

City of Melbourne, Florida
Agenda
Zoning Board of Adjustment

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

July 27, 2026, 6:30 p.m.

A. Opening

1. Pledge of Allegiance.
2. Roll call.
3. Approval of Minutes – May 18, 2026
4. Declaration of Conflict
5. Requests for Dismissals, Postponements, or Withdrawals

B. New Business

6. **VAR2026-0003 - 1300 South Harbor City Boulevard**

In a C-2 zoning district, the following variances are requested:

Variance from the standard contained within the definition of a lot that requires a minimum frontage on an improved public street or on an approved private street.

Part III, Appendix B, Article II, definition of a lot, requires a minimum frontage on an improved public street or on an approved private street.

Variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building (16 spaces required by City Code).

Part III, Appendix D, Chapter 9, Article V, Section 9.72(a)(11), requires one parking space for every 300 square feet of gross floor area, excluding storage area, for businesses, retail or commercial buildings.

7. **Board Members' Term Lengths (Requested by City Council)**

C. Future/Additional Business

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

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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

May 18, 2026, 6:30 p.m.

A. Opening

1. Pledge of Allegiance.
2. Roll Call.

Present: Peter Kostrzewa, Chairman
Charles Jackson, Member
Ravi Shah, Member
Thomas Herbert, Member
Dave Bregard, Member
Natalia Brauner, Member
Diane Maynard, Alternate Member
Jared Moyles, Alternate Member

Absent: Linda Cass, Member (Excused)

Also Present: Cheryl Dean, AICP, Planning Manager
Richard Broome, Deputy City Attorney
Samantha Buck, Recording Secretary

3. Approval of Minutes – March 30, 2026, Meeting.

Moved Jackson/Bregard to approve the minutes from the March 30, 2026 meeting, as presented.

Motion carried unanimously.

4. Declaration of Conflict.

There were no conflicts of interest declared for this item.

Before moving forward onto the first item of new business, Mr. Kostrzewa opened the floor for public comment.

There was no public comment from the audience.

5. Requests for Dismissals, Postponements, or Withdrawals

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There were no requests for dismissals, postponements, or withdrawals for this meeting. Mr. Kostrzewa confirmed that there were eight Board members present, and that the applicant requires approval from five Board members in order to be granted a variance.

Deputy City Attorney Broome swore in City staff.

B. New Business

6. VAR2026-0002 – Glenn Adams, Bryan Street (Tax Account: 3019248)

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

A variance of 15-foot from the required 25-foot side corner lot setback to allow a house within 10 feet of the Devonshire Street right-of-way.

Part III, Appendix B, Article V, Section 2, Table 2A requires a 25-foot side corner lot setback.

Ms. Dean summarized the request as detailed in the staff memorandum dated May 8, 2026 and the findings outlined in that memorandum.

The subject property is one part of a larger parcel of land that was split by the applicant into three residential lots through a lot line adjustment and a one-time lot split in 2014. The unimproved Devonshire Street right-of-way provides emergency access to the Pennwood Drive/Bignonia Street area to the east and is also the location of City water and sewer infrastructure. It will also provide access to a planned regional lift station in the future. Florida Power and Light (FPL) and Florida Gas also have utility infrastructure within this right-of-way. A previous application submitted by the applicant for an abandon and vacate on this right-of-way was not supported by the Engineering Department in light of this and the applicant subsequently withdrew his request.

During the review of the variance request, Staff was unable find any special circumstances to support this request and as the property is a vacant lot, any new construction can be built to meet the required setbacks. Additionally, the applicant has the option to construct a multistory home on the property up to three floors or 36-feet. Houses to the north do not have frontage on two streets and although not injurious to the neighborhood, reducing the setbacks would ultimately bring the property closer to the power lines.

As stated in the staff memo, based upon findings for the variance request, staff has determined that based on the failure to meet the six factors for granting a variance (as set forth in City Code) for vacant residential property located on the northeast corner of Devonshire Street and Bryan Street intersection, the Community Development Department recommends denial of variance VAR2025-0004.

Mr. Kostrzewa asked if the Board had any questions for Ms. Dean.

A discussion ensued on the Devonshire Street right-of-way, who conveyed the property, and if the street will ever be completed.

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Ms. Dean said that the street contains various utilities and connects to a cul-de-sac on a neighboring development. The right of way at Devonshire was left unimproved as part of an adjacent development to the south due to concerns at that time about traffic entering Bignonia Street. City Council stipulated that this street remain unimproved to avoid cars accessing the adjacent residential neighborhood.

