

PUBLIC HEARING
A LOCAL LAW OF THE TOWN OF MARLBOROUGH, ULSTER COUNTY, NEW YORK,
AMENDING CHAPTER 155 “ZONING” ARTICLE IX “ADMINISTRATION AND
ENFORCEMENT” SECTION 155-41.1 “RIDGELINE AND STEEP SLOPE PROTECTION” OF THE
MARLBOROUGH TOWN CODE.
21 MILTON TURNPIKE, MILTON NY
FEBRUARY 26, 2024 7:00 PM
MINUTES OF PUBLIC HEARING

Present: Supervisor Corcoran
Councilman Zambito
Councilwoman Sessa
Councilman Cauchi

Danielle Cherubini, Deputy Town Clerk

Also Present: Mici Simonofksy, CAC Chair
Cindy Lanzetta, Resident
Larry Bassen, Frozen Ridge Road
Amy Hepworth, Resident Farmer

Absent: Councilman Molinelli

Supervisor Corcoran opened the public hearing for comments.

Supervisor Corcoran read the following correspondence:

A letter from an anonymous resident addressing the Planning Board and Town Board stating their opinion that someone may think building on the ridge is an eyesore but they think some fencing that farmers have are more of an eyesore. If an owner of property has the means, they should be able to build on the ridge.

A letter from Walter Kronner, resident whose letter was included in the minutes of the public hearing on February 12th.

A letter from Michelle Marcus, resident who stated she read the comments from the previous public hearing, reviewed the CAC presentation and read pros and cons on Facebook. In the letter, she stated that she opposes the proposed ridgeline law and agrees with the CAC. She explained her opinion on how the environmental impact and viewshed could affect herself and others in the area.

Mici Simonofsky, CAC Chair, read the following comments and shared them with the clerk which are incorporated into the minutes as follows:

Conservation Advisory Committee

Comments to the Board

February 26, 2024

Re: Proposed Amendment to Town Code Section 155-41.1 (F)(40)

To the Town Board:

Tonight's proposed amendment is the exact same wording as the amendment previously proposed. If that remains the case, our recommendations would continue to be those as stated in our written report and comments to the Board submitted on February 12, 2024.

But, after hearing many public comments and explanations, our present code adequately protects the Ridgeline as intended and perhaps it could remain in place as is. A complete reading of Code 155-41 gives a full explanation of its purpose. It actually gives a dual protection to the ridgeline by citing that a structure cannot extend higher than the tree line, as well as prohibiting a structure from being closer than 50 feet in elevation to the ridgeline. Perhaps the code was written in this fashion to take into account all 7.5+ miles of the Marlborough Ridgeline and protect it by anticipating that any possible alteration to it could create an environmental impact. Chapter 155-41(F)(5) of the code reiterates the law and the intention of the chapter. Treeline and ridgeline do not sound confusing when read in the totality of 155-41.

Also, I looked up the definitions of tree line and ridgeline to clear up any of my own confusions. A treeline, or its synonym timberline per Webster's dictionary, is the upper limit of arboreal (tree) growth in mountains or high altitudes. The definition says nothing about the top of the trees making a line on the horizon, but it refers to terra firma or the ground level on which a tree can grow. A ridgeline is that line or series of high points along the crest of a mountain range, also ground level. Understanding that, then our code is quite correct and understandable. **The ridgeline and the treeline of the Marlborough Mountains are one and the same.** A treeline is different in the Rocky Mountains, for example where high elevations don't support tree growth.

I would emphasize that eliminating the 50-foot protection eliminates all protection of the Ridgeline and is totally opposite of the intent of the 2002 Comprehensive Master Plan, as well as its subsequent updates in 2017 and 2022. The Master Plan is the document that must be followed for all zoning, code, and enforcement standards. That is why it is so important to make sure any change supports the intent to protect the Town's economic, environmental, and public welfare. The Plan takes into consideration the overall good of ALL of our residents.

At the Public Hearing on February 12 the Supervisor said the Board would be looking at new

wording to improve and give clarity to the present code. Obviously, introduction of the exact wording doesn't mirror your intentions.

