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GOVERNMENT OF THE DISTRICT OF COLUMBIA
D.C. OFFICE OF ZONING
BOARD OF ZONING ADJUSTMENT



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Application No. 13459, of Raymond R. and V.A. Garthoff, pursuant to Article 46 and Paragraph 8207.11 of the Zoning Regulations, for approval under Sub-section 4605.2 to permit the expansion of the Chancery of Singapore to an adjacent building and for variances from the off-street parking space requirements (Paragraph 4603.25) and the floor area ratio requirements (Paragraph 4603.24) in an R-5-B District at the premises 1826 R Street, N.W., (Square 134, Lot 151).

HEARING DATES: March 25, April 8 and May 27, 1981
DECISION DATE: June 3, 1981

FINDINGS OF FACT:

1. The subject application was scheduled originally for the public hearing of March 25, 1981. The Chair continued this application with several others to the public hearing of April 8, 1981, because of a lack of time to hear these applications. At the public hearing of April 8, 1981 the opposition moved to continue the application because of lack of notice to several property owners within 200 feet of the site. The record was reviewed and the Chair ruled that proper notice had not been given. The application was continued to May 27, 1981.

2. Preliminary objections were made at the public hearing of May 27, 1981 that the owners of the property should be present at the public hearing and that the application should be processed as a special exception under Sub-section 8207.2 of the Zoning Regulations, and not Article 46. The Chair ruled that the owner had authorized counsel to represent him and therefore the owner need not be present. The Chair further ruled that the application would be processed under Article 46, consistent with the way the Board had treated the prior applications of the Governments of Bangladesh and Saudi Arabia which also were totally under the Diplomatic District Regulations and requested relief to establish a chancery. The Board noted that this procedure was based on an opinion of the Corporation Counsel when the same issue was first raised in the aforementioned application of Bangladesh.

3. The subject property is located on the south side of R Street between 18th and 19th Streets, N.W. and is known as premises 1826 R Street. It is in an R-5-B District.

4. The subject site has an area of approximately 1,996 square feet and is improved with a four story row structure which formerly contained six apartment units, but which is now vacant except for a caretaker.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18691
EXHIBIT NO. 9

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5. The existing chancery of the Government of Singapore is located at 1824 R Street, N.W., immediately adjacent to the site which is the subject of this application. The Government of Singapore has occupied the 1824 R Street building since 1971.

6. The subject property is adjoined at the rear by a sixteen foot public alley and on the west by a twelve foot public alley. The lot is twenty feet wide by 100 feet deep and is regular in shape with the exception of a small triangular corner at the intersection of the two bordering alleys. The subject property and the present chancery at 1824 R Street are similar both in lot size and the nature of the improvements.

7. The subject building on lot 151 was constructed in 1912 and has a gross floor area of approximately 5,750 square feet over four floors including the basement. The figure yields a floor area ratio of approximately 2.8. A maximum of 1.8 FAR is permitted under the Zoning Regulations. The applicant seeks a variance from the FAR requirements.

8. The 1800 block of R Street is characterized by a variety of uses and building types. Two multi-story apartment buildings are located on the south side of the block, one at the intersection of 18th Street and the other at the intersection of 19th Street. The remainder of both sides of the block contains three and four story structures most of which are devoted to residential use.

9. Uses in the general area are varied. Across from the subject site is the Museum and Library of the American Psychiatric Institute. There are, in addition, a substantial number of diplomatic missions in the immediate vicinity including the Embassy of Sierra Leone at the northeast corner of 19th and R Streets. Others include the Embassy of Iraq at 1801 P Street, the Embassy of Rwanda at 1714 New Hampshire Avenue, a French Military Attache at 1759 R Street and a Soviet Cultural Mission at 1706 - 18th Street.

10. The R-5-B District within which the subject site is located encompasses the area between Connecticut and New Hampshire Avenues north of Dupont Circle. There is, however, a C-2-A District north of S Street along 18th Street. The southeast portion of Square 134 is zoned SP-1 and the newly adopted C-3-B District is mapped along Connecticut Avenue between Dupont Circle and Florida Avenue.

11. The subject site is located within the Dupont Circle Historic District. Although no exterior modifications to 1826 R Street are contemplated by the applicant, any modifications to the building will be reviewed by the Joint Committee on Landmarks and the Mayor's Agent for Historic Preservation in accordance with the provisions of the Historic Landmark and Historic District Protection Act (DC Law 2-144).

