

**Zoning Board of Appeals
Lakeville, Massachusetts
Minutes of Meeting
January 31, 2019**

Members present:

Donald Foster, Chair; David Curtis, Vice-Chair; Janice Swanson, Vice-Clerk; Chris Carmichael, Associate Member; Joseph Urbanski, Associate Member

Members absent:

John Olivieri, Jr., Clerk, and Daniel Gillis, Associate Member

Regular Meeting:

Mr. Foster opened the regular meeting at 7:05 p.m.

Roll called.

Mr. Foster stated in accordance with the Open Meeting Law he was announcing that he and the secretary were making an audio recording of the meeting. LakeCAM was making a video recording. He asked if anyone present was making a recording. There was no response.

Mr. Foster advised this project, for First Colony, has been changing as they move along. He asked if it was correct that a new petition had been submitted to modify the original application. Atty. Pezzoni, Attorney for the applicant, replied that submittal was to supplement their original filing. Mr. Foster said he did not want to get into the details before he opened the hearing but he wanted to make sure that they did have a supplementary petition. They could then open it and merge it with the original.

Mr. Foster said a point of order was there was a request to waive the application fee. The fee consists of two parts, the application fee and the advertising fee. Mr. Foster stated they did have a request from the petitioner to waive the application fee for the second petition because it modifies the first petition. Mr. Foster advised that personally he thought that was a reasonable request, but the applicant should pay the advertising cost.

Mr. Carmichael then made the motion that the applicant would pay any costs incurred but the Board would waive the application fee. Mr. Curtis seconded the motion. The **vote** was **unanimous for**.

Mr. Foster advised for the record Mr. Urbanski would be voting tonight.

First Colony Development Co., Inc. hearing – 57 Long Point Road

Mr. Foster opened the First Colony Development Co., Inc. hearing and continued hearing at 7:07 and read the legal ad into the record. Atty. Pezzoni, Mr. Delli Priscoli, the developer, and Kevin Kline, the engineer, were all present. Atty. Pezzoni advised as they were aware they originally filed for a Special Permit under 6.1.3 and a Variance for site coverage. After the hearing and the discussions with the Board, they determined they would withdraw the Variance and reconfigure the plan based on the feedback they had received. That is why there is a new plan before them with only two buildings instead of the original multiple buildings. They have reduced the pavement, and have put a lot of the parking underneath the buildings. The impervious surface is now at 24% which is less than the 25% that was there previously and which also meets the bylaw criteria.

Atty. Pezzoni said in proceeding with the Special Permit request, they felt both the height issue and the use issue would fall under the Special Permit. In discussions with Town Counsel, they did submit the Variance request now if the Board feels it is required. He would like to focus first on the Special Permit request and the criteria for that. If they don't get an affirmative vote there, then they will move forward to the Variance. Atty. Pezzoni said regarding the change to the plan, they have reduced the size of the project from 84 units to 74 units. They are utilizing the existing access, water, and treatment facility. All of these had been approved previously in Variances received both from this Board and DEP for the prior use.

Atty. Pezzoni said the test under 6.1.3 is whether or not such change, extension, or alteration is not substantially more detrimental than the existing non-conforming structures or use on the property. Their contention is that it is not. The existing buildings are 45 feet in certain areas so the maximum height they could go to under their proposal is 45 feet. Their rendering indicates they are under that height. Mr. Foster asked Mr. Darling, the Building Commissioner, if he would like to speak to that. Mr. Darling replied he was aware of the section Atty. Pezzoni was referring to. He did not believe additional relief was required if it was not over the existing height.

Atty. Pezzoni said they have received a lot of different letters. One of them was from the Mayor of the City of Taunton which was also sent to Secretary Beaton. The letter makes it seem like this is a very large project that was being put onto the property, and there was going to be a negative impact on the environment. He also asked the State to purchase the property. He noted that they were not increasing the environmental impact but there was a slight reduction which he would let the engineer, Kevin Kline, speak to.

