



MORGANTOWN BOARD OF ZONING APPEALS

July 16, 2014
6:30 PM
City Council Chambers

Board Members:

- Bernie Bossio, Chair
- Leanne Cardoso, Vice-Chair
- Bill Burton
- George Papandreas
- Jim Shaffer

STAFF REPORT

CASE NO: V14-30 / Bruenderman / 3201 University Avenue

REQUEST and LOCATION:

Request by Julia Ann Bruenderman for variance relief from Article 1331.08 as it relates to accessory structures at 3201 University Avenue.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 7, Parcel 94; R-1, Single-Family Residential District

SURROUNDING ZONING:

R-1, Single-Family Residential District

BACKGROUND and ANALYSIS:

The petitioner seeks to construct a 27' round above ground pool between the principal structure and Rotary Street. Addendum A of this report illustrates the location of the subject site.

The subject property is located at the corner of University Avenue and Rotary Street. Article 1331.08 "Accessory Structures and Uses in Residential District" provides the following related provisions:

- (A)(4) On corner lots, accessory structures shall not be located between any portion of the principal structure and either street.

Because the petitioner seeks to construct the above ground pool accessory structure between the principal structure and Rotary Street, variance relief is required from Article 1331.08(A)(4).

Similar variance relief was granted for a detached accessory storage shed structure at 310 Ford Street under Case No. V12-21 on 25 JUL 2012. However, the following graphics clipped from the related Staff Report illustrate that the storage shed was not as visible from adjoining public rights-of-way as the petitioner's proposed above ground swimming pool.



Development Services
Christopher Fletcher, AICP
Director

Planning Division
389 Spruce Street
Morgantown, WV 26505
304.284.7431



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The Planning Division received an email of opposition from Ms. Kay Zinn on 08 JUL 2014, which is included in the meeting packet following the petitioner's application and accompanying exhibits.

STAFF RECOMMENDATION:

The Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the "Findings of Fact" submitted by the petitioner.

Addendum B of this report provides Staff recommended revisions to the petitioner's findings of fact. Please note that Staff has taken the petitioner's Findings of Fact responses submitted with the old variance application, associated said responses to similar Findings of Fact provided in the new variance application, and included recommended revisions (deleted matter struck through; new matter underlined).

Staff submits no recommendation concerning whether or not variance relief should be granted. However, should the Board grant variance relief as requested, Staff recommends that the following condition be included:

1. That the proposed above ground swimming pool for which variance relief is granted herein must be screened from the view of adjoining public rights-of-way by a privacy fence at least 6.5 feet in height but not more than 8 feet in height and conform to related standards set forth in Article 1331.08(B).

Enclosures: Application and accompanying exhibits

Development Services

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STAFF REPORT ADDENDUM A
V14-30 / Bruenderman / 3201 University Avenue





STAFF REPORT ADDENDUM B

V14-30 / Bruenderman / 3201 University Avenue

Staff has taken the petitioner's Findings of Fact responses submitted with the old variance application, associated said responses to similar Findings of Facts of the new variance application, and included recommended revisions (deleted matter struck through; new matter underlined).

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

~~It will be in a fenced-locked yard.~~ The proposed above ground swimming pool will be placed inside a locked, fenced-in area of the yard, which should further desired public safety objectives in terms of unauthorized access from passersby.

ALTERNATE NEGATIVE FINDING: The variance WILL adversely affect the rights of adjacent property owners, residents, and passersby because the location of the proposed above ground swimming pool, the transparency of the existing chain link fence, and the elevations of adjoining public rights-of-way do not provide sufficient privacy to public view from a public street that will protect existing aesthetics and characteristics of the surrounding built environment in a manner that preserves the desirability of the immediate area or its marketability to the public.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

~~I have a fenced in yard on a corner lot of Rotary and University Avenue.~~ The shape of the petitioner's lot, the position and orientation of the principal structure on the lot, and the width and slope of the remaining interior side yard do not appear to create any other option of locating the proposed above ground swimming pool that will conform to Article 1331.08(A)(4).

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

~~Pool needs to because I'm on a corner lot.~~ There appears to be a number of above and in-ground residential swimming pools that exist or have existed within the immediate area. Examples include residential swimming pools at 373 Rotary Street, 1261 Cambridge Avenue, 376, Kenmore Street, 1216 Fairlawns Avenue, 384 Mulberry Street, 380 Jacobs Drive, 390 Jacobs Drive, etc. Of particular note is the above ground swimming pool at 1232 Cambridge Avenue, which is located in the side yard of a corner lot as illustrated in the following graphics.



Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

It will be an above ground in my yard already fenced in. The Board's condition to screen the proposed above ground pool from the view of adjoining public rights-of-way with a privacy fence should sufficiently protect existing aesthetics and characteristics of the immediate built environment in a way that preserves the desirability of the immediate area and its marketability to the public.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

0107

OFFICE USE	
CASE NO.	V14-30
RECEIVED:	6/19/14
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name:	Julia Ann Bruenderman		
Mailing Address:	Street	3201 University Ave		Phone:	2045-946008
	City	State	Zip	Mobile:	304 376 6608
	MgTn	WV	26505 26505	Email:	

II. PROPERTY		Street Address:	3201 University Ave		
Owner:	Julia Ann Bruenderman		Zoning:	R-1	
Mailing Address:	Street	3201 University Ave		Tax Map No:	7
	City	State	Zip	Parcel No:	94
	MgTn	WV	26505	Phone:	3043766608

III. NARRATIVE Please describe the nature and extent of your variance request(s).

Putting an above ground 27 Round -
Between deck + fence (Chain link)

V. ATTEST

I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Planning Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.

Julia Ann Bruenderman *Julia Ann Bruenderman* RSE 5/09/2014 14:49:03
 Type/Print Name of Applicant/Agent Signature of Applicant/Agent P A I D Date
 75.00 SITE PLAN 14-9-14

You or a representative MUST be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.

* Broken Property name *



APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	_____
RECEIVED:	_____
COMPLETE:	_____

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

Land Use Characteristics (complete only those that apply)

- Residential Single-Family Dwelling Townhouse Dwelling
- Two-Family Dwelling Multi-Family Dwelling
- Non-Residential or Mixed (please explain)

Structure Characteristics (complete only those that apply)

Total number of buildings: _____ Gross floor area of each building: _____

Estimated number of employees: _____ No. of dwelling units: _____ No. of bedrooms: _____

Additional structure-related details:

Additional Information (as required by Staff):

Site Plan A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required

For simple variance requests (as determined by Staff), please use the graph area on the following page to illustrate applicable features listed above.



**APPLICATION FOR
ZONING VARIANCE**

OFFICE USE	
CASE NO.	V14-30
RECEIVED:	
COMPLETE:	

VII. FINDINGS OF FACT

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

1. There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

I have a fenced in yard on a corner lot of Rotary + University Ave.

2. The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

Pool needs to because I'm on a corner

3. The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

It will be in a fenced - locked yard

4. The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

It will be an above ground in my yard already fenced in.

City of Morgantown Application for Building Permit

Application Date 4/30/14
 Type of Work:
 Electrical
 Plumbing
 Demo
 Is Applicant Owner? Yes No
 Deck
 Mechanical
 Grading
 Asbestos
 Remodel or Repair
 Shed
 Other

PROPERTY INFORMATION:

Parcel Type:
 Residential
 Rental/ Commercial
 Industrial
 Street Address Where Work is being done: 3201 University Ave Morgantown, WV Zip Code: 26505
 Owners First Name: Julianne Last Name: Bruenderman Phone: 3045996604
 Owners Address (if different from above address): SAME

CONTRACTORS INFORMATION:	Contractors Business Name	City License Number
General Contractor	<u>Pool Center City</u>	
Excavation		
Concrete		
Carpentry		
Electrical		
Plumbing		
Sewer		
Mechanical	APPROVED	
Roofing		
Masonry		
Drywall/Lathing	<input checked="" type="checkbox"/> APPROVED	
Demolition		
Other		

SCOPE OF WORK TO BE DONE:

Detailed Description of Work:

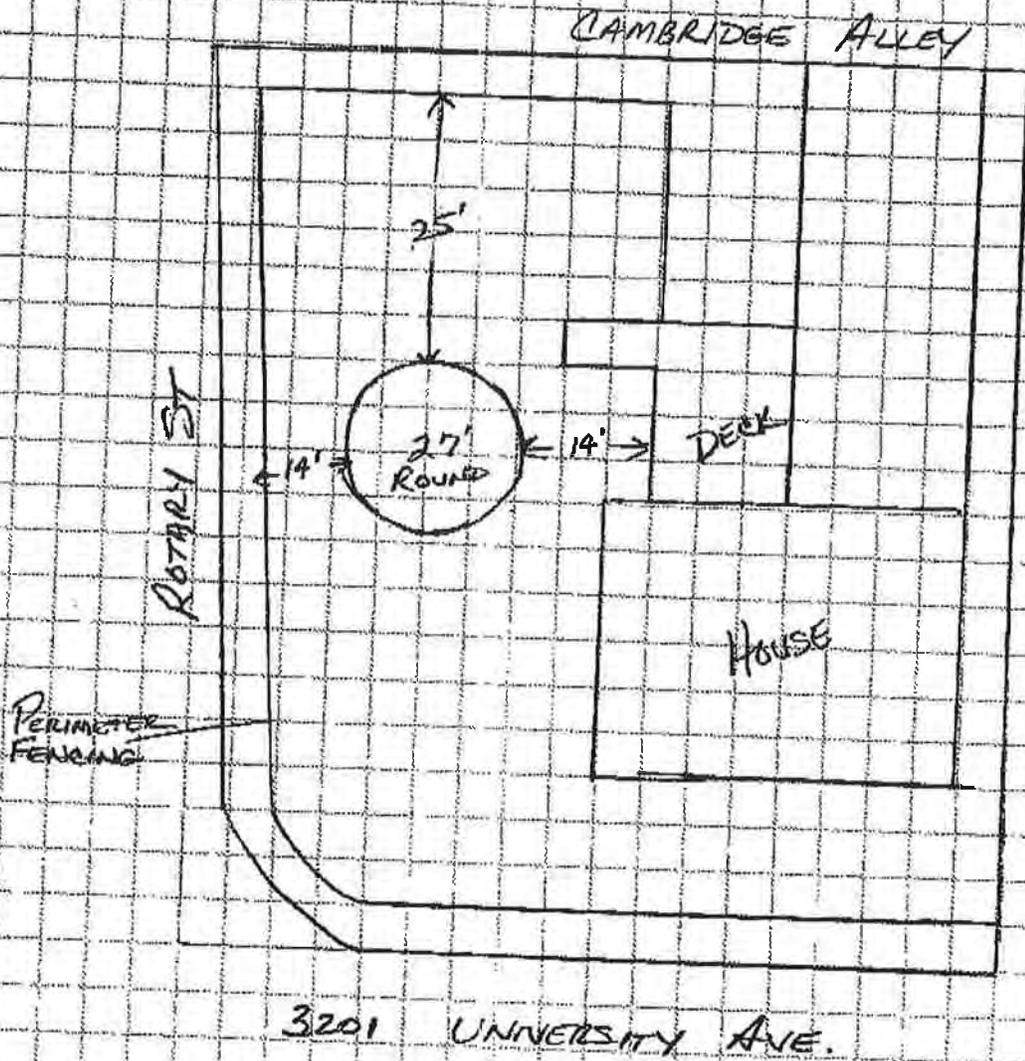
Pool in above ground -

MUST ATTACH DETAILED SITE PLAN YES NO
 Est. Value of Work 1000.00

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the code official or the code official's authorized representative shall have the authority to enter areas covered by such permit at any reasonable hour to enforce the provisions of the code(s) applicable to this permit.

Julianne Bruenderman 3201 Univ. Av 3045996608
 SIGNATURE OF APPLICANT ADDRESS OF APPLICANT PHONE

PRINT NAME: Julianne Bruenderman



JULIE ANN BRUENDERMAN
 3201 UNIVERSITY AVE
 304 599 6608 HM
 304 376 6608 CELL

SUBMITTED BY: MARK BLOHM - POOLCITY
 412 979 0018 MSB8230@AOL.COM



Health. Quality. Style. www.helosauanas.com 1-800-882-4352

4-30-14

Hi

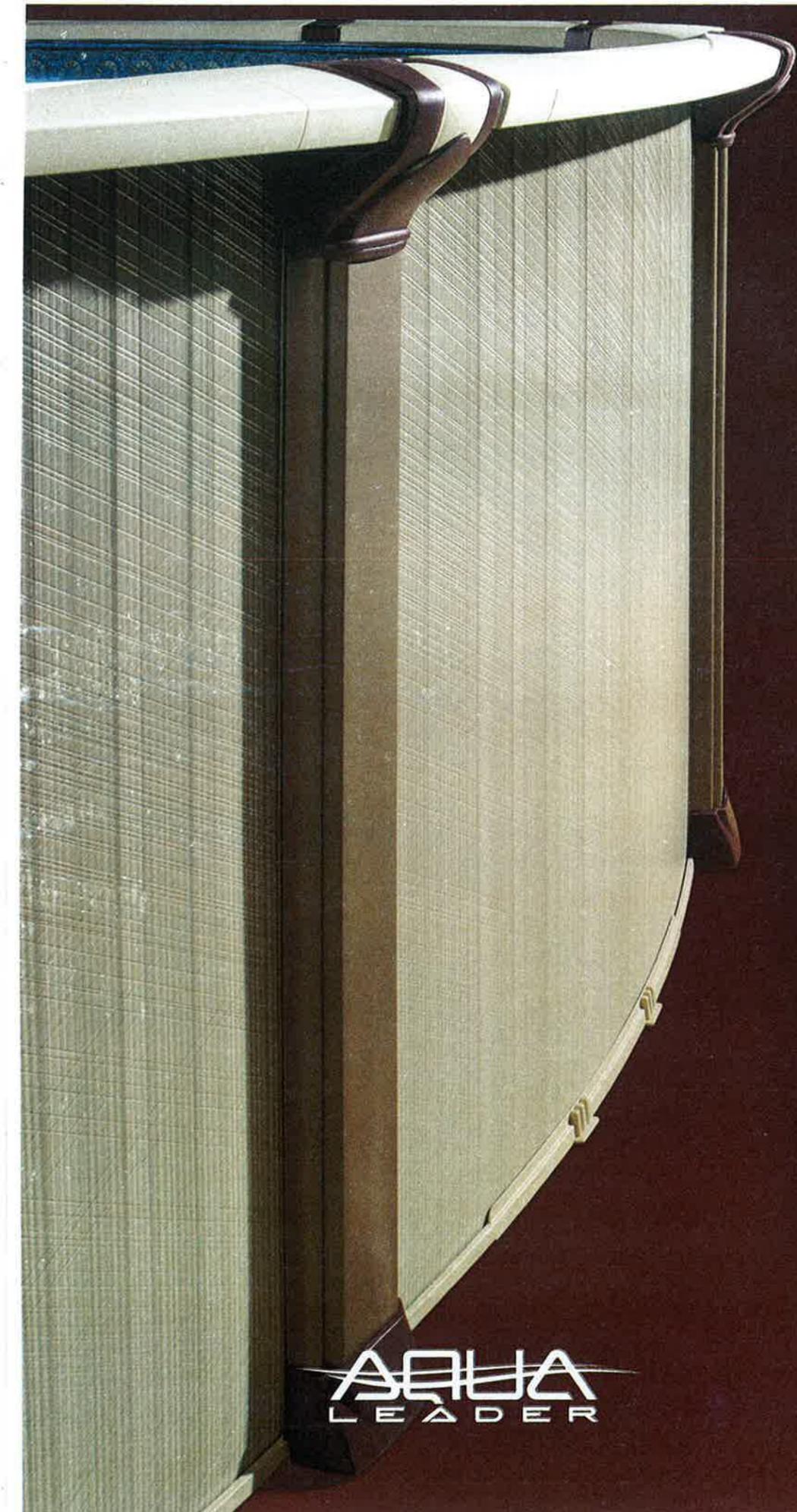
The pool is A 27 Foot Spirit
(picture is ENCLOSED AND it IS
52" high)

The FILTER IS AN EARTH FILTER
REQUIRES A 110 LINE
20 AMP

IT HAS A twist Lock plug
& NEEDS A L5-20R
recepticle

The LADDER IS A SLIDE Lock with
BARRIER

THANKS
L. LOWE
Washington
Pool City



STYLE AND PERFORMANCE

Enhance your backyard décor with a compact sized round or an oval buttress free pool that fits your needs. The Spirit is made with a high impact resin and superior wall coatings that will make this pool stand the test of time.

STRENGTH AND VALUE

With an hybrid construction for outstanding strength and durability, this pool uses a two-piece high impact resin ledge cover and a unique interlocking stabilizer to give maximum strength to the top of the pool. Even the champagne & chocolate color scheme of this pool was chosen specifically to enhance your home and match the latest backyard décor.

