

SUBSTITUTE ORDINANCE NO. 46-89

BY: Joanne 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 96 S. Ardmore Road (Lot Number 103; Ardmore #2 Addition) regarding improvements to be made upon and within the City owned right-of-way of S. Ardmore Road and ~~the alley adjacent to and north of 96 S. Ardmore Road.~~

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

Section 1. That the property owners at 96 S. Ardmore Road (Lot Number 103; Ardmore #2 Addition) have requested approval to construct a 20 inch high stone retaining wall in the front ~~and side yard~~ setbacks of said property which would encroach a distance of approximately 15 FEET 5 inches upon and within the S. Ardmore Road right-of-way ~~and approximately 6 inches upon and within the alley right-of-way~~ owned by the City of Bexley.

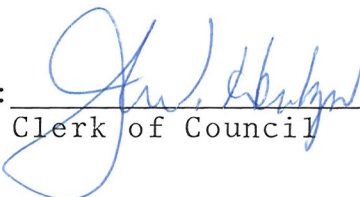
Section 2. That the Mayor and the Auditor be, and they hereby are, authorized to enter into a Consent and Hold Harmless Agreement with the property owners, in form and substance satisfactory to the City Solicitor, authorizing the encroachment as proposed in accordance with the submitted request on the condition that the property owners assume 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: Oct. 24, 1989



President of Council

Attest: 

Clerk of Council

Approved: Oct 24, 1989



David H. Madison, Mayor

September 12, 1989 - 1st Reading
September 26, 1989 - 2nd Reading
October 10, 1989 - 3rd Reading; Tabled

October 24, 1989 - Passed

ORDINANCE NO. 46 -89

BY: Joanna H. Ruyft

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

Section 1. That the property owners at 96 S. Ardmore Road (Lot Number 103; Ardmore #2 Addition) have requested approval to construct a 20 inch high stone retaining wall in the front and side yard setbacks of said property which would encroach a distance of approximately 15.5 inches upon and within the S. Ardmore Road right-of-way and approximately 6 inches upon and within the alley 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 owners assume 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: _____, 1989

President of Council

Attest: _____
Clerk of Council

Approved: _____, 1989

David H. Madison, Mayor

Sept. 12, 1989 - 1st reading
Sept. 26, 1989 - 2nd reading
Oct. 10, 1989 - 3rd reading
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 Bexlev, Ohio (the "City") agree as follows:

The owners have sought and obtained permission from the City to erect a 20 inch high 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.

Rivka and Moishe Herszage, 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 Bexlev, 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.

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.

96 S. Ardmore Road
Address of Property

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

Lot 103; Ardmore #2 Addition
Lot No. or Other Description

Stone Retaining Wall
Building or Structure

30' Measured from Center of
S. Ardmore Road
Easement/Right-Of-Way Width -
Property Location

15 feet 5 inches
Maximum Encroachment Into
Easement/Right-Of-Way

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

Ordinance No. -89
Approving Authority

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 _____, 1989, by _____, Mayor of the City of Bexley, Ohio, and _____, Auditor of the City of Bexley, Ohio.

Deborah E. Fouck
Witness

D. Madison
Mayor

Witness

J. [Signature]
Auditor

Notary Public

STATE OF OHIO, COUNTY OF FRANKLIN: SS:

The foregoing instrument was acknowledged before me this 3rd day of January, ¹⁹⁹⁰1989, by Kathleen Marie Rose.

Dorothy Sutcliff
Witness

Rebecca Herzog
Property Owner

Glenda Barber
Witness

[Signature]
Property Owner

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

Notary Public

Rivka Herszage
96 S. Ardmore
Cols, Oh. 43209

Bexley City Council
Att. Dorothy Pritchard.

8-6-1989

Dear Sirs:

I am the owner of the house located on 96 S. Ardmore, and I would like to reach you through this letter in order to fix a problem presented by the construction of a stone wall which was done at the side of my yard, which faces the alley.

To tell you the honest truth, I did not know that it was necessary a permit. And by the same token, I did not know that it was necessary to leave 6 inches from the pavement.

In reality, I could not leave those 6 inches since there are tree roots which are big and old, therefore making it hard to get cut off.

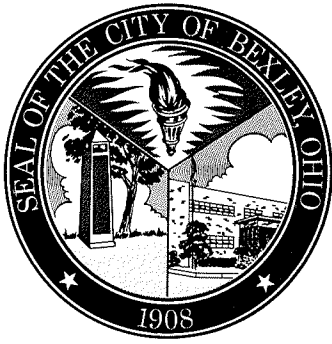
Besides building the wall to make the place look better, I built the wall so that the dirt would not trail into the pavement during wet days.

I ask you to please consider my petition to give me permission and let me keep the ledge.

Note: Since I am going on vacation until August 22, I will send you the pictures after my vacation, and also after the whole project is completed. The pictures will show the beauty and the cleanliness that the house will have.

Sincerely,

Rebecca Herszage



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 10, 1989, at Bexley City Hall, 2242 East Main Street, to consider adoption of Ordinance No. 46-89. This Ordinance, if approved, will allow a 20" high stone retaining wall to remain in the front yard setback of 96 South Ardmore Road. All interested parties are invited to attend.