

ERF 5433, 45 FOURTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE: ALET BARNARD ARCHITECTS ON BEHALF OF H.H. & M. LUTTIG

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) that an application has been received in order to do the following:

- Departure in terms of Section 16(2)(b) of the By-Law to relax the following:
 - street building line from 4m to 1.03m, to accommodate a pergola;
 - eastern lateral building line from 2m to 0m, to accommodate a storeroom;
 - western lateral building line from 2m to 1.2m, to accommodate the extension of the garage and to change the use (from garage to flatlet); and
 - boundary wall height from 2.1m to 3.516m.
- Determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law, to accommodate the existing single garage.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, 16 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 / (e) alida@overstrand.gov.za) and Gansbaai Library, Main Road, Gansbaai on or before **24 June 2022**, quoting your name, address and contact details, interest in the application and reasons for comment. Telephonic enquiries can be made to **Mr P Roux** 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 5433, 45 FOURTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPALE AREA: AANSOEK OM AFWYKING: ALET BARNARD ARCHITECTS NAMENS H.H. & M. LUTTIG

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) dat 'n aansoek ontvang is ten einde die volgende te doen:

- Afwyking ingevolge Artikel 16(2)(b) van die Verordening om verslapping van die volgende:
 - straat boulyyn vanaf 4m na 1.03m, ten einde 'n afdak te akkommodeer;
 - oostelike syboulyyn vanaf 2m na 0m, ten einde 'n stookkamer te akkommodeer;
 - westelike syboulyyn vanaf 3m na 1.2m, ten einde die uitbreiding van die motorhuis en verandering van gebruik (van motorhuis na woonstel) te akkommodeer; en
 - grensmuur hoogtebeperking vanaf 2.1m na 3.516m.
- Bepaling van 'n administratiewe boete ingevolge Artikel 16(2)(q) van die Verordening, ten einde die bestaande enkel motorhuis te akkommodeer.

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 / (e) alida@overstrand.gov.za) en Gansbaai Biblioteek, Hooweg, Gansbaai voor of op **24 Junie 2022**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan **Mnr P Roux** 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.

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Isaziso sinikwe ngokwemiqathango yeCandelo 48, elifundwa kunye neCandelo 16(2)(b) loMthetho kaMasipala oLungisiweyo woMasipala wase-Overstrand ongoCwangciso lokuSetyenziswa koMhlaba kaMasipala, 2020 (uMthetho kaMasipala) sokokuba isicelo sifunyenwe ukulungiselela ukwenza oku kulandelayo:

- Uphambuko ngokwemiqathango yeCandelo 16(2)(b) loMthetho laMasipala lokunyeniswa kokulandelayo.
 - umda wesakhiwo osesitalatweni ukususela kwi-4m ukuya kwi-1.03m, ukulungiselela amanqwanqwa afakwe iintyatyambo;
 - umda osecaleni wesakhiwo esingasempuma ukususela kwi-2m ukuya kwi-0m, ukulungiselela ulwakhiwo lwestora;
 - umda osecaleni wesakhiwo esingasentshona ukususela kwi-2m ukuya kwi-1.2m, ukulungiselela ukwandiswa kwegaraji kuguqulwa ukusetyenziswa kwayo (kubeni yigaraji ibe yiflethi); kunye
 - nomphakamo wodonga lokubiyela osuka kwi-2.1m ukuya kwi-3.516m
- Ukumiselwa kwesohlwayo solawulo ngokwemiqathango yeCandelo 16(2)(q) loMthetho kaMasipala, ukulungiselela ulwakhiwo lwegaraji yesithuthi esinye esele ikho.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ngeentsuku zomsebenzi phakathi kweyure-08:00 ne-16:30 kwiSebe: Town Planning, Paterson Street, Hermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zamaCandelo 51 nelama-52 alo Mthetho kamasipala zithunyelwe kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) ngolu suku okanye ngaphambi komhla **24 Juni 2022**, unike igama lakho, idilesi neenkukacha zonxibelelwano nawe, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Xa ufuna ukubuza into malunga nesi saziso ungafonela **Mnu. P Roux** kule nombolo yomnxeba 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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APPLICATION FOR DEPARTURES IN TERMS OF THE OVERSTRAND MUNICIPALITY LAND USE SCHEME OF 2020

