

Michael J. Tobia, P.P.

COMMUNITY PLANNING CONSULTANT

92 Overlook Road

Morristown, New Jersey 07960

973/670-8888

tobia.michael@verizon.net

MICHAEL J. TOBIA

OUTLINE OF TESTIMONY

383 SOUTH STREET, LLC

TOWNSHIP OF MORRIS

INTRODUCTION

1. The applicant is 383 South Street, LLC., a.k.a. the Bruin family.
2. Block 7307, Lots 2 & 8.
3. The site address is 383 South Street.
4. The site covers 108,110 square feet, or 2.48 acres.
5. The site has 100 feet of frontage on South Street, together with 694.81 feet of frontage on Pear Street and 100 feet of frontage on Whitney Avenue.
6. The site was previously occupied by the former Glendale Florist, which is now being renovated by the Bruin family for continued use as a garden center.
7. Glendale Florist had been located on the site for decades and should be familiar to most Township residents.
8. The Bruin family has owned the site since February, 2024.

THE PROPOSAL

1. The applicant proposes modifications and improvements to the existing garden center and related structures thereon. Many of these modifications and improvements are already underway, having been permitted and inspected by the Morris Township building and engineering departments.

2. Renamed South Street Gardens, the Bruin family is now open for business.
3. The applicant also proposes the development of additional uses on the property, as South Street Gardens looks to diversify its use and remain viable in the competitive garden center marketplace.
4. As part of its expansion plans, the applicant seeks to re-use the upper floor of an existing building as an event space for scheduled functions. The proposed event space will be located in the westernmost building on the site.
5. The proposed event space will take the place of floor area previously used by Glendale Florist for office and storage space. The space is proposed to cover 2,173 square feet, with a maximum seating capacity of 48 seats.
6. The applicant also proposes a coffee shop. This use is proposed just east of the proposed event space in space previously used as a greenhouse.
7. The coffee shop will cover approximately 1,720 square feet and have approximately 20 seats.
8. The garden center, outdoor storage areas, outdoor sales areas, parking lots, greenhouses, loading area and driveways will continue to operate in the same basic locations as did these uses when operated by Glendale Florist.
9. The applicant is investing \$4,000,000 into upgrading the property.



South Street Gardens

PROPOSED OPERATIONS

1. The garden center will be open seven days a week from 7:00 A.M. to 6:00 P.M., with reduced hours possible in the winter. The garden center will sell plant material, flowers, gifts, furnishings and similar goods.
2. The garden center will have 15 to 18 employees on peak shift. Approximately 15 employees have already been hired from the immediate neighborhood.
3. The florist and home decor shop will be open from 10:00 A.M. to 6:00 P.M. daily.
4. The event space will take place in the large open room on the upper floor of the westernmost building on the site.
5. The event space will hold events approximately four to seven times per week. All events will be scheduled. Most events will take place at 5:00 PM or later on weekdays

and from 11:00 AM to 10:00 PM on weekends.

6. Multiple events may be held in a single day, with events staggered to avoid guest overlap.
7. Events will include corporate/private functions, floral design workshops, gardening courses, wreath making, terrarium workshops, butterfly gardening, celebratory receptions and seasonal community functions. Other events may include parties, fundraisers, home décor classes and similar programs, all of which will be staffed and monitored by the applicant, ensuring compliance with on-site operational and applicable municipal regulations. The overarching goal of the event space is to create a community driven, nature-focused space for Morris Township and the surrounding region.
8. The coffee shop is intended as a small accessory use to the garden center. It will be open from 7:00 A.M. to 4:00 P.M. daily, with one to two employees at any one time.
9. Sales will be limited to specialty drinks and prepared pastries. No food service is proposed.
10. Two to three trash and recycling collections are anticipated per week.
11. The coffee shop and event space will be operated in their entirety by South Street Gardens. No third party usage of either space will be permitted.



