



**City of Newton, Massachusetts**  
Department of Planning and Development  
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Ruthanne Fuller  
Mayor

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Barney S. Heath  
Director

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**PUBLIC HEARING MEMORANDUM**

Public Hearing Date:	November 7, 2019
Land Use Action Date:	December 10, 2019
City Council Action Date:	December 16, 2019
90-Day Expiration Date:	February 5, 2020

DATE: November 1, 2019

TO: City Council

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

SUBJECT: **Petition #352-19**, for a SPECIAL PERMIT/SITE PLAN APPROVAL to exceed the floor area ratio at **32 Berkshire Road**, Ward 2, Newton Centre, on land known as SBL 64, 12, 05 containing approximately 9,600 sf of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec. §3.1.9, §7.8.2.C.2, and §7.4, of Chapter 30 of the City of Newton Rev Zoning Ord, 2015.

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



**32 Berkshire Road**

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## **EXECUTIVE SUMMARY**

The subject property located at 32 Berkshire Road consists of a 9,600 square foot lot improved with a single-family dwelling constructed circa 1922. The property is located within the Single Residence 2 (the "SR-2") zone in Newton Centre. The petitioner is seeking to enlarge an attached garage and to construct a second story atop it to create additional living space. The addition exceeds the as of right floor area ratio (the "FAR") for the lot, requiring a special permit. Therefore, the petitioner requires a special permit to exceed the FAR from .38 to .43, where .39 is the maximum allowed as of right. If approved, the addition would add 543 square feet to the dwelling for a total of 4,140 square feet, where 3,744 square feet is the maximum allowed, a difference of 399 square feet. The structure's footprint will be expanded by 100 square feet and will remain compliant with the dimensional standards of a single-family dwelling on an old lot in the SR-2 zone. Moreover, the addition will be subordinate to and set back from the principal structure. For these reasons, the Planning Department believes that the expanded structure will be consistent with and will not be in derogation of the size, scale, and design of other structures in the neighborhood.

### **I. SIGNIFICANT ISSUES FOR CONSIDERATION**

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

- The proposed increase in FAR from .38 to .43, where .39 is the maximum allowed as of 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)

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

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

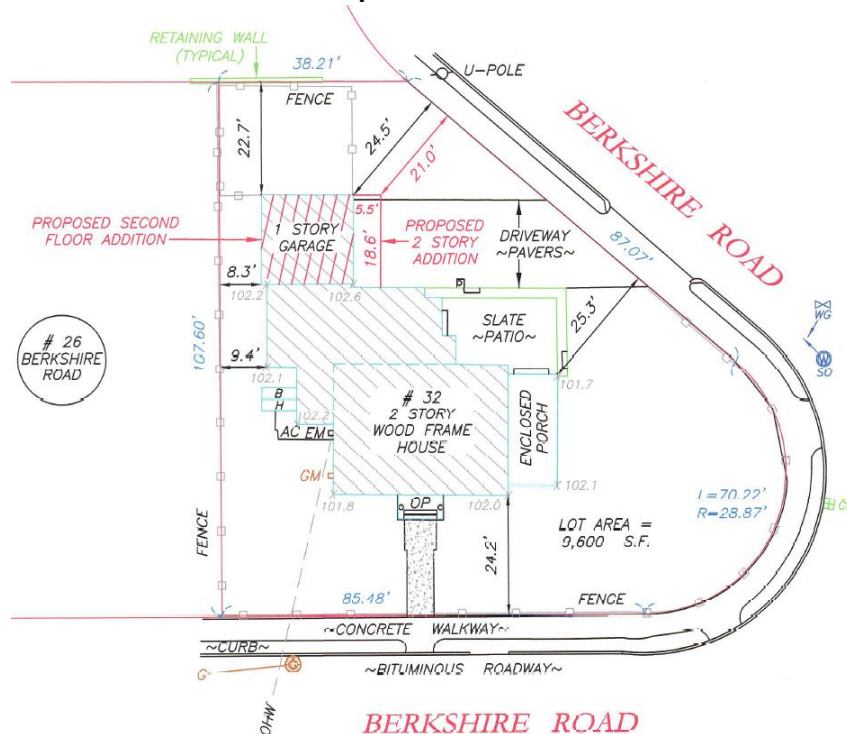
The subject property is located along Berkshire Road in the SR-2 zone in Newton Centre. The immediate area and the surrounding neighborhood are located within the SR-2 zone, except Public Use zones to the east and the west (**Attachment A**). As such, the neighborhood consists predominantly of single-family uses, except a Mixed-Use parcel, a nonconforming multi-family use, and the Open Space parcel to the west (**Attachment B**).

