

IN THE MATTER OF:
ELLA S. WILLIAMS
5659 WHITBY ROAD
BALTIMORE, MD 21206

RE: DENIAL OF RESERVED
HANDICAPPED PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-18-007

* * * * *

OPINION

This case comes to the Board of Appeals (the “Board”) as a result of the denial of an application for reserved handicapped parking space at 5659 Whitby Road, Baltimore, Maryland 21206 (the “Property”). The formal denial was by letter dated September 22, 2017, from Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering to Earl Beville, Assistant Manager, Investigative and Internal Affairs, Motor Vehicle Administration (MVA). A copy of that letter was sent to Applicant, Ella S. Williams (“Ms. Williams”), along with a copy of the County Policy with respect to handicapped parking spaces. (Respondent’s Exhibits 4 and 5.)

The Board held a public hearing on November 30, 2017. Baltimore County (the “County”) was represented by James Cockrell, a traffic engineer for the Baltimore County Division of Traffic Engineering. Ms. Williams represented herself.

Mr. Cockrell testified that his office received an MVA Application for Personal Residential Permit for Reserved Parking Space on or about August 14, 2017, for Ms. Williams. (Respondent’s Exhibit 1.) On September 14, 2017, he visited the subject property. He took photographs of the front and of the rear. (Respondent’s Exhibits 2A and 2B.) Mr. Cockrell also placed in evidence a printed excerpt from the *Ann. Code. Of Md.*, Trans Art., Section 21-1005. (Respondent’s Exhibit 3.) This provision defines in general terms when and under what circumstances an applicant can

receive a designated handicap parking spot on the street in front of her home. He then offered Respondent's Exhibit 4, which is a copy of the Baltimore County Policy on Parking Spaces for Persons with Physical Disabilities.

Exhibit 2A, the photo of the front of Ms. Williams' house, shows a well-kept brick row house. The home is not an end of the group house. To access the house from the street, she is required to first negotiate a set of 8 steps to reach a short landing. At the end of the landing there appear to be 5 more brick steps up to the small front porch where one would enter the house through the front door. There is one handrail on the lower steps and two handrails on the higher set of stairs.

Exhibit 2B, the photo of the rear of Ms. Williams' property, shows a small and well maintained rear yard that is enclosed by a steel wire fence. There is a storage shed in the rear yard, but there is also space available in that yard to park a car. Upon leaving the parked vehicle, Ms. Williams would have a short level walk to a covered back porch which has few, if any stairs. To utilize the rear yard, however, Ms. Williams must drive down the alley, stop the car at the rear of her house, get out of the car, open the locked gate, re-enter her vehicle and drive it into the rear yard. She would then have to exit her automobile and re-attach the gate. She did refer to a present rat eradication program in her area, particularly in the alley area. The Board is in complete sympathy with the neighborhood regarding the rats. Yet for the purposes of this case, the rat issue seems to be a temporary one that does not otherwise bear on the question of a designated parking spot.

Ms. Williams testified that she suffers from orthopedic issues associated with her feet, knees, and back. She is presently on disability retirement as a social worker for Baltimore City. As of the date of the hearing, the County had not yet received a medical confirmation of her

disability. She also testified that it is difficult to find on-street parking near her home. This is a common problem in row house neighborhoods, where there is limited street parking but many of the households have multiple vehicles. She understood that the rear of her house was available for parking, but she expressed concern at having to engage in the complicated logistics necessary to access the rear yard, logistics which are particularly difficult for a person with her disabilities. Moreover, she was frightened at being alone in a relatively dark alley at night. She is a middle-aged woman who uses a walker because of multiple and chronic disabling orthopedic conditions. She testified that there was a fair amount of crime in her neighborhood, and it was apparent to the Board that she would be especially vulnerable to a wrongdoer if she was forced to go through the laborious process involved in driving her car into the fenced rear yard.

Respondent's Exhibit 5, the Baltimore County Policy, 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 Policy states 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 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 subject property, including reference to the photographs, Mr. Cockrell testified that the rear of the property had a self-contained off-street parking area, and as such, Mr. Cockrell testified that the application was denied pursuant to Section 3(B).

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 County Policy, entitled “Appeal of Denial of Reserved Parking Space,” requires that the Board find that the Applicant meets **all** of the following conditions:

- (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 is reversed and the application for the reserved handicapped parking space is granted, conditioned on the County’s receipt of the appropriate medical documentation of Ms. Williams’ disability.

With respect to the Section 8 requirements, the Board finds that there are no “reasonable measures” which Ms. Williams or her household could have taken, or could take, to make “the off-street parking area usable and available”. The Board finds that given the circumstances described by Ms. Williams, especially given the nature of her disability, her need for on-street parking is not for mere convenience, and it would generate “extreme hardship” for her to use the rear yard for parking. It is quite difficult for a person with a physical disability to go through the rather arduous process of accessing the rear yard as described above. In addition, the use of the rear parking pad presents an authentic danger of personal harm to Ms. Williams, who, as noted

above, is especially susceptible to criminal activity at that site. Finally, there is no evidence to support a finding that any hardship for her neighbors in providing a reserved spot for her outweighs the hardships she would encounter by not having that reserved space.

ORDER

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

ORDERED that the decision of the Division of Traffic Engineering dated September 22, 2017, in Case No. CBA-18-007 be and the same is hereby **REVERSED**; and it is further

ORDERED that the application of Ella S. Williams for a reserved handicapped parking space at 5659 Whitby Road, Baltimore, MD 21206, be and the same is hereby **GRANTED**, subject to Ms. Williams providing appropriate medical documentation of her disability to the Baltimore County Division of Traffic Engineering.

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



Joseph L. Evans



Kendra Randall Jolivet



Board of Appeals of Baltimore County

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December 14, 2017

Ella S. Williams
5659 Whitby Road
Baltimore, Maryland 21206

RE: *In the Matter of: Ella S. Williams*
Case No.: CBA-18-007

Dear Ms. Williams:

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" with a small "Hoy" or similar mark at the end.

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