

**Minutes
Williamson County
Board of Zoning Appeals
6:00 P.M. May 26, 2022**

Members Present

Chairman David Ausbrooks
Vice-Chairman Don Crohan
Secretary Karen Emerson-McPeak
Andrew Ring

Staff Present

John Bledsoe, Codes Compliance Director
Brenda Beard
Kristi Ransom, County Attorney
Mike Matteson, Planning Director

The Williamson County Board of Zoning Appeals met in regular session on May 26, 2022 in the Auditorium of the Williamson County Administrative Complex. Chairman David Ausbrooks began the meeting by reading a public statement stating that the Board of Zoning Appeals is made up of five citizens nominated as Board members by the County Mayor and confirmed by the County Commission. One member is a Planning Commissioner, one member may be a County Commissioner and the remaining members are not otherwise connected with County Government. He went on to say the Board will hear from anyone who has anything to say to the Board relevant to the request at hand. However, the Board will not view or hear anything that does not have a direct bearing on the item or issue being heard. He requested that all comments be addressed to the Board.

Chairman Ausbrooks asked the members to consider the minutes from the April 28, 2022 meeting. Vice-Chairman Don Crohan made the motion to approve the minutes of the April 28, 2022 meeting as presented and Andrew Ring seconded the motion. The motion was approved by unanimous voice vote.

ITEM 1

A request by David and Tara Hays for a variance from the minimum road frontage required for a Building Permit at 6834 Giles Hill Road (Map 173 Parcel 016.02). The property is zoned Rural Development 5 (RD-5) and is located in the 2nd voting district.

John Bledsoe read the staff report and presented the site plan using the overhead screen. He referenced the deed stating the property has 161.9 feet of road frontage. Mr. Bledsoe also showed photos of the property.

Mrs. Tara Hays, property owner, and Mark Cantrell of T-Square Engineering and Surveying represented the item. Mrs. Hays stated she is the one that submitted an inquiry on April 15th and they were under contract at that time. She stated they were told that it is a legal lot and therefore closed on the property. If they had known it was an illegal lot they would not have purchased the property. She stated they tried to purchase more land to get the required 200 feet of road frontage but neither neighbor was willing to sell any road frontage. Mrs. Hays also stated they tried the easement option of gifting their road frontage to the neighbor and creating an easement to become a legal lot but neither neighbor was willing to do that.

Mark Cantrell stated he wanted to reiterate what Mrs. Hays said. They did a legal description of the road frontage because the only option would be to gift that to one of the neighbors, strike a 50 ft. easement through it, and then it would be a legal lot of record but no neighbor was willing to do that. With no neighbor willing to cooperate, the applicants were out of options.

Chairman Ausbrooks opened the public hearing.

Mark Stiles of 6838 Giles Hill Road stated he and his wife have resided at this address for over 30 years. Their property is located on the south side of the applicant's property and they are opposed to the variance being granted. He wanted to go on record that he had not been contacted by David or Tara Hays or a representative of theirs about getting road frontage. They moved into their present home in 1991 from Franklin, when the city started experiencing rapid growth. They made this move in order to enjoy solitude without neighbors nearby. Prior to Mr. & Mrs. Hays purchase of the property next door, the nearest driveway to his driveway was on the property to the north owned by Thomas Grimes with a driveway located 363 ft. from his driveway. Looking south is property owned by the Pitts and their driveway is 462 ft. from his driveway. That's a total of 825 ft. with three driveways. Across the road is a cow pasture. Mr. Stiles stated his property and the applicant's property are both shaped like the letter L and share two common property lines. When the Hays purchased their property they did two things: they installed a 24 ft. metal culvert in the ditch and placed crush and run gravel on top of it to create a driveway onto their property. This driveway was placed seven feet from his driveway. The second thing they did was to place a Legacy Lake Homes, LLC sign close to the road. He stated he is led to believe that if a variance was granted, a driveway will be run along and beside the entire length of his longest property line and leading to a large home. Mr. Stiles stated that Williamson County Zoning Ordinance Article 1 General Provisions, Section 1.03, the general purpose and intent under (G) is preserving and enhancing the County's overall rural character. One example of enhancement is the soon to open Peacock Hill Park at 6900 Giles Hill Road that will offer extensive hiking trails without ball parks and soccer fields. He stated placing a driveway running along his property line will do nothing to enhance the rural character of the RD-5 (Rural Development-5) zoning. Under the same section of the Ordinance under (J) it states, "the purpose and intent is protecting and enhancing the taxable values of land and buildings." He stated a driveway running beside his property line will not enhance his property value and he feels it will decrease his property value. Section 10.02 Base Zoning Districts, (C)1 Purpose and Intent, the purpose of the Rural Development -5 (RD-5) is to support and protect the rural character and agriculture uses of Williamson County east of I-65 by allowing for a broad range of agricultural, rural, and low density residential development. Mr. Stiles spoke about information taken from the Legacy Lake Homes, LLC website. The founders are Matt and Tara Hays and they have been remodeling and flipping homes since 2008. They started in Spring Hill and expanded to Tim Ford's Lake in 2017. Mr. Hays has been in the construction industry for over 20 years. Mrs. Hays creates and designs the homes and works with architects to create the floor plans and designs. She is also a third generation property manager. She and her husband create designer homes and their website has the present location to be sold in 2023.

Chairman Ausbrooks stated that Mr. Stiles was getting off point and was unsure how the information he was giving had any relevance to the item before the Board. He asked Mr. Stiles to "round up" his statement and what he was trying to show the Board.

