



# GREEN LAKE COUNTY

**571 County Road A, Green Lake, WI 54941**

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The following documents are included in the packet for the *Green Lake County Board of Adjustment* business meeting/public hearing that is scheduled for Friday, September 16, 2022. The business meeting begins at 9:00 a.m. The public hearing will not begin before 10:00 a.m.

**Packet Pages:**

- 2 Agenda
- 3-4 Draft Meeting Minutes from March 18, 2022
- 5 Public Hearing Notice
- 6-15 Public Hearing Items

**Owner:** KE JO Family Enterprises LLC **Applicant:** Keith Frederick **Site location:** W4564 Cty Rd B **General legal description:** 014-00769-0000, part of the SE¼ S30 T15N, R12E, Town of Marquette **Request:** Variance from Section 350-50A of the County Zoning Ordinance to construct a bunker silo wall within the county highway setback.

If you have questions or need additional information,  
please contact the Land Use Planning & Zoning Department at (920) 294-4156.

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**GREEN LAKE COUNTY**  
**Board of Adjustment**  
**571 County Road A, Green Lake, WI 54941**

Office: (920) 294-4156 FAX: (920) 294-4198

Email: [zoning@greenlakecountywi.us](mailto:zoning@greenlakecountywi.us)

**Board of Adjustment Meeting Notice**

**Date: September 16, 2022 Time: 9:00 AM**

**Green Lake County Government Center, Room #0902**  
**571 County Road A, Green Lake, WI 54941**

**AGENDA**

**Board of Adjustment Members:**

*Ron Triemstra*

*Ed Roepsch*

*Rick Dornfeld*

*Brian Zimmerman*

*BJ Zirger*

1. Call to order
2. Roll call
3. Pledge of Allegiance
4. Certification of open meeting law
5. Election of Chair
6. Election of Co-Chair
7. Approval of Minutes: 3/18/2022
8. Recess for field inspection
9. Public Hearing (Not to begin before 10:00 AM)

**Owner:** KE JO Family Enterprises LLC **Applicant:** Keith Frederick **Site location:** W4564 Cty Rd B **General legal description:** 014-00769-0000, part of the SE¼ S30 T15N, R12E, Town of Marquette **Request:** Variance from Section 350-50A of the County Zoning Ordinance to construct a bunker silo wall within the county highway setback.

- a. Public Hearing
- b. Board Discussion & Deliberation
- c. Board Decision

10. Adjourn

**This meeting will be conducted through in person attendance or audio/visual communication. Remote access can be obtained through the following link:**

Topic: Board of Adjustment Meeting

Time: September 16, 2022 09:00 AM Central Time (US and Canada)

**Microsoft Teams meeting**

**Join on your computer or mobile app**

[Click here to join the meeting](#)

Meeting ID: 237 802 305 779

Passcode: Qe2v87

[Download Teams](#) | [Join on the web](#)

**Or call in (audio only)**

+1 689-206-9321,,309478448# United States, Orlando

Phone Conference ID: 309 478 448#

[Find a local number](#) | [Reset PIN](#)

**Green Lake County**  
**BOARD OF ADJUSTMENT**  
**Meeting Minutes - Friday, March 18, 2022**

The meeting of the Green Lake County Board of Adjustment was called to order by Vice-Chair Ron Triemstra on Friday, March 18, 2022 at 9:01 AM in the Green Lake County Board Room, Green Lake County Government Center, 571 County Road A, Green Lake, WI. The requirements of the open meeting law were certified as being met. The pledge of allegiance was recited.

Present: Ron Triemstra  
Rick Dornfeld (Alternate)

Absent: Ed Roepsch  
Brian Zimmermann (Alternate)  
Janice Hardesty

Other County employees present:  
Karen Werlein, BOA Secretary

Matt Kirkman, P&Z Director

**MINUTES**

***Motion/second (Dornfeld/Triemstra)*** to approve minutes of February 18th with no additions or corrections. Motion carried with no negative vote.

**ADJOURN FOR FIELD INSPECTION**

Vice-Chair Triemstra called recess for the field inspection at 9:03AM.

**PUBLIC HEARING – 9:45AM**

Board of Adjustment reconvened at 9:45AM for the Public Hearing.

