

MINUTES

MANHATTAN BOARD OF ZONING APPEALS

City Commission Room, City Hall
1101 Poyntz Avenue

Wednesday, April 9, 2025

MEMBERS PRESENT

Ansley Chua
Connie Hamilton, vice-chair
Sara Fisher

George Matthews
Harry Hardy, chair

MEMBERS ABSENT

STAFF PRESENT

Barry Beagle, Senior Planner; Lance Wackerla, Planner I

1. CALL TO ORDER

- 1.1 The chair called the meeting to order at 6:00 p.m. Staff called roll and stated there was a quorum.
- 1.2 Approve the minutes of the May 8, 2024, Manhattan Board of Zoning Appeals meeting

Hamilton moved to approve the minutes; Matthews seconded. Approved 4-0-1 (Fisher abstaining).

2. GENERAL AGENDA

- 2.1 Election of Officers for the Chairperson and Vice-Chairperson

Hardy said he was no longer eligible to be chair. Hamilton said it was her last year on the Board of Zoning Appeals but that she would be willing to be chair. Matthews asked that he not be nominated for chair. Chua said he would be willing to be chair but that he thought Hamilton more capable.

Hardy nominated Hamilton as chair; Matthews seconded. Approved 5-0.

Hamilton nominated Chua as vice-chair; Matthews seconded. Approved 5-0.
- 2.2 A PUBLIC HEARING to consider an EXCEPTION at 617 Colorado Street to increase the front yard fence height from three feet to four feet. (Applicant: Paula Kane; file no. EXC-25-031)

Wackerla gave the presentation.

Hamilton asked for clarification on the location of the fence. Wackerla clarified the location. Hamilton asked if the request was for a four-foot fence all the way to the sidewalk. Wackerla said the request was for an additional foot of allowed height for a fence in the front yard setback. Wackerla added that the applicant could do exactly what had been described in the presentation but at a three-foot height instead of a four-foot height and would be within the regulations of the Manhattan Development Code. Hamilton asked what the height of the neighbor's fence was. Wackerla said he was unsure.

Fisher asked if the Historic Resources Board had reviewed the request. Wackerla said the request had been classified as a minor review and that staff had approved it, but it had yet to be presented at the upcoming HRB meeting.

Public hearing opened

The applicants, Stephen Kane, 617 Colorado Street, on behalf of himself and Paula Kane, said there was already a four-foot fence around the sides and back of the property and that they would like to match the height and style. Kane said that the property was one of seventeen Romanesque houses left in Kansas and that others that they had seen also had uniform fencing around the whole property. Kane said they agreed with the conditions proposed by staff.

Matthews asked if there had been a front yard fence previously. Kane said they were unsure about fences but that there had been hedges.

Fisher asked why the applicants wanted to install the fence in the front yard. Kane said it was a matter of bringing back some of the historic style to the property, where front yard fences had been typical for the style of house. Fisher asked if other houses of the same style had front yard fences up to four feet. Kane said they had seen even higher front yard fences for the style of house. Fisher asked if the existing fence was installed by the applicants. Kane said it came with the house.

Tanya Bachamp, 403 Juliette Avenue, said there had never been a fence in the front yard of the property but there had been hedges. She said it would bother her since there were no other front yard fences along the street and that she enjoyed the clear view down Colorado.

Matthews said the applicants could install a three-foot fence by right in the front yard. Bachamp said she would prefer if the fence lined up with the porch rather than out to the sidewalk. She clarified that the fence going to the sidewalk was what bothered her, as it would seem as if the property was being closed off.

Public hearing closed

Chua said he agreed with Matthews that the request was for the height of the fence not for the location.

Hamilton asked staff if a three-foot fence within the front setback was allowed in the past or if it was an addition brought on by the Manhattan Development Code. Beagle said he was unsure but that he thought they were allowed previously. Hardy said he recalled a BZA case for a front yard fence in the same neighborhood some time ago. Fisher agreed with Hardy that front yard fences had to come before the BZA in the past.

Hamilton said she was sensitive to the open look of the neighborhood, but that the proposed conditions and historic value were making her consider approval.

Fisher said she was troubled by the request being classified as a minor review and that she would feel better about the HRB being able to decide. Wackerla said that he and Ben Chmiel had discussed whether it needed to be a major or minor and that it had taken some consideration. Hardy, Hamilton, and Fisher said staff should have considered the application as a major review if it was close. Wackerla said they had ultimately decided it should be a minor review because it was not changing anything with the historic structure itself. Fisher said it was changing the context of the historic neighborhood and that while she understood the historic style of the house was associated with front yard fences, that the particular property never had a front yard fence.

Fisher asked if the board could require the application to be changed to a major HRB review. Hardy said the board could table the request until the HRB had reviewed the application. Beagle said the question before the board was not regarding historic appropriateness but rather the additional foot of height for the front yard fence. Beagle added that front yard fences were allowed by right in the MDC up to three feet. Hardy asked if the HRB could deny the front yard fence. Hamilton said they could if they thought it inappropriate.

Hamilton said it seemed there would be no reason to add a condition requiring HRB approval since it was not a major review. Beagle said they could add the condition but that it would not do much in this case. Hamilton said she would consider adding a general condition requiring approval of a historic review. Hardy agreed with Hamilton's proposed condition. He said he appreciated the proposed fence tying into the existing fence. Fisher said she disagreed with the proposed additional condition since it had already been through minor review. Hamilton said she would prefer to add the condition to show that it required a historic review, even if it was not a major review. Fisher said she would support the added condition.

Hardy called the question, and the board approved 5-0, subject to the following conditions:

1. The fence shall not exceed four feet in height within the area defined as the front yard in the Manhattan Development Code.
2. The fence shall generally mimic the style of a wrought iron fence.
3. The fence shall not exceed 35% opacity.
4. The fence shall be metal in material and black in color.

5. The fence shall be approved by the HRB.

3. ADJOURNMENT

3.1 Next meeting: Chair announced the next meeting is Wednesday, May 14, 2025.

Meeting was adjourned at 6:28 pm.

Submitted by Lance Wackerla, Planner I