ORDINANCE NO. 47- 85

BY: Landoge Homes Phristy

An Ordinance authorizing the Mayor and Auditor to sign a Consent and Hold Harmless Agreement on behalf of the City of Bexley with the property owner at 854 Montrose Avenue (lot number 278; Riders Addition) regarding improvements to be made upon and within the City owned right-of-way of Montrose Avenue.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1. That the property owner at 854 Montrose Avenue (lot number 278; Riders Addition) has requested approval to construct a stone retaining wall in the front yard setback of said property, which, as proposed, would encroach a distance of approximately 2.5 feet upon and within the Montrose Avenue right-of-way owned by the City of Bexley;

Section 2. That the Mayor and the Auditor be, and they are hereby, authorized to enter into a Consent and Hold Harmless Agreement with the property owner, a copy of which is attached hereto and made a part hereof as if fully rewritten, authorizing the encroachment as proposed in accordance with the submitted site plan on the condition that the property owner assume all responsibility for damages, loss, and injury arising out of the location of said retaining wall including any additional cost to the City of Bexley incurred in connection with its use of the right-of-way occasioned by the location of the structure.

Section 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed:	9) number 12	, 1985
		President of Council
Attest:	J. Harry	
٨		President of Council Approved: Nov.12, 1985
	- 1streading - Intreading - passed	•
24,	7	-

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CONSENT

HOLD HARMLESS AGREEMENT

The undersigned property owner and the City of Bexley, Ohio agree as follows:

The owner has sought and obtained permission from the City of Bexley to erect a stone retaining wall as indicated below on the property described below and in the easement/right-of-way as described. Approval of the proposed retaining wall or structure and use of the easement/right-ofway area is conditioned upon this Agreement and construction in accordance with the plot plan.

Mark C. Stewart, his successors and assigns shall save the City harmless from any and all damages which may arise from, or grow out of the construction and installation of the retaining wall, and said grantee, his successors and assigns, shall defend, at his own cost, every suit in which the City of Bexley, Ohio shall be made a party, brought and prosecuted for the recovery of any such damages; that the occupancy of public property is hereby permitted merely as an accomodation to the said grantee and that no right, title or interest of the public is waived or abridged in any way thereby; that said grantee, his successors or assigns, upon notice from the City of Bexley, Ohio duly authorized by the Council of Bexley, Ohio, shall forthwith remove said retaining wall and shall yield to said City all rights to occupy the space used for such structure, whenever said City shall determine the same to be necessary; that said structure shall be so constructed as to not interfere with or damage any utility facilities and in the event that changes become necessary to construct and acommodate said retaining wall, the grantee, his successors and assigns, shall pay the entire cost of the necessary changes, relocations or rearrangements thereof.

This Agreement shall not be construed as in any way limiting the rights presently held by the City in the easement/right-of-way area, or the use thereof for public purposes, except to promote the construction and maintenance of the below mentioned structure in the easement/right-of-way area.

854 Montrose Avenue Street I
Address of Property Type of

Lot 278, Riders Addition
Lot No. or Other Description

25' Measured from Center of Montrose Easement/Right-Of-Way Width-Property Location

Street, Sidewalk & Public Utilities
Services Existing in Easement/
Right-Of-Way

Street Right-Of-Way
Type of Easement/Right-OfWay

2.5 '
Maximum Encroachment Into

Stone Retaining Wall

Building or Structure

Easement/Right-Of-Way

Ordinance No. -85
Approving Authority (Council)

Date of Agreement

Date of Agreement

This Agreement shall be binding on and for the benefit of the parties hereto and thier respective successors and assigns.

STATE OF OHIO, COUNTY OF FRANKLIN: 361 The foregoing instrument was acknowledged before me this _____, day of ______,19_____, by _____ , Mayor of the City of Bexley, Ohio, and, Auditor of the City of Bexley, Ohio. Witness Audi/tor Witness Notory Public STATE OF OHIO, COUNTY OF FRANKLIN: SS: The foregoing instrument was acknowledged before me this ____, Day of November , 1985 , by Sandra F. Stewart and Mark C. Stewart.

CHRISTY A. KRUSZYNSKI
Notary Public, State of Ohio
Not commission expires August 29, 1990