



Board of Appeals of Baltimore County

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August 15, 2016

Ms. Anita Elena Sebour
2248 Ellen Avenue
Baltimore, Maryland 21234

RE: *In the Matter of: Anita Elena Sebour*
Case No.: CBA-16-051

Dear Ms. Sebour:

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 cursive script that reads "Sunny Cannington".

Krysundra "Sunny" Cannington
Administrator

KC/tam
Enclosure

c: Earl Beville, Assistant Manager/Investigative & Security Division/Motor Vehicle Administration
Michael F. Filsinger, Chief/Division of Traffic Engineering
Steven A. Walsh, P.E., Director/DPW
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

IN THE MATTER OF:
ANITA ELENA SEBOUR
2248 ELLEN AVENUE
BALTIMORE, MD 21234

RE: DENIAL OF RESERVED
HANDICAPPED PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-16-051

* * * * *

OPINION

This case comes to the Board of Appeals (the “Board”) as the result of the denial of an application for reserved handicapped parking space at 2248 Ellen Avenue, Baltimore, Maryland 21234 (the “Property”), as set forth by letter dated May 31, 2016 by Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering to Mr. Earl Beville, Assistant Manager, Investigative and Internal Affairs, Motor Vehicle Administration (MVA). A copy of that letter was sent to Applicant/Appellant Anita Elena Sebour (“Mrs. Sebour”) along with a copy of the County Policy with respect to handicapped parking spaces.

The Board held a public hearing on July 12, 2016, at approximately 10:30 a.m. Baltimore County (the “County”) was represented by Dave Diaz, a Traffic Inspector for the Baltimore County Division of Traffic Engineering. Mrs. Sebour represented herself *pro se*, but was accompanied by her husband and daughter.

Mr. Diaz testified that his office received a MVA Application for Personal Residential Permit for Reserved Parking Space (“Application”) for Mrs. Sebour (dated May 16, 2016). (The MVA Application and May 16, 2016 transmittal letter is County Exhibit #1). Following receipt of the Application, Mr. Diaz visited and inspected the Property on May 20, 2016 and took photographs of the front and rear of the Property (See County’s Exhibits #2A-2B). The Property

is an end-of-group townhouse located in the Parkville area. County Exhibit 2A shows the front of the Property with approximately fourteen to sixteen steps¹ up from the street level to the front door of the Property, with handrails on one side of the lower set of steps (totaling approximately nine steps) and what appears to be two handrails at the set of steps closer to the front door (totaling approximately five steps). County Exhibit 2B shows the rear of the Property and reveals a concrete pad, as well as one step up to the back door, with no handrails.

Mr. Diaz, on the basis of the State's verification of physical disability, did not contest Mrs. Sebour's disability. However, based upon Section 21-1005 of the Maryland Transportation Article² (Reservation of Parking Space for Person Confined to Wheelchair) (See County Exhibit #3) and Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities (the "BC Policy") (See County Exhibit #4), the County concluded that Mrs. Sebour did not meet the requirements to be issued a reserved parking space for a person with physical disabilities. Mr. Diaz submitted into evidence the aforementioned May 31, 2016 letter from Mr. Filsinger, on behalf of the County, to Mr. Beville, denying Mrs. Sebour's request for a reserved handicap parking space. (See County Exhibit #5). Mrs. Sebour was copied on that letter and also was provided a copy of the BC Policy. (See County Exhibit # 5).

The BC Policy (County Exhibit #4) identifies the factors for determining the approval or denial of an application for reserved on-street parking spaces for persons with physical disabilities. Section 3, entitled "Parking Space", and more particularly, as is relevant here, Section 3(B) of the BC Policy states the following:

¹ The testimony established that there were 16 steps, but as best as can be viewed in the photographs, there appear to be 14 steps.

² Section 21-1005(l) of the Maryland Transportation Article states that "In Baltimore County, the establishment of a personal residential parking space shall be subject to approval of the Baltimore County Department of Traffic Engineering, in accordance with the charter and public laws of Baltimore County."

(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.

