



**AUGUST 4, 2016**

**BOARD OF ADJUSTMENT**

Posted: 12:00 p.m., Thursday, July 28, 2016

**7:00 P.M. CITY OF ELLISVILLE – BOARD OF ADJUSTMENT MEETING**  
*(at Parks Administration Building within Bluebird Park, 225 Kiefer Creek Road)*

- I. Call to Order – Chairman
- II. Pledge of Allegiance
- III. Roll Call
- IV. Approval of Agenda
- V. Election of Officers
  - A. The Board of Adjustment shall elect a Chairman who shall serve for a term of one (1) year. The Board of Adjustment shall annually select a Vice Chairman from among its members.
- VI. Public Hearing
  - A. The petition of B. David Wilken for a variance of the yard setback requirements for the property known and numbered as 265 Clarkson Road within the “C-1” Open Space Commercial Zoning District of the City of Ellisville, Missouri.]
- VII. Adjournment

Respectfully submitted,

LEIGH A. DOHACK  
City Clerk

The City of Ellisville is currently working to comply with the Americans With Disabilities Act mandates. Individuals who require an accommodation to attend a meeting should contact our office at least 48 hours in advance at City Hall 636-227-9660 (V/TDD).



# City of Ellisville

---

## Memo

To: Fred Vilbig, Chairman and Members of the Board of Adjustment

From: Ada Hood, City Planner 

Meeting

Date: August 4, 2016

Re: Petition B. David Wilken for a variance of the yard setback requirements for the property known and numbered as 265 Clarkson Road within the "C-1" Open Space Commercial Zoning District.

---

### BACKGROUND

On May 6, 1992 the City Council approved ordinance # 1709 authorizing the issuance of a special use permit (SUP) to Dr. Wilken to construct and operate a dental office at 265 Clarkson Road. SUPs are no longer an option in our current zoning code. Additionally, office uses are no longer permitted in the R-1 Single Family Zoning District (R-1). Therefore, Dr. Wilken secured approval to rezone the property to C-1 Open Space Commercial Zoning District (C-1) on July 20, 2016.

### SUMMARY

The abutting property to the north is zoned R-1, therefore, now that 265 Clarkson Road is zoned C-1, a 25' side yard setback is required. Please note the abutting property to the north is used as a commercial office via an SUP. Additionally, the City's Comprehensive Plan envisions the subject property and the abutting property to the north for office use.

As part of the rezoning approval granted by the City Council on July 20, 2016, the applicant is required to secure a variance for the side yard setback along the north property line. Based on the survey submitted by the applicant, the existing building is setback 15 feet from the northern property line, where (now) 25 feet is required.

The applicant is requesting a 10' variance to Section 400.270.F.4, which reads, as follows:

Side Yard setback= 10 feet abutting commercial and 25 feet abutting residential.

### FINDINGS

The Board of Adjustment shall not grant a variance as authorized herein unless it shall, in each case, make specific written findings of fact directly based upon the particular evidence presented to it that support all of the following conclusions:

July 27, 2016

1. The variance requested arises from a condition which is unique to the property in question and which is not ordinarily found in the same zoning district and is not created by an action or actions of the property owner of the applicant;
2. The granting of the variance shall not adversely affect the rights of adjacent property owners or residents;
3. The particular physical surroundings, shape or topographical conditions of the property involved would result in a severe practical difficulty or extreme hardship upon or for the owner, lessee and occupant, if the provisions of this Chapter were literally enforced;
4. The variance desired will not adversely affect the public health, safety, order, convenience and general welfare of the community;
5. Granting the variance desired will not violate the general spirit and intent of Chapters **400** and **500** of this Code.
6. The request for a variance is not based exclusively upon the desire of the owner, lessee, occupant or applicant to secure a greater financial return from the property;
7. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the property is located;
8. The proposed variance will not impair an adequate supply of light onto adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety and substantially diminish or impair property values within the neighborhood.
9. Any other criteria applicable to specific variance applications, including the following:
  - a. *Floodplain management variance.* All criteria and requirements set forth in Section **420.050**, Floodplain Management Variance Procedures.
  - b. *Variance from the yard requirements of any zoning district.*
    - (1) There are severe practical difficulties or extreme hardships in the carrying out of the yard requirements due to an irregular shape or size of the lot, the sites of pre-existing buildings, topographical or other site conditions; and
    - (2) The variance shall not have a serious adverse impact on any adjoining property or the general welfare or establish an unsatisfactory precedent for other locations and situations.

### **RECOMMENDATION**

Staff recommends that the Board of Adjustment consider the evidence submitted with this application and new evidence presented at the public hearing to determine whether the applicant meets the necessary criteria to grant the variance. In granting a variance, the Board of Adjustment may impose such conditions and restrictions upon the property benefitted by the variance to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood and to carry out the general purpose and intent of Chapters **400** and **500** of this Ellisville Municipal Code.



