



# **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 that is scheduled for **Friday, August 16, 2024**. The meeting begins at 9:00 a.m. The Public Hearing is not to begin before 9:30 a.m.

**Packet Pages:**

2	Agenda
3-4	Draft Meeting Minutes from June 21, 2024
5	Public Hearing Notice
6-14	Variance Application Materials
15-17	LUP&Z Committee Staff Report

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



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.gov](mailto:zoning@greenlakecountywi.gov)

Board of Adjustment Meeting Notice	
	Date: August 16, 2024, Time: 9:00 AM
Green Lake County Government Center, Room #0902 571 County Road A, Green Lake, WI 54941	
AGENDA	
<div><b>Board of Adjustment Members:</b></div> <div><i>Ron Triemstra,</i> <i>Chair</i></div> <div><i>Rick Dornfeld,</i> <i>Vice-Chair</i></div> <div><i>Peter Wallace,</i> <i>Member</i></div> <div><i>Brian</i> <i>Zimmerman,</i> <i>First Alternate</i></div> <div><i>Vacant-TBD,</i> <i>Second alternate</i></div> <div><i>Karissa Block,</i> <i>BOA Secretary</i></div> <div>Virtual attendance at meetings is optional. If technical difficulties arise, there may be instances when remote access may be compromised. If there is a quorum attending in person, the meeting will proceed as scheduled.</div> <div>This agenda gives notice of a meeting of the Board of Adjustment. It is possible that individual members of other governing bodies of Green Lake County government may attend this meeting for informative purposes. Members of the Green Lake County Board of Supervisors or its committees may be present for informative purposes but will not take any formal action. A majority or a negative quorum of the members of the Green Lake County Board of Supervisors and/or any of its committees may be present at this meeting. See State ex rel. Badke v. Vill. Bd. of Vill. of Greendale, 173 Wis.2d 553, 578, 494 N.W. 2d 408 (1993).</div>	<div><div>1. Call to order</div><div>2. Roll call</div><div>3. Pledge of Allegiance</div><div>4. Certification of open meeting law</div><div>5. Approval of Minutes: 6/21/2024</div><div>6. Mileage reimbursement and per diem submittals</div><div>7. Recess for field inspection</div><div>8. Public Hearing (not to begin before 9:30am)</div></div> <div><b>Item #1: Owner/Applicant:</b> Mike &amp; Sarah Swanke, <b>Location:</b> W3260 Highway 23, <b>Parcel:</b> 004-00845-0101, <b>General legal description:</b> Lot 1 of CSM 3786, located in Section 23, T16N, R12E, Town of Brooklyn, <b>Request:</b> Variance to Section 350-43.1 of the Zoning Ordinance to build a privacy fence along the street right-of-way line.<div><div>a. Public Hearing</div><div>b. Board Discussion &amp; Deliberation</div><div>c. Board Decision</div></div></div> <div>9. Adjourn</div> <div><b>This meeting will be conducted through in person attendance or audio/visual communication. Remote access can be obtained through the following link:</b></div> <div>Topic: Board of Adjustment Meeting Time: August 16, 2024, 09:00 AM Central Time (US and Canada)</div> <div><b>Microsoft Teams</b> <a href="#">Need help?</a> <a href="#">Join the meeting now</a> Meeting ID: 235 201 659 005 Passcode: jd3WtM <b>Dial in by phone</b> <a href="#">+1 920-515-0745,,320894421#</a> United States, Green Bay <a href="#">Find a local number</a> Phone conference ID: 320 894 421# For organizers: <a href="#">Meeting options</a>   <a href="#">Reset dial-in PIN</a> Please accept at your earliest convenience. Thank you! <a href="#">Org help</a>   <a href="#">Privacy and security</a></div>

**Green Lake County**  
**BOARD OF ADJUSTMENT**  
June 21,2024

The meeting of the Green Lake County Board of Adjustment was called to order by Chair Ron Triemstra on Friday, June 21, 2024, at 9:00AM in the Green Lake County Board Room, Green Lake County Government Center, 571 County Road A, Green Lake, WI. The meeting was held both in person and via remote access. The requirements of the open meeting law were certified as being met. The Pledge of Allegiance was recited.

