

ORDINANCE NO. 75-05

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 2355 Sherwood Road (Acreage; Thomas Miller Estate Sub.) regarding improvements to be made upon and within the City owned street right-of-way adjacent to Sherwood Road.

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

Section 1. That the property owners at 2355 Sherwood Road (Acreage; Thomas Miller Estate Sub.) have requested approval to construct a 12 inch high retaining wall within the street right-of-way; said wall to be approximately 43' in length running parallel and adjacent to Sherwood Road.

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.

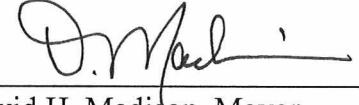
Section 3. That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: 7-18, 2005


President of Council

Attest: 
Clerk of Council

Approved: 7/18, 2005

6/28/05 First Reading
7/12/05 Second Reading
7/18/05 Third Reading Passed. 
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.

2355 Sherwood Rd.
Address of Property

Street
Type of Easement/Right-of-Way

Acreage
Thomas Miller Estate Sub.
Lot Number or Other Description

12 inch retaining wall
Building or Structure

Easement/Right-of-Way Width
Property Location

0.5'
Maximum Encroachment Into
Easement Right-of-Way

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

Ordinance No. 75 - 05
Approving Authority (Council)

Date of Agreement

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 _____,
Mayor of the City of Bexley, Ohio, and _____, Auditor
of the City of Bexley, Ohio.

Sara Chinnal

Witness

D. Mad

Mayor

Beech Hale

Witness

Terry W. Shulman

Auditor

Anita S. Foley

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 9TH,
day of AUGUST, 2005, by Suzanne Klingelhofer.

Barbara McGinley
Witness

Suzanne Klingelhofer
Property Owner

Witness

Property Owner

Robert A. Martin
Notary Public



ROBERT A. MARTIN
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES DECEMBER 12, 2005

APPLICATION NUMBER 54 CC
FILING FEE: \$ _____

CITY OF BEXLEY, OHIO

**APPLICATION TO APPEAR BEFORE
BEXLEY CITY COUNCIL**

1. This application is submitted for: (please check)

Rezoning Lot Split Plat Approval Variance

2. APPLICATION SUBMITTED FOR PROPERTY LOCATED:

2355 Sherwood Road, Bexley

3. NAME OF APPLICANT: Peter and Suzanne Klingelhofer

ADDRESS: 2355 Sherwood Road, Bexley

TELEPHONE NUMBER 614-237-8694; work: 221-4181

4. NAME OF OWNER: Peter and Suzanne Klingelhofer

ADDRESS: 2355 Sherwood Road, Bexley, OH

TELEPHONE NUMBER: 614-237-8694

5. Narrative description of project (attach additional sheets, if necessary.)

See attached description.

6. IF THIS APPLICATION INVOLVES A VARIANCE, PLEASE EXPLAIN WHY THE VARIANCE IS NECESSARY. (Attach additional sheets, if necessary.)

Retaining wall will border the sidewalk so that dirt and debris will not spill on sidewalk. Sidewalk and two feet into property is under city jurisdiction.

APPLICANT: Peter S. Klingelhofer DATE 6/27/05
(Signature) Suzanne S. Klingelhofer

(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.)

Application to Appear Before Bexley City Council continued.....

#5. We started installing a retaining wall on our property when we learned that we must have a permit to do so. We stopped building it and started this process for approval. We have therefore included pictures for you to see our wall in its development stage. We intend for the wall to be under a foot tall and cover the front of our property (2355 Sherwood Rd) at the sidewalk. We have had trouble with dirt and debris on the sidewalk from our yard, which is higher elevation than the sidewalk. We are using 2 layers of flagstone rock (approximately 4 inches thick), and a flagstone cap for the top (approximately 1 inch thick) and mortaring them together for stability. We are trying to recess the mortar like the walls recently installed at Drexel and Broad. We are putting a drainage pipe behind the retaining wall to keep moisture from destroying our wall over time.

Our intention is to improve the safety of our front walk from being so slippery after a rain or snow.

Klingelhofer property at 2355 Sherwood Road

Pictures below show our yard elevation and the beginning stages of our wall. The top stones are NOT mortared yet, but the bottom stones are in place. We would like to do the same wall on the right side of our steps as well. The bottom picture shows the width of the cap stone over the pipe; the cap stone will run the length of the wall and will be the final height of the wall(below 12").



Klingelhofer property at 2355 Sherwood Road

This photo shows the length of the wall from our stairs to the drive and the relation to the sidewalk (again top stones are not mortared in yet).