- **Owner: Michael Shervey & Sharon Kryger Shervey**
- **Applicant: Mitch Nordahl**
- **Site Description: Pheasant Run, parcel #004-00929-0100**
- **Request: Variance from Section 338-32C of the County Shoreland Zoning Ordinance to construct a walkway within the side yard setback.**

Vice-Chair Triemstra read the rules for the Public Hearing. BOA Secretary, Karen Werlein, read the request for a variance from of Section 338-32C to construct a 5ft walkway within the side yard setback.

Public Comments/Discussion:

Michael Shervey, N4921 Peacock Ln., explained the request and spoke in favor of it.

Mitch Nordahl, of Wildflower Landscapers, spoke in favor of the request. He explained the landscaping plan and impervious surface treatment plan.

Dave Goodspeed, N4970 Peacock Ln., spoke against the request.

Janice Mischler, from the Sugar Loaf HOA, requested that erosion be addressed for the safety of the lake and integrity of the shoreline.

Marlene Lynch, N4962 Peacock Ln., spoke against the request.

Matt Kirkman, P&Z Director, read three letters submitted to the board: Marlene Lynch, Scott Diffley, and Maggie Potrzebowski. All wrote against the variance request.

Vice-Chair Triemstra called the public hearing portion of the meeting to close at 10:22AM.

***Motion/second (Triemstra/Dornfeld)*** to approve the request for a variance with the following conditions:

- 1). The entire impervious surface runoff from the walkway should be treated (sized to treat first ¾” of a rain event).
- 2.) Install a vegetative buffer, excluding the walkway area, from the ordinary high-water mark landward 35ft and designed in accordance with NRCS Interim Standard No. 643A and NRCS Wisconsin Biology Technical Note 1: Shoreland Habitat.
- 3.) Walkway should be restricted to 36” wide inside the 75ft shoreland setback instead of the proposed 60”.

The board deliberated the variance criteria including unnecessary hardship, unique property limitations, and harm to public.

Roll call vote – Dornfeld–Nay, Triemstra-Nay.

Variance denied.

**NEXT MEETING DATE**

No applications

**ADJOURNMENT**

Vice-Chair Triemstra adjourned the Board of Adjustment meeting at 10:33AM.

Submitted by,  
Karen Werlein  
BOA Secretary

## NOTICE OF PUBLIC HEARING

The Green Lake County Board of Adjustment will hold a Public Hearing in County Board Room #0902 of the Green Lake County Government Center, 571 County Road A, Green Lake, Wisconsin, on **Friday, September 16, 2022, at 9:00 a.m.** The meeting will adjourn for site inspection of the following item:

**Owner:** KE JO Family Enterprises LLC **Applicant:** Keith Frederick **Site location:** W4564 Cty Rd B **General legal description:** 014-00769-0000, part of the SE¼ S30 T15N, R12E, Town of Marquette **Request:** Variance from Section 350-50A of the County Zoning Ordinance to construct a bunker silo wall within the county highway setback.

The Board of Adjustment will reconvene at approximately **10:00 a.m.** to consider the item above.

All interested persons wishing to be heard at the public hearing are invited to attend. Please note that *it is not uncommon for an owner/applicant to withdraw a request at the last minute.* For further detailed information concerning this notice contact **Land Use Planning and Zoning** at (920) 294-4156.

*Publish: September 1, 2022*

## BOARD OF ADJUSTMENT

Public Hearing

September 16, 2022

### Item I: Variance

**Owners:**

KE JO Family Enterprises LLC

**Applicant:**

Keith Fredrick

**Request:** The owner/applicant is requesting a variance to locate an 8-foot tall bunker silo wall 2 feet away from the highway right-of-way whereas a 40-foot setback is required.

**Parcel Number/ Location:** The request affects parcel 014-00769-0000 (±70.39 acres) located in the E½ of the SE¼ of Section 30, T15N, R12E, Town of Marquette. The site address is W4564 County Road B.

**Existing Zoning and Uses of Adjacent Area:** The subject site is currently zoned as A-1, Farmland Preservation District. Neighboring to the west there are two parcels zoned R-3, Multiple-Family Residence District and one parcel zoned C-2, Extensive Commercial District. All other neighboring parcels are zoned A-1.

**Additional Information/ Analysis:** The subject site is split in half by County Road B. The property has a 40-foot setback from the county highway right-of-way on both north and south sides of the road. The north side of the farm is mapped as a wetland reducing the overall usage of the farmland. The site where the bunker wall is to be located has normally been used as a place to store silage bags for over 25 years. Mr. Fredrick was given a letter by the Green Lake County Highway Department stating that since the bunker wall is not in the right-of-way it is not an issue for the highway department.

