



Board of Adjustment Agenda Item

Subject: Board Consideration of a Variance Request from the Zoning Ordinance Chapter 21.7907 Fences for a proposed in-ground, permanent swimming pool at 2435 Lucas Circle NW

Meeting: Board of Adjustment - Apr 24 2025

From: Kristen Bobzien, Interim City Manager/Chief Financial Officer

BACKGROUND INFORMATION:

Owner/Applicant: Ryan and Lauren Olerud/ Chad Flemming

Property Address: 2435 Lucas Circle NW, Watertown, SD 57201

Legal Description: Lot 5B Block 2 River Ridge Estates 7th Addition to the Municipality of Watertown, Codington County, South Dakota

Variance Request:

On behalf of the property owners, Ryan and Lauren Olerud, Chad Flemming, has submitted an application appealing the terms of the Zoning Ordinance, seeking a variance from the fencing requirements for enclosing an outdoor swimming pool pursuant to §21.7907.

Background:

On April 1, 2025, the applicant applied for a building permit to install a 640 square foot in-ground swimming pool on the property. During the permit review process, staff identified that a perimeter fence had been installed around the backyard without receiving a fence permit. The property owners have since applied for a building permit for the fence. This permit is on hold pending action of the variance request. The existing fence is approximately 435 linear feet around the perimeter of the back yard of the property, constructed of wrought iron, and is 4' in height. The ordinance requires that fencing and gates around a permanent swimming pool, either in ground or above ground that will remain on the property for more than six months, be 6' feet in height and constructed of a minimum number nine (9) gauge woven wire mesh corrosion resistant material, or non-climbable wooden fence. **The applicant is requesting a variance from these fencing requirements, specifically seeking approval for the existing 4', wrought iron fence to serve as the enclosure for the proposed swimming pool.** Along with the fence, the owners will have an automatic pool cover as an additional safety precaution.

With the application, Flemming, cited regulations from other communities in South Dakota that use the International Swimming Pool and Spa Code (ISPSC), as required by the Residential Building Code which requires outdoor pools be surrounded by a barrier (fence) at least 48 inches (4') high above the finished ground level. Openings in the barrier shall not allow passage of a 4-inch diameter sphere. This code also requires additional design standards for such barriers as well as alarms on the door leading to the pool, power safety cover over the pool, no climbable features (like horizontal rails or

decorative elements) that could help a child scale the fence, and self-closing/self-latching doors, etc. that Watertown's ordinance does not address. The City of Watertown has not adopted this portion of the building code and has adopted individual standards as allowed by local jurisdictions. The purpose of the Swimming Pool ordinance is to ensure public safety and to prevent accidental drowning, especially for children.

§21.7907: Fences

All outdoor swimming pools for which a permit is required shall be completely enclosed by a fence. All fence openings or points of entry into pool area enclosure shall be equipped with gates. The fence and gates shall be six (6) feet in height above the grade level and shall be constructed of a minimum number nine (9) gauge woven wire mesh corrosion resistant material, or non climbable wooden fence. All gates shall be equipped with self closing and self latching devices placed at the top of the gates. Fence posts shall be decay or corrosion resistant and shall be set in concrete bases. (Ord 05-05; Rev 05-02-05)

§5.0301: Building Codes Adopted with Modifications

jj. Section R326 SWIMMING POOLS, SPAS AND HOT TUBS. Not adopted by City. (Ord 18-27; Rev 12-28-18)

Chapter 21.0202.1. and 2. state:

In granting a variance, the Board shall ascertain that the following criteria are met:

1. Variances shall be granted only where special circumstances or conditions (such as exceptional narrowness, topography or siting), fully described in the finding of the Board, do not apply generally in the district;
2. Variances shall not be granted to allow a use otherwise excluded from the particular district in which requested;
3. For reasons fully set forth in the findings of the board, the aforesaid circumstances or conditions are such that the strict application of the provisions of this title would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variance; there must be a deprivation of beneficial use of land;
4. Any variance granted under the provisions of this section shall be the minimum adjustment necessary for the reasonable use of the land;
5. The granting of any variance is in harmony with the general purposes and intent of this title and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development.

