

APPLICATION NUMBER

5434

A REQUEST FOR

**FRONT YARD SETBACK VARIANCE TO ALLOW THE
CONSTRUCTION OF A CONVENIENCE STORE
GASOLINE PUMP CONOPY WITHIN 17' OF A FRONT
PROPERTY LINE IN A B-2, NEIGHBORHOOD BUSINESS
DISTRICT; A 25' FRONT YARD SETBACK IS REQUIRED
FOR ALL STRUCTURES IN A B-2, NEIGHBORHOOD
BUSINESS DISTRICT.**

LOCATED AT

1248 HILLCREST ROAD

(Northwest corner of Hillcrest Road and Grelot Road)

APPLICANT

CHARTERSOUTH, INC.

AGENT

MIKE KINARD

OWNER

DBM COMPANY LP

BOARD OF ZONING ADJUSTMENT

OCTOBER 2007

The applicant is requesting a Front Yard Setback Variance to allow the construction of a convenience store gasoline pump canopy within 17' of a front property line in a B-2, Neighborhood Business District; a 25' front yard setback is required for all structures in a B-2, Neighborhood Business District.

It is proposed that the owner of the subject site will re-develop the site and lease it to the applicant. The site was previously used as a restaurant and will be renovated as a convenience store with five gasoline pumps and a canopy. The only encroachment mentioned is the front of the gasoline pump canopy. The applicant states that the variance is requested to allow sufficient space between the gasoline dispensers and the front of the store to allow traffic flow between the two. It is further stated that the required distance from the gasoline dispensers to the front of the store is a safety issue, and that the distance between the two has been reduced to the industry safety minimum. It is stated that the hardship for the site is providing for customer safety requirements and the applicant does not believe that can be achieved without this variance.

The applicant states that the only setback encroachment proposed is the front of the pump canopy. However, a review of the site plan indicates that the five front support columns for the canopy are also proposed within the 25' front setback. Also, a zero or 5'+ side yard setback is required off adjacent commercial property to the North, but the site plan indicates only approximately a 2' setback. Another issue with the site plan is the increase in site coverage. The proposed canopy size is approximately 3,072 square feet, and the existing building, which is to remain, is approximately 2,542 square feet. The total site coverage would still be below the maximum 50% allowed in B-3 districts, but that is more than a 50% increase in site coverage over the existing coverage. Since the original site development pre-dated the current landscaping and tree planting requirements of the Zoning Ordinance, no landscaping requirements applied to the original development. But the Ordinance now requires full compliance with those aspects for development on nonconforming sites where the total gross coverage increases by 50% or more. No areas of frontage landscaping and tree planting are indicated on the site plan and no landscaping and tree planting calculations were provided.

With regard to the argument that the distance from the front of the store to the gasoline dispensers has been reduced to the industry standard minimum, no industry standards were given. There is adequate room behind the parking stalls in front of the store to allow a 24'-wide two-way traffic aisle, then a 20'-deep refueling station parking space. With a reduction of the canopy depth from 24' to 20' above the relocated refueling stations, the required 25' front setback can be achieved. The canopy would also have to be revised to meet the side yard setback along the North. Also, as proposed on the site plan, the maneuvering area between the front property line and the front edge of the canopy support columns is only approximately 18' which would not allow for a two-way access/maneuvering aisle along the front of the site. There is adequate area to revise the

site plan and not only have the canopy meet the required front setback, but to also provide a 24'-wide front access/maneuvering aisle as well as the one behind the parking stalls. In this instance, if both the industry standards and the commercial development requirements of the Ordinance cannot be met, the site may not be appropriate for the proposed development.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the applicant must present sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

