

ERF 4011, 10 TUBBY SWINGLER CLOSE, ONRUS RIVER: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: ENGELBRECHT & SCORGIE (obo C ADAMS)

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 for a departure in terms of Section 16(2)(b) to relax the northern lateral building line from 2m to 1,9m to accommodate extensions on the first floor of the dwelling, the rear building line from 2m to 0m to accommodate an existing timber deck and pool, and the rear building line from 2m to 1,44m to accommodate portions of the existing dwelling house and garage.

Application is also made for the determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law for the unauthorised building line encroachments.

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. 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 / loretta@overstrand.gov.za) on or before **6 May 2022**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the Town Planner, **Mr. H Olivier** 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 4011, TUBBY SWINGLERSLOT 10, ONRUSTRIEVER: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: ENGELBRECHT & SCORGIE (nms C ADAMS)

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 dat 'n aansoek om afwyking ontvang is ingevolge Artikel 16(2)(b) om die noordelike syboullyn vanaf 2m na 1,9m te verslap om aanbouings op die eestevloer van die woonhuis te akkommodeer, die agterboullyn vanaf 2m na 0m te verslap om 'n bestaande hout dek en swembad te akkommodeer, en die agterboullyn vanaf 2m na 1,44m om gedeeltes van die bestaande woonhuis en motorhuis te akkommodeer.

Aansoek is ook ontvang vir die bepaling van 'n administratiewe boete ingevolge Artikel 16(2)(q) van die Verordening vir die onwettige boullyn oorskrydings.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. 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 / loretta@overstrand.gov.za) voor of op **6 Mei 2022**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die Stadsbeplanner, **Mnr. H Olivier** by 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 4011, 10 TUBBY SWINGLER CLOSE, ONRUS RIVER: ISICELO SOKUPHAMBUKA KUNYE NOKUMISELWA KWESOHLWAYO SOLAWULO: ENGELBRECHT & SCORGIE (obo C ADAMS)

Isaziso sinikezwe ngophathelelene neCandelo 48, loMthetho oLungisiweyo kaMasipala waseOverstrand ongokuSetyenziswa koMhlaba kaMasipala, 2020 sokokuba isicelo sifunyenwe sophambuko ngokwemiqathango yeCandelo 16(2)(b) ukunyenya umda wesakhiwo osecaleni emantla ukusuka kwi-2m ukuya kwi-1,9m kulungiselelwa ukwandiswa komgangatho wokuqala wendawo yokuhlala, umda wesakhiwo ongasemva ukusuka kwi-2m ukuya ku-0m ukulungiselela umgangatho okhoyo wamaplanga kunye nedama, kunye nomda wesakhiwo ongasemva ukusuka kwi-2m ukuya ku-1; 44m ukulungiselela iinxalenye zendlu yokuhlala ekhoyo kunye negaraji.