Atty. Pezzoni stated that an abutter contacted him regarding the roadway coming into the project which he has an easement on to get to his farming facility. Atty. Pezzoni advised they would be willing to cover 90% of any repair or maintenance that occurs on that roadway going in unless it is caused specifically by one of the abutter's trucks. He said

they would also put a notation in all the deeds of conveyance and in the bylaws of the condominium project noting an acknowledgement there is a farm next door; they sometimes use pesticides that are allowed; and they have sprinklers that go off in the middle of the night. By accepting the deed, the residents acknowledge that it is there so they cannot raise an issue later.

The other issue they had was relevant to potential children. They are bringing this forward as a 55+ project where at least one person in the household has to be 55 or older. They are also going to put a provision in that there are no children allowed at the site so there will be no impact to the schools. They would also put in a caveat to allow children to visit but they could stay no longer than 90 days.

Atty. Pezzoni noted they were before the Board to determine that this residential use is similar to the prior one and no more detrimental. Whether or not the new construction would be under Title V that is something they will take up with DEP. It is not a zoning issue and does not need to be addressed tonight. The Special Permit could be made contingent upon them getting all the proper Variances, Site Plan Approval, and any other approvals or permits from any other Board that may have jurisdiction. They are here for the number of units, the buildings, the actual project, and if it complies under the Special Permit.

Atty. Pezzoni said he would turn it over to the engineer, Kevin Kline, so they could hear about the issues raised by DEP and a history of the site and how they got here. He would also explain how when they went for their Variance the City of Taunton, the City of New Bedford, and the local Board of Health were okay with upgrading the size of the system and the impact it was going to have.

Mr. Kline then began his presentation. He advised he has been involved with this site for the last 17 years. He was originally hired by the Tolles family to look at their water supply and their waste water. The nursing home has been there for a long time and consists of four residences and a 77 bed nursing home. The Title V sewage design flow was 12,540 gallons per day on cesspools which were in Zone 1 of the public water supply wells. Some of them were within 100 feet of the public water supply wells. He advised there were originally two wells on the site; both of them near the buildings and both of them not receiving much treatment. They met the public water supply requirements and gave safe water but they did not have disinfection.

Mr. Kline said they tried to figure out how they could upgrade the septic system. They worked back and forth with DEP for about five years before they finally got an Administrative Consent Order signed. This order allowed Island Terrace to build an innovative alternative waste water treatment system which is a bacterial treatment system. It breaks down the waste water, nitrifies the waste, and denitrifies some of it. They also had to build a whole new leaching field for the 12,540 gallons a day outside of the Zone 1. They had to take down the trees in the back just for that purpose.

As part of this, Island Terrace then went to do some of their expansions and upgrades. They went before the ZBA for an addition and to add ten additional beds. That required them to go back to DEP and file an amended Administrative Consent Order which would have brought the total design flow up to 14,010 gallons a day, but they were required to have composting toilets for those ten beds. DEP then required Island Terrace to go to the Lakeville Board of Health, the Taunton Water Department, and the New Bedford Water Department and get letters indicating the proposed plan to add the beds and provide the enhanced treatment system would not be detrimental to the environment. They got those letters from the three parties.

Mr. Kline stated they understand the site is an environmentally sensitive area. They have on-site water supply, wastewater treatment system, and storm water. Every time they've worked on the project it has gotten better which will be incorporated into the new plan. The existing alternative treatment system will be retained and used. The effluent quality for the last year that it was operating was great and the system works well. Under the new plan all the existing buildings will come down, and the new building will go up in Zone 1 and the other building outside of Zone 1. They will have to reconfigure some of the leaching trenches in order to have enough of a setback, but they will still be outside of Zone 1, and they would be further away from the surface water supply.

