

1 PENDINO & FERRO - PUBLIC HEARING

2 STATE OF NEW YORK : COUNTY OF ULMSTER  
3 TOWN OF MARLBOROUGH ZONING BOARD

-----X

4 In the Matter of

5 PENDINO & FERRO - WORKSHOP -  
6 92 Old Indian Road  
7 Milton, New York 12547  
8 SBL #103.3-1 39, 38.100  
9 RAG-1 23-20

-----X

10 DATE: January 8, 2026

11 TIME: 6:00 P.M.

12 PLACE: Town of Marlborough  
13 Town Hall  
14 21 Milton Turnpike  
15 Milton, New York 12547

16 BOARD MEMBERS:

17 LENNY CONN, Chairman  
18 JEFF MEKEEL  
19 ANDREW NIKOLA  
20 LARRY BARTOLOTTI  
21 NICK CRACOLICI

22 ALSO PRESENT:

23 JEN FLYNN, Zoning Board Secretary  
24 KIMBERLY BRENNAN - Applicant

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28 -----X

29 LISA MARIE ROSSO  
30 140 Mahoney Road  
31 Milton, New York 12547  
32 (845) 674-3937

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34 LISA MARIE ROSSO - (845) 674-3937

1                   **PENDINO & FERRO - PUBLIC HEARING**2                   CHAIRMAN CONN: Please stand for  
3                   the Pledge of Allegiance.

4                   (Pledge of Allegiance.)

5                   CHAIRMAN CONN: Thank you.

6                   Welcome to the Town of Marlborough  
7                   Zoning Board of Appeals, January 8,  
8                   2026, meeting. We made a little  
9                   adjustment to the agenda. We're going  
10                   to do the Pendino & Ferro application  
11                   if they are here, and then we're going  
12                   to continue the public hearing of the  
13                   Santini appeal of interpretation.14                   First I would like to recognize Mr.  
15                   Mekeel retiring from the Zoning Board  
16                   of Appeals after 20 plus years of  
17                   service. So, tonight will be his last  
18                   meeting. I'd like to recognize him for  
19                   all of his years of service.

20                   MS. FLYNN: You will be missed.

21                   MR. MEKEEL: Thank you.

22                   CHAIRMAN CONN: Yes, ma'am.

23                   MS. BRENNAN: My name is Kimberly  
24                   Brennan. I'm here representing Mr.  
25                   Pendino. I had to acquire a list of

1                   **PENDINO & FERRO - PUBLIC HEARING**2                   individuals in a 100-mile radius of our  
3                   home and send out certified letters  
4                   letting them know of tonight's meeting.

5                   So, I have done that.

6                   CHAIRMAN CONN: Okay. You can  
7                   give that to Jen, or do you have them  
8                   already?9                   MS. FLYNN: No, I don't have them  
10                   already, but she did certified. She  
11                   didn't do return/receipt.

12                   CHAIRMAN CONN: Okay.

13                   MS. BRENNAN: So, on the back of  
14                   my receipt it says that the Post Office  
15                   should have proof of my mailings going  
16                   through successfully, so if I could  
17                   obtain that tomorrow and send that in,  
18                   would that suffice?

19                   MR. NIKOLA: Yes.

20                   CHAIRMAN CONN: That is fine.

21                   MS. BRENNAN: Great. And then  
22                   once you have that --23                   CHAIRMAN CONN: One second. We  
24                   got ahead of ourselves with Mr. Mekeel  
25                   retiring. Approval of the minutes from

1                   **PENDINO & FERRO - PUBLIC HEARING**

2                   the last meeting.

3                   MR. NIKOLA: I will make a motion  
4                   to approve the minutes from December  
5                   11th.

6                   MR. BARTOLOTTI: Second.

7                   CHAIRMAN CONN: All in favor?

8                   MR. BARTOLOTTI: Aye.

9                   MR. NIKOLA: Aye.

10                   MR. CRACOLICI: Aye.

11                   CHAIRMAN CONN: Aye.

12                   MR. MEKEEL: I will abstain since  
13                   I was not here.14                   CHAIRMAN CONN: Yes. So, so  
15                   moved. So, do we have any questions  
16                   for Applicant?17                   MR. BARTOLOTTI: Do you want the  
18                   Applicant to run through --19                   CHAIRMAN CONN: Just run through  
20                   exactly what you're wanting to do.21                   MS. BRENNAN: So, we're trying to  
22                   acquire a small piece of property from  
23                   Mr. Ferro. It actually is up in the  
24                   back end of our property, so it kind of  
25                   appears as though it's already ours.

1                   **PENDINO & FERRO - PUBLIC HEARING**

2                   Our grandchildren are always running  
3                   amok playing on it and we're just  
4                   pulling them back. And my husband  
5                   spoke to Vincent, and he agreed that,  
6                   you know, it was fine that we purchase  
7                   that from him. So, we have a purchase  
8                   agreement.

9                   CHAIRMAN CONN: Okay. You have  
10                   all of that documentation; right  
11                   (indicating Ms. Flynn)?

12                   MS. BRENNAN: Yes, it's all on  
13                   file.

14                   MR. MEKEEL: I don't have any  
15                   questions.

16                   MR. CRACOLICI: I don't have any  
17                   questions.

18                   MR. NIKOLA: I don't have any  
19                   questions.

20                   MR. BARTOLOTTI: I don't have  
21                   anything.

22                   CHAIRMAN CONN: Anybody from the  
23                   public wanting to comment regarding  
24                   this application?

25                   (No audible response.)

