

ORDINANCE NO. 44-97

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 135 N. Gould Road (Lot No. 25; J.L. Davis 1st Addition) regarding improvements to be made upon and within the City-owned right-of-way on N. Gould Road.

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

Section 1. That the property owners at 135 N. Gould Road (Lot No. 25; J.L. Davis 1st Addition) have requested approval to allow a 24 inch high stone retaining wall to remain in the front yard setback of said property which would encroach a distance of approximately two feet upon and within the N. Gould Road right-of-way owned by the City of Bexley, as shown on the drawing which is attached to and made a part of this Ordinance.

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: October 14, 1997

[Signature]
President of Council

Attest: Richard A. Levin
Clerk of Council

9-9-97, first reading
9-23-97, second reading
10-14-97, third reading
Passed

Approved: 10/14, 1997

[Signature]
David H. Madison, Mayor

CONSENT AND HOLD HARMLESS AGREEMENT

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

The property owner has sought and obtained permission from the City of Bexley to construct a 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.

Sharron Kay, her successors and assigns (collectively the "Owner"), 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 her 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 grantee and that no right, title or interest of the public is waived or abridged in any way thereby; that the Owner, 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 it 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 Owner releases 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 Owner shall promptly make any such changes, relocations, or rearrangements solely at her 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.

135 N. Gould Road
Address of Properties

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

Lot Number 25; J.L. Davis 1st Addition
Lot Numbers or Other Description

Stone Retaining Wall
Building or Structure

25 feet Measured from the
Center of N. Gould Road
Easement/Right-Of-Way Width
Property Location

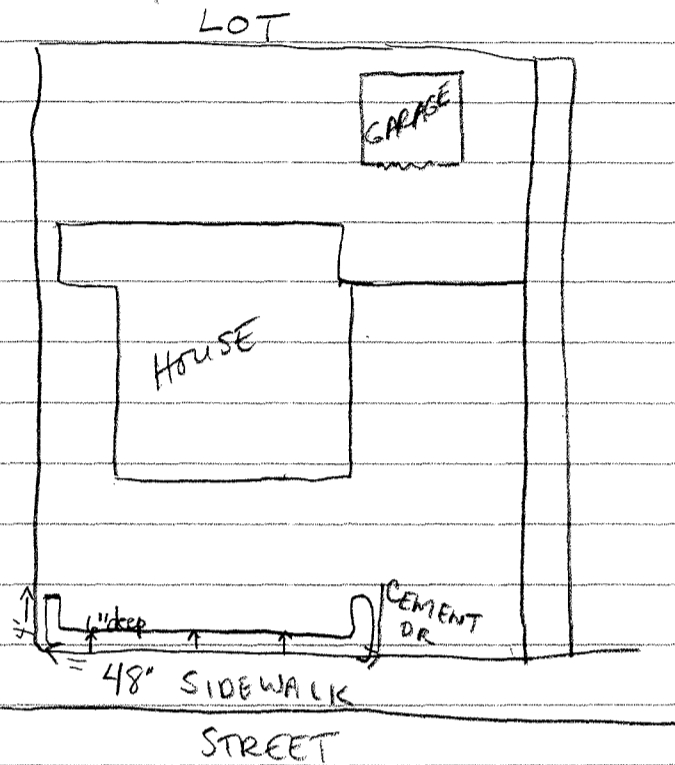
2.00 feet
Maximum Encroachment Into
Easement/Right-Of-Way

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

Ordinance No. -97
Approving Authority

This Agreement shall be binding on and for the benefit of the parties hereto and their respective successors and assigns.

Dear Ms Dorothy Pritchard,
Thank you for your letter
advising of the City public right of
way enclosed, please find a sight plan
& a sketch of the wall.



THE WALL IS 48' wide - 4' deep to close on ends and 24" high
EACH BLOCK IS STACKED 1/2" RECESSED FROM THE BOTTOM
TO TOP OF PREVIOUS LAYER. EACH BLOCK IS CONCRETE and
GRAVEL EXPOSED IN TAN COLOR, THERE IS NO
MORTAR AND THE WALL CAN BE REMOVED EASILY FOR
REPAIRS