



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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Planning Division

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**Case #: ZBA 2019-43**

**Site:** 101 South Street a.k.a 2 Earle St MBL 97-B-26

**Date of Decision:** May 15, 2019

**Decision:** *Petition Approved with Conditions*

**Date Filed with City Clerk:** May 23, 2019.

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**ZBA DECISION**

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**Site:** 101 South Street (formerly referred to as 2 Earle St - MBL 97-B-26 subplot of 153 South St)

**Applicant Name:** RECP V Boynton Yards Owner LLC

**Applicant Address:** 1123 Broadway, Suite 201, New York, NY 10010

**Owner Name:** RECP V Boynton Yards Owner LLC

**Owner Address:** 1123 Broadway, Suite 201, New York, NY 10010

**Agent Name:** Sean O'Donovan

**Agent Address:** 741 Broadway, Somerville, MA 02143

**City Councilor:** J.T. Scott

Legal Notice: Applicant & Owner, RECP V Boynton Yards Owner LLC, seek a Variance under SZO §5.5 to increase the building height to a 9-story commercial building and increase the FAR to 270,000sf of office/R&D uses, 13,500sf of arts-related uses, and 9,800sf of retail. Zone TOD-135. Ward 2.

Zoning District/Ward: TOD-135. Ward 2.

Zoning Approval Sought: SZO §5.5

Date of Application: April 9, 2019

Date(s) of Public Hearing: May 15, 2019

Date of Decision: May 15, 2019

Vote: 5-0

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Case # ZBA 2019-43 was opened before the Zoning Board of Appeals in the City Council Chambers at Somerville City Hall on May 15, 2019. 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. On May 15, 2019, the Zoning Board of Appeals took a vote.



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## **I. DESCRIPTION:**

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. 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, an unpermitted construction equipment storage lot, and two one- and two-story concrete block commercial buildings totaling 25,000 gross square feet (GSF).

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 Union Square Neighborhood Plan also anticipates a significant amount of development in this area to create an urban employment center. This project will be 100% commercial (Class A lab and life sciences space, flexible, modern office space, and research/development spaces) and is the first step in transforming Boynton Yards. This will provide a crucial first step towards achieving the 60/40 commercial/residential mix and the future development will involve residential uses.

On April 18, 2018, the Zoning Board of Appeals approved the Applicant's request for a Variance to reduce the amount of parking provided for commercial office and lab or R&D uses. This approval permits the applicants to use the parking below this building as a commercial parking garage to serve this building, future adjacent lab buildings, and other uses now or in the future in Boynton Yards. Shortly thereafter, on May 3, 2018, the Planning Board approved a Special Permit with Site Plan Review for Building 2 (Case # PB2018-04) as an eight-story lab building aggregating 235,000 GSF. The application included four levels of underground parking providing approximately 233 parking spaces as well as approximately 98 bike parking spaces. The first floor accommodated 10,700 GSF of retail space, a mid-block pedestrian connection, three loading docks, tenant storage, a 1,500 GSF lobby, and utility connections. The goals of the Neighborhood Plan would not be compromised by this development under the existing zoning ordinance or the proposed overlay in the overhaul.

On December 13, 2018, the Planning Board approved a revised program and design (Case #PB2018-04-R1(11/2018)) to change the orientation, add a floor, and increase the building height to a 9-story commercial building containing 270,000 GSF of office/R&D uses and 12,500 GSF of retail and arts-related uses. The proposal included green building standards (LEED-Gold minimum) and the continued cooperation with the City for improved neighborhood infrastructure and a large dedicated civic open space.

The original Variance Case #ZBA 2018-21 was extended and approved on April 18, 2019 (Case #ZBA 2018-21-E1-2/19). Given that the proposal for parking relief has not changed since the original approvals were granted by the ZBA on April 18, 2018, the Board found that the Variance for parking relief of 70 spaces should be re-approved.

**Proposal:** This request is for a Variance that, if granted, would match the Planning Board decision of the revised program and design (Case #PB2018-04-R1(11/2018)). As mentioned, the program was further defined with a total size of 270,000 GSF and the building design was refined to 9 stories. The building now includes 241,500 GSF of lab and office space with 12,500 GSF of active public arts and retail space and the underground parking garage is proposed to hold 250 vehicle parking spaces and 117 bicycle parking spaces. The building has also been re-oriented on the lot to now have the main entrance on the west façade and all vehicle access on the east side from Earle Street, which has been re-envisioned as a service corridor.



At the time of the revision submission, Planning Staff did not believe a Variance application was necessary. However, there are two specific requests that the Applicant wishes to memorialize with this Variance application – increased height and increased FAR.

