

**AGENDA of the  
Portfolio Committee : Infrastructure and Planning  
21 April 2015  
(Also the agenda for the Mayoral Committee Meeting : 29 April 2015)**

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11.

**ERF 1791, 35 THERONDRAAI STREET, PEARLY BEACH, OVERSTRAND  
MUNICIPAL AREA : PROPOSED DEPARTURE AND RELAXATION OF A  
RESTRICTIVE TITLE DEED CONDITION : JJ & ZJ SCHWARTZ**

**Erf 1791 GPB (2465)**

**P Roux**

**25 February 2015**

**(028) 313 8900**

**Hermanus Administration**

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**1. Executive Summary**

An application has been received on 9 December 2013 from JJ & ZJ Schwartz, property owners of Erf 1791, Pearly Beach, for a departure from the Scheme Regulations and the relaxation of a restrictive title deed condition in order to relax the lateral building lines up to the respective erf boundaries.

A Locality Plan of the properties concerned is attached as Annexure A. The proposed Site Development Plans are attached as Annexure B, while the Motivation Report is attached as Annexure C.

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Infrastructure and Planning  
Town Planning

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Promotion of tourism, economic and social development

**4. Delegated Authority**

Executive Mayor

**5. Legal Requirements**

- Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)
- Removal of Restrictions Act, 1967 (Act 84 of 1967)

**6. Background/Discussion/Evaluation/Conclusion**

**Background**

Erf 1791, Pearly Beach is situated in the residential settlement of Pearly Beach and is zoned accordingly. The applicant wishes to legalise an existing patio canopy and braai.

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The application for departure was circulated and distributed to the surrounding property owners and internal departments. One objection was received from the Pearly Beach Ratepayer's Association.

**The objection from the Pearly Beach Ratepayers' Association can be summarised as follows:**

- The canopy extends onto the boundary and it is higher than the wall, thus the canopy is visible from the adjoining properties, and
- They have not been well maintained and are consequently unsightly and should be demolished.

**Applicant's response**

- The unsightly material is the shade netting, which will be removed;
- The shade netting will be replaced with Nutec sheeting, and
- There will be a permanent opening between the sheeting and the wall.

**The Pearly Beach Ratepayers' Association is prepared to withdraw its objection on the following conditions/requirements:**

- All existing shade cloth is removed, including the frames on which the shade cloth is fitted and mounted between the roof and the wall;
- Nutec fascia and barge boards, similar to those used on the existing building be fitted on all sides to match the present house and that these are painted white, and
- Rain gutters be fitted and that the applicant ensures that water is discharged onto the applicant's property.

The Town Planner's response to the objection will be given in the evaluation.

**Discussion/Evaluation**

The existing canopy, which stretches from the outbuilding onto the boundary wall and leans upon the wall, was erected without prior approval from the relevant municipal departments. Effectively the area becomes a habitable braai room and an extension of the outbuilding. The vibracrete wall is not made of fire resistant material, which was also mentioned in the comment received from the Fire Department.

A meeting was held between the Fire-, Building- and Town Planning Departments in order to determine possible solutions. In the meeting it was concluded that the applicant should place the canopy and the supporting structure 1m from the boundary. The applicant was notified and revised

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building plans were submitted. However, this does not change the application at hand, because the applicant still needs to depart from the Overstrand Zoning Scheme Regulations and the relaxation of the Title Deed restriction in order to accommodate the existing braai. As the amendments to the application are scaled down from the original proposal there is no need to re-advertise.

Essentially the revised canopy layout will allow the water to discharge unto the subject property and the 1m distance from the wall will ensure the fire safety of the adjacent property owners. The plans indicate that the revised canopy will be an upgrade from the existing structure which will lead to the beautification of the area, which will ensure that the objection received from the Pearly Beach Home Owners' Association is dealt with.

The existing braai is situated on the boundary. The adjacent property owners did not object to its existence. A condition will be imposed that if the braai becomes a nuisance or fire hazard in the future it will have to be removed or situated 2m away from the boundary. The proposed upgrades are not considered to detract from the character of the area or the amenity of the adjoining properties.

### **Conclusion**

The application is recommended for approval. It is the opinion that the revised plans comply with the Fire Department's comments and fire safety, and that the upgraded structure will lead to the beautification of the existing structure which will comply with the conditions listed by the Pearly Beach Rate Payers' Association.

### **7. Financial Implications**

None

### **8. Staff Implications**

None

### **9. Comments from other Departments, Divisions and Administrations**

#### **Building Department**

*"Geute en afvoerpype moet aangebring word aan afdakke om water weg te voer vanaf die naburige eiendomme. Boulyne is verkeerd en mates van gebou ontbreek ook op die bouplanne. 'n Volledige snit moet voorsien word waar die drabalk stutpale aan die muur geheg word. Alle kommentaar soos hierbo moet op die bouplanne aangetoon word."*

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**Fire Department**

*"Enclosed braai area effectively becomes an extension of the dwelling; therefore the roof may not be supported by the vibracrete boundary wall and there may not be communicating openings on the boundary.*

*The boundary wall must provide 60 minute fire protection as it is part of the structure (vibracrete is not an approved fire resistant material)."*

**10. Annexures**

- Annexure A: Locality plan
- Annexure B: Layout plan
- Annexure C: Motivation report
- Annexure D: Objection received
- Annexure E: Applicant's comment on objection
- Annexure F: Letter of conditional support

**RECOMMENDATION:**

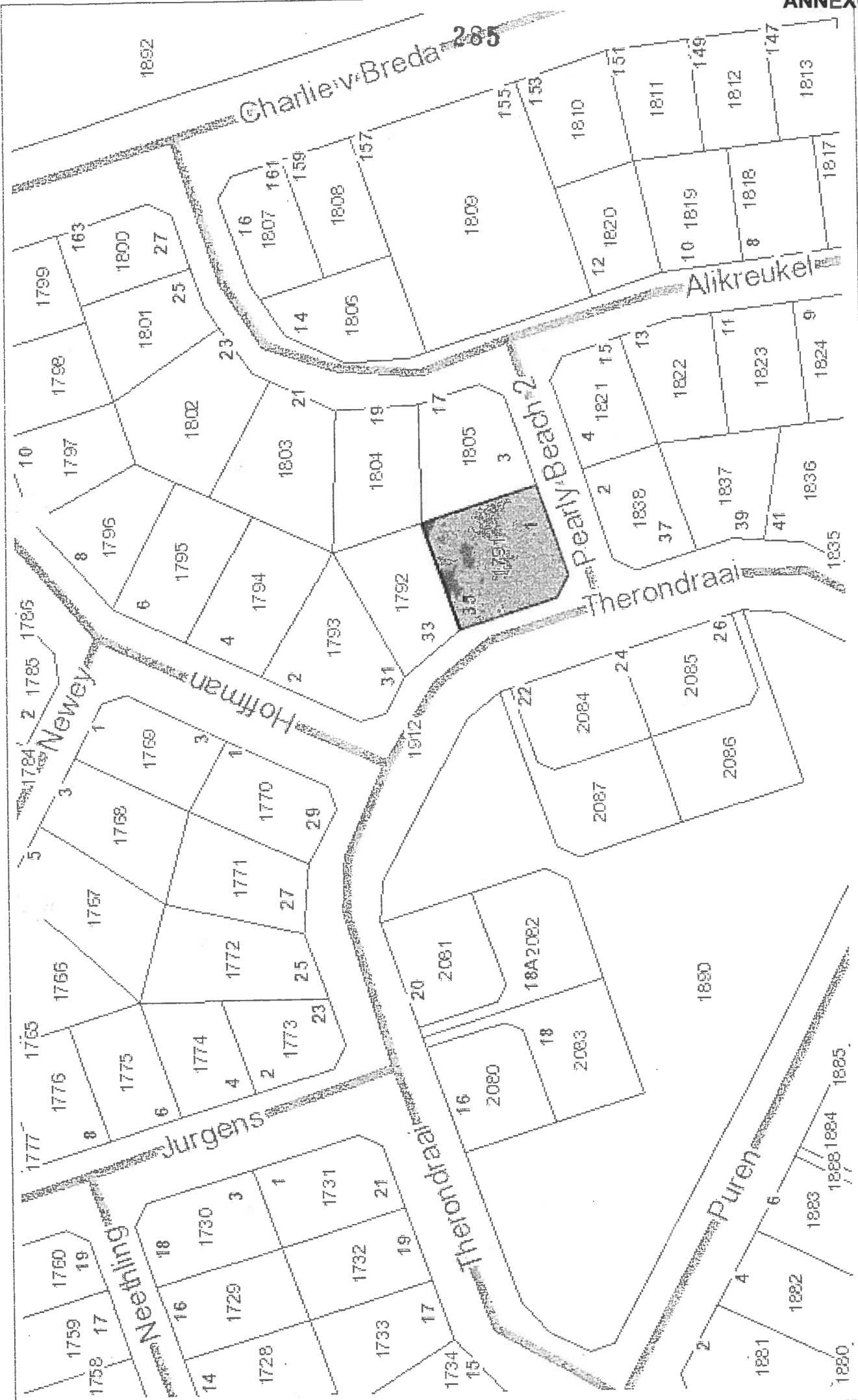
1. that, in terms of the Removal of Restrictions Act, 1967 (Act 84 of 1967) the application for the relaxation of a restrictive title deed condition in order to relax the lateral building lines up to the respective erf boundaries, **be recommended for approval** by the Department of Environmental Affairs and Development Planning;
2. that, in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for a departure from the relevant Scheme Regulations on Erf 1791, Pearly Beach, in order to relax the lateral building lines up to the respective erf boundaries, **be approved**, subject to the following conditions:
  - (a) that the approval in 2. above be subject to the successful relaxation of the restrictive title deed conditions in 1. above;
  - (b) that the patio canopy may only be built on the 1m lateral building line as indicated on the revised Building Plan No. JJ. Schwarts p.1 to 4 dated 11 November 2013;
  - (c) that compliance with Fire Safety Regulations is pre-requisite-SANS 10400T:2011;
  - (d) that revised building plans be submitted to the Building Department for approval;
  - (e) that the braai be removed should any viable complaints be received or if it becomes a fire safety issue;

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- (f) that a 60 minute fire wall be erected between the braai and the two adjacent properties;
  - (g) that the approval does not absolve the applicant from compliance with any other relevant legislation and/or Title Deed conditions; and
  - (h) that all other development parameters, as prescribed in the relevant Zoning Scheme, be complied with.
3. that the applicant/objector be notified of their right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.

