



North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

OFFICIAL AGENDA

PLANNING & ZONING BOARD MEETING

VILLAGE HALL

**1666 KENNEDY CAUSEWAY, #101
NORTH BAY VILLAGE, FL 33141**

OCTOBER 18, 2016 – 7:30 P.M.

NOTICE IS HEREWITH GIVEN TO ALL INTERESTED PARTIES THAT IF ANY PERSON SHOULD DECIDE TO APPEAL ANY DECISION MADE AT THE FORTHCOMING MEETING OF THE PLANNING & ZONING BOARD. SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, HE OR SHE WILL 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. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSON WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY VILLAGE-SPONSORED PROCEEDING, PLEASE CONTACT (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**

4. **PUBLIC HEARING ITEMS (ALL INDIVIDUALS DESIRING TO PROVIDE TESTIMONY SHALL BE SWORN IN)**

- A. AN APPLICATION BY SOPHIA LIMA, PROPERTY OWNER, OF 7505 WEST TREASURE DRIVE, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR A VARIANCE FROM THE STRICT APPLICATION OF SECTION 152.060(A) FOR THE CONSTRUCTION OF AN ABOVE-GROUND SWIMMING POOL AND WOOD POOL DECK, TO REDUCE THE REQUIRED 7.5-FOOT SIDE-YARD SETBACK BY 2.5-FEET TO ALLOW A STRUCTURE TO BE 5-FEET FROM THE SOUTH SIDE PROPERTY LINE AND TO REDUCE THE REQUIRED 15-FOOT REAR-YARD SETBACK BY 10-FEET TO ALLOW A STRUCTURE TO BE 5-FEET FROM THE EAST REAR PROPERTY LINE.

- 1.) Board Recommendation

B. AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA AMENDING CHAPTER 152, SECTION 152.003 ENTITLED “DEFINITIONS”; ADDING DEFINITIONS FOR GROW HOUSE, MARIJUANA, MARIJUANA BASED PRODUCT, MARIJUANA DISPENSARY, MOBILE MARIJUANA DISPENSARY; SECTIONS 152.026 THRU 152.029 AND 152.0296 PROHIBITING MARIJUANA DISPENSARIES (EXCEPT IN THE CG ZONING DISTRICT), GROW HOUSES, AND MOBILE MARIJUANA DISPENSARIES; SECTION 152.030 ENTITLED “CG GENERAL COMMERCIAL DISTRICT” TO ALLOW MARIJUANA DISPENSARIES AS ALLOWABLE USES; SECTION 152.044 ENTITLED “MINIMUM SPACE REQUIREMENTS” REVISE PARKING SPACE REQUIREMENTS, TO INCLUDE MARIJUANA DISPENSARIES; SECTION 152.112 ENTITLED “MARIJUANA DISPENSARIES” ADDING SECTION PROVIDING CONDITIONS FOR APPROVAL OF A MARIJUANA DISPENSARY AND OPERATING PROCEDURES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; AND PROVIDING AN EFFECTIVE DATE.

1.) Board Recommendation

5. ADJOURNMENT



Staff Report Variance Request

*Prepared for: North Bay Village
Planning & Zoning Board*

Applicant: Sophia Lima

*Request: Variance to Minimum Side and Rear
Yard Setbacks for Placement of a Pool
and Pool Deck*



Serving Florida Local Governments Since 1988

General Information

Owner/Applicant:	Sophia Lima
Applicant Address:	7505 Treasure Dr North Bay Village, FL 33141
Site Address:	7505 W Treasure Dr
Contact Person:	Sophia Lima
Contact Phone Number:	786-514-1007
E-mail Address	sophies_pyramid@yahoo.com

Future Land Use Map Classification	Single Family Residential
Zoning District	RS-2
Use of Property	Single Family Home
Acreage	0.16 ac.

Legal Description of Subject Property

LOT 14, BLOCK 2 OF TREASURE ISLAND, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 50 ON PAGE 67 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

SAID LANDS LYING AND BEING IN NORTH BAY VILLAGE, MIAMI-DADE COUNTY, FLORIDA CONTAINING 7,140 SQUARE FEET (0.16 ACRES), MORE OR LESS.

Requested Variance

The applicant installed an above ground pool and a surrounding pool deck at the subject property without a building permit. The structure is currently 5 feet from the (south) side property line and 5 feet from the (east) rear property line. Since this is an above ground pool, the structure should adhere to the RS-2 district setback regulations, which require structures to be setback at least 15 feet from rear property lines and 7.5 feet from side property lines.

Since the applicant's structures do not meet Village Code, the Village could not issue an after-the-fact building permit for these structures. Now a variance has been requested. In order to allow the already built structures, the Village Commission would have to approve a 10-foot variance to the required rear yard setback; and a 2.5-foot variance to the required side yard setback.

Required Findings

Sec. 152.097(B) sets forth the findings that are required for the reviewing body(ies) to authorize any variance request. Sec. 152.097(C) requires that the reviewing body(ies) must make an affirmative finding with respect to the criteria listed below. For ease of review, each of the criteria contained in subparagraphs (B)(1) through (B)(3) have been separated into their component parts.

- (1)a. That there are (or are not) special circumstances and conditions which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same zoning district;

Applicant Comments: There are no special circumstances and conditions peculiar to the land, structure or building involved.

Staff Comments: We agree. The Applicant has provided no evidence of special circumstances and/or conditions that are unique to the land or proposed structure. The property is a rectangular shaped lot of 7,140 square feet, in excess of the 6,000 square foot minimum lot size required in the RS-2 Zoning District. The lot is 60 feet wide, which meets the 60-foot minimum frontage required in the RS-2 District.

- (1)b. that the special circumstances and conditions were not (or were) self-created by any person having an interest in the property;

Applicant Comments: The special circumstances were not self created. The foundation of the building was in place when the property burned down a long time ago. As the purchasers of the land, we rebuilt on the existing foundation built by others. This foundation took up a great portion of the available land.

Staff Comments: There are no special circumstances and/or conditions. The desire for a pool and pool deck is a matter of choice by the Applicant that results in the need for the variance.

- (1)c. and that the strict application of the provisions of this chapter would (or would not) deprive the Applicant of the reasonable use of the land, structure, or building for which the variance is sought;

Applicant Comments: The strict application of the provisions of this chapter would deprive us of the reasonable use of the land for which the variance is sought. There is no other place on the property where we could reasonably install an above ground pool or other pool. The variance requested is the minimum setback that will fit an Intex above ground pool 9' x 18'. Intex does not make any smaller width pools.

Staff Comments: The existence of a single-family residence at the subject property is considered reasonable use of the property. Additionally, the Applicant has presented no valid reason that the pool and deck structures must encroach upon the required side setback. There is ample room in the back yard area to accommodate compliance with the 7.5-foot required side yard setback.

(1)d. and would (or would not) involve an unnecessary hardship for the Applicant.

Applicant Comments: Not granting this variance would create a hardship to the applicant due to the fact that our family, friends and guests cannot enjoy a pool (however small it may be) as others in North Bay Village can enjoy a pool

Staff Comments: The definition of an unnecessary hardship in Chapter 152 is as follows:

“(2) *Hardship, unnecessary.* Arduous restrictions upon the uses of a particular property, which are unique and distinct from that of adjoining property owners. Granting of relief from an unnecessary hardship should not violate sound zoning principles, including considerations that: adjacent properties will not be substantially reduced in value, it is not granting a special privilege not to be enjoyed by others in similar circumstances, and the public interest is maintained, including following the spirit of this chapter and the comprehensive master plan. Invalid and nonjustifiable bases for pleading unnecessary hardship include but are not limited to:

- (a) Loss of the "best" use of the land, and business competition.
- (b) Self-created hardships by the applicant's own acts.
- (c) Neighboring violations and nonconformities.
- (d) Claims of inability to sell the property.
- (e) General restrictions of this chapter.”

There is no unique characteristic about the lot that requires a variance to the minimum required setbacks. The desire for a pool and deck is a choice made by the Applicant.

The Applicant chose to build a recreational structure which encroaches into the required setback without a building permit. Any perceived hardship is one that is self-created. Additionally, there was no need for the applicant to place the structure in the required side setback area, since there is sufficient room to accommodate the existing structure and maintain compliance with the 7.5 foot side setback requirement.

Requiring the Applicant to remove the structures or move the structures does not deprive the Applicant of reasonable use of the land. The inability to have a pool does not constitute a hardship, as the situation does not meet the definition of a hardship, as defined in the North Bay Village Code.

- (2)a. That granting the variance requested will not (or will) confer on the Applicant any special privilege that is denied by this chapter to other land, structures, or buildings in the same zoning district;

Applicant Comments: Granting this variance will not confer any special privilege to the applicant. We are only seeking to enjoy an above ground swimming pool which others in North Bay Village can also enjoy.

Staff Comments: The width and depth of the lot is the same as many of the other lots in the RS-2 district. It is our opinion that granting the requested side yard setback variance would confer on the Applicant a special privilege that is denied to other lands in the RS-2 zoning district.

- (2)b. and the variance granted is the minimum variance that will make possible the reasonable use of the land, structure, or building.

Applicant Comments: The variance requested is the minimum setback that will fit an Intex above ground pool 9' x 18'. Intex does not make any smaller width pools.

