



# BOARD OF ZONING APPEALS STAFF REPORT

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

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

**Meeting Date:** May 10, 2022

**Agenda Item:** BZA Docket No. 22-005

**Hearing:** **PRELIMINARY HEARING**

**Application Type:** Variance

**Summary:** Jed and Sarah Van Drunen requesting approval of a variance from the fence requirement for a residential swimming pool at 8709 Northcote Ave.

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**Applicant:** Jed and Sarah Van Drunen

**Property Address:** 8709 Northcote Ave

**Current Zoning:** CD-3.R1 70' Lot One Family Residence District

**Adjacent Zoning:** North: CD-3.R1  
South: CD-3.R1  
East: CD-3.R1  
West: CD-3.R1

**Action Requested:** Public Hearing

**Additional Actions Required:** Findings of Fact

**Staff Recommendation:** **Schedule public hearing**

**Attachments:** BZA 22-005 variance application and supporting materials

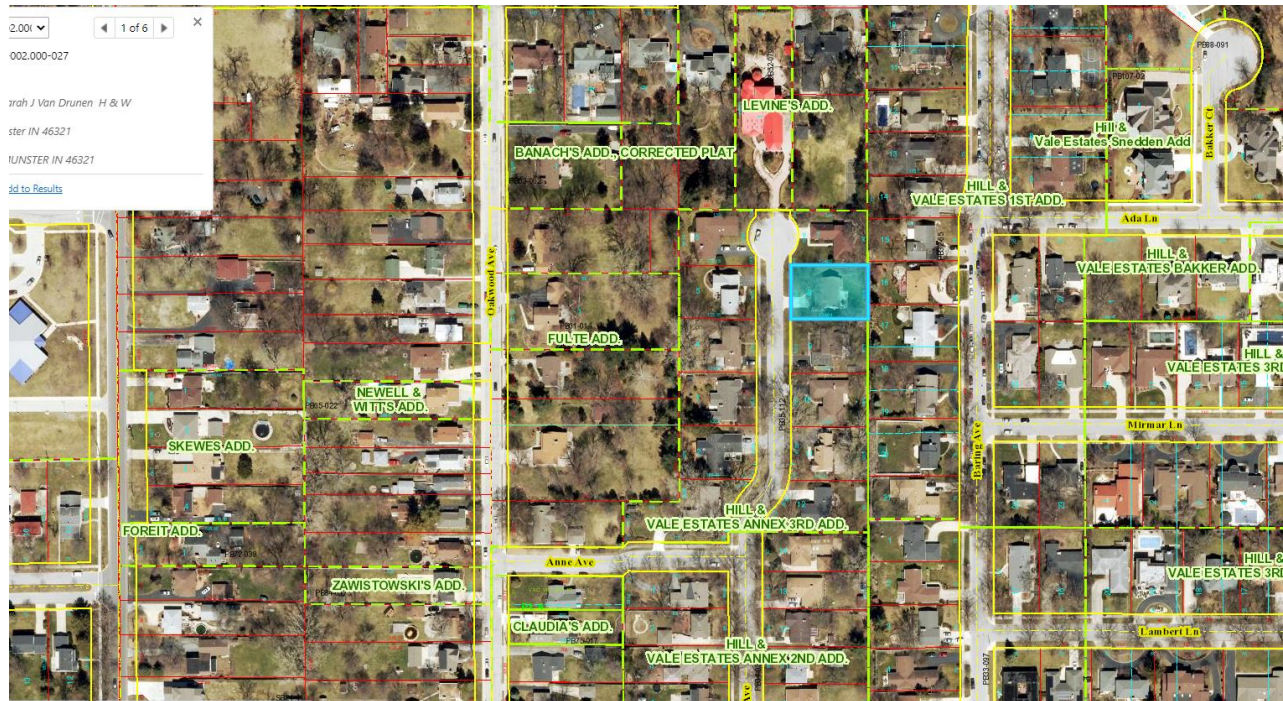


Figure 1 Subject property

## BACKGROUND

Jed and Sarah Van Drunen have contracted for the installation of an inground pool with attached spa at their property at 8709 Northcote Ave. They are seeking a variance from the requirement that the pool be enclosed by a 6' fence. Their rear yard is already enclosed by 4' high fence and they intend to install a power safety cover over the pool.

A brochure for the power safety cover for the pool is attached. Details for the spa cover can be found here: <https://www.modernspacovers.com/inground>.