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12. The applicant proposes to expand the existing chancery offices into the subject property. The chancery now has a total of fourteen persons who work at 1824 R Street. Six of the fourteen are diplomatic officers, with the remaining eight including administrators, secretaries and drivers. Under the proposed expansion into 1826 R Street, there would be four diplomatic officers and five other staff at 1824 R Street and two diplomatic officers and three other staff at 1826 R Street. This would allow future expansion for a total of five diplomatic officers at 1824 R Street and six other staff there, and four diplomatic officers and five other staff at 1826 R Street.

13. Parking at the subject site and at the existing chancery facility at 1824 R Street is accessed through the alley system. Cars may enter from Corcoran Street and travel north into the alley running east and west at the rear of the subject site. Cars may enter the alley from R Street to the east of the subject site and travel south to the east-west alley running behind the subject site. Cars may enter from R Street immediately to the west of the subject site and travel south to the east-west alley. The east-west alley measures sixteen feet in width and the north-south alleys measure twelve feet in width. There are presently six parking spaces provided for embassy use at the existing chancery facility at 1824 R Street. There is room for only three nine by nineteen foot parking spaces at the rear of 1826 R Street.

14. A representative of the Government of Singapore testified that all six spaces at the rear of 1824 R Street are presently used. The Government of Singapore does not anticipate a need for a total of more than seven spaces, or one new parking space to be provided at the subject site. Therefore, two parking spaces would be provided at the subject site in excess of the anticipated need of the chancery staff.

15. The section of R Street upon which the subject site is located is a one-way westbound street. There is curbside parking on the north side of R Street with a two-hour limitation. On the south side of R Street there is no standing from 7:00 to 9:30 A.M. and 4:00 to 6:30 P.M., and no parking from 9:30 A.M. to 4:00 P.M. There are no reserved diplomatic parking spaces provided for the chancery on the street.

16. The representative of the Government of Singapore testified that under the existing parking plan, only two cars, the embassy staff cars, normally come and go during the course of the chancery's hours of operation. These cars are able to maneuver in and out without moving other cars belonging to personnel, which remain parked from approximately 9 A.M. to 5 P.M. on a daily basis. The parking area is utilized after chancery business hours by neighbors for visitor parking.

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17. There is parking provided at the rear of other structures in the subject square with access from the alley system. One parking space per dwelling unit is provided at the rear of the condominium townhouse-type structures fronting on the north side of Corcoran Street to the west. Parking is provided for other structures in the square either parallel or perpendicular to the alley. The existing parking plan at the existing chancery has caused no dangerous or objectionable conditions.

18. The proposed expansion would provide parking in substantially the same manner as the existing chancery does. The off-street parking provided is at the rear at the site and is minimally intrusive upon the aesthetic character of the neighborhood.

19. The subject site is located in an area designated for chancery use on the diagram constituting part of the Foreign Missions and International Agencies element of the Comprehensive Plan of the National Capital.

20. The subject structure measures forty-nine feet in height and there will be no exterior alterations or additions to increase this height, which is less than the maximum allowed of sixty feet. It occupies approximately fifty-eight percent of the lot. There are no courts on the subject site. There is a 42.5 foot rear yard, far in excess of the requirement of sixteen feet for yards in the R-5-B District

21. Pursuant to Sub-section 4604.1 of the Zoning Regulations, the application was referred to the Office of Planning and Development for coordination, review and report, such report to include any recommendations of other relevant District departments and agencies including the Department of Transportation, Environmental Services, and Housing and Community Development. Comment was also requested of the U.S. Department of State and the National Capital Planning Commission.

22. By report dated March 20, 1981, the OPD recommended that the application be approved. In its report, the OPD noted that the Government of Singapore established its existing chancery at 1824 R Street in 1971. Over the intervening ten years this facility has become inadequate to serve the space needs of the Government. The existing staff numbers fourteen persons and the proposed expansion is designed to relieve the present overcrowded conditions and provide for incremental growth through 1990. A maximum of twenty persons will ultimately be accommodated in the enlarged facility. Daily visitor traffic is light, especially since there is no visa section at this location.

