



BOARD OF ZONING APPEALS STAFF REPORT

To: Members of the Board of Zoning Appeals

From: Sergio Mendoza, Planning Director

Meeting Date: August 12, 2025

Agenda Item: BZA 25-005

Application Type: Administrative Appeal

Hearing: Public Meeting

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 fi led with the Board of Zoning Appeals must specify the grounds of the appeal and must be fi led 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 maybe 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.

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.



Permitted



Not Permitted



Not Regulated



Required

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.

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 the legal review language as written within the W&B Westland and Bennett P.C. 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.



EXHIBIT A

Petition BZA 25.005

Date: 7/14/25

Application Fee: \$ 605.00

Sign Fee: \$ na pd 2.

Town of Munster Board of Zoning Appeals Petition Application

OWNER INFORMATION:

N/A - Not owner of property

Name of Owner

Phone Number

Street address, City, ST, ZIP Code

Email address

APPLICANT OR PETITIONER INFORMATION (if different than above):

Frank C Zischerk Jr

773-474-4462

Name of Applicant/Petitioner

Phone Number

8015 Greenwood Ave Munster, IN 46321

zischerk@gmail.com

Street address, City, ST, ZIP Code

Email address

PROPERTY INFORMATION:

N/A

Business or Development Name (if applicable)

8031 Greenwood Ave Munster, IN 46321

CD-3

Address of Property or Legal Description

Current Zoning

APPLICATION INFORMATION:

Please select what this Application is for:

☐ Variance If yes, select one of the following: ☐ Use ☐ Developmental Standards

☐ Conditional Use

☒ Administrative Appeal

Brief Description of Project and List of Variances or Conditional Uses Being Requested (if applicable):

Appeal of Town's determination that tarp structure at 8031 Greenwood Ave is exempt from zoning regulations. Request for enforcement of fencing regulations under the Munster zoning code.

N/A

Name of Registered Engineer, Architect or Land Surveyor

Phone Number

Street address, City, ST, ZIP Code

Email address



Petition BZA _____ - _____

Town of Munster Board of Zoning Appeals Application Signature Page

I hereby authorize N/A to act on my behalf as my agent in this petition and to furnish, upon request, supplemental information in support of this petition application.

Signature of Owner

Date

Andrew C Zindler Jr
Signature of Applicant

07/17/2025
Date

REQUIRED ATTACHMENTS

Required Attachments for Board of Zoning Appeals Applications

To ensure that adequate information is provided to the BZA, please check off each of these items and provide documentation to the Community Development Department at the time of submittal of the application.

ALL APPLICATIONS	Included	N/A
Narrative statement describing project	X	
Property owner consent (Signature page)	X	
Proof of Ownership (e.g. copy of tax bill)		X
Plat of Survey depicting current conditions		X
Site Plan containing the following:		X
Boundary identification		X
Fire hydrant locations		X
Accessory structures		X
Parking lot design		X
Utility location		X
Building footprints		X
Proposed curb cuts		X
Drainage/detention plans		X
Traffic circulation		X
Ingress/egress locations		X
Major topographic information		X
Infrastructure improvements		X
Conditions of Approval Form (Note: complete the form specific to your petition)*		X
Any other information that the BZA may find useful in determining whether the application is merited.		

* Unique conditions have been established for special use permits for public garages, gas filling stations, used car lots, garden centers, massage parlors, adult bookstores, tattoo parlors, adult cabarets, and outdoor dining areas. Community Development staff will advise potential applicants of these at the pre-application meeting.

NOTE: If you checked any exhibits "N/A", please explain:

_____ This petition is an administrative appeal concerning a neighboring property. The Planning
 _____ Director has confirmed that proof of ownership and plat of survey are not required for this type
 _____ of appeal.

Frank C. Zischerk, Jr.
8015 Greenwood Avenue
Munster, IN 46321
zischerk@gmail.com
773-474-4462

July 14, 2025

Town of Munster
Plan Commission / Board of Zoning Appeals
c/o Sergio Mendoza, Planning Director
1005 Ridge Road
Munster, IN 46321

Re: Appeal of Zoning Determination – 8031 Greenwood Avenue

Dear Mr. Mendoza:

Please accept the enclosed materials as my formal submission appealing the Town's zoning determination regarding the tarp structure located at 8031 Greenwood Avenue. This submission is intended to comply with the requirements outlined in the Town's zoning code for Board of Zoning Appeals matters.

