



Setti D. Warren
Mayor

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

425-13

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089

www.newtonma.gov


Candace Havens
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: January 14, 2014
Land Use Action Date: January 28, 2014
Board of Aldermen Action Date: February 3, 2014
90-Day Expiration Date: April 14, 2014

DATE: January 10, 2014

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Stephen Pantalone, Senior Planner 

SUBJECT: **Petition #425-13**, Lisa B. & Jeffrey B. Miller for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE to construct a one-story addition to the kitchen at the rear of an existing single-family dwelling, which will increase the Floor Area Ratio from .43 to .47, where .46 is the maximum allowed by-right and increase the maximum lot coverage from 32% to 35%, where 30% is the maximum, at **183 Adams Avenue**, West Newton, Ward 3, on land known as SBL 34, 32, and 10, containing approx. 4,414 sq. ft. of land in a district zoned SINGLE RESIDENCE 2. Ref: Sec 30-24, 30-23, 30-21(b), 30-15 Table A, and 30-15(u), of the City of Newton Rev Zoning Ord, 2012.

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.



183 Adams Avenue

EXECUTIVE SUMMARY

The property at 183 Adams Avenue consists of a 4,414 square foot lot improved with a single-family two-story residence constructed in approximately 1955. The existing structures on the site are nonconforming in regards to lot coverage. The petitioner is proposing to construct a one-story addition to the rear of the house, which will increase the nonconforming lot coverage and increase the Floor Area Ratio (FAR) above the maximum allowed by right. The proposed addition will increase the lot coverage from 32% to 35%, where 30% is allowed by right, and the FAR from .43 to .47, where .46 is allowed by right.

The site is a corner lot, bound by Adams Avenue and a paper street known as Dearborn Street. The petitioner and other abutting property owners used portions of Dearborn Street for their private uses in the early 1950's. In 1955, the property owners and the City signed an agreement which allowed the owners to maintain those uses under the conditions that they would 1) keep open a four-foot wide public footpath in the middle of Dearborn Street connecting Adams Ave and Cleveland Street; and 2) never request the City to accept Dearborn Street as a public way.

The proposed addition will be constructed on existing impervious areas and will not impact the amount of open space on the site. The proposed addition will be mostly screened at the ground level by the approximately seven foot fence that wraps around the rear of the property. The Planning Department believes that the proposed addition will not be substantially more detrimental than the existing nonconforming structure, 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 Board should consider whether:

- The proposed structure with regard to FAR is consistent with and not in derogation of size, scale and design of other structures in the neighborhood.
- The extension of the structure in regards to lot coverage is not substantially more detrimental than the existing nonconforming structure to the neighborhood.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is at the corner of Adams Avenue and Dearborn Street (a paper street) in West Newton. The land uses in the surrounding neighborhood are predominantly single-family residences. The site is zoned Single-Residence 3. See Attachment C for the Zoning Map and Attachment D for the Land Use Map.

B. Site

The site consists of a 4,414 square foot lot improved with a single-family two-story residence constructed in approximately 1955. The site has an in-ground pool, patio, and cabana at the rear of the lot, which are surrounded by an approximately seven foot tall wood fence. There is a driveway on the east side of the property which currently parks approximately three to four cars. The only green space on the property is in the ten foot front setback.

The site is a corner lot, bound by Adams Avenue and a paper street known as Dearborn Street. The petitioner uses a portion of Dearborn Street for their off-street parking, a patio, and passive recreation (see **Attachment E** for Aerial Map). Dearborn Street has never been approved and at the request of abutters in 1953, the City cut it off from Adams Ave by the erection of a sidewalk and curbing along Adams Ave. This work was completed in 1954 and since that time several of the abutters have used portions of Dearborn Street abutting their properties. As of 1955, all of the abutters had signed an indenture (see **Attachment B**) agreeing 1) to keep open a four-foot wide public footpath in the middle of Dearborn Street connecting Adams Ave and Cleveland Street; and 2) to never request the City to accept Dearborn Street as a public way.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property will remain a single-family residence.

