

Present: Chairman Murphy, Vice-Chair Ray Deleo, Mr. Evans, Mr. Weyenberg. (Ms. Higgins and Ms. Manchester were absent). Staff: Ken Shupe, Code Enforcement Officer and Caroline Segalla, ZBA Clerk.	
Call to Order – Mr. Murphy – Chair	7:06 p.m.
Mr. Murphy advises public that Item #3 has been tabled for the next meeting due to abutters' notices not being sent out in time.	
ITEM 1: Misc. Appeal Nancy Frisco, 4 Graham Street, Map#302, Block#2, Lot#9, in the BRD Zone, requests a reduction of the right side yard setback from the required 15'0" to 10'0" in order to construct a 6'6"W x 10'0"L x 16'0"H residential kitchen.	ITEM #1
<p>Nancy Frisco, resident of 4 Graham and her contractor Peter Fornier, explains the permit process they underwent finally receiving a permit on 02/22/06 followed with Building Inspector signing off on excavation and foundation work; CEO later issued a stop work order because the structure was encroaching on the side yard set back; Work left includes roofing and the side area.</p> <p>Ms. Frisco says survey sticks were set in place prior to dig safe to outline the property's boundaries.</p> <p>Mr. Fornier says he contacted Code to check the expiration date of the 02/22/06 permit and was reassured it was still current; Permit he wrote was submitted by Ms. Frisco and included the plot plan.</p> <p>Mr. Fornier explains that existing 12ft4 was removed to make the extension.</p> <p>Mr. Murphy asks contractor to confirm measurement.</p> <p>Mr. Fornier responds the original structure was 12'4" where door is; It was 6'6" in width but proposed addition will add another 10'0"; The 12'4" section was falling off the house so whole structure is to be 22'0 x 6'6" instead.</p> <p>Ms. Frisco adds this is four inches less.</p> <p>Mr. Murphy asks if applicant requested to "replace" or "increase size" on the permit.</p> <p>Ms. Frisco says she wanted to increase size to accommodate her & her mom when they settle in OOB permanently.</p> <p>Mr. Evans asks if building permit states the exact dimensions.</p> <p>Mr. Fornier replies the 6'6"W x 10ftL was the addition since the older section was removed due to rot so this part would be considered "demo" or "alteration".</p> <p>Mr. Weyenberg asks CEO if Code office was confused on whether applicant was replacing or adding a new structure.</p> <p>Mr. Shupe replies application clearly states building with existing porch measuring 6'6"x10' and permit states no expansion of the footprint.</p> <p>Mr. Fornier reads original permit and adds he understood there was to be no expansion but thought "same size" verbiage only pertained to the shed.</p> <p>Ms. Frisco adds that Mr. Borg saw interior and exterior of house at site visit.</p> <p><i>Board reviews the legible permit copy</i></p> <p>Ms. Frisco says shed is for outside storage and is located on other side, not part of kitchen.</p> <p>Mr. Murphy reads off building permit and agrees it can be interpreted as applicant being permitted to extend the side of the kitchen and replace the shed with one of similar size; the application itself reads "also replace a rotted shed of same size-no expansion of footprint" so it appears to refer to the shed since the "addition or alteration" option is marked off.</p> <p>Mr. Shupe says Mr. Borg confirmed remarks were intended, "no expansion" referring to the entire project; the kitchen expansion was going to extend unto the porch and not be an addition unto the house since Alan was aware that would require a variance.</p> <p>Mr. Fornier confirms the plot plan shows the existing and additional square footage.</p> <p>Mr. Shupe says plot plan was not submitted.</p> <p>Mr. Deleo asks if the permit would have been issued without the plot plan.</p> <p>Mr. Shupe responds when there is no addition to a footprint, an interior plan is not always</p>	