# City of Ellisville

One Weis Avenue  
Ellisville, MO 63011  
(636) 227-9660 FAX: (636) 227-9486

*CK 19181 - \$150.00*

## APPLICATION FOR A VARIANCE TO THE BOARD OF ADJUSTMENT

*(please type or print)*

ALL APPLICABLE SECTIONS OF APPLICATION MUST BE COMPLETE.  
APPLICATION MUST BE CONSISTENT WITH SUBMITTED MATERIALS. PLANS MUST BE  
FOLDED TO APPROXIMATELY 8 1/2 x 11 or 8 1/2 x 14 IN SIZE. A \$150.00 APPLICATION FEE, \$50.00  
PUBLIC HEARING DEPOSIT AND \$100 COURT REPORTER DEPOSIT MUST ACCOMPANY THIS  
APPLICATION

Property Address: 265 CLARKSON RD

Applicant: B. DAVID WILKEN

### PART A: VARIANCE REQUEST

Ordinance Number or Section Number from which a variance is requested: SECTION 400.270 "C-1" SECTION F AREA REQUIREMENTS

Which particular requirements of this chapter prevent the proposed construction? SIDEYARD SETBACK (ALONG THE NORTH PROPERTY LINE) WHICH ABUTS RESIDENTIAL ZONING DISTRICT AND REQUIRES 25' SETBACK (15' SETBACK PROVIDED/EXISTING) NOTE: PROPERTY USE TO THE NORTH IS COMMERCIAL UNDER SPECIAL USE PERMIT.

How would the subject property prevent compliance with the requirements of this chapter? THE SUBJECT PROPERTY BUILDING BUILT + COMPLETED AUG 1993 (UNDER SPECIAL USE) PRIOR TO ZONING ORDINANCE

What particular hardship would result if the specific requirements of this chapter were applied to the subject property?

HARDSHIP + UNABLE TO MOVE BUILDING 10 FEET SOUTH

What reduction of the minimum requirements would be necessary to permit the proposed construction? TEN FOOT REDUCTION OF SIDEYARD SETBACK (ALONG NORTH PROPERTY LINE)

### PART D: FINDINGS

Yes No  
— X Does the variance requested arise from a condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant?

— X Is the request for a variance based exclusively upon the desire of the owner, lessee, occupant or

NOTE: THE EXISTING BUILDING SIDEYARD SETBACK OF 15 FEET IS

Revised: July 25, 2014 ALREADY IN COMPLIANCE FOR COMMERCIAL ABUTTING COMMERCIAL PROPERTY (SITE PLAN 1992; APPROVED BY BOARD OF ALDERMAN BY SPECIAL USE ORDINANCE)

- applicant to secure a greater financial return from the property?
- Will granting of the variance adversely affect the rights of adjacent property owners or residents?
- Will the strict application of the provisions of this chapter from which a variance is requested, cause severe practical difficulty or extreme hardship for the property owner represented in the application?
- Will the variance desired adversely affect the public health, safety, order, convenience, or general welfare of the community?
- Will granting the variance violate the general spirit and intent of the Zoning Code?

(COMMERCIAL ADJOINING COMMERCIAL IS A 10 FOOT SIDEYARD SETBACK.)

**PART E:**

How would the surrounding physical shape or topographical conditions of the property involved result in severe practical difficulty or extreme hardship upon or for the owner, lessee, or occupant, if the provisions of this chapter were literally enforced:

OWNER IS FINANCIARLY INCAPABLE OF PAYING TO MOVE THE BUILDING. THIS WOULD CAUSE EXTREME HARDSHIP.

How would granting this variance not be materially detrimental or injurious to other property or improvements in the neighborhood in which the property is located:

THE GRANTING OF THIS VARIANCE WILL NOT BE MATERIALLY DETRIMENTAL TO OTHER PROPERTY OR IMPROVEMENTS IN THE NEIGHBORHOOD

How will granting this variance not impair an adequate supply of light onto adjacent property, substantially increase the congestion on the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impart property values in the neighborhood:

265 CHARLES RD BUILDING HAS BEEN IN EXISTENCE FOR 23 YEARS AND HAS NOT CAUSED LOSS OF LIGHT TO ADJACENT PROPERTY, NOT CAUSED CONGESTION ON THE STREETS, HAS NOT INCREASED DANGER OF FIRE, NOT ENDANGERED THE PUBLIC SAFETY, AND NOT DIMINISHED PROPERTY VALUES IN THE NEIGHBORHOOD.

**PART D: CHECKLIST**

- Letter addressed to the Board of Adjustment requesting a variance
- Complete application form.
- Filing Fee of \$150.00
- Public hearing deposit of \$50.00. This deposit is used to cover the cost of publishing in the local paper as required by law. Depending on what the actual cost of the publication, an applicant may be owed a small refund or may be billed for additional monies.
- Court Reporter deposit of \$100.00. This deposit is used to cover the cost of the court reporter to attend the meeting as required by law. Depending on what the actual cost for the court reporter, an applicant may be owed a small refund or may be billed for additional monies. Note: Additional money may be required if a transcription is required.
- Site Plan (13 copies) illustrating existing and proposed improvements. All improvements must be drawn to scale and fully dimensioned.

