

IN THE MATTER OF  
JEANNE B. BIRCH - APPLICANT  
26 North Belle Grove Road  
Baltimore, MD 21222

RE: DENIAL OF RESERVED HANDICAPPED  
PARKING SPACE

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* Case No. CBA-14-013

\* \* \* \* \*

**OPINION**

This case comes to the Board from the denial of a reserved handicapped parking space at 26 North Belle Grove Road, Baltimore, Maryland, 21228, by the Baltimore County Division of Traffic Engineering in a letter dated August 8, 2013 to Earl Beville, Assistant Manager of Division of Investigation and Internal Affairs of the Motor Vehicle Administration (“MVA”). A copy of that letter was sent to the Applicant, Jeanne B. Birch (“Ms. Birch”) with a copy of the County Policy with respect to handicapped parking spaces.

A public hearing was held on Wednesday, October 16, 2013. Baltimore County was represented by Edward Reed, Traffic Inspector II of the Department of Public Works. Also in attendance for Baltimore County was Mark Gonce with the Department of Public Works. Ms. Birch represented herself. Ms. Birch’s son, Jerry Lee Birch, also participated in the hearing.

Mr. Reed has been with the Department of Public Works for 23 years and is responsible for reviewing applications for on-street handicap parking permits. Mr. Reed testified that his office received an application and letter from the MVA dated July 22, 2013 concerning the request for a handicapped parking space for Ms. Birch (County Ex. 1). The County indicated that, on the basis of the State’s finding that Ms. Birch was disabled, the County was not contesting her medical disability.

Mr. Reed made a visit to the Birch home on July 31, 2013. He stated that the home is in a row of homes located in Catonsville on North Belle Grove Road. Mr. Reed took photographs of the front and rear of the home on his visit on July 31, 2013 (County Ex. 2(a) and 2(b)). Mr. Reed testified that the front of the property contained eleven (11) steps plus a landing, along with a handrail on the left side, leading up to the front porch. He stated that the rear of the property contained a paved parking pad upon which a wood deck was resting. In addition, there was 1 step into the back door which was located on ground level.

The photograph presented by the County with respect to the rear of the property (County Ex. 2(b)) shows that there were no parking gates or fences. The parking pad underneath the wood deck contains patio furniture. There is no hand rail leading into the basement door.

Mr. Gullivan stated that, upon review of the situation, his agency denied the application for the parking space on the basis of Item (3)(B) 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.

(County Ex. 4).

Mr. Reed further testified that the application did not meet the exception criteria set forth in Item 3(G) because there was no ramp built on the front of the house and Ms. Birch did not use physical mobility aid to get around.

Ms. Birch then testified that the alley behind her house was difficult to drive down because it is overgrown with trees (App. Ex. 3). She also told the Board that it was difficult for her to turn

her van around in the alley because it is one way and therefore must use the parking pad to turn around. She added that the alley is full of trash and rats and is never cleared when it snows. She desires a handicap space in front of her house so that she can avoid using the back alley. She owns 2 vehicles – one of which is a minivan (App. Ex. 1). She is not able to park on the street in front without having a reserved space because North Belle Grove is packed with parked cars (App. Ex. 4A, 4B and 5). She has noticed that other houses are rented to students who have multiple cars which take up all the parking spots.

Ms. Birch clarified that while the basement door has one step leading inside, there are 13 steps inside the house which she must climb. While her medical disability was not disputed, she explained that problems with her right knee requiring shots and that she has screws and a plate in her left ankle.

Ms. Birch's son, Jerry Lee Birch, testified that he parks his vehicle on the rear parking pad. He repeated that the alley is overgrown with trees, that it has rats and is full of pot holes. He expressed his desire for his mother to have a designated space in front of her house.

### **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 set forth in Item (8) of the Baltimore County Parking Policy on Reserved Parking Spaces (the "Policy") which 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 all of the testimony and evidence presented, the Board has determined that the decision of the Division 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 as set forth in Item (3)(B) of the Policy.

