



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Equitable Waiver of Dimensional Requirements

Robert E. Ciardi, Member/Manager of Davisson Farm, LLC

Tax Map 166, Lot 33

July 18, 2019

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

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

On July 17, 2019 the Zoning Board of Adjustment of the Town of Moultonborough opened a 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 an Equitable Waiver of Dimensional Requirements from Moultonborough Zoning Ordinance Article III (B)(3) to retain an existing 60' x 160' metal building built in 1999/2000 that encroaches into the rear setback on the property 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:

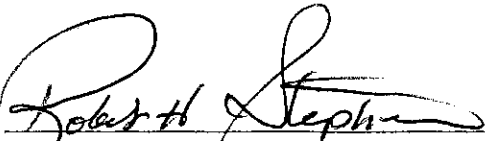
- 1) The property is located at 276 Moultonboro Neck Road (Tax Map 166, Lot 33).
- 2) Davisson Farm, LLC is the owner of record for the lot.
- 3) Robert E. Ciardi, Member/Manager of Davisson Farm, LLC was the Applicant.
- 4) The Applicant was represented by Attorney Christopher Boldt of Donahue, Tucker & Ciandella, PLLC.
- 5) The Lot is located in the Residential/Agricultural Zone.
- 6) The existing site contains a single-family dwelling, 60' x 160' metal buildings and various out-buildings.
- 7) On May 21, 1999 the Code Enforcement Officer issued Building Permit #2386 for the construction of a 60' x 160' barn, which was not to encroach on any setbacks.
- 8) The existing 60' x 160' metal building was constructed in 1999/2000.

- 9) The property was surveyed by David M. Dolan Associates, PC 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.
- 10) The existing 60' x 160' metal building is located approx. seven (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.
- 11) There were no members of the public wishing to speak on this application.
- 12) The violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, for nearly nineteen (19) years.
- 13) The violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority.
- 14) The physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property.
- 15) Due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.

On July 17, 2019, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Bickford, DeMeo, Jenny, Hopkins) and none (0) opposed to grant the request for an Equitable Waiver of Dimensional Requirements, and further, to close the Public Hearing. The Board moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at their next meeting.

The Board of Adjustment, on August 7, 2019, 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 four (4) in favor (Stephens, Bickford, DeMeo, Jenny) and one (1) abstention (St. Peter).

The decision made to grant the equitable waiver on July 17, 2019, 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 8/9/19