UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2009

September Term, 2015

SUSAN B. HAZEN, et al.,

v.

ANNE ARUNDEL COUNTY, MARYLAND, et al.

Meredith,
Kehoe,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Meredith, J.

Filed: November 21, 2016

This appeal arises out of a dispute concerning two contiguous residential lots owned by appellee Crystal Creek Properties, LLC ("Crystal Creek"), adjacent to a lot owned by Susan Hazen and her son Joshua Hazen, appellants ("the Hazens"). At issue is whether the two lots owned by Crystal Creek merged by operation of law, pursuant to Anne Arundel County Code (2005), Article 18, § 18-4-203(b), because a dwelling that once existed on one of Crystal Creek's lots is alleged by the Hazens to have been located "upon or across" the common boundary separating the second lot owned by Crystal Creek. The Anne Arundel County Board of Appeals concluded that Crystal Creek's lots had not merged by operation of law. The Hazens petitioned for judicial review, and the Circuit Court for Anne Arundel County upheld the Board's conclusion. This appeal followed.

QUESTION PRESENTED

The Hazens present one question for our review:

> Did the Board of Appeals correctly interpret and apply County Code, § 18-4-203, to the facts adduced before it concerning the location of the principal use on Lot 14 relative to the boundary line with Lot 13?

We answer "Yes" and affirm the judgment of the Circuit Court for Anne Arundel County.

FACTUAL & PROCEDURAL BACKGROUND

The facts surrounding this appeal are largely undisputed. Crystal Creek owns two contiguous lots, Lot 13 and Lot 14, at 984 Hillendale Drive in Block L-M of the Cape St. Claire subdivision in Anne Arundel County. This part of the subdivision was approved by the County in 1949. Lots 13 and 14 are located in the "Critical Area" which limits

development activity in and around the Chesapeake Bay.[1] Prior to the summer of 2014, a single-family residence built in 1955 existed on Lot 14. That residence has since been demolished by Crystal Creek. No residence or other principal use structure has ever been built on Lot 13.

From 1950 to 1967, Lots 13 and 14 were under separate ownership. In 1967, the lots came under common ownership. In July 2012, Crystal Creek's immediate predecessor in title applied to the Anne Arundel County Department of Inspections and Permits for a permit to demolish the residence on Lot 14, with the intent of building a new house on that lot. After the application was circulated to various agencies, the County Office of Planning and Zoning gave its approval for the permit in August 2012. As part of its review of the application, the Office of Planning and Zoning determined that Lots 13 and 14 had not merged by operation of law pursuant to the County's antiquated-lot law, Anne Arundel County Code (2005), Article 18, § 18-4-203(b). Section 18-4-203(b) states:

---

[1] The Court of Appeals has described the general background concerning the "Critical Area" as follows:

> The General Assembly enacted the Critical Area Law in 1984. Md.Code (1973, 2012 Repl.Vol.), § 8-1801 of the Natural Resources Article ("NR"). Based on findings concerning the importance, fragility, and documented decline in the state of the Chesapeake Bay and its tributaries, the General Assembly "establish[ed] a Resource Protection Program for the Chesapeake and the Atlantic Coastal Bays and their tributaries by fostering more sensitive development activity for certain shoreline areas so as to minimize damage to water quality and natural habitats[.]" NR § 8–1801(a), (b)(1).

Chesapeake Bay Found., Inc. v. DCW Dutchship Island, LLC, 439 Md. 588, 612 (2014) (alterations in original).

> **(b) Merger by operation of law.** Contiguous lots under the same ownership that are separated by a boundary line upon or across which a principal use is located on or after September 25, 2003, merge by operation of law on that date, and the Office of Planning and Zoning thereafter shall require the owner of the merged lots to execute and record a lot merger agreement as a condition precedent to receiving a permit for demolition, development, grading, or construction activity.

For reasons not contained in the record, Crystal Creek's predecessor in title did not follow through on the application for a demolition permit, and the application became inactive at some point after August 2012, but remained open and pending.

