



ENVIRONMENTAL, LAND USE AND REAL ESTATE LAW

Friday, 06 January 2023

Via email only to: mmclinton@villageofrhinebeckny.gov

Mayor Gary Bassett and the Members of the Village Board
Village of Rhinebeck
76 East Market Street
Rhinebeck, NY 12572

Re: Dutchess Shepherd LLC Petition for Zoning Amendment

Dear Mayor Bassett and Members of the Village Board:

We hope that all of you had a restful and enjoyable holiday, and I extend best wishes for peaceful and healthy coming new year to all.


I'm writing to follow up on the matter of the Zoning Amendment Petition of Dutchess Shepherd LLC, which the Board had decided to consider.

As you move forward as lead agency with the environmental review of this petition and project pursuant to the State Environmental Quality Review Act [SEQRA], it is very important that you be working with information that is accurate and complete. Before you begin to make your determination of significance regarding this petition and project, I would ask you to revisit the memorandum which we previously submitted from Nan Stolzenburg, FAICP, at Community Planning and Environmental Associates (copy attached for your convenience). That letter can be of significant assistance to you as you move forward. On page 2 of that memo, Ms. Stolzenburg pointed out:

There are numerous inconsistencies, omissions and apparent errors in the project sponsor's submittals. Part 1 of the SEQR Full Environmental Assessment Form (FEAF) is incomplete and should not be accepted. Revised and improved narratives, site plans, and supporting documentation should be required before the process moves forward to ensure an accurate and fulsome review.

On pages 6-8 of her memo she provides details about the accuracy and completeness of the information that was set forth on the Applicant's Full Environmental Assessment Form [FEAF]. We respectfully request that you review Ms. Stolzenburg's comments and take steps to require a revised FEAF from the Applicant that is complete and accurate. Thank you for your time and attention.

Grant & Lyons, LLP


John F. Lyons

Office address:
224 Morton Road
Rhinebeck, New York 12572

jlyons@grantlyons.com
845 876 2800
grantlyons.com

Mailing address:
P. O. Box 370
Rhinecliff, New York 12574

c via email: David Gordon, Esq., Gordon & Svenson LLP
Brandee Nelson, PE, Tighe & Bond
Victoria Polidoro, Esq., Rodenhausen, Chale & Polidoro, LLP
Nan Stolzenburg, FAICP, Community Planning & Environmental Associates



Community Planning and Environmental Associates

152 Stolzenburg Road, Berne, NY 12023

518-248-8542 • planningbetterplaces.com

October 3, 2022

Village of Rhinebeck
Mayor Bassett and Village Trustees
76 East Market Street
Rhinebeck, NY 12572

I am submitting this letter to you on behalf of the following Village of Rhinebeck residents: Diane and Victor Britton; Lynda Christensen; Sarah and Steve Miller; Vicki Haak and Spero Churmas; and John Bagwell and William Harris, residents concerned about the proposed Dutchess Shepherd rezoning and development. I have reviewed the submissions related to the “Petition for Rezoning for Dutchess Shepherd, LLC (Tax Parcel 6170-19-568209)” dated June 10, 2022. I also read and considered (i) the Village of Rhinebeck 1993 Master Plan; (ii) the Village of Rhinebeck Code (especially the Zoning, Subdivision, Historic Building Protection, Sewers, Streets and Sidewalks, and Trees Chapters); (iii) the Tighe & Bond Preliminary Review – 6 Mulberry Street Zoning Proposal dated September 15, 2022, (iv) the Dutchess County Housing Needs Assessment; (v) real property tax data provided on Village parcels from Dutchess County; and (vi) a draft Village Board Resolution from June 2022 (for Preliminary Review of Proposed Bulkeley School Rezoning). I have also referred to various maps available from Dutchess County, from NYS DEC, and from the Hudson River Estuary Program.

I am the founder and Principal Planner at Community Planning & Environmental Associates in Berne, NY and specialize in the unique planning needs of small and rural communities throughout New York State. I have almost 30 years of planning experience and have consulted in over 70 communities in upstate NY, including throughout the Hudson Valley.¹

These residents have asked me to provide a thorough review of these materials and offer observations and recommendations to be considered as the Village and Village Board deliberate this rezoning request. My approach has been to offer a comprehensive evaluation of the rezoning proposal, the current Bulkeley Shepherd Overlay (BS-O) site plan, and the associated SEQR process. My comments

¹ My experience centers around community planning, strategic planning (such as downtown revitalization, open space plans, and local waterfront revitalization projects), environmental planning, and land use regulations. I am also often retained by Planning Boards to assist them in site plan, subdivision, or special use permit reviews. I have a bachelor’s degree and master’s degree in Wildlife Biology, and Master’s in Regional Planning, and have been inducted as a Fellow of the American Institute of Certified Planners (FAICP) and also as a Certified Environmental Planner (CEP). My resume and client list are attached to introduce myself more fully to the community.

specifically respond to the Tighe & Bond Report, the June 10, 2022 submission from the applicant, and specific observations of the proposed site design.

I detail a variety of concerns and observations below, as well as offer recommendations for consideration by the Board. In summary, it is important that the Board of Trustees recognize:

- The Tighe and Bond Review document makes multiple assumptions to reach its conclusion about the need for, and consistency of this project, particularly regarding what the new Comprehensive Plan will identify as goals despite the fact that the planning process is currently underway, where only initial public input has been gathered, and no conclusions have actually been made yet. It further implies that the project addresses affordable housing needs, when in fact, there is neither information about affordable housing needs in the Village nor evidence if or how Dutchess Shepherd will address it. Creation of small single-family lots is not a guarantee that they will be affordable lots.
- More information is needed before there will be a basis upon which to make good, solid land use policy decisions can be made. Before a decision is made to proceed in considering the requested zoning amendment, the Village Board should make certain that it has more detailed information about both housing needs in the Village and the project itself and its implications. The residents I am working with acknowledge that the Board may allow this project to move forward – and to the extent that occurs, it is vital that the Board ensure that all the necessary information is collected and considered to ensure that any development enhances and benefits the Village and its residents.
- The project actually has multiple components that are intertwined and should not be separated. The entire project includes the rezoning request, site plan approval, and subdivision of one parcel into five. All are components of the proposal that cannot be separated: it is one parcel that should be considered as a whole. One environmental review that analyzes potential impacts associated with all three review processes is required to comply with State Environmental Quality Review (SEQR) regulations(6 NYCRR Part 617). The developer’s proposal to consider the property in pieces raises significant concerns about improper segmentation, which is not consistent with Part 617 (SEQR). One review, with the Village Board as Lead Agency and the Planning Board as an Involved Agency will also create an efficient planning process and ensure that all parties, including the Village Board, Planning Board, developers, future buyers of any single residence lots, and Village residents all understand potential impacts, contribute to identifying mitigations, and establish approval conditions and performance expectations.
- Certain elements of the proposal’s design and lot layout are problematic, especially related to the number of parking spots, inadequate parking lot size and configuration, and narrow access drive. Proper sizing of these elements is essential for traffic circulation, emergency access, and ease of use.
- There are numerous inconsistencies, omissions and apparent errors in the project sponsor’s submittals. Part 1 of the SEQR Full Environmental Assessment Form (FEAF) is incomplete and should not be accepted. Revised and improved narratives, site plans, and supporting documentation should be required before the process moves forward to ensure an accurate and fulsome review.

1. Comments Related to Tighe and Bond Review (T&B)

This report concludes that the proposal is consistent with standards related to special permits, and consistent with goals “that are likely to be enumerated in the Master Planning process currently under way.” It is very premature in the master planning process to draw any conclusions as to what the future policy outcome of that process will be, and that additional information must be offered to show consistency with the existing special use permit criteria. I offer the following comments as further explanation:

- A. The preliminary assessment provided by T&B, dated 9 15 22, was not nearly detailed enough to support the conclusions provided, and included several statements that provided justification for the project based on a comprehensive plan that has not been completed.
 - 1. Regarding the paragraph T&B provided regarding the Dutchess County Housing Needs Assessment (HNA). It is true that the HNA projects aging of the Dutchess population and recognizes that will have a ‘significant impact on the county’s household profile.’ There is a need for senior housing. However, the HNA is really focused on how to address affordable housing. Currently, the BS-O project is not proposed as either dedicated senior housing, nor as affordable housing but the impression given from the T&B report is that the BS-O proposal can address the need for senior and affordable housing and is supported in that way by HNA.

What is important to mention is that the HNA report does discuss how growth of higher-income households exerts pressure on the full housing market and creates a competition for housing with middle-income households for the same, limited housing, and that that too few units for highest incomes contribute to this pressure and furthers loss of affordable housing. The BS-O proposal, as market rate units and lots, is likely to result in high-end rental units and at or above market rate lots on the 4 proposed single-family lots. The BS-O is also not proposed to be a senior citizen housing complex. Without dedicated affordable or senior units, the BS-O proposal should properly be framed as providing more upper end units that may reduce the competition for other housing in the Village. But it is unknown to what level this may contribute to that need.

For all these reasons, the T&B report’s reliance upon the HNA as a justification for the Village Board’s entertaining the proposed zoning amendment now is misplaced.

- 2. Paragraph 4 of the T&B report offers no factual support for its conclusion that there is “a potential imbalance between future housing demand and the current supply of housing.” T&B presents no data to document the current condition of housing supply in the Village, the current vacancy rate, or other village-generated housing data which would inform and support that statement. The land use policy decisions to be made by the Village should be informed and supported by regional or county-wide data, but first and foremost must primarily address Village-needs.

I do not feel the T&B report adequately frames the housing conditions in the Village. Zoning should be based on policy, and policy should be based upon the comprehensive plan (in your case the 1993 master plan). Without both the data and the plan, discussion about how this potential project may meet Village housing needs is only supposition. That data collection and analysis is usually part of a comprehensive (master) planning process. If the Village has not already collected this information as part of its present comprehensive plan initiative, then I strongly recommend that data be collected and supplied by the project sponsor in support of its rezoning application and included as part of the SEQR narrative and analysis (see below). This should be done before the Village Board takes any significant steps toward making a substantive decision on the proposed zoning amendment.

3. In several places, the T&B report indicates that the BS-O proposal will be consistent with the goals and recommendations of the updated Master Plan. However, the updating process is only in the preliminary stages, and the public engagement process to determine Village community vision, goals and actions has not yet taken place. In addition to Item #2 above (indicating a lack of data, mapping, or analysis to support the report's conclusions and recommendation), it is never a good idea to enter into a planning process with predetermined outcomes as this negates the foundation of community planning – which is that policies are based upon current conditions, identified needs supported by data and maps, public sentiments, hopes and dreams, and planning best management practices to address those needs.

I am concerned that the Village of Rhinebeck's planning process has not gotten to the point where any conclusions about what will or will not be the goals and direction are set. Thus, the T&B assumption that the BS-O proposal is consistent with that future plan is premature and inaccurate. The T&B conclusion presented on page 2 (that the proposed development is "also consistent with several goals that are likely to be enumerated in the Master Planning Process currently under way") is another instance where the T&B report erroneously assumes something and gives a nod to a predetermined outcome.

4. The T&B report indicates that two-family dwelling units are allowed as of right (page 2, second paragraph). I would point out that as per the current zoning law, two-family dwellings in the Residential District are not allowed as of right but are allowed with special use permits approved by the Planning Board. Further, accessory dwelling units (ADUs) are also allowed with special use permits. In so doing, the Planning Board must evaluate those units for consistency with the criteria detailed in the zoning law.

Note the very specific criteria to be considered by the Planning Board for issuance of a special use permit in § 120-48 of the Village's zoning law. In deciding whether T&B's conclusion that the current proposal is consistent with special use standards, I highly recommend that each and every criterion established in § 120-48 be reviewed and examined (See Attachment 1). These are existing and useful criteria to review now as a measure to understand what the Village already has established to help evaluate

consistency of new proposals. The T&B report did not mention these, but I highly recommend that the Village Board review these criteria. Similarly, the Village should also review the principles established in § 120-26 for residential areas. A careful review of these criteria and their application to the BS-O proposal can help establish designs, requirements and conditions that will ensure consistency with the goals that the current zoning law is trying to achieve.

