



TOWN OF EAST HAMPTON

300 Pantigo Place – Suite 105
East Hampton, New York 11937-2684

Planning Department
JoAnne Pahwul, AICP
Director

Telephone (631) 324-2178
Fax (631) 324-1476

June 11, 2020

TO: Planning Board

FROM: Eric Schantz 
Senior Planner

RE: Freund 291 Springs Fireplace Road – Site Plan
SCTM#300-119-5-6

Last Review Date: November 7, 2019

Items and Date Received: 05/26/20 Applicant submission; Cover letter re: Ten (10) original site plans prepared by Jeffrey T. Bulter, P.E., P.C. dated December 4, 2019; Ten (10) copies of the revegetation plan prepared by Due East Planning Inc, dated April 2020.; and Ten (10) copies of the photo layout showing the sample stained section of the wall, prepared by Due East Planning Inc, dated March 2020

Background Information: Application is made to replace and make additions to an existing wood retaining wall which includes changing the material to concrete.

The subject parcel is nearly 100% cleared of naturally-occurring vegetation with a patch of deciduous woodlands to the north. It is situated along Springs Fireplace Road in East Hampton, although very close to the beginning of Springs. It is zoned NB: Neighborhood Business and contains a multi-unit building, a “multiple business complex” containing retail businesses.

Issues for Discussion:

Coverage

As requested by the Board coverage calculations have been added to the site plan. These calculations verify that the proposed project will be in compliance with maximum allowable total lot coverage.

Retaining Wall Safety Fence

At the time of the last review, the Board requested that the fence required along the top of the retaining wall (as per New York State Building Code) be setback from the top edge of the wall in order to allow for a row of vegetative screening. It was stated that a split rail

fence should be used instead of the originally proposed chain link design. The revised site plan indicates that a 4' tall fence will be setback from the top of the retaining wall, as requested and a row of northern bayberry (*Myrica pennsylvanica*) will be planted between the fence and the top of the retaining wall. The Planning Department has no objections to this. The Board should determine if it agrees.

The notation on the site plan identifies the 4' tall fence as variously both "split rail with wire mesh weave" and "post and rail fence with wire mesh weave". The Planning Board may wish to request additional information about the appearance of this proposed fence at this time. Ultimately, the Architectural Review Board will need to approve this application.

Scenic Easement

The scenic easement has been added to the site plan

Revegetation of areas cleared to the north of the parking lot has been proposed in the form of 4 white pines (*Pinus strobus*) and 170 lowbush blueberry (*Vaccinium pallidum*). The Planning Department finds this acceptable, however the size of the shrubs should be provided in terms of height in feet or inches, not in gallon pot size. The Board should determine if it agrees.

However, the scenic easement also covers the narrow strip of land in front of the building along Springs Fireplace Road. This area currently has lawn, landscaping, scattered mature trees and picnic tables. This area is often frequented by patrons of the on-site stores and does not appear to present any type of detriment to the appearance of the site. Regardless, it will need to be determined what the scenic easement permits in this area. The Board should defer to Counsel to determine if the existing nature of use of this area is acceptable or if re-vegetation will be required.

Height

The retaining wall, including those existing portions to be replaced and the additional portions proposed will vary in height from roughly 4' up to 8'. The Architectural Review Board cannot approve fences of over 8' in height and such fences require a variance from the Zoning Board of Appeals. The minimum 4' tall safety fence at the top of the retaining wall due to its height would place the total height over 8' in various locations. The Board has sent a determination letter to the Building Inspector with regard to this issue.

However, as the applicants now plan to have the fence not directly atop the retaining wall, it appears that a variance will not be needed. The Planning Department spoke with the Principal Building Inspector about this issue and it was her opinion that the currently-proposed design, with the fence setback from the top of the retaining wall, would not require a variance. However, this has yet to be put in writing as of the date of this memo.

Wall Details

The applicants have submitted a photo of an alternative coloration for the retaining wall. Although colors are primarily the purview of the Architectural Review Board, the Planning Board should review this item and determine if this coloration is acceptable.

Conclusion

In conclusion, the application is incomplete, pending the resolution of the wall height issue and whether or not the Board wishes to receive more information about the design of the fence at the top of the retaining wall or retaining wall colors.

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Should information pertaining to the design of the 4' tall fence be submitted?

Additional comments: _____

Is any additional information regarding coloration of the proposed retaining wall required?

Additional comments: _____

Should the changes to the landscaping plan noted above be made?

Additional comments: _____

Does the Board wish to send comments to the ARB?

