

**Burden of Proof**  
**Special Exception Application**

**135 Kentucky Ave SE**

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

**From:** Jeffery and Jill Miller  
Owner/Applicant  
135 Kentucky Ave SE  
Washington, DC 20003

**Date:** October, 10 2022

**Subject:** BZA Application, Miller Addition  
135 Kentucky Ave SE (Square 1014, Lot 26)

Jeffery and Jill Miller, owners and residents of 135 Kentucky Ave SE, hereby apply for a special exception pursuant to Subtitle X, Chapter 9, to build a rear addition onto their existing row house as well as a second story to their existing garage. The aspect of the proposed project that falls outside the current zoning regulation is as follows:

*Relief Requested; Subtitle E § 304.1, lot occupancy*

The existing wood deck will be demolished and a new two story addition will be constructed. The existing house has a lot occupancy of 988 SF (57.2%), which will increase to 1181 SF (68.4%) with the proposed rear addition. 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).

**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.

**II. Qualification of Special Exception**

5201 Special Exception Review Standards

By satisfying the requirements of E-5201.1, E-5201.4 and E-5201.5, the application also meets the general special exception requirements of X-901.2.

5201.4 An applicant for special exception under this section shall demonstrate that the addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

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

### **133 Kentucky Ave SE**

133 Kentucky Ave SE lies to the northwest of the proposed addition at 135 Kentucky Avenue and has an existing 2nd story addition that projects 19'10" from the existing rear of 135 Kentucky Ave. The proposed rear addition will be short 7'10" of the neighboring property, and therefore should have no substantial impact on the light and air available to the property.

### **137 Kentucky Ave SE**

137 Kentucky Ave SE lies to the southeast of the proposed addition at 135 Kentucky Ave SE. 137 Kentucky Ave SE currently extends +/-6' past the existing building at 135 Kentucky Ave SE. The proposed rear addition will extend 6' beyond the existing house at 137 Kentucky Ave. There is an existing 3.8' setback between the two properties. Given the setback and the fact that 137 Kentucky Ave is south of 135 Kentucky Ave, it will have no substantial impact on the light and air available to the property.

### **Neighbors to the South**

Neighbors to the south of 135 Kentucky Ave are separated from the property by large rear yards, garages and a public alley. Due to large separation between the structures to the south and the proposed addition at 135 Kentucky Ave, the proposed rear addition will have no impact on the air or light for the neighbors to the south.

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

### **133 Kentucky Ave SE**

The proposed addition at 135 Kentucky Ave will extend the existing house with a new face-on-line wall. The Northern wall of the addition will not have any windows along the shared property line, thus obstructing any views into the house at 133 Kentucky Avenue. The proposed windows along the rear wall of the addition may allow some views into the rear yard at 133 Kentucky Avenue, but those views will be minimal. Overall, the proposed rear addition at 135 Kentucky Avenue will not unduly compromise the privacy of use and enjoyment of 133 Kentucky Avenue SE.

### **137 Kentucky Ave SE**

The proposed addition at 135 Kentucky Ave will extend the existing house on the first and second floor. The Southern wall of the addition will be set back 3.8' from the shared property line and will follow the line of the existing open court. The new wall will have two windows along the Southern side consistent with what is there now. Given the separation from the open courts and the consistency in views between what is existing and what is proposed, the proposed rear addition at 135 Kentucky Avenue will not unduly compromise the privacy of use and enjoyment of 137 Kentucky Ave SE.

### **Neighbors to the South**

The houses to the south of the proposed addition are separated from 135 Kentucky Ave by a wide public

alley and rear yards. The separation from the proposed additions provided by both the public alley and the existing rear yards reduces the impact on privacy of use and enjoyment for the neighbors to the south. The proposed rear deck will not impact the properties to the south.

### **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 proposed addition will be on the rear of the house. It will extend beyond the existing neighbor to the South only and will not be visible from the public street. The proposed addition will be constructed with high quality materials and will be appropriate in scale for the existing houses on the alley.

- 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.

*Relief Requested; Subtitle E § 5004.1, rear yard*

The existing garage abutting the alley will get a 2nd story addition, by right. The existing garage has a setback from the centerline of the alley of 9.17', less than the 12' required in the RF-1 zoning district (Subtitle E § 5004.1). HPRB has requested that we keep the facade uniform to maintain the character of the structure.

### **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.

## **II. Qualification of Special Exception**

### 5201 Special Exception Review Standards

By satisfying the requirements of E-5201.1, E-5201.4 and E-5201.5, the application also meets the general special exception requirements of X-901.2.

5201.4 An applicant for special exception under this section shall demonstrate that the addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:

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

#### **133 Kentucky Ave SE**

133 Kentucky Ave SE lies to the northwest of the proposed addition at 135 Kentucky Avenue. The additional 2.83' of proposed rear addition will have no substantial impact on the light and air available to the property.

#### **137 Kentucky Ave SE**

137 Kentucky Ave SE lies to the southeast of the proposed addition at 135 Kentucky Ave SE. The additional 2.83' of proposed rear addition will have no substantial impact on the light and air available to the property.

#### **Neighbors to the South**

Neighbors to the south of 135 Kentucky Ave are separated from the property by large rear yards, garages and a public alley. Due to large separation between the structures to the south and the proposed additional 2.83' at 135 Kentucky Ave, the proposed rear addition will have no impact on the air or light for the neighbors to the south. The property at 140 12st St SE, across from 135 Kentucky Ave, has a second story addition with a continuous facade like the one we are looking to construct.

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

#### **133 Kentucky Ave SE**

The proposed additional 2.83' of garage addition on the alley side at 135 Kentucky Ave will not face the backyard of 133 Kentucky Ave SE and thus will not unduly compromise the privacy of use and enjoyment of 133 Kentucky Avenue SE.

#### **137 Kentucky Ave SE**

The proposed additional 2.83' of garage addition on the alley side at 137 Kentucky Ave will not face the backyard of 137 Kentucky Ave SE and thus will not unduly compromise the privacy of use and enjoyment of 137 Kentucky Avenue SE.

#### **Neighbors to the South**

The houses to the south of the proposed addition are separated from 135 Kentucky Ave by a wide public alley and rear yards. The separation from the proposed additions provided by both the public alley and

the existing rear yards reduces the impact on privacy of use and enjoyment for the neighbors to the south. 135 Kentucky Ave SE is allowed a garage addition by right, and the additional 2.83' will not change the nature of the addition.

### **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 proposed addition will be constructed with brick to maintain the character of the area and will be appropriate in scale for the existing houses on the alley.

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 not 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,



Jobi Jones

Agent/Architect

757-646-1112