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February 19, 2025

Ms. Diana Chandler-Zimmerman
Board Secretary
Township of West Orange Zoning Board of Adjustment
66 Main Street
West Orange, NJ 07052

Re: **Planning Review Letter**
77-79 Lessing Road
Block #158.14, Lot 243
Application for Home Occupation
ZB-25-1

Dear Ms. Chandler-Zimmerman,

This office has reviewed the application submitted by *Christopher Taharally* ("**Applicant**"). The Applicant filed an application with the West Orange Board of Adjustment for a home occupation to sell roasted coffee and cookies to the surrounding community.

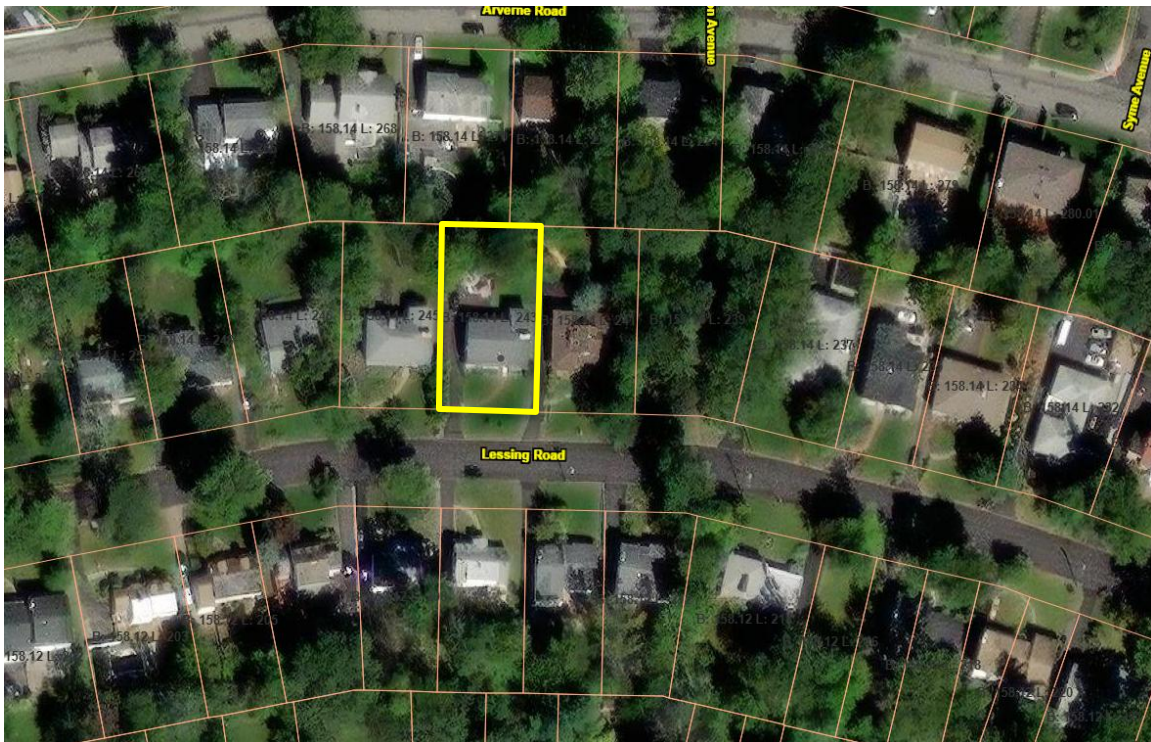
In preparation of this memorandum, the following documents were reviewed:

1. Township of West Orange Application Form for the Planning Board or Board of Adjustment, December 18, 2024.
2. Business proposal for Coluna Coffee & Cookies
3. Email from Christopher Taharally, dated December 18, 2024.
4. Floorplan for 77-79 Lessing Road.
5. Survey, prepared by George J. Anderson, LLC, dated July 18, 2016.
6. Verification of Taxes & Sewer Charges Paid, dated December 11, 2024.
7. Certificate of Formation, Coluna Coffee & Cookies, LLC, dated December 24, 2024.
8. List of property owners to be served notice, prepared on December 11, 2024.

Property Information

The property that is the subject of this Application is commonly known as 77-79 Lessing Road and identified as **Block #158.14, Lot #243** in the municipal tax

records for the Township of West Orange. The site consists of a single-family home, which is consistent of the surrounding neighborhood. The property is located within the Township's R-4 Zone.



