusts and some grass on the median where the DOT median is there's really not much grass there he is going to plant some more.

MR. EDSALL: Is Don Green or any other DOT representative aware that you propose to put the sod in there?

MR. NINNIE: No.

MR. EDSALL: That in itself is due to send to Don because the fact that you are working within the DOT right-of-way you'll have to have insurance and so on so I think this does absolutely need a conditional on Don Green.

MR. PETRO: I've that written down.

MR. VAN LEEUWEN: Are they going to put a flag up there at all?

MR. SCHIEFER: Too many parking spaces, no room.

MR. PETRO: Do you plan on putting an American flag anywhere on the site?

MR. VAN LEEUWEN: It's not up to Sam, it's up to Coastal.

MR. SAMUEL LEONARDO: I'm a pretty patriotic guy, I go out and give talks on Abraham Lincoln, Civil War, I'd be glad to put up a flag but what's the reason behind

that?

MR. PETRO: Just trying to dress up the intersection. We ask a lot of businesses.

MR. SCHIEFER: Same reason the gas station across the road put one up, it's an entrance to the Town.

MR. SAMUEL LEONARDO: You have to be very careful because now you're getting into civil liberties and we don't want the civil--

MR. SCHIEFER: There's no civil liberties with the American flag, you're not going to put up any other flag.

MR. SAMUEL LEONARDO: There was some people that tried to burn the flag which I'm strictly against and it went to the highest court and the highest court ruled in their favor that they could, let's not say nobody has anything against the flag because it's already been settled by the Supreme Court, the highest court in the land.

MR. PETRO: Would Coastal?

MR. SAMUEL LEONARDO: I'll be glad to put up the flag, be glad to show our colors.

MR. KALKA: I'll answer this for Sam because I have done a couple Coastal grand openings, they alternate the flag between the Coastal logo and the American flag.

MR. PETRO: We're talking about permanent 30 foot pole.

MR. KRIEGER: With the flag on it.

MR. KALKA: I'm sure.

MR. NINNIE: How about if the pole was attached to the building?

MR. SAMUEL LEONARDO: My idea was to put up a pole on the building.

MR. VAN LEEUWEN: I just asked the question, that is all.

MR. DUBALDI: I think we should be talking about the dirt, Mr. Chairman, and not a flag pole. I mean, I have a problem with granting an approval knowing that there's contamination of dirt on the site.

MR. NINNIE: That is a DEC matter.

MR. DUBALDI: Maybe we shouldn't be lead agency.

MR. LEONARDO: There's a lot of stations operating with the dirt piled in the back. If you go on 300 by the Newburgh-Beacon Bridge they just put in a new Texaco Station, you look in the back, there's a pile of dirt there and the station still operating.

MR. DUBALDI: You may be very well correct but we're not looking at that station, sir, we're looking at our Town.

MR. SAMUEL LEONARDO: Just to give you an example what's good for the goose is good for the gander.

MR. PETRO: Let's ask the Planning Board attorney what he feels about it.

MR. KRIEGER: About what?

MR. PETRO: Contaminated dirt on the site, declaring negative dec with the dirt on the site, we feel that it is being controlled by the DEC, they have been monitoring the site for six to seven years, can we indeed give an approval with the contaminated dirt on the site, if it is going to be removed within 120 days?

MR. KRIEGER: They're monitoring it has to do with the condition of the dirt. It doesn't have to do with the effect of rain, the effect of runoff, the effect of the dirt, whether it's contaminated or not, the fact that that the dirt is going to be there when exposed to the weather so.

MR. VAN LEEUWEN: I believe it's covered.

MR. EDSALL: That is why they covered it.

MR. SAMUEL LEONARDO: He came the other day the guy from DEC, he asked me if I could turn it over.

MR. KALKA: But the soil is non-hazardous waste, it's not considered hazardous waste.

MR. PETRO: Mark?

MR. KALKA: Again, I told the board that there was a soil extraction system just now we're not trying to make any false or hide something, there was a misconception I made it very clear.

MR. PETRO: Being that you have made it clear, doesn't make it okay for us to say yes so.

MR. KALKA: We're not asking for you to.

MR. VAN LEEUWEN: I have a way out, ask them for a letter from the DEC stating that we can declare negative dec on the situation if it is on everybody's mind.

MR. PETRO: I already have number one.

MR. DUBALDI: You already have a letter?

MR. PETRO: No, we already did declare negative dec.

MR. VAN LEEUWEN: Not on this we haven't.

MR. PETRO: I stand corrected. Mark?

MR. EDSALL: A suggestion just for reference you have got facilities not too far away operating the same recovery systems, Mobil Station at Union and 207 they are operating for business and you have got the Town Highway Garage which is operating for business but if it would raise a question of comfort for the Planning Board, what you can do is make a condition, I'll contact proper representative of DEC and verify from

their intimate understanding of what's going on here if they have any reason why this board should not allow an approval and an operation on the site. If we can't, get confirmation from DEC I'll come back and let you know.

MR. NINNIE: We would have heard a long time ago if there was a problem. That is why they have been there for seven years.

MR. VAN LEEUWEN: If we declare negative dec and we did it wrong, we're in trouble and along with us being in trouble, you guys are in trouble because they stop you too.

MR. SAMUEL LEONARDO: We're not doing anything wrong.

MR. VAN LEEUWEN: I agree with you, I don't want to do anything wrong to cause you or us a problem. That is what we're all concerned about a little oil in the soil to me is not, is that bad.

MR. SAMUEL LEONARDO: They have been there six, seven years regulating us.

MR. VAN LEEUWEN: The way it is right now it's considered a serious offense, I remember years ago everybody through their oil at in the back yard.

MR. KALKA: Just for the board's information and for the record, when the new tank was installed and the old tanks were removed, part of the contract that was done at that time was not paid by the owner or the tenant but by the DEC which was the re-piping of the soil extraction system so the DEC has been involved with this process literally on a daily process and approved the site changes and what was done.

MR. SAMUEL LEONARDO: They also paid to have 50 or 60 yards taken away.

MR. KALKA: They were trenching for the pipe system.

MR. SAMUEL LEONARDO: We're anxious to get it out of there, we don't want it there.

MR. PETRO: Is time of the essence to get this in operation?

MR. NINNIE: Yes, because they have signed leases here.

MR. PETRO: I don't want to bring this up one time being no one else did the reason the time is of the essence and we're under the gun so far I have four subject to's, four things we have to clear up before we can grant an approval before any of the members come up with anything else if this had been proper procedure from the start, would't have been time of the essence and be a headache. We can put it off to the next meeting, you can get a letter from the DEC saying it's not a problem, the bonding of the dirt and how we can come up with the amounts, Don Green can be notified, he can look over the curb cuts. You can agree, might not have to agree for the four spots with the house because the dirt might not even exist because it would have been gone so this board is under the gun again to have put 4 subject to's to a stamped plan, you're going to have to get this clarified before the plan gets stamped. In other words, we're rushing in trying to accomodate you as the owner and you as the applicant and it's not the right way the to do business, just should have been taken care of in the proper procedure. I want to get that out. And the reason I'm saying that we already have 4 subject to's to this application. Is there anything else that needs to be discussed on this site plan?

MR. LANDER: Public hearing Mr. Chairman?

MR. VAN LEEUWEN: I make a motion we waive public hearing.

MR. PETRO: I believe they had one at the Zoning Board meeting.

MR. DUBALDI: Lead agency first.

MR. VAN LEEUWEN: I'll second that.

MR. PETRO: Motion has been made and seconded that the

New Windsor Planning Board declare itself lead agency for the Coastal Gasoline Station site plan owned by Mr. Leonardo. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. VAN LEEUWEN        AYE

MR. SCHIEFER: I don't know because of the comment made before DEC maybe should be lead agency, I'll abstain.

MR. LANDER            AYE  
MR. DUBALDI           ABSTAIN  
MR. PETRO             AYE

MR. VAN LEEUWEN: I make a motion the we waive the public hearing.

MR. SCHIEFER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board waive public hearing under discretionary judgment.

MR. LANDER: Did anybody show up for this public hearing?

MR. SCHIEFER: The issue is the public had their chance whether they came or not, I'm not going to vote against that.

MR. PETRO: Okay, motion has been made and seconded that the New Windsor Planning Board waive public hearing under it's discretionary judgment for Coastal Gasoline site plan. Is there any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHIEFER        AYE  
MR. VAN LEEUWEN     AYE  
MR. LANDER          AYE  
MR. DUBALDI         AYE  
MR. PETRO           AYE

MR. PETRO: We have to make a determination regarding the type of action this project should be classified under SEQRA and seems to be difficult with the board members to do that because of the contaminated soil on the site. And I don't know how we already discussed that before you said that it's been under review enough by the DEC and you feel after six or seven years and I'm addressing this to the New Windsor Planning Board engineer, that possibly if there was a major problem on the site, we would have been notified at this time or before this time.

MR. EDSALL: My suggestion is that you classify it as an unlisted action and scope of what you're reviewing is the site plan. There's a licensed recovery system and a fuel contamination problem that is being resolved by the DEC. It's pre-existing but it's under the control of the DEC, who's a regulatory agency to control those issues. Even if you wanted to get involved, you have no jurisdiction, your jurisdiction is the site plan so your only concern is is it safe for them to operate the site with that still there? If as long as we get that verified from DEC, it's my opinion that should be your only concern.

MR. DUBALDI: At this point, we don't have verification so I definitely would like one of those things.

MR. EDSALL: That is something you have to have in my mind but other than that verification the jurisdiction is DEC.

MR. PETRO: Would be one of our conditions on approval, I've contact DEC for confirmation and it's opinion to operate this business on this site and if there's any problem with the site that we should be informed.

MR. SCHIEFER: Make sure that they have no problem with our declaring negative dec, if that is in place then it's fine.

MR. PETRO: Can we in fact declare negative dec and then later make a negative dec not valid if the

findings of the DEC are not to the liking of the Planning Board?

MR. EDSALL: SEQRA allows you to reopen the review if you get new information so if you make a negative dec and I come back and say DEC said that there's no way you should allow them to open up that there's a vapor problem that could cause an explosion, God knows what, I can bring that information back and the whole thing becomes a new issue. So it is not, the door is not permanently closed.

MR. PETRO: Three weeks from now they have a C.O. and they are selling cigars in there, what are we going to do at that time?

MR. EDSALL: We're going to get the answer before the plan is stamped.

MR. VAN LEEUWEN: What I suggest we do declare negative dec let Mark come back with the answer if not we'll change it.

MR. LANDER: So moved.

MR. VAN LEEUWEN: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board declare negative dec on the Coastal Gasoline Station site plan. Is there any further discussion from the board members? If not roll, call.

ROLL CALL

MR. VAN LEEUWEN        AYE

MR. SCHIEFER: With the understanding if the DEC has any objection it can be reopened under those conditions, yes.

MR. LANDER            AYE  
MR. DUBALDI          ABSTAIN  
MR. PETRO            AYE

MR. PETRO: We've talked about so many hard items, how about any soft items, landscaping?

MR. VAN LEEUWEN: They are all hard items.

MR. PETRO: How about lighting detail?

MR. EDSALL: I believe that the lighting, many are existing and canopy lighting is new.

MR. SAMUEL LEONARDO: There's a light on the gasoline side, too, between Club 32 and gasoline.

MR. PETRO: Drainage Mark, it's all sheet flow.

MR. EDSALL: Sheet flow existing, DOT structures.

MR. PETRO: I don't see anything else, I see the map.

MR. VAN LEEUWEN: You agree that 120 days on removing the soil within 120 day period and six month fixing the building.

MR. NINNIE: Yes.

MR. PETRO: 120 days removal of the dirt pile begins on the approval of the ZBA which was granted on 12/13/1993. That is when this 120 days as far as this board is concerned will commence, 12/13/1993.

MR. VAN LEEUWEN: And the other one will be June, 1994.

MR. EDSALL: Since you have a list of conditions, one that you can put on I just want to doublecheck again on the calculation for parking I know is adequate but I just want to make sure that we have square footages right we have got the same identical numbers between the Dive Shop building and the I guess the gas station building, I don't know that they are supposed to be identical, if it was just an error, so I know from our discussion that they have correct parking. If we can just have the correct numbers and correct the plans that are going to be stamped.

MR. NINNIE: Sure, that is an error.

MR. VAN LEEUWEN: I'll make a motion, take a poll to approve subject to the following, the four items that you have just mentioned and the fifth that Mark just mentioned, okay, that part should be straightened end out on the map, Mark when you do come up with the figure for the removal of the soil and the building would you give me a call?

MR. EDSALL: I will.

MR. PETRO: What was the fifth?

MR. EDSALL: That we correct the gross and retail square footage numbers so that they coincide with the actual building areas and the 1029 square foot of retail that is being approved in total for this project site. Just Mr. Ninnie and I had looked that over and it was a drafting error.

MR. LANDER: Second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grant final approval to the Coastal Gasoline Station site plan on the Five Corners owned by Mr. Leonardo on this day. Subject to number 1, Don Green receiving this plan and giving his conditional approval for the layout of the plan. 2, that the Dive Shop is not open until the dirt pile is removed so that the four spaces that go along with the Dive Shop can be utilized for the convenient store. 3, the bonding for the removal of the dirt pile and house repair be set up through the Engineering Department for the Planning Board, Mark Edsall.

MR. EDSALL: As well as the normal site improvements that are bonded, site plan bonding for paragraph A 1 G Chapter 19 of the Town Code be fulfilled, contact DEC for confirmation that it has no problem with this site being operated for its intended use and they have no objection if an objection comes through, then the negative dec will be rescinded and we'll proceed at that time.

MR. EDSALL: Number 5 correction of the gross and

retail square footage numbers on the plan to meet with Planning Board engineers satisfaction. Are there any further comments from the Planning Board?

MR. SCHIEFER: I'd like to make a comment. I swore I would never vote yes with this many subjects to's but contrary to what the applicant's belief I want to see this thing opened and I'll go for it.

MR. DUBALDI: That is the only reason why I'm going to be voting yes for this too. It's been such an eyesore for uears and you know ever since when I was growing up this, especially the Dive Shop building, it's world infamous of being an eyesore and anything that we can get that thing fixed up and Vails Gate Five Corners stop being the laughing stock of the business community, I'm going to vote for it.

MR. PETRO: Any other further comments?

MR. VAN LEEUWEN: Yeah, you think Coastal can afford to put up a flag pole for us?

MR. PETRO: On the building?

MR. KALKA: Or alongside the building?

MR. VAN LEEUWEN: How many feet?

MR. KALKA: 30 foot?

MR. VAN LEEUWEN: Fine, you have got it.

MR. KRIEGER: And it's going to be shown on the plan with a flag?

MR. PETRO: Lastly, I want to make a small comment. This plan came before us quite a few months ago and we had discussed what we'd like to see as a Planning Board and you had to go back for zoning canopy and had evidently some of the work got started and it was not done in a proper manner. And I heard some other comments made that maybe we're asking too much or things weren't done properly, therefore someone went to the Town Supervisor. At the time, we had put a stop

work order on this plan and it was rescinded. In other words, someone went over our heads and things were done, I don't think in a proper manner. This would have been done a long time ago if the applicant and Coastal and everybody did things the way they are supposed to in the Town of New Windsor. We're very pro applicant. We're pro growth. Everyone on this board is pro growth. It's taken a long time. It shouldn't have taken this long and it's caused some ill feelings in and around Town Hall and I find it very distasteful. I find it, I personally like to see things move forward. And the way this was handled I think was not in a very friendly manner.

MR. SAMUEL LEONARDO: Can I say a few words please?

MR. PETRO: Not really, I don't want to hear it.

MR. SCHIEFER: You're going to get what you want.

MR. LEONARDO: I just want to say thank you for your time, thank you for your consideration. We have been in the Vails Gate area for 70 years. We hope to stay another 70 years. We hope to improve the property. We hope to make that the beauty spot of the five corners. Not the eyesore.

MR. SCHIEFER: Sir, if you meant that last comment I'll vote for everything you want.

MR. LEONARDO: I want to thank you for your effort and your time. I know you're away from your family. I know it's near the holiday and I appreciate your effort and if I said anything to offend anybody, I'm sorry. Cause I didn't mean to offend. I'm hear to protect my brother interest who happens to be a very sick man and who happens to spend all his money on that property trying to fix it.

MR. DUBALDI: We're here to protect the Town's interest.

MR. SAMUEL LEONARDO: We're here to help protect that interest because I promise you we'll take care of it and thank you.

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MR. PETRO: Thank you.

ROLL CALL

MR. VAN LEEUWEN	AYE
MR. DUBALDI	AYE
MR. SCHIEFER	AYE
MR. PETRO	AYE

LEONARDO, CONSTANTINE

MR. NUGENT: Request for 92 ft. lot width, 50.4 ft. front yard and 18.8 ft. building height for canopy and various sign variances listed on site plan for Coastal Gas Station located at NYS Routes 94 and 32 in a C zone.

Eugene Ninnie, P.E. appeared before the board for this proposal along with Steve Kalka.

MR. NINNIE: The site plan improvements that are being proposed they have a set of variances that go with them. There is a subdivision of the parcel into two parcels, that has a set of variances with it, each one is separate and that is what you see there.

MR. LUCIA: First application is the Coastal application site plan.

MR. NUGENT: Each of you should have a copy of the revised referral in your packet tonight.

MR. LUCIA: This particular application is sheets 1 and 2 so in addition to the variances that the chairman read, I think on this one, you're also seeking a number of sign area variances, is that correct?

MR. NINNIE: That is correct.

MR. LUCIA: Maybe we should read those for the record also.

MR. NUGENT: Okay, there's also in this referral is the signage variances, there's 4 different signs. Mike, could you clarify that for me?

MR. NINNIE: Freestanding sign obviously is the sign that is going to sit on the existing pedestal.

MR. NUGENT: Strictly square footage, correct?

MR. NINNIE: That is correct.

MR. LUCIA: So that is a--

MR. NUGENT: That is on an existing pillar.

MR. NINNIE: There's also a setback variance that goes along with that sign also.

MR. LUCIA: Just for the record, I think that the proposed freestanding sign is 48 square feet, is that correct?

MR. NINNIE: That is correct.

MR. LUCIA: Allowed is 40 square feet so with respect to that, you're looking for 8 square foot sign area variance freestanding sign?

MR. NINNIE: Yes.

MR. LUCIA: I think that sign is 19 feet high, is that correct?

MR. NINNIE: Yes.

MR. LUCIA: Their permitted height is 15 feet so we're looking for 4 foot sign type variance. Setback on that one is 6.5 inches, is that correct?

MR. NINNIE: Yes and we need 14.45 for variance.

MR. LUCIA: Required is 15 foot setback so it's a 14.45 foot setback for that freestanding sign. Okay, we then have some wall signs or actually for both for Coastal and the Dive Shop.

MR. NINNIE: Let's start with the Coastal Station, there's only one sign that is going to be facing the front, that is 30 square feet. It allows the total building front is 475, variances that we're given is 5 percent of that 475 which equates to 23.75 square feet. But we have gone above that to 30, we're requesting 6.25.

MR. LUCIA: Now on the Notice of Denial Mike shows 5 percent of all area at 20.5 square feet.

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MS. BARNHART: He has a total of 93 square feet.

MR. NINNIE: Yes, the facade sign total is 43, yes?

MR. NUGENT: 43 and 50, that is 93 and variance is 69.5.

MR. LUCIA: Right. Do we need to revise those?

MR. NINNIE: I was just taking out this one particular sign. Facade sign total of 43 and dive shop of 50 which is 93.

MR. TORLEY: You're referring to your map is one dated 10/29?

MR. NINNIE: Yes.

MR. LUCIA: Then in addition, there's a variance required for total number of signs I guess there are 3 signs proposed, they are all freestanding I assume.

MR. BABCOCK: No, they are wall signs.

MR. LUCIA: And one wall sign permitted so it's a variance request for two wall signs.

MR. NINNIE: Yes.

MR. LUCIA: I think that covers all the sign variances, is that correct, Mike?

MR. BABCOCK: Yes.

MR. NINNIE: There's also setbacks for the building or I mean for the canopy, we have 9.6 feet from the edge of the canopy to the property line and we have to have a required of 60, we're asking for a variance of 50.46.

MR. NUGENT: That is your front yard requirement?

MR. NINNIE: Yes. There's also a minimum lot width required of 200 feet, we only have a 108, we're requesting a variance of 92. The building height allows us 3.2 that is based on four inches per foot at

the nearest lot line. We've provided 22 feet and that leaves 18.8 feet.

MR. LUCIA: That height is canopy height, is that correct?

MR. NINNIE: Yes.

MR. LUCIA: Mike, on your page one of the Notice of Denial, I notice on the lot width and the required front yard lines there's an asterisk and the number one were those referring to something else? I didn't see that.

MS. BARNHART: I think that is pre-existing.

MR. LUCIA: On page 3, yes, I'm sorry thank you. I guess the asterisk is on page 3 regarding pre-existing condition. Just refresh my memory, why is the lot width pre-existing if there's a subdivision currently?

MR. BABCOCK: We're asking for the variance, we're saying that the lot width is pre-existing. It was measured, we measured it different the day we had the meeting we said it's the Town measures it either by the setback or by the building front so what we did is we took the worse case scenario and the lot width cause of the shape of the lot and we came up with 108 feet.

MR. NINNIE: There's a plan revised one use that one right there on your left. We're asking for a variance of 92 feet.

MR. LUCIA: It really is not pre-existing for purposes of this application.

MR. BABCOCK: No, I'm not sure where did you see the note for that?

MR. LUCIA: Page 3, I think.

MR. BABCOCK: Maybe you can clear that up for the record.

MR. LUCIA: Based on the discussion we just had we

should delete from the page one of the Notice of Denial the asterisk and the numeral one in paren after the variance request on the minimum lot width line and on the required front yard line.

MR. KALKA: Would the sign base be pre-existing on the freestanding sign since there's been a sign for 40 or 50 years? I realize there's an area variance being requested but signs we're reusing that base that was there or has been there.

MR. LUCIA: Actually there was a state taking that even further reduced your frontage, I think it's probably easier if the board considers it as a mitigating circumstance. We understand the signs in the same place. It's always been but in terms of dimensions it looks like a very substantial variance on setback. I think the board does understand the history, the numbers are the numbers but we realize it's not changing position.

MR. NUGENT: Also regardless of whether it's an existing standard or not, it's always been in violation what we're doing now is cleaning it up.

MR. LUCIA: That is true.

MR. BABCOCK: When we first started Mr. Chairman we had a number of variances that we said or number of items that we said was pre-existing and instead of calling them pre-existing, we're trying to straighten out the whole thing so we're now asking for a lot width so we can straighten that out.

MR. NUGENT: Actually, they are subdividing this piece of property.

MR. NINNIE: That is correct and there's a set of variances along with that.

MR. BABCOCK: That is why there's 3 denials.

MR. NUGENT: Right.

MR. LUCIA: It appears I guess that you are not looking

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for any parking space variances on this and Mr. Hogan raised a very good question.

MR. HOGAN: I was taking a look at the lease premise that Coastal has and regarding the entire piece, the upper lot what lot number is that?

MR. BABCOCK: Lot one.

MR. HOGAN: There's quite a bit of area that is eliminated by either ingress or egress requirements or only for use to pull over for deliveries et cetera from the entire parcel of lot number one.

MR. NINNIE: Eliminated. Could you point that out to me?

MR. LUCIA: The other thing in relation to it if you look at schedule C, it doesn't conform necessarily with the area respectively for Coastal and for the dive Shop and one of Mr. Hogan's concerns is that the parking for the gas station be located upon the premises that Coastal is actually leasing from Mr. Leonardo and conversely the parking for the Dive shop be on property which is retained for the Dive shop.

MR. NINNIE: Could there be an addendum to the lease provided to show that they are going to have shared parking? Since they are so close to each other.

MR. TANNER: If it is ever sold.

MR. LUCIA: The problem is--

MR. NINNIE: The only way you can sell it is one parcel that is the reason for the subdivision.

MR. LUCIA: Presumably the lease is a signable and ten year lease, the danger is suppose you get someone who wants to come in and wants to insist on the strict letter of the terms of the lease, theoretically, it could deprive the Planning Board is going to.

MR. TANNER: We're on parking here a little bit, but I have been going by here the last couple of weeks, there

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appears to me to be an apartment upstairs in the Dive Shop. There's definitely lights on in the evening. There's definitely someone moving around in the evening. There's no reflection of that on here.

MR. SAMUEL LEONARDO: There's always been an apartment for the last 30 years.

MR. TANNER: You need parking?

MR. SAMUEL LEONARDO: There's a garage that belongs to the apartment.

MR. TANNER: We have no indication if I hadn't driven by we'd have no indication there was an apartment there.

MR. HOGAN: There is an area that you are permitted to use for deliveries. So all of this portion if you will, both of these geometrical shapes, triangle, is eliminated from the lot area. These spots over here 5, 4, 3, 2, 1, 9 and part of 10 are also by lease eliminated from the lot area.

MR. HOGAN: But not from the Dive Shop.

MR. HOGAN: Right.

MR. NINNIE: I think I have some place on here.

MR. HOGAN: Probably 6 and 5 would be eliminated from the Dive Shop portion also and definitely 9.

MR. TORLEY: I'm a little confused. I'm glad Dan brought this up. You're showing 9 spaces required and you're providing 15?

MR. NINNIE: Which one are you referring to?

MR. TORLEY: I'm looking at for the Dive Shop and the gas station, is that what that is for? I'm looking on sheet is one site plan.

MR. LUCIA: If you look to the right of the drawing, the little box the lower right box to the right of the

property says parking spaces 1 to 9 are Dive Shop Caesar, Ten to fourteen are gasoline filling/retail. He's showing only the 9 required but my concern is that the spaces go with the premises, they are intended to serve and the description in the lease makes it appear that a substantial part of those parking places would have to go with the Dive Shop.

MR. TANNER: Plus you're going to need two more if there's a residence on this property.

