

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850

[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

(240) 777-6600

**Case No. S-2778**

**PETITION OF ROBERT Q. GILLESPIE**

OPINION OF THE BOARD  
(Opinion Adopted May 4, 2011)  
(Effective Date of Opinion: May 24, 2011)

Case No. S-2778 is an application for a special exception, under Section 59-G-2.00.4 of the Montgomery County Zoning Ordinance to permit the operation of a private airstrip associated with a farm.

The subject property is Lot 4, located at 22620 Peach Tree Road, Boyds, Maryland, 20841 in the RDT Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on December 10, 2010 and February 18, 2011. On March 8, 2011, the District Council for Montgomery County adopted Zoning Text Amendment No. 10-15, which: 1) limits private airstrips in the RDT Zone to those aiding farming operations; 2) requires that any airstrip be at least 1,000 feet from any adjoining property line; 3) prohibits paved airstrips and 4) eliminates the amortization period. On April 15, 2011, the Hearing Examiner issued a Report and Recommendation for dismissal of the application because the proposed special exception does not meet the requirements of ZTA 10-15 and thus is moot. On April 21, 2011, the Board of Appeals received a letter, dated April 21, 2011, from Joseph Lynott, III, Esquire, on behalf of Robert Q. Gillespie. Mr. Lynott requests a refund of the special exception filing fee according to Board of Appeals Rule 1.6(d), which provides, in pertinent part that "on written request, the Board may refund filing fees...if an action of the...County Council...resolves or moots the issues pending before the Board."

The Board of Appeals considered the Report and Recommendation and Mr. Lynott's letter at its Worksession on May 4, 2011. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and denies the special exception. The Board concurs with Mr. Lynott that an action of the County Council has mooted the issues in the case. Therefore on a motion by David K. Perdue, Vice-Chair, seconded by Stanley B. Boyd, with Walter S. Booth and Catherine G. Titus, Chair, in agreement and Carolyn J. Shawaker necessarily absent:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that Case No. S-2778, Petition of Robert Q. Gillespie, is **dismissed** as moot; and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that \$ 4,125.00 shall be refunded to Robert Q. Gillespie.

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Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 24<sup>th</sup> day of May, 2011.

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Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

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. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.