



Ruthanne Fuller
Mayor

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

#266-19
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date:	September 24, 2019
Land Use Action Date:	December 10, 2019
City Council Action Date:	December 16, 2019
90-Day Expiration Date:	December 23, 2019

DATE: September 20, 2019

TO: City Council

FROM: Barney S. Heath, Director of Planning and Development
Jennifer Caira, Chief Planner for Current Planning
Michael Gleba, Senior Planner

SUBJECT: **Petition #266-19**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to allow an accessory apartment larger than 1,000 sq. ft. in the existing lower level space at **342 Dudley Road**, Ward 8, Newton Centre, on land known as Section 82 Block 04A Lot 02, containing approximately 16,700 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. 7.3.3, 7.4, 6.7.1.D.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.



342 Dudley Road

EXECUTIVE SUMMARY

The property at 342 Dudley Road consists of a 16,700 square foot lot in a Single Residence 2 (SR2) zone improved with a 4,750 square foot, split-level single-family dwelling with an attached garage constructed in 1974. The Petitioner proposes to use existing finished space on the dwelling's lower level as a 1,180 square foot accessory apartment. As the size of proposed internal accessory apartment would exceed the maximum size of 1,000 sq. ft. allowed by right, a special permit is required per §6.7.1.D.2.

As the only proposed physical modification to the structure would be the installation of a new exterior door, and associated landing, on the rear of the structure that would provide a second means of egress for the accessory apartment and not be visible from a public way, the Planning Department is not concerned with the proposed accessory apartment as it would diversify Newton's housing stock without adding massing to an existing structure.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Council should consider whether:

- The site is an appropriate location for the proposed accessory apartment (§7.3.3.C.1)
- The proposed accessory apartment will not adversely affect the neighborhood (7.3.3.C.2)
- The proposed accessory apartment will not 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 number of vehicles involved. (§7.3.3.C.4)
- The proposed exterior alterations are in keeping with the architectural integrity of the structure and character of the neighborhood. (§6.7.1.D.3)

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The subject property is located on the east side of Dudley Road, between the two ends of the semi-circular Farina Road. The property, like the immediate neighborhood to the north, east and west, is zoned Single Residence 2 (SR2); the area to the immediate northwest is zoned Single Residence 1 (SR1), and the Public Use-zoned Kennard Park is located to the northeast. The neighborhood is almost uniformly comprised of single-family residences with exceptions being Kennard Park and a

parcel identified as mixed used that abuts directly to the northeast (**Attachments A & B**).

B. Site

The property consists of a generally level 16,700 square foot lot improved with 4,750 square foot, split-level single-family dwelling with an attached garage. The lot is accessed by an asphalt circular driveway with a spur that serves the garage on the right side of the lot. There is considerable vegetation on the property including mature trees (which effectively screen much of the lot) and shrubbery as well as lawn area.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The principal use of the site will remain a single-family residence. If approved, an accessory apartment will be established in existing finished space on the dwelling's lower level.

B. Building and Site Design

The Petitioner proposes to use existing living space on the dwelling's lower level, as a 1,180 square foot accessory apartment. The proposed unit would share the lower level with the attached garage, living space associated with the primary dwelling, and mechanical room space.

As the proposed accessory apartment would not add any new floor area to the dwelling, the property's floor area ratio (FAR) would remain at 0.28 where 0.33 is the maximum allowed by right. All other dimensional aspects of the structure and parcel would similarly remain unchanged.

The only proposed physical modification to the structure is the creation of a new exterior door, and associated landing, on the rear of the structure that would serve the proposed accessory apartment's dining area. This door would provide a second means of egress for the accessory apartment, as required per the state building code, in addition to an existing exterior door also located on the rear of the dwelling.

C. Parking and Circulation

No additional parking is proposed or required for the creation of an accessory apartment (§6.7.1.C.7).

D. Landscaping

A landscape plan was not submitted with this petition.

IV. 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 §6.7.1.D.2 and §7.3.3 to allow an interior accessory apartment exceeding 1,000 square feet

B. Engineering Review

No engineering review is required at this time.