Crystal Creek acquired Lots 13 and 14 in the summer of 2014. After acquiring the lots, Crystal Creek requested that the previous application to demolish the residence on Lot 14 be reactivated. The Hazens, owners of Lot 12, which is adjacent to Lots 13 and 14, subsequently wrote to the County Planning and Zoning Office, urging that Lots 13 and 14 had merged by operation of law pursuant to County Code § 18-4-203(b). But the Department of Inspections and Permits issued a demolition permit to Crystal Creek on August 11, 2014, implementing the previous determination of the Planning and Zoning Office that Lots 13 and 14 had not merged under County Code § 18-4-203(b). On August 14, 2014, an officer at the Planning and Zoning Office wrote a letter to the Hazens, advising that the Office's approval of the demolition permit, and its determination that Lots 13 and 14 had not merged, would remain unaltered.

The Hazens appealed to the Anne Arundel County Board of Appeals, challenging the Planning and Zoning Office's determination that Lots 13 and 14 had not merged, as well as the Department of Inspections and Permits's issuance of the demolition permit to

Crystal Creek. *See* Anne Arundel County Board of Appeals Case Nos. BA 44-14A and BA 45-14A. These appeals were scheduled for a hearing to be conducted on February 24 and 25, 2015.

Later in 2014, Crystal Creek applied for grading and building permits for the construction of a new house solely on Lot 14, which were issued by the Department of Inspections and Permits on January 13, 2015. The Hazens also appealed the issuance of these permits to the Board of Appeals, again arguing that Lots 13 and 14 had merged pursuant to § 18-4-203(b). *See* Anne Arundel County Board of Appeals Case Nos. BA 1-15A and BA 2-15A.

Before a hearing by the Board of Appeals could take place, Crystal Creek demolished the house on Lot 14. But the demolition of the residence on Lot 14 did not render the lot merger issue moot. Because Lots 13 and 14 are located in an area of Anne Arundel County designated as the "Critical Area," and are part of a subdivision approved in 1949, the lots were ineligible for "unmerger" pursuant to Anne Arundel County Code (2005), Article 18, § 18-4-203(d). Unmerger is not permitted for lots situated in the Critical Area that are part of a subdivision approved prior to August 1988. Consequently, if Lots 13 and 14 *had* merged by operation of law, that merger could not later be undone, Anne Arundel County Code (2005), Article 18, § 18-4-203(c), and Crystal Creek would be limited to making only one principal use of the merged lots. Under those circumstances, if the current owner built a residence on Lot 14, no additional residence could later be built on Lot 13.

A hearing consolidating all of the Hazens' pending appeals concerning Lots 13 and 14 was held before the Board of Appeals on January 28 and February 10, 2015. The Board of Appeals accepted Melvin Mitchell, a licensed property line surveyor with 26 years of experience, as an expert witness in the field of property line surveying. Mitchell explained that he had been hired by the owner of Lots 13 and 14 to determine whether the old residential structure was located "upon or across" the common boundary line separating the lots. He performed his field work before the residence on Lot 14 was demolished. Mitchell described to the Board the methods he used to locate the boundary line dividing Lots 13 and 14, and the location of the residence on Lot 14 in relation to that boundary line. Mitchell testified that he had utilized surveying equipment capable of determining location to within plus or minus one one-hundredth of a foot, or approximately 1/8th of an inch. Using this equipment, and surveyors' markers located on the property in the form of iron pipes, Mitchell determined that the front corner of the house on Lot 14 came to within "three-quarters of an inch," or six one-hundredths of a foot, of the boundary line with Lot 13. Mitchell also determined that the rear corner of the house came to within "[o]ne one-hundredth of a foot" (approximately 1/8th of an inch) of the common boundary line. Mitchell acknowledged that the margin of error of his surveying equipment was one-one hundredth of a foot. Mitchell testified that, in his professional opinion, no part of the house located on Lot 14 was upon or across the common boundary line between Lots 13 and 14.

Anne Arundel County presented testimony from Rob Konowal, a planner who worked in the Office of Planning and Zoning, who was involved in the review of the merger

issue for Lots 13 and 14. Konowal testified that the Office of Planning and Zoning had accepted Mitchell's findings when reviewing Crystal Creek's permit applications, despite the fact that some of the measurements provided by Mitchell were within the margin of error of his equipment. Konowal further stated that the County generally accepts the findings and determinations of surveyors without consideration of the margin of error, because the surveyors are the experts on the issue of surveying.

