

AMENDED ORDINANCE NO. 59-88

BY: Joanne E. Ranft

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 owners at 2704 Fair Avenue (Lot number 150; Bexley Highlands Amended Addition) regarding improvements to be made upon and within the City owned right-of-way of Fair Avenue.

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

Section 1. That the property owners at 2704 Fair Avenue (Lot number 150; Bexley Highlands Amended Addition) have requested approval to construct a stone retaining wall in the front yard setback of said property which would encroach a distance of approximately 6 inches upon and within the Fair 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 owners, in form and substance satisfactory to the City Solicitor, authorizing the encroachment as proposed in accordance with the submitted request on the condition that the property owner assumes all responsibility for damage, 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 11, 1988

Robert J. Meyer
President of Council

Attest: J. W. Herlyn

Approved: 10/11, 1988

D. H. Madison
David H. Madison, Mayor

September 13, 1988 - 1st reading
September 27, 1988 - 2nd reading
October 11, 1988 - 3rd reading; Amended & Adopted

C O N S E N T A N D
H O L D H A R M L E S S A G R E E M E N T

The undersigned property owners and the City of Bexley, Ohio (the "City") agree as follows:

The owners have sought and obtained permission from the City 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 and use of the easement/right-of-way area is conditioned upon this Agreement.

Richard M. Adams and Susan Batt Adams, 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 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, shall at all times maintain the retaining wall in a manner satisfactory to the City; that said grantees, their successors or assigns, upon notice from the City of Bexley, Ohio duly authorized by the Council of the City, 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 or desirable; 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. The right of the property owner to construct the retaining wall shall cease unless said construction shall commence and be completed within ninety (90) days from the date of this Agreement unless extended in writing by the Mayor or his authorized representative.

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.

2704 Fair Avenue
Address of Property

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

Lot No. 150; Bexley Highlands
Amended Addition
Lot No. or Other Description

Stone Retaining Wall
Building or Structure

35' Measured from Center of
of Fair Avenue
Easement/Right-Of-Way Width -
Property Location

6 inches
Maximum Encroachment Into
Easement/Right-Of-Way

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

Ordinance No. -88
Approving Authority

December 10, 1988
Date of Agreement

December 10, 1988
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
10th day of December,
1988, by David H. Madison, Mayor of
the City of Bexley, Ohio, and John W. Hornberger,
Auditor of the City of Bexley, Ohio.

Daniel J. O'Neal
Witness

D. H. Madison
Mayor

Daniel J. O'Neal
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
10th day of December,
1988,
by Rick and Susan B. Adams.

Daniel J. O'Neal
Witness

Susan B. Adams
Property Owner

Daniel J. O'Neal
Witness

Rick Adams
Property Owner

Marianna McCullough
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D. Madison
Mayor

Daniel J. O'Neal
Witness

John W. Hornberger
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Notary Public-State of Ohio
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Daniel J. O'Neal
Witness

