

SHEEHAN PHINNEY

SPECIAL EXCEPTION APPLICATION

The Alpha Delta Alumni Corporation (“ADAC” or “Alpha Delta”) submits this Special Exception Application to return the fraternity located at 9 East Wheelock Street to student housing. Alpha Delta submits this memorandum in support of its application.

Alpha Delta is entitled to a Special Exception for two reasons. First, a recent amendment to RSA § 674:16 displaces the Town’s definition of “family” in the Zoning Ordinance such that the Alpha Delta fraternity building now qualifies as a “one-family” dwelling. Alpha Delta no longer needs to qualify as a “student residence” in the Institution zone to provide student housing. The legislative change also rendered the Board’s May 28, 2015, decision moot and created grounds for a new application under *Fisher v. Dover*, 120 N.H. 187, 190-91 (1980). Second, to the extent the Board disagrees with the implications of RSA § 674:16, Alpha Delta would nevertheless qualify as a “student residence” because it has significantly improved the safety concerns that previously alarmed the Board. Alpha Delta addresses each argument in turn.

I. PROPERTY HISTORY

Alpha Delta’s property is located at 9 East Wheelock Street, Hanover, New Hampshire (the “Property”). The Property is located in the Town’s Institution district. The Property currently serves as a Place of Assembly but has capacity to house approximately 20 students as part of a fraternity.

Indeed, from 1922 to 2015, the Property served as the principal location for the Dartmouth Chapter of the Alpha Delta fraternity. In 2015, however, Dartmouth de-recognized several fraternities, including Alpha Delta. As a result of the de-recognition, the Town determined that Alpha Delta no longer qualified as a “student residence” under the Zoning Ordinance, and as a result students could no longer reside on the Property. Since 2018, the Property has served as a Place of Assembly, which is permitted by right in the Town’s Institution zone.

II. ALPHA DELTA IS ENTITLED TO A SPECIAL EXCEPTION FOR STUDENT HOUSING AS A “ONE-FAMILY” DWELLING IN THE INSTITUTION ZONE BECAUSE RSA § 674:16 OBTIATED THE DEFINITIONS OF “STUDENT RESIDENCE” AND “FAMILY” IN THE TOWN’S ZONING ORDINANCE.

Like most municipalities, Hanover regulated density and use through its definition of family. *See* Ordinance, § 302 (“Family”). Relevant here, the Town defined “family” as “[a] cumulative total of up to three (3) adult persons (18 years old or older)” living together. *Id.* In September 2025, the New Hampshire General Court invalidated that definition and prohibited

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Hanover from enforcing it. Specifically, the General Court amended RSA § 674:16, VIII to state as follows:

In its exercise of the powers granted under this subdivision, the legislative body of a city, town, village district, or county in which there are located unincorporated towns or unorganized places shall not adopt any ordinance that restricts the number of occupants of any dwelling unit to less than 2 occupants per bedroom, and the governing body thereof shall not enforce any such ordinance. ***Such legislative body shall not adopt any ordinance based on the familial or non-familial relationships or marital status, occupation, employment status, or the educational status, including but not limited to scholastic enrollment or academic achievement at any level among the occupants of the dwelling unit, including but not limited to college students, and the governing body thereof shall not enforce any such ordinance.*** Nothing in this section shall prohibit the enforcement of the state building code or state fire code.

Id. (emphasis added).

This amendment not only vitiated the Town's definition of "family" but also "student residence, institution district," which defined "student residence" as a "[a] building designed for and occupied by students and operated in conjunction with another institutional use, which may include individual living units with social rooms and kitchen facilities for any number of students." *See Ordinance*, § 302 ("student residence, institution district"). RSA § 674:16 prohibits towns from enforcing an ordinance based on familial status, including scholastic and college enrollment. Put differently, Hanover can no longer require that a building occupied by students be operated in conjunction with another institutional use at Dartmouth.

There is no dispute that RSA § 674:16, VIII displaced the Town's capacity to regulate student housing in the Institution Zone. Hanover's Town manager, Robert Houseman ("Mr. Houseman"), opposed the amendment (formally known as House Bill 457) because it restricted municipalities from limiting occupancy below two occupants per bedroom and prohibited zoning ordinances based on familial, nonfamilial, or marital status.

A. The Town's Decision from May 2015 Is Now Moot and Unenforceable.

Without an enforceable "family" or "student residence" classification, the Town's prior decision from 2015, where it distinguished between student residence housing and "multi-family" housing, is moot. In 2015, the Hanover ZBA considered whether the Property could still operate as a "student residence" in the Institution district after Dartmouth de-recognized Alpha Delta as a fraternity. Exhibit 1, May 28, 2015 decision. In its petition, Alpha Delta argued that it

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still satisfied the “in conjunction” requirement of the “student residence” definition because the fraternity building would house Dartmouth students only. *Id.* ¶ 11. The ZBA disagreed. Specifically, the ZBA concluded that the Zoning Ordinance distinguished between “student residences,” which permit more than three adults to cohabitate, and other buildings in Hanover that, while housing students, limit occupancy to three unrelated adults vis-à-vis the Town’s definition of family. *Id.* ¶ 12. As the ZBA wrote:

[T]hose buildings where students may reside are classified as either ‘single-family,’ ‘two-family’ or ‘multi-family.’ in which case the number of students living in a dwelling unit is governed by the definition of “Family, Unrelated” in Section 902, which limits the number to ‘Any group of not more than 3 persons not related by blood, marriage or adoption . . . s

Id. Simply housing Dartmouth students was not—in the ZBA’s view—sufficient to satisfy the requirement that the residence be “operated in conjunction with another institutional use.” *Id.* Satisfying that requirement instead meant ensuring that students living in a “student residence” had “some” oversight and protection for their health, safety, and welfare:

It was rational and reasonable for the voters of Hanover, in enacting the Zoning Ordinance, to consider that students in a ‘student residence’ which is ‘operated in conjunction with another institutional use’ will potentially have their health and safety overseen to some degree by that other institution (in this case by Dartmouth). In contrast, students residing elsewhere do not benefit from that same protection.

Id. ¶ 14.

The Hanover ZBA predicated its 2015 decision on the Town’s definition of “family,” which, according to the ZBA, imposed a natural safety constraint of three or fewer students cohabitating. However, if more than three students intended to reside together, they would need to qualify as a “student residence” and have the safety, oversight, and protection that stems from operating in conjunction with Dartmouth. Three or more students living together required “some degree” of oversight and safety.

