



**To:** Members of the Board of Zoning Appeals

**From:** Tom Vander Woude, Planning Director

**Date:** June 4, 2020

**Re: PUBLIC HEARING**

BZA Docket No. 20-006 Andrew and Carly Olczak requesting a variance from Sec.26-151(a)(1) of the Munster Municipal Code to reduce the required side property line setback for a swimming pool to 3 feet to install a swimming pool in the rear yard at 8316 Castle Drive.

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<b>Applicant:</b>	Andrew and Carly Olczak
<b>Property Address:</b>	8316 Castle Drive
<b>Current Zoning:</b>	CD-3.R-1 Dwelling House District
<b>Adjacent Zoning:</b>	North: CD-3.R-1 South: CD-3.R-1 East: CD-3.R-1 West: CD-3.R-2
<b>Action Requested:</b>	Approve variance
<b>Additional Actions Required:</b>	Approve Findings of Fact
<b>Attachments:</b>	Variance application Surveyor location report prepared by Professional Land Surveying, PC dated 6/12/2014 with location of proposed swimming pool and existing playset drawn in Photos of subject property

## **Background**

### **Preliminary hearing held on May 12, 2020**

Property owners Andrew and Carly Olczak are seeking a variance from Sec.26-151(a)(1) of the Munster Municipal Code to reduce the required side property line setback for a swimming pool to 3 feet to install an aboveground swimming pool in the rear yard at 8316 Castle Drive.

The applicants are proposing to install an aboveground 16'x32' pool. Their yard is bisected by an underground electric line, which is shown on the attached drawing. The Indiana Residential Electrical Code prohibits the outer wall of a swimming pool from being placed within 5ft of an underground electrical line.

The Munster swimming pool ordinance states the following:

Sec.26-151(a)(1)

*No swimming pool shall be placed nearer to the rear or side property line, excluding easements, than five feet.*

To maintain the minimum separation from the electric line, the applicants are proposing to install the pool 3 feet from the side lot line. The proposed location meets all other setback requirements.

## **Discussion**

The swimming pool ordinance is not part of the zoning code, but it provides that the board of zoning appeals may grant variances that do not conflict with the purpose of the article. This is a lower bar than a zoning variance.

*Sec. 26-102. - Purpose of article.*

*(a) The purpose of this article is to create a legal framework for a comprehensive town policy on the construction, operation and maintenance of swimming pools. With this concept in mind, this article is adopted for the following purposes:*

- (1) Preserve, protect and promote the public health, safety and welfare.*
- (2) Protect the general public from damage and/or injury which may be caused by the faulty and uncontrolled construction or maintenance of swimming pools.*
- (3) Preserve the value of adjoining private property.*

*(b) It is the intent of this article that the board of zoning appeals may permit individual variances when the request for variance from this article is not in conflict with this statement of purpose.*

*(Code 1985, § 25-2)*

Staff notes the following:

1. All other accessory structures are required to have a minimum 3' setback from the side property line.
2. A 36" impervious walkway is required to be installed around the pool.



Petition BZA \_\_\_\_\_ - \_\_\_\_\_

Date: \_\_\_\_\_

Application Fee: \$ \_\_\_\_\_

Sign Fee: \$ \_\_\_\_\_

### Town of Munster Board of Zoning Appeals Petition Application

#### OWNER INFORMATION:

ANDREW & CARLY OLCZAK

Name of Owner

708.370.4142

Phone Number

8316 CASTLE DR MUNSTER, IN 46321

Street address, City, ST, ZIP Code

CarlyOlczakbilling@gmail.com

Email address

#### APPLICANT OR PETITIONER INFORMATION (if different than above):

Name of Applicant/Petitioner

Phone Number

Street address, City, ST, ZIP Code

Email address

#### PROPERTY INFORMATION:

Business or Development Name (if applicable)

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):

Installation of an above ground 16' x 32' pool with request to position 3' from the property line on the south side as opposed to the 5' required. This variance request is to ensure the north pool wall is the required 5' from the underground electrical utility line.

