

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
17 June 2015
(Also the agenda for the Mayoral Committee Meeting : 24 June 2015)**

**6.
ERF 5594, 9 ROCHESTER STREET, WESTCLIFF, HERMANUS, OVERSTRAND
MUNICIPAL AREA : PROPOSED CONSENT USE & DEPARTURE : WERNER
ZYBRANDS CONSULTUS (PTY) LTD**

5594 HWC (2755)

H van der Stoep

6 May 2015

(028) 313 8900

Hermanus Administration

1. Executive Summary

An application has been received on 6 November 2014 from Werner Zybrands Consultus (Pty) Ltd for a consent use on Erf 5594, Hermanus in order to establish a guesthouse on the property concerned.

An application was also received for a departure from the relevant Scheme Regulations in order to relax the street building line from 4m to 0m to accommodate the existing pergola covered walkway and to relax the lateral building line from 2m to 0m to accommodate the existing outbuilding and lapa.

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

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Town- & Spatial Planning

3. Compliance with Strategic Priority

Provision of democratic and accountable governance

4. Delegated Authority

Executive Mayor

5. Legal Requirements

- Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)
- Section 2.2 of the Scheme Regulations made in terms of Section 9(2) of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)

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6. Background/Discussion/Evaluation

Background

An application for a consent use has been received for a guest house in the Westcliff Residential Township. The guesthouse has been in operation since 2005, through a series of departure applications. The application is also for the departure of the street building line from 4m to 0m to accommodate a covered walkway and the lateral building line from 2m to 0m to accommodate an outbuilding.

Registered notices were sent to all surrounding affected property owners, and two objections were received against the proposal.

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

Discussion

The objection received from Mr JD and AL Cilliers can be summarized as follows:

- The departure from the Scheme Regulations for 4m street building line to 0m is not supported as the objector has objected to a similar case where a street building line was transgressed by a residential dwelling.
- The departure on the lateral building line for the outbuilding and consent use for operating a guest house is acceptable.

Applicant's response

There seems no objection to the consent use and or the pergola, however the objection relates to the covered walkway to a 0m street boundary. The objector refers to a similar situation in Westcliff and the objection in essence is a display of consistency as not to jeopardise their court action.

The covered walkway is to protect guests from the inclement weather conditions. The structure is only 6m² and will not be extended.

Town Planner's comment

The departure for the covered walkway to a 0m street building line is catered for in the Overstrand Municipality Zoning Scheme Regulations, but is restricted to 5m². The reason for allowing covered walkways is to protect people against inclement weather conditions, especially in our elderly community.

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The basis of the objection due to the fact that the objector has objected to a similar application in Westcliff and needs to be consistent does not hold water as the two cases is vastly different in every aspect and cannot be made applicable in this case.

The objection received from Mr CA van der Merwe can be summarized as follows:

The 2m lateral building line between Erf 5594 and Erf 183 must be adhered to due to a stormwater pipe between the erven and any building work will damage the pipe.

Applicant's response

There is no application for the departure of the lateral building line between Erven 5594 and 183. The stormwater pipe that takes stormwater from Erf 183 was constructed by the applicant. The objection is not valid due to the fact that the departure is for the pergola between Erf 5594 and Erf 185.

Town Planner's comment

The application does not affect the lateral boundary to which the objector refers to and is thus irrelevant.

Evaluation

The property is located in Westcliff Residential Township. The guesthouse has been operating since 2005 via a departure application. The guesthouse has changed ownership and in terms of the departure conditions, a new application should be lodged when the property change hands.

The application for a guesthouse on a residential erf is now catered for as a consent use in terms of the Overstrand Municipality Zoning Scheme Regulations. The area is renowned for the amount of successful guesthouses trading and that is due to the locality and extends of the erven and structures that enable guesthouse operators to comply with the Policy on Guesthouses in terms of parking and amenities.

