



ERF 3209, 22 ALBERTYN STREET, KLEINMOND: APPLICATION FOR DEPARTURE, RELAXATION OF TITLE DEED AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MAKE ARCHITECTS (PTY) LTD ON BEHALF OF JL CILLIERS

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 that an application has been received for the following:

- **departure** in terms of Section 16(2)(b) of the By-Law to relax the following:
 - lateral building line from 2,0m to 0,106m to accommodate the existing covered stoep on the southeastern boundary.
 - lateral building line from 2,0m to 0,585m to accommodate the existing covered stoep on the eastern boundary.
 - rear building line from 2,0m to 0,192m to accommodate the existing interlinked garage storage space on the northern boundary.
 - lateral building line from 2,0m to 0,328m to accommodate the existing garage storage space on the western boundary.
- **departure** in terms of Section 16(2)(b) of the By-Law exceed the 9m restriction of a building on one specific boundary to 9,265m to accommodate the existing garage on the western boundary.
- **relaxation** of Clause B.9. of Title Deed No. T18510/2018 to relax the street building line from 3,15m to 1,342m to accommodate the encroachment of the existing covered stoep.
- **determination of administrative penalty** in terms of Section 16(2)(q) of the By-Law for the unauthorised scheme and title deed building line encroachments as mentioned above.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Division: Town & Spatial Planning, Hermanus and at the Kleinmond Library, Fifth Avenue, Kleinmond and on the municipal webpage at the following link <https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/>. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / landuse@overstrand.gov.za) on or before **30 October 2026**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to **Ms. H van der Stoep** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town & Spatial Planning Division where a municipal official will assist them in order to formalize their comment.

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.

ERF 3209, ALBERTYNSTRAAT 22, KLEINMOND: AANSOEK OM AFWYKING, VERSLAPPING VAN TITELAKTE EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: MAKE ARCHITECTS (PTY) LTD NAMENS JL CILLIERS

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 dat 'n aansoek soos volg ontvang is:

- **afwyking** ingevolge Artikel 16(2)(b) van die Verordening om die volgende te verslap:
 - syboullyn vanaf 2,0m na 0,106m om die bestaande onderdak stoep op die suidoostelike grens te akkommodeer.
 - syboullyn vanaf 2,0m na 0,585m om die bestaande onderdak stoep op die oostelike grens te akkommodeer.
 - agterboullyn vanaf 2,0m na 0,192m om die bestaande intertoeganklike motorhuis-stoep op die noordelike grens te akkommodeer.
 - syboullyn vanaf 2,0m na 0,328m om die bestaande motorhuis-stoep op die westelike grens te akkommodeer.
- **afwyking** ingevolge Artikel 16(2)(b) van die Verordening om die 9m beperking van 'n struktuur op een spesifieke grenslyn te oorskry tot 9,265m om die bestaande motorhuis op die westelike grens te akkommodeer.
- **verslapping** van Klousule B.9. van Titelakte Nr. T18510/2018 om die straatboullyn vanaf 3,15 m na 1,342m te verslap om die oorskryding van die bestaande onderdak stoep te akkommodeer.
- **bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) van die Verordening vir die ongemagtigde skema en titelakte-boulynoverskrydings soos hierbo genoem.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Afdeling: Stads- en Streekbeplanning, Hermanus en by die Kleinmond Biblioteek, Vyfde laan, Kleinmond en op die munisipale webtuiste by die volgende skakel <https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/>. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / landuse@overstrand.gov.za) voor of op **30 Oktober 2026**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan **Me. H van der Stoep** by 028-313 8900. Die Munisipaliteit mag weier om die kommentaar 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 formaliseer.

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.

