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**AGENDA ITEM NO.:** 7 (Action Item – Public Hearing)

**PLANNING COMMISSION  
MEETING DATE:** August 24, 2016

**SUBJECT:** Variance #2016-02/Miller

**EXECUTIVE SUMMARY**

An application for a variance to encroach, with an accessory building consisting of a Mobile home guest house, 16-feet into the required 20-foot rear yard setback for a property zoned Single Residence or Mobile Home Combined (RMH), and located at 153 Webster Street, in the community of Independence.

**PROJECT INFORMATION.**

**Supervisory District:** 4

**Project Applicant:** Stephanie Miller, 153 N. Webster Street, Independence, CA 93526

**Property Owner:** Stephanie Miller, 153 N. Webster Street, Independence, CA 93526

**Site Address/  
Community:** 153 N. Webster Street, Independence, CA 93526

**A.P.N.:** 02-042-01

**General Plan:** Residential Medium Density (RM)

**Zoning:** Single Residence or Mobile Home Combined (RMH)

**Size of Parcel:** 13,010 square feet

**Surrounding Land Use:**

<b>Location</b>	<b>Use</b>	<b>General Plan Designation</b>	<b>Zone</b>
Site	Developed – Single Family Residential	Residential Medium Density (RM)	Single Residence or Mobile Home Combined (RMH)
North	Developed - Single family residence	Residential Medium Density (RM)	Single Residence or Mobile Home Combined (RMH)
East	Developed - Single family residence	Residential Medium Density (RM)	Single Residence or Mobile Home Combined (RMH)
South	Developed - Single family residence and undeveloped land.	Residential Medium Density (RM)	Single Residence or Mobile Home Combined (RMH)
West	Developed - Single family residence and undeveloped land.	Residential Medium Density (RM)	Single Residence or Mobile Home Combined (RMH)

**Staff Recommended Action:** 1.) Approve the Variance.

**Alternatives:**

- 1.) Deny the Variance.
- 2.) Approve the Variance with an additional Condition of Approval being that the property owner must complete a parcel merger of lots 2 and 4 to create consistency with the property’s taxing identity.
- 3.) Approve the Variance with additional Conditions of Approval.
- 4.) Continue the public hearing to a future date, and provide specific direction to staff regarding what additional information and analysis is needed.

**Project Planner:** Michael Draper, Associate Planner

**STAFF ANALYSIS**

Variance Request & Site Characteristics

Stephanie Miller owns a 13,000 square foot parcel at 153 N. Webster Street in Independence, CA. This parcel is 130’ x 100’ and located on the southwest corner of West Main Street and North Webster Street with Sarah Street, an alley way, behind it.

The property was developed in 1928 with a single family home and a garage added later. The property is located at a relatively central location in Independence and is zoned Single Residence or Mobile Home Combined (RMH), and has the following setbacks;

- Front: 25 feet
- Rear: 20 feet

- Side: 5 feet

Existing development on the parcel is a single family residence in the north and east portion with a garage to the northwest portion of the lot, entering onto West Center Street (see Attachment C).

The intention is to add a secondary unit, which is in compliance with California Government Code Section 65852.1, in the southwest corner of the parcel. The secondary unit would be occupied by the applicant's elderly father who was raised in the Eastern Sierra communities and would like to live near his family. The applicant would like to be able to care for her father while still allowing him to have a separate dwelling. The secondary unit to be added is a manufactured home, 23'8" wide, and 33'6" deep (792 square feet), meeting development standards of Inyo County Code 18.78.350. The applicant will also apply for a building permit to place the nam

#### 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 5 exemption, "Minor alterations to land use limitations, such as lot line adjustments, variances, and encroachment permits on land with a slope of less than 20%, which do not result in changes in land use or density."

## RECOMMENDATIONS

### 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 made up of two lots that have been merged for tax purposes only. The existing garage is located on the northern parcel and the existing single-family residence straddles the shared property line. The proposed variance would allow for a new mobile home to be placed on the southern parcel. Abiding to the rear setback standard will cause the second dwelling to obstruct desired views of the mountains from the existing residence.)*

2. That the result would not be detrimental to the public welfare, or injurious to property in the vicinity.

*(Affirmative – Evidence: No neighbors are directly behind the Property; the rear yard is adjacent to Sarah Street, an ally way and therefor no other property would be affected. Surrounding properties, including the neighbor directly south, have development within their rear set-back. In 1990 a variance for the south neighbor (125 N. Webster St.) was granted to encroach on their rear setback in order to construct a storage shed and guest unit. The applicant's proposed second dwelling would sit back-to-back with the neighbor's storage shed.)*

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: Strict application of the set-back would move the location of the second dwelling closure to the existing residence and obstruct desired views.)*

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 variance would not constitute a special privilege as the adjacent south neighbor has received a similar variance to encroach on setbacks for a storage shed and guest house.)*

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 use/activity involving the Variance is expressly authorized within Single Residence or Mobile Home Combined (RMH), 18.36.040(H).)*