Staff Comments: The presence of the existing single family residence does represent reasonable use of the land. No pool and deck are necessary to enjoy reasonable use of this property.

Additionally, there is adequate space in the applicant's yard to accommodate the existing pool and deck structure without requesting the 2.5 variance to the required side setback. If the applicant were to move the structure 2.5 feet to the north, then only the 10-foot variance requested to the required rear yard setback would still be necessary.

- (3) That granting the variance will (or will not) be in harmony with the general intent and purpose of this chapter, and that such variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Applicant Comments: We believe that granting this variance will be in harmony with the general intent and purpose of this chapter and will not be injurious to the neighborhood and neighbors. This variance will not be detrimental to the public welfare in any way. In fact, the pool is in the back yard and the property is fenced off. The pool and deck are not even visible to the neighbors and public.

Staff Comments: The Applicant has provided letters of consent from three nearby property owners, though not the owner of the property to the south, which shares one of the encroached upon property lines and is one of the most affected by the potential approval of this variance.

The City's LDC contains the same criteria in Sec. 2.7.6 as discussed above except they are numbered (1) through (6). The LDC also includes a seventh criterion which reads as follows:

7. The variance request is not based exclusively upon a desire to reduce the cost of development.

Applicant Comments: The variance is not based upon a desire to reduce the cost of development as this property is a completed project.

Staff Comments: We do not believe that the Applicant has based this variance request exclusively to reduce the cost of development.

Additional Applicant Comments and Staff Response

In addition to the above comments, the applicant submitted additional comments for the Board to consider:

We would like to ask that the Planning and Zoning Commission takes into consideration that this variance will accommodate a 9ft x 18ft Intex Above Ground Plastic Pool and a surrounding sun deck. We are not building an expensive and disruptive below grade pool. Our grandchildren wanted a pool where they could cool off in the summer. We never imagined that an above ground plastic lined swimming pool would create a disturbance to the neighbors or neighborhood. We have considered other Intex pools with a different size but they do not manufacture anything smaller. The width of the pool is 9 ft. Even if a pool with a width smaller than 9 ft were available, anything smaller than 9 feet would be impractical and aesthetically awkward. Our neighbors to the rear and to north have indicated in writing that this variance would not affect them. We are not asking for an extreme deviation of the setback requirements. We are simply asking for a minimum 2 foot deviation to accommodate a small above ground pool and sun deck.

We consider that not being able to have a pool is a loss of the "best" use of the land. Most residential properties are able to also have a pool for quite enjoyment.

Thank you for your consideration to this request. He hope the commission concludes that granting this variance is the only way that the owners of this property can ever enjoy a small pool in their yard.

Sincerely,

*Sophia Lima, Owner
7505 West Treasure DRive
North bay Village, FL 33141*

In response to this, staff has the following comments:

This non-conforming, unpermitted accessory structure has existed on the property for at least three years now. It would have continued to remain, for the use of the applicant and family, had the applicant not requested a short term vacation rental (STVR) license. In order to receive that STVR license, the structure must either be permitted or removed. Since the structure does not meet code, the applicant has requested a variance.

The applicant claims that the “neighbors to the rear and to north have indicated in writing that this variance would not affect them”. However, the applicant has located the pool on the south side of the property, not the north; and staff has not received a letter of consent from the property owner to the south. This means that, of the two property lines upon which the applicant is requesting to encroach, one of the owners of those shared property lines has not issued a letter of consent.

The applicant states that they are “simply asking for a 2 foot deviation”. However, in order to issue an as-built permit for this existing structure, the variances that must be granted are:

- 1) a 10-foot variance to the 15-foot required rear setback
- 2) a 2.5-foot variance to the 7.5-foot required side setback.

The definition of hardship specifically precludes ‘loss of best use of the land’ as a valid argument for requesting a variance.

Discussion

The pool and deck structure are encroaching upon the required setbacks of the south and east property lines. No letter of consent has been provided from the owner of the property which shares the south boundary.

The applicant has stated that there are no special circumstances and conditions peculiar to the land, structure or building involved. The fact that they did not leave enough room in the backyard for a pool when they built the house, is not a valid reason to issue a variance, according to Village Code. The applicant has not submitted any evidence or argument which supports the presence of a hardship.

Recommendation

Staff finds that the requested variance does not meet the requirements of Sec. 152.097(C) in that the materials submitted do not adequately allow for an affirmative finding on most of the criteria contained in 152.097(B) as specifically identified by the foregoing staff comments.

Because the requested variance does not meet the specific code requirements for granting a variance, staff cannot recommend approval of the requested variance to allow less than the required 7.5-foot setback from the side property line or the required 15-foot setback from the rear property line.

Submitted by:


James G. LaRue, AICP
Planning Consultant

October 4, 2016

Hearing: North Bay Village Planning and Zoning Board, October 18, 2016

City of North Bay Village
1666 Kennedy Causeway Ste 300
North Bay Village, FL 33141

August 31, 2016

RE: 7505 West Treasure Drive, NBV, FL 33141
Variance Request for Above Ground Pool and Wood Pool Deck

Dear City of North Bay Village,

It has come to my attention that the owners of the house located at 7505 West Treasure Dr are seeking a variance to get their above ground pool and wood deck permitted by the City of NBV.

The location of their existing pool had never bothered us and we are not opposed to this Variance being granted.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mauricio Mendoza', with a stylized flourish at the end.

Mauricio Mendoza
Ginna Gamboa
7504 Adventure Avenue
North Bay Village. FL 33141

City of North Bay Village
1666 Kennedy Causeway Ste 300
North Bay Village, FL 33141

August 31, 2016

RE: 7505 West Treasure Drive, NBV, FL 33141
Variance Request for Above Ground Pool and Wood Pool Deck

Dear City of North Bay Village,

It has come to my attention that the owners of the house located at 7505 West Treasure Dr are seeking a variance to get their above ground pool and wood deck permitted by the City of NBV.

I understand that there is not other place to fit a pool on their property. I am not opposed to this Variance being granted.

Sincerely,

Armand Abecassis
7508 West Treasure Dr
North Bay Village, FL 33141



City of North Bay Village
Attn: Planning & Zoning Board and City Commissioners
1666 Kennedy Causeway Ste 300
North Bay Village, FL 33141

August 30, 2016

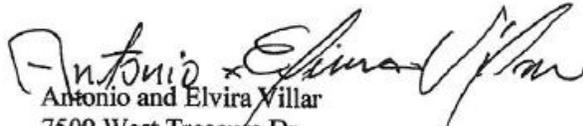
RE: 7505 West Treasure Drive, NBV, FL 33141
Variance Request for Above Ground Pool and Wood Pool Deck

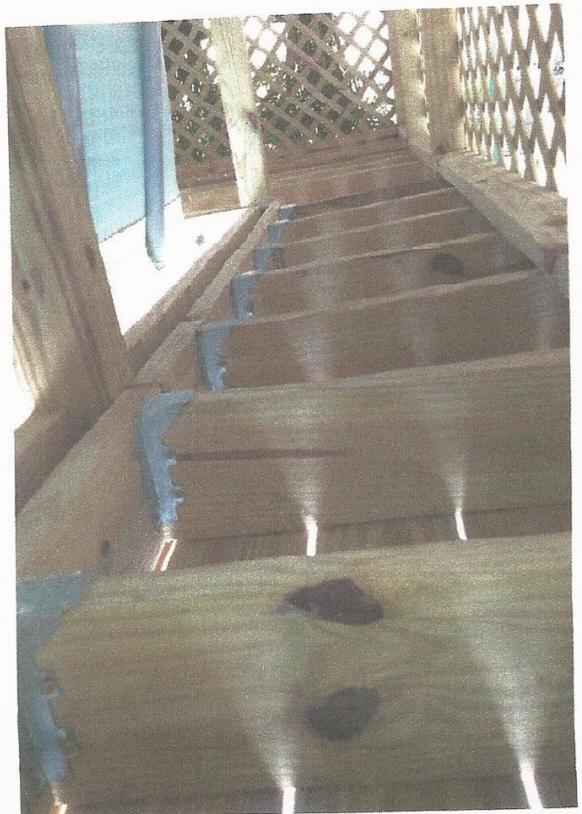
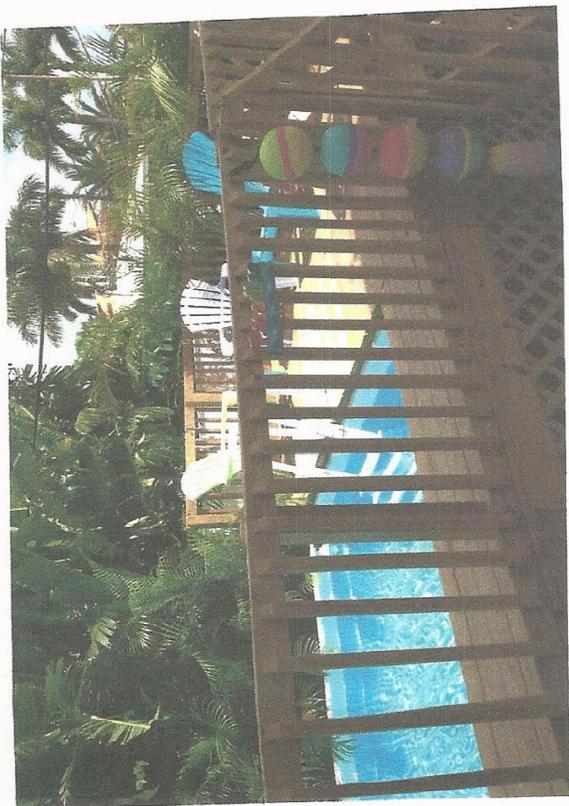
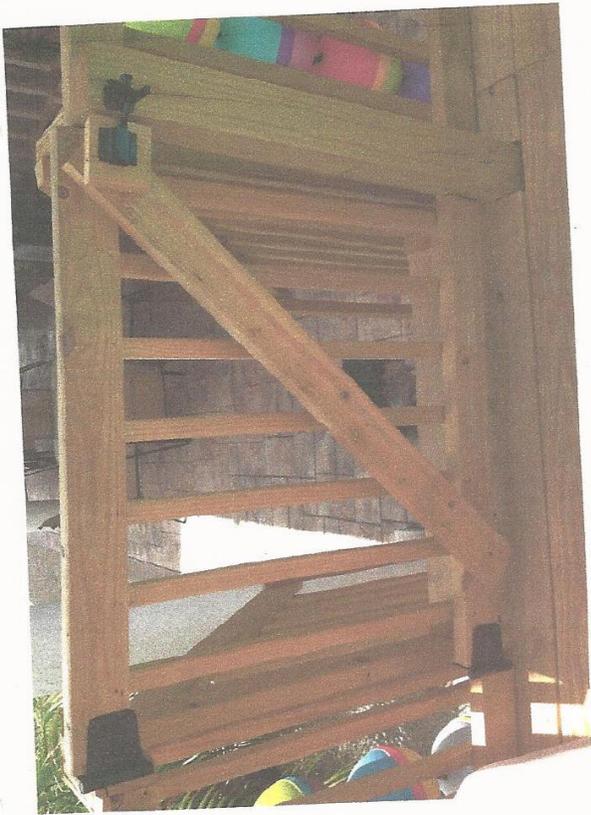
Dear Mayor, Commissioners and Planning and Zoning Board,

