

Certificate of Appropriateness

BAR # 24-09-01

409 Park Street, Tax Map Parcel 530037000

North Downtown ADC District

Owners/Applicant: Anthony Arsali

Project: Fence [Request change to Administrative CoA approved July 8, 2024.]

Mr. Arsali:

The CoA for the above referenced project was approved by the City of Charlottesville Board of Architectural Review on September 17, 2024. The following action was taken:

Mr. Schwarz moved to approve the request with a recommendation, and this action was seconded by Ms. Lewis. Vote: 7-0.

Having considered the standards set forth within the City Code, including the ADC District Design Guidelines, approval of a CoA for 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.

For specifics of the discussion, the meeting video is on-line at:

<https://boxcast.tv/channel/vabajtzezuYv3iclkx1a?b=yo3epy8oqndyg8e5uxyo>

Per the provisions of City Code, this CoA is valid for 18 months from the date of BAR approval; upon written request and for reasonable cause, the director of NDS or the BAR may extend that period by one year; and this CoA does not, in and of itself, authorize any work or activity that requires a building permit or compliance with other provisions of the City Code.

If you have any questions, please contact me or Jeff Werner ([wernerjb@charlottesville.gov](mailto:wernerjb@charlottesville.gov)).

Sincerely,  
Kate



**Kate Richardson**  
**Historic Preservation & Design Planner II**  
Neighborhood Development Services  
City of Charlottesville  
434.970.3515 | [richardsonka@charlottesville.gov](mailto:richardsonka@charlottesville.gov)

**City of Charlottesville  
Board of Architectural Review  
Staff Report  
September 17, 2024**



**Certificate of Appropriateness**

BAR # 24-09-01

409 Park Street, TMP 530037000

North Downtown ADC District

Owners/Applicant: Anthony Arsali

Project: Construction of Fence. [Request change to admin CoA approved July 8, 2024.]

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**Background**

*Year Built:* 1905

*District:* North Downtown ADC District

*Status:* Contributing

This two-story, with tower, brick house was constructed for Hallie P. Earley. Converted to offices in 1960, the structure displays a combination of Colonial Revival and Victorian styles. The Landmark Survey is attached.

**Prior BAR Reviews**

April 4, 1978 – Application approved to repair the tilted chimney and paint the exterior. CoA issued by the BAR chair.

July 8, 2024 – Administrative approval for a CoA to construct a new wood fence, details included below.

**Application**

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.

**Discussion and Recommendation**

In early May 2024, the applicant requested approval for a wood fence at the sides and rear of the property. Staff approved a wood, painted fence matching one approved by the BAR at 415 Park Street ([BAR 415 Park Street fence May2019](#)), with a condition that, at the front side yard (on the front section of the south parcel line), the new fence would not be taller the historic metal fence, then, at

point where the grade of the side yard changed, the fence could transition to a height of 4-feet. Applying the design guidelines, staff concluded the front yard segment of the new fence should continue at the same height of the historic fence, or, at least, not be taller than it. Staff's intent was the height of both the old and new fences appear continuous at this corner. (See appendix and attached CoA doc.)

During construction and following completion of this section, staff informed the applicant the fence at the SE corner must not be taller than the historic fence. Following completion, the applicant stated the fence complied with the CoA because while the new segment was taller where it met the historic fence, the height was no taller than other, non-adjacent sections of the historic fence. Staff was unwilling to allow the change; however, the applicant was invited to submit an application requesting the BAR allow it.

Fence at SE corner of 409 Park Street, per approved CoA.



Fence at SE corner of 409 Park Street, as constructed.



### **Suggested Motion**

*Approval:* 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 this ADC District, and that the BAR [approves the request].

Or [approves the request with the following conditions: ...]

*Denial:* 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, does not satisfy the BAR's criteria and is not compatible with this property and other properties in this ADC District. With that, the [section of fence] should be lowered to a height not taller than the adjacent to the historic metal fence, where the two meet.

