

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: January 7, 2019****CASE NUMBER**

6231/286

**APPLICANT NAME**

Broad Street Restoration Society

**LOCATION**

563 South Broad Street  
(Northeast corner of South Broad Street and New Jersey Street.)

**VARIANCE REQUEST**

**FRONT YARD SETBACK:** Front Yard Setback Variance to allow a building to encroach within the Front Yard, two (2) 13.7'± tall entrance pylons, and multiple 8.5'-tall masonry posts, in a B-2, Neighborhood Business District.

**SIDE STREET SIDE YARD SETBACK:** Side Street Side Yard Setback Variance to allow a building to encroach within the Side Yard and a covered patio to encroach 13.5' within the Side Street Side Yard Setback in a B-2, Neighborhood Business District.

**FENCE VARIANCE:** Fence Variance to allow a 7.7'±-tall metal fence along the front property line, and a 10'-tall masonry wall and 10'-tall wooden privacy fence to be constructed along side property lines on a site in a B-2, Neighborhood Business District.

**ZONING ORDINANCE  
REQUIREMENT**

**FRONT YARD SETBACK:** The Zoning Ordinance does not allow any structure taller than 3' within a Front Yard Setback in a B-2, Neighborhood Business District.

**SIDE STREET SIDE YARD SETBACK:** The Zoning Ordinance does not allow any structure taller than 3' within a Side Street Side Yard Setback in a B-2, Neighborhood Business District.

**FENCE:** The Zoning Ordinance limits the height of fences and walls to 8' on a site in a B-2, Neighborhood Business District.

**ZONING**

B-2 Neighborhood Business

**AREA OF PROPERTY**

1.89± Acres

**ENGINEERING  
COMMENTS**

**FRONT YARD, SIDE STREET SIDE YARD, & FENCE VARIANCES:** The proposed 10 foot tall masonry wall and the proposed decorative metal fence are proposed to be constructed within an existing drainage easement. Anything constructed within the easement is subject to removal if the City requires access to the existing underground drainage system.

If the proposed variances are approved for use the applicant will need to have the following conditions met:

1. The proposed fences located within the existing 50' wide drainage and utility easement would be the property owner's responsibility to remove/rebuild if access is required to the existing underground drainage system.
2. The proposed improvements shown on the submitted SITE PLAN drawing will require a TIER 1 Land Disturbance Permit.
3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.
4. The construction of a solid masonry wall will require that the existing drainage patterns and surface flow characteristics are not altered so as to have a negative impact on any adjoining properties or any public rights-of-way.
5. If any work is proposed within the Broad Street ROW the New Jersey Street ROW or a public drainage easement a ROW Permit must be obtained from the City of Mobile Engineering Dept.

**TRAFFIC ENGINEERING  
COMMENTS**

No comments.

**URBAN FORESTRY  
COMMENTS**

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 2015-116 and City Code Chapters 57 and 64). Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from a commercial site will require a tree removal permit

**FIRE DEPARTMENT****COMMENTS**

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance. (2012 International Fire Code).

**CITY COUNCIL****DISTRICT**

District 2

**ANALYSIS**

The applicant is requesting Front and Side Street, Side Yard Setback and Fence Variances to allow a building to encroach within the Front Yard and Side Street, Side Yard Setbacks, a covered patio to encroach 13.5' within the Side Street Side Yard Setback, two (2) 13.7'±-tall entrance pylons, multiple 8.5'-tall masonry posts, and a 7.7'±-tall metal fence to be constructed along the front property line, and a 10'-tall masonry wall and 10'-tall wooden fence to be constructed along side property lines on a site in a B-2, Neighborhood Business District; the Zoning Ordinance does not allow any structure or masonry wall taller than 3' within a Front or Side Street, Side Yard Setback, and limits the height of fences and masonry walls to 8' on a site in a B-2, Neighborhood Business District.

The applicant's narrative states:

***USE AND CHARACTER OF IMPROVEMENTS  
and OTHER SITE VARIANCE INFORMATION***

*This project entails the redevelopment of an existing site on Broad Street and New Jersey Street. There is an existing building at the corner that was formerly a grocery store. Recently, a Mardi Gras organization purchased the grocery store and an adjacent parcel for redevelopment as the new den for the organization. Byrd Surveying has been employed to submit an application to the Planning Commission for a One Lot Subdivision to combine the two parcels into one legal lot of record. The information contained in this variance application assumes that the One Lot Subdivision will be approved. The lots are currently zoned B-2. Re-zoning of the lots is not anticipated.*

*The existing grocery store building is a single story, 10,531 square foot building. The south side of the building (facing New Jersey Street) is constructed on the property line. The west side of the building (facing Broad Street) is 13.5 feet from the property line. As part of remodeling work to change the appearance and functionality of the building the exterior walls will be stripped down to expose the building structure and the walls and roof of the north and south portions of the building will be completely removed and reconstructed. The footprint of the reconstructed north and south sides will essentially be the same as the current footprint. The south side of the building will remain on the property line and the west side of the building will remain at 13.5 feet from the property line. The re-build of the building exterior will greatly enhance the appearance of the building and blend better with the adjacent historic district. This variance application requests to maintain the current building setbacks of the existing building rather than conform to the setback required for the zoned district. (Please note that there is an*