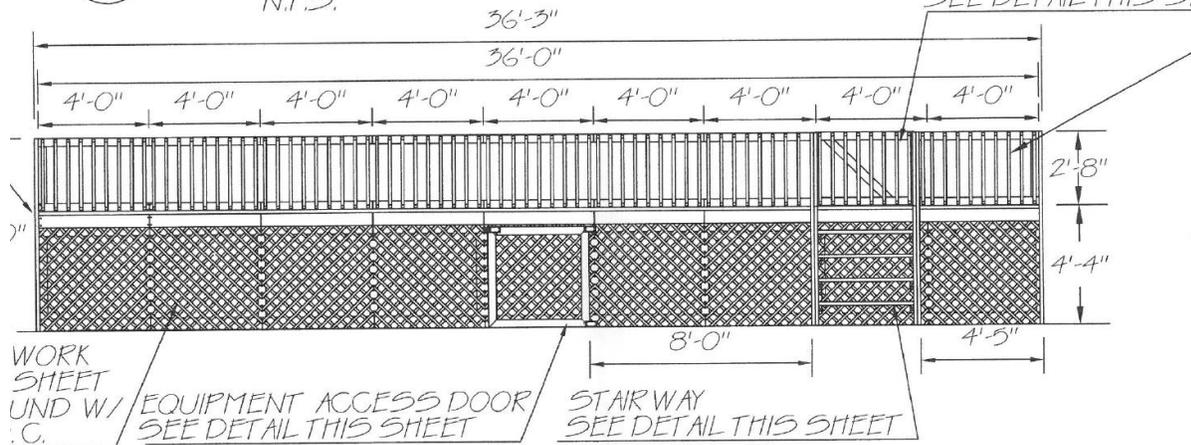
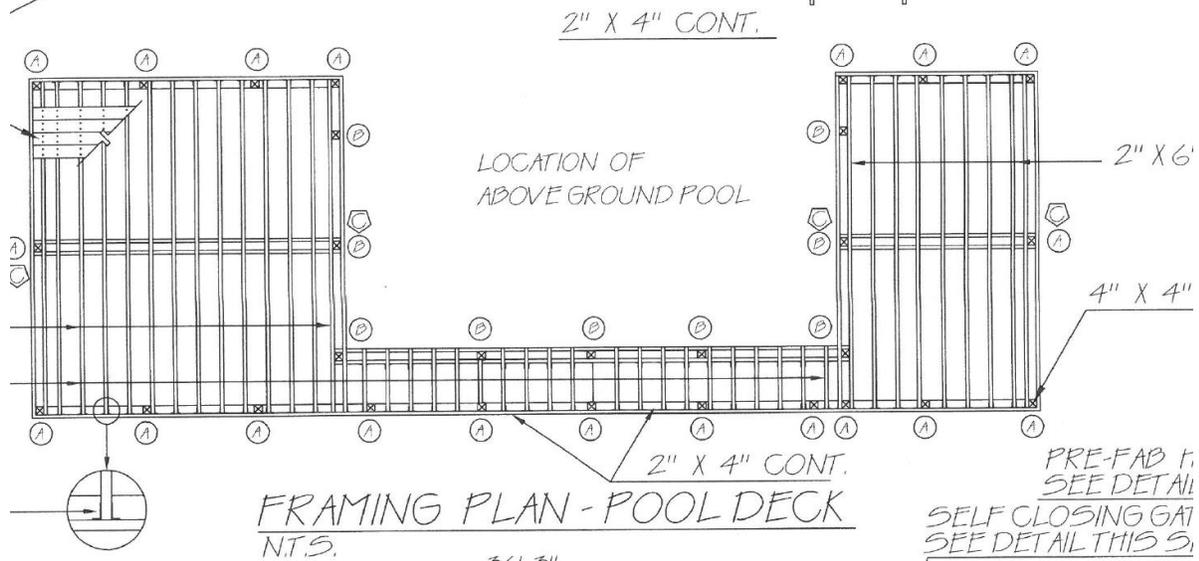
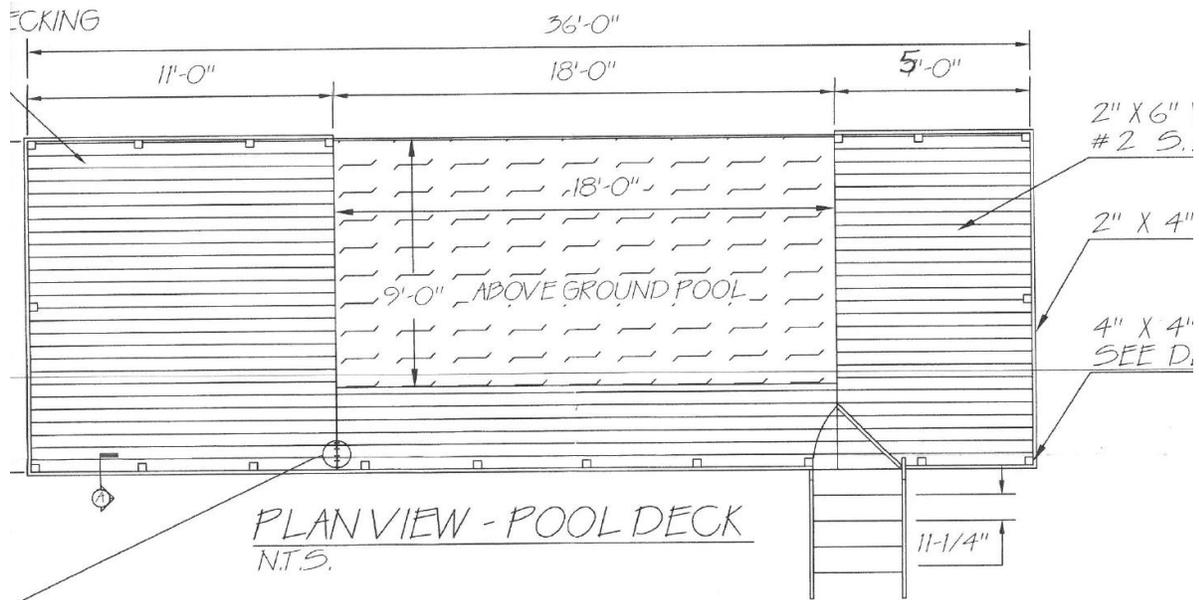
It has come to my attention that the owners of the house located at 7505 West Treasure Dr are seeking a variance to get their above ground pool and wood deck permitted by the City of NBV.

Please be advised that their existing pool as built does not affect us in any way and we are not opposed to this Variance being granted.

Sincerely,


Antonio and Elvira Villar
7509 West Treasure Dr
North Bay Village, FL 33141







North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

Page 1 of 3

APPLICATION FOR VARIANCE, INCLUDING EXTENSION OF AN UNEXPIRED VARIANCE AND/OR SPECIAL EXCEPTION APPROVAL

Instructions: Submit this application, along with 15 sets of sealed plans (1 set 36"x24" and 14 11"x17" sets) and the required information and fee, to the Village Clerk's Office at 1666 Kennedy Causeway, Suite 300. Applications are due by 12:00 noon on the deadline date and must be complete to be accepted and place on the agenda. A sign will be posted on the property, and public hearings will be conducted by the Planning & Zoning Board and the Village Commission.

