



Maryland

DEPARTMENT OF PLANNING

ADU Task Force Planning Directors Panel Discussion

12/19/2023

Participants

Phyllis Grover, Planning Director – City of Aberdeen
Tim Bourcier, Planning Director – City of Havre de Grace
Jason Sartori, Planning Director – Montgomery County
Lynn Miller, Assistant Planning and Zoning Officer – Anne Arundel County
Eric Leshinsky, Chief of Comprehensive Planning – City of Annapolis
Kathy Maher, Planning Director – City of Hagerstown
Ashley Moore, Development Review, Senior Planner – Frederick County

Housing Market Analysis Questions

What has the local government experience taught us about ADUs and the housing market? What prevents them from being a viable housing product? Conversely, what facilitates them as one?

Montgomery County – Taking an incremental approach is more palatable to the community. Doubled the ADUs each year. From 50-60 to 120 units per year.

- Smaller units make them more attractive as an affordable housing option.
- Upfront costs are high so access to financing is critical.
- HOA restrictions are preventing ADUs. A large portion of the county is HOA, obstacle.
- Incremental changes over time for ADUs.
- HOA restrictions hurt the development of ADUs.

Anne Arundel County – Positive testimony from the public, which expects ADUs to be detached structures.

- A new ordinance passed in May for detached ADUs. Big change rather than incremental change. Currently unsure how it will affect the housing market.
- Outside planned utility areas are constrained due to septic reserve areas, so the detached unit is not viable.
- HOAs limiting covenants, fear that HOAs will further restrict ADUs.
- Complete changes to ADU ordinance in 2023. Prior to this year ADU were attached only. Only a handful of applications for detached units, but the county believes there will be strong interest in them. The market is figuring out how it will work.

Annapolis – did not allow ADUs at all prior to 2021. Went from not allowed to by-right in 2021.

- Short-term rentals (STRs) are allowed, but the city would like to see ADUs become long term rental housing option.

- Upfront costs are restricting, \$15-20K upfront for permit fees. The city is reviewing this and considering options, so the financial bar is not as high to reach.
- A wide spectrum of ADUs, the town had legacy units that are not full unit or full product. 2021 ADU ordinance allowed ADUs by right in any residential lot. No parking requirement. STRs permitted in ADU ordinance and unit becomes a standard, profit-making unit. STR provision strengthened public support.
- When developing an ADU ordinance, it is very important for a jurisdiction to discuss the end goal and what type of housing product is desired.

Frederick County, Ashley – Too many barriers to ADU construction in the county.

- The process is too cumbersome. Many people do not want to go through the design and permitting process to construct and permit an ADU.
- Upfront costs and permitting costs are very high.
- DIY projects are failing, but experience helps.
- Pre-approved design (assistance) is a good idea to prevent homeowner mistakes and delays, and to allow staff to approve ADUs easily. Pre-approved designs are tried and true.

Aberdeen – High costs do not align with market in areas of the city in which we would like to see ADUs.

- Trying to encourage ADUs in older areas on large lots, but affordability is a huge issue.
- Department of Public Works (DPW) requires ADUs to pay a new water and sewer line connection charge of \$20k. Reducing this fee would help encourage ADUs in older sections of Aberdeen.
- HOAs do not permit ADUs. Must be attached and go through process.
- The city has only had two ADU permits.
- Local elected official support for expanding ADUs.

Havre de Grace – State of housing market and firm objectives inform ADU market.

- Capital fees are near \$20k as well. When the housing market is hot these costs do not seem to matter as much, as the city does not get complaints during those times. When interest rates were starting to rise and inflation was up, the city received fewer phone calls and renovation applications.
- Lack of clarity of what an ADU is. The ADU is not always recognized as a full dwelling unit, and they are confused with STRs.
- ADUs should be smaller than the primary unit and should require the owner to live on the property. There is a market for ADUs.
- Attractive due to lower cost rental.
- Requests for monstrosity dwellings, not necessarily accessory to primary structure.
- Jurisdictions should ask themselves the following questions:
 - What kind of residents are inhabiting them? Do we expect to inhabit them?
 - Where's the need?
 - Is there a lack of marketing?
 - Can you clearly tell people what the purpose of ADUs is?
 - Is it too expensive to have your kids or in-laws living in an ADU?
 - Do some feel that they have to make ADUs a commercial venture to make them financially viable?

Hagerstown – Very aggressive investment community in the city. ADUs currently not permitted.