<p>requested; Mr. Borg did not think there was an intent to add to the existing structure because it appeared that the extended kitchen was coming from the inside to the outside porch; This is not the case since the porch is now extending into the setback. Mr. Deleo asks if plot plan could have been discarded in error at issuance of permit. Mr. Shupe replies all items are filed by Map, Block Lot; Mr. Deleo asks if the existing portion that was leaning off measured 6x6x12. Mr. Shupe replies yes, it is existing legally non-conforming, so now it's more non-conforming on the front and right side yard. <i>Mr Shupe approaches Board to show aerial view of property</i> Ms. Frisco adds the space is needed for living space and existing conditions are not suitable for year round dwelling.</p>	
<p>PUBLIC HEARING</p>	<p>7:34 p.m.</p>
<p>Bill Griffin, abutter at 7 Puffin states proposal is an improvement and he supports it. Mr. Shupe says one complaint was brought to Code's attention, that individual is not present. <i>Mr. Murphy closes public hearing at 7:38pm</i> Mr. Murphy says one can make a case that there's a legitimate application and can infer that it was for two separate things; the addition does not fall under a variance but a misc. appeal. If this had been stopped prior to construction, the appellant would still have been required to come before us to request the setback reduction. Mr. Weyenberg agrees that permit application and actual permit are ambiguous and could be interpreted either way. Mr. Evans adds he believes applicant moved in good faith. Mr. Deleo agrees with Board. Mr. Murphy adds they would have to prove a hardship if it extended beyond 50% and reads the four justifications. a) Board concurs b) Board concurs and Mr. Murphy concurs giving deference to Code who disagrees but agrees based on what has been done so far. c) Board Concurs d) Board concurs; Mr. Deleo found it very true to other buildings; Mr. Murphy adds that peoples' usage of the structure is not important, but agrees this is enhancing the neighborhood. Mr. Deleo motions to approve the misc. appeal. Mr. Evans seconds the motion. Motion carries unanimously</p>	<p>MOTION VOTE</p>
<p>ITEM 2: Misc. Appeal: Gary and Douglas Goode, 22 School Street, Map#206, Block#28, Lot#28, in the R-1 Zone, request a reduction of the right side yard setback from the required 15'0" to 9'0" and the left side yard setback from the required 15'0" to 7'7" in order to demolish the existing house and garage for construction of a 1380sf single-family dwelling. Diane Doyle of Doyle Enterprises is the agent.</p>	<p>ITEM #2</p>
<p>Diane Doyle of Doyle Enterprises, agent for the Goodes, explains the damp and dilapidated conditions of the existing house and garage and explains why the requested reductions are needed to incorporate the garage into the house; Applicants wish to add 12ft to rear requiring a side yard reduction from 15ft to 7.5ft; 10ft in the front requires a reduction from 15ft to 7.5ft, creating a 20ft rear yard setback and increasing lot coverage to 35%; On the right side, the existing house is 14ft from the south side except in the access area which will be 9ft from the south side for a ramp or stairs. Mr. Murphy asks if existing house will remain on same footprint. Ms. Doyle says house and deck will remain on same footprint, only adding 12ft in the rear and 10ft in the front.</p>	

<p>Mr. Murphy asks if addition in rear is 12ft. Ms. Doyle confirms that adding 12ft in rear and 10ft in front requires reductions of side yards. Mr. Weyenberg asks if garage will be removed. Ms. Doyle confirms garage which is less than 3ft from the side yard will be demolished. Ms. Doyle confirms applicant wants to demolish and rebuild. Mr. Evans asks if there will no longer be a driveway or garage. Ms. Doyle replies garage, currently located on south side of house will be demolished and was never used by applicant for parking; whole right side will accommodate four cars. Mr. Deleo asks if house will be one or two story. Ms. Doyle replies two ½ stories tall with a 1,300sf footprint. Mr. Shupe says the footprint would be 1,389 with 32% lot coverage. Ms. Doyle says design of house can be reconfigured based on the Board’s decision tonight. Mr. Shupe adds both front and back will adhere to 20ft setback and will not encroach. Ms. Doyle says it’s less non-conforming than what exists Mr. Shupe adds the right side yard’s existing porch is 10ft from line & new landing/steps will now be about 9ft.</p>	
<p>PUBLIC HEARING</p>	<p>8:01 p.m.</p>
<p>Peggy Betit, abutter at 24 School Street, is concerned about the reduction of sunlight to her property and asks how big the house will be and what views will be obstructed. Mr. Shupe advises Board that the existing house is 4.72ft from the property line. Ms. Betit adds her porch is 10ft from the property line. Mr. Weyenberg says then there is approximately 15ft from her porch to applicant’s building Ms. Betit says it’s less than that. Ms. Betit says she never received a set of plans to review, just a letter notifying her of the meeting. Ms. Doyle says she stopped by most abutters’ homes to show them the plans. Ms. Segalla says plans are not sent to abutters, only notification of the meeting which states they can visit the Town Hall during business hours to review the applicant’s plans. Mr. Murphy says he referred to the proposed 1st floor plan & thought it was to be a 1-story. Mr. Deleo says if it was a 1-story then it probably would not be an issue. Ms. Evans says plan reflects a complete living area on the 1st floor, including bedrooms. Mr. Murphy says he does not see the 2nd floor on this plan. Ms. Doyle says the second floor’s design depends on whether the Board approves the requested setbacks however, if the reduction to the side yard setback is denied, applicant can still build to a maximum height of 35ft without ZBA approval. Mr. Weyenberg says building could be 10ft wide with 15ft on both sides not requiring a misc. appeal. Ms. Doyle adds applicant could go 35ft high and still be conforming; Addition would be on Betit’s side. Mr. Deleo asks why applicant wants to construct so close to the left side. Ms. Doyle replies there is a house on the right side, also, parking space is preserved on that side. Ms. Betit asks Mr. Shupe what the maximum height allowed is. Mr. Shupe confirms 35ft to the midpoint of the highest sloped roof so peak could be more like 40ft and this applies to either commercial or residential. Mr. Betit asks if this project will increase parking problems since there is a motel across the street and when the street becomes narrow during winter. Mr. Murphy says it does not look like they will be losing parking. Mr. Betit says applicant has parked on front lawn.</p>	

