

BAL HARBOUR

- V I L L A G E -

Local Planning Agency

LPA-Regular Agenda

October 16, 2018

At 7:00 PM

Bal Harbour Village Hall • 655 - 96th Street • Bal Harbour • Florida 33154

1 CALL TO ORDER / PLEDGE OF ALLEGIANCE

2 APPROVAL OF MINUTES

September 17, 2018 LPA Minutes

[LocalPlanningAgencyMeeting_Sep17_2018_MINUTES.pdf](#)

3 HEARINGS

LPA1 Accessory Use in Rear Setback - First Reading

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 21 "ZONING," DIVISION 9 "RM-5 MULTIPLE FAMILY RESIDENTIAL DISTRICT," SECTION 21-268 "ADDITIONAL STANDARDS FOR GRANDFATHERED APARTMENT-HOTEL PROJECTS" TO ADDRESS THE USE OF STRUCTURES IN THE REAR SETBACK; PROVIDING FOR DEFINITIONS, SEVERABILITY, INCLUSION IN THE CODE, CONFLICTS, AND FOR AN EFFECTIVE DATE.

[Item Summary - Accessory Uses for Setbacks](#)

[Council Memorandum - Accessory Uses for Setbacks](#)

[Ordinance - Accessory Uses for Setbacks](#)

LPA2 Setback Ordinance - First Reading

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING CHAPTER 21 "ZONING" OF THE CODE OF ORDINANCES, BY AMENDING SECTION 21-1 "DEFINITIONS AND RULES OF CONSTRUCTION," SECTION 21-127 "SETBACKS" [IN THE R-2 DISTRICT] AND SECTION 21-354 "PROJECTIONS INTO SETBACK AREAS," ALL TO ADDRESS ENCROACHMENTS AND PROJECTIONS INTO

SETBACKS OR YARDS; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, CONFLICTS, AND FOR AN EFFECTIVE DATE.

[Item Summary - Pools-Porte Cochere](#)

[Council Memorandum - Pools-Porte-cochere](#)

[Ordinance - Pools-Porte Cochere](#)

4 ADJOURNMENT - Motion to Adjourn

One or more members of any Village Committee/Board may attend this meeting of the Council and may discuss matters which may later come before their respective Boards/Committees.

The New Business and Council Discussion Section includes a section for Public Comment. On public comment matters, any person is entitled to be heard by this Council on any matter; however, no action shall be taken by the Council on a matter of public comment, unless the item is specifically listed on the agenda, or is added to the agenda by Council action.

Any person who acts as a lobbyist, pursuant to Village Code Section 2-301 (Lobbyists), must register with the Village Clerk, prior to engaging in lobbying activities before Village staff, boards, committees, and/or the Village Council. A copy of the Ordinance is available in the Village Clerk's Office at Village Hall.

If a person decides to appeal any decision made by the Village Council with respect to any matter considered at a meeting or hearing, that person will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).

In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the Village Clerk's Office (305-866-4633), not later than two business days prior to such proceeding.

All Village Council meeting attendees, including Village staff and consultants, are subject to security screening utilizing a metal detector and/or wand, prior to entering the Council Chamber, Conference Room, or other meeting area located within Village Hall. This is for the safety of everyone. Thanks for your cooperation.

BAL HARBOUR

- V I L L A G E -

Mayor Gabriel Groisman
Assistant Mayor Seth E. Salver
Councilman David J. Albaum
Councilwoman Patricia Cohen
Councilman Jeffrey P. Freimark

Village Manager Jorge M. Gonzalez
Village Clerk Dwight S. Danie
Village Attorneys Weiss Serota Helfman
Cole & Bierman, P.L.

Bal Harbour Village Council Local Planning Agency Meeting Minutes

September 17, 2018

At 7:00 PM

Bal Harbour Village Hall • 655 Street • Bal Harbour • Florida 33154

CALL TO ORDER/ PLEDGE OF ALLEGIANCE – Mayor Groisman called the meeting to order at 7:04 PM.