*existing freezer structure on the north side of the building that will be removed. So, actually, the building footprint is reduced.)*

*The rear of the property (East side) abuts an apartment complex. The land of the apartment complex is zoned R-3. The proposed site improvements indicate a new masonry wall to be constructed along the rear property line. This variance application requests the height of the wall to be 10 feet tall.*

*The north property line abuts a commercially zoned and developed site that is presently occupied by a convenience store. A 10 foot tall wood privacy fence is proposed along this property line.*

*A Courtyard is proposed to be constructed on the east side of the building. There are structures that are proposed to be constructed in the courtyard. The structures are masonry walls, roofed arbor structures, a grill, and a fireplace. These structures are proposed to be constructed close to the property line that abuts the R-3 zone and to the New Jersey Street property line and are proposed to be taller than what is generally allowed in the buffer zone between a business and residential zone. Ben Cummings has discussed the location of the fireplace with Captain May of the Mobile Fire Department. Captain May said the fire code does not have any restrictions for placing fireplaces on the property line.*

*Also proposed is a decorative metal fence with masonry columns along Broad Street. The height of the masonry posts is 8'-6". The height of the tallest portion of the metal fencing is 7'-8". At one of the two new entrance drives there is proposed two large entrance pylons that are 13'-8" tall. These pylons will have decorative features that represent icons of the Mardi Gras organization. The icons will sit on top of the pylons as indicated in one of the renderings.*

*A new parking lot is proposed. Fortunately, the number of proposed parking spaces exceeds the minimum required. Therefore, we are NOT seeking a parking variance. The minimum required spaces is 105. This is based on a gross building area of 10,501sf and using the calculation of 1 space per 100 gross square feet. The number of proposed spaces is 133.*

*Landscaping: The applicant understands that full compliance with the landscape ordinance is not a requirement for this project as the area increase of the additions (including the areas of the reconstructed sections) does not exceed 50% of the area of the existing building footprint. The area calculations of the existing building and the remodeled building area as follows:*

- Existing Building Footprint (including freezer that is to be removed): 10,987sf
- New Work:
  - Covered Entrance Canopy: 675sf
  - Covered Arbor Structures in Courtyard: 1,222sf

- Two re-built sections of the existing building: 3,264sf
- TOTAL AREA OF NEW WORK: 5,161SF

*The area of the new work is less than 50% of the existing footprint. Therefore, full compliance with the landscape ordinance is not required. However, greenspace and landscape islands with new landscaping will be provided. Also, there are four existing oak trees on Broad Street that are proposed to remain.*

*Building Site Coverage: The maximum site coverage allowed in a B-2 zone is 50%. The area of the site is 82,500sf. The total building areas including the entrance canopy and the arbor structures is 12,428sf. The proposed site coverage is 15%. The proposed site coverage is less than the maximum allowed.*

*A review of many of the surrounding structures in the area indicates that many buildings are constructed closer to the property lines than what the current zoning setbacks allow. Also, many of the commercial structures are constructed adjacent to residentially developed sites. And many of the commercial buildings exceed the heights allowed in the buffer between commercial and residential lots. Many of the structures in the surrounding area were constructed prior to the current zoning regulations and many of the buildings are considered historic structures. It is the observation of the applicant that the redevelopment of this site as proposed is similar to other surrounding developed sites and is in keeping with the neighborhood.*

*The architect is actively working on the construction documents for this project and anticipates bidding the work in the early spring. Construction is anticipated to begin in the mid-spring and should be concluded by the end of 2019.*

#### **END OF NARRATIVE**

The site has been given both Mixed Density Residential (MxDR) land use and Traditional Neighborhood Center (NC) land use designations per the recently adopted Future Land Use Plan and Map. The Future Land Use Plan and Map complements and provides additional detail to the Development Framework Maps in the Map for Mobile, adopted by the Planning Commission at its November 5, 2015 meeting.

The Mixed Density Residential designation applies mostly to residential areas located between Downtown and the Beltline, where the predominant character is that of a traditional neighborhood laid out on an urban street grid.

These residential areas should offer a mix of single family homes, townhouses, 2- to 4-residential unit buildings, accessory dwellings, and low- and mid-rise multifamily apartment buildings. The density varies between 6 and 10 du/ac, depending on the mix, types, and locations of the housing as specified by zoning.

Like Low Density Residential areas, Mixed Density Residential areas may incorporate compatibly scaled and sited complementary uses such as neighborhood retail and office uses,

schools, playgrounds and parks, and churches and other amenities that create a complete neighborhood fabric and provide safe and convenient access to daily necessities.

The Traditional Neighborhood Center land use designation applies to smaller hubs of mixed commercial, community, and recreational activity that cater to adjacent residential areas. Many of these centers exist today in some form. Therefore, the following common principles apply not just to the future development of new centers, but also to the redevelopment (wholesale or incremental) of existing centers.

#### General Principles for Neighborhood Centers:

- NC should support a limited amount of commercial employment
- NC should incorporate some residential use, which may vary in type from detached single family, townhouse, accessory and live-work units in mixed use and low-rise multifamily structures.
- The residential density in NC designations –ranging from 4 to 10 du/ac— must be compatible in character with that of surrounding residential development, providing appropriate transitions in height, massing and other buffering from one land use district to the next.
- The retail and housing uses should merge around vibrant, compact, accessible nodes, located at key neighborhood intersections or along short road segments.
- The NC nodes should be connected to the surrounding neighborhood and nearby public uses (e.g., schools, parks, etc.) via well-designed sidewalks and complete streets.