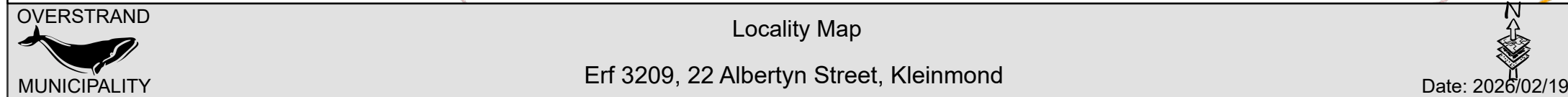
ISIZA 3209, 22 ALBERTYN STREET, KLEINMOND: ISICELO SOKUHAMBA, UKUNCITSHISWA KWEMIQATHANGO YE-TITLE DEED KUNYE NOKUMISELWA KWESOHLWAYO SOLAWULO: I-MAKE ARCHITECTS (PTY) LTD EGAMENI LE-JL CILLIERS

Isaziso ngoku sinikezelwe ngokwemiqathango yeCandelo 48 loMthetho kaMasipala oLungisiweyo wase-Overstrand woCwangciso lokuSetyenziswa koMhlaba kaMasipala, wango-2020, sokuba kufunyenwe isicelo sezi zinto zilandelayo:

- **ukuhamba** ngokwemiqathango yeCandelo 16(2)(b) loMthetho kaMasipala ukuze kuncitshiswe ezi zinto zilandelayo:
 - umgca wesakhiwo onxuseneyo ukusuka kwi-2,0m ukuya kwi-0,106m ukuze kulungiselelwe situpu esigquniweyo kumda okumzantsi-mpuma.
 - umgca wesakhiwo onxuseneyo ukusuka kwi-2,0m ukuya kwi-0,585m ukuze kulungiselelwe situpu esigquniweyo esikhoyo kumda osemphuma.
 - umgca wesakhiwo ongasemva ukusuka kwi-2,0m ukuya kwi-0,192m ukuze kulungiselelwe indawo yokugcina izinto kwigaraji ekhoyo edityanisiwe nendlu kumda osemantla.
 - umgca wesakhiwo onxuseneyo ukusuka kwi-2,0m ukuya kwi-0,328m ukuze kulungiselelwe indawo yokugcina izinto kwigaraji ekhoyo kumda osentshona.
- **Ukuhamba** ngokwemiqathango yeCandelo 16(2)(b) loMthetho kaMasipala ukuze kudluliswe umda wobude obuyi-9m wesakhiwo kumda othile uye kwi-9,265m ukuze kulungiselelwe igaraji ekhoyo kumda osentshona.
- **ukuncitshiswa** kweGatya B.9. loXwebhu lobuNini (Title Deed) uNombolo T18510/2018 ukuze kuncitshiswe umgca wesakhiwo ojongene nesitalato ukusuka kwi-3,15m ukuya kwi-1,342m ukuze kulungiselelwe ukungena kwesitupu esigquniweyo esikhoyo kwindawo.
- **ukumisela isohlwayo solawulo** ngokwemiqathango yeCandelo 16(2)(q) loMthetho kaMasipala wesicwangciso esingagunyaziswanga kunye nokungena komgca wesakhiwo se-title deed njengoko kuchaziwe apha ngasentla

Iinkukacha ezipheleleyo malunga nesindululo ziyafumaneka ukuze zihlowe phakathi evekini phakathi kwe-08:00 kunye ne-16:30 kwiCandelo: iDolophu noCwangciso lweSithuba, iHermanus, eKleinmond Library, Fifth Avenue, Kleinmond nakwiwebhphejiyi kwamasipala kweli qhakamshela ilandelayo <https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/>. Naziphi na izimvo ezibhaliweyo zinokungqinelana nezibonelelo zeCandelo 51 nelama-52 loMthetho kaMasipala oxeliweyo (16 Paterson Street, Hermanus / landuse@overstrand.gov.za) ngomhla okanye ngaphambi komhla **wama-30 Oktobha 2026**, ucaphula igama lakho, idilesi kunye iinkukacha zoqagamshelelwano, umdla kwisicelo kunye nezizathu zezimvo. Imibuzo yomnxeba inokwenziwa ku**Nksz H van der Stoep** kwi-028-313 8900. UMasipala usenokwala ukwamkela izimvo zifumeneyo emva komhla wokuvula. Nawuphi na umntu ongakwaziyo ukufunda nokubhala unokundwendwela iCandelo loCwangciso lweDolophu neSithuba apho igosa likamasipala liya kubandakisa ukuze benze izimvo zabo zibe sesikweni.

