



TOWN OF NANTUCKET BOARD OF APPEALS NANTUCKET, MA 02554

STAFF REPORT

Thursday, May 13, 2021

1:00 PM

www.nantucket-ma.gov

ZOOM WEBINAR REGISTRATION LINK:

https://us06web.zoom.us/webinar/register/WN_PDAd0X1xSVastTks1R4C4w

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To view the LIVE broadcast of the meeting, see *YouTube Link* at <https://youtu.be/YiLLcjozWaA>

Date: May 11, 2021
To: Zoning Board of Appeals
From: Eleanor W. Antonietti, Zoning Administrator
Re: May 13, 2021

I. APPROVAL OF THE MINUTES:

- February 11, 2021
- March 11, 2021
- April 8, 2021

Pages 6 - 14

II. OLD BUSINESS (CONTINUED PUBLIC HEARINGS AND VOTES MAY TAKEN)

- 11-20 Peter J. Mackay & Alison Mackay and David P. Mackay & Anne M. Phaneuf, Tr.,
Mackay/Phaneuf Family Trust 21 & 25 Monohansett Road Alger
Request to WITHDRAW WITHOUT PREJUDICE
Last opened on 5/14/2020 Sitting: SM LB ET MJO KK At Table: MP GT JM
Applicants are seeking Special Permit relief pursuant to Zoning By-law Sections 139-30 and 139-33.A(1)(a) to alter, change, and extend a preexisting nonconforming lot, or in the alternative and to

2 Fairgrounds Road Nantucket Massachusetts 02554
508-325-7587 telephone 508-228-7298 facsimile

the extent necessary, a Variance, or the modification of an existing Variance, under By-law Section 139-32. The locus is improved with primary and secondary dwellings, constructed as principal residences for each couple. The dwellings have been treated separately, and for all intents and purposes as separate lots and structures, each served by a separate driveway. Applicants propose to separate out their properties for estate planning and other purposes. The proposal would encompass one of the dwellings and subdivision of the property into two nonconforming lots of approximately equal land area, each containing a dwelling. No additional dwellings are proposed, and the Applicants propose to permanently restrict each lot to one dwelling and no additional ground cover above that which would be allowed by right. In the alternative, the Applicants request relief to allow them to create a two-unit condominium or cooperative. The Locus is situated at 21 & 25 Monohansett Road, is shown on Tax Assessor's Map 27 as Parcel 31, and as Lot 2 upon Land Court Plan 39913-A and as Lot 1 in Block 262 upon Plan No. 2, Page 60. Evidence of owner's title is registered on Certificate of Title No. 17375 at the Nantucket County District of the Land Court and in Book 1655, Page 103 on file at the Nantucket County Registry of Deeds. The site is zoned Limited Use General One (LUG-1).

- 06-21 Jayne C. Debiasio & Brian F. Debiasio 39 Meadow View Dr. Reade
REQUEST TO CONTINUE TO JULY 8, 2021

Sitting: SM LB ET KK

At Table: MP GT JM

Applicants are seeking to further modify prior relief by Special Permit (Decision File No. 030-11 as modified by File No. 25-19). The 2011 decision permitted a reduction of the sideline setback from 10 feet to 5 feet in order to construct a garage/studio within the northerly side yard setback and was subject to certain conditions. Specifically, Applicants request elimination of condition 'a.' that the "studio shall not be for human habitation". Applicants have obtained Planning Board approval to convert the structure into a secondary dwelling. Locus is situated at 39 Meadow View Drive, shown on Assessor's Map 56 as Parcel 133, and as Lot 50 upon Land Court Plan 14830-O. Evidence of owner's title is registered on Certificate of Title No. 23121 with the Nantucket County District of the Land Court. The site is zoned Residential Twenty (R-20).

