



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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Case #: **ZBA2018-20**  
Site: **1 Earle Street – Boynton Yards Building 1**  
Date of Decision: **April 18, 2018**  
Decision: Petition Approved with Conditions  
Date Filed with City Clerk: May 2<sup>nd</sup>, 2018

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**ZBA DECISION**

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**Applicant Name:** RECP V Boynton Yards Owner LLC  
**Applicant Address:** 1123 Broadway, Suite 201, New York, NY 10010  
**Property Owner Name:** RECP V Boynton Yards Owner LLC  
**Property Owner Address:** 1123 Broadway, Suite 201, New York, NY 10010  
**Agent Name:** Sean O'Donovan  
**Agent Address:** 741 Broadway, Somerville, MA 02143

Legal Notice: 1 Earle Street (A.K.A. 2 Harding Street MBL 97-B-19) – Boynton Yards Building 1 (ZBA2018-20): Applicant & Owner, RECP V Boynton Yards Owner LLC, seeks a Variance under SZO §5.5 for exceeding maximum building height, increased F.A.R, and reduced parking in order to replace an existing surface parking lot with a 10-story commercial building containing 139,000sf of office/retail/R&D uses with a 14,000sf basement. A Special Permit with Site Plan Review from the Planning Board under SZO §5.2 (PB2018-03) is separately requested.

Zoning District/Ward: TOD-55. Ward 2.  
Zoning Approval Sought: Variance  
Date of Application: February 15, 2018  
Date(s) of Public Hearing: April 5<sup>th</sup>, 2018, & April 18<sup>th</sup>, 2018  
Date of Decision: April 18, 2018  
Vote: 5-0

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Appeal #ZBA2018-20 was opened before the Zoning Board of Appeals at City Hall, Aldermanic Chambers, 93



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
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Highland Avenue, Somerville, MA on April 4<sup>th</sup>, 2018. Notice of the Public Hearing was given to persons affected and was published and posted, all as required by M.G.L. c. 40A, sec. 11 and the Somerville Zoning Ordinance. After one continuance and one hearing of deliberation, the Zoning Board of Appeals took a vote.

### **DESCRIPTION:**

1. **Subject Property:** Boynton Yards is bounded by the train tracks to the north, Medford Street to the east, the Cambridge city line, and Prospect and Webster Streets. The sub-area of the Union Square neighborhood plan is 34 acres. The majority of the land area is industrial including automotive uses, moving vehicle storage and dispatch, and commercial laundry services. The SomerVision map identified the vision for future development in Somerville and the entirety of Boynton Yards is in the transform area. The transform areas are anticipated to absorb 85% of new development.

The neighborhood is almost hidden as the street network doesn't connect through Boynton Yards and the residential on the east and west edges mask most of the industrial uses. There is an existing pocket neighborhood Boynton Yards East which is a mix of one- to three-family structures, warehouse buildings, and parking lots. Similarly, the western edge has the 80 Webster condominium development and supporting parking garage.

This application is bound by Windsor Street, Windsor Place, Earle Street, Harding Street, and South Street. The 3.44 acres are currently home to surface parking, a construction equipment storage lot, and two one- and two-story concrete block commercial buildings totaling 25,000 gross square feet (GSF).

2. **Proposal:** With the arrival of the Green Line Extension and both public and private investments in redevelopment, the eastern portions of Union Square and Boynton Yards are envisioned as an Urban Center focused primarily on employment. A dense mix of employment, residential, retail, and entertainment uses and destinations would attract residents from surrounding neighborhoods and will be positioned to attract employers seeking to benefit from locating their business within this type of station area. A new street network is needed to provide access to development sites with appropriately sized blocks that fit commercial building types to fulfill market need to make development viable. After a street network is established, the Complete Street Ordinance ensures that new streets are safe and designed for all users giving priority to pedestrians, transit, cyclists, and then cars.

