

4.3

**ERF 3383, 11 BOB LAUBSER STREET, KLEINMOND, OVERSTRAND MUNICIPAL AREA:
PROPOSED DEPARTURE: MESSRS ARCHITECTURAL HOME DESIGN ON BEHALF OF
SL VERRUGGIO****3383 KKM (2785)****H van der Stoep****1 March 2021****(028) 313 8900****Hermanus Administration****1. EXECUTIVE SUMMARY**

An application was received on 15 November 2019 from Messrs Architectural Home Design on behalf of SL Verruggio on Erf 3383, Kleinmond for a departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to relax the rear building line from 2m to 1,5m and the eastern lateral building line from 2m to 0m to legalize a staff quarters and western lateral building line from 2m to 0m to legalize a storeroom and staff quarters.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The erf measures 595m² in extent and is located in the residential area of Kleinmond. The application is to legalize a storeroom and staff quarters, built without building plans.

4. SUMMARY OF APPLICANT'S MOTIVATION

The motivation for the application is as follows:

The owner of the property resides in America and requested the builder to arrange the necessary administrative procedures to be followed. He was not aware that it has not been done. The application is to address the illegal building work.

The structures will not impede on the existing character of the area and that the transgressions on the 0m building line will not impact the neighbouring properties.

Planning PrinciplesSpatial Justice

N/A

Spatial sustainability

N/A

Efficiency

N/A

Spatial Resilience

N/A

Good administration

N/A

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices	Yes	5 February 2019	15 March 2019
Ward Committee	Yes	5 February 2019	15 March 2019
Total comments	ONE (1)		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Engineering Services	14/03/2019	See Annexure E.
Fire Department	28/02/2019	Fire safety cannot make a determination without complete floor plans showing the type of wall construction on boundaries.
Building Control	16/09/2019	Building plan to be submitted compliant with all applicable law.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

One (1) letter of objection was received from Ms IS du Toit.

The objection can be summarized as follows:

- The application will influence the value of her property.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

The applicant did not respond.

9. MUNICIPAL ASSESSMENT OF COMMENTS

The property of the objector is at present undeveloped. During a site inspection it became clear that changes were done after the application was submitted. Therefore, the impact on the neighbour can be substantial. The applicant did not respond to the objector's comment.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

10.1 Background

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

N/A

Spatial sustainability

The proposal is located in an existing approved town and does not impact on the environment or agricultural land.

Efficiency

The application does not influence any municipal services.

Spatial Resilience:

The structures will have to comply with the National Building Regulations and SANS.

Good administration

The application followed the required planning procedures to ensure that land use activity is in line with Municipal By-Laws and the public process has been followed.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as Point 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

Consistent with Spatial Development Framework,

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal engineering services

The existing services are available and have been viewed positively by the Engineering Services Department.

10.7 Outcomes of investigations/applications i.t.o other legislation

N/A

10.8 Existing and proposed zoning comparisons and considerations

The application is not in line with the Overstrand Zoning Scheme.

11. THE DESIRABILITY OF THE PROPOSAL

The erf is in the residential town of Kleinmond.

The application is for the following and will be addressed as follows:

In terms of the Overstrand Zoning Scheme definition of a dwelling house allows for outbuildings associated with the main dwelling house. The relaxation of the western building line from 2m to 0m is to accommodate a storeroom falls within the category of an outbuilding that are allowed in the rear and lateral building lines, subject to development parameters restricting the height and length of structures over the building line on one specific boundary. The adjacent landowner has objected that the infringement on the property boundary may have an impact on the resale value of her erf. The objector did not submit proof in this regard. The storeroom's location was not dealt with or clarified by the applicant on why the chosen location, since it could have been located at the rear of the erf where there is space available. The storeroom has been built without a building plan and has been converted into a habitable space. During the site inspection and on the GIS a structure has been erected which is located on the 0m rear and lateral building lines, without an approved building plan and is not indicated on the plans submitted with the application. The restriction of buildings over the lateral building line of 9m or a third of the property boundary is transgressed and was not applied for and addressed in the application.

The departure of the eastern- and rear building line to accommodate staff quarters are not viewed in a positive light. During 2016, plan no 30027, a second dwelling on the property was approved. The staff quarters in terms of the Zoning Scheme is seen as a second dwelling, therefore the staff quarters will constitute a third dwelling, which is not allowed on a single residential erf. The latter has also been built without the necessary building plan.

