

MINUTES OF REGULAR MEETING

CHAMPAIGN COUNTY ZONING BOARD OF APPEALS

1776 E. Washington Street
Urbana, IL 61802

DATE: July 13, 2017 PLACE: John Dimit Meeting Room
1776 East Washington Street
Urbana, IL 61802
TIME: 7:00 p.m.

MEMBERS PRESENT: Catherine Capel, Frank DiNovo, Jim Randol, Eric Thorsland

MEMBERS ABSENT: Debra Griest, Marilyn Lee, Brad Passalacqua

STAFF PRESENT: Connie Berry, Susan Burgstrom, John Hall

OTHERS PRESENT: Michael Nickrent, Scott Blakeney, Debbie Blakeney, Duane Deters, Kevin Schwenk, Mary Schwenk, Carol Shallenberger, Tom Shallenberger, Scott Day, Lindy Collett, Garry Collett

1. Call to Order

The meeting was called to order at 7:00 p.m.

2. Roll Call and Declaration of Quorum

The roll was called and a quorum declared present with three members absent.

Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign the witness register for that public hearing. He reminded the audience that when they sign the witness register they are signing an oath.

3. Correspondence

None

4. Approval of Minutes

None

5. Continued Public Hearing

Case 685-AT-11 Petitioner: Champaign County Zoning Administrator. Request to amend the Champaign County Zoning Ordinance by revising Section 6.1 by adding standard conditions required for any County Board approved special use permit for a Rural Residential Development in the Rural Residential Overlay district as follows: (1) require that each proposed residential lot shall have an

1 area equal to the minimum required lot area in the zoning district that is not in the Special Flood
 2 Hazard Area; (2) require a new public street to serve the proposed lots in any proposed RRO with
 3 more than two proposed lots that are each less than five acres in area or any RRO that does not
 4 comply with the standard condition for minimum driveway separation; (3) require a minimum
 5 driveway separation between driveways in the same development; (4) require minimum driveway
 6 standards for any residential lot on which a dwelling may be more than 140 feet from a public street;
 7 (5) require for any proposed residential lot not served by a public water supply system and that is
 8 located in an area of limited groundwater availability or over a shallow sand and gravel aquifer other
 9 than the Mahomet Aquifer, that the petitioner shall conduct groundwater investigations and contract
 10 the services of the Illinois State Water Survey (ISWS) to conduct or provide a review of the results; (6)
 11 require for any proposed RRO in a high probability area as defined in the Illinois State Historic
 12 Preservation Agency (ISHPA) about the proposed RRO development undertaking and provide a copy
 13 of the ISHPA response; (7) require that for any proposed RRO that the petitioner shall contact the
 14 Endangered Species Program of the Illinois Department of Natural Resources and provide a copy of
 15 the agency response.

16
 17 Mr. Thorsland asked Mr. Hall if he would like to continue the case.

18
 19 Mr. Hall requested that the Board continue the case to October 12, 2017.

20
 21 Mrs. Capel moved, seconded by Mr. DiNovo, to continue Case 685-AT-11 to the October 12, 2017,
 22 meeting. The motion carried by voice vote.

23
 24
 25 **Case 854-S-16** Petitioner: **ILUR Loral Park MHP, including principals David Reynolds, RV Horizons**
 26 **General Manager, Jack Baczek, Manager of Coupling Investments, LLC and Patrick Fitzgerald,**
 27 **agent on behalf of ILUR Loral Park MHP, LLC. Request to authorize the expansion of an existing,**
 28 **nonconforming Manufactured Home Park with 34 existing manufactured homes sites and an**
 29 **additional 4 proposed manufactured home sites as a Special Use Permit in the R-5 Manufactured**
 30 **Home Park Zoning District, subject to the variance requested in Case 855-V-16 and subject to an**
 31 **interpretation of zoning district boundaries in related Case 862-I-16 and also subject to the required**
 32 **waivers mentioned in the full legal advertisement. Location: A tract of land in the Northwest Quarter**
 33 **of Section 5, Township 19 North, Range 9 East of the Third Principal Meridian in Urbana Township,**
 34 **commonly known as Loral Park Manufactured Home Park, with an address of 31 Fern Street,**
 35 **Urbana.**

36
 37 **Case 855-V-16:** Petitioner: **ILUR Loral Park MHP, including principals David Reynolds, RV Horizons**
 38 **General Manager, Jack Baczek, Manager of Coupling Investments, LLC and Patrick Fitzgerald,**
 39 **agent on behalf of ILUR Loral Park MHP, LLC. Request to authorize the use and expansion of an**
 40 **existing, nonconforming Manufactured Home Park in the R-5 Manufactured Home Park Zoning**
 41 **District, subject to the request for Special Use Permit approval and waivers in related Case 854-S-16**
 42 **and subject to an interpretation of zoning district boundaries in related Case 862-I-16 and also subject**
 43 **to the following required variance: Part A: Authorize a side yard of 6 feet and a rear yard of 0 feet**
 44 **for the Manufactured Home Park Management Storage Facility in lieu of the minimum required 15**
 45 **feet side yard and 15 feet rear yard as per Zoning Ordinance Section 6.2.2 C.2.; and Part B.:**
 46 **Authorize a minimum setback of 37.5 feet and a front yard of 12 feet in lieu of the minimum required**

1 55 feet setback and 25 feet front yard as per Zoning Ordinance Section 4.3.2. for manufactured home
2 site number 1.; and Part C: Authorize a rear yard of 10 feet in lieu of the minimum required 15 feet as
3 per Zoning Ordinance Section 6.2.2 C.2. for manufactured home site numbers 17 and 19; and Part D:
4 Authorize the placement of an existing manufactured home located in a utility easement in lieu of the
5 requirement that no construction shall take place in a recorded utility easement as per Section 4.2.2D.
6 for manufactured home site number 17. Location: A tract of land in the Northwest Quarter of Section
7 5, Township 19 North, Range 9 East of the Third Principal Meridian in Urbana Township, commonly
8 known as Loral Park Manufactured Home Park, with an address of 31 Fern Street, Urbana.

9
10 Mr. Thorsland stated that, as of this afternoon, Cases 854-S-17 and 855-V-17 have been withdrawn.

11
12 **Case 863-V-16 Petitioner: Scott Blakeney, Derek Wagner and Tyler Wakefield Request to authorize**
13 **the following Variance in the R-1, Single Family Residence Zoning District for an existing residence**
14 **and existing garage and a proposed patio and a proposed detached shed and unauthorized earth fill,**
15 **all located in an existing storm water drainage easement: Part A. Authorize a variance from Section**
16 **4.2.2D. of the Champaign County Zoning Ordinance that no use shall be established, construction**
17 **undertaken, nor fill placed in any recorded drainage or utility easement. Part B. Authorize the**
18 **following Variance from the Champaign County Storm Water Management and Erosion Control**
19 **Ordinance: 1. Authorize a variance from Section 6.1A. requiring that no fill shall be placed nor grade**
20 **altered in such a manner to create a nuisance; and 2. Authorize a variance from Section 6.3G.**
21 **prohibiting the destruction or obstruction of the operation of a storm water drainage system or storm**
22 **water storage area; and 3. Authorize a variance from Section 9.1E. for a freeboard of 0 feet in lieu of a**
23 **freeboard of one foot; and 4. Authorize a variance from Section 9.1.C.1. for a release rate for the 50-**
24 **year precipitation event far in excess of the maximum otherwise allowed that would be no greater**
25 **than a rate of discharge from a 5-year return period precipitation event and an assumed row crop**
26 **agricultural land cover; and 5. Authorize a variance from Section 9.1.C2. for a release rate for**
27 **frequent storm events that exceeds the maximum otherwise allowed that would be no greater than the**
28 **rate of discharge from 1-year, 2-year, and 5-year return period precipitation events and an assumed**
29 **row crop agricultural land cover. Location: Lot 100 in Rolling Hills Estates V Subdivision that is in**
30 **the Northwest Quarter of the Northeast Quarter of Section 12, Township 20N, Range 7 East of the**
31 **Third Principal Meridian in Mahomet Township and commonly known as the residence at 2312**
32 **Pheasant Ridge Road, Mahomet.**

33
34 Mr. Thorsland informed the audience that anyone wishing to testify for any public hearing tonight must sign
35 the witness register for that public hearing. He reminded the audience that when they sign the witness
36 register they are signing an oath.

