

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2018-09

A RESOLUTION GRANTING A VARIANCE TO ALLOW FOR A FRONT-FACING GARAGE TO ENCROACH 5.5 FEET WITHIN THE 20-FOOT FRONT YARD SETBACK ON PROPERTY LOCATED AT 1222 DEL REY AVENUE (JASON COULIE)

WHEREAS, an application for a variance from the provisions of Section 10-4.102 of the Modesto Municipal Code to permit the conversion of an existing two-car side-entry garage to a front-entry garage with a substandard setback of 14 feet, 6 inches from the property line, less than the required 20 foot front yard setback for a front-entry garage on property located at 1222 Del Rey Avenue, was filed by Jason Coulie on September 24, 2018; 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 October 25, 2018, 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 because due to the unusual shape of the property (wide in the front, narrow in the rear) and the siting of the existing residence, the addition can only be built where it will conflict with the side garage entry. Other lots in the vicinity are more conventional in shape, which allow more options for expansions.
2. The special circumstances or conditions are such that strict application of the provisions of Section 10-4.106(d) of Title 10 of the MMC would deprive the applicant of practical use of the property or buildings because due to the shape of the lot and siting of the existing residence, expansion options are limited to this portion of the lot, resulting in a conflict with side-facing garage driveway.
3. Granting the variance will be consistent with the intent and purpose of the provisions of Section 10-4.106(d) of Title 10 of the MMC and will not be detrimental to the neighborhood or public welfare because the proposal would not affect the surrounding neighborhood as there are existing front-entry garages with similar setbacks in proximity to the property.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that it grants to Jason Coulie a variance from the provisions of Section 10-4.102 of the Modesto Municipal Code to permit the conversion of an existing two-car side-entry garage to a front-entry garage with a substandard setback of 14 feet, 6 inches from the property line, less than the required 20 foot front yard setback for a front-entry garage, subject to the following condition:

- 1. The property owner and developer shall, at their sole expense, defend, with counsel selected by the City, 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.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on October 25, 2018, by Board Member Goriel, who moved its adoption, which motion was seconded by Board Member Roddick and carried by the following vote:

Ayes:	Goriel, Moradian, Roddick, Selover, Vohra, Rodriguez
Noes:	None
Absent:	Blom
Recused:	None

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

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