Mr. Kline continued they are doing that in order to get the buildings in and minimize the paved area. They have most of their parking under the building, and they have less pavement and parking than what is currently there. All of the storm water can come out of Zone 1 which would further what they had done with the expansion of the nursing home. They understand they have to deal with DEP because they have an Administrative Consent Order, and a large septic with a large treatment system, along with having a public water supply.

Mr. Kline advised the proposed 74 units at 150 gallons actually equals 11,100 gallons per day which is a reduction from the 12,540 that had been approved and permitted. Mr. Delli Priscoli noted that the infrastructure that is there, meets all the codes, was supported when the Tolles' were there and will be used by them. They will be putting less effluent through it, and have also reduced the coverage. They listened to all the comments and concerns that had been mentioned and brought forward and hit on every one of them.

Mr. Foster stated this project proposal has created a lot of different opinions on both sides. Tonight, however, the Zoning Board is narrowly focused on the request of the petition that has been submitted with respect to the bylaws and what satisfies the bylaw or does not satisfy the bylaw. They could not be concerned with alternative ideas for the site. He would allow other people to speak but wanted it known that the information that they need to consider as they deliberate on this has to be filtered by what the bylaws allow.

Atty. Pezzoni then spoke regarding the trip generation. He advised at the last meeting they had stated that at the previous facility an excess of 300 trips a day had been estimated. With the number of units reduced to 74, their new estimate is 240-245 trips

per day. Mr. Carmichael asked if the access into the site would be adequate. Do they have an impact statement from the Highway Department? Mr. Kline stated this was an existing road. It has always been adequate for the use and traffic will decrease with this project.

Mr. Foster stated the Board had been fortunate to have their Consulting Engineer, Mr. Nick Lanney, take a look at this project. He was present tonight. Mr. Lanney asked about the underground parking. He noted that typically if you had a municipal sewer system with underground parking the drain would go to an oil/water separator and then to a municipal sewerage system, which they didn't have here. He was curious where this runoff would go. Mr. Kline responded it would go to a tight tank. The nursing home right now has a tight tank that serves the beauty salon. They will have to relocate the tank which is located in Zone 1.

Mr. Carmichael asked if there were cisterns for the Fire Department's System. Mr. Kline replied when they upgraded the nursing home, they upgraded the Water Supply. They went from two wells to one, added treatment, and added a large storage tank. That tank provided more than one day's flow for the nursing home and is also connected to a set of fire pumps that were built into a concrete bunker which is at the far southern end of the property.

Mr. Foster then read the January 31, 2019, email from Town Counsel regarding having standing to request zoning relief, as the applicant is not the owner of the subject property. The applicant indicated that a Purchase and Sales Agreement was in effect. It was the opinion of Town Counsel that the Courts have held that an applicant for zoning relief need not be the owner of the property where relief is sought as long as the applicant has an interest in the property that warrants consideration. Mr. Foster noted that what Mr. Delli Priscoli is doing is valid and proper, and they could continue with their deliberations.

Mr. Foster then read the January 30, 2019, letter from the City Of New Bedford into the record. They were not supportive of the application. Mr. Foster also read the January 31, 2019, email from Town resident, Mike Renzi. Mr. Renzi was present and stated he could see Island Terrace from his property in Cedar Pond Reserve. He was concerned if the project went through and if the Town lighting ordinances were not enforced, it would adversely affect the night sky. Mr. Foster asked the engineer if he would be responsible for the design of the lighting fixtures on the site. Mr. Kline replied they would hire a consultant to do that. Atty. Pezzoni noted they would have to comply with the bylaw. Mr. Foster asked Mr. Darling and the applicant if in their best judgement they thought the night lighting situation would be better with the project that is proposed compared to the old nursing home. Mr. Delli Priscoli replied that probably very little thought had been given to this concern when the building was originally built. He is not a lighting engineer, but they will work very closely to conform and they will do everything they can to mitigate.