37
38 Mr. Thorsland informed the audience that Case 863-V-16 is an Administrative Case and as such, the County
39 allows anyone the opportunity to cross-examine any witness. He said that at the proper time, he will ask for
40 a show of hands for those who would like to cross-examine and each person will be called upon. He
41 requested that anyone called to cross-examine go to the cross-examination microphone to ask any questions.
42 He said that those who desire to cross-examine are not required to sign the witness register but are requested
43 to clearly state their name before asking any questions. He noted that no new testimony is to be given during
44 the cross-examination. He said that attorneys who have complied with Article 7.6 of the ZBA By-Laws are
45 exempt from cross-examination.

1 Mr. Thorsland asked Mr. Hall to review new Supplemental Memo #2 for the Board.

2
3 Mr. Hall, Zoning Administrator, stated that the petitioner's engineer submitted additional information today
4 that will help with the review of the project, but staff will not pass it out tonight. He said to summarize, the
5 petitioner's engineer did their own analysis of the pre-development discharge, which would be release rates,
6 and they have completed an analysis of the 1993 as-built basin as well as the current basin and the proposed
7 regrade. He said that we want to have our engineer review that information, as this is valuable new
8 information that will bear on the case, but staff just got it before the meeting and so have not yet handed it
9 out. He said that staff's recommendation is that this case be continued, after everyone present tonight has
10 had a chance to testify. He said staff will get this new information to our engineer, see what we agree with
11 and disagree with, and then we'll know where we stand, but we are much ahead of where we were at the last
12 meeting.

13
14 Mr. Thorsland asked if there were any questions for Mr. Hall from the Board.

15
16 Mr. Thorsland asked if the petitioner or their representative would like to provide an update regarding the
17 request.

18
19 Mr. Michael Nickrent of Phoenix Consulting Engineers, 421 E Main Street, Mahomet, stated that he
20 acquired the as-builts for the 1993 basin recently, which he did not have previously. He said that the as-built
21 drawings indicate that the basin was never built to the actual design. He noted a red line on the handout, and
22 said that was the 727.0 contour line showing, what was supposed to be built, and it was not actually built to
23 that plan; therefore, the basin never had the capacity as it was designed, and by his calculations, the 50-year
24 events would have gone into the overflow and would have had an excess discharge rate from what was
25 allowed. Mr. Nickrent referred to Attachment C and stated that they are proposing that Mr. Blakeney
26 regrade his lot and remove quite a bit of the fill, which would get the discharge rate back to better than the
27 1993 as-built discharge rate. He said it would be just as good as or better than the 2008 discharge rate as
28 well. He said that the 1993 basin never met the ordinance, and what they are proposing still would not meet
29 the ordinance, but it would be better than it was.

30
31 Mr. Thorsland asked if that would be the third sheet, with the 0.38 acre-feet proposed.

32
33 Mr. Nickrent stated that Attachment D is what they could propose to get the basin a lot closer to the original
34 design, but it would involve bringing in some of the other neighbors to do some regrading on their parts
35 because since 1993, they have filled in that basin some as well.

36
37 Mr. DiNovo referred to the Lot 100 Regrade and asked if that sheet was the basis for the variance, and
38 Attachment D would be an even greater improvement.

39
40 Mr. Nickrent responded yes.

41
42 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Nickrent.

43
44 Mr. Hall asked Mr. Nickrent if, on the proposed regrade alternative, he had compared cut and fill, and is
45 there enough fill right now to do the better overflow on the east side.

46

1 Mr. Nickrent responded that he had not had time to do any quantities yet.
2
3 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Nickrent.
4
5 Mr. Thorsland reminded the audience that cross-examination is limited to what the witness spoke about and
6 cannot include new testimony.
7
8 Mr. Scott Day, who resides at 2408 Fogel Rd, Mahomet, stated he lives downstream from the subject
9 property. He asked Mr. Nickrent if we are expanding the detention basin to go into the neighbors' properties,
10 is that an expense the neighbors are going to accept.
11
12 Mr. Nickrent responded that they had not had that discussion with the neighbors.
13
14 Mr. Thorsland stated that any testimony Mr. Day would like to provide can be done during witness testimony
15 later.
16
17 Mr. Thorsland asked Mr. Nickrent if there was anything else he would like to add at that time. He asked Mr.
18 Nickrent if some of the new information that the Board has not seen yet will answer some of the questions
19 about available fill on-site, or whether it would be brought in. He stated that obviously, a conversation is
20 going to have to be had with the neighbors at some point.
21
22 Mr. Nickrent stated yes, they should have a discussion with the neighbors, and he could quickly provide the
23 previously mentioned quantities.
24
25 Mr. Thorsland asked the audience if there was anyone else who desired to cross-examine Mr. Nickrent.
26
27 Mr. Kevin Schwenk stated that the Regrade drawing has a diagram of depth.
28
29 Mr. Nickrent responded yes, there is a cross-section of the basin.
30
31 Mr. Schwenk stated that the diagram indicates it is 2 feet at a certain location, and 5 in another, and asked
32 what the actual depth was.
33
34 Mr. Nickrent responded that it would be 2.5 feet at that location.
35
36 Mr. Schwenk asked Mr. Nickrent to indicate what the freeboard would be.
37
38 Mr. Nickrent responded that there would be 0 freeboard for a 50-year storm.
39
40 Mr. Schwenk asked if that is standard.
41
42 Mr. Nickrent responded that it is not standard, but they are just matching what was done in the 1993
43 condition.
44
45 Mr. Thorsland stated that a lot of this information is going to be available for the next meeting. He said Mr.
46 Schwenk is asking some good questions, and a lot of this will get answered when we get more information

1 on it. He said that staff does not pass out things that the Board receives at the evening of the meeting because
2 the Board does not have time to digest it. He said that Mr. Schwenk and anyone else who signed the witness
3 register will get this information in his mailing packet, and by the next meeting, we will all have had time to
4 review it.

5
6 Mr. Schwenk asked if the spillway rate is supposed to be 5 cubic feet per second, and if so, what will it be
7 after.

8
9 Mr. Nickrent stated that, from what his calculations show, he does not believe that the engineer in their
10 original calculations had that rate of 5 cubic feet per second. He said they would need to have the County
11 check those with their consultant.

12
13 Mr. Schwenk asked if Mr. Nickrent had determined flow rate in his calculation.

14
15 Mr. Thorsland said that Mr. Nickrent had not testified to that yet, so Mr. Schwenk could not cross-examine
16 Mr. Nickrent about that. He said that the information will be distributed, the county's engineer will look at
17 it, and then everyone would get an assessment from Mr. Nickrent's calculations and those of the county's
18 engineer, and that would be a more appropriate time to dig into the details.

19
20 Mr. Thorsland asked the audience if anyone else desired to cross-examine Mr. Nickrent, and there was no
21 one.

22
23 Mr. Thorsland called Scott Blakeney to testify.

24
25 Mr. Blakeney indicated that he had no new information to add at this time.

26
27 Mr. Thorsland called Mary Schwenk to testify.

28
29 Ms. Mary Schwenk, who resides at 1207 North Charter Oaks Circle, Mahomet, stated that she and her
30 husband own the property located in the Ridge Creek Subdivision, Lot 4, directly east of the lot in question.
31 She said that she is in attendance to express her opposition to the proposed variances. She said that Lot 100
32 in Rolling Hills Subdivision has kind of been a bone of contention for them from the get-go since they
33 moved in during the fall of 1998. She said she was going to give a little history of what they have
34 experienced from the storm water runoff from that subdivision and particularly that lot. She said that
35 whenever it would rain, water would come from that subdivision, that lot, and over to a swale to those two
36 lots to the south; it would then be diverted down to a ditch that runs between their property and Collett's
37 property, then under their driveway, then through the ditch that runs between their property and the
38 Shallenberger's property, it then runs to the ditch on the Schwenk's property and eventually out to the
39 Sangamon River. She said that at times, the water would come and it was almost like they had a waterfall in
40 their ditches. She said that they would watch in awe as it came gushing down when it rained. She said they
41 have a bridge that crosses the ditch to access their other 2 acres on the far side of the creek, and it would not
42 be unusual to see that bridge submerged also. She said that she will talk about the gullywasher of 1999; that
43 water, following the path she just described, came with such speed and force that when it got down to the
44 Shallenberger's it jumped ship and annihilated a 9 feet tall Allen block wall that the Shallenbergers had
45 going around their driveway. She said at that time they knew they had a problem. Ms. Schwenk said that they
46 contacted the Mahomet Township Road Commissioner, Chris Doenitz and Mr. Doenitz came out, assessed