**ROLL CALL**

**Present:** Ron Triemstra, Chair  
Rick Dornfeld, Vice-Chair  
Peter Wallace

**Absent:**

**Other County employees present:**

Karissa Block; Deputy County Clerk, Matt Kirkman, P&Z Director; Noah Brown; Land Use and Shoreland Specialist, Ryan Schinke; Land Use Coordinator/Technician

**MINUTES**

***Motion/second (Wallace/Triemstra)*** to approve the minutes of the 4/19/2024 meeting. Motion carried with no negative vote.

**RECESS FOR FIELD INSPECTION**

Recessed at 9:01 AM for Field Inspection

Reconvened at 9:36 AM

**PUBLIC HEARING – 9:36AM**

**Item #1: Owner/Applicant:** KC Mead Green Lake LLC., **Agent:** Troy Halbach **Location:** W1370 Spring Grove Road, Parcel: 006-01051-0000, **General legal description:** Lot 1 of CSM 1346, Section 33, T16N, R13E, Town of Green Lake, **Request:** Variance to Section 338-32.A of the Shoreland Zoning Ordinance to build a 3-car garage within 75' setback of ordinary high-water mark of Green Lake.

Attorney Steven Sorenson, Troy Halbach and Dirk Hausmann introduced themselves.

Attorney Steven Sorenson read the application and explained the applicant would like to add an additional space to his two-car garage for extra storage. Sorenson turned it over to Halbach. Halbach asked if the committee had any questions and further explained the property. Discussion held.

Chair Triemstra asked for any other comments. Hearing none, Chair Triemstra closed public hearing.

Kirkman reviewed staff report. Discussion held.

Chair Triemstra asked for any final comments. Hearing none, ***Motion/second (Dornfeld/Wallace)*** to grant the variance. Motion carried with no negative vote.

Discussion held.

***Motion/second (Triemstra/Dornfeld)*** to amend the original motion to grant the variance as long as conditions 1&2 of the staff recommendations are met. All ayes. Motion carried.

***Motion/second (Triemstra/Dornfeld)*** to adjourn the meeting at 10:15AM. Motion carried with no negative vote.

Respectfully Submitted,

Karissa Block  
Deputy County Clerk

## 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, August 16, 2024, at 9:00 a.m.** The meeting will recess for site inspection of the following item:

**Item #1: Owner/Applicant:** Mike & Sarah Swanke, **Location:** W3260 Highway 23, **Parcel:** 004-00845-0101, **General legal description:** Lot 1 of CSM 3786, located in Section 23, T16N, R12E, Town of Brooklyn, **Request:** Variance to Section 350-43.1 of the Zoning Ordinance to build a privacy fence along the street right-of-way line.

The Board of Adjustment will reconvene at approximately **9:30 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: August 1, 2024*

**GREEN LAKE COUNTY**  
**VARIANCE APPLICATION**

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

Date Received: 6-6-2024

Fee Received: 7-1-2024

Mike Swanke / Sarah Swanke  
Owner Name

Applicant Name

Sarah Swanke 6/28/24  
Owner Signature Date

Applicant Signature Date

W3260 WI 23  
Mailing Address

Mailing Address

Green Lake WI 54941  
City State Zip

City State Zip

(920) 221-4620  
Home Phone Work/Cell Phone

Home Phone Work/Cell Phone

Site Address W3260 WI 23

Tax Parcel ID # 004 - 00845 - 0101

Lot SW  $\frac{1}{4}$ , Block SW  $\frac{1}{4}$ , Section 23, T 16 N, R 12 E  
Lot 1 Block — Subdivision/Plat —  
Lot 1 CSM # 3786 Town of Brooklyn

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.

A variance is not a convenience to the property owner and should not be granted routinely.

