

TOWN OF MARLBOROUGH
21 MILTON TURNPIKE, P.O. BOX 305
MILTON, NEW YORK 12547
PHONE: 845-795-6167 EXT. 118 / FAX: 845-795-2031

ZONING BOARD APPLICATION

THOMAS CORCORAN JR.
BUILDING INSPECTOR
CODE ENFORCEMENT

DATE 12-26-2023 Revised 06-25-2024

NAME Adam & Danielle Broza

ADDRESS 20 Mount Rose Road

Marlboro, New York 12542

TELEPHONE 617-487-9758

REQUEST (DESCRIBE IN DETAIL) The applicant seeks area variances for structures being used as part of a resort

in accordance with Section 155-18 B.(1)(d) which requires a minimum fifty foot setback from all structures

being utilized in a site plan & special use permit for tourist and vacation buildings including resorts.

FOR OFFICE USE ONLY

DENIED _____ DATE _____

APPROVED _____ DATE _____

ZONING BOARD OF APPEALS _____

SIGNATURE

PROCEDURE FOR APPLICANTS TO APPEAR BEFORE THE ZONING BOARD OF APPEALS

APPLICATION FEES: COMMERCIAL \$300.00
RESIDENTIAL \$300.00

ESCROW FEES: \$700.00

(LEGAL NOTICE FEE, TRANSCRIBER FEES & ATTORNEY FEES TO BE TAKEN OUT OF ESCROW FEE)

***PLEASE ISSUE TWO SEPARATE CHECKS FOR APPLICATION AND ESCROW FEES**

1. APPLICATION MADE TO BUILDING INSPECTOR FOR BUILDING PERMIT.
 2. IF APPLICATION IS DENIED BY THE BUILDING INSPECTOR, APPLICATION MAY BE MADE TO THE ZONING BOARD.
 3. ZONING BOARD OF APPEALS WILL REVIEW APPLICATION AT THEIR NEXT SCHEDULED HEARING IF ALL DOCUMENTATION HAS BEEN SUBMITTED TO THE SECRETARY BY THE DESIGNATED DEADLINE.
 4. ZONING BOARD OF APPEALS WILL EITHER:
 - A. APPROVE APPLICATION SUBMITTED
 - B. REQUIRE FURTHER SUBMISSIONS
 - C. DISAPPROVE SUBMITTED APPLICATION
 - D. REQUEST A SITE PLAN FROM THE PLANNING BOARD AND/OR A REFERRAL FROM THE ULSTER COUNTY PLANNING BOARD
 5. IF A SITE PLAN REVIEW IS REQUESTED BY THE ZONING BOARD OF APPEALS, SAID APPLICATION WILL BE PLACED ON THE NEXT AVAILABLE AGENDA OF THE PLANNING BOARD.
 6. THE PLANNING BOARD WILL REFER THEIR FINDING OF THE SITE PLAN REVIEW TO THE ZONING BOARD. IF ENGINEERING REVIEW IS REQUIRED THE APPLICANT WILL BE LIABLE FOR THOSE CHARGES.
 7. LEGAL NOTICES MUST BE SENT TO ALL PROPERTY OWNERS WITHIN 500 FEET OF THE QUESTIONED PROPERTY. THE ZONING BOARD WILL ADVISE THE APPLICANT WHEN THIS MUST BE DONE.

SIGNATURE

DATE 6/27/2024

APPLICATION TO THE ZONING BOARD OF APPEALS
TOWN OF MARLBOROUGH, NEW YORK

APPLICANT Adam & Danielle Broza PHONE # 617-487-9758

ADDRESS 20 Mount Rose Road, Marlboro, New York ZIP 12542

LOCATION OF PROPERTY 20 Mount Rose Road, Marlboro, New York 12542

ZONING DISTRICT R-1 SECTION 109.1 BLOCK 4 LOT 57,58,56.1

APPLICANT IS: OWNER X TENANT _____ OTHER _____

ATTORNEY (IF REQUIRED) Neil J. Alexander, Cuddy & Feder

ADDRESS 300 Westage Business Center Fishkill, NY 12524 PHONE # 845-896-2229

CHECKLIST OF REQUIREMENTS

1. COPY OF THIS COMPLETED APPLICATION WITH REQUIRED FEE MADE PAYABLE TO THE TOWN OF MARLBOROUGH.
2. SIX (6) COPIES OF PLOT PLAN SHOWING SETBACKS OF PROPOSED VARIANCE AND ALL OTHER STRUCTURES LOCATED ON THE PROPERTY, ALSO EXISTING WELL AND SEPTIC.
3. ANY OTHER DETAILS AND EXHIBITS (PHOTOGRAPHS) DEEMED NECESSARY APPLICABLE TO THIS PROPOSAL.
4. COPY OF DEED AND TAX BILL OF PROPERTY REQUIRING VARIANCE.
5. LIST OF NAMES AND ADDRESSES OF ALL OWNERS OF PROPERTIES WITHIN 500 FEET OF THE PROPERTY FROM "ALL" EXTERIOR BOUNDARIES.
ALL PROPERTY OWNERS MUST BE NOTIFIED BY CERTIFIED MAIL WITH RETURN RECEIPT 10 DAYS PRIOR TO THE PUBLIC HEARING.
6. COPY OF BUILDING PERMIT SHOWING PROPOSAL AND REASON FOR DENIAL IF DENIED.

