



Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
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**#88-21**

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Barney S. Heath  
Director

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## PUBLIC HEARING MEMORANDUM

Public Hearing Date: April 6, 2021  
Land Use Action Date: June 22, 2021  
City Council Action Date: July 5, 2021  
90-Day Expiration Date: July 5, 2021

DATE: April 2, 2021

TO: City Council

FROM: Barney Heath, Director of Planning and Development  
Neil Cronin, Chief Planner  
Michael Gleba, Senior Planner

SUBJECT: **Petition #88-21** for SPECIAL PERMIT/SITE PLAN APPROVAL to construct a front porch, extending the nonconforming front setback condition at **89 Pine Street**, Ward 4, Auburndale, on land known as Section 44 Block 35 Lot 87, containing approximately 22,698 sq. ft. of land in a district zoned SINGLE RESIDENCE 3. Ref: Sec. 7.3.3, 7.4, 3.1.3, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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The purpose of this memorandum is to provide the City Council and the public with technical information and planning analysis conducted by the Planning Department. The Planning Department's intention is to provide a balanced review of the proposed project based on information it has at the time of the public hearing. Additional information about the project may be presented at or after the public hearing for consideration at a subsequent working session by the Land Use Committee of the City Council.



**89 Pine Street**

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Preserving the Past  Planning for the Future

Preserving the Past  Planning for the Future

## EXECUTIVE SUMMARY

The property at 89 Pine Street consists of a 22,698 square foot lot in a Single Residence 3 (SR3) district improved with a single-family residence built in 1993. The petitioner is proposing to construct a 192 square foot front porch.

When the dwelling was constructed in 1993, it was done so pursuant to Section 1.5.3.B of the Newton Zoning Ordinance which allowed the property's to have a front setback of 16.5 feet based on the average of the abutting properties' front setbacks which included the abutting 91 Pine Street's then-8-foot front setback (the required front setback in an SR3 district per the NZO is 25 feet.). That dwelling was razed in 2014 and replaced with a new structure with a front setback of 26.1 feet, resulting in the subject property now having a nonconforming front setback. If constructed the proposed front porch would further extend the nonconforming front setback to 14.9 feet, requiring a special permit per sections 3.1.3 and 7.8.2.C.2.

The Planning Department is not concerned with the creation of the proposed front porch. The Department believes the subject property is an appropriate location for the porch and that it will not adversely affect the surrounding neighborhood.

### I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The site in a Single Residence 3 (SR3) district is an appropriate location for the proposed front porch that would reduce the front setback to 14.9 feet (§7.3.3.C.1)
- The proposed front porch that would reduce the front setback to 14.9 feet will adversely affect the neighborhood (§7.3.3.C.2)
- The proposed front porch that would reduce the front setback to 14.9 feet will create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)

### II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD:

#### A. Neighborhood and Zoning

The subject property is located on the north side of Pine Street between Kerry Court and Pine Meadow Drive. The site and most of the other parcels in the immediate vicinity are developed with single-family dwellings, with exceptions including a multi-family dwelling directly across Pine Street and another further to the west, as well as considerable open space abutting the property, much of it City-owned (**Attachment A**). The site and surrounding area are zoned Single Residence 3 (SR3) with the exceptions of the City-owned open space which is zoned Public Use (PU) (**Attachment B**).

#### B. Site

The dwelling is located at the front of the irregularly shaped and elongated 22,698 square foot (approx.) lot. The parcel's grade slopes upward significantly, approximately 19 feet,

from front to rear (south to north), with most of the upgrade located within a steep portion approximately in the center of the lot. The back of the lot is wooded while the front of the lot is occupied by the dwelling, lawn area and a driveway on the left side of the property. There is a small shed to the rear of the dwelling.

## I. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

The principal use of the site will remain a single-family residence.