Proposed Welcome Center and Coffee Shop

ZONING

1. The site is located in the RA-15 zone, a single-family zone district that also permits agricultural uses and farms; cluster residential development groups; parks, playgrounds, firehouses, libraries and municipal buildings; and country clubs, golf clubs and golf courses.
2. Permitted accessory uses in the RA-15 zone are limited to private garages, swimming pools, signs, tennis courts, other accessory buildings such as tool sheds, and various energy systems.
3. Permitted conditional uses in the RA-15 zone are essential services, churches and other places of worship, public or private day schools, home offices, private recreation uses

with lights and supplementary apartments.

4. The applicant requires the following 'd' variances:
 - a. Expansion of a Nonconforming Use: The RA-15 zone does not permit the garden center use, which is a legally existing nonconforming use. The proposed event space therefore constitutes an expansion of a nonconforming use. This requires a 'd-2' variance.
 - b. Expansion of a Nonconforming Use: The proposed coffee shop, while only an accessory use, is also not permitted in the RA-15 zone, possibly requiring another d-2 variance. In the alternative, the applicant asks the ZBA to recognize the coffee shop as an accessory use to South Street Gardens.

5. The site seeks bulk variances for the following conditions:
 - a. Impervious Coverage: 45 percent permitted, 51.4 percent existing and 47.2 percent proposed (a reduction of 4,473.8 square feet of impervious).
 - b. Front Yard Setback (Pear Street): 50 feet required, 0.7 feet existing.
 - c. Side Yard Setback (to south of greenhouse facing Whitney Avenue): 20 feet required, 14.8 feet proposed.



