

IN THE MATTER OF : BEFORE THE  
VCA LEWIS ANIMAL HOSPITAL : HOWARD COUNTY  
Petitioner : BOARD OF APPEALS  
: HEARING EXAMINER  
: BA Case No. 11-005N

.....  
**ORDER RE: REQUEST FOR RECONSIDERATION OF  
BOARD OF APPEALS CASE NO. 11-005N**

On June 29, 2011, the Hearing Examiner held a hearing on the Petitioner's May 31, 2011 motion for reconsideration in Board of Appeals Case No. 11-011N, issued on May 12, 2011. Attending the hearing were Petitioner's counsel, Mr. Robinson, and Ms. Patricia Washington, an adjoining property owner who had testified at the May 2, 2011.

**Discussion**

Rule 11.5 of the Board of Appeals Hearing Examiner Rules of Procedure permits the Hearing Examiner to revise a decision only upon a finding of a mistake of fact or mistake of law.

At issue in this case is Condition #1 in the decision and order, which states "(t)he Petitioner shall cease using the fenced outdoor area as part of the animal hospital use and remove the fencing." The Hearing Examiner imposed this condition upon concluding the "existing and proposed outdoor uses are not permitted as part of an animal hospital conditional use category in the R-20 zoning district, nor were they permitted by its special exception predecessor." (BA 11-005N, Page 9). The Petitioner, through counsel, questions this conclusion

in the motion for reconsideration, citing to several Board of Appeals decision and orders wherein the Board permitted various outdoor animal activities in connection with rural kennels and animal hospitals.

Following a discussion between Mr. Robinson, Ms. Washington, and the Hearing Examiner about these Board of Appeals kennel and animal hospital decisions, focusing on (1) the zoning and geographic location of the applicable sites, as well as the scale of the VCA Lewis Animal Hospital operation relative to the uses in these cases, and (2) the definition of "animal hospital" in the Zoning Regulations, and without reaching a different legal conclusion about the permitted outdoor uses associated with a nonconforming animal hospital in the R-20 zoning district, the parties agreed VCA Lewis Animal Hospital would be permitted to retain the outdoor fenced area subject to certain conditions, which are set forth below.

**ORDER**

Upon consideration of the Motion before the Hearing Examiner, it is this **12<sup>th</sup> Day of July 2011** by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the Decision and Order in Board of Appeals Case No. 11-005N is hereby **MODIFIED** as follows:

The petition of VCA Lewis Animal Hospital for confirmation and enlargement of a nonconforming use for an Animal Hospital in an R-20 (Residential-Single) Zoning District is **GRANTED;**

**Provided,** however, that:

1. The Petitioner shall replace the existing fenced area on the south side of the structure with a lawful fence that minimizes noise from animals. The square footage of this fenced area shall not be increased in size.
2. The Petitioner shall develop an education program on its website and through other marketing materials instructing animal owners or persons responsible for taking animals to appointments to have their animals eliminate before coming to the hospital and that no animals are to eliminate on the property.
3. The Petitioner shall post signs on the property instructing persons not to walk animals on the property.

4. All animals being lawfully boarded at the animal hospital shall use only the fenced area for elimination. Other than the fenced area, no animals lawfully boarded at the animal hospital shall be walked on the property.
5. The Petitioner shall eliminate the doorway/entrance off the Minor Procedure Room and leading to the east side of the animal hospital. The Hearing Examiner has marked the doorway/entrance to be removed on Petitioner Exhibit 6B.
6. There shall be no doorways or entrances on the east side of the proposed addition, nor shall the Petitioner install a new doorway/entrance on any part of the existing east façade.
7. The Petitioner shall install a lawful privacy fence along the east property line, beginning at the northernmost section of the proposed addition and continuing to the southern end of the existing structure. The fencing, including any required gates, shall also extend to the structure itself to deter animal owners from walking their animals in this area. The Petitioner shall consult with Patricia Washington and adjoining property owners on the reasonable design of the fence. The fence and agreed above design shall be depicted and noted on the Site Development Plan and/or redline plan.
8. The Petitioner shall hire no more than one additional veterinarian and one additional staff employee.
9. The nonconforming enlargement shall apply only to the land area, uses, and structures as described in the petition and plan submitted, and as conditioned, and not to any other activities, uses, structures, or additions on the Property.

10. The Petitioner shall maintain the landscaping along the common property line with the residential properties to the east (the residences fronting on Eliot's Oak Road.

11. The Petitioner shall add Conditions 1-10 as general notes on the site development plan and/or any redline plan.

HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER



Michele L. LeFavre

Date Mailed: 7/13/11

**Notice:** A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.