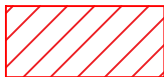


OVERSTRAND MUNICIPALITY	OVERSTRAND MUNISIPALITEIT	UMASIPALA WASE-OVERSTRAND
<p><u>ERF 138, 12 STRAND STREET, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS WRAP PROJECT OFFICE ON BEHALF OF TM & SGJ VAN DER WALT</u></p> <p>Notice is hereby given in terms of Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) of the following applications applicable to Erf 138, Hermanus, namely:</p> <p><u>Removal of restrictive title deed conditions</u> Application in terms of Section 16(2)(f) of the By-Law for the removal of restrictive title deed conditions B. (b) and (d) as contained in Title Deed T63355/2025.</p> <p><u>Departure</u> Application in terms of Section 16(b) of the By-Law in order to:</p> <ul style="list-style-type: none"> relax the northwestern lateral building line from 2m to 0m to accommodate a proposed garage, and relax the street building line from 4m to 2,7m and 2,9m respectively to accommodate the existing front porch. <p><u>Determination of an administrative penalty</u> Application in terms of Section 16(2)(q) of the By-Law to accommodate the existing structures.</p> <p>Full details regarding the proposals above are available for inspection during weekdays between 08:00 and 16:30 at the Division: Town and Spatial Planning, 16 Paterson Street, Hermanus and on the municipal webpage at the following link https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/</p> <p>Any comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) on or before 05 June 2026, with your name, address, contact details, interest in the application and the reasons for comment. Telephonic inquiries can be made to the Town Planner, Mr B Minnaar at 028-3138900. The Municipality may refuse to accept comments after the closing date. Any person who cannot read or write can visit the Division: Town and Spatial Planning where they will be assisted by a municipal official in formulating their comments.</p> <p><i>Please note that in terms of the Protection of Personal Information Act (POPIA), you will be entering into a public process and as such agree and consent to your name, surname, contact details and comment(s) may be disclosed / used in the (application) process.</i></p>	<p><u>ERF 138, STRANDSTRAAT 12, WESTCLIFF, HERMANUS, OVERSTRAND MUNISIPALE AREA: AANSOEK OM OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDES, AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: MNRE WRAP PROJECT OFFICE NAMENS TM & SGJ VAN DER WALT</u></p> <p>Kragtens Artikels 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die volgende aansoek van toepassing op Erf 138, Hermanus, naamlik:</p> <p><u>Opheffing van beperkende titelaktevoorwaardes</u> Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van beperkende titelvoorwaardes B. (b) en (d) soos vervat in die Titelakte T63355/2025.</p> <p><u>Afwyking</u> Aansoek ingevolge Artikel 16(2)(b) van die Verordening ten einde die:</p> <ul style="list-style-type: none"> noordwestelike lateraleboulyn vanaf 2m na 0m te verslap om die voorgestelde motorhuis te akkommodeer, en straatboulyn vanaf 4m na 2,7m en 2,9m onderskeidelik te verslap om die bestaande voorstoep te akkommodeer. <p><u>Bepaling van 'n administratiewe boete</u> Ingevolge Artikel 16(2)(q) van die Verordening, om die bestaande strukture te akkommodeer.