

**LEXINGTON PLANNING COMMISSION**

**March 9, 2023 - 5:00 P.M**

**Rockbridge County Administrative Offices – First Floor Meeting Room  
150 South Main Street, Lexington, VA 24450**

**AGENDA**

- 1. CALL TO ORDER**
- 2. APPROVAL OF THE AGENDA**
- 3. APPROVAL OF MINUTES**  
Minutes from February 23, 2023\*
- 4. CITIZENS’ COMMENTS ON MATTERS NOT ON THE AGENDA**
- 5. NEW BUSINESS**
  - A. ZOA 2023-01: Annual Zoning Ordinance Amendments. Accessory Dwelling Units (A.D.U).
    - 1) Staff Report\*
    - 2) Public Comment
    - 3) Commission Discussion
- 6. OTHER BUSINESS**
  - A. Zoning and Planning Report – If applicable
  - B. Catalyst Project Updates – If applicable
    - 1) Bike/Ped Plan: Complete
    - 2) Increase Sidewalk Connectivity: Ongoing
    - 3) Accessory Dwelling Unit Ordinance: Ongoing
    - 4) Jordan’s Point Park Plan Implementation: Ongoing
    - 5) Reprogram Traffic Signals Downtown: Complete
    - 6) Assess Stormwater Fees: Tabled until next year
    - 7) Green Infrastructure Group: Complete
  - C. Key Annual PC Milestones: Ongoing. Remaining items:
    - 1) Zoning Text Amendments: Ongoing. Remaining items:
      - a. Cottage Housing
      - b. What else, if any?
    - 2) Comp Plan Review: Ongoing
- 7. CITY COUNCIL REPORT**
- 8. ADJOURN**

\*indicates attachment

## MINUTES

**The Lexington Planning Commission  
Thursday, February 23, 2023 – 5:00 p.m.  
Rockbridge County Administrative Offices – First Floor Meeting Room  
150 South Main Street, Lexington, VA 24450**

### Planning Commission:

Presiding: Blake Shester, Chair  
Present: Pat Bradley  
John Driscoll  
Shannon Spencer  
Leslie Straughan, Council Liaison

### City Staff:

Arne Glaeser, Planning Director  
Kate Beard, Administrative Assistant

Absent: Matt Tuchler, Vice-Chair

### CALL TO ORDER

Chair Shester called the meeting to order at 5:01 p.m.

### AGENDA

The agenda was unanimously approved as presented. (J. Driscoll / P. Bradley)

### MINUTES

The minutes from the February 9, 2023 meeting were unanimously approved as presented. (L. Straughan / J. Driscoll)

### CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA

None

### NEW BUSINESS

**A. PS 2023-01: An application by Pierson Hotchkiss proposing a preliminary subdivision plat (boundary line adjustment) for parcels located at 505 Pickett Street (Tax Map # 21-4-12 & #21-4-13), owned by William F. and Jean D. Kirchner.**

- 1) Staff Report – This request was for a boundary line adjustment between 505 Pickett Street and a pie shaped, adjacent parcel, both owned by the Kirchners. The proposed adjustment to the property line would increase the size of the parcel with the main residence and decrease the size of the vacant, adjacent parcel by  $\pm 0.109$  acre, as shown on the boundary line adjustment survey. A. Glaeser noted the proposal met the minimum lot size and lot width requirements of the subdivision ordinance and he recommended its approval. S. Spencer asked if the applicant's intent was to sell the vacant parcel and A. Glaeser suggested the applicant could speak to the intent.
- 2) Applicant Statement – William F. Kirchner, 505 Pickett Street, owner of both properties, said he and his wife have made 505 Pickett Street their home since 1986 and purchased the adjacent parcel not long after. He said the boundary line adjustment was, in part, to protect the roots of a Maple tree and a Pine tree toward the back of the adjacent property. He and

his wife are interested in considering a sale of the adjacent property and would like to protect the tree roots from any excavation associated with building on the adjacent lot.

In response to a question from L. Straughan, A. Glaeser confirmed that there are no setback requirements for driveways. J. Driscoll commended the Kirchners for their interest in saving the trees but noted there appeared to be some overlap on driveway area in the survey. He asked if this presented a problem and A. Glaeser confirmed it did not.

