

**ERF 5548, 31 SEVENTEENTH AVENUE, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA:  
APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS  
ENGELBRECHT & SCORGIE ARCHITECTURAL OFFICE ON BEHALF OF KRM CRASEMANN**

Notice is hereby given in terms of Section 48 read with Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) that an application has been received for the following:

- departure in order to relax the southern street building line from 4m to 1,6m to accommodate a double garage on the property, and
- the determination of an administrative penalty in terms of Section 16(2)(q).

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, Paterson Street, Hermanus. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) on or before **20 December 2021** quoting your name, address and contact details, interest in the application and reasons for comments. 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 5548, SEWENTIENDELAAN 31, VOËLKLIP, HERMANUS, OVERSTRAND MUNISIPALE AREA:  
AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: MNRE ENGELBRECHT &  
SCORGIE ARCHITECTURAL OFFICE NAMENS KRM CRASEMANN**

Kennis word hiermee gegee ingevolge Artikel 48 saamgelees met Artikel 16(2)(b) van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) dat 'n aansoek ontvang is vir die volgende:

- afwyking ten einde die suidelike straatboulyn vanaf 4m na 1,6m te verslap om 'n dubbel motorhuis op die eienodm te akkomodeer, en
- die bepaling van 'n administratiewe boete ingevolge Artikel 16(2)(q);

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](mailto:alida@overstrand.gov.za)) voor of op **20 Desember 2021**, 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.

**ISIZA 5548, 31 SEVENTEENTH AVENUE, VOËLKLIP, HERMANUS, KUMMANDLA WASEOVERSTRAND:  
ISICELO SOKUPHAMBUKA, ISICELO SOKUQIKELELA IPENALTHI: ABATHUNYWA ENGELBRECHT &  
SCORGIE ARCHITECTURAL EGAMENI LE-KRM CRASEMANN**

Esi saziso sikhutshwa ngokwemiqathango yeCandelo 48 elifundwa kunye neCandelo (16)(2)(b) loMthethwana oTshintshweyo kaMasipala waseOverstrand woYilo lokuSetyenziswa koMhlaba wowama-2020 (uMthethwana) ukuba:

- isicelo samkelwe sokunduluka ukuze kucuthwe umda wesakhiwo osemazantsi ukusuka kwisi-4m ukuya kwi-1,6m ukulungiselela igaraji ephindwe kabini kule propati.
- ukuqikelelwa kolawulo nokumiselwa ipenalthi ngokweSoloty le16(2)(q);

linkcukacha ezipheleleyo ngesi siphakamiso ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini, phakathi kwentsimbi yesi08:00 neye16:30 kwiSebe: Izicwangciso ngeDolophu, Paterson Street, Hermanus. Naziphi na izimvo zingangeniswa ngokwezibonelelo zeSoloty lama51 nelama52 Omthethwana kaMasipala (16 Paterson Street, Hermanus / (f) 028313-2093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) ngomhla okanye ngaphambi komhla **20 uDisemba (EyoMnga) 2021**, uchaze igama lakho, idilesi neenkukacha ofumaneka kuzo, umdla wakho kwesi siphakamiso nezizathu zokuhlomla. Imibuzo ngefowuni ingabuzwa **kuMnu P Roux** ku028-313 8900. UMasipala angala ukwamkela izimvo ezifunyenwe emva komhla wokuvala. Nabani na ongakwazi ukubhala nokufunda angandwendwela kwiSebe leZicwangciso ngeDolophu apho igosa likamasipala liza kumnceda afake izimvo zakhe ngokusemthethweni.



## 1. INTRODUCTION:

### 1.1 Background

The owner of the property, Mr. K.R.M Crasemann has instructed Brandon Scorgie from the firm Engelbrecht & Scorgie Architectural office to apply for a building line departure from the Overstrand Municipality's Zoning Scheme Regulations. Erf 5548, referred to in this document as the application area, measures 768.0m<sup>2</sup> and is held by Title Deed no. T000033204/2008

### 1.2 Application detail

Application is made in terms of the following:

- 1.2.1 The Overstrand Municipality's By-Laws on Municipal Land Use Planning, Chapter 4 Section 16(2)(b), 2020 states that an owner of an erf may apply to the Municipality for a permanent departure from the provisions as stated in the Overstrand Municipality's Zoning Scheme Regulations.

Relevant sections in the Zoning Scheme Regulations applicable to the departure:

- Section 6.1.2 (b)(i) "Street Building Lines". The street building line is determined in accordance with the net erf area, as listed in the table below:

<b>Net erf area:</b>	<b>Street building line</b>
400m <sup>2</sup> and greater	4.0m

- 1.2.2 Overstrand Municipality's amended By-laws on Municipal Land Use Planning states that a person who is in contravention of this By-laws, and submit application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof.

### 1.3 Need and desirability

#### 1.3.1 Property description

The application area of 768m<sup>2</sup> in extent is located within the residential suburb of Voëlklip at 31 Seventeenth Avenue. The existing dwelling on the application area is a double story comprising typical family type living accommodation.

The current owner, Mr. K.R.M Crasemann, purchased this property in 2008 for a fair sum of money and has been using the property as a semi-permanent residence ever since. The current double story dwelling and single garage is no longer adequately sized for their family and their associated lifestyle and therefore necessitates a few additions and alterations as discussed later in this application document.

2. **THE APPLICATION:**

2.1 **Analysis - Development Criteria as per the Overstrand Municipality**

The development parameters for the application area as per the Overstrand Municipality Land Use Scheme, 2020 can be summarized as follows:

Design Parameters:		Overstrand Municipality's Zoning Scheme Regulations:	Proposal:	Comments:
<b>Zoning</b>		Residential Zone 1: Single Residential (SR1)	Residential Zone 1: Single Residential (SR1)	Unchanged
<b>Primary Use</b>		Crèche, dwelling house, guest rooms, home occupation, second dwelling unit and self - catering	Dwelling house	Unchanged
<b>Consent Use</b>		Day care centre, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and intensive horticulture	None	Unchanged
<b>Coverage</b>		50%	33.50%	Unchanged
<b>Height Restriction</b>		8.0m	6.2m	Unchanged
<b>Building lines</b>	<b>Street</b>	4.0m	4.0m Seventeenth Street & 1.6m Third Street	<b>Application for a departure</b>
	<b>Side</b>	2.0m	2.0m	Unchanged
	<b>Rear</b>	2.0m	2.0m	Unchanged
<b>Parking</b>		Dwelling house: 2 bays	Dwelling house: 2 bays	Unchanged

2.2 **Analysis – Development Criteria as per the Title Deed**

Refer to Annexure C in the Title Deed.

The Conveyancer Monica Korf issued a certificate confirming that no restrictive Title Deed conditions exist against the proposal on Erf 5548 Voëlklip. Refer to Annexure E in the Conveyancer Certificate.

## 2.2 Application

### As stated earlier in this Departure Document;

- 2.2.1 the Overstrand Municipality's By-Laws on Municipal Land Use Planning Chapter 4 Section 16(2)(b), 2020 states that an owner of an erf may apply to the Municipality for a permanent departure from the provisions as stated in the Overstrand Municipality's Zoning Scheme Regulations.