Nceda uqaphele ukuba le miba imayela NoMthetho Okhusela Inxalo Ngomntu(POPIA), uza kungena kwinkqubo yokawonkwenke ngolo hlobo ke uvumelana nokunika igama lakho nemvume yokusebenzisa igama lakho, ifani, iinkukacha ofumaneka kuzo nokuhlomla izimvo eziza kudizwa/eziza kusetyenziswa kwinkqubo (yokufaka isicelo).



12 13th Street Kleinmond 7195
P O Box 29 Kleinmond 7195
Cell 0828533770
Tel 028 271 3479
gideon@schoonraadarch.co.za

Our ref: 2024-307

Your ref:

Date: 28th July 2026

Att: Mrs. H. van der Stoep

MOTIVATION : APPLICATION FOR DEPARTURE : ERF 3209 KLEINMOND

PROPERTY DETAILS

CONSULTANT	SCHOONRAAD ARCHITECTS
ERF NUMBER	ERF 3209 KLEINMOND
EXTENT	595m2
ZONING	RESIDENTIAL ZONE 1 : SINGLE RESIDENTIAL

BACKGROUND

Erf 3209 Kleinmond, hereafter referred to as the subject property, is located at 22 Albertyn Street, Kleinmond. The property owner, Johannes Lodewikus Cilliers, referred to as the applicant, requested proactively to prepare and submit plans in line with all the current structures on the property. The services of a land surveyor were procured to survey the extent of the existing structures in relation to the property boundaries. As-built plans were measured and drawn up. It was noted that the position of the existing structures as indicated on the previously approved and signed off structures did not correspond with the actual position on site. Other discrepancies were noted and updated with a view of preparing a set of plans to be submitted for approval.

Title deed restrictive conditions and building line departures have been affected, which will be addressed in the motivation.

APPLICATION

Erf 3209 Kleinmond is 595m2 in extent with registered with Title deed No. 18510/2018

Herewith find notice and motivation for an application in terms of Section 48 of the Overstrand Amendment By-law on Municipal Land use Planning 2020 (By-law) on the abovementioned property.

Application is made for the following:

1. Departure - In terms of Chapter 4, Section 16(2) (b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 for an

- encroachment of the side building line from 2,0m to 0,106m for a covered stoep on the Southeastern boundary
2. Departure - In terms of Chapter 4, Section 16(2) (b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 for an encroachment of the side building line from 2,0m to 0,585m for a covered stoep on the Eastern boundary
 3. Departure - In terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 for an encroachment of the rear building line from 2,0m to 0,192m for an interlinked Garage storage space on the Northern boundary
 4. Departure - In terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 for an encroachment of the side building line from 2,0m to 0,328m for a Garage storage space on the Western boundary
 5. Relaxation of the title deed on the street boundary for all buildings from 3,150m to 1,342m for a covered stoep on the Southern boundary
 6. Departure in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 for exceeding the length of the combined structures of one third of the lateral boundary concerned or 9,0m – 9,265m for an existing garage on the Western boundary
 7. Determining of an administrative penalty in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty

A. PROPOSED DEVELOPMENT

The owners have proactively requested to have plans drawn up of all existing structures on the property with a view of submitting and approving a set of updated building plans. No recent building work have taken place. The plans have been amended and consist of the following

1. Garage position and footprint have been amended
2. Covered Stoep Northeast closed up with sliding folding doors
3. Covered Patio with freestanding Store Northwest
4. Closed up Covered Patio South
5. Repositioned Main house and garage in relation to the stand boundaries based on land surveyors survey done

The new structures forming part of the application is hatched in diagonal red. The blue rectangles indicate the items related to the application (Fig 2).

