



**Notice of DRB Decision**  
**Town of Stowe Planning and Zoning Department**  
**PO Box 730**  
**Stowe VT 05672**

You recently received approval for the project listed below from the Development Review Board. Attached is a copy of the DRB decision for your records. Any conditions of approval required to issue a zoning permit have been met and your zoning permit will be issued without any further action required from you.

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

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**APPLICATION INFORMATION**

|                     |                                       |        |           |
|---------------------|---------------------------------------|--------|-----------|
| Project Number      | 7240                                  |        |           |
| Application Date    | 8/28/2023                             |        |           |
| Physical Location   | 866 RIVER RD                          |        |           |
| Map ID              | 07-299.010                            | Tax ID | 08033-020 |
| Project Description | PRELIMINARY & FINAL 2-LOT SUBDIVISION |        |           |
| Owner               | NELSON S RILEY III JEANNINE N RILEY   |        |           |
| Applicant           | NELSON S RILEY III NELSON RILEY IV    |        |           |
| Applicant Address   | 866 RIVER RD<br>STOWE VT 05672        |        |           |

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**APPROVALS ON RECORD**

| Action Taken | Date       | End of Appeal Period | Expiration Date |          |
|--------------|------------|----------------------|-----------------|----------|
| DRB DECISION | 11/21/2023 | 12/21/2023           | 12/21/2025      | APPROVED |

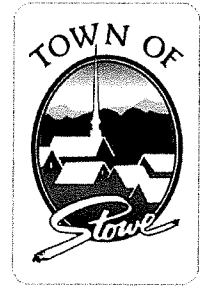
*Sarah McShane*

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Dept. of Planning Zoning

**TOWN OF STOWE  
DEVELOPMENT REVIEW BOARD**

Findings of Fact & Conclusions of Law



**PROJECT#** 7240

**SUBJECT PROPERTY** 866 River Road, Stowe, VT (#07-299.010)

**PROPERTY OWNER:**

Nelson Riley III & Jeannine Riley  
866 River Road  
Stowe, VT 05672

**APPLICANT:**

Nelson Riley IV  
866 River Road  
Stowe, VT 05672

**APPLICATION**

The Applicant, Nelson Riley IV, on behalf of property owners Nelson Riley III & Jeannine Riley (herein referred to as the "Applicant"), requests combined preliminary and final subdivision review of a 2-lot subdivision. The existing  $\pm 5.86$  acre property will be subdivided into two lots as follows: Lot 1 being  $\pm 3.412$  acres and Lot 2 being  $\pm 2.030$  acres. Lot 1 contains an existing single-family dwelling, accessory dwelling unit, garage, and workshop with direct access off River Road. A secondary existing driveway off River Road provides access to a second single-family dwelling currently under construction. As proposed this secondary dwelling will be located on a separate lot, Lot 2. Footnote #3 under Table 6.3 allows for a second single-family dwelling on a single parcel when the parcel is equal to or greater than double the minimum acreage for the district, and that the dwellings be separated by twice the side yard setback for the district. Project #7064 permitted the second single-family dwelling on proposed Lot 2, following review and documented conformance with said standards. The project is within the Rural Residential 2 (RR2) zoning district. The subject property is Lot A2 of the previously approved Stewart P. & Reba R. Bouchard Two Lot Subdivision, recorded March 16, 2011. The application has been reviewed by the Development Review Board (DRB) under applicable standards of the Town of Stowe Subdivision Regulations (effective July 16, 2012) and the Town of Stowe Zoning Regulations (effective June 13, 2022) for the purpose of combined preliminary and final subdivision review. 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 preliminary/final subdivision review was filed by Applicant Nelson Riley IV on August 28, 2023. 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 November 7, 2023 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 October 19, 2023.

The public hearing to consider the application convened on November 7, 2023 at the Akeley Memorial Building, 67 Main Street, with remote participation available through Zoom. A quorum of the DRB was present. No *ex parte* communications or conflicts of interests were reported. Members who participated in the review included: Drew Clymer, Tom Hand, David Kelly, Mary Black, Peter Roberts, Patricia Gabel, and Will Ardolino. 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.

**INTERESTED PERSONS**

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

1. Nelson Riley IV, 866 River Road, Stowe, VT 05672

### THE RECORD

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

1. Town of Stowe Development Application, dated 08/28/2023;
2. 'Utility Site Plan', Nelson Peter & Jeannine Riley subdivision, Sheet C3-01, dated 08/18/2023.