Additional comments: _____

Additional Board Comments:

Adams

GRANT OF SCENIC EASEMENT 32717

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SCENIC EASE

THIS INDENTURE, made as of this 31st day of January, 1984, by and between TOWER INVESTMENTS, a partnership having a principal place of business at ^{C/o John McGowan, Esquire, 135A Main Street} ~~P.O. Box 610, Wainsett, East Hampto~~ New York 11975, ("the grantor"), and THE TOWN OF EAST HAMPTON, a municipal corporation having its office at 159 Pantigo Road, East Hampton, New York 11937, ("the grantee"),

WHEREAS, the grantor is the owner of lands at Springs-Fireplace Road, Town of East Hampton, County of Suffolk and State of New York, described as follows:

ALL that certain plot, piece or parcel of land, situate, lying and being in the Town of East Hampton, County of Suffolk and State of New York, more particularly bounded and described as follows:

BEGINNING at a point which is the intersection of the westerly side of Springs-Fireplace Road (Suffolk County Road No. 41) and the easterly side of an unopened road known as Old Fireplace Road; and running thence from the point of beginning along the westerly side of Springs-Fireplace Road (Suffolk County Road No. 41) South 13° 35' 53" West 580.00 feet to a point; running thence North 76° 24' 07" West 10.00 feet; running thence North 13° 35' 53" East 66.00 feet; running thence North 28° 00' 00" East 29.06 feet; running thence North 62° 00' 00" West 7.46 feet; running thence North 13° 35' 53" East 50.00 feet; running thence North 28° 23' 48" East 27.41 feet; running thence North 13° 35' 53" East 106.50 feet; running thence North 16° 39' 21" West 13.89 feet; running thence North 13° 35' 53" East 26.00 feet; running thence North 64° 26' 52" West 98.16 feet to a point on the easterly side of Old Fireplace Road; running thence along the easterly side of Old Fireplace Road the following two (2) courses and distances: 1. North 33° 01' 04" East 117.00 feet; and 2. North 40° 29' 54" East 148.38 feet to the point or place of BEGINNING,

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and the said parcel constitutes an area of natural scenic beauty, and the present state of use enhances the present and potential value of abutting and surrounding properties and enhances the conservation of natural and scenic resources; and

WHEREAS, the grantor wishes to grant a scenic and conservation easement to the grantee affecting the above-

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identified real property; and

The grantee has instituted and is carrying out programs to maintain open space and to preserve the beauty and natural condition of lands in the Town; and

The General Municipal Law of the State of New York at Section 247 carries into law the declared intent of the Legislature of the State of New York that the rapid growth and spread of urban development is encroaching upon, or eliminating many open areas and spaces of varied size and character, including many having significant scenic or esthetic value, which areas and space if preserved and maintained in their present open space would constitute important physical, social, esthetic or economic assets to existing or future Town development; and

The grantee, in furtherance of the above policy and in accordance with General Municipal Law, Section 247, wishes to accept the scenic and conservation easement hereby proffered by the grantor.

NOW THEREFORE, in consideration of ONE DOLLAR (\$1.00) and other good and valuable consideration to the grantor, receipt of which is hereby acknowledged, this agreement witnesseth that:

1. The grantor does hereby donate, grant, transfer and convey unto the TOWN OF EAST HAMPTON, in perpetuity, a scenic and conservation easement in gross, of the nature, character and to the extent hereinafter set forth, over and upon all that certain lot, piece or parcel of land as set forth and described above (hereinafter sometimes referred to as the "burdened premises").

2. The nature, character and extent of the easement hereby granted are as follows:

(a) No building or structures of any description shall be erected on the burdened premises.

(b) No topsoil shall be removed from the burdened

premises nor shall sand, gravel, peat or other minerals be excavated therefrom for any purpose;

(c) Burdened premises, to maintain their present appearance, shall remain in their natural state, and for this purpose the grantor, its heirs and assigns, reserve the exclusive right to use and enjoy said burdened premises;

(d) The grantee shall have the right to annual inspection of the burdened premises for the purpose of assuring itself that the grantor is not in violation of any of the terms and conditions of this scenic easement, such inspection to be by prior arrangement with and at the convenience of the grantor.

(e) Grantor reserves the right to plant and otherwise improve said scenic easement areas with shrubs, etc.

3. The nature, character and extent of limitations on the within grant of easement are as follows:

(a) The burdened premises shall not be open or available to the public for general or park use, but shall remain at all times in the exclusive possession of the grantor, its heirs and assigns, and subject to its unqualified right to exclude others therefrom by any and all lawful means, except as indicated in paragraph 2(d).

(b) All right, interests and privileges of the grantor in the burdened premises not herein specifically donated, granted, transferred and conveyed, remain and reside with the grantor, its heirs and assigns.

4. The grantee hereby undertakes to cooperate to the extent legally permissible in having the valuation placed upon the burdened premises for purposes of real estate taxation taken into account and limited by the restrictions imposed by this scenic easement, all in accordance with State of New York General Municipal Law, Section 247.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the date and year first above written.

TOWER INVESTMENTS

By: Judith Siegel
Partner

ATTEST:

Kathleen Mott
Deputy Town Clerk

TOWN OF EAST HAMPTON

By: Judith Hope
Supervisor

STATE OF NEW YORK)
) ss.:
COUNTY OF SUFFOLK)

On the 5th day of January, 1984, before me personally came JUDITH SIEGEL, to me personally known, and known to me to be a member of the partnership of Tower Investments, and known to me to be the individual described in and who executed the foregoing instrument in the partnership name of Tower Investments, and she duly acknowledged to me that she executed the same for and in behalf of said partnership.

