

Case # 22-19  
Date filed with Town Clerk: 11 July 2019  
Date received: 28 June 2019

## DECISION AND FINDINGS OF THE ZONING BOARD OF APPEALS

**Re: Appeal of the Building/Zoning Inspector's decision to issue a building permit under section 11.9 f [now 10.1 G] of the Edgartown Zoning Bylaw**

**Appellants: Lynn Allegaert et al.**

**Owners: Harbor View Hotel Owner, LLC**

**Assessor's Parcel: map 20B lot 107**

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### PROCEDURAL HISTORY

1. An appeal of the Building Inspector's decision to issue a building permit to allow the construction and relocation of a 176 sq. ft. pool bar to replace an existing 225 sq. ft. pool bar on the above-captioned property was filed with the Town Clerk on 11 July 2019.
2. A public hearing - after proper notice was given to abutters, town departments, and placed in the *Vineyard Gazette* - was held on Wednesday, 31 July 2019. .
3. The Board reviewed the appeal and supporting documents prior to the close of the public hearing. The Board received and gave due consideration to the testimony given at the public hearing [See Record of Proceedings and Memorandum dated 30 July 2019 from Kevin O'Flaherty, Esq.]

### FACTS

1. A special permit for the construction of the new pool bar was issued by the Zoning Board of Appeals on 3 May 2019 after the requisite public hearing was held on 1 May 2019.
2. A building permit was issued on 31 May 2019 by the Assistant Building Inspector.
3. A cupola that was constructed on the roof of the pool bar, which was not part of the plans approved by the Zoning Board, was removed on or around 9 July 2019.
4. A final inspection of the pool bar was made by the Building Inspector on or about 26 July 2019.

### FINDINGS:

The Board finds that the Building Inspector acted correctly in issuing the building permit for the construction and relocation of the pool bar.

1. The appeal currently before the Zoning Board is based on the contention that the special permit issued by the Zoning Board is defective [See Record of Proceedings].
2. Appellants have appealed the issuance of the special permit in Superior Court and were recently denied an injunction.
3. Until such time as the Superior Court determines the validity of the special permit, the Zoning Board has no jurisdiction to rescind the special permit and it remains valid.

## DECISION

Based on the above findings and reasons, the Board voted 4-1 to uphold the decision of the Building Inspector.

This decision of the Board of Appeals and a record of proceedings are on file in the Zoning Board office and in the office of the Town Clerk, Town Hall under Case No: 22-2019.

Board of Appeals,

Lisa C. Morrison, Assistant

Read and approved: \_\_\_\_\_  
Martin Tomassian, Chairman

Note: This decision was filed in the office of the Town Clerk on 9 August 2019. Appeals, if any, should be made pursuant to Section 17 of Chapter 40A of the Massachusetts General Laws and should be filed within 20 days of the filing of this decision in the office of the Town Clerk.

\_\_\_\_\_ 2019  
I hereby certify that no appeal has been filed in the twenty-day period following the date of filing this decision.

Attest: \_\_\_\_\_