

**Notice of DRB Decision  
Town of Stowe Zoning Office  
PO Box 730  
Stowe VT 05672**

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You recently received approval for the subdivision listed below from the Development Review Board. Attached is a copy of the DRB decision for your records. All final subdivisions must be signed by the DRB Chair and recorded within 180 days from approval. Please note any conditions of approval that must be met before the plan can be recorded. You are also required to obtain separate zoning approvals and/or permits for any new construction on the newly created lots. A fee of \$25/page is required for recording.

Please contact the Planning and Zoning Office at 253-6141 if you have any questions.

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**APPLICATION INFORMATION**

Project Number 6923  
Application Date 6/14/2022  
Physical Location 5039 MOUNTAIN RD  
Map ID 12-056.010 Tax ID 26010-100  
Project Description LOT LINE ADJUSTMENT WITH NEIGHBORING NW PROPERTY TO SWAP 0.5 ACRES, PLUS PURCHASE OF 0.5 ACRES  
Owner LYNDALL PHYLLIS HEYER SCOTT DORWART  
Applicant LYNDALL PHYLLIS HEYER & SCOTT DORWART  
Applicant Address 218 SKI INN LANE  
STOWE VT 05672

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**APPROVALS ON RECORD**

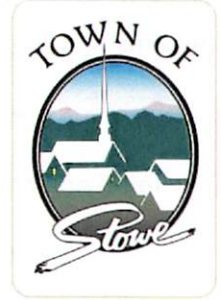
Action Taken	Date	End of Appeal Period	Expiration Date
DRB DECISION	8/16/2022	9/15/2022	9/15/2025

*Sarah McShane*

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Zoning Office

**TOWN OF STOWE**  
**DEVELOPMENT REVIEW BOARD**  
**Findings of Fact & Conclusions of Law**



**PROJECT:** 6923

**SUBJECT PROPERTIES:** 218 Ski Inn Lane (#12-056.010) &  
4821 Mountain Road (#11-093.000)

**APPLICANT:**  
Elle Anderson  
218 Ski Inn Lane  
Stowe, VT 05672

**PROPERTY OWNER(S):**  
Lyndall Heyer & Scott Dorwart  
218 Ski Inn Lane  
Stowe, VT 05672

Nancy Wagner & Linda Bates  
Po Box 3384  
Stowe, VT 05672

**APPLICATION:**

The property owners Lyndall Heyer & Scott Dorwart and Nancy Wagner & Linda Bates on behalf of the Applicant, Elle Anderson (herein collectively referred to as the "Applicant"), requests final subdivision approval for a boundary line adjustment between two (2) adjacent parcels shown on Tax Map 12 as parcel # 056.010 and on Tax Map 11 as parcel # 093.000. The Applicant proposes a boundary line adjustment between the two (2) adjoining parcels, consisting of  $\pm 0.50$  acres from Heyer/Dorwart to Wagner/Bates and  $\pm 1.0$  acres from Wagner/Bates to Heyer/Dorwart. As proposed, Heyer/Dorwart parcel will increase by  $\pm 0.5$  acres; the Wagner/Bates will decrease by  $\pm 0.5$  acres.

Although the proposed boundary line adjustment does not exceed 20% in total area and is eligible for administrative review as a minimal alteration under Section 3.1(4), the Zoning Administrator referred it to the Development Review Board (DRB), as allowed under Section 3.4(1), for review under the following General Planning Standards -Section 5.1- (10) Lot Configuration. There are no known or identified past local subdivision approvals for these lots as they likely were created prior to the adoption of subdivision regulations. The Lyndall Heyer & Scott Dorwart parcel is located within the Rural Residential 5 (RR5). The Nancy Wagner & Linda Bates parcel is a split lot, as defined under the Regulations, with lands located within both the Rural Residential 5 (RR5) and the Upper Mountain Road (UMR) district. The application was reviewed by the DRB under the Town of Stowe Subdivision Regulations (effective July 16, 2012) and the Town of Stowe Zoning Regulations (effective June 13, 2022). The DRB's procedural history and relevant findings are attached.

**REVIEW PROCESS:** *(Application materials, hearing notices, meeting minutes on file at the Stowe Town Office.)*

An application for final subdivision review was filed by Applicant Elle Anderson and received by the Zoning Administrator on June 9, 2022. The application was accepted as administratively complete by Town of Stowe Zoning Administrator Sarah McShane and referred to the DRB for a public hearing. A public hearing of the DRB was scheduled for August 2, 2022 and warned by the Zoning Administrator in accordance with Section 2.14 of the regulations and 24 V.S.A. §4464. The hearing notice was published in the Stowe Reporter on July 14, 2022.