1                   **PENDINO & FERRO - PUBLIC HEARING**2                   MR. BARTOLOTTI: I will make a  
3                   motion to close the public hearing.

4                   MR. NIKOLA: Second.

5                   CHAIRMAN CONN: All in favor?

6                   MR. BARTOLOTTI: Aye.

7                   MR. NIKOLA: Aye.

8                   MR. MEKEEL: Aye.

9                   MR. CRACOLICI: Aye.

10                  CHAIRMAN CONN: Aye. Do you have  
11                  any more discussion on it?

12                  MR. NIKOLA: I don't.

13                  MR. BARTOLOTTI: I am good.

14                  MR. NIKOLA: I will make a motion  
15                  to approve the Pendino & Ferro  
16                  property, 103.3-1 39, 38.100 located at  
17                  92 Old Indian Road in Milton, a front  
18                  yard variance on Lot 38.100, 44 feet,  
19                  and lot 39, 36.9 feet.

20                  CHAIRMAN CONN: Second?

21                  MR. CRACOLICI: I will second.

22                  CHAIRMAN CONN: All in favor?

23                  MR. BARTOLOTTI: Aye.

24                  MR. NIKOLA: Aye.

25                  MR. MEKEEL: Aye.

1                   **PENDINO & FERRO - PUBLIC HEARING**

2                   MR. CRACOLICI: Aye.

3                   CHAIRMAN CONN: Aye.

4                   MS. BRENNAN: Thank you.

5                   (Whereupon, at 6:07 P.M., the  
6                   Hearing was adjourned.)

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1 PENDINO & FERRO - PUBLIC HEARING

2 C E R T I F I C A T E

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4 STATE OF NEW YORK )  
5 COUNTY OF ULMSTER ) : SS.:

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7                   I, LISA M. ROSSO, a Notary Public for  
8                   and within the State of New York, do hereby  
9                   certify:

10 That the witness whose examination is  
11 hereinbefore set forth was duly sworn and  
12 that such examination is a true record of  
13 the testimony given by that witness.

14 I further certify that I am not related  
15 to any of the parties to this action by  
16 blood or by marriage and that I am in no way  
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto set  
19 my hand this 14th day of January 2026.

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hsaMnoso

LISA M. ROSSO

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2 STATE OF NEW YORK : COUNTY OF ULMSTER  
3 TOWN OF MARLBOROUGH ZONING BOARD  
-----X

4 In the Matter of

5 SANTINI RESIDENCE - CONTINUATION OF PUBLIC  
6 HEARING -

7 Appeal of Interpretation  
8 229 Mt. Zion Road  
9 Marlboro, New York 12542  
10 SBL #102 3.2-15.300  
11 RAG-1 23-18  
-----X

12 DATE: January 8, 2026

13 TIME: 6:07 P.M.

14 PLACE: Town of Marlborough  
15 Town Hall  
16 21 Milton Turnpike  
17 Milton, New York 12547

18 BOARD MEMBERS:

19 LENNY CONN, Chairman  
20 JEFF MEKEEL  
21 ANDREW NIKOLA  
22 LARRY BARTOLOTTI  
23 NICK CRACOLICI  
-----X

24 ALSO PRESENT:

25 JEN FLYNN, Zoning Board  
Secretary

26 KELLY LIBOLT, KARC Planning Consultants  
27 MICHAEL NESHEIWAT, ESQ., LAW OFFICES OF  
28 MICHAEL NESHEIWAT, PLLC  
-----X

29 JANIS M. GOMEZ ANDERSON, ESQ., Rodenhausen  
30 Chale & Polidoro, LLP  
-----X

31 LISA MARIE ROSSO  
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35 LISA MARIE ROSSO - (845) 674-3937

2 CHAIRMAN CONN: Next we have the  
3 continuation of a public hearing for  
4 the Santini residence, 222 Mt. Zion  
5 Road, Appeal of Interpretation  
6 155-41.21. We had asked the Applicant  
7 a few questions at the last meeting, and  
8 they have provided the answers to those  
9 questions, which Andrew will read.

10 MR. NIKOLA: The letter is from  
11 Control Point Associates, Inc., dated  
12 December 29th, 2025, regarding Santini  
13 residence, single-family residential  
14 development, tax ID 12.3-2-15.300  
15 response to ZBA comments: Dear  
16 Chairman Conn and Members of the Zoning  
17 Board of Appeals: As you may recall,  
18 we represent the owner of the parcel  
19 located at 229 Mt. Zion Road in the  
20 Town of Marlborough, comprising of  
21 approximately 18.69 acres within the  
22 Rural Agricultural (R-Ag-1) Zoning  
23 District. During the November 13,  
24 2025, Town of Marlborough Zoning Board  
25 of Appeals meeting, the board had

2 requested the following information  
3 regarding the project site compared to  
4 the Town of Marlborough Ridgeline.

15 Response: The distance from the  
16 proposed house location to the taller  
17 ridge to the north is approximately  
18 eight-tenths plus or minus a mile or  
19 4300 plus or minus linear feet.

2 map, dated September 13, 2024, of the  
3 KARC submission, dated August 28, 2025,  
4 the spot elevations depicted on the map  
5 reflect virgin elevations of the site.

6 Thank you, Patty Brooks.

7 CHAIRMAN CONN: Thank you. Is  
8 there any other comments that we  
9 haven't heard over the last several  
10 public hearings that people would like  
11 to put on the record?

