



Orange County Department of Planning
Application for Mandatory County Review of Local Planning Action
(Variances, Zone Changes, Special Permits, Subdivisions)

To be completed by Local Board having jurisdiction.
To be signed by Local Official.

TONZBA Town of Newburgh
MUNICIPALITY: Zoning Board of Appeals

TAX MAP ID: 60-3-40.2
(Section-Block-Lot)

Local File #: P.B. Referral

Project Name:

Applicant: Gas Development Lease LLC

Address: 140 Boxwood Lane Bridgewater, MA 02324

Attorney, Engineer, Architect: LANGANI - New Haven CT

Location of Site: 1413 Route 300 Meadow Hill Rd - I-84
(Street, highway, nearest intersection)

Size of Parcel: 3 acres Existing Lots: Proposed Lots/Units

Present Zoning District: IB

TYPE OF REVIEW:

Special Use Permit\* (SUP):

Variance\* USE (VU):
AREA (AV): within 1000' of existing gasoline station, requires 200' separation from public assembly, maximum allowed signage

Zone Change\* FROM: TO: SIGNAGE

Zoning Amendment\*\* To Section:

Subdivision Major Minor

Sketch Preliminary Final

DATE: 4/20/12

Shane Cardone

CHAIRPERSON, ZONING BOARD OF APPEALS
Signature and Title

\*Cite Section of Zoning Regulations where pertinent.

FOR COUNTY USE ONLY
County ID #

GERALD N. JACOBOWITZ  
DAVID B. GUBITS  
JOHN H. THOMAS JR.  
GERALD A. LENNON  
PETER R. ERIKSEN  
HOWARD PROTTER  
DONALD G. NICHOL  
LARRY WOLINSKY  
ROBERT E. DINARDO  
J. BENJAMIN GAILEY  
MARK A. KROHN\*  
JOHN C. CAPPELLO  
GEORGE W. LITHCO  
MICHELE L. BABCOCK  
\* L.L.M. IN TAXATION

## JACOBOWITZ AND GUBITS, LLP

### COUNSELORS AT LAW

158 ORANGE AVENUE  
POST OFFICE BOX 367  
WALDEN, NEW YORK 12586-0367

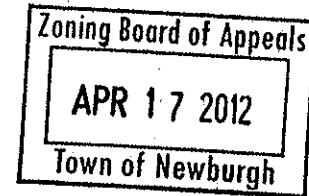
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SANFORD R. ALTMAN  
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MICHAEL L. FOX  
ELIZABETH K. CASSIDY  
MARCIA A. JACOBOWITZ  
F. BRYAN PAZ  
CARMEE G. MURPHY\*\*  
\*\*OF COUNSEL

April 16, 2012

Hon. Grace Cardone, Chair and Zoning Board of Appeals  
Town of Newburgh  
1469 Route 300  
Newburgh, New York 12550



Re: Route 300 Center  
Area Variance Application (Revised)  
Our File No. 10517-001

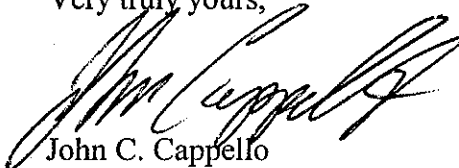
Dear Hon. Chair Cardone and ZBA Members:

Enclosed please find one original set and ten sets of copies the following revised documents constituting the application of Gas Development Lease, LLC seeking an area variance to construct a 10-position gasoline fueling facility and a 116 square foot attended kiosk at property located at 1413 Route 300. This gasoline fueling station will be less than 1,000 feet from an existing gasoline dispensing facility. The applicant is also requesting an area variance from the square footage requirements for signage for the gas dispensing facility and the other use proposed for this property.

1. Completed and signed application to the Zoning Board of Appeals with Addendum.
2. Check in the amount of \$200.00 representing the application fee. (Submitted April 9, 2012).
3. A copy of letter from Planning Board Attorney Michael Donnelly referring this matter to the ZBA for area variances requested.
4. Certified copy of the deed for this property.
5. Assessor's list of property owners within 300 feet of the property.
6. Completed Short Environmental Assessment Form Part I discussing and incorporating the Full Environmental Assessment Form submitted to the Town of Newburgh Planning Board to accompany the site plan approval.
7. Completed Proxy Statement from the property owner authorizing the applicant to make the application and completed proxies from the applicant authorizing Jacobowitz and Gubits, LLP, and Lisa Davis Associates to represent the applicant at the ZBA meetings.
8. Eleven (11) copies of the plot plan (site plan).
9. Photos of the site.

I respectfully request that the Zoning Board of Appeals place this matter on its next available agenda to hear the appeal for the variance. I look forward to processing this application with your Board.

