



**CITY OF SOMERVILLE, MASSACHUSETTS**  
**MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT**  
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EXECUTIVE DIRECTOR

**PLANNING DIVISION STAFF**

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SARAH WHITE, *PLANNER/PRESERVATION PLANNER*  
ALEX MELLO, *PLANNER*  
MONIQUE BALDWIN, *ADMINISTRATIVE ASSISTANT*

**Case #:** ZBA 2017-06-E1-4/19  
**Date:** June 5, 2019  
**Recommendation:** Approval

**Special permit time extension:** Approval

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**PLANNING STAFF REPORT**

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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.

**Dates of Public Hearing:** Zoning Board of Appeals – June 5, 2019

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## **I. PROJECT DESCRIPTION**

**1. Subject Property:** The subject property is a two-family Mansard residential structure located in the RC zone. It is historically known as the Edward Foote house and was built c.1865. It is a single-building local historic district (LHD). The property contains 4,090 square feet and sits on a 12,632 square foot lot in Winter Hill.

**2. Proposal:** 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.

**Special Permit Extension:**

Under Massachusetts law, the expiration date of (a) special permit(s) may be extended for up to one year, one-time only. On February 1, 2017, Thomas Sullivan and Maria del Carmen Sullivan, Owners and Applicants for 419 Broadway, were granted the following special permits:

- Construction of a 6-unit residential structure
- Parking relief for four (4) spaces

The Applicants for 419 Broadway seek a one-year extension of their special permits due to the circumstances described later in this staff report. Any special permit extension would expire on February 1, 2020.

The ZBA can approve the extension request or deny the extension request. The ZBA cannot further review the proposed design nor require additional conditions.

**4. Comments:**

*Historic Preservation Commission (HPC):* As this property is a single-building Local Historic District (LHD), the Applicant received a Certificate of Appropriateness from the HPC on December 20, 2016. These certificates are valid for one year from the date of approval. In the case of 419 Broadway, the Applicant must return to the HPC to request a renewal of the Certificate of Appropriateness. Whether or not the Applicant has this renewal in hand at the time of the ZBA hearing has no bearing on the decision that the ZBA must independently make according to its regulations.

**II. FINDINGS FOR EXTENSION OF SPSR & SPECIAL PERMIT**

*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, Planning Staff 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.

Staff recommends the ZBA grant 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. RECOMMENDATION**

#### **Extension of SPSR and Special Permits for one year under §5.3.10**

Planning Staff recommends that the Board grant the extension of the special permits until **February 20, 2020**, which is one year beyond the expiration date of the original Special Permit. The extension of these special permits shall include all of the conditions originally attached to the approvals granted on February 20, 2019.



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**MAYOR**

MICHAEL F. GLAVIN  
EXECUTIVE DIRECTOR

PLANNING DIVISION

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ANNE BROCKELMAN, (ALT.)  
POOJA PHALTANKAR, (ALT.)

**Case #: ZBA 2017-06**  
**Site: 419 Broadway**  
**Date of Decision: February 1, 2017**  
**Decision: Petition Approved with Conditions**  
**Date Filed with City Clerk: February 14, 2017**

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**ZBA DECISION**

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<b>Applicant Name:</b>	Thomas Sullivan & Maria Del Carmen Sullivan
<b>Applicant Address:</b>	419 Broadway, Somerville, MA 02145
<b>Property Owner Name:</b>	Thomas Sullivan & Maria Del Carmen Sullivan
<b>Property Owner Address:</b>	419 Broadway, Somerville, MA 02145
<b>Agent Name:</b>	Richard G. DiGirolamo, Esq.
<b>Agent Address:</b>	424 Broadway, Somerville, MA 02145

Legal Notice: Applicants and Owners, Thomas Sullivan & Maria del Carmen Sullivan, seek special permits under §4.4.1\* of the SZO to extend existing non-conformities, §7.11 to increase the number of units on the property, and parking relief under §9.13.

<u>Zoning District/Ward:</u>	RC zone/Ward 5
<u>Zoning Approval Sought:</u>	§4.4.1, §7.11 & §9.13
<u>Date of Application:</u>	December 29, 2016
<u>Date(s) of Public Hearing:</u>	February 1, 2017
<u>Date of Decision:</u>	February 1, 2017
<u>Vote:</u>	5-0

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Appeal #ZBA 2017-06 was opened before the Zoning Board of Appeals at Somerville City Hall on February 1, 2017. 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 hearing of deliberation, the Zoning Board of Appeals took a vote.



CITY HALL • 93 HIGHLAND AVENUE • SOMERVILLE, MASSACHUSETTS 02143  
(617) 625-6600 EXT. 2500 • TTY: (617) 666-0001 • FAX: (617) 625-0722  
[www.somervillema.gov](http://www.somervillema.gov)

**DESCRIPTION:**

The proposal is multi-faceted. The Applicant proposed to convert the historic structure at 419 Broadway into a single-family residence. An existing annex attached to the rear of this structure will be removed. A second principal structure containing four (4) units is proposed for the rear of the property. This new structure will be sighted lower than the existing structure due, in part to the downward slope of the property as it nears the back of the lot. The design goal for the structure is for it to echo the look of historic barns, the likes of which used to reside on this property. The existing structure will be refreshed, new landscaping added throughout the property, a fence installed along the right side yard lot line to help shield the parking and the new structure from the public way, the goal of which is to have the historic residence remain the primary focus of the property.