Therefore, application is subsequently made in terms of the Overstrand Amendment By-Law on Municipal Land-use Planning, 2020 for a permanent departure to relax the Southern Municipal Street Building Line from 4.0m to 1.6m to allow for a double garage.

- 2.2.2 The Overstrand Municipality's amended By-laws on Municipal Land Use Planning states that a person who is in contravention of this By-laws, and submit application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof.

Therefore, application is subsequently made in terms of the Overstrand Amended By-Law on Municipal Land-use Planning, 2020 for the application of an administrative penalty as contemplated in Section 90 in the Overstrand Municipality's amended By-laws on Municipal Land Use Planning

Refer to Annexure A for the application form.

3. **CONTEXTUAL SITE INFORMATION:**

3.1 **Property Description**

Property:	Extent:	Title Deed No:	Registered Owner:
Erf 5548, Voëlklip	768.00m <sup>2</sup>	T000033204/2008	Kai Reinhard Michael Crasemann

Refer to Annexure C for the Title Deed of Erf 5548 Voëlklip

Refer to Annexure G for SG Diagram

The following Surveyor General Plans reflect the application site:

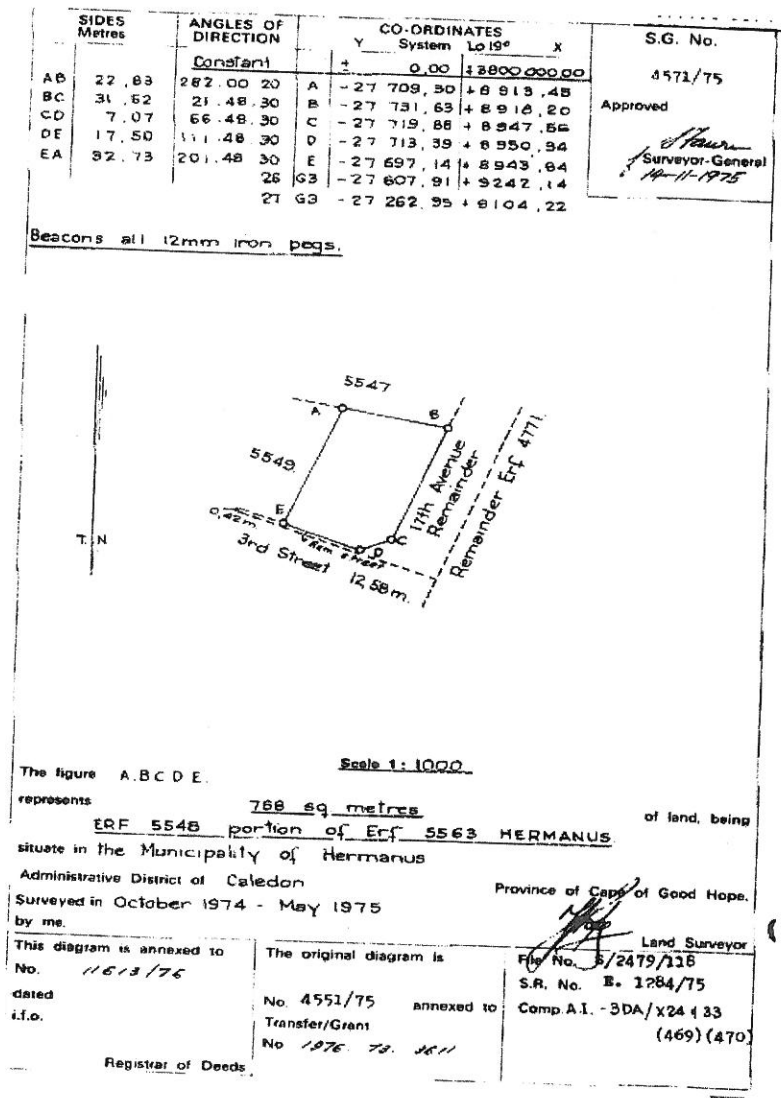


Figure 1: Extract of the Surveyor General Plans of the application site

### 3.2 Location

#### A. Regional Context

Within a regional context, the application area is located within Voëlklip residential suburb.

Refer to Annexure H for the Locality layout

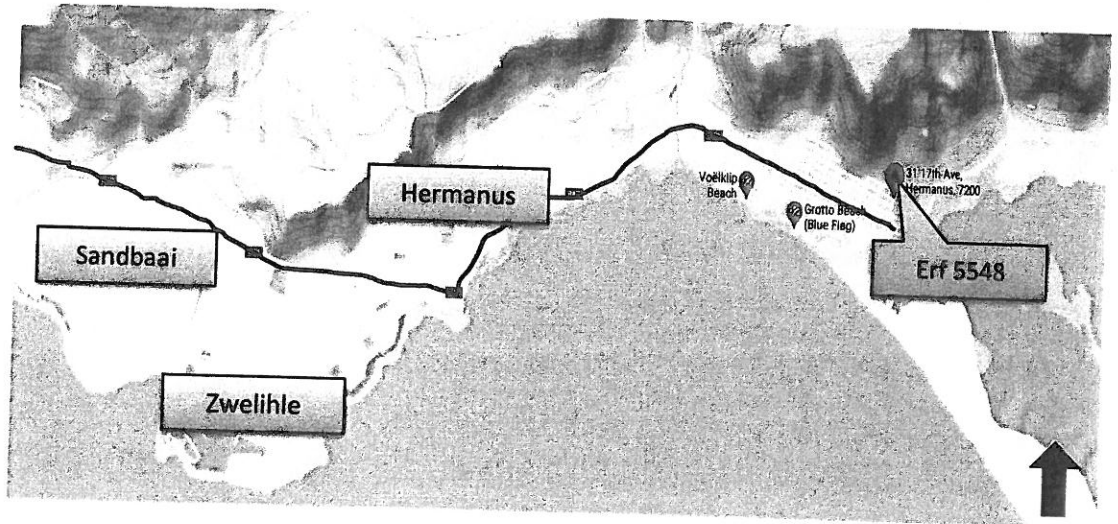


Figure 2: Regional Context – NOT TO SCALE

#### B. Local Context

Within a local context, the application area consists of a residential erf within Voëlklip. The application area is located at No. 31 Seventeenth Avenue.

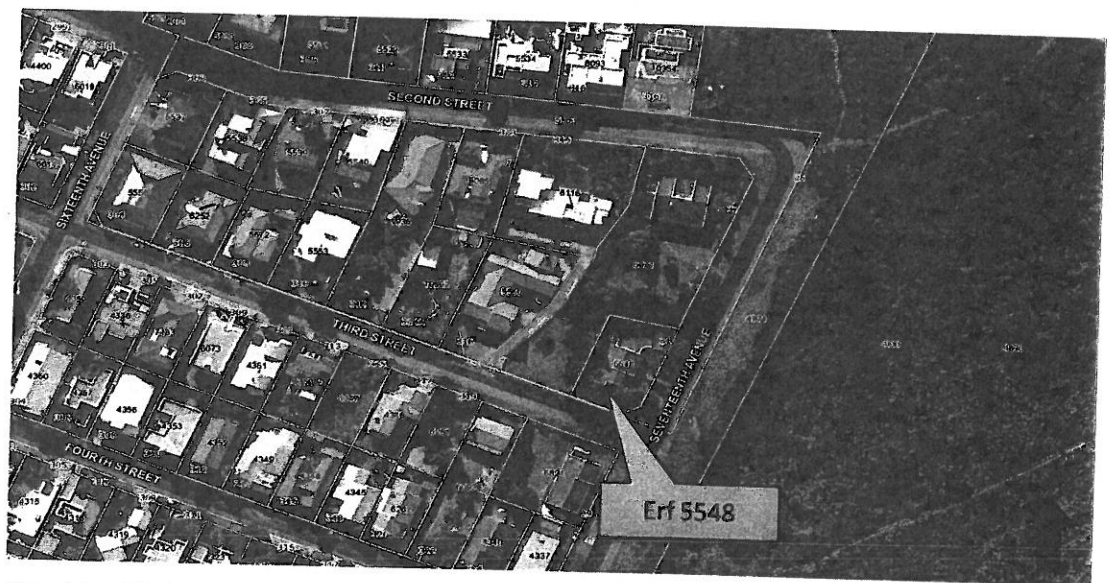


Figure 3: Local Context, an extract from the Overstrand Public Viewer – NOT TO SCALE