B. Building and Site Design

The petitioner is proposing to remove the cabana in the rear of the house, and to construct a one-story addition, small porch, and new access stairs to the expanded basement. The proposed one-story addition will allow the petitioner to rearrange the first floor and provide additional living space. The proposed additions will add approximately 200 square feet in floor area.

The existing fence surrounding the rear of the house will screen the proposed addition from the public way and abutters. The location of the proposed addition is over an area that is already impervious, thus the increase in lot coverage will not significantly impact drainage or green space on the site. For these reasons, the Planning Department believes that the proposed addition will not be substantially more detrimental than the existing nonconforming structure, and will not be in derogation of the size, scale and design of other structures in the neighborhood.

C. Parking and Circulation

There are no changes to parking or circulation on the site.

D. Landscape Screening

There is no significant vegetation on the site; however there is an approximately seven foot fence that surrounds the pool and patio area in the rear of the site and provides screening from property abutters.

IV. TECHNICAL REVIEW

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

The Zoning Review Memorandum (**ATTACHMENT A**) provides an analysis of the proposal with regard to zoning. The petitioner is requesting a special permit to extend a nonconforming structure with regard to lot coverage and to exceed the maximum allowed floor area ratio.

B. Engineering Review

As the petitioner is not increasing the impervious surfaces on the lot by more than 4% no engineering review is required.

V. ZONING RELIEFS SOUGHT

Based on the Zoning Review Memorandum, the petitioner is seeking the following reliefs:

- Section 30-15 Table A, 30-15(u), to exceed allowed FAR of .46 with an FAR of .47.
- Section 30-15 Table A, 30-21 (b), to extend a nonconforming structure with regard to maximum lot coverage from 32% to 35%.

VI. PETITIONER'S RESPONSIBILITIES

The petition is considered complete at this time.

ATTACHMENTS:

- Attachment A:** Zoning Review Memorandum
Attachment B: Dearborn Street Agreement
Attachment C: Zoning Map
Attachment D: Land Use Map
Attachment E: Aerial Map



Setti D. Warren
Mayor

ATTACHMENT A

Telephone
425-13
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

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

Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: October 3, 2013

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Alexandra Ananth, Chief Planner for Current Planning

Cc: Charles Navratil, Architect representing the applicants
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to increase FAR and nonconforming lot coverage

Applicant: Jeffrey and Lisa Miller	
Site: 183 Adams Ave	SBL: 34032 0010
Zoning: SR2	Lot Area: 4,414 square feet
Current use: Single-family dwelling	Proposed use: No change

BACKGROUND:

The property at 183 Adams Ave consists of a 4,414 square foot lot created when two lots created in 1897 were combined. The lot is improved with a single-family residence constructed in approximately 1955. A variance (#14-55) was granted in August of 1955 to allow for a ten foot setback from Dearborn Street, instead of the required front setback of 25 feet, as Dearborn has never been approved by the City and has never been built. An in-ground pool added in 1963. The structure consists of two stories and an attic level, with a total of about 1600 square feet of living space. The applicant proposes to add a modest one-story rear addition to the kitchen, thereby increasing the already nonconforming lot coverage of 32% to 35%, where 30% is the maximum allowed. This addition will also increase the FAR of .43 to .47, where .46 is allowed by right.

