

All Village of Arden  
residents are encouraged  
to attend the next

# Town Meeting

Monday, September 26, 2011  
7:30 p.m. - Gild Hall  
2126 The Highway  
Arden, Delaware

## AGENDA ITEMS WILL INCLUDE:

1. Alternative Assessment
2. 3rd reading of ordinance on Absentee Voting
3. 2nd reading of ordinance on Vacant Dwellings
4. Registration Committee's draft affidavit & procedure for Absentee Voting  
(available on <http://arden.delaware.gov/> after Sept. 15)

All are welcome hither

Please note:

Those attending Town Meetings are eligible to vote if they have resided in the Village of Arden six months prior to the Meeting and are 18 years of age, or older.



Minutes of the Town Assembly for the Village of Arden (uncorrected)

Monday, June 27, 2011

Gild Hall -Arden, DE

50 attendees:

Heidi Hoegger  
Walter Borders  
Julia McNeil  
Betty Duff  
Cynthia Dewick  
Larry Strange  
Larry Walker  
Adrienne Roberto  
Vincent Smeal (NV)  
Harold Kalmus  
Steven Threefoot  
David Gerbec  
Elizabeth Varley  
Barbara J. Henry  
Elizabeth Resko  
Betty O'Regan  
Esther Schmerling  
Alton Dahl  
Ray Seigfried  
Denis O'Regan  
Jane Claney  
Jonathan Claney  
David Claney  
Wally Smith  
Gary Quinton

Ruth Bean  
Jill Moncarz  
Jeffrey Politis  
Mary Murphy  
Marianne Cinaglia  
Rodney Jester  
Sadie Somerville  
Hugh Roberts  
Charles E. Robinson  
Ed Rohrbach  
Debbie Ricard  
Warren Rosenkranz  
Ron Meick  
Tom Wheeler  
Jan Westerhouse  
Lynda Kolski  
Carol Larson  
Mike Curtis  
Danny Schweers  
Cookie Ohlson  
Beverly Barnett  
Barbara Macklem  
David Michelson  
Cecilia Vore  
Elaine Hickey

To save postage, Arden Minutes & Agenda Items are addressed to one member of each household. If you do not wish to share this information among those residing at your leasehold, please email [registration@theardens.com](mailto:registration@theardens.com) and we will arrange separate mailings.

### **1.0 Call to Order**

Chair Steven Threefoot called the meeting to order at 7:40 PM.

### **2.0 Approval of the Minutes**

The following correction was made to the March 28, 2011 Town Meeting Minutes :  
The correct spelling of one of the Town Meeting visitor's name is Gabe MacKinney,  
not McKinney.

The Minutes were accepted as corrected.

### **3.0 New Residents -**

*Betty Duff* lives at 1911 Orleans Rd.

*Adrienne Roberto* and son *Vincent Smeal* moved into 2005 Harvey Rd. in Sept. 2010.

*Jill Moncarz* moved into 2210 Lower Ln. in May 2010.

### **4.0 Visitors** - None

### **5.0 Recognition of the Departed** - None

### **6.0 Communications** - Chair Steven Threefoot

#### ***Cooperative Agreement***

We received the letter to renew the triannual agreement with New Castle County for the Village to be covered under the County's Housing & Urban Development Program's Block Grant. The income level in our community is high enough whereby we don't qualify for receiving any benefit, but this agreement allows the County to administer the program for us if we should qualify. The renewal is in June 2012. We will talk about it again and vote on a Motion in January. Anyone is welcome to read over what this program is about, by contacting Steven at [arden-chair@theardens.com](mailto:arden-chair@theardens.com).

#### ***Re: Fallen Tree on Broadbent Leasehold***

Steven read the letter from Lisa M. Broadbent DiOssi. (See Attached, pg.20)

### **7.0 Trustees' Report** –Mike Curtis read the following report:

**Finances:** We have copies of the quarterly financial report available tonight (See Attached, pg.21) and have given the final audit to the Audit and Budget Committees, Town Treasurer, Town Assembly Chair, and Board of Assessors and the reserve to the Assessors.

**Administrative:** Please note a change in our tree policy. If you want a tree removed that is 18" in diameter or under, you will not need the permission of the Trustees to do so. Also, just as a reminder, at a previous town meeting, we informed you that we will give you permission to cut down a tulip poplar of any size. These trees can reach 80-100 ft, are shallow rooted, and they do topple. We will put an item about that change in *The Arden Page* to spread the word on that.

**Lease Transfers:** There have been no lease transfers since the March Town Meeting.

**Legal:** The Trustees have engaged a new attorney for the Buckingham Greene lawsuit.

Ted Rosenthal will replace Roger Akin who was our counsel on this case when we initiated the lawsuit in 1995. As I mentioned at the last town meeting, Roger has taken a position as Chief Hearing Officer with the Delaware State Department and has closed his practice. Ted Rosenthal of Rosenthal, Monhait and Goddess, is our Trust-Town attorney. He has agreed to take on the case with all of its complications, and he has had a preliminary discussion with the defendant's attorney. Formal transfer to our new counsel with Chancery Court is in process.

**Trustee Outreach:** We will be having our second group Trustees/Directors meeting in August to discuss matters of mutual interest and concerns in Arden, Ardentown and Ardencroft.

**Leaseholders:** This evening, the Trustees would like a sense of the meeting about creating new rental units or ADUs (accessory dwelling units) using New Castle County's nomenclature. Here is some background information before I request a sense of the meeting:

In March 2008, Community Planning Committee presented Ordinance #14 (Certification Process for Leaseholds with ADUs) for a final (or 3rd) reading. The ordinance passed and, as a result, extra domiciles built prior to May 1, 2007, and were on a Village-created list were recognized as legal by the County. Within that ordinance was the following sentence: "Leaseholders who wish to build ADUs after this process is completed will need to obtain approval by the Trustees, the Village and go through the normal process with the county to obtain legal approval." The Trustees are concerned that this sentence might have been overshadowed by the discussions focusing on legalizing the existing ADUs. There has been no substantive discussion about new ADUs at town meeting. For reference, we have prepared a handout with the New Castle County ADU ordinance [(ADU 40.03.410(h)]. (See Attached, pg. 22) It is also on the New Castle County web site <http://www2.nccde.org>. Search the Unified Development Code under "ADU." There have been 84 new ADUs approved in New Castle County.

This is how we anticipate the new ADU process will work:

- (1) Leaseholder discusses their building plans with the County.
- (2) Leaseholder contacts the Trustees with the building plans.
- (3) Trustees discuss and, if approved, will bring the request to town assembly for a vote.
- (4) If approved at town assembly, the Trustees will sign the application for the leaseholder to take to the County as per the County's requirement. The County will be the final approver.

Our request for a sense of Town Meeting is as follows:

The Town Assembly supports the creation of new ADUs in Arden as long as:

- (1) The Trustees of Arden approve the leaseholders's application. Trustee approval will be based on conformance to New Castle County Code for a new ADU.
- (2) Town Assembly approves the request.

Finally, if you have any questions or concerns, please contact our assistant Julia McNeil (475-7980 or email [Trustees.of.Arden@gmail.com](mailto:Trustees.of.Arden@gmail.com)) or, of course, contact Mike Curtis, Carl Falco, or me.

Respectfully submitted,  
Connee McKinney, Arden Trustee

Discussion-

Chair Steven Threefoot asked if anyone wanted clarification of the statement “request for a sense of Town Meeting.”

*Barbara Henry*- Is this for people who already have one ADU that was grandfathered in and then could have a second ADU? *Mike*- It is for anybody who doesn't already have an ADU. They can get one if they go through the County process. This does not affect anyone who has an ADU already.

*Ray Seigfried*- Our Ordinance 14 clearly states that anyone interested in additional ADUs must follow County Code. That code mandates that you can have an attached ADU to an existing house. If you want a detached ADU you need two acres. What exactly are you asking for? *Mike* – The question is whether this body supports that anyone who doesn't already have an ADU should get permission from the Trustees, being that the Trustees have the final say on granting permission. *Ray* – I think the Town's approval of our Ordinance 14 is a sense of the Town and what they are saying is that ADUs should be granted to anyone who wants one. *Mike* – You are right but the Trustees overlooked that and we want to make sure no one else overlooked it and understands what Ordinance 14 means.

*Alton Dahl* – This was discussed many times. You are talking as if all the permission for ADUs has already been done.

*Charles Robinson* – Should this be embodied in the Trustees' Report?  
*Steven Threefoot* – It is already in the Ordinance. The Trustees have that authority in the ordinance. We did not get a Motion on the floor. They've just informed us that this clause is in Ordinance 14.

*Lynda Kolski* – Could we just ask if everyone who knew this clause was in the ordinance to raise their hands?

Chair Steven Threefoot asked for a show of hands, which indicated that the majority of those present are aware of the clause.

The Trustees' Report accepted.

## **8.0 Treasurer's Report - David Michelson**

Copies of the Village's financial policies were distributed, as they are reviewed annually at the June Town Meeting. (See Attached, pg. 23) Any questions can be brought to the Town Officers at the biweekly Office Hours, the 2<sup>nd</sup> & 4<sup>th</sup> Wednesday of the month at 7:30 PM in the BWVC.

David went over the financial statements. (See Attached, pgs. 24-26)

Questions-

*Charles Robinson* – When we rollover a CD in a Money Market account do we have any idea what the interest rate is? *David* – Right now it is less than 0.5%. *Charlie* – If you call around you might be able to get a better rate. *David* – I

agree. Once the money was put into the Vanguard accounts we looked at what was proposed as the investment for the bequest and at least put them into CDs that are long term, 1, 2, 3, 4, & 5 years and get a larger gradient. Also, when organizations open bank accounts they have to go through a lot of red tape.

Treasurer's Report accepted.