Project: 45 4th Street Voelklip, Hermanus ERF 5433
Date: 16 April 2022

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1. Introduction

- This motivation sets out the departures required to make the proposed alterations and additions to the existing single dwelling at 45 4th Street in Voelklip Hermanus. The property is not in an HPOZ but is older than 60 years.
- The subject property is currently an existing one storey dwelling, with the last major alterations having been done in the 80s, when the entire house was demolished .
- An existing one storey garage structure on along the western side of the property does not have planning permission. The structure looks to be at least 40 years old, and has a footprint area of 22m² This application therefore includes an application for administrative penalty.
- Below is an aerial photograph of the property extracted from Google Maps depicting the orientation of the property in relation to surrounding streets and erven in the immediate vicinity.



FILE NO.	EL 5433-HVK ✓
SCAN NO.	HVK 5433
COLLABORATOR NO.	1678766

28 APR 2022

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2. **Land Use Scheme requirements summary table: SR1 zoning, Erf size is 991m²**

SCHEDULE OF RIGHTS			
PROPERTY DESCRIPTION:			
ERF / PORTION:	5433	SITE AREA:	991m ²
TOWNSHIP:	HERMANUS VOELKLIP	TITLE DEED NO.:	T000065902/2016
USE ZONE:	SR1	ANNEXURE NO.:	*

DEVELOPMENT CONTROL MEASURES:			
	ALLOWABLE:	AS PROPOSED:	
COVERAGE:	50%	EXT GROUND FL AREA (INCL GARAGES) 320m ² PROPOSED GROUND FL AREA 86m ² TOTAL GROUND FL AREA 406m ² SITE AREA 991m ² 406 is 41% of 991m ²	COMPLIES
STREET BUILDING LINE:	4m	4th STREET: 1,03m in lieu of 4m	DEPARTURE
SIDE BUILDING LINES:	2m	EAST BOUNDARY: 0m in lieu of 2m WEST BOUNDARY: 1,2m in lieu of 2m	DEPARTURE DEPARTURE
HEIGHT:	8m FROM BASE LEVEL TO TOP OF STRUCTURE	AS EXISTING NO ADDITIONAL HEIGHT IS ADDED	COMPLIES
SIDE BOUNDARY WALL HEIGHT:	2,1m	EAST BOUNDARY 3,516m in lieu of 2,1m (for a length of 8,8m)	DEPARTURE

In terms of compliance with the relevant provisions of the Land Use Scheme, please note the following:

COVERAGE: The proposal includes the following areas:

GROUND FLOOR as existing - 320sqm (includes covered stoep and two garages)

GROUND FLOOR additions as Proposed – 86sqm (includes new covered stoep, pergola, side-alley storage, and extension of flatlet area)

TOTAL NEW FLOOR SPACE = 406sqm

SITE AREA 991sqm

406sqm = 41% of 991sqm and therefore **complies with the Coverage requirement as per the Land Use Scheme**

STREET BUILDING LINE: The proposal includes a pergola in the front garden which is situated at 1030mm from the street boundary, and therefore **triggers a departure of street building line at 1,03m i.l.o. 4m as per the Land Use Scheme.**

SIDE BUILDING LINES:

EAST: The proposal includes the proposed covering of an existing side alley to be used as a store room and therefore **triggers a departure of side building line of 0m i.l.o. 2m as per the Land Use Scheme.**

WEST: The proposal includes the addition of a single storey flatlet along the western side of the property and therefore **triggers a departure of side building line of 1,2m i.l.o. 2m as per the Land Use Scheme.**

SOUTH: The proposal does not include encroachment of the building line on the south and **therefore complies with the Coverage requirement as per the Land Use Scheme.**

MAX HEIGHT:

The proposed additions (at 5120mm) do not exceed the height of the existing highest roof structure which is 5500mm above the ground level. Therefore the proposal **complies with the Height requirement as per the Land Use Scheme.**

BOUNDARY WALL HEIGHT:

The proposal includes the heightening of an 8,8m long part of the existing eastern boundary wall, to a max height of 3,516m i.l.o. 2,1m, and therefore **triggers a departure of side boundary wall height as per the Land Use Scheme.**

3. Applicable Legislation:

Application is made in terms of **Sections 16(2)(b) and 20(1)(a) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020** for the following:

(b) permanent departure from the provisions of the land use scheme.

