

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

11.

**ERF 661, 17 PELICAN CRESCENT, VERMONT, OVERSTRAND MUNICIPAL AREA :
REMOVAL OF RESTRICTIONS ACT, 1967 (ACT 84 OF 1967) AND DEPARTURE :
MR R AND MRS R VAN DEN BERG**

661 HVM (2919)

H Olivier

18 July 2016

(028) 313 8900

Hermanus Administration

1. Executive Summary

An application has been received on 15 May 2015 from Mr R & Mrs R van den Berg on Erf 661, Vermont for a departure from the relevant Scheme Regulations in order to relax the lateral building line with Erf 662 from 2m to approximately 0m, and the lateral building line with Erf 660 from 2m to 1m to accommodate a family room and covered patio with built braai and a window in an existing servant's room respectively.

An application has also been received for the removal of restrictive title conditions in terms of the Removal of Restrictions Act, 1967 (Act 84 of 1967) applicable to Erf 661, Vermont to allow building work mentioned above, and also a covered pedestrian entrance over the street building line.

A Locality Plan of the property concerned is attached as Annexure A. The proposed Site Development Plan is attached as Annexure B, while the Motivation Report from the applicant in support of the proposal is attached as Annexure C.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Town Planning

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

Executive Mayor

5. Legal Requirements

- Removal of Restrictions Act, 1967 (Act 84 of 1967)

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- Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)

6. Background/Discussion/Evaluation/Conclusion

Background

An application for departure to relax building lines was received in November 2013. The owners were informed that some illegal structures also traverse the Title Deed building lines, and that application will also have to be made to remove such restrictions from the Title Deed.

On 15 May 2015 the full application, including the Removal of Restriction, was submitted to this office.

The application was made for a departure to relax the building line with Erf 662 from 2m to 0m, to accommodate a family room, covered patio with built braai, and also to relax the 2m lateral building line with Erf 660 to 1m to accommodate a new window in a servant's room. Application will also deal with the covered walkway traversing the 4m street building line.

An application has been received for the removal of restrictive title condition E(a) and also in Title Deed T19436/2011 in terms of the Removal of Restrictions Act, 1967 (Act 84 of 1967) applicable to Erf 661, Vermont.

The restrictive conditions read as follows:

“Page 3 : Paragraph E :

- (a) *Save with the consent of the Transferor Company in writing no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 3,15 metres to the street line which forms a boundary of the said property and no such building or structure shall be situate within 1,57 metres of the lateral boundary common to any adjoining lot, nor save with the consent of the aforesaid, may the said property or any lot if the property sold comprises more than one lot) be subdivided;”*

Discussion

The existing owner indicates that he purchased the property with the existing extensions which they are trying to legalize now.

On the building plan dated 2005 it was clearly indicated that a portion on the family room and braai structure were traversing the 2m southern lateral building line was to be demolished.

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A building plan was then also submitted by the existing owners in 2013, to construct a new garage on the property, onto the same boundary the family room and covered patio was constructed. On such plan no family room and covered patio traversing the building line were indicated, and only a covered patio complying with building lines was shown. The applicant indicated he did this on advise of municipal officials, to urgently construct the garage, and then to at a later stage try to rectify the family room and covered patio over the building line.

The application was advertised in the local newspaper, Government Gazette and notices were sent to surrounding property owners. One letter of support and two letters with objections were received. The objections can be summarized as follows:

Ms GJ Franken (Owner Erf 674)

- Plans submitted is unclear what structures are being applied for to be legalized.
- Not clear what the blocked area in the back yard proposed to be.
- The roof area of the family room and covered patio with braai over the building line are not aesthetically pleasing.
- The low braai create smoke blowing into neighbours' houses.
- Noise pollution is experienced from the family room and covered patio.
- Two other existing chimneys in the dwelling are not indicated on plan.
- The septic tank and municipal sewer is compromised.
- Where will extra rain water go?
- If this encroachment is approved, the building encroaching building lines can be changed to be used for other purposes.
- Need to discuss the roof structures with the building inspector.
- Will the new coverage comply with 50%?

Mr Jan Cogan (Owner Erf 662)

- The plan dated September 2012 did not indicate the family room, covered patio and braai up to the boundary.
- The property is zoned residential and not day care centres as indicated in the motivation.
- The braai is 2m above the boundary wall.
- I object to a 2 storey extension.

The letters of objection and letter of support are attached as Annexure D.

The applicant was provided an opportunity to respond on the objections, which can be summarized as follows:

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Comment on J Franken objections:

- The objector had the right to visit the municipal offices to view the file and obtain clarity from officials regarding the application.
- The application is to legalize unauthorized structures constructed prior to the transfer to the existing owners.
- The square block in the back yard indicates the law.
- It appears that no elevation plans were sent with the notice, but still complaints have however been received regarding the roof structure and it allegedly appears untidy.
- The built braai on the boundary with Erf 662 will create less impact on Erf 674 than a mobile braai.
- Noise created in the recreational areas has no bearing on the application.
- The distance of the covered patio and family room to Erf 674 is indicated on the plan.
- The building coverage will be 44,7% and not exceed the allowable 50%.