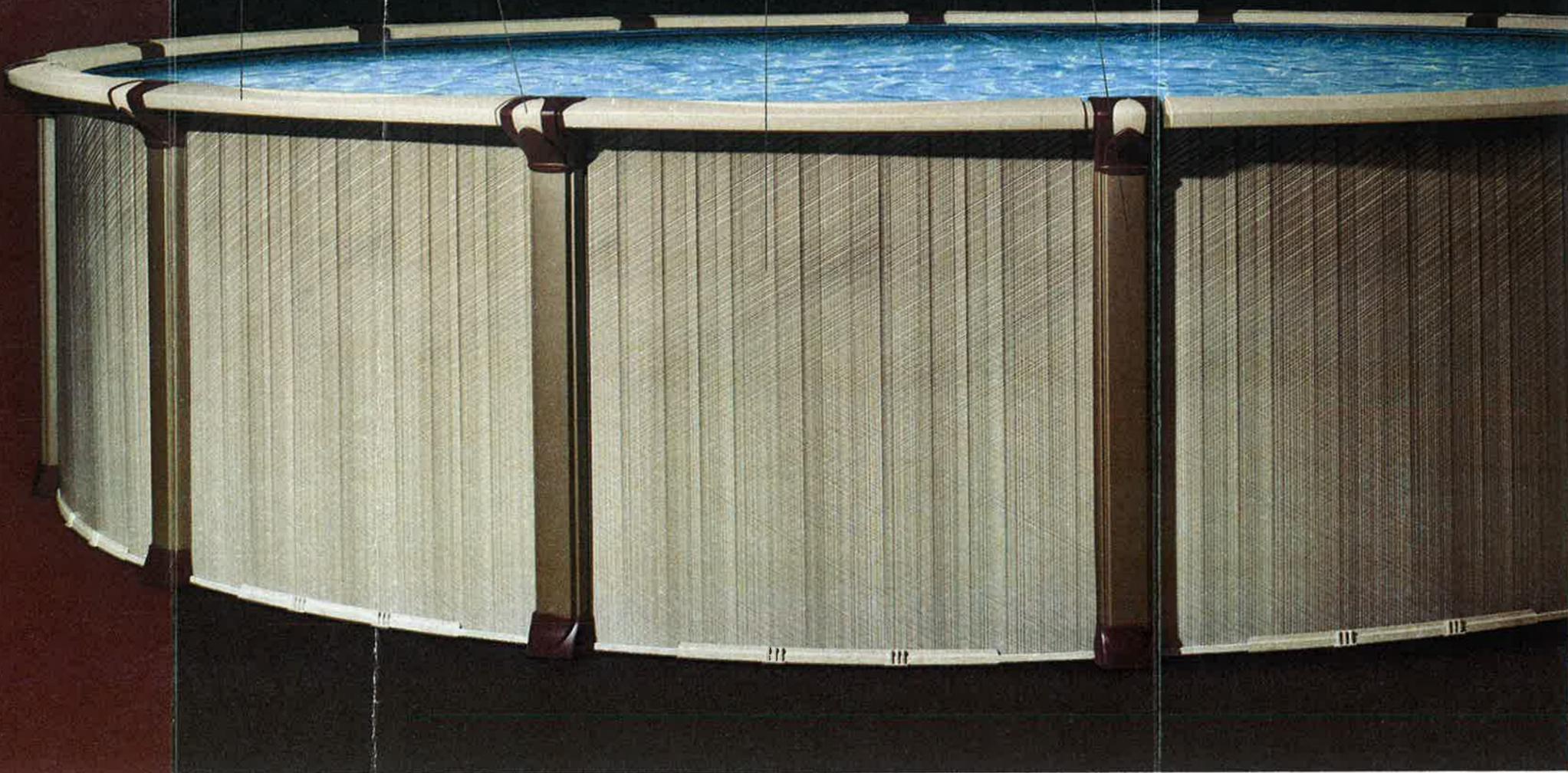
SPIRIT™

TOP LEDGES / 7in wide

TWO PIECE LEDGE COVERS

WALL Coated

UPRIGHTS / 6in wide



AQUA
LEADER

Zimbra

shollar@cityofmorgantown.org

3201 University Av.

From : Kay Zinn <gkzinn@gmail.com>

Tue, Jul 08, 2014 07:42 AM

Subject : 3201 University Av.**To :** shollar@cityofmorgantown.org

To: The members of Morgantown City Council
From: Kay Fleming Zinn, 420 Rebecca St. Morgantown, WV 26505
Regarding: case V 14-30 Bruderman

As a lifelong resident of the neighborhood called "Old Suncrest", living within two blocks of the proposed site of an above ground pool, I can only think of one word: EYESORE. The picture of a trailer park comes to mind. I come down Rotary St. onto University Ave. at least once a day and the view of people swimming in a pool that would be below my line of sight is just appalling. Actually, seeing the pool with the cover on it would be even worse. If there were some sort of barrier to block that view, I would have no objection, but it would have to be VERY high. Locating it at the entrance of one of the most sought-after areas in Morgantown would certainly have an impact on the property values of the whole of "Old Suncrest". If I were in the market for a new home in Morgantown and I came upon this proposed pool, I would think, "If that can be built next door to a house that I buy in this neighborhood, I'd better look elsewhere". It would set a horrible precedent. Would we want this to happen all over Morgantown? So, I strongly object to this proposal. Thank you. Kay Zinn.
