

BOARD OF ZONING ADJUSTMENT  
RESOLUTION NO. 2020-01

A RESOLUTION GRANTING A VARIANCE FROM THE SIDE YARD SETBACK REQUIREMENTS TO ALLOW A SINGLE-FAMILY RESIDENTIAL EXPANSION TO ATTACH TO AN EXISTING DETACHED GARAGE BUILDING WITH A ZERO SIDE YARD SETBACK, PROPERTY LOCATED AT 206 ROWLAND AVENUE (COMMERCIAL ARCHITECTURE)

WHEREAS, the property located at 206 Rowland Avenue contains an existing single-family residence with a detached garage building, said detached garage constructed with a zero side yard setback; and

WHEREAS, an application for a variance from the five-foot side yard setback requirement provided in Title 10, Chapter 4, Table 4.1-1 of the Modesto Municipal Code to permit an expansion of the existing single-family residence to attach to the existing detached garage with zero side yard setback was filed by Commercial Architecture on behalf of Scott and Renee Barnett on December 17, 2019; and

WHEREAS, Section 10-9.102 of the Modesto Municipal Code authorize the Board of Zoning Adjustment to grant variances subject to findings specified in Section 10-9.602; and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on February 27, 2020 in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered.

WHEREAS, the proposed variance is exempt from CEQA, pursuant to Section 15305(a) of the CEQA Guidelines, which pertains to minor lot-line adjustments, side yard, and setback variances not resulting in the creation of any new parcels, as being exempt from CEQA under Section 15305(a) of the CEQA guidelines.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Adjustment that based upon such evidence it finds and determines that:

1. There are special circumstances or conditions applicable to the property or buildings in question which do not exist for other property or buildings in the same zone and immediate vicinity. The existing residence and detached garage were constructed in 1939, prior to the establishment of setback standards set forth in the Modesto Municipal Code. The garage and street-facing driveway are positioned with a zero setback along the south property line. Reducing the width of the existing garage to meet the five foot

setback standard would inhibit access to its entrance from the existing driveway.

2. The special circumstances or conditions are such that strict application of the provisions of this Chapter would deprive the applicant of practical use of the property or buildings, because the garage, driveway and curb-cut approach from the street were constructed with a zero side-yard setback alongside the footprint of the existing single-family residence. Due to the position of the existing home, the driveway could not be moved five feet to the north to line up with the garage if the garage were relocated to the current five-foot side yard setback standard. Therefore, strict application of the setback standard would inhibit the continued use of the existing driveway into the garage's entrance.
3. Granting the variance will be consistent with the intent and purpose of this Chapter and will not be detrimental to the neighborhood or public welfare because there are neighboring properties with similar substandard garage setbacks, and the footprint of the expansion area would otherwise conform to the current side and rear yard setback standards.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that it grants to Commercial Architecture on behalf of Scott and Renee Barnett a variance from the provisions of Title 10, Chapter 4, Table 4.1-1 of the Modesto Municipal Code to permit the expansion of the existing single-family residence to attach to an existing detached garage building with zero side yard setback, subject to the following conditions:

1. Prior to the issuance of a building permit, construction shall conform to the site plan and elevations stamped approved by the Board of Zoning Adjustment on February 27, 2020.
2. There is an existing water connection to the 8-inch main in the alley to this site. It is recommended to use an on-site connection to the proposed addition. If an additional connection or an upgrade to the existing connection is required, then water connection fees shall be paid and an encroachment permit obtained from the City prior to any work being done in the public right-of-way.
3. There is an existing sewer connection from the 6-inch main in the alley to this site. The proposed addition shall connect to the existing on-site sewer service. The City will not allow a separate sewer connection from the main to the same lot.
4. All landscaping and walls shall be maintained and the premises shall be kept free of weeds, graffiti, trash, and other debris.

5. The property owner and developer shall, at their sole expense, defend, with counsel selected by the City, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding.

BE IT FURTHER RESOLVED that the conditions of project approval set forth herein include certain fees, dedication requirements, reservations requirements, and other exactions, and that pursuant to Government Code Section 66020(d)(1), these conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions.

BE IT FURTHER RESOLVED that the applicant is hereby further notified that the ninety (90) days approval period in which a protest of these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a) can be filed, begins on February 27, 2020, and that if a protest is not filed within this ninety (90)-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on February 27, 2020, by Board Member Moradian, who moved its adoption, which motion was seconded by Board Member Goriel and carried by the following vote:

Ayes:	Goriel, Moradian, Roddick, Rodriguez, Selover, Vohra
Noes:	None
Absent:	None
Recused:	Blom

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MODESTO.

Original, signed copy on file in CEDD

Steve Mitchell, Secretary