

Circuit Court for Harford County
Case No. C-12-CV-22-000673

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 489

September Term, 2023

IN THE MATTER OF JOHN ALLEN

Nazarian,
Reed,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 5, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

On May 4, 2022, the Harford County Board of Appeals, in a *de novo* review of a Zoning Hearing Examiner’s decision, denied the appellant, John Allen’s, request for a variance to permit him to store a commercial vehicle and equipment at his residential property located at 3909 Love Court, Edgewood, Maryland (hereinafter “the Property”). Appellant filed a petition for judicial review with the Circuit Court for Harford County, which affirmed the Board of Appeals’ decision. This timely appeal followed. On appeal, appellant essentially contends that the Board erred in denying his request for a variance because he believes his neighbors are using the zoning laws to selectively “harass” and “intimidate” him to force him to “move away from [his] home[.]” For the reasons that follow, we shall affirm the judgment.

The Property is a single-family residence located on an approximately 10,000 square feet lot within a subdivision in an R2 zoning district. Commercial vehicle and equipment storage is prohibited in R2 districts by the Harford County Zoning Code. Appellant, who is employed as a truck driver, parks his two commercial semi-truck cabs at his residence. In addition to parking the vehicles, he occasionally performs minor maintenance on them at the Property. Following complaints from his neighbors, the Harford County Zoning Enforcement Office issued appellant a notice of violation. In turn, appellant sought a variance to allow him to continue to park the vehicles on his property. Following a hearing, the Zoning Hearing Examiner issued a decision recommending that the variance request be denied because appellant had failed to demonstrate that his property was unique from other properties in the area. That recommendation was adopted by the Board of Appeals. And the Board’s decision was affirmed by the circuit court on judicial review.

When reviewing an administrative agency’s decision, this Court “look[s] through the circuit court’s . . . decision[], although applying the same standards of review, and evaluate[s] the decision of the agency.” *Clarksville Residents Against Mortuary Def. Fund, Inc. v. Donaldson Props.*, 453 Md. 516, 532 (2017) (quotation marks and citation omitted). Our role is generally limited “to determining if there is substantial evidence in the record as a whole to support the agency’s findings and conclusions, and to determin[ing] if the administrative decision is premised upon an erroneous conclusion of law.” *Montgomery Cnty. v. Butler*, 417 Md. 271, 283 (2010) (alteration in original) (quotation marks and citation omitted).

“The general rule is that the authority to grant a variance should be exercised sparingly and only under exceptional circumstances.” *Trinity Assembly of God of Balt. City, Inc. v. People’s Counsel for Balt. Cnty.*, 407 Md. 53, 79 (2008) (quotation marks and citation omitted). Those petitioning for variance relief must first demonstrate the property is unique, that it “ha[s] an inherent characteristic not shared by other properties in the area.” *Id.* at 81 (quotation marks and citation omitted). If this finding cannot be made, the process stops, and the variance must be denied. *Cromwell v. Ward*, 102 Md. App. 691, 694-95 (1995). The analysis of whether a property is unique requires, as an initial matter, an examination of the property’s unusual characteristics relative to other properties in the area, then an analysis of the “nexus” between the unusual characteristics and the application of the zoning law. *Dan’s Mountain Wind Force, LLC v. Allegany Cnty.*, 236 Md. App. 483, 494 (2018). The unusual characteristic(s) must be “related to the land.” *Id.* at 496 (quotation marks and citation omitted). In other words, the property’s uniqueness

must be “inherent” in the property itself. *North v. St. Mary’s Cnty.*, 99 Md. App. 502, 514 (1994).

We have reviewed the record, and at no point during the proceedings did appellant provide any evidence, or make any claim, that the Property was unique relative to other properties in the area. In fact, he testified before the Zoning Hearing Examiner that the Property is “basically the same” as the other properties in his residential neighborhood. Moreover, appellant does not raise any argument on appeal about the uniqueness of the Property. Rather, he asserts that the variance should have been granted because other residents in his neighborhood have parked commercial vehicles at their home, yet certain neighbors who do not like him have selectively filed complaints against him in an attempt to “harass” and “intimidate” him. He also notes that his job as a truck driver is vital to the economy and asserts that having to move his trucks will make it more difficult for him to maintain his employment. But, even if we assume appellant’s claims to be true, that is not sufficient under the law to justify the granting of variance relief. In short, in the absence of any evidence that appellant’s property was inherently unique, the Board was required to deny his variance request.

**JUDGMENT OF THE CIRCUIT
COURT FOR HARFORD COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**