

## ARC DETAILS FOR MEETING OF MAY 9, 2007

Dear Board Members,

I apologize for the tardiness of this response. The end of the week and the weekend just got away from me.

Electric Fences:

As you may recall, a little over a year ago, in an effort to save the aspen grove just down the hill from the new Baneberry (Archer) House, we worked with the owner, Tim Hoogheem to come up with a plan which he implemented and paid for out of his own pocket. This involved cutting the older, dead trees in his grove and then putting up a temporary (3 seasons) solar powered fence to keep the deer, elk and other smaller animals from eating the new shoots that come up in the spring. This grove would have died in a few years (like many of our groves in Genesee will if we do not take action) had we not allowed this action. The project has been very successful. The remaining trees (about 30% of the original number) are doing better and the new growth is taking hold and growing like mad. In fact, Bjorn Dahl and the Village associations came to the ARC two weeks ago to do a similar project in the dying grove just to the north of Genesee Trail Road and West of Dogwood Drive.

Unfortunately, we learned during the approval process for Mr. Hoogheem's project last year that the Official Development Plan for Genesee has a flat out prohibition against electric fences.

The ARC's strong view is that we should continue this kind of project to help save our dying aspen groves. Therefore, we would like permission, on behalf of Genesee, to go to the County and ask for a waiver of the electric fence prohibition for temporary solar powered fences for the limited purpose of revitalizing aspen groves. If you give us permission, we will take care of going to the county and completing whatever is necessary to try to obtain permission.

Poindexter Open Space Tree Removal:

2132 Montane Drive East (on a private drive at the bottom of the big hill on Montane). Their private drive is shared only with the Fleeners. The property is surrounded by open space on the east and south side, the Fleeners house on the north side and Montane Drive E is up the hill about 20 yards from the private drive. The ARC has approved a large addition for their house. Since the addition was more than 400 square feet, the

Poindexters retained Bjorn Dahl to do the required Fire Mitigation survey. The ARC has approved the cutting of the necessary trees on the Poindexter property. Bjorn also recommended two ponderosa pines, a juniper and numerous volunteer trees be cut in open space to the East and South of the property. The ARC has approved these cuttings and recommends that the Board do so as well. I will bring pictures of the two ponderosa pines to the meeting. The juniper is large and as you all know just a torch from a fire perspective. The volunteer trees are numerous, should be thinned. No one's views would be affected in any way by this cutting.

#### Baneberry Drainage:

As you will recall, retaining the drainage through this lot has been a priority of the ARC since the beginning. The spring water must continue to drain through the property in order that the aspen groves below as well as other meadows and stream flows be preserved. We have already bridged the natural flow between the two pods of the house. The builder will be building a bridge structure where the drainage will pass under the driveway. Because of some new problems with water seeping into the ground and essentially creating a bog that didn't exist before (which may have been caused by the contractor's snow removal equipment this winter) we have asked the contractor to join all the drainage pipes in this area and pipe all the water flow to the edge of his property. The neighbor suggested and the ARC agrees that it might be a good idea to finish the pipe through open space to the point where the drainage passes under Baneberry. The natural drainage is beginning to erode the open space land, a problem which could become worse with the increasing the flow through this area caused by the house and driveway. Again, we would like to do what we can to keep flow through this area running to lower areas. We are talking about a pipe of approximately 30 feet which would run in the current channel, be buried and re-seeded on top of it. Therefore, we would ask for approval to allow the contractor and neighbor to complete this work on open space.

For your information, we have finally gotten the contractor to even out the slope to the west and south of the house as you previously approved. There is no encroachment on open space to the west and less than 10 feet encroachment to the south, well within the parameters of what you allowed. This has satisfied the neighbors and will make the project look more finished.

#### Pictures of Homes:

I understand that this was raised by staff with you before and that you were uncomfortable with taking pictures of homes on the staff's annual tour. I understand your discomfort with not wishing to be seen as overly intrusive. I would like to discuss this with you once more to see if I can change your minds.

From the ARC's point of view, our most difficult task is making sure that things don't get done without ARC approval. I can't count the number of times that a neighbor or one of us has noticed an unapproved improvement and not been able to do anything about it because we don't know how old it is. Inevitably, owners tell us that its been there more

than a year and thus our hands are tied to do anything about it because of the state's one-year statute of limitations.

We are not asking for pictures to take action based upon the pictures. We are asking for pictures as a baseline. Then, when someone like me walks by a house and notices a new ugly white window where all the rest of the windows are painted to match the house, we can check the baseline pictures to see if it is new or not. This saves the ARC the embarrassment of sending an owner a letter claiming that there is a new unapproved improvement only to have the owner get frustrated and to have the owner tell us it has been there more than a year. If we miss it for a year, then shame on us and the owner is entitled to it, no matter how bad. If it hasn't been up more than a year and we can demonstrate that using our baseline pictures, we are in a position to work with the owner to find a solution to the issue. Frankly, in the 2 1/2 years I have been on the ARC I don't remember a single instance where an owner had up an unapproved improvement that we made them take down with the exception of a couple of wall ornaments and some yard art. We have almost always been able to work something out. If we don't have a baseline of pictures in a community of 900 homes, many of which are at least partially isolated we really just can't keep track of what has been approved and what hasn't. In my view, we risk having just a terrible mess, no consistency and essentially unenforceable covenants, a situation that none of us wants to get to.

Honestly, I am very frustrated by this problem as I see more and more unapproved items which are very difficult to deal with if we don't notice them right away. Every time one person gets away with it because we can't prove the improvement is less than a year old, we have another potential for someone to say to us, but so-and-so has one. The most prominent example we have of this in the past couple of years is trampolines. A couple of times when we have insisted on non-primary colors for pads, the owners have come back with pictures of trampolines in the neighborhood which were not approved and got by the statute of limitations. This just puts us in a very difficult position to enforce the covenants. I will be happy to discuss this more with you at the meeting.

I am very pleased with the new members of the ARC. We are working well together and we are having fun and keeping disputes to a minimum. We have instituted a new program this year for those instances where we disapprove a color or a roof or other items of in the disapproval letter giving the owner alternatives which we pre-approve so that the owner doesn't have to keep coming back to the ARC. It is our goal to get all matters (except new houses and large remodels) approved in a single meeting.

We always welcome your comments on how we can improve and when we have made a mistake. In addition, in working with the Vision Committee I have begun to work with those on the committee who have problems with the ARC process or what we have approved. There is no reason why we have to wait to improve the ARC processes. We can do that right now and I am committed to doing the best I can to make the process smooth and to change the reputation of the ARC in the outside community so that the ARC will not be an impediment to increasing property values, but will be a positive factor in improving property values.

Thank you for your time. I will see you on Wednesday night.

Chris O'Dell, ARC Chair