

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13982, of the Republic of Portugal, pursuant to Article 46 of the Zoning Regulations, for permission to expand a chancery (Sub-paragraph 3101.313) and pursuant to Sub-paragraph 8207.11 of the Zoning Regulations, for a variance from the side yard requirements (Sub-section 3305.1) in an R-1-B District at premises 2125 Kalorama Road, N.W., (Square 2526, Lot 196).

HEARING DATE: June 15, 1983

DECISION DATE: June 15, 1983 (Bench Decision)

INTRODUCTION

The subject application was filed by the Republic of Portugal to expand its chancery located at 2125 Kalorama Road, N.W. The application was considered by the Board in accordance with the requirements of Article 46 of the Zoning Regulations. Article 46 was adopted by the Zoning Commission to implement Section 206 of the Foreign Missions Act (Title II, Public Law 97-241, 96 Stat. 286, August 24, 1982). The application also requested a variance from the side yard requirements of the Zoning Regulations. The expansion of the chancery under Article 46 is a rule-making proceeding under Chapter 6 of the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment. The variance is a contested case proceeding under the Supplemental Rules. This order will address first the Foreign Mission Act criteria and then the variance criteria.

APPLICATION

The subject site is approximately 39,982 square feet in size and is surrounded by other chancery and diplomatic uses, including the Chancery for the Peoples Republic of China abutting the property to the east, the Chancery for Ethiopia and the Chancery for Algeria to the south and the French Embassy adjoining the property to the west. On the north the property abuts Rock Creek Parkway.

The building, built in 1914, has been used for diplomatic purposes since 1945. Additions to the chancery were last made in 1945. Since no improvements have been made to the building since 1947, the building is in an advanced state of deterioration and needs renovation of all infrastructure systems. There is also a need for additional

space to accommodate the growth in the diplomatic and support staff of the Republic of Portugal.

The proposed addition will consist of a second story over an existing portion of the building, with overall renovation and restoration of the building. No increased lot occupancy is required.

FOREIGN MISSIONS ACT CRITERIA

In considering the subject application, the Board must apply the specific criteria set forth in Section 4602 of the Zoning Regulations, which are as follows:

1. Paragraph 4602.11 The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.
2. Paragraph 4602.12 Historic preservation, as determined by the Board of Zoning Adjustment in carrying out this Section; and in order to ensure compatibility with historic landmarks and historic districts, substantial compliance with District of Columbia and federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.
3. Paragraph 4602.13 The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking requirements, subject to such special security requirements as may be determined by the Secretary of State, after consultation with Federal agencies authorized to perform protective services.
4. Paragraph 4602.14 The extent to which the area is capable of being adequately protected, as determined by the Secretary of State, after consultation with Federal agencies authorized to perform protective services.
5. Paragraph 4602.15 The municipal interest, as determined by the Mayor.
6. Paragraph 4602.16 The Federal interest, as determined by the Secretary of State.

EVALUATION

With respect to the six criteria identified in the Regulations, the Board states the following:

1. The international obligation of the United States: By letter dated June 6, 1983, the Director of the Office

of Foreign Missions of the Department of State, the delegated representative of the Secretary of State, determined that the international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the nation's capital will be met by the approval of this application. Approval of the application would be in the best interests of the United States and consistent with bilateral and reciprocal interests of the United States and Portugal. The Portuguese government is being most accommodating in connection with the construction of a new United States embassy in Lisbon and it is not only proper, but incumbent upon the United States to provide similar accommodation. The ability of the United States to provide similar reciprocal treatment to the Government of Portugal is important to the Federal interests as it promotes the foreign relations of the United States.

