

4.4

ERF 1537, 35 DENNYS ROAD, PRINGLE BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE, RELAXATION OF TITLE DEED CONDITION AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: COMPROP DESIGNS ON BEHALF OF B BLOM

1537 KPRB (4524/2023)

H van der Stoep

19 December 2025

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application was received on 16 November 2023 from Comprop Designs on Erf 1537, Pringle Bay in terms of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 for the following:

- ❖ **Relaxation** of Clause B 6.(b) of Title Deed No. T24962/2023 to relax the south-western lateral building line from 1,5m to 0,703m to accommodate a single garage, and to relax the north-eastern lateral building line from 1,5m to 0m to accommodate a covered deck on first floor level.
- ❖ **Departure** in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 to relax the south-western lateral building line from 2,0m to 0,703m to accommodate a single garage, to relax the north-eastern lateral building line from 2,0m to 1,5m to accommodate a double garage on ground floor level, and to relax the same building line to 0m to accommodate a covered deck on first floor level.
- ❖ **Determination of an administrative penalty** in terms of Section 16(2)(q) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 to accommodate the unauthorised building line encroachments as stipulated above.

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, the proposed Site Development Plan is attached as Annexure C. The Title Deed is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Erf 1537 is located in Pringle Bay and measures 600m² in extent. The erf is situated in the residential area of Pringle Bay Extension 3 and is zoned as Residential Zone 1: Single Residential. The erf is currently developed.

The first building plan on record is dated 1985. Subsequent building plans were submitted dated 1991 and 2024.

The 1985 approved building plan indicates the following:

- Braai area on the 0m building line.

- Dwelling, garage and storeroom compliant with the applicable building lines.

The 1991 approved building plan indicates the following:

- Uncovered first floor balcony was approved on the 1,5m title deed building line.
- The garage door was removed and bricked up, and a fire door was installed.

In 2011 the Building Inspector conducted an inspection of structures on the erf.

The following was noted:

- The garage has been changed to a living room, and
- The existing storeroom has been changed to a jacuzzi room.
- A single garage was constructed illegally.

It should be noted that the changes do not transgress any building lines.

The 2024 approved building plan indicates the following:

- The proposed double garage on the 2m lateral building line.
 - *The application is for a departure to relocate the garage from the 2m building line to the 1,5m title deed building line.*
- The uncovered first floor deck on 0m.
 - *The application is for the relaxation of the 1,5m title deed building line and departure from the 2m land use scheme building line to 0m building line to legalize the deck previously approved on 1,5m and cover the deck with a roof.*
- The illegal structures (sunroom and the single garage) are shown to be demolished.
 - *The application is for a departure and relaxation from 2m (Land Use Scheme lateral building line) and 1,5m (Title Deed lateral building line) respectively to legalize the existing garage and storage area to 0,703m.*

It should be noted that the applicant did omit to apply for the transgression of the sunroom over the Land Use Scheme lateral building line of 2m. The omission does not impact the Title Deed lateral building lines, which is less restrictive than the Land Use Scheme. The applicant, in a letter dated 28 February 2025, indicated that the application for the roofed balcony be set back to the Title Deed lateral building line of 1,5m and not 0m as initially applied for.

4. SUMMARY OF APPLICANT'S MOTIVATION

DEPARTURE – SOUTHERN-WESTERN & NORTH-EASTERN LATERAL BUILDING LINE

- The adjacent owners (Erf 1536 and Erf 1538) did consent to the departures.
- The garages are necessary for parking vehicles.
- The uncovered balcony on first floor was constructed by the previous owners.
- The applicant requests to cover the balcony to protect from sunshine.

RELAXATION OF THE TITLE DEED LATERAL BUILDING LINE

- The proposal is to relax the south-western building line from 1,5m to 0,703m to accommodate a garage to accommodate a vehicle.
- The proposal is to relax the north-eastern lateral building line from 1,5m to 0m to accommodate a covered first floor balcony to protect the balcony from sunshine.

DETERMINATION OF THE ADMINISTRATIVE PENALTY**(a) nature, duration, gravity and extent of the contravention**

The existing structures were in place when transfer took place.

(b) the conduct of the person (allegedly) involved in the contravention

Transgression being the single garage, first floor deck and sunroom were constructed by the previous owner.

(c) whether the unlawful conduct was stopped

The structures have already been constructed in 2023 when transfer took place.

(d) a report by a quantity surveyor in matters of unauthorised building/construction

Due to the small-scale nature of the encroachment, no quantity surveyor was involved.

(e) whether the person allegedly involved in the contravention has previously contravened this by-law or a previous planning law.

To the best knowledge of the applicant, the owners never previously contravened this By-Law.

POLICIES AND REGULATIONS**Spatial Planning Policies:**

The application complies with the coverage of Single Residential.

PLANNING PRINCIPLES

The maximum coverage of 50% has been adhered to and remain single residential.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
E-mail notices	No		
Internal departments	No		

Ward Councillor	No		
Total letters of support	N/A		
Total letters of objection	Consent letter was submitted.		
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
N/A		

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

The application for relaxation of a restrictive title deed condition received no objection from the affected parties. The affected neighbours (Erven 1536 and 1538) provided letters of consent. See Annexure E.

The **Pringle Bay Ratepayers Association (PBRA)** has submitted comments on the application. See Annexure F. The comments will be dealt with in a summarized manner.

COMMENT - Organisation

The ratepayers represent approximately 1800 properties of which approximately 1200 are developed.

TOWN PLANNER'S RESPONSE

This cannot be correct, since on various applications the Ratepayers were negative against applications, whilst the surrounding owners gave their consent and thus cannot claim to represent 1800 erven.

COMMENT - Should the encroachment be demolished.

The legal precedent of the Bet-el Faith Mission v Motthamme and Others (5306/2017) [2020] ZAFSHC 6, as summarised in an article by Ashersons attorneys titled "Your Neighbour builds Without Plans – Can You get a demolition Orde", dated April 2020stes amongst others:

"...A court deciding a demolition application has discretion to reach an equitable and reasonable solution in terms of the common law by ordering payment or compensation rather than removal in cases where the cost of removal would be disproportionate to the benefit derived from the removal."

We submit that the current building constitutes an illegal building in terms of the Overstrand Land Use Scheme Regulations, 2020 and needs to be regularised through the appropriate process, whether an administrative penalty or the issuance of a demolition order.

TOWN PLANNER'S RESPONSE

The Ratepayers is incorrect in stating that the building is illegal in terms of the Overstrand Land Use Scheme 2020. The Land Use Scheme does not regulate buildings, but the National Building Regulations Act of 1977. Illegal building work is not the mandate of the Town & Spatial Planning Division, but rather the use and structures transgressing the development parameters of the applicable zoning category, not the built structure as such.

Further the cost of the demolition of the storage area is disproportionate to the adherence to the title condition. Should the storage area have been a separate building at the location, the applicant would have adhered to the title conditions, since it is located within 12m of the rear boundary and could be built on the 0m lateral and rear building line. Another alternative for the applicant was not indicated a storage area, but just indicated as a single garage, then a relaxation would have been superfluous.

However, the applicant was honest and applied for the relaxation and it was dealt with as such.

COMMENT – Original design principles.

The Ratepayers submit that the applicant did not elaborate or explain what is meant. One would expect that the original design principles would have been to design and construct within the requirements of the Land Use Scheme and Title Deed restrictive conditions. No evidence was represented that the buildings constructed conform to any of these.

