

Improving 8-30g

Ideas from a practitioner

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Garden Homes 8-30g projects

APPROVED



397 Post Road Apartments, Darien 35 units, conversion of office building



Cascade Apartments, Milford 36 units

DENIED



Oxford Commons, Oxford
115-unit manufactured housing community

Settled after DOJ opened investigation into violations of the Fair Housing Act

Total time: 11 years



122 Wilton Road Apartments, Westport
19 units

Won on appeal. Total time: 4 years



140 Bronson Road Apartments, Southport
91 units
Under construction

Won on appeal. Total time: 4 years



130 Fairchild Apartments, Fairfield
54 units

Settled after HUD found violations of the Fair Housing Act

Total time: 1 year

Comments from town officials at public hearings

“One thing that really bothers me is the parking here because I'm looking at this extremely crowded complex...somebody throws a party or it's Cinco De Mayo or something else and pretty soon you can't park there....I'm not for putting slumlords into Oxford.”

- First Selectman, sitting as ex-officio P&Z member

“It's like Father Panik Village.”

- RTM member

“I'm staffed to fight fires in single-family dwellings. We weren't designed for apartment buildings.”

- Fire Chief

“It's a terrible site for multifamily. It's just a bad project.”

- P&Z member during deliberations

122 Wilton Road Apartments Westport



8-30g has not reached its potential
because too many applications are denied.

Denials create cost and risk.

The incentives for towns to deny are far more
powerful than the incentives to approve.

Incentives to approve

- HUE points
- Avoid legal fees of appeal
- Opportunity to influence the design

Incentives to deny

- 25% - 30% chance of prevailing on appeal
- Guaranteed delay of at least a year - maybe four years, six years or more
- Deterrent effect
- Don't blame me, blame the judge

Contrasting histories of 8-30g



Town	8-30g applications	Approved	Denied	Buy-out
Westport	7	1	4	2
Darien	5	2	3	0
New Canaan	5	0	5	0
Greenwich	13	7	6	0
Fairfield	34*	19	10	1

P&Z Overturned	P&Z upheld	Settled	Not decided
3	0	1	0
2	1	0	0
2	1	1	1
0	0	5	1
4	2	2	2

* 4 applications are awaiting a vote

We need to get to yes

Proposal 1

- No HUE points for projects denied and approved on appeal, or settled after 90 days
- 50% HUE points for projects denied and settled within 90 days
- 100% HUE points for projects approved

Proposal 2

Towns cannot charge 8-30g applicants for
review fees for outside consultants

Proposal 3

- If an applicant proposes an 8-30g project with more than 30% affordable units, and project is denied and overturned on appeal, or denied and settled after 90 days, all incremental affordable units beyond 30% will be tax-exempt for the duration of the affordability restrictions.
- If denied and settled within 90 days, incremental affordable units are 50% taxable.
- Project is 100% taxable if approved.

Proposal 4

If an 8-30g project is proposed in a single-family zone and meets the zone's standards for building setbacks, building height and building coverage/FAR:

- The project shall be entitled to an expedited review by the planning and zoning commission: 30 days to open the public hearing, 15 days to close the public hearing with no more than two public hearings, and 30 days to vote on the application.
- The project qualifies as a set-aside development with 20% affordable units
- No extensions of time would be permitted.

If the project is denied:

- It shall be decided administratively by the Department of Housing or other administrative agency under the statutory and case law framework of 8-30g.
- Cases not decided within 90 days would be deemed automatically approved.
- Decisions are not appealable to Superior Court by the municipality.
- Decisions may be appealed by the applicant.