1 the situation, and told them what they had already assumed, that their problem was from that subdivision.
2 She said that Mr. Doenitz told them that that lot was dedicated as a detention basin for the Rolling Hills
3 Subdivision, and should never have been built on.
4
5 Mr. Thorsland asked if she meant Lot 100.
6
7 Ms. Schwenk stated correct.
8
9 Mr. Thorsland referred to Attachment J of the April 2017 memo, which has a nice picture of the Schwenk lot
10 and the lots to the west of them.
11
12 Ms. Schwenk stated that Mr. Doenitz said the best he could do for them would be to bury gabions, or wire
13 crates with stones, to slow down the water flow. She referred to the receipts shown in the memo packet and
14 said at the personal expense of almost \$9,000, the Schwenks, the Colletts, and the Shallenbergers acquired
15 gabions, got riprap laid in the entire ditch, and did some other stuff that she is not quite sure what was done.
16 She said the Shallenbergers constructed a berm on their property, with the hope that if the water ever did
17 jump the ditch, it would protect his assets. She noted that they never received assistance from the County;
18 despite repeated attempts for months to contact the Road Commissioner, their calls went unanswered,
19 although they would see him out and about and ask him, so she feels that they had already been wronged.
20
21 Mr. Thorsland asked if she meant Mr. Doenitz. He summarized that Mr. Doenitz came out and told them
22 what they should do, but did not do anything.
23
24 Mrs. Schwenk responded yes. She said Mr. Doenitz said what he could do in his capacity would be to bury
25 those gabions; this is the only assistance he offered.
26
27 Mr. Thorsland asked Mrs. Schwenk if she had ever reached out to the developer of Rolling Hills
28 Subdivision, because someone decided at some point to put a house on Lot 100.
29
30 Mrs. Schwenk responded no, because that was an established subdivision back in 1993-1994. She said that
31 by the time they moved there in 1998, the owners flew the coop and it was probably up to a homeowner's
32 association. She said they incurred the responsibility and they took it upon themselves. She said they
33 inherited the problem, and if the township wasn't going to do anything for them, so no, they never reached
34 out to them. She knows that Rolling Hills does not have a homeowner's association, although back then
35 they might have.
36
37 Mr. Thorsland stated that he knows that area well; he has seen moving water there on more than one
38 occasion, because he used to go down this road every day when he went home.
39
40 Ms. Schwenk said that when they moved in, they didn't know any better. She said that on the subject lot was
41 a pre-fab home on a foundation, and a two- car detached garage. She said that coming out of the back of that
42 home were 3 or 4 steps, and almost immediately there were railroad ties embedded in the majority of the
43 length of that yard and then the detention basin. She said that it seemed unhandy, but they didn't think twice
44 about what it was, but they knew, after that incident in 1999. She said that with the corrections they took in
45 1999, it seemed to contain it, so far.
46

1 Mr. Thorsland asked if the problem came back with the recent changes.
2
3 Mrs. Schwenk responded yes.
4
5 Mr. Thorsland asked if it has now gotten back to the stage it was at when they first moved in.
6
7 Ms. Schwenk responded no. She said that the original tenants vacated the house and tore it all down, but the
8 foundation, two car garage and detention basin remained. She said fast-forwarding to 2016, they heard a lot
9 of commotion on the lot - heavy equipment, trucks, sawing, and hammering. She said that scuttlebutt in the
10 neighborhood was that someone was moving a trailer in from Candlewood onto the property. She said they
11 still did not think anything of it because they had co-existed just fine for years the way it was and they just
12 naturally assumed it was going to be the way it was. Ms. Schwenk said that their property backs up to three
13 lots in Rolling Hills Subdivision; they had a barbed wire fence that they had installed when they moved in
14 there for the entire length of their property on three sides. She said that on about a third of their property,
15 where their house and main yard is, they had planted forsythia bushes to act as a natural privacy barrier. She
16 said that this was in the spring, everything was grown, and they were about 12 feet tall, so they couldn't
17 really see anything that was going on at the subject property until she came out on her back deck after work
18 and saw that a big swath of her forsythia bushes had been cut, about 25 feet long. Ms. Schwenk asked if she
19 could present some exhibits to the Board.
20
21 Mr. Thorsland asked Mrs. Schwenk if she had copies of the exhibits she could leave with staff.
22
23 Mrs. Schwenk responded no.
24
25 Mr. Thorsland said that because the meeting is recorded by audio only, she would have to describe things
26 well.
27
28 Ms. Schwenk showed pictures of the big swath of forsythias bushes that were cut out; ornamental fence
29 leaning against their wire fence; back yard fill and tile; the back of their property, which had been hidden by
30 bushes at one time; and the mound of dirt on Lot 100.
31
32 Mr. Thorsland asked if Ms. Schwenk had these pictures available electronically.
33
34 Ms. Schwenk responded yes.
35
36 Mr. Thorsland stated that Ms. Schwenk could email them to the office and they would be included in the
37 next mailing for everyone to review.
38
39 Ms. Schwenk showed another picture of the fill near the detached garage.
40
41 Mr. Thorsland asked if all the fill shown was new fill.
42
43 Ms. Schwenk responded yes. She said the entire lot was filled and up; it was all fresh dirt. She showed a
44 picture facing north toward Lot 100 and indicated that this all used to be level and she couldn't calculate
45 how many tons of dirt had been moved in. She showed another picture facing north over the spillway fill.
46

1 Mr. Thorsland asked if that was where the steps out of the old house, the railroad ties and detention basin
2 were. He asked if the railroad ties were under the fill or if they perhaps had been taken out.

3
4 Ms. Schwenk responded that the railroad ties were still there and she finished showing the pictures at that
5 time. Ms. Schwenk said they called the Village of Mahomet the next morning after they discovered this, and
6 they put them in touch with the County since it was county jurisdiction. She said Mr. Hall came out, said
7 yes, this is a grave violation, and it needs to be put back the way it was, then he relented some and said it
8 needed to be put back to the way it was in 2008. Ms. Schwenk said that nothing ever happened, and she
9 wants to know why activity continued on that lot for months, i.e. landscaping in the front, bringing a shed
10 and placing it not where he had indicated to the county but back over that filled in detention basin. She said
11 they were dumbstruck by what was going on – months with nothing to correct that situation. She said that
12 she questions what he is applying for these variances, it is an irregular lot, it is not conducive for a nice home
13 on the lot, yet it was never intended to be a buildable lot. She said she does not see the sense in trying to
14 make the lot something it was never meant to be. She said she is not unsympathetic; she is realistic. She said
15 that surely someone should have done due diligence at some point to know what they were purchasing, what
16 could be done with it, whether it would be the petitioner, his attorney, the title company, or even the
17 excavator who was filling in this property. She said she thought that a licensed excavator would know that
18 this is not allowed. She said she questions the co-petitioners who have come on board; she said that Derek
19 Wagner’s lot is next to hers, and they were having a conversation over the fence one day about it and he said
20 that when that fill was first brought in, it flooded his side yard, and he would probably have to have a talk
21 with Mr. Blakeney. She said she was surprised when she saw his name as a co-petitioner on the variance
22 notice. She clarified that Mr. Wagner is to the north of the Blakeney lot (Lot 89), and Mr. Tyler is to the west
23 (Lot 90). She said she finds it interesting that neither one of them attended the first meeting, nor this
24 meeting, and if they were really concerned and had some skin in the game, she would think they would be
25 here stating their case.

26
27 Mr. Thorsland stated that we cannot speculate as to why they are here or not here unless they come and tell
28 us, or inform us in some other fashion why they are not.

29
30 Ms. Schwenk said that Mr. Hall, who gave that letter of support, doesn’t even own that property anymore
31 and he was an out of state landlord, so she is not sure how much support that letter is.

32
33 Mr. Thorsland stated he wanted to clarify that the Mr. Hall who provided the letter of support is not the same
34 as the Mr. Hall sitting to his left, who is the Zoning Administrator.

35
36 Ms. Schwenk clarified that she meant Mr. Williams. She said she has a letter from a homeowner at 2308
37 Pheasant Ridge Road, on the other side of the Williams property.

38
39 Mr. Thorsland requested that Ms. Schwenk submit a copy of the letter to staff.

40
41 Mrs. Schwenk read the letter from the Lebeau family as follows:

42
43 My name is Clinton Lebeau and my wife, Eleanor Lebeau and I own the property at 2308
44 Pheasant Ridge Road. I am unable to attend in person today as I reside out of state. My son
45 and his wife currently live at the residence.

46

1 I hope this letter adequately reflects my objections to the variances proposed by Scott Blakeney
2 regarding changes, he's made to the property at 2312 Pheasant Ridge Road.

3
4 Last summer my daughter-in-law sent me images of their cul-de-sac flooding after heavy rains.

