

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13361 of the Government of Indonesia, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.44 and Sub-section 4603.1 and 4605.2 and a variance from the court requirements (Sub-sections 4305.1 and 5305.1) for a proposed addition to a chancery in D/C-2-A and SP-1 Districts at the premises 2020 Massachusetts Avenue and 2025 P Street, N.W., (Square 95, Lots 4 and 6).

HEARING DATE: October 22, 1980
DECISION DATE: December 3, 1980

FINDINGS OF FACT:

1. In the notice of public hearing, dated September 19, 1980, this case was advertised in part for a special exception under Sub-section 7603.1 of the Zoning Regulations. This was an erroneous designation brought to the attention of the Board by counsel for the applicant. At the public hearing, the notice was corrected to request special exception relief under Sub-section 4603.1 instead of 7603.1.

2. The subject property consists of two lots which are bounded by P Street, 21st Street and Massachusetts Avenue, N.W. The property is located in both the Massachusetts Avenue and the Dupont Circle Historic Districts. The premises addresses are 2020 Massachusetts Avenue and 2025 P Street, N.W.

3. Surrounding uses to the subject property include the Embassy Row Hotel fronting on the north side of Massachusetts Avenue across from the subject property and the Fairfax Hotel on 21st Street across from the subject property. There are a mixture of other uses including non-profit offices, professional offices, embassy and Chancery use. The existing development along P Street is comprised of mixed residential and commercial uses. There are also a number of art galleries located on P Street.

4. The subject site is split-zoned D/C-2-A and SP-1. The frontage of the property on Massachusetts Avenue is located in the SP-1 zone and the frontage of P Street is located in the D/C-2-A zone. Most of the subject proposed addition will be located in the D/C-2-A zone district.

5. The subject Lot 4 is a through lot which extends from Massachusetts Avenue to P Street. The northern half of Lot 4, which fronts on Massachusetts Avenue, is an open area. The remainder of Lot 4, on which most of the new chancery annex will be constructed, is presently used by the Government of Indonesia as a parking area.

6. Lot 6 is improved with premises 2020 Massachusetts Avenue, N.W. which is also known as the Walsh Mansion. The Walsh Mansion is one of several Beaux Arts mansions built on Massachusetts Avenue between 1890 and 1930. Construction of the Walsh Mansion began in 1901. The Mansion is listed in the National Register of Historic Places as a Category II Landmark.

7. The Government of Indonesia purchased the Walsh Mansion for its chancery in 1951. Since that time the Government of Indonesia has spent several thousand dollars in preservation and restoration of the Mansion to its original state. The Chancery annex which is the subject of this application is part of that ongoing preservation and restoration effort.

8. The Walsh Mansion presently contains the offices of the Embassy's staff. It is not used as the Ambassador's residence. The hours of operation of the Chancery are from 9:00 a.m. to 5:00 p.m., Monday through Friday. The Chancery is closed for as many as twenty days during the year in observance of holidays. The present staff, including gardeners, cooks, and drivers, consists of approximately 100 people. Access to the existing building is from a carriage driveway on 21st Street. Access to the existing parking area is from P Street.

9. The Walsh Mansion is unable to accommodate the Embassy's needs. The floors of the existing building are designed for residential use and are overloaded by office files and office equipment. Some structural deterioration has been noted. Basement and attic space is now being used for offices. The Embassy requires storage space for its files and office equipment which is not available in the existing structure. The preservation of the Walsh Mansion is threatened as a result of this overcrowding condition.

10. It is for the purpose of alleviating overcrowded conditions that the Government of Indonesia proposes to construct its chancery annex. The proposed structure will have 15,713 square feet of gross floor area in office use, requiring under the Zoning Regulations, twenty parking spaces. The spaces will be provided in garage space underground. The annex will be forty-eight feet in height and have three stories above ground. Linkage to the Walsh

Mansion will be provided by a curvilinear enclosed connection which will result in the creation of courts that will not meet the minimum dimension of thirty feet as required under the Zoning Regulations. The existing open area along Massachusetts Avenue will be developed as the ceremonial entry court and will be paved and landscaped. The entry court will provide permanent space for the parking of two official vehicles. The building design and location will preserve the view from Massachusetts Avenue of the Walsh Mansion.

11. The annex will house an estimated average staff of forty persons presently housed in the existing building. There will be no increase in the number of employees and the hours of operation will remain the same. There will be offices in the annex for the Ambassador, his deputy and the political, information, and communications staff. The annex will also provide space for library activities, displays and an information center.

