

AMENDED ORDINANCE NO. 37-87

BY: Albert J. Meyers

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 785 S. Roosevelt Avenue (lot number 529; Zimmer and Manley Addition) regarding improvements to be made upon and within the City owned right-of-way of S. Roosevelt Avenue.

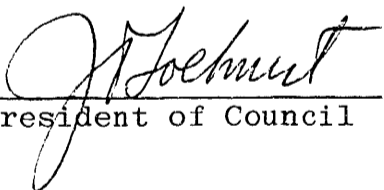
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1. That the property owner at 785 S. Roosevelt Avenue (lot number 529; Zimmer and Manley Addition) has requested approval to construct a stone landscape wall in the front yard setback of said property, which, as proposed, would encroach a distance of approximately one foot upon and within the S. Roosevelt Avenue right-of-way owned by the City of Bexley;

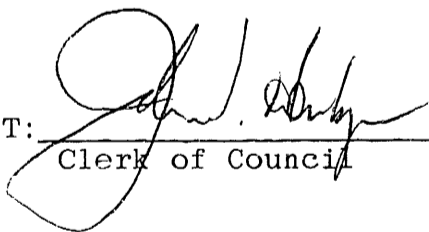
Section 2. That the Mayor and the Auditor be, and they hereby are, authorized to enter into a Consent and Hold Harmless Agreement with the property owner, a copy of which is attached hereto and made a part hereof as if fully rewritten, authorizing the encroachment as proposed in accordance with the submitted 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; and on further condition that the stone landscape wall does not exceed twenty-four (24) inches in height.

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

Passed: June 9, 1987

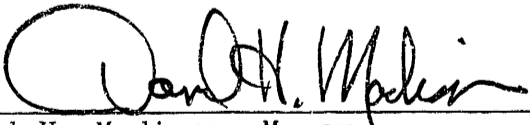


President of Council

ATTEST: 

Clerk of Council

APPROVED: June 9, 1987



David H. Madison, Mayor

May 12, 1987 - 1st reading
May 26, 1987 - 2nd reading
June 9, 1987 - 3rd reading
adopted

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 construct 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 and use of the easement/right-of-way area is conditioned upon this Agreement and construction in accordance with the plot plan.

Richard C. and Deborah Cantrell, their 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 grantees, their successors and assigns, shall defend, at their 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 grantees and that no right, title or interest of the public is waived or abridged in any way thereby; that said grantees, their 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 accommodate said retaining wall, the grantees, their 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.

785 S. Roosevelt Avenue
Address of Property

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

Lot 529; Zimmer and Manley Add.
Lot No. or Other Description

Stone Retaining Wall
Building or Structure

30' Measured from Center of
S. Roosevelt Avenue
Easement/Right-Of-Way Width -
Property Location

1.0'
Maximum Encroachment Into
Easement/Right-Of-Way

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

Ordinance No. 37 -87
Approving Authority (Council)

June 9, 1987
Date of Agreement

June 9, 1987
Date of Agreement

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

STATE OF OHIO, COUNTY OF FRANKLIN: SS:

The foregoing instrument was acknowledged before me this 9th day of June, 1987, by David H. Madison, Mayor of the City of Bexley, Ohio, and John W. Hamburger, Auditor of the City of Bexley, Ohio.

Marianna McCullough
Witness

D. Madison
Mayor

Robert C. Foulk
Witness

John W. Hamburger
Auditor

Marianna McCullough
Notary Public
MARIANNA McCULLOUGH
Notary Public - State of Ohio
My Commission Expires 6-3-88

STATE OF OHIO, COUNTY OF FRANKLIN: SS:

The foregoing instrument was acknowledged before me this 2 day of July, 1987, by _____, Mayor of the City of Bexley, Ohio, and _____, Auditor of the City of Bexley, Ohio.