Site Address 7505 WEST TREASURE DRIVE N. BAY VILLAGE FL 33141

Owner Name SOPHIA LIMA Owner Phone # 786-514-1007

Owner Mailing Address 47 Jean Lafitte Dr Key Largo FL 33037

Applicant Name _____ Applicant Phone # _____

(if different from Owner)

Applicant Mailing Address _____

Contact Person SOPHIA LIMA Contact Phone # 786-514-1007

Contact Email Address Sophies_pyramid@yahoo.com.

Legal Description of Property TREASURE ISLAND PB 50-67 LOT 14 BLK 2 LOT SIZE 60.000 X 119 OR 17313-0365 0896 1

Existing Zoning 0600 Lot Size 7,140 sf. Folio Number 23-3209-009-0600

Project Description ABOVE GROUND POOL AND WOODEN POOL DECK.

Section of North Bay Village Code from which the Applicant is Seeking Relief 1S2.060

Variance Requested SETBACK SIDE = 5 FT FOR BOTH INTER ABOVE GROUND POOL AND SET BACK REAR = 5 FT WOOD POOL DECK.

Reason for Request NO OTHER WAY TO PUT IN A POOL. LOSS OF THE "BEST"

USE OF LAND. HARDSHIP DUE TO DIMENSIONS OF BUILDING STRUCTURE. - NO OTHER PLACE ON PROPERTY TO PLACE THE POOL. NO OTHER INTER POOLS ARE AVAILABLE IN SMALLER SIZE EXCEPT KIDDIE POOLS.

Mayor
Connie Leon-Kreps

Vice Mayor
Jorge Gonzalez

Commissioner
Dr. Richard Chervony

Commissioner
Wendy Duvall

Commissioner
Eddie Lim

APPLICATION FOR VARIANCE, INCLUDING EXTENSION OF AN UNEXPIRED VARIANCE AND/OR SPECIAL EXCEPTION APPROVAL

Mandatory Submittals (check that each item is included with this application):

- Plans depicting work to be completed (including property survey)
- Application fees

Optional Submittals:

- Response to required findings
- Signed consent letters from neighboring property owners
- Optional plan versions for consideration by Village Commission

Applications are incomplete until all mandatory submittals have been received by the Village Clerk.

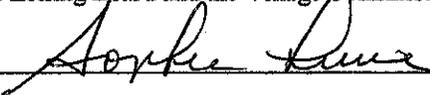
All requests for variances from the North Bay Village Code shall be considered at Public Hearings before the Village Commission. Notice of Hearing shall be given by publishing and posting on the property (which is the subject of the request), the time, the place and the nature of the hearing at least 10 days before the hearing. The Village Clerk shall certify that the petition is complete before the hearing is legally advertised. All applications shall be submitted to the Village Clerk on or before the deadline implemented by the Village.

All persons, firms, or corporations requesting a variance from the Village Commission necessitating the publication of notices in the newspaper, and all relative thereto, the payment of such money in advance to the Village Clerk shall be deemed a condition precedent to the consideration of such a variance request.

All new and substantial improvements must comply with the Florida Building Code, Department of Environmental Resource Management (DERM), and FEMA regulations.

I (We) the undersigned, am (are) the (owner, tenant, agent, attorney) (designate one) of the subject property herein described. I (We) acknowledge and agree that during the consideration of the application before the Planning & Zoning Board and staff of North Bay Village, no rights shall vest on behalf of the applicant, which would be enforceable against the Village until after a Public Meeting is held by the Village Commission and the Village Commission has voted favorable on the proposed request.

I (We) further acknowledge that I (We) have read and understand the conditions for appearance before the Planning and Zoning Board and the Village Commission pursuant to the Village Code Section 152.096. Any person submitting false information or misrepresenting in their presentation shall have all privileges granted to them by the Planning & Zoning Board and the Village Commission revoked.

Authorized Signature 

Print Name SOPHIA LIMA

(In case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's position in the corporation and embossed with the corporate seal.)

STATE OF FLORIDA
COUNTY OF Miami-Dade

Sworn to and subscribed to before me this 2nd day of September, 2016,

by Sophia Lemia

who is personally known to me or who has produced _____ as identification.

Notary Public Signature [Signature]

Commission Number/Expiration _____

**APPLICATION FOR VARIANCE, INCLUDING EXTENSION OF AN UNEXPIRED
VARIANCE AND/OR SPECIAL EXCEPTION APPROVAL**

3 of 3

Office Use Only:

Date Submitted: 9/2/16

Fee Paid: \$ 7,200.00

Tentative Meeting Date: 10/18/16

Cash or Check # 5402

Date Paid: 9/2/16

Mayor
Connie Leon-Kreps

Vice Mayor
Jorge Gonzalez

Commissioner
Dr. Richard Chervony

Commissioner
Wendy Duvall

Commissioner
Eddie Lim

Yvonne Hamilton

From: Sophie Lima <sophies_pyramid@yahoo.com>
Sent: Tuesday, October 04, 2016 11:35 AM
To: Ben Smith
Cc: Jim LaRue; Yvonne Hamilton; Jenorgen Guillen; Maurice Murray
Subject: Re: 7505 West Treasure Drive- Variance to side and rear setbacks for pool and pool deck

Hello Ben

Please see responses to criteria regarding our requested variance.

1(a) There are no special circumstances and conditions peculiar to the land, structure or building involved.

1(b) The special circumstances were not self created. The foundation of the building was in place when the property burned down a long time ago. As the purchasers of the land, we rebuilt on the existing foundation built by others. This foundation took up a great portion of the available land.

1(c) The strict application of the provisions of this chapter would deprive us of the reasonable use of the land for which the variance is sought. There is no other place on the property where we could reasonably install an above ground pool or other pool. The variance requested is the minimum setback that will fit an Intex above ground pool 9' x 18'. Intex does not make any smaller width pools.

1(d) Not granting this variance would create a hardship to the applicant due to the fact that our family, friends and guests cannot enjoy a pool (however small it may be) as others in North Bay Village can enjoy a pool.

2(a) Granting this variance will not confer any special privilege to the applicant. We are only seeking to enjoy an above ground swimming pool which others in North Bay Village can also enjoy.

2(b) The variance requested is the minimum setback that will fit an Intex above ground pool 9' x 18'. Intex does not make any smaller width pools.

3 We believe that granting this variance will be in harmony with the general intent and purpose of this chapter and will not be injurious to the neighborhood and neighbors. This variance will not be detrimental to the public welfare in any way. In fact, the pool is in the back yard and the property is fenced off. The pool and deck are not even visible to the neighbors and public.

7. The variance is not based upon a desire to reduce the cost of development as this property is a completed project.

Additional Comments:

We would like to ask that the Planning and Zoning Commission takes into consideration that this variance will accommodate a 9ft x 18ft Intex Above Ground Plastic Pool and a surrounding sun deck. We are not building an expensive and disruptive below grade pool. Our grandchildren wanted a pool where they could cool off in the summer. We never imagined that an above ground plastic lined swimming pool would create a disturbance to the neighbors or neighborhood. We have considered other Intex pools with a different size but they do not manufacture anything smaller. The width of the pool is 9 ft. Even if a pool with a width smaller than 9 ft were available, anything smaller than 9 feet would be impractical and aesthetically awkward. Our neighbors to the rear and to north have indicated in writing that this variance would not affect them. We are not asking for an extreme deviation of the setback requirements. We are simply asking for a minimum 2 foot deviation to accommodate a small above ground pool and sun deck.

We consider that not being able to have a pool is a loss of the "best" use of the land. Most residential properties are able to also have a pool for quite enjoyment.

Thank you for your consideration to this request. He hope the commission concludes that granting this variance is the only way that the owners of this property can ever enjoy a small pool in their yard.

Sincerely,

Sophia Lima, Owner
7505 West Treasure DRive
North bay Village, FL 33141

Cell: (786) 514-1007
sophies_pyramid@yahoo.com

From: Ben Smith <ben@larueplanning.com>
To: 'Sophie Lima' <sophies_pyramid@yahoo.com>
Cc: 'Jim LaRue' <jim@larueplanning.com>; 'Yvonne Hamilton' <yvonne.hamilton@nbvillage.com>; JGuillen@nbvillage.com; 'Maurice Murray' <mmurray@nbvillage.com>
Sent: Wednesday, September 14, 2016 10:59 AM
Subject: 7505 West Treasure Drive- Variance to side and rear setbacks for pool and pool deck

Sophia,

We received your variance request application and have begun our review. As you may be aware, this item will be scheduled for public hearings with the Village Planning & Zoning Board and the Village Commission. We will be preparing a staff report and making a recommendation.

The Village Code provides several criteria by which variance requests shall be reviewed. We will be responding to these criteria in our staff report. As the applicant, you have the opportunity to provide your own responses to these criteria, which we will also include in the staff report. Please see below for the criteria broken into subparts and provide your responses to each part.

