



## 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

January 8, 2016

Mr. James Thurman Sears  
345 Dark Head Road  
Baltimore, Maryland 21220

RE: *In the Matter of: James Thurman Sears*  
Case No.: CBA-16-016

Dear Mr. Sears:

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 Ham".

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  
Edward Adams, Jr., Director/DPW  
Nancy C. West, Assistant County Attorney/Office of Law  
Michael E. Field, County Attorney/Office of Law

IN THE MATTER OF  
JAMES THURMAN SEARS  
345 DARK HEAD ROAD  
BALTIMORE, MD 21220

RE: DENIAL OF RESERVED  
HANDICAPPED PARKING SPACE

\* BEFORE THE  
\* BOARD OF APPEALS  
\* OF  
\* BALTIMORE COUNTY  
\* CASE NO: CBA-16-016

\* \* \* \* \*

**OPINION**

This case comes before the Board of Appeals as a result of the denial of a reserved handicapped parking space for James Thurman Sears, Appellant, at 345 Dark Head Road, Baltimore, Maryland, 21220 by the Baltimore County Division of Traffic Engineering. The County rendered its decision in a letter dated September 21, 2015 to Mr. Earl Beville, Assistant Manager, Division of Investigation and Internal Affairs, Motor Vehicle Administration (“MVA”), from Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering (County Exhibit No. 5). A copy of that letter was sent to James Thurman Sears, along with a copy of the County policy with respect to handicapped parking spaces.

The Board held a public hearing on Appellant Sears’ appeal on December 2, 2015, at 11:00 a.m. Baltimore County was represented by James Cockrell, Traffic Inspector in the Baltimore County Division of Traffic Engineering, and Michael F. Filsinger, Chief of the Baltimore County Division of Traffic Engineering. James Thurman Sears appeared *pro se*.

**BACKGROUND**

Mr. Cockrell testified that his office received an application and letter from the MVA dated September 1, 2015 concerning a request for a reserved handicapped parking space for Mr. Sears in front of his home (County Exhibit No. 1). Mr. Cockrell visited the property on September

9, 2015 and again on December 1, 2015 and took photographs of the front and rear of Mr. Sear's residence on those days (County Exhibit Nos. 2A-2B).

The County does not dispute Mr. Sears' disability as same has been certified by the State. The County did, however, investigate Mr. Sears' application to determine whether he meets the criteria for a reserved, on-street, handicapped parking space. Maryland law provides that, in Baltimore County, once a person has been determined to be disabled, the establishment of a reserved, handicapped parking space is subject to the approval of the Baltimore County Department of Traffic Engineering. Md. Code Ann., Transp. § 21-1005(k)(1).

Paragraphs 3(B) of the Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities (the "County Policy") states as follows:

(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 Exhibit No. 4). Mr. Cockrell testified that Mr. Sears' home did not meet the requirements of Paragraph 3(B) of the County Policy, as there is a garage (See County exhibits 2A and 2B showing front and rear of Appellant's residence) in the rear of his property, and no ramp to the front of his porch. Mr. Cockrell did acknowledge on cross examination that a large, landscaping-type trailer was parked across the street in the back alley.

The residence of Appellant Sears is a middle of group row home in Baltimore County. The front entrance has 2 steps near the gated yard entrance, and 4 steps up to the front home entrance. The rear of the home has NO exterior steps onto the rear parking area.

Three witnesses testified for the appellant. James Thurman Sears testified first. Mr. Sears was confined to a wheelchair. He is over 92 years old. He stated he can't get to his vehicle for medical appointments, noting there are "always lots of cars out front", and that people leave them there. He further noted that he would have to be assisted down a steep, narrow flight of stairs in order to access the rear garage. Mr. Sears went on to state he suffers from "congenitive heart disease." He testified that he spends most of his time in a chair in the living room.

Melissa Helmick, Appellant's granddaughter, testified next. She noted that she comes over frequently to help care for her grandfather, helping to get him to the car for doctor's appointments. Ms. Helmick said she parks her car in front of the residence to try to "save a spot", but that one is rarely available. She also stated that the back alley is dangerous, recalling that a murder had occurred close to there recently. Furthermore, she said that drug dealers hang out there, and it is pitch dark at night.