First, under §6.5.G.2 (Incentives for Green Building), buildings certified by the U.S. Green Building Council as LEED Gold or better shall receive 1.0 FAR increase in the TOD135 and a 15 foot increase in maximum height. The project was granted, by the Planning Board, this height and density bonus as permitted. This bonus was restricted by a condition of approval, that the revised scorecard for LEED v4 with a narrative showing how the Gold rating will be achieved will be submitted to the Director of the Office of Sustainability and Environment for review and approval prior to issuance of any construction permit.

Secondly, per §6.5.G.4 (Credit and Height Bonus for Provision of Dedicated Parkland), where a minimum of forty thousand (40,000) square feet of land is to be improved and dedicated to the City of Somerville for public open space in the TOD-135, a bonus of a fifteen-foot increase in maximum height may be granted. While the schematic master plan included in the application package showed only approximately 31,000sf of the Applicant's landholdings being set aside for civic space, the Applicant has consistently been committed to providing and/or improving a minimum of 40,000sf of public open space as part of the overall neighborhood development to meet the intent of the Union Square Neighborhood Plan. This contiguous area, approximately 31,000sf, is intended to be combined with about 9,000sf of City-controlled land when South Street is re-aligned for a minimum of 40,000 SF of open space in this part of the neighborhood alone. It should be also noted that this area calculation does not include any of the other smaller spaces to be provided on this property at South Street and Windsor Place which are anticipated to be approximately 8,000sf.

There are a few other items to note with this case regarding open space and landscaping. As previously approved, the parcel, 43,087sf, is an existing subplot (MBL 97-B-26) to the adjacent land at 153 South Street (MBL 97-B-23) - below the required 50,000 square feet. As the master plan is still under urban design development, the Planning Board requested that no subdivision to enlarge the site (§ 6.5.G.18 - Reduction of Minimum Lot Area) be done at this point in time given that the lotting plan may change as the infrastructure and open space are further revised. Therefore, this proposal is slightly under the landscaping requirements of 20% of the lot area for TOD-135. Staff and the Planning Board have been in support of the lower amount of landscaping on this particular parcel due to the future open space envisioned throughout the district by the Union Square Neighborhood Plan.

In the short-term, a small plaza is being provided on South Street that will be a pervious surface paved with light colored stone. It will have integrated planting beds with ground cover and trees to provide shade as well as benches for public seating. The north side of the building along Windsor Place will also have a small public space that will be predominantly planted area. Using the calculations for a Commercial Building in the High Rise District of the proposed zoning, the application reaches a Green Score of 0.153 with the amount of pervious paving and planted area. This is under the 0.2 that would be required. To ensure the quality of open space and landscaping, a condition was added to the Special Permit with Site Plan Review that requires submission of detailed landscape plans with the Building Permit application. The Green Score must be met to the satisfaction of Planning Staff, Transportation & Infrastructure Department, and the City Arborist prior to any permit for construction is granted by Inspectional Services.

While no land on this site will be devoted specifically to public infrastructure, the Applicant's larger master plan for the area and the City's vision for this district include considerable public infrastructure improvements. The Applicant will make substantial improvements to the infrastructure as part of the first phase of development including:

- Defining and reconfiguring the curbs along South Street



- Rebuilding the sidewalk and streetscape along South Street
- Building the improved section of Earle Street
- Striping the intersection of South and Earle Streets with crosswalks

It is still the intent of the City to create a district-wide balancing between the owners within Boynton Yards. The amount of infrastructure and open space that is required by the neighborhood plan will require a fair valuation of development and equitable contributions by all with costs shared among all developers within this district - an equitable division is under negotiation at this time for utility, roadway, and open space contributions that will create fiscal benefits for landowners and the city. This Applicant is aware of these intentions and has been very cooperative while the details are still being studied and negotiated. The Applicant has been working closely with Engineering to determine the necessary investments and upgrades to allow this area of the city to be redeveloped and provided funding for an engineering study that will be credited as a contribution when the amounts of required commitments are finalized.

Green Building Practices: As mentioned above, this building is still requesting a density bonus as permitted in TOD-135 (1.0 FAR increase in the TOD135 and 15 foot increase in maximum height to 150 feet) with a building certifiable by the U.S. Green Building Council as LEED Gold or better. To reach the Gold level, a LEED Plan Review certification with a narrative explaining how the rating will be reached shall be required prior to issuance of a building permit. Post-construction commissioning at the certificate of occupancy for the final tenant space is the subject of a condition of approval to receive the incentive.

Comments: As this application is a revision only, the package was not forwarded to other city departments.

