
STENGER, GLASS, HAGSTROM,
LINDARS & IUELE LLP

June 13, 2025

* FILED
COMPLAINT

Via email only: tcorcoran@Marlboroughny.us

Kenneth M. Stenger
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Thomas Corcoran, Code Enforcement Officer/Building Inspector
Town of Marlborough
P.O. Box 305
Milton, NY 12547

Re: *Town of Marlborough v. Someplace Upstate LLC, Rosevine LLC, Bellflower Group LLC, Adam H. J. Broza and Danielle L. Broza a/k/a Danielle L. Steinberg*
Index No. EF2025-1865

Mary Kate Ephraim
Jad B. Haddad
Daniel J. Ravo

Dear Mr. Corcoran:

OF COUNSEL

Joan F. Garrett
Kyle A. Steller
Mary E. Tokarz
Mariel D. Gil

This law firm represents Adam Broza, Danielle Broza, Bellflower Group LLC, and Someplace Upstate LLC. They own and operate 40 Mount Rose Road and 20-38 Mount Rose Road as a rental property within which Mr. & Mrs. Broza live, and upon which, weddings have been promoted and conducted in population sizes which sometimes have approached 175/200 people. The property is located in an R-1 Zone. (See Exhibit "2").

The Town of Marlborough has received a Preliminary Injunction preventing the further conduct of any weddings at this site without judicial permission. The basis for that Injunction is a preliminary finding that the manner in which the weddings have been previously conducted was not permitted by the Zoning Code.

PARALEGALS

Jillian Medina
Sandra Oakley
Jennifer Arno
Carla Salvatore
Michelynn Montesione

This writing covers a proposed use of the premises for weddings which is permitted by the Town of Marlborough Zoning Code.

I write with the request that you review the materials covered by this letter, consult with counsel, and determine that the use, as proposed by this letter, is permitted within the R1 Zone.

**CLOSING
COORDINATORS**

Maria L. Jones
Sandra A. De Groodt

This request is supported by the following documents:

1. A report filed with the Court from the security firm retained by me for the purpose of assisting in the conduct of a wedding at these properties on the evening of June 6, 2025;
2. Property description reports for other locations within the Town of Marlborough at which weddings have been held without objection by the Town:

LAW CLERK

Kaitlyn E. Trank

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Main Office: 1136 Route 9, Suite 2, Wappingers Falls, NY 12590
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Kingston: 326 Washington Avenue, Suite 2, Kingston, NY 12401

- a. Quartz Rock located at 40 Mountain Road, Town of Marlborough, NY in an R1 Zone;
 - b. Raspberry Fields, located at 601 Lattintown Road, Town of Marlborough, NY in an R1 Zone;
 - c. Locust Grove located at 164-152 North Road, Town of Marlborough, NY in an R1 Zone.
3. Newly designed websites for the promotion of the properties are: Someplace Upstate (Someplace Upstate + Updated Prices - The Knot and Someplace Upstate - Banquet Halls - Marlborough, NY - WeddingWire);
 4. A case titled Lavender v. Zoning Board of Appeals of the Town of Bolton, rendered by the AD Fourth 3d Dept. by the Appellate Division for the Third Department of the State of New York on July 21, 2016;
 5. A case titled Brophy v. The Town of Olive Zoning Board of Appeals, rendered on November 1, 2018.

ARGUMENT

Town of Marlborough Zoning Code §§155-12(a), (b), and (c) does not identify a principal permitted use which would allow the conduct of a wedding, approaching a population of 175/200 persons, or any other retreat or similar event. However, each of those districts permit any use which is considered to be among "accessory uses and structures customarily a pertinent to a principal permitted use". In my opinion, this language generally refers to a use which is subject and subordinate to the permitted uses within the district.

The Appellate Division for the Third Department, in which these properties are located, has considered this issue in detail and has laid out a working test which may be applied to any application which seeks a determination that the use of property, for the purposes described by this letter, is permitted.

THE LAVENDER CASE

The case of Lavender v. Zoning Board of Appeals of the Town of Bolton, 141 AD 3rd 970 (See, Exhibit "5"), considered circumstances similar to those which are presented by this correspondence.

Lavender owned a castle within a residential zone and advertised it as a location for weddings, corporate meetings, and other "events". The Court found that the use of the premises for the conduct of large weddings was not so uncommon, in itself, that it fell outside of the scope of the Zoning Code and would be permitted if it were determined to be a use accessory to the permitted residential use.

However, after considering the manner in which the use of the premises was advertised and promoted, the Court found that the use was not ancillary to a permitted residential use.

Beyond the nature of the advertising, the Court found that the use:

“Generated increased traffic, created overcrowded private roadways, and often involved amplified music and announcements which interfered with the enjoyment of nearby homes. These adverse impacts, which extended well beyond the boundaries of Petitioner’s property . . .”