The Hazens presented their own expert in land surveying and title abstraction, John Dowling, who testified regarding the location of the house on Lot 14 in relation to the boundary with Lot 13. Dowling was not retained by the Hazens to conduct a survey of the lots until after the house of Lot 14 had been demolished. As a result, Dowling was unable to survey Lot 14 while the house was still standing. But Dowling used a topographical map of the site, made by the County Department of Public Works, to conduct his survey of the lots. Topographical maps are derived from aerial photography and show the relative locations of natural features and physical objects on property, including houses. The map utilized by Dowling had lot lines superimposed upon an aerial photograph of Lots 13 and 14.

In order to confirm the accuracy of lot lines shown in the County's map, Dowling also conducted on-site surveying using existing monuments on the lots in order to prepare an updated version of the map. To do this, Dowling stated that he had surveyed on the ground at the location of the house on Lot 12, using this location as a reference point for the location of the demolished house on Lot 14. During his field work, Dowling had been

unable to locate all of the iron pipe surveyors' markers on Lots 13 and 14 which Mitchell said he had been able to locate during Mitchell's surveying field work. Dowling prepared his own updated topographical map, and concluded that the house on Lot 14 extended across the boundary line with Lot 13 by .4 feet at the front and .5 feet at the back of the house. Dowling further testified on cross examination that he believed his conclusion was accurate "within a half a foot." When asked if his drawing "could be off by half a foot," he conceded that "[i]t could be."

The Board of Appeals issued its memorandum of opinion on February 19, 2015, and concluded that, because the house was not "upon or across" the common boundary, no lot merger had occurred by operation of law pursuant to County Code § 18-4-203(b). The Board of Appeals explained:

> Both [Crystal Creek] and [the Hazens] presented evidence and testimony to support their competing positions that the residence was not or was upon or across the property line. Mr. Mitchell, [Crystal Creek's] expert land surveyor, testified in detail regarding his field run survey of the property while the house was extant. Mr. Mitchell concluded that the residence was within 1/8th of an inch from, but did not encroach upon, the property line. Mr. Dowling, [the Hazens'] expert, testified regarding his methodology for determining the location of the property lines and the residence. Mr. Dowling indicated that he had used topographical maps provided by the County's Department of Public Works to determine the location of the dwellings. He concluded that the dwelling encroached across the common property line by approximately six inches. Both surveyors agreed that it was not possible to sight a direct line of the shared lot line from the front property line marker to the rear line marker due to difficult site conditions on both lots.
>
> We considered the relative merit of the testimony and evidence and determined that Mr. Mitchell's testimony was more reliable. Mr. Mitchell had the advantage of conducting a field run survey when the dwelling existed. Mr. Dowling had to rely on County overlay maps to determine the location of the dwelling and was not able to perform a field survey of the

> house since it had been removed prior to his analysis. Additionally, Mr. Dowling conceded that his analysis could be inaccurate by six inches and was unclear regarding the accuracy of the maps utilized. Mr. Konowal, a planner for the OPZ, indicated that the maps used by Mr. Dowling were not used by the County for the purpose of locating structures to the degree of accuracy required here. Therefore, we adopt the testimony of Mr. Mitchell and conclude that the residence was within 1/8th of an inch from the common property line between lots 13 and 14, but was not "upon or across" it. No lot merger occurred. The grading permit shall be issued.

Following the ruling of the Board of Appeals, the Hazens filed a petition for judicial review in the Circuit Court for Anne Arundel County pursuant to Maryland Code (1984, 2014 Repl.Vol.), State Government Article, § 10-222. The Hazens argued that the Board of Appeals erred in its application of County Code § 18-4-203(b) by failing to take into account the margin of error inherent in the land surveying instruments used by Mitchell when he conducted his survey. The Hazens contended that Mitchell acknowledged the possibility that the structure was on the boundary line, and the Board erred by failing to consider that concession. The Hazens urged the court to rule that the Board's failure to do so was inconsistent with the "overall statutory scheme," and contradicted the purpose of § 18-4-203(b), namely, to restrict development and protect the environment. The Hazens argued that Crystal Creek had failed to satisfy its burden of proving that the residence on Lot 14 was not "upon or across" the common property line, and that the Board's decision was made in a "laissez fair" manner, without sufficient evidence. The Hazens also challenged the Board's acceptance of Mitchell as an expert witness and the Board's reliance upon his findings. The Hazens alleged that Mitchell's determination that the building was not "upon or across" the property line constituted mere speculation by

Mitchell, and that the Board's acceptance of Mitchell's decision did not rise to the level of "specialized administrative knowledge" in applying § 18-4-203(b).

