AMENDED ORDINANCE NO. 38-87

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 729 S. Cassingham Road (lot number 73; Bexley Plaza Addition) regarding improvements to be made upon and within the City owned right-of-way of S. Cassingham Road.

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

Section 1. That the property owner at 729 S. Cassingham Road (lot number 73; Bexley Plaza Addition) has requested approval to construct a landscape timber wall in the front yard setback of said property, which, as proposed, would encroach a distance of approximately 1.5 feet upon and within the S. Cassingham Road 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 landscape timber 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.

President of Council

ATTEST: Clerk of Council

APPROVED: June 9 , 1987

David H. Madison, Mayor

June 9, 1987 - 3rd reading Adopted

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 construct a landscape timber 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 amd construction in accordance with the plot plan.

Robert E. and Sandra L. Jessberger, 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.

729 S. Cassingham Road Address of Property Street Right-Of-Way
Type of Easement/Right-of-Way

Lot 73; Bexley Plaza Addition Lot No. or other Description Landscape Timber Retaining Wall Building or Structure

25' Measured from Center of
S. Cassingham Road
Easement/Right-Of-Way WidthProperty Location

1.5'
Maximum Encroachment Into
Easement/Right-Of-Way

Street, Sidewalk & Public

<u>Utilities</u>
Services Existing in Easement/
Right-Of-Way

Mordinance No. 38 -87
Approving Authority (Council)

Date of Agreement

Dato 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 wa	as acknowledged before me
this Aloth day of June	, 1984, by David H.
this day of hayor of the	he City of Bexley, Ohio, and,
John W Hernbouger, Aud	iter of the City of Bexley,
Ohio.	
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Λ	Mayor
Hebriak C. Foulk	South Lowby
Witness	Auditor
MARIANNA McCULLOUGH Hetery Public Gittle of Onto	Notary Public
My Commission Expires 6-6-90	Notary Public
STATE OF OHIO, COUNTY OF FRANKLIN:	SS:
The foregoing instrument w	as acknowledged before me
	as acknowledged before me
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	as acknowledged before me
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Robert Jessberger 729 South Cassingham Rd. Columbus, Ohio 43209

Honorable Members of the Council;

I sincerely ask your permission to complete the landscaping of our front yard. Unknown to me at the time I started to landscape, I am required to receive your permission to erect a 15" landscape wall in front of my house.

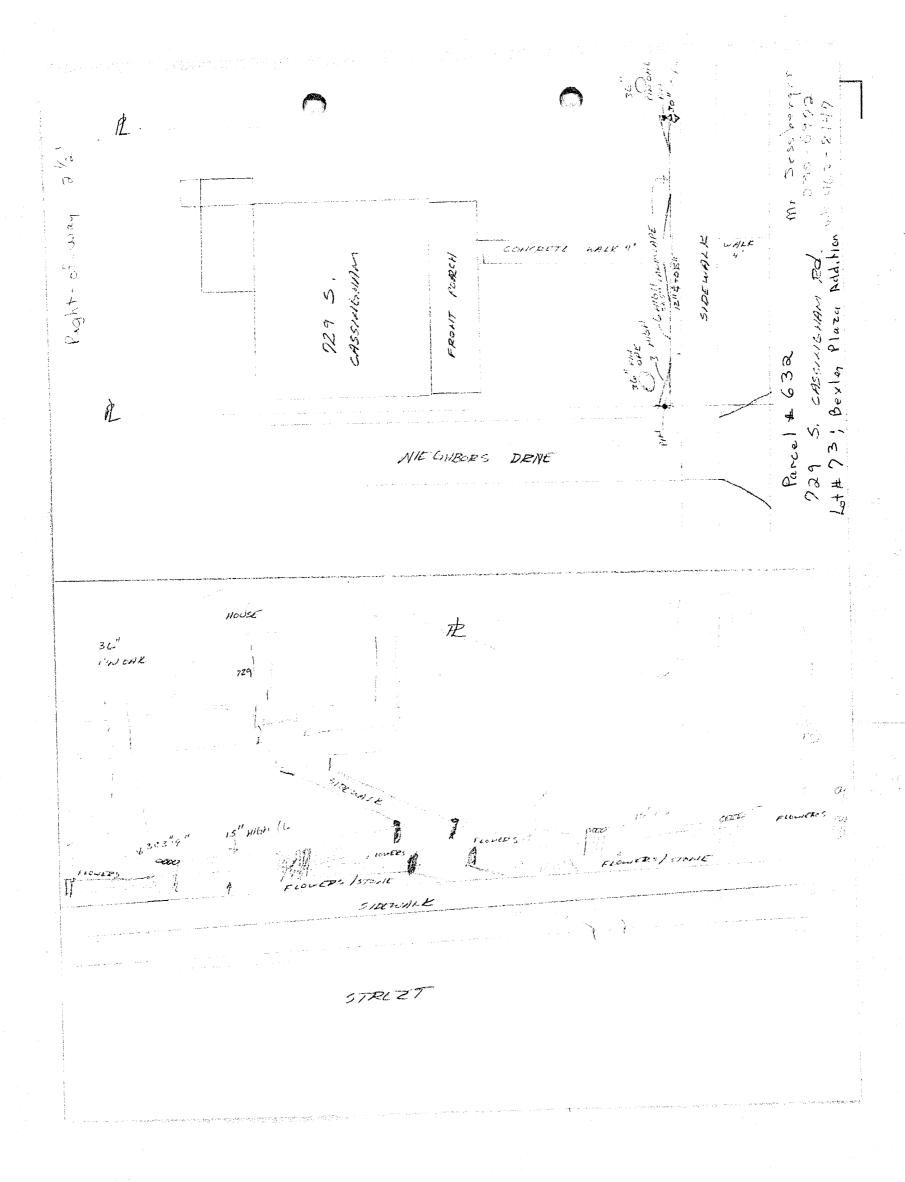
The landscape wall consists of 3" x 5" landscape timbers laid horizontally with vertical timbers as retainers at the joints and corners. The timbers are pinned together with 5/8" rebar extending into the ground about 6". The wall is to be stained earth brown upon completion. The landscaping consists of various flowers (tulips, daffodils, phlox and various annuals) along with shade loving ground cover and 6"-8" flat limestone laid flat between the sidewalk and the landscape wall. The front yard is to be reseeded, shade loving ground cover like vinca planted around the bushes, and the bushes trimmed.

I had completed about 95% of the landscape wall when the requirement was brought to my attention by a jogger.

Please see the attached sketch and plan view for various dimensions and general design.

I request your permission to leave the landscape wall intact and complete the landscaping as outlined.

Sincerely, Bob Jessberger



City of Bexley, Ohio
2242 East Sain Street, 43209 235-8694

Gity Council

David IC. Madison, Mayor

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

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. 38-87. This Ordinance, if approved, will allow for the construction of a 15" high landscape timber wall in the front yard of 729 S. Cassingham Road. All interested persons are invited to attend.