



DECEMBER 9, 2025

BOARD OF ZONING ADJUSTMENT

Posted: 2:00 p.m., Tuesday, December 2, 2025

This meeting of the Board of Zoning Adjustment will be in-person at the Ellisville Government Center, #1 Weis Avenue, Ellisville, MO 63011.

**6:00 P.M. CITY OF ELLISVILLE – BOARD OF ZONING ADJUSTMENT MEETING
(Chairman David Brcic - May 2025, Vice-Chairman Fred Vilbig – May 2025)**

- I. Call to Order – Chairman
- II. Approval of Agenda
- III. Public Hearing
 - A. The Appeal of Lee Allen, for a variance from the terms of Section 400.320(F) of the Code of the City of Ellisville, Missouri, with respect to the required setback at the location known as numbered as 509 Old State Road, Ellisville, Missouri, within the “M-1” Light Industrial Zoning District of the City of Ellisville, Missouri.
- IV. Adjournment

Respectfully submitted,

Leigh A. Dohack, CMC/MRCC
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).

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Memo

To: Chair Fred Vilbig and Members of the Board of Adjustment

From: Ada Hood, City Planner

Meeting

Date: December 9, 2025

Re: Appeal of Lee Allen, for a variance from the terms of Section 400.320(F) of the Code of the City of Ellisville, Missouri, with respect to the required setback at the location known and numbered as 509 Old State Road, Ellisville, Missouri, within the “M-1” Light Industrial Zoning District of the City of Ellisville, Missouri.

APPLICANT'S PROPOSAL

The applicant, Lee Allen, proposes a boundary adjustment between 501 and 509 Old State Road. This adjustment would result in an existing accessory structure—a 24' × 30' garage—no longer complying with the required rear yard setback. The applicant is requesting a variance from the required 15-foot rear yard setback to allow the existing accessory structure to be situated 8+' from the rear property line.

PROPERTY DETAILS

The accessory structure is located on 501 Old State Road which is zoned M-1 Light Industrial with a 15' rear yard setback when abutting another M-1 Light Industrial zoned property.

VARIANCE REQUIREMENT

The proposed boundary adjustment cannot be considered or approved if it results in a nonconforming structure.

As an additional note, there is another existing accessory building located directly behind the subject garage on 501 Old State Road. This structure currently does not comply with the required rear yard setback. However, once the boundary adjustment is implemented and this portion of the property becomes part of 509 Old State Road, the building will conform to the rear yard setback requirements.

RECOMMENDATION

Staff recommends the Board of Adjustment determine whether the required findings to grant a variance are met, as follows:

November 20, 2025

Standards For Variance. 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:

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.



City of Ellisville

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

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: 509 Old State Road

Applicant: Old State Investments Inc.

Project Name: 509 Old State Road Rear Set Back Variance

PART A: VARIANCE REQUEST

Ordinance Number or Section Number from which a variance is requested: Article VI, Section 400.320

Which particular requirements of this chapter prevent the proposed construction?

This is an existing Building that encroaches on paragraph 3 of Section F - Rear line requirement of 15'

How would the subject property prevent compliance with the requirements of this chapter? Rear line of the existing garage is 9' off the line, 15' is required

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

I have a letter of Intent from Richards Building Supply to purchase 501, 441 & partial 509 Old State Road, which will require a Boundary Adjustment.

What reduction of the minimum requirements would be necessary to permit the proposed construction? _____

Rear Set Back for existing garage From 15' to 9'

PART B: FINDINGS

- | Yes | No | |
|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 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? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Is the request for a variance based exclusively upon the desire of the owner, lessee, occupant or applicant to secure a greater financial return from the property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Will granting of the variance adversely affect the rights of adjacent property owners or residents? |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | 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? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 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?

PART C:

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:

I would not be able to get a Boundary Adjustment to sell the property

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:

I need this variance in order to move forward with a boundary adjustment to sell the Leased Premises to Richards Building Supply

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:

This is an existing garage building that has been on the lot for many years.

PART D: PROCESS

1. The City offers all applicants the opportunity to meet with City staff at any time to discuss a project. Please contact the City Planner to schedule a meeting: Ada Hood, ahood@ellisville.mo.us or via phone 636-227-9660.
2. All requests for a Variance to the Board of Adjustment by submitting the Application Cover sheet, the Application for Variance to the Board of Adjustment, plans/drawings, applicable fees and deposits.
3. To initiate the process, please submit one digital copy of the plans, all application forms, a letter addressed to the Board of Adjustment. Submittal should be made to the City Planner via email (ahood@ellisville.mo.us). Once the plans, application and letter are reviewed, the City Planner will request seven (7) sets of plans, one (1) original letter and one (1) original application with revisions, if applicable.