5. I agree that the T&B statement that density of units proposed is slightly less than what could occur with the current Residential Zoning District (about 14 units). However, each single-family dwelling on the four proposed lots could also be eligible for an ADU (or 9 units in the school plus 4 two-family units), which would bring the total density to a potential of 17 units, which is more than what could be approved in the base Residential District.
6. But the real issue is not just density. It is also the intensity, scale, design and character of a use that weighs into the decision as to whether it is consistent with a neighborhood. That was not fully discussed in the T&B report.

Consistency with lot sizes. I note that while the zoning law allows for 8,000 square foot (sf) lots (about .184 acres), there are actually few lots in the area that size: the average single family residential lot size in the Village is .42 acres and in the immediate vicinity of the project site about .6 acres. For comparison, the average lot size of a two-family home in the Village is .55 acres. There are only 161 parcels in the Village that are < .20 acres (19% of all residential parcels), and 149 parcels that are < .19 acres (17% of all residential parcels). Thus, the proposed lot sizes, while just meeting required minimums for the base Residential District are smaller than 80% of all residential lots in the Village. These data should be considered when evaluating consistency of the proposal with existing community character. These facts are highlighted in the following:

Current Village Zoning minimum lot size:	.184 acres (8,000 SF minimum w/60' Frontage)
Proposed BS-O lot sizes:	.186 to .0196 acres (.002 to .012 acres larger than the required minimum)
Average lot size in the Village:	.42 acres (more than double the required minimum)
Lot size in the immediate vicinity of the project:	.60 acres (more than triple the required minimum)
Current average lot size of a two-family home:	.55 acres (almost triple the minimum)
Proposed lot sizes are smaller than 80% of all residential lots in the entire Village.	

Consistency of use. One question the Village should consider is how consistent a 9-unit apartment building would be with current conditions in the neighborhood and Village. An informal review of tax parcel data for Rhinebeck indicates that the neighborhoods

surrounding the proposed BS-O property are predominantly single-family dwellings. However, there are two-family and multi-family dwellings mixed in as well.

The difference is in intensity and scale: existing multi-family apartments in the neighborhood are all 5 units or less and are in structures very similar to single-family homes. Many have garages or informal parking areas. The proposed 9-unit building is a higher intensity (more activity) and larger scale apartment building compared to others in the area. Two existing multi-family developments in the Village are quite large in terms of both acreage and density (Wells Manor and Village Green) but are not in the vicinity of the proposed BS-O.

While I fully support adaptive reuse of the school to be used for multi-family units, it should be recognized that such a project will result in a building that has an intensity and scale of use dissimilar from existing multi-family dwellings in the vicinity. The project narrative provided by Dutchess Shepherd should include additional data that allows the Village to fully understand the resulting intensity and scale so that consistency with community character can be determined.

7. Consistency with Existing Design Standards. Also not included in either the T&B report or the June 10, 2022 letter from the applicant requesting the zoning change is a reference to section § 120-21 – Design Standards and Guidelines. This should be considered in development of any site plan associated with a rezoning as this Section refers to the Greenway Connections, Town of Rhinebeck Design Standards, and the Hamlet Form and Building Form Guidelines that should be considered when development occurs.

2. Comments related to the FEIS SEQR Part I Form (Provided by the Applicant).

- A. I concur that this is a Type I action pursuant to SEQR and thus appropriate to use the Full Environmental Assessment Form (FEAF) for the environmental review, as initiated by the applicant. However, the FEAF Part I submitted by the applicant is neither complete nor does it reflect the full action being proposed, which includes the rezoning, a site plan review and a subdivision. I recommend that the Part I not be accepted as complete and that no further SEQR review commence until deficiencies are addressed. I offer the following comments related to the Part I FEAF:
 1. The action listed on the form is not “Dutchess Shepherd” as stated on the FEAF Part I but is actually adoption of a local law creating an overlay district as well as issuance of site plan and subdivision approvals. The current FEAF Part I is currently written in a way that mixes both adoption of the local law and the specifics of the site development. It does not address the requirement for subdivision approval by the Planning Board. I believe it is in the best interest of the Village to consider the entire parcel and all the potential activities on that parcel at one time so as not to improperly segment the environmental review. One cannot

realistically separate out adoption of this local law rezoning the parcel from the development of that parcel.

Separation of those actions' improperly segments both the environmental review and the overall planning which is problematic. Assuming this action moves forward, I feel the best outcome for both the Village and the developer would be to have one environmental analysis conducted for all the development pieces and have the Village Board include all required mitigation that may be needed in its establishment of a new zone.

The following SEQR process would allow for the Village to review all data and information with the Planning Board as an involved agency and ensure that all potential impacts are identified and mitigated. The following process would accomplish that:

- a. Village Board to be Lead Agency with the Planning Board (who would have to do the site plan review and subdivision of the lots) as an Involved Agency.
- b. The SEQR review would be conducted taking into account all three actions.
- c. The County would have input pursuant to NYS General Municipal Law § 239-n.
- d. The applicant would provide for the data needs as required by SEQR and discussed in this letter.
- e. Potential impacts would be identified in the FEAF Part 2, and significance determined in FEAF Part 3 by the Village Board. The outcome of SEQR would result in identification of needed mitigation, which could then be included as development standards in the local law establishing the new zoning district.
- f. After the Village Board adopts the local law creating the district, the Planning Board would conduct site plan review and a subdivision approval review, and in doing so, would apply as part of those reviews the development standards set forth by the Village Board in the zoning amendment.

B. Specific Issues with the FEAF Part I.

1. Why is the ZBA listed as a potentially involved agency in the FEAF? There have been no discussions or submittals indicating an interpretation or variance needed in the creation of the BS-O.
2. The FEAF Part I is incomplete, and many sections are not filled out at all or only partially filled out. I would recommend that this Part I form not be accepted by the Village until it is fully completed, and that further movement on creation of a BS-O district not take place until a fully completed Part I form and all supporting documentation is submitted to the Village Board.
3. Question D(2)(e) asks if more than 1 acre will be disturbed, and the answer is given as 'no'. That indicates that the FEAF was filled out with a view only towards redevelopment of the school building. Yet the proper outlook is to look at the rezoning and redevelopment of this parcel as a whole. In reality, more than 1 acre will ultimately be disturbed and thus the proper answer to this question is 'yes'. It is in the best interests of the Village and neighbors

to ensure that all development on this parcel meets NYS DEC Stormwater Pollution Prevention requirements.

