



**MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL
(MPT)**

MINUTES

DATE:	28 MARCH 2019
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	10:20

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE TOWN PLANNING COMMITTEE ROOM, HERMANUS, ON 28 MARCH 2019, AT 10:20

PRESENT:

MEMBERS:

Mr S Müller, Director : Infrastructure & Planning
Mr D Lakey, Acting Director : Community Services
Ms D Arrison, Director : Management Services





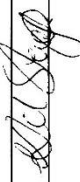
OFFICIALS:

Mr R Kuchar, Senior Manager : Town Planning &
Property Management
Ms H van der Stoep, Senior Town Planner
Mr S van der Merwe, Senior Town Planner
Ms S Swart, Council Support Services

APOLOGIES:

Mr S Madikane, Director : LED
Mr R Williams, Director : Community Services
Ms H Janser, Directorate Development
Management
Ms Y Mabentsela, Directorate Development
Management

ATTENDANCE REGISTER : MEETING OF MUNICIPAL PLANNING TRIBUNAL : 28 MARCH 2019 AT 10:00

NAME	DESIGNATION	ORGANISATION	TEL. NO.	E-MAIL ADDRESS	SIGNATURE
S MULLER	CHAIRPERSON	OVERSTRAND MUNICIPALITY	028 313 8019	smuller@overstrand.gov.za	
R WILLIAMS	VICE-CHAIRPERSON	OVERSTRAND MUNICIPALITY	028 313 8029	rwilliams@overstrand.gov.za	
S MADIKANE	MPT MEMBER	OVERSTRAND MUNICIPALITY	028 313 8066	smadikane@overstrand.gov.za	Apology
D ARRISON	MPT MEMBER	OVERSTRAND MUNICIPALITY	028 313 8004	darrison@overstrand.gov.za	
Y MABENTSELA	SECUNDUS TO H JANSER	DIR: DEV MANAGEMENT	021 483 2893	Yolisa.Mabentsela@westerncape.gov.za	Apology
R KUCHAR	AUTHORISED OFFICIAL	OVERSTRAND MUNICIPALITY	028 313 8087	rkuchar@overstrand.gov.za	
S VAN DER MERWE	SR TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8938	svandermerwe@overstrand.gov.za	
H VAN DER STOEP	SR TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8906	hvanderstoep@overstrand.gov.za	
P ROUX	TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8900	proux@overstrand.gov.za	
H OLIVIER	TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8900	holivier@overstrand.gov.za	
S SWART	COUNCIL SUPPORT	OVERSTRAND MUNICIPALITY	028 313 8006	sswart@overstrand.gov.za	

1. OPENING

The Chairperson, Mr S Müller, opened the meeting and welcomed those present.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Mr S Madikane, Director: LED

Mr R Williams, Director: Community Services (Repr by Mr D Lakey)

Ms H Janser, Directorate: Development Management

Ms Y Mabentsela, Directorate: Development Management

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 1 March 2019****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **1 March 2019**, stand over until the meeting of 25 April 2019.

4. ITEMS FOR CONSIDERATION

4.1

ERF 222, 1 GROENEWALD STREET, GANSBAAI, OVERSTRAND MUNICIPAL AREA: REMOVAL OF RESTRICTIVE CONDITIONS AND REZONING: MESSRS PRINSLOO ARGITEKTONIESE ONTWERPKANTOOR ON BEHALF OF THE STEPHEN JACKIE FAMILY TRUST

222 GGB (3290)

SW van der Merwe

(028) 313 8900

Hermanus Administration

4 February 2019

EXECUTIVE SUMMARY

An application has been received on 12 May 2016 from Messrs Prinsloo Argitektoniese Ontwerpkantoor on behalf of the Stephen Jackie Family Trust for the following:

- ❖ Removal of restrictive title conditions with reference to Clauses 3.A(a), 3.A(b), 3.A(c) and 3.A(d) of Title Deed T59454/2015 applicable to Erf 222, Gansbaai in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to develop a boutique hotel on the property.

