

ORDINANCE NO. 36-84

BY: James H. Gross

To vacate the unimproved Front Street right-of-way lying between Delmar Drive and North Stanwood Avenue.

WHEREAS, Mr. Erv Bendit, a contiguous property owner, has petitioned Council to vacate the Front Street unimproved right-of-way adjoining his property; and

WHEREAS, the Bexley Planning Commission has reviewed this request and has recommended that the entire unimproved right-of-way from Delmar Drive on the south and North Stanwood Avenue on the east be vacated because it no longer serves any public purpose and that such action will not be detrimental to the public interest.

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

Section 1. That the Front Street right-of-way lying between Delmar Drive and North Stanwood Avenue, running north from Delmar Drive and then east to North Stanwood Avenue, which is unimproved, is not now used and has never been used by the City as a public street, and will not be needed for any foreseeable future need and that the Planning Commission of the City, after receiving a request to vacate from Mr. Erv Bendit, an abutting property owner, recommended, that the right-of-way be vacated and that such action will not be detrimental to the public interest.

Section 2. That the unimproved Front Street right-of-way described as follows:

Being situated in the State of Ohio, County of Franklin, City of Bexley, and being a part of Fractional Township 1, Township 5, Range 22, Refugee Lands, and being all Front Street as dedicated on the Record Plat of Bellwood Addition shown of record in Plat Book 6, Pages 16, 16-A, Recorder's Office, Franklin County, Ohio, and being more particularly as described as follows:

Beginning at an iron pin at the intersection of the northerly right-of-way line of Front Street (40 feet wide), with the westerly right-of-way line of North Stanwood Road (50 feet wide), said point being on the southerly right-of-way line of the P.C.C. and St. L., and The B. and O. Railroad (100 feet wide);

Thence South 4 degrees 20 minutes West, along the easterly right-of-way line of said Front Street, and along the westerly right-of-way line of said North Stanwood Road, a distance of 40.48 feet to an iron pin at the intersection of the southerly right-of-way line of said Front Street, with the westerly right-of-way line of said North Stanwood Road, said point being at the northeasterly corner of Lot 404 of said Bellwood Addition;

Thence South 85 degrees 31 minutes West, along the southerly right-of-way line of said Front Street, and along the northerly line of Lots 404, 403, 402, 401, 400, 399, 398, of said Bellwood Addition, a distance of 600.75 feet to a point of curvature;

Thence in a southerly direction, continuing along the southerly right-of-way line of said Front Street, and along the westerly line of said Lot 398, and along the Arc of a curve to the Left, having a Radius of 10.00 feet, a long chord bearing and distance of South 0 degrees 07 minutes 04 seconds East, 19.94 feet to an iron pin at the point of tangency of said curve, said point being on the northerly right-of-way line of Delmar Drive (60 feet wide);

Thence North 85 degrees 45 minutes West, along the southerly right-of-way line of said Front Street, and along the northerly right-of-way line of said Delmar Drive, a distance of 394.42 feet to an iron pin on the line at the intersection of the southerly right-of-way line of The P.C.C. and St. L., and The B. and O. Railroad, with the southerly right-of-way line of said Front Street (northerly right-of-way line of said Delmar Drive);

Thence North 85 degrees 31 minutes East, along the southerly right-of-way line of The P.C.C. and St. L., and The B. and O. Railroad (northerly right-of-way line of said Front Street), a distance of 998.32 feet to the place of beginning, containing 0.821 acres (35,761 square feet), subject however to all highways and easements of record, and or records, easements, and restrictions in the respective utility offices.

Shall be and the same is hereby vacated and abandoned; provided, however, that the City of Bexley and all persons or companies engaged in the operation of public utilities shall retain, and have, the right to maintain in place, and to construct and erect, all sewers, conduits, pipes, poles, and wires and any other facilities used or useful in the rendition of public utility service and the right of ingress and egress thereover.

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

Passed: Sept 25, 1984

*John H. ...*  
\_\_\_\_\_  
President of Council

Attest: *John H. ...*  
\_\_\_\_\_  
Clerk of Council

Approved: Sept 25, 1984

*David H. Madison*  
\_\_\_\_\_  
David H. Madison,  
Mayor

*June 17, 1984 - First reading*  
*June 26, 1984 - Second reading*  
*July 10, 1984 - Third reading*  
*Tabled to Sept 11, 1984 for*  
*public hearing*  
*continued to Sept 25, 1984*  
*Sept 25, 1984 - Public hearing*

**For Private Files Only  
PRELIMINARY PROOF**

THE DAILY REPORTER is publishing the attached Public Notice at your request.

