

**City of Melbourne, Florida
Agenda
Zoning Board of Adjustment**

City Hall Council Chamber
900 E. Strawbridge Avenue
Melbourne, FL 32901

July 28, 2025, 6:30 p.m.

A. Opening

1. Pledge of Allegiance.
2. Roll call.
3. Approval of Minutes – June 30, 2025
4. Declaration of Conflict
5. Requests for Dismissals, Postponements, or Withdrawals

B. Unfinished Business

6. **VAR2025-0001 Alexander Wassuta, 792 Iroquois Ave.**

In a R-1A zoning district, the following variance is requested:

A variance of 4ft. 7 in. to allow a 2ft. 11in. side yard setback.

Part III, Appendix B, Article V, Section 2 (D), Table 2A requires a 7.5 ft. side setback.

C. New Business

VAR2025-0002 Leonardo DRS – 100 N. Babcock St.

7. In a C-2 zoning district, the following variance is requested:

A variance of 10 ft. to allow a 6 ft. tall 50% opaque fence setback 0 ft. along the front property line.

Part III, Appendix D, Chapter 9, Article III, Section 9.44. (b) requires a minimum 10 ft. setback for fences greater than 4 ft. tall.

D. Future/Additional Business

8. Presentation of Service Pin to Ravindra Shah.

E. Adjournment

Note: More than one member of the City Council may be in attendance at the meeting and may participate in discussions.

Pursuant to 286.0105, Florida Statutes, the City hereby advises the public that if a person decides to appeal any decision made by this Board, agency or meeting or hearing, he will need a record of the proceedings, and that for such purpose, affected persons 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. This notice does not constitute consent by the City for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the Community Development Department at (321/608-7500), no later than 5:00 p.m., at least 48 hours prior to the meeting.

City of Melbourne, Florida
Minutes — Zoning Board of Adjustment

City Hall Council Chamber
900 E. Strawbridge Avenue
Melbourne, FL 32901

June 30, 2025, 6:30 p.m.

A. Opening

1. Pledge of Allegiance.
2. Roll Call.

Present: Peter Kostrzewa, Chairman
Jennifer Cope, Vice-Chairman
Thomas Herbert, Member
Charles Jackson, Member
Dave Bregard, Alternate Member
Diane Maynard, Alternate Member

Absent: Natalia Brauner, Member (Excused)
Linda Cass, Member (Excused)
Ravi Shah, Member (Excused)

Also Present: Jeffrey Higgins, AICP, Planner
Adam Conley, City Attorney
Kellen Simmons, Assistant City Attorney
Richard Broome, Deputy City Attorney
Samantha Buck, Recording Secretary

3. Approval of Minutes – September 30, 2024, Meeting

Moved Herbert/Cope to approve the minutes from the September 30, 2024 meeting, as presented.

Motion carried unanimously.

4. Declaration of Conflict.

There were no conflicts of interest declared for this item.

5. Requests for Dismissals, Postponements, or Withdrawals

Mr. Higgins confirmed that he had spoken with Mr. Wassuta prior to the meeting to explain that there would most likely only be six board members present at the meeting. As Code requires that he receive five affirmative votes for his variance request to be granted,

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Mr. Wassuta would have the option to request postponement until the July meeting when more Board members may be present.

Mr. Wassuta confirmed for the record that his request would be to postpone his item until the July 28, 2025 meeting.

Mr. Kostrzewa asked the Board what their preference would be in light of the applicant's request.

A brief discussion ensued and Mr. Conley reminded the Board that Florida Case Law requires that any motion for postponement include a date, time, and place certain for any continued item.

Moved Bregard/Jackson that application VAR2025-0001 is postponed to the July 28, 2025 Zoning Board of Adjustment meeting that will be held at 6:30 p.m. in the Council Chamber.

Motion carried unanimously.

B. New Business

6. VAR2025-00001 – Alexander Wassuta, 792 Iroquois Ave.

In a R-1A zoning district, the following appeal is requested:

A variance of 4 ft. 7 in. to allow a 2 ft. 11 in. side yard setback.

Part III, Appendix B, Article V, Section 2 (D), Table 2A requires a 7.5 ft. side setback.

This item was postponed until the July 28, 2025 meeting.

C. Future/Additional Business

Annual Financial Disclosure Form – Due July 1, 2025.