The following departures are required from the provision of **Schedule 2 of the Overstrand Municipality Land Use Scheme 2020:**

- From item 6.1.2(b)(i) for a departure from the development parameters of a zoning to permit a structure within the 4m street building line (1,03m i.l.o. 4m)
- From item 6.1.2(b)(ii) for a departure from the development parameters of a zoning to permit a structure within the western 2m side building line (1,2m i.l.o. 2m)
- From item 6.1.2(b)(ii) for a departure from the development parameters of a zoning to permit a structure within the 2m eastern side building line (0m i.l.o. 2m)
- From item 16.6.1 for a departure from the development parameters to permit a side boundary to be higher than 2,1m (3,516m i.l.o. 2,1m)

4. Motivation for approval in general:

We believe the proposal is desirable, and not contentious, for the following reasons:

- The property is zoned as SR1 and will remain as such – the permitted land use will not be altered;
- The property is currently run-down and outdated. Proposed improvements will update the property but also the streetscape and surrounds, having a positive impact on property values;
- The application complies with the requirements of the Municipal By-Laws;
- The proposed construction work will provide employment opportunities for local workers and businesses in the building sector;
- The proposed alterations will have no impact on municipal services, traffic, parking or biophysical environment, as the development is relatively minor.

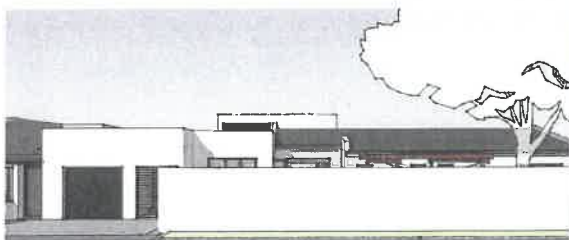
5. Motivation for specific departures:

5.1 Proposed Pergola at 1,03m from street i.l.o. 4m:

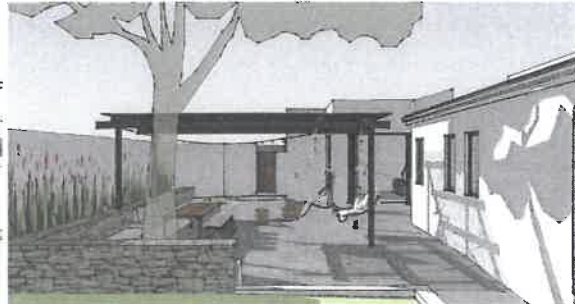
- The proposal includes the addition of a timber pergola in the front garden, with a width of 3630mm, depth 7318mm, and a height of 3140mm above existing ground level. This pergola forms part of a multi-functional dining area, continuing off the kitchen.

See model images of the proposed pergola below:

Proposed Street façade with boundary wall and pergola:



View of proposed front garden and pergola:

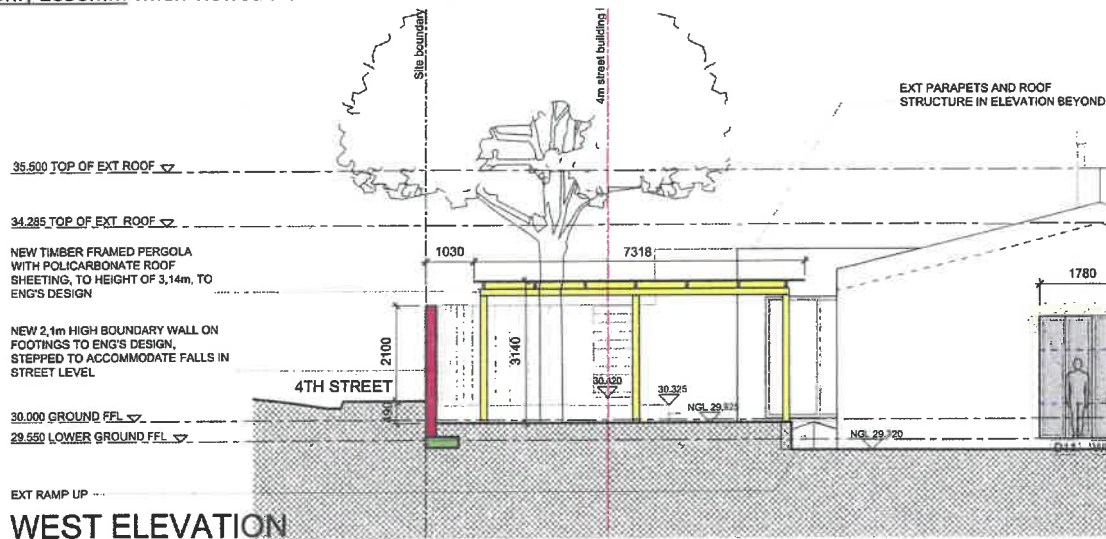


- According to Section 16.1.1(d)(i) of Schedule 2 of the Overstrand Municipality Land Use Scheme 2020, encroachment of the street building line will be considered if the proposed addition will enhance the appearance of the street:

- The intention with the proposal is that the existing street façade of the property is changed and updated so that forms a more integrated part of the property and forms a more suitable connection with the street. In its current state this part of the property is a 'back yard', with the house elevation consisting of back doors, small bathroom windows, and unactivated spaces. The fact that this currently backyard space fronts onto the street is a condition that we are looking to correct by forming a more desirable connection between the house and the street – both visually and spatially. See photo of existing façade below:



- According to Section 16.1.1(d)(ii) of Schedule 2 of the Overstrand Municipality Land Use Scheme 2020, encroachment of the street building line will be considered if there are special circumstances such as the topography of the site, which might make the departure more desirable: The existing street level is approximately and at least 490mm HIGHER than the garden. This means that the effective height of the pergola is approximately only 2650mm when viewed from the street. See section below:



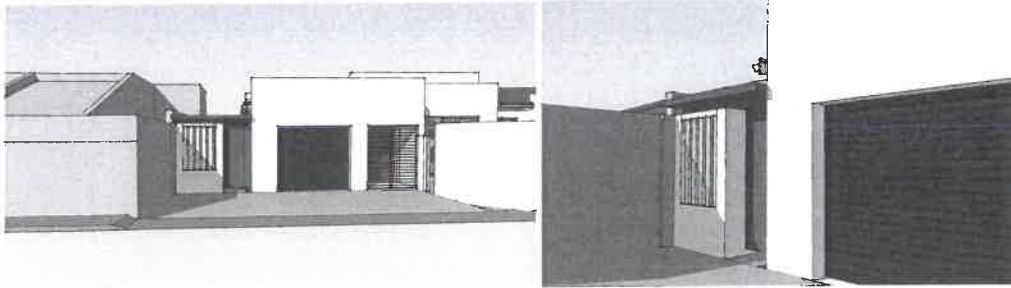
- According to Section 16.1.1(d)(iii) of Schedule 2 of the Overstrand Municipality Land Use Scheme 2020, encroachment of the street building line will be considered if all other buildings and outbuildings comply with the street building line parameter. The width of the pergola is only 3630mm, which is a relatively small part of the total width of the erf which is 31200mm.

- We further believe the pergola is not contentious as it is a relatively small structure, of human scale, below the roof levels of the existing house, with no bulk (only a frame structure).

