

ERF 6765, 77 HH DE KOCK STREET, KLEINMOND: APPLICATION FOR DEPARTURE AND DETERMINATION OF ADMINISTRATIVE PENALTY: FVS TOWN & REGIONAL PLANNERS (obo DH DE VILLIERS)

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 that an application has been received as follows:

- Departure in terms of Section 16(2)(b) of the By-Law to relax the rear building line from 2m to 1m as well as the lateral building line from 2m to 1m to accommodate a proposed second dwelling unit.
- Determination of an administrative penalty for unauthorised land use in terms of Section 16(2)(q) of the By-Law.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, Paterson Street, Hermanus and at the Kleinmond Library, Fifth Avenue, Kleinmond. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before **11 June 2021**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to **Ms. H van der Stoep** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.

ERF 6765, HH DE KOCKSTRAAT 77, KLEINMOND: AANSOEK OM AFWYKING EN BEPALING VAN ADMINISTRATIEWE BOETE: FVS TOWN & REGIONAL PLANNERS (obo DH DE VILLIERS)

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Gewysigde Verordening vir Munisipale Grondgebruikbeplanning, 2020 dat 'n aansoek ontvang is vir:

- Afwyking ingevolge Artikel 16(2)(b) van die Verordening om die agterboulyn vanaf 2m na 1m te verslap en om die syboulyn vanaf 2m na 1m te verslap ten einde 'n voorgestelde tweede wooneenheid te akkommodeer.
- Bepaling van 'n administratiewe boete vir ongemagtigde grondgebruik ingevolge Artikel 16(2)(q) van die Verordening.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus en by die Kleinmond Biblioteek, Vyfdelaan, Kleinmond. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) voor of op **11 Junie 2021**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan **Me. H van der Stoep** at 028-313 8900. Die Munisipaliteit mag weier om die kommentaar te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

ISIZA 6765, 77 HH DE KOCK STREET, EKLEINMOND: ISICELO SOPHAMBUKO NOKUMISELWA KWESOHLWAYO SOLAWULO: FVS TOWN & REGIONAL PLANNERS (obo DH DE VILLIERS)

Isaziso sinikwe ngokwemiqathango yeCandelo 48 loMthetho oYilwayo kaMasipala oLungisiweyo woMasipala wase-Overstrand ongoCwangciso lokuSetyenziswa koMhlaba kaMasipala, 2020 sokokuba isicelo sifunyenwe njengoku kulandelayo:

- Ukuphambuka ngokwemiqathango kweCandelo 16(2)(b) loMthetho kaMasipala sokunyenysiswa komda wesakhiwo esingasemva ukususela kwi-2m ukuya kwi-1m ngokunjalo nomda wesakhiwo esisecaleni ukususela kwi-2m ukuya kwi-1m ukulungiselela ulwakhiwo olucetywayo lweyunithi kwisakhiwo sesibini.
- Ukumiselwa kwesohlwayo solawulo kulungiselelwa ukusetyenziswa okungagunyaziswanga komhlaba ngokwemiqathango yeCandelo 16(2)(q) loMthetho kaMasipala.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ngeentsuku zomsebenzi phakathi kweyure-08:00 ne-16:30 kwiSebe: Town Planning, Paterson Street, Hermanus nakwiThala leeNcwadi laseKleinmond, Fifth Avenue, eKleinmond. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zamaCandelo 51 nelama-52 alo Mthetho uYilwayo kaMasipala mazithunyelwe kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla **wama-11 kuJuni 2021**, unike igama lakho, idilesi neenkukacha zonxibelelwano nawe, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Xa ufuna ukubuza into malunga nesi saziso ungafonela u- **Nksk. H van der Stoep** kule nombolo yomnxeba 028-313 8900. UMasipala angala ukuzamkela izimvo ezifike emva komhla wokuvala. Nabani na ongakwaziyo ukufunda okanye ukubhala makaye kwiSebe loYilo lweDolophu apho igosa likamasipala liya kumncedisa azibhale izimvo zakhe.





Town and Regional Planners

INTRODUCTION

FVS Town and Regional Planners is a professional town planning company based in the Western Cape of South Africa, with project experience throughout the country. We strive to deliver town planning services to individuals, companies, and communities to create sustainable environments.

We have a combined experience of 10 years in both public sector and private sector. We can assist with all varieties of land - use related issues. With a dynamic and efficient team, we can assist with the management of both large and small-town planning projects and will be able to provide our consultation services where necessary.

Background Information

On 2 November 2020, the Municipality of Overstrand served a 30-day Notice on the property owner to submit building plans for the structure that does not have an approved building plan. The property owner subsequently contacted a local architect to assist with the drawing of the new building plans. It was evident that to submit, and approve, the new building plans, the property owner would first need to apply for a building line relaxation, a Town Planning process.

