



City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Ruthanne Fuller
Mayor

#139-19
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	May 7, 2019
Land Use Action Date:	July 8, 2019
City Council Action Date:	July 13, 2019
90-Day Expiration Date:	August 5, 2019

DATE: May 3, 2019

TO: City Council

FROM: Barney Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Katie Whewell, Planning Associate

SUBJECT: **Petition #139-19**, for SPECIAL PERMIT/SITE PLAN APPROVAL to construct an addition to the front of the house and raise the roof to create 2.5 stories where 2 stories exist, vertically extending the nonconforming side and rear setbacks at 11 Avon Place, Ward 1, Newton, on land known as Section 12 Block 09 Lot 04, containing approximately 3,183 sq. ft. of land in a district zoned MULTI RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 3.2.3, 7.8.2.C.2 of Chapter 30 of the City of Newton Rev Zoning Ord, 2017.

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.



11 Avon Place

EXECUTIVE SUMMARY

The property located at 11 Avon Place consists of a 3,183 square foot lot in the Multi Residence 2 (MR-2) zone between Nonantum and Newton Corner, north of the Massachusetts Turnpike. The lot is improved with a two story, single-family residence constructed in 1880. The petitioner is seeking to raise the roof of the structure and construct an addition on the front of the house. The proposed project results in the alteration of the existing structure that has nonconforming side and rear setbacks, requiring a special permit. The project would increase the floor area ratio of the structure but is within the allowed dimensions.

The Planning Department is unconcerned with the proposed addition because the addition is consistent with the size and scale of the homes in this neighborhood and meets all other dimensional standards. Due to this, the Planning Department is unconcerned with the proposed addition that further extends the nonconforming side and rear setbacks.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

When reviewing this request, the Council should consider whether:

- The proposed addition that extends the nonconforming side and rear setbacks is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood. (§3.1.3 and §7.8.2.C.2)
- The proposed addition that extends the nonconforming side and rear setbacks is not substantially more detrimental than the existing nonconforming structure is to the neighborhood. (§3.1.3 and §7.8.2.C.2)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