Comment on J Cogan objections:

- When plans were submitted in 2011 for a new garage, it was indicated by the Municipality that the family room and covered patio areas were illegally constructed over building lines. Due to the fact that rectifying this could take very long, on advice of the Municipality the illegal portions were removed and only the garage indicated.
- The chimney will only be 0,83m above the boundary wall.
- Application is not made for any consent uses or day care centre.
- The application under consideration is single storey.
- The document served with the notice was sent out by the Municipality.

Further response by the applicant:

- The application will not detract from desirability in terms of attractiveness, good order, comfort, general well-being, health and safety of the general character and aesthetic of the area.
- Buildings are not unsightly and in line with the character of the area.

The applicant's response on the objections is attached as Annexure E.

It is to be noted that all documents received were on file at the Municipality and open for viewing by the public. Ms GJ Franken however requested additional information regarding building elevations. This information was later requested from the applicant and forwarded to Ms Franken. She was provided an additional twenty one (21) days for any additional comments, but no additional comments were received.

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The application was circulated to all relevant municipal departments. The Fire Department indicated that they recommend the buildings (family room and covered patio) be set back 1m from the lateral boundary, whilst the Building Department indicated that on a building plan approved in 2005 a condition was inserted that all portions of the building (new family room, covered patio and braai) over the 2m building line be demolished.

Evaluation

It is to be noted that the owners applied for a departure only at the end of 2013 to rectify illegal buildings. At that stage the family room, covered patio with built braai onto the lateral boundary with Erf 662, the covered entrance over the street building line and the construction of a window into the existing servant's quarters 1m from the lateral boundary with Erf 660 identified as encroachments, for which departures had to be applied.

After further investigation and a site visit it was noticed that the existing portion of the dwelling encroaching the lateral building line with Erf 662, do differ from the building on-site. The existing braai room appears to be more in line with the building as omitted from a building plan in 2005. This then also explains the reason why neighbours did not fully understand the plans submitted with the application, as it actually is not as built plans, but an amendment to the existing building.

For the purpose of this application the plan as applied for (with proposal) with amendments will be dealt with as the correct plan for which encroachments are requested.

The Title Deed of the Erf 661 however contains a restrictive condition stipulating a 3,15m street building line and 1,57m lateral building lines. This condition will have to be removed to address the above mentioned structures.

The application will be considered in terms of the criteria to determine desirability in terms of Section 36 of LUPO.

Location on Accessibility

This application will have no impact in terms of location or accessibility, as provision is made for a double garage on site.

Provision of Services

There were concerns regarding the position of the septic tank and impact on the municipal sewer. The applicant indicated that the septic tank and sewer are below the existing lawn area, and will not be affected.

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There were also concerns with regard to additional rain water onto the property. The coverage of the property is still less than 50%, with open garden areas to help to drain the water. This application would therefore create no more storm water than any surrounding properties.

Existing Land Uses and Character of the Area

The property is situated in a residential area with single residential character.

The dwelling with extension will comply with the allowable coverage and height.

The dwelling has been amended and extended over time, and the former double garage that was constructed 1m from the northern boundary line, was changed into a servant's quarters. The new proposed window in the wall facing the northern boundary is very small, and would have no impact on the adjacent neighbours.

As previously indicated in this report, the previous owner was never granted approval to construct any portion of the dwelling onto the southern lateral boundary line with Erf 662. The fact that a part of the building was constructed over such building line possibly ten (10) years ago, does not mean this office must be more lenient towards on legalizing such building.

The fact that a plan was submitted in 2013 by the existing land owners for a double garage onto the same southern lateral boundary, but on such plan no portion of the dwelling was shown encroaching the building line which creates a situation where the full impact of all these buildings onto the lateral boundary were not duly considered. The garage on the latest plan is only 6,755m in length, but the full length with the proposed buildings is actually 15,39m. This is considered an excessive encroachment.

Many of the objections relate to the character of the area and aesthetics. Most of these concerns have been addressed by the applicant.

The concerns if the structures are aesthetically pleasing and concerns regarding general height and height of the braai are valid concerns. In terms of aesthetics a concern is that the parapet wall structure on the boundary with Erf 662, which is 3,3m in height, is imposing to the owner of Erf 662. Although garages with a length of 9m onto boundaries are allowed up to 3,5m in height, this structure will be over 15m long. The braai is also at least 1,2m above the maximum allowable height of a boundary wall (2,1m).

It is the opinion that should the family room, covered patio and built braai be set back at least by 1m, the structure will be less imposing, but it will still be practical enough for the land owner to utilize the space functionally.

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This will also satisfy the Fire Department who also requested that the said buildings be set back 1m from the property boundary.

The covered walkway onto the street boundary is only approximately 6m² in extend and almost in compliance with the 5m² allowed in terms of the Zoning Scheme. It can be supported.

Policy Plans

The scale of the application is so small that it would not impact on the Overstrand Municipality SDF, 2006 or the Growth Management Strategy, 2010.

Restrictive Conditions in Title Deed

The property is situated in an area where the Overstrand Municipality Zoning Scheme Regulations, 2014 is applicable. This document provide development parameters for this area and control Land Use Planning, therefore the condition relating to building lines in the Title Deed can be removed.

Conclusion

Two (2) letters of objection were received against this application. The applicant did address most of the objections, but some of the objections is considered valid.

The Municipal Fire Department recommend that the family room, covered patio and braai be set back from the southern lateral boundary, and the Building Department indicated that a previous condition in a building plan approval required the demolition of any portion of buildings over the 2m southern lateral building line.