</p> <p>Besonderhede aangaande die voorstel lê ter insae gedurende weksdae tussen 08:00 en 16:30 by die Afdeling: Stads- en Streekbeplanning te Patersonstraat 16, Hermanus en op die munisipale webtuiste by die volgende skakel https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/</p> <p>Enige kommentaar moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (e) landuse@overstrand.gov.za) voor of op 05 Junie 2026, met u naam, adres, kontak besonderhede, belang in die aansoek en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die Stadsbeplanner, Mr B Minnaar by 028-3138900. Die Munisipaliteit mag weier om kommentare te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Afdeling: Stads- en Streekbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formuleer.</p> <p><i>U aandag word gevestig op die Bepalinge van die "POPI" Wet, en aangesien u opmerking deel sal uitmaak van 'n openbare deelname proses, u derhalwe toestem dat u naam, van en kontakbesonderhede openbaar gemaak mag word.</i></p>	<p><u>ISIZA 138, 12 STRAND STREET, WESTCLIFF, HERMANUS, OVERSTRAND UMMANDLA KAMASIPALA: ISICELO SOKUSUSWA KWEEMEKO EZITHINTELAYO KWITAYITILE YOBUNINI. SOKUTENXA NGOKUSISIGXINA KUNYE NOKUMISELWA KWESOHLWAYO SOLAWULO: MESSRS WRAP PROJECT OFFICE EGAMENI LE TM & SGJ VAN DER WALT</u></p> <p>Isaziso siyanikezelwa ngokweCandelo lama-47 nelama-48 loMthetho kaMasipala oLungisiweyo kaMasipala waseOverstrand kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala) izicelo esebenzayo kwiSiza-138, eHermanus, esizezi:</p> <p><u>Sokususwa kweemeko ezithintelayo kwitayitile yobunini</u> Isicelo ngokweCandelo le-16 (2)(f) loMthetho kaMasipala wokususwa kwemiqathango yetayitile ethintelayo B. (b) kunye (d) njengoko kuqulethwe kwiSiqendu seSihlokwana T63355/2025.</p> <p><u>Ukutenxa</u></p> <ul style="list-style-type: none"> ukuhexa umda wesakhiwo osecaleni kumntlantshona ukusuka kwi-2m ukuya ku-0m ukulungiselela igaraji ecetywayo, kunye ukuhexa umda wesakhiwo sesitrato ukusuka kwi-4m ukuya kwi-2,7m kunye ne-2,9m ngokulandelelanayo ukulungiselela ivaranda ekhoyo engaphambili. <p><u>Ukumiselwa kwesoahlwayo solawulo</u> Isicelo ngokweCandelo lama-90(5) loMthetho kaMasipala ukwamkela izakhiwo ezikhoyo.</p> <p>Iinkcukacha ezipheleleyo mayela nezi ziphakamiso zingentla ziyafumaneka ukuze zihlolwe kwiintsuku zaphakathi evekini ukusukela phakathi kwentsimbi ye08:00 neye16:30 kwiSebe: LeziCwangciso zeDolophu noBume beNdawo, 16 Paterson Street, nakwiwebhpeyiji kamasipala kweli qhakamshela lilandelayo https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/</p> <p>Naziphi na izimvo mazibhalwe phantsi kwaye zifike kuMasipala (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) ngomhla okanye ngaphambi koko 05 EyeSilimela 2026, kunye negama lakho, idilesi, iinkcukacha zoqhagamshelwano, umdla kwisicelo kunye nezizathu zokuphawula. Imibuzo ngomnxeba ingenziwa kuMchwangcisi weDolophu, uMnu B Minnaar kule nombolo 028-3138900. UMasipala unokwala ukwamkela izimvo emva komhla wokuvala. Nabani na ongakwaziyo ukufunda okanye ukubhala angandwendwela iCandelo: loCwangciso lweDolophu noMhlaba apho aya kuthi ancediswe ligosa likamasipala ekuqulunqeni izimvo zabo.</p> <p><i>Nceda uqaphele ukuba ngokoMthetho woKhuseleko lweNgcaciso loLwazi loBuqu (POPIA), uya kuba ungena kwinkqubo kawonke-wonke kwaye uvuma ukuba igama lakho, ifani, iinkcukacha zoqhagamshelwano kunye nezimvo zingabhengezwa / zisetyenziswe kwi (isicelo) inkqubo.</i></p>
<p>Dr DGI O'Neill Municipal Manager / Munisipale Bestuurder / Umphathi Kamasipala PO Box / Posbus / Ibhokisi yePosi 20 HERMANUS 7200</p>		<p>..... Notice No / Kennisgewing nr / Inombolo yesaziso: 85/2026</p>