*Figure 1: 2023 Aerial Image of the site at 77-79 Lessing Road is outlined in yellow.
Source: NJ-GeoWeb*

Site Photos (taken January 31, 2025)



Figure 2: View of 77-79 Lessing Road



Figure 3: View of the properties across from subject site



Figure 4: Lessing Road streetscape facing east



Figure 5: Lessing Road streetscape facing west

Project Overview

The Applicant, Christopher Taharally, proposes to operate his business, Coluna Coffee & Cookies out of his residence. The business would sell roasted coffee and homemade cookies. Orders would be placed by phone, text or social media platforms. Customers would pick up orders directly from the home, though the applicant states they are exploring providing free local delivery.

Zoning (§25-7.1)

The site is located within the R-4 Single Family Residential District, which is generally described as permitting one-family dwellings on 15,000 square foot lots.

Permitted uses within the R-1 zone are as follows:

- One family, detached dwelling
- Water reservoir, well tower, filter bed
- Federal, state, county or township building
- Golf course and golf club house
- Farm, nursery, greenhouse and similar uses
- Hospital

Permitted Accessory Uses include:

- Required accessory parking
- Private garage
- Horticultural or agricultural building
- Customary accessory building or structure
- Private swimming pool
- **Home occupation**
- Home professional office
- Signs
- Fences and dividing walls
- Private storage shed
- Greenhouses

Permitted Conditional Uses include:

- Public school
- Private school

- Library
- Museum
- Park or playground
- Public utility building or structure
- Telephone exchange
- Private club, other than a golf club
- House of worship
- Banquet and Conference centers

§25-9.9 Home Occupations

No home occupation may be conducted in a legal owner-occupied one family residence unless the following conditions are met:

a. A simplified site plan indicating the location of the use on the premises within the principal structure and written description of the occupation to be conducted shall be submitted to the Building Department and Zoning Official. A Certificate of Continued Occupancy, Certificate of Occupancy, or Certificate of Habitability shall be required for home occupations.

b. The proposed activity shall comply with the following:

1. Only one such activity shall be permitted on the premises within the principal structure; and such use must not be incompatible with or disturb the adjacent residential neighborhood.
2. The activity shall be conducted solely by a person or persons, and members of his/her immediate family, all of whom shall be residing fulltime and permanently on the premises, and by no other person or persons living off the premises.
3. Not more than 12.5% or 1/8 of the floor area of the principal structure shall be used for such activity.
4. No display or advertising of products or services shall be visible from outside of the principal structure in which the activity takes place.
5. No outside storage any way related to the activity shall be visible from outside of the principal structure in which the activity takes place.

6. No pick-up or delivery of materials to or from the premises in which the activity takes place shall be made, except by private passenger vehicle, licensed package delivery service, or US Postal Service.
 7. The activity, including deliveries as described in Subsection 6, shall be conducted only between the hours of 8:00 a.m. and 8:00 p.m.
 8. The activity shall not give rise of the need for on-street parking which shall interfere with the residential parking on the street adjacent to the principal structure in which the activity is permitted.
- c. The following activities related to home occupations are prohibited:
1. Any activity which creates noise, smells or sights, which are ascertainable outside of the principal structure in which the activity takes place;
 2. Any activity which causes interference with electrical or electronic equipment off the premises in which the activity takes place;
 3. A retail or wholesale salesroom(s) or showroom(s);
 4. Any activity which involves the use or storage of hazardous materials as defined by law.

Definitions

ACCESSORY USE

Shall mean use naturally and normally incident and subordinate to the principal use of the premises or lot. The following uses are not accessory uses and are prohibited:

1. The dismantling, assembly or repair of a vehicle other than one belonging to a member of the resident household in any Residential Zoning District and any Nonresidential Zoning District where such use is not permitted.
2. The outdoor storage of motor vehicle parts or accessories in any Residential Zone.
3. An airport, aircraft landing strip, or heliport in any Zoning District.
4. Outdoor bins for the collection of used clothing, shoes, household items or other goods.

HOME OCCUPATION - Shall mean any lawful activity not otherwise prohibited by this chapter performed in a legal owner-occupied one-family residence, including without limitation, consulting, telemarketing, dressmaking,



manicuring, craft making or drafting. **Home cooking for commercial purposes is not permitted.**

Planning Comments

Under the definition of “Home Occupation” listed above, the business described by the applicant is prohibited as a home occupation. Home occupation is a permitted accessory use in the R-4 zone, and as home cooking for commercial purposes is not a permitted accessory use, it therefore requires a variance.

