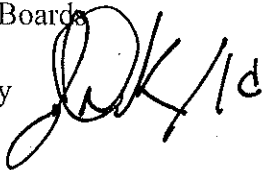


**TOWN OF HARRISON
VILLAGE OF HARRISON
ATTORNEY'S OFFICE**

MEMORANDUM

TO: Richard Dionisio, Supervisor/Mayor
Members of the Town and Village Boards

FROM: Jonathan D. Kraut, Village Attorney 

DATE: April 28, 2023

SUBJECT: **Proposed Easement Agreement between the Town/Village
of Harrison and Amy Calagna: 89-91 Rockwell Street (0374.-2)**

E-26

V-E-6

Attached with the approval of the Town Engineer, is a proposed Easement Agreement in connection with the above-referenced property. I have reviewed the Agreement, deem it to be in order and accordingly request authorization for the Supervisor/Mayor to execute the Agreement and related transfer documents.

JDK:ld

Attachment

cc: Michael Amodeo, Town Engineer

EASEMENT AGREEMENT

AGREEMENT made this ____ day of [INSERT DATE], 2023, by and between AMY CALAGNA ("Grantor"), residing at [INSERT ADDRESS] and the TOWN OF HARRISON and VILLAGE OF HARRISON, both Municipal Corporations situated at 1 Heineman Place, Harrison, New York 10528 in the County of Westchester and State of New York (jointly and severally, "Grantee").

WITNESSETH:

WHEREAS, Grantor represents that it is the owner in fee simple of property commonly known as No Number Rockwell Street, Harrison, New York 10528, which is described by Deed for property filed in the Westchester County Clerk's Offices, Division of Land Records under Control No. 591303408 and is designated as Block 374, Lot 2 on the tax map of the Town/Village of Harrison, (the "Grantor's Premises"); and

WHEREAS, to accommodate certain drainage conditions, Grantor is willing, subject to the terms herein, to grant to Grantee an Easement over a portion of Grantor's Premises limited to the area more particularly described in **Schedule A** annexed hereto and made a part hereof (the "Easement Area") for the installation, maintenance, alteration, repair and replacement of drainage piping and infrastructure all underground and as shown on Schedule A (hereinafter the "Drainage Improvements") and Grantee is willing to accept such an Easement to facilitate improvements to the drainage infrastructure in the Town/Village of Harrison; and

WHEREAS, in consideration of the payment of One (\$1.00) Dollar and other good and valuable consideration, the receipt whereof is hereby acknowledged, Grantor for itself, its heirs, executors, administrators, successors and assigns does hereby remise, release and forever grant unto Grantee, its successors and assigns, the within described Easement for Drainage Improvements in and to the Easement Area for the dedication and installation, maintenance, alteration, repair and replacement of the Drainage Improvements.

NOW THEREFORE, the parties hereto further agree as follows:

1. That Grantor is seized of the said Grantor's Premises in fee simple and have good right to, and hereby grant to Grantee a perpetual, non-exclusive Easement in, on, under and through the Easement Area as shown on **Schedule A** attached hereto and made a part hereof for the purpose of managing storm water drainage under and through the Grantor's Premises.
2. The Grantee acknowledges that the Grantor's Premises currently are improved with, among other things, a single-family house, walls, fences, driveway, other structures and landscaping, among other improvements, some of which are serviced by below-ground utilities such as water, sewer and lines and/or natural gas lines, telecommunications lines and other infrastructure and Grantor may make other improvements from time to time (collectively, "Grantor's Improvements").

3. That Grantee shall design, install, maintain, repair and replace the Drainage Improvements only as shown and depicted on the survey attached hereto as **Schedule A** and described on **Schedule B** attached hereto and made a part hereof in a manner that does not interfere with the Grantor's Improvements and the Grantor's quiet enjoyment thereof including, without limitation, Grantor's access to Grantor's Premises.

4. That Grantee shall quietly enjoy said Easement subject to the following:

(a) This Easement is granted for the sole purpose of the installation, maintenance, alteration, repair and replacement of the Drainage Improvements by Grantee at its sole cost and expense.

(b) Grantee shall have the right and privilege to enter upon the Easement Area during the hours from 8:00 a.m. to 5:00 p.m., but in no event during Sundays or Holidays, except in emergency situations, when Grantee may enter upon the Easement Area for the purpose of installing, maintaining, repairing and replacing the Drainage Improvements as shown on Schedule A attached hereto and Grantee shall exercise care while on the Grantor's Premises to avoid damage to the Grantor's Premises and Grantor's Improvements, whether same are located at-grade, above-ground or beneath the surface. Except in emergency situations, Grantee shall provide Grantor a minimum of 10 days' notice prior to commencing any work on Grantor's Premises. Grantee shall keep the Grantor's Premises free of equipment and materials at all times, except when necessary due to work being performed in the Easement Area, and Grantee shall provide any applicable safety measures.

