

**GLENDALE BOARD OF APPEALS MEETING**  
**November 10, 2011**

Chair, Addison Clipson, called the meeting to order at approximately 5:40 p.m.

Roll Call: Mr. Clipson, Mr. Breidenstein (Board Secretary), Mr. Hamilton, Mr. Garvin, and Ms. Floyd all present

Also Present: Loretta Rokey, Village Administrator; Laura Abrams, Esq., Assistant Solicitor; also see sign-in sheet

The Chair acknowledged the materials received including an email from Phil and Janet Bauer, introduced the items on the agenda and invited the applicant to present. All members wishing to provide testimony were invited to be sworn in. Ms. Noble with City Studios, Mr. Chester with Christ Church and Mr. Bauer, homeowner at 46 Erie Avenue were all sworn in.

Mr. Burke presented as legal counsel on behalf of the Church. He stated that the purpose was to clarify and define what controlling lines apply to the front, side and rear lot lines and whether or not the two small corners which encroach into the front yard along Arbor may receive a variance. He also stressed that, as the zoning code is written, the current encroachments into the setback would preclude any modification of the church and that the application to address both issues did not involve a specific building design.

Regarding the determination of setbacks, Mr. Burke asked Chantelle Noble to describe the lot as a-typical and exceptional in its configuration. She testified that it was comprised of three front yards, facing Sharon, Arbor and Erie, all primary streets, because under the zoning code, the front yard is defined by the location of the street. In a typical Glendale corner lot, it would face two public streets. The front yards of adjacent and neighboring properties match these front yards. The side yard is defined as connecting the front and rear yard in a typical situation. In this case, adjacent lots must be considered. The side yards proposed for Christ Church join adjacent side yards, per the applicant's interpretation. Only one rear yard joins the church's rear yard. This was the only yard found by the applicant to meet the criteria. Ms Noble referred to a plan that depicted the applicant's position regarding the location of the front, side and rear yards on its property and on adjacent and neighboring properties. Members of the Board were provided a copy of this plan. She also referred to a plan that depicted the encroachments of the existing structures into the front yard setback along Arbor and Erie. Members of the Board were also provided a copy of this plan.

Mr. Burke stated that it is the Church's intention to comply with the setback regulations once yard locations are determined. He estimates that the current encroachments for which a variance is sought are roughly 10' into the most restrictive yard setback along Arbor and Erie. He reiterated that if a variance is not granted, the church could never modify the structures because of the way the zoning code is written. The current front, rear and side yard setbacks are 40' front, 10' side and 40' rear (note: this is zone A)

Mr. Breidenstein asked how close to the side property line is the current structure and how close is the new structure proposed to be constructed? The proposed structure is estimated at 12' from the property line, and the current structure is also approximately 12' from the property line.

Mr. Burke called on Thomas Chester to testify regarding the status of the consolidation of lots. He is a Senior Warden of the Church and a member since 1976. The main sanctuary on the site dates back to 1872 with the Children's Chapel completed in 1881, the Olivia House in 1898 and All Saints Hall in 1959-60. Glendale's initial zoning ordinance was adopted in 1944. The church and Olivia Hall have had the same footprint with these encroachments since before 1944. The glass structure (All Saints Hall) was permitted at the time and no encroachments were assumed under the prior code. In other words, the encroachments of the church structure and of Olivia Hall did not prevent construction of All Saints Hall in 1959. Without the requested Variances, Mr. Chester explained that the inability to add onto the church and Olivia Hall would be "devastating beyond a hardship" because church wouldn't be able to grow and to continue to grow and expand its functions.

Mr. Chester noted that the consolidation of lots was intended to be completed in 2009. In September he discovered that this was not completed. There were four parcels under two different, yet similar names. The Auditor's office required these to be re-titled to be the same name for the consolidation. Near the end of September a new boundary plat was provided and the requested consolidation was accepted by the Auditor and Recorder. They were told to submit a new application in January 2013 for the exemption of property taxes. They were told that they have provided all of the information required for the consolidation.

There being no other persons wishing to speak in favor of the applications, the Chair called for testimony of anyone in opposition.

