

VILLAGE OF RIDGEWOOD
ZONING BOARD OF ADJUSTMENT

OFFERED BY:

SECONDED BY:

IN THE MATTER OF THE APPLICATION OF
ERIC ROOS

WHEREAS, ERIC ROOS of 17 Bayville Avenue, Bayville, New Jersey (hereinafter referred to as the “Applicant”) has filed an Application with the Zoning Board of Adjustment of the Village of Ridgewood (hereinafter referred to as the “BOARD”) for a Certification of Nonconforming Use for the Property at 560 Route 17 North, Ridgewood, New Jersey and shown on the Tax Map of the Village of Ridgewood as Block 4704, Lot 6.01 (hereinafter referred to as the Property”), and

WHEREAS, a series of hearings were held for purposes of determining if the use of the Property was nonconforming, to determine if nonconforming, what are the parameters and scope of the nonconforming use, and if the use was determined to be nonconforming, if the nonconforming use been abandoned; and

WHEREAS, the Board held a series of hearings on March 30, 2021, September 14, 2021 and September 28, 2021, public notice having been provided in accordance with the Municipal Land Use Law; and

WHEREAS, the Board heard the testimony of the Applicant, the Applicant’s Witnesses, and heard the testimony of various Members of the Public; and

WHEREAS, the Board reviewed the Exhibits submitted by the Applicant and by Jacqueline Hone; and

WHEREAS, the Board made the following findings of fact:

1. The Property is located in the R-125 Zone. The Applicant testified that the Property was used as a nursery/garden center. A nursery/garden center is not a permitted use in the R-125 Zone.
2. The Board reviewed the July 14, 1999 Resolution issued by the Board in which the application made, was an application for an expansion of a nonconforming use together with certain bulk variances in conjunction with an application for an amended site plan. At the time of the application, the Property was located in the R-125 Zone. The Board made the following findings of fact as documented in the aforementioned Resolution:
 - A. There is an existing outdoor garden center with sheds presently on the site inclusive of a nursery stock area (Page 5, Paragraph 6);
 - B. The Applicant seeks to permit the expansion of an existing nonconforming nursery/garden center (Page 5, Paragraph 7);
 - C. The Board confirmed that the Applicant is seeking an expansion of a nonconforming use as referenced in Paragraph 2A, Page 8. This determination constitutes an acknowledgment that the current use in 1999 was nonconforming. The Planner had testified in 1999 on behalf of the Applicant and confirmed that the Property had been used as a nursery/garden center for 80 years (Page 6, Paragraph 8F);
 - D. The Board acknowledged the nonconforming aspect in Paragraph 6A wherein the Board stated: "The use has existed on the site for about 80 years and without contest that the use is nonconforming to current zoning regulations". On Page 10

of the Resolution, there is an acknowledgment of an existing nonconforming use, and specifically in Paragraph 2, the Board determines that the use pre-existed the Ordinances of the Village of Ridgewood.

3. The Application in 1999 was an application for “expansion” of a nonconforming use which in and of itself, is an acknowledgment that the current use was nonconforming, and the Board in 1999 confirmed that the use was a nonconforming use. Although a Certificate of Nonconformity was not issued at that time, the Board has come to the conclusion based upon reviewing the Resolution and further substantiated by the testimony of Eric Roos and others that the use was in existence before the Ordinance prohibiting the use was adopted.
4. The Applicant received site plan approval by virtue of the aforementioned 1999 Resolution issued by the Board. The Board has determined that the site plan for the expansion of a nonconforming use has in fact, expired.
5. The Board has further determined that the nonconforming use consists of the following:
 - A. The use is for a nursery/garden center;
 - B. It is to be used by one operator. The Applicant has stipulated that there will be no subleasing of the Property to additional operators;
 - C. The Applicant has stipulated that there shall be no truck or construction vehicle storage on the site except for the limited trucks and construction equipment used by the nursery/garden center for its operation on the site. Truck deliveries of product to the site shall be permitted. The nursery/garden center can sell retail and

wholesale, but it is limited to the sale of garden and nursery products. The product line of the nursery/garden center shall be limited to garden products, garden supplies, garden hand equipment, and garden decorative items, however no gasoline or other power equipment, greenhouses, propane, storage sheds or other motorized equipment shall be sold on the site; Nursery products can be grown on the property. No manufacturing or processing of garden or nursery products such as, but not limited to the making of mulch, cutting of wood for firewood or woodchips shall occur on the property.

