



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

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.

APPLICATION INFORMATION

| | | | |
|---------------------|---|--------|-------|
| Project Number | 7528 | | |
| Application Date | 12/18/2024 | | |
| Physical Location | 26 TINKER LN | | |
| Map ID | 09-014.000 | Tax ID | 04085 |
| Project Description | PROPOSED 3-LOT PRD ON ELIZABETHS LN IN RR2. INCLUDING A PARTIAL REDUCTION OF DOUBLE SETBACKS. | | |
| Owner | PERCY PAUL E TRUSTEE PERCY FARM TRUST | | |
| Applicant | PAUL PERCY PERCY PAUL E TRUSTEE | | |
| Applicant Address | 29 PERCY HILL RD STOWE VT 05672 | | |

APPROVALS ON RECORD

| Action Taken | Date | End of Appeal Period | Expiration Date |
|----------------|-----------|----------------------|---------------------------------------|
| INCOMPLETE APP | 1/6/2025 | | EMAILED APPLICANT 1/6/25 |
| OTHER | 1/31/2025 | | COMPLETE, REFER TO DRB |
| DRB DECISION | 6/17/2025 | 7/17/2025 | 7/17/2027 APPROVED WITH CONDITIONS |

Sarah McShane

Dept. of Planning and Zoning

TOWN OF STOWE DEVELOPMENT REVIEW BOARD

Findings of Fact & Conclusions of Law



PROJECT# 7528

SUBJECT PROPERTY Lot 3 – Elizabeths Lane (#09-014.000)

PROPERTY OWNER/APPLICANT

Paul Percy
29 Percy Hill Road
Stowe, VT 05672

APPLICATION

The Applicant/Property Owner, Paul Percy (herein referred to as the “Applicant”), requests final subdivision review of a two-lot (re)subdivision. The Applicant proposes to subdivide the existing ±6.06-acre undeveloped parcel as shown on Tax Map # 09 Parcel # 014.000 into two (2) residential lots. The Applicant initially submitted a proposal for a three-lot Planned Residential Development (PRD), which included requests for dimensional waivers. However, during the review process, the project was revised to reduce the number of proposed lots to two (2) and redesigned in a way that eliminates the need for any dimensional waivers. The Applicant is no longer pursuing a PRD and is instead seeking approval for a traditional subdivision.

The project is generally described as the (re)subdivision of the previously approved Lot 3 of the ‘Paul Percy Three-Lot Subdivision’ approved by the Development Review Board (DRB) in 2006 under Project #3121. The Applicant now proposes to (re)subdivide the parcel into two (2) lots as follows: Lot 3A being ± 4.06 acres and Lot 3B being ±2.00 acres. At the time of original subdivision approval, Lot 3 was approved as a deferred lot which required by condition of approval “no development can occur on Lot 3 without further review and approval” of the DRB. The property boundaries and area of Lot 3 were further modified and reduced to the present ±6.06 acres through a boundary line adjustment approved under Project # 4003- a minimal alteration. The subject property is located in the Rural Residential 2 (RR2) district and is accessed from Elizabeths Lane, a privately owned and maintained roadway. The northern property boundary coincides with the shared boundary between the Towns of Morristown and Stowe. The application was reviewed by the DRB under the Town of Stowe Subdivision Regulations (effective through July 16, 2012) and the Town of Stowe Zoning Regulations (effective January 31, 2024) (the “Regulations”). 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.)

A development application was received by the Town of Stowe Department of Planning & Zoning on December 18, 2024. The application was initially deemed incomplete by Zoning Administrator Sarah McShane and returned to the Applicant for additional information. Upon submission of additional information, the application was deemed administratively complete and referred to the DRB for a public hearing. A public hearing of the DRB was scheduled for April 1, 2025 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 March 13, 2025.