MR. LUCIA: One other factor if you look at the canopy, four of those spaces actually are gasoline filling spaces. I think if you look at the definition.

MR. NINNIE: When somebody goes and fills up in a gasoline station they park their car and go in and pay and so that constitutes as parking space.

MR. LUCIA: Logically that may be true if you consult the definition in the ordinance that may not be a result.

MR. KALKA: My business is building and rebuilding gas stations, converting them to convenient stores and one of the problems with zoning and parking convenient store business hasn't been written in it and again the point has been valid in a lot of jurisdictions, when you pull into a place and the car is empty at the convenient store, it's because that person got gas or went inside but didn't get gas but just used it because it's the closest to the door. So this is indeed a parking space. We're not talking about a particular person, the average person stays in a convenient store just a matter of minutes so I don't think that is stretching the point. I think enough, 4 parking spots under the canopy in the fact you have 4 parking spots.

MR. LUCIA: I think it's ultimately the board's determination based on the definition of the ordinance what it is they want to call a parking space.

MR. TORLEY: I don't recall if the Mobil Station counted parking at the pump.

MR. LUCIA: I don't recall any service station application since I have been on the board showing parking. Logically, I understand what you're saying but I'm just giving you the history of what this board has seen on other similar applications in the past.

MR. TORLEY: I don't suppose you can count--

MR. LUCIA: It's in the definition, Section 38-47, the definitions for parking space, a stall or birth which is arranged and intended for the parking of one motor vehicle in a garage or parking area. Parking area is then defined as a lot or part thereof used for the storage of parking of motor vehicles with or without the payment of rent or charges and/or other consideration.

MR. NINNIE: Four more spaces we can accomodate in extra parking.

MR. TANNER: I have a real problem with the retail and residential and everything on that size lot. I think I have a real problem with that. I think you know we're trying to cram everything into this little tiny lot. Next we'll find out there's something else in there.

MR. LUCIA: If we subtract the 4 under the canopy we're down to 11 provided and it's 9 plus whatever we need for the apartment.

MR. KALKA: 9 plus one is what you need.

MR. TORLEY: Again, how many parking spaces would be required just for the Dive Shop?

MR. NINNIE: We put that down here.

MR. HOGAN: One per 150 square foot.

MR. LUCIA: The one garage you're speaking about is actually in the Dive Shop.

MR. NINNIE: Yes, it's in the back.

MR. TANNER: Is it computed as part of the area of the

Dive Shop or is it computed as a garage?

MR. NINNIE: It's computed as gross area which is on the, it wasn't counted as part of retail, no.

MR. SAMUEL LEONARDO: It is a garage.

MR. TORLEY: Now, this is considered a caretaker's apartment or something?

MR. TANNER: Can't be, they don't have enough acreage.

MR. BABCOCK: We haven't got into that until tonight, when Ted brought it up.

MR. TANNER: There's not enough acreage.

MR. LUCIA: It is 20 acres because the living quarters is under use B 10.

MR. TANNER: Doesn't quite make that.

MR. LUCIA: There's a substantial area variance.

MR. SAMUEL LEONARDO: My brother lived there up till a year ago and when he moved out, a young lady who's been working for me for 16 years moved in.

MR. TORLEY: Question is if you can establish that it has been used as an apartment since before zoning, you can do that.

MR. SAMUEL LEONARDO: Sure we can.

MR. LUCIA: It's been occupied for 30 years since 1963.

MR. SAMUEL LEONARDO: At least as an apartment.

MR. TANNER: Is it on the tax rolls as an apartment?

MR. SAMUEL LEONARDO: This I cannot tell you how many years have you lived there? He lived there 15, 20 years himself, he only moved out about a year ago.

MR. TANNER: See that is about the only way you can

establish it if it is shown on tax rolls. Where he just can't take someone's word for it, regretably.

MR. SAMUEL LEONARDO: It's been an apartment for as long as I can remember. Why can't you take my word for it? Why would I lie? Why I would I?

MR. KALKA: It's a matter of telling the truth that the board can use.

MR. TANNER: I'm not saying you're lying.

MR. TORLEY: Unfortunately, we're required to have the documentation.

MR. LUCIA: That is not the only proof we accept.

MR. TORLEY: Utility bills.

MR. TANNER: Something I can hang my hat on.

MR. SAMUEL LEONARDO: Does anybody remember when Buddy's Burgers was there, my brother Constantine who is the owner, ran Buddy's Burgers and he lived upstairs.

MR. LUCIA: Mr. Tanner said that we would accept evidence from the assessor. I think we also would accept other evidence that you have to indicate that it has in fact been occupied since 1963 at least as an apartment. So when you come back for the public hearing, it would behoove you to come back with whatever evidence, whether it's testimony or affidavits from neighbors or utility bills or something the board can look at and say yes, we're confident there has been a caretaker or someone living in the apartment since prior to the adoption of the zoning in the Town of New Windsor.

MR. HOGAN: What's the requirement for a caretaker apartment?

MR. LUCIA: In terms of parking spaces, so if in fact you have 24 taking out the 4 under the canopy because that is iffy at this point, probably it's okay. The

only difficulty is aligning those 11 spaces under the lease together with the Dive Shop and gas station. So if that requires an amendment to the lease, I assume that probably can be done.

MR. NINNIE: That would be the easiest way to amend the lease to accomodate the parking spaces because we don't have much room to jockey things around.

MR. LUCIA: I guess we would have to show the one garage parking space on the plan.

MR. NINNIE: I'm going to update that, show the apartment and the garage.

MR. NUGENT: I believe Ted and you can check it. Tomorrow when you go to work, the entrance to that garage is on what would be the east side of the building.

MR. NINNIE: No, there's a garage door definitely right here.

MR. SAMUEL LEONARDO: It's on the west side.

MR. NINNIE: Overhead door is 9 feet wide, small door.

MR. TORLEY: Now we have gone over the sign variances under 17.

MR. NUGENT: We got them all out, we got all sign variances, we got front yard variance and we got the lot width variance.

MR. TORLEY: So we're really down.

MR. NUGENT: We're only doing one, don't confuse the issue, this is as far as we are right here. Is everybody with me, understand?

MR. LANGANKE: Yes.

MR. HOGAN: Is the Dive Shop functional at this point? I saw a sign on front.

MR. NINNIE: It's empty.

MR. TORLEY: Vacant hopefully to be leased retail outlet.

MR. NINNIE: Yes.

MR. TORLEY: Whatever wants to go in there will not be back for different variances.

MR. NINNIE: Hopefully this is why we're here so we don't have to.

MR. NUGENT: Danny, on the building height, there's an existing building they didn't change that, right?

MR. BABCOCK: Nope.

MR. NUGENT: All we're talking about is the canopy strictly.

MR. BABCOCK: Yes.

MR. NINNIE: And that is 22 feet.

MR. BABCOCK: That is the only change to the property, the buildings are existing, just the canopy is the change.

MR. TORLEY: Well, the previous garage section was sort of gutted out and turned into the retail area, correct?

MR. BABCOCK: Yes, there's a small section of retail which is 604 square feet of retail added for mini-mart.

MR. TORLEY: Rebuilt on the same foundation?

MR. NINNIE: Building footprint hasn't changed.

MR. NUGENT: Any other question on number 1?

MS. BARNHART: Are we adding any parking?

MR. NUGENT: No.

MR. TORLEY: Do you want a separate motion for public hearing on each of these?

MR. NUGENT: Yes, separate for each number.

MR. TORLEY: Therefore I would move we set him up for a public hearing for items covered under roman numeral 1 of our agenda.

MR. LUCIA: In addition the sign variances which we've laid out on the record.

MR. TANNER: I'll second it.

ROLL CALL

MR. TANNER	AYE
MR. LANGANKE	AYE
MR. HOGAN	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. LUCIA: I gave you copy of Section 267B of the Town laws and the requirements for proof on an area variance, this is going to be applicable to all your applications, I put a little X in the margin next to the paragraph that lists the requirements for this board to grant you an area variance. When you come back, I appreciate it if you'd be prepared to speak to the five factors the board needs to find in order to establish an area variance. We'll also need an--

MR. HOGAN: How can we have a public hearing when it doesn't exist until we do number 2?

MR. NUGENT: We have to do it in some kind of sequence.

MR. HOGAN: They should be in some order for the public hearing.

MR. LUCIA: You're correct.

MR. BABCOCK: You need the subdivision before you got a site plan, that is what he is saying.

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MR. LUCIA: On each of these, you'll need to submit an application which Pat has given you separately for each file and you'll need two checks, each both payable to the Town of New Windsor. One for \$150 application fee and the second for \$482 deposit against Town consultant reviews fees and various disbursements the board has in handling your applications.

9/93

PENGAD CO., BAYONNE, NJ 07002 · LASER BOND.A

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LEONARDO, SAMUEL

MR. NUGENT: Request for 50.4 ft. front yard variance and 14.8 ft. maximum canopy height for Coastal Gas Station located at Five Corners in a C zone. Referred by the Planning Board.

Mr. Eugene Ninnie appeared before the board representing the applicant on this proposal.

MR. LUCIA: Just mention for the board members before they get stated, there are two Leonardo applications. This first one only refers to the impacts of a canopy being put up at the site. It's supposed to be a Coastal Gas Station, this is part of the Leonardo property. Apparently there was an illegal subdivision and when you get to the next one, you'll find a number of other area variance applications on this same site as well as the site next door so they've split it up, I guess for their own purposes into Coastal's part of the variance application on this one site. And the next one you'll see additional area variances on the same site as well as on the adjacent site with that Club 32 Bar and the Leonardo Cheese place behind it.

MR. NUGENT: They are straightening the whole piece of property out.

MR. LUCIA: They are attempting to. There is a lot to it. The reason I mention it, it's unusual to get two separate applications that involve variances on the same piece of property but you can see this piece of property and the next.

MR. TANNER: How do we do this when they both impact each other?

MR. LUCIA: You have to ask them to go, it's tough in terms of making a decision because you're dealing with cumulative impacts so--

MR. SAMUEL LEONARDO: We had a meeting with the building inspector, the Supervisor and the Town Attorney and they had advised us to separate the two properties and we went through the expense of doing

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that so you'll have to judge them as two separate properties, not one.

MR. LUCIA: I understand that. What I want the board to understand is they are going to see this gas station property on two separate applications, this one and the next one, that is unusual for the board. So I want them to know they are going to see this property with more variances again on the next application.

MR. SAMUEL LEONARDO: Fine.

MR. NUGENT: You can start.

MR. NINNIE: My name is Eugene Ninnie, I represent my client, Mr. Leonardo. We're here tonight to get a host of variances, one of which is the lot area, the setback, front yard setback, building height and lot width.

MR. BABCOCK: This is the site plan, okay, this one here looking for a front yard setback and maximum building height.

MR. NINNIE: As per your Notice of Disapproval.

MR. LUCIA: This is front yard on a canopy request, variance request of 50.4 feet and maximum building height and the canopy variance request of 14.8 feet.

MR. NUGENT: We're going to address that one first.

MR. NINNIE: Yes. The canopy presently is the one that is installed there now at the site is 14.8 feet high which is higher than the four inches per foot that is required by the Town Zoning.

MR. LUCIA: Mr. Ninnie, if I could, at least the way I read this, the canopy is actually 18 feet high and I believe you're only permitted a height of 3.2 feet and that generates a variance request of 14.8 feet?

MR. NINNIE: That is correct, yes.

MR. LUCIA: On the front yard, it appears that 60 feet

front yard is required, you're proposing only 9.6 feet and that is what generates a variance request of 50.4 feet.

MR. NINNIE: Yes.

MR. LUCIA: If you would, why don't you lay out for the board the history on this and why it is you need a canopy that is--

MR. NINNIE: The history of the project is started where Coastal Petroleum had come in and is leasing the site from Mr. Leonardo to operate a mixed use facility which is a retail gas line filling station. We went to the Planning Board and they had given us a recommendation to come here because of the incorrect lot size presently that is there and for setback. In order to meet certain dead lines, certain parts of the site is being constructed along with the canopy under a building permit that was issued and under that building permit was the canopy, so when the canopy went up, the issue of variance came to light at the Planning Board meeting after the building permit was issued.

MR. LUCIA: Was that building permit for the canopy or tanks?

MR. BABCOCK: It was for the tanks and canopy.

MR. NINNIE: So the Planning Board found this out after the fact and we're here to correct the problem.

MR. LUCIA: Just in looking over your application for the board's benefit, the retail store use is permitted by right in the C zone, that is not a problem. The gas line filling station and I guess service repair garages, if that is anticipated are permitted by special permit so assuming they get a variance, they still have to go back for a special permit. Are you going to need sign variances on this?

MR. NINNIE: I don't believe so. We've changed the present location of the sign, we're going to eliminate its location as shown on the plan here and we're utilizing the old concrete footing base that is

presently there from the old ATI station and the present sign is at the height permitted by zone.

MR. LUCIA: Have it set back from the road.

MR. BABCOCK: This says remove existing sign.

MR. NINNIE: This has to change, we're not going to put a new sign here. We're going to put the new sign back on the old foundation. It's there now.

MR. LUCIA: I raise it for your own protection, you might want to check both the sign height, site setback and sign area requirements. It doesn't, you might as well take care of it in one shot. I'm not sure what the sign area permitted is but you need to consider the freestanding sign or signs or whatever signs you have on the building so review your numbers.

MR. TANNER: What about parking?

MR. LUCIA: That is another thing, when we get to the next one, there's a note on the map that parking is going to be determined by the Planning Board. Again, I think that is something you might want to do your homework on to determine whether or not you have sufficient parking for the mixed uses you have on both of these sites because if you don't have it, you're going to have to be back here for parking variance, number of parking space variances.

MR. TANNER: Just on this section you have gas station and two story frame building.

MR. NINNIE: Based on the first review at the, well, we have been to two workshops so far, the engineer, Mark Edsall, had looked at the parking and at that time, he thought that the number of parking spaces was sufficient for what is required for both the existing building, the dive shop and the gasoline filling retail.

MR. LUCIA: I certainly defer to mark's opinion on it but my suggestion is doublecheck those numbers because what we're seeing here looks like an awful lot of

things on these relatively small sites and if there's space for parking great but if there isn't, determine it before you come back.

MR. NUGENT: According to the drawing, they have 15 and they only need 9.

MR. TORLEY: I can't see 15 spaces.

MR. NINNIE: It's hard to see because what we've shown is the asphalt that is going to be put down.

MR. BABCOCK: What Dan is saying he's recommending to the applicant to take a close look so if they need a parking variance, they would apply for it while they are here, if they don't get a parking variance and they go back to the Planning Board and do not have the parking they have to go back to the Zoning Board. That is why he wants to make sure.

MR. LUCIA: Try and do it in one big bite so check all your numbers.

MR. NINNIE: They were checked, that is what's puzzling me, the numbers were checked by Mark Edsall. He agrees with me and I can get it in writing if you'd like.

MR. LUCIA: I'll defer to his expertise but it's one of those things save yourself another trip back by doublechecking.

MR. NUGENT: Dan, this drawing that we're looking at is only taking into consideration that gas station?

MR. LUCIA: That is correct, the next drawing you see on the next application will be both pieces of property and with a lot more variances.

MR. TANNER: But the parking would have to be for the whole site?

MR. NUGENT: The parking on this building is correct, matter of fact, it's over correct, they only need 9, they've got 15.

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MR. LUCIA: I think what they mean there is the dive shop is the exact same size it was previously. They are proposing a very slight increase in area on the gas station after its remodeled so what they are attempting to convey is that they provide, the provided size is somewhat larger than the existing size, it's a slight addition.

MR. TORLEY: I see there's also building coverage looks like you're over on that too, required 14.5 which I assume is maximum coverage.

MR. BABCOCK: That would be an existing situation there.

MR. TORLEY: No, it's--

MR. BABCOCK: He's not changing anything as far as building coverage.

MR. LUCIA: Wouldn't expansion of the gas station increase it?

MR. BABCOCK: Expansion is interior, there's no addition, just, it's a relocation of retail space within the gas station.

MR. LUCIA: Footprint is not increase of the gas station, right?

MR. NINNIE: We're putting this extension in the back as a cooler but the cooler is attached to the building but it's a 5 foot extension we've shown it as 8 but the manufacturer has come back and said all we need is 5.

MR. LUCIA: If it increases the footprint on the grounds, it probably does effect developmental coverage, that might be a line item you need to add if it is over as it appears to be on this table.

MR. BABCOCK: What about the canopy?

MR. LUCIA: Certainly, yes.

MR. NINNIE: That is counted as a footprint.

MR. LUCIA: It's certainly not open to the sky, that really does increase your percentage coverage that is a good size canopy.

MR. TORLEY: Why is it that big?

MR. NINNIE: That is just the way it's manufactured for that particular set of pumps that are there.

MR. TORLEY: You had no option on the size?

MR. NINNIE: For fire protection, there's a haylon (phonetic) system that goes inside of it.

MR. SAMUEL LEONARDO: It has to be so big for the fire protection applicant we put a small, the island is there now smaller than the one used to be before.

MR. LUCIA: But there was no overhead canopy over the previous one.

MR. SAMUEL LEONARDO: No but I didn't think you can operate a gas station without the canopy because of the fire laws.

MR. LUCIA: You certainly need the fire protection, I'm not sure you need a canopy of this size. There was comment by Bobby Rogers before the Planning Board that the canopy that is there is not necessarily mandated by fire regulations. That is his field, not mine but I just recall that from the Planning Boare minutes you certainly need the haylon but whether you need a canopy of exactly this size is the open question.

MR. NINNIE: Even if it was of size you're still going to have to go back for a variance because the inclusion of the canopy square footage alone with the building footprint.

MR. TORLEY: I'm concerned about the space between the canopy and the road.

MR. LUCIA: I think what the board members are saying is reduce the size of the canopy you are making your

variance request smaller in terms of numbers and the board is bound to minimize your variance so if it is possible to get the same fire protection with a smaller canopy, that might be an issue the board would ask you about.

MR. BABCOCK: The other half of the canopy situation is that so that a car can park under there, get out of the rain, I don't know whether this will be but most of them are self-serving, applicant has to be 9 feet passed the island so somebody gets out of the car so it won't rain on them.

MR. LUCIA: Can we have your name?

MR. NASHWITH: Mitch Nashwith. This is the smaller size, the smallest size width wise 24 feet wide we can't get it any smaller than that.

MR. SAMUEL LEONARDO: It's manufactured in Albany and brought up here and erected here.

MR. NINNIE: It's a company standard size.

MR. BABCOCK: I'm sure there's other stations with smaller canopies if there was a different arrangement.

MR. LUCIA: The board as you may have indicated when I was speaking with the previous applicants we have to balance the benefit to you of the variances you're seeking against the detriment to the health, safety and welfare. So even though that may be a standard canopy size, if we can get a lesser impact on health, safety and welfare regulations by reducing it, that might be something the board would consider. I'm sure it can be cut down but that is something the board obviously will deal with when we get there. Couple other things I want to ask you, I notice a number of the items on your data table are labeled as pre-existing, non-conforming and the board would be interested in knowing how it is those items are pre-existing non-conforming.

MR. LUCIA: I guess specifically we're talking lot area, lot width, front yard, side yard, rear yard, I don't see a total side yard or we don't have a total

side yard, this is two front yards, is it not? Or do you want to get to those on the next application?

MR. NINNIE: What's your question?

MR. LUCIA: If you look at your first 1, 2, 3, 4 items on your data table, it's listed as pre-existing non-conforming from a zoning standpoint that would mean that they would have been in that prior location prior to January 1, 1966.

MR. NINNIE: That is correct.

MR. LUCIA: I think we would need some evidence on that if that is the case, whether it's from Mr. Leonardo or whoever can give us some indication that it has been in that location that long.

MR. NINNIE: What, the property or--

MR. LUCIA: The buildings with this footprint creating those non-conformities but we'll deal with that on the next application that is when we're going to get into that.

MR. BABCOCK: On this particular one, Dan, the lot area is clearly not because they are creating the lot today, you know what I am saying? The lot area, by putting this line through the subdivision which will be the next application, you're clearly creating this lot today so the lot area would be pre-existing so if there's a difference in what you have is there a difference?

MR. LUCIA: Yes, they are, that 14,000 whatever it is, I think the lot was just about divided in half, was it not, so the total lot size really is about 29,000, I guess.

MR. NINNIE: If you take into consideration this entire piece, it's not the 14,000, 14,000 is just what you see here for the gasoline.

MR. LUCIA: I know we're anticipating the next application but for clarity, we need to get some of

these items on record, this was apparently an illegal subdivision that we've done by deed in 1982 by an agreement between Leonardo's, they cut the property in half and they do have two separate tax bills on it, apparently the subdivision by deed which never went through any Planning Board anywhere and issued two separate tax lots. But that doesn't make a legal subdivision so they are now backtracking and doing what they should have done then so the lot area is not pre-existing non-conforming because they are recreating it now in effect an many of the variances you're going to see on the next application also are not pre-existing non-conforming because they are created by this new lot line separating lots 1 and 2 so we're certainly going to have to deal with those issues. I only raise it because it's shown on this map and I didn't want this first one to go by with the impression that it really is pre-existing non-conforming, some of it may be but all of it certainly isn't.

MR. TORLEY: When were you made aware that this was not going to be meeting the zoning code requirements?

MR. NINNIE: When?

MR. TORLEY: When, during this time, line of construction and everything else?

MR. NINNIE: I don't understand.

MR. TORLEY: Did you have everything up and you found out you're not meeting requirements?

MR. NINNIE: No, we were issued a building permit to do the improvements which included the canopy and to open as a gasoline retail and that is when the issue was brought up and then we came to the Planning Board and to go through to get this changed for the use because the use that was being proposed was retail gasoline filling which means you're going to sell cigarettes and soda, along with gasoline that is when it was found when we went to the first workshop.

MR. TORLEY: Before the construction was everything up when you went?

MR. NINNIE: Yes, everything was up when we went to the first workshop because the building permit was issued to us.

MR. BABCOCK: The canopy wasn't up at that time.

MR. LUCIA: First mention I see in the Planning Board minutes would have been July 21 of '93 and I guess in speaking with another representative of your office at that point, they did raise the point it was not a legal subdivision. And they needed variances.

MR. BABCOCK: When I issued a building permit for the replacement of the tanks, the canopy, and the remodel of the gas station, it's been a gas station for ever and there was no problem in doing that, when I issued the permit for the canopy, I did not think about zoning. It was a situation, it's a gas station, they were putting up a canopy, they called me up and told me that they wanted to put a small section of retail in this building. That is when I told them that they had to go to the Planning Board because it changes the parking regulations. So when they went to the Planning Board workshop session, which I wasn't at it at that time, Mark Edsall looked at it and realized that the canopy was close to the road. That is when he called me in. I was in another meeting and I talked to Mr. Ninnie in reference to that. And at that time, the canopy was not installed and I told Mr. Ninnie that he should not, he should tell his applicant, he's the engineer for the application, that the canopy should not be installed until he obtains the variances and then he can go ahead and put it up. And how I understand it was is that Coastal had already contracted with the people to install the canopy and they showed up and installed it.

MR. NINNIE: Cause there's like a 6 to 8 month waiting period for the next time they come back because they have one crew that goes over the country and does canopies.

MR. BABCOCK: Then we went to the Planning Board meeting, back to the Planning Board meeting and at the

meeting it was more or less agreed that stop work order would be put on the project until such time as they received the Zoning Board and Planning Board approvals. Then after that meeting, we had another meeting which it was during the day with everybody here that was present and it was decided that the stop work order that we wanted to do as far as the canopy would not effect anything, the canopy was already up, as far as the rest of the construction on the building they had a right to go ahead and do that if they wanted to block out the parking lot, they could do that. So it was decided at that moment that the stop work order really was not affecting anything, the canopy was already there to effect the rest of the work as far as getting rid of the contaminated material and finishing the tank removal, it didn't make any sense to continue to keep the stop work order so we lifted it and let them continue their work. And this is where we are tonight. The work that they've done since the day that the canopy went up till today, they were blacktopping, they have a right to do that, so really what's in question in this application in my mind is the front yard setback of the canopy, the height of the canopy. I think we should add the sign once we figure out what size is and how far off the property it is.

MR. NINNIE: Check some of the other numbers for the building footprint.

MR. BABCOCK: Developmental coverage and also lot area for this lot.

MR. NUGENT: Basically what we're doing is putting a blessing on it because it's already done.

MR. LUCIA: No, that is not correct. There's an agreement or proposed agreement I'm not sure the Town never signed it. Do we know that?

MR. BABCOCK: You have the same copies I have.

MR. LUCIA: I have an unsigned agreement proposed by Coastal's attorney or Mr. Leonardo's attorney, that said Coastal was proceeding with this work at their own risk and if it should turn out that they don't get the

necessary approvals, either from the Planning Board and/or from the Zoning Board, it's going down so the applicant certainly is aware if they went ahead certainly at the, clearly at their own risk and substantial expensive stuff is not approved, I'm not sure that agreement has ever been signed but its certainly been spoken about a number of times at Planning Board and Town Board meetings.

MR. NINNIE: You have to understand for the, you mentioned what was it public health or welfare?

MR. LUCIA: Public health, safety and welfare.

MR. NINNIE: The old site was far more detrimental than it is now or what we propose to do so we're improving the site.

MR. LUCIA: There was a tank leakage problem.

MR. NINNIE: Yes, they've removed the tanks as per DEC requirements, everything has been done to the T, we're actually improving the site.

MR. TORLEY: Do they have to go back to the Planning Board after this?

MR. BABCOCK: Yes, they do.

MR. TANNER: Planning Board will probably require a bond then on the site to see that the work is completed.

MR. BABCOCK: Yes, well, it won't be a bond, what it will be, it will be a cost estimate. They'll have to give us a cost estimate on anything that is not completed at the time of the Planning Board stamp. Once they are ready for a C.O. on this building, anything they don't do, maybe striping, blacktopping, so any site improvements that they wouldn't complete, they'd have to bond before they get a C.O.

MR. TORLEY: One thing before we finish this process, I do need to know what the requirements are for the canopy size for fire and safety we need to know what

size is actually required.