As a result of the specific prohibition of the home cooking, the applicant shall provide appropriate testimony for the Board’s consideration as to whether because home cooking is expressly prohibited as a home occupation it can be considered as a non-permitted accessory use since other home occupations are permitted within the zone, and which normally requires a “c” variance, or as a separate principal use which would then require a “d(1)” use variance because the specific use of home cooking for commercial purposes is not permitted within the zone.

The Zoning Code was last revised under Ordinance 2436-15 in 2015. For the Board’s consideration, the State of New Jersey passed **N.J.S.A 8:24-11 et seq** (added as an Appendix to this report), which creates rules for a Cottage Food Operator’s Permit, in order to allow for a mechanism for residents to start food-related business out of their home. This is partly related to the potential higher cost of starting such a business with commercial kitchen space, and also in response to the growth of home occupations (to include home cooking) during and following COVID. This last was passed in October 2021, after the last revision of the Township’s Zoning Code.

Other Planning Comments

1. The Applicant shall confirm they will also meet the requirements of **N.J.S.A 8:24-11 et seq.** and obtain a permit.
2. The Applicant shall testify to the Board on how they will meet all the conditions associated with §25-9.9 Home Occupations.
3. The Applicant shall describe how operations will work for pickups. For example, would the customer come into the house or garage to get their order? Does it get brought to them in the driveway/roadway?

4. The Applicant shall provide to the Board the operation hours in which the pickups are conducted?
5. The Applicant has stated it is exploring a free local delivery service. Is that to be contracted, or provided by the Applicant or a family member?

Conclusions

The above comments are based on the review of the materials submitted to date. Nishuane Group reserves the right to provide new or updated comments as additional information becomes available. Further, this report should be cross-referenced with the Board Engineer's Review Letter and other Municipal Reviews. Should you have any questions, please do not hesitate to contact me.

Respectfully submitted,



George Wheatle Williams, PP, AICP
Principal, Nishuane Group, LLC.



Erik DeLine, PP, AICP, LEED AP
Associate, Nishuane Group, LLC.

Appendix 1: NJSA 8:24:11 et seq.

§ 8:24-11.1 Requirement and procedure to obtain a Cottage Food Operator Permit

(a) A person or entity that engages in the production, distribution, and/or sale of food to consumers shall:

1. Have a Cottage Food Operator Permit; or
2. Comply with applicable laws to retail food establishments.

(b) A person seeking to obtain a Cottage Food Operator Permit shall submit to the Public Health and Food Protection Program:

1. A completed application in the form at N.J.A.C. 8:24-11 Appendix, incorporated herein by reference, which is available at <https://www.nj.gov/health/forms> and on request to the Public Health and Food Protection Program;
2. A copy of a certificate issued by an accredited program showing that the applicant is a food protection manager in good standing with the accredited program;
3. If the cottage food operator's kitchen:
 - i. Uses private well water, a microbiological (total coliform) analysis of the private well water that is conducted using samples collected no earlier than 60 days prior to the filing date of the application, which is the postmark date, if the application is mailed, or the date of submission, if hand-delivered; and
 - ii. Does not use private well water, a copy of most recent water bill for the location of the cottage food kitchen; and
4. The nonrefundable application fee established at N.J.A.C. 8:24-11.6, payable to the Treasurer, State of New Jersey.

(c) The Department will conduct a completeness review of the application and notify the applicant in writing of any deficiency or incompleteness therein that the applicant must correct before the Department will process further the application.

1. If an applicant fails to correct a deficient or incomplete application within 30 days of the issuance of a notice pursuant to (b) above, the Department will deem the application abandoned.

(d) Upon determining an application to be complete, the Department shall issue a cottage food operator permit to the applicant.

(e) An applicant for a cottage food operator permit shall ascertain and comply with applicable local laws of the municipality in which the applicant seeks to operate a cottage food operation.

§ 8:24-11.2 Authorized cottage food operator activity

(a) A Cottage Food Operator Permit authorizes a holder thereof:

1. To produce cottage food products in the private kitchen of the operator's residence and at no other location; and
2. Subject to N.J.A.C. 8:24-11.5, to distribute cottage food products to consumers thereof without being subject to initial or periodic inspection by a health authority and other requirements applicable to retail food establishments pursuant to this chapter and the Public Health Practice Standards of Performance for Local Boards of Health in New Jersey at N.J.A.C. 8:52, other than as specified in this subchapter.

(b) A cottage food operator may transact activities that are ancillary to the delivery or relinquishment of cottage food products to a consumer by means of United States postal mail, common carrier, electronic communication, internet, and/or telephone, provided the delivery or relinquishment of cottage food products occurs in New Jersey in compliance with N.J.A.C. 8:24-11.3(a).