Mr. Shah asked Ms. Dean if staff had received any feedback from neighbors and she identified that there was none.

As there were no further questions for Ms. Dean, Deputy City Attorney Broome swore in the applicant, Glenn Adams.

Mr. Adams explained that following his purchase of the lot, in 2014, it was split into three lots and homes were built on two of the lots. The third remained vacant as it was undersized. An additional 15 ft. was discovered when the property was later re-surveyed which made it feasible to build on this smaller lot. When researching plans to build on the lot in 2025, Lifestyle Homes suggested to Mr. Adams that the City might consider the property a corner lot due to the location of the power line and the fact that this right-of-way will never be completed.

He summarized his request and outlined the unique property conditions that he faces, and the practical difficulty of building on this lot. If Devonshire Street will never be completed there is no aesthetic reason why the home cannot be constructed within 10-feet of the Devonshire right-of-way.

Mr. Adams stated “It is a unique property with a 58 foot buildable frontage and (he) wants to construct a one-level property with a large front porch. Constructing a taller home would not fit well into the neighborhood and will overlook Babcock Street and the commercial property nearby. In addition to the lot not being big enough to build the home that he needs. Mr. Adams has incurred considerable expenses maintaining the lot since 2014. He wants to create a home that can serve him; the community and that will bring in a good tax revenue for the City. There is no safety concern, and he cannot see any reason why the variance should not be approved.

Mr. Adams then showed a presentation that he had prepared for the Board. His presentation provided background information on the lot since it was purchased in 2014; photographs of the street; a copy of the survey for the property; information on the unique property conditions, practical difficulty on building on this lot and information to support that he believes this hardship was not self-created. He also provided information on one comparable property in the neighborhood and his perceived assessment on homeowner impact, community impact and safety and access to the property.

Mr. Kostrzewa asked if the Board had any questions for Mr. Adams.

Mr. Shah asked Mr. Adams if he was aware of the requirements when he purchased the lot, and Mr. Adams replied that in 2014, he was only looking to build two homes. The third lot was smaller and it was not until he discovered the additional 15 feet that it created a

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buildable lot. He feels that it does not make sense to build a smaller home that is less amenable and will generate less tax dollars.

Mr. Moyles asked what the detriment would be if the variance is approved, especially as it is an unimproved right-of-way which will never be completed.

Ms. Dean replied that staff must base their recommendation on the criteria in City Code. Mr. Adams is able to construct a home on the property that will meet the minimum requirements outlined in Code and in order for a variance to be granted, the applicant must meet all six criteria. In this instance, Mr. Adams created the hardship when he split the property.

Mr. Kostrzewa noted that there is approximately 6,000 square feet of buildable space buildable without a variance.

Mr. Adams answered that without the variance, his only option would be to construct a two-story home. A 10 foot side setback would make the home more buildable and it would be better if the house was orientated to Devonshire Street.

There were no further questions from the Board for the applicant, so Mr. Kostrzewa opened the floor for public comment.

As there was no public comment, Mr. Kostrzewa brought the item back to the Board for further discussion and a motion.

Mr. Kostrzewa asked the Board if they had any disclosures on this item; there were none.

Ms. Brauner asked Ms. Dean why Devonshire Street is classified as a street if it will never be constructed.

Ms. Dean explained that the right-of-way more than just a street; it has utility connections, power and there may be additional and future utilities to the south which the City will need to access. The purpose of not paving the street is to eliminate thru traffic to the adjacent residential neighborhood.

Mr. Kostrzewa asked if any correspondence had been received on this item.

There was none.

Moved Shah/Maynard to deny application VAR2026-0002, based on the request failing to meet the six criteria/factors for granting a variance set out in City Code.

As there were no further comments, a roll call vote was taken as follows:

Aye: Jackson, Herbert, Shah, Brauner, Bregard, Maynard

Nay: Kostrzewa

Motion carried.

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C. Future/Additional Business

8. Presentation of Service Pin.

Ms. Dean presented Mr. Shah with his 10-year service pin and thanked him for his service on the Board.

9. Election of Chairman and Vice-Chairman

The Board discussed nominations for the positions of Chairman and Vice-Chairman. After some discussion, the following motions were made.

Chairman:

Mr. Jackson nominated Mr. Kostrzewa as chairman.

