



## CITY OF SOMERVILLE, MASSACHUSETTS

### PLANNING BOARD

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MICHAEL A. CAPUANO, ESQ. (ALT.)

**Case #: ZBA 2009-6**

**Date: May 1, 2009**

**Recommendation: Conditional Approval**

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## PLANNING BOARD REPORT

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**Site: 33 Earle Street**

**Applicant Name:** Gentle Giant Moving Co., Inc.

**Applicant Address:** 29 Harding Street, Somerville, MA 02143

**Property Owner Name:** JEK Realty LLC

**Property Owner Address:** 29 Harding Street, Somerville, MA 02143

**Alderman:** Heuston

Legal Notice: Applicant Gentle Giant Moving Company, Inc., Owner JEK Realty, LLC, & Agent Adam Dash, Esq., seeks a Special Permit under SZO §4.5.3 in order to expand a non-conforming use. IP/Ward 2.

Zoning District/Ward: IP / 2

Zoning Approval Sought: Special Permit under SZO§4.5.3

Date of Application: March 3, 2009

Date(s) of Public Hearing: [PB: April 2, 2009 / ZBA: April 15, 2009]

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Dear ZBA members:

At its regular meeting on April 16, 2009 the Planning Board heard the above-referenced application. Based on materials submitted by the Applicant and the Staff recommendation, the Board voted (4-0) with Kevin Prior absent, to recommend **conditional approval** of the requested **Special Permit**.

In conducting its analysis, the Planning Board found:

#### I. PROJECT DESCRIPTION

1. Subject Property: The subject property is comprised of three parcels (MBL 97-B-2, 24 & 25 under common ownership of JEK Realty LLC) totaling approximately 29,135 s.f. These lots are currently leased to Lanco Scaffolding.

The property is situated at the northern terminus of Earle Street, which is a public street with a variable right-of-way; its width is approximately 35 feet at the widest point near this terminus. A curb cut at the southwest corner of the property provides access to Earle Street. There is a structure located on MBL 97-B-2 that is a 5,691 s.f., single-story concrete block building with one rear door, one large garage door on the southeastern side, and two large garage doors on the front used for vehicular access. The interior of the building is used as a warehouse and office for Lanco's scaffolding business. The other two lots are currently used for storage of various materials, including truck ramps, scaffolding, and propane tanks. On the southeast side, the property abuts the property currently used by Gentle Giant Moving Co. at 29 Harding Street (MBL 97-B-17 & 16).

2. Proposal: The Applicant is proposing to expand their non-conforming use as a commercial mover with associated storage facilities onto the lots at 33 Earle Street currently permitted as a warehouse use. Gentle Giant would also use the site for additional vehicle parking. No physical changes are proposed to the structure or property.

3. Nature of Application: Since the 2007 permit to establish this commercial moving use at 33 Earle Street was approved, this use has been removed from the use table in the SZO. This use is now a legally non-conforming use in the IP zone. (The applicant received an extension of that approval which expires in November of 2009.) Because the use is now nonconforming, the applicant is required to obtain a Special Permit under SZO §4.5.3 to expand a non-conforming use in order to conduct a commercial moving operation on the subject property at 33 Earle Street.

4. Surrounding Neighborhood: The subject property is located within a large Industrial Park (IP) district and faces a Residence B (RB) district to the east, and MBTA right-of-way to the north. The applicant has noted that by moving some parking to the subject property, the existing facilities to the southeast will have less of a traffic impact on the neighboring RB district.

5. Comments:

Alderman: Alderman Heuston has been contacted but has not yet provided comments.

Fire Prevention: Deputy Chief Keenan has been contacted but has not yet provided comments.

## **II. FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1):**

In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1.4 of the SZO. This section of the report goes through §5.1.4 in detail.

1. Information Supplied: The Board finds that the information provided by the Applicant conforms to the requirements of §5.1.2 of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permit.

2. Compliance with Standards: The Applicant must comply "with such criteria or standards as may be set forth in this Ordinance which refer to the granting of the requested special permit."

In considering a special permit under §4.5.3 of the SZO, The Board finds the proposed use expansion would **not** be substantially more detrimental to the neighborhood than the existing conditions. The Board

finds that the proposed change of use is generally compatible with the uses of the surrounding area and would not be detrimental to abutting properties.

3. Consistency with Purposes: The Applicant has to ensure that the project “is consistent with (1) the general purposes of this Ordinance as set forth in Article 1, and (2) the purposes, provisions, and specific objectives applicable to the requested special permit which may be set forth elsewhere in this Ordinance, such as, but not limited to, those purposes at the beginning of the various Articles.”

This property is located within the proposed Union Square Rezoning. SZO §4.5.3 still applies in the rezoning for the purpose of allowing review and possible expansion of non-conforming uses within the new zones. So, while the use has been removed from the allowed uses within the current IP zone it has been anticipated that some non-conforming uses would want to expand and that the option for Special Permit approval should be available. The Board finds that this commercial moving use would be appropriate for expansion and an improvement for the area.

4. Site and Area Compatibility: The Applicant has to ensure that the project “(i)s designed in a manner that is compatible with the characteristics of the built and unbuilt surrounding area, including land uses.”

There is no new construction proposed for this site. The Board finds the expansion of the proposed use appropriate for this area and zone.