#### **B. Site**

The site consists of 9,600 square feet of land and it is improved with a 2.5-story, single-family dwelling constructed circa 1922. The site has frontage on two different segments of Berkshire Road. Due to the location of the front door, the northern boundary is a side yard, while the eastern boundary is the rear yard. The site has access from the southern portion of Berkshire Road via a 15-foot wide curb cut at the

lot's northwest corner that provides access to a driveway constructed of pavers and a two-stall attached garage. The site is enclosed by fencing of varying heights and contains mature landscaping.

### Proposed Site Plan



## III. PROJECT DESCRIPTION AND ANALYSIS

### A. Land Use

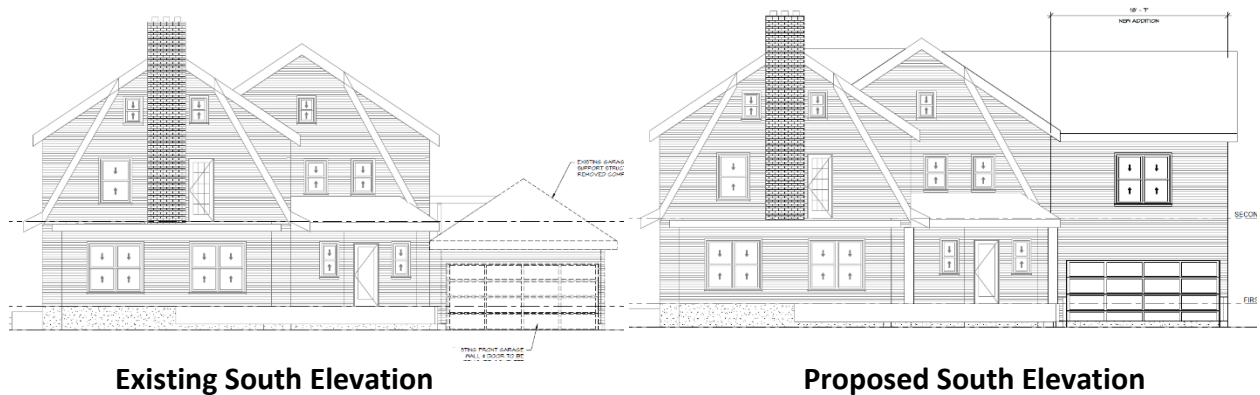
The principal use of the site is and will remain a single-family dwelling.

### B. Building and Site Design

The petitioner is proposing to enlarge the attached garage and to construct a second-story addition atop the expanded garage to create additional living space. The addition will increase the garage's depth by approximately 5.5 feet, reducing the front yard setback to 21 feet, where 20.9 feet is the minimum allowed. Because the second-story addition will be constructed on the footprint of the garage, there will be no change to the side or the rear setbacks.

The living space in the second floor above the garage will be accessed via the principal dwelling. A portion of the roof in this area will be reframed which will result in a consistent ridgeline across the structure from the west to the east. The addition will expand the structure by approximately 100 square feet and will remain compliant with the dimensional standards of an old lot in the SR-2 zone. The addition will also be

subordinate to and will be set back from the principal dwelling. For these reasons, the Planning Department believes that the expanded structure will be consistent with and will not be in derogation of the size, scale, and design of other structures in the neighborhood.



C. Parking and Circulation

The petitioner is not proposing changes to either the parking or circulation on site.

D. Landscaping and Screening

A landscape plan is not required with this petition.

IV. TECHNICAL REVIEW

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

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

- §3.1.9 and §7.3.3 of Section 30, to exceed the FAR

B. Engineering Review

Review from the Engineering Division of Public Works is not required at this time. The petition will be reviewed for conformance with the City of Newton Engineering Design Standards prior to the issuance of a building permit, should this petition be approved.

C. Newton Historical Commission Review

This petition does not meet the minimum threshold for review from the Newton Historical Commission.