## **9.0 Advisory Committee Report** – None

### **10.0 Board of Assessors Report**– Tom Wheeler

Town Chair Steven Threefoot explained that we would not be voting on the assessment reported at this meeting. At the September Town Meeting we will vote on whether or not to accept the Board's Assessment. If an Alternative Assessment is presented, it would have to win by 2/3 of the vote in order to defeat the Board's Assessment.

Tom read the following Assessors' Report 2011:

(See Attached, pgs. 27-30)

The two Assessors opposing this assessment made an Alternative Assessment available to the Town Assembly. (See Attached, pgs. 31-34)

Discussion-

*Mike Curtis* – Since anyone can have an additional attached domicile why didn't the Assessors feel that the second 7116 sq. ft. should pay a higher rate than the C rate? Since the people who want the Municipal rate are thinking the A rate is not high enough, what research was done to determine that the C rate is only 40% of the A rate? *Tom* – I'd like one of the Assessors who approved to answer that question. *Mike* – 40% has been used for many years and I'd like to know how the rental value of a yard you can't build on is worth 40% more. *Steven Threefoot* – I have done some research and it is a power/law relationship. There are papers out there that describe it.

*Rodney Jester* – Using the Municipal rate may be sending us down a slippery slope. Will we start looking at the number of cars residents have and their wear and tear on the roads? I see this as the beginning of tearing down the land rent system.

*Walter Borders* – The use of "40%" was taken from the Univ. of Illinois national study based on how assessments are done in North America. The square footage under the house is most important. Any square footage outside the footprint of the house is assessed at a lower rate because you can't do anything more with it based on what the county code is. The general rule of thumb is roughly 40%. In regard to Rodney's point and the community standard of living, it is a requirement that the Village have a single community trash carrier to ensure less usage of the roads.

*Marianne Cinaglia* - How are we charged for trash collection, by leasehold or number of domiciles? *Steven Threefoot* – We are charged by pick up spots. It is an historical number and probably ought to be audited. *Marianne* – How are multiple domiciles and trash collection figured into the M rate? *Tom* – I can't answer that question.

*Ray Seigfried* – Is the M rate just used for calculating the obligation for the trash bill and how was it done in the past? *Denis O'Regan* – Trash payment has been lumped into the A rate. The reason behind the M rate is that the first 7116 sq. ft. base rate is what is required to support a household in Arden. I believe that is where most of the burden lies when it comes to trash collection. It feels unfair to have the size of a yard or location factors figured into it. Five of the Assessors agreed that separating it into the M rate on the first 7116 sq. ft. across Arden's 198 leaseholds more fairly distributes the burden. *Ray* – According to the formula, it is \$53/1000 sq. ft.? *Denis* – Yes.

*Bev Barnett* – Is it true that itemizing the trash collection would make that part of the land rent non-deductible? *Denis* – It is a decision for you to make with your accountant.

*Lynda Kolski* – The outcome of using the M rate is that small leaseholds will pay more and large leaseholds will pay less. I note that all five Assessors who voted for this are all large leaseholders. If the intention is to make it fair, why are you not taking into consideration the leaseholders who have 5,6, 7 domiciles producing 5,6,7 times as much land rent or have a home business, some of which produce a huge amount of garbage. If you are trying to make it fair you have to look at the amount of trash generated by the leasehold, not the size of the leasehold. I think this creates just another lopsided process. When we all bought into Arden we knew that the land rent included our municipal services. Once you start dividing them out like this you slowly erode the basic land rent system that we supposedly all believe in.

*Barbara Maklem* – It is my understanding that I am taxed on my leasehold and not the improvements I make to it. Does this Assessors' report change that? *Tom* – The Alternative Assessment represents essentially what we have done in the past and supported by vote at Town Meetings. *Denis O'Regan* – I am going to correct one part of that. The Town Assembly can make a decision but the Board of Assessors has to follow what they think is the proper way to apportion the Town expenses in a fair manner, according to the documents i.e. Deed of Trust, Act to Reincorporate, case law, etc. The Trustees and the Village cannot tell the Assessors how to assess. Whenever that vote was taken 20-30 years ago, those Assessors agreed to take that advice. This year I looked at it carefully. The Village and people who lived here 30 years ago are not going to change what I think is a fair proportionate based on what I am seeing. I personally thought including the ADUs was appropriate, but it did not have the support that the 198 leaseholds took. Under our system, home-based businesses fall through the cracks, and there is no way to base it on land and embrace all those figures.

*Chair Steven Theefoot* – I remind everyone that the Board of Assessors is an independent Board, not a Committee of Town Assembly. They are elected separately and report to us.

*Mike Curtis* – Could you have accomplished the same end by simply raising the A rate, and why be in favor of the B rate if everyone has the privilege of having one extra domicile? *Denis* – We felt the B rate was still valid, but if any of the other Assessors would like to address that question, they can. Regarding the A rate question, if you increase the A rate and decrease the C rate, the C rate is still financing part of the trash collection. Location factors are added to the A rate. Why should location be figured into the amount one pays for trash collection?

*Charlie Robinson* – Does the Assessors’ proposal come to vote in September? *Steven Threefoot* – If there are Alternative Assessments, they will come to vote in September. If an Alternative Assessment gets at least 2/3 of the vote, then that Assessment goes to Referendum. The Board of Assessors has submitted its report and it is the default. For an Assessment to pass at Referendum it requires more than half of all the votes.

*Jeffrey Politis* – Thank you to all the Assessors for doing this difficult job.

Board of Assessors Report accepted

### **11.0 AD HOC Committee on Absentee Voting** – Marianne Cinaglia

Second reading of Ordinance 15. Section 3c has been added to the first reading version of Ordinance 15.

#### **Village of Arden**

#### **Ordinance 15: Election of Town Officials and Committee Members**

Section 1. Purpose: Arden shall have a procedure for electing Town Officials and Committee Members that more closely parallels the process used to approve the yearly budget. This process would allow all members of the Town Assembly to more fully participate in Town affairs and will be effective for the March 2012 election.

Section 2. An Act to Reincorporate the Village of Arden (1968) Section 4: *Structure of Government* states: “The Town Assembly shall consist of all residents of the Village.”

Section 3. The election of Officials and Committee Members shall take place at the March Town Meeting.

Section 4. The election shall be conducted by the Registration Committee:

a. Ballots shall be mailed to residents by the Registration Committee four (4) weeks before the March meeting.

b. Ballots shall be returned by mail or by hand delivery before the adjournment of the March Town meeting as specified by the Registration Committee. Ballots shall also be available at the Town Meeting.

c. Replacement committee members shall be selected, largest number of votes first, from the committee nominees of the previous election. Replacement officials shall be nominated by the Advisory Committee. Names of the nominee(s) shall be included on the meeting agenda mailed to Town Assembly members. Election shall take place at the Town Meeting as prescribed in “An Act to Reincorporate”

Questions-

*Alton Dahl* – It is my understanding that we don’t have Town officials. We only have officials of the Town Meeting and that committee members are members of committees of the Town Meeting. It may be immaterial but it also may have something to do with how people feel about where they should be elected.

*Gary Quinton* – I don’t understand why this ordinance is being read. We voted on a procedure for absentee voting that the Registration Committee presented at the last Town Meeting. This ordinance involves a much more complicated process and the burden of mailing a ballot to every resident who could choose to respond or not respond. *Marianne* – We asked the Advisory Committee about this and their advice was that once an ordinance is read it has the right to be read three times. *Gary* – Are we going to be voting on this ordinance after the third reading? *Marianne* – Yes,

it could be voted up or down. *Gary* – Can it be amended? *Steven Threefoot* – Yes, but if there are substantial changes it would have to go through four readings. *Gary* – Why not follow Delaware’s procedure for absentee voting? *Marianne* – The voter would have to apply for a ballot and sign a statement telling why they would need an absentee ballot. To me, and some others who have attended our public meetings, that is more complicated than sending out a ballot to everyone, as we do for the referendum.

*Elizabeth Varley* – I agree with Gary. The Registration Committee proposal, which was passed at the last Town Meeting, is to begin the absentee balloting process for the March 2012 elections. This ordinance is cumbersome and completely in opposition to the historical March election process. I move that we not move forward with the ordinance readings for at least 18 months and that we start the process again after we have a trial run of the Registration Committee’s process for the 2012 election. If we still then have a perceived need for an ordinance, we revisit and discuss it then.

Seconded

Discussion-

*Chair Steven Threefoot* – I have researched whether or not we can suspend the readings but I have not found an answer. *Hugh Roberts* – I think the solution would be for us to vote down this Motion and defeat the ordinance at the next reading. We have already voted on a procedure. *Ray Seigfried* – The Motion hits at the process of an ordinance, period. I don’t agree to suspending the ordinance readings.

Call for the Question-  
MOVED

That we suspend, for at least 18 months, the process concerning Ordinance #15.

Nays have it. Motion defeated.

*Marianne Cinaglia* – There is an article in the June issue of *The Arden Page* that clarifies the difference between a resolution and an ordinance.

## **12.0 COMMITTEE REPORTS**

### **12.1 Safety** - Dave Claney

There was a complaint about the noise level at the Shady Grove Music Festival which involved concern over young children being exposed to that amount of loud noise. We are looking into the issue.

We are installing missing and damaged signage around the Village.

Questions – None

Safety Committee Report Accepted

### **12.2 Registration** - Cecilia Vore

The Registration Committee counted votes for the election of Committees and officers on Tuesday, March 29, at the Buzz Ware Village Center at 7 pm. Results were posted on the Village website and bulletin boards. The tie vote for Audit Committee has since been resolved and no further run-off elections are needed at this meeting. The committee convened and elected Cecilia Vore chair.

