



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

June 17, 2016

Anna May Agnes Peterson
10012 Gunridge Circle
Baltimore, Maryland 21087

RE: *In the Matter of: Anna May Agnes Peterson*
Case No.: CBA-16-027

Dear Ms. Peterson:

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
Steven A. Walsh, P.E., Director/DPW
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

IN THE MATTER OF:
ANNA MAY AGNES PETERSON
10012 GUNRIDGE CIRCLE
BALTIMORE, MD 21087

RE: DENIAL OF RESERVED HANDICAPPED
PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-16-027

* * * * *

OPINION

This case comes before the Board of Appeals (the “Board”) as the result of the denial of a reserved handicapped parking space. Appellant Anna May Agnes Peterson, of 10012 Gunridge Circle, Baltimore, Maryland 21087 (the “Property”), received a denial letter dated November 25, 2015, from Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering.

The Board held a public hearing on March 30, 2016, at 10:30 a.m. Baltimore County (the “County”) was represented by James Cockrell, Traffic Inspection Supervisor in the Baltimore County Division of Traffic Engineering. Ms. Peterson represented herself, *pro se*.

Mr. Cockrell testified that his office received an MVA application prepared by Ms. Peterson requesting a reserved parking space, and a transmittal letter from Earl Beville, Assistant Manager – Investigation and Internal Affairs for the MVA, dated November 4, 2015, concerning Ms. Peterson’s request for a reserved handicapped parking space (The MVA Application and the Letter from Mr. Beville together are County Exhibit #1). The County indicated that, on the basis of the State’s finding that Ms. Peterson is disabled, the County would not contest her disability.

Mr. Cockrell visited the property prior to the hearing before the board and took photographs of the front and rear of the Property (County’s Exhibits #2a-2d). Mr. Cockrell testified that the County did not dispute the legitimacy of Ms. Peterson’s disability because it had been previously determined by the State; 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), Ms. Peterson 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 November 25, 2015 from Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering, to Ms. Peterson denying her request for a reserved handicap parking space. (See, County Exhibit 5).

As the photographs clearly show, the Property has no parking pad in the rear. The photographs also show that, as of the date of the photographs, the Property does not have a ramp from the house to the street to provide for her mobility and access to the house. Sections 3(B), 3(C) and 3(G) of the BC Policy (Parking Space) 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:

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."

(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.

At the hearing, Ms. Peterson was ambulatory, but did use a cane. Appellant Peterson testified that she has had two (2) knee replacements, hip issues, and that getting in or out of low-seated cars is excruciating. In the paperwork submitted to the MVA, a certified nurse practitioner listed degenerative disk disorder, chronic pain syndrome, and severe osteoarthritis as well. (Co. ex. 1). Ms. Peterson stated that it is difficult for her to drive her truck down her driveway, especially in inclement weather. She noted that on one prior occasion, her truck slid through the fence. Photos submitted by both the County and Appellant show the steep incline to Ms. Peterson's drive. (Co. 2D and App. 1a-f) She said that her neighbors' driveway almost blocks hers, and that the 2 neighbors to the right of her home have 8 cars. Ms. Peterson noted that she often has to park about 4 houses down because of this. Appellant related to the Board that she had asked her neighbors to please leave the space near her front walkway steps clear, due to her disabilities, but their retort was "That's not my f---ing problem." Ms. Peterson submitted photos of her property, depicting the steep driveway, neighboring cars blocking her steps/walkway, and nearby homes with no parking signs posted in front (Appellant's ex. 1a-f,2a-c).

Appellant's son also testified. He reiterated much of Ms. Peterson's testimony. He also noted that a ramp and mobility device wouldn't be practical due to the steep incline of the driveway. He further noted that he has slid on the ice in his own car, almost careening through the fence. He stated that there have been times during snowy/icy days when his mother has been unable

to get her truck up the driveway. Finally, he expressed concern that if his mother were to fall, it could trigger a “catastrophic injury” due to her various ailments.

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 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.

The decision of the Baltimore County Division of Traffic Engineering shall be reversed and the application for the reserved handicapped parking space should be granted. The facts show that Ms. Peterson has a remarkably steep driveway/parking pad, making the use of a mobility device ill advised. This reaches the threshold of unique circumstances and hardships which exist due to the physical characteristics of the property which would also allow for an exception to be granted. After reviewing the testimony and evidence presented, the Board has determined that Ms. Peterson has met the conditions set forth in Section 8 of the BC Policy, or Sections 3(B), 3(C) or 3(G) of the BC Policy to justify the County’s issuance of a reserved parking space for a person with a physical disability.

ORDER

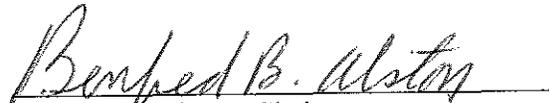
THEREFORE, IT IS THIS 17th day of June, 2016, by the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-16-027 be and the same is hereby REVERSED; and it is furthered

ORDERED that the application of ANNA MAY AGNES PETERSON for a reserved handicapped parking space at 10012 Gunridge Circle, Baltimore, Maryland, 21087 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**


Benfred B. Alston, Chairman


Jane M. Hanley


Meryl W. Rosen