

TOWN OF MARLBOROUGH – BUILDING DEPARTMENT

21 Milton Turnpike
Milton, New York 12547
(845) 795-5100

July 29, 2025

RE: Determination Regarding Use of 20-38 and 40 Mount Rose Road for Weddings and Events

To:

Stenger, Glass, Hagstrom, Lindars & Iuele, LLP
1136 Route 9
Wappingers Falls, NY 12590

Dear Mr. Stenger,

This letter is issued in response to your correspondence dated June 13, 2025, regarding your clients' request for a zoning determination concerning the use of 20-38 and 40 Mount Rose Road (the "Subject Property") in the R-1 Zoning District. You seek confirmation that weddings and events for up to 200 people, held up to four times per year, are permissible as an accessory use under the Town of Marlborough Zoning Code.

As you know a Preliminary Injunction is currently in effect, based on the Town's determination that the use of the Subject Property for commercial weddings is not permitted in the R-1 Zone. After a thorough review of your request, applicable zoning provisions, case law, and the operational context of the Subject Property, it is the determination of this office that the proposed and ongoing use of the property as a commercial wedding venue, even on a purported infrequent basis, is not an accessory use and is instead consistent with that of a Resort Hotel under Town Code §155-12(B)(4)(k), a use not permitted in the R-1 Zone without appropriate approvals.

Zoning Code Analysis

The Town Code defines "Accessory Use or Structure" as:

"A use or structure subordinate to the principal use of a building on the same lot and serving a purpose customarily incidental to the use of the principal building." (Town Code §155-1; emphasis added.)

The test for accessory use requires both subordination and that the use be customarily incidental to the principal residential use. Large-scale, advertised, revenue-generating wedding and event operations do not meet this standard.

In the case at hand, the Brozas market the Subject Property—under the name "Someplace Upstate"—for wedding and event rentals through professional websites (e.g., The Knot and WeddingWire). The online listings prominently feature:

- Sleeping accommodations
- A ballroom and speakeasy
- Bar, pool, cabana

- Recreational and dining facilities
- Multiple designated event spaces

These features strongly support a determination that the property is being operated as a commercial resort-type venue rather than a private residence with incidental personal use.

Legal Precedent

The *Lavender v. Zoning Board of Appeals of the Town of Bolton*, 141 AD3d 970 (3d Dept 2016), is directly on point. There, the court rejected an argument identical to yours—that hosting several large events per year constituted an accessory use. The Lavender petitioner, like your clients, advertised their property for weddings and large events, and the court noted:

"[P]erhaps most critically, Petitioner failed to proffer any evidence demonstrating that [Petitioner's use] 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..." (Id. at 971)

That rationale applies squarely to the Brozas' use of the Subject Property. A few private weddings for friends or family may be incidental to residential use. However, repeated commercial-scale events with online advertising and facilities designed for group accommodation are not.

In *Brophy v. Town of Olive Zoning Board of Appeals*, 166 AD3d 1123 (3d Dept 2018), the court upheld a ZBA finding that event hosting required site plan review due to impacts on neighbors' health, safety, and welfare—even when accessory to a permitted B&B. Here, the Town has received multiple neighbor complaints regarding noise, traffic, and disruptions, further distinguishing this case from any incidental or accessory use.

Similar Properties

With respect to other properties cited in your letter:

- **Raspberry Fields (601 Lattintown Road) and Quartz Rock (40 Mountain Road)** were not previously known to the Town as operating event venues without site plan approval. Upon being alerted by your client and review, the Town issued enforcement actions.
- **Locust Grove (164-152 North Road)**, unlike the Subject Property, obtained full site plan approval from the Planning Board on June 7, 2021. The approval reviewed and conditioned the use of the property for events on multiple planning considerations, including parking, ingress and egress, noise, lighting, and sanitary facilities. Locust Grove also operates a commercial cidery and winery in the RAG-1 Zone, distinguishing it further.

Determination

Based on the foregoing, it is the determination of the Code Enforcement Office that:

1. The use of the Subject Property for commercial weddings and events for up to 200 persons, whether occurring four times per year or more frequently, is not accessory to the residential use as defined in §155-1 of the Zoning Code.

2. The combination of advertising, event-specific infrastructure, scale and frequency of use, and impact on neighboring properties renders the use commercial in nature and most closely aligned with a Resort Hotel, which is not permitted in the R-1 Zone.
3. In order to pursue the use of the Subject Property for weddings or similar events, the owners must seek site plan approval, a process they were previously engaged in before voluntarily withdrawing that application, and meet all applicable requirements under §155-18(B) of the Town Code.

This determination is binding unless overturned by the Zoning Board of Appeals or a court of competent jurisdiction. Please advise your clients accordingly.

Sincerely,

Thomas Corcoran

Code Enforcement Officer
Town of Marlborough

Cc: Kyle W. Barnett, Esq., Attorney to Town