

City of Lake Alfred
120 E. Pomelo Street
Lake Alfred, FL 33850



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Community Development

Building | Code Enforcement | Planning | Zoning

AGENDA

**BOARD OF ADJUSTMENT MEETING
CITY HALL**

**MARCH 26, 2019
REGULAR MEETING 5:00 P.M.**

CALL TO ORDER: CHAIRMAN IKE FOUNTAIN

INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL: MAMIE DRANE, DEPUTY CITY CLERK

APPROVAL OF MINUTES: FEBRUARY 26, 2019.

BUSINESS ITEMS

PUBLIC HEARING:

- 1. REQUEST FOR A SPECIAL EXCEPTION TO ALLOW THE SALE OF ALCOHOL AT A RESTAURANT LOCATED AT 1504 LAKE ALFRED RD.**

PUBLIC COMMENTS

BOARD MEMBER COMMENTS

ADJOURN

Any person who decides to appeal any decision of the Board of Adjustment with respect to any matter considered at this meeting will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Persons with disabilities needing special accommodations to participate in this proceeding should contact the City Clerk no later than five days prior to the proceeding at (863) 291-5748.

DRAFT MINUTES
BOARD OF ADJUSTMENT MEETING
FEBRUARY 26, 2019
MEETING 5:00 P.M.

CALL TO ORDER: Chairman Ike Chairman

INVOCATION AND PLEDGE OF ALLEGIANCE: Vice Chair Joyce Schmidt

Those in attendance were Chairman Ike Fountain, Vice Chair Joyce Schmidt, Board Members Luis Diaz and Rick Roach.

Staff in attendance: Community Development Director Ameer Bailey, Planner Ramon Ramirez and Deputy Clerk Mamie Drane.

Board Members absent: William Castle and Irving Spokony.

Board Member Roach made a motion to accept the October 23, 2018 minutes with corrections; **Vice Chair Schmidt** seconded the motion. The motion was approved by unanimous voice call vote.

1. ELECTION OF OFFICERS

Chair Fountain opened the floor for nominations for Chairman

Board Member Roach made a motion that the presiding Chairman and Vice Chairman remain seated, seconded by **Board Member Diaz**. The motion was approved by unanimous voice call vote.

2. VARIANCE REQUEST REGARDING A REAR YARD SETBACK

Community Development Director Bailey stated the variance that has been requested by Ms. Diane Jenkins (present) is to reduce the minimum 20' rear yard setback to 17'. A reduction of 3'. The address is 730 Pinner Ct. and the house is currently under construction. It is located in a single family, residential district which is R-1AA.

The legal ad was published February 11th and staff sent out 26 mailers without comment.

Director Bailey used visual aids to show the site and the area of the requested variance.

Staff has reviewed the application and Ms. Jenkins modified the application to address concerns the City expressed. Staff agrees that a two foot reduction in the setback is warranted due to the site arrangement. This will allow them to use the side yard without impacting additional setbacks.

Staff recommends approval of the requested variance with the following conditions.

1. Approval of this variance shall only apply to the rear patio attached to the existing home at 730 Pinner Ct.
2. The patio shall meet a minimum 17' rear setback and will not impact the drainage easement with the patio or any fill.
3. Approval of this variance shall not constitute a waiver or an additional variance from any applicable development regulation unless specifically noted in the conditions of approval and consistent with ULDC. Therefore. Any other additions or structures placed on the property shall be required to meet the setback requirements of the R-1AA zoning district or obtain another variance.

Board Member Roach asked if the patio would be covered.

Director Bailey responded it is not covered. But the proposed variance would allow them to cover the patio at a later date.

Diane Jenkins 308 W Crescent Drive, Lakeland FL stated at this time they are not planning to cover the patio but if at a later time they decided to have the patio covered would she have to come back for a variance.

Chair Fountain responded that she would not have to come back for an adjustment but she would have to obtain a building permit.

Board Member Diaz made a motion to grant the variance request for 730 Pinner Ct., the motion was seconded by **Vice Chair Schmidt**. The motion was approved by unanimous voice call vote.

Director Bailey stated there are applications for next Month. She thanked Board Member Roach for attending the workshop on the previous night and asked if the board would like the presentation from that workshop be made available to them. The workshop was for future re-writes of the United Land Development Code some of the Board of Adjustments suggestions will be included in the re-write. The main presentation that she would like to have for the Board is the code revisions that were discussed.