The public hearing to consider the application convened on April 1, 2025, with a quorum of the DRB present. The hearing was held at the Stowe Town Office, with remote participation available via Zoom. No *ex parte* communications or conflicts of interests were reported. Members participating in the April 1st review included: Drew Clymer, Tom Hand, Mary Black, Peter Roberts, David Kelly, Andrew Volansky, and Lynn Altadonna. The DRB continued the hearing to a time and date certain of June 3, 2025 to give the Applicant the opportunity to amend the project plans. The same members participated in the continued public hearing on June 3rd; however, Tom Hand was unable to attend and instead reviewed the hearing recording and submitted materials. 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.

PARTICIPANTS & INTERESTED PERSONS

In accordance with 24 VSA §4471, an interested person who has participated in a DRB proceeding may appeal a DRB decision rendered in that proceeding to the Vermont Superior Court Environmental Division. The following persons attended and participated in the hearing process, and may be afforded status as interested persons with rights to appeal:

1. Tyler Mumley, Mumley Engineering, 46 Hutchins Street, Morrisville, VT 05661
2. Ryan Percy, 1556 Weeks Hill Road, Stowe, VT 05672
3. Paul Percy, 29 Percy Hill Road, Stowe, VT 05672

THE RECORD

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

1. Development Application, Paul Percy, dated 12/17/2024
2. Project Narrative, Mumley Engineering Inc., dated 12/17/2024
3. Site Plan, Sheet C-1, Mumley Engineering Inc., dated 12/17/2024
4. (Revised) Project Narrative and waiver request, Mumley Engineering Inc, dated 1/20/2025
5. (Revised) Project Narrative, Mumley Engineering Inc., dated 5/23/2025
6. Site Plan, Sheet C-1, Mumley Engineering Inc., dated 12/17/2024 /last revised 5/23/2025
7. Partial Site Plans & Details, Sheet C-2, Mumley Engineering Inc., dated 12/17/2024/last revised 5/23/2025
8. Details, Sheet C-3, Mumley Engineering Inc., dated 12/17/2024/last revised 5/23/2025
9. EPSC Plan, Sheet C-4, Mumley Engineering Inc., dated 12/17/2024/last revised 5/23/2025
10. (Revised) Project Narrative, Mumley Engineering Inc., dated 5/29/2025
11. Site Plan, Sheet C-1, Mumley Engineering Inc., dated 12/17/2024 /last revised 5/29/2025

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 approval was reviewed by the DRB for conformance with applicable requirements including the following:

Town of Stowe Zoning Regulations (effective January 31, 2024)

- 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 through 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, as shown on the Official Town of Stowe Zoning Map.

2. **Lot Area, Lot Width.** The existing parcel, Lot 3, contains ±6.06 acres. The Applicant proposes to (re)subdivide Lot 3 into two (2) residential lots as follows: Lot 3A being ±4.06 acres and Lot 3B being ±2.00 acres.
3. The minimum lot area in the RR2 District is two (2) acres. The minimum lot width in the RR2 District is 200 feet.
4. Lot 3B contains approximately 303' of lot width. As such, Lot 3B is designed to meet the minimum lot width.
5. Lot 3A contains approximately 278' of lot width. As such, Lot 3A is designed to meet the minimum lot width.
6. **Setbacks.** Setbacks within the RR2 District are as follows: front/sixty (60) feet; side/fifty (50) feet; rear/fifty (50) feet. The building zones are designed to meet the minimum required setbacks and are labeled accurately on the site plan, Sheet C-1.
7. In the RR2 District, driveways must be setback a minimum of ten (10) feet from the property line. The proposed driveway on Lot 3B clearly meets the required setback. The shared driveway serving Lot 3A meets the required setback and is labeled on the revised plans with a notation 'new driveway shall be a 10' minimum from property line.' The Applicant testified that the edge of the shared driveway will be a minimum of ten (10) feet off the property line.
8. **Use.** The Applicant proposes a 2-lot subdivision consisting of the future construction of three (3) anticipated single-family dwellings. Single-family dwellings are a permitted use in the RR2 District.
9. **Building Coverage.** Does not apply.
10. **Density.** In the RR2 District, density is allowed at a rate of one (1) dwelling units per two (2) acres. The existing property contains ±6.06 acres which contains sufficient land area to support three (3) dwelling units. Sufficient density exists to support the proposal.
11. Lot 3A is designed to support two (2) future dwellings. Footnote 3 of Table 6.3 allows a second single-family dwelling as follows: *'A second single-family dwelling, tiny house, or two-family dwelling on one parcel is a permitted use when the parcel is equal or greater than double the minimum acreage for that district. Minimum separation between dwellings shall be twice the side yard setback for the district.'*
12. At this time the Applicant only seeks subdivision review, a separate development application will need to be filed when the Applicant (or future property owner(s)) seeks to develop any of the lots. Any future proposed development will be reviewed under the regulations in effect at the time of application. As shown, the separation between the two (2) dwellings is approximately 164'.