Mr. Foster then read the January 28, 2019, letter from Martha Schroeder into the record. She was not in favor of the proposed project and suggested it be purchased by a consortium of one of the land trusts, the State, the Town of Lakeville, the City of New Bedford and the city of Taunton. Mr. Foster asked if anyone else would like to speak. Selectman Powderly advised that he did support the residents and the concept of open space. However, he did not feel this property fit into those criteria. This property, between purchasing and then demolishing the existing structures, is probably an \$8 million project. He would not put that type of burden on the taxpayer. He would support any efforts to raise money in another form. Regarding the letters from the Mayor's office of both Taunton and New Bedford, he did not feel they had an understanding of the scope of the project which will have less of an impact than the Island Terrace property had.

Mr. Kline then spoke to the letter from the City of New Bedford. He questioned if it was in response to the original proposal which was 35% impervious. This proposal was less than 25% impervious. It was also said this project would have greater nitrogen loading. Nitrogen comes from your impervious surfaces, and there will be less than what currently exists. It also comes from the sewerage and again there would be less than the existing. There will be a lower nitrogen load than what currently exists there. Mr. Kline said there was also a concern about pharmaceuticals. He noted there were pharmaceuticals with every use including nursing homes. Residential use would likely be less than the nursing home but they would be in the waste water and then be treated. Treatment plants do not remove all contaminants but they are everywhere and at least they would be treated and residential use is less intensive than a nursing home use. They know they have to work with DEP with the Zone A, the Zone 1 and the waste water treatment system, but that does not affect the residential use of it and the impacts of it.

Atty. Pezzoni noted that in 2017 and in January of 2018, when the system was being redone, there were letters of support from the City of Taunton and the City of New Bedford. He submitted copies of those letters for the record. He was unsure of their rationale against it now as it would have a less intrusive use. The resident from 15 Long Point Road was concerned about the Variance being requested as well as the height of the buildings. Atty. Pezzoni clarified they were seeking only a Special Permit. They had also submitted paperwork that verified the present height of the building. He also asked if 150 gallons of sewerage per day for two people in a condo was an accurate calculation. Mr. Kline replied that amount was in the regulations for 55+. He was also concerned about the traffic. He would hope a study would be conducted prior to construction.

Ms. Martha Schroeder then addressed the Board. She said there had been talk about what New Bedford and Taunton had supported when they were upgrading. She would like to point out that Island Terrace was an important institution for the Town, and she felt they would have given more leeway to what already existed to keep it operating but they did not feel the same way about a change of use. It is time to reduce and eliminate the impact substantially. Ms. Hillary Wood of Somerset Lane was concerned about traffic. She stated she had moved there for the quietness of the area and felt that there would be more people coming and going. It was very rural in that area to have such a huge development.

Atty. Anthony Savastano then spoke. He advised he represented the direct abutter, Betty's Neck Farm. He stated that he had watched the prior hearing and looked at the submissions. There was a lot of information that had been thrown out and some of it conflicted with information previously stated. He was not implying any ill intent. Mr. Foster noted that he had said the same thing at the beginning of the hearing. Atty. Savastano said his client was not necessarily opposed to a reasonable project out there, but they don't know what the project is. His understanding is initially the number of units and the reason for that number was because they could not do anything less than "x amount of flow" because of the septic system. He consulted with an expert and there are no minimum flows required in Title V or elsewhere. There may be a manufacturer's recommendation, but they have not yet seen any information submitted that would confirm that.

Atty. Savastano noted there are people who have children later in life, and you could not say that a 55+ is an elderly facility that won't tax the system or the schools. He stated there had been some discussion about the relief requested under 6.1.3, but the initial submission and a lot of the discussion at the last meeting focused on 7.4.6, seeking a Special Permit for a home for the elderly. He did not believe that had been abandoned and unless that could be withdrawn his concern would be a constructive grant based on that.

Atty. Savastano advised 7.4.6 has a provision for the home for the elderly and uses that in conjunction with residential care facility or charitable institution. He stated that the applicant has tried to conflate that with housing for the elderly which is not used in the bylaw but only in the context of Title V. There is case law that supports the fact that home for the elderly typically refers to nursing or group homes. He noted that under Title V for 55+ housing at least 80% of the occupied units must be occupied by at least one person 55 or older. You could have at least 20% of the units without anybody over 55.

