

IN THE MATTER OF  
MARY J. SHORTER - APPLICANT  
8607 DRUMWOOD ROAD  
BALTIMORE, MD 21286

RE: DENIAL OF RESERVED  
HANDICAPPED PARKING SPACE

\* BEFORE THE  
\* COUNTY BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No. CBA-10-039

\* \* \* \* \*

**OPINION**

This case comes to the Board of Appeals as the result of the denial of a reserved handicapped parking space at 8607 Drumwood Road, Baltimore, MD 21286, by the Baltimore County Division of Traffic Engineering in a letter dated April 21, 2010, to Mr. Earl Beville, Assistant Manager, Investigative and Security Division, Motor Vehicle Administration (MVA), from Stephen E. Weber, P.E., Chief, Bureau of Traffic Engineering and Transportation Planning for Baltimore County (County Exhibit No. 5). A copy of that letter was sent to Mary J. Shorter, Appellant, along with a copy of the County Policy with respect to handicapped parking spaces.

**Background**

On March 22, 2010, Appellant/Applicant, Mary Jane Shorter, 8607 Drumwood Road, Baltimore, MD 21286, submitted an application for a personal residential permit for reserved parking space to the Motor Vehicle Administration (MVA). The application was forwarded by letter dated April 6, 2010 to Stephen E. Weber, Chief of Baltimore County Division of Traffic Engineering from Earl Beville, Assistant Manager, Investigative and Security Division, Motor Vehicle Administration (MVA). Mr. Beville, in his letter verified Ms. Shorter's disability, in that the Applicant met the provision of the Maryland Vehicle Law § 21-1005. He requested that the

Division of Traffic Engineering process the application to determine, from a traffic-engineering standpoint, if the request met the criteria of the operations.

As stated above, by letter dated April 21, 2010, Stephen E. Weber, replied to Mr. Beville's request to review the application for a reserved handicapped space for Ms. Shorter. Mr. Weber informed Mr. Beville that the request for reserved handicapped parking space was denied, since the request did not conform with Item 3B of the Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities.

Item 3B 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.)”

On May 18, 2010, the Applicant submitted a request to appeal the denial of her request for a reserved parking space.

#### **Evidence and Testimony**

The Board held a public hearing on July 20, 2010. Baltimore County was represented by Mr. Stephen E. Weber and Mr. James Gullivan, Division of Traffic Engineering. Ms. Shorter was not represented and appeared *pro se*.

Ms. Shorter testified that she lived at 8607 Drumwood Road, which was a row home. She stated that there was a parking pad in the rear of her home, but that a ramp had been

constructed on the front of the home to accommodate a wheelchair of her disabled daughter. The daughter was no longer living at the residence with Ms. Shorter and Ms. Shorter did not utilize the ramp. She stated a handicapped parking space had been reserved in the front of her home for her daughter but had been removed when her daughter moved out.

Ms. Shorter submitted a letter from her physician which stated that she suffered with underlying myocardial ischemic disease and congestive heart failure. The letter stated that there was a parking pad at the rear of the home but required a climb of seven (7) to eight (8) steps which, given her low ejection fraction has become quite difficult for her to do and is potentially creating a hazard to her health. It requested that a handicapped parking space be designated in front of her home.

Ms. Shorter also stated that she had a stair glider installed in the interior of her home to go from the first to the second floor. She provided a number of photographs showing the front of the home with the ramp and the one (1) step on to her porch and the rear of the home, showing her parking pad up and steps up to her rear porch with another step in to the kitchen. She stated that she does not use a walker, cane or any other device to assist her in walking. The front of the home has no handrails. The ramp was used by her daughter for her wheelchair when she was living with Ms. Shorter, but Mrs. Shorter does not use it.

Mr. Gullivan testified on behalf of the County and he had conducted a personal inspection of the Appellant's property on April 9, 2010 and took photographs of both the front and the rear of the property, which were presented into evidence. He stated that there was a concrete pad in the rear of the premises. He also noted the ramp in the front of the home. He stated that he was unaware that Ms. Shorter had a lift in her home to go from the first to the second floor. He stated that the request for the parking space was denied on the basis of Section

3B of the Baltimore County Parking Policy for Reserved Parking Spaces for persons with physical disabilities because Ms. Shorter had a parking pad at the rear of her home. With respect to Section G which would allow an exception to Paragraph B, the ramp constructed in the front of the home, did not have rails on either side of it and was not constructed for the use of Ms. Shorter, but was constructed for her daughter. While her daughter was residing in the home, a reserved parking space had been allowed in front of the home.

There were no neighbors testifying, however, Ms. Shorter testified her neighbors tried to accommodate her as much as possible.

#### **Decision**

The Board has reviewed the testimony and evidence presented by both parties in this matter. These are not easy cases and the granting of a parking space is not one that is easily obtained.

Any applicant who is aggrieved by a decision of Baltimore County DTE under Item (3)(B) only may appeal that decision to the County Board of Appeals as provided for under Article VI of the Baltimore County Charter and Sections 3-5-104 and 3-5-105 of the Baltimore County Code. The Board of Appeals may overturn the County's denial if **ALL** the following conditions are found to exist:

- (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.

The Board does not question the disability of Ms. Shorter. However, the ramp which was constructed in the front of her home was not constructed for her use, but for the use of her disabled daughter, who no longer lives with her. The Board recognizes that there are seven (7) steps up from the ground to her rear porch, then another step to enter her kitchen in the rear of the home. The front of the home requires only one (1) step to the porch and one step (1) step in to the home. The Board also recognizes that Ms. Shorter has had a chair lift installed to get her from the first floor of the home to the second floor of the home. In the photographs submitted, there appears to be nine (9) steps in the interior of the home for which she utilizes the chair lift. The Board recognizes that it is difficult for Ms. Shorter to climb the steps in the rear of the home, but the steps do have a railing and she can do that with pausing if necessary. The utilization of the chairlift in the interior of the home gives her the opportunity to go up and down steps more often, since it is likely that she goes up and down from the first to the second floor of her home more often than she would go from the backyard to the interior of her home from the parking pad.

Therefore, the Board finds that the granting of the parking space at the front of Ms. Shorter's home would be more for her convenience than true medical necessity. The Board finds that there is not sufficient substantiation to indicate that Ms. Shorter has met the requirements under the Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities. The Board has determined that the decision of the Baltimore County Division of Traffic Engineering should be upheld and that the application for the reserved handicapped parking space should be denied.

**ORDER**

THEREFORE, IT IS THIS 6<sup>th</sup> 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-10-039 be and the same is hereby **AFFIRMED**; and it is furthered

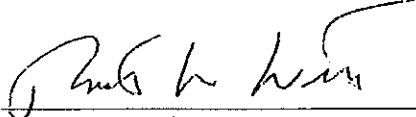
**ORDERED** that the application of Mary J. Shorter for a reserved handicapped parking space at 8607 Drumwood Road, Baltimore, Maryland, 21286 be and the same is hereby **DENIED**.

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*.

**COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY**

  
Maureen E. Murphy, Panel Chair

  
Lawrence S. Wescott

  
Robert W. Witt