



June 25, 2025

SENT VIA ELECTRONIC MAIL ONLY

Frank C. Zischerk, Jr.
8015 Greenwood Ave.
Munster, IN 46321
Email: zischerk@gmail.com

Re: Classification of Tarp Structure at 8031 Greenwood Ave. —
Response to Request for Written Confirmation

Dear Mr. Zischerk:

I represent the Town of Munster, and I am writing in response to your request for a written determination regarding the classification of the tarp structure installed on your neighbor's property at 8031 Greenwood. The Town of Munster's Character Based Zoning Code ("Zoning Code") sets forth the development standards for structures erected on properties within the Town. Per the definitions set forth in the Zoning Code, your neighbor's structure falls within the definition of both a *Fence* and a *Screen*. *Screens*, however, are specifically excluded from the *Walls and Fencing* regulations and there are no other standards to regulate screens in the Zoning Code. Consequently, the Zoning Officials have no regulations to apply to your neighbor's structure. As a result, the Town cannot prohibit it. Below is additional information as to how I reached this conclusion.

The structure that your neighbor, Samuel Friemoth, erected on his property at 8031 Greenwood Avenue is made of a large, tan-colored tarp with a reinforced edge on all 4 sides with grommets spaced along the edges through which a heavy string or wire is threaded, pulled taut and then attached to posts with metal zip ties or fasteners. The tarp is erected on Mr. Friemoth's property, approx. 3 ft. from your side lot line, measures 8 ft. high from the ground, and extends from the rear lot line approx. 100 ft. toward the front lot line on Greenwood Avenue (or two-thirds of the length of Mr. Friemoth's lot).

A search of "tarp as a fence" on the internet results in several sites that sell this or a similar tarp which are marketed as: "privacy screen fence tarps", "privacy fence construction tarps", "fence tarps", "chain-link fence shade tarp covers & windscreens", and "shade privacy screen mesh tarp fence". A search of the Town's Zoning Code for any of these terms produces no results. However, the Zoning Code does define *Fence* and *Screen* in the *Definitions* section.

As you correctly quoted in your email, the Zoning Code defines *Fence* on page 425, as follows:

- 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.*

The Zoning Code then defines Screen/Screening on page 447 as follows:

- a. 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*
- b. 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.*

Based on the definitions within the Zoning Code, Mr. Friemoth’s structure is BOTH a *Fence* “as a structure” and a *Screen* “as a noun”. However, on page 71 of the Zoning Code are the development standards applicable to *Walls and Fencing* in a CD-3.R2 Zoning District (the zoning district applicable to you and your neighbor’s homes). However, this subsection is titled:

Walls & Fencing (not including Screens)

As a result of the specific exclusion of *Screens*, the *Walls and Fencing* regulations applicable to height, length, construction, allowed materials, requirement of building permits, and corner lot standards in the Zoning Code **do not** apply to screens, despite “visual screen” being included in the definition of *Fence*. (A copy of page 71 of the Zoning Code is attached for your reference.) Furthermore, the Zoning Code is silent as to any regulations for a *screen* as a structure in a residential district. In fact, on page 42 of the Zoning Code for the general CD-3 Zoning District standards, it specifically states that *Screens* are “NR” meaning “Not Regulated”. (A copy of page 42 of the Zoning Code is also attached for your reference.) As a result of the text or language in the Character Based Zoning Code, the Zoning Officials have no legal authority to regulate the tarp structure that Mr. Friemoth has erected on his property.

Free-for-all construction is not the intent of the Zoning Officials or the Town Council, but the Town’s ability to regulate the use of private property and the structures erected thereon is limited to the regulations in the local zoning code. Since 2019 when the Character Based Zoning Code was enacted, the Town Council has amended many sections in an effort to clarify and clean up inconsistencies and to draft regulations in response to “innovative” developments throughout the Town. In fact, I am currently working with officials of the Town’s Community Development



Department to draft of a new zoning code to replace the current one. This has been a year-long endeavor that should be completed later this year. As a result of this situation, screen regulations will clearly be included in the new zoning code.

If you have any additional questions, please feel free to contact me.