While the above-listed principles are common to all NC districts, the design attributes of neighborhood centers generally vary depending on whether a center is in a more “traditional” or more “suburban” context.

#### Additional Attributes of Neighborhood Centers:

- NC in traditional contexts: These tend to be in those areas east of the Beltline and correspond to MxDR neighborhoods. In these NCs, buildings should orient to the street, with on-site parking typically pushed to the back of the site. The design qualities of the public realm are emphasized, including the provision of continuous sidewalks, tree canopy, pedestrian amenities, on-street parking and bicycle facilities where appropriate.
- NC in suburban contexts: These generally are located among the LDR land use designations in the areas west of the Beltline. Where they exist, these centers currently have a more pronounced vehicular orientation. Therefore, the emphasis is on retrofitting to improve internal walkability (e.g., through the addition of sidewalks, tree canopy, protection from the elements) and external connectivity to the surrounding areas (via sidewalks, paths and trails, street crossings, transit stops, etc.) and to increase the mix and density of uses (e.g., infill of outparcels, addition of housing, etc.).

It should be noted that the Future Land Use Plan and Map components of the Map for Mobile Plan are meant to serve as a general guide, not a detailed lot and district plan. In many cases the designation on the new Future Land Use Map may match the existing use of land, but in others

the designated land use may differ from what is on the ground today. As such, the Future Land Use Plan and Map allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and, where applicable, the zoning classification.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with 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 site plan illustrates the proposed structure additions to the existing building, as well as the proposed gates, fences and walls surrounding the site. Also shown is compliant parking for the proposed use, and existing on-site trees proposed to be removed. Numerous new trees of unspecified species are also indicated. New tree species, location and planting area should be coordinated with the Planning staff.

The subject site was approved as a one-lot subdivision at the December 6th Planning Commission meeting. In lieu of a recommended condition of approval of the illustration of the 25' minimum building setback line along both street frontages, the Commission approved the applicant's request at the meeting for the placement of a note on the plat stating that there is a 0-foot minimum building setback along both street frontages. Assuming that the subdivision plat is recorded with the setback note, the site plan should be revised to remove the 25' building setback line along both street frontages and also contain the same note. Therefore, the allowance of the Setback request along both street frontages would be necessary to avoid a conflict with Section 64-3.E.2.c. of the Zoning Ordinance and would seem in order. This would allow the encroachment of the existing building into the standard front and side street side yard setbacks, as well as the proposed patio encroachment within the side street side yard setback. This encroachment would be in-line with the existing side wall of the building.

It should be noted that the subject site is not located within a historic district, but it is within approximately 65' of the boundary of the Oakleigh Garden Historic District. As the site is proposed to be re-purposed as the den for one of the oldest Mardi Gras societies in Mobile, with emphasis on architectural and site aesthetics upgrades, staff feels that a review of the proposed Variance reliefs could be appropriately conducted as if the site were actually located within a historic district.

The applicant has not shown that any hardships would be imposed by a literal enforcement of the Zoning Ordinance with regard to street setbacks and fence heights. However, it has been

emphasized by the applicant that many of the surrounding structures in the area are constructed closer to the property lines than what the current zoning setbacks allow, and many of the commercial structures are constructed adjacent to residentially developed sites. Also emphasized is the fact that many of the commercial buildings exceed the heights allowed in the buffer between commercial and residential lots.

It should be noted that the City was awarded a 14.5 million dollar grant from the U.S. Department of Transportation for a Transportation Investment Generating Economic Recovery (TIGER) project for the Broad Street corridor which is intended to beautify the streetscape and stimulate economic activity. Although that project is limited to public right-of-way improvements, the upgrades proposed for the subject site would be in keeping with the neighborhood, and would seem to complement the intent of that project. Therefore, the Board should consider the requests for approval.

**RECOMMENDATION:** Staff recommends to the Board the following findings of facts for the Approval of all requests:

- 1) Approving the variance will not be contrary to the public interest in that it will allow for the re-purposing of a vacant commercial site with aesthetic improvements in keeping with the intent of the Broad Street corridor TIGER project;
- 2) Special conditions (many of the surrounding structures in the area are constructed closer to the property lines than what the current zoning setbacks allow, many of the commercial structures are constructed adjacent to residentially developed sites, and many of the commercial buildings exceed the heights allowed in the buffer between commercial and residential lots) exist such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship with respect to the site configuration; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because it will allow for site improvements similar to those allowed within the nearby Oakleigh Garden Historic District contributing to the planned revitalization of the Broad Street corridor.

