Circuit Court for Anne Arundel County
Case No. C-02-CV-22-000646

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2043

September Term, 2022

EFFECT, INC.

v.

TOWN OF HIGHLAND BEACH BOARD OF APPEALS

Wells, C.J.
Tang,
Ausby, Kendra Y.
(Specially Assigned),

JJ.

Opinion by Tang, J.

Filed: February 14, 2024

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

The appellee Board of Appeals of the Town of Highland Beach denied the appellant Effect, Inc.'s request for variance relief from the setback requirements for an unimproved residential lot where it planned to build a house. Following this decision, the appellant petitioned for judicial review with the Circuit Court for Anne Arundel County, which affirmed the Board's decision. We also affirm the Board's decision for the reasons stated below.

HIGHLAND BEACH ZONING ORDINANCE

The Town of Highland Beach was incorporated in 1922 and is a historic town within Anne Arundel County and the Annapolis Neck Peninsula.[1] The Town is bordered on the north by Black Walnut Creek, on the east by the Chesapeake Bay, and on the south by Oyster Creek.

On October 19, 1990, the Town enacted the Highland Beach Zoning Ordinance ("HBZO") to preserve and protect the community's aesthetics and its rural and wooded nature. The ordinance specifies that, in the residential district, there must be a minimum lot area of 15,000 square feet for principal and accessory uses. HBZO § 5-1 (Table of Dimensional Requirements for Principal and Accessory Uses). If the lot area is less than

[1] In 1893, Major Charles Douglass (the son of abolitionist Frederick Douglass) and his wife Laura founded Highland Beach. This was the first summer resort area for prominent African Americans and became Maryland's first African American municipality. As of 2020, there were 77 homes in the Town, many of which are over 100 years old and still owned and occupied by descendants of the original settlers. *See* Historic Town of Highland Beach, *Comprehensive Plan 2020* at 4, 9–10 (2020), https://www.highlandbeachmd.org (Board of Commissioners Meeting, Agendas, Journals, Reports).

15,000 square feet, a building or other improvements can still be erected, provided they comply with the applicable minimum yard requirements and all other applicable provisions of the ordinance. HBZO § 5-3(b).

Relevant to this case, the ordinance requires a setback of at least 30 feet for the front yards and seven feet for the side yards. HBZO § 5-1. But on a corner lot, the street side yard must equal the required front yard for lots facing that street. HBZO § 5-10. This means that a house built on a corner lot in the residential zone must be at least 30 feet from the front and side corners facing the streets, as well as at least seven feet from the non-street boundary line.

The Board of Appeals has the power to authorize a variance from the terms of the ordinance, which "shall be sparingly exercised, and only under peculiar and exceptional circumstances." HBZO § 7-6(b). It has the power to vary or adapt the strict application of any of the requirements of the ordinance:

> in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical conditions, whereby such strict applications would result in practical difficulty and unnecessary hardship depriving the owner of the reasonable use of land or building involved but in no other case.

HBZO § 7-6(a). Our courts have conceptualized similar language in § 7-6(a) as a two-step process for granting a variance. *See Cromwell v. Ward*, 102 Md. App. 691, 694–95 (1995). The first step requires a finding that the property is unique (per the ordinance, "in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical

conditions"). The second step is to determine whether there is "unnecessary hardship."[2] *See id*. If the first step does not establish that the property is unique, the process ends, and the variance will be denied without considering unnecessary hardship. *See id*.