Richard C. Cantrell
Witness

Richard C. Cantrell
Property Owner

Mrs. M. A. [Signature]
Witness

Richard C. Cantrell
Property Owner

[Signature]
Notary Public
EDWIN W. KOETZ
NOTARY PUBLIC - STATE OF OHIO
COMMISSION EXPIRES AUG. 30, 1988

May 5, 1987

To Whom It May Concern:

We have retained the services of Winchester Landscape Gardens, Inc. to develop a master landscape plan for our front and back yards at 785 South Roosevelt. We hope to implement the front yard plantings this Spring. We were told that the low stone retaining wall across the front of the yard would require the permission of Bexley City Council as it falls within an easement area the city has legal responsibility for. We are hereby asking our neighbors on either side and across the street to sign this letter saying they have no problem with this plan so that we may proceed with it this Spring. We will then submit it to Bexley City Council for them to consider and grant us permission.

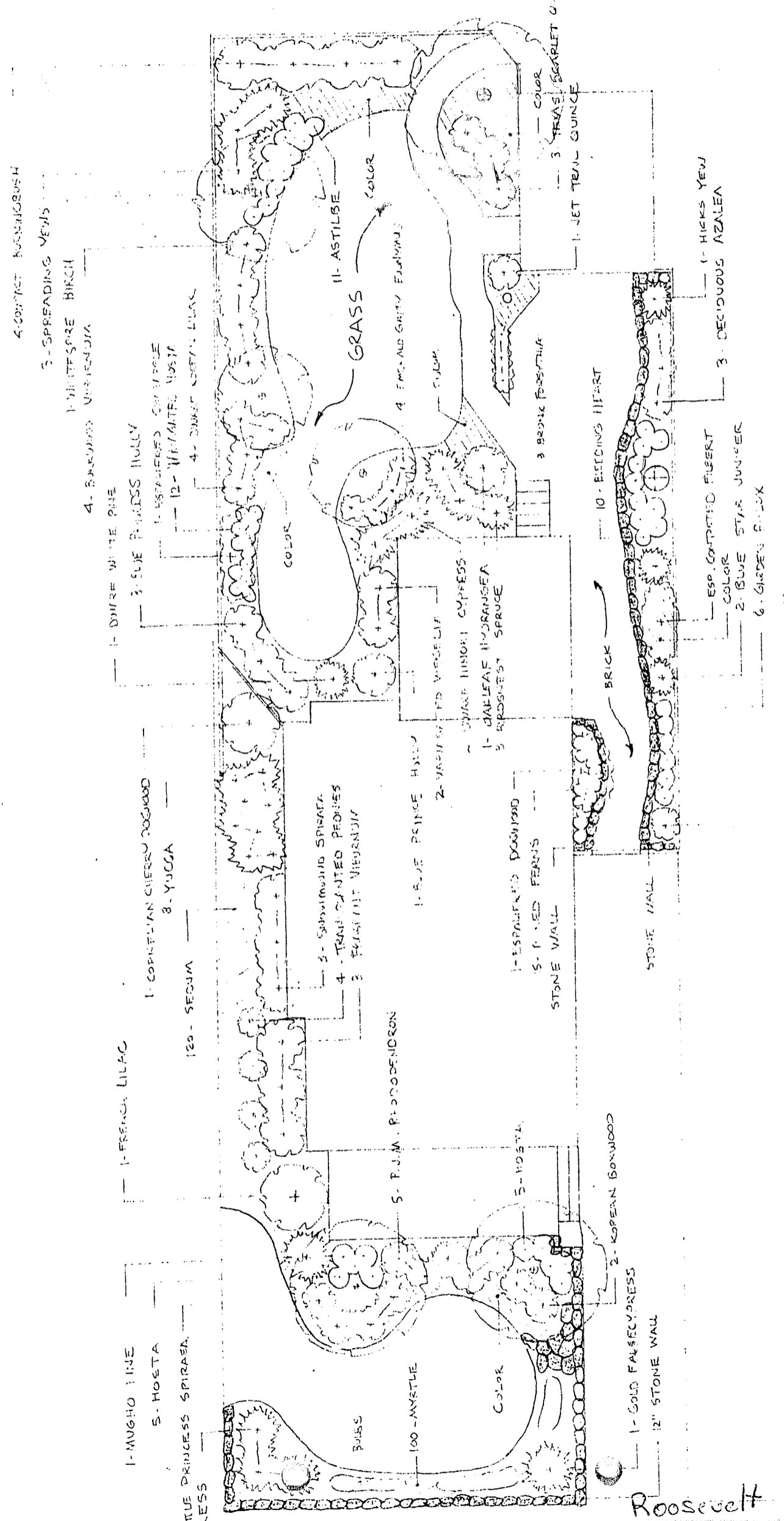
Thanks to all concerned.