Conclusion: Based upon the above findings, the DRB concludes the project, as proposed, meets the minimum dimensional requirements.

Section 5.1 – General Planning Standards (Subdivision Regulations)

Section 5.1(1) – Character of Land for Subdivision

13. The Applicant proposes a traditional 2-Lot subdivision and related improvements including driveways, shared driveways, onsite potable water and septic systems, etc.

14. As proposed, the dwellings will be connected to privately maintained onsite septic and potable water sources.
15. The parcel is presently undeveloped.
16. Nothing within the hearing record indicates the land is unable to support the proposed development.

Conclusion: Based on the above findings, the DRB concludes the application has been designed in conformance with Section 5.1(1); the land 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.

Section 5.1(2) – Natural and Scenic Features

17. 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.
18. There are no identified brooks, streams, or water bodies on the property.
19. There are no identified ground water resources or wetlands on the property.
20. The subject property was previously operated as a gravel pit, with topsoil subsequently placed over the disturbed area. The Applicant testified that any prime agricultural soils originally present were removed during gravel extraction activities, and the current topsoil was added after the site was altered. The land has not been tilled since the removal of the gravel.
21. The property does not contain any identified important forest resources that will be impacted by the project.
22. The property is setback off from any public highways and public vantage points. Although the future house sites will be visible from surrounding private properties, the subdivision will not have an adverse impact on scenic vistas.

Conclusion: Based on the above findings, the DRB concludes the application has been designed in conformance with Section 5.1(2), Natural and Scenic Features. The Applicant has given reasonable consideration to the visual impacts on neighboring landowners, the community, and on the scenic resources.

Section 5.1(3) – Protection of Significant Wildlife Habitat and Natural Communities

23. According to the ANR Natural Resources Atlas, the parcel does not contain any significant natural communities, deer wintering areas, natural communities, or wetlands.

Conclusion: Based on the above findings, the DRB concludes the project has been designed in conformance with Section 5.1(3), Protection of Significant Wildlife Habitat and Natural Communities.

Section 5.1(4) – Historic Resources and Community Character

24. The subject parcel is within a rural area, as defined under the Regulations.

25. The property to be subdivided contains an open agricultural field. It does not contain any forested mountains or forested hillside.
26. The property is accessed via Elizabeths Lane, a privately owned and maintained roadway. The property is not visible from any public roadways.
27. The two (2) house sites on Lot 3A are placed near the rear setback, preserving majority of Lot 3A to be maintained in its open condition.
28. The Applicant testified that there are approximately eighteen houses either recently constructed, or under construction, on adjacent property. The surrounding area consists of residential uses and the two additional proposed residential lots is consistent with the surroundings.

Conclusion: Based on the above findings, the DRB concludes the application has been designed in conformance with Section 5.1(4), Historic Resources and Community Character.

