

DRAFT

**Wallingford Planning & Zoning Commission
Monday, January 13, 2020
Robert F. Parisi Council Chambers
Town Hall – 45 South Main Street
MINUTES**

DRAFT

Chairman Seichter called the meeting to order at approximately 7:00 p.m.

Pledge of Allegiance was recited by all.

Roll Call: Present: James Fitzsimmons, Regular Member; Jeff Kohan, Regular Member; Rocco Matarazzo, Secretary; JP Venoit, Vice Chair; Jim Seichter, Chairman, Jaime Hine, Alternate;

Staff: Kacie Hand, Town Planner

Absent: Armand Menard, Alternate; Steve Allinson, Alternate

Approval of Minutes – December 9, 2019

Commissioner Venoit: Motion to approve the minutes of the December 9, 2019 meeting as submitted.

Commissioner Kohan: Second

Commissioner Fitzsimmons: Abstain

Vote: Unanimous to approve

Chairman Seichter noted that the following application will not be heard at the request of the applicant.

2. Special Permit (warehouse & distribution center)/J. Dewey (on behalf of BL Companies)/ 425 South Cherry Street #414-19 Applicant requested the application to be carried over to the February meeting.

PUBLIC HEARING Continuation

1. Special Permit (distribution operation & office)/Benchmark Land Development, LLC / 988 East Center Street #411-19

Commissioner Matarazzo noted all correspondence pertaining to this application for the record.

Correspondence from Dennis Ceneviva to Kacie Hand dated December 16, 2019; Stormwater Maintenance Plan by Godfrey Hoffman & Hodge, not dated; document prepared by Kacie Hand, Town Planner, dated December 3, 2019; correspondence from Joseph Czentnar, Deputy Fire Chief to Kacie Hand, dated January 3, 2020; Correspondence from Dennis Ceneviva to Kacie Hand dated December 6, 2019; photos of the property; Correspondence from Erik Krueger to Marcus Puttock, dated January 6, 2020; correspondence from Kacie Hand to Dennis Ceneviva dated October 9, 2019; Interoffice Memorandum from Erik Krueger, Senior Engineer, Water and Sewer Division to Kacie Hand dated January 8, 2020; Interoffice Memorandum from Erik Krueger to Kacie Hand, dated January 8, 2020; Interoffice Memorandum from Erik Krueger to Kacie Hand dated January 13, 2020; correspondence from Kacie Hand to Angie Conte, dated November 19, 2019; Memorandum from Erin O’Hare, Environmental Planner to Kacie Hand, dated November 26, 2019; Certified Letter from David Parent, Inland Wetlands and Watercourses Commission to Benchmark Land Development, dated November 8, 2019; Memorandum from Janis Small, Corporation Counsel to Planning and Zoning, dated November 7, 2019; correspondence from Dennis Ceneviva, Ceneviva Law Firm to Kacie Hand, dated December 9,

2019; document of Impacts On Uses at 988 East Center Street, not dated; Memorandum from Kacie Hand to Joseph Czentnar, Deputy Fire Chief dated November 7, 2019; correspondence from D. Warren and Penelope Williams to Chairman Seichter, dated November 11, 2019; Interoffice Memorandum from Erik Krueger, Senior Engineer Water and Sewer Division to Kacie Hand, dated November 6, 2019; correspondence from Lisa Fitch, Great Oak Realty to Benchmark Land Development, dated November 6, 2019; correspondence from Joseph Czentnar, Deputy Fire Chief to Kacie Hand, dated May 21, 2019; correspondence from Art Jones dated March 21, 2019; correspondence Reference to special permit 411-19 Mary Tartaglia to Planning and Zoning Commission, dated November 7, 2019; correspondence from Leonard Wagner to Town of Wallingford, dated March 8, 2019; correspondence from Angie Conte to Kacie Hand, dated November 5, 2019; photo dated September 20, 2019; correspondence from Dennis Ceneviva to Kacie Hand, dated November 13, 2019; correspondence from D. Warren and Penelope Williams to Chairman Jim Seichter, dated November 11, 2019; Memorandum from Janis Small, Corporation Counsel to Planning and Zoning, dated October 31, 2019; Inter-departmental Referral from Environmental Planner referencing Special Permit 411-19 dated August 9, 2019; correspondence from Angela Conte to Planning and Zoning Commission, dated November 4, 2019; correspondence from Mary Jane Zuk to Planning and Zoning Commission, dated November 2, 2019; correspondence from Angie Conte referencing special permit 988 East Center Street to Kacie Hand, dated November 5, 2019; Application for Variance, dated March 6, 1969; Assessor's card Vision ID 14646 dated April 13, 2011; Vision ID 14646 Assessor's Card dated February 26, 2002; Assessor's Card dated 1960; Assessor's card number 20; correspondence from Mary Jane Zuk to Planning and Zoning dated December 5, 2019; memorandum from Rob Baltramaitis, Department of Engineering to Planning and Zoning Commission dated December 6, 2019.

