

Agreement to Modify Deed Restriction

THIS AGREEMENT is made on the 24th day of November, 2020, by the TOWNSHIP OF WEST ORANGE, a municipal corporation of the State of New Jersey (hereinafter “the Township”), with offices located at 66 Main Street, West Orange, New Jersey 07052, and ROBERT COVIELLO AND LISA LAZARUS, Husband and Wife (collectively, “the Property Owners”), residing at 5 Stonebridge Court, Montclair, New Jersey 07042.

W I T N E S S E T H:

WHEREAS, pursuant to a Deed dated December 3, 2001, the Township transferred ownership of certain Township-owned land known as Tax Lot 1 in Block 140.02, also referred to as “Rear of Winfield Street at Montclair municipal boundary line” (“the West Orange Lot”) to Lafayette Sq. Construction Company, L.L.C., subject to the following restriction (the “Deed Restriction”):

The erection of any structure on the Property and development of the Property as a separate building lot is prohibited, in perpetuity. Decorative fencing and landscaping shall be permitted; and

WHEREAS, the aforementioned Deed was recorded in the Essex County Register’s Office on February 13, 2002, in Book 5861, Page 316 (the “West Orange Deed”); and

WHEREAS, the West Orange Lot was adjacent to and bordering the municipal boundary line between West Orange and Montclair; and

WHEREAS, a single-family home was subsequently constructed on the Montclair property known as Block 1101, Lot 19.02, on the Montclair Tax Maps and commonly known as 5 Stonebridge Court, Montclair, New Jersey (“the Montclair Lot”); and

WHEREAS, the West Orange Lot was conveyed to Edward Moed and Pamela J. Moed, husband and wife, by Deed dated December 28, 2004 and recorded in the Essex County Register’s Office on January 5, 2005 in Book 6142,

Page 73, and the Montclair Lot was conveyed to Edward Moed and Pamela J. Moed, husband and wife, by Deed dated December 15, 2004 and recorded in the Essex County Register's Office on January 5, 2005 in Book 6142, Page 105 ; and

WHEREAS, in 2007, Mr. & Mrs. Moed obtained West Orange Building Permit #2007-0268 permitting them to construct an in-ground pool, together with associated electrical, plumbing, brick decking/patio and fencing accessories and improvements (collectively, "the pool improvements"), on the West Orange Lot and the pool improvements were constructed and a Certificate of Approval issued by the Township of West Orange on August 27, 2007, and property taxes have been assessed and paid annually to the Township of West Orange based on the value is of said improvements since 2008; and

WHEREAS, the intention of the aforementioned Deed Restriction was to prevent development of the landlocked West Orange Lot as a separate building lot with a residential structure; and

WHEREAS, the West Orange Lot and the Montclair Lot were recently purchased by the Property Owners from Mr. & Mrs. Moed for their use as a single-family residence, including the pool improvements on the West Orange Lot; and

WHEREAS, the Township wishes to correct, clarify and/or modify the terms of the Deed Restriction to confirm that the restriction does not prohibit the construction or maintenance of in-ground swimming pools, including the current pool improvements or the replacement thereof.

NOW, THEREFORE, the Township and the Property Owners hereby agree as follows:

1. The Deed Restriction contained in the West Orange Deed is amended to read as follows:

"The erection of any structure on the Property, except an in-ground pool, and development of the Property as a separate building lot is prohibited in perpetuity. Decorative fencing, landscaping, and brick decking or stone patio appurtenant to an in-ground pool shall be permitted."

2. The Property Owners join in this Agreement to confirm their consent to the modification of the Deed Restriction as aforesaid.

3. This Agreement shall be recorded in the Essex County Register's Office. The terms of the amended Deed Restriction shall run with the land and be binding upon and inure to the benefit of the Property Owners and all future owners of the West Orange Lot, their successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth above.

ATTEST:

TOWNSHIP OF WEST ORANGE

Karen J. Carnevale, RMC
Municipal Clerk

By: Robert D. Parisi, Mayor

WITNESS:

ROBERT COVIELLO

LISA LAZURUS

Approved as to Form:

Richard D. Trenk, Esq., Municipal Attorney

Acknowledgments to be attached