Name of Registered Engineer, Architect or Land Surveyor

Phone Number

Street address, City, ST, ZIP Code

Email address

## DEVELOPMENTAL VARIANCE CONDITIONS OF APPROVAL

The Munster Board of Zoning Appeals is authorized to hear petitions for developmental standards variances and to approve or deny. The Board of Zoning Appeals may also impose reasonable conditions and restrictions. Indiana Code 36-7-4-918.5 lists the legal criteria for a developmental standards variance:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community. Explain why this statement is true in this case:

*The approval will not be injurious in any way to the community as it is a request for a 2' adjustment on the code for swimming pool placement. The only community members affected are the property owners.*

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. Explain why this statement is true in this case:

*The area adjacent to the property included in the Variance will not be affected in any manner.*

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Explain why this statement is true in this case:

*The practical difficulties with strict application include preventing us from maximizing privacy, safety & security for swimming & other backyard activities. With this approval, the family (with a 12 year old daughter & 10 year old son) will have the most privacy afforded by our neighbor's garage to the west, our fence to the south & our house to the east. We currently have a playset to the north we feel is in it's safest position to the north. The utility lines are buried where if approved, we can avoid the cost of re-routing them.*

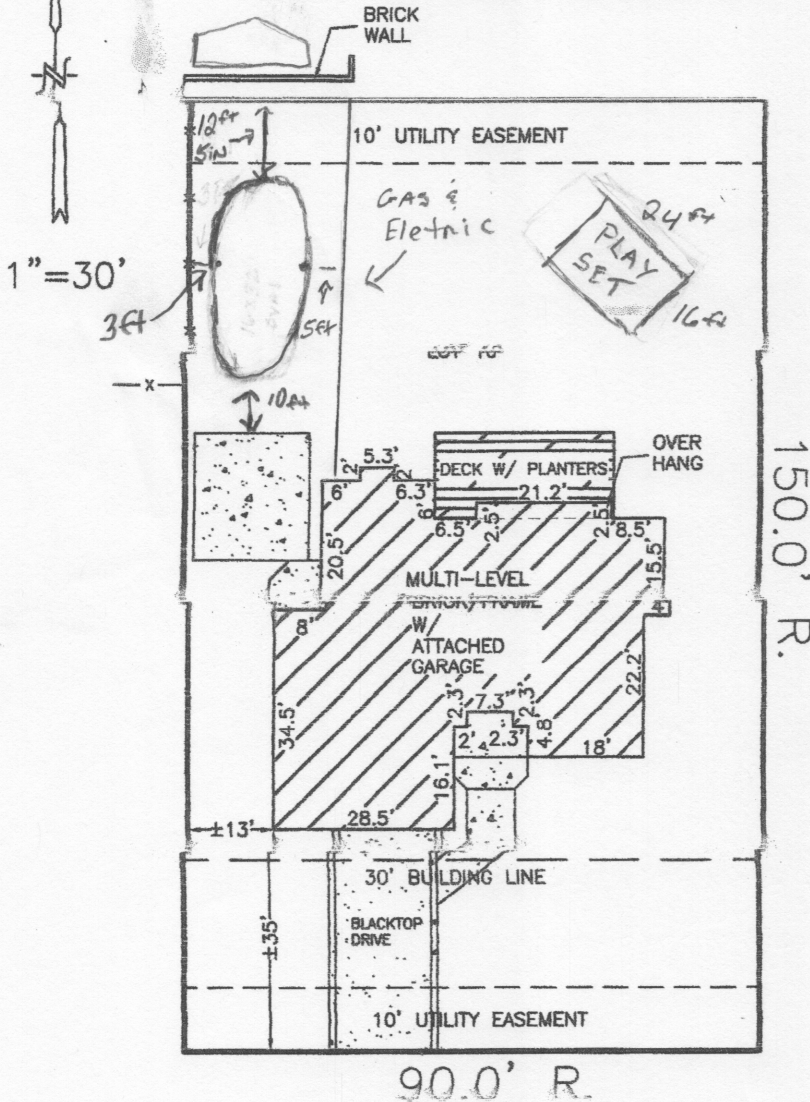


# SURVEYOR LOCATION REPORT

THIS REPORT IS DESIGNED FOR USE BY A TITLE INSURANCE COMPANY WITH RESIDENTIAL LOAN POLICIES. NO CORNER MARKERS WERE SET AND THE LOCATION DATA HEREIN IS BASED ON LIMITED ACCURACY MEASUREMENTS. THEREFORE, NO LIABILITY WILL BE ASSUMED FOR ANY USE OF THE DATA FOR CONSTRUCTION OF NEW IMPROVEMENTS OR FENCES.