The property at this stage consists of a main dwelling, a second dwelling, a store room, which has been converted into a habitable space, and a staff quarters, thus equates to four (4) habitable units on the property. The aforementioned is not allowed under the Residential Zone 1: Single Residential and Title Deed Condition C.3. The latter restricts development of the erf to a dwelling house or other equivalent building and therefore a dwelling and a second dwelling can be accommodated, but not four (4) dwellings.

Conclusion:

The motivation for the application is based that the owner resides in America and requested the builder to address the administrative process. This does not motivate the necessity of a store room, staff quarters and illegal structure on the property. Only the dwelling and second dwelling have approved building plans, none of the illegal built structures has building plans and thus not compliant with the Overstrand Zoning Scheme and the National Building Regulations.

The application is not recommended for approval and all illegal structures be demolished and removed.

12. RECOMMENDATION

1. that the application in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) on Erf 3383, Kleinmond in order to relax the eastern lateral building line from 2m to 0m to accommodate a storeroom, **not be approved** in terms of the provisions of Section 61 of the By-Law and the following action be executed:
 - (a) the illegal structures (servant's quarters, storeroom and the structure on the western lateral and rear building line), **be demolished within three (3) months** from date of the letter of non-approval.
2. that the applicant and objector be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

13. REASONS FOR RECOMMENDATION

- ❖ The staff quarters (servant's quarters) constitute a third dwelling in terms of the Zoning Scheme and has been illegally built without an approved building plan
- ❖ The storeroom has been changed into a habitable structure, which will constitute a fourth dwelling on the property.
- ❖ The Zoning Scheme and Title Deed do not allow for more than two (2) dwellings on this Single Residential erf
- ❖ The illegal structures (the store room on the western lateral boundary and the structure on the rear- and western lateral boundary) be demolished within three (3) months.
- ❖ Habitable structures are not allowed on the boundary line due to privacy, aesthetics and character of the area and a third and fourth dwellings will have an effect on the latter.
- ❖ The application motivation does not address the structures and uses in terms of need and desirability.
- ❖ The application is not complete since structures and uses on the property is not address or shown on the plans submitted with the application.

14. Annexures

Annexure A: Locality Plan
Annexure B: Motivation Report
Annexure C: Site Development Plan
Annexure D: Services Report
Annexure E: Objection received

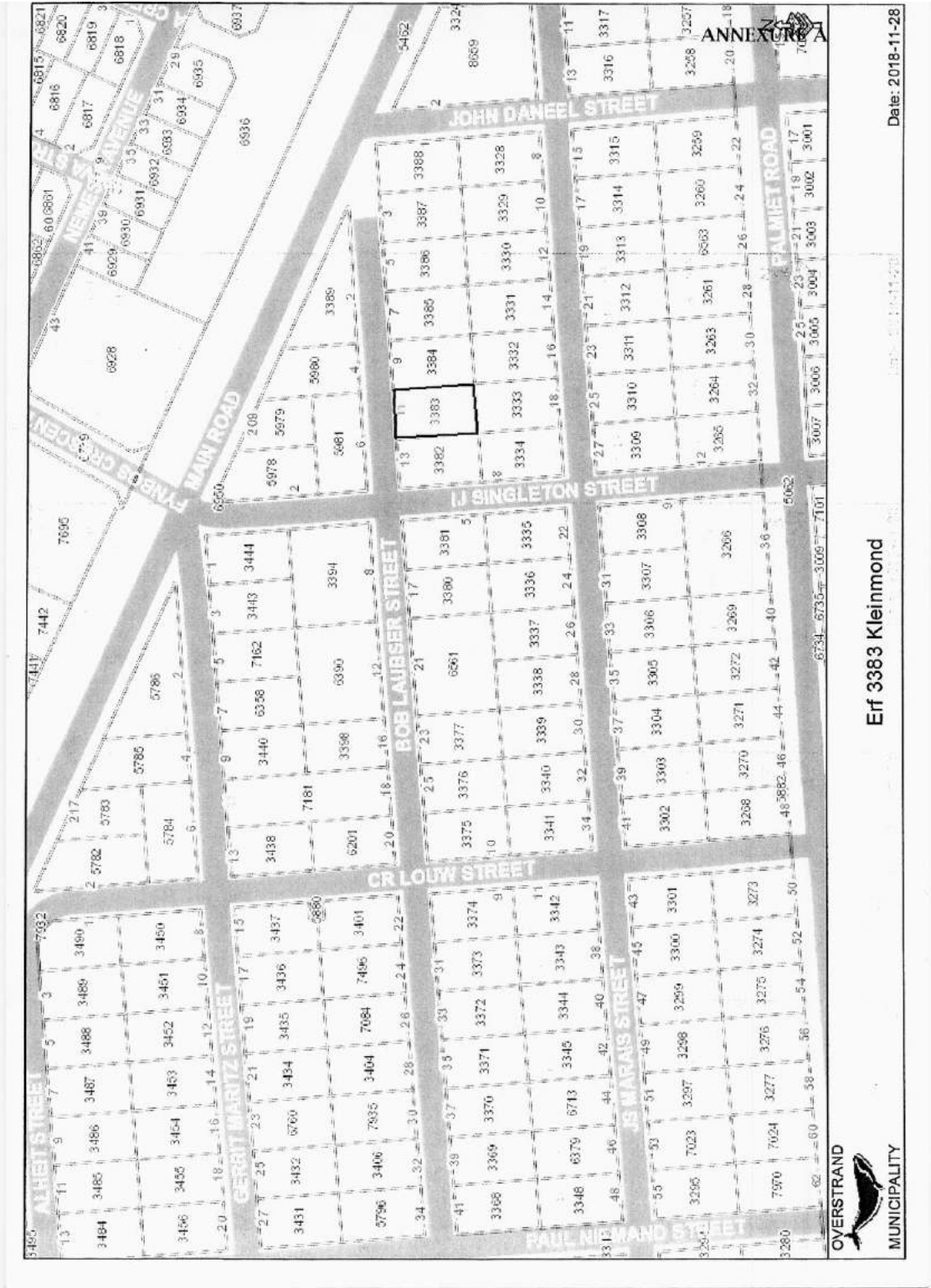
SIGNATURE**REGISTERED PLANNER**

Name: **H VAN DER STOEP**

SACPLAN Reg No: **A/1708/2013**

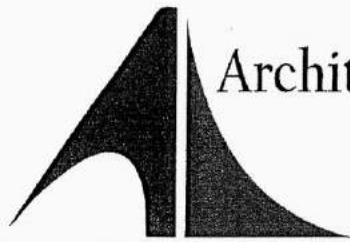
Signature: _____

Date: _____



Erf 3383 Kleinmond

Date: 2018-11-28



Architectural Home Design

Real Estate Design with Distinction

Tel: 072 315 1336

Email: AHD@mweb.co.za

Website: <http://AHDcreate.wixsite.com/AHDsa>

13 November 2018

ATT: Overstrand Municipality
16 Paterson Str/P O Box 20
Hermanus, 7200
Western Cape Province
Tel: (028) 313-8900

Dear Sir/Madam,

RE: MOTIVATIONAL LETTER FOR APPLICATION FOR BUILDING LINE RELAXATION

Please find herein enclosed our request for the relaxation for lateral and rear building lines

PROPOSED DEVELOPMENT

Departure of west building line from 2m to 0m, east building line from 2m to 0m and south building line from 2m to 1.15m on Erf No. 3383 is requested from Mr S Verruggio

The residential dwelling Lateral and rear building lines will be effected.

The reason for the proposed encroachment is that Mr Verruggio built a storeroom on the west boundary line and a servants quarters with bathroom on the south and east boundary line. Mr Verruggio was not aware that No application was submitted for he resides in America, and paid the builder to get all documentation needed for extensions to building, whereas the builder did not comply.

PHYSICAL CHARACTERISTICS OF THE PROPERTY

The proposed change will have no significant impact on the physical characteristics of the property. No topography, geological changes will be necessary.

CHARACTER OF THE ENVIRONMENT

The property is situated in a residential area with standard design guidelines. The neighbouring residential area consists of a variety of architectural styles. This proposal complies with all the residential build guidelines, and will not negatively influence the existing or any new street scene in any other way.

DESIRABILITY OF THE PROPOSAL

An amendment to the dwelling on this erf has been found to be desirable to the existing owners and neighbours, so we believe all desirability issues have been dealt with accordingly. We consider our request to amend the building line to 0m will not affect the desirability negatively.

INVESTIGATIONS CARRIED OUT IN TERMS OF OTHER RELEVANT LAWS

The property has no restrictions regarding any other laws, including the National Heritage Resources Act.

EXISTING PLANNING IN THE AREA

It is in an already developed residential area.

THE IMPACT OF THE PROPOSED LAND DEVELOPMENT ON MUNICIPAL ENGINEERING SERVICES

No municipal engineering services will be additionally required or be affected by the proposed dwelling.

POTENTIAL OF THE PROPERTY

The property is a residential erf. The erf cannot be used for agriculture, conservation or mining. The changes as applied for will not influence any potential of the property.

LOCATION AND ACCESSIBILITY OF THE PROPERTY

The property can be accessed on foot as well as by the single private driveway. It does not encourage any additional traffic.

CONSIDERATION OF FORWARD PLANNING AND LAND USE

The municipal zoning scheme imposes a 2m building line between erven and 4m street building line in this residential area. It is herein requested that the building line on the east be reduced to 0m, west building line to 0m and south building line of this erf be reduced to 1.15m purely for the addition of storeroom and servants room.

PLANNING PRINCIPLES

No municipal Land Use principles will be infringed by this application.

PROVISION OF SERVICES

All infrastructure is in place, and all services such as water, electricity and sewerage is already supplied to the erf. No new services will be needed, and therefore the environment will not be affected by this application.

We sincerely hope you will consider our application favourably.

