

MINUTES OF THE PLANNING BOARD
TOWN OF CAPE ELIZABETH

January 16, 2018

7:00 p.m. Town Hall

Present: Carol Anne Jordan, Chair James Huebener
 Josef Chalot Jonathan Sahrbeck
 Peter Curry Victoria Volent

Also present was Maureen O'Meara, Town Planner.

CALL TO ORDER

Ms. Jordan called the meeting to order and asked for nominations for Chair and Vice Chair.

Ms. Volent nominated Ms. Jordan for Chair. Mr. Curry seconded and she was elected, 5-0 (one abstained).

Mr. Curry nominated Mr. Chalot as Vice-Chair. Mr. Huebener seconded and he was elected, 5-0 (one abstained).

The minutes were approved as presented, 6-0.

CONSENT AGENDA

Maxwell Woods - Joel FitzPatrick, dba Maxwell Woods LLC, is requesting a 90-day extension of the Final Subdivision, Resource Protection Permit and Site Plan approval granted October 17, 2017 for Maxwell Woods, a development located at 112-114 Spurwink Ave which includes 38 condominiums and 8 apartments (in two buildings), Sec. 16-2-6, Subdivision Ordinance Post Approval Requirements, Sec. 19-8-3 Resource Protection Regulations and Sec. 19-9, Site Plan Regulations.

There was no discussion.

Ms. Volent made the following motion:

BE IT ORDERED that, based on the request submitted by the applicant and Sec. 16-2-6 of the Subdivision Ordinance, the request of Joel FitzPatrick, dba Maxwell Woods LLC, for a 90 day extension of the approval for Final Subdivision Review, a Resource Protection Permit and Site Plan Review of the Maxwell Woods development, including 38 condominiums and 8 apartments (in two buildings) located at 112-114 Spurwink Ave, and

amendments to the Spurwink Woods Subdivision related to the road extension, greenbelt trail, and condominium lighting be approved.

Mr. Huebener seconded the motion and it passed, 6-0.

OLD BUSINESS

The Board agreed to hear the next item out of order.

19 Wells Rd Telecommunications Tower - Global Signal Acquisitions IV, LLC (Crown Castle) is requesting Site Plan review, a Resource Protection Permit, and Shoreland Zoning review to construct a 180' tall telecommunications tower to be constructed at 19 Wells Rd (R5-30), Sec. 19-9 Site Plan, Sec. 19-8-3, Resource Protection Permit and Sec. 19-8-2, Shoreland Zoning Performance Standards Request to Table.

Ms. Jordan recused and Mr. Chalot took over as chair.

There was no discussion, so Mr. Curry made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Global Acquisitions IV LLC for Site Plan Review, a Resource Protection Permit, and Shoreland Zoning review to construct a 180' tall telecommunications tower to be located at 19 Wells Rd be tabled to the February 26, 2018 meeting of the Planning Board.

Mr. Huebener seconded and it was approved, 5-0.

Ms. Jordan returned as chair.

Bailyn-Morris Resource Protection Permit - Ronald Bailyn and Patricia Morris are requesting an after the fact Resource Protection Permit to alter 1,557 sq. ft. of RP2 wetland for drainage and lawn area located at 26 Hannaford Cove Rd(U40-9), Sec. 19-8-3 Resource Protection Permit.

Bob Metcalf of Mitchell and Associates represented the applicants. He spoke about the plans and that they had wanted to wait until after the site walk to revise the plans. He said they have not revised the plans since the last time he showed them. He showed photos of the area and the plan. The plan showed the delineation of the wetland. The underdrain was shown on the plan and they will replace the current 4 in. pipe with an 8 in. pipe. There will be rip rap at the end of the pipe, and a screen to keep out animals and large rocks etc. They will stabilize the area and return it to its natural state after they replace the pipe.

The stepping stones are being removed. The hot tub will remain where it is because there is no other feasible location for it. They propose to relocate the dog run and remove 38 sq. ft. of concrete pavers.

Mr. Chalot asked about the Conservation Committee's recommendation.

Ms. O'Meara said the Conservation Committee had struggled with this issue since the current owner was not the one who had filled the wetland. They recommended that anything over 30 ft. from the foundation should be restored to its natural state.

Mr. Chalot drew a radius of 30 ft, from the corner of the foundation and what was left was a very small area. He does not see the feasibility of that. It's too small to make a difference.

The Board agreed that moving the dog run will not be much of a benefit.

Ms. Jordan noted that there was no one in the audience to give comment, so no comment period was opened.

Mr. Sahrbeck made the following motion:

Findings of Fact

1. Ronald Baily and Patricia Morris are requesting an after the fact Resource Protection Permit for 1,557 sq. ft. of fill in an RP2 wetland for landscaping and an additional 315 sq. ft. of temporary alteration to replace drainage pipe located at 26 Hannaford Cove Rd, which requires a Resource Protection Permit under Sec. 19-8-3.
2. The proposed pipe replacement and fill will not materially obstruct the flow of surface or subsurface waters across or from the alteration area;
3. The proposed pipe replacement and fill will not impound surface waters or reduce the absorptive capacity of the alteration area so as to cause or increase the flooding of adjacent properties;
4. The proposed pipe replacement and fill will not increase the flow of surface waters across, or the discharge of surface waters from, the alteration area so as to threaten injury to the alteration area or to upstream and/or downstream lands by flooding, draining, erosion, sedimentation or otherwise;
5. The proposed pipe replacement and fill will not result in significant damage to spawning grounds or habitat for aquatic life, birds or other wildlife;

6. The proposed pipe replacement and fill will not pose problems related to the support of structures;
7. The proposed pipe replacement and fill will not be detrimental to aquifer recharge or the quantity or quality of groundwater;
8. The proposed pipe replacement and fill will not disturb coastal dunes or contiguous back dune areas;
9. The proposed pipe replacement and fill will maintain or improve ecological and aesthetic values;
10. The pipe replacement and fill will maintain an adequate buffer area between the wetland and adjacent land uses;
11. The pipe replacement and fill will be accomplished in conformance with the erosion prevention provisions of Environmental Quality Handbook Erosion and Sediment Control, published by the Maine Soil and Water Conservation Commission dated March, 1986, or subsequent revisions thereof;
12. The pipe replacement and fill will be accomplished without discharging wastewater from buildings or from other construction into Wastewater Treatment Facilities in violation of Section 15-1-4 of the Sewage Ordinance; and
13. The proposed pipe replacement and fill is not located in a floodplain.
14. The application substantially complies with Sec. 19-8-3, Resource Protection Regulations.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Ronald Bailyn and Patricia Morris for an after the fact Resource Protection Permit for 1,557 sq. ft. of fill in an RP2 wetland for landscaping and an additional 315 sq. ft. of temporary alteration to replace drainage pipe located at 26 Hannaford Cove Rd be approved subject to the following conditions;

1. That the plans be revised to address the Town Engineer's comments dated January 8, 2018;
2. That a note be added to the plan that erosion control will be accomplished in compliance with the Environmental Quality Handbook Erosion and Sediment Control, published by the Maine Soil and Water

Conservation Commission dated March, 1986, or subsequent revisions;
and

3. That there be no alteration of the site nor issuance of a building permit until the plans have been revised to address the above conditions and submitted to the town planner.

Mr. Huebener seconded and the motion passed, 5-1.

The board voted unanimously to adjourn at 7:35 pm.

Respectfully submitted,

Hiroshi Dolliver
Minutes Secretary