

Attendance Civic: Rodney Jester, Al Marks, Valerie Hutchinson, Ed Rohrbach & Mick Fitzharris

Attendance Guests: Ron Meick, Danny Schweers, Barbara Henry, Steven Threefoot, Ray Seigfried, Pat Toman, Pat Morrison, Frank Jost, Brooke Bovard, Stephen Harcourt, Laura Wallace.

Meeting convened 7:09 P.M.

Minutes

March 4, 2014 Civic minutes approved

Elections of Committee Chairman

Convener: Al Marks

The civic committee voted Co Chairs of Civic: Valerie Hutchinson and Ed Rohrbach.

Roads

They need to survey pot holes.

Fels Oak

Tom Wheeler was obtaining a report from a tree specialist about what can be done with the mulch around the Fels Oak. Ed will contact Tom about this. Al wants to restore that area as soon as possible.

Bench & Path Markers Restoration

Al suggested restoring the benches at the soldiers' memorial at the same time as when the playground restores their benches so they can share expenses and keep cost down.

Civic will paint all the markers at the path. Wire brushing and painting and check for lead. Valerie will organize the supplies, place and date.

Stage and Memorial Garden:

Suggested solution: Pursue an easement.

Discussion:

Stage area placement

Ed has concerns with the placement of the stage that could foreclose the use of the remainder of the lot for additional grave sites when the other ones fill up. Barbara Henry says that area has never been intended for graves. The intent is for parking for a memorial service. Reserved for Fair Day which is one day a year but is a good reason not to bury anyone down there where people will be walking over graves. Ed says the stage also includes the audience area, prop area which will not fit inside the boundary. Ron points out there are setbacks in order to get around the stage. Take triangle as part of the easement.

Fence & Insurance Liability

County suggested a fence be placed around stage until issue is resolved and wants to know what the liability is.

Danny spoke to Tom Hornung, the village's insurance agent; he believes the town is not liable in any way after the civic committee obtained letters to hold harmless agreement and letter of indemnity from the club. According to Tom Hornung, if the town is sued, the lawsuit would be thrown out of court. Ed: Indemnification means: If a lawsuit is filed against the village, Arden Club Insurance will defend the village in court.

On the other hand, Rodney believes the town is protected at the moment because of letter of indemnification. He does not believe it means that the village cannot be sued because the issue becomes that the county still sees the stage as being unsafe. Until such time as the county approves it as safe, anyone can say it was an unsafe deck and you allowed access. Based on his conversation with the county, Rodney said the county requested an orange fence around the stage, which would go a long way, and you do not have to worry about people accessing it. Bottom line is to please the county and address safety; it is safe when the county says it is safe.

Survey Markers & Posts

Rodney: The memorial garden needs to understand they do not bury within a certain distance. The problem is, as with all committees, so many years down the road no one remembers. So if it is not clearly delineated in the drawings and/or whatever references the memorial garden committee uses, then no one will know. It should be surveyed with pins and posts. It has been surveyed several times, but if you don't install permanent posts that are eminently visible, it does not mean a thing because no one sees a pin.

Grave Sites

Pat Morrison inquires about the three bodies that are buried on the club property. Barbara Henry: The drawing that Ron has shows a slope behind the pool where the graves are that is part of easement "swap" but not really a land swap: an easement in exchange for an easement.

Where the stage is, which is almost all on the Memorial Garden, is easement. It virtually becomes part of the club and what now is club becomes part of the memorial garden. We get to use it.

Resolution

Easement Properties:

Easement is called a license agreement.

A town referendum is not needed for an easement.

An easement is a great way to have a solution with no transfer of land.

Agreement on paper which does not have to be permanent.

Renewable/revocable at Town Assembly.

Because the easement is not permanent and is revocable, then it does not require the town vote, but it needs to be disclosed to the town and be revocable at the Town meeting.

Process to Obtain Approval for Easement:

Civic prepares easement document in collaboration with the Club, Ron Meick. Ron provided an Easement Draft (copy follows minutes).

Need signatures of Town Chair and Club President and maybe Civic committee member as co signing (not sure).

Waiting for survey.

Next meeting: Tuesday, April 8, 2014 at BWVC 7 P.M., Room 2. Meeting will be to review prepared easement document.

Meeting Adjourned 8:14 P.M.