Chair Fountain stated if the board will be addressing more than one application in the next meeting we may not have time for the presentation.

Director Bailey introduced Ramon Ramos from the Central Florida Regional Planning Council he will be assisting the City in the planning projects.

Ramon Ramos stated he has lived in Polk County for 13 years and he is originally from south Florida. He serves in the Florida National Guard as a Battery Commander.

Chair Fountain stated after attending the Board of Adjustment in another city he thinks the Lake Alfred Board of Adjustment does a great job.

Board Member Roach made a motion to adjourn, Vice Chair Schmidt seconded the motion. The motion was approved by unanimous voice call vote.

With no further business the meeting was adjourned at 5:30 pm

Respectfully submitted,

Mamie Drane
Deputy City Clerk

**CITY OF LAKE ALFRED
BOARD OF ADJUSTMENT AGENDA
MARCH 26, 2019**

Item No. 1 1504 LAKE AFLRED RD – SPECIAL EXCEPTION SALE OF ALCOHOL

REQUEST:

The applicant is requesting a special exception for the ability to serve alcohol at a restaurant located at 1504 Lake Alfred Rd. Section 2.03.01 (2) of the ULDC states that the sale of alcohol in a restaurant shall be permitted by Special Exception in C-2, C-3, M-1, I-1, and I-2 districts subject to the following standards:

- (a) More than 50% of the establishment's revenues are derived from the sale of food.
- (b) All public entrances of the establishment are located at least 600 feet from a church, day care center or public school.
- (c) All public entrances of the establishment are located at least 150 feet from any residentially zoned property. This measurement shall be taken from the main entrance of the business to the main entrance of the residence on such property, measured by the path of travel. This distance shall not apply to a vacant residential property.
- (d) Points of ingress/egress to the property connect to a road having a functional classification of "Collector" or higher.

PROPERTY INFORMATION:

Name:	Diane M. Jenkins
Legal Description:	S1/2 OF N1/2 OF U S LOT 3 E OF ST RD 17 & W OF ACL RR LESS S 401PT79 FT AND THAT PART DESC AS BEG INT OF S R/W OF US 17-92 & W R/W OF RR RUN NELY ALONG RD R/W 70 FT SWLY AND PARALLEL TO W R/W OF RR 655 FT W 50 FT TO W R/W OF RR NELY ALONG R/W 610 FT TO POB LESS THAT PART LYING IN N1/4 OF SE1/4
Parcel ID:	26-28-05-000000-023040
Existing Land Use	Commercial
Zoning:	Commercial (C3) District
Last Sale:	August 2017 to L A TREASURES LLC

EXCERPTS FROM ULDC:

2.03.01 Sale of Alcoholic Beverages

(A) *Distance from church or school.* No beverages shall be sold or dispensed within the City at any place of business, location or establishment within six hundred feet (600') of any established school or church. Where a measurement must be taken to establish the distance from a church or school, the distance shall be measured:

By path of travel from main entrance of each facility.

(B) *Exceptions.* The sale of alcoholic beverages for consumption on the premises where such beverages are sold is prohibited, except as provided in this subsection. "Bottle

**CITY OF LAKE ALFRED
BOARD OF ADJUSTMENT AGENDA
MARCH 26, 2019**

clubs" or other establishments where alcoholic beverages are consumed, but not sold, on the premises, shall be prohibited, except as provided below.

ANALYSIS:

Florida Statutes permits local governments to regulate the hours of business and location of place of business relating to alcohol sales. The Statutes include a requirement limiting alcoholic beverage hours to sell, serve, consume, deliver, or permit to be sold, served, consumed or delivered unless the local government provides hours. The Statutes also require locations of on-site alcohol consumption to be located a distance of 500 feet from a public or private elementary school, middle school, or secondary school property unless the municipality approves the location as promoting the public health, safety, and general welfare of the community. This requirement does not include locations that are licensed as restaurants, which derive at least 51 percent of their gross revenues from the sale of food and nonalcoholic beverages, pursuant to chapter 509. Florida Statutes does not have distance requirements for sales of alcohol for off-site consumption and there are no requirements for churches.