Mrs. Hand clarified for the record that attachment 1X was additional assessor's cards from 2011 and attachment 1Y was the assessor's card from 2001. She also noted that attachments 1G and 1Q were the same thing, dated November 11, 2019, letter from Warren D and Penelope Williams.

Dennis Ceneviva of Ceneviva Law Firm introduced himself, Marcus Puttock of Godfrey Hoffman Hodge Surveyors and David Palumbo of Benchmark Development LLC. Mr. Ceneviva distributed a document summarizing the questions from the October meeting, including a history of uses of the site for the last 60 years and factors when there is a non-conforming use sought at a location where there is an existing non-conforming use. In addition, there was concern about the delivery and pick up railroad cars on the railroad spur immediately adjacent to the site; the impact, on the East Center Street Railroad crossing with input from the Fire Department; and lastly issues of railroad exemption from local zoning ordinances. He noted the last issue is not germane to the commission. Mr. Ceneviva reviewed the list of past uses provided by Mrs. Hand and compared them to Mr. Palumbo's operation, using the factors provided by Atty. Small. The most recent past owner, Great Oak Realty used it as a construction drop yard for a company called New Haven Partitions. Since the last use was not approved, he also compared Mr. Palumbo's use to Mr. Fresina's non-conforming use back to 1980. Mr. Palumbo has fewer employees on the site, sand is the only material, the only equipment is a conveyor belt and Mr. Palumbo will only use the property periodically and for two hours a day. Mr. Ceneviva reminded the Commission that Mr. Palumbo has agreed to truck traffic restrictions on East Center Street. He also reminded the

Commission that there were 4000 square feet of old buildings have been razed and will be replaced with a single 1200 sq ft building to be used as an office. Mr. Ceneviva provided information on the proposal to limit the number truck trips to no more than 5 a day and no more than 20 a week. The average is 3 trucks and one car per day. He also noted that there would be no overnight truck parking and no idling of trucks. He stated that the rail cars are on the railroad property, not Mr. Palumbo's. He acknowledged the concern of the street closings caused by the rail car deliveries and noted the letter from John Connelly explaining the changes being made to the methodology. All rail car deliveries will be north of the crossing. The spur connection is about 500 feet from the railroad crossing north. He explained that once train has driven past the east center street grade crossing the gates will go up. During any delivery or pickup the gates will be up. Mr. Ceneviva stated that trucks load in 30 minutes totaling two hours of intermittent activity a day. He suggested that Mr. Palumbo's use is no more objectionable than the prior uses. He stated that they are prepared to comply with the suggested conditions, including the request received today disallowing hazardous materials on site.

John Connelly, VP of Operations for the Northeast Region, Genesee & Wyoming Railroad Services Inc., explained the new methodology for delivery and pickup of rail cars at this site. He apologized for the company not paying attention to the amount of time they block the crossing. The company is taking the opportunity to make operational improvements for this spur. He noted that total traffic for this spur is about 4% of the traffic on this line. He explained how the methodology used to cut off traffic and then how the improved methodology will work. The new methodology will be to have Mr. Palumbo's car on the back of the train coming Northbound out of New Haven. Starting last week, the train now pulls across the crossing, stopping with the last car 150 feet from the crossing and cut that last car off and pick up the empty car. Then the train continues to the north. This will ensure the gates don't come back down. The crossing will only be activated one time.

Commissioner Kohan asked for clarification on recent activity he observed at that crossing. The train stopped south of the crossing and the engineer manually opened the gate. He asked if this was the normal procedure. Mr. Connelly replied that it was not standard procedure but that the methodology had been under development during that period. He explained that last Monday was the first use of the new procedure, so they will no longer be stopping south of the crossing. Mr. Ceneviva pointed out that the Deputy Fire Chief is now satisfied as long as the pickup and delivery happened north of the site.

Chairman Seichter asked what time of day the deliveries will be made by the railroad. Mr. Connelly replied that the trains will only stop once, performing pickup and delivery at the same time. This will occur Tuesdays and Thursdays between 11:30am and 1:30pm.

Mr. Ceneviva reviewed the proposed list of conditions of approval that they have accepted. This includes: all deliveries and removals of railroad cars done north of the railroad crossing; railroad won't deliver or remove cars on Sunday; operations will be Monday through Friday 7:30am to 6pm with no trucks before 7am and with no idling; no more than 5 trucks per day and no more than 20 per week; all trucks turn right only to I91 North, even if heading South; no idling on property, trucks will turn off engines, and no overnight parking on the property. In addition they are adding an attractive building.

He noted that the use of rail reduces truck traffic, minimizing traffic on Wallingford roads. Mr. Ceneviva noted that the “no more objectionable” standard is different from other towns that use “less impactful”. This is from a zoning perspective. He reported that they have addressed all the factors provided by Atty. Small. He mentioned that this has been a long process, while the operation has been in place. He stated that at the end of the day there was only one complaint on the operation in the past four years. With the changes to the railroad process there will be no impact on the grade crossing.

Chairman Seichter asked for an update on the required front landscaping. Mrs. Hand reported that the majority of the requests dating back to August 2019 have been addressed. The one outstanding issue is the 25 feet front landscaping requirement for the zone. The Southeastern corner has a small area not yet in compliance but draft plans show how it will be resolved. Ms. Hand suggested adding full compliance as one of the conditions of approval.

Commissioner Hine asked for clarification of the material being handled on the site and how it is moved from the train car to the truck. Mr. Palumbo replied that there are two sand products for concrete: P60 which is coarser and P90 which is finer. The conveyor goes under the rail car (bottom drop rail cars) and gates on the car open to the sides. Conveyor goes up to the bottom of the rail car and slots in the conveyor carry the sand to the top of the truck. The conveyor is a closed box. Commissioner Hine asked if sand ever escapes the conveyor. Mr. Palumbo stated that sometimes it’s frozen and has to be chipped out leaving some sand on the rail tracks but they clean it up. Commissioner Hine asked if the material is stored on the site. Mr. Palumbo replied that it is unloaded into trucks and no trucks are left on the property at night. Commissioner Hine stated that the applicant has the burden of proving that this use is no more objectionable than the prior use. He asked if there had been a determination of the prior non-conforming use actually was. Ms. Hand directed the Commission members to look at handout 1GG which is a history of the uses of the site. She stated that she created it for the Commission, gathering background information is part of her role. She acknowledged that the Town wasn’t aware that the last user was there. Commissioner Hine reviewed the history of the site. In 1960 it was in compliance with a CB zone. Ms. Hand mentioned a file that documents discussion about the use at that time (feed store). It was agreed that it was correct to say that that use had been abandoned. In 1969 there was approval for a gas station but it was never used as such. Commissioner Hine continued, in 1980, Mr. Fresina used the property for a warehouse for a contractor business. At the time warehousing was permitted in that zone. In 1985 the property was changed to a CA zone, in which warehousing was not permitted. Commissioner Hine state that assuming the assessor’s card for that year is correct, it was a legally non-conforming use at that time. In 1990 and 2002, the assessor’s cards still list it as a warehouse. Commissioner Hine questioned the 2010-2011 assessors card that states commercial warehousing with a new owner, Great Oak Realty. He noted that when this application first came to the Commission, the Planner’s office’s correspondence to the applicant (Aug 29, 2019) states the prior use was hobby woodworking and that the office was not aware of a construction yard as part of that use. Mrs. Hand replied that this was an anecdotal understanding that the property was more hobby woodworking than an active warehouse. She then looked back through the records and found no application from Mr. Fresina to change the use of the property. Commissioner Hine stated that we have a provision in the regulations that says “no non-conforming use which has been abandoned shall be resumed”. If the

warehousing use was abandoned by Mr. Fresina before he sold the property, then Great Oak Realty would not be allowed to use it as a warehouse. Mrs. Hand replied that we have to take the information that is available. The question is whether this use is more objectionable than the prior use. She also noted that vacancy does not mean abandonment. Great Oak's outdoor material storage was not grandfathered. Ms. Hand stated that the warehouse may have gradually become less significant. She did note that hobby woodworking would have been considered production. Either way, the Commission needs to make their determination based on the available information. Mr. Fresina did not apply for a different use. We don't know what exactly he did there.

Commissioner Hine asked whether more intense use is no more objectionable. He stated that CB zones allow more than CA zones. This is a CA zone, but in the CB zone, there is a provision for warehousing and construction storage. The CB zone (4.6B7) permits retail lumber and fuel and building material and contractor's equipment storage within an enclosure but excludes bulk storage of concrete or cement mixing tanks. He noted that our regulations seem to make the distinction between regular construction storage and transferring, storing and transporting fine sand like material. There is a distinction between simple storage and something more. Commissioner Hine stated that he appreciates what Mr. Palumbo is trying to do but it's in a particular zone and we have to pay attention to the regulations.

Chairman Seichter asked for clarification that there is no storage of material on the property and the material delivered on the rail cars is on railroad property. When it's off loaded it is put in trucks and removed from the property. Mr. Palumbo agreed that was correct.

Commissioner Kohan asked if traffic from the site is estimated to be three trucks per day, which makes six trips in total a day. How do the incoming trucks come in to the site? Mr. Palumbo proposed a condition that they come from I91 only. Commissioner Kohan asked when the spur was built. Mr. Palumbo replied that the line has been active for about 150 years and the spur there for well over 100 years. He noted that there is an additional spur that is no longer used. The spur was used for the feed store and coal facility. The spur has been almost continuously used. Commissioner Kohan noted that the Fire Chief is satisfied with the changes to the train crossing East Center Street, addressing one of his big concerns. He also noted that Attorney Small stated in her memo that the Commission has no authority to regulate the railway. But we kind of are regulating the railroad by requiring the changes at the crossing. Commissioner Kohan stated that he did not find the operation more objectionable. His one concern remains the concerns of residents about the diesel exhaust and noise from the train. He acknowledged that it is not constant. Mr. Ceneviva acknowledged that the railroad is not subject to our conditions. If it's a condition for operation of his business, the risk is not the Town's or the railroad's, but Mr. Palumbo. If the Railroad does not comply, Mr. Palumbo will be out of business. He noted that Mr. Connolly indicated that the railroad is committed to improving the conditions at the East Center Street crossing. He acknowledged that if the railroad changed its procedures it would be a violation of the special permit.

Commissioner Fitzsimmons stated for the record that this is only the second time the Commission has talked about this application and the Commission will act on the application this evening. In this

particular scenario, the applicant has addressed the bulk of his questions from October. A couple things not mentioned yet are: the noise issue which is factored in though outside of the scope of the Commission and who owns the trucks. Mr. Palumbo replied that he owns the trucks and makes the rules. He agrees to the no idling rule and only right turns out of the property. He stated that activity can vary day to day. He thanked the Commission for their time and promised to do everything in his power to do what is needed to be a good neighbor.

Commissioner Fitzsimmons asked that the applicant be sure that they understand the conditions. Mr. Palumbo stated he did. Commissioner Fitzsimmons stated that these conditions mean he is offering not to expand the business. Commissioner Fitzsimmons also wanted to make sure the applicant understands that he offered these conditions, they were not imposed. They limit his business options. Mr. Palumbo replied that he understands and that this business is specific to one customer so he can control the business in the yard. He's not looking to bring in other materials or customers. If there is a problem and the highway is shut down, he can monitor the trucks. His Safety Director monitors the trucks and knows where they are. If they had to use alternate routes, they would only use roads allowing truck traffic. Commissioner Fitzsimmons stated for the record that Mr. Palumbo is generous to offer these conditions. Commissioner Fitzsimmons acknowledged the memo from Atty. Small stating the Commission has no authority to regulate the railroad. He acknowledged Mr. Connelly's letter explaining the new methodology. He asked if there was any additional agreement between the railroad and Benchmark. Commissioner Fitzsimmons just wanted to be sure that if the business sold, the current agreement is documented to protect the town. Mr. Ceneviva stated that they are in discussions on that agreement. Mr. Fitzsimmons suggested making a separate agreement between the railroad and Benchmark a condition of approval. Commissioner Fitzsimmons asked for clarification of the zoning violation log. It shows only a sign violation for this property from April 20, 2015. Mrs. Hand clarified that the original violation in 2015 was a use violation (215-056). There was one initial complaint. The sign was affiliated but not the primary violation. She agreed there was an error on the log. The commission is addressing the use violation. They would still need to come back for the sign violation. Commissioner Fitzsimmons stated that the purpose of zoning is to eliminate non-conformities over time. He acknowledged that non-conformities happen. Based on the information the Commission has seen, he does not believe this use is any more objectionable than what was previously there.

Commissioner Matarazzo asked for clarification that the proposed new building was not for warehousing materials. Mr. Palumbo concurred. Commissioner Matarazzo stated that he doesn't think the warehousing comments apply. He stated that he doesn't think the current use has any more impact than it was in the past. He stated that Wallingford dropped the ball in 1985 by not enforcing the zoning when it changed. Commissioner Matarazzo stated that the site is much improved but agreed it needs more landscaping. Commissioner Matarazzo stated that if Mr. Palumbo sold his property to the railroad and they leased it back to him, there would be nothing we could do about it. Mrs. Hand stated that she spoke with the attorney about this question and found the railroad has a high level of latitude legally and could claim an exemption. There is case law, but it would be decided on a case by case basis.

Chairman Seichter thanked the applicant for the information provided and the railroad for working with our concerns about the gates being down. He agreed that we have no control over the railroad. Chairman Seichter stated that the no more objectionable condition pertains to the property owned by the applicant. He stated that looking at the information provided; he can't find it more objectionable. He appreciated the history of uses provided by the Town Planner.

Mrs. Hand stated that it is important that the conditions of approval were offered and agreed to. She verified that the applicant understood that they can never intensify the use on the property. Mrs. Hand stated it is important to acknowledge that the condition with the railroad is essential to the comments from Deputy Fire Chief and is an important component of the decision. She noted that this is something that is being offered by applicant, not requested by the Commission. She also clarified that special permit will be filed on the land records with all the conditions of approval. Mrs. Hand asked for confirmation that nothing can be stored outside. Mr. Palumbo agreed. Mrs. Hand reviewed the recommended conditions of approval with the additions discussed.

Chairman Seichter asked for clarification on delivery of the rail cars. When the railroad delivers rail cars, they uncouple on the South side of the intersection, then bring the train up North and drop the rail cars off. Mr. Connolly explained that the process takes 30 – 40 minutes so the gates go up and down. The agreement with railroad is that Mr. Palumbo's cars are always at the rear of train. Chairman Seichter asked for something a little more detailed from agreement with the railroad, because if technology changes, the language could be a problem. Mr. Connolly agreed that the wording of the agreement needs to clarify that the gates will not be activated any more than while the train is passing over East Center Street, one time, while switching the 988 East Center Street facility. The intent is one activation and that's it. Mrs. Hand asked if Palumbo's cars are always part of a longer train. Mr. Connolly stated there may be other trains because there are other local deliveries. Mrs. Hand commented in terms of intensity of uses on site, to keep in mind that the site under prior use, at full operation could have had quite a bit of activity.

Chairman Seichter opened the public hearing for comment.

John Gilmore, North Airline Road, stated his concern about safety, health and welfare concern as well as concerns with East Center Street being blocked for any long period of time. He commented on the site itself. He had no objection to proposed use, but recognized issues with noise. He noted that the process has taken nearly a year while the operation continued use. He photographed operation of off loading the train into a truck in November. He reported that activities do take place on the site. If Commission were to approve, he suggested a sign with operation hours or cites noise ordinance to allow police enforcement. Regarding Railroad operation was CT Dept of Rail Operations was contacted as they have some say in rail operations. He cited a precedent from the late 80's when the Pilgrim Harbor golf course was expanding an improved grade crossing was required. He stated that he believes the railroad tracks and the land under the tracks is actually owned by Tilcon, fee simple and the rail operators are licensed to perform rail operations. This is probably not significant to this application, but could affect the future and possibly expanding the use. He also pointed out that Wallingford has historically been ranked one

of the most dangerous communities in the country in terms of rail operations. This line operates all times of the day. He hears horns blare due to un-signalized intersections, particularly at Williams Road. There are seven un-signalized grade crossings in Wallingford. Safety is stated to be paramount yet there are still un-signalized grade crossings, despite the increase in traffic. He stated that he didn't expect the Commission to require an improved grade crossing, but it's something to think about.