- From historic conversations from owner-occupied to rentals there is already a lot of density in town.
- Hagerstown is a high investment area - only 60% of units are owner occupied. If city permits allow ADUs they are going to build two units on the same lot and rent out both
- Investors are very interested in ADUs. If permitted it may backfire and lead to too many interior units/properties.

Question 1 Conclusions

Local government experience indicates that obstacles to the implementation of ADUs include high up-front costs for the homeowner, high utility connection fees, other permit fees, lengthy and confusing permit processes, and Homeowners Association covenant restrictions on ADUs. Covenants also have processes that are required prior to approval of the units in addition to the local jurisdiction permitting process.

Although there appears to be strong community support for zoning regulations to allow for ADUs, once the legislation is approved, ADUs are slow to appear as rental units in the housing market. This could be attributed to the market trying to figure out an efficient process and profitability.

Local Governments have found that those ordinances that allow ADUs to be licensed as STRs are less effective in addressing the long-term housing needs in the community and may create more transient populations in neighborhoods.

Conversely, those ordinances that require the homeowner to live in one of the two units on the property combined with prohibiting the ADU to be used as a STR, were most successful in addressing the long-term housing rental market shortage.

ADU production could be facilitated by allowing the units by-right, streamlining the local review processes, and the provision of pre-approved design plans and staff assistance on design.

Jurisdictions should consider housing tenure (owner vs renter-occupied) makeup of their community when considering and/or developing an ADU ordinance. ADU ordinances in communities with a high percentage of renter-occupied units may lead to undesired dissection of residential units and weakening of ownership market.

Follow-Up: Specifically, how have requirements on parking, setbacks, square footage, and height impacted the development of ADUs in your community?

Havre de Grace

- Parking is the main issue and is difficult to meet, especially in the critical area.

Annapolis

- None of the above issues really caused issues.
- Parking did not raise issues.

Hagerstown

- The city allows duplexes on all lots in every residential zoning district. New unit must be brought up to code. Expensive.

Anne Arundel County

- Parking was expected to be an issue, but thus far it has not been and is not required.

Follow up Question Conclusions

Lot requirements have not proven to be an issue in the panel participants' communities. Parking has been an issue in some communities but not others, although in some instances the ordinances are too new and the verdict on parking is still to be determined.

What is the interplay of policy or ordinance changes and market demand in the proliferation of ADUs? How do they impact each other? Do certain policies or ordinances work better in certain types of communities?

Annapolis

- Tourism equals the growth of STR market, thereby impacting the ADU market. ADUs have not been successful yet in attracting long-term rental units. Need to reduce fees, encourage longer-term rentals, expedite processing, and develop assistance and guidance for homeowners to encourage long-term rentals.
- The city is considering fee reduction to encourage ADUs as long-term rentals.
- The market demand is there for owner-occupied STRs.
- In high-cost rental markets (Annapolis) the demand for ADUs as STRs is certainly there.

Anne Arundel County

- Can speak better to this question in a couple of years after the ordinance has had time to play out.
- Waiving the fees for capital facility connections/hook-up. DPW prefers to hook up to existing connections.
- If an ADU is built at the same time as the primary dwelling, an impact fee is charged for both. If an existing dwelling unit is there and a new ADU is proposed in a permit application, then there is no impact fee charged.
- Sprinklers are required for detached units and are costly.
- Long-term rentals are preferred over STR to meet the housing shortage goal.
- STR requires owner occupation of at least one of the units.

Question 2 Conclusions

In areas where tourism is a market force, the ADU as a STR could be very popular for homeowners as a source of income and may result in fewer long-term rental units, as is occurring in Annapolis.

Waiving the fees for capital facility connections (such as water and sewer) may promote the development of ADUs.

Requirements for sprinkler systems vary. Generally, primary dwelling unit conversions or additions do not require a sprinkler system.

Longer range studies and analysis of ADU ordinances and the housing market are needed to determine the impact of each. Many ADU ordinances are too new for this to be determined now.

What practical issues associated with the development of accessory dwelling units on owner-occupied land zoned for single-family residential use must the Task Force address?

Montgomery

- Zoning changes are not enough because of HOA restrictions.
- Access to financing is a must for homeowners.
- Standards applied such as lot coverage, setbacks, and parking requirements make it difficult for homeowners to adhere to and navigate ordinance, so balancing these is important. Jurisdictions should consider if parking within one mile of the BRT, Metro, or light rail is required. The county analyzed vehicle registrations within one mile of such stations.

Havre de Grace

- Need to have conversations around the facts, rather than just perceptions, relating to the need for increased parking.
- Emphasize that ADUs really are accessory uses.
- Aging infrastructure is an important issue, and this should be considered in the development of ADUs in older portions of the community that may have lead pipes or other older infrastructure systems.

Hagerstown

- Owner occupied requirements need to be monitored long-term. What happens when a property with an ADU is sold to a landlord? How does the jurisdiction enforce owner occupied requirements in the future?

Question 3 Conclusions

The Task Force should address the following issues:

- **HOA covenant limitations for the development of ADUs.**
- **Financing options for the ADU to demonstrate accessibility to homeowners?**
- **Encourage flexible standards for the construction of an ADU.**
- **Consider parking in association with available public transit.**
- **Consider aging infrastructure and its limitations when deciding where ADUs would be best located.**
- **Discuss the need for owner occupancy disclosures relating to the sale of a property with an ADU**

From your experience, how have ADUs impacted neighborhood livability and how can ADU policies and regulations be designed to minimize negative impacts on neighborhood livability?

Frederick County

- ADUs facilitate slow, controlled growth. Small increments of units do not shock the system/community.
- Owner occupied requirements serve as safeguards because they make an area less transient.
- Conversions demand less scrutiny than detached units.
- Compatibility is an issue if size and construction is not regulated.

Aberdeen

- Aberdeen is promoting small homes on larger SFD lots near transit station as a transit-oriented-development strategy.

Other questions and comments from both panel members and Task Force members

- Requirement for owner occupied units – popular, often seniors wanting to age in place, college students,
- Student generation – Montgomery County ADUs are not generating students, indicating empty nesters are occupying them.
- Prohibition of subdivision - In Aberdeen you cannot subdivide ADUs off and they primarily see relatives living in ADUs.
- Urban areas could be an investor opportunity. The investor may be saying it is for a family member, but the perception is that this may not be the reality.
- In other areas there is a high immigration population, parking and city services need to be increased and a jurisdiction cannot go and knock on the door to find out who is living there.
- There is also a concern if you have specific requirements. For example, if you are paying a high rent each month, you are going to be very disappointed to hear you can only have x amount of cars or so many people over

Other Conclusions

Requiring owner occupancy for either the primary or the ADU on the property is popular, perhaps for several reasons, based on previous comments:

- **With the landlord living on the premises, the negative issues associated with absentee landlords can be averted.**
- **With landlords living on the premises, it may seem that the neighborhood is more stable and less transient than properties where owner occupancy is not required in association with ADUs.**

Adequate Public Facilities testing of ADUs for schools has proven to be unnecessary in Montgomery County as the units are generally occupied by empty nesters. This may be a function of size and number of bedrooms in the ADU.

Subdivision of properties containing ADUs in some jurisdictions is prohibited. Family occupancy requirements could lead to enforcement issues, becoming a liability issue for jurisdictions.

Recommendations to the Task Force – from the panelists

- If the goal is to increase long term housing supply, need to work towards making sure we have that as the main product.
- Setback alleviation and parking are going to be tricky to navigate, but fixing areas that prevent people from applying to build an ADU can be done across the board. Some issues are jurisdiction specific while others are much more general.

- Any guidance for clarifying the end purpose relating to increasing the long-term housing supply, such as fees, process, basic requirements like not allowing the size to exceed the primary unit, not governing minimum lot size.
- If STR are considered as part of the equation, they should require one of the units to be owner occupied.
- Architectural design requirements help minimize the appearance of two units and enhance compatibility with the primary dwelling. The use of breezeways to visually connect the units to may make it look like one.
- Standards should not come from the state because there are too many variations in context across jurisdictions.
- Think about what could promote reinvestment in the community.
- How do communities enforce converted ADUs within the jurisdiction, especially those that do not get proper permits?
- Jurisdictions can only enforce ADU ordinances if they learn about those not in compliance. It is a complaint driven process.
- How can a homeowner come forth to remedy a nonconforming ADU? Possibly and an amnesty program.
- Clarify financing for owner occupied units.

Closing words of the panelists

- Annual statement each year from the property owner regarding the status of the ADU.
- State mandate for all SFD units would be overwhelming for some communities.
- Enforcement may be challenging, and Zillow helps as a monitoring tool.