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

- Zoning Review Application, prepared by Charles Navratil, Architect, submitted 9/23/13
- Plot plan, prepared by Medford Engineering and Survey, dated 9/9/13
- Proposed Plot plan, prepared by Medford Engineering and Survey, dated 9/9/13
- Architectural plans, prepared by Architects 2, Architects, submitted 9/23/09
 - Existing Plan
 - Scheme 3

- Rear Elevation
- Side Elevation
- Section

ADMINISTRATIVE DETERMINATIONS:

1. The property at 183 Adams Ave is a corner lot, bound by Adams Ave and a paper street known as Dearborn Street. Dearborn Street has never been approved, and at the request of abutters in 1953, the City of Newton cut it off from Adams Ave by the erection of a sidewalk and curbing along Adams Ave. This work was completed in 1954 and since that time several of the abutters have seeded over the portions of Dearborn Street abutting their properties. As of 1955, all of the abutters had signed an indenture agreeing to 1) keep open a four-foot wide public footpath in the middle of Dearborn Street connecting Adams Ave and Cleveland Street; and 2) never to request the City to accept Dearborn Street as a public way. The property at 183 Adams Ave uses portions of the paper street for their off-street parking, a patio and for passive recreation.
2. The proposed addition increases the structure's pre-existing nonconforming lot coverage from 35%, to 32%, which exceeds the 30% maximum permitted by the Ordinance per Section 30-15, Table A. To construct the addition as proposed, the applicants must obtain a special permit from the Board of Aldermen per Section 30-21(b).
3. The proposed addition increases the structure's FAR from .47 to .43, where .46 is allowed by right. As the structure required a variance from the front setback requirements and does not comply with the new lot setbacks, the applicants may not take advantage of the .02 bonus. To construct the addition as proposed, the applicants must obtain a special permit from the Board of Aldermen per Section 30-15(u).

SR2 Zone	Required	Existing	Proposed
Lot Size	10,000 square feet	4,414 square feet	No change
Frontage	80 feet	40 feet	No change
Setbacks for existing structure			
• Front	25 feet	25 feet	No change
• Side	7.5 feet	7.7 feet on right	No change
• Rear	15 feet	38 feet	30 feet
FAR	.46	.43	.47
Max. Lot Coverage	30%	32%	35%

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>		<i>Action Required</i>
§30-15 Table A, §30-21(b)	Exceed existing nonconforming Maximum Lot Coverage	S.P. per §30-24
§30-15 Table A, §30-15(u),	Exceed FAR	S.P. per §30-24

14-55

CITY OF NEWTON
BOARD OF APPEAL

In re Petition of Jill Reality Trust for permission to locate a dwelling ten feet from Dearborn Street and twenty-six feet from Adams Avenue on Lot 11, Section 33, Block 8, West Newton.

Pursuant to due notice the Board of Appeal met in the Hearing Room at Newton City Hall on July 26, 1955. Present were Frederick A. Hawkins, Louis W. Ross, Charles S. Grover, members of the Board, Arthur Campbell, Public Buildings Commissioner, Malcolm Warren, Newton City Inspector, the Petitioner, Paul S. Rich, attorney for Petitioner, and several residents of the neighborhood.

Inasmuch as the lot in question is in Private Residence District, the Zoning Ordinance requires a twenty-five foot set back from each street. While the proposed building will be more than twenty-five feet from Adams Avenue it will be only ten feet from Dearborn Street. However Dearborn Street has never been approved and, at the request of the abutters, the City of Newton cut it off from Adams Avenue by erection of a sidewalk and curbing along Adams Avenue. This work was completed in 1954 and since that time several of the abutters have seeded over their portions of Dearborn Street. Moreover all of the abutters have signed an indenture, copy of which is on file in the office of the Public Building Commissioner, agreeing (1) to keep open a so-called public foot path four feet in width in the middle of Dearborn Street between Adams Avenue and Cleveland Street and (2) never to request the City of Newton to accept Dearborn Street as a public way.

In view of the foregoing facts we find that the proposed building will involve no substantial detriment to the neighborhood and that denial of the petition will result in substantial hardship for the petitioner. We also find that the proposed building will be without derogation from the purpose and intent of the Zoning Ordinance.

Therefore we authorize the building as shown on the plan on file with the Public Building Commissioner.