<b>RESPONSIBLE OFFICIAL :</b>	<b>P ROUX</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>13 MAY 2015</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>13 MAY 2015</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>13 MAY 2015</b>



LIGGINGPLAN / LOCALITY PLAN  
Erf 1791 Pearly Beach



**NOTAS:**

A. BRAAIKAMER:

FONDASIES:

Bestaande 700 x 230 fondasies.

VLOER:

Bestaande 25mm vlaklaag op 85mm betonvloer op 250mic. vogwerende membraan.

MURE:

Drie symure is bestaande mure van woonhuis en buite braai. 230 Steen muur op 375mm vogwerende laag met siersteen aan buitekant en pleister en verf aan binnekant, vorm die vierde sy van die braaikamer

DAK:

Big Six Nutec dakplate op 50 x 76 daklante @ 1000 h/h op 38 x 152 dakbalk, met 299 x 76 drabalk in die middel, @ 940 h/h aan die bokant in die muur ingebou en aan die onderkant op 38 x 114 muurplaat en met bouters hoepel vasgeheg wat 500mm in steenmuur ingebou is. Alle gedeeltes van dakbalk wat in muur ingebou is, moet met vogwerende materiaal bedek word.

PLAFON:

Knoets dernehout plafon aan 38 x 38 plafonlante @ 600h/h maksimum, onderaan dakbalk vasgespyker. Glasveselkometers isolering met 'n R - waarde van 3.3 moet bo - op plafon aangebring word.

**VOORGESTELDE BRAAIKAMER EN AFDAKKE AAN BESTAANDE WOONHUIS OP ERF 1791, PEARLY BEACH, VIR MNR. EN MEV. J.J. SCHWARTZ.**

J.J. Carstens

Posbus 1153

Gansbaai

7220

Tel./Faks : 028 381 9198

Sel : 082 707 9280

Reg. No. D 1831

Neweystraat 7

Pearly Beach

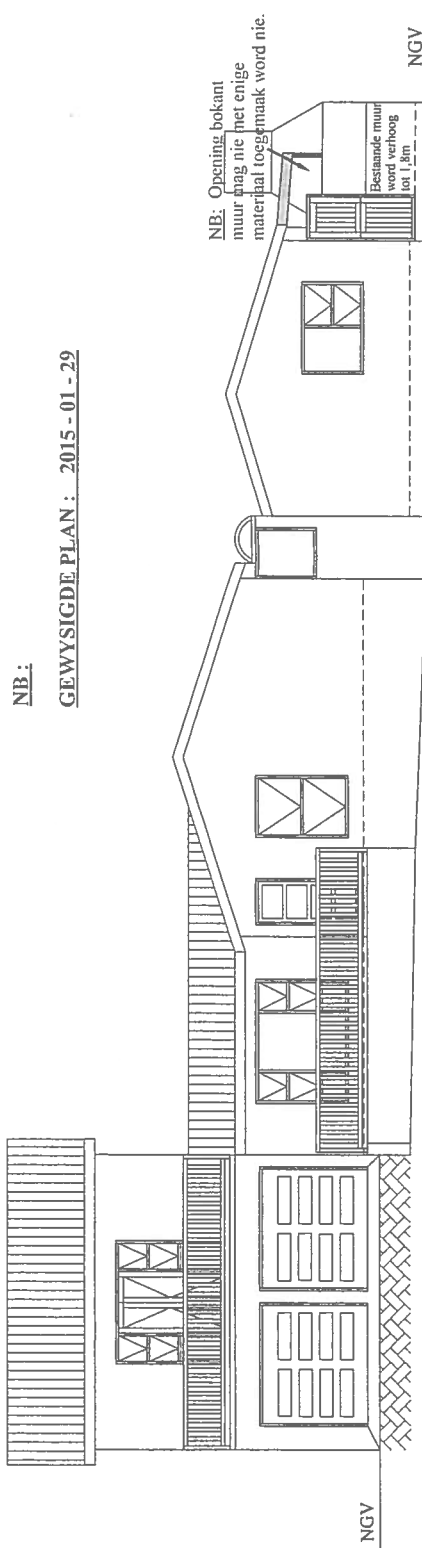
7220

Tek. no. Sew. 08 / 13

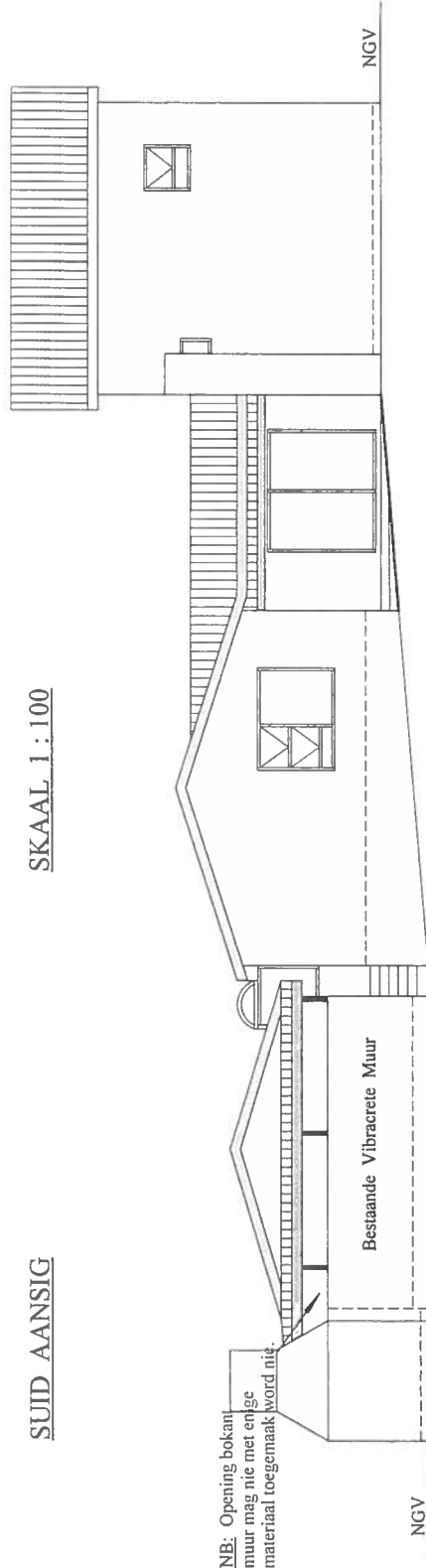
2013 - 11 - 11

J.J. Schwartz Bl. 1 van 4

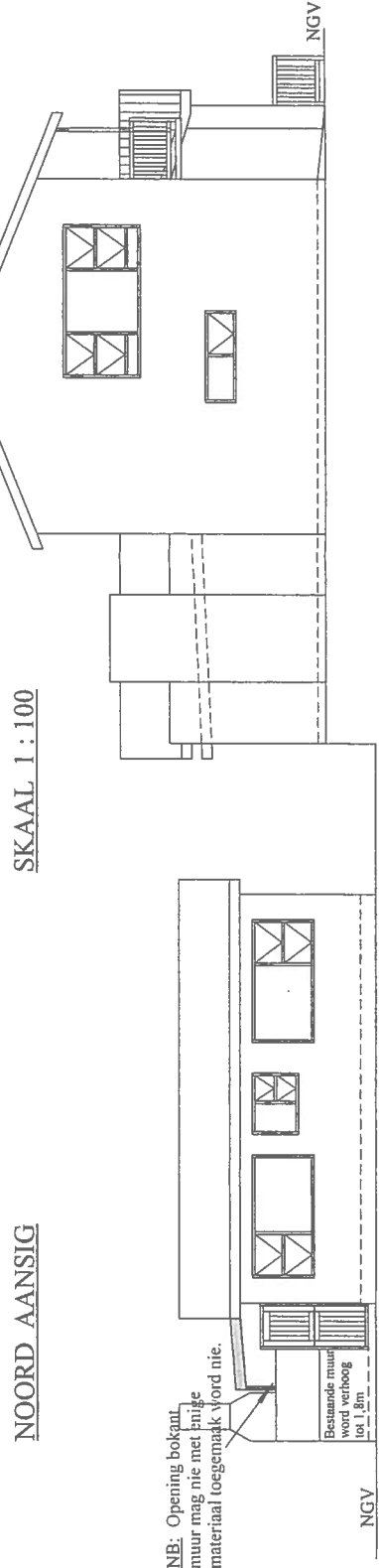
**NB:**  
**GEWYSIGDE PLAN: 2015 - 01 - 29**



**SUID AANSIG**  
**SKAAL 1:100**



**NOORD AANSIG**  
**SKAAL 1:100**



**WES AANSIG**  
**SKAAL 1:100**

**NOTAS:**

**B. AFDAKKE:**

Bestaande konstruksie vir skadumet afdak.  
 Big Six Nutec Dakplate op 50 x 76 daklante @ 1000 l/h op 38 x 114 dakbalk @ 940 l/h, aan bokant teen muur vasgeheg met trussshangers en aan onderkant met twee M12 boute en moere aan gegalvaniseerde staal brackets op 150 x 50 lipped channel drabalk vasgeheg is. Drabalk word aan 75mm staal pale vasgeheg met twee M12 boute en moere.

