

Ordinance 54-98

ORDINANCE NO. 54-98

BY: William J. Schottenstein

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 249 S. Cassady Avenue (Lot No. 11; Bullitt Park Extended Amended Addition) regarding improvements to be made upon and within the City-owned right-of-way on S. Cassady Avenue.

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

Section 1. That the property owners at 249 S. Cassady Avenue (Lot No. 11; Bullitt Park Extended Amended Addition) have requested approval to allow a stone retaining wall to remain in the front yard setback of said property which would encroach a distance of approximately 14.50 feet upon and within the S. Cassady Avenue 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: July 28, 1998

Jeffrey McCall
President of Council

Attest: Richard A. Levin
Clerk of Council

July 14, 1998 - first reading
July 28, 1998 - second reading
suspend & adopt

Approved: 7/28/98, 1998

David H. Madison
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 owners have 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.

Marti N. & Mitchell R. Greening, 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 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 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.

249 S. Cassady Avenue
Address of Property

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

Lot No. 11; Bullitt Park Extended
Amended Addition
Lot Numbers or Other Description

Stone Retaining Wall
Building or Structure

40 Feet Measured from the
Center of S. Cassady Avenue
Easement/Right-Of-Way Width
Property Location

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

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

Ordinance No. 54-98
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:

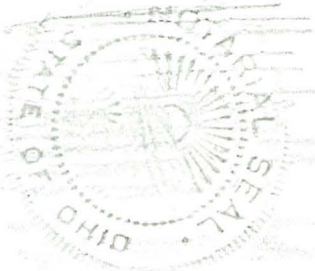
The foregoing instrument was acknowledged before me this 23rd day of March, 1999 by David H. Madison, Mayor of the City of Bexley, Ohio, and Richard A. Levin, Auditor of the City of Bexley, Ohio.

Witness

Mayor

Witness

Auditor



Notary Public

ANITA S. HUGHES
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES JULY 26, 2003

STATE OF OHIO, COUNTY OF FRANKLIN:
SS:

The foregoing instrument was acknowledged before me this 30th day of March, 1999 by the undersigned