MR. LUCIA: I don't know that he has ever appeared, in the Planning Board records, they say there was a comment attributed to Bobby Rogers that it did not need to be that big.

MR. TORLEY: I'd like to know how big it has to be.

MR. TANNER: I'd imagine it's a state or national code with a minimum size.

MR. LUCIA: I'm not even sure that a canopy per se is required, you have to have the fire suppression but you can do it in other formats than a canopy. There are new service stations that have overheads with haylon nozzels that shoot down from light fixtures or any other decorative things above the pumps.

MR. NINNIE: Canopy looks better, I mean with the pipe work that is used for the haylon system is ugly, you want to cover it up with some kind of canopy, put some lights to dress it up.

MR. BABCOCK: It's a two-fold system, I don't--

MR. NINNIE: You have to accommodate lenghts of cars that are parking underneath for the pumps.

MR. BABCOCK: I don't think we've had a new gas station in the last three or four years that didn't put a canopy up with their system in it.

MR. TORLEY: Did they put them up 9 feet from the road?

MR. BABCOCK: Well, you'll see them.

MR. SAMUEL LEONARDO: I'm one of the owners, you see the State came by there about a year and a half ago and took, condemned some of the property so I think it's about three or four feet that they condemned so you have to take that into consideration. We had no say in the matter naturally and another thing, we had a court order to remove those tanks and we had to remove them we had a court order and we did that, it was supposed

to be \$8,500 and my poor brother ended up spending \$20,000, cost \$20,000 to take that tank out and the contaminated water and soil and we're not done with the soil yet. So he's 80 years old and he's not too well and that is the only means of support he has and we have been residents and taxpayers for that property has been in our family 70 years, you know, and you guys talk about variances and parking. You know there's something that bothers me and it's bothered me for a long time. There's a, behind us there's a lot right in Monro's building and next to Monro there's American Seafood, used to be the ambulance place now that place was a public place for years and years. All of a sudden, American Seafood comes in, he has no parking at all because on the east side, he only owns six inches, on the west side, he only owns three feet. They were parking on my property and I had to move them out. And I want to know please in a nice, fair way because you look like nice, fair gentlemen, in a nice, fair way and equitable way, explain to me how that happened. First of all, that never was a commercial place. You talk about grandfather clauses, that never was. How did that man get a permit to put that in there, number one, and you're talking about safety and health. Let me tell you another thing. The Town is going to be subject to some liability some day there is going to be some accident there and you do, you know why, I'll tell you why, there's no room for parking. When a man gets a delivery, it's a delivery with a ten foot truck and a big, big straight job 10 or 12 foot wide when he parks, he sticks halfway out on the left lane and right at that point, that road 94 when you're going west is two lanes, one lane is for left turn and one lane's for straight and where does it begin, right along at that building. Some day, that truck is going to be parked there and it's a good thing he comes 8 or 9 o'clock in the morning because even at 8 or 9 o'clock in the morning, I had to wait to get through. I was wondering how that ever occurred? Was it because the man that owned it was once on the Planning Board and his brother was a supervisor? Now we're not looking for anything more or we're not looking for anything less. I told you you're fair and equitable gentlemen and if that man has the right to operate that American Seafood, we have a right to open that gasoline station so this man can

live.

MR. LUCIA: Mr. Leonardo, I have no idea why.

MR. SAMUEL LEONARDO: As a tax payer and private citizen, I demand an answer.

MR. LUCIA: I would suggest you take your complaint to the Town Board. This board never considered American Seafood that piece of property.

MR. SAMUEL LEONARDO: I want to know how he existed without having letters sent out to everybody that is within the 300 foot area like everybody else has to do.

MR. LUCIA: I have no idea.

MR. SAMUEL LEONARDO: I want to know why.

MR. LUCIA: They never come before this board.

MR. SAMUEL LEONARDO: I beg you then to give this man the same consideration that they gave American Seafood. I'm not looking for any more or any less.

MR. LUCIA: Do you understand American Seafood never came before this board. This board has never seen that application.

MR. SAMUEL LEONARDO: That is besides the point.

MR. LUCIA: No it is not besides the point.

MR. SAMUEL LEONARDO: Yes, it is because how does he exist then?

MR. LUCIA: You have to complain to the Town Board maybe you're right, I'm not saying you're wrong.

MR. SAMUEL LEONARDO: Then you go down the street and you go down to Mr. Mann's, he keeps a junk yard there, that is a junk yard. He likes Fiat cars, I notice he's got about 16 Fiat cars all burned up, all disassembled, must be selling for parts. We're honest people, we have been here, we work hard. When I started, I worked

double shift, you know, we don't begrudge anybody anything. When Monro came, I came and says let Monro come, we all have to. I didn't put any objection it's live and let live. But I don't think we're being treated fairly and I'm looking for equitable treatment.

MR. LUCIA: I can assure you this board will treat you fairly and equitably. If American Seafood never came here, we can't comment, we have no idea what they did.

MR. SAMUEL LEONARDO: Still the injustice was done, I don't know how.

MR. NUGENT: Nothing to do with us, we only go by what's on this pad in front of us.

MR. TORLEY: Mike, am I correct in assuming that a person who feels there is a building violation can complain to you?

MR. BABCOCK: That is right, from 8:30 to 4:30.

MR. SAMUEL LEONARDO: I don't like to complain, I like to live and let live.

MR. LUCIA: You may have a very legitimate complaint.

MR. TORLEY: You pointed out your legitimate fears of a hazard of public safety, if you feel there's a danger, complain to--

MR. BABCOCK: --the building inspector.

MR. SAMUEL LEONARDO: I'll make a formal complaint right now, put it in the record, put it in the record, thank you.

MR. LUCIA: That is this application. You want to move on to the next one or do you want to hear more on this one?

MR. NUGENT: We have to do them both at the same time because they are all in the same piece of property.

MR. HOGAN: Currently, they are the same piece of

property legally.

MR. LUCIA: That is correct.

MR. HOGAN: Let's have the next one.

MR. BABCOCK: Should we make sure that the applicant knows what we need so we can proceed? We're going to need a new denial, you're going to have to do the lot area of this site plan versus what's required and what the difference is. You're going to have to tell us what your signage is and how high and how far off the property line it is and you're going to have to give us a developmental coverage and what the difference in that is.

MR. LUCIA: Again, just for your own protection, I'd suggest you check your numbers.

MR. BABCOCK: And the rest of the non-conforming pre-existing, I guess what the board is going to need to see is something that either a property record card from the assessor's office maybe again to indicate when these buildings were built, you know, this building was built in 1950.

MR. NINNIE: The assessor's office will have that.

MR. BABCOCK: Yes.

MS. BARNHART: Not if you can go back to '50.

MR. BABCOCK: If it is before '66 it will say. Basically, you're saying they are pre-existing. We want some information what made you say they are pre-existing. You can come back and show us evidence that the building was built in whatever.

MR. NINNIE: Back to the comment on lot area, none of these really change because if you are looking at this one piece these are the numbers, I have to remove the asterisk.

MR. BABCOCK: And put in what the variance request is, you need a third column.

MR. LUCIA: Just so we close out this one first Pat will give you an application form and set of instructions. This is commercial property so fill it out, return that to here with two checks, both payable to the Town of New Windsor for \$150 application fee and \$482 deposit against Town consultant review fees and various disbursements the board has in handling your application. I'll give you a copy of Section 267B of the Town Law and I just put an arrow in the margin next to the applicable variance standards. There are 5 standards listed there. All of which will enable this board to pass on your application. As I said we have to engage in a balancing test benefit to you if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by giving you that variance from the Zoning Ordinance.

MR. NINNIE: Something in writing.

MR. LUCIA: It's included in the application when you come back to the public hearing, you have to speak to it orally on the record. We'd like to see photographs of the site, please, I guess everything on the site.

MR. NUGENT: Do you want a motion on that one?

MR. LUCIA: It's up to you if you want to table it until we hear the next one.

MR. NUGENT: I'm reading on through the next line item and now we're taking, if I read it correctly, we're taking in the other lot. Are we doing both lots?

MR. LUCIA: That is correct. So application number one is technically only the gas station and variance requirements on the corner lot. Application number 2 is all the other variance requirements except for the new gas station construction on both lots. Maybe you want to treat that as three separate applications, I don't know but that is up to you.

MR. BABCOCK: Basically, Jimmy, we couldn't look at the site plan for the gas station and the dive shop because

it was on the same lot. So when we started out here, we started out looking at a site plan for the gas station here except it was all one lot. When Mr. Ninnie came in and provided us with the deeds and so on, that is when we realized the deeds were made out but it was never legally done through the Planning Board. So we suggested since the deeds were done, it was already registered in Goshen tax map department, gets two tax map bills, the only thing that didn't happen is Planning Board approval. So we said let's put in this line in as a Planning Board approval then we can look at this as a site plan, how can you look at part of a lot as a site plan so that is why we're really doing it and it's just clarifying everything, just cleaning it up which variances goes with what lots that is a good question.

MR. NUGENT: But the second preliminary is actually taking in both lots?

MR. BABCOCK: Yes.

MR. NUGENT: Not just the second lot?

MR. BABCOCK: Correct.

MR. TORLEY: Both lots together are substandard size?

MR. BABCOCK: Yes.

MR. LUCIA: For reasons unrelated to the new gas station construction, merely based on existing buildings that are there.

MR. NUGENT: None of that information is on this drawing or is it?

MR. LUCIA: It is in part but there is a new drawing for the next one that more clearly lays out the two lots. This one has so much on it, it's tough to read the next one is a little clearer.

MR. TORLEY: For purposes as our attorney, are you informing us that it is more proper legally to accept separate it out as we're doing it?

MR. LUCIA: I would say two or three applications really are appropriate certainly two, one for each lot, you know the way they have broken it up is part of one lot one and both lots on the second. Now, they did that I assume because Coastal has the new gas station requirements and the Leonardo's have the old subdivision requirements. So I guess the question is do you want to break the Leonardo application into two further applications, one on each lot? That is up to you, makes no difference to me.

MR. BABCOCK: I think what we did--

MR. LUCIA: Why don't we table the first Leonardo application.

MR. NUGENT: Motion to table the first.

MR. TANNER: So moved.

MR. TORLEY: Second it.

ROLL CALL

MR. HOGAN	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. TANNER	AYE
MR. NUGENT	AYE



December 13, 1993

**Members of the Zoning Board Of Appeals  
Town of New Windsor Planning Board  
555 Union Avenue  
New Windsor, NY 12553**

**Re: Variance Appeals of Block 70 Section 1 Lot 1.1 and Lot 1.2 Leonardo**

Dear Members of the Board:

It was proposed, back in August 1993, that the present use of gasoline filling at Lot 1.1 be changed to gasoline filling / retail. The use change required a site plan approval from the planning board. In it's review of the proposed site plan the planning board and consultants had determined that a sub-divide of the property was needed. The sub-divide was needed to legally divide the two lots, since only a boundary agreement separated the two parcels yet two tax numbers existed, one for Lot 1.1 and 1.2. The boundary agreement was drawn up as part of probate of the estate of the late Catherine Leonardo, to separate the site into two lots for her two surviving sons. One lot for Constantine and the other for Samuel. These are Lots 1.1 and 1.2 respectively. Known variances were then recognized from the proposed sub-division and site changes on Lot 1.1. Therefore an appearance before the zoning board was warranted.

It is through the sub-division process that most of the variances occur. The variances created by the sub-division consist of area, set-back, and parking space variances on both lots. The above mentioned site, Lots 1.1 and 1.2, predates Town of New Windsor zoning laws by 27 years. The pre-existing conditions are substantiated thorough Town assessor records, and deed dated in 1933, enclosed. Upon the adoption of the zoning laws in 1960, both lots automatically became undersized. These variances associated with the sub-division cannot be mitigated or rectified due to this condition. The adoption of the zoning law after the establishment of lot 1.1 and 1.2 has rendered the site undersized and hence setbacks are also non-conforming. Only one parking variance is accounted for due to the pre-dated condition. This variance occurs on lot 1.2, the lot that has no proposed site improvements. Again, the adoption of the zoning law after the establishment of lot 1.2 has rendered the site undersized. Zoning law regulations pertaining to parking are directly related to retail space and site area, in which to accommodate the spaces, therefore a variance for parking is needed and therefore requested.

The site plan application will create variances by virtue of the site improvements that are proposed under that application. The site plan has created variances pertaining to Lot width, setback, height and signage. Variances associated with lot width is connected to the lot predating zoning law. This variance cannot be mitigated or rectified, since the site is pre-existing zoning regulation adoption and the

adoption of the zoning law after the establishment of lot 1.1 has rendered the site undersized and hence lot width also becomes non-conforming.

Variances associated with setback, height and signage pertain to the proposed use of the lot. Setback variances created by the canopy cannot be rectified since the DOT takings over the last 20 years has limited setback to the 9.6 feet shown. Even without the canopy, the building itself cannot meet this setback condition, due to the building and lot pre-dating zoning law adoption. The height variance cannot be met due to similar circumstances that the setback variance cannot be met. Building height requirements are based upon building setback. Since building setback cannot be met due to the pre-dated condition, building height cannot be met. Even without the canopy, the building itself cannot meet the height regulations, due to the building and lot pre-dating zoning law adoption.

Variances associated with signage are needed to properly market the product in competition with the other 3 petroleum establishments. The 3 other petroleum marketing establishments, all within 200 feet of each other have signage similar if not larger than the proposed signage. Their facade sizes are smaller or the same as the building in question. Since signage is based upon percent area of building facade, the other 3 establishments must be at variance with town zoning as well, including setback. Enclosed photographs substantiate this variance of sign setback with their property lines and sign square footage greater than what is being proposed at Lot 1.1. Therefore the inclusion of signage similar to other establishments within 200 feet of one another and in a neighborhood that is similar in character, will not be a detriment to the public health, safety and character of the neighborhood, that the other 3 similar facilities now possess.

The area of the 5 corners is built up with 3 other petroleum marketing establishments, all within 200 feet of each other. These too have canopies the same height and larger footprint than the proposed canopy. Additionally, photographs enclosed indicate a greater variance with their property lines and canopies. Therefore the inclusion of another canopy with similar characteristics and siting in an area that is similar in use will not be a detriment to the public health, safety and character of the neighborhood, that the other 3 similar facilities now provide. Canopies are now becoming the favored structure with petroleum companies, since the canopy serves a two fold purpose. One is life safety. The canopy is an excellent structure to hang Halon fire suppression systems attractively. The canopy also serves to protect the customer from adverse weather conditions that can affect safety of mobility when dispensing petroleum products. Therefore the canopy will be beneficial to the safety of the neighborhood, by making it safer for all, who use the facility and to bring the present filling station up to safety similar to the other 3 facilities.

Overall the applicant is not asking for variances that do not exist in the neighborhood that do not presently exist with the other establishments now. Similarly, the applicant is proposing improvements to a site that, before, did not conform to neighborhood characteristics. The site has been in disarray for years. The owner Mr. Leonardo, is attempting to improve and appreciate Lot 1.1 through a lease agreement with Gasland Petroleum Company. Under the lease agreement, Gasland will renovate the gasoline station and provide site improvements. The land-owner will refurbish the "dive shop" to improve that building and provide site improvements, through proceeds generated by the lease

agreement. Without Gasland Petroleum as a new tenant, the present owner cannot afford to improve the site. The inclusion of a new tenant, Gasland Petroleum Company, has only improved the site and blend the site with the present character of the neighborhood. Gasland is the key to improving the above mentioned property. Without the Gasland agreement, the property will remain as it is. Not granting the variances requested for will terminate the lease agreement between Gasland and Mr. Leonardo and leave the site uncompleted and non conforming to neighborhood character.

The applicant is only proposing a use and variances that the neighborhood presently accommodates with 3 other similar establishments. We therefore ask the Board to grant the necessary variances to complete this part of the planning process and improve a site which needs improvement.

Sincerely,

*CIVIL TECHNOLOGIES AND ENGINEERING*

A handwritten signature in black ink, appearing to read 'Eugene D. Ninnie', with a stylized flourish at the end.

*Eugene D. Ninnie, P.E.*

*EDN/wp*  
*930251t8*

#2 ZBA 11-22-93  
SETUP FOR P/H

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR  
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 93-22

DATE: 1 NOVEMBER 1993

APPLICANT: SAMUAL LEDAMPAO

ROUTE 32

NEW WINDSOR NY 12553

REVISED REFERRAL

SITE PLAN

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 2 AUG 1993

FOR (~~SUBDIVISION~~ - SITE PLAN) COASTAL GAS STATION

LOCATED AT NYS ROUTES 94 AND 32

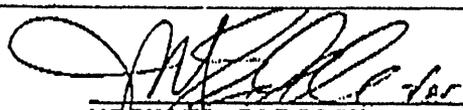
ZONE C

DESCRIPTION OF EXISTING SITE: SEC: 70 BLOCK: 1 LOT: 1.1

PROPOSED CONSTRUCTION OF RETAIL  
IN EXISTING BLDG. AND PROPOSED  
CANOPY.

IS DISAPPROVED ON THE FOLLOWING GROUNDS: \_\_\_\_\_

VARIANCES REQUIRED FOR CANOPY



MICHAEL BABCOCK,  
BUILDING INSPECTOR

\*\*\*\*\*

REQUIREMENTS	PROPOSED OR AVAILABLE	VARIANCE REQUEST
ZONE <u>C</u> USE <u>A19B5</u>		
MIN. LOT AREA		
MIN. LOT WIDTH	<u>200 FT.</u>	<u>108 FT</u> <u>92 FT</u>
REQ'D FRONT YD	<u>60 FT</u>	<u>3.6 FT</u> <u>50.4 FT</u>
REQ'D SIDE YD.		
REQ'D TOTAL SIDE YD.		
REQ'D REAR YD.		
REQ'D FRONTAGE		
MAX. BLDG. HT. <u>4"/FT = 3.2 FT</u>	<u>22 FT.</u>	<u>18.8 FT.</u>
FLOOR AREA RATIO		
MIN. LIVABLE AREA		
DEV. COVERAGE		
O/S PARKING SPACES	<u>9</u>	<u>15</u>

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

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

OFFICE OF THE BUILDING INSPECTOR - TOWN OF NEW WINDSOR  
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION

DATE: October 29, 1993

APPLICANT: Samuel Leonardo  
Rt. 32  
New Windsor, N.Y.

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATE: \_\_\_\_\_

FOR (BUILDING PERMIT): \_\_\_\_\_

LOCATED AT: Coastal Gasoline Station  
NYS Rt. 32 E 94  
Vails Gate, N.Y.

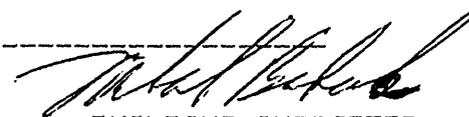
LOT 1  
SIGNAGE

ZONE: C

DESCRIPTION OF EXISTING SITE: SEC: 70 BLOCK: 1 LOT: 1.1

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

1. FREE STANDING SIGNAGE SQ FT
2. FREE STANDING SIGNAGE SET BACK
3. FREE STANDING SIGNAGE HEIGHT
4. \_\_\_\_\_
5. \_\_\_\_\_

  
BUILDING INSPECTOR

<u>PERMITTED</u>		<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>C</u>		USE <u>A1 + D-5</u>	REVISED 12-13-93
<u>SIGN</u>			
<u>FREESTANDING</u>	40 SQ FT	TWO SIDES 96 SQ FT <del>48 SQ FT</del>	<del>56 SQ FT</del> 56 SQ FT
<u>HEIGHT</u>	15 FT	19 FT	4 FT
<u>WALL SIGNS</u>	5% WALL AREA = 20.5 SQ FT	COASTAL 43 SQ FT DIVE SHOP 50 SQ FT } 93 SQ FT	69.5 SQ FT
<u>TOTAL ALL SIGNS</u>	ONE	THREE	TWO
<u>FEET FROM ANY LOT LINE</u>	15 FT	6.5 INCHES	14.45 FT

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

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

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR  
ORANGE COUNTY, NY

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 93-22

DATE: 22 SEPT '93

APPLICANT: SAMUEL LEONARDO

ROUTE 32

NEW WINDSOR NY 12553

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED 2 AUG 1993

FOR (~~SUBDIVISION~~ - SITE PLAN) COASTAL GAS STATION

LOCATED AT NYS ROUTES 32 AND 94

ZONE C

DESCRIPTION OF EXISTING SITE: SEC: 70 BLOCK: 1 LOT: 1.1

PROPOSED CONSTRUCTION OF GAS PUMP  
CANOPY.

IS DISAPPROVED ON THE FOLLOWING GROUNDS: \_\_\_\_\_

VARIANCE REQUIRED FOR FRONT YARD  
SET BACK AND HEIGHT OF CANOPY

  
MICHAEL BABCOCK,  
BUILDING INSPECTOR

<u>REQUIREMENTS</u>		<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>C</u>	USE <u>B5</u>		
MIN. LOT AREA			
MIN. LOT WIDTH			
REQ'D FRONT YD	<u>60 FT</u>	<u>916 FT</u>	<u>50.4 FT</u>
REQ'D SIDE YD.			
REQ'D TOTAL SIDE YD.			
REQ'D REAR YD.			
REQ'D FRONTAGE			
MAX. BLDG. HT.	<u>4 1/2 FT = 3.2 FT</u>	<u>18'</u>	<u>14.8'</u>
FLOOR AREA RATIO			
MIN. LIVABLE AREA			
DEV. COVERAGE			
O/S PARKING SPACES			

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

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

July 21, 1993

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COASTAL GASOLINE SITE PLAN (93-22) CORNER OF RT. 94 AND  
RT. 32, VAILS GATE

Ms. Barbara Sbraccia appeared before the board for this proposal.

MR. VAN LEEUWEN: What company are you with, ma'am?

MS. SBRACCIA: Civic Technologies. Evidently he had a meeting with Mr. Edsall and has changed this plan accordingly.

MR. PETRO: We have new plans here.

MR. DUBALDI: Are these new ones?

MR. EDSALL: Are these different than the ones you circulated Myra? The ones that are submitted for the meeting if they are the same as, have these been changed since the ones that were submitted?

MR. PETRO: I havd 7/1/93 is the date.

MR. VAN LEEUWEN: We already have a problem here guys, the house, the existing wood story frame house, the dive shop they have already been in front of us, we haven't seen them since they haven't done anything to the building.

MR. PETRO: Is this the same property, is that what you're saying?

MR. VAN LEEUWEN: All one property.

MR. EDSALL: What you will see in my comments that in fact they had met with the board and now we have and at that point were under the impression that the dive shop was on its own parcel and that the Hess or this proposed facility was on a separate parcel. As the survey bears out in fact it's one parcel which previously had a leased parcel which no longer exists what I am suggesting to you is that you review this as a single site plan while you include both the dive shop building and this portion.

MR. PETRO: Are you aware of problems in that building?

MS. SBRACCIA: I was told that the dive shop has been closed because of some legality and that again has included it on the subdivision because yet it is part of this one parcel and the items that had been addressed was that they needed parking and landscaping and again had revised this to include that on his plan as far as site plan is concerned, as far as the building itself is concerned and what goes on with the business and that hasn't been addressed.

MR. VAN LEEUWEN: I'm sorry but that has got to be addressed.

MR. EDSALL: Maybe I can just mention we brought to Mr. Ninnie's attention when he was in at the workshop the problem that the Planning Board had with the dive shop as far as site improvements not being completed. I believe he looked at the file information from the discussions with the dive shop people and that is the reason why they have now included on their plan which just so you know it wasn't on there originally, they've included landscaping improvements along the dive shop building, they've included delineation of parking along that side of the property, so as site plan issue, they are including the dive shop site plan promises as it may be that the dive shop talk to this board about including that on this plan. I don't want to treat it as two different plans. It's enough of a mess. It's one plan they are including what was I believe assured to the Planning Board would occur for the dive shop on this plan as far as the site.

MR. PETRO: We can look at this plan just whatever we do with this plan has to include the existing one story framed.

MR. EDSALL: They are.

MR. VAN LEEUWEN: There's 4 buildings on the site plan.

MR. DUBALDI: Do we have to consider all four?

MR. VAN LEEUWEN: There's 4 buildings on the site plan.

MR. EDSALL: The buildings to the right of the planter that is shown here is a separate parcel.

MR. LANDER: It's not shown here that way.

MR. EDSALL: You'll see a property line splitting down the middle if you look at the plan on the left.

MR. DUBALDI: This shouldn't be shown at all then.

MR. VAN LEEUWEN: They should tell us.

MS. SBRACCIA: It has to be shown because it's not a legal subdivision. It is an estate which was left to Mr. Constantine Leonardo and I don't remember the other Leonardo's name it was to the two sons and in order to delineate ownership Constantine Leonardo has one and the other Leonardo has another. It's not a legal subdivision, however the two deeds are filed.

MR. PETRO: Do they get two separate tax maps?

MS. SBRACCIA: Two separate tax bills, I believe, I guess the only real way, yes, they are delineated on here, they've got two separate tax bills and just filed in the County Clerk's Office and as it says on here, deed Liber 228 page 133.

MR. VAN LEEUWEN: I think that we should make that a legal subdivision first and I'll tell you something before we really should go any further, I think what we should know what's going to be done with the two story frame building because that is an eyesore.

MS. SBRACCIA: I understand that Gene had asked for whoever the leasee is so he may contact that person. He has not been able to contact the leasee so he's put the information that he could without knowing who the leasee is on this map at this time. His main concern that I was told that Gene would like as a result from this meeting is a recommendation to the Zoning Board for a variance for this canopy that would be encroaching so for the zoning setback.

MR. PETRO: I'll try and help you out here. I think what's happened gentlemen and Mike you can bear me out with the story, is that the old gas station has been Michael has given these people a permit to start working on their building, on the gas station itself because they were going to requirements to remodel it as a station. What's happened through codes and fire laws they had to put up a canopy for the fire suppression. Once the canopy went up, it needed a variance because it's too close to the property line so what we can do as long as they are just working on the gas station, it's not going to be a change of use, I know there's more to the story, that is why they want to go to the Zoning Board. A permit has already been issued this is only for the gas station. There's a lot of site work that has to be done.

