

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: September 10, 2012**

<b><u>CASE NUMBER</u></b>	5781
<b><u>APPLICANT NAME</u></b>	The Broadway Group
<b><u>LOCATION</u></b>	901 South Broad Street (Southeast corner of South Broad Street extending to South Washington Avenue)
<b><u>VARIANCE REQUEST</u></b>	<b>SETBACK:</b> Front Yard and Side Yard Setback Variances to allow a dumpster with a 6' high wooden privacy fence enclosure to be located 15' from the front property line and HVAC units within 3.5' of a side property line in a B-3, Community Business District
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>SETBACK:</b> The Zoning Ordinance requires a 25' front yard setback and a 5' or 0' side yard setback in a B-3, Community Business District
<b><u>ZONING</u></b>	B-3, Community Business District
<b><u>AREA OF PROPERTY</u></b>	47,916 square feet / 1.1±Acres
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	No comments
<b><u>CITY COUNCIL DISTRICT</u></b>	District 3

**ANALYSIS** The applicant is requesting a Front Yard and Side Yard Setback Variances to allow a dumpster with a 6' high wooden privacy fence enclosure to be located 15' from the front property line and HVAC units within 3.5' of a side property line in a B-3, Community Business District; the Zoning Ordinance requires a 25' front yard setback and a 5' or 0' side yard setback in a B-3, Community Business District.

The applicant proposes to construct a new 9,100 square foot retail store and 34 parking spaces on an existing commercial site they wish to redevelop.

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 on which the new development is proposed is unique in that the site fronts onto two streets and a public right-of-way: South Broad Street, South Washington Avenue, and Tennessee Street (unopened). Additionally, approximately one-half of the site is located within the FEMA floodway associated with the Tennessee Street ditch.

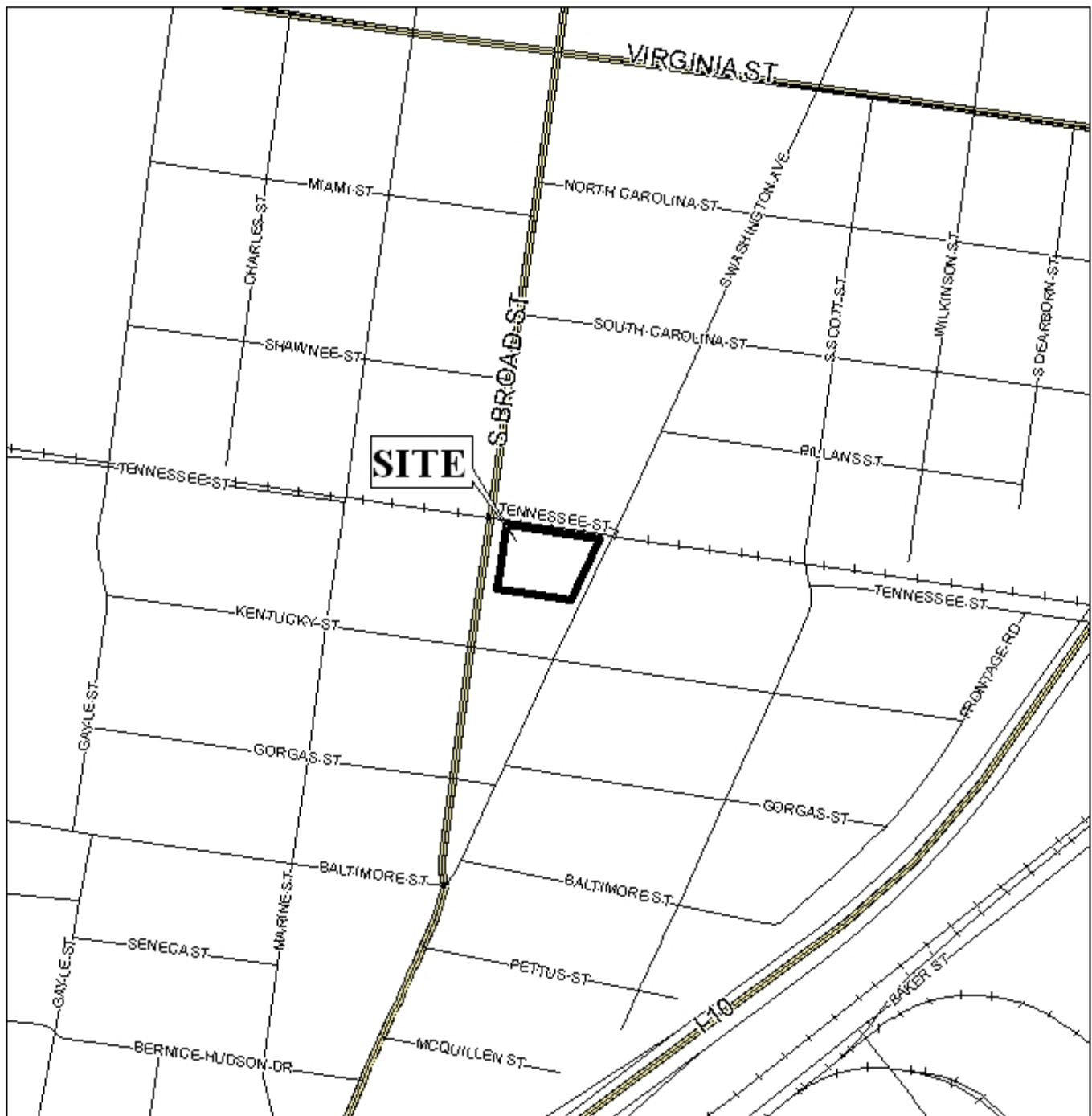
The frontage on two streets and the unopened right-of-way requires 25-foot building setbacks along three of the four property boundaries. The presence of three setbacks on three sides presents a hardship for typical development. Due to the site layout and frontage onto three public rights-of-way, the proposed dumpster pad and enclosure will be placed within the 25-foot setback along Washington Avenue, but will still be approximately 15-feet from the Washington Avenue right-of-way. There do not appear to be any other viable options regarding the location of the proposed dumpster, based upon the proposed size of the building and the required parking.

