

TO: Zoning Commission

THRU: Jennifer Baptiste – Planning & Zoning Division Manager

FROM: Thomas Cohen – Planner I

Date: July 14, 2026

RE:

A26-28: A request from Mayer Mitchell for a variance to the fence height standards (Section 30-5.D.4) to allow for a taller fence at 2213 Bragg Blvd (0428404373000).

COUNCIL DISTRICT(S)

5 – Lynne Greene

Relationship To Strategic Plan:

Goal I – Safe and Secure Community

- Objective 1.3 – To ensure low incidence of property and violent crime

Taller fences provide better privacy and reduce opportunities for property crime and the improper disposal of refuse onto a property.

Goal IV – Desirable place to live, work, & recreate

- Objective 4.4 – To provide a clean and beautiful community with increased green spaces
- Objective 4.5 – To ensure a place for people to live in great neighborhoods

A yard free of improperly discarded refuse provides a more aesthetic neighborhood and helps maintain a more communal feeling.

Goal VI – Collaborative Citizen & Business Engagement Base

- Objective 6.2 – To ensure trust and confidence in City government through transparency and high-quality customer service

The case relies on a quasi-judicial evidentiary hearing in which decisions are based on fact and expert testimony which are all on record.

Executive Summary:

Applicant requests a variance to the maximum fence height standards found in section 30-5.D.4 to increase this maximum from 4 feet to 6 feet. This would enable the construction of

a privacy fence on both street frontages that will assist in the prevention of passersby from discarding trash and other refuse onto the property.

Background:

Owner: Mayer Mitchell

Request: Increase fence maximum height from 4ft to 6ft

Parcel Identification Number (PIN): 0428404373000

Parcel Size: ± 0.35

Existing Site Conditions: Single family home

Immediate Context: Single family homes

Utilities: Public sewer, water, and electricity

Public Notice: Notification letters were sent to property owners within 300 feet of the subject site equating to 31 notices sent.

Related Cases: N/A

Issues/Analysis:

Variance Criteria

In accordance with NCGS § 160D-705(d) and UDO Section 30-2.C.14.f five standards must all be met for a variance to be granted.

1. **Unnecessary hardship** – Strict application of the Ordinance requirements results in practical difficulties and unnecessary hardships; it shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property; and
2. **Peculiar Conditions** – 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 actions of the land owner, nor may hardships resulting from personal circumstances as well as hardships resulting from conditions that are common to the neighborhood or the general public be the basis for granting a variance; and
3. **Minimum Action** – The variance is the minimum action that will make possible a reasonable use of land or structures; and
4. **Spirit of the Law** – The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit; and

5. **Public Safety** – In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done.

Applicable Standards and Request

UDO Section 30-5.D.4 outlines the maximum fence height standards for the SF-6 zoning district.

- Existing Maximum Fence Height: 4 feet
 - Proposed Variance: 6 feet (Increase of 2 feet)

Claim Summary

The house fronts both McPherson St and Bragg Blvd creating effectively two front yards as the property is a near-corner through lot. The McPherson side acts more akin to a backyard due to the minimal frontage, and the Bragg Blvd side has an issue of people discarding their trash over the fence and onto the property. The height increase is for privacy and safety to prevent people from doing such.

Required Variance Findings

The Commission must determine whether the evidence supports **EACH** of the five criteria and associated findings.

The applicant provides the following statements to support the variance criteria.

1. Unnecessary Hardship
 - On the Bragg Boulevard side of my house, it is a regular occurrence for people to discard their trash onto my property both from their vehicle and while walking past. A gate will be built on this side to allow public workers access to any utility or area that they are required to get to. On the Mcpherson side, I would like to have a place to let my dog out and only a small section of the property butts onto the street which makes it more akin to a backyard even though it technically is a corner lot.
2. Peculiar Conditions, Not Self-Created
 - Please refer to the prior passage.
3. Minimum Action Necessary
 - This variance will prevent people from throwing their trash onto my property.
4. Spirit of the Ordinance
 - The land on the Mcpherson Avenue side has minimal contact with the road making it more akin to a backyard.

Budget Impact:

Approval or denial of the requested variance does not create immediate or direct impacts on the budget aside from the normal administrative costs for notice, staff review, and the quasi-judicial evidentiary hearing. There will be little to no downstream or indirect impacts on the budget from approval or denial of the request.

Options:

- **Approval** – Find that the request meets all criteria
- **Approval, but with conditions** – Find that the request meets all criteria if adhering to a set of conditions
- **Denial** – Find that the request does not meet one or more criteria

Granting a variance requires an affirmative vote of at least four-fifths of the members who are eligible to vote.

Recommended Action:

N/A

Attachments:

1. Application
2. Aerial Notification Map
3. Current Zoning Map
4. Future Land Use Map
5. Site Pictures (Subject Site)
6. Site Pictures (Surrounding Properties)
7. Site Plan