

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15678 of the Royal Embassy of Saudi Arabia, pursuant to 11 DCMR 1001, for permission to expand an existing chancery to allow an addition to an existing nonconforming structure that does not meet the minimum side yard requirement and will create a new nonconforming rear yard and open court [11 DCMR Paragraphs 2001.3(b) and (c)], to exceed the floor area ratio for other permitted uses (11 DCMR 531.1), to allow a rear yard that does not meet the minimum requirement (11 DCMR 534.2), and to allow an open court that does not meet the minimum width of open court requirement (11 DCMR 536.1) for a four-story addition in an SP-1 District at premises 1520 18th Street, N.W. (Square 136, Lots 25 and 32).

HEARING DATE: May 20, 1992

DECISION DATE: June 3, 1992

ORDER

INTRODUCTION

This application was filed by the Royal Embassy of Saudi Arabia, pursuant to Section 206 of the Foreign Missions Act [Title 11, Public Law 97-241, 96 Stat. 286, August 24, 1982, codified at D.C. Code Ann. Subsection 5-1201, et seq. (1988)] to expand an existing chancery annex located in the SP-1 District at 1520 18th Street, N.W. (Square 136, Lots 25 and 32). The premises will house the Saudi Arabian Cultural Mission to the United States. The application was considered by the Board in accordance with the requirements of Chapter 10 of the Zoning Regulations. Chapter 10 was adopted by the Zoning Commission to implement Section 206 of the Foreign Missions Act. 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.

PROCEDURAL ISSUE

In the subject application, the D.C. Preservation League (DCPL) filed a letter, dated May 18, 1992, in opposition to the application on the grounds that the Board lacked authority to review the application since the application does not raise any issue which arises under the Foreign Missions Act, D.C. Code Subsection 5-1201 et seq. DCPL states that, even if the Board has jurisdiction, it must deny the application because there has not been substantial compliance with the District of Columbia Historic Landmark and Historic District Protection Act of 1978 [D.C. Law 2-144, codified at D.C. Code Ann. Subsection 5-1001 et seq. (1988)]. In the alternative, DCPL requested that the Board delay its findings in this case until the District of Columbia Mayor's

the proposed demolition contemplated by this application and shared those findings with the Board. By report dated March 26, 1992, and testimony at the public hearing, Advisory Neighborhood Commission (ANC) 2B also raised the issue of compliance with local historic preservation law, including review by the Mayor's Agent.

Further, DCPL states that there has been no compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. Subsection 470f. DCPL states that Section 106 requires that the head of any federal agency having authority to license any undertaking shall, prior to the issuance of any license, take into account the effect of the undertaking on any historic district and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment with regard to the undertaking.

The Board finds that it has sole jurisdiction to approve or disapprove the application under the Foreign Missions Act, that there has been substantial compliance with the local and federal historic preservation statutes and that Section 106 is completely inapplicable to this proceeding because the application does not constitute a federal undertaking.

Specifically, the Board finds that in enacting the Foreign Missions Act, Congress gave the Board specific authority to approve chanceries in the District of Columbia. Under Subsection 5-1206(c)(3), the Board is given the authority to make the "...final determination concerning the location, replacement or expansion of a chancrey...Such determination shall not be subject to the administrative proceedings of any other agency or official except as provided in this chapter." One of the six statutory criteria for making the determination, is "Historic Preservation as determined by the Board of Zoning Adjustment in carrying out this section;" Subsection 5-1206(d)(2)).

The Zoning Commission in developing the Zoning Regulations pertinent to chanceries established the process for determining "substantial compliance with District of Columbia and federal regulations governing historic preservation" (*id.*). For chanceries located in an historic district, section 1002.7 of the Zoning Regulations provides that an application is to be referred to the Historic Preservation Review Board for report and recommendation to the Board. Section 1002.8 provides that the final determination as to substantial compliance with D.C. Law 2-144 and the federal regulations governing historic preservation is to be made by the Board. The Zoning Commission could have provided for referral to the Mayor's Agent as suggested by DCPL and the ANC, but it did not.

Further, Section 4(c)(4) of the D.C. Historic Preservation Act provides that the Historic Preservation Review Board (HPRB) shall

perform such other functions related to historic preservation as assigned by the Mayor. Section 102.4 of the HPRB's rules provides only for the HPRB to advise the Board on the new construction, demolition and alteration of chanceries located in historic districts under the Foreign Missions Act.

The Board has previously addressed these issues in Order No. 15427 and concurs with the arguments of the applicant and the State Department. Consequently, considering the positions of DCPL and the ANC as procedural issues, they are denied.

