



PRESS RELEASE

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Developer Wilsons Ventures filed its Appeal too late, according to today’s “Missing Middle” argument in the Supreme Court of Virginia

Today, a 3-judge panel of the Supreme Court of Virginia heard oral argument from attorney Jay O’Keefe who represents Arlington County homeowners in their case against the Arlington County Board over its Missing Middle Housing Ordinance – now called Expanded Housing Option (EHO) zoning.

On September 5, 2025, the Court of Appeals ruled that developer Wilsons Ventures should have been allowed to intervene in the case after a 5-day trial was completed and after the trial judge ruled that EHO zoning was void. The Court of Appeals decision did not address the merits of the trial judge’s decision that EHO zoning violated Virginia law.

O’Keefe argued today that the Court of Appeals was wrong in accepting the Wilsons Ventures case because it filed its Notice of Appeal 49 days after the final judgment in the trial court – not within the 30 days required by the rules of the Supreme Court. He argued that we know that Wilsons Ventures got it wrong because the County Board’s attorneys got it right: “The County, represented by some of the best lawyers in the Commonwealth, showed up and filed its Notice of Appeal within 30 days of the final order.”

Questions by the Justices today focused on the issue of timeliness of the appeal. Briefly addressed was the Court of Appeals ruling that Wilsons Ventures should have been allowed to intervene in the case after the trial was over. O’Keefe argued that the Court of Appeals erred because Wilsons Ventures had nothing to offer at trial beyond what attorneys for the County Board vigorously argued about whether or not adoption of the EHO ordinance violated Virginia law.

The Supreme Court of Virginia does not take all cases that are submitted to it. Its decision whether or not to take this case is expected in the next weeks or perhaps months. If the Court takes the case, there will be more briefing and another hearing.

Jay Hamilton, a representative of Neighbors for Neighborhoods, said: “The argument today before the Supreme Court went extremely well and we are optimistic that the Court will take this case.” He added, “The wheels of justice turn slowly, but they do turn. We look forward to a ruling in the future that the trial judge was correct that the County’s EHO ordinance is void.”

Neighbors for Neighborhoods Mission

Neighbors for Neighborhoods (NfN) is a grassroots citizen organization that supports the Arlington homeowners who sued the County Board to have Missing Middle Housing zoning declared illegal. NfN believes in preserving single-family neighborhoods and concentrating housing density near transit, as stated in Arlington’s Comprehensive Plan. We support efforts to create more housing that is affordable to low and moderate-income households.

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