APPLICATIONS WILL NOT BE ACCEPTED UNLESS ACCOMPANIED BY ALL OF THE NECESSARY DOCUMENTATION.

PLEASE ANSWER ALL QUESTIONS #1-12

1. THE UNDERSIGNED HEREBY APPEALS TO THE ZONING BOARD OF APPEALS OF THE TOWN OF MARLBOROUGH.

FROM AN ORDER, REQUIREMENT, DECISION OR DETERMINATION MADE BY THE BUILDING INSPECTOR
 FROM A DECISION BY THE PLANNING BOARD OF THE TOWN OF MARLBOROUGH
 OTHER _____

2. WHAT IS THE APPROXIMATE ACREAGE OF THE PROPERTY INVOLVED? 14.02 acres

3. IS THE PROPERTY PRESENTLY IMPROVED WITH PERMANENT STRUCTURES? Yes
NUMBER OF DWELLINGS 4 NON-DWELLINGS (GARAGES, SHEDS) 6

4. DOES THE EXISTING BUILDING HAVE A CERTIFICATE OF OCCUPANCY? Yes, or not required

5. ARE EXISTING STRUCTURES PRESENTLY OCCUPIED? Yes
SEASONALLY? _____ YEAR-ROUND? _____

6. HAS IMPROVEMENT, ADDITION, OR CONSTRUCTION BEEN STARTED? Yes

7. WILL PREMISES BE OWNER OCCUPIED? Yes

8. WAS A PREVIOUS APPEAL OR VARIANCE APPLICATION BEEN MADE WITH RESPECT TO THIS PROPERTY? No IF SO, WHEN _____

9. IS THE LAND OR BUILDING WITHIN 500 FEET OF:

BOUNDARY OF ANY CITY, TOWN OR VILLAGE?
 BOUNDARY OF ANY EXISTING OR PROPOSED STATE OR COUNTY PARK OR OTHER RECREATION AREA?
 RIGHT-OF-WAY OF ANY EXISTING OR PROPOSED STATE OR COUNTY PARKWAY, THRUWAY, EXPRESSWAY, ROAD OR HIGHWAY?
 RIGHT-OF-WAY OF ANY EXISTING OR PROPOSED STREAM OR DRAINAGE CHANNEL OWNED BY THE COUNTY OR FOR WHICH THE COUNTY HAS ESTABLISHED CHANNEL LINES?

10. TYPE OF ACTION SOUGHT:

AN INTERPRETATION OF THE ZONING ORDINANCE OR ZONING MAP
 A VARIANCE TO THE ZONING ORDINANCE

11. NATURE OF REQUEST:

TOWN CODE SECTION: Section 155-18 B.(1)(d) TITLE: Tourist and vacation buildings-no structure in such use shall be within 50' of any boundary line

12. REASON YOU ARE PETITIONING THE ZONING BOARD OF APPEALS. (IF SEEKING A VARIANCE INDICATE HARSHIP YOU WILL SUFFER IF THE VARIANCE IS NOT GRANTED).

All structures are existing on the site. One of the structures is a gazebo, three of the structures are located along Mount Rose Road,

with Broza owning both sides of the roadway, and one of the structures is an existing residential dwelling on James Street

that will be used for Resort Hotel lodging. It is not physically or financially feasible to relocate any of the existing

structures, and the code requires a fifty foot setback for any structure used in a proposed Resort Hotel / vacation building use.

STATE OF NEW YORK

COUNTY OF Ulster

SWORN TO ME THIS 27th DAY OF June 2024

Signature
NOTARY PUBLIC SIGNATURE

Signature
SIGNATURE

6/27/24

SUZANNE DEMSKIE
Notary Public, State of New York
Reg. No. 01DE6240448
Qualified in Ulster County
Commission Expires May 02, 2028

ZONING VARIANCE AREA/USE

1. AREA MAPS SHOWING THE LOCATION OF THE PROPOSAL

- A. SUBMIT AN 8 ½" X 11" PHOTOCOPY OF THE APPROPRIATE SECTION OF EITHER A USGS OR NYS DEPARTMENT OF TRANSPORTATION MAP – 1:2400 SCALE**
- B. SUBMIT AN 8 ½" X 11" PHOTOCOPY OF THE APPROPRIATE SECTION OF THE MUNICIPAL ZONING MAP**
- C. SUBMIT AN 8 ½" X 11" PHOTOCOPY OF THE APPROPRIATE SECTION OF THE LOCAL TAX MAP OF THE APPLICANT'S PROPERTY**