Mr. Higgins reminded the Board that the deadline for submitting their annual financial disclosure forms to the Florida Commission on Ethics was the following day (July 1st). There is a brief period of grace, however, submittals received after September 1st would incur a penalty fee. He urged the Board to be mindful and submit their forms in a timely manner.

A brief discussion ensued on where online forms can be submitted on the Commission on Ethics website Mr. Conley urged Board members to reach out to the City Clerk's Office if they had further questions or required assistance with their submittal.

Before the meeting closed, Mr. Conley introduced two members of his team; Richard Broome, Deputy City Attorney, and Kellen Simmons, Assistant City Attorney.

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Mr. Conley told the Board that it would be likely that either Mr. Simmonds or Mr. Broome would be attending future meetings.

Mr. Higgins confirmed that staff has two items for the Board to review at the July 28 meeting. It is important that we have a quorum for the meeting, so he asked the Board to please let the Recording Secretary (Samantha Buck) know if they are unable to attend the July meeting.

Jeff Woertendyke, Cocoa Beach, asked if there will be a full complement of Board members at the July meeting as it was a long way for him and his brother to travel if the item was not going to be heard by the Board.

Mr. Higgins replied that often, staff only find out that Board members will not be attending during the afternoon of the meeting. He suggested that Mr. Woertendyke provide his contact information to the Recording Secretary who can contact him prior to the meeting with the number of Board members expected to attend.

As Mr. Shah was not present at the meeting, it was agreed that staff would present his service pin at the July meeting.

D. Adjournment

As there was no further business to discuss, the meeting was closed at 6.47 pm.



Samantha Buck, Recording Secretary – June 30, 2025

Approved by Zoning Board of Adjustment: _____

MEMORANDUM

TO: Zoning Board of Adjustment
THRU: Cheryl A. Dean, Planning Manager, AICP
FROM: Jeffrey Higgins, Planner, AICP
RE: VAR2025-0001 / ALEXANDER WASSUTA / 792 IROQUOIS AVE.
DATE: June 19, 2025



City of Melbourne
Community Development
Department

REQUEST/CODE REFERENCE

In a R-1A zoning district, the following variance is requested:

Variance of 4 ft. 7 in. to allow a 2 ft. 11 in. side yard setback.

Part III, Appendix B, Article V, Section 2 (D) Table 2A requires a 7.5 ft. side setback.

SUMMARY: The applicant requests a side yard setback reduction for an addition along the north side of their garage. The existing single-family residential dwelling was originally constructed in 1967. Around 2005, an addition was constructed along the north side of the garage. There's no permit identifying the city allowed an addition for this house; particularly one that does not meet the 7.5 ft. side yard setback requirement.

FACTORS TO CONSIDER:

1. **What are the special conditions and circumstances that exist which are peculiar to the land, structure, or building involved that are not applicable to other lands, buildings, or structures in the same zoning district?**
 - There are no special circumstances or conditions along the side and front property lines.
 - Compliance with building setbacks can be measured from those straight property lines.
2. **Will the literal interpretation of the provisions of the zoning ordinance deprive the applicant of rights commonly enjoyed by other properties in the same zoning district resulting in an unnecessary and undue hardship?**
 - The original house footprint was compliant to a 7.5 ft. side yard setback, when the house was constructed under the City of Eau Gallie's R1C zoning district and remained compliant to a 7.5 ft. side yard setback requirement when the subject property become part of the City of Melbourne's R-1A zoning district until the building addition around 2005.
 - There are several areas for additions to the house that could meet setback requirements within the developed conditions of the subject property.
 - There's no history of side setback variances requested/granted in the Indianhead subdivision.
3. **Are there special conditions and circumstances resulting from actions of the applicant?**
 - The applicant constructed this addition without building permit approval.
 - A building permit would not have been issued for a non-compliant structure.
 - There are code compliant areas available for additions to this house.

4. **Will granting the variances requested herein confer on the applicant any special privilege that is denied by the zoning ordinance to other lands, structures, or buildings in the same zoning district?**
 - Yes, granting this setback variance will be a special privilege particularly when code compliant areas to expand are available within the subject property.
5. **Will the variances being requested be the minimum variance that will make possible the reasonable use of the subject land, structure, or building?**
 - No, a variance is not necessary to build code compliant additions to this house.
6. **Will granting the variances requested be in harmony with the general intent and purpose of the zoning ordinance and not be injurious to the neighborhood or otherwise detrimental to the public welfare?**
 - There is no known hardship identified justifying granting this variance.
 - There is discontent with this existing structure bothering the abutting neighbor to the north.

