

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2017-05

A RESOLUTION GRANTING A VARIANCE FOR A 192 SQUARE FOOT, ONE STORY ADDITION TO AN ACCESSORY DWELLING UNIT TO ENCROACH 3 FEET 10 INCHES INTO THE REQUIRED 5 FOOT SIDE YARD SETBACK, LOCATED AT 307 N. SANTA CRUZ AVENUE

WHEREAS, an application for a variance from the provisions of Section 10-4.102 of the Modesto Municipal Code to permit an addition to a one-story accessory dwelling unit to encroach 3 feet 10 inches into the required 5 foot side yard setback, located at 307 N. Santa Cruz Avenue; was filed by Robert Patterson on May 17, 2017; 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 June 22, 2017, 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 15305 (a) of the CEQA Guidelines, which exempts one single-family residence, or a second dwelling unit in a residential zone, and minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel.

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 building in question which do not exist for other property or buildings in the same zone and immediate vicinity. This neighborhood was developed prior to the adoption of the City of Modesto Zoning Code. Because of this, there are existing accessory structures that encroach into the required five foot side yard setback that have been converted to Accessory Dwelling Units. The addition follows the existing garage building's setback. The Board has, as recently as this year, approved variances that are similar in nature and scope.
2. The special circumstances or conditions are such that strict application of the provisions of Section 10-4.102 of Title 10 of the MMC, would deprive the applicant of practical use of the property or buildings. This applicant requests that the board approve an addition to an accessory dwelling unit within required setbacks. This addition was built at the same setback as the original garage building. This original accessory dwelling unit was the conversion of a single car detached garage built before the zoning code came into effect; the 192 square foot addition is the subject of the variance. State law allows for the conversion of an existing garage to an accessory dwelling unit, even if the existing garage is built within a jurisdiction's required setback. The variance is to allow the extension of this legal, non-conforming setback.

3. Granting the variance will be consistent with the intent and purpose of the provisions of Section 10-4.102 of Title 10 of the MMC and will not be detrimental to the neighborhood or public welfare. The proposed project is generally consistent with the character of the older neighborhood. There are other properties nearby which have accessory structures, some for human habitation, built within required setbacks. The addition to this accessory dwelling is built on the west side of the existing structure and is not immediately noticeable from N. Santa Cruz Avenue. The original garage was 320 square feet. The addition is 192 square feet. The total square footage of the accessory dwelling unit is 512 square feet. This size represents minimal impact to the neighborhood.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that it grants to Robert Patterson a variance from the provisions of Section 10-4.102 of the Modesto Municipal Code to permit an addition to a one-story accessory dwelling unit to encroach 3 feet 10 inches into the required 5 foot side yard setback on property located at 307 N. Santa Cruz Avenue.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on June 22, 2017, by Board Member Selover, who moved its adoption, which motion was seconded by Board Member Rodriguez and carried by the following vote:

Ayes:	Blom , Rodriguez, Selover, Morris
Noes:	None
Absent:	Moradian, Vohra
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