

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Dale Weis, Chair; Janet Sayre Hoeft; Joanne Larson

THE BOARD OF ADJUSTMENT WILL MEET ON THURSDAY, MARCH 9, 2023 AT 10:15 A.M. Members of the public may attend Via Zoom Videoconference **OR** at the Jefferson County Highway Department Committee Room, 1425 S Wisconsin Dr, Jefferson, WI

THE BOARD OF ADJUSTMENT WILL LEAVE FOR SITE INSPECTIONS AT 10:30 A.M.

PETITIONERS OR THEIR REPRESENTATIVES MUST BE IN ATTENDANCE FOR THE PUBLIC HEARING AT 1:00 P.M. PETITIONERS AND OTHER MEMBERS OF THE PUBLIC MAY ATTEND THE MEETING VIRTUALLY BY FOLLOWING THESE INSTRUCTIONS IF THEY CHOOSE NOT TO ATTEND IN PERSON:

Register in advance for this meeting:

<https://us06web.zoom.us/j/88432018141?pwd=RjNkakh5YnROYzd5UDBOMXNEY05HUT09>

Meeting ID 884 3201 8141

Passcode Zoning

After registering, you will receive a confirmation email containing information about joining the

1. Call to Order-Highway Department Committee Room, 10:15 a.m.

Meeting called to order at 10:17 a.m. by Weis

2. Roll Call (Establish a Quorum)

Members present: Weis, Hoeft, Larson

Members absent: ---

Staff: Brett Scherer, Laurie Miller

3. Certification of Compliance with Open Meetings Law

Staff provided proof of publication.

4. Approval of the Agenda

Hoeft made motion, seconded by Weis, motion carried 3-0 on a voice vote to approve.

5. Approval of February 9, 2023 Meeting Minutes

Weis made motion, seconded by Hoeft, motion carried 2-0 on a voice vote to approve.

NOTE: Larson abstained.

6. **Communications** – Discussion/update on Lukasiewicz petition from February’s hearing.

7. **Public Comment** - None

8. **Site Inspection–Beginning at 10:30 a.m. and Leaving from Hwy Dept Committee Rm**

V1715-23 – Chris & Dynese Driscoll, **W1454 South Shore Dr**, Town of Palmyra, PIN 024-0516-3312-018 (0.292 ac).

V1716-23 – Alta Genetics USA, Inc, **N8350 High Rd**, Town of Watertown, PIN 032-0815-2014-001 (7.279 ac).

9. **Public Hearing Beginning at 1:00 p.m. in Hwy Dept Committee Room**

Meeting called to order at 1:00 p.m. by Weis

Members present: Weis, Hoeft, Larson

Members absent: ----

Staff: Matt Zangl, Sarah Elsner, Brett Scherer, Laurie Miller

10. **Explanation of Process by Committee Chair**

The following was read into the record by Weis:

***NOTICE OF PUBLIC HEARING
JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT***

NOTICE IS HEREBY GIVEN that the Jefferson County Zoning Board of Adjustment will conduct a public hearing at 1:00 p.m. on Thursday, March 9 in the Jefferson County Highway Department Committee Room, 1425 S Wisconsin Drive, Jefferson, Wisconsin. Matters to be heard are applications for variance from terms of the Jefferson County Zoning Ordinance. An AREA VARIANCE is a modification to a dimensional, physical, locational requirement such as the setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of adjustment. A USE VARIANCE is an authorization by the board of adjustment to allow the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance. No variance may be granted which would have the effect of allowing a use of land or property which would violate state laws or administrative rules. Subject to the above limitations, a petitioner for an AREA VARIANCE bears the burden of proving “unnecessary hardship,” by demonstrating that 1) strict compliance with the zoning ordinance would unreasonably prevent the petitioner from using the property for a permitted purpose, or 2) would render conformity with the zoning ordinance unnecessarily burdensome. A petitioner for a USE VARIANCE bears the burden of proving that 3) strict compliance with the zoning ordinance would leave the property

owner with no reasonable use of the property in the absence of a variance. Variances may be granted to allow the spirit of the ordinance to be observed, substantial justice to be accomplished and the public interest not violated. **PETITIONERS, OR THEIR REPRESENTATIVES, SHALL BE PRESENT.** There may be site inspections prior to public hearing which any interested parties may attend; discussion and possible action may occur after public hearing on the following:

V1715-23 – Chris & Dynese Driscoll: Variance from Sec. 11.10(f)1 of the Jefferson County Zoning Ordinance to allow a deck addition to a non-conforming home at less than the required setback to Blue Spring Lake ordinary high-water mark. The site is at **W1454 South Shore Dr** in the Town of Palmyra on PIN 024-0516-3312-018 (0.292 ac).

Chris & Dynese Driscoll (W1454 S Shore Drive) presented their petition. Mr. Driscoll stated they want to replace the existing deck with a 5' addition and replace the patio both at less than 75' to the OHWM. They purchased the lot about one year ago. The current deck is not safe, practical, or useful and the stairs are uneven. It needs to come down and be replaced. The materials of the patio are deteriorating. The existing deck and patio come out 5' from the house which is not practical and useful as it does not allow for patio furniture to be able to sit out there. They need the variance to have reasonable use of the property. They are looking to extend it out from 5' to 10' to allow for furniture and regular use, and the site lines are better. They will be using pavers for the patio so it will be permeable to limit the water runoff. Ms. Driscoll stated they have spoken to all the neighbors, and no one has an objection.