- 3) Public Comment - None
- 4) Commission Discussion & Decision – **P. Bradley moved to approve the Preliminary Subdivision Application PS 2023-01 for the adjustment of boundary lines between 505 Pickett Street (Tax Map # 21-4-12) and 0 Pickett Street (Tax Map # 21-4-13), in accordance with the Preliminary Plat showing revised Lots 12 & 13 of Confederate Cove Subdivision, completed by Perkins & Orrison, and as submitted by the applicant. S. Spencer seconded and the motion passed unanimously. (5-0)**

**B. SP 2023-02: An application by Chad Coffey requesting approval of a site plan that includes a storage building, a timber frame pavilion, and the relocation of a batting cage at Brewbaker and Fox Fields, located at 198 Wallace Street (Tax Map # 29-1-49) and owned by the City of Lexington.**

- 1) Staff Report – A. Glaeser reminded the Commission that site plan approval is required before a building permit can be issued for any new structure. He explained the proposal involved the addition of three new structures. The first was to install a new metal fabricated storage building, measuring 18’ x 50’ and 16’ in height, on the site of the existing batting cage, making use of the existing concrete pad. It would feature 3 garage doors across the front and one standard entry door. The building’s walls and roof would be forest green in color and the doors would be white. The second structure, a new 16’ x 70’ x 14’ batting cage would be installed in the northeast corner of the parcel, perpendicular to the storage building and set back 20-25 feet from the fence line. The third proposed structure was a timber frame pavilion, measuring 35’ x 25’10” and approximately 16’ in height, to be located between Fox Field and the football field, just off the Fox Field foul line. The pavilion would house picnic tables for public use and its roof would be forest green in color. A. Glaeser pointed out the criteria for site plan approval, his notes addressing each, and stated he found the proposal complied with all zoning requirements and recommended its approval.

P. Bradley asked if there had been any comment from neighbors. Director Glaeser responded that the property was posted and public hearing notices mailed to adjacent property owners and the Planning Department had received no inquiries or comments. S. Spencer expressed enthusiasm for the project as a whole but questioned the locations chosen for the batting cage and pavilion. She was concerned about the proximity of the proposed batting cage to the neighboring residence, worrying that the associated noise might be a nuisance. She was also concerned that foul balls could create a safety concern for people using the pavilion during games at Fox Field. A. Glaeser suggested the applicant address those concerns.

- 2) Applicant Statement – Chad Coffey, on behalf of RARO, addressed the locations proposed for each of the structures. He indicated the storage building would allow RARO to store expensive equipment on site and the proposed location not only took advantage of the existing concrete pad, but also isolated it somewhat from general public access. The new batting cage would be the same distance (roughly 25-30 feet) from the fence as the end of the existing batting cage, and would be oriented so that the majority of the balls would be hit toward the annex field and away from the adjacent residence. He explained that the intent with the timber frame pavilion was to site it centrally in the park and make it available for public use. He remarked that care was taken in choosing the site, saying RARO staff physically walked the site on several occasions and made note of where foul balls typically land. Responding to concern about noise related to the batting cage, Mr. Coffey noted the existing batting cage has been in use, year round, for a long time and he was not aware of any noise related complaints. Responding to questions from Commissioners Shester and Spencer, Mr. Coffey indicated there would be lights and electrical outlets in both the storage building and the pavilion and that Lexington Public Works would complete the electrical work.
- 3) Public Comment – None
- 4) Commission Discussion & Decision – **L. Straughan moved to approve Site Plan number SP 2023-02 and find the submitted plan to be in compliance with the Zoning Ordinance. S. Spencer seconded and the motion passed unanimously. (5-0)**

**C. ZOA 2023-01: Annual Zoning Ordinance Amendments. Accessory Dwelling Units (A.D.U.)**

- 1) Staff Report – A. Glaeser reviewed the progress made thus far and read the draft definition for *accessory dwelling unit – detached* to provide context for the general standards to be considered during this meeting. Prior to discussion of standards, J. Driscoll suggested the addition of “and households” to the second sentence of the purpose statement after the word “individuals.” There was general agreement to make that addition.