MR. BABCOCK: The permit right now that I issued we violated them to take out the tanks, the tanks were leaking also through DEC so the permit that I issued was for the removal and installation of new gas tanks and the installation of new pumps with a canopy and Ansel (phonetic) system and that is all the permit covers. It doesn't cover remodel of the building because they want to put a mini-mart in there so there's no permit on that. They are here for that approval to change it from just a gas station to a mini-mart and they are also here to get a referral to the Zoning Board because the canopy is going to be closer to the property line than the zoning allows.

MR. VAN LEEUWEN: I'll tell you something, I don't think we should do anything with this map until we know what is going to happen with that old house, it's an eyesore in this Town, it's been an eyesore.

MR. DUBALDI: Historic eyesore.

MR. VAN LEEUWEN: It's an eyesore, it's a piece of junk that has been there for as long as I can remember and what I'd like to see done is either fixed up, show us plans that it is going to be fixed or tear it down, it's an eyesore as far as I'm concerned I'm not going to refer this thing to the Zoning Board. I'm not going to do anything with it until that happens.

MR. PETRO: Let's touch on the other subject that you brought up is this or is this not a legal subdivision?

MR. VAN LEEUWEN: Can I say something to you? If somebody in there will and Andy can bear this out, I might be wrong and I might be wrong but I know I'm right somebody leaves that in a will, it becomes a legal subdivision, am I right? But while we're at it, we should treat it as a subdivision and get it handled for them. It will be a lot easier if they want to sell it because they'll never get title insurance.

MR. KRIEGER: That was my hesitation about you're talking about it being a legal subdivision. Yes, I suppose in a sense that nothing happens until you go to sell it but no title company will accept that.

MR. VAN LEEUWEN: That should be treated at this point and that old building should be treated before we do anything, don't go to Zoning Board, don't do nothing, let's treat that old building first, it's an eyesore, it's been and eyesore, everybody wants to do something about it now we have the opportunity. We either fix it up, clean it up or tear it down that is how I stand.

MR. LANDER: I think you're putting in new gas tanks, new pumps, I don't think they are going to leave the building in the shape that it is in now.

MR. VAN LEEUWEN: You know how long it's been there like that, 18, 19 years as long as I can remember. Now we have an opportunity to do something. If we don't do it now, it ain't going to happen.

MR. PETRO: I think we can do it now but not sending them to the Zoning Board is not going to solve anything. We can send them to the Zoning Board to get permission to put the canopy up then they have to come back to the Planning Board at that time we can then review a map.

MR. LANDER: They have to get a variance.

MR. VAN LEEUWEN: The cat's already out of the bag.

MR. PETRO: They can get a variance to put it up.

MR. EDSALL: I think obviously they need site plan approval to do what they want to do.

MR. VAN LEEUWEN: Once they get the variance, they can go ahead and do it because they've already got the building permit.

MR. EDSALL: Their building permit to my understanding is for a canopy but not of the size that requires a variance so they would have to get a building permit and they'd have to get site plan approval.

MR. VAN LEEUWEN: They'll cut the canopy what's to stop them from cutting the canopy down.

MR. EDSALL: They want to put in a mini-mart which is retail sales, retail sales is a separate use which is site plan approval.

MR. PETRO: If they'd trick us and put a smaller canopy and not come in for a mini-market, the gas station is cleaned up.

MR. VAN LEEUWEN: There's two eyesores.

MR. EDSALL: Bottom line is you have got two buildings, if they put in the exact same use what was there it was discontinued for long enough so they'd need a new special permit, I believe so, they got to come before this board. As far as the dive shop building goes, they were before the board, the board's concerns were fixing up the parking area, some landscaping make sure some pavement went in so parking spaces were proper and fix up the building, so far everything except for fixing up the building is on the plan we brought that to their attention and make sure it's in there and they've done it. Again, they are looking for a variance now and they have to come back here the same as with everyone else.

MR. PETRO: That is I agree we should send them.

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MR. VAN LEEUWEN: I'm only one member.

MR. DUBALDI: I agree with Hank.

MR. PETRO: I don't see any reason to hold it up, I'm one opinion.

MR. BABCOCK: Quite honestly, if it is decided tonight to be honest with you that this is not going to be forwarded to the Zoning Board, I'm going to issue you a stop work order on the whole project, I have to.

MR. PETRO: What will that solve?

MR. BABCOCK: I just want to let you know the project has got to stop unless it proceeds from this point.

MR. EDSALL: By not sending them to the Zoning, you're stopping any potential for progress. They have to come back here.

MR. PETRO: What's the absolute reason for not sending them to the Zoning Board if they have to come back here?

MR. VAN LEEUWEN: Because you're losing clout, they can say they are not going to put the mini-mart, cut down the canopy and the old building will be there. We have been fighting that old building for years, nothing against you.

MS. SBRACCIA: I know it's not against me and talking with Gene this morning and with all the Coastal's that he has been doing as of late, they've all become mini-marts with the canopies and they've all gone through the correct Zoning Board and Planning Board.

MR. PETRO: I can solve this very, simply the size of the canopy is dictated to by the fire suppression system, that must be above the tanks. Therefore, they cannot cut down the canopy.

MR. EDSALL: They do not need this size canopy to put in the fire suppression system. I don't know that they can make it small enough so they don't need to go to

the Zoning Board but I asked Bob Rogers specifically do they need the wide canopies to met NFPA standards for the fire suppression system he said no.

MR. PETRO: I'll guarantee you that they are putting in canopy that they have to because they are very expensive. Why would they put in a bigger one than they need?

MS. SBRACCIA: My understanding is that they need to obtain a zoning variance 14 feet and they'll not have that with a smaller canopy, they'll need the zoning variance no matter what size canopy.

MR. PETRO: They have to come back here under any circumstances.

MS. SBRACCIA: Yes and for the site plan, like I said, what Gene was looking for was a recommendation to go to the Zoning Board for a variance of the canopy. He still has to come back here for site plan approval and yes, it does have to include the dive store, the second building and as I had ones stated Gene has not been able to obtain who the leasee is in order to get the changes.

MR. VAN LEEUWEN: I know how this operates over there, they are cagier than hell, I'll tell you. We have been fighting this for I have been on the board for over 20 years, for 20 years we have been trying to fight and this Town Board has sent letters, we've sent letters.

MS. SBRACCIA: So the leasee has not been cooperative to the Planning Board.

MR. VAN LEEUWEN: To the owner, the Leonardos and nothing has been done.

MR. PETRO: By sending to the Zoning Board, they are gaining absolutely nothing except they are one foot.

MR. VAN LEEUWEN: You know what my opinion is, you're trying to be the piecemaker.

MR. PETRO: I'm trying for you to convince me that

there's no reason to do it.

MR. VAN LEEUWEN: We're not going to get mad at each other but I know. Who is going to lease this piece for the gas station?

MS. SBRACCIA: Gasland, the company named Gasland.

MR. VAN LEEUWEN: Did they buy it or leasing it?

MS. SBRACCIA: They are leasing it from Mr. Leonardo.

MR. PETRO: If we don't take any action and they do away the canopy, it's going to sit there anyway. We have nothing to lose by sending them there and then having them come back if they don't we're no worse off than we were.

MR. VAN LEEUWEN: They've got money because they removed dirt.

MS. SBRACCIA: And their lease takes effect in 90 days and if they are not up and running and 90 days, they start to lose their money so you have to put the dive shop in there, it has to be part of this site plan if they want to be up and running in 90 days then they have to comply with whatever you're asking.

MR. PETRO: When you come back if this all takes place then what he is saying we all agree upon we have to come up with a legitimate site plan but at this time though hold it up and not send it. There's no reason not to do it.

MR. EDSALL: You have got a site that is having, they are proposing to make changes. Let's assume for the moment that Coastal decided not to put a mini-mart and decided to rebuild the gas station. They are making changes to the site which requires a site plan amendment. Which means they still have to come back here. The best news we have got was they are not two parcels, the dive shops is on this parcel because if they were separate parcels, we couldn't do a damn thing about it. They have to come back here. By not sending them to the ZBA, you're just, you're really cutting off

your nose to spite your face because you're not allowing a good developer to come in and solve all the problems.

MR. LANDER: I make a motion that we approve Coastal Gasoline site plan.

MR. SCHIEFER: I'll second it.

MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board approve the Coastal site plan on Route 94 in the Town of New Windsor. Any further discussion from the board members? If not, roll call.

ROLL CALL

MR. SCHIEFER	NO
MR. DUBALDI	NO
MR. VAN LEEUWEN	YES
MR. LANDER	NO
MR. PETRO	NO

MR. PETRO: You have been referred to the Town of New Windsor Zoning Board with a positive recommendation from the Town of New Windsor.

MR. EDSALL: These comments, they include some suggestions you can start working on.

MS. SBRACCIA: Gene had asked that a letter be written to the Zoning Board because of the meeting is going to be within a week.

MR. SCHIEFER: That is an automatic.

MR. BABCOCK: We send a copy of the minutes.

MR. PETRO: And a copy of the plan which Michael will stamp as being turned down here and referred to the Zoning Board.

MR. BABCOCK: They'll read the minutes word for word that they are asking for a positive recommendation.

July 21, 1993

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MS. SBRACCIA: Thank you very much.

MR. VAN LEEUWEN: Believe me, get that dive shop resolved otherwise don't even come in.

6/93

PENGAD CO., BAYONNE, NJ 07002 - LASER BOND-A

8-11-93

*Contains discussion Re: The Site Plan (93-22)*

COASTAL GASOLINE SUBDIVISION (93-2<sup>5</sup>) Rt. 207

Eugene Ninnie appeared before the Board for this proposal.

BY MR. SCHIEFER: Has everyone read the letter enclosed in your file on this issue?

BY MR. DUBALDI: Oh, yes.

BY MR. SCHIEFER: Just asking.

BY MR. VAN LEEUWEN: I'd like to make a motion, okay, that we order the Town Building Inspector to put a stop work order on this project immediately. We were told that the canopy would not be installed. They installed the canopy. They didn't go through the Zoning Board. They didn't do nothing.

BY MR. PETRO: Have they made application to the Zoning Board?

BY MR. BABCOCK: It's on my desk right now.

BY MR. PETRO: Just now? Application has been on.

BY MR. BABCOCK: Well, they got referred from this Board the last meeting and I have to wait for the minutes and whatever it is on my desk right now and we have some technical questions to ask them. We need a new plan with some more information on it before we can refer it. I just realized that today. Matter of fact, we called him today and he delivered it, so it's just a matter of doing that.

BY MR. PETRO: There's a motion before the Board. Let me just clarify one other thing. Did we not in fact say at the last meeting they could continue with work on the canopy as long as they were going to go through the correct steps to the Zoning Board, if they had application to the Zoning Board and then they were going to be referred back to us later that a top work order would not be issued?

BY MR. VAN LEEUWEN: Not to put the canopy up, Mr. Chairman.

BY MR. BABCOCK: It was not. What I understood was that we could let them go ahead and put the footings and continue doing tank work and so on and so forth

that they had the permit for, but not to install the canopy until the Zoning Board of Appeals and at that time Mr. Van Leeuwen wanted to stop work order then or not let them put up the canopy and so on and so forth. I said we are going to have to give them a stop work order if you guys aren't going to send them to the Zoning Board of Appeals. So the referral was done from this Board to the Zoning Board of Appeals and Mr. Ninnie is the one that wrote that letter to me, saying that he did advise his clients not to install the canopy and you --

BY MR. PETRO: That was going to be my next question. Was your client aware of our request to not put up the canopy?

BY MR. NINNIE: That is correct, he was, but there is another stipulation here and that is the people are contracted to erect the canopies are all over the country. They are only one contractor. He wouldn't be back here in six months, so he elected to take the chance of putting it up.

BY MR. VAN LEEUWEN: Well, he took that chance, now he's out of luck.

BY MR. NINNIE: The recourse is probably a stop work order and he is well aware of that and I told him what is going on.

BY MR. DUBALDI: Why couldn't you contact us while you're doing it? You had ample time.

BY MR. NINNIE: Well --

BY MR. VAN LEEUWEN: Our building inspector didn't even know it was going up. Nobody even made a phone call. They just put the thing up. That is why you people want to play games, we can play games also.

BY MR. LANDER: I second the motion.

BY MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board issue a stop work order or have the building inspector's office of the Town of New Windsor issue a stop work order on the Coastal Gasoline Station subdivision on the corner of Route 32 and 94 in Vails Gate due to the lack of cooperation with this Board. Is there any further discussion with the Board members? If not, roll

call.

ROLL CALL:

MR. SCHIEFER: Aye.

MR. VAN LEEUWEN: Aye.

MR. LANDER: Aye.

Mr. DUBALDI: Aye.

Mr. PETRO: Aye.

BY MR. PETRO: I think, in lieu of that, I think to further show to your client that we mean business, we are not going to review this tonight and he can further review the comments and there are some comments Mike can go over with Mark. We don't want to prolong it forever. He has the mess on the house on the corner there. There was a young lady here last time which was aware there was many problems with the house on the corner and with this site plan and that we are looking at tonight, so we are not going to review it. You can further your application again and come back with Mark and start over.

BY MR. KRIEGER: When was this plan submitted?

BY MS. MASON: The subdivision?

BY MR. KRIEGER: When was the application made or is it subdivision we're looking at or --

BY MR. NINNIE: I'm assuming it's a subdivision and we already presented the Board with the site plan on July 21st as a recommendation from the engineer and the Board, we were going --

BY MR. VAN LEEUWEN: There is also a subdivision.

BY MR. NINNIE: So I'm really satisfying a formality here.

BY MR. KRIEGER: when was this submitted?

BY MS. MASON: August 3rd.

BY MR. SCHIEFER: That is a week ago.

BY MR. KRIEGER: Mark, did you review this at a workshop, this plan? I mean did you review it for comments for tonight?

BY MR. EDSALL: Yes, I did, the plan needs some work, but they have a similar situation where their subdivision application as they do with their site plan application. They need variances. So although you may not want to talk about the site plan tonight, you may want to disapprove the subdivision or take action, not to approve it as it may be, because their subdivision cannot comply with the zoning either. They need variances for that.

BY MR. SCHIEFER: So they have to go to the Zoning Board of Appeals.

BY MR. EDSALL: If they are going to go forward.

BY MR. VAN LEEUWEN: I am going to take the same stance last time because I knew what was coming. I'm not going to give them anything until they comply with the rules of this town. You have to comply. You have to comply. You have to comply and I have to comply. Why should they not have to comply? That is what we sit here for, gentlemen, to protect the people of this town. It's not being done. They just go ahead and do what the hell they want to do. Now let them do what the heck they want to do. They are going to do it anyway.

BY MR. PETRO: I really am in some agreement with Mr. Van Leeuwen this time. He went ahead and put up a canopy against our wishes.

BY MR. VAN LEEUWEN: We are going to make him tear it down. That is my motion.

BY MR. PETRO: To deny this and send it to the Zoning Board, there is no time lost, not that we are trying to make an applicant lose time, but nothing has been lost or gained here. It's just you are getting a stop work order but he can say so what.

BY MR. NINNIE: So what is our next step here?

BY MR. VAN LEEUWEN: Take the canopy down, comply with what the law is and the rules of the town of New

Windsor and every other town has the same type of rules. We are no different than anybody else. Anybody want to come into this town and just because they have got to wait two or three months to have the canopy go up and they say they are going to put it up anyway, as far as I'm concerned --

BY MR. NINNIE: I don't think that was the intent. It was a misunderstanding. What I'd like to do --

BY MR. VAN LEEUWEN: Our building inspector received a letter from you people stating that the canopy would not go up and under those agreements he gave the permit to put the footings in and put the tanks in, change the tanks. That was as far as you were supposed to go. Now, all of a sudden I go past last week and I see the canopy up. Why don't you put the whole thing up and we'll tear the whole thing down.

BY MR. PETRO: What do you think the intentions were?

BY MR. NINNIE: His agreement was to go ahead and erect the canopy, the footings, and put in the tanks as per his permit. He's entitled to it. The best I can do is advise him and tell him what he's doing is wrong. He elected to do it on his own. Fine. I told him the consequences. That is all I can do. I can't put a gun to his head and make him stop.

BY MR. NINNIE: I think it best at this time we are not going to take any action tonight, let's table this. Make your request on the next agenda. I'd advise you to get with Mark. Maybe clear up a few things. At that time we'll again look at the subdivision and if we disapprove it at that time, go to the Zoning Board.

BY MR. NINNIE: Back to my original question here, he take the canopy down, now what is our next step after we take the canopy down?

BY MR. BABCOCK: Come back for the denial to go to the Zoning Board. Right now they are not going, you need denial for the subdivision to go to the Zoning Board because they need to clear it all up. The subdivision and the site plan and the canopy. So it all needs to go to the Zoning Board.

BY MR> VAN LEEUWEN: At the last meeting, your young lady was here, she was told explicitly this Board

will work with them 100% providing they do something with the eyesore of the house there. That house has been there for years. It's in the entrance of our town. People are disgusted with it. The Board is disgusted with it and she said she would discuss it with you and get back to you. Also, there is a letter, our building inspector was told that the canopy would not be erected, only the footings and the tanks and that is what he has got a permit for. He didn't get a permit for the, get a permit for that.

BY MR. BABCOCK: He got a permit for the tanks, the pumps and the canopy when we realized that the canopy was in violation of the zoning ordinance, the reason we realized that is because Mr. Ninnie came into the workshop and Mark picked that up, Mark called me up, I came in and we discussed it and I said to Mr. Ninnie what we'll do now at this point is get in front of the Planning Board so we can get the approval to have the canopy there. At the next workshop I talked to Mr. Ninnie and I advised him as their engineer that not to put up the canopy and he told me at that day he can only refer that information to the applicant.

BY MR. NINNIE: That day I called him and I told him and I told him.

BY MR. VAN LEEUWEN: I'm not mad at you.

BY MR. NINNIE: I understand.

BY MR. BABCOCK: He said that he would agree with me that the canopy should not be placed except they go ahead since they are doing the ground work and put the footings in, that is not a problem with me. And then you can see the letter that Mr. Ninnie wrote advising his client not to put it up. What the problem here is that the application cannot go anywhere unless you give this thing a denial to go to the Zoning Board of Appeals. So I think in all fairness what we have to do is tell the applicant what do you want me to do and then we'll proceed with your application. If you want him to take down the canopy and then you proceed with the application or come in next week or next agenda or what you want to do. That is, cause right now it's stalled.

BY MR. PETRO: What I would like to do --

BY MR. BABCOCK: If we don't proceed, it's never going to get approved.

BY MR. PETRO: Let me give you my personal opinion. I think taking down the canopy, even though I believe it should be, might be somewhat harsh. I would say in my opinion to allow, we'll continue with this but I would tell you and your client that the Planning Board procedure is very long and tedious and this particular application is going to be held really to the letter of the law from here on in and out and I mean everything and he's not going to, it's going to take quite a while. Not that we are going to make him do more than he should do, but sometimes instead of a six foot tree, we might say okay four foot tree. We want six foot tree and it's going to be that all the way through as far as I'm concerned. I think it should proceed. We can get the thing moving but I think he's going to have to really toe the line.

BY MR. SCHIEFER: I personally am as annoyed as anyone else, but at this stage, I don't see that taking down the canopy is going to achieve a hell of a lot. If they get the variance and the same thing goes right back up again.

BY MR. PETRO: We want the corner cleaned up. Everyone agrees to that.

BY MR. SCHIEFER: I completely agree with the stop work order, stop this thing, but I don't think we ought to go as far as taking the canopy down.

BY MR. BABCOCK: I think the work is pretty much at an end right now.

BY MR. NINNIE: Almost sure it is.

BY MR. SCHIEFER: They can't use anything.

BY MR. BABCOCK: No, the stop work order is just a matter of paperwork.1

BY MR. PETRO: Ron?

BY MR. LANDER: Stop work order, I think we could proceed with sending him to the Zoning Board of Appeals with this other thing, but I'm only one member here.

BY MR. DUBALDI: Same thing as Ron.

BY MR. VAN LEEUWEN: What are your plans to do with the house, have you discussed that, the old house at all?

BY MR. NINNIE: This is another thing I'd like to ask the Board is what apparently that house has been an eyesore spot. Okay, so that is an understatement, but what I would like to do is find out what would you think in your own mind on what the problem there is, what is the problem?

BY MR. DUBALDI: It's there.

BY MR. NINNIE: Just doesn't have a coat of paint?

BY MR. PETRO: You have to provide proper parking.

BY MR. VAN LEEUWEN: That house has been there for 20 years. It is an eyesore coming into Vails Gate. I think it's very unfair for one person we just cleaned up a building down there on 207, okay, which is this town is going to be a popular town. We want the eyesore taken down or redone. It should be taken down because it doesn't come anywheres near the zoning. The zoning codes of this town, there's no parking there.

BY MR. NINNIE: Redone cosmetically on the outside?

BY MR. VAN LEEUWEN: It will never get done. I have been on this Board over 20 years and it's been promised before.

BY MR. PETRO: Any use in the building has to get together and provide on the site plan ample parking spots.

BY MR. VAN LEEUWEN: What we are going to do if this thing ever does get approved, we are going to tie that house right into the rest of it and it's going to be bonded, so he's either going to pay or he's got to get a bulldozer to get rid of it. Those are the choices or fix it up. But it can't stay the way it is.

BY MR. DUBALDI: How about tear down the building and we'll let you keep the canopy.

BY MR. NINNIE: You have two tenants here. One tenant is in the house, the other tenant is with the gas station. The proper owner is Leonardo himself.

BY MR. VAN LEEUWEN: He owns both pieces, he owns the building.

BY MR. NINNIE: He owns everything.

BY MR. VAN LEEUWEN: You go right around the corner from the gas station, somebody else owns another eyesore. That old gin mill, that's another eyesore, that is all we have got on the corner, eyesores.

BY MR. KRIEGER: I'm confused, others may be confused. Are you, when you're talking about the eyesore that you find particularly irritating in the beginning are you talking about the one known as Club 32 or the other one?

BY MR. SCHIEFER: The dive shop is the primary, the other one is Club 32.

BY MR. PETRO: Let's recap this. We did have a motion and seconded. We voted that a stop work order will be issued tomorrow morning for this site. Secondly at this time, we polled the Board and I think we could go further if we had a motion to approve this, it would be sent to the Zoning Board I assume, assuming that the motion would do that. Motion was defeated and it would be sent there and again, I think we have ample time to convey to the owner of this project the seriousness of this Board and that it's intentions will be met.

BY MR. NINNIE: If you're tying in the dive shop with the entire parcel.

BY MR. VAN LEEUWEN: Absolutely.

BY MR. NINNIE: What do you want to see, other than a site plan?

BY MR. VAN LEEUWEN: We want you to come up with something for the dive shop, either tear it down or show us a plan where you're going to rehabilitate it.

BY MR. PETRO: It's that simple. We don't have to go any further than that.

BY MR. SCHIEFER: We don't want to design it.

BY MR. DUBALDI: We want to bulldoze it.

BY MR. PETRO: Can I have a motion, please, from somebody for Zoning Board of Appeals, motion to approve this?

BY MR. SCHIEFER: I make a motion we approve the Coastal Gasoline subdivision site plan.

BY MR. DUBALDI: I'll second it.

BY MR. PETRO: Motion has been made and seconded that the New Windsor Planning Board grants approval to the Coastal Gasoline subdivision. Is there any further discussion from the Board members? If not, roll call.

ROLL CALL:

MR. VAN LEEUWEN: Abstain.

BY MR. SCHIEFER; No.

BY MR. LANDER: No.

BY MR. DUBALDI: No.

BY MR. PETRO: No.

BY MR. PETRO: You have been referred to the Zoning Board, good luck.

BY MR. EDSALL: There are comments on the subdivision and they will have to be addressed before the referral can be made.

COASTAL GAS

MR. SCHIEFER: I would like you to read into the minutes what the Town Board did on our stop work order on the gasoline station. I want that in the minutes.

MR. PETRO: Mike?

MR. BABCOCK: We had a meeting today, myself, the attorney for the Leonardos, the Leonardos, Tad Seaman and George Green and basically what they explained to us was that if the stop work order stays on the project, that it's the end of the project. They have the time commitments and they have signed contracts so on and so forth and they have spent a ton of money getting the tanks out and doing the restoration that is there and if they can't continue with the restoration at their own risk, they are going to lose the whole project. So it was agreed upon that they made up an agreement, it was a written agreement that was sent back to me couple hours after the meeting stating that they would proceed with the construction of the project, the stop work order would be lifted, they would proceed with the construction on the project and that they would continue the process to the Zoning Board to get their appropriate variances and then back to this board to get their final approval and that they would not go into operation until they had those approvals.

MR. DUBALDI: How did the Town Board vote on that?

MR. BABCOCK: Town Board members weren't there.

MR. DUBALDI: Who lifted the stop work order?

MR. BABCOCK: I did based on that meeting.

MR. VAN LEEUWEN: Mike has a right to do that.

MR. SCHIEFER: I'd rather agree Mike can do it but I thought the Town Board--

MR. VAN LEEUWEN: That is the way it was explained to me.

MR. DUBALDI: So the Town Board didn't lift the stop work order, you did?

MR. BABCOCK: Yes.

MR. PETRO: You were in George Green's office?

MR. BABCOCK: Yes.

MR. PETRO: Mr. Green was privy to what was going on?

MR. BABCOCK: Yes.

MR. DUBALDI: Not the rest of the Town Board members, just George?

MR. BABCOCK: Yes.

MR. SCHIEFER: I feel a little better.

MR. VAN LEEUWEN: Town Board is the one that wants something done with the house which we're trying to do, okay, forget it, it's okay with me. Doesn't make any difference, they want the eyesore there, let it stay there, done.

MR. SCHIEFER: Thank you.

MR. DUBALDI: I move we adjourn the meeting.