Mr. Foster asked Atty. Pezzoni to respond. He replied they would be looking for 100%. Atty. Savastano said that would be a violation of Mass General Law 151B, Section 4 which specifically references the US code, and it would be housing discrimination. You can have 62+ which is age restricted, but they are not willing to do that. He wants to make sure that when they are looking at the impact of this proposed project, they are not looking at elderly housing but rather multi-family housing.

Mr. Foster asked Atty. Kwesell to address these points that had been raised. She advised it was her understanding that the applicant filed a new application, and it does not reference 7.4.6. Atty. Pezzoni said that was correct. With regard to having an over 55 development, they can have a development. It is a condominium. It is private property and they are not seeking any State or Federal money. Atty. Savastano respectfully disagreed and stated after reading the relevant section, it would be age discrimination.

Atty. Savastano then said continuing on to the request for relief; could it be clarified on the record that the relief sought under 7.4.6 is withdrawn so there will be no future argument on a constructive approval. The applicant then waived the requested relief sought under 7.4.6. Atty. Savastano then moved on to Section 6.1.3. Their bylaw allows for a change of use if they meet two standards. The first is it has to be a pre-existing, non-conforming use and then the Board will make a determination whether or not the proposed intended use is not substantially more detrimental. They don't have that. They have an abandonment of the pre-existing, non-conforming use. They were being pitched a project under the wrong section. He could go through all the standards and all the facts that have been thrown out, but most are not supported anywhere in documents that he was aware of. They could not make those findings or get to that second stage. Regarding traffic, all the information presented was speculative. He has seen nothing provided in writing. He would ask they make specific findings on all the standards required under the bylaw.

Atty. Pezzoni replied he believed that under the bylaw you are allowed two years once a facility or use is closed to move forward. Regarding Chapter 151, he understood that applied only when you are pursuing Federal or State money. It does not apply here. This is private property, and they could put any restriction on it that they want. Mr. Carmichael asked if they could hear from Counsel concerning these two points.

Atty. Kwesell said there is a two year provision under their bylaw. She also agreed that Chapter 151 did not apply unless you were seeking Federal or State funds. Atty. Savastano said there are two options under the State law and the bylaw has chosen those two options. One is a cease of use for a period of not more than two years. The other is intentional abandonment, and that is immediate and distinct from a lack of use for two or more years. You lose the pre-existing, non-conforming use if you meet either of those two standards.

Atty. Savastano stated that under the Special Permit standards they would have to establish they can complete the project if this Board granted the relief requested which they cannot do for the following reasons:

They need a Variance for height. There is a projection here but no specific measurements. He would ask the Board require specific measurements. Mr. Foster noted that had been provided.

5.0 of the Zoning by-law provides for only one principal structure and two are proposed.

To return to the height issue, the argument provided fails. They are not attempting to expand the existing building but to raze it and reconstruct it. You cannot transfer pre-existing, non-conforming dimensions to new unrelated buildings.

They would also need a Variance for the frontage requirement if they were to make a finding that it is a new use or a change of use even though there is now a discussion that indicates they are not seeking a Special Permit under 7.4.6.

There was then a discussion regarding the change in structure, but Mr. Foster noted in 6.1.3 a use may be changed extended or altered by a Special Permit. Atty. Pezzoni said they have conferred with the Building Commissioner, and they do comply under Subsection a. They really don't need the Permit but they don't mind the Board putting restrictions on them. Atty. Savastano then requested, for the record, a withdrawal for the Variance request so there would not be a subsequent argument that there is a constructive grant. He is prepared to argue against the Variance as well.