Chairman Seichter clarified that the proposal is that the site operates Monday – Friday. Rail committed to not delivering cars on Sunday.

Dan Plant, 32 North Airline Road, stated that the situation continues to be that things said here that aren't true. He asked how the conditions will be enforced. Since the last meeting there have been multiple violations, and he isn't sure of the process to make formal complaints. He has submitted letters and called police to the site. Yet there continues to be problems. He asked how the verbal agreement with the rail road is regulated and asked how that can be put in as a condition of his going forward. He noted that deliveries have been done on Sunday for as long as he can remember. He has submitted videos of it happening on Sundays. He reported that as he left for this meeting tonight there were Idling trucks in yard. He stated that there have been multiple violations. Mr. Palumbo has shown the bare minimum to comply with this committee. He asked the Commission how we are going to take care of this.

Chairman Seichter responded that if you or other neighbors see violations, report them to the Town Planner. He stated that the Zoning Enforcement Officer would enforce the regulations. Chairman Seichter stated that he can't speak to how Mr. Palumbo operated in the past and what he may or may not be doing versus what's been represented here this evening. If this were approved with various conditions, the Town would look to hold the applicant to those conditions. The Commission relies on neighbors to report violations.

Anne Conti, 26 North Airline Road, provided a letter showing dates of violations for the last year. There is activity there on Sundays and activity beyond 7pm. She has called the police, but they can't do anything. She can't call the Town Planner because they aren't open. She asked how many chances do you give them to comply. She lives there hearing his rail cars bang, sand falling on the ground and idling trucks. If you are going to approve this, she wants a privacy fence around her yard.

Mary Janza, 38 North Airline Road, stated she has been there since 1956. There was never the activity before Mr. Palumbo took over. It goes on day and night, 7 days a week, with diesel fumes. She has called the police about a train parked behind her house at 1am. She asked respectfully for the Commission to decline the application.

Jennifer Pendleton, 50North Airline Road, stated she has lived there for 21 years. At first there was one freight train a day. The site had little activity and yes, dilapidated buildings. Two years ago there was suddenly a sign. Recently more trees have been cleared and the site cleared. The street doesn't look the same. She sees rail cars with graffiti all the time. There is more activity. When they drop off cars, it

takes longer than trains just going through. If that site wasn't there, it would just be the trains passing by. Just because things were non-confirming before, doesn't mean we need to maintain non-conformance. This is an opportunity for the Town to gain back some of our land and build neighborhoods and communities and homes. She stated that she would be very disappointed if approved. If it does get approved, she asked if it was guaranteed that they can't expand business. Can they come back and ask to expand.

Chairman Seichter replied that anyone can make an application to the Commission. What they can do is limited to the conditions. If someone comes back with an application to intensify the use, one consideration would be is it more objectionable than what was there before. The Commission can't block applications. Mrs. Hand stated that in this case it would be difficult to argue that it's not more objectionable when intensifying.

Ms. Pendleton asked if the conditions have been met for the Wetlands. Has the work been done to protect our environment? Mrs. Hand replied that her understanding is that there is one outstanding issue that is to be done in the spring. It is up to the Wetlands to enforce it if not met in the timeframe. They could revoke the permit. Mr. Ceneviva commented that they have until May 20th to do the plantings. Ms. Pendleton asked about the process for making complaints. Chairman Seichter replied that it is appropriate to report zoning violations to the planning office and the Town Planner. The more documentation you can provide is a benefit to substantiate claims. Mrs. Hand added that they can report to the Town Planner or Environmental Planner. Mrs. Hand stated that if approved tonight, we will have everything clearly defined. Our ability to demonstrate a violation of the conditions is much greater than when it was much more abstract. That's why it's important to have clearly defined conditions on the record. If it's off hours we can work with police to verify violations. Ms. Pendleton asked that the Commission consider what the neighbors have said.

Dan Plant, 32 North Airline Road, stated that the information presented by Mr. Palumbo on the intensity of use on the property and the hours of uses and days of the week is inaccurate. He stated that Mr. Palumbo is there more than he presented. He has more trucks than he stated and the hours of use are longer than stated.