12 MS. HAIDAOUI: I would.

13 CHAIRMAN CONN: Please state your  
14 name and address for the record.

15 MS. HAIDAOUI: Thank you.

16 Patricia Haidaoui, H-A-I-D-A-O-U-I.

17 CHAIRMAN CONN: For the sake of  
18 everyone who wants to speak, if we can  
19 keep all of comments to three minutes.

20 MS. HAIDAOUI: Yes.

21 CHAIRMAN CONN: Thank you.

22 MS. HAIDAOUI: Good evening. I  
23 just want to take this moment to remind  
24 everyone that the matter before this  
25 board should be decided based on the

merits of the application and not the  
merits of the Applicant. For far too  
long, we've heard that it's who you  
know or who you are related to that  
really matters in Marlboro, not the  
rules or the laws. The Town, however,  
has a legal responsibility to treat all  
applicants the same, not showing favor  
to any applicant because of how long  
they lived here, how nice they are,  
their involvement in any particular  
activity or another. In fact, asking  
this board to base their decision on  
any positive attributes of the  
applicant is also asking this board to  
act in a prejudicial and illegal  
manner. I am advocating that this  
board simply follow existing code and  
town laws as they assess the merits of  
the appeal and make the decision  
accordingly. Furthermore, if this  
board is prepared to grant this appeal,  
then they must stand ready to grant all  
further appeals for development above

2 the ridgeline. To do otherwise would  
3 not only be unfair, it may also open  
4 the Town up to even more legal action  
5 and cost the taxpayers even more money.

6 Thank you for your time this evening.

7 CHAIRMAN CONN: Thank you.

8 MR. NIKOLA: Thank you.

9 CHAIRMAN CONN: Anyone else?

10 MS. GLORIE: I would.

11 CHAIRMAN CONN: Yes, ma'am.

12 MS. GLORIE: Good evening. I am

13 MaryEllen Glorie, G-L-O-R-I-E. At a

14 previous meeting, the Applicant's

15 representative submitted that there is

16 no other buildable location on the

18 if a representative for the Town ha

19 determined this claim to be true or

21 that question tonight?

22 CHAIRMAN CONN: NO, Ma'am.

23 MS. GLORIE: Okay. So, I didn't

24 realize until I reviewed the October

2 representative has essentially  
3 suggested that all home construction  
4 proposed below the one absolute highest  
5 point on the ridgeline should be  
6 approved. This suggestion is really  
7 reaching, because it would be absurd to  
8 think that we're affording the  
9 ridgeline any protection at all if  
10 every application is to be judged by a  
11 single point of elevation that may be  
12 several miles away from a location in  
13 question. After all, the ridgeline, I  
14 hope we can all agree, is indeed a  
15 line; any line is made of up many  
16 points, but it is not a single point.  
17 For some final clarity, I'd like to  
18 share two diagrams with you, if you  
19 could pass those down, both of which  
20 show what a small portion of the  
21 Marlborough ridgeline might look like  
22 as viewed from the east. They also  
23 include an excerpt from the Ridgeline  
24 Protection Law, specifically part F,  
25 paragraph 4; the text at the top was

2 edited to exclude a lot of the blah,  
3 blah; but at the bottom is the full  
4 text of that section. The highest  
5 elevation of the ridgeline is  
6 emphasized in red. On the first  
7 diagram, the homes would be permitted,  
8 assuming they comply with the other  
9 requirements of the law, because they  
10 do not extend above the highest  
11 elevation of the ridgeline as viewed  
12 from the east. On the second diagram,  
13 the homes would not be permitted  
14 because they extend above the highest  
15 elevation of the ridgeline, as viewed  
16 from the east. In my humble opinion,  
17 this is and has always been the  
18 intention of the law, and any  
19 interpretation that promotes  
20 applications determinations be made  
21 based on one single point of the  
22 ridgeline elevation is grasping at  
23 straws. So, that is all I have to say  
24 about that. But I would like to add  
25 something based on what was mentioned

2 at one of the last meetings about  
3 posting minutes. So, I recently had a  
4 conversation with someone about how  
5 it's difficult to keep up-to-date with  
6 what's covered at these meetings  
7 because minutes aren't posted on the  
8 Town's website until after the  
9 following month's meeting when the  
10 previous month's minutes are approved.  
11 And I learned from that person  
12 unbeknownst to me and perhaps to you  
13 too that New York State's Open Meetings  
14 Law, Article 7, Section 106, #3 states,  
15 in part, minutes of meetings of all  
16 public bodies shall be available to the  
17 public in accordance with the  
18 provisions of the freedom of  
19 information law within two weeks from  
20 the date of such meetings. News to me.

21 MS. FLYNN: Time.

22 MS. GLORIE: Can I just finish?

23 CHAIRMAN CONN: Yes.

24 MS. GLORIE: Additionally, in  
25 private correspondence with a friend,

2 the New York Department of State  
3 Committee on Open Government said, and  
4 I'm paraphrasing, that although it's a  
5 matter of practice or policy, many  
6 public bodies approve minutes of their  
7 meetings. There is nothing in any law  
8 that they're aware of that requires  
9 that minutes be approved. Further,  
10 they said that minutes prepared and  
11 made available within two weeks may be  
12 marked unapproved or draft so that the  
13 public can generally know what  
14 transpired at a meeting, and at the  
15 same time be notified that the minutes  
16 are subject to change. I submit this  
17 information for your consideration and  
18 hopefully adoption into your best  
19 practices or standard operating  
20 procedure. Please don't shoot the  
21 messenger. Thank you for the  
22 opportunity to speak and for your  
23 attention this evening.

