



ZONING BOARD OF APPEALS

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ZBA 2019-24
Petition of Susan & Derek Weycker
14 Avon Road

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, February 7, 2019, at 7:30 p.m. in the Juliani Meeting Room, 525 Washington Street, Wellesley, on the petition of Susan & Derek Weycker requesting a Variance pursuant to the provisions of Section XIX and Section XXIV of the Zoning Bylaw to install two air conditioning condensers with less than required right side yard setbacks, at 14 Avon Road, on an 8,000 square foot lot in a Single Residence District in which the minimum lot size is 10,000 square feet and a Water Supply Protection District.

On January 7, 2019, the Petitioner filed a request for a hearing before this Authority, and thereafter, due notice of the hearing was given by mailing and publication.

WITHDRAWN WITHOUT PREJUDICE

Presenting the case at the hearing were Susan Weycker, the Petitioner, and Tim Burke, Architect.

Mr. Burke said that the Board previously granted approval for a small addition on the side of the house. He said that as they got into construction, they realized that the original location chosen for the ac units would not work. He said that the request is for approval to locate two condensers beyond the side of the porch. He said that they looked at all of the alternatives and found that there are not many options, given this particular property. He said that they spoke with the immediate abutters on the side where the condensers would be located and they gave a letter of support stating that they would not have a problem with this proposal.

Mr. Seegel asked if there is a patio at the back. Mr. Burke said that the site drops off steeply. He said that there is a set of stone stairs that lead down to the patio.

Mr. Seegel questioned why the condensers could not be put next to the house. Mr. Burke said that there would not be enough air clearance there for the units to function properly. He said that it is a small area where they could possibly fit one but not two units. Ms. Weycker said that it goes on an angle. She said that it is not square but is more of a crescent shape. She said that an ac unit would be hanging by the edge.

Mr. Seegel said that a topographical map was not submitted. Mr. Becker said that you can see the retaining wall and stairs on Plan A1.0 that gives you some sense of the difference in elevation.

Mr. Becker said that, what looks like the photograph of a nameplate on an ac unit was submitted. He said that Trane XR 11 has been discontinued. He confirmed that it is an existing unit. Ms. Weycker said that

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they would like to move the unit two feet forward. Mr. Burke said that it is currently located where the new addition will go.

Mr. Seegel asked if it would be possible to slide the units under the top landing. Mr. Burke said that was what they had originally hope to do but the installer said that there would not be enough air circulation and the units would burn out. Mr. Seegel asked if a solution would be to purchase new units that would function under the landing. Mr. Burke said that it is the same principle for ac units and the amount of air flow that is required.

Mr. Redgate confirmed that the condensers will be located in the patio area. Mr. Burke said that furniture there will help to screen the units. Mr. Becker said that the narrative talked about a privacy fence around the condensers but he did not see anything on the plan that he could identify as a privacy screen. Mr. Burke said that they can install a privacy screen that aligns with the top of the stair and returns back to the building.

Mr. Redgate confirmed that the previous approval was for a special permit and the current request is for a variance.

Mr. Becker said that the Board is always challenged by the way the bylaw is written. He said that topography, soil condition and shape of the lot does not work well with mechanical equipment.

Mr. Seegel said that the proposed plan does not show the wall or stairs. Mr. Burke said that they are show on Plan A1.0. He said that the surveyor did not put them on the plot plan.

Mr. Becker read an excerpt from Section XXIV of the Zoning Bylaw regarding Variances. He said that the Board struggles with applying the bylaw to air conditioners because they are not really structures, so things like shape and soil conditions do not generally impact them the same way that an addition would be impacted. Mr. Seegel said that another part of the State Law is that the hardship has not been self-created. He questioned whether the Board has the power to grant this, under the circumstances. Mr. Becker said that the Petitioner selected that particular location and that is the reason that they need the variance. He said that there was a similar case on River Ridge Road on a tiny lot where there was no place on the lot where they could put an ac condenser that was not in the setback. He said that was a case where the hardship was not self-created.

Mr. Seegel said that the house maxes out the setbacks. He asked if it would be possible to put the ac units under the deck at the front of the house. He questioned whether this property qualifies for a variance. Mr. Burke said that the plan was to put the condensers under the deck but they were told that they cannot do that.

Mr. Redgate asked about the proximity to the interior HVAC system. Ms. Weycker said that the ac units were located there when they first moved in. She said that they thought that they could go under the porch. She said that they went to Needham Mechanical and someone came out to the property, looked at it and said that there would not be enough circulation if the units were put under the decks, even though the areas are deep because of the topography. She said that they were told that the units would burn out if they were in an enclosed area.

Ms. Weycker said that there is insufficient setback on the other side of the house and it is on the driveway side. Mr. Redgate asked about moving the units towards the rear behind the new addition. Mr. Burke said that is where the stone stairs are. Mr. Becker said that, when looking at the plot plan, the logical place would be behind the new addition.

Ms. Weycker said that the back yard drops. She said that there are stone retaining walls. Mr. Redgate said that there may be topography issues from the stairs to the back wall of the residence.

Ms. Weycker said that even if they got smaller ac units, they would still not meet the setback requirements.

Mr. Seegel discussed allowing the Petition to be withdrawn without prejudice. He said that the Petitioner could come back with a survey that shows two foot contours on the property to show that the topography makes it impossible to put the ac condensers anywhere else.

Mr. Redgate said that even lot shape implies a funky shape, this is an extra small lot at 8,000 square feet, which eliminates options. Mr. Seegel said that the lot is only 80 feet wide.

Mr. Becker asked if there was anyone present at the public hearing who wished to speak to the petition.

Mr. Becker read the Planning Board recommendation.

Mr. Burke asked that the Board allow the petition to be withdrawn without prejudice.

Mr. Seegel moved, Mr. Redgate seconded the motion, and the Board voted unanimously to allow the petition to be withdrawn without prejudice.

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