TOWN PLANNER'S RESPONSE

The building plan in 1991 approved a first-floor deck on the 1,5m Title Deed building line, thus no transgression of the Title Deed conditions.

The present application is to legalise present transgressions, which is still within the original design principles of a single residential dwelling with associated outbuildings.

COMMENT: Consents from neighbours

Consents were obtained from Erven 1536 and 1538, why not from Erven 1544, 1545, 1546 and 1521?

APPLICANTS RESPONSE:

The Municipality only identified the adjacent neighbours of Erven 1536 and 1538.

TOWN PLANNER'S RESPONSE

The comment is noted; however, it is the prerogative of the Municipality to identify the erven that will be affected by the application. The application for the relaxation of the 1,5m lateral building line for owners of Erven 1536 and 1538 can result into possible privacy issues and disturbance and their consent were requested. Therefore, the erven as indicated by the PBRA namely Erven 1544, 1545 and 1456 will not be impacted upon since the rear Title Deed building line of 3m and southwestern lateral Title Deed building line of 1,5m are adhered to. The transgression on the southwestern lateral building line of the garage is allowed in terms of the title deed conditions.

COMMENT: Planning Principles

The applicant did not address the principles in detail and is the application inadequate to allow the Municipality proper consideration of the application.

TOWN PLANNER'S RESPONSE

In terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, Section 39.(1) introduction to the information required reads as follows:

"An application must be accompanied by the following documents, where applicable:"

Section 39.(1)(e) reference the following *"a written motivation for the application based on the criteria/principles for consideration of the application"*.

The operative words are *"motivation"* and *"based on"* and not a detailed analysis of the criteria/principles.

In terms of Section 66 of the By-Law, it does stipulate that the Authorised Official (AO) or Municipal Planning Tribunal (MPT) must have regard to the principles referred to in Chapter VI of the Land Use Planning Act. The AO/MPT must consider Section 59 of LUPA and may request further information if it deems it necessary.

The applicant did indicate that the coverage of 50% criteria is adhered to due to the extensive development of the erf, but all the other criteria remain intact. Per implication with the exception of the storage area, the title conditions are adhered to.

COMMENT: Title Deed Conditions

The applicant seems to confuse the requirements of the Land Use Scheme Regulations of 2m lateral building line with the corresponding 1,5m requirements of the Title Deed. The applicant must also apply for the removal, amendment or suspension of a restrictive Title Deed Condition.

TOWN PLANNER'S RESPONSE

It is not only the applicant who is confused, but also the Pringle Bay Ratepayers Association between the requirements of the Land Use Scheme for a removal, amendment or suspension and the consent in terms of the Title Deed restrictive conditions. This aspect is dealt with under Point 12.

The Pringle Bay Ratepayers Association in their objection states the following:

We submit that the applicant has neglected to address the restrictive Title Deed Conditions applicable to Erf 1537.

The Title Deed, amongst others, states the following:

“B.5. No building on this erf shall be used or converted to use for any purpose other than that permitted in terms of these conditions.

6. (a) ...
- b) *No buildings or structure or any portion thereof except boundary walls and fences shall except with the consent of the Administrator, be erected nearer than 5m to the street line, which forms a boundary of this erf, nor within 3m of the rear or 1.5m of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority-*
- (i) *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 outbuilding 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 street abutting the erf.*
- (ii) *an outbuilding in terms of sub-paragraph (i) may only be erected nearer to a lateral or rear boundary of a site than the above prescribed spaces if no windows or doors are inserted in any wall facing such boundary.*
- c) *.....”*

TOWN PLANNER'S RESPONSE

Condition B.5 refers to the use of the building. The applicant has not requested the change of the use of the building, other than accommodate buildings in line with residential use of the structures.

Condition B.6 refers to the building lines and responsible authority to deal with the transgressions of the building lines in prescribed manner. The introduction of Condition B.6 references the Administrator, which is now the Local Authority (Municipality). In terms of Section 42(6) Spatial Planning and Land Use Management Act, 2013 and Section 39(4) of the Land Use Planning Act, 2014, the reference of Administrator, Townships Board or Premier is regarded as a reference to the Municipality. Thus, in terms of the aforementioned legislation the Municipality in terms of the Title Deed may consent to applications as per its relevant processes and requirements.

The transgressions applied for can therefore be dealt with the consent of the Municipality. The application is not a removal or amendment of restrictive conditions, but consent as allowed by the Conditions of Establishment of Pringle Bay Extension 3.

Historically the PBRA does not approve of “Relaxation of Title Deed Conditions”, but this does not mean that its disapproval must be adhered to in all cases. Its objection is however noted.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Point 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS

See Point 7 above.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)**10.1 Background**

The application is to address proposed amendments and legalising transgressions relating to the building plan dated 2024.

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

The proposal does not perpetuate spatial injustices.

Spatial Sustainability

The proposal is spatially sustainable as it does not impede on any high potential agricultural land or environmental sensitive land. The proposed application is in line with the current character of the established residential area and conducive to optimal use of the property, which relates to not only too environmental conservation but also human wellbeing.

Efficiency

The application does not require any additional municipal services, and the application is within the development parameters in terms of use of land.

Spatial Resilience

The building will be subject to the National Building Regulations and SANS to ensure to withstand environmental shocks.

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 participation process has been followed with neighbours providing consent for the proposal.

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

Consistent, since the use remains single residential.

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

Consistent, same.

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

N/A

10.6 Impact on Municipal Engineering Services

No impact on Municipal Engineering Services since no additional services are required.

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 in line with the Overstrand Spatial Documents. The zoning remains intact.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL**BACKGROUND:**

Erf 1537 is located in Pringle Bay Extension 3 and zoned Residential Zone 1: Single Residential. In terms of the Conditions of Establishment of Pringle Bay Extension 3 : Conditions of Section 22(a) reads as follows: *"This erf shall be used solely for the purpose of erecting thereon one dwelling or other buildings for such purpose as the Administrator may, from time to time after reference as the Administrator may, from time to time after reference to the Townships Board and the local authority, approve, provided that if the erf is included within the area of a Town Planning Scheme, the local authority may permit such other buildings as are permitted by the scheme subject to the conditions and restrictions stipulated by the scheme"*.

In terms of Section 42(6) Spatial Planning and Land Use Management Act, 2013 and Section 39(4) of the Land Use Planning Act, 2014, the reference of Administrator, Townships Board or Premier is regarded as a reference to the Municipality. Thus, in terms of the aforementioned legislation the Municipality in terms of the Title Deed may consent to applications as per its relevant processes and requirements.

The erf is included in a Town Planning Scheme, and the erf is subject to the Town Planning Scheme development parameters, which can be dealt with by the Municipality.

In order to clarify the distinction between the processes, the different processes are as follows:

Relaxation of Title Deed condition(s):

A relaxation application is first of all in terms of the Title Deed and only where it is stipulated with the **consent** of the Administrator. This relates to transgression of building lines. One of the requirements is that the consent of the neighbours must, as indicated by the Municipality, be obtained. If it is not possible, the application reverts to the By-Law for a removal, amendment or suspension application. These applications are to deal with historical transgressions, special circumstances that can be accommodated and is in line with the Land Use Scheme. This type of application relates to only what is applied for and not a general relaxation.