Moved Jackson/Herbert to nominate Peter Kostrzewa for the position of Chairman.

Motion carried unanimously.

Vice Chairman:

Moved Jackson/Maynard to nominate Thomas Herbert for the position of Vice-Chairman.

Motion carried unanimously.

D. Adjournment

As there was no further business to discuss, the meeting was closed at 7.37 pm.



Samantha Buck, Recording Secretary – March 30, 2026

Approved by Zoning Board of Adjustment: _____

Memorandum

To: Zoning Board of Adjustment
From: Todd Corwin, Planner, AICP
Thru: Cheryl Dean, Planning Manager, AICP
Re: Variance Request (VAR2026-0003) – 1300 S. Harbor City Boulevard (US 1)
Date: July 17, 2026

Owner/Applicant

Dinu Patel and Bhavana Patel/Kelly Delmonico

Proposed Variances

In a C-2 zoning district, the following variances are requested:

- Variance from the standard contained within the definition of a lot that requires a minimum frontage on an improved public street or on an approved private street;
and
- Variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building (15 spaces required by City Code).

Location

The subject site (0.53± acres) is located approximately 130 feet west of US 1 and approximately 150 feet north of Bonair Avenue in Section 28, Township 37, Section 3. The property is a developed commercial parcel without frontage on a public or private street (Tax Account #: 2730014). The subject property is designated General Commercial on the Future Land Use Map and is zoned C-2 (General Commercial District).

City Code Reference

The Zoning Code requires that all lots/parcels have frontage on a public or private street. This standard ensures that properties have access to the public transportation system and access to public utilities such as water and sewer facilities.

Part III, Appendix B, Article II, definition of a lot, requires a minimum frontage on an improved public street or on an approved private street. The subject property is a landlocked parcel that does not have frontage on a public or private street. For properties zoned C-2, the minimum required frontage based upon lot width is 50 feet unless a flag lot

is created which provides a strip of property (the flag stem) that is at least 25 feet in width from the road right-of-way to the existing lot.

With regard to minimum required parking spaces, City Code requires minimum parking standards to ensure that property owners provide adequate parking for the use of their property. The Code establishes a minimum number of spaces for each commercial use. For a business use (which includes general office uses) the required number of spaces is based upon the following standard: Part III, Appendix D, Chapter 9, Article V, Section 9.72(a)(11), requires one parking space for every 300 square feet of gross floor area, excluding storage area, for businesses, retail or commercial buildings.

The subject property contains a 4,913± square foot building (built in 1926) with nine existing parking spaces, including a handicapped space. Per City Code a building of this size is required to have 15 parking spaces, including one handicapped space (once ten percent of the gross floor area of the building is excluded for storage purposes).

Adjacent Property Information

Access: An access easement (recorded in 2025) across private property not owned by the property owner. This access does not constitute road frontage since the property is owned by another entity (not by the current property owners).

To the East: Commercial property (motor inn)
Zoning: C-2
Land Use: General Commercial

To the West: Industrial property (auto body repair)
Zoning: M-1 (Light Industrial)
Land Use: Industrial

To the North: Professional Offices
Zoning: C-2
Land Use: General Commercial

To the South: Commercial property (motor inn)
Zoning: C-2
Land Use: General Commercial

The subject property is located in a commercial area within the US 1 corridor. To the west of this site is an industrial area that extends to the Florida East Coast (FEC) Railroad. The access easement noted above does not meet City Code standards for minimum roadway frontage requirements.

History:

The subject property is part of a platted subdivision (Morningside Addition to the City of Melbourne). This lot (Tax Account#: 2730014) currently includes Lots 7, 8, the east 24.7 feet of the north 110 feet and east 12 feet of the south 55 feet of Lot 9, Block H and that part of the south half of the vacated Syracuse Avenue lying north of Lots 7, 8, and the east 24.7 feet of Lot 9.

In July, 1978 City Council approved an ordinance that vacated Syracuse Avenue. The vacation of the Syracuse Avenue ROW was requested by the two property owners who owned the properties fronting on the north and south sides of the ROW. The vacated ROW was split between these two property owners. This 50-foot-wide ROW was located between Morningside Drive and US 1 (AV-33/Ordinance 1978-39). Syracuse Avenue was recorded as platted ROW within the Morningside Addition to the City of Melbourne Subdivision (recorded in 1927). The subject lot was created in 1981 with the same legal description that appears in the current deed. This action took place after the vacation of the Syracuse Avenue ROW in 1978. The resulting subject parcel was not consistent with City Code when it was created in 1981, as it did not have frontage on a public or private street. Historical records indicate at the time of the lot split, that the definition of a lot required frontage on a public or private street as it does today.