Plan 1: Locality Plan

Erf 138 - Hermanus



Subject property

Plan prepared by: Thian Jansen

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Office 3, Oakwood, 10 Dirkie Uys Street Hermanus, 7200



Project Office
Town Planning & Project Management





1. PROPERTY DETAILS

Property description	Erf 138 Hermanus
Extent	744m ²
Zoning	Residential Zone 1: Single Residential (SR1)
Title Deed	T63355/2025

2. EXECUTIVE SUMMARY

Erf 138, Hermanus, hereafter referred to as the subject property, is situated at 12 Strand Street, Westcliff, Hermanus, as illustrated in **Plan 1: Locality Plan**. The current owners acquired the property in late 2025 with the intention of undertaking renovations to the existing dwelling house. In preparation for these works, a land surveyor and architect were appointed to review the approved building plans and survey the existing structures on site.

During this review, it was identified that the existing front porch had not been approved by the Municipality and encroaches into both the street building line prescribed by the Overstrand Municipality Land Use Scheme, 2020 (OMLUS), as well as the title deed building line. As the porch is an existing feature intended to be retained as part of the proposed renovations, WRAP Project Office was appointed to submit a land use application to regularise the historic contravention. The authority to act is confirmed in **Annexure A: Power of Attorney**.

The subject property is zoned Residential Zone 1: Single Residential and is developed with a single dwelling house and associated residential improvements. The surrounding properties are similarly zoned Residential Zone 1, with the balance of the immediate environs comprising public streets. The zoning context is depicted in **Plan 2: Zoning Plan**. The area is well established and residential in character, with buildings positioned in close proximity to the street edge being a common and accepted development pattern.

The departures sought relate solely to the retention of an existing, non-habitable front porch. The structure does not generate additional bulk, floor area, or intensity of use, nor does it compromise access, safety, or municipal infrastructure. Given its limited scale and open nature, the porch does not result in any loss of privacy, overshadowing, or visual intrusion, and does not negatively affect the amenity of neighbouring properties or the public realm.

The current owners inherited the contravening front porch upon transfer of the property and did not undertake or authorise its construction. Notwithstanding this, proactive steps have been taken to regularise the historic contravention through the appropriate statutory process, demonstrating good faith and a clear commitment to compliance with the applicable planning framework. In addition, the owners propose to enlarge the existing garage, with the enlarged structure to be positioned on the common boundary line.

The proposed garage enlargement is residential in scale and function and is typical of garages within established single residential areas. Its location along the boundary line is considered appropriate, as it does not introduce an increase in residential density, intensify the use of the property, or adversely affect neighbouring properties. The proposal does not result in loss of privacy, overlooking, or unreasonable overshadowing and is compatible with the prevailing development pattern within the surrounding area.



In light of the aforementioned, it is submitted that the departures sought are minor in extent, reasonable, and desirable from a land use planning perspective. The retention of the existing front porch and the proposed garage enlargement do not result in any material planning harm and are consistent with the established residential character of the area. It is further submitted that the administrative penalty should be waived, given the historic nature of the contravention, the absence of adverse impacts, and the owners' proactive efforts to rectify the situation through due process.

3. PROCEDURE TO ACHIEVE THE OWNERS' INTENT

This application is submitted in terms of the By-Law and consists of four components:

3.1 Removal of restrictive title deed conditions to accommodate the proposed and existing structures;

As previously indicated, in order to lawfully retain the existing front porch and accommodate the proposed garage enlargement, certain restrictive title deed conditions require removal. The applicable condition was imposed by the Administrator of the Province of the Cape of Good Hope at the time of the establishment of Hermanus Township No. 2. The condition currently reads as follows:

<p><i>"B. SUBJECT FURTHER to the special conditions contained in Deed of Transfer No T10014/1942, imposed by the Administrator of the Province of the Cape of Good Hope when approving the establishment of Hermanus Township No 2 and as such in favour of the registered owner of any erf in the Township and subject to amendment or change by the Administrator in terms of the provisions of Section 18(3) of Ordinance No. 33 of 1934:"</i></p>
<p>Proposed sub-conditions to be removed under Condition B:</p> <ul style="list-style-type: none"> • <i>"(b) That only one dwelling together with such outbuildings as are ordinarily required to be used therewith, be erected on this erf.</i> • <i>"(d) That no building shall be erected within 4,72 metres of any street line which forms a boundary of this erf. No building shall be situated within 2,35 metres of the lateral boundary common to any adjoining erf."</i>

The rationale for the removal of the restrictive title deed conditions is to enable the owners to rectify the past contravention and allow the existing porch to remain and allow the garage to be placed on the boundary line.

<p>Motivation for the removal of conditions B.(b) & B.(d)</p>
<p>The rationale for the proposed removal</p>
<p>The removal of the above conditions is required to enable the regularisation of a historic contravention relating to the existing front porch and to allow the proposed enlargement of the garage up to the common boundary line. Without the removal of these restrictive conditions, the owners are unable to submit and obtain approval for building plans, notwithstanding that the proposed and existing structures are acceptable in terms of the current land use management framework.</p>



The subject property is used exclusively as a single dwelling house, and no change to the primary residential use is proposed. The removal of Condition B.(b) is therefore not sought to enable intensification or additional dwellings, but rather to remove an outdated restriction that is inconsistent with the current planning framework. The Overstrand Municipality Land Use Scheme, 2020, permits the development of a second dwelling on Residential Zone 1 properties, subject to compliance with prescribed development parameters. As such, the title deed restriction is more onerous than the applicable scheme provisions and no longer serves a meaningful planning purpose. The owners may also in the future may want to add a second dwelling unit.