The public hearing to consider the application convened on August 2, 2022 with a quorum of the DRB present. No *ex parte* communications or conflicts of interests were reported. The hearing was held in-person at the Stowe Town Office with remote participation available via 'Zoom'. Board members participating in the August 2<sup>nd</sup> review included: Drew Clymer, Tom Hand, Leigh Wasserman, Peter Roberts, Michael Diender, Mary Black, and David Kelly.

The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

- Scott Dorwart, 218 Ski Inn Lane, Stowe, VT 05672

The following materials were submitted in support of the application and entered into the hearing record:

1. Town of Stowe Development Applications, dated 7/12/2022 & 7/13/2022;
2. Boundary Line Adjustment Plan prepared by Little River Survey Company, LLC, dated June 2022;
3. Draft legal documents/Boundary Line Adjustment Agreement.

The DRB adjourned the hearing that evening, following the submission of testimony and evidence, marking the start of the 45-day period for the issuance of written findings and a decision.

**FINDINGS OF FACT & CONCLUSIONS OF LAW-** During its review of the application, the DRB made the following Findings of Fact:

The Applicant's request for final subdivision was reviewed by the DRB for conformance with applicable requirements including the following:

Town of Stowe Zoning Regulations (effective June 13, 2022)

- Section 2- Administration and Enforcement
- Section 5- Zoning Districts
- Section 6- Uses, Dimensional Requirements and Density

Town of Stowe Subdivision Regulations (effective July 16, 2012)

- Section 2 – General Provisions
- Section 3- Administration and Enforcement
- Section 4- Submission Requirements
- Section 5- Planning and Design Standards

**DIMENSIONAL REQUIREMENTS:**

1. **Zoning District.** The Lyndall Heyer & Scott Dorwart parcel is located within the Rural Residential 5 (RR5) zoning district. The Nancy Wagner & Linda Bates parcel is a split lot, as defined under the Regulations, with lands located within both the Rural Residential 5 (RR5) and the Upper Mountain Road (UMR) district, as shown on the Official Town of Stowe Zoning Map (effective June 13, 2022).
2. **Lot Area, Lot Width.** The Applicant proposes a boundary line adjustment between two (2) adjacent parcels of land. Following the boundary line adjustment, the Lyndall Heyer & Scott Dorwart parcel will be increased by ±0.5 acres becoming a ±13.6-acre parcel. The Nancy Wagner & Linda Bates parcel will decrease in area by ±0.5 acres resulting in an approximate ±20.4-acre parcel. Following the boundary line adjustment, both lots will contain more than the minimum lot area requirement for the district in which they are located.

The minimum required lot width in the RR5 district is 300 ft. The minimum required lot width in UMR is 200'.

Lot width is defined as "*The width of a lot measured at right angles to its lot depth at the minimum front yard setback.*" The proposed boundary line adjustment will not impact the existing lot width of either lot involved.

3. **Setbacks.** Setbacks within the RR5 district are as follows: Front 70 ft; Side 75 ft; Rear 75 ft. Setbacks within the UMR district are as follows: Front 50 ft; Side 50 ft; Rear 50 ft. Setback is defined as *"The shortest distance between the nearest portion of a structure on a lot and the edge of a road right-of-way, a shoreline, or a property line. This open space defined by the setback shall be referred to as the front yard, side yard, or rear yard."* The required setbacks are not labeled on the plan. The existing dwelling on the Heyer & Dorwart parcel will maintain setbacks following the boundary line adjustment. The Wagner & Bates parcel is not shown in its entirety.
4. **Use.** The involved parcels each contain a single-family dwelling.
5. **Density.** Following the boundary line adjustment, the Lyndall Heyer & Scott Dorwart parcel will be a ±13.6-acre parcel. The Nancy Wagner & Linda Bates parcel will become ±20.4-acre parcel. In 2002 the Wagner & Bates parcel transferred density to the Stoweflake (see book 463/page 049), retaining ±12.9 acres of development rights. Following the boundary line adjustment sufficient density will still remain to support the single-family dwelling on the Wagner/Bates parcel.

**Conclusion:** The DRB concludes the proposed boundary line adjustment conforms to the applicable district dimensional requirements.