From 1995 to 2013, both the subject property and the parcel to the east (Tax Account #: 2730013) were under the same ownership (first the Manobec Corporation (1995) and then PATCO Management Inc. in 1999). The current property owners were identified as registered agents for the PATCO Management Corporation (presently inactive). The parcel to the east has road frontage on its east side (US 1) and on its south side (Bonair Avenue). Since the current property owners owned both parcels, they could have taken action prior to the sale to ensure that the subject parcel had frontage on a public street. However, the eastern property was sold to new owners in 2013 with no additional property being granted to the subject parcel.

The site currently has nine parking spaces. Fifteen parking spaces are required by City Code.

Variance Purpose

A variance provides relief from zoning code requirements when strict compliance would result in unique difficulties for a property owner. For variance purposes, such difficulties are referred to as a hardship. A hardship is a condition that must relate to special circumstances or conditions specific to a particular property. Typical variance requests are for relief from setback, building height, parking, location criteria, and landscaping requirements. The requested variance must be the minimum necessary to grant relief and cannot confer a special privilege when compared to nearby properties. Economic or self-imposed conditions do not constitute justification for a variance request.

A variance from the terms of City code shall not be recommended or granted by the board of adjustment, unless the board shall find that the requirements of all variance criteria have been complied with. In granting a variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance.

The applicant's responses to the Variance criteria are attached to this report.

Staff Review of Variance Criteria: Part III, App. B, Art. IX, Sec. 7(A)

1. That special conditions and circumstances 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.

Variance Request - Part 1: Variance from the standard contained within the definition of a lot that requires a minimum frontage on an improved public street or on an approved private street.

The Syracuse Avenue ROW was vacated (1978) before the subject lot was created in 1981. The vacated ROW was split between the two adjacent property owners in 1978.

The subject lot was created in 1981 without frontage on a public or private street. This action in 1981 created an illegal lot per City Code standards.

Since the current property owners previously owned both the subject parcel and the parcel to the east (which has frontage on two public streets), they could have taken action prior to the sale of the eastern property in 2013 to ensure that the subject parcel had frontage on a public street.

Variance Request Part 2: Variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building (15 spaces required by City Code).

The 4,913± square foot building on this site was constructed in 1926. The building on site has nine parking spaces. For a general office use, City Code requires 15 parking spaces for a building of this size.

Staff has determined that special conditions and circumstances do not 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

2. That 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.

Variance Request - Part 1: Variance from the standard contained within the definition of a lot that requires a minimum frontage on an improved public street or on an approved private street.

Economic factors cannot form the basis for approval of a variance. The property owners could have remedied the present situation by deeding a 25-foot strip of property to the subject parcel before selling the adjacent property in 2013.

The subject parcel was illegal when it was created in 1981, due to the lot not having road frontage on a public or private street. The applicant has been informed that the subject parcel can comply with City Code by purchasing a 25-foot strip of property from either the property owner to the east, the property owner to the west, or the property owner to the north.

The purchase of a 25-foot strip (the flag stem) would create a legal flag lot with frontage on either US 1 or Morningside Drive.

Variance Request Part 2: Variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building (15 spaces required by City Code).

Since development permits cannot be issued for an illegal lot, the variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building cannot be considered unless the variance regarding minimum frontage on an improved public street or on an approved private street is approved by the Board.

The 4,913± square foot building on this site was constructed in 1926. The building on site has nine parking spaces. For a general office use, City Code requires 15 parking spaces for a building of this size.

Staff has determined that the literal interpretation of the provisions of the zoning ordinance do not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district do not result in an unnecessary and undue hardship.

3. That the special conditions and circumstances referred to in #1 do not result from the actions of the applicant.

Variance Request - Part 1: Variance from the standard contained within the definition of a lot that requires a minimum frontage on an improved public street or on an approved private street.

The vacation of the Syracuse Avenue ROW was approved in 1978, prior to the creation of the subject parcel.

The subject parcel was illegal when it was created in 1981, due to the property not having road frontage on a public or private street. A title search at the time the properties were purchased in 1999 or when the eastern property was sold in 2013 could have exposed the current restrictions/constraints affecting the subject site.