### **Criteria, Standards and Guidelines**

#### **Review Criteria Generally**

Per Chapter 34, Div. 5.2.7. C.2:

- a. In considering a particular application the BAR will approve the application unless it finds:
  - i. That the proposal does not meet specific standards set forth within this Section or applicable provisions of the City's design guidelines; and
  - ii. The proposal is incompatible with the historic, cultural or architectural character of the district in which the property is located or the IPP that is the subject of the application.
- b. The BAR will approve, approve with conditions, or deny applications for Certificates of Appropriateness in accordance with the provisions of this Section.
- c. The BAR, or City Council on appeal, may require conditions of approval as are necessary or desirable to ensure that any new construction or addition is compatible with the scale and character of the Architecture Design Control District, Individually Protected Property, or Historic Conservation District. Prior to attaching conditions to an approval, due consideration will be given to the cost of compliance with the proposed conditions as well as the goals of the Comprehensive Plan. Conditions may require a reduction in height or massing, consistent with the City's design guidelines and subject to the following limitations: [Re: building height. Not germane to this request.]

#### **Standards for Review and Decision**

Per Chapter 34, Div. 5.2.7. D.1:

- a. Review of the proposed construction, reconstruction, alteration or restoration of a building or structure is limited to exterior architectural features, including signs, and the following features and factors:
  - i. Whether the material, texture, color, height, scale, mass, and placement of the proposed addition, modification or construction are visually and architecturally compatible with the site and the applicable District;
  - ii. The harmony of the proposed change in terms of overall proportion and the size and placement of entrances, windows, awnings, exterior stairs, and signs;
  - iii. The Secretary of the Interior Standards for Rehabilitation set forth within the Code of Federal Regulations (36 C.F.R. §67.7(b)), as may be relevant;
  - iv. The effect of the proposed change on the adjacent building or structures;
  - v. The impact of the proposed change on other protected features on the property, such as gardens, landscaping, fences, walls, and walks;



- vi. Whether the proposed method of construction, renovation, or restoration could have an adverse impact on the structure or site, or adjacent buildings or structures;
- vii. When reviewing any proposed sign as part of an application under consideration, the standards set forth within Div. 4.11. Signs will be applied; and
- viii. Any applicable provisions of the City's design guidelines.

### **Links to ADC District Design Guidelines**

[Chapter 1 Introduction \(Part 1\)](#)

[Chapter 1 Introduction \(Part 2\)](#)

[Chapter 2 Site Design and Elements](#)

[Chapter 3 New Construction and Additions](#)

