



CITY OF SOMERVILLE, MASSACHUSETTS
MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Case #: **ZBA2018-21**
Site: **2 Earle Street – Boynton Yards Building 2**
Date of Decision: **April 18, 2018**
Decision: Petition Approved with Conditions
Date Filed with City Clerk: May 2nd, 2018

ZBA DECISION

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: 2 Earle Street (A.K.A. MBL 97-B-26 subplot of 153 South Street) – Boynton Yards Building 2 (ZBA2018-21): Applicant & Owner, RECP V Boynton Yards Owner LLC, seeks a Variance under SZO §5.5 for reduced parking in order to replace an existing gravel storage lot with a 8-story commercial building containing 224,300sf of office/ R&D uses and 10,700sf of retail/arts-related uses. A Special Permit with Site Plan Review from the Planning Board under SZO §5.2 (PB2018-04) is separately requested.

Zoning District/Ward: TOD-135. Ward 2.
Zoning Approval Sought: Variance
Date of Application: February 15, 2018
Date(s) of Public Hearing: April 5th, 2018, & April 18th, 2018
Date of Decision: April 18, 2018
Vote: 5-0

Appeal #ZBA2018-21 was opened before the Zoning Board of Appeals at City Hall, Aldermanic Chambers, 93 Highland Avenue, Somerville, MA on April 4th, 2018. Notice of the Public Hearing was given to persons affected



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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 - 374,000gsf 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 development will involve residential uses. Both buildings will be within walking distance of the proposed Union Square Green Line Station. A four-level, below-grade parking garage 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 2, this proposal, is an eight-story lab building (145' tall) aggregating 235,000gsf. The development also includes four levels of underground parking and loading docks will be accessed by a single curb cut on Windsor Place just west of Building 2. The garage will serve the entire Boynton Yards district and is one of a series of parking facilities to be built. The first floor accommodates 10,700gsf of retail space, a mid-block pedestrian connection, three loading docks, tenant storage, a 1,500gsf lobby, and utility connections. The building offers 224,300gsf of lab and office space on floors two through eight.

FINDINGS FOR VARIANCE (SZO §5.5):

A Variance is sought to reduce the amount of parking provided for commercial office and lab or R&D uses.

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 2 site is contaminated with typical urban fill constituents and polycyclic aromatic hydrocarbons (PAHs), total petroleum hydrocarbons (TPH), and polychlorinated biphenyls (PCBs) at concentrations above those typical of historic fill in the Somerville area. The elevated PAHs, TPH, and PCBs likely are associated with the operations of the historic Boynton Yards railyard. They will require out of state disposal, with associated premium cost, for a portion of the excavate, as well as the potential need for excavation of soil beyond that which would be required on an uncontaminated site. The hardship resulting from this special soil condition is the excavation and soil disposal cost of \$360,000 in excess of routine foundation excavation costs to remediate the site and avoid the need for an Activity and Use Limitation.”

Staff's response:

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 Applicant has been working with Planning Staff to reach the solution as proposed that meets the vision of the neighborhood plan and the proposed zoning for the district. The proposal will require major excavation and removal of the tainted soil to accommodate a four-story underground parking structure with construction phased to the buildings above. While the master plan anticipates ample parking for the full build development, the first phase (Buildings 1 & 2) requires flexibility in the amount of parking provided. There will be ample surface parking still available in the short term on the remainder of the parcel but Staff would like to ensure that the overall vision for the neighborhood can be achieved by not obligating the Applicant to this surface parking on a permanent basis.

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, the current regulations do not support the type and intensity of development that the City desires for this area. The property has good existing access and infrastructure and proximity to East Cambridge, enabling this project to be a catalyst site for the future special district. However, variances are necessary to waive parking requirements and minimum lot size to achieve the desired type of development."

Staff's response:

The current ordinance requires Building 2 to provide 232 spaces and Building 1 to provide 139 spaces for a total of 371 spaces. (For reference, the proposed ordinance seeks to cap parking in Boynton Yards at a total of 1,500 spaces). The Building 2 parcel will include a very large phased four-story underground parking structure that will be under most of the site and will ultimately support all the development proposed by this Applicant. The first phase of the garage will be constructed with the development of Building 2 and will initially provide 233 vehicle spaces and 98 bicycle spaces. There will be ample surface parking still available in the short term for "reasonable use". Staff supports this request so the remaining property will not be permanently hampered as future development is planned.

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 also is designed to be in keeping with the proposed potential zoning overhaul and future refined neighborhood development plan as presented by the planning staff on 1-9-18. 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:

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. The redevelopment efforts are focused on the area becoming a new Urban Employment Center within walking distance of the Union Square GLX station. This project and the parking reduction are in harmony with the vision and goals of the City and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

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
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1	<p>Approval is for parking relief in the form of 70 spaces of Building 2 (the first phase of development). This approval is based upon the following application materials and the plans submitted by the Applicant:</p> <table border="1" data-bbox="253 380 883 642"> <thead> <tr> <th data-bbox="253 380 565 411">Date (Stamp Date)</th> <th data-bbox="571 380 883 411">Submission</th> </tr> </thead> <tbody> <tr> <td data-bbox="253 415 565 510">February 15, 2018</td> <td data-bbox="571 415 883 510">Initial application submitted to the City Clerk's Office</td> </tr> <tr> <td data-bbox="253 514 565 642">March 29, 2018</td> <td data-bbox="571 514 883 642">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 #PB2018-04.	as applicable	Planning							
3	Accessory parking is not permitted. Any parking spaces provided must be operated as a Commercial Service Vehicular Parking use (aka 'Public Parking'). Parking spaces must be made available for rent or lease to the public (inclusive of the employees of the proposed development), twenty-four (24) hours per day, seven (7) days per week, three-hundred and sixty-five (365) days per year and may be rented or leased through various offerings including, but not limited to, monthly passes, overnight passes, daily rates (weekday and weekend), and hourly fees at the discretion of the facility operator.	BP	Planning/ T&I/T&P							
4	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							
5	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							



6	<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"> 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 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 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"> 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; b. Applicant obtains all approvals for, and performs all construction related to, creating a curb cut for said temporary entrance/exit; 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; 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. <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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7	<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	
8	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	
9	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 _____