The mixed-use, transit-oriented development will include commercial space for cutting-edge labs, modern offices, innovative startups, and arts uses, as well as both neighborhood convenience and destination retail offerings, with open space to promote interaction between tenants, residents, and the community. The future residential component of the development will include 20% affordable units and a wide range of unit sizes and types to accommodate families, single professionals, empty nesters, roommates, artists, and others. Publicly accessible and sustainably designed open spaces will benefit the wider neighborhood as well as the project's tenants and residents.

This project will be the first step in transforming Boynton Yards. The buildings presented in the two current applications will be 100% commercial - 374,000 GSF of Class A lab and life sciences space, flexible, modern office space, and research/development spaces. The proposed master plan solution is in-keeping with the Union Square Neighborhood Plan and these buildings have been carefully designed to be buildable with the current and future alignments of South Street. This will also provide a crucial first step towards achieving the 60/40 commercial/residential mix and the future phases will develop residential uses. Both buildings will be within walking distance of the proposed Union Square Green Line Station. A four-level, below-grade parking garage (under Building 2) will provide approximately 233 automobile spaces and 98 bike spaces will be provided to serve Buildings 1 and 2.



This application seeks a variance for exceeding maximum building height, increased F.A.R, and reduced parking. In the TOD zones, the Planning Board shall serve as the Special Permit Granting Authority (SPGA) and may approve, approve with conditions, or deny any application. However, there shall be no variances in TODs except as granted separately by the Zoning Board of Appeals.

Building 1 is a ten-story office and retail building (140' tall) aggregating 139,000gsf on column free floor plates of approximately 14,000gsf. The building's brick and metal façade is designed as a modern reference to the neighborhood's traditional warehouses and mill buildings such as the Taza Building, 35 Medford Street, and 15 Ward Street. The building offers 133,400 GSF of office space on floors two through ten and 5,600 GSF of retail space on the first floor. An approximately 14,000-GSF basement will provide space for retail back-of-house, building and tenant storage, and amenities, including 46 bike parking spaces. A landscaped roof deck is also contemplated for commercial tenant use. Building 1 will not provide any on-site vehicle parking but will share the parking facility provided at Building 2, across Earle Street.

#### **FINDINGS FOR VARIANCE (SZO §5.5):**

A Variance (§5.5) is sought to exceed maximum building height, increase F.A.R, and reduce parking.

In order to grant a variance the Board must make certain findings and determinations as outlined in §5.5.3 of the SZO.

1. *There are "special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing substantial hardship, financial or otherwise."*

#### **Applicant's response:**

"Soil at the Building 1 site is contaminated with lead, polycyclic aromatic hydrocarbons (PAHs), and volatile organic compounds (VOCs) at concentrations above those typical of historic fill in the Somerville area. The lead originates from improper disposal of sandblasting media ("black beauty") at the site and is associated with Release Tracking Number (RTN) 3-10897, for which an activity and use limitation (AUL) has been recorded for the property. The PAHs and VOCs will be managed under a separate RTN (3-34727) assigned after reporting to the MassDEP in January 2018. Excavation for construction will require in-situ stabilization of lead impacted soils, the removal of soil beyond that which would be required at an uncontaminated or typical urban site, and a premium cost of approximately \$570,000 for soil removal. The intent is to remove the AUL from the property. In addition, Building 1 is located on a relatively small lot and requires short and long term parking on the adjacent Building 2 lot."

#### **Staff's response:**

The existing neighborhood is an under-utilized industrial area with a history of slaughterhouses, salvage yards, auto recyclers, and other industries. The goal for the district is mostly employment in the form of office and research/development lab buildings so the entire area will require mitigation and clean up to achieve the redevelopment goals of the city. Given the intended wholesale change in Boynton Yards envisioned by the Union Square Neighborhood Plan, the first few buildings will need some flexibility to set the framework for the larger infrastructure moves that will be required to encourage future investment.