The Committee will have an absentee voting procedure to present to the January September Town Meeting, as outlined in the motion that was passed at the March meeting. The public will be invited to review the proposed absentee voting procedure before the meeting, and comment will be taken at the January September meeting. *[note: the report given on 6/27/11 Town meeting incorrectly referred to January as the next town meeting.]*

An article appeared in the June *Arden Page* suggesting that the policies of the Registration committee are inconsistent, fleeting and arbitrary. The Committee wishes to assure the Town Assembly that Arden voting procedures are clearly documented and kept in a permanent binder so that we have a reference available at all elections. Procedures are clearly described to all new members of the committee so there is consistency from one year to the next. All ballots include clear instructions. All committee lists include a clear procedure for replacing vacancies. The public is invited to every vote count and non-Committee members often help with the vote count so there is a larger pool of residents who become familiar with voting procedures. The Registration Committee does not and will not change a voting procedure without approval from the Town Meeting. The Registration Committee works hard each year updating resident information so we have an accurate record of eligible voters. We are up-to-date with welcoming new residents and explaining Arden's government. We spend many hours getting the vote out for the annual referendum, which requires high participation for the budget to pass.

Members of the current Registration Committee did not attend meetings of the ad hoc committee on Absentee Voting because we had already clearly expressed our opinions over the past two years, including a 2-page memo to the Town Chair, Advisory Chair, and Marianne Cinaglia on June 3, 2006, advising in great detail how an absentee voting procedure might be implemented. The committee felt it was inappropriate to attend meetings of the ad hoc committee to continue to belabor our position. The Registration Committee only introduced an Absentee Voting motion when the Ad Hoc committee failed to do their job and, instead, introduced a totally new voting procedure requiring an expensive mail-in ballot that would have required many more hours each year to implement.

Our goals remain:

- 1) Keeping an accurate record of residents
- 2) Conducting elections according to our governing documents
- 3) Encouraging all residents to take part in the several forms of democratic government under which the Village operates

Respectfully submitted,  
Cecilia Vore, Chair

Questions - None

Registration Committee Report accepted.

### **12.3 Playground** - Larry Walker

Larry read the following report:

Since the last Town Meeting, the three required Playground Equipment Inspections were held, and all equipment was inspected to determine that it was in good order. In addition, all equipment was adult tested for safety. All equipment is in safe condition.

The Committee is researching the possibility of purchasing and installing new playground equipment most suitable for the age group two to five years old. We have received equipment information, and the Committee will consider the many possibilities. Later on, the Committee would then bring forward a proposal, and make an informal assessment of the Town residents as to the interest, perceived need, and suitability of such a project. Afterwards, and if appropriate, the Committee will bring the proposal to the Town for approval and funding.

Submitted by Mary Vernon and Larry Walker, Co-Chairs

Questions:

*Ed Rohrbach* – You said the wood chips that would be installed under the playground equipment would be contained by a material that would not be a tripping hazard and would be flush on both sides with the wood chips and grass. I've observed that is not the case. Are there plans to correct that? *Larry* – There has been some settling. As soon as the Committee has some funding we will deal with it.

Playground Committee Report accepted.

#### **12.4 Forest** – Elizabeth Varley

Elizabeth read the following report:

In light of the tree fall at Lizzie Broadbent's house, the Forest Committee has been working to assess our policy regarding large trees in proximity to leaseholds. It is notoriously difficult to determine which trees are dangerous as well as which way they will fall. The Forest Committee Budget is sufficient to cover only four or five removals per year at most. We would like to discuss an increase in the Forest Committee budget.

It is not clear whether the tree that fell at the Broadbent leasehold was on forest land, as there has not been an official survey for many years. Lizzie Broadbent has requested removal of a number of trees that border forest land. We had two State Foresters from the Delaware Department of Agriculture inspect the trees and give opinions of their health and risk. It is not our policy to remove healthy trees. Since some of these trees are not obviously diseased, we are using the criteria listed below to assess risk and ask for the Town discussion regarding removals. Tentative discussion dates: Monday, July 18<sup>th</sup> at 5:30 pm, Monday, August 29 at 5:00, Monday, September 19 at 5:00. Lizzie has offered to help finance removals.

[A diagram of the property, trees in question, and price estimates for removal were distributed.] (See Attached, pg. 35)

I. Our goals:

- 1) Maintain the forest
- 2) Protect leaseholders and property
- 3) Protect the Village from liability

II. Risk assessment criteria for tree removal (in order of importance):

- 1) Flood plain/site
- 2) Species
- 3) Dead/diseased/lean
- 4) Proximity to main structures

## III. Procedure for removals/tree work:

- 1) Contact Forest Committee
- 2) Site visit/request form
- 3) Evaluate tree/ call in expert opinion
- 4) Get quotes for removal if warranted

We have learned from our experiences at the Broadbent leasehold and would like to help leaseholders determine whether or not they have problematic trees. PLEASE ask for assistance from a knowledgeable tree expert (hopefully unbiased – non-commercial) any time you have construction MAJOR OR MINOR including digging as little as 4 – 6 inches down to put in a walkway, or even redirecting rain spouts or water flow. Any of these actions can put a tree at risk as well as digging within a drip line of a tree, water service or plumbing changes, and new foundations. We are maintaining a list of tree falls so as to develop knowledge of risk situations. If you have any information about past major tree falls or any that come up in future, please contact the Forest Committee.

## Questions –

*Ed Rohrbach* – The tree that fell on Lizzie Broadbent’s house was not apparently unhealthy or leaning. No expert is going to be able to predict which trees are going to fall and in which direction. A tree doesn’t necessarily fall where it is leaning. It will fall where the wind blows it. There are hundreds of forest trees within falling distance of the houses around Arden. We’ve already spent \$7000 removing trees and we didn’t even get the right one. We can’t just do this for one person. We’d end up spending millions of dollars and have a devastated forest. I suggest that when people tell you that they think a tree is unsafe, you tell them that they have the Committee’s permission to cut it down at their own expense. *Betty O’Regan* – The cost would be too high when you consider every leasehold that borders the woods and how many trees fit your criteria. It is a risk that you take. If you are uncomfortable but still want to live on a wooded lot with questionable trees, you would need to get permission to cut them down at your expense. *Elizabeth* – We are not thinking of taking down numbers of trees but we have a very serious request from Lizzie that we are trying to deal with. We will bear these suggestions in mind.

*Bev Barnett* – I have another suggestion for your removal process. When people in Buckingham Green wanted trees removed because they felt threatened by them, one way to deal with it was to cut the tree high and put the litter down in the forest. *Elizabeth* – That is what we would intend to do.

*Chair Steven Threefoot* – This is a difficult issue. It has potential liability issues for the Village. It will not be solved easily or rapidly. Notice of the special public meetings that will be held should be mailed out to the Town Assembly. The cost of the mailing will be covered by the Town administration budget.

Forest Committee Report accepted.

**12.5 Community Planning** - Committee Chair Ray Seigfried and Committee members: Cynthia Dewick, Danny Schweers, Ron Meick, Harold Kalmus.

The Committee has spent one and a half years looking into the issue of vacant houses. The instant ticketing issue has been addressed. This issue focuses on occupancy. The Committee has held public meetings and spoken to an attorney and

to the City of Wilmington, where they have had much success dealing with the vacant housing issue.

Ray read the following:

Process for registration of vacant dwellings

- 1) The Registration Committee will send to the Village Secretary a list of vacant dwelling in October each year to the Village Secretary. The Secretary will meet with Community Planning Committee to review the list and identify dwellings that are vacant for over one year.
- 2) By November 1 the Village Secretary will send out a letter requesting leaseholders with vacant dwellings to registrar. Leaseholders have until January 31 [3 months] to pay the registration fee to the Secretary or obtain a waiver or an appeal. All money collected will be kept in a special fund for the management of vacant dwellings.
- 3) A leaseholder will be delinquent if the fee is not paid by January 31. If this payment is not paid 30 days after the deadline then the leaseholder will receive a penalty fine of \$100.00 in addition to the fee. If the fee and/or fine are not paid then a lien in the amount due the Village will be established.

The Committee members read the following:

**Arden Ordinance No.**  
**ANNUAL REGISTRATION OF VACANT DWELLINGS AND**  
**REGISTRATION FEES**

**I. Purpose.** The purpose of this ordinance is to require the registration of all vacant dwellings [including ADUs] and the payment of registration fees to assist Arden in protecting the public health, safety and welfare, as well as to encourage occupancy for civic engagement in the Village; to monitor the number of vacant dwellings, to assess the effects of the condition of those dwellings on the Village, particularly in light of fire safety hazards and unlawful, temporary occupancy by transients, including illicit drug users and traffickers, and to require of the leaseholder of such vacant dwellings their registration and the payment of related fees, and to promote substantial efforts to rehabilitate such vacant dwellings. The provisions of this ordinance are applicable to the leaseholder of such vacant dwellings as set forth herein.

**II. Administration.** The administration of the registration of vacant dwellings and the registration fee shall be facilitated by the Village Secretary and the Community Planning Committee.

**III. Definitions.** The following words and phrases shall have the meanings respectively ascribed to them as follows:

**(A) Dwelling** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**(B) Occupied:** Any dwelling shall be deemed to be occupied if one or more persons actually resides in all or any part of the dwelling or conducts a lawful business as the licensed business-occupant, or as the legal or equitable leaseholder/occupant(s) or tenant(s) on a permanent, nontransient basis, or any combination of the same. A

leaseholder who maintains an ADU for transient use and does not otherwise meet the definition of "occupied" must show evidence of continuous periodic occupancy, such as leases, affidavits, proof of insurance for this use. Evidence offered to prove that a building is so occupied may include, but shall not be limited to, the regular receipt of delivery of regular mail through the U.S. Postal Service; proof of continual telephone, electric, gas, heating, water and sewer services, a valid city business license, or the most recent, federal or state income tax statements indicating that the subject property is the official business or residence address of the person or business claiming occupancy.