Very truly yours,



John C. Cappello

Enclosures

cc: Gas Development Lease, LLC  
(140 Boxwood Lane, Bridgewater, MA 02324)  
Lisa Davis, AICP  
Timothy Onderko

# TOWN OF NEWBURGH

*Crossroads of the Northeast*

ZONING BOARD OF APPEALS  
OLD TOWN HALL  
308 GARDNERTOWN ROAD  
NEWBURGH, NEW YORK 12550

OFFICE OF ZONING BOARD  
(845) 366-4901

## APPLICATION

DATED: April 12, 2012

TO: THE ZONING BOARD OF APPEALS  
THE TOWN OF NEWBURGH, NEW YORK 12550

I (~~WE~~) Gas Development Lease, LLC PRESENTLY located  
RESIDING AT NUMBER 140 Boxwood Lane, Bridgewater, MA 02324  
TELEPHONE NUMBER 617-877-3411

HEREBY MAKE APPLICATION TO THE ZONING BOARD OF APPEALS FOR  
THE FOLLOWING:

- A USE VARIANCE
- AN AREA VARIANCE
- INTERPRETATION OF THE ORDINANCE

1. LOCATION OF THE PROPERTY:

Sec. 60, Bl.3, Lot 40.2 (TAX MAP DESIGNATION)

1413 Route 300 (STREET ADDRESS)

IB (ZONING DISTRICT)

2. PROVISION OF THE ZONING LAW APPLICABLE, (INDICATE THE SECTION AND SUBSECTION OF THE ZONING LAW APPLICABLE BY NUMBER; DO NOT QUOTE THE LAW).

Section 185-286 and  
Section 185-14B (1) (c)

3. IF VARIANCE TO THE ZONING LAW IS REQUESTED:

- a) APPEAL IS MADE FROM DISAPPROVAL BY THE TOWN BUILDING INSPECTOR OR BUILDING PERMIT APPLICATION. SEE ACCOMPANYING NOTICE DATED: \_\_\_\_\_
- b) OR DENIAL (REFERRAL) BY THE PLANNING BOARD OF THE TOWN OF NEWBURGH OF AN APPLICATION TO THE BOARD, SEE ACCOMPANYING NOTICE DATED: April 3, 2012

4. DESCRIPTION OF VARIANCE SOUGHT: See Addendum

\_\_\_\_\_

5. IF A USE VARIANCE IS REQUESTED: STRICT APPLICATION OF THE ZONING LAW WOULD PRODUCE UNNECESSARY HARDSHIP IN THAT:

N/A

- a) UNDER APPLICABLE ZONING REGULATIONS THE APPLICANT IS DEPRIVED OF ALL ECONOMIC USE OR BENEFIT FROM THE PROPERTY IN QUESTION BECAUSE:

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

**(ATTACH WITH THIS APPLICATION COMPETENT FINANCIAL EVIDENCE ESTABLISHING SUCH DEPRIVATION)**

- b) THE HARDSHIP IS UNIQUE AND DOES NOT APPLY TO A SUBSTANTIAL PORTION OF THE DISTRICT OR NEIGHBORHOOD BECAUSE:

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

- c) THE VARIANCE WOULD NOT ALTER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD BECAUSE:

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

d) THE HARDSHIP HAS NOT BEEN SELF-CREATED BECAUSE:

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6. IF AN AREA VARIANCE IS REQUESTED: Refer to attached addendum

a) THE VARIANCE WILL NOT PRODUCE AN UNDESIRABLE CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD OR A DETRIMENT TO NEARBY PROPERTIES BECAUSE:

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b) THE BENEFIT SOUGHT BY THE APPLICANT CAN NOT BE ACHIEVED BY SOME METHOD, FEASIBLE FOR THE APPLICANT TO PURSUE, OTHER THAN AN AREA VARIANCE, BECAUSE:

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c) THE REQUESTED AREA VARIANCE IS NOT SUBSTANTIAL BECAUSE:

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d) THE PROPOSED VARIANCE WILL NOT HAVE AN ADVERSE EFFECT OR IMPACT ON THE PHYSICAL OR ENVIRONMENTAL CONDITIONS IN THE NEIGHBORHOOD OR DISTRICT BECAUSE:

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e) THE HARDSHIP HAS NOT BEEN SELF CREATED BECAUSE:

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7. ADDITIONAL REASONS (IF PERTINENT):

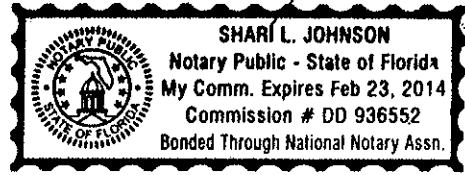
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[Handwritten Signature]*  
\_\_\_\_\_  
PETITIONER (S) SIGNATURE

*Florida*                      *Lee County*  
STATE OF ~~NEW YORK~~: COUNTY OR ~~ORANGE~~:

SWORN TO THIS 13<sup>th</sup> DAY OF April 2012

*[Handwritten Signature]*  
\_\_\_\_\_  
NOTARY PUBLIC



NOTE: NYS GML Section 239-m (3) for proposed actions that are within 500 feet of the properties or thresholds listed in the statute the Zoning Board of Appeals is required to send a copy of the complete application to the Orange County Department of Planning to be reviewed prior to Zoning Board of Appeals decision. And also NYS GML Section 239-NN requires notification for any proposed actions, to the Municipal Clerk, within 500 feet of the Border of that adjoining County, Town or City.

