



COMMUNITY PLANNING
LAND DEVELOPMENT AND DESIGN
LANDSCAPE ARCHITECTURE

B U R G I S
A S S O C I A T E S , I N C .

PRINCIPALS:

Joseph H. Burgis PP, AICP
Edward Snieckus, Jr. PP, LLA, ASLA
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July 8, 2021

Robert Garibaldi, Esq.
266 Harristown Road
Suite 306
Glen Rock, New Jersey 07452

Re: Roos Section 68 Certificate
Nursery/Garden Center
560 Route 17
Ridgewood, New Jersey
BA# 3822.XX

Dear Mr. Garibaldi,

Pursuant to your request, Burgis Associates has prepared a planning analysis concerning a proposed Section 68 Certificate to enable the existing nursery/garden center located at 60 Route 17 in Ridgewood, New Jersey to be continued, as provided for in Section N.J.S.A. 40:55D-68.

The planning analysis reveals the applicant has sufficient justification to enable the Board to grant the Section 68 Certificate. The site has been used as nursery/garden center and farm property since the early 1900's, predating any zoning regulations adopted by the Village. The historic use of this site for this purpose was acknowledged in a 1999 Zoning Board Resolution wherein the Board approved an expansion of a pre-existing nonconforming nursery and garden center use. This is detailed below.

The following is offered for consideration.

1. Property Description. The subject site is located on the northbound side of Route 17, between West Saddle River Road and Race Track Road, with an address of 560 Route 17. The property occupies an area of 1.3 acres and is somewhat rectangular in shape. Its dimensions include 175 feet of frontage on Route 17 and a depth of approximately 550 feet.

The property has been occupied as a garden center for more than fifty years. On site development consists of a shed measuring 25 feet x 25 feet, located in the westerly portion of the lot, setback approximately 50 feet from Route 17 and 10 feet from the northerly lot line. Ingress and egress to and from the lot is from an undefined curb cut along the Route 17 frontage. The site is used for the outdoor storage of nursery specimens.

The property is characterized by a level and flat topography.



Source 1: Bird's Eye Aerial from Bing Maps.

Dwg. Title

Bird's Eye Aerial Map

Project No.

3051.20

Date

07.09.21

Drawn

DN

Legend



BURGIS ASSOCIATES, INC.
 COMMUNITY PLANNING | LAND DEVELOPMENT AND DESIGN | LANDSCAPE ARCHITECTURE
 25 Westwood Avenue
 Westwood, New Jersey 07675
 p: 201.666.1811
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Project Title

560 Route 17 Nursery/Garden Center
 Village of Ridgewood | Bergen County, New Jersey

Scale:

N.T.S.

Dwg. No.:

bird

2. Proposed Development. The applicant seeks nothing more than to maintain and continue the historic use of the property as a nursery. There is no proposal to enlarge the existing building or intensify the use on-site.
3. Surrounding Development Pattern. The site is located in an area characterized by a variety of land uses. These include:
 - a. To the north is an office fronting on Route 17, and a townhouse development fronting on Race Track Road. Farther north along Race Track Road are single family dwellings
 - b. To the south is Ward Farm.
 - c. To the east is residential development along West Saddle River Road.
 - d. To the west is the Route 17 corridor and nonresidential development farther west.
4. Zoning Ordinance. The site is in the R-125 Zone, a single family residential zone. Nurseries/garden centers are not permitted, although, as detailed below, this site has received a use variance in 1998 to allow it to modernize. Interestingly, as detailed below, it appears the use actually predates the Village zoning code and is thus a pre-existing nonconforming use.

The R-125 Zone requires a minimum lot area of 25,000 square feet, whereas the site is 1.33 acres (57,935 square feet) in size.

5. Statutory Criteria for a Section 68 Proceeding. Authority to review and approve a Section 68 request for a Section 68 Certificate is set forth in 40:55D-68 of the Municipal Land Use law. This section provides that “any nonconforming use or structure existing at the time of the passage of an ordinance may be continued upon the lot or in the structure so occupied and any such structure may be restored or repaired in the event of partial destruction thereof”.

This section goes on to state that any person or entity “interested in any land upon which a nonconforming use or structure exists may apply in writing for the issuance of a certificate certifying that the use or structure existed before the adoption of the ordinance which rendered the use or structure nonconforming

The available data indicates the site has been farmed since the early 1900’s, and the property used as a nursery since

6. Basis for Approval of Section 68 Certificate. The following is noted with respect to the basis for this request:
 - a. The Board should take notice of their own 1999 Resolution in the matter of an Eric Roos use variance application, wherein the Board noted the following:
 - 1) On page 8 the Board made the following determination at Finding 2: This is an application for the expansion of a nonconforming use;
 - 2) On page 9 the Board made the following determination at 6A: “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”;

- 3) On page 10, the Resolution notes that the Board finds “the use pre-exists the ordinance of the Village of Ridgewood (Finding G2)
 - 4) The above cited assertions are buttressed by the sworn testimony of Mr. Roos, which is noted on page 5 of the Resolution, where he 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”;
 - 5) The Board found, on page 10 that the recent construction of a condominium in the neighborhood was “built 70 years after the commencement of the nursery
- b. Section 40:55D 68 requires an applicant seeking a Section 68 Certification to provide, in writing, their reasoning in support of their request. In this instance, the applicant asks the Board to take judicial notice of their own Resolution which detailed the fact the nursery existed long before the Village adopted zoning regulations, thereby satisfying the requirement for certification.

I have attached the Board resolution referenced above for your information.

I trust this is sufficient for your needs. Do not hesitate to call if you have any questions on this matter.

Very truly yours,

Joe Burgis PP, AICP

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 #
Brent Dean
Site Plan
STATIC AND/OR COUNTY A??

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. Inglima, Jr., Esq. Mr. Inglima 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.

(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 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:

(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.

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(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 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.

E. There will be no deliveries to the site, or trucking from the site, from 11:00 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).

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.