24 CHAIRMAN CONN: Thank you.

25 MR. NIKOLA: Thank you.

2 CHAIRMAN CONN: Anyone else?

3 MS. LANZETTA: Hi. I am Cindy

4 Lanzetta, and I'm a resident of

5 Marlboro, and I am not here speaking on

6 behalf of the planning board in any

7 way. I am here as a resident and a

8 concerned citizen. And I did -- I did

9 go to look for the minutes at the last

10 meeting, which I guess will be up after

11 you approve them. So, the only ones

12 that were available to me were

13 November's meeting minutes. And I was

14 looking at the response from the

15 Applicant's consultants to the request

16 from the zoning board, and I noticed

17 that one of your requests was not

18 listed as something that they supplied.

19 And that was -- there was a discussion,

20 which I also noted with the Applicant's

21 consultant, you were talking about the

22 grading and clearing of the property,

23 and I have noted that the consultant

24 said that they had not received any

25 violations. I did submit earlier on

2                   that that wasn't true, that there had  
3                   been multiple violations to the extent  
4                   that the Town's lawyer actually sent us  
5                   a violation cease and desist order.  
6                   So, there were violations for grading  
7                   and clearing, so that area has been  
8                   significantly changed over the last few  
9                   years, and this was after the fact that  
10                  the Applicant was told that he could  
11                  not do any of this work without permit.  
12                  So, anyway, looking at November's  
13                  minutes, I noticed that the zoning  
14                  board had talked about the difference  
15                  in the topography and had requested  
16                  that a topographic map be prepared that  
17                  included the changes between the  
18                  original site and what had been done  
19                  up-to-date. There was some discussion  
20                  with that about that, that that would  
21                  be difficult. But the consultant said  
22                  that they would submit that for your  
23                  information, and that was not part of  
24                  what was included here. What I do see  
25                  is the surveyor who is using a map that

2                   is recently dated, saying that these --  
3                   the map reflects virgin elevations on  
4                   the site, but I don't know how that is  
5                   possible if this is a map that is just  
6                   recent and doesn't date back to the  
7                   original maps that were done. Besides  
8                   the fact that, you know, engineering  
9                   consultants can look at -- there is  
10                  plenty of photographs of information  
11                  from the past, even Ulster County  
12                  Parcel Viewer has pictures of that site  
13                  that go back to like, you know, 2020,  
14                  and even further back than that. So, I  
15                  really think that the consultants  
16                  should give you the information that  
17                  you requested. Thank you.

18                   CHAIRMAN CONN: Thank you. Anyone  
19                  else?

20                   (No audible response.)

21                   CHAIRMAN CONN: Comments from the  
22                  Applicant.

23                   MS. LIBOLT: Kelly Libolt with  
24                  KARC Planning Consultants representing  
25                  the Santinis. Mr. Nesheiwat is going

2 to do a brief summary because he is the  
3 attorney for the Applicant, and he will  
4 do a brief summary of the application,  
5 just a concise overview. And none of  
6 the information that he is providing is  
7 new so this is just a final overview of  
8 the property.

9 CHAIRMAN CONN: Okay.

10 MR. NESHEIWAT: Good evening,  
11 members of the board. I'd like to  
12 start off by congratulating Mr. Mekeel  
13 on your retirement.

14 MR. MEKEEL: Thank you.

15 MR. NESHEIWAT: Best of luck. My  
16 name is Michael Nesheiwat. I am the  
17 attorney for Steven Santini with  
18 respect to the Santini residence  
19 project at 229 Mt. Zion Road. I'm  
20 going to start off by agreeing with one  
21 of the members of the public, Ms.  
22 Haidaoui. I do agree that we should be  
23 considering the application on the  
24 merits, and that is sort of the entire  
25 purpose of our application. Now, there

2 have been several public hearings  
3 regarding this application, and many  
4 members of the public have expressed  
5 their thoughts, experiences, personal  
6 opinions even. But I think it's  
7 important to remind everyone what the  
8 purpose of the hearing is as it relates  
9 to the Santini residence. And I say  
10 this because when we review the minutes  
11 of the prior meetings, there appears to  
12 be some confusion as to what is and  
13 what is not relevant to this appeal.  
14 And I want to make sure it's clear what  
15 we're doing here. Now, the Town  
16 building inspector, Thomas Corcoran,  
17 denied Mr. Santini's application for a  
18 single-family construction based on one  
19 reason only that was elicited in the  
20 Town engineer's June 10, 2025. And  
21 that reason is, quote, "the potential  
22 site identified on the plans is not in  
23 compliance with the applicable portions  
24 of the Town code, section 155-41.1."  
25 Now, the building inspector's August

2                   12, 2025, letter cites only to section  
3                   155-41.1 subsection (F) (4) of the Town  
4                   code as a basis of denial. And that  
5                   provision of the Town code reads:  
6                   Applicants for construction on  
7                   properties to which this section  
8                   applies shall demonstrate to the Town  
9                   engineer and the Town code enforcement  
10                   officer that no proposed building or  
11                   structure, parenthesis, (inclusive of  
12                   chimneys, vents or other fixtures  
13                   attached to the structure), close  
14                   parenthesis, subject to this section  
15                   shall extend above the highest  
16                   elevation of the Marlborough Ridgeline  
17                   as viewed from the east as determined  
18                   by the Town engineer and the Town code  
19                   enforcement officer. Now, referring  
20                   back to the building inspector's  
21                   August 12th letter, he references the  
22                   Town Engineer's June 10th letter.  
23                   Looking at the Town engineer's June  
24                   10th letter, the provision that he  
25                   cites under subsection F states as

