



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

MINUTES

DATE:	1 APRIL 2021
VENUE:	VIRTUAL
TIME:	10:00

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD BY MEANS OF A VIRTUAL PLATFORM ON 1 APRIL 2021 AT 10:00

PRESENT:

MEMBERS:

Ms H Janser, Directorate Development
Management
Mr S Müller, Director : Infrastructure & Planning
Mr S Madikane, Director : LED
Mr H Blignaut, Deputy Director : Engineering
Services
Ms R Louw, Senior Manager : Strategic Services

OFFICIALS:

Ms H van der Stoep, Senior Town Planner
Mr H Olivier, Town Planner
Mr P Roux, Town Planner
Ms S Swart, Council Support Services

APOLOGIES:

Mr R Kuchar, Senior Manager : Town & Spatial
Planning
Mr S van der Merwe, Senior Town Planner



MUNICIPAL PLANNING TRIBUNAL

ATTENDANCE REGISTER

Date: **1 APRIL 2021**

I, the undersigned, hereby declare:

- that I will make known details of any personal or other interest in respect of matters on the agenda and whether I have been approached by any party prior to the meeting
- that I have read all the information on the agenda

NAME	DEPARTMENT / SECTION MUNICIPALITY	SIGNATURE
H JANSER	CHAIRPERSON DIR: DEV MANAGEMENT	<i>HJ</i>
S MULLER	VICE-CHAIRPERSON OVERSTRAND MUNICIPALITY	<i>SM</i>
S MADIKANE	MPT MEMBER OVERSTRAND MUNICIPALITY	Joined via Teams
H BLIGNAUT	MPT MEMBER OVERSTRAND MUNICIPALITY	<i>H Blignaut</i>
R LOUW	MPT MEMBER OVERSTRAND MUNICIPALITY	<i>RL</i>
R KUCHAR	AUTHORISED OFFICIAL OVERSTRAND MUNICIPALITY	Apology
S VAN DER MERWE	SENIOR TOWN PLANNER OVERSTRAND MUNICIPALITY	Apology
H VAN DER STOEP	SENIOR TOWN PLANNER OVERSTRAND MUNICIPALITY	<i>H van der Stoep</i>
P ROUX	TOWN PLANNER OVERSTRAND MUNICIPALITY	<i>PR</i>
H OLIVIER	TOWN PLANNER OVERSTRAND MUNICIPALITY	<i>HO</i>
S SWART	COUNCIL SUPPORT OVERSTRAND MUNICIPALITY	<i>SSwart</i>

1. OPENING

The Chairperson, Ms H Janser, opened the meeting and welcomed those present.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Mr R Kuchar
Mr S van der Merwe

RESOLVED:

that the above-mentioned applications for leave of absence, **be granted.**

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 25 February 2021****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **25 February 2021, be confirmed.**

4. ITEMS FOR CONSIDERATION

4.1

ERF 195, 28 CANTERBURY STREET, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: E & R DE WET

195 HWC (3408)

S van der Merwe

25 November 2020

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) was received on 21 February 2020 from Messrs Pine Pienaar Professional Town Planner on behalf of E and R de Wet for the removal of restrictive title deed conditions A.(a), (b), (c) and (d) as contained in Title Deed No. 40504/2017 applicable to Erf 195, Hermanus in order to accommodate a second dwelling unit on the property, as well as to be in line with the applicable primary rights and development rules as contained in the Overstrand Zoning Scheme Regulations.

The restrictive conditions read as follows:

- “A. *SUBJECT to the following conditions contained in said Deed of Transfer No 10699/1942, imposed by the Administrator of the Cape Province in approving of the Township being in favour of the registered owner of any erf in the Township and subject to amendment and alteration by the Administrator under the provisions of Section 18(3) of Ordinance No 33 of 1934;*
- (a) *That this erf be used for residential purposes only;*
 - (b) *That only one dwelling together with such outbuildings as are ordinarily required to be used therewith, be erected on this erf;*
 - (c) *That not more than half the area of this erf be built upon;*
 - (d) *That no building shall be erected nearer than 4,72 meters of any street line which forms a boundary of this erf. No building shall be situated within 2,36 meters of the lateral boundary common to any adjoining erf.”*

RESOLVED:

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of restrictive title deed conditions A.(b) and A.(d) as contained in Title Deed T40504/2017 applicable to Erf 195, Hermanus, **be approved** in terms of the provisions of Section 61 of the By-Law;

2. that the application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions A.(a) and A.(c) as contained in title Deed T40504/2017 applicable to Erf 195, Hermanus, **not be approved** in terms of the provisions of Section 61 of the By-Law;
3. that, in terms of Section 16(2)(f) of the By-Law, condition A.(a) as contained in Title Deed T40504/2017 applicable to Erf 195, Hermanus, **be amended** to read as follows:

“A.(a) That this erf be used for residential purposes only and that only one of the two allowable dwelling units on this erf may be rented out for short-term/self-catering accommodation purposes.”