The ZBA’s 2015 decision is no longer viable for two reasons. First, RSA § 674:16, VIII nullified the Town’s “student-residence” definition. Hanover can no longer enforce this definition because it is based on “educational status.” According to the ZBA’s 2015 interpretation, a student residence—as opposed to three students living together elsewhere in town—required oversight, safety, and protection from Dartmouth, which is an educational status that the Town may no longer enforce. Second, RSA § 674:16, VIII also disrupted the ZBA’s prior distinction between “student residence” and “multi-family” units outside of the Institution

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district. The Zoning Ordinance previously defined “family” as, “[a] cumulative total of up to three (3) adult persons (18 years old or older).” *See* Zoning Ordinance, § 302 (“family”). RSA § 674:16, VIII precludes the Town from enforcing that definition. Accordingly, even if “student residences” still existed, there would be no difference between a “student residence” and three or more students living together in any building, provided the dwelling unit had sufficient space and bedrooms for the number of students living together. RSA § 674:16, VIII, rendered the crux of the May 2015 decision unenforceable: that voters of Hanover specifically required a provision for oversight, supervision, and safety for three or more students to share a dwelling unit. Three or more students may now share a dwelling unit as a matter of right.

B. Alpha Delta Qualifies as a “One-Family” Dwelling and Is Eligible for a Special Exception Based on That Use Category.

The Institution district permits a “one-family” dwelling by Special Exception. The Alpha Delta Building qualifies as a “one-family” home. Hanover’s Zoning Ordinance defines “one-family” as “a single residential building containing only one principal dwelling unit.” *See* Ordinance, § 302. The Ordinance defines “dwelling unit” as “a single room or group of connected rooms constituting a separate and independent housekeeping establishment for occupancy by an individual or a family, physically separated from any other rooms or dwelling units that may be in the same structure and containing independent and dedicated cooking, sanitary, and sleeping facilities” *See id.* The Alpha Delta Building has a common place of assembly, sufficient rooms to house approximately 20 students, and shared washing, cooking, and living spaces. Because Hanover can no longer limit the number of unrelated students who may live together, the Alpha Delta building qualifies as a “one-family” structure in the Institution district, permitted through a Special Exception.

Alpha Delta satisfies the Special Exception requirements in the Ordinance. To qualify for a Special Exception, Alpha Delta must demonstrate:

- A. The use conforms to the general and specific standards established by this Ordinance; and
- B. The Zoning Board of Adjustment has first determined that the proposed use will not adversely affect: 1. The character of the area in which the proposed use will be located; 2. The highways and sidewalks and use thereof located in the area; or 3. Town services and facilities.

See Ordinance, § 207.1.

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With respect to criterion (A), a one-family use aligns with the Ordinance's general and specific standards. Section 405.6 of the Ordinance permits one-family, two-family, and multi-family homes by Special Exception. "One-family" dwellings are also exceptionally common in Hanover. They are permitted by right in six zones (*see* Ordinance, §§ 405.4, 405.5, 405.7, 405.8, 405.9, and 405.13) and by Special Exception in one zone (*see* Ordinance, § 405.6). Additionally, the primary thrust of the Institution district is institutional (i.e., support of Dartmouth) and complementary land uses, including residential, commercial, and public uses. The Alpha Delta building will—once again—be used primarily for student housing, which complements the institutional use. Granting the Special Exception, therefore, aligns with the general and specific standards of the Ordinance.

Alpha Delta also satisfies the three subparts enumerated in criterion (B). First, permitting the Alpha Delta Building to be used as a "one-family" dwelling for student housing will not alter the character of the area. The Alpha Delta fraternity was founded in the 1840s and has been located at 9 East Wheelock since approximately 1922. The entire neighborhood was built around an active fraternity for more than 100 years. The character of the neighborhood will not change with the Alpha Delta fraternity being restored to student housing. Student housing—both privately owned and owned by Dartmouth—is integral to this historic area. Second, the highways and sidewalks will not be affected by students residing at the Alpha Delta property. There will be no change to the Property's site plan or an external modification that would adversely affect roadways or sidewalks. Most students will walk to campus for their classes, and the Alpha Delta building has sufficient off-street parking for their vehicles. Third, student housing will not adversely affect Town services and facilities. The dispositive inquiry is whether the Alpha Delta fraternity would adversely affect services when compared to other similar and permitted uses in the Town. Because of the amendment to RSA § 674:16, fraternities and sororities are now permitted by right in the Residence and Office, General Residence, Office and Laboratory, and Single Residence zones. There is nothing unique about Alpha Delta's location that would cause the fraternity to adversely affect town services more than a fraternity located in a zone where fraternities are permitted by right. Additionally, the security measures that Alpha Delta has adopted for events (*see, infra*, § III) and board oversight will result in Alpha Delta using Town services less than a collection of students living together in another zone without organizational oversight. From a town management perspective, it is more efficient and advantageous for fraternities and sororities to be located in a single district.

Accordingly, Alpha Delta is entitled to a Special Exception to return the fraternity to student housing as a "one-family" dwelling under the Town's Zoning Ordinance and the amendment to RSA § 674:16, VIII.

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III. TO THE EXTENT “STUDENT RESIDENCE” IS STILL RECOGNIZED AS A LAND USE CATEGORY AFTER THE LEGISLATIVE AMENDMENT TO RSA § 674:16, ALPHA DELTA WOULD STILL BE ENTITLED TO A SPECIAL EXCEPTION.

In 2015, the ZBA observed that the marquee difference between a “student residence” and “multi-family” housing was the unwritten provision for students’ health, safety, and welfare to be overseen to “some degree” when more than three students cohabitated. Ex. 1, ¶ 14. As discussed above, that distinction is no longer viable. Alpha Delta has nevertheless instituted provisions and protocols to ensure student health, safety, and welfare. These include:

- **Alumni Oversight Board.** A group of committed alumni directs the corporation and formally governs fraternity operations, ensuring adherence to membership rules, zoning requirements, and good-neighbor policies. The corporation has a “no tolerance policy” in place, and as an example of how important health and safety are to the entire organization, the Alpha Delta directors removed a new member last year for violating that policy. The alumni directors meet regularly, at least weekly, with the student members of the fraternity and communicate with the student officers as often as multiple times per day to advise and to enforce standards. Furthermore, Alpha Delta has a dedicated local alumnus who provides face-to-face guidance and is available to address any issues in person. Compared with other fraternities and sororities at Dartmouth, the student officers of Alpha Delta interact much more frequently with established, older adults who have a best interest in their safety and in the fraternity’s success.
- **Third-Party Management.** Large public gatherings are managed by an insured professional catering and event management firm that maintains a constant physical presence during events to provide security and supervision, control access, and enforce occupancy limits. This special event management is in addition to day-to-day support for residential operations to be provided by the property management services contracted to maintain the building and grounds.
- **Annual Compliance.** If requested, the ADAC will provide verification to the Zoning Administrator that the corporate supervision structures remain active and effective, thereby serving a function materially equivalent to oversight by the college.

