



ENVIRONMENTAL, LAND USE AND REAL ESTATE LAW

Sunday 25 February 2024

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

Re: 6 Mulberry Street : Proposed Dutchess Shepherd Zoning Amendment & Project

Subj: Draft zoning amendment and other comments

Dear Mayor Bassett and Members of the Village Board:

As you may recall, our firm represents some of the Village residents concerned about the proposed Dutchess Shepherd zoning amendment and development project for 6 Mulberry Street. To be clear my clients do not oppose the 6 Mulberry Street project, but instead want to make certain the Village Board appropriately considers the broader implications of the proposal to maximize the benefits and minimize the negative components for the Village at large and takes its role as the lead agency seriously.

**Comments on the latest draft of the proposed amendment.**

Attached for your consideration is a marked version of the latest draft of the proposed zoning amendment. On this marked draft, you will find suggested edits and additions. These edits and additions are designed to further address legitimate concerns that have been expressed regarding the proposed project.

**Victoria Polidoro letter dated February 8, 2024, on interior lighting impacts.**

In her letter to the Village Board dated 08 February 2024, Victoria Polidoro made some arguments which assert that impact of nighttime light emanating from the interior of the Bulkeley Schoolhouse apartment building should not be considered as part of this Board's environmental review of this project pursuant to the State Environmental Quality Review Act [SEQRA]. We disagree.

The SEQRA forms and guidance materials do not profess to cover every possible potential adverse impact that is worthy of being assessed. Indeed, question 15(f) on the Full Environmental Assessment Form [FEAF] Part 2 contains a blank space specifically for the lead

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agency to identify and describe adverse light impacts that are not otherwise identified in the issue-specific questions, which would include the unique lighting situation that would result from the developer's intent to locate new detached homes immediately adjacent to the adapted school building, the top floor of which will likely be substantially higher than adjacent homes (unless the Board requires significantly and fully mature landscaped screening).

Further proof of this is grounded in the fact that Part 617.2(m)<sup>1</sup> of the SEQRA Regulations allows local agencies or municipalities to modify the FEAF and SEAF forms provided that the process set forth in Part 617.14(f)<sup>2</sup> is following in doing so.

Ms. Polidoro's further argument stated that she was unable to find a court opinion dealing with interior lighting as an impact in an environmental review. All that statement says is that she was unable to find a case and may indicate that in instances where it was likely to be an issue, the lead SEQR agency fulfilled its mandate to mitigate such impacts.

The bottom line is that using the FEAF form to argue that consideration of a particular impact is precluded is misleading and incorrect.

The SEQR Handbook published by the New York State Department of Environmental Conservation [NYSDEC] says:

SEQR thus recognizes that different lead agencies in different locations in the state, using the same techniques and information, may arrive at different determinations about the environmental significance of a proposed action.

For example, a 200-hundred-unit apartment project that may be environmentally significant in a small town may be insignificant if it were to be built in a large urban center. Similarly, traffic, sewer, water, and waste disposal issues may be of little concern in a city, but may be a major concern in a small town.

The potential impacts of interior lighting should be considered during the environmental review of this project. The potential impact is real. As evidenced in the developer's plans, the loft style windows on the second floor of the school building are large and appear to be 29 feet above grade. These large windows are much higher than the windows of the existing nearby homes (let alone the ones the developer is seeking to construct immediately adjacent to the school building), and from that height, light from interiors could project significantly outside the building.

And germane to the point made by the NYSDEC in the *SEQR Handbook*, in the location where this building is, which is very dark at night, the impacts of these interior lights will be significant in this context.

We urge you to consider this potential adverse environmental impact. At a minimum, you should require a nighttime photo simulation which accurately depicts the building with all interior spaces lighted.

### **Bulkeley Schoolhouse front entrance.**

The desire for an attractive front entrance to the Bulkeley Schoolhouse building that will match

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<sup>1</sup> 6 NYCRR 617.2(m).

<sup>2</sup> 6 NYCRR 617.14(f).

and compliment the aesthetic and character of the existing neighborhood is an extremely important issue to those who live in close proximity to this project, and to the wider Village community as well. An attractive front entrance will go a long way to mitigate the impact of the change of use of this building and to help integrate the building into the neighborhood where a street-facing entrance for residential buildings is essentially ubiquitous.

My clients note that David Ashen a long-time Village resident and a trained professional architect and engineer, has demonstrated that a front entrance to the building that could more appropriately harmonize it into the neighborhood is imminently feasible. As Mr. Ashen to accurately observed in his January letter:

The proposed design by the developer is a suburban solution with the main entrance on the back and focus on the "car," while turning its back to the village. Additionally, adding a front entrance and small porch, better integrates the school building into the historic residential neighborhood. The charm of the houses in the Village comes from details like a front porch and most residences in the Village, including my own, have a front facing door and porch.

We remind you that in considering the design of the adaptive reuse of this building, many competing factors must be considered and balanced. In this case, due to the importance of the front entrance in mitigating the adverse impacts of this project on community character, the best and most balanced solution is to require a front entrance designed to unify the multi-family apartment building into the community with the proposed rear entrance, which would serve as primary access to and from the building's parking lot.

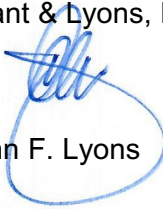
#### **Response to John Clarke's comments and letter to the Board.**

At the last Village Board public session on this matter, Village resident John Clarke made some suggestions that, if implemented, would radically change the plans for the BS-O District property that have been developed over the last year of Village Board review and meetings. Mr. Clarke supplemented those comments afterward in a letter to the Village Board.

In that public session, Mayor Bassett responded to Mr. Clarke's comments by noting negative impacts could flow from attempts to make radical changes to the plans which have evolved thus far. While my clients hope further steps are taken to ensure that any development of the 6 Mulberry property, including reuse of the school building and construction of new homes, does not have a negative impact on the Village, they note that the developer has made a number of positive changes since their initial proposal in the fall of 2021 and they would not want to see that progress eliminated.

Thank you for your time and consideration.

Grant & Lyons, LLP

  
John F. Lyons

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