



Board of Appeals of Baltimore County

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September 29, 2015

Ms. Karen Boemmel
1040 Foxridge Lane
Baltimore, Maryland 21221

RE: *In the Matter of: Karen Boemmel, Applicant/Appellant*
Case No.: CBA-15-016

Dear Ms. Boemmel:

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 Han".

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 C. West, Assistant County Attorney
Michael E. Field, County Attorney

IN THE MATTER OF
KAREN BOEMMEL
1040 FOXRIDGE LANE
BALTIMORE, MD 21221

RE: DENIAL OF RESERVED
HANDICAPPED PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO: CBA-15-016

* * * * *

OPINION

This case comes to the Board of Appeals as a result of the denial of a reserved handicapped parking space for Karen Boemmel, Appellant, at 1040 Foxridge Lane, Baltimore, Maryland, 21221 by the Baltimore County Division of Traffic Engineering. The County rendered its decision in a letter dated May 8, 2015 to Mr. Earl Beville, Assistant Manager, Division of Investigation and Internal Affairs, Motor Vehicle Administration (“MVA”), from Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering (County Exhibit No. 5). A copy of that letter was sent to Karen Boemmel, along with a copy of the County policy with respect to handicapped parking spaces.

The Board held a public hearing on Ms. Boemmel’s appeal on August 11, 2015, at 10:00 a.m. Baltimore County was represented by James Cockrell, Traffic Inspector in the Baltimore County Division of Traffic Engineering, and Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering. Karen Boemmel appeared *pro se*.

BACKGROUND

Mr. Cockrell testified that his office received an application and letter from the MVA dated April 17, 2015 concerning a request for a reserved handicapped parking space for Ms. Boemmel in front of her Essex home (County Exhibit No. 1). Mr. Cockrell visited the property

on May 1 and again on August 7, 2015 and took photographs of the front and rear of Ms. Boemmel's house on his second visit (County Exhibit Nos. 2A-2B).

The County does not dispute Ms. Boemmel's disability as same has been certified by the State. The County did, however, investigate Ms. Boemmel's application to determine whether she meets the criteria for a reserved, on-street, handicapped parking space. Maryland law provides that, in Baltimore County, once a person has been determined to be disabled, the establishment of a reserved, handicapped parking space is subject to the approval of the Baltimore County Department of Traffic Engineering. Md. Code Ann., Transp. § 21-1005(k)(1).

Paragraphs 3(B) of the Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities (the "County Policy") states as follows:

(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.)

(County Exhibit No. 4). Mr. Cockrell testified that Ms. Boemmel's home did not meet the requirements of Paragraph 3(B) of the County Policy, as there is a parking pad in the rear of her property.

Ms. Boemmel testified on her own behalf. As part of her testimony, Ms. Boemmel submitted photographs of (a) the front steps of her house (Appellant Exhibit No. 1A), (b) the parking pad in the rear of her home (Appellant Exhibit 1B), (c) the steps to her back deck to enter the rear of her home (Appellant Exhibit 1C), and (d) the inside steps from the back entrance of her home to the main living area of her home (Appellant Exhibit 1D).

The photographs and testimony reveal that Ms. Boemmel's property is an inside-of-group row home with a parking pad in the rear of the house. Ms. Boemmel contends that the distance from the curb of the street in front of her house to her front door is approximately half the distance than from her rear door to the parking pad in the back of her house. In addition, Appellant Exhibit 1C shows five-and-a-half (5½) steps from the rear parking pad to the deck on the back of Ms. Boemmel's home, and Appellant Exhibit 1D shows another four (4) steps on the inside of her house that are required to reach the main living area from the back entrance. As opposed to the nine and a half (9½) steps that Ms. Boemmel is required to ascend to the main living area of her house from the rear, Appellant Exhibit 1A shows that only four (4) steps are required to reach the front door of her house, which leads directly into her living room.

Ms. Boemmel further testified about her significant physical limitations due to her diagnosis of Postural Orthostatic Tachicardia Syndrome (POTS Disease), which causes her heart rate to increase to 120-130 beats per minute with even mild physical activity. At the same time that her heart rate goes up, Ms. Boemmel's blood pressure drops, which leads to shortness of breath, dizziness, and chest tightness. Ms. Boemmel testified persuasively that the longer walk to her vehicle in the back of her house and the greater number of steps that she needs to navigate going in and out of the rear of her house exacerbate the effects of POTS Disease from which she suffers. In addition to the foregoing, Ms. Boemmel testified that she had a spinal fusion that precludes her from looking completely behind her while driving. As a result of the spinal fusion, Ms. Boemmel stated that she is not able to safely make the tight turn to back out of her rear parking pad into her alley, where children sometimes play and other cars at times drive. Ms. Boemmel submitted notes from her doctors (Appellant Exhibits 3A, 3B, 3C, and 3D) confirming that use of her rear parking pad would exacerbate her diagnosed medical conditions and

recommending that Ms. Boemmel be granted a handicapped parking space in front of her house.

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. While Ms. Boemmel has a parking pad in the rear of her home, the County Policy specifically recognizes that an exception to Paragraph 3(B) of the Policy may be made where "extremely unique circumstances and hardships exist due to the physical characteristics of the property and the applicant's disability." The Board concludes that this is such a case.

Applying the criteria of Paragraph 8 of the County Policy, Ms. Boemmel has made all reasonable efforts to use her off-street parking area. Due to no fault of her own, she cannot use her rear parking pad because she is unable to walk the greater distance and negotiate the 9½ steps

from her rear parking pad to the main level of her house without substantial physical risk because she suffers from POTS Disease. Moreover, Ms. Boemmel poses a risk to herself and others when pulling out of her rear parking pad due to the limitations from which she suffers as a result of her spinal fusion. The Board is further convinced, based on the testimony and the notes from her doctors that Ms. Boemmel's disability is of such a severe degree that an extreme hardship would exist if she were to use her rear parking pad. In addition, based on the notes from Ms. Boemmel's doctors, the Board concludes that a reserved on-street parking space for Ms. Boemmel is medically necessary and not merely for Ms. Boemmel's convenience. Finally, the Board concludes that any hardship placed on Ms. Boemmel's neighbors by reserving an exclusive on-street space for Ms. Boemmel is outweighed by the hardship that would be placed on Ms. Boemmel if the space were not approved.

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 1040 Foxridge Lane, Baltimore, Maryland, 21221, so long as Karen Boemmel is the resident of this property. Appellant should be aware, that pursuant to Paragraph 3(J) of the County Policy, "[t]he applicant or his/her representative shall notify the MVA within ten days after the reserved space is no longer needed."

ORDER

Therefore, it is this 29th day of September, 2015, by the Board of Appeals of Baltimore County,

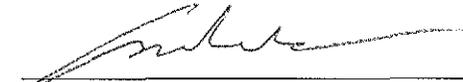
ORDERED, that the decision of the Division of Traffic Engineering in Case No. CBA-15-016, be and the same is hereby **REVERSED**; and it is furthered

In the matter of: Karen Boemmel-Applicant/Appellant/CBA-15-016

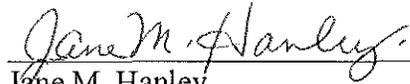
ORDERED, that the application of Karen Boemmel for a reserved handicapped parking space at 1040 Foxridge Lane, Baltimore, Maryland, 21221 be and the same is hereby **GRANTED**.

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*.

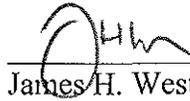
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Andrew M. Belt, Panel Chairman



Jane M. Hanley



James H. West