The architect referred to property owner to FVS Town and Regional Planners. To provide the client with the approved building plans, FVS Town Planners have compiled this motivation report and supporting documentation.

Planning Brief

FVS Town and Regional Planners have been appointed by the property owner, Dianne Hazel de Villiers, to apply for the side and rear building line relaxation and the determination of an administrative penalty. The second dwelling unit is situated 1m from the side boundary, and rear boundary lines.

PROPERTY DETAILS

Section 2 of this report consists of the details pertaining to the subject property, such as its locality and ownership details are and property

Locality

Erf 6765 is situated in the coastal town of Kleinmond in the greater Overberg area. Kleinmond is situated approximately 90km east of Cape Town and offers a wide range of activities ranging from tourism, which is the predominate economic activity, and also outdoor activities such as hiking, mountain biking and whale watching, during certain times of the year. Kleinmond is situated in a UNESCO-declared biosphere.



Please refer to the attached **Annexure E** for the Locality Plan.



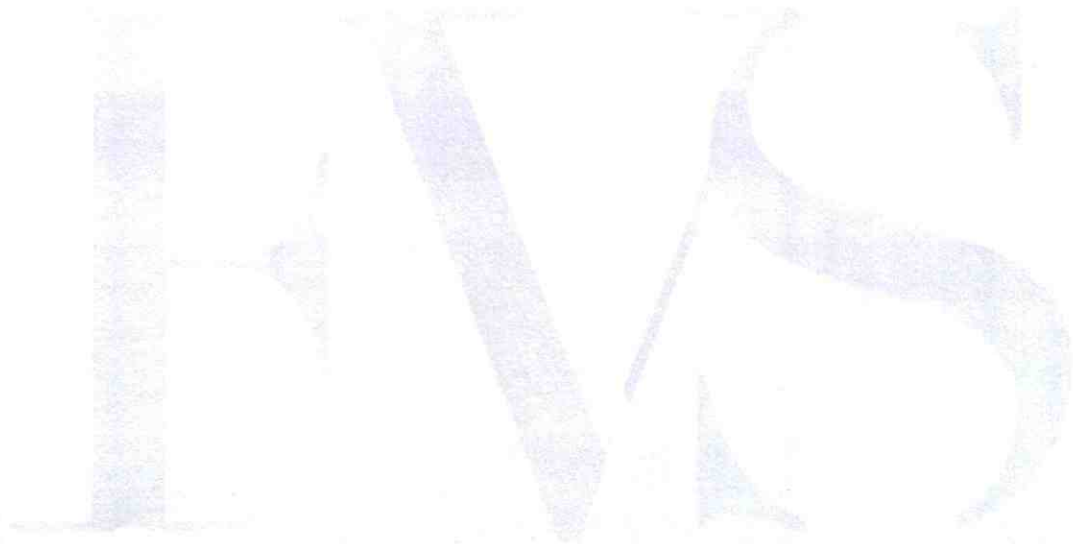
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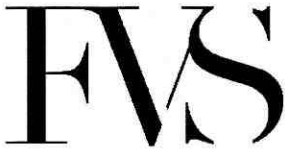
Ownership Details

Erf 6765, Kleinmond (Title Deed Number: T29848/1992) is currently registered in the name of Dianne Hazel de Villiers, and described as the following:

Erf 6765, Kleinmond
In the Municipality of Kleinmond
Division of Caledon
In extent: 1 946m²

Please refer to **Annexure C** for a complete copy of the Title Deed.





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MOTIVATION

Section 3 of the motivation report deals specifically with the type of application and what will be applied for.

The Proposal

The application entails the relaxation of the side and rear building line from 2m to 1m to allow for the second dwelling unit as per building plan, attached hereto as **Annexure F**, Plan Number: 00010010010. Please note that the proposed structure has been on the property for several years. It was first utilised as a garage but was later altered into a second dwelling unit.

Please note that the property owner has no intention of renting the second dwelling unit out and is currently utilised for additional storage space.

The Application

Application is hereby made in terms Section 16 (2) (b) of the Overstrand Municipal Land Use Planning By-Law for the following:

“a permanent departure from the provisions of the zoning scheme:”

- Relaxation of the side building line from 2m to 1m to allow for the proposed extension, a second dwelling unit.
- Relaxation of the rear building line from 2m to 1m to allow for the proposed extension, a second dwelling unit.

Application is hereby made in terms Section 16 (2) (q) of the Overstrand Municipal Land Use Planning By-Law for the following:

“determination of an administrative penalty”

Property Particulars

Erf 6765, Kleinmond is currently zoned as Single Residential Zone 1. Please refer to the figure below for an extract from the Overstrand Municipality Zoning Map:



Figure 1: Zoning and Surrounding Zonings.

