

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. S-1904-A

PETITION OF NORMAN ROSKIN, D.V.M.

OPINION OF THE BOARD ON REMAND

(Opinion Adopted June 18, 2008)
(Effective Date of Opinion: August 15, 2008)

The Board of Appeals has received an order from the Circuit Court for Montgomery County, following appeal to that Court of the Board's August 20, 2007 Opinion in the captioned case in Civil Action No. 286651-V. The Court's order requires that the Board's opinion be modified to strike the imposition of a numerical monthly limit on the number of animals boarded, to strike the limit on the number of employees assisting with the boarding operation, provided that the number of employees on-site at any one time shall remain limited to 18 employees, and that the Board's opinion be re-issued consistent with the Order.

The Board's Opinion, with revisions to Condition Nos. 4 and 8, consistent with the Circuit Court Order follows:

Case No. S-1904-A is an application by Norman Roskin for a modification to a special exception for a veterinary hospital. By Resolution dated May 24, 2006, the Board of Appeals also asked the Hearing Examiner to include in the modification hearing the question of the extent of animal boarding in connection with the special exception. The Hearing Examiner held a hearing on the application on June 2, 2006, closed the record in the case on February 15, 2007, and on March 9, 2007, issued a Report and Recommendation for approval of the modification. In an opinion dated May 4, 2007, the Board of Appeals denied a request for oral argument on the Hearing Examiner's Report and Recommendation by Joseph Lynott, Esquire, Petitioner's attorney, and granted the special exception, subject to conditions.

On May 15, 2007, the Board received a Motion for Reconsideration of its denial of the request for oral argument and of Condition No. 8 in its May 4, 2007 opinion from Mr. Lynott. The Board heard granted reconsideration at its Worksession on May 30, 2007. On June 8, 2007, the board received further correspondence from Mr. Lynott regarding limitation on the number of animals allowed for non-medical boarding. At its Worksession on July 11, 2007 the Board again voted to grant the special exception with Condition No. 8 revised, consistent with the Hearing Examiner's recommendation.

The subject property is located at 1300 Olney-Sandy Spring Road, Sandy Spring, Maryland, 20860, in the R-200 Zone.

Decision of the Board: Special Exception **Granted** Subject to Conditions Enumerated Below.

On a motion by Wendell M. Holloway, seconded by Caryn L. Hines, with Donna L. Barron, Vice-Chair, Catherine G. Titus, and Allison Ishihara Fultz, Chair in agreement, the Board adopts the Hearing Examiner's Report and Recommendation and grants the special exception subject to the following conditions:

1. Petitioner shall be bound by all of his testimony and exhibits of record, including the site plan to be submitted pursuant to Condition 3 below, and by the testimony of his witnesses and representations of counsel identified in this report.
2. All terms and conditions of the approved special exception shall remain in full force and effect, except as specifically amended by this modification.
3. Before the modification may take effect, within sixty days following issuance of this opinion, Petitioner shall submit a site plan that has been revised to reflect the numbers of employees permitted under the terms of the modification: a total of 24 employees with no more than 18 on site at one time. The revised site plan shall also specify that no more than six patients may be on site at one time for appointments, excluding emergencies and patients on site for surgical or other procedures.
4. The hospital may have no more than 24 employees, and no more than 18 employees may be on site at any one time.
5. Hours of operation shall be as follows:
 - 7:00 a.m. to 7:30 p.m., Monday through Thursday
 - 7:00 a.m. to 6:00 p.m. Fridays
 - 8:00 a.m. to 5:00 p.m. Saturdays
6. Appointments shall be scheduled at 20- or 30-minute intervals during the following time periods:
 - 9:00 a.m. to 1:00 p.m., Monday through Saturday
 - 2:00 to 4:00 p.m. Monday and Thursday
 - 1:00 to 3:00 p.m. Tuesday
 - 4:00 to 7:00 p.m. Monday through Thursday
 - 3:00 to 5:00 p.m. Fridays
7. No more than four veterinarians may be on site at one time. No more than three veterinarians may see patients by appointment during any appointment period, e.g. 9:00 a.m. to 1:00 p.m.

8. No animal shall be accepted for non-medical boarding without a record of having received medical care at the hospital during the previous 18 months.
9. The number of functional compartments in the non-medical dog ward shall be reduced to 26 within 60 days of the Board's Opinion on this modification.
10. The parking area shall be brought into conformance with the site plan submitted pursuant to Condition 3, including the addition of two spaces, within four months of the Board's Opinion approving this modification. The Petitioner shall submit photographs or other documentation to show compliance with these requirements within 180 days of the effective date of this opinion. The Board of Appeals reserves jurisdiction to impose additional conditions related to parking in the event that future evidence, such as complaints from neighbors, so warrants.
11. Petitioner shall maintain a written log of all appointments and drop-in and emergency activities, including animals admitted for surgical or other medical procedures, emergency visits, visits to the site for retail items such as food or medications, and drop-offs and pick-ups for non-medical animal boarding.
12. All exterior lighting shall be turned off at 9:00 p.m., except motion-sensor lighting that the Petitioner considers necessary for safety and security.
13. No more than three dogs may be walked outside at any one time. All dog walking shall take place within the fenced area designated "Animal Exercise Area" on the site plan to be submitted pursuant to Condition 3 above.
14. In compliance with Section 59-G-2.32(b)(12), the combined revenue from any accessory operations, such as grooming, the sale of pet food and supplies, and non-medical animal boarding, must be limited to a percentage of sales not to exceed 20 percent.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 15th day of August. 2008.

Katherine Freeman
Executive Director

NOTE:

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.