

IN THE MATTER OF
KELLY E. BLAKE & MARY PATRICIA BLAKE
7242 SINDALL ROAD
BALTIMORE, MD 21234

RE: DENIAL OF RESERVED HANDICAPPED
PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-12-059

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OPINION

This case comes to the Board of Appeals from the denial of a reserved handicapped parking space for Kelly E. Blake and Mary Patricia Blake, Applicants/Appellants, at 7242 Sindall Road, Baltimore, Maryland, 21234, by the Baltimore County Division of Traffic Engineering in a letter dated May 7, 2012 from Stephen Weber, P.E. Chief of Division of Traffic Engineering to Applicants.

A public hearing was held on July 24, 2012. Baltimore County was represented by James Gullivan, Traffic Inspector of the Division of Traffic Engineering. Kelly Blake and Mary Blake represented themselves.

Mr. James Gullivan testified that his office received an application and letter from the Motor Vehicle Administration (MVA) dated April 25, 2012 concerning the request for a handicapped parking space for the Blakes. The County indicated that, on the basis of the State's finding that Kelly Blake was disabled, it was not contesting this disability.

The County's first witness was James R. Gullivan. Mr. Gullivan testified that he has been employed by Baltimore County for 26 years and presently holds a position as an inspector in the Division of Traffic Engineering. His work includes the inspection of the subject property when the Motor Vehicle Administration notifies Baltimore County that an application for a reserved

handicapped parking space has been made to the State. In this case, Mr. Gullivan pointed out that the MVA had certified the applicant's disability, and through the normal course of his duties, he then visited 7242 Sindall Road on May 1, 2012, where he took photographs (County Exhibits #2b-c).

Mr. Gullivan observed that this is a townhouse community and that the house where the Applicant lives is in the middle of the group. In the rear there is a paved parking area in front of the back gate and next to a shed, a large gate as well as a pedestrian gate to access the alley from the yard.

Mr. Gullivan submitted a letter to the MVA dated May 7, 2012 (County Exhibit 5) which denied the applicant's request because "This request in particular does not conform with Item 3A" of Baltimore County's Policy on Reserved Parking Spaces for Persons with Physical Disabilities (County Exhibit 4).

Item 3A states as follows:

A reserved parking space will not be authorized for any applicant whose property has a self-contained driveway and/or garage or where off-street parking is provided by public or private sources.

Mr. Gullivan stated that, upon review of the facts, his agency denied the application for the parking space on the basis of Item 3B of the Baltimore County Parking Policy on Reserved Parking Spaces which 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.

In addition, Item 3(C) is applicable here and reads:

(C) The property shall be evaluated on whether the off-street parking area exists, NOT on whether the off-street parking area is available for use.

It was Mr. Gullivan's opinion that it is possible for the Applicant to park in the rear, with the parking area having adequate length and width to fit a vehicle.

The next witness was the Appellant/Applicant Mary Blake. Ms. Blake explained that she lives at 7242 Sindall Road and is the owner of the property. She is the mother of Kelly Blake who is visually impaired. Ms. Blake described the how dangerous parking across the street often was for her daughter and also described that because of the positioning of the shed and the gate in the parking area, it was difficult for her daughter to get in and out of the car and to get through the gate when a car was parked in the space in the rear of the residence. Ms Blake also testified that the shed next to the parking area was used for storage.

DECISION

The Board finds unanimously that the Applicant should be DENIED a reserved parking space in front of 7242 Sindall Road. While the Division of Traffic Engineering is given no latitude for exceptions, the Board of Appeals may overturn the County's denial if ALL of 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.

We find through the testimony and evidence presented that the subject property contains an adequate backyard parking area. While the Board understands that the parking area is less than ideal, the problems with entering and exiting a vehicle could be cured by repositioning the existing shed. Therefore, the proposed handicapped parking space would be for the convenience of the applicant and must be denied.

ORDER

THEREFORE, IT IS THIS 4th day of October, 2012 by the Board of Appeals of Baltimore County

ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-12-059 be and the same is hereby **UPHELD**; and it is further

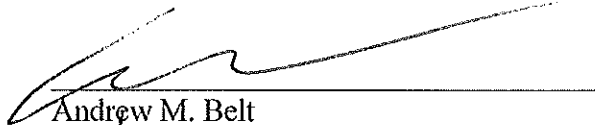
ORDERED that the Application of Mary Blake and Kelly Blake for a reserved handicapped parking space at 7242 Sindall Road, Baltimore, MD 21234, be and the same is **DENIED**.

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*.

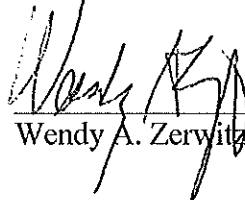
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence S. Wescott, Panel Chairman



Andrew M. Belt



Wendy A. Zerwitz