Bernadette Tartaglia, 5 North Airline Road, asked if it gets approved, when would the new hours start? Chairman Seichter confirmed tomorrow. Mr. Ceneviva clarified that the proposed hours are 7:30am to 6pm Monday through Friday and 8am to noon on Saturday. He confirmed there is no Sunday operation. In terms of the operation of the train, Genovese & Wyoming has been successful operating along that track and there is more train traffic on that line, but 96% is not related to the site.

Commissioner Kohan asked how often the trains run on these tracks outside of Mr. Palumbo's operation. Mr. Connolly replied that there are no set hours. There are a lot of variables on when to run trains and how long they are. He apologized that their business development has contributed to the issues. Mr. Connolly stated that for every 100 trains that go over East Center Street, only 4 cars go to Mr. Palumbo. There is a seven day a week, 24 hour operation that goes on outside of anything that Mr.

Palumbo does. Mr. Palumbo's operation has no bearing on that, so some of the frustration will unfortunately continue. Conditions that we are talking about are only at the switching facility at 988 Center Street. The rest of the line will remain active and is key to one of the Genesee and Wyoming's strategies when it bought the P&W railroad. Commissioner Kohan asked if idling trains at 2am is normal. Mr. Connolly stated that it is not normal but it does happen. Commissioner Kohan stated that a possible condition of approval could be posting the hours of operation.

Commissioner Matarazzo asked what the original violation for this property was. Mrs. Hand replied that the violation pertains to the current use. They changed from one non-conforming use to a different non-conforming use without getting that vetted. If approved tonight, that violation will be addressed. They didn't go through the process so there was no discussion about the operation. She stated that the sign violation is a separate one and mostly paperwork. Mr. Matarazzo clarified that the use violation goes back to 1985 when the zone was changed. Mrs. Hand replied that the use was grandfathered at the time because it hadn't changed. This is a violation because it's a different non-conforming use from warehousing to trans-loading and distribution.

Regarding hours of operation, Mrs. Hand clarified that Mr. Ceneviva stated the business operates Saturdays 8am to noon, which should be reflected in the conditions. It is not in the currently proposed conditions. Commissioner Venoit clarified the hours to be added to the condition.

Angie Conti, 26 North Airline Road, stated that the only reason he's applied for the permit is because he was caught.

Commissioner Venoit: Motion to close public hearing for application 411-19 Special Permit (distribution operation & office)/Benchmark Land Development, LLC / 988 East Center Street

Commissioner Fitzsimmons: Second

Vote: Fitzsimmons – yes; Kohan – yes; Matarazzo – yes; Venoit – yes; Chair Seichter – yes

Commissioner Venoit: Motion to approve application 411-19 Special Permit (distribution operation & office)/Benchmark Land Development, LLC / 988 East Center Street Special Permit (change in non-conforming use) for Benchmark Land Development, LLC, to allow a distribution (rail trans-loading) operation at 988 East Center Street, as shown on plans entitled "Palumbo Trucking, 988 East Center Street, Wallingford CT, prepared for Benchmark Land Development, LLC, 988 East Center Street, Wallingford, CT", dated March 26, 2019, revised to October 9, 2019, subject to:

- 1. Memoranda from Rob Baltramaitis – Department of Engineering, dated October 7, 2019 and December 6, 2019**
- 2. Compliance with representations in letter from John Connelly, Vice President – Operations, Genesee & Wyoming Railroad Services, Inc., to Dennis Ceneviva, Esq., dated November 25, 2019, and a material representation that the Commission is relying upon in granting this approval, including but not solely in regard to comments from Deputy Fire Chief Joseph Czentnar, dated January 3, 2020**

3. Interoffice Memoranda from Erik Krueger, Senior Engineer, Water and Sewer Divisions, dated September 6, 2019, November 6, 2019, January 8, 2020, and January 13, 2020
4. Inter-Departmental Referral from the office of the Fire Marshal, dated August 21, 2019
5. Letter from Kacie Hand, Town Planner, to Benchmark Land Development, dated August 29, 2019 including provision of required 25 foot landscaping area
6. Proposed office building to be constructed in substantial compliance with submitted architectural plans; final building plans to verify compliance with the height restrictions in the Wallingford Zoning Regulations
7. Compliance with "988 East Center Street, Wallingford, CT Proposed Conditions of Approval" dated received December 6, 2019, part of attachment 1II and re-entered and read in record with one change that operations on Saturday are to be 8am to noon.
8. Sedimentation and Erosion Control bond, amount to be determined by the Town Planner
9. Copy of agreement between Palumbo Trucking and Genesee and Wyoming Railroad Service Inc.
10. No storage of materials or commodities from the rail cars
11. Posting hours of operations on property

Commissioner Fitzsimmons: Second

**Vote: Fitzsimmons – yes; Kohan – yes; Matarazzo – yes; Venoit – yes; Chair Seichter – yes
Site Plan #411-19 approved**

It was noted for the record that the applicant is expected to fully comply will all the conditions of approval.