The sale of the property has identified that there are structures built which does not reflect on any building plan applicable to the erf. The applicant has submitted the departure application to legalize the current structures. The covered walkway is catered for in the Scheme Regulations but limited to 5m². There is no reason why this relaxation of the 4m to 0m street building line cannot be viewed positively. The existing guesthouse is situated well outside the building line and does not encroach the street building line, and thus creates quite an extensive area from the entrance gate to the house to be

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covered. The sole purpose of the covered walkway is to protect guests and residents against the elements of nature.

The departure for the outbuilding, braai and gazebo or lapa can be accommodated in terms of the Scheme Regulations through a departure process. The outbuilding is used for storage purposes and in terms of the Scheme Regulations can be located on a zero lateral building line through a process, as in this case. The outbuilding may not be used as a second dwelling or for human habitation.

The departure for a lapa, which consists of a braai and gazebo, triggers the Scheme Regulations in terms of the length of the structure, which is more than 9m in length. This aspect was not addressed, but does not pose a problem since the application with the plans were distributed to all adjacent owners. The braai on the boundary is not in line with the Zoning Scheme, however similar situations of structures built before the inception of the Overstrand Municipality Zoning Scheme Regulations must be dealt with on merit and were approved by Council taking due cognizance of the objections received and possible intrusion on privacy on the neighbouring erf. In this case the braai is approximately the height of the boundary wall and the directly affected neighbour did not object to the application.

Conclusion

Recommended for approval as the transgressions can be accommodated in terms of the Overstrand Municipality Zoning Scheme Regulations.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Engineering Services Department

See Annexure F.

Building Control Department

Supported. To comply with SANS 10400.

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Fire Department

No objection provided that the boundary walls provide a minimum of 60 minute fire resistance in terms of the National Building Regulations SANS 10400 and the height of the boundary wall of the braai/gazebo provide a minimum of 500mm parapet between the properties.

District Health

Approval recommended.

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 objections received
- Annexure F: Services Report

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 on Erf 5594, Hermanus in order to relax the street building line from 4m to 0m to accommodate the existing pergola covered walkway and to relax the lateral building line from 2m to 0m to accommodate the existing outbuilding and lapa, be approved, subject to the following conditions:
 - (a) that this approval is only for the relaxation of building lines and existing structures indicated on Plan No. CS-001 dated 7 October 2014, which was submitted with the application;
 - (b) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (c) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with; and
 - (d) that building plans be submitted to the Building Department for approval, and that all conditions of the Building – and Fire Department be complied with at that stage.

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2. that, in terms of Section 2.2 of the Section 9 Zoning Scheme Regulations of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the application for a consent use on Erf 5594, Hermanus to continue operating a five bedroom guesthouse on the property concerned, **be approved**, subject to the following conditions:
- (a) that the facility be utilized as a **guesthouse only**;
 - (b) that a maximum of five bedrooms to be let, be permitted;
 - (c) that the owner/manager resides on the premises;
 - (d) that the guesthouse is utilised as such and that no self-catering be permitted;
 - (e) that no facilities (bar/restaurant or any other) be provided for non-residents of the accommodation establishment and that these facilities only be used by bona-fide guests of the establishment;
 - (f) that the selling or serving of liquor on the premises will be subject to the applicant obtaining the necessary liquor licence;
 - (g) that a minimum of one permanently demarcated parking bay per guest room (as indicated on the Site Plan submitted) and two for the owner/manager be provided within the erf boundaries, subject to the approval of the Senior Manager: Town- & Spatial Planning;
 - (h) that commercial rates and service tariffs, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (i) that the accommodation facility complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
 - (j) that a single non-illuminated sign that complies with the Municipal By-Law on signage, may be displayed on the premises;
 - (k) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
 - (l) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation; and
 - (m) that all the conditions in the Services Report (attached as Annexure D), be complied with.

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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.

RESPONSIBLE OFFICIAL : H VAN DER STOEP

TARGET DATE FOR IMPLEMENTATION : 8 JULY 2015

TARGET DATE TO INFORM APPLICANT : 8 JULY 2015

TARGET DATE TO INFORM OBJECTOR : 8 JULY 2015



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**ERF 5594, 9 ROCHESTER STREET, WESTCLIFF, HERMANUS, OVERSTRAND
MUNICIPAL AREA : PROPOSED CONSENT USE & DEPARTURE : WERNER
ZYBRANDS CONSULTUS (PTY) LTD**

5594 HWC (2755)

H van der Stoep

(028) 313 8900

Hermanus Administration

6 May 2015

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
17 JUNE 2015, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

TARGET DATE FOR IMPLEMENTATION :

8 JULY 2015

TARGET DATE TO INFORM APPLICANT :

8 JULY 2015

TARGET DATE TO INFORM OBJECTOR :

8 JULY 2015



Annexure C 1/1

RELAXATION OF BUILDING LINE: ERF 5594 WESTCLIFF

MOTIVATION REPORT

During 2004 the said property was extensively renovated and refurbished in accordance with approved building plans.

The then builder and landscape architect proposed certain further improvements on and to the property namely:

- a double garage and storeroom;
- a braai lapa next to the swimming pool; and
- a pergola type protection over the walkway leading from the front gate to the front door.

Unfortunately I was living in Gauteng at that stage and the builder did not submit the necessary building plans as promised and he has since gone out of business.

When applying for a clearance certificate for the purpose of passing transfer of ownership of the property this oversight was identified by a building inspector.

As built plans have now been drawn and are attached.

In all three cases the building lines were not complied with and, in order to regularise this matter the following building line relaxations are hereby applied for:

From 2m to 0m for the outbuilding and the lapa; and

From 4 m to 0m for the pergola covered walkway.

As these are all existing structures and were built with the blessing of the affected neighbours and furthermore have never detrimentally affected the beneficial use of their properties it is submitted that the approvals requested be granted.


W J Zybrands

FILE NO:	
SCAN NO:	
COLLABORATOR NO:	

Date: 2015-01-22
Director: Infrastructure and Planning
Mr. S. Müller
Overstrand Municipality
PO Box 20
Hermanus 7200



*TP A Theart
(C Olivier)*

BY HAND

Dear Sir

OBJECTION TO APPLICATION:

ERF 5594, 9 ROCHESTER STREET, WESTCLIFF, HERMANUS
PROPOSED DEPARTURE AND CONSENT USE: WERNER ZYBRANDS
CONSULTUS PTY LTD

We are the owners of the adjoining vacant stand: Erf 181 - 7 Rochester St.

We wish to object to the above application on the following grounds:

The application calls for a departure from the relevant Scheme Regulations in order to relax the street building line from 4m to 0m to accommodate the existing pergola covered walkway.

We cannot condone or approve the call for the departure, as we are currently at an advanced stage of petitioning against exactly the same type of application (Erf 7190 Hermanus) - where a building transgression by a previous owner led to the current owner abusing the situation further to extend their home on to the street boundary line.

As we intend to build on the adjoining property (Erf 181 Hermanus) and will be obliged to adhere to strict building regulations when it comes to planning and construction, the same should be expected of the current owner.

We have no objection to the application for consent use in order to establish a guest house on the property, or to the relaxation of the lateral building line to 2m to accommodate the existing structures, as it would not affect our property.

Yours faithfully

J D & L A Cilliers
38 Canterbury Street
Hermanus 7200
Cell: 082 896 0517
Tel: 028 313 0880 h/w/fax
E-Mail: jancprop@hermanus.co.za

FILE NO:	EZ 5594 Herm
SCAN NO:	21
COLLABORATOR NO:	706739

TP 27 JAN 2015

TP 27 JAN 2015

FILE NO: EL 5594-Herman
SCAN NO: 47
COLLABORATOR NO: 706450

Eaststraat 9
Westcliff
HERMANUS
7200



20 Januarie 2015

Die Direkteur
Stadsbeplanner
Overstrand Munisipaliteit
Posbus 20
HERMANUS
7200


Geagte Mnr/Me

Erf 5594 Rochesterstraat 9, Westcliff, Hermanus Overstrand Munisipaliteit area voorgestelde afwyking en vergunningsgebruik. Werner Zybrands Consulting Pty Ltd Westcliff, Hermanus, Erf 183

1. Ek erken die ontvangs van bogenoemde skrywe Verw No 5594 HWC (2755) gedateer 14 Januarie 2015, waarvan kennis van die inhoud geneem is.
2. Volgens die voorgestelde plan en motiverings verslag het ek geen besware behalwe soos volg:
3. Die vereiste 2 meter tussen erf 183 en erf 2294 is reeds toegepas tydens oprigting van bestaande buitegebou. Dit is onbekend waarom die applikant die verslapping tussen erf 183 en erf 5594 op die grenslyn verlang. Op die grenslyn op bogenoemde erwe is 'n stormwater pyp wat alle stormwater vanaf erf 185 afvoer. Die afvoerpyp verhoed dat die waters in werf 183 en laas genoemde erwe loop. Indien die verslapping goedgekeur word en daar word op die gedeelte gebou, sal die water vanaf erf 185 geblok word en sodoende in erf 183 loop. Skades kan aangerig word. Indien die waterprobleem opgelos word, is ek bereid om goedkeuring te gee.

Hopende dat die aangeleentheid u aandag sal geniet.

Die uwe


C.A. VAN DER MERWE

**Plaan hierby aangeheg.

TP 21 JAN 2015



RELAXATION OF BUILDING LINE: ERF 5594 WESTCLIFF

MOTIVATION REPORT

During 2004 the said property was extensively renovated and refurbished in accordance with approved building plans.

The then builder and landscape architect proposed certain further improvements on and to the property namely:

- a double garage and storeroom;
- a braai lapa next to the swimming pool; and
- a pergola type protection over the walkway leading from the front gate to the front door.

Unfortunately I was living in Gauteng at that stage and the builder did not submit the necessary building plans as promised and he has since gone out of business.

When applying for a clearance certificate for the purpose of passing transfer of ownership of the property this oversight was identified by a building inspector.

As built plans have now been drawn and are attached.

In all three cases the building lines were not complied with and, in order to regularise this matter the following building line relaxations are hereby applied for:

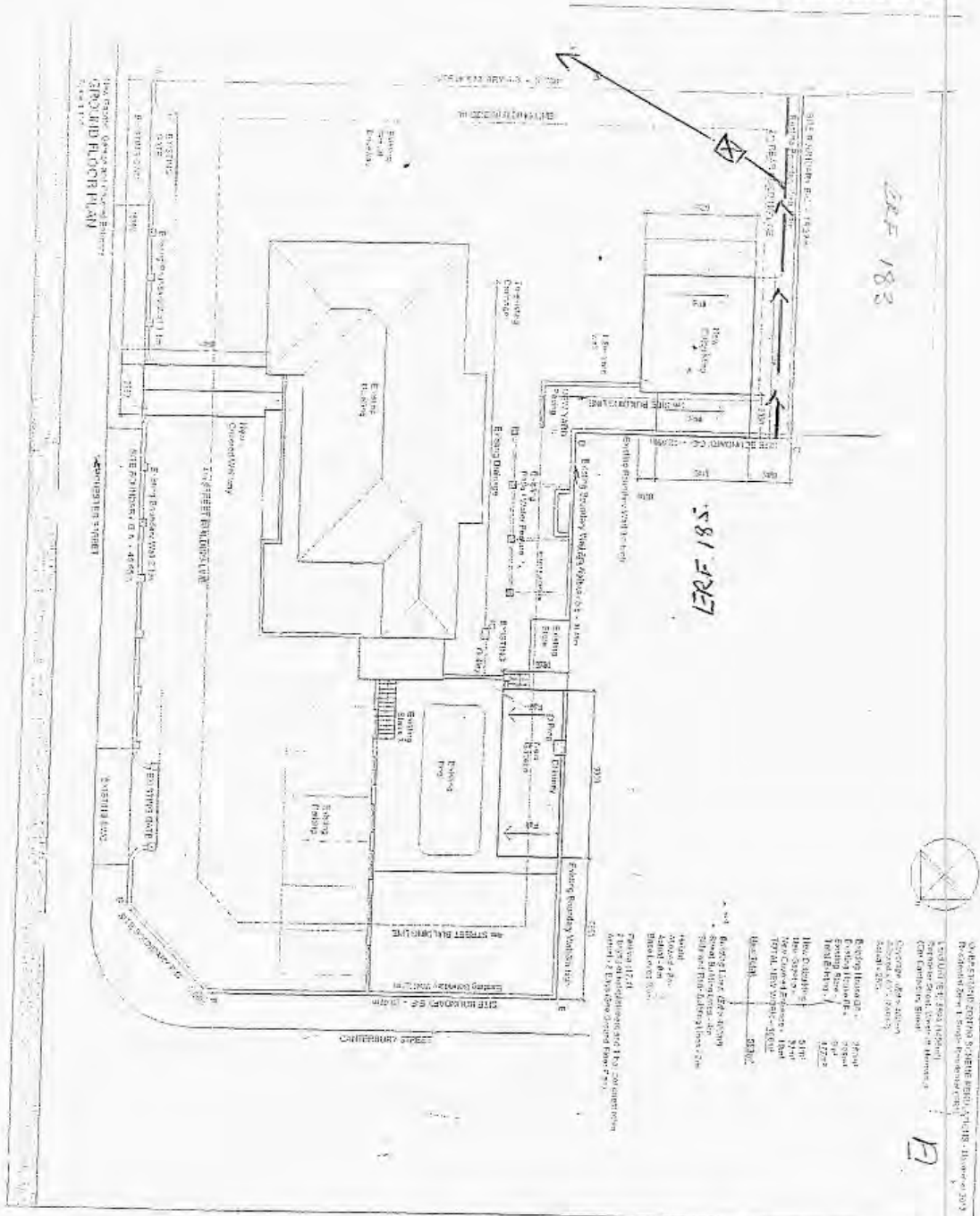
- ✓ From 2m to 0m for the outbuilding and the lapa; and
- From 4 m to 0m for the pergola covered walkway.

As these are all existing structures and were built with the blessing of the affected neighbours and furthermore have never detrimentally affected the beneficial use of their properties it is submitted that the approvals requested be granted.


W.J. Zylbrands

FILE NO:	
SCAN NO:	
COLLABORATOR NO:	

Annexure D 4/4



1. All dimensions are in millimeters unless otherwise stated.
 2. All dimensions are to the center of the wall unless otherwise stated.
 3. All dimensions are to the center of the window unless otherwise stated.
 4. All dimensions are to the center of the door unless otherwise stated.
 5. All dimensions are to the center of the window unless otherwise stated.
 6. All dimensions are to the center of the door unless otherwise stated.
 7. All dimensions are to the center of the window unless otherwise stated.
 8. All dimensions are to the center of the door unless otherwise stated.
 9. All dimensions are to the center of the window unless otherwise stated.
 10. All dimensions are to the center of the door unless otherwise stated.

B

ARCHITECTURAL DRAWING MARGUERITE TLOUHI 36/1 HERMANUS STREET HERMANUS 6871 SOUTH AFRICA Email: hermanus@tlouhi.com	HOUSE ZYBRANDS ERF 5594 HERMANUS	DRAWING PROPOSED ADDITIONS SITE PLAN DWG NO: CS-001 SCALE 1:300 @ A3 DATE: 07 OCTOBER 2014 DRAWN: AAG SITE: 5594/1	NOTES: 1. All dimensions are in millimeters unless otherwise stated. 2. All dimensions are to the center of the wall unless otherwise stated. 3. All dimensions are to the center of the window unless otherwise stated. 4. All dimensions are to the center of the door unless otherwise stated. 5. All dimensions are to the center of the window unless otherwise stated. 6. All dimensions are to the center of the door unless otherwise stated. 7. All dimensions are to the center of the window unless otherwise stated. 8. All dimensions are to the center of the door unless otherwise stated. 9. All dimensions are to the center of the window unless otherwise stated. 10. All dimensions are to the center of the door unless otherwise stated.
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FILE NO:	EL 5594-HWC
SCAN NO:	08
COLLABORATOR NO:	765254

Annexure E 1/2

TRATHAERT
(H Olivier)

P O BOX 325

HERMANUS

7200

16 MARCH 2015

THE DIRECTOR: INFRASTRUCTURE AND PLANNING

OVERSTRAND MUNICIPALITY

Dear Sir

Use Erf 5594 Westcliff, HermanusProposed Departure and Consent

Your letter 5594 HWC(2755) of 27 February 2015 refers.

Herewith my comments on the two objections received.

Kindly note that no objections to the proposed consent use were received and it is assumed that there should be no obstacle to grant the requested use.

J D & L A Cilliers

It is clear from the wording of the objection that the objectors do not have so much a problem with the covered pergola as what they have with the principle of relaxation. This is borne out by the fact that the objectors refer to their court action relating to a specific case, namely erf 7190 in Westcliff. In that specific case the owners extended their house footprint right "...on to the street boundary line". It is submitted that the objection is in essence not an objection to the current application but rather one of a display of consistency so as not to jeopardise their court action.

The covered pergola is of limited extent (approximately 4 to 6 square metres), is open on three side and was designed to protect visitors against inclement weather conditions when entering the house from the front gate on Rochester Road. There is no intention to erect further structures or to extend the present structure and , if need be, this can be specified in the relaxation approval.



TR
13 MAR 2015

17 MAR 2015

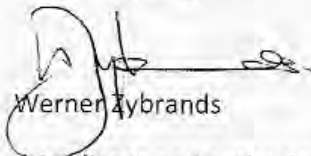
C A van der Merwe. Note: This response is in Afrikaans as the objection was submitted in Afrikaans.

Daar is duidelik 'n misverstand aangesien geen boulynverslapping tussen erwe 5594 en erf 183 (die beswaarmaker se erf) versoek is nie. Die verslapping word tussen erwe 5594 en erf 185 aangevra ten einde 'n bestaande buitegebou te wettig. Aansoeker is deeglik bewus van die stormwaterprobleem en vir hierdie doel het aansoeker etlike jare gelede op eie koste 'n stormwaterpyp aangebring om die stormwater vanaf erf 185 oor erf 5594 weg van erf 183 te gelei.

Aangesien geen verslapping tussen erwe 5594 en 183 benodig word nie, behoort die "beswaar" te verval.

It is trusted that these comments will suffice but, if not, applicant will gladly further respond.

Yours sincerely.



Werner Zylbrands

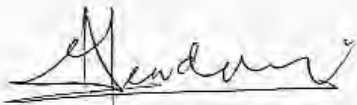
(Applicant and authorised representative of the current owners T and U Stoelting)

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR DEPARTURE & CONSENT USE: ERF 5594,
HERMANUS (2755)**

Electricity	:	In order
Water	:	In order
Sewer	:	In order
Stormwater	:	In order
Roads and traffic	:	In order

Conditions:

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 owner's cost;
2. 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 owner's cost;
3. that stormwater be allowed to discharge through Erf 5594, Hermanus, unobstructed;
4. that no on-street parking be allowed.



**DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES**

18/2/2015

DATE