

## Background Materials – December 19, 2022– Planning Board Meeting

Prepared by Anne Capra, Director of Planning and Conservation, 12/16/22

**\*\*\*PLEASE NOTE CHANGE\*\*\***

**Cable Access Channel 12 (instead of Channel 15)** – The Cable Studio has indicated that the Planning Board will be moved to CH12 for the live broadcast for this meeting due to the Selectboard holding a meeting on the same night. This means the Planning Board meeting will only be viewable to Comcast subscribers in South Hadley on CH12, or to anyone who joins virtually through the Zoom link as provided in the posted agenda.

### AGENDA ITEM #1 Open Comment Period

This 10-minute period is set aside for the public to offer comments on items not on the posted agenda, in accordance with the adopted policy, as amended 8/8/22, posted on the Town of South Hadley Planning and Conservation Department webpage here:

<https://southhadley.org/DocumentCenter/View/9842/Open-Comment-Period-Policy---As-Adopted-2022-08-08>

**Action Needed:** Allow members of the public to offer comments to the Board.

### AGENDA ITEM #2 Minutes

Planning and Conservation Coordinator Colleen Canning will forward minutes separately.

**Action Needed:** Vote to approve the minutes.

### AGENDA ITEM #3 Correspondence

A list of correspondence received will be sent prior to the meeting and/or is attached.

**Action Needed:** No action needed.

### 6:30 PM - AGENDA ITEM #4 Continuation of Illuminated Sign Request filed by Delaney's Market for replacement of an illuminated freestanding sign at 459 Granby Road, Map 31 Parcel 15

Project plans online here: <https://www.southhadley.org/1317/Granby-Road-459---Delanays-Market>

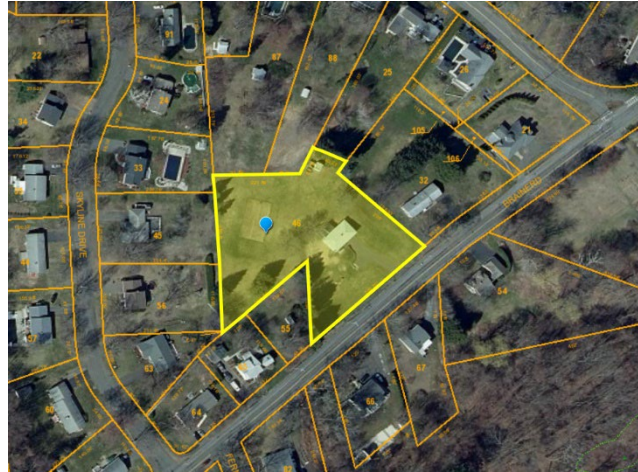
The hearing was continued to allow the applicant time to seek permission from the abutting property owner for use of the preexisting sign pylon which appears to exist on their property. No additional information has been submitted. I am aware that the applicant has requested permission from the abutter. I recommend continuing the hearing until the 1/9 meeting.

**Action Needed:** Motion to continue the public hearing until 1/9/23 at 6:30 PM.

## AGENDA ITEM #5 75 Brainard Street ANR, Daniel Gazda

Project plans are online here: <https://www.southhadley.org/DocumentCenter/View/10147/Brainard-Street-75>

Approval Not Required (ANR) Plan filed by Daniel Gazda to carve off a portion of property 75 Brainard Street, Assessor's Map 40 Parcel 46 to be conveyed to an abutting property owner. The property is 1.63 acres in the RA1 zoning district. The ANR will reduce the parcel to 1.39 acres (Parcel 1 on the ANR plan), and create a new Parcel 2 of 0.26 acres. The ANR plan provides a note on Parcel 2 stating "Not a buildable lot without further relief from zoning."



### ANR Standards for Approval

1. Type of Way: Brainard Street is a public way owned and maintained by the Town of South Hadley. Thus, this standard for approval is met.
2. Minimum frontage requirements for zoning district: Minimum frontage requirements for the RA1 zoning district are 125'. The frontage on the proposed Lot 1 will remain unchanged at 263.7' thereby maintaining its compliance with the minimum frontage requirements. Parcel A does not have frontage but includes a notation that it is not a separate building lot without further relief from zoning. Thus, this standard for approval is met.
3. Vital access: Brainard Street is a public way owned and maintained by the Town of South Hadley. Thus, this standard for approval is met.