2 follows: The information submitted,  
3 including topographic information from  
4 Controlled Point Associates map  
5 referenced above identifies that a  
6 proposed house is at elevation 1,007.5.  
7 The highest point on the property  
8 identified by spot elevation is  
9 1,012.8, this locates the elevation at  
10 the proposed house 5.3 feet below the  
11 highest point on the subject property.  
12 KARC Planning Consultants' letter  
13 states that a building height is  
14 proposed at 27 feet. Now, the purpose  
15 of this hearing is to determine where  
16 the height is measured, where it's  
17 taken from. The Town has interpreted  
18 the code to mean that the measurements  
19 taken from the highest point of the  
20 property. Our interpretation based on  
21 the clear-cut language of the code as  
22 amended in August of 2024 means that  
23 the measuring is to be taken from the  
24 highest point of the ridgeline, not the  
25 property. Now, Mr. Nikola stated on

2 the record earlier the responses to the  
3 questions that the ZBA asked at the  
4 November 13th meeting. And while we  
5 did provide those responses, I  
6 respectfully claim that these answers  
7 and questions are relevant to the  
8 purpose of this application. Now, Mr.  
9 Santini's appeal of the code  
10 application focuses only on 155-41.1  
11 subsection (F) (4), specifically, does  
12 Mr. Santini's proposed structure,  
13 quote, "extend above the highest  
14 elevation of the Marlborough ridgeline,  
15 as viewed from the east as determined  
16 by the Town engineer and the Town code  
17 enforcement officer." That is the  
18 appeal. What this appeal does not  
19 concern is the disturbance of tree  
20 lines, tree clearance, location of the  
21 proposed driveway, grading, work done  
22 without permit, unrelated proposed  
23 residential or commercial projects;  
24 nor does it concern personal opinions.  
25 Several comments from the last few

2 hearings have focused on those very  
3 concerns, but none of them were  
4 mentioned in the Building Inspector's  
5 rejection letter from August 2025. The  
6 only basis for the denial of the  
7 Santini project under the Building  
8 Inspector's letter is solely under the  
9 interpretation of Town code section  
10 155-41.1 subsection (F) (4). Now,  
11 before the board, you have a red line  
12 of the Town code prior to its  
13 amendment, and I think it's important  
14 to understand how the code was amended,  
15 what was stricken, what was added  
16 because every strike, every addition,  
17 there is specific intent. August 26,  
18 2024, was when was Town code was  
19 amended. Prior to the amendment, the  
20 code read, applicants with construction  
21 owned properties to which this section  
22 applies shall demonstrate to the  
23 reviewing board or Town engineer as the  
24 case may be that the proposed building  
25 or structure will not extend above the

2 predominant tree line. No structure  
3 that is the subject of this section  
4 shall be located closer than 50 feet in  
5 elevation to the ridgeline affected by  
6 the application as determined by the  
7 Town engineer. Now, the amendment of  
8 that provision makes clear what was  
9 stricken, what was added. The prior  
10 provision specified that height to be  
11 taken from the property from the  
12 predominant tree line. The revision  
13 which struck that language and  
14 specifically included that it shall not  
15 extend of the highest elevation,  
16 singular, of the Marlboro ridgeline.  
17 That is the issue that we have before  
18 the board today. Now, referencing the  
19 project, we know that the residence  
20 base elevation is 1,007.5 feet. We  
21 know that the building height is  
22 proposed at 27 feet, which brings the  
23 maximum elevation to 1,034.5 feet. We  
24 also know that the highest point of the  
25 ridgeline is 1,100 feet. That brings

2 the proposed residence 65 and a half  
3 feet below the highest point of the  
4 ridgeline. I know there have been some  
5 concerns about the interpretation of  
6 the zoning code and whether or not  
7 there is any sort of ambiguity. But  
8 the law is clear, any zoning code  
9 ambiguity must be construed in favor of  
10 the property owner, in favor of the  
11 Applicant and against the municipality  
12 seeking to enforce that code. To the  
13 extent that the August 2024 revision of  
14 the code is ambiguous, it must be  
15 construed in Mr. Santini's favor. And  
16 just to recite a few excerpts from case  
17 law: A zoning ordinance must be  
18 strictly construed in favor of the  
19 property owner, and against the  
20 municipality which adopted and seeks to  
21 enforce it. Zoning ordinances are in  
22 derogation of the common law and thus  
23 must be strictly construed in favor of  
24 the owner whose land is being  
25 regulated. Any ambiguities, any zoning

2 ordinance must be resolved in favor of  
3 the property owner. Since zoning  
4 restrictions are derogation of the  
5 common law, they are strictly construed  
6 against the regulating municipality.

7 Now, we have a letter from Day/Stokosa  
8 Engineering from January 28, 2025,  
9 where engineer Mark Day provided his  
10 expert analysis after reviewing the  
11 Santini project to determine where the  
12 most suitable location on the property  
13 is for a single-family residence. Mr.  
14 Day's findings are as follows: Of the  
15 18.69 acres at 229 Mt. Zion Road, only  
16 6.45 of those acres have a slope  
17 between 0 and 15 percent. There is a  
18 large federal wetland in the flat area  
19 on the east side of the lot. The  
20 control of surface water is a concern  
21 for residence constructed near Mt. Zion  
22 Road for the entrance of 229 Mt. Zion.  
23 Mr. Corcoran's September 20, 2023,  
24 letter admits that the proposed  
25 location for the residence is, quote,