### FINDINGS OF FACT & CONCLUSIONS OF LAW

*During its review of the application, the DRB made the following Findings of Fact and Conclusions of Law*

The Applicant's request for a preliminary/final two-lot subdivision was reviewed by the DRB for conformance with the applicable requirements, including the following:

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

- Section 2- Administration and Enforcement
- Section 3- General Regulations
- Section 4- Specific Use Standards
- 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 subject parcel is located within the Rural Residential 2 (RR2) zoning district.
2. **Lot Area, Lot Width.** The minimum lot area in the RR2 district is two (2) acres; the minimum required lot width is 200 feet. The Applicant proposes a 2-lot subdivision as follows: Lot 1 being  $\pm 3.412$  acres and Lot 2 being  $\pm 2.030$  acres. The lot widths are as follows: Lot 1 approximately  $\pm 463.5$  feet and Lot 2 approximately  $\pm 250$  feet.
3. **Setbacks.** Setbacks within the RR2 district are as follows: Front 60 ft; Side 50 ft; Rear 50 ft. With the exception of setback lines off the new property line between Lots 1 and 2, all setback lines are depicted on the plan. All existing buildings appear to meet minimum setback requirements.
4. **Use.** Lot 1 contains an existing single-family dwelling, an accessory dwelling unit, and related accessory structures. Lot 2 contains a single-family dwelling currently under construction. Single family dwellings are permitted uses in the RR2 district
5. **Density.** In the RR2 district, density is allowed at a rate of one (1) single-family dwelling per two (2) acres.

**Conclusion:** Based upon the above findings, the DRB concludes the proposal meets applicable dimensional requirements for the RR2 district. As conditioned, the final subdivision plan must identify and label the setback lines on both Lot 1 and Lot 2.

**SUBDIVISION REGULATIONS -SECTION 5.1 – GENERAL PLANNING STANDARDS:**

6. **Section 5.1(1) – Character of Land for Subdivision:** Prior to the approval of a subdivision plat, the subdivider has the responsibility to satisfy the Board that the land to be subdivided is of such a character that it can be used for the intended purposes without undue adverse impact on public health or safety, or the environment or, neighboring properties or the rural and historic character of the community as outlined in the regulations.
- a. Proposed Lot 1 contains an existing single-family dwelling, a detached accessory dwelling unit, accessory structures (garage, workshop) and related site improvements.
  - b. Proposed Lot 2 contains a single-family dwelling currently under construction.
  - c. As proposed, the lots are to be served by on-site wastewater disposal systems and drilled wells/potable water supply.
  - d. The proposed lots sit amongst other similarly sized rural residential lots.

**Conclusion:** Based upon the above findings, the Board concludes the proposal conforms to Section 5.1(1), Character of Land for Subdivision.

7. **Section 5.1(2) – Natural and Scenic Features:** All subdivisions shall be designed to prevent undue adverse impact on: brooks, streams, water bodies, ground water resources and wetlands; prime agricultural soils, farmland resources and scenic meadowland; important forest resources; aesthetic resources and scenic vistas, including views onto and arising from subject property.
- a. Aside from a man-made pond on proposed Lot 1, there are no water bodies or ground water resources or wetlands; farmland resources and scenic meadowland; important forest resources; aesthetic resources and scenic vistas that will be impacted by this project.

**Conclusion:** Based upon the above findings, the Board concludes the proposal conforms to Section 5.1(2) – Natural and Scenic Features.

8. **Section 5.1(3) – Protection of Significant Wildlife Habitat and Natural Communities:** All mapped significant wildlife habitat areas are required to be shown on subdivision site plans. If any portion of a proposed subdivision is within an identified significant wildlife habitat area the DRB may require the submission of a wildlife habitat assessment, prepared by a wildlife biologist or comparable professional, to identify potentially impacted habitat and provide recommended management strategies.
- a. According to the ANR Natural Resources Atlas, the proposed subdivision does not contain any significant natural communities, natural communities, wetlands, or deer wintering areas. A Level 5 (out of 10) priority habitat block exists across the entire property.

**Conclusion:** Based on the above finding, the Board concludes the proposal, as conditioned, will not impact any identified significant Wildlife Habitat and Natural Communities.

9. **Section 5.1(4) – Historic Resources and Community Character:** Subdivisions are required to minimize undue adverse impact on historic sites and the character of the Town. Subdivisions in rural areas shall result in minimum undue adverse impact on the rural landscape as characterized

by open fields, forested mountains and hillsides. The rural character exists due to the scenic vistas, large uninterrupted forested areas, open fields along public roads, and limited development along roads. Individual lots and building zones shall be delineated so as to mitigate the visual impact of new development on views from existing roadways, adjacent properties, and offsite vantage points.

- a. The subject parcel is within a rural area.
- b. There are no known or identified historic sites on the subject parcel.
- c. The proposed lots sit amongst other similarly sized rural residential lots.
- d. The proposed subdivision will not adversely impact historic sites or the character of the Town.

**Conclusion:** Based on the above findings, the Board concludes the proposal is in conformance with Section 5.1(4), Historic Resources and Community Character.