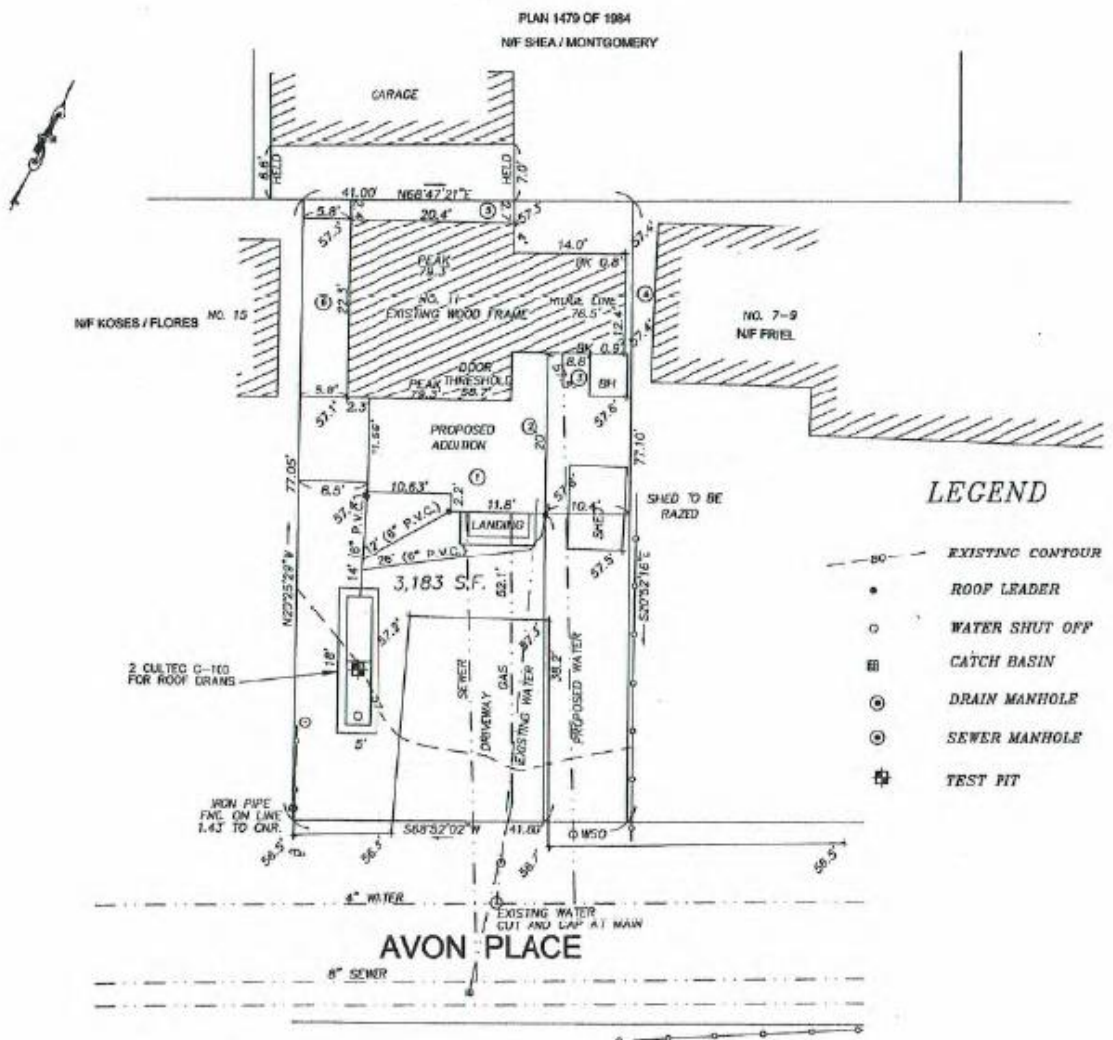
A. Neighborhood and Zoning

The subject property is located on Avon Place in the MR-2 zone between Nonantum and Newton Corner. The MR-2 zone encompasses the Avon Place neighborhood and area north of Avon Place (**Attachment A**). The surrounding land use of the neighborhood is divided between single family residential to the west of the property and multifamily residential to the north and east (**Attachment B**). Avon Place is a short, narrow dead-end road with dwellings on the north side only. The dwellings along Avon Place are all pushed back to the rear of the parcel and appear to be nonconforming when it comes to the rear and side setbacks and appear to be two stories. On either side of 11 Avon Place are attached dwellings and all of the homes on Avon Place have parking in the front setback. While the other homes on Avon Place do not have additions to the front of the homes, two of the properties on Avon

Place have gazebo like structures in the front yard.

B. Site

The site consists of 3,183 square feet of land and is improved with a two-story single-family dwelling. The lot is served by one curb cut providing access to an existing asphalt surface parking facility for two cars. There is a shed on the property along the eastern property line that will be razed. The site is relatively flat.



III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site is and will remain single-family.

B. Building Design

The petitioners are seeking to construct an addition to the front of the house, resulting in a 2.5 story structure. The proposed addition adds 634 square feet to the dwelling between two stories, increasing the FAR from .38 to .58, where .58 is the maximum allowed. The proposed addition requires a special permit to vertically extend the nonconforming side and rear setbacks. The proposed addition requires raising the roof which increases the height of the structure from 21.34 feet to 24.5 feet, where 36 feet is the maximum allowed. Due to the proximity of the dwelling to the side and rear property lines, there is virtually no other place for the addition other than the front of the dwelling.

The proposed addition fits with the context of the neighborhood and has been designed to reduce the impact of the additional massing at the front of the house through the use of articulation and pitched roof forms. The Planning Department is unconcerned with the addition that further extends the nonconforming side and rear setbacks because it meets all other dimensional standards.



C. Site Design

The petitioners are seeking to construct an addition to the front of the dwelling that requires an extension of the nonconforming side and rear setbacks. The proposed addition decreases the open space from 60.8% to 55.9%, where the minimum open space required is 50%. The proposed addition increases the lot coverage from 23.4% to 29.6%, where 30% is the maximum allowed. The front setback is decreasing from 52.1 feet to 39.28 feet but does not require relief.

D. Parking and Circulation

The petitioners are not proposing any changes to either the parking or circulation.

E. Landscaping

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum provides an analysis of the proposal regarding zoning (**Attachment C**). Based on the completed Zoning Review Memorandum, the

petitioner is seeking the following relief:

- §3.2.3 and §7.8.2.C.2 of Section 30 to further extend the nonconforming side and rear setbacks

B. Engineering Review

The petitioner is proposing drainage and the engineering department will review the plans prior to the issuance of a building permit for the proposed work in the event this petition is approved. Planning Staff recommends incorporating the standard condition regarding the Operations and Maintenance (O & M) Plan of the stormwater management system prior to the issuance of a temporary certificate of occupancy, should a drainage system be required, and should this petition be approved.

C. Historic Preservation Review

The petitioner is proposing to alter one façade of a structure greater than 50 years old, requiring review from the Chief Preservation Planner. The plans were reviewed and approved on May 31, 2018.

V. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

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

ATTACHMENT A

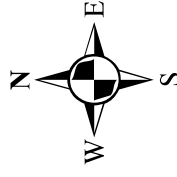
Zoning

11 Avon Place

City of Newton,
Massachusetts

Legend

- Multi-Residence 1
- Multi-Residence 2
- Business 1
- Business 2



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

0 12.5 25 50 75 100 125 Feet

Map Date: April 30, 2019



ATTACHMENT B

Land Use

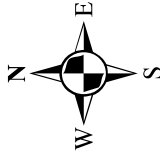
11 Avon Place

City of Newton,
Massachusetts

Legend

Land Use

- Single Family Residential
- Multi-Family Residential
- Commercial
- Open Space
- Nonprofit Organizations

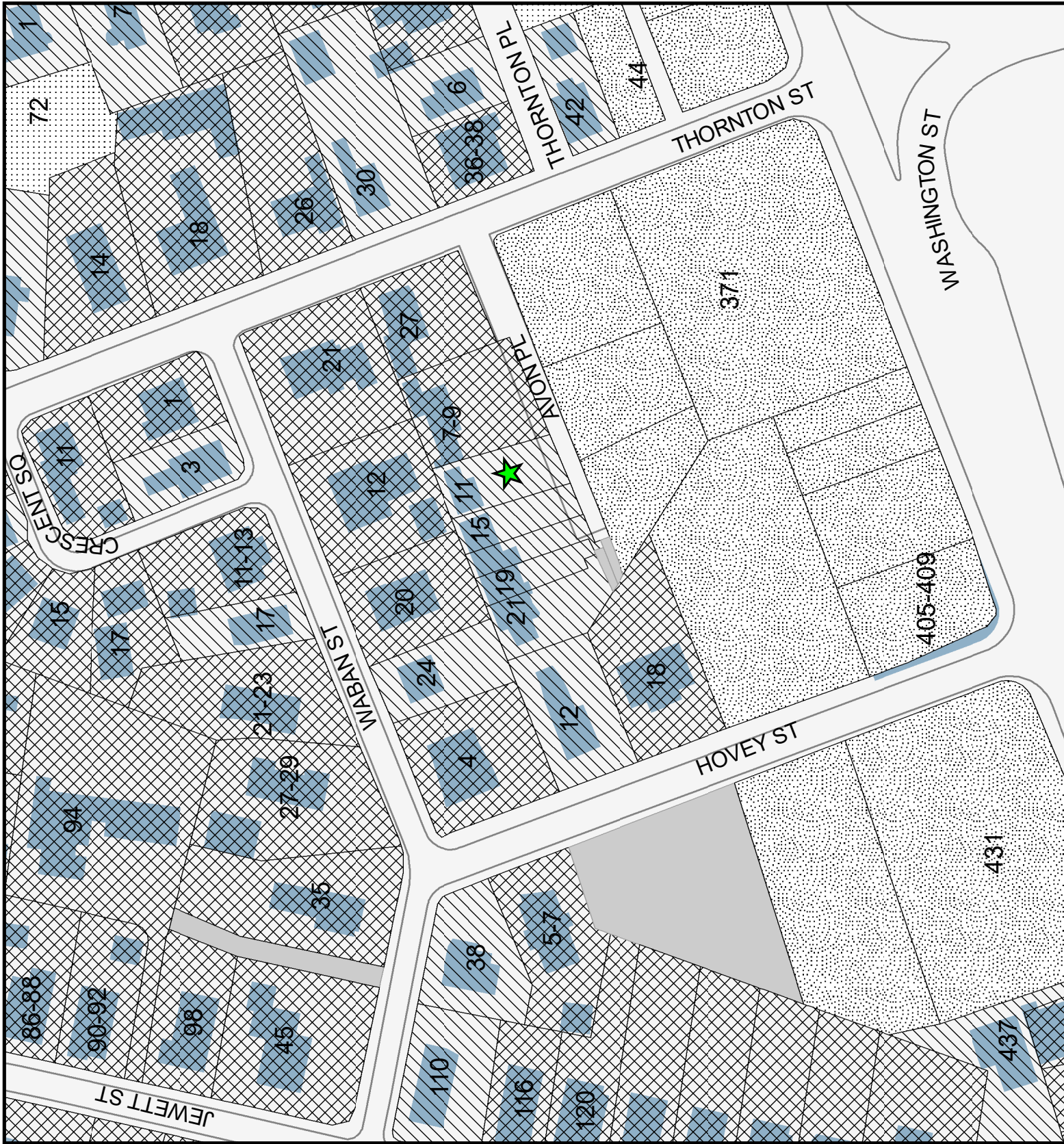


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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

0 12.5 25 50 75 100 125 Feet

Map Date: April 30, 2019





Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: April 2, 2019

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Jennifer Caira, Chief Planner for Current Planning

Cc: Rui Guan Zhang, Applicant
Douglas Stefanov, Architect
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to vertically extend nonconforming side and rear setbacks

Applicant: Rui Guan Zhang	
Site: 11 Avon Place	SBL: 12009 0004
Zoning: MR2	Lot Area: 3,183 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 11 Avon Place consists of a 3,183 square foot lot improved with a single-family dwelling constructed in 1880. The existing one and one-half story dwelling has several nonconforming setbacks. The petitioner intends to raise the roof of the structure, as well as construct a front addition.