Therefore, the Front and Side Street Side Yard Setback and Fence Variance requests are recommended for approval, subject to the following conditions:

- 1) revision of the site plan to remove the 25' minimum building setback line along both street frontages, and the placement of a note on the site plan stating that there is a 0-foot minimum building setback along both street frontages;
- 2) subject to the Engineering comments: *[The proposed 10 foot tall masonry wall and the proposed decorative metal fence are proposed to be constructed within an existing drainage easement. Anything constructed within the easement is subject to removal if the City requires access to the existing underground drainage system. If the proposed variances are approved for use the applicant will need to have the following conditions met: 1. The proposed fences located within the existing 50' wide drainage and utility easement would be the property owner's responsibility to remove/rebuild if access is required to the existing underground drainage system. 2. The proposed improvements shown on the submitted SITE PLAN drawing will require a TIER 1 Land Disturbance*

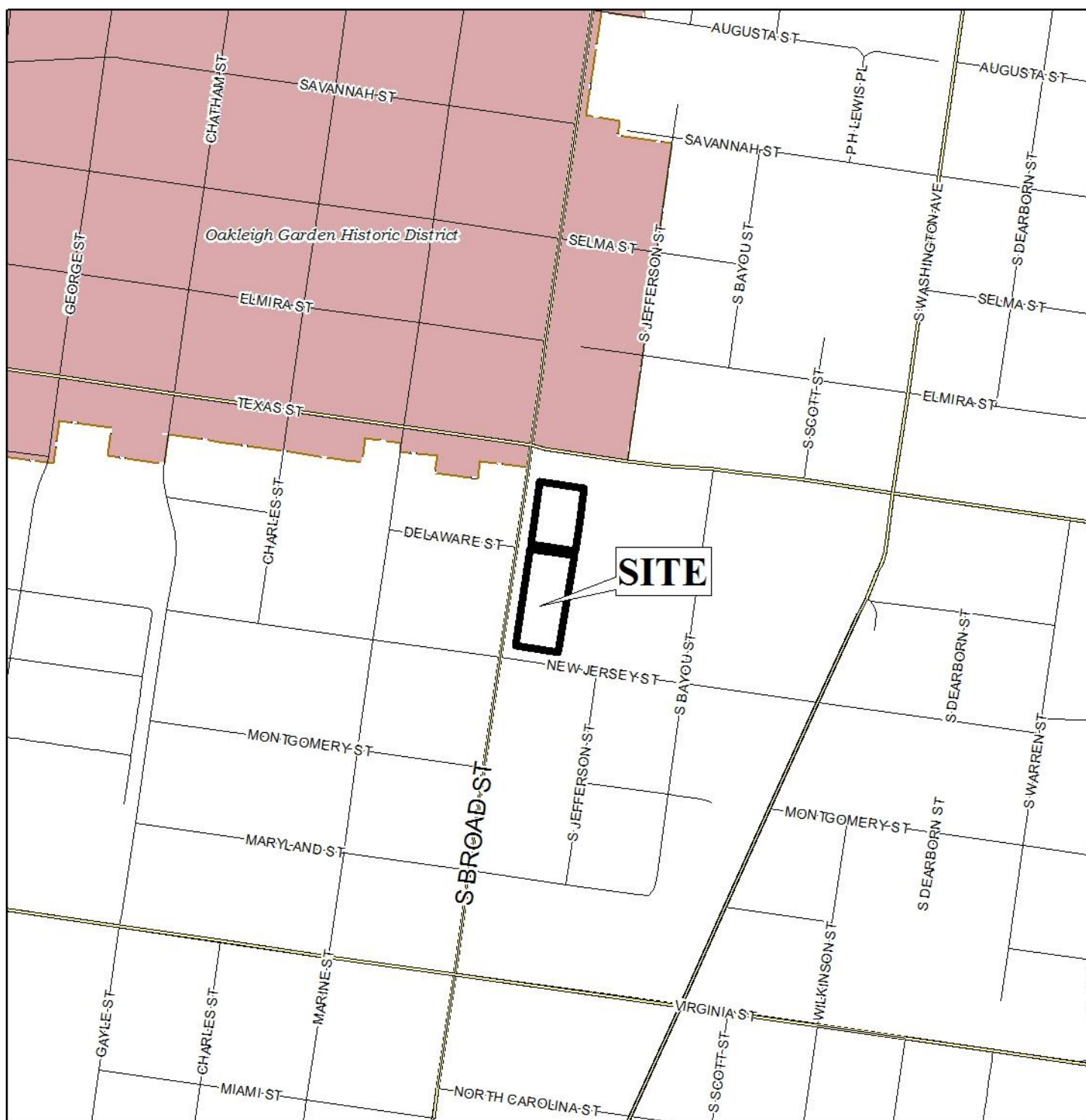


*Permit. 3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control; the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.*

*4. The construction of a solid masonry wall will require that the existing drainage patterns and surface flow characteristics are not altered so as to have a negative impact on any adjoining properties or any public rights-of-way. 5. If any work is proposed within the Broad Street ROW the New Jersey Street ROW or a public drainage easement a ROW Permit must be obtained from the City of Mobile Engineering Dept.];*

- 3) subject to the Urban Forestry comments: [Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 2015-116 and City Code Chapters 57 and 64). Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from a commercial site will require a tree removal permit.];*
- 4) subject to the Fire Department comments: [All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance. (2012 International Fire Code).];*
- 5) completion of the Subdivision process prior to any request for land disturbance;*
- 6) submission to and approval by Planning and Zoning of two (2) copies of a revised site plan prior to any request for land disturbance; and*
- 7) full compliance with all municipal codes and ordinances.*