APPLICATION

The applicant owns the property at 1520 18th Street, N.W., which is approximately 6,652.9 square feet in land area. The subject site is situated in the Dupont Circle Historic District.

The site consists of a four-story plus mezzanine Colonial Revival structure and a free-standing garage. Originally a grand residence, 1520 18th Street, N.W. was designed in 1912 by Jules Henri de Sibour. The property has been used for nonresidential uses since at least 1949 when the Board, by Order No. 2355, granted approval to establish a nonprofit use at the site. The property was purchased by the applicant in 1968 for chancery purposes.

The application is before the Board for approval of an addition to the existing chancery annex. The addition to the existing building (Lot 32) will be located on the adjacent lot (Lot 25), which is approximately 20 feet wide. The addition is connected to the north side of the existing structure by a glazed connecting wall which is stepped back in stages. The entrance is recessed in a court yard between the existing building and the new addition. An arched stone or cast stone portico is located at the building line. The existing building (after renovation) and the new addition will together contain approximately 19,047 square feet of gross floor area.

The Saudi Arabian Cultural Mission was established in 1951 as part of the Saudi Mission to the United Nations in New York. The Office moved to Washington, D.C. in 1984. The Cultural Mission serves the educational needs of Saudi students studying in the United States and acts as cultural and educational liaison between Saudi Arabia and the United States.

Based upon the current operations, an estimated 90-person staff will be on site. The Saudi Arabian Cultural Center hours of operation are 9:00 a.m. to 5:00 p.m. On average, the Cultural Center receives seven visits per day. The representative of the Cultural Center indicated at the hearing that a reduction in the size of staff is expected over time.

The existing structure is nonconforming with respect to side yard, floor area ratio (FAR), open court and rear yard for the SP-1 District. The present side yard on the south side of the existing building is approximately 1.5 feet wide at its narrowest point. The Zoning Regulations do not require a side yard in the SP-1 District, but if one is provided, it must be at least two inches wide for each foot of building height, or in this case 10.8 feet. In terms of FAR, the existing structure contains 13,280 square feet of gross floor area, or 2.73 FAR. The SP-1 District permits an FAR of 2.5 for nonresidential uses, with a total of 4.0 FAR permitted. The project, including the addition, provides 19,047 square feet of gross floor area, or 2.86 FAR. The project exceeds the permitted FAR by 0.36 FAR, or 11.6 percent. The project is well within the overall bulk and density permitted in the SP-1 District (4.0 FAR total). The existing building is nonconforming as to rear yard and the proposed addition will match and continue the rear building line.

The location of a chancery in a SP-1 District is permitted, subject to disapproval of the Board after review based on the criteria set forth in Subsection 5-1206(d) of the Foreign Missions Act.

FOREIGN MISSIONS ACT CRITERIA:

In considering the subject application, the Board must apply the specific criteria set forth in Section 1001, *et seq.*, of Chapter 10 of the Zoning Regulations, which are necessarily the same as Subsection 5-1206. A chancery shall be a permitted use in a SP-1 District, subject to disapproval by the Board based solely on those criteria, which are as follows:

1. Subsection 1001.2. 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. Subsections 1001.3 and 1001.4. Historic preservation, as determined by the Board 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. Subsection 1001.5. 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. Subsection 1001.6. 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. Subsection 1001.7. The municipal interest, as determined by the Mayor.
6. Subsection 1001.8. The federal interest, as determined by the Secretary of State.

EVALUATION:

With respect to the above-referenced six criteria set forth in the Zoning Regulations, the Board states the following:

1. The International Obligation of the United States. By letter dated April 17, 1992, 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.

The Director determined that there exists no special security requirements related to parking and that the site and area are capable of being adequately protected. Basic security principles have been incorporated into the siting of the structure and its design.

Finally, the proposed chancery is consistent with the Federal interest in the Foreign Missions and International Organizations Element of the Comprehensive Plan.

2. Historic Preservation. The subject site, consisting of the main building and a garage, is located within the Dupont Circle Historic District. The main building, designed as a grand residence in 1912 by the Washington architect Jules Henri de Sibour, is a contributing building to the historic district. The Dupont Circle Historic District is characterized by row dwellings and detached buildings of varying heights that for the most part are constructed at the front building line. This urban siting creates a uniformity to the tree-lined residential character of the streets. The small garage, constructed in 1925 by the De Sibour Construction Co.,

also contributes to the historic district. However, because the structure occupies only a small portion of its lot and is set back substantially from the street, its siting breaks the continuity of the uniform streetscape, thereby compromising the distinctive visual qualities of the historic district. Additionally, the garage lot has been used for surface parking.