Sec. 152.097(B):

(1)a. *That there are (or are not) special circumstances and conditions which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings in the same zoning district;*

(1)b. *that the special circumstances and conditions were not (or were) self-created by any person having an interest in the property;*

(1)c. *and that the strict application of the provisions of this chapter would (or would not) deprive the Applicant of the reasonable use of the land, structure, or building for which the variance is sought;*

(1)d. *and would (or would not) involve an unnecessary hardship for the Applicant.*

(2)a. *That granting the variance requested will not (or will) confer on the Applicant any special privilege that is denied by this chapter to other land, structures, or buildings in the same zoning district;*

(2)b. *and the variance granted is the minimum variance that will make possible the reasonable use of the land, structure, or building.*

(3) *That granting the variance will (or will not) be in harmony with the general intent and purpose of this chapter, and that such variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

Section 2.7.6:

7. *The variance request is not based exclusively upon a desire to reduce the cost of development.*

Additionally, with regard to subpart 152.097(B)(1)d, we will be using the definition of unnecessary hardship found in Village Code Section 152.003 as follows:

Hardship, unnecessary. Arduous restrictions upon the uses of a particular property, which are unique and distinct from that of adjoining property owners. Granting of relief from an unnecessary hardship should not violate sound zoning principles, including considerations that: adjacent properties will not be substantially reduced in value, it is not granting a special privilege not to be enjoyed by others in similar circumstances, and the public interest is maintained, including following the spirit of this chapter and the comprehensive master plan. Invalid and nonjustifiable bases for pleading unnecessary hardship include but are not limited to:

- (a) Loss of the "best" use of the land, and business competition.
- (b) Self-created hardships by the applicant's own acts.
- (c) Neighboring violations and nonconformities.
- (d) Claims of inability to sell the property.
- (e) General restrictions of this chapter.

Please submit your responses to us in writing by responding to this email. This is not required, though it will provide us with a basis for our review and recommendation. Let us know if you have any questions on this. We are available by phone or email. 239-334-3366.

Ben Smith, AICP



LaRue Planning & Management Services, Inc
1375 Jackson Street, Suite 206, Fort Myers, FL 33901
239-334-3366 ben@larueplanning.com



North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

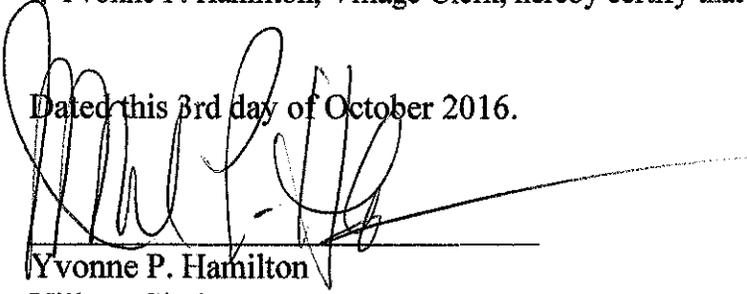
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

RE. AN APPLICATION BY SOPHIA LIMA, PROPERTY OWNER, OF 7505 WEST TREASURE DRIVE, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

- A. A VARIANCE FROM THE STRICT APPLICATION OF SECTION 152.060(A) FOR THE CONSTRUCTION OF AN ABOVE-GROUND SWIMMING POOL AND WOOD POOL DECK, TO REDUCE THE REQUIRED 7.5-FOOT SIDE-YARD SETBACK BY 2.5-FEET TO ALLOW A STRUCTURE TO BE 5-FEET FROM THE SOUTH SIDE PROPERTY LINE AND TO REDUCE THE REQUIRED 15-FOOT REAR-YARD SETBACK BY 10-FEET TO ALLOW A STRUCTURE TO BE 5-FEET FROM THE EAST REAR PROPERTY LINE.**

I, Yvonne P. Hamilton, Village Clerk, hereby certify that that the petition filed hereto is correct.

Dated this 3rd day of October 2016.


Yvonne P. Hamilton
Village Clerk

(North Bay Village Planning & Zoning Board Meeting- October 18, 2016)

Mayor
Connie Leon-Kreps

Vice Mayor
Jorge Gonzalez

Commissioner
Dr. Richard Chervony

Commissioner
Andreana Jackson

Commissioner
Eddie **25**



North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

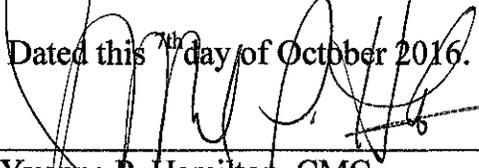
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

RE. AN APPLICATION BY SOPHIA LIMA, PROPERTY OWNER, OF 7505 WEST TREASURE DRIVE, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

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I, Yvonne P. Hamilton, Village Clerk, hereby certify that the attached Notice of Public Hearing was mailed to property owners and residents within 300 feet of the property of the subject request pursuant to Section 152.096(A)(2) of the North Bay Village Code of Ordinances on October 7, 2016.

Dated this 7th day of October 2016.



Yvonne P. Hamilton, CMC
Village Clerk

North Bay Village Planning & Zoning Board Meeting – October 18, 2016

Mayor
Connie Leon-Kreps

Vice Mayor
Jorge Gonzalez

Commissioner
Dr. Richard Chervony

Commissioner
Andreana Jackson

Commissioner
Eddie **28**



North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

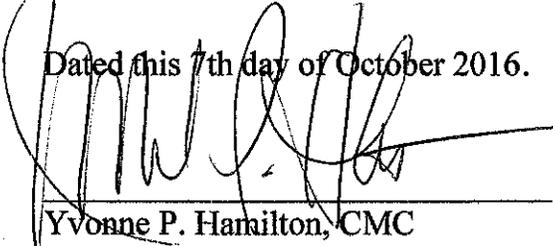
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

RE. AN APPLICATION BY SOPHIA LIMA, PROPERTY OWNER, OF 7505 WEST TREASURE DRIVE, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:

- A. A VARIANCE FROM THE STRICT APPLICATION OF SECTION 152.060(A) FOR THE CONSTRUCTION OF AN ABOVE-GROUND SWIMMING POOL AND WOOD POOL DECK, TO REDUCE THE REQUIRED 7.5-FOOT SIDE-YARD SETBACK BY 2.5-FEET TO ALLOW A STRUCTURE TO BE 5-FEET FROM THE SOUTH SIDE PROPERTY LINE AND TO REDUCE THE REQUIRED 15-FOOT REAR-YARD SETBACK BY 10-FEET TO ALLOW A STRUCTURE TO BE 5-FEET FROM THE EAST REAR PROPERTY LINE.**

I, Yvonne P. Hamilton, hereby certify that the attached Notice of Public Hearing to be held on October 18, 2016 was posted at the above-referenced property on October 6, 2016.

Dated this 7th day of October 2016.



Yvonne P. Hamilton, CMC
Village Clerk

(North Bay Village Planning & Zoning Board Meeting -- October 18, 2016)

Mayor
Connie Leon-Kreps

Vice Mayor
Jorge Gonzalez

Commissioner
Dr. Richard Chervony

Commissioner
Andreana Jackson

Commissioner
Eddie **27**



**NORTH BAY VILLAGE
NOTICE OF PUBLIC HEARING**

PUBLIC NOTICE IS HEREBY GIVEN THAT THE PLANNING & ZONING BOARD OF NORTH BAY VILLAGE, FLORIDA, WILL HOLD ITS REGULAR MEETING ON **OCTOBER 18, 2016 AT 7:30 P.M. OR AS SOON AS POSSIBLE THEREAFTER, AT VILLAGE HALL, 1666 KENNEDY CAUSEWAY #101**, NORTH BAY VILLAGE, FLORIDA. DURING THIS MEETING, THE BOARD WILL HEAR THE FOLLOWING REQUEST AND SUBMIT A RECOMMENDATION TO THE VILLAGE COMMISSION:

1. **AN APPLICATION BY SOPHIA LIMA, PROPERTY OWNER, OF 7505 WEST TREASURE DRIVE, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:**

A. **A VARIANCE FROM THE STRICT APPLICATION OF SECTION 152.060(A) FOR THE CONSTRUCTION OF AN ABOVE-GROUND SWIMMING POOL AND WOOD POOL DECK, TO REDUCE THE REQUIRED 7.5-FOOT SIDE-YARD SETBACK BY 2.5-FEET TO ALLOW A STRUCTURE TO BE 5-FEET FROM THE SOUTH SIDE PROPERTY LINE AND TO REDUCE THE REQUIRED 15-FOOT REAR-YARD SETBACK BY 10-FEET TO ALLOW A STRUCTURE TO BE 5-FEET FROM THE EAST REAR PROPERTY LINE.**

INTERESTED PERSONS ARE INVITED TO APPEAR AT THIS MEETING OR BE REPRESENTED BY AN AGENT, OR TO EXPRESS THEIR VIEWS IN WRITING ADDRESSED TO THE PLANNING & ZONING BOARD C/O THE VILLAGE CLERK, 1666 KENNEDY CAUSEWAY, #300, NORTH BAY VILLAGE, FL 33141.

THE DOCUMENTS PERTAINING TO THIS PUBLIC HEARING MAY BE INSPECTED AT THE OFFICE OF THE VILLAGE CLERK DURING REGULAR WORKING HOURS. INQUIRIES MAY BE DIRECTED TO THAT DEPARTMENT AT (305) 756-7171.