**(C) Vacant:** A building or structure shall be deemed to be vacant if no person or persons actually, currently resides in or conducts a lawfully licensed business, in any part of the building as the legal or equitable leaseholder or tenant-occupant(s), or leaseholder-occupants, or tenant(s) on a permanent, nontransient basis.

**(D) Leaseholder:** A leaseholder of the premises or any lesser estate therein, a mortgagee, a vendee-in-possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation that is directly or indirectly in control of a building subject to the provisions of this section, and as set forth below.

**IV. Applicability:** The requirements of this ordinance shall be applicable to each leaseholder of residential property consisting of one or more vacant dwellings that shall have been vacant for more than one (1) year. Each such leaseholder shall cause to be filed a notarized registration statement, which shall include the street address and parcel number of each such vacant building, the names and addresses of all leaseholders. The registration fee(s) as required by subsection IV of this ordinance shall be billed by the Village Secretary in November and shall be paid by January 31 of each year. For purposes of this section, the following shall also be applicable:

**(A)** If the leaseholder is a corporation, the registration statement shall provide the names and residence addresses of all officers and directors of the corporation and shall be accompanied by a copy of the most recent annual franchise tax report filed with the secretary of state;

**(B)** If an estate, the name and business address of the executor of the estate;

**(C)** If a trust, the name and address of all trustees, grantors, and beneficiaries;

**(D)** If a partnership, the names and residence addresses of all partners with an interest of ten percent or greater;

**(E)** If any other form of unincorporated association, the names and residence addresses of all principals with an interest of ten percent or greater;

**(F)** If an individual person, the name and residence address of that individual person.

**V. Registration statement and fees; local agent.** If none of the persons listed, as above, is shown at an address within the state, the registration statement also shall provide the name and address of a person who resides within the state and who is authorized to accept service of process on behalf of the owners and who shall be designated as a responsible, local party or agent, both for purposes of notification in the event of an emergency affecting the public health, safety or welfare and for purposes of service of any and all notices or registration statements as herein authorized and in connection herewith. Registration shall be required for all vacant dwellings, and shall be required whenever any dwelling has remained vacant for more than one (1) year or more. In no instance shall the registration of a vacant building and the payment of

registration fees be construed to exonerate the owner agent or responsible party from responsibility for compliance with any other building code or housing code requirement. One registration statement may be filed to include all vacant buildings of the owner so registering. The leaseholder of the vacant property as of November 1 of each calendar year shall be responsible for the payment of the non-refundable registration fee. Said fee shall be billed by the Village and based on the duration of the vacancy as determined by the following scale:

- (i.) No fee for properties that are vacant for less than one year;
- (ii.) \$500.00 for properties that are vacant for at least one year but less than two years;
- (iii.) \$1,000.00 for properties that are vacant for at least two years but less than three years;
- (iv.) \$2,000.00 for properties that are vacant for at least three years but less than five years;
- (v.) \$3,500.00 for properties that are vacant for at least five years but less than ten years; and
- (vi.) \$5,000.00 for properties that are vacant for at least ten years, plus an additional \$500.00 for each year in excess of ten years.

**VI. Appeal rights.** The leaseholder shall have the right to appeal the imposition of the registration fees to the Village upon written notification to the Town Secretary no later than 30 calendar days from the date of the billing statement. On appeal, the leaseholder shall provide satisfactory objective proof of occupancy, as defined in section III.

**VII. One time waiver of registration fee.** The leaseholder shall have the right to a waiver of the imposition of the registration fees to the Village upon written notification to the Town Secretary no later than 30 calendar days from the date of the billing statement. A one-time waiver of the registration fee may be granted by the Village through a majority vote at the next regular meeting upon application from the leaseholder, within 30 calendar days from the date of the bill for the registration fee. Waivers may be granted by the Village if the leaseholder;

- (i.) Demonstrate with satisfactory proof that he/she is in the process of demolition, rehabilitation, or other substantial repair of the vacant dwelling; and
- (ii.) Objectively demonstrates the anticipated length of time for the demolition, rehabilitation, or other substantial repair of the vacant dwelling; or
- (iii.) Provides satisfactory proof that he/she was actively attempting to sell or lease the property during the vacancy period.
- (iv.) Has paid all past due vacant registration fees and all other financial obligations and/or debts owed to the Village which are associated with the vacant property.

With regard to an extension of a waiver only, the time period of the extension shall commence on the date of the written decision granting the extension and, in no event shall an extension exceed one year. An extension of a waiver shall only be granted once.

**VIII. Delinquent registration fees as a lien.** After the leaseholder is given notice of the amount of the registration fee due, except for those leaseholders that have properly perfected an appeal pursuant to subsection VI and VII above, and the owner fails to pay the amount due, said amount shall constitute a debt due and owing to the Village,

and shall constitute a lien in accordance with Title 25, Section 2901 of the Delaware Code and the Village may commence a civil action to collect such the unpaid debt.

**IX. Duty to amend registration statement.** If the status of the registration information changes during the course of any calendar year, it is the responsibility of the leaseholder, responsible party or agent for the same to contact the Village Secretary within 30 days of the occurrence of such change and advise the Town Secretary in writing of those changes.

**X. Violations; penalties.** The failure or refusal for no reason of any leaseholder, or agent of a leaseholder acting on behalf of the leaseholder, to register a vacant dwelling or to pay any fees required to be paid pursuant to the provisions of this ordinance, within 30 days after they become due, shall constitute a violation and will be fined in the amount of \$100.00 for each failure or refusal to register, or for each failure or refusal to pay a required vacant dwelling fee, as applicable. 6/26/11

Questions-

*Jeffrey Politis* – I see the intent is to get rid of vacant leaseholds. If, at some point, you put a lien on a leasehold does the Village potentially get the leasehold back?  
*Ray* – The intention is not to take over the house. The intention is to encourage them to rent or sell.  
*Jeffrey* – This seems like a burden for Community Planning to do this over the long term. It should go to the Town Secretary or Treasurer.

*Rodney Jester* – Sadie and I have an ADU which has a bathroom but not a full kitchen, which County Code requires in the definition of a domicile. Would this be treated as a domicile? Secondly, in Section A under *Definitions*, “valid city business license” should be changed to “valid State or New Castle County business license.”  
*Ray* – Correct.

*Marianne Cinaglia* – How many leaseholds fall into the category of “licensed business occupant,” just Wally’s and the former barber shop?  
*Steven Threefoot* – That’s correct. The language has been taken from the City of Wilmington ordinance, so things like that will have to be modified.

*Charles Robinson* – I’m not sure you will want to use the word “continual” under the Definitions Section A. Also, in regard to an appeal, if I die and my children can’t sell the property for 15 months, can they appeal and not pay the fee?  
*Ray* – There is the opportunity for a onetime waiver.  
*Charlie* – The fee scale needs to be more specific.

*Ruth Bean* – What about a property that has already been empty for over 15 years?  
*Danny Schweers* – We will see what the Registration Committee tells us about how long properties have been vacant.

*Elizabeth Varley* – I suggest that you change “parcel” number to “lot” number. Also, what happens if the leaseholders change but the property continues to be vacant? Do you reset the timer or does the vacancy time continue to accumulate?

*Rodney Jester* – A onetime waiver for a set period of time is a problem. There could be instances where lawsuits are involved that could drag on for a long time.

*Charles Robinson* – I question only having one waiver if you are trying to sell a house in a depressed market. Also, should this be handled by the Village or the Committee?

*Dave Claney* – Does this apply to ADUs?  
*Harold Kalmus* – The desire is to word this so that everyone is exempt except for the true nuisance and dangerous derelict properties. We haven’t covered all the bases yet. All suggestions are welcomed.

*Jeffrey Politis* – What if I have a separate domicile on my leasehold that is vacant but I am taking care of it? You want to charge the fee so that owners will want to keep their properties occupied. If people are paying their land rent, is the fee you are charging going to accomplish that? *Danny Schweers* – The person responsible for the City of Wilmington program said that \$3500 was the amount that ends up getting someone’s attention. *Jeffrey* – If you end up putting a lien on a property, how is the Town going to handle that?

*Carol Larson* – The waiver period needs to be longer in case of catastrophic circumstances.

*Ed Rohobach* – Do we know how many leaseholds are currently in arrears in their land rent? *Connie McKinney* – There is one.

*Tom Wheeler* – As someone who has maintained a vacant structure for at least five years I feel that this is inappropriate. There is a County Code process for dealing with derelict buildings. You don’t like vacant buildings, but it is a person’s right to have a vacant building if they so wish.

*Lynda Kolski* – ADUs should be included. I live next door to an ADU that has been condemned by the County, been empty 12-15 years, and the owner does not live on the property. On the other hand if properties are vacant yet maintained I don’t think they should be included in this ordinance. *Ray* – That is the balance we are trying to strike.

*Rodney Jester* – After all the input here tonight, there seems to be a lot of work to be done on this ordinance. This should not be considered as the first reading. *Chair Steven Threefoot* – I will leave that up to the Committee to decide. [Ray indicated that yes, it would be the first reading]. Please work with the Committee to achieve the necessary changes.

Community Planning Report accepted.

## 12.6 Civic - Tom Wheeler & Ed Rohrbach

- The committee did their “walk around” to make note of the areas that need road repair.
- Plans are made to complete the street sign repainting project.
- Minor improvements were made at the Field Theater.
- The trees that were removed around the Buzz Ware Village Center will be replaced. One tree will be donated by Rodney Jester and others may come out of the Schroeder Fund but funds could possibly come from a grant to the BWVC.

Questions-

*Elaine Hickey* – Were the trees cut down because they would cast shade on the solar panels that will be placed on the BWVC roof? *Tom* – Yes and the new ones will be planted where they won’t cast shade on the roof.

*Ruth Bean* – Will the potholes be filled? *Tom* – Yes.

*Lynda Kolski* – I’ve heard that the Fels Oak root system has been endangered by the new playground equipment and that a tree specialist has been consulted. *Tom* – Civic has no knowledge of that.