### 3.3 Land Use:

The application area accommodates a double storey dwelling with both the North and Sothern facing areas both optimizing the sea and mountain views. The areas of the Dwelling as it stands (including the additions and alterations) comprise the following:

-	Ground floor area	- 203.70m <sup>2</sup>
-	Double garage	- 49.60m <sup>2</sup>
-	Loft area	- 29.30m <sup>2</sup>
-	Balcony area	- 66.40m <sup>2</sup>

Total surface area (incl. all improvements)	- 349.0m <sup>2</sup>
Total coverage (incl. all improvements)	- 33.00%

### 3.4 Zoning

The application area is zoned Residential Zone 1 (SR1). All surrounding properties are zoned Residential Zone 1 (SR1) as well as an Open Space Zone 2 (Erf 4833).

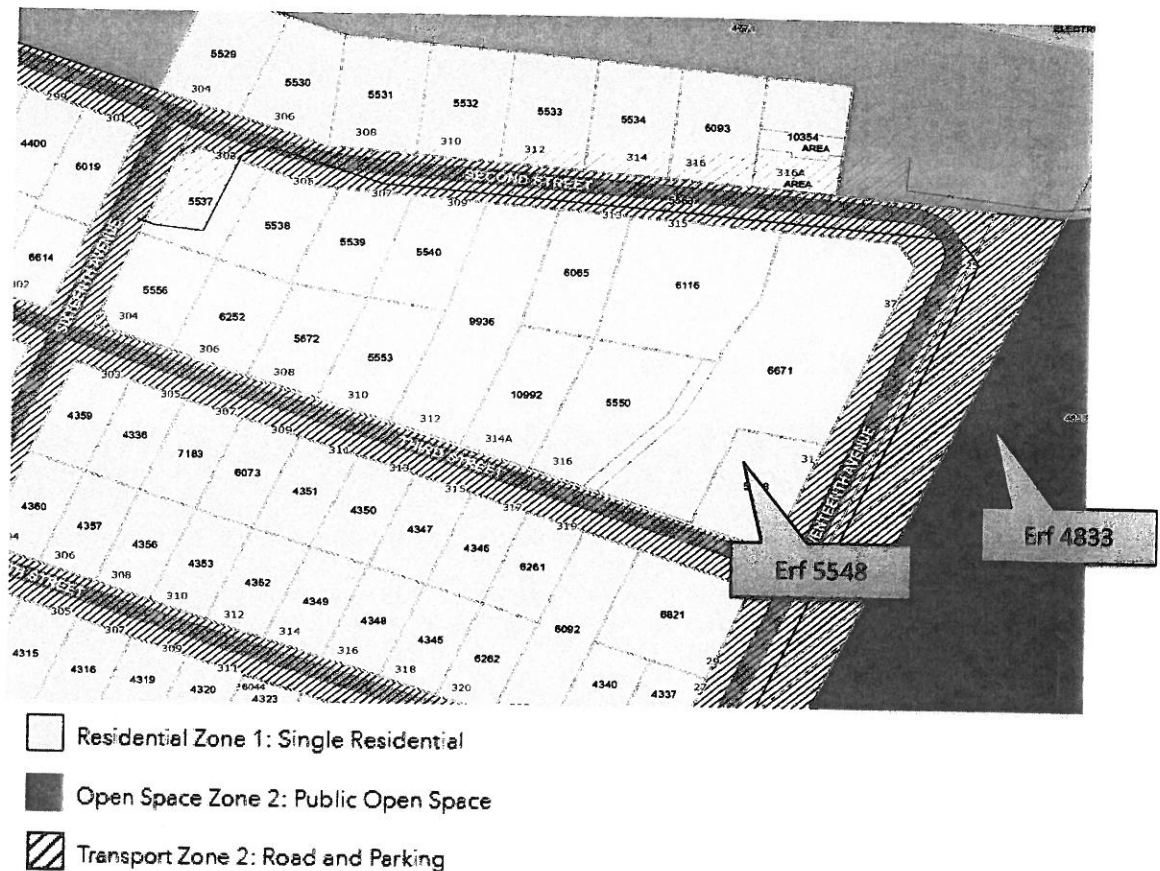


Figure 4: Zoning, an extract from the Overstand Public Viewer – NOT TO SCALE

## 4. PROPOSAL

### 4.1 Background and introduction to the proposal

The firm Interactive Town and Regional Planning was first appointed by the owner of the property Mr. K.R.M Crasemann to prepare and submit an application for a building line departure on Erf 5548, Voëlklip, Hermanus on 7 August 2020.

The decision letter, received from the Overstrand Municipality, refers that the application in terms of Section 16(2)(B) of the Overstrand Municipality By-Lay on Municipal Land Use Planning, 2015 (BY-Law) on Erf 5548, Hermanus (Voëlklip) in order to relax the Southern Street Building Line from 4.0m to 1.6m to accommodate a garage was **not approved** in terms of the provisions of Section 61 of the By-Laws.

Reasons for the above decisions are as follows:

- The garage can reasonably be sited on the property without having to encroach upon the 4.0m street building line
- There are no site-specific reasons why the garage must be situated over the street building line and it is a design choice.
- The proposed 4.7m between the front of the garage and the road is inadequate as there is no road kerb and should a road kerb be developed of at least 1.5m width then the distance in front of the garage will be 3.2m from the kerb instead of the 5m requirement as contained in the Land Use Scheme 2020. This was not adequately addressed and discussed in the motivation.
- The encroachment is in stark contrast to the character of the area and the street scape as all the dwellings nearby are developed to respect the 4.0m building line.

No appeal form or application was submitted by the appointed firm

The owners of the property, Mr. K.R.M Crasemann, then instructed Brandon Scorgie from the firm Engelbrecht & Scorgie Architectural Office to assist with a new Departure application motivating the proposal from a different perspective for consideration.

We, as the newly appointed Architectural Firm to handle this Departure Application, acknowledge that the owner of the application area already started construction on all the structures as described within this document.

We can only apologize on behalf of our client that he started the construction process without the necessary approval processes. I come with my hat between my legs as I was appointed by the owner of the property to assist with the new Departure application and I appeal to your experienced consideration to look at the departure application from a different perspective.

