



Ruthanne Fuller  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
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**#136-18**  
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Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date:	April 3, 2018
Land Use Action Date:	June 12, 2018
City Council Action Date:	June 18, 2018
90-Day Expiration Date:	July 2, 2018

DATE: March 30, 2018

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development  
Jennifer Caira, Chief Planner for Current Planning  
Valerie Birmingham, Planning Associate

SUBJECT: **Petition #136-18**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to construct additional space over a two-car garage, exceeding the maximum allowable Floor Area Ratio (FAR) of .41 where .43 is proposed and .41 exists at **2 Terrace Avenue**, Ward 6, Newton Highlands, on land known as Section 54, Block 29, Lot 03, containing approximately 8,216 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: 7.3.3, 7.4, 3.1.9 of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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 that the Land Use Committee of the City Council can consider at a subsequent working session.



**2 Terrace Avenue**

## **EXECUTIVE SUMMARY**

The property at 2 Terrace Avenue consists of an 8,216 square foot lot in the Single Residence 2 zoning district in Newton Highlands, abutting the Sudbury Aqueduct. The original 1952 dwelling was demolished in 2017, and a new single-family dwelling is currently under construction. The petitioner originally designed the space over the attached two-car garage as living space, however the dwelling would then exceed the maximum allowable floor area ratio (FAR). In the approved building permit plans, the roof pitch in this area was lowered to eliminate habitable space to reduce the FAR to the limit allowed to receive the building permit and start construction. The construction received a Stop Work Order on March 7, 2018 by the Commissioner of Inspectional Services for diverting from the approved building permit plans. The space above the attached two-car garage was constructed consistent with the plans submitted in the special permit application in which the petitioner is seeking relief to exceed the maximum FAR allowed. The Stop Work Order was removed on March 19, 2018 and the petitioner has continued work on the rest of the house. The change in plans adds a total of 120 square feet to the structure, and increases the property's FAR from 0.41 to 0.43, above the maximum 0.41 allowed by right per Section §3.1.9.

Overall, the Planning Department is not concerned with the construction of the proposed single-family dwelling. The dwelling is located in a neighborhood of other similarly-scaled dwellings and complies with all dimensional regulations of the Single Residence 2 zoning district, except FAR, however should the relief not be granted the petitioner shall reconstruct the garage roof to match the approved building permit plans.

### **SIGNIFICANT ISSUES FOR CONSIDERATION:**

When reviewing this request, the City Council should consider whether:

- The proposed increase in FAR from 0.41 to 0.43, where 0.41 is the maximum allowed by right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood. (§3.1.9 and §7.3.3)

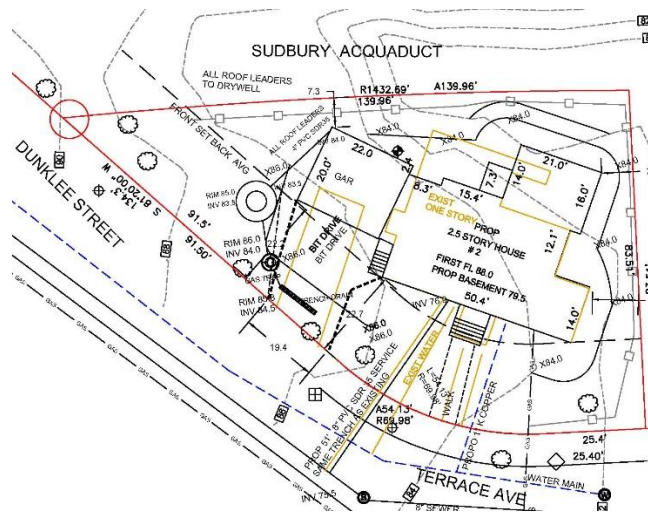
### **I. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD**

#### **A. Neighborhood and Zoning**

The subject property is located on the east side of Terrace Avenue in the SR-2 zone in Newton Highlands. The SR-2 zone encompasses the immediate area, which contains predominantly single-family dwellings; however, the zone contains a few nonconforming mixed use and multi-family uses. In addition, the property abuts the Sudbury Aqueduct, which is zoned public use (**Attachments A & B**).

