

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2021-13

A RESOLUTION GRANTING A VARIANCE TO ALLOW TWO-STORY STRUCTURES WITHIN THE REQUIRED REAR SETBACK ON THE PROPERTY LOCATED AT APN 109-003-088, ON THE EAST SIDE OF COLLEGE AVENUE, BETWEEN COLDWELL AVENUE AND MORRIS AVENUE; SUBMITTED BY BRAHAM INC., DBA BZ

WHEREAS, the minimum rear setback for a two-story dwelling within the R-3 Zone is 15-feet pursuant to Section 10-4.102 of the Modesto Zoning Code; and

WHEREAS, an application for a variance from rear setback requirements at APN 109-003-088 was filed Barham Inc., dba BZ on October 8, 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 December 16, 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. A special circumstance applicable to the property exists because the size of the lot is relatively small for four detached units with personal garages. The R-3 (Medium-High Density Residential) zoning district is intended to accommodate relatively higher-density residential development. The applicant cannot build to the proposed density without approval for a variance to reduce the rear setback.
2. The required 15 feet rear setback when development in the R-3 zone is next to R-1 zone is to provide proper separation since the R-3 zone would allow larger buildings. The unique circumstance is that the project site has a 20-foot wide alley that separates the site from the R-1 properties to the east that results in a 25-foot separation to the R-1 properties.

The proposed garages of Units #2 and #4 facing the alley complies with the required rear yard setback of five feet. The second story portion of the dwelling units are directly over the garages but are required to have a 15 feet setback. This would require the second story portion of the units to be ten feet behind the face of the garages.

The proposed project is to develop three-bedroom detached units with personal garages that provide a single-family appearance compatible with the single-family homes on the east side of the alley. The plan includes

the same unit design that would allow less construction cost than multiple unit designs. The loss of ten feet on the second story living area would require different design and the loss of one bedroom.

3. Considering the nature of the neighborhood with heavy mixture of single story and two-story residential units consistent with the provisions of the Zoning Ordinance, the proposed variance will not be detrimental with the neighborhood or public welfare. Additionally, the second story windows facing east are either high clerestory windows or opaque to restrict views and preserve privacy to the rear yards of the single family lots to the east.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that it hereby grants to Braham Inc., dba BZ a variance from the provisions of Section 10-4.102 of the Modesto Municipal Code to allow two two-story structures to encroach 10 feet (10') into the required 15-foot rear setback

The foregoing resolution was introduced at the special meeting of the Board of Zoning Adjustment held on December 16, 2021 by Board Member Blom who moved its adoption, which motion was seconded by Board Member Niskanen and carried by the following vote:

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