We advised our client that it would be better to stop all construction work for the time being so that we can first go through all the necessary approval processes. All the structures as described above have been reflected on the drawings as new together with the internal alterations and reconfigurations of the footprint.

#### 4.2 Details of proposal

The Departures that would be required for the application area include:

- The relaxation of the 4.0m Municipal Street Building Line (Third Street) that is affected by the double garage structure.

#### 4.2 Proposal

As mentioned earlier in this document, the current owner, Mr. K.R.M Crasemann, purchased this property in 2008 for a fair some of money and has been using the property as a semi-permanent residence ever since. The layout, proportion and flow of the current double storey dwelling with its single garage is no longer adequately sized for their family and their associated lifestyle and therefore necessitated the need for a few additions and alterations.

The additions and alterations on the application area include the following:

- The two ground floor bedrooms were minuscule and by converting the existing single garage to form part of the two existing bedrooms on the Ground floor achieved the goal of suitably sized bedrooms. These conversions **do not exceed the building lines** in any way and does not need to be addressed.
- Adding a scullery, a dining / braai area and a bathroom. These additions **do not exceed the building lines** in any way and does not need to be addressed.
- The addition of a double garage which **exceeds the Third street, 4.0m Municipal Street building line** with 2.4m up to 1.6m from the Erf Boundary Line, therefore application is being made for the permanent Departure of the Third street, 4.0m Municipal Street building line.

The placement of the new double garage structure was based on 3 main factors as this will have a direct impact on the outcome of this Departure Application:

1. To minimize the effects on nature, the environment, streetscape and surrounding properties

The Overstrand Municipality encourages Town Planners and Architects to minimize the effects new building work may have on nature, the environment and streetscape as this plays an important role in forming the visual image of a sustaining town.

With this in mind, it was important for our client to respect this and construct the new double garage where it would have less of an impact on the environment as no trees and vegetation was affected with this placement.

The impact the new double garage structure has on the surrounding and adjoining properties, as discussed later in this document, is negligible and will be completed in an architecturally pleasing style

With this in mind, one can summarize the effects this contravention as minor in nature and it does not impact negatively on the environment, the streetscape and surrounding properties.

## 2. Feasibility on this project and towards the owner

From a feasibility perspective, the design, proportion and layout of the existing footprint of the dwelling cannot easily be converted to incorporate adequate garaging and secured parking within the Municipal building lines as stipulated in the Overstrand Zoning Scheme Regulations without demolishing a great extent of the existing dwelling.

The Overstrand Municipality's Land Use Scheme, 2020 Section 6.2.2 (e)(iii) make provision for a garage structure that may be constructed at 0.0m on one internal side boundary and 0.0m on the internal rear boundary, provided that the building does not occupy more than 50% of such internal side or rear boundary. With this being said it will have a much more financial impact on our client having to construct the new double garage structure on either the South Western corner of the erf of the North Eastern corner of the erf as discussed below.

Double garage on the South Western corner of the property:

- Far from the existing entrance on the application area. One would prefer your garage and your entrance as close together as possible.
- No easy access to the existing dwelling as the garage will be adjacent bedroom 1. Having to enter the dwelling by walking through a bedroom is not logic.
- Trees will have to be removed, another cost aspect towards the owner and most probably the owner of the adjoining Erf 6671, plus the added negative impact on the appearance of the property with the trees screening the property and providing shading.

Double garage on the North Western corner of the application area:

- The 4-panel sliding door in the Dining / Braai area on the application area does not accommodate a new double garage without having to build the garage over the 4.0m Municipal Street Building Line or without having to adjust the door sizes.
- Far from the existing entrance on the application area. Again, one would prefer your garage and your entrance as close together as possible.
- The new double garage cannot be situated without having to demolish a great extend of the existing boundary wall.
- The owner will lose private courtyard space.

## 3. To generate minimal traffic

During the first Departure application, submitted by the firm Interactive Town and Regional Planning as mentioned above, the proposed double garage proposed access directly from Third Street. This firm argued that this will not have an impact on traffic in the area as Third Street generates minimal traffic at this section of the road because the application area is one of the

last two erven in Third Street and the second last erf in Seventeenth Avenue as seen on figure 2 – 4 above.

When the owners of the property approached my firm, I advised my client to move the entrance of the new double garage structure so that it takes direct access from Seventeenth Avenue. This will generate minimal traffic even more so due to the fact that Seventeenth Avenue is the last street in the Voëlklip area. Furthermore, the application area is situated on the urban edge and borders a Statutory Nature Reserve to the East as well as is located within a mountain management area, which prevents further development up against the mountain, thus minimizing the future potential for an increase in traffic due to no further residential development permitted in this area.

The owner will install a motorized garage door to ensure that the vehicle may drive directly into the garage without impacting on the traffic by having to stop the car in front of the garage, getting out of the vehicle and having to open the garage door manually. As can be seen from the layout drawings, there is sufficient setback of the garage to allow for a vehicle to park 100% on the erf without encroaching on the road reserve. Even be a boundary wall and gate were to be constructed, the road reserve has sufficient width to accommodate a 1.5m pedestrian walkway with sufficient space for a vehicle to stand on the road reserve without affecting the pedestrian crossing.

Please refer to the self-explanatory drawings showing the minimal impact the new structure will have on traffic attached as Annexure I

Furthermore, the reason for the double garage structure is to ensure that it comfortably accommodates 2 larger vehicles as well as allowing for sufficient clearance at the front, the rear and the sides of the parked vehicles ensuring that the owner can comfortably walk around the parked vehicles to reach the access to the existing dwelling from inside the garage for security purposes. With this being said, no unnecessary dimensions were added to enlarge the new double garage structure other than which was needed.

As stated earlier in this Departure document, the Overstrand Municipality's By-Laws on Municipal Land Use Planning Chapter 4 Section 16(2)(b), 2020 states that an owner of an erf may apply to the Municipality for a permanent departure from the provisions as stated in the Overstrand Municipality's Zoning Scheme Regulations.

Relevant sections in the Zoning Scheme Regulations applicable to the departure:  
Section 6.1.2 (b)(i) The Third Street, Street Building Line requires a relaxation from 4.0m to 1.6m to accommodate the double garage structure.

With the above mentioned being said, it is therefore necessary for the new double garage structure to be built over the current 4.0m Municipal Street Building Line.

#### 4.3 Character of the environment

- The property is situated in the Voëlklip residential area which has a multitude of different architectural styles.
- The application erf is smaller than the direct erven surrounding the application area as shown on figure 5 below.