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION BY THE VILLAGE COMMISSION WITH RESPECT TO THIS OR ANY MATTER CONSIDERED AT ITS MEETING OR ITS HEARING, SUCH PERSON MUST 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.

THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSON WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY VILLAGE-SPONSORED PROCEEDING, PLEASE CONTACT (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

***YVONNE P. HAMILTON, CMC
VILLAGE CLERK
(SEPTEMBER 30, 2016)***

Owner/Occupant
7500 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7504 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7508 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7512 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7516 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7520 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7524 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7528 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7509 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7513 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7517 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7521 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7525 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7529 West Treasure Drive
N. Bay Village, FL 3314

Owner/Occupant
7505 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7509 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7513 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7517 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7521 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7525 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7508 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7512 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7516 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7520 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
7524 Adventure Avenue
N. Bay Village, FL 33141

Owner/Occupant
1400 South Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1440 South Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1450 South Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1460 South Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1470 South Treasure Drive
N. Bay Village, FL 33141



Owner/Occupant
1480 South Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1500 South Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1500 South Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1510 South Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1441 South Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1471 South Treasure Drive
N. Bay Village, FL 33141

Owner/Occupant
1501 South Treasure Drive
N. Bay Village, FL 33141



NORTH BAY VILLAGE NOTICE OF PUBLIC HEARING

PUBLIC NOTICE IS HEREBY GIVEN THAT THE PLANNING & ZONING BOARD OF NORTH BAY VILLAGE, FLORIDA, WILL HOLD ITS REGULAR MEETING ON OCTOBER 18, 2016 AT 7:30 P.M. OR AS SOON AS POSSIBLE THEREAFTER, AT VILLAGE HALL, 1666 KENNEDY CAUSEWAY #101, NORTH BAY VILLAGE, FLORIDA. DURING THIS MEETING, THE BOARD WILL HEAR THE FOLLOWING REQUESTS AND SUBMIT RECOMMENDATIONS TO THE VILLAGE COMMISSION:

1. AN APPLICATION BY SOPHIA LIMA, PROPERTY OWNER, OF 7505 WEST TREASURE DRIVE, TREASURE ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:
 - A. A VARIANCE FROM THE STRICT APPLICATION OF SECTION 152.060(A) OF THE VILLAGE CODE FOR THE CONSTRUCTION OF AN ABOVE-GROUND SWIMMING POOL AND WOOD POOL DECK, TO REDUCE THE REQUIRED 7.5-FOOT SIDE-YARD SETBACK BY 2.5-FEET TO ALLOW A STRUCTURE TO BE 5-FEET FROM THE SOUTH SIDE PROPERTY LINE AND TO REDUCE THE REQUIRED 15-FOOT REAR-YARD SETBACK BY 10-FEET TO ALLOW A STRUCTURE TO BE 5-FEET FROM THE EAST REAR PROPERTY LINE.
2. AN APPLICATION BY P&O GLOBAL TECHNOLOGIES, INC. CONCERNING PROPERTY LOCATED AT 7914-7918 WEST DRIVE, NORTH BAY VILLAGE, FLORIDA, FOR THE FOLLOWING:
 - A. AN AMENDMENT TO THE NORTH BAY VILLAGE COMPREHENSIVE PLAN AMENDING THE FUTURE LAND USE ELEMENT BY CREATING POLICY 2.1.14 TO PERMIT TRANSFER OF DENSITY IN THE RM-70 ZONING DISTRICT, VOGEL PARK, TRANSFERRING UP TO 36 RESIDENTIAL DWELLING UNITS FROM DR PAUL VOGEL PARK TO SITES THAT HAVE BEEN DETERMINED BY THE NORTH BAY VILLAGE COMMISSION TO PROVIDE MEANINGFUL PUBLIC BENEFIT, ALLOWING RECEIVING SITE DENSITY TO BE NO MORE THAN 100 RESIDENTIAL DWELLING UNITS PER ACRE.
 - B. AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE CHAPTER 152 CREATING THE PUBLIC SPACE ENHANCEMENT OVERLAY, PERMITTING ADDITIONAL HEIGHT, REDUCED SIDE SETBACKS, AND TRANSFER OF DENSITY FROM VILLAGE OWNED PROPERTY TO PRIVATE DEVELOPMENTS THAT PROVIDE MEANINGFUL PUBLIC BENEFITS.
 - C. AN AMENDMENT TO THE NORTH BAY VILLAGE LAND DEVELOPMENT CODE, AMENDING SECTIONS 5.2.2, 152.003, 152.042, 155.17, TO ALLOW FOR REVISED PARKING LOT DESIGN DIMENSIONS, TO ALLOW FOR MECHANICAL PARKING LIFT SPACES TO COUNT TOWARD THE REQUIRED NUMBER OF PARKING SPACES, AND TO PROVIDE SAFETY STANDARDS FOR MECHANICAL PARKING LIFTS.

INTERESTED PERSONS ARE INVITED TO APPEAR AT THIS MEETING OR BE REPRESENTED BY AN AGENT, OR TO EXPRESS THEIR VIEWS IN WRITING ADDRESSED TO THE PLANNING & ZONING BOARD C/O THE VILLAGE CLERK, 1666 KENNEDY CAUSEWAY, #300, NORTH BAY VILLAGE, FL 33141.

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YVONNE P. HAMILTON, CMC
VILLAGE CLERK
(SEPTEMBER 30, 2016)

Go to MiamiHerald.com/events, click on "Add Event" and follow the prompts. In the "Event Keywords" box, use terms that are related to your event. For example, if it is a business-related event, use terms such as Business & Technology, networking or business meeting. Limit the description field to about 2 1/2 lines. Make sure to include the name of the organization that is hosting the event. Please select the category of Special Event if your event does not match one of the categories in the short drop-down list.

Thursday, October 6

"Ancient Vessels of Love" Art Exhibit Opens at St. Thomas University Sheila E. Lichacz, a Panamanian artist, who has survived 15 brain surgeries to remove 30 tumors (both malignant and benign), will unveil her first exhibit in years, a 16-piece art exhibit "Ancient Vessels of Love," at the Archbishop John C. Favalora Archive & Museum at St. Thomas University (STU).

Lichacz, known for her unique style of incorporating pre-Columbian pottery shards and shells found in her native Monagrillo, Panama, creates montages, oils, pastels and sculptures. Six of her works are on permanent display at the Holy Shrine of Cana in Galilee. Another, "Blood Money -

30 Pieces of Silver," is the only work by a living artist that hangs in the Church of the Holy Sepulchre in Jerusalem. Her art is also on display in the Vatican Museum of Contemporary Religious Art.

The exhibit, on display through Dec. 13, is free and open to the public. Oct. 6-Oct. 13 14 p.m. Free St. Thomas University 16401 NW 37th Ave., Miami Gardens.

Art Talk: History of Girls' Club

In conjunction with our current exhibition Belief + Doubt: Selections from the Francie Bishop Good and David Horvitz Collection, Bonnie Clearwater will conduct a conversation on the history of the renowned Fort Lauderdale art space Girls' Club alongside Francie Bishop Good,

Michelle Weinberg, and Sarah Michelle Rupert. Established by Francie Bishop Good and David Horvitz in 2006, Girls' Club's mission is to educate the public, nurture the career of female artists, curators and practicing artists on the contributions of women to the field of contemporary art.

This event is FREE and open to the public as part of Free First Thursdays Starry Nights presented by PNC Bank.

RSVP: moareservations@moafl.org or 954-262-0258 Oct. 6 6:30 p.m.-7:30 p.m. Free NSU Art Museum Fort Lauderdale One E. Las Olas Blvd., Fort Lauderdale.

Martinis for Mammograms: A Pink Tie Affair

Join Himmarshee Public House for a pink-themed night out benefiting Glam-ATHON, an organization that coordinates fundraising initiatives to help local breast cancer patients. Martinis for Mammograms: A Pink Tie Affair will feature live music by DJ Romi Lux, specialty cocktails, hors d'oeuvres, complimentary chair massages, hair styling, raffles throughout the evening, a silent auction and more! Guests are encouraged to wear Pink as they indulge in an evening of pampering, for a great cause.

100 percent of ALL silent auction proceeds and a portion of door sales will go directly to Fort Lauderdale's Sole Sisters/GLAM-A-THON, which benefits Broward Health's Foundation/ local breast cancer patients. Advance tickets are \$20 and will go up to \$25 starting September 20th. Each ticket includes two beverages, hors d'oeuvres, one raffle ticket and more. Tickets can be purchased at bit.ly/2bSjpcR by clicking the "Give Now" button. Oct. 6 6 p.m.-9 p.m. \$20 in advance; \$25 starting September 20th Himmarshee Public House 201 SW 2nd St., Fort Lauderdale.

VISIONARIES OF THE LIGHT

The SaludArte Foundation in collaboration with NAEMI (National Art Exhibitions of the Mentally Ill) present the exhibition "VISIONARIES OF THE LIGHT". The exhibition is an exploration of works between pinhole photography, photo collage, and photo objects sculptures from artists that do not belong to any "official pattern."

The opening night will be taking place at Saludarte/Ideo-

32

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Not valid with other offers.
Exp. 10-31-16.