The departure application can partially be approved, but it is recommended that the family room, covered patio and braai be set back 1m from the southern lateral boundary.

It is recommended that the application for the Removal of Title Deed Restrictions, be recommended for approval.

7. Financial Implications

None

8. Staff Implications

None

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9. Comments from other Departments, Divisions and Administrations

Engineering Services Department

Attached as Annexure F.

Building Control Department

Previous plans in 2005 was endorsed that the family room had to be demolished. To comply with SANS 10400.

Fire Department

Existing building on property boundary should be cut back to 1m from boundary. Total size of openings on 1m building line may not exceed allowable size as determined by SANS 10400 T : 2011 – Table 2.

The garden wall to the rear of the shed must be a minimum of 2,1m high over 300mm above the eave of the shed roof.

Local Heritage Committee

Low impact.

Operational Services

No objection.

10. Annexures

- Annexure A: Locality Plan
- Annexure B: Site Development Plan
- Annexure C: Motivation Report
- Annexure D: Objections received
- Annexure E: Response to objections
- Annexure F: Services Report

RECOMMENDATION:

1. that the removal of restrictive title conditions Page 3, E(a) Title Deed T19436/2011 in terms of the Removal of Restrictions Act, 1967 (Act 84 of 1967) applicable to Erf 661, Vermont, **be recommended for approval** by the Department of Environmental Affairs and Development Planning;

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2. that, in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) an application on Erf 661, Vermont for a departure from the Scheme Regulations in order to relax the building line with Erf 662 from 2m to approximately 0m to accommodate an existing family room, covered patio and built braai, **not be approved**, for the following reasons:
 - Due to the total length and height of the portion encroaching the building line it has an impact on the character of the area and impact on surrounding properties.
 - In terms of previous building plan approvals the encroaching portions should have been removed in 2005.
 - The Fire Department recommend that the buildings be set back at least 1m from the property boundary.

3. that, subject to the approval in 1. above, in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the departure from the Scheme Regulations on Erf 661, Vermont in order to relax the street building line from 4m to 0m to accommodate a covered walkway, to relax the 2m lateral building line with Erf 660 to 1m to accommodate a new window in the existing servant's quarters, and to relax the lateral building line with Erf 662 from 2m to 1m to accommodate a portion of the family room, covered patio and built braai, be approved, subject to the following conditions:
 - (a) that the approval of the departure be subject to the removal of the restrictive title condition;
 - (b) that the portions of the family room, covered patio and built braai which is closer than 1m from the boundary with Erf 662, be demolished within three (3) months of this approval;
 - (c) that no window or doors may be placed in the new wall that will face Erf 662;
 - (d) that the built braai may be reconstructed 1m from the lateral boundary, in more or less the same position, and to the same height of the existing braai;
 - (e) that all other development parameters, as prescribed in the relevant Zoning Scheme, be complied with;
 - (f) that the approval does not absolve the applicant from compliance with any other relevant legislation and/or title deed conditions;
 - (g) that all conditions imposed in the Services Report (attached as Annexure F), be complied with; and

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- (h) that a building plan be submitted to the building Control Department for their approval, and that any conditions that may be set at building plan submission phase by the Building Control and/or Fire Department, be complied with.
4. that the applicant be notified of their right of appeal in terms of the provisions of the Local Government Municipal Systems Act, 2000 (Section 62) with regard to the above decision.

RESPONSIBLE OFFICIAL :	H OLIVIER
TARGET DATE FOR IMPLEMENTATION :	12 OCTOBER 2016
TARGET DATE TO INFORM APPLICANT :	12 OCTOBER 2016
TARGET DATE TO INFORM OBJECTOR :	12 OCTOBER 2016

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26 September 2016
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11.

**ERF 661, 17 PELICAN CRESCENT, VERMONT, OVERSTRAND MUNICIPAL AREA
: REMOVAL OF RESTRICTIONS ACT, 1967 (ACT 84 OF 1967) AND DEPARTURE :
MR R AND MRS R VAN DEN BERG**

661 HVM (2919)

H Olivier

(028) 313 8900

Hermanus Administration

18 July 2016

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
26 SEPTEMBER 2016, WHICH COMMITTEE SUPPORTED THE
RECOMMENDATION**

RESPONSIBLE OFFICIAL :

H OLIVIER

TARGET DATE FOR IMPLEMENTATION :