2. COMPLETE WRITTEN DESCRIPTION OF THE PROPOSAL

- 3. SITE PLAN SHOWING PHYSICAL CHARACTERISTICS OF PROPERTY; EXISTING AND PROPOSED LAYOUT OF BUILDINGS, STRUCTURES, ADDITIONS, PARKING, ROAD OR HIGHWAY ACCESS, DRAINAGE AND AVAILABILITY OF UTILITIES (APPROPRIATE SCALE)**
- 4. SUPPORTING MATERIAL USED IN REQUEST, SUCH AS TRAFFIC GENERATION, ADDITIONAL SERVICES ETC.**
- 5. ZONING DISTRICT IN WHICH PROPERTY IS LOCATED**
- 6. ZONING PROVISION FROM WHICH A VARIANCE IS REQUESTED**
 - A. LIST "PRACTICAL DIFFICULTIES" FOR AN AREA VARIANCE**
 - B. LIST "UNNECESSARY HARDSHIPS" FOR A USE VARIANCE**
- 7. COPY OF ENVIRONMENTAL ASSESSMENT OR IMPACT STATEMENT AS REQUIRED UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQR).**
- 8. AFTER ULSTER COUNTY PLANNING BOARD REVIEW, SUBMISSION OF FINAL ACTION REPORT**

THE TOWN OF MARLBOROUGH MUNICIPAL CODE SETS FORTH THE SCHEDULE OF FEES FOR APPLICATIONS TO THE ZONING BOARD. THE SIGNING OF THIS APPLICATION INDICATES YOUR ACKNOWLEDGMENT OF RESPONSIBILITY FOR PAYMENT OF THESE FEES TO THE ZONING BOARD FOR REVIEW OF THIS APPLICATION, INCLUDING BUT NOT LIMITED TO FEES FOR PROFESSIONAL SERVICES (ATTORNEY'S, ENGINEER, LEGAL NOTICE AND TRANSCRIBER FEES).

APPLICANT SUBMISSIONS AND RE-SUBMISSIONS WHICH ARE NOT COMPLETE WILL NOT BE CONSIDERED BY THE ZONING BOARD OR PLACED ON ITS AGENDA UNTIL ALL OUTSTANDING FEES HAVE BEEN PAID.

APPLICATION FEES: COMMERCIAL \$300.00
RESIDENTIAL \$300.00

ESCROW FEES: \$700.00

*ANY PORTION OF THE ESCROW FEE DEPOSIT NOT EXPENDED DURING THE REVIEW OF SUCH APPLICATION SHALL BE RETURNED TO THE APPLICANT UPON FINAL ACTION BY THE TOWN OF MARLBOROUGH.

***ANY AND ALL FEES OUTSTANDING FROM THE ESCROW FEE DEPOSIT IS THE RESPONSIBILITY OF THE APPLICANT TO MAKE IMMEDIATE PAYMENT OF THE AMOUNT DUE TO THE TOWN OF MARLBOROUGH (AN INVOICE WITH BALANCE DUE WILL BE MAILED TO THE APPLICANT).**

Adam Broza

APPLICANTS NAME (PRINT)

APPLICANT'S SIGNATURE

12/26/2023 Revised 06/25/2024

DATE

**Town of
Marlborough
Ethics Code**

TOWN OF MARLBOROUGH NOTICE OF DISCLOSURE OF INTEREST

In accordance with the Town of Marlborough Code of Ethics, Article 13-3 (E) and Public Officers Law § 209, the following disclosure notice (“notice”) must be completed and signed by any individual, including any officer or employee of the Town of Marlborough, who has an application, petition or request submitted for a variance, amendment, change of zoning, approval of a plat, special use permit, site plan, subdivision, exemption from a plat or official map, license or permit, pursuant to the provisions of the zoning and planning regulations of the Town of Marlborough before any Town of Marlborough Board, Agency or Department (“decision-making authority”), in which a Town officer or employee has an interest in the subject of the application. The purpose of the disclosure notice is to identify and disclose any potential or actual conflict of interest for the Town employee or officer, which may compromise his/her ability to make decisions solely in the public interest. Please refer to the Town of Marlborough Code of Ethics for further information.

Under the Town of Marlborough Code of Ethics an interest is defined as: a participation, connection or involvement of any sort whether direct or indirect, pecuniary or non-pecuniary, personal or professional, which may result in a benefit. For the purposes of the Town of Marlborough Code of Ethics, the “interests” of a Town officer or employee shall be deemed to include the “interest” of:

- A. An immediate family member. Immediate family member is defined as: grandparents, parents, spouse, significant other, children, grandchildren, brother, sister, dependent, or any household member of a Town officer, Town Board member or employee.
- B. Any person other than a bank, trust company or other lending institution with whom he/she has a substantial debtor-creditor or other financial relationship.
- C. Any person by whom he/she is employed or of which he/she is an officer, director or member having a controlling interest in any business or enterprise in which the Town employee or officer holds stock or has any other profit-bearing or beneficial relationship.
- D. An officer or employee shall also be deemed to have an interest in a matter if he/she or any person described in A through C above is a party to an agreement, expressed or implied, with any applicant before any Board of the Town, whereby he/she may receive any payment or other benefit whether or not for services rendered, dependent or contingent upon the favorable approval of any such application, petition or request by any Town body.

