



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

December 9, 2015

Mr. Harve Mullins, Sr.
7468 German Hill Road
Baltimore, Maryland 21222

RE: *In the Matter of: Harve Mullins, Sr., Applicant/Appellant*
Case No.: CBA-16-007

Dear Mr. Mullins:

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

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:
HARVE MULLINS, SR.
7468 GERMAN HILL ROAD
BALTIMORE, MD 21222

RE: DENIAL OF RESERVED
HANDICAPPED PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-16-007

* * * * *

OPINION

This case comes to the Board of Appeals (the “Board”) as the result of the denial of a reserved handicapped parking space at 7468 German Hill Road, Baltimore, Maryland 21222 (the “Property”), by the Baltimore County Division of Traffic Engineering in a letter dated September 4, 2015, to Mr. Earl Beville, Assistant Manager, Investigative and Security Division, Motor Vehicle Administration (MVA), from Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering. A copy of that letter was sent to Harve Mullins, Sr., Applicant/Appellant, (“Mr. Mullins”) along with a copy of the County Policy with respect to handicapped parking spaces.

The Board held a public hearing on November 3, 2015, at 10:00 a.m. Baltimore County (the “County”) was represented by James Cockrell, Traffic Inspector in the Baltimore County Division of Traffic Engineering. Mr. Mullins represented himself, *pro se*.

Mr. Cockrell testified that his office received an MVA application prepared by Mr. Mullins requesting a reserved parking space dated August 11, 2015 and a transmittal letter from Earl Beville, Assistant Manager – Investigation and Internal Affairs for the MVA, dated August 17, 2015, concerning Mr. Mullins’ request for a reserved handicapped

parking space (The MVA Application and the Letter from Mr. Beville together are County Exhibit #1).

Mr. Cockrell visited the property prior to the hearing before the Board on two occasions, August 26, 2015 and again on October 30, 2015. On those visits, Mr. Cockrell inspected the property and took photographs of the front and rear of the property (See, County's Exhibits #2A-2B). The Property is an end-of-group townhouse located in Dundalk. County Exhibit 2A shows the front of the Property with three steps and no handrails. County Exhibit 2B shows the rear of the Property and reveals a gated area with a concrete parking pad, as well as steps, with a handrail on one side, leading from the concrete pad to the back door.

Mr. Cockrell, on the basis of the State's verification of physical disability, did not contest Mr. Mullins' 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 #4), the County concluded that Mr. Mullins did not meet the requirements to be issued a reserved parking spaces for person with physical disabilities. Mr. Cockrell submitted into evidence a letter dated September 4, 2015 from Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering, to Mr. Mullins denying his request for a reserved handicap parking space. (See, County Exhibit #5).

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."

When describing the Property, including reference to the photographs, Mr. Cockrell testified that the rear of the property had a “self-contained off-street parking area.” Mr. Cockrell provided testimony, supported by the photographs, that, as of the date of his visits and time of the photographs, the Property did not have a ramp from the house to the street to provide for Mr. Mullins’ mobility and access to the house.

Mr. Mullins testified that the parking area (to which he referred as “driveway”) is on a slope and that when the driveway and/or steps freeze, he cannot go out. Mr. Mullins further testified that he has neuropathy in his foot, attributed to his diabetes, and was told by his doctor to not park far away from his house. Mr. Mullins did not introduce any exhibits into evidence.

Mr. Mullins’ wife, Mary Mullins, testified that it is dangerous for her husband to enter from the rear of the house as Mr. Mullins has had episodes in which he fell or had dizziness leading to instability. Mrs. Mullins added that Mr. Mullins has problems going up and down steps. Mrs. Mullins also revealed that Mr. Mullins has had one or more aneurysms. Mrs. Mullins further testified that they are having a railing installed inside the home this month and will be doing the same outside sometime later. Finally, Mrs. Mullins testified that she now parks in the rear and that Mr. Mullins only drives when she is at work or when he goes to church, where he serves as a pastor. Mrs. Mullins did not introduce any exhibits into evidence.

County Exhibit # 4, The BC 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, Sections 3(B), 3(C) and 3(G) 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 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.

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 upheld and that the application for the reserved handicapped parking space should be denied.

As reflected by Mr. Cockrell's testimony and as illustrated in County Exhibits 2A and 2B, the rear of the Mullins' Property contains a parking pad. As referenced above, a reserved on-street parking space will not be authorized for any applicant whose property has a self-contained off-street parking area. (Section 3(B)). Neither Mr. Mullins, nor Mrs. Mullins contest that the rear of their Property contains a self-contained off-street parking area. In fact, both acknowledge its existence. It is undisputed that at the time of the inspections, as well as at the time of the hearing, there was no ramp at the Property, whether in the rear or in front. There is nothing in the record that identifies any measures undertaken to make the parking pad usable and available to Mr. Mullins.

Section 8(B) requires that Mr. Mullins' disability be one such "severe degree" that would cause "an extreme hardship." Similarly, Section 8(C)'s requires that the reserved on-street space be a "medical necessity." It does not appear that there is any dispute about whether Mr. Mullins has physical issues that complicate his ability to navigate the steps or the slope of the driveway in the rear of the Mullins' property when the areas freeze, as he

testified.

The application (County Exhibit #1) reveals Mr. Mullins' identified his disability as not being able to walk long distances. The disability code referenced on the Disability Placard System printout (attached as part of County Exhibit # 1) identifies Mr. Mullins as being "unable to walk 200 feet without stopping to rest." While there was testimony as to Mr. Mullins' physical issues, no other medical certification or document was entered into evidence. As a result, the evidence as presented cannot establish the severe degree, extreme hardship or medical necessity requirements under Section 8.

Based on the foregoing, the evidentiary record does not permit the Board to conclude that the conditions required by Section 8 have been satisfied and therefore, based on this record, the Board cannot justify overturning the County's denial of the issuance of a reserved parking space for Mr. Mullins.

ORDER

THEREFORE, IT IS THIS 9th day of December, 2015, by

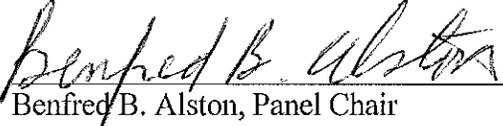
the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-16-007 be and the same is hereby **AFFIRMED**; and it is further,

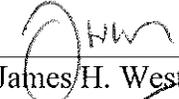
ORDERED that the application of Harve Mullins, Sr. for a reserved handicapped parking space at 7468 German Hill Road, Baltimore, Maryland, 21222 be and the same is hereby **DENIED**.

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*.

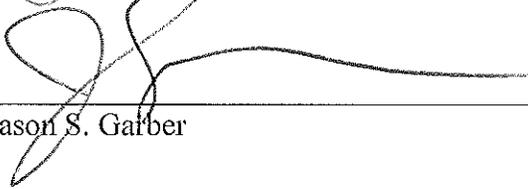
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Benfred B. Alston, Panel Chair



James H. West



Jason S. Garber