The property owners could have remedied the present situation by deeding a 25-foot strip of property to the subject parcel before selling the adjacent property in 2013.

The purchase of a 25-foot strip (flag stem) from neighboring property owners would create a legal flag lot with frontage on either US 1 or Morningside Drive.

Variance Request Part 2: Variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building (15 spaces required by City Code).

Since development permits cannot be issued for an illegal lot, the variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building cannot be considered unless the variance regarding minimum

frontage on an improved public street or on an approved private street is approved by the Board.

The 4,913± square foot building on this site was constructed in 1926. The building on site has nine parking spaces. For a general office use, City Code requires 15 parking spaces for a building of this size.

Staff has determined that the special conditions and circumstances referred to in #1 do result from the actions of the applicant.

4. That granting the variance requested will not 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.

Variance Request - Part 1: Variance from the standard contained within the definition of a lot that requires a minimum frontage on an improved public street or on an approved private street.

Both the subject property and the property to the east (which has road frontage on two streets) were owned by the applicants from 1999 to 2013. The property owners could have remedied the present situation by deeding a 25-foot strip of property to the subject parcel before selling the adjacent property in 2013.

The purchase of a 25-foot strip (flag stem) from neighboring property owners would create a legal flag lot with frontage on either US 1 or Morningside Drive.

The City does not have any record of a Business Tax Receipt being issued for the subject site.

Variance Request Part 2: Variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building (15 spaces required by City Code).

Since development permits cannot be issued for an illegal lot, the variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building cannot be considered unless the variance regarding minimum frontage on an improved public street or on an approved private street is approved by the Board.

Staff has determined that granting the variance requested will 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.

5. That the reasons set forth in the application justify granting the application and that the variance being requested be the minimum variance that will make possible the reasonable use of the subject land, structure, or building.

Variance Request - Part 1: Variance from the standard contained within the definition of a lot that requires a minimum frontage on an improved public street or on an approved private street.

The subject parcel was illegal when it was created in 1981, due to the lot not having road frontage on a public or private street. The applicant has been informed that the subject parcel can comply with City Code by purchasing a 25-foot strip of property from either the property owner to the east, the property owner to the west, or the property owner to the north.

The applicant has been informed that the subject parcel can comply with City Code by purchasing a 25-foot strip of property from either the property owner to the east, the property owner to the west, or the property owner to the north.

The purchase of a 25-foot strip (flag stem) would create a legal flag lot with frontage on either US 1 or Morningside Drive.

Variance Request Part 2: Variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building (15 spaces required by City Code).

Since development permits cannot be issued for an illegal lot, the variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building cannot be considered unless the variance regarding minimum frontage on an improved public street or on an approved private street is approved by the Board.

The 4,913± square foot building on this site was constructed in 1926. The building on site has nine parking spaces. For a general office use, City Code requires 15 parking spaces for a building of this size.

Staff has determined that the reasons set forth in the application do not justify granting the application and that the variance being requested be the minimum variance that will make possible the reasonable use of the subject land, structure, or building

6. That the granting of the variance 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.

Variance Request - Part 1: Variance from the standard contained within the definition of a lot that requires a minimum frontage on an improved public street or on an approved private street.

Both the subject property and the property to the east (which has road frontage on two streets) were owned by the applicants from 1999 to 2013. The property owners could have remedied the present situation by deeding a 25-foot strip of property to the subject parcel before selling the adjacent property in 2013.

The purchase of a 25-foot strip (flag stem) from neighboring property owners would create a legal flag lot with frontage on either US 1 or Morningside Drive.

Variance Request Part 2: Variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building (15 spaces required by City Code).

Since development permits cannot be issued for an illegal lot, the variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building cannot be considered unless the variance regarding minimum frontage on an improved public street or on an approved private street is approved by the Board.

Staff has determined that the granting of the variance requested is not in harmony with the general intent and purpose of the zoning ordinance and is injurious to the neighborhood or otherwise detrimental to the public welfare.

Variance Analysis

The applicant is requesting two variances:

- A variance from the standard contained within the definition of a lot that requires a minimum frontage on an improved public street or on an approved private street
and
- A variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building (15 spaces required by City Code).

