

AGENDA OF THE SECTION 62 APPEAL COMMITTEE**2 FEBRUARY 2015**

**ERF 5282, 258 SIXTH STREET, VOËLKLIP, OVERSTRAND MUNICIPAL AREA :
PROPOSED DEPARTURE : J VAN DER POST**

5282 HVK (2398)**H van der Stoep****(028) 313 8900****Hermanus Administration****13 January 2015****1. Executive Summary**

An application has been received on 13 August 2013 from Mr J van der Post on Erf 5282, Hermanus for a departure from the Scheme Regulations in order to:

- change the use of the existing outbuilding (granny flat) to residential;
- to relax the western lateral building line from 2,5m to 1,430m to accommodate the new additions;
- to relax the eastern lateral building line from 3,5m to 2m to accommodate the garage, servants quarters and store room, and
- to relax the relevant 6m aggregate for lateral building lines to 3,43m.

The matter was considered by the Mayoral Committee on 30 April 2014 and it was resolved that the application for departure be approved, subject to conditions.

An appeal has been lodged by the objector, JF Koekemoer, in terms of Section 62 of the Local Government: Municipal Services Act, 2000 (Act 32 of 2000) against the resolution made by the Mayoral Committee.

The appeal was lodged within the prescribed 21 days in terms of the latter section.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Town Planning

3. Compliance with Strategic Priority

Provision of democratic and accountable governance

4. Delegated Authority

Section 62 Appeal Committee

5. Legal Requirements

Section 62 of the Local Government: Municipal Services Act, 2000 (Act 32 of 2000)

6. Background/Introduction/Discussion/Motivation/Proposal/ Evaluation

Grounds of Appeal

1. "Die Munisipaliteit was bevooroordeeld in die oorweging van die aangeleetheid."
The Municipality was prejudiced in evaluating the application.
2. "Die besluit is wesenlik beïnvloed deur regsdwaling."
The decision was influenced by legal error.
3. "Die prosedure om kommentaar te bekom was gebrekkig."
The procedure to obtain comments was insufficient.
4. "Die besluit is geneem nadat irrelevante oorwegings in ag geneem is en relevante oorwegings nie oorweeg is nie."
The decision did not take all relevant factors into consideration.
5. "Die besluite nie in verband gebring kan word met die feite wat voor die komitee gedien het nie."
The decision did not reflect the facts in this matter.
6. "Die besluit is so onredelik dat geen redelike komitee dit sou neem nie. Dit wil voorkom dus of die komitee nie die aangeleentheid behoorlik oorweeg het nie"
The decision was unjust.
7. "Die besluit is onkontitusioneel en/of onregmatig."
The decision is unconstitutional.

The appeal was referred to the objector for comment, and no response was received.

Applicants' comment on the ground of appeal

1. Section 62(1) of Act 32 of 2000 is prescriptive in that it only grants an appellant 21 days of the date of the notification of the decision to give notice and reasons for the appeal. As such, the appellant should be held to the reasons submitted within this time frame and not be allowed to submit any further reasons, especially in the light thereof that no condonation was requested for the late filing of any further reasons.

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2. In respect of the 7 reasons submitted by the appellant - I wish to state that none of them are relevant or true if one considers the facts of this matter.
3. The appellant is *mala fide* in the manner in which this appeal was conducted. In his original letter of objection the appellant clearly indicated that he is opposed to the relaxation of the building lines and intend to appeal.
4. The fact is that there is no prejudice to the appellant should the appeal not be successful.
5. It is requested that the appeal be dismissed and the decision of the Mayoral Committee, dated 30 April 2014 be confirmed.

Planners comment on the ground of appeal

The Grounds of Appeal is vague and thus cannot be addressed in detail. The only aspect that can be addressed is the aspect of the procedure of notification. The application was distributed as per procedure with regard to departures as applied in the Overstrand Municipal area of jurisdiction. The appellant was notified via registered mail.

Discussion / Evaluation

An application was received for the departure of the lateral building line from 2,5m to 1,430m to accommodate new additions, the departure of the lateral building line from 3,5m to 2,0m, the relaxation of the 6,0m aggregate and to change the existing outbuilding (granny flat) to residential.

The history of the buildings on the property dates back to 1962 and is as follows:

Ordinance 33 of 1934

- | | |
|------|--|
| 1962 | The main dwelling was approved. |
| 1965 | Outbuilding (servant's quarters and carport) was approved. |
| 1973 | Carport converted to playroom. |

Hermanus Scheme Regulations, 1974***Hermanus Skemaregulasies, 1974***

The building plan approvals was done in terms of Part III, Clause 5(2), read with Part IV, Clause 8A (4) with neighbours consent, read with Part V, Clause 9 (amendment to include granny flat).

- | | |
|------|--|
| 1987 | Double storey outbuilding (consisting of playroom, servants quarters on first floor and granny flat on second floor) |
|------|--|

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transgressing the building lines approved with neighbour consent.

1992 Outbuilding converted into flat, 1987 neighbours consent.

1995 Balcony approved with neighbours consent, referring to the dwelling (flat).

The applicant applied to convert the existing granny flat to residential to make it possible to interlink the existing main dwelling with the granny flat, which ultimately will result as part of the residential dwelling. The relaxation of the western lateral building line is to enable him to keep the proposed additions in line with the approved existing building on ground floor, thus not step the first floor to the required 2,0m building line. This will enable the applicant to make use of the existing foundations and eliminate extra reinforcement to accommodate a second storey due to the step necessary to comply with the 2,0m building line.

The relaxation of the 3,5m building line to 2,0m was to comply with the Overstrand Zoning Scheme Regulations. Should the latter been submitted in January 2014, this relaxation would not have been necessary. The departure from the 6,0m aggregate has lapsed since the inception of the Overstrand Zoning Scheme Regulations in January 2014.

