



Setti D. Warren
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City of Newton, Massachusetts

Department of Planning and Development

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Candace Havens
Director

PUBLIC HEARING MEMORANDUM

Public Hearing Date: June 11, 2013
Land Use Action Date: August 13, 2013
Board of Aldermen Action Date: September 2, 2013
90-Day Expiration Date: September 9, 2013

DATE: June 7, 2013

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Alexandra Ananth, Chief Planner for Current Planning
Jane Santosuosso, Chief Zoning Code Official

SUBJECT: **Petition #180-13**, Shawn Telsi, for a SPECIAL PERMIT/SITE PLAN APPROVAL to convert approximately 210 square feet of existing basement space into a two-car garage in an existing single-family house which will increase the Floor Area Ratio from .45 to .48 where .45 is allowed at **20 Burrage Road**, Ward 7, on land known as SBL 73, 28, 06, containing approximately 5,771 sq. ft. of land in a district zoned Single Residence 2. Ref: Sec 30-24, 30-15(u)(2) 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.



20 Burrage Road

EXECUTIVE SUMMARY

The subject property consists of a 5,771 square foot lot improved with a single-family dwelling which is presently under construction. The house is located on a corner lot at the intersection of Burrage and Alderwood Roads. The petitioner is proposing to convert existing basement space into a two-car garage. The proposed conversion will increase the floor area ratio (FAR) from .45 to .48, where .45 is the maximum allowed by right.

The petitioner came before planning staff in August 2012 for a design review meeting regarding an increase in FAR for a proposed new single-family structure. The petitioner was strongly encouraged to reduce the size of the project so as to design a dimensionally conforming by-right residence.

The petitioner received Building Permit No. 12090699, issued on 11/16/12, which allowed for the construction of a single-family dwelling that met all zoning requirements. Plans approved by Inspectional Services did not include a garage; however, the landowner has built the dwelling to include a two-car garage located in the basement of the rear of the structure. In doing so, the petitioner has increased the Floor Area Ratio to .48, exceeding the .45 maximum allowed by right. The original building permit was revoked by Inspectional Services because of this change in plans and violation. A conditional building permit was issued on May 17, 2013, which allowed the petitioner to continue work on the interior of the house (but not the basement garage) until such time as a Special Permit is obtained. The petitioner is not proposing any changes to the house as built and is now seeking to legalize the noncompliant residence.

By approving this request, the Planning Department is concerned it suggests that it is of no consequence to disregard the dimensional controls. However, ultimately the immediate abutters will be the most inconvenienced by the elimination of the garage and parking for only one car on-site. Alternatively, to comply the petitioner could reduce the size of the house in other ways, such as eliminating a bedroom or a portion of a bedroom by removing two exterior walls and creating a porch, or reconstructing another portion of the house to reduce the FAR of the residence so that a special permit is not necessary.

I. SIGNIFICANT ISSUES FOR CONSIDERATION

When reviewing this request, the Board should consider whether the structure with regard to FAR is consistent with, and not in derogation of size, scale and design of other structures in the neighborhood.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The property is located at the corner of Burrage and Alderwood Roads. The neighborhood is comprised of single-family homes and the site is within an area zoned Single Residence 2.

B. Site

The site consists of 5,771 square feet of land and is generally level. The property contains a two-story contemporary style house, currently under construction. The subject property shares a driveway with the abutter to the west, 41 Alderwood Road via a five-foot easement. Due to the shared driveway situation, no parking is permitted in the driveway. There is one 9' x 19' paved parking space located in the northwest corner of the lot.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property is currently under construction, and will be used as a single-family residence.

B. Building and Site Design

The petitioner demolished a house on the property and is currently in the process of building a new contemporary style single-family dwelling. The dwelling is on a corner lot and is situated so as to face both streets by having its front entrance face the corner. The house that was originally permitted was approximately 2,595 square feet.

The as built house is approximately 2,789 square feet. The petitioner created the noncompliance by exposing a portion of the basement to create a two-car garage at the rear of the house. The exposure of the wall with a garage door adds to the portion of the basement that is now included in the calculation of FAR. The new garage adds approximately 210 to the gross floor area, increasing the FAR to .48 where .45 is the maximum allowed by right.