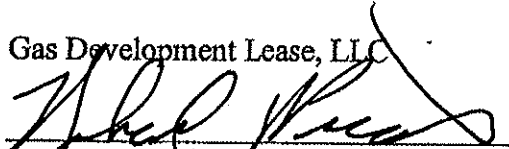
TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS

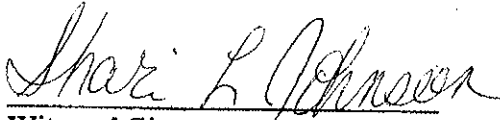
PROXY

Rick Picariello, as Manager of Gas Development Lease, LLC, deposes and says that the address of the LLC is 140 Boxwood Lane, Bridgewater, MA, 02324 in the State of Massachusetts and that he is the contractor vendee of 1413 Route 300, Tax Map parcels Section 60 Block 3 Lots 40.2, which is the premises described in the foregoing application and that he has authorized Lisa Davis Associates, to make the foregoing application as described therein.

Date: April 13, 2012

Gas Development Lease, LLC

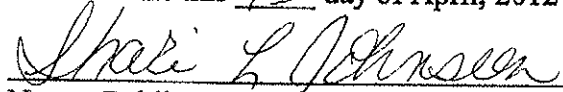
  
Rick Picariello, Manager

  
Witness' Signature

FL  
State of ~~New York~~ )  
Lee )  
County of ~~Orange~~ )

ss.:

Sworn to me this 13 day of April, 2012

  
Notary Public





TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS

PROXY

Rick Picariello, as Manager of Gas Development Lease, LLC, deposes and says that the address of the LLC is 140 Boxwood Lane, Bridgewater, MA, 02324 in the State of Massachusetts and that he is the contractor vendee of 1413 Route 300, Tax Map parcels Section 60 Block 3 Lots 40.2, which is the premises described in the foregoing application and that he has authorized Jacobowitz and Gubits, LLP, to make the foregoing application as described therein.

Date: April 13, 2012

Gas Development Lease, LLC

[Signature]  
Rick Picariello, Manager

[Signature]  
Witness' Signature



~~State of New York~~ )  
FL )  
~~County of Orange~~ )

ss.:

Sworn to me this 13 day of April, 2012

[Signature]  
Notary Public

TOWN OF NEWBURGH  
ZONING BOARD OF APPEALS

PROXY

Richard Lease, as a Member of JR & Ray, LLC, deposes and says that the address of the LLC is 5020 Route 9W, Newburgh, New York, 12550 in the County of Orange and State of New York and that he is the owner in fee of 1413 Route 300, Tax Map parcels Section 60 Block 3 Lots 40.2, which is the premises described in the foregoing application and that J\$ & Ray, LLC entered into a contract on a contingency basis with Gas Development Lease, LLC, and, authorizes Gas Development Lease, LLC and GD Lease, LLC to make the foregoing application as described therein.

Date: April 16 2012

JR & Ray, LLC

Richard Lease  
Richard Lease, Member

Dennis Barr  
Witness' Signature

State of New York )

ss.:

County of Orange )

Sworn to me this 16 day of April, 2012

[Signature]  
Notary Public

Kenneth W. Davies Jr.  
Notary Public, State of New York  
No. 01DA4628056  
Qualified in Orange County  
Expires 12/31 14

**Addendum  
Route 300 Center  
1413 Union Avenue (NYS Route 300)  
Town of Newburgh  
Tax Map Section 60, Block 3, Lots 40 and 41.22**

**Project Description**

The subject site is located at 1413 Union Avenue, a/k/a New York State Route 300, contains 3.03 acres, is zoned IB (Interchange Business) and is currently occupied by two (2) vacant buildings of approximately 9,500 square feet and 1,000 square feet. The larger of the two (2) buildings was historically used as a trucking terminal and warehouse facility. The smaller building was historically used as a maintenance garage. There is evidence that near the maintenance garage there was at one time a gas dispensing facility where trucks utilizing the facility could gas up. In addition to the presence of the existing buildings, the site is covered in concrete truck pads, asphalt paving and gravel parking areas.

The development plan for this site includes the construction of three (3) new buildings; a 10 position fueling facility with a 116 square foot attendant kiosk operated by the Stop & Shop Supermarket Company, a Somerset Tire Service Center with a building footprint of 5,000 square feet and a credit union/bank with a footprint of 6,950 square feet with two(2) driving lanes. On site parking will be provided for 97 vehicles.

The site is currently accessed by two (2) existing curb cuts on Union Avenue with widths of 67 feet and 27 feet. These curbs will be closed and a new curb cut built to New York State DOT standards with New York State DOT approval is proposed to align with the existing driveways that serve the Dunkin Donuts and Auto Zone Shopping Center located on the opposite side of Route 300.

**I. Area Variance – Town of Newburgh Code §185-28G**

Town of Newburgh Zoning Code Supplementary Use Requirements provide that no establishment dispensing gasoline shall be permitted to be established within 1,000 feet of any direction from a lot on which there is an existing establishment dispensing gasoline.

The proposed Stop and Shop fueling facility is located approximately 400 feet in distance from an existing Mobile Station located on the corner of New York State Route 300 and Meadow Hill Road.

For the reasons set forth below the benefit to the applicant in being able to develop a Stop & Shop fueling facility located in the general vicinity of the existing Stop & Shop Supermarket therefore readily available to Stop & Shop customers to utilize their gas rewards points from shopping Stop & Shop greatly outweighs any perceived detriment to the area or neighborhood in relation to granting authorization for this fueling facility to be located within 400 feet of an

existing gas dispensing facility.

