

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 19130 of the Embassy of the Russian Federation**, pursuant to 11 DCMR § 1002 of the Foreign Missions Act, to allow the construction of a security fence at an existing embassy in the R-5-D District at premises 2001 Connecticut Avenue, N.W. (Square 2536, Lot 308).

**HEARING DATES:** October 20, 2015, November 10, 2015, January 12, 2016, March 1, 2016, and April 12, 2016<sup>1</sup>

**DECISION DATE:** April 12, 2016

**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, 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 public hearings on November 10, 2015, January 12, 2016, March 1, 2016, and April 12, 2016, hereby gives notice that it took final action not to disapprove the application of The Embassy of the Russian Federation (“Applicant”) to allow the construction of a security fence at an existing embassy in the R-5-D District at premises 2001 Connecticut Avenue N.W. (Square 2536, Lot 308) (the “Subject Property”).

A Notice of Proposed Rulemaking was published in the September 4, 2015 edition of the *D.C. Register*. (62 DCR 12313.) In accordance with 11 DCMR §§ 3113.13 and 3134.9(c), the Board provided written notice to the public more than 40 days in advance of the public hearing. On August 27, 2015, the Office of Zoning (“OZ”) provided notice of the filing of the application to the United States Department of State, the District of Columbia Office of Planning (“OP”), Advisory Neighborhood Commission (“ANC”) 1C, whose boundaries encompass the Subject Property, the Single Member District Commissioner for ANC 1C01, the District Department of Transportation (“DDOT”), and the Councilmember for Ward One.

OZ scheduled a public hearing on the application for October 20, 2015 and provided notice of the hearing by mail to the Applicant, ANC 1C, and the owners of all property within 200 feet of the

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<sup>1</sup> This case was originally scheduled for public hearing on October 20, 2015 and administratively postponed to November 10, 2015. The public hearing was continued to January 12, 2016, March 1, 2016, and April 12, 2016.

subject property, as well as to the Department of State, the National Capital Planning Commission, and the Commission of Fine Arts. A notice of the public hearing was published in the September 4, 2015 edition of the *D.C. Register*. (62 DCR 12052.) The hearing was administratively postponed from October 20, 2015 to November 10, 2015. The postponement and rescheduling of this case was announced on the record at the Board's public meetings on October 20, 2015 and October 27, 2015.

The Applicant proposes to construct a security fence. Specifically, the Applicant's final revised plan includes the alteration of the existing balustrade along the south elevation and parts of the Connecticut Avenue side elevation, installation of a strip of limestone at the base of the balustrade, and installation of a new fence behind the balustrade on Connecticut Avenue where the existing balustrade does not provide sufficient height to serve as a security barrier. The new fence portion would align with and match the existing decorative fence at the vehicular entrance. The revised plans were developed through the Applicant's work with OP and the Historic Preservation Office ("HPO"), based on the agencies' opposition to the Applicant's initial proposal. Based on the revised plans, OP submitted a supplemental report indicating that it recommends that the Board not disapprove the application and confirms that the revised proposal "satisfies the primary goal of the Historic Preservation Review Board to retain the open view of the mansion as seen from the south." (Exhibit 44.)

Pursuant to § 406(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.**

In a letter dated September 29, 2015, the Department of State determined that favorable action on this application would fulfill the international obligation of the United States to facilitate the provision of adequate and secure premises for the Government of the Russian Federation. (Exhibit 31.)

**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 building on the Subject Property is listed as a contributing building in the Kalorama Triangle Historic District and is designated as an individual landmark in the D.C. Inventory and National Register. Initially, OP and HPO recommended to disapprove the application, finding that the original proposal was incompatible with the historic landmark designation and Kalorama Triangle historic district. (Exhibit 33.)

Based on discussions between the Applicant, OP, and the HPO, as well as comments from the Board during the public hearings, the Applicant revised its proposed plans to minimize the visual impact of the fence and to preserve the open view of the historic structure from the south. OP, including OP's Associate Director of Historic Preservation, supported the revised plan in a supplemental report and recommended that the Board not disapprove the application. (Exhibit 26.) Accordingly, the Board finds that no historic preservation basis exists for it to disapprove this application.

**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 concurs with the findings of OP and DDOT that no alteration would be made to affect the adequacy of on-site parking in this case. (Exhibits 32 and 33.) 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 31.)

**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 the Federal agencies authorized to perform protective services, the Department of State determined that the subject site and area are capable of being adequately protected. (Exhibit 31.) The Board finds that this criterion has been met.

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

OP, on behalf of the Mayor of the District of Columbia, determined that approving the modified proposal is in the municipal interest and is generally consistent with the Comprehensive Plan for the Nation's Capital and the Zoning Regulations. (Exhibit 44.) Accordingly, the Board finds that the application has met this criterion.

**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 Government of the Russian Federation recently granted design approval for the U.S. Government's construction project in Moscow. 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 31.)

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 ANC which is ANC

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1C. The ANC did not submit a written report for this application; therefore, the Board has no recommendation to afford great weight.

Based upon its consideration of the six criteria discussed above, and having given great weight to OP's written reports, the Board has decided not to disapprove this application. As a result, the Applicant will be permitted to allow the construction of a security fence at an existing embassy in the R-5-D District at premises 2001 Connecticut Avenue N.W.

Accordingly, it is hereby **ORDERED** that the application is **NOT DISAPPROVED, SUBJECT TO THE APPROVED PLANS UNDER EXHIBIT 46 – REVISED FENCE PLANS & ELEVATIONS.**

Vote of the Board of Zoning Adjustment taken at its public hearing on April 12, 2016, to Not Disapprove the application:

**VOTE:**        **4-0-1** (Marnique Y. Heath, Peter G. May, Frederick L. Hill, and Marcel C. Acosta to Not Disapprove; Anita Butani D'Souza not participating.)

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

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

ATTESTED BY: \_\_\_\_\_

  
SARA A. BARDIN  
Director, Office of Zoning

**FINAL DATE OF ORDER:** June 8, 2016

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.