

Gautier Planning Commission

Regular Meeting Agenda

April 07, 2016

GPC #16-07- AP

1616 Bayou Vista Street – Staff Appeal

VII. NEW BUSINESS

A. QUASI-JUDICIAL

2. 1616 BAYOU VISTA STREET - REQUEST FOR AN APPEAL OF A STAFF DECISION OF UDO SECTION 5.4.4.F., MAXIMUM LOT COVERAGE, REGARDING ALLOWABLE MAXIMUM LOT COVERAGE BY ACCESSORY STRUCTURES IN A R-1 LOW DENSITY SINGLE FAMILY RESIDENTIAL ZONING DISTRICT (GPC CASE #16-07-AP)

QUASI-JUDICIAL PROCEDURES

1. Announcement of Matter. Read the matter title to be considered.
2. Swear the Witnesses. All witnesses, parties, citizen participants and City Staff who plan to speak at the hearing shall collectively be sworn at the beginning of the hearing by the City Attorney
3. Ex Parte Disclosure. All members must disclose on the record any ex parte communications, to include any physical inspections of the subject property. The disclosure should include with whom any communication has taken place, a summary of the substance of the communication, and the date of the site visit, if any. If anyone has received written communications, the writing must be presented, read into record or a copy provided to all participants, and made a part of the official record.
4. Applicant Presentation.
5. Questions directed to Applicant. The applicant should answer any questions by the public, the Planning Commission, or others.
6. Staff Presentation. This includes presentation of the staff report into the official record.
7. Objections from Applicant. Confirm whether there are objections from the applicant regarding the staff report or development order.
8. Questions directed to Staff. The staff answers any questions by the public, the Planning Commission, or others.
9. Public Comments. Members of the public should be allowed to make comments regarding the application.
10. Applicant rebuttal/final comments
11. Staff rebuttal/final comments
12. Call for final questions.
13. Close public portion of the hearing.
14. Motion & Deliberation. Planning Commission makes a motion, and debates and deliberates regarding the application and development order.
15. Vote.
16. Close the quasi-judicial proceeding.

CITY OF GAUTIER STAFF REPORT

To: Chairman and Members, Planning Commission

From: Chandra Nicholson, Planning & Economic Development Director

Date: April 1, 2016

Subject: Appeal to Staff Decision Regarding Maximum Allowable Lot Coverage for Accessory Structures, 1616 Bayou Vista Drive (GPC Case No. 16-07-AP)

REQUEST:

The Economic Development/Planning Department has received an Appeal to Staff Decision from David A. Vindich regarding maximum allowable lot coverage for accessory structures in a R-1 Low Density Single-Family Residential Zoning District. The lot is located at 1616 Bayou Vista Drive PID # 82436245.000. The application fee of \$100 was paid on February 16, 2016.

BACKGROUND:

The request property is located in a R-1 Low Density Single-Family Residential Zoning District which limits lot coverage for Accessory Structures to twenty (20) percent of the rear lot area or fifty (50) percent of the main building area, whichever is less.

General Features:

- Location: 1616 Bayou Vista Drive (See Exhibit A)
- Principal Arterial: Highway 90
- Gross Lot Acreage: approximately 0.76 acres
- Potable Water and Wastewater Services: Existing from City

Zoning and Land Use:

- Current Zoning of the Applicant's Property: R-1 Low Density Single-Family residential
- Current Surrounding Zoning: R-1 Low Density Single-Family residential (See Exhibit B)
- Current Surrounding Existing Land Use: Very Low to Low Density Residential (See Exhibit C)
- Comprehensive Plan Future Land Use Designation: Low Density Residential (See Exhibit D)

DISCUSSION:

The lot in question is located in a R-1 Low Density Single-Family Residential Zoning District which limits lot coverage for Accessory Structures to twenty (20) percent of the rear lot area or fifty (50) percent of the main building area, whichever is less.

Staff has denied the applicant placement of an additional 1,410 square foot accessory structure based on the provisions of the Unified Development Ordinance.

The primary structure (house) is 2,840 SF. Accessory Structures are limited to 50% of the size of the primary structure, which would equate to 1,420 SF available for accessory structures. The lot already has 1,129 SF of accessory structures. This area does not include the pool or the portion of the boat house over water. This only allows 291 SF left for future accessory structures, which is much less than the 1,410 SF proposed.

LIST OF EXISTING ACCESSORY STRUCTURES	
Pool House	140
Gazebo	375
Boat House (Portion on Land)	614

Total Existing Square Footage 1,129

DETERMINATION OF APPLICABLE LAW:

SECTION 3.6: Appeals

Persons aggrieved with decisions of administrative staff may appeal the decisions.

3.6.1 Appeal of Administrative Decision

Appeals from written administrative decisions of the Economic Development Director in the administration and enforcement of the provisions of this Ordinance shall be heard by the City Planning Commission and the City Council. A Staff Decision Appeal shall be filed on the appropriate application form in the Department of Economic Development outlining the circumstances and the grounds of the appeal. The Economic Development Director shall send the appeal application to the City Attorney for a Review of Legal Sufficiency. Once cleared by the City Attorney, the Economic Development Director shall place the Notice of Appeal on the agenda of the Planning Commission meeting. Appropriate fees shall apply.

Upon hearing such appeal the Planning Commission shall make a recommendation to City Council to reverse, modify, or affirm, wholly or partially, any order, requirement, decision, or determination of the Economic Development Director and/or his staff.

Upon receiving a recommendation from the Planning Commission, the appeal shall be placed on the next available City Council meeting agenda. The City Council shall render a decision to reverse, modify, or affirm the staff decision.

5.4.4R-1, Low Density Single-Family Residential District

Single-Family detached dwelling units shall meet the following development standards.

- A. Minimum Lot Area:** Ninety-six hundred (9,600) square feet
- B. Minimum Lot Width:** Eighty (80) feet for interior lots and one hundred (100) feet for corner lots at the front building line. All lots shall have a minimum of forty (40) feet on a public or platted street.
- C. Minimum Setbacks for Principal structure:**
 - Front—Twenty-five (25) feet
 - Side—Ten (10) feet for interior lots and twenty-five (25) feet for corner lots
 - Rear—Twenty-five (25) feet
- D. Minimum Setbacks for Accessory structures(s):**
 - Front—All accessory structures shall be located in the rear yard of the principal use or in the side yard, behind the main structure front building line.
 - Side—Ten (10) feet
 - Rear—Five (5) feet
- E. Maximum Building Height—**Thirty-five (35) feet for principal dwellings; Twenty-five (25) feet for accessory structures
- F. Maximum Lot Coverage—**Twenty-five (25) percent for the principal structure and accessory structures. Accessory structures shall not exceed twenty (20) percent of the rear lot area or fifty (50) percent of the main building area, whichever is less.
- G. Minimum Living Area of dwelling units—**Thirteen hundred twenty-five (1,325) square feet

RECOMMENDATION:

Based on the appropriateness of the request and the information provided, the Commission may:

- a) Recommend to Reverse the Staff Decision and Allow the 1,410 Square Foot Metal Building to be Placed on the Referenced Parcel;
- b) Recommend to Affirm the Staff Decision and Not Allow the 1,410 Square Foot Metal Building to be Placed on the Referenced Parcel; or
- c) Modify the Staff Decision, wholly or partly.

ATTACHMENTS:

1. Applicant's Exhibit 1 – Application
2. City's Exhibit A – Location Map
3. City's Exhibit B - Existing Zoning Map
4. City's Exhibit C – Existing Land Use Map
5. City's Exhibit D – Future Land Use Map

GAUTIER, MISSISSIPPI
ECONOMIC DEVELOPMENT/PLANNING DEPARTMENT
PUBLIC HEARING APPLICATION

Public Hearing Number

16-07-AP

TO BE HEARD BY GAUTIER PLANNING COMMISSION:		FEE:
Zoning Change	_____	\$300.00
Zoning Change (Comp.)	_____	\$300.00
Major Development	_____	\$100.00
Variance	_____	\$175.00
Appeal to Staff Decision	<input checked="" type="checkbox"/>	\$100.00

TO BE HEARD BY ECONOMIC DEVELOPMENT/PLANNING DIRECTOR ON STAFF		FEE:
<u>REVIEW:</u>		
Administrative Waiver	_____	\$100.00