- A. The variance, if granted, will not produce an undesirable change to the character of the neighborhood or a detriment to nearby properties.

**Discussion.**

The area surrounding the proposed facility is developed almost exclusively commercial containing a large retail shopping mall immediately adjoining the facility, a number of car service places, restaurants, banks, movie theaters and other retail service facilities. The current facility which was a truck warehouse and distribution center has remained vacant and abandoned for several years. Upgrading the facility pursuant to Town of Newburgh Planning Board site plan review to provide viable retail use of the site will be an improvement on the character of the neighborhood. Additionally, providing Town of Newburgh and area residents the opportunity to shop at the Stop & Shop Supermarket and earn points that can be used to reduce the cost of gasoline dispensed at the Stop & Shop gas facility will provide a great benefit to area residents given the current escalating price of gasoline.

- B. The benefits sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue other than an area variance.

**Discussion.**

It is important that the Stop & Shop fueling facility be located in the general vicinity of the existing Stop & Shop Supermarket. Stop & Shop does not have the room available to construct a fueling facility on its Route 300 site. The area surrounding the Route 300 corridor is already substantially developed. The only available viable lot in the vicinity of the Stop & Shop Supermarket is the current lot proposed which houses an abandoned trucking warehouse facility which is currently out of character with the development pattern of the rest of the area. Therefore, the only lot feasible for Stop & Shop to be able to offer the gas dispensing services is the lot proposed.

- C. The requested area variance is not substantial.

**Discussion.**

Although the lot line for the proposed Stop & Shop fueling facility is located only 400 feet from an existing facility, it is important to take into account that this trucking facility historically did dispense gas to the trucks it repaired. The gas dispensing facilities themselves will be modern state of the art facilities subject to meeting all New York State DEC, Federal and local regulations. The layout of the lot and traffic flow will be fully reviewed by the Town of Newburgh Planning Board and its planning and traffic consultants. Given the facts, the variance while it may appear to be mathematically

substantial should not outweigh the numerous benefits associated with locating a Stop & Shop gas dispensing facility on this site.

- D. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district.

**Discussion.**

The area surrounding the proposed gas dispensing facility is highly developed. The great likelihood is that customers utilizing this facility will be people who have just completed shopping at Stop & Shop, the Newburgh Mall or for other area stores. Therefore, this facility will not generate a large amount of additional traffic that would have not been in this area already. Additionally, the historic use of this facility as a trucking facility and warehouse with large trucks entering in and out of the site would have a much greater impact on the area due to the character of the area as a high traffic commercial development. Having large tractor trailers turning in and out of the site during high traffic times would have a much greater impact on the area than the facility proposed. A full landscaping plan will be provided with the site plan to be reviewed by the Planning Board. Additionally, a Full Environmental review is being undertaken by the Planning Board which will address all potential environmental impacts associated with this development.

- E. While the hardship has technically been self-created, this in and of itself is not a reason for denial of the application.

**Discussion.**

As stated above, this lot is the only viable lot in the vicinity of the Stop & Shop Supermarket that would accommodate a Stop & Shop fueling facility. While the developers entered into a contract with knowledge of the restriction on traffic, this restriction is a unique restriction that could be considered a restraint on trade. However, in an area variance the fact that a hardship has been self-created does not in and of itself preclude the granting of the variance.

For all the other reasons stated above, the benefit to the applicant in being able to provide a Stop & Shop gas facility and the benefit to the area residents to be able to use credits earned at the Stop & Shop Supermarket to lower the price of gas greatly outweighs any perceived detriment of having two (2) gas dispensing facilities located within less than 1,000 feet from each other.

**II. Area Variance - Related to Signage.**

The applicant is pursuing an area variance from Town's limitation on square footage on signage, which is presently based upon road frontage. Based upon this analysis, 144 square

footage of signage would be available for the Stop and Shop gas facility, the Somerset Tire facility and a potential bank/credit union.

The Town of Newburgh's ordinance as currently drafted tends to discourage a shopping center as proposed with multiple stores and interior access to and from each of the stores. Instead the current law seeks to encourage strip malls. The Town's Comprehensive Plan recommends that the Town consider amending its sign ordinance to base signage and overall square footage versus street frontage. However, the Town Board has not yet at this time taken action to consider and implement all the recommendation contained in the Comprehensive Plan. Due to the needs of the national tenants committed to this site, the applicant cannot delay this process.

A detailed sign proposal is being submitted to the Planning Board as part of the site plan application. This proposal provides that based upon industry standards and the needs of the proposed tenants approximately 520 square footage of total signage would be needed as follows:

1. Freestanding sign on Route 300 advertising all three (3) tenants, 240 square feet (120 square feet per face).
2. Signage for the Stop and Shop fueling facility, 85 square feet.
3. Signage for Somerset Tire facility, 135 square feet.
4. Signage for Credit Union/bank, 60 square feet.
5. Total signage requested 520 square feet.

Based upon the above, and for the reasons set forth below, the benefit to the applicant in being able to develop its shopping center with a limit on signage of 520 square feet clearly outweighs any perceived detriment to the area or neighborhood in relation to such grant for the following reasons:

- A. The variance if granted will not produce an undesirable change to the character of the neighborhood or a detriment to nearby properties.