(c) Notwithstanding the grant of this Easement to Grantee, Grantor, their heirs, executors, administrators, successors and assigns shall have unrestricted rights to use the Grantor's Premises, including but not limited to the Easement Area, but Grantor agrees that they shall not erect any buildings, walls, fences, or other structures of any kind upon the Easement Area, nor plant any trees therein.

(d) Grantor hereby dedicates to Grantee all of Grantor's rights, title and interests in, on and to all pipes, mains, and/or other material associated with the Drainage Improvements within the Grantor's Premises installed by Grantee, except and specifically excluding any lateral connection(s) from any utility infrastructure, natural gas, propane or water or sewer mains and the connections thereof to any such main that have or may be placed in said Easement Area.

(e) That Grantee hereby irrevocably accepts, and agrees to accept, Grantor's dedication of such rights to the Drainage Improvements, including the obligation to maintain same in a workmanlike manner for the duration of this Agreement.

(e) Grantee shall not disturb Grantor's Premises or Grantor's Improvements and, to the extent that Grantee damages any of Grantor's premises, Grantor's Improvements, or Grantor's personal property at any time, Grantee shall upon notice of Grantor promptly repair and/or restore same to the condition existing immediately prior thereto, at Grantee's sole cost and expense, including re-seeding and re-planting, except for any repair or restoration needed for the pool and/or pool apron area.

(g) Grantee hereby agrees to indemnify and hold Grantor harmless from and against any and all claims of liability whatsoever, including, without limitation, for personal injury or property damage to the extent that they result from or arise out of the acts or omissions of Grantee, its agents and employees in, on or about the Easement Area.

5. All rights granted to Grantee hereunder are subject to all encumbrances affecting the Easement Area on the date hereof. Grantee covenants and agrees to comply with all applicable laws, orders and regulations of Federal, State, City, County, Governmental and Municipal authorities with respect to its use of the Easement Area and any installations thereto.

6. If the Easement Area or any of the Grantor's premises or any improvements thereon are disturbed or damaged by the acts or omissions of Grantee, its agents, employees, contractors, or subcontractors, at any time, the land and improvements shall be promptly restored by Grantee to the condition existing immediately prior to such disturbance or damage.

7. Grantee shall not permit any mechanics liens, materialmen's liens, or any other liens to stand against Grantor's premises, including the Easement Area, for Grantee's work or materials furnished for Grantee in connection with the Easement rights, and Grantee agrees to defend, indemnify and hold Grantor harmless from same (including reasonable attorney's fees). If any such lien shall be filed, Grantee shall cause the same to be discharged of record subsequent to the filing thereof.

8. In addition to any other indemnity, Grantee hereby agrees to defend, indemnify and save Grantor harmless from all liabilities, losses, damages, demands, claims, causes of action or judgments, and expenses incurred relating to any injury or person, loss of life or damage to property arising out of the use of the Easement Area by Grantee, its employees, agents, contractors and/or subcontractors.

9. If any part of the Easement Area or Grantee's rights to use the Easement Area as specified hereunder are taken by eminent domain, any award for such taking or damages paid as a result of the taking shall be the sole and exclusive property of Grantor, however, Grantee may recover for itself damages for any items of property belonging to Grantee (such as pipes or conduits) which are so taken.

10. This Agreement shall run with the Grantor's Premises and inure to the benefit of, and be binding upon, the heirs, executors, administrators, successors and assigns of the parties hereto. This Easement may not be modified in any respect whatsoever or rescinded, in whole or in part, except by the agreement of both Grantor and Grantee, and then only by written instrument duly executed, acknowledged and recorded in the Land Records of Westchester County, New York.

11. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender, addressed to the party as indicated below (or any other address that the party to be notified may have designated to the

sender by like notice). Notice shall be effective upon mailing or delivering the same to a commercial courier, as permitted above.

If to Grantor:

Amy Calagna

[INSERT ADDRESS]

[INSERT TOWN, STATE, ZIP]

If to Grantee:

Town/Village of Harrison

1 Heineman Place

Harrison, New York 10528

Attn: Town Attorney

12. If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid and unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term or provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

13. Grantor shall record this Agreement at its own cost and expense in the Office of the Westchester County Clerk, Division of Land Records.

14. Each Grantee accepting a deed, lease, or other instrument conveying an interest in the Grantor's Premises, whether or not the same incorporates or refers to this Agreement, covenants for himself, his heirs, personal representatives, successors, and assigns to observe, perform, and be bound by this Agreement.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

TO HAVE AND TO HOLD such Easement unto Grantee, its successors and assigns forever.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and date first above mentioned.

