

IN THE MATTER OF:
BERNARD J. DOBIES
3529 MCSHANE WAY
DUNDALK, MD 21222

RE: DENIAL OF RESERVED
HANDICAPPED PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: CBA-24-005

* * * * *

OPINION

This case comes to the Board of Appeals of Baltimore County (the “Board”) as the result of the denial of an application for reserved physical disabilities parking space at 3529 McShane Way, Dundalk, Maryland 21222 (the “Property”), as set forth by letter dated June 28, 2023, by, Kristoffer Nebre, Division Chief of the Baltimore County Bureau of Transportation to Bernard J. Dobies, the occupant of the Property.

The Board held a virtual public hearing on October 17, 2023. Baltimore County (the “County”) was represented by Wesley Bohle, of the Baltimore County Division of Traffic Engineering. Mr. Dobies appeared *pro se*.

Mr. Bohle testified that his office received an MVA Application for Personal Residential Permit for Reserved Parking Space (“Application”), dated June 23, 2023, for Mr. Dobies. (County Exhibit 1A). On June 26, 2023, a traffic engineering inspector visited and inspected the Property and took photographs of the front and rear of the Property. (County Exhibits 2B-2C). The Property is a row house and is at the end of a row of seven houses. (County Exhibit 2A). County Exhibit 2B shows the front of the Property with one step on a flat walkway which ends with four steps to the front porch. There is a rail on the four-step staircase. County Exhibit 2C is of the rear of the Property. It shows a fenced in back yard with a gate from the alley opening

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to a walkway leading to the staircase. There is a parking pad situated to the right of the walkway, facing the rear of the property, but it has been enclosed by the fence and no gate allows a vehicle to enter from the alley. From the front of where the automobile would be parked, it is a short walk to a staircase of eight steps up to a rear deck and a rear entrance to the house. There are rails on each side of the stairs. Mr. Bohle testified that based on the photographs, Mr. Dobies had eliminated his own ability to use the parking pad by removing the gate to the pad, and that therefore the Property has available rear off-street parking. Mr. Bohle also testified that this block has sixty-five vehicle street spots for 63 houses, with five spaces already reserved.¹

Mr. Bohle, on the basis of the State's verification of physical disability, did not contest Mr. Dobies' disability. However, Mr. Bohle cited Code of Maryland Regulations, Title 11, Subtitle 16, Chapter 11, which states that a "reserved parking space may not be authorized to the applicant whose property has adequate and accessible off-street parking available." (County Exhibit 3). Mr. Bohle also referred to Section 21-1005 of the Maryland Transportation Article² (Reservation of Parking Space for Person Confined to Wheelchair) (County Exhibit 4). This provision cedes to Baltimore County the authority to regulate reserved on-street parking in the County. As a result, the County has adopted the Baltimore County Policy on Reserved Parking Spaces for Persons with Physical Disabilities (the "BC Policy") (County Exhibit 5).

¹ The County was offering this information to show that reserving a street spot for Mrs. Dobies would eliminate an available spot for his neighbors. In this rowhome community, like many in Baltimore County, most residents have multiple vehicles so there is no question that street parking is at a premium. Ironically, though, this data also shows how difficult it is for Mr. Dobies to find a street spot anywhere close to his own house. Thus, if his rear parking pad is not "adequate and accessible", he suffers great hardship.

² 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."

The BC Policy (County Exhibit 5) identifies the factors for 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) of the BC Policy which 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 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.)

As indicated above, when describing the Property, including reference to the photographs, Mr. Bohle testified that the rear of the property had a self-contained off-street parking area, and as such, Mr. Bohle testified that the application was denied pursuant to BC Policy Section 3(B). Mr. Bohle submitted into evidence the aforementioned letter dated June 28, 2023, from Kristoffer Nebre, on behalf of the County, to Mr. Dobies, denying Mr. Dobies' request for a reserved physical disabilities parking space. (County Exhibit 6).