The Court noted the following:

“Perhaps most critically, Petitioner failed to proffer any evidence demonstrating that his use of Highland Castle is consistent with the customary use of residential property by other homeowners in the Town. No showing has been made that the rental of residential single-family dwellings for weddings and large gatherings is a common occurrence or, if so, that such events are of similar frequency, size and intensity as those at issue here.”

The, the Court found that the use, **as exercised**, was not a permitted ancillary use. It made clear that its decision in finding that the Lavender use was not permitted, did not preclude the occasional use of a residential property for a wedding or similar large scale event to be characterized as an accessory use to a permitted use.

THE BROPHY CASE

Two years later, in the case of Brophy v. Town of Olive Zoning Board of Appeals, the Third Department revisited this issue. (See, Exhibit “6”) In that case, the Respondents had converted a private dwelling into a “bed and breakfast” which was not a defined term within the Code. However, the Court found that the use of the property as a bed and breakfast was a permitted use despite that circumstance.

Having determined that the bed and breakfast use was a permitted use, the Court went on to determine whether or not the use of the bed and breakfast premises for occasional weddings was a permitted use as an accessory use to the permitted use. The Court found, under the individual circumstances of the case before it, that this was the case.

In doing so, the Court said the following:

“Ashokan Dreams is marketed as both a bed and breakfast and a wedding venue. **Lodging on and use of the property is available year round, but weddings are offered on a limited basis and only during the warmer months – in spring through fall.** As this evidence provides a rational basis for characterizing the weddings as an accessory use to the principal use as an owner occupied bed and breakfast, we decline to disturb the ZBA determination.”

In these cases, which are controlling precedent in the Third Department, a wedding venue, if properly managed, is limited in the scope of its use, and is permitted as an

accessory use in other locations within the Town, is permitted within a residential zone. The use that my client proposes fits within that category.

FACTUAL SUPPORT

The following facts all support a finding that your office should issue a determination that the holding of seasonal weddings is a permitted use at my client's property, so long as that use remains in compliance with the following:

1. In the Lavender case, the Court found that the Lavender operation was poorly managed and created havoc for its neighbors. You have before you the security company's report of the events of the evening of June 6, 2025. It confirms the following:
 - a. There is no problem with parking. There is no problem with traffic;
 - b. The event closed at 11:00 p.m.;
 - c. At no time did the sound generated by the event violate the Town's Sound Code;

All weddings/events will be conducted in this manner. Security will be part of that execution. (See Exhibit 1).

2. The applicants have submitted materials which confirm that the use of properties within an R1 Zone for the purpose of holding weddings, or other outdoor events, is existent, at least, within three other locations in the Town.

The uses as described by the Quartz Rock materials and the Raspberry Fields materials are exactly equivalent to the use proposed by my clients by the submission. (See Exhibits "3-a" and "3-b") ;

The principal use at the at the Locust Grove site appears to be the operation of a brewery at which weddings are occasionally held as a permitted ancillary use to the same. (See Exhibit "3-c").

There is no evidence that in either of these three locations, the property owners have had to make a submission for a Hotel/Resort/Special Use Permit in order to conduct weddings at their location in the same way that is now proposed by my clients;

3. My clients are proposing four weddings/events per year, all to occur within the within the warm weather months of the year. That is the same schedule which was recognized by the Third Department as a factor in determining that weddings were an accessory permitted use in the Town of Olive case;
4. The major factor in determining whether the wedding use in the Town of Bolton case was the manner by which the events were promoted. You are referred to the websites previously described in this submission. (See links at Exhibit "4"). Go look at them. It is different from that promotional undertaking which has which occurred prior to my representation of the clients.

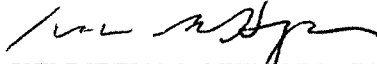
It is my request of your office that you make a determination whether or not weddings, or other outdoor events involving populations of up to 175/200 people, may be permitted as ancillary accessory uses to the residential use of the premises under the conditions described in this letter. My request specifically requests that you give an opinion only based upon my clients proceeding in the use of their property in the manner described in this correspondence.

I understand that this request is lengthy and supported by Court cases. That is why I have provided a copy of the same to your attorney. I am available to either of you, or each of you, for the for the purpose of meeting to discuss this proposal. Based on what I saw last Saturday, these conditions, including the required presence of three security three professional security operatives at each event, these weddings can be held without disrupting the neighbors or violating the Town's Code.

Thank you

Very truly yours,

STENGER, GLASS, HAGSTROM, LINDARS & IUELE, LLP



KENNETH M. STENGER, ESQ.

kstenger@stengerglass.com

KMS/klg

Encs.

cc: Kyle W. Barnett, Esq.
Someplace Upstate LLC