C. The hours of operation shall remain as determined by the Board in its 1999 Resolution in which the Board confirmed that the hours of operation shall not exceed 8:00 AM to 9:00 PM except Thanksgiving week, Christmas week, and Easter week when the hours may be expanded from 8:00 AM to 11:00 PM, however, all activities shall cease in closing or for opening from 1 hour after closing to 7:00 AM. There will be no deliveries to the site or trucking from the site from 11:00 PM to 7:00 AM;

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

E. All exterior lighting shall be extinguished no later than 1 hour after closing except for security lighting as the Building Department and Police Department shall review and authorize;

F. The parameters of the nonconforming use are set forth in the 1999 Resolution and those parameters as it pertains to the nonconforming use, remain in full force and effect. The Board has reconfirmed some of those conditions in this

Resolution, but all remain in effect.

6. The Board has further determined based upon the testimony provided that the nonconforming use has not been abandoned. The Board has rendered this decision based upon a finding that no affirmative subjective intent to abandon the use of the Property for a nursery/garden center occurred. The Board recognizes that the Applicant did in fact expand the nonconforming use beyond the parameters set forth in the 1999 Resolution, and that was done without any land use approval. By virtue of this Resolution, it is understood that the expansion that occurred by the Applicant pertaining to truck parking, subleasing of the Property to various tenants and the like, is not part of the nonconforming use, and shall not be continued.
7. The Board has determined that the site plan that was previously approved has expired. It is understood that the Applicant must remove those structures that had been built without approval forthwith. The Board has determined that the Applicant must restore the Property in those areas where the Applicant never received approval for development on the site, and the Applicant shall submit to this Board a site plan application for the Board to consider in connection with the Applicant's use of the Property as a nursery/garden center within the parameters of the nonconforming use set forth in this Resolution and the July 14, 1999 Resolution.

NOW THEREFORE, BE IT RESOLVED, by the Zoning Board of Adjustment of the Village of Ridgewood on this 30th day of November 2021 the Application of Eric Roos seeking certification of a nonconforming use for the Property at 560 Route 17 North, Ridgewood, New Jersey, and shown as Block 4704, Lot 6.01 for a nursery/garden center is hereby approved, and a Certificate of

Nonconformity shall be issued for same subject to the following conditions:

1. All of the conditions set forth in this Resolution as it pertains to the parameter and scope of the nonconforming use shall be adhered to by the Applicant, and to all future owners, successors and assigns.
2. Before resuming the nonconforming use on the Property, the Applicant must restore the Property in those areas where the Applicant never received approval for development on the site, and the Applicant shall also submit to this Board a site plan application for the Board to consider in connection with the Applicant's use of the Property as a nursery/garden center.
3. The Applicant shall post all necessary fees and costs associated with this pending application.

ADOPTED:

ATTESTED:

SECRETARY

CHAIRMAN

BEW:cbp
(Ridgewood, Roos)

OFFICIAL PUBLIC MONTHLY MEETING: Roos 560 Route 17 North, Block 4704, Lot 6.01

DATE OF DECISION: September 28, 2021

BOARD ACTION:

Board Member	Moved	Seconded	Ayes	Nays	Recuse	Abstain	Absent
Greg Brown Chairman			X				
Diana Ruhl		X	X				
Matthew Bendelt	X		X				
Gary Negrycz							
John Papietro			X				
Isaac Lebow							
Michael Pickholz			X				
Jason Curreri Alternate #2							

DATE OF ADOPTION:

Village of Ridgewood Zoning
Board of Adjustment

By _____
Greg Brown, Chairman

ATTESTED:

Jane Wondergem, Secretary