The subject property is a developed with a 4,913± square foot building with nine existing parking spaces. However, the property does not have any roadway frontage. The property owners created the present condition (no frontage on a public or private street) by selling the eastern property in 2013. The property owners can remedy the current road frontage by purchasing at least a 25-foot strip of property from either the property owner to the east, the property owner to the west, or the property owner to the north.

Since the property owners of the subject site could purchase land from one of the surrounding property owners and create a legal flag lot with frontage on either US 1 or Morningside Drive, staff cannot support the variance request for minimum frontage on an improved public or private street due to the lack of a hardship as set forth in City Code. Without the above variance for lot frontage, the requested variance for six parking spaces becomes inconsequential, since the property owners of the subject lot cannot receive a business license for a commercial office use, due to its illegal configuration (no road frontage). The applicant is also requesting a variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building (15 spaces required by City Code).

Since development permits cannot be issued for an illegal lot, the variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot

office/professional building cannot be considered unless the variance regarding minimum frontage on a public street or on an approved private street is approved by the Board.

If Part 1 of the Variance request is granted by the Board, then the subject parcel is no longer an illegal lot and the Board may consider the parking space variance request based on the variance criteria.

Recommendation:

1. Variance from the standard contained within the definition of a lot that requires a minimum frontage on an improved public street or on an approved private street.

The subject property does not meet the requirements of Part III, Appendix B, Article II, definition of a lot, which requires a minimum frontage on an improved public street or on an approved private street. Based on the failure to meet the six factors for granting a variance (as set forth in City Code), for developed commercial property located approximately 130 feet west of US 1 and approximately 150 feet north of Bonair Avenue in Section 28, Township 37, Section 3 (1300 S. Harbor City Boulevard), the Community Development Department recommends **Denial of VAR2026-0003** from the standard contained within the definition of a lot that requires a minimum frontage on an improved public street or on an approved private street.

2. Variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building (15 spaces required by City Code).

The subject property does not meet the requirements of Part III, Appendix B, Article II, definition of a lot, which requires a minimum frontage on an improved public street or on an approved private street. Consequently, the subject parcel constitutes an illegal lot. Since development permits cannot be issued for an illegal lot, the variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building cannot be considered unless Part 1 of the variance request is granted. The Community Development Department recommends **Denial of VAR2026-0003** of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building (15 spaces required by City Code).

If the Board grants Part 1 of the variance request, then Part 2 of the request, a Variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building (15 spaces required by City Code) can be considered by the Board. Since the subject parcel will no longer be an illegal lot, Community Development Department staff could support Variance Request Part 2.

The approval should be subject to the following conditions:

- a. The parking variance is for a general office use.
- b. The variance described in Part 1 must remain active or the subject lot must become converted to a legal lot as described in City Code.

PUBLIC HEARING NOTICE

The Zoning Board of Adjustment of the City of Melbourne, Florida will convene at Melbourne City Hall on **Monday, July 27, 2026 at 6:30 P.M.**, in the Council Chamber for the purpose of hearing all persons interested in requests by the following applicants:

VAR2026-0003 - 1300 South Harbor City Boulevard

In a C-2 zoning district, the following variances are requested:

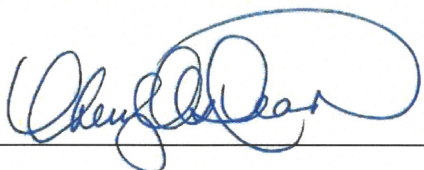
Variance from the standard contained within the definition of a lot that requires a minimum frontage on an improved public street or on an approved private street.

Part III, Appendix B, Article II, definition of a lot, requires a minimum frontage on an improved public street or on an approved private street.

Variance of six required parking spaces to allow nine required parking spaces for a 4,913± square foot office/professional building (16 spaces required by City Code).

Part III, Appendix D, Chapter 9, Article V, Section 9.72(a)(11), requires one parking space for every 300 square feet of gross floor area, excluding storage area, for businesses, retail or commercial buildings.

Signed



Cheryl Dean, AICP
Planning Manager

Variance: VAR2026-0003 / 1300 South Harbor City Boulevard (Tax Account 2730014)

Applicant: Kelly Delmonico, Land Development Strategies, LLC.

Date: July 17, 2026

Variance Criteria 1:

Special conditions and circumstances exist are peculiar to the land, structure, or building involved in this application and which are not applicable to other lands, buildings, or structures in the same zoning district.