There were no questions or comments in favor or opposition of the petition. Weis asked if this was in the sanitary district. Ms. Driscoll stated yes. Weis asked where the sewer lines were. Ms. Driscoll stated they did not know. Weis asked for the location of the well. Ms. Driscoll stated it was in the front yard. She showed the location at the front map.

There was a town response in the file in favor of the petition which was read into the record by Weis.

Hoelt asked if there was any correspondence from the DNR. Elsner stated we did not get a response from them. Hoelt asked how this was determined to be non-conforming. Elsner stated it does not meet the 75' setback as it is. Weis asked what setback they were at now. Zangl stated they are 60' from the OHWM from the deck. Weis asked if they were proposing to be 5' closer. Mr. Driscoll stated that was correct because the existing 5' deck is not useable. Weis confirmed that the deck would be 10' in total. Elsner stated they will be 55' from the OHWM with the proposed new deck. Ms. Driscoll provided the Board with their plan. Weis asked if there was a door at that level for access. Ms. Driscoll stated yes, they need the deck for fire safety as there not many doors in the house. This would be the second door on that level.

Elsner gave staff report. She stated the property is zoned R-1. The variance is from Sec. 11:10(f)1. Elsner explained the 75' setback requirement. They are requesting a deck and patio at <75 from the OHWM, and they are looking to go closer at 55'. There are no other land use permits on file.

Mr. Driscoll asked in terms of mitigation if they looked at the deck and patio separately or as one. Elsner stated the deck is above ground level so they would only be looking at the patio area. Weis noted that the neighboring property to the left appeared to be closer than this to the lake. Ms. Driscoll explained the neighboring homes.

V1716-23 – Alta Genetics USA, Inc: Variance from Sec. 11.09(c) of the Jefferson County Zoning Ordinance to allow an addition to a non-conforming structure at less than the required road setbacks, more than 50% of the structural members and greater than 50% of the foundation footprint. The site is at **N8350 High Rd**, Town of Watertown on PIN 032-0815-2014-001 (7.279 ac).

Steven Hopp, Production Site Manager (N8350 High Road) was present. Harmon Bos, Bos Design Builders, was also present. Mr. Bos explained the current building shown on the map. The exterior is all manger and cattle waterers, and the interior is all bull pitting. They are trying to salvage the building and are proposing to remove the roof and extend it to the north by 3' so there is a curtain-wall system away from the bulls so they cannot touch it. It would also extend to 15' to the south of the building which will connect to the existing building to the south. By adding on 3' to the north of the building, they would be coming closer to the road by 3'.

Weis asked how far off they were from the centerline of High Road. Scherer noted it should be on the map in the file. Elsner stated it was currently 67'1" to the centerline. Weis asked if the setbacks to State Road 26 were OK. Zangl stated yes. Bos stated they could not shift the building without interfering with the setbacks to State Road 26.

Weis asked about the septic systems to the east of the buildings. Hopp stated there was a drain field for the collection room. Bos further explained. Weis asked for the well location. Hopp stated it was down towards the south where the offices used to be.

Zangl stated this is a non-conforming structure because it does not meet the setback to High Road. He explained they exceed 50% of the existing footprint and structural members. It is unique in how it is set up and designed. They are reusing the existing building with some changes and some expansion. There have been previous variances granted on the property, and there are other structures that are too close to the road that do not meet the setback. Zangl asked how long these buildings have been there. Bos stated it goes back to the 1960's.

There were no questions or comments in favor or opposition of the petition. There was a town response in the file approving the petition which was read into the record by Weis.

11. Discussion and Possible Action on Above Petitions @ 1:30 p.m. (See files and following pages)

12. Adjourn

Hoefl made motion, seconded by Larson, motion carried 3-0 on a voice vote to adjourn @ 1:56 p.m.

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

A quorum of any Jefferson County Committee, Board, Commission or other body, including the Jefferson County Board of Supervisors, may be present at this meeting.

Individuals requiring special accommodations for attendance at the meeting should contact the County Administrator at 920-674-7101 at least 24 hours prior to the meeting so appropriate arrangements can be made.

A digital recording of the meeting will be available in the Zoning Department upon request. Additional information on Zoning can be found at www.jeffersoncountywi.gov

DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN

COPY

FINDINGS OF FACT

PETITION NO.: 2023 V1715
HEARING DATE: 03-09-2023

APPLICANT: Chris & Dynese Driscoll

PROPERTY OWNER: SAME

PARCEL (PIN) #: 024-0516-3312-018 (W1454 South Shore Drive)

TOWNSHIP: Town of Palmyra

INTENT OF PETITIONER: Allow a proposed deck & patio at less than 75' from the OHWM of Blue Spring Lake

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.10(f)1 OF THE JEFFERSON COUNTY ZONING ORDINANCE.