23. The applicant proposes no exterior modifications to 1826 R Street, consistent with the objectives of the Dupont Circle Historic District and the city's historic preservation act. According to the OPD, these two buildings represent exceptional examples of classical revival architecture and should be maintained in their present condition. The 1800 block of R Street is an architecturally cohesive unit and establishes a very attractive street ambiance.

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24. In regard to the use of 1826 R Street for chancery purposes, the OPD concluded that the Government of Singapore's proposal is a reasonable one which will not be unduly burdensome on the neighborhood. The low scale of activity generated by this use will be in keeping with nearby uses and will not jeopardize the present or future development of the neighborhood. The OPD believed that the proposed expansion is in accordance with the intent of Sub-section 4605.2 of the Zoning Regulations regarding the expansion of existing chanceries.

25. In regard to the requested variance from the FAR requirements of the R-5-B District, the OPD noted that the building is presently non-conforming in this respect. It was the opinion of the OPD that it would not be practical to limit the use of this building for the proposed use to a maximum of 1.8 FAR, which would leave nearly two floors vacant. The OPD did not believe that the grant of this variance will cause adverse impacts on the neighborhood nor would it impair the intent of the Zoning Regulations.

26. Based on a gross floor area of 5750 square feet, seven parking spaces are required for the proposed chancery use. Because the proposed expansion involves an existing building, only three spaces can be provided. The OPD was of the opinion that there are no reasonable means by which additional parking spaces can be provided at 1826 R Street. In addition there is not a significant amount of visitor traffic associated with the existing chancery and it was not anticipated that this situation will change markedly. The OPD did not believe that the grant of the requested parking variance will result in adverse impacts. The Board concurs with the findings and recommendations in the OPD report.

27. The Department of Environmental Services by memorandum dated March 13, 1981 reported that it had received the application, that it had no objections and that the relief requested by the applicant will have no impact on the sewer and water systems. The Board so finds.

28. By memorandum dated March 30, 1981, the State Historic Preservation Officer, reported that after reviewing the materials submitted, he was of the opinion that the proposed expansion, which does not call for any exterior alterations to 1826 R Street, N.W., will not have an adverse impact on significant architectural and historical qualities of the Dupont Circle Historic District. Additionally, granting the variances from the provisions regarding the number of required parking spaces and the maximum permitted FAR would not have an adverse impact on the historic district. Rather granting the variances would allow the continuation of existing conditions and would cause the least possible disruption to the buildings and the historic district. The Board so finds.

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29. The National Capital Planning Commission by letter of March 20, 1981, and through testimony at the public hearing reported that the proposed expansion of the Chancery of the Government of Singapore is consistent with the Foreign Missions and International Agencies element of the Comprehensive Plan for the National Capital.

The NCPC recommended that the Board of Zoning Adjustment approve the variances from the maximum floor-area-ratio and minimum off-street parking requirements in view of the consistency of the proposal with the Comprehensive Plan and its compatibility with the present and proposed development of the neighborhood. The Board concurs with the findings and recommendations of the NCPC.

30. The Department of State by letter of March 13, 1981, and through testimony at the public hearing recommended that the application be approved. In its letter of March 13, 1981, the Department of State reported that the expansion of the chancery to the premises next door would constitute a logical and highly satisfactory solution to the Embassy's quest for additional space in which to carry out its mission, made necessary by the increase in bilateral relations between the Government of Singapore and the United States. The Government of Singapore, through its counsel, has been in contact with the Department of State and local and federal authorities concerning the proposed expansion. The Department has reviewed the Embassy's plans and believes the Government of Singapore has been sensitive to the concerns of the local community in preserving the historic character of the area in which its chancery has been located since 1970. In this regard, it was the Department's understanding that no additions or alterations are planned to the exterior of the structure on the property.

31. At the public hearing, the State Department testified that the Vienna Convention of Diplomatic and Consular Relations requires assenting states to locate their chanceries and office buildings in the nation's capital city of the receiving state. Therefore, missions are required to locate their chanceries in Washington, D.C., and not Arlington, Bethesda or Reston. There have been new emerging countries over the past several years. As a result, the Department is putting in a chancery enclave at the old Bureau of Standards grounds. The Department is trying to help alleviate some of these problems. The Department strongly supported this application on the principal grounds that the chancery already exists, that the building is vacant except for a caretaker, and that the applicant would not destroy this building by having to cut it back and rebuild it. The applicant does not plan to tear down the structure and put up a new modern structure. The Board concurs.

