

ENC 1999-064

In re Alpha Delta Phi House Corp.

April 23, 1999

STATE OF VERMONT ENVIRONMENTAL COURT

Docket No. 152-8-98 Vtec

In re Appeal of: Alpha Delta Phi House Corporation

DECISION AND ORDER

Appellant Alpha Delta Phi House Corporation appealed from a decision of the Zoning Board of Adjustment of the City of Burlington, denying its approval to convert an existing single family house to an eight-occupant sorority.

Appellant is represented by Liam L. Murphy, Esq.; the City of Burlington is represented by Kimberlee J. Sturtevant, Esq. and Joseph E. McNeil, Esq.; neighbor Bryce Howells appeared as an interested party and represented himself; neighbors Greg and Josephine Peyser appeared as interested parties, represented by Josephine Peyser, Esq.; An evidentiary hearing was held in this matter before Merideth Wright, Environmental Judge, who also took a site visit alone, by agreement of the parties. The parties were given the opportunity to submit written requests for findings and memoranda of law. Upon consideration of the evidence, the site visit, and the written memoranda and proposed findings, the Court finds and concludes as follows.

Appellant Alpha Delta Phi House Corp. is a sorority which has been in existence on the University of Vermont campus since 1952. From 1952 to 1994, it was located in a house on Willard Street. This sorority has a "no alcohol" policy; some other sororities or fraternities are known to use alcohol, at least at parties. Approximately one-third of the current sorority members have automobiles.

The application before the Court is for Appellant to use the house located at 372 Maple Street as a sorority house to house from six to a maximum of eight full-time residents (including an older adult "house mother"), in three bedrooms, and to use the house for social functions and weekly (FN1) meetings of the sorority for up to thirty members and their guests. The proposal does not contemplate converting the present living room or dining room to bedroom use. The house at present is leased to four unrelated individuals who use it in common. The leasing of a single-family house to unrelated individuals is not regulated by the Zoning Ordinance, but other municipal codes may regulate the occupation of such a residential building.

The parcel at 372 Maple Street is approximately 84' x 149' in size, or approximately .28 acre. It contains an existing house, with a narrow driveway and a garage capable of housing two vehicles. The rear yard is capable of holding another two to three vehicles, but they would block any cars in the garage from exiting. The car closest to the driveway could block all four other cars from exiting. The driveway itself is capable of holding three to four additional cars in tandem, which would block all except the "last in" car from exiting. All exiting vehicles, except for the two cars in the garage and possibly the first car in the rear yard, would have to back out onto Maple Street. Maple Street is a moderately steep hill at that location.

The property is located in the University Campus (UC) zone, adjacent to the Champlain College

campus. It is a densely populated residential area with two smaller residential streets extending into the interior of this particular block, increasing the parking pressure on this residential area.

The UC zone is intended to primarily to accommodate educational institutions "while preserving the residential character of existing neighborhoods within and adjacent to the district." §3.1.6 of the Zoning Ordinance. A sorority may be approved in the UC district if it meets the conditional use standards, which require a finding that the proposal not adversely affect the capacity of existing or planned community facilities, the character of the area affected, traffic on roads or highways in the vicinity, bylaws then in effect, or the utilization of renewable energy resources. In applying these standards, the ZBA (and hence this Court) is directed to consider the cumulative impact of the proposed use. §17.1.5 (b).

The proposed sorority use of 372 Maple Street will not adversely affect the capacity of any existing or planned community facilities, other than the streets, which are not considered under this criterion. The proposed sorority use of 372 Maple Street will not adversely affect the utilization of renewable energy resources.

The proposed sorority use of 372 Maple Street, and in particular the use of the premises for meetings and social events for non-resident sorority members and their guests, will adversely affect traffic on roads or highways in the vicinity, at the very least by cars backing out of the driveway onto Maple Street, and also by on-street parking for thirty members and their guests during meetings and social events. It will adversely affect another bylaw, that is, the site plan criterion requiring adequate access to the property and the provision of a turnaround area. §7.1.6(a). This is particularly a concern in this location for adequate access by emergency vehicles, as the residences on Harrington Terrace are much closer to the subject property than would be the case on a block without an interior street.

The proposed sorority use of 372 Maple Street, and in particular the use of the premises for meetings and social events for non-resident sorority members and their guests, will also adversely affect the residential character of the surrounding area. Even if the present population of the building were to double to eight residents, without its conversion to a sorority house, the building would remain in the essentially residential use commonly called "student housing." On the other hand, its conversion to a sorority house would change the character of the use to add the social club aspects of sorority life, including weekly meetings of the non-resident membership, more frequent meetings of various committees of the non-resident membership, and social events of the non-resident members and their guests. It is the uses of the building by the non-resident members which adversely affects the residential character of the neighborhood, by adding the on-street parking, ingress and egress maneuvers, noise and commotion of their use of the property for meetings and social events rather than as student residents of the neighborhood.

Based on the foregoing, it is hereby ORDERED and ADJUDGED that 372 Maple Street is approved to be owned by the Appellant for leasing as a residence to six to eight of its members as residents of a single housekeeping unit, but conditional use approval is DENIED for its use as a sorority. Specifically, conditional use approval is denied for the use of the house for any meetings or social events of the non-resident membership of the sorority organization.

Dated at Barre, Vermont, this 23rd day of April, 1999.

Merideth Wright Environmental Judge

FN1. During the week-long annual "rush" for new members in September, a greater number of

visitors and events would be expected.

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