Newton, Massachusetts
August 10, 1955

Fred. A. Hawkins

Louis W. Ross

Charles S. Grover
Chairman

August 16, 1955

Paul L. Rich, Esq.
Attorney at Law
392 Centre Street
Newton 58, Massachusetts

Dear Sir:

I enclose a photostatic copy of the Board of Appeal decision on the petition of the Jill Realty Trust.

If you should wish to have a signed copy, we can supply it later when some of the members return from vacation.

Please note that this decision was recorded with the City Clerk on August 15, 1955, and that there is an appeal period of fifteen days from that date.

Very truly yours,

PUBLIC BUILDINGS COMMISSIONER

Enc.

C O P Y

Paul S. Rich
Attorney at Law
392 Centre Street
Newton 58, Mass.

July 7, 1955

Board of Appeal
City of Newton
Newton Centre 59, Mass.

Gentlemen:

Jill Realty Trust, owner of land on Adams Avenue, West Newton (Ward 3) and identified as Lot 11, in Section 33, Block 8 of Assessors lists, appeals for a variance from the Zoning Ordinance as follows:

Lot 11 is known as Lots 34 and 35 upon a plan entitled "Plan of Land in West Newton" dated July 2, 1897 and duly recorded with Middlesex So. District Deeds, Book of Plans 105, Plan 39. Together lots 34 and 35 contain 4,500 sq. ft. of land.

Lot 11 is on the corner of Adams Avenue and a paper street known as Dearborn Street. Said Dearborn Street was, at the request of abutting owners, cut off by the City of Newton from Adams Avenue by erection of sidewalk and curbing along said Adams Avenue. This work was completed in 1954, and since then several owners have seeded over their portion of Dearborn St. and fenced it in to some degree.

Your petitioner seeks to procure a building permit, but to set back from the edge of Dearborn St. the necessary footage would preclude forever the building on Lot 11. Therefore, your petitioner seeks a variance so that it may build within ten (10) feet of the present lot line of Dearborn St., said Dearborn St. being used as frontage of the building although it would of course carry a listing on Adams Avenue.

