

~~Findings:~~

- ~~1. The Master Land Use Plan shows the property abutting to the north to be planned as O-1.~~
- ~~2. A unique circumstance exists in that the proposed office building site abuts an existing nonconforming use currently being used as a florist shop and greenhouse.~~
- ~~3. A screening wall will be constructed along the west property line where it abuts residential area.~~
- ~~4. Many Of the lots along Crooks Road from Auburn Road to M-59 have been rezoned from R-4 to O-1 or Industrial.~~

~~Ayes: Canu, McConachie, Rampson, Rayner, Trimble, Wilson
Nays: Steeether
Absent: Nene Strothman~~

~~Motion Carried.~~

Public Hearing:

File No. 87-873: Request for variance from Ordinance 200 to keep poultry at 3075 Emmons, located north of M-59 between John R Road and Deguindre Road in Section 36, zoned R-4 (One Family Residential) and identified as Parcel No. 15-36-252-039.

Ordinance 200, Section 1820(3) requires that poultry will be allowed if there are no more than 12 and the parcel or lot is in excess of one acre. Petitioner is keeping in excess of 12 chickens on a lot less than 1 acre. Therefore, a variance to allow the keeping of more than 12 chickens on a lot less than 1 acre is requested.

Applicant: Irma Arroyo
3075 Emmons, Rochester Hills, Michigan 48063

Ms. Irma Arroyo and Mr. Raphael Gonzalez were present.

Ms. Arroyo informed Board Members that she was currently keeping 14 chickens on her property of less than 1 acre. She described the chickens as pets, which helped to eliminate insects on the property.

The Staff Report, dated October 7, 1987, regarding this matter was presented to the applicant. (Staff Report to the Zoning Board of Appeals has been placed on filed and by reference becomes part of the record hereof.)

Mr. Srogi indicated that the Housing and Zoning Inspectors viewed in excess of 12 chickens on a lot that is approximately 160 by 135 feet or less than the minimum 1 acre as required by Ordinance. A violation notice has been issued and two complaints have been filed.

Mr. Srogi reported that Staff believes there are no unique circumstances characteristic to the property that would warrant the keeping of chickens in violation of the Ordinance. He said the property had a history of residential zoning and is currently utilized as residential. The keeping of chickens has been an annoyance. Mr. Srogi indicated that there are no practical difficulties which would cause the applicant hardship in not meeting the Ordinance requirements.

Mr. Srogi continued stating that similar situations have been handled by the Housing and Zoning Officers without requiring the Zoning Board of Appeals to make any decisions relative to the keeping of livestock. If the request were granted, a precedent would be established, making it difficult to handle the problem in the future. He added, if denied, the poultry should be removed within 21 days.

The Chairperson declared the public hearing opened, calling for proponents and/or opponents who wished to speak. Hearing none, the Chairperson closed the public hearing.

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Members questioned the possibility of keeping less than 12 chickens. Mr. Strogli responded that chickens were not considered by the Ordinance as common household pets. He further explained to keep one chicken required one acre of property, while no more than 12 chickens could be kept regardless of the acreage.

Mr. Canu pointed out that the property was well-kept with improvements being made to the premises. He noted that "the urban atmosphere seemed to be closing in on us."

Mr. Wilson commented that a yearly renewable permit was required in this instance rather than a variance. Mrs. McConachie observed the situation as resembling a special use permit, with residential land being used as agricultural.

Ms. Goodwin told Members that the Ordinance left to the Board's discretion the option of granting a variance for less than one acre. The Ordinance seemed to give the Board latitude in determining whether a nuisance was being created for the neighborhood. She said a variance was required to keep chickens on less than one acre of land.

The applicant informed the Board that the chickens were kept in a cage beside the house. They were not used for the sale of eggs, but to help protect his children from insects in the yard. Ms. Arroyo told Members they did not have a rooster and that the chickens caused no problems to the neighbors.

Mr. Rayner suggested that the Board was losing track of the nature of the request. He said the request was generated in a residential area and he referred to complaints from the neighbors. Mr. Rayner remarked that having chickens or other than domesticated animals in a residential neighborhood detracted from the desirability of residing in that area.

Motion by Rayner, supported by McConachie, 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 of the property.
2. The property has been zoned residential for some time and is conducive to such an urban-residential use.
3. The keeping of chickens on the property has been an annoyance to some of the neighbors and has generated two complaints with the building department.
4. There do not appear to be any practical difficulties which would cause the applicant some 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 and for this Board to maintain decisions in this direction.

Condition:

1. The poultry shall be removed from the property within 21 calendar days.

Ayes: Canu, McConachie, Rampson, Rayner, Trimble
Nays: Wilson
Absent: Strother

Motion Carried.

Mr. Wilson reflected 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 issuance of a permit for the keeping of less than 12 chickens. Members questioned the nature of the permit.

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Mr. Rayner commented he could not imagine a situation where this Board would grant a variance to keep chickens in a residential neighborhood. Mr. Stroggi said in the past residents in violation of the Ordinance have been responsive to the Housing & Zoning Officers, this being the first to come before the Board to his knowledge.

Mr. Trimble discussed the few remaining large parcels, where the keeping of poultry would not be a nuisance or set a precedent and the issuance of a permit appeared appropriate. Mrs. McConachie suggested review of Section 1820 of the Ordinance by the Planning Commission as the paragraphs seemed to be contradictory and were in need of better definition. The Chairperson told Board Members that the issue of poultry keeping was not frequent enough to warrant the time and expense entailed in rewriting the Ordinance. She commented that this type of matter will be less likely to occur as time goes by.

~~Any Other Business~~

~~Mrs. McConachie questioned whether a motion to withdraw the matter from the table regarding Steven Drexel was necessary. The Chairperson said that the applicant had withdrawn his petition and it appeared there was not a matter to rule on. The Chairperson directed that the City Attorney advise the Board on the correct procedure in handling a tabled matter that has been withdrawn.~~

~~The Chairperson reminded Members that the next regular meeting would be held on Monday, October 26, 1987.~~

~~There being no further business to come before the Board, the meeting was adjourned at 8:30 p.m.~~

~~Motion by McConachie, supported by Trimble, that the meeting be adjourned.~~

~~Ayes: All
Nays: None
Absent: ~~Rayner~~ Strickler~~

~~Motion Carried.~~

*Noted
10-26-87*

Arlene B. Rampson

Arlene B. Rampson, Chairperson
Zoning Board of Appeals
City of Rochester Hills

Recorded By:

Jean A. Farris
Jean A. Farris, Secretary
Zoning Board of Appeals

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