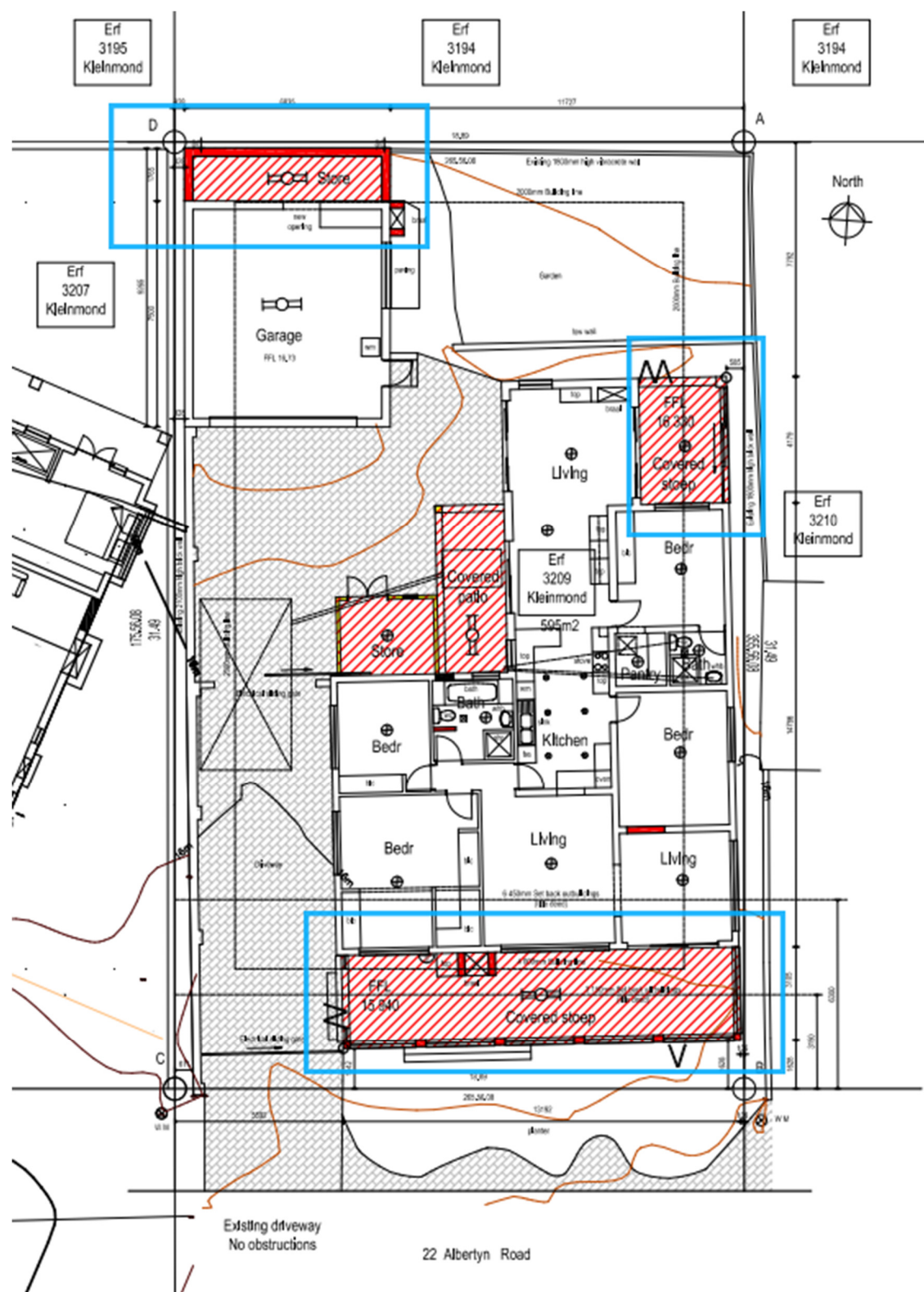


Fig 2. Ground floor plan layout

There is number of discrepancies between the previously approved plans and the actual situation on site. This only became apparent once the survey was done and the CAD drawings were received for overlay and comparison. A number of plans have been submitted and approved for alterations and additions during the lifetime of the building.

The plan submitted February 1972 (Fig 3) indicate a set back of 15 Cape feet (4,73m) from the street boundary and 3 Cape feet (0.945m) from the Eastern boundary. The stand boundaries is indicated as 60 Cape feet wide (18,89m) and 100 Cape feet (31,49m) in length respectively.