Lake Alfred's Code of Ordinances includes requirements for the hours of sale, etc. These requirements are less restrictive than the state's requirements. The Land Development Regulations include a distance separation of a minimum of 600 feet for alcohol sales including on-site and off-site consumption from any established school or church. Grocery stores are excluded. The distance is measured by path of travel from the main entrance of each facility. Florida Statutes requires 500 feet from the main entrance of the business to the real property that comprises a public or private elementary school, middle school, or secondary school.

The applicant has stated that the Patio 1504 Bar and Grill restaurant (in the location formerly known as Seymore's Crab Shack) will serve primarily as a restaurant serving food with the sale of alcohol as a secondary use. The layout of the restaurant shows that the majority of the seating (34 seats) are dedicated to the restaurant and 15 seats are allocated to the bar section of the restaurant. In addition, the applicant is proposing to expand the restaurant seating outside within a fenced-in area as shown on Attachment D: Site Layout (approximately 24 seats). This seating allocation supports the assumption that the establishment can meet this City and State requirement. The State license requires reporting to maintain the revenue distribution in order to maintain the alcohol license.

Secondly, the establishment must meet distance requirements from the entrance of a church, day care center, public school, or residential property. There are no day care centers, or public schools within 600' of the site, however there are now two churches located on the same property. In addition there are no residentially zoned properties within 150' of the site. This location was previously granted a special exception to serve alcohol.

Staff Recommendation: Staff recommends denial. However, if approved the following conditions are recommended.

1. Approval of this special exception shall only apply to Patio 1504 Bar and Grill and shall not be transferable.
2. Approval of this variance shall not constitute a waiver or an additional variance from any applicable development regulation unless specifically noted in the conditions of approval and consistent with ULDC.
3. The applicant shall apply for the necessary State licenses and all requires Business Tax Receipts by September 26, 2019 or this approval shall be void.

**CITY OF LAKE ALFRED
BOARD OF ADJUSTMENT AGENDA
MARCH 26, 2019**

ATTACHMENTS:

- A.) Site Photos
- B.) Aerial Photo
- C.) Hearing Notice Parcel Map
- D.) Site Layout

BOARD MOTION OPTIONS:

Approval – ‘I move to grant the special exception request as presented, with the staff conditions of approval, after hearing competent substantial evidence that meets all the variance criteria set forth; and hereby authorize the Chairman to sign a Development Order to be recorded in Polk County Public Records’

Denial – ‘I move to deny the special exception request presented as the applicant provided insufficient evidence and the request does not meet all the variance criteria set forth and hereby authorize the Chairman to sign a Denial Order to be recorded in Polk County Public Records.’

Table - ‘I make a motion to table the special exception request presented to allow the applicant an opportunity to provide additional evidence or to modify the request.’

All decisions of the Board of Adjustment are final. Variance requests, once acted upon, may not be reheard unless the applicant can demonstrate that the decision resulted from an error in substantive or procedural law, or provides new evidence or information not discoverable prior to the initial hearing. A different or more effective presentation of the same evidence or information shall not be considered grounds for a rehearing.

