

IN THE MATTER OF
JAMES B. DICKERSON – APPLICANT
1812 DARRICH DRIVE
BALTIMORE, MD 21234

RE: DENIAL OF RESERVED HANDICAPPED
PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-18-011

* * * * *

OPINION

This case comes to the Board of Appeals as the result of the denial of a reserved handicapped parking space at 1812 Darrich Drive, Baltimore, Maryland 21234 (the “Property”), by the Baltimore County Division of Traffic Engineering in a letter dated September 15, 2017 to Mr. Earl Beville, Assistant Manager, Division of Investigation & Internal Affairs, Motor Vehicle Administration (“MVA”), from Michael F. Filsinger, Chief, Division of Traffic Engineering for Baltimore County (County Exhibit No. 5). A copy of that letter was sent to Mr. James B. Dickerson, Appellant, along with a copy of the County Policy with respect to handicapped parking spaces.

The Board held a public hearing on November 30, 2017, at 10:30 a.m. Baltimore County was represented by Mr. Edward Reed, Traffic Inspector in the Baltimore County Division of Traffic Engineering. Mr. James B. Dickerson, Appellant, represented himself, *pro se*.

Mr. Reed testified that his office received an application and letter from the MVA, concerning a request for a reserved handicapped parking space for Mr. Dickerson (County Exhibit No. 1). The County indicated that, on the basis of the State’s finding that Mr. Dickerson was disabled, the County would not contest his disability.

Mr. Reed visited the Property on September 11, 2017 and took photographs of the front of the Property (County Exhibit #2A) and the rear of the Property (County Exhibits #2B and #2C). The photograph of the front of the Property shows an end-of-group brick row house with a neatly maintained front and side yard. The front walk leading from the street to the covered front porch of Mr. Dickerson's house includes a total of eight concrete steps with metal railings on both sides of the steps. The photographs of the rear of the Property reveal a spacious, unfenced parking pad and a fenced, tidy rear yard. There appear to be five wooden steps leading from the walk that traverses the rear yard to the covered back porch of Mr. Dickerson's home. Mr. Reed testified that, because there is a parking pad in the rear of the Property and no handicapped ramp on the front of the Property, the request does not meet the County's requirements for a reserved handicapped parking space, specifically, Item 3(B) and the exception in Item 3(G) (County Exhibit #4). Item 3(B) 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.)

Item 3(G) states:

(G) 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. The on-street space must be more accessible than any off-street space that exists on the 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. Dickerson had no questions for Mr. Reed at the conclusion of the County's case.

In support of his appeal of the denial of his application for a handicapped parking space in front of his house, Mr. Dickerson testified that he has significant physical limitations as a result of diabetes, kidney disease, swelling of his legs and feet, and his use of a walker. In addition, Mr. Dickerson stated that he is not able to use his rear parking pad during wintry weather conditions as the County does not plow the alley behind the Property and the steps leading to the rear of his house are slippery when icy. The County had no questions for Mr. Dickerson.

Decision

In order to reverse the decision of the Baltimore County Division of Traffic Engineering with respect to handicapped parking spaces, the Board must find that the Applicant meets all of the conditions set forth in Item 8 of the Baltimore County Parking Policy for Reserved Parking Spaces. Item 8 states:

- (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.

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. Because Mr. Dickerson

has an off-street parking pad in the rear of his residence, a reversal of the decision of the Division of Traffic Engineering would be improper under Item 3(B) of the Baltimore County Policy.

At this time, we do not find that Mr. Dickerson's disability is of such a degree that an extreme hardship would exist for him were he to use the available off-street parking in the rear of the Property. As such, he does not meet all of the conditions set forth in Item 8, particularly Item 8(B), at this time. Should Mr. Dickerson's circumstances change in the future, he may reapply for a handicapped parking space at that time.

ORDER

THEREFORE, IT IS THIS 21st day of February, 2018, by the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-18-011 be and the same is hereby **AFFIRMED**; and it is furthered

ORDERED that the application of James B. Dickerson for a reserved handicapped parking space at 1812 Darrich Drive, Baltimore, Maryland, 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**



James H. West, Panel Chairman



Kendra Randall Jolivet



Joseph L. Evans



Board of Appeals of Baltimore County

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February 21, 2018

James B. Dickerson
1812 Darrich Drive
Baltimore, Maryland 21234

RE: *In the Matter of: James B. Dickerson*
Case No.: CBA-18-011

Dear Mr. Dickerson:

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 Hay".

Krysundra "Sunny" Cannington
Administrator

KLC/taz
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