12. The limitation of the building height as proposed to less than the maximum permitted will result in a building compatible with the height of surrounding structures.

13. The Embassy of Indonesia presently has twenty-eight official vehicles of which four are vans. There are an additional fifteen vehicles used for commuting by local employees of the Embassy. The applicant testified that it will embark upon a program to reduce the amount of automobile usage.

14. Under the criteria of Paragraph 4603.25, there are 15,713 square feet of gross floor area of office use, which requires twenty parking spaces. Twenty parking spaces will be provided in the underground garage with an additional two spaces available in the proposed entry court into the annex located on Massachusetts Avenue. Additional off-street parking is available for three cars in the driveway on the 21st Street side of the Chancery. There are also fifteen reserved street spaces for Embassy use. The proposed underground parking is in keeping with the character of the neighborhood.

15. A curb cut on Massachusetts Avenue will be provided for vehicular access to the entry court. The existing curb cut on P Street will be widened to eighteen feet to provide adequate access to the garage that will contain the underground parking spaces.

16. The proposed addition complies with the floor area and yard requirements of the Zoning Regulations, but not with the required minimum thirty foot width of court requirement. Accordingly, the applicant has requested variance relief from the court requirements on both the eastern and western portions of the site. The applicant has requested that no court be provided on the

western portion of the site and that it be permitted to provide a ten foot court on the eastern portion of the site.

17. On March 7, 1980, the Joint Committee on Landmarks reviewed the proposal, pursuant to D.C. Law 2-144, which then included a conceptual design of the chancery annex and a site plan showing a new curb cut on Massachusetts Avenue providing access to a ceremonial vehicular entrance with nine parking spaces on the existing side garden east of the Walsh Mansion. The recommendation of the Joint Committee was as follows:

"The Joint Committee has no objection to the general concept of the proposed new construction in terms of height and mass and the minimal connection to the Historic Landmark Indonesian Embassy. However, the Committee questions the suitability of any parking on the side garden and requests the architect to study the possibility of accommodating all of the required parking underground. The Committee also requests the architect to make every effort to develop the P Street side of the building in a manner compatible with the row house architecture on that street. The Committee further recommends that, in designing the new building, the architect should strive to make it a background building with the architecture being as unassertive as possible, so as not to compete with the existing Indonesian Embassy."

Following several further reviews, the Joint Committee, on May 15, 1980, gave its general approval to a revised conceptual design with only three parking spaces for limousine use in the new vehicular entrance area and a landscape screen on its Massachusetts Avenue side which had been specifically requested by the Committee.

18. The attempt to preserve the existing structure and the need to preserve the open space surrounding that structure coupled with the need to provide additional office space for existing Embassy staff on a site located in a historic district imposes a unique situation with respect to development of the subject site and dictates design, size and location of the proposed chancery annex. In this instance, the applicant has developed a design which has been approved in concept by the Joint Committee on Landmarks and which calls for a ten foot court on the eastern portion of the property where the annex links up with the existing Walsh Mansion. In order to connect to the existing building in accordance with the stated desires of the Joint Committee on Landmarks and in a manner that is compatible with the existing building, the applicant is unable to provide a court on the western portion of the site in accordance with the zoning requirements. As to the

eastern portion of the site, there is a practical difficulty resulting from the need to provide ventilation to the underground garage and from the building configuration which has been recommended by the Joint Committee on Landmarks. Thus, applicant's practical difficulty in this case stems from the existence of a historic structure on a portion of the site coupled with the location of the site in a historic district and the implementation of the public policy of preservation of historic structures.

19. A representative of the United States Department of State, Mr. George Sealey of the Office of Protocol, submitted a statement and testified in support of the application.

20. Support of the application also was given by the North Dupont Circle Citizens Association.

21. At the time of the public hearing, the Office of Planning and Development was the only government agency prepared to go forward with its report and recommendation. Accordingly, the record was left open to permit the filing of other government agency reports, the written issues and concerns of ANC 2B and a landscaping plan prepared by the applicant's architect.

22. The report of the OPD recommended that the application be approved subject to a finding from the D.C. Department of Transportation that the proposed building will not generate objectionable parking conditions within the immediate area. In its recommendation, the OPD stated that the proposed addition is designed to allow more efficient working conditions for the existing staff and to provide better conditions for ceremonial functions. The OPD noted that the existing staff has been utilizing fully the existing surface parking on Lot 4 where the proposed addition is to be built. The OPD found that the proposed parking garage will accommodate approximately the same number of parking spaces that are now available as surface parking, but noted that although the requirements of the Zoning Regulations are presently satisfied, it should be pointed out that any future addition to the Chancery staff could generate additional needs for parking. As to the variance requests, the OPD reported that the need for a variance from the court requirements arises from the size and shape of the property. The Board concurs in the OPD report.