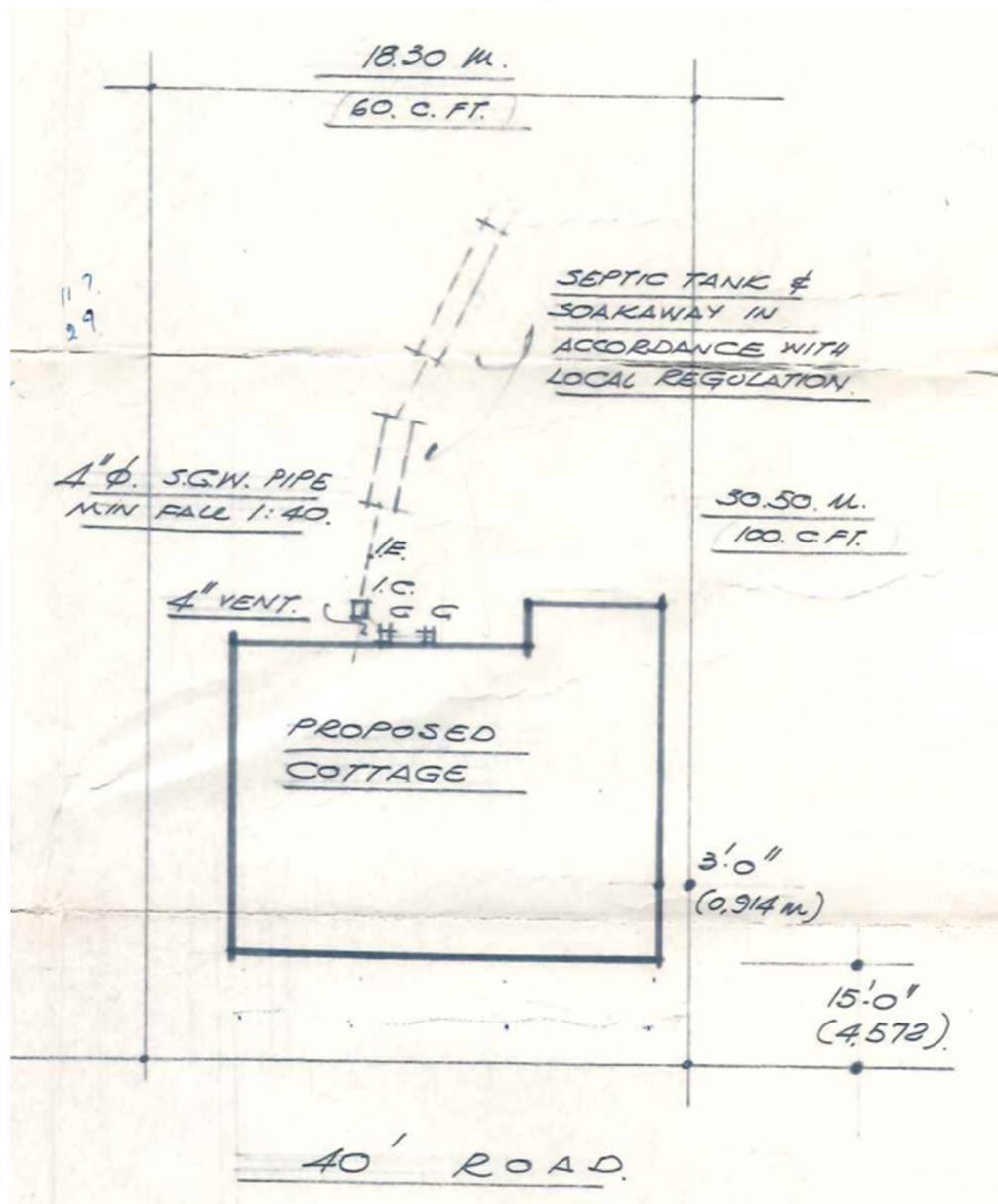


Fig 3. Approved Site plan 22 Feb 1972

A plan for additions was submitted and approved in August 1972 (Fig 4). The residence is indicated as further set back from the street boundary. A separate hand drawn note indicating a dimension of 15 Cape feet (4,73m) was added to annotate the set back from the street boundary. The stand boundaries are indicated as 60 Cape feet wide (18,89m) and 78,05 (24,57m) & 116,18 Cape feet (36,58m) in length respectively. This adds confusion as the property size do not correspond with the actual length in North south direction. It might be for this reason that the house was indicated further set back further from the street on the site plan.