These measures provide student protections, continuous supervision, behavioral oversight, and an enforceable line of accountability. Indeed, the structure and organization provided by ADAC will be superior to a collection of students living together as a “one-family” unit who are not members of an organized sorority or fraternity.

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With safety considerations satisfied, Alpha Delta meets the other requirements for “student residence” and a Special Exception. The Zoning Ordinance defines “student residence” as “[a] building designed for and occupied by students and operated in conjunction with another institutional use, which may include individual living units with social rooms and kitchen facilities for any number of students.” Since 2018, the Alpha Delta building has been a Place of Assembly—a permitted use in the Institution district. In the past seven years, Alpha Delta’s Place of Assembly has hosted meaningful community events and groups, including Alcoholics Anonymous, the Dartmouth Alumni Club of the Upper Valley, women’s senior societies, and public seminars (e.g., presentations by professors and community members).

With respect to the Special Exception criteria, Alpha Delta refers the Board to the arguments presented in Section II(B), *supra*.

IV. CONCLUSION

Alpha Delta is entitled to a Special Exception as a “one-family” dwelling because the amendment to RSA § 674:16 prohibits Hanover from enforcing its definitions of “family” and “student residence,” which heavily influenced the ZBA’s decision from May 2015. Additionally, whether viewed as a “one-family” dwelling or a “student residence,” Alpha Delta satisfies the criteria for a Special Exception, especially when considering that fraternities and sororities are now permitted as a matter of right in several districts in the Town. There is nothing unique about the Institution zone that would make a fraternity incompatible with the surrounding neighborhood or adversely affect Town services. In fact, student housing—like a fraternity—complements the Institution zone, even if Dartmouth does not formally recognize the fraternity. The ZBA should, therefore, grant Alpha Delta’s request for a Special Exception.

Zoning Board of Adjustment
Town of Hanover, New Hampshire
Case No. 34014-Z2015-14

Date of Hearing: May 28, 2015

Date of Deliberations: June 4, 2015

Board members participating: Radisch (Chair), Connolly, Donegan, Gardiner, Waugh
Waugh prepared the preliminary draft.

FINDINGS OF FACT:

1. Dartmouth Corporation of Alpha Delta appeals an administrative decision that the continued use of its property at 9 East Wheelock Street, Tax Map 34, Lot 14, in the Institution zoning district, as a "Student Residence, 'I' Institution district" – as that term is defined in Section 902 of the Zoning Ordinance – is in violation of the Ordinance because, due to recent 'de-recognition' by Dartmouth College, it is no longer being "operated in conjunction with another institutional use" as required by that definition. (The definition's regulatory significance is due to the defined term being listed in Table 204.4, governing the Institution district, as a use allowed by special exception. Alpha Delta has made no claim of fitting within any alternative category of use permitted or allowed in that district.) The decision being appealed is contained in a letter from the Zoning Administrator dated April 23, 2015.
2. Although no one from Dartmouth College testified at the hearing, the implications of the College's 'de-recognition' of the fraternity are explained in a letter from Dartmouth to Alpha Delta dated April 13, 2015, and also in a letter to the Board from Robert Donin, Dartmouth's General Counsel, dated May 28, 2015 (both in the case file). The former letter says (in part) that "de-recognition is defined...as permanent revocation of recognition." It states that "the College will notify the Town of Hanover that Alpha Delta no longer has a relationship with Dartmouth College." It also indicates that Alpha Delta will no longer be protected by the College's Dept. of Safety and Security.
3. The letter from Atty. Donin states (among other things) that the College itself does not now consider Alpha Delta to be operating 'in conjunction with' that institution, and that "the College's relationship to [it] is no different from its relationship to any other Hanover property owner." The letter mentions loss of the right to recruit Dartmouth students, loss of the use of College facilities or resources, loss of participation in College insurance coverage, or activities such as intramurals, and loss of Dartmouth-maintained internet service. It also says the fraternity has been removed from the College's rooming system (under which student room rents are paid through the College).

4. The Applicant/Appellant submitted a 4-29-15 letter from Attorney David Rayment (*see* case file), and was represented at the hearing by Attorney Phil Hastings, by Ryan McGuire, the corporation's president, and by John Engelman, president of the Alpha Delta Alumni Corporation (which he said owns the property). As a factual matter they said 18 Dartmouth students/fraternity members are still living on the property at least through the end of the spring term, for which the rent was already paid. They said there were sufficient junior and sophomore members for the fraternity organization to remain viable for at least the next two years, even if it could not recruit new members. But they questioned the inability to recruit new members, in light of a statement by a Dartmouth spokesperson, as quoted in a recent *Valley News* article, which said Dartmouth students were free to become members of non-recognized organizations.
5. Alpha Delta has existed as a fraternity at Dartmouth since the 1840's. Its current building was constructed in 1921-22, and has been used continuously since that time, without ever having obtained a special exception. Other factual matters are discussed below. No one else testified either for or against the appeal.

REASONING OF THE BOARD:

6. As one preliminary matter, attorneys Rayment and Hastings both argued that the administrative decision which found that the de-recognition was 'permanent' was in error, because at the time the Zoning Administrator wrote her violation letter, the de-recognition was on appeal internally within the College. However, the 5/28 letter from College Counsel Donin makes it clear that from the College's perspective, the appeal has *now* been resolved against Alpha Delta, and the de-recognition now *is* permanent. Under RSA 674:33, II, in any administrative appeal, the ZBA "...shall have all the powers of the administrative official from whom the appeal is taken." This Board's decision will thus replace that of the Zoning Administrator, and will not be infected with that same alleged error. The issue is therefore moot.
7. As a second preliminary issue, the Appellant argues that Alpha Delta and other organizations have been 'de-recognized' by the College for temporary periods in the past (the only specific example cited being one occurring during the 1990s), and that the Town of Hanover took no action at that time, hence de-recognition cannot be deemed a zoning violation. We disagree. The mere fact that a Town may have been lax in its enforcement in the past does not prohibit enforcement in the present (*see. e.g. Anderson v. Motorsports Holdings, LLC*, 155 N.H. 491, 499 (2007)). Moreover, the precise factual implications of any prior 'de-recognition' have not been detailed. To any extent that the Appellant is impliedly arguing that the Ordinance definition of "Student Residence, 'I' Institution district" has become affected with an 'administrative gloss,' that argument falls short. The doctrine of administrative gloss is a rule of construction under which an "administrative gloss is placed upon an ambiguous clause, when those responsible for its implementation interpret the clause in a consistent manner and apply it to similarly situated applicants over a period of years without legislative interference." (*In re Kalar*, 162 N.H. 314, 321 (2011)). Here the Appellant has offered no evidence that any past Town administrators ever actually affirmatively interpreted the clause at all. Mere lack of past official action does not create an administrative gloss.

8. A third preliminary issue is that the Appellant claims to be ‘grandfathered’ (*see* David Rayment letter at p. 4). We assume, without deciding, that Alpha Delta would be considered ‘grandfathered’ from the requirement of getting a special exception. But the special exception requirement was not the basis for the Zoning Administrator’s enforcement letter, and is not now before us.
9. At the hearing, Atty. Hastings explained the Appellant’s ‘grandfathering’ claim as follows (paraphrasing): To the extent that the Zoning Administrator has adopted recognition/de-recognition status as a zoning requirement, Alpha Delta should be considered ‘grandfathered’ from such a requirement because the existence and nature of ‘recognition’ by the College has varied widely since prior to the adoption of the Zoning Ordinance.
10. We think that argument misconstrues the nature of the Zoning Administrator’s finding of a violation. The Zoning Administrator did *not* adopt a private institution’s ‘recognition’ standards as part of the Zoning Ordinance. Rather she (and this Board) have considered the *facts* surrounding this particular instance of the *College’s* action of ‘de-recognition’ to determine whether or not those facts show that the Appellant’s use of its property continues to meet a voter-approved *Town* requirement which unarguably *is* contained in the Ordinance – namely the requirement that a student residence in the ‘I’ district must be “operated in conjunction with another institutional use.” The burden of proving a nonconforming use is on the party claiming it. Here the Appellant has failed to present any evidence that the fraternity ever operated in a manner which was not ‘in conjunction with’ Dartmouth College, prior to the adoption of that zoning requirement. (The temporary period of ‘de-recognition’ during the 1990s, discussed in paragraph 7 above, occurred after the enactment of the requirement.) We conclude that the Appellant has not sustained its burden of showing that its property is lawfully nonconforming with respect to the requirement of being “operated in conjunction with another institutional use.”
11. We therefore turn to the nub of this appeal – whether the Appellant continues to meet the requirements of the definition in light of its ‘de-recognition’ by Dartmouth College. The position of the Appellant – as confirmed by Atty. Hastings at the hearing – is that the ‘in-conjunction-with’ requirement is still met as long as the residents in the fraternity’s building are all Dartmouth students.
12. However it is well known that there are rental residences in other zoning districts in Hanover whose residents are also all, or primarily, Dartmouth students, but where the property has no ties at all to the College. Those uses are notably subject to zoning restrictions to which a ‘Student Residence’ in the ‘I’ district is not subject. The definition of “Student Residence, ‘I’ Institution district” says that this use may be for “any number of students,” whereas in districts where a ‘Student Residence’ is not an allowed use, those buildings where students may reside are classified as either ‘single-family,’ ‘two-family’ or ‘multi-family,’ in which case the number of students living in a dwelling unit is governed by the definition of “Family, Unrelated” in Section 902, which limits the number to “Any group of not more than 3 persons not related by blood, marriage or adoption...”

[**Note:** Confusingly, there is also a definition in Section 902 for the term “Student Residence, Residential Districts” which does *not* include the phrase “any number of

students." That defined use appears to be allowed only in the 'RO' Residence and Office district (Table 204.2C) where it is allowed by special exception. Since the term 'family' is not used in conjunction with that definition, it is unclear what maximum numerical limits apply to that defined use. However, resolution of that question does not appear to affect the case before us, because a "Student Residence, Residential Districts" *is* still required to be "operated in conjunction with another institutional use" (see definition), and hence provides no contrasting example to the situation Alpha Delta is now in.]

13. The Board believes that the phrase "operated in conjunction with another institutional use" must be applied in light of its evident purpose. What, then, is that purpose? We note that regulatory limitations on the number of unrelated persons living together in a single dwelling unit have, when challenged, been upheld by the N.H. Supreme Court, *see Town of Durham v. White Enterprises, Inc.*, 115 N.H. 645 (1975); *Fischer v. N.H. State Bldg. Code Review Bd.*, 154 N.H. 585 (2006). In the latter case, the Court quoted the testimony of Durham's fire marshal on the issue of the State Fire Code's purpose in treating an unrelated enf differently from a related family: "*Well, because the people are not related, they have no vested interest in one another, other than they're...they may be friends, the Code has made some additional requirements to make sure each individual is safe as opposed to a single family where they are probably going to be looking out for one another...being aware of their comings and goings and whatnot.*" The Court held that this was a legitimate public safety concern legally justifying the disparate treatment of unrelated persons under the Code.
14. The Board finds that similar fundamental health and safety concerns validly justify the disparate treatment of the number of unrelated persons living in a 'family' dwelling unit – by contrast with a 'Student Residence' – even though both types of residences may be occupied by Dartmouth students. It was rational and reasonable for the voters of Hanover, in enacting the Zoning Ordinance, to consider that students in a 'student residence' which is 'operated in conjunction with another institutional use' will potentially have their health and safety overseen to some degree by that other institution (in this case by Dartmouth), whereas students residing elsewhere do not benefit from that same protection. [Such a construction is at least not inconsistent with the still-evolving area of law which sometimes holds colleges responsible, and potentially liable, for student injuries attributable to college-sponsored activities, *see, for example, Schneider v. Plymouth State College*, 144 N.H. 458 (1999) (Sexual harassment of student by professor); *Furek v. University of Delaware*, 594 A.2d 506 (Del. 1991) (University might, depending on circumstances, be liable for student injury due to fraternity hazing incident).]
15. We therefore apply the phrase 'in conjunction with' here by determining whether – in light of the specific facts of the case before us – the potential for health and safety oversight by that other institution has now been removed. We find that it has been. For one thing, according to the letters from the College, Alpha Delta will no longer be under the jurisdiction or protection of the College's Dept. of Safety and Security (a group formerly referred to as the 'campus police' although they were not, and are not, officially-sworn police officers).
16. A second, and more striking, example of the type of potential health and safety oversight by another institution, to which Alpha Delta will no longer be subject, is provided by the 'de-recognition' proceedings themselves. The April 13, 2015 letter from Dartmouth to Alpha Delta says that a panel of the College's Organizational Adjudication Committee found Alpha

