

IN THE MATTER OF:

Austin Robinette (Minor)  
Jamie Edwards (Parent)  
2702 Norfen Road  
Baltimore, MD 21227

\* BEFORE THE  
\* BOARD OF APPEALS  
\* BALTIMORE COUNTY  
\* Case No.: CBA-17-015

\* \* \* \* \*

**OPINION**

This case comes to the Board of Appeals as the result of the Baltimore County Division of Traffic Engineering's ("DTE") denial of a reserved handicapped on-street parking space for the minor Austin Robinette, Appellant, at 2702 Norfen Road, Baltimore, Maryland, 21227. The DTE issued its denial in a letter dated October 5, 2016 from Michael Filsinger, Chief of the DTE, to Mr. Earl Beville, Assistant Manager of the MVA's Division of Investigation and Internal Affairs, (County Exhibit 5). A copy of that letter was sent to the Appellant along with a copy of the County Policy with respect to reserved handicapped parking spaces. Id.

On November 29, 2016, the Board held a public hearing on Mr. Robinette's appeal. Mr. Wesley Bohle of the Baltimore County Division of Traffic Engineering ("DTE") represented Baltimore County. Ms. Jamie Edwards, parent of Appellant Robinette, represented herself and her son, *pro se*.

**BACKGROUND**

Mr. Bohle testified that by letter dated September 30, 2016 from the state Motor Vehicle Administration ("MVA"), his office received an application concerning a request for a reserved handicapped parking space for Appellant. (County Exhibit 1). Mr. Bohle stated that the MVA had verified the applicant's disabilities, and that the County did not contest this finding. The County did, however, investigate Appellant's August 31, 2016 Application to determine whether it meets

the criteria for a reserved, on-street, handicapped parking space. Mr. Bohle also testified that the Appellant previously had filed five (5) other Applications, all of which were denied.

Mr. Bohle visited the property on October 5, 2016. He photographed the front and rear of the property. The photographs show, and Mr. Bohle confirmed, the existence of a large shed in the fenced rear yard. (County Exhibits 2A-2D). Mr. Bohle further noted that a 2007 Google maps image does *not* show the shed, and indicates that a parking pad previously existed in this rear yard. Mr. Bohle testified that because the property has a parking pad, albeit one now covered by a shed, the request does not meet the County's requirements for a reserved handicapped parking space, specifically §(3)(B) of the Baltimore County Policy of Reserved Parking Spaces for Persons with Physical Disabilities (the "Policy"). Section (3)(B) states:

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. The 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 the applicant purchased or moved into the property or if it was made available at any subsequent time. If a parking pad, driveway . . . 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.)

(County Exhibit 4).

Ms. Jamie Edwards, Appellant Austin Robinette's mother, had no questions for Mr. Bohle. In her testimony, Ms. Edwards acknowledged that a parking pad did exist on the property, but that shortly after they moved into the house, they put the shed on top of the pad to store a motorcycle and protect it from theft. She further testified that the minor child is eight years old and approximately 75 pounds. According to Ms. Edwards, even if the parking pad was not covered by the shed, both she and her mother, Austin's primary caretaker, would have trouble carrying Austin up the eight metal steps from the yard to the back door. Ms. Edwards also stated it is often

necessary to carry Austin because he is autistic, has seizures, and has a brain tumor. Austin's medical condition was confirmed by medical records and a letter from Austin's physician. (Appellant Ex. 1). The physician's letter notes that because of his conditions and medications, Austin can get easily fatigued, can experience unsteadiness, and can have "severe behavioral meltdowns on a long walk which can put himself or others in danger." Id. The County had no questions for Ms. Edwards.

### DISCUSSION

In addition to § (3)(B), § (3)(C), the Policy specifically states:

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. ...sheds, etc.) will not in any way alter the recognition that the parking area does in fact exist.

(County Exhibit 4) (emphasis in original).

Section (3)(G) further provides:

The DTE may grant an exception to the condition in paragraph (B) above if the applicant 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.

(County Exhibit 4) (emphasis in original).

As noted above, Appellant's property does contain an off-street parking area. The fact that the pad is now covered by a shed "does not in any way alter the recognition that the parking area does in fact exist." Id. Further, there was no testimony or documentary evidence that Appellant's disability requires the use of a wheelchair, or other mobility aid at the current time, or that the family has constructed a ramp. Thus, the DTE correctly applied these aspects of the Policy.

The Board cannot reverse the DTE's decision unless it finds that the Applicant meets all the conditions set forth separately in § 8 of the Policy. 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.

(County Exhibit 4, Section (3)(8)).

In addition to the lack of evidence that Austin requires ambulatory assistance, or that the family has constructed a ramp, the evidence also fails to demonstrate, as required for reversal, that the household has taken all reasonable measures to make the parking pad in the rear yard usable and available for Appellant's use. Neither was there any evidence that an "extreme hardship" would exist if Appellant were to use this parking pad. Ms. Edwards testified that she and her mother have difficulties at time carrying Austin and getting him up the stairs to their home but the evidence did not indicate that it currently was much more than an inconvenience. While the Board is sympathetic to Appellant's medical condition, the Board has determined that Appellant has *not* met the conditions required to reverse the Board's reversal of the DTE's decision.

**ORDER**

**THEREFORE, IT IS THIS** 20<sup>th</sup> day of December, 2016, by  
the Board of Appeals of Baltimore County,

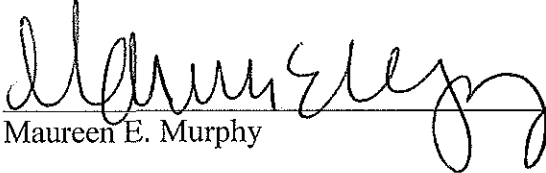
**ORDERED** that the decision of the Division of Traffic Engineering in Case No. CBA-17-015 be and the same is hereby **AFFIRMED**; and it is further,

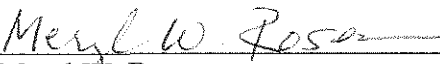
**ORDERED** that the application of Austin Robinette for a reserved handicapped parking space at 2702 Norfen Road, Baltimore Maryland, 21227 be and the same is hereby **DENIED**.

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**

  
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Andrew Belt, Panel Chairman

  
\_\_\_\_\_  
Maureen E. Murphy

  
\_\_\_\_\_  
Meryl W. Rosen



## Board of Appeals of Baltimore County

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SECOND FLOOR, SUITE 203  
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December 20, 2016

Jamie Edwards (Parent)  
Austin Robinette (Minor)  
2702 Norfen Road  
Baltimore, Maryland 21227

RE: *In the Matter of: Austin Robinette (Minor)/Jamie Edwards (Parent)*  
Case No.: CBA-17-015

Dear Ms. Edwards:

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 Ham".

Krysundra "Sunny" Cannington  
Administrator

KC/tam  
Enclosure

c: Earl Beville, Assistant Manager/Investigative & Security Division/Motor Vehicle Administration  
Wesley Bohle/Division of Traffic Engineering  
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