

IN THE MATTER OF
TIMOTHY J. OTTE - APPLICANT.
1122 LINDEN AVENUE
BALTIMORE, MD 21227

RE: DENIAL OF RESERVED HANDICAPPED
PARKING SPACE

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-10-028

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OPINION

This case comes to the Board of Appeals as the result of the denial of a reserved handicapped parking space at 1122 Linden Avenue, Baltimore, MD 21227, by the Baltimore County Division of Traffic Engineering in a letter dated January 29, 2010, to Mr. Andrew Srebroski, Acting Asst. Manager, Investigative and Security Division, Motor Vehicle Administration (MVA), from Darrell A. Wiles, Chief, Bureau of Traffic Engineering and Transportation Planning for Baltimore County (County Exhibit No. 5). A copy of that letter was sent to Mr. Timothy J. Otte, Appellant, along with a copy of the County Policy with respect to handicapped parking spaces. Applicant, Timothy J. Otte, filed a timely appeal of the denial of the handicapped parking space requested for 1122 Linden Avenue, Baltimore, Maryland.

The Board held a public hearing on May 19, 2010, at 1:00 p.m. Baltimore County was represented by Mr. Jim Gullivan, Traffic Inspector and Mr. Stephen E. Weber, Chief of the Baltimore County Division of Traffic Engineering. Mr. Timothy J. Otte, Appellant, represented himself, *pro se* and testified on his own behalf.

Mr. Gullivan, an Inspector with the Traffic Division of Baltimore County testified on behalf of the County. He stated that on January 14, 2010, his office received an application and letter from Mr. Andrew Srebroski, Acting Asst. Manager, Investigative and Security Division,

Maryland Motor Vehicle Administration (MVA), dated January 13, 2010, concerning a request for a residential reserved handicapped parking space for Mr. Otte (County Exhibit No. 1). The County indicated that, on the basis of the State's finding that Mr. Otte met the provisions of the Maryland Vehicle law Section 21-1-005 and that the County would not contest his disability. Baltimore County was requested to process the application to determine if the applicant met the criteria for granting such a parking space in Baltimore County.

Mr. Gullivan testified that , counting the curb, there were nine (9) steps into the front of Mr. Otte's home. In the rear of the home there was a wide parking pad with driveway gates. The rear of the home had only five (5) steps to enter the home. (County Exhibits 2A and 2B).

The County is not contesting the disability of the Applicant; however, Mr. Gullivan determined that under the Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities, the request does not meet the County's requirements for a reserved handicapped parking space, specifically, §§ 3(B).

Section 3(B) of the Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities states:

(B) A reserved on-street parking space will not be authorized for any applicant whose property has a self-contained off-street parking area or where off-street parking is provided to the applicant by private sources. This item shall apply to all properties regardless of the time they were built or subdivided. (The property shall be considered to have an available off-street parking area if the aforementioned area existed at the time that the applicant purchased or moved into the property or if it was made available at any subsequent time. If a parking pad, driveway, concrete ribbons, garage, soil stabilized area, etc., was removed or made inaccessible at any time after the applicant purchased or moved into the property, the parking area shall still be considered to exist for purposes of this policy.)

Mr. Otte testified that he was the owner of 1122 Linden Avenue. Mr. Otte undisputedly told the Board that he suffers from COPD and that it is hard for him to walk more than ten (10) feet, even with oxygen. (Appellant's Exhibit #1).

He complained that it was almost forty (40) feet to open the driveway gates when he parks in the rear of the home and only thirty (30) feet from the front door to the curb, when he gets the parking spot in front of his house.

Mr. Otte further stated that it is hard for him to open and close the gates and he needs to rest about every ten (10) feet. The Board asked Mr. Otte if he considered reconfiguring the gates to create a pull in situation. He replied by saying that his dog needs room to roam. He also had a concern of parking in the rear of the home due to the fact that the County does not plow the snow in the alleys.

Decision

Section 8 of the Baltimore County Policy on Reserved Parking Spaces for person with physical disabilities provides for the appeal of the denial of such a reserved space by virtue of Section 3B only.

In order to reverse the decision of the Baltimore County Division of Traffic Engineering with respect to handicapped parking spaces, the Board must find that the Applicant meets all of the conditions set forth in Item 8 of the Baltimore County Parking Policy for Reserved Parking Spaces. Item 8 states:

- (A) The applicant and/or their household has taken all reasonable measures to make the off-street parking area usable and available to the disabled applicant.
- (B) The disability of the applicant is of such a severe degree that an extreme hardship would exist if the applicant were to use the available off-street parking.
- (C) The approval of a reserved on-street space is determined to be one of medical necessity and not one of mere convenience for the applicant.

(D) The hardships placed on the applicant's neighbors by reserving an exclusive on-street space for the applicant is outweighed by the hardship that would be placed on the applicant if the space were not approved.

After reviewing the testimony and evidence presented and deliberation by the Board, the Board has determined that the Applicant/Appellant has not met his burden and fulfilled the above conditions. Mr. Otte has a self-contained off-street parking area in the rear of his residence and as set forth in Item 3(B) of the Baltimore County Policy, he has not met any condition A-D in Item 8.

The Board feels that the Applicant has not taken all reasonable measures to make the off street parking area usable and available for his use; and it appears that that the granting of a reserved space would be for a matter of convenience rather than necessity. The fact that other homes on the street have reserved parking spaces, cannot be a basis for this Board to grant a reserved parking space. The issues and reasons that those spaces were granted are not before this Board and cannot be considered in our decision. The decision of the Baltimore County Division of Traffic Engineering should be upheld and that the application for the reserved handicapped parking space at 1122 Linden Avenue should be denied

ORDER

THEREFORE, IT IS THIS 18th day of August, 2010, by the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-10-028 be and the same is hereby **AFFIRMED**; and it is furthered

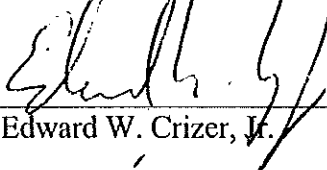
ORDERED that the application of Timothy J. Otte for a reserved handicapped parking space at 1122 Linden Avenue, Baltimore, Maryland, 21227 be and the same is hereby **DENIED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

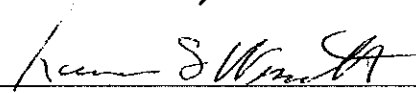
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Wendell H. Grier, Panel Chairman



Edward W. Crizer, Jr.



Lawrence S. Wescott