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IN THE MATTER OF THE
APPLICATION OF
ERIC ROOS

BE IT RESOLVED by the Zoning Board of Adjustment of the Village of Ridgewood, that the application of ERIC ROOS for a variance from the strict enforcement of:

(a) Section 190-100D for the expansion of a non-conforming use; for a non-permitted retail use in a residence zone; for a non-permitted vehicle storage/garage/warehouse use in a residential zone; for a retail parking area and overhead lighting in a residential zone/ for non-permitted structures to house a non-conforming garden center in a residence zone.

(b) Section 100(3) for a 15 foot side yard, for the location of a dumpster pad and fence in a side yard; for retail parking in a side yard.

(c) Section 190-124E(2) for the storage and sale of garden products outside of the confines of a building.

(d) Section 190-124F(1)(a) for five foot high fences; including such fence in a front yard.

(e) Section 190-100E(7) for a lot width of 123.17 feet, at the setback line.

(f) Section 190-100E(2) and 190-119A(3) for a 30 foot front yard.

(g) Section 190-100E(2) for a display area, with temporary lighting, in a front yard;

(h) Section 246-1, et seq, for a soil removal permit;

(i) For two 30 square foot signs, one pole mounted and located ten feet from the front street line, and the other to be located on the proposed building, both signs to have illuminated lettering, to face Route 17.

in order to permit the expansion of an existing non-conforming nursery and garden center, at property located at 560 Route 17

5-21-98
2ND
FL 1386 #
HANT 1500
Site Plan
STATIC AND/OR COUNTY APP

North (Block 4704, Lot 6.01) in an R-125 Zone be and is hereby approved for the reasons, findings and conclusions set forth in a resolution, separate from but attached hereto, which resolution is adopted by reference and is hereby made a part of the official minutes of this Zoning Board of Adjustment, subject to the following:

A. All other regulations of the Village of Ridgewood be complied with without exception.

B. A building permit must be obtained before any work begins.

C. Nothing contained in this decision shall supersede the provisions of the Uniform Construction Code of the State of New Jersey.

D. The hours of operation shall not exceed 8:00 A.M. to 9:00 A.M. except Thanksgiving week, Christmas Week and Easter Week, when the hours may be expanded from 8:00 A.M. to 11:00 P.M.; however, all activity shall cease, in closing or for opening, from one hour after closing to 7:00 A.M.

E. There will be no deliveries to the site, or trucking from the site, from 11:00 P.M. to 7:00 A.M.

F. The garage, which may be used to store materials, shall also house vehicles, including bob-cats, small tractors and the like. Outdoor storage of vehicles shall be located on that area of the lot closest to the rear-easterly and southerly sides of the site.

G. No residential use of any kind shall be permitted on the site.

H. The septic tank shall be no less than 1,000 gallons.

I. The planted berm, shown on the plans, shall be continued toward the rear of the site, to the end of the property of the condominium on the north, and the fence line shall be similarly extended.

J. All exterior lighting shall be extinguished no later than one hour after closing, except for security lighting as the Building Department shall review and authorize.

K. The product line of the garden center shall be limited to garden products, garden supplies, garden hand equipment, and garden decorative items; however, no gasoline or other power equipment, green houses, propane, storage sheds, or other motorized equipment shall be sold on site.

L. This approval is based on plans entitled "Ridgewood Gardens" prepared by Andrew Marshall, Jr., P.E. and L.S., dated December 5, 1997 and revised through March 12, 1999, and as here further revised (six pages) and architectural plans prepared by Scheir Associates, A.I.A. dated August 9, 1996 and revised through April 27, 1999 (2 pages).

IN THE MATTER OF THE
APPLICATION OF
ERIC ROOS

WHEREAS, ERIC ROOS has filed an appeal to this Board of Adjustment in order to permit the expansion of an existing non-conforming nursery and garden center, at property located at 560 Route 17 North (Block 4704, Lot 6.01) in an R-125 Zone; and

WHEREAS, the application was filed on March 7, 1997, seeking certain relief, requested pursuant to N.J.S.A. 40:55D-70(c) and (d); and

WHEREAS, the applicant(s) appeared with Charles C. Collins, Jr., Esq., testimony being taken and exhibits reviewed, at a public hearing, as required by law.