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

- Zoning Review Application, prepared by Douglas J. Stefanov, architect, submitted 2/27/2019
- FAR Worksheet, submitted 2/27/2019
- Proposed Site Plan, signed and stamped by Stephen Desroche, surveyor, dated 2/15/19
- Architectural Plans and Elevations, signed and stamped by Douglas Stefanov, architect, dated 2/11/2019

ADMINISTRATIVE DETERMINATIONS:

- Per section 3.2.3, the required side setback in the MR2 zoning district is 7.5 feet. The existing single-family dwelling has a side setback on the western property boundary of 5.8 feet, and 1 foot on the eastern boundary. Further, this same section requires a 15-foot rear setback, where the existing dwelling is situated 2.4 feet from the rear lot line. The petitioner intends to construct an addition to, as well as raise the roof of the existing dwelling to increase from a two-story structure to 2.5 stories. The proposed front additions meet all setback requirements. However, the proposed additional height vertically extends the nonconforming side and rear setbacks, requiring a special permit per section 3.2.3 and 7.8.2.C.2.

MR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	3,183 square feet	No change
Frontage	70 feet	41.6 feet	No change
Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	25 feet 7.5 feet 15 feet	52.1 feet 1 foot 2.4 feet	39.28 feet No change No change
Building Height	36	21.34 feet	24.5 feet
Max Number of Stories	2.5	2	2.5
FAR	.58	.38	.58
Max Lot Coverage	30%	23.4%	29.6%
Min Open Space	50%	60.8%	55.9%

- See “Zoning Relief Summary” below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.2.3 §7.8.2.C.2	Request to vertically extend nonconforming side setbacks	S.P. per §7.3.3

#139-19
11 Avon Place

CITY OF NEWTON
IN CITY COUNCIL

ORDERED:

That the City 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 the following SPECIAL PERMIT/SITE PLAN APPROVAL to vertically extend the non-conforming side and rear setbacks as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The proposed addition that vertically extends the nonconforming side and rear setbacks is consistent with and not in derogation of the size, scale and design of other structures in the neighborhood because the proposed addition meets all other dimensional standards for the MR2 zone and has been designed to reduce the impact of additional massing. (§3.2.3 and §7.8.2.C.2)
2. The proposed addition that vertically extends the nonconforming side and rear setbacks is not substantially more detrimental than the existing nonconforming structure is to the neighborhood because other structures are set back to the rear of the parcel. (§3.2.3 and §7.8.2.C.2)

PETITION NUMBER: #139-19

PETITIONER: Rui Guan Zhang

LOCATION: 11 Avon Place., on land known as Section 12, Block 9, Lot 4, containing approximately 3,183 square feet of land

OWNER: Rui Guan Zhang

ADDRESS OF OWNER: 11 Avon Place
Newton, MA 02458

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.2.3 and §7.8.2.C.2 to vertically extend the nonconforming side and rear setback

ZONING: Multi Residence 2 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. Site plan for proposed addition at 11 Avon Place, signed and stamped by Stephen Desroche, Professional Land Surveyor, dated February 15, 2019.
 - b. Architectural Plans and Elevations - A2, New Elevations, signed and stamped by Douglas Stefanov, Registered Architect, dated February 11, 2019.
2. Prior to the issuance of any building permit, the petitioner shall provide a final site plan for review and approval by the Department of Planning and Development, Engineering Division of Public Works, and Fire Department.
3. Prior to the issuance of a temporary certificate of occupancy for the Project, the petitioner shall provide a final Operations and Maintenance Plan (O&M) for stormwater management to the Engineering Division of Public Works for review and approval. Once approved, the O&M must be recorded by the petitioners at the Middlesex South District Registry of Deeds and implemented. A recorded copy of the O&M shall be submitted to the Engineering Division of Public Works.
4. 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 board 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, a statement from the Engineering Division approving the final site plan.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
 - d. Submitted final engineering, utility, and drainage plans for review and approval by the City Engineer. A statement certifying such approval shall have been filed with the City Clerk, the Commissioner of Inspectional Services, and the Director of Planning and Development.
5. 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 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.
- c. Received approval from the City Engineer for the Operation and Maintenance (O & M) plan for Stormwater Management from the City Engineer. Such plan shall be recorded by the petitioners at the Middlesex South District Registry of Deeds. A recorded copy of the O&M shall be submitted to the Engineering Division of Public Works and the Director of Planning and Development in accordance with Condition #3.
- d. Filed with the Clerk of the Council, the Department of Inspectional Services and the Department of Planning and Development a statement by the City Engineer certifying that improvements authorized by this Order have been constructed to the standards of the City of Newton Engineering Department.