

**LEXINGTON PLANNING COMMISSION**

**April 27, 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 April 13, 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\* and continued Commission Discussion
    - 2) Public Comment
- 6. OTHER BUSINESS**
  - A. Zoning and Planning Report – If applicable
  - B. 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
    - 3) Major Project Update
- 7. CITY COUNCIL REPORT**
- 8. ADJOURN**

\*indicates attachment

## MINUTES

**The Lexington Planning Commission  
Thursday, April 13, 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  
Matt Tuchler, Vice-Chair – arrived at 5:02 p.m.

### **City Staff:**

Arne Glaeser, Planning Director  
Kate Beard, Administrative Assistant

### **CALL TO ORDER**

Chair Shester called the meeting to order at 5:00 p.m.

### **AGENDA**

The agenda was unanimously approved as presented. (L. Straughan /S. Spencer)

### **MINUTES**

The minutes from the March 23, 2023 meeting were unanimously approved as presented. (J. Driscoll / P. Bradley)

The minutes from the March 2, 2023 City Council Joint Work Session were unanimously approved as presented. (L. Straughan / P. Bradley)

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

None

### **NEW BUSINESS**

#### **A. ZOA 2023 -02: An application by the City of Lexington to amend Article IV. Zoning District Regulations. of the Zoning Ordinance to amend the lot width requirements for multi-family dwelling units and townhouses.**

##### 1) Staff Report & Applicant Statement –

A. Glaeser reported he received direction from the City Manager, based on feedback from several Council Members concerned about clarity and consistency in the code, to address the issue that arose during the CUP approval process for the Spotswood parcel project having to do with the discrepancy between the lot area and lot width requirements. He pointed out that staff had developed three options for how the issue could be addressed, the first being to do nothing and to leave the requirements for lot area and lot width unchanged. However he stated that, in his opinion, the development proposal for the Spotswood parcel demonstrated the proposed number of apartments could fit on the parcel with the existing street frontage and would not have been improved by meeting the required lot width of 630 feet.

A question from S. Spencer led to discussion and clarification of the dimensions of the Spotswood parcel. A. Glaeser explained that while the development proposal had not met the

lot width requirement, it had met all other requirements, including the lot area requirement. He asked the Commission to consider what is gained by having the width requirement in addition to the area requirement. Responding to a query from L. Straughan, he confirmed the lot area and lot width requirements preexisted the 2016 update to the zoning ordinance. S. Spencer suggested the lot width requirement may have been a means of protecting green space. B. Shester pointed out that the increased frontage requirement was based on density, and that a one story building with the same footprint and no additional open space would have been acceptable. He suggested the intent of the width requirement was in fact to control density and encourage development with suburban sprawl characteristics.

J. Driscoll asked that Director Glaeser continue with the other options included in the staff report, and A. Glaeser directed the Commissioners attention to a staff-compiled table showing how other nearby jurisdictions handle density, lot width, and lot area requirements. He noted that none of the included jurisdictions have a minimum lot width requirement that is based on the number of units. J. Driscoll then reported on research he had undertaken and provided some additional data from Henrico County which also has minimum lot width requirements that do not increase with additional units. He agreed the current lot width requirement was likely intended for a suburban landscape and suggested considering amending the requirement rather than eliminating it altogether. He said his research had not yielded an explanation for the rationale behind minimum lot width requirements generally and offered some theories as to the rationale, concluding with the recommendation to consider whether this was the appropriate time to make any changes to the lot requirements. After receiving confirmation that the Staff Report was the open portion of the agenda, L. Straughan indicated she would hold her comments until the discussion portion of the meeting.

A. Glaeser explained the second option was to delete the lot width requirements for townhouses and multi-family dwellings while retaining the lot area requirements for both uses. He indicated this was the option recommended by staff and was also the most expedient solution to the issue at hand. The third option would be to undertake a larger discussion about alternative density calculations for townhouses and multi-family dwellings to review whether density limits should be changed and how to establish the limits if not by lot area. J. Driscoll asked if it would be possible to combine options. A. Glaeser replied in the affirmative but asked that he keep in mind the request that this be resolved expeditiously.

2) Public Comment - None

3) Commission Discussion & Decision –

Responding to a question from S. Spencer, A. Glaeser said the City Manager indicated that several members of City Council were concerned after the CUP approval for the Spotswood project that the lack of clarity and consistency in the code could create doubt in the eyes of the public. L. Straughan said she agreed the additional lot width would not have improved the Spotswood proposal and she saw no reason to have competing requirements. She pointed out that the most restrictive width requirement from nearby jurisdictions appeared to be 100 feet and suggested replacing the current width requirement with a flat 100 feet requirement.