**Discussion.**

The signage proposed for this shopping center is consistent with the signage provided at most similar facilities located within the Town of Newburgh. The overall aesthetics of the site will be part of the Planning Board's site plan review and the applicant will comply with any reasonable request of the Town to make sure the site is developed in an attractive manner consistent with the character of the development in the Town.

- B. The benefits sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue other than an area variance.

**Discussion.**

The only other feasible method to develop the site with the necessary signage facilities to support and the cost of demolition of the existing trucking warehouse and redevelopment of the site would be to create additional roadways to increase the amount of allowable square footage to the sign. It would be impossible to obtain the types of tenants necessary to support this redevelopment without meeting the requirement for signage and visibility.

- C. The requested area variance is not substantial.

**Discussion.**

Although it may seem that the applicant is requesting a large variance, in reality and as will be demonstrated at the public hearing, the proposed signage for the site is consistent with signage provided at many of the major developments nationwide, within Orange County and the Town of Newburgh itself. Further, as stated above, the Town of Newburgh has acknowledged in its proposed Comprehensive Plan the need to consider amending its signage to reflect the needs of development occurring within the Town. Finally, while not technically a public road, this property does adjoin the parking lot and driving aisle for the Newburgh Mall. If this publically utilized access way were considered as street frontage, the allowable signage for the site would be increased from 144 square feet to 534 square feet. This would be sufficient to satisfy the signage demands of the shopping center and eliminate the need for the sign variance.

- D. The proposed variance will not have adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

**Discussion.**

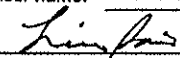
The signage proposal accompanying this application details the amount and types of signage proposed for this development. The signage as proposed is reasonable in light of the size of the development and the need to identify the tenants in the center. Further, this variance, if granted, would create a positive impact on the physical and environmental conditions of the area since it will facilitate the demolition of an existing blight and allow the redevelopment of a site which has been vacant and abandoned and is now out of character with the development pattern for the area.

- E. While the hardship is technically been self-created, this in and of itself should not preclude the granting of an area variance.

For all the reason set forth above, the benefit to the application in granting of the requested variances greatly outweighs any perceived detriment to the area or neighborhood associated with the granting of these two variances.

**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 Gas Development Lease LLC	2. PROJECT NAME Route 300 Center
3. PROJECT LOCATION: Municipality <u>Town of Newburgh</u> County <u>Orange</u>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) <u>1413 Union Avenue (Route 300)</u>	
5. PROPOSED ACTION IS: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: Proposed Action is the construction of 3 new building to include a 10 position fueling facility with a 116 sf kiosk; a 5,000 sf tire service center; a 6,950 sf credit union bank 2 drive thru lanes; and 98 on site parking spaces. Area variances are sought to permit the fueling facility to be within a 1,000 feet of an existing gasoline station and from the Town;s limitation on square footage on signage	
7. AMOUNT OF LAND AFFECTED: Initially <u>3.03</u> acres <u>3.03</u> acres    Ultimately <u>3.03</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If No, describe briefly <u>Two area variances are requested.</u>	
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: <u>Site was previously used as an industrial site. Surrounding area is largely commercial and includes several shopping centers and numerous retail facilities.</u>	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No    If Yes, list agency(s) name and permit/approvals: <u>Site Plan approval, Town of Newburgh Planning Board</u> <u>Highway Access Permit, NYS DOT</u>	
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(s) name and permit/approvals:	
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: <u>Lisa Davis c/o Gas Development Lease LLC</u> Date: <u>April 4, 2012</u> Signature: <u></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**



**PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)**

<p>A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? <span style="float: right;">If yes, coordinate the review process and use the FULL EAF.</span></p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? <span style="float: right;">If No, a negative declaration may be superseded by another involved agency.</span></p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)</p> <p>C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:</p> <p>_____</p> <p>C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:</p> <p>_____</p> <p>C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:</p> <p>_____</p> <p>C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:</p> <p>_____</p> <p>C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:</p> <p>_____</p> <p>C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:</p> <p>_____</p> <p>C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly:</p> <p>_____</p>
<p>D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <span style="float: right;">If Yes, explain briefly:</span></p> <p>_____</p>
<p>E. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <span style="float: right;">If Yes, explain briefly:</span></p> <p>_____</p>

**PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)**

**INSTRUCTIONS:** For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question D of Part II was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

<p><input type="checkbox"/> Check this box if you have identified one or more potentially large or significant adverse impacts which <b>MAY</b> occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.</p>	
<p><input type="checkbox"/> Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action <b>WILL NOT</b> result in any significant adverse environmental impacts <b>AND</b> provide, on attachments as necessary, the reasons supporting this determination.</p>	
<p>Town of Newburgh Zoning Board of Appeals</p> <p>_____</p> <p style="text-align: center;">Name of Lead Agency</p>	<p>April 4, 2012</p> <p>_____</p> <p style="text-align: center;">Date</p>
<p>Grace Cardone</p> <p>_____</p> <p style="text-align: center;">Print or Type Name of Responsible Officer in Lead Agency</p>	<p>Chairperson</p> <p>_____</p> <p style="text-align: center;">Title of Responsible Officer</p>
<p>_____</p> <p style="text-align: center;">Signature of Responsible Officer in Lead Agency</p>	<p>_____</p> <p style="text-align: center;">Signature of Preparer (If different from responsible officer)</p>



