



TOWN OF DURHAM
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Town Planner's Project Review
Wednesday, August 14, 2019

IX. **Sigma Alpha Epsilon – Conditional use.** 28 Madbury Road. Application to amend condition of 2007 conditional use approval for Sigma Alpha Epsilon fraternity to allow service of alcohol in common areas for people 21 years of age. New Hampshire Beta Housing, LLC, property owner. Jake Showalter, Director of Operations, and Nick Pannoni, Social Chair, applicants. Map 2, Lot 11-2. Professional Office District.

➤ I recommend that the board set the public hearing for August 28 and hold a site walk.

Please note the following:

- 1) **Sigma Alpha Epsilon.** See the picture of the fraternity house and tax map at the bottom.
- 2) **Background.** On February 10, 1998 the ZBA granted a variance for use of the property as a fraternity. A fraternity was not allowed in the Residence A zone (zoning at the time). That variance was revoked by the ZBA on August 10, 1999 after a finding of several violations of conditions. On September 12, 2005, Tom Johnson, Building Official at the time, ordered removal of all Greek letters from the fraternity. An appeal of Mr. Johnson's decision was denied by the ZBA on November 8, 2005. The Zoning Ordinance was amended February 20, 2006 where the Professional Office district was created and fraternities were allowed there by conditional use adaptive reuse (CUA).

The Planning Board approved the conditional use application to allow this fraternity on April 4, 2007 with numerous conditions, one of which stated: “3. *Provisions shall be provided prohibiting alcohol from all common areas, including the entire parcel outside of the house.*”

- 3) **Conditional use.** The application is to amend the 2007 conditional use approval by removing a condition that prohibited serving alcohol in the common areas for people 21 and over. It should be clarified whether this includes any outside areas. The restriction does not affect consuming alcohol in the individual bedrooms of fraternity members.
- 4) **Documents.** The applicant has addressed the 8 conditional use criteria and submitted other documents related to the application, the fraternities policies, and the January incident referred to below.
- 5) **Alcohol policy.** See the fraternity's policy on alcohol on pages 13 and 14 in Minerva's Shield, their health and safety policies.

- 6) Floor plans. I have asked SAE for floor plans showing where the common areas are located. If the applicant does not have professionally prepared plans hand drawn plans not to scale should be acceptable.
- 7) Site walk. It would be worthwhile to schedule a site walk so that the Planning Board can see the inside of the building and where the common areas are located.
- 8) Technical Review Group. The application has not been presented to the TRG yet as the applicant could not attend a meeting last week. The TRG will discuss the application on August 20, whether the applicant can attend or not.
- 9) January incident. The fraternity told us they were not aware of this requirement regarding alcohol and there has been use of alcohol on the property. There was an incident at the fraternity in January. See the memorandum from Police Chief Kurz in the packet, which addresses, *“Durham Police Officer’s observations regarding large scale alcohol consumption on January 29, 2019 by a large crowd at a “party” at the fraternity house.”*
- 10) Town Administrator. Todd Selig conveyed to me: “I would encourage the Planning Board to deny the request. The disputed conditions were wisely required by the Planning Board after prudent and careful consideration and those considerations/concerns have not changed, as clearly evidenced by the recent concerns leading to a police response.”
- 11) Code Administrator. A memorandum from Audrey Cline is included in the packet.
- 12) Other fraternities. Colin Decker, a representative of the fraternity, conveyed to me that this restriction does not apply to any other fraternities in Durham (I will check with UNH if this is accurate). He said he does not believe this restriction is fair.



Lot 11-2