Removal, amendment or suspension of Title Deed condition(s):

Removal, amendment or suspension applications are dealt with in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning where the applicant intends to remove a condition that is more restrictive than the Municipal Land Use Scheme parameters or forward planning documents. Full public participation process is applicable.

The PBRA does not acknowledge the relaxation of title deed conditions and is of the opinion that restrictive conditions should rather be amended or suspended. This is contrary to stimulate the local economy, streamline administrative processes and make use of an option available to owners to investing in their own properties to ensure property values remains in place. An application for suspension cannot be considered, since the application is of a permanent nature.

It is noted that the applicant did apply for relaxation and departures that could have been dealt with neighbours' consent, however there is nothing prohibiting an applicant to submit the applications to go beyond the normal requirements.

✚ Relaxation of Clause B 6.(b) of Title Deed No. T24962/2023 to relax the south-western lateral building line from 1,5m to 0,703m to accommodate a single garage and storage area, and to relax the north-eastern lateral building line from 1,5m to 0m to accommodate a covered deck on first floor level.

The uncovered deck was approved in 1991 on the 1,5m Title Deed building line. The previous owners extended the deck to 0m. The present owners intend to roof cover the deck to protect it from the sunshine. In a letter dated 28 February 2025 the applicant indicated that the transgression of 0,5m has been removed to comply with the approval of the building plan dated 1991, which indicate the deck on 1,5m lateral building line. In evaluating the application, the proposed roof covered first floor deck is not recommended and should be set back to the approved 1,5m Title Deed lateral building line as per approved plan dated 1991.

The single garage with a storage area on the south-eastern lateral building line of 0,703m is applied for. The reason being that the storage area transgresses the Title Deed building line of 1,5m. The aforementioned is relevant, since the Title Deed does restrict any other use, with the exception of a building solely used for vehicles. The allocation of a storage area within the garage over the title condition of 1,5m is outside the stipulation of sole use of vehicles. The use allocation thus triggered the relaxation application.

It should be noted that any structure for the sole use of housing of vehicles may be erected within side and rear spaces, thus on the boundary of any adjacent erf, with consent of the local authority in terms of the title deed. The Overstrand Land Use Scheme makes provision of such a structure with neighbour's consent, which is a stricter proviso than the title deed.

✚ Departure to relax the south-western lateral building line from 1,5m to 0,703m to accommodate a single garage and to relax the north-eastern lateral building line from 2,0m to 1,5m to accommodate a double garage on ground floor level, and to relax the same building line to 0m to accommodate a covered deck on first floor level.

The application for the proposed double garage on the 1,5m Title Deed building line, departing from the 2m Land Use Scheme lateral building line and the single garage on the 0,703m is supported. The process of the departure of the 2m building line for the garaging of vehicles in terms of the Overstrand Land Use Scheme, requires the consent of directly affected neighbours. Consent was given by the property owners of the affected erven - Erf 1536. And Erf 1538. The applicant did apply for a departure of the Land Use Scheme, which was not necessary, but the application was submitted and dealt with.

The departure application from the Land Use Scheme 2m lateral building line is to legalise the 0,5m extension of the deck. The present owners intend to roof cover the deck to protect it from the sunshine.


An uncovered first floor deck was approved in 1991 on the 1,5m Title Deed building line. The previous owners did extend the deck illegally to 0m. The initial application was for the departure to 0m lateral building line, however in a letter dated 28 February 2025, the applicant indicated that the transgression over the 1,5m has been removed to comply with the approval of building plan dated 1991, which indicate the deck on 1,5m lateral building line. In evaluating the application, the proposed roof covered first floor deck on the 0m building line is not recommended and should be set back to the approved 1,5m Title Deed lateral building line as per approved plan dated 1991 and letter dated 28 February 2025.

The impact of a structure on the 1,5m was established with the approval of the uncovered deck. Taking into consideration that the Title Deed allows for dwellings to be built on the 1,5m lateral building line, the roof covered deck will have little impact on the directly affected erf - Erf 1536. The latter consented to a 0m roof covered first deck.

It should be noted that both the double and single garages are single storeys and comply with the Title Deed restriction of a height of 3m, measured from ground floor level to wall plate height and thus in full compliance with the title deed conditions.

Conclusion:

The request from the PBRA to amend the title deed conditions is without merit as the application was not for the removal of the title deed conditions, but a consent in terms of the title deed.

 **Determination of administrative penalty**

It is noted that the previous owners were responsible for the transgression, however the responsibility remains with the new owner to ensure all structures on the property are legally compliant and according to the approved building plans. The applicant did submit an application for an administrative penalty for the illegally constructed structures; however, the penalty is only applicable if it transgresses the development parameters of the Land Use Scheme. Illegal building work is not a mandate of the Town & Spatial Planning Division but Building Control as far as demolition issues are concerned.

The square meterage was recalculated to ensure the applicability of the transgression over the land use and title deed building lines.

The administrative penalty is calculated as follows:

Budget 2025/2026

Formal Structure – habitable (erven larger than 150m²) per m² - R21 468,00

Transgression:

Single garage / storage area:	Garage: 1,875m ²
Total value: R21 468,00 x 1,875m ² =	R40 252,50
5% of R 40 252,50 =	R2 012,63

TOTAL ADMINISTRATIVE PENALTY: R2 012,63

13. RECOMMENDATION

1. that the comment be noted.
2. that the application in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 1537, Pringle Bay for the **relaxation** of restrictive title deed condition B6.(b) of Title Deed No. T24962/2023 to relax the south-western lateral building line from 1,5m to 0,703m to accommodate a single garage with a storage area, **be approved**, in terms of Section 61 of the By-Law.
3. that the application in terms of Section 16.(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 1537, Pringle Bay for a **departure** to relax the south-western lateral building line from 2,0m to 0,703m to accommodate a single garage and storage, to relax the north-eastern lateral building line from 2,0m to 1,5m to accommodate a double garage on ground floor level, **be approved**, in terms of the provisions of Section 61 of the By-Law;
4. that the above approvals in Points 2-3 be subject to the following conditions:
 - (a) that this approval is only for the relaxation of a restrictive title deed condition and departure as indicated on plan number P231015 dated 30 September 2023 submitted with the application;

- (b) that the relaxation is only applicable to the storage area as per application;
 - (c) that building plans be submitted to the Building Control Department and Fire Department for approval, and that all conditions of the Building Control and Fire Department be complied with;
 - (d) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
 - (e) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
5. that the application in terms of Section 16.(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 1537, Pringle Bay for a **departure** to relax the south-eastern building line from 2m to 0m to accommodate a covered deck on first-floor level, **be partially approved to 1,5m** (Title Deed building line) as per approved building plan dated 1991 in terms of the provisions of Section 61 of the By-Law;
- (a) that the covered deck be **set back to the 1,5m Title Deed building line** as per approved building plan dated 1991, within ninety (90) days of the final decision.
 - (b) that revised building plans reflecting the above decision be submitted to the Building Control Department and Fire Department for approval, and that all conditions of the Building Control and Fire Department be complied with.
6. that the determination of an administrative penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Erf 1537, Pringle Bay to accommodate the unauthorised building line encroachments as stipulated above, **be imposed**, and that the penalty fee of **R2012,63**, be payable within thirty (30) days of the final decision.
7. that the applicant and persons who commented be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2020 regarding the above decision.