5
6 I have owned this property since July of 2015, however my son and daughter-in-law have resided
7 at 2308 Pheasant Ridge Road since 2011. This was the first time since they moved in that the cul-
8 de-sac flooded. This flooding took place after Mr. Blakeney began filling in the water retention
9 basin. I expressed my concern at that time if the rains continued, the flooding could possibly have a
10 negative effect on their property.

11
12 I was unaware at the time that the property at 2312 Pheasant Ridge Road was part of the Rolling
13 Hills drainage system. I was also unaware that he had not received property permits to fill in the
14 basin behind his house and was in violation of zoning laws.

15
16 I have been out to visit my son and his family since Mr. Blakeney moved in. I do believe he
17 has done a wonderful job of beautifying his property, but I do not believe it is his right to do
18 so, by breaking the law, avoiding proper permits and putting your neighbor's properties at risk.
19 I strongly object to these variances as I fear that in the event of a major rainfall my property will be
20 put at risk for flooding given what we have already witnessed since the basin began being filled.
21 This is where my son and his wife have made their home and are raising my grandchildren. Their
22 safety and the stability of their home and property is of the highest importance to me.

23
24 Mr. Thorsland said that the best thing would be for Mr. and Mrs. Lebeau to send the letter directly to
25 Planning & Zoning, because then we know it is coming and it will become part of the packet. He asked Ms.
26 Schwenk if she could submit a copy of the letter to staff so that it will become part of the record.

27
28 Ms. Schwenk said that she received another letter from Ashley Ferkler, formerly of 2311 Pheasant Ridge,
29 which is one lot directly south of the Blakeney lot. Ms. Schwenk read the letter as follows:

30
31 I am typing this letter in the hopes that it will be able to adequately reflect my interests in a
32 pending matter regarding my property at 2311 Pheasant Ridge Road in Mahomet, IL and some
33 requests made to alter the property next door to me at 2312 Pheasant Ridge Road. By the time
34 that I received notice of the hearing on the matter, though not in an untimely manner, it was not
35 in enough time that I could get off work to attend. I am sending this letter with other
36 neighbors with whom I share some property line, Kevin and Mary Schwenk, and trust that
37 they will represent me well.

38
39 As I understand the situation (and I admit that it was difficult to ascertain everything from the notice),
40 the owners of 2312, the Blakeney's, are asking to essentially change zoning laws AFTER they have
41 already violated them. These violations have led to countless issues on the grounds and certainly on
42 my own property. I will speak from my own experiences.

43
44 At one point, last year, about May of 2016, shortly after they moved their house on to the property,
45 tons and tons of dirt were hauled in. Holes were dug in their property and moved around and quite
46 frankly, it was difficult to tell what all was going on. It is important to know what happens at this

1 location during heavy rain.

2
3 As often does at our cul-de-sac during a heavy rain, it “floods”. This has never posed a
4 major problem, as there is a run-off that has occurred since I moved in back in 2010. From
5 behind 2312 and through what I call a small “gully” that runs behind and through my property,
6 the water is diverted. As soon as the rain stops, the flood water peters out, always staying its course,
7 until it drains all the way away and the street is once again clear.

8
9 Within a day or two of the massive movement of hills of dirt, we had a heavy rain. I happened
10 to be home that day and I was curious if the work they did would affect the cul-de-sac. It did...in
11 spades. The flooding was so severe that I watched as they showed up at their house and could
12 not drive through the water to reach it. I already knew I would not be able to leave. I thought
13 perhaps their work has slowed the draining process. I was wrong; it stopped it completely. My
14 yard flooded halfway to my house, I couldn't leave if I needed to, not in my car.

15
16 I made some calls to the village trying to reach someone. I'm not sure who else called, but
17 eventually some workers in a truck appeared and seemed to assess the situation. The rain had
18 stopped at this point and there was NO draining.

19
20 Someone showed up and started up the tractor at 2312 to move dirt. Finally, and very quickly, the
21 street drained.

22
23 What I didn't know at the time and wouldn't find out until I was preparing to move and sell my
24 house is that what they had done flooded my crawl space and shorted out my sump pump. I am
25 disheartened that I hadn't thought to check, but in the years, I have been there, my crawl space has
26 always been dry as a bone, never an issue. The stagnant water in it was distressing. Unfortunately,
27 I didn't feel comfortable throwing a fit, as it were, a few months later, so I left it. To get this notice
28 from them is a slap in the face, however.

29
30 The Blakeney's seem to have wonderfully affected the ability to say the right things to someone,
31 but they will do whatever they want to with complete disregard for those around them. As side
32 notes, they have dug up and created landscaping that has pushed exactly up against, and in part
33 impeded on, my property. Even after I had a professional surveyor come out, measure, mark, and
34 talk directly to Scott Blakeney about the property lines, he never changed the location of some fence-
35 type structures or tall bushes that he planted on my property, nor did he offer to.

36
37 Quite frankly, I was really trying to avoid conflict with new neighbors and attempting to pick my
38 battles well, and I chose to let it go. I've ignored the constant police presence. The yells and
39 screaming. The accusations of drug dealing within their home. This newest action from them is
40 simply too much, however. I cannot even imagine what troubles will occur if they continue to alter
41 the land in this area. The ripple affects everyone.

42
43 I will say that, obviously, they do beautiful work on their property. The landscaping is nice and well-
44 cared for. They take pride in it, and I don't think anyone can say otherwise. However, that is not
45 reason enough to justify having a negative impact on everyone who owns the houses and yards
46 around them; or those, like myself, who are hoping to sell their property to others who hope to call

1 this lovely neighborhood “home”. It seems that if the Blakeney's are given an inch, they want the
2 whole mile...and then some.

3
4 Please consider moving forward with whatever fines or punishments have been leveraged
5 against them for the improper and inappropriate violations they have accrued. I ask that they not
6 be allowed to make drastic changes that will affect the landscape of everyone who has been living
7 peacefully and damage-free until they moved in. They can continue to have their home and do
8 wonderful things to their property; they simply must do it the right way. The Blakeney's told me once
9 when we spoke briefly after they arrived that this was their retirement home and they were
10 excited to live here. I would never want to take that away from someone. However, they also told
11 me that they wanted to get along with their neighbors and not fight. Nothing they have done since
12 moving in implies that this is the case. I believe that they are creative enough to find alternative
13 ways to embrace and beautify their home without having the negative impacts that the current course
14 most certainly will.

15
16 I am including some photos that I've taken since witnessing the jaw-dropping work that has been
17 done. I did not know for sure why I was taking these photos when I did. In fact, I almost forgot I had
18 them. I think I must have been worried that keeping track of the events would be something I wished
19 I had done. Maybe they will help illustrate the points that we all are trying to make.

20
21 Thank you for your consideration. If I need to be contacted, the Schwenks have the ability to get
22 ahold of me and to share any information needed. I will be happy to talk to whomever and about
23 whatever is needed to satisfactorily resolve this issued for every single homeowner involved,
24 including the Blakeney's.

25
26 Mr. Thorsland again encouraged Ms. Schwenk to have Ms. Ferkler send the letter directly to Planning &
27 Zoning, and to submit a copy of the letter so that it can be on record.

28
29 Ms. Schwenk stated that Ms. Ferkler's letter referred to pictures that Ms. Ferkler had provided previously
30 and were already a part of the packet. Ms. Schwenk referred to a photo with the Blakeney house, garage, and
31 a big mound of dirt that she said is still there.

32
33 Mr. Thorsland asked if a house came in or was constructed during the movement of all this dirt or did this all
34 happen in a short period.

35
36 Ms. Schwenk said that the prior tenants moved in 2008-2009, and maybe that was when more fill was put in.
37 She said that the new house came in May of 2016.

38
39 Mr. Thorsland asked for clarification; he said that for a while there was no house on the Blakeney property,
40 just a garage.

41
42 Ms. Schwenk confirmed that there was no house from around 2008-2009 until spring of 2016.

43
44 Mr. Thorsland asked Ms. Schwenk if all this activity started to happen in spring of 2016.

45
46 Ms. Schwenk said that was correct.

1
2 Mr. Thorsland said that Ms. Schwenk was doing an excellent job communicating what the letters said, but
3 reiterated that they should send their letters directly and asked Ms. Schwenk for copies of the letters to enter
4 into the record. He added that the pictures Ms. Ferkler included with her letter were already in Supplemental
5 Memorandum #2. Mr. Thorsland said that now is the time to show anything new; if there is information that
6 is already in the packet, there is no need to go over them now. He said that any files could be sent to staff,
7 even if they seem repetitive; staff can sort out what is a copy and what is new.