- 08-21 EBWC, LLC 4 Lincoln Ave. Beaudette
Action Deadline July 5, 2021

CONFLICTS: LB; MJO

Sitting: SM ET KK

At Table: MP GT JM

Applicant is requesting relief by Special Permit pursuant to Zoning By-law Section 139-33.A to allow for the extension, alteration, and change of a dwelling which is pre-existing nonconforming as to height. In the alternative and to the extent necessary, Applicant requests relief by Variance pursuant to Section 139-32. Specifically, Applicant proposes to construct an addition to the dwelling with a ridge height extending from the pre-existing nonconforming ridge height. As a result of the project as proposed, the height nonconformity will decrease slightly. The Locus is situated at 4 Lincoln Avenue, is shown on Assessor's Map 30 as Parcel 151, as Lot 1 upon Land Court Plan 33167-B. Evidence of owner's title is registered on Certificate of Title No. 27906 with the Nantucket County District of the Land Court. The site is zoned Residential One (R-1).

This is a request to alter a structure which is pre-existing nonconforming as to height. The proposal consists of renovating and building additions to the circa 1920 dwelling. Both existing and proposed conditions are shown on Site Plan on Page 27 of the Packet. A clearer rendering is **INCLUDED AT END OF THIS STAFF REPORT.**

HDC COA and approved Architectural plans are on Pages 29-36 of the Packet. Per the COA issued on 3/23/2021, the project consists of demolishing existing east and south wings, revising

fenestrations, and building additions on the east, south, and west. Applicant proposes “to fill the back site where it slopes off, which will help flatten the site [...]”. The approved elevations show proposed grade at 42.5’ and proposed FFE at 44.25’. The ridge height will become slightly less nonconforming as a result of the project, decreasing to 32.46’ from an existing height of 32.79’ where 30’ is the maximum allowed pursuant to Section 139-17.A.

Other alterations are proposed upon the premises which do not require relief, including the removal of a garage structure which is currently sited within the side yard setback.

Relief is requested pursuant to **Section 139-33.A(1)(a)** which reads:

Preexisting, nonconforming structures or uses may be extended, altered, or changed, provided that:

(a) The special permit granting authority finds that such extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure and/or use to the neighborhood. [...]

III. NEW BUSINESS (INITIAL PUBLIC HEARINGS AND VOTES MAY BE TAKEN):

- 09-21 Shannah Green 49 Fairgrounds Road Alger
Action Deadline August 11, 2021 **CONFLICTS: None Known**

Applicant requests amendment of previously granted Special Permit relief, recently amended by the Planning Board to permit creation of a secondary residential lot, to allow use of a seasonally covered deck for outdoor classes. Specifically, Applicant seeks to modify the relief and its conditions to: 1) permit classes to be conducted outside to allow for appropriate social distancing during the pandemic; and 2) substitute an updated Site Plan as new “Exhibit A.” The Locus is situated at 49 Fairgrounds Road, is shown on Tax Assessor’s Map 67 as Parcel 306, and Lots 56 and 57 upon Land Court Plans 34507-H and 34507-I. Evidence of owner’s title is registered as Certificate of Title No. 16996 in the Nantucket County District of the Land Court. The site is zoned Residential 10 (R-10).

The Applicant requests the amendment of prior Special Permit relief. The original Special Permit granted in File No. 036-00 (**See Pages 65 – 70 of Packet**) granted approval for the construction and operation of a yoga and dance studio upon the premises subject to 9 conditions. In 2017, the Applicant received approval in File No. 24-17 (**See Pages 71 – 75 of Packet**) to modify conditions in order to allow:

- Increase number of students allowed from 12 to 15
- Increase hours and days of operation to allow classes to run from 6:30am – 9pm Monday through Saturday and to eliminate prohibition on Sunday classes which are proposed to occur from and 7:30am – 7pm on Sunday.
- To substitute an updated Site Plan as new “Exhibit A”
- Remove restriction that relief is exclusive to current applicant/owner.