14. REASONS FOR RECOMMENDATION

- ❖ Consent letter and signed plans received from affected neighbour.
- ❖ Will not jeopardize the character of area.
- ❖ The application has followed due procedure.
- ❖ None of the relevant departments have any objection.
- ❖ No additional services are required.
- ❖ No major building work to be done as structure already exists.
- ❖ The first-floor uncovered deck was approved on the 1,5m Title Deed building line, the impact on the adjacent property was established.
- ❖ The administrative penalty be made applicable instead of demolition as per the request of Pringle Bay Ratepayers Association.
- ❖ The 5% penalty calculation due to the present owner's knowledge of the transgressions before purchasing the property.

15. ANNEXURES

- Annexure A: Locality Plan
Annexure B: Motivation Report
Annexure C: Site Development Plan
Annexure D: Title Deed T73088/2024
Annexure E: Consent letters from adjacent property owner
Annexure F: Comment received from Pringle Bay Ratepayers
Annexure G: Applicant's response to comment received
Annexure H: Approved building plans dated 1985, 1991 and 2024

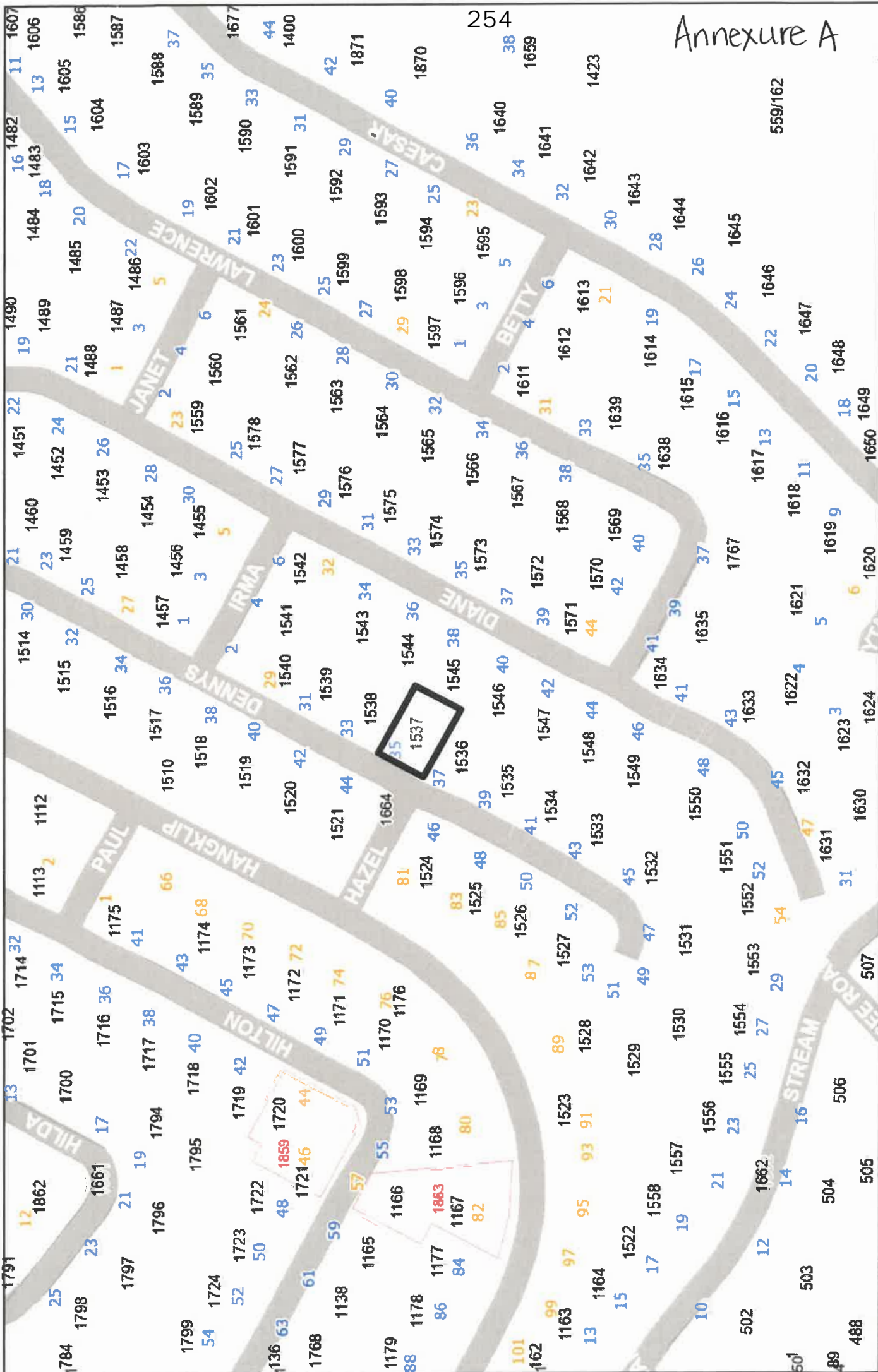
SIGNATURES**REGISTERED PLANNER**

Name: **H VAN DER STOEP**

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

Signature: _____

Date: _____



Annexure A



Date: 2023/11/21

Locality Map
Erf 1537 Pringle Bay



MOTIVATION

DATE: - 10/11/2023
 ERF NO: - 1537PB
 ADDRESS: - 35 Denny's Rd. Pringle Bay
 ZONING: - SR1
 AREA- 600m²
 APPLICATION: - DEPARTURE
 1. SW lateral Building line transgression Single Garage.
 2. NE lateral Building line transgression 1st Floor Covered balcony
 Author: - Jan W. Schaap (power of Attorney)
 OWNER: - Mrs. B. Blom

A) PROPOSED DEVELOPMENT

1. SW lateral Building line transgression Single Garage
2. NE lateral Building line transgression 1st Floor Covered balcony

B) CHARACTER OF THE ENVIRONMENT

The proposed additions are in keeping with the existing environment.

C) DESIRABILITY OF THE PROPOSED UTILIZATION

The utility of the garage spaces is required for the parking of 3 cars.
 The roof covering for 1st floor balcony is required for protection from the sunshine.

INVESTIGATIONS CARRIED OUT IN TERMS OF OTHER LAWS

The proposed additions are in keeping with the original design principals.

D) IMPACT OF THE PROPOSED LAND DEVELOPMENT ON ENGINEERING SERVICES

The passing of the existing sewage line is protected with a 250mm encasing of concrete

E) CONSIDERATION OF FORWARD PLANNING

The proposed additions has given the site 38.845% coverage where 50% is permitted

F) PLANNING PRINCIPLES

The maximum coverage of 50% has been adhered too.

G) SUMMARY

Consent from both neighbors being even 1536 & 1538 has been obtained.