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

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

Agricultural fences are allowed without a land use permit and along lot lines including street lot lines if they are more than 50% open. Not being aware of the above restriction I constructed an agricultural fence that is less 50% open along my street lot line.

2. Explain the hardship imposed by the Ordinance:

The ordinance requires the fence, that is meant to stop small farm animals from wandering onto the highway, to be mostly open. This defeats the purpose of the fence. And then causes my animals to be in danger as well as endangers motorists.

3. Describe unique property feature(s) that create the hardship:

My property is located along a busy State Highway. My zoning is A1 which allows for me to raise farm animals. Small farm animals would be frequently present in our front yard due to locations of the chicken coop and dwellings, etc. Its not feasible to locate these small animals away from our view/hearing due to predator, etc.

4. Explain why the proposed variance will not harm the public interest:

The fence will not only not harm the public interest, but by impeding small farm animals from the highway it will benefit the public interest. Further the fence is less than 4 ft tall so vision clearance for ingress + egress is not impeded.

5. Explain why the property can not be utilized without a variance: ( USE VARIANCES ONLY)

A number line with two scales. The top scale is labeled in miles (mi) with major tick marks at 0, 0.15, 0.3, and 0.6. The bottom scale is labeled in kilometers (km) with major tick marks at 0, 0.23, 0.45, and 0.9. The scales are aligned such that 0.15 miles corresponds to 0.23 kilometers, 0.3 miles corresponds to 0.45 kilometers, and 0.6 miles corresponds to 0.9 kilometers.



CSM3786

RECORDED ON:  
02/09/2021 09:30AM

REC FEE: \$30.00

VOL. 22 OF CSM PG. 3786RENEE A. THIEM-KORTH  
REGISTER OF DEEDS  
GREEN LAKE, WI  
TRANSFER FEE:

## GREEN LAKE COUNTY CERTIFIED

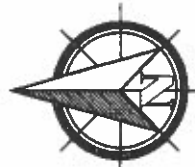
SURVEY MAP # 3786V 22 P 3786Being a part of the SW 1/4 of the SW 1/4 of Section 23, T.16N.,  
R.12E., Town of Brooklyn, Green Lake County, Wisconsin.S 1/4 Corner 23-16-12  
FOUND Bernsten  
BP1 MonumentUnplatted Land  
Thomas & Gerald WallaceSurveyed By:  
**BOSSHARD SURVEYING, LLC**  
PO BOX 344 Neshkoro, WI 54960  
Phone: 920-293-4001 & 262-527-4672  
www.BosshardSurveying.comOwner of Record:  
**Taylor Wallace**  
544 Morris St.  
Berlin, WI 54923

## LEGEND

- SET 1" x 24" Iron Pipe Weighing 1.65 lbs/lin. ft.
- FOUND 1" Iron Pipe (Unless Noted)