Mr. Stiles stated the applicants were requesting a variance to get a building permit to build a house, sell a house, and make a profit, and that they will not be the homeowners that will live there happily ever after. He read from Article 5 Special Uses, Variances and Appeals, Section 5.02 (A) Purpose and Intent states, "it is not intended that variances be granted to remove inconveniences or financial burdens that the requirement of this Ordinance may impose on property owners in general." Mr. Stiles stated that if the applicants had done due diligence they would have realized that the RD-5 zoning required 200 feet of road frontage and would have questioned how they would be allowed to obtain a building permit with only 161 feet of road frontage. He said that he suspected the applicants were developers speculating that they could receive a variance at the sake of compromising the ordinance by building a home that does not promote agriculture, rural character or low density development and decreases the property values in the area.

Chairman Ausbrooks stated that if there was no one else to speak, he is closing the public hearing.

Vice-Chairman Crohan asked who made the April 15, 2021 Zoning Inquiry application.

Mrs. Hays stated that she filled out the application and was told the lot was legal. On September 10, 2021 Tim Turner submitted another application and was told the lot was illegal.

Vice-Chairman Crohan asked Mr. Cantrell if his company was not aware of the rules and regulations of the County.

Mr. Cantrell stated they are absolutely aware but it's a deed or a piece of property that has been this way since 1994. The applicants had already purchased the property when they contacted his business.

Mr. Ring asked staff if they were certain that the County had made a mistake in telling the applicant that the lot was legal.

Mr. Bledsoe stated applicants are instructed to use the electric portal for inquiries to get a written response from the County. He stated that unfortunately in this instance a wrong answer was given to the applicants.

Mr. Ring asked staff when the incorrect response was given.

Mr. Bledsoe stated the Zoning Inquiry with the response that it was a legal lot of record was submitted on April 15, 2021, the Hays purchased the property on May 25, 2021, and the subsequent Zoning Inquiry with the response that it was an illegal lot was submitted on September 10, 2021.

Mr. Ring stated that the lot was created in 1994 and may have just been an oversight in the many zoning requirements. Mr. Ring read from Section 5.02 of the Zoning Ordinance that states, "variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission." Mr. Ring stated he feels this item does meet the criteria for a variance according to that section.

Secretary Karen Emerson-McPeak asked staff how many acres the parcel has.

Mr. Bledsoe stated the property is 6.14 acres.

Vice-Chairman Crohan asked the applicant if they got title insurance on the property when they purchased the property.

Mrs. Hays said she hoped so but she stated she did not remember.

Vice-Chairman Crohan stated that it looks like over the years it has been known that this was an unbuildable lot due to the lack of road frontage and that if they had checked the records they would have known that it was an unbuildable lot.

Mrs. Hays stated they didn't check the public records and she wished they had.

Vice-Chairman Crohan asked the applicant what kind of hardships this would cause.

Mrs. Hays stated they have had this property tied up for over a year, building costs have risen, their money has been tied up in this property so they can't use it to purchase another property, land prices have risen

and she is not sure they can afford another five acre tract in Williamson County.

Vice-Chairman Crohan asked if this would stop them from building a house for themselves on this property.

Mrs. Hays stated she was not sure if they would build a house for themselves or build it to sell. She said they have lived in their present home for two years and it is time to move again. She said the site is in a great spot and is very pretty.

Vice-Chairman Crohan asked the applicant if, in her opinion, they could not sell the property.

Mrs. Hays stated they could not sell this property in good conscience as it is without a variance because it has been determined to be an unbuildable lot. Since it was for sale for a while before they purchased it she is not sure that either neighbor would want to purchase it.

Secretary Emerson-McPeak asked staff if a house could be built on the property if there was enough road frontage.

Mr. Bledsoe stated that the applicants were in the process of Septic Department approval before the project was stopped. He stated there is plenty of acreage for a house but he had not seen the soil mapping to determine if a septic system would be approved.

Mr. Cantrell stated there was plenty of acreage for a house and he felt that the soils would allow for a three or four bedroom site.

Mr. Bledsoe stated that he believed all the zoning requirements could be met except for the road frontage requirements.

Vice-Chairman Crohan asked the applicant if she would consider deferring this request until next month to find out if their title insurance would cover this.

Mrs. Hays stated yes, she would be willing to wait until the next hearing and contact her insurance regarding this mistake.

Mr. Bledsoe informed the Board members and applicant that the next meeting will be held Thursday, June 23rd at 6:00 p.m.

Chairman Ausbrooks asked the applicant if any of the neighbors had warned them about the property issues prior to the purchase of the property.

Mrs. Hays stated no, that nobody had informed them about the property.

Secretary Emerson-Mcpeak asked if the property could be entered from the backside with an easement through that property.

Planning Director Mike Matteson stated it would still be unbuildable because of the lack of road frontage. He stated you would need to have either no road frontage at all or sufficient road frontage.

Vice-Chairman Crohan made a motion to allow the applicant to withdraw until the next meeting in order to give the applicant more time to see if they could get the problem resolved and to get written statements from the adjoining neighbors stating they will not sell road frontage or be allowed to be given road frontage to the Hays.

Mr. Bledsoe stated there are only two options and one neighbor is present at this hearing and the other neighbor has written a letter to staff. Both have denied to sell or take any property in order for the Hays to be given a variance. If the applicant withdraws the request a new application for hearing will be required. The deadline for submittal to be include on the June 2022 agenda had already passed. Mr. Bledsoe suggested a deferral might be a better option.

There was a brief discussion by the Board on whether to move to defer until the June meeting or have the applicant withdraw the request.

Mrs. Hays requested that the item be deferred until the next BZA meeting.

Vice-Chairman Crohan made a motion to defer until the next meeting. Andrew Ring seconded the motion. Motion was approved by unanimous voice vote.

With no other business to come before the Board, the meeting was adjourned.

Secretary's Signature

Date