This notice must be completed and included with the application, petition or request to the appropriate Town of Marlborough Board, Agency or Department.

I, Adam Broza

, residing at

20 Mount Rose Road, Marlboro, New York 12542, make

the following statements about interests in the real property which is the subject of this application,

petition or request for a Area variances for setbacks, before the Town of Marlborough Zoning Board of Appeals.

PART I: Except as otherwise set forth in Part II below:

A. Individuals with an interest in the property.

1. No individual, having an ownership interest in or has an interest in a contract to purchase the subject property is an officer or employee of the Town of Marlborough, Ulster County, New York.
2. No person having an ownership interest in or has an interest in a contract to purchase the subject property is a relative of any individual who is an officer or employee of the Town of Marlborough, Ulster County, New York.

B. Corporations or other entities with an interest in the property.

1. No officer, director, partner, or employee of any corporation, partnership, company, trust, association, or other legal entity, which has an ownership interest in or has an interest in a contract to purchase the subject property is an officer or employee of the Town of Marlborough, Ulster County, New York.
2. No officer, director, partner, or employee of any corporation, partnership, company, trust, association, or other legal entity which has an ownership interest in or has an interest in a contract to purchase the subject property is a relative of any individual who is an officer or employee of the Town of Marlborough, Ulster County, New York.

C. Stockholder or controlling interest

1. No person who has a legal or beneficial ownership or control stock of a corporate applicant or is a member of a partnership or association with the applicant for the subject property is an officer or employee of the Town of Marlborough, Ulster County, New York.
2. No person who has a legal or beneficial ownership or control stock of a corporate applicant or is a member of a partnership or association with the applicant for the subject property is a relative of any individual who is an officer or employee of the Town of Marlborough, Ulster County, New York.

D. Party to an agreement with the applicant

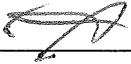
1. No person is a party to an agreement with an applicant, express or implied, or may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application; petition or request for the subject property is an officer or employee of the Town of Marlborough, Ulster County, New York.
 2. No person is a party to an agreement with an applicant, express or implied, or may receive any payment or other benefit, whether or not for services rendered, dependent or contingent upon the favorable approval of such application, petition or request for the subject property is an immediate family member of any individual who is an officer or employee of the Town of Marlborough, Ulster County, New York.

PART II: If any of the statements under A through D above is not true, please explain and set forth the name and the relationship to the applicant and subject property of any Town employee or officer involved:

PART III: This completed notice is to be submitted to the Board, Agency or Department that is authorized to review and render a decision on the application, petition or request. Further, the submittal must be made prior to any review of the application, petition or request. This notice shall be made part of that decision-making authority's official record, disclosing the exact nature of the conflict in detail. If there is an actual or potential conflict, the Town officer or employee shall abstain from voting or otherwise acting on the application, petition or request so as to avoid an actual conflict.

ANY QUESTIONS REGARDING THIS DISCLOSURE NOTICE OR THE CODE OF ETHICS ARE TO BE DIRECTED TO THE TOWN SUPERVISOR AT (845) 795-6167.

PLEASE TAKE NOTICE: A KNOWINGLY FALSE STATEMENT IS PUNISHABLE UNDER N.Y. GEN. MUN. LAW §809 AS A MISDEMEANOR.

Signed: 

Date: 6/27/2024

ACKNOWLEDGMENT

State of New York

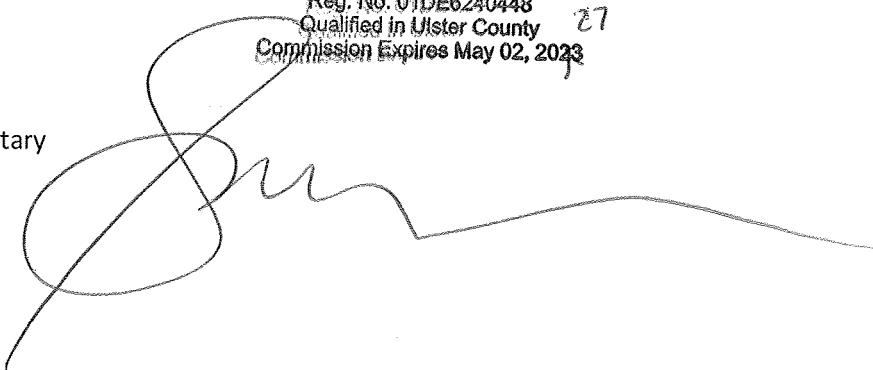
County of:

On 6/27/24, before me personally appeared

Adam Broza, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is/are subscribed to this instrument and acknowledged to me that [he/she/they] executed the same in [his/her/their] capacity(ies), and that by [his/her/their] signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

SUZANNE DEMSKIE
Notary Public, State of New York
Reg. No. 01DE6240448
Qualified in Ulster County 27
Commission Expires May 02, 2023

