



MEETING OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

MINUTES

DATE:	10 OCTOBER 2018
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	11:00

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE TOWN PLANNING COMMITTEE ROOM, HERMANUS, ON 10 OCTOBER 2018, AT 11:00

PRESENT:

MEMBERS:

Mr S Müller, Director : Infrastructure & Planning
Mr R Williams, Director : Community Services
Ms D Arrison, Director : Management Services



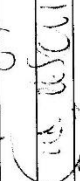




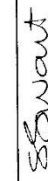
OFFICIALS:

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

APOLOGIES:

Mr S Madikane, Director : LED
Ms Y Mabentsela, Directorate Development
Management

ATTENDANCE REGISTER : MEETING OF MUNICIPAL PLANNING TRIBUNAL : 10 OCTOBER 2018 AT 11:00

NAME	DESIGNATION	ORGANISATION	TEL. NO.	E-MAIL ADDRESS	SIGNATURE
S MULLER	CHAIRPERSON	OVERSTRAND MUNICIPALITY	028 313 8019	smuller@overstrand.gov.za	
R WILLIAMS	VICE-CHAIRPERSON	OVERSTRAND MUNICIPALITY	028 313 8029	rwilliams@overstrand.gov.za	
S MADIKANE	MPT MEMBER	OVERSTRAND MUNICIPALITY	028 313 8066	smadikane@overstrand.gov.za	Apology
D ARRISON	MPT MEMBER	OVERSTRAND MUNICIPALITY	028 313 8004	darrison@overstrand.gov.za	
Y MABENTSELA	MPT MEMBER	DIR: DEV MANAGEMENT	081 416 8977	yolisa.mabentsela@westerncape.gov.za	Apology
R KUCHAR	AUTHORISED OFFICIAL	OVERSTRAND MUNICIPALITY	028 313 8087	rkuchar@overstrand.gov.za	
S VAN DER MERWE	SR TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8938	svandermerwe@overstrand.gov.za	
H VAN DER STOEP	SR TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8906	hvanderstoep@overstrand.gov.za	
P ROUX	TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8900	petrusroux@overstrand.gov.za	
H OLIVIER	TOWN PLANNER	OVERSTRAND MUNICIPALITY	028 313 8006	holivier@overstrand.gov.za	
S SWART	COUNCIL SUPPORT	OVERSTRAND MUNICIPALITY	028 313 8006	sswart@overstrand.gov.za	

1. OPENING

The Chairperson, Mr S Müller, opened the meeting and welcomed those present. He explained that the agenda of the postponed meeting of 27 September 2018 will be dealt with during this meeting.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Mr S Madikane
Ms Y Mabentsela

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 30 August 2018**

To be confirmed at the next Municipal Tribunal meeting.

4. ITEMS FOR CONSIDERATION

4.1

ERF 4509, 29 DUIKER STREET, NORTHCLIFF, HERMANUS: OVERSTRAND MUNICIPAL AREA: REMOVAL OF RESTRICTIVE CONDITIONS, CONSENT USE AND DEPARTURE: MESSRS WRAP CONSULTANCY ON BEHALF OF T PRETORIUS

4509 HNC (3915)

S van der Merwe

13 August 2018

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application has been received on 23 February 2018 from Messrs WRAP Consultancy on behalf T Pretorius for the following:

RESOLVED:

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) on Erf 4509, Hermanus for the removal of the restrictive condition Clause C.(1) of Title Deed T10765/2018 applicable to Erf 4509, Hermanus in order to utilise the existing dwelling as a guest house, **be amended** to read as follows:

“that this erf be used primarily for residential purposes and other primary uses be subservient to the residential use;”

2. that the application in terms of Section 16(2)(f) of the afore-mentioned By-Law on Erf 4509, Hermanus for the removal of the restrictive condition Clause C.(2) of Title Deed T10765/2018 applicable to Erf 4509, Hermanus in order to utilise the existing dwelling as a guest house, **be amended** to read as follows:

“that dwellings, together with such outbuildings as are ordinarily required to be used therewith, be erected on this erf with the approval of the Local Authority;”

3. that the application in terms of Section 16(2)(f) of the afore-mentioned By-Law on Erf 4509, Hermanus for the removal of the restrictive conditions Clause C.(3) and C.(4) of Title Deed T10765/2018 applicable to Erf 4509, Hermanus in order to utilise the existing dwelling as a guest house, **be approved;**
4. that the application in terms of Section 16(2)(o) of the afore-mentioned on Erf 4509, Hermanus for a consent use in order to enable the owners to utilise the existing dwelling house on the property as a guest house, **be approved** in terms of the provisions of Sections 61 of the By-Law;

