

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**Application for 3107 Fessenden Street, NW
(Square 2277, Lot 8)**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This statement is submitted on behalf of the Embassy of the State of Kuwait (the “Embassy” or “Applicant”), pursuant to Subtitle D § 5201.3 and Subtitle X § 901.2, in support of its application for special exception relief from Subtitle D § 5000.4 to construct a new guard booth as an accessory structure in the front yard of the Embassy at 3107 Fessenden Street, NW (Square 2277, Lot 8) (the “Embassy Site”) in the R-8 District.

Pursuant to Subtitle Y § 300.15, the Applicant will file its Prehearing Statement with the Board of Zoning Adjustment (“BZA” or “Board”) no fewer than 21 days prior to the public hearing for the application. In this statement, and at the public hearing, the Applicant will provide testimony and evidence to meet its burden of proof to obtain the Board's approval of the requested special exception relief. The following is a preliminary statement demonstrating how the Applicant meets the burden of proof.

I. BACKGROUND

The Embassy Site consists of Lot 8 in Square 2277 and has a total land area of approximately 35,240 square feet. Square 2277 is located in the northwest quadrant of the District and is bounded by Linnean Park to the north, Linnean Avenue to the east, Fessenden Street to the south, and Broad Branch Terrace to the west. The Embassy Site itself is surrounded to the north and east by Linnean Park, to the south by Fessenden Street, and to the west by private property.

The entirety of Square 2277, including the Embassy Site, is zoned R-8. The Embassy Site is improved with the Embassy (defined in Subtitle B § 100.2 as the official residence of an ambassador). As shown on the architectural drawings attached hereto, the Applicant intends to construct a guard booth in the front yard of the Embassy Site in order to provide a security checkpoint for guests visiting the Embassy. Pursuant to Subtitle D § 5000.4, an accessory building may not be located in the front yard of a lot in an R zone developed with a residential building. However, relief from that provision may be granted with special exception approval pursuant to Subtitle D § 5201.

The guard booth will not exceed the development standards in Subtitle D, Chapter 50 for accessory structures in the R-8 District, other than its location in the front yard. The guard booth will be subordinate to and located on the same lot as the Embassy. It will be secondary in size to the Embassy. The guard booth will be 8 feet, 8 inches in height, whereas the maximum permitted height is two stories and 20 feet. The addition of the guard booth only slightly increases the Embassy Site’s lot occupancy (17.9% to 18.3%, whereas 30% is permitted). The building area of the guard booth is approximately 126 square feet, where a maximum of 450 square feet is permitted. The guard booth will not result in any increases to the parking or loading requirements

for the Embassy Site, and will not impact the existing compliant setbacks. Thus, installation of the security booth needs zoning relief only due to its proposed location in the front yard.

II. SPECIAL EXCEPTION RELIEF REQUESTED

The Applicant seeks special exception approval pursuant to Subtitle D § 5201.3 and Subtitle X § 901.2 to construct a new guard booth as an accessory structure in the front yard of the Embassy Site. Subtitle D § 5000.4 provides that “an accessory building shall not be located in the front yard of a lot in an R zone developed with a residential building.” However, pursuant to Subtitle D §§ 5201.1(b) and 5201.2(b), the Board may approve as a special exception in the R zones relief from the development standards for yards involving a new accessory structure. Pursuant to Subtitle D § 5201, special exception relief is permitted because the guard booth is a new accessory structure that is accessory to a building with one principal dwelling unit.

III. APPLICANT MEETS SPECIAL EXCEPTION STANDARD OF REVIEW

Pursuant to D.C. Code §6-641.07(g)(2) and Subtitle X § 901.2, the Board is authorized to grant a special exception where it finds the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property, subject in each case to the special conditions specified. Relief granted through a special exception is presumed appropriate, reasonable, and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, “[t]he Board’s discretion... is limited to a determination of whether the exception sought meets the requirements of the regulation.” *First Baptist Church of Washington v. District of Columbia Bd. of Zoning Adjustment*, 423 A.2d 695, 706 (D.C. 1981) (quoting *Stewart v. District of Columbia Bd. of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

An applicant for special exception approval under Subtitle D § 5201 must demonstrate that the proposed accessory structure will not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property in conformance with the criteria set forth in Subtitle D § 5201.3. The proposed guard booth complies with the criteria in Subtitle D § 5201.3 as follows:

Subtitle D § 5201.3(a) - The light and air available to neighboring properties shall not be unduly affected; and Subtitle D § 5201.3(b) - The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;

The Embassy is heavily screened around its perimeter. The guard booth will be 8’-8” tall and will be located 15 feet back from the existing 7’-6” tall metal fence that runs along the south boundary of the Embassy Property along Fessenden Street. There are existing bushes and trees that will remain between the fence and the proposed guard booth location. The guard booth will be screened from view by the one abutting residence to the west (about 200 feet away) by an existing six-foot tall brick wall. The Embassy Site is surrounded on the north and east by thick vegetation in Linnean Park. The plans and photographs submitted with this application demonstrate that the guard booth has been designed, and will be located, to be as unobtrusive as

possible. Moreover, construction of the guard booth will not include any new exterior lighting, buzzer/intercom system, or external speakers, and the guard booth will be located at least 140 feet away from the closest residence across Fessenden Street. Visitor parking will be available on the Embassy Site. Thus, the proposed guard booth will not unduly affect the light and air available to neighboring properties, nor will it unduly compromise the privacy of use and enjoyment of neighboring properties.

Subtitle D § 5201.3(c) The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage;

As shown on the exhibits submitted with this application, the guard booth will be located behind the existing fence and vegetation, and will not substantially intrude upon the character, scale, and pattern of houses along Fessenden Street.

Subtitle D § 5201.3(d) In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways;

Included in this application are architectural drawings and photographs showing the relationship between the proposed guard booth and adjacent buildings and views from surrounding public streets. These materials provide the graphical representations requested by Section 5201.3(d).

Subtitle D § 5201.3(e) The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot as specified in the following table. [Table not included in this statement.]

The table included in this section does not include the R-8 District.

Subtitle D § 5201.4 The Board may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.

With the design and screening proposed, the Applicant believes that no additional special treatment is required. The Applicant believes that it has designed the guard booth with appropriate screening, lighting, and materials, such that it does not need any additional safeguards to protect adjacent and nearby properties. The guard booth will be screened from Fessenden Street to the south with a 7'-6" tall metal fence and dense vegetation, and will be screened from the residence to the west by a six-foot tall brick wall. To the north and east, the Embassy Site is surrounded by Linnean Park. The guard booth will not incorporate any new exterior lighting.

Based on the foregoing, the Applicant has demonstrated that it meets the test for special exception relief under Subtitle D § 5201.3 and Subtitle X § 901.2.