

ORDINANCE NO. 67 - 87

By: Albert J. Meyer

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 211 South Ardmore Road (Lot Number 20, Rudolph's Fairwood Addition) 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 211 South Ardmore (Lot Number 20, Rudolph's Fairwood Addition) has requested approval to construct a stone retaining wall in the side yard setback of said property, which, as proposed, would encroach a distance of approximately 4.5 feet, 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 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 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: October 27, 1987

J. Schmidt
President of Council

Attest: J. H. Hady
Clerk of Council

Approved: Oct 27, 1987

David H. Madison
David H. Madison
Mayor

Sept. 22, 1987 - 1st reading
Oct. 13, 1987 - 2nd reading
October 27, 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 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.

Daniel Bohner, 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 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 area.

211 South Ardmere Road
Address of Property

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

Lot 20; Rudolph's Fairwood Addition
Lot No. or Other Description

Stone Retaining Wall
Building or Structure

25' Measured from Center of Elm Ave.
Easement/Right-Of-Way Width-Property Location

~~4.5'~~ 2.0'
Maximum Encroachment Into Easement/Right-Of-Way

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

Ordinance No. 67-87
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:

The foregoing instrument was acknowledged before me this _____ day of _____, 19____, by _____, Mayor of the City of Bexley, Ohio, and, _____, Auditor of the City of Bexley, Ohio.

Deborah C. Soule
Witness

[Signature]
Mayor

Witness

[Signature]
Auditor

Notary Public

STATE OF OHIO, COUNTY OF FRANKLIN: SS:

The foregoing instrument was acknowledged before me this _____ day of _____, 19____, by _____,

Property Owner(s).

[Signature]
Witness

Daniel R. Bohner
Property Owner

Linda K. Reister
Witness

Melody M. Bohner
Property Owner

Notary Public

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

City Council

John T. Loehnert, President
John H. Offenber
William N. Bellamy
Albert J. Myers
Joanie 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, October 27, 1987, at Bexley City Hall, 2242 East Main Street, to consider adoption of Ordinance No. 67-87. This Ordinance, if approved, will allow for a stone wall which was constructed on City right-of-way in the side yard of 211 South Ardmore Road to remain in place. All interested persons are invited to attend.