Delta to be in violation of certain institutional standards of student conduct due to “the branding of new members of Alpha Delta with the fraternity letters” – a practice which “caused physical harm and...the nature of the injury created a subsequent threat to their continuing safety.” The panel concluded that this occurrence had violated the terms of a prior suspension of Alpha Delta (also presumably based upon conduct violations).

17. To be clear, this Board is not endorsing, or reviewing in any manner, any specific internal College standard of conduct or disciplinary proceeding. That is not our role. We merely cite that *general type* of disciplinary proceeding as an example of the very type of health and safety oversight by an ‘other institution’ which justifies the disparate treatment under the ordinance, but which will no longer be in place protecting the student residents of Alpha Delta following its ‘de-recognition’ – at least not as to their congregate organizational activities (even assuming *arguendo* that the fraternity were to continue to operate as such).
18. We find, in fact, that the Appellant has failed to present any evidence contradicting the College Counsel’s statement that “the College’s relationship to the property owners of 9 East Wheelock St. is [now] no different from its relationship to any other Hanover property owner.” The phrase ‘in conjunction with another institutional use’ certainly has to have *some* meaning. Otherwise it would not have been placed in the Ordinance. It is an elementary principle of construing regulatory language that all words must be given effect, and that the legislative body will not be presumed to have enacted superfluous or redundant words, *see, e.g. State v. Burke*, 162 N.H. 459 (2011).
19. Attorney Rayment’s letter claims that the ‘in-conjunction-with’ requirement of the Ordinance should be found unconstitutionally void for vagueness. However the argument is not well-developed and cites no precedent or authority. In the *Anderson v. Motorsports* case (cited above), the N.H. Supreme Court said that municipal ordinances are presumed valid, that the burden of proving invalidity lies with the party attacking validity, and that “the mere want of precision” will not overcome the presumption of validity (155 N.H. at 498). Moreover, the Court has held that a statute or ordinance “will not be construed to be unconstitutional when it is susceptible to a construction rendering it constitutional” (*Bd of Trustees, NH Judicial Retirement Plan v. Secretary of State*, 161 N.H. 49 (2010)). We believe our construction of the requirement, with reference to its fundamental health and safety purpose – applied by looking at the potential for health and safety oversight of a ‘student residence’ by a nongovernmental institution – is such a constitutional construction, and is not vague. It is admittedly possible to imagine cases that could come close to the line on the question of whether a student residence is being operated ‘in conjunction with’ another institution. But the existence of such hypothetical examples does not render the requirement facially vague, and the case before us is *not* close to the line.
20. Attorney Rayment’s vagueness argument is based primarily on his claim that the Zoning Administrator’s interpretation “allows a private entity to define and unilaterally change the terms of the Ordinance.” However, as discussed in paragraphs 10 and 14 above, that is not what the Zoning Administrator – or this Board – have done. Instead we have analyzed the specific facts before us in light of the Ordinance’s own terms, and evident purpose, and we find that the Appellant is not in compliance. Since we have been presented with no plan for

bringing the Appellant's property into compliance, we will not address the question of what such a plan might require.

ACTION OF THE BOARD:

It was moved by Waugh, seconded by Gardiner, to **DENY** the appeal of the Dartmouth Corporation of Alpha Delta, for the reasons given above, subject to the condition that fines for non-compliance not be levied until this Board's decision becomes final.

Voted in favor: 3 (Gardiner, Radisch, Waugh)

Voted in opposition: 2 (Connolly, Donegan)

Katherine Connolly

David Donegan

Arthur Gardiner

Carolyn Radisch, Chair

H. Bernard Waugh, Jr.

Your right to appeal this decision depends on your compliance with the New Hampshire RSA 677.

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Reply to: Portsmouth Office
75 Portsmouth Blvd., Suite 110
Portsmouth, NH 03801

December 30, 2025

Via UPS and email

Bruce Simpson
Zoning Administrator
Town of Hanover
P. O. Box 483
Hanover, NH 03755
bruce.simpson@hanovernh.org

RECEIVED

DEC 30 2025

HANOVER PZC

Re: Alpha Delta Alumni Corporation – CASE #34014-Z2025-16

Dear Mr. Simpson:

As a follow up to my letter of November 10, 2025, enclosed is an original and seven (7) copies of revised Special Exception Application on behalf of Alpha Delta Alumni Corporation, together with the documents as outlined on the submission requirements checklist.

Also enclosed is a check in the amount of \$469.36 to cover the filing fee of \$300, legal notice of \$25.00 and \$144.36 for the notification to the abutters.

Thank you.