The final witness was Mr. James Tyrone Sears, son of Appellant. He stated that he has just received Power of Attorney for his father, and is trying to get Appellant settled. He said he is trying to build hand rails on the front porch stairs, and make other changes to help facilitate moving his father in and out to the car. Mr. J. Tyrone Sears testified that getting his father to the car is a very arduous task, and that his father has several appointments per week to see doctors and attend the wound clinic. He also stated that cars that travel on the front and side streets (where he often has to park) travel at excessive rates of speed. This makes it dangerous, as well as difficult to get Appellant to the car. He reiterated the danger of the back alley, noting that he sometimes "flicks the lights off and on" to try and get the drug dealers to scatter. The witness also stated that access to the back alley is often very difficult due to a large landscaping trailer, as well as many cars being parked there.

James Tyrone Sears submitted Doctor's review notes from July 16, 2015 regarding his father, documenting that the Appellant suffers from benign prostatic hyperplasia, osteoarthritis, venous insufficiency, and congestive heart issues (Appellant's ex. 1). He also submitted pictures of the rear of 345 Dark Head Road (Appellant ex. 3a, 3b), which show NO stairs from the exterior of the main level to the rear yard.

### 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 County Policy 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 have 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 reversed and that the application for the reserved handicapped parking space should be granted. While Mr. Sears has a garage in the rear of his home, the County Policy specifically recognizes that an exception to Paragraph 3(B) of the Policy may be made where "extremely unique circumstances and hardships exist due to the physical characteristics of the property and the applicant's disability."

The Board concludes that this is such a case.

Applying the criteria of Paragraph 8 of the County Policy, Mr. Sears has made all reasonable efforts to use his off-street parking area. Due to no fault of his own, he cannot use the rear garage because he is unable to traverse the steep, narrow, interior, basement steps to access same. The Board is further convinced, based on the testimony and the notes from his doctors that Mr. Sears' disability is of such a severe degree that an extreme hardship would exist if he were to use his rear garage. In addition, based on the notes from Mr. Sears' doctors, the Board concludes that a reserved on-street parking space for Appellant is medically necessary and not merely for his convenience. Finally, the Board concludes that any hardship placed on Mr. Sears' neighbors by reserving an exclusive on-street space for Mr. Sears is outweighed by the hardship that would be placed on Mr. Sears if the space were not approved.

In conclusion, the Board will overturn the denial of the Baltimore County Division of Traffic Engineering and will GRANT the Appellant's request for a reserved handicapped parking space at 345 Dark Head Road, Baltimore, Maryland, 21220, so long as James Thurman Sears is the resident of this property. Appellant should be aware, that pursuant to Paragraph 3(J) of the County Policy, "[t]he applicant or his/her representative shall notify the MVA within ten days after the reserved space is no longer needed."

ORDER

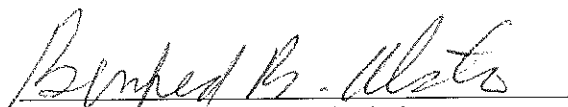
Therefore, it is this 8<sup>th</sup> day of January, 2016, by the Board of Appeals of Baltimore County,


**ORDERED**, that the decision of the Division of Traffic Engineering in Case No. CBA-16-016, be and the same is hereby **REVERSED**; and it is further

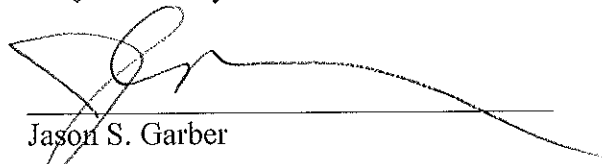
**ORDERED**, that the application of **James Thurman Sears** for a reserved handicapped parking space at 345 Dark Head Road, Baltimore, Maryland, 21220 be and the same is hereby **GRANTED**.

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**

  
Benfred B. Alston, Panel Chairman

  
Jane M. Hanley

  
Jason S. Garber