

ORDINANCE NO. 54-01

BY: Mark Masser

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 2541 Bexley Park Road (Lot No. 205 and the west half of Lot 206; Bexley Park Subdivision) regarding improvements to be made upon and within the City-owned right-of-way on South Cassingham Road.

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

Section 1. That the property owners at 2541 Bexley Park Road (Lot No. 205 and the west half of Lot 206; Bexley Park Subdivision) have requested approval to allow a 12 inch high stone retaining wall in the front yard setback of said property which would encroach a distance of approximately 36 inches upon and within the South Cassingham Road 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: 8-13, 2001

Ann H. Parks
President of Council

Attest: *Richard A. Levin*
Clerk of Council

*7/24/01 First Reading
8/13/01 Second Reading
Suspend Three
Reading Rule.
Passed.*

Approved: *DM* 8/13/01, 2001

DM
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 wall as indicated below on the property described below and in the easement/right-of-way as described. Approval of the stone wall and use of an easement/right-of-way area that is public property is conditioned upon this Agreement.

Steven and Julianne Huefner, 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 stone 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 stone wall from the public property occupied by it and shall yield to said City all rights to occupy the public property used for such sidewalk 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 stone wall arising out of or in connection with any cause whatsoever; that said stone 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 stone wall to be necessary or desirable, the Owner 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 stone wall in the easement/right-of-way area.

2541 Bexley Park Road
Address of Property

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

Lot No. 205 and the west half of Lot 206; Bexley Park Subdivision
Lot Numbers or Other Description

Stone wall
Building or Structure

30 Feet Measured from the Center of Cassingham Road
Easement/Right-Of-Way Width
Property Location

36 inches
Maximum Encroachment Into
Easement/Right-Of-Way

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

Ordinance No. 89-90
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 27th day of August, 2001 by David H. Madison, Mayor of the City of Bexley, Ohio, and Richard A. Levin, Auditor of the City of Bexley, Ohio.

Sara Chunnock
Witness

D. Madison
Mayor

Sharon A. Seimore
Witness

Richard A. Levin
Auditor

Anita S. Hughes
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 27th day of August, 2001 by Steven and Julianne Huefner

Sharon A. Seimore
Witness

St. J. Huefner
Property Owner

Sara Chunnock
Witness

Julianne Huefner
Property Owner

Anita S. Hughes
Notary Public

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

**Proposed Replacement of Existing Retaining Wall
2541 Bexley Park Road
July 2001**

This corner lot is bounded by Cassingham and Bexley Park roads. At present, a dry stacked stone retaining wall runs along the Cassingham side of the front yard, from the side driveway forward towards Bexley Park Road. The wall is approximately 12 inches in height and immediately abuts the sidewalk (on the house side, rather than the street side, of the walk). It is constructed of large irregular pieces of approximately one inch thick flagstone or similar stone. About halfway from the driveway to the front sidewalk the wall begins to recede from the sidewalk and then disappears into the raised soil beds. The soil beds are planted in ivy, a variety of hosta, and many other flowering shrubs and plants, with scattered small trees. The soil has a tendency to wash or otherwise drift across the sidewalks in front of the area where the existing retaining wall disappears on the Cassingham side of the yard, as well as all along the Bexley Park side. In addition, some stones in the existing wall are missing or loose.

The current owners desire to replace and extend the existing retaining wall with a dry stacked stone wall constructed of Chilton Limestone, in regularly cut pieces 2-3 inches thick. The wall will be approximately 12-14 inches in height, to match the existing landscape grade, and 8 inches wide. At the driveway, where it begins, it will be immediately adjacent to the sidewalk, in order to clear an existing tree. The wall then will extend forward the length of the Cassingham sideyard, beyond the termination of the existing retaining wall, to a point two feet inside the Bexley Park sidewalk. Roughly halfway along the side, the wall will be interrupted by a small stair into the yard, constructed of identical stone, and the wall will then be stepped back one foot from the sidewalk as it proceeds to the front corner. At the corner, the wall will turn and run the length of the frontyard, except for an interruption at the frontwalk leading to the home, at a uniform distance of two feet from the sidewalk. Once the wall is completed, a portion of the existing front landscaping may be replaced with sod.

MYERS SURVEYING Co.

2740 East Main Street, Columbus 43209 (Bexley), Ohio

LOT 205 & PART OF LOT 206 BEXLEY PARK ADD'N. BEXLEY, OHIO

FOR
CAMERON TITLE AGENCY, INC.
AND/OR
DOLLAR SAVINGS ASS'N.

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Scale 1" = 20'

Franklin Co. Rec. Office
8 · 3 · '83

15' ALLEY

75.0'

2541
BEXLEY PK