Mr. Bauer, resident at 46 Erie Avenue immediately adjacent to the church's property to the west, expressed concerns regarding the side yard in the context of the whole building. The current parking lot barrier of 50-60' aids in protecting their privacy. The 1959 addition also provides a buffer. He feels this is too much building for the size of the lot. The addition removes the existing barrier between properties. Assuming the new addition is constructed, his property will be less open and private. There would only be a separation of 35-40' between his house and a new addition of a 2-story building, which might be built within 12 feet of his lot. Their garden will be blocked from sun 1/2 the day. Part of their life enjoyment and sustainability will be impacted. He is also concerned regarding the affect of their home value. He fears an uphill battle against Manley Burke who has represented Glendale in the past. He believes that because all structures have a Forest Avenue address, and face Forest, that the Forest Avenue frontage should be treated as the front yard. He believes that the side yard is where the steps to the basement are located and the back yard is to what he believes are the backs of the buildings, where the A/C unit and transformer and fire escape are located since this has

been treated as a back yard. He stated that 70% of the congregation lives outside of Glendale and only spend a few hours here. This is his home 24 hours per day. He must forever live with an oversized structure. In closing, he quoted a passage from the Foreword of the 1976 Glendale Historic Preservation history book. Mr. Clipson noted that he wrote that Foreword

Mr. Brockmeier, resident at 35 Erie Avenue, was sworn in and stated that the front yard is defined by the fronts of the buildings, and the back yard is anything behind the buildings. He stated that he attends the Christ Church, and that he is concerned that his church may not be a sensitive neighbor.

Mr. Pilch at 36 Erie was sworn in and stated that he is also concerned regarding the view of the church property from his home.

Mr. Burke in his closing remarks stated that the church has not determined the final design of any new construction. He noted that Mr. Bauer's comments related to concerns would be more appropriate for the Planning Commission to address. The request before the Board is to make the appropriate yard determination. If the yard currently treated as side were designated as rear-yard, the church would have major non-conformities from the setback of All Saints Hall, which is currently only approximately 12' away from the Bauers' property line. They have matched the side yard to side yard and rear yard to rear yard in a logical fashion. The lot line in question has never been treated as a rear yard in the past, or the church could never have made changes in the past and could never make changes in the future. He reiterated the request for a variance.

Mr. Bauer read an email from Helen Sedwick from Christ Church which indicated that a re-design of the intended addition was not feasible. He questioned if the building design is not clear, how can the yard determination be made.

Mr. Breidenstein noted that the determination of yard should be made regardless of the structures on a lot, it should be made as if it were a vacant lot. The determination of the yards is made with reference to the street location, not the location or configuration of a structure on the lot.

The Chair invited a motion to close the hearing which was made by Mr. Garvin, seconded by Ms. Floyd. A roll call vote was taken and all voted yea.

Mr. Breidenstein initiated discussion of the project. He felt that the issue regarding the current encroachments into the front yard was a minor issue and made a motion for approval of the variance for the two minor encroachments in the assumed front yard at 40'. As justification of the motion, and incorporated therein, Mr. Breidenstein explained that the configuration of the church's lots created an exceptional circumstance that justified the variance and that the strict application of the zoning code would prohibit the reasonable use of the property. Ms. Floyd seconded the motion and a roll call vote was taken. All voted yea.

Mr. Garvin does not agree that Sharon is the front. He believes the back is to the west.

Mr. Breidenstein agreed with Mr. Burke due to the treatment of the property to date. In particular, the addition of the All Saints Hall subsequent to the adoption of the zoning code established the setback from the property line in question. Any new construction should be able to follow the established setback.

Mr. Clipson was concerned that the result would be a hardship for Mr. Bauer if the side yard and structure is approved as presented. Further review of the shadow of the future construction could be a condition for planning commission.

Mr. Breidenstein noted that this body could only rely on the good will of the church to build with sensitivity to its neighbor.

Mr. Breidenstein made a motion to approve the determination of yards as presented by the applicant. The motion died for a lack of a second.

The Assistant Solicitor provided clarification related to the appearance of the addition. This Board is not dealing with what the addition is or isn't going to look like. The Board must determine the yard in addition to the variance already approved. The nature of the addition is for Planning Commission to determine.

A motion was made by Mr. Garvin, seconded by Ms. Floyd to continue discussion to a meeting to be held December 1, 2011 at 5:30 pm at Town Hall. All voted in favor of continuing the discussion regarding the yard determination. The suggestion was made to the applicant and the principal opponent that they meet and attempt to resolve their differences before the continuation of the Board's meeting.

Motion to adjourn by Mr. Garvin; seconded by Ms. Floyd, all voted yea.

The meeting was adjourned at approximately 7:30 pm.

Respectfully submitted,

Thomas W. Breidenstein, Secretary  
with the assistance of Loretta Rokey, Village Administrator