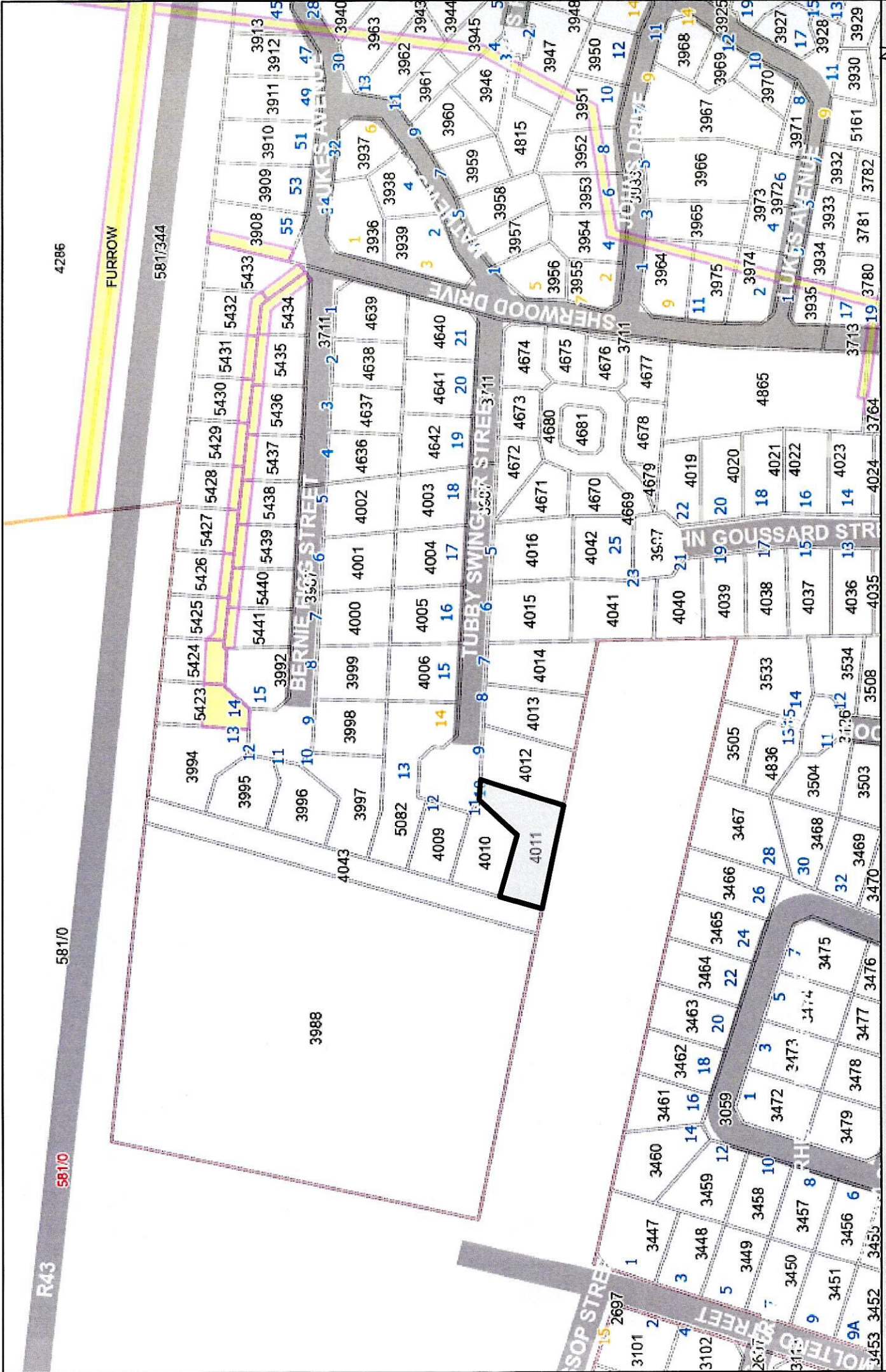
Isicelo sikwenziwa ngokunjalo sokumiselwa kwesohlwayo solawulo ngokwemiqathango yeCandelo 16(2)(q) loMthetho kaMasipala elilungiselelwe ungenelo olungekho mthethweni olungagunyaziswanga kumda wesakhiwo.

linkcukacha ezipheleleyo ngesi sindululo ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini phakathi kwentsimbi yes-i08:00 neye-16:30 kwiSebe: loCwangciso lweDolophu, Paterson Street, eHermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zamaCandelo 51 nelama-52 alo Mthetho kaMasipala mazithunyelwe kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla, **wama-6 uMeyi 2022**, unike igama lakho, idilesi neenkukacha zonxibelelwano nawe, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Xa ufuna ukubuza into malunga nesi saziso ungatsalela umnxeba **uMnu H. Olivier** kule nombolo 028-313 8900. UMasipala angala ukuzamkela izimvo ezifike emva komhla wokuvalwa. Nabani na ongakwaziyo ukufunda okanye ukubhala makaye kwiSebe loYilo lweDolophu apho igosa likamasipala liya kumncedisa azibhale izimvo zakhe.

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March 2022
The town planner
Overstrand municipality
PO box 20
Hermanus 7200

Dear sir/madam

FILE NO. <u>Sf 4011</u> ✓
<u>Ohrsvuier</u>
SCAN NO. <u>HON 4011</u>
COLLABORATOR NO. <u>1650615</u>

Application for administrative penalty of erf 4011, 10 Tubby Swingler Street, Onrus river – Overstrand municipality

1- Background and Site history

The application area is zoned as Single Residential (SR1) in terms of the Overstrand Town planning scheme.

The property measures 859 m² and is held by title deed number T000075281/2012

The application is for building work that occurred over the northern and southern building lines.

- The building work over the Northern building line happened because of the unprecise nature of the construction industry and is only a few mm.
- The building work over the Southern building line happened because all additions off the study area (originally the garage) was set out from this portion of the structure, which was set out inaccurately when the house was originally built.

The unauthorized building/ construction work is highlighted throughout the departure application document and does not cause a negative impact on the surrounding properties, streetscape, or greenbelt.

In total, 5.3m² contravenes the Overstrand Municipality's amended By-Laws on Municipal Land Use Planning.

2- Summary of motivation

Our client's motivation of the proposed is highlighted throughout the departure, but can be summarized as follows.

TP

The current owner, Dr Clarissa Adams, purchased the property in 2012 and has since been using the property as her family home. When they bought the property, it was a three-bedroom house with an office, double garage and swimming pool. Since then, they have done two additions to the house:

- The braairoom to the West
- The changes to the timber deck and safety measures to the swimming pool

The currently 3-bedroom house is becoming too small for the growing family, which is why they want to add a fourth bedroom above the current bedroom 3.

With the submission of the drawings for the additional bedroom, the structure that exceeds the building lines were picked UP by council. Following a topographical survey by the land surveyor, the extent of the encroachments were determined accordingly.

