

IN THE MATTER OF
ALBERTA L. JENKINS - APPLICANT.
4402 NOREEN ROAD
BALTIMORE, MD 21227

RE: DENIAL OF RESERVED HANDICAPPED
PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-12-005

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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 4402 Noreen Road, Baltimore, MD 21227, by the Baltimore County Division of Traffic Engineering in a letter dated April 12, 2011, to Mr. Earl Beville, Assistant Manager, Investigative and Security Division, Motor Vehicle Administration (MVA), from Stephen E. Weber, P.E. Chief, of the Baltimore County Division of Traffic Engineering (County Exhibit No. 5). A copy of that letter was sent to Alberta L. Jenkins, Appellant, along with a copy of the County Policy with respect to handicapped parking spaces.

The Board held a public hearing on August 31, 2011, at 10:30 a.m. Baltimore County was represented by James Gullivan, Traffic Inspector in the Baltimore County Division of Traffic Engineering and Stephen E. Weber, P.E. Chief, of the Baltimore County Division of Traffic Engineering. Alberta L. Jenkins, Appellant, represented herself, *pro se*.

Mr. Gullivan testified that his office received an application and letter from the MVA dated March 28, 2011, concerning a request for a reserved handicapped parking space for Ms. Jenkins (County Exhibit No. 1). The County indicated that, on the basis of the State's finding that Ms. Jenkins was disabled, the County would not contest her disability.

Mr. Gullivan visited the property on June 30, 2011, and took photographs of the front rear of the property (County Exhibits #2A, B and C).

Photograph 2A shows four (4) steps from the sidewalk up to the front porch and one step from the porch into the front room of the house. Photograph 2B shows the rear of the house. It depicts a parking pad with a slight incline and four (4) steps up to a terrace where a swimming pool is located. There are five (5) steps from the terrace to the rear porch and one step into the house. Photograph 2C is a wider picture of the rear yard. The photograph shows a parking pad, a storage closet and a chain link fence with a gate bordering the rear yard.

Mr. Gullivan testified that, Ms. Jenkins did not meet the requirements of the Baltimore County policy on reserved parking spaces for person with physical disabilities (County Exhibit 4). There is a parking pad in the rear of the property. Therefore, the request does not meet the requirements of Section 3(B) and the exception in Section 3(C). Sections 3(B) and (C) of the Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities state:

(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.

Section 3(C) states:

(C) The property shall be evaluated on whether the off-street parking area exists, NOT on whether an off-street parking area is available for use. In addition, the placement of any non-permanent objects on top of a parking area (e.g., boats, campers, trailers, above-ground pools, sheds, etc.) will not in any way alter the recognition that the parking area does in fact exist.

Ms. Alberta L. Jenkins, Appellant, testified for herself and had no questions for Mr. Gullivan.

Ms. Jenkins testified that she has a metal plate in her left knee and has trouble walking and climbing steps. It would be easier for her to go in and out the front door rather than using the steps in the rear of the property. Her legs tend to buckle and she felt it would be safer for her. She submitted a letter from her doctor confirming her operation.

The County had no questions for Ms. Alberta L. Jenkins.

Decision

In order to reverse the decision of the Baltimore County Division of Traffic Engineering with respect to handicapped parking spaces, Section 8 of the County Policy requires that the Board find that the Applicant meets all of the conditions set forth therein.

The conditions are as follows:

- (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, 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. Ms. Jenkins has a parking pad in the rear of her home. She has not constructed any ramp to assist her in getting into her home. She may use a cane, but does not use a walker, scooter, wheelchair, or crutches to warrant an exception under Section 3(G) of the County Policy. The use of the front door would be strictly for her convenience.

We do not find that Ms. Jenkins's disability is of such a degree that an extreme hardship would exist for her to use the available off-street parking in the rear of the house. As such, she does not meet all of the conditions set forth in Item 8.

ORDER

THEREFORE, IT IS THIS 14th day of September, 2011, by the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-12-005 be and the same is hereby **AFFIRMED**; and it is furthered


ORDERED that the application of Alberta L. Jenkins for a reserved handicapped parking space at 4402 Noreen Road, 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*.

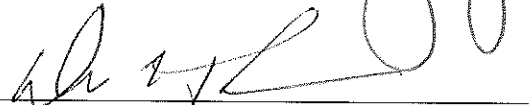
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence S. Wescott, Chairman



Maureen E. Murphy



David L. Thurston