Mr. Dobies testified that he suffers from serious disabilities effecting his ability to walk distances and that he uses a cane to walk. He testified that it is easier for him to get up and down the front stairway because there are fewer steps. He testified that the reason he had replaced the formerly existing back gate with an un-gated fence was that a car had destroyed his back gate and he was unable to afford to replace it with a new gate. Ms. Patricia West, a friend of Mr. Dobies who resides with him, testified that because so many households have multiple vehicles there are so many cars parked on the street that it is often impossible for Mr. Dobies to park near

the front of his house and that in consequence they often do not leave the house on the weekends for fear of losing their parking spot.

CONCLUSION

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.

As reflected by the testimony of Mr. Dobies, the cumulative difficulties with using the rear parking pad are a unique condition that constitutes sufficient grounds to deviate from the general rules established by the County when assessing such an application where a self-contained, rear parking area is available. Under Section 8(A), there must be evidence that Mr. Dobies has taken "all reasonable measures to make the off-street parking area usable and available." (County Exhibit 4). The Board finds that Mr. Dobies has met that burden. The record reveals that the rear-parking is not usable by Mr. Dobies because of his physical disabilities and

that extreme hardship would exist if he was forced to use it for all of the reasons stated above. Moreover, any hardship placed on the neighbors is inconsequential when compared to the hardships placed on Mr. Dobies by denial of the reserved on-street parking spot.

As an alternative basis for our ruling, we find that the rear parking is not “adequate and accessible” within the meaning of COMAR. (County Exhibit 3). As such, one does not have to consider the Baltimore County policy because that policy is only triggered if there is “adequate and accessible” off street parking.

Based on the evidentiary record, the Board finds that there is more than adequate justification to reverse the County’s denial of the issuance of a reserved on-street parking space for Mr. Dobies.

ORDER

THEREFORE, IT IS THIS 9th day of February 2024, by the Board of Appeals of Baltimore County,

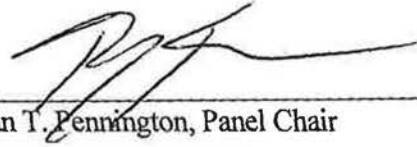
ORDERED that the decision of the Division of Traffic Engineering and the Bureau of Transportation dated June 28, 2023, in Case No. CBA-24-005 be and the same is hereby **REVERSED**; and it is further

ORDERED that the application of Bernard J. Dobies for a reserved on-street parking space at 3529 McShane Way, Dundalk, MD 21222, be and the same is hereby **GRANTED**.

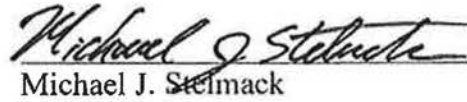
In the Matter of Bernard J. Dobies
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Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

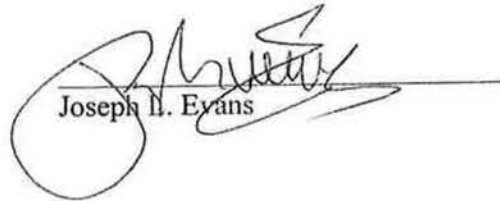
**BOARD OF APPEALS
OF BALTIMORE COUNTY**



Bryan T. Pennington, Panel Chair



Michael J. Stelmack



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Board of Appeals of Baltimore County

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February 9, 2024

Bernard J. Dobies
3529 McShane Way
Dundalk, Maryland 21222-5958


RE: *In the Matter of: Bernard J. Dobies*
Case No.: CBA-24-005

Dear Mr. Dobies:

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,


Krysundra "Sunny" Cannington
Legal Administrative Secretary

KLC/taz
Enclosure

- c. Michael Soriano, Manager/Investigative & Security Division/Motor Vehicle Administration
Joseph A. "Jay" Doyle, Project Manager/Housing and Community Development
Wesley Bohle, Traffic Inspection Supervisor/ Department of Public Works and Transportation
Kristoffer L. Nebre, Chief/Division of Traffic Engineering
Angelica Daniel, Chief/Traffic Engineering and Transportation Planning
D'Andrea L. Walker, Director/Department of Public Works
James R. Benjamin, Jr., County Attorney/Office of Law