C. Parking and Circulation

The petitioner is proposing to continue to use the existing curb cut on Alderwood Road. The petitioner should explain how the shared driveway will be plowed and where snow will be stored in the winter.

The creation of the garage is beneficial to the neighborhood and also allows for the elimination of a second at-grade parking stall and curb cut at the southeast corner of

the site on Burrage Road from the originally permitted site plan. At the public hearing the petitioner should clarify how the proposed garage will impact maneuverability of either property.

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 exceed the maximum allowed FAR.
- B. Engineering Review: The Engineering Division of Public Works has reviewed the proposed project (**ATTACHMENT B**). Drainage will need to be properly installed to capture runoff before it enters the garage.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum the petitioner is seeking relief from Section 30-15(u)(2) to allow for a new residence to exceed the maximum allowed FAR.

VI. PETITIONERS' RESPONSIBILITIES

The petitioner should review all issues raised and respond at the public hearing.

ATTACHMENTS

- Attachment A:** Zoning Review Memorandum
Attachment B: Engineering Division Review Memorandum
Attachment C: Zoning Map
Attachment D: Land Use Map



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City of Newton, Massachusetts
Department of Planning and Development
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180-13
Attachment A

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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: May 14, 2013

To: John Lojek, Commissioner of Inspectional Services

From: Jane Santosuosso, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning ET

Cc: Terry Morris, Attorney representing the applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to exceed FAR

	SBL: 73 028 0006

BACKGROUND:

The property at 20 Burrage Road consists of a 5,771 square foot lot improved with a single-family residence which is currently under construction. The dwelling consists of two and one-half stories, and basement level with 2789 square feet total counting toward the Floor Area Ratio calculation. The applicant received Building Permit No. 12110277 dated 11/7/12 to demolish the existing house. Building Permit No. 12090699, issued 11/16/12, allowed for the construction of a dwelling by right. Plans approved by the Inspectional Services Department did not include a garage in the lower basement level, however the landowner built the dwelling to include the two-car garage. In doing so, the applicant brought the Floor Area Ratio to .48, where .45 is allowed by right. The Building Permit has been revoked by Inspectional Services and will not be re-issued until the applicant obtains a Special Permit from the Board of Aldermen to allow the increased FAR.

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

- Zoning Review Application, prepared by Terrence Morris, attorney, submitted 4/22/13
- FAR calculations, prepared by Terrence Morris, attorney, submitted 5/10/13
- Architectural plans, prepared by Marc Hershman, architect, dated 1/9/13, submitted 2/7/13

- Existing basement floor plans
- Existing first floor plans
- Existing second floor plans
- Existing attic plans
- Existing elevations (front, rear, sides)
- Proposed basement plans
- Proposed first floor plans
- Proposed second floor plans
- Proposed attic plans
- Proposed elevations (front, rear, sides)
- Area plan of land, signed and stamped by Bruce Bradford, Land Surveyor, dated 2/26/13
- Quitclaim deed
- Building permit application (Garage) and plot plan, dated 1/3/1928
- Building permit application and plot plan, dated 9/1/1927

ADMINISTRATIVE DETERMINATIONS:

1. The proposed garage increases the dwelling's FAR from .45 to .48, which exceeds the .45 permitted by the Ordinance per Section 30-15, Table A. To permit the garage as built, the applicant must obtain a special permit from the Board of Aldermen per Section 30-15(u)(2).