Yours sincerely



Jan W. Schaap (Pr.S.Arch.T)



MOTIVATION

DATE: - 28/02/2025
ERF NO: - 1537PB
ADDRESS: - 35 Denny's Rd. Pringle Bay
ZONING: - SR1
AREA- 600m²
APPLICATION: - Penalty Application

Author: - Jan W. Schaap (power of Attorney)
OWNER: - Mrs. B. Blom

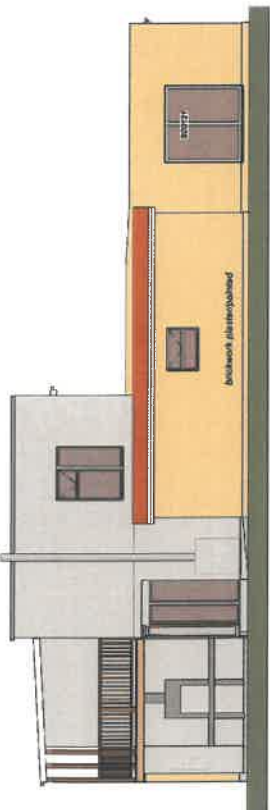
-
- A) 1. The Transgression were in place at the time, January 2023, when the offer to purchase was made and accepted. Being the Single Garage/Store and Family/Sunroom.
 2. Gravity. The construction was complete when transfer took place.
 3. The first plans submitted are dated Nov. 1985 and amended 22/03/1991
 4. 2.1m high Vibro-Crete wall was approved 24/04/2023 and has been constructed
 5. The transgression of the 1st floor balcony across 1.5m NW building line has been removed.
- B) The contravention were undertaken by the previous owners.
- C) The construction of
1. Single Garage/Store r'm is a flat roof construction 32m²
 2. Family/Sun r'm flat roof construction 32.5m²
- D) The unlawful construction has stopped as they are completed.
- E) The previous owners were involved in the contravention we are not aware they have previously contravened this By-Law or a previous planning law.

Yours sincerely

Jan W. Schaap (Pr.S.Arch.T)

LEGEND

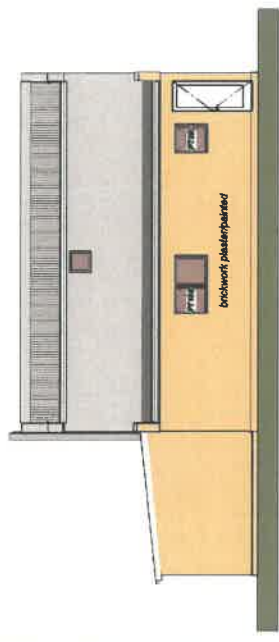
- A1- ROOF**
 GUTTER - TWO SIX FIBRE CEMENT half height 76x2mm SA Pipe Profiles @ 900mm c/c on 152x25mm SA Pipe Wall plate. Each gutter to be secured with 1.8mmx30mm Galv. hoopion straps into 4 courses of reinforced brickwork. Gable ends to be secured to 3 immediate rafters with 1.8mmx 30mm Galv. hoopion straps @600 c/c and 800mm into brickwork. Roof pitch 5°, Fascia & Barge Boards 250x12mm fibre cement boarding. - All as per SANS Eng. detail.
- B1- CEILINGS**
 TO ROOMS 2.0mm slotted fibro board on 38x88mm SA Pipe ceiling @ 300mm c/c on rafters with 75mm fibro cornice. TO Garage ceiling batten on ceiling board.
- C1- BRICKWORK - CEMENT BRICK'S 7mpz**
 EXTERIOR WALLING
 WALLS - Exterior 250mm Cement brick plaster inside and plastered outside. Brick fones every 3 courses
 GENERAL
 All masonry 3 courses to have girth bricks for full length of wall
 Prestressed concrete lintole over all openings > 900mm and < 3000mm with 2 courses of reinforced brickwork over 2 courses (400mm) of reinforced brickwork below wallplate.
 2 Ply masonry or concrete 30mm to walls at FFL as PPC. FFU
 PC TO TOP OF FINISH FLOOR LEVEL
WINDOWS & DOORS
 WINDOWS - Energy Efficient Casework. All Glazing to comply with requirements of SANS 10137 & SANS 10400 Part N. Access doors and side lights, windows lower than 500mm of FFL, windows lower than 1800mm above pitch line of stairs and shop fronts to be safety glass and clearly indicated as such on glass at eye level.
 Internal Window cills: 150x15mm fibre cement boarding.
FENESTRATION
 Glazing elements are calculated from Smart Glass as Solar Vase & Intra-pute low E Neutral XHL (50%) with the following ratings: U-Value - 2.0 solar. Heat gain coefficient -0.39. Ground and Lower Ground floor ratio calc. are within 20% and therefore comply with new SANS 2022 requirement. Fenestration calc. page 2



NORTH ELEVATION

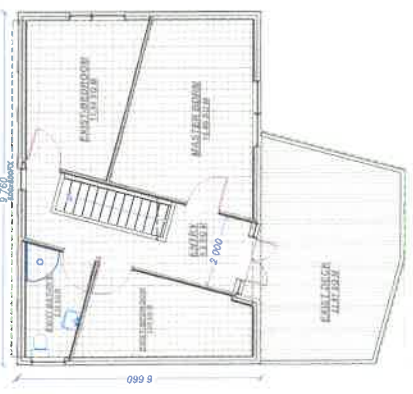


WEST ELEVATION



EAST ELEVATION

1ST FLOOR LAYOUT



GROUND FLOOR LAYOUT



AREA'S in m ²	
Site	600
Excl. GF	96.85
Braai area	11.5
1st FL	65.0
Total	175.35
Addition GF	122.8
1st FL	22.3
New footprint	145.1
Percentage	233.15
	36.856%

Page 1: - Floor-plans ; Elevations ; Legend
 Page 2: - Site plan ; Sections ; R-Val calc
 Fen stration calc

Project Details:
"AS IS PLAN" RIDER to Plan no. 3802 with proposed Additions/Alteration FOR OWNER

Erf no. 1537 Address: 35 Demy's Rd. Pringle Bay
 Owner: Mrs. B. Blom
 DESIGN: Intellectual Property and copy right is owned by Jan W. Schaap

COMPROP designs
 Architectural Consultants & Planners
 Tshali Vuytschraeff's Bay/Memoria, RSA
 Email: compropdesign@gmail.com
 Web site: www.compropdesign.weebly.com
 SACAP reg no. 872839
 Call: - 082 884 2221
 Fax: - 085 224 2433

Date: 30/09/2023
 Project no: P231015 B
 Drawn: 1/12
 Scale: 1:100 or as stated
 J.W. Schaap

COMPROP designs :
 These drawings are drawn under the supervision of J.W. Schaap who is duly registered with the SACAP as a Professional Senior Architectural Technologist reg. no. 825397
 These drawings either approved or unapproved remain the property of Comprop Design until all fees and disbursements due to Comprop Design have been paid in full.

GROUND FLOOR LAYOUT

Annexure D 1/4

53

3B Village Lane
Hemel & Aarde Village
Sandbaai
Hermanus

Prepared by me



CONVEYANCER
LOUIS RUDOLPH LE ROUX (82492)

Deeds Office Registration fees as per Act 47 of 1937		
	Amount	Office Fee
Purchase Price	R. 1 950 000-00	R. 1453-00
Reason for exemption	Category Exemption.....	Exemption i to. Sec/Reg..... Act/Proc.....

30-03-2023

T 000024962 / 2023

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

LYNNE BOTHA (82076)

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him/her by

Sonja Oosthuizen (formerly LANCASTER)
Identity Number 761008 0018 087
and
Gavin John Oosthuizen
Identity Number 640514 5029 083
Married in community of property to each other

which said Power of Attorney was signed at Hermanus on 22 March 2023

And the appearer declared that his/her said principal had, on 20 January 2023, truly and legally sold by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

Brilaine Blom
Identity Number 680731 0237 088
Unmarried

her Heirs, Executors, Administrators or Assigns, in full and free property

Erf 1537 Pringle Bay
In the Overstrand Municipality
Division Caledon
Western Cape Province

IN EXTENT 600 (SIX HUNDRED) Square metres

FIRST TRANSFERRED by Deed of Transfer No. T46818/1981 with General Plan No. TP 8158 relating thereto and held by Deed of Transfer No. T63619/2011.