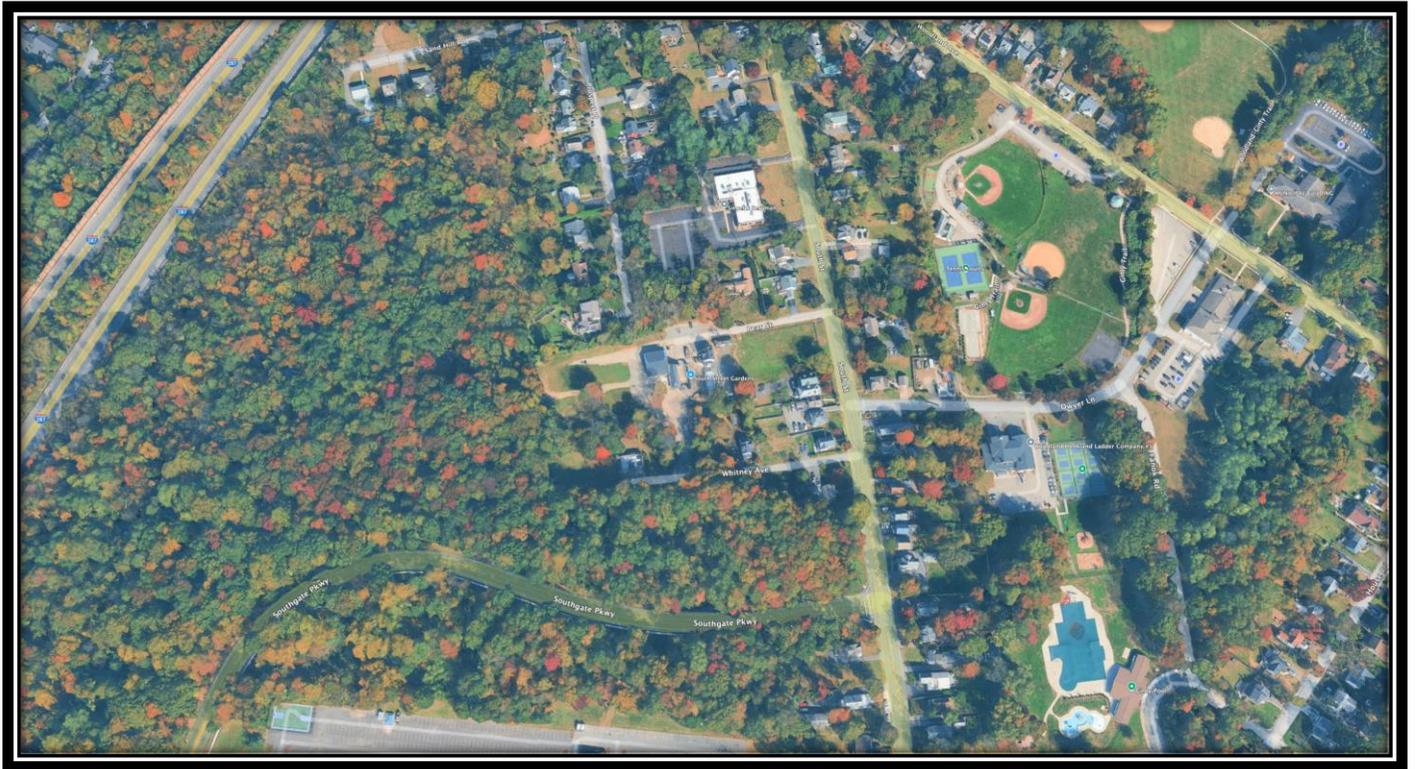
Proposed Event Space

SURROUNDING LAND USES

1. The subject property is located in a mixed-use neighborhood.
2. Single-family homes are found along South Street, Pear Street, Whitney Avenue and Prospect Place. This area is zoned RA-15.
3. Schoolhouse Plaza, an office building, is located due north of the site. This site is located in the OS-GU zone.
4. Dwyer Lane is located right across from the site.
5. The Southgate Corporate Center is located to the south of the site. This area is zoned OL-40.
6. The recently approved One Paw Away doggie day care is also located south of the site. This area is zoned OL-40.
7. A medical office building is located just north of One Care Away, at 457 South Street.

This area is zoned OL-40.

8. A large tract of open space is located to the rear of the site.



Surrounding Land Uses

THE BURBRIDGE CASE

1. The subject application requires a d-2 variance for the expansion of a nonconforming use.
2. The Supreme Court, in Burbridge v. Mine Hill [117 NJ 376, 1990], established the standard for the expansion of nonconforming uses. Burbridge focused on the expansion, reorganization and relocation of an automobile junkyard/storage business. Page 387. Burbridge notes:
 - Aesthetic improvement alone can be a sufficient special reason to justify a variance to expand a pre-existing nonconforming use. Page 387.
 - Aesthetic improvement entails more than mere beautification. In this context, the

phrase refers to the overall visual compatibility of the use; it is inextricably entwined with notions of the general welfare. Page 387.

- A pre-existing nonconforming use is not one that can be simply be taken away. Page 388.
 - Under the MLUL, such a nonconforming use exists as a matter of right. Page 388.
 - When a nonconforming use cannot be eliminated, a municipality may and should seek to harmonize the use with its environs. Page 388.
 - A municipality's ability to insist on specific changes as part of the expansion safeguards the general welfare. Page 388.
 - The aesthetic improvements should be fashioned with an eye towards integrating the appearance of the use with its surroundings, not simply effecting cosmetic changes. Page 388.
 - As long as the nonconforming use exists and is thriving, the Board would want to make it conform as best it could to the current use-designation in the zone. Page 388.
 - Appearance, aesthetics, and compatibility of the use in the neighborhood become uniquely significant, especially when, as in this case, there is not any evidence that it is ever going to wither and die. Page 388.
 - In the instant case the aesthetic benefits, when weighed against the extent of the expansion, suffice as a special reason. Page 389.
 - Obviously, cases in which the variance would create an entirely new nonconforming use require greater proof to demonstrate the merits of such a variance than do cases in which the applicant seeks only a minor expansion of a pre-existing nonconforming use. Page 393.
 - Clearly, Medici's enhanced-proof requirement focused on variances for new uses rather than on expansions of existing uses. Page 398.
3. Burbridge citing Kohl, notes Kohl observes 'aesthetics do not support the tripling of a dairy bottling plant.'
 4. Burbridge further notes that 'it is a minor expansion when compared to the benefit

conferred on the community as a whole.'

