

ORDINANCE NO. 24 -92

BY: John H. Offenberg

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 936 Montrose Avenue (Lot Numbers 262 and 263; Riders Addition) regarding improvements to be made upon and within the City owned right-of-way of the unimproved portion of Charles Street.

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

Section 1. That the property owners at 936 Montrose Avenue (Lot Numbers 262 and 263; Riders Addition) have requested approval to construct a 14 inch high timber retaining wall in the side yard setback of said property which would encroach upon and within the Charles Street 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 Attorney, 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: May 12, 1992

Mark Warner
President of Council

Attest: Ann Oberly, 1992
Clerk of Council

Approved: May 14, 1992

David H. Madison
David H. Madison, Mayor

Apr. 14, 1992 - 1st reading
Apr. 28, 1992 - 2nd reading
May 12, 1992 - 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 Bexley, Ohio (the "City") agree as follows:

The owners have sought and obtained permission from the City to erect a 14 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.

William and Nancy Frasch, 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 and assigns, shall at all times maintain the retaining wall in a manner satisfactory to the City; that said grantees, their successors and assigns, upon notice from the City, duly authorized by the Council of the City, shall forthwith remove said retaining wall and shall yield to said City all right 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.

<u>936 Montrose Avenue</u> Address of Property	<u>Street Right-Of-Way</u> Type of Easement/Right-Of-Way
<u>Lots 262 and 263; Riders Addition</u> Lot No. or Other Description	<u>Timber Retaining Wall</u> Building or Structure
<u>50 Feet Measured from Center of Charles Street</u> Easement/Right-Of-Way Width - Property Location	<u>Unknown</u> Maximum Encroachment Into Easement/Right-Of-Way
<u>Street and Public Utilities Services Existing in Easement/ Right-Of-Way</u>	<u>Ordinance No. 24 -92</u> Approving Authority

May 12, 1992
Date of Agreement

May 12, 1992
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 9th day of June, 1992 by David H. Madison, Mayor of the City of Bexley, Ohio, and John W. Hornberger, Auditor of the City of Bexley, Ohio.

Neborah E. Foulk
Witness

David H. Madison
Mayor

Neborah E. Foulk
Witness

John W. Hornberger
Auditor

Edna Bickey
Notary Public

EDNA BICSEY
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES JULY 13, 1996

STATE OF OHIO, COUNTY OF FRANKLIN: SS:

The foregoing instrument was acknowledged before me this 9th day of June, 1992 by William and Nancy Frisch.

Neborah E. Foulk
Witness

[Signature]
Property Owner

Neborah E. Foulk
Witness

Nancy L. Frisch
Property Owner

Edna Bickey
Notary Public

EDNA BICSEY
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES JULY 13, 1996



April 2, 1992

Ms. Dorothy Pritchard
Assistant Service Director
City of Bexley Municipal Office
2242 E. Main Street
Bexley, Ohio 43209

Dear Ms. Pritchard:

We would like to submit the enclosed landscape plan for review by the City Council of Bexley. The project is located at the residence of William and Nancy Frasch of 936 Montrose Avenue, Bexley. The scope of work will include: the construction of a 14" high timber retaining wall along the Charles Street side of the property, the demolition and reconstruction of an existing timber wall along the alley, and the planting of a perennial bed in the strip between the driveway and the alley. Schmidt Nursery Company has been contracted by William and Nancy Frasch to complete this work.

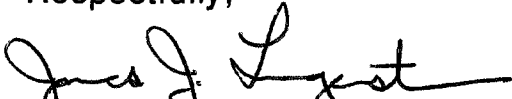
The timber wall along Charles Street is to be built three foot from the Charles Street pavement in the right-of-way between the street and the Frasch property line. Its purpose is to improve the appearance of that side and to provide a grade separation between the existing lawn and Charles Street. It is hoped that it will decrease the amount of debris deposited from the street runoff. The strip between the wall and the pavement will be filled with crushed limestone and will be tamped in place.

3001 Innis Road
P.O. Box 24548
Columbus, Ohio 43224
614-471-1755

The reconstruction of the timber wall in the alley and the installation of the perennial bed are merely to improve the appearance of the property. The existing timber wall is rotted and needs to be replaced. The addition of the perennial bed will provide a splash of color to the area. The plants near the alley/Charles Street intersection have been chosen because of their low heights and will not obstruct a driver's field of vision.

If you have any questions, please give me a call at 471-1755. Thank you for your time and consideration. We look forward to hearing from you.

Respectfully,


James J. Langenstein

Authorized by:


William Frasch


Nancy Frasch



City of Bexley, Ohio

BUILDING DEPARTMENT
2242 EAST MAIN STREET, 43209 235-0956

DAVID H. MADISON, MAYOR

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:P.M., Tuesday, May 12, 1992, at Bexley City Hall, 2242 East Main Street, to consider adoption of Ordinance No. 24-92. This Ordinance, if approved, will allow for a timber retaining wall to be constructed on City right-of-way in the Charles Street side yard of 936 Montrose Avenue. All interested persons are invited to attend.