# LOCATOR MAP



APPLICATION NUMBER 6231 DATE January 7, 2019  
APPLICANT Broad Street Restoration Society  
REQUEST Front and Side Street Side Yard Setback and Fence Variances



# LOCATOR ZONING MAP

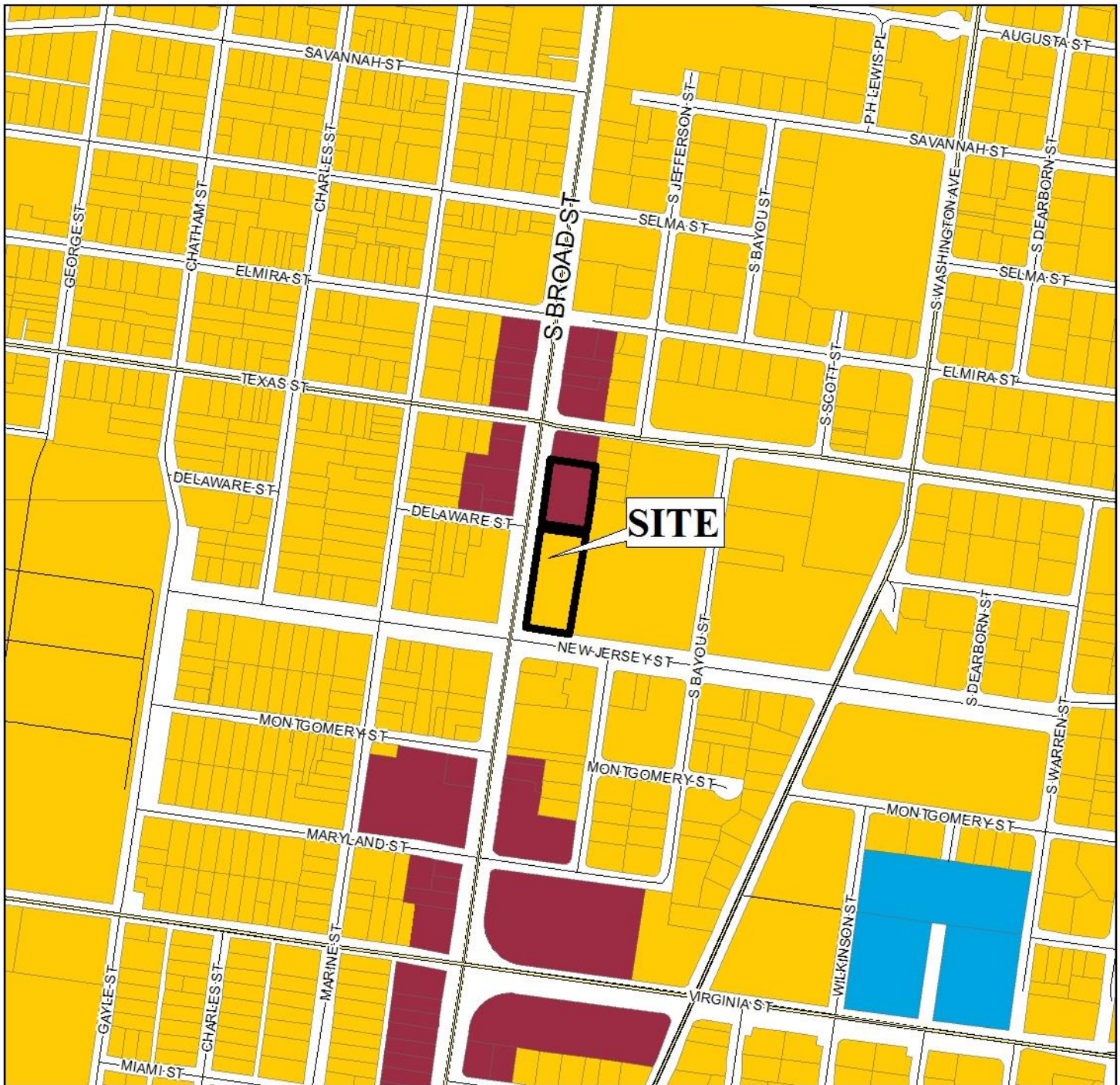


APPLICATION NUMBER 6231 DATE January 7, 2019  
APPLICANT Broad Street Restoration Society  
REQUEST Front and Side Street Side Yard Setback and Fence Variances