### **Pertinent ADC Guidelines for Site Design include:**

#### **C. WALLS AND FENCES**

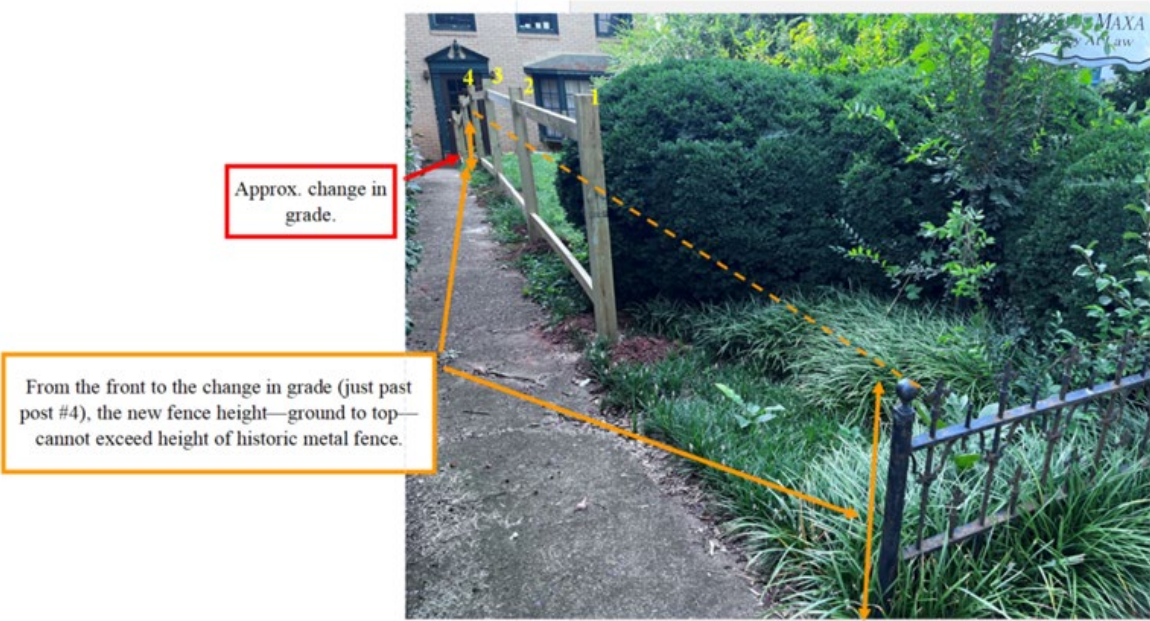
There is a great variety of fences and low retaining walls in Charlottesville's historic districts, particularly the historically residential areas. While most rear yards and many side yards have some combination of fencing and landscaped screening, the use of such features in front yards varies. Materials may relate to materials used on the structures on the site and may include brick, stone, wrought iron, wood pickets, or concrete.

- 1) Maintain existing materials such as stone walls, hedges, wooden picket fences, and wrought iron fences.
- 2) When a portion of a fence needs replacing, salvage original parts for a prominent location.
- 3) Match old fencing in material, height, and detail.
- 4) If it is not possible to match old fencing, use a simplified design of similar materials and height.
- 5) For new fences, use materials that relate to materials in the neighborhood.
- 6) Take design cues from nearby historic fences and walls.
- 7) Chain-link fencing, split rail fences, and vinyl plastic fences should not be used.
- 8) Traditional concrete block walls may be appropriate.
- 9) Modular block wall systems or modular concrete block retaining walls are strongly discouraged but may be appropriate in areas not visible from the public right-of-way.
- 10) If street-front fences or walls are necessary or desirable, they should not exceed four (4) feet in height from the sidewalk or public right-of-way and should use traditional materials and design.
- 11) Residential privacy fences may be appropriate in side or rear yards where not visible from the primary street.
- 12) Fences should not exceed six (6) feet in height in the side and rear yards.
- 13) Fence structures should face the inside of the fenced property.
- 14) Relate commercial privacy fences to the materials of the building. If the commercial property adjoins a residential neighborhood, use a brick or painted wood fence or heavily planted screen as a buffer.
- 15) Avoid the installation of new fences or walls if possible in areas where there are no fences or walls and yards are open.
- 16) Retaining walls should respect the scale, materials and context of the site and adjacent properties.
- 17) Respect the existing conditions of the majority of the lots on the street in planning new construction or a rehabilitation of an existing site.

Per administrative CoA, July 8, 2024



From staff email to the applicant, August 19, 2024: "... I noticed the posts and rails along the south boundary had been constructed taller than the historic metal fence."



From staff to the applicant, August 27, 2024: “Your contractor installed the fence too high on the south side, so it will have to be reworked.”







New, max height **6-ft** (incl. sliding segments for entry gate at rear, on 5th Street.

New wood fence.

- Front yard: not higher than historic metal fence.
- Side yard: max height 4-ft.

Grade change (approx)

Note: Parcel lines not reliable in GIS imagery. Fence must be installed on or within parcel boundary.

porch

No fence at neighbor's porch.

Historic metal fence to remain





New fence to be painted, vertical wood planks, similar to fence at 415 Park Street. Color to be dark. *Charleston Green* or *Black*.