Name of Applicant: DAVID A. VINDICH

Name of Business: _____ Phone: 407 230 2887

Property Address: 1010 BAYOU VISTA STREET, GAUTIER, MS 39553
Mailing Address (if Different): _____

E-Mail Address: DVINDICH@CFE.RR.COM

Reason for request, location and intended use of Property: APPEAL DECISION ON BUILDING PERMIT BASED ON USD. PROJECT WAS DENIED BASED ON SIZE OF STRUCTURE (SEE ATTACHED), SEE BACK

ATTACHMENTS REQUIRED AS APPLICABLE:

- 1. Diagram of intended use, showing dimensions and distances of property, building with setbacks, parking spaces, entrances and exits.
- 2. A detailed project narrative.
- 3. Copy of protective covenants or deed restrictions, if any. N/A
- 4. Copies of approvals, or requests for approval, from other agencies, such as, but not limited to, the Mississippi State Department of Health, U.S. Army Corp of Engineers, Mississippi Department of Environmental Quality and Department of Marine Resources. N/A
- _____ 5. Any other information requested by the Economic Development/Planning Director and/or members of the Technical Review Committee.

Signature of Applicant: [Signature] Date of Application: 16 FEB 2016

FOR OFFICE USE ONLY	
Date Received	<u>2-16-16</u> Verify as Complete <u>2/17/16</u>
Fee Amount Received	<u>100.00</u> Initials of Employee Receiving Application <u>em</u>

MET WITH BUILDING PERMITS ON 4
SEPERATE OCCASSIONS TO GET A VERBAL
APPROVAL OF MY INTENDED BUILDING STRUCTURE
TO GET PERMIT IT WAS REQUIRED TO HAVE
ENGINEER PLANS. IN ORDER TO GET THE
ENGINEERING PLANS I WAS REQUIRED TO PUT
1/3 THE COST OF THE METAL BUILDING DOWN
(NON REFUNDABLE), DURING MY MEETINGS
WITH PERMITS (SCOTT) GAVE A VERBAL
THAT I WAS GOOD FOR A STRUCTURE SIZE
OF 1,411 SQ FT. THIS MEETING OCCURRED
ON 2 MAY 2015. WHEN I SUBMITTED THE
REQUEST FOR PERMIT IT WAS DENIED DUE
TO SIZE OF THE STRUCTURE. UPON
RESEARCHING THE UDO, BASED ON
INTERPRETATION (SEE ATTACHE) THE PERMIT
SHOULD HAVE BEEN GRANTED. I AM
REQUESTING THAT THE PERMIT BE
GRANTED FOR A 1,410 SQ FT METAL
BUILDING.

Atkinson

- ATTACH: EXPLANATION/INTERPRETATION OF UDO
- ATTACH: LAND SURVEY
- ATTACH: PERMIT APPLICATION
- ATTACH: STRUCTURAL ENGINEERING PLAN

Building Permit Issue

After researching the Unified Development Ordinance, City of Gautier, Adopted 29 September 2009 and updated 18 November 2014, I have found the following paragraphs concerning my request for a building permit for an accessory building (garage/workshop) have some application.

The following paragraphs from the UDO site the regulations for the City of Gautier concerning the building permit for an accessory building (hobby shop/garage):

Section 4.5 Building Permits

Section 4.13 Building Permits and Certificate of Occupancy

Section 4.23.5 Building Permits

Section 5.4.4 R-1, Low Density Single-Family Residential District Area and Setback Regulations

Section 5.4.5 R-1A, Medium Density Single-Family and Two-Family Residential District Area and Setback Regulations

Section 6.2 Accessory Uses and Buildings

Section 6.2.1 Permitted Accessory Structures

In each of these sections, identified above, as well as the entire UDO, the request for a building permit for an accessory building (hobby shop/garage) should have been granted. The reason for denial of the permit requested was due to the size of the structure as well as allowable area to build the structure on the existing lot. This regulation is explained in Section 5.4.4 and 5.4.5 of the UDO (specifically paragraph 5.4.4 (6) Maximum Lot Coverage, page 143.