Memorandum

To: Frank Rollason, Village Manager
From: James G. LaRue, AICP
Date: October 7, 2016
Subject: Marijuana Dispensary Ordinance

In anticipation of Amendment 2 potentially being approved on November 8th, which would expand Florida's existing medical marijuana program, staff was directed to prepare new zoning regulations which will ensure local control over the operation and location of marijuana dispensaries with the Village. According to Section 381.984, Florida Statutes, cities and counties have the right to regulate marijuana dispensary policies and the number of actual dispensaries.

The proposed ordinance, scheduled to be heard by the Village Planning & Zoning Board on October 19th, contains definitions for several key terms; such as grow house, marijuana, marijuana dispensary, and marijuana based products. Business operating procedures and locational standards are also clearly delineated. These regulations provide for the proper safeguards of public health, safety and welfare in relation to marijuana dispensary uses, but are not overly restrictive. We will be present at the meeting to discuss the merits of this ordinance and recommend it as being consistent with the Village's Comprehensive Plan.

C: Yvonne Hamilton, Village Clerk
Jenorgen Guillen Deputy Village Clerk
Robert Switkes, Village Attorney
David Acosta, Assistant Village Attorney

ORDINANCE NO. _____

AN ORDINANCE OF NORTH BAY VILLAGE, FLORIDA AMENDING CHAPTER 152, SECTION 152.003 ENTITLED “DEFINITIONS”; ADDING DEFINITIONS FOR GROW HOUSE, MARIJUANA, MARIJUANA BASED PRODUCT, MARIJUANA DISPENSARY, MOBILE MARIJUANA DISPENSARY; SECTIONS 152.026 THRU 152.029 AND 152.0296 PROHIBITING MARIJUANA DISPENSARIES (EXCEPT IN THE CG ZONING DISTRICT), GROW HOUSES, AND MOBILE MARIJUANA DISPENSARIES; SECTION 152.030 ENTITLED “CG GENERAL COMMERCIAL DISTRICT” TO ALLOW MARIJUANA DISPENSARIES AS ALLOWABLE USES; SECTION 152.044 ENTITLED “MINIMUM SPACE REQUIREMENTS” REVISE PARKING SPACE REQUIREMENTS, TO INCLUDE MARIJUANA DISPENSARIES; SECTION 152.112 ENTITLED “MARIJUANA DISPENSARIES” ADDING SECTION PROVIDING CONDITIONS FOR APPROVAL OF A MARIJUANA DISPENSARY AND OPERATING PROCEDURES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE VILLAGE CODE; AND PROVIDING AN EFFECTIVE DATE. (INTRODUCED BY COMMISSIONER RICHARD CHERVONY)

WHEREAS, North Bay Village is mainly a residential community with a limited area of commercial uses primarily devoted to the needs of the local population;

WHEREAS, marijuana dispensaries are commercial uses, and the Village Commission finds that such uses are not compatible with the Village’s residential areas;

WHEREAS, grow houses are both an agricultural and commercial use associated with the growing and production of marijuana, which is not compatible with the Village’s residential areas and does not conform to the limited retail/office/services character of the commercial sector of the Village;

WHEREAS, the Village’s adopted Comprehensive Plan includes in its Future Land Use Element, the following objectives and policies which are supportive of the Ordinance including:

Objective 2.1: Manage future growth and development by implementing and enforcing all existing plans and regulations and by preparing and adopting new regulations as needed.

Policy 2.1.3: Prohibit infilling of lots, expansion of existing uses, or replacement of land uses with development that is incompatible with the Future Land Use Plan by strict enforcement of development regulations.

Objective 2.2: Develop a program and policies to promote the Village’s character as an attractive waterfront community and direct future development and redevelopment to be consistent with the desired community character and goals, objectives, and policies within the Plan.

Policy 2.2.5: The Village shall continue to encourage all future land use development and redevelopment to emphasize aesthetic quality and overall acceptability to local residents.

Policy 2.3.2: Protect distinct functional areas and districts from intrusion and encroachment of incompatible uses by strict compliance to the land use plan.

WHEREAS, the Planning and Zoning Board has found that, based on the foregoing Objectives and Policies in the Comprehensive Plan, this ordinance is consistent with the Comprehensive Plan and will promote the public health, safety, and welfare of the Village.

WHEREAS, marijuana dispensaries and mobile marijuana dispensaries are a commercial use which, when present in substantial numbers, can potentially cause traffic congestion;

WHEREAS, the Planning and Zoning Board has reviewed this Ordinance at a duly advertised public hearing and recommended _____ of the Ordinance; and

WHEREAS, the Commission of North Bay Village hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW, THEREFORE, BE IT ENACTED BY THE VILLAGE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. Each of the above stated recitals is true and correct and incorporated herein by this reference.

Section 2. Village Code Amended. Chapter 152 “Zoning” of the North Bay Village Code of Ordinances are hereby amended to read as follows:

§ 152.003 - Definitions.

Grow house. A grow house is a property, usually located in a residential neighborhood, that is primarily used for the production of marijuana but may also be used as a dwelling. The houses are typically outfitted with equipment to provide water, food, and light to the marijuana plants, and the houses themselves are usually kept in good condition to blend in with the neighborhood. Illegal electrical hookups are a common feature of grow houses, to both save money and to make it harder for authorities to identify them due to their unusually high electrical usage.

Marijuana. Marijuana is defined as Cannabis, meaning all parts of any plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

Marijuana-based product. A marijuana-based product means a product that contains marijuana or any of its derivatives, including, but not limited to, tonics, tinctures, balms, salves, lotions, sprays, ointments, drinks, foods, and pills.

Marijuana dispensary. A marijuana dispensary is a facility where marijuana or marijuana-based products are made available for medical purposes in accordance with Florida law. A marijuana dispensary may also be defined as a “dispensing organization” as provided in s. 381.986(1), Florida Statutes. Any medical marijuana treatment center at which marijuana or marijuana-

based products are dispensed as part of a program of medical treatment shall be included within the definition of a marijuana dispensary.

Mobile marijuana dispensary. A mobile marijuana dispensary is any legal entity, clinic, cooperative, club, business, or group which transports, delivers, or arranges the transportation or delivery, of marijuana or marijuana-based products to any person.

§ 152.026 - RS-1 Low Density Single-Family Residential District.

(D) Prohibited uses.

- (1) Facility or base for mobile marijuana dispensing.
- (2) Grow house.
- (3) Marijuana Dispensary.
- (4) All other uses not specifically or provisionally permitted herein.

§ 152.027 - RS-2 Medium Density Single-Family Residential District.

(D) Prohibited uses.

- (1) Facility or base for mobile marijuana dispensing.
- (2) Grow house.
- (3) Marijuana Dispensary.
- (4) All other uses not specifically or provisionally permitted herein.

§ 152.028 - RM-40 Medium Density Multiple-Family Residential District.

(E) Prohibited uses.

- (1) Facility or base for mobile marijuana dispensing.
- (2) Grow house.
- (3) Marijuana Dispensary.
- (4) All other uses not specifically or provisionally permitted herein.

§ 152.029 - RM-70 High Density Multiple-Family Residential District.

(D) Prohibited uses.

- (1) Facility or base for mobile marijuana dispensing.
- (2) Grow house.
- (3) Marijuana Dispensary.
- (4) All other uses not specifically or provisionally permitted herein.

§ 152.030 - CG General Commercial District.

(B) Uses permitted:

- (14) Marijuana dispensary meeting the requirements of Section 152.112.

§ 152.044 - Minimum space requirements.

(B) *Commercial uses.*

(12) Wholesale trade establishments: One space for every 300 square feet of gross floor area.

(13) Drugstores, pharmacies, and marijuana dispensaries: One space for each 200 square feet of gross floor area.

§ 152.112 – Marijuana Dispensaries.

(a) Dispensaries generally.

(1) A marijuana dispensary may distribute, purchase, sell, convey, or possess with the intent to sell or convey, marijuana or marijuana-based products for medical use only for the purpose of dispensing and selling marijuana or marijuana-based products to a qualifying patient or the patient’s caregiver, all as defined and permitted by Florida law. A marijuana dispensary must be licensed by the State of Florida department regulating marijuana. A marijuana dispensary must be licensed before possessing, purchasing, conveying, distributing, or retailing marijuana or marijuana-based products, and copies of its licensure documents must be filed with the Village prior to opening for business. It is the responsibility of the owner and the operator of the marijuana dispensary to have current, valid, and unexpired state licensure documents on file at all times with the Village. No marijuana or marijuana-based products may be obtained from a grow house or marijuana farm located in the Village. All marijuana or marijuana-based products, must be sold by and at a state licensed and approved marijuana dispensary or dispensing organization, and all marijuana must be purchased from a medical marijuana farm that has a valid, state of Florida-issued permit for said purpose. A marijuana dispensary may not conduct wholesale sales or transactions.

(2) Marijuana dispensaries must at all times meet all the operating criteria for the dispensing of marijuana or marijuana-based products as required from time to time pursuant to Florida law and administrative regulations.

(b) Conditions for approval.

