

IN THE MATTER OF
DONNA L. FERRELL-BIEHLER / APPLICANT.
8186 N. BOUNDARY ROAD
BALTIMORE, MD 21222

RE: DENIAL OF RESERVED HANDICAPPED
PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-12-008

* * * * *

OPINION

This case comes to the Board of Appeals as the result of the denial of a reserved handicapped parking space at 8186 N. Boundary Road, Baltimore, MD 21222, by the Baltimore County Division of Traffic Engineering in a letter dated July 8, 2011, to Mr. Earl Beville, Assistant Manager, Investigative and Security Division, Motor Vehicle Administration (MVA), from Stephen E. Weber, Chief, Bureau of Traffic Engineering and Transportation Planning for Baltimore County (County Exhibit No. 5). A copy of that letter was sent to Donna L. Ferrell-Biehler, 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 11:45 a.m. Baltimore County was represented by Mr. James Gullivan, Traffic Inspector in the Baltimore County Division of Traffic Engineering. Donna L. Ferrell-Biehler, Appellant, represented herself, *pro se*.

Mr. Gullivan testified that his office received an application and letter from the MVA dated June 28, 2011, concerning a request for a reserved handicapped parking space for Ms. Ferrell-Biehler (County Exhibit No. 1). The County indicated that, on the basis of the State's finding that Ms. Ferrell-Biehler was disabled, the County would not contest her disability.

Mr. Gullivan visited the property on June 30, 2011, and took a photograph of the rear of the property (County Exhibit #2). The photograph shows a paved parking pad which serves as a self-contained off street parking area. Mr. Gullivan testified that, because there is a parking pad in the rear of the property and no handicapped ramp on the property, the request does not meet the County's requirements for a reserved handicapped parking space, specifically, §§ 3(B) and the exception in 3(G) (County Exhibit #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 where off-street parking is provided to the applicant by private sources. The 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 the policy.

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 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.

Ms. Donna L. Ferrell-Biehler, Appellant, testified for herself and had no questions for Mr. Gullivan.

Ms. Ferrell-Biehler testified that the rear parking pad was installed after the home was purchased but is not an acceptable parking solution.

The County had no questions for Ms. Donna L. Ferrell-Biehler.

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.

Photographs of the property show that the front of the house have five (5) steps up to the front porch and one (1) step into the front room. The rear of the house has no steps into the rear room.

There is a parking pad in the rear with a hot tub. The rear yard has a privacy fence with a gate, which Ms. Ferrell-Biehler testified she can't open because it is so heavy. Ms. Ferrell-Biehler stated that because of the school across the street she sometimes has to park 3 to 4 blocks away. In addition, she stated that there are numerous handicapped parking spaces in her neighborhood.

The Board can not consider the fact that there are numerous handicapped parking spaces in the neighborhood. The circumstances for granting those spaces are not before the Board.

Ms. Ferrell-Biehler has a parking pad in the rear of the house. There are five (5) steps in the front of the home and none in the rear. While Ms. Ferrell-Biehler states that the rear alley is not plowed by the County during periods of snow, that is not a factor which can be considered by the Board.

It is apparent that Ms. Ferrell-Biehler and her family have not taken all reasonable measures to make the off street parking available.

Ms. Ferrell-Biehler does not use crutches, a walker or a wheelchair. Her disability is not of such a severe degree that a hardship exists if she was to use the available off street parking. The Board finds that the reason for this request is one of convenience and not a medical necessity. As such, Ms. Ferrell-Biehler does not meet all of the conditions set forth in Item 8, particularly Item 8(B).

ORDER

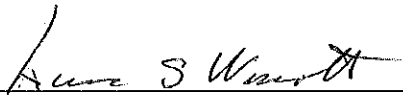
THEREFORE, IT IS THIS 16th day of September, 2011, by the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering in Case No. CBA-12-008 be and the same is hereby **AFFIRMED**; and it is furthered


ORDERED that the application of Donna L. Ferrell-Biehler for a reserved handicapped parking space at 8186 N. Boundary Road, 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*.

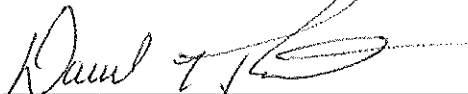
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Lawrence S. Wescott, Chairman



Maureen E. Murphy



David L. Thurston