The restrictive conditions contained in paragraph 3.A of Title Deed T59454/2015 to be removed read as follows:

- “(a) That this erf be used for residential purposes only.*
- (b) That only one dwelling together with such outbuildings as are ordinarily required to be used therewith be erected on this erf.*
- (c) That no more than one-half of the area of this erf be built upon.*
- (d) That no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf. No such building or structure shall be situated within 1,57 metres of the lateral boundary common to any adjoining erf.”*

- ❖ Rezoning in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 from Residential Zone 1: Single Residential (SR1) to Business Zone 2: General Business (B2), Bulk Zone 2 in order to develop a boutique hotel on the property

RESOLVED:

1. that the objections be noted;

2. that the application in terms of Section 16(2)(f) of the Overstrand Municipal Land Use Planning By-Law, 2015 for the removal of restrictive conditions 3.A(a), 3.A(b), 3.A(c) and 3.A(d) of Title Deed T59454/2015 applicable to Erf 222, Gansbaai in order to develop a boutique hotel, **be approved**;
3. that the application in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for rezoning from Residential Zone 1: Single Residential (SR1) to Business Zone 2: General Business (B2), Bulk Zone 2 in order to develop a boutique hotel on the property, **be approved**;
4. that the approval in paragraphs 2 and 3 above be subject to the following conditions:
 - (a) that the development be restricted to a boutique hotel and restaurant;
 - (b) that prior to commencement of the development a detailed Site Development Plan be submitted in accordance with the requirements of the Zoning Scheme Regulations for approval by the Authorised Official;
 - (c) that the development be re-designed to be sympathetic to the local vernacular in accordance with a revised Site Development Plan demonstrating compliance with the requirements of the Overstrand Heritage and Aesthetics Committee;
 - (d) that the development of the subject property be limited to two (2) storeys, subject to a 8,5m height restriction and 2m set back from the street building line applicable to the second floor;
 - (e) that the Site Development Plan shall be accompanied by a Geotechnical Report demonstrating that the ground conditions is suitable for the proposed development;
 - (f) that the operation of a place of entertainment, a bar or tavern is not permitted;
 - (g) that provision be made for on-site parking in accordance with the provisions of the Scheme Regulations, in accordance with a detailed parking layout to be submitted for approval by the Authorised Official;
 - (h) that the display of signage shall comply with the Municipal By-Law Relating to Outdoor Advertising and Signage;
 - (i) that the selling or serving of liquor be subject to a valid liquor license;

- (j) that applicable rates and service tariffs, as determined by the annual budget be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (k) that the boutique hotel complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
 - (l) that no self-catering rooms will be permitted;
 - (m) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
 - (n) that all the conditions in the Services Report be complied with;
 - (o) that the requirements of Electro-Technical Services, District Health, Telkom, Fire Services, Overstrand Heritage and Aesthetics Committee, Engineering Services and Heritage Western Cape be adhered to;
 - (p) that the operation of the boutique hotel be subject to a valid Business License;
 - (q) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
 - (r) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
5. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decisions and conditions of approval.

RESPONSIBLE OFFICIAL :

S VAN DER MERWE

4.2

ERF 2129, 4 GREEB ROAD, BETTY'S BAY: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURE: GJ MAREE ON BEHALF OF DEON MAREE FAMILY TRUST**2129 KBB (3911)****H van der Stoep****5 March 2018****(028) 313 8900****Hermanus Administration****EXECUTIVE SUMMARY**

An application has been received on 24 January 2018 from GJ Maree on behalf of the Deon Maree Family Trust on Erf 2129, Betty's Bay for the following:

- ❖ Application for a removal of restrictive title conditions with reference to Clauses D.I.(a), D.I.(b) and D.I.(c) of Title Deed T65399/1996 applicable to Erf 2129, Betty's Bay in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to accommodate a second dwelling unit on the property.