5.2 Proposed encroachment of the eastern side building line of 0m i.l.o. 2m to permit a storage space:

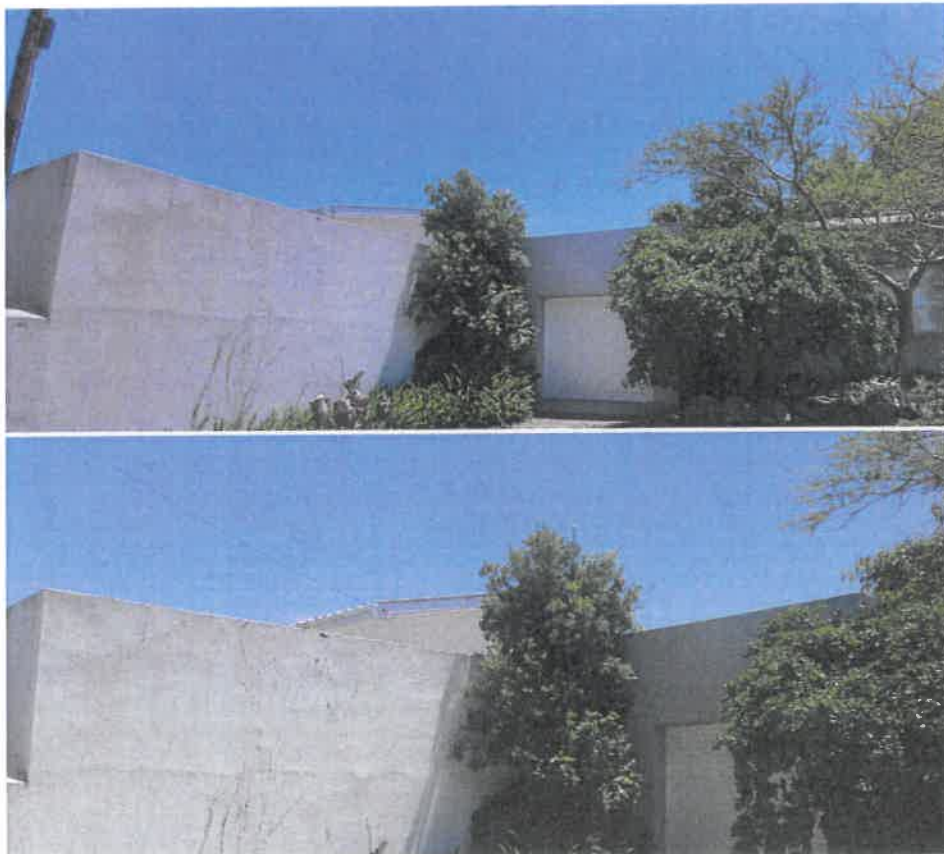
- Currently the eastern side alley way of the existing property is open unused space. Our proposal includes the conversion of this alley into a usable storage space and 'mud room', to store watersport equipment.
- The proposed structure is not designed to be fully enclosed, with open and perforated brick screen facades. In other words, although the roof is solid, the screen walls either side are only partial enclosures.
- The new storage space will have a flat metal roof and an aesthetically pleasing street façade, so as to form an agreeable addition to the street façade. The roof and façade is relatively low, and in scale is subservient to the main house and garage structures.

See model images of the proposed store street facade below:

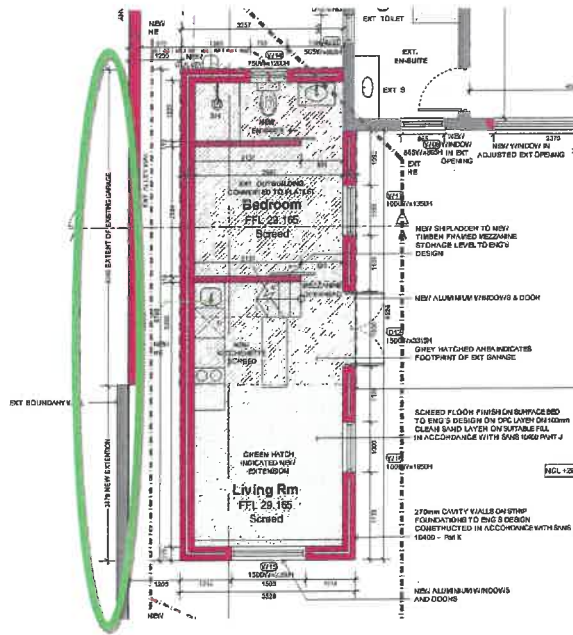


5.3 Proposed encroachment of the western side building line of 1,2m i.l.o. 2m to permit a flatlet:

- Currently, an existing one storey garage exists along the western side of the erf – see photo below:
(It has recently been determined that this single garage structure does not have approval – this is addressed in item (6) further down.)

