

IN THE MATTER OF
ELIZABETH WEST
8370 Hillendale Road
BALTIMORE, MD 21234

RE: DENIAL OF RESERVED
HANDICAPPED PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-12-046

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OPINION

This case comes to the Board of Appeals from a denial of a reserved handicapped parking space at 8370 Hillendale Road, Baltimore, Maryland 21234, by the Baltimore County Division of Traffic Engineering in a letter dated December 16, 2011.

A public hearing was conducted on April 24, 2012. The Appellant, Elizabeth West, appeared *pro se*. Baltimore County was represented by Stephen Weber, Chief, Division of Traffic Engineering and James R. Gullivan, Inspector, Division of Traffic Engineering. Because the Appellant appeared *pro se*, all parties agreed that the County would present their case first.

The County's first witness was James R. Gullivan. Mr. Gullivan testified that he has been employed by Baltimore County for over 20 years and presently holds a position as an Inspector in the Division of Traffic Engineering. His work entails the inspection of the property noted when the Motor Vehicle Administration notifies Baltimore County that an application for a reserved handicapped parking space has been made to the State (County Exhibit #1).

Mr. Gullivan testified that Appellants disability is not in dispute. He then testified of his visit to 8370 Hillendale Road in December 2011, where his inspection showed that there is a gravel and grass area in the rear of the property with access from the common alley. He described nine (9) steps to enter the Applicant's house through the back door. Mr. Gullivan took photos of the subject property that he introduced as County Exhibits #2A to 2M. Mr. Gullivan explained that the front entrance of the house is accessed by a sidewalk with three steps

up to the porch and one step at the threshold of the front door. He submitted photos of the front of the house as County Exhibit #2A. Mr. Gullivan submitted a letter dated December 16, 2011 from Mr. Weber to the MVA (County Exhibit #4) which denied the applicant's request because, "This request in particular does not conform with Item 3B" of Baltimore County's Policy on Reserved parking Spaces for Persons with Physical Disabilities.

Item 3B (County Exhibit #4) states as follows:

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. Gullivan testified that townhouse community was recorded in the early 1950s and the Applicant's house is the second of a group. A review of the Plat marked as county Exhibit 2N and 2O shows the Plat was recorded on October 13, 1950. Mr. Gullivan further testified that he had no problems parking his automobile on the gravel and grass area behind the subject property and that the slope of the property was not significant in his opinion. A review of County Exhibits 2H, 2I, 2J and 2L reveal that Mr. Gullivan's automobile, when parked on the open gravel and grass area behind the subject property does in fact encroach significantly into the common alley.

The Applicant/Appellant, Elizabeth West, was the next witness. Ms. West submitted a letter from her doctor, Michael A. Jacob M. D. describing her condition as osteoarthritis and so severe as requiring a total knee replacement in September 2012 (Appellant's Exhibit #1).

Ms. West testified that gravel and grass area in the rear of her townhouse is dangerous, especially at night, because of the slope of the property and that the area is unstable. She

explained it would be very difficult for her under any circumstances to park behind her house because she then must negotiate nine (9) steps to the back door. Ms. West said that she has lived at 8370 Hillendale Road for 13 years.

This Board finds as a matter of fact that the Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities (County Exhibit #4), provides for the Appeal of the Denial of such a reserved space by virtue of the property not conforming with Item 3B of the County's Policy on Reserved Parking Spaces for Persons with Physical Disabilities, the existence of off-street parking. While the Division of Traffic Engineering is given no latitude for exceptions, the Board of Appeals may overturn the County's denial if all the conditions cited are met.

The conditions, in pertinent part, 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 parking 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 deliberation the Board finds unanimously that the Appellant has met her burden and fulfilled the above conditions. We find through the testimony and evidence presented that the front entrance of the subject property is far more accessible than the rear entrance. We find that there is no reasonable measure to be taken that would make the rear entrance equally accessible. Further, the slope of the rear property, the lack of stability of the soil and gravel, and the size of the open space the County argues constitutes a proper parking pad is not adequate to fit a car or

serve as a proper parking area. We find that the applicant's physical disability renders her severely handicapped and that using the rear entrance would be an extreme hardship if not a physical impossibility. We find that the reserved parking space is therefore a medical necessity, not a convenience.

In conclusion the Board will overturn the denial of the Baltimore County Division of Traffic Engineering and GRANT the Appellant's request for a reserved handicapped parking space at 8370 Hillendale Road, Baltimore, MD 21234.

ORDER

THEREFORE, IT IS THIS 25th day of May, 2012, by the Board of Appeals of Baltimore County

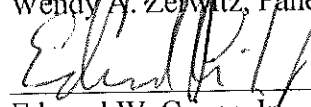
ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-12-046 be and the same is hereby **REVERSED**; and it is further


ORDERED that the Application of Elizabeth West for a reserved handicapped parking space at 8370 Hillendale Road, Baltimore, MD 21234, be and the same is **GRANTED**.

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**


Wendy A. Zerwitz, Panel Chair


Edward W. Crizer, Jr.


David L. Thurston