**AREA:**

BESTAANDE	:	239,57 m <sup>2</sup>
BRAAIKAMER	:	23,70 m <sup>2</sup>
AFDAKKE	:	34,69 m <sup>2</sup>
TOTAAL	:	59,96 m <sup>2</sup>

**NB:**

GEWYSIGDE PLAN : 2015-01-29

- 3 FEB 2015

VOORGESTELDE BRAAIKAMER EN AFDAKKE AAN BESTAANDE WOON-HUIS OP ERF 1791, PEARLY BEACH, VIR MNR. EN MEV. J.J. SCHWARTZ.

J.J. Carstens  
 Posbus 1153  
 Gansbaai  
 7220  
 Tel./Faks. : 028 381 9198  
 Sel. : 082 707 9280

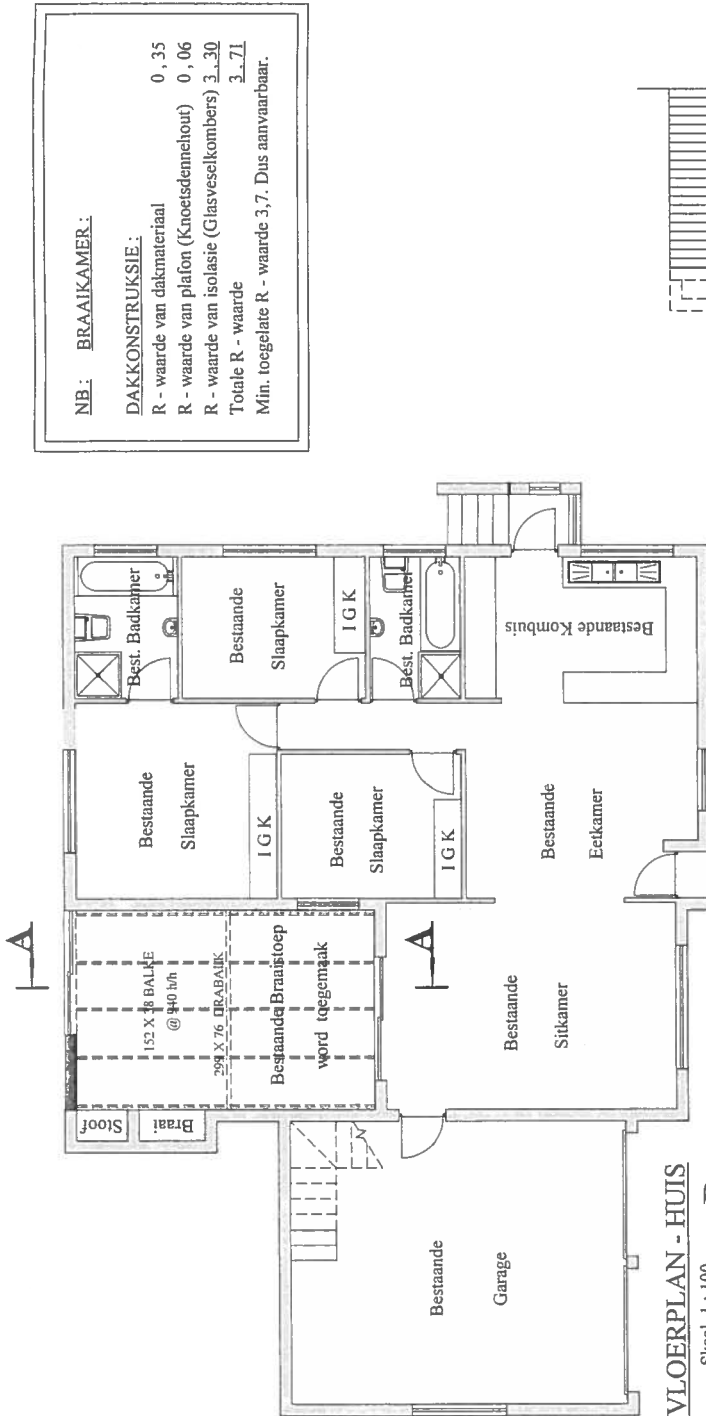
Reg. No. D 1831  
 Neweystraat 7  
 Pearly Beach  
 7220  
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 2013 - 11 - 11

J.J. Schwartz. Bl. 2 van 4

**NB: BRAAIKAMER:**

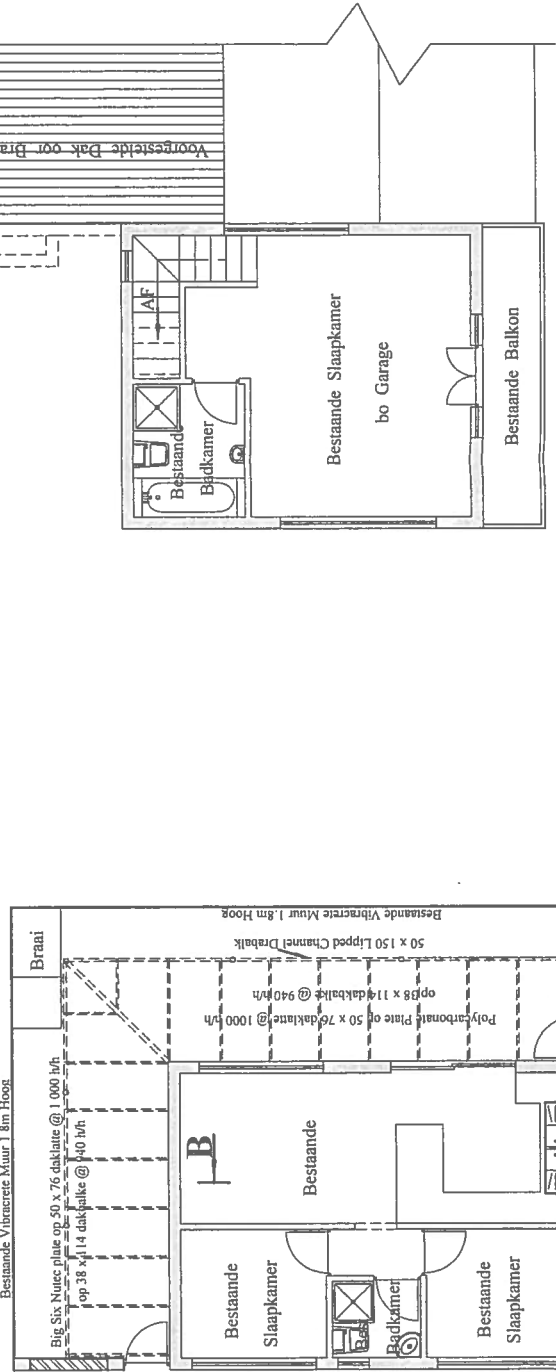
**DAKKONSTRUKSIE:**

R - waarde van dakmateriaal 0,35  
 R - waarde van plafon (Knoetsdennehout) 0,06  
 R - waarde van isolasie (Glasveselkometers) 3,30  
 Totale R - waarde 3,71  
 Min. toegelate R - waarde 3,7. Dus aanvaarbaar.



VLOERPLAN - HUIS

Skaal 1 : 100



VLOERPLAN - BUITEGEBOU

Skaal 1 : 100

EERSTEVELOER PLAN

Skaal 1 : 100

**NOTAS:**

**B. AFDAKKE:**

Bestaande konstruksie vir skadunet aldaak.  
 Big Six Nutee Dakplate op 50 x 76 daklatte @ 1000 h/h op 38 x 114 dakbalke @ 940 h/h, aan bokant teen muur vasgeheg met trussshangers en aan onderkant met twee M12 boute en moere aan gegalvaniseerde staal brackets op 150 x 50 lipped channel drabalk vasgeheg is. Drabalk word aan 75mm staal pale vasgeheg met twee M12 boute en moere.

