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Setti D. Warren
Mayor

City of Newton, Massachusetts

Department of Planning and Development

1000 Commonwealth Avenue Newton, Massachusetts 02459

Candace Havens
Director

M E M O R A N D U M

Public Hearing Date:	April 12, 2011
Land Use Action Date:	June 7, 2011
Board of Aldermen Action Date:	June 20, 2011
90-Day Expiration Date:	July 5, 2011

DATE: April 9, 2011

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner for Current Planning
Derek Valentine, Senior Planner

SUBJECT: **Petition #80-11** ERROL NORWITZ for a SPECIAL PERMIT/SITE PLAN APPROVAL for an addition and a raised rear deck, increasing the floor area ratio from .4196 to .468 at 68 DAY STREET, Ward 4, Auburndale, on land known as SBL 43, 45, 13, containing approximately 8,030 square feet of land in a district zoned SINGLE RESIDENCE 3. Ref: Section 30-15 Table 1 and 30-24 of the City of Newton Revised Zoning Ordinance, 2007.

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.

EXECUTIVE SUMMARY

The site at 68 Day Street is 8,030 square feet of land in a Single Residence 3 zone. The property is improved with a 3,370 square-foot residence. The existing structure is a stucco, Tudor-style residence built around 1930. The proposal is to add additional living space by building a two-story addition onto the rear of the house. The addition would consist of a first floor study and a second floor bedroom and would be 389 square feet total. The proposed addition is part of a larger project (748 square feet) that is being constructed by right. The petitioner had originally proposed the addition with the 389 square foot section that is the subject of this petition, but was alerted by the Inspectional Services Department that the addition exceeded the allowable FAR. The petitioner decided to proceed with a scaled-back version of the project so that it remained conforming with regard to FAR. They are now returning for relief to complete the final part of the addition. The existing FAR is .4196 (including the by-right addition) and the proposed FAR is .468, where an FAR of .42 is allowed. The FAR for the SR3 zone is .35, however the petitioner qualifies for a bonus of .07 because the proposed addition is on an existing structure over ten years old on a pre-1953 lot (+.05) and the proposal fits within the post-1953 setbacks (+.02). The addition would not make the property any more nonconforming with regard to other dimensional controls. The proposed addition will have a minimal impact on the street view of the dwelling and thus will not be out of scale and character with the rest of the neighborhood. The Planning Department recommends planting landscape screening to mitigate the impact of the addition on the adjacent property owner.

The petitioner was asked to calculate what the FAR of this project will be when Newton Zoning Ordinance Z-77 goes into effect on October 15, 2011. With the proposed addition, the FAR would be .51 using the new methodology with an allowable FAR of .45. This is due largely because much of the basement counts toward FAR under the new ordinance. The property slopes steeply toward the rear property line, which leads to a large portion of the foundation being above grade.

Location of Proposed Addition

Location of Recommended Screening

I. SIGNIFICANT ISSUES FOR CONSIDERATION

1. When reviewing this petition, the Board should consider whether the structure with the proposed addition is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood for the following reasons:

   a. The proposed addition is located over an existing foundation built as part of the by-right portion of this project and would be conforming with regard to lot coverage and open space.

   b. The proposed addition, located on the rear of the residence, will have a minimal impact on the appearance of the dwelling as viewed from the public right-of-way and will not adversely affect the neighborhood.

   c. The new bulk of the building is primarily visible from the rear of the property and the neighboring Brae Burn Country Club beyond the mature wooded area.

   d. The proposed addition is consistent with the *2007 Newton Comprehensive Plan* because it will encourage the preservation and continued use of an existing historic home, which is in harmony with other historic homes in the neighborhood.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

