

IN THE MATTER OF
HELEN POTRZUSKI – APPLICANT
66 N. DUNDALK AVENUE
BALTIMORE, MD 21222

RE: DENIAL OF RESERVED HANDICAPPED
PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-13-009

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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 66 N. Dundalk Ave, Baltimore, Maryland, 21222, by the Baltimore County Division of Traffic Engineering in a letter dated August 3, 2012, 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 Helen Potrzuski, Appellant, along with a copy of the County policy with respect to handicapped parking spaces.

The Board held a public hearing on November 14, 2012, at 10:00 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. Helen Potrzuski, Appellant, represented herself, *pro se*.

Mr. Cockrell testified that his office received an application and letter from the MVA dated August 16, 2012, concerning a request for a reserved handicapped parking space for Mrs. Potrzuski, Appellant (County Exhibit No. 1). The County indicated that, on the basis of

the State's finding that Mrs. Potrzuski was disabled, the County would not contest her disability.

Mr. Cockrell visited the property and took photographs of the front and rear of the property (County Exhibits Nos. 2a-2b). Mrs. Potrzuskis' home is in the inside of a unit of row homes. Exhibit 2a shows the rear of the house which has a garage built on the end of the property. The garage appears to be small in size and built when the house was built. Exhibit 2b shows the front of the house which has four steps. There is a handrail on one side of the steps.

The County did not dispute Mrs. Potrzuskis' 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 Mrs. Potrzuski did not meet the requirements of the Baltimore County policy on reserved parking spaces for person with physical disabilities (County Exhibit 4) as this property has a garage in the back of her home. Accordingly, he testified that the request does not meet the requirements of Section 3(B) or 3(C) or the exceptions set forth in Section 3(G). 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.

Section 3(G) sets forth the exceptions and states:

(G)The DTE may grant an exception to the condition in Paragraph (B) above if the Appellant has a physical disability that limits mobility and/or requires the use of a wheelchair, scooter, walker, crutches, etc., AND that same applicant has constructed a ramp from the house to the street to provide for their mobility. The on-street parking must be more accessible than any off-street space that exists on applicant's property. The DTE may consider the granting of an exception to the condition in paragraph (B) above where extremely unique circumstances and hardships exist due to physical characteristics of the property and the applicant's disability. Additional medical certification may be required to provide sufficient documentation of physical limitations caused by the disability.

Helen Potrzuski testified on her behalf and she stated the garage was built in 1929. She can pull her car into the garage but cannot open her doors on her car. The garage measures only ten by fifteen. She did get an estimate to refit the garage but felt \$8,700 was too much on her fixed income. She has only four steps in the front and five steps in the rear. Parking in front of the garage is not an option due to blocking the alley for trash pickup and puts her car in a blind spot for vandals and thieves. Mrs. Potrzuski supplied the Board with plenty of pictures (exhibits 1a-1k) and relevant testimony to explain her case.

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. Mrs. Potrzuski has a garage in the rear of her home. She has made all reasonable efforts to use same. Due to no fault of hers the garage has become antiquated. The cars of today do not fit in the garage. She should not be burdened with refitting the garage to make it useful. This Board believes her estimate, the issue of parking in front of the garage and thinks it would add an undo burden on Mrs. Potrzuski.

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 66 N. Dundalk Ave, Baltimore, MD 21222.

ORDER

THEREFORE, IT IS THIS 6th day of February, 2013, by the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-13-010, be and the same is hereby **REVERSED**; and it is furthered

ORDERED that the application of Helen Potrzuski for a reserved handicapped parking space at 66 N. Dundalk Avenue, Baltimore, Maryland, 21222 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*.

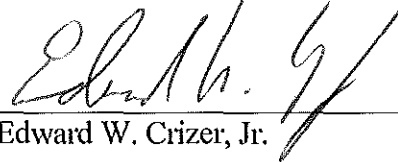
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Wendy A. Zerwitz, Panel Chair



David L. Thurston



Edward W. Crizer, Jr.