

**BAR MINUTES**  
**CITY OF CHARLOTTESVILLE**  
**BOARD OF ARCHITECTURAL REVIEW**  
**Regular Meeting**  
**September 17, 2024 – 5:00 PM**  
**Hybrid Meeting (In person at City Space & virtual via Zoom)**



Welcome to this Regular Monthly Meeting of the Charlottesville Board of Architectural Review. Staff will introduce each item, followed by the applicant's presentation, which should not exceed ten minutes. The Chair will then ask for questions from the public, followed by questions from the BAR. After questions are closed, the Chair will ask for comments from the public. For each application, members of the public are each allowed three minutes to ask questions and three minutes to offer comments. Speakers shall identify themselves and provide their address. Comments should be limited to the BAR's purview; that is, regarding only the exterior aspects of a project. Following the BAR's discussion and prior to taking action, the applicant will have up to three minutes to respond.

**Members Present:** Carl Schwarz, Jerry Rosenthal, Roger Birle, Breck Gastinger, James Zehmer, Cheri Lewis, David Timmerman

**Staff Present:** Patrick Cory, Remy Trail, Kate Richardson, Jeff Werner

**Pre-Meeting:**

City Council was presented the status of the trees in the tree plan that was presented to the BAR last month. Mr. Schwarz did bring up that the Planning Commission wanted to know why the trees plan was not presented to the Planning Commission.

The leases for the café spaces are up in March for renewal. Staff emphasized the importance of cleaning up the guidelines and getting those updates to City Council. There is \$20 million available with the state for the 250<sup>th</sup> birthday of Virginia. Several city departments will be submitting grant applications.

Staff went over the items on the Consent Agenda and Agenda. There was discussion regarding the one public hearing item on the Agenda. There was extensive discussion regarding the height of fences and what the guidelines say.

Chairman Zehmer called the meeting to order at 5:31 PM.

**A. Matters from the public not on the agenda.**

No Public Comments

**B. Consent Agenda** (Note: Any consent agenda item may be pulled and moved to the regular agenda if a BAR member wishes to discuss it, or if any member of the public is present to comment on it. Pulled applications will be discussed at the beginning of the meeting.)

1. Meeting Minutes – August 20, 2024

**2. Certificate of Appropriateness Application**

BAR # 24-09-02

1309 West Main (Graduate Hotel), TMP 100016000

West Main Street ADC District

Owner: RAAJ Charlottesville Owner, LLC

Applicant: Paul Karpets

Project: North and south elevations, remove stucco panels, install EIFS.

**Motion to Approve Consent Agenda – Ms. Lewis – Second by Mr. Gastinger – Motion passes 7-0.**

**C. Deferred Items**

NA

**D. New Items**

**3. Certificate of Appropriateness Application**

BAR # 24-09-01

409 Park Street, TMP 530037000

North Downtown ADC District

Owner/Applicant: Anthony Arsali

Project: Modify fence height

**Jeff Werner, Staff Report** – CoA request to allow a segment of the new painted wood fence fencing [at front-yard section along the south parcel line] be taller than the adjacent, historic metal fence. In the administrative review, staff required this segment not exceed the height of the metal fence.

**Anthony Arsali, Applicant** – We recently moved into the house. We reached out to staff earlier this year because the fence was important to us. We have our daughters there. Our only green space was in the front. Staff has been a tremendous help to us throughout this whole process. I really appreciate it. He walked me through this process. It is a complicated process. Because of its use and location, we have a lot of people walk through our property. We just found out that it is pass-through. Even with the fence there, we still get stragglers coming through. Sadly, one incident happened there last month, and another incident happened last year that were more dramatic. There were illegal activities happening on our property. With 3 young daughters, we don't want anything like that happening now that we live there. We know the fence is not a perfect solution. It is at least a barrier. Our understanding of the approval was that the fence height at this section was going to be approximately 40 inches based on this post on the other side. That is a continuation of the fence. The fence has been finished. At one point, there was a gate there. I don't know when it was removed. It was removed a long time ago. We asked a fence contractor to make sure it is below that post, and that is what he did. That post is 39 inches tall. The fence right now is 38 inches tall. The point where the fence meets up there, the smaller section, that is 33 inches tall. What we are talking about is 5 inches between 33 and 38 inches. My understanding, based on our conversations, was that with the post, that was the height we were talking about. There was obviously a misunderstanding there. That is what our request is, to keep the fence as it is versus bringing it down 5 inches. We feel that every inch counts for us in terms of safety. That is our only green grass area. It is very visible. That area is right there where the traffic light is.

**QUESTIONS FROM THE PUBLIC**

No Questions from the Public

**QUESTIONS FROM THE BOARD**

**Mr. Gastinger** – I was curious if you had considered or would ever consider putting a gate on the fence. Is that a property corner?

**Mr. Arsali** – It is a property corner. The property used to include the building in the back, which is 403 Park Street. In the 1950s, my understanding is that was the carriage house for our house. In the 1950s, they separated. The sidewalk is their property. I would love to have a gate there.