The restrictive conditions Clauses D.I.(a), D.I.(b) and D.I.(c) contained in Title Deed T65399/1996 to be removed, read as follows:

- “(a) *That the erf be used for residential purposes only, but no building other than one dwelling, together with such outbuildings as are ordinarily required to be used therewith, may be erected on thereon.*
- (b) *That not more than one-half of the area of this erf be built upon.*
- (c) *That no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 meters to the street line which forms the boundary of this erf. No such building or structure shall be situated within 1,57 metres of the lateral boundary common to any adjoining erf.”*

- ❖ Application for a departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to relax the western lateral building line with Erf 2108 from 2m to 0m to accommodate a garage and the street building line from 4m to 2,92m to accommodate a stoep.
- ❖ Application for a departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to exceed the 9m restriction of a building on one (1) specific boundary to accommodate a security wall and proposed garage.

The application was complete on 4 April 2018.

RESOLVED:

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of restrictive title conditions Clauses D.I.(a), D.I.(b) and D.I.(c) of Title Deed T65399/1996 applicable to Erf 2129, Betty's Bay, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(b) of the above By-Law on Erf 2129, Betty's Bay for a departure in order to relax the street building line from 4,72m and 4m respectively to 2,92,m to accommodate an enclosed stoep, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the approval in Points 1 and 2 be subject to the following conditions:
 - (a) that the approval for the departure is only for the building line relaxation as indicated on Plan Numbers 1/001 Rev 07 dated 23 October 2017, (excluding the garage);
 - (b) that building plans be submitted to the Building Department for approval, and that all conditions of the Building- and the Fire Department be complied with at that stage;
 - (c) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
 - (d) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation; and
 - (e) that all the conditions in the Services Report be complied with.
4. that the application in terms of Section 16(2)(b) of the above By-Law read with the Overstrand Zoning Scheme, 2013, Section 16.1 (b)(iii) on Erf 2129, Betty's Bay for a departure in order to exceed the 9m restriction of a building on one (1) specific boundary to accommodate a security wall and proposed garage, **not be approved**;
5. that the application in terms of Section 16(2)(b) of the above By-Law on Erf 2129, Betty's Bay for a departure in order to relax the western lateral building line with Erf 2108 from 2m to 0m to accommodate a garage and water storage tank, **not be approved**; and
6. that the applicant and objector be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

4.3

ERF 39, 243 PIET RETIEF CRESCENT, ERF 41, 108 KUSWEG AND ERF 42, 241 PIET RERIEF CRESCENT, SANDBAAI, OVERSTRAND MUNICIPAL AREA: REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE: MESSRS PLANACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF LN & D WESTGARTH-TAYLOR, DA KOTZÉ AND JJ WESSELS

39, 41 & 42 HSB (3841)

H van der Stoep

(028) 313 8900

Hermanus Administration

22 January 2019

EXECUTIVE SUMMARY

An application applicable to Erven 39, 41 and 42, Sandbaai has been received on 6 November 2017 from Messrs Planactive Town & Regional Planners on behalf of LN & D Westgarth-Taylor, DA Kotzé and JJ Wessels for the following:

- ❖ Removal of restrictive title conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the removal of the restrictive conditions C.2.(a) and C.2.(c) as contained in Title Deed No. T47662/2005 applicable to Erf 41, Sandbaai in order to accommodate a guesthouse with five (5) guestrooms on the property.

The restrictive conditions reads as follows:

“(a) That the above erf or erven be used for residential purposes only.

“(c) That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one/half the area of any one of the above erven be built upon.”

- ❖ Removal of restrictive title conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the removal of the restrictive conditions B.2.(a), B.2.(c) and B.2.(d) as contained in Title Deed No. T43101/2017 applicable to Erf 39, Sandbaai in order to accommodate six (6) parking bays on the property for the proposed guesthouse on Erf 41, Sandbaai.

The restrictive conditions reads as follows:

“(a) That the above erf or erven be used for residential purposes only.

“(c) That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than half the area of any one of the above erven be built upon.

“(d) That no building shall be erected on the above erf or erven within 4,72 metres of any boundary wall between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as gardens but shall not be built upon.”

- ❖ Consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Land Use Planning, 2015 for a guesthouse in order to accommodate a guesthouse with five (5) guestrooms on Erf 41, Sandbaai.
- ❖ Departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 from the primary rights applicable to Erf 39, Sandbaai in order to accommodate the above-mentioned six (6) parking bays on the property.