C. Historic Review

Given its scope, the proposed work does not require Newton Historic Commission staff review.

V. PETITIONER'S RESPONSIBILITIES

During its review of this petition the Planning Department noted the lack of as-built drawings, including an as-built site plan, on-file pursuant to a 2002 expansion of the dwelling. The Planning Department recommends the petitioner submit such drawings to the Inspectional Services Department and that in the event this petition is granted such submission be made a condition precedent to the issuance of any building permit pursuant to this petition.

ATTACHMENTS:

- | | |
|----------------------|--|
| Attachment A: | Land Use Map |
| Attachment B: | Zoning Map |
| Attachment C: | Zoning Review Memorandum dated July 25, 2019 |
| Attachment D: | DRAFT Order |

ATTACHMENT A

Land Use

342 Dudley Rd.

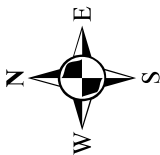
*City of Newton,
Massachusetts*

Legend

Land Use

Land Use

- Single Family Residential
- Mixed Use
- Open Space
- 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

0 12.5 25 50 75 100 125 Feet

Map Date: September 20, 2019



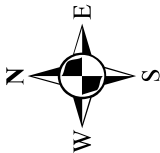
Zoning

342 Dudley Rd.

City of Newton,
Massachusetts

Legend

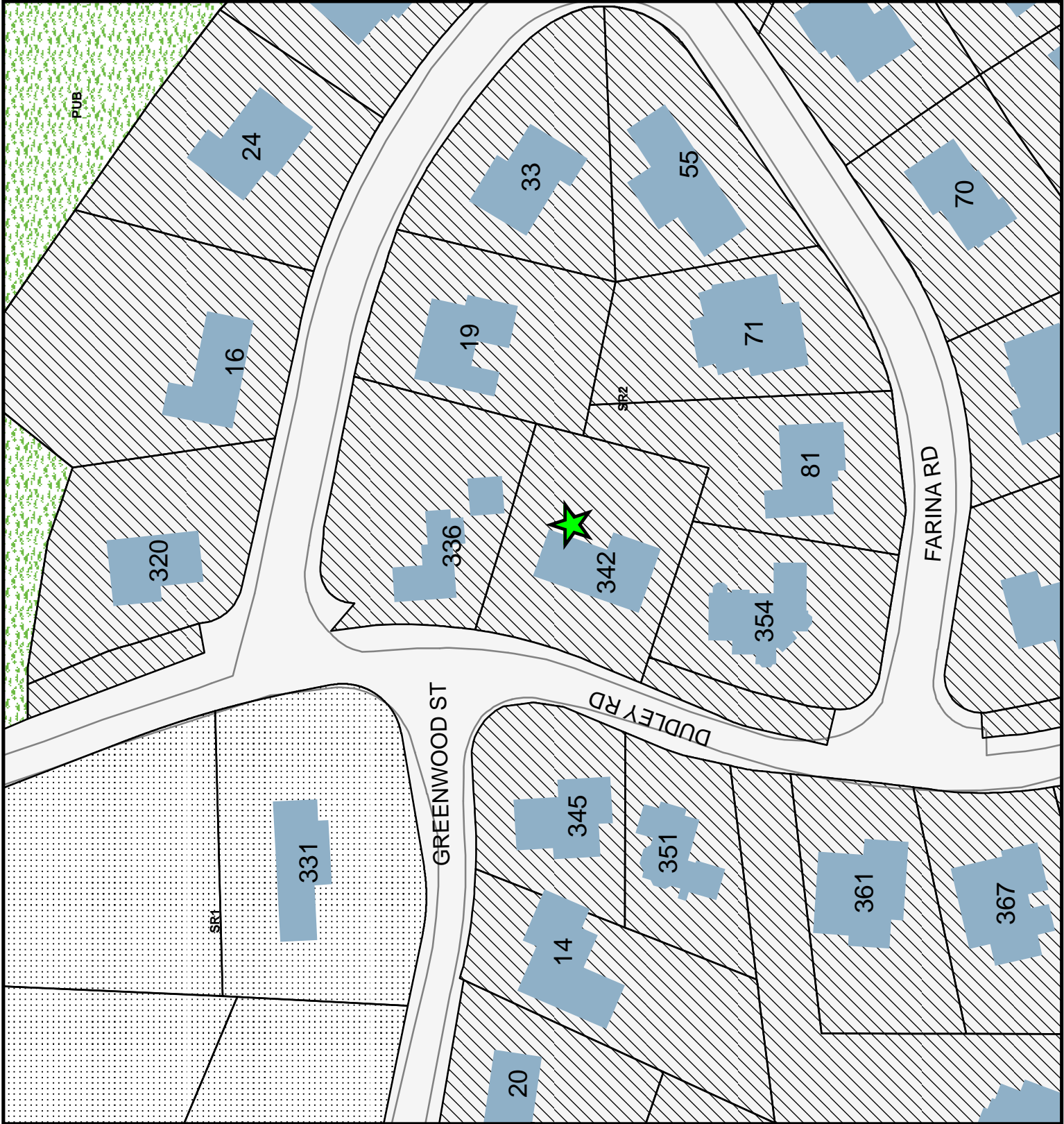
- Single Residence 1
- Single Residence 2
- Public Use



