

**ERF 5996, 1 GEELHOUT AVENUE, KLEINMOND: APPLICATION FOR DEPARTURE: EJ VAN DEN HEEVER (obo LIBUSANA TRUST)**

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 exceed the maximum height of a boundary wall from 2,1m to approximately 2,6m for privacy and security purposes.

Full detail regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning at 16 Paterson Street, Hermanus, and at the Kleinmond Library, 5<sup>th</sup> 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](mailto:loretta@overstrand.gov.za)) on or before **5 August 2022**, 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 5996, GEELHOUTLAAN 1, KLEINMOND: AANSOEK OM AFWYKING: EJ VAN DEN HEEVER (nms LIBUSANA TRUST)**

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 maksimum hoogte vir 'n grensmuur te oorskrei vanaf 2,1m na ongeveer 2,6m vir privaatheid en sekuriteit doeleindes.

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 die Kleinmond Biblioteek, 5de Laan, 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](mailto:loretta@overstrand.gov.za)) voor of op **5 Augustus 2022**, 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** 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 5996, 1 GEELHOUT AVENUE, KLEINMOND: ISICELO SOPHAMBUKO: EJ VAN DEN HEEVER (egameni lika LIBUSANA TRUST)**

Isaziso sikhutshwe ngokweCandelo 48, loMthetho kaMasipala oLungiswayo woMasipala wase-Overstrand ongoCwangciso lokuSetyenziswa koMhlaba, wowama-2020 sokokuba isicelo sifunyenwe sokuphambuka ngokweCandelo 16(2)(b) ukodlula ubude bobude bodonga lomda ukusuka kwi-2,1m ukuya malunga ne-2,6m ngeenjongo zabucala nokhuseleko.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ngeentsuku zomsebenzi phakathi kweyure-08:00 ne-16:30 kwiSebe: Town Planning, Paterson Street, Hermanus nakwiThala leeNcwadi laseKleinmond, 5<sup>th</sup> Avenue, eKleinmond. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zamaCandelo 51 nelama-52 alo Mthetho kamasipala zithunyelwe kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)) ngolu suku okanye ngaphambi komhla wama-5 kuAgasti 2022, unike igama lakho, idilesi neenkukacha zonxibelelwano nawe, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Xa ufuna ukubuza into malunga nesi saziso ungafonela **Nksk. H van der Stoep** 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.



Locality Map  
Erf 5996 Kleinmond

5 May 2022

The Town Planner  
Overstrand Municipality  
P O Box 20  
HERMANUS  
7200

For attention: Me. H. van der Stoep

Dear Madam

**DEPARTURE FROM ZONING SCHEME REGULATIONS: ERF 5996: VAN DEN HEEVER: 1 GEELHOUT STREET; KLEIN BERLYN; KLEINMOND – OVERSTAND MUNICIPALITY**

Please find included the following information and Annexures relevant to this departure:

- Motivation report
- Town Planning application form
- Proof of payment
- Title deed
- Locality plans
- Annexure A – Photograph of extension
- Annexure B – Loretta Hayward Attorney's letter to Mr. Buys from Mrs. van den Heever with photos
- Annexure C – Photographs of the destroyed Ivy trees
- Annexure D - Gutherie and Theron Attorney's replying letter from Mr. Buys to Mrs. van den Heever

**1. Background**

The owner of this property, Mrs E J van den Heever, is applying for a Departure from the Zoning Scheme Regulations. Erf 5996 measures 920 square metres and is held by Title Deed no. T32181/96.

**2. Application detail**

Application is made in terms of the following:

- Chapter 4 Section 16(2)(b) of the Overstrand Municipality's By-Law on Municipal Land Use Planning 2020, for a permanent Departure from the provisions of the Zoning Scheme.
- Relevant Sections in the Zoning Scheme Regulations applicable to the departure:

Section 6.1.2(b) of the By-Law for a departure to exceed the maximum permissible boundary wall height from 2.1m to 2.6m respectively.