Respectfully Submitted

Elizabeth Resko

Arden Town Secretary

ATTACHMENTS Signed License Agreement follow minutes

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (the "Agreement") made and entered into this 31st day of April, 2014, by and between the Village of Arden ("Licensor" and/or "Landlord"), and the Arden Club Inc., their successors and/or assigns as set forth in paragraph 13 herein ("Licensee" or "Licensees")

WITNESSETH:

WHEREAS, Licensee are the Lessee of that certain tract or parcel of land in New Castle County, Delaware, located in the Shady Grove at 2126 The Highway, Lot 118, Village of Arden; and The Memorial Garden property owned by the Village of Arden.

WHEREAS, Licensees have used and desire to continue to use real property outside of and adjacent to their Leasehold for occasional purposes of concerts, memorials, and other activities to benefit the community and consistent with their lease:

WHEREAS, Licensor agrees to permit such use as license pursuant to the terms and conditions of this Agreement; and

NOW THEREFORE, for and in consideration of the sum of Ten and No/100 dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

1. **Property.** Licensor agrees to permit Licensee to use the area that contains the constructed stage and area as defined by "Plan for Easements" map dated 3/14/14 as surveyed by A.E.S. surveyors. The Licensee grants use of the Licensor leasehold property in the Memorial Garden as indicated on referenced map and marked by visible posts. Licensee agrees that neither Licensor's use of Licensor's property, nor the use of said property by anyone authorized by Licensee shall be interpreted to give right to anyone to limit, interfere, interrupt, or in any manner affect and of Licensor's current, or future leaseholds, or any other residential lot.
2. **Term.** The term of this Agreement shall commence on the date hereof and remain in force until terminated by majority vote at any scheduled or special Village of Arden meeting or by the Licensee. Either party will give 180 days notice in the other party to terminate this Agreement.
3. **Liability.** Licensee shall indemnify and hold harmless Licensor and the Village of Arden from any and all liability arising out of or in connection with Licensee's (their agents, representatives, guests, and/or any other third parties) use of the Encroachment.
4. **Alterations.** In no event and under no circumstances shall Licensee make any alterations, additions, repairs or improvements to Property without written permission of Licensor, which permission shall not be unreasonably withheld. Licensee agrees to maintain those improvements in good condition and at its expense. Licensee further agrees that Licensee shall pay all expenses for said improvements in a timely fashion to prevent any liens from being filed by suppliers or laborers against the Encroachment. At the expiration or earlier termination of this agreement, Licensee shall immediately return the property to the condition it was in immediately prior to the execution of this agreement.
5. **Entire Agreement.** This instrument contains the entire agreement between the parties regarding the terms and conditions of the Agreement of the above described Encroachment, all other agreements relating to the subject matter of this Agreement are hereby incorporated herein and there are no oral or written conditions, terms, understandings or stipulations pertaining to this Agreement which have not been incorporated herein.
6. **Unenforceability.** If any provision of this Agreement or the application thereof to any person or circumstances shall for any reason and to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provisions to the other persons or circumstances shall not be affected thereby but rather shall be enforceable to the fullest extent permitted by law.
7. **Governing Law.** This Agreement and all of its provisions shall be construed and interpreted in accordance with the laws of the State of Delaware.

8. No Representations by Licensee. Licensee acknowledges to and agrees with Licensor that Licensee is accepting Encroachment in an "AS IS" condition "WITH ALL FAULTS" and specifically and expressly without any warranties, representation or guarantees, either express or implied, of any kind, nature, or type whatsoever from or on behalf of Licensor.

9. Binding on Successors, Grantees and Assigns. Licensee must disclose this Agreement and provide a copy to any subsequent assignee, grantee or successor. Unless and until terminated, this Agreement shall run with the land and is binding upon Licensee's successors, heirs, assigns, and/or representatives.

10. No Waiver. Under no circumstances shall this Agreement be deemed to be a waiver of Licensor's rights concerning the Encroachment. Under no circumstances shall lease rights be deemed to be granted to Licensees concerning the Encroachment. Under no circumstances shall this Agreement be deemed to be a consent or acquiescence to any change in the parameters of the Property, or any other Lease or Lot in the Village of Arden.

IN WITNESS WHEREOF, the parties have hereto set their hands and seals as of the day and year first above written.

LICENSOR:

Village of Arden Civic Committee:

By: Edward H. Koberbach
By: Michael J. Styrhams
By: Robert H. ...
By: [Signature]
By: [Signature]

Village of Arden Town Chair

By: Danny H. Schweert

Attest: Elizabeth ...

LICENSEE:

Arden Club President

By: Steven R. Cohen

Arden Trustees

By: Mike Curtis

By: Elizabeth ...

By: _____



