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To: Durham Town Council <council@ci.durham.nh.us>; Michael Behrendt <mbehrendt@ci.durham.nh.us>

Subject: housing | Portsmouth and ADUs (accessory dwelling units) | Portsmouth Herald

Greetings, all --

Please see, below, today's Portsmouth Herald article, relevant to the proposed amendments for Durham's zoning ordinance.

Presumably this excerpt is accurate: *...there's no enabling legislation in New Hampshire to allow the city to require affordable housing as part of a new housing development.*

Among other takeaways is that we need to consider parking when discussing expanding zoning for ADUs and, of course, there is always the question of student housing demand -- a pressure that our neighboring towns do not face at anywhere near Durham's level, in part because, by providing thousands of additional *beds,* we have been their steam valve.

(Michael: Please forward to the Planning Board and Housing Task Force. Thank you.)

Regards,

-- Robin

Robin Mower

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Portsmouth Herald, December 5, 2022

Debating construction of accessory dwelling units

by Jeff McMenemy

Portsmouth Herald USA TODAY NETWORK

PORTSMOUTH — City Councilor Andrew Bagley believes building accessory dwelling units (ADUs) is “the easiest way to create affordable housing” in Portsmouth.

“ADUs is where a community makes its commitment to affordable housing and the environment, it’s the least disruptive way to increase affordable housing infill in areas where we have water and sewer,” he said during a recent City Council discussion about proposed amendments to the city’s ADU regulations.

Bagley is opposed to the proposed amendments, stating they create “a lot of new hurdles, there’s quite a bit in here (regarding) design language, where it sounds like we’re creating an HDC (Historic District Commission) throughout the rest of the city.’

He also criticized what he described as “the extensive and I think unreasonable ... requirements for offstreet parking” that are part of the amendments.

He said he's concerned the amendments, if enacted, would 'have a chilling effect on the creation of ADUs in our city.' He added, 'I think we need to approach it from the standpoint of how to get to yes. This feels like it's heavily biased toward people that don't want ADUs in the community.’’

Reached for an interview, Bagley doubled down on his public meeting comments, saying, “The community knows there's a clear challenge if you have children growing up or parents on a fixed income to stay in the community.’’

Housing that allows people to stay in Portsmouth

“One of the best ways we have to solve that, especially for mother-in-law apartments, is to let your parents, or kids when they're through with school, live in an ADU,” Bagley said. “It's a very targeted way to reduce the cost of rent for people who already have connections to the community, and it also has the least impact on the look and feel of a neighborhood.’

But he is concerned it already costs too much for homeowners interested in creating an ADU on their property.

If the new amendments are approved as written, those costs will only go up, he said.

“From talking to our Planning Department and talking with surveyors and architects, I've heard the cost is already between \$20,000 and \$30,000,' for homeowners to pay attorneys, architects and/or engineers to prepare the plans for an ADU, he said.

The cost to build the ADU could then reach between \$200,000 and \$300,000, he estimated.

He pointed to the ADU costs during the council discussion and said, “that's one of the fundamental problems of zoning. It favors developers, it favors rich people because they will have the money to go to the boards to successfully argue for these variances, and for all these regulations.’

ADUs have limited impact in Portsmouth so far

Despite his push for ADUs, Bagley acknowledged that since the state Legislature passed a law regarding ADUs, only about 30 have been built in Portsmouth, “which represents 0.05 percent of housing units in the city.’’

Mayor Deaglan McEachern called ADUs “a tool in the toolbox” when it comes to providing more affordable housing.

“I think we can't expect any one housing policy to solve our housing problems,” he said during an interview. “Obviously 30-some-odd ADUs is not a lot. But it's definitely a tool in the toolkit to help families stay together.’’

By creating ADUs, homeowners can “generate income and that income allows more people to stay in the community, whether it’s someone from their family or another young family,” McEachern said.

“I think that’s a win-win,” he added. He also credited the city’s Land Use Committee, which proposed the ADU amendments, stating “their goal was to give people who want to develop ADUs more guidance.”

“Hopefully people can administratively have more land use approvals without having to go through a long process,” he said. “That’s the goal of it.”

He also disagreed with the contentions by some councilors that the amendments will create more regulations, thus making it harder and more expensive to get approvals.

“I don’t think the answer anyone wants in Portsmouth is we’re going to throw out the codebook, I don’t think anyone wants that,” McEachern said. “The city of Portsmouth has to get behind it.”

He added that “there’s no rule that prohibits affordable housing from being built in the city of Portsmouth.”

“They don’t do it out of the kindness of their heart,” he added.

What are the proposed amendments for ADUs in Portsmouth?

City Councilor Beth Moreau explained in a memo to her fellow city councilors that “over the last four months, the Land Use Committee has received significant public input and has continued to work with consultant Rick Taintor to respond to public input in the refinement of ADU regulations.”