1. Authorized ancillary transactions include:

- i. Accepting order placements;
- ii. Receiving payments;
- iii. Engaging in marketing or advertising activities; and
- iv. Participating in other business activities other than cottage food product delivery and relinquishment.

§ 8:24-11.3 Prohibited cottage food operator activity

(a) A cottage food operator shall not deliver or relinquish cottage food products:

1. At a location other than:

- i. The home of the cottage food operator, but not for onsite consumption;
- ii. The home of the consumer, provided the home is in New Jersey;
- iii. A New Jersey farmers' market or farm stand;
- iv. To consumers, at a New Jersey temporary retail food establishment; or

v. In New Jersey, to the consumer, provided applicable law does not otherwise prohibit the delivery or relinquishment at the location;

2. To a person who is not the consumer;
3. To a wholesale establishment as N.J.A.C. 8:21-9 defines that term;
4. To a retail food establishment;
5. By United States postal mail or a common carrier, subject to N.J.A.C. 8:24-11.2(b); and/or
6. In interstate commerce, that is, outside of the State of New Jersey, subject to N.J.A.C. 8:24-11.2(b).

(b) The gross annual sales (that is, before deductions of taxes and operating expenses) that a cottage food operator generates from the sale of cottage food products shall not exceed \$ 50,000.

§ 8:24-11.4 Cottage food point-of-sale notice, packaging, and labeling

(a) A cottage food operator shall make available for inspection, on request, the operator's permit if the point of sale is the residence of the operator or the consumer.

(b) If the point of sale is a location other than the residence of the operator or the consumer, the operator shall place at the point of sale, on conspicuous and unobstructed display, the cottage food permit and a placard that states, "This food is prepared pursuant to N.J.A.C. 8:24-11 in a home kitchen that has not been inspected by the Department of Health."

(c) A cottage food operator shall affix one or more labels or tags on cottage food that collectively state at least the following:

1. The common name of the cottage food product;
2. The cottage food product ingredients in descending order of predominance by weight;
3. If the cottage food product contains a major food allergen, the word, "Contains" followed by a list of the major food allergens that the cottage food product contains;
4. The cottage food operator's name, business name, and Cottage Food Operator Permit number;
5. The name of the municipality in which the cottage food operator prepares the cottage food product, which shall be the same as the

municipality that appears of record with the Department as the cottage food operator's residence, followed by either "New Jersey" or "NJ"; and
6. The statement, "This food is prepared pursuant to N.J.A.C. 8:24-11 in a home kitchen that has not been inspected by the Department of Health."

§ 8:24-11.5 Health authority's right of access

(a) Pursuant to N.J.S.A. 24:1-1 et seq., especially 24:2-1 et seq., and 24:3-1 et seq., and 26:1A-1 et seq., especially 26:1A-16, 17, 18, and 19, a health authority is authorized to enter upon, examine, and survey any premises, including the home kitchen of a cottage food operator, and things thereof, including materials, equipment, books, and records:

1. To enforce or confirm compliance with any health law or other law under the official's jurisdiction; and/or
2. To investigate complaints associated with cottage food products, such as contamination, foodborne illness, misbranding, or adulteration.

§ 8:24-11.6 Application fees; permit duration; permit renewal

- (a) The fee to apply for a Cottage Food Operator Permit is \$ 100.00.
(b) A Cottage Food Operator Permit is valid for two years from date of issuance.
(c) The fee to apply for renewal of a Cottage Food Operator Permit is \$ 100.00.
(d) To prevent permit lapse, a cottage food operator permittee should submit an application for permit renewal by no later than 45 days before the expiration of the permit that is in effect.

§ 8:24-11.7 Suspension, revocation, and/or denial of issuance or renewal of a permit; monetary penalties

- (a) A person or entity that violates any provision of this chapter or refuses to comply with a lawful order or direction of a health authority is liable for penalties as provided by N.J.S.A. 24:17-1 et seq., and 26:1A-10, and/or injunctive action as provided by law.
(b) The Department may impose a monetary penalty pursuant to N.J.S.A. 24:17-1 et seq., and 26:1A-10, and/or suspend, revoke, and/or refuse to issue or renew, a Cottage Food Operator Permit, if the applicant or permit holder fails to comply with applicable provisions of this subchapter, Titles 24 and 26 of the Revised Statutes of New Jersey, and/or any other applicable rules or statutes, and/or if a

health authority determines that the applicant or permit holder poses a threat to public health, safety, or welfare.

1. The Department shall provide the applicant or permit holder notice of the monetary penalty, suspension, revocation, or denial of issuance or renewal, of a permit, and the reason for the action taken.