2 an acceptable area for a new home  
3 construction, and the only suitable  
4 location for a residence construction  
5 is on the west side of the lot where  
6 the proposed house has been shown.  
7 Those are the findings of a  
8 professional engineer. Now, the Town  
9 inspector and Town engineer have taken  
10 a position that Town code section  
11 155-41.1 subsection (F) (4) does not  
12 permit the proposed location of the  
13 Santini structure. However, Engineer  
14 Mark Day does include that that  
15 particular location is the only viable  
16 location for the home. Now, under  
17 these circumstances, if we were to  
18 enforce the code as interpreted by the  
19 Town, not only would the private  
20 property of any reasonable use deprive  
21 Mr. Santini of the economic viability  
22 of his property, but it would also  
23 constitute an unconstitutional  
24 regulatory taking. And the law is  
25 clear on what the taking is. A zoning

2 law effects a regulatory taking if  
3 either, one, the ordinance does not  
4 substantially advance legitimate state  
5 interests or, two, the ordinance denies  
6 an owner economically viable use of his  
7 land. But we have no comment on the  
8 first part of that statement. It is  
9 certainly true that if we were to  
10 enforce the code as interpreted by the  
11 Town that Mr. Santini would absolutely  
12 be denied the economic value of his  
13 land. Now, the Town code does also  
14 include a provision that speaks on the  
15 inspector's revision. Inspector's  
16 revision states that the proposed  
17 location of the Santini structure does  
18 not comply with the Town code. However  
19 subsection -- section 155-41.1  
20 subsection (F) (4) (A) states, if in the  
21 Town engineer's opinion such  
22 requirements would render an existing  
23 lot unbuildable, the Town engineer may  
24 recommend the issuance of and the  
25 building department may issue a

2 construction permit for an existing lot  
3 of record, which does not meet the  
4 requirements of the section upon his  
5 determination that no suitable  
6 conforming location is available. We  
7 have provided the engineer's report,  
8 Mark Day, that there is no other  
9 suitable location of -- for the Santini  
10 residence, other than where it's  
11 proposed currently. Now, the Town is  
12 not -- we don't believe the Town has  
13 implemented this amendment to  
14 constitute a taking. Prior to the  
15 amendment, the Town has actually issued  
16 as least 11 permits on the ridgeline  
17 for single-family construction. Some  
18 of those permits are, or actually I  
19 would like to say about, at least five  
20 permits are on Mt. Zion Road; 360 Mt.  
21 Zion Road, 198 Mt. Zion Road, 192 Mt.  
22 Zion Road, 200 Mt. Zion Road, 180 Mt.  
23 Zion Road. Why these were issued prior  
24 to the amendment, the prior virtue of  
25 the Town code was more restrictive in

2 where the measurement was to be taken  
3 from the property. Whereas the  
4 amendment, after August 26, 2024, makes  
5 clear that the measurements to be taken  
6 from the highest elevation, singular of  
7 the ridgeline, permits were granted  
8 prior to the amendment. Mr. Santini's  
9 permit should be granted now. Now, Mr.  
10 Santini is following the Town code.  
11 This addresses the case of having to  
12 look at the application on the merits  
13 rather than the individual. That is  
14 exactly what we're doing here. The  
15 code was amended to take the  
16 measurements from, and I quote, "the  
17 highest elevation singular of the  
18 Marlboro ridgeline." I understand Ms.  
19 Glorie came up and mentioned that there  
20 are several points to the ridgeline,  
21 but that is not what the provision  
22 states, that is not what the code  
23 states. The code states in the  
24 singular, it is to be taken from the  
25 highest elevation, not elevations. Mr.

2 Santini has demonstrated that his  
3 proposed structure would be  
4 1,034.5 feet, which is 65 and a half  
5 feet below the highest point -- the  
6 highest elevation of the ridgeline. I  
7 just want to remind the public, the  
8 board, everyone respectfully that this  
9 appeal focuses only on that  
10 interpretation. It has nothing to do  
11 with tree lines, grading, work without  
12 a permit, other structures. That is  
13 all completely irrelevant. What's  
14 relevant here is where is the  
15 measurement to be taken from. The code  
16 as amended makes clear that it's taken  
17 from the highest elevation of the  
18 Marlboro ridgeline. We have  
19 demonstrated that the proposed  
20 structure is well below the highest  
21 elevation of the proposed ridgeline.  
22 So we respectfully ask that the board  
23 consider the application on the merits  
24 reviewing the code as written, construe  
25 any ambiguities in favor of Mr. Santini

2 as required by law, and grant the  
3 application. And we also respectfully  
4 request that the public hearing be  
5 closed after tonight, as there is no  
6 new information provided. Thank you.

7 CHAIRMAN CONN: Thank you. Anyone  
8 else like to say anything?

9 MR. GLORIE: I've got to say  
10 something. I don't like to speak at  
11 these events, but I've got to say  
12 something. Doug Glorie, G-L-O-R-I-E,  
13 82 Reservoir Road. The law, the last  
14 rendition of the code when it all comes  
15 down to this key word is, "as viewed  
16 from the east." This gentleman is  
17 saying the Santini application is at  
18 1,007 feet. He is looking to the north  
19 of the highest elevation on the  
20 ridgeline 20 miles north of the  
21 application, and it's below the  
22 requirements. The whole thing is that  
23 we're missing the law -- if I'm wrong,  
24 correct me -- but it says that the  
25 application, the site needs to be as

2 viewed from the east, not from the  
3 south. That's one point I wanted to  
4 make.

5 CHAIRMAN CONN: Okay, thank you.

6 MR. BARTOLOTTI: Thank you.

7 CHAIRMAN CONN: Anyone else?

8 (No audible response.)