PROPERTY ADDRESS  
8316 CASTLE DRIVE, MUNSTER, INDIANA 46321

PROPERTY DESCRIPTION  
LOT 10 IN CASTLE MEYERS ADDITION TO THE TOWN OF MUNSTER, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 69 PAGE 37, AND AS CORRECTED BY CERTIFICATE OF CORRECTION RECORDED NOVEMBER 5, 1990, AS DOCUMENT NO. 132658, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.



REPORT JOB NUMBER: 14-101

PREPARED FOR: ANDREW & CARLY OLCZAK

PROPOSED LENDER: WELLS FARGO BANK

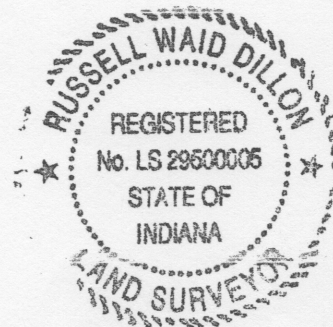
NOTE: NOT ALL UTILITIES SHOWN HERE ON.

R. = RECORD  
CAL. = CALCULATED

NOT VALID UNLESS EMBOSSED.

NOTE: FENCES APPEAR ON OR NEAR THE BOUNDARY LINES. A BOUNDARY SURVEY WOULD BE REQUIRED TO DETERMINE THESE POSITIONS MORE ACCURATELY.

PROFESSIONAL LAND SURVEYING, PC.  
7348 TAYLOR STREET, SCHERERVILLE, IN 46375  
(219) 730-8623



CASTLE DR. 60' R/W

TITLE CO.:

I HEREBY CERTIFY TO THE PARTIES NAMED ABOVE THAT THE REAL ESTATE DESCRIBED HEREIN WAS INSPECTED UNDER MY SUPERVISION ON THE DATE INDICATED AND THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS REPORT CONFORMS WITH THE REQUIREMENTS CONTAINED IN SECTIONS 27 THROUGH 29 OF 665 IAC 1-1-12 (SIC., 665 IAC 1-1-12) FOR A SURVEYOR LOCATION REPORT. THE ACCURACY OF ANY FLOOD HAZARD STATEMENT SHOWN ON THIS REPORT IS SUBJECT TO MAP SCALE UNCERTAINTY AND TO ANY OTHER UNCERTAINTY IN LOCATION OR ELEVATION ON THE REFERENCED FLOOD INSURANCE RATE MAP.

DATE: 06/21/14

*RW*

RUSSELL WAID DILLON LS 29500005



View of pool location from east





View of pool location from west





Distance from existing gas line to proposed pool (stake)





Close up distance from existing gas line to proposed pool (stake)





Distance from side lot line to proposed pool (stake)





Close up distance from existing gas line to proposed pool (stake)





Distance from wall in neighbor's rear yard to proposed pool (stake)





Close up distance from wall in neighbor's rear yard to proposed pool (stake)