

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

**Increase the maximum fence height and reduce the corner side setback at 151 Wheat Way
(0408425302000)**

VARIANCE A26-27

Address: 151 Wheat Way
REID Number: 0408425302000
Property Owner: David Kinlaw
Applicant: David Kinlaw

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 David Kinlaw (“Owner” or “Property Owner”), seeking approval of a variance to increase the maximum fence height and reduce the corner-side setback at 151 Wheat Way (0408425302000) (“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 June 30, 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 the maximum fence height standards and Chapter 30, Article 3, Subsection 30-3.D.3 establishes the dimensional standards for the Single-Family Residential 10 (SF-10) zoning district.
2. The Property Owner holds title to the Subject Property, which is located at 151 Wheat Way, is zoned for Single-Family Residential 10 (SF-10) and is within the municipal limits of the City of Fayetteville.
3. In the SF-10 zoning district, the maximum fence height permitted within the corner side is four (4) feet, and the required corner-side setback is thirty (30) feet from the property line.

4. The Owner requested an increase to the maximum fence height from four (4) feet to six (6) feet as well as a reduction in the corner side setback from thirty (30) feet to one and one-half (1.5) feet.

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

6. The area surrounding the Subject Property consists of entirely single-family homes.

7. 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.

8. Strict enforcement of the ordinance requirements would impose practical difficulties and unnecessary hardships because corner lots have an increased side setback compared to non-corner lots and would require a shorter fence than what was there previously.

9. The hardship is attributable solely to the unique conditions specific to the property and not the landowner's actions because the corner-side setback and second street frontage reduce the buildable area and limit the permitted fence height.

10. The variance is the minimum action necessary to permit continued use of the structure and installation of the replacement fence.

11. The variance aligns with the general purpose and intent of the Ordinance and preserves its spirit because it allows the use of an accessory structure and installation of the replacement fence.

12. Granting the variance assures public safety and welfare while ensuring substantial justice because the previous fence was hazardous, and the replacement fence and existing structure reduce the existing hazard.

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 A26-27 be **APPROVED** with no conditions.

VOTE: 5-0

This, the 11th day of August, 2026.

Kevin Hight
Zoning Commission Chair