Before the board shall have the authority to grant a variance, the person seeking the variance has the burden of showing:

1. That the granting of the building permit will not be contrary to the public interest;
2. That the literal enforcement of this title will result in unnecessary hardship;
3. That by granting the building permit contrary to the provisions of this title the spirit of this title will be observed;
4. That by granting the permit, substantial justice will be done.

FINANCIAL CONSIDERATIONS:

N/A

OVERSIGHT / PROJECT RESPONSIBILITY:

Brandi Hanten, Community Development Manager
Carla Heuer, Planner

STAFF RECOMMENDATION / SUGGESTED MOTION:

If approved, staff recommends a condition to amend Ch. 21.79 Swimming Pools for consistent administration.

I move to approve a Variance Request from the Zoning Ordinance related to the fencing requirements for enclosing an outdoor swimming pool, *allowing the pool to be enclosed by the existing four (4) feet in height, wrought iron fence* at 2435 Lucas Circle NW.

The Board of Adjustment shall make findings that the requirements of Section 21.0202(2)(c)(1) and (2), above have been met by the applicant for a variance.

ATTACHMENT(S):

[Application](#)

[Vicinity Map](#)

[Aerial View](#)

[Pool Rendering](#)

[2024 Automatic Safety Cover Brochure \(small\)](#)



C-25-3

Variance Application

Status: Active

Submitted On: 4/7/2025

Primary Location

2435 LUCAS CIR W
WATERTOWN, SD 57201

Owner

RYAN & LAUREN OLERUD
LIVING TRUST
2435 LUCAS CIRCLE NW
WATERTOWN, SD 57201-

Applicant



Chad Flemming



605-237-2453



ultimateconstruction1@hotmail.com



16233 450th Ave

Watertown , SD 57201

Applicant Information

Applicant is...

Owner

Main Contact Information

Responsible party for all correspondence throughout the project.

Main Contact Name

Lauren Olerud

Main Contact Phone Number

6056901810

Main Contact Email

laurensteffensen@gmail.com

Main Contact Address

2435 Lucas Circle W

Property Information

Address of Variance Request*

2435 Lucas Circle W

Property Owner Name(s)*

Ryan and Lauren Olerud

Legal Description of Property*

Lot 5B, Block 2 of River Ridge Estates Seventh Addition to the Municipality of Watertown

Requested Variances

Description* ?

Requesting a variance from the 6' fence height requirements for swimming pools.

Please read through Section 21 of the Ordinance: [click here](#) and note which section and requirement is applicable in the box below.

Ordinance Section and Requirement* ?

21.7907: Fences

Addresses of other sites ?

Variance Request Information

Describe the special conditions and circumstances which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district:*

Requesting variance for the height of the fence for inground pool. Watertown is 6'. We already have a 4' fence. SD has 4' listed as code, as do all surrounding communities including, Brookings and Sioux Fall. Also neighbor in the area also has a 4' fence. The cover on the pool also can be walked on.

Do these special circumstances result from the actions of the applicant?*

No

Would granting the variances requested give the applicant any special privilege that is denied by this ordinance to other lands, structures or building in the same district?*

No

Unnecessary Hardship: A hardship that is substantial and of compelling force, not merely for reasons of convenience or profit must be identified by the Board when granting a variance. Unnecessary hardship is demonstrated when the land in question cannot yield a reasonable return without the variance, or the plight of the owner is due to unique circumstances and not to the general conditions in the neighborhood.

Describe the hardship that will result if variance is denied:*

Cost of installing a new fence around is very expensive and the look will also change

Acknowledgement

I, the undersigned, do hereby affirm the above statements are true and correct and agree to comply with the provisions of the ordinances of the City of Watertown and the approved plans and specifications accompanying this application.