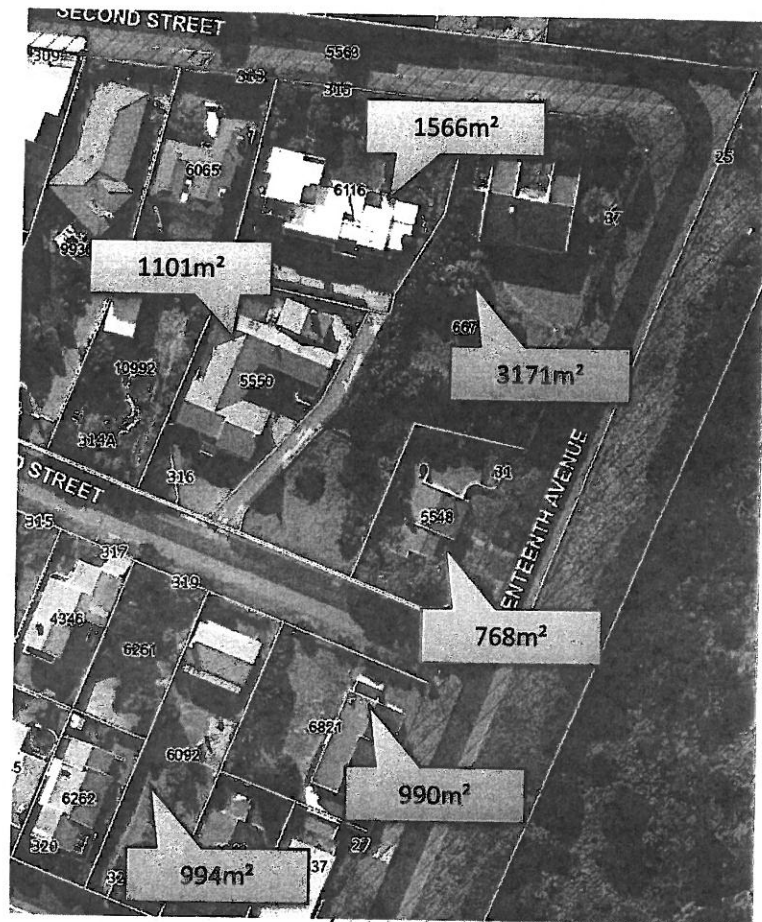


Figure 5: Direct surrounding erven, an extract from the Overstand Public Viewer – NOT TO SCALE

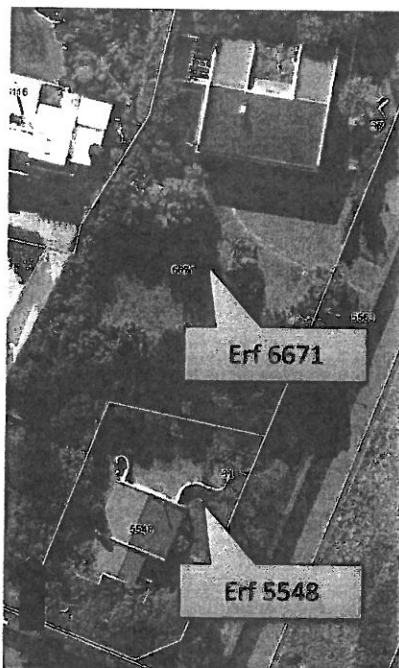
- Third Street and Seventeenth Avenue lies relatively high up against the mountain slopes in this node of Voëlklip. There is only 1 more row of erven to the North of Third Street in Second Street. Many of these Dwellings overlook the Dwellings in Third Street having a view at first floor level.
- Where dwellings in Second Street do not overlook dwellings in Third Street, most if not all of these properties have some sea view in between houses in Third Street due to the topography in the area.

#### 4.4 Effects on nature / environment, streetscape and surrounding properties:

As mentioned earlier in die document, the Overstrand Municipality encourages Town Planners and Architects to minimize the effects that new building work may have on nature, the environment and streetscape as this plays an important role in forming the visual image of a sustaining town and is therefore one of the 3 main factors that played an important role in the placement of the new double garage structure.

- As shown on the attached drawings, these contraventions are relatively minor in nature and do not impact negatively on the environment, streetscape and surrounding properties.
- Most of the properties have sea and mountain views due to the topography of the ground in Voëlklip. Due to the topography as mentioned above no view lines of the adjoining properties will be affected in any way as the views are towards the mountain and the sea.
- This section of Voëlklip (north eastern extreme) is relatively high up against the base of the mountain with most erven here having considerable gradients
- The surrounding properties either overlook the properties below them or in some cases they have views towards the sea in between the buildings to their south
- The surrounding properties which have references to the structures mentioned in this departure are the following:

##### 4.4.1 Erf 6671 - Single Residential Zone 1 (3171m<sup>2</sup>)



This Erf lies North of the application area. The existing dwelling on this erf is situated North of the existing dwelling on the application area. Views towards the sea are in a South Western direction and views towards to mountain lies in a Northern direction. Due to the sloping topography, views from Erf 6671 will not be interrupted as it is situated at a considerable higher level than the application area

The new additions and alterations are visible from Erf 6671, however as these additions and alterations are done in an architecturally pleasing style, it will blend in very well and are minor in scale and therefore the impact of this is negligible.

Figure 6: Erf 6671 and the application area, an extract from the Overstrand Public viewer – NOT TO SCALE

4.4.2 Erf 5550 - Single Residential Zone (1101m<sup>2</sup>)

This Erf lies West of the application area. The dwelling constructed on this erf enjoys views of the sea toward the South and mountain views towards to North, hence no change to the current views. These additions and alterations do not impact on their privacy in any way as there are no windows or door openings to the Western elevation of the new double garage structure.

The structure is hardly visible form Erf 5550 due to the current dense vegetation on Erf 6671 and the application area as shown on the figure 7 below.

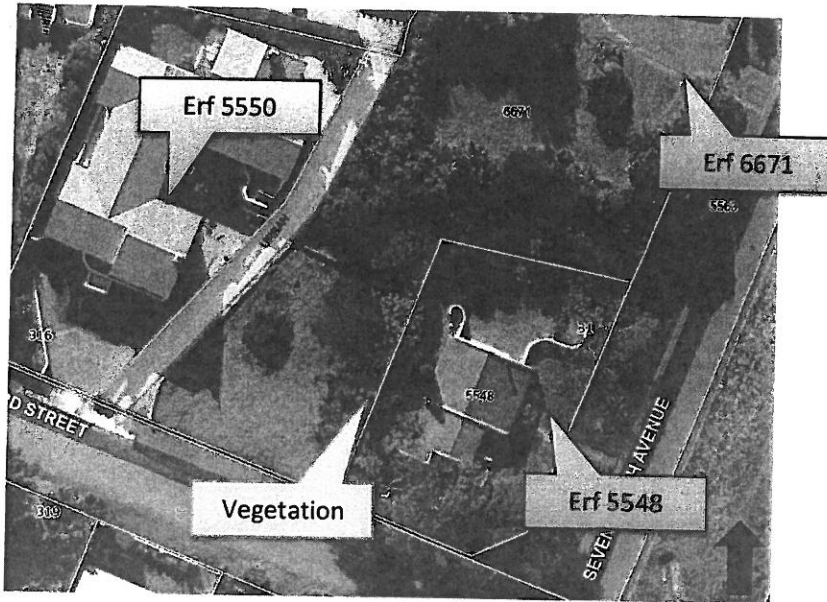


Figure 7: Erf 5550 and the application area, an extract from the Overstrand Public viewer - NOT TO SCALE