The ordinance also requires the appellant to show "that the variance will not be contrary to the public interest, and that practical difficulty and unnecessary hardship will result if it is not granted." HBZO § 7-6(c). "In particular, the appellant shall establish and substantiate his appeal to show that the appeal for the variance is in conformance" with five separate and interrelated requirements and standards:

> 1. That the granting of the variance is in harmony with the general purpose and intent of the Highland Beach Zoning Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
>
> 2. That the granting of the variance will not permit the establishment within a District of any use which is not permitted in that District.
>
> 3. There must be proof of unique circumstances: There are special circumstances or conditions fully described in the findings, applying to the land or buildings for which the variance is sought, which circumstances or conditions peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or building.
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> 4. There must be proof of unnecessary hardship: If the hardship is general, that is, shared generally by land or building in the neighborhood, relief shall be properly obtained only by legislative action or by court review of an attack on the validity of the Ordinance.
>
> 5. The granting of the variance is necessary for the reasonable use of the land or buildings, and that the variance granted by the Board is the minimum variance that will accomplish this purpose. It is not sufficient proof of hardship

[2] The ordinance uses the conjunctive, "practical difficulty *and* unnecessary hardship." Because hardship is the most severe standard, it is the one that applies regardless of the type of variance sought. *See Cromwell*, 102 Md. App. at 695 n.1.

> to show that greater profit would result if the variance were awarded. Furthermore, hardship complained of cannot be self-created; it cannot be claimed by one who purchases with or without knowledge of restrictions; it must result from the application of the Ordinance; and evidence of variance granted under similar circumstances shall not be considered.

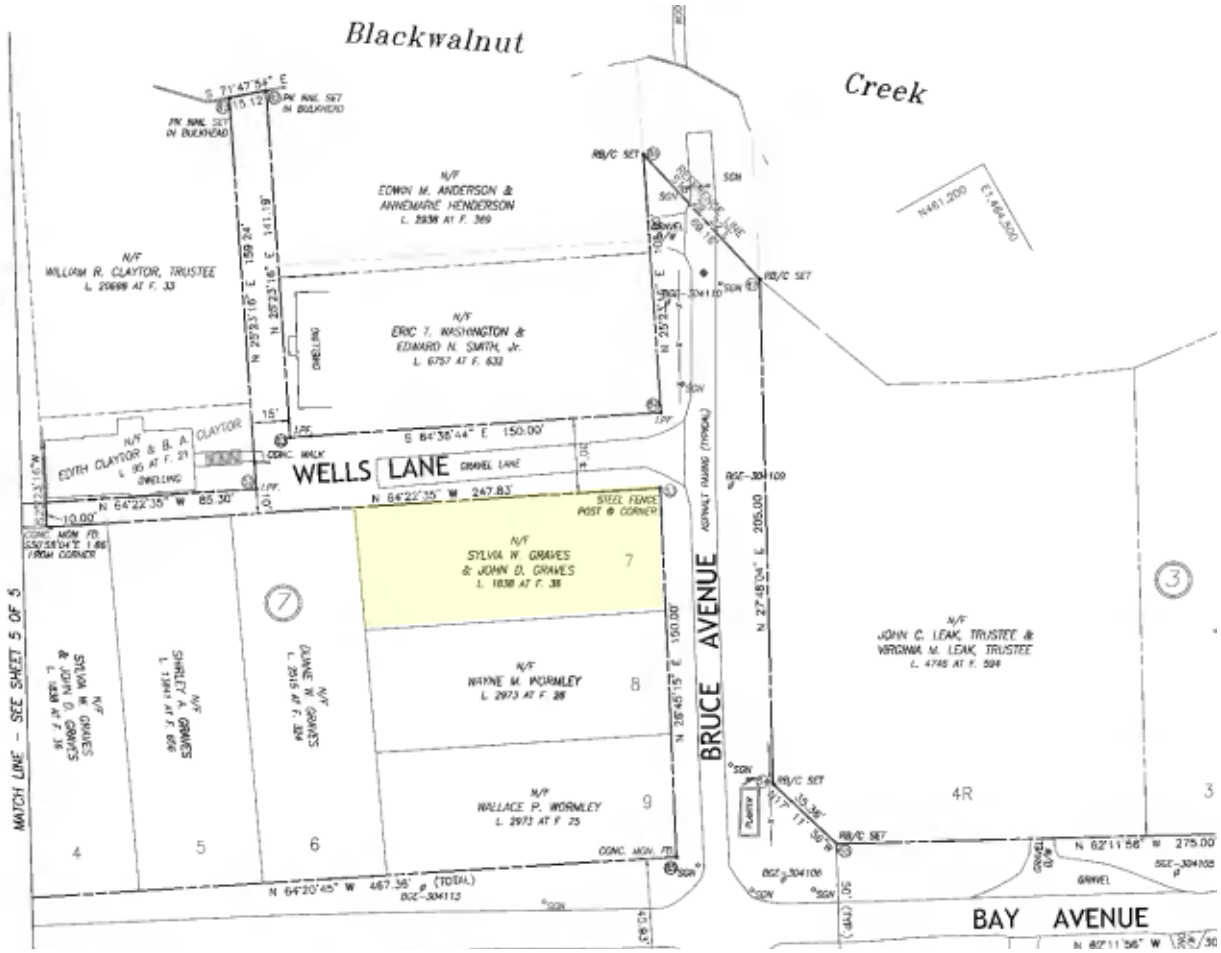
Id.

