



Board of Appeals of Baltimore County

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January 13, 2016

Sylvia R. Stancil
2617 Purnell Drive
Baltimore, Maryland 21207

RE: *In the Matter of: Sylvia R. Stancil*
Case No.: CBA-16-014

Dear Ms. Stancil:

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 Ham".

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/Office of Law
Michael E. Field, County Attorney/Office of Law

IN THE MATTER OF:
SYLVIA STANCIL
2617 PURNELL DRIVE
BALTIMORE, MD 21207

RE: DENIAL OF RESERVED
HANDICAPPED PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-16-014

* * * * *

OPINION

This case comes to the Board of Appeals (the “Board”) following the denial of an application for reserved handicapped parking space at 2617 Purnell Drive, Baltimore, Maryland 21207 (the “Property”), as set forth by letter dated September 4, 2015 by Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering to Mr. Earl Beville, Assistant Manager, Investigative and Internal Affairs, Motor Vehicle Administration (MVA). A copy of that letter was sent to Applicant/Appellant Sylvia R. Stancil (“Ms. Stancil”) along with a copy of the County Policy with respect to handicapped parking spaces.

The Board held a public hearing on December 2, 2015, at 10:30 a.m. Baltimore County (the “County”) was represented by Edward Reed, a Traffic Inspector for the Baltimore County Division of Traffic Engineering. Ms. Stancil was represented by counsel.

Mr. Reed testified that his office received a transmittal letter, dated August 19, 2015, from Earl Beville, Assistant Manager – Investigation and Internal Affairs for the MVA, and related MVA Application for Personal Residential Permit for Reserved Parking Space for Ms. Stancil. (The MVA Application and the August 19, 2015 Letter from Mr. Beville together are County Exhibit #1).

Following receipt of the Application, Mr. Reed visited and inspected the Property and took

photographs of the front and rear of the property. (See County's Exhibits #2A-2B). Mr. Reed also presented an overhead view of the Property. (See County's Exhibit # 2C). The Property is an interior of group townhouse located in Woodlawn. County Exhibit 2A shows the front of the Property with seventeen steps to the front door, with a handrail present on one side. County Exhibit 2B shows the rear of the Property, with nine steps to the back door, with a handrail present on one side of the steps. County Exhibit 2B also shows an enclosed garage in the rear of the Property.

Mr. Reed, on the basis of the State's verification of physical disability, did not contest Ms. Stancil's 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 Ms. Stancil did not meet the requirements to be issued a reserved parking space for person with physical disabilities. Mr. Reed submitted into evidence a letter dated September 4, 2015 from Mr. Filsinger, on behalf of the County, to Mr. Beville, denying Ms. Stancil's request for a reserved handicap parking space. (See County Exhibit #5).

The BC Policy (County Exhibit #4) 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

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."

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.

When describing the Property, including reference to the photographs, Mr. Reed testified that the rear of the Property had a self-contained off-street parking area, in particular, the enclosed garage. Mr. Reed testified that the application was denied pursuant to BC Policy Section 3(B) for this reason. Mr. Reed provided testimony, supported by the photographs, that, as of the date of his visit and time of the photographs, the Property did not have a ramp to/from the house to provide for Ms. Stancil's mobility and access. Mr. Reed testified that the exception found in Section 3(G) to the BC Policy was inapplicable to Ms. Stancil. Therefore, from the County's perspective, Ms. Stancil was ineligible under the Policy and exception.

Ms. Stancil testified that she has physical limitations, many of which stem from a motor vehicle accident several years earlier which resulted in severe injuries to Ms. Stancil. Ms. Stancil relayed that there is parking only on one side of her street. She testified she frequently encounters problems parking in front of her house. In addition, one of her neighbors has four or five cars. Also, trash service occurs in the front of the house, causing additional complications with parking. As a result, she often has to park several houses away from the front of her house.

As for the garage in the rear of the Property, there is no working light. It has been broken out by others in the alley. Crime is a substantial problem for Ms. Stancil and her neighbors that share her alley. There have been a number of break-ins to garages and houses through the rear of the surrounding properties. Further, a neighbor was out in the alley and was struck in the head with an air rifle pellet, causing significant injury. As such, she had to board up the windows on her house and garage. Mr. Reed, on cross-examination, acknowledged he witnessed boarded-up garages and windows on a number of surrounding properties as well as Ms. Stancil's. Ms. Stancil presented many photographs of the rear of her property and some neighbors' properties. (Appellant Exhibit # 4). Several photographs depict her garage and reveal the presence of two padlocks and an attached flood light. (Appellant Exhibit # 4(d), (e), (f), (g)). Ms. Stancil testified that her garage has been locked, but someone sawed through the lock attachment. She had to pay someone to put in a new lock. Later, someone ripped part of the garage door off exposing the contents contained therein. At that point, Ms. Stancil began to rent storage space rather than keep any items in her garage. Finally, she testified that there is no alley light and that she would fear for her life if out in the back at night.

Ms. Stancil's neighbor, Yvonne Passley, testified on behalf of Appellant. Ms. Passley lives two doors down from Ms. Stancil. She testified (using Appellant Exhibit # 3, a series of

photographs depicting the front of the house over a year's time and the parking conditions) that there are numerous cars always parked out in front. She also testified that the alley is always dark because there are no lights. She testified about the same criminal activity and problems experienced by those whose properties share that alley, including multiple vehicle break-ins and house break-ins.

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.

As reflected by Mr. Reed's testimony and as illustrated in County Exhibit #2B and Appellant's Exhibit #4, the rear of Ms. Stancil's Property contains a garage. 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)). 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.

Under Section 8(A) of the BC Policy, there must be evidence that Ms. Stancil or her household has taken “all reasonable measures to make the off-street parking area usable and available” to Ms. Stancil. The record reflects that any measures that could have been taken would likely become a Sisyphean task, requiring Ms. Stancil to take measure after measure to protect her property. Even more significant, the level of criminal activity poses a risk to Ms. Stancil personal safety leaving her with a Hobson’s choice between encountering that risk or parking out front, irrespective of the distance to her house. In the end, sadly and unfortunately, the garage has been rendered functionally unusable and unavailable for Ms. Stancil to use.

Ms. Stancil’s disability is not contested and she presented a note from her doctor, Robert O’Toole, M.D., dated November 30, 2015, (Appellant’s Exhibit 2), establishing that she is unable to ambulate greater than 100 yards at a time. Given the parking complications identified by Ms. Stancil and Ms. Passley in the front and rear, Ms. Stancil meets both the requirement of extreme hardship and medical necessity under Paragraphs (B) and (C) of County Policy Section 8. Finally, in light of her age, physical limitations and the parking issues on her street, Ms. Stancil would face the greater hardship if the reserved space was not approved. Therefore, as a result of the above, there is enough evidence to satisfy the all four criteria in Section 8(b) to reverse the original denial and grant Ms. Stancil’s application for a reserved handicapped parking space.

ORDER

THEREFORE, IT IS THIS 13th day of January, ~~2015~~²⁰¹⁶, by the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-16-014 be and the same is hereby **REVERSED**; and it is further,

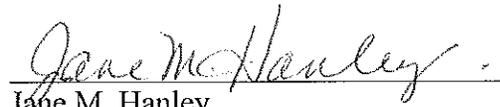
ORDERED that the application of Sylvia Stancil for a reserved handicapped parking space at 2617 Purnell Drive, Baltimore, MD 21207, be and the same is hereby **GRANTED**.

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**



Benfred B. Alston, Panel Chair



Jane M. Hanley



Jason S. Garber