✓ Lauren Olerud
Apr 7, 2025

I am the...*

Owner

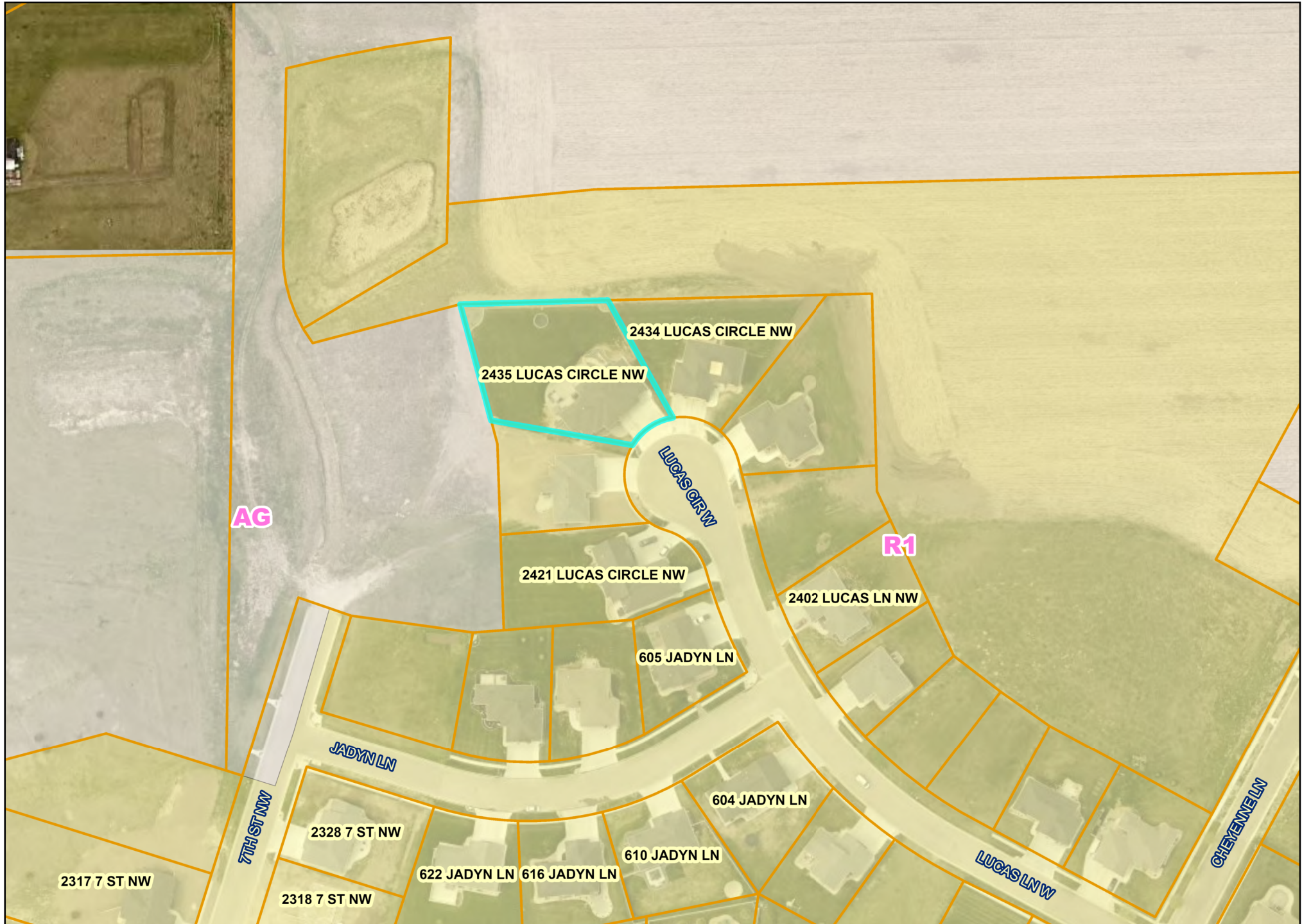
Date*

04/07/2025



Vicinity Map