Fence structure—posts and framing—should face the inside of the fenced property. Location of fencing per approved development plan.





South side yard.



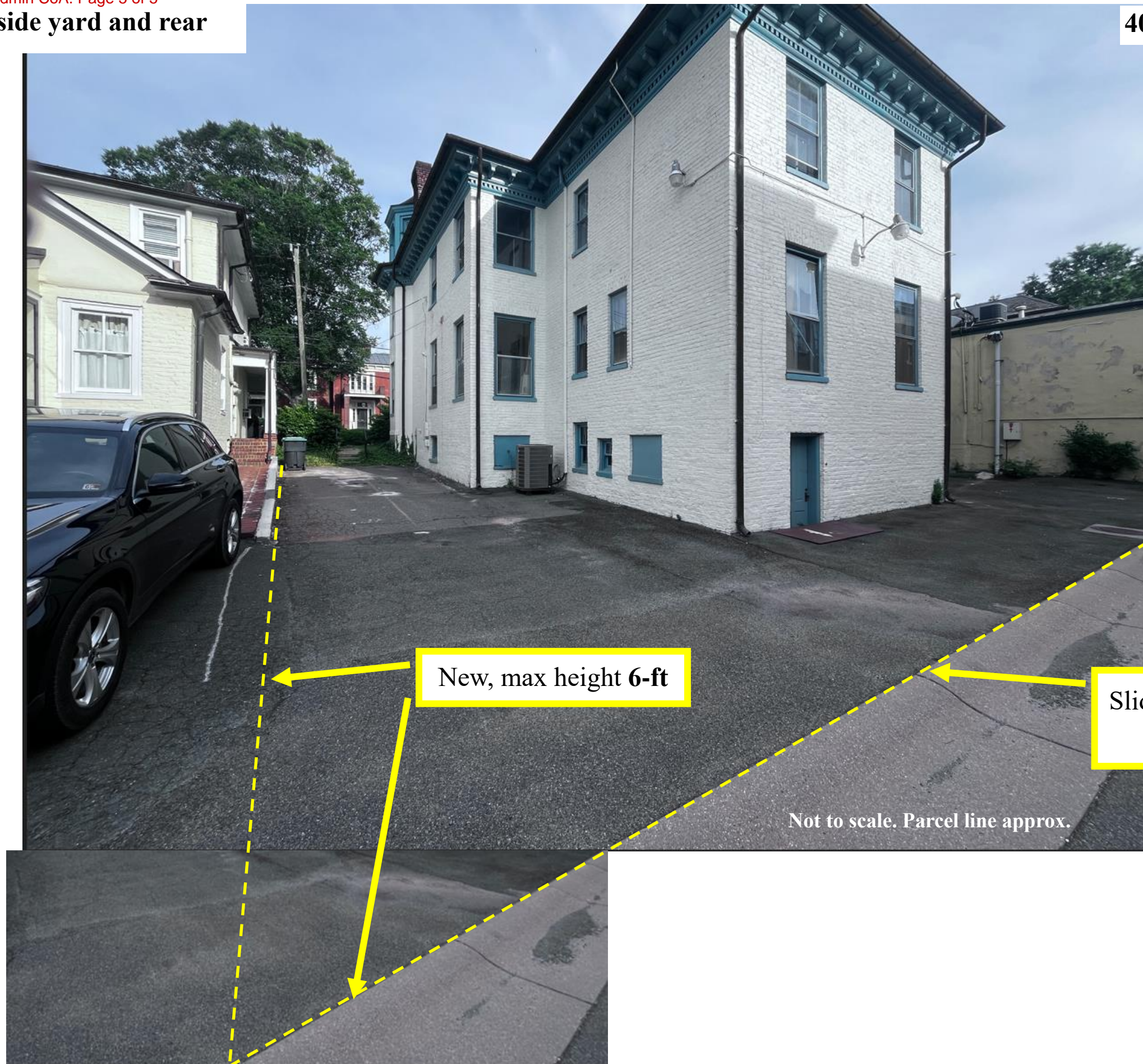


North side yard

409 Park Street - fence. July 8, 2024 (rev 1)









**From:** Anthony Arsali  
**Sent:** Tuesday, August 27, 2024 9:27 AM  
**To:** Werner, Jeffrey B <[wernerjb@charlottesville.gov](mailto:wernerjb@charlottesville.gov)>  
**Cc:** Richardson, Kate <[richardsonka@charlottesville.gov](mailto:richardsonka@charlottesville.gov)>  
**Subject:** RE: 409 Park - Fence

Good Morning Jeff,

As you may recall, our initial discussions revolved around the new fence being permitted to be approximately 48 inches, which was the approximate highest point of the existing fence. However, when we went back to formalize the application and approval, we discussed and agreed that the fence was to go up to 40 inches, which is the approximate height of the end post of the existing fence. Please see image IMG\_0902 attached. For reference, you can see the bottom of the post I'm referring to in the bottom left corner of your picture. The new fence is 38 inches. Please see image IMG\_0904. If it's helpful we can bring down the 4x4 post an inch or two so it does not exceed 39 inches. I've also attached 2 other pictures showing that the existing fence goes up to 45 inches. If it's helpful to meet at the fence, please let me know.

Regards,  
Anthony A. Arsali, Esq.  
Arsali Law PLLC  
409 Park Street  
Charlottesville, Virginia 22902  
Licensed in Florida and Virginia

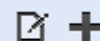
**From:** Anthony Arsali <[aarsali@arsalilaw.com](mailto:aarsali@arsalilaw.com)>  
**Sent:** Tuesday, August 27, 2024 10:27 AM  
**To:** Werner, Jeffrey B <[wernerjb@charlottesville.gov](mailto:wernerjb@charlottesville.gov)>  
**Cc:** Richardson, Kate <[richardsonka@charlottesville.gov](mailto:richardsonka@charlottesville.gov)>  
**Subject:** Re: 409 Park - Fence

There definitely was a misunderstanding here. I'm not trying to change what was approved. I just understood that the approved height was the post height. That's why I sent you a picture of the post and its height last week when the issue first came up and asked the fence contractor to lower the height of the fence from