Very truly yours,

Brian J. Bouchard

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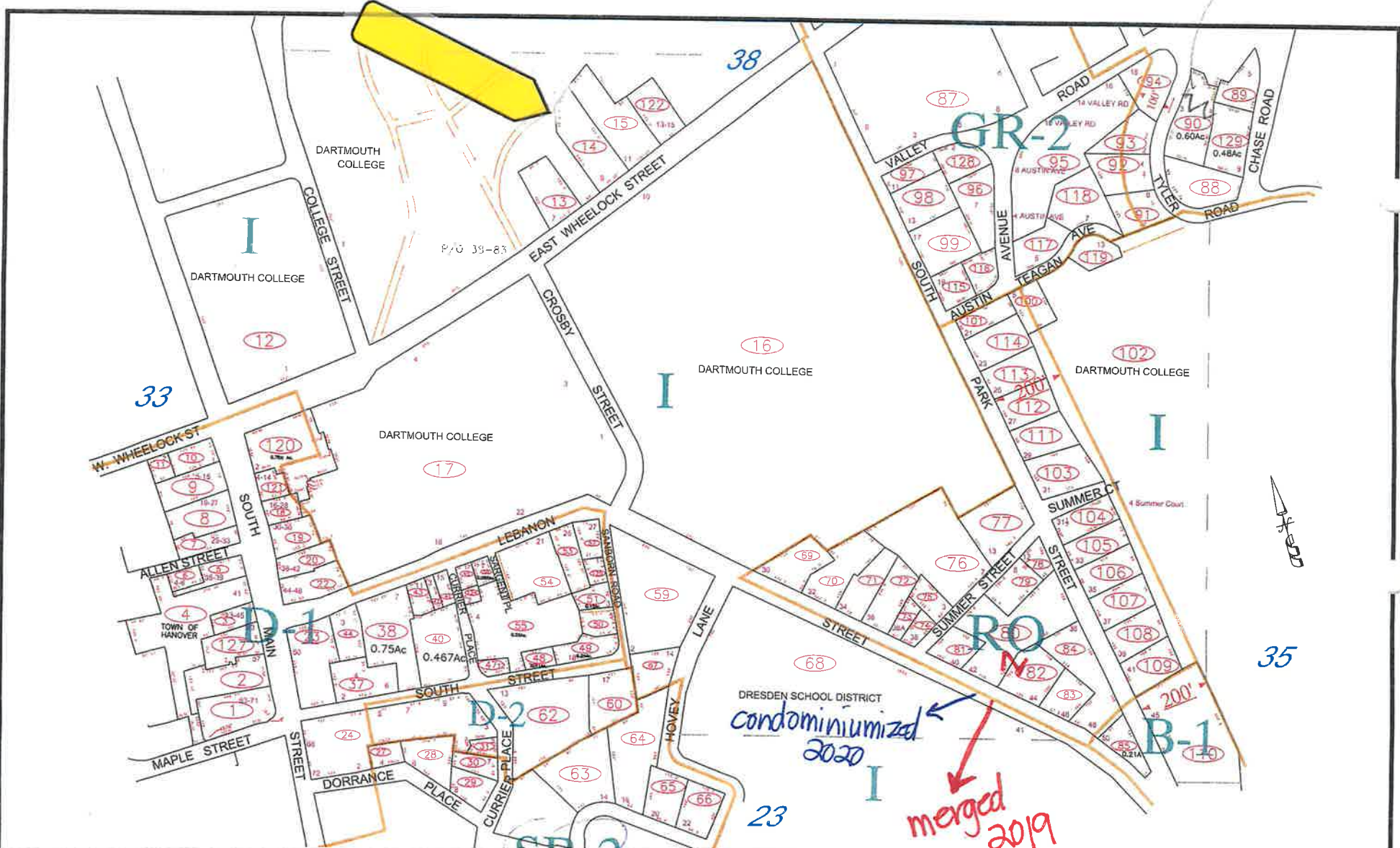
BJB/skr

Enclosures

CURRENT OWNER		TOPO	UTILITIES	STRT / ROAD	LOCATION	CURRENT ASSESSMENT				<div>1917 HANOVER, NH VISION</div>								
ALPHA DELTA ALUMNI CORPORATIO PO BOX 715 EXETER NH 03833-0715		1 Level	1 All Public	1 Paved	2 Suburban	Description	Code	Assessed	Assessed									
				6 Sidewalk		RESIDNTL	1220	927,500	927,500									
						RES LAND	1220	888,100	888,100									
		SUPPLEMENTAL DATA				RESIDNTL	1220	8,400	8,400									
		Alt Prcl ID 00034 00014 00001 EASEMEN 264700 PARKING F PRESERV GIS ID PR2273				PRECINC FIRE DIST 1 ADU TIF STATE UTI Assoc Pid#												
RECORD OF OWNERSHIP		BK-VOL/PAGE	SALE DATE	Q/U	V/I	SALE PRICE	VC	PREVIOUS ASSESSMENTS (HISTORY)										
ALPHA DELTA ALUMNI CORPORATION ALPHA DELTA FRATERNITY, DART CORP O		000X 0	000X 0	02-09-2018	U	I	0 0	40	Year	Code	Assessed	Year	Code	Assessed	Year	Code	Assessed	
									2025	1220	811,800	2024	1220	811,800	2024	1220	811,800	
										1220	634,100		1220	634,100		1220	634,100	
										1220	8,400		1220	8,400		1220	8	
		Total							Total		1,454,300	Total		1,454,300	Total		1,454,300	
EXEMPTIONS				OTHER ASSESSMENTS														
Year	Code	Description	Amount	Code	Description	Number	Amount	Comm Int	This signature acknowledges a visit by a Data Collector or Assessor									
									APPRAISED VALUE SUMMARY Appraised Bldg. Value (Card) 894,500 Appraised Xf (B) Value (Bldg) 33,000 Appraised Ob (B) Value (Bldg) 8,400 Appraised Land Value (Bldg) 888,100 Special Land Value 0 Total Appraised Parcel Value 1,824,000 Valuation Method 0 Total Appraised Parcel Value 1,824									
Total 0.00																		
ASSESSING NEIGHBORHOOD																		
Nbhd		Nbhd Name		B		Tracing		Batch										
103																		
NOTES																		
ECON-MRKT.CAPACITY 14 BDRMS/19 BEDS,UBM- 2020-BMT REPAIR=NVC PARTITIONED-MIN FIN-N/V,1ST MAIN RM, CUSTOM PANELING,P08 LIFT ENCLOSURE,LIFT N/S-NEED NEW PERMIT,P13 REPAIR 2ND FL BATH 100%,REVIEW PERMIT FILE,P14 REPLAC BSMT SLAB-ABOUT 80% OF FL AREA 100%;																		
BUILDING PERMIT RECORD																		
Permit Id	Issue Date	Type	Description	Amount	Insp Date	% Comp	Date Comp	Comments	Date	Id	Type	Is	Cd	Purpost/Result				
2019-186	04-12-2019	RE		10,000		100	05-13-2020	struct.repairs-LL flors - BSMT	04-14-2021	SS			16	Field Review				
2018-292	12-28-2017	RE	CHANGE BLD			100	04-01-2019	change Use from Frat to Office	05-13-2020	AO	04		04	Bldg Permit Inspection				
2014-536	12-09-2014	RS	REPLACE PAR	25,000		100	03-18-2015	BSMT SLAB	03-28-2018	DMM			04	Bldg Permit Inspection				
2013-614	12-27-2013	RE	2ND FL BATHR	15,000		100	04-01-2014	WATER DAMAGE REPAIRS	04-28-2017	DMM	01	1	00	Measur+Listed				
2010-310	12-01-2010	RE	FIREPLACE &	10,500		100	04-01-2012	FURNACE ALTS	03-18-2015	MR			04	Bldg Permit Inspection				
2008-49	04-07-2008	RE	ALTS-WHEELC	85,000		100	04-01-2009	LIFT ENCLOSURE	03-18-2013	MR			00	Measur+Listed				
2005-150	03-01-2005	RE	CONVERT DBL	6,000		100	04-01-2006	INTO 2 SINGLE RMS	10-09-2007	JM			00	Measur+Listed				
LAND LINE VALUATION SECTION																		
B	Use Code	Description	Zone	Land Type	Land Units	Unit Price	SI Facto	Site Index	Cond.	Nbhd.	Nbhd. Adj	Notes	REC	Location Adjustm	Adj Unit P	Land Value		
1	1220	FRAT/SOROR	I		26,136 SF	9.44	4.00000	9	0.90	500	1.000	USE	0		1.000	33.98	888,100	
Total Card Land Units					0.60	AC	Parcel Total Land Area					0.60	Total Land Value					888,100

