



Maryland DEPARTMENT OF PLANNING

ADU Task Force Neighborhood Associations and HOAs Panel Discussion

2/20/2024

Participants

- **Terry Thomas**, Coldstream Homestead Montebello Neighborhood Association, Baltimore City,
- **Angelo Otterbein**, Sparks Glencoe Community Planning Council, Northern Baltimore County
- **Larry Platt**, Chevy Chase Long Range Planning Committee, Montgomery County
- Originally committed HOA representative was unable to attend.

Housing Market Questions

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

Terry Thomas

- Evidence shows that poverty and crime rates increase when you add multiple families into a single-family dwelling, parking is also affected, service demands increase (eg. trash), school capacity, and negatively affects the quality of life. Historically the conversion of a single-family home to multiple units has contributed to blight and affects its viability as a housing product.
- Different impacts between urban and suburban areas. Once thriving Baltimore City neighborhoods have become blighted as larger homes were split up to accommodate multiple units.

Larry Platt

- Because land prices are so high in the Town of Chevy Chase (CC), they see the ADU as accessible housing rather than affordable housing. Cost to construct an ADU higher than rent payments would support. The cost of creating a dwelling unit can outweigh the price of rent, so many homeowners are not inclined to build free standing ADUs and are more likely to attach an ADU to their houses.
- Difficult to build ADUs on small lots.
- Attached ADUs are more likely to be used by family members and less as rental properties.
- Defined accessible housing as close to transit.
- Conversion of existing dwelling units, rather than construction of new attached units. In Chevy Chase for example, there are city code requirements that require ADUs to meet the same side yard and setback standards as primary dwelling. Conversion of accessory structures into ADUs, such as a garage, is difficult because they encroach into the side yard setbacks.

Question 1 Conclusions

ADUs and single-family to multi-family conversions impact neighborhoods differently based on housing market demand, prevailing lot sizes, housing and land costs, and neighborhood typology.

In high-cost communities, ADUs will not be truly affordable because the cost of construction drives rental prices that will burden low to moderate income households.

In communities or neighborhoods with struggling housing markets, ADUs and single-family to multi-family conversions may contribute to blight and strain on municipal services.

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?

Angelo Otterbein

- ADUs may have water quality impacts, especially where well and septic is prevalent, such as in the Sparks Glencoe area. These areas are very different from those served by public water and sewer. Density increases in rural areas served by well and septic negatively impact drinking water, and therefore caps on residential carrying capacity are needed. Impact on clean water and public septic increases with ADUs, especially in rural areas. Ultimately also impacts the Chesapeake Bay. There can also be severe impacts on the soil with these density increases.
- Baltimore County code accounts for this, limiting certain ADUs to family members and conserving sensitive areas, which are working. The Sparks Glencoe community urges against creating an “easy” route to mass ADU development, particularly on greenfields. Northern Baltimore County agricultural quality must be preserved, and ADUs threaten that.

Larry Platt:

- CC has dealt with this issue. In 2020, Montgomery Co updated its code to facilitate construction of ADUs. State law permits towns with planning and zoning the limited authority to take more restrictive actions than the state or county. The CC land use committee amended the town code to be more restrictive regarding ADUS.
- The objectives of CC’s regulations are to ensure sufficient distance or space between buildings, protect against fire, provide safe and adequate passageways, protect privacy, provide air and light, ensure stormwater management by maintaining open spaces, preserve tree canopy and distinct architecture.
- Made no changes to Montgomery County’s attached ADU requirements. No requirements for off-street parking, clear path for authorization and conversion of existing conforming accessory structures subject to permitting requirements.
- CC code changes require setbacks on side and rear for newly constructed units to be ten feet, same as primary residential structures. The town loosened requirements to construct ADUs – except for setback lines and height of structure. While the regulations are effective, they also significantly reduce the possibility of mass ADU development.
- Additionally, there have been attempts to “work around” or evade the requirements set by the town by building an accessory structure without a kitchen and then after the use and occupancy permit is issued, a mini kitchen is added with appliances. Need to make it difficult to evade these requirements.

Terry Thomas

- Parking in urban areas is problematic.
- Individuals, particularly investors, seek to evade the city codes and guidelines, especially those that require familial relationships or owner occupancy.

Question 2 Conclusions

Residential density increases in areas served by septic negatively impact water quality and the health of the Chesapeake Bay. ADUs should be more strictly governed and/or limited in such areas. Simply expanding sewer service is not a desirable option, as that will consume valuable agricultural land.

ADU requirements should account for public health and safety, adequate stormwater management, open space and tree canopy preservation, and privacy.

ADU ordinances, permitting processes, and code enforcement must address the evasion of requirements both during and after the permitting process. For example, if a jurisdiction requires familial relationships or owner occupancy, it must devote the resources to monitoring those requirements, as investors will take advantage if monitoring and enforcement are insufficient.