Civic Committee Report accepted.

**12.7 Buzz Ware Village Center** – Warren Rosenkranz

The only thing that we have going on is the Peddlars, Potions & Practitioners that will be at the BWVC during the Arden Fair.

Questions-

*Betty O'Regan* – When will the solar panels be installed? *Warren* – We have not issued a contract yet.

**12.8 Budget** - – Jeffrey Politis, chair

We will begin the annual budget proposal process soon and present it at the September Town Meeting. We've set up a Share Point site. We'll email a user name and password to each committee chair so that they can enter their budget request. Please contact Larry Strange if you have any questions once you get the email message.

Questions –

*Jane Claney* - What is the policy on the Capital Fund? *Jeffrey* – At the last June Town Meeting a policy was put forth on how that money would be allocated and that would be through a proposal process through Town Assembly. What was not clear was what would be the total amount collected - \$30,000 or \$50,000. The idea is to collect \$10,000/year up to \$30,000 and it stay at \$30,000 and no more collected if not spent. *Jane* – I was under the impression it was \$50,000.

*Chair Steven Threefoot* – Every year additional funds are voted on and go into the Capital Fund. It is a way to be able to carry funds from year to year.

*Alton Dahl* – Thank you for having all the numbers for us to do the Assessors' Report, however the numbers confused us. Gary Quinton is an Assessor and also on the Budget Committee. He has agreed to work with the Committee so that the numbers would be readily available.

Budget Committee Report accepted.

**12.9 Audit** - Cookie Ohlson

Cookie read the following report:

The Audit Committee has reviewed the annual audits performed by Corcoran Associates for the Village of Arden and the Trustees of Arden. These audits cover the fiscal years ending March 24, 2010 and March 24, 2011. In our opinion, the audits represent fairly the financial positions of the Trustees and the Village of Arden. We do approve of the audits presented to us.

Questions –

*Alton Dahl* – The Assessors have to have the Audit done by the end of May in order to get the assessments properly worked out. Could the Committee get the auditor to prepare the report by that deadline?

Audit Committee Report accepted

**12.10 Archives** - Barbara Macklem

The committee convened in April with newly elected member Jane Claney, re-elected members Lisa Mullinax and Barbara Macklem and currently serving members Debbie Ricard and Sadie Somerville.

Barbara Macklem curated a special exhibit for the Shakespeare Gild's run of "The Tempest" and the Museum was open additional hours to allow show attendees and cast to visit before the show. We had many visitors, including many who were new to the Museum. We have three costumes on display but don't know anything about them, so please stop by and see them and let us know who wore them or when they were worn. Barbara will also be coordinating a special children's activity, "A Day in the Life of the Ardens," for ACRA attendees and producing a DVD on that event.

We are working with the Arden Club and the Town Chair to identify a speaker for the next Hamburger lecture.

This fall we will be conducting training on PastPerfect, the cataloging system that we recently upgraded, for free, thanks to our curator, Keith Minsinger.

Debbie Ricard is coordinating plans for Remembrance Day, to be held on October 23rd.

During the Gild Hall roof renovations, we have agreed to store and exhibit a number of portraits that normally hang in the Gild Hall.

Regular Museum hours are Wednesdays, 7:30 p.m.-9 p.m. and Sundays, 1 p.m.- 3 p.m.

Questions:

*Cecilia Vore* – On behalf of the Shakespeare Gild, I'd like to thank you for running the special exhibit and being open those extra hours during our performances.

*Barbara* – The exhibit will run through the Arden Fair on Labor Day weekend.

Archives Committee Report accepted.

### **13.0 Old Business** – None

### **14.0 New Business**

**Fels Oak** – Mike Curtis

MOVED

I move that the Fels Oak be placed under the domain of the Forest Committee.

*Chair Steven Threefoot* – Since this is something that goes across two committees, before we get a Second, does the Civic Committee have any objection? *Tom Wheeler, Civic Committee Co-Chair* – I don't object. *Steven* – Can it happen without a Motion? Is the Forest Committee willing to accept the responsibility? *Carol Larson* – Not everyone.

MOVED

That the Fels Oak be placed under the domain of the Forest Committee.

Second

Discussion-

*Elizabeth Varley* – As a member of the Forest Committee I am against this Motion. The Committee has discussed the notion of taking over all the trees and rejected it. There is no compelling reason to do it. *Carol Larson, Forest Committee Chair* – I think the most appropriate way to handle the Fels Oak is to have a permanent advisor on trees to the Civic Committee.

MOVED

Table the Motion to place the Fels Oak under the domain of the Forest Committee.

Second

Passed. Ayes have it.

**Eden Rock**- Lynda Kolski

Eden Rock will be closing on July 29<sup>th</sup>. It will probably be sold under foreclosure which means a developer could come in. It is set up as an assisted living facility. It might be worthwhile for the Ardens to form an advisory committee to address maybe doing something for the future of the residents of the three Ardens to have a facility like that, or at least for the Ardens to have some sort of oversight on what might happen there. I'd like to make a motion that this be taken under consideration by the Community Planning Committee.

*Steven Threefoot* – It is located in Ardentown and I am not sure what jurisdiction our Community Planning has over something happening there. I work closely with the chairs of the other Villages. We will make sure something happens.

**Alternative Assessment Proposal** – Alton Dahl

An Alternative Assessment Proposal (See Attached, pgs. 31-34) will be submitted at the September Town Meeting. There are copies available here tonight. Please take a copy with you and read it along with the page that explains why we should stay with the system we are currently using.

**15.0 Good & Welfare** – None

Meeting Adjourned at 10:31 PM

Respectfully submitted,

Elaine Hickey  
Secretary  
Village of Arden

**ATTACHMENTS FOLLOW**



On Your Side®

**Lisa Broadbent-DiOssi, LUTCF**  
Agency Owner  
Lisa Broadbent Insurance, Inc.  
Nationwide Financial Network®

June 22, 2011

Steve Threefoot  
President of Arden  
2321 Woodland Lane  
Wilmington, DE 19810

RE: Arden Tree Removal for Lizzie Broadbent

Dear Steve Threefoot,

As Lizzie Broadbent's Insurance agent since 1977, I am compelled to write you and strongly advise on Lizzie's behalf for the removal of all trees that pose a threat to Lizzie Broadbent's home and garage at 1907 Millers Road.

In 2003, and again in 2004 there were two separate trees that came down on Lizzie and Walter's home and caused massive damage. The 2003 incident left them out of their home for 10 months. Trees are a very dangerous hazard if not taken seriously. Back then the insurance company fought to have the trees removed, which the Town of Arden agreed to the removal of some of them. Now in 2011, Lizzie finds herself in the same predicament, out of her home due to a fallen tree. This time she barely walked away with her life.

Since Lizzie leases her land from the Town of Arden, Arden therefore owns the trees. The liability of the damages these trees cause is therefore bore by the Town of Arden. Since Lizzie's homeowners insurance will be non-renewed due to tree hazards, I am asking you to please remove all and any trees within a "fall zone" around Lizzie's structures. This will allow Lizzie to continue her insurance. I realize the cost is extensive, however, I would rather see you undertake this expense then that of a lawsuit should some thing happen to her due to another tree.

Please let me know if you need any more information. Should you have any questions at all, feel free to call. Broadbent Insurance very much appreciates this opportunity to be of service.

Sincerely,

Lisa M. Broadbent-DiOssi, LUTCF  
Principal Agent

Cc: Amy King, Nationwide Underwriter  
Frank Townsend, Nationwide Adjuster  
Carol Larson, Head of Arden Forest Committee

20 Polly Drummond Hill Road  
Newark, DE 19711

Tel 302-731-0044 x 15  
Fax 302-731-7749  
broadbl@nationwide.com

Nationwide Insurance  
Nationwide Financial

Securities offered through Lisa Broadbent-DiOssi as a Registered Representative of **Nationwide Securities, LLC** P.O. Box 183137, Columbus, OH 43218, 888-753-7364. Member FINRA, SIPC. DBA Nationwide Advisory Services, Inc. in AR, FL, IL, WV. DBA Nationwide Advisory Services in MA, NY, OK. Representative of Nationwide Life Insurance Company, affiliated companies and other companies.

Products underwritten by Nationwide Mutual Insurance Company and Affiliated Companies. Life Insurance issued by Nationwide Life Insurance Company. Home Office: Columbus, OH 43215-7770



Trustees of Arden  
 Quarterly Report  
 May 24, 2011

**Assets**

Arden B&L	\$148,979.00
Wilmington Trust	465,971.07
Vanguard Bequest Funds	224,422.74
Vanguard Village Reserve	<u>4,424.53</u>
<b>Total Current Cash &amp; Equiv</b>	<b>\$843,797.34</b>

**Income**

Land Rent & Related Income	\$551,285.35
Investment Income All Sources	<u>52.67</u>
<b>Total Income</b>	<b>\$551,338.02</b>

**Expenses**

New Castle County	0.00
Village of Arden	100,000.00
Insurance	1,123.00
Third Party Audit	0.00
Third Party Bookkeeping	600.00
Third Party Legal	0.00
Third Party Engineering/Other	0.00
General Administration	<u>1,472.07</u>
<b>Total Expenses</b>	<b>\$103,195.07</b>