8
9 Ms. Schwenk stated that she had nothing else except to wrap up. She stated that she feels they should have
10 been at this comfort level with the way those original covenants were written for the Rolling Hills
11 Subdivision back in 1993. She said that is why we have those rules, that is why they have those laws and
12 stipulations; it's for our protection. She said that when the lot was sold and built upon, her comfort level
13 decreased. She became a bit more comfortable in 2008, and now with the request of these variances, her
14 comfort is reduced once again. She said that she trusts that the engineers and everybody can come together
15 and we can get this resolved, and she hopes in an expeditious manner because this has dragged out over a
16 year, and every time it rains, she thinks they (the neighbors) all cringe. She said she knows the practical
17 damage water can do, and as a taxpayer, she just wants to be heard and thinks somebody should take
18 responsibility.

19
20 Ms. Burgstrom asked Ms. Schwenk if she could estimate how many flooding issues she has had since they
21 graded the dirt on the property, after the fill was put in.

22
23 Ms. Schwenk asked if Ms. Burgstrom meant her personally.

24
25 Ms. Burgstrom said anything that Ms. Schwenk has noted would be fine.

26
27 Ms. Schwenk stated that other than what she just said, there was flooding on the property to the south and
28 the cul-de-sac.

29
30 Ms. Burgstrom asked if that was not when the fill was just placed and not even graded on the ground yet, it
31 was just in big piles when that flooding occurred.

32
33 Ms. Schwenk stated she thought that the grading was done in stages; she does not know the timeframe. She
34 said they were not even privy to what was going on over there because it was kind of hidden. She said she
35 knew what happened prior, and she fears that the changes will affect their properties, their investments. She
36 said they are not renters, here today and gone tomorrow; these are their properties. She said it especially
37 impacts her family because they have three acres that back up to at least two of those lots that are affected by
38 the whole basin flow.

39
40 Mr. DiNovo asked if Ms. Schwenk knew if anyone measured the rainfall during that storm.

41
42 Mr. Kevin Schwenk stated 8 inches.

43
44 Mr. Hall asked Ms. Schwenk if she recalled when that 1999 gullywasher occurred.

45
46 Ms. Schwenk suggested looking at the work receipts from the packet; she thought it was in spring of 1999.

1 She said they pretty much had that work done immediately after the event.
2
3 Mr. Hall asked Ms. Schwenk if she has ever had a problem, since she has been there, with water coming
4 over the property line, not down through the drainageway, but perhaps along the line of forsythia.
5
6 Ms. Schwenk suggested asking her husband.
7
8 Mr. Hall asked Ms. Schwenk if dirt had been removed along with the forsythias.
9
10 Ms. Schwenk said no, they just looked like they had been cut down.
11
12 Mr. Thorsland asked if anyone would like to cross-examine Ms. Schwenk.
13
14 Mr. Duane Deters asked if the forsythia was paid for by Mr. Blakeney.
15
16 Mr. Thorsland informed Mr. Deters that he was adding information, so it could not be asked in cross-
17 examination.
18
19 Mr. Deters asked Ms. Schwenk if she had a survey produced to show that the forsythia was on her property.
20
21 Ms. Schwenk responded that Mr. Blakeney said he did not have a survey.
22
23 Mr. Deters asked Ms. Schwenk if she had a survey to show where her property line was.
24
25 Mrs. Schwenk said no, but she could produce that.
26
27 Mr. Deters asked, regarding the flooding event that Ms. Schwenk testified to, which he believed was in
28 April, if it was correct that Mr. Blakeney worked on the pipe.
29
30 Ms. Schwenk said she had no idea.
31
32 Mr. Deters asked if, after Mr. Blakeney did that work, that there were no more flood issues.
33
34 Ms. Schwenk said she had no idea.
35
36 Mr. Deters asked if Mrs. Schwenk knew if he removed any obstructions from the pipe.
37
38 Ms. Schwenk said she had no idea what has gone on in the Blakeney lot.
39
40 Mr. Deters asked if it was true that Ashley Verclar has since moved and sold that property.
41
42 Ms. Schwenk stated that is true.
43
44 Mr. Deters asked Ms. Schwenk, about the flowers Ms. Verclar claimed were stolen; does she have any
45 evidence to show that Mr. and Mrs. Blakeney were the ones that allegedly stole the flowers.
46

1 Ms. Schwenk stated no, she would have to have Ms. Verclar verify that.
2
3 Mr. DiNovo objected to the relevance of this line of questioning.
4
5 Mr. Thorsland stated that the cross-examination was starting to sound a bit aggressive. He said he knows
6 these are questions based on testimony, but he thinks it is going just a little further than it needs to go right
7 now.
8
9 Mr. Thorsland stated that he will call Mr. Blakeney to testify, and invited Mr. Deters to come up with him.
10 He said that might be an appropriate time to talk about some of the questions Mr. Deters has.
11
12 Mr. DiNovo stated that testimony should focus on the variance criteria: is there a hardship, are there practical
13 difficulties, is there a negative impact from the variances on the neighborhood, etc. He said that any
14 ancillary claims of misbehavior are completely irrelevant, and beside the point, the Board well understands
15 that we really do not need to listen to testimony about things like that.
16
17 Mr. Deters responded that is fine and could Ms. Schwenk's responses to the testimony be stricken from the
18 record, because she has been making accusations through letters from other people.
19
20 Mr. Thorsland stated that this Board has always taken testimony verbatim but applied only as it relates to the
21 variance, as Mr. DiNovo just said. He said a lot of those things will not go into the Finding of Fact; rather,
22 they will just go in the minutes. He said he would call Mr. Blakeney to testify, and added that it is Mr.
23 Blakeney's opportunity to talk counter to that if he feels it is necessary. He said that where the flowers went
24 is not a big concern for the Board; what is a concern is where the water is going. He said there was no
25 testimony from Ms. Schwenk about this pipe, so any question about the pipe isn't relevant.
26
27 Mr. Thorsland asked if the audience if anyone else would like to cross-examine Ms. Schwenk, and there was
28 no one.
29
30 Mr. Thorsland called Kevin Schwenk to testify.
31
32 Mr. Kevin Schwenk, who resides at 1207 North Charter Oaks Circle, Mahomet, stated he wanted to give
33 everyone an idea of what the subdivision looks like. He showed a photo of Rolling Hills Subdivision with
34 blue arrows which indicate water flow. He said the water flows down to Pheasant Ridge Road, and then
35 down to the cul-de-sac which in turn goes down the north side of Lot 100 where it is detained. He said that
36 the detention area is about 75 percent of that lot. He said that lots 90, 89, and 99 also all have a portion of
37 their lot dedicated to the detention area. He said that this area is the detention for this whole subdivision. He
38 said that lots drain down Robin Road and in between lots 90 and 89 and you can see that there is quite a bit
39 of water that will flow through that, and is detained in a ditch and then through his property.
40
41 Mr. Thorsland asked if this was the ditch that Ms. Schwenk described.
42
43 Mr. Schwenk said that is correct. He referred to the second photo, which showed the continuation of the
44 creek which is the link between the Schwenk, Collett and Shallenberger properties. He said the water flows
45 through his property and eventually to the Sangamon River. He referred to a pasture where he had marked a
46 tree before, and after that 8-inch rainfall the mark was two feet high after and that whole pasture was

1 flooded. He said they get drainage from the Rolling Hills Subdivision and the Trailside Subdivision and
2 there is a lot of water that flows down through there.

3
4 Mr. Schwenk showed a copy of the deed for when Lot 100 was sold to the Blakeney's. He said that it states
5 on the deed that upon conveyance of the property, that under number 2, it is subject to covenants, conditions,
6 restrictions, easements, apparent or of record. He said that under number 3, it states all applicable zoning
7 laws and ordinances.

8
9 Mr. Schwenk presented the Rolling Hills Subdivision Covenants. He said that on line 26, it is called
10 maintenance of storm water control basin, states a storm water control basin exists on parts of Lots 89, 90,
11 99 and 100, and is subject to periodic inundations following rainstorms; therefore, even at that time, they
12 knew they had problems with water. He said it continues that this basin shall be maintained by all the lot
13 owners served by the storm water control basin and shall not be filled, built upon, or modified in any way
14 that would reduce its storage volume or impair the flow of water into the basin or alter the flow of water out
15 of the basin. He said he just wanted to make sure everyone was aware of what the covenants said.

