



BOARD OF ZONING APPEALS STAFF REPORT

To: Members of the Board of Zoning Appeals

From: Sergio Mendoza, Planning Director

Meeting Date: September 9, 2025

Agenda Item: BZA 25-005

Application Type: Administrative Appeal

Hearing: Public Meeting, Continued.

Summary: Applicant is requesting an Administrative Appeal of the Town's legal interpretation of TABLE 26-6.405 A-3 DISTRICT STANDARDS, Private Landscaping and Fencing; and TABLE 26-6.405 A-1 DISTRICT STANDARDS, Screen; for the use of a trap structure.

Applicant: Frank Zischerk

Property Address: 8016 Greenwood Avenue

Current Zoning: CD-3.R1, Single-Family Residential

Adjacent Zoning: North: CD-3.R2, Single-Family Residential
South: CD-3.R2, Single-Family Residential
East: CD-3.R2, Single-Family Residential
West: CD-3.R2, Single-Family Residential

Action Requested: Review of June 25, 2025 W&B Letter

Additional Actions Required: Findings of Fact

Staff Recommendation: Review of Zoning Code(s)
Uphold the Legal Opinion of the attorney

Attachments: 1. Exhibit A: Application
2. Exhibit B: Legal Review
3. Exhibit C: Correspondence

SITE

The subject property under review is located at 8031 Greenwood Avenue. The property owner requesting the Administrative Appeal is located at 8015 Greenwood Avenue. Both properties are located along the east side of Greenwood Avenue, south of River Drive and north of Fairway Drive

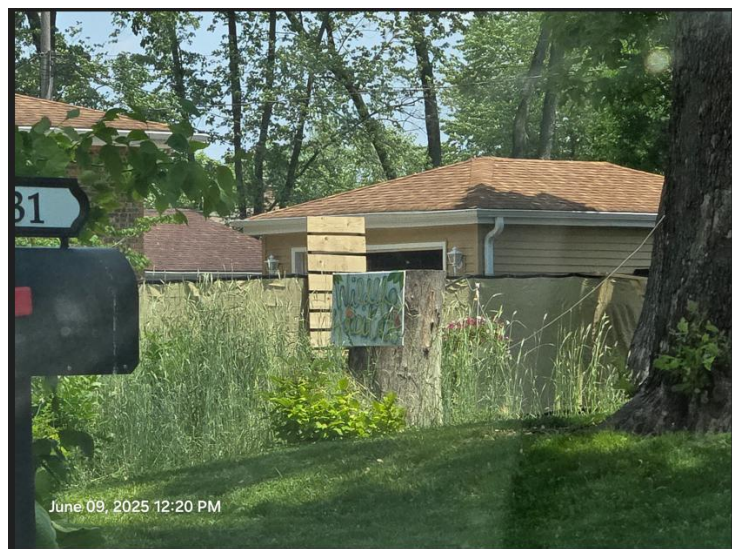


APPEAL SUMMARY

The property owner of 8015 Greenwood, Mr. Frank Zischerk, has submitted an Administrative Appeal Application to the Board of Zoning Appeals for the determination of a legal review on the grounds of doubt as to the meaning or intent of TABLE 26-6.405 A-3 DISTRICT STANDARDS, Private Landscaping and Fencing; and TABLE 26-6.405 A-1 DISTRICT STANDARDS, Screen; on the use of a "tarp structure"

The request for this review follows the Decision-Making Authority of the Board of Zoning Appeals, outlined in Section 26-6.803 D. 5. of the Munster Character Based Zoning Code and cited below:

Tarp Structure (subject matter photo) view from within the rear yard of 8031 Greenwood Avenue



APPEAL REVIEW**SECTION 26-6.803****DECISION-MAKING AUTHORITIES****D. Board of Zoning Appeals****5. Appeals & Related Matters.**