Witness

Property Owner

Lara Drakulich

Witness

Property Owner

Leann A. Kirkpatrick
Maureen Greening

LEANN A. KIRKPATRICK
Notary Public, State of Ohio
My Commission Expires 03/08/03

Leann A. Kirkpatrick
Notary Public

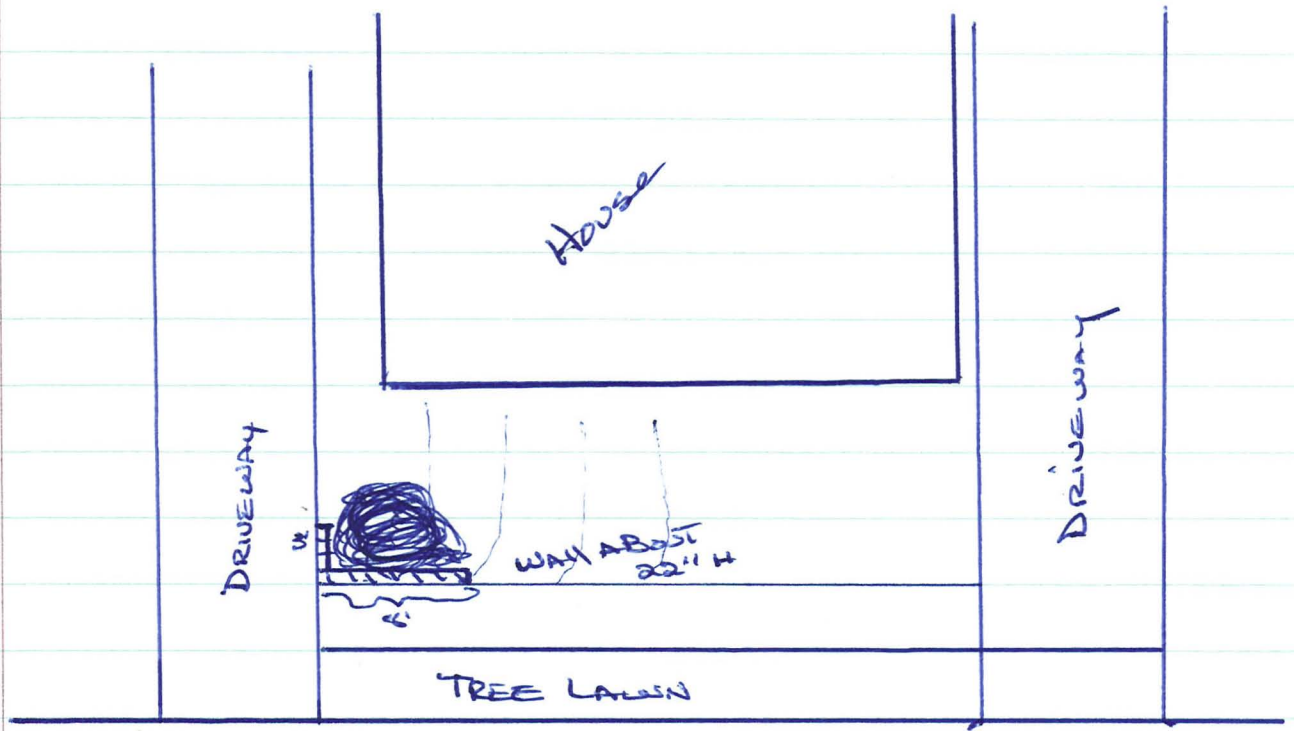
PREPARED BY	
DATE	

MITCH GREENING

236-2522 office

236-4242 home

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June 17, 1998

Mitch Greening
249 S. Cassady Rd.
Bexley, Ohio 43209

Dear Mr. Greening,

It has recently been brought to my attention, and confirmed by an inspection, that a landscape wall is currently being constructed along the front sidewalk of your residence. As you might not be aware, the construction of such wall in or abutting a public right-of-way requires review and approval from Bexley City Council per City Code.

If you wish to keep the wall in it's present location, then you must submit a landscape plan, identifying the location and size of the wall and materials used, to Dorothy Pritchard, Bexley Service Director, by **June 26, 1998**.

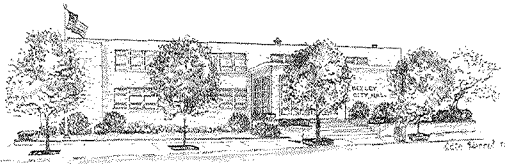
Thank you for your cooperation and understanding in this matter. If you have any questions or concerns, please call Ms. Pritchard at 235-8694.

Very truly yours,
CITY OF BEXLEY, OHIO



David W. Elmer
Code Enforcement Officer

Cc: Dorothy Pritchard, Service Director



Myers Surveying Company, Inc.

2740 East Main Street, Columbus 43209 (Bexley), Ohio
 614-235-8677 FAX: 614-235-4559

A Mortgage Location Survey prepared for and certified to:

Old Republic National Title Insurance Company and/or American Residential Mortgage Consultants

Legal Description: Situated in Ohio, County of Franklin, City of Bexley, Being Lot 11 Amended Plat of Bullitt Park Extension and Bullitt Park Extension No. 2, Plat Book 12, Page 13.