How can local government ADU policies and regulations be designed to minimize negative impacts on neighborhood livability.

Angelo Otterbein

- Technologically advanced septic systems can better protect water quality. Areas where public water and sewer is provided, such as within Baltimore County's Urban Rural Demarcation line (URDL), is preferable for ADU development the development.
- Enforcement is an issue, because requirements for family members are unenforceable and then the ADUs become a short-term rental (AirBNB).

Larry Platt

- Need to ensure that local governments have the legal authority to enact restrictive ordinances, that may be stricter than state regulations, to respond to their local contexts. One size does not fit all. Different size lots can accommodate ADUs in different ways.
- Height restrictions. Side yards and setbacks, and storm water management are necessary elements to consider.
- Need to make it difficult to evade requirements.

Terry Thomas

- Dilemma of determining and enforcing the maximum number of occupants within the dwelling unit.

Question 3 Conclusions

ADUs should be limited to areas served by public sewer and water.

State ADU requirements or legislation should recognize that one size does not fit all and permit jurisdictions to enact more restrictive requirements as necessitated by local context and conditions.

ADU ordinances are only as good as a local government's ability to enforce them.

Other Questions

What benefits, from the perspective of HOAs and/or community/neighborhood organizations, can ADUs provide? Conversely, what are some of the biggest concerns regarding ADUs?

Terry Thomas

- Potentially reduce the homeless population and allow a young couple to save money and purchase their own home.

Larry Platt

- Allow for a live-in service provider for aging parents and disabled populations, as well as allow for an additional source of income for the property owner.
- May provide workforce housing.

Secretary Rebecca Flora (Task Force Member)

- Potential to have more households contributing to the overall cost of common ownership, such as in an HOA community. Potential reduction in cost due to the fee structure being spread across more families.
- Another positive benefit is that ADUs would provide a diversity in housing types and community population.
- Negatively, there is a set amount of infrastructure, and added demand on public water and sewage, stormwater management, and other initially designed infrastructure in the community that may not support the added density. But there is no practical difference, from a carrying capacity standpoint, between adding new residents in the principal dwelling and adding new residents in an ADU.

James Gaston (Task Force Member)

- ADU impact municipal services, administration, and quality of life, such as trash pick-up, street capacity, and the number of cars.
- Some multigenerational families are large with 8-9 people. Cars become a problem if a family has numerous cars, especially in blue collar working neighborhoods that cannot use transit to commute to work, and they do not work from home. Their livelihoods depend on the automobile to get back and forth to work.
- Brentwood code enforcement officers conduct annual renewals for permitted properties. If you added a kitchen facility after an initial approved permit, you would lose your rental license. This helps enforce permitting requirements and limit evasion.

Question 4 Conclusions

ADUs can serve as housing for Maryland's vulnerable populations, such as the unhoused, seniors, and those with disabilities.

ADUs can provide additional income to homeowners as well as housing and demographic diversity.

The impact of ADUs on community facilities and infrastructure capacity is no different from the impact of adding residents to an existing primary structure, yet zoning ordinances and code enforcement agencies, while potentially limiting total number of residents, do not require upgrades if a household adds another member.

In HOA communities, ADUs can add households and thus reduce the overall burden of common ownership and its associated fees.

Rental licensing and monitoring programs can help enforce ADU regulations.

What, related to ADUs, should recorded covenants be able to regulate or prohibit (e.g., design, size, location)? What should they not be able to regulate?

Larry Platt

- A previous HOA that he used to represent lost its the ability to enforce the rules of the covenant due to inconsistent enforcement over the years. If enforcement is not consistent it can lead to problems and be challenged in court. Thus, local zoning rules and jurisdictional enforcement should be the primary method rather than HOA enforcement, as it will be more consistent.

Angelo Otterbein

- Recommends proper maintenance of septic, enforcement of the carrying capacity of the infrastructure, and limiting impervious area. Also limit groundwater usage where appropriate.

Secretary Flora

- Has reservations about relying on deeds and covenants rather than local ordinances. Can impact deed transfer and come back to bite homeowners.

Larry Platt

- Agreed with the Secretary on this point, as certain loan service providers will stay away from deeds and covenant provisions.

Question 5 Conclusions

HOA enforcement of restrictive covenant requirements is problematic when inconsistently applied or during real estate exchanges. Thus, it is preferable for local government zoning ordinance requirements for guidance and enforcement.

If water quality, stormwater management, or on-site infrastructure are not effectively regulated by a jurisdiction, restrictive covenants should be enabled to enforce them.

How should ADUs be assessed when it comes to HOA or other community/neighborhood expenses? Should ADUs be subject to a separate additional assessment beyond that of the primary dwelling or should all properties be treated equally regardless of whether there is an ADU or not?

Larry Platt

- Expenses could be prorated through added living space.

Terry Thomas

- Should have to pay additional fees based on the number of people living in the unit, as they are contributing to a greater impact on services, facilities, and infrastructure. Single family houses which are broken up into multiple rental apartments may look the same on the outside, but inside the conditions are unacceptable and not up to code. Code enforcement of such conversions is lacking.
- HOA communities are typically more affluent. ADUs impact less affluent areas differently. ADU owners should pay extra to mitigate these impacts.

Secretary Flora

- Typically, these fees pay for maintenance of common areas and private streets. These are assessed on square footage or street frontage.

Quinn Griffith (Task Force Member)

- Assessments are allocated based on common ownership elements. Budgets are set by the HOAs. The addition of more households into a community, through ADUs, would likely reduce assessments.
- Some people buy into HOAs because of the deed restrictions and limits on what their neighbors can do. Considered a benefit.

Question 6 Conclusions

Households often purchase homes because of covenant restrictions, not despite them. State and local governments must consider this when intervening and/or developing ADU ordinances.

ADU owners may have to pay additional local fees as they are increasing the impact on services, capacity, and infrastructure.

Task Force Member Questions/Comments/Discussion for and with Panel Members

Priscilla Kania

- She prefaced her question by explaining that when we talk about ADUs we are talking about the definitions within the bill. With that in mind, do the panelists have a lot of non-permitted ADUs in the neighborhood, and if so, would they prefer more regulated ADUs or more covert ADUs? She believes it is preferable to have permitted rather than unpermitted ADUs, which will happen without the development of ADU ordinances and permitting processes. Also please discuss the cost of building a dwelling.

Angelo Otterbein

- Baltimore County has an ADU regulation that works well but has been loosened over the years. Sparks Glencoe is worried about large additional single-family detached homes as ADUs that the property infrastructure cannot support. Enforcement of familial relationship requirements is questionable, but the community does support ADUs for this purpose.
- Maximum ADU sizes should be based on what the property can support.

Terry Thomas

- In many cities, there are overcrowded dwelling units that are ADUs or other multifamily units, and there is not as much space. A good policy or regulation that cannot be enforced is not a good policy or regulation.

Councilman Dan Hoff

- Policy and code enforcement are two different issues. He emphasized the building codes should include a verification process to better enforce existing and future ADUs and stated that the onus is on the city or state to enforce these regulations.

Lori Parris

- The Fair Housing Act must be considered during discussions about dividing single family homes, and verification of such.
- Enacted policies must be enforceable. Funding, staffing, and feasibility of defining and monitoring violations.

Secretary Flora

- Policy is only as good as the enforcement and practicality of that enforcement. Recommendations should not be overdone because they will not be enforceable.
- We cannot lose track of the reality of the housing shortage. We have a few models to look at. The carrying capacity of a community, in relation to the addition of ADUs, is important.

Amy Moredock

- Enforceability is key in both rural and urban areas. Most of the blame for the lack of housing generally and affordable housing specifically falls on zoning. Some critiques are valid, while others are not.
- Jurisdictions are asked to be flexible when supporting ADUs and affordable housing, but the nuts and bolts of policy and zoning require language that is enforceable.

Deborah Buelow

- Would like to see some metrics about how many ADUs are projected to be created and their impacts on the state and local areas to gauge true impacts on water and infrastructure. What is the true, big picture scale of impact?
- Is the jurisdictional context being considered? The counties need to be the ones to say what are the setbacks, what can the lot carry. That can only be determined with a study.

Jennifer Ray

- A major concern is local enforceability. The issue of defining an ADU is a topic that comes up in every Task Force meeting.
- Master plans may include a policy to exclude ADUs from areas on well and septic systems, or other issues of concern.

Angelo Otterbein

- Community is concerned that the URDL will continue expanding northward.

Dan Hoff

- Septic is based on the number of bedrooms. So, if the ADU is going to be constructed, the number of bedrooms should be used to determine if it requires more infrastructure, no different from the addition of bedrooms to a principal dwelling.
- We are here to address the housing crisis and provide recommendations to the General Assembly. There is a housing and affordability crisis in Maryland. In the future there could be ADU legislation and enforcement must be considered. But enforcement will be handled at the local level.

Deborah Buelow

- Septic requirements based on number of bedrooms. ADUs introduce new facilities, while adding additional bedrooms to a principal dwelling only increases load on existing facilities.

Jennifer Ray

- Information about public water and sewer availability and capacity is much more readily available than the same type of information for well and septic. Should be addressed locally due to better understanding of context.

Mandy Gitt

- Income based funding program to update septic systems with best available technology. All septic systems need to ultimately be replaced. Angelo Otterbein concurred with this. Dan Hoff explained that current septic regulations require multiple drain fields for eventual replacement and fields cycling.

James Gaston

- Do not lose sight of solid waste management needs. ADUs and additional bedrooms increase strain on these systems.

Joe Griffiths

- Reminded the Task Force that utilities will be a topic of discussion at the March meeting.