S. Spencer suggested considering the third option to allow for a more holistic look at density. L. Straughan countered that the current philosophy is to look for ways to increase

density, especially in urban areas where there is existing infrastructure. P. Bradley said if there was concern that there may be an issue in the areas where infill development is anticipated, a holistic look at density might be warranted, but only if other lot and site requirements were deemed to be insufficient.

Noting the proposed amendment would only affect the R-M and R-LC zoning districts and would not change lot width for any other zones, B. Shester suggested the question for this meeting was not to solve Lexington's housing density issues, but rather to look specifically at whether staff's recommendation was acceptable. P. Bradley asked what the downside would be to accepting staff's recommendation. J. Driscoll's response was that the Spotswood proposal was approved by both Planning Commission and City Council based on a conditional use permit and there was a logic to leaving it alone based on the strength of the decision that was made. He recommended leaving the requirements as they were until a larger discussion could be had about density throughout the city. B. Shester said the fact that Lexington was the only jurisdiction with a lot width requirement that scaled up based on the number of units led him to question whether it was a useful requirement. He supported considering the fourth option, suggested by Commission Straughan, of replacing the lot width requirement with a flat standard minimum measurement. S. Spencer suggested increasing the minimum lot area as an additional option to increase green space.

A. Glaeser reiterated that deleting the lot width requirement would not eliminate all limitations on density as the lot area requirement would remain. L. Straughan said she had no qualms deleting the current calculation and replacing it with a flat 100 feet width requirement, especially given how few properties are zoned R-M and that multi-family units require a CUP in the R-LC district. B. Shester said he was most inclined toward this solution also.

B. Shester asked Director Glaeser what he would recommend doing with the width requirement for townhouses if the multi-family requirement were changed to 100 feet. A. Glaeser said he would recommend a 100 feet lot width per town house development which would allow for greater flexibility in siting individual townhouses on a parcel. To explain his reasoning he cited an issue the Spotswood Collaborative had complying with the current metric. He confirmed *townhouse development* is defined in the zoning ordinance and that there are Use and Design Standards for townhouses. Following additional discussion, there seemed to be general agreement to leave the existing lot width requirement for townhouses in place. S. Spencer indicated she would be most comfortable proceeding with a much more fulsome discussion of density prior to making any changes to the lot requirements.

B. Shester acknowledged the concerns voiced and the thought given to the discussion thus far but requested the Commission focus specifically on the multi-family width requirement that scales with density as it was the issue the City Manager and City Council wished to have addressed. He suggested the Commission address that issue and leave all other requirements in place. He asked if there was support for amending the multi-family width requirement to a flat 100 feet. L. Straughan again voiced support for proceeding in that fashion. S. Spencer asked if it would be possible to make that change for the short term and also commit to a future, larger discussion. P. Bradley remarked that he was not sure how beneficial a larger discussion would be given that Lexington is a very small city with a limited and largely known number of developable parcels. B. Shester added that during the development of the PD-MU

district there had been extensive discussion about density concerns, and it was ultimately decided that density would be determined and limited by a number of requirements which the majority of the Commission felt comfortable would provide adequate protection. J. Driscoll then requested an opportunity later in the meeting to say some words and Chair Shester agreed to give him the opportunity to opine.

Noting that the wording of the recommendation included in the staff report did not mesh with the recommendation that seemed to have the most support, B. Shester suggested the Commission's recommendation not include any change to the requirements for townhouses and only include amending the lot width requirement for multi-family dwellings in R-M and R-LC to a 100 feet minimum. Reiterating that the discussion was intended to resolve this one specific discrepancy in the way that lot widths are required, he asked if would be acceptable to close the current discussion with that recommendation and open a shorter discussion of other of housing/density issues requested by Commissioner Driscoll.

At M. Tuchler's request, J. Driscoll again explained his position. He said the City approved the Spotswood development on the strength of the conditional use permit which included many conditions agreed to by the developer, the four criteria of the issuance of a CUP, and compliance with the front, side and rear setback requirements, and the density requirements under lot area. He indicated he was uncomfortable going back to retroactively tailor requirements to the development. He agreed the lot area and lot width requirements were potentially in conflict but he objected to having their amendment be tied to the Spotswood development. L. Straughan agreed the amendment should not be tied to Spotswood but argued the process did identify a problem that should be corrected. J. Driscoll responded that the information from other jurisdictions was helpful and he would welcome the opportunity to have a larger discussion in the future about the elements that effect density as he believed adequate attention was not paid to the issue during the discussions of the PD-MU.

P. Bradley asked if there was a down-side to J. Driscoll's proposal. L. Straughan responded that the direction had come from City Council to clear up the issue given that they did not want to encounter this particular issue again. S. Spencer again asked if it would make more sense to wait to make changes until a larger discussion could be had and L. Straughan responded there would have to be discussion as to whether that discussion was even desired. She explained that the City's recent actions have been focused on trying to find ways to increase density, so the issue of undertaking a possible amendment to the way the City approaches housing and density may not actually be in synch with the City's goals.

