

ORDINANCE NO. 27-84

BY: James H. Groves

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 235 South Cassady (Lot No. 9, Amended Plat Bexley Park Extension) regarding improvements to be made upon and within the City owned right-of-way of Elm Avenue.

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

Section 1. That the property owner at 235 South Cassady (Lot No. 9, Amended Plat Bexley Park Extension) has requested approval to construct a 42" high chain link fence in the rear and side yard setback of said property, which, as proposed, would encroach a distance of 3' upon and within the Elm 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 fence including any additional costs 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: May 8, 1984

Attest: John H. Huber
Clerk of Council

John H. Huber
President of Council

*May 8, 1984 - First reading
Rules suspended
not adapted*

Approved: May 8, 1984

David H. Madison
David H. Madison,
Mayor

C O N S E N T

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 fence as indicated below on the property described below and in the easement/right-of-way as described. Approval of the proposed fence or structure and use of the easement/right-of-way area is conditioned upon this agreement and construction in accordance with the plot plan.

Charles R. Griffith, 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 fence, 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 nearly as an accommodation 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 and assigns, upon notice from the City of Bexley, Ohio duly authorized by the Council of Bexley, Ohio, shall forthwith remove said fence 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 accommodate said fence, 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 permit the construction and maintenance of the below mentioned structure in the easement/right-of-way area.

<u>235 South Cassady Road</u> Address of Property	<u>Elm Avenue right-of-way</u> Type of Easement/Right-Of-Way
<u>Lot 9; Amended Plat of Bexley Park</u> Lot No. or Other Description Ext.	<u>Chain Link Fence</u> Building or Structure
<u>Elm Avenue - 50' right-of-way</u> Easement/Right-Of-Way Width- Property Location	<u>Three (3) Feet</u> Maximum Encroachment Into Easement Right-Of-Way
<u>Street, Sidewalk, Utilities</u> Services Existing in Easement/ Right-Of-Way	<u>Bexley City Council</u> Ordinance No. 27-84 Approving Authority (Council)
<u>May 17, 1984</u> Date of Agreement	<u>May 17, 1984</u> Date of Agreement

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

WITNESSES:

David H. Bodiker

Betty A. Hattenrott

David H. Bodiker

Betty A. Hattenrott

CITY OF BEXLEY, OHIO

By: David H. Madison
Mayor

John W. Hornberger
Auditor

Charles R. Griffith
Property Owner

Ellen M. Griffith
Property Owner

STATE OF OHIO, COUNTY OF FRANKLIN: SS:

On this 18th day of May, 1954, before me, personally appeared DAVID H. MADISON, Mayor, and JOHN W. HORNBERGER, Auditor, and CHARLES R. GRIFFITH and ELLEN M. GRIFFITH, Property Owners, who acknowledged the execution of this consent and agreement and that the same is their free act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year last aforesaid.

David H. Bodiker
NOTARY PUBLIC

THIS INSTRUMENT PREPARED BY:

David H. Bodiker
City Solicitor
150 East Broad Street
Columbus, Ohio 43215

Attorney at Law
My commission has no
expiration date

March 27, 1984

Bexley City Council
City Hall
Bexley, Ohio

To the President and Members of City Council:

Permission is hereby requested to erect a chain-link fence, not to exceed 42" in height, within the right-of-way of Elm Avenue.

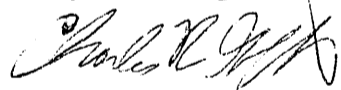
The right-of-way for Elm Avenue is fifty (50) feet. Elm Avenue, as presently constructed, is twenty-five (25) feet in width, or twelve and one-half feet on each side of the centerline.

The proposed fence would be placed three (3) feet into the right-of-way. There would remain nine and one-half (9.5) feet from the fence to the existing curb of Elm Avenue.

The placement of the fence is necessitated by the existence of a row of mature pine trees along the property line. The fence is required to prevent two children under the age of three years from leaving the yard and venturing onto Cassady Avenue.

I have attached a copy of a drawing illustrating the proposed fence for your reference.