- 3 FEB 2015

**VOORGESTELDE BRAAIKAMER EN AFDAKKE AAN BESTAANDE WOON-HUIS OP ERF 1791, PEARLY BEACH, VIR MNR. EN MEV. J.J. SCHWARTZ.**

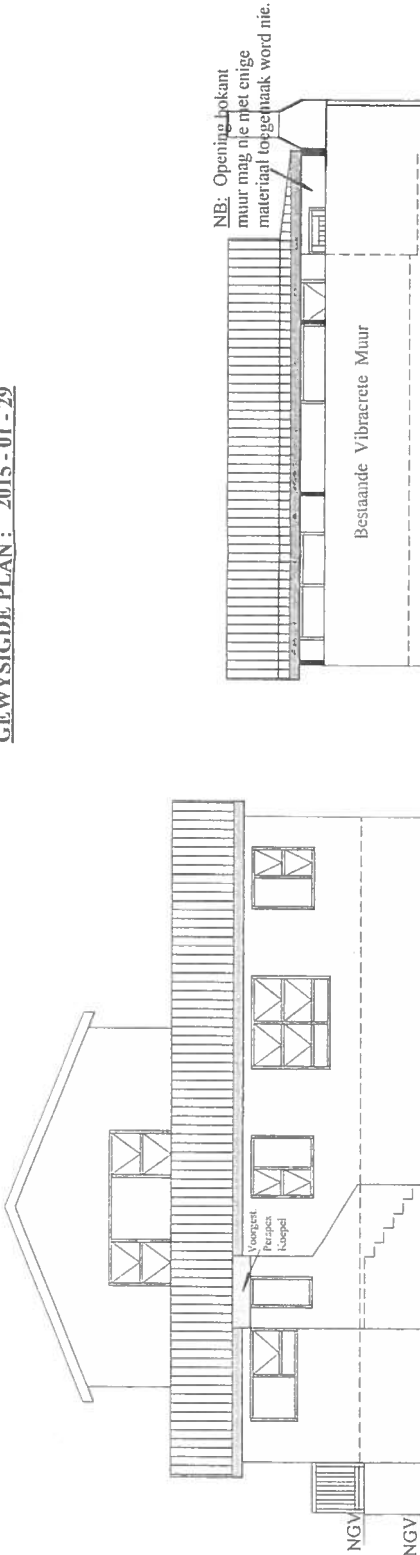
J.J. Carstens  
 Posbus 1153  
 Gansbaai  
 7220  
 Tel/Faks : 028 381 9198  
 Sci. : 082 707 9280

Reg. No. D 1831  
 Neweystraat 7  
 Pearly Beach  
 7220  
 Tek. no. Scw. 08 / 13  
 2013 - 11 - 11

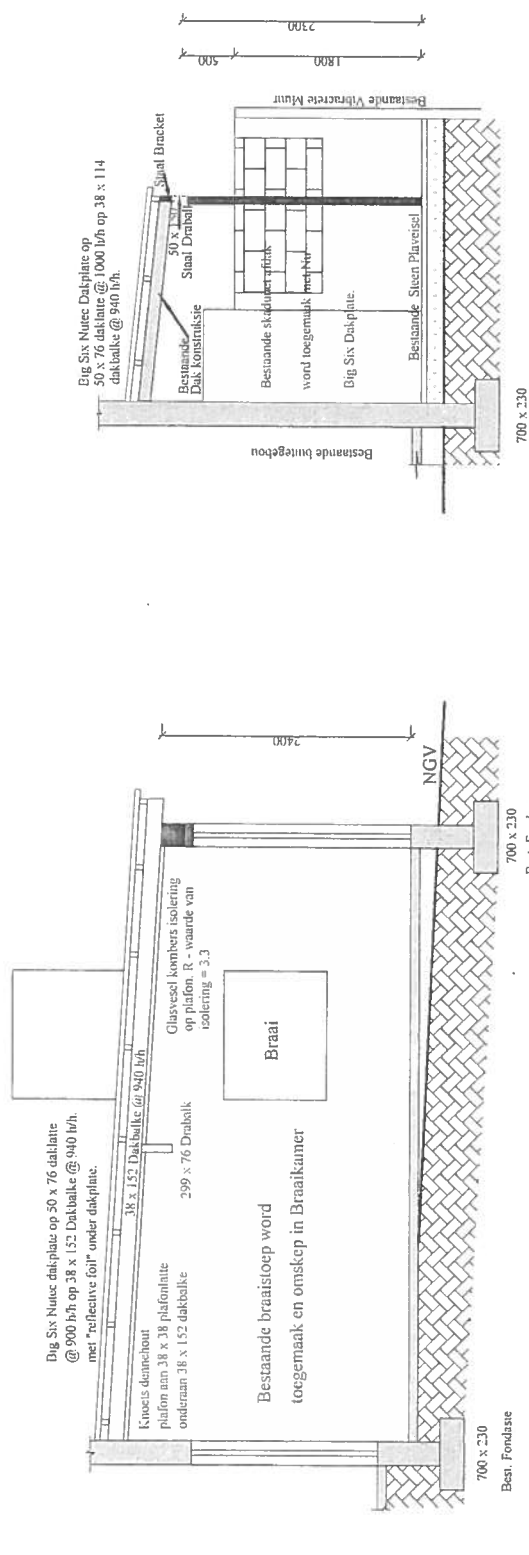
J.J. Schwartz Bl. 3 van 4

**NB:**

**GEWYSIGDE PLAN : 2015 - 01 - 29**



**SKAAL 1 : 100**



**OOS AANSIG**

**SKAAL 1 : 50**

**SNIT B - B**

**SKAAL 1 : 50**

**SNIT A - A**

**NOTAS:**

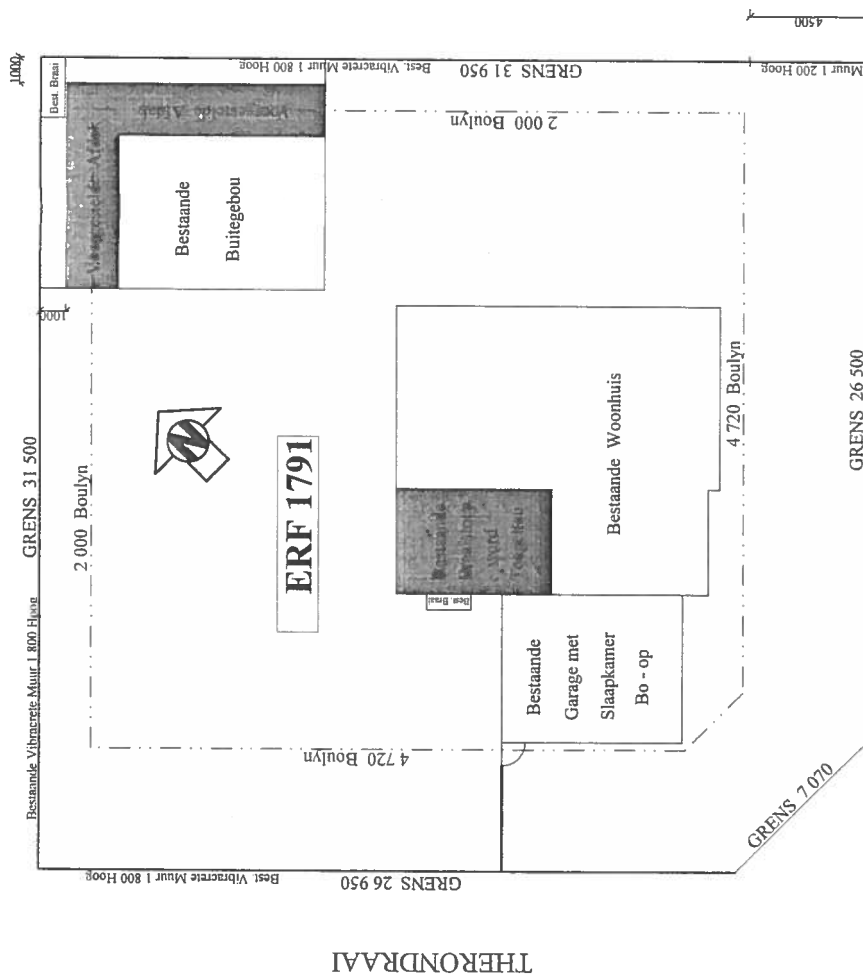
3 FEB 2015

VOORGESTELDE BRAAIKAMER EN  
AFDAKKE AAN BESTAANDE WOON-  
HUIS OP ERF 1791, PEARLY BEACH,  
VIR MNR. EN MEV. J.J. SCHWARTZ.

J.J. Carstens	Reg. No. D 1831
Posbus 1153	Neweystraat 7
Gansbaai	Pearly Beach
7220	7220
Tel./Faks. : 028 381 9198	Tek. no. Scw. 08 / 13
Sel. : 082 707 9280	2013 - 11 - 11

J.J. Schwartz Bl. 4 vand

**NB:**  
**GEWYSIGDE PLAN : 2015 - 01 - 29**



STRAAT

SKAAL 1 : 200

TERREINPLAN

Therondraai 35  
Pearly Beach  
7220  
2013 - 12 - 09

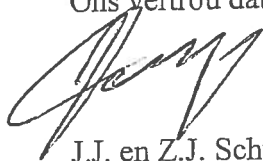
Overstrand Munisipaliteit  
Gansbaai

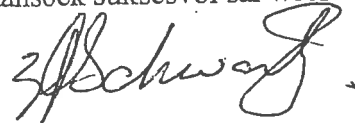
**VERSLAPPING VAN BOULYN : ERF 1791 PEARLY BEACH**

Hiermee ons motivering vir die aansoek om oorskryding / verslapping van die boulyn op Erf 1791, Pearly Beach :

1. Ons voel dat die voorgestelde afdakke soos op die aangehegde plan aangedui, 'n definitiewe verbetering aan die bestaande eiendom sal aanbring.
2. Dat die voorgestelde afdakke uitsluitlik gebruik sal word vir beskutting teen die son asook die stof wanneer die wind oor die grondpaaie van Pearly Beach waai, veral wanneer die familie met die kleinkinders kom kuier.
3. Dat die voorgestelde aanbouing geen daadwerklike impak op die omgewing of omliggende inwoners sal hê nie.
4. Dit nie 'n historiese erfenis gebou is nie.
5. Dit nie die toeganklikheid tot die eiendom beïnvloed nie aangesien die voorgestelde verbetering in die agterste hoek van die erf geleë is.
6. Dat geen addisionele dienste vir die voorgestelde aanbouing benodig word nie.

