



# THE PRINCE GEORGE'S COUNTY GOVERNMENT

BOARD OF ZONING APPEALS

BOARD OF ADMINISTRATIVE APPEALS

COUNTY ADMINISTRATION BUILDING, UPPER MARLBORO, MARYLAND 20772  
TELEPHONE (301) 952-3220

## *NOTICE OF FINAL DECISION*

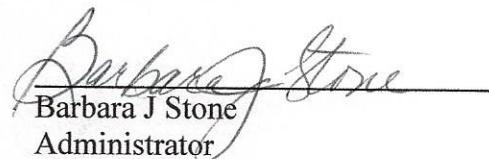
## *OF BOARD OF APPEALS*

RE: Case No. V-76-20 Clinton Development Group, LLC

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: March 24, 2021

## **CERTIFICATE OF SERVICE**

This is to certify that on July 15, 2021, the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Barbara J. Stone  
Administrator

cc: Petitioner  
Adjoining Property Owners  
M-NCPPC, Permit Review Section  
DPIE/Building Code Official, Permitting

**BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND**  
*Sitting as the Board of Zoning Appeals*

Petitioner: Clinton Development Group, LLC

Appeal No.: V-76-20

Subject Property: Lot 8, Yocom Property, being 2200 Joseph Drive, Clinton, Prince George's County, Maryland

Counsel for Petitioner: Thomas Haller, Esq., Gibbs and Haller Law

Witnesses: Chandra Mallina, Owner, Clinton Development Group, LLC  
Trisha Tate, Neighbor

Heard: February 24, 2021; Decided: March 24, 2021

Board Members Present and Voting: Bobbie S. Mack, Chairperson  
Albert C. Scott, Vice Chairman  
Anastasia T. Johnson, Member

**RESOLUTION**

This appeal is brought before the Board of Appeals, sitting as the Board of Zoning Appeals for the Maryland-Washington Regional District in Prince George's County, Maryland (the "Board"), requesting variances from the strict application of the provisions of Subtitle 27 of the Prince George's County Code (the "Zoning Ordinance").

In this appeal, a proceeding pursuant to Section 27-229 of the Zoning Ordinance, Petitioner requests that the Board approve a variance from Section 27-420(a) prescribes that walls more than 6 feet high shall not be located in any required yard, and shall meet the setback requirements for main buildings; on lots consisting of one (1) acre or less, walls in the front yard shall not be more than four (4) feet high without the approval of a variance. Petitioner proposes to obtain a building permit to construct a retaining wall with railing that exceeds 4 feet in height in the front yard. A waiver of the wall location requirement and height requirements over 4 feet in height in the front yard (abutting Joseph Drive) is requested.

**Evidence Presented**

The following testimony and record evidence were considered by the Board:

1. The property was subdivided in 2020, contains 71,399 square feet, is zoned R-E (Residential-Estate) and is<sup>1</sup> currently vacant property. Exhibits (Exhs.) 2, 3, 4, 13, 14, 15 (A) thru (H).
2. The subject property is owned by Clinton Development Group, LLC. Exhs. 13 and 14.
3. Thomas Haller, on behalf of the Petitioner, explained that the Yocom Property is a platted subdivision located on the west side of Piscataway Road in Clinton. He stated that Joseph Drive, which was platted in 1967, is an existing residential street serving lots in the Clinton Hill subdivision. Exh. 4.
4. He stated that the Yocom Property is a 20-acre parcel of land which was the subject of Preliminary Plan 4-05102, which was approved for a total of 19 lots located on an extension of Joseph Drive. He highlighted that just as Joseph Drive was platted to dead end at the Yocom Property to provide access for its future development, the preliminary plan of subdivision required that the extension of Joseph Drive dead end at the next property to likewise provide future access to it.

<sup>1</sup> The subject property is recorded among the Land Records of Prince George's County at Plat Book ME 254 Plat No. 66 ("Lot 8"). Lot 8 contains a total of .92 acres (40,206 square feet). Exhs. 2 and 4.

5. He stated that the road will be constructed to the common boundary line between the Yocum Property and the abutting property, which when it is developed at some point in the future, will be extended. He stated that, however, in the interim, the existing topography between the Yocum Property and the abutting property requires a retaining wall. The retaining wall will be extended along the northern portion of Lot 8 on the west side of Joseph Drive, across the terminus of St. Joseph Drive within the right of way, and then proceed along the northern portion of Lot 9 on the east side of Joseph Drive.