The subject parcel is not only tainted as mentioned in the Applicant's statement but also small for a commercial building. The Applicant has been working with Planning Staff to reach the solution as proposed to meet the vision of the neighborhood plan and the proposed zoning for the district. Under the newly proposed Somerville Zoning Ordinance, this site is to be defined as a High-Rise District, which allows for a range of building types and greater building height and density than the current TOD-55 District, including 10-story Commercial Buildings up to 145' tall.



2. *“The variance requested is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.”*

Applicant’s response:

“The site is located in a transformational area as shown in SomerVision (Somerville's Comprehensive Master Plan for 2010 through 2030) and is at the edge of the Union Square Overlay District for Transit-Oriented Development. Even so, current regulations do not support the type and intensity of development that the City desires for this area. The property is a small site, but has good existing access and infrastructure and proximity to East Cambridge, enabling this project to be a catalyst site for the future Boynton Yards special district. However, variances are necessary to waive parking requirements, height limits, and FAR limits to achieve the desired type of development. The proposed site development is in line with the proposed new zoning.”

Staff’s response:

Under the current TOD-55 zoning, the development potential on this parcel is extremely limited. For example: the lot is 20822sf and has a 3.0 FAR for total 62466gsf maximum. At the 55’ height limit we get 5 stories, so 62466gsf divided by 5 stories equals a 12493sf footprint/floorplate and leaving only 8329sf for parking. For an office building of this size, 63 spaces required at 1 space per 1000sf which at an average area of 350sf per space would need 22050sf of surface area – and therefore it is not possible to maximize the development on this parcel. The parking could be accommodated by 2 floors of underground parking structure but, for only 5 stories, the proforma doesn’t pencil out. A smaller building is possible to reach “reasonable use” of the property but would not meet the City’s goals for the area – SomerVision, Union Square Neighborhood Plan – and will still require flexibility in parking numbers.

The project serves as a catalyst for the Boynton Yards neighborhood that is anticipated to be an area for substantial new development. The Applicant is proposing a full-build development, of which this proposal and Building 2 (separate but simultaneous application ZBA2018-21) are the first phase, which includes the large parcel to the west across Earle Street known as 153 South Street. The proposed High-Rise District allows up to 10 stories and 145 feet for a Commercial Building and this project is designed to those standards. Staff is in support of this proposal.

3. *“The granting of the variance would be in harmony with the general purpose and intent of this Ordinance and would not be injurious to the neighborhood or otherwise detrimental to the public welfare.”*

Applicant’s response:

“The granting of the variance is in harmony with the TOD Zoning as codified with the intent of creating a live, work, and play experience by enabling transit-oriented employment opportunities in an urban infill setting and encouraging alternative modes of transportation centered around walking, biking, and the Green Line Extension. The project will provide active first floor uses and help to grow Somerville's commercial tax base. The project also is designed to be in keeping with the proposed potential zoning overhaul and the future refined neighborhood development plan. The variances permit the first phase of development to proceed under current zoning, while meeting the City's SomerVision goals for the area.”

Staff’s response:

From SomerVision’s Transformational Mixed-Use:

“Intent: Create and maintain walkable mixed-use districts centered around access to rapid transit. Strategic public and private investment will transform these areas into regionally recognized employment centers supported by open space, high rise residential, and regional and local serving commercial uses. Sizable entertainment, cultural, education, sports and medical/hospital facilities would also be appropriate where they support and promote the employment center concept.



Desired Character & Uses: This area will consist of a mix of office, commercial, light industrial, residential, open space, entertainment, education, sports, medical and other uses/facilities that support creation of dynamic, diverse, walkable, sustainable, and transit-oriented neighborhoods. Integrate clean, high-value, multi-story industrial uses where appropriate, minimize their impact.

Intensity: Structures are expected to consist of high rise construction (greater than 55 feet) that is oriented to the street, pedestrian friendly, and vertically and horizontally integrated. Publicly accessible open space shall also be required.”

