

TOWN OF UNDERHILL

Development Review Board

TIJAN 2019 FAMILY TRUST
Subdivision Amendment Review
Docket #: DRB-20-05

Subdivision Amendment Application of Tijan 2019 Family Trust Pertaining to a Building Envelope Amendment

Applicant(s):	Tijan 2019 Family Trust
Consultant:	N/A
Property Location:	26 Westman Road (WS026)
Acreage:	± 10.4 Acres
Zoning District(s):	Mt. Mansfield Scenic Preservation District

Project Information: The Applicants are requesting to amend a previously approved building envelope (see Exhibit M) relating to land they own at 26 Westman Road (WS026). The property was previously approved as a Planned Residential Development by the Planning Commission in 2005. In 2016, the Development Review Board heard a subdivision amendment relating to the lot in regards to the building envelope (DRB-16-02). The Board approved the proposed building envelope amendment; however, did not provide any language as to whether the Zoning Administrator had the authority to further amend the building envelope. Since the previous decision (see Exhibit J) is silent on this issue, Staff referred the application to the Board.

To note, the Applicant is seeking to construct a small accessory structure outside of the building envelope. Due to the size of the structure, normally, it would be exempt under Section 10.2.A.7 of the *Underhill Unified Land Use & Development Regulations*, as each lot is afforded one accessory structure that is less 200 sq. ft., less than 10 ft. in height, and meets the setback requirements for the underlying zoning district. Staff inquired with the Town's attorneys as to whether this exemption also applies to building envelopes approved by the Development Review Board (and previously the Planning Commission). The Town's attorney advised that approved building envelopes by the Board are distinguishable from setbacks standards, and therefore, all structures are required to be within building envelopes. Should an applicant wish to construct a structure outside of the building envelope, even if the structure normally qualifies for the exemption under Section 10.2.A.7, the Board would need to approve a modification to the existing building envelope. The attorneys opinion has been provided in email form (see Exhibit L).

2018 UNDERHILL UNIFIED LAND USE & DEVELOPMENT REGULATIONS RELEVANT REGULATIONS:

- Article II, Table 2.5 – Mt. Mansfield Scenic Preservation District (pg. 21)
- Article III, Section 3.2 – Access (pg. 30)
- Article III, Section 3.7 – Lot, Yard & Setback Requirements (pg. 38)
- Article III, Section 3.17 – Source Protection Areas (pg. 55)
- Article III, Section 3.18 – Steep Slopes (pg. 56)
- Article III, Section 3.19 – Surface Waters & Wetlands (pg. 63)
- Article VI – Flood Hazard Area Review (pg. 127)
- Article VII, Section 7.8 – Revisions to an Approved Subdivision (pg. 146)
- Article VIII, Section 8.1 – Applicability (pg. 150)
- Article VIII, Section 8.2.G – Building Envelopes (pg. 151)
- Article IX – Planned Unit Development (pg. 172)
- Appendix A – Road & Driveway Standards

CONTENTS:

- a. Exhibit A - Tijan Subdivision Amendment Staff Report
- b. Exhibit B - WS026 Subdivision Amendment Review Hearing Procedures
- c. Exhibit C - Application for Subdivision Amendment
- d. Exhibit D - Project Narrative
- e. Exhibit E - BFP Notice
- f. Exhibit F - WS026 Certificate of Service
- g. Exhibit G - Selectboard Minutes Re Access (06.06.2005)
- h. Exhibit H - Selectboard Affirmation of Curb Cut (08.02.2015)
- i. Exhibit I - Planning Commission Subdivision Approval (06.28.2005)
- j. Exhibit J - DRB Decision DRB-16-02 Re Building Envelope
- k. Exhibit K - Wastewater System Certification Letter
- l. Exhibit L - Town Attorney Opinion Re Building Envelope
- m. Exhibit M - Proposed Building Envelope
- n. Exhibit N - Survey Plat Depicting Current Building Envelope
- o. Exhibit O - Water-Wastewater System Site Plan
- p. Exhibit P - Driveway Plan