Section 5.1(5) – Reserved Strips

29. No reserved strips are proposed. Lot 3B is accessed directly from Elizabeths Lane – a privately owned and maintained roadway. Lot 3A gains access via a fifty (50) right-of-way connecting to Elizabeths Lane.

Conclusion: Based on the above findings, the DRB concludes the application has been designed in conformance with Section 5.1(5), Reserved Strips.

Section 5.1(6) – Screening and Landscaping

30. No landscaping is proposed. The DRB finds given the location and limited scope of the subdivision, no landscaping is necessary.

Conclusion: Based on the above findings, the DRB concludes no landscaping is necessary given the project location and scope.

Section 5.1(7) – Pedestrian Access

31. The project is located in a rural area of town where pedestrian improvements are limited. Given the low density and auto dependency of this area, pedestrian connections are not necessary.

Conclusion: Based on the above findings, the DRB concludes no pedestrian improvements are necessary given the project location and scope.

Section 5.1(8) – Traffic

32. The Applicant proposes two (2) residential lots designed to support three (3) dwelling units.
33. The project is anticipated to create one (1) trip per peak hour per dwelling unit for a total increase of three (3) vehicle trips when fully developed.
34. The project is not expected to create unreasonable traffic congestion or unsafe conditions.

Conclusion: Based on the above findings, the DRB concludes the application has been designed in conformance Section 5.1(8), Traffic.

Section 5.1(9) – Municipal Facilities

35. 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.
36. No Municipal Department review forms returned indicated that the proposed development would have any adverse impact on existing or planned community facilities and services.
37. The project will be served by onsite water and septic.
38. Fire protection exists via existing pond on adjoining property.
39. No additional municipal comments were received. The proposed subdivision will not create an undue burden on municipal facilities or create an unreasonable demand for municipal services.

Conclusion: Based on the above findings, the DRB concludes the application conforms with Section 5.1(9), Municipal Facilities.

Section 5.1(10) – Lot Configuration

40. The Applicant proposes to subdivide the existing parcel into two (2) lots. Each lot is designed to be of regular shape.

Conclusion: Based on the above findings, the DRB concludes the project conforms with Section 5.1(10) – Lot Configuration.

Section 5.1(11) – Building Zone

41. Each lot is designed to contain a building zone of adequate size.

Conclusion: Based on the above findings, the DRB concludes the project conforms with Section 5.1(11) – Building Zone.

Section 5.1(12) – Fire Protection Facilities

42. Lot 3A is designed to be accessed via twelve (12) foot shared driveway. Lot 3B will be served by a twelve (12) foot driveway. Each lot is shown to contain a turn-around area for emergency vehicles.
43. The Applicant provided a typical gravel driveway section containing proposed construction measures for the two (2) planned residential driveways.
44. The shared driveway serving Lot 3A is proposed to be less than 1000 ft in length and therefore does not require pull-offs at every 500 ft intervals.
45. Fire protection is provided for using the existing fire pond on neighboring property.

Conclusion: Based on the above findings, the DRB concludes the project conforms with Section 5.1(12) – Fire Protection Facilities.

Section 5.1(13) – Disclosure of Subsequent Development Plans

46. Except as otherwise noted, no future development plans are noted in the application materials.

Conclusion: Based on the above findings, the DRB concludes the application conforms with Section 5.1(13), Discloser of Subsequent Development Plans.

Section 5.1(14) – Private Enforcement Mechanisms

47. The Applicant did not provide draft homeowner's association documents or shared maintenance agreements. The only shared improvement is the driveway serving Lot 3A. Should Lot 3A be developed with two (2) dwellings of separate ownership, common ownership documents would need to be developed.
48. The Applicant testified that Lot 3B will also serve as a future access point to the adjacent Flaherty property to the south. Pursuant to 19 V.S.A. § 2702, when multiple parties benefit from the use of a private road, each party is required to contribute proportionally to the cost of its maintenance.

Conclusion: Based on the above findings, the DRB concludes the application conforms with Section 5.1(14), Private Enforcement Mechanisms.

Section 5.2 – Prominent Hillside and Ridgelines

49. The property is not within the RHOD. The DRB finds this provision does not apply.

Section 5.3 – Open Space and Cluster Development

50. The DRB finds this provision does not apply.

Section 5.4 – Road Standards and Coordination with Public Highways

51. Section 16.59 of the Zoning Regulations define the term driveway to mean: *A roadway used to access not more than three (3) dwelling units that is in private ownership.*
52. The proposal does not involve the development of any roads; rather a single driveway to serve Lot 3B and a shared driveway to serve two (2) planned house sites on Lot 3A.
53. Lot 3B will contain two (2) driveway entrances. Given less than 600 feet of frontage, the regulations do not allow this on a town highway – however, Elizabeths Lane is a private road, therefore Section 3.1(6) does not apply.

Conclusion: Based on the above findings, the DRB concludes the project has been designed in conformance with Section 5.4.

Section 5.5 – Utilities and Stormwater Management

54. Sheet C-1 (last revised 5/23/25) identifies the proposed impervious area and disturbed area. This sheet identifies the proposed disturbed area to be ±0.48 acres and the impervious surfaces to be ±0.66 acres; however the Applicant testified that this note is an error and the numbers were inadvertently reversed.
55. The Applicant provided a EPSC Plan – Sheet C-4 showing erosion prevention measures. This plan satisfies the requirements for projects involving more than ½ acre of disturbance.
56. The Applicant testified less than ½ acre of impervious surfaces are proposed.

57. The proposed utilities will be installed below ground entering into development. The project will be served by Morristown Water & Light.

Conclusion: Based on the above findings, the DRB concludes the application has been designed in conformance with applicable Section 5.5, Utilities and Stormwater Management.

DECISION

Based upon the above findings of fact and conclusions of law, the DRB hereby approves the Applicant's request for Final Subdivision Review of a 2-Lot Subdivision and related site improvements as described in the application #7528 and associated supporting materials, subject 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 Planning & 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, amended herein, include:

- a) Development Application, Paul Percy, dated 12/17/2024
 - b) Partial Site Plans & Details, Sheet C-2, Mumley Engineering Inc., dated 12/17/2024/last revised 5/23/2025
 - c) Details, Sheet C-3, Mumley Engineering Inc., dated 12/17/2024/last revised 5/23/2025
 - d) EPSC Plan, Sheet C-4, Mumley Engineering Inc., dated 12/17/2024/last revised 5/23/2025
 - e) (Revised) Project Narrative, Mumley Engineering Inc., dated 5/29/2025
 - f) Site Plan, Sheet C-1, Mumley Engineering Inc., dated 12/17/2024 /last revised 5/29/2025
2. All conditions of prior approvals, except as amended herein, remain in full force and effect.
 3. Prior to the issuance of any zoning permit for the development of Lot 3A or Lot 3B, the Applicant must complete and/or submit the following to the Zoning Administrator:
 - a) 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 notation:

"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. The approved building zones on Lots 3B & 3A must be clearly shown and labeled on the recorded subdivision plat. Future buildings and structures constructed on Lots 3A & 3B shall be located within the designated building zone. 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.
7. The electrical and other utilities to serve Lots 3B and 3A shall be installed below ground, unless otherwise approved by the DRB.
8. The driveway and shared driveway shall be designed, constructed, and maintained in accordance with the approved plans.
9. The electrical and other utilities shall be installed below ground, unless otherwise approved by the DRB.
10. Site construction shall adhere to the approved EPSC plan and 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 existing drainage patterns shall not be 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 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, Mary Black, Peter Roberts, David Kelly, Andrew Volansky, Tom Hand, and Lynn Altadonna.

Voting to deny: None

Dated at Stowe, Vermont this the 15th day of June 2025

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.