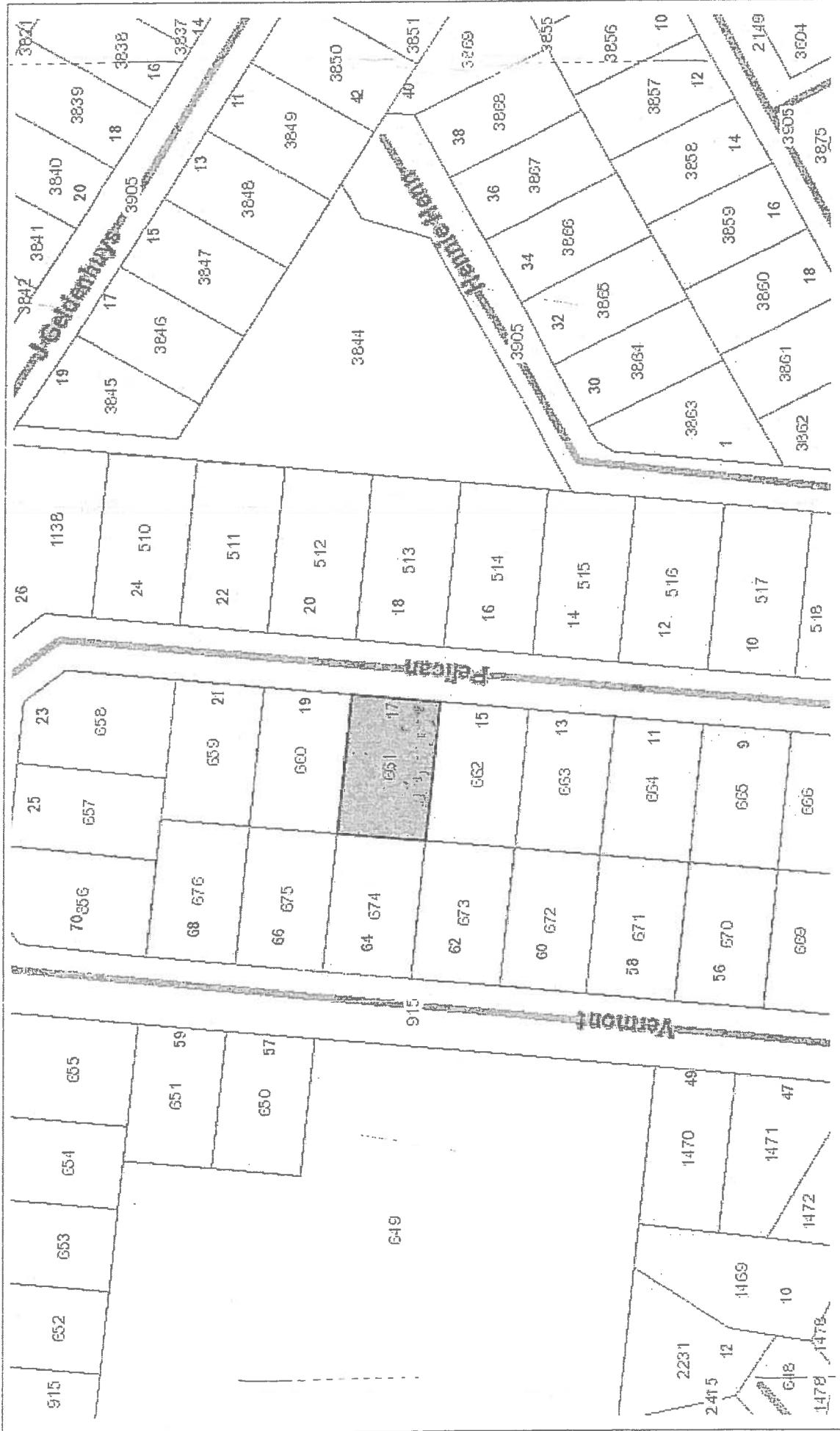
12 OCTOBER 2016

TARGET DATE TO INFORM APPLICANT :

12 OCTOBER 2016

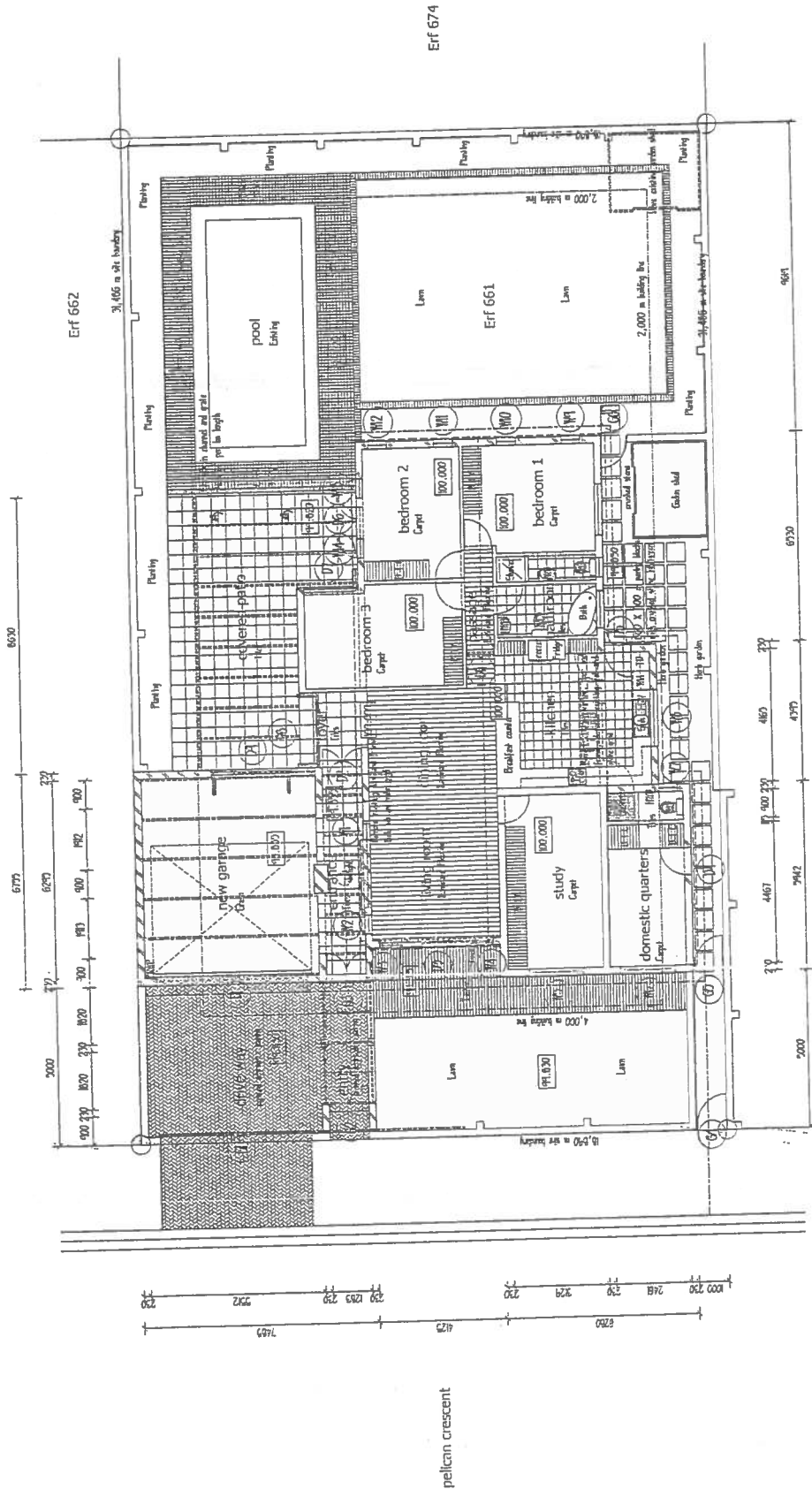
TARGET DATE TO INFORM OBJECTOR :