6. After the retaining wall and the road are constructed, homes will be able to be constructed on Lot 8 and Lot 9. Exhs. 3 and 4.

7. Petitioner is requesting to erect a retaining wall because of topography on the subject property.

8. Counsel stated that the requested variance is required because the wall will exceed four feet in height in the legal front yard of Lot 8 on the less than one acre in size property (it is .92 acres). Because the proposed wall will be more than 6 feet in height and located in the front yard, a waiver of the wall location and height requirement is required. Exhs. 2, 3, 4, 13, 14, and 15 (A) thru (H).

9. Counsel noted that on the subject lot, approximately 54 feet of the wall is more than 4 feet and less than 6 feet in height. He stated that with the railing on top of the wall (as required by M-NCPPC), the combined height of the wall and railing would exceed 7 feet. Exhs. 2, 3, 9, 10 and 11.

10. Trisha Tate, 2301 Joseph Drive, questioned how close the retaining wall would be to her home and stated that there is currently a metal barricade on the site.

11. Mr. Haller responded that the barricade will be removed.

#### Applicable Code Section and Authority

Section 27-230 of the Zoning Ordinance authorizes the Board to grant variances when, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, provided such relief can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan.<sup>2</sup>

#### Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to Lot 8 being impacted by exceptional topographic conditions which prevent the construction of the public roadway as required by M-NCPPC without the construction of a retaining wall, the failure to construct the public roadway in front of the lot will not allow the lot to be developed, the need to tie grades of the road construction, the requirement by M-NCPPC that a retaining wall (with a railing) must be constructed which will exceed 4 feet and the character of the neighborhood, granting the relief requested would not substantially impair the intent, purpose and integrity of the General Plan or Master Plan, and denying the request would result in a peculiar and unusual practical difficulty upon the owner of the property.

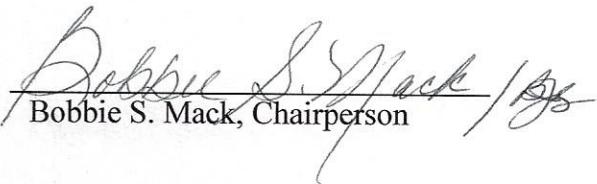
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<sup>2</sup> Also see *Anderson v. Board of Appeals, Town of Chesapeake Beach*, 22 Md. App. 28, 322 A. 2d. 220 (1974).

BE IT THEREFORE RESOLVED, unanimously, that a waiver of the wall location requirement and height requirements over 4 feet in height in the front yard (abutting Joseph Drive) in order to obtain a building permit to construct a retaining wall with railing that exceeds 4 feet in height in the front yard, on the property located at 2200 Joseph Drive, Clinton, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 3 and approved elevation plans, Exhibits 9, 10 and 11.

BOARD OF ZONING APPEALS

By:

  
Bobbie S. Mack, Chairperson

**NOTICE**

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George's County.

Further, Section 27-233(a) of the Prince George's County Code states:

A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.