#### 4.4.3 Erf 6821 - Single Residential Zone (990m<sup>2</sup>)

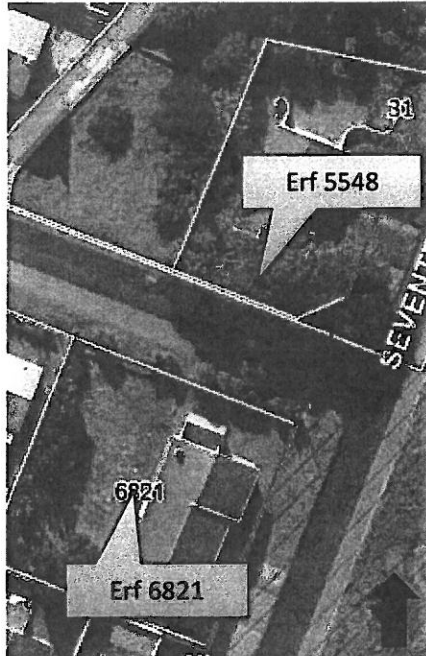


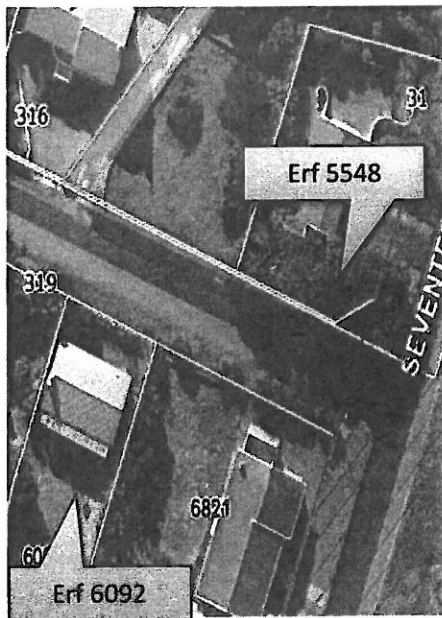
Figure 8: Erf 5548 and the application area, an extract from the Overstrand Public viewer – NOT TO SCALE

This Erf lies South of the application area (across Third Street). The dwelling constructed on this erf enjoys views of the sea towards the South and views of the mountain towards a North West direction and North East direction, hence no change to current views by the structure.

The structure is visible from Erf 6821, however as the structure is done in an architecturally pleasing style, it will blend in very well and is minor in nature and therefore the impact of the structure is negligible. See figure 8.

The scale and the proportion of the structure is submissive to the scale of the rest of the dwelling and height.

#### 4.4.4 Erf 6092 - Single Residential Zone (994m<sup>2</sup>)



This Erf lies in a South Western direction in relation to the application area (across Third Street). Views towards the sea are in a Southernly direction and views towards the mountain are in a Northerly direction. The garage structure does not impede views in any way. The increased impact on the streetscape and privacy are negligible.

4.4.4.1 Erf 4833 – Public open space (628571m<sup>2</sup>)

As Mentioned above Erf 4833 is a public open space hence no buildings are constructed on this Erf. This Erf lies East of Erf 5548 (across Seventeenth Avenue). Views towards the sea rea in a Southernly direction and views towards the mountain are in a Northey directions. The structure does not impede sea or mountain views in any way. The structure is visible from Erf 4833, however as the structure is done in an architecturally pleasing style, the it blends in very well and are minor in nature and therefor the impact of the as build addition is negligible

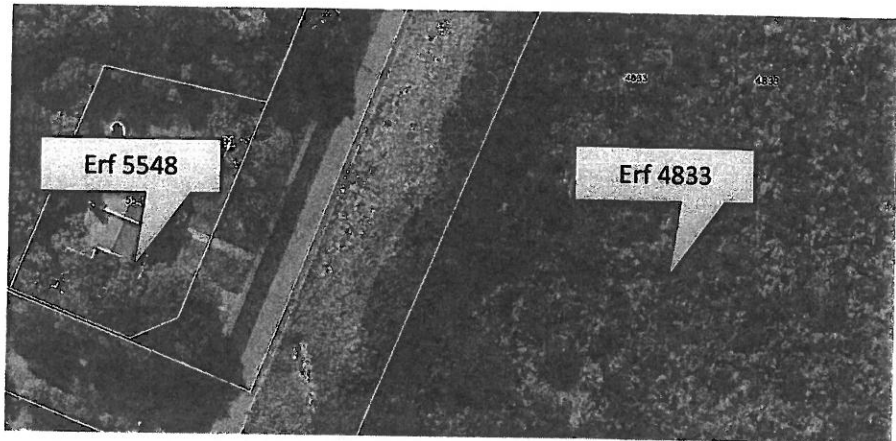


Figure 10: Erf 4833 and the application area, an extract from the Overstrand Public viewer – NOT TO SCALE

## 5. APPLICATION FOR ADMINISTRATIVE PENALTY

### 5.1 Background and site history

- The application area is zoned as Single Residential 1 (SR1) in terms of the Overstrand's Town planning scheme.
- The application area of 768m<sup>2</sup> in extent is located within the residential suburb of Voëklip at 31 Seventeenth Avenue. The existing dwelling on the application area is a double story comprising typical family type living accommodation.
- The unauthorized building / construction work is highlighted throughout this Application document and does not cause negative impact on nature, the environment, streetscape, surrounding properties or on traffic as discussed earlier in this Departure Document.
- In total, 19.12m<sup>2</sup> contravenes the Overstrand Municipality's amended By-Laws on Municipal Land Use Planning

### 5.2 Summary of the motivation

Our client's motivation of the proposed is highlighted throughout this Departure Application, but can be summarized as follows:

- The current owner, Mr. K.R.M Crasemann, purchased this property in 2008 for a fair sum of money and has been using the property as a semi-permanent residence ever since. The current double story dwelling and single garage is no longer adequately sized for their family and their associated lifestyle and therefore necessitated a few additions and alterations as discussed earlier in this application document.
- Part of the unlawful structure forms a double garage which can comfortably accommodated 2 large vehicles as well as allowing for sufficient clearance at the front, the rear and the sides of the parked vehicles ensuring that the owner can comfortably walk around the parked vehicles to reach the access to the existing dwelling from inside the garage for security purposes. With this being said, no unnecessary dimensions were added to enlarge the new double garage structure other than which was needed.
- The current owner, Mr. K.R.M Crasemann, saw this to be a low-risk application after a meeting at the Overstrand Municipality's Town Planning office as discussed later in this Departure application.
- No pervious contraventions were listed.

### 5.3 Assessment of application

- As indicated above, the unauthorized building work is in contravention of the Overstrand Municipality's amended By-Laws on Municipal Land Use Planning 2020. Application is made for the determination of an administrative penalty in respect of part of a double garage structure, constructed prior to application approval. The full extent of the unauthorized building work is 19.12m<sup>2</sup>.
- In terms of section 90(5)(b) of the By-Law, an administrative penalty for a building work contravention may not be more than 100% of the value of the building, construction and engineering work unlawfully carried out.
- Administrative Penalty: Calculation

Unauthorized section that encroaches the 4.0m Municipal Street building line

**Value per m<sup>2</sup> (R 5 941.42) x Total unlawful area (19.12m<sup>2</sup>) = R 113 600.00**

An amount which is not more than 100% of R 113 600.00 may be imposed as an administrative penalty.

### 5.4 The nature, duration, gravity and extent of the contravention

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

#### 5.4.1 Nature:

The unauthorized building work involves part of a double garage structure encroaching upon the 4.0m Municipal Street Building Line as discussed earlier in this Departure Application.

#### 5.4.2 Duration:

The duration is not really applicable I would not think. Our client was not served with a notice, but if a time frame must be allocated, then the structure has been standing in place for approximate 8 months.

#### 5.4.3 Gravity:

The gravity of the contravention is not considered serious insofar the extent is limited to 19.12m<sup>2</sup>. The structure is non-habitable, used as a garage. The garage is not considered to cause any negative impact on any nature, the environment, streetscape and surrounding neighboring properties neither will this have an impact on traffic in the area as discussed earlier in this Departure Application.

#### 5.4.4 Extent:

19.12m<sup>2</sup>

**5.5 The conduct of the person (allegedly) involved in the contravention**

Our client, Mr. K.R.M Crasemann, and Andre Wiehahn from the firm Interactive Town and regional planning, had a meeting with Mr. R. Kuchar and Mr. P. Roux in December 2020 at the Municipal Office to discuss the project and the approval thereof. Unfortunately, no meeting minutes were circulated, but our client could re-call what was discussed during the meeting.

The discussion with Mr. Kuchar was that if the client gets the permission from certain surrounding neighbor's (as specified by Mr. R Kuchar and Mr. P Roux) that they could not see any reason why the departure application should be turned down. Within a week our client had the approval, signed site plan and other documents from all the applicable neighbors. Based on the discussion with Mr. R Kuchar and Mr. P Roux and the approval of all the applicable surrounding neighbors, the contractor proceeded with the construction as it appeared to be a low-risk application.

It can be concluded that our client followed the correct procedures i.e., consulting with the authorities dealing with the Departure first. Following the meeting and as advised by Mr. R Kuchar, our client went through considerable effort approaching all the neighbors obtaining their permission discussing the proposed addition in detail.

**5.6 A report by a quantity surveyor in matters of unauthorized building / construction**

Refer to Annexure O for the report by the quantity surveyor

**5.7 Whether the unlawful conduct was stopped**

Overstrand Municipality did not stop the building work and have also not issued a notice with regards to the transgression. Openings facing 3<sup>rd</sup> Street have however been built closed.

**5.8 Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law**

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

**5.9 Reasons for decision**

Reasons for the recommended decision may be summarized as follows:

- It is concluded that our client followed the correct routes through first consulting with Mr. R Kuchar and Mr. P Roux.
- The 19.12m<sup>2</sup> encroachment for the part of the garage structure that encroaches the 4.0m Municipal Street Building Line is not considered a negative visual structure and has no impact on any of the neighbors nor does it affect traffic flow in any way.
- The unauthorized building / construction work is highlighted throughout this Application document and does not cause negative impact on nature, the environment, streetscape, surrounding properties or on traffic as discussed earlier in this Departure Document.

5.10 **Recommendation**

In light of the above assessment, we appeal to your generosity and humanism that an administrative penalty of R 11 360.00 (approximately 10%) be imposed for part of the double garage structure that encroaches the 4.0m Municipal Street Building Line.

6. **CONCLUSION**

6.1 **Heritage value**

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

6.2 **Impact on Municipal Engineering Services**

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

3.9 **Forward planning**

The Overstrand Spatial Development Framework (SDF) 2006 earmarks the area where Erf 5548 is situated for residential purposes. The structures, for which the departure is required, form part of any typical residential component and the Zoning Scheme Regulations make provision for departure procedures to incorporate structures within the building line zone. The character and zoning of the property will remain unchanged and therefore the property falls within the existing planning for the Voëlklip area.

It is therefore recommended that the application be approved in terms of the Overstrand Amendment By-Lay on Municipal Land – use Planning, 2020.

I appeal to your experienced consideration of this Departure Application. I look forward to your correspondence.

Yours sincerely



---

BRANDON SCORGIE  
*for Engelbrecht & Scorgie*

ERF 6671  
21.7m boundary

existing boundary boundary wall at 1.0m height

ERF 6671  
21.7m boundary

existing boundary boundary wall at 1.0m height

ERF 6671  
21.7m boundary

existing boundary boundary wall at 1.0m height

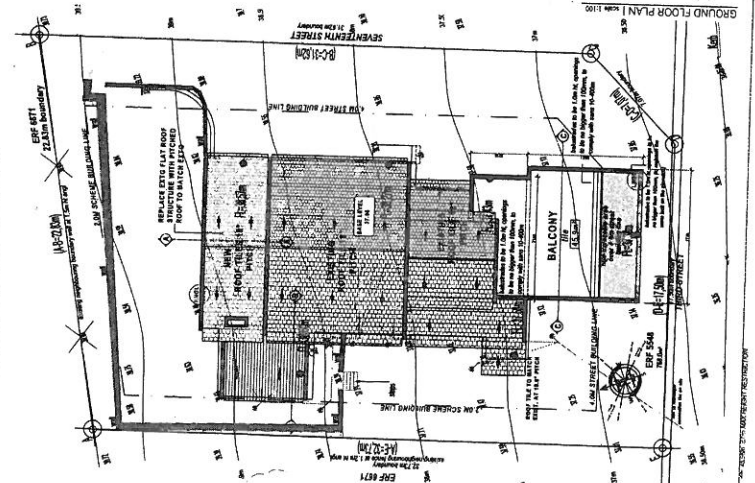
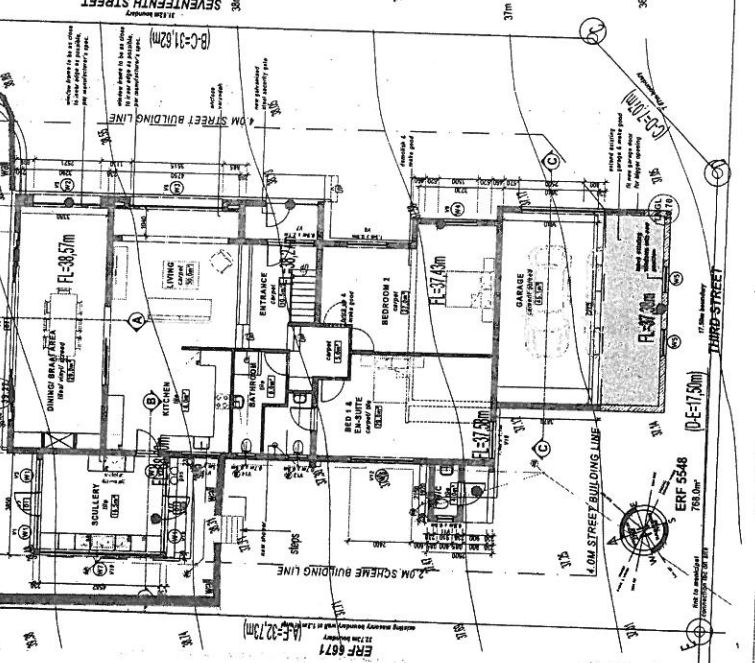
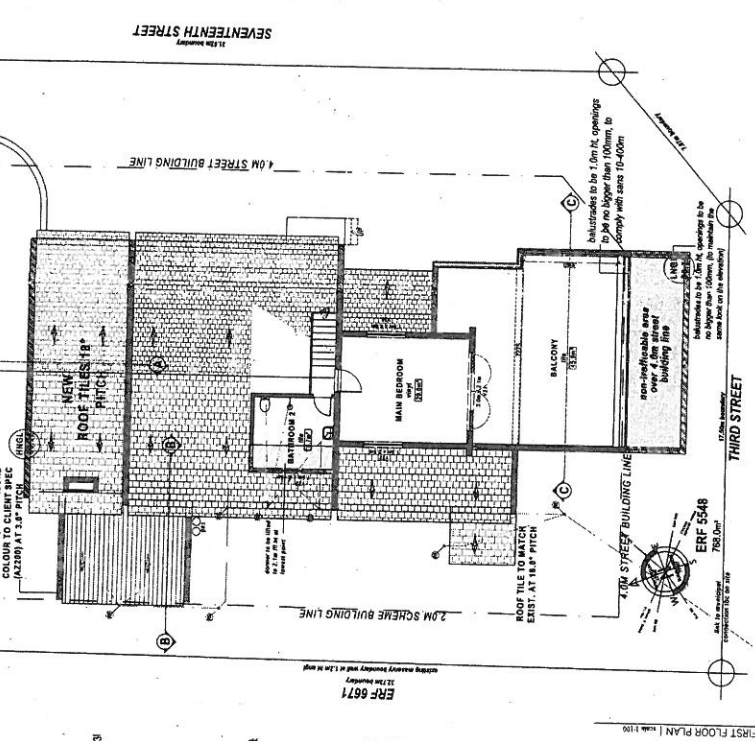
ERF 6671  
21.7m boundary

existing boundary boundary wall at 1.0m height



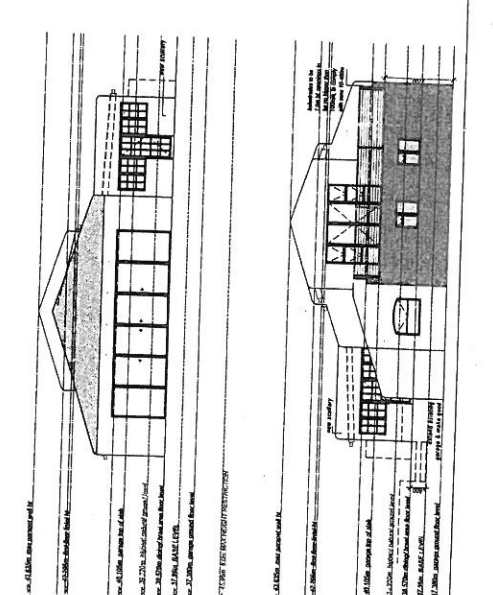
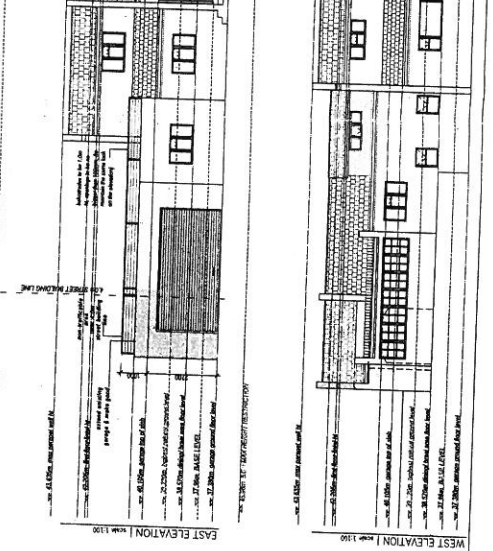
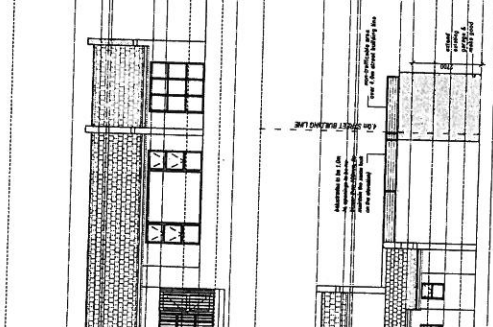
**GENERAL NOTES:**

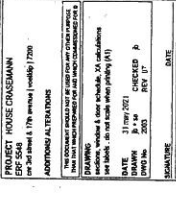
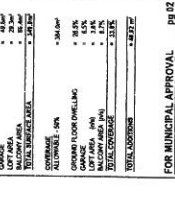
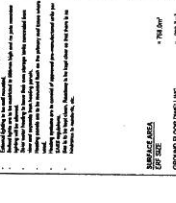
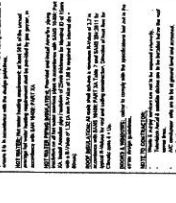
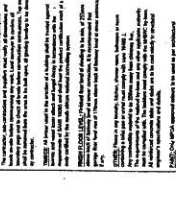
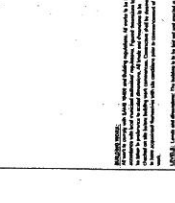
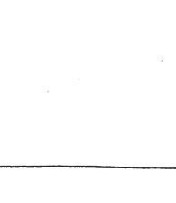
1. All dimensions are in millimeters unless otherwise stated.
2. The site is shown as a rectangular plot bounded by 2.0m scheme building lines on the north and south, and 4.0m street building lines on the east and west.
3. The proposed building is a two-story structure with a diamond roof and a balcony.
4. The building footprint is shown in solid black, and the roof area is shown with a diamond pattern.
5. The balcony is located on the east side of the building, adjacent to the 4.0m street building line.
6. The building is to be constructed in accordance with the applicable building regulations.
7. The site is shown with existing and proposed boundaries, and the proposed building footprint is shown in solid black.
8. The building is to be constructed in accordance with the applicable building regulations.
9. The site is shown with existing and proposed boundaries, and the proposed building footprint is shown in solid black.
10. The building is to be constructed in accordance with the applicable building regulations.



FOR MUNICIPAL APPROVAL		PRJ 01
<b>PROJECT HOUSE GRASSMAN</b>		
on 21.7m x 17.0m boundary 1750		
ADDITIONAL INFORMATION		
DRAWN BY: [Name]		
CHECKED BY: [Name]		
DATE: 21/07/2021		
SCALE: 1:100		
SHEET NO. 1 OF 1		
DESIGNATEE: [Name]		

BUILDING AREA		ERF 6671
GROUND FLOOR ENVELOPE	176.00m <sup>2</sup>	
LOT AREA	303.74m <sup>2</sup>	
LOT COVER	57.94%	
NET AREA	125.80m <sup>2</sup>	
COVERED AREA	125.80m <sup>2</sup>	
ALLOWABLE GFA	154.75m <sup>2</sup>	
GROUND FLOOR ENVELOPE	125.80m <sup>2</sup>	
LOT AREA	303.74m <sup>2</sup>	
LOT COVER	41.41%	
NET AREA	125.80m <sup>2</sup>	
COVERED AREA	125.80m <sup>2</sup>	
ALLOWABLE GFA	154.75m <sup>2</sup>	





HOUSE CRASEMANN | ERF55481 VOELKLIP

1. HORIZONTAL CEILING - CEMENT TILE (ADDITIONS)  
 CODE VALUE (F3 TABLE) 0.4  
 OR: SLOPED RADIANT SHIELD (ISSUANCE 4/20) 1.36  
 100mm SOBERN 2.33  
 9.5mm RIBBONBOARD BETWEEN PAPERIES 0.05  
 TOTAL R-VALUE 4.14  
 Req = 3.7 R-Value = COMPLIES

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