12 OCTOBER 2016



Erf 661 Vermont, Hermanus
Locality Map





Area	Area
Existing Residence	156,000 sq m
New Garage and Entrance	47,412 sq m
Addition to Kitchen	5,205 sq m
New Covered Patio	35,250 sq m
Total	243,915 sq m
Erf Size	595,000 sq m
Coverage	41.00 %

site development plan

CLIENT	HOUSE VAN DEN BERG
PROJECT	ADDITIONS AND ALTERATIONS
DESCRIPTION	PROPOSED GROUND FLOOR PLAN
SITE	ERF 661, PELICAN CRESCENT, VERMONT, HERMANUS
SCALE	1:100
DATE	SEPTEMBER 2012
DRAWN BY	L. VAN DEN BERG
CHECKED	L. VAN DEN BERG
PROJECT NO.	11/400/34 A - 1

11 Council Submission

THIS DRAWING TO BE READ IN CONNECTION WITH SERIES 11/400/34 A - 2 and 3

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APPLICATION MOTIVATION:

INTRODUCTION

Application is hereby made for the Removal of Restrictive Condition on Erf 661, Vermont located in Pelican Crescent.

BACKGROUND INFORMATION

Erf 661, Vermont is located in Pelican Crescent and is zoned Residential Zone 1: Single Residential in terms of the Overstrand Municipality Zoning Scheme, June 2013. The property is developed with a single residential house with related outbuildings.

An application for departure was submitted to the Overstrand Municipality and letter with response was received as attached dated 28 November 2013.

It is therefore our intention to apply for the departure and removal of restrictive conditions in the Title Deed to ensure that the existing residential house conform to the provisions of the Zoning Scheme, the additions and alterations are reflected in the attached Drawings number 11/400/34 and 39 A-1.

DETAILS OF THE PROPERTY

Our property known as Erf 661 located in the suburb of Vermont and measures 595m².

The locality and aerial photograph is attached as ANNEXURE E.

ZONING

The Zoning Certificate was obtained from the Overstrand Municipality and is summarized as follow:

Residential Zone 1	:	Primary uses – day care centre, dwelling house, guest rooms, home occupation, and second dwelling unit
Size	:	595m ²
Coverage	:	50%
Height	:	2 storeys
Building lines	:	Street building line- 4m and Side and rear building lines 1m.

The Zoning Certificate from the Overstrand Municipality is attached to the application as ANNEXURE F.

DEVELOPMENT ON PROPERTY AND NEIGHBOURING PROPERTIES

The property is developed with a single dwelling house with related outbuildings. The existing garage and covered patio is located on the northern side of the property with direct access from Pelican Crescent. A covered entrance is proposed as part of the driveway. The neighbouring properties are also developed with houses and related outbuildings.

It should be noted that the proposed garage and covered patio and covered entrance on the northern side are located within the 1,57m side building line as indicated on the site development

plan and within the 3,15m from the street boundary as referred to in the Title Deed. It should be noted that similar development as such are evident in the Vermont neighbourhood.

Refer to the attached Aerial Photo as in MAP 1.

OWNERSHIP

The property is owned by Mr R and Ms R Van den Berg in terms of the Title Deed number T19436/11.

A copy of the Title Deed is attached in Annexure B.

TITLE DEED CONDITIONS

We understand that there are one restrictive title condition in the Title Deed that are restricting the proposed addition and alterations to the existing approved residential dwelling as per the sketch attached as Annexure C.