### B. Building and Site Design

The petitioners are proposing to construct a 192 square foot porch along the front of the dwelling. If constructed, the porch would reduce the already nonconforming front setback from 16.5 to 14.9 feet where 25 feet is the minimum allowed by right. No changes to the other setbacks are proposed, and the one-story porch would not increase the height of the dwelling.

The property's lot coverage would be increased slightly from 4.9% to 5.5%, remaining well below the required 30%. Open space on the parcel would be slightly reduced, from 90% to 89% well above the maximum 50% required.

### C. Parking and Circulation

No changes to the site's parking or circulation are contemplated by the present petition.

### D. Landscape, Lighting and Signage

No changes to the site's landscaping are contemplated by the present petition.

## II. TECHNICAL REVIEW

### A. Technical Considerations (Chapter 30, Newton Zoning Ordinance):

The Zoning Review Memorandum provides an analysis of the proposal with regard to zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the petitioner is seeking the following relief:

- Special Permit per §7.3.3 to further extend a nonconforming front setback (§3.1.3 §7.8.2.C.2)

### B. Engineering Review

Review by the Engineering Division is not required at this time.

### C. Newton Historic Commission Review

Review by the Newton Historic Commission is not required as the structure was built in 1993.

## III. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

**ATTACHMENTS:**

- Attachment A:** Land Use Map
- Attachment B:** Zoning Map
- Attachment C:** Zoning Review Memorandum
- Attachment D:** DRAFT Council Order

# ATTACHMENT A


## Land Use

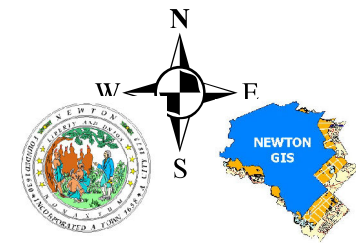
89 Pine St.

*City of Newton,  
Massachusetts*

## Land Use

### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Open Space
-  Nonprofit Organizations
-  Vacant Land