# FLUM LOCATOR MAP



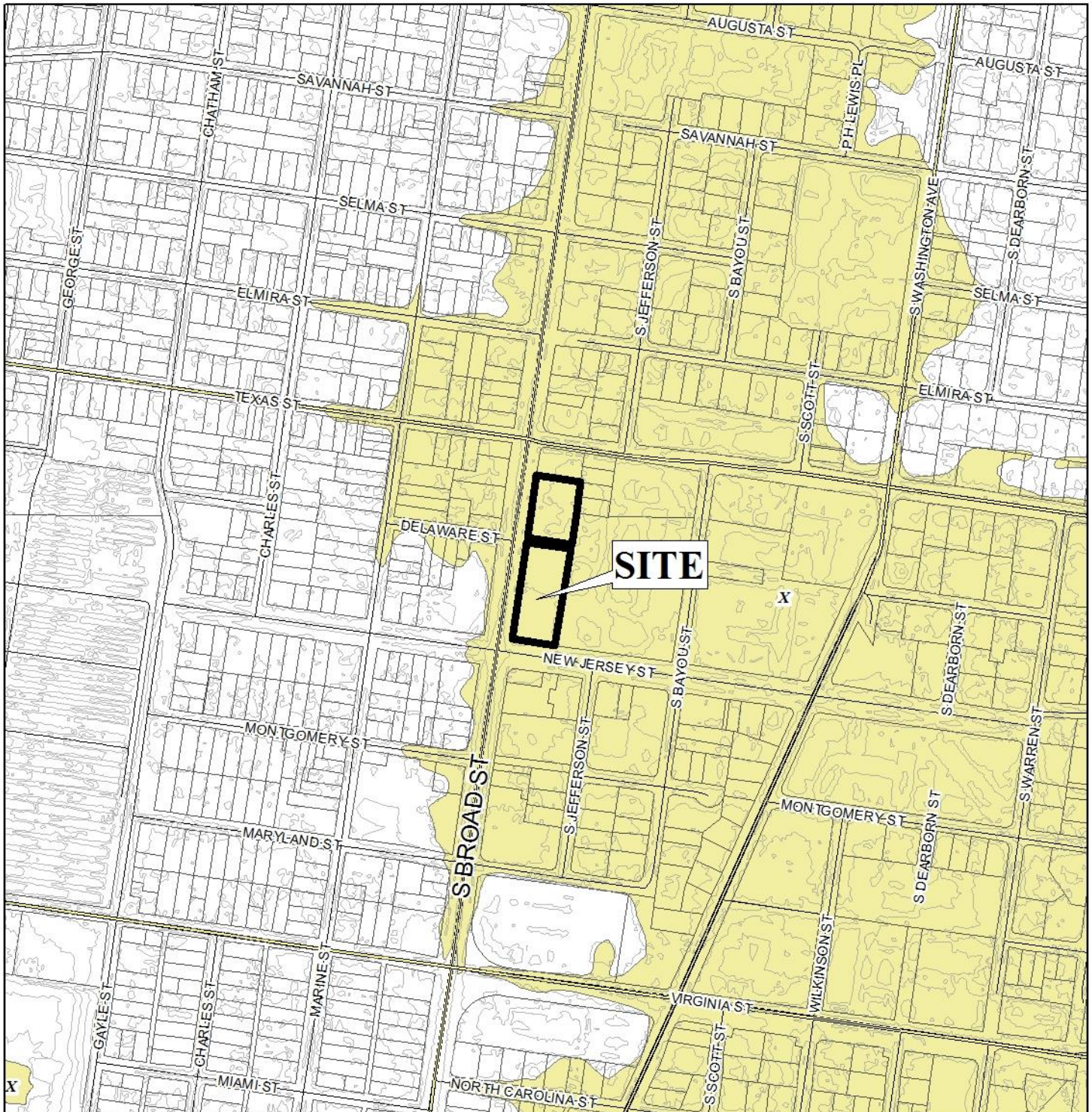
APPLICATION NUMBER 6231 DATE January 7, 2019  
 APPLICANT Broad Street Restoration Society  
 REQUEST Front and Side Street Side Yard Setback and Fence Variances

|                           |                                   |                     |                    |
|---------------------------|-----------------------------------|---------------------|--------------------|
| Low Density Residential   | Neighborhood Center - Traditional | Downtown Waterfront | Parks & Open Space |
| Mixed Density Residential | Neighborhood Center - Suburban    | Light Industry      | Water Dependent    |
| Downtown                  | Traditional Corridor              | Heavy Industry      |                    |
| District Center           | Mixed Commercial Corridor         | Institutional       |                    |





## ENVIRONMENTAL LOCATOR MAP



APPLICATION NUMBER 6231 DATE January 7, 2019  
 APPLICANT Broad Street Restoration Society  
 REQUEST Front and Side Street Side Yard Setback and Fence Variances





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercila and residential units.

APPLICATION NUMBER 6231 DATE January 7, 2019

APPLICANT Broad Street Restoration Society

REQUEST Front and Side Street Side Yard Setback and Fence Variances

|     |     |      |     |     |      |       |      |
|-----|-----|------|-----|-----|------|-------|------|
| R-A | R-3 | T-B  | B-2 | B-5 | MUN  | SD-WH | T5.1 |
| R-1 | R-B | B-1  | B-3 | I-1 | OPEN | T3    | T5.2 |
| R-2 | H-B | LB-2 | B-4 | I-2 | SD   | T4    | T6   |