Addressing Minimum Lot Size standards, A. Glaeser said the Commission should keep in mind that Lexington will have a fair number of non-conforming lots due to the fact that most of the City’s parcels were platted before the existence of the zoning ordinance. He also noted that section D already includes a requirement that the parcel meet the minimum lot size and setbacks for the district. Following discussion, there was general agreement to include the first, second and fourth sample standards for the time being.

B. Shester asked if the intent of the ordinance is to provide one general code for the regulation of all Accessory Dwelling Units or two separate sets of standards for attached and detached ADUs. A. Glaeser suggested that once a first draft of the full ordinance has been developed, including all use and design standards, the Commission may find that the definitions and some of the standards can be consolidated.

Addressing Types of Structures, A. Glaeser explained the AARP model ordinance outline being used to structure this discussion actually intended this section to provide standards for allowable types of construction (i.e. off-site manufactured, modular, etc.) for ADUs. He requested the Commission disregard the sample standards included in the

packet and instead consider that the City currently only allows modular and stick-built homes. B. Shester suggested that an ADU simply inherit the same rights as the primary residence when it comes to allowable construction type. There was general agreement to allow stick-built or modular dwellings, affixed to a permanent foundation, to be used as ADUs.

Addressing standards for Size of ADUs, A. Glaeser reminded the Commission that the existing size requirement for an accessory apartment is that it comprise no more than 25% of the gross floor area of the structure nor more than a total of 750 square feet. He noted the varying ways other jurisdictions have dealt with this requirement and asked the Commissioners for their opinions. There was discussion during which the Commission contemplated ADUs of varying sizes and entertained varying size restrictions. S. Spencer suggested the standard address maximum footprint as well as maximum area. B. Shester remarked upon the wide range of sizes allowed in the examples from other jurisdictions and voiced mild objection to choosing a number arbitrarily. He suggested limiting the size of an ADU to less than 50% of floor area of the primary dwelling. Noting that duplexes are not allowed in the R-2 zoning district, L. Straughan cautioned against allowing situations whereby a primary dwelling and its accessory unit too closely resemble a duplex. P. Bradley pointed out that the size should be in keeping with the “clearly incidental and subordinate to” language included in the definition. A. Glaeser remarked that he liked the language from Arlington County that allowed for an attached ADU to occupy the entirety of a residence’s basement. Ultimately there was general agreement to start with separate size requirements for attached and detached ADUs. The Commission agreed that an attached ADU should comprise no more than 40% of the gross floor area of the structure nor more than 750 square feet; and a detached ADU should not exceed 40% of the floor area of the primary residence nor more than 800 square feet. S. Spencer advocated for requiring detached ADUs be in rear yard and including lot coverage limits similar to those in Charlottesville’s ADU standards. L. Straughan agreed but suggested additional setback requirements could be sufficient. A. Glaeser offered to include language addressing lot coverage as a place holder.

- 2) Public Comment – David Sigler, 307 Overhill Drive, remarked that, while the goal generally is to limit the use of conditional use permits, he believed the conditional use permit process was appropriate in the case of detached ADUs in Lexington. He encouraged the Commission to consider how utility metering and short term rentals should be handled, as well as how to clearly differentiate between primary and subordinate dwelling units.

#### **D. South Main Street Opportunity Area Discussion**

- 1) Opportunity Area Map – A. Glaeser remarked that this item was added to the agenda by a request made at the last meeting. He noted that during his discussion with City Council concerning the adoption of the PD-MU district, it was discovered that the Opportunity Area along South Main Street extends over a portion of Maple Lane. He indicated that he anticipates receiving direction to amend the map to remove the single family residences on Maple Lane from the Opportunity Area Overlay District and add them to the Traditional Neighborhood portion of the Future Land Use map. J. Driscoll then shared maps showing

how that area of the City is featured on the zoning, future land use and opportunity area maps. L. Straughan said her memory was that this particular Opportunity Area was intended to match the C-2 district and that the inclusion of the Maple Lane parcels was likely the result of a clerical error. A. Glaeser noted that unless he could find evidence that it is simply a clerical error the most conservative means of addressing the issue would be through the public hearing process for a Comp Plan amendment.