4. that the decisions in 1 and 3 above be subject to the following conditions:
 - (a) that building plans, together with the endorsed Title Deed, be submitted to the Building Department within sixty (60) days from the final approval of the application and that all requirements of the Building- and Fire Department at that stage be complied with - all buildings on the property must be in compliance with SANS10400 and the National Building Regulations;
 - (b) that the approved staff quarters at the rear of the property be changed to an outbuilding that is non-habitable;
 - (c) that the conditions of Telkom and Engineering Services be complied with;
 - (d) that the three (3) parking bays indicated on the site plan submitted with the application must be provided with a hard surface and must be properly demarcated;
 - (e) that this approval does not absolve the landowner from compliance with any other relevant legislation; and
 - (f) that all other applicable development parameters as prescribed in the relevant Zoning Scheme, be complied with.
5. that the applicant be notified of his/her right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 regarding the decisions in 2 and 3 above, as well as the conditions in 4 above.

REASONS FOR THE RESOLUTION:Reasons for the approval of the removal of conditions A.(b) and A.(d)

- ❖ The application has followed due procedure and no objections were received from the public.
- ❖ The removal of the conditions will have a beneficial financial impact for the landowners since it will be able to rent out the second dwelling on a long-term basis or a short-term basis to tourists that will subsequently have a positive impact on the value of the property.
- ❖ The removal of condition A.(d) will ensure that the title deed building lines will not be infringed upon anymore.
- ❖ It is not regarded as being undesirable from a town planning point of view.

Reasons for the refusal of the removal of conditions A.(a) and A.(c) and amendment of condition A.(a)

- ❖ Should condition A.(a) be removed completely it would allow the landowners to have a day care centre, guest rooms and home occupation as additional use rights in terms of the Zoning Scheme. The application lacks clear proposals regarding the additional rights to be obtained as set out in the Zoning Scheme which makes it unfeasible to evaluate the overall impacts thereof. As a result of the afore-said condition A.(a) must be amended in the manner as set out in paragraph 3. of the above decision to enable the landowners to utilize the second dwelling unit for short term accommodation purposes.
- ❖ No application to exceed the 50% coverage forms part of the application and therefore there is no reason for condition A.(c) to be removed.

RESPONSIBLE OFFICIAL :**S VAN DER MERWE**

4.2

ERF 4468, 4 CHANTECLAIRE CLOSE, ONRUSTRIVIER, OVERSTRAND MUNICIPAL AREA: PROPOSED SUBDIVISION: MESSRS INTERACTIVE TOWN & REGIONAL PLANNING ON BEHALF OF RI SPARKHAM

4468 HON (3426/2019)

H Olivier

(028) 313 8900

Hermanus Administration

17 November 2020

EXECUTIVE SUMMARY

An application was received on 18 October 2019 from Messrs Interactive Town & Regional Planning on behalf of RI Sparkham on Erf 4468, Onrustrivier in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to subdivide Erf 4468, Onrustrivier into two (2) portions, namely 731m² and 730m² in extent respectively.

RESOLVED:

1. that the subdivision in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) of Erf 4468, Onrustrivier into two (2) portions, namely 730m² and 731m² respectively **not be approved**; and
2. that the applicant be notified of his/her right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditions of approval.

REASONS FOR THE RESOLUTION:

- ❖ The proposal is not in line with the GMS, 2010 as it falls in a Mountain Management Zone and Mountain Interface controls where densification should not be approved in such zone to protect environmentally sensitive mountain side.
- ❖ The sizes of the two (2) new proposed erven, namely 730m² and 731m² respectively are not in line with the minimum size of 1100m² and average size of 1500m² in the Mountain Interface, and would therefore create smaller erven with more buildings with less space between buildings.
- ❖ Erven with a size of 730m² and 731m² is not in line with the character of residential erven in the Mountain Interface, as directly surrounding erven is 1 279m² (Erf 4470), 1353m² (Erf 4467), and 1215m² (Erf 4469) in extent, and more than 40% smaller than directly surrounding erven.

RESPONSIBLE OFFICIAL :

H OLIVIER

4.3

ERF 4177, 2 LAGOON DRIVE, ONRUSTRIVIER, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR AMENDMENT OF THE CONDITIONS OF AN EXISTING APPROVAL AND AMENDMENT OF THE SITE DEVELOPMENT PLAN: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF LA & RM VAN DYK

4177 HON (3498/2019)

H Olivier

9 December 2020

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 8 November 2019 from Messrs Plan Active Town and Regional Planners on behalf on LA and RM van Dyk on Erf 4177, Onrustrivier for an application in terms of Section 48 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the following:

- ❖ Amendmend of the conditions of approvals in respect of an existing approval in terms of Section 16(2)(h) of the By-Law, which restricts the subject property to be used for an art gallery and residential component only to now also use the property for office use and the residential component, and
- ❖ Amendment of the Site Development Plan in terms of Section 16(2)(i) of the By-Law in order to accommodate additional land uses.

The application will enable the applicant to allow for additional land uses on the property other than an art gallery and residential component.

