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**AGENDA ITEM NO.:** 6 (Action Item – Public Hearing)

**PLANNING COMMISSION** April 28, 2021  
**MEETING DATE:**

**SUBJECT:** Variance 2021-01/O’Sullivan

#### **EXECUTIVE SUMMARY**

The applicant, Nancy O’Sullivan has applied for a variance for a single-family dwelling to encroach 6-feet into the required 25-foot front yard setback, and 2-feet into the required 5-foot side yard setback for a 192-square-foot bedroom and bathroom addition on a property zoned multiple residential, with a 6,500-sq-ft minimum (R2-6,500), located at 190 South Lone Pine Avenue, in Lone Pine.

#### **PROJECT INFORMATION**

**Supervisory District:** 5

**Project Applicant:** Nancy O’Sullivan, 190 South Lone Pine Avenue, Lone Pine

**Property Owner:** Nancy O’Sullivan, 190 South Lone Pine Avenue, Lone Pine

**Site Address/**

**Community:** 190 South Lone Pine Avenue, Lone Pine

**A.P.N.:** 005-111-07

**General Plan:** Residential Medium-High Density (RMH)

**Zoning:** Multiple Residential (R2), 6,500-sq-ft minimum

**Size of Parcel:** Approximately 7,500-square-feet

**Surrounding Land Use:**

<b>Location</b>	<b>Use</b>	<b>General Plan Designation</b>	<b>Zone</b>
Site	Developed - Single family residence	Residential Medium-High Density (RMH)	Multiple Residential (R2), 6,500-sq-ft minimum
North	Developed - Single family residence	Residential Medium-High Density (RMH)	Multiple Residential (R2), 6,500-sq-ft minimum
East	Developed - Single family residence	Residential Medium-High Density (RMH)	Multiple Residential (R2), 6,500-sq-ft minimum
South	Developed - Single family residence	Residential Medium-High Density (RMH)	Multiple Residential (R2), 6,500-sq-ft minimum
West	Developed - motel	Central Business District (CBD)	Central Business, Architectural design review (CB-D)

**Staff Recommended Action:**

**1.) Approve Variance 2021-01/O’Sullivan with the Findings and Conditions as provided for in the staff report and certify that it is Exempt under California Environmental Quality Act (CEQA).**

**Alternatives:**

- 1.) Deny the Variance.
- 2.) Approve the Variance with additional Conditions of Approval.
- 3.) Continue the public hearing to a future date, and provide specific direction to staff regarding what additional information and analysis is needed.

**Project Planner:**

**Steven Karamitros**

**STAFF ANALYSIS**

Variance Request & Site Characteristics

The applicant, Nancy O’Sullivan, owns a 7,519-sq-ft property, located at 190 South Lone Pine Avenue, in Lone Pine. The parcel is currently developed with a single family house and is zoned multiple residential (R2). The applicant is requesting a variance to construct a 192-square-foot bedroom and bathroom addition on the west (front) side of the home, which would encroach 6-feet into the required 25-foot front yard setback, and 2-feet into the required 5-foot side yard setback. The applicant does not wish to place this addition on the east (rear) of the existing structure because they intend to build an

additional dwelling unit in this area, as permitted by the multiple residential zoning. Development surrounding the parcel is made up of single and multi-family homes to the north, east and south, and commercial to the west.

The properties within the same block and surrounding the proposed project parcel are zoned R2-6,500-MH and many of them do not meet setback requirements. The R2 zone requires the following setbacks:

- Front: 25-feet
- Rear: 20-feet
- Side: 5-feet.

In addition, the R2 zoning requires a minimum lot width of 50-feet. The project parcel meets the 50-foot requirement with a lot width of 50 feet. Due to the planned second dwelling unit on the eastern half of the parcel, the most appropriate place on the parcel for the applicant's proposed additional bedroom is on the western side of the existing house. The proposed encroachment into the front yard set back by 6-feet results in a 19-foot front yard setback. The applicant would also like the new addition to encroach 2-feet into the required 5-foot side yard setback to maintain the existing northern boundary of the building that currently encroaches 2-feet into the side yard setback.

