



**City of Melbourne, Florida
Minutes — Planning and Zoning Board**

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

August 7, 2025, 6:30 p.m.

A. Opening

1. Pledge of Allegiance.
2. Roll Call.

Present:	Yvonne Minus	Chair
	Shannon Bailey	Member
	Bruce Waters	Member
	George Lebovitz	Member
	Dr. Ray Shackelford	Member
	Nancy Garmer	Alternate Member
	Chris Adams	Alternate Member
	Adam Conley	City Attorney
	Richard Broome	Deputy City Attorney
	Kellen Simmons	Assistant City Attorney
	Cheryl Dean	Planning Manager
	Olivia Bachtold	Recording Secretary
Absent:	Milo Zonka	Vice Chair (Excused)
	Molly Tasker	Member (Excused)
	Ence Spann	School Board Representative (Excused)

3. Approval of Minutes – July 17, 2025
Moved **Adams/Garmer** to approve the minutes from the July 17, 2025, meeting.
Motion carried unanimously.
4. Declaration of Conflict
None.

5. Disclosures

None.

6. Public Comment

None.

B. New Business

7. Appeal of a Decision of the Building Official (APPEAL2025-0001):

Mr. Broome provided the board with a summary of the appeal process and the role of the planning and zoning board. Mr. Broome identified that the process would be quasi-judicial in nature and that the final consideration would be made by the planning and zoning board regarding the decision of the building official based upon the testimony and evidence provided tonight.

Mr. Broome stated that he would be advising the board and that any questions regarding the process should be directed to him.

Bryan Yarnell, Gray Robinson P.A., representing Southeastern Seafood Products, opened the case for the appellant. Following was Kellen Simmons, Assistant City of Melbourne Attorney, who presented the city's case.

Mr. Yarnell called on Mark Maynard Jr., representing the ownership of Southeastern Seafood Products, to provide his testimony.

Testimony was provided by Mr. Maynard, Jr., regarding the permitting history of the business, the migrants residing at 1547 Guava Avenue, and the history of the sewer connection to the building.

Kellen Simmons, Assistant City Attorney, followed Mr. Yarnell to cross-examine Mr. Maynard, Jr., including his qualifications as an expert.

An Emergency Motion to Stay, filed with the court, was submitted to the public record as evidence by the City.

Cross-examination continued on the property owner's history of obtaining permits and receiving inspections on the property.

Adam Conley, City Attorney, provided an overall summary of why an appeal is being brought to the Board. Discussion continued regarding the protocol that is taken when a property establishes a change of use and a change of occupancy.

Mr. Simmons called on Mark Herold, Code Enforcement Official, to provide testimony.

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Testimony was provided by Mr. Herold regarding the specific dates of visits and inspections Mr. Herold has made at 1547 Guava Avenue.

Mr. Herold was cross-examined by Mr. Yarnell.

During the cross-examination of Mr. Herold, Ms. Garmer asked if it is a common occurrence for someone to complete work without a permit, and get a permit after the fact.

Mr. Herold said it is common in the world of building and codes, but Mr. Maynard Jr. is a licensed building contractor; therefore, is aware of what is required.

Discussion ensued on what a permit is and what is required for a permit submittal, as well as the difference between a change of occupancy and a certificate of occupancy.

Mr. Simmons introduced Jim Harton, Fire Marshal, to provide testimony.

Testimony was provided by Mr. Harton regarding the discharged and expired fire extinguishers, as well as the smoke alarm being faulty.

Mr. Harton was cross-examined by Mr. Yarnell.

Dr. Shackelford asked for clarification between the 2014 use and the conversion to the 2025 use.

Mr. Conley explained that in 2014, the establishment was still a restaurant. The improvement to the ventilation hood system was installed and inspected in 2014. Mr. Maynard's testimony shared that the conversion to its use today happened in 2021.

Discussion ensued regarding the faulty carbon monoxide and smoke detectors while the photo of the kitchen was being shared on the screen.

Mr. Simmons introduced Steve Innes, Building Code Official, to provide testimony.

Mr. Innes was cross-examined by Mr. Yarnell.

After cross-examination, discussion continued regarding the lack of a change of use application, and the effects it has on the safety of the workers residing on site.

Mr. Simmons and Mr. Maynard presented their closing statement presentations.

The Chairman opened the Public Hearing.

As there were no comments from the public, the Chairman closed the Public Hearing.

Moved by **Minus/Bailey** that the Board find that the Code Official correctly interpreted the true intent of Section 109 of the International Property Maintenance Code, that the provisions of Section 109 of the International Property Maintenance Code apply given the record competent substantial evidence regarding the conditions and occupancy of

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the Subject Property set forth in the Notification of Condemnation, and that the City of Melbourne provided the appellant sufficient notice and time to correct the conditions and provided due process through the Notification of Condemnation.

Motion carried unanimously.

C. Future/Additional Business

8. Ms. Dean mentioned there are two advertised items ready for the August 21st, 2025 Planning and Zoning Board meeting.

D. Additional Board Member Comments

E. Adjournment

There being no further business, the meeting was adjourned at 10:26 p.m.

Cheryl A. Dean, AICP

9/18/2025

Approved by the Planning and Zoning Board