Munisipaliteit • U-Masipala • Municipality
OVERSTRAND

OVERSTRAND MUNICIPALITY

ERF 82, 62 KUSWEG, SANDBAAI: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: WRAP PROJECT OFFICE ON BEHALF OF LE ROUX SANDBAAI VAKANSIEHUIS CC

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 82, Sandbaai (the property), namely:

Removal of a Restrictive Title Deed Conditions
Application in terms of Section 16(2)(f) of the By-Law for the removal of a restrictive title deed conditions B.(II)(c) and B.(II)(d) as contained in Title Deed T41134/88 of the property to accommodate a proposed new garage on the property.

Departure
Application in terms of Section 16(2)(b) of the By-Law to relax the following:

- Eastern lateral building line from 2m to 0m to accommodate the proposed new garage, and
- Eastern lateral building line from 2m to 0,5m to allow the change of use of the storage area to a garage.

Determination of an Administrative Penalty
Application in terms of Section 16(2)(q) of the By-Law to accommodate the change of use existing building line encroachments as mentioned above.

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 on the municipal webpage at the following link https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/.

Any comments must be in writing and reach the Municipality (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) on or before **27 November 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.

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.

OVERSTRAND MUNISIPALITEIT

ERF 82, KUSWEG 62, SANDBAAI: AANSOEK OM OPHEFFING VAN BEPERKENDE TITELAKTEVOORWAARDES, AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: WRAP PROJECT OFFICE NAMENS LE ROUX SANDBAAI VAKANSIEHUIS BK

Kragtens Artikel 47 en 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) word hiermee kennis gegee van die onderstaande aansoeke van toepassing op Erf 82, Sandbaai (die eiendom), naamlik:

Opheffing van 'n Beperkende Titelaktevoorwaardes
Aansoek ingevolge Artikel 16(2)(f) van die Verordening vir die opheffing van 'n beperkende titelaktevoorwaardes B.(II)(c) en B.(II)(d) soos vervat in Titelakte T41134/88 van die eiendom ten einde 'n voorgestelde nuwe motorhuis op die eiendom te akkommodeer.

Afwyking
Aansoek ingevolge Artikel 16(2)(b) van die Verordening om die volgende te verslap:

- Oostelike syboulyn vanaf 2m tot 0m ten einde die voorgestelde nuwe motorhuis te akkommodeer, en
- Oostelike syboulyn vanaf 2m tot 0,5m om die gebruiksverandering van die stoorkamer na motorhuis te akkommodeer.

Bepaling van 'n Administratiewe Boete
Aansoek ingevolge Artikel 16(2)(q) van die Verordening om die bestaande boulynoorskrydings soos hierbo genoem te akkommodeer.

Besonderhede aangaande die voorstel lê ter insae gedurende weeksdae 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/.

Enige kommentaar moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (e) landuse@overstrand.gov.za) voor of op **27 November 2026**, met u naam, adres, kontak besonderhede, belang in die aansoek en die redes vir kommentaar. Telefoniese navrae kan gerig word aan die **Stadsbeplanner, Mnr 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.

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.

UMASIPALA WASE-OVERSTRAND

ISIZA 82, 62 KUSWEG, SANDBAAI: ISICELO SOKUSUSWA KWEEMEKO EZITHINTELAYO KWITAYITILE YOBUNINI, SOKUTENXA NGOKUSISIGXINA KUNYE NOKUMISELWA KWESOHLWAYO SOLAWULO: MESSRS WRAP PROJECT OFFICE EGAMENI LIKA LE ROUX SANDBAAI VAKANSIEHUIS CC

Isaziso siyanikezelwa ngokweCandelo lama-47 nelama-48 loMthetho kaMasipala oLungisiweyo kaMasipala waseOverstrand kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala) izicelo esebenzayo kwiSiza-82, Sandbaai, esizezi:

Sokususwa kweemeko ezithintelayo kwitayitile yobunini
Isicelo ngokweCandelo le-16 (2)(f) loMthetho kaMasipala wokususwa kwemiqathango yetayitile ethintelayo B.(II)(c) kunye B.(II)(d) njengoko kuqulethwe kwiSivumelwano soBunini Nomb T41134/88 yomhlaba ukuze kulungiselelwe igaraji entsha ecetywayo kuloo mhlaba.

Ukutenxa
Ukufakwa kwesicelo ngokweCandelo le-16(2)(b) loMthetho kaMasipala ukukhulula oku kulandelayo:

- Umgca wokwakha osecaleni elingasempuma ukusuka kwi-2m ukuya kwi-0m ukuze kulungiselelwe igaraji entsha ecetywayo, kunye
- Umgca wokwakha osecaleni elingasempuma ukusuka kwi-2m ukuya kwi-0,5m ukuze kuvunyelwe ukutshintshwa kokusetyenziswa kwendawo yokugcina izinto ibe yigaraji.

Nokumiselwa kwesohlwayo solawulo
Isicelo ngokungqinelana neCandelo 16(2)(q) loMthetho kaMasipala sokulungiselela utshintsho losetyenziso kunye nokungena kwesakhiwo esikhoyo kwindawo engavumelekanga (encroachment) njengoko kuchaziwe ngasentla.

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, nakwiwebhpheyiji kamasipala kweli qhakamshela lilandelayo https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/

Naziphi na izimvo mazibhalwe phantsi kwaye zifike kuMasipala (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) ngomhla okanye ngaphambi koko **27 EyeNkanga 2026,** kunye negama lakho, idilesi, iinkcukacha zoqhagamshelwano, umdla kwisicelo kunye nezizathu zokuphawula. Imibuzo ngomnxeba ingenziwa **kuMcwangcisi 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.

Nceda uqaphele ukuba Uthetho omayela noMthetho Wokhuseleko Lwengxelo Ngomntu (POPIA), uza kuba ungena kwinkqubo yoluntu ngoko ke uvumela kwaye uvumelana nokusetyenziswa kwegama lakho, ifani, iinkcukacha ofumaneka kuzo kunye noluvo(nezimvo) zakhe zingadizwa / zingasetyenziswa (kwisicelo) kwinkqubo.