First, utilizing the regulation cited within paragraph 6, Section 5.4.4, page 143 of the UDO stipulates the following:

Maximum Lot Coverage-Twenty-Five (25) percent for the principal structure and accessory structures. Accessory Structures shall not exceed Twenty (20) percent of the Rear Lot area or Fifty (50) percent of the main building area, whichever is less.

Going under this premise, the following calculations were conducted for my property.

Lot size by survey is ± 0.76 acres. Utilizing an acre to square footage calculator we get one acre = 43,560 square feet.

We have less than an acre so we first calculate the lot square footage by multiplying 43,560 sq ft X 0.76 acre which yields 33,105.6 square feet available.

Now, we will work the calculations for both 25% for the principal residence and accessory structures as well as the 20% of the rear lot area or 50% of the main building area.

First we will work the 25% for the principal residence and accessory structures that currently exist:

All calculations will be taken from the Survey conducted by Patrick M. Martino Professional Land Surveyor dated 27 April 2015.

Principal Residence Square Footage Calculations:

26.9 x 32.6 =	876.94	
24.4 x 31.0 =	756.4	
13.5 x 27.2 =	367.2	
27.2 x 31.0 =	<u>843.2</u>	
Total House Sq Footage =		2,843.74 sq ft

Accessory Buildings Currently Existing:

Gazebo:	17.8 x 22.7 =	404.6 sq ft
Pool Pump House:	10.3 x 14.3 =	147.29 sq ft
Boat House:	15.9 x 20.9 = 332.31	
	8.2 x 18.3 = <u>150.06</u>	
Total Sq Ft Boat House		<u>482.37 sq ft</u>

Total Sq Ft Principal Residence and Accessory Bldgs **3,878 sq ft**

Calculation of 25% for allowable structures is calculated as follows:

25% x 33,105.6 sq ft of allowable land for principal building and accessory buildings equates to 8,276.4 sq ft.

8,276.4 sq ft – 3,878 sq ft of principal structure and existing accessory buildings = 4,398.4 sq ft allowable space left for accessory buildings. Permit requested was for an accessory building of 1,410 sq ft. This leaves a total of 2,988.4 sq ft remaining. This alone indicates that the building permit should have been approved.

Calculation of 20% Rear Lot Area:

Utilizing the 20% of the rear lot for accessory structures or 50% of the main structure ruling yields the following:

Again the total lot size is 33,105.6 square feet available. Calculating the rear area available from the survey equates to the following:

Front yard square footage yields	31.5 x 97.4 = 3,068.1 sq ft
House square footage yields	2,843.74 sq ft

Total Front Square footage yields 5,911.84 sq ft

Available lot/rear area remaining yields $33,105.6 \text{ sq ft} - 5,911.84 = 27,193.76 \text{ sq ft}$

Available Rear lot for accessory buildings equals the following calculation:

$27,193.76 \times 20\% = 5,438.75 \text{ sq ft}$ available for accessory buildings. We have existing accessory buildings that must be subtracted from the allowable square footage. The following calculations yield the total square footage available for an **additional accessory building** under the 20% rule:

$5,438.75 \text{ available sq ft} - \text{Gazebo } 404.6 \text{ sq ft} - \text{Pool Pump House } 147.29 \text{ sq ft} - \text{Boat House } 482.37 \text{ sq ft} = 4,404.49 \text{ sq ft}$ available for an additional accessory structure.

Accessory structure requested is 1,410 sq ft which would yield 2,994.49 additional square footage remaining that would be allowed by the UDO. Therefore, under the 20% of the rear lot for accessory structures ruling, the permit should be granted.

Calculation of 50% Main Building Area

The initial step within this calculation is to interpret the term “*main building area*”. The main building area could be interpreted to mean the actual overall lot size or it could be interpreted as the main structural building which in this case would be the primary residence. Since the lot size is $\pm .76$ acre or 33,105.6 square feet, 50% of this would be 16,552.8 square feet.

