

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14794, of Christopher H. Collins, Esquire, as agent of 4801 Associates, and the Embassy of Spain on behalf of the Spanish State, pursuant to Section 206 of the Foreign Missions Act, to expand an existing chancery to allow stacked parking for required spaces (11 DCMR 2117), and to exceed the floor area ratio requirements for other permitted uses (11 DCMR 771.2) in a C-2-A District at premises 4801 Wisconsin Avenue, N.W., (Square 1736, Lot 58).

HEARING DATE: May 25, 1988
DECISION DATE: May 25, 1988 (Bench Decision)

INTRODUCTION

This application was filed by 4801 Associates and the Embassy of Spain on behalf of the Spanish State pursuant to Section 206 of the Foreign Missions Act (Title 11, Public Law 97-241, 96 Stat. 286, August 24, 1982) to expand the existing chancery use on the third floor to include the fourth floor, located in the C-2-A District at 4801 Wisconsin Avenue, N.W. (Square 1736, Lot 58). The public hearing was conducted as a rulemaking proceeding under Chapter 33 of the Supplemental Rules of Practice and Procedure before the Board of Zoning Adjustment.

APPLICATION

The application is to exceed the floor area ratio standards for chancery use, and to allow certain of the required parking spaces to be provided as stacked parking within the existing garage. The subject site is located at 4801 Wisconsin Avenue, N.W. The building is five stories in height, with two levels of parking within the building on the first and second floors. Portions of the first and second and all of the third floor, are devoted to nonresidential uses. The remaining two floors were originally constructed with eight apartments on each floor for residential use. The residential portion of the building has never been fully occupied since the building was opened in 1982. The fourth floor is currently vacant, and three of the eight apartment units on the fifth floor are also vacant.

The Embassy of Spain, on behalf of the Spanish State, is the owner of the third floor of the building. This space is occupied by the Offices of the Defense Attache, the Military Attache, the Naval Attache, the Air Attache, and

the Defense Cooperation Attache. The office currently experiences an overcrowded condition. Due to the interrelationship of these several offices, it is important that they all be housed in one central location. The proposal for which the Embassy of Spain seeks a deviation is not intended to accommodate an increased number of staff, but is instead intended to alleviate the present overcrowded condition.

At present, there are 53 employees working at the site. The hours of operation are generally between 8-9 A.M. and 4-5 P.M. Those persons who drive to work, but do not park in the building, are able to park in the neighborhood. There is a large supply of parking spaces, both metered and unmetered, within two blocks of the site. It is estimated that there are an average of four to five official visitors per week, with approximately two to three messenger deliveries per week. Visitors either drive to the site and park on the street, or travel by taxi.

The expansion of a chancery in a C-2-A District is permitted subject to disapproval of the Board of Zoning Adjustment after review based on the criteria set forth in Section 206(d) of the Foreign Missions Act.

FOREIGN MISSIONS ACT CRITERIA

A chancery is a permitted use in the C-2-A District pursuant to Sub-section 721.1 and Paragraph 701.6(e) of the Zoning Regulations. Additionally, Section 206(b) of the Foreign Missions Act provides that a chancery is permitted as a matter-of-right in any commercial zone. Board review is required in this case because the application proposes to exceed the FAR limit, and also proposes a stacked parking arrangement. The determination of the Board is based solely on the criteria set forth in Section 206(d) of the Foreign Missions Act:

1. Section 206(d)(1). 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. Section 206(d)(2). Historic preservation, as determined by the Board in carrying out this section; and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District and federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.

3. Section 206(d)(3). 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 any special security requirements that may be determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.
4. Section 206(d)(4). 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. Section 206(d)(5). The municipal interest, as determined by the Mayor.
6. Section 206(d)(6). The federal interest, as determined by the Secretary of State.

EVALUATION

With respect to the six criteria identified in the Foreign Missions Act, the Board states the following:

1. The International Obligation of the United States. By letter dated April 13, 1988, and by testimony at the public hearing, the Acting Director of the Office of Foreign Missions, pursuant to a delegation from the Secretary of State, determined that the international obligations 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. Specifically, the Acting Director has stated that "the Department believes that the application here fully meets the criterion established in Section 4306(d)(1) of the Act"
2. Historic Preservation. The subject site is neither a historic landmark nor is it located in a historic district.
3. Parking and Transportation. Currently, the entire second floor parking level, and several parking spaces on the first floor, are used by the chancery. The applicants have arranged for the entire rear portion of the first floor parking area to be set aside for the chancery use, thereby consolidating all parking in one area of that level, and facilitating a stacked parking arrangement.

