

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2013-03

A RESOLUTION GRANTING A VARIANCE FROM THE REAR YARD
SETBACK FOR A NEW TWO-STORY SECOND-UNIT PROPOSED ON THE
REAR PROPERTY LINE OFF THE ALLEY ON PROPERTY LOCATED AT 231
MAGNOLIA AVENUE

WHEREAS, an application for a variance from the provisions of Section(s) 10-4.102, Table 4.1-1 Residential Development Standards of the Modesto Municipal Code to permit construction of a new two-story second-unit built on the property line off the alley from the minimum 15' rear yard setback for the second-story and the minimum 10' rear yard setback for single-level buildings on property located at 231 Magnolia Avenue, was filed by Brad and Nancy Hawn on February 20, 2013; 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 March 28, 2013 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 exempts minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel are 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, because the driveway that will serve both units comes off of Wright Street and entrance to the garage is located from the interior of the parcel instead of the alley.
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 strict application of Code setbacks would prohibit full and practical use of the rear/side yards of the property.
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 the proposed two-story second-unit would not create any safety problems located next to the alley and the garage placement is consistent with other garages off the alley throughout the neighborhood.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that it grants approval of the application of Brad and Nancy Hawn a variance from the provisions of

Section 10-4.102, Table 4.1-1 Residential Development Standards of the Modesto Municipal Code to permit construction of a new two-story second-unit to be built on the property line from the minimum rear yard setbacks for single and two-story units at 231 Magnolia Avenue.

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 March 28, 2013, 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 March 28, 2013, by Will Grover, who moved its adoption, which motion was seconded by John Bergman and carried by the following vote:

Ayes:	Bergman, French, Grover, Matas, Pollard
Noes:	None
Absent:	Brandvold, Swehla
Recused:	None

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

Original, signed copy on file in CEDD

Patrick Kelly, Secretary