As stated in the Addendum, the Planning Board approved a subdivision into two lots to allow the creation of a Secondary Lot for year-round residents, pursuant to Section 139-8.C, at its April 12th meeting. The Agenda and PB application are on **Pages 76 – 84 of Packet**. As of this date, the decision has not been drafted. The ANR plan and Concept Plan associated with this approval are on **Pages 50 – 51 of the Packet**. As shown thereon, the subject Locus is “Lot 189”, and will contain 16,039 SF in R-10 where minimum lot size is 10,000 SF. This larger market rate lot consists of an existing 386 SF cottage, which is pre-existing nonconforming as to southerly side yard

setback, and the subject 788 SF yoga and dance studio structure. This lot will retain the ability to have a secondary dwelling. The smaller Covenant "Lot 190" contains 4,001 SF and a 698 SF dwelling and has two parking spaces. The lots will have a shared curb cut with a 20' wide permanent non-exclusive appurtenant easement over the larger lot fronting on Fairgrounds Rd. to provide access to the smaller lot.

The subject yoga studio structure has a "seasonally covered deck with roof overhang" on the north/rear elevation where the Applicant requests approval to conduct outdoor classes for appropriate social distancing during the pandemic. Applicant further requests the substitution of an updated Site Plan for the "Exhibit A" attached to the most recent decision. The number of parking spaces will increase for 12 to 13 to serve the larger lot. In all other respects, the prior relief as modified shall remain in full force and effect.

STAFF HAS INCLUDED AT THE END OF THIS STAFF REPORT a letter expressing concerns regarding the request received from abutters after the deadline.