When describing the Property, including reference to the photographs, Mr. Diaz testified that the rear of the property had a self-contained off-street parking area, and as such, Mr. Diaz testified that the application was denied pursuant to BC Policy Section 3(B).

Mrs. Sebour testified that she has rheumatoid arthritis from her neck down and that she gets short of breath when walking some distance. Mrs. Sebour further testified that the biggest problem is using the rear parking pad in the winter time, particularly when there is inclement weather. The challenges presented by snow accumulation and a lack of or limited removal makes it difficult for she and her husband to get to doctors' appointments. Such conditions manifested themselves this past winter, causing their daughter to have to pick up Mrs. Sebour's husband and take him to appointments.

Finally, Mrs. Sebour testified she has resided on the Property since 1960. The Property is an end-of-group rowhome that, due to the layout of the street and neighborhood, results in the Property having a front yard that is longer than adjacent properties, as depicted in County Exhibit 2A.

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 BC Policy, entitled "Appeal of Denial

of Reserved Parking Space,” 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.

(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.

Based on the evidentiary record in front of the Board, the decision of the Baltimore County Division of Traffic Engineering shall be upheld and that the application for the reserved handicapped parking space should be denied.

As reflected by Mr. Diaz’s testimony and as illustrated in County Exhibits 2A and 2B, the rear of Mrs. Sebour’s Property contains a parking pad. As referenced above, pursuant to County Policy 3(B), a reserved on-street parking space will not be authorized for any applicant whose property has a self-contained off-street parking area. (See County Exhibit # 4). Mrs. Sebour does not contest that the rear of their Property contains a self-contained off-street parking area.

Under Section 8(A), there must be evidence that Mrs. Sebour or her household has taken “all reasonable measures to make the off-street parking area usable and available” to Mrs. Sebour. The record reveals that the rear parking pad is usable and available, though any issue may arise on the occasions when there is some accumulation of snow and the alley is not cleared.

Similarly, though it is undisputed Mrs. Sebour has a disability, namely rheumatoid arthritis, there must be evidence that the disability is one of a severe degree that using the existing parking

pad will constitute an extreme hardship. Moreover, based on County Exhibit 2B, the distance from the rear parking pad to the back door is less than the distance from the street level to the front door and the rear entrance of the Property has only one step, as opposed to the 14-16 steps in the front yard. Relatedly, the Board also concludes that Section 8(C) is not satisfied by the evidence presented.

To be clear, the Board does not challenge the difficulties experienced by Mrs. Sebour that are attributed to her rheumatoid arthritis and the challenges brought on by inclement weather on those that park in the rear of their properties, only that the evidence presented does not meet the heightened level of severity and does not meet the heightened level of hardship required by Section 8(B). As a result, the evidence cannot satisfy the requirements under Section 8 to permit this Board to reverse the original denial.

Based on the foregoing, the evidentiary record does not permit the Board to justify overturning the County's denial of the issuance of a reserved parking space for Mrs. Sebour.

ORDER

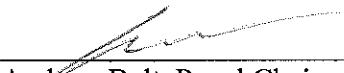
THEREFORE, IT IS THIS 15th day of August, 2016, by the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering dated May 31, 2016 in Case No. CBA-16-051 be and the same is hereby **AFFIRMED**; and it is further,

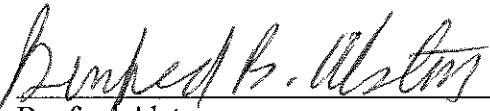
ORDERED that the application of Anita Elena Sebour for a reserved handicapped parking space at 2248 Ellen Avenue, Baltimore, MD 21234, be and the same is hereby **DENIED**.

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*.

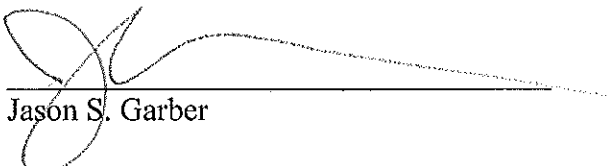
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Andrew Belt, Panel Chair



Benfred Alston



Jason S. Garber