

Arlington's ADU Bylaw

Steve Revilak

Winchester ADU Panel Discussion

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The idea was kicking around for a long time

In 1988 Arlington had a Fair Housing Committee that issued a report called “Overview of Affordable Housing Challenges and Opportunities” .

The town was experiencing housing challenges not unlike what we see today – rapidly increasing costs of housing (made worse in the 1980’s by mortgage interest rates in the 12–13% range). One of the suggestions in the report was for:

Allowing more accessory apartments, which would also provide more smaller, affordable rental units so needed in town.

The idea didn’t grow legs, but town meeting would take it up 30 years later.

The 2019 ADU Proposal (Article 15)

An ADU proposal was brought to town meeting in 2019. This was my first experience with ADU legislation as a town meeting member, though I understand the idea had been proposed (and voted down) in the past.

This article was inspired by our Housing Production plan as a way to help “a range of households, including those wishing to age in place, providing a separate unit for an at-home caretaker, or gaining additional income to offset the cost of housing”.

See [https:](https://www.arlingtonma.gov/Home/ShowDocument?id=45954)

[//www.arlingtonma.gov/Home/ShowDocument?id=45954](https://www.arlingtonma.gov/Home/ShowDocument?id=45954) for the 2019 proposal.

Details of the 2019 proposal

- ▶ Allowed ADUs only in single-family homes, in single-family districts.
- ▶ ADU must be completely contained within a single-family home, as it existed on Feb 14, 2019. (Detached ADUs were not allowed)
- ▶ Couldn't build an addition to have an ADU.
- ▶ Couldn't build an ADU in an addition built after 2/14/2019.
- ▶ Couldn't build an ADU if the lot was non-conforming or undersized.
- ▶ Owner required live in the primary dwelling or ADU
- ▶ Minimum rental term of 1 year. Subletting an ADU was prohibited.

Details of the 2019 proposal (con't)

- ▶ All ADUs would require a special permit from the ZBA.
- ▶ Annual recertification requirement that the owner lives in the primary residence or ADU.
- ▶ When property is sold, new owner must submit an affidavit that they live in either the primary or accessory dwelling.

Overall, it was a restrictive proposal.

Town Meeting's 2019 Decision

The ADU article failed at town meeting, by a vote of 132–82.
(62% of a 2/3's threshold – nine votes short).

2020 Attempt at ADUs

A resident brought another ADU article to town meeting in 2020 (Article 19). Notable differences from the 2019 version

- ▶ ADUs would be allowed by right in all districts that allow residential use.
- ▶ ADUs would be allowed in single or two-family dwellings.

ARB recommended no action (3–2), mostly due to drafting and scope concerns.

Note on the two-family allowance: we have a CDC that owns several two-family homes; their executive director expressed an interest in adding detached ADUs on these properties.

2021 ADU Article (Article 43)

The 2020 petitioner refined their ADU proposal and brought it back to town meeting in 2021. One of the fundamental ideas: stick to the existing bylaw as much as possible, and avoid restrictions that didn't exist in other contexts.

Summary of the 2021 ADU proposal

- ▶ ADUs allowed in single- and two-family dwellings, in all districts where those uses are permitted.
- ▶ Both attached and detached ADUs are allowed
- ▶ ADUs are allowed by right (but a special permit is required if a non-conforming accessory structure is converted to a detached ADU, and doesn't have 6' setbacks).
- ▶ ADUs are limited to 900 square feet, or half the size of the primary dwelling (consistent with state law's definition of ADU)

2021 ADU Article (con't)

- ▶ No restrictions when property is sold.
- ▶ An owner can build an addition to add an ADU (subject to existing regulations on home additions)
- ▶ ADUs can't be used as short term rental properties (this is also in our town bylaws)
- ▶ ADUs can't be owned separately from the primary structure (no condo conversion).
- ▶ The ADU doesn't require any additional parking.
- ▶ Before issuance of a building permit, owner must certify that they'll live in the ADU or primary residence.

See <https://arlington.novusagenda.com/Agendapublic/CoverSheet.aspx?ItemID=11483&MeetingID=1317> for the 2021 proposal.

Town Meeting's Reception to 2021 ADU article

Nine town meeting members offered 15 amendments and substitute motions, but town meeting declined to adopt them.

Article passed as submitted, 189–48 (79% approval with a 50% threshold).

This took most of a three-hour session.

Uptake so Far

It's been around a year since Arlington's ADU article was approved by the attorney general.

We approved our first ADU on September 27th, 2022. It was a detached ADU (306 sq ft) in a two-family home's detached garage.

According to the ZBA's decision, the property owners have lived in town for 40 years, and planned to move into the ADU as a way to age in place. This ADU required a special permit, because the garage was within 6' of the property line.