Anne Arundel County responded that the decision of the Board of Appeals was supported by "substantial evidence," and therefore, should be affirmed. The County asserted that the Board's decision to accept the expert testimony of Mitchell, instead of that of Dowling, was within the prerogative of the Board.

The circuit court held a hearing on September 21, 2015. On October, 13, 2015, the circuit court issued its memorandum opinion and order affirming the conclusion of the Board of Appeals. The circuit court explained that the "Board heard competing testimony and accepted evidence from both parties regarding the survey of the boundary lines, the location of the demolished residence, and the borders of the properties at issue," and the "choice of accepting the findings of one expert witness over another was clearly within the discretion of the Board." The circuit court concluded that "a reasoning mind could have reached the factual conclusion reached by the Board," and therefore, "[t]he Board's finding is supported by substantial evidence contained in the record, including expert testimony from a land surveyor [Mitchell] with twenty-six (26) years of experience."

The Hazens' timely appeal followed.

STANDARD OF REVIEW

The Court of Appeals has summarized the standard of review that we apply when reviewing the decision of an agency, such as the Anne Arundel County Board of Appeals:

> When reviewing the decision of a local zoning body, such as the Board [of Appeals], we evaluate directly the agency decision, and, in so

> doing, we apply the same standards of review as the circuit court[. . . .]" *Trinity Assembly of God of Balt. City, Inc. v. People's Counsel for Balt. County*, 407 Md. 53, 77, 962 A.2d 404, 418 (2008). **Our role is "limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions**, and to determine if the administrative decision is premised upon an erroneous conclusion of law." *United Parcel Serv. v. People's Counsel for Balt. County*, 336 Md. 569, 577, 650 A.2d 226, 230 (1994). **"In applying the substantial evidence test, we have emphasized that a 'court should [not] substitute its judgment for the expertise of those persons who constitute the administrative agency from which the appeal is taken.'"** *Bulluck v. Pelham Wood Apartments*, 283 Md. 505, 513, 390 A.2d 1119, 1124 (1978) (citation and emphasis omitted). **Our obligation is "to 'review the agency's decision in the light most favorable to the agency,' since their decisions are *prima facie* correct and carry with them the presumption of validity."** *Catonsville Nursing Home, Inc. v. Loveman*, 349 Md. 560, 569, 709 A.2d 749, 753 (1998) (citation omitted).
>
> "Even with regard to some legal issues, a degree of deference should often be accorded the position of the administrative agency. Thus, an administrative agency's interpretation and application of the statute which the agency administers should ordinarily be given considerable weight by reviewing courts." *Bd. of Physician Quality Assurance v. Banks*, 354 Md. 59, 69, 729 A.2d 376, 381 (1999). We are under no constraint, however, "to affirm an agency decision premised solely upon an erroneous conclusion of law." *Ins. Comm'r v. Engelman*, 345 Md. 402, 411, 692 A.2d 474, 479 (1997).

Grasslands Plantation, Inc. v. Frizz-King Enterprises, LLC, 410 Md. 191, 203–04 (2009) (emphasis added) (third alteration in original).

Furthermore, in determining whether the findings and conclusion of the Board of Appeals were supported by substantial evidence, "we inquire whether the zoning body's determination was supported by 'such evidence as a reasonable mind might accept as adequate to support a conclusion. . . .'" *People's Counsel for Baltimore Cty. v. Surina*, 400 Md. 662, 681 (2007) (quoting *Mayor of Annapolis v. Annapolis Waterfront Co.*, 284 Md.

383, 398 (1979)). We will uphold the conclusion of the Board of Appeals "if that action was 'fairly debatable' on the facts as found by it." *Id*. at 682. The conclusion of the Board of Appeals "must be upheld on review if it is not premised upon an error of law and if the agency's conclusions reasonably may be based upon the facts proven." *Ad + Soil, Inc. v. County Comm'rs of Queen Anne's County*, 307 Md. 307, 338 (1986) (internal quotation omitted). As the Court of Appeals has succinctly summarized, "[t]he test is reasonableness, not rightness." *Alviani v. Dixon*, 365 Md. 95, 108 (2001).