NEW BUSINESS

3. Site Plan (residential & commercial)/Old Colony Associated, LLC/1268 Old Colony Road #201-20

Commissioner Matarazzo noted all correspondence pertaining to this application for the record. Inter-departmental Referral dated December 4, 2019 from the Fire Marshal; correspondence dated December 31, 2019 from Kacie Hand to Old Colony Associates.

Mrs. Hand confirmed that the applicant is not present.

Chairman Seichter suggested the application be continued to the next meeting. Mrs. Hand verified that the Commission can continue the application to the February meeting, but beyond that would need consent from the applicant.

Commissioner Venoit: Motion to continue #201-20 Site Plan (residential & commercial)/Old Colony Associated, LLC/1268 Old Colony Road to the February 21, 2020 meeting.

Commissioner Fitzsimmons: Second

Vote: Unanimous in favor

BOND RELEASES

4. Special Permit/Pilgrim’s Harbor/37 Harrison Road #403-17

Mrs. Hand recommended release of the bond for Pilgrim’s Harbor at 37 Harrison Road.

Commissioner Venoit: Motion to release the bond for Special Permit/pilgrim’s Harbor/37 Harrison Road #403-17.

Commissioner Fitzsimmons: Second

Vote: Unanimous to approve

DISCUSSION AND POSSIBLE ACTION

5. FAA Lighting required for Eversource’s Transmission Line Rebuild Project

Mrs. Hand stated that this request is for a small extension by the Electric Division of an existing overhead line which requires approval from the Planning and Zoning Commission.

Mr. Tony Buccheri, General Manager, Wallingford Electric Division, explained that this is for an extension of an existing overhead transmission line through Wallingford to bring it up to standards including FAA standards. He noted that the application for FAA lighting is a process that Eversource has gone through with the CT Citing Council. They are rebuilding a transmission line that runs through Wallingford and as part of the approval process they have to bring them up to current standards. Due to the proximity to the Hanover Airport there’s an FAA lighting requirement. Because they are in our service territory, we have to provide the electrical service for those lights. There are three locations that require electric service from the Wallingford Electric Division. Two locations very are straight forward, are in an existing right of way and can go underground. The Electric Division is requesting is to do overhead construction, installing three poles on Hanover Street to get to the edge of the Eversource right of way. Any extension beyond that point towards the airport would have to be underground. This would set up the Electric Division to service any expansion at the airport. Mr. Buccheri reported he was also approached to serve the new hangers which didn’t involve an extension if just lights. But if they add HVAC, we would want to be able to serve that need.

Commissioner Kohan asked if erecting the poles would impact on the airport operations. Mr. Buccheri replied no.

Commissioner Venoit: Motion to approve the extension of the aboveground electric line to serve the lighting.

Commissioner Fitzsimmons: Second

Vote: Unanimous to approve.

REPORTS

Administrative Approvals

Noted as approved:

- a. Change of Use/Guillen/62 Center Street #322-19
- b. Survey Waiver/DeBernardinis/5 Penn Drive #817-19

Planning and Zoning

Workshops

Mrs. Hand reported that the Workshop to discuss the IX/IV zones and Town Center regs is scheduled for February 4, 2020 at 6pm. Topics to be covered include clarifying the Town Center regs and discussing potential restrictions on office use on the first floor in the front of the building. She noted that the recommended changes were distributed. The IX/IV topic will be the third discussion of potential changes. The proposed amendments have been distributed. The location is to be determined.

ZBA

There was no meeting in December. There are two variance applications for the January 21, 2020 meeting.

Zoning Enforcement Log

Mrs. Hand distributed the updated log.

Commissioner Venoit: Motion to adjourn the January 13, 2020 Planning and Zoning Commission Meeting at 9:45pm.

Commissioner Fitzsimmons: Second

Vote: Unanimous to approve

Respectfully submitted,
Cheryl-Ann Tubby
Recording Secretary