***Dickover, Donnelly, Donovan & Biagi, LLP***  
**Attorneys and Counselors at Law**

**James B. Biagi**  
**David A. Donovan**  
**Michael H. Donnelly**  
**Robert J. Dickover**

**28 Bruen Place**  
**P.O. Box 610**  
**Goshen, NY 10924**  
**Phone (845) 294-9447**  
mail@dddnlaw.com  
**Fax (845) 294-6553**  
*(Not for Service of Process)*

Successor Law Firm To:  
Alexander Appelbaum, P.C., Florida, N.Y. (1915-1988)  
Ludmerer & Vumo, Esqs., Warwick, N.Y.

April 3, 2012

Town of Newburgh  
Zoning Board of Appeals  
308 Gardnertown Road  
Newburgh, New York 12550

RE: Route 300 Center  
60-3-40 & 41.22 (Zone IB)  
1413 Route 300 (12.05)

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Members of the Board:

I write to you as the attorney for the Town of Newburgh Planning Board. The above referenced applicant has applied to the planning board for approval of a site plan and ARB allowing it to operate a gas station, supermarket and bank. An area variance is required because the gas station is proposed to be constructed within 1,000 feet of another existing gasoline station. In addition, the proposed site may be within 200 feet a place of public assembly. Therefore, I now write on behalf of the planning board to refer this matter to you for consideration of a variance from the 1,000-foot separation requirement (to another gasoline service station) of the zoning chapter and possibly for a variance from the 200-foot separation requirement (to a place of public assembly) of the zoning chapter. The applicant will also need sign variances.