Applicant: Greening

Posted Address: 249 S. Cassady Ave., Bexley, Ohio

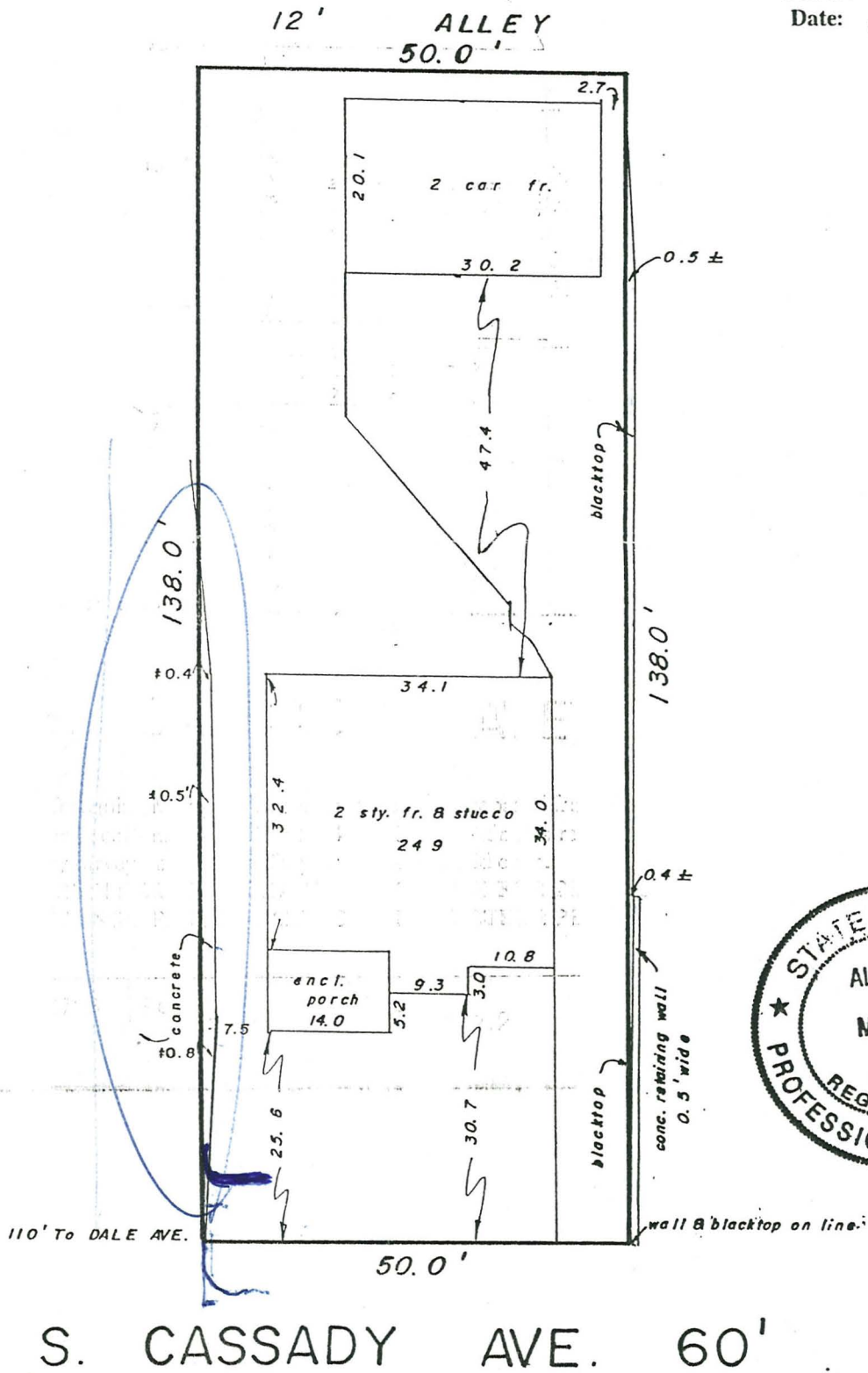
F.E.M.A. Flood Zone Designation: Flood Zone "C" as per F.I.R.M. 390168 0005B.

Apparent Encroachments: 1) Concrete Over Property Line. 2) Blacktop Over Property Line.



Scale: 1" = 20'

Date: 6-8-'93



We hereby certify that the foregoing Mortgage Location survey was prepared from actual field measurements in accordance with Chapter 4733-38 Ohio Administrative Code, and is not a boundary survey pursuant to Chapter 4733-37 of said code.

THE INFORMATION SHOWN HEREON IS NOT TO BE UTILIZED FOR THE INSTALLATION OF BUILDINGS, FENCES, LANDSCAPING OR OTHER PERMANENT IMPROVEMENTS.

Myers Surveying Co., Inc.

By *Albert J. Myers*
 Professional Surveyor

Myers Order No. - 55-06/07/93

Rec. *KB*

Field *p.p.*

DWG *gh*

Ltr.

Ck. *U*

Candi's Copy

PUBLIC NOTICE

This is to inform you that a public meeting will be held by the Engineering and Plats Committee of the Council of the City of Bexley, Ohio, at 6:15 P.M., Tuesday, July 21, 1998, at Bexley City Hall, 2242 East Main Street, to consider adoption of Ordinance No. 54-98. This Ordinance, if approved, will allow a stone retaining wall constructed on City owned right-of-way in the front yard of 249 S. Cassady Avenue to remain in place.

All interested persons are invited to attend.



Marked 7/15/98