

Burden of Proof Special Exception Application

133 Kentucky Avenue SE

To: **The Office of Zoning**
Government of the District of Columbia
Suite 210 South
441 4th Street, NW
Washington DC 20001

From: **Jennifer Fowler**
Agent/Applicant
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Date: October 13, 2021

Subject: **BZA Application, Drager Addition**
133 Kentucky Ave SE (Square 1014, Lot 0025)

Phillip and Kjersten Drager, owners of 133 Kentucky Ave SE, hereby apply for a special exception pursuant to 11 DCMR Subtitle X, Chapter 9, to enclose the first-floor screened porch under an existing second floor addition in the RF-1 zone. The zoning relief requested is as follows:

Application of Phillip and Kjersten Drager, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, and from the rear yard setback requirements of Subtitle E § 205.4, to construct a one-story rear addition to an existing attached principal dwelling unit in the RF-1 Zone at premises 133 Kentucky Avenue S.E. (Square 1014, Lot 0025).

Relief requested:

1. *Subtitle E § 304.1, lot occupancy*
2. *Subtitle E § 205.4, rear setback*

I. Summary:

This special exception qualifies under ZR-16 Subtitle D, Chapter 5201 and Subtitle X, Chapter 9, because the rear addition will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property.

The existing property has a lot occupancy of 1144.8 SF (67.7%), which will not change with the enclosure of the first floor porch. The proposed lot occupancy will remain below the 70% maximum allowed by a special exception for a row house in the RF-1 zoning district (Subtitle E § 304.1).

The existing porch/addition extends 15'-1" beyond the neighboring rear wall at 135 Kentucky Ave SE. Therefore, the proposed rear addition will extend beyond the 10' maximum allowed by-right (Subtitle E § 205.4).

II. Qualification of Special Exception

5201 Special Exception Review Standards

By satisfying the requirements of E-5201.4 through E-5201.6, the application also meets the general special exception requirements of X-901.2.

5201.4 An application for special exception relief under this section shall demonstrate that the proposed addition, new building, or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, specifically:

(a) *The light and air available to neighboring properties shall not be unduly affected;*

131 Kentucky Ave SE

131 Kentucky Ave SE lies to the north of the existing porch/addition at 133 Kentucky Ave SE. The existing rear addition at 133 Kentucky Ave SE extends 10' past the rear wall at 131 Kentucky Ave SE but is separated from 131 Kentucky Ave by the 9'-0" wide shared dogleg. The footprint of the addition will not change, it will just be enclosed on the first floor. Therefore, the proposed porch enclosure at 133 Kentucky Ave SE will not impact the light and air available to 131 Kentucky Ave SE.

135 Kentucky Ave SE

135 Kentucky Ave SE lies to the south of the existing porch/addition at 133 Kentucky Ave SE. The existing rear addition at 133 Kentucky Ave SE extends 15'-1" past the rear wall at 135 Kentucky Ave SE and 10'-1" past the existing two story covered porch at 135 Kentucky. The footprint of the addition will not change, it will just be enclosed on the first floor. Enclosing the first floor will have a minor impact on the light air available to 135 Kentucky Ave since the first floor wall along the property line will be solid, but the impact will be limited to the existing covered porch and rear yard.

Neighbors to the West

The houses to the west of the proposed project at 133 Kentucky Ave SE front onto 12th Street SE. They are separated from 133 Kentucky Ave SE by a 10' wide public alley, garages, and rear yards. The proposed rear yard at 133 Kentucky Ave will maintain the same depth. The separation from the existing rear addition at 133 Kentucky Ave provided by both the public alley, the existing garages, and the existing rear yards reduces the impact on the light and air available to the neighbors to the west. The proposed porch enclosure will not impact the properties to the west.