B. Site

The site is an 8,216-square foot lot with frontage on both Terrace Avenue and Dunklee Street, having been the site of a 1952 dwelling that was razed in 2017. A proposed two and a half story single-family dwelling is currently under construction with a rear addition and attached two-car garage being added. The site slopes downward from the northeast to the southwest corner of the lot, and features a few mature trees. Currently a six-foot metal construction fence encompasses the property to provide site protection during construction.



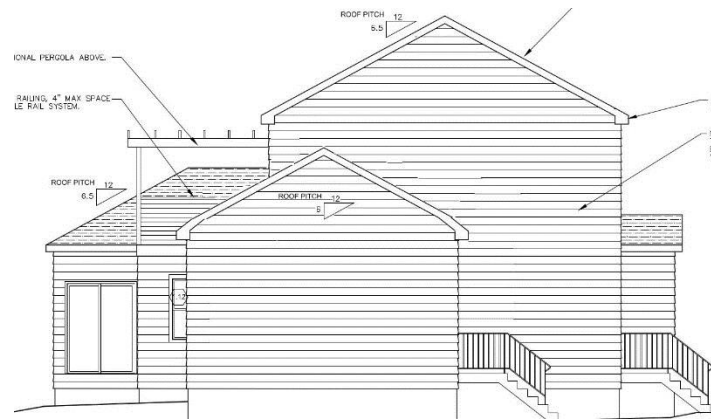
II. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

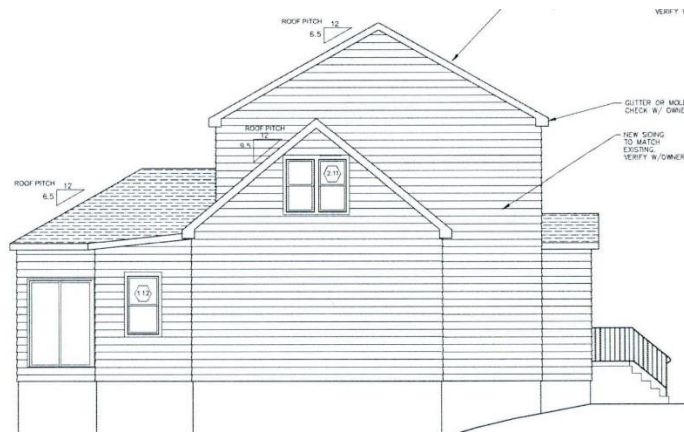
The principal use of the site is and will remain a single-family residence.

B. Building and Site Design

The petitioner demolished the existing single-family dwelling and is currently constructing a new dwelling utilizing the original foundation. A rear addition and two-car garage were added to the existing foundation as part of the new construction. As noted above, in the plans submitted to obtain a valid building permit the petitioner lowered the pitch of the roofline over the garage to remove the habitable space and reduce the FAR to create a by-right project. In the plans submitted with the special permit application, the roof pitch above the garage has been reconfigured and extended to create habitable space. In addition, two windows have been added to enhance the space. The approved building permit and special permit application elevations (next page) show the changes.



Approved Building Permit Plans - Left Elevation



Special Permit Application - Left Elevation

The modifications add approximately 120 square feet of floor area to the dwelling and increases the FAR from 0.41 to 0.43, above the maximum 0.41 by right.

The modifications do not increase the dwelling's height and meet all other dimensional standards and requirements.

C. Parking and Circulation

The petitioner is not proposing any changes to parking or circulation

D. Landscaping and Screening

A landscape plan is not required with this petition.

III. 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 Memorandum, the petitioner is seeking the following relief:

- §3.1.9 of Section 30, to increase the FAR by more than is allowed by-right.