A. SUBJECT to the conditions referred to in Deed of Transfer No T14827/1970.

B. SUBJECT FURTHER to the conditions contained in Deed of Transfer No. T46818/1981, imposed by the Administrator when approving the establishment of Pringle Bay Township Extension No. 3 in terms of Ordinance 33 of 1934 namely:

1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Notice No. 623 dated 14th August 1970.
2. In the event of a Town Planning Scheme or any portion thereof applying or being made applicable to this erf, any provisions thereof which are more restrictive than any conditions of title applicable to this erf shall take precedence. Furthermore, nothing in these conditions shall be construed as overriding the provisions of section 146 of Ordinance No. 15 of 1952, as amended.
3. The owner of this erf shall, without compensation be obliged to allow electricity cables and/or wires and main and/or other waterpipes and the sewage and drainage, including stormwater of any other erf or erven inside or outside this township to be conveyed across this erf, if deemed necessary by the local authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time for the purpose of construction, altering, removing or inspecting any works connected with the above.

4. The owner of this erf shall be obliged, without compensation to receive such material or permit such excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.
5. No building on this erf shall be used or converted to use for any purpose other than that permitted in terms of these conditions.
6.
 - (a) This erf shall be used solely for the purpose of erecting thereon one dwelling or other buildings for such purposes as the Administrator may, from time to time after reference to the Townships Board and the local authority, approve, provided that if the erf is included within the area of a Town Planning Scheme, the local authority may permit such other buildings as are permitted by the scheme subject to the conditions and restrictions stipulated by the scheme.
 - (b) No buildings or structure or any portion thereof except boundary walls and fences, shall except with the consent of the Administrator, be erected nearer than 5m to the street line, which forms a boundary of this erf, nor within 3m of the rear or 1.5m of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority-
 - (i) 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 outbuilding 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 street abutting the erf.
 - (ii) an outbuilding in terms of sub-paragraph (i) may only be erected nearer to a lateral or rear boundary of a site than the above prescribed spaces if no windows or doors are inserted in any wall facing such boundary.
 - (c) On consolidation of this erf or any portion thereof with any abutting erf which is subject to the same conditions as herein set forth these conditions shall apply to the consolidated holding as if it was one erf.
 - (d) In the event of this erf being subdivided each subdivided portion, other than any portion deducted for road or similar purposes, shall be subject to the conditions herein set forth as if it were the original erf.

WHEREFORE the said Appearer, renouncing all rights and title which the said

SONJA OOSTHUIZEN and GAVIN JOHN OOSTHUIZEN, Married as aforesaid

heretofore had to the premises, did in consequence also acknowledge them to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

BRILAINE BLOM, Unmarried

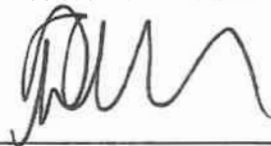
her Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R1 950 000,00 (ONE MILLION NINE HUNDRED AND FIFTY THOUSAND RAND) .

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on

22 June

2023



q.q.

In my presence



REGISTRAR OF DEEDS



Posbus 20
HERMANUS
7200

Tel: (028) 3138089
Fax: (028) 3132822
e-mail: elowings@overstrand.gov.za

P O Box 20
HERMANUS
7200

BUILDING ON REAR AND SIDE BOUNDARIES

NAME OF APPLICANT

Jan W. Schaap of Comprop Design's

ERF NO. 2675

STREET ADDRESS

Porter Drive, Betty's Bay

NOTE : REASONS FOR REFUSAL MUST BE STATED AND IF NOT, IT WILL BE ASSUMED THAT THERE ARE NO LEGITIMATES GROUNDS FOR REFUSAL

IF THE ERF IS REGISTERED IN A TRUST, THE PERSON SIGNING ON BEHALF OF THE TRUST MUST PROVIDE POWER OF ATTORNEY.

1) ABUTTING OWNER'S COMMENTS

We, ...**Lochner Fam Trust**.. the owner of ERF 1538PB which abuts ERF 1537PB., have seen the drawing showing the structure to be erected thereon, and wish to comment as follows:-

I do / do not hereby grant permission to the Applicant to carry out the proposed building work.

SIGNED..... *[Signature]*

DATE..... *12 Nov 2023*

2) ABUTTING OWNER'S COMMENTS

We **Stanfast Trust** the owner of ERF 1536PB.....which abuts ERF 1537PB....., have seen the drawing showing the structure to be erected thereon, and wish to comment as follows:-

I do / do not hereby grant permission to the Applicant to carry out the proposed building work.

SIGNED..... *[Signature]*

DATE..... *12/11/2023*



PRINGLE BAY RATEPAYERS' ASSOCIATION
PRINGLEBAAI BELASTINGBETALERSVERENIGING

SARS Reg. 9101/138/16/3

NPO Reg. 214-205

www.pringlebayratepayers.co.za

P O Box 409, Pringle Bay, 7196 / Posbus 409, Pringlebaal, 7196

Chairman / Voorsitter: chairman@pringlebayratepayers.co.za / Tel: 084 222 1242

TP - A Theart
(H vld Stoep)

5 JUNE 2024

The Municipal Manager
OVERSTRAND MUNICIPALITY
PO BOX 20
HERMANUS
7200

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
15 JUL 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

PER EMAIL: loretta@overstrand.gov.za

SUBJECT: ERF 1537 35 DENNYS ROAD, PRINGLE BAY: APPLICATION FOR DEPARTURE AND RELAXATION OF TITLE DEED: COMPROP DESIGNS ON BEHALF OF B BLOM

PREAMBLE

I, the undersigned, ALBERT WILLEM VORSTER (Identity no. 611004 5027 084) in my capacity as representative of the PRINGLE BAY RATEPAYERS' ASSOCIATION (hereafter referred to as PBRA, being a separate legal entity having a constitution, in terms of which it has a right, inter alia, to sue and to be sued), on behalf of our members who have granted a mandate to the PBRA to, among others, comment on and provide input on land use applications referred to the PBRA, hereby wishes to submit comments on behalf of the PBRA regarding the subject application.

1. ORGANISATION

The Pringle Bay Ratepayers' Association (PBRA) was started in 1967 by the first property owners of Pringle Bay to represent the interests of ratepayers and residents. Today it is a registered Non-Profit, Public Benefit Organisation.

Our primary function is to liaise with the Overstrand Municipality, with whom we enjoy a close relationship and to support local environmental conservation. We represent the community on the local Ward Committee and other consultative bodies. We maintain close contact with local authorities and service providers, particularly on matters affecting ratepayers and residents.

The PBRA represents the ratepayers within the declared Urban Edge. This currently constitutes approximately 1,800 properties (erven) of which approximately 1,200 are developed (thus having a habitable structure erected on it either for residential or business purposes).

FILE NO. Erf 1537-KPRB ✓
SCAN NO.
KPRB 1537
COLLABORATOR NO.
2083161

TP
15 JUL 2024

2. TWO ASPECTS NEED TO BE ADDRESSED

- 2.1. The first aspect in our opinion that needs to be addressed is the conformance to the Overstrand Municipal Land Use Scheme (2020) requirements for applications of this nature.
- 2.2. The second aspect in our opinion that needs to be addressed is the conformance to the Title Deed Requirements related to the subject erf.

