

**BZA-16-05**  
1095 Westchester  
Front Yard Fence Height Variance

**MEMORANDUM**

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

**FROM:** Tom Zimmerman, Zoning Administrator

**SUBJECT:** Variance for the side yard set back

**MEETING DATE:** August 9th, 2016 @ 4:30pm

**HEARING #:** **BZA-16-05**

**BACKGROUND**

An application for public hearing has been filed by Michael and Jennifer Brown owner of, 1095 Westchester Ave., Napoleon, Ohio. The applicant is requesting a variance to the current front yard 3' fence height to 4', so they may put in a 4' split rail fence. The property is located in an R-2, Low Density Residential District. The request is pursuant to City Code Chapter 1127.08.

**RESEARCH AND INFORMATION**

1. 1095 Westchester is on a corner lot with two front yards with the other street being Broadmoor Avenue. Most of Broadmoor at this time is not built but all setbacks and right-a-ways are in place and need to be maintained because it is in the City's Master plan to build this street.
2. Section 1127.08 allows a fence to be built no higher than 3' in the front yard and can be placed up to but not over the property lines.

## **STANDARDS FOR VARIANCE**

The Board, after hearing, may grant variance from the regulations of this Zoning Code, but only when such variation is in harmony with the general purpose and intent of this Zoning Code and the Board finds all of the following:

- (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 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 granting 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 it is located;
- (d) That granting such 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 the public streets