MR. SCHIEFER: Second it.

ROLL CALL

MR. VAN LEEUWEN	AYE
MR. SCHIEFER	AYE
MR. DUBALDI	AYE
MR. PETRO	AYE

Respectfully Submitted By:

*Frances Roth*  
 Frances Roth  
 Stenographer

8/30/93

DISCUSSION

COASTAL/STOP WORK ORDERS

MR. PETRO: We've had a lot of hoopla back and forth, we have had some letters, interoffice correspondence from the attorney for the Town. We've had some of our own from Andy Krieger, Planning Board attorney, we've had counsel people involved, other members of the Planning Board involved. Has everyone read and received all these memos?

MR. VAN LEEUWEN: No, I just got it now.

MR. PETRO: Does any Planning Board member have any comments on this? And would like to share them now for the minutes?

MR. VAN LEEUWEN: I have none.

MR. SCHIEFER: I'd like someone to explain the status of this whole thing. I got 2 letters from attorneys and what's the, Ernie, could you tell us where we stand?

COUNCILMAN SPIGNARDO: I haven't seen the letters, I'm sorry to say.

MR. BABCOCK: Myra has an extra copy.

MR. PETRO: As far as the Chairman of the Planning Board, I had asked and directed Andy Krieger to do was not just in particular on this ATI problem or Coastal whatever that is but for future reference for future reference, I wanted to know where we stood with the stop work order, such as it may be called, Andy insists basically that there's no such item and to me, reading both Andy's sheets and Tad Seaman's, it's how you interpret the law but the bottom line is the law is still the law and no matter who is interpreting, it still has to be followed through and most of that following through is done through the building department which may be directed and it may be directed from some old lady down in Ducktown but he still has to follow through on the law so whether it's coming from a

supervisor or Town Board member or Planning Board chairman or Planning Board member, the law is the law. Am I saying is that correctly Andy?

MR. KRIEGER: Yes. I want to, if I may add one thing to the letter that I had sent out I hadn't given you a cite for the paragraph to the effect that the Planning Board is the only authority that can authorize the building inspector to issue a building permit where a site plan is required which I'll do now. That is in 48 among other places, it's in 4819 of the Town Code.

MR. DUBALDI: I just want to make a comment because under Tad Seaman's comments here it says I'm not going to read the whole thing, it talks about the Planning Board's authority and it says number 1. Review and approve, 2. Approve with modifications or 3. Disapprove and Tad goes on to say this is the limit of the Planning Board's authority. The Planning Board has no authority to direct the building inspector to issue stop work orders, remove stop work orders, issue building permits, refrain from issuing building permits or or perform any other function that involves administration of the progress of work and development of the project so what we just did by requiring Washington Green holding back certain C.O.s saying that they can only have certain ones and they can't have certain ones, they can't have other ones is not our authority according to what Tad just said right here.

MR. PETRO: We may suggest it to the building inspector whose authority it may be.

MR. DUBALDI: Our vote is only a suggestion that Mike actually has the authority to do.

MR. PETRO: That is correct but according to what Andy is saying, if the law is not followed through and completed upon, and not done to the precise letter of the law, Michael is required to do that and we're informing him that the law has not been followed through and acted upon.

MR. DUBALDI: But we cannot as a board vote to force Mike to act.

MR. VAN LEEUWEN: We never forced Mike to act.

MR. BABCOCK: Line on Washington Green, basically today which started I would say several years ago, we had no basic enforcement power or anything. You guys said what happened a guy would come in and promise, yeah, I'll do this, yeah, I'll do that and go out get his building permit, build the building, get a C.O. and never do anything so we were in the process of making Town Law where people would bond things which we have now. So for a long period it was our policy it might not be a written issue that the Planning Board is doing this or I'm doing it but for a matter of policy, what we did was if you had site improvements done, I have been doing this since January 1st of 1987, I have bonds from that day that, I have asked for that we don't have a law on record saying you do have the right so it's been a policy that we work as the building department and the Planning Board working together getting that done. Now we have the law we have the right to ask for a bond. Washington Green is something different because it was approved before the law came into effect. Hilltop, the bond that they are putting up or not the bond but the cost estimate is a matter of law today so the older projects didn't have that so it is a matter of what the board has a policy of doing.

MR. VAN LEEUWEN: I think it's basically up to the board and the building inspector and that is what Andy really means when he says that.

MR. PETRO: It's up to all the agencies to work together.

MR. KRIEGER: I have reviewed Tad Seaman's letter and there are points on which we agree and there are points apparently on which we disagree. Generally speaking, he's right when he says the Planning Board's authority or Planning Board's responsibility is that of an administrative agency to review and approve, approve with modifications or disapprove. However, if the Town Code calls for site plans, 4819 says the only authority that can issue, that can authorize the issuance of building permit is the Planning Board, the only authority that

can authorize the issuance of a building permit. It is from you that the Planning Board cannot, if the building inspector does other than that, the Planning Board has no enforcement capability, or they are not the building inspectors, direct supervisor, however the law says that the only authority that can authorize the issuance is the Planning Board. Furthermore, the building inspector is an independent person. He's not an employee of the supervisor's. If one feels aggrieved by something the building inspector has done or not done, then the place you go with that grievance is Supreme Court with an Article 78, not the supervisor's office. That is the authority that has been granted in the law. If he answers to anybody I suppose it's the Supreme Court and that is the point on which we apparently disagree and I also see no mention in his memorandum of the fact that contracts where governmental authorities agree not to enforce the law are void, not voidable, they are void and unenforceable right from the get go. They are not worth the paper they are printed on.

MR. SCHIEFER: The building permit was issued and the fact that the canopy extended out too far did not meet the Town Law, does that make the building permit void?

MR. KRIEGER: Yes.

MR. SCHIEFER: There's no building permit.

MR. KRIEGER: It makes it void. The law specifically says in a second I'll find the cite for you, a building permit issued in error is void and any work done pursuant to such a building permit is unlawful. The only defense that such a person would have is that they didn't know. Now we get into the so-called stop work order. This is why I say the only effect of the stop work order is a notice you say you thought you had a building permit but we're telling you right now you don't have a building permit and you can no more rescind that than you can recall the words that you have spoken from your mouth. Once you put somebody on notice, it's notice.

MR. DUBALDI: What work have they done on the site in

the last two weeks?

MR. BABCOCK: They are working it, you know I haven't been there myself but they are working.

COUNCILMAN SPIGNARDO: The problem you're having you haven't checked it out see what they are doing at all?

MR. BABCOCK: No.

MR. LANDER: They got a building permit, they've got an agreement with the supervisor's office to go ahead and continue doing what they are doing, whatever they are doing.

MR. KRIEGER: Which agreement was never signed by anybody on behalf of the Town of New Windsor.

COUNCILMAN SPIGNARDO: I spoke to the Code Enforcement Agency in Albany, I called them up and their opinion was that the supervisor on his own did not have the authority to do this, the Town Board as a whole wants to get involved. That is another story but he says the way it looks to me, the building inspector got something rammed down his throat. Now that doesn't sound too good from my end here but I think--

MR. PETRO: That is not what Tad is saying.

COUNCILMAN SPIGNARDO: I don't agree with what Tad says.

MR. KRIEGER: I would agree with what Councilman Spignardo has said when I cite the Town Law, the only authority that has the legal right and ability to change that law is the Town Board. If they change the law, then it says something different and you do something different but until it is changed, it is the law and it is what I said.

MR. PETRO: Michael, the status of the building permit as it stands now they are going to continue, they are going before the Zoning Board for the variance needed on the overhang there.

MR. BABCOCK: I talked to Bill Hildreth yesterday and he said that he finalized the plan last Friday and turned it over to them and it's up to them to bring it to me for the denial. Once I receive that map, we'll send it to the Zoning Board. That is what I am doing. Right now, I have been by there, they've got a bulldozer, backhoes running, basically we don't go there until we are called. If they are pouring concrete, I'm not saying that. Frank has been there on concrete pour, they are removing the contaminated dirt that is there, we don't get too involved.

MR. PETRO: According to the agreement made with the Supervisor of the Town of New Windsor, that they'll not receive C.O. on this site until all the zoning and planning technicalities, procedures have been completed.

MR. BABCOCK: Right.

MR. PETRO: And approved.

MR. BABCOCK: Right.

MR. KRIEGER: I have a copy of that agreement.

MR. PETRO: Does it state that?

MR. KRIEGER: Let me just find it.

MR. DUBALDI: This may be a stupid question but is this map going to come back to us?

MR. VAN LEEUWEN: Yes, it has to.

MR. PETRO: I'm trying to find out where we are at whether or not we agree or it's legal, I don't know but I'm going to find out what's happening.

MR. KRIEGER: According to the agreement, it's supposed to but then again, why would they if they are allowed to build, why would they?

MR. LANDER: Memory serves me correctly, the building permit was issued to these people so that they can

remove the tanks, put the footings in and do some work on the site, not put the canopy up. They were told specifically.

MR. VAN LEEUWEN: Mike got the letter stating they wouldn't.

MR. LANDER: They turned around and did it anyway. Specifically not to put the canopy up so I think that invalidates that building permit. Well, then they don't have one. How can they work there? Whether or not the building permit was, well, whether or not the building permit, the canopy was listed on there or whatever they were advised by this board because they didn't have site plan approval number one. Number two, they had a variance they had to get so what if they don't get the variance then what?

MR. VAN LEEUWEN: Then they have to take it down.

MR. KRIEGER: There's one other item that I didn't put in the memo but that I did discover during my research that I want to advise the board of by State Law the Planning Board may and the Planning Board is the only agency which may impose conditions, reasonable conditions on the issuance of a site plan. The approval of a site plan, while it doesn't talk about the Planning Board having the authority to authorize the issuance of a conditional building permit, it does say that the, and apparently it is well established that the Planning Board has the authority to impose reasonable conditions in the granting of a site plan so by extrapolation, I would say the Planning Board is the only authority that has the legal ability to impose conditions on the developer.

MR. PETRO: Has everyone seen the agreement?

MR. DUBALDI: No.

MR. PETRO: Anyone read the agreement?

MR. SCHIEFER: No.

MR. LANDER: Which agreement is that, Mr. Chairman?

MR. KRIEGER: This is--

MR. PETRO: This is the agreement between the Town of New Windsor. It's short enough, it's important enough, I'm going to read it into the minutes. AGREEMENT Whereas the parties of this agreement Constantine Leonardo, residing at 18 Oak Street and M & T Realty Corporation doing business at 785 Broadway, Kingston, New York 12401 hereinafter referred to as Owners and the Town of New Windsor hereinafter referred to as Town. Whereas, Owners are the owners and tenants of the premises located on Route 94 in the Town of New Windsor, which premises are currently under construction to transform premises into, to be used for retail gasoline and convenient store purpose and Whereas, issues relating to the site plan approval and variances which have been submitted and are now pending before the Town of New Windsor Planning Board and Zoning Board of Appeals and Whereas a stop work order has been issued by the Town of New Windsor Building Inspector and said order is currently in effect and Whereas the Owners seek to have the stop work order vacated and rescinded to enable them to continue to renovate the property and for its intended purpose. Now in consideration of the promises contained herein, the parties agree as follows. Number 1. That the Town stop work order be vacated and rescinded. 2. That Owners agree that any renovation and construction work performed by them hereafter shall be made with the express understanding that the repairs and improvements may or may not be acceptable to the Town of New Windsor Planning Board or Zoning Board of Appeals. 3. The Owners acknowledge that the Town makes no representation that any work performed by the Owners will be in accordance with the decision to be hereafter made by the Town of New Windsor Planning Board and Zoning Board of Appeals or that a certificate of occupancy shall hereafter be issued following the completion of the construction. Owners agree to continue to proceed with their application before the Zoning Board of Appeals for the variances with their application before the Planning Board for site plan approval. Number 5. Owners agree and understand that there shall be no occupancy of the premises nor shall the premises be

used for commercial purposes until any and all Town Planning Board and Zoning Board of Appeals approvals are obtained and a certificate of occupancy shall be issued. Dated August 25, 1993, New Windsor, New York signed by Constantine Leonardo and M & T Realty Corporation by Nesheiwat. It is not signed by anyone from the Town of New Windsor.

MR. DUBALDI: Basically what that says put up what you want and you don't have to do anything for approvals and then you can get your approvals later on. That is basically what it says. Go put up what you want at your own risk before you get any kind of approvals or any kind of permits or anything like that. That is exactly what that says and that is going to be used as a precedent. There's going to be other applicants that come before the Planning Board and say well, this guy went and built things without getting approvals and we did this beforehand and it's not going to stop them.

MR. LANDER: Number 2 sounds like they can do whatever they want and whether you like it or not that is tough, that is what I read.

MR. KRIEGER: For the record, I also want to notify the board that is the only agreement, I verified that with the Town Attorney, that is it and when I talked about the written agreement that single page that Councilman Spignardo is now looking at.

MR. SCHIEFER: There's nothing signed by any Town officials.

MR. KRIEGER: Nor is there anyplace on the so-called agreement.

COUNCILMAN SPIGNARDO: What it means is they can go ahead at their own risk, they may stand a good chance of the Planning Board turning it down then again the Planning Board may not turn it down.

MR. EDSALL: Not having really been involved in everything up till this point--

MR. LANDER: You're not alone.

MR. EDSALL: --it's just interesting to note that the whole concept of proceeding at your own risk was found unacceptable back in 1989 when Local Law number 4 was adopted by the Town under Section 4819 C 1, I'll just read it because I think it kind of puts it to a close. It says when any development of land is proposed to be made and before any application for a building permit is made, and before the erection of any structure within such proposed site plan shall commence or any grading, clearing, construction, topographical alteration or any other improvements understand therein the applicant or his duly authorized agent shall obtain final approval of such proposed site plan in accordance with the procedures set forth in these regulations or shall obtain the specific approvals for such grading, topo or other site improvements from the Planning Board. Now, I think the reason that was adopted as a local law in '89 was so that people didn't go ahead and construct work before they had the input from the Planning Board. So it really, it doesn't matter if you proceed at your own risk, this section of law says you can't proceed at your own risk, it's illegal.

MR. DUBALDI: This is setting a bad precedent.

MR. SCHIEFER: They aren't the only ones that broke the law.

MR. LANDER: That is true, I can name a few.

MR. SCHIEFER: I don't want to.

MR. LANDER: They have been behind closed doors, it was all taken care of, an agreement was made on those two so--

MR. SCHIEFER: I basically want that station there, I have no problem with the canopy being oversized, I don't want to see them torn down but I see the procedure as being done illegally.

MR. DUBALDI: It's not for us to say whether the canopy is legal or not, that is for the Zoning Board.

MR. SCHIEFER: That is a personal opinion when a suggestion was made to tear it down, I said let them go get the permission, don't tear it down. Except the legal aspects and I think the Planning Board is being told you have no authority, we'll do it the way we want to and that only doesn't come from the applicant, it comes from Town officials.

COUNCILMAN SPIGNARDO: One Town official.

MR. SCHIEFER: I don't want to name him, it's obvious who I am talking about.

MR. DUBALDI: You know this is more than just a canopy, I mean basically I feel like our authority is being threatened and I think there should be a clarification.

MR. PETRO: That is what I have done, it's two fold, we're talking about this particular instance and I also wanted Andy to clear up some Planning Board procedures and powers that we do or do not have. That is why for the future it wasn't just this one instance that I wanted to bring out so that was some of your other tasks. We do want to set some precedence here for the future.

MR. EDSALL: Again, the reason why I cited that section of law is I participated very heavily in how the wording was provided in that section and the reason was many times it's not a question of the building, it's how the site is developed. When that particular site plan came in there was question about traffic circulation so we wouldn't have a short cut effect where people would cut through the lot to avoid the traffic signal. There were planters provided to separate that site from the adjoining site. There were site-related issues that were unresolved and I think it's unwise for these people to be proceeding before the Planning Board has an opportunity to tell them what they are doing makes sense because you know what's going to happen if they finish the work, they are going to be crying that they've spent money building it and that is precisely why this section of the law was adopted in '89.

MR. VAN LEEUWEN: I don't even listen when they say I already have money, they did it at their own damn risk.

MR. EDSALL: It was done for that specific reason to protect developers from paying twice to do it right.

MR. LANDER: I think when we had that first meeting Henry had the right idea, don't give them anything that was your expect words, don't give them anything because they are going to to go in there, they are going to do what they want to do and not going to fix any of the buildings.

MR. VAN LEEUWEN: I have been here 20 years, it's been played on me how many times. You guys want to go ahead, I'm not the board, went ahead and did it. I'll tell you something, we lost all our clout. That house is going to stay exactly the way it is for the next 25 years, mark my word.

MR. DUBALDI: What's your opinion on all this? What do you think the Planning Board, what do you think we should do?

MR. VAN LEEUWEN: The only thing I'm interested seeing the house fixed up or torn down. The rest of it doesn't bother me. The one eyesore I want to get rid of. I sit here for the people of the Town. I don't sit here for myself or any other reason. I think the people deserve a little better than the old shack sitting on the corner. That is exactly what I said in the beginning. That is what I said today, we have been after that shack for 20 years, now we get chance to get rid of it, do something about it. Forget it, that is all I'm going to say.

MR. SCHIEFER: I don't want to see the Town get involved in a legal action and I think so much has been done that is going to happen somehow or another we have to get together with everybody involved and solve this amongst ourselves.

MR. PETRO: You have two things here.

MR. SCHIEFER: If this goes out and hits the

newspapers, we all look like jackasses.

MR. PETRO: I still believe that we have as the Planning Board for the Town of New Windsor whether the supervisor's office or not and Andy can back me up, we can still proceed. The law is being broken and proceed with a stop work order. We can request the building inspector if we want to do that to stop this whole thing of course we're going to open up a big can of worms by doing that.

MR. VAN LEEUWEN: I don't think that is a good idea right now.

MR. PETRO: Now number 2 is if we don't want to do that--

MR. VAN LEEUWEN: That is what I'd like to do, I'd like to see the canopy be torn down.

MR. PETRO: Just because we want to do it, it might not be the best thing. But I do believe that we could at least make such a big stink about it but like Carl said, it would get in the papers so we don't need that. How can we enforce these people to get back in here at this time with the site plan? I know you said they are going to the zoning, they are working on it and just get it over but the bottom line is we want the job done right. We don't necessarily just--

MR. SCHIEFER: Even before we get them in, we have to get together with the supervisor, possibly the Town Board and Tad Seaman, resolve the thing amongst ourselves. Who can do what, I don't want to go off and do the same thing and start all over again but I'm being told that everything they are doing is illegal, they've no building permit, the supervision took an action that is questionable and I have two legal opinions that seem to disagree. I'd like to sit down amongst ourselves, see what he we can hammer out and then we take action.

MR. PETRO: In the meantime, applicant is buiding.

MR. DUBALDI: What does Town Law say about referrals to

the Zoning Board about matters of variances, who can refer to the Zoning? Does it have to be done by the Planning Board?

MR. VAN LEEUWEN: No, we don't have to give them any referral. They can go to the Zoning Board on their.

MR. KRIEGER: It has to come from the building inspector.

MR. BABCOCK: It's a matter of policy again Carmen when we started out, people would come to me and I'd see that they needed a variance, I'd send them to the Zoning Board first then they'd come to this board and the board would say I don't want the parking in the front but in the back. It would change their variance so matter of policy through the chairman at the time we decided anything that needs a variance we'd send to the Planning Board first, let you guys are the ultimate power that is going to say yes or no to that building, even if the Zoning Board gives somebody a variance you don't have to approve it. So we want to get you guys conceptual approval, if they got the variances, you'd continue on the process instead of wasting somebody's time at the Zoning Board. It's a matter of total policy. The issue came up, the chairman signed, then Mark signed them I signed them. Basically, it doesn't matter to the applicant, I'm sure it doesn't matter to this board, I'm sure who signs the referrals, it's a matter of policy.

MR. EDSALL: As of July of this year, they amended the State Law and the only one who has authorized to refer anything to the Zoning Board of Appeals is the building inspector. Well, fine, we do the same as we always did, we get input from the Planning Board, he signs the form instead of Jim but the point is Mike has to do it now but following the same process which is the best process.

MR. PETRO: What procedure do we want to take right now on the corner in Vails Gate on this application?

MR. VAN LEEUWEN: Right now, I would say leave it alone. They have to come back to us anyway and we'll

do the best we can when it comes back to us. It's got to go through a process and after the first of the year, when the new supervisor takes office, we have a meeting with the new supervisor and then Town Board and sit down and iron these matters out.

MR. SCHIEFER: My suggestion was I'd like to get together with the internal, with the Town people involved without the applicant, without the public, I'd like to resolve it amongst ourselves, not just our board but your gang, the supervisor and Tad Seaman because Tad and Andy the way I hear it they don't agree.

MR. LANDER: I'll second that.

MR. DUBALDI: One comment the whole thing is much a mess, I think.

MR. SCHIEFER: We have to resolve it.

MR. DUBALDI: Now we're going to wait four months, he's basically going to to proceed.

MR. VAN LEEUWEN: Nobody said to wait. I'm the only one member, he didn't say that.

MR. DUBALDI: What I am saying to this board is basically he is going to proceed doing site work until January without us we're basically like just going to stay out of it and let him do what he wants.

MR. VAN LEEUWEN: What do you want to do?

MR. DUBALDI: I don't know what to do, I get one opinion from the Town Attorney, I get another opinion from our own attorney. I don't know what to do.

MR. VAN LEEUWEN: If you want to start a war what we ought to do is put a stop work order.

MR. DUBALDI: I don't want to do that. I never wanted a war, I just want to do what's right and I want to do what's legal.

MR. PETRO: Let's ask the Planning Board attorney what he feels.

MR. KRIEGER: It's not really an attorney matter, it's a procedural matter. I would suggest to the board that it consider doing two things. One, that it have a joint internal meeting of the type that Carl has suggested for the purpose of ironing out procedures in the future. And two, that it ask the developer to appear here in discussion period so it can be made clear to the developer that they are not proceeding on this particular action, that they are not proceeding with the permission of the Planning Board and that they are proceeding at their own risk. They may not be aware of the severity of the agreement.

MR. VAN LEEUWEN: According to the agreement they signed they are aware of it.

MR. KRIEGER: They may think that that agreement protects them.

MR. VAN LEEUWEN: Why don't you invite them next meeting because I won't be here.

MR. PETRO: Basically, you have two suggestions that are the same only thing is one wants to wait and do it with the incoming supervisor, who would definitely be different than the one we have now and possibly some different counsel people or the other member has suggested is that we do it now with the people who are in office now.

MR. VAN LEEUWEN: I go along with either way.

MR. PETRO: Future procedure, as important as this one case, we want to clarify, put future.

MR. SCHIEFER: This case is not the issue, it's the way it's being done, I don't want this again and again.

MR. PETRO: We can table it for a meeting and find out if they are before the Zoning board and making progress and we can still handle it internally.

MR. BABCOCK: We would have done the site plan referral to the Zoning Board the next morning after the Planning Board meeting, as the Planning Board remembers there's also subdivision that has to go along with it. The subdivision line went between the two existing buildings which created necessary variances they had to hire Bill Hildreth to go out there to get the offsets of that line and building heights so it did take time. Myra has been after me everyday she said did you do that referral yesterday? I called Bill and said where is the plans so I can do this referral so basically, I'll do the referral the day I get the plan. That is how close it is, he told me it's done and presented to them.

MR. EDSALL: One other problem is that not only is there dimensions that are required for the setbacks required or created by the subdivision, but there may also be different values for the setback from the State right-of-way because of the recent takings so it appears that the initial information we received in the application was wrong so if they had obtained the variance, it wouldn't have been a sufficient variance so they would have had another problem and had to go through another public hearing and had another public hearing so they were not in fact prepared.

MR. LANDER: What kind of timeframe are we looking at here? When is the earliest they can get in and out of the Zoning and back here? Is it before the first of the year?

MR. DUBALDI: Ask the supervisor.

MR. BABCOCK: The 13th is next week, that is not going to happen so the earliest they can go to the Zoning Board would be the 27th of this would month, they have to have preliminary approval and they have to have preliminary meeting and they have to have a public hearing so the first meeting in October is Columbus Day so possibly they can be back October 25 and then possibly it would be November 10th before you gentlemen would get to see them, if everything went smooth. I can tell you that the Zoning Board and I've seen it at this board when the Zoning Board's acting on a matter

that is already in place, they are not really happy about that.

MR. LANDER: Point is they are working there for how many months doing whatever they are doing?

MR. VAN LEEUWEN: And we're not going to get the building fixed.

MR. EDSALL: Just to get away from the legal issues and purely look at functionally they are progressing with their site plan notwithstanding the fact that they need variances for the subdivision and site plan, there's no reason why they couldn't be coming back to the meetings, working on the site plan they are doing that by choice. They can be before this board right now asking that you review the layout of the plan so that this could come to a completion standpoint and they can ask you for permission to go ahead and do the work which the law allows pending receipt of all their variances.

MR. DUBALDI: They have a signed agreement.

MR. EDSALL: I wasn't aware of that until tonight. I'm just saying there's no reason why they cannot make the corrections to the plan that you asked and be back here right now going over the site plan issues.

MR. LANDER: Because they need a subdivision first.

MR. EDSALL: Correct. What I am saying is they could be working off what's proposed in front of the ZBA and still be here but they are not.

MR. PETRO: Mr. Spignardo, do you have something to add to this?

COUNCILMAN SPIGNARDO: The way I see it I'm not trying to give any suggestions but first of all, I take it by all of you people you are very unsatisfied with the conditions there, the thing is not going according to plan, is that right?

MR. PETRO: I don't know about the building plans, just

that procedurally definitely not.

COUNCILMAN SPIGNARDO: Evidently, the building plans are not going right, otherwise you wouldn't have recommended a stop work order, right?

MR. PETRO: No, we recommended stop work order because they were not following building procedures.