If the Board decides to proceed with enhancing our code, then the CAC stands by our recommendations:

- *In regard to the Ridgeline Protection Code, the Board should discard the present amendment as worded and create an improved, non-ambiguous code with the guidance of our Town Engineer, Town Attorney(s), and qualified professionals.*
- *The wording should follow the intent of the Comprehensive Master Plan.*
- *The code should include clear definitions for ridgeline, treeline, structure, buffers, and point of measurement.*
- *Qualifying and/or quantifying language for enforcement standards should be included.*
- *Consider neighboring communities' ridgeline protection laws for specificity and language within our own code.*

I request that our comments be included in the minutes of the Public Hearing.

Respectfully submitted,

Mici Simonofsky, Chair Pro tem

Town of Marlborough Conservation Advisory Committee

Cindy Lanzetta, resident, read the following comments and shared them with the clerk which are incorporated into the minutes as follows:

Comment on Proposed Changes to Ridgeline Protection Law 2/26/24

I have been going back through all the video's, reports, and documentation regarding the proposed changes to the Ridgeline Protection Law and I am still struggling to make any sense of this.

For 19 years the existing law has been in place.

As our Town Engineer, Pat Hines, stated at the Town meeting on the 12th of February - the present law was enacted to relieve development pressures on the Marlboro Mountains.

The law was supported by the Town's Comprehensive Plan that called for a conservation overlay district "to better protect ridgelines & viewsheds" - that "any new construction should occur below the tops of ridges".

At the hearing on February 12th, when questioned about perceived ambiguities in the law, the Town Engineer made it clear that the code needed to be read in its entirety to properly understand it. It would appear the Town Engineer has no problem enforcing the present Code.

When the question was asked as to why the Town Board had proposed making changes at **this** moment in time, the response, from multiple Board members, was that it was because of one particular applicant who wanted to build a residence that was not in compliance with the current law.

Board members brought up that a consultant, who is the surveyor for the applicant who wanted to build in the contested area, did not agree with the Town Engineer's interpretation of the code -**the very law that the Town Engineer helped draft and has been in force all these years.**

So - because an applicant and their consultant don't agree with a law we are looking to **change** the law? And the change suggested would be to make it **easier** to build on the ridgeline?

The present code maintains that it is the express purpose of this section to provide special qualitative and quantitative development controls for all lands located within the Ridgeline Protection Overlay Zone that will protect the health, safety and welfare of the citizens of the Town and is consistent with the Town of Marlborough Comprehensive Plan.

The present code has done that for 19 years and I am still questioning the need to change that.

Cindy Lanzetta

Councilman Cauchi asked Ms. Lanzetta if this is the first Planning Board applicant in 19 years since the law was implemented.

Ms. Lanzetta replied that to her knowledge and since she has been on the Planning Board this is the first time someone has wanted to build on top of the ridgeline.

Councilwoman Sessa questioned if the house with the windmill built in 2005 went to the Planning Board.

Ms. Lanzetta explained that it didn't go before the Planning Board; it was probably a pre-approved lot.

Larry Bassen, Frozen Ridge Road, explained how he moved here 6+ years ago and he and his family love this town and stated the multiple ways they are involved in the community. He stated that removing the restriction in the code will open the door for more development. He read an article in the Times Herald Record stating that the code change could give new life to a resort that was proposed in the past. He stated that the traffic on Route 9W could be a problem. The change wouldn't directly affect him; he stated his opinion that the town should have a referendum to get a consensus from the whole town.

Supervisor Corcoran stated that he has been getting calls from many people from both sides. He explained that this isn't being rushed and the Board is taking the time to listen to all comments and not making any decisions yet. When the Board makes the change, it will likely be a compromise and both sides will not be happy. He also explained that the Board is elected to make these decisions; codes aren't changed by referendum. The Board still wants to keep the small town feel; but they want to expand within reason to help with taxes, tourism and farming. He thanked Mr. Bassen for being involved in the community.

Amy Hepworth explained that she appreciates the Board keeping in mind the agricultural community and protecting their crops. She stated that she feels that this decision is in good hands and asked that they keep in mind the environmental concerns.

Councilman Cauchi made a motion to close the public hearing on ridgeline and steep slope protection at 7:47 p.m. Motion seconded by Councilwoman Sessa.

Yeas: 4 Nays: 0 Carried

Supervisor Corcoran added quickly that they will re-introduce the code and have another public hearing. There is a meeting with professionals in mid-March to come up with the proper wording. They may add wording for tree shading and color of housing. He thanked everyone for all of their input.

*Respectfully submitted,
Danielle Cherubini
Deputy Town Clerk*