NOW, THEREFORE, BE IT RESOLVED that this Board of Adjustment make the following findings of fact:

1. All persons required to be served with Notice of hearing were duly served, and proof thereof has been duly filed with this Board.

2. Public hearing was held on August 13, 1997 and thereafter at various meetings through June 16, 1999, at the Village Hall of the Village of Ridgewood, said meeting being scheduled, and advertised, and held pursuant to the Open Public Meetings Act. The original application was amended a number of times throughout these hearings, so that the final plan is a substantial modification from the plan that was originally submitted; both as to the size of buildings proposed, configuration of the parking, the planting and landscape.

3. The premises in question are located in an R-125 Zone.

4. Applicants are the owners of these premises by deed of December 30, 1992, recorded in the office of the Clerk of Bergen County in Deed Book 7575 at page 367, et seq.

5. The site in question is located on the easterly side of Route 17, just north of the pedestrian bridge overpass, stairs and ramp, and the bus stop on the northbound lane of the highway, as

shown on a survey prepared by Andrew Marshall, P.E. and L.S., dated January 15, 1997.

6. There is an existing outdoor garden center with sheds, presently on the site, inclusive of a nursery stock area.

7. Applicant(s) seek to permit the expansion of an existing non-conforming nursery and garden center, at property located at 560 Route 17 North (Block 4704, Lot 6.01) in an R-125 Zone.

8. Applicant'(s') testimony may be summarized as follows:

A. The applicant marked in evidence A-1 through A-17 as shown on the Exhibit list attached hereto, as Exhibit A.

B. The hearings were both voice and stenographically recorded, so that references here to specific testimony is merely to highlight that testimony and is not intended to be a complete account.

C. Mr. Roos testified that the property has been in his family and has been used as a garden and nursery center since 1915, long before zoning regulations in the Village of Ridgewood. He testified further that he purchased a portion of the overall site in 1988, where he built his home in 1988, from his aunt and uncle, and thereafter bought the entire site five years later, with a tenant, Matthew Cerillo operating the nursery. His present intention is to create a garden center building that would house a retail area for the sale of seeds, small potted plants, fertilizer, hand garden equipment, decorative garden items and cut flowers. He, his wife and Matthew Cerillo would operate the garden center as partners. He did not believe that the changes proposed would substantially change the existing business, but proposed that the building, garages, parking area and buffer areas would enhance the operation of the business, provide some covered storage, other than sheds; make the site more aesthetic and organized; buffer the condominium to the north by a planted berm and fencing, center the parking, screen lighting and otherwise improve the site.

D. Mr. Marshall testified several times as to the site plans and site plan changes. The property is described as a Route 17 property, having access only from the highway, adjacent to the

pedestrian overpass, and did not believe the site was suitable to its zoning; in that it would require a variance to erect a single family home with frontage on a heavily traveled State highway - a condition described as undesirable. The various plantings, planted berm, fencing, screening of lights, the reorientation of the parking lot and the provision for a residential type office and store building, appropriate to the present use, were deemed as substantial improvements.

E. Kenneth Shier, the architect, testified as to the building, its modifications and redesign and gave his opinion that the proposed site improvements were aesthetic and a functional benefit. He saw the site being reorganized around the building and being made more compact and efficient.

F. Ms. Donna Holmquist, a professional planner, testified and submitted a report which examined the site, the site use, the zoning, the proposal and the neighborhood. She concluded that the suitability of the site for the existing use, the aesthetics of the proposed reorganization of the site at the proposed building, the compatibility of the site with existing highway development, the 80-year history of the nursery center, all together constituted sufficient special reasons to grant relief. She testified that any impact arising from the proposal could be mitigated by reasonable conditions. It was her opinion that there was very little likelihood that the site would be developed as zoned.

G. The Board's Site Plan committee met with the applicant's engineer and made several suggestions for amendments to the plan, for the Board's consideration. Mr. Marshall testified, as did Mr. Shier, at the June 16, 1999 hearing, to explain revisions to the plans as a result of these hearings, and to make public these revisions.

9A. Objectors, principally Commons of Ridgewood Condominium Association, appeared throughout the proceedings, represented by Robert J. Inghima, Jr., Esq. Mr. Inghima cross-examined witnesses, presented witnesses and exhibits, and presented

legal arguments and written briefs.