The proposed project meets all the goals for the transformation areas of the city, is designed to be consistent with the proposed Zoning Overhaul, and, specifically, is extremely well-suited to the Union Square Neighborhood Plan vision for Boynton Yards.

**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino, and Anne Brockelman. Upon making the above findings, Richard Rossetti made a motion to approve the request for a Special Permit. Elaine Severino seconded the motion. Wherefore the Zoning Board of Appeals voted **5-0** to **APPROVE** the request. In addition the following conditions were attached:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	<p>Approval is for the variance for a maximum building height of 145’, increased F.A.R. to 6.7, and no on-site parking. This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>February 15, 2018</td> <td>Initial application submitted to the City Clerk’s Office</td> </tr> <tr> <td>March 29, 2018</td> <td>Modified plans submitted to OSPCD (Project Narrative, Building Plans, and Building Elevations)</td> </tr> </tbody> </table> <p>Any changes to the approved site plan, building plans, or elevations that are not <i>de minimis</i> must receive SPGA approval.</p>	Date (Stamp Date)	Submission	February 15, 2018	Initial application submitted to the City Clerk’s Office	March 29, 2018	Modified plans submitted to OSPCD (Project Narrative, Building Plans, and Building Elevations)	BP/CO	ISD/Planning	
Date (Stamp Date)	Submission									
February 15, 2018	Initial application submitted to the City Clerk’s Office									
March 29, 2018	Modified plans submitted to OSPCD (Project Narrative, Building Plans, and Building Elevations)									
2	This approval is subject to any conditions additionally imposed by the Planning Board with subsequent approval of the Site Plan with Site Review case #PB2018-03.	as applicable	Planning							



3	Prior to the issuance of a building permit, Applicant shall provide a Transportation Access Plan (“TAP”) created by Applicant’s traffic engineer to the Planning Staff, which shall be acceptable to the Planning Staff and which shall show how the existing truck traffic in the Boynton Yards area, and on Earle Street, South Street, Windsor Place and Windsor Street in particular, will be accommodated during excavation, construction, and all other work, including but not limited to infrastructure work, including but not limited to water, sewer, electrical, plumbing, paving, painting, curbing and other infrastructure work (Applicant’s Work”).	BP	T&I/Planning/ Engineering	
4	At no time shall truck and automobile access for the operation of any businesses located at 29 Harding Street (97-B-17), 8 Harding Street (MLB 97-B-18), 34 Ward Street (97-B-16), 33 Earle Street (MLB 97-B-2, 24 and 25), 32 Ward Street ((97-B-15) and Parcel B-4 off Windsor Place, a/k/a 0 Windsor Place (MLB 97-B-3) (collectively the “Abutting Properties”), be blocked or materially and adversely impacted by the Applicant’s Work.	as applicable	T&I/Planning/ Engineering	



