

IN THE MATTER OF
PRISCILLA A. McMULLEN
1411 CLAIRIDGE ROAD
BALTIMORE, MD 21207

RE: DENIAL OF RESERVED
HANDICAPPED PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO: CBA-14-028

* * * * *

OPINION

This case comes to the Board of Appeals as the result of the denial of a reserved handicapped parking space at 1411 Clairidge Road, Baltimore, Maryland, 21207, by the Baltimore County Division of Traffic Engineering in a letter dated January 17, 2014, to Mr. Earl Beville, Assistant Manager, Investigation and Internal Affairs, Motor Vehicle Administration (MVA), from Stephen E. Weber, P.E. Chief, of the Baltimore County Division of Traffic Engineering (County Exhibit No. 5). A copy of that letter was sent to Priscilla A. McMullen, along with a copy of the County policy with respect to handicapped parking spaces.

The Board held a public hearing on April 30, 2014, at 10:00 a.m. Baltimore County was represented by Edward Reed, Traffic Inspector in the Baltimore County Division of Traffic Engineering and Stephen E. Weber, P.E. Chief, of the Baltimore County Division of Traffic Engineering. Priscilla A. McMullen, appeared *pro se*.

BACKGROUND

Mr. Reed testified that his office received an application and letter from the MVA dated January 6, 2014, concerning a request for a reserved handicapped parking space for Ms. McMullen, Appellant (County Exhibit No. 1). The County indicated that, on the basis of the State's finding that Ms. McMullen was disabled, the County would not contest her disability.

Mr. Reed visited the property on January 9, 2014, and took photographs of the front and rear of the property (County Exhibits Nos. 2a-2b). Ms. McMullen's home is not an end of group unit of row homes in the Woodlawn Community. County Exhibit 2b shows the rear of the house which has an off street parking pad and nine (9) wooden steps plus a wooden porch into the house.

Exhibit 2a shows the front of the house, which has three (3) concrete steps plus a landing step into the house and handrails on both sides.

The County does not dispute Ms. McMullen's disability as same had been certified by the State. The County did investigate the application to determine whether Ms. McMullen met the criteria for a reserved, on street handicapped parking space. Maryland law states that, in Baltimore County, once a person has been determined to be disabled, establishment of a reserved handicapped parking space is subject to the approval of the Baltimore County Department of Traffic Engineering. In accordance with the charter and public local laws of the County (County Exhibit No.3), Mr. Reed testified that Ms. McMullen's home did not meet the requirements of the Baltimore County policy on reserved parking spaces for persons with physical disabilities (County Exhibit No. 4) as this property has a parking pad in the rear of her home. Accordingly, he testified that the request does not meet the requirements of Section 3(B) or 3(C) or the exceptions set forth in Section 3(G). Sections 3(B) and (C) of the Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities state:

(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.)

Section 3(C) states:

(C) 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., boats, campers, trailers, above-ground pools, sheds, etc.) will not in any way alter the recognition that the parking area does in fact exist.

Section 3(G) sets forth the exceptions and states:

(G) The DTE may grant an exception to the condition in Paragraph (B) above if the Appellant 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 parking must be more accessible than any off-street space that exists on 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.

There are two ways that a person can obtain an application for a reserved on street handicapped parking space. The County was not aware that Ms. McMullen required a walker; however for her to be entitled to an exemption under Section 3G, Ms. McMullen would need the mobility device and have constructed a ramp into his house.

Ms. McMullen testified on her own behalf. She explained that the steps from the parking pad lead into her kitchen door and the doorway is too narrow to accommodate the width of the walker and there are nine (9) steps for her to get to the main level. The rear stairs are too wide and she is unable to grasp both handrails. She doesn't feel safe using the steps in the back. They are very steep and old. They are made of wood and when she used the handrails, she has gotten splinters. She stated that she has MS and that the debilitating effects

of the disease keep her from climbing too many stairs. Ms. McMullen's home is in the middle of a townhouse group. If she were to park on the rear pad, she would be incapable to get to the front entrance. She can walk a little and can maneuver the four steps in the front. She cannot maneuver the nine (9) steps in the rear of the house to get to the main level. She testified that the lesser number (4) steps, the closer distance of the front handrails and the wider front door are all more conducive to her needing approval of a front parking space. Ms. McMullen's son, Robert Evans testified that he helps his mother, and she had a problem maneuvering her walker in the grass between the curb and the sidewalk-in the front of the home. To remedy that hardship, they had installed an additional concrete sidewalk from the curb to the front walk leading to the front stairs. Also, it is easier for her to get into her house from the front as the doorway is wider and opens up to the wide open living room. Linda McMullen, the Appellant's sister, next testified that she lives in the same neighborhood and assists her sister. Frequently, the parking space in front of Priscilla McMullen's home is occupied, and Priscilla must fight the lawns and walk longer distances. She is unable to enjoy the convenience of the additional sidewalk she had installed. She is concerned that if her sister uses the rear steps and slips and falls, she will fall onto concrete.

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 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 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.

After reviewing the testimony and evidence presented, the Board has determined that the decision of the Baltimore County Division of Traffic Engineering should be reversed and that the application for the reserved handicapped parking space should be granted. Ms. McMullen has a parking pad in the rear of her home. She has made all reasonable efforts to use same. Due to no fault of her own, she cannot use the pad because she is unable to climb the 9 steps which lead from the rear parking pad to the main level of her house. She can walk up the four steps to get into the front door. By using the rear parking pad, her health would not allow her to walk the distance to the front entrance. The fact that Ms. McMullen is unable to maneuver her walker through the grass between the curb and the sidewalk is another health factor to consider. She requires the wheels of the walker to be on paved surface. She tried to remedy this hardship at her own expense, but others frequently occupy that space in front of her home.

This Board believes that because of Ms. McMullen's physical conditions, her need for a walker, her inability to maneuver the 9 steps to the main floor of her house, requiring parking in the rear would create an extreme hardship. An exception may be granted where extremely unique circumstances and hardships exist, due to physical characteristics of the property and the applicant's disability. The fact that Ms. McMullen requires a paved surface for her walker, and that paved surface created in the front is usually occupied by others, creates another extreme hardship for Ms. McMullen.

In conclusion, the Board will overturn the denial of the Baltimore County Division of Traffic Engineering and will GRANT the Appellant's request for a reserved handicapped parking space at 1411 Clairidge Road, Baltimore, Maryland 21207, so long as Priscilla A. McMullen is the resident of this property. Appellant should be aware, that pursuant to Section 3(J) of the Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities,

“The applicant or his/her representative shall notify the MVA within ten days after the reserved space is not longer needed.”

ORDER

Therefore, it is this 19th day of May, 2014, by the Board of Appeals of Baltimore County

ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-14-028, be and the same is hereby **REVERSED**; and it is furthered

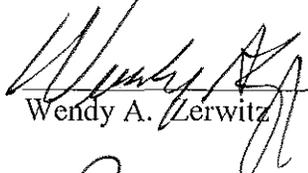
ORDERED that the application of Priscilla A. McMullen for a reserved handicapped parking space at 1411 Clairidge Road, Baltimore, MD 21207 be and the same is hereby **GRANTED**.

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*.

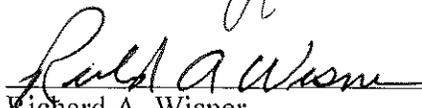
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Andrew M. Belt, Panel Chairman



Wendy A. Zerwitz



Richard A. Wisner