CONSTRUCTION DETAIL						CONSTRUCTION DETAIL (CONTINUED)					
Element		Cd	Description			Element		Cd	Description		
Style:		84	Frat/Soror								
Model		03	Multi-Family								
Design/Appeal		08	Good +20								
Stories:		2.75	2 3/4 Stories								
Occupancy		1				CONDO DATA					
Exterior Wall 1		20	Brick/Masonry			Parcel Id			C		Owne 0.0
Exterior Wall 2									B		S
Roof Structure:		03	Gable/Hip			Adjust Type		Code	Description		Factor%
Roof Cover		11	Slate			Condo Flr					
Interior Wall 1		03	Plastered			Condo Unit					
Interior Wall 2		05	Drywall/Sheet			COST / MARKET VALUATION					
Interior Flr 1		12	Hardwood			Building Value New				1,936,605	
Interior Flr 2		14	Carpet								
Heat Fuel		02	Oil								
Heat Type:		06	Steam								
AC Type:		01	None			Year Built				1900	
Total Bedrooms		09	9+ Bedrooms			Effective Year Built				1991	
Total Bthrms:		4	4 Full			Depreciation Code				AV	
Total Half Baths		0				Remodel Rating					
Total Xtra Fixtrs						Year Remodeled					
Total Rooms:		21	21 Rooms			Depreciation %				34	
Bath Style:		01	Original			Functional Obsol				0	
Kitchen Style:		01	Original			External Obsol				9	
						Trend Factor				1	
						Condition					
						Condition %					
						Percent Good				57	
						RCNLD				1,103,900	
						Dep % Ovr					
						Dep Ovr Comment					
						Misc Imp Ovr					
						Misc Imp Ovr Comment					
						Cost to Cure Ovr					
						Cost to Cure Ovr Comment					
OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)											
Code	Description	L/B	Units	Unit Price	Yr Blt	Cond. Cd	% Gd	Grade	Grade Adj.	Appr. Value	
FPL3	2 STORY CHI	B	4	6000.00	1987		57		0.00	13,700	
FPO	EXTRA FPL O	B	4	2000.00	1987		57		0.00	4,600	
SPR1	SPRINKLERS-	B	9,533	2.70	1987		57		0.00	14,700	
PAT2	PATIO-GOOD	L	920	13.00	1987		70		0.00	8,400	
BUILDING SUB-AREA SUMMARY SECTION											
Code	Description			Living Area	Floor Area	Eff Area	Unit Cost		Undeprec Value		
BAS	First Floor			2,583	2,583	2,583	244.69		632,029		
FOP	Porch, Open, Finished			0	264	66	61.17		16,149		
FUS	Upper Story, Finished			2,583	2,583	2,583	244.69		632,029		
TQS	Three Quarter Story			1,937	2,583	1,937	183.49		473,960		
UBM	Basement, Unfinished			0	2,791	558	48.92		136,536		
UST	Utility, Storage, Unfinished			0	144	43	73.07		10,522		
WDK	Deck, Wood			0	128	13	24.85		3,181		
Ttl Gross Liv / Lease Area				7,103	11,076	7,783			1,904,406		

2012 SUB



PROPERTY MAP FOR
THE TOWN OF
HANOVER, NH

SR-2

For assessments only -
not for conveyances.

LEGEND

PARCEL NUMBER	14
HOUSE NUMBER	27
ADJACENT MAP NUMBER	
MATCHLINE	
RIGHT-OF-WAY OR EASEMENT	

APPROXIMATE SCALE:



MAP NUMBER
34
July 10, 2013

Bldg Permits

Map	Lot	YR	#	OWNER	LOCATION	DESCRIPTION	STATUS
34	14	2019	186	Alpha Delta Alumni C	9 East Wheelock Street	structural repair, bsmt ALT	VIOLATION
34	14	2018	292	Dart Corp of Alpha D	9 East Wheelock Street	change to "office" use	CO Issued
34	14	2014	536	Dartmouth Corp of Al	9 East Wheelock Street	repl bsmt slab	CO Issued
34	14	2014	254	Dart Corp of Alpha D	9 East Wheelock Street	repair power line	CO Issued
34	14	2014	131	Dart Corp of Alpha D	9 East Wheelock Street	REINSTATE 03-010	CO Issued
34	14	2014	130	Dart Corp of Alpha D	9 East Wheelock Street	REINSTATE 01-197	CO Issued
34	14	2014	129	Dart Corp of Alpha D	9 East Wheelock Street	REINSTATE 02-123	CO Issued
34	14	2013	614	Dart Corp of Alpha D	9 East Wheelock Street	bath ALT (2nd floor)	CO Issued
34	14	2010	389	Dart Corp of Alpha D	9 East Wheelock Street	REINSTATE 08-049	CO Issued
34	14	2010	310	Dart Corp of Alpha D	9 East Wheelock Street	fireplace, furnace ALT	CO Issued
34	14	2008	49	Dart Corp of Alpha D	9 East Wheelock Street	wheelchair lift enclosure	SEE 10-389
34	14	2005	263	Dart Corp of Alpha D	9 East Wheelock Street	suite:singles	ABANDONED
34	14	2005	150	Alpha Delta Corp	9 East Wheelock Street	Convert 2 rooms to singles	Closed out
34	14	2004	50	Alpha Delta Corp	9 East Wheelock Street	bath ALT	Closed out
34	14	2003	72	Alpha Delta Corp	9 East Wheelock Street	Roof over stairs	CO Issued
34	14	2003	10	Dart Corp of Alpha D	9 East Wheelock Street	bath Alt	SEE 14-131
34	14	2002	123	Dart Corp of Alpha D	9 East Wheelock Street	Fire Damage Repairs	SEE 14-129
34	14	2001	197	Dart Corp of Alpha D	9 East Wheelock Street	handicap ramp, extend stairs	SEE 14-130
34	14	1997		Dartmouth College Alpha Delta	9 East Wheelock Street	bsmt ALT	Closed out

