



CITY OF CONCORD
New Hampshire's Main Street™
Community Development Department

REPORT TO THE MAYOR AND CITY COUNCIL

FROM: Heather Shank, City Planner
DATE: August 27, 2019
SUBJECT: Ordinance amending the Code of Ordinances, Article 28-5-50, Keeping of Chickens as Pets as Accessory to a Residential Use

Recommendation

Accept this report and set a public hearing as to a proposed amendment to reduce the buffer for the keeping of chickens from 30 feet to 5 feet.

Request

In April 2019, a Concord resident requested to amend the City Zoning Ordinance to allow henhouses and fenced areas to be closer to lot lines than is currently permitted by the ordinance requirement for a 30-foot buffer.

Background

The current ordinance was amended in 2011 to allow residents in denser urban neighborhoods to have backyard chickens on lots of less than one acre. Section 28-5-50 of the Zoning Ordinance currently allows henhouses and fenced areas for chickens in side and rear yards when a 30-foot buffer is provided. The 30-foot width was justified by previous Planning staff who noted that the narrowest required minimum lot width for a residential district was 75 feet. The 30-foot buffer would therefore allow a strip of 15 feet in the center of the smallest conforming lot for henhouses and fenced areas.

However, Staff has discovered through recent analysis of the district standards that a significant percentage of residential lots in the downtown area are nonconforming with regard to lot width or lot area. Proposed changes to the district standards to alleviate the high percentage of lots that are nonconforming are forthcoming as part of the form-based code zoning overhaul. Lot width standards as narrow as 50 feet are proposed as part of that change. The existing 30-foot buffer would be too wide to allow chickens under that scenario. In order to address this concern, Staff originally proposed reducing the 30-foot buffer to 15 feet in width to allow lots complying with

the proposed standard to have chickens, as well as other narrow lots that may remain nonconforming.

Staff notes that the Concord standards regarding chickens were based off the regulations from Portland, Maine. As a point of comparison, Portland currently allows henhouses and fenced areas located the same distance from lot lines as accessory structures. Setbacks for accessory structures are as little as 5 feet in urban Portland neighborhoods.

During a workshop with Planning Board to discuss potential changes, Staff noted that certain properties would not be able to house chickens even with a 15-foot setback, in particular where lots and setbacks are nonconforming, and would remain nonconforming even under proposed standards, or where there is no space for the use. For example, the 15-foot buffer would not likely address the petitioner’s specific issue, since very limited side or rear yard space is available on their property. During the Planning Board discussion at the July 17, 2019 meeting, Board members expressed support for further reducing the setback to 5 feet to allow more property owners in urban neighborhoods to have backyard chickens.

As a further point of analysis, Staff notes that the buffer is intended to address nuisance concerns such as noise and odors. However, according to Code staff, over the past 8 years, there have been no complaints pertaining to odor, and noise complaints have been in relation to roosters, which are not permitted.

Finally, by way of further information, the following ordinances provide guidance relative to other setback requirements:

- Section 28-4-1(h) establishes the setbacks for all of the zoning districts. The denser urban residential districts include the RD, RM, RN and RS districts. In those districts, the setbacks for side and rear yards range from 10 to 25 feet depending on the district. As discussed below, these setbacks may be reduced to 5 feet for accessory buildings and facilities in accordance with Section 28-5-32. The new dimensional standards for accessory buildings that are under review as part of the form-based code zoning overhaul will likely propose a 5 foot setback.
- Section 28-5-32 of the Zoning Ordinance establishes the setback required for accessory buildings and facilities such as toolsheds, greenhouses, swimming pools and tennis courts. These accessory buildings and facilities are required to be located in the side or rear yard of a lot. The setbacks as specified in Section 28-4-1(h) may be reduced to a minimum of 5 feet provided that they are located more than 50 feet from any street and that the accessory buildings are one-story structures that do not exceed 12 feet in height or 250 square feet in gross floor area.
- Section 28-5-33 sets forth the requirements for the keeping and raising of poultry as pets on lots that are *one or more acres* in size. For those lots, the setback for poultry structures and manure storage is 50 feet from the lot line.

During the Planning Board public hearing on August 21st, several letters submitted by abutters in opposition to the proposed amendment were reviewed, along with a letter in support submitted by the petitioner, Stacey Brown. Ms. Brown and her daughter, Francesca also provided testimony during the public hearing. The Board discussed the proposal and ultimately voted in favor of the 5' buffer amendment by a margin of 5 to 2, with Chairman Woodfin and Member Smith-Meyer in opposition due to potential nuisance impacts.