IV. OTHER BUSINESS (Votes may be taken)

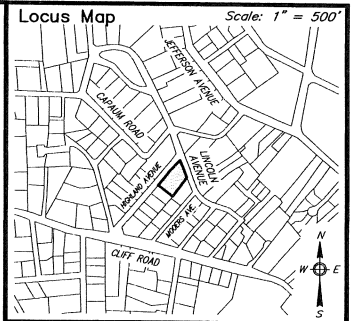
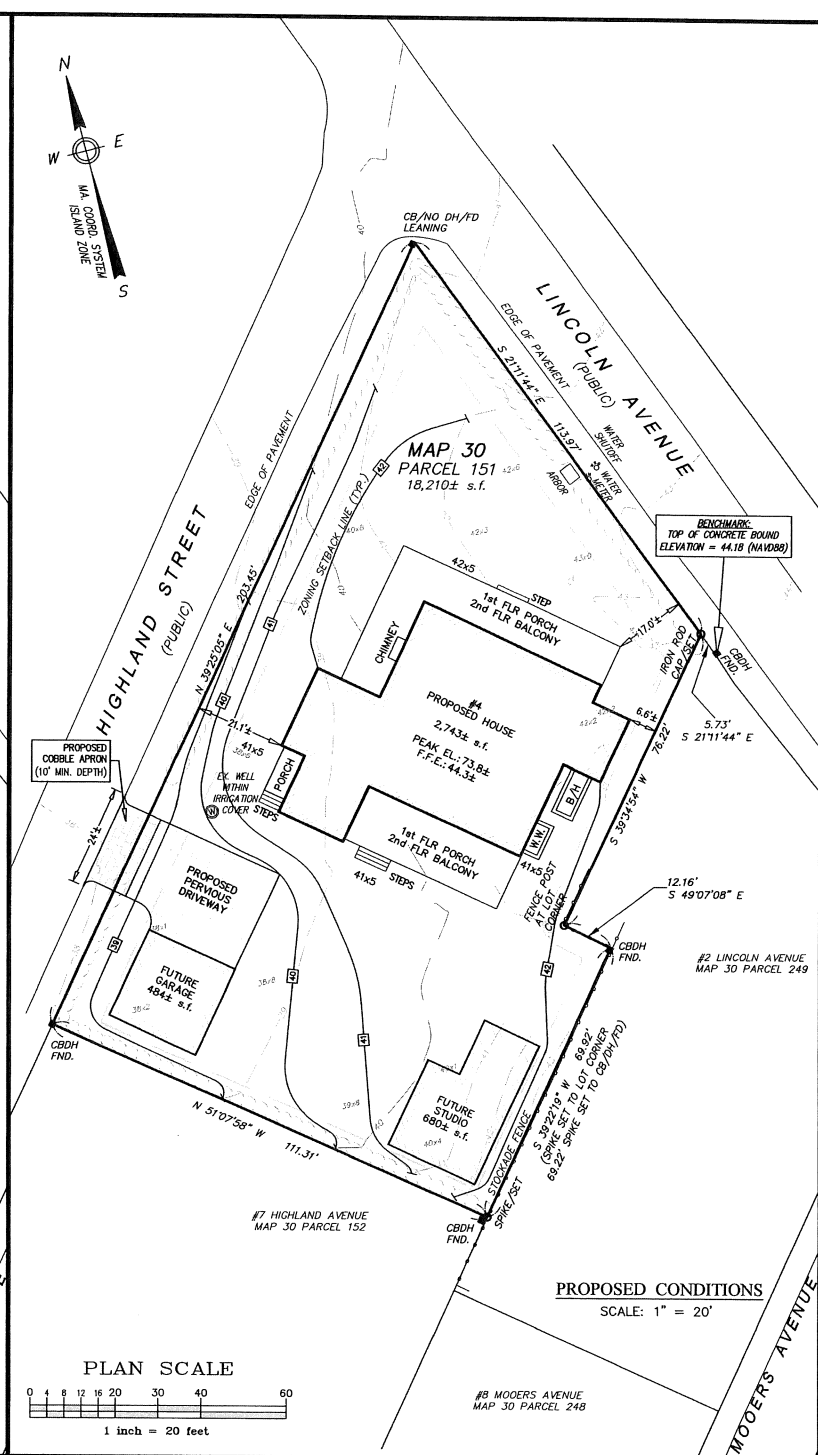
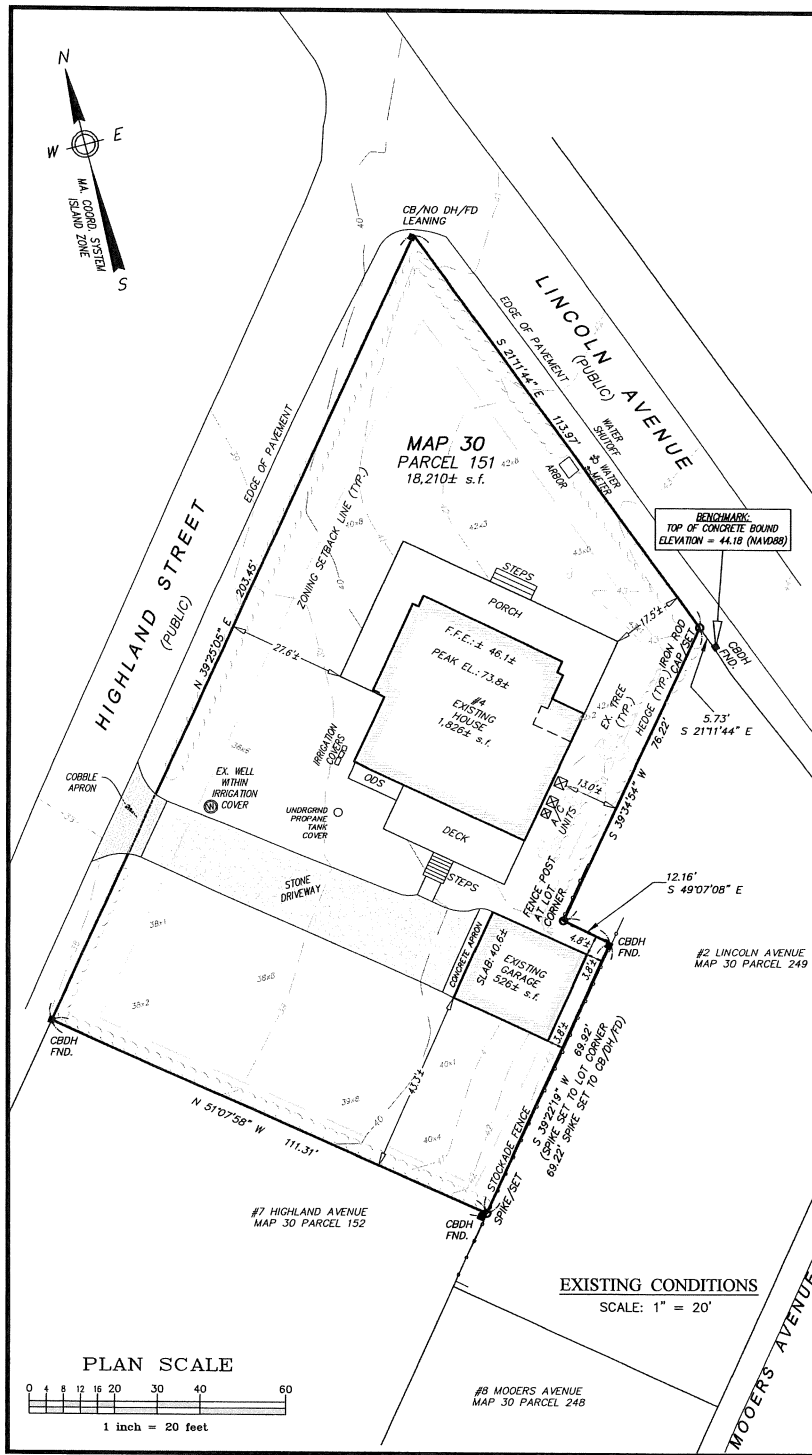
V. ADJOURNMENT (VOTE WILL BE TAKEN)

