

MINUTES OF THE PLANNING BOARD  
TOWN OF CAPE ELIZABETH

October 23, 2018

7:00 p.m. Town Hall

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

Also present was Maureen O'Meara, Town Planner.

NEW BUSINESS

**Maxwell Woods Buffer Subdivision Amendment** - Joel FitzPatrick, dba Maxwell Woods LLC, is requesting an amendment to the previously approved Maxwell Woods Subdivision located at 112-114 Spurwink Ave to replant a buffer area where trees were removed in error, Sec. 16-2-5, Amendments to a previously approved subdivision Public Hearing.

Kylie Mason of Sebago Technics showed where the buffer was removed by accident. They want to replace this as soon as possible.

Ms. Jordan opened the public hearing.

Pete Dixon of 29 Westminster Terrace had a pointer and showed on the plan where he said the buffers had been removed. He pointed out several areas that concern him.

Fred Sprague of 15 Canterbury Way is president of the association at Canterbury. He said they have been working with the Town and with Joel (FitzPatrick) to improve the trails that are on their property. The Town has been cooperative about that, but there are still people making trails where they aren't supposed to be. He said they want input on trails. Right now there is a trail on our land that is supposed to be on Joel's property. He would like to know where the property line is. They are willing to cooperate, but do not want two trails side by side.

No one else spoke, so the public hearing was closed.

Mr. Curry asked for a brief statement of their design intention in this area.

Ms. Mason said there is a mix of plants that will establish quickly and be supplemented with evergreens, white pine, balsam fir and hemlock. They will also do some front plantings of red twig dogwoods. She said the sumacs will

fill in and the evergreens will fill in. The fall colors will be diverse. There will be no deciduous trees.

Mr. FitzPatrick said this buffer removal upset him tremendously. He said he was probably more upset than anyone else. The area was all flagged with ribbons placed by Sebago Technics. The flags are still there. He said he had designed this subdivision around this buffer. He also showed where they were approved to cut.

Referencing the public comments, the trail will be on his side of the property line. The trail Mr. Sprague was talking about is by Cottage Brook, another subdivision. It was not built by me, but by people trespassing. It is on Canterbury property. He will build it on his land and will work with Mr. Sprague.

Mr. Curry made the following motion:

#### Findings of Fact

1. Joel FitzPatrick, representing Maxwell Woods LLC, is requesting an amendment to the previously approved Maxwell Woods subdivision to add plantings to a buffer area where trees were removed in error, which requires review under Sec. 16-2-5 of the Subdivision Ordinance.
2. The Planning Board found that the Subdivision standards of review have been met when the subdivision was originally approved on October 17, 2017. Additional findings will be limited to the buffering amendment currently under consideration.
3. The buffering amendment to the subdivision plan will not cause soil erosion, based on the erosion control plan originally provided and erosion control measures existing on the site.
4. The buffering amendment to the subdivision plan will not have an undue adverse impact on scenic or natural areas, historic sites, significant wildlife habitat, rare natural areas, or public access to the shoreline.
5. The applicant has demonstrated adequate technical and financial capability to complete the project, with the addition of a cost estimate of the replanting plan to be submitted to the town and incorporated into the performance guarantee.
6. The buffering amendment to the subdivision plan will restore a vegetative buffer and screening within a portion of the subdivision.

7. The applicant has substantially addressed the standards of the Subdivision Ordinance, Sec. 16-3-1.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Joel FitzPatrick, representing Maxwell Woods LLC, for an amendment to the previously approved Maxwell Woods subdivision to add plantings to a buffer area where trees were removed in error be approved, subject to the following condition:

1. That the applicant provide to the town an estimate of the buffering plan cost so that the town may incorporate it into the performance guarantee currently held by the town.

Mr. Chalot seconded the motion and it passed, 5-0.

The Board voted 5-0 to adjourn at 7:16 p.m.

Respectfully submitted,

Hiroshi Dolliver  
Minutes Secretary