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32. The Commissioner for the Advisory Neighborhood Commission 2B05 appeared in opposition to the application and submitted a written report to the record evidencing that at the March 25 meeting of that ANC there was a unanimous vote that the Commissioners recommend that the application be denied. The ANC expressed concern over the expansion of nonresidential use in this area which was downzoned to R-5-B in 1974. The ANC noted that a substantial number of residences have been lost citywide and that this particular ANC has proportionately suffered the greatest loss of population in the city. The ANC argued that the previous use of the subject site as an apartment house should be continued. The ANC believes that the Chancery of Singapore should be encouraged to locate in an enclave for such diplomatic uses, one of which is being proposed for the area of Van Ness Street and Connecticut Avenue. As another alternative, the ANC felt that chancery use would be more appropriate if it were moved to one of the many high-rise commercially zoned buildings available in commercial districts of the city. The ANC representative testified that in 1978 the American Embassy in Singapore was located in such a commercial district and that it is inappropriate to burden the citizens of the District of Columbia with a request, and the sacrifice of their residences and neighborhood, for location of an expanded Singapore Chancery here. The ANC testified that the applicant had failed to demonstrate sufficient exceptional practical difficulty or undue hardships meriting variance relief from the FAR requirements. In addition, the ANC testified that the request for a variance from the parking requirements is inappropriate under Sub-section 7203.1 and that there is a greater than fifty percent reduction in the parking requirements being sought. The ANC representative submitted that future needs of this chancery or other diplomatic uses which may locate in the subject site in the future would likely have increased parking needs, that there would consequently be a chance of adverse impact on the neighborhood in the future. The ANC submitted a petition with thirty-five signatures, thirty-one of which were from persons within a two block area of the subject site, stating that they strongly objected to the take-over by the Embassy of Singapore of an apartment building at the subject site and that aside from there being inadequate parking for such use on the premises, the loss of housing in the subject community due to office and hotel expansion has already been very great.

33. There was a letter of record from the Friends Meeting of Washington in which it was stated they are concerned that the subject neighborhood remain residential in make-up. Many of the members live in the immediate area of the site and they are particularly sensitive to this need.

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34. A representative of the Dupont Circle Citizens Association also appeared in opposition to the application. The Citizens Association objected to the fact that a representative of the owner of the subject site was not available to testify and be cross-examined. The Citizens Association also testified that the application concerning the subject site was not qualified to be heard pursuant to Paragraph 4605.12 of the Zoning Regulations since this type of expansion was not contemplated under Article 46, that only expansion on the same land currently owned by an embassy or chancery was to be covered by that provision and not the purchase of adjacent land. The Citizens Association also objected to the admission of the testimony of a representative of the Government of Singapore on the grounds that because of sovereign immunity said representative cannot be held accountable under the same standards applicable to United States citizens. The DCCA further objected to the granting of the application on the basis of an existing chaotic parking situation said to exist in Square 134 due to unauthorized parking and numerous parking violations from the Sierra Leone chancery. The Dupont Circle Citizens Association suggested that the Board must look at parking in the neighborhood as a whole in assessing whether or not a particular application for parking variance relief is justified. The Dupont Circle Citizens Association concurred with the ANC that the preferred land use on this site is residential and that the predominant character of the area is residential and should remain so. The DCCA read into the record excerpts from the Zoning Commission Order 73-23, effective May 21, 1974, in which the subject site was rezoned from SP to R-5-B and in which Order the Commission stated that a basis for the downzoning was to preserve the character of the neighborhood. The Dupont Circle Citizens Association also testified that there was no indication of a practical hardship or any indication that the owner has attempted to put the subject property on sale for residential use and has been unable to effectuate such a sale. The Citizens Association was concerned that if variance relief is granted, another chancery with more intense use will be allowed to utilize the property in the future to the detriment of the surrounding neighborhood.