Ons vertrou dat ons aansoek suksesvol sal wees.

  
J.J. en Z.J. Schwartz



# Pearly Beach

## Ratepayers' Association Belastingbetalersvereniging

P O Box 1610 Gansbaai 7220  
[shirdu@vodamail.co.za](mailto:shirdu@vodamail.co.za)

Cell: 082 778 8665

Fax: 028 3819867

Email:

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22 October 2014

The Senior Town Planner  
P O Box 20  
HERMANUS  
7200

Dear Sir

### **ERF 1791, 35 THERONDRAAI, PEARLY BEACH**

The Pearly Beach Ratepayers' Association wishes to lodge their objection to the proposed relaxation of the building lines on the lateral boundaries of Erf 1791.

The undercover additions built onto the house on Erf 1791 which extend to the lateral boundary between Erven 1791 and 1792 as well as 1791 and 1805 are higher than the boundary wall, particularly on the boundary between 1791 and 1805. These extensions are visible from the adjoining properties, as well as from the road. They have not been well maintained and are consequently unsightly and should be demolished.

Yours faithfully

***SPC Coetzee***

**S P C COETZEE (Mrs)  
CHAIRPERSON  
PEARLY BEACH RATEPAYERS' ASSOCIATION**

TP-A Theart  
(S vld merwe)



J.J. & Z.J. Schwartz  
Therondraai 35  
Pearly Beach  
7220  
03 - 11 - 2014

Direkteur : Infrastruktuur en Beplanning  
Overstrand Munisipaliteit

**Lêerverwysing : Erf 1791 Pearly Beach (2465)**

U skrywe van 23 Oktober 2014 verwys :

Ons het kennis geneem van die belastingbetalersvereniging, van Pearly Beach, se besware teen ons aansoek om verslapping van die voorwaardes in die Titel Akte ten opsigte van oorskryding van die Boulyn.

Graag wil ons die volgende punte uitwys :

1. Die materiaal wat volgens hulle onooglik is, is skadunet wat verwyder gaan word.
2. Die voorgestelde bouplan wat saam met ons aansoek ingedien is, spesifiseer dat die opening tussen die grensmuur en die afdak, nie met enige materiaal toegemaak mag word nie. M.a.w. die opening sal voortaan oop wees en net die dak sigbaar.
3. Die skadunet bo - op die afdak sal vervang word met Nutec dakplate.
4. Met sy onlangse besoek aan ons huis, het mnr. S.W. van der Merwe van die Stadsbeplanning Afdeling, ons onder die indruk gebring dat hy tevrede sal wees met die voorgestelde veranderinge.
5. Ons is oortuig daarvan dat indien ons aansoek suksesvol is, die veranderinge wat ons wil aanbring nie aanstootlik vir enigiemand sal wees nie en dus ook aanvaarbaar vir die plaaslike Belastingbetalersvereniging sal wees.

Ons vertrou dat u ons aansoek in die lig van bogenoemde punte, goedgunstig sal oorweeg.

By voorbaat dank

J.J. & Z.J. Schwartz

*J.J. Schwartz*  
*Z.J. Schwartz*

REF NO:	EL 1791-PB
SCAN NO:	16
COLLABORATOR NO:	682174

293

TP - A Theert  
(Suld merwe)

# Pearly Beach

## Ratepayers' Association Belastingbetalersvereniging

P O Box 1610 Gansbaai 7220

Cell: 082 778 8665

Fax: 028 3819867

Email: [shirdu@vodamail.co.za](mailto:shirdu@vodamail.co.za)

27 November 2014

The Senior Town Planner  
P O Box 20  
HERMANUS  
7200



Dear Sir

**OBJECTION : ERF 1791, 35 THERONDRAAI, PEARLY BEACH**

Following a meeting and site visit with the owner of the above mentioned property, Mr Johnny Swartz, I wish to advise that the Pearly Beach Ratepayers' Association is prepared to withdraw their objection on condition that the following requirements are met by the owner:

- ♣ All existing shade cloth is removed, including the frames on which the shade cloth is fitted and mounted between the roof and the wall.
- ♣ Nutec fascia and barge boards, similar to those used on the existing building be fitted on all sides to match the present house and that these are painted white.
- ♣ Rain water gutters be fitted and that Mr Swartz ensures that water is discharged onto his property.

If the owner is willing to comply with the above as he indicated at our meeting, the Pearly Beach Ratepayers' Association agrees to withdraw their previous objection.

Yours faithfully

**SPC Coetzee**

SPC COETZEE (Mrs)

CHAIRPERSON

PEARLY BEACH RATEPAYERS' ASSOCIATION

FILE NO:	EL 1791-PB
SCAN NO:	14
COLLABORATOR NO:	690485

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12.

**ERF 6131, 21 MIDDELRIVIER ROAD, KLEINMOND, OVERSTRAND MUNICIPAL AREA : PROPOSED DEPARTURE : CF & HHL MEYER**

**6131 KKM (2753)**

**H van der Stoep  
5 March 2015**

**(028) 313 8900**

**Hermanus Administration**

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**1. Executive Summary**

Application has been received on 4 November 2014 from Messrs. Wright Approach Consultancy on behalf of Mr. CF & HHL Meyer on Erf 6131, Kleinmond for a departure from the relevant Scheme Regulations in order to relax the lateral building line from 2m to 1,14m to legalise the encroachments of the existing dwelling-house on the property concerned.

A Locality Plan of the property concerned is attached as Annexure A. The proposed Site Development Plan is attached as Annexure B, while the Motivation Report in support of the proposal is attached as Annexure C.

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Infrastructure and Planning  
Town Planning

**3. Compliance with Strategic Priority**

Provision of democratic, accountable and ethical governance

**4. Delegated Authority**

Executive Mayor

**5. Legal Requirements**

Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)

**6. Background/Discussion/Evaluation/Conclusion**

**Background/Discussion**

Registered notices were sent to all surrounding affected property owners, and one objection was received against the proposal.

The application was also circulated to all relevant municipal departments and state departments. No objections were received against the application.

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### **Discussion**

The objection received from Mrs. Ungerer can be summarized as follows:

- She had to remain within building lines due to the fact that she could not get consent from the neighbours.
- Mr. Meyer was rude when she asked that rubble be removed from the objector's driveway.
- Mr. Meyer poisoned objector's trees, case was made at the SAPS, but case was closed.
- The vibracrete wall was erected by the objector and Mr. Meyer filled his property against the wall.
- The big windows are over the building line.
- The transgression must be demolished and rebuilt with no windows.

### Applicant's response

The objector deals with a number of personal confrontations between herself and the applicant. The objector did not address how the application will influence her negatively. The general prescription is that any structure closer to a meter from the boundary may not have windows, however, the house is situated 1,14m from the boundary.

### Planner's comment

The conflict between the neighbours is evident and must be dealt with in a private manner. This office will not make any comment in this regard.

In terms of the Overstrand Municipality Zoning Scheme no windows are allowed closer than 1m from an erf boundary.

### **Evaluation**

The application is to legalize an existing dwelling, incorrectly placed as to the approval obtained in 1998. A departure application was lodged in 1998 and approved to relax the lateral building line to 1,4m. The alterations were completed in 1999. The applicant then only became aware that the building was constructed in actual fact 1,147m from the boundary. This was confirmed by a Surveyor Diagram dated 2008, that the actual building is located 1,14m from the boundary.

In evaluating the application the following needs to be taken into consideration: the building has been erected in 1999 and thus has been 1,14m from the boundary for the last 14 years. Any intrusion on the objector's erf would have been noted and inquired about. In 2004 the applicant applied for a removal of restriction with no objections.

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The objector did indicate that the windows are of concern and that the transgression should be demolished and rebuilt with no windows. The difference of 1,4 to 1,14m, a difference of 0,26m will make no difference in terms of privacy. However, the objector did not clearly state how the situation that has been there for the past 14 years has changed with the application.

Taken into consideration that the transgression is from 1,4m to 1,14m, it seems that a honest mistake was made by the building contractor and it would be unreasonable to expect the applicant to demolish 0,26m of the dwelling that has been standing for 14 years.

**Conclusion**

The application is recommended for approval.

**7. Financial Implications**

None

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

**Building Control Department**

*"Building as constructed is supported however it is recommended that the balcony balustrade at 1<sup>st</sup> floor level is to be set back to the original 1,4m as per original approval."*

**Engineering Services Department**

Attached as Annexure F.

**10. Annexures**

- Annexure A: Locality Plan
- Annexure B: Proposed Site Development Plan
- Annexure C: Motivation Report
- Annexure D: Objection received
- Annexure E: Applicant's response on the objection received
- Annexure F: Services Report

**AGENDA of the  
Portfolio Committee : Infrastructure and Planning  
21 April 2015  
(Also the agenda for the Mayoral Committee Meeting : 29 April 2015)**

---


**RECOMMENDATION:**

1. that, in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for a departure from the relevant Scheme Regulations in order to relax the lateral building line from 2m to 1,14m to legalise the encroachments of the existing dwelling-house on the property concerned, **be approved**, subject to the following conditions:
  - (a) that the balcony balustrade at first floor level be set back to the original 1,4m as per original approval;
  - (b) that amended building plans be submitted to the Building Department for their final approval within three months from the decision letter;
  - (c) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
  - (d) that all other parameters as prescribed in the Zoning Scheme be adhered to; and
  - (e) that all the conditions in the Services Report (attached as Annexure L) be complied with.
  
