



## **Town of Moultonborough Zoning Board of Adjustment**

### **Notice of Decision**

#### **Request for Variance from Articles III.B.3 & VII.E.1**

**Robert E. Ciardi, Member/Manager of Davisson Farm, LLC  
Tax Map 166, Lot 33**

**June 3, 2020**

**Applicant: Robert E. Ciardi, Member/Manager Davisson Farm, LLC  
260 Franklin Street, 16<sup>th</sup> Fl.  
Boston, MA 02110**

**Location: 276 Moultonboro Neck Road (Tax Map 166, Lot 33)**

On June 3, 2020 the Zoning Board of Adjustment of the Town of Moultonborough held a remote public hearing on the application of Robert E. Ciardi, Member/Manager Davisson Farm, LLC (hereinafter referred to as the "Applicant" and/or "Owner") for an application for a Variance from Moultonborough Zoning Ordinance Articles III.B.3 & VII.E.1 for the construction of emergency external egress stairs increasing the existing nonconforming rear setback to 2.2-ft. from the rear property line on a parcel located in the Residential/Agricultural Zoning District.

Based on the application, testimony given at the hearing, and supporting documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 276 Moultonboro Neck Road (Tax Map 166, Lot 33).
- 2) Davisson Farm, LLC is the owner of record for the lot.
- 3) Robert E. Ciardi, Member/Manager of Davisson Farm, LLC was the Applicant.
- 4) The Applicant was represented by Attorney Justin Pasay of Donahue, Tucker & Ciandella, PLLC.
- 5) The Lot is in the Residential/Agricultural Zone.
- 6) The existing site contains a single-family dwelling, a 60' x 160' metal building, and various out- buildings.
- 7) The property was surveyed by David M. Dolan Associates, PC on 26 June 2019, and a portion of the existing 60' x 160' metal building was found to be located within the required twenty (20) foot rear setback.

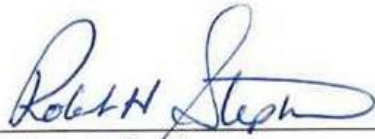
- 8) On July 17, 2019, the Zoning Board of Adjustment granted an Equitable Waiver of Dimension Requirements for an encroachment of the existing 60' x 160' barn that was constructed in 1999/2000.
- 9) The existing 60' x 160' metal building is located seven point eight (7.8) feet from the rear property line on the north corner, and approximately 30 feet from the property line on the south corner nearest the rear property line.
- 10) There were no members of the public wishing to speak on this application.
- 11) Granting the Variance would not be contrary to the public interest as the proposed additional 5.6-ft of encroachment into the setback from the rear boundary line caused by the stairs will not compromise the property or the Abutting Property's use, look or feel, will not impact the Abutting Property in any meaningful way, and will not be contrary to the general welfare and public interest.
- 12) Granting the Variance would be consistent with the spirit of the Ordinance similarly, for the same reasons stated above, and the proposed addition does not threaten the public health, safety, or welfare.
- 13) By granting the Variance, substantial justice would be done because there is no public benefit gained as it allows the Applicant to comply with the requirement from the Town Code & Compliance Officer to construct the Stairs and finish the renovation of the Building in a manner consistent with applicable building and life safety codes and the substantial investment the Applicant has made in the Property. The proposed configuration is reasonable and does not cause any harm to the abutters or the public. There would be no gain to the public benefit by denying the variance.
- 14) There was testimony by the applicant that the direct abutter had indicated that they did not have any issue with the proposed location of the egress stairway.
- 15) Granting the Variance would not diminish the value of surrounding properties as the proposed construction of the Stairs will not be visible from abutting property except for the Abutting Property, which is currently unimproved and assessed at current use value. To the extent that the Abutting Property is ever developed, development will most likely occur to the western side which is on the opposite side of the large abutting parcel, which abuts Lake Winnepesaukee. The Stairs constitute a very minor modification to the Building which has been in place for decades. There is no detrimental effect on any of the surrounding properties.
- 16) An unnecessary hardship owing to special conditions of the property which distinguished it from other properties in the area was determined to exist that include its large 17.6 acre size and the location of the existing Building in proximity to the abutting property. The proposed Stairs are a reasonable request to make reasonable use of the Building and is being required to construct emergency egress from the Mezzanine which has living space.

On June 3, 2020, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Bickford, St. Peter, DeMeo, Jenny) and none (0) opposed to grant the request for the variance for Robert E. Ciardi, Member/Manager of Davisson Farm LLC, Tax Map 166, Lot 33, for the construction

of emergency external egress stairs that increases the existing nonconforming rear setback to 2.2-ft. from the rear property line, subject to the condition that the stairway landing footing or foundation be located to be in line with the granted variance's dimensional requirement as depicted on the site plan prepared by David M. Dolan Associates, P.C. dated 29 May 2020, and further to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on June 17, 2020, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of five (5) in favor (Stephens, Bickford, St. Peter, Jenny, Hopkins) and none (0) opposed.

The decision made to Approve the variance on June 3, 2020, shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens  
Chairman, Zoning Board of Adjustment

Date: June 18, 2020

cc. Justin Pasay (by email only at [jpasay@dtclawyers.com](mailto:jpasay@dtclawyers.com))  
David M. Dolan, LLS (by email only at [ddolan@dolansurvey.com](mailto:ddolan@dolansurvey.com))  
Map Lot Document File