Condition B.(d), which prescribes rigid building line setbacks, similarly predates the current land use scheme and is more restrictive than the contemporary development controls applied under the OMLUS. The retention of the existing front porch and the proposed garage positioned on the boundary line are appropriately assessed through the departure application process, which provides sufficient checks and balances to ensure that no adverse impacts arise.

Status quo

The original intent of the restrictive title deed conditions was to protect the residential character of the area. This objective is now effectively achieved through the provisions of the OMLUS, which provides clear and uniform development guidelines applicable across the Overstrand municipal area. The continued enforcement of outdated title deed conditions, in parallel with a comprehensive land use scheme, results in unnecessary duplication and regulatory overlap.

The proposed removal of Conditions B.(b) and B.(d) will not undermine the residential character of the area, nor will it result in any material planning harm. On the contrary, it will allow the subject property to be regulated consistently with other Residential Zone 1 properties, while ensuring that the existing and proposed structures are assessed and controlled through the appropriate statutory mechanisms.

In terms of the requirements of LUPA, the table below addressed the removal of the restrictive title deed conditions B.(b) and B.(d) in terms of Section 39(5)(a-f):

LUPA, Section 39(5) (a-f)		
(a)	<i>the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;</i>	No person or entity will be affected financially by the removal of these restrictive title deed conditions.
(b)	<i>the personal benefits which accrue to the holder of rights in terms of the restrictive condition;</i>	No person is personally benefitting from these conditions as it is only restricting the owners.
(c)	<i>the personal benefits which will accrue to the person seeking the removal, suspension or amendment of the restrictive condition if it is removed, suspended or amended;</i>	The owners will benefit from the removal of the restrictive conditions, as it will allow them to enlarge their existing single garage while retaining the front porch.

(d)	the social benefit of the restrictive condition remaining in place in its existing form;	The restrictive conditions do not provide social benefits.
(e)	the social benefit of the removal, suspension or amendment of the restrictive condition; and	
(f)	whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.	There is no specific beneficiary of these conditions, and no person or entity will be affected if this is removed.

In summary, removal of these restrictive title deed conditions proves to be beneficial to the owners of the subject property. Its removal also does not detract from what is allowed within the OMLUS.

3.2 Permanent departure from the North-Western side building line from 2m to 0m to accommodate the proposed garage; and

3.3 Permanent departure from the Street building line from 4m to 2,7m & 2,9m to accommodate the existing front porch.

The departures relating to the existing front porch concern a structure that was erected by a previous owner without the necessary municipal approvals. During the preparation of proposed renovation plans, the current owners became aware that the front porch stairs encroach into the street building line by approximately 1 210 mm. Reference is made to **Figure 1 and Plan 3 (Site Plan)**, which illustrate the extent of the encroachment and the departures being applied for.