Enclosed are the following:

1. Completed BZA application form
2. Cover letter and outline for appeal narrative
3. Full appeal narrative
4. Supporting exhibits (photographs and other documentation)

Please let me know if any additional materials are required to complete this filing or if clarification is needed.



Sincerely,
Frank C. Zischerk, Jr.

Zoning Appeal — Tarp Structure at 8031 Greenwood Avenue

TO:

Board of Zoning Appeals
Town of Munster
1005 Ridge Road
Munster, IN 46321

FROM:

Frank C. Zischerk, Jr.
8015 Greenwood Ave
zischerk@gmail.com
773-474-4462

DATE:

July 14, 2025

RE:

Zoning Appeal — Tarp Structure at 8031 Greenwood Avenue

Summary of Appeal

This appeal challenges the Town's determination that the tarp structure at 8031 Greenwood is a "screen" exempt from zoning regulation. The structure is a fence in every material respect and must be regulated as such.

Key Facts

- The structure is a fixed tarp barrier, approximately 100 feet long and 7–8 feet high.
- It runs the entire shared property line from the front plane of the neighbor's home to the rear.
- It is anchored with structural supports and built as a boundary divider.
- The Town admits it meets the zoning code's definition of a fence, but classified it as a screen to exempt it from regulation.

Grounds for Appeal

1. The Structure Is Not a Screen.

- A screen must block a defined item or condition from view — not just general backyard space.
- The tarp structure does not meet this threshold.

2. Even If It Were a Screen, It's Still a Fence.

- The structure meets the zoning code's definition of a fence.
- Nothing in the code authorizes the Town to bypass regulation by relabeling a fence as a screen.

Zoning Appeal — Tarp Structure at 8031 Greenwood Avenue

3. No Rule Allows the Town to Choose Between Labels.

- The code provides no legal standard, procedure, or authority for choosing one classification over another.
- The Town's decision was not based on law, but on informal discretion.

4. Discretion Requires Standards.

- Labeling a structure in order to exempt it — without written guidance — is not enforcement. It's circumvention.
- This undermines equal treatment and the basic rule of law.

Requested Relief

Reversal of the Town's determination that the tarp structure is a "screen" exempt from regulation.

Declaration that the structure qualifies as a "fence" under the zoning code.

Removal of the structure for failure to comply with applicable fence regulations.

Recommendation to the Town Council that the \$605 appeal fee be refunded in whole or in part.

Background and Introduction

My neighbors at 8031 Greenwood Avenue erected a long, tarp structure along our shared property line. (See, Exhibit 1). The structure is approximately 100 feet in length and between 7 and 8 feet in height. It begins at the front plane of their house and runs rearward toward the back of the lot. It is anchored at one end to a steel I-beam and at the other to a tall vertical pole. The tarp is suspended from a top cable and held in place by plastic zip ties and fishing line at the bottom. It was constructed without a permit.

After observing the structure, I contacted the Town of Munster to determine whether it was subject to zoning regulations. The Zoning Enforcement Inspector informed me the tarp structure was considered a “screen” and therefore not subject to any residential zoning standards, including those governing height, materials, permits, and placement. I requested a formal written determination.

On June 25, 2025, the Town’s legal counsel issued a written determination confirming that the structure was classified as a “screen,” and that based on that classification, no zoning regulations applied. (See, Exhibit 2)

This appeal challenges that determination.

I am asking the Board of Zoning Appeals to reverse the Town’s determination and restore proper application of the zoning code. This case is not about aesthetics or neighbor complaints. It is about whether zoning standards are applied according to the law, or set aside at the discretion of Town staff.

Zoning Starts with Classification — But It Doesn’t End There

Zoning codes typically begin with definitions. Before a structure can be evaluated under the code, it must be classified — is it a fence, a wall, a building, or something else? Normally, that classification determines what standards apply. But, when a structure meets multiple definitions, the code offers no rule for resolving the conflict. Staff is left to choose, and regulation rises or falls based on this unchecked decision.