where he originally had it. This has been a cordial discussion from the beginning and you've been a great help in all this. Would it be possible to meet at the property and discuss further? I'm now living here so I'm happy to meet anytime. As you can see, at some point there was a gate here that was removed. It looks like we have an extra metal post from the original fence. Could we install that where the 4x4 is and would that satisfy your concerns?





Applicant's description from CoA request from City Works portal.



Grand Sum: 0

HST-COA :	COA Info	Group Sum	Sum Flag
	<p><b>Application Type</b></p> <p><b>Description of Proposed Work</b></p> <p>Comment: This a follow up to HST24-0020 and is a result of a misunderstanding. The fence on the south side of property from Park St to the change in grade was administratively approved to be built at a height not to exceed the height of the historic metal fence. Our understanding was that the permitted height would be approximately 40 inches, which is the height of the end post of the historic fence. Mr. Werner's understanding was that the height would be approximately 33 inches or the height of the historic fence where it meets the new fence. Our fence contractor measured the height of the end post at 39 inches and installed the fence at a height of 38 inches. After the fence was installed, Mr. Werner explained that the administrative approval was for 33 inches and that if we wished to maintain the fence at 38 inches we would have to go before the BAR for approval, which we are doing here. The reason for the request is that the property is a residence and we have three young children aged 5, 4, and 2 and we're hoping they can use the front yard (which is the only green space on our property) as an area they can get outside and play. The fence is intended as a barrier to keep them safe. Additionally, and unfortunately, there have been people in the recent past who have done unlawful acts on the property and we're hoping that the installation of the fence will deter that in the future. I'm going to attach a couple pictures. Please note that the wood fence will be painted all black in accordance with the previous approval.</p> <p><b>Do you intend to apply for Federal or State Tax Credits for this project?</b><sup>N</sup></p>		