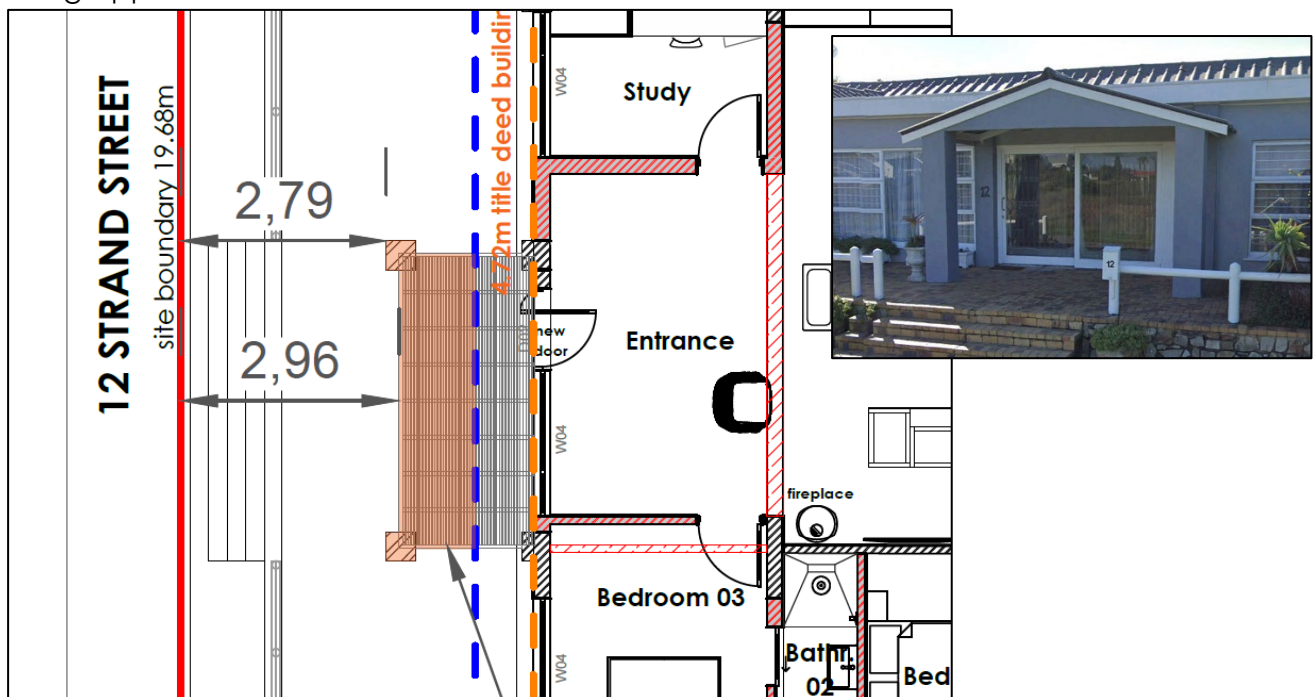


Figure 1: Extract from Plan 3 & Streetview Image

A review of historic aerial imagery confirms that the front porch has been in existence since at least 2012. The structure is therefore well established and forms part of the longstanding-



built form of the dwelling. It is non habitable in nature, does not increase floor area or residential intensity, and does not adversely affect visibility, access, or pedestrian movement along the adjoining street. Given its scale, position, and open character, the porch does not result in any loss of privacy, overshadowing, or visual intrusion and is compatible with the established residential streetscape.

The second departure is sought to allow the enlargement of the existing garage up to the common boundary line. The proposed garage extension is residential in scale and function and is typical of ancillary structures within single residential areas. Garages positioned on or close to boundary lines are a common and accepted development pattern, particularly where they do not contain habitable rooms. The proposed extension will not result in increased overlooking, loss of privacy, or unreasonable overshadowing of neighbouring properties, nor will it compromise access to light or ventilation.

Both departures are limited in extent and relate either to an existing historic structure or to a modest residential improvement. No additional dwelling units are proposed and no intensification of land use will occur. Municipal services, infrastructure capacity, and the character of the surrounding area remain unaffected.

In light of the above, it is submitted that the departures are reasonable and desirable from a land use planning perspective. The proposals respond appropriately to the existing development context, regularise historic non-compliance, and allow for sensible residential improvements without giving rise to any material planning harm. The departures therefore warrant favourable consideration.

3.4 Determination of an administrative penalty;

The last component of the application relates to the determination of an administrative penalty for the existing encroachment identified above. As outlined in Sections 3.3 the current property owners are in the process of rectifying historic contraventions through the submission of this land use application. It is important to emphasise that the structure was not constructed by the current owners but were inherited upon transfer of the property.

The following considerations are relevant to the determination of the administrative penalty:

- The current owners did not wilfully disregard planning controls but rather inherited an existing situation of non-compliance. Upon becoming aware of the encroachments, they acted responsibly by appointing professional planning assistance and submitting this application to regularise the property.
- The submission of this application demonstrates the owners' willingness to cooperate with municipal requirements and to ensure full compliance with the OMLUS.
- The structure in question is small-scale, residential in character, and do not result in any adverse impacts on neighbouring properties, municipal services, or the broader spatial development objectives of the municipality.
- The regularisation of the existing structure aligns with the principles of spatial justice, efficiency, and sustainability, as it avoids unnecessary demolition and waste and promotes the lawful and practical use of the property.

In addition, no complaints have been received from neighbouring property owners in relation to the existing structures, indicating that the contraventions have not resulted in any material harm or disruption to the surrounding community. In terms of the By-Law, the contraventions



described above require the determination of an administrative penalty. The purpose of such a penalty is not punitive in nature, but rather to promote fairness, accountability, and compliance with municipal planning processes.

By submitting this application, the owners have demonstrated a proactive and responsible effort to regularise the property and ensure compliance with municipal planning legislation and the OMLUS. Waiving the administrative penalty would recognise the owners' good faith actions and responsible conduct in addressing historic non-compliance inherited from a previous owner.