6. The proposed variance is consistent with the Inyo County General Plan

*(Affirmative – Evidence: The proposed Variance upholds, and does not negatively affect, the designation of the property as Residential Medium Density (RM) The designation provides for single-family residential neighborhoods within urban areas, public and quasipublic uses, and similar and compatible uses. Residential densities shall be in the range of 4.6 to 7.5 dwelling units per net acre. The objective in receiving the variance is to increase density on the parcel to provide space for the owner's aging father. The parcel is 0.3 acres and there for is allocated 1.38 to 2.25 dwelling. Allowing for the variance aids the applicants objective and in doing so, meets General Plan Housing Element goals; 2)provide adequate sites for housing, and 5)remove constraints to the development of affordable housing )*

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 5.)*

#### 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

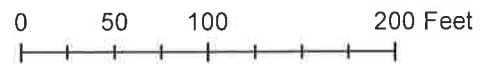
boards, or its legislative body concerning Variance #2016-02/Miller or applicant's failure to comply with conditions of approval.

#### **ATTACHMENTS**

- A. General Vicinity Map
- B. Zoning Map of Area
- C. Proposed Site Plan Provided by Owner

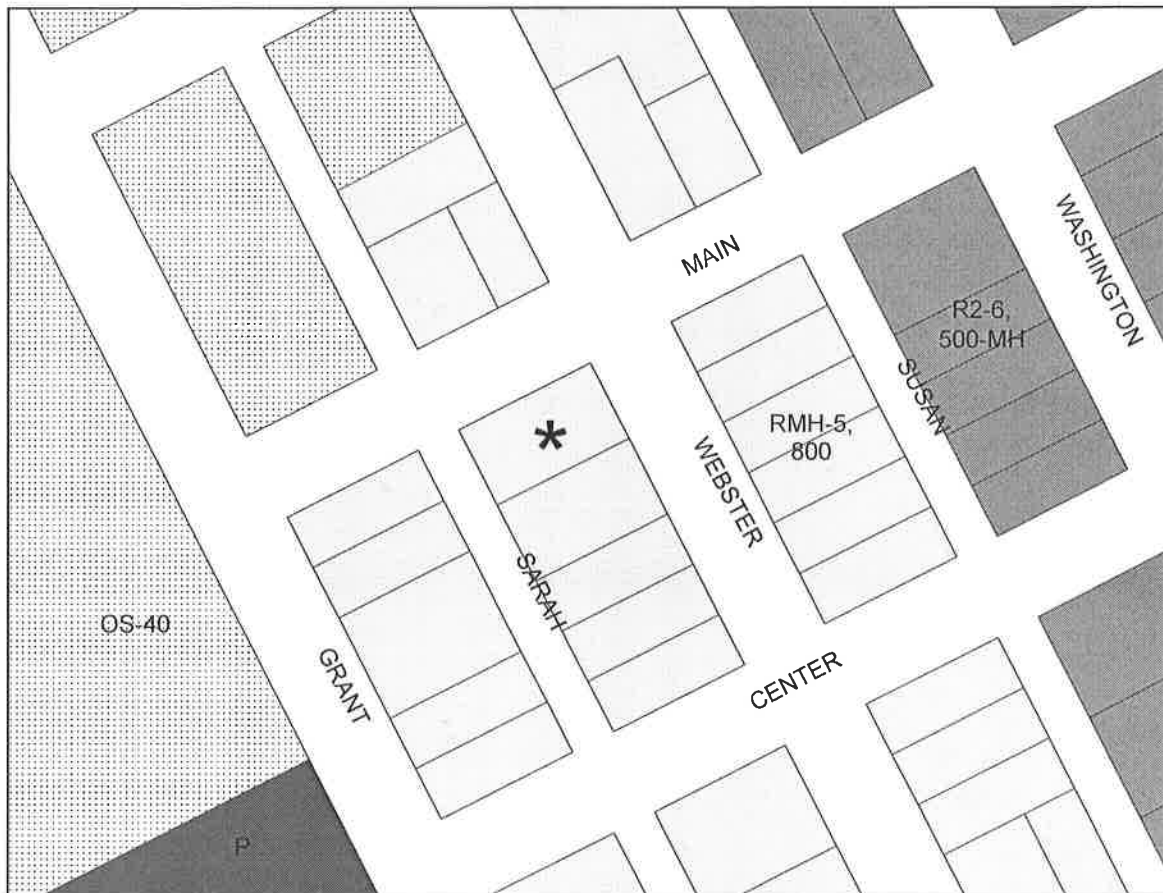
ATTACHMENT A

# General Vicinity Map







# 153 N. Webster Street, Independence, CA

## Zoning Map



**Inyo County**

**Zoning Designation**

-  Multifamily Residential - 6,500 sq ft minimum - mobile home
-  Open Space - 40 acre minimum
-  Public
-  Single Residence Mobile Home Combined - 5,800 sq ft minimum



ATTACHMENT C

Scale 1" = 1MM



APN: 002-042-01

153 WEBSTER  
INDEPENDENCE