5. that the application for departure in terms of Section 16(2)(b) of the aforementioned By-Law to relax the rear building line from 2m to 1m and 1,45m respectively, **be approved** in terms of the provisions of Sections 61 of the By-Law;
6. that the amendments in paragraphs 1. and 2. and the approval in paragraphs 4. and 5. be subject to the following conditions:
 - (a) that the amount of guests be restricted to ten (10) people;
 - (b) that parking be provided on-site as per parking layout Plan 3: SDP, as submitted with the application;
 - (c) that a maximum of one (1) permanently demarcated parking bay per guest room and two (2) for the owner/manager be provided within the erf boundaries, subject to the approval of the Authorised Official;
 - (d) that the owner/manager resides on the premises, and that the owner be responsible for the proper management of the guest house;
 - (e) that no facilities (bar/restaurant or any other) be provided for non-residents of the guest house;
 - (f) that applicable rates and service tariffs, as determined by the annual budget be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (g) that the accommodation facility complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
 - (h) that a single non-illuminated sign that complies with the Municipal By-Law on Signage, may be displayed on the premises;
 - (i) that the guest house be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;
 - (j) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
 - (k) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (l) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;

- (m) that all the conditions in the Services Report be complied with; and
 - (n) that all conditions imposed by the Fire Department be complied with.
7. that the applicant and objector be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditions of approval.

RESPONSIBLE OFFICIAL :

S VAN DER MERWE

4.2

**ERF 905, 17 CENTRAL AVENUE, VERMONT, OVERSTRAND MUNICIPAL AREA:
REMOVAL OF RESTRICTONS, CONSENT USE AND DEPARTURE: MESSRS
ME PLANNERS ON BEHALF OF EN PRINSLOO**

905 HVM (3858)

H Olivier

24 August 2018

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application has been received on 20 November 2017 from Messrs ME Planners on behalf of EN Prinsloo on Erf 905, Vermont for the following:

- ❖ Removal of restrictive title conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the removal of the restrictive condition in Title Deed T026233/2010, Clause C. and E.(a) – (d):

“C. ONDERHEWIG aan die voorwaardes genoem in die Notariële Akte gedateer 11 April 1930, geheg aan Transportakte Nr. T9286/1925 en waarna verwys word in die Endossement daarop gedateer 29 April 1930, wat soos volg lees:

“By Notarial Deed dated 11.4.1930, a restriction has been imposed upon the remainder of the land held hereunder that no liquor shall be sold thereon without the consent of the present or future proprietors of the property held under transfer 53 dd. 5 Jan. 1918 as will more fully appear on reference to the copy annexured thereto.”

E. ONDERHEWIG VERDER aan die volgende voorwaardes genome in gesegde Transportakte Nr. 10669/1957 ten gunste van die Transportgewermaatskappy SOUTH WESTERN DISTRICTS LAND AND FINANCE CORPORATION LIMITED en die se opvolgens in titel as eienaars van die restant van die grond gehou kragtens Transportakte Nr. 7023/1935, naamlik:

“(a) SAVE with the consent of the TRANSFEROR COMPANY in writing no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 3,15metres to the street line which forms a boundary of the said property, and no such building or structure shall be situate within 1,57 metre of the lateral boundary common to the adjoining lot, nor save with the consent aforesaid, may the (or any lot, if the property sold comprises more than one lot) be subdivided.

(b) NO building shall be erected on the said property unless plans (including one showing siting of proposed buildings) and specifications

have been previously submitted and are approved by the TRANSFEROR COMPANY in writing in addition to the requirements of the Local Authority in control over the area of the Township.

- (c) *NO canteen, hotel, restaurant, shop, factory, industry or any place of business whatsoever shall be opened or conducted on the said property except with the consent in writing of the TRANSFEROR COMPANY.*
 - (d) *UNLESS the permission of the TRANSFEROR COMPANY in writing be obtained under condition (c) above the said property shall be used for residential purposes only and only one dwelling together with such outbuildings as are ordinarily required for domestic purposes shall be erected on any one lot and in particular, subject to any permission granted as aforesaid, no structure of the type commonly known as "flats" shall be erected on the said property.*
- ❖ Consent Use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Land Use Planning, 2015 in order to enable the owner to accommodate the existing greenhouse on the property.
 - ❖ Departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to depart from the Overstrand Zoning Scheme in order to relax the southern lateral building line from 2m to 0m to accommodate a carport and also the lateral building line with Erf 904 from 2m to 0m and 1,08m respectively to accommodate the existing braai and laundry and also to accommodate the usage change of the existing garage to a studio.