The table below indicates the property particulars as prescribed in the Overstrand Municipality Land Use Scheme, 2020 and the implication of the proposed addition on the existing property.

OVERSTRAND MUNICIPALITY LAND USE SCHEME OF 2020 In terms of Section 16 of the Overstrand Municipality By-Law	
Development Parameters (Subject to Erven larger than 400m ² in extent)	
Zoning	Single Residential Zone 1 (SR1)
Primary Uses	Crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self-catering
Consent Uses	Day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, and intensive horticulture.
Building Lines - Street	4m
Building Lines - Side	2m
Building Lines - Rear	2m
Height	8m
Coverage	50%

Please refer to the Overstrand Municipality Land Use Scheme, 2020 for additional parameters pertaining to the Single Residential 1 zoning.

Character of the Surrounding Area

Erf 6765 is situated in a predominately residential area, characterised by single and double storey dwelling units, close to the Main Road (R44). To the west of the application site is the Palmiet Caravan Park, an informal settlement to the north. To the south of Erf 6765 is the Kleinmond Harbour and industrial area with the Kleinmond Central Business District (CBD) to the east.



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Please note that the subject site is approximately 1 946m² in extent. The addition is deemed to be in line with the surrounding area in terms of density. Surrounding erven range from 600m² to 1400m². It is also important to note that the surrounding area is not restricted by historical buildings or conservation worthy areas.

Although the proposal has windows, 1m away from both side and rear boundary, it will not have a negative impact on abutting neighbours in terms of privacy as it is screened off by a 1.8m high boundary wall on the side boundary and a 2.1m high wall on the rear boundary. The area surrounding the application site is characterised by additional dwelling units in terms of self-catering units, guest houses and other types of holiday accommodation.

Desirability

Due to the subject Erf's location and surrounding area, i.e. a residential area it cannot be utilised for other purposes other than its current use and per the Development Parameters as identified in this Section of the motivation report. The surrounding area have further not been identified for any conservation, mining, and recreation purposes.

The proposal is thus in line with Single Residential 1 land use activities and is deemed desirable in terms of the optimal usage of the property.

Legislation

The proposal is not deemed to have a negative impact on National Heritage Resources Act as it is not older than 60 years and would also not have an impact on NEMA. The application site is not situated in the flood line area, the 1:10 yea, 1:50 year and 1:100-year flood lines and is not situated in an environmentally sensitive area.

Impact on Municipal Services

The proposal is not deemed to have a negative impact on the municipal engineering services. The application site is well serviced, and the proposal is not deemed to have an additional impact on the municipal services.

Forward Planning

Integrated Development Plan (May 2020)

The Integrated Development Plan (IDP) is a 5-year strategic plan whereby the Municipality of Overstrand must base all decisions in terms of planning and development. The IDP further identifies issues relating directly to the community in terms of their needs and institutional needs. The IDP is in support of second dwelling units insofar that it will create additional housing opportunities for all classes of people in the surrounding community.



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Overstrand Municipality Spatial Development Framework (May 2020)

The Municipal Spatial Development Framework (MSDF) is a component of the IDP that, in terms of the MSA, is aimed at providing general direction to guide decision making, aiming at the creation of integrated, sustainable and habitable regions, cities, towns and residential areas.

According to the MSDF in a recent study it is predicted that by year 2031 Kleinmond will have a population of approximately 7 184 people as opposed to the 6 848 people in the year of 2019. A desktop survey in 2019 revealed that Kleinmond has approximately 250 vacant erven. Considering that from the year 2019 to 2031 it is estimated that Kleinmond will have a population growth of 336 people and would also require accommodation. Thus, considering that households have 2.6 persons per household and the proposed population growth Kleinmond will have a shortage of approximately 130 dwelling units.

The proposal therefore could aid in the estimated housing shortage as it could provide accommodation on both a long and short terms basis.

Planning Principles

The proposed development supports the principles of Chapter VI (Article 59) of the Land Use Planning Act (LUPA), Act 3 of 2014, and Chapter 2 (Article 7) of the Spatial Planning and Land Use Management Act (SPLUMA), Act 16 of 2013, as follows:

Spatial Justice

The proposal can assist in the alleviation of the housing shortage in the Kleinmond area as identified in the Overstrand Municipal Spatial Development Framework, without the need to extend the current urban edge. Although this is not specifically aimed at upgrading informal settlements it does alleviate the need for additional housing.

Spatial Sustainability

The proposal is deemed to address the issue of urban sprawl. Due to the extent of the property, approximately 1 946m² in extent, the proposal deemed as an appropriate infill development by increasing the current density of the erf. The proposed development will contribute to a settlement that is integrated both from a socioeconomic and land use perspective.

The proposed development also promotes the financial viability of the municipality of the present and for the future. The proposed development contributes to the most cost-effective and efficient way of delivering services to its inhabitants.