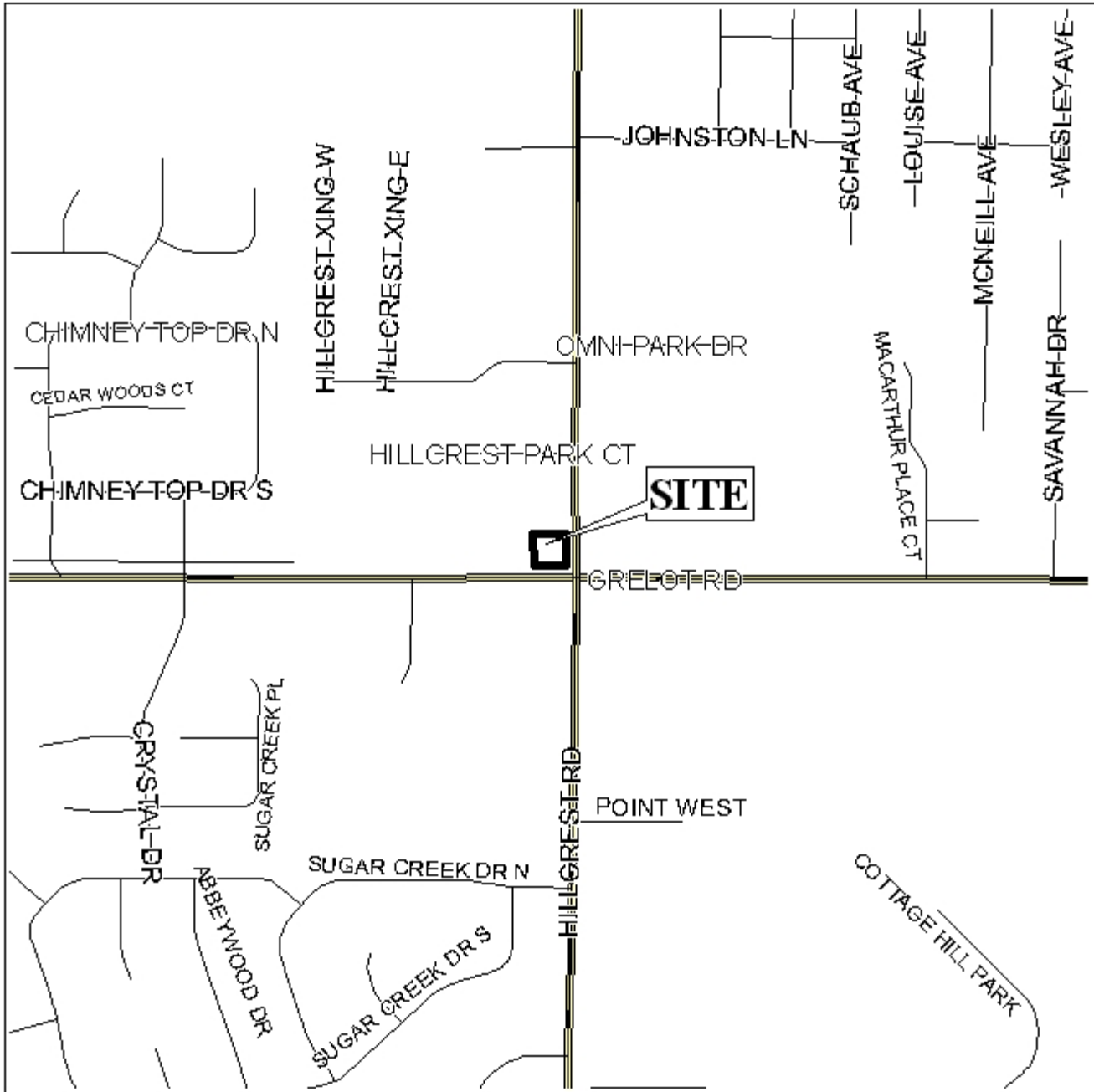
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to construct a gasoline pump canopy within 17' of a front property line.

RECOMMENDATION 5434**Date: October 1, 2007**

Based on the preceding, this application is recommended for denial.