(1) A marijuana dispensary must be located:

(i) At least 500 feet from any single family zoned district as designated on the Village's official zoning district map; and

(ii) At least 500 feet from any parcel of land upon which a religious facility, public school, private school, public park, public playground, library, daycare center or nursery for children is located; and

(iii) At least 500 feet of from any parcel of land upon which an adult entertainment establishment is located; and

(iv) At least 50 feet from a building that contains a business that sells or dispenses alcohol; and

- (v) At least 1,000 feet from another building that contains a marijuana dispensary.
- (2) No variance shall be granted to the spacing requirements of subsection (1) above.
- (3) The minimum distance separation shall be measured by following a straight line from any portion of the building used for a marijuana dispensary to:
 - (i) The nearest point of a property designated as single family residential on the Village's official zoning district map; or
 - (ii) The nearest point of a building that contains a business that sells or dispenses alcohol; or
 - (iii) The nearest point of any property used for a religious facility, public school, private school, public park, playground, library, daycare center, nursery for children, adult entertainment center, or another marijuana dispensary.
- (4) No drive-in, drive-up, or drive through use shall be permitted as a part of any marijuana dispensary.
- (5) At a minimum, a marijuana dispensary must have storage facilities approved and meeting applicable federal and state statutes and rules. If the federal and state governments do not set minimum requirements for storage of marijuana or marijuana-based products or if federal and state law does not prohibit stricter requirements from being adopted by the Village, marijuana or marijuana-based products storage must meet the security and storage requirements for Schedule I and Schedule II drugs (as defined in s. 893.03, Florida Statutes, and 21 U.S.C. s. 812) as provided in 21 C.F.R. s. 1301.72. The storage facility or system must be located on the site of the marijuana dispensary and used solely for marijuana or marijuana-based products storage. The storage facility shall be locked and made secure when the marijuana dispensary is not open and serving the public.

(c) Dispensary operation.

- (1) No marijuana dispensary within the Village shall sell or distribute marijuana or marijuana-based products other than what is manufactured, grown, and processed in the State of Florida and that has not left the state before arriving at the marijuana dispensary.
- (2) It is unlawful for any person or legal entity operating a marijuana dispensary under the provisions of this code to permit any breach of peace therein or any disturbance of public order or decorum by any riotous or disorderly conduct, or otherwise.
- (3) It is unlawful for any marijuana dispensary to remain open to the public for the sale, distribution, conveyance of marijuana or marijuana-based products between the hours of 8 p.m. and 8 a.m. the next day. It is unlawful for any person or legal entity operating a marijuana dispensary under the provision of this code to permit such dispensary to remain open, or patrons to remain upon the premises, between the hours of 8 p.m. and 8 a.m. the next day.
- (4) No living marijuana plants are permitted on the site of a marijuana dispensary.
- (5) Smoking, ingesting, or other consumption.

(i) No marijuana or marijuana-based products legally obtained with a physician's recommendation or certification shall be smoked, ingested or otherwise consumed in a marijuana dispensary or in the parking lot for a marijuana dispensary. Any marijuana dispensary must, at all times when such establishment is open to the public or is selling marijuana or marijuana-based products, have a sign on the premises located where it can be readily seen and read by all customers of the marijuana dispensary which is at least six by eight and one-half inches (6" × 8.5") in size and with one-half inch (0.5") minimum lettering and contains the following information:

IT IS UNLAWFUL TO SMOKE, INGEST, OR CONSUME MARIJUANA INSIDE, OR IN THE PARKING LOT, OF THIS ESTABLISHMENT.

(ii) It is unlawful for the owner or operator of any marijuana dispensary to fail to comply with this section or for any person to sell or dispense marijuana or marijuana-based products in any establishment which is not in compliance with this section. The requirements of this section apply to all marijuana dispensaries.

(5) All sales and dispensing of marijuana or marijuana-based products shall be conducted inside the premises of the marijuana dispensary. No off-site delivery of marijuana shall be permitted by the owner, operator, or any employee of the marijuana dispensary. No mobile marijuana dispensary shall operate, or obtain marijuana or marijuana-based products, from a marijuana dispensary or grow house located in the Village.

(6) A marijuana dispensary shall not hold or maintain a State of Florida alcoholic beverage license to sell any type of alcoholic beverages, or operate a business that sells alcoholic beverages. No alcoholic beverages may be consumed on the premises or sold within fifty (50) feet of a marijuana dispensary, except at a package store, bar, or lounge the existence which preceded the date of adoption of these provisions relating marijuana dispensaries. No package store, bar, or lounge shall locate and sell or dispense alcoholic beverages within fifty (50) feet of a marijuana dispensary.

(7) A marijuana dispensary shall provide litter removal services and actively remove litter at least twice each day of operation on, inside the premises, in front of the premises, in any parking lot adjacent to the marijuana dispensary or used by patrons of the marijuana dispensary, and, if necessary, on public sidewalks within one-hundred (100) feet of the outer perimeter of the marijuana dispensary.

(8) A marijuana dispensary shall provide and maintain adequate security on the premises, including fully operational lighting and alarms reasonably designed to ensure the safety of persons and to protect the premises from theft, both inside the marijuana dispensary and in the parking area adjacent to the marijuana dispensary. Any breaking and entering at a marijuana dispensary, regardless of whether marijuana or marijuana-based products are stolen, shall constitute a violation of this code section if the security alarm shall fail to activate simultaneous with the breaking and entering in a loud and audible manner within the hearing of average police officers and citizens on the public right-of-way within two (200) hundred feet of marijuana dispensary.

(9) Notwithstanding other signage provisions of this land development code, a marijuana dispensary shall have one non-illuminated wall sign within 5 feet of the main entrance

which is between 2 and 3 square feet in area and which shall include only the following language:

ONLY INDIVIDUALS WITH LEGALLY RECOGNIZED MARIJUANA OR CANNABIS IDENTIFICATION CARDS OR A VERIFIABLE, WRITTEN RECOMMENDATION FROM A PHYSICIAN FOR MEDICAL MARIJUANA MAY OBTAIN MARIJUANA OR MARIJUANA-BASED PRODUCTS FROM A MARIJUANA DISPENSARY.

The text shall be a minimum of two inches in height. This requirement shall remain in effect so long as the system for distributing or assigning medical marijuana identification cards preserves the anonymity of the qualified patient or primary caregiver.

- (10) The marijuana dispensary shall provide the Village manager and all property owners and tenants located within one hundred (100) feet of the marijuana dispensary with the name, phone number, and e-mail or facsimile number of an on-site community relations staff person to whom one can provide notice during marijuana dispensary business hours if there are operating problems associated with the marijuana dispensary. The marijuana dispensary shall make every good faith effort to encourage neighbors to call this person to try to solve operating problems, if any, before any calls or complaints are made to the Police Department or other Village officials.
- (11) It shall be unlawful for any marijuana dispensary to employ any person to engage in the sale, distribution, conveyance of marijuana or marijuana-based products, who is not at least 18 years of age. A person under the age of 18 years of age may be employed to perform routine maintenance or janitorial work in a marijuana dispensary; provided, that such employee under the age of 18 years of age shall not handle or touch any marijuana or marijuana-based product within the marijuana dispensary.
- (12) Except as permitted in paragraph (11) above, it shall be unlawful for any marijuana dispensary to allow any person who is not at least 18 years of age on the premises during hours of operation, unless that person is a qualified patient with a valid identification card or primary caregiver with a valid identification card or a verifiable, written recommendation from a physician for medical marijuana.
- (13) A marijuana dispensary shall provide adequate seating for its patients and business invitees. A marijuana dispensary shall not direct or encourage any patient or business invitee to stand, sit (including in a parked car), or loiter outside of the building in which the marijuana dispensary is located, including parking areas, sidewalks, rights-of-way, or neighboring properties for any period of time longer than that reasonably necessary to arrive and depart. A marijuana dispensary shall post conspicuous signs on three sides of any building in which it is located that no loitering is permitted on the property.
- (14) A marijuana dispensary shall ensure that there is no queing of motor vehicles in the right-of-way or in any parking lot serving or adjacent to a marijuana dispensary. The

marijuana dispensary shall take all necessary and immediate steps to ensure compliance with this paragraph.

Section 3. Repeal. All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are repealed to the extent of such conflict.

Section 4. Severability. The provisions of this Ordinance are declared to be non-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 render this Ordinance void in its entirety.

Section 5. Inclusion in the Code. It is the intention of the Village Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of North Bay Village; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

A motion to approve the foregoing Ordinance on first reading on _____ was offered by _____, seconded by _____.

The Votes were as follows:

Mayor Connie Leon-Kreps _____
Vice Mayor Jorge Gonzalez _____
Commissioner Richard Chervony _____
Commissioner Andreana Jackson _____
Commissioner Eddie Lim _____

A motion to approve the foregoing Ordinance on second reading was offered by _____, seconded by _____.

FINAL VOTES AT ADOPTION:

Mayor Connie Leon-Kreps _____
Vice Mayor Jorge Gonzalez _____
Commissioner Richard Chervony _____
Commissioner Andreana Jackson _____
Commissioner Eddie Lim _____

DULY PASSED AND ADOPTED __ day of _____ 2016.

Connie Leon-Kreps
Mayor

ATTEST:

Yvonne P. Hamilton
Village Clerk

**APPROVED AS TO FORM FOR THE USE OF
NORTH BAY VILLAGE ONLY:**

Robert L. Switkes & Associates, P.A.
Village Attorney