## **SUBDIVISION REGULATIONS**

### **SECTION 5.1 – GENERAL PLANNING STANDARDS:**

#### **6. Section 5.1(10) – Lot Configuration:**

- a. Flag lots, elongated lots, and other odd-shaped lots which include narrow strips of land are prohibited unless the Board finds the configuration is appropriate given the existing topography and natural features, existing development, or the existing configurations of internal or adjacent lots.
- b. The proposed boundary line adjustment results in an odd- shaped boundary.
- c. During the hearing, the property owner testified that the the boundary is defined due to existing topography and natural features. He described the lay of the land which includes steep banks, terrain, natural ravines, and a brook. He testified that although the lot configuration may appear odd-shaped on a plan, the proposed property lines follow natural features and topography and makes sense based on the land characteristics.

**Conclusion:** Based on the above findings, the Board concludes the proposed lot configuration is odd-shaped, however is appropriate given the existing topography and location of natural features.

## **DECISION**

On a motion by Tom Hand, seconded by Mary Black, the Development Review Board hereby approves the Applicant's request for final subdivision approval for a boundary line adjustment (Project 6923) between parcels #12-056.010& 11-093.000 as described in the applications dated 7/12/2022 & 7/13/2022 and associated supporting materials subject the following conditions of approval:

1. The project shall be completed and maintained according to the project plans hereby approved. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to such change being made, for a determination whether an amendment is required. The Zoning Administrator is granted the authority to review and administratively approve non-material modifications to the approved plans upon finding that the proposed change or alteration would not have affected the decision made or any conditions if it had been included in the plans as approved.

The approved plans are as follows:

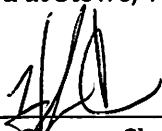
- a. Town of Stowe Development Applications, dated 7/12/2022 & 7/13/2022;
  - b. Boundary Line Adjustment Plan prepared by Little River Survey Company, LLC, dated June 2022;
  - c. Draft legal documents/Boundary Line Adjustment Agreement.
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
  3. Pursuant to 24 VSA Chapter 117, the subdivision survey plat shall be submitted for recording in the land records of the Town of Stowe within 180 days of the date of this approval, or the approval shall expire. The final survey plat as recorded shall be prepared in accordance with Section 4.3 of the Stowe Subdivision Regulations and shall include the following notations:
    - a. *"This plat is subject to the terms and conditions of subdivision approval by the Stowe DRB per the Subdivision Regulations of the Town of Stowe. The terms and conditions of the approval and related information are on file in the Stowe Zoning Office".*
  4. The Applicant shall file the final survey plat, signed by the Chair or other authorized representative of the Development Review Board, with the Stowe Town Clerk in accordance with the requirements of 27 V.S.A. Chapter 17 and Section 4.3 of the Stowe Subdivision Regulations. No land development associated with this subdivision shall be commenced until such time as the survey plat has been duly signed and filed in the Land Records. Two paper copies of said plat shall be filed with the Zoning Administrator.
  5. Monuments shall be placed on all subdivided parcels in conformance with the Rules of the Board of Land Surveyors.
  6. These conditions of approval shall run with the land and are binding upon and enforceable against the Applicant and his successors. By acceptance of this approval, the Applicant agrees to allow authorized representatives of the Town of Stowe to access the property subject to this approval, at reasonable times, for purposes of ascertaining compliance with the conditions of approval.

Voting in favor: Drew Clymer, Tom Hand, Leigh Wasserman, Peter Roberts, Michael Diender, Mary Black, and David Kelly

Voting to deny: None

Motion PASSED 7-0

Dated at Stowe, Vermont this the 16 day of August 2022

By:   
Drew Clymer, Chair

**NOTICES:**

1. In accordance with 24 V.S.A. § 4449(e), applicants are hereby notified that state permits also may be required prior to land subdivision or construction. The applicant should contact the DEC Permit Specialist for District #5 (802-505-5367) to determine whether state permits are required.
2. The applicant or another interested person may request reconsideration of this decision by the Development Review Board, including associated findings and conditions, within 30 days of the date of this decision by filing a notice of appeal that specifies the basis for the request with the Secretary of the Development Board. Pursuant to 24 V.S.A. § 4470, the board may reject the request within 10 days of the date of filing if it determines that the issues raised on appeal have already been decided or involve substantially or materially the same facts by or on behalf of the appellant.
3. This decision may also be appealed to the Environmental Division of the Vermont Superior Court by the applicant or another interested person who participated in the proceeding before the Development Review Board. Such appeal must be taken within 30 days of the date of this decision, pursuant to 24 V.S.A. § 4471 and Rule 5(b) of the Vermont Rules for Environmental Division Court Proceedings.
4. In accordance with 24 V.S.A. § 4455, on petition by the municipality and after notice and opportunity for hearing, the Environmental Division may revoke a permit based on a determination that the permittee violated the terms of the permit or obtained the permit based on misrepresentation of material fact.