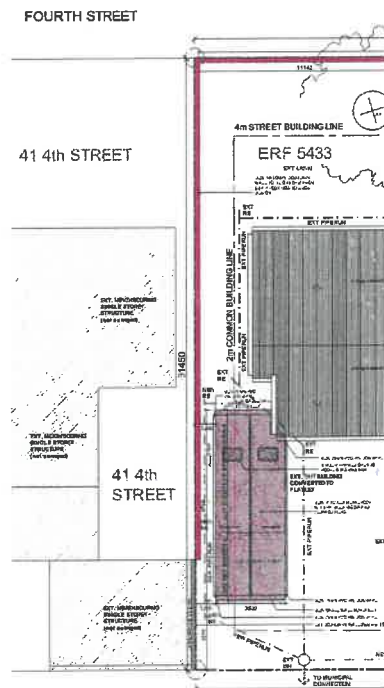


- Our proposal includes that the garage is altered to become a flatlet. This entails keeping the footprint of the garage, together with an extension of 3479mm on the Southern side – see plan below, on which the existing footprint of the garage is indicated (note dimensions circled in green):



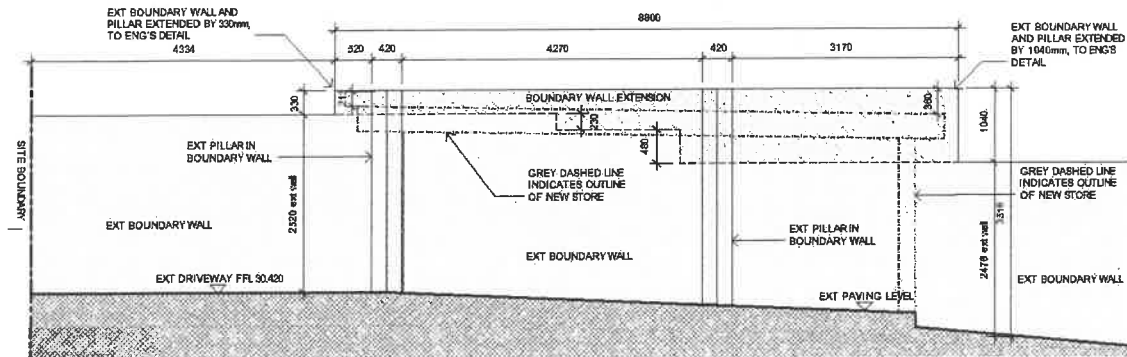
We believe that the proposed flatlet will not impact the direct neighbour or the area negatively for the following reasons:

- There is an existing single storey structure on the neighbour's side at 41 4th Street, for roughly one third of the length of the flatlet. This results in an existing back wall facing on to the flatlet of 3.5m high. The remaining two thirds of the flatlet borders on the back garden of the neighbour's property. See photos above, and partial siteplan below:



5.4 Proposed eastern side boundary wall height of max 3,516m i.l.o. 2,1m for a length of 8,8m to permit the structure of the new roof over the store:

- In order to accommodate the new roof, the existing boundary wall will have to be heightened.
- Section 16.6.1 of Schedule 2 of the Overstrand Municipality Land Use Scheme 2020 relating to Boundary Walls, stipulates that no boundary wall or fence shall exceed 2,1m in height above existing ground level. This results in a departure being triggered.
- See View B-B from the application below, illustrating the proposed changes to the boundary wall (the store roof is shown dashed in the foreground):



VIEW B-B - EASTERN BOUNDARY WALL ELEVATION
SCALE 1:50

- The neighbouring property at 47 4th Street should not be negatively impacted as the area immediately adjoining the proposed new storeroom is also a side alley.
- The erf and those either side, slope towards the ocean. This means that the boundary walls step down to accommodate the slope, and are in areas over 3m high off the existing ground level (due to the slope).

Therefore the proposed height increase of the boundary wall will not result in something that looks out of scale with the rest of the wall.

6. Motivation for Administrative Penalty:

Application is made for Administrative Penalty in terms of **Sections 90 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020**.