Very truly yours,



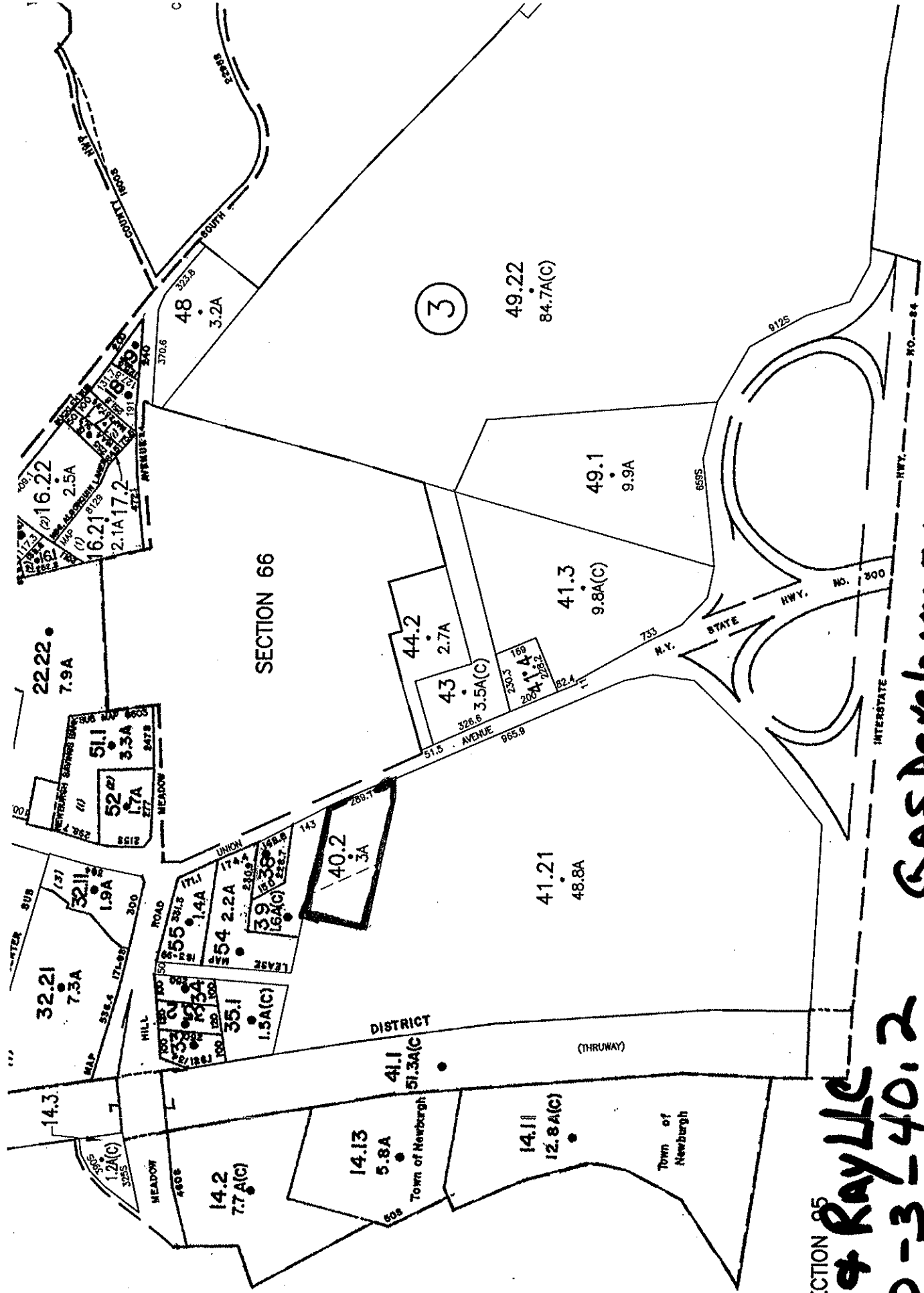
MICHAEL H. DONNELLY

MHD/lrm

cc: Town of Newburgh Planning Board  
308 Gardnertown Road  
Newburgh, NY 12550

Tilford Stiteler  
Code Compliance  
308 Gardnertown Road  
Newburgh, NY 12550

John C. Cappello, Esq.  
Jacobowitz & Gubits, LLP  
P.O. Box 367  
Walden, NY 12586



SECTION 95

**JR & Ray LLC**  
**1413 - 3 - 40.2**  
**Route 300**

**GAS Development Lease LLC**

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE

THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE

TYPE IN BLACK INK:
NAME(S) OF PARTY(S) TO DOCUMENT

JR & RAY LLC
TO
JR & RAY LLC

SECTION 60 BLOCK 3 LOT 40 & 41.22

RECORD AND RETURN TO:
(name and address)

DRAKE, LOEB, HELLER, KENNEDY,
GOGERTY, GABA & RODD PLLC
555 Hudson Valley Avenue
Suite 100
New Windsor, New York 12553



THIS IS PAGE ONE OF THE RECORDING

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

DO NOT WRITE BELOW THIS LINE

INSTRUMENT TYPE: DEED MORTGAGE SATISFACTION ASSIGNMENT OTHER

PROPERTY LOCATION

- 2089 BLOOMING GROVE (TN)
2001 WASHINGTONVILLE (VLG)
2289 CHESTER (TN)
2201 CHESTER (VLG)
2489 CORNWALL (TN)
2401 CORNWALL (VLG)
2600 CRAWFORD (TN)
2800 DEERPARK (TN)
3089 GOSHEN (TN)
3001 GOSHEN (VLG)
3003 FLORIDA (VLG)
3005 CHESTER (VLG)
3200 GREENVILLE (TN)
3489 HAMPTONBURGH (TN)
3401 MAYBROOK (VLG)
3689 HIGHLANDS (TN)
3601 HIGHLAND FALLS (VLG)
3889 MINISINK (TN)
3801 UNIONVILLE (VLG)
4089 MONROE (TN)
4001 MONROE (VLG)
4003 HARRIMAN (VLG)
4005 KIRYAS JOEL (VLG)

- 4289 MONTGOMERY (TN)
4201 MAYBROOK (VLG)
4203 MONTGOMERY (VLG)
4205 WALDEN (VLG)
4489 MOUNT HOPE (TN)
4401 OTISVILLE (VLG)
4600 NEWBURGH (TN)
4800 NEW WINDSOR (TN)
5089 TUXEDO (TN)
5001 TUXEDO PARK (VLG)
5200 WALLKILL (TN)
5489 WARWICK (TN)
5401 FLORIDA (VLG)
5403 GREENWOOD LAKE (VLG)
5405 WARWICK (VLG)
5600 WAWAYANDA (TN)
5889 WOODBURY (TN)
5801 HARRIMAN (VLG)

CITIES

- 0900 MIDDLETOWN
1100 NEWBURGH
1300 PORT JERVIS
9999 HOLD

NO. PAGES CROSS REF.
CERT. COPY ADD'L X-REF.
MAP# PGS.

PAYMENT TYPE: CHECK
CASH
CHARGE
NO FEE

Taxable
CONSIDERATION \$
TAX EXEMPT
Taxable
MORTGAGE AMT. \$

MORTGAGE TAX TYPE:

- (A) COMMERCIAL/FULL 1%
(B) 1 OR 2 FAMILY
(C) UNDER \$10,000
(E) EXEMPT
(F) 3 TO 6 UNITS
(I) NAT. PERSON/CR. UNION
(J) NAT. PER-CR. UN/1 OR 2
(K) CONDO

Donna L. Benson
DONNA L. BENSON
ORANGE COUNTY CLERK

RECEIVED FROM: Drake

STATE OF NEW YORK (COUNTY OF ORANGE) SS:
I, DONNA L. BENSON, COUNTY CLERK AND CLERK OF THE
SUPREME AND COUNTY COURTS, ORANGE COUNTY, DO
HEREBY CERTIFY THAT I HAVE COMPARED THIS COPY WITH
THE ORIGINAL INSTRUMENT FILED OR RECORDED IN MY OFFICE
ON 10/12/10 AND THE SAME IS A CORRECT
TRANSCRIPT THEREOF, IN WITNESS WHEREOF, I HAVE
HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL.

Donna L. Benson 4/12/12

COUNTY CLERK & CLERK OF THE SUPREME COUNTY COURTS,
ORANGE COUNTY

RECORDED/FILED
10/12/2010/ 16:23:46
DONNA L. BENSON
County Clerk
ORANGE COUNTY, NY
FILE#20100097183
DEED C / BK 13067PG 0507
RECORDING FEES 315.00
TTX# 001272 T TAX 0.00
Receipt#1230021 juls

Must Print on 8 1/2" x 14 (Legal-size) Paper or not valid and will not be accepted.