Even if it is decided to keep this answer as 'no,' I strongly recommend that any site plan for a new zoning district be evaluated taking into account all elements (school, parking, driveways, new homes) and address stormwater as a whole. Currently there is much green space that will be converted from pervious to impervious surfaces. To avoid future problems, all stormwater impacts must be identified and then adequately handled. If stormwater elements such as detention areas were to be needed, there is currently no room as currently configured. This important land development element should be evaluated up front as it might change the design of the parcel.

4. Item D(2)(j) regarding traffic is not filled in. The applicant should conduct a traffic impact analysis prior to adoption of the new zoning district, and this should become part of the SEQR evaluation. (See also below regarding traffic impacts).
5. Item E (1) (b) is not correctly filled out to reflect the current parking lot, building coverage and grassed areas that exist and that will be changed.
6. Page 9 of 13 notes that lots 1, 2 4 and 5 have 'no development or changes'. However, that improperly segments the project and pushes evaluation of potential impacts of that development to a future time. I do not recommend that and believe that the Village should evaluate the parcel as a unit so that all impacts related to development of all lots are considered now. SEQR should reflect all that potential development.
7. Item E (2) is not fully filled out.
8. Additionally, Item E (2) (h) should mention that nearby on the other side of South Street is the Landsman Kill (about 175' away). This is a Class C(t) stream which is regulated by the State Department of Environmental Conservation (DEC), is a riverine wetland, an eel run, and mapped by DEC as having a riparian buffer. I would want to ensure that all stormwater runoff from the development is going to be handled adequately and not cause off-parcel impacts to adjacent lots or this stream.

3. Comments on the Site Design Presented for the BS-O District.

I have reviewed the proposed site plans provided in the June 10, 2022, letter. I offer the following observations and comments:

A. Infrastructure.

1. Why does the project not include connections to the public sewer? I assume this is a financial decision, but I would recommend that if the BS-O (or other named) district is formed by the Village, that an approval condition includes that the development (including the single-family homes) shall make connections to the sewer system if and when it becomes available.

2. The engineer's report indicated soil percolation was adequate for septic systems as shown on the site plan, but without at least a preliminary review as to its consistency with Dutchess County Health Department rules. I would urge caution. An ~ 8,000 sf residential lot (for the 4 new lots) is quite small, and I would want assurances that such a system could be permitted before taking the step of establishing a new district. Similarly, I would also want assurances that partial placement of the septic system for the school building as shown under the parking lot is also acceptable to the County. Finally, I suggest the Village ask if the County will require reserve areas for septic systems. If reserved areas are needed, I do not believe there is room for both primary and secondary septic system areas. This should be evaluated before any adoption of a new district because it affects layout and design.
3. The proposal indicates that the project will be served by public water. Before adoption of a BS-O district, I would recommend the applicant analyze, and the Village receive data proving water capacity exists for the uses proposed.

B. Parking, Access, and Traffic.

1. Note that Americans with Disabilities Act (ADA) parking spaces need to have an 8' wide access spot next to the handicapped accessible spot. Access lanes for the two ADA spots are shown on the site plan, but it is unclear what dimensions they are. Given the tight conditions for parking, this will need to be accommodated and dimensions shown.
2. I have many concerns about the proposed school building driveway and parking lot. In order to maximize their density and fit in the four other lots to meet the 8,000-sf lot size to be consistent with the Residential District, the building envelope for the school is very small. A 12' driveway to accommodate two-way traffic is not recommended. Usually, there would be 8' per lane with a 2' shoulder on each side. For comparison, NYS Department of Transportation (DOT) residential driveway standards would recognize the school as a minor commercial use (note that a multi-family building IS a commercial use in the eyes of the building code and zoning and as per NYS DOT § 608-03, this would be considered a minor commercial driveway). For minor commercial buildings with a 2-way driveway, NYS DOT requires a 22' to 30' wide paved driveway. A minor commercial building driveway that is one way can be 12' to 15' each lane. I believe that a 12' wide driveway will not accommodate 2-way traffic as needed, nor would that narrow lane and 90-degree turn into the parking lot easily accommodate emergency vehicles. I also recommend that the Village ensure that the aisle width between the two rows of parking is sized for backing out and turn arounds.
3. At the very least, the local Fire Department and other emergency services should weigh in on the advisability of the proposed design for the school access and parking.
4. I do not believe there is enough room for ingress and egress, a safe travel corridor, maneuvering in the parking lot, trucks/delivery such as for trash pick-up, plowing and

snow storage, or emergency access as it is currently configured. Snow removal and the manner in which piled snow on the verges of the parking area in the Winter can further constrain the usable parking area.

5. From a traffic circulation perspective, a pattern that has one way traffic with wider lanes should be considered. This would create an additional curb cut however, and in so doing, would mean that there is not enough room for 4 additional lots.
6. Another issue related to parking is where guests coming to the school building units would park. If all residents had 2 cars, and all were in place in the parking lot, there is no additional parking for guests. So where would that be? Is on-street parking acceptable? This should be discussed and articulated. Overnight on-street parking is prohibited in the Village between the 15th of November and April 1st in the Village for emergency snow removal, so on-street guest parking will not be feasible for almost 5 months of the year.

Village Zoning Law § 92:10 establishes an off-street parking chart that requires 2 parking spots per unit. However, the BS-O proposes onsite parking zoning be allowed at 1.5 spots per unit. This could create an additional parking shortage. Given that Rhinebeck it is not 100 percent walkable for all activities e.g., grocery shopping, medical appts etc., it is very likely two spots per unit will be needed.

7. There is no information given as to traffic impacts. Of particular interest would be traffic impacts of left turn lanes onto Mulberry Street during peak traffic hours. I also recommend evaluating site distances for exiting the school building if cars are parked on that side of the street. The SEQRA analysis should include a traffic impact assessment.
8. The June 10, 2022 letter from the applicant mentions bike parking to be required per dwelling unit. However, this is not shown on the site plan.

C. Screening, Landscaping, and Street Trees.

1. As per the zoning law requirements and good streetscape practices, 1 native species street tree planted per 30' along the street should be required.
2. The site plan should prioritize landscaped screening between the school building and all existing and future single-family homes. Why are there no landscaping screening elements placed on the site plan between the school building and the new lots? The site plan shows little room for such buffers, but I would urge screening between the more intensive school apartment building and both existing and new single-family residences. The Village should consider that, with addition of adequate screening (and wider driveway and parking lot for the school), there is no room for four additional lots. This should be evaluated.

3. Note that any tree removal of roadside or street trees will need a tree removal permit as per Village Code § 106-4. And note that Village Code § 106-5 requires that each application for development in the Village “shall be accompanied by description of tree removal” and referred to the Tree Commission, and that shall be considered by the Planning Board in site plan and subdivision reviews. I recommend that this be developed now or at least referenced as a performance expectation when creating the new district, and that standards for development include a tree planting and maintenance agreement.
4. There is a decided lack of greenspace to accommodate nine new families. Proposed as “family” apartments, the current layout does not offer any such amenities except for the small green strip in the back, which also must serve as septic system location and buffer area adjacent to the Millers. I reiterate that other multi-family units in the vicinity have yards, larger lots sizes and smaller numbers of units.

D. Lot Sizes, Lot Configuration, and Density.

1. The proposal is currently configured as having four, single-family lots. Any zoning amendment adopted to establish a new zoning district should clearly articulate that those lots would be single-family residential homes only and should prohibit two-family dwellings and other multi-family on those lots.
2. The current proposal limits the BS-O to 29 bedrooms, but that is different than how density is normally calculated – which is dwelling units per acre. For instance, a complex of 29 individual small houses having one bedroom each would meet the 29-bedroom limitation rule, but that is an entirely different project than the one proposed. (This type of development commonly being known as a pocket neighborhood). I recommend any new district articulate the maximum number of units per acre allowed.
3. The June 10, 2022 applicant’s submission refers to the parcel as 1.43 acres and at the same time, 1.44 acres. County tax data indicates the parcel is 1.44. The materials should accurately describe the acreage of the lot.
4. Note that the BS-O proposal includes creation of five lots from one current lot. This would trigger subdivision review so this should be noted as a requirement for creation of those lots.
5. There is a minor discrepancy on the site plan in that the 29,514 square foot building is also shown as 29,512 square feet in the Table on Sheet #9, Building and Zoning Table.
6. Note that the proposed subdivision plan (Sheet 9) on the June 10, 2022 submittal shows locations of driveways on the plan for lots 1 and 5 but the renderings (Sheets 21 and 22) show those driveways in different locations. This should be corrected.
7. I also recommend that if a new zoning district were to be established, it requires up-front planning to identify the required locations for both driveways and building

envelopes for the four new single-family lots. Building single-family dwellings on those lots will not go to the Planning Board for review. The site plan should show where driveways and building envelopes will be when those lots are sold. This will ensure that impacts as identified and mitigated through SEQR will be followed through on. In this way, the Village can establish its performance expectations for building within the new zoning district and all future landowners, Planning Board and building inspector will know what is expected and agreed upon.

E. Noise, Glare, Signage.

1. As per current Village residential district rules, no exterior sign for the school should be allowed.
2. Given that this building will create more light at night, I recommend that a photometric plan be developed (and paid for) by the applicant showing light spread predicted from all lights, including from the second floor. The new district should include lighting development standards that will serve to mitigate light spread and glare as needed. The proposal refers to use of dark sky-compliant lighting, but I also recommend that current Village lighting requirements set forth in zoning law § 120-18 be required in the new district.
3. Similarly, this project will generate more noise. I recommend that a noise study to be done to identify and mitigate noise from cars and equipment. Note that the current zoning law requires ambient noise level limits for residential areas, and that should be adhered to in any newly established zoning district.

F. Building Design, Building Elements.

1. The school elevation renderings do not show the terrace units or any proposed roof equipment or elements. Thus, I do not feel these give accurate illustrations of what it will actually look like when rehabbed.
2. While the proposed zoning amendment establishing a BS-O zoning district lists them as allowable, the site plans do not show or mention use of chimneys, rooftop recreational space, roof water tanks, solar energy systems, etc. Given that this is a quiet, single-family neighborhood, I believe that rooftop recreation activities could cause undue noise and activity inconsistent with the rest of the neighborhood. I would recommend not allowing that type of use in the new district. Further, if indeed, water tanks and solar panels are to be included in the school rehab, then the elevation drawings should include those for accuracy and to show the community what might actually be taking place.
3. If the school is deemed a contributing building to the Historic District, the Secretary of Interior Standards for Rehabilitation of a Historic Building should be followed. Both the new district development standards and specific site plans should articulate that.

4. The proposal does not include any street-facing façade changes designed to integrate this structure into the residential neighborhood. All design standards and guidelines should be followed to enhance conversion of the school into a residential structure. To be consistent with other multi-family structures in the area that are all single-family in scale and design, addition of a street facing entrance, porch, or other typical residential features should be included. Zoning law §120-26 (C) establishes a residential principle that “the front Yard and Front Porch should provide a transition to the public realm of the Street.” As currently proposed with two single family lots on the North and South sides of the apartment building and existing properties on the west side, the principal entrance would need to be on the east side of the building which corresponds with the apartment building address of 6 Mulberry St.

4. Appropriateness of an Overlay District.

I remain unsure as to why this project has been approached as needing an overlay zoning district. An overlay zoning district is usually employed to plan for an area that has some environmental or cultural resource that needs to be specifically addressed above and beyond the base zoning district. Steep slope overlays, stream overlays, historic district overlays, and wellhead protection overlay districts are examples. These are usually areas where the resource cuts across base zone boundaries. Within an overlay district, regulations, or sometimes incentives, are attached to protect a specific resource or guide development with that special area.

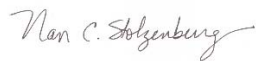
An overlay applied to a single, solitary parcel for the benefit of that one parcel may constitute illegal spot-zoning. I strongly recommend that the Village Board ask for analysis from the project sponsor explaining why this is not spot zoning. There should be analysis offered by the project sponsor regarding the implications of having an overlay district versus a base zoning district change. The Village should be able to answer the question as to whether there would be any unintended consequences of establishing this as an overlay district. Could it be mapped and applied on other parcels throughout the Village wherever there is a vacant building? If adaptive reuse of this vacant building for residential use is appropriate, shouldn't that discussion be extended to other areas having vacant buildings and establish performance expectations that could be easily applied in other adaptive reuse situations? How will this set a precedent for other parcels that could be adaptively reused?