62 Day Street

Site of Proposed Addition

76 Day Street

68 Day Street

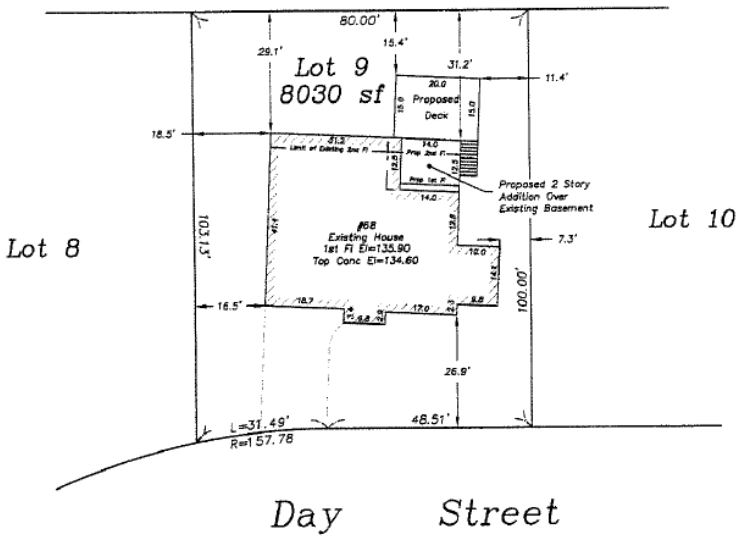
A. Neighborhood and Zoning

The property is located on Day Street and abuts the Brae Burn Country Club to the rear. It is located in a neighborhood of Tudor and Colonial-style homes, generally built around 1930. The entire surrounding neighborhood is comprised of small lots, generally less than 10,000 square feet, in the Single Residence 3 zone. With the exception of the Country Club, the entire vicinity is currently in single-family residential use.

B. Site

The site is 8,030 square feet. It slopes steeply from the front property line to a wooded ravine located on the Country Club property.

III. PROJECT DESCRIPTION AND ANALYSIS



Proposed Site Plan

A. Land Use

The property will remain in single-family residential use.

B. Building and Site Design

The existing residence is a classic stucco Tudor. The street façade of the building will not change as a result of the proposed addition. This addition will be located over an existing basement (this basement foundation is currently under construction by right, but for the purposes of this report and petition, the by-right portion of the rear addition is considered an "existing condition"). The petitioner's lot is fairly typical of what can be found in the neighborhood; however the petitioner's house is substantially larger than many in the neighborhood and this proposal will expand it further. Since the property borders the significant open space of the Country Club, the mass of the proposed structure will not overwhelm the neighborhood as it will be seen primarily from the golf course at the Country Club. Mature woods provide a buffer between the petitioner's property and the Country Club. The proposed addition will also be visible from the rear yard of 76 Day Street. The Planning Department recommends the petitioner mitigate this impact by planting a landscape buffer, as described below. Although the house is larger than others in the neighborhood based solely on square-footage and FAR, from the street, it does not appear significantly out of scale with the surrounding homes.

C. Parking and Circulation

No changes are proposed as part of this petition.

D. Landscape Screening

The Planning Department recommends the placement of three evergreens, 5-6' tall (at planting) along the southern corner of the property on the border shared with 76 Day Street. The visual impact of the mass of the new addition is seen mostly from this neighboring property. The petitioner should submit a landscape plan for approval by the Director of Planning and Development prior to the issuance of a building permit.

IV. TECHNICAL REVIEW

A. Technical Considerations (Section 30-15). The Zoning Review Memorandum, dated March 8, 2011 **(SEE ATTACHMENT "E"),** provides an analysis of the proposal with respect to zoning. The proposal would increase the FAR from .4169 to .468, where the allowed FAR is .42. Relief is required from Newton Zoning Ordinances Section 30-15, Table 1, Footnote 5 to allow an increase in FAR. The petitioner seeks a special permit under Section 30-24.

B. Newton Historical Commission Demolition Review. The project received an Administrative Approval by the Senior Preservation Planner.

C. Engineering Review: Since there is no additional impervious surface proposed Engineering Department review is not required.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum **(SEE ATTACHMENT "E")** the petitioners are seeking the following reliefs:

- Section 30-15, Table 1, Footnote 5, to allow an increase in FAR.
- Section 30-24, for issuance of Special Permit

VI. PETITIONERS' RESPONSBILITIES

The petition is complete at this time.

