



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

MINUTES

DATE:	28 FEBRUARY 2018
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	14:00

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE TOWN PLANNING COMMITTEE ROOM, HERMANUS, ON 28 FEBRUARY 2018, AT 14:00

PRESENT:

MEMBERS:

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


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 Müller, Director : Infrastructure & Planning

ATTENDANCE REGISTER : MEETING OF MUNICIPAL PLANNING TRIBUNAL : 28 FEBRUARY 2018 AT 14:00

NAME	DESIGNATION	ORGANISATION	TEL. NO.	E-MAIL ADDRESS	SIGNATURE
S MULLER	CHAIRPERSON	OVERSTRAND MUNICIPALITY	028 313 8019	smuller@overstrand.gov.za	Apology
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	
D ARRISON	MPT MEMBER	OVERSTRAND MUNICIPALITY	028 313 8004	darrison@overstrand.gov.za	
H JANSER	MPT MEMBER	DIR: DEV MANAGEMENT	021 483 3544	Helene.Janser@westerncape.gov.za	
R KUCCHAR	AUTHORISED OFFICIAL	OVERSTRAND MUNICIPALITY	028 313 8087	rkuchhar@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 8006	holivier@overstrand.gov.za	
S SWART	COUNCIL SUPPORT	OVERSTRAND MUNICIPALITY	028 313 8006	sswart@overstrand.gov.za	

1. OPENING

Dir R Williams acted as Chairperson and opened the meeting.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Mr S Müller

3. CONFIRMATION OF MINUTES

3.1 Minutes of a Municipal Planning Tribunal Meeting held on 24 January 2018

RESOLVED:

that the Minutes of the Municipal Planning Tribunal Meeting held on **24 January 2018, be confirmed.**

4. ITEMS FOR CONSIDERATION

4.1

ERF 3054, 11 SEAVIEW DRIVE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA : REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE : MESSRS PLAN ACTIVE ON BEHALF OF ALPAC INVESTMENT CC

3054 KBB (3205)

H van der Stoep

6 November 2017

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application has been received on 1 February 2016 and a revised application dated 27 January 2017 from Messrs Plan Active Town & Regional Planners on behalf of Alpac Investments CC 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 Clauses C.(i)(5)(b) and C.(ii)(m) of Title Deed T54244/2014 applicable to Erf 3054, Betty's Bay in order to utilize the existing dwelling as an upliftment centre.

Clauses C.(i)(5)(b) and C.(ii)(m) reads as follows:

"C.(i)(5)(b)

It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith."

C.(ii)(m)

No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."

- ❖ Consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to enable the owners to utilize the existing dwelling house on the property as an upliftment centre.

RESOLVED:

that the item **be referred back** in order to further investigate the objections received.

RESPONSIBLE OFFICIAL:

H VAN DER STOEP

4.2

REMAINDER OF FARM 923, HEMEL AND AARDE VALLEY, OVERSTRAND MUNICIPAL AREA: PROPOSED CONSENT USE : MESSRS PLAN ACTIVE ON BEHALF OF BOSMAN ADAMA (PTY) LTD**Farm 923 RCAL (3512)****H van der Stoep****(028) 313 8900****Hermanus Administration****27 December 2017**

EXECUTIVE SUMMARY

An application has been received on 24 November 2016 from Messrs Plan Active Town & Regional Planners on behalf of Bosman Adama (Pty) Ltd on Remainder Farm No. 923, Hemel-en-Aarde Valley in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for a consent use in order to enable the owners to accommodate the following tourist facilities:

- ❖ Wine camp (main tent for wine tasting and sales): 160m² –accommodating sixty (60) people
- ❖ Restaurant: 160m² – accommodating sixty (60) people
- ❖ Three (3) fishing sheds (picnic sheds) of 18m² each
- ❖ Forest shed (Alfresco shed – picnic cabin) of 9m²
- ❖ Nature trails

RESOLVED:

1. that the application in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (the By-Law) on Remainder Farm No. 923, Hemel-en-Aarde Valley for a consent use in order to enable the owners to accommodate the following tourist facilities:

- ❖ Wine camp (main tent for wine tasting and sales): 160m² –accommodating sixty (60) people
- ❖ Restaurant: 160m² – accommodating sixty (60) people
- ❖ Three (3) fishing sheds (picnic sheds) of 18m² each
- ❖ Forest shed (Alfresco shed – picnic cabin) of 9m²
- ❖ Nature trails

be approved in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:

- (a) that development is restricted to the uses as indicated on Plan No. 923sdp1 and 923mainsdp 2, dated May 2017, which were submitted with this application;

- (b) that access points be as stipulated by the Western Cape Government : Transport & Public Works (District Roads Engineer);
 - (c) that commercial rates and service tariffs, as determined by the annual budget be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (d) that the 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;
 - (e) 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;
 - (f) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (g) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
 - (h) that all conditions imposed by National Department : Agriculture, Forestry & Fisheries be complied with;
 - (i) that all conditions imposed by Cape Nature be complied with;
 - (j) that all conditions imposed by Breede Gouritz Catchment Management Agency be complied with;
 - (k) that all conditions imposed by the Western Cape Government: Agriculture be complied with;
 - (l) that all conditions imposed by the Western Cape Government : Transport and Public Works be complied with;
 - (m) that all conditions imposed by Eskom be complied with;
 - (n) that all conditions imposed by the Fire Department be complied with, and
 - (o) that all the conditions in the Services Report be complied with.
2. that the applicant and objectors be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2016 with regard to the above conditions of approval.

RESPONSIBLE OFFICIAL:**H VAN DER STOEP**

4.3

ERF 4612, 10 DISA AVENUE, NORTHCLIFF, HERMANUS : REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURE : MESSRS ME PLANNERS ON BEHALF OF HBO JONES

4612 HNC (3626)

H van der Stoep

20 November 2017

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application has been received on 20 March 2017 from Messrs ME Planners on behalf of HBO Jones on Erf 4612, Hermanus for the following:

- ❖ Removal of restrictive title conditions with reference to Clauses C.1., C.3. and C.4. of Title Deed T11169/2008 applicable to Erf 4612, Hermanus in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 to utilize the existing dwelling as a home occupation and to accommodate two (2) commercial vehicles on the property.

The restrictive conditions contained in Title Deed T11169/2008 to be removed read as follows:

C.1. - *“That this erf be used for residential purposes only.”*

C.3. - *“That not more than half the area of this erf be built upon.”*

C.4. - *“That no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than four comma seven two metres (4,72m) to the street line which forms a boundary of this erf. No such building or structure shall be situated within two comma three six metres (2,36m) of the lateral boundary common to any adjoining erf.”*

- ❖ Departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 in order to enable the owner to park an additional commercial vehicle on the property concerned.

RESOLVED:

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 for a removal of restrictive title conditions Clauses C.3 and C.4. of Title Deed T11169/2008 applicable to Erf 4612, Hermanus, **be approved**, subject to the following conditions:
 - (a) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with, and

- (b) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
2. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 for a removal of restrictive title condition C.1 of Title Deed T1169/2008 to utilize the existing dwelling as a home occupation, **be amended**, to read as follows:

“that the erf be used primarily for residential purposes and that a home occupation be allowed, subservient to the primary use.

3. that the amendment in Point 2. be subject to the following condition:
- (a) that the plumbing business storage area and parking of commercial vehicles be re-allocated to a suitable and correctly zoned erf in the industrial area within a three (3) month period;
4. that the amendment in Point 2 are due to the following reasons:
- (a) the scale of the present activity exceeds the low scale activity as implied with a home occupation in a residential neighbourhood;
- (b) the owner does own an industrial site with storage approval in the industrial area and material and vehicles can be accommodated on his own site, and
- (c) the industrial site is closer to the employees and the suppliers of plumbing material.

The removal of the condition is not to the benefit of the property owners in the area since it will have an impact and their right to a predominantly residential area under threat.

5. that the application in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 on Erf 4612, Hermanus for a departure in order to enable the owner to park one (1) additional commercial vehicle on the property concerned, **not be approved**, due to the following reasons:
- (a) the plumbing business does not comply with the definition of a home occupation

- (b) the applicant did not sufficiently motivate or provide evidence that the activity will be in the interest of the area as stipulated in Section 35(4) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015
The applicant did not motivate sufficiently that the activity is desirable in terms of Section 49(d) of LUPA.
 - (c) The application is only for the benefit of the applicant and not for the wider community in terms of environmental principles.
 - (d) The application did not address any of the planning principles as stipulated in terms of SPLUMA and LUPA.
 - (e) The proposed activity may have a detrimental cumulative impact on the residential character should similar trade be defines as home occupation.
 - (f) the Overstrand Zoning Scheme allows one (1) commercial vehicle on the property as a primary right;
 - (g) the additional commercial vehicle applied for is not correct, since it is in fact two (2) additional commercial vehicles applicable;
 - (h) the two (2) commercial vehicles cannot conform to the parking requirements as per the Overstrand Zoning Scheme;
 - (i) the additional vehicles implies that the whole erf street front is used as an access and exit point, and no parking is provided for employees or clientele;
 - (j) the 24-hour service, as advertised, entails three (3) commercial vehicles accessing the area to obtain material 24 hours a day, which results into noise pollution and is not in line with the character of a residential neighbourhood.
6. that the applicant and objectors be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2016 with regard to the above decision.

RESPONSIBLE OFFICIAL:**H VAN DER STOEP**

4.4

ERF 4118, 18 ASTER CRESCENT, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA : PROPOSED DEPARTURE AND RELAXATION : FF MATTHEE

4118 KBB (3568)

H van der Stoep

20 December 2017

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application has been received on 16 January 2017 from FF Matthee on Erf 4118, Betty's Bay in terms of Section 16(2)(b) of Overstrand Municipal Planning By-Law, 2016 for the following departures :

- To relax the street building line with Aster Crescent from 5m and 4m to 2,5m respectively to accommodate a boat shelter;
- To relax the western lateral building line with Erf 4117 from 2m to 0m to accommodate a boat shelter;
- To relax the eastern lateral building line with Erf 4119 from 3m and 2m to 0m respectively to accommodate a store;
- To relax the rear and lateral building line with Erf 4131 from 3m and 2m to 0m respectively to accommodate a covered area on the property concerned.

The application also includes a relaxation of a restrictive condition in Title Deed T11303/2004, Condition B.7.(i) which reads as follows:

"An outbuilding used solely for the housing of motor vehicles and not exceeding 3m in height, measured from the ground floor of the outbuilding to the wall-plate thereof, may be erected within such side and rear spaces, and any other outbuildings of the same height may be erected within the rear space and side space for a distance of 12m measured from the rear boundary of the erf, provided that in the case of a corner erf, the distance of 12m shall be measured from the point furthest from the streets abutting the erf;"

RESOLVED:

1. that the application for the relaxation of Title Deed T11303/2004, condition B.7.(i), in terms of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 on Erf 4118, Betty's Bay to relax the following:
 - the street building line with Aster Crescent from 5m and 4m to 2,5m respectively to accommodate a boat shelter;
 - the western lateral building line with Erf 4117 from 2m to 0m to accommodate a boat shelter;

- the eastern lateral building line with Erf 4119 from 3m and 2m to 0m respectively to accommodate a store;
- the rear and lateral building line with Erf 4131 from 3m and 2m to 0m respectively to accommodate a covered area on the property concerned,

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 Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 (By-Law) on Erf 4118, Betty's Bay for the following departures:

- to relax the street building line with Aster Crescent from 5m and 4m to 2,5m respectively to accommodate a boat shelter;
- to relax the western lateral building line with Erf 4117 from 2m to 0m to accommodate a boat shelter;
- to relax the eastern lateral building line with Erf 4119 from 3m and 2m to 0m respectively to accommodate a store;
- to relax the rear and lateral building line with Erf 4131 from 3m and 2m to 0m respectively to accommodate a covered area on the property concerned,

be approved in terms of the provisions of Section 61 of the By-Law,

3. that the approvals in Points 1. and 2. be subject to the following conditions:

- (a) that this approval is only for the development as indicated on plan number A1 dated 29 December 2017, as submitted with the application;
- (b) that the approval allows the 9m transgression of outbuildings on a lateral building line;
- (c) that building plans reflecting the approval be submitted to the Building Control Department within three (3) months of the decision;
- (d) 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;
- (e) that this approval does not absolve the applicant from compliance with any other relevant legislation;
- (f) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
- (g) that all the conditions in the Services Report be complied with, and
- (h) that all conditions imposed by the Fire Department be complied with.

4. that the following structures built over the 5m Title Deed building line and the 4m Zoning Scheme building line, **be removed** since no application was submitted and no building plans exist:
 - ❖ pergola, and
 - ❖ carport
5. that the removal of structures mentioned in Point 2. be complied with within three (3) months of the date of the decision letter; and
6. that the applicant and objector be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2016 with regard to the above conditions of approval.

RESPONSIBLE OFFICIAL:

H VAN DER STOEP

4.5

ERF 6114, 49 SIXTH STREET, VOËLKLIP (HERMANUS), OVERSTRNAD MUNICIPAL AREA : APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION AND DEPARTURE: MESSRS PLANACTIVE ON BEHALF OF THE ZONDAGH FAMILY TRUST

6114 HVK (3462)

S van der Merwe

19 January 2018

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

Applications have been received on 7 October 2016 from Messrs PlanActive applicable to Erf 6114, Hermanus (Voëlklip) for the following:

Removal of Restrictive Title Deed Condition

Application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 (By-Law) for the removal of restrictive title deed condition D. relating to the distance of buildings and outbuildings from street boundaries, as contained in Title Deed No. T12567/2012 applicable to the above property.

Departure

Application in terms of Section 16(2)(b) of the By-Law to:

- ❖ relax the western side building line from 2m to 0m to accommodate the existing structure (approved garage) that was illegally converted into a studio; and
- ❖ relax the northern street building line from 4m to 0m and
- ❖ the western lateral building line from 2m to 0m to accommodate the illegal pergola.

RESOLVED:

1. that the objections be noted;
2. that the application in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 (By-Law), applicable to Erf 6114, Hermanus (Voëlklip) in order to relax the western lateral building line from 2m to 0m to accommodate the existing structure (approved garage) that was converted into a studio; **be refused** in terms of the provisions of Section 61 of the By-Law;

3. that the application in terms of Section 16(2)(f) of the By-Law in order to remove condition D. relating to the distance of buildings and outbuildings from street boundaries as contained in Title Deed No. T.12567/2012 applicable to Erf 6114, Hermanus (Voëlklip) to accommodate the existing pergola, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the application in terms of Section 16(2)(b) of the By-Law, applicable to the above property, in order to relax the northern street building line from 4m to 0m and the western lateral building line from 2m to 0m, to accommodate the existing pergola, **be approved** in terms of the provisions of Section 61 of the By-Law;
5. that the landowners convert the structure, applied for as a studio, back to a garage with the dimensions as per the approved building plan of 21/02/1991;
6. that the decisions in 4. and 5. above be subject to the following conditions:
 - (a) that building plans be submitted to the Building Department for approval regarding the decisions in Paragraphs 4. and 5. above within sixty (60) days of the final decision of the application, and that all conditions of the Building – and Fire Department be complied with at that stage;
 - (b) that the conversion of the structure referred to in Paragraph 5 above, be done within sixty (60) days of the final approval of the building plans as referred to above;
 - (c) that all other applicable development parameters as prescribed in the relevant Zoning Scheme, be complied with;
 - (d) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (e) that the conditions of Telkom be complied with, and
 - (f) that the conditions in the Services Report be complied with.
7. that the applicant and the objectors be notified of their respective rights of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2016 with regard to the above decisions.

RESPONSIBLE OFFICIAL:**S VAN DER MERWE****The meeting adjourned at 14:50**