RECOMMENDATION: Staff requests **Denial of VAR2025-0001**, based on not meeting the six city code factors for granting a variance.

MEMORANDUM

TO: Zoning Board of Adjustment
THRU: Cheryl A. Dean, AICP, Planning Manager
FROM: Jeffrey Higgins, AICP, Planner
RE: VAR2025-0002 / LEONARDO DRS / 100 N BABCOCK ST
DATE: July 17, 2025



City of Melbourne
Community Development
Department

REQUEST/CODE REFERENCE

In a C-2 zoning district, the following variance is requested:

Variance of 10 feet to allow a 6-foot- tall 50% opaque fence setback 0 feet along the front property line.

Part III, Appendix D, Chapter 9, Article III, Section 9.44. (b) requires a minimum 10-foot setback for fences greater than 4 feet tall.

SUMMARY: The applicant is requesting a reduced setback to allow a greater height fence along the front property line. The applicant's stated objective is to prohibit pedestrian cut through traffic occurring within the subject property. Fences along the front property line are limited to 4-feet-tall and 50% opaque. A 6-foot-tall fence is allowed with a minimum 10-foot setback from the front property line. The code requirement for limiting fence height and opaqueness along the front property line is to limit visual obstructions that could potentially be hazardous to pedestrians and vehicle traffic. Fences along the front property line limited to 4-feet-tall allows the ability to see above the fence line while seated in a vehicle and the limit on opaqueness is to allow visual transparency through the fence itself.

FACTORS TO CONSIDER:

- 1. What are the special conditions and circumstances that exist which are peculiar to the land, structure, or building involved that are not applicable to other lands, buildings, or structures in the same zoning district?**
 - Dimensions along the front yard allow a 10-foot- wide landscape area to be created coinciding with a row of angled parking spaces and a one-way drive aisle in order to provide an area for a 10-foot fence setback.
 - A variance was granted to the subject property in 2007 (V-2007-056) allowing a 0-foot landscape width along their street frontage.
 - The extent of proposed building improvements in 2007 required additional site improvements to reduce non-conformities, including compliance with the landscape buffer requirements abutting rights-of-way, which would have required, at that time, removal of existing pavement in order to achieve such compliance.
 - The property owner agreed to provide the required landscaping within the right-of-way abutting Babcock Street.
 - No fencing was proposed along the street frontage back then.
 - With this request for a 6-foot-tall fence to deter cut-through pedestrian traffic, there are no special conditions for the extra height; therefore the request should comply with City Code.

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2. **Will the literal interpretation of the provisions of the zoning ordinance deprive the applicant of rights commonly enjoyed by other properties in the same zoning district resulting in an unnecessary and undue hardship?**
 - There is no impediment to constructing a 4-foot-tall fence along the front property line.
 - Creating the landscape area along the front property line can be achieved by removing the unapproved parallel parking spaces.
 - The City's Engineering Department has determined a 6-foot-tall fence along the front property line of the subject property would be a visual obstruction and should not be allowed.
 3. **Are there special conditions and circumstances resulting from actions of the applicant?**
 - The applicant's actions directly result in the variance request.
 - Fence placement within the subject property is not being denied by the code requirements.
 4. **Will granting the variances requested herein confer on the applicant any special privilege that is denied by the zoning ordinance to other lands, structures, or buildings in the same zoning district?**
 - Allowing a greater height fence along the front property line of the subject property would go against the safety recommendation from the City's Engineering Department.
 5. **Will the variances being requested be the minimum variance that will make possible the reasonable use of the subject land, structure, or building?**
 - Limiting cut through pedestrian traffic within the subject property can be achieved with a 4-foot-tall fence along the front property line.
 6. **Will granting the variances requested be in harmony with the general intent and purpose of the zoning ordinance and not be injurious to the neighborhood or otherwise detrimental to the public welfare?**
 - Public safety is at the forefront of many land development code requirements especially fence placement along the street frontage.

RECOMMENDATION: Staff recommends **Denial of VAR2025-0002**, based on failure to meet the six factors for granting a variance.