



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

MINUTES

DATE:	31 MAY 2017
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	14:00

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE TOWN PLANNING COMMITTEE ROOM, HERMANUS, ON 31 MAY 2017, AT 14:00

PRESENT:

MEMBERS:

Mr C Groenewald, Municipal Manager
Mr S Müller, Director : Infrastructure & Planning
Mr R Williams, Director : Community Services
Ms H Janser, Directorate Development
Management

OFFICIALS:

Mr R Kuchar, Senior Manager : Town Planning &
Property Management
Mr P Roux, Town Planner
Ms H van der Stoep, Senior Town Planner
Ms S Swart, Council Support Services

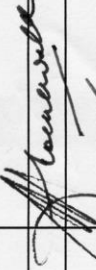
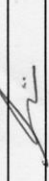
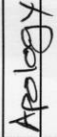





APOLOGIES:

Mr S Madikane, Director : LED

ALSO PRESENT:

Members of the Public

ATTENDANCE REGISTER : MEETING OF MUNICIPAL PLANNING TRIBUNAL : 31 MAY 2017 AT 14:00

NAME	DESIGNATION	ORGANISATION	TEL. NO.	E-MAIL ADDRESS	SIGNATURE
C GROENEWALD	CHAIRPERSON	OVERSTRAND MUNICIPALITY	028 313 8003	cgroenewald@overstrand.gov.za	
S MULLER	VICE-CHAIRPERSON	OVERSTRAND MUNICIPALITY	028 313 8019	smuller@overstrand.gov.za	
S MADIKANE	MPT MEMBER	OVERSTRAND MUNICIPALITY	028 313 8066	smadikane@overstrand.gov.za	
R WILLIAMS	MPT MEMBER	OVERSTRAND MUNICIPALITY	028 313 8029	rwilliams@overstrand.gov.za	
R KUCHAR	AUTHORISED OFFICIAL	OVERSTRAND MUNICIPALITY	028 313 8087	rkuchar@overstrand.gov.za	
H JANSER	MPT MEMBER	DIR: DEV MANAGEMENT	021 483 3544	Helene.Janser@westerncape.gov.za	
S VAN DER MERWE	SR TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8938	svandermerwe@overstrand.gov.za	
H VAN DER STOEP	SR TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8906	hvanderstoep@overstrand.gov.za	
H GHVIER	TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8900	holivier@overstrand.gov.za	
S SWART	COUNCIL SUPPORT	OVERSTRAND MUNICIPALITY	028 313 8006	sswart@overstrand.gov.za	
PETRUS ROUX	TOWN PLANNER	OVERSTRAND MUNICIPALITY	283 138 900	proux@overstrand.gov.za	

1. OPENING

The Chairperson, Mr C Groenewald, welcomed those present.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Mr S Madikane

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 26 April 2017****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **26 April 2017, be confirmed.**

4. ITEMS FOR CONSIDERATION

4.1 ERF 2656, 89 CLARENCE DRIVE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURE : J INNES ON BEHALF OF CERATONIA (PTY) LTD

EXECUTIVE SUMMARY

Applications have been received on 2 September 2016 from J Innes on behalf of Ceratonia (Pty) Ltd on Erf 2656, Betty's Bay for the following:

- ❖ Application for a removal of restrictive title conditions with reference to Clauses D.A.(b) & D.A.(d) of Title Deed T24494/2016 applicable to Erf 2656, Betty's Bay in terms of Section 16(2)(f) of Overstrand Municipal Planning By-Law, 2016, in order to accommodate the following:
 - A second dwelling unit on abovementioned property; and
 - An encroachment of the proposed existing deck on first floor level over the 1,57m title deed lateral building line with Erf 2655.

The restrictive title conditions read as follows:

“D. SUBJECT FURTHER to the following special conditions contained in Deed of Transfer T12724/1949, namely:

A. As being in favour of the registered owner of any erf in the Township and subject to amendment or alteration by the Administrator under the provisions of Section 18(3) of Ordinance No. 33 of 1934:-

(b) that only one dwelling, excluding licenced hotels, maalsonettes and semi-detached buildings, together with such outbuildings as are ordinarily required to be used therewith, be erected on this erf;

(d) that no building or structure or any portion thereof, except boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary to this erf. No such building or structure shall be situated within 1,57 metres of the lateral boundary common to any adjoining erf.”

- ❖ Application for a departure in terms of Section 16(2)(b) of Overstrand Municipal Planning By-Law, 2016, to relax the following:
 - Lateral building line with Erf 2655 from 2m to 0,5m to accommodate a proposed existing deck on first floor level; and

- Lateral building line with Erf 3496 from 2m to 1,57m to accommodate the existing external staircase and second dwelling unit on ground floor level, as well as a proposed new deck on first floor level.

