

IN THE MATTER OF
DENNIS L. COLLINS - APPLICANT.
7819 ST. PATRICIA LANE,
BALTIMORE, MD 21222

RE: DENIAL OF RESERVED HANDICAPPED
PARKING SPACE

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-10-001

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OPINION

This case comes to the Board of Appeals from the denial of a reserved handicapped parking space at 7819 St. Patricia Lane, Baltimore, Maryland, 21222, by the Baltimore County Division of Traffic Engineering in a letter dated June 22, 2009 to Mr. Sidney R. Hyatt, Assistant Manager of Investigative and Security Division, Motor Vehicle Administration. A copy of the denial letter was sent to Mr. Collins with a copy of the County Policy regarding handicapped parking spaces.

A public hearing was held on Tuesday, November 3, 2009. Baltimore County was represented by James Gullivan, Traffic Inspector of the Division of Traffic Engineering. Mr. Collins represented himself.

Mr. James Gullivan testified that his office received an application and letter dated June 15, 2009 from the Motor Vehicle Administration (MVA) concerning the request for a handicapped parking space for Mr. Collins. (County Ex. 1). The County indicated that, on the basis of the State's finding that Mr. Collins was disabled, the County was not contesting his medical disability.

Mr. Gullivan made a visit to the Collins' home on June 18, 2009. He stated that the home is located in Dundalk area of Baltimore County known as Middle River. The home is located in the middle of a row of homes on St. Patricia Lane. Mr. Gullivan took a photograph of the rear of the home on his visit. (County Ex. 2). Mr. Gullivan stated that the front of the property contained one (1) step from the curb; plus four (4) wide steps leading up to the front porch steps; and then seven (7) steps from the yard to the front porch. Mr. Gullivan stated that he was unable to view any steps leading to the rear door of the

home nor any handrails because the back porch and patio were enclosed. However, one (1) step from the backyard into the rear enclosure was visible.

Photographs in evidence (Appellant Ex. 1E and 1F and County Ex. 2) of the rear of the property shows a paved parking pad surrounded by a picket fence with a gate, large enough for an automobile to enter and exit the parking pad. Along the sides of the back yard are trash cans, an air conditioning unit and clothes line poles. (Appellant's Exh. 1B and 1D).

Mr. Gullivan stated that, as a result of his investigation, his agency denied the application for the parking space on the basis of Item 3B of the Baltimore County Parking Policy on Reserved Parking Spaces which 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.

Mr. Collins admitted that he could park his car on the parking pad in the back yard. However, he testified that it is not easy to get in and out of his Crown Victoria due to the location of the trash cans, clothes line poles and air conditioning unit along the sides of the yard. Additionally the back porch enclosure encompasses a good part of the back yard.

Decision

In order to reverse a decision of the Baltimore County Traffic Division with respect to handicapped parking spaces, the Board of Appeals must find that the Applicant meets all of the following conditions as required by the Baltimore County Policy on Reserved Parking Spaces:

(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 all of the testimony and evidence presented, the Board has determined that the decision of the Bureau of Traffic Engineering should be upheld and that the application for handicapped parking space should be denied.

The Board finds that there is a parking pad in the rear of the home which is available for parking. The fact that Mr. Collins chooses to locate his trash cans, air conditioning unit and clothes line poles in the rear yard, plus the fact that he drives a large automobile, coupled with his addition of the rear patio enclosure does not make his request meritorious under Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities (the "Policy"). It is clear that his request is solely for his convenience and not for medical necessity.

Further, there was no evidence presented by Mr. Collins that he tried to make the rear parking pad usable and available. There was no evidence presented by Mr. Collins as to any impact in that his neighbors as to the impact of a handicap parking space for Mr. Collins. The Board finds that the evidence did not meet any of the exceptions under the Policy.

ORDER

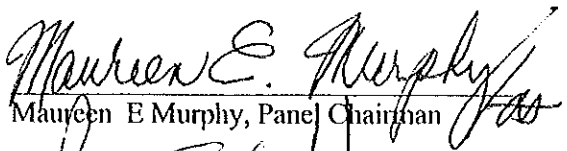
THEREFORE, IT IS THIS 8th day of January, 2010 by the County Board of Appeals of Baltimore County,

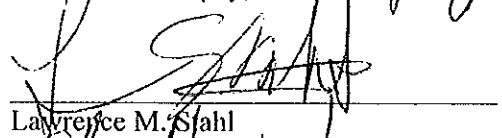
ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-10-001 be and the same is hereby **AFFIRMED**; and it is furthered

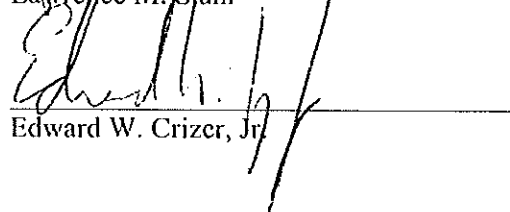
ORDERED that the application of Dennis L. Collins, Sr. for a reserved handicapped parking space at 7819 St Patricia Lane, Baltimore, MD 21222 be and the same is hereby **DENIED**.

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*.

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


Maureen E Murphy, Panel Chairman


Lawrence M. Stahl


Edward W. Crizer, Jr.