

IN THE MATTER OF
HENRY P. RUTH - APPLICANT
4014 ST. MONICA DRIVE
BALTIMORE, MD 21222

RE: DENIAL OF RESERVED HANDICAPPED
PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-11-028

* * * * *

OPINION

This case comes to the Board of Appeals as the result of the denial of a reserved handicapped parking space at 4014 St. Monica Drive, Baltimore, MD 21222, by the Baltimore County Division of Traffic Engineering in a letter dated June 14, 2011 to Earl Beville, Assistant Manager, Division of Investigation & Internal Affairs, Motor Vehicle Administration (MVA), from Gregory W. Carski, Acting Chief, Division of Traffic Engineering for Baltimore County (County Exh. 5). A copy of that letter was sent to Mr. Henry P. Ruth, Appellant, along with a copy of the County Policy with respect to handicapped parking spaces.

The Board held a public hearing on August 31, 2011, at 10:00 a.m. Baltimore County was represented by James Gullivan, Traffic Inspector in the Baltimore County Division of Traffic Engineering, along with Stephen Weber, Chief, Division of Traffic Engineering. Henry P. Ruth, Appellant, represented himself, *pro se*.

Mr. Gullivan testified that his office received an application and letter from the MVA dated June 3, 2011, concerning a request for a reserved handicapped parking space for Mr. Ruth. (County Exh. 1). The County indicated that, on the basis of the State's finding that Mr. Ruth was disabled, the County would not contest his medical disability.

Mr. Gullivan visited the property on June 7, 2011. He testified that the property was a center row house located in the Dundalk area of Baltimore County. He took photographs of both the front and rear of the property (County Exhs. 2A – 2C). The photograph of the front porch shows that there is 1 step leading up to the front door as well as 3 steps leading up to the front porch. There are handrails on both sides of the front steps.

The photographs of the rear of the property (County Exhs. 2B and 2C) reveal that there is a double wood gate which opens onto a concrete parking pad. Surrounding the parking pad are cages of crab pots. Mr. Ruth explained that crabbing is his hobby. Also located on or near the pad is a utility boat trailer.

Mr. Gullivan testified that, because there is a parking pad located in the rear of the property and there was no ramp from the front of house to the street, the request does not meet the County's requirements for a reserved handicapped parking space, specifically, §§ 3(B) and (C) or the exception set forth in 3(G) (County Exh. 4). Section 3(B) 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 while 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.

(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) states:

(G) The DTE may grant an exception to the condition in paragraph (B) above if the applicant 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 space must be more accessible than any off-street space that exists on the applicant's property. The DTE may consider the granting of an exception to the condition in paragraph (B) above whose 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.

Mr. Ruth had no cross examination questions for Mr. Gullivan. Mr. Ruth submitted a letter from his doctor which described arthritis in his knee for which he will need to have a knee replacement sometime in the future. (Applicant Exh. 1). Mr. Ruth testified that he is in need of the handicap space along the street in front of his house because there is no lighting in the rear alley. This is a concern for him given the instability of his knee. He believes that the lack of lighting in the alley is a safety issue for him. Mr. Ruth explained that the front of the house has lighting, is closer to the house.

Mr. Ruth is a service manager for Goodyear Tires and works 7:30 to 6:30 everyday. He mentioned that he has difficulty backing up his truck to park on the pad. He explained that he must unlock the rear gate to back the truck out of the parking pad and then relock the gate.

The County had no questions for Mr. Ruth.

Decision

In order to reverse the decision of the Baltimore County Division of Traffic Engineering with respect to handicapped parking spaces, the Board must find that the Applicant meets all of the conditions set forth in Item 8 of the Baltimore County Parking Policy for Reserved Parking Spaces. Item 8 states:

(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 the testimony and evidence presented, 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. The Board does not find that any of the conditions listed in Item 8 have been met in this case. While it would certainly be more convenient for Mr. Ruth to park in front of his house, the Board is not permitted under the County Policy to issue parking permits for convenience.

The evidence revealed that Mr. Ruth has a parking pad available to him in the rear of the property. The placement by Mr. Ruth of crab pots and a boat trailer around and near the parking pad does not eliminate the existence of the pad under Item 3(C). However, as a practical matter, the removal of the pots and trailer may reduce the difficulty in parking his truck on the pad.

ORDER

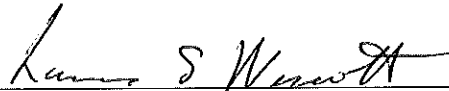
THEREFORE, IT IS THIS 21st day of September, 2011, by the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-11-028 be and the same is hereby **AFFIRMED**; and it is furthered

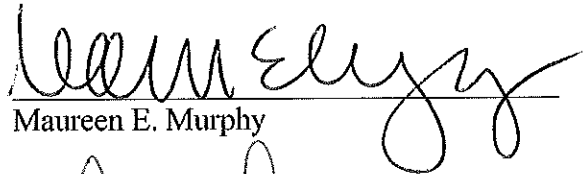
ORDERED that the application of Henry P. Ruth for a reserved handicapped parking space at 4014 St. Monica Drive, Baltimore, Maryland, 21222 be and the same is hereby **DENIED**.

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*.

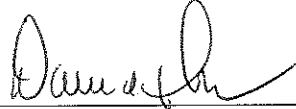
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence S. Wescott, Chairman



Maureen E. Murphy



David L. Thurston