ATTACHMENTS

ATTACHMENT A: ZONING VICINITY MAP
ATTACHMENT B: LAND USE VICINTY MAP
ATTACHMENT C: FAR VICINTY MAP
ATTACHMENT D: FAR TABLE
ATTACHMENT E: ZONING REVIEW MEMO DATED MARCH 8, 2011
ATTACHMENT F: DRAFT BOARD ORDER #80-11

68 Day St Zoning

City of Newton, Massachusetts

Legend

- Single Residence 1
- Single Residence 3

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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 - Setti D. Warren
GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 Feet

MAP DATE: March 29, 2011

ATTACHMENT A

68 Day St
Land Use

City of Newton, Massachusetts

Legend

- Single Family Residential
- Multifamily Residential
- Golf Course

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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

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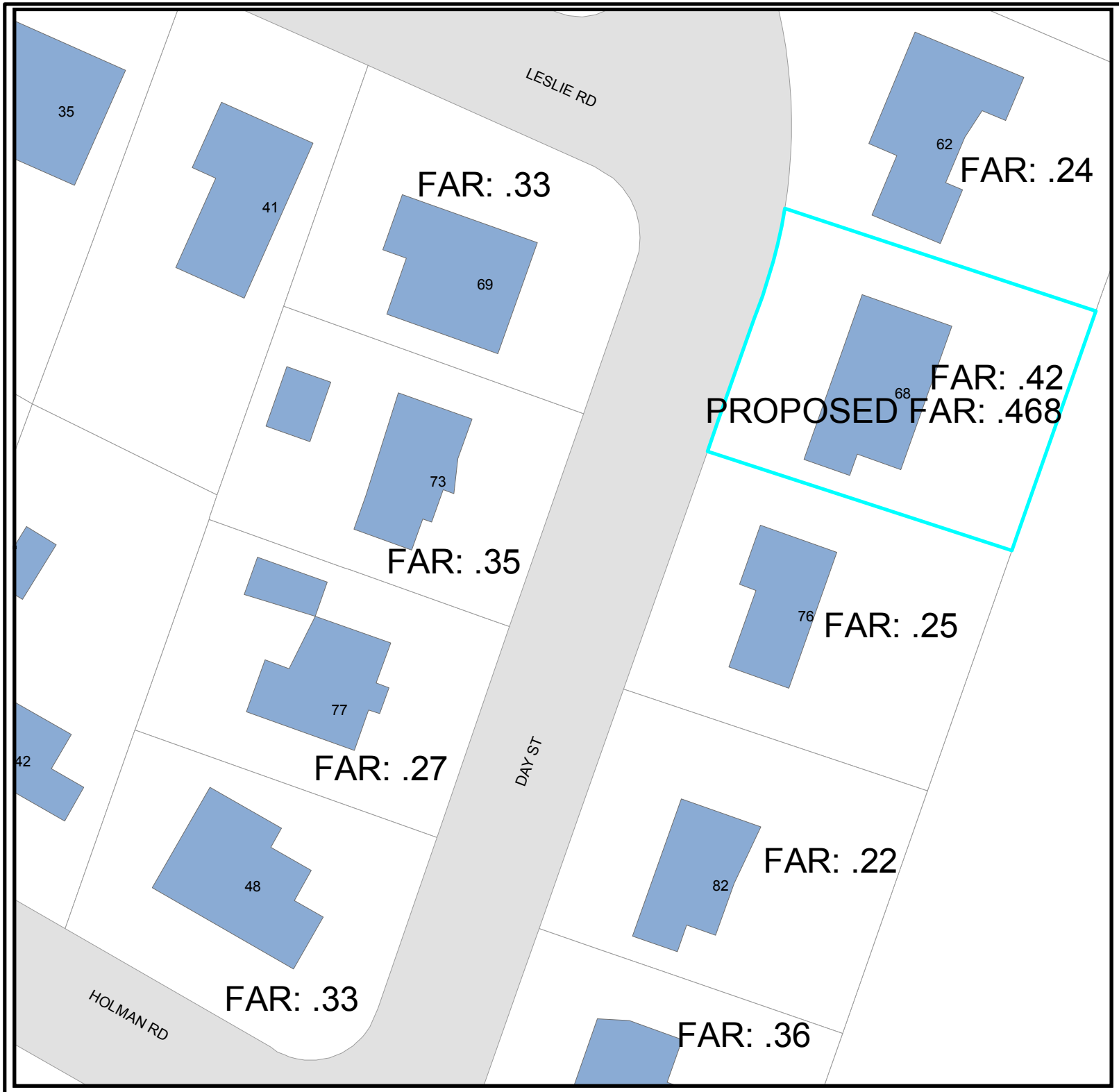
MAP DATE: March 29, 2011