**VARIANCE CRITERIA:** To qualify for a variance, it must be demonstrated that the property meets the following 3 requirements: (Wisconsin Act 67 (2017) codified Case Law as applied to variance criteria, §59.694(7)(c)2., with No Harm To Public Interest already codified and now renumbered to §59.694(7)(c)3.)

- 1) Unnecessary Hardship
  - hardship may not be self-created (State ex rel. Markdale Corp. v. Board of Appeals)
  - circumstances of the applicant, such as a growing family or the need for a larger garage, are not the sole factor in considering variances (Snyder)
  - property, as a whole, must be considered, not just a portion (State v. Winnebago County)
  - economic or financial hardship is not a sole justification (State v. Winnebago County)
- 2) Unique Property Limitations
  - limitations such as steep slope, wetland, shape, or size that are not shared by other properties and prevent compliance with ordinance (State v. Kenosha BOA)
  - limitations common to a number of properties are not a justification (Arndorfer v. Sauk County BOA)

- alternative designs / locations on the property have been investigated (State v. Winnebago County)
- 3) No Harm to Public Interest
- ordinance purpose and intent, variance may not harm public interest (State v. Winnebago County)
  - short-term, long-term, and cumulative effects on public interest in neighborhood, community, and even the state (Ziervogel)
  - only allow minimal relief for use of property, may include conditions (Robert M. Anderson, *American Law of Zoning*)

**Staff Comments:**

**1) Unnecessary Hardship**

- The hardship derived from the property owner's want, need, or desire to construct an accessory structure (bunker wall) to reduce travel distance, having more storage, ease of access, less plastic waste, and a safer way of farming is self-created.
- The need for a bunker silo wall because of a growing farm is linked to the owner and thus is a circumstance of the applicant. The proposed location had been used for over 25 years to house silage in bags without the need for a bunker wall.
- There are other less convenient locations to place silage / haylage on the property that are not classified as wetlands or floodplain. It appears that the entirety of the property has not been fully examined. Economic or financial hardships, although significant to the applicant, are not sole grounds for an unnecessary hardship. Another hardship, other than the loss of convenience and efficiency as it relates to the farming operation has not been presented.

**2) Unique Property Limitations**

- The owner has identified that the building setbacks limit the agricultural use as the wetland area on the north part of the property is not able to be used agriculturally however there are ±9.45 acres of undeveloped land that is not mapped as wetland that could be used on the northern part of the property.
- Neighboring properties also have to contend with wetland area and still operate farming practices within the rest of the acreage not mapped wetland.
- The southern side of the silage area has a drainage ditch in which the owner wanted to avoid with the wall however there are alternative places within the proposed location that the bunker wall could be placed to make the wall code compliant including on the southern side near the drainage ditch.

**3) Harm to Public Interest**

- Relaxing a building setback that has been applied to so many other property owners in conflict with the hardship and uniqueness criteria would subvert the authority of the County Zoning Ordinance.
- The location of the bunker wall also adds a structurally significant barrier two feet from vehicular traffic (55 mph) on a county highway. The location of the bunker wall is also very near to a farm entrance and may impair sight lines. The fewer reasons for the applicant to cross this road the better the outcomes will be for the applicant and people driving by.
- When all of the criteria can be met, then and only then, can the BOA grant a variance, and then the variance should grant the minimal relief necessary to resolve the unnecessary hardship. The applicant must show that there are no other locations on their property for minimal relief to even be considered.

**VARIANCE CONDITIONS:** Based on the analysis above the variance request for bunker silo wall suffers when examined alongside the required criteria. It is admirable that the applicant wants to make his farm business as efficient and competitive as possible. Unfortunately, this need is not considered an unnecessary hardship when it comes to variance approvals. The applicant has used these lands for over 25 years for silage bags with no need for a wall. There are code-compliant locations that the bunker wall could be placed. And there is no public interest in adding an obstacle to line of site and vehicular traffic on a road with a 55-mph speed limit. To approve a variance that does not meet the required criteria will likely result in the Department appealing this variance approval to circuit court.



### VARIANCE APPLICATION – GREEN LAKE COUNTY

Provide the following information and any other detailed information related to the variance.

