

Public Hearing Santini Zoning Board Public Hearing 11/13/2025
Legal Concerns

"The applicant is seeking an interpretation that the proposed residence does not extend above the highest point in the Marlborough Ridgeline pursuant to section 155-41.1(F)(4) and that the proposed location of the residence is a suitable and acceptable location in adherence to the Ridgeline Protection Law."

Santini Cover Letter from KRC

When the Santini application for a 3 lot subdivision was approved on October 15, 2023, the resolution for approval had 6 conditions including:

d) No construction on the 18.7 acre parcel is proposed at this time, should the site be developed in the future, the Ridge Preservation Code will govern any proposed construction will be conducted in conformity with the provisions of the Town of Marlborough Zoning Code 155-41.1.

Subsequent to the approval, over the next 2 years the Santini's received multiple violations for work continuing on the 18 acre parcel, culminating with the Town's lawyers sending a Violation Cease & Desist Order.

In early 2024, the Town Board introduced amendments to the Town's Ridgeline and Steep Slope Protection Code 155-41.1. The amended code went through multiple public hearings, Ulster County Planning review and revisions and was passed by the Town Board on August 26, 2024.

One revision was that the reference to "reviewing board" was struck and the Town Engineer and the Town Code Enforcement Officer would oversee compliance with the provisions of the Ridgeline Code.

In the resolution of approval the Town of Marlborough Board reiterated the necessity of being consistent with the goals of the Town's Comprehensive Plan by mitigating the visual impact of development. To that end it was noted that Town Code section 155.41.1 (E)(5) would remain unchanged - "Development should be sited behind or below visual barriers such as trees, ridgelines and other topographic features. The height and location of development shall not alter the views of, and from, the natural ridgeline."

The Santini's request for a building permit on a site in the Ridgeline Protection Zone was looked at and denied by the Town Engineer and the Code Enforcement Officer because it doesn't meet the requirements of the code. There are a number of reasons it doesn't but the Code does allow for a remedy that can be offered by the Town Engineer, should it be necessary.

I would ask the Zoning Board to consider the Code very carefully. The Town invested much time, energy and money into revising it to better meet the Town's Master Plan. They have also indicated that it is the Town's prerogative to designate the Town Engineer and Code Enforcement Officer as the gatekeepers to oversee the enforcement of this Ridgeline Protection Code. If the Zoning Board would negate any of that authority what would the impact be on future applications?

I would also like to call to your attention, under Case Law, that when a Zoning Board makes a decision on Zoning Interpretation they must take into account that "statutes must be given effect as written by the legislature and to legislative intent". What was the Town Board intending with the Ridgeline Protection Law.

And remember - when a Zoning Board makes a decision on Code Interpretation there is a narrow exception to the Deference Rule in the case of legal interpretation of statutory terms. That could have a significant impact if the ruling is challenged and goes to court in an Article 78.

Lastly, I would ask the Zoning Board to review the law, not just one particular section, but in its entirety so that they may understand the intent of the law and how that should impact their decision. The Santini's are not being denied the right to build on their land, only that they do it in a manner consistent with Town Code.

Cindy Lanzetta