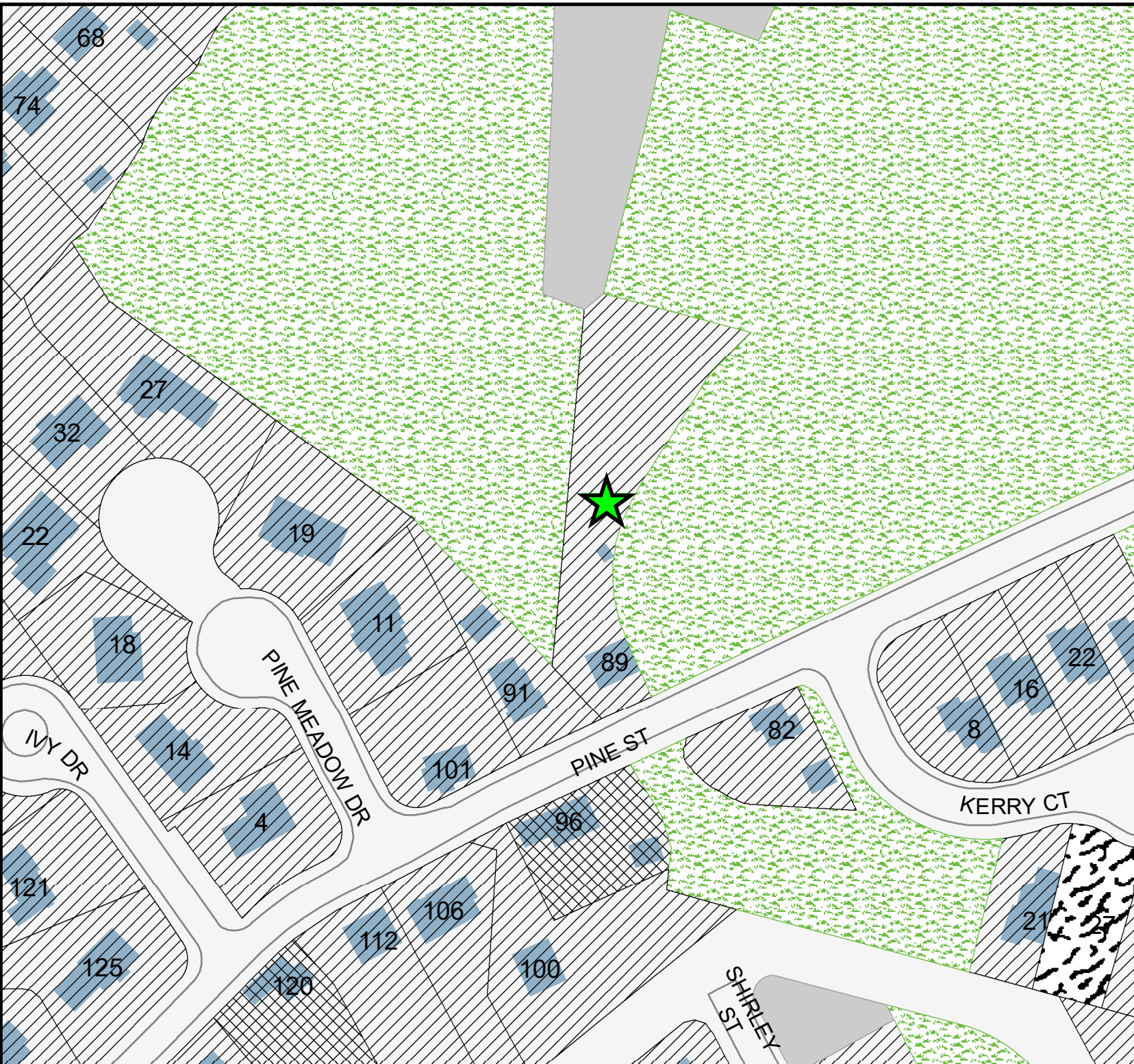


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield



Map Date: March 26, 2021





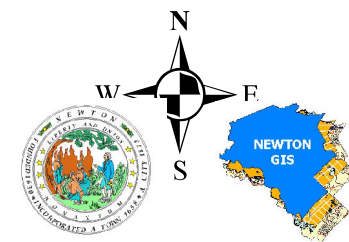
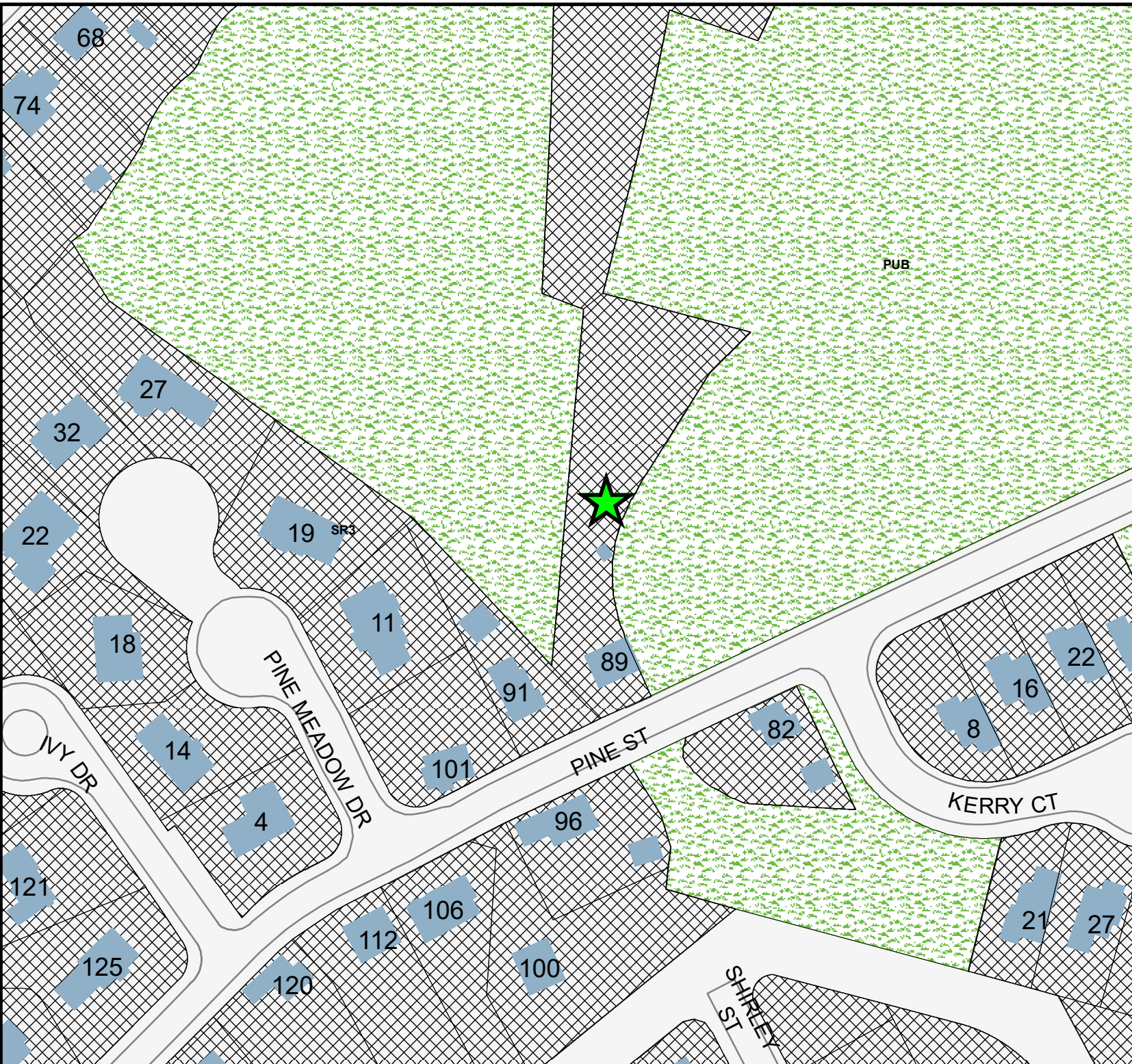
## Zoning

89 Pine St.

*City of Newton,  
Massachusetts*

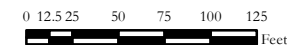
## Legend

-  Single Residence 3
-  Public Use



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CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller  
GIS Administrator - Douglas Greenfield





**Ruthanne Fuller**  
Mayor

## ATTACHMENT C

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**Barney S. Heath**  
Director

### ZONING REVIEW MEMORANDUM

**Date:** November 12, 2020

**To:** John Lojek, Commissioner of Inspectional Services

**From:** Jane Santosuosso, Chief Zoning Code Official  
Neil Cronin, Chief Planner for Current Planning

**Cc:** Abhay & Roma Mayur, Applicants  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Assistant City Solicitor

**RE: Request to extend a nonconforming front setback**

Applicant: Abhay & Roma Mayur	
<b>Site:</b> 89 Pine Street	<b>SBL:</b> 44035 0087
<b>Zoning:</b> SR3	<b>Lot Area:</b> 22,698 square feet
<b>Current use:</b> Single-family dwelling	<b>Proposed use:</b> No change

**BACKGROUND:**

The property at 89 Pine Street consists of a 22,698 square foot lot improved with a single-family residence built in 1993. The petitioner proposes to construct a porch to the front of the dwelling, extending the nonconforming front setback.

The following review is based on plans and materials submitted to date as noted below.