- a.** Generally. The Board of Zoning Appeals shall hear and determine appeals from and review orders, requirements, decisions, and determinations described in Section 26- 6.804.J.2, except as otherwise specifically set forth in this Article.
- b.** Grounds; transmission of record; disposition.
 - i.** An appeal filed with the Board of Zoning Appeals must specify the grounds of the appeal and must be filed within such time and in such form as may be prescribed by the Board of Zoning Appeals by rule.
 - ii.** The administrative official, hearing officer, administrative board or other body from which the appeal is taken shall, on the request of the Board of Zoning Appeals, transmit to it all documents, plans and papers constituting the record of the action from which an appeal was taken.
 - iii.** Certified copies of the documents, plans and papers constituting the record may be transmitted for purposes of Section 26-6.801.D.5.b.ii.
 - iv.** Upon appeal, the Board of Zoning Appeals may reverse, affirm or modify the order, requirement, decision or determination appealed from. For this purpose, the Board of Zoning Appeals has all the powers of the official, officer, Board or body from which the appeal is taken.
 - v.** The Board shall make a decision on any matter that it is required to hear under law, either:
 - I.** At the meeting at which that matter is first presented; or
 - II.** At the conclusion of the hearing on that matter, if it is continued.
 - vi.** Within five (5) days after making any decision, the Board of Zoning Appeals shall file in the office of the Board a copy of its decision.

CODE REVIEW**CD-3.R2** TABLE 26-6.405.A-3 DISTRICT STANDARDS
NEIGHBORHOOD -60' LOT ONE FAMILY RES**Private Landscaping and Fencing****Landscaping****NR****Walls & Fencing (not including Screens)**

Height	42 inches max. in Front Yards, with up to 6 additional inches allowed for decorative post tops; otherwise 6 ft. max in Side and Rear Yards; height measured above the Finished Grade
Length	NR in Side and Rear Yards.
Length	Fences in the Front Yard may only be located as landscape amenities, in an aggregate length of no greater than 16 feet, with a maximum of 8 feet in any one direction. Fences in the Front Yard shall not be installed so as to result in the creation of enclosed areas within the fence, visibility problems or hazards to pedestrians.

DIVISION 9: DEFINITIONS**SECTION 26-6.901
WORD USAGE.**

Fence: (a) as a Private Frontage type, a Frontage wherein the Facade is set back from the Frontage Line, and the Front Yard so created is separated from the Public Frontage by a Fence. See **Table 26-6.405.G-1 (Private Frontage Types)**;

(b) as a Structure, the word "fence" means a structural device erected to serve as an architectural element, landscape element, visual screen or physical barrier.

Screen/Screening:

- used as a verb, to block an item or condition from view from a vantage point in accordance with the requirements of this Article by interposition of a Building, Building Element, Wall or Fence constructed of an opaque material, or an evergreen hedge; or
- used as a noun, a Building, Building Element, Wall or Fence constructed of an opaque material or an evergreen hedge, which blocks an item or condition from view from a vantage point, as required by this Article. Not synonymous with Streetscreen.

CD-3 TABLE 26-6.405.A-1 DISTRICT STANDARDS:
CD-3 NEIGHBORHOOD CHARACTER DISTRICT**Screens****NR**

LEGEND The following notations are utilized in this table.	P Permitted	NP Not Permitted	NR Not Regulated	R Required
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STAFF FINDINGS AND RECOMMENDATION

Staff finds that the applicant's narrative has misinterpreted the screen location, offered inaccurate comparisons of "specific features" between commercial and residential screening purposes, and repeatedly cites discretionary decisions were made when actual code language limits enforcement and regulations of screens and screening in residential zones. Finally, the narrative fails to offer insight as to what actions may have caused the screening of the rear yard for 8031 Greenwood Avenue from only one resident at 8015 Greenwood Avenue.

MOTION

The Board of Zoning Appeals may consider the following motions:

Motion to affirm the determination of W&B Westland and Bennett P.C. Legal Review Letter dated June 25, 2025 regarding the subject matter titled: Classification of Tarp Structure at 8031 Greenwood Ave. — Response to Request for Written Confirmation, including all discussion and findings.