Please examine this, and advise us of any changes before the next publication.

The dates of publication are shown at the end of the notice.

Charges for this                   76.00  
Notice will be: \$.....

We must rely upon YOU to see that these charges are paid.

THE DAILY REPORTER  
329 S. Front Sreet  
Columbus, Ohio 43215-5094  
(614) 224-4835

**Notice**

Notice is hereby given that a public hearing will be held by the Bexley City Council, City Council Chambers, 2242 East Main Street, Bexley, Ohio on September 25, 1984, on the petition of Mr. Erv Bendit, a contiguous property owner who has requested that the Bexley City Council vacate the entire unimproved right-of-way in the City of Bexley, known as "Front Street," from Delmar Drive on the south and North Stanwood Avenue on the east, for the reason that it no longer serves any public purpose and that such action will not be detrimental to the public interest.

Any person interested in this petition, and the ordinance (Ordinance No. 36-84) incorporating the same, may attend and present his views at the Bexley City Council at that time.

City of Bexley, John W. Hornberger, Auditor, Clerk of Council.  
Aug 10/17/24/31/Sep 7/14 — 6 fri

**THE DAILY REPORTER**  
**Proof of Publication**

Notice of Public Hearing  
City of Bexley

Advertising Fee, — — — — \$ 76.00

STATE OF OHIO,  
Franklin County, ss.

J. Michael Donahoe

On behalf of the publisher of the **DAILY REPORTER**, a newspaper published in Franklin County, Ohio, makes oath that the attached printed advertisement was published 6 consecutive weeks in said newspaper, i. e., on

Aug. 10, 17, 24, 31,  
Sept. 7, 14 84  
19.....

and that said newspaper is of general circulation in said County.

*J. Michael Donahoe*

Subscribed and sworn to this 14th  
day of September 84  
19.....

*Michael L. Hayhurst*  
Notary Public, State of Ohio

**MICHAEL L. HAYHURST**  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES JULY 11, 1985

**Notice**

Notice is hereby given that a public hearing will be held by the Bexley City Council, City Council Chambers, 2242 East Main Street, Bexley, Ohio on September 25, 1984, on the petition of Mr. Erv Bendit, a contentious property owner who has requested that the Bexley City Council vacate the entire unimproved right-of-way in the City of Bexley, known as "Front Street," from Delmar Drive on the south and North Starwood Avenue on the east, for the reason that it no longer serves any public purpose and that such action will not be detrimental to the public interest.

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City of Bexley, John W. Hornberger, Auditor, Clerk of Council.  
Aug 10/17/24/31/Sep 7/14 - 6fri

C O N S E N T

H O L D H A R M L E S S A G R E E M E N T

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-of-way area is conditioned upon this Agreement and construction in accordance with the plot plan.

Larry Helman, 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 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 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 accommodate 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.

<u>63 South Cassady</u>	<u>Street Right-of-Way</u>
<u>Address of Property</u>	<u>Type of Easement/Right-Of-Way</u>
<u>Lot #9, Bexley Addition</u>	<u>Stone retaining wall</u>
<u>Lot No. or Other Description</u>	<u>Building or Structure</u>
<u>80 ft.</u>	<u>7.5 ft.</u>
<u>Easement/Right-Of-Way Width- Property Location</u>	<u>Maximum Encroachment Into Easement/Right-Of-Way</u>
<u>Street, Sidewalk &amp; Public Utilities</u>	<u>Ordinance No. 35-84</u>
<u>Services Existing in Easement/ Right-Of-Way</u>	<u>Approving Authority (Council)</u>
<u>July 17, 1984</u>	<u>July 10, 1984</u>
<u>Date of Agreement</u>	<u>Date of Agreement</u>

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

WITNESSES:

Elsie Blount  
Karen Mitcham  
Stanley H. Spuhler  
Ben W. Hule

CITY OF BEXLEY, OHIO

By: David H. Madison  
 Mayor  
John W. Hornberger  
 Auditor  
Lawrence Helman  
 Property Owner  
 \_\_\_\_\_  
 Property Owner

STATE OF OHIO, COUNTY OF FRANKLIN: SS:

On this 17th day of July, 1984, before me,  
 personally appeared David H. Madison, Mayor, and  
John W. Hornberger, Auditor, and  
Lawrence Helman and \_\_\_\_\_,  
 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 by official seal on the day and year last aforesaid.

Betty A. Hottenrott  
 NOTARY PUBLIC

**BETTY A. HOTTENROTT**  
 NOTARY PUBLIC - STATE OF OHIO  
 MY COMMISSION EXPIRES FEB. 26, 1989

THIS INSTRUMENT PREPARED BY:

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