

**MEMORANDUM**

TO: Members of the Board of Zoning Appeals  
FROM: Brent N. Damman, Zoning Administrator *BND*  
SUBJECT: Fence height variance 1108 Hurst Dr.  
HEARING DATE: May 12, 1998 at 4:30 PM  
HEARING #: BZA 98/04

**BACKGROUND**

An application for variance has been filed by Cheryl Robbins 1108 Hurst Dr. Napoleon, Ohio. The applicant is requesting variance to the maximum height of a fence in the front yard area. The owner wishes to construct a 6 foot high privacy fence along her south property line extending to the front property line. The variance request is to City Code section 1127.08 (a). The property is located in a R-2 Residential Zoning District.

**RESEARCH AND FINDINGS**

1. The reason for this request is that the property to the south of the petitioners has been ill maintained for the past several years. It is the opinion of the petitioner that a six (6) foot high privacy fence would benefit her by blocking the view of the property next door.
2. It is questionable weather or not by granting this variance would benefit the petitioner in any way other than peace of mind. There is certainly merit to the idea that the condition of the property next door may decrease the value of the petitioners property. However, I do not believe by constructing a privacy fence to the front property line would necessarily add back the lost value.

**ADMINISTRATIVE RECOMMENDATION & OPINION**

It is my opinion that if the board chooses to grant this variance that it should be subject to the following;

1. That the variance is for the current owner only and that it will automatically terminate upon the transfer of the property to a different owner or within five (5) years of the issuance, whichever comes first.

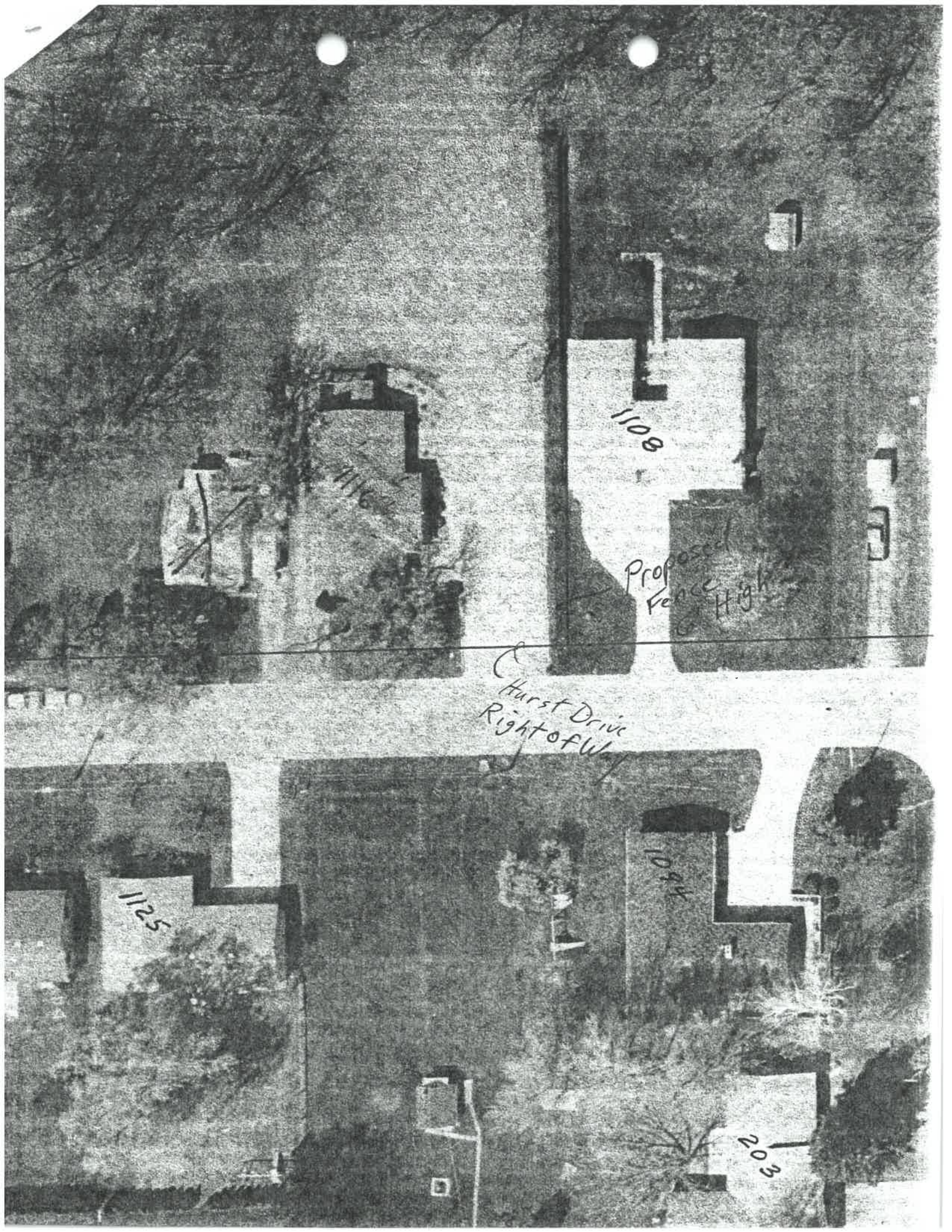
2. Upon termination the six (6) foot high fence which is located within the front setback shall be lowered to the height of three (3) feet.

### CONSIDERATIONS

The Board shall not render a decision on this request until it has reviewed the following standards for variation.

The standards for variation to be considered are as follows:

- (a) That there are exceptional or extraordinary circumstances or conditions applicable to the property or to the intended use that do not apply generally to the other property or use in the same vicinity or district.
- (b) That such Variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity or district but which is denied to the property in question.
- (c) That the granting of such Variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity or district in which the property is located.
- (d) That the granting of such a Variance will not alter the land use characteristics of the vicinity or district, diminish the value of adjacent land and improvements or increase the congestion in the public streets.



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Proposed  
Fence High

Hurst Drive  
Right of Way

1125

1094

203