2. Historic preservation: The subject site is neither an historic landmark nor located in an historic district. The proposed addition, however, is compatible with the height, design, bulk and use of other structures in the neighborhood and has received conceptual approval from the Commission of Fine Arts pursuant to the Shipstead-Luce Act, as noted by the letter from the Secretary to the Commission of Fine Arts, dated May 15, 1983.
3. Parking and transportation: The proposed addition has a gross floor area of approximately 1,812 square feet. The total gross floor area devoted to chancery use with the addition will be 7,217 square feet. At the present time, there are sixteen employees working in the building including eight diplomatic persons and eight support staff. The maximum proposed for the building is twenty-three employees, twelve diplomatic and eleven support staff. Eight of the sixteen employees currently drive to the site. This ratio is expected to remain constant as the number of employees increases. Further, the site averages ten visitors per day during the chancery's regular hours of 9:00 A.M. to 5:30 P.M. weekdays. With valet parking, the rear and side yard could accommodate twenty-three automobiles. Four additional spaces are available on the driveway, two in the garage and three on the street in front of the chancery. Therefore, there is a total of thirty-two parking spaces available, of which twenty-nine are located on the site. The D.C. Department of Transportation reviewed the applicant's plans and was of the opinion that, with attendant parking provided at the site, the number of parking spaces will be sufficient to meet the employee and visitor parking demand. Also, the site's close proximity to Connecticut Avenue provides convenient access to both buses and subway

mass transit. The Office of Foreign Missions has determined that the proposed parking meets security requirements.

4. Protection: The Office of Foreign Missions has determined that the area is capable of being adequately protected. The location is such that it facilitates security.
5. Municipal interest: The Director of Planning, the delegated representative of the Mayor, by memorandum dated May 3, 1983, reported that approval of this application will not be contrary to the municipal interest. The Office of Planning reported that the proposed addition, in conjunction with the renovation of the site, will improve the existing impact of the building. The addition's height, bulk and scale have been designed to be compatible with the neighborhood. Further, the building will be within the allowable zoning envelope for the R-1-B District except for a side yard variance necessitated by the existing structure. The use of the building is also compatible. The chancery for the Peoples Republic of China abuts the subject site to the east, the chancery for Ethiopia is directly south of the site across Kalorama Road, N.W., and the French Embassy abuts the property to the west. Further, the chancery of Algeria is also located in the 2100 block of Kalorama Road, N.W. The Office of Planning noted that the Department of Transportation (DOT) had reviewed this application for traffic impact assessment. The DOT advised the Office of Planning that it had no objection to the applicant's proposal. However, DOT recommended that the applicant provide attendant parking on the planned parking lot or in the alternative provide additional spaces on the vacant land to the rear of the site. The Office of Planning believed that the proposed parking scheme is satisfactory and that the availability of on-site parking and convenient public transportation to the site will negate any objectionable impacts from traffic frequenting the site. The applicant has indicated provisions for attendant parking to maximize the efficiency of the parking lot.
6. Federal interest: The Office of Foreign Missions determined that approval of the application would be in the best interests of the United States and consistent with bilateral and reciprocal interests of the United States and Portugal. The Portuguese government is being most accommodating in connection with the construction of a new United States Chancery in Lisbon. It is not only proper, but incumbent upon the United States to provide similar accommodation. The ability of the United States to provide similar reciprocal treatment

to the Government of Portugal is important to the federal interests as it promotes the foreign relations of the United States.

SIDE YARD VARIANCE

With regard to the request for the variance from the side yard requirement, the Board make the following findings of fact:

1. The site is irregularly shaped and consists of 39,982 square feet of land area. The site is a through lot with frontage on both Belmont and Kalorama Roads. The lot width on Kalorama Road measures 139 feet.
2. The site is improved with a large mansion type building, driveway and parking area. The building was built in 1914 and has had several additions made to it through 1947. The site abuts the chancery for the Peoples Republic of China to the east, the chancery for Ethiopia to the south across Kalorama Road, and the French Embassy to the west. Rock Creek Park is across from the site to the north. The site is located in the Sheridan-Kalorama neighborhood area which contains many foreign government chancery and embassy sites, as well as single-family dwellings and multiple dwellings consistent with the R-1-B, D/R-1-B, R-3, D/R-3 and R-5-B Zoning Districts mapped in the area.
3. The applicant is requesting permission to add a second story addition, to be built over an existing portion of the building. The addition will not increase the lot occupancy. The development plans include an overall renovation and restoration to the building to bring heating, electrical, cooling, plumbing and other infrastructure systems up to date. The planned addition, which will include the residence of the Ambassador, will be approximately 1,812 square feet. The portion to be used for chancery purposes is 1,009 square feet. The addition will be constructed of brick with a slate roof to match the existing facade. The addition will be in compliance with the R-1-B height, floor area ratio and lot occupancy requirements.
4. In recent years the Government of Portugal has increased its diplomatic staff and supporting staff, a trend which is likely to continue. There is a need for additional space. The total number of employees anticipated is twenty-three. Currently, there are sixteen employees.
5. The western side wing to the original building on top of which the proposed addition is to be located was built in 1945. The existing wing abuts the lot line