0 50 100 200 Feet



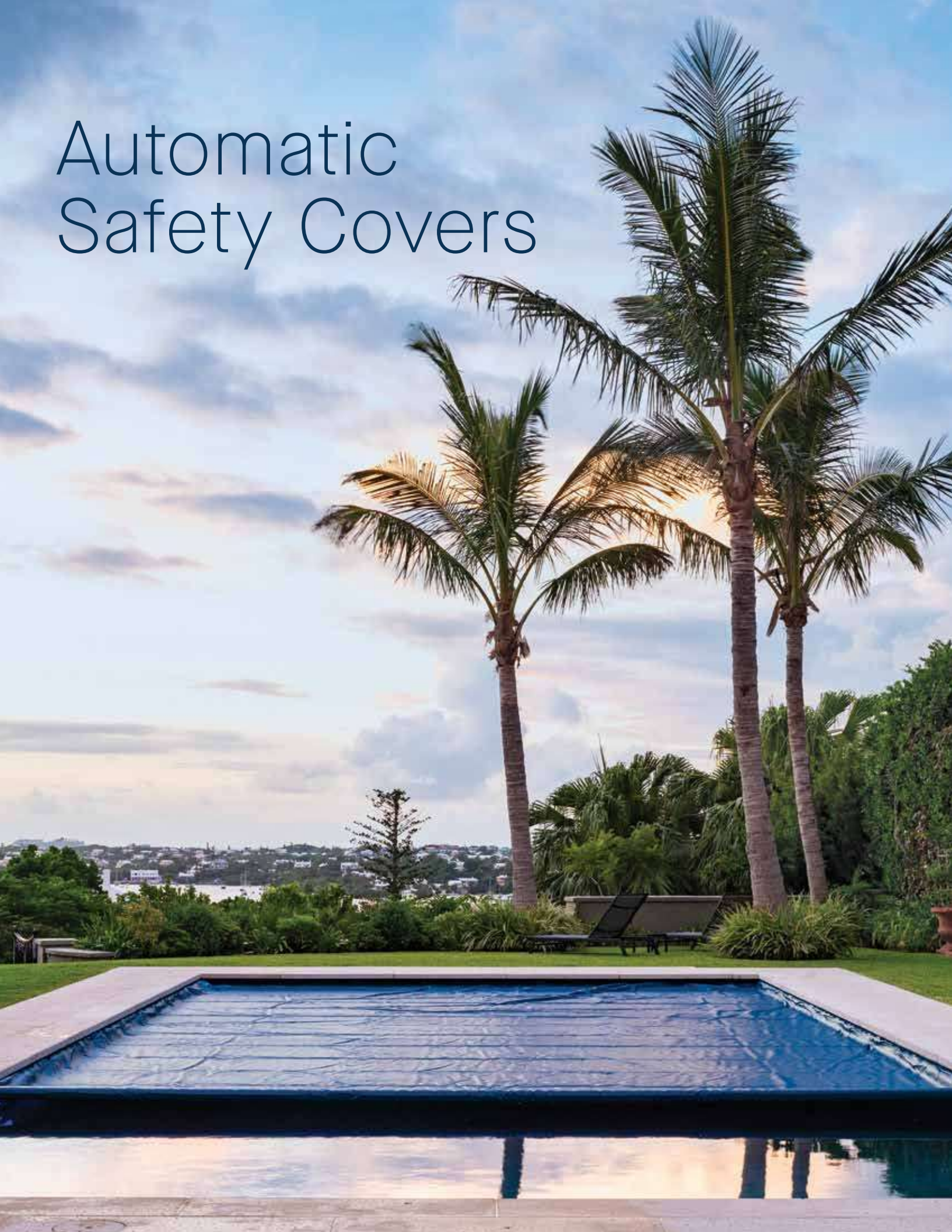
2435 Lucas Cir NW



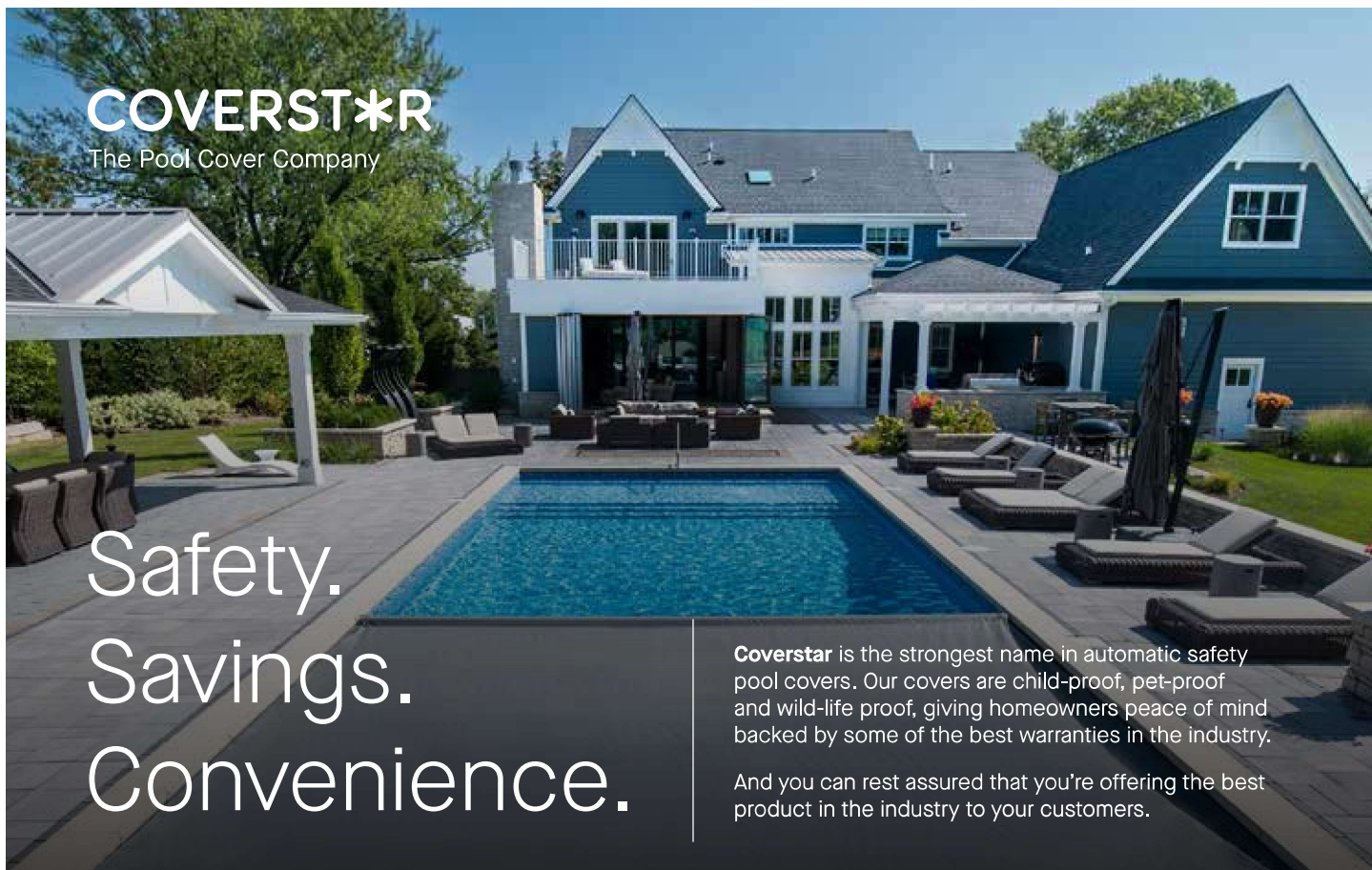
05/16/2023



Automatic Safety Covers



Coverstar®



COVERSTAR
The Pool Cover Company

Safety.
Savings.
Convenience.