9B. The objectors marked in evidence:

- O-1 2 letters of Mr. Inglema of December 10, 1997
- O-2 Resume of March Chisvette, P.E.
- O-3 Ridgewood Tax Map Sheet 47
- O-4 3 photos of site from pedestrian overpass
- O-5 Photos of site from W. Sadle River Road (2)
- O-6 Photos of Condominium property (3)
- O-7 Photos of Condominium buildings (3)
- O-8 Photos of office building and residences on
Rt. 17 (1)
- O-9 Photos of outdoor storage on site (4)
- O-10 Photos of dumping and storage on condo site
(4)
- O-11 Photos of dumping and storage on condo site
(4)
- O-12 Photos of the hardware stores
- O-13 Photos of the hardware stores (4)

9C. Asha Unnikrishnan testified as President of Commons of Ridgewood. She described the condominium as being made up of ten single family units (attached) of 2,000 square feet each with attached garages, built about 1989. Each unit has a deck at the rear. There is about one-half acre of undeveloped property. From the second floor of many units, the residents can see over the trees and bushes into the nursery site. The nursery is storing materials on the southeast side of the condominium property, and have been asked to remove this storage from the condominium site. She expressed concern about adequate buffer planting between these sites; the availability of space for nursery storage, the size of the proposed buildings, parking, lighting and drainage.

9D. Mark Chisvette, P.E., was qualified and testified, and submitted a report with calculations as to traffic movement. He testified to some 90 trips per day on site, with double that on Saturdays. The parking demand for the nursery was estimated at mid-20's on Saturday and in high teens for weekdays. Additional

product lines could easily expand the traffic flow. He believed that the site could present a drainage problem. for any rainstorm of 12 or more minutes duration. He believed the application to be a substantial expansion of the existing use.

9E. Various other members of the condominium association testified and expressed their concern for the flow of traffic, lighting, the increase of traffic for seasonal activity such as the sale of pumpkins, Christmas trees and Easter plants, the splash of light from the nursery into the condominium bedrooms, noise, dumping, early morning activity and the enlargement of the facility.

9F. The above is set forth as highlights and is not intended to represent a verbatim recitation of any of the objector's testimony.

THEREFORE, BE IT RESOLVED that this Board of Adjustment does make the following determinations:

1. The foregoing findings of fact, summary of testimony, and those matters which may be deemed argument, are made a part hereof as if set forth in full.

2. This is an application to vary the provisions of Section:

(a) Section 190-100D for the expansion of a non-conforming use; for a non-permitted retail use in a residence zone; for a non-permitted vehicle storage/garage/warehouse use in a residential zone; for a retail parking area and overhead lighting in a residential zone/ for non-permitted structures to house a non-conforming garden center in a residence zone.

(b) Section 100(3) for a 15 foot side yard, for the location of a dumpster pad and fence in a side yard; for retail parking in a side yard.

(c) Section 190-124E(2) for the storage and sale of garden products outside of the confines of a building.

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(h) Section 246-1, et seq, for a soil removal permit;

(i) For two 30 square foot signs, one pole mounted and located ten feet from the front street line, and the other to be located on the proposed building, both signs to have illuminated lettering, to face Route 17.

in order to permit the expansion of an existing non-conforming nursery and garden center, at property located at 560 Route 17 North (Block 4704, Lot 6.01) in an R-125 Zone.

Article X of the Ridgewood Village Code, in order to permit the expansion of an existing non-conforming nursery and garden center, at property located at 560 Route 17 in an R-125 Zone.

3. Such application is governed by N.J.S.A. 40:55D-70 (c) and (d).

4. The property is relatively regular in shape and has frontage on Route 17.

5. Applicant '(s)' testimony has been summarized above.

6. The Board finds additionally:

A. The use has existed on this site for about 80 years, and it is without contest, that the use is non-conforming to current zoning regulations.

B. Parking has been haphazard and without definition.

C. The proposed expansion will create a building and bring some, not all, of the outdoor sales into interior space, and will reorganize the site, including a paved, clearly-defined parking area for customers and on-site traffic flow.

D. The site is a route 17 property, with little appeal for development of a one family residential type as presently zoned. Access is limited to Route 17.