SR2 Zone	Required/Allowed	Existing	Proposed
Lot Size	10,000 square feet	5,771 square feet	No change
Frontage	80 feet	100 feet	No change
Setbacks for existing structure			
● Front (Burrage Rd)	25 feet	25.1 feet	No change
● Front (Adlerwood Rd)	25 feet	25.2 feet on right	No change
● Side	7.5 feet	7.7 feet on left	No change
● Rear	15 feet	16.0 feet	No change
FAR	.45	.45	.48
Building Height	36 feet	33.4 feet	34.6 feet
Maximum Stories	2.5		No change
Max. Lot Coverage	30%	28.6%	No change
Min. Open Space	50%	57.6%	No change

1. See "Zoning Relief Summary" below:

Zoning Relief Required		
Ordinance		Action Required
§30-15 Table A, §30-15(u), §30-15(u)(2)	Exceed maximum floor Area Ratio (FAR) of .45 to .48	S.P. per §30-24

**CITY OF NEWTON
ENGINEERING DIVISION**

MEMORANDUM

To: Alderman Ted Hess-Mahan, Land Use Committee Chairman

From: John Daghlian, Associate City Engineer

Re: Special Permit – 20 Burrage Road

Date: May 29, 2013

CC: Lou Taverna, PE City Engineer
Linda Finucane, Associate City Clerk
Alexandria Ananth, Sr. Planner

In reference to the above site, I have the following comments for a plan entitled:

*Proposed Revised Parking & Garage Plan
20 Burrage Road
Newton, MA
Prepared by: Alpha Omega Engineering
Dated: 4/30/13
Revised: 5/2/13*

Executive Summary:

The single-family dwelling that is under construction is proposing a garage under into the basement area. The access for the garage is via a common driveway shared by #15 Burrage. Since the garage is below grade, a drainage system is required to capture the runoff before it enters the garage floor. The plan shows an existing catch basin that is at a higher elevation than the garage floor and thus will not function properly. Based on a site visit the catch basin is about 1-foot higher than the garage floor and the 4-inch trench drain is only the length of the 3' wide door; therefore, a new drainage collection system is needed to capture the runoff the entire width of the garage door. See photo below.



The contractor has a 30-yard dumpster that is placed on the lot, however; the truck that makes the delivery & pick is traversing across the exposed root system of a City Tree. The City Arborist should be contacted to determine any damage to the City Tree.



Drainage:

1. A drainage analysis needs to be performed based on the City of Newton's 100-year storm event of 6-inches over a 24-hour period. All runoff from impervious areas need to be infiltrated on site, for the project. The design of the proposed on site

drainage system needs to comply with the MassDEP Stormwater Regulations and City Ordinances.

2. An Operations and Maintenance (O&M) plan for Stormwater Management Facilities needs to be drafted and submitted for review. Once approved the O&M must be adopted by applicant, incorporated into the deeds; and recorded at the Middlesex Registry of Deeds. A copy of the recording instrument shall be submitted to the Engineering Division.
3. It is imperative to note that the ownership, operation, and maintenance of the proposed drainage system and all appurtenances including but not limited to the drywells, catch basins, and pipes are the sole responsibility of the Homeowners Association.

General:

1. As of January 1, 2009, all trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. All tree removal shall comply with the City's Tree Ordinance.
3. The contractor is responsible for contacting the Engineering Division and scheduling an appointment 48 hours prior to the date when the utilities will be made available for an inspection of water services, sewer service, and drainage system installation. The utility in question shall be fully exposed for the inspector to view; backfilling shall only take place when the City's Inspector has given their approval. *This note should be incorporated onto the plans*
4. The applicant will have to apply for Street Opening, Sidewalk Crossing, and Utilities Connecting permits with the Department of Public Works prior to any construction. *This note must be incorporated onto the site plan.*
5. The applicant will have to apply for a Building Permit with the Department of Inspectional Service prior to any construction.

6. Prior to Occupancy Permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
7. All site work must be completed for a Certificate of Occupancy. *This note must be incorporated onto the site plan.*