Under the 50% of the main building area ruling, the following calculations are derived:

- Main Building Area interpreted as the actual lot size:
 - Actual Lot Size = 33,105.6 sq ft
 - 50% of Actual Lot Size = 16,552.8 sq ft
 - Subtract existing structures of primary residence, gazebo, pump house and boat house square footages = $16,552.8 \text{ sq ft} - 3,868 \text{ sq ft} = 12,684.8 \text{ sq ft}$
 - Size of Accessory Building Requested 1,410 sq ft
 - $12,684.8 \text{ sq ft available area} - 1,410 \text{ sq ft Accessory Building} = 11,274.8 \text{ sq ft remaining area available to build.}$
 - Again, permit should have been approved/granted

- Main Building Area interpreted as the main structural building Size:
 - Main Structure Square Footage = 2,843.74 sq ft
 - $2,843.74 \text{ sq ft} \times 50\% = 1,421.87 \text{ sq ft}$
 - $1,421.87 \text{ sq ft available area} - 1,410 \text{ sq ft accessory building} = 11.87 \text{ sq ft remaining.}$
 - Again, permit should have been approved/granted

Conclusion

The bottom line is that overall, the permit should be granted in accordance with the UDO. However, the permit was denied due to size restrictions. This resulted in a denial of my building permit, which as shown above, is clearly within the legal requirements of the UDO. Therefore, the building permit should be authorized.

A

APPLICATION FOR A RESIDENTIAL BUILDING PERMIT

PERMIT NUMBER	ACCEPTED BY
_____	_____
CITY OF GAUTIER	APPROVED BY

Application is hereby made for a permit under the provisions of the Comprehensive Zoning Ordinance of the City of Gautier and the Building, Fire Prevention and other applicable Codes of the City of Gautier and any amendments thereof, for the erection, construction, alteration, repair, relocation or change in use as indicated hereinafter and as shown in the accompanying plans and specifications and the representations therein contained are made a part of this application. In making this application the undersigned hereby acknowledges the validity of the zoning, fire prevention, building and other applicable ordinances and codes of the City of Gautier, and agrees that the provisions thereof shall be binding upon applicant as a condition precedent to the issuance of a permit.

APPLICANT TO COMPLETE NUMBERED SPACES ONLY

1. PROPERTY LOCATION STREET NAME: 1616 Bayou Vista Street	NUMBER: _____	LOT & BLOCK NO. (IF APPLICABLE) Lot 10, Parcel 82436245.000
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2. CLASS OF WORK

NEW ADDITION ALTERATION REPAIR ACCESSORY BUILDING HOUSE MOVING

OTHER _____

3. OWNER David A. Vindich	PRESENT ADDRESS 1616 Bayou Vista Street, Gautier, MS 39553	PHONE (407) 230-2887
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4. CONTRACTOR Talley Contracting, Inc.	ADDRESS 1711 Prospect Ave, Pascagoula, MS 39567	PHONE (228) 762-0754
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5. EXISTING USE OF PROPERTY
Single Family Residence

6. INTENDED USE Hobby Shop/Garage	7. VALUATION OF WORK \$28,000
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AE II
Living area
below BFE

DO NOT WRITE IN THIS SPACE

BUILDING FEE _____

ELECTRICAL FEE _____

PLUMBING FEE _____

MECHANICAL FEE _____

TOTAL _____

8. STRUCTURE INFORMATION

SQ. FT. OF LOT **0.73 Acres**

BUILDING SIZE **30 Feet**
WIDTH _____

47 Feet
LENGTH _____

25 Feet
HEIGHT (ROOFTOP) _____

LIVING AREA (SQUARE FOOTAGE) _____

OTHER (SQUARE FOOTAGE) _____

TOTAL (SQUARE FOOTAGE) **1,410 Sq Ft**

BUILDING MATERIALS
FOUNDATION **Concrete Slab**

EXT. WALL **Metal**

INT. WALL **Metal**

ROOF **Metal**

9. SIGNATURE *David A. Vindich* DATE **8 Feb 2016**

FOR OFFICE USE ONLY

(A) FLOOD PLAIN INFORMATION: FLOOD ZONE _____ CERTIFIED ELEV. IF IN "A" ZONE _____

(B) ZONING DISTRICT _____

ORIG	VIC	SEC	TS	RG	FL	CLASS	UNITS		
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(C) AREA, SETBACK REG:
GREATER SETBACKS (IF APPLICABLE)

(D) PC HEARING _____