

IN THE MATTER OF:  
MICHAEL J. PRIET  
7806 ST. GREGORY DRIVE  
BALTIMORE, MD 21222

RE: DENIAL OF RESERVED HANDICAPPED  
PARKING SPACE

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No. CBA-13-030

\* \* \* \* \*

OPINION

This case comes to the Board of Appeals as the result of the denial of a reserved handicapped parking space at 7806 St. Gregory Drive, Baltimore, Maryland, 21222, by the Baltimore County Division of Traffic Engineering in a letter dated January 10, 2013, 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 Michael J. Priet, 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 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. Michael Priet represented himself, *pro se*.

Mr. Cockrell testified that his office received an application and letter from the MVA dated January 10, 2013, concerning a request for a reserved handicapped parking space for Michael J. Priet, Appellant (County's Exhibit #1). The County indicated that, on the basis of the State's finding that Mr. Priet is disabled, the County would not contest his disability.

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Mr. Cockrell visited the property prior to the hearing before the board and took photographs of the front and rear of the property (County's Exhibits #2a-2c). The home is a middle of group townhouse located in Dundalk. Exhibit 2b shows the rear of the house which has nine steps into the house. There is a handrail on each side. Exhibit 2c shows the front of the property. Mr. Priet has an off-street parking pad behind the house. This parking pad surrounded by a white stockade type fence and a one to two foot wooden deck has been constructed in the surface of what would constitute the area of the parking pad.

The County did not dispute Mr. Priet's disability as same had been certified by the State. However, Mr. Cockrell testified Mr. Priet did not meet the requirements of the Baltimore County policy on reserved parking spaces for person with physical disabilities (County's Exhibit #3). As this property has a parking pad in the back, 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.

Mr. Priet testified that the fence was erected around his backyard for safety and security reasons and that the area had not been used for parking for several years. Mr. Priet also noted that several of his neighbors off street parking similar to his have been granted reserved handicapped parking. While, this may be true, this Board has no control over those previously granted permits, nor does that enter into the analysis of the Board in this instance.

### **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.

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(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. Mr. Priet has a parking pad in the rear of his home. Mr. Priet does not use a mobility aid at the present time nor has a ramp been constructed to assist him in getting into his home as is required for an exception under Section 3(G). There has been no evidence presented to show that extremely unique circumstances and hardships exist due to the physical characteristics of the property which would also allow for an exception to be granted.

**ORDER**

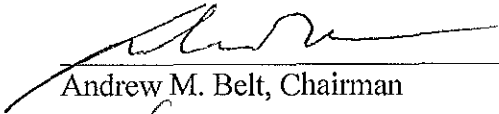
**THEREFORE, IT IS THIS** 9<sup>th</sup> day of October, 2013, by the Board of Appeals of Baltimore County,

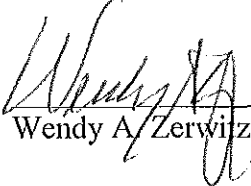
**ORDERED** that the decision of the Division of Traffic Engineering in Case No. CBA-13-030 be and the same is hereby **AFFIRMED**; and it is furthered

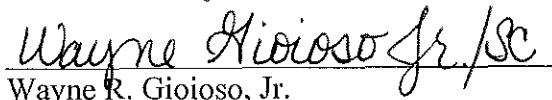
**ORDERED** that the application of Michael J. Priet for a reserved handicapped parking space at 7806 St. Gregory, Baltimore, Maryland, 21222 be and the same is hereby **DENIED**.

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**

  
\_\_\_\_\_  
Andrew M. Belt, Chairman

  
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Wendy A. Zerwitz

  
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Wayne R. Gioioso, Jr.



## Board of Appeals of Baltimore County

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105 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND, 21204  
410-887-3180  
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October 9, 2013

Michael J. Priet  
7806 St. Gregory Drive  
Baltimore, MD 21222

Stephen E. Weber, P.E., Chief  
Division of Traffic Engineering  
Department of Public Works  
The County Office Building  
111 W. Chesapeake Avenue, Rm 326  
Towson, MD 21204

RE: *In the Matter of: Michael J. Priet – Applicant/Appellant*  
Case No.: CBA-13-030

Dear Messrs. Priet and 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 Korpman, III, Chief/Bureau of Traffic Engineering  
Edward Adams, Jr., Director/DPW  
Nancy West, Assistant County Attorney  
Michael Field, County Attorney