Notary



Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: Resort/Villa to be known as Someplace Upstate			
Project Location (describe, and attach a location map): Mount Rose Road and James Street, Town of Marlborough tax Parcels 109.1-56.1, 57 and 58			
Brief Description of Proposed Action: Proposed Resort/Villa subject to the Town of Marlborough Zoning Code provisions outlined in Sections 155-12 and 155-18. Zoning Code Section 155-18B.(1)(d) states that no structure in such use shall be within 50 feet of any property line and this property has pre-existing structures that do not meet those current zoning code setback requirements.			
Name of Applicant or Sponsor: Adam and Danielle Broza		Telephone: 617-487-9758 E-Mail: abroza@gmail.com	
Address: 20 Mount Rose Road			
City/PO: Marlboro		State: New York	Zip Code: 12542
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.		NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: Planning Board Site Plan and Special Use Permit approval will be required after variances are granted with uncoordinated review		NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action? b. Total acreage to be physically disturbed? c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		14.02 acres 0 acres 30.2+ acres	
4. Check all land uses that occur on, are adjoining or near the proposed action: 5. <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input checked="" type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland			

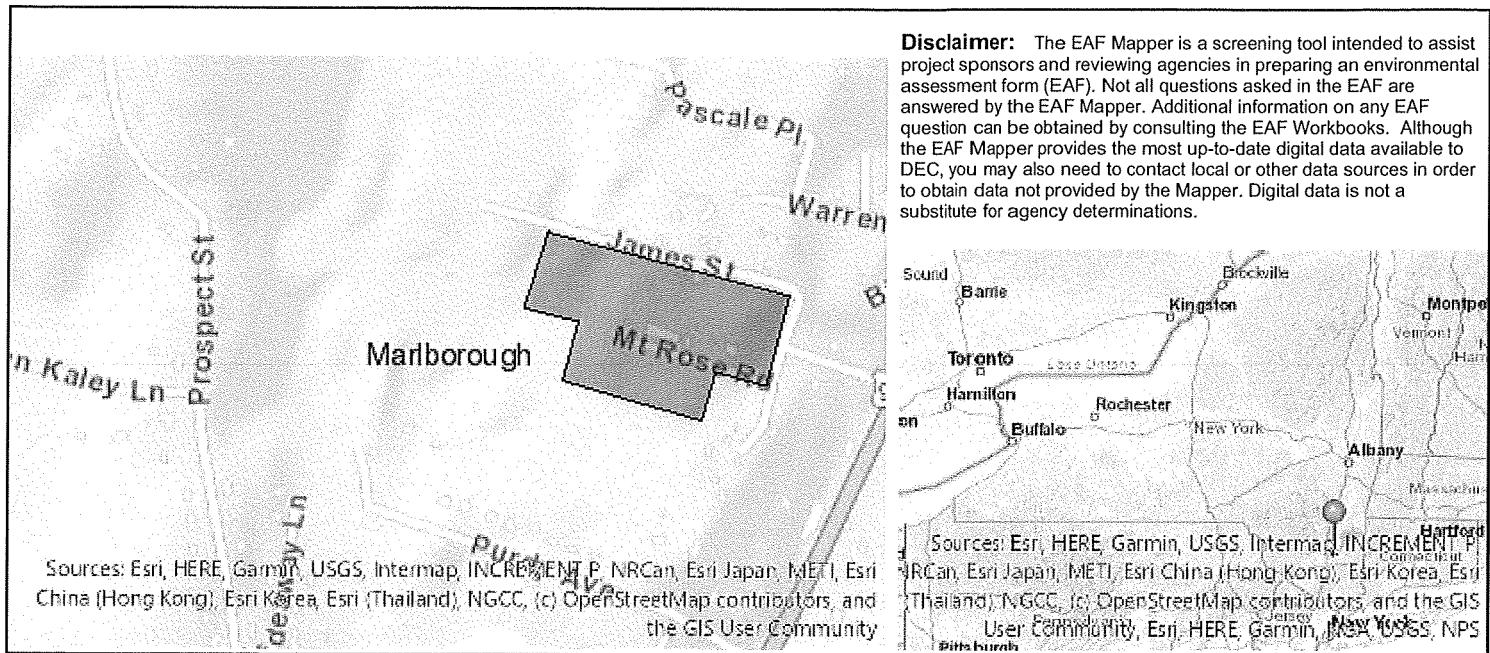
5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area?	NO	YES	
If Yes, identify: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels?	NO	YES	
b. Are public transportation services available at or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements?	NO	YES	
If the proposed action will exceed requirements, describe design features and technologies:	<u>Any new construction will meet all applicable energy code requirements</u>		
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply?	NO	YES	
If No, describe method for providing potable water: _____			
Municipal water supply and individual wells are existing on site	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities?	NO	YES	
If No, describe method for providing wastewater treatment: _____			
Individual wastewater facilities exist on site	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	NO	YES	
b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	NO	YES	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
There are no mapped or evident wetlands on this project site			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:			
<input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input checked="" type="checkbox"/> Agricultural/grasslands <input checked="" type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> Suburban			
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?			NO <input type="checkbox"/> YES <input checked="" type="checkbox"/>
Atlantic Sturgeon, Shortnose...			
16. Is the project site located in the 100-year flood plan?			NO <input type="checkbox"/> YES <input checked="" type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources?			NO <input type="checkbox"/> YES <input checked="" type="checkbox"/>
If Yes,			
a. Will storm water discharges flow to adjacent properties? b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?			
If Yes, briefly describe:			
18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)?			NO <input type="checkbox"/> YES <input checked="" type="checkbox"/>
If Yes, explain the purpose and size of the impoundment:			
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?			NO <input type="checkbox"/> YES <input checked="" type="checkbox"/>
If Yes, describe:			
20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste?			NO <input type="checkbox"/> YES <input checked="" type="checkbox"/>
If Yes, describe:			