Coverstar is the strongest name in automatic safety pool covers. Our covers are child-proof, pet-proof and wild-life proof, giving homeowners peace of mind backed by some of the best warranties in the industry.

And you can rest assured that you're offering the best product in the industry to your customers.

The newly updated, ASTM certified, Coverstar Safety Alerts enabled Touch Screen is an industry game-changer. With a user-friendly interface, and the ability to wirelessly connect multiple Touch Screens, opening and closing a pool has never been easier.



The CS3000 autocover mechanism sets the industry standard for durability and dependability. The first to introduce a clutch driven torque limiter for automatic safety and security.



Coverstar is made with a heavyweight, 17 oz fabric and proprietary, heat sealed webbing with a two-year warranty on ropes.



Quick-Snap corners that are quicker and easier to install with a more attractive appearance.



Engineered for fast installation with unmatched field support. Annual training events are held in both Utah and Indiana. A new training center will soon be teaching classes in Massachusetts.

Pool Cover Specialists®

POOL COVER SPECIALISTS®

Automatic Safety Covers

Unmatched reliability
and strength

Exclusives...

- Marine Grade Aluminum and Stainless Steel Systems backed by Industry Leading Warranties



- Five Star Installation Support

A Pool Cover Specialists Automatic Safety Cover can provide:

- 90%** Reduction in Evaporation
- 70%** Reduction in Pool Heating Costs
- 70%** Reduction in Pool Chemical Use

Available in **10**
standard colors:



Switches



Touch sensitive touchscreen
(Upgrade option)

Standard
key switch



Waterfall/Water Feature Shutoff

With Pool Cover Specialists standard sensor and smart board technology, water features are no problem. Our Water Feature Shutoff controller will work on any pool, or you can also use our Hayward/PCS Logic Control Interface with Hayward automated controls.



COVERSTAR

The Pool Cover Company

coverstar.com | 800-617-7283

POOL COVER

S P E C I A L I S T S[®]

AUTO COVERS MADE SIMPLE

poolcovers.com | 800-369-5152

Automatic Safety Covers Exclusives

Automatic Safety Covers

Unmatched reliability and strength.



Exclusives...

- Marine Grade Aluminum and Stainless Steel Systems backed by Industry Leading Warranties
- Auto Stop Technology and PowerFlex Ropes (With a two year no break guarantee.)
- Five Star Installation Support

A Latham Automatic Safety Cover can provide:

- 90% Reduction in Evaporation
- 70% Reduction in Pool Heating Costs
- 70% Reduction in Pool Chemical Use

COVERSTAR
The Pool Cover Company
coverstar.com

POOL COVER
SPECIALISTS®
AUTO COVERS MADE SIMPLE
poolcovers.com

Automatic Safety Covers Barrier Requirements



Latham Automatic Safety Covers Meet Barrier Requirement Under ISPSC

An Automatic Safety Cover can be used in lieu of a fence or other barrier

Georgia, Louisiana, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Utah, Virginia, West Virginia, Connecticut, Maryland, Washington have all adopted the 2015 or newer ISPSC, which allows an automatic safety cover that complies with the safety requirements in ASTM F1346, to meet the barrier requirement for inground residential swimming pools. Over 400 individual counties and cities have also adopted the 2015 or newer ISPSC. Other states and municipalities, such as Indiana, have their own local codes that allow an automatic safety cover to be used in lieu of a fence or other barrier.

In addition, over 50 individual counties and cities currently use the 2012 ISPSC which allows an automatic safety cover to meet the barrier requirement for inground residential spas.

A homeowner not only receives all the standard benefits of an automatic safety cover, such as safety, energy savings and convenience, they can also save money that would have been spent on other barriers like fences and walls. Be sure to check with your local municipality for their current pool related codes to verify if an automatic safety cover will meet the barrier requirement.

COVERSTAR
The Pool Cover Company
coverstar.com

POOL COVER
SPECIALISTS®
AUTO COVERS MADE SIMPLE
poolcovers.com