(b) *The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;*

131 Kentucky Ave SE

The proposed project at 133 Kentucky Ave SE will enclose the existing first floor screened porch below the existing second floor addition. The existing addition extends 10'-0" past the rear of 131 Kentucky Ave and will not be enlarged. The new north wall will have windows on the first floor but will not change the views already allowed by the existing screened porch. Additionally, the existing rear addition at 133 Kentucky Ave is separated from 131 Kentucky Ave by the 9'-0" wide shared dogleg. This separation will help mitigate any views allowed by the new windows. The proposed porch enclosure at 133 Kentucky Ave will have a minor impact on the privacy of use and enjoyment of the rear yard at 131 Kentucky Ave. However, this impact already exists due to the existing screened porch and second floor addition.

135 Kentucky Ave SE

The proposed project at 132 Kentucky Ave SE will enclose the existing first floor screened porch below the existing second floor addition. The new south wall will not have any windows, thus providing more privacy for the existing covered porch and rear yard at 135 Kentucky Ave. Therefore, the proposed project at 133 Kentucky Ave SE will have no impact on the privacy of use and enjoyment for 135 Kentucky Ave SE.

Neighbors to the West

The houses to the west of the proposed project at 133 Kentucky Ave SE front onto 12th Street SE. They are separated from 133 Kentucky Ave SE by a 10' wide public alley, garages, and rear yards. The proposed rear yard at 133 Kentucky Ave will maintain the same depth. The separation from the existing rear addition at 133 Kentucky Ave provided by both the public alley, the existing garages, and the existing rear yards reduces the impact on the privacy to the neighbors to the west. The proposed porch enclosure will not impact the properties to the west.

- (c) *The proposed addition or accessory structure, together with the original building, or the proposed new building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the street and alley frontage; and*

The proposed first floor porch enclosure will be on the rear of the house below the existing second floor addition. The existing square is extremely dense. There exist houses of varying widths and depths and many properties have garages along the alley. The proposed porch enclosure will extend beyond the existing neighbors but will not extend the existing footprint and will not be visible from the public street. The proposed enclosure will be constructed with high quality materials and will be appropriate in scale for the existing houses on the alley.

- (d) *In demonstrating compliance with paragraphs (a), (b) and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways*

206.3 Roof Top or Upper Floor Elements

Any new building, or alteration or addition to an existing building, including a roof structure or penthouse (the "proposed construction") at the time of application, shall not significantly interfere with the operation of a solar energy system on an abutting property, unless agreed to by the owner of the solar energy system, subject to the following:

- (e) *All applications for the proposed construction, whether for a building permit or for zoning relief, must include one of the following:*
- (1) *An affidavit by the applicant stating that there is no solar energy system on an abutting property;*

Both 131 Kentucky Avenue SE and 135 Kentucky Avenue SE have solar arrays on their uppermost rooftops.
 - (2) *A comparative solar shading study that meets the minimum standard established by the Zoning Administrator for the purpose of determining the increased annual incident solar shading by percent; or*

Applicant/Agent attests that the proposed addition is on the first floor only with no adjacent rooftops. The new addition is positioned beneath an existing second floor structure. The solar arrays are both approximately 10-15' higher than the top of the addition.

(3) A written agreement executed by the owner of the impacted solar energy system accepting the interference with the solar energy system.

Not Applicable

901 Special Exception Review Standards

901.2 The Board of Zoning Adjustment is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2), to grant special exceptions, as provided in this title, where, in the judgement of the Board of Zoning Adjustment, the special exceptions:

a. *Will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps;*

The rear addition will not be visible from the public way. Additionally, the proposed addition will be constructed with high quality materials and will be appropriate in scale for the existing houses.

b. *Will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps;*

As described more fully above, the addition will minimally impact the light and air or privacy of the neighboring properties.

902 Application Requirements

An application for a special exception shall meet the requirements of Subtitle Y § 300.

Along with this application, we have included the following items:

- a) Photos of the existing house and surroundings;
- b) Plan and elevation drawings of proposed addition, including a site plan showing the relationship of the proposed addition to adjacent buildings.
- c) Official Plat from the DC Office of the Surveyor.

If you require any further clarification or have any questions regarding the application, we are available at any time to discuss them with you.

Thank you,



Jennifer Fowler
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