The parties appear to disagree regarding the standard of review we should apply to this appeal. The Hazens contend that the Board erred as a matter of law by improperly interpreting § 18-4-203. The Hazens present this argument as follows:

> An attempt to apply the key language of § 18-4-203, "upon or across the line", to the facts adduced to the Board by Mr. Mitchell's testimony, i.e. where the structure on Lot 14 was measured to be so close to the line as to be within the margin of error of the measuring instrument, raises a question unresolved by any plain meaning of the statutory language.

According to the Hazens, because Mitchell acknowledged that the distance between the house's location and the common boundary was within the margin of error for Mitchell's measuring instruments, the Board of Appeals utilized an incorrect interpretation of § 18-4-203 to conclude that the house previously located on Lot 14 did not extend into Lot 13. The Hazens assert that any house located within the margin of error of a surveyor's measuring instruments should, as a matter of law, be deemed to be located "upon or across" a boundary line. Were the Hazens correct, and the issue in this appeal resolved solely by

statutory interpretation, we would review the conclusion of the Board of Appeals with less deference to the Board's interpretation of § 18-4-203(b).

But we do not agree with the Hazen's argument that the issue before us is one of statutory interpretation, subject to a non-deferential standard of review. Despite the Hazens' efforts to characterize the decision of the Board of Appeals as one dependent upon statutory interpretation, this appeal turns upon the Board's weighing of conflicting testimony, and the Board's finding that Crystal Creek's expert was more persuasive than the Hazens' expert.

The Board did not engage in any statutory interpretation regarding the "upon or across" language of § 18-4-203(b) in determining whether the dwelling on Lot 14 extended into Lot 13, nor should they have. As the Court of Appeals has stated, "[i]f the language of the statute is unambiguous and clearly consistent with the statute's apparent purpose, our inquiry as to the legislative intent ends ordinarily and we apply the statute as written without resort to other rules of construction." *State v. Johnson*, 415 Md. 413, 421–22 (2010) (internal quotation omitted). The language "upon or across" is unambiguous. The mere fact that structures may be very close to a boundary line does not render "upon or across" ambiguous, as the Hazens contend. Nor does the fact that Lots 13 and 14 were located within the Critical Area require that § 18-4-203(b) be interpreted in a manner other than this plain meaning of the words of the ordinance. Therefore, our review is "limited to determining if there is substantial evidence in the record as a whole to support the agency's

findings and conclusions[.]" *United Parcel Serv. v. People's Counsel for Balt. County*, 336 Md. 569, 577 (1994).

DISCUSSION

In its findings and conclusions, the Board stated that it considered "the relative merit of the testimony and evidence" of the Hazen's expert (Dowling), and Crystal Creek's expert (Mitchell). The Board found "that Mr. Mitchell's testimony was more reliable." It was within the Board's discretion to make this finding.

Mitchell testified that he has been licensed as a property line surveyor for 26 years. He explained that the owner of Lots 13 and 14 initially hired him to determine the location of the existing house, and he produced a "location drawing and showed the house not over the [boundary] line" between Lots 13 and 14. Mitchell said that, later, the owner "came back and said, are you sure, are you exactly sure where the house is? We need to know exactly." He told the owner: "['I]f you need to know exactly, then I've got to do a little more work to determine exactly where it is.[']" Mitchell testified: "So then we went back and did more precise work to determine the property line, determine the house [location] and then I produced another survey that showed the house where it is."

Mitchell then confirmed that, based upon his additional surveying work, the house was not upon or across the boundary line. The transcript reflects the following:

> Q [By Counsel for Crystal Creek]: So Mr. Mitchell, is it your testimony as a registered professional land surveyor that no part of the princip[al] structure on Lot 14 that then existed when you were out there with your multiple surveys extended on or over the lot line between Lot 13 and 14; is that correct?

A [By Mitchell]: Correct

Q: Mr. Mitchell, I just want you to be very clear, in your professional opinion based on what you observed in your survey, you took two separate surveys and one adding onto the second survey to be very careful, very precise in your measurements, did you observe any part of the house, even though it came very close to the lot line, that extended -- was either on -- on the lot line or over the lot line? Was any part of the house on the lot line or over the lot line?