EW JANTJIES
Acting Municipal Manager / Waarnemende Munisipale Bestuurder / Umphathi Kamasipala Obambeleyo
PO Box / Posbus / Ibhokisi yePosi 20 HERMANUS 7200

Notice No / Kennisgewing nr / Inombolo yesaziso: **222/2026**

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Plan 1 - Locality Plan

Erf 82 Sandbaai

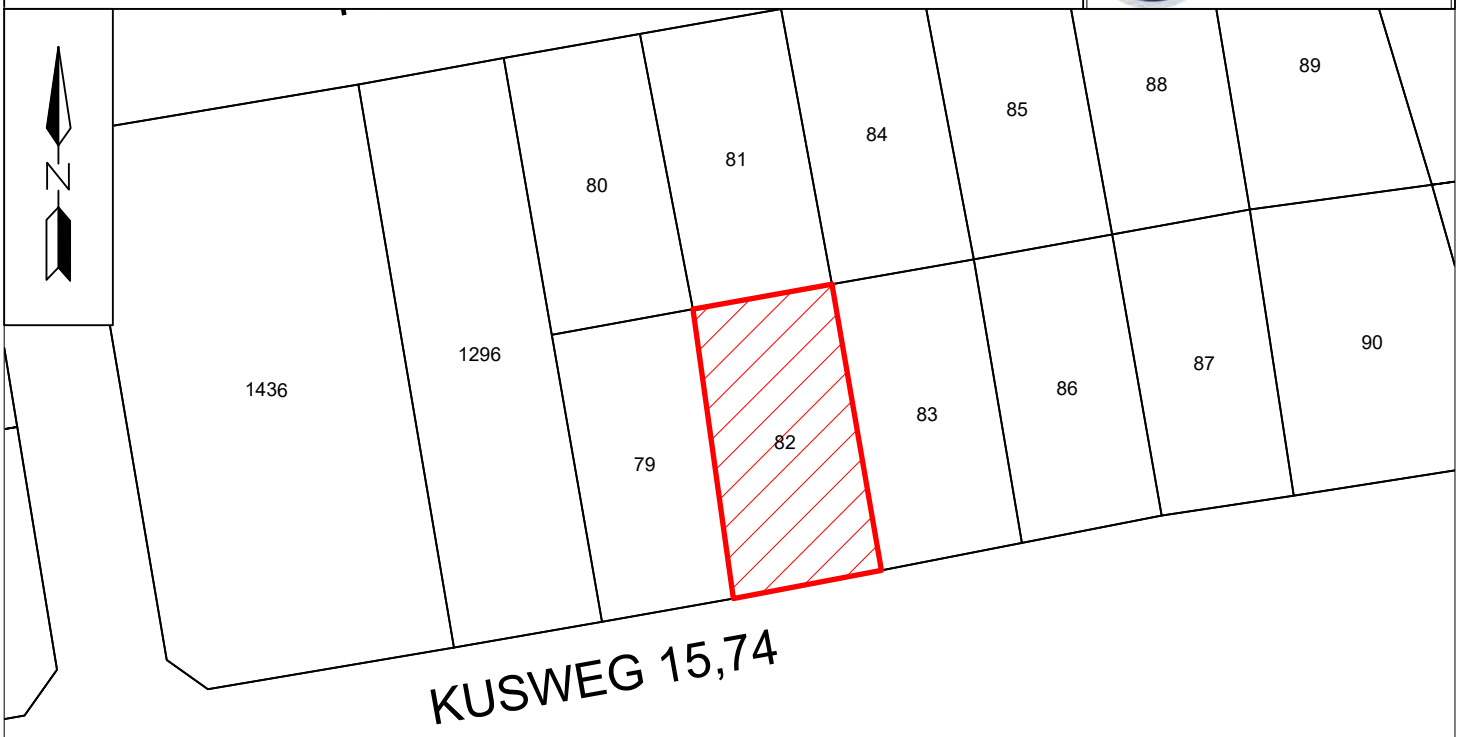
Plan prepared by: Thian Jansen

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

WRAP Project Office
Town Planning & Project Management



Scale 1 : 1000



ERF 82 SANDBAAI

APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, PERMANENT DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY

Application prepared for:
Le Roux Sandbaai Vakansiehuis CC

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Submitted
June 2026 – Version 1

Amended
August 2026 – Version 2

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1. PROPERTY DETAILS

Erf Number	Erf 82 Sandbaai
Extent	714m²
Title Deed	T41134/1988
Zoning	Residential Zone 1: Single Residential

2. EXECUTIVE SUMMARY

This application pertains to Erf 82 Sandbaai, hereafter referred to as the subject property, situated at 62 Kusweg, Sandbaai, as indicated on **Plan 1** (Locality Plan). The property owners have appointed WRAP Project Office to act on their behalf in the submission of this land use application, as confirmed in **Annexure A** (Power of Attorney).

The owners have owned the property since 1988 and constructed the existing dwelling and detached garage during the early 1990s. The proposal seeks approval to renovate and improve the property through the addition of several structures and the regularisation of a minor conversion that was undertaken without the necessary approvals.

To facilitate the proposal, the removal of restrictive title deed conditions is required, together with Municipal approval for a departure from the building line relating to the proposed garage. The application therefore seeks to regularise the existing conversion of the old garage into a storage area while accommodating improvements that will enhance the functionality and continued residential use of the property. Furthermore, the owners may wish to establish a second dwelling on the property in the future, which is currently precluded by the restrictive title deed conditions. The removal of these restrictions will provide flexibility for future development opportunities that are otherwise permissible in terms of the underlying zoning.

The proposal does not alter the residential nature of the property and remains consistent with the surrounding character of the area. The application has been assessed against the applicable planning and policy framework and is considered desirable from a planning perspective. It promotes the continued use and improvement of a long-established residential property in a manner that is compatible with the surrounding neighbourhood, aligns with the intent of the underlying zoning, and supports the orderly and sustainable development of the area.

3. PROCEDURE TO ACHIEVE THE OWNER'S INTENT

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

3.1 Removal of restrictive title deed conditions:

As previously indicated, the removal of restrictive title deed conditions is required to enable the owners to construct the proposed new garage. These conditions were originally imposed by the Administrator at the time of the establishment of the township and have remained registered against the title deed of the property.

While the conditions may have served a planning purpose at the time they were imposed, the planning context of the area has evolved significantly. The restrictions no longer align with the development rights afforded by the current zoning and unnecessarily constrain the reasonable use and development of the property.

Their removal will facilitate the proposed improvements to the property and provide greater flexibility for future development that remains compatible with the residential character of the area and compliant with the applicable provisions of the OMLUS.

