

IN THE MATTER OF:
NANCY L. HARRIS
7932 EASTDALE ROAD
BALTIMORE, MD 21224

RE: DENIAL OF RESERVED
HANDICAPPED PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-18-031

* * * * *

OPINION

This case comes to the Board of Appeals of Baltimore County (the “Board”) as the result of the denial of an application for reserved handicapped parking space at 7932 Eastdale Road, Baltimore, Maryland 21224 (the “Property”), as set forth by letter dated September 25, 2017, 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, Nancy L. Harris (“Mrs. Harris”), along with a copy of the County Policy with respect to handicapped parking spaces.

The Board held a public hearing on June 13, 2018, at 11:00 a.m. Baltimore County (the “County”) was represented by Brian Hodgson, a Traffic Inspector for the Baltimore County Division of Traffic Engineering. Mrs. Harris appeared on her own behalf, and was accompanied by her daughter, Sharon Harris.

Mr. Hodgson testified that his office received an MVA Application for Personal Residential Permit for Reserved Parking Space for Mrs. Harris. Following receipt of the Application, Mr. Hodgson visited and inspected the Property and took photographs of the front and rear of the Property. The Property is a middle-of-group townhouse located in the Essex area. The photos show a fenced and gated partially paved yard and shed. The County accepted the

State's verification of physical disability and did not contest Mrs. Harris's disability which consists of arthritis, and prosthetic knees and shoulders, all of which limit her mobility. However, based upon Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities (the "BC Policy"), the County concluded that Mrs. Harris did not meet the requirements for a reserved parking space for persons with physical disabilities because the rear of the property had a self-contained an off-street area, allegedly suitable for parking, and as such, Mr. Hodgson testified that the application was denied pursuant to BC Policy Section 3(B). Along with Mr. Hodgson's testimony, the County introduced Exhibits 1-5 supporting that testimony.

Upon inquiry from the Board, Mr. Hodgson testified that access from the rear of the Property into the house involved navigating five concrete steps, and access to the front of the Property involved only one step. He did not investigate whether Mrs. Harris requires the use of a walker or other mobility device, nor did he ascertain whether the requested on-street space is more accessible than any off-street space on the Property.

The Applicant, an eighty-five year old woman who lives alone in the Property, testified that despite effort and expenditures on her part, the rear of the Property is chronically wet in all types of weather, causing slippery and hazardous conditions. In cold weather, the yard is icy. Mrs. Harris testified that she does not use the rear stairs to access the rear yard, and that she leaves her trash on her back deck to be placed in the alley by a neighbor for collection. She testified that the fence and gate are closed as a matter of security and are cumbersome for her to open and navigate. She further stated that she still works, and uses her car daily.

Sharon Harris, the Applicant's daughter, introduced photographs showing the wet conditions existing in the rear yard as well as excavation for trenching and drains to remedy the wet conditions, all of which were to no avail. She maintained that the narrowness and

configuration of the rear yard together with the space necessary to open the gate, leave insufficient space to park a vehicle. It also appears that to do so would require leaving the gate open, thus compromising Mrs. Harris' security. For Mrs. Harris to utilize the rear yard for parking would require her to navigate wet and slippery conditions and to mount five steep concrete steps with a walker, a physically challenging and unsafe task.

Reversal of a decision of the Baltimore County Division of Traffic Engineering with respect to handicapped parking spaces, requires that the Board find that the Applicant meets all of the conditions set forth with Section 8 of the BC Policy referred to above.

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 and not disputed by the County, Mrs. Harris has satisfied each of those conditions. Accordingly, the decision of the Baltimore County Division of Traffic Engineering shall be reversed and the application for the reserved handicapped parking space should be granted.

ORDER

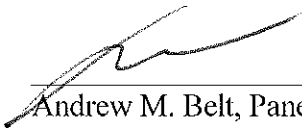
THEREFORE, IT IS THIS 11th day of July, 2018, by the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering dated September 25,, 2017, in Case No. CBA-18-031 be and the same is hereby **REVERSED**; and it is further,

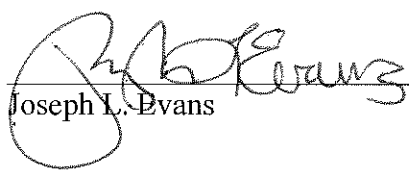
ORDERED that the application of Nancy L. Harris for a reserved handicapped parking space at 7932 Eastdale Road, Baltimore, MD 21224, be and the same is hereby **GRANTED**.

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, Panel Chairman



Joseph L. Evans



Deborah C. Dopkin



Board of Appeals of Baltimore County

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July 11, 2018

Ms. Nancy L. Harris
7932 Eastdale Road
Baltimore, Maryland 21224

RE: *In the Matter of: Nancy L. Harris*
Case No.: CBA-18-031

Dear Ms. Harris:

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

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