RESOLVED:

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 on Erf 2656, Betty's Bay for the removal of restrictive conditions D.A.(b) of Title Deed T24494/2016 to accommodate the proposed second dwelling on first floor level above the garages in the existing outbuilding, **be approved**, subject to the following condition:
 - (a) that the servant's quarters be converted into a store room, because it does not comply with the definition of a second dwelling; and
 - (b) that the second dwelling may not exceed 120m². Should the floor area of the second dwelling exceed 120m², an application for departure must be lodged.
2. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 on Erf 2656, Betty's Bay for the removal of restrictive conditions D.A.(d) of Title Deed T24494/2016, **not be approved**, due to the following reasons:
 - (a) the wrap around balcony of the proposed second dwelling is illegally constructed;
 - (b) it is not in line with any development parameters since 1949 and the contrary has not been proven;
 - (c) there was no motivation why the balcony cannot comply with the Title Deed and the Scheme Regulations building lines, and
 - (d) the fact that it is existing and illegal is not reason enough to approve the removal of the conditions to legalise the balcony.
3. that the application for a departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 on Erf 2656, Betty's Bay to relax the lateral building line with Erf 3496 from 2m to 1,57m to accommodate the existing external staircase, **be approved**,

4. that the application for a departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 on Erf 2656, Betty's Bay to relax the eastern lateral building line of the 2m of the existing corner of the proposed second dwelling structure, **be approved**,
5. that the approvals in Points 3. and 4. be subject to the following conditions:
 - (a) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (b) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
 - (c) that all the conditions in the Services Report be complied with, and
 - (d) that building plans be submitted to the Building Department for approval, and that all conditions of the Building – and the Fire Department be complied with at that stage.
6. that the application for a departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 on Erf 2656, Betty's Bay to relax the lateral building line with Erf 2655 from 2m to 0,5m to accommodate a proposed existing deck on first floor level and a second dwelling unit on ground floor level, as well as a proposed new deck on first floor level, **not be approved**, due to the following reasons:
 - (a) the applicant cannot prove that the balcony was built legally, since it does not comply with the Title Deed, previous Scheme Regulations 8 and the Overstrand Zoning Scheme Regulations;
 - (b) the Overstrand Municipality does not view any transgression over the building lines on first floor level positively;
 - (c) the reasoning that the adjacent erf is undeveloped does not hold water, since it is the responsibility of the Municipality to ensure fairness to all its citizens and not to cater for only one owner, and
 - (d) the fact that the balcony is built illegally and is existing does not warrant an automatically legalizing of the structure. The balcony can be set back to the 2m building line and will have no effect on the applicant.

7. that building plans reflecting the approval be submitted to the Building Control Department within three (3) months of the decision.
8. that the braai roof be within the 8m height restriction, since it was not part of the application.
9. that no occupation certificate be issued until all the structures on the property complies with the National Building Regulations and the Scheme Regulations as well as the Title Deed.
- 10 that the applicant and objectors be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2016 with regard to the above conditions of approval.

4.2 ERF 6187, 12 HARBOUR ROAD, KLEINMOND, OVERSTRAND MUNICIPAL AREA : PROPOSED CONSENT USE : WC NIEMAND ON BEHALF OF GJ VAN EEDEN

EXECUTIVE SUMMARY

Applications have been received on 8 July 2016 from WC Niemand on behalf of GJ van Eeden on Erf 6187, Kleinmond for a consent use in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 in order to operate a place of entertainment (five (5) slot machines) on the property concerned.

RECOMMENDATION

1. that the application for a consent on Erf 6187, Kleinmond in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 for a Place of Entertainment for five (5) slot machines, **be approved**, subject to the following conditions:
 - (a) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (b) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
 - (c) that this approval is restricted to only five (5) slot machines;
 - (d) that building plans reflecting the approval be submitted to the Building Control Department for approval and that all conditions of the Building – and the Fire Department and the Overstrand Zoning Scheme;

- (e) should the footprint of the building be extended at any stage, the applicant will have provide parking according to the Overstrand Zoning Scheme; and
 - (f) that all the conditions in the Services Report be complied with.
2. that the applicant and objectors be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2016 with regard to the above conditions of approval.

Additional documents with reference to Erf 10558, Hermanus were tabled and it was decided that the full item be resubmitted at the next meeting of the Municipal Planning Tribunal scheduled for 28 June 2017.

The meeting adjourned at 14:27