and provides no side yard. This situation places a practical difficulty upon the applicant in complying with the side yard requirements. Compliance under the strict provisions of the Regulations would require the removal and setting back of an existing portion of the original structure eight feet or in the alternative setting back the proposed addition eight feet from the property line. In either case, compliance would necessitate the removal of a large part of the first floor and the construction of a new foundation wall to support the overhead addition.

6. The historic absence of the side yard in this case will not adversely affect the light, air and ventilation to the adjoining French Embassy to the west given the substantial distances separating these structures. The distance separating these structures is approximately 100 feet.
7. The Office of Planning, by report dated May 3, 1983, recommended that the variance relief be granted. The Office of Planning reported that the relief is justified given the practical difficulty, which is directly related to the unique situation of the pre-1958 existence of the ground level structure and the physical restraints associated with bringing this condition of the property into strict compliance of the Zoning Regulations. The Office of Planning was of the opinion that the variance will not impair the intent, purpose or integrity of the Zoning Regulations or be objectionable to the neighboring properties. The Board concurs in the reasoning and the recommendation of the Office of Planning.
8. Letters of support were filed by the governments of China, Ethiopia and Algeria. Further, the Embassy of France, which is located west of the site on the side where no side yard will be provided, also submitted a letter of support.
9. There was opposition to the expansion of the Chancery at the public hearing and letters were filed in the record on the grounds that the expansion will exacerbate an already existing parking problem in the immediate neighborhood and that a chancery is an office function which should not be allowed in a residential neighborhood. The Board finds that the on-site parking spaces to be provided will adequately meet the needs of the chancery and that on street parking spaces will not be needed. The Board further finds that as conditional below, the expansion of the chancery will not have an adverse affect on a residential neighborhood.

The Board further makes the following conclusions of law:

Based on the testimony and evidence of record, the Board concludes that the applicant is seeking an area variance from the side yard requirements. This requires a showing of practical difficulty that stems from the property itself. The Board concludes that the subject site is affected by an extraordinary or exceptional situation or condition because of the existence of a non-conforming structure. The Board concludes that the addition of one story above the existing structure will improve the existing conditions while not changing the degree of non-conformity. The Board further concludes that the practical difficulty in this case stems from the fact that there is an existing non-conforming structure on the site and the proposed addition could not be designed differently and still efficiently serve its function as a chancery. The Board further concludes that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zoning plan.

ANC REPORT

There was no report from Advisory Neighborhood Commission 1D.

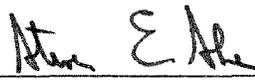
DECISION

On the basis of the record before it and the criteria of Section 4602 of the Zoning Regulations, the Board determines that the standards of Section 4602 of the Zoning Regulations have been met by this application. The Board further concludes that the applicable criteria for the granting of a side yard variance has been met. Accordingly, it is therefore hereby ORDERED that this application be APPROVED, SUBJECT to the CONDITION that the Republic of Portugal shall maintain attendant parking on site for no less than twenty-five automobiles, which parking shall not be located on the driveway.

VOTE: 4-0 (Reginald W. Griffith, Douglas J. Patton, Carrie Thornhill and Charles R. Norris to APPROVE, John G. Parsons not voting, not having heard the case).

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

ATTESTED BY:



STEVEN E. SHER
Executive Director

IN ACCORDANCE WITH SECTIONS 609.4 AND 609.5 OF THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE, THIS ORDER SHALL

BECOME FINAL UPON PUBLICATION OF THE NOTICE OF FINAL RULE-
MAKING IN THE D.C. REGISTER.

FINAL DATE OF ORDER: SEP - 9 1983

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 CONSUMER AND
REGULATORY AFFAIRS.

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