Response: The subject property's lack of public street frontage is an extraordinary circumstance directly and indirectly caused by the City's 1978 vacation of Syracuse Avenue. When the City vacated this right-of-way, it failed to secure an access easement to account for future property sales, creating a suppressed nonconformity for this specific Property A. Office Property A has long existed as a separate lot of record and was purchased via a separate deed. The nonconforming status was triggered accidentally by the subsequent sale of the adjacent Hotel Property B in 2013, a situation that does not apply to standard conforming lots in this zoning district. 1300 S Harbour City Boulevard Variance Request Variance Criteria Narrative June 10, 2026 4 The parcel is already developed with a commercial building built to the edges of its historic configurations, meaning the physical footprint and its 9 existing parking spaces are unalterable and unable to conform to current parking standards.

Variance Criteria 2:

The literal interpretation of the provisions of the zoning ordinance will deprive you of rights commonly enjoyed by other properties in the same zoning district and would also work unnecessary and undue hardship on the applicant.

Response: The literal enforcement enforcing the definition of "lot" would continue to deprive the property owner of all use and value for the subject property and would continue the excessive challenges and hardship for the property owner. This property cannot contribute to the community until they can get past the nonconforming status. The building has been forced to sit vacant for four years, effectively stripping the owners of the fundamental right to utilize or generate revenue from their real estate. While financial hardships may not solely be the ground for granting of a variance, its important to note that the owners are required to pay over \$8,000 annually in property taxes, alongside utility and maintenance costs, for a property the City legally prohibits them from occupying or redeveloping. The Patels have spent over \$70,000 in legal fees and committed an additional \$20,000 to secure a legal access easement to US 1 in 2023, under the impression it would resolve their access issues. A literal interpretation renders this good-faith investment useless.

Variance Criteria 3:

The special conditions and circumstances referred to in Criteria 1 do not result from the applicant's own actions.

Response: The root cause of the lack of frontage is the City's 1978 right-of-way vacate of Syracuse Avenue, which occurred 21 years before the Patels purchased the property in 1999. The Patels

purchased Office Property A and Hotel Property B as completely separate parcels under separate deeds. They did not create the parcel boundaries. When they sold Hotel Property B in 2013, they had no understanding that the City would deem Office Property A nonconforming. The Patels did not cause the events that led up to Office Property A becoming nonconforming and have aggressively tried to remedy the situation, first by attempting to sell to all three adjacent property owners, and second by legally purchasing an access easement from Medical Office Property D.

Variance Criteria 4:

The granting of the variance requested herein will not confer on you any special privilege that is denied by the zoning ordinance by other lands, structures, or buildings in the same zoning district.

Response: Granting these variances does not grant a special privilege, it restores the baseline property rights enjoyed by other commercial properties. The variance would grant them the right to operate a lawful business within an existing building. The Patels are not seeking to build a larger building, bypass development standards, or increase intensity. 1300 S Harbour City Boulevard Variance Request Variance Criteria Narrative June 10, 2026 5 They are simply asking to utilize the exact physical structure and 9 parking spaces that have historically existed on the site.

Variance Criteria 5:

The variance being requested is the minimum variance that will make possible the reasonable use of the subject land, structure, or building.

Response: The provided narrative starting on page 1 and the responses to the variance criteria justify the granting of the variance, which is the minimum variance that will allow for future use of this preexisting commercial property. The variance to allow a lot to rely on a legal access easement instead of public frontage is the absolute minimum variance required to grant relief. Because the property now holds a recorded legal easement to US 1, it functions exactly like a conforming lot from a practical standpoint. The building is about 4,913 square feet and has space for 9 code compliant parking spaces. To retroactively require 15 parking spaces onto this site would require demolishing a portion of the building to put in driveways to the rear. Accepting the 9 existing spaces is the minimum relief required. Similar parking relief has already been codified for properties in the Central Business Overlay Zone and has been applied in Melbourne's urban areas.

Variance Criteria 6:

The granting of the variance requested will be in harmony of the general intent and purpose of the zoning ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Response: Allowing a commercial building to sit vacant for four years acts as a detriment to the local economy and neighborhood aesthetics. Granting the variance promotes public welfare by safely reactivating an underutilized property. The intent of requiring street frontage is to ensure safe ingress/egress for occupants and emergency vehicles. Because the property secured a legal access easement to US 1 in 2023, the safety intent of the code is fully satisfied without impacting the public right-of-way network.