16
17 Mr. Schwenk stated that he wanted to include that in Berns and Clancy's report, it said the following: "in
18 conclusion the overall suggestions of Phoenix Consulting Engineers to Mr. Blakeney do not appear to be
19 adequate to allow for the basin to continue to function as it was designed after placement of additional fill.
20 The basin storage volume has been decreased by more than 75 percent as compared to 1993 conditions, and
21 appears to significantly increase the release rate from the basin. Additional outflow will now be overflowing
22 into the spillway, causing total outflow to be above maximum allowable release rate of 5.0 cubic feet per
23 second." Mr. Schwenk said that is why he asked Mr. Nickrent what the cubic feet release rate was going to
24 be. Mr. Schwenk said that the last report from Phoenix was that the release rate was going to be 22.6 cubic
25 feet per second. He said he was trying to visualize in his mind how much cubic feet of water would that be in
26 a second; 5 feet would be quite a bit, and if it is going to go up to 22 feet per second, now we are talking a
27 lot of water. He said he hopes that when Phoenix Engineers goes to do their calculations that they consider
28 what some of Berns and Clancy's report was, and the allowable release rate of 5 cubic feet per second must
29 be a law stated somewhere; they are not just pulling that out of their head. Mr. Schwenk said that finally, he
30 wanted to read text from the Stormwater Management and Erosion Control Ordinance.

31
32 Mr. Thorsland stated that the Board has the Ordinance, and they are surprisingly familiar with it, because 50
33 percent of our cases have to do with water where it shouldn't be or too much water. He said this is part of
34 the county engineer's review; Berns Clancy will reference this in their report that everyone on the Board will
35 receive. Mr. Thorsland stated that he appreciates and admires the amount of research that Mr. Schwenk has
36 done, but he does not want to add things that are already in the record and things that we reference in our
37 own stuff already.

38
39 Mr. Schwenk said that some people might not know.

40
41 Mr. Thorsland said he would keep Mr. Schwenk on the list and said that he wants to give everyone a fair
42 shake.

43
44 Mr. Schwenk said that he would be very anxious to see how it will be if Phoenix does a complete detention
45 basin regrade.

46

1 Mr. Thorsland concurred. He said that this is why it is always helpful if information arrives in time for the
2 mailing, and not the night of the meeting; he knows that this is sometimes difficult, and this is not the only
3 case where we get things the night of the meeting. He added that, typically, this Board does not act on things
4 that they get the night of the meeting, especially if it is something complicated like this.

5
6 Mr. Thorsland asked if there were any questions for Mr. Schwenk from the Board.

7
8 Mr. Hall asked Mr. Schwenk if he ever recalled storm water coming over the east property line where the
9 forsythias were removed.

10
11 Mr. Schwenk responded that during a heavy rainfall, it will.

12
13 Mr. Thorsland asked Mr. Schwenk to repeat what he said for the recording.

14
15 Mr. Schwenk said that the spillway is on Lot 89, and then it is directed over onto his property and then
16 eventually to the creek. He said there he has seen rain events when the water flows between Lot 100 and Lot
17 89. He said the water had nowhere else to go, it's just following the natural flow, and it looks like a creek
18 flowing through there. He said that depending on how much rain they get, it can really move through there,
19 and the same goes for the front. He said that he has a 24-inch culvert up front, and he has seen it full twice;
20 that is a lot of water. He said that usually when it quits raining, it goes down to the creek, heads to the river,
21 even after it floods that pasture back there and eventually it will go down. He said there has only been a few
22 times when he went out there checking to make sure it wasn't going to get close to the back of the house. He
23 said that one minute the creek is level, then another it's a foot over, and the next thing you know you can't
24 see the pasture because it all looks like glass, and that water is coming and it doesn't take very long. Mr.
25 Schwenk repeated that it does come through down the east side of the property during a heavy rainfall.

26
27 Mr. Hall thanked Mr. Schwenk.

28
29 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Schwenk and there were none.

30
31 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Schwenk.

32
33 Mr. Nickrent asked Mr. Schwenk if the water that comes off the east side of the property, or the west side of
34 the Schwenk property, has ever caused any erosion issues or anything on the emergency overflow.

35
36 Mr. Schwenk responded that it probably could have, but he put plantings in there. He said he has always
37 made sure he had the grass established, and towards the creek he hauled in river rock. He said that he has
38 taken precautions; he has hauled in river rock there so that when it does rain, it will not make a mud hole. He
39 said there are pine trees where that spillway is, and there are forsythias, he just tried to keep plantings
40 established so there could be a root system there.

41
42 Mr. Thorsland asked the audience if there was anyone else who would like to cross-examine Mr. Schwenk
43 and there was no one.

44
45 Mr. Thorsland called Scott Day to testify.

46

1 Mr. Scott Day, who resides at 2408 Fogel Road, Mahomet, stated that he wanted to keep this short, but he
2 thinks that Mr. Nickrent was talking about a 50-year storm, and probably since 2016 we haven't had a 50-
3 year storm. He said there is a lot of water that comes through and his concern is that they get this back to the
4 1993 specifications, and that it works for everybody and protects the lower landowner.

5
6 Mr. Thorsland asked Mr. Day for clarification, if he was referring to the 1993 as built. He asked if Mr. Day
7 has lived there since 1993.

8
9 Mr. Day responded that he has been there since 2003, and to his knowledge, it has worked fine. He said he is
10 not next door, but he is downstream; he said they had some issues in the 1990s and so forth. He said he
11 helped Mr. Shallenberger put his wall back up, because there was some devastating flood damage in there at
12 that time, that came from that subdivision directly. He said he is curious to see what Mr. Nickrent comes up
13 with, and he is glad to see Mr. Nickrent is on board with this project and he has a lot of faith in him as an
14 engineer.

15
16 Mr. Thorsland asked the Board and staff if there were any questions for Mr. Day, and there were none.

17
18 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Day, and there was no one.

19
20 Mr. Thorsland called Gary Shallenberger to testify.

21
22 Mr. Shallenberg declined to testify.

23
24 Mr. Thorsland called Mr. Gary Collett to testify.

25
26 Mr. Gary Collett, who resides at 1205 North Charter Oaks Circle, Mahomet, stated he has had some erosion
27 problems, and has one of the drainage ditches Mr. Blakeney's ditch drains off to on the south side along the
28 little stream that runs between the Collett and Schwenk properties. He said he has blue spruce trees planted
29 along that line, and in the last 12 to 14 months, he has noticed that where his land comes out by Mr.
30 Blakeney's property, straight south and back to the east his land curves there and that is where the water
31 from Mr. Blakeney's property hits on the curve. He said he planted three blue spruces down in that area in
32 1998, and his whole bank where the excess water is coming down is eroding down to the root level on his
33 trees on that side of the water. Mr. Collett stated that he has never had a problem since the trees have been
34 there and he planted them far enough up the bank so that they were away from being an issue, and now it's
35 an issue.

36
37 Mr. Thorsland stated that the trees were there in 1999 when this big rain came.

38
39 Mr. Collett confirmed that the trees were there in 1999, and had not had a problem before, but now he
40 literally has three to four feet of bank he is losing on that side where the water hits that side of his bank and
41 is eroding. He said that he put riprap in that area back in 1998 to avoid that, and it alleviated all the
42 problems they were concerned with at the time. He said that they also had it regraded to slope more to keep it
43 in the basin of the creek that runs down through there. He repeated that they had never had an issue. He said
44 that since the last meeting they had a major rainfall and he was down there and has film if anyone would like
45 to see it.

46

1 Mr. Thorsland asked if Mr. Collett could make that available electronically to the Board.

2
3 Mr. Collett stated that the video is on his phone, so he will see if he can forward it to staff. He said that
4 when we were talking about the flooding of the cul-de-sacs of Rolling Hills, and someone asked what was
5 done or what they were doing, it looked to him like they came in with a backhoe and excavated a trench out
6 to a field tile that he believes was running along the north side of the Blakeney's property. He said that
7 action is what alleviated the water in that cul-de-sac.

8
9 Mr. Thorsland asked if that was during the emergency.

10
11 Mr. Collett stated that he is just going off the pictures that the Board has, because you can see where they
12 went in there and dug out a trench to maybe a 12-inch field tile. He said he assumes that was what was done,
13 and what caused that to drain out. Mr. Collett said that another part of this is that the Owner's Certificate for
14 dedication of Rolling Hills Estates, the Architectural Control Committee has been given a lot of authority
15 and power as to handle these types of situations. He said that since they are not part of that subdivision, he
16 has no idea of where this Committee stands or who is appointed to it, but the Committee was originally
17 Warren Huddleston and Olen Parkhill. He said that the Owner's Certificate explains that through the course
18 of time, they will maintain that Committee. Mr. Collett said that he has no idea who is on that Committee
19 now, but Mr. Schwenk touched on a part of this in section 26 of the Owner's Certificate. He read from the
20 certificate as follows: "upon failure to remedy the impairment of the basin within a reasonable time, the
21 Architectural Control Committee, its agents or employees may enter onto Lots 89, 90, 99 or 100 and take
22 such action as it deems necessary to remedy any impairment of the basin's functions to the extent that any lot
23 owners responsible for such impairment, the Architectural Control Committee may assess and the owner
24 shall pay any cost incurred in the remedying of that basin." Mr. Collett asked if the Architectural Control
25 Committee is not in control here, then who is, because he would like to know who is liable for the damage to
26 his property.