I promote adaptive reuse of old and vacant buildings and concur that reuse of the school building for residential use could be appropriate. But an overlay district does not seem to be a suitable zoning tool to be applied to a single parcel to address a single building. I feel that the overlay zone is an awkward approach to allowing for adaptive reuse of the school for residential use in that area.

If reuse of a vacant school is consistent with the community goals and policies as expressed in the Village's Master Plan, then rezoning to create a new base zone at this location will be beneficial and offer clarity as to what all the development expectations of the Village are for this one parcel and will avoid the necessity of meshing rules for two districts (the base district and the overlay district). This is an important discussion for the Village to have to ensure that the best zoning technique to meet Village-needs is used.

In conclusion, the Village needs to establish strong development expectations for a rezoned to occur. Through planning and evaluation, a new district should contain detailed regulations and development standards to ensure that all performance expectations are established now. Additional information and analysis are needed to adequately conduct SEQR, and that process will lead to an identification of specific mitigation measures needed. Analysis and data should include but not be limited to stormwater, screening, traffic and internal vehicular circulation, lighting, parking, street trees, and noise. Further, I strongly recommend that the Village consider rezoning, site plan and subdivision together for this one parcel. Approvals should identify required building envelopes and all the other site elements on the parcel so it can be evaluated and developed as a unit and not piecemeal. SEQR FEAF Part I needs to be updated and upgraded to reflect all actions taking place on this parcel. Deficiencies and improvements as noted in this letter should be addressed before the application is deemed complete.

Sincerely,

A handwritten signature in cursive script that reads "Nan C. Stolzenburg".

Nan Stolzenburg, FAICP CEP

§ 120-48. Special permits.

- A. Process. The Planning Board shall not issue a special permit unless it makes a recorded finding, based upon the facts of the application, that the proposed use, if conducted pursuant to the following criteria, will satisfy the standards set forth herein. The Planning Board may impose conditions and/or require modifications to the project. Such conditions must relate to the impact of the project. If the Planning Board does not make such a finding, it shall deny the special permit. In issuance of such denial, the record of the Planning Board must address the standards outlined below and include the facts and reasons upon which such denial was based. Special permits may be authorized by the Planning Board only upon satisfaction of the following standards and conditions:
- (1) Compatibility of the proposed use with adjoining properties, with the standards and principles of the district, with the natural and built environment and with the purposes set forth in this chapter.
 - (2) Compatibility with the established architectural character and use of the structure or structures and the historic context of the site and in the surrounding area.
 - (3) Adequacy of parking for the proposed use, and its accessibility to fire, police and emergency vehicles.
 - (4) Determination that the proposed use will have no greater overall impact on the site and its surroundings than would full development of uses of the property permitted by right, considering environmental, social and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare or any other nuisances.
 - (5) Restrictions and/or conditions on design of structures or operation of the use (including hours of operation) necessary either to ensure compatibility with the surrounding uses or to protect the natural or scenic resources of the Village.
 - (6) Consistency of the location of the proposed use with the goal of creating a healthy mix of uses that enhances the commercial viability of the Village of Rhinebeck.
 - (7) Consistency with the principles established in the Village Center, Residential, Medical and Professional, Fairgrounds and Gateway Business sections of this chapter.
 - (8) Consistency with the requirements for site plan approval established above.
 - (9) Compatibility with generally accepted planning standards utilized by the Village of Rhinebeck.
- B. Scope, Expiration, revocation and enforcement.
- (1) A special permit shall authorize only the particular special use or uses permitted.

- (2) Special permits will expire 18 months after approval if the applicant fails to obtain a building permit or fails to comply with the conditions of the special permit, unless other provisions are set forth by the Planning Board in connection with its approval.
- (3) A special permit will expire if the special use or uses shall cease for more than 18 consecutive months for any reason.
- (4) A special permit may be revoked by the Board of Appeals if the conditions of the special permit are violated.
- (5) Any violation of the conditions of a special permit or a violation of any applicable performance criteria from this chapter shall be subject to enforcement action as provided herein.



Nan C. Stolzenburg Principal Planner

SUMMARY OF QUALIFICATIONS

Ms. Stolzenburg is Principal Planner and founder of the consulting firm *Community Planning & Environmental Associates* in Berne, NY, Nan Stolzenburg has been inducted into the AICP College of Fellows and is a Certified Environmental Planner (American Institute of Certified Planners) with a Master’s degree in Regional Planning. She also has degrees in Wildlife Biology (MS and BS). Ms. Stolzenburg has over 27 years of professional and technical experience in many areas of land use and the environment, with special interests in small town and rural planning, community revitalization, comprehensive planning, and public participation. Her specialty areas include land use planning techniques for rural and small communities, open space, environmental and agriculture land use planning, comprehensive plan development, community involvement strategies, and development of zoning and land use regulations. She has developed many comprehensive and strategic plans for over 70 upstate New York communities, some of which have won national and state-level planning awards, and has been involved in zoning and SEQR projects throughout New York State. Ms. Stolzenburg is among one of 33 people nationwide to have received the Certified Environmental Planner advanced certification in 2011, and one of 53 nationwide inducted into the AICP College of Fellows in 2022.

Ms. Stolzenburg also has been an adjunct professor in rural planning and environmental impact assessment and is a frequent instructor or panelist for community trainings across New York State.

In addition to dozens of comprehensive, strategic, and economic development plans, the following examples illustrate the breadth of planning expertise offered by Ms. Stolzenburg and CP&EA:

- Successful CFA grant application for the rehabilitation of the historic Hilton Barn in the Town of New Scotland.
- Primary author of the NYS DEC FEAF and SEAF SEQR workbooks.
- Town of New Paltz Natural Resource Inventory.
- Town of Nassau consultant on Special Use Permit for the Troy Sand and Gravel Mine.
- Town of Ancram consultant on zoning, subdivision, site plan, and for development of Town’s Comprehensive Plan and local agricultural and farmland protection plan.