(c) The Department may issue a summary suspension of the permit of a cottage food operator if the permit holder's continued operation poses an immediate or serious threat to public health, safety, or welfare.

1. The Department shall provide the permit holder notice of a summary suspension and the reason for the action taken.
2. A summary suspension is effective as of the date of issuance.
3. A cottage food operator whose permit the Department summarily suspends shall have the right to apply for emergency relief, as provided at N.J.A.C. 8:24-11.8.

(d) If a person, entity, or cottage food operator operates as a cottage food operator without a valid permit issued by the Department, fails or refuses to comply with an order of a health authority, poses a threat to public health, safety, and welfare, and/or engages in activity that is violative of applicable provisions of Titles 24 and 26 of the Revised Statutes of New Jersey and/or this chapter, the Department may:

1. Issue an order requiring the person, entity, or cottage food operator to cease and desist operations;
2. Take action in the New Jersey Superior Court against the person, entity, or cottage food operator to enjoin its operations;
3. Confiscate, condemn, seize, sell, destroy, detain, and/or embargo articles of food in accordance with N.J.S.A. 24:1-1 et seq., especially 24:4-1 et seq.; and/or
4. Impose monetary penalties pursuant to N.J.S.A. 24:17-1 et seq., and 26:1A-10.

(e) A monetary penalty that the Department imposes pursuant to N.J.S.A. 24:17-1.1 et seq., and/or 26:1A-10, shall become due 45 days after the deadline to file an appeal has ended.

1. If an applicant for a Cottage Food Operator Permit or a permit holder files an appeal with the Department, then the monetary penalty shall become due in accordance with N.J.A.C. 8:24-11.8(b).

(f) Failure to pay a monetary penalty when it becomes due pursuant to (e) above and/or N.J.A.C. 8:24-11.8(b) may result in one or more of the following actions being imposed on the applicant for a cottage food operator permit or the permit holder:

1. Institution of a summary civil proceeding by the State, pursuant to the Penalty Enforcement Law, N.J.S.A. 2A:58-1 et seq.;
2. The Department's denial of, or refusal to issue, a permit or a permit renewal; and/or
3. Revocation of an existing permit.

§ 8:24-11.8 Hearing on enforcement actions

(a) When the Department summarily suspends the permit of a cottage food operator, the operator maintains the right to petition the Commissioner of the Department for emergency relief.

1. To request emergency relief, the cottage food operator must submit to the Department, within 30 days from the date of the notice of summary suspension, a request in writing accompanied by a response to the notice of summary suspension.
 - i. Failure to submit a request for emergency relief within 30 days from the date of the notice of summary suspension shall result in the cottage food operator's forfeiture of all rights to emergency relief.
2. All applications for emergency relief will be handled in accordance with N.J.A.C. 1:1-12.6(c).
3. Unless emergency relief is granted, the summary suspension shall remain in effect until lifted by either the Department or a court of competent jurisdiction.
4. Nothing in this section shall be construed to prevent the Department from simultaneously, or thereafter, moving to suspend or revoke the permit of a cottage food operator or to issue the cottage food operator a monetary penalty.

(b) If the Department issues a notice of proposed assessment of a monetary penalty, permit suspension or revocation, and/or denial of permit issuance or renewal, the Department shall afford the applicant or permit holder an opportunity for a hearing to contest the proposed action.



1. A monetary penalty, permit suspension (excluding summary suspensions) or revocation, and/or denial of permit issuance or renewal shall become effective and final 30 days from the date of the notice of proposed action, unless the applicant or permit holder, within that 30-day period, submits a written request for a hearing to the Department with a response to the proposed action.
 - i. Failure to submit a written request for a hearing within 30 days from the date of the notice of proposed action shall result in the applicant or permit holder forfeiting all rights to such a hearing.
 - ii. If the applicant or permit holder submits a timely request for a hearing, then the monetary penalty, and/or the suspension (excluding summary suspensions), revocation, and/or denial of permit renewal shall be held in abeyance until the hearing is concluded and a final decision is rendered.
 - iii. A monetary penalty that is the subject of a hearing, which the applicant or permit holder timely requests pursuant to this section, is due 45 days after the Commissioner's issuance of a final agency decision determining the penalty.
 - iv. A revocation, suspension, or denial of issuance or renewal of a Cottage Food Operator Permit is effective immediately upon the Commissioner's issuance of a final agency decision on the action.
- (c) The Department shall transmit hearing requests to the Office of Administrative Law.
- (d) Hearings shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.