



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

August 15, 2016

Ms. Barbara Lee Hicks
819 Lannerton Road
Baltimore, Maryland 21220

RE: *In the Matter of: Barbara Lee Hicks*
Case No.: CBA-16-052

Dear Ms. Hicks:

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-Harr".

Krysundra "Sunny" Cannington
Administrator

KC/tam
Enclosure

c: Earl Beville, Assistant Manager/Investigative & Security Division/Motor Vehicle Administration
Michael F. Filsinger, Chief/Division of Traffic Engineering
Steven A. Walsh, P.E., Director/DPW
Nancy C. West, Assistant County Attorney/Office of Law
Michael E. Field, County Attorney/Office of Law

IN THE MATTER OF:
BARBARA LEE HICKS
819 LANNERTON ROAD
BALTIMORE, MD 21220

RE: DENIAL OF RESERVED
HANDICAPPED PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. CBA-16-052

* * * * *

OPINION

This case comes to the Board of Appeals (the “Board”) as the result of the denial of an application for reserved handicapped parking space at 819 Lannerton Road, Baltimore, Maryland 21220 (the “Property”), as set forth by letter dated May 19, 2016 by Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering to Mr. Earl Beville, Assistant Manager, Investigative and Internal Affairs, Motor Vehicle Administration (MVA). A copy of that letter was sent to Applicant/Appellant Barbara Lee Hicks (“Mrs. Hicks”) along with a copy of the County Policy with respect to handicapped parking spaces.

A public hearing in front of the Board was scheduled on July 12, 2016, at 11:00 a.m. Baltimore County (the “County”) was represented by James Cockrell, a Traffic Inspector for the Baltimore County Division of Traffic Engineering. Mrs. Hicks represented herself *pro se*, but was accompanied by her husband.

Mr. Cockrell testified that his office received a MVA Application for Personal Residential Permit for Reserved Parking Space (“Application”) for Mrs. Hicks (dated May 3, 2016). (The MVA Application and May 3, 2016 transmittal letter is County Exhibit #1). Following receipt of the Application, Mr. Cockrell visited and inspected the Property on May 11, 2016 and July 11, 2016 and took photographs of the front and rear of the Property on both of his visits (See County’s

Exhibits #2A-2C). The Property is middle-of-group rowhouse located in the Middle River area. County Exhibit 2A shows the front of the Property with approximately six to seven steps up from the street level to the front door of the Property, with a handrail at least on one side of the steps. County Exhibit 2B shows the fence of the rear of the Property. County Exhibit 2C depicts the rear of the Property, revealing a concrete parking pad and a fenced in above-ground swimming pool, and approximately four to five steps up from the ground level to the back door.

Mr. Cockrell, on the basis of the State's verification of physical disability, did not contest Mrs. Hicks's disability. However, based upon Section 21-1005 of the Maryland Transportation Article¹ (Reservation of Parking Space for Person Confined to Wheelchair) (See County Exhibit #3) and Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities (the "BC Policy") (See County Exhibit #4), the County concluded that Mrs. Hicks did not meet the requirements to be issued a reserved parking space for a person with physical disabilities. Mr. Cockrell submitted into evidence the aforementioned May 19, 2016 letter from Mr. Filsinger, on behalf of the County, to Mr. Beville, denying Mrs. Hicks's request for a reserved handicap parking space. (See County Exhibit #5). Mrs. Hicks was copied on that letter and also was provided a copy of the BC Policy. (See County Exhibit # 5).

The BC Policy (County Exhibit #4) identifies the factors for determining the approval or denial of an application for reserved on-street parking spaces for persons with physical disabilities. Section 3, entitled "Parking Space", and more particularly, as is relevant here, Sections 3(B) and 3(C) of the BC Policy states the following:

(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

¹ Section 21-1005(l) of the Maryland Transportation Article states that "In Baltimore County, the establishment of a personal residential parking space shall be subject to approval of the Baltimore County Department of Traffic Engineering, in accordance with the charter and public laws of Baltimore County."