FEMA requirements limit what can be constructed within a floodway. As such the applicant proposes to shift the new building as far south as practicable to ensure location of the building outside of the floodway, pushing the proposed HVAC pad and associated HVAC units into the 5-foot rear yard setback. The use immediately to the South is a church in a B-3 district. B-3 sites are allowed to have either a 0-foot or 5-foot rear yard setback, and the proposed encroachment will not exceed more than 50-feet of the proposed 129-foot wide building. As access to the rear of the building will be possible from either side of the encroachment, it would appear that the spirit of the Zoning Ordinance would not be compromised by approving the request.

### **RECOMMENDATION:**

Based on the preceding, the setback requests are recommended for approval.

## LOCATOR MAP



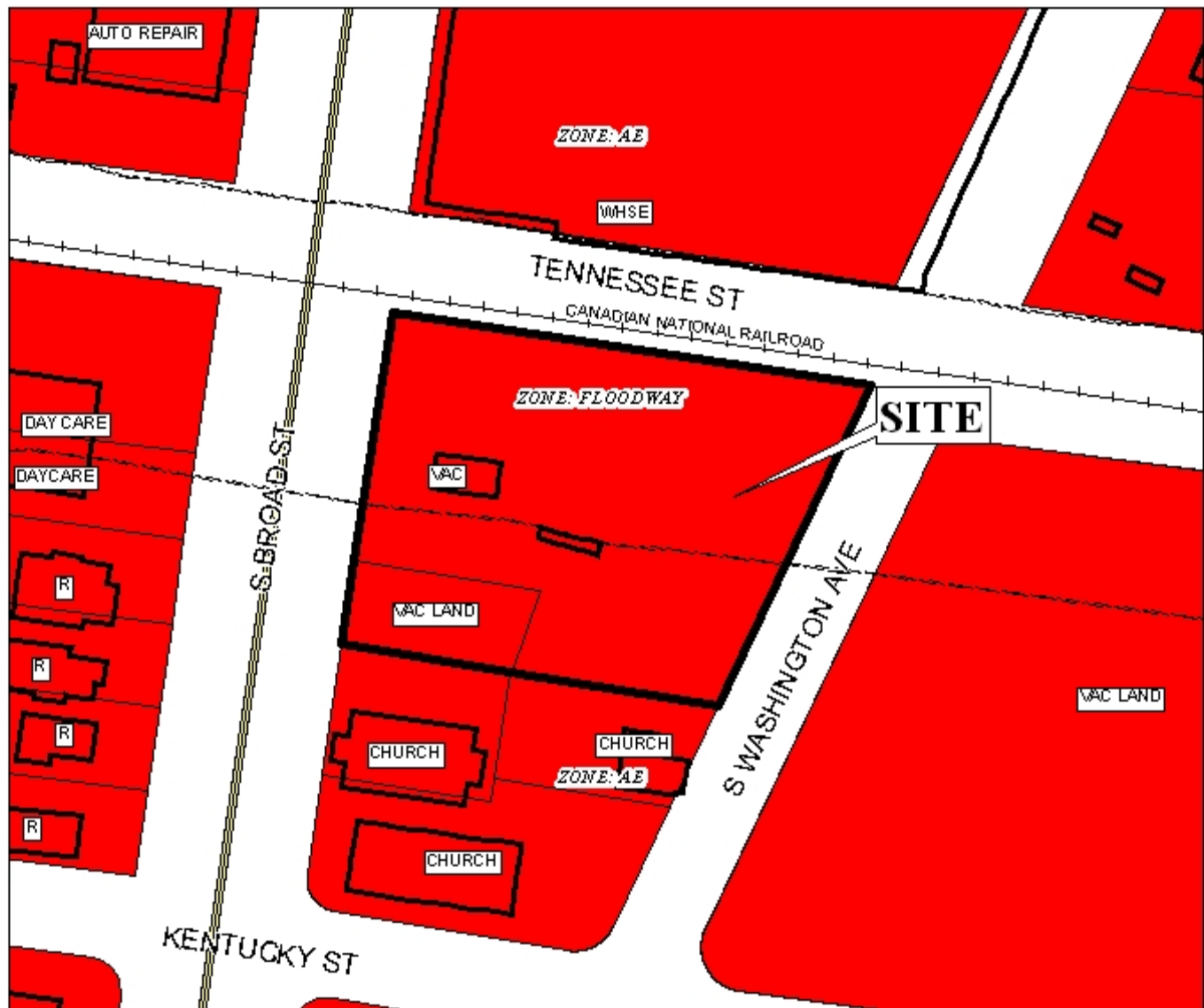
APPLICATION NUMBER 5781 DATE September 10, 2012