27
28 Mr. Thorsland stated that if someone reached out to the Architectural Control Committee, they could find
29 out who to contact or if they cannot find the information, perhaps P&Z Staff could try to contact them. He
30 encouraged everyone to try to find out who has this authority now and what they would recommend. Mr.
31 Thorsland said that it appears that they came in, put all this fill in, placed the home on the lot, and then used
32 the backhoe to get the cul-de-sac to drain and he assumes that most of it went into the tile that was exposed.
33 He asked Mr. Collett if some leveling work has been done with the fill dirt.

34
35 Mr. Collett stated that he is not sure what all is going on over there.

36
37 Mr. Thorsland asked if the rain that happened between the last meeting and this meeting caused flooding
38 there and did they have a big water problem down through their sluiceway.

39
40 Mr. Collett stated that they have lived out there a long time, and they know what to expect when a big rain is
41 coming, and it has never been a problem. He said he has literally had no damage now. He said he believes
42 that after they added the dirt back there was when the Shallenberger's wall, which is a huge 15 to 20-foot
43 brick wall, vanished. He said it took all the backhaul dirt behind the wall, and collapsed the wall in and it
44 was a huge amount of water that came down through that could destroy a 15 to 20-foot wall that was
45 designed to take that. Mr. Collett stated that this is when they started worrying, because the problems started
46 coming downstream to their properties. He said they had never had these situations before, so it can only be

1 concluded that somehow this work had an effect on that.
2
3 Mr. Hall asked Mr. Collett for clarification; he thought the wall collapse was after the 1999 rain event.
4
5 Mr. Collett stated that it might have been in 1999.
6
7 Mr. Hall stated that what happened in 1999 cannot be at all related to what the Blakeney's did.
8
9 Mr. Collett stated that Mr. Hall would be correct if it was 1999 when that happened. He said they have
10 noticed a larger amount of water coming through back there since the adjustment of that property.
11
12 Mr. Thorsland asked if Mr. Collett still sees the erosion, and is it a new problem since 2016, when the
13 modification of Lot 100 occurred.
14
15 Mr. Collett responded yes. He said the only thing he could base this change on would be the Berns Clancy
16 report page 17, Section 2, which states the following: "the basin reviewed by Berns, Clancy and Associates
17 and documented in a letter documented February 3, 2017, requests the variance is as follows: the requested
18 variance parts B1 and B2 are roughly equivalent to the amount of variances required, which is essentially a
19 negative 75% variance due to the amount of required stormwater detention volume that has been filled." Mr.
20 Collett said that a 75% variance seems awfully large. He continued to read from the report as follows: "part
21 B4 is a variance of 372% based on proposed total flow release rate of 23.6 cubic feet per second in both the
22 detention basin outlet and the emergency spillway during a 50 -year release rate as compared to the release
23 rate authorized by Section 9.1C.1., which for the subject property is 5.0 cubic feet per second during a 50-
24 year storm." He said again that the 372% seems awfully large, because we are not talking about a minimal
25 increase in waterflow. He said he knows the Board is waiting on additional information, but the Berns
26 Clancy report, reiterates the seriousness of the situation.
27
28 Mr. Thorsland asked if there were any questions from the Board or staff, and there was no one.
29
30 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Collett.
31
32 Mr. Kevin Schwenk asked if he could make a clarification.
33
34 Mr. Thorsland stated that Mr. Schwenk could provide testimony as a witness.
35
36 Mr. Schwenk stated that when they were talking about the big water of 1999, the detention basin was open
37 and working, as well as it could. He said the basin was not filled in then, it had some capacity and could
38 hold water, and they still had a large amount of water going through there. He said what he is trying to
39 convey is that if it is filled in, they will have quite a bit more water.
40
41 Mr. Thorsland determined that Mr. Schwenk's statement is testimony rather than cross-examination.
42
43 Mr. Thorsland stated Mr. Schwenk mentioned that the 1993 basin was functioning at least somewhat, but the
44 wall was still taken out during the big storm event.
45
46 Mr. Thorsland asked Mr. Collett if it was his concern that if there were a big storm event now, without the

1 retention capacity, the damage would be even worse.

2
3 Mr. Collett responded yes. He said the previous owner of Lot 100 set a modular home on a block
4 foundation, and for whatever reason that home was removed. He said that the modular home was literally on
5 an island, because there was no extra land, there was no back yard, it was all retention pond. He said that
6 now, as can be seen in the pictures, it is a lot. He said that he did not know what Mr. Parkhill or Mr.
7 Huddleston was thinking when they sold that lot, but the point is that it was made and designed under the
8 original premise to be a retention lot.

9
10 Mr. Thorsland stated that the Board cannot speculate what Mr. Parkhill and Mr. Huddleston were thinking.

11
12 Mr. Collett stated that perhaps the Board cannot speculate, but he can.

13
14 Mr. DiNovo stated that he would like to correct something. He said that Rolling Hills V, for good or ill, was
15 approved with the idea that it (Lot 100) was a buildable lot, and it would have a detention basin in its back
16 yard. He added that was not an uncommon way of doing stormwater detention at the time, and it was never
17 the case that the entirety of Lot 100 was intended to be reserved for detention purposes.

18
19 Mr. Collett said that he believes it states in here that originally it was.

20
21 Mr. DiNovo stated that is incorrect.

22
23 Mr. Collett said that Mr. DiNovo has the records and can research it for himself. He asked Mr. DiNovo if he
24 had worked for Mr. Parkhill.

25
26 Mr. DiNovo responded that it was quite the opposite, as he worked for the County at the time that the
27 County was reviewing the subdivision.

28
29 Mr. Collett apologized, because he was told that Mr. DiNovo worked for the Sangamon Valley Water
30 District.

31
32 Mr. Duane Deters requested the opportunity to cross-examine Mr. Collett.

33
34 Mr. Deters asked Mr. Collett how many blue spruce trees he had planted.

35
36 Mr. Collett stated that he planted three trees.

37
38 Mr. Deters asked if they were probably 3 to 4 feet tall when they were planted.

39
40 Mr. Collett responded yes.

41
42 Mr. Deters asked Mr. Collett to estimate how tall the trees are now.

43
44 Mr. Collett responded that the trees are approximately 15 feet.

45
46 Mr. Deters asked Mr. Collett to estimate how much erosion there was, how much dirt washed away.

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Mr. Collett estimated 4 to 5 feet from the northeast side of that creek.

Mr. Deters asked Mr. Collett to estimate how much of the root system was exposed.

Mr. Collett said he had not measured it, but Mr. Deters was welcome to come out and look at it. He said that it was enough to expose all the roots along the east side of the creek bank and it has taken 3 to 4 feet of his yard away.

Mr. Thorsland stated that he had reached the end of the witness register, and asked the audience if anyone else would like to present testimony regarding this case, and there was no one.

Mr. Thorsland asked Mr. Blakeney, to return to the witness microphone. He noted that Mr. Blakeney's attorney could also come to the witness microphone if he desired.

Mr. Thorsland asked Mr. Blakeney at what point during the transactions for the property did he get the packet with the covenants and things in it. He said, for the benefit of the doubt, he bought a piece of property in Mahomet, and he did not get a package of things about People's Gas, Light and Coke and stuff until three months after he had paid for the property, so he understands sometimes the information does not come right away. He asked Mr. Blakeney if he was aware that a portion of that lot was intended to stay as a basin when he bought the lot.

Mr. Blakeney, who resides at 2312 Pheasant Ridge Road, Mahomet, stated that he had no idea. He said he thought it was just another unfinished job by Bud Parkhill. He said it looked to him like it was in the back of the subdivision, and it looked like they were doing the job and then didn't finish it.

Mr. Thorsland said Mr. Blakeney is speculating about the motivation for Mr. Parkhill was for the lot. He asked Mr. Blakeney who sold him the lot, and if it was a realtor did they indicate what was behind it, and that it came with a drainage basin.

Mr. Blakeney stated that he bought the lot from an individual.

Mr. Thorsland asked Mr. Blakeney if it was a private sale.

Mr. Blakeney responded yes.

Mr. Thorsland asked Mr. Blakeney if the seller told him what the depression on the lot was or had he talked with either neighbor.

