

IN THE MATTER OF  
LOUISE NELSON - APPLICANT  
9733 MATZON ROAD  
BALTIMORE, MD 21220

RE: DENIAL OF RESERVED  
HANDICAPPED PARKING SPACE

\* BEFORE THE  
\* COUNTY BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No. CBA-11-002

\* \* \* \* \*

**OPINION**

This case comes to the Board of Appeals as the result of the denial of a reserved handicapped parking space at 9733 Matzon Road, Baltimore, MD 21220, by the Baltimore County Division of Traffic Engineering in a letter dated June 29, 2010, to Mr. Earl Beville, Assistant Manager, Investigative and Security Division, Motor Vehicle Administration (MVA), from Stephen E. Weber, P.E., Chief, Division of Traffic Engineering for Baltimore County (County Exhibit No.3). A copy of that letter was sent to Louise Nelson, Appellant, along with a copy of the County Policy with respect to handicapped parking spaces.

**Background**

On June 2, 2010, Appellant/Applicant, Louise Nelson, 9733 Matzon Road, Baltimore, MD 21220, submitted an application for a personal residential permit for reserved parking space to the Motor Vehicle Administration (MVA). The application was forwarded by letter dated June 21, 2010 to Stephen E. Weber, Chief of Baltimore County Division of Traffic Operations from Earl Beville, Assistant Manager, Investigative and Security Division, Motor Vehicle Administration (MVA). Mr. Beville, in his letter verified Ms. Nelson's disability, in that the Applicant met the provision of the Maryland Vehicle Law § 21-1005. He requested that the Division of Traffic Engineering process the application to determine, from a traffic-engineering standpoint, if the request met the criteria of the operations.

As stated above, by letter dated June 29, 2010, Stephen E. Weber, replied to Mr. Beville's request to review the application for a reserved handicapped space for Ms. Nelson. Mr. Weber informed Mr. Beville that the request for reserved handicapped parking space was denied, since the request did not conform with Item 3B of the Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities.

Item 3B of the Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities 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.)”

On July 16, 2010, the Applicant submitted a request to appeal the denial of her request for a reserved parking space.

The Board held a public hearing on August 31, 2010, commencing at 11:00 a.m. Baltimore County was represented by Mr. Stephen E. Weber and Mr. James Gullivan, Division of Traffic Engineering. Ms. Nelson was represented by Deborah C. Dopkin, Esquire.

#### **Evidence and Testimony**

Ms. Nelson testified that she is 57 years old and has lived at 9733 Matzon Road in Baltimore County since 1980. The house was built in 1959. She lives with her son. She testified she has difficulty walking and climbing stairs and submitted as Appellant's Exhibit No. 2, a letter dated August 13, 2010 from Dr. Jasmin Hans, stating she has a history of diabetes,

hypertension, cervical radiculopathy, pulmonary embolism, and DVT of lower limb. Ms. Nelson is presently employed by Baltimore County and works part-time in a retail store. She does not dispute the fact that there is a parking pad in the rear of her residence.

Mr. Gullivan testified on behalf of the County that he had conducted a personal inspection of the Appellant's property on June 24, 2010 and took photographs of both the front and the rear of the property, which were submitted into evidence as County Exhibit Nos. 2A and 2B. He stated that there was a concrete parking pad in the rear of the premises. Mr. Gullivan testified there are four (4) steps with a railing on both sides and one (1) step into the front of the house. In the rear there are eight (8) steps with a railing on both sides and one (1) step into the rear of the house. There is a parking pad in the rear of the residence. At the time of his inspection, there was a car parked on the pad as shown on County Exhibit No. 2B.

Mr. Gullivan stated that he recommended denial of the reserved parking space on the basis of Section B of the Baltimore County Parking Policy for Reserved Parking Spaces for persons with physical disabilities because Ms. Nelson has available parking space (a parking pad) in the rear of the property.

Mr. Stephen E. Weber, P.E., Chief of the Division of Traffic Engineering for Baltimore County testified and reviewed the County's policy for handicapped parking spaces.

There were no neighbors testifying, therefore, there was no testimony with regards to the degree of hardship that would be placed on the neighbors or the Applicant if the space were approved.

### **Decision**

There is no question that Ms. Nelson is suffering from a disability. However, she does not utilize any wheelchair, scooter, walker, crutches, or any other device to assist her with

walking.

The Board has reviewed the testimony and evidence presented by both parties. These are not easy cases and the granting of a parking space is not one that is easily obtained.

An applicant who is aggrieved by a decision of Baltimore County DTE under Item (3)(B) only may appeal that decision to the County Board of Appeals as provided for under Article VI of the Baltimore County Charter and Sections 3-5-104 and 3-5-105 of the Baltimore County Code. The Board of Appeals may overturn the County's denial if **ALL** the following conditions are found to exist:

(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 Board finds that the granting of a handicapped parking space at the front of Ms. Nelson's home would be more for the convenience of the Applicant/Appellant, than true medical necessity and that no extreme hardship would exist if the Appellant were to use the available off-street parking pad. The Board finds therefore that there is not sufficient substantiation to indicate that Ms. Nelson has met the requirements under the Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities. The Board has determined that the decision of the Baltimore County Division of Traffic Engineering should be upheld and that the application for the reserved handicapped parking space should be denied.

**ORDER**

THEREFORE, IT IS THIS 28<sup>th</sup> day of September, 2010, by the Board of Appeals of Baltimore County,


**ORDERED** that the decision of the Division of Traffic Engineering in Case No. CBA-11-002 be and the same is hereby **AFFIRMED**; and it is furthered

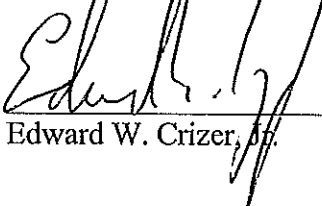
**ORDERED** that the application of Louise Nelson for a reserved handicapped parking space at 9733 Matzon Road, Baltimore, Maryland, 21220 be and the same is hereby **DENIED**.

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**

  
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Robert W. Witt, Panel Chair

  
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Lawrence S. Wescott

  
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Edward W. Crizer, Jr.