B. ONDERHEWIG VERDER aan die volgende spesiale voorwaardes vervat in gesegde Transportakte Nr. 20445 gedateer 23 Oktober 1947, naarnlik :- *(II) Opgelê is deur die Administrateur van die Kaapprovinsie toe hy die oprigting van die dorp goedgekeur het, naamlik :-* *"(a) That the above erf or erven be used for residential purposes only.* *(b) That the above erf or erven be not subdivided.* *(c) That not more than one dwelling together with the necessary out-buildings and accessories be erected on any one of the above erven and that not more than one-half the area of any one of the above erven be built upon.* *(d) That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as gardens but shall not be built upon."*
Proposed sub-conditions to be removed: *"(c)That not more than one dwelling together with the necessary out-buildings and accessories be erected on any one of the above erven and that not more than one-half the area of any one of the above erven be built upon.* *(d) That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as gardens but shall not be built upon."*

Sub-condition (c) restricts the development of the property to a single dwelling house together with the necessary outbuildings and accessories. The restriction is more onerous than the development rights afforded by the current Residential Zone 1 zoning, which permits an additional dwelling unit subject to compliance with the applicable provisions of the OMLUS.

The removal of the aforementioned restrictive title deed condition is therefore required to align the title deed with the current planning framework and to remove unnecessary constraints on the reasonable use and development of the property. While the current application does not include the development of a second dwelling, the removal of the restriction will provide the owners with the opportunity to establish an additional dwelling in the future, should they elect to do so and subject to compliance with all applicable development parameters.

Sub-condition (d) imposes a restrictive street building line of 4,72m along the street boundaries of the property. The proposed garage encroaches into this title deed building line and therefore necessitates the removal of the restriction. The removal of the condition will enable the proposed development while allowing future development on the property to be regulated by the building line provisions contained in the OMLUS.

Motivation for the removal of conditions B. II. (c)
The rationale for the proposed removal
The original intent of the restrictive title deed condition was to protect the residential character of the area and to ensure that development occurred in an orderly and controlled manner. At the time these conditions were imposed, town planning schemes were often limited in scope and title deed restrictions were used as an additional mechanism to regulate land use and development intensity. Since then, the regulatory planning framework has evolved significantly. The OMLUS now provides a comprehensive and uniform set of development parameters applicable throughout the municipal area. These include controls relating to land use rights, density, coverage, building lines, height and parking. The objectives originally served by the restrictive title deed condition are therefore already adequately regulated through the provisions of the current land use scheme. The continued enforcement of historic title deed conditions in parallel with a comprehensive land use scheme results in unnecessary duplication and regulatory overlap. The removal of the condition will therefore allow development to be managed through the contemporary planning framework established by the OMLUS, which is specifically designed to guide and regulate development within the municipality.
Status quo
The subject property is located within a well-established residential area of Sandbaai characterised by single residential erven improved with dwelling houses and associated outbuildings. While the historic title deed condition restricts development to a single dwelling house on the property, the current Residential Zone 1 zoning permits an additional dwelling unit, subject to compliance with the applicable provisions of the OMLUS. The retention of the title deed restriction therefore places an unnecessary limitation on the development rights associated with the property and creates an inconsistency between the title deed and the current planning framework. The removal of the condition will align the title deed with the prevailing zoning rights applicable to the property and ensure that any future development remains subject to the comprehensive development controls contained in the OMLUS. The condition is therefore considered outdated and no longer necessary to achieve the planning objectives for which it was originally imposed.

Motivation for the removal of conditions B. II. (d)
The rationale for the proposed removal
Condition B. II. (d) imposes a restrictive street building line of 4,72 metres along the street boundaries of the property. This restriction was introduced at the time of the establishment of the township to ensure a consistent streetscape and adequate separation between buildings and public roads. Since the imposition of the condition, planning legislation and development controls have evolved considerably. The OMLUS now regulates building lines through a comprehensive set of development parameters that are applied consistently throughout the municipal area. The continued enforcement of historic title deed building lines in addition to those

prescribed by the OMLUS creates duplication and unnecessarily restricts development opportunities on properties.

The removal of the condition is required to facilitate the proposed garage, which encroaches into the title deed building line. The proposal remains compatible with the residential character of the area and does not undermine the purpose for which the original restriction was imposed.

Status quo

The subject property is situated within an established residential neighbourhood where development has occurred over several decades. The proposed garage is ancillary to the existing residential use of the property and will not alter the character of the surrounding area.

The removal of the restrictive title deed building line will not result in uncontrolled development, as all future development on the property will remain subject to the provisions of the OMLUS and the National Building Regulations. The Municipality will therefore retain full control over the scale, location and extent of future buildings on the property.

The removal of the condition will enable the reasonable improvement of the property while ensuring that development continues to occur in an orderly manner consistent with the character and amenity of the surrounding residential area.

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

LUPA, Section 39(5) (a-f)		
(a)	*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;*	The restrictive title deed conditions were imposed by the Administrator at the time of the establishment of the township and were intended to regulate development within the area. The conditions do not confer any direct financial benefit on a specific person or entity, nor do they create rights in favour of a dominant tenement. Their purpose was primarily regulatory in nature and has since largely been superseded by the comprehensive development controls contained in the OMLUS.
(b)	*the personal benefits which accrue to the holder of rights in terms of the restrictive condition;*	The conditions may provide neighbouring property owners with a degree of certainty regarding the scale and location of development on surrounding properties. However, these benefits are substantially replicated through the provisions of the OMLUS, which regulates development rights, building lines, coverage, height and land use. The removal of the conditions will therefore not deprive neighbouring property owners of protection against inappropriate development, as all future development will

		remain subject to municipal control and approval processes.
(c)	*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;*	The removal of the restrictive title deed conditions will allow the owners to proceed with the proposed improvements to the property, including the construction of the proposed garage. It will further align the title deed with the current zoning parameters applicable to the property and remove unnecessary constraints on the reasonable use and future development of the land. Any future development will remain subject to compliance with the applicable provisions of the OMLUS and other relevant legislation.
(d)	*the social benefit of the restrictive condition remaining in place in its existing form;*	The social benefit associated with the retention of the restrictive conditions is limited, as the objectives for which the conditions were originally imposed are already addressed through the contemporary planning framework. The continued application of the conditions provides little additional protection beyond that already afforded by the OMLUS and other applicable regulatory mechanisms.
(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.*	The removal of the restrictive conditions will not completely remove all rights enjoyed by any beneficiary. The Municipality will retain the authority to regulate development through the provisions of the OMLUS, the National Building Regulations and other applicable legislation. Neighbouring property owners will continue to benefit from these development controls and from the statutory processes applicable to future land use applications where required.