9 CHAIRMAN CONN: I ask for a motion  
10 to close the public hearing.

11 MR. BARTOLOTTI: I make a motion  
12 to close the public hearing.

13 MR. MEKEEL: I will second that.

14 CHAIRMAN CONN: All in favor?

15 MR. BARTOLOTTI: Aye.

16 MR. NIKOLA: Aye.

17 MR. MEKEEL: Aye.

18 MR. CRACOLICI: Aye.

19 CHAIRMAN CONN: Aye.

20 MS. ANDERSON: Lenny, can I  
21 approach?

22 CHAIRMAN CONN: Yes, ma'am. I  
23 appreciate everybody for their time in  
24 the last meetings. This one was  
25 difficult for all of us. There was

2 many discussions. I have a few  
3 comments from the chair. I have a  
4 resolution, which I have asked special  
5 counsel to draft, which I would like to  
6 ask for a motion on later. Members  
7 received a copy of the draft late last  
8 night, and copies will be made  
9 available to everyone after the  
10 meeting. ZBA members will have the  
11 opportunity to speak during the  
12 discussion if they so wish after the  
13 motion has been introduced. Before I  
14 do that, I would like to say a few  
15 things. This appeal is not the request  
16 for a variance where the ZBA would  
17 balance several factors to weigh the  
18 benefit to the Applicant against the  
19 detriment to the health, safety, and  
20 welfare of the neighborhood or  
21 community by such grant. Instead, it  
22 is the challenge of a denial of a  
23 building permit based on the  
24 interpretation of the zoning law.  
25 ZBA's role when interpreting zoning

2 law, both according to the Town zoning  
3 and New York Town Law is to put itself  
4 in the place of the Code Enforcement  
5 Officer and make the interpretation, a  
6 determination that it believes should  
7 have been made. It is not the ZBA's  
8 role to determine the merits of the  
9 law. Therefore, there may be ZBA  
10 members who do not agree with the law  
11 but would not have voted for it if they  
12 were on the Town board. While there  
13 may be others who would have voted for  
14 it, but that is not relevant to the  
15 ZBA's job. Furthermore, some members  
16 of the ZBA have expressed concerns and  
17 asked during public hearings about what  
18 we viewed on the site as far as work  
19 that has already been taking place at  
20 the site and whether that is in  
21 compliance with the zoning law. This  
22 also is not relevant to our decision  
23 either. The ZBA's role is to review  
24 zoning law, and all of the facts,  
25 comments, and arguments before it, and

2 render its own interpretation of the  
3 law and determination as to the appeal.  
4 That is what we have done in this case.  
5 Conclusion: The Zoning Board of  
6 Appeals finds that interpreting "the  
7 highest elevation of the Marlborough  
8 ridgeline as viewed from the east" in  
9 reference to the highest peak across  
10 the entire six plus or minus miles of  
11 the ridgeline, as suggested by the  
12 Applicant, would contradict the  
13 legislative purpose, undermine  
14 ridgeline protection, nullify the  
15 siting and visibility provisions, and  
16 lead to unreasonable and unintended  
17 results.

18 Accordingly, the Zoning Board of  
19 Appeals interprets "the highest  
20 elevation of the Marlborough ridgeline  
21 as viewed from the east" in section  
22 155-41.1, paragraph F4, to mean the  
23 highest elevation of the mapped  
24 ridgeline segment located within the  
25 boundaries of the parcel on which an

2                   Applicant seeks to construct a  
3                   structure, as shown on the Town's  
4                   official Ridgeline Protection Map,  
5                   Exhibit C. It does not refer to the  
6                   highest point of the entire Marlborough  
7                   ridge system.

8                   This interpretation is consistent  
9                   with the statutory definition of  
10                  Ridgeline, harmonizes all provisions of  
11                  section 155-41.1, reflects the  
12                  legislative intent, and avoids  
13                  interpretations that would undermine  
14                  155-41.1 while still allowing for  
15                  reasonable development of parcels  
16                  located in the ridgeline protection  
17                  area.

18                  Based on this interpretation, the  
19                  Zoning Board of Appeals determines that  
20                  proposed structure at 229 Mount Zion  
21                  Road must be evaluated against the  
22                  highest point of the ridgeline  
23                  elevation with the boundaries of the  
24                  Applicant's property. Under this  
25                  standard, the proposed structure would

2 extend above the highest elevation of  
3 the Marlborough ridgeline within the  
4 boundaries of the property, and does  
5 not comply with 155-41.1.

6 MS. ANDERSON: (F) 4.

7 CHAIRMAN CONN: 155-41.1(F) (4),  
8 yes. I would ask for a motion on that  
9 resolution.

10 MR. BARTOLOTTI: I make a motion  
11 on the resolution.

12 CHAIRMAN CONN: Second?

13 MR. NIKOLA: Second.

14 CHAIRMAN CONN: All in favor?

15 MR. BARTOLOTTI: Aye.

16 MR. NIKOLA: Aye.

17 MR. MEKEEL: Aye.

18 MR. CRACOLICI: Aye.

19 CHAIRMAN CONN: Aye.

20 MS. ANDERSON: Before you have  
21 your discussion, as I was sitting here,  
22 I realize, I know you've got your final  
23 copy, you got a copy just this morning  
24 and a final copy tonight, there is  
25 several places where it refers to

2 subdivision (F) rather than (F) (4) .  
3 So, I had given the chairman a  
4 handwritten copy that will replace at  
5 point 1, 11, 12, 14, 15, 18, instead of  
6 saying 155-41.1(F) it will say (4) .  
7 Same thing on the middle of page 4, the  
8 top of page 5. And those are those  
9 changes. Then on page 8, the paragraph  
10 that says, "accordingly the zoning  
11 board", so the way the chairman read it  
12 is actually how it would read. It  
13 would take out the (C) after (F) (4) .  
14 And the last line before the, "be it  
15 further resolved," would end at the  
16 (F) (4) removing the sub A and  
17 subsection 155-41.1(F) (5) . So, you can  
18 discuss. But before you vote, we're  
19 going to have a motion to amend it to  
20 read with those changes, and I have  
21 another copy for you guys to look at.  
22 You guys can go ahead and discuss it.  
23 CHAIRMAN CONN: Everyone is good?  
24 MS. ANDERSON: So, I need -- so  
25 what you would need is a motion to

2 amend the resolution.

