

DEPARTMENT OF PLANNING

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Acting Commissioner

Arlene R. Miller
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June 26, 2019

Ramapo Planning Board
237 Route 59
Suffern, NY 10901

Tax Data: 50.17-1-51

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 N

Map Date: 3/18/2019

Date Review Received: 5/13/2019

Item: *ELLISH GARDENS (R-2660A)*

A three-lot subdivision of .7843 acres; a three-family dwelling with three accessory apartments is proposed on each parcel. A semi-attached structure is proposed on Lot 1; variances were previously granted for front setback (Elish Parkway and private road), front yard (Elish Parkway and private road), side yard, rear setback and maximum development coverage. A detached structure is proposed on Lot 2; variances were previously granted for lot area, lot width, front setback (Elish Parkway and private road), front yard (Elish Parkway and private road), side setback, rear setback, street frontage and maximum development coverage. A semi-attached structure is proposed on Lot 3; variances were previously granted for front setback (private road), front yard (private road), rear setback, street frontage and frontage on a public street.

North side of Elish Parkway, approximately 100 feet east of Vincent Road

Reason for Referral:

Village of Spring Valley, Pascack Brook

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

****Disapprove***

1 At 34,164 SF, the subject site can yield two 15,000 SF parcels that will meet the minimum lot area requirement for detached, three-family dwellings in the R-15C zoning district; though the lot width standard of 100 feet required for Use Group x.1 is not achievable. There is also sufficient lot area for two semi-attached, three-family dwellings. However, the minimum lot area requirement of 10,000 SF for Use Group x.3 would be greatly exceeded. The applicant is proposing to create three lots that require multiple variances and cross easements for access, parking and utilities. Lot 1 will require a variance of more than 36 percent for maximum development coverage because nine parking spaces are proposed on this lot where six are required. Several yard and setback variances are needed because the building footprint is oversized. Lot 2 is undersized requiring a 17 percent variance for minimum lot area. It is also deficient in meeting the lot width and street frontage standard for Use Group x.1. A 30 percent variance is needed for maximum development coverage because nine parking

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spaces are proposed on this lot where six are required. Yard and setback variances are also necessary for the oversized building footprint. The most glaring nonconformities are found on Lot 3. This parcel is landlocked with no frontage on a public street. No parking spaces are provided on this lot. The building configuration is awkward and designed to squeeze the maximum number of units on an oddly-shaped lot. The overall layout of these residential structures suggests a townhouse development with a central parking area. This is not consistent with the community character of the surrounding residential neighborhood. Permitting the applicant to create undersized and nonconforming parcels will set a land use precedent whereby neighboring property owners will seek the same relief. The subdivision proposal shall be limited to two lots, and the proposed residential structures must more closely conform to the R-15C bulk standards.

2 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. As noted above, each of the three parcels and the residential structures will require multiple variances of significant magnitude. The ability of the existing infrastructure to accommodate increased residential density on undersized and nonconforming parcels is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Town must consider the cumulative and regional impacts of permitting such development. A maximum of two lots shall be permitted.

The following comments address our additional concerns about this subdivision proposal.

3 As required by the Rockland County Stream Control Act, the subdivision plan must be reviewed and signed by the Chairman of the Rockland County Drainage Agency before the County Clerk can accept the plan to be filed.

4 The Village of Spring Valley is one of the reasons this proposal was referred to this department for review. The municipal boundary is approximately 400 feet north of the site. New York State General Municipal Law states that the purposes of Sections 239-l, 239-m and 239-n shall be to bring pertinent inter-community and countywide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the compatibility of various land uses with one another; traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities; and the protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas. In addition, Section 239-nn was enacted to encourage the coordination of land use development and regulation among adjacent municipalities, and as a result development occurs in a manner that is supportive of the goals and objectives of the general area.

The Village of Spring Valley must be given the opportunity to review the proposal and its impact on community character, traffic, water quantity and quality, drainage, stormwater runoff and sanitary sewer service. The areas of countywide concern noted above that directly impact the Village of Spring Valley must be considered and satisfactorily addressed, as well as any additional concerns about the proposal.

5 The applicant shall comply with the comments in the Rockland County Drainage Agency's August 29, 2018 letter regarding increased stormwater runoff and sediment leaving the site.

6 The applicant shall comply with the conditions of the Rockland County Health Department's May 20, 2019 letter.

7 The applicant shall comply with the conditions of the Rockland County Sewer District #1's May 14, 2019 letter.

8 The proposed residential buildings must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

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9 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Town of Ramapo Fire Inspector, or the Monsey Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises. A fire truck turning analysis shall be provided.

10 All proposed building features and walkways must be delineated on the layout plan demonstrating that they will not impact yard or setback requirements, or increase the development coverage. Parking maneuverability shall not be affected by the location of these features.

11 The development coverage and floor area ratio calculations must be provided on the site plan so their accuracy can be verified.

12 Decks are proposed on the facades of both structures facing the parking area. It is not possible to determine if their immediate proximity to parking spaces is a safety consideration. More information must be provided about the decks so occupant safety can be assessed.

13 All required easements must be shown on the map, and applicable deductions taken to calculate net lot area.

14 Areas designated for snow removal must be clearly delineated on the layout plan so that the plow drivers will know where to place the snow piles. This will help to protect the proposed landscaping from damage due to the weight of the snow and salt intrusion. In addition, providing specific locations on the site for the snow piles will reduce the loss of available parking spaces meant to be used by residents.

15 Water is a scarce resource in Rockland County; thus proper planning and phasing of this project are critical to supplying the current and future residents of the Villages, Towns, and County with an adequate supply of water. The water system must be evaluated to determine if the additional water supply demands of the proposed development can be met. Domestic and fire demands of the project must be determined by a Licensed Professional Engineer and provided to the supplier of water for analysis. Demand calculations and results of the analysis must be provided to the Rockland County Department of Health for review.

16 In February 2017, the Rockland County Department of Health amended the Rockland County Sanitary Code, Article VII, Realty Subdivisions. Therefore, all major subdivisions, i.e., those with three or more lots, must be reviewed and approved by the Rockland County Department of Health (RCDOH) prior to filing with the county clerk. RCDOH is mandated by New York State law to ensure that such subdivisions will have both an adequate and satisfactory water supply and adequate and satisfactory sewerage facilities. A Long EAF must be provided with any 3-lot or greater subdivision.

17 Prior to the start of construction or grading, a soil and erosion control plan shall be developed and in place for the entire site that meets the latest edition of the New York State Standards for Urban Erosion and Sediment Control.

18 There shall be no net increase in the peak rate of discharge from the site at all design points.

19 Pursuant to the Rockland County Sanitary Code, Article XIII, Section 13.8.1, all multiple dwellings with three or more rental units must register and obtain a Multiple Dwelling Rental Certificate (MDRC). If this proposed multi-family dwelling meets the requirements of the Multiple Dwelling Rental Registry requirement, then the owner must register and obtain the MDRC. Failure to comply is a violation of Article XIII, which may result in penalties of \$2,000 per day.

20 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

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21 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, Ramapo
Rockland County Department of Health
Rockland County Sewer District #1
Rockland County Drainage Agency
New York State Department of State
Rockland County Office of Fire and Emergency Services
Monsey Fire District

Civil Tec Engineering & Surveying PC
Village of Spring Valley

Bella Ehrenfeld

Mona Montal, Chief of Staff
Rockland County Planning Board Members

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.

Pursuant to New York State General Municipal Law §239-m(6), the referring body shall file a report of final action it has taken with the Rockland County Department of Planning within thirty (30) days after final action. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.