A variance will be granted only if all standards and requirements are met. HBZO § 7-6(c) ("No variance in the strict application of the provisions of this Ordinance shall be granted by the Board unless the Board finds that the requirements and standards are satisfied.").

APPELLANT'S VARIANCE REQUESTS

The appellant sought variance relief for the property at 3210 Bruce Avenue (the "Property"). The Property is an unimproved, 6,100 square-foot rectangular lot described as Lot 7, situated in the residential zoning district of the Town. It is at the corner of Bruce Avenue and Wells Lane,[3] near Black Walnut Creek. The lot measures 50 feet wide and faces Bruce Avenue on the front, while the right side of the lot runs along Wells Lane and measures 122 feet deep. The Property shares a property line with Lot 8 and is near Lot 9, which is also an unimproved corner lot. The Property is highlighted in the excerpt of the plat below:

[3] Chief Judge Wells, a member of this panel, does not own property in the Town of Highland Beach nor does he have any known connection to Wells Lane.



The appellant seeks to construct a three-story, single-family home on the Property (the "Proposed Structure"). The Proposed Structure is 20 feet wide, 62 feet long, and 35 feet high.[4] The front of the Proposed Structure, which is 20 feet wide, would face Bruce Avenue.

[4] On the ground level, the Proposed Structure includes a garage that can accommodate two cars parked end to end, a bathroom, closets, utility spaces, and a bonus room. On the second level, an open floor plan includes a kitchen, a breakfast bar, a pantry, a living and dining area, storage, a bathroom, and an additional bonus room. The third level includes an owner's suite with a bathroom and walk-in closet, as well as two children's rooms that share a bathroom. Additionally, there is a linen and laundry closet.

To fit a 20-foot-wide house on a 50-foot-wide lot, the appellant requests a 27-foot right-side setback from Wells Lane, which is a three-foot variance to the 30-foot setback requirement, and a three-foot setback from Lot 8, which is a four-foot variance to the seven-foot setback requirement. If the setbacks are strictly enforced, the appellant can only build a 13-foot-wide house, which it considers not "very functional" and "almost unusable."

BOARD HEARING

The appellant applied for a building permit and requested variances from the required setbacks from Wells Lane and Lot 8. But the Planning and Zoning Commission denied the request because the proposed construction did not meet the setback requirements. The appellant appealed the Commission's decision to the Board of Appeals and applied for variance relief there.

On March 16, 2022, the Board held a hearing on the appellant's variance requests. Witnesses in support of the requests were two principals of the appellant, Peter Chinloy and Garrett Adler, and the architect of the Proposed Structure, Adam Carballo. The Board admitted into the record the appellant's application, which included its statement in support of the variance, along with various attachments such as a record plat of the subdivision where the Property is located, property and proximity maps of the surrounding area, and a survey of neighboring properties. Several Town residents opposed the variance requests.

Uniqueness

The appellant identified certain factors that it asserted made the Property unique in its written statement to the Board. It claimed that the Property is on a corner abutting Wells

Lane, a "paper road" that is not an actual road.[5] The lot dimensions are narrow, and only a minority of lots in the Town and residential zone are corner lots, and of those, very few are corner lots created by what is a paper road. The Property suffers from unique circumstances because the strict application of the side yard setback requirement of 30 feet from Wells Lane would cause the maximum permitted width of the Proposed Structure to be 13 feet wide.