GRANTOR:

BY: _____
AMY CALAGNA, Grantor

GRANTEE:
TOWN OF HARRISON/VILLAGE OF HARRISON

BY: _____
RICHARD DIONISIO, Supervisor/Mayor

ACKNOWLEDGEMENT

State of _____

County of _____, ss:

On the _____ day of _____ in the year 2023, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

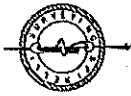
State of _____

County of _____, ss:

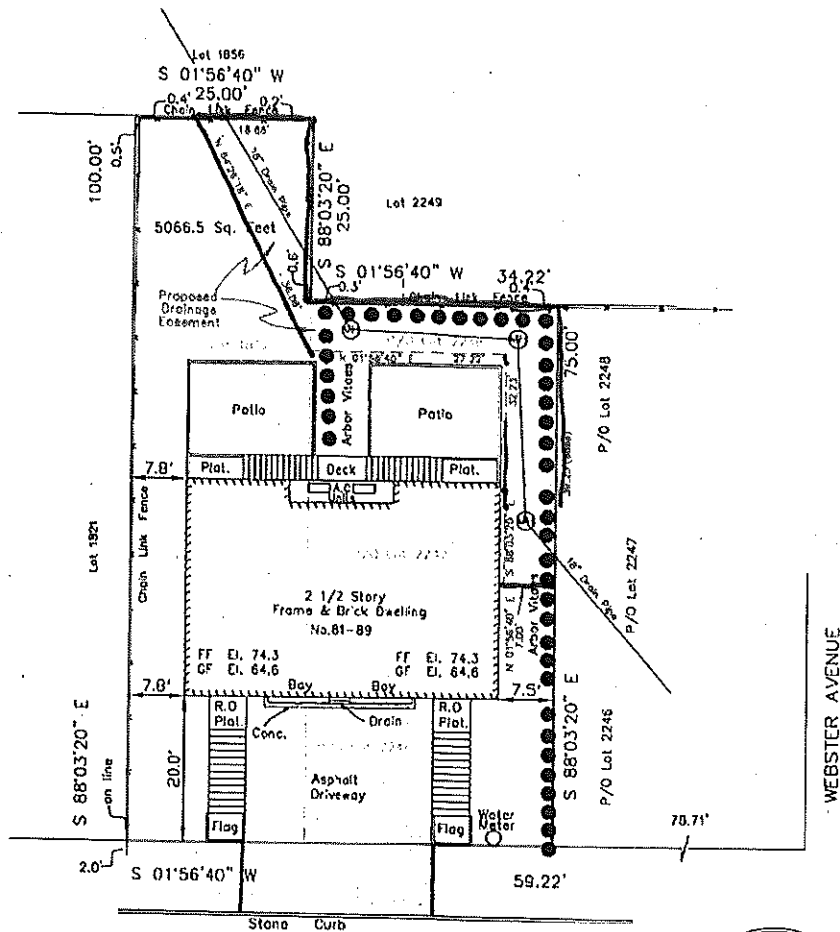
On the _____ day of _____ in the year 2023, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

SCHEDULE A
(Survey)

DRAFT



General Notes:
-Elevations shown in NAVD1988



ROCKWELL STREET



Richard A. Spinelli
650 Halstead Avenue
Mamaroneck, N. Y. 10543
(914) 381-2357
N.Y.S. Lic. Land Surveyor
No. 49240

-Unauthorized additions to or alterations of this plan is a violation of Section 7209 of the N.Y.S. Education Law.

Survey of Lots 1822 and Port of Lots 2246-2248
on "Map of Brentwood Plaza" in the Village and
Town of Harrison, Westchester Co., N.Y.
Filed on May 31, 1894 as RO No. 1114

Scale 1"=15"

July 8, 2019
November 11, 2022 (Foundation Survey)
March 15, 2023 (Final As-Built)

E "ROCKWELL"

SCHEDULE B
Easement Area Description

BEGINNING at the northwesterly corner of Lot 2249 as shown on "4th Map of Brentwood Plaza," filed in the Office of the Clerk of the County of Westchester on May 31, 1894 as Map Number 1114;

THENCE RUNNING along the westerly boundary of lot 2249 in a southerly direction South 1° 56' 40" West 34.22 feet;

THENCE through Lots 2247, 2248 & 1822 the following courses and distances:

North 88° 03' 20" West 39.23 feet;

North 1° 56' 40" East 7.00 feet;

South 88° 03' 20" East 32.23 feet;

North 1° 56' 40" East 27.22 feet;

North 64° 26' 18" East 36.08 feet to the westerly boundary of Lot 1856;

THENCE ALONG the said boundary in a southerly direction South 1° 56' 40" West 16.66 feet to the northerly boundary of Lot 2249;

THENCE CONTINUING along the northerly boundary of Lot 2249 in a westerly direction North 88° 03' 20" West 25.00 feet to the POINT AND PLACE OF BEGINNING.