Updated applicant photo, 9.16.24

# LANDMARK



# SURVEY

## IDENTIFICATION

Street Address: 409 Park Street  
 Map and Parcel: 53-37  
 Census Tract & Block: 3-501  
 Present Owner: Francis Debount  
 Address: Cumberland Road  
 Present Use: Offices  
 Original Owner: Hallie P. Earley  
 Original Use: Residence

## BASE DATA

Historic Name: Early House  
 Date/Period: 1900  
 Style: Colonial Revival  
 Height to Cornice:  
 Height in Stories: 2 + tower  
 Present Zoning: B-1  
 Land Area (sq.ft.): 7821 sq. ft.  
 Assessed Value (land + imp.): 9720 + 10,680 = 20,400

## ARCHITECTURAL DESCRIPTION

This massive structure displays the union of two architectural styles popular in Charlottesville at the turn of the century. The main block is Colonial revival with its symmetrical composition, giant Ionic pilasters defining a center pavilion, cornice with its large bracket-like modillions, and formal entrance porch. The tower, on the other hand, is a Victorian feature popular in the late nineteenth century. The house is two stories high and built of fine pressed blond brick. The side and rear elevations, being less important, are laid with rough brick in common bond. The interior has been so altered as to make its original appearance hopelessly obscure.

## HISTORICAL DESCRIPTION

Hallie P. Earley bought the lot from Mrs. Agnes H. Wood in May of 1900 for \$2,070. The present structure was begun at that time for the tax records for 1901 indicate that the house was finished and appraised for \$5,600. The Earl family owned the property until 1944, at which time John E. sold it to Frances J. Schlesinger, who held the title for less than five years. The house has served as offices since 1960. Deed references: 11-241, 119-38, 148-285, 217-461, 329-555.

## GRAPHICS

## CONDITIONS

Average

## SOURCES

City Records



Street Address: 409 Park

Map &amp; Parcel: 53-37

Census Tract &amp; Block: 3

Present Owner: Mr. Frank DeBount

Address: Cumberland Rd.

Present Use: Office

Original Owner:

Original Use: residence-doctor's office

Historic Name: Dr. Early residence -

Date/Period: ~~1905~~ 1901

Style: Col. Revival

Height to Cornice:

Height to Stories: 2 + Tower

Present Zoning: B-Office

Land Area (sq. ft.): 881821 8'

Assessed Value (land+imp)

7566 + 8700 = 16,260

Stone Ionic pilaster caps - Ionic porch -  
 Ram. tower -  
 Pressed blond brick - on front only - S side painted -  
 handsome fence - across Park St. front -  
 Modern addition conn. only by veranda -  
 Rear = 5 course common -  
 3 yrs. ballustrade needs to be replaced on front porch -

13 rooms

Judge Spitzer -

Dr. Early, M.D. - office &amp; reception - evening hours -

sold before WWII - son Dick inherited sold to Mrs. [unclear] -

14 yrs. ago - offices -

No arch. known -

Rooming house -

Judge Spitzer -  
 Allen N.

Name of Persons Int. visited:



De Bonat . 329-555- 1971

Barista Building One 217-461 1960

Lula Jones 148-285 - Nov. 1949

Jones from Frances G. Schlesinger

Schlesinger from John E. Early . 119-38 Dec. 1944 \$11,500

John E. Early's Mother, Hallie P. Early from Mrs. Agnes H. Wood  
May 1, 1900 11-241 (\$2,070) " Southern portion of lot upon  
which Mrs. Wood now resides

1901 L.B. 500 + 5600 Building Added

Lula Jones 148-285  
Barista Bldg, Inc - 217-461