The following were present:

Mayor Gabriel Groisman
Councilman David Albaum
Councilwoman Patricia Cohen
Councilman Jeffrey Freimark

The following were not present:

Assistant Mayor Seth Salver

Also present:

Jorge M. Gonzalez, Village Manager
Dwight S. Danie, Village Clerk
Susan L. Trevarthen, Village Attorney

LPA1 A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA RATIFYING THE ARCHITECTURAL REVIEW BOARD'S APPROVAL OF A PAINT COLOR PALETTE FOR BUILDINGS SUBJECT TO CHAPTER 5.5 "APPEARANCE CODE" OF THE VILLAGE CODE OF ORDINANCES; PROVIDING FOR IMPLEMENTATION; AUTHORIZING APPROVAL OF FUTURE CHANGES TO COLOR PALETTE; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Gonzalez introduced the item stating that the Council had thoroughly reviewed and discussed this item during its first reading at the July 17 Regular Village Council Meeting.

There were no comments from the public.

MOTION: A Motion to recommend that the Village Council approve the ordinance on second reading was moved by Councilman Jeffrey Freimark and seconded by Councilwoman Patricia Cohen.

ROLL CALL:

ROLL CALL	Yes	No
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Mayor Gabriel Groisman	X	
Assistant Mayor Seth E. Salver	-	-
Councilman David J. Albaum	X	
Councilwoman Patricia Cohen	X	
Councilman Jeffrey P. Freimark	X	

VOTE: the LPA approved recommending that the Village Council pass the ordinance on second reading by unanimous roll call vote (4-0).

END OF LOCAL PLANNING AGENCY MEETING AGENDA

ADJOURNMENT. - The Local Planning Agency Meeting was adjourned at 7:46 PM.



Mayor Gabriel Groisman

Dwight S. Danie, Village Clerk

BAL HARBOUR

- V I L L A G E -

COUNCIL ITEM SUMMARY

Condensed Title:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 21 "ZONING," DIVISION 9 "RM-5 MULTIPLE FAMILY RESIDENTIAL DISTRICT," SECTION 21-268 "ADDITIONAL STANDARDS FOR GRANDFATHERED APARTMENT-HOTEL PROJECTS" TO ADDRESS THE USE OF STRUCTURES IN THE REAR SETBACK;

Issue:

Should the Village Council approve a spas and fitness facilities as an accessory use?

Item Summary/Recommendation:

Fortune International Realty desires to use the existing building on the rear of 10250 Collins Avenue property, as a Spa and Fitness Center for the use of the three (3) Apartment Hotel sites within the Beach Haus Bal Harbour complex.

Section 21-267 of the RM-5 Multiple Family Residential District standards in the Bal Harbour Village Code of Ordinances currently allows one-story garages and Servants' Quarters to be located within the first 25 feet of the rear 30-foot setback, and Section 21-1 defines the accessory use of Servants' Quarters in relevant part as "accommodations for such number of servants and other employees as are required by the main occupancy, which accommodations may be detached and may or may not include separate cooking facilities and Section 21-268 ; "Additional Standards for Grandfathered Apartment Hotel Projects" establishes development standards applicable only to grandfathered apartment hotel projects in the RM-5 district. Since spas and fitness centers are considered accessory uses to an apartment-hotel, and this use will enhance the apartment hotel project and will not be incompatible with surrounding uses, staff is proposing the following additional standard for the grandfathered apartment hotel use in the RM-5 Multiple Family Residential Zoning District:

(d) Accessory uses in rear setback. Structures erected in the rear 30 feet of the Lot, not nearer than five feet to the side or rear lines, may be used for one-story garages, Servants' Quarters, or spa and fitness facilities.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS ORDINANCE

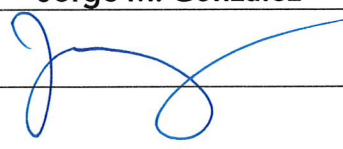
Advisory Board Recommendation:

The LPA will consider their recommendation at the October 16, 2018 meeting.

Financial Information:

	Amount	Account	Account #
1	N/A	N/A	N/A

Sign Off:

Building Department		Village Manager
Graciela M. Escalante		Jorge M. Gonzalez
		

BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: October 16, 2018

SUBJECT: **AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 21 "ZONING," DIVISION 9 "RM-5 MULTIPLE FAMILY RESIDENTIAL DISTRICT," SECTION 21-268 "ADDITIONAL STANDARDS FOR GRANDFATHERED APARTMENT-HOTEL PROJECTS" TO ADDRESS THE USE OF STRUCTURES IN THE REAR SETBACK; PROVIDING FOR DEFINITIONS, SEVERABILITY, INCLUSION IN THE CODE, CONFLICTS, AND FOR AN EFFECTIVE DATE.**

ADMINISTRATIVE RECOMMENDATION

I am recommending that the Village Council approve the adoption of an ordinance addressing the use of structures in the rear setback of RM-5, Additional Standards For Grandfathered Apartments Hotel Projects to include allow spa and fitness facilities in the rear setback.

