



TOWN OF DURHAM
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Town Planner's Project Review
Wednesday, August 28, 2019

- VIII. **Public Hearing - Sigma Alpha Epsilon – Conditional use.** 28 Madbury Road.
Application to amend condition of 2007 conditional use approval for Sigma Alpha Epsilon fraternity to allow consumption 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 final action on the request if the Planning Board has the information that it needs.
- 1) Site walk. The Planning Board is holding a site walk, including a walk through the interior, on Wednesday, August 28, at 4:00 pm.
 - 2) Technical Review Group. See notes from TRG meeting on August 20.
 - 3) Comments submitted. We have received comments about the request from several officials: Todd Selig, Town Administrator; Dave Kurz, Police Chief; Audrey Cline, Code Official; and Ted Kirkpatrick, Senior Vice Provost for Student Life and Dean of Students at UNH.
 - 4) 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 That variance was revoked by the ZBA on August 10, 1999 after a finding of several violations of conditions.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.*”

- 5) Conditional use. The application is to amend the 2007 conditional use approval by removing a condition that prohibited consumption of alcohol in the common areas for people 21 and over. The restriction does not affect consuming alcohol in the individual bedrooms of fraternity members.
- 6) Documents. The applicant has addressed the 8 conditional use criteria and submitted other documents related to the application, the fraternity's policies, and the January incident referred to below.
- 7) Alcohol policy. See the fraternity's policy on alcohol on pages 13 and 14 in Minerva's Shield, their health and safety policies. The fraternity has explained that fraternities are not allowed to "serve" alcohol. Alcohol can be consumed in fraternities in common areas only if it is not offered by the fraternity itself.
- 8) Common areas. Nick Pannoni, a student representing the fraternity said, "We will either have an actual blueprint floor plan for the board to see for the 28th, or we will hand draw exactly what our floor plan is... In the 2007 document, it states that alcohol is not allowed on the first floor and in our basement. Our main priority is amending the basement and if possible the first floor as well. The basement being removed from that document is our main goal, and if it came down to an "either, or" decision from the board, the basement 100%."
- 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) Probationary period? One possible approach for the Planning Board is to deny the request at this time but keep open the possibility of approving a change in the future if the fraternity demonstrates a responsible response to the issue. The fraternity could provide a plan for how they will administer the current prohibition against consumption of alcohol in common areas, how they will institutionalize requirements such as this one so that they are not lost when current students graduate, how they will promote the responsible consumption of alcohol on the premises in the future, and how they will address some of the outstanding requirements from the 2007 Planning Board approval. Audrey Cline believes some of those requirements have not yet been addressed.