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor/name: Patricia P. Brooks, L.S. Agent for applicant Date: June 25, 2024

Signature: Patricia P. Brooks Title: Land Surveyor / Agent



Part 1 / Question 7 [Critical Environmental Area]	No
Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites]	No
Part 1 / Question 12b [Archeological Sites]	Yes
Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
Part 1 / Question 15 [Threatened or Endangered Animal]	Yes
Part 1 / Question 15 [Threatened or Endangered Animal - Name]	Atlantic Sturgeon, Shortnose Sturgeon
Part 1 / Question 16 [100 Year Flood Plain]	No
Part 1 / Question 20 [Remediation Site]	No



445 Hamilton Avenue, 14th Floor
White Plains, New York 10601
T 914 761 1300
F 914 761 5372
cuddyfeder.com
Neil J. Alexander
nalexander@cuddyfeder.com

June 27, 2024

By Email and Hand

Chairman Lenny Conn and Members
of the Zoning Board of Appeals
Town of Marlborough Town Hall
21 Milton Turnpike, Suite 200
P.O. Box 305
Milton, New York 12547

Re: Someplace Upstate Resort Hotel
Application for Area Variance from Zoning Code Section 155-18B(1)(d)
Premises: 20-38, 40, and 29 Mount Rose Road, Marlboro, NY 12528
Zoning District: R-1 Residential District
Tax Identification Nos.: Section 109.1, Block 4, Lots 56.1, 57 and 58

Dear Chairman Conn and Members of the Zoning Board of Appeals:

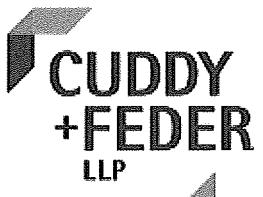
This letter is respectfully submitted on behalf of Someplace Upstate through its personal and business affiliates Danielle and Adam Broza and Bellflower Group LLC (the "Applicant") as the current owners of the three parcels of real property located on Mount Rose Road in the Town, consisting of (i) 20-38 Mt. Rose Road, owned by Danielle and Adam Broza, bearing a tax identification of 109.1-4-57, and a lot area of 6.27 acres¹; (ii) 40 Mt. Rose Road, owned by Danielle and Adam Broza, bearing a tax identification of 109.1-4-58, and a lot area of 4.30 acres²; and (iii) 29 Mt. Rose Road, owned by Bellflower Group LLC controlled by Danielle and Adam Broza, bearing a tax identification of 109.1-4-56.1, and a lot area of 3.45³, all of which are classified in the R-1 Residential District and collectively total approximately 14.02 acres (the "Premises").

The Applicants appeared most recently before the Zoning Board of Appeals on June 13, 2024 relative to the Area Variance Application originally submitted in December 2023 and supplemented more recently in May 2024. As discussed during the June 13, 2024 appearance, the Applicant is seeking to develop a Resort Hotel on the Premises, which is a Special Permit Use in the R-1 zoning district. Town of Marlborough Zoning Code Section 155-18 entitled

¹ See Deed Book Liber 6777 Page 183.

² See Deed Book Liber 6777 Page 179.

³ See Deed Book Liber 7232 Page 218.



June 27, 2024

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"Amusement, recreation and vacation uses" provides in sub-section B supplemental standards for tourist and vacation buildings, which includes resorts hotels. In particular, Section 155-18B(1)(d) sets forth in relevant part that no structure in such use shall be within 50 feet of any property line. Here, no new buildings are proposed with this Application. The Premises presently is improved with five (5) buildings and/or structures that deviate from Section 155-18(B)(1)(d). In particular, the following fall within the 50 foot radius by the noted lineal distances: Building F (27.7 feet), Building H (36.2 feet), Building I (44.3 feet), Structure J (39.9 feet), and Building K (38.2 feet).

Consequently, the Applicant respectfully requests an Area Variance from Section 155-18B(1), allowing these five buildings/structures to continue to exist as they have for decades where this zoning provision requires a 50 foot setback.