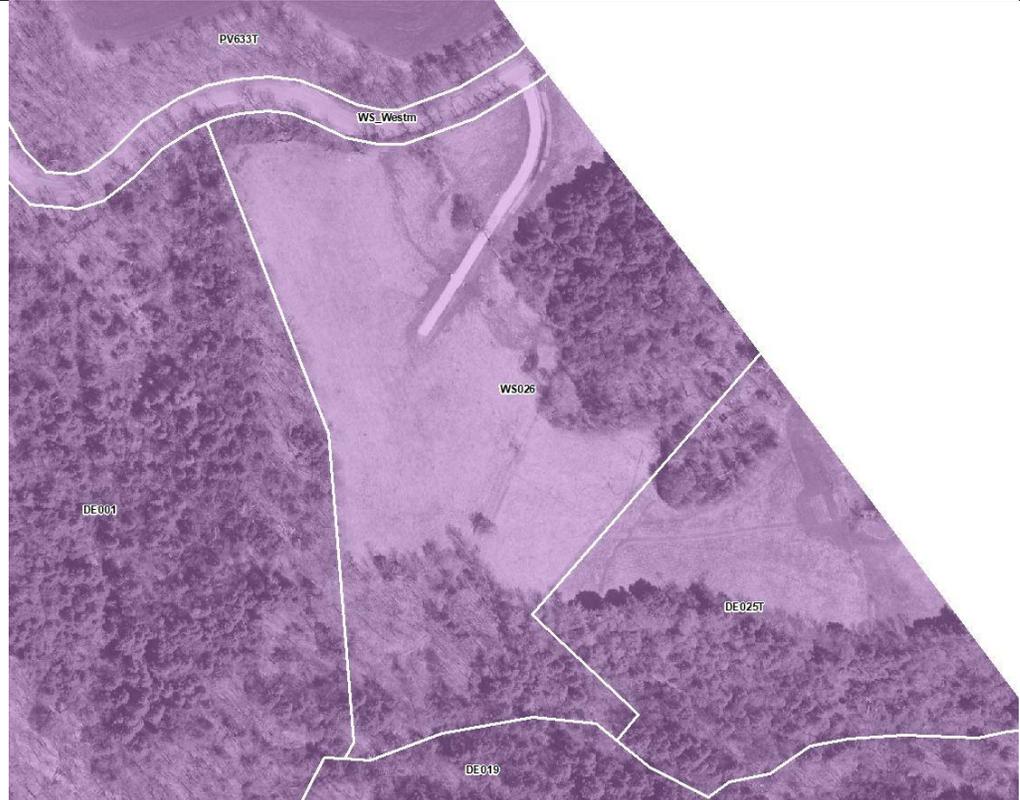
COMMENTS/QUESTIONS

1. **SEE BACKGROUND INFORMATION ABOVE**
2. **SECTION 7.8 – REVISIONS TO AN APPROVED SUBDIVISION:** While Section 7.8.B.1.b provides the Zoning Administrator the authority to expand building envelopes; however, since the Board specifically reviewed the building envelope associated with lot, Staff referred the application to the Board (also noting that there is no delegation clause).
3. **SECTION 8.2.G – BUILDING ENVELOPES:** Should the Board determine that the building envelope should avoid areas of steep slope (should they exist as observed during the site visit), the Board could request the Applicant to modify the proposed envelope to exclude those areas.

STAFF FINDINGS OF RELEVANT SECTIONS

ARTICLE II – ZONING DISTRICTS

Zoning Districts	
	Underhill Flats Village Center (1.0 Acre)
	Underhill Center Village (1.5 Acres)
	Rural Residential (3 Acres)
	Water Conservation (5.0 Acres)
	Scenic Preservation (10 Acres)
	Soil and Water Conservation (15 Acres)



Mt. Mansfield Scenic Preservation	
Lot Size:	10.0 Acres
Frontage:	400 ft.
Setbacks:	
• Front North	30 ft.
• Side 1 West	75 ft.
• Side 2 East	75 ft.
• Rear South	75 ft.
Max. Building Coverage:	10%
Max. Lot Coverage:	15%
Driveway Setback:	12 ft.
	N/A

TABLE 2.5 – MT. MANSFIELD SCENIC PRESERVATION DISTRICT

Purpose Statement: The purpose of the Scenic Preservation District is to protect the scenic vistas along Pleasant Valley Road. The district includes upland areas with access and/or development constraints, and valley areas with access onto Pleasant Valley Road. The goal of this is achieved by allowing compatible lower densities of development or clustered development that maintains Underhill’s rural character while protecting the views along Pleasant Valley Road.