35. The Board is required by statute to give great weight to the issues and concerns of the ANC in its written recommendation. In addressing these concerns, as well as those of the DCCA, the Board finds that the applicant under Sub-section 4605.2 of the Zoning Regulations has no burden to prove that the subject property cannot be used for residential purposes but only the burden to prove that the requirements of Sub-section 4605.2 have been met or that any variance relief from such sub-section has also been proven. The Board finds for the reasons recited in its conclusions of law that the applicant has met the burden. The Board further finds that it will admit the testimony of the representative of the Government of Singapore and that it will determine the weight to be given to such testimony. The Board further finds that, based on the preceding Findings of Fact and for other reasons recited in its Conclusions of Law, the applicant has met the burden of proof for the requested variance relief. The Board also notes the concerns of the opposition that the granting of the application might lead to further expansion of chancery use. The Board will address this concern by conditioning the grant herein. The location of the U.S. Chancery in Singapore is not material to the issues which the Board must address under the Zoning Regulations.

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CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking permission pursuant to the provisions of Sub-section 4605.2 to allow the expansion of an existing chancery of the Government of Singapore into an adjacent structure and for variances from the provisions of Paragraph 4603.25 as to the number of required parking spaces for the aforesaid use and from the provisions of Paragraph 4603.24 relating to the maximum permitted floor area ratio for the subject site.

As to the expansion of the chancery use, the Board concludes that the applicant has met its burden of proof pursuant to the provisions of Article 46. The applicant's proposal involves no exterior design changes and has been found by the State Historic Preservation Officer to have no adverse effect on the character of the Dupont Circle Historic District in which it is located. The off-street parking spaces are located in the rear of the building so as to be minimally obtrusive. The Board further concludes that the provision of off-street parking spaces will not result in an adverse impact upon the neighborhood and that the projected needs of the applicant are more than adequately met by the parking proposed to be provided. Pursuant to Paragraph 4603.21, all structures and off-street parking spaces are in keeping with the character of the neighborhood. Since the building is forty-nine feet high, pursuant to Paragraph 4603.22, the height of the building does not exceed the maximum permitted in the R-5-B District of sixty feet. The percentage of lot occupancy of the subject site does not exceed the maximum permitted and the minimum yard and court requirements are met for the R-5-B District on this site in conformance with the requirements of Paragraph 4603.23. Pursuant to Paragraph 4603.28, the use will not generate dangerous or other objectionable traffic conditions. Access to the parking is adequate and may be obtained from three different directions along an alley with traffic entering and exiting immediately from a sixteen foot wide alley. There are no traffic problems from the similar use of the rear portion of the existing chancery structure adjacent to the subject site.

Pursuant to Section 4604, the application has been referred to OPD, the State Department, NCPC, and the State Historic Preservation Officer for review and comment. The State Historic Preservation Officer has indicated that no adverse effect will result from the granting of any of the relief requested and OPD and NCPC and the State Department have indicated their support for the granting of the relief requested.

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The Board concludes that the applicant has met the requirements of Paragraph 8207.11 so as to be entitled to variance relief from the requirements of Paragraphs 4603.24 and 4603.25. The subject site is affected by an extraordinary or exceptional condition given the existence of the structure on the site and its contribution to the character of the Historic District in which the subject site lies. Strict compliance with the requirements of these subsections would result in practical difficulties to the applicant. As to the FAR variance, the existing structure is nonconforming and exceeds the maximum FAR requirement of 1.8 by 1.0. The applicant cannot comply as a practical matter because the existing structure is already in excess of permitted FAR. Again, because of the existing configuration of the structure on the site, there is no room for more than three parking spaces on the subject site. The Board concludes that the relief requested may be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zoning plan. The subject site is located in a row of historic townhouse structures and no exterior changes are to be made. The uses of the surrounding neighborhood consist of high-rise apartment use, townhouse dwellings, and a number of office and embassy uses. Less than twenty people are expected to occupy the combined chancery site by 1990 at the maximum, with only five persons to be occupying the area of proposed expansion in the foreseeable future. The proposed expansion does not result in an intensification of the previous use of the subject site for apartment use.

The Board concludes that it has given "great weight" to the issues and concerns of the ANC as required by statute. Accordingly, it is ORDERED that the application is GRANTED in its entirety on the CONDITION that the use of the subject site as a Chancery is LIMITED to the GOVERNMENT OF SINGAPORE.

VOTE: 3-0 (Douglas J. Patton, William F. McIntosh and Connie Fortune to GRANT; Charles R. Norris not present, not voting).

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

ATTESTED BY: Steven E. Sher

STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 6 JUL 1981

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 LICENSES, INVESTIGATIONS, AND INSPECTIONS.