Approval of the Instant Area Variance Application is Warranted

Under New York State Town Law Section 267-b(3)(b) and Town of Marlborough Zoning Code Section 155-40C(2), the applicable area variance standard provides that in making its determination a zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. The statutory test also enumerates 5 standards for a zoning board of appeals to consider when deciding an area variance application as follows: (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (3) whether the requested area variance is substantial; (4) whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The five (5) factors set forth above are a tool for the Zoning Board of Appeals to use in determining whether to grant the requested relief. It is important to note that no single factor is determinative in assessing an area variance application, nor is it necessary that the Applicant "meet" all five factors.

Accordingly, the Applicant respectfully submits that this application complies with the area variance criteria codified in New York State Town Law Section 267-b(3)(b) as well as Town of



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Marlborough Zoning Code Section 155-40C(2), and that there is no detriment to the health, safety, and welfare of the neighborhood or community proposed here.

First, the Premises combines two century-old Marlboro legacies: the La Valle Estate and Corrado Farms. The heart of the property is the original family home of Dominick La Valle, a Mediterranean fashion icon whose influential roaring twenties designs can still be seen in the MET today. When La Valle first set his eyes on Marlboro, he decided to bring a piece of his old home with him, leading him to dismantle his family home and rebuild it on a hill overlooking the Hudson River in 1929, where it still stands today. La Valle regularly hosted the fashion world and its storied characters at the Villa and the attached amenities, including the luxurious oversized pool. A selection of photos of the estate in its original state (~1930s), kindly provided by neighbors, were previously submitted as part of the Record for this application. The estate later came into the hands of Ray Muscarella, a Genovese family captain who was also known for his patronage of the arts. Muscarella reportedly represented celebrities such as Frank Sinatra, Aretha Franklin, and Tony Bennett. The latter confirmed Muscarella's pivotal role in his career, as well as the grandiose parties the resort regularly held for public icons and politicians, in his biography. Before coming into the ownership of the Applicant, the estate was owned by the Lordi family, founders of Ulster Scientific, who added to its storied history as a luxurious and private retreat for New York's most celebrated icons by constructing an expansive world-class equestrian facility. In addition to launching what would become Ulster Stables and later the Mount Rose Equestrian, the Lordi family were also decorated equestrians in their own right and competed on the US Equestrian team. The Applicant seeks to restore the estate to its best and highest uses, revitalizing the private Hudson Valley to its historical status as a secluded retreat that invites guests from around the world to step back into the Marlboro of a century ago and immerse themselves in the uniquely gilded and agricultural experience that was once reserved exclusively for the landed class. The estate would continue its tradition as a family-owned resort, meticulously curated by the Applicant who occupy the property as they raise their own family. Based on the foregoing, it is respectfully submitted that the requested variances for the existing structures will not cause an undesirable change to the character of the neighborhood or cause a detriment to nearby properties. Please also see the below, recent aerial from Ulster County GIS for context and setting.

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Second, the Applicant seeks to fold these pre-existing structures into the Resort Hotel, and there is no other method, feasible for the Applicant to pursue, other than an area variance.⁴ An alternative may not result in a “profound departure” from the Applicant’s proposal, nor be financially unreasonable, which removing the existing structures would entail.⁵ Notably, structure F is built into its grade and has been an occupied structure for decades, while structures H, I, and K stand along a Town-maintained dead-end road located entirely between the Applicant’s properties. No alternative is therefore available.

Third, Substantiality is not simply a mathematical test, relating to the percentage of variation from the required standard.⁶ “Substantiality cannot be judged in the abstract; rather, the totality of relevant circumstances must be evaluated in determining whether the variance sought is, in actuality, a substantial one.”⁷ In other words, substantiality has to be judged based on the actual impact of the variance, rather than the mere mathematical extent of the variance. The context

⁴ Baker v. Brownlie, 248 A.D.2d 527 (2d Dept. 1998) (alternative must provide the benefit sought by the applicant).

⁵ Corporation of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. ZBA of Town/Village of Harrison, 296 A.D.2d 460, 462 (2d Dept. 2002).

⁶ Salkin, 2 N.Y. Zoning Law & Prac. § 29:15 (4th Ed.); see also Lodge Hotel, Inc. v. Town of Erwin Zoning Bd. of Appeals, 21 Misc. 3d 1120(A) (Sup. Ct. Steuben County 2007), aff’d 43 A.D.3d 1447 (4th Dept 2007) (Reviewing a variance request in a mathematical vacuum is not an adequate indicator of substantiality).

⁷ Lodge Hotel, Inc., 21 Misc. 3d 1120(A) at 5.