In accordance with Section 90(3) of the By-law, the following considerations are relevant to the determination of a fair and reasonable penalty:

(a) The nature, duration, gravity and extent of the contravention

Section 3 of this report indicates the nature and gravity of the existing structure that was constructed by a previous owner without prior approval. The total extents of the building line encroachments are recorded in the table below.

Existing Contraventions	
Front Porch	±4,34m ²

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

The current owners inherited the historic non-compliant structures. The current owners are acting in good faith and have not personally contravened planning laws. Upon learning of the irregularities, they initiated the process to regularise the property by appointing WRAP to submit this application. Their conduct reflects a proactive, cooperative, and responsible approach to compliance.

(c) 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.

(d) Whether the unlawful conduct was stopped

The unlawful conduct has effectively not stopped as the existing structures have already been constructed, albeit by a previous owner. The current owners have not undertaken any unapproved construction since taking ownership of the property. Instead, they are following the prescribed municipal processes to obtain the necessary land use approval and to regularise the structures. The submission of this application, combined with the absence of any unauthorised development, demonstrates compliance and corrective intent.

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

To the knowledge of this office, the current owners have no record of prior contraventions under this By-Law or any previous planning legislation. To our knowledge, this is their first instance of non-compliance, and it is tied solely to inherited structures constructed by a previous owner.



4. PLANNING ASSESSMENT

4.1. ZONING

The primary use of the property as a dwelling house is permitted within the SR1 zoning. No additional dwelling units or intensified land uses are currently proposed.

Residential Zone 1: Single Residential – Development parameters			
	Allowed	Proposed / Existing	
Coverage	50%	34%	Comply
Building lines	Street building line = 4m Side and rear building lines = 2m	Refer to Sections 3.2 & 3.3	Deviate, applied for and motivated.
Height	8,0 m.	-	Comply
Parking	Dwelling Unit: 2 Parking bays	New Double Garage	Comply

4.2. ENGINEERING SERVICES

The availability of municipal services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is addressed below. The subject property is connected to existing municipal service networks in the area, including electricity, water, and sewerage. The proposal does not introduce any additional development rights or intensity of use and is therefore not anticipated to place any additional demand on existing municipal services. Solid waste collection is provided on a weekly basis by the Overstrand Municipality.

Access, Egress and Parking

Access to and egress from the property are obtained from Strand Street, which is an existing public road servicing the surrounding residential area.

4.3. POLICIES AND REGULATIONS

4.3.1. Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)

The subject property is not located within the EMOZ.

4.3.2. Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The subject property is not located within the HPOZ.

4.3.3. Spatial Planning Policies

This proposal is not in conflict with any provisions of the Western Cape Provincial Spatial Development Framework, 2014 or the Overstrand Spatial Development Framework, 2020.

4.4. PLANNING PRINCIPLES

Chapter 2 of SPLUMA sets out five fundamental development principles that are compulsory considerations for all land use and development applications. These principles provide the normative basis against which proposals are assessed and must guide decision-making to ensure spatial justice, sustainability, and efficiency. The principles of SPLUMA that are pertinent to this proposal are outlined:



Spatial justice

Spatial justice refers to planning proposals which do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal advances spatial justice by regularising the long-standing structure on the property rather than pursuing, which would perpetuate disuse and inefficiency. By retaining and formalising the structure, the property continues to contribute positively to the residential character of the area, ensuring that land and existing resources are utilised productively and equitably in line with spatial justice objectives.

Spatial sustainability and Efficiency

Spatial sustainability refers to planning proposals which result in communities that are viable. The regularisation and preservation of the existing structure promotes both sustainability and efficiency by preserving existing structure and reducing the need for new construction or resource-intensive interventions. This avoids unnecessary waste, maintains the residential character of the property, and ensures that land and infrastructure are used optimally. The proposal therefore supports the principle of compact, efficient, and sustainable land use within a rural context.

Spatial resilience

This proposal is not in conflict with any spatial planning policies or other OM regulations which is a hallmark of resilience. The preservation and lawful use of the existing structure enhance spatial resilience by ensuring that the property can continue to adapt productively to current and future needs without compromising its residential function. By safeguarding usable structures and integrating them lawfully into the land use framework, the proposal contributes to the long-term resilience of the area and supports continued socio-economic activity in the area.

Good administration

The OM has a reputation for conducting effective public participation as part of its land use planning process. This process is an essential component of land use planning, as it allows people who may be affected by the development to provide feedback and raise any concerns or suggestions for improvement. This ensures that the development is in line with the needs and desires of the community.

