

IN THE MATTER OF:
GRACIE WHITFIELD
1430 LANGFORD ROAD
BALTIMORE, MD 21207

RE: DENIAL OF RESERVED
HANDICAPPED PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-18-012

* * * * *

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 1430 Langford Road, Baltimore, Maryland 21207 (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, Gracie Whitfield (“Mrs. Whitfield”), 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 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. Whitfield was present with her husband, (“Mr. Whitfield”), and represented herself *pro se*.

Mr. Hodgson testified that his office received an MVA Application for Personal Residential Permit for Reserved Parking Space for Mrs. Whitfield (dated August 2, 2017). (The MVA Letter and Application are included in County Exhibit #1). Following receipt of the MVA Letter and Application, Mr. Hodgson visited and inspected the Property and took photographs of the front and rear of the Property (See County’s Exhibits #2A-2B). The Property is a middle-of-

group townhouse located in the Catonsville area. County Exhibit 2A shows the front of the Property with approximately three (3) steps to the first level of the front lawn, a landing area, and an additional four (4) steps to the front door. County Exhibit 2B shows the rear of the Property and reveals a concrete pad in front of Appellant's backyard. There are approximately ten (10) to twelve (12) wooden steps leading to the back porch that must be navigated to enter the back door. Mr. Hodgson, on the basis of the State's verification of physical disability in the MVA letter (See County Exhibit # 1), did not contest Mrs. Whitfield's disability. However, based upon Section 21-1005 of the Maryland Transportation Article¹ (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 #3), the County concluded that Mrs. Whitfield did not meet the requirements to be issued a reserved parking space for persons with physical disabilities. Mr. Hodgson submitted into evidence the aforementioned September 25, 2017 letter from Mr. Filsinger, on behalf of the County, to Mr. Beville, denying Mrs. Whitfield's request for a reserved handicapped parking space. (See County Exhibit #5).

The Baltimore County ("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 in this case, Section 3(B) of the BC Policy state the following:

(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

¹ 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."

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. Hodgson testified that the rear of the property had a parking pad (a self-contained off-street parking area), and as such, Mr. Hodgson testified that the application was denied pursuant to BC Policy Section 3(B).

Mr. Whitfield testified that his wife has multiple health concerns and provided a Johns Hopkins Community Physicians After Visit Summary to document same (See Appellant Exhibit #1). The After Visit Summary lists the following health issues for Mrs. Whitfield as of 10/3/16: Benign neoplasm of colon, Type 2 diabetes mellitus without complication, Vitamin D insufficiency, Mixed Hyperlipidemia, ocular hypertension, Essential hypertension, CHF (congestive heart failure), Pain in joint-pelvic region and thigh, Low back pain, CKD (chronic kidney disease)- stage 4, Renal osteodystrophy and Renal insufficiency. Mr. Whitfield testified that his wife has challenges parking in the rear of his property due to the number of cars that “pile in the alley”. In addition, Mrs. Whitfield has trouble navigating the steps in the rear as her heart beats at only a forty percent (40%) capacity.

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 reversed and that the application for the reserved handicapped parking space should be granted.

Under Section 8(A), there must be evidence that Mrs. Whitfield or her household has taken "all reasonable measures to make the off-street parking area usable and available" to Mrs. Whitfield. The Board finds that due to the circumstances described by Mr. Whitfield, the use of their parking pad in the rear of his property is impractical. Mrs. Whitfield's disability is so severe that an extreme hardship would exist if she were to use off-street parking; off-street parking is not always available in the rear of the Whitfield's property. The approval of the on-street space is due to medical necessity, not merely convenience. The hardship, if any, place on Mrs. Whitfield's neighbors is outweighed by the hardship on Mrs. Whitfield if the exclusive on-street space were not approved.

ORDER

IT IS THEREFORE, THIS 12/14 day of December, 2017, by the Board of Appeals of Baltimore County, hereby

ORDERED that the decision of the Division of Traffic Engineering dated September 25, 2017, in Case No. CBA-18-012 be and the same is hereby **REVERSED**; and it is further,

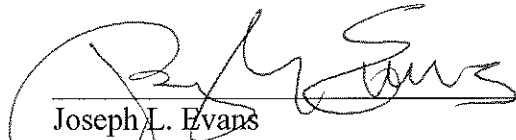
ORDERED that the application of Gracie Whitfield for a reserved handicapped parking space at 1430 Langford Road, Baltimore, MD 21207, be and the same is hereby **GRANTED**.

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**



James H. West, Panel Chair



Joseph L. Evans



Kendra Randall Jolivet



Board of Appeals of Baltimore County

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December 14, 2017

Gracie Whitfield
1430 Langford Road
Baltimore, Maryland 21207

RE: *In the Matter of: Gracie Whitfield*
Case No.: CBA-18-012

Dear Ms. Whitfield:

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" followed by a small mark.

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