2) Public Comment – None

#### **E. North Main Street Smart Scale project**

1) Project Overview and street cross sections diagrams – A. Glaeser remarked that this item was also added to the agenda due a request at the last meeting that the Smart Scale project drawings be shared with the Commission. VDOT, the managing entity for the project, recently posted the drawings and will hold a public hearing on March 15<sup>th</sup> at 4:00-6:00 pm at the Virginia Horse Center. A. Glaeser then briefly summarized the drawings which were included in the meeting packet. He noted the improvements would extend from Massie Street to Hook Lane and are intended to create an improved entrance to the City. He confirmed that VMI is aware of and agreeable to the improvements, which will include removing parking along this section of North Main Street.

#### **OTHER BUSINESS**

A. Zoning and Planning Report – Director Glaeser did not have a formal report but announced there would be a joint work session between the Planning Commission and City Council on March 2<sup>nd</sup> at 6:00 pm.

#### **CITY COUNCIL REPORT -**

L. Straughan reported that City Council would hold a public hearing on the Conditional Use Permit application for the Spotswood parcel on March 2<sup>nd</sup>, and that the deadline for RFQ responses for the VDOT property is March 17<sup>th</sup> and there is a committee tasked with reviewing the proposals.

#### **ADJOURN**

The meeting was adjourned at 6:54 pm with unanimous approval. (S. Spencer / J. Driscoll)

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B. Shester, Chair, Planning Commission

## Draft amendments for Accessory Dwelling Units

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### Proposed Amendments to the Zoning Chapter (*Chapter 420*)

The Lexington Planning Commission is considering a zoning text amendment to potentially allow accessory dwelling units in accessory structures in accordance with strategy HO 1.2 from the Comprehensive Plan. That strategy directs us to review regulations allowing accessory dwelling units in separate structures in appropriate residential areas. Currently, Accessory Apartments are defined in the Zoning Ordinance as a residential use having the external appearance of a single-family residence in which there is located a second dwelling unit that comprises no more than 25% of the gross floor area of the building nor more than a total of 750 square feet. The current definition does not allow accessory dwelling units to be located in accessory structures that are detached from the main dwelling unit. The purpose of this zoning text amendment is to explore whether accessory dwelling units can be allowed in accessory structures while not creating negative impacts to our neighborhoods.

In this report, staff is proposing a draft outline for the accessory dwelling unit zoning text amendment in an effort to guide the discussion. The following outline is pulled primarily from the *AARP ADU Model State Act and Local Ordinance* and is modified to fit the format of the existing Lexington Zoning Ordinance.

The February 9, 2023 Planning Commission discussion regarding the definition of an accessory dwelling unit raised a number of questions about maximum occupancy, parking requirements, and size limits for accessory dwelling units. In response to that portion of the discussion, staff thought it helpful to provide two examples of accessory dwelling regulations from two other Virginia jurisdictions to show the overall structure of those regulations and how the use and design standards can be organized. Included in the attached “background” document are the accessory dwelling regulations from Arlington and Charlottesville, as well as a zoning map for Lexington.

For the Planning Commission discussion on March 9, 2023, staff recommends the Planning Commission continue with lot coverage, setbacks, and height limitations for accessory dwelling units. Subsequent meetings will generally follow the proposed outline and staff will continue to provide examples from other ADU ordinances for each item in the outline.

# Article XI. Use and Design Standards.

The following additional regulations apply to specific uses as set forth below. These regulations are intended to serve as the minimum standards for these uses, and are not intended to be in substitution for other provisions of this ordinance that may apply.