It is:

E. (a)	"Save with the consent of the Transferor Company in writing no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 3, 15 metres to the street line which forms a boundary of the said property and no such building or structure shall be situated within 1,57 metres of the lateral boundary common to any adjoining lot, nor save with the consent of the aforesaid, may the said property or any lot if the property sold comprises that one lot be subdivided;"
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DESIRABILITY OF THE PROPOSAL FOR REMOVAL

The property falls within the Vermont area which forms part of the Overstrand Municipality and for which the Overstrand Zoning Scheme, 2013 allows certain rights. Vermont is known as a single residential area with small properties measuring around 500m² to 1000m². Most of the properties are developed with houses and garages with covered entrance and patios similar to ours. The proposals are for the condition to be removed to allow the proposed alterations and additions as per the drawing submitted. The covered entrance can be also dealt with in accordance with the Section 16.1 on General Encroachments allowing a covered pedestrian entrance.

The proposed for additions and alterations as indicated on the attached sketch can be motivated to be seen compatible with the character with other similar to that of the greater Vermont area and is seen to be in line with the policies precedent in the area for residential erven.

COMMENTS RELATING TO THE REMOVAL OF RESTRICTIVE CONDITIONS IN VERMONT AREA/ SUBURB

- The Dominant/subservient relationship has been modified as similar structures are observed in the area.
- The Zoning Scheme is a sufficient measure to deal with development on properties as in this case on Residential Zone 1.

It can be stated that the existing and proposed additions and alterations of the property as residential dwelling with related outbuildings is aligned with the approved land use rights of Single Residential (SR1) in terms of the Overstrand Zoning Scheme.

PROPOSED ADDITIONS AND ALTERATIONS

It is our intention as the owners to apply for the site development plan and building plan approval to allow the additions and alterations as per the attached plan. It should be noted that the removal is applied for simultaneous to a departure application for the relaxation of the building line. The new garage will have direct access from Pelican Crescent and a covered entrance way is also indicated in the building line area.

The new garage and covered patio are proposed to be located on the boundary of the erf within the 2m building line as per the Zoning Scheme and within the 1,57m building line depicted in the Title Deed. The covered entrance (although allowed under general encroachments in the Zoning Scheme) are seen as a structure in terms of the Title Deed condition.

We have also attached the following as required in terms of the Standard Application form:

1. The Bond Holders Consent;
2. Locality and land use plan.

CLOSURE

It is in closure our request for the Condition E (a) as contained our Title Deed T19436/11 in respect of Erf 661, Vermont be removed to allow the proposed additions and alterations to be approved by the Overstrand Municipality.

E NO:	EL 661-Nec
SCAN NO:	35
COLLABORATOR NO:	843249

G.J. Franken
Posbus 357
Onrusrivier
7201

TP- A Theart
(H Olivier)



Die Munisipale Bestuurder / Stadsbeplanner
Posbus 20
Hermanus
7200

Geagte Verantwoordelike Beampte,

Erf 661, Pelikaansingel 17, Vermont, Overstrand Munisipale Area: Wet op Opheffing van Beperkings, 1967(Wet 84 van 1967) en Afwyking.

Kennis is geneem van skrywe 3 September 2015 ontvang van Mnr en Mev van den Berg.

Ek Mev G.J. Franken maak beswaar teen die gemelde aansoek, redes daarvoor is dat die plan met die aansoek ontvang nie vir my duidelik uiteensit is wat aandui welke bestaande dele van die huis wat reeds gebou is vir my oorweeging voorgelê word en wat vir my lyk wat beoog word om gebou te word ter sprake is nie.

Die aard van die aansoek is om kort te stel "om bestaande strukture te wettig"

NB NB NB:

Welke dele van die gebou is reeds goedgekeur en welke gedeeltes moet gewettig word en welke gedeeltes word beoog om gebou te word. ? Ek dink en is van mening om n plan aan n leek wat nie planne verstaan voor te hou wat nie gemerk is wat die bestaande en beoogde gedeeltes aandui nie geregverdig is nie. Of moet ek nou n argitek gaan spreek en betaal om te sien wat aangaan. Die verskillende gedeeltes wat goedgekeur is, waarvoor aansoek gedoen word om goedgekeur te word en wat beoog word om gebou te word moet asseblief aangedui word in verskieslik drie verskillende kleure en of duidelik gemerk te word / of op n ander manier uitgewys moet word.

Ek verlang derhalwe verdere inligting in die verband alvorens ek my finale besluit kan neem en om u daarvoor te kan inlig.

1) As ek na die plan as leek kyk is daar n vierkantige blok geteken wat aandui die boulyn word oorskry, geen naam is vir die gedeelte gegee alhoewel al die ander vertrekke name het al wat daar staan is erf 661. **DIT IS NIE n BESTAANDE GEDEELTE "OM n STRUKTUUR TE WETTIG NIE"** Dit bestaan ^{gald} nie en moet seker nog gebou word? **Daarom verlang ek verder inligting soos ek hierbo versoek het.**

2. As na die "Family room" en "Covered Patio" verwys word as " om bestaande struktuur te wettig" **maak ek beswaar.**

Die plan aan my voorgelê, wys geensins hoe die aansig en die dak vanaf my huis se kant lyk nie.. Dit is dak na dak en na dak almal in verskillende hoogtes en lyk slordig

aangeplak en doen afbreuk aan almal se eiendom wat na die dakke moet kyk. Alvorens ek die aansoek kan oorweeg wil ek weet hoe die dakke reggestel gaan word, en dan is daar ook nog die kaggel wat baie laag bo die dak vertoon en as dit gebruik word moet ek alle vensters deure van my huis toemaak anders stink my hele huis.