Signed: B. D. Wilson 6/28/2016

*B. David Wilken, D.D.S.  
Always Care Dental, P.C.*

265 CLARKSON ROAD  
ELLISVILLE, MO 63011

Dear Board of Adjustment

Please accept my application for a variance of side yard setback along the North property line. The subject property is 265 Clarkson Road, and the building was built August 1993 by Special Use Permit granted by City of Ellisville Board of Alderman. My reason for requesting the variance is to be compliant with the rezoning the property to C-1. Thank you.

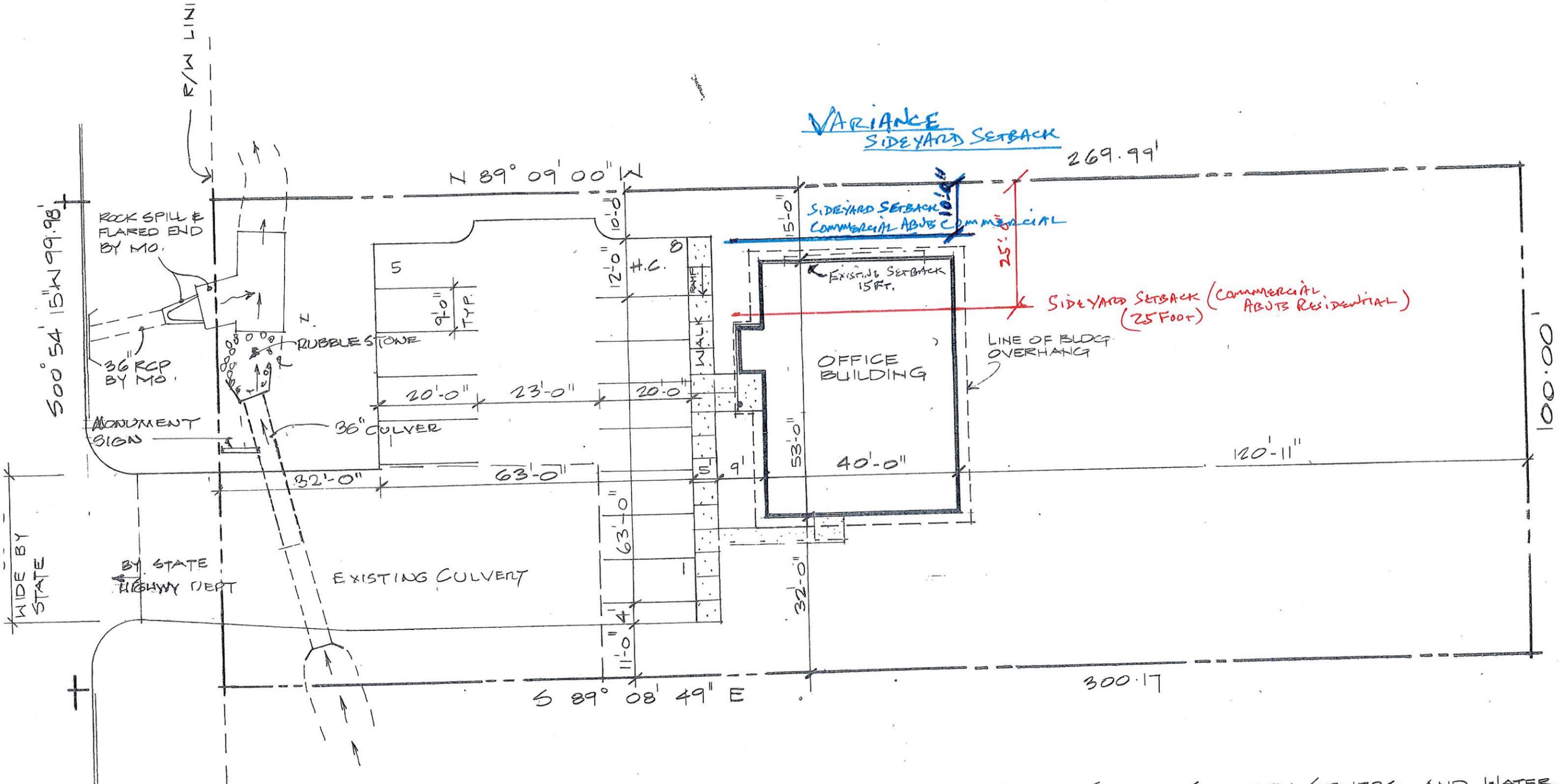
Sincerely,



B. David Wilken, D.D.S.

6/28/16

BDW/rw



**VARIANCE**  
SIDEYARD SETBACK

269.99'

SIDEYARD SETBACK (COMMERCIAL ABUTS RESIDENTIAL) (25 FOOT)

SIDEYARD SETBACK COMMERCIAL ABUTS COMMERCIAL

EXISTING SETBACK 15 FT.

LINE OF BLDG. OVERHANG

OFFICE BUILDING

40'-0"

53'-0"

EXISTING CULVERT

NOTE: SEE CIVIL ENGINEERING SITE PLAN FOR GRADING, STORM SEWER, SANITARY SEWERS AND WATER

SITE PLAN

SCALE 1" = 20'-0"

30,006 SQ. FT. (±) .69 ACRES (±)