Sincerely,

Richard Cantrell
Richard Cantrell

*Nancy E. Watkins 791 S. Roosevelt Ave.
Janice Thurman 710 S. Roosevelt Ave.
Sally A. Harnden 781 S. Roosevelt Ave.
Patricia S. Speakman 784 So. Roosevelt*

home 231-9362
work 263-6810



4-CORNER BUSHBROOM
 3-SPREADING VEWIS
 1-WEISSER BIRCH
 4- BUKHOLD VIBURNUM

1- DUKE WHITE PINE
 3- BLUE PRINCESS HULLY
 1- SPANISH CHERRY
 12- WEISSER BIRCH
 4- BUKHOLD VIBURNUM

1- DAIKUFU HYDRANGEA
 3- BRIDGESIDE SPRUCE
 1- ESPOLINADO DOGWOOD
 3- RED FERNS

1- MUGHO LILAC
 1- COPINTELIAN CHERRY DOGWOOD
 3- YUCCA
 120- SEDUM

1- SPANISH LILAC
 3- SPANISH SPIRAEA
 4- TRANSPARENT PINES
 3- FERTILIZING VIBURNUM

1- BLUE PRINCE HOLLY
 2- VARIETAL VIBURNUM
 1- DAIKUFU HYDRANGEA
 3- BRIDGESIDE SPRUCE

1- ESPOLINADO DOGWOOD
 3- RED FERNS
 5- HOSTA
 2- KOPEAN BOXWOOD

1- GOLD FALSESPRICE
 12" STONE WALL

11- ASTILBE
 GRASS
 4- EMERALD GARDEN ELM
 1- JET TAIL QUINCE
 3- TRAVEL SCARLET C.

1- HIKES YEW
 3- DECIDUOUS AZALEA

1- DECIDUOUS AZALEA

1- HIKES YEW
 3- DECIDUOUS AZALEA
 10- BRIDGESIDE HEART
 1- HIKES YEW
 3- DECIDUOUS AZALEA
 1- HIKES YEW
 3- DECIDUOUS AZALEA
 6- GARDEN GLOX
 2- BLUE STAR JUNIPER
 1- HIKES YEW
 3- DECIDUOUS AZALEA

Roosevelt Avenue

lot # 529; Zimmer
 and Manley Add.

Windsor Road

NOTES:

City of Bexley, Ohio

2242 East Main Street, 43209 235-8694

City Council

John T. Loehnert, President
John H. Offenbreg
William N. Bellamy
Albert J. Myers
Joanne H. Ranft
Robert K. Schmitz
Mark R. Masser
James H. Gross, City Attorney
John W. Hornberger, Auditor

David K. Madison, Mayor

NOTICE OF PUBLIC HEARING

This is to inform you that a public hearing will be held by the Council of the City of Bexley, Ohio, at 7:00 P.M., Tuesday, June 9, 1987, at Bexley City Hall, 2242 East Main Street, to consider adoption of Ordinance No. 37-87. This Ordinance, if approved, will allow for the construction of a 12" high stone wall in the front yard of 785 S. Roosevelt Avenue. All interested persons are invited to attend.