In summary, the removal of the restrictive title deed conditions will be beneficial to the owners of the subject property, as it will facilitate the reasonable improvement and utilisation of the land. The removal of the conditions will align the title deed with the contemporary planning framework applicable to the property and eliminate unnecessary duplication between historic title deed restrictions and the development controls contained in the OMLUS.

Furthermore, the proposed development remains residential in nature and is compatible with the character of the surrounding area. Future development on the property will continue to be regulated through the applicable zoning provisions, development parameters and municipal approval processes, thereby ensuring that the amenity and character of the surrounding neighbourhood are maintained.

3.2 Permanent Departure of the eastern side building line from 2m to 0m to allow the proposed garage;

The owners propose the construction of a new garage measuring approximately 4,37m x 6,5m along the eastern side boundary of the property. The proposed structure is intended to provide secure and functional vehicle parking associated with the existing dwelling house and to improve the overall functionality of the property.

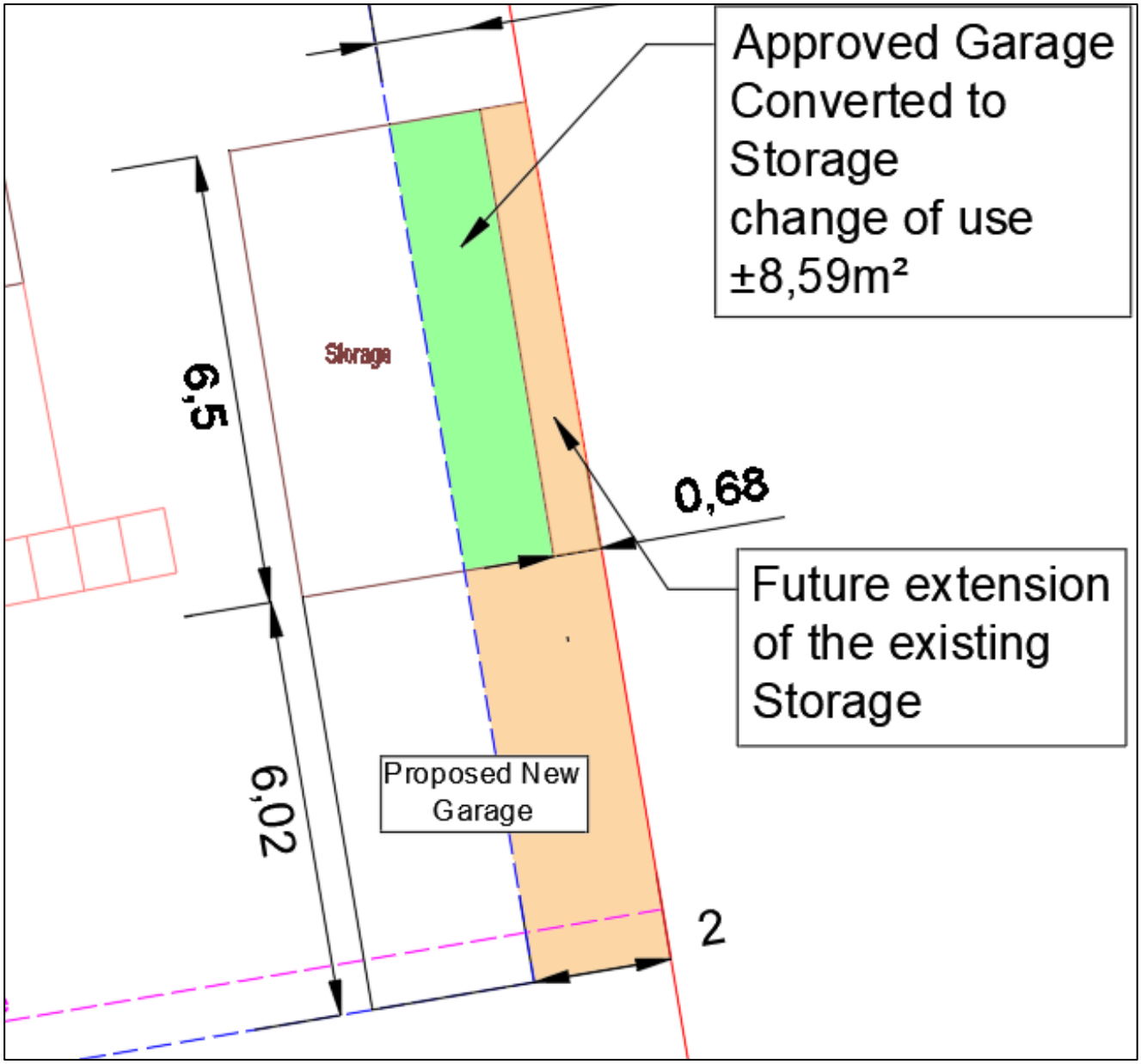


Figure 1: Proposed New garage

Historically, the property contained a detached garage which has subsequently been converted into a storage area. As a result, the property no longer contains a dedicated garage for vehicle parking. The proposed garage is therefore intended to restore this function and ensure that adequate covered parking is available on the property. The proposal represents a modest improvement to an established residential property and is directly related to the day-to-day needs of the owners.

In order to accommodate the proposed garage in a practical and efficient manner, a departure from the prescribed eastern side building line is required. The proposal seeks to relax the eastern side building line from 2m to 0m, thereby allowing the garage to be constructed on the common boundary. The location of the garage has been carefully selected to ensure convenient vehicular access from the street while maintaining the existing layout and functionality of the property. Furthermore, the existing driveway is already located along the eastern side of the property, making this the most logical and practical location for the proposed structure. Locating the garage elsewhere on the property would require significant alterations to the existing access arrangement and would result in a less efficient utilisation of the site.

The proposed departure is considered appropriate given the nature and scale of the structure. Garages are commonly located along side boundaries and are generally regarded as ancillary structures associated with residential properties. Unlike habitable rooms, garages do not give rise to overlooking or privacy concerns and typically have a limited impact on neighbouring properties. The proposed garage will therefore not alter the residential character of the property or the surrounding neighbourhood and will remain compatible with the established development pattern of the area.

Furthermore, the departure relates to a relatively small portion of the property and will not result in overdevelopment. The proposal will continue to comply with the applicable development parameters relating to coverage, height and land use, while improving the functionality and usability of the property for the owners. The garage will remain subordinate to the primary dwelling and will not result in any increase in residential density or a change in land use.

