

VOL 38 | PG 0407

003608

DECLARATION OF RESTRICTIVE COVENANT

This Agreement is made this 19th day of Nov., 2002 between
Property Owner: PATRICIA M. MILLER
Address: 318 GOOD HILL RD,
and the Town of Weston ("Weston"), a Connecticut municipality principally
located at 56 Norfield Road, Weston, CT 06883, wherein (property owner) does
declare as follows:

1. The property known as (property address) and further described in
Volume 38 Page 407 of the Weston Land Records, is a single building lot with
one habitable structure.
2. The (description of structure) built thereon shall be used exclusively for
recreational and entertainment purposes and shall not be used at any time in the
future as a separate residence, rental unit, nor for home occupation as defined
by the Weston Zoning Regulations. DESCRIPTION: 2 CAR GARAGE WITH
STUDIO ABOVE.
3. This Declaration shall be binding on my successors and assigns.

In witness whereof:

Patricia M Miller
(property owner)

STATE OF CONNECTICUT

Patricia M Miller
(Notary) not here, notary

RECEIVED FOR RECORD 3-5 2004
AT 11:40 A M. ATTEST Ann Tomlinson
WESTON TOWN CLERK

2/65

RECORD AND RETURN TO:
Eric D. Bernheim, Esq.
FLB Law, PLLC
315 Post Road West
Westport, CT 06880

RELEASE OF RESTRICTIVE COVENANT

KNOW ALL MEN BY THESE PRESENTS:

Notice is hereby given that the Declaration of Restrictive Covenant dated November 19, 2002, and recorded on March 5, 2004, in Book 381 at Page 407 of the Weston Land Records (the "Restrictive Covenant"), affecting property located at **318 Good Hill Road, Weston, CT** (the "Property") is hereby released. At the time said Restrictive Covenant was recorded on the land records, the Weston Zoning Regulations (the "Regulations") did not permit an apartment on the Property, which was the basis for the recording of the Restrictive Covenant. The Town of Weston subsequently adopted Section 345 of the Regulations, which now permits an apartment on the Property and renders the Restrictive Covenant void.

IN WITNESS WHEREOF, the owner of the Property has signed and sealed this Release this 25th day of June, 2024.

In the presence of:

Darcy Barrera-Hawes
(Witness)

Patricia M. Miller
PATRICIA M. MILLER
As Owner of 318 Good Hill Road, Weston, CT

Cathleen Diblett
(Witness)

REVIEWED AND ACCEPTED THIS 25th DAY OF JUNE, 2024 BY:

THE TOWN OF WESTON

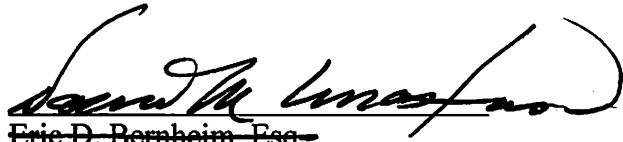
By: _____
Name:
Its:

STATE OF CONNECTICUT:

ss: ~~Westport~~ **WESTON**

COUNTY OF FAIRFIELD:

On this, the 25th day of June, 2024, before me the undersigned officer, personally appeared **PATRICIA M. MILLER**, known to me to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same for the purposes therein contained as her free act and deed.



~~Eric D. Bernheim, Esq.~~
~~Commissioner of the Superior Court~~

4877-7084-1795, v. 2

Donna M Anastasia Notary Public
State of Connecticut County of Fairfield
Town of Weston 58540 Exp 8/31/2026