**Action Needed:** The Board must either endorse the plan or file a notice of denial with the Town Clerk. If the Board votes to endorse the ANR Plan, the Board should also authorize the Director of Planning & Conservation to sign the plan on the Board's behalf.

## AGENDA ITEM #6 Discussion on Developing an Accessory Dwelling Unit Bylaw

At the Board's 11/21/22 meeting, the Board decided to set time aside at this meeting to begin drafting an Accessory Dwelling Unit Bylaw. The information presented below is slightly updated from the background information provided for that meeting. In consultation with Town Counsel, she has advised that standards for the following parameters be considered by the Board before drafting a bylaw. The requirements, standards and types of zoning permits for ADUs can vary widely from town to town and need to be developed based on community preferences. Thus, a "model" bylaw has not been provided nor have bylaws from other towns to prevent any misunderstanding that any of the parameters are predetermined.

Below is a list of key parameters that need to be discussed prior to developing a model bylaw. Also listed is a link to the State’s toolkit on ADUs. Members should look at that material to become familiar. An American Planning Association Quick Notes with a basic summary of ADUs, parameters for consideration in developing bylaws, and the issues that can arise when working on these with the public is also attached.

The following are some key parameters for ADU regulation:

1. Permitting - By right, special permit or site plan review – This would include discussion on zoning districts for this use.
2. Dimensional requirements/Unit size – This would take into consideration parcel size as well as dwelling unit size. New Housing Choice Legislation (Chapter 358 of the Acts of 2020) provides for majority vote at Town Meeting, rather than supermajority, for bylaws that create new housing units with a maximum of 900 SF floor area.
3. Attached versus detached Accessory Dwelling Units – Does the dwelling unit have to be attached to the primary structure, or can it be a detached, stand alone unit. Conversion of existing detached accessory structures may also be of consideration.
4. Limitations on tenancy/occupancy (age, duration, family member, # of occupants), if any - This would include discussion on whether or not the owner of the property lives in one of the units on the property.
5. Form of Ownership – Should bylaw prohibit converting the ADU unit into a condominium.
6. Preexisting, nonconforming ADUs – How to treat grandfathered ADUs; illegal apartments that seek to apply for an ADU permit. So-called “Amnesty Provisions”.
7. Adequacy of Water and Sewer Services – Needs to be considered.

### **Terms Defined**

Accessory - *Zoning Bylaw Chapter 255-10*

A structure, building or use which:

- a. Is subordinate in function to and serves a principal building or principal use;
- b. Is subordinate in area or extent to the principal building or principal use served;
- c. Contributes to the comfort, convenience, or necessity of occupants or the principal building or use; and
- d. Is located on the same lot as the principal building or use.

*Dwelling Unit - Zoning Bylaw Chapter 255-10*

A room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include mobile homes but shall not include house trailers or recreational vehicles.

*Accessory Dwelling Unit – MGL c.40A Sec1A*

"Accessory dwelling unit", a self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling, subject to otherwise applicable dimensional and parking requirements, that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress; (ii) is not larger in floor area than 1/2 the floor area of the principal dwelling or 900 square feet, whichever is smaller; and (iii) is subject to such additional restrictions as may be imposed by a municipality, including but not limited to additional size restrictions, owner-occupancy requirements and restrictions or prohibitions on short-term rental of accessory dwelling units.

**Resources**

EOEEA Smart Growth Toolkit – Accessory Dwelling Units

<https://www.mass.gov/service-details/smart-growth-smart-energy-toolkit-modules-accessory-dwelling-units-adu>

