ORDINANCE NO. _38_-90

BY: Albert J. Myers	BY:	Albert	J.	Myers	
---------------------	-----	--------	----	-------	--

An Ordinance to authorize a variance to allow a 14 inch high stone landscape wall to remain in the front yard setback area at 111 N. Roosevelt Avenue (Lot Number 45; Bullitt Park East Addition), premises owned by Ralph H. Rosenblum, Jr. and Gail A. Rosenblum; and to authorize the Mayor and Auditor to sign a Consent and Hold Harmless Agreement on behalf of the City of Beyley with the property owners regarding improvements (stone of Bexley with the property owners regarding improvements (stone landscape wall) made upon and within the City owned right-of-way of N. Roosevelt Avenue.

WHEREAS, Ralph H. Rosenblum, Jr. and Gail A. Rosenblum have applied for a variance to allow for a stone landscape wall as part of an overall landscape plan for the front yard setback area of the property owned by them at 111 N. Roosevelt 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 Ralph H. Rosenblum, Jr. and Gail A. Rosenblum dated March 30, 1990, for a variance to authorize and allow a stone landscape wall to remain in the front yard setback area as part of an overall landscaping plan of the premises at 111 N. Roosevelt Avenue (Lot Number 45; Bullitt Park East Addition), complies with the requirements of Ordinance No. 42-85 and it is, therefore, granted and the location of the 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 landscape 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 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.

President of Council

Approved:

apr. 24, 1990-1st reading May 8, 1990-22 reading May 22, 1990-32 reading table

David H. Madiso

June 12, 1990 - Motion Bending to reconsider yote.

June 26, 1990 - adopted

<u>CONSENT AND</u>

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

Ralph H. Rosenblum, Jr. and Gail A. Rosenblum, 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 landscape 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 stone landscape 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 landscape 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 landscape 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.

Street Dight Of Wear

111 M Poosovolt Aronno

Address of Property	Type of Easement/Right-Of-Way
Lot Number 45; Bullitt Park East Addition Lot No. or Other Description	Stone Landscape Wall Building or Structure
80 Feet Measured from Center of N. Roosevelt Avenue Easement/Right-Of-Way Width - Property Location	8.5 feet Maximum Encroachment Into Easement/Right-Of-Way
Street, Sidewalk & Public Utilities Services Existing in Easement/ Right-Of-Way	Ordinance No. 38-90 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:

· M	s acknowledged before me this
1990, by David H. Madison	, Mayor of
the City of Bexley, Ohio, and	John W- Hordserger,
Auditor of the City of Bexley, Ohi),),
Websik E. Forek Witness	Mayor Wales
Witness E. Foulk	Auditor Auditor
	Kathlen M. Nose Notary Public
STATE OF OHIO, COUNTY OF FRANKLIN:	SS: MY COMMISSION EXPIRES SUC 15, 1915
21 #	s acknowledged before me this
21 #	s acknowledged before me this
day o	
26 th day of	althalfa
26th 1990, by Aeborak E. Forelk Witness Anda Q. Hoops	Of June, Of June, Property Owner Mail Rosenflu

City of Bexley, Ohio 235-8694

2242 East Main Street, 43209

David FC. Madison, Mayor

City Council

Robert K. Schmitz, President John M. Brennan John T. Loehnert Mark R. Masser Albert J. Myers John H. Offenberg Richard F. Weber James H. Gross, City Attorney John W. Hornberger, Auditor

PUBLIC NOTICE

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, May 22, 1990, at Bexley City Hall, 2242 East Main Street, to consider adoption of Ordinance No. 38-90. This Ordinance, if approved, will allow for a stone wall which was constructed on City right-of-way in the front yard of 111 North Roosevelt Avenue to remain in place. All interested persons are invited to attend persons are invited to attend.