Classification is only the starting point when the code functions properly. Once a structure is classified, the zoning code should specify what standards or procedures apply. These may include height limits, setbacks, material restrictions, or permit requirements. What applies depends on how the code treats that type of structure within a given zoning district.

The purpose of zoning classification is to provide clarity and consistency. Property owners must be able to understand what is allowed on their land. Inspectors must have objective standards to enforce. And neighboring residents must be protected by the same rules, regardless of who owns the property next door.

When classification decisions are made without clear standards, enforcement becomes inconsistent and unpredictable. Structures not contemplated by the code are permitted by default. The result is a zoning system where compliance depends less on written rules and more on discretionary judgment.

That is exactly what occurred here. The Town acknowledged that the tarp structure met the zoning code's definition of a fence. It also asserted that the structure qualified as a screen. But instead of applying the fence regulations — or even explaining why one classification should control, it simply classified the structure as a screen and declined to apply any regulations at all. That choice was not compelled by the code — it was made without any stated rule or rationale.

The Tarp Structure Is a Fence

The tarp structure is fixed and functions as both a visual and physical barrier between properties. It spans nearly the full length of the lot line, obstructing views and preventing passage. In both form and function, it meets the zoning code's definition of a fence: *"...a structural device erected to serve as an architectural element, landscape element, visible screen, or physical barrier."*

The Town does not dispute that the structure is a fence under the zoning code. Nevertheless, the Town classified the tarp structure as a screen and used that label to bypass all applicable fence regulations. The Town did so without citing any rule,

standard, or regulation that authorized them to choose the classification of “screen” over “fence.”

The Tarp Structure Is Not a Screen/Screening

The Town has classified the tarp structure as a “screen,” which, under its interpretation, places it outside the zoning code’s material and design requirements for fences in residential zones. But, classification is not an act of convenience or labeling. Classification must be grounded in the definitions provided by the zoning code and reflect the structure’s actual form and function. The tarp structure does not meet the code’s definition of a “screen/screening.”

The zoning code defines screen/screening as “a Building, Building Element, Wall or Fence constructed of an opaque material or an evergreen hedge,” used to block “an item or condition from view.” (See, Exhibit 2) This definition has two parts: the structure must take a qualifying form and must block something specific. Both are required.

That second part — the “item or condition” — is the crux. In the commercial and multifamily contexts, the zoning code applies this concept repeatedly by requiring screening of specific features such as:

- trash dumpsters,
- air conditioning condensers,
- utility meters,
- or service equipment.

These are specific conditions — visible elements that disrupt the appearance or function of a space. The purpose of a screen is to block a defined object or condition from view at a particular vantage point, not to obstruct general views across a property line.

The tarp structure blocks nothing in particular. It blocks a typical backyard — not a dumpster, not utility equipment, and not the sort of item that triggers screening

requirements elsewhere in the code. There is no discrete item or condition behind the tarp that justifies this classification.

This matters. The zoning code does not allow structures to be labeled as “screens” without meeting the code’s definition. “Screen/screening” requires both a qualifying form **and** a qualifying purpose: specifically, to block an “item or condition” from view.

If the Town can stretch that language to cover any large backyard space where no distinct item is being screened, then the definition collapses. Anyone could run 100 feet of tarp, plywood, sheet metal, or other material along a lot line and claim it qualifies as a screen — despite the absence of any item or condition behind it. That’s not screening as defined in the zoning code.

Taken to its logical conclusion, this interpretation would allow tarp walls, junk partitions, and other obstructions across residential neighborhoods. Worse still, these structures would be entirely exempt from all zoning regulations simply because they are labeled as “screens.” This is an absurd result that no reasonable zoning code would allow. And, the Munster zoning code does not.

Calling the tarp structure a “screen” isn’t just a stretch — it’s a misuse of the definition. Not all fences that screen are “screens” under the zoning code. Many fences serve a screening function — that doesn’t transform them into a different structure. The tarp structure is not a screen and, as such, remains just a fence subject to all the material and design requirements of the zoning code.