During the Board hearing, the appellant, through counsel, reiterated the factors that made the Property unique and underscored that Wells Lane did not exist in reality but only on paper:

> The reason that we're needing those very modest variance amounts is that [the Property] happens to be on what would be a "paper corner." [B]y "paper corner," I mean that it sits on Wells Lane, which is not a street in actuality but a street on paper and on the survey[.]
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> * * *
>
> Here we've got a unique situation in that there is a corner lot that is relatively small and therefore is impacted greatly by two 30-foot setback requirements and you're got on top of that a corner lot that's next to not an actual set of public roads but a paper road and . . . a real public road. [T]hat's a pretty unique circumstance even within this neighborhood.

The appellant elicited testimony from its witnesses that Wells Lane is not an actual road. Wells Lane does not provide a through-route between Bruce Avenue and Walnut

[5] A "paper road" or "paper street" is one which appears only on a plat, map or other paper, the dedication of which has never been accepted for public use, prepared for use, or actually used as a street. *See Orfanos Contractors, Inc. v. Schaefer*, 85 Md. App. 123, 125 n.2 (1990); 64 C.J.S. *Municipal Corporations* § 1738 (2023) (A "paper street" "is a street listed on publicly recorded documents but not opened by the municipality nor used by the public, i.e., it has no existence except on paper, and is therefore referred to as a paper street. A paper street is shown on a plan but not built on the ground." (footnotes omitted)).

Avenue because it ends mid-block at a house. Mr. Carballo explained that because Wells Lane does not lead anywhere, one would not expect members of the public to use it. Whether Wells Lane is considered a public road or not, a setback aims to separate public and private areas. According to Mr. Carballo, there is no real purpose to requiring a 30-foot setback along Wells Lane since it serves more as a driveway than as an actual public road. He did not think that Wells Lane should not be treated as a road for zoning ordinances and setbacks.

Residents of the neighborhood disputed the appellant's portrayal of Wells Lane. Don Graves Sr., whose family had owned the Property for almost 130 years, testified that, besides providing access to two houses, Wells Lane also provides access to Black Walnut Creek through the right-of-way at the end of the lane. Mr. Graves Sr.'s son corroborated that Wells Lane is used by a number of property owners for egress from the properties onto Wells Lane to get to public spaces. Karla Lewis, who has a personal connection with Wells Lane, objected to describing the lane as a "paper lane" because it is, in fact, a road.

Harmony with General Purpose and Intent of Ordinance/Impact on Neighborhood

The appellant stated in its written statement that the Proposed Structure was consistent in scale and character with other dwellings in the surrounding community. The granting of the variance would allow the Proposed Structure to enjoy side yard setbacks like those found throughout the Town and properties on Wells Lane and next to it. It highlighted that four properties on or near Wells Lane were "in direct violation of setback requirements": 1300 Wells Lane, 1306 Wells Lane, property on Wells Lane identified by tax account no. 2411-0253-4700, and 3202 Bruce Avenue.

At the hearing, the appellant's witnesses (Mr. Chinloy and Mr. Carballo) testified that it had chosen to construct a house that was 20 feet wide to maintain consistency with the neighborhood. In its view, a 13-foot-wide house would not be in keeping with the neighborhood since other houses are wider. For instance, a house on a corner lot across from the Property at 3202 Bruce Avenue has a more than 20-foot-wide structure.

Regarding setbacks, the house at 3202 Bruce Avenue is positioned less than 30 feet from Wells Lane. Houses built on other corner lots at the intersections of Bay and Walnut, Douglass and Langston, Chesapeake and Walnut, and Henson and Bay Highlands are not 30 feet from the streets. Other surrounding neighborhoods and the City of Annapolis have different side setback requirements for corner lots than the Town ordinance. In those neighborhoods, the side corner setback requirement is less than the front setback, which differs from the Town ordinance requirements.