5	<p>Applicant shall not close any public or private streets or ways, or impede access to travel along same, for trucks and automobiles, except as follows:</p> <p>A. Applicant, at Applicant’s sole expense, shall, either:</p> <ul style="list-style-type: none"> <li>i. Redirect Gentle Giant car and truck traffic from South Street through Lot 5 (the Building 1 lot) and enter/exit to/from Gentle Giant Moving Co., Inc., or</li> <li>ii. Redirect Gentle Giant car and truck traffic from South Street through Parcel B-3 (the Building 2 lot) to and over the 22’ wide access and utility easement and enter/exit to/from Gentle Giant Moving Co., Inc., or</li> <li>iii. Relocate the existing entrance/exit to/from Gentle Giant Moving Co., Inc. onto Earle Street by creating a temporary entrance/exit to/from Earle Street or to/from Windsor Place which is located to the North of the existing entrance/exit, or to another location proposed by Applicant which is reasonably acceptable to Gentle Giant Moving Co., Inc., and has been approved by the City of Somerville, but in the event Applicant relocates the existing entrance/exit as described in 3.A.iii. above, it may only occur, provided that:             <ul style="list-style-type: none"> <li>a. If required based on the location of the relocated entry way, Applicant removes or relocates the existing Fire Hydrant (with all applicable approvals from the City of Somerville) which is located at the North side of the existing Earle Street entrance/exit to a place which does not impede either the existing or the temporary entrance/exit;</li> <li>b. Applicant obtains all approvals for, and performs all construction related to, creating a curb cut for said temporary entrance/exit;</li> <li>c. Such temporary relocation of said entrance/exit shall not materially impede Gentle Giant’s peak season operations which occurs between May 15 to September 15 of any year;</li> <li>d. Following the end of work on Earle Street, Applicant shall, at Applicant’s sole expense, remove said temporary entrance/exit and restore Gentle Giant Moving Co., Inc.’s existing entrance onto Earle Street.</li> </ul> </li> </ul> <p>B. Applicant shall ensure that Gentle Giant Moving Co., Inc. has unimpeded access for its trucks and automobiles to either South Street via Earle Street, or to Windsor Street and then to South Street via Windsor Place, or to another public way approved by the City of Somerville and reasonably acceptable to Gentle Giant Moving Co., Inc., from all of the Abutting Properties.</p>	as applicable	T&I/Planning/Engineering	
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6	<p>A. Applicant shall not perform any excavation, construction or other work, including but not limited to water, sewer, electrical, plumbing, paving, painting, curbing and other infrastructure work, in, upon, over or under Earle Street, South Street, Windsor Place or Windsor Street in any way which impedes Gentle Giant Moving Co. Inc.'s access for its trucks and automobiles to or from all of the Abutting Properties either South Street via Earle Street, or to Windsor Street and then to South Street via Windsor Place, or to another public way (or private way with access to a public way) approved by the City of Somerville and reasonably acceptable to Gentle Giant Moving Co., Inc.</p> <p>B. In the event the City of Somerville asks the applicant to perform any excavation, construction or other work, including but not limited to water, sewer, electrical, plumbing, paving, painting, curbing and other infrastructure work, in, upon, over or under the thirty-foot-wide drain easement, or the Underground Water Recharge System easement, which are located on the Abutting Properties, applicant will not allow the same to be done between May 15 to September 15 of any year and shall not perform or allow any such work in any way which impedes Gentle Giant Moving Co. Inc.'s access for its trucks and automobiles to or from all of the Abutting Properties either South Street via Earle Street, or to Windsor Street and then to South Street via Windsor Place, or to another public way approved by the City of Somerville and reasonably acceptable to Gentle Giant Moving Co., Inc.</p>	as applicable	ISD/T&I/ Planning/ Engineering	
7	For as long as Gentle Giant Moving Co., Inc. operates at the Abutting Properties, the Applicant shall not install any curb extensions, bump-outs or raised tables or raised crosswalks in any manner other than as paint on the roadway.	as applicable	ISD/T&I/ Planning/ Engineering	
8	The applicant shall not be obligated to build the curb extensions, bump-outs or raised tables or raised crosswalks as a part of their City infrastructure contribution until such time as Gentle Giant Moving Co. is no longer operating at the Abutting Properties.	as applicable	ISD/T&I/ Planning/ Engineering	





Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Richard Rossetti, *Clerk*  
Danielle Evans  
Elaine Severino  
Anne Brockelman (Alt.)

Attest, by the Planner:

\_\_\_\_\_  
Sarah A. Lewis

Copies of this decision are filed in the Somerville City Clerk's office.  
Copies of all plans referred to in this decision and a detailed record of the  
SPGA proceedings are filed in the Somerville Planning Dept.

**CLERK'S CERTIFICATE**

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 3.2.10.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on \_\_\_\_\_ in the Office of the City Clerk, and twenty days have elapsed, and

FOR VARIANCE(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ any appeals that were filed have been finally dismissed or denied.

FOR SPECIAL PERMIT(S) WITHIN

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

Signed \_\_\_\_\_ City Clerk Date \_\_\_\_\_

