

ORDINANCE NO. 9-96

BY: Melisa S. Shroyer

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 753 S. Roosevelt Avenue (Lot No. 523; Zimmer & Manley Amended Addition) regarding improvements to be made upon and within the City-owned right-of-way on S. Roosevelt Avenue.

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

Section 1. That the property owners at 753 S. Roosevelt Avenue (Lot No. 523; Zimmer & Manley Amended Addition) have requested approval to allow a 34 inch high stone retaining wall in the front yard setback of said property which would encroach a distance of approximately 12 inches upon and with the S. Roosevelt Avenue 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 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 their 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: 3/12, 1996

[Signature]
President of Council

Attest: [Signature]
Clerk of Council

Approved: 3/12, 1996

[Signature]
David H. Madison, Mayor
753sroos

Feb. 13, 1996 - 1st reading
Feb. 27, 1996 - 2nd reading
Mar. 12, 1996 - 3rd reading
- passed

CONSENT AND HOLD HARMLESS AGREEMENT

The undersigned property owners and the City of Bexley, Ohio (the "City") agree as follows:

The property owners have sought and obtained permission from the City of Bexley to install a 34 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 retaining wall and use of an easement/right-of-way area which is public property is conditioned upon this Agreement.

Walter T., Jr. and Martha M. Soga, their successors and assigns (collectively the "Owners"), shall save the City harmless from any and all damages which may arise from, or grow out of, the construction, installation, maintenance, repair, relocation, removal or replacement of the retaining wall for any reason and shall defend, at their own cost, every suit in which the City of Bexley, Ohio, 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 the Owners, upon notice from the City of Bexley, Ohio, duly authorized by the Council of Bexley, Ohio, shall forthwith remove said retaining wall from the public property occupied by them and shall yield to said City all rights to occupy the public property used for such retaining wall whenever said City shall determine the same to be necessary or desirable; that the Owners release the City, its employees and agents, from any liability for damage to the retaining wall arising out of or in connection with any cause whatsoever; that said retaining wall shall be so constructed as to not interfere with or damage any utility facilities or to impede nor interfere with in any way the use of the easement/right-of-way area, streets, alleys, sidewalks, and curbs by the City and the public; and in the event that the City determines changes to the retaining wall to be necessary or desirable, the Owners shall promptly make any such changes, relocations, or rearrangements solely at their expense.

This Agreement shall not be construed as in any way limiting the rights presently held by the City in the easement/right-of-way areas, or the use thereof for public purposes, except to promote the construction and maintenance of the retaining wall in the easement/right-of-way area.

<u>753 S. Roosevelt Avenue</u> Address of Properties	<u>Street Right-Of-Way</u> Type of Easement/Right-Of-Way
<u>Lot Number 523; Zimmer and Manley Amended Addition</u> Lot Numbers or Other Description	<u>Stone Retaining Wall</u> Building or Structure
<u>30 Feet Measured from the Center of S. Roosevelt Avenue</u> Easement/Right-Of-Way Width Property Location	<u>2.00 Feet</u> Maximum Encroachment Into Easement/Right-Of-Way
<u>Street, Sidewalk & Public Utilities</u> Services Existing in Easement/ Right-Of-Way	<u>Ordinance No. -96</u> Approving Authority

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 _____, 199____ by David H. Madison, Mayor of the City of Bexley, Ohio, and John W. Hornberger, 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 _____, 199____ by _____

Witness

Property Owner

Witness

Property Owner

Notary Public

EXISTING BOXWOOD

SEASONAL COLOR

STONE PATH IN MULCH

5 LITTLE PRINCESS SPREA

EXISTING ASH TREE

GROUND COVER/SEASONAL COLOR

RETAINING WALL

RESIDENCE

PORCH

DWARF LILAC

PLANTER ON CONCRETE

SOD

DRIVEWAY

LAWN SLOPED TO SIDEWALK

SIDEWALK



**WINCHESTER
LANDSCAPE
GARDENS, INC.**

SOGA Residence

SCALE: 1" = 5'.0"

APPROVED BY

DRAWN BY

DATE: APRIL, 1995

BOB KNECHT, JR.