Trustee: \_\_\_\_\_

*Mike Curtis*

Admin. Asst: \_\_\_\_\_

*Judith Heine*

**New Castle County Code Sec. 40.03.410(H). Accessory uses, residential.**

**H. Accessory dwelling unit (ADU).**

1. Only **one (1)** accessory dwelling unit is permitted per single-family residential detached lot. The ADU may be constructed within the home or as an attached addition to the home.
2. Only **one (1)** home occupation is permitted per residential lot.
3. Once an accessory dwelling unit is established, the primary structure **shall not** be used for apartment conversion and only one (1) of the dwelling units may be rented.
4. The property owner **must** occupy and reside in either the principal dwelling unit or the ADU as his or her principal legal residence. An affidavit (available from the department) of owner occupancy must accompany the application for a building permit for the ADU.
5. Prior to the issuance of an ADU building permit, the property owner shall provide the department with a copy of a document (available from the department) that **has been recorded** in the New Castle County Office of the Recorder of Deeds stating that residency by the property owner is required in one of the dwelling units as a condition of having an ADU on the property.
6. One (1) **additional** off-street parking space is required for the ADU, in addition to the number of spaces required for the existing single-family detached dwelling.
7. On any lot greater than two (2) acres, one (1) freestanding accessory structure may be constructed or used as an accessory dwelling unit. The free standing dwelling unit may be located in any yard, provided that it meets the same front, street, side and rear yard setbacks as required for the principal dwelling.  
[Ed: Not relevant to Arden since we have no leasehold that is greater than 2 acres. **No new detached ADUs are allowed.**]
8. Annual report. The Department of Land Use shall provide County Council with an annual report on the use and effectiveness of the accessory dwelling unit provision.
9. Rental code registration. If the ADU is to be rented and prior to the issuance of a certificate of occupancy, the property owner shall register the ADU pursuant to the requirements of New Castle County Code Chapter 19 (Residential Rental Properties).
10. Adequate sanitary sewer or septic capacity must be available to accommodate the ADU.
11. The ADU **must** be in conformance with New Castle County Code Chapter 6 (Building Code) and New Castle County Code Chapter 12 (Drainage). [See [www.co.new-castle.de.us/countyCouncil](http://www.co.new-castle.de.us/countyCouncil) for "NCCo Code Online".]
12. The total number of building permits issued for ADUs in unincorporated New Castle County shall not exceed two-tenths (0.2) percent of the total of single family detached homes in the unincorporated area of the County based on assessment records.
13. Ardens exception for existing ADUs. All accessory dwelling units existing in The Ardens **prior to May 1, 2007** and which have been individually certified in writing as permitted by the respective Village Trustees from Arden, Ardencroft, and Ardentown shall be considered a permitted use notwithstanding the requirements for an accessory dwelling unit in this section. Certified accessory dwelling units shall not be subject to the provisions of Article 8 of this Chapter. In addition, each accessory dwelling unit certified pursuant to this section shall be permitted to rebuild, restore, replace, or repair the accessory dwelling unit as necessary in the event the structure is destroyed or rendered uninhabitable for any reason. The restoration, replacement or repair must be completed within the existing footprint of the structure. All repairs, restoration or rebuilding must be in conformance with the Chapter 6 (Building Code) of the New Castle County Code. For purposes of this exception and certification process, an accessory dwelling unit in the Ardens, **constructed prior to May 1, 2007** may include more than one (1) attached or detached subordinate dwelling unit on the leasehold property and which provides living, sleeping, eating, cooking, and sanitation facilities.

## **June 2011 Financial Policies – Village of Arden**

The following financial policies have been agreed to by the current officers (Secretary, Treasurer, Advisory Chair, and Village Chair). The date represents when the policy was first put into place. Policies are intended to provide guidelines for the operation of the Village. These policies may be modified at any point by the officers.

### Policy - Use of Contingency Funds Policy (May 2010)

Contingency funds are specified as part of a budget referendum. The purpose of the contingency funds is to cover unplanned village or committee expenses. Expenditure of contingency funds requires the pre-approval of three officers and should only be utilized when other mechanisms to cover the costs have been unsuccessful.

### Policy - Expenditures of Greater than two-thousand dollars (April 2010)

All committee expenditures of \$2,000 or more require preauthorization of two officers of the Village prior to the commitment of Village funds. In case of an emergency – significant threat to persons or property – appropriate action should be taken as soon as possible with the committee informing at least one officer of the Village within 24 hours.

### Policy - Transferring of Funds between Budget Line-items (October 2009)

Funds may be shifted between budget items on the budget referendum by approval of the committee if all budget items are within the committee's responsibility or with the approval of the representative of all committees involved and a least one village officer. Transfer of funds is only allowed if the source account has sufficient funds available and if no standing vouchers are in place covering the funds.

### Policy – Authorizing Payment of Funds (March 2009)

The authorization of payment of funds by electronic funds transfer, or check or by any other means, requires the approval of two Village Officers. Officers are not allowed to authorize payments to them selves.

### Policy – Obligations over \$10,000 (March 2007)

Obligations of Village funds of \$10,000 or greater, require the signature of the Village Chair, or in the case the Chair is not available, the Secretary.

### Policy – Contracts or Agreements with Commitments of One Year or Longer (September 2004)

All contacts and all agreements with duration of one year or longer require the signature of the Chair and the Secretary. (Note – the Charter of the Village of Arden specifies the signature requirements for executing contracts).

UNAUDITED  
FOR DISTRIBUTION  
AND DISCUSSION  
PURPOSES ONLY  
FOR ARDEN  
TOWN ASSEMBLY

**Village of Arden**  
**Statement of Financial Position**  
**As of June 24, 2011**

<b>Checking/Savings</b>		
1000 · TD Bank Operating Account	520	General operating
1005 - ING Direct	92,407	General operating
<b>Total Checking/Savings - Village Funds</b>	<b>92,927</b>	<b>Total general operating</b>
1011 - TD Bank EECBG checking acct	23,468	EECBG grant expenses
1010 · TD Bank MSA Checking Account	14,244	Municipal Street Aid
1004 · 1 CD - Firsttrust Bank	102,177	Schroeder Bequest
1032 - Arden Building & Loan	25,000	Schroeder Bequest
1005 - ING Direct	100,000	Schroeder Bequest
1033 · Vanguard Money Market	168,201	Schroeder Bequest
<b>Total Schroeder Bequest</b>	<b>395,379</b>	<b>Total Schroeder Bequest</b>
1030 · Arden Building & Loan	11,671	Hamburger Lecture Series
1031 · Arden Building & Loan	569	Buzzware Funds
<b>TOTAL ASSETS</b>	<b>538,259</b>	
<b>LIABILITIES</b>		
2000 · Accounts Payable	3,557	
2010 · Payroll Liabilities	664	
<b>Total Liabilities</b>	<b>4,221</b>	
<b>FUND BALANCES</b>		
Buzz Ware Renovation Fund	1,171	
Lecture Series	11,671	
J Schroeder Bequest	395,379	\$3,882 committed towards FY12
Memorial Garden	7,929	
MSA	14,244	
EECBG	23,468	
Village - general fund	80,176	
<b>Total Equity</b>	<b>534,038</b>	
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>538,259</b>	

UNAUDITED  
FOR DISTRIBUTION  
AND DISCUSSION  
PURPOSES ONLY  
FOR ARDEN  
TOWN ASSEMBLY

Village of Arden  
Statement of Financial Activity  
3/25/11 - 6/24/11

	3/25/11-6/24/11	Budget	Footnotes	% to Budget
<b>Revenue</b>				
4000 · General Funds - Village	100,000	212,400		47.08%
4200 · Grants	1,800	-	1	
4510 · Franchise Fee Receipts	1,933	-		
4900 · Interest Income	128	-		
<b>Total Revenue</b>	<b>103,861</b>	<b>212,400</b>		<b>48.90%</b>
<b>Expenses</b>				
6000 · Payroll & Payroll Taxes	2,728	12,184		22.39%
6300 · Administrative Expenses	1,232	9,500		12.97%
6900 · Audit,Bkping,PR Expenses	-	6,000		0.00%
8000 · Committee Expenses	9,195	71,140		12.92%
8010 · Contributions & Donations	5,900	5,900		100.00%
Contingency Fund	-	9,500		0.00%
Capital, maintenance & repair fund	-	10,000		0.00%
8030 · Trash Service	17,358	72,000		24.11%
9000 · Debt Service	4,018	16,176		24.84%
<b>Total Expense</b>	<b>40,430</b>	<b>212,400</b>		<b>19.03%</b>
<b>Surplus (deficit)</b>	<b>63,431</b>	<b>-</b>		
<b>Committee</b>	<b>Actuals YTD</b>	<b>Budget</b>		
Advisory	-	200		0.00%
Archives	128	1,440		8.89%
Assessors	-	50		0.00%
Buzz Ware	-	7,000		0.00%
Civic	4,167	51,250		8.13%
Community Planning	-	1,000		0.00%
Forest	1,900	5,000		38.00%
Playground	3,000	3,000		100.00%
Registration	-	200		0.00%
Safety	-	2,000		0.00%
	<b>9,195</b>	<b>71,140</b>		<b>12.92%</b>
<b>Footnotes:</b>				
1) State of Delaware payment towards last fiscal years forrest committee expenses				

Village of Arden

UNAUDITED  
 FOR DISTRIBUTION  
 AND DISCUSSION  
 PURPOSES ONLY  
 FOR ARDEN  
 TOWN ASSEMBLY  
 6/27/11

	Special Village Funds									
	BuzzWare 3/25/11-6/24/11	Budget	% to Budget	Buzz renovation 3/25/11-6/24/11	Hamburger Lecture Series 3/25/11-6/24/11	J. Schroeder Bequest 3/25/11-6/24/11	Memorial Garden 3/25/11-6/24/11	MSA 3/25/11-6/24/11		
Revenue										
4000 - General Funds - Village		7,000	0.00%							
4010 - Donations	2,000	5,000		25			2,826			
4400 - Rentals	3,245	21,802	14.89%							
4500 - Interest Income	-	-	-			900				
Total Revenue	5,245	33,802	15.52%	25		900	2,826			
Expenses										
6000 - Payroll & PR Taxes	2,715	14,133	19.21%							
6300 - Administrative Expenses	129	155	83.11%							
6310 - Janitorial Supplies	328	917	35.76%							
6500 - Equipment Purchases		250	0.00%							
6500 - Audit,Bkping,PR Expenses		225	0.00%							
7020 - Utilities	2,020	9,537	21.18%							
7060 - Licenses/Permits/Fees/AlarmMonitoring	305	785	38.84%							
7500 - Renovations		1,000	0.00%							
7600 - Repairs & Maintenance		4,000	0.00%							
8000 - Program Expenses		2,800	0.00%				1,725			
Total Expense	5,497	33,802	16.26%				1,725			
Surplus (Deficit)	(252)	-								
4595 Carried forward fund balance				1,145	11,671	394,479	6,826		14,244	
Fund balance				1,171	11,671	395,379	7,929		14,244	
Balance Available for Grants						3,662				

## Assessor's Report 2011

This year's Board of Assessors adopted the principle of the Community Standard of Living Method of Arden Assessment in use since 1980 as the basis for determining total land rent.