**II. FINDINGS FOR REVISION TO A SPECIAL PERMIT (SZO §5.5.3):**

A Variance (§5.5) is sought to increase building height and increase FAR. The parking relief request was handled as a separate case, as mentioned above.

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: The TOD 135 for the 101 South Street site requires that all parking be located in structures. However, any above grade parking structure would have a negative impact on the development potential for a site because the area of the structure must be counted in the FAR for the site. Thus, to achieve an economically feasible development at an appropriate density, the project requires excavation for a four-level underground garage. Soil at the 101 South Street 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 primary hardship resulting from this special soil condition is the excavation and soil disposal cost of at least \$360,000 in excess of routine foundation excavation costs to remediate the site and avoid the need for an Activity and Use Limitation.



With the added cost due to soil conditions (contamination and foundation systems) a hardship would result from restricting the building to 8 stories. This will be one of the first laboratory buildings in Somerville and will compete for tenants with existing space in nearby communities. The addition of the 9th floor will provide substantial economies and will allow for reduced rents, helping to attract tenants and will help to set off the high foundation costs. The economies of the 9th floor addition also will help to reduce required rents in the first floor retail space, helping to assure the viability of this required feature, especially during the early years of development at Boynton Yards.

The Board's response: Boynton Yards has been an industrial area with any number of manufacturing uses over the years and, like much of the industrial areas in New England under-going redevelopment, has long required site remediation and mitigation. The goal for this district is a wholesale change to mostly employment in the form of office and research/development lab buildings so the entire area will require clean up to achieve the change of use proposed by SomerVision goals. It is likely that 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.

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 is a relatively 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 height and FAR limits to achieve the desired type and intensity of development, to provide for competitive rental rates, and to support required first floor retail uses.

The Board's response: Similar to the original Planning Board approval, the revised proposal still shows column-free floor plates of approximately 30,000 GSF but the lab and office space now total 241,500 GSF. To reach the increased FAR of an additional floor within the maximum height limit (150' plus penthouse), slab to slab heights are now 14'-6" but still have finished ceiling heights of 11'. This makes the height of the building 148' plus the additional/bonus 15' to accommodate the tall penthouse required for a lab building and its purpose-built HVAC systems.

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 Somerville's 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 height and FAR variances will improve the economics of the project, helping it to attract tenants, helping to create new jobs, and helping



to support required retail space during the early years of development at Boynton Yards. The project also is designed to be in keeping with the proposed potential zoning overhaul and future refined neighborhood development plan. The variances will permit 101 South Street to proceed under current zoning while meeting the City's SomerVision goals for the area.

The granting of the variances also will not be injurious to the neighborhood or otherwise detrimental to the public welfare. The nearest residential abutters are several hundred feet away, transportation and utility analyses show that the infrastructure in the area can accommodate the project without adverse effects, appropriate streetscape and greenspace improvements are included in the plan, and an extensive public outreach and review process has assured that the concerns of neighbors have been heard and addressed.

The Board'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 is 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.

From a design perspective, the façades are similar to the original approvals but have improved in refinement and material selections. The mass now reads as two portions and the base, middle, and top of the proposed building are expressed differently on each mass of the building. The glazed storefront and retail signage band is consistent on all façades to provide a well-defined base. The portion of the building (the northern mass) with the primarily horizontal articulation has metal banding to delineate the top of the building, while the southern portion extends the glass curtainwall above the roof (and taller than the attached horizontal mass) to create a top. The building is designed in such a way as to integrate the mechanical floors fully in the overall proportions and character of the building. The building's lighting design at the top of the façade will further define the base, middle, and top segments.

As in the original approval, the large amount of rooftop mechanical floor-space are split over two levels. To incorporate this large penthouse in a manner integral to the building architecture, the southern façade has been extended in order to screen part of the first penthouse level. The remainder of that level and the second penthouse level above is setback from the building face in order to minimize its visibility from the street. Special design attention will be given to the Earle Street (public right-of-way) façade so that utility rooms, transformer vaults, parking access, and loading docks do not appear to be the rear of the building.

### **III.DECISION:**

Present and sitting were Members Orsola Susan Fontano, Elaine Severino, Josh Safdie, Drew Kane and Anne Brockelman. Upon making the above findings, Susan Fontano made a motion to approve the request for Special Permits. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **5-0** to **APPROVE** the request for **VARIANCES**. All other conditions attached to the original approvals for case ZBA 2018-20 shall remain in effect. See decision ZBA 2018-20 for a list of conditions.

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Elaine Severino, *Acting as Clerk*  
Josh Safdie  
Anne Brockelman  
Drew Kane (Alt.)

Attest, by the Administrative Assistant:

\_\_\_\_\_  
Monique Baldwin

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 \_\_\_\_\_