During the process, the appellant and the objector did try and resolve the objections raised by the applicant, but could not come to an amicable agreement. It should be noted that in terms of the Overstrand Zoning Scheme Regulations, the parameters for a single residential erf is 50% coverage and a height of 8,0m. The outbuilding as per the application is in line with the development parameters. The granny flat was approved as a habitable structure and will there be no change of actual usage of the building, however it will be interleading with the main dwelling and thus is not seen as a second dwelling to the fact that it is interleading. The structure, which is situated only 1,0m from the rear boundary, has been approved by the Municipality in 1987 with neighbours consent.

The aspect of the possible infringement of the existing view towards the sea, this aspect has not been entrenched in the Title Deed of the application property.

Although the Municipality, in general, does not support the transgression of the lateral building line of a main dwelling on second floor level, the application has merit in terms of existing structures previously approved by the Municipality. Should the applicant decide to make use of the allowable parameters of the Overstrand Zoning Scheme Regulations, the appellant's view will be compromised, without a land use application.

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The appeal be dismissed.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

N/A

10. Annexures

Addendum AA: Item from the Town Planning Department that served before the Mayoral Committee on 30 April 2014

Addendum BB: Resolution of Mayoral Committee dated 30 April 2014

Addendum CC: Appeal received from JF Koekemoer

Addendum DD: Comment from the applicant

RECOMMENDATION:

that the appeal be dismissed.

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22 April 2014
(Also the agenda for the Mayoral Committee Meeting : 30 April 2014)

6.
ERF 5282, 258 SIXTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND
MUNICIPAL AREA : PROPOSED DEPARTURE : J. VAN DER POST

5282 HVK (2398)

H van der Stoep

19 February 2014

(028) 313 8900

Hermanus Administration

1. Executive Summary

An application has been received on 13 August 2013 from Mr J van der Post on Erf 5282, Hermanus for a departure from the Scheme Regulations in order to change the use of the existing outbuilding (granny flat) to residential, to relax the western lateral building line from 2,5m to 1,430m to accommodate new additions, to relax the eastern lateral building line from 3,5m to 2m to accommodate the garage, maid's quarters and store room, and to relax the relevant 6m aggregate for lateral building lines to 3,43m.

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 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

Background

Registered notices were sent to all potentially affected property owners, and one objection was received from Adv. J. Koekemoer, owner of Erven 3830 and 3840, Hermanus, situated on the northern boundary of the application erf.

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The application was also circulated to all relevant municipal departments, the Senior Manager: Hermanus Administration and the Ward Councillor, and no objections were received.

An application has been received which involves various departures in order to accommodate an existing dwelling and the extension thereof. In investigating the application, no building plan of the original building could be found at the Building Department; however the building was in existence in 2004 when the applicant bought the property. The objector acknowledges the fact that the building has been in existence even before 2004, since he was also interested in purchasing the property.

A query was previously directed to the Municipality with regard to the legality of the existing dwelling. However, this was left because of the fact that the building was used as an outbuilding and not to reside therein.

An application has been received for the following departures:

- the change of use of the illegal outbuilding to residential and to relax the northern boundary to accommodate the existing building;
- to relax the western lateral building line from 2,5m to 1,430m to accommodate new additions;
- to relax the eastern lateral building line from 3,5m to 2,0m to accommodate the garage, maid's quarters and a store room, and
- to relax the aggregate of 6,0m.

The objection received can be summarized as follows:

- The double storey building, referred to as a granny flat is less than a meter from the boundary, with windows that overlook the objector's property.
- During 2001, the objector was interested in purchasing the property, however the estate agent indicated the buildings could not be legal.
- The matter was taken up with the Municipality at that stage with the relevant departments, which indicated that the building was most probably erected for the use of maid's quarters, but could not explain the windows overlooking the objector's erf. However, to the objector's knowledge, the double storey granny flat was never used as a maid's quarters. Therefore the building was erected illegally and obscures his sea view.
- The objector further objects to another maid's quarters, since there is already one on the property.
- The new additions will obscure the view presently available to the objector.

Applicant's response on the objection:

The granny flat was erected with approved building plans before the present owner took occupation. There was a later approved building plan for internal changes and a patio. The objector, by his own submission, acknowledges the

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fact that the granny flat was in existence and could have addressed the issue following the channels available to him. The applicant did indicate that should the applicant change the windows as per his request that the objection will be withdrawn. The applicant is prepared to adhere to this request, should all objections in total be withdrawn.

According to the applicant there is only one maid's quarter to be erected. The granny flat cannot be viewed as a maid's quarters as it was never used as such.

The objector purchased his properties with full knowledge of the granny flat on the northern boundary which impedes his sea view. Thus the requested departures will have no bearing on limit the view further as the building is in existence.

Negotiations between the parties resulted in the following:

Advocate Koekemoer

- Various conditions were put on the table for the applicant to comply with, which could have led to the withdrawal of the objections raised.
- The withdrawal of the objections must not be interpreted that the structure on the northern boundary is legal.
- That any proposed building on the eastern side of the erf be restricted to one storey.
- Windows of the granny flat must be replaced with windows not lower than 1,93m from the floor of the second storey.
- A window may be replaced on the second storey not more than 700mm in width and not more than 400mm from the eastern corner of the building.
- The portion of the granny flat higher than the objector's garage be painted with a matt paint to avoid glare.
- Before construction starts, the tree obscuring the telephone wires be cut down to 5m and be maintained at that height.
- The abovementioned conditions be made applicable to any new owner.
- Should the conditions not be accepted, the objections remain valid.

Mr van der Post

The applicant does not accept the conditions.