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

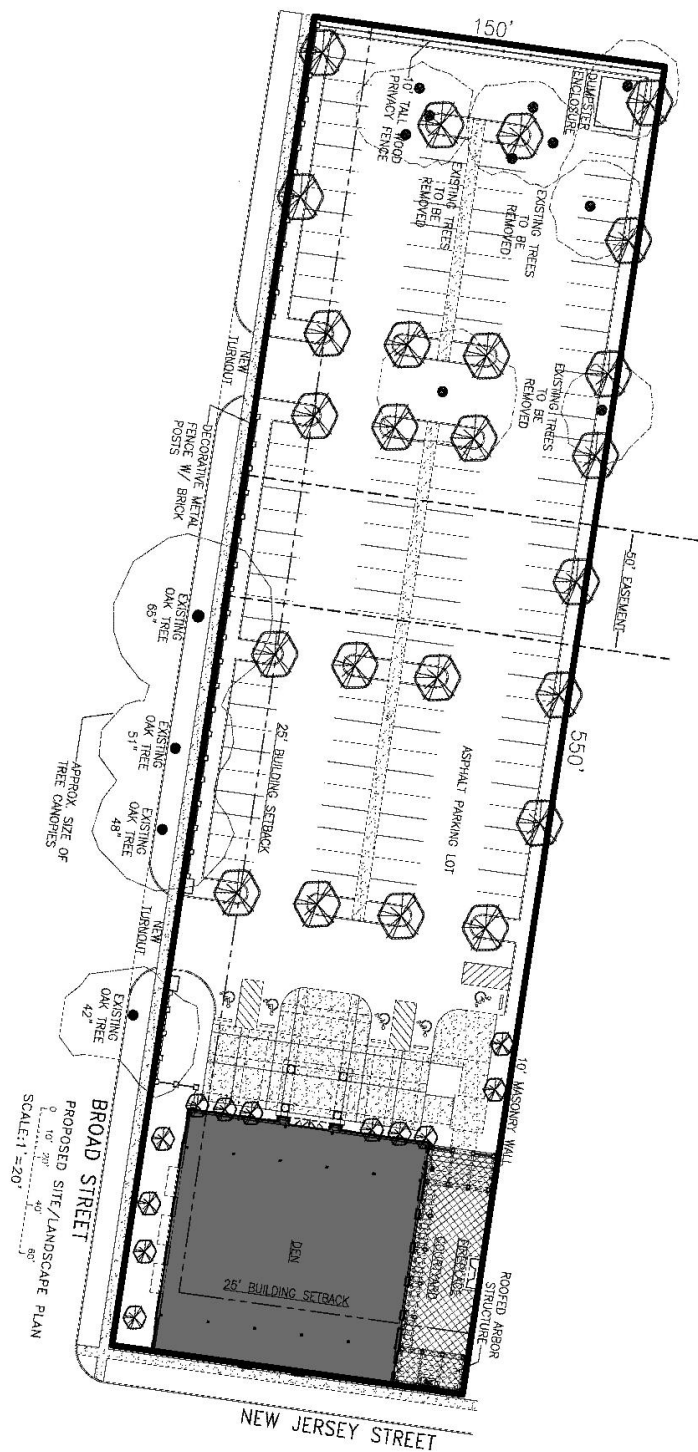


The site is surrounded by commercial and residential units.

APPLICATION NUMBER 6231 DATE January 7, 2019  
APPLICANT Broad Street Restoration Society  
REQUEST Front and Side Street Side Yard Setback and Fence Variances



SITE PLAN



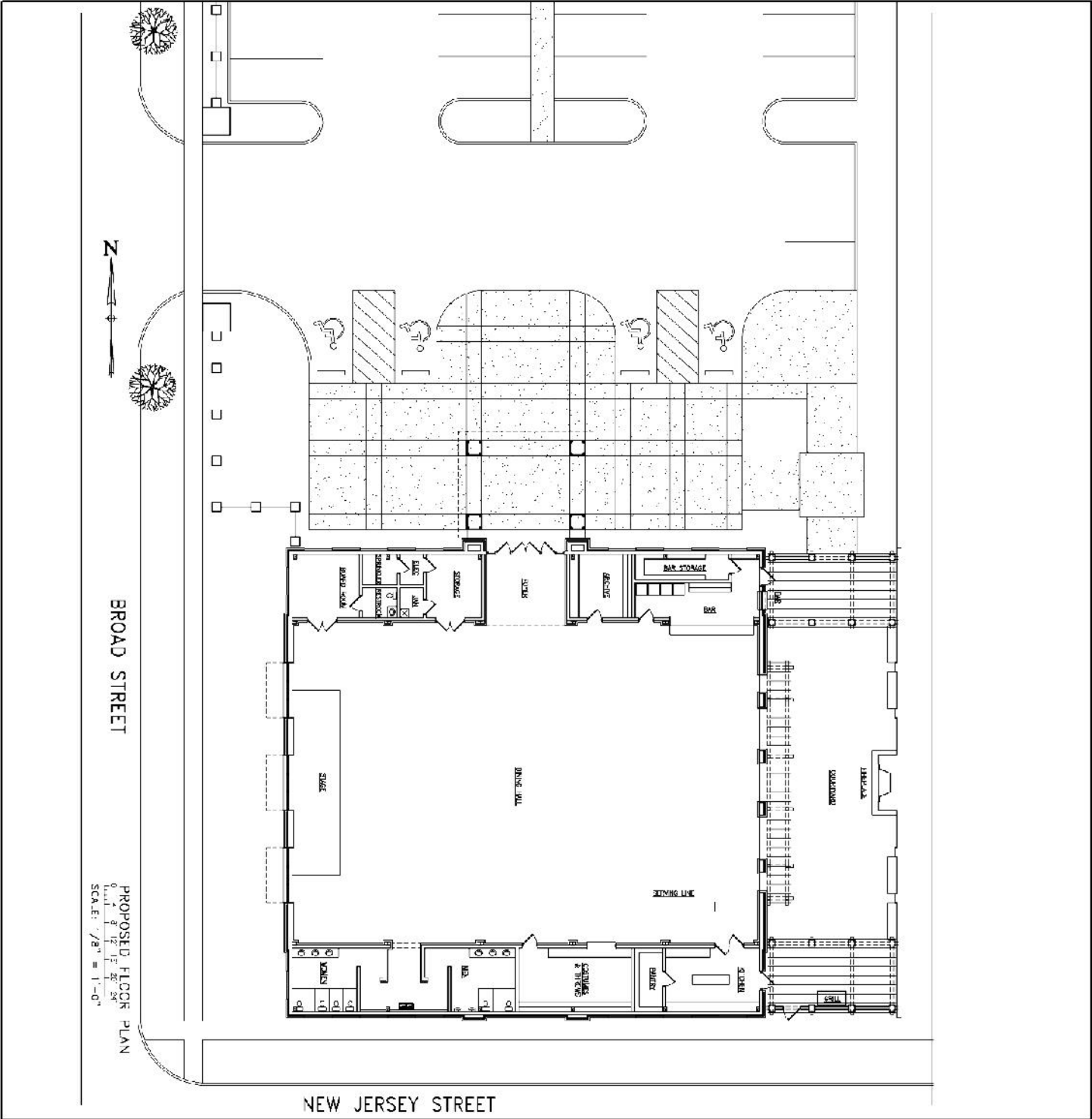
The site plan illustrates the proposed parking, building, setbacks, and trees.