A. Glaeser reminded the Commission that it had the ability to prioritize issues for the next set of annual zoning amendments to which the issue could be added if there was support for doing so. He indicated that process would begin once the current set of text amendments is completed.

Responding to a question from S. Spencer about the approval of the Spotswood CUP, B. Shester explained that there had been valid argument to reject the CUP on the grounds that the proposal did not comply with the lot width requirement and members of the Planning Commission had voted against it for that reason. L. Straughan added that City Council would have preferred having greater clarity in the code and not having to debate the issue.

J. Driscoll indicated he would be willing to support the amendment to the multi-family lot width requirement suggested by Commissioners Shester and Straughan if it was tied to a commitment to have a larger discussion about density in the near future. S. Spencer asked if such a discussion could be given priority over the discussion about cottage housing currently scheduled to be taken up next. B. Shester pushed back, making the argument that there are existing criteria that provide a ceiling on density. J. Driscoll stated his concern really had to do with open space. S. Spencer agreed and suggested the Commission consider adding a residential open space requirement, particularly for multi-family developments. A. Glaeser responded that an open space requirement could be counterproductive to the City's goal to increase housing. B. Shester cautioned against coupling the lot width requirement with open space issues noting that, in the case of the Spotswood project, it would have had a negligible impact on open space.

J. Driscoll asked the Commission not to think in terms of individual parcels, but to think about the future. He opined that changes put in place would define the character of development in the future and cited the PD-MU as a platform to substantially change the development of the C-2 districts in the future. B. Shester said he did not disagree but that the issue on the table was the very specific and unusual lot width requirement that scales with density. He noted the scaling mechanism is a means to reduce density which seems to be unique to Lexington.

S. Spencer returned to the question of reprioritizing the cottage housing discussion in order to discuss density and open space first. L. Straughan said she did not see that as a high priority given the other matters scheduled for attention from the Commission. M. Tuchler added that the cottage housing ordinance was prioritized due to a property owner's interest in creating such a development which is not allowed under current zoning. A. Glaeser provided an explanation of the process whereby a new slate of zoning ordinance amendments would be chosen and prioritized.

**L. Straughan moved to amend 420-4.6. Lot Requirements. for lot width to delete the red text shown in the staff report and replace it with "Townhouses - 20 feet each unit; Multi-family - 100 feet" for both the R-M and R-LC zoning districts.** B. Shester suggested simplifying the motion by not mentioning townhouses and to model the motion on the staff recommendation. After some procedural assistance from M. Tuchler, Chair Shester gaveled the motion dead. **L. Straughan moved to amend 420-4.6. Lot Requirements for the R-M and R-LC zoning districts to read "Multi-family – 100 feet" for the Lot Width. M. Tuchler seconded.** M. Tuchler remarked he was interested to understand the hesitation of some Commissioners to vote in support and asked if it was purely because it was felt that the density issue ought to be presented in a more forthright way, or if it was for a reason he was not seeing. J. Driscoll responded that for him it was a procedural issue and that was why he wanted to tie it to a more in depth review of the density requirement. Following additional discussion, **Chair Shester called for a roll call vote and the motion carried with the following vote:**

Ayes: L. Straughan, M. Tuchler, J. Driscoll, B. Shester, P. Bradley, and S. Spencer

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

There was general agreement to table discussion of this application until the April 27<sup>th</sup> meeting to allow discussion of a topic of importance to Commissioner Driscoll.

**OTHER BUSINESS**

A. J. Driscoll reminded the Commission of the information session on the W&L Master Plan he requested Director Glaeser hold in advance of the consideration of W&L's application to amend its Campus Master Plan. He found the session to be beneficial in preparing the Commissioners as they considered a complex issue with which they had little or no experience. He said it was in the spirit of that experience that he had requested, and Commission had agreed, that there would be a similar procedure for the VDOT property. He opined that the intent was not to step on Council's toes or to usurp the design process, but rather to have another set of eyes on the process. He further suggested that had a similar process been undertaken for the Spotswood approval, the issue the Commission spent so much of this meeting discussion would likely never have arisen. L. Straughan agreed the information session for W&L was helpful, particularly because it was a refresher for how to look at the master plan, something the Commission rarely does, and she also agreed that if the VDOT property proposal should come in as a PD-MU, it would make a lot of sense to have a work session on the PD-MU process and requirements prior to the public hearing process. She indicated that she did not see how the Commission's review of the Spotswood project would have benefitted from a prior work session given the application was for a conditional use permit which is a process the Commission is very familiar with. She said the Commission could have requested more time or information, but she could not see what additional information was needed. J. Driscoll then made the observation that most of the work and negotiation involved in developing a project is done, primarily by staff and City Council, well before the proposal is brought to the Planning Commission for review. L. Straughan pointed out that the design work and negotiating he was referring to was not the job of the Planning Commission. J. Driscoll acknowledged that was the case, asserted that he agreed with the process, and then advocated for adding an opportunity for Planning Commission to provide feedback before the final moment it is expected to make a decision.