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of the overall impact on the neighborhood can militate against a finding of substantiality.⁸ In addition, the law in New York is clear that substantiality alone is not a reason to deny a variance.⁹ Indeed, substantiality is merely one of the five factors to be considered in evaluating the overall balancing test for an area variance. Here, no new buildings or structures are proposed. Rather, the Applicant seeks to reuse as part of the Resort Hotel Special Permit Use these existing buildings and structures constructed decades ago.¹⁰ Accordingly, the Applicant respectfully submits that the variance request is not substantial.¹¹

Fourth, the variances here will not have an adverse effect on the physical or environmental conditions in the neighborhood or district. The Premises is located in the R-1 district, which provides for a 1-acre minimum lot size with corresponding minimum front, rear, and side yards of 35 feet, 50 feet, and 35 feet/70 feet, respectively. Pursuant to s.155-18(B)(1)(d), the Resort Hotel special use provisions mandate a minimum 10-acre site, which requirement the 14-acre Premises exceeds by 40%. All of the existing structures on the Premises comply with the R-1 district rules for front yards (located along Front Street), side yards (James Street/Mt. Rose Road), and rear yard (falling along other lands owned by the Applicant), with the exception of Building F, which is legally non-conforming at 27.7 feet where a 35 foot side yard is required. Yet, this shortfall is consistent with the existing pattern of development as the Aerial on Page 4 of this letter documents that several of the buildings and structures on the North side of James Street fall within the 35 foot front yard standard.

Fifth, the alleged difficulty is arguably not self-created. The Applicant seeks to restore the Premises as a Resort Hotel, which is a Special Permit Use in the R-1 zoning district. No new buildings or structures are proposed. Adaptive reuse is inherently, environmentally preferable

⁸ *Id.*

⁹ See, e.g., Lodge Hotel, Inc. v. Town of Erwin ZBA, 43 A.D.3d 1447 (4th Dept 2007) (substantiality alone is insufficient to deny a variance). See also, Wambold v. Village of Southampton Zoning Bd. of Appeals, 32 N.Y.S.3d 628 (2d Dept. 2016) (while variance was numerically large, there was no evidence that the variance would have an undesirable effect on the character of the neighborhood, adversely impact physical or environmental conditions, or otherwise result in a detriment to the health, safety, and welfare of the neighborhood or community); Borrok v. Town of Southampton, 130 A.D.3d 1024 (2d Dept. 2015) (same).

¹⁰ It is worth noting that Ecode lists the History of the current Zoning Code as adopted by the Town Board of the Town of Marlborough on 9-13-1993 by L.L. No. 2-1993 - <https://ecode360.com/8667007#8667007>.

¹¹ Kleinhaus v. Zoning Board of Appeals of the Town of Cortlandt, N.Y.L.J. Mar. 26, 1996, p. 37, col. 7 (Sup. Ct. Westchester Co. 1996) (Although a variance application to erect a 120-foot amateur radio antenna was considered to be statistically substantial with respect to the applicable 35-foot height maximum, the court determined that substantiality is "relative" and could not be gauged in the abstract.).



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to buildings remaining vacant or new development on undeveloped sites. Regardless, it is worth noting that this fifth factor is not determinative by itself.¹²

Materials Submitted in Further Support of the Instant Area Variance Application

Please find enclosed with this letter the requisite number of submission sets of the following materials in furtherance of this Application for an Area Variance from Section 155-18B(1)(d)'s 50 foot setback standard as to the buildings and structures noted above pursuant to Town of Marlborough Zoning Code Section 155-40C(2) and New York State Town Law Section 267-b(3)(b):

- Exhibit A: Revised Zoning Board of Appeals Application Forms.
- Exhibit B: SEQRA Short Environmental Assessment Form for the Uncoordinated Review of this Application as an Unlisted Action.¹³
- Exhibit C: Deeds for the three parcels comprising the Premises located at Liber 6777 Page 183, Liber 6777 Page 179, and Liber 7232 Page 218.
- Exhibit D: Further Amended Drawing, prepared by Control Point Associates, Inc., last revised June 26, 2024.

Kindly also note that the Applicant volunteers and commits to submitting a Consolidation Deed for approval by the Town Attorney and to recording this instrument with the Ulster County Office of Land Records merging the Premises into one tax lot should the Town approve the necessary land use entitlements for a Resort Hotel.

Conclusion

The Applicant respectfully submits that approval of this application is warranted, and looks forward to appearing before the Zoning Board of Appeals during its July 11, 2024 meeting. Should the Zoning Board of Appeals or Town Staff have any questions or comments in the

¹² Bianco Homes, Inc. v. Weiler, 295 A.D.2d 505 (2d Dept. 2002).

¹³ The Applicants also note that SEQRA provides a Type II Exemption in Section 617.5(c)(18) relative to the "reuse of a residential or commercial structure, or of a structure containing mixed residential and commercial uses, where the residential or commercial use is a permitted use under the applicable zoning law or ordinance, including permitted by special-use permit, and the action does not meet or exceeds any of the thresholds in section 617.4 of this Part;" that is likely applicable here.



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interim, please feel free to contact me. Thank you in advance for your cooperation and consideration in this matter.

Very truly yours,

A handwritten signature in black ink that reads "Neil J. Alexander". The signature is fluid and cursive, with "Neil J." on the left and "Alexander" on the right, connected by a flourish.

Neil J. Alexander

cc: Jen Flynn, Secretary to the Zoning Board of Appeals
Jeffrey S. Battistoni, Esq., Attorney for the Zoning Board of Appeals
Patricia Brooks, L.S., Control Point Associates, Inc.
Danielle and Adam Broza, Someplace Upstate