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CITY OF NEWTON, MASSACHUSETTS
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0 12.5 25 50 75 100 125 Feet





Ruthanne Fuller
Mayor

ATTACHMENT C

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Barney S. Heath
Director

ZONING REVIEW MEMORANDUM

Date: Jul 25, 2019

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Anita Rogers, Architect
Keren Diamond, Applicant
Barney S. Heath, Director of Planning and Development
Jonah Temple, Assistant City Solicitor

RE: Request to allow an accessory apartment exceeding 1,000 square feet

Applicant: Keren Diamond	
Site: 342 Dudley Road	SBL: 82004A0002
Zoning: SR2	Lot Area: 16,700 square feet
Current use: Single-family dwelling	Proposed use: Single-family dwelling with an accessory apartment

BACKGROUND:

The property at 342 Dudley Road consists of a 16,700 square foot lot improved with a single-family dwelling constructed in 1974. The Petitioner proposes to convert existing space within the lower level to be used as an accessory apartment.

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

- Zoning Review Application, prepared by Anita Rogers, architect, submitted 6/4/2019
- Plan of Land, signed and stamped by Bruce Bradford, surveyor, dated 10/26/1972
- Existing and Proposed Floor Plans, signed and stamped by Anita Rogers, architect, dated 6/3/2019

FYI
Everett Brooks plan is
dated Oct 28, 2002

Preserving the Past ★ Planning for the Future

original plan was 10/26/72

ADMINISTRATIVE DETERMINATIONS:

1. The petitioner proposes to convert existing lower level finished space into a 1,180 square foot accessory apartment. Per section 6.7.1.D.2, by right an internal accessory apartment may be between 250 and 1,000 square feet, or 33 percent of the total habitable space, whichever is less. The total habitable space of the dwelling is 4,750 square feet, allowing for a 1,000 square foot apartment (33 percent is equal to 1,368 square feet). The City Council may grant a special permit for a larger accessory apartment up to 1,200 square feet or 40 percent of the total habitable space, whichever is less. As 44 percent is 1,824, the maximum allowed is 1,200 square feet. To allow for the 1,180 square foot internal accessory apartment requires a special permit per section 6.7.1.D.2

SR2 Zone	Required	Existing	Proposed
Lot Size	15,000 square feet	15,000 square feet	No change
Frontage	100 feet	100 feet	No change
Setbacks			
• Front	30 feet	33.2 feet	No change
• Side	15 feet	16.4 feet	No change
• Rear	15 feet	41.1 feet	No change
FAR	.33	.28	No change
Max. Lot Coverage	20%	19.5%	No change
Min. Open Space	65%	73%	No change

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
Ordinance		Action Required
§6.7.1.D.2	To allow an accessory apartment larger than 1,000 square feet	S.P. per §7.3.3