The requirement for fencing is found in Munster Municipal Code Sec. 26-132. - Enclosures.

*(a) Except as to aboveground residential swimming pools with a designed water depth of 18 inches or less, every outdoor swimming pool or entire yard area shall be completely surrounded by a fence or wall six feet in height, which shall be so constructed as not to have openings, holes or gaps wider than four inches, except for doorways and gateways. An aboveground residential pool may have an approved rim-attached enclosure which shall serve as compliance with this section in place of the fence height requirements. All gates or doors opening through such enclosures shall be equipped with a self-latching device for keeping the gate or door securely closed. At all times when the pool or yard area is not in actual use, all doors and gates to the pool shall be locked. These requirements shall be applicable to all such existing outdoor swimming pools and to all outdoor swimming pools hereafter constructed. No person in possession of land within the town, either as the owner, purchaser, lessee, tenant or licensee, upon which is situated an outdoor swimming pool shall fail to provide and maintain such fence, wall or rim as provided in this section.*

The applicants are proposing the installation of an electronic pool cover as a substitute method of preventing access to the pool when not in use.

## **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.

*(b) The board of zoning appeals may make modifications in individual cases, upon a showing of good cause, with respect to the height, nature or location of the fence, wall, gates or latches, or the necessity therefor, provided that the protection as sought under this section is not reduced thereby. The board of zoning appeals may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the fence, wall, gate and latch described in this section.*

## **RECOMMENDATION**

*Motion to schedule a public hearing for BZA Docket No. 22-005.*



Petition BZA 22-005  
Date: 4/20/22  
Application Fee: \$ 450.00  
Sign Fee: \$ \_\_\_\_\_

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

**OWNER INFORMATION:**

Name of Owner Jed & Sarah Van Drunen Phone Number 219-746-0920  
Street address, City, ST, ZIP Code 8709 Northcote Ave. Munster, IN 46321 Email address thevandrunens@gmail.com

**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) HILL + VALE ESTATES ANNEX 3RD ADD. LOT 8  
Address of Property or Legal Description 8709 Northcote Ave., Munster IN 46321 Current Zoning CD-3 R-1

**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):**

Under section 24-132, A. Every outdoor swimming pool or entire yard shall be completely surrounded by a fence or wall six feet in height. Section B states the BZA appeals may permit other protective devices or structures to be used as long as the degree of protection is not less than the protection afforded by a fence, wall, etc. The petitioners are requesting that no 6 foot fence be required since the petitioners already have a 4 ft fence and will have a power safety pool cover installed that will remain closed when the pool is not in use.

Name of Registered Engineer, Architect or Land Surveyor N/A 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:

Petitioner's will be installing a power safety pool cover over the inground pool. Also, petitioner's yard is fully enclosed with a 4ft fence already. The power safety pool cover is a sufficient alternative to a 6ft fence since the degree of protection is not less than the 6ft fence.

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:

All adjacent properties have fences. This variance has no effect on value or use.

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:

Petitioner's current fence is new. It would be an unnecessary expense to tear down and replace.

**Attach additional pages if necessary**

**Applicant:** Jed & Sarah Van Drunen

**Property Address:** 8709 Northcote Ave

**BZA application for Variance on Developmental Standards**

**Narrative Statement describing project:**

Petitioners have submitted a building permit application for an in-ground pool to be installed in the rear yard. The yard is currently fully enclosed by a 4-ft fence on both sides and a 6-ft fence on the back side. The petitioners will also be including a power safety pool cover on the inground pool when installed. The petitioners are requesting a variance from Sec. 26-132, *a. every outdoor swimming pool or entire yard shall be completely surrounded by a fence 6 ft in height.*

Pictures of property below:















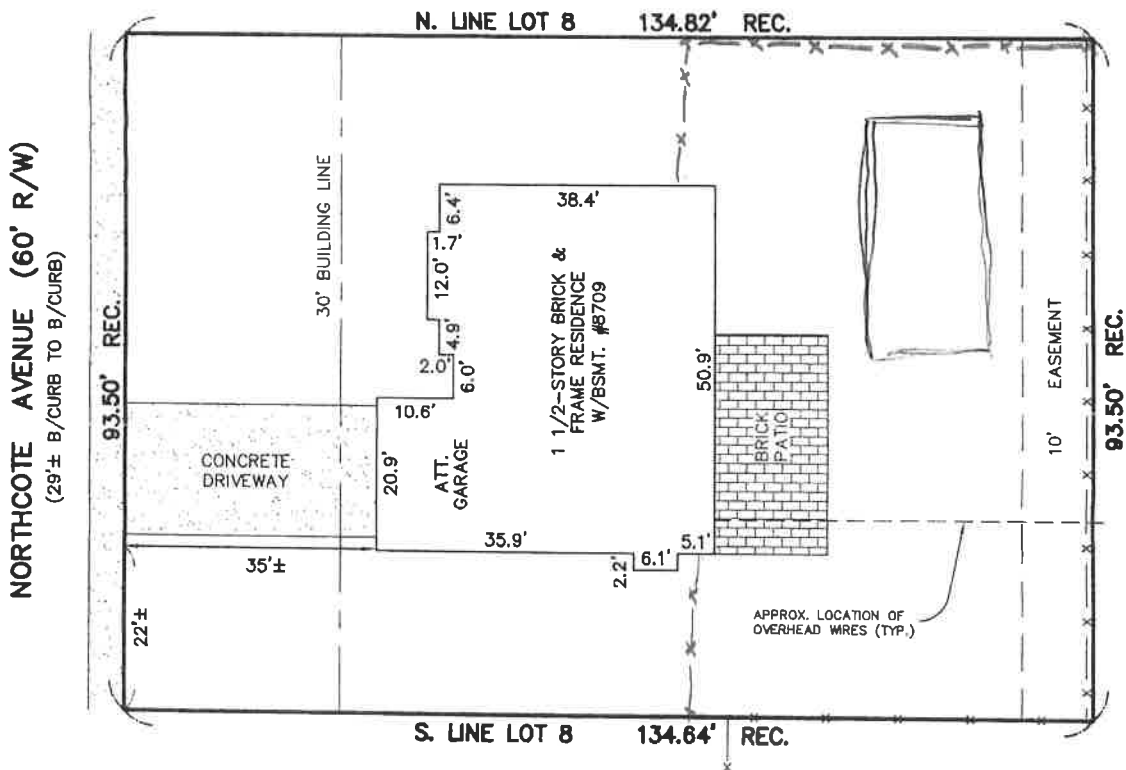
# SURVEYOR LOCATION REPORT

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 THIS DATA FOR CONSTRUCTION OF NEW IMPROVEMENTS OR FENCES, OR FOR ESTABLISHING OF BOUNDARIES. IF MORE ACCURATE INFORMATION IS NEEDED, A BOUNDARY SURVEY OR LAND TITLE SURVEY SHOULD BE ORDERED.

LEGAL DESCRIPTION: LOT 8, IN HILL AND VALE ESTATES ANNEX 3RD ADDITION IN MUNSTER, AS PER PLAT THEREOF, RECORDED IN PLAT BOOK 35, PAGE 112, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

PROPERTY ADDRESS: 8709 NORTHCOTE AVENUE, MUNSTER, INDIANA

NOTE: NO VISIBLE LINES OF OCCUPATION, EXCEPT AS SHOWN.



SCALE: 1" = 20'

— x — DENOTES APPROXIMATE FENCE LOCATION

TITLE COMPANY: CHICAGO TITLE INSURANCE COMPANY

LENDER:

CITIZENS FINANCIAL SERVICES, FSB

REFERENCE NAME:

STEPANOVICH

PREPARED BY:

GREGORY LAND SURVEYING  
HIGHLAND, INDIANA  
(219) 972-1135

PROJECT NO. 05-4808

F.B. 57, P. 11

DATE OF INSPECTION: JULY 1, 2005

DATE OF PLAT: JULY 5, 2005

ANTHONY M. GREGORY, INDIANA REGISTERED  
LAND SURVEYOR NO. ENL8600050





# Creating a Safer Swimming Environment

## Safety First

There's nothing more important than safety when it comes to owning a pool. That's why the **AutoGuard®** safety cover, manufactured by Automatic Pool Covers, Inc., offers you the highest level of security and peace of mind. The **AutoGuard®** eliminates access to the pool water and, when used properly, can withstand thousands of pounds of surface weight.