The "Community Standard of Living Method of Arden Assessment" defines total "Full Rental Value" of the leaseholds as the sum of town expenses (both "non-budget" in the form of county and school taxes, and "budget" as embodied in the town's budget), and the cost of administering the trust, while maintaining a "prudent reserve". This method divides full rental value by acreage of land held privately in leaseholds, such divisions determined by assessors' formulas. The formulas, which are intended to reflect the relative value of leaseholds, are based on lot size, zoning privileges and location factors (see rates and factors below).

A majority of the Board of Assessors continues to endorse the principles of real estate practice in the wider community, which we embody as a multi-tier evaluation of leasehold area. The "A rate" is the base rate, common to all leaseholds - the first 7,116 square feet, using as our unit the area of the smallest leasehold in Arden.

In addition to the factors that have been used since 1980, this year's Board of Assessors has made an additional adjustment to more fairly distribute the cost of trash removal. The change is to assure leaseholds are assessed, as nearly as possible, an amount proportional to the benefit they receive.

### Rationale for the Change

The cost of trash collection is rising, and accounts for a significant portion of the Community Standard of Living. Fuel costs and landfill fees are driving the increases.

Until now, total leasehold area and location factors have been used to distribute the trash collection portion of the Community Standard of Living. This is not consistent with equitable distribution of this cost. The first 7,116 square feet of each leasehold is considered the minimum area required to support a residence. A new "M Rate," ("M" for Municipal), will be applied to the first 7,116 square feet of the leasehold. This is in addition to the "A Rate". It is the use of this portion of the leasehold that substantially generates trash expense. The cost of trash collection, as in the cases of Ardentown and Ardencroft, stands in contrast to all other costs as a burden created through the use of a leasehold.

### Impact of this Change

It should be noted that the annual cost for trash collection in 2012 is expected to be \$75,000. This contracted service has been negotiated as a bulk trash rate by Arden, Ardentown, Ardencroft and the waste management contractor. The change made by the Board of Assessors affects 90% of the leaseholds by +/- \$175.00 in overall cost.

### Other Factors used in the Assessment

The multiple domicile rate (the "B rate") is set this year at 80% of the "A rate". For each dwelling unit beyond the first, the leasehold is charged the B Rate for an additional 7,116 square feet but is not charged for more than the actual area of the leasehold. The "C rate" is applied to the amount of land on a leasehold not covered by the A or B rates. It is assessed at 40% of the "A rate." The "D rate" is the commercial rate, only applied to one leasehold. It

continues at a surcharge of 75%, with no deduction for frontage on Marsh Road. These rates were not changed from the prior year.

The specific location factors are as follows.

1. Leaseholds adjacent to Arden or Sherwood Forests	+10%
2. Leaseholds fronting on Arden or Sherwood Forest by being across the street	+5%
3. Leaseholds adjacent to or fronting on a communal green	+5%
4. Leaseholds adjacent to Harvey Road and/or Marsh Road	-5%
5. Leaseholds having driveway access only to Harvey Road and/or Marsh Road	-5%

#### Notes

- The specific location factor charges (in dollars) to be added to or subtracted from the sum of the Base Land Rent, excluding the "M Rate", are obtained by multiplying the Base Land Rent for the leasehold by the appropriate specific location factors as given above.  
The Total Land Rent is the sum of Base Land Rent + Location Factors charges + M Rate.
- Leaseholds having less than a 25 foot opening to the forest will not be charged a woods factor. More than that frontage to the forest will be considered a full access and charged a full factor.
- Location factors 4 and 5 are additive if both are applicable.

Based on information obtained from the Budget Committee, the Village Treasurer and the Trustees, the Board of Assessors presents the following report. In order to meet the 2012-13 forecast expenditures of \$656,882 and to produce a prudent reserve of \$137,734, the Board of Assessors has set the "A rate" for March 2012 at \$207 per thousand square feet, and the "M rate" at \$53 per thousand square feet.

#### 1) Forecast Expenditures

School & County Taxes	\$399,432
Trust Administration	\$38,900
Sherwood Forest Loan	\$16,176
Arden Town Budget	\$202,374
<b>Total forecast expenditures</b>	<b><u>\$656,882</u></b>

#### 2) Forecast Revenue

Forecast Revenue from sources other than land rent	\$28,000
Total Revenue from land rent	\$593,000
<b>Total expected revenue</b>	<b><u>\$621,000</u></b>

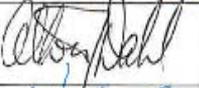
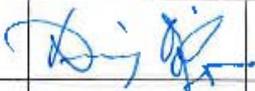
#### 3) Prudent Reserve

Expected difference between expenditures and revenue	\$(36,000)
Projected March 2012 prudent reserve	\$174,000
<b>Target prudent reserve projected for March 30, 2013</b>	<b><u>\$138,000</u></b>

Arden Board of Assessors 2011 Report  
Presented 27 June 2011

Page 4 of 5

THE 2011 BOARD OF ASSESSORS/LEU OF ASSESSORS  
Vote on Final Report (Signed 21 June 2011)

<b>2011 Assessor</b>	<b>Assessor Signature</b>	<b>Assessor Vote</b>
Tom Wheeler		NO
Alan Burslam		Yes
Alton Dahl		NO
Bill Theis		Yes
Denis O'Regan		Yes
Gary Quinton		Yes
Walter Borders		Yes

**Examples using 2011 Rates****Examples of base rentals:**

<u>Lot Size (sq ft)</u>	<u>Base Land Rent</u>
10,000	\$2,089
20,000	\$2,917
30,000	\$3,745
40,000	\$4,873
50,000	\$5,401

**Examples of rate calculations:**

1. A 20,000 sq. ft. lot containing one dwelling unit, on a village green and adjacent to a forest:

7,116 sq. ft. * \$207 / M sq. ft. (A Rate)	\$1,473
7,116 sq. ft. * \$ 53 / M sq. ft. (M Rate)	\$377
12,884 sq. ft.* \$207 / M sq. ft. * 40% (C Rate)	\$1,067
<b><u>Base Land Rent</u></b>	<b><u>\$2,917</u></b>
Forest Factor - \$2,540 / * 10%	\$254
Greens Factor - \$2,540 / * 5%	\$127
<b><u>Total Land Rent</u></b>	<b><u>\$3,298</u></b>

2. A 30,000 sq. ft. lot containing three dwelling units and adjacent to Arden Forest:

7,116 sq. ft. * \$207 / M sq. ft. (A Rate)	\$1,473
7,116 sq. ft. * \$ 53 / M sq. ft. (M Rate)	\$377
7,116 sq. ft. * 2 * \$207 / M sq. ft. * 80% ( B Rate)	\$2,357
8,652 sq. ft.* \$207 / M sq. ft. * 40% (C Rate)	\$ 718
<b><u>Base Land Rent</u></b>	<b><u>\$4,923</u></b>
Forest Factor - \$4,546 / * 10%	\$455
<b><u>Total Land Rent</u></b>	<b><u>\$5,378</u></b>

**END OF 2011 ASSESSOR'S REPORT**

## **An Alternative Assessment**

The attached document is an alternative assessment proposal that will be presented to the Town Meeting in September. It is very similar to the Assessors report but incorporates the trash expense in the same way it has been done for many years..

Objections to the use of trash costs as a separate charge in determining land rent:

1. The Town Meeting discussed this issue when the Village decided to adopt municipal trash collection and decided that the cost would be paid out of the general fund and not itemized. Therefore, the Assessors are taking action directly counter to the decision of the Town Meeting.
2. The original reason for suggesting this change was that the proportion of the land rent used for trash collection had changed dramatically from years past, but this belief was shown by actual data to be false.
3. The formula used for many years recognizes that the most valuable part of a lease is the right to establish a domicile and the services to support it. 65% of all land rent comes from the A rate (equal for all leaseholds) and the B rate (for additional domiciles).
4. The formula then provides a 60% discount for the land area greater than that included in the A and B rate calculation. The change proposed will increase this discount to 68%.
5. The idea that the amount of trash collected is similar for each leasehold is difficult to support for many reasons. E.g., some lots have many residents, some only one; small lots produce little yard waste, large lots produce much.
6. The complaint by some large leaseholders that they are being charged unfairly is hard to reconcile with the fact that last year the fifteen largest leaseholds paid an average land rent of \$125 per thousand square feet while the 15 smallest averaged \$202.
7. The argument that one person has often been seen abusing the system by bringing in "non-Arden" trash is not a reason to change the whole financing system.
8. Itemizing the trash collection as proposed in the Assessors Report will make that part of the land rent not deductible on Federal and State income tax.

## Alternative Assessment Proposal 2011 for presentation to the Town Meeting in September

This Assessment Proposal adopts the principle of the Community Standard of Living Method of Arden Assessment in use since 1980 as the basis for determining total land rent.

