



TOWN OF DURHAM
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Town Planner's Recommendation
Wednesday, August 12, 2015

- XI. **35 Madbury Road – Conversion of Common Room to Bedrooms.** Application for conditional use to convert second-floor common room in the Lambda Chi fraternity into six single bedrooms. The applicant proposes to not increase the number of residents but rather to have more single in place of shared bedrooms. Golden Goose, property owner; Rob Harbeson of DeStefano Architects, architect. Map 2, Lot 8-11. Professional Office Zone. Recommended action: Discussion and setting public hearing for August 26.

➤ I recommend discussion and setting the public hearing for August 26.

Please note the following:

- 1) 35 Madbury Road is zoned Professional Office District. A fraternity is allowed in the PO district as CUA, a conditional use provided it is contained in an existing building (which this is).
- 2) The Zoning Ordinance requires that any alteration of a conditional use requires a new conditional use permit, as excerpted below.
- 3) The applicant says they are not increasing the number of beds nor occupants. They are changing the interior to create 6 individual bedrooms and will be updating bathrooms and interior space. According to the applicant, this change will enable single occupant sleeping units, rather than the shared configurations that exist
- 4) This is subject to a conditional use. The applicant questioned this determination so I conferred with Tom Johnson and Todd Selig who confirmed this. Even though the applicant does not intend to increase the number of beds nor occupants we determined this because the amount of floor area dedicated to bedrooms and the number of bedrooms would increase.
- 5) I believe that the intent of “alteration” is any change which could reasonably be construed to impact the property in a manner that could potentially have meaningful impact upon abutters, the general public, or the intent of the ordinance. Of course, this is open to interpretation. Given substantial concerns about student housing in Durham and sensitivity about the fine details of occupancy, I think this type of change should be considered an alteration.

- 6) I would not consider changes to general layout not impacting bedrooms, upgrades to kitchens and bathrooms, general maintenance, or minor building changes that do not have any meaningful impact on the use or impacts or occupancy of the property to be alterations.
- 7) Prior to the public hearing and consideration by the Planning Board the applicant will need to address the eight criteria for conditional uses.
- 8) 175-21. Conditional Use Permits.
 - A. The purpose and intent of a Conditional Use permit is to allow certain uses that are not normally permitted under conventional zoning provisions. Specifically authorized conditional uses appear in section 175-53, Table of Land Uses. A Conditional Use shall be approved if the application is found to be in compliance with the approval criteria in Section 175-23. Further Conditions may be placed on the Conditional Use Permit by the Planning Board to ensure that the Conditional Use will have a positive economic, fiscal, public safety, environmental, aesthetic, and social impact on the town. The Planning Board shall make findings of fact, based on the evidence presented by the applicant, Town staff, and the public, respecting whether the Conditional Use is or is not in compliance with the approval criteria of section 175-23
 - B. No structure, building or land requiring a conditional use permit shall be used, constructed, altered or expanded unless a conditional use permit specifically required by this chapter has been authorized by the Planning Board and issued by the Zoning Administrator.
 - C. Any use that was lawfully established prior to the adoption, extension or application of this chapter and is now permitted by this chapter subject to a conditional use permit may continue in the same manner and to the same extent as conducted prior to said adoption or extension of this chapter. A conditional use permit shall be secured from the Planning Board before the use or structure or building in which said use is conducted may be altered, added to, enlarged, expanded or moved from one location to another on the lot on which said use is located.
 - D. Structures or buildings devoted to any use which is permitted under the terms of this chapter subject to the securing of a conditional use permit, may not be altered, added to, enlarged, expanded or moved from one location to another on the lot without securing a new conditional use permit.***

9) Here is a map of the lot and surrounding area.



10) This is the building:

