



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

## **MINUTES**

**DATE:** 2 NOVEMBER 2023  
(OCTOBER 2023 CYCLE)

**VENUE:** TOWN PLANNING COMMITTEE  
ROOM

**TIME:** 10:00

**OVERSTRAND**  
**MUNICIPAL PLANNING TRIBUNAL**  
**MINUTES OF A MEETING OF THE**  
**MUNICIPAL PLANNING TRIBUNAL,**  
**HELD IN THE**  
**TOWN PLANNING COMMITTEE ROOM ON**  
**2 NOVEMBER 2023 AT 10:00**

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**PRESENT:**

**MEMBERS:**

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

**OFFICIALS:**

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

**APOLOGIES:**

Mr S Müller, Director : Infrastructure & Planning

**ALSO PRESENT:**

Mr B Wridgway, Hermanus Ratepayers' Association

MUNICIPALITY



MUNISIPALITEIT

**MUNICIPAL PLANNING TRIBUNAL  
ATTENDANCE REGISTER**

Date: **2 NOVEMBER 2023 (OCT 2023 CYCLE)**

I, the undersigned, hereby declare:

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

NAME	DEPARTMENT / SECTION MUNICIPALITY	SIGNATURE
H JANSER	CHAIRPERSON DIR: DEV MANAGEMENT	
S MÜLLER	VICE-CHAIRPERSON OVERSTRAND MUNICIPALITY	Apology
S MADIKANE	MPT MEMBER OVERSTRAND MUNICIPALITY	
H BLIGNAUT	MPT MEMBER OVERSTRAND MUNICIPALITY	
R LOUW	MPT MEMBER OVERSTRAND MUNICIPALITY	
R KUCHAR	AUTHORISED OFFICIAL OVERSTRAND MUNICIPALITY	
S VAN DER MERWE	SENIOR TOWN PLANNER OVERSTRAND MUNICIPALITY	
H VAN DER STOEP	SENIOR TOWN PLANNER OVERSTRAND MUNICIPALITY	
P ROUX	TOWN PLANNER OVERSTRAND MUNICIPALITY	
H OLIVIER	TOWN PLANNER OVERSTRAND MUNICIPALITY	
S SWART	COUNCIL SUPPORT OVERSTRAND MUNICIPALITY	
	Town Planner Overst.	
B. WELDGWAY	H.R.A.	

**1. OPENING**

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

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

Mr S Müller

**3. CONFIRMATION OF MINUTES****3.1 Minutes of a Municipal Planning Tribunal Meeting held on 28 September 2023****RESOLVED:**

that the approval of the Minutes of the Municipal Planning Tribunal Meeting held on **28 September 2023, be approved.**

#### 4. ITEMS FOR CONSIDERATION

THE CHAIRPERSON, MS H JANSER, CHANGED THE ORDER OF BUSINESS AND ITEM 4.2 WAS FIRST DEALT WITH. FOR THE PURPOSE OF THESE MINUTES, HOWEVER, THE ITEMS WILL APPEAR IN NUMERICAL ORDER.

##### 4.1

ERF 1642, 4 GOUSBLOM STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION, CONSENT USE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS ME PLANNERS ON BEHALF OF RM VILJOEN

1642 GPB

SW van der Merwe  
11 October 2023

(028) 313 8900

Hermanus Administration

#### EXECUTIVE SUMMARY

An application, in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), has been received on 26 January 2021 from Messrs ME Planners on behalf of RM Viljoen, the owner of Erf 1642, Pearly Beach for the following:

- ❖ **Removal of restrictive title deed condition** in terms of Section 16(2)(f) of the By-Law for the removal of title deed condition C.3(a) contained in Title Deed T49042/2018 to accommodate a second dwelling unit:

*The restrictive title deed condition reads as follows:*

*“Hierdie erf mag alleenlik gebruik word vir die oprigting daarop van een woning of ander geboue vir die doeleindes wat die Administrateur van tyd tot tyd, na oorleg met die Dorpskommissie en die plaaslike owerheid, goedkeur, met dien verstande dat, indien die erf in die gebied van ‘n dorpsaanlegskema ingesluit is, die plaaslike owerheid enige ander gebou wat deur die skema toegelaat word, kan toelaat onderworpe aan die voorwaardes en beperkings wat in die Skema bepaal word;”*

- ❖ **Determination of an administrative penalty** in terms of Section 16(2)(q) of the above-mentioned By-Law to enable conversion of two existing ground floor units into a second dwelling.

#### RESOLVED:

1. that the objections be noted;

2. that the application, applicable to Erf 1642, Pearly Beach, in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the removal of restrictive title deed condition C.3(a) as contained in Title Deed No: 49042/2018, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that, after the application for the determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law for the use was considered, it was decided that the applicant **not be exempted** from the payment of an administrative penalty in terms of Section 90(4) of the By-Law;
4. that the approvals in paragraphs 1. and 2. above be subject to the following conditions:
  - (a) that the approvals are for the development as indicated on Site Plan submitted with the application;
  - (b) that an administrative penalty of R22 012,22 (including VAT) be payable within **sixty (60)** days of the decision;
  - (c) that building plans be submitted to the Building Department within **thirty (30) days** of the decision date and that all comments from the Building and Fire Departments be complied with at that stage;
  - (d) that the applicant within **ninety (90) days** of the final decision convert the unauthorised dwelling units into a second dwelling unit.;
  - (e) that all the conditions of Fire- and Engineering Services be complied with;
  - (f) that all other applicable development parameters as prescribed in the relevant Land Use Scheme be complied with; and
  - (g) that this approval does not absolve the property owner from compliance with any other relevant legislation;
5. that the applicant and objectors be notified of their appeal right in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 regarding the above decisions.

**REASONS FOR THE RESOLUTION:**

- ❖ The application has followed due process.
- ❖ The application is in line with policy documents.
- ❖ The removal of the title deed restriction aligns the proposal to the land use scheme regulations, which make provision for a second dwelling as a primary right.

- ❖ The character of the area will not be negatively impacted upon.
- ❖ Vested rights of adjoining properties will not be affected.
- ❖ The proposal is consistent with planning principles in terms of LUPA and SPLUMA.
- ❖ An administrative penalty was imposed as the unauthorised land use was being used contrary to the Land Use Scheme as far back as 2019.

**RESPONSIBLE OFFICIAL :**

**S VAN DER MERWE**

## 4.2

**ERF 7182, 39 MARINE DRIVE, HERMANUS, WESTCLIFF, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REZONING AND DEPARTURE: MESSRS WRAP PROJECT OFFICE ON BEHALF OF SUNNY SEAS PROPERTIES PTY (LTD)**

**7182 HWC**

**4119/2022**

**(H Boshoff)**

**S van der Merwe)**

**(028) 313 8900**

**Hermanus Administration**

**11 October 2023**

### **EXECUTIVE SUMMARY**

An application, in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law), has been received on 19 April 2022 from Messrs WRAP Project Office on behalf of Sunny Seas Properties Pty (Ltd), the owner of Erf 7182, Hermanus for the following:

- ❖ **rezoning** of the property in terms of Section 16(2)(a) of the By-Law from General Residential Zone 1: Town Housing to General Residential Zone 3: Flats (Bulk Zone 1) to accommodate a four (4) story flat development consisting of a total of twenty-one (21) luxury apartments with amenities, and
- ❖ **departures** in terms of Section 16(2)(b) of the By-Law to:
  - relax the minimum required erf size for densification from 3000m<sup>2</sup> to 1677m<sup>2</sup>;
  - relax the eastern lateral building line from 4.5m to 2m to accommodate the proposed apartment block;
  - relax the eastern lateral building line from 4.5m to 0m, as well as the rear building line from 3m to 0m accommodate a refuse room; and to
  - relax the size restriction applicable to refuse rooms within building lines in terms of Chapter 16.1.1(a)(x) and 17.4.4 of the Overstrand Municipality Land Use Scheme, 2020, from 5m<sup>2</sup> to 17.5m<sup>2</sup>.

### **RESOLVED:**

1. that the comments received, be noted;
2. that the application in terms of Section 16(2)(a) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for the rezoning of Erf 7182, Hermanus (the property) from General Residential Zone 1: Town Housing to General Residential Zone 3: Flats (Bulk Zone 1) to accommodate a four (4)-storey flat development consisting of a total of twenty-one (21) luxury apartments with amenities, **be approved** in terms of the provisions of Section 61 of the By-Law;



3. that the application for departure in terms of Section 16(2)(b) of the By-Law, to relax the requirement for the minimum erf size for densification from 3000m<sup>2</sup> to 1677m<sup>2</sup> to accommodate the development on the property in 2 above, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the application for departure in terms of Section 16(2)(b) of the By-Law to relax the eastern lateral building line of the property from 4.5m to 2m to accommodate the development in 2 above, **be approved** in terms of the provisions of Section 61 of the By-Law;
5. that the approvals in 2, 3, and 4 above, be subject to the following conditions:
  - (a) the development, parking layout, and refuse room must be in accordance with the applicable layout plans that were submitted with the application;
  - (b) the development be restricted to a total of 21 flat units with amenities;
  - (c) that the refuse room must comply with the requirements of Chapter 17.4.3 of the applicable Zoning Scheme, and the refuse bins must be put on the sidewalk on refuse collection days as the Municipality does not enter private properties to collect refuse – the refuse bins must be removed from the sidewalk immediately after the refuse has been collected by the Municipality;
  - (d) that building plans must be submitted to the Building Department for consideration and approval, and any requirements by the Building and Fire Departments at that stage, must be complied with;
  - (e) that the relevant conditions of Telkom, Department of Environmental Affairs and Development Planning Directorate: Development Management, Region 1, Department of Environmental Affairs and Development Planning: Biodiversity and Coastal Management, Engineering Services, and the GLS Report, must be complied with;
  - (f) that this approval does not absolve the landowners from compliance with any other relevant legislation; and
  - (g) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.
6. that the applicant be notified of its appeal right in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 regarding the above conditional approvals; and

7. that the commenters be informed of their appeal right in terms of Section 78 of the By-Law with regard to the above conditional approvals.

**REASONS FOR THE RESOLUTION:**

- ❖ The application has followed due procedure.
- ❖ The development will not detract from the character of the immediate surrounding area or the coastal scene and is not out of the ordinary for the surrounding area.
- ❖ The coastal view lines of surrounding property owners will be minimally obscured although a mentionable size of the church building (at the western lateral boundary of the church property) already obstructs view lines from the southern and northern sides of the subject property.
- ❖ The development will enhance the ambiance of the immediate area since it will fill the gap in Marine Drive resulting in all the properties in that section of Marine Drive being developed.
- ❖ The building line encroachment will not have a mentionable negative impact, if any, on the immediate and wider surrounding developed environment.
- ❖ The development is an upmarket development.
- ❖ Due regard was had to all applicable policies and guidelines, including the Overstrand Municipality Growth Management Strategy, 2010, and the proposed density was supported.
- ❖ The proposal is not regarded as being undesirable from a town planning point of view.

**RESPONSIBLE OFFICIAL :****H BOSHOFF**

## 4.3

**ERF 108, 6 PRIESTLEYA ROAD, ROOI ELS, OVERSTRAND MUNICIPAL AREA:  
APPLICATION FOR REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION,  
DEPARTURE & A DETERMINATION OF AN ADMINISTRATIVE PENALTY: FVS  
TOWN AND REGIONAL PLANNERS ON BEHALF OF J & I ORD**

**108 KRE (4210/2022)**

**H van der Stoep**

**7 September 2023**

**(028) 313 8900**

**Hermanus Administration**

### EXECUTIVE SUMMARY

An application has been received on 29 July 2022 from FVS Town and Regional Planners on behalf of J & I Ord for the following:

- ❖ **Removal of Restrictive Title Deed Conditions** in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Planning, 2020 for the removal of restrictive title deed condition E.(4)(e) as contained in Title Deed No. T28335/2021 of the property to accommodate the proposed outdoor living area and braai on the first floor as well as a proposed bathroom on the ground floor.

The restrictive title deed condition reads as follows:

**“E. SUBJECT FURTHER** to the following conditions contained in Deed of Transfer No. T21905/1967 imposed by the Administrator of the Province of the Cape of Good Hope, when approving of the General Plan of the said Rooi Els Township under the provisions of Ordinance 33 of 1934, reading as follows:

4. *This erf shall be subject to the following further conditions, provided especially that where, in the opinion of the administrator after consultation with the Township Board and the local authority, it is expedient that the restriction in any such conditions should at any time be suspended or relaxed, he may authorize the necessary suspension or relaxation subject to compliance with such conditions as he may impose:*

- (e) *No buildings or structure except the boundary walls and fences shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf, nor within 3,15 metres of the lateral boundary common to any adjoining erf provided that with the consent of the local authority an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation may be erected within the above prescribed rear space, and provided further that a garage may be erected up to such street line if the opinion of the local authority of the erf is such to make that necessary.”*

- ❖ **Departure** in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Planning, 2020 in order to:
  - Relax the northern lateral building line from 2m to 1.57m to accommodate the new 1.6m high wall and new outdoor bathroom on the ground floor.
  - Relax the eastern street building line from 4m to 2.472m to accommodate the new ensuite on the ground floor as well as the new braai and new outdoor living area on the first floor.
  
- ❖ **Determination of an Administrative Penalty** in terms of Section 16(2)(q) of the Overstrand Municipal By-Law on Municipal Planning, 2020 for the unauthorised building line encroachments as stipulated above.

**RESOLVED:**

1. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 108, Rooiels for the removal of restrictive title deed condition E.(4)(e) as contained in Title Deed No. T28335/2021 of the property to accommodate the proposed outdoor living area and braai on the first floor as well as a proposed bathroom on the ground floor, a screen wall of 1,6m and outdoor bath, **be approved**, in terms of the provisions of Section 61 of the By-Law;
  
2. that the application in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2020 on Erf 108, Rooiels for the following departures:
  - to relax the northern lateral building line from 2m to 1.57m to accommodate the new 1.6m high screen wall and new outdoor bathroom on the ground floor.
  - to relax the eastern street building line from 4m to 2.472m to accommodate the new ensuite on the ground floor as well as the new braai and new outdoor living area on the first floor; on the existing footprint of the building.

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

- (a) that this approval is only for the removal of restriction and building line departures and is not an approval in terms of any other legislation;
  
- (b) that the approval be limited to the building/structures as per Plan numbers 101 & 102 Rev 3 dated 7 July 2022;
  
- (c) that building plans be submitted to the Building Control Department for approval with correct building lines depicted and that all conditions of the Building Control and the Fire Departments be complied with at that stage;

- (d) that the amended title deed be submitted for record purposes to the Municipality;
  - (e) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
  - (f) that this approval does not absolve the applicant from compliance with any other relevant legislation;
  - (g) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with; and
  - (h) that all the conditions in the Services Report, be complied with.
3. that the determination of an administration penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 applicable to Erf 108, Rooiels for the unauthorised building line encroachments as stipulated above, was considered and that an administrative penalty of R429,53 (including VAT) (being 1% of the built cost as per budget requirements), **be applicable** in terms of Section 90.(4) of the By-Law which penalty must be paid within thirty (30) days from the final date of the decision of the application; and
4. that the applicant and objector be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

