

FINDINGS AND DECISION

OF THE HEARING EXAMINER FOR THE CITY OF SEATTLE

In the Matter of the Appeal of

CASCADE AIR CONDITIONING, INC.

FILE NO. MUP-81-099(V)
APPLICATION NO. 81272-0364

from a decision of the Director of
the Department of Construction and
Land Use on a master use permit
application

Introduction

The applicant appealed the denial of a variance request to legalize a heat pump installed in the required side yard of an existing single family residence located at 8515-27th Avenue N.E. .

The appellant exercised the right to appeal pursuant to the Master Use Permit Ordinance, Chapter 24.84, Seattle Municipal Code.

Parties to the proceedings were: appellants by Bob Whiteside, Cascade Air Conditioning, Inc. and Dr. Gregory G. John, property owner; Director of the Department of Construction and Land Use (DCLU) by Kermit Robinson, environmental specialist.

For purposes of this decision, all section number refer to the Seattle Municipal Code, Title 24 (Ordinance 86300, as amended) unless otherwise indicated.

This matter was heard before the Hearing Examiner on January 18, 1982.

After due consideration of the evidence elicited during the public hearing, the following shall constitute the findings of fact, conclusions and decision of the Hearing Examiner on this appeal.

Findings of Fact

1. The subject property is located in a Single Family Residence High Density (RS 5000) zone at 8515-27th Avenue N.E. The 60 ft. by 139.58 ft. area lot is predominantly level but slopes west in the rear half of the lot.

2. The site is developed with a single family house that provides a 21 ft. front yard to the garage (41 ft. to the dwelling's living area); a rear yard of 56 ft.; a south side yard of 10 ft.; and a north side yard of 5 ft.

3. The project applicant installed a heat pump fan coil unit on a supported platform at the north side of the house, leaving a 2 ft. side yard setback. The heat pump and platform are located approximately 10 ft. above ground and approximately 4 ft. above the fence on the north lot line.

4. The north side yard adjoins the rear yard of the house located at 2627 N.E. 86th Street. This neighboring property has a deck located in the rear yard which, prior to the installation of the subject heat pump, was nonfunctional. In addition to the fence, these two adjacent properties are separated by some vegetation including a developed cedar tree "in the line of sight" of the heat pump fan coil unit.

5. Submitted into the record was a letter from the renter of the north adjacent dwelling stating that the heat pump makes objectionable, annoying noises audible in the kitchen, dining room and living areas on the side of the house near the pump; making any socializing on the deck in the summer "impossible". Other letters were received in support of the application.

6. The heat pump has three major components, the fan coil unit; the compressor section located in the garage's northwest corner; and the indoor heat pump section which is located in the basement of the dwelling. And, applicant testified that alternate locations had been explored for the placement of the fan coil unit. For example, its location on the south side of the garage would have placed the unit directly at the front entry of the residence. This option was ruled out because the coil unit would detract from the beauty of the extensively landscaped front entry. The location in the 10 ft. (south) side yard would have placed the unit below the bedroom windows of the south adjacent residence; similarly, location of the unit along the western exterior of the dwelling would affect the sleeping quarters of the southern and western neighbors, as well as those of the subject property owner. Also, the manufacturer specifications limit the refrigerant tubing between components to 50 ft., a distance "barely" met by the current placement of the components.

7. According to applicant's representative, the subject heat pump is the quietest of its kind. It does yield a noise level reading of approximately 64 decibels at the property line.


Conclusion

1. The decision of the Director is affirmed. The variance criteria are not met, Section 24.74.030. While the location of the subject dwelling on the lot and its relationship to the adjacent dwellings have been considered, these items are not real property conditions which, in the absence of variance relief, deprive the property owner of comparable development rights and privileges. And, particularly with respect to the rear yard, it does not appear that placement of the heat pump unit there would deny the applicant comparable development. It is acknowledged that the sleeping areas of the west adjacent neighbor is near the common lot line; however, there is a rear yard setback of 56 ft. When compared to the current 2 ft. setback proposed by the present location, an alternate location would present as less materially detrimental to the public welfare. The unit specifications are particular to the unit, and are not real property conditions to be considered supporting variance relief.

Decision

The decision of the Director of the Department of Construction and Land Use is AFFIRMED.

Entered this 26th day of January, 1982.


Leroy McCullough
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

The decision of the Hearing Examiner in this case is the final administrative determination by the City. Any further appeal must be filed with the Superior Court within 14 days of the date of this decision. Vance v. Seattle, 18 Wn.App. 418 (1977); JCR 73 (1981). Should an appeal be filed, instructions for preparation of a verbatim transcript are available at the Office of Hearing Examiner. The appellant must initially bear the cost of the transcript but will be reimbursed by the City if the appellant is successful in court.