

SUDBURY CONSERVATION COMMISSION
Minutes of the EXECUTIVE SESSION
Held Monday, Sept. 26, 2016

Present: Tom Friedlander, Chairman; Beth Armstrong, Vice-Chairman; Bruce Porter; Dave Henkels; Charlie Russo; Debbie Dineen, Coordinator

8:28PM.

Executive Session:

By roll call vote of unanimous yeas, the Commission voted to end regular session and enter into Executive Session for a discussion regarding strategy for response to request for court action on 0 Washington Drive denial of Certificates of Compliance & update an 9/14/16 settlement discussion

Chairman Friedlander informed Commissioners that, with approval from Town Counsel George Pucci and Town manager Melissa Rodrigues, he and D. Dineen had a conference call with Atty. Chip Nylen, attorney for the Hollyers. The purpose of the call was to follow up on Atty. Nylen's suggestion at the Settlement Meeting that mitigation could be offered to allow a portion of the driveway to remain.

Subject to review, approval, and vote by the full Commission, the following suggestions were discussed for resolution and mitigation as part of the conference call. These items would need to be presented in a Notice of Intent as all current Orders have now expired.

1. The pipe shall be removed from the beaver dam at the spillway. It can be reinstalled at the proper elevation to keep the pond no higher than 152.4', if desired, but not required;
2. A comprehensive planting plan shall be submitted to the SCC for the entire portion of the slope from the fence to the area beyond the front of the house where the vegetation is sparse;
3. Approximately 600 sq. ft. of pavement may remain as part of the driveway plus approximately 1' of stone beyond the edge of the pavement;
4. Proof shall be required to show that the upper part of the driveway runoff is infiltrated after treatment; and
5. Engineering certification is required to establish that the driveway swale has been constructed in accordance with the approved plan.

B. Armstrong felt it was a bad precedent to set to show that an applicant can sue the Town and have the requirements for compliance reduced. B. Porter questioned how the Commission can be sure if the applicants are sincere if they agree to these terms. Past precedent gives cause for concern. D. Dineen suggested the Commission consider bonding the remaining items. It could be a cash bond to be reimbursed to the property owners as milestones are accomplished. it would effectively be a means to fund the necessary work on a reimbursement basis controlled by the Commission.

B. Armstrong noted that allowing a portion of the driveway to remain within the area initially designated as part of the conservation restriction would result in a reduction in the area subject to the restriction. She finds that offensive. D. Dineen stated that the conditions were developed strictly with the wetland interests in mind. She felt a comprehensive planting of native species along the entire front of the house and beyond would in the long run provide better wetland protection and enhancement than removal of 600 sq. ft. of pavement on the level area, provided the runoff was treated and

infiltrated. T. Friedlander reminded Commissioners that any settlement would have to come back to the Commission in the form of a Notice of Intent. B. Armstrong noted that the amount of revegetation would need to be massive to provide the anticipated protection of the wetland interests. She stated that she does not believe the Commission should have any further negotiations on this matter if this settlement offer is not accepted by the property owners.

On a motion by D. Henkels; 2nd B. Porter; the Commission voted unanimously by roll call vote of yeas in favor exiting Executive Session and adjourning. 8:46pm.