Mr. Curtis then made the motion, seconded by Mr. Urbanski, to accept the request for withdrawal for the height Variance without prejudice. The **vote was unanimous for.**

Atty. Savastano noted there were still requests that needed to be withdrawn if they were now not seeking that relief. Atty. Pezzoni then specified they would like to withdraw the request for a Special Permit under 7.4.6., the height Variance request, and the lot coverage request all without prejudice.

Mr. Carmichael made the motion to accept the withdrawals as Atty. Pezzoni had specified without prejudice. It was seconded by Mr. Urbanski. The **vote was unanimous for.**

Atty. Savastano asked in terms of traffic, they would like the Board to require a more specific traffic study. He would ask that they at least have some specific plans they are voting on as opposed to the concepts that are now being discussed. He would also like to point out that the easement goes over his client's property, and he is concerned not only about the traffic but about the potential damage to the road and also whether it will be improved or not. Their position is they have no ability to make improvements without the permission of the dominant estate which is his client. Atty. Kwesell advised the subject of the easement was a private party issue.

Atty. Kwesell stated that she would like to address the matter of the two principal structures. It is not an issue. That would be a situation if you had a non-conforming use, and you were looking for a conforming use which is not the case here. Under 6.1.3, this is a change of a non-conforming use. Ms. Swanson noted there were presently five buildings on the site.

Ms. Carol Tolles then spoke. She advised that she was still at 57 Long Point Road. She had a picture that she would like to share which showed the impacted area of the mandated waste water treatment plant that they had built. It shows that they already had to take their woods down, and they are gone. She noted some of the other uses for Island Terrace that had been presented to her and her family were for drug and alcohol rehab centers and a clinic for the care of elderly sex offenders. Her family has tried to bring in the best plan possible that would not overburden the Town's resources. She also wanted it known that she tried very hard to get the Mass Audubon Society interested in taking the property. She tried to get the Mass Horticulture Society interested in it but they were not. She was not able to get any interest from any of the Nature Conservancy organizations. This plan is the best one that was presented to them. It's the one that takes the

environment the most into consideration. It uses the infrastructure that is already there, and they are keeping as many of the specimen trees as possible.

Mr. Foster asked if anyone else would like to speak. Mr. Nick Lanney, the Board's consulting engineer, then spoke. He stated he had read through the water protection supply rights and it seems to him that it is possible that DEP could deny them an operating permit for a ground water discharge permit in which case, as he read the regs, they would go to Title V for a system of less than 10,000 gallons per day through the local Board of Health. A Title V system would not treat the water to the extent of what they currently have. Mr. Foster advised that in terms of the permitting process, they have many more permits and approvals to get beyond the Zoning Board. Atty. Pezzoni said they did understand that.

Mr. Foster asked for a clarification from Atty. Kwesell regarding a memo she had written to the Board. Was he correct in stating they no longer would be deliberating the issue of Variances? Atty. Kwesell said that was correct. She advised that this is not a 40A, Section 6 finding. It is a little bit different as there is a hybrid here. It is a 40A, Section 6 finding but they have a permissive bylaw in 6.1.3. There is a little more flexibility than just a Section 6 finding. For example, the Powers test does not make or break the project. As she said that she had stated later in the memo, even if you fail the Powers test, it can happen as long as you have a permissive bylaw which is what they have here. She advised that on its own 40A, Section 6 does not permit the change of a non-conforming use. You have to have a bylaw that is permissive and their bylaw is clearly permissive of that. Essentially, what is before this Board is a pre-existing, non-conforming use. The question before this Board would be is the proposed use not more substantially detrimental to the neighborhood.

Mr. Foster said it seems they have heard assertions that most of the characteristics prevailing when the property was used as the Nursing home that could be considered as detrimental will be reduced if this development occurs and it is used as proposed. Traffic will be less. They were unsure of light but that is controllable with the engineering design, the architectural design, and the choice of light fixtures. Atty. Kwesell said that will also be addressed in Site Plan Review. In regards to the sewerage, it will be treated and there will be less flow meaning there will be less nitrogen and less pharmaceuticals. There is also less impervious coverage.