In order to construct the proposed addition, the existing garage structure will be demolished and the lot will be consolidated into one record lot by subdivision with the lot on which the existing building is located. The new four-story brick addition, designed to reflect the characteristics of the 1912 de Sibour building, will be joined to the north side of the existing structure by a glazed connecting wall, stepped back in stages to expose the existing fenestration. The entrance will be recessed in a small court yard between the existing building and the new addition. An arched stone or cast stone portico will delineate the entrance at the building line. The proposed addition complements and enhances the character of the historic district by providing a transition between the height of the existing building and the structure to the north. The height among the three structures steps down from 65 feet at 1520 18th Street to 59 feet at the addition to 43 feet at the neighboring building to the north. At the same time, the addition shields the view of the office building at 11 Dupont Circle from the rear of the subject property. Likewise, the unattractive finish of the division wall to the north is covered and thus replaced by the new compatible construction. Equally important, the addition closes the gap in the streetscape and restores the uniformity of the building line which is indicative of the historic district.

In addition to the construction of the addition, the proposed expansion of the chancery provides for the rehabilitation of the existing building, including the restoration of the front facade in a manner appropriate to the Dupont Circle Historic District.

The proposed addition received conceptual design approval from the D.C. Historic Preservation Review Board (HPRB) on December 18, 1991. The staff report adopted by the HPRB noted that "the new addition relates well to the streetscape both in scale and design." The HPRB also found that while the garage contributes to the historic district, "it does not provide for a continuity of streetscape, and the new construction contributes to a completion of the street design."

The Dupont Circle Conservancy was also consulted on the design of the proposed addition. That organization likewise supported the new addition as indicated in its letter dated December 30, 1991 to the HPRB staff.

The Board agrees with the report of the HPRB. The Board has determined that the demolition of the garage, which does not enhance the visual qualities of the historic streetscape, is necessary in order to construct the new chancery addition. The Board finds that the height, scale and design of the addition are appropriate to and compatible with the historic district in which it is located and compatible with the existing structure.

3. Parking and Transportation: Section 1001.5 requires the Board to consider the adequacy of off-street or other parking, and the extent to which the area will be served by public transportation, subject to special security requirements by the Secretary of State.

In order to protect the historic features of the existing building while at the same time meeting the programmatic requirements of the new addition, no parking is provided on-site. The site is exempted from the parking requirements pursuant to a waiver secured for contributing buildings to the historic district under Section 2100.5 of the Zoning Regulations.

Nevertheless, in recognition of the importance of convenient parking for its facility, the Saudi Arabian government will provide parking spaces for 90 percent of its employees, or in the present case, 80 spaces for the current 90 employees. This is eight times the number of spaces required for facilities of similar square footage in the SP-1 District that are not exempted from the parking requirements. The applicant agreed to condition the approval of its project upon providing parking spaces within 1/4 mile of the site for 90 percent of its staff. Prior to obtaining a certificate of occupancy for the site, the applicant agreed to present evidence of a contract to provide parking for 90 percent of its staff to the Zoning Administrator.

The applicant's traffic consultant stated in his report and by testimony at the hearing that the project will not adversely affect traffic or transportation.

The Office of Planning, by report dated May 12, 1992, recommended approval, subject to the condition that the applicant provide 80 parking spaces, based upon the applicant's current 90 employees.

The Board finds that the applicant, through a condition related to parking, will satisfy its daily parking needs and will not adversely affect traffic conditions.

4. Protection. The Office of Foreign Missions, in its letter dated April 17, 1992, stated that the subject proposal does not present any special security requirements. The Board concurs with the Office of Foreign Missions and finds that the facility is 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 12, 1992, and by testimony at the hearing, recommended conditional approval of the application. The Office of Planning reviewed the plans and application and stated that approval is not inconsistent with Sections 1001 and 1002 of the Zoning Regulations. The OP report contains a condition requiring the provision of 80 parking spaces.

The OP stated that the application is compatible with the intent of the Zoning Commission in adopting the regulations for chanceries.

The OP stated that the applicant's proposal deviates from the strict requirements of the SP-1 zone, but that the deviations from standards were minimal and associated directly with the shape of the lot, the siting of the existing structure and the need to set the addition back from the north facade of the existing structure because of historic preservation concerns. The OP concluded that the application will not have an adverse impact on the municipal interest nor on the surrounding neighborhood.

The Metropolitan Police Department (MPD), by report dated May 6, 1992, noted no opposition to the application.

The application received the written support of several adjacent chanceries including Peru, Argentina, Nicaragua, and Singapore.