### **3. Need and desirability**

#### **3.1 Property description**

Erf 5996 is located at 1 Geelhout Avenue, Klein Berlyn, Kleinmond. Erf 5996 is a corner property and is surrounded by a property on the left (No.3) - when facing the front of the property – and two properties at the back of the property.

The Dwelling on Erf 5996 is a large double storey house. No.3 is also a double storey house and the properties at the back are both single storey dwellings and are all zoned Single Residential Zone 1 Erven.

#### **3.2 Zoning**

Erf 5996 is zoned Residential Zone 1 (SR1). The surrounding properties have similar zonings.

#### **3.3 Land use (A3 and A4 drawings)**

##### **Dwelling**

1. Ground floor level:
  - Lounge
  - Open plan dining room and kitchen
  - 2 bedrooms and 2 bathrooms (one being en-suite)
  - Laundry room and scullery
2. First floor level:
  - Study
  - Entertainment area

##### **Outside Buildings**

1. Ground floor level:
  - Double garage storage room and outside toilet
  - Outside building

##### **Property enclosures External (Facing North)**

1. a. Palisades – Front of property (Geelhout Avenue) and West side (Botrivier Avenue)  
b. Fence – East – adjoining Erf 5079  
c. Fibercrete wall – South – adjoining Erf 6566

### **3.4 Proposed additions and alterations (Current 2022)**

The proposed additions and alterations of the dwelling will comprise the following:

Ground level:

- External fence – East – adjoining Erf 5079
- Extending the height of the existing fence from 2.1m to 2.6m between the corner of the property and the outside building ( Annexure A ) with wooden planks.

### **3.5 Proposal**

#### **3.5.1 Background to proposal**

Mrs. E J van den Heever of Geelhout Ave No. 1, and her deceased husband bought Erf 5996 in 1996. At the time it was an open property with no enclosures and the adjoining Erf 5079 was a vacant stand.

Mr and Mrs van den Heever built a fence to separate the two properties and planted Ivies to cover the fence and for the purpose of privacy.

Eventually there was a double storey dwelling built on the adjoining stand.

Mr. van den Heever passed away in 2012.

Mrs. van den Heever and Mr. Braam Buys of Geelhout Ave No.3 have been neighbours since 2017 approximately.

Mr. Buys was planning to erect a Fibrecrete wall between the two properties, and a day before commencing with construction, Mr Buys demanded that Mrs. van den Heever reimburse him 50% of the cost.

Mrs. van den Heever informed him that the property was in a Trust with multiple members and that she was not informed of his plans. Mrs van den Heever also deemed it unnecessary because of her 20-year-old fence and Ivy trees which was now about 3 meters in height. She felt that this provided enough security and privacy between the two properties because the adjoining dwelling's windows faced directly into Mrs. van den Heever's back yard.

Unfortunately, a Morning Glory creeper grew its way through the Ivy and the tree in the corner of Mrs. van den Heever's property.

Eventually Mr. Buys became very annoyed with the plants hanging over his wall and started making threats that he was going to poison the plants.

Mrs. van den Heever is 78 years of age, and it is impossible for anyone to reach over the Ivy to maintain its growth on the side of Mr. Buys.

Mr. Buys did eventually start to exterminate the plants by pouring poison over his wall into Mrs. van den Heever's property.

Mrs. van den Heever caught him one Sunday morning spraying poison on her plants and damaging her property and he told her that she must take him to court if she wants him to stop.

Mrs. van den Heever approached her attorney in June 2021 to notify Mr. Buys that it was unlawful to cause damage to her property. (Annexure B)

Mr. Buys approached his attorney who notified Mrs. van den Heever's attorney that the Morning Glory - according to legislation, - must be contained within the boundaries of Mrs. van den Heever's property (Annexure D), so Mrs. van den Heever removed the morning glory growing in the tree and the Ivy. She was unable to remove / maintain the Ivy growing over Mr. Buys's side of the wall.

After Mr. Buys poisoned the plants, he proceeded to add electric fencing onto his fibrecrete wall, which was maybe his intention in the first place.

Mrs. van den Heever was now left with no plants and no privacy. She decided to extend her fence with wooden planks.

