

**Goshen Township
Board of Zoning Appeals**

CASE #295

**Monday, February 09, 2009
6:30 PM**

Call to Order:

Called to order by Chairperson Mary Donna Elam

Pledge of Allegiance:

Conducted earlier during the opening of the Zoning Commission Meeting.

Roll Call:

Present was: Mary Donna Elam, Shirley Bixler, Wanda Downey, Jesse Shaw and Ed Seigla

Swear In:

Chairperson swore in every individual that has come to the meeting to speak.

Case #296 Kenneth Huffaker – Variance Request

Variance request as read by Chairperson Mary Donna Elam:

Kenneth Huffaker has submitted a formal request for a zoning variance permitting the permanent storage of an unlicensed 40' box semi-trailer within the 50' front yard set back of his primary residence at 6749 Plum Street. (see staff report attached)

Community Forum:

Mr. Rick Lauer with attorneys Robbins, Kelly Patterson & Tucker gave a brief overview of the history of 6749 Plum St. and why the Goshen Township Zoning Department is requesting a variance. Mr. Lauer asked Mr. Huffaker several questions in reference to the set back and trailer in question. Several questions were asked by the board to Kenneth Huffaker.

Mr. Earl Davidson resides at 1888 Main St., and also owns 1892 Main St. Mr. Davidson states that Mr. Huffaker has maintained his property to the best of his ability.

Mr. Dewayne Dean is a personal friend of Mr. Huffaker. Mr. Dean states that he has helped Mr. Huffaker several times to appease the Zoning Department and every time he has helped the Zoning Department gives another violation.

Mr. Ray Redmon stated he has helped Mr. Huffaker fill out a permit in the past.

Mr. Strub resides at 1889 Main St. Mr. Strub states he has helped Mr. Huffaker several times also to clean up and he still gets hounded by the Zoning Department

Mr. Scott Chasteen resides at 1905 Main St. Mr. Chasteen is a long resident of Goshen Twp and he states that the property at 6749 Plum has been an eye sore then and is an eye sore now. Mr. Chasteen states he would like to see the mess cleaned up.

Mr. Davidson stated again that Mr. Huffaker's property does not bother him at all and he has to see it every day from his front door.

Dana Dennis is with the Emerald Services. Ms. Dennis says she has helped him on several occasions and does not understand why the township is bringing on such a hardship to Mr. Huffaker.

Mary Donna Elam states that the property is in question is zoned Business and at this date and time no business permit as ever been applied for. A business has been run from this property for many years.

The board retired to executive session to discuss the facts and findings.

Findings of Fact Variances:

1. Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance. **YES**
2. Whether the variance is substantial. **YES**
3. Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment”. **YES**
4. Whether the variance would adversely affect the delivery of governmental services. **YES**
5. Whether the property owner purchased the property with the knowledge of the zoning restriction. **NO**
6. Whether the problem can be solved by some manner other than the granting of a variance. **YES**
7. Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done y granting the variance. **NO**

With 5 –Yes and 2 +No Chairperson Mary Donna Elam asked for a motion.

Wanda Downey made a motion to deny the variance as requested by Mr. Huffaker. Second made by Shirley Bixler.

Jesse Shaw YES, Ed Seigla YES, Wanda Downey YES, Shirley
Bixler YES, Mary Donna Elam YES

With votes all yes variance was denied.

Meeting adjourned.

Dbritt
Feb 9, 2009



STAFF REPORT BZA Case # 295 Variance Request

To: Goshen Township Board of Zoning Appeals
From: Louis M. Ethridge, AICP
Director of Community & Economic Development
Subject: Variance to front yard setback and vehicle parking/storage regulations of the Goshen Township Zoning Resolution

REQUEST

Kenneth Huffacker has submitted a formal request for a zoning variance permitting the permanent storage of an unlicensed 40' box semi-trailer within the 50' front yard setback of his primary residence at 6749 Plum Street (see attached aerial photograph)

CASE HISTORY

The semi-trailer is being used by Mr. Huffacker to store equipment for business and personal use. A review of aerial photography provided by the Clermont County Auditor reveals this semi-trailer has been parked at the exact same location since April 2003. This trailer and the outdoor storage of inoperable and unlicensed vehicles, appliances and debris have been the subject of municipal court charges filed by the Department of Community & Economic Development (CED) over the past 24 months. The parking of this box semi-trailer is one of four specific charges filed by the CED on behalf of Goshen Township in Clermont County Municipal Court. At the request of the applicant's legal counsel, this court case was granted a continuance until March 26, 2009 to accommodate the applicant's appeal for this zoning variance.

SITE CHARACTERISTICS

The single family detached housing unit located at 6749 Plum Street is a combination of ten (10) land parcels totaling **.708** of an acre (30,840 sq. ft.). This property is a triangular plateau with steep side walls on the north, east and south faces (25% slope). The buildable side and rear lot area on this property is estimated to be no more than **.2** of an acre (8,712 sq. ft.). Currently there are a total of five (5) structures including an above ground swimming pool on this residential



property consuming **34 %** of the buildable land area. This exceeds the **30%** maximum set for residential properties in Goshen Township.