BACKGROUND

By way of background, in July 2017, Fortune International Realty purchased the three buildings owned by Bal Harbour Ouarzo (Ouarzo) located at 290 Bal Bay Drive (current hotel); 291 Bal Bay Drive (current vacant building under construction); and 10250 Collins Avenue (current occupied rental property). On November 17, 2017 the Village Council approved a Compliance Agreement between Fortune International Realty and the Village to resolve an unsafe structures case associated with 291 Bal Bay Drive.

Beach Haus Bal Harbour properties are in the Grandfathered Apartment Hotel Use in the villages RM-5 Multi-Family Residential Zoning District. Currently, the Beach Haus Bal Harbour located at 291 Bal Bay Drive is under construction and in compliance with the aforementioned Compliance Agreement. The Developer desires to use the existing building on the rear of 10250 Collins Avenue property, as a Spa and Fitness Center for the for the use of the three (3) Apartment Hotel sites within the Beach Haus Bal Harbour complex.

Section 21-267 of the RM-5 Multiple Family Residential District standards in the Bal Harbour Village Code of Ordinances currently allows one-story garages and Servants' Quarters to be located within the first 25 feet of the rear 30-foot setback, and Section 21-1 defines the accessory use of Servants' Quarters in relevant part as "accommodations for such number of servants and other employees as are required by the main occupancy, which accommodations may be detached and may or may not include separate cooking facilities and Section 21-268 ; "Additional Standards for Grandfathered Apartment Hotel Projects" establishes development standards applicable only to grandfathered apartment hotel projects in the RM-5 district. Since spas and fitness centers are considered accessory uses to an apartment-hotel, and this use will enhance the apartment hotel project and will not be incompatible with surrounding uses, staff is proposing the following additional standard for the grandfathered apartment hotel use in the RM-5 Multiple Family Residential Zoning District:

(d) Accessory uses in rear setback. Structures erected in the rear 30 feet of the Lot, not nearer than five feet to the side or rear lines, may be used for one-story garages, Servants' Quarters, or spa and fitness facilities.

CONCLUSION

Village Staff is recommending that the proposed "Additional Standards for Grandfathered Apartment Hotel Projects" that includes spas and fitness facilities as accessory structures be approved.

ORDINANCE NO. 2018-____

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 21 "ZONING," DIVISION 9 "RM-5 MULTIPLE FAMILY RESIDENTIAL DISTRICT," SECTION 21-268 "ADDITIONAL STANDARDS FOR GRANDFATHERED APARTMENT-HOTEL PROJECTS" TO ADDRESS THE USE OF STRUCTURES IN THE REAR SETBACK; PROVIDING FOR DEFINITIONS, SEVERABILITY, INCLUSION IN THE CODE, CONFLICTS, AND FOR AN EFFECTIVE DATE.

WHEREAS, Section 21-267 of the RM-5 Multiple Family Residential District standards in the Bal Harbour Village Code of Ordinances currently allows one-story garages and Servants' Quarters to be located within the first 25 feet of the rear 30-foot setback, and Section 21-1 defines the accessory use of Servants' Quarters in relevant part as "accommodations for such number of servants and other employees as are required by the main occupancy, which accommodations may be detached and may or may not include separate cooking facilities. . . ."; and

WHEREAS, Section 21-268 "Additional Standards for Grandfathered Apartment Hotel Projects" establishes development standards applicable only to grandfathered apartment hotel projects in the RM-5 district; and

WHEREAS, the Village Council of Bal Harbour Village ("Village") desires to adopt an additional standard for the grandfathered apartment hotel use in the RM-5 Multiple Family Residential Zoning District; and

WHEREAS, a grandfathered apartment hotel project is redeveloping an existing RM-5 apartment house which includes Servants' Quarters located within the rear setback pursuant to Section 21-267, and desires to use the Servants' Quarters for accessory spa and fitness facilities; and

WHEREAS, the Village Council finds that such use will enhance the apartment hotel project and will not be incompatible with surrounding uses; and

WHEREAS, the Village Council, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed hearing on_____, 2018, and recommended _____; and

WHEREAS, the Village Council conducted a first and second reading of this Ordinance at duly noticed public hearings, as required by law, and after having received input from and participation by interested members of the public and staff, the Village Council has determined that this Ordinance is consistent with the Village's Comprehensive Plan and in the best interest of the public health, safety and welfare.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the above stated recitals are hereby adopted and confirmed.