All comments and feedback received during the public participation process will be carefully reviewed and considered by the relevant authorities. All comments received will be carefully reviewed and taken into consideration before being addressed appropriately.

5. NEED AND DESIRABILITY

The need and desirability of the approval and implementation of this proposal in accordance with Section 66(1)(c) of the OM By-Law is outlined in the table below:

Socio-economic impact	The proposal is not expected to result in any negative socio-economic impacts. On the contrary, the regularisation of existing structure supports the continued lawful residential use of the property. By retaining and utilising existing structures, the proposal promotes the efficient use of resources and contributes to the long-term sustainability of the property.
Compatibility with surrounding uses	The subject property is located within a well-established residential neighbourhood where structures positioned close to boundary lines are common and consistent with the prevailing character of the area. The existing structures are compatible with surrounding land



	uses. The proposal will not detract from the residential character of Westcliff and aligns with the Overstrand Municipal Spatial Development Framework (OMSDF) policy of reinforcing and strengthening residential neighbourhoods.
Impact on the external engineering services	The application will be circulated to the OM's Engineering Department to confirm that existing service capacities are adequate. No additional demand on municipal services is anticipated.
Impact on safety, health and wellbeing of the surrounding community	The proposal is not anticipated to have any adverse impact on the safety, health, or well-being of the surrounding community.
Impact on heritage	The subject property is not listed in the OM Heritage Register.
Impact on the biophysical environment	The property is located within an established urban area, and the proposal is not expected to have any negative impact on the biophysical environment. The regularisation of existing structures avoids unnecessary demolition and associated waste, which is consistent with principles of environmental sustainability.
Traffic impacts, parking, access and other transport related considerations	The proposal will not generate additional traffic beyond what is already present, therefore, no impact is expected.

Impact on views, sunlight and character of the area

The proposal relates to the regularisation and addition, low-scale structures and does not introduce any additional bulk, height, or massing beyond what already exists on the property. As such, the proposal is not expected to result in any loss of views or obstruction of sunlight to neighbouring properties.

The structures in question are residential in nature and are consistent with the scale and form of development commonly found within the surrounding area. Their retention will not alter the established streetscape or detract from the overall residential character of Westcliff. Accordingly, the proposal is not anticipated to have any adverse impact on views, access to natural light, or the character of the surrounding neighbourhood.

Economic impact

The proposal has a positive economic impact in that it preserves and regularises existing structures on the property, thereby safeguarding the owner's investment and maintaining the residential property. Furthermore, the owners reside on the property, which contributes to the local economy through ongoing maintenance, local procurement of goods and services, and long-term investment in the area.

Opportunity cost

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or forgoing valued land use rights of interested and affected parties when an application is approved. The proposal is not predicted to have a negative impact on surrounding properties.

Environmental impact

The proposal entails approval for existing structures within an already developed residential property located inside the urban edge. There are no sensitive environmental features on the subject property, and the property is not located within an environmentally important area.



6. CONCLUSION

The application seeks to regularise an existing historic structure and to accommodate a modest residential improvement through limited departures and the removal of outdated restrictive title deed conditions. The proposals relate to a single residential property within an established urban area and do not introduce any change in land use, increase in density, or intensification of development. The existing front porch and the proposed garage enlargement are residential in scale, non-intrusive in nature, and consistent with the prevailing built form and character of the surrounding area.

The departures sought are minor in extent and do not result in any adverse impacts on neighbouring properties, public streets, or municipal infrastructure. The application makes efficient use of existing services, aligns with the provisions and intent of the Overstrand Municipality Land Use Scheme, 2020, and satisfies the relevant development principles contained in Chapter 2 of SPLUMA. The proposal represents a reasonable and desirable land use outcome that balances private property rights with the broader public interest.