By testimony at the hearing, the adjacent neighbor to the north at 1524 18th Street, N.W., opposed the application because of construction issues (rodents, underpinning and time of day issues) and the impacts of the addition on his existing nonconforming court adjacent to the property line between the two properties.

In response, the applicant stated that the construction issues are properly considered as part of the building permit process, but that the applicant is willing to address the concerns of the neighbor. Further, in terms of alleged light and air issues, the applicant notes that the adjacent owner must provide light and air on his own property and that the applicant has no ability to alter the existing nonconforming court at 1524 18th Street, N.W.

One other letter in opposition to the application is contained in the file, but that letter provided no reasons for such opposition.

The Board is of the opinion that the issues related to construction and the existing nonconforming court to the north of the subject property have been adequately addressed by the applicant. Nonconforming courts are characteristic of areas of the City that have a variety of row dwellings built at different times. Further, the Board finds that the construction issues will be addressed by the Department of Consumer and Regulatory Affairs in issuing a building permit to the applicant.

6. The Federal Interest. The Office of Foreign Missions has determined that approval of the application would be consistent with the Federal interest in the Foreign Missions and International Organizations Element of the Comprehensive Plan, and would fulfill the obligation of the United States to provide adequate and secure facilities for foreign missions in the nation's capital. The government of Saudi Arabia has been supportive of the United States in its effort to acquire property in Saudi Arabia for foreign missions purposes. It is in the Federal interest of the United States to reciprocate.

ADVISORY NEIGHBORHOOD COMMISSION:

Advisory Neighborhood Commission (ANC) 2B submitted a written report dated March 26, 1992, that expressed opposition to the application for two reasons:

- a) adequate and firm commitments have not been made to provide off-street parking for the 90 occupants of the premises; and
- b) there has not been appropriate local review on this application concerning the demolition of the garage, a contributing building to the historic district which should be addressed by the Mayor's Agent under D.C. Law 2-144.

The Board finds that the parking will be addressed through its conditions. The Board finds that the second issue is adequately addressed by the authority of the Foreign Missions Board of Zoning Adjustment (FMBZA) under the Foreign Missions Act. A response from the Mayor's Agent is not a prerequisite to the Board reaching a decision on the application. Indeed, Subsection 1002.7 of the Zoning Regulations provide for referral to the HPRB only. The rules of the HPRB, Section 102.4, also contemplated comment to the Board only by the HPRB. Under the criteria in Chapter 10 of the Zoning Regulations, the Board alone is mandated to decide substantial compliance with local and federal historic preservation regulations. The Board has determined that the existing garage building is not of such significance that its retention is of benefit to the Dupont Circle Historic District. The Board also points out that the subject site is located in a Special Purpose District. Chanceries are permitted as a matter-of-right subject to disapproval by the Board based upon the criteria set forth in D.C. Code Subsection 5-1206(d). The Board finds that measures will be taken by the applicant to ensure that construction of the building will not unduly disrupt or jeopardize the stability of neighboring properties.

DECISION:

On the basis of the record before it and the criteria of Chapter 10 of the Zoning Regulations, the Board has determined that the standards of the Zoning Regulations have been met by this application. The Board has accorded to the ANC the "great weight" to which it is entitled. Accordingly, it is hereby **ORDERED** that this application is **GRANTED**, in accordance with the revised plans marked as Exhibit No. 36 of the record, subject to the following **CONDITION:**

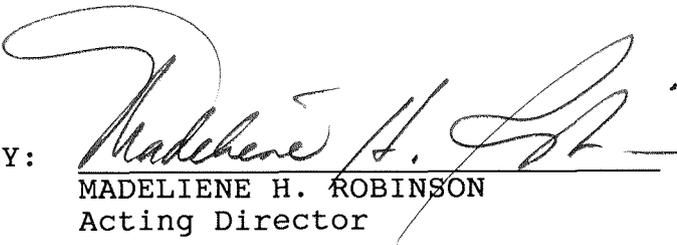
Prior to obtaining a certificate of occupancy for the site, the Applicant shall present evidence to the Zoning Administrator of a contract(s) for 80 parking spaces, for 90 staff employees, within one-quarter mile of the subject site. Should the number of staff be reduced, the applicant may reduce the number of parking spaces to the number of staff driving to the premises upon certification to the Zoning Administrator and the Office of Foreign Missions.

VOTE: 3-0 (John G. Parsons, Paula L. Jewell and Angel F. Clarens to approve; Carrie L. Thornhill not voting, not having heard the case; Reginald Griffith not present, not voting, not having heard the case).

BZA APPLICATION NO. 15678
PAGE NO. 11

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

ATTESTED BY:


MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: AUG 28

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.

ord15678/LJP