

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18691 of Terence A. Gerace, Sr., Marian H. Gerace, and Terence A. Gerace, Jr. on behalf of the Embassy for the Republic of Georgia, pursuant to 11 DCMR § 1002, to allow the location of a chancery in the DC/R-5-B District at premises 1824 R Street, N.W. (Square 134, Lot 167).

NOTICE OF FINAL RULEMAKING

and

DETERMINATION AND ORDER

The Board of Zoning Adjustment (“Board”), pursuant to the authority set forth in § 306 of the Foreign Missions Act (“FMA”), approved August 24, 1982 (96 Stat. 283; D.C. Official Code, § 6-1306) (2012 Repl.) and Chapter 10 of the Zoning Regulations of the District of Columbia, Title 11 DCMR, and after a public hearing on January 7, 2014, hereby gives notice that it took final action not to disapprove the application of Terence A. Gerace, Sr., Marian H. Gerace, and Terence A. Gerace, Jr. on behalf of the Embassy for the Republic of Georgia (“Applicant”) to permit the chancery use of property located in the DC/R-5-B District at 1824 R Street, N.W. (Square 134, Lot 167) (the “Subject Property”).

Specifically, the Republic of Georgia proposes to relocate chancellor functions and staff from 2209 Massachusetts Avenue, N.W. to the Subject Property on 1824 R Street, N.W. The Applicant proposes no new building construction or modification, apart from planning to mount a small plaque and the country’s national flag on the front of the building. Additionally, the Applicant plans to restripe the rear parking pad to accommodate six compact vehicles.

The Subject Property is comprised of two four-story row dwellings built in 1911 by Washington, D.C. architect, Clark Waggaman. For many decades, the row houses remained separate residences, 1824 and 1826 R Street N.W. In the 1980s and 90s, the Subject Property served as Chancery for the Embassy of Singapore, during which time the interior of the structure was partially unified. The current owners acquired the property in 2003 and engaged in a multimillion dollar renovation and restoration effort. When the renovation was complete, the row dwellings were fully combined into a 12,000 square foot mansion with one address: 1824 R Street, N.W.

441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001

Telephone: (202) 727-6311

Facsimile: (202) 727-6072

E-Mail: dcoz@dc.gov

Web Site: www.dcoz.dc.gov

BZA APPLICATION NO. 18691
PAGE NO. 2

The Subject Property was zoned SP prior to 1974 (See Zoning Commission Order No. 90) and has a history of nonresidential use prior to the 1974 rezoning. In 1971, the Republic of Singapore established its chancery at the Subject Property as a matter-of-right, under then-existing SP zoning. In 1981, the BZA approved the chancery's expansion into the adjoining row house, creating a single building on the interior. (BZA Order No. 13459). From 1993–2003, the Subject Property was devoted to office use; from 2006–2010, it served as a six-bedroom Bed and Breakfast. Since the Bed and Breakfast closed in 2010, its owners have used 1824 R Street N.W. as a temporary residence while they listed the Subject Property for sale.

The Subject Property is located in Square 134 on the south side of R Street between 18th and 19th Streets, N.W. Square 134 is bounded by R Street to the north, Corcoran Street N.W. to the south, 18th Street N.W. to the east, and 19th Street N.W. to the west. The Subject Property is located within an R-5-B District which encompasses the area north of Dupont Circle between Connecticut and New Hampshire Avenues. The southeast portion of Square 134 is zoned SP-1.

The Applicant proposed that no portion of the existing building would be retained for residential purposes. The chancery would operate from Monday through Friday, 9:30 am to 6:00 am. The chancery would employ a staff of 16, consisting of 13 diplomats and 3 administrative employees. Onsite diplomatic services would include daily administrative functions, meeting with representatives of the diplomatic corps, and other conferences with government and non-governmental organizations. Visa and passport transactions would not be conducted at the chancery. The Applicant anticipates six to eight weekly visitors and expects to hold two to four annual events that may draw up to 50 guests. Larger events would be held offsite.

A notice of proposed rulemaking was published in the November 1, 2013 edition of the *D.C. Register*.

Pursuant to § 206(d) of the Foreign Missions Act, D.C. Official Code § 6-1306(d), the Board must consider six enumerated criteria when reviewing a chancery application. The provision further dictates who is to make the relevant finding for certain factors. The factors and relevant findings are as follows:

- 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.**

The Department of State determined that favorable action on this application would fulfill the international obligation of the United States to facilitate the Government of the Republic of Georgia in acquiring adequate and secure premises to carry out their diplomatic mission. (Exhibit 26.)