10. **Section 5.1(5) – Reserved Strips:** No privately-owned reserved strip which controls access to any part of the subdivision or to any other parcel of land from any street or from any land dedicated to public use shall be permitted.

- a. No reserved strips are proposed. Both new lots will continue to use their existing driveways off River Road, a town highway.

**Conclusion:** Based on the above findings, the Board concludes the proposed subdivision does not involve any reserved strips as noted under Section 5.1(5).

11. **Section 5.1(6) – Screening and Landscaping:** The DRB is authorized to require the planting or preservation of trees or other vegetation to provide visual screening of development or to otherwise soften and/or lessen the impact of development on natural features and scenic vistas. Street trees along public or private roadways may also be required in order to establish a canopy effect in developed areas and where existing street trees are already present in the vicinity. The size, type, or location of such trees shall depend on the particular land parcel. Section 4.6 (Landscaping Standards) of the Zoning Regulations shall be used as a guideline for any required landscaping. A maintenance plan of all existing and proposed landscaping shall be prepared and submitted for review.

- a. No new landscaping is proposed. Both lots are residentially developed.

**Conclusion:** Based upon the above findings, the Board concludes the proposal conforms to applicable requirements of Section 5.1(6) – Screening and Landscaping.

12. **Section 5.1(7) – Pedestrian Access:** The Board is authorized to require rights-of-way to facilitate pedestrian circulation within the subdivision and to ensure access to adjoining properties or uses.

- a. The project is in a rural area of town where pedestrian improvements are limited. No pedestrian improvements are proposed.

**Conclusion:** Based on the above findings, the Board concludes no pedestrian improvements are proposed or required to serve the proposal.

13. **Section 5.1(8) – Traffic:** The regulations require traffic to be generated by the proposed subdivision not to create unreasonable traffic congestion or cause unsafe conditions regarding use of existing roadways. To satisfy this standard, the Board is authorized to request the preparation of a traffic impact study to address all concerns relative to traffic impact and safety.

- a. The proposed lots are already residentially developed each containing single-family dwellings and related accessory structures. The subdivision itself will not create unreasonable traffic congestion or unsafe conditions.

**Conclusion:** Based on the above findings, the Board concludes the proposal will not create unreasonable traffic congestion or cause unsafe conditions regarding use of existing roadways.

14. **Section 5.1(9) – Municipal Facilities:** The Applicant must demonstrate that the proposed subdivision will not create an undue burden on municipal facilities or create an unreasonable demand for municipal services.

- a. Staff requested comments on the proposal from respective Town departments including the Department of Public Works, Fire Department, Stowe Electric, Police Department, EMS, and Parks and Recreation.
- b. No Municipal Department review forms returned indicated that the proposed development would have any adverse impact on existing or planned community facilities and services.

**Conclusion:** Based upon the above findings, the Board concludes the proposal will not create an undue burden on municipal facilities or create an unreasonable demand for municipal services.

15. **Section 5.1(10) – Lot Configuration:** 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.

- a. The proposed lots are of regular shape.

**Conclusion:** Based on the above finding, the Board concludes the proposed lot configuration is of regular shape and conforms with Section 5.1(10).

16. **Section 5.1(11) – Building Zone:** The Board must find that the proposed subdivision provides adequate building sites for each proposed lot. Such sites may be restricted to a specific building zone, to be depicted on the plat, located and sized to ensure compliance with all of the provisions of Section 5 of the regulations.

- a. The site plan shows applicable setback lines per the RR2 Zoning District, except along the proposed lot line that will separate Lots 1 & 2.

**Conclusion:** Based on the above finding, and as conditioned, the Board concludes the proposed subdivision will depict applicable setbacks, or a building zones, on the final recorded plan. No new development is proposed.

17. **Section 5.1(12) – Fire Protection Facilities:** The regulations require adequate water storage or distribution facilities for fire protection to be available. This may include the installation of ponds

and dry fire hydrants and the extension of public water with fire hydrants. Construction of driveways and roads shall be in general compliance with the Stowe Fire Department Construction Standards where applicable.

- a. No comments were received from the Fire Department. The new lots are already developed.

**Conclusion:** Based on the above findings, the Board concludes the proposed subdivision, as conditioned, will conform to Section 5.1(12).

**18. Section 5.1(13) – Disclosure of Subsequent Development Plans:** Whenever a subdivider submits a proposal for development on only a portion of a parcel, the Board is authorized to require a general indication of the intended uses of the remaining portion of land. Such an indication shall include access, type of use, intensity of use, and phasing. The Board is authorized to require the execution of a development agreement between the applicant and Town which ensures the ongoing integration of future development with each phase of subdivision or may require a note on the plat restricting future development of the remaining land without further review by the Board.

