

# City of Auburn, Maine

*"Maine's City of Opportunity"*

## Office of Planning & Development

### PLANNING BOARD STAFF REPORT

To: Auburn Planning Board

From: Douglas M. Greene; AICP, RLA  
City Planner

Re: An Appeal to Construct a Residence in the Agricultural/Resource Protection Zone at 175 and 199 Andrews Drive

Date: March 8, 2016

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- I. PROPOSAL- Ronald and Lisa Bisson, owners of 175 and 199 Andrew Drive are seeking approval of an appeal in order to construct a new residence in the Agricultural and Resource Protection (AG/RP) zone pursuant to Section 60-81 (Abandonment) and Section 60-79, (5), (Change, Extension or Enlargement) of the Ordinances of the City of Auburn

The Bissons are the owners of 175 and 199 Andrews Drive and want to construct a new home there. The property at 175 Andrews Drive is vacant and is to be consolidated with 199 Andrews Drive into one lot. The property at 199 Andrews Drive has a dilapidated home that the owners want to demolish and construct a new residence on. These properties are located in the Agricultural and Resource Protection Zone and normally an applicant for a residential building permit would be required to show that 50% of the owners joint annual income has to come directly from on-farm revenues.

A provision in the zoning ordinance (Sec. 60-81) does allow a property owner to voluntarily abandon their residence, in writing, and then appeal to the Planning Board to re-establish that abandoned use. (Sec. 60-79, 5)

#### Sec. 60-79. - Change, extension or enlargement

The following provisions shall govern changes, extensions or enlargements of nonconforming buildings or uses.

- (5) The use of any property or building that formerly was used in a lawfully nonconforming manner and which was abandoned (as defined in section 60-81) may be permitted after approval by the planning board in accordance with division 2 of article XVI (Site Plan) of this chapter.

#### Sec. 60-81. Abandonment

If any nonconforming use of a building or portion thereof or of land or portion thereof be discontinued for a period of 12 consecutive months' duration or more or is voluntarily discontinued, it shall be presumed abandoned, such use shall not be resumed, and only a use conforming with zoning provisions in the zoning district in which located shall thereafter be made of such building or land,

except as may be permitted otherwise under section 60-79 (4) and (5). A use shall be deemed to be discontinued when the principle activity ceases. **A use that is voluntarily discontinued shall be deemed to have ceased when a written statement containing the name of the owner of the property, the name of the business or use, the nature of the use being discontinued and the date of the discontinuance is reviewed by the municipal officer charged with enforcement.**

The applicants have formally submitted a request to abandon their residence at 199 Andrews Drive (dated 1/29/16). Subsequent to that, the Bissons have submitted an application to the Planning Board to re-establish a residence as per Sec. 60-79 (5).

- II. DEPARTMENT REVIEW- This application was review at the February 17, 2016 Plan Review Committee meeting with the following input:
- a. Police- No Comment.
  - b. Auburn Water and Sewer- No Comment.
  - c. Fire Department- No Comment.
  - d. Engineering- No Comment.
  - e. Public Services- No Comment.
  - f. Planning and Development- The Planning Staff noted that there could be a reduction from 2 structures down to 1 in the Agricultural Zone. The applicant is proposing a second kitchen in a living space above the garage, which would constitute a second unit. Duplexes are not allowed in the AG/RP zone and the staff would like to discuss the second kitchen at the March 8, 2016 Planning Board meeting.
- III. PLANNING BOARD ACTION- Section 60-79 states that a voluntarily abandoned use can be permitted by Planning Board in accordance with Division 2 of article XVI (Site Plan) of this chapter. The applicant described in their application how they meet Section 60-1277 (the objectives) of the Site Plan Review law.

The Planning Board needs to make its decision based on the Site Plan Law, **Sec. 60-1277. Objective-** *“In considering a site plan, the planning board shall make findings that the development has made provisions for:”*

*(1) Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against artificial and reflected light, sight, sound, dust and vibration; and preservation of light and air;*

Staff Comment: The proposed residence meets the setback requirements of the AG/RP zone and would be compatible with the existing neighborhood. There are no wetlands, flood plain or other environmental constraints on the property.

*(2) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas;*

Staff Comment: The proposed residence will not cause any problems with vehicular or pedestrian movements and there will be a reduction of 1 driveway, formerly at 175 Andrews Drive.

*(3) Adequacy of the methods of disposal for wastes; and*

Staff Comment: The applicant will be required to obtain a septic waste disposal permit.

(4) *Protection of environment features on the site and in adjacent areas.*

Staff Comment: The applicant's site plan will not have a negative impact on environmental features of the site or adjacent areas.

IV. STAFF RECOMMENDATION- After a review by city and local departments, the staff recommends **APPROVAL** of the application and request to re-establish a residence at 199 Andrews Drive with the following findings and conditions.

Findings:

1. The applicant has willingly abandoned the existing residential structure at 199 Andrews Drive and met the requirement of Sec. 60-81 (Abandonment).
2. The applicant has submitted a complete application to the Planning Board requesting a new residence at 199 Andrews Drive.
3. The applicants have combined the properties at 175 and 199 Andrews Drive and made them less non-conforming in size.
4. The applicant has agreed to reduce by one the number of non-conforming residential structures in the AG/RP zone.
5. The applicant has met the 4 objectives of Sec. 60-1277 (Site Plan Review) and therefore meets the requirements of Sec. 60-79 (5). (Change, extension or enlargement)

Conditions:

1. (To be discussed at the meeting) The proposed second kitchen in the living space above the garage will be removed.
2. All required permits shall be obtained prior to development activity.



Douglas M. Greene, A.I.C.P., R.L.A.

City Planner