Part of the unlawful structure forms a double garage which is currently being used as a workspace and storage area, with comfortable moving space. As mentioned earlier, the reason for this portion of the structure being over the building line, is because it was set out from the study area which was set out incorrectly originally (which was never picked up until 2021).

The other portion is the timber deck which runs around the swimming pool. When the changes to the deck were made, the owner/contractor did not realize that the deck is over the boundary line. This will have to be cut back to ensure that the deck does not encroach the boundary line.

No previous contraventions were listed.

3- Assessment of application

As indicated above, the unauthorized building work is in contravention of the Overstrand Municipality's amended by-laws on Municipal land Use Planning 2020. The Application is made for the determination of an administrative penalty in respect of a double garage structure and timber deck, previously approved, but constructed inaccurately due to the original setting out error. The full extent of the unauthorized building work is 5.3 m².

In terms of section 90(5)(b) of the By-Law, an administrative penalty for building work contravention may not be more than 100% of the value of the building, construction and engineering work unlawfully carried out.

Administrative Penalty Calculation

Unauthorized section that encroaches the 2.0 m Municipal Street building line

Value per m² (Rx) x Total unlawful area (x²) = xxx

Deck	R 2 000 x 3.582	= R7 164.00
Swimming pool	R 6 500 x 1.375	= R8 937.50
Garage corner	R 10 000 x 0.359	= R3 590.00
Total		= R19 691.50

An amount which is not more than 100% of R19 691.50 may be imposed as an administrative penalty.

4 The Nature, duration, gravity and extent of the contravention

The following factors need to be considered when determining an appropriate administrative penalty, as contemplated by section 90 of the Overstrand Municipality's amended By-laws IB Municipal land Use Planning.

4.1 Nature

The unauthorized building work involves:

- a portion of a double garage structure encroaching upon the 2.0 m Municipal rear building line as discussed above.
- A portion of a timber deck surrounding the swimming pool
- A portion of the living spaces and 2 bedrooms along the northern facade

4.2 Duration

The duration is not really applicable, I would think. Our client was not aware of the encroachment, NOR served with a notice; but if a time must be allocated, the following times could be applied:

- Main structure 2008 – Present
- Double garage 2010 – Present
- Braai room 2014 – Present
- Timber deck & pool safety 2018 – Present

4.3 Gravity

The gravity if the contravention is not considered serious insofar the extent is limited to 5.6m². The majority is non-habitable. None of the contraventions seem to have any negative impact on any nature, environment, streetscape or surrounding neighboring properties, NOR will this have an impact on traffic in the area.

4.4 Extent

5.3 m²

5. The conduct of the person. (allegedly) involved in the contravention

The property has undergone two additions under the ownership of Dr C Addams.

Both times that additions/ alterations have been built on the property, the owners submitted plans for said additions/ alterations and had built according to the approved plans.

The encroachments were only picked up in 2021, when a third addition was proposed and the building control department questioned the position of the dwelling.

A departure has been submitted to relax said building lines in order for the owner to expand their home.

6. Whether unlawful conduct was stopped

Overstrand Municipality did not know/stop the building and have not issued a notice with regards to the transgression before the submission of building plans in 2021.

7. Whether the person. Allegedly involved in the contravention has previously contravened this By-Law or previous planning law.

As far as can be ascertained, there is no evidence that the owner of the property has previously contravened this By-law.

8. Reasons for decision

Reasons for the recommended decision may be summarized as follows:

- Our client followed the correct procedures regarding any additions to the property
- The 5.6m² encroachment has no impact on any neighbors.
- The unauthorized building/construction work is highlighted throughout this application document and does not cause negative impact on the surrounding nature, environment, streetscape or properties.

9. Recommendation

In light of the above assessment, we appeal to your generosity and humanism that an administrative penalty of R 1970 (approximately 10%) be imposed for part of the encroaching structures.

10 Conclusion

10.1 Heritage Value

This property is not situated within a heritage overlay zone and has no grading or any heritage value.

10.2 Impact on Municipal Engineering services

No additional electrical, water or sewage services are required. The current municipal provision is adequate to supply the dwelling.

10.3 Forward planning

The Overstrand Spatial Development Framework (SDF) 2006 earmarks the area where erf 4011 is situated for residential purposes. The structures, for which the departure is required, form part of a typical residential home. The Zoning scheme regulations make provision for departure procedure to incorporate structures within the building line zone. The character and zoning of the property will remain unchanged and therefore the property falls within the existing planning for the area.

It is therefore recommended that the application be approved in terms of the Overstrand Amendment By-Law on Municipal land – use planning, 2020

I appeal to your experienced consideration of this departure application. I look forward to your correspondence.

I trust you will consider our application and I look forward to your correspondence.

Yours sincerely



Brandon Scorgie
Engelbrecht & Scorgie Architectural Office

