

Case # 35-21  
Date Filed: 14 July 2021

## DECISION AND FINDINGS OF THE ZONING BOARD OF APPEALS

**Re: Request for a Special Permit under Section 10.3 F of the Edgartown Zoning Bylaw by Jackson Sandland, Trustee of Long Hill Realty Trust**  
**3 Long Hill Road**  
**Assessor's Parcel: 20A-7.3**  
**Book: 1162 Page: 856**

### PROCEDURAL HISTORY

1. On 14 July 2021 an application for a special permit for a special permit under section 10.3 F of the zoning bylaw was filed with the office of the Edgartown Zoning Board of Appeals and with the Town Clerk.
2. A public hearing - after proper notice was given to abutters, town departments, and placed in the *Vineyard Gazette* - was scheduled for 4 August 2021. At the applicant's attorney's request, the hearing was postponed until 1 September 2021.
3. The applicant and his attorney, Rob Moriarty, were present for the Zoom hearing, as were several abutters.
4. During the course of the hearing, the board listened testimony from the applicant's attorney as well as from several the abutters. The board reviewed several letters from abutters prior to the hearing, and all other materials and information submitted prior to the close of the public hearing. [See Record of Proceedings].

### FACTS

1. The property was used as an assisted living facility from 1992 to sometime in 2019.
2. A special permit, with several conditions, was issued for the facility by the Zoning Board of Appeals in 1991
3. In 1992 the Board of Health voted to allow the facility to operate with the existing kitchen provided that the maximum number of residents did not exceed ten.
4. The floor plan attached to the application shows accommodations for thirty-three individuals in 14 bedrooms.

FINDINGS & DECISION:

The Board finds that the requirements of the Zoning Bylaw concerning staff apartments have not been met, nor have the conditions of the 1991 special permit for the following reasons:

1. No evidence was presented that a full-time manager was in residence in the facility (10.3. F. 3 d).
2. Residency requirements of the employees were not assured by a deed restriction (10.3. F. 3 d).
3. Near unanimous abutter testimony indicates that the traffic, noise, and nuisance has reached unacceptable levels since the transition from assisted living facility to employee housing and in violation of the bylaw (10.3. F 3 c).
4. The owner/employer has not assumed responsibility for the conduct of the residents or adherence to the conditions of the special permit as required by (10.3 F 3 j).
5. No evidence was presented indicating that the kitchen has been upgraded to a level that the Board of Health requires for a multi-resident kitchen.
6. The Board finds the 1991 special permit is not transferable in this situation as the use of the premise for an assisted living facility for a maximum of ten residents is not comparable to employee housing for upwards of 30 employees.

For these reasons, the Board voted 5-0 to deny the application for a special permit

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: 35-2021.

Board of Appeals,

Lisa C. Morrison, Assistant

Note: This decision was filed in the office of the Town Clerk on 13 September 2021. 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.

\_\_\_\_\_2021

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

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