

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2021-10

A RESOLUTION GRANTING A VARIANCE TO ALLOW A SEVEN FOOT (7') HIGH FENCE WITHIN THE REQUIRED STREET SIDE SETBACK ON THE PROPERTY LOCATED AT 408 ENSLEN PARK COURT; SUBMITTED BY KATHERINE LINETTE TODD.

WHEREAS, the minimum street side setback for a dwelling, accessory building or fencing on corner lots legally created prior to July 7, 1955 is seven and one-half (7'6") feet pursuant to Section 10-4.406 of the Modesto Zoning Code; and

WHEREAS, an application for a variance from fence height limitations for the street side setback area at 408 Enslens Park Court was filed by Katherine Linette Todd on August 24, 2021; and

WHEREAS, Section 10-9.601 of the Modesto Municipal Code authorize the Board of Zoning Adjustment to grant variances subject to findings in Section 10-9.602; and

WHEREAS, the proposed variance is exempt from CEQA under the Class 5 categorical exemptions listed in **CEQA Guidelines** § 15305; and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on October 28, 2021, in Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Adjustment that it finds as follows:

1. There are special circumstances or conditions applicable to the property or building in question which do not exist for other properties or buildings in the same zone and immediate vicinity, because there are numerous homes in the neighborhood with fences on property line or within the required setback area. This is not common in the R-1 Zone, but is common for surrounding residences that pre-date current setback requirements.
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 strict application of the code would deprive the applicant of practical use of a private side yard area that other properties in the area enjoy; especially since the existing rear yard on the property is limited.
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 it will not be different than what already exists in the area.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that it hereby grants to Katherine Linette Todd a variance from the provisions of Section 10-4.106 of the Modesto Municipal Code to permit a fence that exceeds the height limitations for the street side setback area.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on October 28, 2021 by Board Member Vohra, who moved its adoption, which motion was seconded by Board Member Niskanen, and carried by the following vote:

Ayes:	Blom, Desai, Niskanen, Rodriguez, Vohra, Goriel
Noes:	None
Absent:	None
Recused:	None

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

Original, signed copy on file in CEDD
Steve Mitchell, Secretary