Taintor previously served as Portsmouth's city planner. Moreau said the committee's recommended amendments were sent to the City Council Nov. 4 for referral to the Planning Board.

There are amendments proposed on a number of the roughly 30 pages that outline the city’s ADU ordinance, according to information included in a recent City Council packet.

The proposed amendments “are intended to achieve three broad policy objectives: (1) to remove barriers and provide more flexibility for the creation of accessory dwelling units (ADUs); (2) to strengthen provisions for ensuring that ADUs fit into established neighborhood patterns and minimize any adverse impacts on abutting properties; and (3) to simplify the ordinance and make it easier for users to understand and navigate,” according to the document.

The proposed amendments include, for example, one stating “any municipal regulation applicable to single-family dwellings shall also apply to the combination of a principal dwelling unit and an accessory dwelling unit.”

An explanation included in the document explains that “these changes are meant to clarify that ADUs are subject to all applicable regulations, not just the ones that are itemized in the current ordinance.”

Another proposed amendment dictates “at least one off-street parking space shall be provided for an ADU with up to 750 square feet and at least two spaces shall be provided for an ADU with more than 750 square feet.”

Another proposed amendment states an ADU “shall be architecturally consistent with the principal dwelling through the use of similar materials, detailing, and other building design elements.”

There is also an entirely new section in the ADU ordinance which establishes “detailed standards for architectural consistency of an ADU with the principal single-family dwelling,” according to the amendments.

An explanation stresses “these standards are requirements (“shall”), not guidelines (“should”).”

It goes on to say if “the planning director determines that an ADU that is otherwise permitted does not comply with any of these standards ... then the proposed use will require a conditional use permit, including a public hearing by the Planning Board.”

Too late for affordable housing?

David Choate is the executive vice president of Colliers International’s New Hampshire office.

He questioned what impact, if any, ADUs will have on affordable housing in Portsmouth.

“I don’t think it’s going to increase it. I think a lot of them may be renting at market value, because there’s no requirement to rent them at lower rates,” Choate said. “If they’re being rented to children or grandparents that’s one thing, but I don’t think it’s going to put a dent in workforce or affordable housing in the city.”

Choate also noted that the remaining developable land in Portsmouth continues to be bought and developed for market-rate housing.

“I think in Portsmouth’s case, the horse is out of the barn in terms of affordable housing,” Choate said.

He feels the city has also not acted quickly enough, particularly in Portsmouth’s red-hot housing market the last few years, to address affordable housing.

“The way all the available land is being gobbled up, it’s going to be irrelevant by the time it gets approved,” he said about the proposed ADU amendments. “It’s just talk, talk, talk, and they’re not getting a freaking thing done that I can see.”

He agreed with McEachern that one of the biggest issues Portsmouth and other communities face is **there’s no enabling legislation in New Hampshire to allow the city to require affordable housing as part of a new housing development.**

“They need that enabling legislation to allow it to be a requirement,” Choate said.

He also suggested allowing for other creative solutions, like “allowing businesses in appropriate locations to build some housing for their workers.”

He pointed to the dorms the owners of Water County had approved for their location on Route 1, but never built.

“I think there needs to be more things like that,” he said.

What's next for Portsmouth's ADU regulations

The process is ongoing. The council voted 6-2 at its recent meeting to refer the proposed ADU amendments to the Planning Board for a report back to the council.

Both Bagley and City Councilor Kate Cook voted against the motion.

City Councilor Beth Moreau, who chairs the Land Use Committee, said, “I think what we have now is a completely sort of rework of the law.”

“We now have ADU units that if you are going to do one completely in your house, a floor of your home, the basement of your home, and you want to create an ADU there, you can basically do it through an administrative approval or it can be an accessory structure that’s already existing, as long as it stays within 600 square feet or smaller,” she said.

The amendments also outline “what all ADUs have to be,” including “what any architectural requirements might be,” Moreau said.

City Councilor Vince Lombardi stated, “I’m not sure I agree with Councilor Bagley. I think that this is a step toward one of our major goals that we have.’

He added the amendments were “a step in the right direction,” but acknowledged they “may need tweaking.”

City Councilor Rich Blalock, who serves on the Land Use Committee, said the group's goal was to “lower the barrier” for getting ADUs approved.

“I think we’ve been working very hard at doing that,” he said.

Cook questioned the parking requirements, asking, “Why are we strict about parking for an accessory dwelling unit in a neighborhood that has ample street parking? It seems to me that the market would decide.’

Cook noted she lives in a neighborhood where there are homes without off-street parking.

“That’s pretty common in my neighborhood and so really what happens in my neighborhood is it’s a market decision,” Cook said. “Why don’t we let it be a market decision throughout the city?”

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