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ARLINGTON HOMEOWNERS SEEK REVIEW IN THE SUPREME COURT OF VIRGINiA RE: DEVELOPER'S CLAIM THAT IT SHOULD HAVE BEEN ALLOWED TO INTERVENE IN THE MISSING MIDDLE ZONING CASE

Today Arlington homeowners filed a Petition for Appeal in the Supreme Court of Virginia seeking to overturn a decision of a 3-judge panel of the Court of Appeals in the Missing Middle Housing (MMH) litigation.

The merits of the trial judge's ruling last year that MMH zoning is void have yet to be heard by the appellate courts. That is due to **a legal monkey wrench** that an Arlington developer threw into the litigation.

Wilsons Ventures sought to intervene in the MMH case **months after** the homeowners' complaint was filed, after a trial was held, and after the judge ruled against the County Board.

The trial judge denied the developer's motion.

Wilsons Ventures then appealed the trial judge's decision. This action came after the County Board filed its papers to appeal the ruling that MMH was void and before the deadline for the homeowners to respond. **This stopped the Court of Appeals consideration of the merits of the case in its tracks.**

On Sept 5, a 3-judge panel of the Court of Appeals ruled that the trial judge should have allowed the developer to intervene and remanded the case for a new trial that would include Wilsons Ventures.

In their Petition for Appeal of this decision, the homeowners argue why the 3-judge panel's decision is not consistent with Virginia law and warn of the implications of the errant ruling:

> **[E]very developer interested in any land-use case can sit on the sidelines without investing a dime to assert its claims, relying on the locality to answer the complaint, file motions, conduct discovery, try the case, and achieve the desired ruling. If the developer does not like the outcome of the case, it is then entitled to intervene and get a "do-over."**

Wilsons Ventures claimed that it was adversely affected by the MMH litigation, but the County now has approved MMH permits for its properties on North Quincy Street and South 25th Street that are the subject of its appeal. https://my.arlingtonva.us/map/permit

With uncertainty as to the outcome of the litigation, **what has become crystal clear is that MMH in Arlington is not affordable for low or moderate-income households.** The proof is in the MMH buildings that have been constructed, consistent with court orders.

For sale on North Troy Street is a MMH duplex, with each unit listed for sale at **$1,795,000.** These units replace a modest, single family home that sold to the developer for $862,500. **The new units cost more than twice the price of the single family home and provide half the space.**

On South 25th Street is another MMH duplex that advertised each unit for a **monthly rent of $5,500.** This expensive building **removed from the market an affordable single family home that sold to the developer for $560,000.**

A 6-plex is nearing completion on North 14th Street. While the units are not yet advertised for rent, these are expected to be **luxury units, likely not affordable for teachers, firefighters, police officers, and young professionals – the folks that the County promised would benefit from MMH.** The developer purchased this lot with single family home on it for $913,000.

See the transformation of these single-family homes to MMH buildings:
https://youtu.be/u0SOTrUBBE4

YIMBYs' respond to these facts arguing that a $1,795,000 unit is less expensive than a new single family home that might cost upwards of $2 million. But when only upper-income households can purchase the new MMH units – so what?

Arlington lacks sufficient housing for low and moderate- income households. It does not have a crisis of housing supply, as many parts of the country do. In fact, Arlington has, and will have into the future, more housing units than households. https://www.arlingtonva.us/files/sharedassets/public/v/1/projects/documents/data-and-research/profile/profile_report_2025_final_4_2_25.pdf (page 19). So merely increasing the supply of housing will do nothing to help low and moderate-income households.

Dan Creedon with Neighbors for Neighborhoods states: "**Arlington doesn't need more housing for upper-income households. But that's exactly what MMH is producing**. The MMH units built and in the pipeline show that the County's MMH plan is a failure. A $1,795,000 unit in a MMH duplex is not affordable for the teachers, firefighters, police officers, and young professionals that the County Board promised it would help."

Creedon adds: "**The County's MMH plan benefits developers**, who can make big profits building luxury housing, and it benefits upper-income residents who can afford to buy these. But it does nothing for low and middle-income residents."

Neighbors for Neighborhoods is a **grassroots effort** to raise money for the litigation that Arlington homeowners initiated against the County Board to hold it accountable to follow Virginia law in its adoption of MMH zoning. To date, Neighbors for Neighborhoods has received approximately 1,500 contributions and fundraising continues to support the homeowners' case.

Donations can be made:
GoFundMe: https://www.gofundme.com/f/suit-re-end-of-singlefamily-zoning-in-arlington
VENMO - Search-Neighbors for Neighborhoods
By check payable to: Neighbors for Neighborhoods LLC and mailed to 1405 S. Fern Street, Box 556, Arlington, Va. 22202-2810