LAND USE ACTIVITY

The ten abutting land parcels owned by the applicant are the site of a 1,606 square foot single-family detached housing unit purchased by the applicant in April 1996. Records from the Clermont County Auditor list this property is being taxed as residential property (land use code 510R-single family dwelling). The majority of the buildable space is being used for the outdoor storage of motor vehicles, trailers, boats and campers. No business-related zoning permits have been issued to the applicant by Goshen Township for this property.

ZONING DISTRICT REQUIREMENTS

The property at 6749 Plum Street in Goshen Township was in a B-2 General Business District when the applicant purchased the property in April 1996. Since that time the property has been rezoned as a B-1 Local Business zoning district (effective as of July 4, 2003) and is also regulated by a Town Center Overlay District (effective as of September 19, 2008. See attached zoning district maps). No permitted on-site business operations have been established on this property and no request for a business zoning permit has been applied for, the zoning in place at the time of purchase (B-2 General Business) is not (grandfathered) applicable.

B-1 Local Business District

The purpose of the B-1 Local Business District is to encourage the establishment of areas for convenience business uses which tend to meet the daily need of the residents of the immediate neighborhood. Also it is to encourage the establishment of small scale retail, including but not limited to executive, administrative, accounting, clerical, stenographic, and similar uses. This district is to preserve the character of "Old Goshen." Research uses shall not be permitted. Such district shall be centrally located within Goshen Township boundaries, with access to a collector thoroughfare. Marginal strip development shall be prohibited.

Permitted uses in the B-1 zoning district include: Convenience Business; Office Type Business; Clinic; Nursing Home; and Personal Services. All developments within the B-1 District must undergo a site plan review including Conditionally Permitted Uses which include: single family dwellings or mixed use structure, with predominant approach to be for small scale retail, mixed with one dwelling unit. (Goshen Township Zoning Resolution Article 7.10, page 52).

Town Center Overlay District

These regulations enable the creation of a compact development area that provides for the orderly development of a mixture of land uses. This Overlay District and its regulations are established in order to permit specific uses at an appropriate development intensity and in a manner that:

- Encourages a mixture of complimentary land uses that include housing, neighborhood retail, small scale professional offices and civic uses to create economic and social vitality to Goshen Township.

- Promotes responsible planning by providing flexibility in the type, placement and density of buildings while encouraging coordinated architectural design within a unified development area.
- Promotes the expansion of economic development for the Township through the addition of the new commercial and residential investment which will create destination based land uses and activities, provide more shopping and professional service amenities to local and non-local customers and provide a more diversified mix of Township housing options as provided for in the State Route 28 Market Analysis. (Goshen Township Zoning Resolution Article 17.01, page 157).

17.05 Accessory Use Regulations

One (1) accessory use or accessory structure may be permitted for each principal structure subject to these regulations. An accessory use shall be defined as a use of land or a permanent structure located on the same lot as the principal use or structure. The accessory use or structure shall be customarily incidental and subordinate to the principal use or structure. The use of which is incidental and accessory to that of the main use of structure.

- Placement. An accessory use or structure may only be placed in the rear yard area with a minimum rear yard setback of five (5) and a minimum side yard setback of five (5) feet.
- Approval Procedure. Any accessory use or structure located within this Overlay District must be approved by the Zoning Commission. The applicant shall submit a written request for an accessory use or structure to the Zoning Commission along with a plot plan identifying the location and dimensioned setbacks for the proposed accessory use or structure. Other information may be requested by the Zoning Commission to adequately review the request including but not limited to: Elevation drawings of the proposed accessory structure, photographs of the subject property and information regarding the exterior building materials proposed for the accessory structure. If the Zoning Commission determines the regulations contained in this section have been satisfied and the proposed accessory use or structure complies with the intent, goals and objectives of this Overlay District, then an accessory use permit shall be issued to the applicant.

ANALYSIS

The 40' box semi-trailer the applicant has used as an equipment storeroom for business and personal use that has not been moved since April 2003 is to be considered a permanent accessory structure. Allowing for the continued permanent storage of this semi-trailer between the right-of-way of Plum Street and the front building line of the primary structure will require the Board of Appeals to:

- Grant a variance to Article 7.02 of the Goshen Township Zoning Resolution that requires all accessory structures on a single family residential lot be placed a minimum of 50 feet from all rights-of-way.

If the Appeals Board denies the applicant's request for a variance for this accessory structure that is *already in place*, the applicant will be required to comply and remove it from the property immediately.

If the applicant seeks to move this semi-trailer to the rear yard of the property, it will be considered a new business development proposal subject to B-1 Local Business District and Town Center Overlay requirements. This will require the applicant to submit a detailed site plan to the Goshen Township Zoning Commission addressing the requirements all requirements of the B-1 Local Business District as well as those for the Town Center Overlay District. The fee for this site plan review is \$1,200.