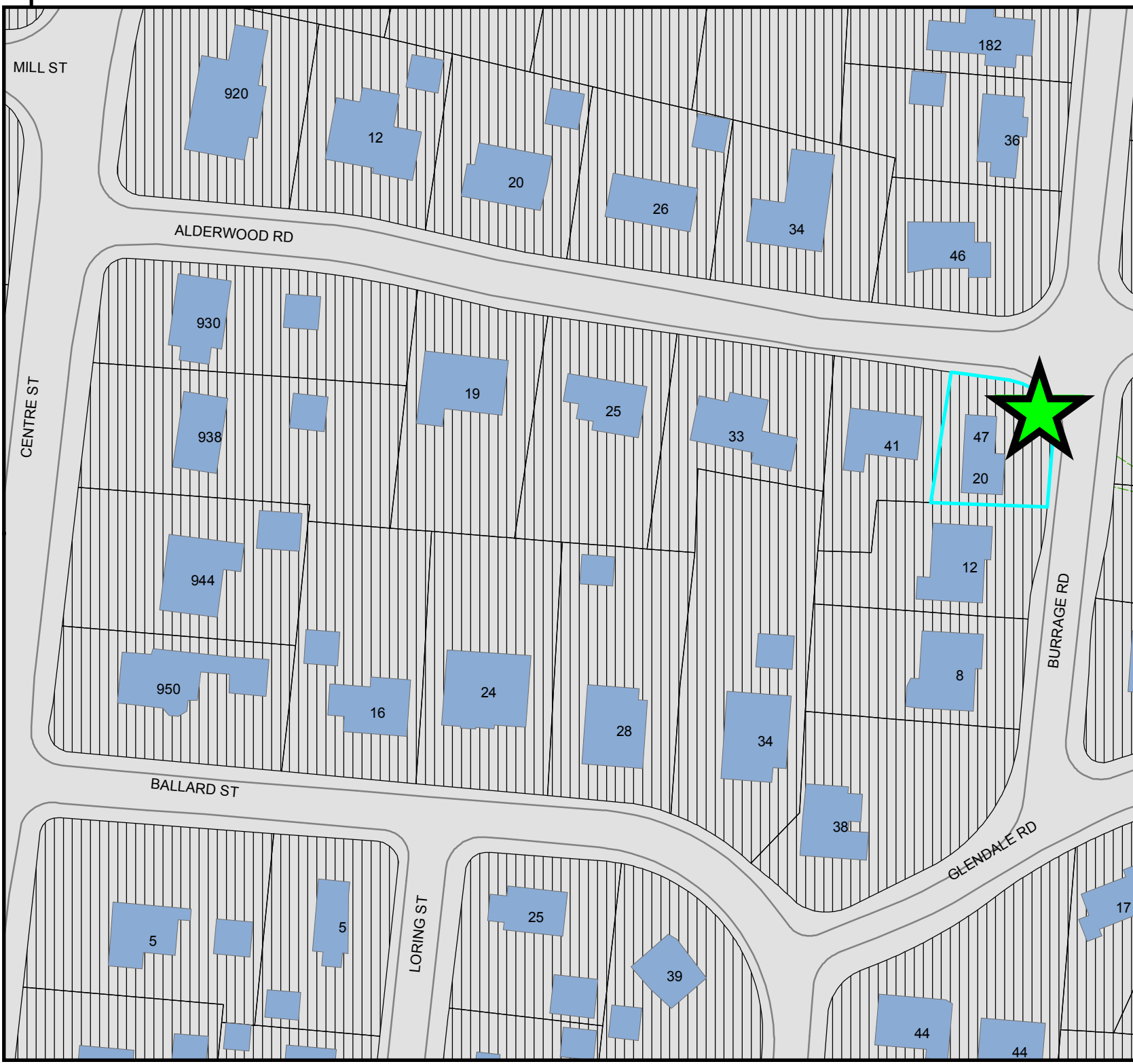
Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

180-13

Zoning Map 20 Burrage Rd.

*City of Newton,
Massachusetts*



Legend

- Single Residence 2
- Streets-Pavement Edge
- Building Outlines
- Surface Water



ATTACHMENT "C"

The information on this map is provided as a Geographic Information System (GIS) map. The City of Newton cannot guarantee the accuracy of the information. Each user of this map is responsible for determining its suitability for their intended purpose. City departments will not approve applications based solely on this map.