These aspects are discussed in the following paragraphs.

3. OVERSTRAND MUNICIPALITY LAND USE SCHEME, 2020

- 3.1. The Town & Spatial Planning Department's requirements for a submission of this nature is described in the "TOWN & SPATIAL PLANNING APPLICATION FORM (2023/2024)", which clearly makes reference to:

Annexure A: Application Submission and Procedural requirements
 Annexure B: Motivational Report Guidelines
 Annexure C: Planning Principles
 Annexure D: Application Submission Checklist
 Annexure E: Categorization of Applications
 Annexure F: Conveyance Certificate (Template)

- 3.2. We are of the opinion that the application does not conform to the requirements referenced in 3.1 above.

On 28 May 2024, the PBRA enquired/requested the OM Town & Spatial Planning Department per email as follows:

".....

Subject: Re: Erf 1537 Pringle Bay (Departure & Relaxation of Title Deed): Request for comment

Dear Ms Isaacs and/or Gillion

Please refer to the email below in which PBRA is requested to provide comments.

In order for us to properly consider the application, we please request a copy of the Title Deed and the Conveyancer Certificate and any other documents that accompanied the application.

We are looking forward to receiving your reply.

Kind Regards
 Bertie Vorster
 obo PBRA"

On 31 May 2014, we received the following reply:

".....

Subject: RE: Erf 1537 Pringle Bay (Departure & Relaxation of Title Deed): Request for comment

Date: 31 May 2024 at 14:31:13 SAST

....

Dear Sir

Attached please find the Title Deed, as requested. A conveyancer certificate is not on file.

Regards

Loretta Gillion

Administrator : Town & Spatial Planning
Overstrand Municipality"

Considering Annexure D referenced in 3.1 above, the applicant thus submitted an incomplete application. Applications should be in terms of application types "(b) *Departure- Permanent*" and "(f) *Amendment/deletion of restrictive conditions*". As per the Town & Spatial Planning Department's reply above, several supporting documents apparently are not on file at the OM.

Furthermore, in our letter of 21 June 2021 to the Director Infrastructure, and again on 2 November 2022 in a memorandum to the Executive Mayor, we have pointed out that non-compliant applications should not be advertised.

It has happened in several cases in the recent past that applications that from the outset do not comply with the OM Zoning Scheme Regulations are advertised for comments and then withdrawn after comments/objections are received. The applications are then afterwards cosmetically brushed up and substantially the same applications are readvertised.

We wish to point out that the OM has the power in terms of its by-law to refer a non-compliant application back. We ask please that the OM officials scrutinize an application comprehensively upon receiving same to ensure conformance to the published procedures highlighted in paragraph 3.1 above.

- 3.3. The "Motivation Report" not only is misleading by stating among others "*Proposed Development*", " ... *Proposed Additions* ..." The Applicant in its own admission states " ... *as per attached photo where existing uncovered balcony was previously constructed without neighbours objection.*", "**existing**" being our emphasis.
- 3.3.1. There is no proof in the Title Deed forwarded to us that a removal, amendment or suspension of a restrictive Title Deed Condition occurred to legalise the apparent illegal structures including the balcony previously constructed.

An article by Schindler's Attorneys titled "*Illegal Buildings*", Dated September 2020 which states all the applicable legislation and also addresses the following salient points:

- a) Responsibility for Enforcement

- b) Can Neighbours/Communities/Ratepayers' Associations Enforce Building Laws
- c) Type of Court Order Applied For
- d) Will a Court *really* grant us a Demolition Order?
- e) What if I am Unhappy with the Approved Building Plans?
- f) What if I am Happy with the Approved Building Plans, but the Building is not Built in Line with them?
- g) An Amicable Alternative, which states the following:

*"It is possible to approach the builder or owner of an illegal building with a view to coming to an agreement that measures will be put in place to relieve the impact of the illegal building. When this happens, the aggrieved neighbour may be satisfied that he is no longer being affected by the illegal building works and may do away with the need for expensive court action. **However, just because the neighbour is no longer unhappy with the illegal building, this does not make it lawfully compliant. An illegal building will remain illegal until such time as it becomes compliant with the relevant building laws. The neighbour's consent to the illegal building works similarly does not render those building works lawful. It is thus no defence to claim that building works are not illegal because the neighbour knew about them and consented to them, or knew about them and did not complain about them.**" (our emphasis)*

We submit that the current building constitutes an illegal building in terms of the Overstrand Land Use Scheme Regulations 2020 and needs to be regularised through the appropriate process, whether it be an Administrative Penalty or the issuance of a Demolition Order.

- 3.4. The applicant further states: " ... *The proposed additions are in keeping with the original design principals....*", but fails to explain what those are. One would expect that the "*original design principles*" would have been to design and construct within the requirements of the Land Use Scheme regulations and/or Title Deed restrictive conditions requirements. No evidence is presented that building footprints apparently already constructed conform to any of these. We are not aware of previous applications/approvals for relaxations/removal/amendments/suspension of any sort that would imply legality of the existing buildings already in transgression of these requirements.
- 3.5. The applicant states: "*Consent from both neighbour's being erven 1536 & 1538 has been obtained*", but fails to indicate why the owners of erven 1544, 1545, 1546, 1521 and 1524 were not included in obtaining consent for the "*proposed additions*".

Apart from stating in the application that consent was obtained, judging on the reply from OM as per paragraph 3.2 above, it is apparent that the applicant has not submitted letters of consent in accordance with the OM requirements.

Failure by the applicant to follow the mandatory requirements of National, Provincial and OM legislation, may render a decision by the MPT appealable. We wish to point out that the Overstrand Municipality must ensure compliance in this regard as is stated in their *"Notification to potentially affected property owners"* that nowadays normally accompany applications. We could not identify any statement in the Application that all potential affected parties were indeed given notice. The onus of verification in this regard thus remains with the OM.

- 3.6. As part of the motivation, the applicant must also indicate that the policies, principles and planning and development norms and criteria as set out in Section 42 of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA) and Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014) (LUPA) were considered and that the proposed application is in compliance with these. The principles are spatial justice, spatial sustainability, efficiency, spatial resilience, and good administration.

We fail to identify how the applicant has addressed these aspects in the application.

- 3.7. It is our considered opinion that the application is inadequate to allow proper consideration for comment(s) as is requested by the OM.

We therefor request that the application be withdrawn only to be resubmitted after addressing and including the requirements as pointed out above.

Furthermore, the applicant should forthwith cease the present building operations until appropriate approvals have been granted.

4. TITLE DEED CONDITIONS

- 4.1. In terms of Section 41 of SPLUMA, No. 16 of 2013 the Municipality is the decision-making authority of land use applications, including an application for the removal, amendment or suspension of a restrictive condition. The principles, norms and standards and requirements as listed in Section 42 of SPLUMA, No 16 of 2013 and Section 35(4) of the Overstrand Municipality By-Law on Municipal Land Use Planning will form the basis for the decision making process and therefore should be discussed as part of the motivation.

- 4.2. We submit that the applicant has neglected to address the restrictive Title Deed Conditions applicable to Erf 1537.