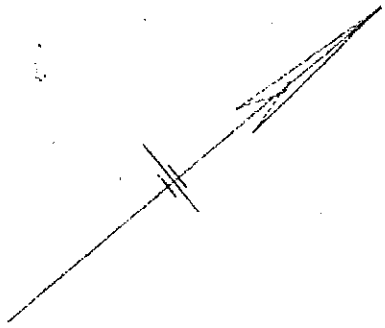
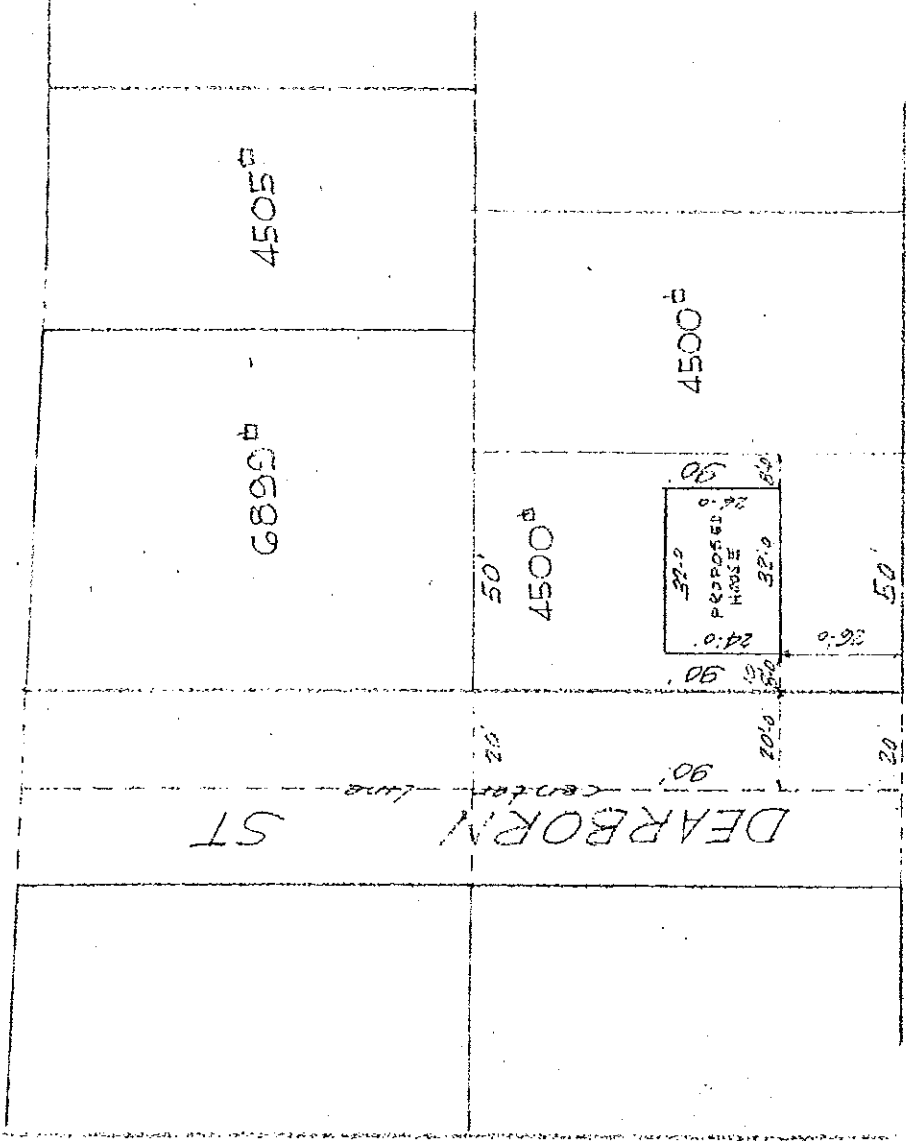
This variance is absolutely essential to the development of this very old lot, and is respectfully requested.

JILL REALTY TRUST

By Paul S. Rich
It's Attorney

JRT/PSE/rd

CLEVELAND ST



PLOT PLAN
 TO ACCOMPANY
 PETITION OF
 JAMES SUTCLIFFE
 IN

NEWTON, MASS.

SCALE 1/4" = 40 FT JULY 12, 1955
 WILLIAM J. FOEDER, JR. C.E.
 NEWTONVILLE MASS

ADAMS AVE

C O P Y

July 14, 1954

Mr. Willard S. Pratt
Director of Public Works
City of Newton
Newton City Hall
Newton Centre, Mass.

Re: Closing of Dearborn St. to automobile
traffic only from Cleveland St. in a
northerly direction to Adams Ave.

Dear Sir:

We, the abutters, petition the Public Works Department to run their curbing on Adams Ave. straight across Dearborn St. at its most northerly point.

We, the abutters, agree that if in the future it is found necessary to remove this curbing that we will pay for its removal.

(Signed) Edmond H. White, Jr.

(Signed) Stanley H. Aston

(Signed) James M. Sutcliffe

(Signed) Frederick A. Booth

14-55

"Original" of this list for petitioner, to be transmitted by him together with "return receipts" to City Clerk Dept. Carbon copy to be transmitted by Assessors to City Clerk Department.

Name and Address of Petitioner for Permit under the Zoning Ordinance... Hill Realty Trust.....
Paul S. Rich Attorney
397 Centre St. Newton...