LOCATOR MAP



APPLICATION NUMBER 5434 DATE October 1, 2007

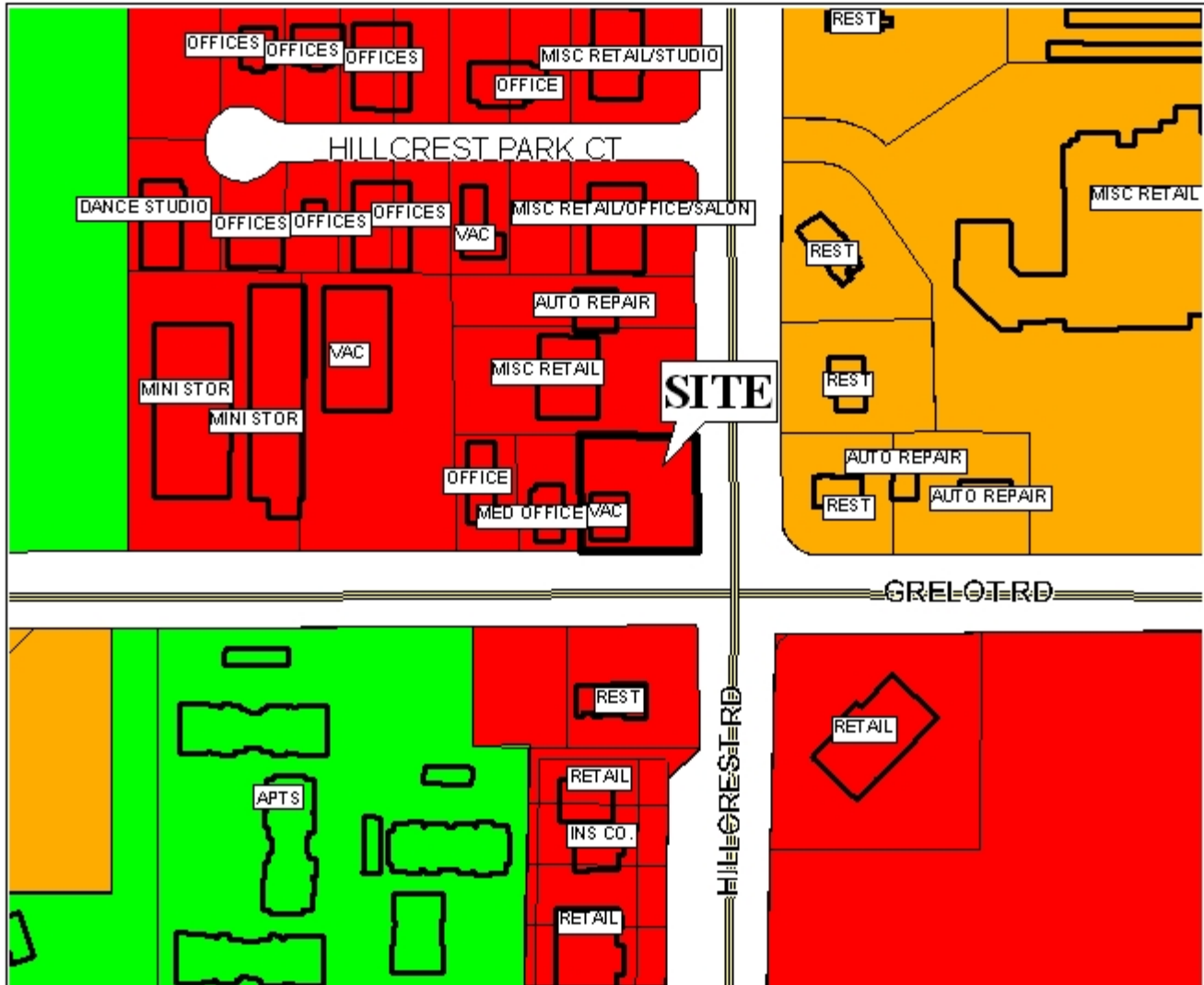
APPLICANT Chartersouth, Inc.

REQUEST Front Yard Setback Variance



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Offices are to the west of the site, retail to the north, restaurants are to the east and south.

APPLICATION NUMBER 5434 DATE October 1, 2007

APPLICANT Chartersouth, Inc.