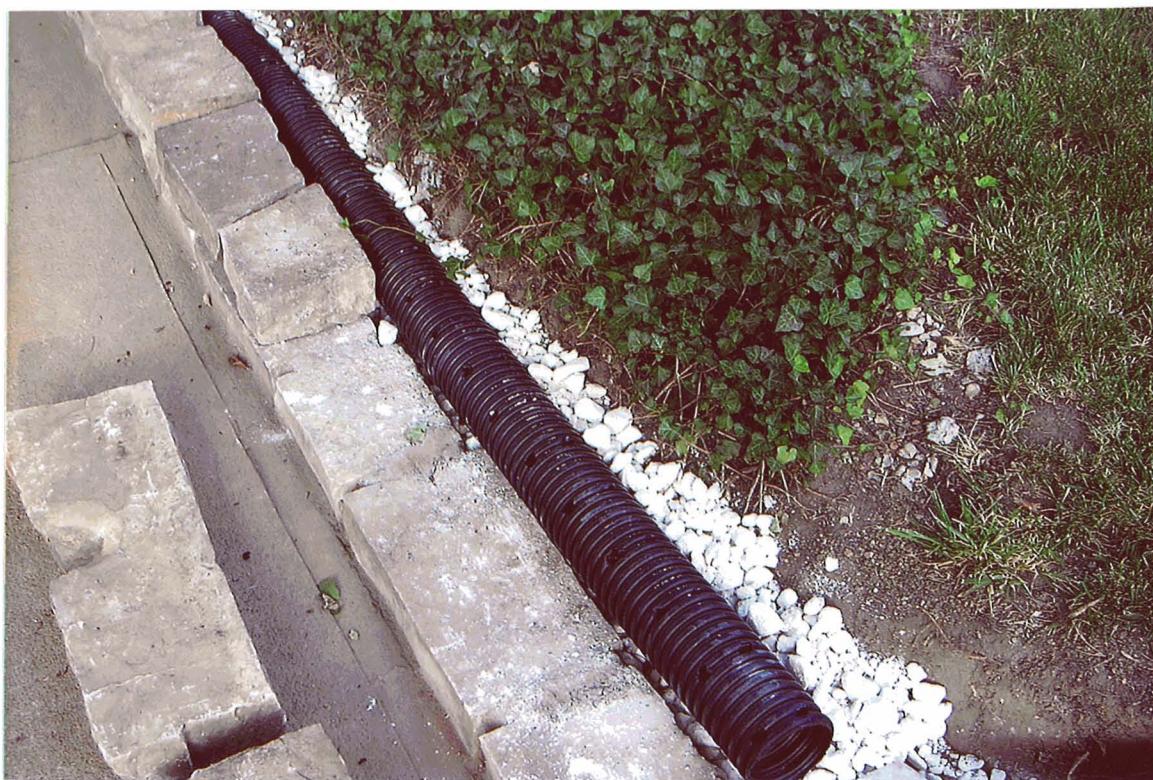
Klingelhofer property at 2355 Sherwood Road

Pictures below show the elevation of our yard to the sidewalk and the dirt that we are trying to retain.



Klingelhofer property at 2355 Sherwood Road

Top photo shows the dirt and ivy that spills onto sidewalk, which we are trying to prevent. Bottom photo shows the drainage pipe location behind the wall.



***** CITY OF BEXLEY *****
2242 E.MAIN STREET
BEXLEY, OHIO 43209

* * * * * CITY COUNCIL REVIEW * * * * *

Permit Date: 06/28/2005

App. No.: 56 CC

Address: 2355 SHERWOOD RD

Scope of Work: COUNCILMATIC VARIANCE
Project: CITY COUNCIL

Owner: KLINGELHOFER, PETE
2355 SHERWOOD RD
BEXLEY OH 43209-

Telephone: - - -

Applicant: OWNER
2355 SHERWOOD RD
BEXLEY, BDBAST 43209-

Telephone: _____ - _____

An application to request review upon payment of a fee of \$ 50.00 is hereby granted. Receipt number: 11310

Owner/Agent: PETER & SUZANNE KLINGELHOFFER

Chief Building Official: _____ Date: _____

applicant audit file packet/Dorothy

1

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. 75-05. This ordinance, if approved, will allow for the construction of 12" high retaining wall in the front yard of 2355 Sherwood Road.

All interested persons are invited to attend.



2242 EAST MAIN STREET • BEXLEY, OHIO 43209 • FAX (614) 389-0517