

## **APPROVED**

A Public Hearing before the Zoning Board of Appeals of the Town of Williamson was held on November 19, 2009, in the Assessor's Office at 8:00 P.M.

The following members were:

Present: Jay Peters, Chairman  
Leigh Furnal  
Ernie Norton  
Kurt Allman

Absent: Bruce Akins

Also in attendance: Mary Connors, Walter Gilges, Thomas Watson, Thomas Erickson, Bob Hopkins, Dyane Callahan, Carol Hopkins, Daniel Connors, Esq., Lorelei Burcroff, Pete Ferrera of Key Modular Homes, Vin and Holly O'Brien, Gary and Charlotte Buehler, Brian and Gail McCarthy, Sue-Jane Evans, Dorothy Howland, Carol Fritz, Tom Watson, Jim and Georgia Snyder, Steve Dunn, Cynthia Dougherty, Ken Adriaansen, Wayne VanderByl, Esq., Chip Stevens, Bill and Pam Lergner, John D'Amanda, Esq., Kathy D'Amanda, Cheryl Gravelle, Rebecca Reinhardt, Carol Heitmann, Mike Herbert, Stephen C. Haywood, Assessor/Zoning Officer, Arthur Williams, Esq.

The minutes of the October 22, 2009, meeting were submitted for approval. A motion was made by Kurt Allman and seconded by Ernie Norton to approve the minutes as submitted. Motion carried.

### **Agenda Items:**

Appeal No. 765: Mary Connors, 4145 Lake Road, Williamson, NY 14589. A request for approval to re-locate a pre-existing, non-conforming use and/or structure (residential use) in a C-1 (Hamlet Commercial) zone, destroyed by fire at property located at 4145 Lake Road, Williamson. Zoned C-1.

Dan Connors, Esq. son of Mary Connors, addressed the Board and explained that his mother wishes to rebuild her home, which was destroyed by fire a few months ago. He explained that his mother is 82 years old and has health issues, she wishes to replace her home with a ranch-style home. He presented photos of the proposed house to the Board for their review. The Board reviewed the site plan showing the location of the old structure and the location of the proposed new structure. Mr. Connors indicated that the location of the new home will be moved more towards the center of the property.

Steve Haywood explained to the Board that a complaint had been filed because the new home will not be built on the same exact footprint as per town code. Mr. Haywood explained that Mrs. Connor's old home was located in a C-1 zone making it a pre-existing, non-conforming use. Mr. Haywood presented the Board with information comparing the footprint of the old house with the proposed new house. The old structures encompassed

1,655 square feet of the lot, and the proposed new structure would take up 2,016 square feet of the lot.

Walter Gilges and Steve Dunn addressed the Board and questioned whether the new structure increased the degree of non-conformity and/or constituted a change of use. Mr. Williams, Esq., attorney for the Town addressed their questions in regard to Mrs. Connors not changing the use of the parcel.

John D'Amada, Esq. addressed the Board. He questioned whether the property was 75 percent destroyed and whether the new house was going to be rebuilt within the exact footprint. Mr. D'Amada read zoning case law. Mr. Williams pointed out that although the new structure was going to be larger than the original structure, the new location will make it more conforming with zoning. Mr. Haywood also informed the Board that with the current assessment, the house and improvements are valued at \$60,600. The total loss would have to be more than \$45,450 (75%) which, repairs and/or reconstruction would be more than that amount. Mrs. Connors' insurance company deemed the structure(s) a total loss.

Discussion ensued.

Cheryl Gravelle spoke in support of Mrs. Connor's rebuild.

Mr. D'Amada feels that since this property is in a C-1 zone, he feels a commercial structure should be built in its place.

Dan Connors spoke and said he feels that the D'Amada's complaint is based on the fact that Mrs. Connors wishes to build a modular home, and not the fact that they wish it to be a commercial building.

Discussion ensued.

Chairman Peters closed the public hearing. A motion was made and seconded for discussion by the Board. Discussion ensued.

Ernie Norton motioned to grant Appeal No. 765 as submitted. Kurt Allman seconded the motion, with the following facts and findings:

1. That the total square footage of living space be no more than the square footage as shown on notes submitted by Assessor/Zoning Officer, Stephen Haywood, and site plan submitted by Kocher Surveying, designated as Project No. N09-122 dated November 3, 2009, (Said notes of zoning officer and site plan by, are made part of these minutes).
2. It was determined that the structure was more than 75 percent destroyed as determined by the Town Assessor and the applicant's insurance company. Section 178.32.
3. The new structure is not increasing the degree of non-conformity. Section 178.33

4. The increase in square footage of the new footprint from the original footprint is de minimis.
5. If the same modular home were to be built on the subject lot and utilized as a commercial use, zoning approval would not be required.
6. Hardship alleged by the applicant applies only to this property and is not self-created.
7. Reconstruction of the single-family residence will not alter the character of the neighborhood.
8. The request to relocate the single-family home on the parcel is not substantial.
9. Per NYSEQRA guidelines, it was determined this is a Type II action. Therefore, no further SEQR action is required
10. This was a pre-existing non-conforming use and will remain as such.

Upon roll call vote, all voted in favor of the motion.

There being no further business, Leigh Furnal made a motion to adjourn the meeting at 9:30 p.m. Ernie Norton seconded the motion.

Respectfully submitted,

Paula Dathyn  
Secretary  
Zoning Board of Appeals