## §420-11.1. Residential Uses.

### 1. Accessory Dwelling Units.

- A. Purpose
- B. Definitions
- C. Authorization of ADUs by zoning district
- D. Number of ADUs allowed per lot in Single-Family Zones
- E. General Standards
  - 1. Minimum Lot Size in Single-Family zones
  - 2. Types of Structures
  - 3. Size of ADUs
  - 4. Lot Coverage Limits
  - 5. ADU Setbacks
  - ~~6. Floor Area Ratios~~
  - 7. ADU Height Limit
  - 8. Architectural Consistency and Design Review
  - 9. Orientation of Entrance
  - 10. ADU Screening, Landscaping and Orientation
  - 11. Parking Requirements
  - 12. Short-Term Rentals
  - 13. Separate Sale of ADUs
  - 14. Owner Occupancy (Residency) Standards
  - 15. Other Common Standards Not Recommended for Application to ADUs
- F. Utility Connections and Building Codes
  - 1. Utility Connections
  - 2. Local Building Codes
- G. ADU Application and Review Procedures
  - 1. Application Process
  - 2. Clear and Objective Versus Discretionary Standards
  - 3. Review Procedures
  - 4. Appeals of ADU Decisions
- H. Fees
- I. Legalizing ADUs



## A. Purpose

In Lexington, accessory dwellings are intended to provide additional housing options for the benefit and convenience of families and households with changing economic conditions and/or family structure. Accessory dwellings are expected to increase housing opportunities for individuals and households who might have difficulty finding housing in Lexington. In addition, these provisions are provided to formally recognize previously established apartments and provide for improved safety and physical appearance.

## B. Definitions

### ACCESSORY DWELLING UNIT - ATTACHED

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than 2 persons for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained within the principal structure of a single-family dwelling, such accessory dwelling unit constitutes an “attached accessory dwelling unit,” for which a separate entrance and street address are required.

### ACCESSORY DWELLING UNIT – DETACHED

A complete independent dwelling unit, with kitchen and bath, designed, arranged, used, or intended for occupancy by not more than 2 persons for living purposes, and meeting the standards of §11.1.1. Accessory dwelling units are clearly incidental and subordinate to, and remain under the same ownership as the main dwelling on the lot. When contained in a separate, fully detached structure from the principal structure of a single-family dwelling, such accessory dwelling unit constitutes a “detached accessory dwelling unit,” for which a separate street address is required.

### C. Authorization of ADUs by zoning district

Zoning District	FP, Floodplain Overlay	P-OS, Parks and Open Space District	R-1, Residential General	R-2, Suburban Residential	R-M, Residential Multifamily	R-LC, Residential- Light Commercial	C-1, Central Business District	C-2, General Commercial District
<i>B = By-right uses, C = Conditional uses</i>								
<b>Use Types</b>								
<b>Residential</b>								
Accessory apartment (interior)			B	B	B	B	B	
Accessory apartment (detached)			C	C	C	C		
Dish Antennas (not meeting use and design Standards in §420-11.1.1)			C	C	C	C		
Family Health Care Structure, temporary			B	B	B	B		
Fraternity/Sorority House, University Administered			C		C			
Group home			B	B	B	B		
Guest room			B	B	B	B		
Live-work dwelling					B	B	B	B
Multi-family dwelling					B	C	B <sup>1</sup> , C <sup>2</sup>	
Single-family dwelling, attached			B	B	B	B		
Single-family dwelling, detached			B	B	B	B		
Townhouse					B	B	B	C
Two-family dwelling			B		B	B		

## D. Number of ADUs allowed per lot

No more than one per lot, provided the parcel meets the minimum lot size and minimum setback requirements for the district.

## E. General Standards

### 1. Minimum Lot Size

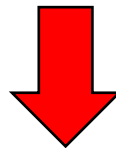
- a) Same minimum lot size for the accessory dwelling unit as the minimum lot size for the primary dwelling.
- b) Accessory dwelling units may be created within or attached to an existing primary dwelling located on a lot that is smaller than the minimum lot size provided the primary dwelling is a legal nonconforming use.
- c) The underlying zoning district development standards for lot coverage, height, setbacks and floor area ratio that apply to the primary dwelling shall also include the accessory apartment in the calculation of these standards.

### 2. Types of Structures

A modular dwelling affixed to a permanent foundation may be used as an accessory dwelling unit in any zone in which an accessory dwelling unit are permitted.

### 3. Size of ADUs

- a) *Accessory dwelling unit – attached.* The gross floor area of an attached accessory dwelling unit may not exceed forty (40) percent of the gross floor area of the principal structure in which it is located nor more than the total of 750 square feet.
- b) *Accessory dwelling unit – detached.* The gross floor area of a detached accessory dwelling unit may not exceed forty (40) percent of the gross floor area of the primary dwelling on the property nor more than the total of 800 square feet. Additionally, detached accessory buildings and structures cumulatively shall not occupy more than ~~2~~ (2) percent of a rear yard.



Continue with 3.9.2023 P.C.  
discussion here

### 4. Lot Coverage Limits

#### a) **Sample from Charlottesville**

Accessory buildings may be erected in a required rear yard, provided that in any residential zone, accessory buildings and structures (when located within a required rear yard): Cumulatively shall not occupy more than thirty (30) percent of a rear yard, and...

The Charlottesville definition of a rear yard is:

Yard, rear means a yard extending across the rear of a lot between side lot lines and being the minimum horizontal distance between the rear lot lines and the rear of the

main building or any projection other than steps. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.)

The Lexington definition of a yard is:

**YARD** - An open space on a lot, other than a court, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

1. Front yard - An open space on the same lot as a building between the front line of the building (excluding steps) and the front lot or street line, and extending across the full width of the lot.
2. Rear yard - An open, unoccupied space on the same lot as a building between the rear line of the building (excluding steps) and the rear line of the lot and extending the full width of the lot.
3. Side yard - An open, unoccupied space on the same lot as a building between the side line of the building (excluding steps) and the side line of the lot, and extending from the front yard line to the rear yard line.

Staff notes the location of main structures on residential parcels is not standardized in Lexington, and it may be difficult to easily calculate a rear yard percentage that cannot be exceeded. Our lot sizes vary in shape, and the location of the main structure on the lot also varies. For example, there are a number of houses set far back from S. Main Street, and those rear yards may not be adequate in size to accommodate a detached accessory dwelling unit if a maximum rear yard coverage percentage is applied. Additionally, a previous edition of the Lexington Zoning Ordinance required rear yards in the R-1 and R-2 zoning districts to include minimum open area of 1,000 square feet. Staff is not against a maximum coverage standard, and is just pointing out limitations and the need for clear definitions for the calculation if such a requirement is included.

## 5. ADU Setbacks

### a) Sample from Arlington County

Any detached accessory building approved after May 18, 2019, containing an accessory dwelling shall comply with all requirements of Article 3 (*Article 3 contains density and dimensional standards for Arlington*), and with setbacks as follows: (1) On interior lots, the nearest wall of the accessory building shall not be located closer than five feet to a side or rear lot line; (2) On corner lots, the nearest wall of the accessory building shall not be located closer than five feet to any side lot line, and the nearest edge of the eave of the accessory building shall not be located closer than 10 feet to any rear lot line; and (3) The nearest wall of the accessory building shall not be located closer than 25 feet from any street or officially designated street right-of-way line

### b) Sample from Charlottesville

*Exterior accessory apartment:* Must be located within an accessory structure, and the accessory structure must itself be in compliance with all applicable zoning and building

code regulations. AND Accessory buildings may be erected in a required rear yard, provided that in any residential zone, accessory buildings and structures (when located within a required rear yard): ... Shall not be nearer than five (5) feet to any side or rear lot line. However, when a garage situated within a required rear yard is entered from an alley, the garage shall not be nearer than ten (10) feet to the property line adjacent to the alley.

**c) no additional setbacks were specified in Louisa, Loudon, City of Roanoke, or Town of Strasburg**

**d) Staff's recommendation**

Any detached accessory building approved after July 1, 2023, containing an accessory dwelling shall comply with setbacks as follows:

- (1) For lots in the R-1 zoning district, the nearest wall of the accessory building shall not be located closer than fifteen feet to a side or rear lot line;

*(Staff notes the current R-1 side yard setback is 10 feet, and the rear yard setback is 5 feet for an accessory building; the proposed 15 foot setback for detached ADUs is simply greater than the current R-1 side and rear yard setbacks to provide additional separation for the ADU that is presumed to have a greater impact than other accessory uses. This dimension can be increased as needed.)*

- (2) For lots in the R-2 zoning district, the nearest wall of the accessory building shall not be located closer than twenty feet to a side or rear lot line; and

*(Staff notes the current R-2 side yard setback is 15 feet and the rear yard setback is 5 feet for an accessory building; the proposed 20 foot setback for detached ADUs is simply greater than the current R-2 side and rear yard setbacks to provide additional separation for the ADU that is presumed to have a greater impact than other accessory uses. This dimension can be increased as needed.)*

- (3) When a garage situated within a required rear yard is entered from an alley, the garage shall not be nearer than ten (10) feet to the property line adjacent to the alley.

*(Staff notes we will also need to determine if an ADU can be installed in a structure that is nonconforming with respect to setbacks, and if so, what are the restrictions on the expansion of that nonconforming structure?)*

## ~~6. Floor Area Ratios~~

## 7. ADU Height Limit

**a) Sample from Arlington County**

Detached accessory buildings approved after May 18, 2019, containing accessory dwellings shall exceed neither 25 feet nor 1½ stories in height.

**b) Sample from Charlottesville**

No accessory unit shall exceed twenty-five (25) feet in height or the highest point of the primary dwelling unit's roof surface, whichever is less.

*(Staff recommends the Charlottesville example.)*

## 8. Architectural Consistency and Design Review

### a) Sample from Strasburg

An accessory dwelling is allowed incidental to a primary dwelling unit and on the same lot as the primary dwelling unit subject to the following conditions: ...

G. Accessory dwellings shall be consistent with the look and scale of adjacent dwellings and development patterns.

*(Staff notes the Strasburg regulation is not specific and open to interpretation. Additionally, all detached ADUs located in the Residential Historic Districts must be reviewed by the Architectural Review Board for consistency with the Historic District Design Guidelines.)*

## 9. Orientation of Entrance

### a) Sample from Arlington County

No accessory dwelling within a main dwelling with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street. No accessory dwelling within an accessory building with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street unless the accessory building was built prior to May 18, 2019.

*(Staff recommends the Arlington County example.)*

### b) Sample from Bedford County

Exterior entrances to the apartment shall be located so as to appear as a single-family dwelling.

### c) Sample from Charlottesville

Interior accessory apartment: The accessory apartment may not have its own separate entrance located on any façade of the principal dwelling that fronts on a public street. No exterior stairs providing access to the accessory apartment shall be visible from any public street.

## 10. ADU Screening, Landscaping and Orientation

## 11. Parking Requirements

### a) Sample from Arlington County

For accessory dwellings pursuant to §12.9.2:

1. If no parking spaces exist prior to issuance of accessory dwelling permit, 1 space shall be created, provided, however, where a parking survey conducted by the County determines that the block on which the main dwelling is located is less than 65% parked, such new space is not required to be created.
2. Where either 1 or 2 spaces exist prior to issuance of the accessory dwelling permit, all such space(s) shall be maintained.
3. Where more than 2 spaces exist prior to issuance of the accessory dwelling permit, at least two spaces shall be maintained.

**b) Sample from Charlottesville**

For single-family and two-family dwellings – 1 space/dwelling unit

**c) Sample from Bedford County**

One (1) parking space shall be required in addition to required parking for the principal dwelling.

**d) Sample from Blacksburg**

Off-street parking is not required for the accessory apartment. If any parking is proposed, the parking shall be of a pervious surface such as pervious pavers, pervious concrete or other pervious material as approved by the Zoning Administrator.  
(Blacksburg only allows internal accessory dwelling units.)

**e) Loudon County**

1 per accessory dwelling unit

**f) City of Lexington**

For single family, two-family, accessory dwellings and townhouses; 2 parking spaces for each dwelling unit; 1 parking space for each accessory dwelling.

**12. Short Term Rentals****a) Sample from Arlington County**

1. Accessory use. Accessory homestay shall be accessory only to household living use as defined in §12.2.3.A.1, and shall be allowed only where:

- (a) The dwelling unit is used by the resident of the dwelling unit as his/her primary residence, which means that he or she resides there for at least 185 days during each year; and
- (b) The bedroom(s) rented to overnight lodgers shall be within the main building of the dwelling unit that the resident occupies as his/her primary residence and shall be allowed in a detached accessory building only where such building is approved as an accessory dwelling. **AND**

3. Accessory homestay shall be allowed in dwelling units that have an accessory dwelling, subject to the following:

- (a) Either the main dwelling, the accessory dwelling, or both may be rented to lodgers by the resident; and
- (b) Occupancy in the accessory dwelling is limited to a maximum of three lodgers;

**b) Sample from Louisa County**

[An accessory dwelling unit] shall not be rented in less than six-month increments.