Location covered by petition (street and number) Adams Ave - Lot 11 - Section 33
Block 8
 Date of hearing _____ 195_____

LIST OF PROPERTY OWNERS TO WHOM NOTICES OF HEARING ARE TO BE SENT BY REGISTERED MAIL, AS FURNISHED BY THE ASSESSING DEPARTMENT:

Section	Block	Lot	Name of Property Owner	Address (Street & Number, City, and State.)	
1.	33	8	11	Thomas M. Sutcliffe 10A Green space	70 1/2 Bedford Rd WMA
2.	33	8	10	Blair G. Spoon	94 Reservoir St Need.
3.	33	8	12	Stanley H. Carter	530 Walnut St. Need.
4.	33	9	1	Wendell A. Booth	193 Adams Ave WN
5.	33	9	3	John J. Chagnon	58 Lexington St Aub.
6.	33	9	22	Edmund H. White Jr.	79 Cleveland St WN
7.	33	9	23	Wm C. Young 70 Richard White Sons	70 Crescent St WN
8.	34-39	21	Edmond L. Lawrence	182 [unclear]	
9.	34-39	22	John H. Coyer	176 Adams Ave	
10.	34-39	9	John J. Buckley	58 Grant St WN	
11.	34-39	10	Andrew C. Warland	54 Grant St WN	
12.	34	39	20	John J. Mitchell	192 Adams Ave WN
13.	33	8	14	William H. Holmes	95 Cleveland St WN

CITY OF NEWTON
BOARD OF APPEAL

In re Petition of Jill Realty Trust for permission to locate a dwelling ten feet from Dearborn Street and twenty-five feet from Adams Avenue on Lot 11, Section 33, Block 8, West Newton.

Pursuant to due notice the Board of Appeal met in the Hearing Room at Newton City Hall on July 26, 1955. Present were Frederick A. Hawkins, Louis W. Ross, Charles S. Grover, members of the Board, Arthur Campbell, Public Buildings Commissioner, Malcolm Warren, Newton City Inspector, the Petitioner, Paul S. Rich, attorney for Petitioner, and several residents of the neighborhood.

Inasmuch as the lot in question is in Private Residence District, the Zoning Ordinance requires a twenty-five foot setback from each street. While the proposed building will be more than twenty-five feet from Adams Avenue it will be only ten feet from Dearborn Street. However, Dearborn Street has never been approved and, at the request of the abutters, the City of Newton cut it off from Adams Avenue by erection of a sidewalk and curbing along Adams Avenue. This work was completed in 1954 and since that time several of the abutters have seeded over their portions of Dearborn Street. Moreover all of the abutters have signed an indenture, copy of which is on file in the office of the Public Buildings Commissioner, agreeing (1) to keep open a so-called public foot path four feet in width in the middle of Dearborn Street between Adams Avenue and Cleveland Street and (2) never to request the City of Newton to accept Dearborn Street as a public way.

In view of the foregoing facts we find that the proposed building will involve no substantial detriment to the neighborhood and that denial of the petition will result in substantial hardship for the petitioner. We also find that the proposed building will be without derogation from the purpose and intent of the Zoning Ordinance.

Therefore we authorize the building as shown on the plan on file with the Public Building Commissioner.

(Sgd) Fred A. Hawkins

(Sgd) Louis W. Ross

(Sgd) Chas. S. Grover
Chairman

Newton, Massachusetts
August 10, 1955

425-13
Zoning Map
183 Adams Ave.

*City of Newton,
Massachusetts*

Legend

- Streets - Pavement Edge
- Building Outlines

Zoning

- Single Residence 3

ATTACHMENT C



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



Map Date: December 12, 2013



425-13
Land Use Map
183 Adams Ave.