Section 2. Village Code Amended. That Chapter 21 "Zoning," Article III "District Regulations," Division 9, "RM-5 Multiple Family Residential District," Section 21-268 "Additional Standards for Grandfathered Apartment Hotel Projects" is hereby amended to read as follows: ¹

CHAPTER 21. ZONING

* * *

ARTICLE III. DISTRICT REGULATIONS

* * *

¹ Additions to existing Village Code text are shown by underline; deletions from existing Village Code text are shown by ~~strike through~~.

DIVISION 9. RM-5 MULTIPLE FAMILY RESIDENTIAL DISTRICT

* * *

Sec. 21-267. - Setbacks.

No Building or any part thereof, except a second and third story balcony overhang of four feet, may be erected in the RM-5 Multiple Family Residential District nearer to the front line, which is Bal Harbour Boulevard, than 50 feet, or as otherwise shown on the recorded plats of the Residential Section of Bal Harbour, and Resubdivision of Lot 21, Block 12 and Tract F of the Residential Section of Bal Harbour, or nearer to the side lines than 25 feet, or nearer to the rear lines than 50 feet, except that one-story garages and/or Servants' Quarters may be erected within the rear 30 feet of the Lot, but not nearer than five feet to the side or rear lines. All lots in the RM-5 Multiple Family Residential District except Lots 1 to 3, inclusive, Block 12A, shall be regarded as fronting on Bal Harbour Boulevard. Lots 1 to 3, inclusive, Block 12A, shall be regarded as fronting on Baker's Haulover Inlet.

Sec. 21-268. - Additional standards for grandfathered apartment-hotel projects.

(a) *Minimum landscaped open space.* There shall be a minimum of 20 percent landscaped open space per project.

(b) *Management.* At least one management representative shall be working at the project to serve the needs of hotel guests 24 hours a day, seven days a week.

(c) *Security.* Security shall be provided in accordance with a written security plan, as approved by the Village Manager or designee.

(d) *Accessory uses in rear setback.* Structures erected in the rear 30 feet of the Lot, not nearer than five feet to the side or rear lines, may be used for one-story garages, Servants' Quarters, or spa and fitness facilities.

* * *

Section 3. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code. That it is the intention of the Village Council, and it is hereby ordained that this Ordinance shall become effective and made part of the Village Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Conflict. That all sections or parts of sections of the Village Code, all ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with this Ordinance are repealed to the extent of such conflict.

Section 6. Effective Date. That this Ordinance shall become effective upon adoption.

PASSED AND ADOPTED on first reading this __ day of _____, 2018.

PASSED AND ADOPTED on second reading this __ day of _____, 2018.

Mayor Gabriel Groisman



ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Weiss Serota Helfman Cole & Bierman, P.L.
Village Attorney

BAL HARBOUR

- V I L L A G E -

COUNCIL ITEM SUMMARY

Condensed Title:

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING CHAPTER 21 "ZONING" OF THE CODE OF ORDINANCES, BY AMENDING SECTION 21-1 "DEFINITIONS AND RULES OF CONSTRUCTION," SECTION 21-127 "SETBACKS" [IN THE R-2 DISTRICT] AND SECTION 21-354 "PROJECTIONS INTO SETBACK AREAS," ALL TO ADDRESS ENCROACHMENTS AND PROJECTIONS INTO SETBACKS OR YARDS;

Issue:

Should the Village Council approve an ordinance allowing relief to residents who desire to construct pools, porte-cochères, balconies and other architectural features to encroach into setbacks as specified in the proposed language.

