

IN THE MATTER OF : BEFORE THE

LOIS PETERS T/A : HOWARD COUNTY
INTERNATIONAL HEALTH CARE : BOARD OF APPEALS
CONSULTANTS :

Petitioner : HEARING EXAMINER

: BA Case No. 11-001C
Reconsideration Order

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ORDER MODIFYING THE JUNE 9, 2011 ORDER

On June 13, 2011, the Petitioner submitted a Motion for Reconsideration of the Hearing Examiner Decision and Order in Board of Appeals Case No. 11-001C, dated June 9, 2011, which petition was denied in part with respect to the Petitioner's request to reduce the 50-foot setback for a garage intended to be used as an accessory structure to the residential care facility, which the Hearing Examiner approved.

The Motion argues the Hearing Examiner miscalculated the distance and required setback of the garage from the rear property line, and further, that the Petitioner meets the standards for a reduced setback as may be authorized by the Hearing Examiner pursuant to Section 131.N.37.d of the Zoning Regulations. In support, the Petitioner states the Technical Staff Report estimates the distance of the garage as 35 feet from the boundary line and that a Department of Public Works survey for a sidewalk easement scales the garage as about 40 feet from the rear boundary line. The Petitioner also presented evidence at the hearing that the adjoining property is an institutional land use.

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. The Hearing Examiner agrees with the Petitioner that she made a mistake of fact in analyzing the request for a reduced setback.

Upon consideration of the Motion before the Hearing Examiner, it is this **20th Day of June 2011** by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the Decision and Order in Board of Appeals Case No. 11-001C is hereby **MODIFIED** as follows:

That the Conditional Use petition of Lois Peters, T/A International Health Care Consultants, for a Residential Care Facility for a maximum of 13 residents in an RR-MXD-3 (Rural Residential - Mixed Use) Zoning District, filed pursuant to Section 131.N.37 of the Howard County Zoning Regulations, and for a 15-foot reduction in the 50-foot building setback as may be authorized by the Hearing Examiner pursuant to Section 131.N.37.d is **GRANTED;**

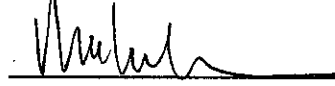
Provided, however, that:

1. The Petitioner shall demonstrate to DPZ that it has paid all required water and sewer fees no later than 21 calendar days from the date of the June 9, 2011 decision and order.
2. The Petitioner shall address all agency comments no later than 21 calendar days from the June 9, 2011 decision and order.

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3. The conditional use shall apply only to the conditional use for a residential care facility for a maximum of thirteen residents as described in the petition and depicted on the conditional use plan submitted on February 3, 2011, and in accordance with all findings of fact and not to any other uses or structures on the Property.

HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER



Michele L. LeFaivre

Date Mailed: _____

6/20/11

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.