COUNCILMAN SPIGNARDO: There's a disagreement as to the validity of the decisions from the Town Attorney and your board attorney. You have other problems that you are running up against so you are not happy with the whole deal so I suggest you just get together with the Town Board and thrash this thing out. Don't even recommend another stop work order because I wouldn't abide by this ruling if I were you cause all your power is taken away from you and that is ridiculous. The Town, one Town Board member does not have that authority. And I would challenge it if I were you, bring it before the entire Town Board.

MR. PETRO: Well, we definitely agree with you as Mr. Van Leeuwen and I said before, Carmen, we know that we are saying it's true but do we want to do that at this time.

COUNCILMAN SPIGNARDO: Absolutely, you want to do that.

MR. SCHIEFER: I do.

COUNCILMAN SPIGNARDO: Why won't you want to do that?

MR. LANDER: Let's have a meeting, why not.

MR. DUBALDI: Sounds good to me.

MR. PETRO: You are the liaison, can you set up the meeting?

COUNCILMAN SPIGNARDO: I'll set a meeting with the Town Board and I'll get back to you.

MR. PETRO: With the building inspector present and our attorney, is that possible?

COUNCILMAN SPIGNARDO: Absolutely.

MR. PETRO: You'll set it up and at this point, you'll be working about getting them back to the Planning Board.

MR. BABCOCK: If you want them to proceed, I can.

MR. SCHIEFER: Let's have a meeting first.

COUNCILMAN SPIGNARDO: Another point I'd like to bring out while it's true that the Planning Board doesn't have the authority for a stop work order but you do have an authority to recommend that a stop work order be made and if the building inspector doesn't do that, you have got a damn good complaint because there's something wrong with the project and if that thing isn't stopped, you have got a good complaint as to why.

MR. VAN LEEUWEN: We have had no problem with the building inspector, we recommended a stop work order and he did it the following day.

MR. PETRO: Building inspector follows through 100 percent.

MR. DUBALDI: Our beef is not with the building inspector, my beef is with the supervisor.

COUNCILMAN SPIGNARDO: I don't know who is at fault. Did you go to George with this?

MR. BABCOCK: No.

COUNCILMAN SPIGNARDO: How did this come about?

MR. BABCOCK: They hired a attorney, Richard Clarino, he called me to have a meeting, called to talk to me and he wanted to set up a meeting.

MR. PETRO: Okay, we'll get something set up, thank you.

MR. SCHIEFER: I make a motion we adjourn.

September 8, 1993

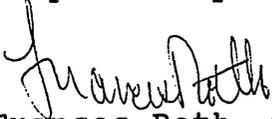
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MR. DUBALDI: Second it.

ROLL CALL

MR. VAN LEEUWEN	AYE
MR. SCHIEFER	AYE
MR. LANDER	AYE
MR. DUBALDI	AYE
MR. PETRO	AYE

Respectfully submitted by:

  
Frances Roth  
Stenographer 9/16/93

ANDREW S. KRIEGER  
ATTORNEY AT LAW  
219 QUASSACK AVENUE  
SQUIRE SHOPPING CENTER, SUITE 3  
NEW WINDSOR, NEW YORK 12553  
(914) 562 2333

September 2, 1993

James Petro, Chairman  
New Windsor Planning Board  
555 Union Avenue  
New Windsor, New York 12553

Re: Leonardo Site Plan

Dear Jim:

You have asked me to research the following question:

Can the Planning Board issue a stop work order?

The answer is that it cannot issue such an order in that form but it can file a complaint with the building inspector for a violation of local law and it has the exclusive right to authorize the issuance of a building permit where the law requires a site plan. While it may not issue a stop work order, it may require the building inspector to enforce the law whether or not that includes the use of the so-called stop work order.

The law confers upon the building inspector two separate duties. The first duty is to issue building permits. The second duty is to enforce the local law.

As to the first duty, the Planning Board is the only authority that can authorize the building inspector to issue a building permit where a site plan is required.

As to the second duty, erecting a building without a building permit is unlawful (see Town Code Section 48-28(A)). If a building permit is issued in violation of the local law, it is null and void and any work done under it is unlawful. (See Town Code Section 48-28(A)). Any person can file a complaint with the building inspector against unlawful building. (See Town code Section 48-30(D)).

The Planning Board by issuing an order to the building inspector to issue a stop work order was in effect filing a complaint for unlawful building without a permit.

Any agreement made by the building inspector not to enforce the Town Law is void and of no effect. (See 21 NY Jur. 2d Contracts, Secs. 147, 151 and 153).

Since there is no contractual impediment to the building inspector failing to enforce the local law, there is no reason why he should not do his statutory duty and commence prosecution for violation of that local law.

The stop work order serves no function other than to advise a person that he is in violation of the local law. It has been well established that no person or authority may rescind or revoke a validly issued building permit. If the building permit was invalidly issued, however, it is void from the beginning. It is then as if no building permit was ever issued. A so-called stop work order merely advises a person that if they take action they will then violate the law. It is not violation of the stop work order which is the actionable, unlawful activity, but building without a permit. One cannot order another person not to violate the law in the future. A person can, however, be prosecuted after a violation of the law has been committed.

My suggestion is that the Planning Board request the presence of this applicant before it and that at that time the Planning Board explain to the applicant that this agreement that they think they have made with the Town will not insure them against prosecution of they build without a permit.

If you or any members of the Board have any questions, please call me.

Sincerely,

ANDREW S. KRIEGER

ASK: mmt

cc: Ronald Lander  
Carmen Dubaldi  
Karl Scheiffer  
Henry P. VanLeeuwen

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NEW WINDSOR, NEW YORK 12553

19141 362-2333

September 7, 1993

Mr. Petro, Chairman  
Board of New Windsor Planning Board  
100 Main Avenue  
New Windsor, New York 12553

Re: Stop work order

It occurs to me in reviewing the prior memorandum that it must be clear. I hope that the following comments will clarify the matter.

1. No person including the Town Supervisor can by himself enforce the law of the Town of New Windsor.

2. Any agreement made by the supervisor or anyone else in which it is agreed that the law will not be enforced is an agreement which is in itself void and unenforceable.

3. The law of the Town of New Windsor specifically states that building shall be conducted without a permit and that if a permit is issued in error it is void and of no effect and the building under that void permit is unlawful.

4. Whether or not a "stop work order" is "rescinded" the law is not changed.

5. Regardless of what happens to such a stop work order including the Planning Board, the Board can demand that the Building Inspector enforce the law by prosecuting a violator.

If you have any questions, please feel free to contact me.

Thank you.

Very truly yours,

ANDREW S. KRIEGER

cc: Jerry Van Leeuwen  
Donald Lander  
James Dubaldi  
Bill Schiefer

**PREVIOUS  
DOCUMENT  
IN POOR  
ORIGINAL  
CONDITION**



August 4, 1993

**Town of New Windsor Planning Board  
555 Union Avenue  
New Windsor, NY 12553  
Attn: Mr. Michael Babcock, Building Inspector**

**Re: Canopy Installation**

Dear Mike:

July 27-30, 1993 the canopy for the above mentioned project was installed. As per our conversation we had in your office on July 12 a day after the workshop meeting on the project. I stated that I will inform my client NOT to construct the canopy until the set-back variance has been obtained.

I had instructed my client that he obtain form further construction of the canopy until the variance matter is resolved. I also instructed him that if he did not that your only recourse would be to put a stop work order on the project. However as an engineer I can only advise my client.

When I discovered that the canopy was constructed I was astounded. Upon speaking to my client he told me that Coastal Petroleum company has a contracted construction crew who travels over the country putting up only canopies. This contractor has a schedule of other canopies to construct and he would not be back until early or middle October if he had to come back. This contractor was scheduled to come in and construct this one BEFORE the permit was found to be in violation.

Therefore my client constructed the canopy in fear of not having the contractor back for 3 months. This would render the project approved by through site plan, sub-division and zoning but having an unapproved facility due to canopy not having proper fire-extinguishingsystem and other appurtenances to complete a CO for the facility.

I hope this has not jeopardized the approval process, but hope you will understand. Please us this letter of explanation to illustrate to others who may object.

If you have any comments or questions please do not hesitate to call me at (914)-831-2829.

Sincerely,

*CIVIL TECHNOLOGIES AND ENGINEERING*

A handwritten signature in black ink, appearing to read 'Eugene D. Ninnie', with a stylized flourish at the end.

*Eugene D. Ninnie, P.E.*

*EDN/wp*  
*920251t3*



McGOEY, HAUSER and EDSALL  
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TOWN OF NEW WINDSOR  
PLANNING BOARD  
REVIEW COMMENTS

PROJECT NAME: COASTAL GASOLINE GAS STATION SITE PLAN  
PROJECT LOCATION: NYS ROUTES 32 AND 94 (FIVE CORNERS)  
SECTION 70-BLOCK 1-LOT 1.1  
PROJECT NUMBER: 93-22  
DATE: 21 JULY 1993  
DESCRIPTION: THE APPLICATION INVOLVES A CHANGE IN USE FOR THE PREVIOUS GAS STATION TO A COMBINATION GAS STATION AND RETAIL STORE. THE APPLICATION WAS REVIEWED ON A CONCEPT BASIS ONLY.

1. The Board should note that the previously reviewed "Dive Shop" retail establishment on Route 94 is located on the same property as this proposed gas station/retail occupancy. Previously, the lot was apparently split with a lease parcel for the gas station. To my understanding, at this time, this is a single lot; therefore, the Applicant has been advised that the entire property will be reviewed as part of this site plan application. In line with same, my comments, and the Board's discussion, should include both areas of the site.
2. The site plan indicates a scale of 1" = 10'; however, the plan appears to be out of scale based on same. The resubmittal of the site plan should be complete, of proper scale, with dimensional information provided for setbacks for buildings and structures. In addition, a reference should be made as to the source of the survey for the structure locations.
3. The plan should include information regarding the gross square footage and retail sales square footage of each of the buildings on the site. In addition, a parking calculation should be provided, based on the retail sales area.
4. It appears that all bulk table non-compliances are pre-existing, with the exception of the setback for the proposed canopy. I am unable to verify the "provided" information for the plan, since a scale version of the plan is not available at this time.

TOWN OF NEW WINDSOR  
PLANNING BOARD  
REVIEW COMMENTS

-2-

PROJECT NAME: COASTAL GASOLINE GAS STATION SITE PLAN  
PROJECT LOCATION: NYS ROUTES 32 AND 94 (FIVE CORNERS)  
SECTION 70-BLOCK 1-LOT 1.1  
PROJECT NUMBER: 93-22  
DATE: 21 JULY 1993

In either case, it is apparent that the Applicant will require at least one variance relative to this application, involving the proposed construction of the canopy.

5. With regard to a concept review of the proposed site plan, please note the following:
  - a. The planter shown along the south property line should be located wholly on this property; if not, some documentation should be received from the Planning Board indicating concurrence with the adjoining property owner for the construction and maintenance of this planter.
  - b. A detail should be provided relative to the proposed paving for the project site. As well, limits of the proposed paving should also be indicated.
  - c. The Board may wish to require additional information with regard to the type and quantity of landscaping proposed. In addition, I recommend that the grass planter along the State highway have sod placed in lieu of the current conditions.
  - d. The handicapped parking space must be modified to comply with current ANSI standards. As well, if a ramp is required, same should be located on the plan.
  - e. It should be noted that parking spaces 10, 11 and 12 encroach onto the State right-of-way. This should be further discussed.
  - f. The need for oil/water separators for on site stormwater collection should be discussed.
  - g. The general note at the top of the plan appears to be inappropriate for this site plan application plan.
  - h. The location of the proposed sign appears to be inappropriate, obstructing vehicle movement and potentially hazardous.

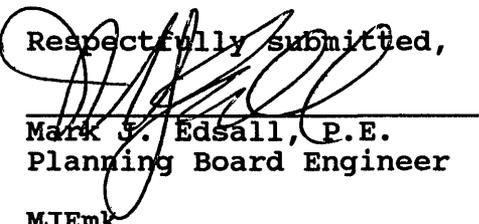
TOWN OF NEW WINDSOR  
PLANNING BOARD  
REVIEW COMMENTS

-3-

PROJECT NAME: COASTAL GASOLINE GAS STATION SITE PLAN  
PROJECT LOCATION: NYS ROUTES 32 AND 94 (FIVE CORNERS)  
SECTION 70-BLOCK 1-LOT 1.1  
PROJECT NUMBER: 93-22  
DATE: 21 JULY 1993

6. Once the Applicant submits a plan suitable for referral to the Zoning Board of Appeals, and the Applicant subsequently receives any and all necessary variances, further detailed engineering reviews can be made of the proposed site plan, as deemed appropriate by the Planning Board.

Respectfully submitted,

  
\_\_\_\_\_  
Mark S. Edsall, P.E.  
Planning Board Engineer

MJEmk

A: COASTAL.mk

RESULTS OF P.B. MEETING

DATE: July 21, 1993

PROJECT NAME: Coastal Shoreline S.P. PROJECT NUMBER 93-22

\*\*\*\*\*

LEAD AGENCY:

\* NEGATIVE DEC:

M)    S)    VOTE: A    N   

\* M)    S)    VOTE: A    N   

CARRIED: YES    NO   

\* CARRIED: YES:    NO   

\*\*\*\*\*

PUBLIC HEARING: M)    S)    VOTE: A    N   

WAIVED: YES    NO   

SEND TO OR. CO. PLANNING: M)    S)    VOTE: A    N    YES    NO   

SEND TO DEPT. OF TRANSPORT: M)    S)    VOTE: A    N    YES    NO   

DISAPP: REFER TO Z.B.A.: M) L S) S VOTE: A 4 N 1 YES ✓ NO   

RETURN TO WORK SHOP: YES    NO   

APPROVAL:

M)    S)    VOTE: A    N    APPROVED:   

M)    S)    VOTE: A    N    APPR. CONDITIONALLY:   

NEED NEW PLANS: YES    NO   

DISCUSSION/APPROVAL CONDITIONS:   

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



McGOEY, HAUSER and EDSALL  
CONSULTING ENGINEERS P.C.

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400 Broad Street  
Millford, Pennsylvania 18337  
(717) 296-2765

**PLANNING BOARD WORK SESSION  
RECORD OF APPEARANCE**

TOWN/VILLAGE OF New Windsor P/B # 93-22  
 WORK SESSION DATE: 15 Dec '93 APPLICANT RESUB. REQUIRED: Revised Plan  
 REAPPEARANCE AT W/S REQUESTED: No  
 PROJECT NAME: Coastal S/P  
 PROJECT STATUS: NEW \_\_\_\_\_ OLD X  
 REPRESENTATIVE PRESENT: Gene W.  
 MUNIC REPS PRESENT: BLDG INSP. \_\_\_\_\_  
 FIRE INSP. \_\_\_\_\_  
 ENGINEER X  
 PLANNER \_\_\_\_\_  
 P/B CHMN. \_\_\_\_\_  
 OTHER (Specify) \_\_\_\_\_

ITEMS TO BE ADDRESSED ON RESUBMITTAL:

Fix freestanding sign total SF (actually x2)  
ZBA action + date  
Approval box  
1309 SF fix  
add gross + retail for drive thru pkg.  
S/P sign estimate (incl dirt pile removal)  
five (5) pkg space  
add resid pkg 2+2 = total 11

Next award agenda

ZONING BOARD OF APPEALS  
Regular Session  
December 13, 1993

AGENDA:

7:30 - ROLL CALL

Motion to accept minutes of the 10/25/93, 11/08/93 and 11/22/93 meetings as written.

PRELIMINARY MEETING:

- SET UP FOR P/H*
1. RUMSEY, JACQUELINE - Request for 7 ft. 8 in side yard variance for existing cabana and 5 ft. 6 in side yard variance for existing inground pool at 392 Union Avenue in an R-4 zone. (4-1-53).  
*DOES NOT NEED VARIANCE PER SEC. 48-15B*
  2. VANDENBERG, KAREN - Request for existing accessory bldg. (shed) to be located less than 10 ft. from any lot line contrary to Sec. 48-14A(1)(b) at 53 Harth Drive in an R-4 zone. (39-1-5).
  3. CAVALARI, AGNES - Request for 50 s.f. sign variance located on the east side of Windsor Highway (Sign Guys) in a C zone. (35-1-51.0).  
*NEED COPY OF DISAPPROVAL*
  4. UCHACZ, GENE - Request for 5 ft. variance for Shed #1 and 3 ft. variance for Shed #2 located at 33 Beattie Road in an R-1 zone. (55-~~2~~-63.4).  
*SET UP FOR P/H - ~~REMOVED FROM AGENDA~~*

PUBLIC HEARINGS:

5. *APPROVED* WARSHAW, DIANE - Request for 6 ft./6 ft. variance for each side of pool and 10 ft. variance for deck at 23 Vails Gate Heights Drive in an R-5 zone. (71-1-10).
6. *APPROVED* LEONARDO, CONSTANTINE - Request for 92 ft. lot width, 50.4 ft. front yard and 18.8 ft. bldg. height for CANOPY, and various sign variances listed on site plan for Coastal Gas Station located at NYS Routes 94/32 in a C zone. Present: Eugene Ninnie, P.E. (70-1-1.1).
7. *APPROVED* LEONARDO, CONSTANTINE - Request for 25,179 s.f. lot area, 50 ft. lot width, 3.04 ft. bldg. hgt. on SUBDIVISION of LOT #1 which includes gas station and retail sales on property listed above in a C zone. (70-1-1.1).
8. *APPROVED* LEONARDO, SAMUEL - Request for 61,478.4 s.f. lot area, 75 ft. lot width, 25.0 ft. side yard (cheese store) and 11.4 ft. side yard (bar), 56.9 ft. total side yard (cheese store), 11.37 ft. max. bldg. hgt. (cheese store), 12.7 ft. max. bldg. hgt. (bar) and 2 o/s parking spaces for SUBDIVISION of LOT #2 which includes bar and processing/retail, on property listed above in a C zone. (70-1-1.2).

FORMAL DECISIONS:

PAT - 563-4630 (O)  
562-7107 (H)

*\* GIVE PAT COPY OF FIRE INSPECTORS REPORT B.J.*

ZONING BOARD OF APPEALS  
Regular Session  
November 22, 1993

AGENDA:

7:30 P.M. - ROLL CALL

Motion to accept minutes of the 10/25/93 meeting as written if available.

PRELIMINARY MEETING:

*SET UP FOR P/H*  
1. LEONARDO, CONSTANTINE - (2nd Preliminary). Request for 92 ft. lot width, 50.4 ft. front yard and 18.8 ft. bldg. height for CANOPY, and various sign variances listed on site plan for Coastal Gas Station located at NYS Routes 94/32 in a C zone. Present: Eugene Ninnie, P.E. (70-1-1.1).

*SET UP FOR P/H*  
2. LEONARDO, CONSTANTINE - Request for 25,179 s.f. lot area, 50 ft. lot width, 3.04 ft. bldg. hgt. on SUBDIVISION of LOT #1 which includes gas station and retail sales on property listed above in a C zone. (70-1-1.1).

*SET UP FOR P/H*  
3. LEONARDO, SAMUEL - Request for 61,478.4 s.f. lot area, 75 ft. lot width, 25.0 ft. side yard (rear bldg.) and 11.4 ft. side yard (front bldg.), 56.9 ft. total side yard (rear bldg.), 11.37 ft. max. bldg. hgt. (rear bldg.), 12.7 ft. max. bldg. hgt. (front bldg.) and 2 o/s parking spaces for SUBDIVISION of LOT #2 which includes bar/restaurant and processing/manufacturing/retail, on property listed above in a C zone. (70-1-1.1).

4. SUN OIL COMPANY - Request for <sup>55 FT.</sup> ~~65~~ ft. 6 in. front yard set back for canopy located on Route 32 in a C zone. Present: Frank Daley of Sun Oil and Eric Holt of Environmental Design Partnership. (71-3-2).  
*NEED #1 CANOPY HEIGHT*

PUBLIC HEARING: *#2 SIGN'S*

*APPROVED*  
5. MARSHALL, PETER - Request to allow existing 5 ft. fence closer to road than principal building contrary to Sec. 48-14C(1)(c)[1] and 48-14B of the Supplementary Yard Regs. on premises located at 12 Ona Lane in an R-4 zone. (8-6-3).  
*48-14A-4 REVISED 11-22-93*

*APPROVED*  
6. SWEENEY, JOHN - Request for 8 ft. 6 in. side yard for existing shed and 4 ft. rear yard variance for existing deck located at 347 Nina Street in an R-4 zone. (73-3-6).

*APPROVED*  
7. PACIONE, TOBIO - Request for 200 s.f. lot area, 20 ft. front yard for residence; 2 ft. 4 in. side yard and 14 ft. rear yard for deck and 7 ft. rear yard for shed, all existing at 30 Melrose Avenue in an R-4 zone. (13-11-4).

FORMAL DECISIONS:

PAT - 563-4630 (O)  
562-7107 (H)





1763

# TOWN OF NEW WINDSOR

555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

## NEW WINDSOR PLANNING BOARD REVIEW FORM

TO: FIRE INSPECTOR, D.O.T., ~~WATER~~, SEWER, ~~HIGHWAY~~

PLEASE RETURN COMPLETED FORM TO:

MYRA MASON, SECRETARY FOR THE PLANNING BOARD

PLANNING BOARD FILE NUMBER: 93 - 22

DATE PLAN RECEIVED: DEC 16 1993 Rev 2

The maps and plans for the Site Approval \_\_\_\_\_  
Subdivision \_\_\_\_\_ as submitted by  
\_\_\_\_\_ for the building or subdivision of  
\_\_\_\_\_ has been  
reviewed by me and is approved  \_\_\_\_\_,  
disapproved \_\_\_\_\_.

If disapproved, please list reason \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Fred S. [Signature] 12/23/93  
HIGHWAY SUPERINTENDENT DATE

\_\_\_\_\_  
WATER SUPERINTENDENT DATE

\_\_\_\_\_  
SANITARY SUPERINTENDENT DATE

INTER OFFICE CORRESPONDENCE

**TO:** Town Planning Board  
**FROM:** Town Fire Inspector  
**DATE:** 29 December 1993  
**SUBJECT:** Leonardo Site Plan

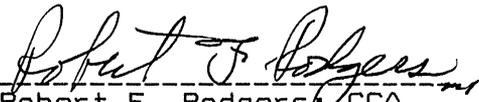
**PLANNING BOARD REFERENCE NUMBER:** PB-93-22  
**DATED:** 16 December 1993

**FIRE PREVENTION REFERENCE NUMBER:** FPS-93-076

A review of the above referenced subject site plan was conducted on 17 December 1993.

This site plan is acceptable.

**PLANS DATED:** 13 December 1993; Revision 6.

  
Robert F. Rodgers, CCA  
Fire Inspector

RFR:mr  
Att.

NEW YORK STATE DEPARTMENT OF TRANSPORTATION  
EAST ORANGE AND ROCKLAND OFFICE  
PERMIT INSPECTION  
112 DICKSON STREET  
NEWBURGH, NEW YORK 12550  
Telephone ( 914 ) 562-4094

Albert J. Bauman  
Regional Director

John C. Egan  
Commissioner

December 29, 1993

Planning & Zoning Board  
Town of NEW WINDSOR  
55 Union Ave.  
New Windsor, N.Y. 12553

Re: Gasland Petroleum Leonardo Property  
Route 32 at Route 94

Dear Chairperson;

We have reviewed this matter and please find our comments checked below.

\_\_\_\_\_ A highway work permit will be required. Please ask Building Department not to issue building permit without proof of State Highway Work Permit.

XX Objection as submitted.

\_\_\_\_\_ No objection.

\_\_\_\_\_ Need additional information; Traffic study \_\_\_\_\_, and or Drainage study \_\_\_\_\_.

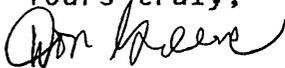
\_\_\_\_\_ To be reviewed by Regional Office.

\_\_\_\_\_ Does not effect New York State Department of Transportation.

PLEASE NOTE: Entrance must conform to state highway work permit.

ADDITIONAL COMMENTS: As you know we just completed work in this area and the curb cuts are in.

Yours truly,



Donald Greene  
C.E.I Permits  
East Orange and Rockland Counties.

CC ME.  
1-5-94

PLANNING BOARD

B.D.

ZONING BOARD OF APPEALS  
Regular Session  
October 25, 1993

AGENDA:

7:30 P.M. - ROLL CALL

MOTION TO ACCEPT MINUTES OF THE 09/13/93 AND 09/27/93 MEETING. APPROVED

PRELIMINARY:

*SET UP FOR P/H* 1. DEVITT, JOHN - Request for 6 ft. chain link fence contrary to Section 48-14C 1 - of the Supp. Yard Regs. (structure projects closer to road than principal bldg.) located at Devitt's, 59 Windsor Highway in a C zone. (9-1-33).

*SET UP FOR P/H* 2. PACIONE, TOBIO - Request for 200 s.f. lot area, 20 ft. front yard, 2 ft. 4 in. side yard, 14 ft. rear yard variances for existing deck and 7 ft. rear yard variance for existing shed at ~~30 Melrose Avenue in an R-4 zone.~~ (13-11-4). *SHED WILL BE REMOVED BY OWNER*

*TABLE* 3. LEONARDO, SAMUEL - Request for 50.4 ft. front yard variance and 14.8 ft. maximum canopy height for Coastal Gas Station located at Five Corners in a C zone. Referred by Planning Board.

*TABLE* 4. LEONARDO, SAMUEL - Request for 25,179 s.f. lot area, 36.5 ft. lot width, 46.6 ft. front yard, 24 ft. side yard, 55.9 ft. total side yard, 11 ft. and 12.6 ft. max. bldg. height for each building on lot which includes bar/restaurant and retail/warehouse located at Five Corners in C zone. Referred by Planning Board.

PUBLIC HEARING:

*DISAPPROVED*  
5. MUGNANO, PASQUALE - CONTINUED - Request for use variance for barber shop in R-4 zone - 2 Cimorelli Drive. (7-1-20).