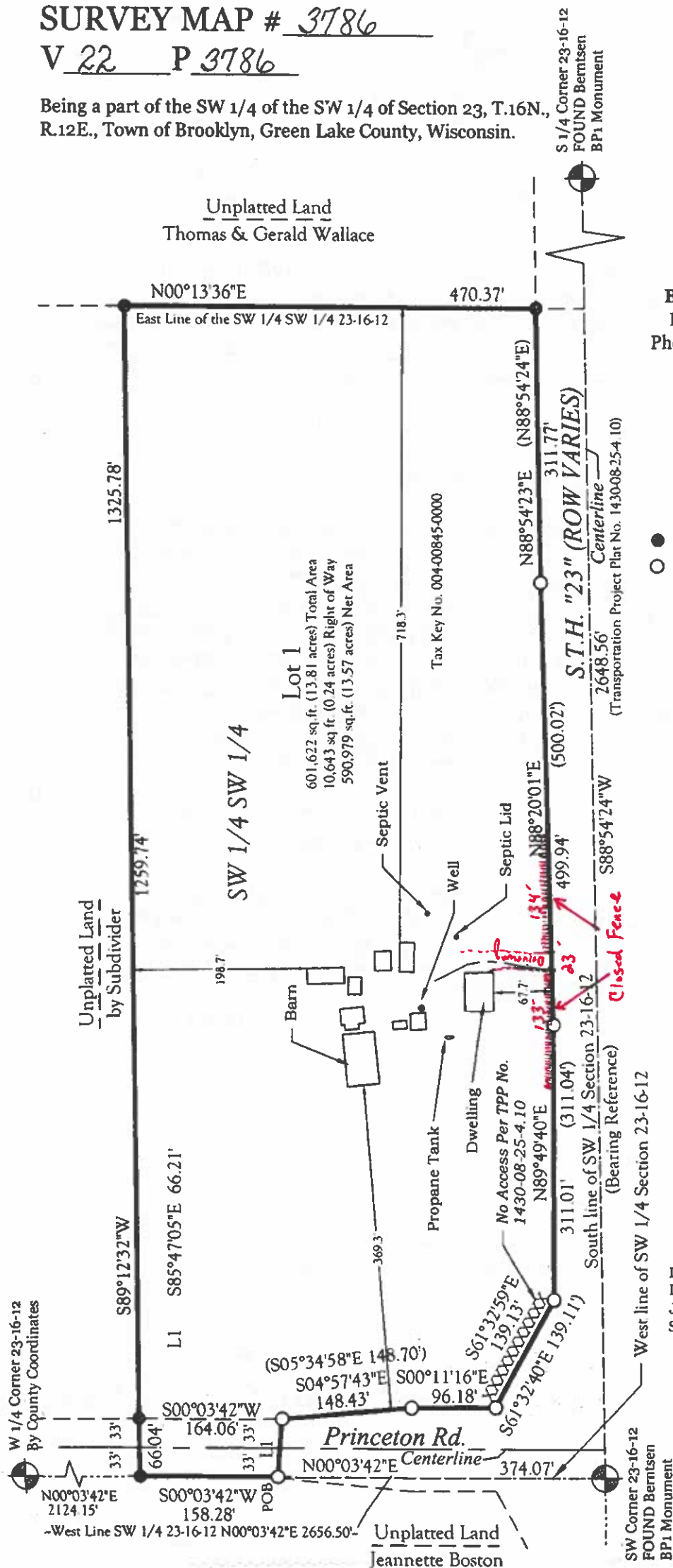
## NOTES:

- 1.) The purpose of this survey is to create a smaller lot from a larger land area to conform with Green Lake County Zoning Requirements.
- 2.) Bearings referenced to the South line of the SW 1/4 of Section 23 recorded on TPP 1430-08-25-4.10 IN V.7 P.159 OF Plats with a bearing of N.88°54'24"E.
- 3.) No Wetlands per Green Lake County GIS Mapping.
- 4.) No Floodplain per County GIS.
- 5.) No retracable easements or utility easements found or shown on this CSM.
- 6.) Access to Lot 1 is via existing driveway as shown on this sheet.
- 7.) The unidentified buildings shown are sheds.
- 8.) CSM Zoned A-1 Farmland Preservation District Contact County Planning & Zoning department for building setback information.

Drawn By: DTB  
Date: 20210201  
Job Number: 21-0100  
Sheet: 1 of 4

( IN FEET )

1 inch = 150 feet













## BOARD OF ADJUSTMENT

Public Hearing

August 16, 2024

### Item I: Variance

**Owners:**

Mike & Sarah Swanke

**Applicant:**

Same

**Request:** The owners are requesting a variance to locate an agricultural fence that is less than 50% open along the street lot line, whereas Section 350-43.1 (C) states that only open style agricultural fences are allowed along the street lot line and without a land use permit.

**Parcel Number/ Location:** The request affects parcel 004-00845-0101 (±13.5 acres) located in the SW¼ of the SW¼ of Section 23, T16N, R12E, Town of Brooklyn. The site address is W3260 State Road 23.

**Existing Zoning and Uses of Adjacent Area:** The subject site is currently zoned as A-1, Farmland Preservation District. Apart from the lands to the west that have no zoning, the surrounding lands are all zoned A1 and are used agriculturally.