Town residents responded by pointing out that the houses used as comparators were over a century old and, therefore, were not subject to the setback requirements of the ordinance passed in 1990. Additionally, the reference to setback requirements in other jurisdictions was irrelevant because the Property is in the Town that enacted specific setback requirements for good reason.

The residents testified about the importance of preserving the Town's open nature. Mr. Graves Sr. explained:

> The whole purpose for the enactment of the change in the zoning code was to try and preserve and protect the . . . aesthetics of the community. That's been—the entire region that all the lots that are part of this Block 6, which my family owns, has been to try and preserve and protect the more rural and wooded nature of the community. [W]e've begun losing so much of the open

> nature of this[,] what had been a historic community Highland Beach, the first African American community in the state of Maryland.

Janice Hunter, who had been visiting the beach for 75 years, expressed concern that the "crowding of houses together is a real problem for the property values in the community and our relationship down here with nature" near the Chesapeake Bay and Black Walnut Creek. She agreed with Mr. Graves Sr. that the "crowding at Highland Beach had been one of the things we have fought against for 100 years. And this presents a problem for many of us."

Other witnesses opposed the variances for similar reasons. Denise Wardlaw opposed the variances "for the reasons that have been described so far[.]" Mr. Graves Sr.'s son was "very much aligned" with comments made by his father. In a written statement, Diane Johnson opposed the variance requests, explaining that "[t]hese requirements serve a good purpose to maintain uniformity throughout our wonderful Highland Beach community."

BOARD DECISION

After the hearing, the Board denied the variance requests in a unanimous vote. One of the Board members expressed his opinion that the Proposed Structure "is injurious to the community and, in fact, increases the nonconformity in the community without question that is something that we, in this particular community, have been fighting to protect." Another member agreed with this view. A third member supported the decision, citing the "intent" of the ordinance established 30 years ago.

The Board issued a written decision on March 27, 2022, affirming the Commission's decision and denying the requested variance relief. It noted that before the hearing, the Board reviewed the appellant's statement and other filed documents and visited the Property and other properties highlighted by the appellant.

The Board summarized the applicable ordinance provisions and made these findings of fact:

> 1. Lot 7, Block 7, is depicted on the Subdivision of Imogene Wormley Property Highland Beach recorded in 1946 at Plat No 802, Book No. 19 Folio 31 Speed 22. As shown on that plat, Lot 7 is 50 feet wide and 123.53 feet deep. It is a single lot of approximately 6,100 square feet. Similarly, Lot 8, and Lot 9, are 50 feet wide and 121.41 feet decreasing to 117.16 feet deep, with lot areas of 6,000 square feet to 5,900 square feet respectively, each of these lots have less than the minimum lot area required by the Highland Beach Zoning Ordinance. Though each of these lots are less than the required 15,000 square feet required by the Dimensional Requirements they are "grandfathered" as buildable for residential purposes provided that each said lot **complies with the applicable minimum yard requirement and all other applicable provisions of this Ordinance.** [Pursuant to Section 5-3(b) – the Highland Beach Zoning Ordinance]
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> 2. As noted above, similar conditions pertain to Lot 8 and to Lot 9 and to several other lots within the Town of Highland Beach. Accordingly, there is nothing unique about Lot 7, as this condition is fairly common within the Town.
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> 3. The Appellant presented 1300 Wells Lane, 1306 Wells Lane, 3202 Bruce Avenue, and another Wells Lane single-family residence (Tax Account No. 2411-0253-4700) as not being in strict compliance with the front yard, side yard, and other setback requirements of the Highland Beach Zoning Ordinance. The Appellant fails to realize that these and other such structures were originally built over the course of the past 125-year history of Highland Beach prior to the current Zoning Ordinance. In some cases such structures are grandfathered on long existing foundations and that the latest versions of the Zoning Ordinance were put into place to promote and preserve a sense of openness that is unique to this historic community of Highland Beach. To approve the Appellant's requested variance would be injurious to the neighborhood and thus, would not be in harmony with the

general purpose and intent of the current Zoning Ordinance. Further, evidence of similar circumstances of prior existing situations where setbacks are contrary to the current Zoning Ordinance requirements will not be considered by this Board.