Item Summary/Recommendation:

At the September 17, 2018 Village Council Meeting, the administration presented a discussion item regarding the inability to fit pools in corner lots as well as other architectural features including the desire to have porte-cochères encroach on the front setback lines. As a result of the discussion, the Village Council gave Village Administration guidance on these zoning issues and instructed them to prepare an ordinance reflecting their directives. A summary of the key points of the ordinance is as follows:

- In the R-2 Zoning District, pools may be constructed no nearer than 20 feet to the platted lot lines adjacent to any vehicular right-of-way as shown on the recorded plat of the residential section of Bal Harbour.
- In all other zoning districts, architectural features may project into the front, side and rear Setbacks and Yards not more than 36 inches, and there shall be not less than seven feet of clear headroom under any such projection.
- On lots in the R-1 and R-2 District, a cantilevered slab projection may project over a driveway towards any vehicular right-of-way as shown on the recorded plat of the Residential Section of Bal Harbour, no more than ten feet into the Setback or Yard.
- On single family lots in the R-1 and R-2 Zoning Districts, balconies located on the front or rear façade may not extend more than four feet into the Setback or Yard

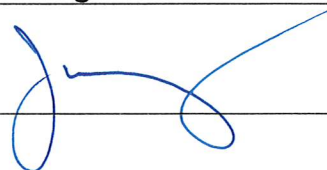
Advisory Board Recommendation:

The LPA will consider their recommendation at the October 16, 2018 meeting.

Financial Information:

	Amount	Account	Account #
1	N/A	N/A	N/A

Sign Off:

Building Department		Village Manager
Graciela M. Escalante		Jorge M. Gonzalez
		

BAL HARBOUR

- V I L L A G E -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager



DATE: October 16, 2018

SUBJECT: **AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING CHAPTER 21 "ZONING" OF THE CODE OF ORDINANCES, BY AMENDING SECTION 21-1 "DEFINITIONS AND RULES OF CONSTRUCTION," SECTION 21-127 "SETBACKS" [IN THE R-2 DISTRICT] AND SECTION 21-354 "PROJECTIONS INTO SETBACK AREAS," ALL TO ADDRESS ENCROACHMENTS AND PROJECTIONS INTO SETBACKS OR YARDS; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, CONFLICTS, AND FOR AN EFFECTIVE DATE.**

RECOMMENDATION

The Administration recommends the adoption of the ordinance allowing relief to residents who desire to construct pools, porte-cochères, balconies and other architectural features.

BACKGROUND

At the September 17, 2018 Council meeting the Administration brought before the Village Council specific zoning issues that have arisen in the R-1 and R-2 residential districts. These issues entail the zoning regulations which do not allow the location of pools within the right-of-way setbacks on corner lots or the inability to encroach on the front setbacks to build a porte-cochere, eyebrows or roof overhangs. Although balconies were not discussed at the Council meeting, staff has included balconies since it is also an issue that has come up with owners' who desire to maximize building square footage. Village Council provided guidance on these issues and the Village Administration has reflected their guidance in the attached Village Ordinance. A summary of the issues and proposed resolution are outlined below:

Inability to Fit a Pool within the Lot Setbacks

Recently we have received applications for homes on diamond or wedge-shaped corner lots in the R-2 district. The existing zoning requirements on these oddly shaped parcels coupled with the owners' desires to maximize their buildable space results in homes being placed as deep into the property as possible. As a result, elements such as pools, which are usually found in the rear of lots end up on the sides. Given their odd shape, these lots have a significant street front, which requires buildings be set back thirty (30) feet from the property line. Staff believes that some consideration should be given to allow elements, such as pools to have a reduced setback requirement. To that end, staff is recommending that pools may be constructed no nearer than 20 feet to the platted lot lines adjacent to

any vehicular right-of-way as shown on the recorded plat of the residential section of Bal Harbour.

This relief would only be for pools. In the Village Council meeting of September 17, 2018, staff presented this item for discussion. The Village Council accepted staff's recommendation and further requested that all corner lots be granted this relief. Staff is proposing the following language be added to the Village's Zoning Ordinance:

Sec. 21-127. - Setbacks.

Pools and pool decks. Notwithstanding the above, the following shall govern pools and pool decks.

(1) No swimming pool may be constructed within ten feet of the rear and side Setback or Yard lines.

(2) On corner lots no swimming pool may be constructed nearer than 20 feet or 30 feet to the side platted Lot Lines adjacent to any vehicular right-of-way, as shown on the recorded plat of the Residential Section of Bal Harbour.

(3) Pool decks shall not be included for purposes of determining the Setbacks.

(4) Pools and decks shall be obscured by a decorative fence or other equivalent screening five feet in height supplemented by a landscaped screen.