Town Planner's comments on the objection:

The double storey granny flat was approved in November 1987 with the consent of the adjacent land owner (now owned by Advocate Koekemoer). The objector in his own submission had knowledge of the building on the northern boundary. With that knowledge he still purchased the property directly behind the application erf and thus had no sea view as from 2001, when he

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purchased his erf. The sea view aspect is of no consequence as this application will not change the existing situation with regard to the building on the northern boundary.

The application clearly indicates only one maid's quarters.

The conditions stipulated by the objector are excessive. The objector still acknowledges the building on the northern boundary and is prepared to with requested conditions withdraw his objection pertaining to the change of use. He made it clear that it does not mean he regards the building as legal, however it is clear that he had full knowledge of the building when purchasing his erf and did not follow any legal route to question the building's legality until now, more than 10 years later.

The condition of restricting the eastern side of the erf to a single storey is an unreasonable request. In terms of the Overstrand Municipality's Zoning Scheme the applicant has a right to erect any structure of 8m high on the property as long as he complies with the building lines and coverage.

Discussion / Evaluation

The application was brought under the Hermanus Scheme Regulation 7 and some of the departures will not be applicable if the application was lodged after December 2013. The Overstrand Municipality's Scheme Regulations that came into effect on 1 January 2014 will render the departures for the aggregate of 6m and the eastern building line from 3,5m to 2m obsolete. The aforementioned restrictions are no longer applicable and are in line with the Scheme Regulations pertaining to Residential I zoning.

The application to depart from the western lateral building line from 2,5m to 1,430m is to enable the applicant to build a second storey on the existing dwelling. Architecturally and aesthetically, the building of a storey within the required 2,5m applicable in 2013 will be costly and totally impractical. The change of the use of the building from a granny flat to a use of residential is necessary to link the main dwelling with the building on the northern boundary, also referred to as the granny flat in the application. The interleading of the two buildings has necessitated the departure of the rear boundary line to the footprint of the existing building on the northern boundary.

The garage / store room and maid's quarters are within the building line in terms of the Overstrand Municipality's Scheme Regulations.

It is imperative to take into consideration that the coverage of the property will be 28% with the new additions. In terms of the Overstrand Municipality's Scheme Regulations, Residential I zoning allows coverage of 50%. The applicant is thus entitled to build about double the size of the proposed structures on the property. It should be noted that the present application was

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lodged in 2013 and the Hermanus Scheme Regulations 7 is applicable. Therefore the height of the buildings is restricted to 7,5m. However, should the applicant apply to extend the building within the Overstrand Zoning Scheme implemented in January 2014, a height of 8m is applicable.

The departures are to address an existing situation and enable the applicant to make use of the existing buildings in a practical manner and not build new structures that will definitely have more of an impact on the properties to the north of the application erf. It should be noted that, should the applicant intends to subdivide the property, all the development parameters as stipulated in the Overstrand Municipality Zoning Scheme will be applicable.

The application for the departures is to make use of existing buildings in order to extend the main residential dwelling. Thus only one dwelling will remain where previously a main dwelling and a granny flat existed.

Conclusion

The application is supported.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Engineering Services

See Annexure D.

Manager: Building Department

"Supported as the lateral building line is 1,4m for a double storey on the western side section, which is more than a plot has less than acceptable as the plot is less than 18m in depth. A large percentage of Voëlklip already consists of these properties and has been supported."

Local Heritage Committee

"From an aesthetics viewpoint, this design is supported."

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Ward Councillor (K. Brice)

"If all is according to ROD and accepted by Overstrand Municipal departments, I in acceptance."

Senior Manager : Hermanus Administration (D. Kearney)

No objection.

10. Annexures

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

RECOMMENDATION :

that in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), an application for departure from the Scheme Regulations on Erf 5282, Hermanus in order to change the existing outbuilding (granny flat) to residential, to relax the western lateral building line from 2,5m to 1,430m to accommodate new additions, to relax the eastern lateral building line from 3,5m to 2m to accommodate the garage, maid's quarters and store room, and to relax the relevant 6m aggregate for lateral building lines to 3,43m, **be approved**, subject to the following conditions:

- (a) that this approval only has reference to the relaxation of the building lines as indicated on the plans dated February 2013, as submitted with the application;
- (b) that the windows on the northern boundary remain intact as per approved plan of 1987;
- (c) that a height of 7,5m be adhered to;
- (d) that building plans be submitted to the Building Department for approval;
- (e) that all the conditions in the Service Report (attached as Annexure F), be complied with;

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- (f) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
- (g) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.

RESPONSIBLE OFFICIAL :	H VANDER STOEP
TARGET DATE FOR IMPLEMENTATION :	16 MAY 2014
TARGET DATE TO INFORM APPLICANT :	23 MAY 2014
TARGET DATE TO INFORM OBJECTOR :	23 MAY 2014