A Fence by Definition — But Treated as a Screen

The Town classified the tarp structure as a “screen.” Regardless, the structure clearly meets the zoning code’s definition of a fence: *a structural device erected to serve as an architectural element, landscape element, visual screen, or physical barrier*. That is exactly what this structure is. It runs along the property line and separates two residential lots. It is fixed, structural, and visually imposing. The Town has not disputed this. (See, Exhibit 2)

Under the zoning code, classification determines which standards apply. A structure classified as a fence in a residential district is subject to placement, height, and material standards. Nothing in the code authorizes reclassifying a fence as a screen simply because it might also serve a screening function. In fact, the zoning code defines a fence, in part, as a structure that may serve as a **visual screen**. The fact that the tarp structure may also serve a screening function does not justify bypassing the fence regulations that otherwise apply.

Even if the Town believes the tarp structure meets the definition of a screen, that does not erase its status as a fence. The zoning code provides no rule that tells staff how to proceed when a structure meets more than one definition. Classification decisions must still rest on rational standards — not informal preferences. In such cases, the default must be to apply the more regulated classification - not the one that nullifies enforcement. The tarp structure clearly meets the definition of a fence. Classifying it *only* as a screen — and using that label to bypass all fence regulations — is not a neutral application of the code. It's a selective interpretation that exempts a fence from the rules simply by calling it something else.

The Town might argue that it exercised discretion in classifying the structure as a screen. However, administrative discretion must be grounded in the code. It cannot be used to sidestep regulations or avoid enforcement. A structure that meets the definition of a fence and fails to comply with fence standards cannot be reclassified as a screen just to bypass those requirements. That is not interpreting the code — it is circumventing it, and it opens the door to arbitrary treatment.

Exemption Without Standards

As previously stated, the Town asserts that the tarp structure is a “screen.” As such, it is exempt from any regulation in a residential zoning district. But this classification is not a neutral application of the zoning code. It is a discretionary decision made in the absence of any written standard, objective test, or procedural safeguard.

The zoning code defines both “fence” and “screen/screening.” The tarp structure plainly meets the definition of a fence: it is a fixed, boundary-length barrier separating two

yards. Nonetheless, the Town has also chosen to classify it as a screen but offers no explanation for how it meets the separate definition of screen/screening.

The zoning code provides no instruction on how to classify a structure that is claimed to meet both definitions. It does not say whether one category takes priority over the other. It offers no criteria — no test based on purpose, location, size, or design — for deciding when a fence that screens something should stop being treated as a fence. There is no framework, no process, and no written standard. The Town's decision to apply the screen label was made without public rules, internal guidance, or any opportunity for review. That is not interpretation. It is unchecked discretion.

No rules. No process. No accountability.

This is not professional judgment exercised within the limits of a written code. It is unbounded discretion. If staff can exempt any fence from regulation simply by labeling it a "screen," the zoning code ceases to function as law. It becomes a system of arbitrary classification, where enforceability depends not on the structure's form, but on the Town's subjective interpretation.

Let's assume the code allowed some discretion in borderline cases. Clearly, the tarp structure is not such a case. The structure is 100 feet long, 7 to 8 feet tall, anchored with steel posts and cables, and runs along a residential lot line. It is a textbook fence. Calling it a screen to exempt it from all regulation is not a judgment call — it's a failure of enforcement and a denial of procedural due process.

The Town's approach also raises serious equal protection concerns. I was required to obtain a permit and comply with design standards for my own vinyl fence. My neighbor installed a more obtrusive barrier along our shared lot line — but did not have to pull a permit, meet any design or material standards, or undergo inspections — simply because Town staff labeled it a screen. Such a distinction lacks any objective basis in the zoning code and results in arbitrary, unequal treatment of similarly situated properties.

These are not technical complaints. They go to the core of the residential zoning district's integrity. When enforcement turns on subjective labels without any standard for resolving overlapping classifications, the system stops functioning as law. It becomes discretionary in the worst sense — without process, without transparency, and without accountability.

Conclusion and Requested Relief

The tarp structure at 8031 Greenwood is a fence — in form, in function, and in every way that matters under the zoning code. It is a fixed, boundary-length barrier between two residential lots. The Town does not dispute that it meets the zoning code's definition of a fence.