**Mr. Rosenthal** – How long ago did you put this fence up?

**Mr. Arsali** – It has only been a couple of weeks. We got the approvals.

**Mr. Werner** – With the new zoning, he had to get a minor development plan approved. It is another process the applicant had to go through. That was taken care of. As soon as that was finished, I signed off on the zoning.

## COMMENTS FROM THE PUBLIC

No Comments from the Public

## COMMENTS FROM THE BOARD

**Mr. Schwarz** – Had this come before us in the beginning, we probably have said the same thing that staff said. Make it line up with that corner post because that looks nice, neat, and tidy. Walking out on the site and looking at it, I don't think I would ever notice unless someone called my attention to it. It is less than 4 feet. It technically meets our guidelines. I am Ok approving as constructed.

**Mr. Birle** – I can see why there was some confusion. There is the diagram. There is the written 40 inches. I know that it says approximately 40 inches. That seems like an honest misinterpretation.

**Ms. Lewis** – Because it was a minor review, staff was kind enough to create the diagram. It just wasn't about the fence height. It was about everything going on. You have a lot of fence programming going on all around the property. Because it was generated by staff and he sent it to you, staff asked if this is Ok. If I was someone wanting to get to the end, this has been a protracted discussion, not necessarily for this fence, but for everything else. I probably would have said 'fine, thanks for doing it for me,' and maybe not looked at it closely. With emails that went back and forth, I can see how this detail got lost. No disrespect to staff, but I feel badly that any applicant, especially going through everything you have gone through, would need to get 2 types of approval. You thought that you got staff's approval. Of course, there was a misunderstanding, which everyone agrees it was a mistake. Both sides thought that what they agreed on was quite different than what the other thought. I feel badly that you must come back and get our secondary approval. Staff's approval should have been enough. This is an example of how it can go sideways. Either we want to see it, or staff needs to be able to decide it. For to have to go through this twice, I feel for you, as a property owner. It is not a concise way, especially when we are talking about a 3.5-foot fence. I am in favor of approving the CoA.

**Mr. Gastinger** – The end result is clunky. It seems like it does not line up. It is hard to read the intention. If it had come before us drawn as such, I think we would have suggested changes to it. I think there is some pretty, non-complicated ways that it could be improved where the top rail of the first 2 sections could be lowered, and the posts shortened without a huge amount of effort. It is pretty visible in a row of 5 houses that all have the rod iron fences. To my eye, it does pop out. It is an unfortunate series of events. I would encourage the applicant to resolve the fence height. It would look a lot better. I don't know that those several inches are going to have any effect on people passing through that site if there is not a gate at the street level. Am I willing to deny it? I don't know that it is worth that much more discussion.

**Mr. Zehmer** – I agree with Mr. Gastinger. I agree with what you all have pointed out that is misconstrued. I am wondering if the applicant would be willing to leaving the fence at the height that it is. Cut the top of the post off and flush with the top of the fence. It would put it at about 37.5 inches. I know the fence posts further back

are higher up. It does not bother me quite as much. You have the top of the fence. It jumps up to the post and then down to the historic ball of the metal post.

**Mr. Arsali** – I have no objection to cutting that post and painting the top.

**Mr. Zehmer** – That would make it where there is a single line and then a drop down to the historic fence. Just clean it up a little. That is a compromise that we all can agree on.

**Mr. Arsali** – We are planning on cleaning up the landscaping and doing some other stuff there. It has been a work in progress. We really want to get that fence up quickly because of the circumstances.

**Motion – Mr. Schwarz – Having considered the standards set forth within the City Code, including the ADC District Design Guidelines, I move to find that the height of the painted wood fence at 409 Park Street, as currently constructed on the south side satisfies the BAR’s criteria and is compatible with this property and other properties in the North Downtown ADC District, and that the BAR approves the request with the recommendation to cut the last post down to be level with the rest of the fence. Second by Ms. Lewis. Motion passes 7-0.**

## **E. Other Business**

### **4. Staff questions/discussion**

Staff questions/discussion, etc.

- The Charlottesville BAR was selected for a community service award. The award will be given at a gala on October 23<sup>rd</sup>.

Question: Temp, seasonal vestibules at storefronts.

- Staff was asked about improvements that included a temporary vestibule entrance at a restaurant on West Main Street.
- These could be treated as tents, but tents are not allowed in front of contributing structures in an ADC District.
- Members of the BAR expressed concerns regarding opening the door into the sidewalk and creating an ADA issue opening into the sidewalk and the public right-of-way.
- The applicant will need to apply for a formal CoA to get this structure in the front of this restaurant.
- Overall, the BAR was not very positive to the idea of a structure in the vestibule in front of the restaurant.

Administrative approvals, summary.

Reminder: BAR training. One hour requirement

Mr. Zehmer spoke with a city councilor about getting a consultant to help with the review of the design guidelines. The councilor did say that there might be some money available to bring on a consultant to help with changes to the guidelines. Mr. Zehmer did bring up that it was a massive task to revise the guidelines being a volunteer body. Mr. Schwarz did bring up that it would be good to have a consultant see where there is conflict between the design guidelines and the new development code. Staff did bring up that it should be the BAR and community to identify the characteristics of each of the historic neighborhoods.