Kindly,

A handwritten signature in blue ink that reads 'Nicole A. Bennett'.

Nicole A. Bennett

E-mail: nbennett@westlandbennett.com

Attachments: Zoning Code p. 71 (1), Zoning Code p. 42 (2)

CC: George Shinkan, Councilman (gshinkand@munster.org)
James Marino, Town Manager (jmarino@munster.org)
Chuck Collins, Building Official (ccollins@munster.org)
Nicole Mazur, Zoning Enforcement Inspector (nmazur@munster.org)

DIVISION 4: BUILDING AND LOT PLANS & STANDARDS

CD-3.R2

**TABLE 26-6.405.A-3 DISTRICT STANDARDS:
NEIGHBORHOOD -60' LOT ONE FAMILY RESIDENCE CHARACTER DISTRICT**

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.	
Construction	NR	
Allowed Materials	Natural Wood	P Only open construction such as split-rail and picket in the Front Yard.
	Brick or Stucco over Masonry	P Permit required
	Wrought Iron or Aluminum	P Only open construction in the Front Yard.
	Chain Link	P At rear and sides only
	Barbed/razor/electric	NP
	Vinyl	P

Private Landscaping and Fencing (continued)

Building Permits

All fences require a permit.

Corner Lots

The Front Yard Fence standards shall apply to the shorter street side of the Lot; the Side Yard Fence standards shall apply to the longer street side of the Lot, irrespective of the orientation of the residence, subject to the following exceptions:

1. Where the Zoning Administrator determines that allowing a Fence on a Corner Lot would hamper traffic visibility, endanger public health or safety, or be detrimental to the aesthetic qualities or property values of neighboring properties, the Front Yard standards shall apply to both Frontages.
2. A Fence may not be constructed within a regular triangular area formed at the corner intersection of a driveway and a property line, the two sides of the triangular area being 10 feet in length measured along the driveway and property line, and the third side being a line connecting these two sides.
3. A Fence must be set back a minimum of three feet from the public right of way.
4. Chain link is a prohibited material.

Signs

See Sign Standards in Division 7.

Lighting

See Private Lighting Standards in Section 26-6.405.Q

LEGEND

The following notations are utilized in this table.

P

Permitted

CU

Conditional Use

NP

Not Permitted

Per PUD Approval

DIVISION 4: BUILDING AND LOT PLANS & STANDARDS

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

Non-Building Components

Heating and Air Conditioning Equipment, Utility, Service and Mechanical Equipment	NP in 1st Lot Layer
Solar Panels	P in 3rd Lot Layer; P in 1st or 2nd Lot Layer if parallel to and integrated into roof design
Antennas & Satellite Equipment	NP in 1st Lot Layer unless such Lot Layer is only possible location possible for satisfactory reception.
Swimming Pools, Hot Tubs and Spas	P in 3rd Lot Layer only
Transmitting and/or receiving towers or antennas and wind-generating machines	P in 3rd Lot Layer only

Private Landscaping and Fencing

Landscaping

R for all areas not covered by Structure, Parking Area, walkway, patio, terrace, or deck: Minimum of 25% of landscaped area must be covered with groundcover or evergreen trees or shrubs.

Minimum of 30% of 1st Lot Layer must be landscaped in compliance with Section 26-6.405.P.

1st Lot Layer may not be paved except for driveway and sidewalk.

Private Landscaping and Fencing (continued)

Walls & Fencing (not including Screens)

Height	4 ft. max. at Frontage; otherwise 6 ft. max; height measured from avg. undisturbed grade of Adjacent property at property line
Construction	Finished side must face Adjacent property, Thoroughfare, Path, Passage or Waterbody
Allowed Materials	Natural Wood P
	Brick or Stucco over Masonry P
	Wrought Iron or Aluminum P
	Vinyl P
	Chain Link NP in 1st Lot Layer; P in 2nd or 3rd Lot Layer only
	Barbed/razor NP

Signs

See Sign Standards in Division 7.

Lighting

See Private Lighting Standards in Section 26-6.405.Q

Screens

NR

LEGEND

The following notations are utilized in this table.



Permitted



Not Permitted



Not Regulated



Required