4. The Appellant also presented other properties that are not within the boundary of Highland Beach. The Appellant presentation included homes that are in the neighboring communities of Venice Beach and Bay Highlands. Again, the Board shall not consider these as relevant to this matter which pertains to a Lot within the incorporated limits of the Town of Highland Beach.

5. The Appellant on numerous occasions erroneously referred to Wells Lane as being a "paper road" implying that setback requirements should be relaxed as there is no need for a division between private and public usage of land. The parties to this proceeding and others should recognize that Wells Lane is a PUBLIC Street of the Town of Highland Beach. It is paved, maintained, plowed, and used by the town's residence to access among other places Black Walnut Creek.

6. It is noted by the Board that without the requested variances the setback requirements' impact on the [Property/Lot 7] would allow for the construction of only a 13-foot-wide home. The Appellant points out that a majority of homes within Highland Beach are wider than 20 feet, the Board notes that a 13-foot-wide home is still buildable. While such a home would be "economically, physically, and practically unappealing" in the view of Appellant, a 13-foot-wide home still provides for a reasonable use of the land and will not create an unnecessary hardship.

Based on the factual findings, the Board concluded that:

1. There is no unique circumstance or condition that apply to Lot 7, Block 7 which do not apply to other properties within the Town of Highland Beach.

2. The hardship complained of by the Appellant is not peculiar to this particular property.

3. The requested variances are not necessary for the reasonable use of Lot 7, Block 7.

4. The proposed home utilizing the requested variance would not be in harmony with the general purpose and intent of the current Zoning

> Ordinance for Highland Beach and would be injurious to the neighborhood and detrimental to the public welfare of residents and the Town of Highland Beach.

The appellant filed a petition for judicial review with the circuit court. On October 17, 2022, a hearing was held, and on January 10, 2023, the circuit court issued a memorandum opinion and order that affirmed the Board's decision.

QUESTIONS PRESENTED

The appellant presents the following questions, which we quote:

> 1. Whether the Board and the Circuit Court erred as a matter of law when determining that the Property is not uniquely affected by the HBZO and that [the appellant] did not suffer an unnecessary hardship by finding that a 13-foot-wide home is a reasonable use of the Property instead of considering whether [the appellant's] proposed 20-foot-wide home was a reasonable use of the Property?
>
> 2. Whether the Board and the Circuit Court erred as a matter of fact by finding that the evidence presented demonstrated that the 20' wide [h]ouse constituted reasonable use of the Property and by failing to adequately articulate its findings of fact on the same?

Although the appellant condenses the issues into two main questions, we understand from the arguments outlined in its brief that the appellant challenges the Board's findings on the two prongs under HBZO § 7-6(a) and the five interrelated requirements under HBZO § 7-6(c).

The threshold issue is whether the Board's determination of non-uniqueness was based on a correct application of the law and supported by substantial evidence. We hold that the Board's determination of non-uniqueness was free from legal error and supported by substantial evidence. As our holding on non-uniqueness is conclusive in denying the variance requests, we need not address the other issues.

STANDARD OF REVIEW

When we review the final decision of an administrative agency, such as the Board of Appeals, we look through the circuit court's decision. *Assateague Coastal Tr., Inc. v. Schwalbach*, 448 Md. 112, 124 (2016) (citation omitted). The Supreme Court of Maryland explained the process of judicial review applicable to zoning matters:

> In judicial review of zoning matters, including special exceptions and variances, "the correct test to be applied is whether the issue before the administrative body is 'fairly debatable,' that is, whether its determination is based upon evidence from which reasonable persons could come to different conclusions." For its conclusion to be fairly debatable, the administrative agency overseeing the variance decision must have "substantial evidence" on the record supporting its decision.

White v. North, 356 Md. 31, 44 (1999) (internal citations omitted).