Education:

BS, Wildlife Biology and Environmental Studies, SUNY College of Environmental Science and Forestry, Syracuse, NY (1980)

MS, Wildlife and Fisheries, University of Massachusetts, Amherst, MA (1983)

MRP, Regional Planning, SUNY University at Albany. Albany, NY (1995)

Certified Planner and Certified Environmental Planner, American Institute of Certified Planners (AICP). AICP Fellow.

Years of Planning Experience:

27 years

Areas of Experience:

Comprehensive and Strategic Planning

Community Revitalization

Main Street Planning and Small Community Economic Development

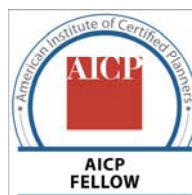
Development of Land Use Regulations

Environmental Planning, including environmental assessment

Agriculture and Farmland Protection Planning

SEQRA

Community Input Strategies: focus groups, workshops, surveys, online technologies



Nan Stolzenburg, AICP CEP Client List, Volunteer Experience and Awards

► Comprehensive PLANS, UPDATES TO PLANS, STRATEGIC PLANS, PLAN IMPLEMENTATION

Albany County

Town of Rensselaerville (Comprehensive Plan)

Village of Altamont (Comprehensive Plan, Land Use Regulations, Project Review)

Village of Voorheesville (Comprehensive Plan, Land Use Regulations, Design Guidelines)

Town of Berne (Comprehensive Plan, Ag and Farmland Plan, Land Use Regulations, Project Review)

Clinton County

Town of Peru (Comprehensive Plan, Open Space Plan, Land Use Regulations)

Town of AuSable (Comprehensive Plan, Land Use Regulations, Training)

Columbia County

Town of Gallatin (Comprehensive Plan)

Town of Kinderhook (Comprehensive Plan, Land Use Regulations)

Village of Kinderhook (Comprehensive Plan, Plan Updates, Land Use Regulations, Project Review)

Town of Chatham (Comprehensive Plan, Ag and Farmland Plan, Land Use Regulations, Project Review)

Town of Stockport (Comprehensive Plan, Land Use Regulations)

Town of Copake (Ag and Farmland Protection Plan, Land Use Regulations)

Town of Claverack (Comprehensive Plan, Land Use Regulations)

Town of New Lebanon (Comprehensive Plan, Land Use Regulations, Update to Plan)

Town of Ancram (Comprehensive Plan, Update to Plan, CDBG Hamlet Strategy, Ag and Farmland Protection Plan, Land Use Regulations, Project Review, Training)

Town of Ghent (Comprehensive Plan, Land Use Regulations)

Town of Hillsdale (Natural Resource Inventory)

Delaware County

Town of Meredith (Ag and Farmland Protection Plan, Site Plan Law)

Town of Stamford (Comprehensive Plan)

Town of Tompkins (Comprehensive Plan)

Town of Harpersfield (Comprehensive Plan, Land Use Regulations)

Town of Colchester (Comprehensive Plan)

Village of Stamford (Comprehensive Plan, Land Use Regulations)

Town of Middletown (Comprehensive Plan, Land Use Regulations)

Town of Roxbury (Comprehensive Plan)



Dutchess County

Town of North East (Comprehensive Plan)

Town of Pine Plains (Comprehensive Plan, Trail Plan, Land Use Regulations, Project Review)

Essex County

Town of Elizabethtown (Comprehensive Plan, Land Use Regulations)

Village of Port Henry (Comprehensive Plan, Consolidation of Town/Village Land Use Regulations)

Town of Moriah (Consolidation of Town/Village Land Use Regulations)

Fulton County

Town of Broadalbin (Comprehensive Plan)

Greene County

Town of Halcott (Comprehensive Plan, Ag and Farmland Protection Plan, Land Use Regulations, Project Review, Training)

Town of Cairo (Comprehensive Plan, Land Use Regulations)

Town of Hunter (Comprehensive Plan)

Town of Jewett (Comprehensive Plan, Land Use Regulations, GEIS)

Town of Durham (Comprehensive Plan)

Town of Lexington (Long Term Recovery Plan)

Town and Village of Athens (Comprehensive Plan, Land Use Regulations, Update to Plan)

Madison County

Town of Hamilton (Comprehensive Plan)

Montgomery County

Town of Minden (Comprehensive Plan, Land Use Regulations)

Oneida County

Village of Whitesboro (Comprehensive Plan, Land Use Regulations)

Town of Webb (Comprehensive Plan, Land Use Regulations)

Otsego County

Town of Springfield (Comprehensive Plan, Land Use Regulations)

Town of Butternuts (Comprehensive Plan)

Town of Cherry Valley (Comprehensive Plan)

Rensselaer County

Town of Pittstown (Comprehensive Plan)

Town of Schaghticoke (Comprehensive Plan, Land Use Regulations)

Village of Nassau (Land Use Regulations)

Saratoga County

Town of Providence (Comprehensive Plan)

Town of Galway (Comprehensive Plan, Land Use Regulations)

Town of Ballston (Land Use Regulations, Transfer of Development Rights Program)

Schenectady County

Town of Princetown (Comprehensive Plan)

Schoharie County

Town of Schoharie (Comprehensive Plan)

Village of Schoharie (Comprehensive Plan, Update to Plan, Long Range Recovery Strategy, NY Rising Plan, Land Use Regulations, Local Waterfront Revitalization Strategy, Project Review, Grant Writing, Grant Administration)

Village of Sharon Springs (SHARE IT Economic Development Plan, Comprehensive Plan, Land Use Regulations)

Village of Cobleskill (Comprehensive Plan)

Town and Village of Middleburgh (Joint Comprehensive Plan)

Seneca County

Town and Village of Seneca Falls (Joint Comprehensive Plan)

Ulster County

Town of New Paltz (Natural Resource Inventory)

Washington County

Town of White Creek (Comprehensive Plan, Ag and Farmland Protection Plan, Land Use Regulations)

► Regional Level or Topic-Oriented PLANS COMPLETED

Lewis County (Comprehensive Plan)

Esopus Delaware Local Waterfront Revitalization Plan (Five Towns)

Village of Schoharie Local Waterfront Revitalization Strategy

Cazenovia Partnership (Critical Land Identification)

Schoharie Land Trust (Site Plan Development for Farm Assessment Project)