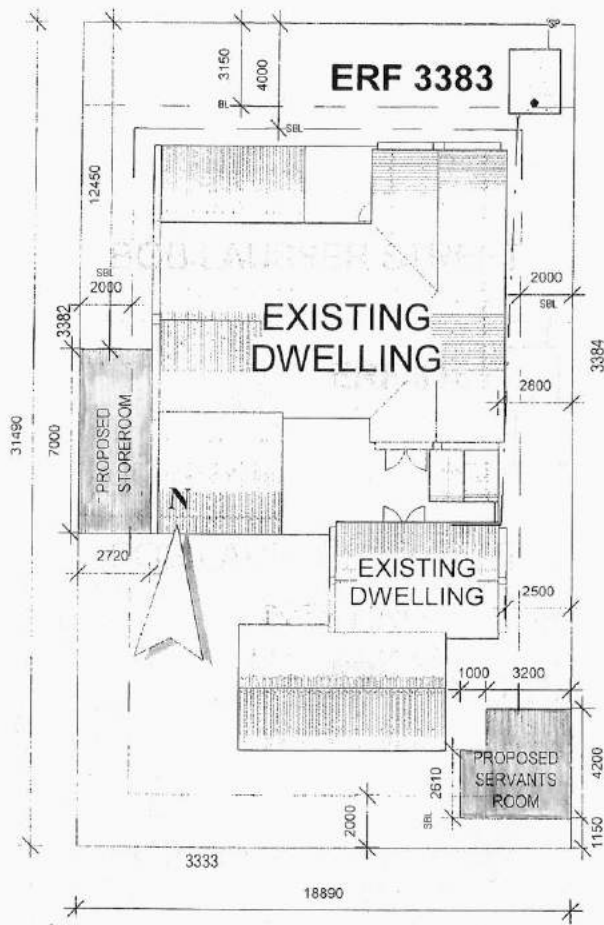
Yours faithfully,



P Mattheus
Architectural Home Designs
Tel: 072 315 1336

ANNEXURE C 1/3

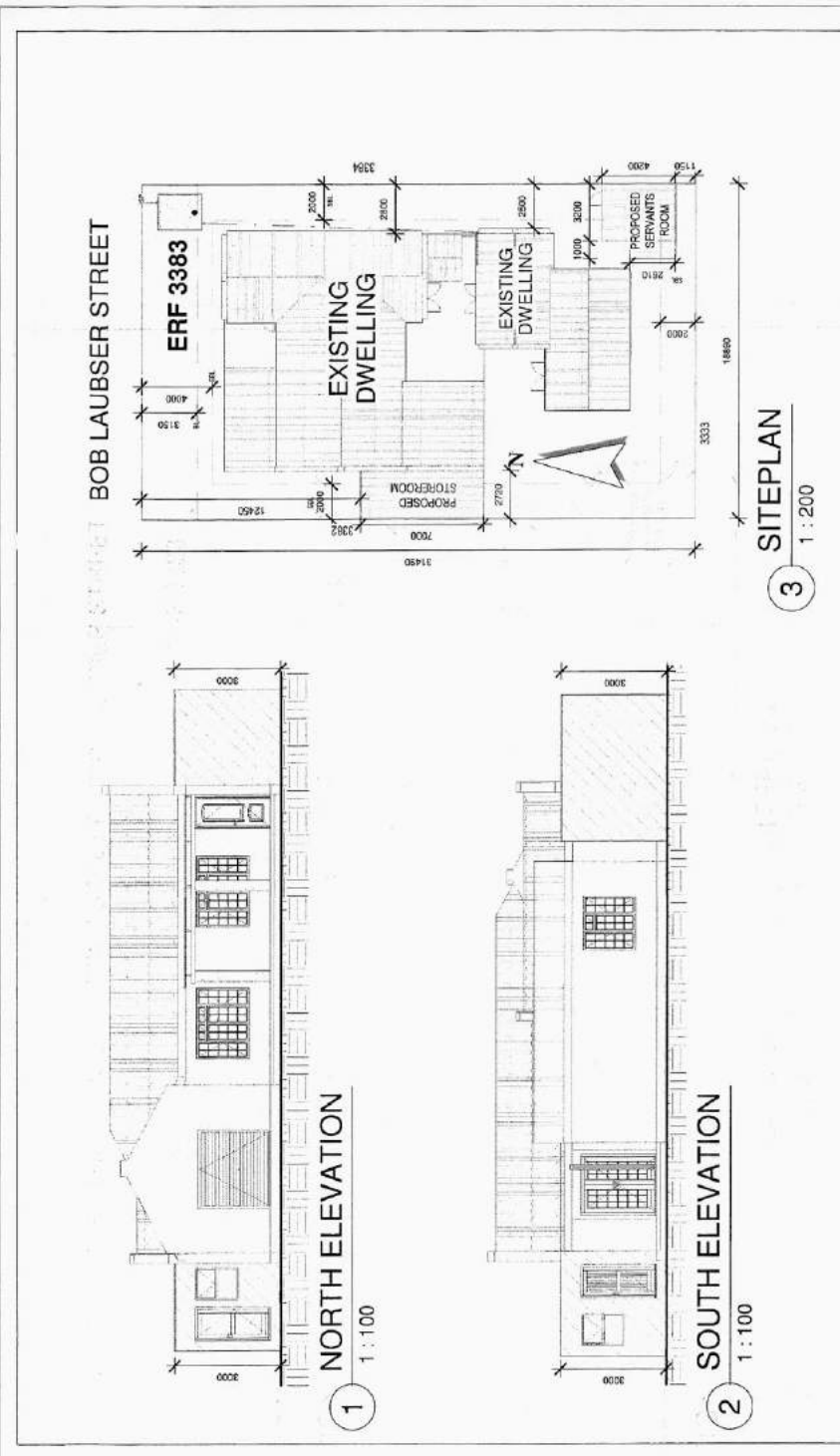
BOB LAUBSER STREET



ERF	595sqm
EXIST DWELLING	228.5sqm
NEW EXTENSION	35.1sqm
TOTAL	263.6sqm
COVERAGE	44.30%

1 SITEPLAN
1 : 200

<p>A.H.D. ARCHITECTURAL HOME DESIGNS 072 315 1336 ahd@mweb.co.za</p>	<p>MR S. VERRUGGIO ERF 3383 BOB LAUBSER STR KLEINMOND</p>	AS BUILT EXTENSIONS								
		<table border="1"> <tr> <td>Project nr</td> <td>KM3383/18</td> <td rowspan="4" style="text-align: center; vertical-align: middle;">A5</td> </tr> <tr> <td>Date</td> <td>14/11/2018</td> </tr> <tr> <td>Drawn by</td> <td>pjm</td> </tr> <tr> <td>Sacap</td> <td>20652</td> </tr> </table>	Project nr	KM3383/18	A5	Date	14/11/2018	Drawn by	pjm	Sacap
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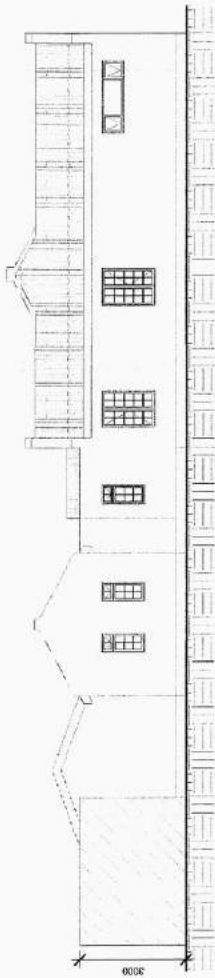