ATTACHMENT B

68 Day St
FAR

City of Newton, Massachusetts



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CITY OF NEWTON, MASSACHUSETTS
Mayor - Setti D. Warren
GIS Administrator - Douglas Greenfield

0 12.5 25 50 Feet

MAP DATE: April 01, 2011

ATTACHMENT C

ATTACHMENT D

Neighborhood Comparison Chart (Prepared by Planning Department based on information obtained from the Assessor's Database)

Address	Approx. Yr. Built	Lot Size	Approx. Sq. Ft.	Approx. FAR	Material	Style
54 Day St	1929	9,820	2,122	(0.22)	Stucco	Tudor
62 Day St	1938	9,330	2,260	(0.24)	Stucco	Tudor
68 Day St	**1930**	**8,030**	**3,370**	**(0.42)**	**Stucco**	**Tudor**
69 Day St	1929	7,547	2,256	(0.33)	Wood Shingle	Colonial
73 Day St	1930	7,300	2,541	(0.35)	Wood Shingle	Colonial
76 Day St	1927	8,000	1,964	(0.25)	Brick	Colonial
77 Day St	1930	7,000	1,868	(0.27)	Clapboard	Colonial
82 Day St	1935	8,000	1,796	(0.22)	Wood Shingle	Colonial
88 Day St	1930	8,000	2,841	(0.36)	Clapboard	Colonial
48 Holman St	1930	7,260	2,366	(0.33)	Stucco	Colonial
44 Leslie Rd	1930	9,600	2,831	(0.29)	Wood Shingle	Cape
Average		**8,172**	**2,383**	**(0.30)**		
68 Day St Proposed		**8,030**	**3,759**	**0.47**		

ATTACHMENT E

Setti D. Warren
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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: March 8, 2011

To: John Lojek, Commissioner of Inspectional Services

Fr: Seth Zeren, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning ET

Cc: Peter Sachs, architect representing applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to allow an increase in FAR

Applicant: Errol Norwitz and Ann Hess	
Site: 68 Day Street	**SBL:** 43045 0013
Zoning: SR3	**Lot Area:** 8,030 square feet
Current use: Single-Family Dwelling	**Proposed use:** Single-Family Dwelling

BACKGROUND:

The property at 68 Day Street consists of 8,030 square feet of land in the SR3 zone improved with a single-family dwelling. The applicant received a building permit on November 12, 2010 for a rear addition allowed by right. The applicant now proposes a further addition located over an existing basement level room. Further, the applicant also proposes to add a raised rear deck.

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

- Architectural plans, signed and stamped by Peter Sachs, architect, dated 2/2/11
  - A1 – Proposed basement plan
  - A2 – Proposed first floor plan
  - A3 – Proposed second floor plan
  - A4 – Proposed rear elevation
  - A5 – Proposed side elevation
  - EX1 – Existing basement plan
  - EX2 – Existing first floor plan
  - EX3 – Existing second floor plan

- EX4 – Existing rear elevation
- EX5 – Existing side elevation

- Site plan, "As built addition location and height calculation," signed and stamped by Verne T. Porter, surveyor, dated 2/4/11
- Site plan, "Proposed addition location," unsigned and unstamped by Verne T. Porter, surveyor, dated 2/11/11
- Area plan, unsigned and unstamped by Verne T. Porter, surveyor, dated 2/11/11

ADMINISTRATIVE DETERMINATIONS:

1. The property is in the SR3 zone and must comply with the dimensional standards of Section 30-15, Table 1 for a pre-1953 lot (see chart below).