"Substantial evidence is defined as 'such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.'" *Mueller v. People's Couns. for Baltimore Cnty.*, 177 Md. App. 43, 83 (2007) (citations omitted). Under this standard, a reviewing court "may not substitute its judgment for the administrative agency's in matters where purely discretionary decisions are involved, particularly when the matter in dispute involves areas within that agency's particular realm of expertise[.]" *Id.* at 82–83. We affirm an agency's decision if there is substantial evidence in the record as a whole to support the agency's findings and conclusions. *Schwalbach*, 448 Md. at 124. "An agency's decision is to be reviewed in the light most favorable to it and is presumed to be valid." *Id*. But we do not defer to the agency on the applicable legal standards. *Id*.

DISCUSSION

The appellant challenges the Board's determination that the Property was not unique. It argues that (i) the Board misapplied the law in assessing uniqueness, and (ii) the finding that the Property was not unique was unsupported by substantial evidence.

i. The Board's Determination That the Property Was Not Unique Was Free from Legal Error.

"The uniqueness analysis examines the unusual characteristics of a specific property in relation to the other properties in the area, and the nexus between those unusual characteristics and the application of the aspect of the zoning law from which relief is sought." *Dan's Mountain Wind Force, LLC v. Allegany Cnty. Bd. of Zoning Appeals*, 236 Md. App. 483, 494 (2018). In other words, the uniqueness analysis first requires an examination of the property's unusual characteristics relative to other properties in the area. *Id.* at 494.

> Uniqueness of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, *i.e.*, its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.

North v. St. Mary's County, 99 Md. App. 502, 514 (1994) (cleaned up). Then, the nexus component examines "whether the property is unique in the way that this particular aspect of the zoning code applies to it." *Dan's Mountain*, 236 Md. App. at 496. Stated differently, are there features of the property that cause the setback requirements to affect the applicant's property differently from the way it affects other surrounding properties? *See id*. at 498.

As we explained in *Dan's Mountain*, the "purpose of the uniqueness or unusual element of the variance test is to determine whether the zoning law's effect on a property is particularized to that given property." *Id*. at 494. "[I]f the allegedly restrictive effect of the zoning law is not unusual, and a characteristic is shared by many properties, the problem ought to be addressed by legislation, not variances:"

> The claimed hardship may be caused by general neighborhood conditions that cause the property to be unusable as zoned. If that is the basis of the owner's claim, it is unlikely that only the owner's parcel will be affected; in fact it is likely that many other parcels in the neighborhood will be affected. ... In theory, then, an owner's appropriate remedy in cases where the hardship is not unique is to seek a rezoning.

Id. at 494–95 (quoting 3 Arden H. Rathkopf et al., *Rathkopf's The Law of Zoning and Planning* § 58:11 (4th ed. 2017)). "A property that is affected uniquely may be entitled to relief through a variance, while a property owner experiencing a more common problem must seek a legislative remedy." *Dan's Mountain*, 236 Md. App. at 495. That is why the governing law requires "an investigation, first, of the unusual features of the property for which the variance is sought [and then a] look at surrounding properties to see if they share those same unusual features." *Id*. at 497.

The appellant argues that the Board failed to consider several factors when determining whether the Property is unique. It should have assessed factors such as exceptional narrowness, shallowness, unusual shape of specific property, or other extraordinary situations or conditions, together, which affect the Property. The appellant contends that the Board erred by only considering the lot dimensions in relation to Lots 8 and 9. Additionally, it contends that the Property can still be considered unique or unusual

even if it suffers from the same conditions as two other lots (Lots 8 and 9) when viewed in the context of the entire neighborhood. Based on these arguments, the appellant maintains that the Board misapplied the legal standard for the uniqueness requirement. We disagree.