The tarp structure does not meet the definition of screen/screening. A screen must block a specific item or condition from view — not merely obstruct a general backyard area. The tarp structure does not block any identifiable item or condition. If it is not a screen, then it is a fence — and must be regulated as one.

Nonetheless, the Town asserts that the tarp structure meets the definition of both fence and screen/screening. The Town then classified it solely as a screen — and deemed it exempt from all zoning regulations. In such cases, classification must rest on rational standards — and the more regulated category must apply. Choosing the less regulated label simply to avoid enforcement is not interpretation. It is circumvention.

The Town's approach replaces written law with discretionary labeling. That is not how zoning enforcement is supposed to work. It creates unequal treatment, erodes public confidence, and undermines the integrity of residential zoning.

For these reasons, I respectfully request that the Board of Zoning Appeals reverse the Town's determination that the tarp structure is a screen. It is a fence — plain and simple — and must be treated as such. Because it does not comply with the zoning code's fence requirements, it is unlawful and must be removed. Anything less would reward code evasion, undermine enforcement, and signal that the zoning code can be bypassed with a label.

This appeal seeks no construction, variance, or change in use — only correction of an erroneous zoning determination. Given the narrow scope, the associated \$605 appeal fee is excessive and should be reconsidered.

Accordingly, I respectfully ask the Board to:

- Reverse the determination that the tarp structure is a “screen” exempt from regulation.
- Declare that the structure qualifies as a “fence” under the zoning code and is therefore subject to applicable regulations, including height and material standards.
- Order that the structure be removed for noncompliance with those requirements.
- Recommend to the Town Council that the \$605 appeal fee be refunded in whole or in part.

Thank you for your time and consideration.

Exhibit Index

Exhibit 1 – Tarp Structure (1–6):

- 1 – Tarp Structure – East View**
- 2 – Tarp Structure – Lot Line View**
- 3 – Tarp Structure – Rear View**
- 4 – Steel Beam – West End**
- 5 – Tension Cable – West End**
- 6 – Metal Post & Cable – East**

Exhibit 2 – Bennett Determination Letter (1–5)