#### IV. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.






#### **ATTACHMENTS:**

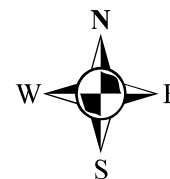
<b>Attachment A:</b>	Zoning Map
<b>Attachment B:</b>	Land Use Map
<b>Attachment C:</b>	Zoning Review Memorandum
<b>Attachment D:</b>	DRAFT Order

# Attachment A Zoning Map Terrace Ave., 2

*City of Newton,  
Massachusetts*

## Legend

-  Single Residence 2
-  Public Use
-  Building Outlines
-  Surface Water
-  Property Boundaries

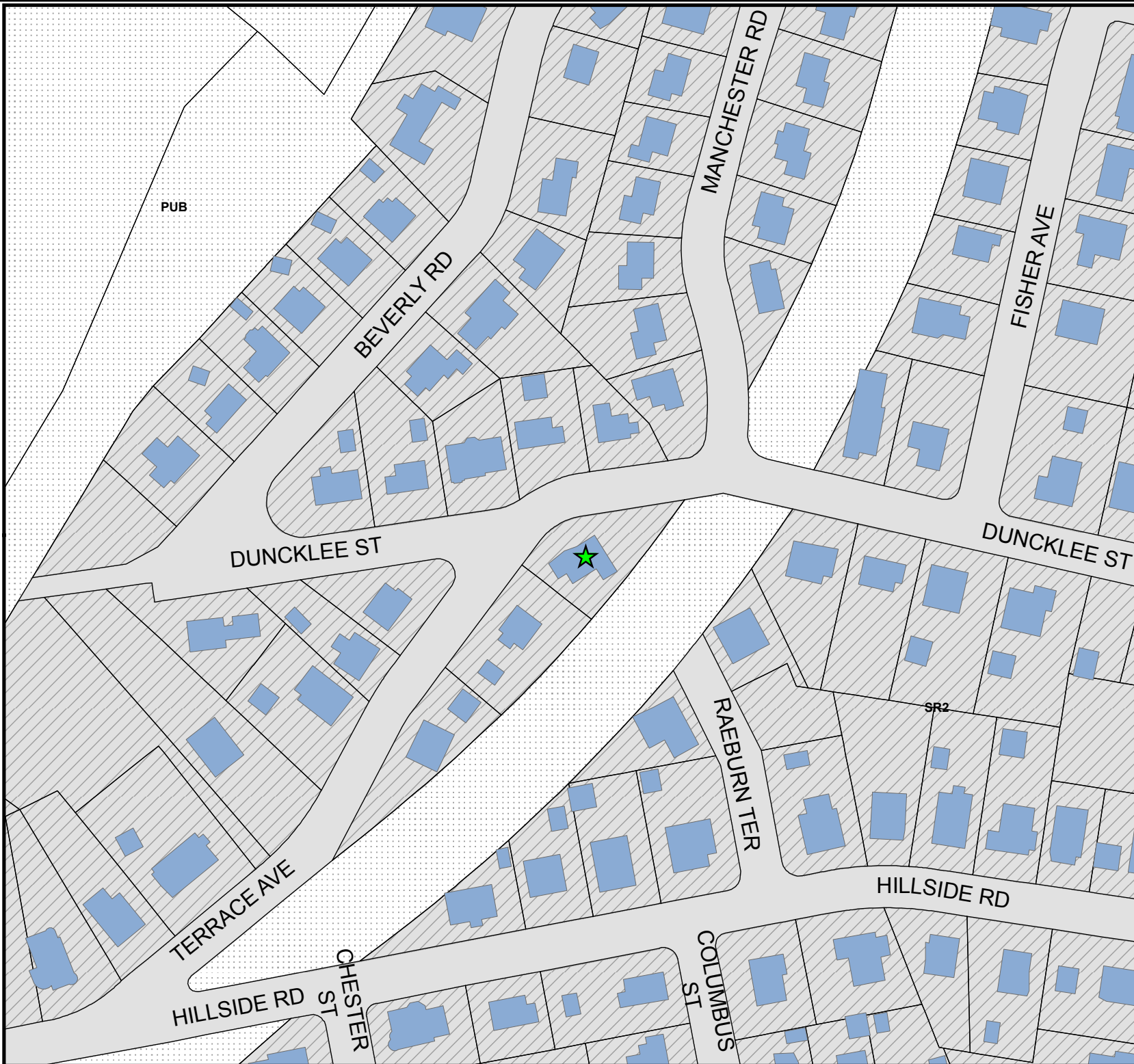


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

CITY OF NEWTON, MASSACHUSETTS  
Mayor - Ruthanne Fuller

0 50 100  
Feet

Map Date: March 06, 2018





# Attachment B Land Use Map Terrace Ave., 2

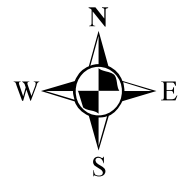
*City of Newton,  
Massachusetts*

## Legend

### Land Use

#### Land Use

- Single Family Residential
- Multi-Family Residential
- Mixed Use
- Open Space
- Nonprofit Organizations
- Vacant Land
- Building Outlines
- Surface Water
- Property Boundaries



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CITY OF NEWTON, MASSACHUSETTS  
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0 50 100  
Feet

Map Date: March 06, 2018



Setti D. Warren  
Mayor

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Barney S. Heath  
Director

## ZONING REVIEW MEMORANDUM

Date: December 18, 2017

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Bharat Bhushan, petitioner  
Barney S. Heath, Director of Planning and Development  
Ouida Young, Associate City Solicitor

RE: **Request to exceed FAR**

Applicant: Bharat Bhushan	
<b>Site:</b> 2 Terrace Avenue	<b>SBL:</b> 54029 0003
<b>Zoning:</b> SR2	<b>Lot Area:</b> 8,216 square feet
<b>Current use:</b> Single-family dwelling	<b>Proposed use:</b> No change