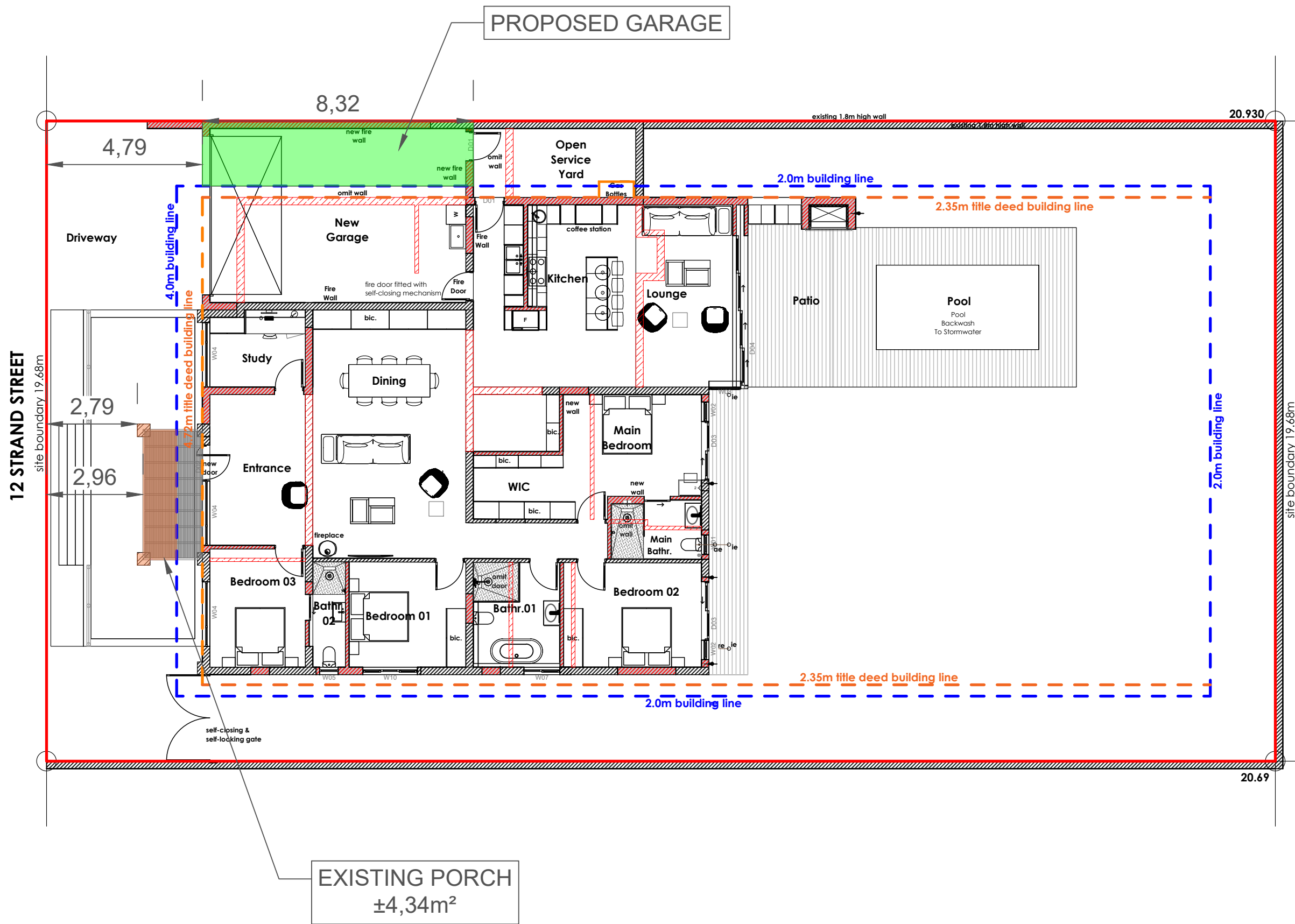
The current owners inherited the contravening structure and have acted proactively and in good faith to rectify the matter through the appropriate statutory processes. In light of the absence of material planning harm, the historic nature of the non-compliance, and the alignment of the proposal with sound planning principles, it is submitted that the application warrants favourable consideration and that the associated administrative penalty should be waived.

7. RECOMMENDATION

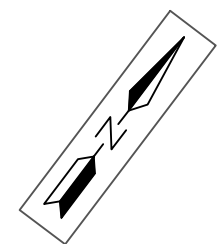
Based on the motivation, it is recommended that the following be approved:

- 7.1 Removal of restrictive title deed conditions to accommodate the proposed and existing structures** in terms of Section 16(2)(f) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020;
- 7.2 Permanent departure** from the North-Western side building line from 2m to 0m to accommodate the proposed garage in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020;
- 7.3 Permanent departure** from Street building line from 4m to 2,7m & 2,9m to accommodate the existing front porch in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020; and
- 7.4 Waiving of the determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

Plan 3: Site Plan
Erf 138 Hermanus



EXISTING PORCH
±4,34m²



Plan prepared by: Thian Jansen on 02/09/2026

Based on plans from Hardus Helberg

Plan Number - 25/162 (001)

All distances are approximate
and subject to a survey

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SCALE 1 : 125