RESOLVED:

1. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of the restrictive title deed conditions C.2.(a) and C.2.(c) as contained in Title Deed No. T47662/2005 applicable to Erf 41, Sandbaai in order to accommodate a guesthouse with five (5) guestrooms on the property, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16.(2)(o) of the By-Law for consent use for a guesthouse in order to accommodate a guesthouse with five (5) guestrooms on Erf 41, Sandbaai, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16.(2)(f) for the removal of restrictive title deed conditions B.2.(a) and (c) as contained in Title Deed T43101/2017 applicable to Erf 39, Sandbaai in order to accommodate a parking area on the property for the guesthouse on Erf 41, Sandbaai as well as to be in line with the primary rights and development parameters applicable to single residential properties as set out in the Overstrand Zoning Scheme, **be refused** in terms of the provisions of Section 61 of the By-Law;
4. that condition B.2.(a) as contained in Title Deed T43101/2017 applicable to Erf 39, Sandbaai, **be amended** to read as follows:

“That the above erf be used for single residential and parking purposes only.”
5. that the application in terms of Section 16.(2)(f) for the removal of restrictive title deed condition B.2.(d) as contained in Title Deed T43101/2017 applicable to Erf 39, Sandbaai in order to be in line with the development parameters applicable to single residential erven as set out in the Overstrand Rezoning Scheme, **be approved** in terms of the provisions of Section 61 of the By-Law;

6. that the application in terms of Section 16.(2)(b) of the By-Law for departure in order to deviate from the primary rights applicable to Erf 39, Sandbaai in order to accommodate the above-mentioned parking area on the property, **be approved** in terms of the provisions of Section 61 of the By-Law;
7. that the approvals in points 1, 2, 5 and 6 above **be approved** subject to the following conditions:
 - (a) that a revised layout plan be submitted for approval by the Authorised Official of the Municipality, which plan must indicate the five (5) guestrooms, manager's/owner's accommodation, seven (7) parking bays on Erf 39, Sandbaai and one (1) parking bay (garage) on Erf 41, Sandbaai as well as the servitude areas;
 - (b) that the parking area on Erf 39, Sandbaai be surveyed and that the surveyed area be registered against the Title Deed of Erf 39, Sandbaai as parking in favour of Erf 41, Sandbaai by means of notarial tie for as long as the guesthouse is in operation;
 - (c) that the dominant use of the remaining extent of Erf 39, Sandbaai must still be for single residential purposes;
 - (d) that the right of way area over Erf 42, Sandbaai be registered prior to the guesthouse being operated and that proof of such registration be submitted to the Municipality for its records;
 - (e) that a maximum of five (5) bedrooms be let to guests/tourists from the dwelling on Erf 41, Sandbaai;
 - (f) that building plans be submitted to the Building Department for approval and that all conditions of the Building – and the Fire Department be complied with at that stage;
 - (g) that the owner/manager resides permanently on the premises, and be responsible for the proper management of the guest house;
 - (h) that the guest house is utilised as such – no self-catering will be permitted;
 - (i) that no kitchen facilities and/or prep bowls be allowed in the guestrooms;
 - (j) that no facilities (bar/restaurant or any other) be provided for non-residents of the accommodation establishment and that these facilities only be used by bona-fide guests of the establishment;

- (k) that the selling or serving of liquor on Erf 41, Sandbaai will be subject to the owners obtaining the necessary Liquor Licence;
 - (l) that a minimum of one (1) permanently demarcated parking bay per guestroom and two (2) for the owner/manager be provided within the erf boundaries of Erven 39 and 41, Sandbaai;
 - (m) that the applicable rates and service tariffs, as determined by the annual budget is applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (n) that the accommodation facility complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
 - (o) that only a single non-illuminated sign that complies with the Municipal By-Law on Signage, may be displayed on the premises;
 - (p) that the guest house be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;
 - (q) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
 - (r) that the conditions of Engineering Services, Fire Services and Telkom, respectively be complied with;
 - (s) that this approval does not absolve the landowners from compliance with any other relevant legislation; and
 - (t) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.
8. that the applicant be notified of its appeal right in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

The meeting adjourned at 10:40