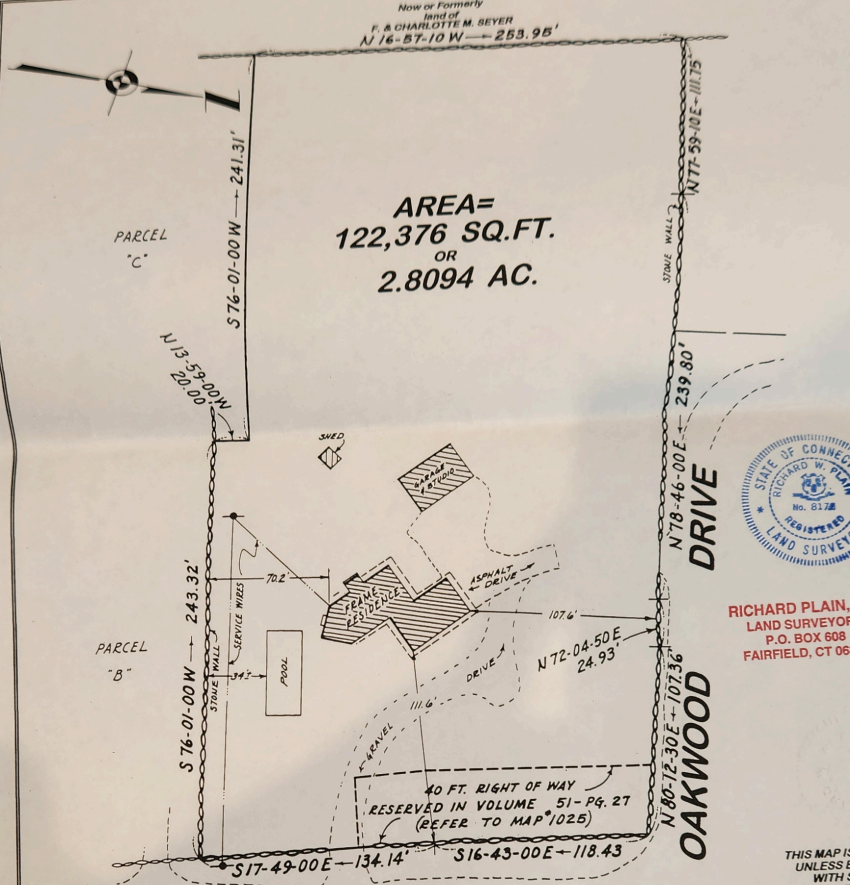
PLOT PLAN

PATRICIA MILLER

PROPERTY SURVEYED FOR:
 LOCATION: #318 GOOD HILL ROAD, WESTON, CONNECTICUT. Property being Parcel "D" as shown on a certain map entitled "Map of property prepared for Irving W. and Margaret L. Holcomb, Weston, Connecticut, Scale: 1"=40', June 28, 1974." Said map is on file in the Weston town clerk's office bearing file #2341.

DATE: August 6, 1980, February 25, 2004

SCALE: 1"=50'



AREA=
122,376 SQ.FT.
 OR
2.8094 AC.



RICHARD PLAIN, SR.
 LAND SURVEYORS
 P.O. BOX 608
 FAIRFIELD, CT 06824

THIS MAP IS NOT VALID
 UNLESS EMBOSSED
 WITH SEAL OF
 CERTIFYING
 SURVEYOR

GOOD HILL ROAD EXTENSION

RICHARD W. PLAIN, SR.
 REGISTERED LAND SURVEYORS
 P.O. Box 608
 Fairfield, CT. 06824
 Phone: (203) 259-6511

THIS MAP IS NOT VALID IF
 ALTERED BY ANYONE
 OTHER THAN
 ORIGINAL SURVEYOR

FIELD SURVEY CONFORMS TO
 METHODS RECOMMENDED IN A
 CLASS "A-2" SURVEY

Richard W. Plain, Sr.
 Richard W. Plain, Sr., L.S., CT. Reg. # 8172

Certified substantially correct.

FB NONE



Richelle Hodza <rhodza@westonct.gov>

[EXTERNAL] FW: ACCESSORY APT - 318 Good Hill Rd. Weston

1 message

Eric Bernheim <bernheim@flb.law>

Mon, May 13, 2024 at 12:20 PM

To: "rhodza@westonct.gov" <rhodza@westonct.gov>

Richelle: I have been engaged by Pat Miller, the owner of 318 Good Hill Road. As I believe you are aware, she would like to convert her studio above her detached garage to an accessory apartment under Section 345. There are two issues that we need to address.

First, the apartment is above an existing detached garage so it is taller than the principal structure when looking at the detached garage as a whole. However, I believe Section 345.2(d) applies and because it complies with that provision, this apartment can be approved as of right. As you can see the apartment is 15' in total height which is both shorter than the height of the main house and in total, less than the 35' maximum provided in Section 345. I am of the opinion that you need only comply with one of the subsections of 345.2, not all of them. Accordingly, because we comply with 345.2(d), this apartment should be permitted. Please confirm you agree with my reading and if not, then we should set a time to discuss in detail.

Second, in November 2002, the Town required Ms. Miller to sign a covenant not to utilize her studio office as a residential apartment. At the time, that was because residential apartments were not permitted by the regulations. Now that those regulations have changed and this is a permitted use, I believe the Declaration of Restrictive Covenant that was required as a condition of the approval of that original structure should be void ab initio. I have run into this issue with Berchem Moses in other towns with different types of restrictions and they have agreed that such restrictive covenants are not enforceable when circumstances and regulations change so that the covenant is discriminatory to the use that is now permitted as of right. Please discuss this issue with your counsel and let me know if they agree. I am happy to discuss this issue with both you and your counsel at your earliest convenience.

I look forward to hearing from you so that we can resolve these matters promptly so Ms. Miller can obtain the necessary approvals to convert the existing studio into an accessory apartment. Thank you,

Eric

Eric Bernheim*Partner, FLB Law**Email: bernheim@flb.law**Office: (203) 635-2200**Direct: (475) 236-5203**Cell: (203) 979-7169**Fax: (203) 293-9999**Website: www.flb.law**Address: 315 Post Road W, Westport, CT 06880***FLB Law**

FOGERTY | LAMBERT | BERNHEIM



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4 attachments