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 a SPECIAL PERMIT/SITE PLAN APPROVAL for the creation of an internal accessory apartment exceeding 1,000 square feet, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman, Councilor Gregory Schwartz:

1. The site is an appropriate location for an accessory apartment within a single-family dwelling as the existing structure can accommodate the accessory apartment without substantial changes to the single-family structure. (§6.7.1.D.1 and §7.3.3.C.1)
2. The accessory apartment will not adversely affect the neighborhood as it will be located in existing space within, and accessed at the rear of, the single-family dwelling. (§7.3.3.C.2)
3. There will be no nuisance or serious hazard to vehicles or pedestrians (§7.3.3.C.3)
4. Access to the site is appropriate for the types and numbers of vehicles involved. (§7.3.3.C.4)
5. The proposed exterior alterations, the creation of a rear entrance and associated landing that will not be visible from a public way, are in keeping with the architectural integrity of the structure and character of the neighborhood (§6.7.1.D.3)
6. The creation of an accessory apartment will help to diversify Newton's housing stock consistent with Newton's *Comprehensive Plan*, by providing an additional unit of housing without the expense, environmental impact, and increased massing associated with new construction.

PETITION NUMBER: #266-19

PETITIONER: Keren Diamond

LOCATION: 342 Dudley Road, on land known as Section 82 Block 4A Lot 2, containing approximately 16,700 sq. ft. of land

OWNERS: Keren Diamond

ADDRESS OF OWNER: 342 Dudley Road
Newton, MA

TO BE USED FOR: Accessory apartment in a single-family dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Special Permit per §7.3.3 to allow an accessory apartment in a single-family dwelling exceeding 1,000 square feet (§6.7.1.D.2)

ZONING: Single Residence 2 (SR2) 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 plan entitled "Plan of Land in Newton, MA, 342 Dudley Road, Proposed Additions," prepared by Everett M. Brooks Co., dated October 28, 2002, stamped and signed by Bruce Bradford, Professional Land Surveyor,), as submitted by the petitioner hand-modified to identify the extent and locations of areas occupied by "2003 Finished Additions" and a "Finished Deck."
 - b. A set of architectural plans entitled "Diamond Residence, 342 Dudley Road, Newton, Mass.," prepared by Nashawtuc Architects Inc., June 3, 2019, signed and stamped by Anita L. Roberts, Registered Architect:
 - i. Basement Demolition Plan (D1)
 - ii. Basement Plans & Plan Notes (A1)
 - iii. Basement Plans & Plan Notes (A1), as submitted by the petitioner hand-modified to show extent of area to be occupied by the accessory apartment
 - iv. Basement Electrical Plan & Schedule (E1)
 - c. A document entitled "Floor Area Ratio Worksheet" indicating, *inter alia*, the property as having a "Total gross floor area" of 4,750.8 square feet, a "Lot size of 16,700±," and a "FAR" (floor area ratio) of .28.
2. The accessory apartment must be held in common ownership with the principal dwelling unit.
3. The owner of the dwelling shall occupy either the principal unit or the accessory apartment and shall file an annual affidavit with the Commissioner of Inspectional Services attesting to this fact prior to July 1 of every year.
4. When ownership of the property changes the new owner shall notify the Commissioner of

the Inspectional Services Department at which time the Commissioner shall conduct a determination of compliance with this decision and all applicable codes.

5. Before the issuance of a building permit pursuant to this Special Permit/Site Plan Approval, the petitioner shall file with the Inspectional Services Department and the Department of Planning and Development final as-built plans in paper and digital format signed and stamped by a licensed land surveyor reflecting the 2002 expansion of the dwelling as well as any and all existing conditions.
6. 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 Order for the approved Special Permit/Site Plan Approval with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded 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.
7. No Final Inspection and/or Occupancy Permit for the buildings covered by this Special Permit/Site Plan approval shall be issued until the petitioner has:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered land surveyor or engineer certifying compliance with Condition #1.
 - b. Submitted to the Director of Planning and Development, Commissioner of Inspectional Services and City Engineer,
 - c. Filed with the City Clerk and the Department of Inspectional Services a statement by the Director of Planning and Development approving the final site plan.