

IN THE MATTER OF:
JAMES RAYMAN
299 NICHOLSON ROAD
ESSEX, MARYLAND 21221

RE: DENIAL OF RESERVED
HANDICAPPED PARKING SPACE

* BEFORE THE
* BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No.: CBA-24-021

* * * * *

OPINION

This case comes to the Board of Appeals (the “Board”) as the result of the denial of an application for reserved physical disabilities parking space at 299 Nicholson Road in Essex, Maryland 21221 (the “Property”), as set forth by letter dated December 4, 2023, by Kristoffer Nebre, Chief of the Baltimore County Division of Traffic Engineering to James Rayman.

The Board held a virtual public hearing on April 4, 2024, at 10:30 a.m. Baltimore County (the “County”) was represented by Wesley Bohle, Traffic Inspector Supervisor for the Baltimore County Division of Traffic Engineering. Mr. Rayman is a severely cognitively disabled individual. He was represented by his mother and caretaker, Heather Dahl.

Mr. Bohle testified that his office received an MVA Application for Personal Residential Permit for Reserved Parking Space (“Application”) for Mr. Rayman dated November 28, 2023. (County Exhibits 1A and 1B). Following receipt of the Application, an inspector visited and inspected the Property and took a photograph of the front and side of the Property. (County Exhibit 2B). The Property is a single-family home. County Exhibit 2B, and County Exhibit 2A which is an aerial picture of the home, show a private driveway at the side of the home with a paved walkway to the front door. There is a paved walkway from the street to the front door as

well. The walkway from the street to the door and from the driveway to the door appear to be approximately the same distance.

Ms. Dahl testified that she is the fulltime caretaker for her son, James, who is 34 years old. As indicated above, he has major cognitive disability. He also has significant physical disabilities. She and James moved into the Nicholson Road home about eleven months ago. She is not the owner, but it appears that she does have a relationship with the owner. She testified that she pays rent for James and herself. She has recently obtained some partial daycare outside of the home. She has some in-home assistance. Her employer is quite understanding and permits Ms. Dahl to work from home several days a week.

The County presented Exhibits 2C, 2D, and 2E which show a ramp running from the driveway to the front door. Ms. Dahl testified that the ramp had been installed by the homeowner when his mother had resided there. His mother has since passed away. The homeowner removed the ramp before Ms. Dahl and James moved in. Finally, Ms. Dahl testified that the homeowner maintains a couple of classic automobiles which he parks in the driveway at the spot where the walkway to the front door met the driveway. Accordingly, the driveway was not available to her for parking. It was for that reason that she had requested a designated on-street spot.

Mr. Bohle, on the basis of the State's verification of physical disability, did not contest Mr. Rayman's disability. However, Mr. Bohle testified that the Property has available off-street parking by reason of the side driveway with the walkway to the front door. Mr. Bohle cited Section 21-1005 of the Maryland Transportation Article¹ (Reservation of Parking Space for Person Confined to Wheelchair) (County Exhibit 3), and the Baltimore County Policy on

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."

Reserved Parking Spaces for Persons with Physical Disabilities (the “BC Policy”) (County Exhibit 4). The County concluded that Mr. Rayman did not meet the requirements to be issued a reserved parking space for a person with physical disabilities because the side driveway provided available and accessible off-street parking.² Mr. Bohle submitted into evidence the aforementioned letter from Kristoffer Nebre, on behalf of the County, denying Mr. Rayman’s request for a reserved off-street parking space. (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. Subsections (B) and (C) of Section 3 of the BC Policy state 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.

(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.

² The County did not offer into evidence the 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.” The Board obviously can refer to it because it is public legal authority applicable to this matter. It is not necessary that a copy of the COMAR regulation actually be placed into evidence. In point of fact, it is the regulation promulgated to support Md. Trans. Art., Section 21-1005. The County is required to follow State (and Federal) law in these matters.

When describing the Property, including reference to the photographs, Mr. Bohle testified that the driveway on the side of the property was 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), with 3(C) having applicability as well.

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 are outweighed by the hardship that would be placed on the applicant if the space were not approved.

As reflected by both Mr. Bohle’s and Ms. Dahl’s testimony, and as illustrated in County Exhibits 2A and 2B, the only restriction on the use of the driveway is the homeowner’s decision to park his classic vehicles in that spot. The homeowner is certainly free to park his vehicles on the driveway, but the Board views that decision as a preference within the meaning of BC Policy Section 3(C). The classic cars are “non-permanent objects” that do not make the driveway unavailable for use with Section 3(C). This case is different from the many cases where we have

found that while there is “available” off-street parking, that off-street parking is not “accessible” given the individual’s disability. Under Section 8(A), “all reasonable measures to make the off-street parking area usable and available” have not been taken³. (County Exhibit 4). The Board finds that Mr. Rayman has not met his evidentiary burden.

During the hearing, the possibility of constructing a ramp from the front door to the street was discussed. The County indicated that if such an improvement were made, the County would most likely designate an on-street handicap spot on the street where the ramp met the street. The Board views this as an option which Ms. Dahl should seriously explore with both the homeowner and the County.

Based on the evidentiary record in front of the Board, the Board affirms the decision of the Baltimore County Division of Traffic Engineering to deny the issuance of a reserved on-street parking space for Mr. Rayman.

ORDER

THEREFORE, IT IS THIS 24th day of April, 2024, by the Board of Appeals of Baltimore County,

ORDERED that the decision of the Division of Traffic Engineering dated December 4, 2023, in Case No. CBA-24-021 be, and the same hereby is, **AFFIRMED**; and it is further

ORDERED that the application of James Rayman for a reserved physical disabilities on-street parking space at 299 Nicholson Road, Essex, Maryland 21221, be and the same hereby is, **DENIED**.

³ The record is silent as to whether the homeowner owned any classic automobiles while his mother resided at the home and while there existed a ramp from the driveway to the front door.

In the Matter of James Rayman
Case No.: CBA-24-021

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**



Joseph L. Evans, Chair



Deborah C. Dopkin



William H. Paulshock, Sr.



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

April 24, 2024

Heather Dahl
fbo James Rayman
299 Nicholson Road
Essex, Maryland 21221-6653

RE: *In the Matter of: James Rayman*
Case No.: CBA-24-021

Dear Ms. Dahl:

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, appearing to read "Sunny Cannington".

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