

GARY WORK, who lives at the end of Gerald, indicated that the children in the area really like the animals. Mr. Work sees no harm in allowing the animals to remain on the subject site.

There being no additional persons wishing to speak, Chairperson **Wilson declared the public hearing closed.**

Ms. Shepherd said that the animals do not appear to be roaming at large. They appear to be contained in a structure. The applicant also pointed out that the DNR has inspected the site and everything is up to DNR requirements. It was then suggested by Ms. Shepherd that the applicant could acquire 0.25 acres of vacant land abutting the parcel as a way to eliminate the violation.

Mr. Samples asked the applicant how long she has been living in her home. Ms. Vieau replied that she has lived in the home for almost 27 years. There are 10 chickens, 15 ducks and some pheasants on the site. Ms. Vieau also mentioned that the animals do not run at large around the parcel, however, once in a while the chickens accidentally do get loose. Mr. Samples reported that there are no unique circumstances or characteristics associated with the property that would warrant the keeping of chickens in violation of the Ordinance.

Continuing, Mr. Wilson asked Ms. Vieau why the DNR has been involved with this site. Ms. Vieau said that the DNR has been involved because of the pheasants on the site which are considered wild game. The applicant eats the pheasants; they are not sold commercially. Mr. Wilson ascertained that Section 1820(3) of the Ordinance regarding the keeping of poultry appeared to be very vague in connection with the issuance of a permit. He said that no standards were established for the keeping of less than 12 poultry.

Mr. Rosen then concluded that up to 12 chickens are allowed on the parcel and if the ZBA determines that the animals constitute a nuisance, an annual permit can be issued.

Mr. Shepherd then asked for a clarification in reference to the complaints. Ms. Farris explained that the first complaint indicated that the chickens were running loose. The site was checked and it was determined that the complaint was unfounded. The second complaint indicated that there were 12-13 chickens, ducks and pheasants running at large from the address. Ms. Farris mentioned that she has discussed this issue with Mr. McLocklin the Ordinance Enforcement Officer and he explained that upon the first complaint he went out and he did not see any animals at all. When he did go out on the second complaint it was verified and that is why the violation notice was issued. The violation notice would not have been issued had he not been able to verify the complaint.

Mr. Rosen then asked for reasons from the applicant for allowing something other than what the ordinance indicates. Ms. Vieau said that the animals are not hurting anyone and there is no odor to the animals.

Continuing, Ms. Shepherd suggested that this Ordinance be referred back to the Planning Department and the Planning Commission for review and clarification.

MOTION by Rosen, supported by Campbell, that a variance to allow the keeping of more than 12 chickens on a lot less than 1 acre **BE DENIED.**

FINDINGS:

1. There are no unique circumstances or characteristics associated with this property.
2. The property has been zoned residential for some time and is conducive to such an urban-residential use.
3. The keeping of poultry on the property has generated two complaints received by the Building Department.

4. There do not appear to be any practical difficulties which would cause the applicant hardship in meeting the Ordinance requirements.
5. Granting a variance would be precedent setting, making it difficult for the enforcement officers to follow through on cases of this type.
6. The need for the variance has been self-created.
7. Other animals, such as common household pets, can legally be kept on the property.

CONDITION:

1. The poultry shall be removed from the property before January 1, 1994.

Ayes: Shepherd, Rosen, Samples, Campbell
Nays: Wilson
Absent: Lomaka, O'Brien

MOTION CARRIED.

PUBLIC HEARING - FILE NO. 93-394

Location: 3745 Donley, located north of Grace Street on the east side of Donley, identified as Parcel No. 15-32-478-002, Zoned R-4, One Family Residential.

Request: Item 1
A variance from Section 1802.4.a of Ordinance 200 which states that no structure may be enlarged or altered in a way which increases its nonconformity. Submitted plans for an attached garage would increase the nonconforming rear yard setback of the existing home.

Item 2
A variance of 24.5 feet from Section 1700 of Ordinance 200 which requires a minimum rear yard setback in the R-4 zoning district of 35 feet. Submitted plans indicate a 10.5 foot rear yard setback from the proposed garage to the rear property line.

Applicant: Stephen W. Taylor
3745 Donley
Rochester Hills, MI 48309

Mr. & Mrs. Stephen Taylor were in attendance and explained their situation to the board.

Mrs. Taylor said that the property was purchased in July of 1993. The applicant plans to change the existing garage into something that would accommodate an additional bedroom, a bathroom and an attached garage.

Mr. McBroom presented the Staff Report dated November 3, 1993. (Staff Report to the Zoning Board of Appeals has been placed on file and becomes part of the record hereof). Ms. Farris added that the applicant has applied for a land division on the side. A letter has been written to the landowner indicating that the land division would be granted under certain conditions. No response has been received from the landowner so, therefore, the land division has not been processed through the county. At the present time the land still has a width of 160 feet.