

## **JUNE 25, 2026 BOA PUBLIC HEARING STAFF REPORT**

**Appeal 3744.** Appeal by Brandon & Angela Nicholson for a variance from minimum required wetland setback Chapter 11.03(2)(a)2., Dane County Code of Ordinances, to permit driveway access to a proposed residence on a parcel being Lot 1, CSM 16603 in the SE ¼ of the SE ¼, Section 6, Town of Albion.

OWNER: Brandon & Angela Nicholson

LOCATION: West of 338 US Highway 51

ZONING DISTRICT: RR-8 Rural Residential

COMMUNICATIONS: Town of Albion: 5/11/2026 Acknowledgement; 5/28/2026 Town Clerk: "The Town of Albion has no concerns about the health, safety, and welfare, or any specific local concerns that may not otherwise be known to the Board of Adjustment. The Town Board approves this variance."

### **Facts of the Case:**

#### **Existing:**

- In 2024, The 250 acre Possin Trust farm was auctioned off to various buyers. JE Acres LLC purchased 9.9 acres north of US Highway 51 and rezoned it to RR-8 Rural Residential to be able to develop it as a residential building site.
- At the time of rezoning the applicant was informed that a Wisconsin DOT access permit would be required. Scot Hinkle from DOT provided written confirmation that access for residential use was okay and that the location "should be fine". This allowed the ZLR and Town Board the assurance they needed to proceed with the petition.
- There is an unnamed intermittent stream forming the western property line of the lot, which is part of a low lying wetland complex that flows from North to southeast to Saunders Creek.
- The property contains mapped wetlands and wetland indicators included in the Wisconsin Wetland Inventory. As part of the rezoning the applicant was required to provide a wetland delineation of the property. The delineation shows the western 2/3rds of the property to be wetland.

#### **Proposed**

- Owners propose to construct a residence on the northeast portion of the property with highway access from US Highway 51.
- The proposed homesite would be located outside of the wetland setback, satisfying the locational requirements of the ordinance.
- Due to the topography along the Highway, and the distance to the existing driveway serving the property to the east, WisDOT is requiring that the residential access be located as far west on the property as possible. The WisDOT approved access location falls within the 75 foot wetland setback and cannot be permitted without a variance.
- The owner is proposing access from the highway within the wetland setback and then immediately heading east to the point that the driveway satisfies the wetland setback before continuing north to the homesite.
- As an alternative, the owners have submitted a revised plan where the driveway enters the property and then goes north at a 45 degree angle. They ask the board to consider this design based on feedback from firefighters for the ease of accessing the property with a large apparatus. This design would not change the requested amount of relief, but would have more driveway within the required setback.

#### **Zoning Notes:**

- Under wetland zoning, a driveway is defined as a structure and is required to satisfy the 75 foot setback to a wetland greater than 2 acres.

#### **History**

- Other than the rezone petition, no history was found and no violations exist for this parcel.

**VARIANCES REQUESTED: Purpose: Allow Driveway for access to future residence**

**Setback from wetland variance:**

Minimum required setback from the boundary of a wetland required: 75 feet.

Actual Setback: 0 feet.

**VARIANCE NEEDED: 75 feet.**