Efficiency

Infill development is an effective spatial planning tool that promotes sustainable development by making optimal use of available opportunities. The proposed development contributes to the integration of the settlement, which includes socio-economic and land use integration with adequate socio-economic opportunities. With the proposed. The proposal supports the principle of densification by utilising the full extent of the property.

Spatial Resilience

Due to the relevant small impact on municipal engineering services and the footprint of the proposal it is argued that the proposal will not have a negative impact on the surrounding community.

Good Administration

The Overstrand Municipality will assess the application and refer to the various departments that would be required to provide their comments. The consultants, FVS Town and Regional Planners, also went to the abutting neighbours to request their consent, for the Overstrand Municipality to make an informed decision.

Photos of the Site

The photos listed below gives an indication



Figure 2: Rear Boundary



Figure 3: Side Boundary

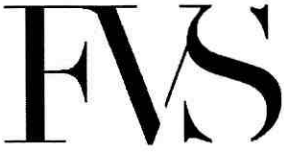
Please note that in Figure 2, above, it is evident that no overlooking features could have a negative impact on the abutting neighbours and is also obstructed by a 2.1m high boundary wall.

In Figure 3, above, there are two windows, but in similar circumstance as Figure 2 it is obstructed by a 1.8m high boundary wall. It is also important to note that the abutting property is not developed and currently left vacant.



Figure 4: Street View

The second dwelling unit is situated approximately 12m away from the street boundary which will not detract from the street view and can also provide ample parling as per the Overstrand Municipality By-law.



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DETERMINATION OF AN ADMINISTRATIVE PENALTY

Introduction

In a letter, dated 31 December 2020, the Overstrand Municipality requested that an application for the determination of an administrative penalty (in terms of Section 90 of the Overstrand Municipality Planning By-Law) be lodged due to the illegal alteration of the existing outbuilding from a garage to a second dwelling.

The Contravention

As mentioned in the section above, the existing outbuilding on Erf 6765 was altered from a garage to a second dwelling consisting of lounge, two bedrooms, kitchen, and a bathroom – approximately 52m² in extent. The alteration occurred approximately fifteen (15) years ago and was done by the property owner. Since the alteration, the property owner died, and the subject erf was inherited by the wife and daughter.

According to Section 90 of the Overstrand Municipality Planning By-Law, the administrative penalty should be calculated at 20% of the built cost. Due to the miniscule scale of the alteration the cost of the alteration is determined to be approximately R25 000.00. Please keep in mind that the alteration was done approximately fifteen (15) years ago. Also, to consider is the fact that the owner was in the construction business. Thus, most of the work was done by the property owner himself.

Taking the above into consideration the cost of the administrative penalty should be calculated at approximately R5 000.00 ($R25\ 000.00 \times (20/100) = R5\ 000.00$).

Mitigating Factors

It is the opinion of this office that the Municipality of Overstrand should impose a fee of R0.00 due to the following reasons:

- The alteration was done several years ago without any complaints from surrounding neighbours or the surrounding community.
- It is not the intention of the property owner to let out the second dwelling. It was merely implemented as additional space for when friends and family visit.
- Overstrand Municipality sent out notice that application only be made for the relaxation of the side and rear building lines. It was only once the application was submitted that Council imposed the administrative penalty.
- The second dwelling is mostly used for storage space, as intended by an outbuilding.
- No prior contraventions were committed by the property owner.



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- At the time of the alteration to the outbuilding it was not common for property owners to submit building plans to Council for approval.
- The residents of Erf 6765 are dependent on a single salary as one of the bread winners recently retired.

Conclusion

It is requested from Council that the consideration of an administrative penalty should be considered favourably, at a fee of R0.00, due to the reasons given above.



CONCLUSION

Considering the above information, Council is respectfully requested to favourably consider the application for the following:

- Approval for the permanent departure, relaxation of the side building line from 2m to 1m, in terms of the Overstrand Municipality Land Use Planning By-law on Erf 6765, Kleinmond.
- Approval for the permanent departure, relaxation of the rear building line from 2m to 1m, in terms of the Overstrand Municipality Land Use Planning By-law on Erf 6765, Kleinmond.
- Favourable consideration of the determination of an administrative penalty on Erf 6765, Kleinmond.

FVS Town and Regional Planners considers this application as favourable due to the following reasons:

- The proposed second dwelling unit is consistent with the architecture of the existing dwelling as it uses the same type of architectural finishes.
- The affected neighbours have given their favourable consent and thus does not object to the proposed addition.
- The addition has been on the property for several years without having a detrimental impact on the surrounding neighbours in terms of privacy.
- The proposed addition will add value to the subject property.
- No additional Municipal Services will be required.

Kind Regards,



Jaco van Schalkwyk
Director of FVS Town and Regional Planners

