

IN THE MATTER OF:
JOANNE M. GREEN
926 DALTON AVENUE
BALTIMORE, MD 21224

RE: DENIAL OF RESERVED HANDICAPPED
PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-14-003

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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 926 Dalton Avenue, Baltimore, Maryland, 21224, by the Baltimore County Division of Traffic Engineering in a letter dated June 12, 2013, to Mr. Earl Beville, Assistant Manager, Investigative and Security Division, Motor Vehicle Administration (MVA), from Gregory W. Carski, Acting Chief, of the Baltimore County Division of Traffic Engineering (County Exhibit No. 5). A copy of that letter was sent to JoAnne M. Green, along with a copy of the County Policy with respect to handicapped parking spaces.

The Board held a public hearing on August 20, 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. JoAnne M. Green represented herself, *pro se*. Also appearing at the hearing was Wilton Green, Jr., husband of, JoAnne Green, who was asked by the Appellant to speak on her behalf.

Mr. Cockrell testified that his office received an application and letter from the MVA dated May 29, 2013, concerning a request for a reserved handicapped parking space for

JoAnne M. Green, Appellant (County's Exhibit #1). The County indicated that, on the basis of the State's finding that Ms. Green is disabled, the County would not contest her disability.

Mr. Cockrell visited the property on June 13, 2013, and took photographs of the front, rear and backyard of the property (County's Exhibits #2a-2b-2c). The home located in the Dundalk Community and is not an end of group townhouse. Exhibit 2a shows the front of the property which has four (4) steps into the house and a handrail. Exhibit 2b shows the rear of the house which has nine (9) steps into the house. There is a handrail. Exhibit 2b & 2c show the rear and backyard of the property. Ms. Green's home has off-street parking behind the house; however, this space is occupied by a shed and a privacy fence. Exhibit 2c shows the backyard as tight-quarters with the shed, step-landing and fence consuming most of the yard.

The County did not dispute Ms. Green's disability as same had been certified by the State. Ms. Green suffers from Multiple Sclerosis (MS). However, Mr. Cockrell testified that Ms. Green did not meet the requirements of the Baltimore County policy on reserved parking spaces for person with physical disabilities (County's Exhibit #4). As this property has a parking pad in the rear, 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 states:

(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. Wilton Green testified, at the request of Ms. Green, to the need for a reserved on-street handicapped parking space for his wife. A letter from Dr. Horea Rus, M.D.-Professor of Neurology (Appellants Exhibit# 1) -explained that Ms. Green suffers from multiple sclerosis (MS). This disease is debilitating, progressive and incurable. Ms. Green currently has leg braces and uses a walker; she is unable to walk very far even with assistance. Mr. Green acknowledged understanding the County's denial of on-street reserved handicapped parking because of the availability of parking in the rear. However, the shed and fence were constructed in 2000 - well prior to Ms. Green's diagnosis of MS. The removal of the shed and fence would be costly and an extreme hardship. Mr. Green stated that the rear has confined space to negotiate a walker, leg brace and many more steps than the front entrance. Even if the shed and fence were removed, Mr. Green testified that parking a vehicle and negotiating a walker on the parking pad would be difficult and confining.

JoAnne M. Green testified that she does not currently drive and has never driven. When she is driven by car, she is delivered to the front sidewalk.

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 meet 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 upheld and that the application for the reserved handicapped parking space should be denied. 926 Dalton Avenue has a parking pad in the rear of the home. JoAnne Green does not currently use a wheelchair, nor has a ramp been constructed to assist her in getting into her 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 and the current nature of Ms. Green's disability which would also allow for an exception to be granted.

At the present time, we do not find that Ms. Green'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. Currently, Ms. Green may be discharged from a vehicle in front of her home. As such, she does not meet all of the conditions set forth in Item 8. Should a change occur as the effects of the MS progression and her disability worsen, causing the need for a wheelchair and ramp; Ms. Green can reapply for a reserved on-street handicapped parking space on her behalf.

ORDER

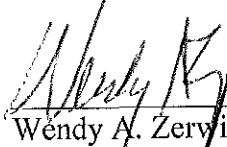
THEREFORE, IT IS THIS 5th day of September, 2013, by the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-14-003 be the same and is hereby **AFFIRMED**; and it is further


ORDERED that the application of JoAnne M. Green for a reserved handicapped parking space at 926 Dalton Avenue, Baltimore, Maryland, 21224 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**



Wendy A. Zerywitz, Panel Chairperson



David L. Thurston



Richard A. Wisner



Board of Appeals of Baltimore County

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September 5, 2013

JoAnne M. Green
926 Dalton Avenue
Baltimore, MD 21224

Stephen E. Weber, Chief
Division of Traffic Engineering
Department of Public Works
The County Office Building
111 W. Chesapeake Avenue, Room 307
Towson, MD 21204

RE: *In the Matter of: JoAnne Green – Applicant/Appellant*
Case No.: CBA-14-003

Dear Ms. Green 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,

A handwritten signature in black ink that reads "Sunny Cannington".

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