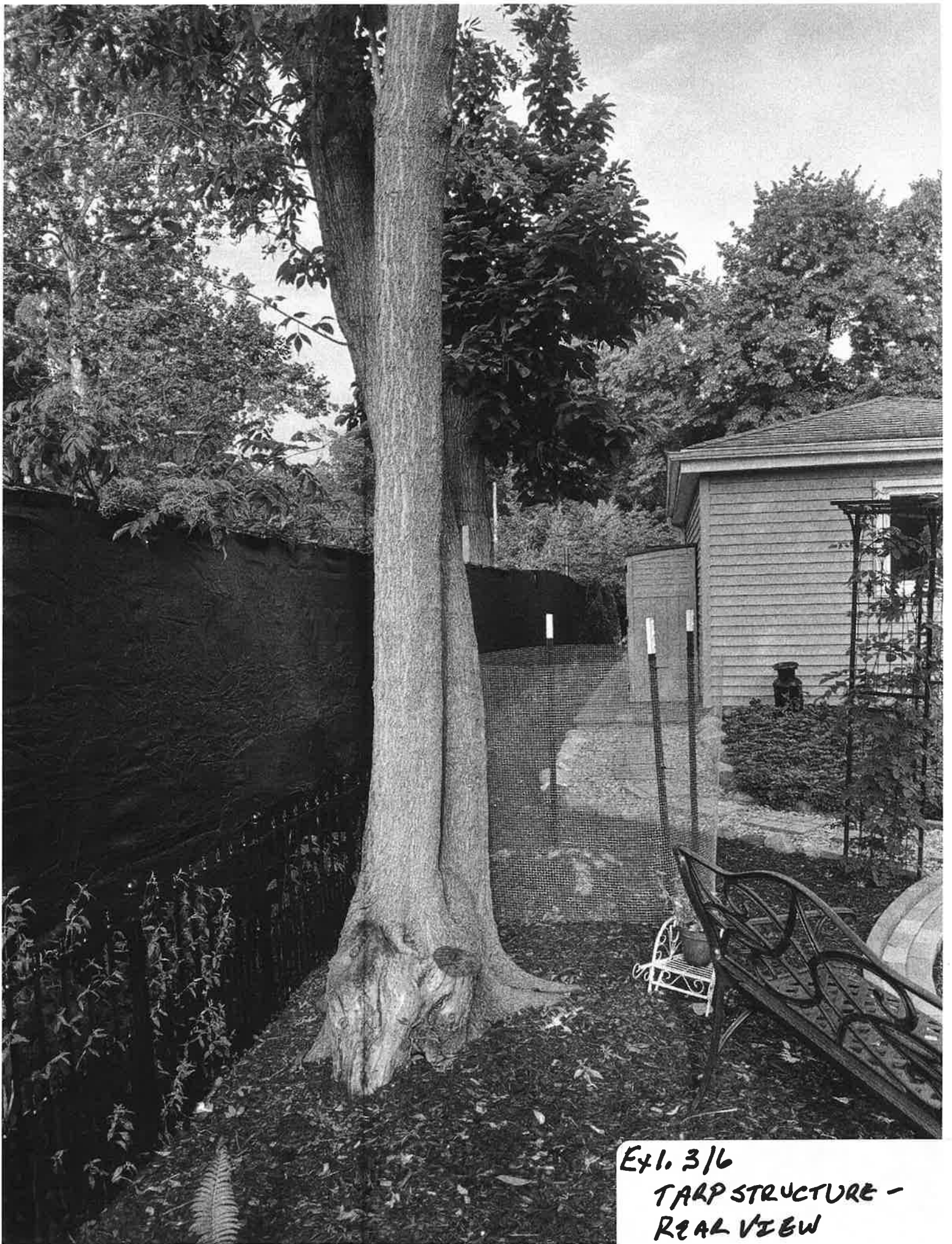


Ex 1. 1/6

TARP STRUCTURE - EAST VIEW



Ex 1. 216
TARP STRUCTURE -
LOT LINE VIEW



Ex 1. 3/6

TARP STRUCTURE -
REAL VIEW



Ex 1. 4/6

STEEL BEAM - WEST END



Ex-1. 5/6

TENSION CABLE -
WEST END



E4 1. 6/16
METAL POST + CABLE - EAST



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:



Westland & Bennett P.C.

- 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:

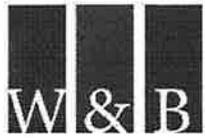
- a. Used as a verb, to block an item or condition from view from a vantage point in accordance with the requirements of this article by interposition of a Building, Building Element, Wall or Fence constructed of an opaque material or an evergreen hedge; or*
- b. Used as a noun, a Building, Building 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



Westland & Bennett P.C.

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,

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

LEGEND

The following notations are utilized in this table.



Permitted



Conditional Use



Not

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

Ex 2. 4/5

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 NR

Signs

See Sign Standards in Division 7.

Lighting

See Private Lighting Standards in Section 26-6.405.Q

Screens

NR

Ex 2, 5/5

LEGEND

The following notations are utilized in this table.

P

Permitted

NP

Not Permitted

NR

Not Regulated

R

Required

June 25, 2025

BZA25-005

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)

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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:

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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

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Private Landscaping and Fencing (continued)

Walls & Fencing (not including Screens)

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Allowed Materials	Natural Wood P
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	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

Nicole Mazur

From: Kerri Ellis
Sent: Tuesday, June 3, 2025 2:13 PM
To: Chuck Collins; Nicole Mazur
Subject: 8031 Greenwood/ 8015 Greenwood

Frank Zischerk came in today had a complaint about his neighbor at 8031 Greenwood. He said that his neighbor has put up a very large beam with a tarp in his yard and that it is ruining his landscaping with the wind today. The neighbors do not get along with each other. I sent him to PD Code Enforcement regarding the tarp and property issues but Holly came back with him and said she can't check anything structural. She is going to look at property regarding tarp and wanted me to let you know about the very large beam. There have been no permits pulled for this property 8031 Greenwood.