2. that the applicant/objector be notified of their right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.

<b>RESPONSIBLE OFFICIAL :</b>	<b>H VAN DER STOEP</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>13 MAY 2015</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>13 MAY 2015</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>13 MAY 2015</b>

**Location**

Subject property



Ed 6131, Kleinmond

Plan: 14/55/02


Scale: NTS

All distances approximate and subject to survey.

WRAP makes no warranty of any kind, expressed or implied with regard to data and shall not be held liable in any event for any incidental or consequential damages in connection with or arising out of the use of this data. This data remains the property of the client and may only be used for the purposes of a project with the prior written approval of the client.

1 Myrtle Avenue  
PO Box 1247  
Hermanus  
7200

Tel: 028 313 1411  
Fax: 086 508 3248  
Email: [wrap@telkomsa.net](mailto:wrap@telkomsa.net)  
Web: [www.wrapgroup.co.za](http://www.wrapgroup.co.za)



WRAP APPEALS COURT



# Departure Plan

- Applicable building lines
- ▨ Area of departure

Erf 6131, Kleinmond

Plan: 14/55/01

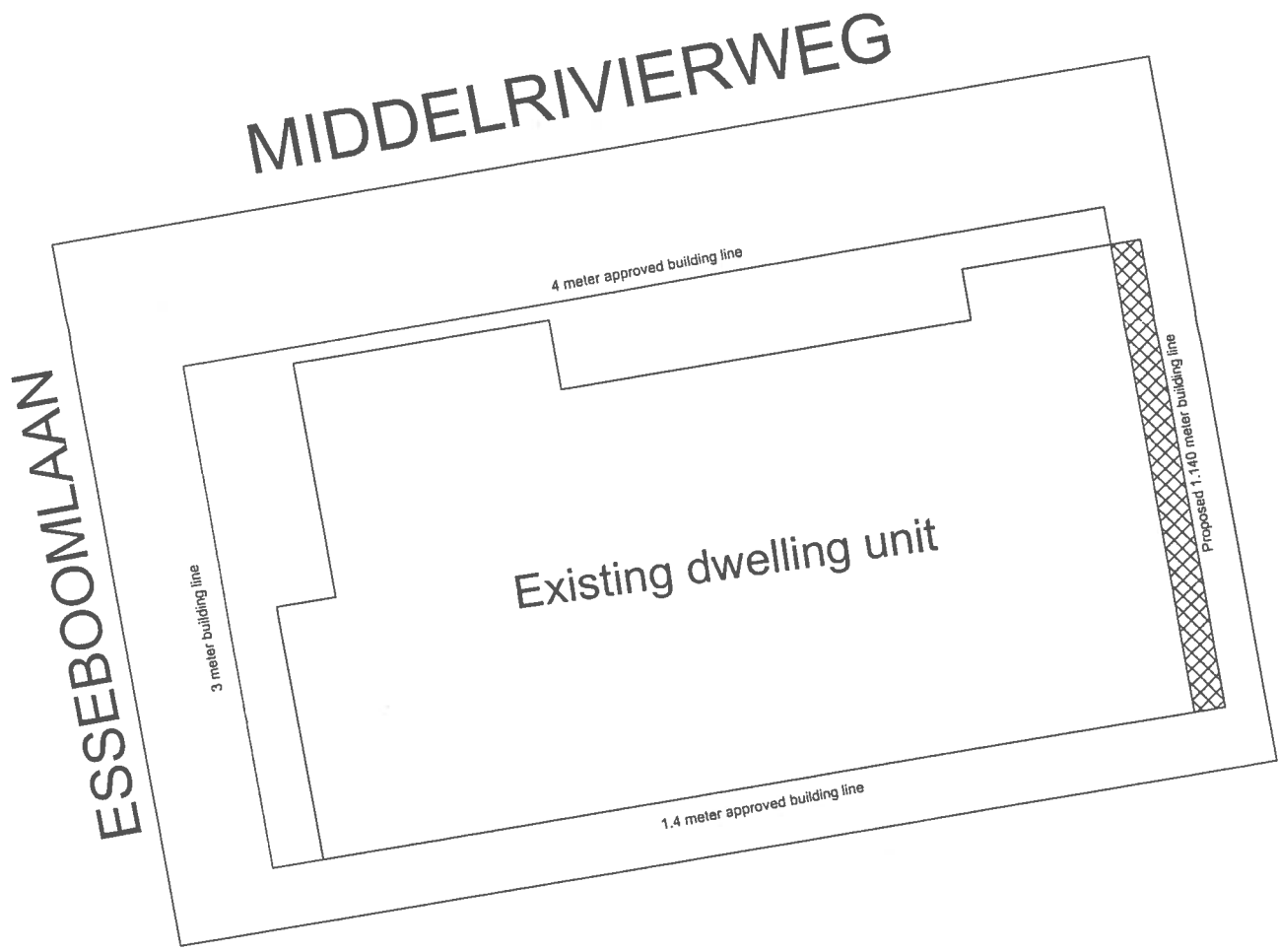
Scale 1:150

All distances approximate and subject to survey.

WRAP makes no warranty of any kind, expressed or implied, with regard to data and shall not be held liable in any event for any incidental or consequential damages in connection with or arising out of the use of this data. The data remains the property of the client and may only be used for the purposes of a project with the prior written approval of the client.

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Email: [wrap@telkomsa.net](mailto:wrap@telkomsa.net)  
Web: [www.wrapgroup.co.za](http://www.wrapgroup.co.za)



**ALGEMENE SPESIFIKASIES:**  
 ALLE BOUWERK VOLGENS DIE NASIONALE BOUREGLASIES. GAAN ALLE AFMETINGS OP TERREIN NA ALYORENS NIEËT BOUWERK BEGIN WORD.  
 MOENIE MATES VAN DIE PLAN AFSKAAL - NIE.  
**MURE:**  
 280 spoudbuitemure  
 bulle siersfeen  
 binne geplaster & gevef  
**DAKNOTA:**  
 AS dakplafie om aan te pas by bestaande woonhuisdak  
 76 x 50 daklaffe 1000hoh  
 230 x 70 dakballe 1100 hoh  
 geen plafon  
 fassies, geufe & afvoerpype om aan te pas by bestaande  
**HOUSBALKON:**  
 houtbalustrade minimum 1100 hoog  
 openinge kleiner as 100 Ø bal

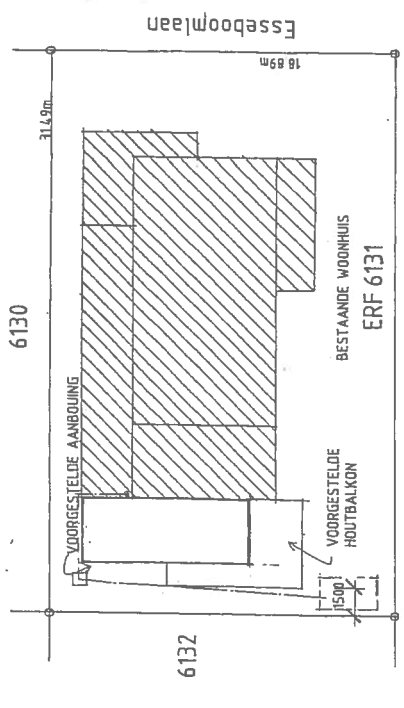
**OPPERVLAK:**  
 BINNEBRAAIVERTREK = 35,53m<sup>2</sup>  
 HOUSBALKON = 21,75m<sup>2</sup>  
 57,28m<sup>2</sup>

**DOKUMENTASIE:**  
 BOUPLANNE VIR  
 MUNISIPALE  
 GOEDKEURING

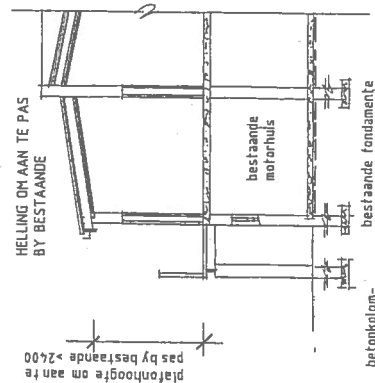
**PROJEK:**  
 VOORGESTELDE  
 AANBOUING  
 MNR C F MEYER  
 ERF NR 6131  
 MIDDELRIWIERWEG 21  
 KLEINMOND

**GETEKEN:**  
 SANDRA SCHUTTE  
 POSBUS 92  
 KLEINMOND  
 7195

**PROJEK:**  
 P.P.O. EKURUP.



**TERREINPLAN**  
 Skaal 1:200



**SNIT A/A**  
 Skaal 1:100

MUNISIPALITEIT - KLEINMOND - VERBODINGSKANTOOR  
 Engie administrasie streeks en plaaslike  
 (in 'n potensiaal verandering van gebruik)  
 versend op 12/05/2014  
 Key: aeriende streeks en plaaslike  
 by skedat al poverety owerin 'n oost