Die onooglike dakke en kaggel is selfs vir almal sigbaar vanaf Vermontlaan en is enigsins nie 'n voorbeeld of aanwys vir die gedeelte van Hermanus nie.

3(A) Die bestaande "family room en covered patio" versteur reeds die rustig buurt. Weens die klank afkomstig van die gedeeltes as daar gebraai word.

3(B) Die plan verwysend na die "covered Patio" dui geensins 'n kaggel (braai Kaggel) wat reeds gebou is aan nie, met respek ek kan dit nie op plan sien nie.. Soos reeds gestel is die kaggel se skoorsteen so laag dat as daar gebraai word word ek uit my eie huis berook.

3(C) Geen kaggel wat in die bestaande "family room" is met 'n eie lange skoorsteen word op plan aangedui nie. Dan is daar ook 'n derde skoorsteen ek weet nie waarvoor, maar ook nie op plan aangedui.

4. (A) Hoever is die beoogde "vertrek" Van my agsters^{de} muur?

(B) Wat van die septiese tenk wat op die ongenaamde gedeelte/vertrek/afdak paragraaf 1 hierbo hetbetrekking, wat dan onderdak gaan wees?

(C) U is seker bewus dat die Munisipale riool pyp aan die betrokke erf se agterste grensmuur geïnstalleer is. Inaggeneem die grensmuur se fondasies sal die pyp seker dan ook onder die ongenaamde vertrek/afdak lê.

5. Geen deure, vensters of beoogde dak word aangetoon.

6. Waarheen gaan al die reënwater wat van die dakke loop ?, ons versuip reeds in die winter hier en waarheen loop die swembad water?

7. Die bestaande " Covered Patio" soos reeds genoem rook my, as die wind suid of suid oos stoot/waai, my uit my eie huis en dan is dit mense wat 2,3 maal per week braai met luidrugtheid en geen respek vir ander se nagrus of vrede nie.

8. Sover ek dit verstaan is dat as die "ongemerkte vertrek dak/gebou eers een maal goedgekeur word kan dit maklik in die toekoms na enige vertrek of gebruik verander word sonder om my goekeuring te verkry. Daarom wat is dit wat beoog word? Dit lyk vir my so na 'n papier oorlog wat gespeel word en hoop en bid niemand sien die werklik gebruik van die beoogde gedeelte raak om net toestemming te verkry om die boulyn te oorskry.

9. Terwyl die strukture onder beslising verkeer versoek ek dat die Bou Inspekteur 'n afspraak met my reel sodat die dakke sigbaar van my kant bespreek kan word. Ek kan ongelukkig nie fotos van my kant neem of van Vermontlaan neem en aan u voorlê nie want ek besit nie die toerusting om dit doen nie en het ook nie die kundigheid om dit

doen nie. Ek sal bly wees as u uself van die onooglike dakke se aansig sal vergewis en sal bly wees as die Bou Inspekteur fotos kan neem om die dakke se aansig bloot te lê.

10. Ek was altyd onder die indruk dat slegs 50% van 'n erf bebou mag word, wat gaan die totale gedeelte van die erf onder dak/dakke wees en waarheen gaan Vermont, gaan ons almal op 'n knop/bondel leef soos in sekere gedeeltes in die stad en elders in die dorp.

11. Ek maak derhalwe om al bogenoemde redes hewig beswaar teen die aansoek en hoop van harte dat die Munisipaliteit ook ander belasting betalers se kommer in ag neem en dat die aansoek nie net deur gebonder word nie.

Die uwe,

Mev. G.J. ~~Franken~~ FRANKEN

G.J. Franken



FILE NO. EL 661-Ver
 SCAN NO. 34
 COLLABORATOR NO: 858205
 Dear Mr Olivier

TP-ATheart
 (H Olivier)

Erf 661, Vermont

The comments/objections received in terms of the above application have reference and we wish to reply as follows:

Objections/comments received from G J Franken:

- 1 The objector is the owner of Erf 674, Vermont Avenue, Vermont which is on the Western side (at the back) of Erf 661, Vermont;
- 2 Due to the regular argument repetition in this particular letter of objection, we will not deal with each of the matters raised *in seriatim* as per the objection letter but deal with the essence of each of the objections collectively;
- 3 It must be noted that it is the duty of the objector to familiarise him/herself with the application under consideration. The objector has the right to attend to the municipal offices in order to inspect the plans and request the respective officials to explain the drawings and the application in order to be well informed before replying to the application. There is thus no need to appoint an architectural professional for this purpose, neither is it grounds for an objection nor a reason to provide a final decision at a later stage;
- 4 The application under consideration is to legalise an unauthorised section of a structure that has been erected well before the current (Transfer in 2011) and previous (Transfer in 2006) owners acquired the said property;
- 5 The square block on the plan mentioned by the objector purely represents the existing rectangular lawn with a proposed brick border delineating the flower beds. It is thus not a proposed structure with any doors, windows or roof still to be built;
- 6 We are not in a position to comment on which documents – including the plan, section and elevations – have accompanied the notice served by the Overstrand Municipality on the adjoining owners as part of this regularisation application process. It is alleged that elevations did not form part of the document pack, yet an objection is raised regarding the roof, upon roof, upon roof at different levels which allegedly appears untidy;
- 7 The braai indicated on the boundary of Erf 662 has a chimney and will not cause any smoke nuisance to the objector. A portable braai - which is permissible - used right next to the boundary wall between Erven 661 and 674 will cause considerably more nuisance and inconvenience to the objector;
- 8 It is immaterial whether the recreational areas disturb the peace due to the alleged sound nuisance. This is not a land use issue but one of law enforcement

and should be dealt with as such should the objector feel aggrieved by any alleged nuisance;