There is ample space to stack at least two additional cars in the area adjacent to parking spaces P-7 through P-16 on the first floor parking level. As a practical matter, additional cars can be stacked in this area without any impact on other parking arrangements. There is sufficient room for seven vehicles to be parked parallel to the west wall of the second floor parking garage. At least one member of the chancery staff will be available at all times to move cars when necessary so that all vehicles may be accessed at all times. The stacked parking arrangement can be provided in such a manner that there will be no maneuvering of vehicles in public space.

The Embassy of Spain has not requested the designation of diplomatic parking spaces on the street in front of the building because there is sufficient on-street parking adjacent to the building, and in close proximity, both metered and non-metered, which is available for use by employees and visitors to the site at all times.

The Metrorail and Metrobus route maps indicate that there are four regular Metrobus routes that pass the site. In addition, the Tenleytown Metrorail Station of the red line, traveling between Silver Spring and Shady Grove, is three to four blocks to the south. The Board finds that the site is well-served by public transportation and provides adequate off-street parking.

4. Protection. By letter dated April 13, 1988, and by testimony at the public hearing, the Office of Foreign Missions indicated that it has determined, after consultation with federal agencies authorized to perform protective services, that no special security requirements exist beyond those applicable to all facilities of foreign missions in the District of Columbia, and that the site and the area are capable of being adequately protected.
5. The Municipal Interest. The Director of the Office of Planning (OP), the delegated representative of the Mayor, by memorandum dated May 16, 1988, and by testimony at the hearing, recommended approval of the application. The OP reviewed the plans and application and stated its opinion that approval is not inconsistent with the criteria for approval specified in Section 206(d) of the Foreign Missions Act.

Both the Foreign Missions Act and the Zoning Regulations permit chanceries to be located as a matter-of-right in the C-2-A District. A number of chanceries throughout the city are located in various commercial districts. Chancery facilities in close proximity to the subject site include the Belgian Military Supply Office at 5454 Wisconsin Avenue, the West German Military Representative at 4000 Brandywine Street, the Brazilian Naval Commission at 4706 Wisconsin Avenue, the Brazilian Military Commission 4632 Wisconsin Avenue, and the Spanish Labor Attache at 4400 Jenifer Street.

There will be no displacement of existing residential uses as a result of this application. The residential portion of the building is not fully occupied, and it is likely that there will continue to be several residential vacancies in the building.

It is anticipated that there may be some repartitioning of interior walls, however, there will be no new additional construction or physical changes to the exterior of the building as a result of this proposal. The application represents a request to expand in order to alleviate the present overcrowded condition of the chancery.

The proposed use is consistent and compatible with the uses along Wisconsin Avenue. This portion of Wisconsin Avenue contains a wide variety of nonresidential uses, including office, retail, and service uses. The first floor of the subject site contains an exercise studio, and the second floor contains a real estate office. Across Wisconsin Avenue is an automobile dealership; across Davenport Street to the south is an automobile rental agency; and to the north are several small retail uses and a movie theater. Farther up and down the block in each direction are offices, restaurants, theaters, gasoline stations and various other retail and service uses typically found in the C-2-A District. There are very few residential uses located along this portion of Wisconsin Avenue.

The project is in substantial compliance with the standards contained in the Zoning Regulations. No additions or physical changes are proposed to the exterior of the building. The gross floor area of the building will not be changed. However, a slight deviation is necessary with regard to the floor area ratio for commercial uses.

The existing building contains 35,087.18 square feet of gross floor area. Under the FAR guidelines set forth in Section 771.2 of the Zoning Regulations, 21,053.25 square feet of gross floor area may be devoted to nonresidential use. At present, the building contains 19,030.48 square feet of nonresidential use. Therefore, up to 2,022.77 additional square feet of gross floor area may be devoted to nonresidential use as a matter-of-right.