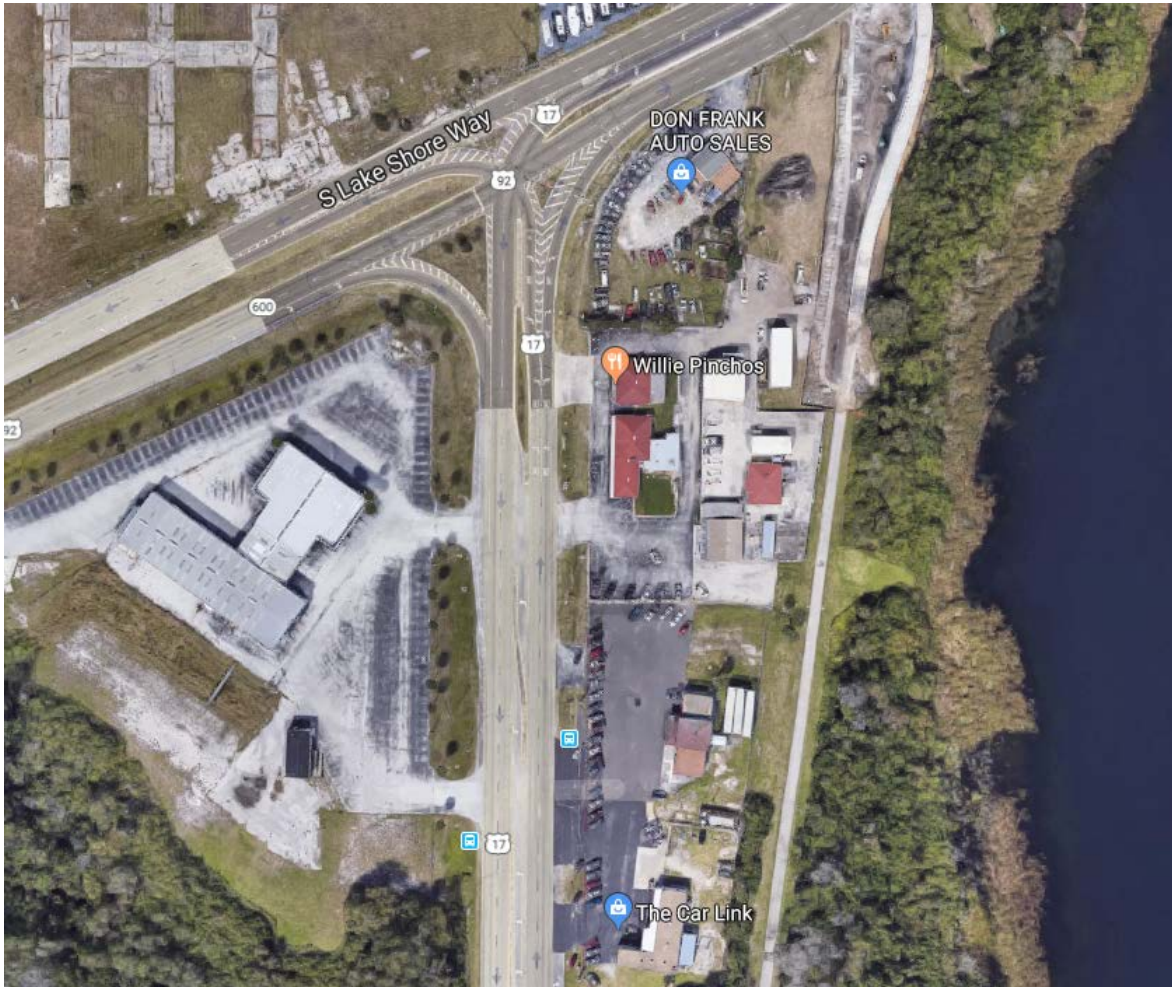
ATTACHMENT A – SITE PHOTOS:



1504 Lake Alfred Rd – looking east at the site.

CITY OF LAKE ALFRED
BOARD OF ADJUSTMENT AGENDA
MARCH 26, 2019

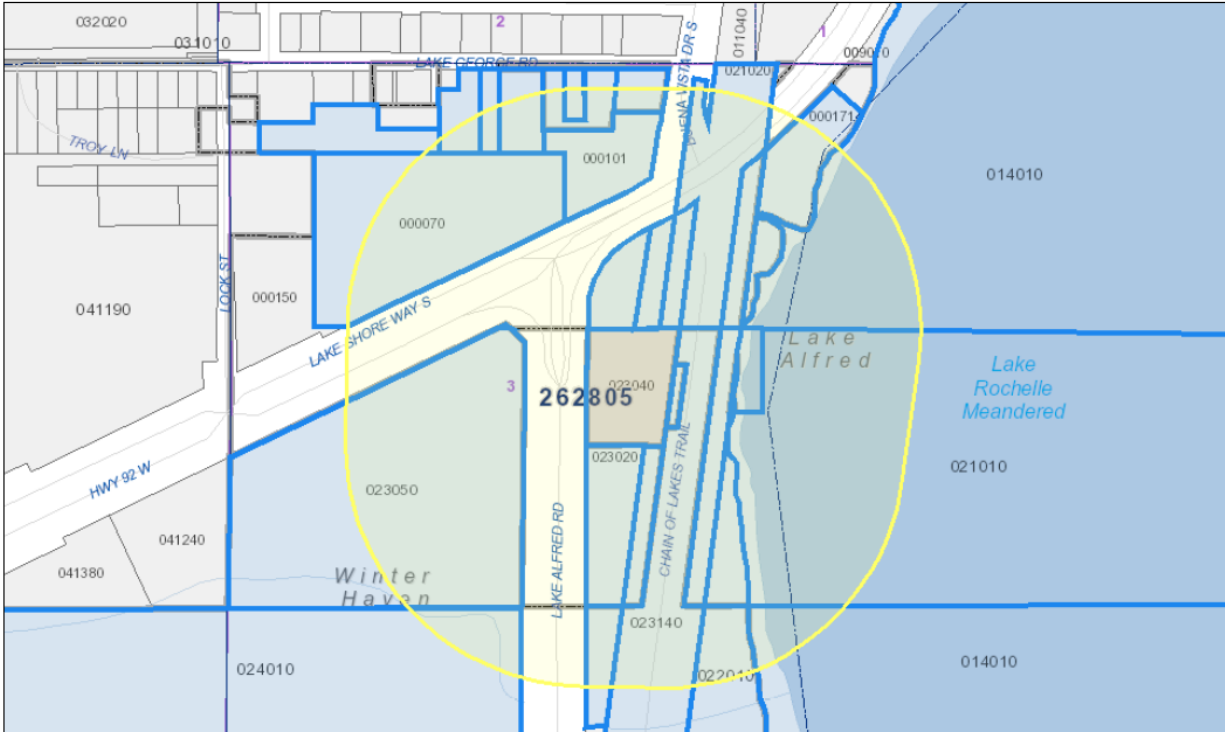
ATTACHMENT B – AERIAL PHOTO:



CITY OF LAKE ALFRED
BOARD OF ADJUSTMENT AGENDA
MARCH 26, 2019

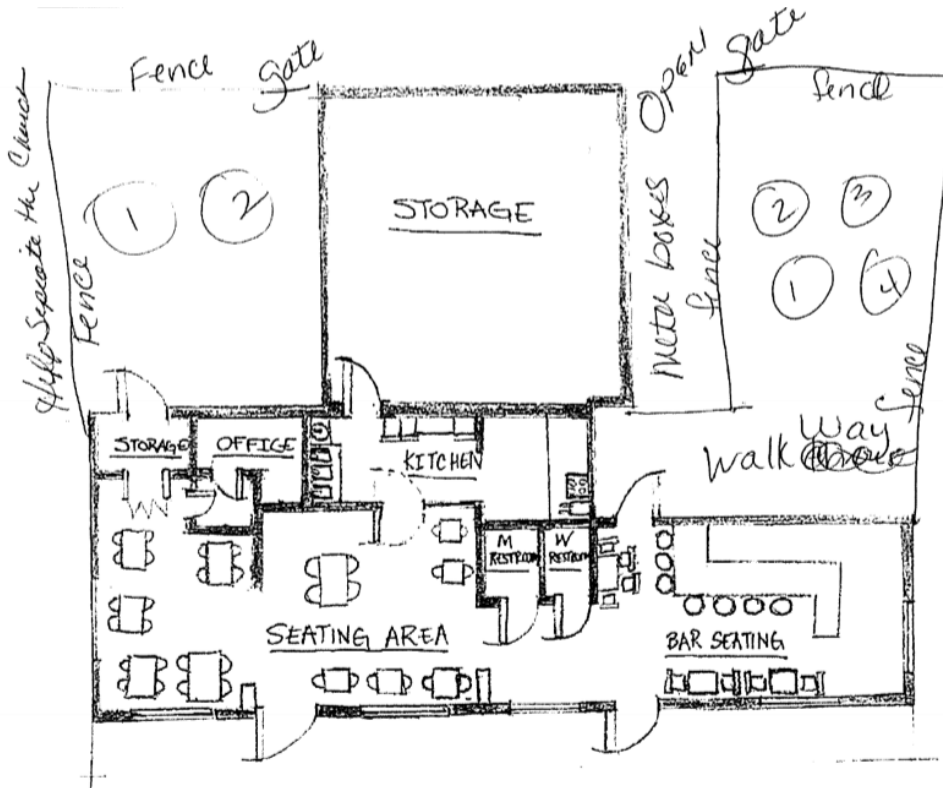
ATTACHMENT C – PARCEL MAP AND HEARING NOTICE LIST:

1504 Lake Alfred Rd. - 600' Buffer



CITY OF LAKE ALFRED
BOARD OF ADJUSTMENT AGENDA
MARCH 26, 2019

ATTACHMENT D – SITE LAYOUT:



6 x 8 wood panels - left tall
Wood fence - left - privacy
No Awning yet -

Picture not to scale