

BOARD OF ZONING ADJUSTMENT  
RESOLUTION NO. 2009-01

A RESOLUTION DENYING A VARIANCE TO THE 15-FT SIDE-YARD  
SETBACK REQUIREMENT FOR A NEW HOUSE AT 1401 CITRUS DRIVE

WHEREAS, an application for a variance from provision(s) of Section(s) 10-2.510(d) of the Modesto Municipal Code to permit construction of a new 2,600-square-foot second-story house ten (10) feet into the minimum 15-ft side-street, side-yard setback at 1401 Citrus Drive at the northwest corner of Citrus Drive and East Orangeburg Avenue was filed by Michael Whiteley on December 17, 2008; and

WHEREAS, Section 10-1.202(a) and 10-2.1501 of the Modesto Municipal Code authorize the Board of Zoning Adjustment to grant variances subject to findings specified in Section 10-2.2502; and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on February 26, 2009 in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered.

WHEREAS, after considering testimony presented at the hearing, the Board determined to deny the application for a variance from the required side-street, side-yard setback to permit the new house at less than the 15-foot setback; and

WHEREAS, this project is Categorical Exempt under Section 15305(a) of the CEQA Guidelines which pertains to minor lot-line adjustments, side yard, and set back variances not resulting in the creation of any new parcels;

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Adjustment that it finds and determines that the findings for granting a variance cannot be made as required in Section 10-2.2502 of the Modesto Municipal Code, because:

1. There are no special circumstances or conditions applicable to this property or building in question which do not exist for other property or buildings in the same zone and immediate vicinity, because:

The subject property is approximately 6,000-sq ft and is larger than most of the nearby surrounding properties, which allows for many design alternatives that can accommodate the City's setback requirements.

2. There are no special circumstances or conditions such that strict application of the provisions of this Chapter would deprive the applicant of practical use of the property or buildings, because:

The lot size and configuration provides sufficient space to accommodate a new house without the need for a variance.

3. Granting the variance will not be consistent with the intent and purpose of this Chapter and will be detrimental to the neighborhood or public welfare, because:

Granting a variance in this instance is contrary to well-established long-standing requirements to maintaining rear and side yard setbacks.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that the application of Michael Whiteley for a variance from the side street side yard setback requirements at 1401 Citrus Drive be denied.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment on February 26, 2009, by Hank Pollard, who moved its adoption, which motion was seconded by Ted Brandvold, and carried by the following vote:

Ayes:	Bergman, Brandvold, Neumann and Pollard
Noes:	Grover and Swehla
Absent:	Saxton

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

Original, signed copy on file in CEDD  
Patrick Kelly, Secretary