It is therefore considered that the proposed departure is reasonable and desirable, as it facilitates an improvement that is customary and incidental to the use of a single residential property. The departure will not adversely affect the amenity of neighbouring properties, compromise public safety, or detract from the character of the surrounding residential area. On the contrary, the proposal represents the logical and orderly development of the property and will contribute positively to its continued residential use and enjoyment.

3.3 Permanent Departure of the eastern side building line from 2m to 0,5m to allow the proposed change of use;

3.4 Permanent Departure of the eastern side building line from 2m to 0m to allow the future extension of the storage area;

Historically, the detached garage located along the eastern side of the property was converted into a storage area without the necessary planning approvals being obtained. The owners now seek to regularise this conversion as part of the proposed improvements to the property.

The existing structure is located approximately 0,5m from the eastern side boundary and therefore encroaches into the prescribed 2m side building line. In order to regularise the existing storage area and accommodate its continued use, a permanent departure is required to relax the eastern side building line from 2m to 0,5m.

The proposed departure relates to an existing structure that has been present on the property for many years and does not involve the construction of a new building or the intensification

of the property's use. The proposal merely seeks to formalise an existing situation and ensure that the property's approvals accurately reflect the current use of the structure.

Furthermore, the proposed new garage will be positioned directly in front of the existing storage area and will provide a functional connection between the two structures. The new garage will restore the vehicle parking function that was historically associated with the original building, while the existing structure will continue to serve as a storage facility ancillary to the dwelling house. Together, the two structures will form a coherent and functional arrangement that supports the ongoing residential use of the property.

In addition, the owners propose a modest extension to the existing storage area. The extension will continue the existing building line up to the eastern side boundary and therefore requires a further permanent departure to relax the eastern side building line from 2m to 0m. The proposed extension is ancillary to the existing dwelling house and storage area and is intended to improve the functionality and usability of the property. Owing to its limited scale and location adjacent to the existing structure, the extension will not adversely affect the amenity of neighbouring properties or alter the established residential character of the area.

The proposed departures are considered reasonable as the storage area and its extension are ancillary to the primary residential use of the property and do not generate additional traffic, noise, overlooking or other impacts that could negatively affect neighbouring properties. The proposal will not result in an intensification of land use and remains compatible with the character and development pattern of the surrounding residential area.

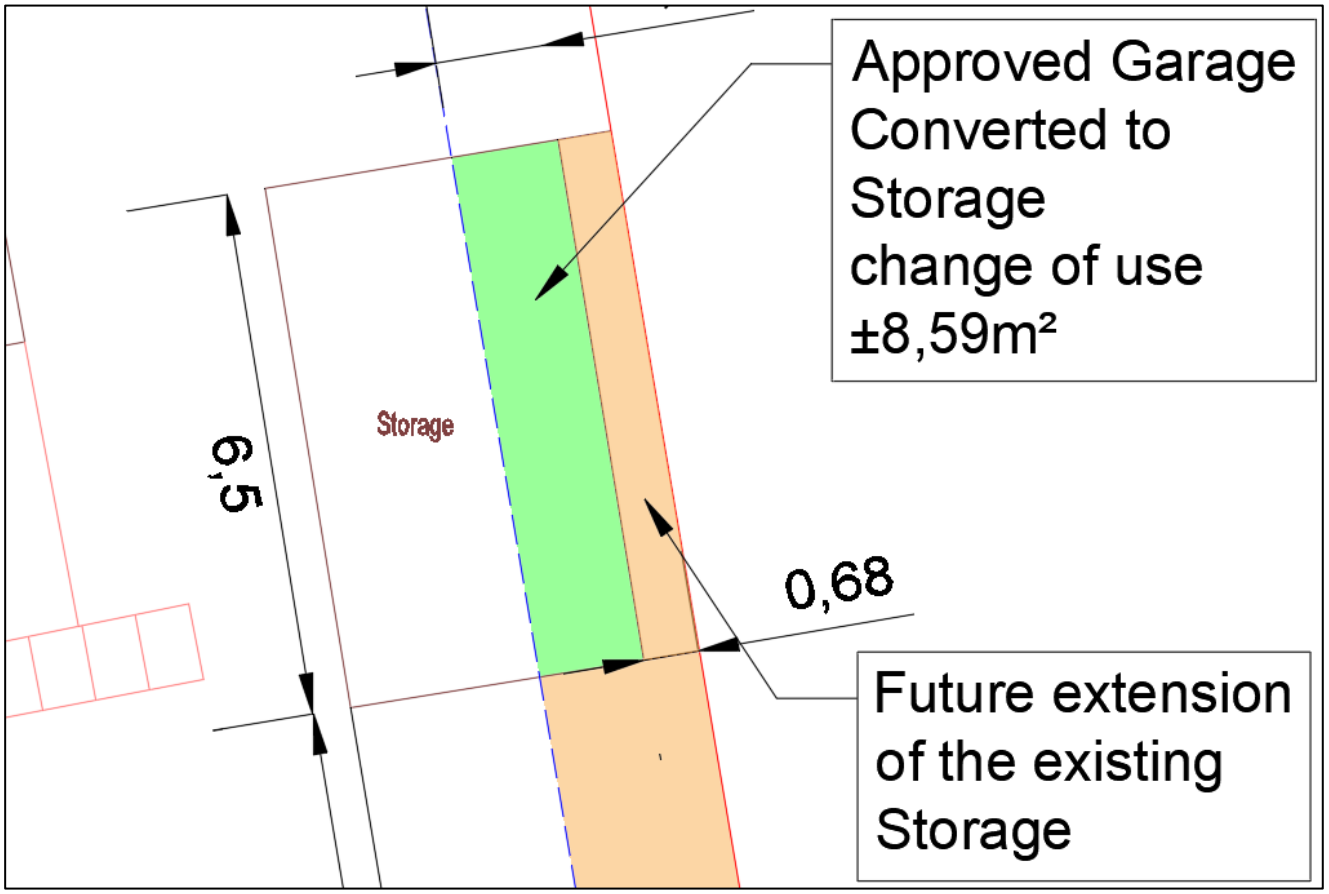


Figure 2: Proposed change of use and new extension

It is therefore considered that the proposed departures will facilitate the regularisation of an existing development together with a modest extension to improve its functionality, while

promoting the orderly and lawful use of the property. The proposal will not adversely affect the amenity of adjoining properties and remains compatible with the character and development pattern of the surrounding area.