Date Received: Aug 15<sup>th</sup>, 2022

Fee Received: Aug 15<sup>th</sup>, 2022

KE-VO Family Enterprises LLC Keith Frederick  
Owner Name Applicant Name

Keith Frederick, manager 7-12-22  
Owner Signature Date

Keith Frederick 7-12-22  
Applicant Signature Date

W4564 CR-B Markesan  
Mailing Address

W4564 CR-B Markesan  
Mailing Address

53946  
City State Zip

53946  
City State Zip

Home Phone Work/Cell Phone

920-229-5500  
Home Phone Work/Cell Phone

Email address

frederickfamilyfarm@yahoo.com  
Email address

Site Address W4564 CR-B Markesan WI 53946

Tax Parcel ID # 014 - 00969 - 0000

COM SE COR SE30: N 160 R; W 70 R; S 160 R; E 70 R to Beg  
1/4, 1/4, Section 30, T 15 N, R 12 E

Lot \_\_\_\_\_ Block \_\_\_\_\_ Subdivision/Plat \_\_\_\_\_

Lot \_\_\_\_\_ CSM # \_\_\_\_\_ Town of Marquette

**A variance is not a convenience to the property owner and should not be granted routinely. For the Board of Adjustment to grant a variance, the owner/applicant must clearly demonstrate that there is an unnecessary hardship present when strictly applying an ordinance standard; that the hardship is due to unique site limitations; and in granting a variance the public interest is being protected. The burden of proof rests upon the property owner to show all 3 criteria are being met.**

Attach additional sheets, if necessary, to provide the information requested.

1. Explain your proposed plans and how they vary from the required dimensional standards:

I understand that the BOA is supposed to treat variance requests that are for structures that have already been constructed as if they have not yet been constructed. So that being said, my "proposed" plan is to construct a bunker silo wall within 2 feet of right-of-way of County Road B. The County Zoning Ordinance states that the required structure setback is to be 40 ft.

2. Explain the hardship imposed by the Ordinance: Effective management of a farming operation requires that the corn silage storage area is as close to the hay silage storage area so that mixing does not require excessive travel distance as this activity occurs 4 to 6 times a day. Also there need to have more hay silage capacity, ease of access, less plastic waste, and to provide a safer way to do farming. The bunker silo wall allows for the above and the location resolves the necessity for the ease of mixing the silages. Farming is a business and as with any business, if the business is not able to grow, then the business will fail.

3. Describe unique property feature(s) that create the hardship: Ideally, I would like to have all of my buildings on the north side of County B, but my property there drops downhill and into a marsh. So in order to adequately manage my farming business it requires me to utilize my lands that I own on the South side of County B. Secondly, the location that is in closer proximity to the highway, is due to there being an agricultural drainage ditch to the south of the existing hay silage storage area.

4. Explain why the proposed variance will not harm the public interest: The project is proposed in a location that has been utilized to store silage bags for over 25 years. I have a letter from the County Highway Department's Superintendent stating that the proposed bunker silo wall is not in the road right-of-way and thusly not a concern. And that the road parallel to the bunker silo wall is on a gradual incline /decline and is straight (no curves).



**Tract 888**

2022 Program Year

CLU	Acres	HEL	Crop
2	6.94	HEL	
3	50.36	UHEL	NC
4	17.62	UHEL	NC

Page Cropland Total: 6.94 acres



Map Created April 02, 2022


**Common Land Unit  
cropland\_indicator\_3CM**

- Non-Cropland
- Cropland
- Tract Boundary
- NAIP Imagery 2020
- Wetland Determination Identifiers**
- Restricted Use
- Limited Restrictions
- Exempt from Conservation Compliance Provisions

USDA FSA maps are for FSA Program administration only. This map does not represent a legal survey or reflect actual ownership; rather it depicts the information provided directly from the producer and/or the NAIP imagery. The producer accepts the data 'as is' and assumes all risks associated with its use. The USDA Farm Service Agency assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data outside FSA Programs. Wetland identifiers do not represent the size, shape, or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact boundaries and determinations or contact NRCS.