- The proposed building envelope appears to be consistent with the Scenic Preservation purpose statement, as the amendment is to allow for accessory structures, which are permitted uses within the district.

ARTICLE III – GENERAL REGULATIONS

SECTION 3.2 – ACCESS

PG. 30

- The subject property accesses Westman Road, a Class III Town Highway.
- The subject property contains a driveway that received access approval from the Selectboard during their June 6, 2005 meeting (see Exhibit G). The Selectboard reconfirmed their access approval on August 2, 2015 (see Exhibit H).
 - The constructed driveway bisects a Class II wetlands, which received an individual Wetland Permit (#2014-217) from the Vermont Department of Environmental Conservation, as well as a wetlands permits from the US Army Corps of Engineers (#NAE-2016-0130).
 - As part of the Board’s decision in 2016 (see Page 4, Exhibit J), they found that the driveway was consistent with all local regulations.
- No review has been provided under Appendix A – *Underhill Road, Driveway & Trail Ordinance*.

SECTION 3.7 – LOT, YARD & SETBACK REQUIREMENTS

PG. 38

- The single-family dwelling, the principal use and structure of the lot, satisfies the setback requirements for the Mt. Mansfield Scenic Preservation zoning district.
- The building envelope depicted will satisfy the setback requirements for ancillary structures/out-buildings.
- The Applicant is not requesting any waivers.
- The subject lot appears to conform with the other regulations of this section.

SECTION 3.17 – SOURCE PROTECTION AREAS

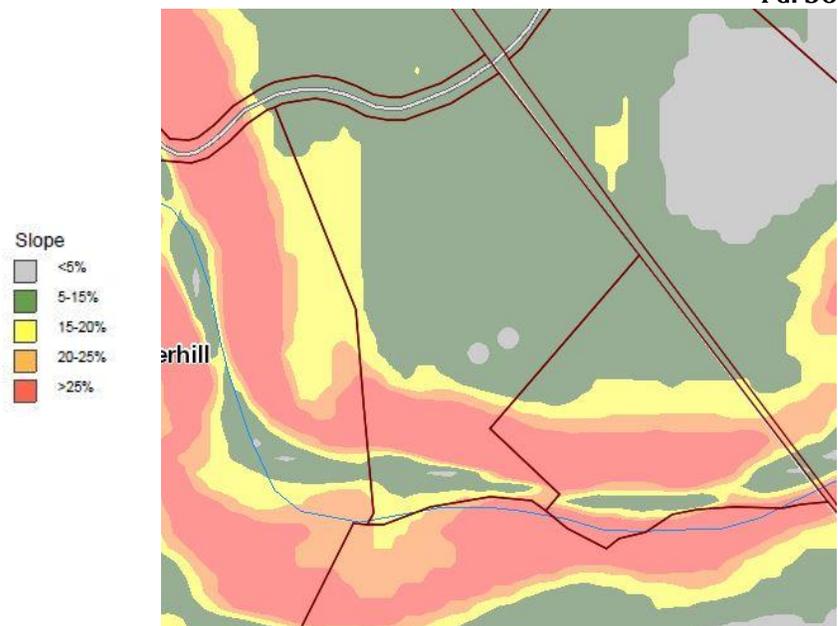
PG. 55

- The subject property is not located in any known source protection area (as identified by the ANR Atlas), nor appears to be in the vicinity of public water sources.

SECTION 3.18 – STEEP SLOPES

PG. 56

- According to the ANR Atlas website, Areas of steep slope (15%-25%) are located towards the western portion of the property, which will be in the proposed building envelope.
 - The Board should take note if Steep Slopes will be within the proposed envelope, as the ANR Atlas is a planning tool and not necessarily 100% accurate.
- Areas of steep slopes (15-25%) or very steep slopes (>25%) are located in the southern portion of the



property, outside of the proposed building envelope.