<p>Mr. Murphy asks Ms. Doyle if structure could not be moved over more since the existing foundation is being replaced.</p> <p>Ms. Doyle replies that would take away parking on that whole side.</p> <p>Mr. Murphy reads the four justifications</p> <p>a) Board concurs</p> <p>b) Board concurs; Mr. Evans concurs with a change to the wording from “rebuild” to “replace”; Mr. Murphy concurs with change to wording as well.</p> <p>c) Board Concurs; Mr. Deleo asks Mr. Shupe if structure would have to be longer to get the same square footage and remain conforming; Mr. Murphy concurs on non-conformance of lot.</p> <p>Mr. Shupe replies they can build over existing footprint without a variance, as far as the addition, they could only build 10ft wide in order to keep within the required setbacks; only 400 sq feet requires a variance in the front and rear.</p> <p>d) Mr. Weyenberg agrees and feels that removal of the garage and extension in the front and rear is a good shape for the lot especially since it could go further back and forward; Mr. Deleo disagrees since there are no structures that are that big on that street now; Mr. Evans says he disagrees as well based on the same rational as Mr. Deleo; Mr. Murphy disagrees based on what Mr. Deleo said and adds this structure is different in how it will be set up, while extending more in the front, both expansions can go up. The front or rear setbacks can be reduced by the same amount making the structure’s width narrow; Whether its 10ft or less, the sunlight will still be reduced; What will look better, allowing the reduction of setbacks or asking that they conform to the setbacks?</p> <p>Ms. Doyle asks Board to look at existing site plan; Applicant wanted to expand garage and make it a two-story; The garage would be converted to living space attached to the two story house connected by conforming connector, but this rectangular diagram made more sense, and is the lesser of two evils.</p> <p>Mr. Weyenberg says that in reading the proposed site plan, he thought it was saying 26ft in rear, but it is 20ft which brings the structure fully forward as possible.</p> <p>Ms. Doyle shows Board drawing of what is allowed without a misc. appeal.</p> <p>Mr. Shupe reminds that setbacks are measured from drip line so any overhang must be kept within these dimensions.</p> <p>Mr. Weyenberg motions to approve this misc. appeal</p> <p>Mr. Deleo seconds the motion</p> <p>Motion carries unanimously</p> <p>Mr. Murphy says he is in concurrence and feels that the proposal is better compared to what can actually be done without ZBA review; The proposed structure remaining within the footprint will look a lot better than connecting it to the garage; The ZBA Board feels this is the best use for this property under the existing conditions.</p> <p>Board concurs</p>	<p>MOTION</p> <p>VOTE</p>
<p>GOOD & WELFARE</p>	
<p>Mrs. Segalla, ZBA Clerk, asks the Board how they would like to handle the extension of an approval that was granted 08/28/06 for 22 Winona Ave. that has not obtained a building permit as of yet; Sec. 78-112 requires an applicant to obtain a building permit within six months of the date of approval.</p> <p>Mr. Murphy asks that they put their request to extend the expiration date in writing, not necessary for them to show up, just require a letter to read into the record which will be set up as an agenda item at the next meeting.</p>	
<p>Mr. Evans adjourns the January 29, 2007 Zoning Board of Appeals meeting at 9 p.m.</p> <p>Mr. Deleo seconds the motion.</p> <p>All concur</p>	<p>ADJOURNMENT</p> <p>9 p.m.</p>

I, Caroline Roldan, Secretary to the Zoning Board of Appeals of the Town of Old Orchard Beach, do hereby certify that the foregoing document consisting of five (5) pages is a true copy of the original minutes of the Zoning Board of Appeals Meeting of January 29, 2007.