The appellant was responsible for providing the Board with what it needed to conduct its uniqueness analysis. *See Dan's Mountain*, 236 Md. App. at 499 (It is the applicant's "burden to provide the Board with the evidence it needs to accomplish its duties."). *Dan's Mountain* states that the Board must "look at each of the factors *identified by an applicant* as making the property unique, and determine whether *those factors, together*, affect each property." *Id*. at 493 (emphasis added); *see also id*. at 498 (first, "the Board must determine whether the unusual factors *identified by the applicant*, are, in fact, features of that particular property[.]" (emphasis added)). Here, the appellant identified the Property's narrow dimensions and location at the corner abutting Wells Lane, which it claimed was a paper road, as the factors that made the Property unique.

The Board assessed the factors identified by the appellant. It found that Wells Lane was, in fact, a public road, and the argument that it was a paper road was rejected. It found that the dimensions of neighboring rectangular parcels, including Lot 9 (another corner lot), were similar to the Property. The Board did not just compare the Property's conditions to Lots 8 and 9; it also compared these conditions to other lots in the Town. It found that "similar conditions" pertain to "several other lots" in the Town, making "this condition. . . fairly common within the Town." After considering the factors identified by the appellant, the Board concluded that there were no unique circumstances that do not apply to "other properties" in the Town. The Board did as *Dan's Mountain* required—it assessed the

conditions identified by the appellant as making the Property unique and looked at the surrounding properties to see if they share those same features. *See id.* at 497. The Board did not misapply the law on uniqueness.

ii. The Board's Determination That the Property Was Not Unique Was Supported by Substantial Evidence.

The appellant challenges the Board's factual finding that the Property is not unique. It argues that no substantial evidence in the record supports this finding. Additionally, the appellant asserts that the Board did not articulate any basis for finding that the Property is not unique. Again, we disagree.

Indeed, the findings of facts by the Board "must be meaningful and cannot simply repeat statutory criteria, broad conclusory statements, or boilerplate resolutions." *Bucktail, LLC v. Talbot Cnty.*, 352 Md. 530, 553 (1999) (citations omitted). "At a minimum, one must be able to discern from the record the facts found, the law applied, and the relationship between the two." *Mehrling v. Nationwide Ins. Co.*, 371 Md. 40, 65 (2002). As recounted above, the Board's written decision made various findings of fact about factors identified by the appellant as making the Property unique. We are satisfied that the Board articulated its reasons for finding non-uniqueness, and its explanation was not merely a recitation of the broad conclusory statements or boilerplate resolutions.

The Board's finding that the Property is not unique was supported by substantial evidence in the record. The record included a plat of the subdivision where the Property is located, property and proximity maps of the surrounding area, and a survey of neighboring properties. The appellant's witnesses and written statement established the dimensions of

the Property, while the attachments to the statement provided details about the Property's location relative to other lots in the Town, intersecting streets, and general dimensions of other lots.

As for Wells Lane being a paper road, there was testimony indicating that Wells Lane is indeed a road that people have been using to access houses and Black Walnut Creek. The record shows that the Board considered and discussed the evidence presented by the appellant but ultimately rejected it. *See E. Outdoor Advert. Co. v. Mayor and City Council of Baltimore*, 146 Md. App. 283, 301 (2002) ("[T]he tasks of drawing inferences from the evidence and resolving conflicts in the evidence are exclusively the function of the agency."). Because the Board's determination was "fairly debatable" and substantial evidence supported the Board's finding that the Property is not unique, we affirm the Board's decision to deny the variance requests.[6]

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.

[6] Even if the Board erred in deciding the two prongs under HBZO § 7-6(a), we would still affirm the Board's denial of the variance. This is because there was substantial evidence to support its finding under HBZO § 7-6(c)(1) that granting the variance would not be in harmony with the general purpose and intent of the ordinance and would be injurious to the neighborhood. The appellant claims that the Board did not articulate how it reached that conclusion, but we can discern from the record that the findings were based on the testimony of Mr. Graves Sr. and other residents. *See Mehrling*, 371 Md. at 65.

We also disagree with the appellant's contention that the Board ignored evidence indicating that a 20-foot-wide home would be in harmony with neighboring properties and the ordinance's intent. In its third fact-finding, the Board addressed and expressly rejected the evidence concerning the comparator properties.