SECTION 3.19 – SURFACE WATERS & WETLANDS

- An unnamed stream is located adjacent to the rear property line of the subject lot (south).
 - All development shall be 25 ft. from unnamed streams (as measured horizontally from the top of the bank or channel centerline where no bank is discernable).
 - The Applicant is proposing the building envelope to follow the existing tree line. The southern tree line is ±261 ft. from the unnamed stream as measured on the ANR Atlas website.
- The lot contains two identified areas of Class II Wetlands, which were identified as part of a previous application with the Board (DRB-16-02). A site plan from that application, which depicts those wetlands have been provided as Exhibits N, O & P.
 - The Applicants have proposed a building envelope that does not contain any of the previously depicted wetland areas.
 - *NOTE:* Staff's understanding is that wetland delineations are only valid for a set period.



ARTICLE VI – FLOOD HAZARD AREA REVIEW

- No floodplains are located on the subject lot – 26 Westman Road.

ARTICLE VII – SUBDIVISION REVIEW

SECTION 7.8 – REVISIONS TO AN APPROVED SUBDIVISION

- While Section 7.8.B.1.b provides the Zoning Administrator the authority to expand building envelopes; however, since the Board specifically reviewed the building envelope associated with lot, Staff referred the application to the Board (also noting that there is no delegation clause).

ARTICLE VIII – SUBDIVISION STANDARDS

SECTION 8.1 – APPLICABILITY

SECTION 8.1.B – REQUEST FOR MORE INFORMATION

- Technical review does not appear to be necessary, though can be required.

SECTION 8.1.C – FINDINGS OF FACT

- A project narrative has been submitted for review (see Exhibit D).

SECTION 8.1.D – MODIFICATIONS & WAIVERS

PG. 150

- The Applicant is not seeking any modifications of, or waivers from, the zoning regulations.

SECTION 8.2 – GENERAL STANDARDS

SECTION 8.2.G – BUILDING ENVELOPES

PG. 151

- The proposed building envelope appears to conform to the Town’s zoning regulations, as appears to avoid constraints such as wetlands and associated buffers, surface waters and associated buffers, etc.
 - Should the Board determine that the building envelope should avoid areas of steep slope (should they exist as observed during the site visit), the Board could request the Applicant to modify the proposed envelope to exclude those areas.

ARTICLE IX – PLANNED UNIT DEVELOPMENT

SECTION 9.1 – PURPOSE

PG. 172

- The subject lot was approved as a Planned Residential Development by the Planning Commission on June 28, 2005 (Map Slide #222B) (see Exhibit I).
- The proposed building envelope amendment appears to conform with the policies enumerated under Section 9.1.A, as the modification would apply to accessory structures.
- The Board may modify density and dimensional requirements of the applicable zoning provisions under the *Unified Land Use & Development Regulations*, concurrently with the approval of subdivision review – this section does not appear to apply at this time.

SECTION 9.2 - APPLICABILITY

PG. 172

- The subject lot is part of a Planned Residential Development approved by the Planning Commission on June 28, 2005 (see Exhibit I).

SECTION 9.3 – APPLICATION REQUIREMENTS

PG. 173

- The Applicants have submitted a site plan depicting the desired building envelope (see Exhibit M) a written statement outlining their request (see Exhibit D).

SECTION 9.4 – REVIEW PROCESS

PG. 174

- The proposed waiver request does not appear to substantially alter any of the findings made under this section or in the Board’s previous decisions: DRB-16-02 or the Planning Commission’s previous decision made on June 22, 2005.

SECTION 9.5 – GENERAL STANDARDS

PG. 175

- The proposed waiver request appears to be consistent with the goals and policies of the *Underhill Town Plan* currently in effect, as well as the purpose statement of the Mt. Mansfield Scenic Preservation zoning district.
 - The proposed building envelope modification would be expanded to areas that would not result in the impact of site constraints or the clearing of forested areas.
- The Planned Residential Development is an allowed use under this Section, and the subject lot is only being used for residential purposes.
- The Applicants proposed amendment does not affect the current density of the property or surrounding area.

APPENDIX A – ROAD & DRIVEWAY STANDARDS

- The Applicants are not proposing to make any modifications to the existing curb cut or existing driveway, and therefore, at the recommendation of Staff, the Applicants did not submit an access permit, thus not requiring review under the Town's road & driveway standards at this time.
 - Should the Board determine that review under this Appendix is required, additional information will be solicited and a more thorough review will be performed.