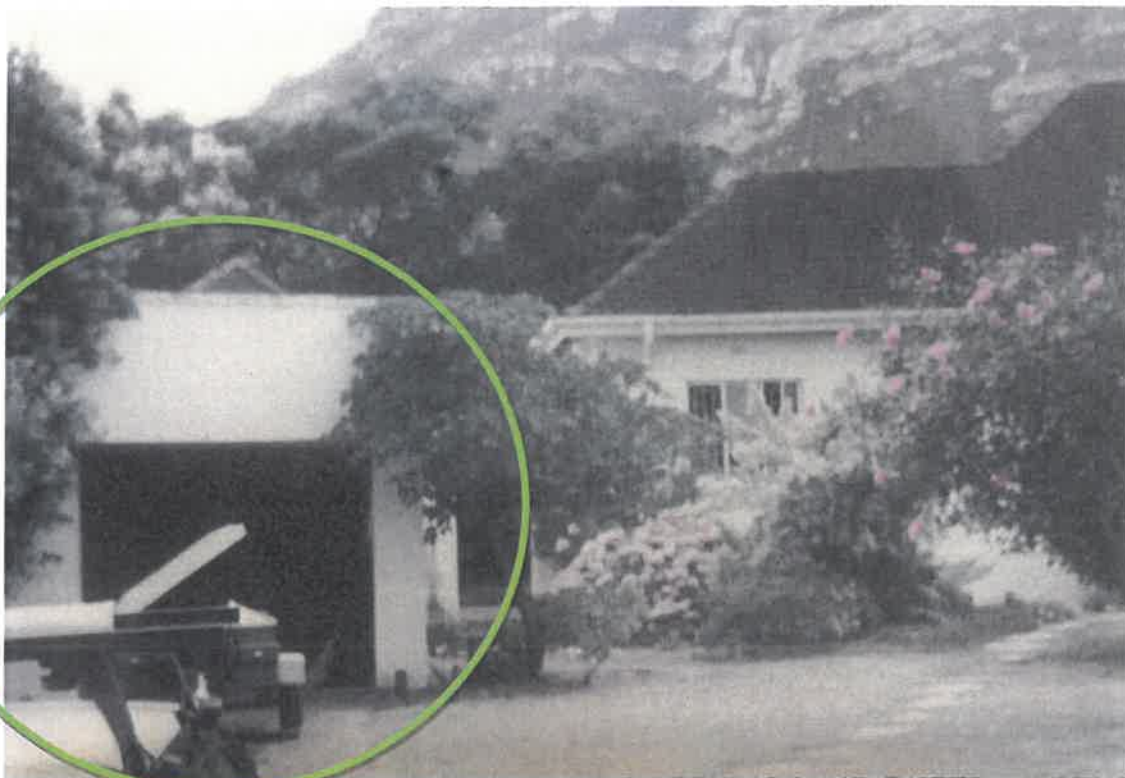
The following information is supplied in compliance of Section 90(3) of the By-Laws:

(a) Nature, duration, gravity and extent of the contravention:

The structure in question is a single storey garage structure with a flat roof, located 1,2m away from the western boundary of the erf, in the back garden. The footprint is 22m² and the height is approximately 3,2m above existing ground level. From photographs received from the previous owners, the structure looks to be at least 40 years old, and most probably older.

The garage in question is a single storey structure situated 1,2m away from the boundary, probably in keeping with the building lines of the time, which was 1,2m away from the side boundaries.

The photos below of the existing back of the house date from the 60's or 70's, and already show the garage structure in existence (circled in green):



(b) The conduct of the person involved in the contravention:

The current owners purchased the property in 2016 in good faith. The plans they received of the existing structures included the garage in question, and so they concluded that the structure was legal. The current owners were therefore not the party who contravened the by-law, nor were they aware that such a contravention had taken place (until this application was initiated).

Two pages of the existing plans received by the owners during the purchase are included below, indicating the existing garage (circled in green). The plans were drawn up in 1994:

(d) Whether the unlawful conduct was stopped:

The structure is of a minor nature, and already existed when the current owners took ownership of the property, and they were unaware of the illegality of the structure.

(e) Whether the person involved in the contravention has previously contravened this By-Law or a previous planning law:

It is unknown whether the person responsible for the contravention has committed previous contraventions.

Overall the intention is that the proposal is sensitive and in proportion with the existing streetscape and urban fabric. We hope that the proposal will be considered favourably.

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