Respectfully Submitted,

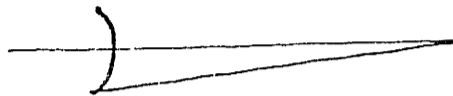


Charles R. Griffith

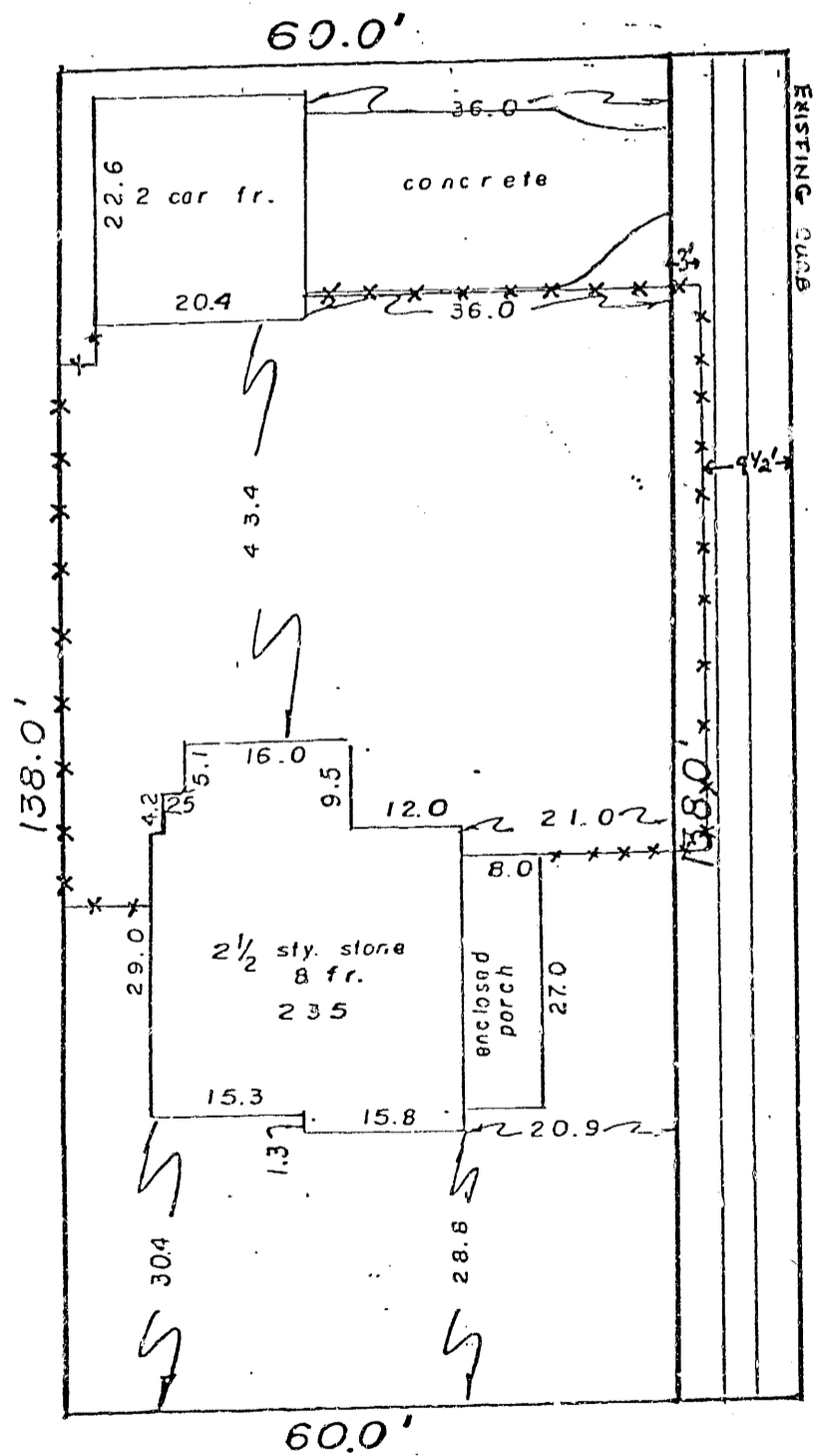
Enclosure

P.B. 12 Page 3
Scale 1"=20'

Franklin Co. Rec. Office
11-23-'83



12' ALLEY



235 S. CASSADY AVE. 60'