Inability to build a Porte-cochere in the Front Setback of the Property and other Architectural Features

The desire to have a porte-cochere that allows for vehicle drop off with protection from inclement weather has arisen. The Village ordinance allows for front facing porte-cochères in the Ocean Front district for the hotel and condo towers but not in the residential R-1 and R-2 district. Canopy slab projections, carport, and canopies may project into the side and/or rear yard but the code does not mention allowing porte-cochères in the front of the property where they are commonly found.

Staff believes that some consideration should be given to allow elements, such as cantilevered slab projections (porte-cochères) to have a reduced front setback requirement. In the Village Council meeting of September 17, 2018, staff presented this item for discussion. The Village Council accepted staff's recommendation.

In reviewing the current zoning ordinance language, staff also recommends that language be added to allow balconies and other architectural features to encroach into front or rear setbacks as proposed below. Staff is proposing the following language be added to the Village's Zoning Ordinance:

Sec. 21-354. - Projections into Setback areas.

Architectural features. No main walls of any Building shall encroach on the Setback or Yard areas, but architectural features such as canopies, cantilever slab projections (open balconies), cornices, eaves and similar features may project into the side and rear Setbacks and Yards subject to the following:

(1) In the Ocean Front District, balconies and other ornamental architectural features above the first story may be extended not more than four feet into the Setback or Yard

areas, and there shall be not less than ten feet of clear headroom under the lowest such projection.

(2) In all other zoning districts, architectural features may project into the front, side and rear Setbacks and Yards not more than 36 inches, and there shall be not less than seven feet of clear headroom under any such projection.

(3) On all single family lots in the R-1 and R-2 Zoning District, a cantilevered slab projection may project over a driveway towards any vehicular right-of-way as shown on the recorded plat of the Residential Section of Bal Harbour, provided that:

- a. The projection extends no more than ten feet into a Setback or Yard;
- b. No part of the projection is closer than 20 feet to any platted Lot Lines adjacent to any vehicular right-of-way;
- c. The width and height of the projection is in reasonable proportion to the width and height of the front building façade; and
- d. Architectural features or supporting Structures such as columns or poles are not placed under the portion of the projection that extends into the setback.

(h) **Balconies.** In the R-1 and R-2 Zoning District, the flat roof of a residential Building may serve as the floor of a Balcony. Where there are multiple roofs, the highest roof may not serve as the floor of a Balcony. Such Balconies shall meet all of the following standards:

- (1) Balconies located on the front or rear façade may not extend more than four feet into the Setback or Yard.
- (2) Balconies located on a side façade may not extend beyond the face of the exterior wall of the Building from which they project.
- (3) Balconies must be accessed from the interior of the Building from which they project.
- (4) Balconies facing a lot line abutting another residential property may also be accessed from an exterior staircase, provided the staircase does not encroach in any Setback or Yard and complies with Section 21-354(b).

CONCLUSION

The Administration recommends the adoption of the ordinance, allowing relief to residents who desire to construct pools, porte-cochères, balconies and other architectural features encroaching into setbacks as specified in the proposed language above.

ORDINANCE NO. 2018-____

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING CHAPTER 21 "ZONING" OF THE CODE OF ORDINANCES, BY AMENDING SECTION 21-1 "DEFINITIONS AND RULES OF CONSTRUCTION," SECTION 21-127 "SETBACKS" [IN THE R-2 DISTRICT] AND SECTION 21-354 "PROJECTIONS INTO SETBACK AREAS," ALL TO ADDRESS ENCROACHMENTS AND PROJECTIONS INTO SETBACKS OR YARDS; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, CONFLICTS, AND FOR AN EFFECTIVE DATE.

WHEREAS, Section 21-1 of the Bal Harbour Village Code of Ordinances (the "Code"), provides definitions applicable to Chapter 21, "Zoning"; and

WHEREAS, Section 21-127 of the Code addresses setback encroachments related to pools in the R-2 Zoning District; and

WHEREAS, Section 21-354 of the Code addresses allowable projections in the required setbacks throughout the Village, including the R-2 Zoning District; and

WHEREAS, the Village Council of Bal Harbour Village ("Village") desires to address limited pool encroachments and the projection of architectural features and balconies into Setbacks and Yards in the R-2 Zoning District; and

WHEREAS, the Village Council finds that allowance of such encroachments and projections in the R-2 Zoning District will not be incompatible with surrounding uses and will create an architectural opportunity for creative design approaches; and

WHEREAS, the Village Council, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed hearing on_____, 2018, and recommended _____; and

WHEREAS, the Village Council conducted a first and second reading of this Ordinance at duly noticed public hearings, as required by law, and after having received

input from and participation by interested members of the public and staff, the Village Council has determined that this Ordinance is consistent with the Village's Comprehensive Plan and in the best interest of the public health, safety and welfare.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the above stated recitals are hereby adopted and confirmed.