**c) Sample from Strasburg**

Conversion of an accessory dwelling unit to a rental unit is strictly prohibited.

**d) Sample from Lynchburg**

May be used as short-term rentals as long as the primary dwelling is owner occupied.

**e) Sample from Roanoke**

Allows one home stay per parcel and the owner must reside on the property. A special exception (i.e. a conditional use permit) is required for a home stay permit.

**f) Staff recommends one short term rental be allowed per parcel.**

### 13. Separate Sale of ADUs

The AARP guide states most accessory dwelling unit ordinances are silent on the separate sale of the units as condominiums and a few prohibit this practice. The policy basis for these restrictions seems to be a concern that allowing ADUs to be sold as condos will fuel speculative redevelopment of existing housing in high-cost neighborhoods. In addition, neighbors and local officials fear the prospect of both units being rental units.

*Staff recommends the separate sale of the ADU be expressly prohibited.*

### 14. Owner Occupancy (Residency Standards)

**a) Sample from Bedford County**

Only one (1) accessory apartment shall be allowed on any one (1) lot or parcel, and the owner of the property shall reside on the premises.

**b) Sample from Blacksburg**

The maximum dwelling unit occupancy shall be a family plus two (2) persons unrelated to the family; or no more than three (3) unrelated persons. For a detached single-family dwelling with a nonconforming accessory apartment, occupancy shall be figured cumulatively including both the single-family dwelling and the accessory apartment for a total not to exceed three (3) unrelated persons. (Increased to 4 unrelated in the Old Town Res. District.)

**c) Sample from Charlottesville**

One (1) of the two (2) dwelling units on the subject property must be occupied by the owner of the property. **AND** Notwithstanding any other residential occupancy provisions set forth within this zoning ordinance, no accessory apartment may be occupied by more than two (2) persons.

**d) Sample from Louisa County**

Occupancy of such accessory dwelling unit shall be limited to no more than one family (as defined) or up to three unrelated persons and shall not be rented in less than six-month increments, and the primary dwelling unit must be occupied by the owner of the subject property or an immediate family member (as defined).

**e) Sample from Strasburg**

An accessory dwelling is allowed incidental to a primary dwelling unit and on the same lot as the primary dwelling unit subject to the following conditions: A. The primary dwelling unit is owner-occupied... **AND** E. The owner of the principal building or lot shall be the occupant of the principal dwelling or of the accessory dwelling unit at all times.



## 15. Other Common Standards Not Recommended for Application to ADUs

### Sample from Loudoun County

Accessory dwellings shall not be included in calculations of density.

## F. Utility Connections and Building Codes

### 1. Utility Connections

#### a) Sample from Roanoke

An accessory building in which the accessory apartment is located shall not be separately metered for utilities from the principal single-family home. (City of Roanoke)

### 2. Local Building Codes

#### a) Sample from Charlottesville

Must comply with all applicable building code regulations.

#### b) Sample from Fauquier County:

Building codes are not as restrictive if the ADU is meant to house family members and there is a deed restriction limiting the use of the ADU to family members. Check with Building staff for information regarding building code requirements.

#### c) Sample from Loudon County: Charlottesville

Structures existing prior to 1/7/2003 may be used as an accessory dwelling and be exempt from the floor area and minimum lot area requirements for AD, provided that any expansion or enlargement of such structure shall not exceed 15% of the total floor area existing prior to 1/7/2003 if it is:

- Located within a County Historic Site (HS) District or Historic and Cultural Conservation (HCC) District
- Listed or eligible for listing in the Virginia Landmarks Register (VLR) or the National Register of Historic Places (NRHP).
- Listed or eligible for listing as a contributing resource to a VLR or NRHP listed or eligible Historic District. (Loudoun County)