

**CITY OF FAYETTEVILLE
STATE OF NORTH CAROLINA
ORDER TO APPROVE A VARIANCE**

**Variance to the fence height standards to allow for a taller fence at 2213 Bragg Blvd
(0428404373000).**

VARIANCE A26-28

Address: 2213 Bragg Blvd
REID Number: 042840473000
Property Owner: Mayer Mitchell
Applicant: Mayer Mitchell

The Zoning Commission of the City of Fayetteville, North Carolina, conducted an evidentiary hearing on July 14, 2026, to consider a variance application submitted by Mayer Mitchell (“Applicant” or “Property Owner”) seeking approval to increase the fence height standards to allow for a taller fence at 2213 Bragg Blvd (042840473000) (“Subject Property”).

On June 30, 2026, notice of the public hearing was mailed to the Property Owner and all owners of property within three hundred (300) feet of the Subject Property, in accordance with applicable legal requirements. A public hearing notice sign was properly posted on the Subject Property on June 30, 2026. Additionally, on July 3, 2026, notice of the public hearing was submitted for publication in the legal notices section of *The Fayetteville Observer*, with the advertisement scheduled to run on July 3, 2026, and July 10, 2026.

Upon careful consideration of all sworn testimony, admitted evidence, and oral arguments presented by the parties at the properly held evidentiary hearing, the Zoning Commission of the City of Fayetteville hereby issues the following FINDINGS OF FACT and CONCLUSIONS OF LAW:

Findings of Fact

1. Chapter 30, Article 5, Subsection 30-5.D.4. of the City’s Unified Development Ordinance (“UDO”) establishes fence height standards based on the location within the lot.
2. The Property Owner holds title to the Subject Property located on 2213 Bragg Boulevard, is zoned Single-Family Residential 6 (SF-6), and is located within the municipal limits of the City of Fayetteville.
3. In the Single Family 6 (SF-6) zoning district, the maximum front and corner yard fence height is four (4) feet.
4. On March 23, 2026, the Applicant applied to request a variance to increase the required fence height from four (4) feet to six (6) feet.

5. The Subject Property is designated as Medium-Density Residential (MDR) on the City's adopted Future Land Use Map.

6. The area surrounding the Subject Property is developed as medium-density single family residential and office and institutional.

7. The Applicant requests an increase to the maximum fence height from four (4) feet to six (6) feet.

8. The Applicant has the burden of proof to show that the variance meets **ALL** the following statutory requirements for variances:

- a. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships;
- b. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, such as location, size, or topography, and are not the result of the landowner's actions or conditions common to the neighborhood or the general public;
- c. The Variance is the minimum action that will make possible a reasonable use of the land or structures;
- d. The Variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit; and
- e. In granting the Variance, the public safety and welfare have been assured, and substantial justice has been done.

9. Strict enforcement of the Ordinance requirements would impose practical difficulties and unnecessary hardships because, without the variance, the property is subject to litter being blown or discarded onto the yard from McPherson Avenue and Bragg Boulevard. Traffic noise from Bragg Boulevard also adversely affects the use and enjoyment of the property.

10. These practical difficulties and unnecessary hardships are attributable solely to the unique conditions specific to the property and not the landowner's actions because the property is located between McPherson Avenue and Bragg Boulevard, exposing it to traffic noise and litter from the adjacent roadways.

11. The requested variance constitutes the least departure required to enable a reasonable use of the property due to the property's location adjacent to two heavily traveled roadways. The previous fence on the property was four (4) feet tall and did not sufficiently block the traffic noise and litter from the adjacent roadways.

12. The variance aligns with the general purpose and intent of the Ordinance and preserves its spirit because the increased fence height addresses the property's unique conditions without adversely affecting the visibility, safety, or character of the surrounding area.

13. Granting the variance promotes public safety and welfare and achieves substantial justice by helping to mitigate litter and traffic noise originating from Bragg Boulevard.

Conclusions of Law

1. Pursuant to the authority conferred by the North Carolina General Statutes, the City of Fayetteville adopted the Unified Development Ordinance (“UDO”), as codified in Chapter 30 of the City Code, thereby consolidating the City’s zoning and subdivision regulatory authority into a single, comprehensive framework.
2. The Applicant duly submitted an application in full compliance with the procedural and substantive requirements of the UDO for consideration of a variance.
3. The City of Fayetteville’s Zoning Commission provided adequate and lawful notice and conducted an evidentiary public hearing in accordance with the procedural requirements established under North Carolina law.
4. The City of Fayetteville’s Development Services Department is responsible for administering, coordinating, and enforcing the provisions of the UDO.
5. Based on the competent, material, and substantial evidence in the record, all general and specific conditions precedent to the issuance of the requested variance have been satisfied, in that:
 - a. Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships;
 - b. Any practical difficulties or unnecessary hardships result from unique circumstances related to the land, such as location, size, or topography, and are not the result of the landowner’s actions or conditions common to the neighborhood or the general public;
 - c. The variance is the minimum action that will make possible a reasonable use of land or structures;
 - d. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit; and
 - e. In granting the variance, the public safety and welfare have been assured, and substantial justice has been done.

WHEREFORE, based on the foregoing **FINDINGS OF FACT** and **CONCLUSIONS OF LAW**, it is **ORDERED** by the City of Fayetteville’s Zoning Commission that the application for the issuance of the variance in Case A26-28 be **APPROVED** without conditions.

VOTE: Unanimous 5-0

This, the 11th of August, 2026.

Kevin Hight
Zoning Commission Chair