#618-60207  
Quitclaim Deed

**THIS INDENTURE**, made the 23<sup>rd</sup> day of September, 2010  
**BETWEEN**

**JR & RAY LLC**, a New York limited liability company, with offices located at 5020 Route 9W,  
Newburgh, New York 12550

party of the first part, and

**JR & RAY LLC**, a New York limited liability company, with offices located at 5020 Route 9W,  
Newburgh, New York 12550

party of the second part,

**WITNESSETH**, that the party of the first part, in consideration of TEN AND 00/100 (\$10.00)  
DOLLARS, lawful money of the United States paid by the party of the second part, does hereby  
remise, release and quitclaim unto the party of the second part, the heirs or successors and  
assigns of the party of the second part forever,

**ALL** that certain plot, piece or parcel of land, with the buildings and improvements thereon  
erected, situate, lying and being in the Town of Newburgh, County of Orange, and State of New  
York, being further bounded and described on Schedule A annexed hereto and made a part  
hereof.

**BEING AND INTENDED TO BE** the same premises described in two deeds as follows: Deed  
dated September 12, 2008 made by Raphael J. Lease to JR & Ray LLC and recorded in the  
Orange County Clerk's Office on October 1, 2008 as File #20080098038 in Liber 12736 at page  
1600, and Deed dated September 12, 2008 made by Trucking Terminal Associates to JR & Ray  
LLC and recorded in the Orange County Clerk's Office on October 1, 2008 as File  
#20080098037 in Liber 12736 at page 1594.

**TOGETHER** with the 50' wide right-of-way as set forth in Liber 2316 at page 732 in the  
Orange County Clerk's Office.

This deed combines two parcels owned by JR & Ray LLC in the Town of Newburgh, Orange  
County, New York. One parcel appears on the tax rolls as Section 60, Block 3, Lot 40, and the  
other parcel appears on the tax rolls as Section 60, Block 3, Lot 41.22.

**TOGETHER** with all right, title and interest, if any, of the party of the first part in and to any  
streets and roads abutting the above described premises to the center lines thereof,

**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 party of the second part, the heirs or successors and assigns of the party of the second part forever.

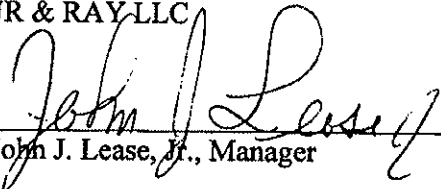
**AND** the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

**IN WITNESS WHEREOF**, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

JR & RAY LLC

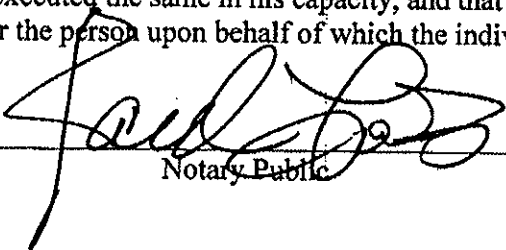
By:   
John J. Lease, Jr., Manager

STATE OF NEW YORK :

: ss.

COUNTY OF ORANGE :

On the 23 day of September, 2010, before me, the undersigned, a Notary Public in and for the State, personally appeared JOHN J. LEASE, JR. personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

JRL/ef/158729  
618-60207  
9/14/10

**JAMES R. LOEB**  
Notary Public, State of New York  
No. 7582400  
Qualified in Westchester County  
Commission Expires September 30, 2010

Heritage Land Surveying, P.C.  
Darren J. Stridiron, P.L.S.

P.O. Box 579, Plattekill, NY 12568  
Email: [Heritagesurvey@hotmail.com](mailto:Heritagesurvey@hotmail.com)

Phone (845)562-4148  
Fax (845)566-1416

## LANDS OF J R & RAY LLC

All that certain plot, piece or parcel of land lying in the Town of Newburgh, County of Orange, State of New York; bounded and described as follows:

BEGINNING at a steel nail found in the asphalt at the westerly bounds of Union Avenue (a.k.a. S.H. No. 9455) at the northeasterly corner of the lands to be described; thence,

Along the westerly bounds of Union Avenue (a.k.a. S.H. No. 9455) the following two courses:

Along a curve to the right with a radius of 2,825.29 feet and an arc length of 139.09 feet;

South 19 degrees 19 minutes 54 seconds East 149.98 feet; thence,

North 85 degrees 58 minutes 10 seconds West 79.70 feet along the northerly bounds of lands of Newburgh Mall, LLC (Tax lot 60-3-41.21); thence,

North 74 degrees 26 minutes 00 seconds West 529.22 feet along the northerly bounds of lands of Newburgh Mall, LLC.(Tax lot 60-3-41.21) to an iron pipe; thence,

North 14 degrees 45 minutes 21 seconds East 251.05 feet along the easterly bounds of lands of J R & Ray LLC (Tax lot 60-3-41.22) to an iron rod; thence,

South 74 degrees 26 minutes 00 seconds East 442.70 feet along the southerly bounds of lands of Peterkin (Tax lot 60-3-39) to the point or place of BEGINNING.

Containing 132,840 square feet or 3.05 acres of land, more or less.