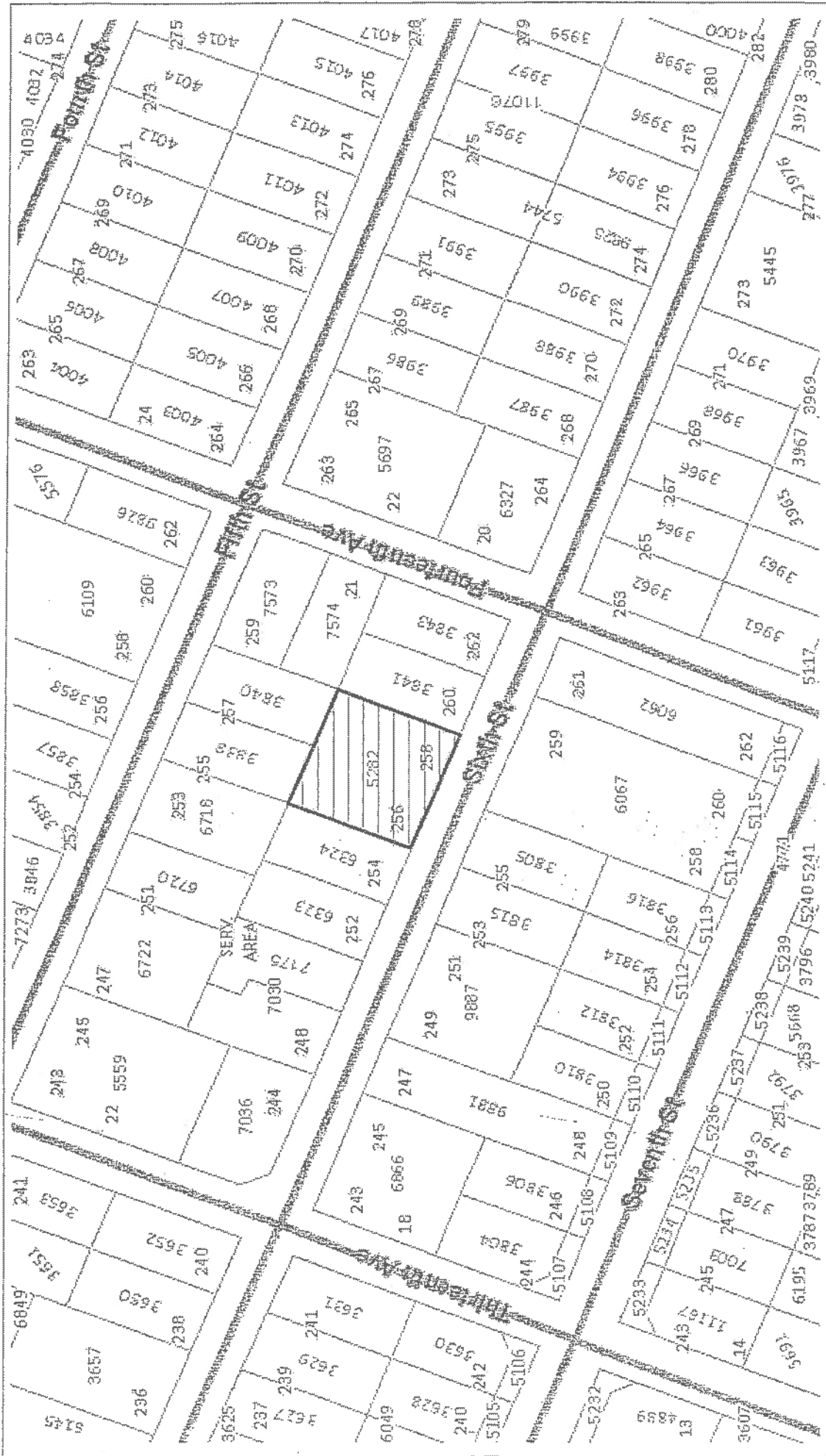
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MUNICIPAL AREA : PROPOSED DEPARTURE : J. VAN DER POST

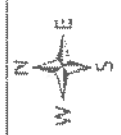
5282 HVK (2398)
H van der Stoep (028) 313 8900 Hermanus Administration
19 February 2014

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
22 APRIL 2014, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION

RESPONSIBLE OFFICIAL :	H VAN DER STOEP
TARGET DATE FOR IMPLEMENTATION :	16 MAY 2014
TARGET DATE TO INFORM APPLICANT :	23 MAY 2014
TARGET DATE TO INFORM OBJECTOR :	23 MAY 2014



Locality Plan
 Erf 5282, 258 Sixth Street, HERMANUS



GENERAL NOTES

1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.

2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.

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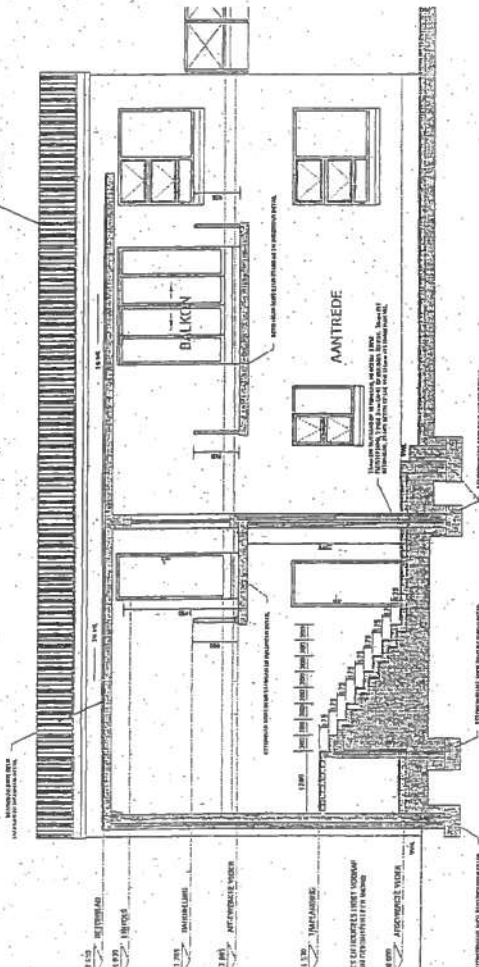
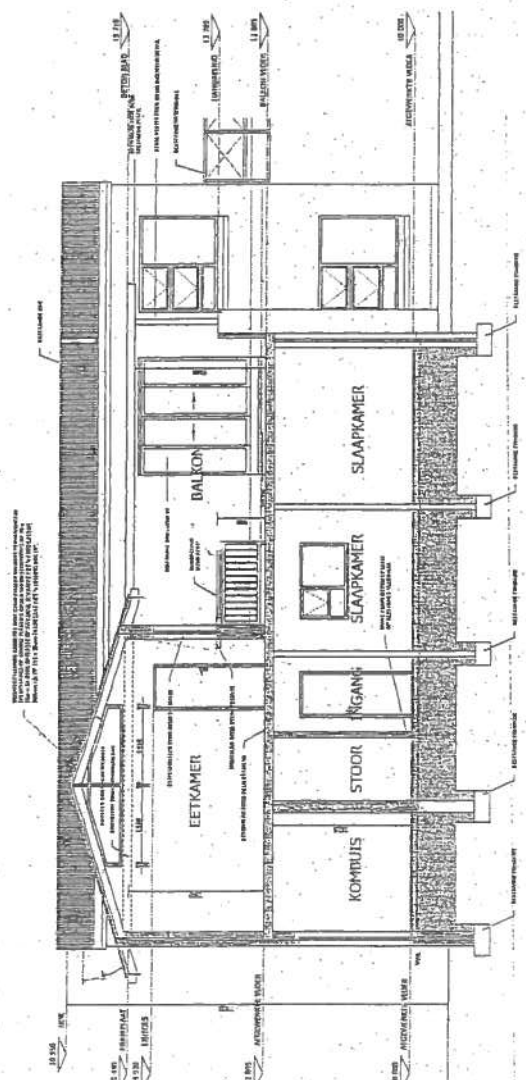
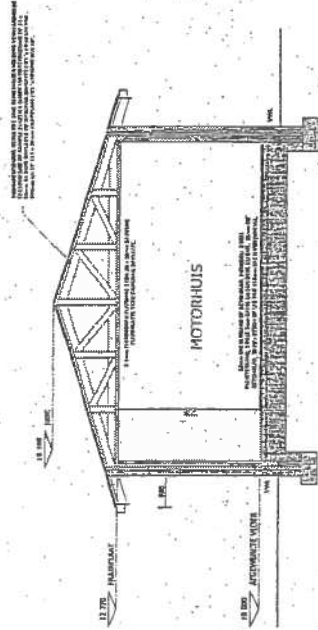
7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.

8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.

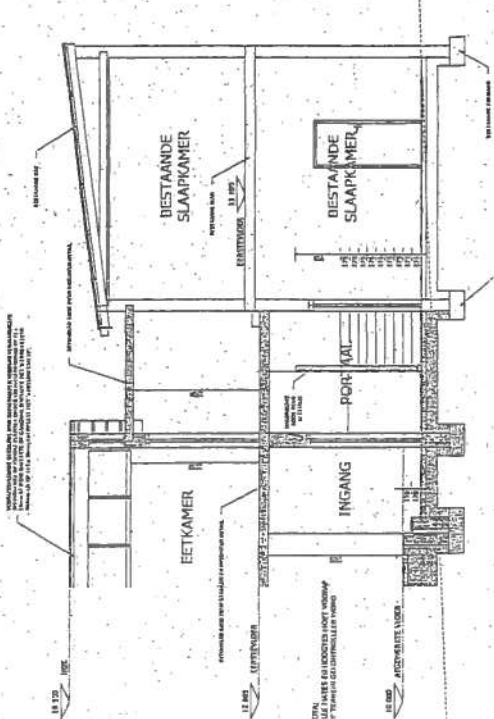
9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.

10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL AUTHORITIES.

DEURSNIET B - B 1 : 50



DEURSNIET D - D 1 : 50



NO.	DATE	REVISIONS / REMARKS

PROJECT NO.	1000000000
CLIENT	HUNDBERG VILHOJEN
ADDRESS	VOORGEESTE DE AV EN VERANDERIG BESTAANDE WOONHUIS HENK VAN DE ERFF 5282, 50 6d HERMAN
SCALE	1:50
DATE	2010/10/26

DESIGNER	SNITTEPLI
CLIENT	5005 GETI
PROJECT NO.	1000000000
CLIENT	HUNDBERG VILHOJEN
ADDRESS	VOORGEESTE DE AV EN VERANDERIG BESTAANDE WOONHUIS HENK VAN DE ERFF 5282, 50 6d HERMAN
SCALE	1:50
DATE	2010/10/26

DEPARTURE (Buildinglines)

Erf 5282, Voëlklip, Hermanus

Overstrand Municipality

BACKGROUND AND INTRODUCTION

Mrs J van der Post is the registered owner of Erf 5282, Hermanus, also known as 526 6th Street, Voëlklip, Hermanus, (hereinafter referred to as "the subject property"). The subject property is situated towards the Eastern side of Hermanus.

Mrs van der Post bought the subject property about 10 years ago. At the time it was improved with a single storey dwelling and a double storey flat. With the approval of the local municipality internal alterations were made and an outside patio added. The main dwelling is positioned adjacent to the western boundary and the street front (southern boundary) whereas the flat is adjacent to the northern boundary of the subject property. (Please refer to the layout plan).

The van der Post family resides in Bloemfontein and the subject property is the family's holiday house. Until very recently it was quite adequate, but as the family have expanded with in laws and grandchildren the improvements are no longer sufficient and therefore the proposed alterations to the subject property.

It is Mrs van der Post's intention to convert the existing dwelling and flat into one main double storey dwelling and to erect a new single storey outbuilding (please refer to the building plans).

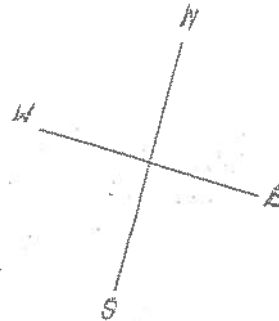
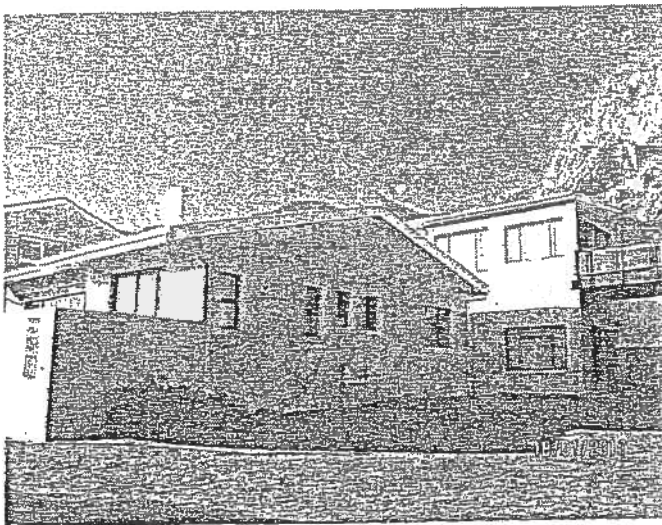
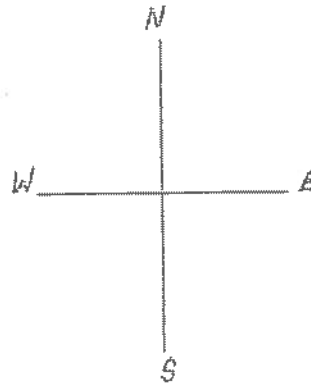
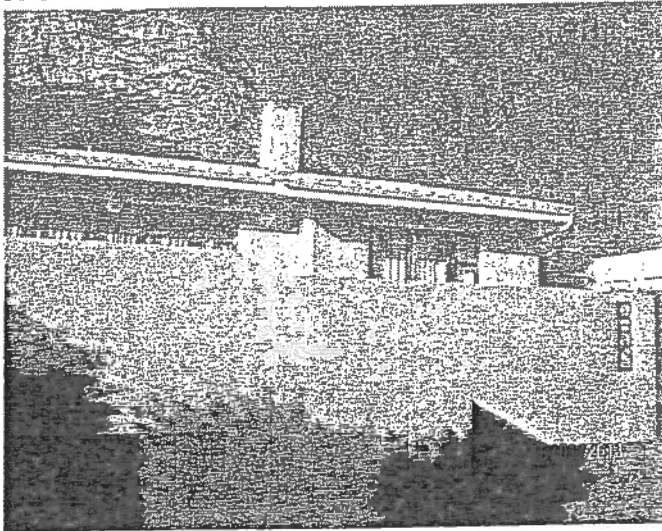
APPLICATION DETAILS

The application is one for departure (building line encroachments) in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985).

MOTIVATION

Locality, Property Description and Current Development

6th Street borders Erf 5282, on the southern side. The following photos were taken from the street side.



There are dwellings on the northern, western and eastern sides of the subject property.

The location ensures direct access to all major routes within the immediate area and the CBD of Hermanus.

The total extent of the property is 991m² and held by Title Deed No T924194/2004

The zoning status of Erf 5282 is Single Residential.

The subject property is currently, as already mentioned, developed with a single storey main dwelling and a double storey flat.

DETAILED ANALYSES OF THE APPLICATION

The Hermanus Zoning Scheme regulations provides for a departure of building lines on single residential properties. The application for consideration entails the following:

- Departure rear(northern) building line to change the use of outer building (current flat) to residential in order for flat to be incorporated into main dwelling as one unit.
- Departure of the western lateral from 2500mm to 1430mm, i.e. 1070mm to accommodate new additions.
- Departure of the eastern lateral from 3500mm to 2000mm, ie. 1500mm for the new single storey outbuilding that houses the garage, servant room, laundry and store.
- Departure to allow the encroachment of the combined 6 meter building line.

The maximum height limitations will not be exceeded and the proposed new outbuildings will be single storey. The existing rear building line will be retained and no additions, alterations or enhancement of the northern wall of the flat will be effected and thus the existing footprint will remain in tact.

The street building line will be honoured and the total coverage will be well under 50%. This has in fact been calculated to be 28%.

SURROUNDING LAND USES AND CHARACTERISTICS

The immediate land uses surrounding Erf 5282, Hermanus mainly consist of residential use. As it is a prime holiday destination a fair number of residential properties are being utilized as holiday houses in similar fashion as the subject property. There are of course many permanent residences in the area.

SUSTAINABLE DEVELOPMENT

The proposed development will be of a sustainable nature and will not only benefit those directly involved in the building operations but will hopefully contribute towards further strengthening the area.

IMPACT ON CHARACTER OF THE AREA

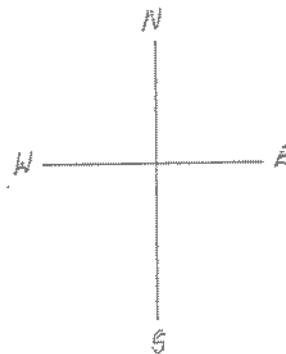
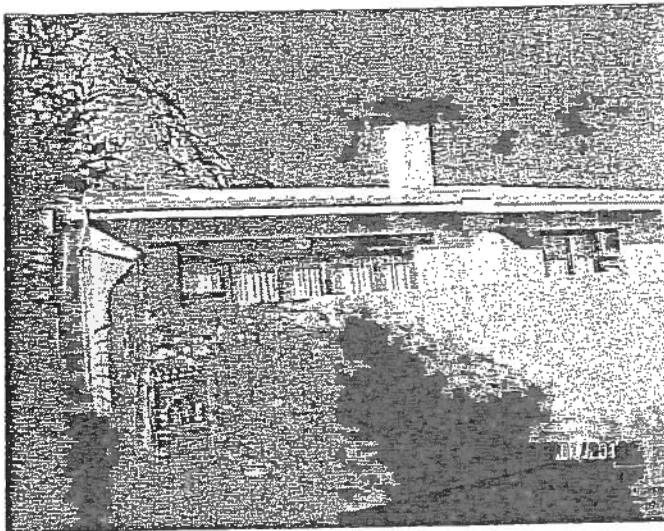
The proposed alterations and additions will have no negative impact on the character of the area. As already mentioned the house will be utilized as a holiday house which is quite common for the area. The existing de facto building lines will remain in tact and the addition of the proposed second storey and conversion of what are currently basically, two dwellings, into one, will compliment and contribute positively towards the existing character of the area.

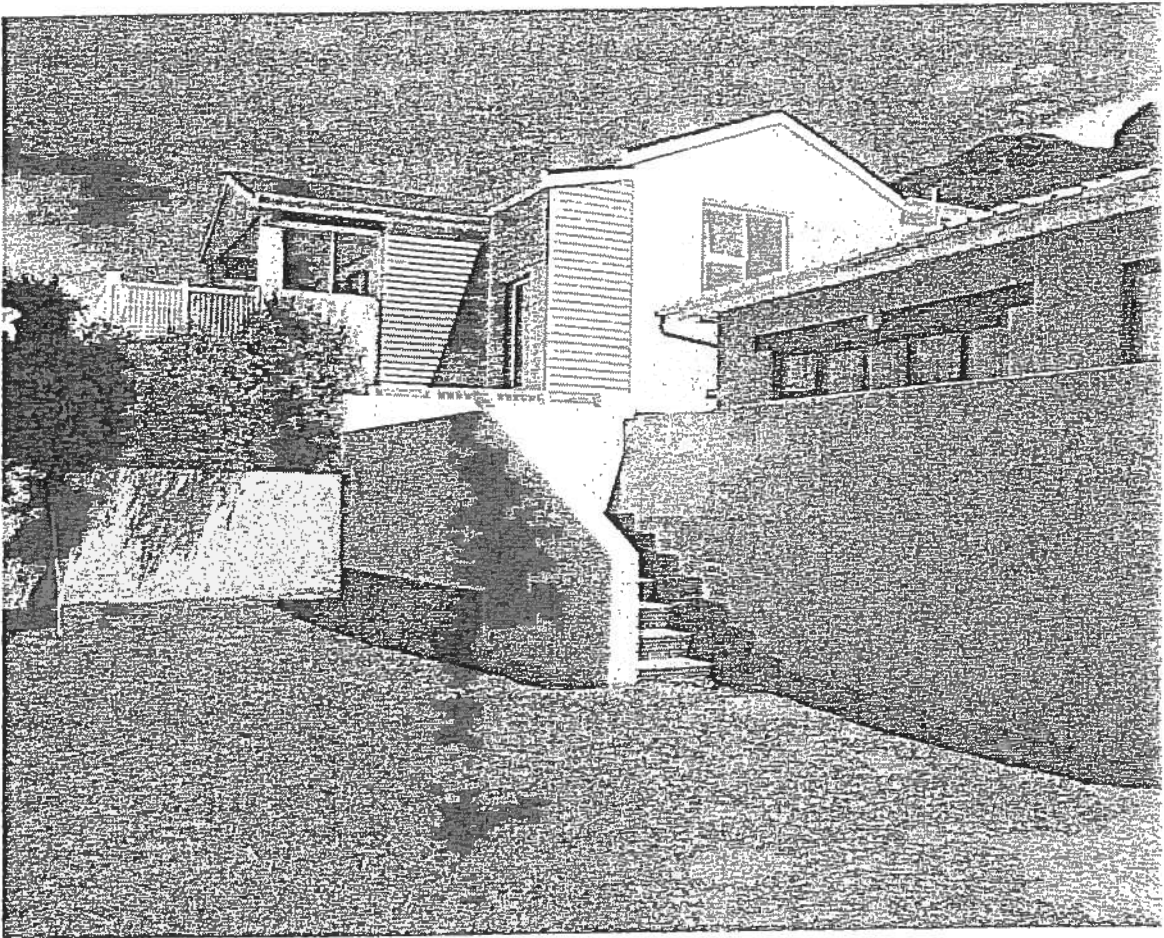
ARCHITECTURE AND ESTHETICS

The existing dwelling is of excellent interior and exterior design and quality and blends in exceptionally with the building environment in the area which will even be more so should the alterations and additions be effected.

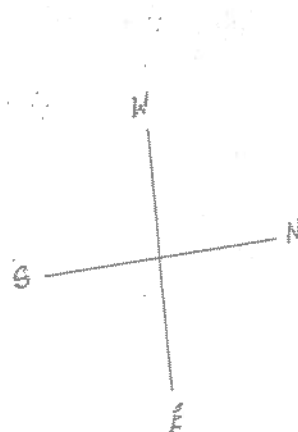
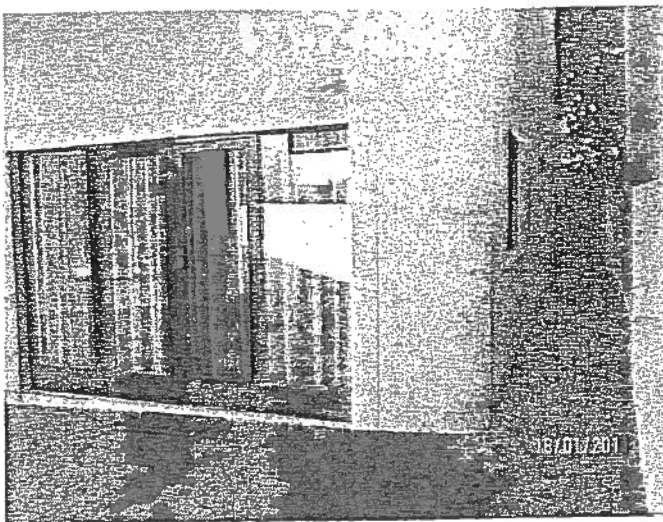
DEVELOPMENT REQUIREMENTS

As required ample parking is available or can be provide on the subject property as can be observed from the property layout plan. The proposed "new" main dwelling will be situated well inside the 4500mm street building line. The building will however be 1430mm from the existing western boundary meaning she encroaches by 1070mm,





and 800mm on the northern side.