EBWC, LLC

4 LINCOLN AVE.

FILE NO. 08-21

SPECIAL PERMIT



Notes

- LOCUS: #4 LINCOLN AVENUE
MAP 30 PARCEL 151
- OWNER: EBWC LLC
511 INDIAN FIELD ROAD
GREENWICH, CT 06830
- DEED REF: Cert. #27906
- PLAN REF: LC Plan #33167-B (LOT 1)
- LOCUS DOES NOT FALL WITHIN A SPECIAL FLOOD HAZARD ZONE AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP No. 25019C-0086-G dated 06/09/2014.
- LOCUS DOES NOT FALL WITHIN THE NATURAL HERITAGE AND ENDANGERED SPECIES PROGRAM (NHESP) AREAS OF ESTIMATED HABITATS OF RARE WILDLIFE and PRIORITY HABITATS OF RARE SPECIES.

HEIGHT CALCULATIONS:

	EXISTING	PROPOSED
PEAK ELEVATION:	73.80	73.80
MEAN GRADE:	41.01	41.34
BUILDING HEIGHT:	32.79	32.46

ZONE: R-1

	REQUIRED	EXISTING	PROPOSED
LOT AREA:	5,000 s.f.	18,210± s.f.	18,210± s.f.
FRONTAGE:	50'	113.97'	113.97'
FRONT YARD:	10'	17.5'±	17.0'±
SIDE/REAR YARD:	5'	3.8'±	6.6'±
GROUND COVER:	30% (MAX)	12.9%	15.1%
	(3,463 ± l.)	(2,352± s.f.)	(2,743± s.f.)