### BACKGROUND:

The property at 2 Terrace Avenue consists of an 8,216 square foot lot in the Single Residence 1 zoning district abutting the Sudbury Aqueduct. The original 1952 dwelling was demolished in 2017, and a new single-family dwelling is currently under construction with a valid building permit. The petitioner originally designed the space over the two-car attached garage as living space, however the dwelling would then exceed maximum allowable FAR. The roof pitch in this area was lowered to eliminate habitable space to reduce the FAR to the limit allowed to receive the building permit and start construction. The dwelling is now under construction and the petitioner is seeking a special permit to exceed maximum FAR to allow for the construction of the habitable space over the attached two-car garage.

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

- Zoning Review Application, prepared by Bharat Bhushan, petitioner, submitted 11/27/2017
- FAR Worksheet, submitted 11/27/2017
- Plan of Land, signed and stamped by Frank Iebba, surveyor dated 8/15/2016, revised 3/1/2017, 3/14/2017, 4/12/2017, 6/1/2017 and 9/28/2017



**ADMINISTRATIVE DETERMINATIONS:**

1. The petitioner razed the existing single-family dwelling and is currently constructing a new dwelling utilizing the original foundation. A rear addition and two-car garage were added to the existing foundation as part of the new construction. The petitioner lowered the pitch of the roofline over the garage to eliminate the habitable space and reduce the FAR to create a by-right project. The petitioner proposes to reconfigure the proposed pitch of the space over the two-car attached garage currently under construction to create habitable space. The additional square footage increases the FAR from .41 to .43, where the maximum allowed is .41. Per Section 3.1.9, a special permit is required to allow for an FAR of .43, where .41 is the maximum allowed.