RECOMMENDATION

It is submitted that the proposed departure of the building lines is necessary to afford a practical and cost effective solution to alterations which will be jeopardized if strict compliance with building lines are to be enforced. It is therefore recommended that the application be granted as the project as a whole will compliment the area and not be detrimental to any existing or future stakeholders.



JF Koekemoer

Posbus 626

Hermanus

7200

Die Munisipale Bestuurder

Overstrand Munisipaliteit

Hermanus

Per E-pos

Geagte Meneer

ERF 5282, Voëlklip: Voorgestelde Afwykings: Verw 5282 HVK(2398)

U skrywe in bogemelde verband gerig aan my as eienaar van erwe 3830 en 3840, geleë aan die noordekant van die gekonsolideerde erf 5282, verwys.

Ek het reeds vroeër vanjaar tydens 'n besoek aan Me van der Stoep my bedenkinge rakende die ontwikkeling van erf 5282 bespreek nadat Mnr Deysel, namens die eienaar, aan my die bouplan oorhandig het vir kommentaar. Ek het Mnr Deysel ook meegedeel dat ek gekant is teen die ontwikkeling.

My woonhuis is geleë op erf 3838, reg agter die huidige geboue op erf 5282. Binne een meter van die erfrens is 'n dubbelverdiepinggebou waarna verwys word in die aansoek as 'n 'woonstel'. Hierdie gebou is minder as twee meter vanaf die westelike erfrens en gebou oor die oorspronklike erfrens aan die oostelike kant van die erf. Ek vermoed dit was die rede waarom die oorspronklike erwe wat nou erf 5282 is, gekonsolideer moes word. Daar is vensters op beide vlakke in hierdie gebou wat uitkyk oor my erf. Die totale uitsig van my erf na die see word dus tans versper.

Tydens my soeke na 'n huis gedurende 2001 in Hermanus was erf 5282 ook in die mark. Die verkoopsagent het my meegedeel dat die geboue op die erf ooglopend nie wettig opgerig kon word nie en my afgeraai om dit te koop. Na die koop van my woning het ek die aangeleentheid opgevolg met die Hoofde van Stadsbeplanning en Boubeheer, Mnrre Kuchar en Simson. Tydens 'n inspeksie ter plaatse is ek meegedeel dat die sogenaamde 'woonstel' slegs goedgekeur kon word as dit as bediendekamer aangedui is op die bouplan. Hul kon nie aan my verduidelik waarom die gebou se vensters uitkyk op my erf nie. Ek het hul woord aanvaar. Ek het later versoek dat enige verdere bouwerk op die erf na my verwys moes word en dat so aantekening op die erf lêer geplaas moet word. Ek was ook op daardie stadium die munisipale bestuurder van Overstrand en wou uiteeraard nie in litigasie teen my werkgewer betrokke raak nie. Ek het hul egter meegedeel dat die gebou nog nooit tydens my eienaarskap as bediendekamer gebruik is nie, wat vandag nog die geval is. Die gebou was somtyds gebruik om bouwerkers in te huisves en sedert die nuwe eienaar dit gekoop het, is dit baie selde gebruik, maar dan slegs vir vakansiegangers.

FILE NO:	ER 5282
SCAN NO:	
COLLABORATOR NO:	571016

Dit is my submitisie dat hierdie buitegebou onwettig opgerig is en/of gebruik word. Indien daar destyds goedkeuring deur die Munisipaliteit verleen is vir die oprigting daarvan, is my submitisie verder dat sodanige goedkeuring onreëlmatig verleen is.

Voordat u enige besluite neem oor die aansoek versoek ek dat u, in my teenwoordigheid indien enigsins moontlik, sowel as die teenwoordigheid van die eienaar, indien moontlik, 'n inspeksie ter plaatse uitvoer. Indien u enige goedkeurings verleen versoek ek verder dat u die aansoeker sal meedeel dat u besluit onderhewig is aan appél, wat ek dan voornemens is om aan te teken.

Dit blyk dat die aansoeker bloot die huidige struktuur wil inkorporeer sodat dit deel sal wees van die huidige woonhuis. Dit is onaanvaarbaar. Ek is egter meer as bereid om die aansoeker in te lig welke wysigings aangebring kan word aan die struktuur/strukture om dit aanvaarbaar te maak, solank sodanige vereistes deel word van die voorwaardes van goedkeuring deur die Munisipaliteit.

Omdat daar reeds 'n bediendekamer op die perseel is, maak ek ook beswaar teen die oprigting van 'n verdere bediendekamer. Indien die ontwikkeling aangepas word deur die huidige buitegebou deel te maak van die bestaande woonhuis op voorwaardes soos ooreengekom, sal hierdie beswaar uiteraard verval.

Soos reeds voorheen rakende ander nabygeleë ontwikkelings aangetoon, is ek ook gekant teen die verslapping van boulyne. Sodanige verslapping, veral as dit hoër as net 'n grondverdieping is, versper enige uitsig wat die waarde van erwe verminder. Hierdie regte is beslis beskermbaar indien dit goedkeuring van enige aard vereis en nie reeds 'n die reg van die eienaar is nie.

Bogermelde kommentaar word aan u gerig sonder benadeling van enige regte waaroor ek mag beskik om die ontwikkeling teen te staan. Terselfdertyd sal ek enige ontwikkeling wat die bestaande probleme oplos, verwelkom.

Geliewe ontvangs van hierdie skrywe te erken en my in te lig of enigiets bykomend verlang word.

Vriendelike groete

Adv Jan Koekemoer

0833250485 of 0283141621.

E-pos: jan@caperf.co.za