**REASONS FOR THE RESOLUTION:**

- ❖ The building was erected in 1969, with various changes in the 1970's and 1980's with no objection to the dwelling over the years.
- ❖ The structure was built according to plan, but the structures was not correctly placed on the property.
- ❖ The illegal structures will be demolished.
- ❖ The application is to bring the building plan approvals in line with land use scheme.
- ❖ The proposed building work is on an existing footprint that transgresses the street building line and will have no impact on character of the area, since the structure is more than 40 years old.
- ❖ The administrative penalty be applicable for the square metres transgressing the Title Deed Building line since the registration of the property in June 2021, following which the owner took responsibility for the transgression.

**RESPONSIBLE OFFICIAL :****H VAN DER STOEP**

## 4.4

**ERF 11171, 19 FISH EAGLE STREET, HEMEL & AARDE ESTATE, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR SUBDIVISION AND DEPARTURE: WRAP PROJECT OFFICE ON BEHALF OF PTN HARPER**

11171 HMS (3617/2020)

(H Boshoff)

H van der Stoep

(028) 313 8900

Hermanus Administration

9 October 2023

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**EXECUTIVE SUMMARY**

An application was received on 27 January 2020 (final amended application on 6 October 2022) from Messrs WRAP Project Office on behalf of PTN Harper, applicable to Erf 11171, Hemel & Aarde Estate, Hermanus for the following:

- **subdivision** in terms of Section 16(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to subdivide Erf 11171, Hermanus in four portions, namely a Portion A  $\pm 835\text{m}^2$ , a Portion B  $\pm 800\text{m}^2$ , a Portion C  $\pm 1640\text{m}^2$  and a Remainder  $\pm 2236\text{m}^2$ ; and
- **departure** in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:
  - to relax the south-eastern, south-western and north-western lateral building lines of the above proposed Remainder from 2m to 0m in to accommodate portions of the existing dwelling unit, and
  - to relax the north-eastern and south-eastern lateral building lines of the above proposed Portion C from 2m to 0m to accommodate portions of the existing dwelling unit.

**RESOLVED:**

1. that the comments be noted;
2. that the application in terms of Section 16(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to subdivide Erf 11171, Hemel & Aarde Estate, Hermanus in three portions, namely Portion A  $\pm 936\text{m}^2$  in extent, Portion B  $\pm 866\text{m}^2$  in extent, and a Remainder  $\pm 3711\text{m}^2$  in extent, **be approved** in terms of Section 61 of the By-Law;
3. that the above approval be subject to the following conditions:
  - (a) that this approval is only for the subdivision as indicated on undated Plan Number 19/140;

- (b) that all the applicable development parameters for the three land parcels as set out in the estate's architectural guideline document must be complied with;
  - (c) that building plans be submitted for all new buildings to the Building Department for approval, and that all conditions of the Building and the Fire Department be complied with at that stage;
  - (d) that the conditions of Engineering Services be complied with;
  - (e) that the above approval does not absolve the applicant from compliance with any other relevant legislation; and
  - (f) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
4. that the applicant and persons who commented be notified of their respective appeal rights in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 regarding the above conditional approval.

**REASONS FOR THE RESOLUTION:**

- ❖ The application contains sufficient merit to be considered favourably.
- ❖ The current size of the property is very large and out of character with the sizes of the single residential erven within the Hemel & Aarde Estate development.
- ❖ Two additional erven will be created that will be more in line with the erf sizes in the immediate area, except for the Remainder, and will therefore not impact on the character of the specific area.
- ❖ The additional traffic that will be created when Portions A and B are developed will not be problematic to the existing development.
- ❖ All the applicable development parameters for the three land parcels as set out in the estate's architectural guideline document will be complied with to ensure that there are no impacts on the rights of the surrounding property owners.
- ❖ All services for the subdivided portions are available and are sufficient to accommodate the proposal.
- ❖ No internal objections were received.
- ❖ The proposal is regarded as being desirable from a town planning perspective.

