

SUBSTITUTE ORDINANCE NO. 47-89

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 owner at 851 S. Cassingham Road (Lot Number 94; Bexley Plaza Addition) regarding improvements to be made upon and within the City owned right-of-way of S. Cassingham Road.

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

Section 1. That the property owner at 851 S. Cassingham Road (Lot Number 94; Bexley Plaza Addition) has requested approval to construct a 1 foot 9 inch high timber retaining wall in the front yard setback of said property which would encroach a distance of approximately 2.5 feet upon and within the S. Cassingham 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, 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 TWO DECORATIVE LIONS BE REMOVED FROM CITY RIGHT-OF-WAY AND the property owner 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

Albert Meyer
President of Council

Attest: John W. Berg
Clerk of Council

Approved: Oct 24, 1989

David H. Madison
David H. Madison, Mayor

Oct 24, 1989 - Removed
from table, Passed
on Receipts



Lewis M. Vichinsky, D.P.M.
Steven B. Grossman, D.P.M.
Michael Fracassa, D.P.M.
Podiatric Physicians and Surgeons

August 29, 1989

Mrs. Pritchard:

On advisement of the building department of the City of Bexley, I am currently submitting photographs of recent landscape work completed at my home for City Council approval. Unfortunately I was unaware of the city code requiring the 2.5 ft. of clearance from the city walk.

As you can see, the structure in question has been designed to compliment the type of architecture around the neighborhood and enhance the outline of my home and pine trees. It has been meticulously assembled to ensure both extreme durability and safety. It should also be noted that it is completely off the sidewalk and presents no complications or hinderances to normal pedestrian traffic.

With the exception of the neighbor who brought this to Mr. Millers attention, I have received nothing but compliments from both my immediate neighbors and even complete strangers passing by! If nothing else they can't help but notice the Bexley Lions welcoming people to my home.

Your considerations in this matter will be greatly appreciated particularly since I designed and built the entire project myself not to mention the expense and time involved. Considering the examples of the same code violations scattered everywhere around my neighborhood, I hope the council will see fit to allow my work to stand and gracefully age with my home.

Thank you again for you and the councils time and consideration. I look forward to hearing from you in the future.

Sincerely,

Michael Fracassa D.P.M.

MF/bm

Fellows of the Academy of Ambulatory Foot Surgeons

3255 E. Livingston Avenue, P. O. Box 27940, Columbus, OH 43227, (614) 239-9444
1719 West Fifth Avenue, Columbus, Ohio 43212, (614) 486-9446
381 Cline Avenue, Mansfield, Ohio 44907, (419) 756-6612





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. 47-89. This Ordinance, if approved, will allow a 21" high timber retaining wall to remain in the front yard setback of 851 South Cassingham Road. All interested parties are invited to attend.

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 owner and the City of Bexley, Ohio (the "City") agree as follows:

The owner has sought and obtained permission from the City to erect a 1 foot 9 inch high timber 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.

Michael Fracassa, 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 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, shall at all times maintain the retaining wall in a manner satisfactory to the City; that said grantee, his 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 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.

851 S. Cassingham Road
Address of Property

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

Lot 94; Bexley Plaza Addition
Lot No. or Other Description

Timber Retaining Wall
Building or Structure

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

2.5 feet
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.

Witness

Mayor

Witness

Auditor

Notary Public

STATE OF OHIO, COUNTY OF FRANKLIN: SS:

The foregoing instrument was acknowledged before me this _____ day of _____, 1980, by _____.

Beverly Michael
Witness

Michael Prosser
Property Owner

Dana Armstrong
Witness

Property Owner

Laurel Gledhill
Notary Public
LAUREL GLEDHILL
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES DECEMBER 5, 1993