Following additional discussion of the issue, Chair Shester requested the agenda format, moving forward, be amended to delete the Catalyst Project Updates section and to add *Major Project Updates* as the third item under the Key Annual PC Milestones section.

B. Zoning and Planning Report – Director Glaeser reported the following:

- He attended a VDOT Transportation Alternative Program (TAP) pre-application webinar as the City intends to submit an application for the first prioritized project in the bike/ped plan.
- The Building Official issued a stop work order at 101 N. Randolph for work being done without permits.
- Staff conducted a short term rental inspection on W. McDowell which brought the total number of short term rentals registered in Lexington to 33.

- He allowed Cattlemen’s to open before the screening requirements were fully completed. He gave them a grace period of a week and the work has now been completed.
- On April 12<sup>th</sup>, the Planning Department provided W&L with the second round of staff comments on their site plan submittal for the Williams School expansion building. Director Glaeser indicated the level of detail involved in staff’s review of the site plan prior to it being submitted for review by Planning Commission and, in this case, City Council.
- The Planning Commission By-Laws will need to be amended so as to comply with Lexington’s newly amended Code of Ethics.

#### C. Catalyst Project Updates

- 1) Green Infrastructure Group – P. Bradley reported that the City Manager has agreed to have the City take part in the Green Infrastructure Collaborative. RACC will hire the director for the Collaborative when the grant funds are disbursed.

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

L. Straughan reported that City Council approved a new, revised noise ordinance at its last meeting. She indicated the revision made the noise ordinance clearer and more enforceable.

#### **ADJOURN**

The meeting was adjourned at 7:03 pm with unanimous approval. (S. Spencer / P. Bradley)

---

B. Shester, Chair, Planning Commission



## Draft amendments for Accessory Dwelling Units

---

### 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 April 13, 2023, staff recommends the Planning Commission continue with short term rentals, separate sale of ADUs, etc. 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 the structure meets the 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.

### ~~4. Lot Coverage Limits~~

### 5. ADU Setbacks

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

- (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 or side street.

*(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

Detached accessory buildings containing accessory dwellings shall exceed neither 25 feet nor 1½ stories in height.

### 8. Architectural Consistency and Design Review

A detached accessory dwelling unit located in the Residential Historic District must be reviewed by the Architectural Review Board for consistency with the Historic District Design Guidelines.

### 9. Orientation of Entrance

No attached accessory dwelling unit with an entrance above the first floor shall have exterior stairs to that entrance on the side of the lot fronting a street. Accessory dwelling units facing an alley as determined by the Zoning Administrator may have external stairs on the side of the lot facing the alley. No detached accessory dwelling unit 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 the date of the adoption of this ordinance.

## ~~10. ADU Screening, Landscaping and Orientation~~

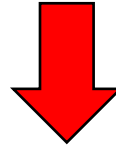
### 11. Parking Requirements

#### a) **Sample #1**

1. If no parking spaces exist prior to an application for approval of an ADU, 1 space shall be created, provided, however, that if an applicant can demonstrate to the Zoning Administrator that adequate on-street parking exists on the block on which the main dwelling is located, such new space may not be required.
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 #2**

1 per accessory dwelling unit in addition to the number of parking spaces associated with the primary dwelling existing as of the date of approval.



Continue with 4.27.2023  
P.C. discussion here

## 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)

---

Use of nonconforming structures

Fauquier County – if the legally existing dwelling was built before 2024 and is being converted into an ADU it may contain up to 1,400 square feet or square footage of existing unit, whichever is less.

If located in a basement, the ADU may occupy the entire basement.

Arlington County - Allowed in nonconforming dwellings or detached accessory buildings.

Accessory buildings existing prior to May 2019 may be altered to create an ADU.

Bedford County –

- Depends on when the non-conforming ADU was established (before or after 1989), and if the
- ADU expands a non-conforming use.

Non-conforming uses are otherwise permitted to remain unless other criteria are met (vacant for more than 2-years, for example).

Lynchburg – treated as any other nonconforming use

City of Roanoke –

- The use may remain until it no longer exists, or if the AA is not in use over a 2-year period, then the property owner is required to follow the steps to make it legal.

If it is an illegal non-conforming structure, the property owners are required to go through the special exception process.