3 MR. MEKEEL: I will make a motion  
4 that we amend the resolution --

5 MS. ANDERSON: To contain the  
6 changes that I stated --

7 MR. MEKEEL: Yes.

8 MS. ANDERSON: That the attorney  
9 stated.

10 MR. CRACOLICI: Second.

11 CHAIRMAN CONN: All in favor?

12 MR. BARTOLOTTI: Aye.

13 MR. NIKOLA: Aye.

14 MR. MEKEEL: Aye.

15 MR. CRACOLICI: Aye.

16 CHAIRMAN CONN: Aye. So, be it  
17 resolved, based on the foregoing  
18 reasoning, the Zoning Board of Appeals  
19 hereby confirm the CEO's determination,  
20 and the secretary will file a copy of  
21 this resolution and determination with  
22 the Town clerk within five days. I  
23 also would like to put out there a  
24 letter that we have for the Town board,  
25 just reading it for the record.

2 MR. BARTOLOTTI: Letter to the  
3 Town board: Dear Supervisor Corcoran  
4 and Members of the Town Board: The  
5 Town of Marlborough Zoning Board of  
6 Appeals (ZBA), was recently asked to  
7 interpret Section 155.41.1(F) of the  
8 Town's zoning law in the context of an  
9 appeal from the denial of the building  
10 permit by the Town's code enforcement  
11 officer. The ZBA rendered its  
12 interpretation on January 8, 2026, and  
13 a copy of that resolution is enclosed  
14 for your information. The ZBA believes  
15 its interpretation gives effect to the  
16 Town board's legislative intent when it  
17 adopted the recent amendments to  
18 section 155.41.1 and 155.4.1.(F), in  
19 particular. However, the Applicant had  
20 proposed a different interpretation.  
21 We want to bring this issue to your  
22 attention so that you can consider  
23 whatever amendments to the language is  
24 needed.

25 CHAIRMAN CONN. Thank you.

2                   MS. ANDERSON: So, now you need a  
3                   motion to authorize, Jen, the secretary  
4                   and in combination with the chairman to  
5                   finalize a letter substantially in that  
6                   form to send to the Town board.

7                   CHAIRMAN CONN: Understand?

8                   MS. ANDERSON: I would make a  
9                   motion.

10                  MR. BARTOLOTTI: I will make a  
11                  motion.

12                  CHAIRMAN CONN: Second?

13                  MR. NIKOLA: Second.

14                  CHAIRMAN CONN: All in favor?

15                  MR. BARTOLOTTI: Aye.

16                  MR. NIKOLA: Aye.

17                  MR. MEKEEL: Aye.

18                  MR. CRACOLICI: Aye.

19                  CHAIRMAN CONN: Aye. Before we  
20                  adjourn, Larry has a certificate he  
21                  want to read for the record.

22                  MR. BARTOLOTTI: I've got a  
23                  certificate of completion from November  
24                  6, 2025, that I attended a  
25                  four-and-a-half-hour conference and

2 seminar, Climate, Action, Planning  
3 event for Hudson Valley Regional  
4 Counsel. That will take care of my  
5 training for 2025.

6 CHAIRMAN CONN: Anything else?

7 MR. BARTOLOTTI: That's it.

8 CHAIRMAN CONN: Obviously, Mr.  
9 Mekeel is retiring. I have asked  
10 Andrew if he would be the deputy chair  
11 in my absence, and he has agreed. So,  
12 I just want to have that on the record.  
13 And I spoke to Mr. Corcoran about that  
14 also.

15 MS. FLYNN: Congratulations.

16 CHAIRMAN CONN: Anything else?

17 MR. NIKOLA: Motion to adjourn.

18 MR. MEKEEL: I will second that.

19 CHAIRMAN CONN: All in favor?

20 MR. BARTOLOTTI: Aye.

21 MR. NIKOLA: Aye.

22 MR. MEKEEL: Aye.

23 MR. CRACOLICI: Aye.

24 CHAIRMAN CONN: Aye.

25 (Whereupon, at 6:56 P.M., the

2                   Hearing was adjourned.)

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2 C E R T I F I C A T E

3

4 STATE OF NEW YORK )  
5 COUNTY OF ULMSTER ) : SS.:

6

7 I, LISA M. ROSSO, a Notary Public for  
8 and within the State of New York, do hereby  
9 certify:

10 That the witness whose examination is  
11 hereinbefore set forth was duly sworn and  
12 that such examination is a true record of  
13 the testimony given by that witness.

14 I further certify that I am not related  
15 to any of the parties to this action by  
16 blood or by marriage and that I am in no way  
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto set  
19 my hand this 14th day of January 2026.

20

21

22

23

24

25

hsdm no 50

LISA M. ROSSO

23

24

25