753 ROOSEVELT, BEXLEY, OHIO

DRAWING NUMBER

July 24, 1995

To whom it may concern,

This letter is in regards to the limestone wall we recently had erected in our front yard. Apparently due to its location we were required to receive approval from Bexley City Council.

The wall is part of a complete renovation of our front property which includes new landscaping. It was our intention to upgrade our property while helping to enhance the overall image of the City of Bexley. Judging by the countless compliments from neighbors and passersby we believe we have done just that.

We are requesting Council to approval the limestone wall and allow it to remain in its current location.

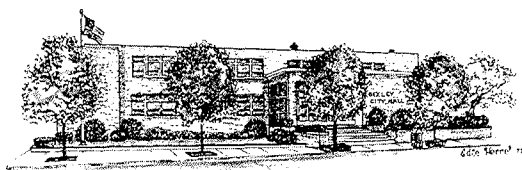
Sincerely,

Wally & Mindy Soga

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 February 27, 1996, at Bexley City Hall, 2242 East Main Street, to consider adoption of Ordinance No. 9-96. This Ordinance, if approved, will allow a decorative stone wall, which encroaches 12" on City right of way, to remain in the front yard of 753 South Roosevelt. All interested persons are invited to attend.

Mailed February 16, 1996



2242 EAST MAIN STREET • BEXLEY, OHIO 43209 • PHONE (614) 235-0956 • FAX (614) 235-3420

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Walter T., Jr. and Martha M. Soga, their successors and assigns (collectively the "Owners"), shall save the City harmless from any and all damages which may arise from, or grow out of, the construction, installation, maintenance, repair, relocation, removal or replacement of the retaining wall for any reason and shall defend, at their own cost, every suit in which the City of Bexley, Ohio, 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 the Owners, upon notice from the City of Bexley, Ohio, duly authorized by the Council of Bexley, Ohio, shall forthwith remove said retaining wall from the public property occupied by them and shall yield to said City all rights to occupy the public property used for such retaining wall whenever said City shall determine the same to be necessary or desirable; that the Owners release the City, its employees and agents, from any liability for damage to the retaining wall arising out of or in connection with any cause whatsoever; that said retaining wall shall be so constructed as to not interfere with or damage any utility facilities or to impede nor interfere with in any way the use of the easement/right-of-way area, streets, alleys, sidewalks, and curbs by the City and the public; and in the event that the City determines changes to the retaining wall to be necessary or desirable, the Owners shall promptly make any such changes, relocations, or rearrangements solely at their expense.

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<u>Street, Sidewalk & Public Utilities</u> Services Existing in Easement/ Right-Of-Way	<u>Ordinance No. 9 -96</u> Approving Authority

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 17th day of April, 1996 by David H. Madison, Mayor of the City of Bexley, Ohio, and John W. Hornberger, Auditor of the City of Bexley, Ohio.

Weninger Klein
Witness

D. Madison
Mayor

Janice A. Yeple
Witness

J. W. Hornberger
Auditor

Sharon R. Patterson
Notary Public

SHARON R. PATTERSON
Notary Public, State of Ohio
My Commission Expires Nov. 9, 1998

STATE OF OHIO, COUNTY OF FRANKLIN:

SS:

The foregoing instrument was acknowledged before me this 2nd day of May, 1996 by Walter T. Jr. + Martha M. Soga

Janice A. Yeple
Witness

Walter T. Soga Jr.
Property Owner

Weninger Klein
Witness

Martha Soga
Property Owner

Sharon R. Patterson
Notary Public

SHARON R. PATTERSON
Notary Public, State of Ohio
My Commission Expires Nov. 9, 1998

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SEASONAL COLOR

STONE PATH IN MULCH

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