## Automatic Covers Make Sense

- Safety, Solar, and Winter cover all-in-one
- Pool chemicals last TWICE as long
- Saves up to 70% on heating costs
- Reduces pool-cleaning time
- Extends the life of pool equipment
- Reduces pool water evaporation
- Extends swimming season

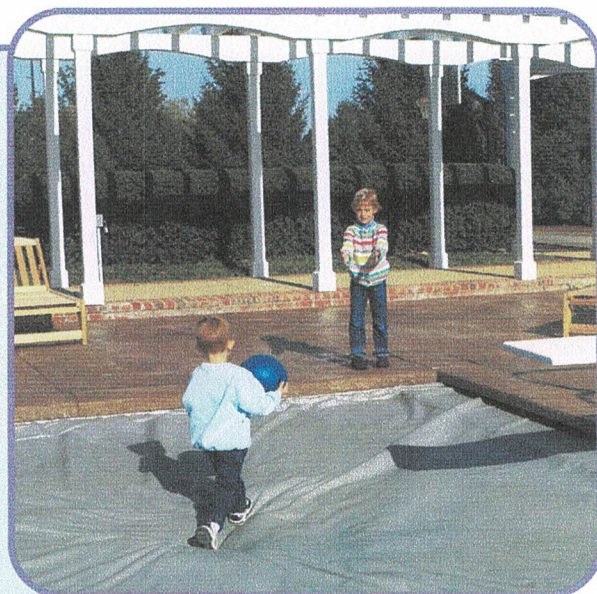
## The AutoGuard® — Simple, Flexible and Reliable

The **AutoGuard®** safety cover operates with the simple turn of a removable key. It is designed to fit almost any shape pool, and is strong, durable and warranted to last.

- *SmartMotion™* Control reduces user maintenance.
- Pool cover keyswitch includes user diagnostics.
- Fast — the average pool cover opens in less than 45 seconds.
- Strong — delivers over 1500 pounds of torque.
- Coated vinyl fabric has industry's longest life expectancy.
- Commercial grade hardware is standard on all units.
- Locking split-coupler allows for easy maintenance.
- Meets or exceeds industry safety standards (ASTM - 1346).

## Many options available!

\*Patent pending



### Fabric Colors

Light Blue

Royal Blue

Navy Blue

Green

Beige

Light Gray

Charcoal Gray

**Automatic Pool Covers, Inc.**

*Creating a Safer Swimming Environment*

9001 East 133rd Place, Fishers, IN 46038

(317) 579-2000 • (800) 878-5789 • fax (317) 579-2006

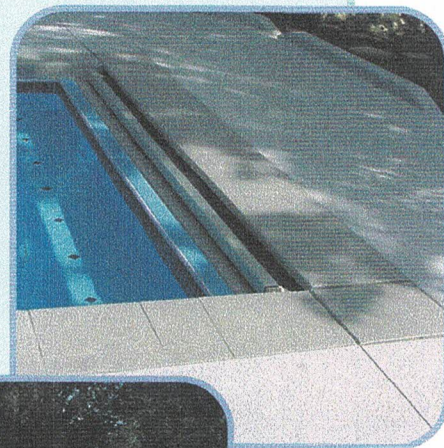
[www.automaticpoolcovers.NET](http://www.automaticpoolcovers.NET)



# Automatic Pool Covers' Products

## *Under Track*

When designing and building a new pool, the **AutoGuard®** cover system may be incorporated directly into the pool. The pool cover tracks are securely positioned into the pool coping. The cover glides open and closed in the track with the turn of a key and is secured when closed. The drive system is recessed below the deck and is covered with a sturdy lid.



## *Top Track*

Fits nearly every pool shape. The pool cover tracks are securely mounted to the top of the pool deck. The cover glides open and closed in the track with the turn of a key and is secured when closed. The system can be powered automatically with the **AutoGuard®** or manually with the *ManualGuard*. The system can be secured on top of the deck, or recessed and covered by a sturdy lid with lid triangle protection.



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[www.automaticpoolcovers.NET](http://www.automaticpoolcovers.NET)





# Under Track

*Simple  
Flexible  
Reliable*

Looking for that timeless design in your new pool? The under track application incorporates the **AutoGuard®** safety cover into a concealed track which is seamlessly fastened to the pool wall or secured in a track retainer system.



Fiberglass pool, deck on deck retainer



Gunitite pool with gunitite retainer

The advantages of the under track system are that it removes the cover tracks from your pool deck, gives you more options for the edges of the pool, and allows for greater flexibility in creating an attractive lid.