**Additional Information/ Analysis:** The subject site consists of about 13.5 acres. The owners purchased the property in early 2021 as a CSM lot. The owners have been improving the property since taking ownership. The fence, which is the subject of this variance request, was noticed as a violation on April 29<sup>th</sup>, 2024.

The zoning ordinance does allow for farmers to place agricultural fences on their property without having to obtain a land use permit so long as the agricultural fence is greater than 50% open. The Swanke's do use their property for agricultural pursuits and maintain small farm animals so they would be allowed to place an open-style agricultural fence along their street lot line. The issue here is the owners were unaware of the zoning restriction and constructed a fence that is not open-style.

The Swanke's contend that requiring the fence to be open-style defeats the purpose of the fence which is meant to keep their small farm animals from wondering off their property and into traffic.

Observations of the constructed fence reveal that there is a significant gap below the fence as well as an ungated gap for the driveway's access to the highway. Both of these openings would allow small farm animals to traverse the fence.

It is common practice for home-owners who want to keep small animals on or off their property to attach wire fencing to their existing fence. To resolve the zoning violation, and eliminate the need for a variance, the Swanke's could remove every other board on the existing fence and attach wire fencing to the remaining fence. The wire fencing would minimally impact the % open-space requirement and resolve their hardship.

**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 appears to be self-created. Initially, the fence project was not researched ahead of time by the owners. Upon being noticed of the violation, the owners weighed their options and chose the variance option as opposed to modifying the fence.
- The need for a more closed fence is directly related to the owners circumstances and not the uniqueness of the property. The owners chose to keep and maintain small farm animals in the street yard. Other property owners may not choose this use or the same location of the use.
- The variance request specified a specific location for the fence. It is understood, however, that keeping and maintaining small farm animals does require the keeper / maintainer to be in close proximity.
- The applicants have not attempted to justify their variance request as an economic or financial hardship.

**2) Unique Property Limitations**

- The owner has identified their location along State Hwy 23 in combination with their keeping and raising small farm animals as their uniqueness. The

frontage is clearly an aspect associated with the subject property, but the keeping and raising small farm animals is not a unique property limitation.

- Neighboring properties also contend with the dangers of state highway frontage. If they have a concern relative to their animals, they have the option to build a code-compliant fence.
- The owners have considered modifying the fence in ways that would make the fence "open-style" but they would rather leave it as is. Wire fencing could be added to the existing fence to alleviate the concern that the wider openings will allow for animals to traverse the fence.

### **3) Harm to Public Interest**

- Relaxing a structure 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.
- In the short term any property owner adjacent to a highway who chooses to keep and maintain animals would be eligible place a closed / privacy fence on their street lot line. In the long term, the BOA would have degraded its ability to properly apply the variance criteria, and the variance process would be viewed by the public as a viable way to get around the zoning ordinance.
- Minimal relief does not apply to this request. The fence has already been constructed and the hardship can be alleviated through fence modifications.

**VARIANCE CONDITIONS:** Based on the analysis above the variance request for a closed-style agricultural fence suffers when examined alongside the required criteria. It is appreciated that the applicant wants to protect his animals from the dangers of the state highway as well as protect drivers from having to encounter their animals on the highway. Unfortunately, this need is not considered an unnecessary hardship when it comes to variance approvals. A modification, that does not require a variance, can be made to the fence that would resolve the applicant's self-created hardship. And there is no public interest in the BOA approving a variance request that does not meet all three statutory criteria. However, if the BOA sees this request meeting all three criteria the following conditions may be appropriate:

1). To document the project in the Department's records, a land use permit shall be issued for the subject fence.

2). As the fence's purpose is to keep farm animals from encountering traffic on State Highway 23, the following additional precautions shall be taken:

- The property owner shall be required to add wire fencing to the inside of the fence extending at least 6 inches below grade.
- A driveway ingress / egress gate, greater than 50% open, shall be constructed in such a manner that small farm animals will not be able to traverse the gate.