Plans shall be drawn up at a scale adequate for easy reading, or as may be required by the City and must be folded to approximately **8 1/2 x 11 or 8 1/2 x 14 IN SIZE.**

PART E: CHECKLIST

- Letter addressed to the Board of Adjustment requesting a variance
- Completed Application Cover Sheet and Variance to the Board of Adjustment application form.
- Filing Fee of \$150.00
- Public hearing fee of \$50.00.
- 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 will be required if a transcription is required.
- Survey Plan illustrating existing and proposed improvements. All improvements must be drawn to scale and fully dimensioned.
- Plans should clearly illustrate the requested variance.



Ellisville, MO • 63021

The Board of Adjustment, City of Ellisville
One Weis Avenue
Ellisville, Missouri 63011

October 28, 2025

Dear Board,

I am requesting a variance to the rear line requirement of 15' to 9' in an M-1 Light Industrial Zoning Requirement. There is an existing 24' x 30' garage building that will need this variance in order to move forward with a boundary adjustment to add a portion of 509 Old State Road to 501 Old State Road. I have a Letter of Intent from Richard's Building Supply to purchase their Leased Premise of 441, 501 and a portion of 509 Old State Road.

Respectfully,

Lee Allen Jr, President

Old State Investments, Inc.

BEFORE THE BOARD OF ADJUSTMENT OF THE CITY OF ELLISVILLE

APPLICANT: LEE ALLEN
SUBJECT PROPERTY: 509 OLD STATE ROAD
ZONING DISTRICT: M-1 LIGHT INDUSTRIAL
APPEAL: APPLICANT APPEALS TO THE BOARD OF ADJUSTMENT TO REQUEST A VARIANCE FROM THE PROVISIONS OF SECTION 400.320(F)(4) OF THE CODE OF THE CITY OF ELLISVILLE, MISSOURI, WITH RESPECT TO REAR YARD SETBACKS, WITHIN THE “M-1” LIGHT INDUSTRIAL ZONING DISTRICT OF THE CITY OF ELLISVILLE, MISSOURI.
HEARING DATE: DECEMBER 9, 2025

FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT

1. Applicant is Lee Allen. Applicant has submitted an application for a variance following a recent boundary adjustment of two existing lots for the location known and numbered as 509 Old State Road within the “M-1” Light Industrial Zoning District of the City of Ellisville, Missouri (the “Property”). Applicant seeks a variance to the 15’ rear yard setback requirements by § 400.320(F)(4) of the Code of the City of Ellisville, Missouri.
2. The City submitted the following exhibits which were admitted into evidence:
 - Exhibit 1: Certified copy of Code of City of Ellisville, Missouri;
 - Exhibit 2: Comprehensive City Plan;
 - Exhibit 3: Zoning Map;
 - Exhibit 4: Application Cover Sheet and Application for a Variance to the Board of Adjustment dated October 28, 2025;
 - Exhibit 5: Notice published and Affidavit of Publication in *The Countian* on November 19, 2025;
 - Exhibit 6: Public Posting and Affidavit of Notice of Posting on November 19, 2025;
 - Exhibit 7: Letter mailed to abutting residents within 185 feet on November 18, 2025;
 - Exhibit 8: Application Cover Sheet and Application for a Boundary Adjustment to the Board of Adjustment dated November 19, 2025;
 - Exhibit 9: Property Boundary Survey submitted on behalf of Applicant;
 - Exhibit 10: Memorandum from the City Planner to Chair Fred Vilbig, dated November 20, 2025.

Said exhibits are incorporated by reference and made part of this decision as if fully set forth herein.

3. The applicant introduced the following exhibits which were admitted into evidence:
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Said exhibits are incorporated herein and made part of this decision as if fully set forth.

4. That on October 28, 2025, Applicant submitted an application for a variance of the 15' rear yard setback requirements.
5. That the City Planner determined that following a boundary adjustment for two existing lots, the Property would not comply with the requirements for rear yard setbacks in § 400.320(F)(4) of the Code of the City of Ellisville, Missouri.
6. That the Applicant seeks a finding from the Board of Adjustment that a variance is warranted under § 400.140(C) of the Code of the City of Ellisville, Missouri.