- 9 The dimensioned drawings submitted as part of the application indicate that the Covered Patio is 11,101 m and the Family Room 14,101 m from the boundary between Erven 661 and 674;
- 10 The septic tank and sewer line leading to it, is below the rectangular section of existing lawn – Refer to paragraph 4 above - and thus not under any existing or proposed building; and
- 11 The building coverage will be 44.71% and thus not exceed the stipulated 50% in terms of the Overstrand Zoning Scheme (As adopted by the Overstrand Council in 2013).

Objections/comments received from J Cogan:

- 1 The objector is the owner of Erf 662, 15 Pelican Crescent, Vermont which is on the Southern side of Erf 661, Vermont;
- 2 The application under consideration is to legalise an unauthorised portion of a structure that has been erected well before the current (Transfer in 2011) and previous (Transfer in 2006) owners of Erf 661 acquired the said property. It must be noted that at the time the applicant took transfer of Erf 661, Mr J Cogan already owned Erf 662 and were thus well aware of the unauthorised portion of the structure on the boundary of Erf 661;
- 3 Late in 2011, the applicant submitted plans for proposed additions and alterations to the said property. On submission, the applicant was made aware of the fact by the Overstrand Municipality that a portion of the Family Room – section inside the side building line – has been erected illegally. On enquiry it was established that the owners from whom the applicant bought, also purchased the property in 2006 with a portion of the Family Room erected illegally. Both parties were not aware that a portion of the family room is unauthorised.
- 4 On advice from the Overstrand Municipality, the applicant separated the application for regularising the portion erected illegally with that of the proposed additions and alterations complying with the Overstrand Zoning Scheme. For this reason the initial plan submitted was withdrawn and an Overstrand Zoning Scheme compliant plan submitted as the regularisation process is a protracted one which would have prevented the building of the proposed alterations compliant with the Overstrand Zoning Scheme, before the

regularisation process has run its course. Hence the different dates on the respective plans.

- 5 The chimney section of the existing Braai on the boundary of Erf 661 protrude 830 mm above the boundary wall and not 2.0 m as alleged;
- 6 The objector appears confused in terms of what the current zoning with respect to the property in question allows and what has been applied for. Even though the primary use in terms the Overstrand Zoning Scheme (As adopted by the Overstrand Council in 2013) – no consent use application thus required – allows for that of a day care centre, the property will not be used as such;
- 7 Considering the aforementioned, a 2 storey building (maximum of 8.0 m in height) is allowed outside the building line between the common boundaries. The application under consideration however does not involve a double storey building within the side boundary building line but only a single storey (Ground floor only); and
- 8 We are not in a position to comment on which documents – including the Title Deed and Site Development Plan – have accompanied the notice served on the adjoining owners by the Overstrand Municipality as part of this regularisation application process.

The application as submitted is sound as per the provisions of the Planning Legislation including that of the Spatial Planning and Land Use Act, Act 16 of 2013 which states objectives, norms and standards of any development and its compliance with planning by-laws. We thus remain confident that in terms of the common approach to departures and title deed restrictions the proposed departure:

- Continue, thus ensure and reinforce the built form of the newly constructed garage;
- Still permit access to and accommodate services infrastructure on the property;
- Facilitate greater diversity in built form without any adverse impact;
- Enable greater flexibility and optimal use of the property without any adverse impact on existing surrounding rights or its context;
- Enable greater flexibility in use of the land;
- Have no adverse impact on neighbours or any existing rights;
- Does not disfigure the area in any way;
- Is not unsightly or objectionable;
- Will not derogate from the value of the neighbouring properties; and
- The building is not unsafe or unhealthy in any way

The proposed departure are considered well-co-ordinated and harmonious in nature and thus does not detract from desirability in terms of **attractiveness, good**

order, comfort, general well-being, health and safety of the residential character and aesthetic of the area. The proposed departure will not bring about an unsightly addition and will be in keeping with the residential nature and character of the area.

We maintain that in terms of the Title Deed, the conditions of the said Title Deed to approve the said departures are in favour of the Municipality. We therefore kindly request that the Overstrand Municipality assess this application on its own merit, as an outcome as a result of historical precedent in decision making will most definitely be in conflict with our fundamental rights to property enshrined in the Constitution.

Please note that we further reserve the right to request an interview, submit further motivation and objections, should the application serve at or before any relevant committee, planning advisory board or appeal board.

Regards

Ryno and Rochelle van den Berg

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTION & DEPARTURE: ERF 661,
VERMONT (2919)**

Stormwater (SW) : In order
Electricity : Escom
Water : In order
Sewer : In order
Roads and traffic : In order

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the developer's cost;
2. that stormwater be allowed to discharge through Erf 661, Vermont, unobstructed.



**DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES**

7 October 2015

DATE