The fourth floor of the building, where the proposed expansion will take place, contains 8,028.35 square feet of gross floor area. At present, it is the intent of the Spanish Embassy to maintain one and possibly two apartments on the fourth floor as residential quarters for security purposes. It is likely that these would include Unit Nos. 401 and 402, containing a combined total of approximately 2,200 square feet of gross floor area. Thus, the chancery use on the fourth floor would occupy only approximately 3,800 square feet of gross floor area over and above the nonresidential FAR guideline. This will represent 14 percent of the total nonresidential use of the building. However, because plans for the residential uses have not yet been finalized, the applicant is proceeding with this application under the assumption that the entire fourth floor will be devoted to chancery purposes.

In addition, although the applicant will accommodate all of the parking required by the Zoning Regulations on site, review by this Board is necessary to allow the use of stacked parking. The applicant proposes a stacked parking arrangement to meet the strict requirements of the parking regulations.

The existing building is unlike the vast majority of other buildings in the area in that it contains one of the few residential components along this section of Wisconsin Avenue. Most all of the buildings along the Avenue in this area are commercial buildings. Also, unlike many other commercial buildings, the majority of the parking located in this building is in space classified as basement or above grade space. Finally, the two levels of parking in the building are each accessed through a different means, which allows distinct portions of the garage space to be devoted solely to one user without impacting on the use of the garage by other tenants.

If the application is not granted, certain of the attache offices may be forced to locate space elsewhere. If so, the requirement for close interaction between and among the various attache offices would be satisfied by constant travel back and forth between offices, with an added burden on traffic and parking in both locations. Under the proposal, all uses are accommodated in one area. The use of the entire fourth floor entitles the chancery to use the parking spaces in the building which would accompany the fourth floor. As a result, even though the number of staff is not intended to increase due to this proposal, the chancery will be providing additional parking spaces in the building.

The deviations required in this case are technical in nature and result from a variety of factors. However, the deviations will not be a detriment to the neighborhood or to the intent, purpose or integrity of the zone plan. No change to the method of operation or intensity of use is proposed by this application. No physical changes to the exterior will take place as part of the proposal.

6. The Federal Interest. By letter dated April 13, 1988, and by testimony at the public hearing, the Acting Director of the Office of Foreign Missions determined that the expansion of the Chancery of Spain is consistent with the Foreign Missions and International Organizations Element of the Comprehensive Plan for the National Capital. He also pointed out that the United States government has an important interest in acquiring adequate facilities for United States diplomatic and consular missions in Spain. The Acting Director's letter goes on to state that: "At the present time, the Department of State is satisfied that the government of Spain is according adequate facilities in this regard."

ADVISORY NEIGHBORHOOD COMMISSION

Advisory Neighborhood Commission (ANC) 3E, submitted a written report dated May 23, 1988. The ANC considered this application at its May 19, 1988 meeting. The Board waived its rule requiring submission of an ANC report seven days prior to the hearing in order to consider the ANC's report. The ANC voted to oppose the application four to zero with one absence and adopted the following motion:

ANC 3E opposes the granting of a zoning variance in Application No. 14794, to the Chancery of the Government of Spain in keeping with ANC 's diligent and continuing efforts to maintain and protect remaining residentially zoned property in our neighborhood.

The Board notes that this is a philosophical opposition and is not based on the details of this particular application. The Board does not agree with the ANC's rationale in opposing the application. The Board notes that the site is zoned commercially and although the application would reduce the availability of property to be used for residential purposes, all of the affected apartments are vacant, and have been for some time. Thus the chancery expansion will have little, if any effect, on the quantity of useful residential property in the area.

DECISION

On the basis of the record before it and the criteria of the Foreign Missions Act, the Board determines that this application meets the standards of the Foreign Missions Act. Accordingly, it is hereby ORDERED that this application is APPROVED.

VOTE: 3-0 (Reginald Griffith, Paula L. Jewell and Carrie L. Thornhill to approve; John G. Parsons and Charles R. Norris not present, not voting).

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

ATTESTED BY:



EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: JUN 24 1988

UNDER 11 DCMR 3103.1, "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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 14794

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated JUN 24 1988, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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EDWARD L. CURRY
Executive Director

DATE: JUN 24 1988