E. The overall aesthetics of the site are vastly improved.

F. The condominium which is a recent addition to the

neighborhood, being built 70 years after the commencement of the nursery, will find many benefits by these renovations, and the revisions and conditions established by the Board, including a smaller building, a fuller and longer planted berm with fencing along the boundary between the properties, a better oriented parking lot, screened lighting, a more organized use, some of it being indoors with limitations on hours of operation, and the scope of the use.

G. The specification of enhanced special reasons which would permit an existing non-conforming use to expand are without any specific criteria, except the particular view that the Board and its members have on the application before it. Here, the board was prepared to deny relief, in January, when the applicant requested, and was granted, the right to revise and modify the request for relief. Those revisions were made, and the Board through its site Plan review, added revisions and conditions of approval. They find that:

1. The property is a highway site, impacted by the unusual volume of traffic along Route 17 and the adjacent pedestrian overpass.

2. The use pre-exists the ordinances of the Village of Ridgewood, and traditionally, nursery uses were deemed compatible with residential zones.

3. The proposal as revised and conditioned, is particularly appropriate to this site and the non-conforming enterprise upon it.

4. Although some merchandise may be varied, as sold on the site, the use that will continue is substantially the same kind of use that has existed for 80 years.

5. The reorganization of the site into a small building, a fixed parking lot and nursery area, is aesthetic and eliminates some of the sprawl of the existing site. This, with conditions established by the Board, is a societal benefit, which together with enhanced screening, buffer and light shielding, as well as the items listed above, constitutes special reasons for the grant of relief.

H. The grant of such relief is not inconsistent with the Master Plan of the Village of Ridgewood.

I. The proposed extension will have no substantial detriment on the zoning plan and scheme of the Village of Ridgewood or on the value of neighboring property.

THEREFORE, BE IT RESOLVED that the application of ERIC ROOS for a variance from the strict enforcement of:

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in order to permit the expansion of an existing non-conforming nursery and garden center, at property located at 560 Route 17 and is hereby approved, subject to the following:

A. All other regulations of the Village of Ridgewood be complied with, without exception.

B. A building permit must be obtained before any work begins.

C. Nothing in this decisions shall supersede the provisions of the Uniform Construction Code of the State of New Jersey.

D. The hours of operation shall not exceed 8:00 A.M. to 9:00 A.M. except Thanksgiving week, Christmas week and Easter week, when the hours may be expanded from 8:00 A.M. to 11:00 P.M.; however, all activity shall cease, in closing or for opening, from one hour after closing to 7:00 A.M.

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G. No residential use of any kind shall be permitted on the site.

H. The septic tank shall be no less than 1,000 gallons.

I. The planted berm, shown on the plans, shall be continued toward the rear of the site, to the end of the property of the condominium on the north, and the fence line shall be similarly extended.

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K. The product line of the garden center shall be limited to garden products, garden supplies, garden hand equipment, and garden decorative items; however, no gasoline or other power equipment, green houses, propane, storage sheds or other motorized equipment shall be sold on site.

L. This approval is based on plans entitled "Ridgewood Gardens" prepared by Andrew Marshall, Jr., P.E. and L.S., dated December 5, 1997 and revised through March 12, 1999, and as here

further revised (six pages) and architectural plans prepared by Scheir Associates, A.I.A. dated August 9, 1996 and revised through April 27, 1999 (2 pages).

DATED: July 14, 1999

APPLICATION OF ERIC ROOS

EXHIBITS

- A-1 Photograph/ view from Park and Ride walkway north.
- A-2 Photograph/ view on property easterly towards Saddle River Road.
- A-3 Photograph/ view on property westerly toward Route 17 showing two buildings.
- A-4 Photograph/ view from Park and Ride Walkway showing property.
- A-5 Photograph/ view of property from west side (across road) of Route 17 easterly.
- A-7a Colored rendering of retail building.
- A-8 Planning Report of Burgis Associates, Inc., Block 4704, Lot 6.01 dated May 9, 1997, revised September 2, 1997 and February 25, 1998.
- A-9 Existing zoning and land use plan.
- A-12 Sign rendering.
- A-13 Drawing showing proposed location of signs.
- A-14 Revised Site Plan dated March 12, 1999 (5 sheets).
- A-15 Revised Architecturals dated April 27, 1999.
- A-16 Drainage Calculations revised to December 1, 1997
- A-17 Impervious Conditions Report dated May 4, 1999.