

IN THE MATTER OF
MARIE EMMA MICHAUD – APPLICANT
1520 DORNTON AVENUE
BALTIMORE, MD 21220

RE: DENIAL OF RESERVED HANDICAPPED
PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-13-037

* * * * *

OPINION

This case comes to the Board of Appeals as the result of the denial of a reserved handicapped parking space at 1520 Dorton Avenue, Baltimore, Maryland, 21220, by the Baltimore County Division of Traffic Engineering in a letter dated May 16, 2013, to Mr. Earl Beville, Assistant Manager of the Division of Investigative and Internal Affairs, 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 Marie Emma Michaud, Appellant, along with a copy of the County policy with respect to handicapped parking spaces.

The Board held a public hearing on August 6, 2013, at 11:00 a.m. Baltimore County was represented by James Cockrell, Jr., 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. Marie Emma Michaud, Appellant, represented herself, *pro se*.

Mr. Cockrell testified that his office received an application and letter from the MVA dated August 6, 2013, concerning a request for a reserved handicapped parking space for Ms. Michaud, Appellant (County Exhibit No. 1). The County indicated that, on the basis of the State's finding that Ms. Michaud was disabled, the County would not contest her disability.

Mr. Cockrell visited the property and took photographs of the rear and front of the property (County Exhibits Nos. 2A-2B). Ms. Michaud's home is in the inside of a unit of row homes. Exhibit 2A shows the rear of the house which has a shed located just beyond the back porch. There are four steps with a handrail on one side of the steps. Exhibit 2B shows the front of the house which has one step. There is a railing on either side of the step.

The County did not dispute Ms. Michaud's disability as same had been certified by the State. Maryland law states that, in Baltimore County, once a person has been determined to be disabled, establishment of a reserved handicapped parking space is subject to the approval of the Baltimore County Department of Traffic Engineering, in accordance with the charter and public local laws of the County (County Exhibit 3). Mr. Cockrell testified that Ms. Michaud did not meet the requirements of the Baltimore County policy on reserved parking spaces for person with physical disabilities (County Exhibit 4). Accordingly, he testified that the request does not meet the requirements of Section 3(C). Section (C) of the Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities 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.

It is our opinion that the parking space identified by Mr. Cockrell, the area behind Ms. Michaud's house, does not fit the description outlined in Section 3(A) of the Baltimore County Policy on Reserved Parking Spaces. Section 3(A) states:

(A) Definition: Off-Street Parking Area – An area located off of the public road system which is intended, designed, OR used for the purpose of parking a vehicle. Examples of such parking areas would include, but not be limited to, a parking pad, driveway, concrete ribbons, garage, or an area treated by soil stabilization method.

Based on photo admitted in evidence, Exhibit 2A, the area behind the house which was deemed a parking pad by the Baltimore County Department of Traffic Engineering is a grass lawn. It is our opinion that a grass lawn is not included in definition of Off-Street Parking Area as defined in Section 3(A) above.

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 have 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 reversed and that the application for the reserved handicapped parking space should be granted. Ms.

Michaud does not have available off-street parking, as defined by Section 3(A) of the Baltimore County Policy on Reserved Parking Spaces.

In conclusion, the Board will overturn the denial of the Baltimore County Division of Traffic Engineering and will GRANT the Appellant's request for a reserved handicapped parking space at 1520 Dornton Avenue, Baltimore, MD 21220.

ORDER

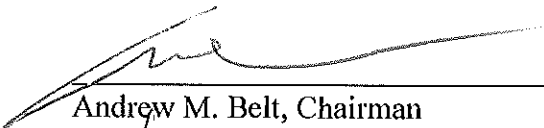
THEREFORE, IT IS THIS 21st day of August, 2013, by the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-13-037, be and the same is hereby **REVERSED**; and it is furthered

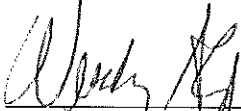
ORDERED that the application of Marie Emma Michaud for a reserved handicapped parking space at 1520 Dornton Avenue, Baltimore, MD 21220 be and the same is hereby **GRANTED**.

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*.

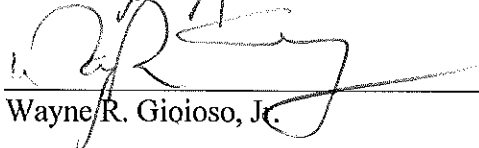
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Andrew M. Belt, Chairman



Wendy A. Zerwitz



Wayne R. Gioioso, Jr.



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

August 21, 2013

Marie Emma Michaud
1520 Dornton Avenue
Baltimore, MD 21220

Stephen E. Weber, Chief
Division of Traffic Engineering
Department of Public Works
111 W. Chesapeake Avenue
Towson, MD 21204

RE: *In the Matter of: Marie E. Michaud – Applicant/Appellant*
Case No.: CBA-13-037

Dear Ms. Michaud and Mr. Weber:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals of Baltimore County in the above subject matter.

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*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all **Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Krysundra "Sunny" Cannington
Acting Administrator

Enclosure

Duplicate Original Cover Letter

c: Earl Beville, Assistant Manager, Investigative & Security Division/Motor Vehicle Administration
W. William Korpnan, III, Chief/Bureau of Traffic Engineering
Edward Adams, Jr., Director/DPW
Nancy West, Assistant County Attorney
Michael Field, County Attorney