PLANNING RATIONALE FOR THE 'D-2' VARIANCE

1. The existing garden center use is a longstanding, legally existing, nonconforming use. The use is active and thriving, with no realistic possibility that is going to wither and die.
2. If the use is not going to wither and die, the Township and neighborhood are far better off with modernized and upgraded site conditions than what was recently found on the site.
3. The proposed expansion is relatively modest. Unlike the facts in Burbridge, no physical expansion is proposed. The proposed event space will take place on the upper floor of an existing building that was once used for storage and office purposes. The proposed coffee shop will take place within a remodeled greenhouse.
4. Neither use will require an expansion of parking, as the site plan shows the continued use of existing parking areas. The number of proposed parking stalls is compliant with local zoning.
5. The proposed event space will cover 2,173 square feet of floor area. The coffee shop will cover 1,720 square feet of space. Both pale in comparison to the overall size of the garden center, which covers a total of 18,212 square feet.
6. As a result, the proposed event space and coffee shop will be relatively small spaces and incidental to the longstanding garden center use.
7. Consistent with Burbridge, the applicant is proposing significant physical improvements to the site. These improvements include major architectural improvements, gut renovation of building interiors, parking lot improvements, landscaping upgrades and many other site enhancements.
8. Some of the proposed improvements relate directly to the building intended to house the event space and the remodeled greenhouse proposed for the coffee shop.

OTHER PLANNING CONSIDERATIONS

1. Family-run garden centers face stiff competition from large box operators such as Home Depot, Lowe's and Costco. Business diversification is necessary. Creative business practices are necessary.
2. In the case of South Street Gardens, proposed expansions, namely the event space and the coffee shop, promote both diversification and creativity. Both uses will remain incidental to the garden center and will be run entirely by the Bruin family.
3. Examples of other garden centers diversifying their respective businesses are illuminating:
 - J & M Garden Center, in Madison, has broadened its business plan to include indoor and outdoor furniture sales, a Christmas shop, and even some clothing and jewelry sales.
 - The Black Shed, in Stockton, provides a curated garden center and café with rotating workshops and community programming.
 - La Serra Gardens in Totowa is a boutique-style garden shop and coffee bar with a strong local following.
 - The Herbarium at Bear Creek (Howell, NJ) – A garden center and café set on a working farm, frequently hosting family-friendly events and classes.
 - Terrain (Glen Mills & Doylestown, PA) – A nationally recognized lifestyle destination combining a nursery, farm-to-table restaurant, and event space.
4. Not keeping up with the Home Depots of the marketplace can have disastrous results, as major garden center operators such as the Cedar Grove Garden Center and the Fairfield Garden Center have gone out of business in recent years.

MUNICIPAL LAND USE LAW

1. The subject application promotes various purposes of the Municipal Land Use Law, as established at N.J.S.A. 40:55D-2:

a. To encourage municipal action to guide **the appropriate use or development of all lands** in this State, in a manner which will promote the public health, safety, morals and general welfare.

c. To provide for **adequate air, light and open space**.

e. To promote the establishment of **appropriate population densities** and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment.

g. **To provide sufficient space in appropriate locations** for a **variety** of agricultural, residential, recreational, **commercial** and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens.

i. To promote **a desirable visual environment** through creative development techniques and **good civic design** and arrangements.

m. To encourage coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to **the more efficient use of land**.

NEGATIVE CRITERIA

1. The applicant must demonstrate that the requested variances will not be a substantial detriment nor a substantial impairment. Emphasis is on the word substantial.
2. The proposed expansions are modest when compared to the overall South Street Gardens site.
3. No building expansion is needed for either the event space or the coffee shop.
4. Impervious coverage is improved as the site plan shows a reduction of 4,473.8 square feet in coverage.
5. Ample parking is provided, with 81 stalls required and 82 stalls proposed
6. The overall footprint of the site will be generally the same as existing for the Glendale Florist use.

7. Glendale Florist existed on the site for decades. Its impacts as a commercial use in a residential neighborhood have been long-established. The applicant's \$4,000,000 improvement plans can only be viewed as a positive for the neighborhood and not a detriment to same.
8. No substantial impairment, no substantial detriment.

EXHIBITS

1. Power Point presentation. [Photos: July 7, 2025 and July 8, 2025]

MICHAEL J. TOBIA, P.P.
July 17, 2025