1 NORTH ELEVATION
1 : 100

2 SOUTH ELEVATION
1 : 100

3 SITEPLAN
1 : 200

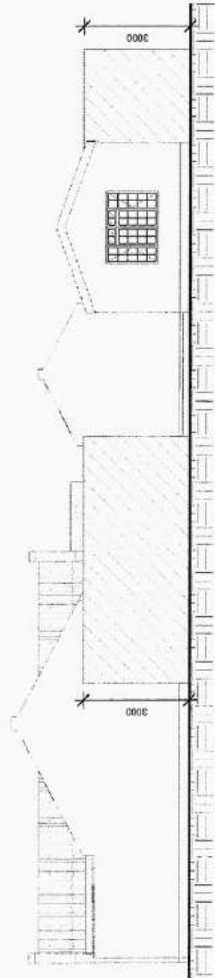
 <p>Architectural Home Design <i>Real Estate Design with Distinction</i> 1411/2018 Email: ahd@architecturalhomedesign.com Website: http://www.architecturalhomedesign.com</p>	<p>AS BUILT EXTENSIONS</p>	<p>MR S VERRUGGIO ARCHITECTS ERF 3383 BOB LAUBSER STR KLEINMOND</p>	<p>COUCIL DRAWINGS</p>	
			<p>Project Number: R03383/18 Date: 14/11/2018 Drawn by: P.M. Fig. No: PA0 201502 Scale: As Indicated</p>	<p>A102</p>



EAST ELEVATION

1 : 100

1



WEST ELEVATION

1 : 100

2



Architectural Home Design
Rewrite Esthetic Design with Distinction
 Email: ahd@architectshome.com.au
 Website: <http://architectshome.com.au/ahd>

AS BUILT
EXTENTIONS

MR S. VERRUGGIO
 ERF 3383
 BOB LAURSER STR
 KLEINMOND

COUNCIL DRAWINGS

Project number	KM2009/15
Date	14/11/2010
Drawn by	SPM
Proj nr	PAD 20082
Scale	1 : 100

A101

ANNEXURE D

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR DEPARTURE: ERF 3383, KLEINMOND (2785/2019)**

Stormwater (SW) : In order
Electricity : In order
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 only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the developer's cost;
3. that stormwater be allowed to discharge through Erf 3383, Kleinmond, unobstructed;
4. that no on-street parking be allowed.

p.p. D. Hendriks
DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES

14/03/2019
DATE

ANNEXURE E
TP-A Theart
(Huld stoep)

**Loretta Gillion - ERF 3383 11 BOB LAUBSER STREET, KLEINMOND,
OVERSTRAND MUNICIPAL AREA: PROPOSED DEPARTURE: P MATTHEUS ON
BEHALF OF S. VERRUGGIO.**



From: Ingrid Du Toit <idutoit56@gmail.com>
To: <loretta@overstrand.gov.za>
Date: 14/03/2019 08:07 PM
Subject: ERF 3383 11 BOB LAUBSER STREET, KLEINMOND, OVERSTRAND
MUNICIPAL AREA: PROPOSED DEPARTURE: P MATTHEUS ON BEHALF
OF S. VERRUGGIO.

I do not approve the departure in terms of Section 48, read with Section 16(2)(b) of the Overstrands Municipality By-law on Municipal land Use Planning, 2015 to relax the western and eastern building line from 2 m to 0 m and the southern building line from 2m to 1.15m in order to accommodate the storeroom and a staff quarter.

Mrs I S Du Toit 122 Southfield Road Plumstead 7800. O839825134.

I own the plot next door. I feel this might affect the sale of my property.

Mrs I S Du Toit.

FILE NO: EL 3383-KM
SCAN NO: KKM 3383
COLLABORATOR NO: 1266383

TP 14 MAR 2019