RESOLVED:

1. that the application in terms of Section 47 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the following:
 - ❖ amendmend of the conditions of approvals in respect of an existing approval in terms of Section 16(2)(h) of the By-Law that restricts the subject property to be used for an art gallery and residential component only to enable the property also to be used for office purposes on ground floor level, and
 - ❖ amendment of the Site Development Plan in terms of Section 16(2)(i) of the By-Law in order to accommodate additional land uses.

be approved in terms of Section 61 and subject to the following conditions:

- (a) that the area of the building of 149m² (GLA) on ground floor level be limited for land uses for art gallery purposes and professional/clerical purposes (estate agency, doctor's surgery, etc.) only;

- (b) that the parking area off Lagoon Drive be amended to only provide for two (2) reserved parking bays to the satisfaction of the Engineering and Operational Branches;
 - (c) that a revised Site Development Plan be submitted stipulating the limited land uses in 1(a) above and showing the amended parking layout for the parking area off Lagoon Drive as stipulated in condition 1(b) above, to the satisfaction of the Senior Manager: Town- and Spatial Planning;
 - (d) that all the conditions in the Services Report be complied with; and
 - (e) that signage be limited next to Lagoon Drive to only signage above the front door entrance facing Lagoon Drive, and such signage and any signage to be placed next to Van Blommestein Street must be applied for and comply with the Signage By-Law.
2. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditions of approval.

REASONS FOR THE RESOLUTION:

- ❖ Office purposes allow for example security company offices, banks, port office, etc. which could have a much greater impact on the surrounding area due to influx of people and operating hours. By limiting the uses to art gallery and professional/clerical purposes (estate agency, doctors surgery, etc.) the impact on the residential area next to Lagoon Drive can be limited.
- ❖ The recommended alteration of the existing parking off Lagoon Drive would help limit the traffic impact and improve the traffic safety in Lagoon Drive.
- ❖ The proposed new land uses will not have a greater impact on traffic and parking requirements, and with the minor mitigation measures the traffic safety concern in Lagoon Drive can be addressed.
- ❖ The area utilised for business purposes (149m² GLA) will not be increased.
- ❖ The new proposed land uses would not have a greater impact on the residential character of Lagoon Drive, and with some mitigation measures, visual impact can be limited.
- ❖ The objections do not prove the application to be undesirable.
- ❖ The proposal is in line with the Planning Principles in that the property can be used more efficiently and will have more spatial resilience.

RESPONSIBLE OFFICIAL :

H OLIVIER

4.4

ERF 3941, 266 EIGHTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: PROPOSED DEPARTURE: LF BIDEN

3941 HVK (3238)

P Roux

7 February 2021

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 26 June 2019 from LF Biden for a departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 applicable to Erf 3941, Hermanus in order to:

- ❖ relax the western lateral building lines from 2m to 1,325m and 0,20m respectively to accommodate alterations on the ground and first floor;
- ❖ relax the rear building line from 2m to 0m in order to accommodate the proposed improvements on the building, and
- ❖ exceed the permissible height restriction applicable to boundary walls/fencing from 2,1m to 2,235m at the highest point.

RESOLVED:

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) applicable to Erf 3941, Hermanus for the following departures:
 - ❖ to relax the rear building line from 2m to 0m in order to accommodate the proposed improvements on the building,

not 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, 2015 (By-Law) applicable to Erf 3941, Hermanus for the following departures:
 - ❖ to relax the western lateral building lines from 2m to 1,325m and 0,20m respectively to accommodate alterations on the ground floor and first floor, and
 - ❖ to exceed the permissible height restriction applicable to boundary walls/fencing from 2,1m to 2,235m at the highest point;

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

- (a) that this approval only relates to the relaxation of the building lines as indicated on Site Plan 2019, Drawing No.: MB-H-100 Rev-C;
 - (b) that building plans be submitted to the Building Department for approval;
 - (c) that all the conditions of Telkom be complied with;
 - (d) that all the conditions of Fire Services and Engineering Services be complied with;
 - (e) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with; and
 - (f) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
3. that the applicant be notified of his/her right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regards to the above conditions of approval

REASONS FOR APPROVAL

- The conversion of the existing pergola to a covered terrace will have a minimal impact on the street scape and adjacent property owners in terms of visual impact.
- The covered terrace on the first floor does not propose any windows and/or openings facing directly onto the adjacent property (Erf 3940, Hermanus).
- The boundary wall at its highest point exceeding 2,1m in height will not have an impact on the street scape.
- The proposal will not have a detrimental impact on the character of the surrounding area.
- No objections were received from adjacent property owners.
- The application has followed due process.
- The proposal is compliant with the spatial policies of the SDF.
- The proposal is consistent with the spatial principles as set out in SPLUMA and LUPA.

REASONS FOR NON-APPROVAL

- The proposed encroachment of the roof on the northern side of the property is tied to the usage and validity of the existing structure (bedroom, en-suite and laundry);
- The conversion of the carport into a garage and then into a bedroom, en-suite and laundry was never formally approved and was historically only indicated as existing structures;

- Formal application needs to be done in order to legalise the existing encroachments prior to the consideration of the proposed encroachment of the rear building line;
- Comment from the Building Department indicates that the alterations made to the carport were never formally approved.

RESPONSIBLE OFFICIAL :

P ROUX

The meeting adjourned at 10:40