

Affordable Housing: Friend or Foe of the County's Rural Character?

By Kelly Boling

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One hears two principal arguments about affordable housing in Litchfield County. The first is that escalating real estate prices make it increasingly difficult for young people, senior citizens, and others to live here. When regular people are priced out of the housing market, local teachers, firefighters, police officers, carpenters, and shopkeepers are lost. To fill the void, towns must import labor from elsewhere, filling their roads with commuter traffic and eroding the close-knit sense of community that is central to their rural character. The second argument asserts that affordable housing projects impose incongruously dense, shoddily constructed developments on the area's small towns, spoiling their charm and reducing property values. Moreover, this argument goes, affordable housing projects don't appeal to local residents, who would rather buy a home in a less expensive area than be ghettoized.

Both arguments have merit, and they have lately gained a greater sense of urgency because of two related circumstances: A real estate market that continues to defy gravity, and an increasing number of developments being proposed and built pursuant to the Connecticut Affordable Housing Land-Use Appeals Act.

A state statute that took effect in 1990, the Affordable Housing Land-Use Appeals Act substantially exempts developments from local zoning and subdivision regulations when at least 30 percent of their total housing units meet certain affordability standards, and when at least 10 percent of a town's housing stock is not affordable, as determined by a formula and process specified in the statute. To qualify as affordable, a housing unit must satisfy precise requirements, such as being subject to a 40-year deed restriction limiting its maximum sale or rental price to a state-specified level, having the incomes of its occupants annually verified, and being certified by the Connecticut Department of Economic and Community Development (DECED), which has statutory responsibility for counting affordable housing units and determining which municipalities are exempt from the Affordable Housing Land-Use Appeals Act. According to the DECED's latest statistics, the only town in Litchfield County that is exempt from the Act is Torrington, where 11.46 percent of the total housing units are considered affordable.

This means that in every other Litchfield County town, local zoning and subdivision regulations concerning lot size, setbacks, frontage, structure size, building height, impervious surface coverage, and other factors can be disregarded by any developer who ensures that at least 30 percent of a project's housing units meet state affordability standards. If a local planning or zoning commission denies a development proposal submitted under the Affordable Housing Land-Use Appeals Act and the developer appeals that decision, the Act requires the commission to prove in court, based on the information in the application record, that the project poses a serious threat to health, safety, or another vital public interest, that the threat cannot be mitigated by reasonable modifications to the project, and that preventing the threat clearly outweighs the need for affordable housing. This is an arduous legal burden of proof—one which few towns have successfully met it in court.

If you're alarmed by the prospect of a big developer using the Affordable Housing Land-Use Appeals Act to bypass your town's land-use regulations and construct something nightmarish, you should be. In Fairfield County, where development pressure is today more intense than in Northwestern Connecticut, real estate investment trusts and other large developers are using the Affordable Housing Land-Use Appeals Act to build massive projects that would otherwise be prohibited by local zoning and subdivision regulations. For example, a single developer has used the Act to override local land-use regulations in New Canaan, Darien, and Wilton and construct developments containing 104, 189, and 102 homes, respectively.

Whether we like it or not, the Affordable Housing Land-Use Appeals Act is the law of the land in Connecticut, and efforts to repeal the Act have repeatedly failed in Hartford. This presents residents and town officials in Litchfield County with two choices: We can locally cultivate affordable homes that are compatible with the region's rural character until 10 percent of housing stocks meet state affordability standards, or we can wait for big developers to avail themselves of the Act and build whatever they wish.

If only 11.46 percent of the dwellings in Torrington qualify as affordable, you can imagine how far most Litchfield County towns are from meeting the 10 percent threshold that permanently closes the door to the Affordable Housing Land-Use Appeals Act. Under an arcane statutory formula, towns can obtain temporary moratoria on affordable housing projects when units are newly certified in sufficient quantity, but no town is truly exempt until 10 percent of its housing is officially affordable.