The neighbor Frank Zischerk is the one complaining and his address is 8015 Greenwood, and his number is 773-474-4462.



Administrative Secretary
Building Dept
1005 Ridge Road
Munster, IN 46321
219-836-6994
Email: communitydevelopment@munster.org
Web Address: www.munster.org

Nicole Mazur

From: Nicole Mazur
Sent: Monday, June 16, 2025 10:55 AM
To: Sergio Mendoza
Subject: 8031 Greenwood Screen

Sergio,

8031 Greenwood has hung a “fabric privacy screen” in their side and rear yard along the north side of their property. It is strung between a metal post and a piece of wood attached to a tree. The property owners stated that it was a few feet in from their property line.



The Town of Munster Zoning Ordinance defines the following:

Fence: 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: 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.

Structure: anything constructed or erected, the use of which requires a permanent location on the ground or attachment to something having a permanent location on the ground, regardless whether the same is horizontal or vertical. The word “Structure” includes Buildings and other

Improvements.

Fences are regulated in residential zones in regards to materials, height, length and location.

There are no regulations for screening in the residential districts, screening is regulated in commercial districts and civic zones.

There is a building height standard in residential districts for structures other than the principal dwelling:
The lesser of 16 feet or the height of the Principal Building.

We determined the “fabric privacy screen” to be a screen ,not a fence, and is only regulated in residential districts as to the height which could not exceed 16 ft or the height of the building (if less than 16 ft).

Regards,
Nicole



Nicole Mazur
Zoning Enforcement Inspector
1005 Ridge Rd., Munster, IN 46321
219-836-6999 | nmazur@munster.org | www.munster.org

IMPORTANT: This message is intended only for the use of the individual or entity to which it is addressed, and may contain information which is privileged, confidential, and exempt from disclosure under applicable law. If the reader of the message is not the intended recipient you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you received this communication in error, please notify the sender immediately

Nicole Mazur

From: Frank Zischerk <zischerk@gmail.com>
Sent: Wednesday, June 18, 2025 6:01 PM
To: Nicole Mazur
Cc: Chuck Collins; James Marino; George Shinkan
Subject: Classification of Tarp Structure at 8031 Greenwood — Request for Written Confirmation

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Zoning Enforcement Inspector Mazur,

I'm writing to respectfully request that Community Development formally document its position regarding the tarp structure installed at 8031 Greenwood. Please confirm in writing (1) that the structure is classified as a "screen," and (2) that, as a result of that classification, it is not subject to any zoning standards, permit requirements, or material limitations.

This request is necessary to preserve my right to appeal. A structure of this scale — 100 feet long and 8 feet tall — was installed without permit, inspection, or written approval. You later described it as a "screen," but to date, I have not received — nor been made aware of — any written determination. That lack of documentation effectively denies any path for review while allowing the structure to remain in place indefinitely without oversight.

This is a 100-foot-long, 8-foot-tall tarp, anchored with permanent footings and structural posts. It starts at the front plane of the house and runs rearward along the property line, serving as a full-length visual barrier. Its size, placement, and function match the zoning code's own definition of a fence: "a structural device erected to serve as an architectural element, landscape element, visual screen or physical barrier." It meets that definition and should be subject to the same regulations.

If Community Development maintains that this structure is exempt from regulation because it is being labeled a "screen," that position should be documented clearly and in writing. If your office refuses to issue a written determination, I ask that the refusal be acknowledged on the record so I may proceed accordingly.

If I don't receive a response within 7 days, I will follow up to request a timeframe, as the deadline to initiate an appeal may be affected by continued inaction.

Thank you for your attention to this matter.

Very truly yours,

Frank C. Zischerk, Jr.
8015 Greenwood Ave
773-474-4462

Enforcement List - Inspection Summary

07/31/2025

1/1

Enforcement #	Address	Status	Filed	Closed
E25-0027	8031 GREENWOOD AVE	Closed - No Viola	06/03/25	06/25/25
Complaint: The neighbor at 8015 Greenwood came in to complain that 8031 Greenwood has put up a tarp.				
Inspection Type	Status	Scheduled	Completed	Code Officer
Code - Initial	No Violation	06/04/25	06/06/25	Nicole Mazur