3.5 Determination of an administrative penalty;

The final component of the application relates to the determination of an administrative penalty for the existing change of use that occurred when the approved garage was converted into a storage area without the necessary approvals. As outlined in the preceding sections, this conversion constitutes a contravention of the applicable planning legislation. The sections above provide the relevant context and detail regarding the circumstances giving rise to the contravention.

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

- The owners did not wilfully disregard planning controls but rather proceeded without full knowledge of the applicable requirements. There was no malicious intent. Upon becoming aware of the non-compliance, 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 change of use in question is ancillary to the existing residential use of the property and does 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 storage area aligns with the principles of spatial justice, efficiency and sustainability, as it avoids unnecessary demolition and waste while promoting the lawful and practical use of the property.

In addition, no complaints have been received from neighbouring property owners in relation to the existing storage area, indicating that the contravention has not resulted in any material harm or disruption to the surrounding community. In terms of the By-Law, the contravention described above requires the determination of an administrative penalty. The purpose of such a penalty is not punitive, 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 the historic non-compliance. 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) <u>The nature, duration, gravity and extent of the contravention</u>

Section 3 of this report outlines the nature and extent of the contravention, which relates to the conversion of an approved garage into a storage area without the necessary planning approvals. The storage area occupies approximately 9,75m² within the prescribed 2m side building line and is therefore the subject of a departure application to regularise the existing development.

The contravention is limited in extent and relates solely to an ancillary structure associated with the existing dwelling house. The use of the structure as a storage area has not resulted in

any intensification of the residential use of the property, nor has it generated any adverse impacts on neighbouring properties or municipal services.

Existing Contraventions	
Change of Use	±9,75m²

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

The owners were unaware that the conversion of the approved garage into a storage area required additional planning approval. There was no intention to circumvent the applicable planning legislation or municipal processes. Upon becoming aware of the non-compliance, the owners acted in good faith and promptly appointed WRAP Project Office to prepare and submit the necessary application to regularise the situation. Their actions demonstrate a proactive, cooperative and responsible approach towards achieving compliance with the applicable planning framework.

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

Given the small-scale nature of the encroachments, no quantity surveyor was appointed. It is proposed that the Municipality's standard calculation methods be applied in determining any applicable penalty.

(d) Whether the unlawful conduct was stopped

The unlawful conduct relates to structures that have already been constructed. No further unauthorised building work has taken place since the owners became aware of the requirements. Instead, they have followed the prescribed municipal processes to obtain the necessary approvals and to regularise the structures. The submission of this application, together with the absence of further unauthorised development, demonstrates clear intent to comply.

(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.

4. PLANNING ASSESSMENT

4.1. ZONING

The subject property is zoned Residential Zone 1: Single Residential in terms of the Overstrand Municipal Land Use Scheme, 2020 (OMLUS). The proposed development consists of the construction of a new garage, the regularisation of an existing storage area, the removal of restrictive title deed conditions and the approval of the necessary departures to accommodate these improvements.

The proposal does not introduce any additional or incompatible land uses, and the property will continue to be utilised for residential purposes in accordance with the primary use rights associated with the zoning. The proposed garage and storage area are ancillary to the existing dwelling house and are commonly associated with single residential properties.

Furthermore, the removal of the restrictive title deed conditions will align the title deed with the development rights afforded by the current zoning framework. Any future development of the property will remain subject to the provisions of the OMLUS and the applicable development parameters relating to coverage, building lines, height and land use.

The proposal is therefore considered consistent with the intent and purpose of the Residential Zone 1 zoning and will not detract from the residential character or amenity of the surrounding area.

4.2. ENGINEERING SERVICES

The availability and adequacy of engineering services is a relevant consideration in terms of Section 42(1)(c)(v) of the Spatial Planning and Land Use Management Act, 2013 (SPLUMA), and is addressed below. The subject property is already connected to existing municipal engineering service networks within the area, including electricity, potable water and sewerage (small bore). The proposed departures are not expected to have an impact thereon.

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

4.3. POLICIES AND REGULATIONS

Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)
The subject property is located within the 'Coastal Protection' EMOZ. The purpose thereof is managing the integrity of coastal ecosystems, ecosystem services, coastal dynamic processes and biodiversity within Coastal Reserves.

The proposed departures and renovation of the property is not expected to have a negative effect on the EMOZ.

Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)
The property is located within the 'Costal Strip' HPOZ. The proposed departures and renovation of the property is not expected to have a negative effect on the HPOZ.

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 the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) sets out a number of development principles that must be considered in all land use and development applications. The principles relevant to the proposal are addressed as follows:

Spatial Justice
The proposal will not prejudice the rights or interests of surrounding property owners and does not result in the exclusion of any group from access to land or opportunities. The application seeks to regularise an existing storage area and facilitate the construction of a new garage associated with the existing dwelling house. The proposal therefore represents the reasonable

use and improvement of private property while remaining compatible with the surrounding residential environment.

Spatial Sustainability and Efficiency
The proposal relates to the improvement of an existing residential property within an established urban area that is already served by municipal infrastructure and services. No additional demand will be placed on municipal services and no new land uses are proposed. The regularisation of the existing storage area and construction of the proposed garage represent an efficient use of existing residential land and infrastructure while supporting the continued functionality of the property.

Good Administration
The application seeks to regularise an existing planning contravention and obtain the necessary approvals for proposed improvements to the property. The removal of restrictive title deed conditions and approval of the required departures will ensure that the property's development rights and land use approvals accurately reflect the existing and proposed development. The application has been prepared and submitted in accordance with the applicable legislative framework and promotes legal certainty, transparency and orderly land use management.