To whom it may concern

We the highway department have authority to enforce the county road right of way, in most cases from center of road, to the normal (R.O.W of 33ft). There for anything that is past that 33ft does not apply to the highway, unless it is blocking vision, causing damage to the ditch or road or is a safety issue. In the case of a bunker walls, if it is out of the R.O.W and there is no issue to us the highway it is not our concern. Thanks Jason Franke Highway Superintendent 1.920.294.4063

  
7-5-22

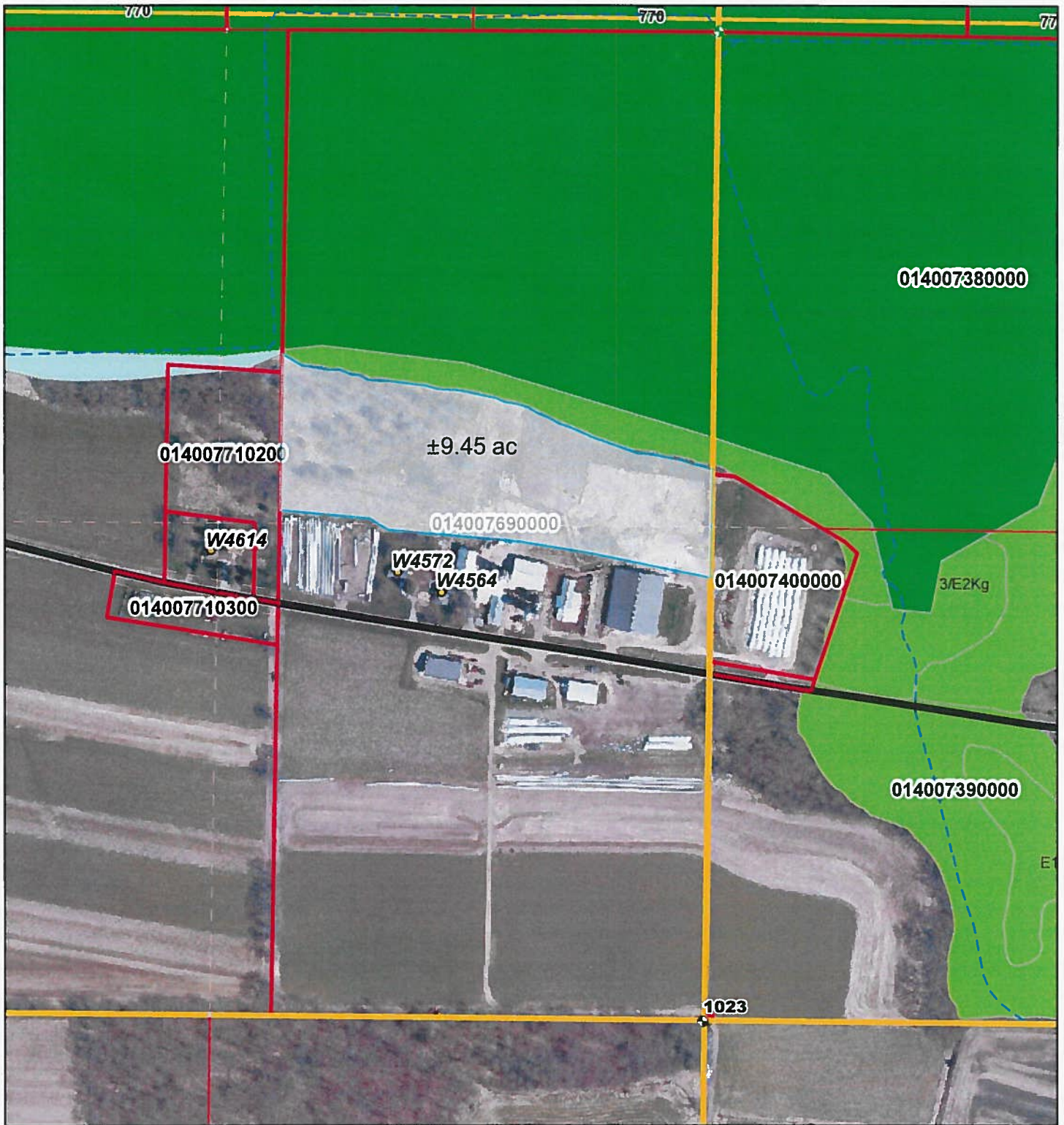








# Fredrick North Buildable Area



8/19/2022, 3:49:03 PM

- Address
- SUB
- Corner
- SECTION
- QUARTER
- ▭ Section
- ▭ TaxParcel