- a. The new lots are already residentially developed.

**Conclusion:** Based on the above findings, the Board concludes the proposed subdivision, as conditioned, will conform to Section 5.1(13).

**19. Section 5.1(14) – Private Enforcement Mechanisms:** As a condition of subdivision approval, the Board may require the formation of a homeowner’s association, consisting of the owners of all properties within the subdivision, to ensure the continual maintenance of shared driveways and other shared facilities. The Board shall require that such enforcement mechanisms be recorded before any zoning permits are issued.

- a. Each lot will have on-site wastewater disposal systems.
- b. Lot 1 obtains water from a drilled well located on Lot 2. The subdivision plan includes a 20’ wide waterline easement across Lot 2 for the benefit of Lot 1.
- c. A new well on Lot 2 has been drilled for the new dwelling under construction.
- d. Both lots will continue to utilize their existing driveways off River Road (public).

**Conclusion:** Based upon the above findings, the Board concludes the proposed subdivision, as conditioned, conforms to Section 5.1(14).

**20. Section 5.3 – Open Space and Cluster Development:** Does not apply.

**21. Section 5.5 – Utilities and Stormwater Management:** All subdivisions shall make adequate provisions for stormwater and required utilities. Section 5.5 (2) states *“The DRB is authorized to require the underground installation of power and telephone lines wherever it is appropriate to maintain and protect the visual character and property values of an area or neighborhood. In addition, the DRB may place restrictions on the location and design of utility transformers, translosures, meter boards and related equipment in order to minimize adverse visual impact.”*

- a. The Applicant estimates that there will be approximately 10,000 sf of impervious surface, total, for both lots combined.
- b. The Applicant testified that the utilities will be located underground.

**Conclusion:** Based upon the above findings, the Board concludes the proposed subdivision will have adequate provisions for stormwater and required utilities.

### DECISION

On a motion by Tom Hand, seconded by Mary Black, the DRB hereby approves the Applicant's request for preliminary/final approval of a two-lot subdivision at 866 River Road, as outlined in the application dated August 28, 2023 and supplemental materials, subject to the following conditions of approval:

1. The project shall be completed, operated, and maintained in accordance with (a) the conditions of this approval and (b) the permit application, plans, and exhibits on file in the Town of Stowe Zoning Office and other material representations. Any change to the plans or the proposed use of the property shall be brought to the Zoning Administrator's attention, prior to its enactment, for a determination if 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 had been included in the plans as approved.

The approved plans include:

1. Town of Stowe Development Application; dated 08/28/2023;
2. 'Utility Site Plan', Nelson Peter & Jeannine Riley subdivision, Sheet C3-01, dated 08/18/2023;
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
3. The final subdivision plan shall be revised to depict the minimum required setback lines, as measured from the lot line separating Lots 1 and 2. The area shall be identified and labeled as a building zone on the recorded plat.
4. No subdivision of land shall be made, and no land in any subdivision shall be sold or offered for sale, and no street or utility construction shall be started until a subdivision plat, prepared in accordance with the requirements of the regulations, has been approved as per these regulations, and has been recorded in the office of the Stowe Town Clerk.
5. 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".*
6. 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.



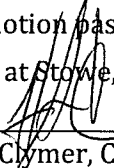
7. Monuments shall be placed on all subdivided parcels in conformance with the Rules of the Board of Land Surveyors.
8. Any future structures/buildings constructed on either lot shall be located within designated building zones. No additional DRB approval is needed for structures, uses or improvements located within a building zone which otherwise require only administrative approval under the regulations.
9. The electrical and other utilities to serve Lot 2 shall be installed below ground, unless otherwise approved by the Development Review Board.
10. Site construction shall adhere to the standards outlined in Section 3.12(2)(A-E) including:
  - a) The amount of soil exposed at any one time must be kept to a minimum.
  - b) Areas of exposed soil that are not being actively worked, including soil that has been stockpiled, must be stabilized.
  - c) Stormwater shall be controlled during construction to minimize soil erosion and transport of sediment to surface waters.
  - d) Soil disturbance shall not be allowed between the period of October 15 to April 15 unless adequate erosion control measures are provided as outlined in Section 3.12(2)(A-C) taking into consideration winter and spring conditions.
  - e) The stormwater drainage system must be continuously maintained to ensure that existing drainage patterns are not altered in a manner to cause an undue adverse impact on neighboring properties, town highways or surface waters.
11. 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 and his successors agree 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, David Kelly, Mary Black, Peter Roberts, Patricia Gabel, and Will Ardolino

Voting to deny: None

The motion passed, 7-0.

Dated at Stowe, Vermont this the 21 day of November 2023

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 request for reconsideration that specifies the basis for the request with the Secretary of the Development Review 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 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.