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 of a minor residential nature and is not expected to result in any significant socio-economic impacts. The application seeks to regularise an existing storage area and facilitate the construction of a new garage associated with the existing dwelling house. The proposal will improve the functionality and usability of the property without placing additional demands on community facilities, municipal services or public infrastructure.
Compatibility with surrounding uses	The subject property is situated within an established residential neighbourhood characterised by dwelling houses and associated ancillary structures. The proposed garage and storage area are customary and incidental to the residential use of the property and are therefore compatible with the surrounding land uses. The proposal will not alter the residential character of the area or introduce any incompatible activities.
Impact on the external engineering services	The proposal will have no material impact on external engineering services. No additional dwelling units or land uses are proposed, and the development will not place any additional demand on municipal water, sewer, stormwater, electricity or road infrastructure.
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 wellbeing of the surrounding community. The garage and storage area are ancillary to the existing residential use of the property and will not generate noise, pollution, traffic or other nuisance factors that may negatively affect neighbouring properties.
Impact on heritage	The proposal relates to alterations and improvements to an existing residential property and there is no evidence to suggest that the development will negatively affect any heritage resources or places of

	cultural significance. The application is therefore not expected to have any adverse heritage impacts.
Impact on the biophysical environment	The proposal is confined to an existing residential erf within the urban area and does not involve the disturbance of sensitive environmental features, indigenous vegetation, watercourses or biodiversity areas. The development is therefore not expected to have any significant impact on the biophysical environment.
Traffic impacts, parking, access and other transport related considerations	The proposal is not expected to generate any additional traffic movements, as no new dwelling units or intensified land uses are proposed. The proposed garage will provide dedicated covered parking for the existing dwelling and will utilise the existing vehicular access and driveway. The proposal is therefore not anticipated to adversely affect the surrounding road network, traffic operations or access arrangements.

Impact on views, sunlight and character of the area

The proposed development is not expected to have a material impact on views, access to sunlight or the character of the surrounding area. The application relates to the regularisation of an existing storage area and the construction of a new garage ancillary to the existing dwelling house.

The proposed garage is modest in scale and residential in nature and is consistent with structures commonly found on single residential properties throughout Sandbaai. The development will therefore remain compatible with the established built form and character of the surrounding neighbourhood.

Furthermore, the proposed structures are not of a scale or height that would result in any significant obstruction of views or unreasonable loss of sunlight to adjoining properties. The garage will be located along the eastern side boundary and will not introduce overlooking opportunities or other impacts that could adversely affect neighbouring properties.

It is therefore considered that the proposal will maintain the residential character and amenity of the area while facilitating the reasonable improvement and continued use of the property.

6. CONCLUSION

The application seeks the removal of restrictive title deed conditions, the approval of the necessary building line departures, the regularisation of an existing change of use from a garage to a storage area, and the determination of an administrative penalty in respect of the historic contravention.

The proposal is considered desirable from a planning perspective as it facilitates the continued improvement and lawful use of an established residential property while remaining consistent with the character and development pattern of the surrounding area. The proposed garage and storage area are ancillary to the existing dwelling house, do not introduce any additional or incompatible land uses, and will not adversely affect neighbouring properties, municipal services, traffic operations, or the broader objectives of the Municipality.

The removal of the restrictive title deed conditions will align the title deed with the contemporary planning framework and eliminate unnecessary duplication between historic restrictions and the development controls contained in the OMLUS. The proposed departures

are modest in nature and are required to accommodate development that is customary and incidental to the residential use of the property.

With regard to the administrative penalty, the contravention relates to the conversion of an approved garage into a storage area without the necessary planning approval. There is no evidence that the owners deliberately disregarded the applicable planning legislation or sought to obtain an unfair advantage. Upon becoming aware of the non-compliance, the owners acted in good faith by appointing professional planning assistance and taking the necessary steps to regularise the property through the submission of this application.

Furthermore, the contravention has not resulted in any material harm to neighbouring properties, municipal services, public safety, or the amenity of the surrounding area. The storage area remains ancillary to the primary residential use of the property, and no complaints or objections have been received in relation to its existence. The regularisation of the development promotes orderly land use management and ensures that the property complies with the applicable legislative framework.

7. RECOMMENDATION

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

7.1 **Removal of restrictive title deed conditions** 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 eastern side building line from 2m to 0m to allow 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** the eastern side building line from 2m to 0,5m to allow the change of use in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020.

7.4 **Permanent Departure from** the eastern side building line from 2m to 0m to allow the extension of the storage area in terms of Section 16(2)(b) of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020.

7.5 **Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

X3 811 120,00

Y-18 240,00

Y-18 260,00

84

81

80

B

A

18.89m

stoep

37.78m

83

wendy house

79

37.78m

balcony

cottage

deck

X3 811 140,00

X3 811 160,00

C

18.89m

D

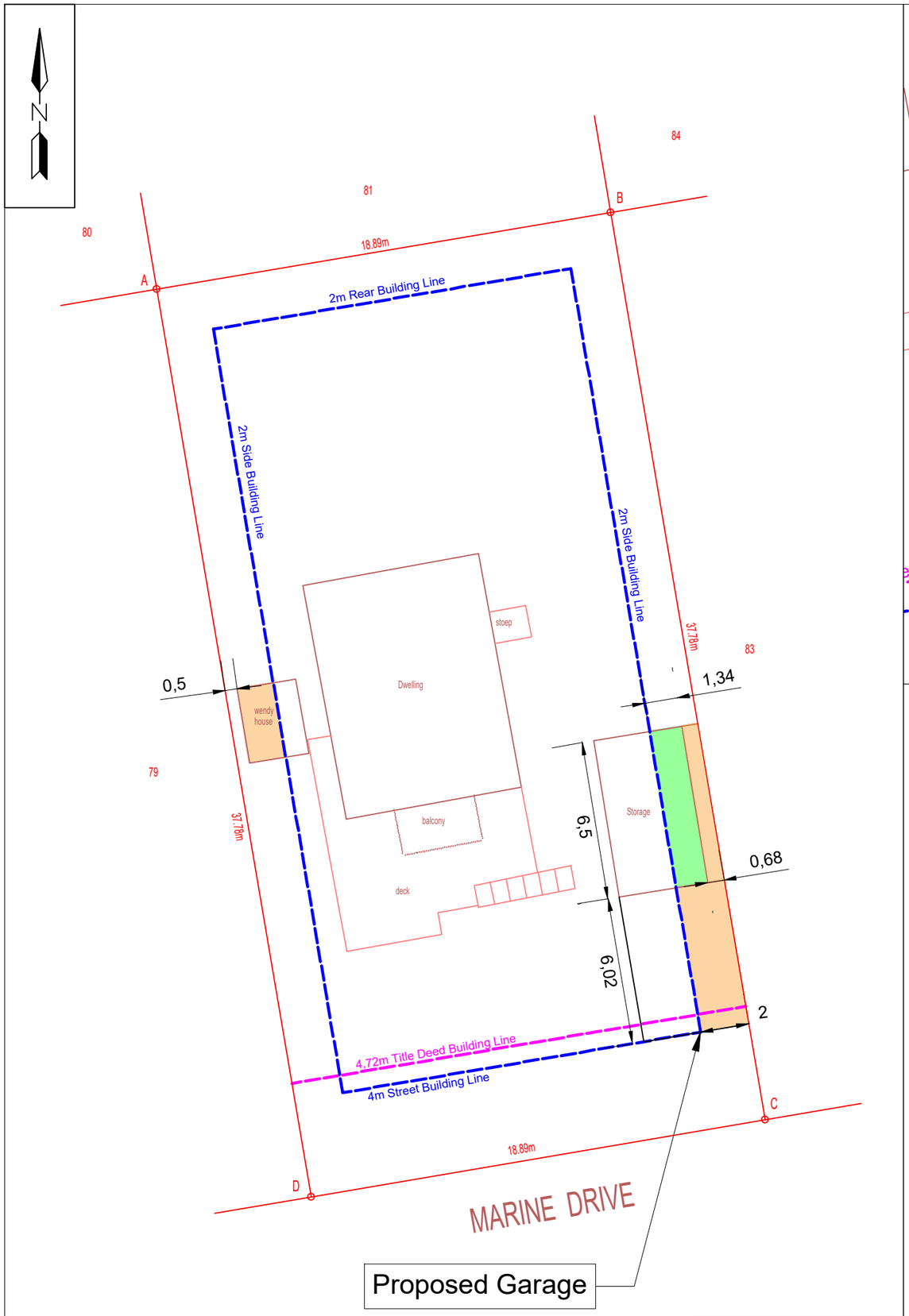
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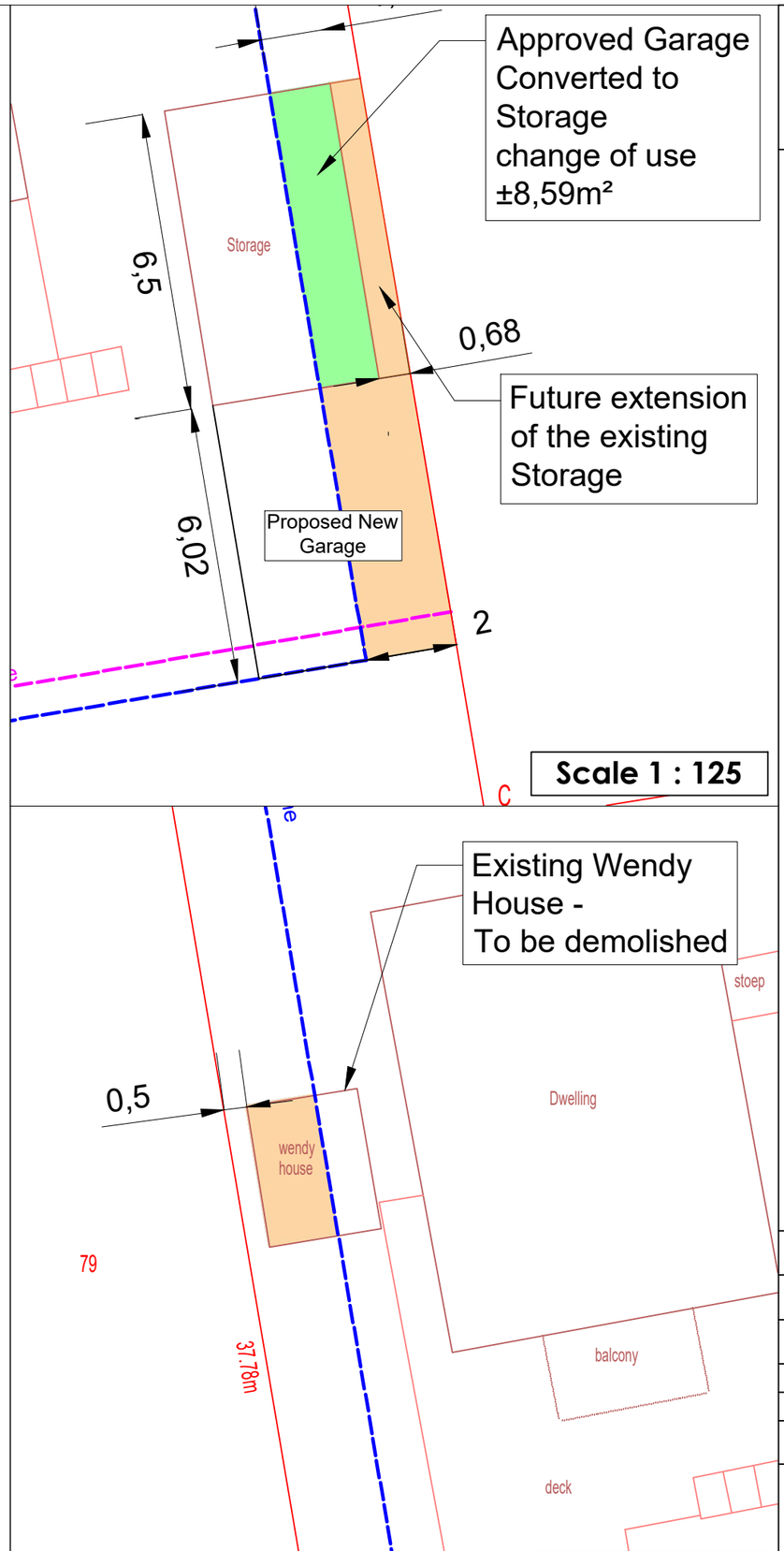
Project **BUILDING POSITION AND BEACON RELOCATION ERF 82 SANDBAAI**	Client **MR & MRS SCHRODER**	Constants Y 0.00 X 0.00	geomatics africa LAND SURVEYING CONSULTANTS
	Architect	Height Datum / System wgs84	
	Beacon Descriptions A - drill hole on wall C - 12mm iron peg D - Fence post	Project No / Drawing No sb82	
		Scale 1:150 Date July 2026	PO Box 2245, Hermanus, 7200 3 College Rd, Hermanus, 7200 E-mail: info@geomaticsafrica.co.za Tel: 028 - 3131236 Fax: 028 - 3131237

Plan 3 - Proposed Departure Plan

Erf 82 - Sandbaai



Scale 1 : 200



Scale 1 : 125

Scale 1 : 125

Plan prepared by: Thian Jansen on 03/08/2026

Plans based on survey from Geomatics Africa

All distances are approximate and subject to a survey

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Town Planning & Project Management