|                    |   |      |                 |
|--------------------|---|------|-----------------|
| APPLICATION NUMBER | 6231  | DATE | January 7, 2019 |
| APPLICANT          | Broad Street Restoration Society                            |      |                 |
| REQUEST            | Front and Side Street Side Yard Setback and Fence Variances |      |                 |





# DETAIL SITE PLAN



APPLICATION NUMBER 6231 DATE January 7, 2019  
 APPLICANT Broad Street Restoration Society  
 REQUEST Front and Side Street Side Yard Setback and Fence Variances



# DETAIL SITE PLAN

## PROPOSED ELEVATIONS



NORTH ELEVATION  
0' 4' 8' 12' 16' 20' 24'  
SCALE: 1/8" = 1'-0"



WEST ELEVATION  
0' 4' 8' 12' 16' 20' 24'  
SCALE: 1/8" = 1'-0"



SOUTH ELEVATION  
0' 4' 8' 12' 16' 20' 24'  
SCALE: 1/8" = 1'-0"



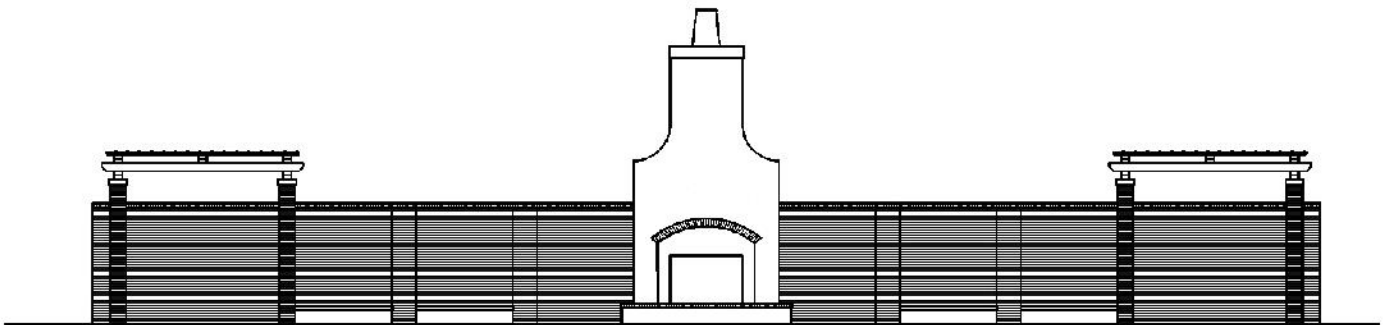
EAST ELEVATION  
0' 4' 8' 12' 16' 20' 24'  
SCALE: 1/8" = 1'-0"

APPLICATION NUMBER 6231 DATE January 7, 2019  
APPLICANT Broad Street Restoration Society  
REQUEST Front and Side Street Side Yard Setback and Fence Variances



# DETAIL SITE PLAN

## PROPOSED ELEVATIONS



APPLICATION NUMBER 6231 DATE January 7, 2019  
APPLICANT Broad Street Restoration Society  
REQUEST Front and Side Street Side Yard Setback and Fence Variances





# DETAIL SITE PLAN



Broad Street Restoration  
Society

APPLICATION NUMBER 6231 DATE January 7, 2019  
APPLICANT Broad Street Restoration Society  
REQUEST Front and Side Street Side Yard Setback and Fence Variances





# DETAIL SITE PLAN



Broad Street Restoration  
Society

APPLICATION NUMBER 6231 DATE January 7, 2019  
APPLICANT Broad Street Restoration Society  
REQUEST Front and Side Street Side Yard Setback and Fence Variances