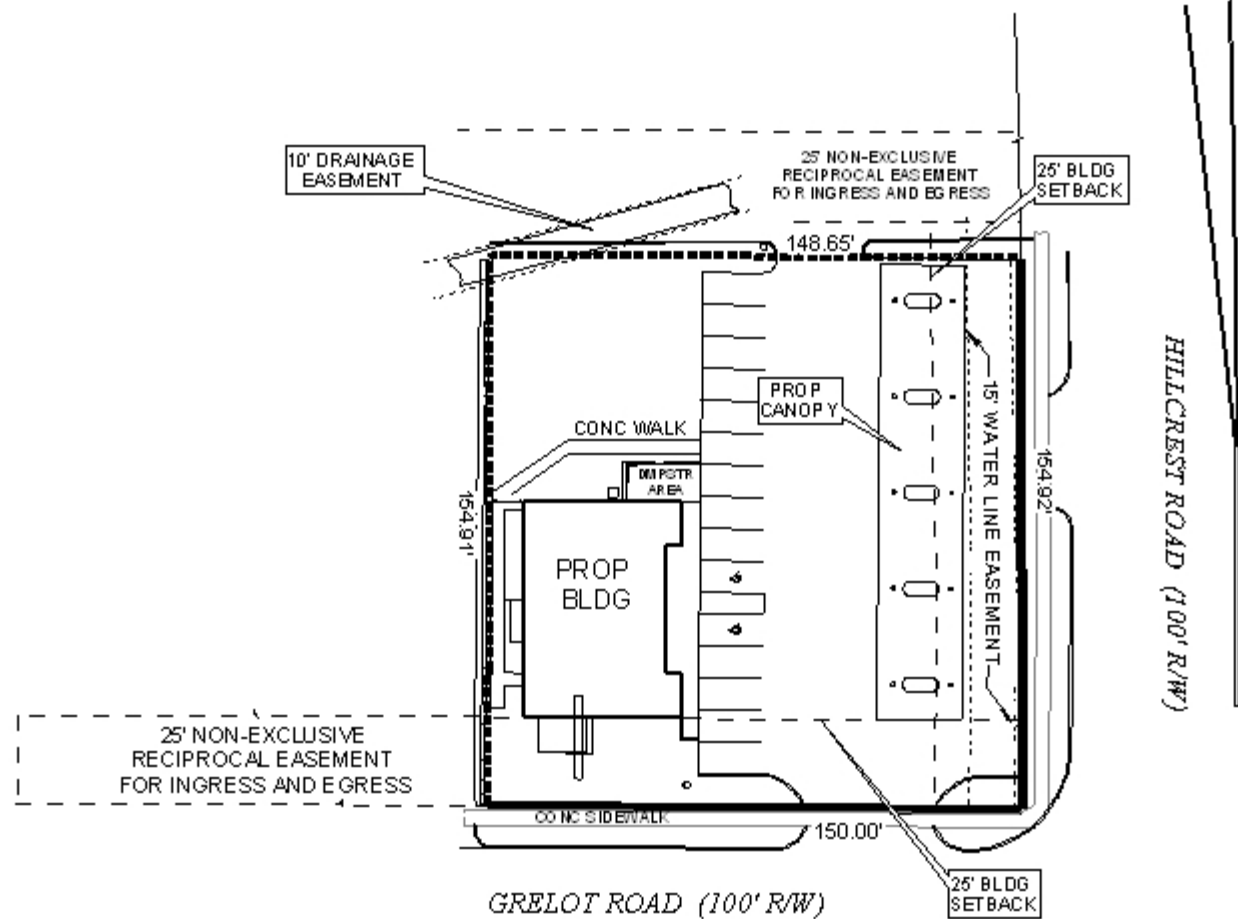
REQUEST Front Yard Setback Variance

LEGEND R-1 R-2 R-3 R-A R-B H-B T-B B-1 LB-2 B-2 B-3 B-4 B-5 I-1 I-2



NTS

SITE PLAN



The site plan illustrates proposed building, canopy, easements and setbacks.

APPLICATION NUMBER 5434 DATE October 1, 2007

APPLICANT Chartersouth, Inc.

REQUEST Front Yard Setback Variance



NTS