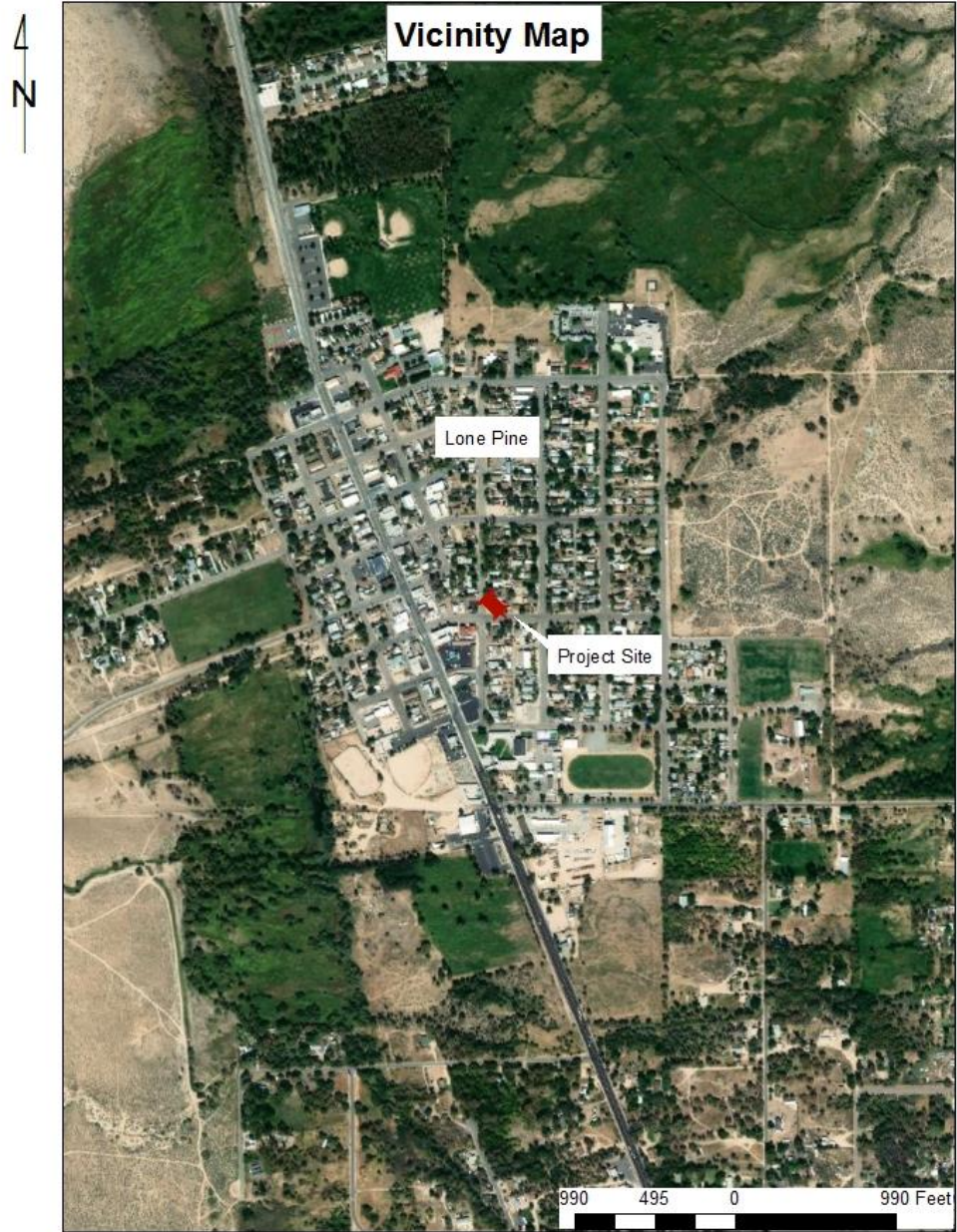
### Proposed Site Plan



Site Map



Vicinity Map



Previous Variance History

No prior variances have been applied for regarding this property.



### Provision for Variances

The Inyo County Zoning Ordinance states that any variance to the terms of the Zoning Ordinance may be granted if such a variance would “*not be contrary to its general intent or the public interest, where due to special conditions or exceptional characteristics of the property or its location or surroundings, a literal enforcement would result in practical difficulties or unnecessary hardships*” (Section 18.81.040).

Further, the Zoning Ordinance states that the following three Findings must be affirmed in order for any variance to be granted:

1. That there are exceptional circumstances applicable to the property involved, or to the intended use, which do not generally apply to other property in the same district.
2. That the result would not be detrimental to the public welfare, or injurious to property in the vicinity.
3. That the strict application of the regulation sought to be modified would result in practical difficulties or hardships inconsistent with, and not necessary for the attainment of, the general purposes of this title.

In addition to the above Findings specified in the Inyo County Zoning Ordinance, California State Government Code requires the following Findings for any variance:

4. The proposed variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.
5. The proposed variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning regulation governing the parcel of property.
6. The proposed variance is consistent with the General Plan.
7. The requirements of the California Environmental Quality Act have been met.

Affirmative variance Findings must describe the special circumstances that act to physically differentiate the project site from its neighbors and make it unique, and thus uniquely justified for a variance; alternatively, negative findings must describe how the project’s physical characteristics are not unique or exceptional, and therefore do not justify a variance.

ALL seven of the Findings must be affirmed in order for a variance to be approved.

### **ENVIRONMENTAL REVIEW**

This project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA), under the Class 3 exemption, 15303 “New Construction or Conversion of Small Structures (a) One single-family residence, or a second dwelling unit in a residential zone.”

