

ORDINANCE NO. 41-88

BY: Joanne H. Rarft

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 2479 Seneca Park Place (Lot number 18; Bullitt Park Addition) regarding improvements to be made upon and within the City owned right-of-way of Seneca Park Place.

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

Section 1. That the property owner at 2470 Seneca Park Place (Lot number 18; Bullitt Park Addition) has requested approval to construct a stone retaining wall in the front yard setback of said property, which, as proposed, would encroach a distance of approximately 1.8' upon and within the Seneca Park Place 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 damaged, 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: July 12, 1988

Albert Meyer
President of Council

Attest: Jan. H. H. H.

Approved: Jul 12, 1988
David H. Madison
David H. Madison, Mayor

May 24, 1988- 1st reading

June 14, 1988- 2nd reading

July 12, 1988- 3rd reading

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.

Ann and Wayne L. Christie, 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 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 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, 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 area.

2479 Seneca Park Place
Address of Property
Way

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

Lot 18; Bullitt Pk. Addition
Lot No. or Other Description

Stone Retaining Wall
Building or Structure

25' Measured from Center of
Seneca Park Place
Easement/Right-Of-Way Width -
Property Location

1.8'
Maximum Encroachment Into
Easement/Right-Of-Way

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

Ordinance No. -88
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
20th day of July, 1988
by David H. Madison, Mayor of the City of Bexley,
Ohio, and John W. Hornberger, Auditor of the City
of Bexley, Ohio.

Heborah C. Inck
Witness

D. H. Madison
Mayor

Marianna McCullough
Witness

John W. Hornberger
Auditor

Marianna McCullough
Notary Public

MARIANNA McCULLOUGH
Notary Public State of Ohio
My Commission Expires 6-6-90

STATE OF OHIO, COUNTY OF FRANKLIN: SS:

The foregoing instrument was acknowledged before me this
20th day of July, 1988
by Ann Christie and Wayne R. Christie.

Sharon R. Probst
Witness

Ann Christie
Property Owner

Dorothy Dickland
Witness

Wayne R. Christie
Property Owner

Kathleen Marie Rose
Notary Public
My Commission Expires July 1, 1990

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

City Council

Albert J. Myers, President
John M. Brennan
John T. Loehnert
Mark R. Masser
John H. Offenbarg
Joanne H. Ranft
Robert K. Schmitz
James H. Gross, City Attorney
John W. Hornberger, Auditor

David H. 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 7:00pm, Tuesday, June 28, 1988, at Bexley City Hall, 2242 East Main Street, to consider adoption of Ordinance No. 41-88. This Ordinance, if approved, will allow for a 12" high stone retaining wall which was constructed on City right-of-way in the front yard of 2479 Seneca Park Place to remain in place. All interested persons are invited to attend.