

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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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-2880**

**Case No. S-2551**

**PETITION OF DANIEL AND KATHLEEN ALBERT**

OPINION OF THE BOARD

(Opinion Adopted April 8, 2015)

(Effective Date of Opinion: April 21, 2015)

Case No. S-2551 is a special exception that the Board of Appeals granted to Daniel Albert, effective June 26, 2003, under Section 59-G-2.00 of the Zoning Ordinance (Chap. 59, Mont. Co. Code, 2004, as amended), to permit an accessory apartment. Case No. S-2880 is an application by Daniel and Kathleen Albert, under Section 59-G-2.49 of the Zoning Ordinance, to allow an equestrian facility in a residential zone. The Alberts filed the application on October 16, 2014, and wish to have two horses for their personal use.

The subject property is Lot 22, Block A, Black Hill Estates Subdivision, located at 14400 Chrisman Hill Drive, Boyd, Maryland 20841.

The Hearing Examiner for Montgomery County held a hearing on Case No. S-2880 on March 16, 2015, closed the record on March 26, 2015, and on March 26, 2015, issued a Report and Recommendation for approval of the special exception. The Hearing Examiner noted, that if the Board of Appeals required it, the Petitioners should request a modification of the accessory apartment special exception in Case No. S-2551. On March 18, 2015, the Board of Appeals received a request from the Petitioners to modify Case No. S-2551, to reflect the existence of the equestrian facility special exception.

Decision of the Board:                      Special Exception and Special Exception  
Modification Granted, Subject to Conditions.

Because Case No. S-2551 was approved and Case No. S-2880 was filed prior to October 30, 2014, under Section 59-7.7.1.B of the current Zoning

Ordinance, both applications must be reviewed under the standards and procedures of the 2004 Zoning Ordinance.

The Board of Appeals considered the Hearing Examiner's report and recommendation, together with the Alberts' modification request, at its Worksession on April 8, 2015. After careful consideration and review of the records in the cases, the Board adopts the Hearing Examiner's report and recommendation in Case No. S-2880, and grants the special exception, subject to the conditions enumerated below.

Section 59-G-1.3(c)(1) of the Zoning Ordinance provides, pertaining to modification of special exceptions:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that approval of the equestrian facility will have no effect on the accessory apartment special exception, other than a revision to the site plan to show the existence of the equestrian facility. Thus the Board finds that there will be no substantial change to the nature, character or intensity of the accessory apartment use or its effect on traffic or on the immediate neighborhood. Therefore, on a motion by John H. Pentecost, seconded by Edwin S. Rosado, with Stanley B. Boyd, Carolyn J. Shawaker, Vice-Chair, and David K. Perdue, Chair, in agreement:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the request to modify Case No. S-2551 to reflect the presence of the equestrian facility use, is granted; and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that Case No. S-2880, Petition of Daniel and Kathleen Albert is granted, subject to the following conditions:

1. The Petitioners shall be bound by all testimony and exhibits of record and by the testimony of witnesses and representations identified in the Hearing Examiner's report, and in this opinion.
2. All use of the property shall conform to the special exception site plan (Exhibits 4 and 8) and the Landscape and Lighting Plan (Exhibit 5);
3. No more than two horses may be kept on the property;
4. All horses on site must belong to the owners of the property;

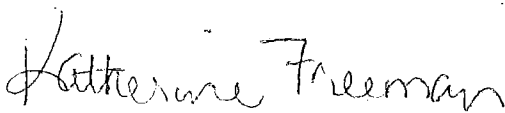
5. The Petitioners must not rent any of the horses in the equestrian facility;
6. No equestrian events will be held on the subject property;
7. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioners shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.



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David K. Perdue  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
This 21<sup>st</sup> day of April, 2015.



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Katherine Freeman  
Executive Director

**NOTE:**

Re: Case No. S-2551:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

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.

*Re: Case No. S-2880:*

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.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.