Patricia Swanson
Notary Public

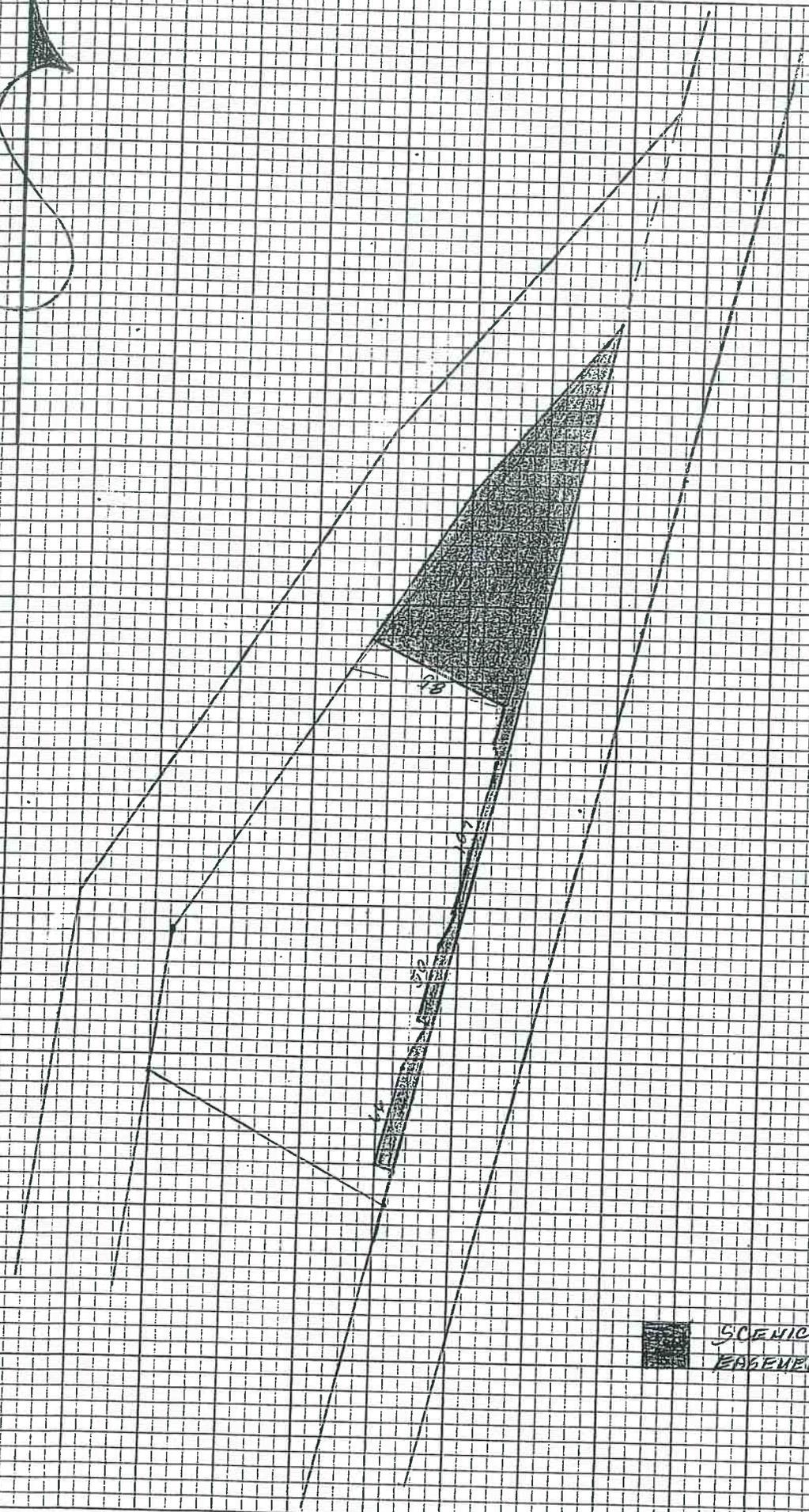
PATRICIA SWANSON
Notary Public, State of New York
No. 52 4609969
Qualified in Suffolk County
Term Expires March 30, 1985

STATE OF NEW YORK)
) ss.:
COUNTY OF SUFFOLK)

On the 9th day of ~~January~~ ^{April}, 1984, before me personally came JUDITH HOPE, to me known, who, being by me duly sworn, did depose and say that she resides in ^{68 Oyster Shores Rd.} East Hampton, Suffolk County, New York; that she is the Supervisor of the Town of East Hampton, the municipal corporation described in and which executed the foregoing instrument; and that she signed her name thereto pursuant to a resolution duly adopted by the Town Board of the Town of East Hampton.

Grace A. Roszick
Notary Public

GRACE A. ROSZICK
NOTARY PUBLIC, State of New York
No. 52-8416575 Qualified in Suffolk County
Term Expires March 30, 1986



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