SR3 Zone	Required/Allowed	Existing	Proposed
Lot Size	7,000 square feet	8,030 square feet	No Change
Frontage	70 feet	80 feet	No Change
Setbacks • Front • Side • Rear	 25 feet 7.5 feet 15 feet	 25 feet* **7.3 feet** 29.1 feet	 No Change **No Change** No Change
FAR	.42**	.4196	**.468**
Building Height	30 feet	26.4 feet	No Change
Maximum Stories	2.5	2	No Change
Max. Lot Coverage	30%	25.5%	No Change
Min. Open Space	50%	68.4%	64.3%

* As measured from entrance portico; front setback not provided

** The property qualifies for a .07 bonus to FAR because the proposal is an addition to an existing structure over ten years old on pre-1953 lot (+.05) and the proposal fits within the post-1953 lot setbacks (+.02).

2. The proposal will increase the FAR of the property from .4196 to .468 where the allowed limit is .42 (.35 allowed in the SR3 district plus a .07 bonus, for an addition to an existing house on a pre-1953 lot that meets post-1953 lot setbacks). To build the addition as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-15, Table 1, Footnote 5.

3. See "Zoning Relief Summary" below:

Zoning Relief Required		
Ordinance	*Structure*	*Action Required*
§30-15, Table 1, Footnote 5	Allow an increase in FAR	S.P. per §30-24

ATTACHMENT F

DRAFT
#80-11

CITY OF NEWTON
IN BOARD OF ALDERMEN
April 12, 2011

ORDERED:

That the Board, 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 for an addition and a raised rear deck, increasing the nonconforming floor area ratio from .4196 to .468, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Alderman Ted Hess-Mahan:

1. The proposed extension of the FAR is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood for the following reasons:

    a. The proposed addition is located over an existing foundation built in the by-right portion of this project and would be conforming with regard to lot coverage and open space.

    b. The proposed addition, will be located on the rear of the residence, and will have a minimal impact on the appearance of the dwelling as viewed from the public right-of-way.

    c. The new bulk of the building is primarily visible from the rear of the property and the neighboring Country Club beyond the mature wooded area.

    d. The proposed addition is consistent with the City of Newton Comprehensive Plan because it will encourage the preservation and continued use of an existing historic home, which is in harmony with other historic homes in the neighborhood.

PETITION NUMBER:	#80-11
PETITIONER:	Errol Norwitz
LOCATION:	68 Day Street, Section 43, Block 45, Lot 14 containing approximately 11,335 sq. ft. of land

OWNER:	Errol Norwitz and Ann Hess
ADDRESS OF OWNER:	68 Day Street, Newton, MA
TO BE USED FOR:	Rear yard addition and raised deck.
CONSTRUCTION:	Wood frame
EXPLANATORY NOTES:	Section 30-15, Table 1, Footnote 5, to allow an increase in FAR and 30-24 for issuance of a special permit.
ZONING:	Single Residence 3 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:
    - "Plan Showing Proposed Addition Location at #68 Day Street in Newton, Mass.," dated February 11, 2011, signed and stamped by Verne T. Porter Jr., Professional Land Surveyor.
    - Architectural drawings as follows "Norwitz Residence," all drawn by Peter Sachs, Registered Architect and dated February 2, 2011, signed and stamped:
        - "A-2, Proposed First Floor Plan"
        - "A-3, Proposed Second Floor Plan"
        - "A-4, Proposed Rear Elevation"
        - "A-5, Proposed Side Elevation"

2. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
    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.
    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 a landscape plan indicated the additional screening along the property line with 76 Day Street for approval by the Director of Planning and Development.

3. No 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 a registered architect or engineer certifying compliance with Condition #1.

b. Submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format.

c. Installed landscape screening in accordance with the plan referenced in Condition #2d.

a. The Commissioner of Inspectional Services may issue one or more certificates of temporary occupancy for all or portions of the building prior to the installation of landscaping as required in Condition #2d provided that the petitioner shall first have filed with the Director of Planning and Development a bond, letter of credit, cash or other security in the form satisfactory to the Director of Planning and Development in an amount not less than 135% of the value of the aforementioned remaining work to secure installation of such landscaping.