RESOLVED:

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) on Erf 905, Vermont for the removal of restrictive clause C. and E.(a) to (d) in Title Deed T026233/2010, **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 afore-mentioned By-Law on Erf 905, Vermont in order to relax the southern lateral building line from 2m to 0m to accommodate a carport and also the lateral building line with Erf 904 from 2m to 0m and 1,08m to accommodate the existing braai, laundry and hobby room (old garage) respectively, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the consent use application in terms of Section 16(2)(o) of the afore-mentioned By-Law to legalize an existing green house on the property, **be approved** in terms of the provisions of Section 61 of the By-Law;

4. that the approvals in points 1 to 3 above be approved subject to the following conditions:
 - (a) that the approval only relate to the buildings as indicated on Plan No 2017/10/58 dated 30 October 2017;
 - (b) that this approval does not relate to approval in terms of any other legislation;
 - (c) that building plans be submitted to the Building Department, and that all conditions set by the Building and Fire Departments at that stage, be complied with;
 - (d) that all structures on boundary lines must have a 60 minute fire resistance in compliance with the National Fire Protection Regulations SANS 10400T: 2011, to the satisfaction of the Fire Department;
 - (e) that all the conditions in the Services Report be complied with; and
 - (f) that a new site plan be submitted showing on-site parking in compliance with municipal requirements.

5. that the applicant be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

RESPONSIBLE OFFICIAL :

H OLIVIER

4.3

ERF 987, 30 MOFFAT STREET, HERMANUS (EASTCLIFF), OVERSTRAND MUNICIPAL AREA: REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: MESSRS PLAN ACTIVE TOWN- AND REGIONAL PLANNERS ON BEHALF OF PM HEYNS

987 HEC (3784)

P Roux

16 August 2018

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application has been received on 13 September 2017 from Messrs PlanActive Town- and Regional Planners on behalf of the owner of Erf 987, Hermanus (Eastcliff), PM Heyns, for the following:

- ❖ removal of restrictive title deed conditions in terms of Section 16(2)(f) of the Overstrand By-law on Municipal Land Use Planning, 2015 (By-Law) in order to conduct a dental practice from the residence and the retention of the existing carport; and
- ❖ departure in terms of Section (2)(b) of the By-Law to relax the lateral building line from 2m to 0m in order to retain the existing carport.

RESOLVED:

1. that the application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title conditions B A (a) as contained in Title Deed T48386/2017 applicable to Erf 987, Hermanus (Eastcliff), in order to be in line with the primary rights and development parameters applicable to single residential properties as set out in the Overstrand Zoning Scheme, **be approved** in terms of the provisions of Section 61 of the By-Law and subject to the following conditions:
 - (a) that this approval is for the development as indicated on the Site Development Plan that was submitted with the application;
 - (b) that building plans be submitted to the Building Department for approval;
 - (c) that the conditions compiled by the Fire Department be complied with;
 - (d) that applicable rates and service tariffs, as determined by the annual budget be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (e) that the dental practice complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;

- (f) that, should complaints be received regarding noise pollution due to the proposed land use or activity, the property owner at his/her cost appoint a specialist to conduct a noise impact assessment in accordance with SANS 10328 to establish whether the noise impact rating of the proposed land use or activity exceeds the appropriate rating level for a particular district as indicated in SANS 10103 **OR** the property owner at his/her cost must implement mitigating measures to impede the creation of noise levels which exceed the appropriate rating level for a particular district as indicated in SANS 10103;
 - (g) that all the conditions in the Services Report be complied with;
 - (h) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
 - (i) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
2. that the applicant and objector be notified of their respective appeal rights in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditional approvals.

RESPONSIBLE OFFICIAL :

P ROUX

4.4

PORTIONS 34, 35, 36 AND 37 OF THE FARM HEMEL AND AARDE NO. 587, DIVISION CALEDON, OVERSTRAND MUNICIPAL AREA: PROPOSED SUBDIVISION, DEPARTURE AND CONSOLIDATION: MESSRS PLAN ACTIVE TOWN- AND REGIONAL PLANNING ON BEHALF OF DEPSON 40 (PTY) LTD

RCAL 34, 35, 36 & 37/587 (3698)

H van der Stoep

(028) 313 8900

Hermanus Administration

16 August 2018

EXECUTIVE SUMMARY

An application has been received on 31 May 2017 from Messrs PlanActive Town- & Regional Planners on behalf of Depson 40 (Pty) Ltd on Portions 34, 35, 36 and 37 of the Farm Hemel and Aarde No. 587, in terms of Section 16(2)(b), (e) and (d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-law) for the following:

- ❖ departure to relax the building lines from 30m to 7m to accommodate the existing manager's dwelling on the newly created Remainder;
- ❖ consolidation of Remainder of Portion 34, Portion 35, Portion 36 and Portion 37;
- ❖ subdivision of the consolidated portion into three (3) portions and a remainder;
- ❖ subdivision of the remainder to register a pipeline servitude of 3m wide and two (2) pump station areas of approximately $\pm 97\text{m}^2$ and $\pm 75\text{m}^2$, respectively in favour of Portion C; and
- ❖ consent in terms of Act 21 of 1940 for the subdivision of land adjacent to a road under the jurisdiction of the District Road Engineer.