Section 2. Village Code Amended. That Chapter 21 "Zoning," is hereby amended to read as follows:¹

CHAPTER 21. ZONING

ARTICLE I. - IN GENERAL

Sec. 21-1. - Definitions and rules of construction.

* * *

Apartment Unit means a Room or suite of Rooms occupied or suitable for occupancy as a residence for one Family, and in which complete living accommodations are provided. The existence of or the installation of a sink and/or cooking facilities within a Room or suite of Rooms shall be deemed sufficient to classify such Room or suite of Rooms as an apartment or dwelling unit.

Balcony means an unenclosed platform that projects from an opening in the wall of a Building and has a parapet or railing.

Building means a Structure, the use of which demands a permanent location on the land, built for the support, shelter and enclosure of Persons, chattels, or movable or stationary Property of any kind; or anything attached to something having a permanent location on the land.

* * *

ARTICLE III. DISTRICT REGULATIONS

¹ Additions to existing Village Code text are shown by underline; deletions from existing Village Code text are shown by ~~strikethrough~~.

* * *

Division 3. - R-2 SINGLE FAMILY RESIDENTIAL DISTRICT

* * *

Sec. 21-127. - Setbacks.

- (a) Front and rear. No Building or any part thereof may be erected in the R-2 Single Family Residential District beyond the front Setback lines of 30 feet as shown on the recorded plat of the Residential Section of Bal Harbour, or nearer than 15 feet to the rear Lot Lines. For every additional foot in Height of the Building above 18 feet, there shall be one additional foot of rear Setback for that portion of the building over 18 feet in height. Notwithstanding the above, the rear setback requirements provided by this Section shall not prohibit up to one-fourth of the length of the outside walls of any building, regardless of Height, along the rear property lines from being situated not less than 15 feet from the rear property line. This provision shall serve to create an architectural opportunity for creative design approaches while promoting the beneficial purposes of building setbacks in the District.
- (b) Side. The minimum side Setback shall be ten feet for single-story construction up to 18 feet of structure Height. For every additional foot in Height above 18 feet, there shall be one additional foot of side Setback for that portion of the building over 18 feet in height. The additional side setback requirement for buildings over 18 feet, provided by this Section, shall not prohibit up to one-third of the length of the side walls of such building from being situated in compliance with the minimum ten-foot side setback, but not fully conforming to the additional setback requirement. This provision shall serve to create an architectural opportunity for creative design approaches while promoting the beneficial purposes of building setbacks in the district.
- (c) Pools and pool decks. Notwithstanding the above, the following shall govern pools and pool decks.
- (1) No swimming pool may be constructed within ten feet of the rear and side Setback or Yard lines.
- (2) On corner lots no swimming pool may be constructed nearer than 20 feet or 30 feet to the side platted Lot Lines adjacent to any vehicular right-of-way, as shown on the recorded plat of the Residential Section of Bal Harbour.
- (3) Pool decks shall not be included for purposes of determining the Setbacks.
- (4) Pools and decks shall be obscured by a decorative fence or other equivalent screening five feet in height supplemented by a landscaped screen.

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ARTICLE IV. SUPPLEMENTARY DISTRICT REGULATIONS

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Sec. 21-354. - Projections into Setback areas.

