# ORDINANCE NO. 69 - 05

#### By: Mr. Weber

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 2797 Powell Avenue (Lot No. 433; Ardmore 2) regarding improvements to be made upon and within the City owned street right-of-way adjacent to South Merkle Avenue.

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

Section 1. That the property owners at 2797 Powell Avenue (Lot No. 433; Ardmore 2) have requested approval to construct a 12 inch high retaining wall within the street right-of-way; said wall to be approximately 30' in length running parallel and adjacent to South Merkle Avenue.

Section 2. That the Mayor and 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 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.

.18 . 2005 Passed:

Attest Clerk of Council

President of Counc

6/28/05 Just Reading 7/12/05 Decond Reading 7/18/05 Thud Reading

2113 Approved: 2005

David H. Madison, Mayor

#### **CONSENT AND HOLD HARMLESS AGREEMENT**

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

The property owner has sought and obtained permission from the City of Bexley to install a 12" high retaining wall as indicated below on the property described below and in the easement/right-of-way as described. Approval of the wall and use of an easement/right-of-way area which is public property is conditioned upon this Agreement.

The property owner, his 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 wall for any reason and shall defend, at his 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 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 wall from the public property occupied by it and shall yield to said City all rights to occupy the public property used for such wall whenever said City shall determine the same to be necessary or desirable; that the Owner releases the City, its employers and agents, from any liability for whatsoever; that said wall shall be so constructed as to not interfere with or damage any utility facilities or to impede nor interfere within 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 wall to be necessary or desirable, the Owner shall promptly make any such changes, relocations, or rearrangements solely at his 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 wall in the easement/right-of-way area.

2797 Powell Ave. Address of Property Street Type of Easement/Right-of-Way

Lot No. 433 Ardmore 2 Lot Number or Other Description

12 inch retaining wall Building or Structure

Easement/Right-of-Way Width Property Location 2'

Maximum Encroachment Into Easement Right-of-Way Storm, Sewer, Sidewalks, Street Services Existing in Easement/ Right-of-Way

Date of Agreement

Ordinance No. – 05 Approving Authority (Council)

1000

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, COUNCIL OF FRANKLIN: SS:

The foregoing instrument was acknowledged before me this day of \_\_\_\_ , 2005, by \_\_\_\_ Sin. Mayor of the City of Bexley, Ohio, and \_\_\_\_\_ Comy Coul , Auditor of the City of Bexley, Ohio.

Witness

Mayor

Witness

Auditor

Notary Public

Anita S. Foley Notary Public, State of Ohio My Commission Expires July 23, 2008

## STATE OF OHIO, COUNTY OF FRANKLIN: SS:

The foregoing instrument was acknowledged before me this \_\_\_\_\_\_ Sachs.

Uly\_\_\_\_, 2005, by \_\_\_\_\_ day of \_

'und Witness

ach an

**Property Owner** 

Witness

Property Owner

Notary Public

Anita S. Foley Notary Public, State of Ohio My Commission Expires July 23, 2008

APPLICATION NUMBER 54 CC FILING FEE: \$50.60

## CITY OF BEXLEY, OHIO

### APPLICATION TO APPEAR BEFORE BEXLEY CITY COUNCIL

1.	This application is submitted for: (please check)
	() Rezoning () Lot Split () Plat Approval (Å) Variance
2.	APPLICATION SUBMITTED FOR PROPERTY LOCATED: 2797 POWELL AND
3.	NAME OF APPLICANT:
	Lori & Gl Sachs
	ADDRESS: 2797 POWER QUE TELEPHONE NUMBER 1014-236-5157
	TELEPHONE NUMBER $019 - 236 - 515$
4.	ADDRESS:
	TELEPHONE NUMBER:
5.	Narrative description of project (attached additional sheets, if necessary.)
	Install 7 in high, 30 feet long
	Install 7 in high, 30 feet long retaining wall
6.	IF THIS APPLICATION INVOLVES A VARIANCE, PLEASE EXPLAIN WHY THE VARIANCE IS NECESSARY. (Attach additional sheets, if necessary.)
	See attached sheets

Ou acher DATE 6-23-05 (Signature) APPLICANT

(NOTE: If the applicant is not the owner, a letter from the owner stating his or her approval of the application must be submitted with the application.)

June 23, 2005

Bexley City Council Members:

We are seeking permission to erect a 7 inch high, 30 foot long retaining wall to keep the dirt from washing away from the flower bed and onto the sidewalk.

In the picture you can see the eastern side of our chain link fence. When the grass in this bed was not growing well, we decided to enhance our property by pulling out the patchy grass and replace it with an attractive flower bed. The wall is necessary to keep the dirt from washing away onto the sidewalk. Dirt flowing would make it muddy for pedestrians and continual eroding would damage the plants.

In two of the pictures you can see a small sample of what the wall would like. The small wall would be made out of Olen Valley Thin rocks purchased from Lang Stone. It would only have two layers of rocks, thus totaling the 7 inches described above. The pathway would be lit at the northern end.

As we drive and walk around Bexley we see that many people have walls such as the one we are describing. They are very attractive and we hope that we can do the same beautification for our own property. Thank you for considering our proposal to enhance our property and therefore, Bexley.

Sincerely yours,

Ed and Lori Sachs 2797 Powell Avenue 614-236-5157 5<sup>-</sup>78 · 2345 cell









Permit Date: 06/24/2005 App. No.: 54 CC Address: 2797 POWELL AV Scope of Work: COUNCILMATIC VARIANCE Project: CITY COUNCIL Owner: SACHS EDWARD M & LORI S 2797 POWELL AVE COLUMBUS OH 43209 Telephone: - -Applicant: OWNER 2797 POWELL AVE COLUMBUS, BDBAST 43209 Telephone: ----An application to request review upon payment of a fee of \$ \$50.00 is hereby granted. Receipt number: 11287 Owner/Agent: EDWARD & LORI SACHS Chief Building Official: Date: applicant audit file packet/Dorothy Date of Review Meeting:\_\_\_\_\_



## **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 5:30 P.M., Monday, July 18, 2005, at Bexley City Hall, 2242 East Main Street, to consider adoption of Ordinance No. 69-05. This ordinance, if approved, will allow for the construction of a 12" high retaining wall in the side yard of 2797 Powell Avenue.

All interested persons are invited to attend.