**Existing Chapter 255 Zoning Use and Dimensional Regulations Summary**

Y = by right

SPR = Site Plan Review

SP = Special Permit

N = Prohibited

| USE                                    | Residence |        |       |     | AGR    | Business |        |        |        | Industrial |      |      |
|--|-----------|--------|-------|-----|--------|----------|--------|--------|--------|------------|------|------|
|  | RA-1      | RA-2   | RB    | RC  |        | BA-1     | BA     | BB     | BC     | IA         | IB   | IG   |
| <i>Base Zoning Minimum Lot Size**</i>  | 22,500    | 12,500 | 7,500 | *** | 30,000 | 25,000   | 10,000 | 12,000 | 20,000 | 40,000     | none | none |
| Single-family                          | Y         | Y      | Y     | Y   | Y      | N        | Y      | Y      | SP     | N          | N    | N    |
| Single-family to Two-family Conversion | N         | SP     | Y     | N   | SP     | N        | Y      | Y      | N      | N          | N    | N    |
| Two-family (NEW)                       | SP        | SP     | Y     | N   | N      | N        | SP     | SP     | N      | N          | N    | N    |
| Three-family                           | SP        | SP     | SPR   | Y   | N      | N        | SP     | SP     | N      | N          | N    | N    |
| Four-family +                          | SP        | SP     | SP    | SPR | N      | N        | SP     | SP     | SP     | N          | N    | N    |
| Mobile Home 255-33*                    | Y         | Y      | Y     | N   | N      | N        | N      | N      | N      | N          | N    | N    |
| Mobile Home Parks                      | N         | N      | N     | N   | N      | N        | N      | N      | N      | N          | N    | N    |

\*Chapter 255-33 Mobile Homes <https://ecode360.com/30053192>

\*\*Minimum lot sizes for flag lots and in Overlay Zoning Districts may vary from base zoning.

\*\*\*Lot size in the RC zoning district depends on number of dwelling units and bedrooms.

**AGENDA ITEM #7 Skinner Woods Flexible Development Special Permit and Stormwater Management Permit located along the northside of Amherst Road, Assessor's Map 58, Parcel 21 - Notice of Violation for work in Dedicated Open Space**

I received notice from Public Health Director Sharon Hart that upon her site inspection for pre-installation of a septic system at one of the houses, she determined that the house foundation was not located as indicated on the approved plans, and that the proposed septic system would be partially within the dedicated open space. I informed that permittee, Tom Springs, that they were to have the limit of work as indicated on the approved site plans surveyed by a PLS and marked on the ground, preferably with silt fence and hay bales. At which time, myself, the Public Health Director and Building Commissioner will conduct a site visit to assess the situation. All construction activities are to cease until it is determined what is going on. Mr. Springs informed me that a surveyor will be on site on 12/19. Performance guarantees for the project are held by the Town in the form of a Letter of Credit for approximately \$182K retained for stormwater and \$88K retained for landscaping.

**Action Needed:** No action required at this time. Once the survey is completed, Mr. Springs may need to seek an amendment to his Special Permit to address any violations that have occurred.

**AGENDA ITEM #8 Planning & Conservation Department Report on Planning Projects and Development Updates**

**Next Meetings**

1/9 (1/2 is New Year's Day)

1/23 (instead of 1/16 so as not to have back to back meeting weeks)

2/6 – Short Term Rentals Zoning and General Bylaw Public Hearing

2/20

3/6

3/20

**Short Term Rentals Zoning and General Bylaws – Public Hearing 2/6/23**

Draft bylaws are online here: <https://www.southhadley.org/1318/ProposedDraft-Bylaws>

Summary of Draft bylaws posted online:

<https://www.southhadley.org/DocumentCenter/View/10194/Proposed-Short-Term-Rental-Bylaws-Summary>

Public outreach and notification –

- Mailer inserts were delivered to both Water Districts for inclusion in their January bills.
- Town Reminder interviewed me on 12/14/22; anticipating article in 12/16/22 newspaper
- Mailer inserts left at the library. To be dropped off at Senior Center.
- Notice posted to Town's social media accounts and webpage; will be re-posted in January.

- Email notice to be sent to Town Meeting members, Housing Plan Advisory Committee, Housing Plan Community Forum #1 attendees, Planning Board – request to forward notice to your networks.
- Letters mailed to all known Short Term Rental owners (issued cease and desist orders)

### **Housing Production Plan Community Forum #1 December 12, 2022**

The First community forum was held on Monday 12/12. Despite the cold, we had decent turn out of approximately 35 people. Consultant June McCartin of Outwith Studios gave an excellent present on existing conditions in South Hadley including demographics, housing stock, income and affordability. If you weren't able to attend, I highly recommend reviewing the presentation at the link below. We then went into break out groups to answer a series of questions about housing in our neighborhoods and our preferences for new housing over time. Groups reported back and we adjourned. A summary report will be compiled by June and posted to the website.