In the Town of Washington, where the DECD counts 1.7% of the housing stock as affordable, much work must be done to reach the 10 percent exemption threshold. Rather than leaving the town's rural landscape vulnerable to the kind of massive affordable housing developments cropping up in Fairfield County, a group of residents—of which I am a part—has decided to be proactive about creating context-sensitive affordable homes. Toward that end, we have developed plans for a project that seeks to carefully balance community-defined objectives for resource conservation and housing diversity on a 13.5-acre land parcel adjacent to the Marbledale village center.

Known as Myfield, the project was shaped largely by Washington's Natural Resource Inventory, Open Space Steering Committee Report, Plan of Conservation and Development, and Housing Study Committee Report, which specify goals of protecting water resources, preserving 30 percent of Washington's total land area as open space, guiding new development away from pristine areas and into existing village centers, and creating 95 new affordable homes. In addition to demonstrating that the market can and should yield development that is consistent with local land-use planning objectives, the Myfield group hopes to set a conservation-minded benchmark for future affordable housing proposals.

The site plan for this effort, which evolved considerably during a rigorous seven-month review by the Washington Inland Wetlands Commission, proposes to protect 78 percent of the property as permanent open space. The acreage to be preserved includes all wetlands and watercourses on the property, the vast majority of the 100-foot wetlands setback buffer area, woodlands, meadows, steep slopes, and more than 85 percent of the property's extensive frontage along two roads.

The residential component of the plan, which calls for 10 dwellings collectively encompassing about 25,000 square feet of living space, seeks to fill two critical gaps in Washington's housing stock: Reasonably priced ownership opportunities for singles, couples, and young families, and low-maintenance houses for long-time residents who wish to downsize from large properties without having to leave town or squeeze into small apartments. While all of the proposed homes would be part of a condominium association, there would be no signs proclaiming a name for the development, no floodlights illuminating the night sky, and no asphalt sea of driveways and parking lots. Also absent: Broad expanses of chemically treated lawns, cedar-chipped landscape islands planted out in exotic species, and the ecological deserts commonly referred to as "park-like settings."

If the Myfield plan is approved and realized, it will yield a diverse mix of dwellings on an environmentally compact footprint next to an existing village center. Open space will be the property's dominant land-use, and impervious surface coverage will be held to about 8.5 percent. Architectural designs will be of a traditional New England character, and cars will enter and leave the site via two narrow gravel lanes specifically designed to let amphibians cross between wetlands and uplands. Day-to-day parking areas will be visually discrete, set well behind building façades, and an innovative stormwater management system will recharge adjacent wetlands, resulting in less stormwater runoff vis-à-vis pre-development site

conditions. The well to do will live next door to the middle-class, and the cost of educating school children will be offset by property taxes paid by empty nesters. To ensure aesthetic cohesion, a portion of the margins earned on market-rate houses will be used to underwrite high-quality design and construction for the modestly priced homes, which are projected to sell for between \$125,000 and \$175,000.

If the subject parcel were built out conventionally to the maximum level permitted by Washington's zoning and subdivision regulations, it would yield three primary houses of about 7,500 square feet, together with six accessory dwellings of 1,200 square feet, for a total of nine dwellings encompassing around 30,000 square feet. Although there would be one less dwelling unit than in the Myfield site plan—and the size of the individual units would differ—the environmental footprint would most likely be much larger. As little as 15 percent of the acreage would be protected as open space, and a good portion of the property's woods and meadows would most likely be manicured out of their present condition into a patchwork of suburban landscaping. Moreover, the properties yielded under this scenario would probably be quite similar in terms of their selling price and the demographic characteristics of their owners. If the residents had school children, the cost of town services consumed would likely exceed property taxes paid.

The point of the preceding comparison is this: If the regulatory flexibility provided by the Affordable Housing Land-Use Appeals Act is placed gently in service of local conservation and housing diversity goals, it can help close the door to the Act while yielding fiscal, social, and environmental benefits that are generally unavailable through conventional development approaches. That same flexibility can, however, be wielded by big developers to completely ignore local land-use planning objectives and impose suburban development templates to horrific effect. Residents and town officials in Litchfield County's small towns can either be proactive about cultivating affordable homes that blend in to the fabric of their rural landscapes, or watch helplessly when big, out-of-town developers eventually use the Affordable Housing Appeals Act to have their way with the local countryside.