23. A representative of the D.C. Department of Transportation appeared at the public hearing and stated that the Department was unable to provide a recommendation because of a lack of information with regard to parking. Subsequent to the receipt of a parking plan from the applicant after the public hearing, the Department submitted its written report which supported the plan as being sensitive to District of Columbia transportation objectives but recommended that the Board require the applicant to submit more

definitive information as to how it would implement measures such as its proposed car/van pooling program and subsidization of transit use which the DOT felt necessary to achieve the parking plan objectives. The Board has evaluated the parking plan submitted with the applicant's prehearing statement, the D.C. DOT report, which includes modifications to the parking plan made by the applicant at that Department's request to further reduce the impact of automobile commuting by the Embassy's local employees, the testimony given by the applicant at the public hearing, and the concerns expressed by ANC 2B and the community. The Board accordingly finds that with the conditions imposed herein that the proposed use will not adversely impact traffic conditions.

24. The National Capital Planning Commission considered the application on November 13, 1980 and reported that the proposed use of 2025 P Street, N.W. as an addition to the Chancery of the Government of Indonesia is consistent with the Foreign Missions and International Agencies Element of the Comprehensive Plan for the National Capital and will not have a negative impact on the federal establishment and federal interest of the National Capital. The Board so finds. The NCPC, however, expressed concern about the proposed curb cut on Massachusetts Avenue leading into the entry court and its possible impact on the Massachusetts Avenue and Dupont Circle Historic Districts. The NCPC further directed that its concern be conveyed to the Board and to the Joint Committee on Landmarks along with copies of the verbatim transcript of the Commission proceedings concerning this application. The Board has reviewed the Massachusetts Avenue entry court as requested by NCPC and finds no adverse impact on either historic district. However, a specific condition of this approval will be that the entry court be used for the parking of no more than two official vehicles at any given time.

25. In response to the concerns of NCPC, the Joint Committee on Land marks reconsidered its conceptual design for the proposed design on November 20, 1980 and voted to reaffirm its prior conceptual design approval.

26. A representative of the Dupont Circle Citizens Association supported the application. The Association noted that the parking in the entry court did not meet the dimensions for required parking under the Zoning Regulations. The Board finds that those spaces are not required parking under the Zoning Regulations and are therefore not required to be nine by nineteen. The Association further requested that the entry court area remain unpaved and that no trees be removed from the proposed entry court area. The Association also expressed a concern that the western portion of the site where a variance was requested might adversely affect neighboring property with respect to light and air.

27. A neighboring property owner, who resides at 2033 P Street, N.W., objected to the application on the grounds that the annex would cause traffic and parking problems, and would cut off her light and air. As previously stated herein, the Board has found that the annex will not adversely affect existing traffic and parking. On the basis of the applicant's architect's detailed studies and diagrams, the Board finds no evidence that the relief requested in this application will adversely affect light and ventilation in the rear of the neighbor's property.

28. A representative of ANC 2B presented the preliminary written recommendation of the ANC at the public hearing and subsequently presented those issues and concerns in writing by letter to the Board dated November 12, 1980. In its letter, the ANC expressed the following points:

- a. The ANC confirmed the concerns it expressed in the preliminary written recommendation and oral testimony submitted for the record at the hearings on October 22, 1980, namely the adequacy of planned parking to meet the needs generated by the proposed use and the effect of the intrusion of the bulk of the proposed addition on the "architectural design and arrangement" of the neighborhood and the "harmony" with the existing uses and structures.
- b. The ANC reiterated its concern that the request for variances from the court requirements of Sub-sections 4305.1 and 5305.1 failed to take cognizance of what the ANC characterized as the stricture of Sub-section 4305.1 "to ensure adequate light, view, movement of air and visual privacy" in respect of residential neighbors who, however much these values may have been compromised by earlier action of other neighbors, are entitled to the continuing protection of the Zoning Regulations.
- c. The ANC could not recommend approval of the application on the grounds that the applicant refused to accept conditions that would minimize the impact of the loss of off-street parking.
- d. The ANC recommended the following conditions in the event the Board determined to grant the relief sought:
 - (i) Adoption of the Embassy's proposal to preclude employee use of private automobiles for commuting and to confine available off-street parking to official Government of Indonesia vehicles.