Vinyl liner with under track coping, flush lid



Vinyl liner with under track coping, aluminum lid

**Automatic Pool Covers, Inc.**

*Creating a Safer Swimming Environment*

Fishers, IN (800) 878-5789 [www.automaticpoolcovers.NET](http://www.automaticpoolcovers.NET)



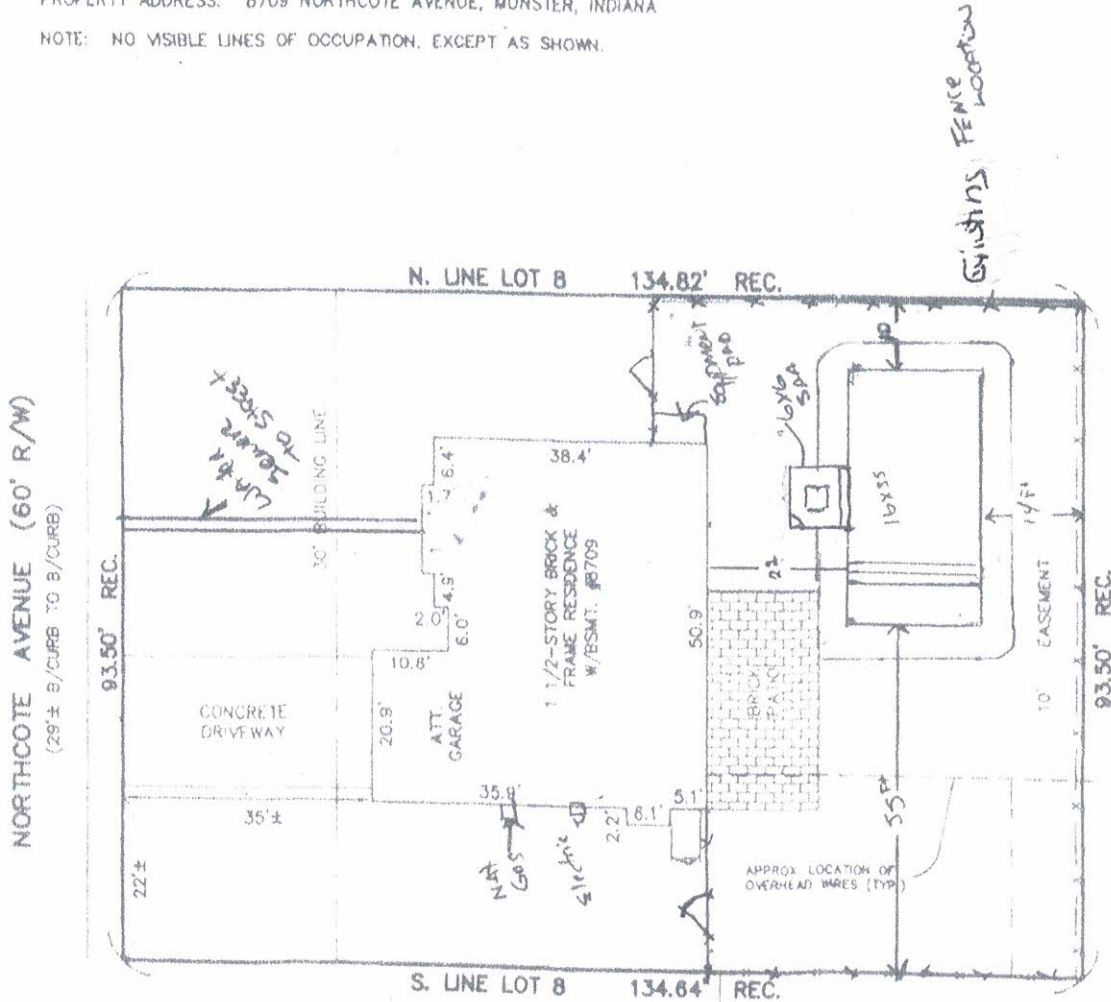
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PREPARED BY:

GREGORY LAND SURVEYING  
HIGHLAND, INDIANA  
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PROJECT NO. 05-4808

F.B. 57, P. 11

I HEREBY STATE TO THE PARTIES NAMED 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 B65 IAC 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 OF INSPECTION: JULY 1, 2005

DATE OF PLAT: JULY 5, 2005

*Anthony M. Gregory*  
ANTHONY M. GREGORY, INDIANA REGISTERED  
LAND SURVEYOR NO. ENL8800050