Prepared By:



49 HERRING POND ROAD
BUZZARDS BAY, MA 02532
(tel) 508.833.0070
(fax) 508.833.2282

19 OLD SOUTH ROAD
NANTUCKET, MA 02554
(tel) 508.325.0044
www.brackeneng.com

PROPOSED SITE PLAN IN NANTUCKET, MA

Prepared For:
EBWC LLC
#4 LINCOLN AVENUE
MAP 30 PARCEL 151

No.	Date	Revision	Description	By
1	MARCH 8, 2021	ERC/BEI	DFB/AMC	Sheet: 1 of 1

LETTER

Received after deadline

Shannah Greene

49 Fairgrounds

FILE No. 09-21

From: [ROBERT BATES](#)
To: [Eleanor Antonietti](#)
Subject: 49 Fairgrounds Rd Meeting
Date: Monday, May 10, 2021 11:46:14 AM

To the Members of The Zoning Board Of Appeals:

As neighbors that are directly adjacent to Shannah Green at 49 Fairgrounds Rd we have some questions / concerns that we would like to see addressed:

1. First is that the request be denied on the basis that Shannah Green operated her Yoga Studio last year with no consideration of obtaining the changes being requested during this hearing. She has operated outside of her license during the 2020 season by holding outdoor classes and allowing the noise from her classes to leave the property and intrude on the neighbors – especially my property at 11 Brinda Lane which is located within roughly 12 feet of the deck that was constructed for the purpose of the classes that were held outdoors
2. Second, we have requested information on the building permit for the deck area that is being used for commercial purposes and have receive nothing regarding the permitting that allowed this deck to be built. To the best of my knowledge neither I nor any of my neighbors received notification that this roofed deck area was being built – yet I have had to notify abutters whenever I was building structures previously.
3. Third, we would like to see the safety plan that shows that the teachers and participants will be following all the regulations for Fitness Centers as outlined in the Sector Specific Workplace Safety Standards For Fitness Centers And Health Clubs To Address Covid-19 dated March 18, 2021. These regulations require constant masking by all teachers and participants, 6 ft of social distancing even when masked, and many other requirements that we do not feel were adhered to last year. In an email I received in regards to this request for information we were told that this property is a “fitness center or the like” but was designated as a recreational facility which is allowed in the R-10 District.
4. Fourth, we previously had a neighbor that was operating a business (supposed Cottage Industry) who was not allowed to have customers or employees come to their property because they were operating as a "Cottage Industry" in the R-10 District. How is this property different?
5. I have in my possession an email that included a screenshot indicating that they want to offer yoga, dance, barre, pilates, women’s circles, reiki, sound baths, and 1:1 work from June 20th to October 11th. Sounds Baths, where music is “produced by gongs, singing bowls, percussion, chimes, rattles, tuning forks, and even the human voice itself” (this quote was taken directly from www.verywellmind.com) will have a potential negative impact – especially if allowed to occur outside of the yoga studio on an outdoor deck.

See All



Yoga Room Nantucket



4h · 🌐

Opening this summer!

Longtime TYR teacher and past manager, Evie O'Connor will be running a pop-up healing space this summer on the Yoga Room outdoor deck. Evie, and a small team of teachers (including Shannah Green), will be offering a variety of different movement practices (yoga, dance, barre, pilates) and healing arts (women's circles, reiki, sound baths, 1:1 work) between June 20th - October 11th.

Stay tuned for more details as the season approaches through both Evie and the Yoga Room's Instagram accounts:

@eviemarie.oconnor and

@theyogaroomnantucket

👍❤️ 17

1 Comment

👍 Like

💬 Comment

➦ Share



While we understand the desire for a business to thrive and grow should it also

occur with the possible negative impact to the neighborhood? This is a residential neighborhood (hence the R-10 designation) and the possible negative impact of these outdoor classes being allowed as a normal form of operation should not be allowed. The indoor classes were never a concern or a problem but the outside classes are concerning. While yoga could be considered a quiet form of workout the music and voices of the students were leaving the control of the property, which as we recall the original use of the property did not allow for the sounds of the business to extend beyond the borders of the property.

We are requesting that you do not allow the proposed changes to the allowed activities for this property.

Robert & Sherry Lynn Bates

Alan & Judy Rusch

This email was scanned by Bitdefender