- (ii) Adoption of a landscaping plan to include a hedge along the fence proposed along Massachusetts Avenue frontage to the east of the present structure and tree in the "court yard" on the P Street property line as proposed in the architect's plans.

29. The Board is required to give great weight to the ANC issues and concerns. The Board in addressing the concerns of the ANC, the Dupont Circle Citizens Association and a neighbor finds that the evidence in the record clearly establishes that the granting of the requested variances will not adversely impact on the light, view, movement of air and visual privacy of residential neighbors. In approving this application, the Board is imposing conditions that will minimize the impact of the loss of off-street parking. The Board further will adopt the conditions requested by ANC 2B as to minimizing the impact of the loss of off-street parking.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant has met the requirements of Paragraph 4101.44 and Sub-sections 4603.1 and 4605.2 of the Zoning Regulations. The use, height, bulk and design will be in harmony with existing structures and uses, and will preserve the view of the Walsh Mansion from Massachusetts Avenue. Moreover, the architectural design and the arrangement of all structures and of off-street parking spaces are in keeping with the character of the neighborhood. Because of the limitation on the height of the proposed annex, it does not exceed maximum permitted heights and is compatible with the height of surrounding structures. The proposed use will not adversely impact on future traffic conditions. The annex will comply in all respects with the requirements for percentage of lot occupancy and FAR. The number of off-street parking spaces meets the requirement of one space for every 800 feet of gross floor area devoted to chancery use. Based on the above, the Board concludes that the proposed chancery is not incompatible with the present and proposed development of the neighborhood.

The applicant has also requested variances from Sections 4305.1 and 5305.1 of the Zoning Regulations. Based on the evidence, the Board concludes that the subject site is affected by an extraordinary or exceptional situation or condition for which strict application of the Zoning Regulations imposes a practical difficulty upon the applicant. The District of Columbia Court of Appeals has found that variance relief may be granted on the basis of the existence of a structure on the lot. Clerics of St. Viator, Inc. v. District of Columbia Board of Zoning Adjustment, 320 A.2d 291, 294 (D.C. App. 1974). Moreover, the extraordinary or exceptional

condition necessary for a variance can be caused by subsequent events extraneous to the land itself. De Azcarate v. District of Columbia Board of Zoning Adjustment, 388 A.2d 1233, 1237 (D.C. App. 1978).

The site is within a historic district and improved with a large mansion listed in the National Register. The attempt to preserve the existing structure coupled with the need to provide additional office space for existing embassy staff on a site located in a historic district imposes a unique situation with respect to the development of the subject site and dictates design, size and location of the chancery annex. These considerations in combination with applicant's desire to implement a public policy of preservation of historic structures constitute a practical difficulty.

The Board further concludes that granting the special exception and the variance will be in harmony with the general purpose and intent of the Zoning Regulations and Maps and will be without detriment to the public good and without substantially impairment of the intent, purpose and integrity of the Zoning Regulations. The Chancery annex will not affect adversely the use of neighboring property in accordance with the Regulations and Maps and is located within the area indicated on the NCPC map for location of chancery facilities. Moreover, the annex is compatible with proposed development and existing development in the area. The applicant's proposal furthers the public interest in that it helps preserve an existing historic structure.

Under Sub-section 4604.3, the Board may require such special treatment and impose such reasonable conditions as it shall deem necessary to mitigate any adverse impacts identified in accordance with Sections 4603 and 4604. The Board concludes that it has given the great weight to the issues and concerns raised by the ANC. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The courtyard of the building facing Massachusetts Avenue is not to be used for the parking of automobiles or other vehicles, with the exception of the two parking spaces located at the rear of the courtyard as shown on the site plan marked as Drawing No. 1 of the plans marked as Exhibit No. 9 of the record.

2. The applicant shall comply with the provisions of its parking alternative plan as set forth in the letter from Counsel for the applicant to ANC-2B dated October 15, 1980, marked as applicant's Exhibit I of Exhibit No. 23 of the record.
3. The applicant shall landscape the property in accordance with the landscape plan marked as Exhibit No. 42 of the record.

VOTE: 5-0 (Walter B. Lewis, Douglas J. Patton, Connie Fortune, Charles R. Norris and William F. McIntosh to GRANT).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: _____

5 FEB 1981

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.