Susan B. Adams
Property Owner

Daniel J. O'Neal
Witness

Rick Adams
Property Owner

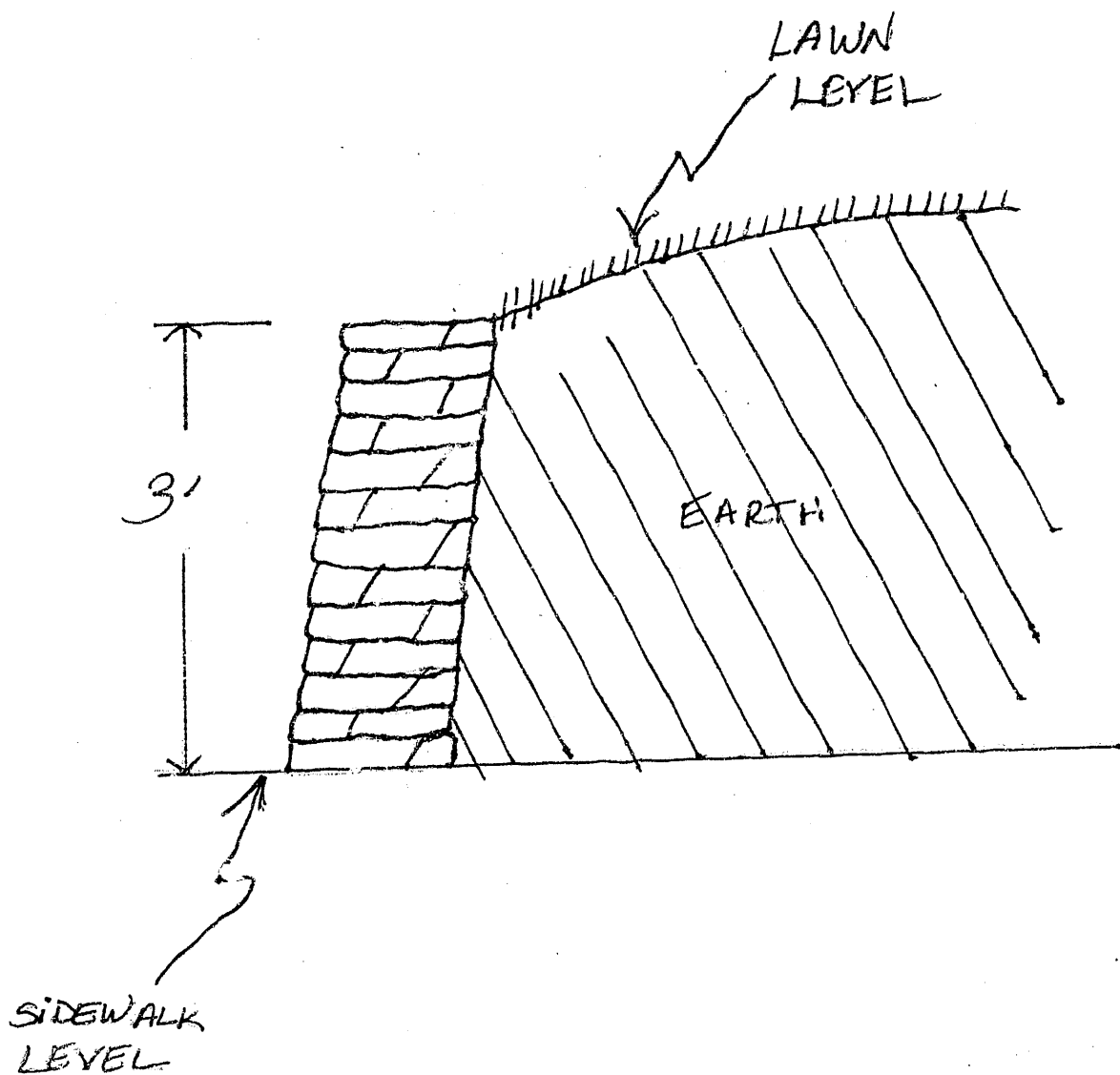
Marianna McCullough
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MARIANNA McCULLOUGH
Notary Public-State of Ohio
My Commission Expires 6-6-90

