## ORDINANCE NO. <u>45</u> -87

BY: Rebut Muyor

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 204 S. Stanwood Road (lot number 369; Bexley Highlands Amended Addition) regarding improvements to be made upon and within the City owned right-of-way of S. Stanwood Road.

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

Section 1. That the property owner at 204 S. Stanwood Road (1 of number 369; Bexley Highlands Amended 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 2.0 feet upon and within the S. Stanwood 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.

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

passed: June 23, 1987

President of Council

ATTE ST:

elerk of Council

APPROVED: \unov33, 19

David H. Madison

Mayor

May 26, 1987- 1st reading June 9, 1987- 2nd reading June 23, 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 stone landscape 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.

James H. Johnson, 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 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 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 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.

204 S. Stanwood Road Address of Property Street Right-Of-Way
Type of Easement/Right-of-Way

Lot 369; Bexley Highlands Amended Addition Lot No. or Other Description

Stone Landscape Retaining Wall Building or Structure

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

Maximum Encroachment Into Easement/Right-Of-Way

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

Ordinance No. 45 -87
Approving Authority (Council)

Date of Agreement

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:

	s acknowledged before me
this 13th day of July	, 19 $27$ , by
V	e City of Bexley, Ohio, and,
	tor of the City of Bexley,
ohio.	
Malaret & Joseph	Mod
Witness	Mayor
11 1	Sol Dikjer
Witness	Auditor
V	Karen Marie Sluder
	Hotary RAKEN MARIE SLUDER
	Notary Public, State of Ohio
THE COLUMN OF FRANKLIN:	My Commission Expires 7-1-90
	88.
STATE OF OHIO, COUNTY OF FRANKLIN:	SS:
The foregoing instrument wa	as acknowledged before me
The foregoing instrument wa	
The foregoing instrument wa	as acknowledged before me
The foregoing instrument wa	as acknowledged before me
The foregoing instrument was this day of  Property Owner(s).	as acknowledged before me
The foregoing instrument was this day of  Property Owner(s).	as acknowledged before me
The foregoing instrument was this day of  Property Owner(s).  **Moral C. Joule** Witness	as acknowledged before me
The foregoing instrument was this day of  Property Owner(s).	as acknowledged before me
The foregoing instrument was this day of  Property Owner(s).  **Mildral C. Foruk** Witness**  **Manianna M. Cullaugh**	as acknowledged before me, 19, by

NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES JULY 1, 1990

This letter and attached diagram are a request for a permit to construct a stone wall on our property Our house is on a corner lot, and the school Children walk through our yard as if it were an extention of the sidewalk. This is our main reason for the request. also we have a problem with Irosion, since our front lawn is on a slope. We feel if Constructed properly, this wall would enhance the appearance of our property and deter further abuse of our grass and flowers! We are relatively new to the area and unaware of local ordinances Concerning this matter. I spoke with Mrs. Prichard on 5-8. Mrs. Prichard informed as of all the necessary. paperwork and Council Consideration, however we have prematurely ordered the stone necessary from Lang Stone Co. We hope with this explanation

and diagram you will have everything you need to grant the said permit any additional information needed. please feel free to phone as.

Thank you for you Time, Mr. & Mrs. Scott H. Johnson 204 S. Stanwood 231-1279 Running adjacent to the South edge of the Ridewalk on the Powell side of 204 S. Slanwood, there will be a 27" to 36" Stone Wall approximately 48' in length Starting at the intersection of the diagonal yard walk in the 204 Stanwood yard and lytending lastward to a distance of 48' from Starting point.

204 S. Stanwood hot # 369 Bexley Highlands Amd TOP VIEW (BIRD'S EYE) YARRWA HOUSE 204 5. STANWOOP TREE Eservel SUST STOEWALK Powell Ave. GROUND VIEW (FACING EAST) (FROM INTERSECTION OF POWERL & STANWOOD) STONE HOUSE MALL 2045. STANU.0 -CERADUALLY LEVELLING SWPE From TREE TO SIDELLA

City of Bexley, Ohio
2242 East Sain Street, 482Q9 285-8694

City Council

David H. Sadison, Sayor

John T. Loehnert, President John H. Offenberg William N. Bellam Albert J. Myers Joanne H. Renft Robert K. Schmiz Mark R. Masser James H. Gross, Common ey John W. Hornberg & Joseph

## 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 PM., Tuesday, June 23, 1987, at Bexley City Hall, 2242 East Main Street, to consider adoption of Crdinance No. 45-87. This Ordinance, if approved, will allow for the construction of a stone wall which ranges in height from 1' to 3', in the side yard of 204 South Stanwood Road. All interested persons are invited to attend.