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	<b>8,216 square feet</b>	<b>No change</b>
Frontage	80 feet	134 feet	No change
Setbacks <ul style="list-style-type: none"><li>• Front</li><li>• Side (west)</li><li>• Rear</li></ul>	22.2 feet* 7.5 feet 0 feet**	22.7 feet 7.8 feet 7.3 feet	No change No change No change
Max Number of Stories	2.5	2.5	No change
FAR	.41	.41	<b>.43</b>
Max Lot Coverage	30%	28.8%	No change
Min. Open Space	50%	75.9%	No change

\*Per section 1.5.3.B, the front setback requirement was determined by averaging the required 25 feet with the existing 19.4 feet at 10 Terrace Ave.

\*\* Per section 1.5.2.A determines that the line between land used as an aqueduct and the property is not termed a lot line.

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.9	Request to exceed FAR	S.P. per §7.3

### **Next Steps**

Please contact a Planner by calling 617.796.1120 to obtain a copy of the Special Permit Application. If there have been any changes made to the plans since receipt of your Zoning Review Memorandum you must inform the Zoning Code Official to ensure additional relief is not required. You will need an appointment with a Planner to file your Special Permit Application. **Incomplete applications will not be accepted.**

### **The following must be included when filing a Special Permit Application:**

2. Two (2) copies of the completed Special Permit Application (signed by property owner)
3. Filing Fee (see Special Permit Application)
4. Two (2) copies of the Zoning Review Memorandum
5. Plans (Thirteen sets signed and stamped by a design professional). Each set shall contain:
  - Site Plans showing existing and proposed conditions (including topography as applicable)
  - Architectural plans showing existing and proposed conditions (including façade materials)
  - Landscape plan (as applicable)
6. One (1) Floor Area Ratio (FAR) Worksheet, (signed and stamped by a design professional)
7. One (1) copy of any previous special permits or variances on the property (as applicable)
8. One (1) copy of any other review/sign-off (Historic, Conservation, Tree Removal, etc. as applicable)
9. Two (2) electronic copies of the application with all above attachments (USB or CD)

Copies of all plans shall either be 8.5 x 11 or 11 x 17, except as requested by staff

Special Permit Sign (\$20 fee)

### **Incomplete applications will delay the intake and review of your project.**

Depending on the complexity of the project additional information may be requested to facilitate a full review of the application.

Has the proposed project been presented to and discussed with abutting property owners?      Y/N

DRAFT #136-18  
2 Terrace Avenue

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 increase the Floor Area Ratio (FAR) from .41 to .43, where .41 is the maximum allowed by-right, as recommended by the Land Use Committee for the reasons given by the Committee, through its Chairman, Councilor Gregory Schwartz:

1. The proposed increase of FAR from .41 to .43, where .41 is the maximum allowed by-right, is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood as it will be adding 120 square feet to the structure (§3.1.9 and §7.3.3).

PETITION NUMBER: #163-18

PETITIONER: Bharat Bhushan

LOCATION: 2 Terrace Avenue, on land known as Section 54, Block 29, Lot 03, containing approximately 8,216 square feet of land

OWNER: Bharat Bhushan

ADDRESS OF OWNER: 2 Terrace Avenue  
Newton, MA 02461

TO BE USED FOR: Single Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9 and §7.3.3, to construct additions with a FAR exceeding the maximum allowed by-right

ZONING: Single 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. Proposed Site Plan, signed and stamped by Frank Iebba, Professional Land Surveyor, dated September 28, 2017.
  - b. Architectural plans, dated February 1, 2018, unsigned and unstamped:
    - i. Sections (A-9)
    - ii. Front and Left Elevations (A-10)
2. No building permit shall be issued pursuant to this Special Permit/Site Plan Approval until the petitioners have:
  - c. 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.
  - d. Filed a copy of such recorded order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
  - e. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.
2. 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 statements by a registered architect or designer, and professional land surveyor certifying compliance with Condition #1, including the as built FAR of the structure.
  - 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 land surveyor.