CONCLUSIONS OF LAW

7. The jurisdiction and powers of the Board of Adjustment are defined by §§ 89.090 and 89.100, RSMo, and §§ 400.020, 400.140, and 405.040 of the Code of the City of Ellisville, Missouri.
8. The Board of Adjustment has the following powers and duties: (1) to hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made in the enforcement or interpretation of the Code; (2) to hear and decide all matters referred to it and upon which it is required to pass under Chapters 400 and 500 of the Code of the Code of the City of Ellisville, Missouri; and (3) where there is practical difficulty or unnecessary hardship in the way of carrying out the strict letter of any regulation or provision adopted by the City relating to the construction or alteration of buildings or structures or the use of land, to vary or modify the application of any such regulation or provision of so that the spirit of Chapters 400 and 500 of the Code of the City of Ellisville, Missouri shall be observed, public safety and welfare secured, and substantial justice done.
9. Section 400.140 of the Code of the City of Ellisville, Missouri provides that the Board of Adjustment has authority to vary or modify the requirements of the zoning regulations, unless otherwise specified.
10. The concurring vote of four members of the Board of Adjustment is necessary to decide in favor of the Applicant's request.
11. That appropriate notices were authorized and published by the City Clerk and mailed to all the residents and property owners in compliance with the Code of the City of Ellisville, Missouri and the documents supporting those are on file with the City Clerk's office.
12. This request for a variance is considered an area variance. To obtain an area variance, the Applicant must demonstrate that "practical difficulties exist in which the Property cannot be used for a permitted use without being in conflict with existing regulations. 'Practical difficulties' refer to conditions of the land, not conditions personal to the landowner." State ex rel. Charles F. Vatterott Const. Co., Inc. v. Rauls, 170 S.W.3d 47, 50-51 (Mo. App. E.D. 2005) (internal citations omitted).
13. In determining whether "practical difficulties" exist, the following factors are relevant:
 - (1) how substantial the variation is in relation to the requirement;
 - (2) the effect, if the variance is allowed, of the increased population density thus produced on available governmental facilities (fire, water, garbage, and the like);

- (3) whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties created;
- (4) whether the difficulty can be obviated by some method, feasible for the applicant to pursue, other than a variance; and
- (5) whether in view of the manner in which the difficulty arose and considering all of the above factors the interests of justice will be served by allowing the variance. Id.

14. That the record *[did]* *[did not]* contain substantial and competent evidence to support a finding that there would be practical difficulties in using the Property for a permitted use without being in conflict with § 400.320(F)(4) of the Code.

15. That the record *[did]* *[did not]* contain substantial and competent evidence to support a finding that 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.

16. That the record *[did]* *[did not]* contain substantial and competent evidence to support a finding that the granting of the variance would not adversely affect the rights of adjacent property owners or residents.

17. That the record *[did]* *[did not]* contain substantial and competent evidence to support a finding that 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 Chapter 400 were literally enforced.

18. That the record *[did]* *[did not]* contain substantial and competent evidence to support a finding that the variance desired will not adversely affect the public health, safety, order, convenience and general welfare of the community.

19. That the record *[did]* *[did not]* contain substantial and competent evidence to support a finding that granting the variance desired will not violate the general spirit and intent of Chapter 400 of the Code of the City of Ellisville, Missouri.

20. That the record *[did]* *[did not]* contain substantial and competent evidence to support a finding that 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.

21. That the record *[did]* *[did not]* contain substantial and competent evidence to support a finding that the proposed variance would 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.

22. That the record *[did]* *[did not]* contain substantial and competent evidence to support a finding that there are severe practical difficulties 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.

23. That the record *[did]* *[did not]* contain substantial and competent evidence to support a finding that the proposed variance would not have a serious adverse impact on any adjoining

property or the general welfare or establish an unsatisfactory precedent for other locations and situations.

24. The motion to approve Applicant’s request for a variance from the requirements of § 400.320(F)(4) of the Code of the City of Ellisville, Missouri, with respect to rear yard setbacks for the Property *[carried]* *[failed to carry]* the concurring vote of four members of the Board of Adjustment. Therefore, applicant’s request is [**GRANTED**] / [**DENIED**].

REPORT OF DECISION

25. The ayes and nays cast on motion to grant Applicant’s request for a variance from the requirements of § 400.320(F)(4) of the Code of the City of Ellisville, Missouri, with respect to the to the required 15’ rear yard setback for the Property, were as follows:

	AYE	NAY	ABSTAIN
VILBIG			
BRCIC			
FETTERS			
MCGRATH			
SEAMANDS			
HOFFMAN (ALT)			
RIEGELSBERGER (ALT)			
LIVERS (ALT)			

26. It was reported that each member casting an “aye” or “nay” vote had physically inspected the property in conformance with the dictates of § 400.140(E) of the Municipal Code.

ADOPTED AND APPROVED THIS 9TH DAY OF DECEMBER, 2025.

CHAIRMAN VILBIG

ATTEST:
