Public Hearing on Home Business Ordinance Dominates Meeting

By Rande Davis

The October 18 town meeting was dominated by public testimony, at times quite passionate, about special exception use in homes with shared driveways and resident comments on the proposed townhouse development by Habitat for Humanity in Poolesville.

The public hearing on two of the ordinances did not have any resident testimony offered. Those ordinances were Ordinance 181 concerning exemption of certain commercial signs during weekends and Ordinance 182 that states that private property covenants and agreements shall not be construed to be enforceable by the town and shall not be considered in assessing zoning requirements, uses, special exceptions, and other variances.

However, Ordinance 183, which would not permit special exception requests for home businesses in residences having a shared driveway, attracted thirteen speakers, twelve against the ordinance with one in favor.

The town zoning previously allowed for such permit requests providing that the home business did not “materially increase” traffic on the shared driveway. Poolesville Vision and Contact Lens Service, owned by Dr. Robin Mevissen and Dr. Thomas McInnes, had applied and received permission by the town Board of Zoning Appeal (BZA) for a permit to operate their medical service at the residence at Selby Court. A neighbor appealed that decision within thirty days, placing a stay on the approval by the town. The change in the ordinance removes the ability of the BZA to grant such special exception use in the future.

Don Barnes, the neighbor sharing the driveway with Mevissen and McInnes, provided testimony in favor of the proposed ordinance. He stated that to allow such use of the home lowers the value of the home, increases insurance costs, is counter to existing private covenants, and places an undue burden on neighbors.

Dr. Mevissen, in her testimony, stated that through agreements reached with the BZA, restrictions on patient visitation through appointment scheduling and installation of a separate parking area met the criteria established by the town. She stated that if a neighbor is not burdened by another having a business, then to restrict homeowners from home-based business is too great a limitation on our freedoms. She said, “In this age of recession and poor job opportunity, radical traffic congestion, and the desire for more and more to work from home so as to be more actively present in raising children, to simply cut off the option is unwarranted. Clearly, home-based businesses that can demonstrate little or no undue burden on their neighbors should be allowed. If the zoning board determines that no additional or unreasonable burden of a home business exists, and it meets all other criteria of a town’s ordinance, then it should be allowed.”
The eleven other speakers, who are patients or neighbors of Dr. Mevissen, voiced support stating their appreciation for the service and convenience of having the practice in town. Rudy Gole stated his family’s support for the medical practice, and, in asking the commissioners not to approve the restriction, also called on them to allow Dr. Mevissen’s practice “at least by a grandfathering clause as the only fair and right thing to do.”

One twenty-year resident, who also says she has six children, valued the local service and appreciated not having to drive out of town for care. She indicated that her large family probably places a greater traffic burden on neighbors than does an eye-care business.

Chuck Stump, member of the planning commission and candidate for commissioner, told the commission that, as someone who has or might want to start a home business and who also lives on a shared driveway, he opposes the inflexibility of the proposed ordinance. Jennifer Kasten, also a candidate for commissioner, voiced the opinion that the “town needs to support local business, and they should also consider a grandfather clause regarding Mevissen’s practice.”

Hilary Schwab Shapiro advised the commissioners on the fact that the majority of members of the Poolesville Area Chamber of Commerce are home-based businesses and, while not speaking officially for the organization, opined that the restrictions could prove to be bad for the local economy.

Regarding the proposed new townhouse development in Poolesville, the executive director of Habitat for Humanity of Montgomery County, Inc., John Paukstis, was on hand to resubmit his original proposal which now allows for the $10,000 to $11,000 per unit impact fee and $26,000 park impact fee. He will be meeting with his Board of Directors within a week to ten days to review the changes in the proposal. He noted that his organization does not have a revenue stream and must rely on contributions from participating associates on projects, and he stated that any adjustment in the impact fee charges would be appreciated. While various ideas were floated as ways to assist the project, in the final analysis, the commissioners did not come to a consensus and, therefore, advised Mr. Paukstis that he should present his proposal to his board without any waiver of impact fees from the town.

On other matters, one parent came forward to voice concern about further use of bikes at the skate park and that older teens are not cooperating properly with the younger youth wishing to use the facility. The Parks Board will be advised to review this concern.

Jan Schultz, of Finders Keepers, has been appointed to the Community Economic Development Committee.