After construction of the extension, Mr Buys flew into a rage and visited the local municipality to report Mrs: van den Heever.

Mrs. van den Heever was unaware that she was not allowed to extend her fence and was informed by the municipality that she had to formally apply to have the alteration approved.

### **3.5.2 Details of proposal**

The following boundary wall height departures will be required:

- Relaxation of the 2.1m boundary wall height between Erf 5996 and 5079.

### **3.5.3 Proposal**

Chapter 4 Section 16(2)(b) of the Overstrand Municipality's By-Law on Municipal Land Use Planning 2020, makes provision for a permanent Departure from the provisions of the Zoning Scheme.

- Section 6.1.2(b) of the By-Law for a departure to exceed the maximum permissible boundary wall height from 2.1m to 2.6m between Erf 5996 and 5079 respectively.

## **3.6 Summary of Annexures**

3.6.1 Attached to the departure as Annexures, these attachments are self-explanatory, but can be summarized as follows:

3.6.1.1 Annexure A – Photograph of already extended fence from 2.1 m to 2.6 m with wooden planks.

Annexure B –Mrs. van den Heever's attorney's correspondence to Mr. Buys reprimanding him regarding the damaging of her property.

Annexure C (a-c) – Photographs of the damaged Ivy trees.

Annexure D – Mr. Buys's attorney's replying correspondence informing Mrs. van den Heever that the Morning Glory is a species which needs to be maintained.

**3.6.2 Effects on nature / environment, streetscape and surrounding properties.**

None

**3.6.3 Heritage value**

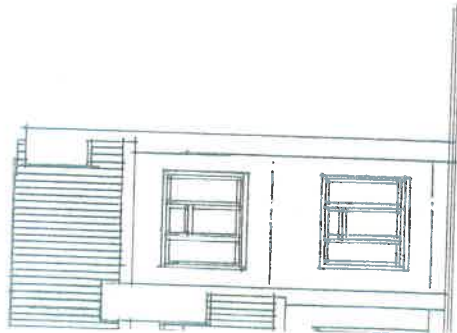
The property is not situated within a heritage overlay zone and has no grading or any heritage value.

**3.6.4 Impact on Municipality Engineering Services**

No additional electrical, water or sewerage will be required. The current Municipal provision is adequate to supply the dwelling.

**3.7 Forward planning**

The alteration is minor, and the streetscape will not be negatively impacted. The use, character and zoning of the property will remain unchanged.



Geelhutlaan

22,32m

BESTAANDE  
BUITEBEGANG

4,5m boudyn

BESTAANDE  
WOONKAMER

5079

BESTAANDE  
KLOEDER

3,15m

1,2m

erf nr 5996

3m boudyn

36,06m

6566

Botrivierweg  
34,33m

4,5m boudyn

VOORGESTELDE  
AANBOUWING

NOOED

ALGEMENE SPESIFIKASIES  
ALLE BOUWERK VOLGENS DIE  
NASIONALE BOUREGULASIES.  
ALLE RIOOLWERK VOLGENS  
MUNISIPALE VOORSKRIFTE.

VLOERNOTA :  
30mm vlaklaag  
100mm beton  
250 mikron GUNPLAS  
goed gekompakteerde grond

MURE :  
280 spoumure  
buite & binne gepleister & geverf

VENSTERS :  
houtraamvensters volgens keuse  
van eienaar

DAKNOTA :  
Vesementdakplate om  
aan te pas by bestaande  
76 x 50 daklatte 900hoh  
230 x 70 dakbalke &  
drabalke 1100 hoh  
RHINOBOARD plafonne  
afgepleister  
38 x 38 plafonlatte  
fassies, geute & afvoer-  
pype om aan te pas by  
bestaande

TRAPPE :  
2100 minimum vrykophoogte  
maksimum 200 stygstuk  
minimum 250 trapstuk  
BALUSTRADE :  
minimum 1000 hoog  
openinge kleiner as 100 mm

BETONVLOER :  
Alle strukturele betonwerk  
volgens ingenieur spesifikasies

TERREINPLAN  
Skaal 1 : 200