THE FEATURES OF THE PROPOSED CONSTRUCTION AND PROPERTY WHICH RELATE TO THE GRANT OR DENIAL OF THE VARIANCE APPLICATION ARE:

- Property zoned R-1, Residential-Sewered (0.292-Ac)
- Sec. 11.10(f)1 – Unless exempt under 11.10(f)1a, or reduced under 11.10(f)2, a setback of 75 feet from the ordinary high-water mark of any navigable waters to the nearest part of a building or structure shall be required for all buildings and structures
- Request is to allow for a deck and patio at less than 75' from the ordinary high-water mark of Blue Spring Lake
- No previous land use permits on file for the property
- Sewer on the property – no septic system
- No correspondence received from DNR
- Town approved on 2/13/2023

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Site inspections conducted. Observed property layout & location.

FACTS PRESENTED AT PUBLIC HEARING: See tape, minutes & file.

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DECISION STANDARDS

- A. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING A USE OF LAND OR PROPERTY WHICH WOULD VIOLATE STATE LAWS OR ADMINISTRATIVE RULES: _____

- B. SUBJECT TO THE ABOVE LIMITATIONS, AREA VARIANCES MAY BE GRANTED WHERE STRICT COMPLIANCE WITH THE ZONING ORDINANCE RESULTS IN AN UNNECESSARY HARDSHIP WHICH WOULD UNREASONABLY PREVENT THE PETITIONER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE, OR WOULD RENDER CONFORMITY WITH THE ZONING ORDINANCE UNNECESSARILY BURDENSOME, AND WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, AND THE PUBLIC INTEREST NOT VIOLATED.

- C. SUBJECT TO THE ABOVE LIMITATIONS, USE VARIANCES MAY BE GRANTED WHERE STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY IN THE ABSENCE OF A VARIANCE AND WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, AND THE PUBLIC INTEREST NOT VIOLATED.

BASED ON THE FINDINGS OF FACT, THE BOARD CONCLUDES THAT:

- 1. UNNECESSARY HARDSHIP **IS** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME (AREA VARIANCE) OR STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY (USE VARIANCE) BECAUSE Hoeft: The deck is the bigger problem and it is unsafe as it is. If it is to be useable, it needs to be extended by the additional feet.
Weis: There is not a safe access for ingress/egress, and the current deck is not very useable. Larson: The non-conforming structure does not meet the setback. A 10' deck is a reasonable size.
- 2. THE HARDSHIP OR NO REASONABLE USE **IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE Hoeft: The house and the lake are where they are. Weis: The hardship is unique to the property because the house probably existed before the current setbacks existed. Larson: Because of the location of the lake, it is too close to the setback which limits them on any addition.
- 3. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE Hoeft: They will be adding an additional access from the upstairs with the deck. The lack of response from the DNR leads us to assume they are not against this. Weis: The deck is not safe. The house being closer to the lake is consistent with the neighboring structures. Larson: The deck is not safe in its current condition, so by replacing it, it will be safe.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS **GRANTED**.

MOTION: Hoeft **SECOND:** Larson **VOTE:** 3-0 (roll call vote)

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: Dale Weis (Lm) DATE: 03-09-2023
CHAIRPERSON

BOARD DECISIONS MAY BE APPEALED TO CIRCUIT COURT. AUDIO RECORD OF THESE PROCEEDINGS IS AVAILABLE UPON REQUEST.

DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN

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FINDINGS OF FACT

PETITION NO.: 2023 V1716
HEARING DATE: 03-09-2023

APPLICANT: Alta Genetics USA, Inc

PROPERTY OWNER: SAME

PARCEL (PIN) #: 032-0815-2014-001 (N8350 High Road)

TOWNSHIP: Town of Watertown

INTENT OF PETITIONER: Allow for an addition to the existing structure at a reduced road setback & greater than 50% of the structural members & existing footprint

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.09(c) OF THE JEFFERSON COUNTY ZONING ORDINANCE.

THE FEATURES OF THE PROPOSED CONSTRUCTION AND PROPERTY WHICH RELATE TO THE GRANT OR DENIAL OF THE VARIANCE APPLICATION ARE:

- Property zoned B, Business (7.279-Ac)
- Sec.11.09(c) – A lawful non-conforming structure shall not be extended, enlarged, moved, or structurally altered in excess of fifty (50) percent of the structural members of the existing structure with additions not exceeding 50% of existing foundation footprint whether vertical or horizontal and the addition shall meet all setbacks or go no closer to any side, rear, or road setback.
- Required setback from road right-of-way = 50'
 - Existing setback from building to right-of-way = 30' 10"
- Required setback from road centerline = 85'
 - Existing setback from building to centerline = 67' 1"
- LU Permit #47555-1998 for construction of bull collection building
- LU Permit #51218-2001 and Variance V976-2001 to allow for addition to building at a reduced road right-of-way setback distance
- Sanitary permit #4773-1982 for mound
- Sanitary permit #9597-1997 for second mound system on property
- Town approved on 2/13/2023

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Site inspections conducted. Observed property layout & location.

FACTS PRESENTED AT PUBLIC HEARING: See tape, minutes & file.