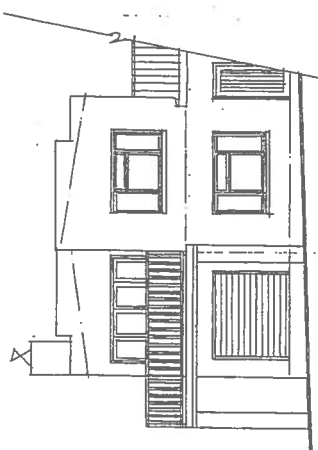
**VLOERPLAN**  
 1:100

**HANGKLIIP-KLEINMOND** MUNICIPALITEIT MUNICIPALITY

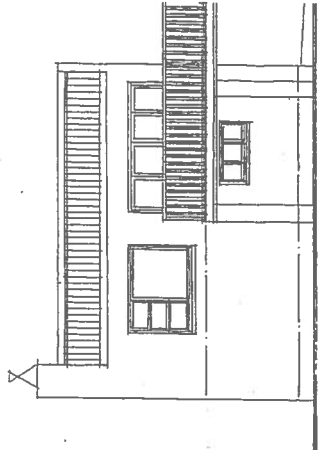
ERF NR: 6131 PLAN NR: 354/98  
 DATUM ONTVANG: 15.8.98 GOEDKEUR: 26.8.98  
 HEALTH INSPECTOR APPROVED:

GOEDKEURDE INSPEKTOUR  
 BUILDING INSPECTOR

Plan approved in accordance with the provisions of the Municipal Regulations and the Zoning Scheme regulations of the Municipality of Hangklip-Kleinmond.

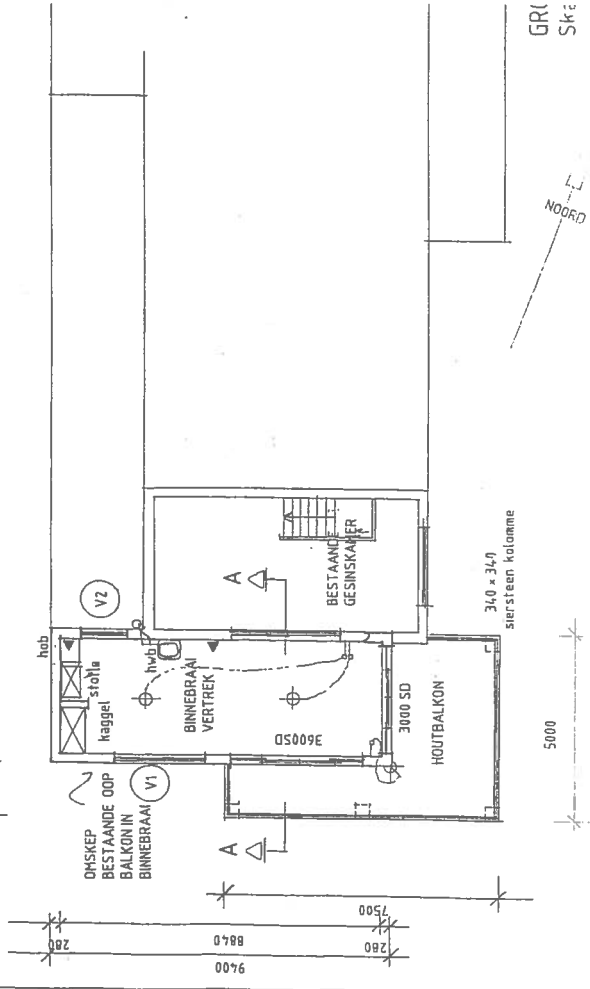
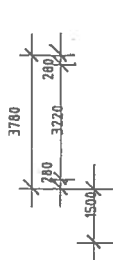


**VOORAANSIG**



**TOORAANSIG**

**VENSTERS:**  
 V1 = 2400 breed x 1800 hoog  
 V2 = 1200 breed x 600 hoog



**GROND**  
**SKEDAT**

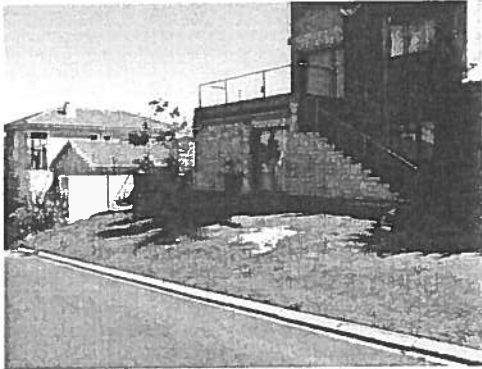


Figure 2: Eastern elevation

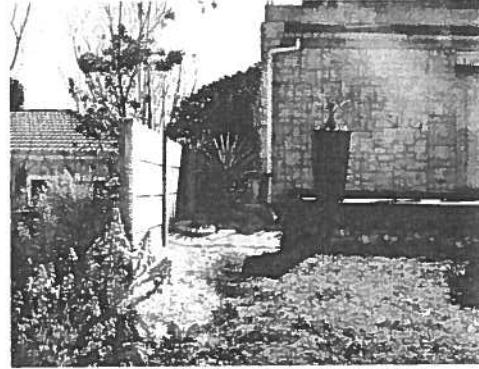


Figure 3: Position of encroachment

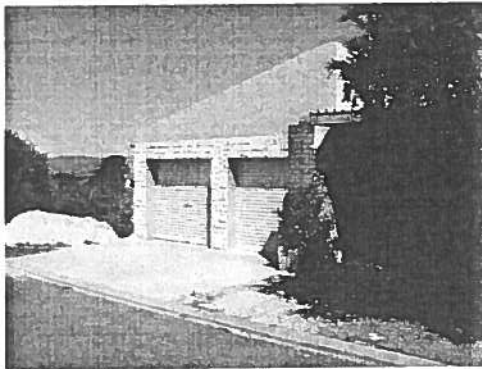


Figure 4: Northern elevation



Figure 5: Distance from boundary



## APPLICATION DETAIL AND MOTIVATION

## 12. DEVELOPMENT OBJECTIVES

The objective of this application can be briefly summarised as follows:

- To legalise the existing buildings' departure from the prescribed building line.

The departure application deals with the departure from the building lines of the existing house. Application is therefore made for the following:

- Departure from prescribed lateral building line (2.0 meters to 1.14 meters) in terms of Section 15(1)(a)(i) of the Land Use Planning Ordinance, 1985 (no.15 of 1985) to.

## 13. CONSISTENCY WITH SPATIAL PLANNING INITIATIVES AND LEGISLATIVE COMPLIANCE

As mentioned in Section 11, the spatial planning initiatives applicable to the area do not cater for building line departure applications.

## 14. NEED AND DESIRABILITY OF THE LAND USE PROPOSAL

During 1999, alterations were made to the existing dwelling and approval was obtained to relax the lateral building line to 1.40 m meters. At the time of the construction, the owner resided in Piet Retief and appointed a local building contractor for the building work. With the excavation of the foundations, the building contractor made an error with the calculations and the building was constructed 1.14 meters from the lateral building line instead of on the 1.4 meter building line.

The mistake was however only discovered after construction was completed. This application is therefore to legalise the aforementioned departure.

## 15. COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND IMPACT ON EXISTING LAND USE RIGHTS

The approval of this application will not change the existing land use rights of the property concerned. All rights associated with Residential Zone I: Single Residential Zone will remain in place. The approval of this application will therefore not establish any additional land use rights.

The proposed departure will not have any negative impact on the privacy of surrounding property owners. In light of the above we maintain that the proposals of this application is compatible with the character of the surrounding area and that the approval of said application will not have a negative impact on existing land use rights.

## 16. IMPACT ON SERVICE INFRA-STRUCTURE

WATER SUPPLY – No impact anticipated.

ELECTRICITY SUPPLY – No impact anticipated.

SEWAGE SYSTEM – No impact anticipated.

## 17. GRANTING AND REFUSAL OF APPLICATION

The Land Use Planning Ordinance, 1985 (no 15 of 1985) in Section 36 stipulates that:

- "any application shall be refused solely on the basis of a lack of *desirability* of the contemplated utilization of land concerned including the guideline proposals included in a relevant structure plan in so far as it relates to desirability, or on the basis of its effect on existing rights concerned", and

## APPLICATION DETAIL AND MOTIVATION

- "regard shall be had, in considering relevant particulars to only the **safety and welfare of the members of the community** concerned, the conservation of the natural and developed environment concerned or the effect of the application on existing rights concerned".

The acceptance of land use on a specific land portion must be tested in accordance with the physical characteristics of the property, existing planning in the area, and the character of the environment, the potential, location and accessibility of the property as well as the provision of service infrastructure to the proposed development.

It has been motivated in the above sections that the proposal as contained

within this application is indeed desirable and that it is consistent with the principles of the applicable structure plan and other spatial initiatives. It was also shown that the proposal will not have any negative impact on existing land use rights of surrounding property owners or of the land use rights associated with the existing zoning of the property. Lastly it was proven that the proposal will not have a negative impact on the safety and welfare of the members of the community and will not have any detrimental impact on the natural or developed environment.

In light of the above it is maintained that this application complies with the provisions of Section 36 of the Land Use Planning Ordinance, 1985 and therefore it is our recommendation that the application is approved.



TP-A Theart  
(H vld stoep)  
6 January 2015

C.G. Ungerer

082 411 7527

Erf 6132, 50 Doringboom Laan, Kleinmond

Koop erf 6132 in Maart 2007

Landmeter Cor van Rooyen Junie 2007

Huis plan afgekeur: Henk Olivier

Dit was 'n munisipale fout. Ek het 'n nuwe plan van Sandra Schutte.