A: No.

On cross-examination, Mitchell re-confirmed that, based upon his measurements, no part of the house was upon or across the line. The transcript included the following:

Q [By Counsel for the Hazens]: Okay. So your testimony is that at the front [of the house], based on your measurements, the then existing house on Lot 14 was 3/4 of an inch off the line between Lot 13 and Lot 14. And in the back, what was it?

A [By Mitchell]: One hundredth.

Q: One hundredth of a?

A: Inch -- foot.

Q: Of a foot?

A: One hundredth of a foot.

Q: And how much in inches is one one-hundredth of a foot?

* * *

A: One-hundredth of a foot is about an eighth of an inch. . . .

Q: Eight[h] of an inch. So you were able to determine to a degree of accuracy within fractions of an inch that, and only within fractions of an inch, that the house was not located on the property line, is that your testimony?

A: Yes.

* * *

Q: Okay. And even for an instrument as modern as that, is there not some sort of tolerance for the results of measurements taken with that instrument?

A: I'm not sure what it is for that instrument but, I mean, every day we do things within [a] hundredth. I mean, we have to.

Q: Hundredth of a foot?

A: Hundredths of a foot, correct. We lay out buildings and bridges and, I mean, we do all kinds of surveying.

Q: Okay. So --

A: It's not uncommon.

Q: -- with the modern equipment you use one-hundredth of a foot is the accepted tolerance?

A: Well, when you get things that close, yes.

* * *

Q: You said the instrumentation you used is accurate to a tolerance of a hundredth of a foot. Using that --

A: I said we can do things to a hundredth. We survey within a hundredth of a foot, yes.

Q: Yes. Using that instrument you prepared your 2013 drawing and indicated on that drawing that the back corner of the house was a hundredth of a foot off the property line?

A: Correct.

Q: That's within the tolerance of plus or minus a hundredth of a foot, is that not correct?

A: Correct.

Q: So, in fact, the house could be on the property line; could it not?

A: Not based on my survey, it's not, but –

Q: Based on that tolerance? If your survey showed that it was a hundredth of a foot off the property line and the tolerance of the instrumentation you were using was a hundredth of a foot, then is it not true that it's very possible that the house could be on the property line?

A: Yes.

But, upon further questioning by counsel for the County, Mitchell again testified that he concluded the house was not upon or across the boundary line:

Q [By Counsel for the County]: And the survey as [Counsel for the Hazens] has been asking you, it indicates that the house on the front corner is six hundredths of a foot from the property line and on the back corner, one hundredth of a foot from the property line. Is that what your survey showed?

A [By Mitchell]: Yes.

Q: And, I mean, is it your opinion based on your personal knowledge of this survey as well as your 26 years of experience in surveying, that the house on Lot 14 is located entirely on Lot 14?

A: Yes.

Q: And is it your testimony that the house is not on or across the property line for Lot 13?

A: Correct.

On redirect examination, Mitchell was asked yet again whether the building crossed the boundary line, and again, he testified that it did not:

Q [By Counsel for Crystal Creek]: But it remains your professional opinion based on your work with this state-of-the-art instrument, that the building did not cross the property line; is that your testimony?

A [By Mitchell]: Yes, sir.

The Board of Appeals supported its decision to find that Mitchell was more persuasive than Dowling with numerous facts contained in the record before it. The Board noted that "Mr. Mitchell had the advantage of conducting a field run survey [at a point in time] when the dwelling existed." On the other hand, "Mr. Dowling had to rely on County overlay maps to determine the location of the dwelling and was not able to perform a field survey of the house since it had been removed prior to his analysis." Furthermore, the Board found that "Mr. Dowling conceded that his analysis could be inaccurate by six inches and was unclear regarding the accuracy of the maps utilized." The Board also considered the testimony of Rob Konowal, a planner at the Office of Zoning and Planning, who testified that "the maps used by Mr. Dowling were not used by the County for the purpose of locating structures to the degree of accuracy as required here." After weighing the conflicting expert testimony, the Board concluded that the "residence [previously located on Lot 14] was within 1/8th of an inch from the common property line between lots 13 and 14, but was not 'upon or across' it. No lot merger occurred." We perceive no reversible error in that finding and ruling. Therefore, we affirm the judgment of the Circuit Court for Anne Arundel County.

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