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

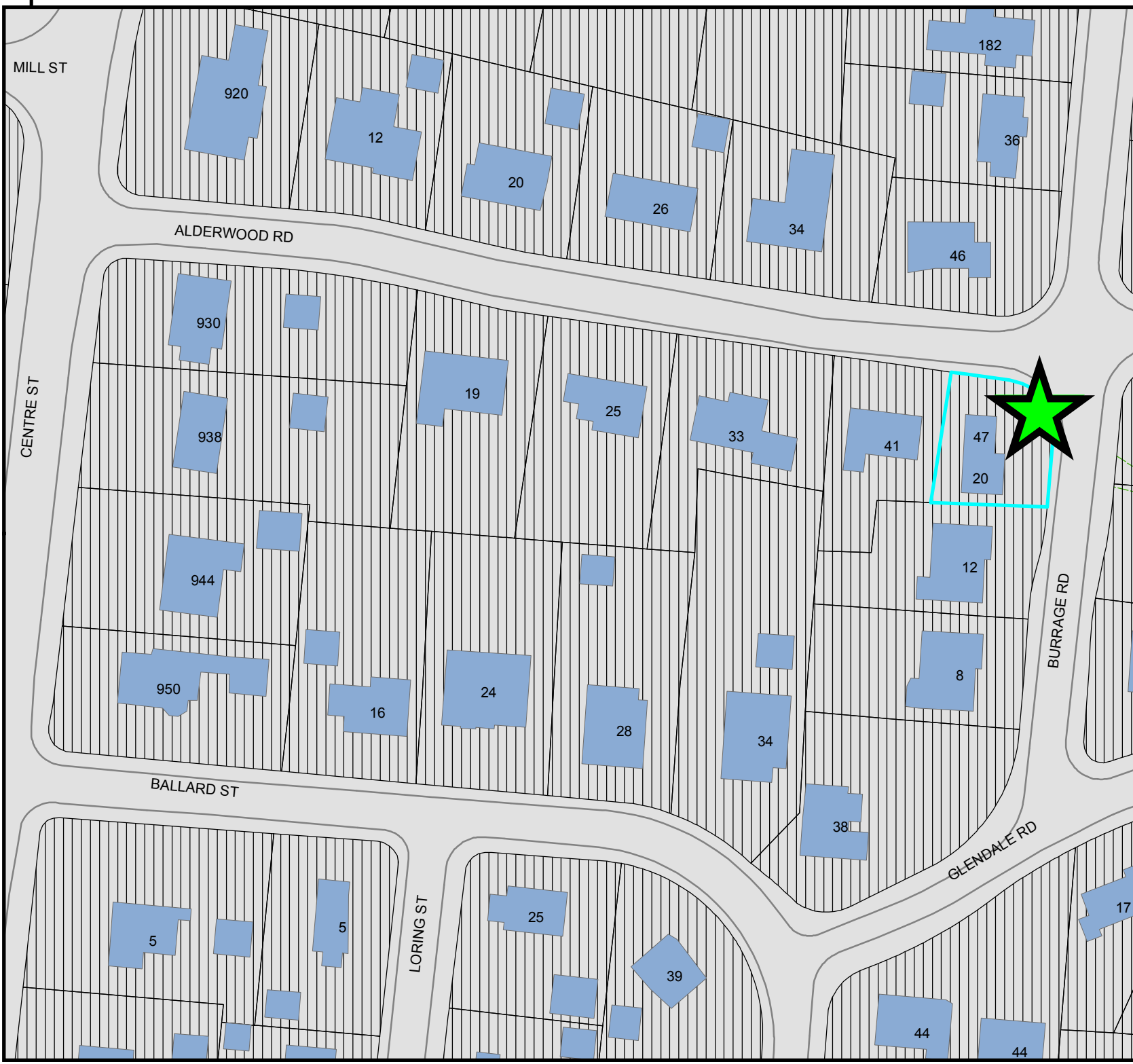


Map Date: June

180-13

Land Use Map 20 Burrage Rd.

*City of Newton,
Massachusetts*



Legend

Land Use

Land Use

- Single Family Residential
- Streets-Pavement Edge
- Building Outlines
- Surface Water



ATTACHMENT "D"

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Map Date: June