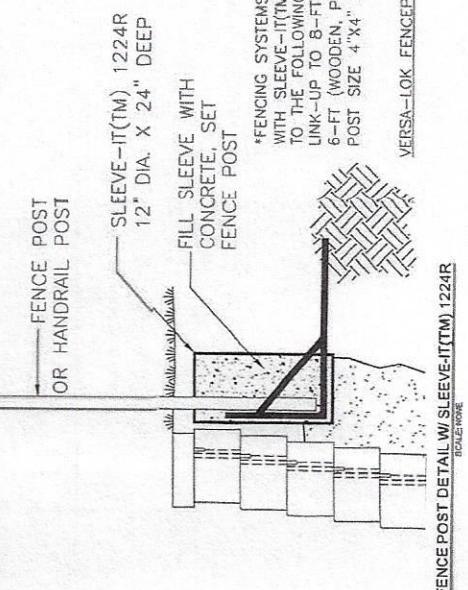
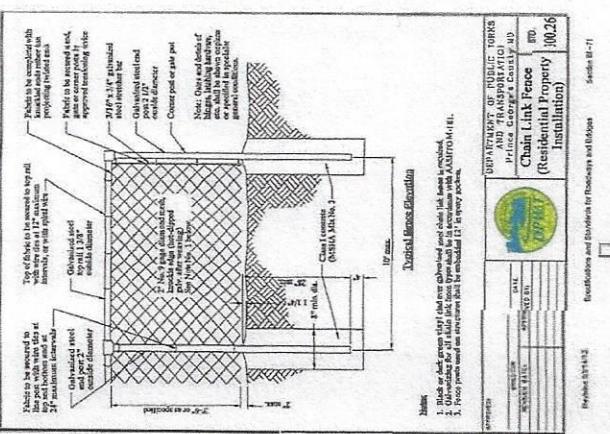
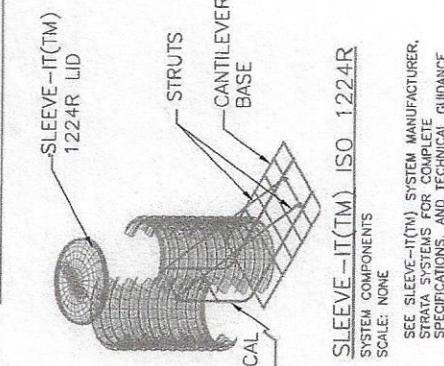
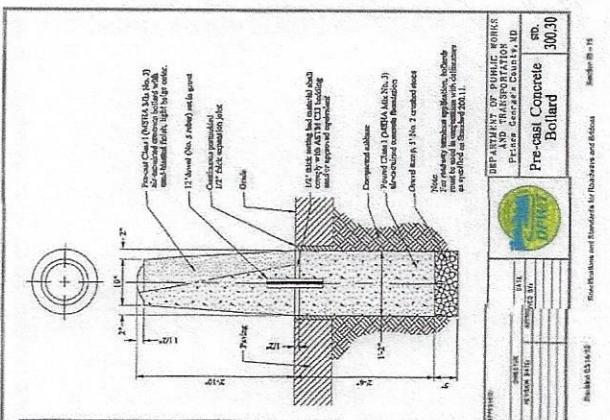
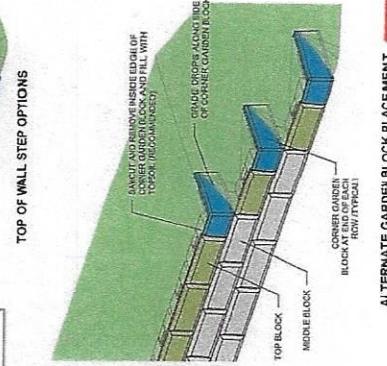
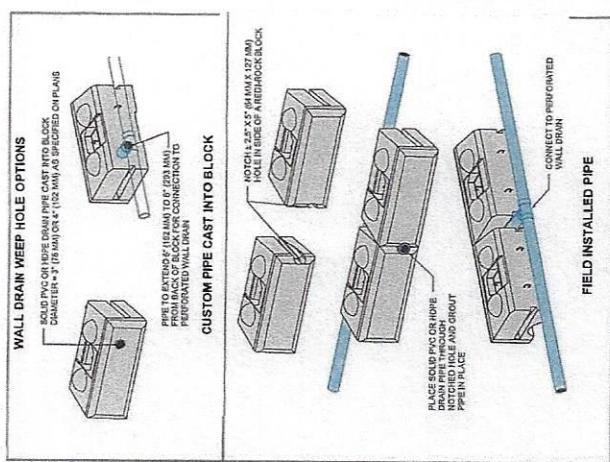
BOARD OF APPEALS

APPROVED MAR 24 2021

B. Stone  
ADMINISTRATOR

*B. J. Stone*  
ADMINISTRATOR

EXH. # 11 V-76-



Title: <b>STANDARD DETAILS</b>	
Clinton Hills Estates	
Clinton,	
Prince George's, Maryland	
Designed By:	Date:
BJL	4/30/20
Reviewed By:	Project No.:
GMN	120-078
Drafted By:	Sheet No.:
BJL	4 of 9
	Scale:
	NTS

 <p><b>geolab</b> GEOTECHNICAL LABORATORIES, INC. ENGINEERS GEOLOGISTS CONSULTANTS 8908 STATE ROUTE 108, SUITE D COLUMBIA, MARYLAND 21045 C: 410-772-2220 F: 410-772-2221 geolab@verizon.net</p>	<p>Prepared for: Clinton Development Group, LLC 11455 Harding Road, Laurel, MD 20723.</p> <p></p> <p>Professional Certification: I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed professional engineer under the laws of the State of Maryland.</p> <p>License No.: 55429 Expiration Date: 12/15/2021</p>
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