



Memorandum

MEMO TO: Village of Ridgewood Zoning Board

FROM: Maryann Bucci-Carter, PP, AICP

DATE: September 12, 2019

**Re: Eric Roos
Zoning Board of Adjustment Interpretation Request
Planning Review Letter # 1
Block 4704, Lot 6
560 Route 17 North
Village of Ridgewood, New Jersey
R-125 Zone
Application No.: ZBA-19-39
CME File: HVRZ4704.01**

As per your request, our office has reviewed the above referenced application. The following documents were reviewed for this application:

- Application form - Village of Ridgewood Board of Adjustment
- Letter from David L. Rutherford, Esq. to Mr. Bruce E. Whitaker, Esq., dated April 18, 2019;
- Letter from Mr. Bruce E. Whitaker, Esq. to David L. Rutherford, Esq., dated April 30, 2019;
- Resolution, dated July 4, 1999, Entitled: In the Matter of the application of Eric Roos, (unsigned), (no date of Memorialization).
- Planning Report, (undated) for BA# 97-537-XX, prepared by Burgis Associates, Inc. Entitled: Planning Report Block 4704, Lot 6.01 Ridgewood, NJ In Support of a Use Variance application by Eric Roos to permit the modernization of an Existing Garden Center Nursery on Route 17 in an R-125 Zone,
- Ridgewood Gardens Plan Set, (6 pages) prepared by Andrew Marshall Jr. Associates, dated, January 15, 1997 and last revised March 12, 1999.
- Zoning Office File Documents for Eric Roos, Case 97-14

1. Summary of Application

The applicant has filed an application for Certification of Non-Conforming Use/Structure pursuant to section 190-126 G of the Village of Ridgewood Land Use and Development Ordinances. N.J.S.A. 40:55D-68 Non-Conforming Structures and uses, allows any person interested in land upon which a non-conforming use or structure exists to apply in writing for the issuance of a certificate certifying that the use or structure existed before the adoption of the



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zoning ordinance rendering it non-conforming. This application can be made to the administrative agent, (zoning Officer) within 1 year of the adoption of the ordinance or at any time to the Board of adjustment. This interpretation is being asked of the Board at this time.

2. Completeness Review

As per *Section 190-76, Other Applications or Appeals* and *Section 190-30 Request for Interpretation or other Special Questions*, the following shall be required to be submitted as part of the application:

- a. Application Form accompanied by a specific written request
- b. 12 Copies of Application Form
- c. Fees as required by Chapter 190
- d. Provide Public Notice as specified in Section 190—12B(1)

The application contains this information. It can be deemed complete and proceed with public notice when a date is assigned by the Board Secretary.

3. Non-Conforming Structures and Uses

As per New Jersey Statute, the applicant shall have the burden of proof. The public hearing is the time for the applicant to provide evidence and sworn testimony in support of the claim for Non-Conforming Use and/or Structure Certification.

4. Additional Questions raised for Consideration

1. Is the 1999 Resolution equivalent of the N.J.S.A. 40:55D-68 interpretation?
2. Can the use described in the resolution commence without the Site Improvements being made?
3. Is the storage of equipment and vehicles by a third party permitted or authorized by the 1999 resolution?

5. Comments and questions:

In order for the Board to address this N.J.S.A. 40:55D-68 interpretation and the additional questions posed, the applicant will need to provide details and testimony regarding the following the items:

- a. First, the applicant is requested to submit a written description of the use that existed prior to the adoption of the R-125 zoning affecting the site. This should include details of the original on-site user and provide documentation to support its existence, timelines, photographs, etc. to make their case before the Board. This documentation should be supported through sworn testimony by their witnesses attending the hearing.




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- b. Next, the applicant is requested to submit a written description of the nature of the latest user or tenant of the site and if they differed in any way from the original user. Documentation and sworn testimony shall be provided to support any claim that authorization permitting a change in use occurred.
- c. The existing site conditions and site maintenance should be addressed by the applicant.
- d. As per *Section 190-36 Expiration of Variances*, "Variances granted by the Planning Board or Board of Adjustment shall expire unless the development associated with the variance is promptly completed." This section applies to Variance approvals not subject to site plan, subdivision, or conditional use approval; Variance approvals subject to site plan, subdivision, or conditional use approval; and to Bifurcated variance applications. Based on this section, it would appear that the 1999 approval would have expired. The applicant should provide testimony with respect to this section and present their argument to the Board.

Please do not hesitate to contact me at mbcarter@RidegewoodNJ.net if you have any questions.

Sincerely,
CME Associates



Maryann Bucci-Carter, PP, AICP
Project Leader

Cc: Jane Wondergem, Board Secretary
Chris Rutishauser, PE, CPWM, Director of Public Works, Township Engineer
Bruce E. Whitaker, Esq., Board Attorney
Eric Roos, Applicant
Robert L. Garibaldi, Jr. Esq., Applicant's Attorney
David L. Rutherford, Esq., Contract Purchaser Attorney