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## **CASE 863-V-16**

**SUPPLEMENTAL MEMORANDUM #5**  
September 14, 2017

**Petitioners: Scott Blakeney, Derek Wagner, and Tyler Wakefield**

**Request: Authorize the following Variance in the R-1 Single Family Residence Zoning District for an existing residence and existing garage and a proposed patio and a proposed detached shed and unauthorized earth fill, all located in an existing storm water drainage easement:**

**Part A. Authorize a variance from Section 4.2.2D. of the Champaign County Zoning Ordinance that no use shall be established, construction undertaken, nor fill placed in any recorded drainage or utility easement.**

**Part B. Authorize the following Variance from the Champaign County Storm Water Management and Erosion Control Ordinance:**

- 1. Authorize a variance from Section 6.1 A. requiring that no fill shall be placed nor grade altered in such a manner to create a nuisance.**
- ~~2. Authorize a variance from Section 6.3 G. prohibiting the destruction or obstruction of the operation of a storm water drainage system or storm water storage area.~~**
- 3. Authorize a variance from Section 9.1 E. for a freeboard of 0 feet in lieu of a freeboard of one foot.**
- ~~4. Authorize a variance from Section 9.1 C.1. for a release rate for the 50-year precipitation event far in excess of the maximum otherwise allowed that would be no greater than the rate of discharge from a 5-year return period precipitation event and an assumed row crop agricultural land cover.~~**
- 5. Authorize a variance from Section 9.1 C.2. for a release rate for frequent storm events that exceeds the maximum otherwise allowed that would be no greater than the rate of discharge from 1-year, 2-year, and 5-year return period precipitation events and an assumed row crop agricultural land cover.**

**Subject Property: Lot 100 in Rolling Hills Estates V Subdivision in Section 12, Township 20 North, Range 7 East of the Third Principal Meridian in Mahomet Township, and commonly known as the residence at 2312 Pheasant Ridge Road, Mahomet.**

**Site Area: 16,280 square feet (0.37 acre)**

**Time Schedule for Development: Existing and in use**

**Prepared by: John Hall**  
Zoning Administrator

**Susan Burgstrom**  
Senior Planner

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## STATUS OF NUISANCE ORDINANCE VIOLATION

Regarding the violation of Section 3.2 M.1. of the Champaign County Nuisance Ordinance that was the basis for Enforcement Case ZN-16-20/13 which was the following:

The destruction or obstruction, by act or omission, of the operation of any drainage structure or feature that drains and area of more than five acres.

The proposed Complete Detention Basin Regrade received 9/13/17 will restore the operation of the Rolling Hills V Subdivision detention basin and therefore it will abate that violation once the construction is complete.

## STATUS OF REQUIRED VARIANCE

Regarding Part A of the variance to authorize variance from Section 4.2.2 D. of the Zoning Ordinance requiring that no use shall be established or construction undertaken nor fill placed in any recorded drainage or utility easement that would interfere with the function of the easement, Part A is still necessary in some small way because although the Complete Detention Basin Regrade received 9/13/17 resolves the Nuisance Ordinance violation, the Regrade has not been shown to be in 100% compliance with the Storm Water Management and Erosion Control Ordinance and to the extent that it is not in 100% compliance there may be cause to claim some interference with the drainage easement and therefore, Part A of the variance should not be dismissed although the amount of interference with the function of the easement is quite small.

Regarding Part B.1. of the variance to authorize a variance from Section 6.1 A. of the Storm Water Management and Erosion Control Ordinance requiring that no fill shall be placed nor grade altered in such a manner that it will cause surface water upstream to pond or direct surface flows in such a way as to create a nuisance, the word “nuisance” as used in the Storm Water Management and Erosion Control Ordinance should be understood to be somewhat more broad than as used in the Champaign County Nuisance Ordinance and thus, resolution of the Nuisance Ordinance violation might not necessarily end all “nuisance” as it relates to the Storm Water Management and Erosion Control Ordinance. If the testimony at the public hearing does not indicate any nuisance situation being created based on the Complete Detention Basin Regrade received 9/13/17, the ZBA should dismiss this part of the variance.

Regarding Part B.2. of the variance to authorize variance from Section 6.3G. of the Storm Water Management and Erosion Control Ordinance prohibiting the destruction or obstruction of the operation of a storm water drainage system or storm water storage area, the operation of the Rolling Hills V detention basin will be fully restored by the Complete Detention Basin Regrade received 9/13/17 and **this part of the variance is no longer required.**

Regarding Part B.3. of the variance to authorize variance from Section 9.1E. of the Storm Water Management and Erosion Control Ordinance for a freeboard of six inches (formerly 0 feet) in lieu of a freeboard of one foot, this part of the variance is still required and is a 50% variance.

Regarding Part B.4. of the variance to authorize variance from Section 9.1C.1. of the Storm Water Management and Erosion Control Ordinance regarding release rate during the 50-year precipitation event, the Complete Detention Basin Regrade received 9/13/17 will lower the discharge from the

basin during a 50-year precipitation event to be sufficiently similar to the rate of discharge from a 5-year return period precipitation event and an assumed row crop agricultural land cover such that this part of the variance is **no longer required**.

Regarding Part B.5. of the variance to authorize variance from Section 9.1C.2. of the Storm Water Management and Erosion Control Ordinance regarding the release rate for frequent storms, the Complete Detention Basin Regrade received 9/13/17 has not been shown to be in 100% compliance with the Storm Water Management and Erosion Control Ordinance and to the extent that it is not in 100% compliance this part of the variance is still required but the amount of variance is not known but is assumed to be no more than 50%.