*APPROVED*  
6. MORONEY, JAMES - Request for 26 ft. side yard, 44 ft. total side yard, 15.75 ft. maximum bldg. hgt., 26 parking area variances and sign variances in order to construct addition at Moroney's Cycle Center on Union Avenue in a C zone. Present: Greg Shaw, P.E. (4-1-9.22).

*APPROVED*  
7. HANRETTA, RUTH - Request for 5 ft. total side yard variance to construct addition with ramp at 231 Leslie Avenue in an R-4 zone. (24-9-8).

*APPROVED*  
8. STROHL, ALBERT - Request for 10 ft. side yard variance for addition to existing garage at 8 Park Road, Salisbury Mills in an R-4 zone. (58-6-4).

- FORMAL DECISIONS:
- (1) TOYOTA OF NEWBURGH
  - (2) GREENE
  - (3) KIEVA

*APPROVED*  
PAT - 562-7107 (H)  
563-4630 (O)

*#9 LOUISE SCHUMACHER  
1 YEAR EXTENSION APPROVED*





1763

# TOWN OF NEW WINDSOR

555 UNION AVENUE  
NEW WINDSOR, NEW YORK 12553

## NEW WINDSOR PLANNING BOARD REVIEW FORM

TO: FIRE INSPECTOR, D.O.T., WATER, SEWER, HIGHWAY

PLEASE RETURN COMPLETED FORM TO:

MYRA MASON, SECRETARY FOR THE PLANNING BOARD

PLANNING BOARD FILE NUMBER: 93 - 22

DATE PLAN RECEIVED: SEP 15 1993

The maps and plans for the Site Approval \_\_\_\_\_  
Subdivision \_\_\_\_\_ as submitted by  
\_\_\_\_\_ for the building or subdivision of  
\_\_\_\_\_ has been  
reviewed by me and is approved  \_\_\_\_\_,  
disapproved  \_\_\_\_\_.

If disapproved, please list reason \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Fred Sauer 9/25/93  
HIGHWAY SUPERINTENDENT DATE

\_\_\_\_\_  
WATER SUPERINTENDENT DATE

\_\_\_\_\_  
SANITARY SUPERINTENDENT DATE

INTER OFFICE CORRESPONDENCE

**TO:** Town Planning Board  
**FROM:** Town Fire Inspector  
**DATE:** 24 September 1993  
**SUBJECT:** Leonardo Site Plan

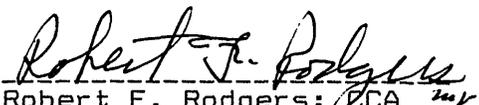
**PLANNING BOARD REFERENCE NUMBER:** PB-93-22  
**DATED:** 15 September 1993

**FIRE PREVENTION REFERENCE NUMBER:** FPS-93-054

A review of the above referenced subject site plan was made on 20 September 1993.

This site plan is acceptable.

**PLANS DATED:** 11 August 1993; Revision 2.

  
Robert F. Rodgers; ECA  
Fire Inspector

RFR:mr  
Att.



McGOEY, HAUSER and EDSALL  
CONSULTING ENGINEERS P.C.

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WILLIAM J. HAUSER, P.E.  
MARK J. EDSALL, P.E.

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PLANNING BOARD WORK SESSION  
RECORD OF APPEARANCE

93-25

TOWN/VILLAGE OF New Windsor

P/B # 93-22

WORK SESSION DATE: 18 Aug 93

APPLICANT RESUB.  
REQUIRED:

REAPPEARANCE AT W/S REQUESTED: \_\_\_\_\_

PROJECT NAME: Coastal S/P & Subdiv.

PROJECT STATUS: NEW \_\_\_\_\_ OLD X

REPRESENTATIVE PRESENT: Ernie Minnie

- MUNIC REPS PRESENT:
- BLDG INSP. X
  - FIRE INSP. X
  - ENGINEER X
  - PLANNER \_\_\_\_\_
  - P/B CHMN. \_\_\_\_\_
  - OTHER (Specify) \_\_\_\_\_

ITEMS TO BE ADDRESSED ON RESUBMITTAL:

Review Pine Shop bldg. w/p.

Disc fill survey needed for ZSA  
referral. - all dimensions of  
setbacks etc, both l & r.

Bill Bulk table  
Need new plans



INTER OFFICE CORRESPONDENCE

TO: Town Planning Board  
FROM: Town Fire Inspector  
DATE: 23 July 1993  
SUBJECT: C. Leonardo Site Plan

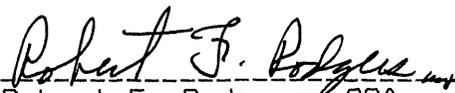
PLANNING BOARD REFERENCE NUMBER: PB-93-22  
DATED: 15 July 1993

FIRE PREVENTION REFERENCE NUMBER: FPS-93-042

A review of the above referenced subject site plan was conducted on 15 July 1993.

This site plan is acceptable.

PLANS DATED: 1 July 1993.

  
Robert F. Rodgers, CCA  
Fire Inspector

RFR:mr  
Att.

✓  
cc: H.E.





McGOEY, HAUSER and EDSALL  
CONSULTING ENGINEERS P.C.

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WILLIAM J. HAUSER, P.E.  
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PLANNING BOARD WORK SESSION  
RECORD OF APPEARANCE

1-3

TOWN/VILLAGE OF New Windsor P/B # 93 - 22  
 WORK SESSION DATE: 16 June 1993 APPLICANT RESUB.  
 REAPPEARANCE AT W/S REQUESTED: Yes REQUIRED: Full  
 PROJECT NAME: Coastal D. 1 - Mi. Mat  
 PROJECT STATUS: NEW X OLD \_\_\_\_\_  
 REPRESENTATIVE PRESENT: Eugene Ninni  
 MUNIC REPS PRESENT: BLDG INSP. @ Atty → come in  
 FIRE INSP. X  
 ENGINEER X  
 PLANNER \_\_\_\_\_  
 P/B CHMN. \_\_\_\_\_  
 OTHER (Specify) \_\_\_\_\_

ITEMS TO BE ADDRESSED ON RESUBMITTAL:

Per tank  
maps  
rep. lot  
will need  
per Mike

- Leonardo's 51P - next to Pine Shop.
- IS it or lease time - may need title
- Parking -
- possibly need variance for canopy
- possible curb to separate drive shop.

RESULTS OF P.B. MEETING

DATE: December 23, 1992

93 - 22

PROJECT NAME: Octori Water Sports

PROJECT NUMBER \_\_\_\_\_

LEAD AGENCY: \_\_\_\_\_

NEGATIVE DEC: \_\_\_\_\_

PUBLIC HEARING: \_\_\_\_\_

DISCUSSION:

fix up the building  
show parking  
does not need formal application  
discussion item only

SEND TO ORANGE CO. PLANNING: \_\_\_\_\_

DISAPPROVED AND REFERRED TO Z.B.A.: YES \_\_\_\_\_ NO \_\_\_\_\_

RETURN TO WORK SHOP: YES \_\_\_\_\_ NO \_\_\_\_\_

APPROVED \_\_\_\_\_ APPROVED CONDITIONALLY \_\_\_\_\_

NEED NEW PLANS: YES \_\_\_\_\_ NO \_\_\_\_\_

REASON FOR NEW PLANS OR CONDITIONS OF APPROVAL: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ACTION WATER SPORTS SITE PLAN ROUTE 32 VAILS GATE

Mr. John Antinori appeared before the board representing this proposal.

MR. PETRO: Mike, can you do the board a favor and bring us up to date why Mr. Antinori is here? This is next to ATI station.

MR. BABCOCK: Basically, the gentleman opened up a shop and we contacted him, he wasn't aware that he needed approvals and we informed him that he did and he's here tonight to start the process to get the approvals to have a retail shop.

MR. PETRO: He was very cooperative, he did come down to see myself. He just wants to find out exactly what we think about it and what he has to do.

MR. ANTINORI: Compared to the other guys presentations, I hope mine is pretty simple and easy. I have an old site plan here and I was wondering how much of this detail I could use in order to present my case to you.

MR. VAN LEEUWEN: I think what we're more interested in I'm only speaking for myself what are you going to do with the building? Going to dress it up.

MR. ANTINORI: I have already cleaned it up a little bit, I'm leasing the building.

MR. PETRO: Who owns the building?

MR. ANTINORI: My uncle Constantine Leonardo. It's been in our family 100 years or so.

MR. VAN LEEUWEN: Didn't your grandparents live there at one time?

MR. ANTINORI: Yeah, in the 20's. My uncle lives there who's quite elderly gentleman now and he lives there currently upstairs.

MR. VAN LEEUWEN: That is why I see the dog up there.

MR. ANTINORI: Yes.

MR. VAN LEEUWEN: I think it's going to be a lot easier if you can fix the building on the outside.

MR. ANTINORI: I'd love to.

MR. VAN LEEUWEN: Just about everybody is going to leave you alone otherwise I can make it hard for you.

MR. PETRO: I think what's really going to have to be demonstrated here would be parking. I think that is something that we have to look at. Where are the cars parking at this time?

MR. ANTINORI: Well, at this time, because the gas station is vacant, everybody seems to gravitate over that way but we've got, looks like 75 feet off the back of the building and it's got to be 60 feet deep so I have got all this parking area over here.

MR. PETRO: How would you access it from 94?

MR. ANTINORI: From 94, State just put in an entrance right here so there's a curbed access here and you can pull into the back. There's plenty of room between these two buildings. Actually given a car being 18 feet long, 22 feet long.

MR. VAN LEEUWEN: You have to figure 10 by 20 consists of a parking space.

MR. ANTINORI: I've got 20 feet in depth right here so I could park here but I could just put them all across the back.

MR. PETRO: You need a total of 44?

MR. EDSALL: For back to back row 64.

MR. BABCOCK: Maybe you can outline the building so they can see where the building you're talking about is, just use your finger.

MR. ANTINORI: Right here is the building that I am referring to and this darker, the ATI building is right here and now the building that we have in is here. As far as cleaned up.

MR. VAN LEEUWEN: Where is the cheese plant?

MR. ANTINORI: Over in here and this is Club 32 and there's a driveway through here and there's an opening here and an opening here, an opening which comes right through here to the gas station.

MR. VAN LEEUWEN: Trouble is, John, when the gas station starts opening up again, I know eventually it will, then you got a problem with getting enough parking because we have a certain ratio we have to go with.

MR. ANTINORI: I have all that here.

MR. EDSALL: I think really when John came into the workshop we talked and he's talked to Mike and myself, have several times, what we really need some input from the board on to what level of detail are you going to look at for the site because it's an existing site and secondly, on the records, we need to have you decide if you are going to accept the building in its location as being pre-existing conditions and then at that point, restrict your review purely to documenting what is there and documenting that there's adequate parking and there's adequate access that exists and leave it at that. If we're going to look for new items, I need to know what those new items are going to be.

MR. PETRO: The most important thing is the building, obviously is not in the best spot. Do we in fact accept that it has a pre-existing building? We know that it was a pizzeria, I think it was a haircutting place. It's been a number of different operations over the years so are we saying that he can operate there if it can meet some conditions and those conditions if he can demonstrate parking and as you said, maybe dress the building up.

MR. VAN LEEUWEN: Off the record.

(Discussion was held off the record)

MR. PETRO: I think the Town of New Windsor Planning Board will take the stand that as far as the business is operating there we do not have a problem with the business being in that building, it's been there since we have all grown up. It's been there for 100 years. If you can get together with Mark and show us the parking and do something to make the building more aesthetically pleasing to the eye, for everyone in the Town of New Windsor can benefit from, we do not have a problem with the application.

MR. EDSALL: Jim, you're going to want to have a record plan submitted by someone though professional or you want to have John work on a markup?

MR. PETRO: I think all we really need--

MR. EDSALL: Something on the record and not necessarily concerned about having a new plan created.

MR. PETRO: Show us where the cars are going to be parked and give us one idea what you're going to do with the building. I don't think we need to make more out of this.

MR. EDSALL: You're not looking for a new record drawing, you're looking at taking that document?

MR. PETRO: What we just talked about, we'll get it in the minutes so we have some recourse if you don't and you're on your way.

MR. VAN LEEUWEN: You work with us, we'll work with you. Don't work with us, man, we going to cause problems.

MR. ANTINORI: I got to plead stupidity, after I was informed what I had to do I came here right away.

MR. PETRO: Thank you.



McGOEY, HAUSER and EDSALL  
CONSULTING ENGINEERS P.C.

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

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

1-3

PLANNING BOARD WORK SESSION  
RECORD OF APPEARANCE

TOWN/VILLAGE OF New Windsor P/B # 93 - 22

WORK SESSION DATE: 1 Dec 92 APPLICANT RESUB. REQUIRED: later

REAPPEARANCE AT W/S REQUESTED: Not new

PROJECT NAME: Dive Shop

PROJECT STATUS: NEW  OLD

REPRESENTATIVE PRESENT: John Antasori

MUNIC REPS PRESENT: BLDG INSP.   
 FIRE INSP.   
 ENGINEER   
 PLANNER   
 P/B CHMN.   
 OTHER (Specify) \_\_\_\_\_

ITEMS TO BE ADDRESSED ON RESUBMITTAL:

discuss only

need decision from P/B  
what they want.

- next avail agenda  
- he will call us.

93-22  
93 - 22

EX 15 1998

Planning Board  
Town of New Windsor  
555 Union Avenue  
New Windsor, NY 12553

(This is a two-sided form)

APPLICATION FOR SITE PLAN, SUBDIVISION PLAN,  
OR LOT LINE CHANGE APPROVAL

1. Name of Project Coastal Gasoline filling station and retail
2. Name of Applicant Constantine Leonard Phone 562-2662  
Address 18 Oak Street Newburgh, NY 12550  
(Street No. & Name) (Post Office) (State) (Zip)
3. Owner of Record Samuel and Constantine Leonardo Phone 562-2662  
Address 18 Oak Street Newburgh, NY 12550  
(Street No. & Name) (Post Office) (State) (Zip)
4. Person Preparing Plan E. Ninnie, P.E. Phone 831-2829  
Address Route 9D Wappingers Falls, NY 12590  
(Street No. & Name) (Post Office) (State) (Zip)
5. Attorney Julius Hoyt Phone 562-3540  
Address 233 Liberty Street Newburgh, NY 12550  
(Street No. & Name) (Post Office) (State) (Zip)
6. Person to be notified to represent applicant at Planning Board Meeting Eugene D. Ninnie, P.E. Phone 831-2829  
(Name)
7. Location: On the Eastern side of Route 94  
(Street)  
0 feet north of Route 32  
(Direction) (Street)
8. Acreage of Parcel .78 ac. Zone C, 9A.School Dist New Windsor  
9B. If this property is within an Agricultural District containing a farm operation or within 500 feet of a farm operation located in an Agricultural District, please complete the attached Agricultural Data Statement.
10. Tax Map Designation: Section 70 Block 1 Lot 1.1
11. This application is for Use change from gasoline filling to gasoline filling / Retail

12. Has the Zoning Board of Appeals granted any variance or a Special Permit concerning this property? No

If so, list Case No. and Name \_\_\_\_\_

13. List all contiguous holdings in the same ownership  
Section 70 Block 1 Lot(s) 1.2

Attached hereto is an affidavit of ownership indicating the dates the respective holdings of land were acquired, together with the liber and page of each conveyance into the present owner as recorded in the Orange County Clerk's Office. This affidavit shall indicate the legal owner of the property, the contract owner of the property and the date the contract of sale was executed.

IN THE EVENT OF CORPORATE OWNERSHIP: A list of all directors, officers and stockholders of each corporation owning more than five percent (5%) of any class of stock must be attached.

OWNER'S ENDORSEMENT  
(Completion required ONLY if applicable)

COUNTY OF ORANGE

SS.:

STATE OF NEW YORK

\_\_\_\_\_ being duly sworn, deposes and says that he resides at \_\_\_\_\_ in the County of \_\_\_\_\_ and State of \_\_\_\_\_ and that he is (the owner in fee) of \_\_\_\_\_

(Official Title)

of the Corporation which is the Owner in fee of the premises described in the foregoing application and that he has authorized \_\_\_\_\_ to make the foregoing application as described herein.

I HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS AND INFORMATION, AND ALL STATEMENTS AND INFORMATION CONTAINED IN THE SUPPORTING DOCUMENTS AND DRAWINGS ATTACHED HERETO ARE TRUE.

Sworn before me this

14 day of July 1993  
Nora Knapp

Notary Public

NORA KNAPP  
Notary Public, State of New York  
County of Orange  
Commission Expires 7/30/95  
Notary Reg. No. 4832491

Constantine Leonard  
(Owner's Signature)

Constantine Leonard  
(Applicant's Signature)

owner  
(Title)

Planning Board  
Town of New Windsor  
555 Union Avenue  
New Windsor, NY 12553

(This is a two-sided form)

APPLICATION FOR SPECIAL PERMIT

1. Name of Project Coastal Gasoline filling station and retail facility
2. Name of Applicant Samual Leonardo Phone ~~XXXXXXXX~~ 561-2660  
Address Route 32 New Windsor, NY 12553  
(Street No. & Name) (Post Office) (State) (Zip)
3. Owner of Record Samual Leonardo Phone 561-2660  
Address Route 32 New Windsor, NY 12553  
(Street No. & Name) (Post Office) (State) (Zip)
4. Person Preparing Plan Eugene D. Ninnie P.E. Phone 831-2829  
Address Route 9D Wappingers Falls, NY 12590  
(Street No. & Name) (Post Office) (State) (Zip)
5. Attorney Julius Hoyt Phone 562-3540  
Address 233 Liberty Street Newburgh, NY 12550  
(Street No. & Name) (Post Office) (State) (Zip)
6. Person to be notified to represent applicant at Planning Board Meeting Eugene D. Ninnie, P.E. Phone 831-2829  
(Name)
7. Location: On the eastern side of Route 94  
(Street)  
0 feet north of Route 32  
(Direction)  
of \_\_\_\_\_  
(Street)
8. Acreage of Parcel 0.78 ac 9. Zone C, 9A. School Dist New Windsor
- 9B. If this property is within an Agricultural District containing a farm operation or within 500 feet of a farm operation located in an Agricultural District, please complete the attached Agricultural Data Statement.
10. Tax Map Designation: Section 70 Block 1 Lot 1.1
11. Describe proposed use in detail: Use change from Gasoline filling to gasoline filling/Retail  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Other Property Information:

- a.) Is the proposed use in or adjacent to a Residential District? yes
- b.) Is a pending sale or lease subject to Planning Board approval of this application? yes
- c.) When was property purchased by present owner? 1933
- d.) Has property been subdivided previously? When? No
- e.) Has property been subject of special permit previously? No . When?
- f.) Has an Order to Remedy Violation been issued against the property by the Zoning Inspector? No
- g.) Is there any outside storage at the property now or is any proposed? Describe in detail: No

13. Attach a proposed plan showing the size and location of the Lot and location of all buildings and proposed facilities, including access drives, parking areas and all streets within 200 feet of the Lot. Plan should also comply with the Site Plan Checklist, as applicable.

AFFIDAVIT

Date: Aug 2, 1993

STATE OF NEW YORK)

SS.:

COUNTY OF ORANGE)

The undersigned Applicant, being duly sworn, deposes and states that the information, statements and representations contained in this application are true and accurate to the best of his/her knowledge or to the best of his/her information and belief. The Applicant further understands and agrees that the Planning Board may require you to periodically renew a Special Permit and withhold renewal upon a determination that prescribed conditions have not been or are no longer complied with.

Laurel Leonard  
(Applicant)

Sworn to before me this  
2 day of August, 1993  
Mora Knapp  
(Notary)

MORA KNAPP  
Notary Pub. c. State of New York  
County of Orange  
Comm's on Expires 4/30/95  
Notary Reg. No. 4832491

93 22  
JUL 5 1995

14-16-4 (2/87)—Text 12

PROJECT I.D. NUMBER

617.21

SEQR

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT /SPONSOR Constantine Leonardo	2. PROJECT NAME Coastal Filling Station/Retail
3. PROJECT LOCATION: Municipality Town of New Windsor County Orange	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) At the corner of Routes 94, 300 and 32	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: Conversion of present use as gasoline filling to retail	
7. AMOUNT OF LAND AFFECTED: Initially .78 acres Ultimately .78 acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If No, describe briefly However, a use change from gasoline filling to Gasoline filling/Retail is requested.	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency(s) and permit/approvals	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: Constantine Leonardo	Date: July 14 1995
Signature: <u>Constantine Leonardo</u>	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment





PROXY STATEMENT  
for submittal to the  
TOWN OF NEW WINDSOR PLANNING BOARD

Constantine Leonardo, deposes and says that he  
resides at 18 Oak Street  
(Owner's Address)  
in the County of Orange  
and State of New York  
and that he is the owner in fee of 70-1-1.1

\_\_\_\_\_ which is the premises described in the foregoing application and  
that he has authorized Eugene D. Ninnie, P.E.  
to make the foregoing application as described therein.

Date: July 14, 1993

Constantine Leonardo  
(Owner's Signature)

[Handwritten Signature]  
(Witness' Signature)

THIS FORM CANNOT BE WITNESSED BY THE PERSON OR REPRESENTATIVE OF  
THE COMPANY WHO IS BEING AUTHORIZED TO REPRESENT THE APPLICANT  
AND/OR OWNER AT THE MEETINGS.

TOWN OF NEW WINDSOR PLANNING BOARD  
SITE PLAN CHECKLIST

ITEM

- |   |  |
|---|--|
| 1. <u>X</u> Site Plan Title                     | 29. <u>N/A</u> Curbing Locations                       |
| 2. <u>X</u> Applicant's Name(s)                 | 30. <u>N/A</u> Curbing Through Section                 |
| 3. <u>X</u> Applicant's Address(es)             | 31. <u>N/A</u> Catch Basin Locations                   |
| 4. <u>X</u> Site Plan Preparer's Name           | 32. <u>N/A</u> Catch Basin Through Section             |
| 5. <u>X</u> Site Plan Preparer's Address        | 33. <u>N/A</u> Storm Drainage                          |
| 6. <u>X</u> Drawing Date                        | 34. <u>X</u> Refuse Storage                            |
| 7. <u>X</u> Revision Dates                      | 35. <u>N/A</u> Other Outdoor Storage                   |
| 8. <u>X</u> AREA MAP INSET                      | 36. <u>X</u> Water Supply                              |
| 9. <u>X</u> Site Designation                    | 37. <u>X</u> Sanitary Disposal Sys.                    |
| 10. <u>X</u> Properties Within 500 Feet of Site | 38. <u>X</u> Fire Hydrants                             |
| 11. <u>X</u> Property Owners (Item #10)         | 39. <u>X</u> Building Locations                        |
| 12. <u>X</u> PLOT PLAN                          | 40. <u>X</u> Building Setbacks                         |
| 13. <u>X</u> Scale (1" = 50' or lesser)         | 41. <u>X</u> Front Building Elevations See Perspective |
| 14. <u>X</u> Metes and Bounds                   | 42. <u>N/A</u> Divisions of Occupancy                  |
| 15. <u>X</u> Zoning Designation                 | 43. <u>N/A</u> Sign Details                            |
| 16. <u>X</u> North Arrow                        | 44. <u>X</u> BULK TABLE INSET                          |
| 17. <u>X</u> Abutting Property Owners           | 45. <u>X</u> Property Area (Nearest 100 sq. ft.)       |
| 18. <u>X</u> Existing Building Locations        | 46. <u>X</u> Building Coverage (sq. ft.)               |
| 19. <u>X</u> Existing Paved Areas               | 47. <u>X</u> Building Coverage (% of Total Area)       |
| 20. <u>X</u> Existing Vegetation                | 48. <u>X</u> Pavement Coverage (Sq. Ft.)               |
| 21. <u>X</u> Existing Access & Egress           | 49. <u>X</u> Pavement Coverage (% of Total Area)       |
| <u>PROPOSED IMPROVEMENTS</u>                    | 50. <u>X</u> Open Space (Sq. Ft.)                      |
| 22. <u>X</u> Landscaping                        | 51. <u>X</u> Open Space (% of Total Area)              |
| 23. <u>X</u> Exterior Lighting                  | 52. <u>X</u> No. of Parking Spaces Proposed.           |
| 24. <u>X</u> Screening                          | 53. <u>X</u> No. of Parking Required.                  |
| 25. <u>X</u> Access & Egress                    |  |
| 26. <u>X</u> Parking Areas                      |  |
| 27. <u>X</u> Loading Areas                      |  |
| 28. <u>N/A</u> Paving Details (Items 25-27)     |  |

Utilization of Existing

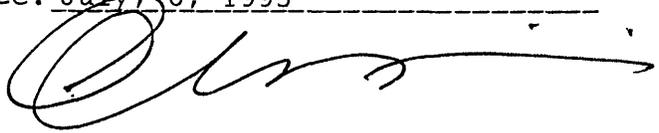
This list is provided as a guide only and is for the convenience of the Applicant. The Town of New Windsor Planning Board may require additional notes or revisions prior to granting approval.

PREPARER'S ACKNOWLEDGEMENT:

The Site Plan has been prepared in accordance with this checklist and the Town of New Windsor Ordinances, to the best of my knowledge.

By: Eugene D. Ninnie, P.E. 063877  
Licensed Professional

Date: July, 6, 1993



Containing about one (1) acre of land.

Being the <sup>same</sup> premises which were conveyed to the mortgagors by Caterina Leonardo by deed dated even date with said Mortgage.

To have and to hold the premises herein granted unto the grantee, her heirs and assigns forever. In Witness Whereof, the grantor has hereunto set hand and seal.

In presence of Beatrice I. W. Harrison  
One fifty cent stamp annexed and cancelled.

John B. Corwin, Referee L. S.

State of New York

On this 30th day of June, Nineteen

County of Orange SS

hundred and thirty three before

City of Newburgh

me the subscriber, personally

appeared John B. Corwin, as Referee, in the above mentioned foreclosure action, to me personally known, and known to me to be the same person described in, and who executed the within instrument, and he duly acknowledged to me that he executed the same as such Referee.