### III. RECOMMENDATION

#### Special Permit under §4.5.3

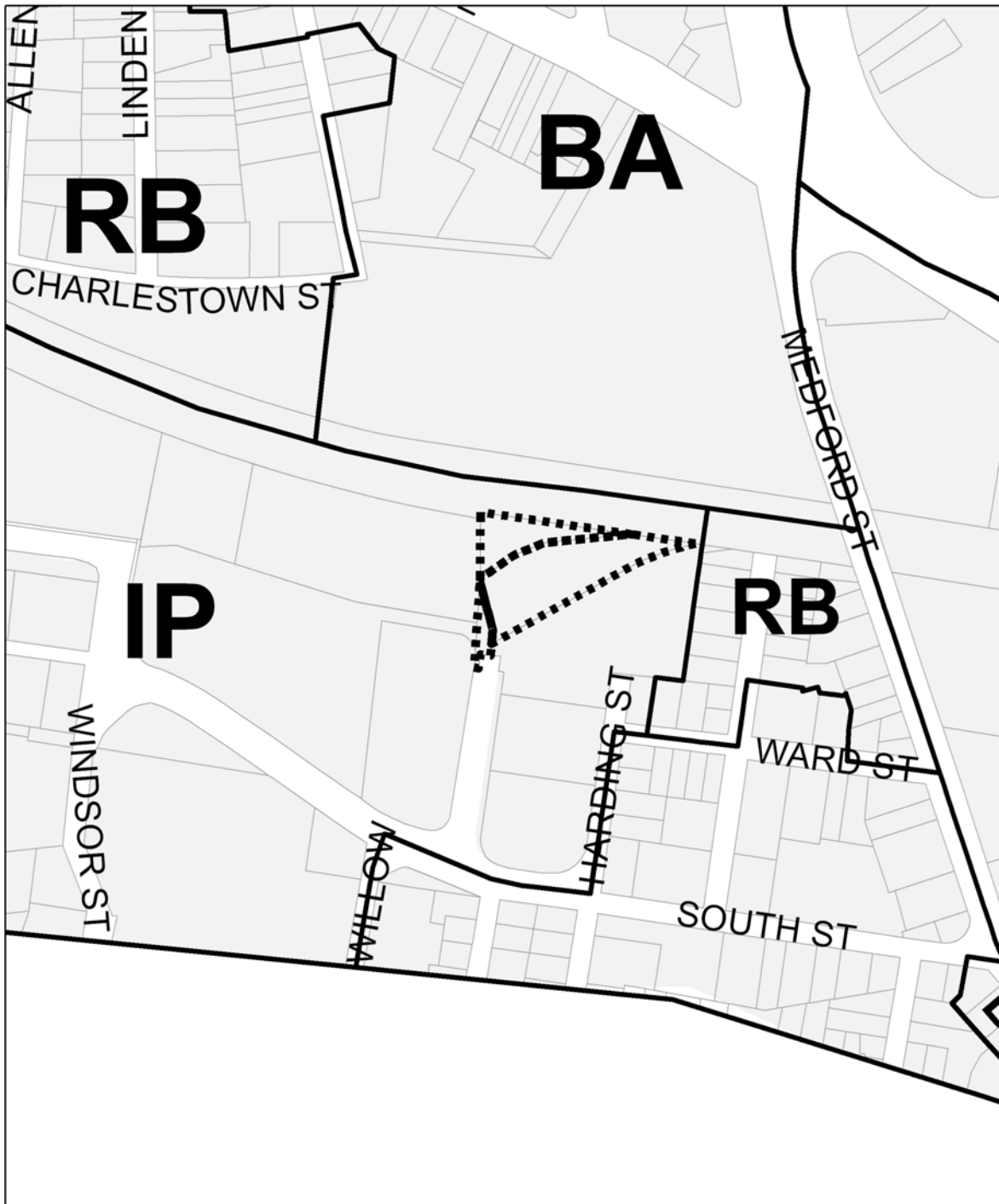
Based on the above findings and subject to the following conditions, the Planning Board recommends **CONDITIONAL APPROVAL** of the requested **SPECIAL PERMIT**.

#	Condition	Timeframe for Compliance	Verified (initial)	Notes						
1	Approval is for the expansion of a non-conforming commercial moving use onto the 33 Earle Street property. This approval is based upon the following application materials and the plans submitted by the Applicant:	BP/CO	Png.							
	<table><tr><th>Date (Stamp Date)</th><th>Submission</th></tr><tr><td>(3/3/09)</td><td>Initial application submitted to the City Clerks office</td></tr><tr><td>8/28/06 (3/31/09)</td><td>Land Title Survey</td></tr></table>				Date (Stamp Date)	Submission	(3/3/09)	Initial application submitted to the City Clerks office	8/28/06 (3/31/09)	Land Title Survey
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8/28/06 (3/31/09)	Land Title Survey									
Any changes to the approved use that are not <i>de minimis</i> must receive ZBA approval.										

2	The Applicant shall legally combine all parcels comprising the development into a single parcel, and shall file copies of the consolidation plan with the City's Planning and Assessing Departments.	Building Permit	Plng.	
3	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final sign-off on the building permit to ensure the proposal was constructed in accordance with the plans and information submitted and the conditions attached to this approval.	Final sign off	Plng.	



Elizabeth Maroney  
Acting Chairman



## 33 EARLE STREET