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*Jeff Levine, AICP, Director
Marge Schmuckal, Zoning Administrator*

October 12, 2012

Kevin Moore
1 CN Brown Way
PO Box 200
South Paris, ME 04281

Re: 194 Auburn Street – 374 A030 – R-3 Residential Zone – discontinuance of legal nonconforming use

Dear Mr. Moore,

This letter is a follow up to our meeting on October 11, 2012. The use of the property at 194 Auburn Street as a gas station with two pumps has been a legal nonconforming use because the property is located in the R-3 Residential Zone. From what you told me, the gas station has been closed for over a year. Section 14-387 of the ordinance states that “if a nonconforming use of a building or premises is discontinued for a period of twelve (12) months, such discontinuance shall constitute an abandonment of the use and the building or premises shall not thereafter be occupied or used except in conformity with the provisions of this article”. Since the use has been discontinued for over 12 months, it has been abandoned and the gas station may no longer be operated. Any use of the property must be a use that is allowed in the R-3 Residential Zone. Sections 14-87 and 14-88 list the permitted and conditional uses for the zone.

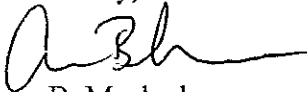
A variance to get the use as a gas station back cannot be granted by the Zoning Board of Appeals. Section 14-473(c)(4) lists specified variances that are prohibited. Under section (a) it states that “no use permitted in business districts shall be permitted in any residential district”. A gas station is a permitted use in some of the business districts. It is not a permitted use in any residential district. As a result, the Zoning Board of Appeals is prohibited from granting a variance for the gas station.

You asked if there was any course of action that could be taken to keep the use as a gas station. I suggested that you contact Barbara Barhydt, the Development Review Services Manager for the Planning Division to see if you could pursue a conditional or contract zone for the property.

In summary, the legal nonconforming use of the property at 194 Auburn Street as a gas station has been abandoned. The only use that is now permitted at this property is a use that is allowed in the R-3 Residential Zone. To establish a new use, a Change of Use/Building Permit will have to be submitted to the Inspections Division.

Please feel free to call me at 874-8709 if you have any questions.

Yours truly,

A handwritten signature in black ink, appearing to read 'Ann B. Machado', with a long horizontal flourish extending to the right.

Ann B. Machado
Zoning Specialist
(207) 874-8709

Cc. file