*City of Newton,
Massachusetts*

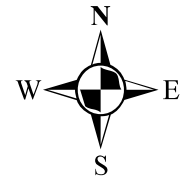
Legend

- Streets - Pavement Edge
- Building Outlines

Land Use

- Single Family Residential
- Multi-Family Residential
- Vacant Land

ATTACHMENT D

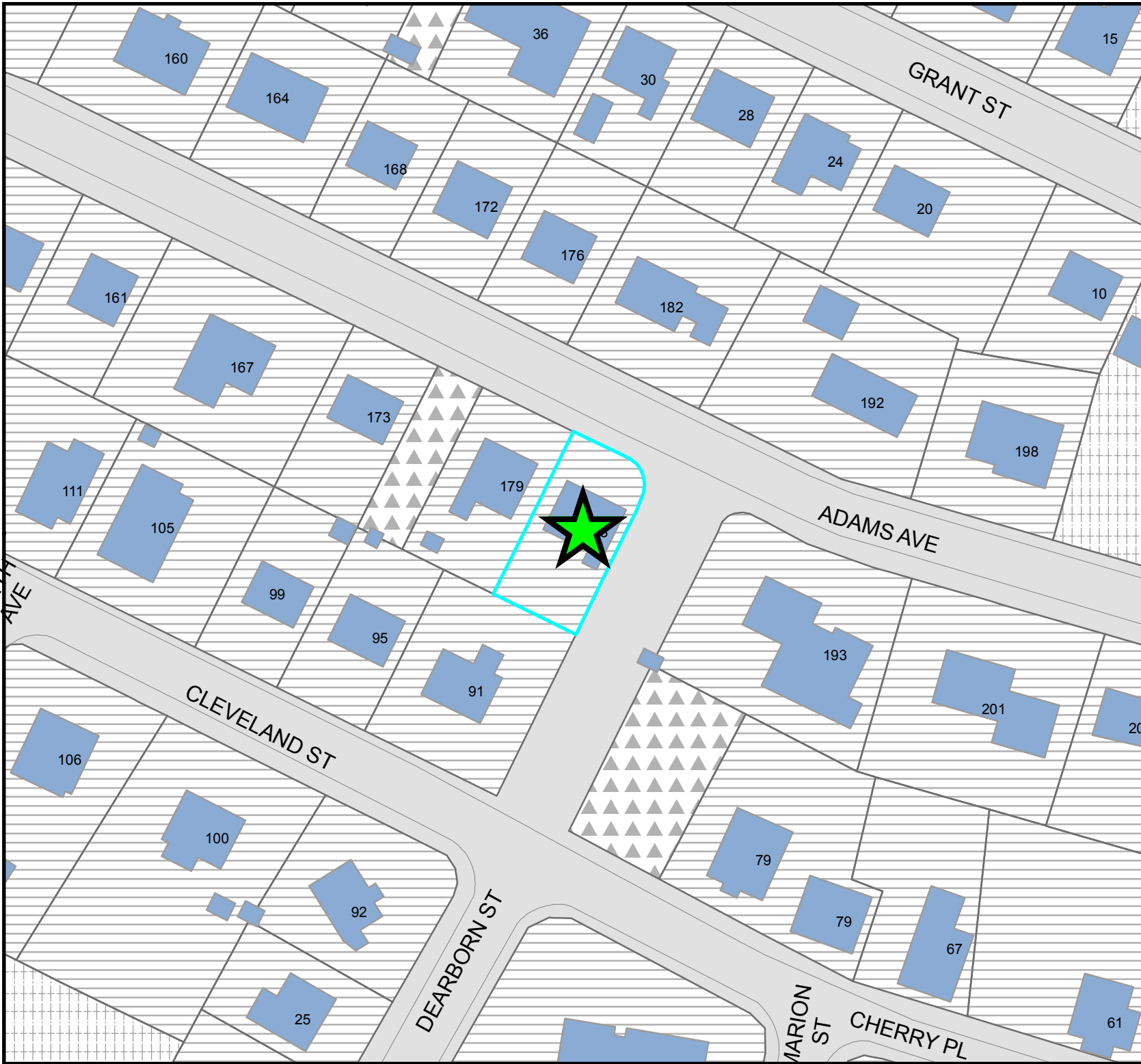


The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve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

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



Map Date: December 12, 2013



ATTACHMENT E

425-13

ADAMS AVE

Adams Ave

Dearborn Street



183

179

91

95

173

