

ORDINANCE NO. 72 -89

BY: Joanne H. Rerft

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 255 South Cassady Road (Lot Number 12; Bullitt Park Amended Plat Addition) regarding improvements made upon and within the City owned right-of-way of S. Cassady Road.

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

Section 1. That the property owners at 255 South Cassady Road (Lot Number 12; Bullitt Park Amended Plat Addition) have requested approval to allow a stone retaining wall with a maximum height of 18 inches in the front yard setback of said property which would encroach a distance of approximately 14 feet, 6 inches upon and within the South Cassady Road right-of-way.

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: January 23, 19~~89~~⁹⁰

Robert L. Schmitz
President of Council

Attest: Jan. H. Rerft
Clerk of Council

Approved: Jan. 23, 19~~89~~⁹⁰
David H. Madison
David H. Madison, Mayor

*Dec. 12, 1989 - 1st reading
Dec. 26, 1989 - 2nd reading
Jan. 9, 1990 - 3rd read - tabled
Jan. 23, 1990 - 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 an 18 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.

Robert C. & Julie C. Weber, 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 stone 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.

<u>255 South Cassady Road</u> Address of Property	<u>Street Right-Of-Way</u> Type of Easement/Right-Of-Way
<u>Lot Number 12; Bullitt Park Amended Plat Addition</u> Lot No. or Other Description	<u>Stone Retaining Wall</u> Building or Structure
<u>30' Measured from Center of South Cassady Road</u> Easement/Right-Of-Way Width - Property Location	<u>14 feet 6 inches</u> Maximum Encroachment Into Easement/Right-Of-Way
<u>Street, Sidewalk & Public Utilities</u> Services Existing in Easement/ Right-Of-Way	<u>Ordinance No. 72 -89</u> Approving Authority
<u>01-23-90</u> Date of Agreement	<u>01-23-90</u> 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
23rd day of January,
198~~9~~⁹⁰, by David H. Madison, Mayor of
the City of Bexley, Ohio, and John W. Herberger,
Auditor of the City of Bexley, Ohio.

Deborah E. Fouch
Witness

D. Madison
Mayor

Jane L. Purcurio
Witness

J. W. Herberger
Auditor

Karen Marie Sluder
Notary Public
KAREN MARIE SLUDER
Notary Public, State of Ohio
My Commission Expires 7-1-90

STATE OF OHIO, COUNTY OF FRANKLIN: SS:

The foregoing instrument was acknowledged before me this
26th day of March,
198~~9~~⁹⁰, by Robert Weber.

Linda J. Hoops
Witness

Robert Weber Kathleen Marie Rose
Property Owner

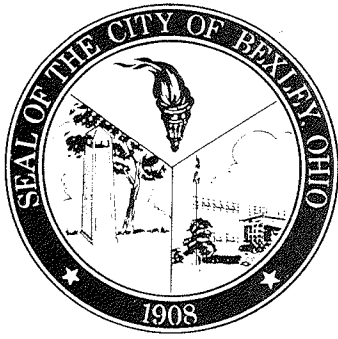
Edna Belsey
Witness

Julie C. Weber
Property Owner

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

Diane Bennett
Notary Public

DIANE BENNETT
Notary Public - State of Ohio
My Commission Expires June 20, 1990



City of Bexley, Ohio

BUILDING DEPARTMENT

2242 EAST MAIN STREET, 43209

235-0956

DAVID H. MADISON, MAYOR

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, January 9, 1990, at Bexley City Hall, 2242 East Main Street, to consider adoption of Ordinance No. 72-89. This Ordinance, if approved, will allow a stone retaining wall to remain in the front yard setback of 255 South Cassady Road. All interested parties are invited to attend.