## NOTICING REQUIREMENTS

The project was noticed for a Public Hearing in the *Inyo Register* on April 8, 2021, and notices were mailed to all property owners within 300-ft of the proposed project. No comments have been received by staff as of the date of this staff report.

## RECOMMENDATIONS

Approve Variance 2021-01/O’Sullivan with the Findings and Conditions as provided for in this staff report and certify that it is Exempt under CEQA.

### Findings

Staff has reviewed this application and can find that all seven of the required Findings can be affirmed:

1. That there are exceptional circumstances applicable to the property involved, or to the intended use, which do not generally apply to other property in the same district.  
*(Affirmative – Evidence: The property is a 7,519-sq-ft parcel, located at 190 South Lone Pine Avenue, and is zoned multiple residential with a 6,500 square foot minimum (R2-6,500). This zoning permits two separate single family dwellings. The owner of the property plans to add an additional dwelling unit on the second half of the property. Due to the location of the current dwelling unit, and the need to reserve the eastern portion of the lot for the second dwelling unit, the reasonable place to build this additional bedroom would be on the front of the house. The existing house also already encroaches into the required side yard set back by 2-feet.*
2. That the result would not be detrimental to the public welfare, or injurious to property in the vicinity.  
*(Affirmative – Evidence: Approving this variance will allow for an addition to a single-family dwelling to encroach 6-feet into a 25-foot front yard setback and 2-feet into a 5-foot side yard setback. Currently, there is a single family home to the north (side yard) and multiple single family dwellings to the east (rear) of the proposed variance. This encroachment request will not affect the rear yard setback, and therefore, will not affect the property located to the east. The front (west) and side (south) of the property is adjacent to Lone Pine Avenue and East Post Street, so there is no potential for impacting neighboring properties to the west or south. The original dwelling unit is setback 3-feet from the side yard (north) and the proposed 2-foot side yard encroachment will match the current setback of the house; therefore, it will not be detrimental to the property to the north. The proposed variance will not cause a situation that could be considered detrimental to the public welfare as the proposed development is a 192-square-foot bedroom addition that requires compliance with the Inyo County Department of Building and Safety.*

3. That the strict application of the regulation sought to be modified would result in practical difficulties or hardships inconsistent with, and not necessary for the attainment of, the general purposes of this title.  
*(Affirmative – Evidence: The proposed project site area is constrained by the size of the parcel, the location of the current dwelling unit, and the future plans of adding an additional dwelling unit, which is allowed as a principal permitted use. The parcel is zoned multiple residential and the owner is planning to add an additional dwelling unit to the east, limiting the available area with regard to additions to the current dwelling unit. These factors create difficulties/hardships in meeting the required setback requirements for the R2 zone. Granting a variance to encroach 6-feet into the front yard and 2-feet into the side yard setbacks would still allow the general purposes of Title 18.33 (R2) of the Zoning Code to be fulfilled, as the encroachment would not change the multiple residential character, density, or use of the property. It is also in the best interest of the County and the community to encourage the future development of the second unit.)*
4. The proposed variance does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated.  
*(Affirmative – Evidence: The project site is non-conforming with respect to the current side yard setback. The applicant has designed the addition so as not to disrupt the general appearance of the single family home it will be added to. Many of the parcels located on the same block, under the same zoning regulations as the proposed variance, are also unable to meet their yard setback requirements of the R2 zone. For these reasons, the requested variance to encroach into the front and side yard setbacks cannot be said to constitute a grant of special privileges. Rather, it allows the owner to use the property in the same manner as the other properties in the vicinity.)*
5. The proposed variance does not authorize a use or activity that is not otherwise expressly authorized by the zoning regulation governing the parcel of property.  
*(Affirmative – Evidence: The proposed variance applies to front and side yard setback requirements. The proposed addition to a single family residence is permitted out right in the R2 Zone.)*
6. The proposed variance is consistent with the Inyo County General Plan  
*(Affirmative – Evidence: The requested variance presents no inconsistencies with the General Plan land use designation for the project site, which is Residential medium-high Density (RMH) a single-family and multi-family residential land use designation. The addition to the existing dwelling unit is consistent with single family home uses and the proposed variance would aid in the future construction of an additional dwelling unit, an intended use in this land designation. The general plan encourages development towards the maximum permitted density, and thus this variance and future construction are consistent with the General Plan.*



7. The requirements of the California Environmental Quality Act have been met.  
*(Affirmative – Evidence: The requested variance is not subject to the provisions of CEQA, being categorically exempt under Class 3 15303(a).)*

Conditions of Approval

- 1.) Hold Harmless: the applicant, landowner, and/or operator shall defend, indemnify and hold harmless Inyo County, its agents, officers and employees from any claim, action, or proceeding against the County, its advisory agencies, appeal boards, or its legislative body concerning Variance #2021-01/O'sullivan or applicant's failure to comply with conditions of approval.
- 2.) The applicant/developer shall conform to all applicable provisions of Inyo County Code including the Building and Safety Code and the Health and Safety Code.