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 Order

# Attachment A Zoning Map Berkshire Rd., 32

*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

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Map Date: October 23, 2019












# Attachment B Land Use Map Berkshire Rd., 32

*City of Newton,  
Massachusetts*

## Legend

### Land Use

### Land Use

-  Single Family Residential
-  Multi-Family Residential
-  Mixed Use
-  Open Space
-  Building Outlines
-  Surface Water
-  Property Boundaries



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**Barney S. Heath**  
Director

## ZONING REVIEW MEMORANDUM

Date: July 8, 2019

To: John Lojek, Commissioner of Inspectional Services

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

Cc: Maria Yanakakis, Applicants  
Phillip Kritikos, Architect  
Barney S. Heath, Director of Planning and Development  
Jonah Temple, Acting City Solicitor

**RE: Request to exceed the FAR**

Applicant: Maria Yanakakis	
<b>Site:</b> 32 Berkshire Road	<b>SBL:</b> 24040 0001
<b>Zoning:</b> SR2	<b>Lot Area:</b> 9,600 square feet
<b>Current use:</b> Single-family dwelling	<b>Proposed use:</b> No change

### BACKGROUND:

The property at 32 Berkshire Road consists of an 8,130 square foot lot improved with a single-family residence constructed in 1922. The petitioners propose to expand an existing garage, and to construct two bedrooms above. The proposed changes will exceed the as of right FAR, requiring a special permit.

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

- Zoning Review Application, prepared by Arlon Souza, architect, submitted 6/13/2019
- FAR Worksheet, submitted 6/13/2019
- Proposed Plot Plan, signed and stamped by Dennis O'Brien, surveyor, 10/18/2018



**ADMINISTRATIVE DETERMINATIONS:**

1. The petitioner intends to construct an addition to the existing garage, as well as two bedrooms above. The existing FAR is .38, where .39 is the maximum allowed as of right. The proposed addition adds 543 square feet to the dwelling, resulting in a FAR of .43. A special permit pursuant to Sections 3.1.9 and 7.3.3 is required to exceed the FAR.

<b>SR2 Zone</b>	<b>Required</b>	<b>Existing</b>	<b>Proposed</b>
Lot Size	10,000 square feet	<b>9,600 square feet</b>	<b>No change</b>
Frontage	80 feet	172 feet	No change
Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Rear</li> </ul>	20.9 feet* 7.5 feet 15 feet	24.2 feet 8.3 feet 22.7 feet	21 feet No change No change
Height	36 feet	29 feet	No change
FAR	.39	<b>.38</b>	<b>.43</b>
Max Lot Coverage	30%	22.8%	24.1%
Min. Open Space	50%	61.8%	61.7%

\* Average per section 1.5.3.B

1. See “Zoning Relief Summary” below:

<b>Zoning Relief Required</b>		
<i>Ordinance</i>		<i>Action Required</i>
§3.1.9, §7.3.3	Request to exceed the FAR	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 the following SPECIAL PERMIT/SITE PLAN APPROVAL to further increase the floor nonconforming area ratio (the "FAR") from .38 to .43, where .39 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 in FAR from .38 to .43, where .39 is the maximum allowed as of right is consistent with and not in derogation of the size, scale, and design of other structures in the neighborhood because the expanded structure will comply with the dimensional standards of a structure on an old lot in the SR-2 zone and will be subordinate to and will be set back from the principal dwelling. (§3.1.9, §7.8.2.C.2)

PETITION NUMBER: #352-19

PETITIONER: Maria Yanakakis

LOCATION: 32 Berkshire Road, on land known as Section 24, Block 40,  
Lot 01, containing approximately 9,600 square feet of land

OWNER: Maria Yanakakis

ADDRESS OF OWNER: 32 Berkshire Road  
Newton, MA 02460

TO BE USED FOR: Single-Family Dwelling

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: §3.1.9 and §7.3.3 to exceed the floor area ratio

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. Plot Plan showing Proposed Conditions, prepared by O'Brien Land Surveying, signed and stamped by Dennis O'Brien, Professional Land Surveyor, dated September 14, 2018, Revised October 18, 2018
  - b. Architectural Plans, prepared by Kritikos Associates Architects, signed and stamped by Phillip Kritikos, Registered Architect, dated October 29, 2018, consisting of eight (8) sheets.
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. 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 council 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. Filed with the City Clerk, the Commissioner of Inspectional Services, and the Department of Planning and Development, a statement from the Engineering Division approving the final site plan.
  - d. 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 petitioner has:
  - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a land surveyor certifying compliance with Condition #1 as well as the as-built floor area ratio 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 professional land surveyor.
  - c. 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.