

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2020-03

A RESOLUTION GRANTING A VARIANCE TO RONALD J. MALIK FROM THE MAXIMUM ALLOWED HEIGHT AND SIGN AREA FOR FREESTANDING COMBINED-BUSINESS SIGNS, FOR PROPERTY LOCATED AT THE SOUTHWEST CORNER OF DALE ROAD AND KIERNAN AVENUE/CA-219

WHEREAS, an application for a variance from the provisions of Title 10, Chapter 6, Table 6.1-2 of the Modesto Municipal Code to permit a freestanding combined business monument sign of 26 feet, ten inches in height and 167.28 square feet in sign area for property at the southwest corner of Dale Road and Kiernan Avenue/CA-219 was filed by Ronald J. Malik on February 27, 2020; 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 26, 2020 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 15311(a) of the CEQA Guidelines, which exempts on-premise signs.

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.

Kiernan Avenue/CA-219 has been widened to a right-of-way of 250 feet at the frontage of the parcel where the proposed sign is to be placed, with travel speeds over 55 miles per hour, and with the nearest eastbound through-lane being approximately 100 feet away from the proposed sign and the nearest westbound through-lane being approximately 180 feet distant. A sign designed at the maximum allowable size and height of 20-feet high and 72 square feet in area would not be readily noticeable to passing traffic, in particular to traffic in the westbound through-lanes approximately 180-feet distant from the sign's proposed position.

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.

The width of Kiernan Avenue/CA-219 is such that a sign at the maximum allowed dimensions of 20- feet in height and 72 square feet in sign area

would have minimal visibility from the Kiernan Avenue travel lanes as opposed to the larger sign requested with the 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.

Given the width of the Kiernan Avenue/CA-219 roadway, the proposed monument sign with the variance applied would be proportionally more visible to traffic on the Kiernan Avenue/CA-219 roadway, as opposed to the maximum allowed sign dimensions better proportioned to narrower arterial streets with slower travel speeds.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that it grants to Ronald J. Malik a variance from the provisions of Title 10, Chapter 6, Table 6.1-2 of the Modesto Municipal Code to permit a freestanding combined-business monument sign of 26-feet 10-inches in height with a sign area of 167.28 square feet, subject to the following conditions:

4. Prior to the issuance of a building permit, construction shall conform to the site plan and sign elevations titled "Site Plan—The Bridges Business Park" stamped approved by the Board of Zoning Adjustment on March 26, 2020.
5. All landscaping and walls shall be maintained and the premises shall be kept free of weeds, graffiti, trash, and other debris.
6. 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 April 23, 2020, by Board Member Rodriguez, who moved its adoption, which motion was seconded by Board Member Moradian and carried by the following vote:

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

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

Steve Mitchell, Secretary