Beatrice I. W. Harrison, Notary Public, Orange County

A true record entered July 5, 1933 at 9 A. M.

*C. E. ...* Clerk.

This Indenture made the third day of July, nineteen hundred and thirty three between Daniel A. Decker, of the village of Walden, County of Orange and State of New York, party of the first part, and Daniel A. Decker and Ella Decker, husband and wife, both of the Village of Walden, Orange County, New York, as tenants by the entirety, parties of the second part, Witnesseth, that the party of the first part, in consideration of Ten dollars (\$10.00) lawful money of the United States, and other good and valuable considerations, paid by the parties of the second part, does hereby grant and release unto the parties of the second part, their heirs and assigns forever,

ALL that tract or parcel of land lying situate and being in the Village of Walden, County of Orange, and State of New York, being and designated as Lot Number One hundred twenty five (125) on map of lands of C. Louis Snider, made by Coldwell & Garrison, Engineers, and filed in the office of the Clerk of Orange County.

Being the same lands described and conveyed in that certain deed dated July 1, 1931 from Martin A. Noonan and Anne Noonan to Daniel A. Decker recorded in the office of the Clerk of Orange County July 3, 1931 in Liber 719 of Deeds at page 459.

Together with the appurtenances and all the estate and rights of the party of the first part in and to said premises. To have and to hold the premises herein granted unto the parties of the second part, their heirs and assigns forever. And said Daniel A. Decker covenants as follows: First. That said Daniel A. Decker is seized of said premises in fee simple, and has good right to convey the same; Second. That the parties of the second part shall quietly enjoy the said premises; Third. That the said premises are free from incumbrances;

In the presence of Geo. J. Wittmann

Frederic A. Deland L. S.

Residing at Balmville, Newburgh, N. Y.

State of New York

On this 21 day of June

County of Orange SS.

1933 before me personally

came George J. Wittman with whom I am personally acquainted, to me known and to me to be the subscribing witness to the foregoing instrument, who, being by me duly sworn, did depose and say that he resides in Newburgh, that he is personally acquainted with Frederic A. Deland and knows said person to be the person described in and who executed the foregoing instrument; that he, the said subscribing witness, was present and saw the said person execute the same and that he duly acknowledged to him, the said subscribing witness, that he executed the same and that he thereupon subscribed his name as witness thereto.

Edw. F. Dillon, Notary Public

A true record entered July 5, 1933 at 9 A. M.

*For Grant,  
see D.C.  
2228, 1933.  
133 August  
4. 1932*

This Deed, made the 30th day of June, Nineteen hundred and thirty three between John B. Corwin, of the City of Newburgh, Orange Co. N. Y., Referee duly appointed in the action hereinafter mentioned, grantor, and Caterina Leonardo, of the same place, grantee, Witnesseth, that the grantor, the referee appointed in an action between Caterina Leonardo, plaintiff, and George G. Clark, Lillian M. Clark and Albert Longinott, defendants, foreclosing a mortgage recorded on the tenth day of August, 1931, in the office of the Clerk of the County of Orange, in Liber 646 of Mortgages, at page 247, in pursuance of a judgment entered at a special term of the Supreme Court held in and for the County of Orange, at the County Court House, in the City of Newburgh, New York, on the seventh day of April 1933, and in consideration of Five hundred and 00/100 dollars (\$500.00) paid by the grantee, being the highest sum bid at the sale under said judgment, does hereby grant and convey unto the grantee,

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

BEGINNING on the west side of an elm tree standing on the south junction of the New Windsor and Blooming Grove Turnpike Road and the Clove Road at Vails Gate in said Town, and running thence along the east side of the Clove Road south forty five (45) minutes west two hundred and twenty eight (228) feet to the west face of a stone wall in the line of lands of David Scanlon; thence along said Scanlon's lands north seventy six (76) degrees thirty (30) minutes east one hundred and seventy seven (177) feet to a point in the center of a stone wall, being the southwest corner of lands of one Armstrong; thence along said Armstrong's lands north fifteen (15) degrees and fifteen (15) minutes west two hundred and thirty three (233) feet to the south line of the Turnpike aforesaid; and thence along the same south seventy six (76) degrees and thirty (30) minutes west one hundred and twenty five (125) feet to the place of beginning.

Leonardo by her heirs and assigns in hand and seal. In presence of One fifty of State of New York County of Orange City of Newburgh appeared J. to me personally who executed the

A true record

three between State of New York husband and wife by the first United States of the separate, the

Village of as Lot No. made by County of Orange Co.

dated July recorded of Deeds

the part premises assigned Daniel A. convey to the said

BOUNDARY AGREEMENT

May 4, 1982

Agreement made this 25th day of June, 1982, between  
CONSTANTINE LEONARDO, residing at 18 Oak Street, City of Newburgh,  
County of Orange, State of New York, hereinafter referred to  
as CONSTANTINE, and

SAMUEL G. LEONARDO, residing at 7 Dogwood Hills Road,  
Town of Newburgh, County of Orange, State of New York,  
hereinafter referred to as SAMUEL.

W I T N E S S E T H :

WHEREAS, Catherine Leonardo, late of the City of Newburgh,  
Orange County, State of New York, mother of the said CONSTANTINE  
and SAMUEL, owned certain real property located at Vails Gate  
in the Town of New Windsor, Orange County acquired by referee's  
deed from John Corwin dated June 3, 1933 and recorded in the  
Orange County Clerk's office on July 5, 1933 in Liber 740 cp 254,  
and

WHEREAS, the said Catherine Leonardo died on the 13th day of April, 1970 leaving a Last Will and Testament which was duly probated by the Orange County Surrogate on the 23rd day of June, 1970 and under Article Second thereof devised the said Vails Gate parcel to her surviving husband, Samuel Leonardo, Sr., for his lifetime with a remainder interest therein to CONSTANTINE and SAMUEL on the death of the said life tenant, and

WHEREAS, the said Samuel Leonardo, Sr., the surviving spouse of Catherine Leonardo, deceased, died on the 9th day of January, 1978, and

WHEREAS, the description in the said Will was not precisely set forth reference being made to the northerly portion passing to CONSTANTINE and the southerly portion passing to SAMUEL, and

LIBER 2228

133

LIBER 2228 134

93

WHEREAS, the parties hereto desire to fix and definitely establish the boundary line between the two portions so devised and owned by them.

NOW, THEREFORE, in consideration of the premises and the sum of ONE DOLLAR (\$1.00) by each of the parties hereto to the other in hand paid, receipt of which is hereby acknowledged, the parties for themselves, their distributees and personal representatives covenant and agree that the boundary line between the northerly and southerly portion of the lands owned by Catherine Leonardo and devised by her as aforesaid be established as a line described as follows:

Beginning at a point marked by an iron rod on the easterly side of New York State Route 32 south  $6^{\circ}$ ,  $32' 49''$  west 61.78 feet from the intersection of the southerly side of New York State Route 94 and the easterly side of New York State Route 32 and runs thence;

- (1) South  $76^{\circ} 15' 23''$  east a distance of 81.31 feet to an iron rod marking the southeasterly corner of the gas station parcel said course running along the division line of the premises heretofore leased to the Amerada Hess Corporation on the north and the so-called Club 32 parcel on the south and running thence;

- (2) In a generally northeasterly direction approximately 25 feet to the point formed by the intersection of a line in extension northerly of the west face of the so-called Pizza Factory addition of Samuel G. Leonardo and a line running parallel to and 6' northerly measured on the perpendicular from the north face of said addition and running thence;
- (3) In an easterly direction on a course which is parallel to and 6' northerly measured on the perpendicular from the north face of said building addition to a point in the east line of the original Catherine Leonardo parcel being land now or formerly of one Marshall.

3- 22

And CONSTANTINE remises, releases and quitclaims to SAMUEL, his distributees, personal representatives and assigns forever all of his right, title and interest in and to any of the lands lying southerly of the boundary line herein established, as above, and SAMUEL remises, releases and quitclaims to CONSTANTINE, his distributees, personal representatives and assigns forever all of his right, title and interest in and to any of the lands lying northerly of the boundary line herein established, as above, provided, however, CONSTANTINE confirms the right of SAMUEL, as a license right, to continue to use and maintain the sewer and water lines running northerly from the so-called Pizza Factory addition to Route 94 for a period of ten years from July 1, 1982 by which date SAMUEL agrees that he shall no longer have the license right to use the same and will make other arrangements for the service provided by the said lines

This agreement shall run with the title to the land and be binding upon and enure to and for the benefit of the respective distributees, personal representatives and assigns of each of the parties hereto

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

Witness:  
*Samuel G. Leonardo*

*Constantine Leonardo*  
 \_\_\_\_\_  
 CONSTANTINE LEONARDO  
*Samuel G. Leonardo*  
 \_\_\_\_\_  
 SAMUEL G. LEONARDO

STATE OF NEW YORK:  
: ss.:  
COUNTY OF ORANGE :

On the <sup>2<sup>nd</sup></sup> day of *August*, 1982, before me personally came CONSTANTINE LEONARDO, to me known to be the individual described in, and who executed the foregoing instrument, and acknowledged that he executed the same.

*Julius Larkin Hoyt*  
Notary Public JULIUS LARKIN HOYT  
NOTARY PUBLIC, State of New York  
Resident in and for Orange County  
Commission Expires March 30, 1984

STATE OF NEW YORK:  
: ss.:  
COUNTY OF ORANGE :

On the <sup>2<sup>nd</sup></sup> day of *August*, 1982, before me personally came SAMUEL G. LEONARDO, to me known to be the individual described in, and who executed the foregoing instrument, and acknowledged that he executed the same.

LIBER 2228 135

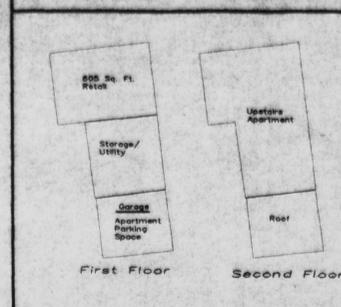
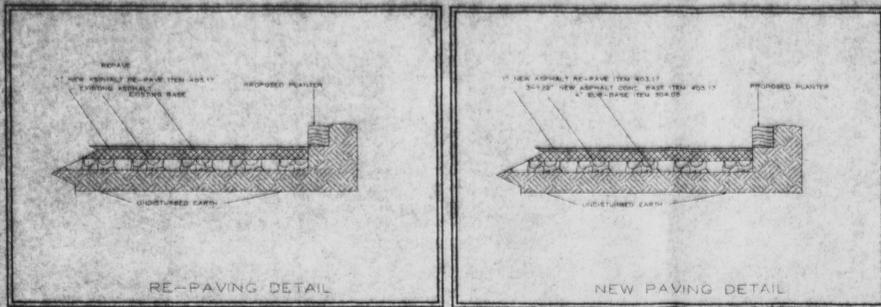
*Julius Larkin Hoyt*  
Notary Public JULIUS LARKIN HOYT  
NOTARY PUBLIC, State of New York  
Resident in and for Orange County  
Commission Expires March 30, 1984

**DETAILS**

**DIVE SHOP**

**ADJACENT PROPERTY OWNERS**

**DATA TABLE Lot #1.1**



**ADJACENT PROPERTY OWNERS**

ALBERT EDWARD BANK  
125 WINDSOR  
NEW WINDSOR, NY 12553

HOUSE OF APACHE  
125 WINDSOR  
NEW WINDSOR, NY 12553

PHILIP W AND CHRISTINA M  
125 WINDSOR  
NEW WINDSOR, NY 12553

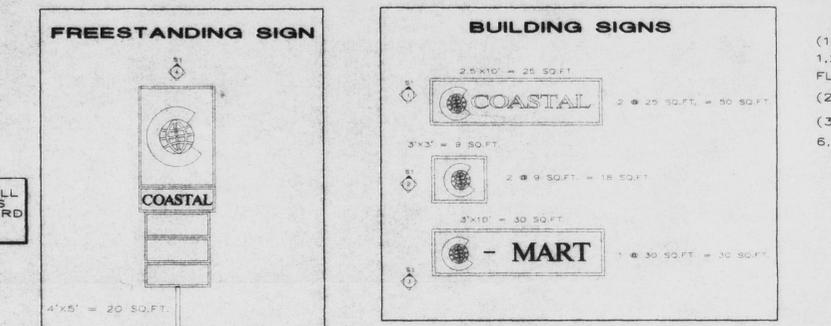
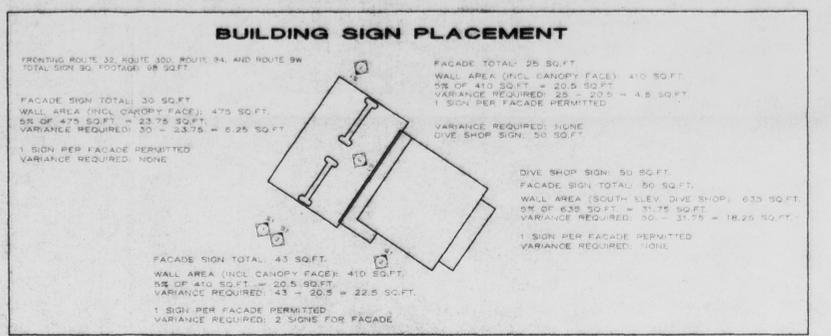
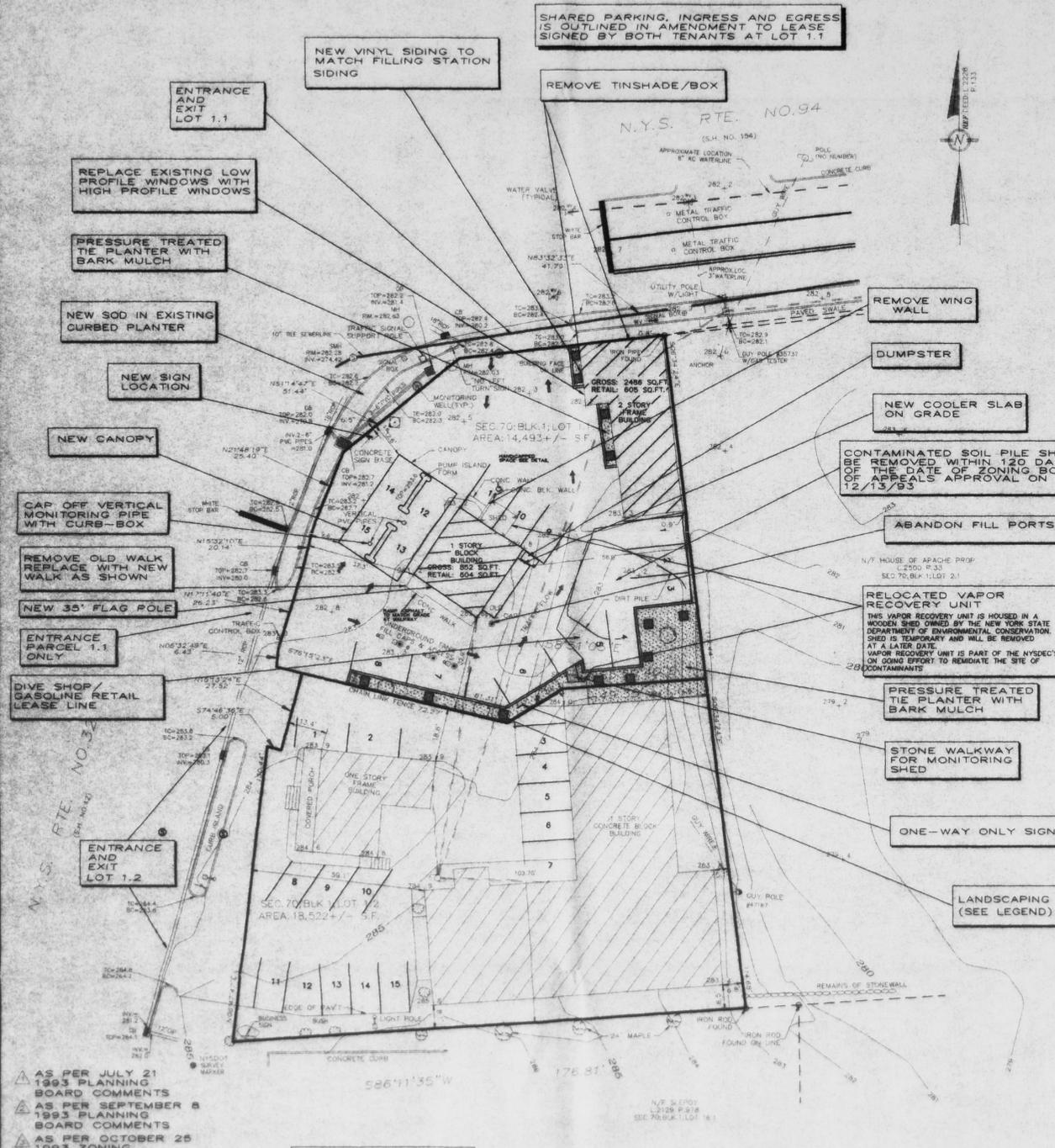
JEROME A. PRIVAVERA  
125 WINDSOR  
NEW WINDSOR, NY 12553

BRUNNEN ASSOCIATES  
725 SHAWNEE ROAD  
ROCHESTER, NY 14624

NEW YORK STATE DEPT. OF TRANS.  
OFFICE OF THE COMPTROLLER  
ALBANY OFFICE BLDG.  
ALBANY, NY 12224

C. H. HANS  
P.O. BOX 247  
VALE GATE, NY 12584

ITEM	REQUIRED	PROVIDED	GRANTED VARIANCE
MINIMUM LOT AREA	N/A	N/A	N/A
MINIMUM LOT WIDTH	200 FEET	108 FEET	92 FEET
REQUIRED FRONT YARD	60 FEET	9.60 FEET	50.4 FEET
REQUIRED SIDE YARD	N/A	N/A	N/A
REQUIRED REAR YARD	30 FEET	56.0 FEET	-----
REQUIRED TOTAL SIDE YARD	N/A	N/A	N/A
REQUIRED FRONTAGE	N/A	N/A	N/A
MAXIMUM BUILDING HEIGHT	3.2 FEET	22 FEET	18.80 FEET
MINIMUM LIVABLE AREA	N/A	N/A	N/A
DEVELOPMENTAL COVERAGE	N/A	N/A	N/A
FLOOR AREA RATIO (FAR)	5	2851	-----
PARKING (1 SPACE/150 SQ.FT. RETAIL)	11 SPACES (1)	11 SPACES	-----
FREESTANDING SIGNAGE SQ.FT.	40 SQ.FT.	96 SQ.FT.	56 SQ.FT.
FREESTANDING SIGNAGE SETBACK	15 FEET	6.5 INCHES	14.45 FEET
FREESTANDING SIGNAGE HEIGHT	15 FEET	19 FEET	4 FEET

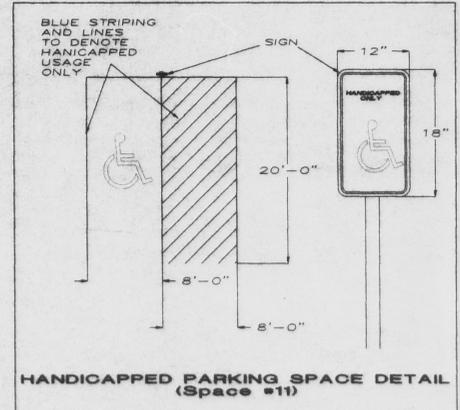
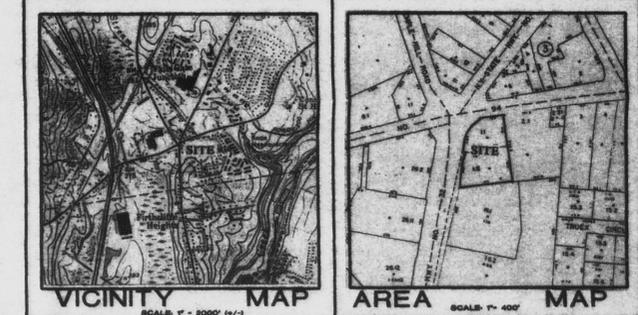


ITEM	EXISTING	PROPOSED
GASOLINE FILLING GROSS SQ.FT.	745 SQ.FT.	1,740 SQ.FT. (2)
GASOLINE FILLING/RETAIL SQ.FT.	225 SQ.FT.	604 SQ.FT.
DIVE SHOP BUILDING GROSS SQ.FT.	2486 SQ.FT.	2486 SQ.FT.
DIVE SHOP BUILDING RETAIL SQ.FT.	605 SQ.FT.	605 SQ.FT.
ITEM	EXISTING	PROPOSED
SITE BUILDING COVERAGE	2,165 SQ.FT.	3,160 SQ.FT.
BUILDING COVERAGE (% OF TOTAL AREA)	14.61%	21.32%
PAVEMENT COVERAGE	5,587 SQ.FT.	6,083 SQ.FT. (3)
PAVEMENT COVERAGE (% OF TOTAL AREA)	37.70%	70.54%
OPEN SPACE (NOT BLDG OR PAVEMENT)	7,069 SQ.FT.	2,095 SQ.FT.
OPEN SPACE (% OF TOTAL AREA)	47.70%	14.15%

(1) TOTAL RETAIL SPACE FROM DIVE SHOP AND PROPOSED USE CHANGE: 1,209 SQ.FT. / 150 SQ.FT. PER SPACE = 8.06 SPACES + 2 SPACES FOR SECOND FLOOR APARTMENT IN DIVE SHOP = 11 SPACES

(2) 852 BUILDING + 888 CANOPY

(3) INCLUDES PAVEMENT UNDER CANOPY AT 888 SQ.FT. (repave) 6,084 REPAVE + 1,711 NEW PAVEMENT



**LEGEND**

- PROPOSED TREE MIN 3" CALIPER (Honey Locust)
- PROPOSED BUSH MIN 2" DIAMETER (English Yew)
- HANDICAPPED SPACE
- TRAFFIC FLOW
- ELECTRICAL PULL BOX
- GUY/SUPPORT POLE
- UTILITY POLE
- SEWER MANHOLE
- EXISTING WATER VALVE
- TRAFFIC CONTROL BOX
- EXISTING CURB BASIN
- SPOT ELEVATION
- EXISTING SITE LIGHTING
- PETROLEUM FILL PORT
- EXISTING MONITORING WELL

**ZBA APPROVALS**  
( VARIANCES GRANTED ON 12/13/93 )

**TOWN OF NEW WINDSOR PLANNING BOARD APPROVAL**

SITE PLAN APPROVAL GRANTED BY TOWN OF NEW WINDSOR PLANNING BOARD ON **MAR 2 1994**

BY: **GARBER R. DUBALDI, JR.** SECRETARY

**OWNERS CERTIFICATION**

THE UNDERSIGNED, OWNER OF THE PROPERTY HEREON, STATES THAT HE/SHE IS FAMILIAR WITH THIS MAP, ITS CONTENTS AND ITS LEGENDS, AND HEREBY CONSENTS TO ALL SAID TERMS AND CONDITIONS AS STATED HEREON, AND TO THE FILING OF THIS MAP, SIGNED THE DAY OF **July 14 1994**

BY: **Constantine Leonardo**

**SURVEYOR'S CERTIFICATION**

I HEREBY CERTIFY TO SAMUEL LEONARDO AND CONSTANTINE LEONARDO THAT THIS PLAN RESULTED FROM AN ACTUAL FIELD SURVEY OF THE INDICATED PREMISES COMPLETED ON **28 AUGUST 1993** PERFORMED IN ACCORDANCE WITH THE CODE OF PRACTICE ADOPTED BY THE NEW YORK STATE ASSOCIATION OF PROFESSIONAL LAND SURVEYORS, INC. AND IS TO THE BEST OF MY KNOWLEDGE AND BELIEF CORRECT.

BY: **WILLIAM B. HILDRETH, L.S.**

AS PER JULY 21 1993 PLANNING BOARD COMMENTS

AS PER SEPTEMBER 8 1993 PLANNING BOARD COMMENTS

AS PER OCTOBER 25 1993 ZONING BOARD COMMENTS

AS PER NOVEMBER 1 1993 MEETING OF ZONING BOARD ATTORNEY, TOWN ENGINEER AND BUILDING INSPECTOR

AS PER NOVEMBER 8 1993 MEETING OF ZONING BOARD AND VARIOUS CORRESPONDENCE RELATED TO SITE

VARIANCES GRANTED BY ZONING BOARD OF APPEALS 12/13/93 MEETING

AND SITE PLAN CHANGES AS PER TOWN ENGINEER COMMENTS

PLANNING BOARD APPROVAL CONTINGENT UPON MISC. ITEMS 12/22/95

APPLICANT:  
**MR. CONSTANTINE LEONARDO**  
18 OAK STREET  
NEWBURGH, NY 12550

**SITE PLAN**  
**PROPOSED USE OF PARCEL 70-1-1.1**  
**TOWN OF NEW WINDSOR, COUNTY OF ORANGE**

SCALE: 1"=20'



**TOWN OF NEW WINDSOR PLANNING BOARD APPROVAL**

SITE PLAN APPROVAL GRANTED BY TOWN OF NEW WINDSOR PLANNING BOARD ON **MAR 2 1994**

BY: **GARBER R. DUBALDI, JR.** SECRETARY

**Grevas & Hildreth P.C.**  
LAND SURVEYORS  
33 OASSAUX AVENUE, NEW WINDSOR, NEW YORK 12553  
TEL: (518) 562-5867

**CIVIL TECHNOLOGIES**  
S.O.P. ENGINEERING  
CONSTRUCTION - ENGINEERING

ONE - ARCHITECTURAL - STRUCTURAL - HYDRAULIC  
PROFESSIONAL ENGINEERS  
ROUTE 50 WASHINGTON FALLS, NEW YORK 12553  
(518) 562-5867

SITE PLAN FOR CONSTANTINE LEONARDO  
PROPOSED SITE IMPROVEMENTS (1)

DATE: 12-15-93  
DRAWN BY: M.D.C.  
CHECKED BY: E.D.A.  
PROJECT NO: 12553  
SHEET NO: S-1