FILE NO:	EL 6132 Km
SCAN NO:	24
COLLABORATOR NO:	705867

**NB.** Vra 5 bure se toestemming om my huis 80cm in rigting van Middelrivier weg te skuif. Basie Meyer en Yvette O'Connel weier, moet terugskuif.

**NB.** Lelike brief van Basie Meyer omdat ek vra hy moet sy goed van my erf af wegneem sodat ons kan begin bou. Sien brief - ook myne - in rooi leër. Hy stel nie belang om met my te korrespondeer - so vir wat NOU?

Ons bou en hou by alle Munisipaliteit reëls. Ingenieurs is I Williams, brief in rooi leër.

**NB.** Ek sit vibracrete muur alleen op. Mnr Meyer laat twee hope swart grond aflewer. Vul voorkant van sy erf teen my muur op.

Bou inspekteur Chester kom kyk. Praat met Pieter - plaaslike bouer en wys hoe hy aan Meyer moet voorstel om my muur oop te kry. Niks gebeur.

**NB.** November 2013 vrek 3 van my groot bome en nog baie plante omdat dit met gif gespuit is. Ek het Pieter die dag van die bome se spuit by Meyer se huis gesien, niemand was by Meyer se huis en alles was toe. Toe ek beseft my plante is vergiftig tel ek 'n bouers potlood op die kwaad doen plek op. Nog in my besit.

**NB.** Polisie baie traag en sluit my saak. Die polisiehoof Mnr Martinus praat met Meyer en sê: Jy is seker bang die bome belemmer jou uitsig waarop Meyer antwoord, ja man en ek wil daar kom aftree.

15 JAN 2015

22 JAN 2015

**NB.** Sonder enige kennis aan my kant vul Meyer agter my muur op, party plekke tot amper helfte hoogte van muur. My seun maak my toe bewus van hoe naby Meyer se huis van my muur af is. Sy verweer is dat hy toestemming het tot 1,4m maar is nou  $\pm 1$ m weg.

**NB.** Wat van groot vensters op oorskryding?

Ek kom tuis – siek - uit die hospitaal - week voor Kersfees. Klei is gemors in my inrypad. Donnie praat met hom. Hy sê dit is klei wat van hom af vloei maar geen poging om dit reg te maak. Jannie reël brandweer. Plante vrek soos die “klei” deur my tuin gaan.

Twee jong manne wys my die aakligste tekens terwyl ek in my huis werk en hulle op hul balkon is. Foto op my selfoon.

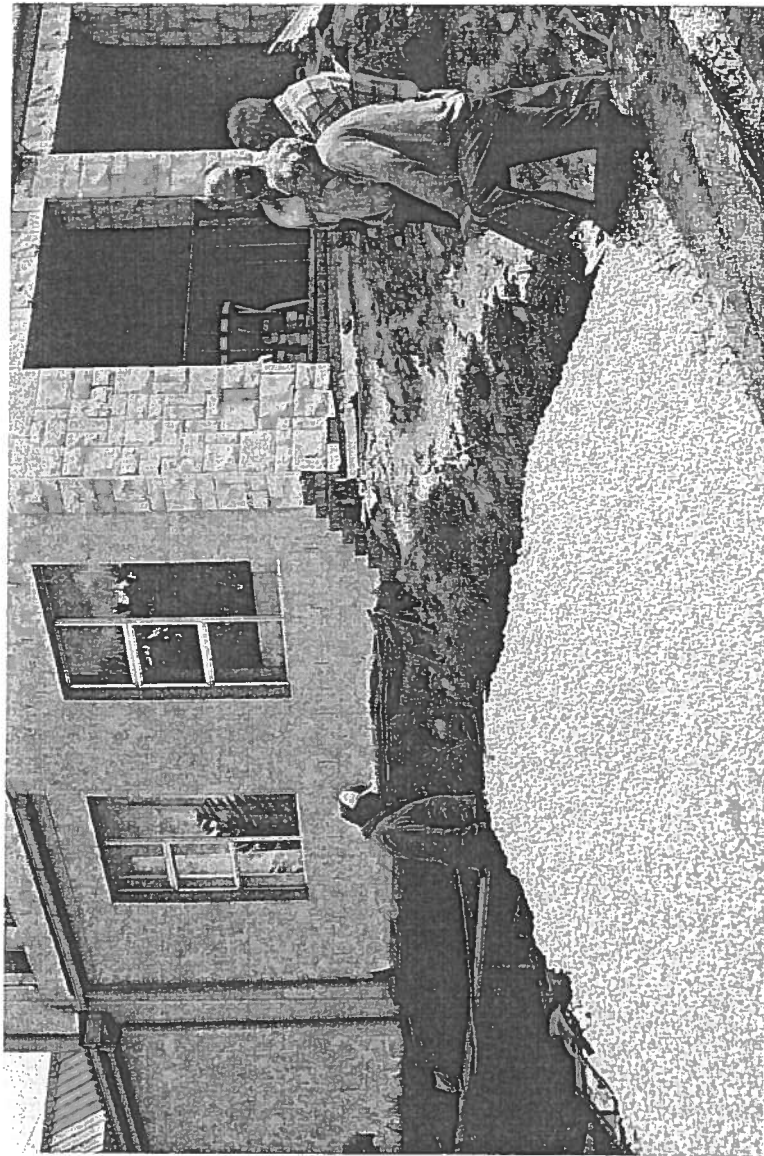
Nou wil Mnr Meyer hê ek moet goedkeuring gee vir al sy foute.

My antwoord is 'n **BAIE BESLISTE NEE**. Ek wil glad nie een sentimeter nader aan hulle bly as wat die wet bepaal nie.

En ek wil hê Mnr Tielman Niewoudt se opdrag vir algehele grond verwyder moet **NOU** toegepas word. En breek die te naby deel af en **BOU** die vensters toe!

**VRAAG.** Ek mag nie in my huis ingetrek het voordat die Bou Inspekteur inspeksie gehou en alles volgens Munisipale reëls was nie. Ek moes ook 'n paar dinge verbeter en verander. Weer inspeksie – dan eers goedkeuring.

Kan Mnr Meyer vir ons sy sertifikaat wys?



307




TP-ATheart

(H. J. de Stoep)

ESTABLISHED 2002

Town and  
Regional  
PlanningMunicipal  
Legislation  
and ProceduresLocal Economic  
Development  
Technical  
Assistance1 Myrtle Avenue  
P O Box 1247  
Hermanus  
7200

Tel: +27 (0)28 313 1411

Fax: +27 0865083248

Email:

[wrap@felkomsa.net](mailto:wrap@felkomsa.net)

Web:

[www.wrapgroup.co.za](http://www.wrapgroup.co.za)Wright Approach  
Investments 136°CCReg No  
CK 2002/060745/23

Our Reference: 14/055

17 February 2015

The Municipal Manager  
Overstrand Municipality  
P O Box 20  
**HERMANUS**  
7200

Sir

**ERF 6131, KLEINMOND: APPLICATION FOR DEPARTURE**

Your letter dated 29 January 2015 has reference.

We hereby respond to the letter that was submitted by CG Ungerer regarding the abovementioned land use application.

The objection that was submitted by abovementioned individual deals with a number of personnel confrontations between the applicant and the individual. However, a land use application cannot be objected to on the basis of conflict between neighbours.

Section 36(1) of the Land Use Planning Ordinance (LUPO), 1985 (no15 of 1985) states the following: "Any application under Chapter II or III shall be refused solely on the basis of a lack of desirability of the contemplated utilisation of land concerned including the guideline proposals included in a relevant structure plan in so far as it relates to desirability, or on the basis of its **effect on existing rights concerned** (except any alleged right to protection against trade competition)".

Considering the letter submitted by the objector, no evidence is provided on how the proposed departure will impact negatively on the objector's existing land use rights. The objector does indicate that the area to which the departure relates contains windows. The general prescription is that windows and doors are not allowed to be developed closer than 1.0 m from a rear- or side building line. From the departure application it is evident that the wall is located 1.14 m from the side building line and therefore adheres to aforementioned condition. The objector did not express a concern that the departure will have a negative impact on privacy, or obstruct her view.

In light of the above mentioned it is our recommendation that the objection be dismissed and that the application for departure be considered favourably by the Overstrand Municipality.

FILE NO:	EL 6131 Km
SCAN NO:	
COLLABORATOR NO:	757538

TP 20 FEB 2015

24 FEB 2015

We trust that you will find the above in order. Should you require any additional information within this regard, please do not hesitate to contact this office.

Yours faithfully

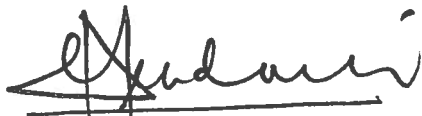


**JOHANN PIENAAR**  
B.Art et Scien (Pr.PIn A/125/2009)

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR DEPARTURE: ERF 6131, KLEINMOND**

Stormwater (SW) : In order  
Electricity : In order  
Water : In order  
Sewer : In order  
Roads and traffic : In order

1. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the developer's cost;
2. that should additional services connections be required, the developer will be responsible for the payment of bulk services levies;
3. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the developer's cost;
4. that stormwater be allowed to discharge through Erf 6131, Kleinmond, unobstructed.



**DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES**

15/01/2015  
DATE