Development Authority of the North Country (Model Land Use Laws for JLUS)

Tug Hill Tomorrow Land Trust Agricultural Prioritization and Farmland Protection Plan

Black Women's Blueprint, Site Analysis and Concept Site Design for Restore Forward Retreat Center

Town of Red Hook Local Waterfront Revitalization Plan (GEIS Mapping)

Town of New Paltz (Mill Brook Preserve Plan)

SHARE IT—Saving Historic Resources and Revitalizing the Economy, Village of Sharon Springs

Intermunicipal Generic Environmental Impact Statement on the Cooperstown Region, Otsego

Generic Environmental Impact Statement on the Manor Kill Watershed

Generic Environmental Impact Statement on the East Kill and Schoharie Watersheds, Jewett

East Berne Strategic Plan/Linkage Study, Albany County

Town of New Lebanon Housing Study

► Town Planner on Retainer

Town of East Greenbush—Consultant to Planning Board for Project Reviews

Town of Waterford—Consultant to Planning Board, Principal Consultant on Saratoga Ave. Streetscape Improvement Project

Town of New Scotland—Consultant to Planning Board, Grant Writing

Village of Schoharie—Consultant to Planning Board

► County-Level Agriculture and Farmland Protection Plans

Herkimer County

Putnam County

Sullivan County

Jefferson County

Schoharie County

Seneca County (In-progress)

Otsego County

Dutchess County

Orange County

Washington County

Lewis County

► Town-Level Agriculture and Farmland Protection Plans

Town of Chatham, Columbia County

Town of Bethel, Sullivan County

Town of Delaware, Sullivan County

Town of Berne, Albany County

Town of Ancram, Columbia County

Town of Copake, Columbia County

Town of Halcott, Greene County

Town of Liberty, Sullivan County

Town of Callicoon, Sullivan County

Town of Granville, Washington County

Town of White Creek, Washington County

► Development of Regulations, Design Standards, Adoption of Regulations/SEQR

Town of Pine Plains, Dutchess County

Town of New Lebanon, Columbia County

Town of Stockport, Columbia County

Town of Halcott, Greene County

Town of Cairo, Greene County

Town of Middlefield, Otsego County

Town of Berne, Albany County

Village of Kinderhook, Columbia County

Town of Kinderhook, Columbia County

Town of Ancram, Columbia County

Town of Springfield, Otsego County

Town of Cherry Valley, Otsego County

Town of Sharon, Schoharie County

Town of Peru, Clinton County

Town of Elizabethtown, Essex County

Town of AuSable, Clinton County

Town of Minden, Montgomery County

Village of Sharon Springs, Schoharie County

Town of Otsego, Otsego County

Town of Meredith, Delaware County

Town of Ballston, Saratoga County

Town of Harpersfield, Delaware County

Town of Ballston, Saratoga County

Town of Waterford, Saratoga County

Village of Athens, Greene County

Town of Ghent, Columbia County

Village of Cobleskill, Schoharie County

Town of White Creek, Washington County

► **Development of Regulations, Design Standards, Adoption of Regulations/SEQR, Cont.**

Village of Schoharie, Schoharie County

Town of Ghent, Columbia County

Village of Altamont, Albany County

Village of Stamford, Delaware County

Town of Athens, Greene County

Town of Chatham, Columbia County

Village of Athens, Greene County

Town of Hamilton, Madison County

Village of Voorheesville, Albany County

Village of Nassau, Rensselaer County

Town of Granville, Washington County

Town of White Creek, Washington County

Town of Callicoon, Sullivan County

Nan Stolzenburg was the principal author for New York State Department of Environmental Conservation's SEQR Workbooks – two companion guides to the SEAF and FEAF forms (see <http://www.dec.ny.gov/permits/6191.html>). These workbooks received the 2014 Planning Excellence Award for Best Practice from the American Planning Association, Upstate New York Chapter.

► **Planning Board and Other Agency/Organization Training**

Nan has also been a frequent panelist, speaker, and trainer on various planning, SEQR, and environmental topics for:

New York Planning Federation

Upstate New York Chapter of American Planning Association

American Farmland Trust

Albany Law School

Capital District Regional Planning Commission

Columbia Land Conservancy

Tug Hill Commission

Resource Conservation Districts (RC&D)

Catskill Community Resource Day

Dutchess County Planning Federation

Schoharie County

Madison County

Otsego County

Broome County

Multiple towns and villages that hire Nan to conduct their mandatory 4-hour trainings for Planning Board and ZBA members.

► Volunteer and Community Involvement Experience

Catskill Center for Conservation and Development—Board Member
Schoharie Community Development Corporation—Board Member
Schoharie Economic Enterprise Corporation—Advisory Committee Member
Schoharie Land Trust—Former Board Member
Bender Farm Advisory Committee—Member
The Wildlife Society, New York Chapter, Former Board Member
Town of Wright Conservation Advisory Council—Past Chair

► Awards

New England Outdoor Writers Association Award and the Arthur Sullivan Memorial Writers Award (1982)
Outstanding Student Project (North Central Troy: GIS Mapping and Planning Alternatives) from the American Planning Association, New York Upstate Chapter, 1996
Excellence in Tutoring Award from Empire State College, September 1996
Outstanding Planning Project: Comprehensive Planning for a Regional Plan (Otsego County Agricultural and Farmland Protection Plan) from the American Planning Association, New York Upstate Chapter, October 1999
Award of Excellence in Comprehensive Planning (The Village of Kinderhook Comprehensive Plan) from the American Planning Association, Upstate New York Chapter, July 2000
Outstanding Small Town Planning Project (The Village of Kinderhook Comprehensive Plan) from the American Planning Association, Small Town and Rural Planning Division, May 2000
Outstanding Planning Project in the Current Topic: Smart Growth (Town of Warwick Zoning and Build-out Analysis) from the American Planning Association, Upstate New York Chapter, September 2002
Planning Excellence Award for Best Practice, SEQR EAF Workbooks and EAF Mapper, October 2014

Contact Information

Nan Stolzenburg, AICP
Owner and Principal Planner
152 Stolzenburg Road
Berne, NY 12023
518-872-9753
518-872-0679 (Fax)
nan@planningbetterplaces.com