

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2015-01

A RESOLUTION GRANTING A VARIANCE FROM THE MINIMUM FIFTEEN FOOT REAR YARD DIMENSION REQUIREMENT IN THE VILLAGE ONE SPECIFIC PLAN, PROPERTY LOCATED AT 3700, 3701 AND 3705 CAMBROOKE COURT

WHEREAS, an application for a variance from the provisions of the Village One Specific Plan, Chapter II, Comprehensive Policies, Section G.13(a) to permit construction of three single family residences with rear-yard areas containing a minimum dimension of less than fifteen (15) feet, as required by the Village One Specific Plan, at 3700, 3701 and 3705 Cambrooke Court, was filed by CenCal Pacific on February 18, 2015; 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 April 23, 2015 in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the proposed variance is exempt from CEQA, pursuant to Section 15303 (a) of the CEQA Guidelines, which exempts new construction or conversion of small structures.

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 subject properties have lot depths of 70 feet which are significantly shallower than typical lots in the immediate vicinity.
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 applicant would not be able to place reasonably-sized single family dwelling on these lots, that, if located in the R-1 zone outside the Village One Specific Plan, would not be subject to a variance.
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 dwellings would meet the setbacks of the R-1 zone and would provide a 300 square foot usable rear yard space as required by the Village One Specific Plan.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that it grants approval of the application of CenCal Pacific for a variance from the provisions of the Village One Specific Plan, Chapter II, Comprehensive Policies, Section G.13(a) to permit construction of three single family residences with rear-yard areas containing a

minimum dimension of less than fifteen (15) feet at 3700, 3701 and 3705 Cambrooke Court.

BE IT FURTHER RESOLVED that the property owner and developer shall, at their sole expense, defend, 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 and shall cooperate fully in the defense.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on April 23, 2015, by Dennis Smith, who moved its adoption, which motion was seconded by Hank Pollard and carried by the following vote:

Ayes:	Bergman, Matas, Pollard, Rodriguez, Selover, Smith
Noes:	None
Absent:	Morris
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