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.

When describing the Property, including reference to the photographs, Mr. Cockrell testified that the rear of the property had a self-contained off-street parking area, and as such, Mr. Cockrell testified that the application was denied pursuant to BC Policy Section 3(B), with 3(C) having applicability as well. Mr. Cockrell testified that the alley looks like it was surfaced within the last couple of years. He added that there were no obstacles in the alley that would prevent Mrs. Hicks from using the parking pad.

Mrs. Hicks testified that she has had heart surgery, as well as two knee surgeries, with a third scheduled to occur in a couple of weeks. She further testified that she has had an aneurysm, a brain tumor and had other tumors removed. She added that she has difficulty walking. Mrs. Hicks testified that she and her husband used to park out back, but their vehicles were vandalized. She also stated that it is dark out back. She testified that the front walk is easier and that there is more light.

DECISION

In order to reverse the decision of the Baltimore County Division of Traffic Engineering with respect to handicapped parking spaces, Section 8 of the BC Policy, entitled "Appeal of Denial

of Reserved Parking Space,” requires that the Board find that the Applicant meets all of the conditions set forth therein.

The conditions are as follows:

- (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.

Based on the evidentiary record in front of the Board, the decision of the Baltimore County Division of Traffic Engineering shall be upheld and that the application for the reserved handicapped parking space should be denied.

As reflected by Mr. Cockrell’s testimony and as illustrated in County Exhibits 2A and 2C, the rear of Mrs. Hicks’s Property contains a parking pad. As referenced above, pursuant to County Policy 3(B), a reserved on-street parking space will not be authorized for any applicant whose property has a self-contained off-street parking area. (See County Exhibit # 4). Mrs. Hicks does not contest that the rear of their Property contains a self-contained off-street parking area. There is no testimony that the fence, which is relatively new, or the above-ground pool limit Mrs. Hicks from parking her vehicle in the rear of her Property. Even still, County Policy 3(C) dictates that the evaluation of the Property exclude the presence of these items in determining whether off-street parking exists.

Under Section 8(A), there must be evidence that Mrs. Hicks or her household has taken “all reasonable measures to make the off-street parking area usable and available” to Mrs. Hicks.

The record reveals that the rear parking pad is usable and available, though there is testimony that there have been instances of vandalism. At the same time, there was some evidence that there were instances of vandalism to the Hicks' vehicles when parked on the street in the front as well. Nothing in the record reveals any measure undertaken to alleviate the issue identified.

Similarly, though it is undisputed Mrs. Hicks has a disability, there must be evidence that the disability is one of a severe degree that using the existing parking pad will constitute an extreme hardship. Mrs. Hicks testified that the front walk is easier than the rear, though the photographs reveal that there are less steps in the rear than the front and though there are no measurements, it would appear from the photographs that the distance from the parking pad to the rear door is less than the distance from the street to the front door. Therefore, the Board concludes that the evidence does not meet the criteria under Section 8(B) or Section 8(C). To be clear, the Board does not challenge the difficulties experienced by Mrs. Hicks that are attributed to her medical conditions, only that the evidence presented does not meet the heightened level of severity and does not meet the heightened level of hardship required by Section 8(B) or that sufficient evidence has been presented regarding the medical necessity that would require a dedicated parking spot out front under Section 8(C). As a result, the evidence cannot satisfy the requirements under Section 8 to permit this Board to reverse the original denial.

Based on the foregoing, the evidentiary record does not permit the Board to justify overturning the County's denial of the issuance of a reserved parking space for Mrs. Hicks.

ORDER

THEREFORE, IT IS THIS 15th day of August, 2016, by the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering dated May 19, 2016 in Case No. CBA-16-052 be and the same is hereby **AFFIRMED**; and it is further,


ORDERED that the application of Barbara Lee Hicks for a reserved handicapped parking space at 819 Lannerton Road, Baltimore, MD 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**



Andrew Belt, Panel Chair



Benfred Alston



Jason S. Garber