ORDINANCE NO. 28 -90

BY:	Albert	J.	Mvers	
ν_{\perp}		-	,	

An Ordinance to authorize a variance to allow a 32 inch high brick wall to remain in the front yard setback area at 2580 Maryland Avenue (Lot Number 35; Anton Ruhl Amended Addition), premises owned by Neil and Linda Lichtman; and to authorize the Mayor and Auditor to sign a Consent and Hold Harmless Agreement on behalf of the City of Bexley with the property owners regarding improvements (brick wall) made upon and within the City owned right-of-way of Maryland Avenue.

WHEREAS, Neil and Linda Lichtman have applied for a variance to allow for a brick wall as part of an overall landscape plan for the front yard setback area of the property owned by them at 2580 Maryland Avenue; and,

WHEREAS, the approval of the variance would not be detrimental to the character of the surrounding residential neighborhood and complies with the requirements of Ordinance No. 42-85; NOW, THEREFORE,

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

Section 1. That the application of Neil and Linda Lichtman, dated September 20, 1989, for a variance to authorize and allow a brick wall to remain in the front yard setback area as part of an overall landscaping plan of the premises at 2580 Maryland Avenue (Lot Number 35; Anton Ruhl Amended Addition), complies with the requirements of Ordinance No. 42-85 and it is, therefore, granted and the location of the brick wall as proposed is approved.

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 brick 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.

 $\underline{\text{Section 3}}.$ That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

President of Council

Attest:

Clerk of Coundil

Approved:_

1990

Mar. 13, 1990-1st reading Mar. 27, 1990-22 reading

1 heading

apr. 11, 1990 - 3rd reading adopted.

David H. Madison, Mayor

CONSENT AND

HOLD HARMLESS AGREEMENT

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 32 inch high brick wall as indicated below on the property described below and in the easement/right-of-way as described. Approval of the proposed brick wall and use of the easement/right-of-way area is conditioned upon this Agreement.

Neil and Linda Lichtman, 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 brick 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 brick 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 brick 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 brick 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.

2580 Maryland Avenue Address of Property

Lot Number 35; Anton Ruhl Amended Addition Lot No. or Other Description

30' Measured from Center of Maryland Avenue Easement/Right-Of-Way Width - Property Location

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

4-13-90

Date of Agreement

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

Brick Wall
Building or Structure

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

Ordinance No. 28 -90
Approving Authority

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 wasday of	// ^ ^						
1990, by David H. mad	icon, Mayor of						
the City of Bexley, Ohio, and	John W. Hornberger,						
Auditor of the City of Bexley, Ohio.							
Witness E. Fouch	Mayor						
Storch E. Foulk Witness	Auditor						
	Hathlen Marie Rose Notary Public MARIE ROSE						
STATE OF OHIO, COUNTY OF FRANKLIN: SS:							
The foregoing instrument was							
1989, by	of						
Sew A Rund Witness	Sinda Lichtman Property Owner						
Deap Leve Witness	Mach Rollwan Property Owner						
	Beytha M. Fouch Notary Public						

BERTHA M. FOUCH Notary Public, State of Ohio My commission expires 1-23-93