



Dear Commissioner Murphy and Planning Commissioners:

Quality of life in our residential neighborhoods is key to Fairfax County's economic success. If Fairfax County hopes to attract and retain the skilled workforce that is essential to its economic success, the county must protect and preserve established, safe, and livable residential neighborhoods. The appeal of our neighborhoods will determine whether current homeowners remain and whether new families choose to live here.

One purpose of the zoning ordinance is to protect residential communities from incompatible development. Alarming, ZMOD proposes to dissolve essential community protections at the same time dashing the means by which citizens are empowered to protect their neighborhoods. The Board of MDC is concerned that ZMOD's changes to ordinance regulations will degrade the quality of home life for residents to the point of impeding economic success as our current and future workforce looks for family-friendly neighborhoods elsewhere.

ZMOD's expansive proposals for new home businesses promise to commercialize our neighborhoods with activities that have no place in residential communities, including unlimited retail sales outlets that would allow residents to sell anything legal to sell, and small-scale production facilities allowed to manufacture anything legal to make. Retail sales and sales of goods manufactured would be limited to the Internet, but customers would be allowed on site to shop, and suppliers, sales people, and aficionados of the craft would be allowed on site as well.

Health and exercise facilities would be allowed any activity arguably related to that topic. All these new uses would be allowed by-right with administrative permits. There would be no limits on hours of operation and no limit on the equipment used on-site. While air compressors and pneumatic tools throbbing through the evening may be acceptable to the county, we are certain that they would not be acceptable to the affected neighbors.

And the county would have no authority to inspect any home business. If a neighbor lodged a complaint with Department of Code Compliance about an activity of concern at the business next door, DCC would have no right to inspect the property. The current ordinance gives the county the right to inspect every home business, either by ordinance language or by provisions in special permits. ZMOD unbelievably would relinquish this authority, presumably with the notion that the county should have no role whatsoever in assuring that home businesses comply with regulations. And that's unacceptable!

ZMOD's proposals for home businesses are simply out of bounds and should not be accepted.

ZMOD proposes expansive new floor area in enclosed freestanding structures, perhaps to house the new home businesses. Today these structures are limited to one in number not to exceed 200 sq ft in area. However, ZMOD proposes to allow any number of enclosed structures with a total floor area up to 50% of the gross floor area of the dwelling unit. In the yard of a modest 2000 sq ft home, 1000 sq ft of accessory buildings would be allowed. Included could be structures up to 12 ft tall within 5 ft of the property line - potential workshops for home businesses just five feet away from the neighbor's yard. In an April 23, 2019 public briefing, staff illogically justified allowing 12 ft structures within 5 ft of neighbors based on their analysis of building location errors and DCC complaints that showed such structures to be a frequent source of resident complaints. The reasoning was that the new 12-ft/5-ft rule would make the structures legal and complaints would vanish. Logically, of course, the data show that the structures are annoying to neighbors and the 12-ft/5-ft rule should not be adopted. Enclosed freestanding accessory structures should be limited to one building not to exceed 200 sq ft with additional buildings and floor area available by special permit.

The accessory living unit proposal is simply careless. One can understand an interest in increased flexibility in ALU regulations as a means for increasing the housing supply. But it is not helpful to promote them as affordable housing when they would not be designated as such and much of the evidence nationwide is that ALU's more frequently are offered at market-rates. In addition, it is not helpful to promote them as a principal untapped opportunity for new housing when all evidence tells us that the demand for them is light. And it is not helpful to propose to strip ALU regulations away and then wait to see what happens hoping that what happens doesn't happen next door to your home. When Chairman McKay was asked to justify the pressure on changing ALU regulations, he is quoted as saying it would be a way to legalize the existing un-permitted accessory dwelling units in the county today. That answer, like the justification for the 12-ft/5-ft rule, is no justification for changing the zoning ordinance.

Changes to ALU regulations should be thought through. Unintended consequences should be identified and mitigated. Until that happens, ALU regulations should not be changed.

Among email conversations with other residents, the principal question is WHY? Why are residents being dragged thru this blizzard of draconian proposals to upset the zoning ordinance in the midst of the pain and dislocations of the Covid pandemic? Is it to promote the economic success of the county? In all of the documents we have read and briefings attended, we have encountered not a single word that associated a ZMOD proposal with economic success. None.

Nothing has been offered to indicate that ZMOD regulations changes would contribute to anything except change itself. Supervisors have allowed ZMOD to become a political exercise to demonstrate their willingness to rollback regulations and push residents out of the land use

management process. At the same time, they are distracting the community's attention and sapping its strength under the worst possible circumstances.

Legal opinion has determined that rewriting the county's zoning ordinance far exceeds the boundaries the Governor has established regarding business that may be conducted by public bodies meeting electronically during the pandemic emergency. At the same time, informed residents clearly are opposed to ZMOD's proposed regulation changes. The MDC Board believes now would be the right time to table the changes, take time to think them through, and defer next steps until such time as the pandemic emergency is behind us and the normal ordinance amendment process with staff reports and public hearings is reestablished.

Sincerely,

Debbie Smith – Chair

Carol Turner – Vice Chair

Clyde Miller – Secretary

Michael Melanson – Fairfax Federation Representative