



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

August 19, 2015

Ms. Phyllis McDonald
1123 Foxwood Lane
Baltimore, Maryland 21221

RE: *In the Matter of: Phyllis McDonald, Applicant/Appellant*
Case No.: CBA-15-012

Dear Ms. McDonald:

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

KC/tam
Enclosure

c: Earl Beville, Assistant Manager/Investigative & Security Division/Motor Vehicle Administration
Michael F. Filsinger, Chief/Division of Traffic Engineering
Edward Adams, Jr., Director/DPW
Nancy West, Assistant County Attorney
Michael Field, County Attorney

IN THE MATTER OF
PHYLLIS McDONALD – APPLICANT
1123 FOXWOOD LANE
BALTIMORE, MD 21221

RE: DENIAL OF RESERVED HANDICAPPED
PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-15-012

* * * * *

OPINION

This case comes to the Board of Appeals as the result of the denial of a reserved handicapped parking space at 1123 Foxwood Lane, Baltimore, Maryland 21221, by the Baltimore County Division of Traffic Engineering in a letter dated February 17, 2015, to Mr. Earl Beville, Assistant Manager, Investigative and Security Division, Motor Vehicle Administration (MVA), from Michael F. Filsinger, Chief, Bureau of Traffic Engineering and Transportation Planning for Baltimore County (County Exhibit No. 5). A copy of that letter was sent to Ms. Phyllis McDonald, Appellant, along with a copy of the County Policy with respect to handicapped parking spaces.

The Board held a public hearing on April 28, 2015, at 10:00 a.m. Baltimore County was represented by Mr. Edward Cockrell, Traffic Inspector in the Baltimore County Division of Traffic Engineering. Ms. Phyllis McDonald, Appellant, represented herself, *pro se*.

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

Mr. Cockrell visited the property on February 11, 2015, and took a photograph of the rear of the property (County Exhibit #2). The photograph shows an unfenced parking pad located in

the rear of the property. Mr. Cockrell testified that there are 4 steps leading up to the front porch to the threshold of the front door. To the rear of the house are six steps up the rear porch to the threshold of the rear door. Mr. Cockrell testified that, because there is a parking pad in the rear of the property and no handicapped ramp on the property, the request does not meet the County's requirements for a reserved handicapped parking space, specifically, §§ 3(B) and the exception in 3(G) (County Exhibit #3). Section 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.

Section 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.

Ms. Phyllis McDonald, Appellant, testified for herself and had no questions for Mr. Cockrell and offered no exhibits

Ms. McDonald testified that she has had three back surgeries and a hip replacement due to degenerative arthritis and ambulates with a cane. She further testified that although the parking

pad exists in the back of her residence, it is still hard for to get from the parking pad to her back door due to distance and the number of steps The County had no questions for Ms. McDonald.

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. Ms. McDonald has a self-contained off-street parking area in the rear of her residence as set forth in Item 3(B) of the Baltimore County Policy. According to the photographs presented by Mr. Cockrell there is a parking space available on the pad.

At this time, we do not find that Ms. McDonald's disability is of such a degree that an extreme hardship would exist for her were she to use the available off-street parking in the rear of the house. As such, she does not meet all of the conditions set forth in Item 8, particularly Item 8(B).

ORDER

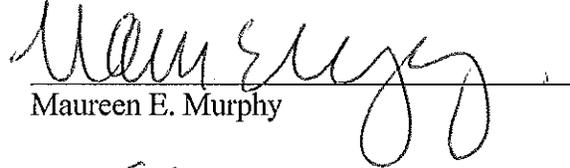
THEREFORE, IT IS THIS 19th day of August, 2015, by the Board of Appeals of Baltimore County,

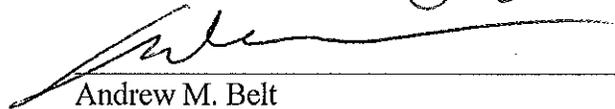
ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-15-012 be and the same is hereby **AFFIRMED**; and it is furthered

ORDERED that the application of Phyllis McDonald for a reserved handicapped parking space at 1123 Foxwood Lane, Baltimore, Maryland, 21221 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**


Maureen E. Murphy


Andrew M. Belt

David L. Thurston was Panel Chairman at the hearing on April 28, 2015. He resigned from the Board on June 15, 2015.