Presentation: <https://www.southhadley.org/DocumentCenter/View/10190/Community-Forum-1-Presentation---Housing-Production-Plan---December-12-2022>

Project website:

<https://shhousingplan.org>

**The Housing Survey remains open until January 1, 2023 and can be taken online here:**  
**[https://outwithstudio.qualtrics.com/jfe/form/SV\\_7ZDPWXLHGbOPAuW](https://outwithstudio.qualtrics.com/jfe/form/SV_7ZDPWXLHGbOPAuW)**

AGENDA ITEM #8 Other New Business (topics which the Chair could not reasonably expect to be discussed/considered as of the date of this notice)

No new business had been submitted to me as of today.

# QUICKNOTES

## Accessory Dwelling Units

Accessory dwelling units (ADUs) are small, self-contained living units that typically have their own kitchen, bedroom(s), and bathroom space. Often called granny flats, elder cottage housing opportunities (ECHO), mother-daughter residences, or secondary dwelling units, ADUs are apartments that can be located within the walls of an existing or newly constructed single-family home or can be an addition to an existing home. They can also be freestanding cottages on the same lot as the principal dwelling unit or a conversion of a garage or barn.

The benefits to the home owner and the ADU occupant are many. For the home owner, ADUs provide the opportunity to offer an affordable and independent housing option to the owner's grown son or daughter just starting out or to an elderly parent or two who might need a helping hand nearby. The unit could also be leased to unrelated individuals or newly established families, which would provide the dual benefit of providing affordable housing to the ADU occupant and supplemental rental income to the owner. Supplemental income could offset the high cost of a home mortgage, utilities, and real estate taxes. Finally, leasing an ADU to a young person or family can provide an elderly home owner with a sense of security and an opportunity to exchange needed work around the house and yard for a discount on rent.

Despite the benefits, some communities resist allowing ADUs, or allow them only after time-consuming and costly review procedures and requirements. Public resistance to ADUs usually takes the form of a perceived concern that they might transform the character of the neighborhood, increase density, add to traffic, make parking on the street more difficult, increase school enrollment, and put additional pressure on fire and police service, parks, or water and wastewater. However, communities that have allowed ADUs find that these perceived fears are mostly unfounded or overstated when ADUs are actually built.

ADUs are a particularly desirable option for many communities today considering the current economic climate, changes in household size, increasing numbers of aging baby boomers, and the shortage of affordable housing choices. They provide a low-impact way for a community to expand its range of housing choices.

### LOCALITIES AND STATES GET INTO THE ACT

Towns, cities, and counties across the country have done the right thing by proactively amending local zoning ordinances to allow ADUs. This is typically done either as a matter of right or as a special or conditional use. In either case, reasonable conditions may be imposed. Some states, including California, have enacted legislation that limits the ability of localities to zone out ADUs.

In 2001 AARP retained APA's Research Department to write a guidance report for citizens interested in convincing local and state officials of the benefits of allowing ADUs and showing them how to do it. *Entitled Accessory Dwelling Units: Model State Act and Model Local Ordinance*, the monograph provides alternative statute and ordinance language useful to implementing all forms of ADUs.

*The Model Local Ordinance* suggests recommendations for communities. Additionally, the intent of the ordinance describes the permitting process for eligibility and approval, and further outlines standards for ADU approval pertaining to lot size, occupancy, building standards, parking and traffic, public health, and how to deal with nonconforming ADUs. *The Model State Act* provides findings and policies encouraging the approval of ADUs and names local governments as the entities entitled to authorize

"Towns, cities, and  
counties across the  
country have done  
the right thing by  
proactively  
amending local  
zoning ordinances  
to allow ADUs."