- 2. 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 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.

The Subject Property is located within the Dupont Circle Historic District. Accordingly, the Board must determine whether the proposed chancery will be in substantial compliance with historic preservation laws and regulations. Neither the Foreign Missions Act nor the Zoning Regulations define “substantial compliance,” however, the United States Court of Appeals for the District of Columbia addresses its meaning in *Sheridan-Kalorama Historical Ass’n v. Christopher*, 49 F.3d 750, 311 U.S. App. D.C. 16 (D.C. Cir. 1995). The Court held that compliance with historic preservation laws refers to “submitting the proposal to the appropriate regulatory body or bodies for review and comment.” *Sheridan-Kalorama Historical Ass’n*, 49 F.3d at 759, 311 U.S. App. D.C. at 25. In that case, the Court found substantial compliance where the proposal was reviewed by the Mayor’s Agent for Historic Preservation. Currently, the Director of the Office of Planning (“OP”) serves as the Mayor’s agent for carrying out historic preservation responsibilities. The Historic Preservation Office, located within OP, reviewed the proposed action and determined that it will be compatible with the historic district and will retain a historic property. (Exhibit 31.)

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 such special security requirements as may be determined by the Secretary of State, after consultation with Federal agencies authorized to perform protective services.

The Board agrees with the findings reached by OP (Exhibit 31) and the D.C. Department of Transportation (“DDOT”) (Exhibit 32) that the Subject Property is adequately served by sufficient on-site parking and public transportation services. The rear parking pad will accommodate six vehicles, and two diplomatic zone spaces will be provided on the street in front of the Subject Property. The chancery will operate with only 16 employees, many of whom are diplomats, and expects few visitors. Therefore, it will generate little need for increased parking. Additionally, visitors and employees can easily access the Subject Property by public transportation. The Dupont Circle Red Line Metrorail station is situated two blocks southwest of the Subject Property, and several Metrobus routes serve the area, especially along Connecticut Avenue.

The Department of State, after consulting with the Federal agencies authorized to perform protective services, determined that there exist no special security requirements relating to parking in this case. (Exhibit 26.)

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.

After consulting with Federal agencies authorized to perform protective services, the Department

BZA APPLICATION NO. 18691
PAGE NO. 4

of State determined that the subject site and area are capable of being adequately protected. (Exhibit 26.)

5. The municipal interest, as determined by the Mayor.

The Office of Planning, on behalf of the Mayor of the District of Columbia, determined that approving this application is in the municipal interest and is generally consistent with the Comprehensive Plan for the Nation's Capital and the Zoning Regulations. (Exhibit 31.)

6. The Federal interest, as determined by the Secretary of State.

The Department of State determined that there is federal interest in this project. Specifically, the Department of State acknowledged the Republic of Georgia's generous assistance in establishing a new U.S. Embassy in Tbilisi in 2005. Such cooperation was essential for successfully achieving the Federal Government's mission for providing safe, secure, and functional facilities for the conduct of U.S. diplomacy and the promotion of U.S. interests worldwide. (Exhibit 26.)

Based upon its consideration of the six criteria discussed above, the Board has decided not to disapprove this application.

As a result, the Applicant will be permitted to locate its chancery at 1824 R Street, N.W.

ANC 2B Recommendation

The Board is required under § 13(d) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001) to give great weight to the issues and concerns raised in the written report of the affected Advisory Neighborhood Commission ("ANC") which is ANC 2B. The ANC submitted a resolution in support of granting the Applicant's zoning request. (Exhibit 27.) The ANC noted that a quorum of their Commissioners voted 6-0 in support of the Applicant at a noticed public meeting on November 13, 2013. The Board's decision to not disapprove the Application is consistent with the ANC's resolution.

Accordingly, it is hereby **ORDERED** that the application is **NOT DISAPPROVED**.

Vote of the Board of Zoning Adjustment taken at its public hearing on January 7, 2014, to Not Disapprove the application:

VOTE: **4-0-1** (Lloyd L. Jordan, Marcel C. Acosta, S. Kathryn Allen, and Peter G. May; to Not Disapprove; one Board seat vacant.)

BZA APPLICATION NO. 18691
PAGE NO. 5

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

The majority of the Board members approved the issuance of this order.

ATTESTED BY:


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: March 10, 2014

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

APPROVAL OF THIS APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. THE APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.