Map	Lot	YR	#	OWNER		LOCATION	DESCRIPTION	STATUS
34	14	1985	48	Dartmouth College	Alpha Delta	9 East Wheelock Street	Fire alarms & exit lights	Closed out
34	14	1984	122	Dartmouth College	Alpha Delta	9 East Wheelock Street	Fire alarm exit lights	Closed out
34	14	1975	137	Dartmouth College	Alpha Delta	9 East Wheelock Street	200 amp electric svc	Closed out

Zoning Permits

Map	Lot	YR	#	OWNER	LOCATION	DESCRIPTION	WL	FP
34	14	2019	194	Alpha Delta Alum C	9 East Wheelock Street	structural repair, bsmt ALT	N	N
34	14	2018	381	Alpha Delta AlumniBridgman Rlty Tr	9 East Wheelock Street	VOID temp controls - prkg		
34	14	2018	78	Dart Corp of Alpha	9 East Wheelock Street	change to "office" use		
34	14	2018	6	Dart Corp of Alpha	9 East Wheelock Street	RETURNED (change use)	N	N
34	14	2017	332	Dart Corp of Alpha	9 East Wheelock Street	VIO prkg lot use		
34	14	2015	653	Dart Corp of Alpha	9 East Wheelock Street	VIO residential use		
34	14	2015	187	Dart Corp of Alpha	9 East Wheelock Street	use VIO		
34	14	2014	458	Dart Corp of Alpha	9 East Wheelock Street	repl bsmt slab		
34	14	2014	235	Dart Corp of Alpha	9 East Wheelock Street	repair power line		
34	14	2014	97	Dart Corp of Alpha	9 East Wheelock Street	REINSTATE 02-307		
34	14	2014	96	Dart Corp of Alpha	9 East Wheelock Street	REINSTATE 01-140		
34	14	2014	95	Dart Corp of Alpha	9 East Wheelock Street	REINSTATE 02-115		
34	14	2013	645	Dart Corp of Alpha	9 East Wheelock Street	2nd floor BATH ALTs	N	N
34	14	2010	365	Dart Corp of Aplha	9 East Maple Street	wheelchair lift enclosure	N	N
34	14	2010	269	Dart Corp of Aplha	9 East Wheelock Street	repair fireplace	N	N
34	14	2007	327	Dart Corp of Alpha	9 East Wheelock	wheelchair lift	N	N
34	14	2005	169	Alpha Delta Corp	9 East Wheelock Street	convert ste:2 single rms		

Map Lot	YR	#	OWNER	LOCATION	DESCRIPTION	WL	FP
34	14	2005	28	Alpha Delta	9 East Wheelock Street	double ste:singles - ABANDONED	
34	14	2004	23	Alpha Delta	9 East Wheelock Street	bath ALTs	
34	14	2003	26	Alpha Delta Corp	9 East Wheelock Street	roof over fire escape	
34	14	2002	115	Dartmouth Corp Al Alpha Delta	9 East Wheelock Street	repair fire damage	
34	14	2001	140	Alpha Delta Corp	9 East Wheelock Street	Handicap ramp, extend stairs	
34	14	1996	94	Dartmouth College Alpha Delta	9 East Wheelock Street	accy structure	
34	14	1996	94	King James	9 East Wheelock Street	W/DRAWN - accy bldg	
34	14	1979	249	Dartmouth College Alpha Delta	9 East Wheelock Street	shed	

Violations Query

Map	Lot	Date	Last Name	Address	Description	Rectified
34	14	4/13/2021	Alpha Delta Alumni C	9 East Wheelock Street	use/occupancy w/o CO 19-186	<input type="checkbox"/>
34	14	2/22/2017	Dart Corp of Alpha De	9 East Wheelock Street	prkg lot use	<input checked="" type="checkbox"/>
34	14	9/14/2015	Dart Corp of Alpha De	9 East Wheelock Street	residential use (non-fraternity/sorority)	<input checked="" type="checkbox"/>
34	14	4/23/2015	Dart Corp of Alpha De	9 East Wheelock Street	derecognized; residential use is VIO	<input checked="" type="checkbox"/>
34	14	7/12/2010	Dart Corp of Alpha De	9 East Wheelock Street	use/occupancy w/o CO 08-049	<input checked="" type="checkbox"/>
34	14	1/14/2005	Dart Corp of Alpha De	9 East Wheelock Street	use/occupancy w/o CO 03-010	<input checked="" type="checkbox"/>
34	14	6/18/2004	Dart Corp of Alpha De	9 East Wheelock Street	use/occupancy w/o CO 02-123	<input checked="" type="checkbox"/>
34	14	8/11/2003	Dart Corp of Alpha De	9 East Wheelock Street	NO FINAL 01-197	<input checked="" type="checkbox"/>

ZBA Cases

Map	Lot	YR	#	OWNER	LOCATION	TYPE	DESCRIPTION	DECISION
34	14	2026	1	Alpha Delta Alumni Co	9 East Wheelock Street	SE	resume use as student residence	
34	14	2025	16	Alpha Delta Alum Corp	9 East Wheelock Street	SE	change use to student residence	
34	14	2018	5	Dart Corp of Alpha De	9 East Wheelock Street	AAD	renting office sp is not permitted use	WITHDRAWN
34	14	2015	18	Dart Corp of Alpha De	9 East Wheelock Street	R	req to rehear Z2015-14	Denied
34	14	2015	14	Dart Corp of Alpha De	9 East Wheelock Street	AAD	residential use is violation	Denied