

Date: October 22, 2002  
To: Anthony J. DaRos  
Ellsworth McGuigan  
From: Shirley  
Subject: Affordable Housing

In light of recent inquiries regarding affordable housing, Penny Bellamy suggested that I write you a memo summarizing the affordable housing statutes and Branford's status.

1. Definition of Affordable: For purposes related to the State "Affordable Housing Appeals" law (CGS Sec. 8-30g), only units which are subsidized or deed restricted for forty years qualify as affordable.

Affordable units are defined as units which can be rented or purchased with a mortgage at a rate that is 30% or less than the annual income of a household making 80% or less than the State or area (whichever is less) median household income. In addition, half of those units (15% of the total units) must be affordable to households at or below 60% of median income for the State or area.

2. Applicability of Affordable Housing Appeals Law: Towns that have fewer than 10% affordable units (per the above definition) are subject to the provisions of CGS Sec. 8-30g. Branford has 4.37%. This amounts to 583 units, which includes Parkside, BRIC's Ivy Street units, CHFA mortgages and State and Federal rental assistance certificates (e.g. "Section 8" and RAP). Ten per cent would be 1334 units, so Branford has a long way to go before it's exempt from Sec. 8-30g.
3. Provisions of Sec. 8-30g: If a Town does not meet the 10% threshold, then any developer proposing an affordable housing development has a substantial advantage. If his application is denied (or approved with excessive conditions) and he appeals, the burden of proof shifts to the Town. The Town must prove that 1) The denial was necessary to protect "substantial public interests" and that such interests outweigh the need for affordable housing, 2) The area proposed for affordable housing is zoned industrial and does not permit residential use, or 3) The developer's proposal does not meet the statutory definition of an affordable housing development.
4. Branford's response to CGS8-30g: In January, 1995, the Planning and Zoning Commission adopted affordable housing regulations so that a developer proposing affordable housing would not have carte blanche in setting his own standards. These regulations permit small lot single-family homes, similar to the Town's R-1 and R-2 zones. Dwight Merriam, an attorney from Robinson and Cole, assisted the Commission with developing these regulations. When I spoke with him a few months ago, he said that he thought the regs. would still be effective in protecting the Town against affordable housing appeals. However, he did not review the regs. at that time, so I wouldn't consider his response a formal or legal opinion.

At a minimum, the regs. Should be updated so that they correspond with the State's definitions. For example, our regs. Require that only 20% of the units be deed-restricted for 20 years, while the State requires that 30% of the units be deed-restricted for 40 years.