RESOLVED:

1. that the application received from Messrs Plan Active Town & Regional Planners on behalf of Depson 40(Pty) Ltd on Portions 34, 35, 36 and 37 Farm No. 587, Hemel and Aarde Valley in terms of Section 16(2)(b),(e) and (d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the following:
 - ❖ departure to relax the building lines from 30m to 7m to accommodate the existing manager's dwelling on the newly created Remainder;
 - ❖ consolidation of Remainder of Portion 34, Portion 35, Portion 36 and Portion 37;
 - ❖ subdivision of the consolidated portion into 3 portions and a remainder;
 - ❖ subdivision of the remainder to register a pipeline servitude of 3m wide and two (2) pump station areas of approximately $\pm 97\text{m}^2$ and $\pm 75\text{m}^2$, respectively in favour of Portion C; and
 - ❖ consent in terms of Act 21 of 1940 for the subdivision of land adjacent to a road under the jurisdiction of the District Road Engineer;

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

- (a) that the approval must be in accordance with the consent issued by Department of Agriculture, Forestry and Fisheries, Consent No. 53831;
 - (b) that proof of registered water certificates be submitted once the water allocation to Portion C has been approved by the Breede-Gouritz Catchment Management Area;
 - (c) that all the relevant conditions of Eskom, Department of Transport and Public Works, Telkom, Engineering Services and Department of Agriculture be complied with;
 - (d) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
 - (e) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.
2. that the applicant and objector be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditions of approval.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

4.5

ERF 533, 28 MADELIEFIE STREET, GANSBAAI (BLOMPARK): PROPOSED DEPARTURE AND CONSENT USE: MESSRS WARREN PETTERSON PLANNING ON BEHALF OF “DIE NEDERDUITSE GEREFORMEERDE SENDING GEMEENTE GANSBAAI-STANFORD”

533 GBP (3724)

**SW van der Merwe
21 August 2018**

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

To consider an application received on 30 June 2017 from Messrs Warren Petterson Planning on behalf of “Die Nederduitse Gereformeerde Sending Gemeente Gansbaai-Stanford” for the following:

Consent use

Application for consent use in terms of Sections 16(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to erect a 25m high transmission tower on Erf 533, Gansbaai (Blompark); and

Departure

Application for departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the following:

- departure of the 10,5m height restriction to permit a 25m transmission tower, and
- departure of the 5m street building line onto the property boundary (0m) in order to accommodate the transmission tower and equipment compound.

RESOLVED:

1. that the application in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for a consent use to permit a 25m transmission tower (lattice mast) and associated equipment compound as well as departure in terms of Section 16(2)(b) of the By-Law to encroach the 10,5m height restriction to 25m and the 5m building line onto the property boundary on Erf 533, Gansbaai (Blompark), **be approved** in terms of the provisions of Section 61 of the By-Law, be subject to the following conditions:
 - (a) that the placement of the transmission tower and associated infrastructure development occur in accordance with the Site Plan;

- (b) that the owner of the transmission tower must permit co-location of up to four (4) different operators on the installation;
 - (c) that the Senior Manager: Town- and Spatial Planning be notified prior to other operators being permitted on the transmission tower and be provided with the relevant details of the proposed installations by means of a Site Development Plan (SDP) prior to the submission of building plans;
 - (d) that all the relevant conditions of Engineering Services be complied with;
 - (e) that building plans be submitted to the Building Department for approval prior to the commencement of the development
 - (f) that commercial rates and service tariffs, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (g) that Council reserves the right to rescind this approval without payment of compensation should any justified objection be received to the manner in which the transmission tower is operated or should the operation be found to be detrimental to the peacefulness and amenity of the surrounding area;
 - (h) that the materials used must be of such a nature that the transmission tower blends in with the existing character of the environment such as to minimise visual impact;
 - (i) that the EMF of the transmission tower shall at all times be compliant with ICNIRP standards as endorsed by the South African Department of Health;
 - (j) that the Municipality be indemnified against any claim which may be instated as a result of the above approval;
 - (k) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
 - (l) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.
2. that the applicant 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 conditional approval.

The meeting adjourned at 11:55