- Zoning Review Application, prepared by Abhay Mayur, applicant, submitted 9/15/2020
- Existing Conditions Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 8/21/2020
- Proposed Conditions Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 8/31/2020, revised 11/5/2020

**ADMINISTRATIVE DETERMINATIONS:**

1. The dwelling was constructed in 1993 with a front setback of 16.5 feet, utilizing the average front setbacks of the abutting properties per section 1.5.3.B. According to the 1993 building permit, the dwelling on the abutting property at 91 Pine Street had an 8-foot front setback, resulting in an average front setback requirement for the subject property of 16.5 feet. The dwelling at 91 Pine Street was razed in 2014 and the new dwelling has a front setback of 26.1 feet, resulting in the creation of a nonconforming front setback for the subject property. The petitioners seek to construct a porch on the front of the dwelling, further extending the nonconforming front setback to 14.9 feet, requiring a special permit per sections 3.1.3 and 7.8.2.C.2.

<b>SR3 Zone</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	10,000 square feet	22,698 square feet	No change
Frontage	80 feet	<b>54 feet</b>	<b>No change</b>
Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul>	25 feet 10 feet 15 feet	<b>16.5 feet</b> <b>7.7 feet</b> >200 feet	<b>14.9 feet</b> <b>No change</b> No change
Max Lot Coverage	30%	4.9%	5.5%
Min. Open Space	50%	90%	89.5%

1. See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.3 §7.8.2.C.2	Request to further extend a nonconforming front setback	S.P. per §7.3.3



# ATTACHMENT D

DRAFT- #88-21  
89 Pine Street

## CITY OF NEWTON

### IN CITY COUNCIL

#### ORDERED:

That the Council, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of a SPECIAL PERMIT/SITE PLAN APPROVAL to allow the further reduction of the already nonconforming front setback from 16.5 to 14.9 feet where 25 feet is the minimum allowed by right (§3.1.3 §7.8.2.C.2), as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Richard Lipof:

- 1) The site in a Single Residence 3 (SR3) district is an appropriate location for the proposed front porch that would reduce the front setback to 14.9 feet (§7.3.3.C.1)
- 2) The proposed front porch that would reduce the front setback to 14.9 feet will not adversely affect the neighborhood (§7.3.3.C.2)
- 3) The proposed front porch that would reduce the front setback to 14.9 feet will not create a nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
- 4) Access to the site over streets is appropriate for the types and numbers of vehicles involved (§7.3.3.C.4)

PETITION NUMBER: #88-21

PETITIONER: Abhay Mayur

ADDRESS OF PETITIONER: 89 Pine Street  
Newton, MA 02466

LOCATION: 89 Pine Street, on land known as Section 44, Block 35, Lot 87,  
containing approximately 22,698 square feet of land

OWNER: Abhay Mayur and Roma Mayur

ADDRESS OF OWNER: 89 Pine Street

Newton, MA 02466

TO BE USED FOR: Single Family Dwelling

EXPLANATORY NOTES: Special permit per §7.3.3:  
• to further extend a nonconforming front setback (§3.1.3 §7.8.2.C.2)

ZONING: Single Residence 3 (SR3) district

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this Special Permit/Site Plan Approval shall be located and constructed consistent with:
  - a. A site plan entitled "Plan of Land in Newton, MA, 89 Pine Street, Proposed Additions," prepared by Edward M. Brooks Co., signed and stamped by Bruce Bradford, dated August 31, 2020, as revised through February 22, 2021
  - b. A set of architectural plans entitled "89 Pine Street, Newton, MA," prepared, signed and stamped by Silvana T. M. Sawaya, Registered Architect, dated February 11, 2021, consisting of the following sheets:
    - i. Existing Elevation (A1);
    - ii. Proposed Elevations & Porch Plan (A2);
    - iii. Proposed Elevations & Porch Plan (A3);
    - iv. Section through New Porch (A4).
2. No Building Permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
  - a. Recorded a certified copy of this order for the approved Special Permit/Site plan with the Registry of Deeds for the Southern District of Middlesex County.
  - b. Filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
4. No Final Inspection/Occupancy Permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
  - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by an professional architect certifying compliance with Condition #1.

- b. Submitted to the Director of Planning and Development and Commissioner of Inspectional Services final as-built plans in paper and digital format signed and stamped by a licensed architect, engineer or surveyor.