As to the conditions set forth in Item 8, based on the evidence presented, we find that Ms. Birch and her son each park a vehicle at the home. There is room on the parking pad for both vehicles. The fact that a deck was built over a portion of the parking pad, blocking space that could be used to park a vehicle, is not a basis for granting a handicapped parking space in the front. While Ms. Birch does not prefer the alley, its condition, and whether or not it is plowed by its owner during snow, are not the basis under which this Board can grant a handicapped parking space on the street. Therefore, item 8(A) has not been met.

We also find that items (8)(B) and (C) have not been met. The County did not dispute Ms. Birch's medical disability. However, based in the evidence, we do not find that her disability is of such a severe degree that an extreme hardship would exist if Ms. Birch were to park on her parking pad. On that point, if she parks in the front, she still has to climb 11 steps to get to the front door. Therefore, notwithstanding Ms. Birch's undisputed disability, climbing the steps in the front poses no more hardship on Ms. Birch than climbing the steps inside her home when she accesses from the rear. Thus, the on street parking is not more accessible than the parking pad but is simply more convenient for Ms. Birch and her household.

The Department also considered whether Ms. Birch met the exceptions to (3)(B) which are set forth in (3)(G) of the Policy. However, the County found that she did not qualify because there was no evidence produced that Ms. Birch uses a physical mobility aid and there was no handicap

ramp constructed from the house to the street to provide for mobility. Based on the evidence produced, we agree that she does not meet the exceptions in (3)(G).

Therefore, the Board finds that Ms. Birch has not taken all reasonable measures to make the on-street parking area more accessible than the parking pad, that there is no extreme hardship found by use of the parking pad and that the approval of a reserved parking space in the front of the home would be solely for the convenience of Ms. Birch and not for medical necessity.

**ORDER**

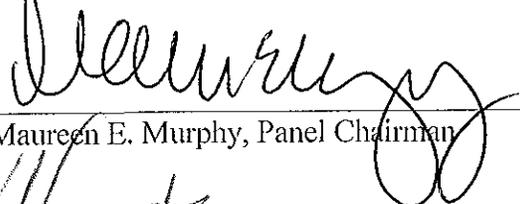
**THEREFORE, IT IS THIS** 12<sup>th</sup> day of November, 2013, by the Board of Appeals of Baltimore County,

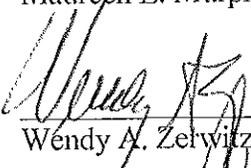
**ORDERED** that the decision of the Division of Traffic Engineering to deny the application for a handicapped parking space in the above referenced case be, and the same is hereby **AFFIRMED**; and it is furthered,

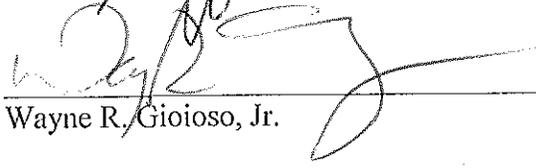
**ORDERED** that the application of Jeanne Birch for a reserved handicapped parking space at 26 North Belle Grove Road, Baltimore, MD 21228 be, and the same is hereby **DENIED**.

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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Maureen E. Murphy, Panel Chairman

  
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Wendy A. Zerwitz

  
\_\_\_\_\_  
Wayne R. Gioioso, Jr.



## Board of Appeals of Baltimore County

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November 12, 2013

Jeanne Bowman Birch  
26 North Belle Grove Road  
Baltimore, MD 21228

Stephen E. Weber, Chief  
Division of Traffic Engineering  
Department of Public Works  
The County Office Building  
111 W. Chesapeake Avenue, Room 307  
Towson, MD 21204

RE: *In the Matter of: Jeanne B. Birch – Applicant/Appellant*  
Case No.: CBA-14-013

Dear Ms. Birch and Mr. Weber:

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".

Krysundra "Sunny" Cannington  
Acting Administrator

Enclosure  
Duplicate Original Cover Letter

c: Earl Beville, Assistant Manager, Investigative & Security Division/Motor Vehicle Administration  
W. William Korpman, III, Chief/Bureau of Traffic Engineering  
Edward Adams, Jr., Director/DPW  
Nancy West, Assistant County Attorney  
Michael Field, County Attorney