Mr. Foster then asked Board members for their comments on the impact in the neighborhood. Mr. Carmichael stated he felt the proposed residential use is more conforming to their bylaws than the existing institutional use and less detrimental. He thought it was a good proposal and liked how they had come back and reduced the scope. However, he did want an impact statement from the Fire Department to address concerns of access, connections, and additional cisterns if needed.

Mr. Brenton Tolles then spoke. He wanted to comment regarding the idea of traffic. They gave them the numbers they had, and he wondered how they would do a study if the facility was closed. The other issue that had come up was lighting. Currently, there were

because of the building project, there was still existing lighting that had not been upgraded.

Ms. Swanson said her thoughts were that this plan had improved from the last presentation and that the Board needed to look at the zoning not necessarily some of the other things that had come up, and they had talked about. This petitioner will still need to go to other Boards, DEP, etc. Their job is to look at the zoning of the project and see if they feel it is less detrimental. She felt it was less detrimental because of the points that had been raised. Mr. Urbanski said he felt the same way and did not see any reason why they shouldn't move this forward. Mr. Curtis also agreed.

Mr. Foster asked Atty. Kwesell what else they needed to do. She replied there was nothing else. It would be the applicant's choice whether to continue for any reason or to close the hearing. Atty. Pezzoni stated they would like the Board to move forward and take a vote tonight. They were fine with all the contingencies that had been suggested. Mr. Delli Priscoli added that they would work hard and diligently with the other Boards and Agencies to make sure their finest is done and also work in partnership as colleagues with their neighbors.

Mr. Foster said it was important to note that if they did vote on this tonight, they needed a set of plans that would go in the folder and everything presented would be covered in those plans. Atty. Pezzoni said they could have the full set of plans that had been presented this evening. These were the latest and included all that had been discussed.

Atty. Kwesell advised there should be a vote indicating their finding that the project was not more substantially detrimental.

Ms. Swanson made the motion, seconded by Mr. Curtis, that the Board found this project to be not more substantially detrimental than the previous use of the property. The vote was **unanimous for**.

Mr. Carmichael then made a motion, seconded by Mr. Urbanski, to approve the request for a Special Permit according to the Stantec plan dated 1/18/19 with the following restrictions:

1. The approval is for the Stantec plan dated 1/18/19.
2. The applicant must meet all DEP requirements.
3. The applicant must meet all conditions of the Site Plan Review.
4. The applicant must meet all Board of Health requirements.
5. The applicant must meet all local and State jurisdictional requirements.

The vote was **unanimous for**.

Mr. Carmichael made the motion, seconded by Mr. Curtis, that Mr. Foster be authorized to prepare the findings and Decision papers within 14 days which is the Board's standard operating procedure. The vote was **unanimous for**.

Mr. Carmichael made the motion, seconded by Mr. Curtis, that Mr. Foster be authorized to prepare the findings and Decision papers within 14 days which is the Board's standard operating procedure. The **vote** was **unanimous for**.

Mr. Carmichael made the motion, seconded by Mr. Urbanski, to close the hearing. The **vote** was **unanimous for**.

The hearing closed at 8:40.

Documents distributed for the hearing:

- Updated plan and petition packet dated January 20, 2019
- Nicholas Lanney correspondence of January 24, 2019
- Atty. Amy Kwesell correspondence of January 28, 2019
- Mike Renzi email of January 28, 2019
- Conservation Commission correspondence of January 29, 2019
- City of New Bedford correspondence of January 30, 2019
- Atty. Amy Kwesell email of January 31, 2019

Mr. Curtis made a motion, seconded by Mr. Carmichael, to approve the Minutes from the December 20, 2018, meeting. The **vote** was **unanimous for**.

Mr. Carmichael made a motion, seconded by Mr. Curtis, to adjourn the meeting. The **vote** was **unanimous for**.

The meeting was adjourned at 8:45.