**RESPONSIBLE OFFICIAL :****H BOSHOFF**

## 4.5

**ERF 3921, 128 SECOND AVENUE, KLEINMOND, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: FVS TOWN & REGIONAL PLANNERS ON BEHALF OF HEICH BELEGGINGSTRUST**

**3921 KKM (4170/2022)**

**H van der Stoep**

**1 August 2023**

**(028) 313 8900**

**Hermanus Administration**

### EXECUTIVE SUMMARY

An application was received on 7 June 2022 from FVS Town and Regional Planners on behalf of HEICH Beleggingstrust on Erf 3921, Kleinmond for the following:

- ❖ **Removal of Restrictive Title Deed Condition** in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Planning, 2020 for the removal of restrictive title deed condition C.8. as contained in Title Deed T013275/2001 of the property to accommodate a carport and pergola that encroach the street building line.

*The restrictive title deed condition reads as follows:*

*“C. ONDERHEWIG verder aan die volgende voorwaardes vervat in Transportakte nr T14866/1970 opgelê ten gunste van Kleinmond Syndicate Limited en hul opvolgers in titel as eienaars van die restant van die grond gehou kragtens Transportakte nr T3729/1918, naamlik:*

*8. All buildings to be erected on the land herein sold shall stand back at least 3,15 metres from the line of the street or avenue on which the lot or lots herein mentioned may front.”*

- ❖ **Departure** in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Planning, 2020 to relax the street building lines from 4m to ±0,45m to accommodate a carport and pergola.
- ❖ **Determination of an Administrative Penalty** in terms of Section 16(2)(q) of the Overstrand Municipal By-Law on Municipal Planning, 2020 for the unauthorised building line encroachments as stipulated above.



**RESOLVED:**

1. that the application in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 3921, Kleinmond for the removal of restrictive title deed condition C.8. as contained in Title Deed T013275/2001 of the property to accommodate a carport that encroaches the street building line, **be approved**, in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 3921, Kleinmond to relax the street building lines from 4m to ±0,45m to accommodate a carport only, **be approved**, in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
  - (a) that the amended title deed be submitted for record purposes to the Municipality;
  - (b) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
  - (c) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
  - (d) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with; and
  - (e) that all the conditions in the Services Report be complied with.
3. that the application in terms of Section 16(2)(b) of the Overstrand Municipality Amendment By-law on Municipal Land Use Planning, 2020 to relax the street building lines from 4m to 0,45m to accommodate the pergola **not be approved**, and that the pergola be **removed** within sixty (60) days from the final date of the decision of the application;
4. that the determination of an administrative penalty in terms of Section 16.(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 3921, Kleinmond for the unauthorised building line encroachments as stipulated above was considered and that an administrative penalty of R11 800,00 including VAT (being 20% of the built cost as per budget requirements), **be applicable** in terms of Section 90.(4) of the By-Law, which penalty must be paid within thirty (30) days from the final date of the decision of the application; and
5. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

**REASONS FOR THE RESOLUTION:****POINT 1 & 2: APPROVAL**

- ❖ The application has followed due procedure.
- ❖ The removal of the restrictive conditions to be in line with the Land Use Scheme is supported.
- ❖ The approval of the carport at 0,45m will not have a significant impact on the streetscape.

**POINT 3: NON-APPROVAL**

- ❖ The motivation does not address the pergola *per se*. The reason for inclement weather does not coincide with a pergola without a solid roof.

**POINT 4: ADMINISTRATION PENALTY**

- ❖ The applicant has erected the structures illegally.
- ❖ The applicant has full knowledge of planning and building procedures and the requirements thereof, since it is not the first time that he is involved in a town planning and building contravention.

**RESPONSIBLE OFFICIAL :****H VAN DER STOEP****The meeting adjourned at 11:55**