**American Planning Association**

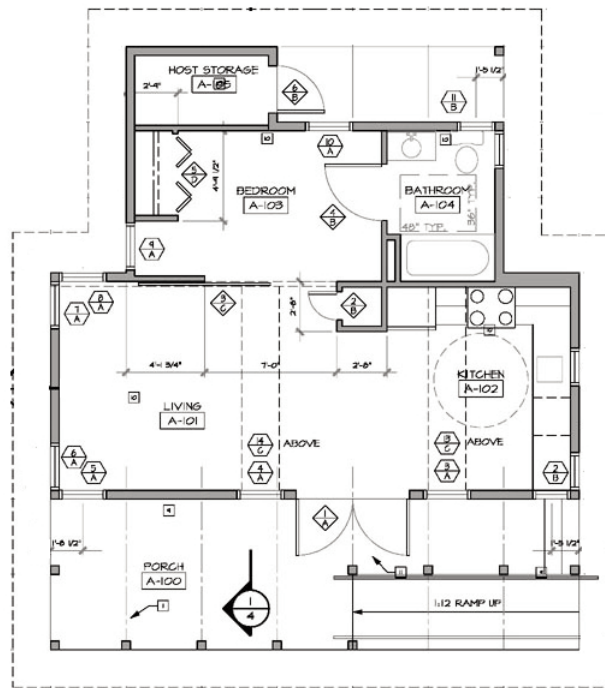
*Making Great Communities Happen*



adoption of an ADU statute. It specifies the limits to which local governments may prohibit ADUs and outlines default permitting provisions if a locality does not adopt an ADU ordinance. It details optional approaches for adopting ADU ordinances, certifying local ADU ordinances, gathering data on ADU efforts, preparing reports and recommendations, and forming a statewide board overseeing ADUs.

### WHAT ISSUES ARISE WHEN A PROPOSED ADU ORDINANCE IS CONSIDERED?

ADU ordinances offer a variety of benefits to local communities but the road to implementation may not be an easy process. While ADUs are more widely accepted now than in years past, skeptics still remain and some still oppose ADU zoning. The following describes some issues or decision points that communities must address in order to successfully navigate the perilous waters of public acceptance. The approach that is right for your city or town will be unique, based on local physical, political, social, and economic conditions.



Single story ADU floor plan.

David Baker and Partners Architects

**By-right Permitting.** Should permits for ADUs be issued as a matter of right (with clear standards built into the ordinance) or should they be allowed by discretion as a special or conditional use after a public hearing?

**Occupancy.** Should ordinance language allow an ADU only on the condition that the owner of the property lives in one of the units?

**Form of Ownership.** Should the ordinance prohibit converting the ADU unit into a condominium?

**Preexisting, nonconforming ADUs.** How should the ordinance treat grandfathered ADUs? How do you treat illegal apartments that want to apply for an ADU permit?

**Unit Size:** Should the ordinance limit the square footage of the ADU to assure that the unit is truly accessory to the principal dwelling on the property?

**Adequacy of Water and Sewer Services.** How do you guarantee there is enough capacity in sewer lines, pumping stations, and treatment facilities to accommodate ADUs?

These are not easy issues. However, communities would do well to seriously consider adopting an approach that: allows ADUs by right with clear written conditions; does not require owner occupancy; prohibits condominium ownership on the basis that a condo could not be considered accessory; provides a simple procedure for legalizing preexisting or formerly illegal apartments provided the unit is inspected; provides a generous size standard; and provides a water and sewer adequacy standard. □

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For a complete list of references visit <http://www.planning.org/pas/quicknotes/>

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For more information on this topic visit [www.planning.org](http://www.planning.org).

# QUICKNOTES

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# QUICKNOTES

## 3. Case Law

*Anderson v. Provo City Corp.*, 2005 UT 5 (2005).

*City of Wilmington v. Hill*, 657 S.E.2d 670 (2008).

*Coalition Advocating Legal Housing Options v. City of Santa Monica*, 88 Cal.App.4th 451 (2001).

*Desmond v. County of Contra Costa*, 21 Cal.App.4th 330 (1993).

*Harris v. City of Costa Mesa*, 25 Cal.App.4th 963 (1994).

*Kasper v. Town of Brookhaven*, 142. A.D.2d 213 (1988).

*Save Round Valley Alliance v. County of Inyo*, 157 Cal. App. 4th 1437 (2007).

*Sounhein v. City of San Dimas*, 47 Cal.App. 4th 1181 (1996).

*Village of Belle Terre v. Boraas*, 416 U.S. 1 (1976).