

NEWS

There's a push in NJ to build affordable housing in backyards. Here's what towns are doing

10-minute read

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Doreen Rearden loved seeing her teenage daughters bond with her aging father after he moved into a converted bedroom in their Montclair home. But both he and her family were looking for more privacy and separation. That's when Doreen and her husband, Joe, first began thinking about building an accessory dwelling unit in their backyard.

"Living with a parent, it's kind of like going back to your childhood," Doreen Rearden said. "The idea of having something detached that gives the parent independence while still staying together as a unit — that's really attractive to us."

Also known as ADUs, "granny flats" or "in-law apartments," accessory dwelling units can take many forms within, attached to or separate from an existing property — they could be a small structure in the backyard or a unit in the basement or above a garage.

Tucking new units on properties zoned for single family use is an increasingly popular strategy that towns and states across the country are using to address a dire shortage of affordable housing.

Doreen's father became ill and died last year, but the couple is still pursuing building an ADU for her 80-year-old mother, who lives 10 minutes away in Woodland Park but needs more assistance as she gets older.

Story continues below photo gallery

The couple have architectural plans for a 400-square-foot studio apartment with an accessible bathroom and kitchenette that would be built in the corner of their yard, and have bids from contractors. But the cost of the project — likely around \$400,000, including running water, sewer and electric — has made them consider other options, such as building an addition onto their main home.

"We're trying to make it work," Doreen said. "I wish there was assistance for funding something like this."

Murphy's \$10 million program to encourage more ADUs

Gov. Phil Murphy is proposing to do just that, as well as incentivizing more towns to change their zoning regulations to allow ADUs.

In his February budget address, Murphy proposed a \$10 million program to spur both market-rate and affordable ADUs, by giving up to \$1 million to at least 10 towns, which would then pass out up to \$100,000 in forgivable capital loans to homeowners looking to build new structures or rehabilitate their homes to create more deed-restricted housing.

More: Gov. Murphy wants to give money to build affordable housing in NJ backyards and basements

New Jersey doesn't have a statewide law broadly allowing ADUs, the way California, Oregon, Connecticut and Vermont do, though lawmakers specializing in housing issues want to change that.

Instead, close to a dozen Garden State municipalities have passed a patchwork of ordinances in the last few years, including Princeton, Maplewood, Montclair, East Orange, South Orange, Bradley Beach, Newark and Jersey City.

Passaic's new resolution allows ADUs with 20-year deed restrictions to keep the units affordable, and plans to use block grants to pass out up to \$40,000 each to homeowners to cover some costs of construction.

And more are in the process of making the changes. Teaneck's council, for instance, discussed the possibility of ADUs last fall, and Asbury Park proposed an ordinance last April.

More: Can Passaic's plan to create more affordable housing units work for other NJ towns?

New Jersey lacks more than 210,000 units that extremely low income families can afford, and is the seventh-most expensive state to afford a modest one-bedroom rental, according to studies by the Washington, D.C.,-based National Low Income Housing Coalition.

Part of tackling the crisis should include building more units and rethinking single-family zoning, which makes up a majority of U.S. neighborhoods, proponents say, and ADUs could be a "gentle" way to start increasing density in spread-out lots.

They are a way to tap into the "missing middle" — the idea that municipalities need a range of diverse housing options aside from singular homes and midrise apartment complexes.

Put downward pressure on pricing

Murphy's carrot approach would give towns more options to meet their constitutionally-mandated obligation to zone for their "fair share" of housing that low- and moderate-income families can afford.

On the other side, housing leaders in the Legislature are pushing a bill requiring towns to pass ordinances allowing ADUs, using one of two model ordinances or getting their own approved by the Department of Community Affairs. It does not address deed restrictions.

"There isn't a broad embracing of this alternative housing development approach and part of that is because of New Jersey's clinging to home rule," said Sen. Troy Singleton, D-Burlington, co-sponsor of S2347 along with Sen. Britnee Timberlake, D-Essex. "It's become almost a *fait accompli*, that you can't do certain things, even though there's no home rule statute in our books. We think a mandate is a better approach. We have a unique opportunity to put downward pressure on pricing."

Northern New Jersey has the potential to create more than 200,000 ADUs, according to an analysis of census data looking at single family lots and those located within a mile of public transit. The analysis was conducted by the Regional Plan Association, a nonprofit advocating for sustainable growth in the tristate area.

Princeton's ADU ordinance spurred by a lawsuit

Princeton's ordinance went into effect in 2020 after developer and architect Marina Rubina sued the municipality, at about the time the council was already starting to craft new rules.

In 2016, she had bought a home on Leigh Avenue that had housed two families since 1973. She planned to renovate and rent out both units or sell them. But under Princeton's ordinance and owner-occupancy requirements, the owner had to live in one of the units, and the apartments couldn't be purchased by separate owners.

"I went to the zoning board, historic preservation, back to the zoning board — it was a three-year process," Rubina said. "I thought it was not legal and not fair, and it was discriminatory against renters. Everyone knew this was not OK, but nobody was doing anything about it."

Her January 2020 lawsuit cited a 2019 appellate decision, *Tirpak v. Borough of Point Pleasant Beach Board of Adjustment*, that declared "invalid and unenforceable" a similar provision that required the owner to live in one of the units of a two-family home.

In June of that year, Princeton passed an ordinance allowing ADUs in residential zones — rules that took about 18 months to develop — and Princeton later amended the rules to allow each unit to be owned independently, unique among the ordinances in New Jersey. A judge dismissed Rubina's case in September.

Once Rubina's project was complete, the ground-floor one-bedroom ADU sold for \$427,000, while the upstairs three-bedroom apartment sold for \$760,000.

Since the ordinance was adopted, 38 ADUs have been built in Princeton, according to zoning officer Derek Bridger.

Princeton Council President Mia Sacks said the council's motivation for the ordinance was to keep longtime residents from being priced out, the way her grandmother had — she moved 40 minutes away from where she lived most of her life after getting a divorce and retiring.

Sacks' mother, on the other hand, converted her basement into a unit, where the rental income helps cover her taxes and other expenses.

"These types of informal arrangements allowed families over multiple generations to stay in a town," Sacks said. "But with the advent of increasingly restrictive suburban, exclusionary zoning in a very regulated and litigious environment, trying to recreate what has existed forever and fit it into a contemporary regulatory, legal framework brings all sorts of challenges."

Impediment is cost of renovation and construction

Most of New Jersey's ADU ordinances were passed in the past few years, and new units are slowly getting approved.

Since Maplewood passed its ADU ordinance in 2020, one has been completed with an interior redesign in a house that already had a separate entrance. Two more ADUs in garages are in planning phases, Mayor Nancy Adams said.

"The biggest impediment, as far as we can tell, is that the cost of renovation and construction requires quite a large investment that some may be unwilling to undertake," she said. "Even though we have had relatively little interest, we are proud to have ADUs be an option for residents who choose to go this route."

The per square foot cost of ADUs is higher than for larger houses, said architect Kirsten Thoft, who designed five ADUs in Princeton. The rules cap the size of the property, and in Princeton, homeowners also pay for separate utility connections.

The state Department of Community Affairs told NorthJersey.com it was not aware of any specific public funds, loans or programs aimed at financing ADU construction in New Jersey.

Age and other restrictions reduce ADU production

ADU proponents say the more restrictions in an ordinance, the less likely a town will produce ADUs. Maplewood originally had an age restriction, allowing ADUs if the owner or tenant was 62 years or older.

“Age restricting them sends this message that we don't want college kids to be able to live in our town early 20 somethings, or using this fear of children to overly restrict something, when you don't have a proliferation of schoolchildren by having an ADU ordinance,” said Zoe Baldwin, New Jersey director at the Regional Plan Association.

South Orange began allowing ADUs in January of last year. So far, there have been 10 inquiries and one approved project — an addition on the back of a house, Mayor Sheena Collum said. As in Maplewood, the main roadblock for residents has been the cost.

“Our ordinance is very permissive, and we’ve consistently advertised the opportunities throughout our community to make it easy,” Collum said. “However, our town just finished doing a reevaluation and with interest rates being so high, we’re not getting a lot of takers.”

An older ordinance in Montclair allowed ADUs, but only if the homeowner did not charge rent and the occupant was a relative. In 2019, a local advocacy group, Montclair Aging in Place, began lobbying for changes and eventually the Township Council revised the law to eliminate many of the restrictions.

“NIMBYism became YIMBYism,” said Ann Lippel, president of Montclair Aging in Place. “The thinking is you can create a little more density in these first-ring suburbs where there isn’t a lot of space to build. Putting up a multi-story building in a single-family neighborhood can be very disruptive. You can optimize space and not detract from the neighborhood.”

Under the new ordinance, a homeowner can charge rent, or barter for services, Lippel said. For example, an older couple whose children have moved out can ask the tenant to shovel snow or take the garbage out to the curb.

Last year, the group held a competition asking architecture students to design ADUs that conform to the township’s requirements. The six winning designs were taken to Trenton to show lawmakers examples of what ADUs in suburban backyards might look like if New Jersey were to adopt a statewide law allowing them.

New ADU ordinance in Newark, one on hold in Teaneck

Instead of solely requiring administrative approval for a zoning permit, engineering review or stormwater analysis, which could speed up the process, Newark’s new ordinance requires homeowners to go before a planning board in a public forum for approval, and in certain cases, the Landmarks and Historic Preservation Commission.

The city — which hasn’t received any applications in the first four months since the ordinance was passed — allows ADUs in R1 zones for lots of more than 5,000 square feet, meaning 1,500 plots of land could qualify.

“It was a balancing act for us for both the need but also listening to our residents,” said Allison Ladd, deputy mayor for economic and housing development. “Our hope is that when the time is right we can expand the ADUs throughout the city and more zones, but that’s going to be a community process. We know this is the first step and the right step for us to take.”

In Teaneck, the Township Council introduced an ordinance late last year to allow for ADUs, but the measure was put on hold while the Planning Board reviews the idea. Mayor Michael Pagan hopes it will pass within the next couple of

months to help people afford to stay in the community they've lived in for years.

"We have an affordable housing crisis in New Jersey," Pagan said. "This will help multi-generational families stay together."

Pagan, who lives with his 8-year-old son and his parents, has seen the benefits of this arrangement firsthand.

"I'm grateful for their help, and my son gets to spend a lot of time with them and hear their stories," he said. There are illegal apartments in every town in New Jersey — or units usually in attics or basements that don't have certificates of occupancy and meet local zoning rules and safety requirements, Pagan said. Allowing ADUs would enable municipalities to regulate this type of housing and protect occupants.

More: Is your NJ apartment illegal? How to tell, plus what renters need to know about eviction

"The goal is not just to legitimize the ones already out there but also encourage others who have the means and space to move forward with building an ADU," Pagan said. "A lot of families are struggling to pay rent, or their mortgage. Parents might be getting older and needing more help. ADUs are a way of solving some of these issues."

Helping prevent older residents from isolation

There are more than 1,700 people in Teaneck over 65 living with a disability, said E.J. Vizzi, of Age Friendly Teaneck. Of Teaneck residents over age 60, 30% live alone, she said.

"Older residents, especially those who don't have family support, are at an increased risk of social isolation," she said. "Having multiple generations of one family living together, especially under separate roofs but nearby, can help strengthen family ties and ease that isolation."

Living in an ADU as opposed to a single-family home gives older adults more opportunities for regular social interactions and helps them feel less isolated, said Katie York, AARP's associate state director of advocacy.

Baldwin and others say they tend to hear concerns that come up whenever new housing developments are proposed: What about strained schools, difficult parking, infrastructure costs, my property taxes?

"There's a knee jerk reaction to housing that's really unhelpful to make New Jersey an affordable and attainable place to live," Baldwin said. "We need more housing, prices have skyrocketed, the population is growing — there's no way around that. I have a hard time understanding where people think all of these people are going to go."

Frank Marshall, associate general counsel for the League of Municipalities, said the organization is not opposed to ADUs, but prefers that ordinances get crafted on the local level.

"When you take this position that ADUs or other infill development can happen in New Jersey, it's working off this assumption that you have the sewer capacity, the water capacity, other utilities, off- and on- street parking," Marshall said. "These are considerations that really cannot be dealt with at a statewide level and it really deserves a case-by-case analysis."