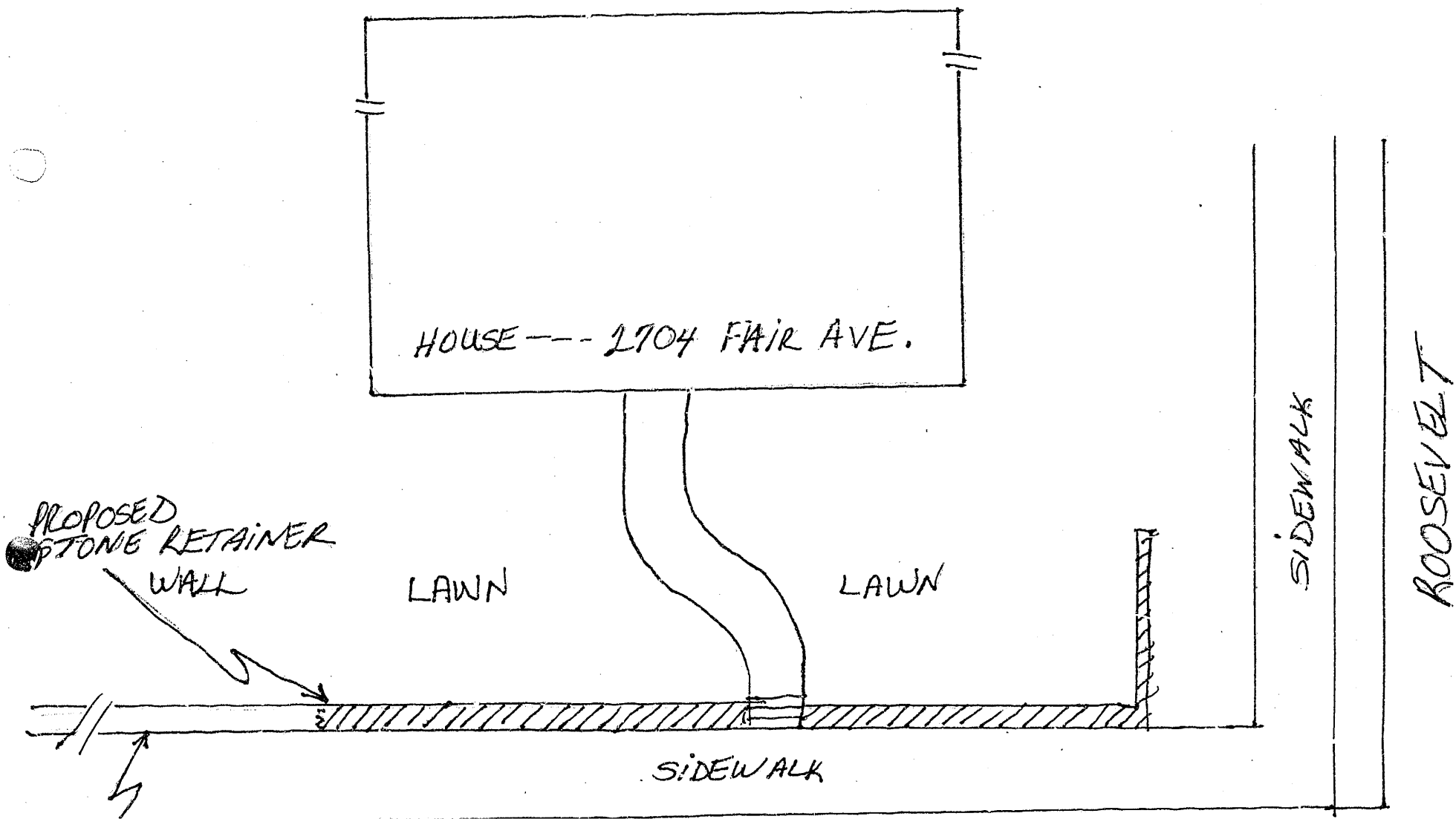
① Detail of Wall

Cross Section

ON FAIR AVE.
property line



② OVERVIEW OF WALL





City of Bexley, Ohio

2242 EAST MAIN STREET, 43209

235-8694

NOTICE OF PUBLIC MEETING

This is to inform you that a public meeting will be held by the Council of the City of Bexley, Ohio, at 7:00 p.m., Tuesday, October 11, 1988, at Bexley City Hall, 2242 East Main Street, to consider adoption of Ordinance No. 59-88. This Ordinance, if approved, will allow for the construction of a stone retaining wall in the front yard setback of 2704 Fair Avenue. All interested parties are invited to attend.

City Council
City of Berkeley.

August 8, 1988

To Whom It May Concern,

We recently purchased the house at 2704 Fair Avenue. It is a corner house on Fair and Roosevelt. We would like to request permission to have a stone retainer wall built on the Fair side. This would be an extension of the wall that the Grossmans (Fair Avenue) presently have. It is our understanding that grass has never been able to grow on the hill and consequently the dirt is washing down the slope into the sidewalk. In addition we feel it would improve the appearance of our property. Attached is a copy and measurements of what the wall would be like. Thank-you for your attention to this matter.

Sincerely
Susan B. Adams