



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

**ZONING BOARD OF APPEALS MEMBERS**

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DREW KANE (ALT.)

**Case #: ZBA 2017-06-E1-4/19**

**Site: 419 Broadway**

**Date of Decision: June 5, 2019**

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

**Date Filed with City Clerk: June 19, 2019**

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**ZBA DECISION**

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**Site:** 419 Broadway

**Applicant & Owner Name:** Thomas Sullivan & Maria del Carmen Sullivan

**Applicant & Owner Address:** 419 Broadway, Somerville, MA 02145

**Agent:** Richard DiGirolamo

**Agent Address:** 424 Broadway, Somerville, MA 02145

**Alderman:** Mark Niedergang

Legal Notice: Applicants and Owners, Thomas Sullivan & Maria del Carmen Sullivan, request a one-year extension under §5.3.10 of the SZO to extend their previously-granted special permits. RC zone. Ward 5.

Zoning District/Ward: RC zone. Ward 5.

Zoning Approval Sought: SZO §5.3.10

Date of Application: April 4, 2019

Date(s) of Public Hearing: June 5, 2019

Date of Decision: June 5, 2019

Vote: 4-0

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Case # ZBA 2017-06-E1-4/19 was opened before the Zoning Board of Appeals in the 3<sup>rd</sup> Floor Community Room at the VNA located at 259 Lowell Street on June 5, 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 June 5, 2019, the Zoning Board of Appeals took a vote.



## **I. DESCRIPTION:**

The Applicants request a one year extension of the special permits granted by the ZBA on February 1, 2017 (ZBA 2017-06). Attached to this staff report is the original decision explaining the relief granted for this case and the conditions attached thereto. Approved plans are attached as a refresher of the project only.

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

*In SZO §5.3.10 good cause for an extension of a special permit shall be determined by the SPGA, and only upon a finding of demonstrated hardship (e.g. financing problems, labor strike, bad weather conditions, or act of God) and that there has been good faith effort to overcome the hardship and expedite progress.*

### **Demonstration of Hardship**

The Applicant submitted the following information as part of their application to support of their application to extend their special permit by one year:

*“The Applicant has experienced various hardships including family problems, and medical emergencies which have precluded him from moving forward in a timely fashion and obtaining financing and hiring a general contractor within the two (2) years since the Zoning Board of Appeals granted the approval for the project on February 1, 2017.”*

### **Good Faith Effort to Overcome Hardship and Expedite Progress**

Based on the above, the Board finds that the Applicant’s efforts to obtain financing for this project were hampered due to family health issues. As such situations often do, these issues impacted the Applicant’s ability to attend to other matters, including those pertaining to obtaining project financing which can be a complex process.

The Board recommends a one-year extension for the SPSR and special permit originally granted for this project. This portion of Mystic Avenue is in need of this project being brought to completion, the lot improved, the new residential and affordable units brought online, and a quality occupant of the first-floor commercial space up and running.

## **III. DECISION:**

Present and sitting were Members Orsola Susan Fontano, Elaine Severino, Drew Kane and Anne Brockelman. Upon making the above findings, Susan Fontano made a motion to approve the request for the extension to the previously granted Special Permit. Elaine Severino seconded the motion. The Zoning Board of Appeals voted **4-0** to **APPROVE** the request for **EXTENSION** of the **SPECAIL PERMIT**. The previously granted conditions for case 2017-06 still apply. The conditions are below:

#	Condition	Timeframe for Compliance	Verified (initial)	Notes
1	Approval is for the construction of a 6-unit residential building and relief from providing four parking spaces.	BP/CO	ISD/Plng.	
	<table border="1"> <thead> <tr> <th>Date (Stamp Date)</th> <th>Submission</th> </tr> </thead> <tbody> <tr> <td>December 29, 2016</td> <td>Initial application submitted to the City Clerk's Office</td> </tr> </tbody> </table>			
Date (Stamp Date)	Submission			
December 29, 2016	Initial application submitted to the City Clerk's Office			
Any changes to the approved site plan or elevations that are not <i>de minimis</i> must receive SPGA approval. Whether or not a change is <i>de minimis</i> in nature must be determined by the Planning Office.				
<b>Pre-Construction</b>				
2	The Applicant shall be required to demonstrate that the updated project plans meet the current City of Somerville stormwater policy. Utility, grading, and drainage report and plans stamped by a registered PE in Massachusetts must be submitted to the Engineering Department for review and approval.	BP	Eng.	
3	The Applicant shall submit a proposed grading and drainage plan, stamped by a registered PE in Massachusetts that demonstrates compliance with the City's stormwater policy.	BP	Eng.	
4	The proposed basement finished floor elevation shall not be less than is 1 foot above the Seasonal High Ground Water elevation. The seasonal high ground water elevation shall be determined by a Massachusetts certified soil evaluator and stated on a signed soil test pit log.	BP	Eng.	
5	The Applicant shall develop a demolition plan in consultation with the City of Somerville Inspectional Services Division. Full compliance with proper demolition procedures shall be required, including timely advance notification to abutters of demolition date and timing, good rodent control measures (i.e. rodent baiting), minimization of dust, noise, odor, and debris outfall, and sensitivity to existing landscaping on adjacent sites.	Demolition Permitting	ISD	
6	New sanitary connection flows over 2,000 GPD require a 4:1 removal of infiltration and/or inflow by the Applicant. This will be achieved by submitting a mitigation payment to the City based on the cost per gallon of I/I to be removed from the sewer system. The Applicant shall work with Engineering to meet this condition before a certificate of occupancy is issued.	CO	Eng.	
7	Applicant shall provide final material samples for siding, trim, windows, and doors to Planning Staff for review and approval prior to construction.	BP	Plng	