Mr. Blakeney responded that he had not talked with anyone, and had no idea that it was a detention pond or he would not have filled it in.

Mr. Thorsland stated that he assumes the day that this flooding happened, right after the dirt arrived, and the backhoe came, was because Mr. Blakeney acted to try to alleviate the problem.

Mr. Blakeney stated that he believed that the cul-de-sac was flooding because, as the picture indicates, the pipe was dug out. He said he got with the Township to see if he was going to have to clean that pipe out, and

1 they never did make it, so his friend who had a backhoe ran it down through there, and it kept bouncing
2 back. Mr. Blakeney's friend told him that there was a ball located in the pipe, so they measured how far
3 down it was in there and they took that piece out with the backhoe. He said that there were 2 basketballs, 3
4 volleyballs, 7 softballs, tennis balls, and baseballs where that was a low spot in the cul-de-sac and the balls
5 had that pipe plugged up. He said that since then, there has been no flooding whatsoever. He said that
6 elevation there is so much higher than the detention pond overflow that it would go over the overflow before
7 it backed up to the cul-de-sac; therefore, that was not a problem with the drainage.

8
9 Mr. Thorsland asked Mr. Blakeney if what he was saying was that the detention basin would not have
10 flooded, because it would have gone over the spillway before it even got to the basin.

11
12 Mr. Blakeney said exactly.

13
14 Mr. Thorsland asked Mr. Blakeney if it was an independent action that they dug up and freed it up.

15
16 Mr. Blakeney stated that he had talked to the Township, and told them what he was going to do, and they
17 said go ahead. He said that at his own expense he cleaned out the pipe.

18
19 Mr. Thorsland asked Mr. Blakeney if he had seen the cul-de-sac flood.

20
21 Mr. Blakeney responded yes, he did.

22
23 Mr. Thorsland asked Mr. Blakeney if it was going over back behind his house, over the east side of the
24 property.

25
26 Mr. Blakeney stated that there was not a problem in the detention basin and he had never seen the detention
27 basin get over 6 inches deep. He said that the people who had been there since 1998 said the same thing.

28
29 Mr. Thorsland asked Mr. Blakeney what was keeping this water in the cul-de-sac.

30
31 Mr. Blakeney stated that the pipe was plugged up.

32
33 Mr. Thorsland asked Mr. Blakeney if the pipe was much higher than the detention basin.

34
35 Mr. Blakeney responded yes.

36
37 Mr. Thorsland asked Mr. Blakeney that if the pipe was plugged, and the detention basin wasn't filling and
38 the cul-de-sac was flooding, how would the pipe help if it was higher than the detention basin.

39
40 Mr. Blakeney said that the cul-de-sac is up here and water would flow downhill to the detention basin. He
41 said the water was not getting to the pipe.

42
43 Mr. Thorsland stated that the pipe is from the street to the basin.

44
45 Mr. Blakeney said yes, there are two separate pipes.

46

1 Mr. Thorsland asked Mr. Blakeney if it is his opinion that the cul-de-sac was flooded because of the play
2 equipment that plugged up the pipe.

3
4 Mr. Blakeney stated most certainly so, and that he has not had a problem since. He said they put a cage over
5 the end of the pipe on the street to prevent this from happening again.

6
7 Mr. Thorsland asked if his engineer knows about this pipe.

8
9 Mr. Nickrent confirmed that he does know about the pipe.

10
11 Mr. Thorsland stated that when the Board receives the report from Phoenix Consulting Engineers about
12 proposed improvements, this will be part of the plan and it is already part of it in some pages. He said the
13 County Engineer will review the report. He repeated what he has said all along; the Board just got this
14 information and they want to have time to digest it and he thinks it will be helpful. Mr. Thorsland said, back
15 to the original topic, whether it was the pipe or the fill, the fill is not supposed to be there, and that is obvious
16 if you read the covenants of the land. Mr. Thorsland said that we are in this dilemma which you may have
17 read, and that is we do have jurisdiction over, we can't grant anything on it if the nuisance is not alleviated,
18 and the nuisance is that there is fill in the drainageway. He said that Phoenix Consulting Engineers talks
19 about this, and their report is going to alleviate this so maybe we can get out of this loop that we're in. He
20 said the hearing will be continued, because it cannot be done tonight and he appreciates everyone who came
21 out, and for keeping the cross-examination reasonably well done. He said that he is not singling anyone out
22 when he stops a cross-examination question, because everyone really wants to fill in with what they think is
23 the whole story, and it is difficult not to do that.

24
25 Mr. Thorsland asked Mr. Blakeney if, after Mr. Nickrent presents the report, and the county reviews it and
26 determines that it seems like a reasonable plan, and everyone else agrees, would he do the work to get it back
27 to where the report indicates that it should be.

28
29 Mr. Blakeney stated that he would start the next day, and it will be done exactly how the engineers state it in
30 the report. He said that he would love to be able to plant grass seed.

31
32 Mr. Thorsland said that he understands that and he is sure everyone would like Mr. Blakeney to get started
33 on this job.

34
35 Mr. Blakeney stated that when he first came to the Planning and Zoning Department to request a permit, he
36 told Planning & Zoning staff that he was moving a house onto the subject property, adding a front porch,
37 remodeling the garage, installing new siding on the house, and doing some dirt work. He said that the lady at
38 the counter said a permit application is all he would need. He said he did not go into any specifics about dirt
39 work with staff, so he thought he was good.

40
41 Mr. Thorsland stated that he talked earlier about how the Board is familiar with storm water, probably more
42 than they ever wanted to be, and it is unfortunate that a full Board is not present tonight. He said that water
43 is one of the things in Champaign County that we get a lot of, and often it doesn't go where we think it is
44 supposed to be going. He said that a lot of times there is a communication issue between what one party
45 thought they could do and what one party thought they were going to do, and this sounds like it may be one
46 of these cases. He said that if the Phoenix report looks like a viable plan that will help relieve the nuisance,

1 and Mr. Blakeney is willing to do the work to remedy the nuisance, and the Board hopes that is the case. He
2 asked Mr. Blakeney if there was anything else he wanted to add.

3
4 Mr. Blakeney stated no.

5
6 Mr. Thorsland asked the audience if anyone desired to cross-examine Mr. Blakeney, and there was no one.

7
8 Mr. Thorsland asked if the Board or staff had any additional questions for Mr. Blakeney.

9
10 Mr. DiNovo asked Mr. Blakeney if he had a mortgage on the subject property.

11
12 Mr. Blakeney stated no.

13
14 Mr. Thorsland asked the Board and staff if there were any additional questions for concerns, and there was
15 none.

16
17 Mr. Thorsland reminded everyone that those who presented testimony or evidence during the meeting is
18 requested to send an electronic copy to staff. He specifically mentioned Mrs. Schwenk’s letters from other
19 residents, and requested contact information for those residents so that they can be included on the mailing
20 list for future meeting packets.

21
22 Mr. Thorsland asked staff to indicate potential dates for a continuance.

23
24 Mr. Hall stated that the earliest that all reviews could get done and this case return to the Board would be
25 September 14, 2017.

26
27 Mr. Thorsland asked Mr. Blakeney if he would be available for the September 14, 2017, meeting.

28
29 Mr. Blakeney said yes.

30
31 Mr. Thorsland asked Mr. Nickrent if he would be available for the September 14, 2017, meeting.

32
33 Mr. Nickrent said yes.

34
35 Mr. Thorsland stated that anyone who attended tonight and signed the witness register would receive
36 information for the next meeting. He said that if someone cannot attend the next meeting regarding this
37 case, they could send a note to staff.

38
39 Mr. Thorsland entertained a motion to continue Case 863-V-17 to the September 14, 2017, meeting.

40
41 **Mrs. Capel moved, seconded by Mr. Randol, to continue Case 863-V-17 to the September 14, 2017,**
42 **meeting. The motion carried by voice vote.**

43
44 **6. New Public Hearings**

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46 None

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7. Staff Report

None

8. Other Business

A. Review of Docket

Mr. Thorsland stated that he would absent for the August 17th and August 31st meetings.

Mr. DiNovo stated that he might be absent for the September 14th meeting.

9. Audience Participation with respect to matters other than cases pending before the Board

None

10. Adjournment

Mr. Thorsland entertained a motion to adjourn the meeting.

Mrs. Capel moved, seconded by Mr. Randol, to adjourn the meeting. The motion carried by voice vote.

The meeting adjourned at 8:42 p.m.

Respectfully submitted

Secretary of Zoning Board of Appeals

DRAFT SUBJECT TO APPROVAL DRAFT ZBA //

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