- (a) *Chimneys.* Chimneys may project into side and rear Setbacks and Yards a distance not to exceed 24 inches, provided that a clear space of not less than 88 inches is left between such projection and the Lot Line adjacent. The horizontal dimension of the chimney at right angles to the projection shall not exceed six feet.
- (b) *Outside stairs, stair landings.* No outside stairs or stair landings over three feet six inches in height above the Grade of the centerline of the Street shall extend into side, rear, or front Setbacks and Yards. Stairs or stair landings not exceeding 42 inches in height may be railed, provided that such railing shall not exceed in height above Grade that specified for walls or hedges in that district, and further, that there shall be a clear, unobstructed passage of not less than 88 inches between such projection and the Lot Line adjacent. Platforms or terraces not exceeding 42 inches in height may extend across side and rear Setbacks and Yards, provided that there shall be ramps or steps at least 36 inches wide on opposite sides to provide unobstructed passage over such projections.
- (c) *Areaways, steps to basements.* Areaways, steps to basements and similar features will be permitted in side and rear Setbacks and Yards, provided that no part of such feature shall exceed, in height, 42 inches above Grade of the centerline of the Street, and that the projection shall not exceed 24 inches, and provided further that there shall be a clear, unobstructed passage of not less than 88 inches between such features and the Lot Line adjacent. Steps extending not more than four feet from the main Building and not more than 42 inches in height above Grade, leading to the basement or ground floor, may be constructed in the side Setback and Yard on the street side of a Corner Lot.
- (d) *Fire escapes.* Where permitted under the provisions of chapter 6, open-type metal fire escapes may project 48 inches into side and rear Setback and Yard areas, provided that the bottom run shall be counter-balanced and that when the bottom run is up, there shall be at least nine feet clear headroom below it. The bottom run shall be adjacent or parallel to the Building and shall be so arranged that, when down, there shall be at least 88 inches of clear, unobstructed passage between it and the Lot Line adjacent.
- (e) *Architectural features.* No main walls of any Building shall encroach on the Setback or Yard areas, but architectural features such as canopies, cantilever slab projections (open balconies), cornices, eaves and similar features may project into the side and rear Setbacks and Yards subject to the following:
 - (1) In the Ocean Front District, balconies and other ornamental architectural features above the first story may be extended not more than four feet into the

Setback or Yard areas, and there shall be not less than ten feet of clear headroom under the lowest such projection.

- (2) In all other zoning districts, architectural features may project into the front, side and rear Setbacks and Yards not more than 36 inches, and there shall be not less than seven feet of clear headroom under any such projection.
- (3) On all single family lots in the R-1 and R-2 Zoning Districts, a cantilevered slab projection may project over a driveway towards any vehicular right-of-way as shown on the recorded plat of the Residential Section of Bal Harbour, provided that:
 - a. The projection extends no more than ten feet into a Setback or Yard;
 - b. No part of the projection is closer than 20 feet to any platted Lot Lines adjacent to any vehicular right-of-way;
 - c. The width and height of the projection is in reasonable proportion to the width and height of the front building façade; and
 - d. Architectural features or supporting Structures such as columns or poles are not placed under the portion of the projection that extends into the setback.
- (f) *Terraces.* Open terraces projecting into front and side Setbacks or Yards shall not exceed, in height, three feet six inches above the Grade of the center of the Street, and the railing of such terrace shall in no case exceed the height specified for walls in that district. Where necessary to provide access through the side yards, terraces shall be provided with steps or ramps and gates not less than 36 inches in width.
- (g) *Mechanical equipment.* Mechanical equipment shall not be placed in required side Setbacks or Yards.
- (h) *Balconies.* In the R-1 and R-2 Zoning District, the flat roof of a residential Building may serve as the floor of a Balcony. Where there are multiple roofs, the highest roof may not serve as the floor of a Balcony. Such Balconies shall meet all of the following standards:
 - (1) Balconies located on the front or rear façade may not extend more than four feet into the Setback or Yard.
 - (2) Balconies located on a side façade may not extend beyond the face of the exterior wall of the Building from which they project.
 - (3) Balconies must be accessed from the interior of the Building from which they project.

(4) Balconies facing a lot line abutting another residential property may also be accessed from an exterior staircase, provided the staircase does not encroach in any Setback or Yard and complies with Section 21-354(b).

* * *

Section 3. **Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. **Inclusion in the Code.** That it is the intention of the Village Council, and it is hereby ordained that this Ordinance shall become effective and made part of the Village Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. **Conflict.** That all sections or parts of sections of the Village Code, all ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with this Ordinance are repealed to the extent of such conflict.

Section 6. Effective Date. That this Ordinance shall become effective upon adoption.

PASSED AND ADOPTED on first reading this __ day of October, 2018.

PASSED AND ADOPTED on second reading this __ day of November, 2018.

Mayor Gabriel Groisman



ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Weiss Serota Helfman Cole & Bierman, P.L.
Village Attorney