The "Community Standard of Living Method of Arden Assessment" defines total "Full Rental Value" of the leaseholds as the sum of town expenses (both "non-budget" in the form of county and school taxes, and "budget" as embodied in the town's budget), and the cost of administering the trust, while maintaining a "prudent reserve". This method divides full rental value by acreage of land held privately in leaseholds, such divisions determined by assessment formulas. The formulas, which are intended to reflect the relative value of leaseholds, are based on lot size, zoning privileges and location factors (see rates and factors below).

This Proposal continues to endorse the principles of real estate practice in the wider community, which are embodied as a multi-tier evaluation of leasehold area. The "**A rate**" is the base rate, common to all leaseholds – assigned to the first 7,116 square feet, the area of the smallest leasehold in Arden. The multiple domicile rate (the "**B rate**") is set by this Proposal at 80% of the "A rate". For each dwelling unit beyond the first, the leasehold is charged the B Rate for an additional 7,116 square feet but is not charged for more than the actual area of the leasehold. The "**C rate**" is applied to the amount of land on a leasehold not covered by the A or B rates. It is assessed at 40% of the "A rate." The "**D rate**" is the commercial rate, only applied to one leasehold. It continues at a surcharge of 75%, with no deduction for frontage on Marsh Road. The A, B, and D rates in this Proposal, expressed as a per cent of the A rate, are identical to those used by Boards of Assessors for many years.

The specific location factors are as follows.

- |   |      |
|---|------|
| 1. Leaseholds adjacent to Arden or Sherwood Forests                           | +10% |
| 2. Leaseholds fronting on Arden or Sherwood Forest by being across the street | +5%  |
| 3. Leaseholds adjacent to or fronting on a communal green                     | +5%  |
| 4. Leaseholds adjacent to Harvey Road and/or Marsh Road                       | -5%  |
| 5. Leaseholds having driveway access only to Harvey Road and/or Marsh Road    | -5%  |

### Notes

1. The specific location factor charges (in dollars) to be added to or subtracted from the sum of the Base Land Rent are obtained by multiplying the Base Land Rent for the leasehold by the appropriate specific location factors as given above.
2. Leaseholds having less than a 25 foot opening to the forest will not be charged a woods factor. More than that frontage to the forest will be considered a full access and charged a full factor.
3. Location factors 4 and 5 are additive if both are applicable.

## ASSESSMENT ALTERNATIVE PROPOSAL 2011 Page 2

Based on information obtained from the Budget Committee, the Village Treasurer and the Trustees, the Board of Assessors presented the following report. In order to meet the 2011-12 forecast expenditures of \$656,882 and to produce a reserve of \$137,734, the Board of Assessors has set the "A rate" for March 2011 at \$xxx per thousand square feet. This Alternative Proposal accepts these data and calculations.

## 1) Forecast Expenditures

School & County Taxes	\$399,432
Trust Administration	38,900
Sherwood Forest Loan	16,176
Arden Town Budget	202,374
Total Forecast Expenditures	\$656,882

## 2) Forecast Revenue

Forecast Revenue from sources other than land rent	\$28,000
Total Revenue from land rent	\$593,000
Total expected revenue	\$621,000

## 3) Prudent Reserve

Expected difference between expenditures and revenue	<u>\$(36,000)</u>
Projected March 2012 prudent reserve	\$174,000
Target prudent reserve projected for March 30, 2013	<u>\$138,000</u>

THE 2011 ALTERNATIVE ASSESSMENT PROPOSAL  
Presented to the Town Assembly by

Alton Dahl	_____	_____
Tom Wheeler	_____	_____

**Examples:****Examples of base rentals:**

<u>No of leaseholds</u>	<u>Lot Size (sq ft)</u>	<u>This Proposal</u>	<u>Assessors</u>	<u>Difference</u>
	7116	\$1,679	\$1,850	+\$171
18	10,000	\$1,952	\$2,089	+\$137
131	20,500	\$2,896	\$2,917	+\$0
36	30,000	\$3,840	\$3,745	-\$95
13	40,000	\$4,784	\$4,573	-\$211
7	55,700	\$6,321	\$5,873	-\$448
1	83,500	\$8,977	\$8,175	-\$802

**Examples of rate calculations:**

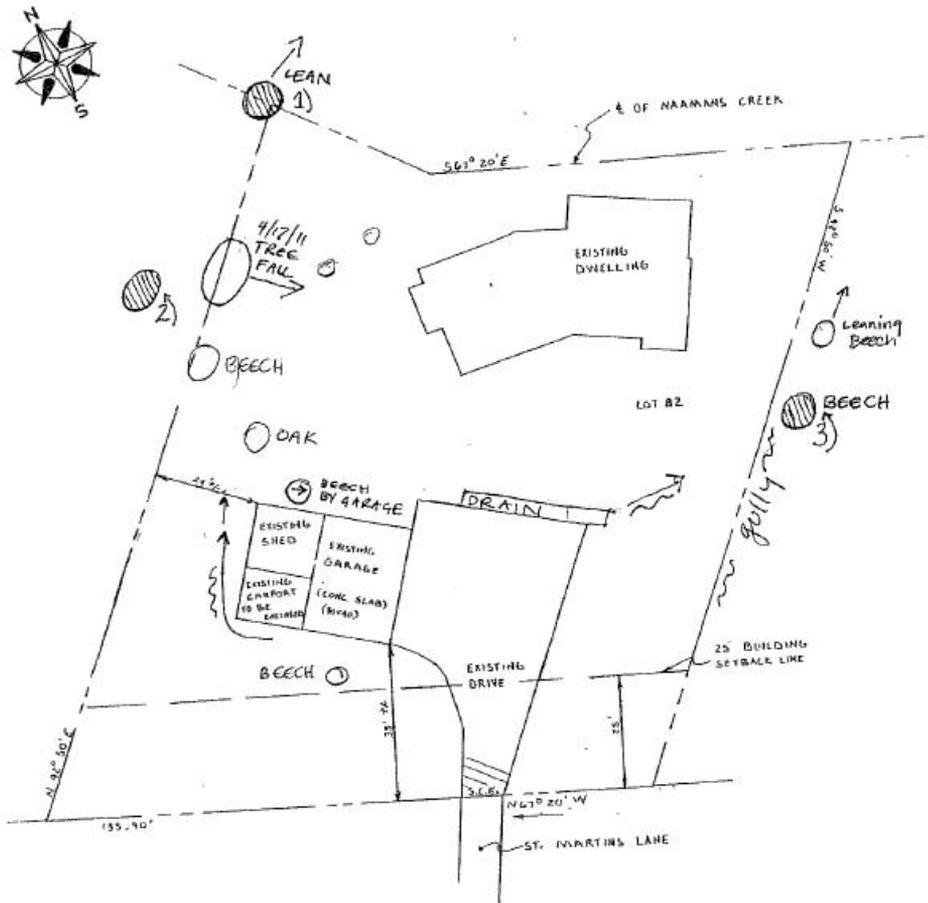
1. A 20,000 sq. ft. lot containing one dwelling unit, on a village green and adjacent to a forest:

7,116 sq. ft. X \$236 / M sq. ft.	\$1,679
12,884 sq. ft. X \$236 / M sq. ft. X 40%	\$1,216
Base Land Rent	\$2,896
Forest Factor - \$2,834 / X 10%	\$290
Greens Factor - \$2,834 / X 5%	\$145
Total Land Rent	\$3,330

2. A 30,000 sq. ft. lot containing three dwelling units and adjacent to Arden Forest:

7,116 sq. ft. X \$236 / M sq. ft.	\$1,679
7,116 sq. ft. X 2 X \$236 / M sq. ft. X 80%	\$2,687
8,652 sq. ft. X \$236 / M sq. ft. X 40%	\$817
Base Land Rent	\$5,183
Forest Factor - \$5073 X 10%	\$507
Total Land Rent	\$5,701

## BROADBENT LEASEHOLD Tree removals in question



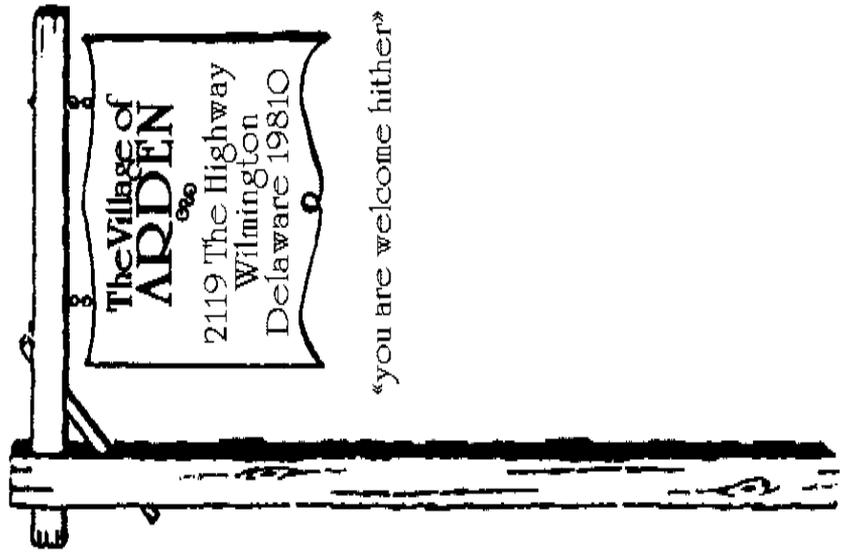
- |    |  |       |
|----|--|-------|
| 1) | Beech on creek, leaning toward creek, northeast. | \$700 |
| 2) | Diseased Beech, no lean                          | \$800 |
| 3) | Beech on gully bank, shows some trunk rot        | \$900 |

Forester reports small possibility of the above falling and does not think it likely they will hit property, but cannot rule it out altogether. He thinks 1) will fall toward creek, 2) will twist and break in middle. 3) can possibly fall toward house.

*positions are approximate*

# Notes





The Village of  
**ARDEN**  
2119 The Highway  
Wilmington  
Delaware 19810

«you are welcome hither»