- 4.3. The Title Deed, amongst others, states the following:

"5. No building on this erf shall be used or converted to use for any purpose other than that permitted in terms of these conditions.

a)

b) *No buildings or structure or any portion thereof except boundary walls and*

fences shall except with the consent of the Administrator be erected nearer than 5m to the street line which forms a boundary of this erf nor within 3m of the rear or 1.5m of the lateral boundary common to any adjoining erf provided that with the consent of the local authority-

(i) 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 outbuilding 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 street abutting the erf

(ii) an outbuilding in terms of sub paragraph (i) may only be erected nearer to a lateral or rear boundary of a site than the above prescribed spaces if no windows or doors are inserted in any wall facing such boundary

c)"

4.4. The applicant seems to confuse the requirements of the Land Use Scheme Regulations of a 2m lateral building line with the corresponding 1.5m requirements in the Title Deed. Over and above applying for a relaxation of the Land Use Scheme Regulation (2020) requirements, based on the above-mentioned, we are of the opinion that the applicant must also apply for a removal, amendment or suspension of a restrictive Title Deed Condition, which, according to the subject of the application, is what is attempted albeit using the wrong set of requirements.

4.5. The application does not explain at all to what extent any of the above-mentioned Title Deed Conditions are met or not. We would submit that such omission renders the application incomplete.

We therefore request that the application be withdrawn to be resubmitted to officially address the aspects highlighted above.

5. CONCLUSION

In summary we conclude as follows:

- 5.1. That the application appears to be incomplete in terms of the requirements of both the OM Land Use Scheme (2020) requirements (refer to our paragraph 3 above) as well as of the applicable Title Deed Requirements (refer to our paragraphs 4 above).
- 5.2. We therefore request that the application be withdrawn only to be resubmitted after addressing and including the requirements as pointed out in paragraph 5.1 above.



We sincerely request that you will please be so kind to acknowledge receipt of our comments/objection and to take the necessary steps outlined above.

Kind regards

AW Vorster
Obo: Pringle Bay Ratepayers' Association

Loretta Gillion

From: Bertie Vorster <bvossie04@gmail.com>
Sent: Wednesday, 05 June 2024 17:53
To: Loretta Gillion
Cc: chairman@pringlebayratepayers.co.za; Heather Morkel
Subject: Re: Erf 1537 Pringle Bay (Departure & Relaxation of Title Deed): Request for comment
Attachments: PBRA Erf 1537 - PBRA Comments (FINAL - 5 June 2024).pdf

Dear Ms Gillion

Please refer to your trailing email dated 27 May 2024 related to Erf 1537 Pringle Bay.

As per your request, we hereby submit our comments related to the subject matter.

The attached document titled "**PBRA Erf 1537 - PBRA Comments (FINAL - 5 June 2024).pdf**" addresses our interest in the application as well as our comments.

Through this submission we consider ourselves as registered parties wishing to receive all future relevant communication in this regard. Communications can be via email to chairman@pringlebayratepayers.co.za and CC secretary@pringlebayratepayers.co.za and bvossie04@gmail.com

We sincerely request that you acknowledge by return email that you have received this email as well as the mentioned attachments.

Yours Sincerely

AW Vorster
 obo PBRA

From: Loriaan Isaacs <loriaanisaacs@overstrand.gov.za>
Subject: Erf 1537 Pringle Bay (Departure & Relaxation of Title Deed): Request for comment
Date: 27 May 2024 at 10:42:30 SAST
To: "chairman@pringlebayratepayers.co.za" <chairman@pringlebayratepayers.co.za>, Secretary <secretary@pringlebayratepayers.co.za>, "vicechair@pringlebayratepayers.co.za" <vicechair@pringlebayratepayers.co.za>
Cc: Loretta Gillion <loretta@overstrand.gov.za>

Dear Sir / Madam

Attached please find a copy of the application for your attention. Kindly provide the Ratepayer Association's comments directly to Loretta Gillion (loretta@overstrand.gov.za) on or before **5 July 2024**.

Loretta Gillion

From: Jan Schaap <compropdesigns@gmail.com>
Sent: Sunday, 06 October 2024 19:19
To: Loretta Gillion
Subject: ERF 1537PB - departure application

Hi Loretta

In the response from the Pringle Ratepayers association, it refers to neighbours' consent of erven 1544, 1545, 1546, 1521 and 1524 where I was only requested to obtain only consent from neighbour's erven 1536 and 1538. We furthermore were requested to display on the street boundary a A2 form of our application for 1 month from 05 June 2024 to 05 July 2024. Proof of this was forwarded to your office.

If we are required to obtain consent of those neighbours that were omitted as per the above kindly supply their names and their contact details.

Kind regards

Jan W. Schaap - Pr.S.Arch.T

COMPROP DESIGNS

SACAP Reg no:ST2539

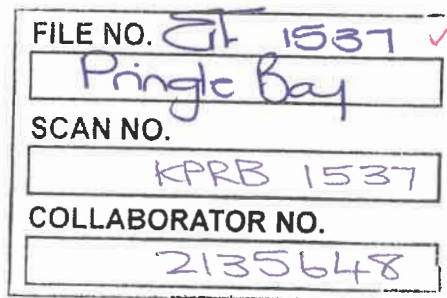
Overstrand

2675 Porter Drive, Betty's Bay

Cell: 082 684 3221

Email: compropdesigns@gmail.com

*TF- N. Scheep
(kl. ud Sloep)*



-7 OCT 2024

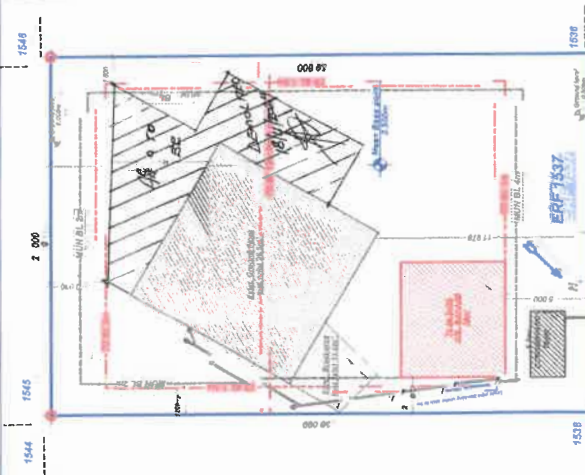
LEGEND

A1 - GALVANIZED ROOF
SA Pine Trims @ 100mm
Each rafter to be
into 4 courses of rafters
@900 cbs and 600mm
Barge Boards 220x12
Eng. detailed.

B1 - BRICKWORK
EXTERIOR WALLING
WALLS - Exterior 230m
courses outside. 150m
Each skin every 3 courses.
Prestressed concrete,
3000mm with 2 courses
(400mm) of reinforced
2 Ply meshrod or Gun
DPC to be min of 100mm

C1 - DOORS & WINDOWS & EXT.
All Glazing to comply
with 1000 Pa. - Accept
1000 Pa. - Accept
stake and ship track
such on glass at eye
ht. door frames prest.
& Interned Window

D1 - FLOOR
GROUND FLOOR-R
cement screed on 100
on 150mm
Engineer detailed.



SITE LAYOUT scale 1:200

OVERSTRAND MUNICIPALITY
 Planning File No. 15539
 approved in terms of the National Building Regulations
 and Building Standards Act No. 103 of 1977 and in
 other respects in accordance with the Building Control Officer
 Date: 25 NOV 2015