### **5. Work Session: Design Guidelines for Café Spaces, Chapter V- Signs, Awnings, Vending & Cafes, Section E. Outdoor Cafes**

- March 1<sup>st</sup> is when the 2025 leases begin with the café spaces on the Downtown Mall.
- Staff would like to take changes for café spaces to City Council by January, 2025 for approval.
- The café spaces are subject to BAR review.

- There has been a proliferation of planters on the Downtown Mall on outside of the railings. BAR has no purview of planters outside of the café spaces. The planters outside of the railings is a zoning violation, not under the purview of the BAR.
- The design guidelines are established by City Council and are implemented and enforced by the BAR.
- Staff did refer to the Design Intent by Halprin (Designer of the Downtown Mall) with what should be included in the guidelines for the Downtown Mall.
- The Downtown Mall has been added to the National Register of Historic Places by the National Park Service.
- Staff did bring up the importance of visibility on the Downtown Mall and within the guidelines.
- Staff did go over the design guidelines for railings and the multiple types of railings currently on the Downtown Mall.
- There should be a standard for the height and style of new railings on the Downtown Mall.
- Staff presented the design guidelines for tables and chairs and the different examples currently on the Downtown Mall of tables and chairs.
- Zoning had asked whether certain railings are allowed. Staff showed multiple examples of the types of railings on some of the café spaces.
- There are multiple colors and styles of tables and chairs in the café spaces. The guidelines say same materials and same design with chairs and tables.
- Staff believes that it would be helpful to define similarity with tables and chairs. There is inconsistency with what the guidelines with regards to chairs and tables.
- There are different cabinets and counters in the café spaces on the Downtown Mall.
- There is nothing in the design guidelines about counters in the café spaces.
- The biggest issue on the Downtown Mall are the planters outside of the railings of the café spaces.
- Wood is not allowed on the Downtown Mall. Yet, there are multiple barrels throughout the Downtown Mall.
- There are many different types of umbrellas. The guidelines say that umbrellas should be the same color.
- There is nothing in the guidelines about heaters. Space heaters are allowed on the Downtown Mall. They can't be within 5 feet of combustible materials.
- The goal is to have some revised/updated guidelines to take to Council.
- The top priority for the Downtown Mall should be the pedestrian experience according to staff.
- Mr. Rosenthal asked if there were other departments and agencies involved. Staff responded that he is working with zoning.
- Mr. Gastinger did bring up the work that the Downtown Mall Committee had been working on in the past year. Mr. Gastinger did say that there was a similar discussion regarding the amount of clutter on the Downtown Mall.
- Mr. Gastinger did say that there was support for the BAR to add some clarity and to address the clutter.
- The Downtown Mall is a public place. It belongs to the citizens and residents of Charlottesville.
- There are spaces that have been grandfathered café spaces that exceed the 800 square feet requirement according to Ms. Lewis.
  - The Wolf Josey tree management plan presented to the BAR last month addresses this specific issue and recommends a new layout.
- Ms. Lewis would like for the draft of the revised guidelines to be circulated among the café spaces owners and other stakeholders.
- High Quality Durable Materials-There was consensus among the BAR to have high quality durable materials in the café spaces.
- Individual café spaces should be uniform in materials. Collective goal for all spaces a variety of appearances, not homogeneity.

- All café spaces should compliment each other. Mr. Gastinger had a concern about the second part of the sentence. Compatible and consistent will replace uniform.
- The consensus among the BAR members is that the fountains on the Downtown Mall should be more accessible.
- Fences, elements, and railings
  - Most of the railings were in the 35- to 36-inch range in height.
  - There is consensus among the BAR members to have a height limit and requirement on the railings.
  - The BAR agreed on a 36-inch height limit for all new railings and no solid panels.
- Tables and Chairs
  - Faux wood-no plastic or actual wood-when saying faux wood, staff is referring to stained wood.
  - Tablecloths and seat cushions should be cloth and removed at the end of the day.
  - Mr. Gastinger did not like the counters on the edges of the café spaces and create a taller fence/wall. It puts customers at eye level of pedestrians walking by.
  - Some of the counters are semi-permanent and made of stone on some of the café spaces.
  - The lease for the café spaces is \$5 per square foot. Some of the counters have become permanent year-round.
  - There was consensus on the size of the tables, adding a line to the spreadsheet to address continuous countertops, and countertops do not visually obstruct pedestrian views.
  - Storage shelves and cabinets-black, metal, silver tone-maximum height
- Planters
  - Revision is no plastic planters.
  - There was consensus that plants should not form hedges.
- Umbrellas
  - Guidelines say only one color within one café space.
  - There will be a need to clarify this part of the Guidelines.
  - All umbrellas need to be contained within the café space according to the Guidelines.

A BAR work session was scheduled for Tuesday, October 1, 2024 at 5:30 PM in the NDS Conference Room.

### **Adjournment**

The meeting was adjourned at 8:11 PM.