8	The Applicant shall contact the Engineering Department to coordinate the timeline for cutting or opening the street and/or sidewalk for utility connections or other construction. There is a moratorium on opening streets from November 1st to April 1st and there is a list of streets that have additional opening restrictions.	BP	Eng	
9	The Applicant shall contact the Engineering Department to obtain new street addresses for all of the units on the property.	BP	Eng	
10	The Applicant shall submit a construction traffic management plan to the Traffic & Parking Division for their review and approval prior to the issuance of a building permit.	BP	T&P	
<b>Construction Impacts</b>				
11	The Applicant shall at his expense replace any existing equipment (including, but not limited to street sign poles, signs, traffic signal poles, traffic signal equipment, wheel chair ramps, granite curbing, etc) and the entire sidewalk immediately abutting the subject property if damaged as a result of construction activity. All new sidewalks and driveways must be constructed to DPW standard.	CO	DPW	
12	All construction materials and equipment must be stored onsite. If occupancy of the street layout is required, such occupancy must be in conformance with the requirements of the Manual on Uniform Traffic Control Devices and the prior approval of the Traffic and Parking Department must be obtained.	During Construction	T&P	
13	Construction and related construction activities shall take place between 7:30am and 5:00pm Monday through Friday. There shall be no construction or construction-related work taking place on weekends.	During Construction	ISD	
<b>Electrical</b>				
14	All electrical plans must be submitted to the Electrical Inspector and approved by him prior to any electrical work being done on the site.	Final sign off	Electrical Inspector	
15	All power and other utilities, including telephone, cable, and other such lines, shall be placed underground.	Final sign off	Electrical Inspector	
16	Any above-ground located electrical equipment, including, but not limited to AC condensers, electrical and water meters, transformers, and the like, shall not be placed at the front of the property in any way. All such equipment shall be completely screened from the view of the street and abutting properties.	Final sign off	Electrical Inspector/Planning/ISD	
17	Any transformers shall be located so as not to impact the historic building or landscaped area, and shall be fully screened.	Electrical permits & CO	Electrical Inspector/Planning/ISD	
<b>Site</b>				
18	Landscaping shall be installed and maintained in compliance with the American Nurserymen's Association Standards;	Perpetual	Plng. / ISD	



19	All materials to be used in landscaping shall be submitted to Planning Staff for their review and approval prior to the issuance of a building permit	BP	Plng/ISD	
20	Vegetative screening shall be installed along the abutment of the parking area with the patio area of the new principal structure. Design, flora options and location of plantings shall all be submitted to Planning Staff for their review and approval prior to the issuance of a building permit.	BP	Plng/ISD	
21	A 6-foot wood fence shall be installed along the property line at the right elevation of the property. All materials shall be submitted for review and approval by Planning Staff prior to installation. The fence shall gradually scale from 4 feet to 6 feet starting at the abutment of the Applicant's property with the City sidewalk.	CO	Plng/ISD	
22	There shall be a minimum of two trees as required under SZO §10.3.	CO	Plng.	
23	The Applicant, its successors and/or assigns, shall be responsible for maintenance of both the building and all on-site amenities, including landscaping, fencing, lighting, parking areas and storm water systems, ensuring they are clean, well kept and in good and safe working order.	Cont.	ISD	
<b>Public Safety</b>				
24	The Applicant or Owner shall meet the Fire Prevention Bureau's requirements.	CO	FP	
25	All exterior lighting must be confined to the subject property, cast light downward and must not intrude, interfere or spill onto neighboring properties.	CO	Plng.	
26	All smoke detectors shall be hard-wired.	CO	Fire Prevention / ISD	
27	The building shall be sprinkled.	CO	Fire Prevention / ISD	
<b>Miscellaneous</b>				
28	Because this property is a Local Historic District (LHD), all requirements of the Somerville Historic Preservation Commission (HPC) shall apply and all work shall be required to be done to the Secretary of the Interior's Standards.	CO	Plng/ISD	
<b>Final Sign-Off</b>				
29	The Applicant shall contact Planning Staff at least five working days in advance of a request for a final inspection by Inspectional Services 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.	

Attest, by the Zoning Board of Appeals:

Orsola Susan Fontano, *Chairman*  
Elaine Severino, *Acting as Clerk*  
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 \_\_\_\_\_