APPLICANT The Broadway Group

REQUEST Front Yard and Side Yard Setback Variances



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by miscellaneous land use.

APPLICATION NUMBER 5781 DATE September 10, 2012

APPLICANT The Broadway Group

REQUEST Front Yard and Side Yard Setback Variances

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
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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



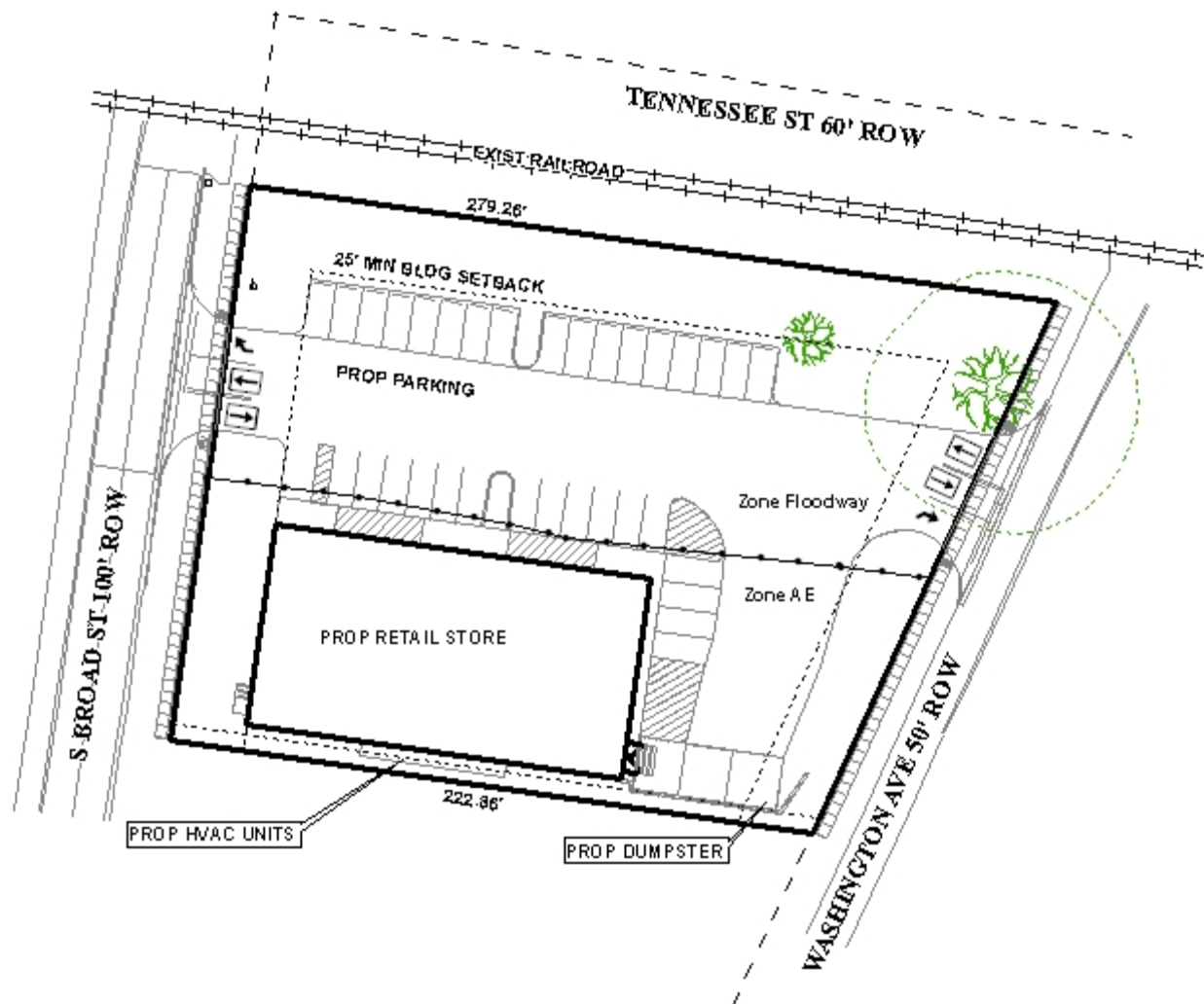
The site is surrounded by miscellaneous land use.

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N  
NTS



# SITE PLAN



The site plan illustrates the proposed development.

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N  
  
 NTS