The unit and bedroom counts for this **proposal** area as follows:

**Historic house** (to be converted from a two-family to a single family): 3 bdr.

**New, multi-unit structure:**

Unit 1:	2 bdr.
Unit 2:	2 bdr.
Unit 3:	2 bdr.
Unit 4:	3 bdr.

**FINDINGS FOR SPECIAL PERMIT (SZO §4.4.1 & §9.13):**

*In order to grant a special permit, the SPGA must make certain findings and determinations as outlined in §5.1 of the SZO. This section of the report goes through the special permit findings in detail.*

**1. Information Supplied:****Regarding SZO §7.11.1.c**

The Board finds that the information provided by the Applicant conforms to the requirements of §5.1 and §7.11.1.c of the SZO and allows for a comprehensive analysis of the project with respect to the required Special Permits.

**Regarding SZO §9.13**

The Board finds that the information provided by the Applicant conforms to the requirements of §5.1 and SZO §9.13 and allows for comprehensive analysis of the project with respect to the required Special Permits.

**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."*****Regarding SZO §7.11.1.c SZO §9.13**

As noted earlier in this report, the Applicant proposes to increase the number of units on the property from two (2) to five (5). To achieve this, the Applicant proposes to convert the current 2-family into a single-family dwelling unit. A second principal structure of four (4) units is proposed for the rear of the lot. There is no dimensional relief needed for this structure, either, due to how it will be situated on the lot.



Though multiple units are allowed in the RC zone, in order to increase the number of units currently on the property, a Special Permit is needed. The Board finds that the proposal complies with the principles set forth in Article 1, §1.2 of the SZO.

### **Regarding SZO §9.13**

Due to the change in bedroom count this project requires the Applicant to request a special permit for parking relief. The parking formula and the associated variables for this project, are as follows:

$$(new\ parking\ requirement - old\ parking\ requirement) \times .5 = new\ spaces\ required^*$$

#### **Existing Conditions**

Unit 1: 3 bdr. = 2.0 spaces  
Unit 2: 3 bdr. = 2.0 spaces

#### **Proposed Conditions**

single-family 3 bdr. = 2.0 spaces  
Multi-unit  
Unit 1: 2 bdr. = 1.5 spaces  
Unit 2: 2 bdr. = 1.5 spaces  
Unit 3: 2 bdr. = 1.5 spaces  
Unit 4: 3 bdr. = 2.0 spaces

**Total existing req'd pking:** 4.0 spaces

**Total new req'd pking:** = 6.5 spaces

Plugging the above numbers into the formula results as follows:

$$(6.5 - 4.0) = 2.5$$

$$2.5 \times .5 = 1.25 \text{ new spaces required}$$

*\*when the resulting number is < 1 or a negative number, no additional parking is required*

The Applicant proposes providing six (6) total spaces, two of which are standard spaces and four (4) of which are compact. These two spaces fulfill the 1.25 new space requirement.

**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."***

The proposal to construct a second principal structure and to increase the number of units on the property from two (2) to five (5) is consistent with the purposes of the RC district which is "...to establish and preserve a district for multi-family residential and other compatible uses which are of particular use and convenience to the residents of the district."

**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."***

This property is located on the upper portion of Broadway. The surrounding neighborhood presents a variety of housing styles, massing and designs overlooking a busy thoroughfare. Two-, three-, and multi-family housing can be found among large, multi-floor apartment and condo buildings. Nearby styles include gambrel, gable-roofed, flat-roofed multi-unit, wood-framed and brick veneered structures from a variety of eras. The property in question is one of the older structures on this part of Broadway.

The proposed 4-unit structure will be minimally-visible from the public right-of-way as it will sit at the rear of the property in a location whose grade is much lower than that found at the front of the property. The proposed structure



has been designed to reflect one of many historic barn/carriage house styles that would have existed in the City. The Board finds that the proposed design, massing and style of the new structure are not inconsistent with the varied built environment in the surrounding neighborhood and will not be a detriment thereto.

The lot in question, at over 12,000 square feet, is exceptionally large for Somerville. The Board finds that the proposed plan utilizes the property in such a way that permits the Applicant to realize the benefit of owning a property in a zone that allows for multiple units/principal structures while simultaneously providing residents of the property with significant outdoor space and green/landscaped areas. Despite the inclusion of another structure on the property, Staff finds that there is sufficient opportunity for stormwater to percolate through the parcel given the amount of green/open space provided.

**5. Housing Impact: *Will not create adverse impacts on the stock of existing affordable housing.***

The proposal will not add to the existing stock of affordable housing.

**6. SomerVision:**

This property will contribute to SomerVision metrics by adding three (3) new residential units to the City's housing stock.



**DECISION:**

Present and sitting were Members Orsola Susan Fontano, Richard Rossetti, Danielle Evans, Elaine Severino and Josh Safdie. Upon making the above findings, Danielle Evans 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	Approval is for the construction of a 6-unit residential building and relief from providing four parking spaces.	BP/CO	ISD/PIng.	
	<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> <p>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.</p>			
Date (Stamp Date)	Submission			
December 29, 2016	Initial application submitted to the City Clerk's 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>				



2009

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*  
Richard Rossetti, *Clerk*  
Danielle Evans  
Elaine Severino  
Josh Safdie

Attest, by the Administrative Assistant:

\_\_\_\_\_

Dawn M. Pereira

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 \_\_\_\_\_