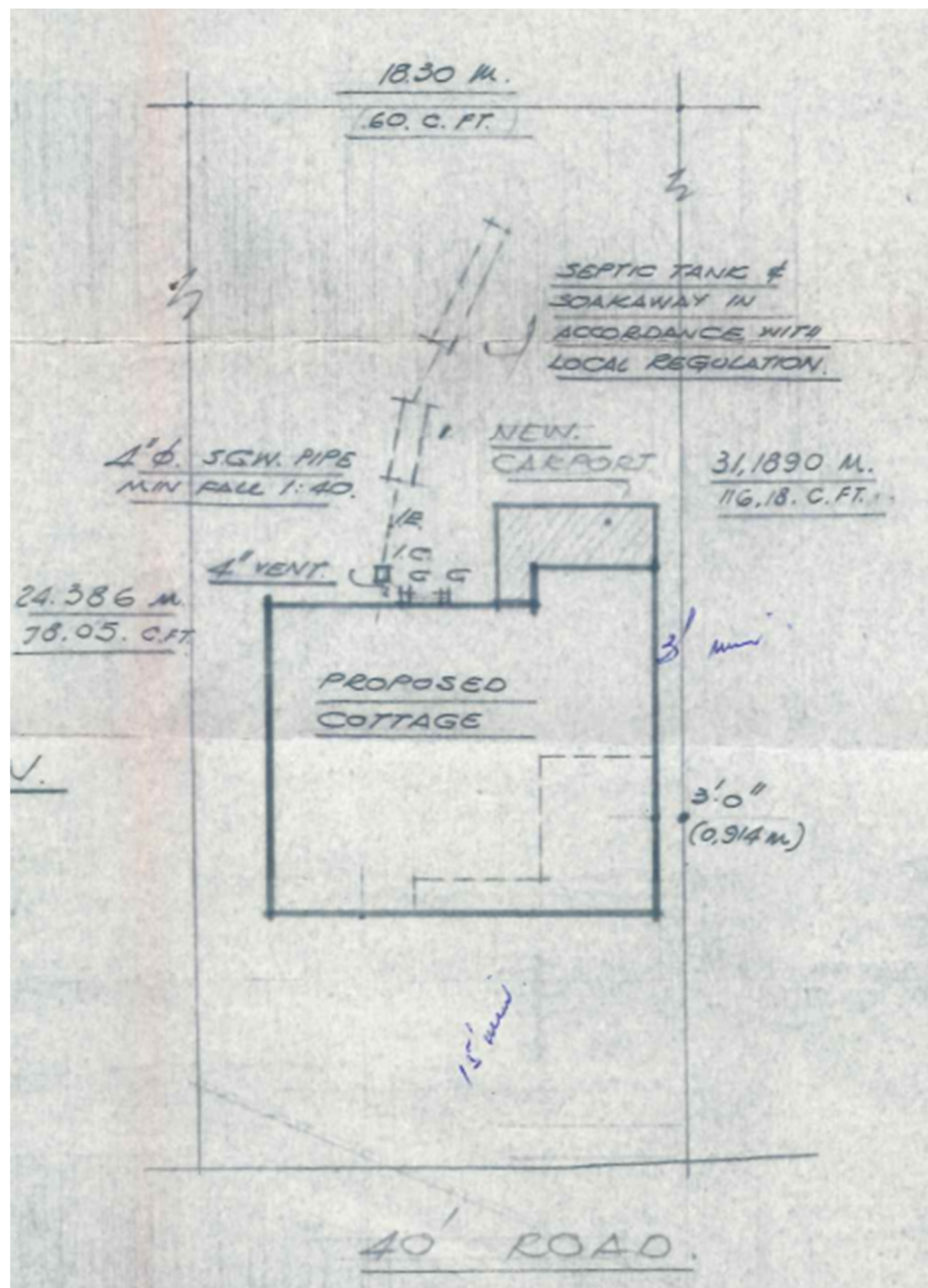


Fig 4. Approved Site plan 22 August 1972

A plan for additions was approved in January 1976 (Fig 5) . The stand boundaries is also indicated as 60 Cape feet wide and 78,05 & 116,18 Cape feet in length respectively, with the existing house remaining set back further from the street.

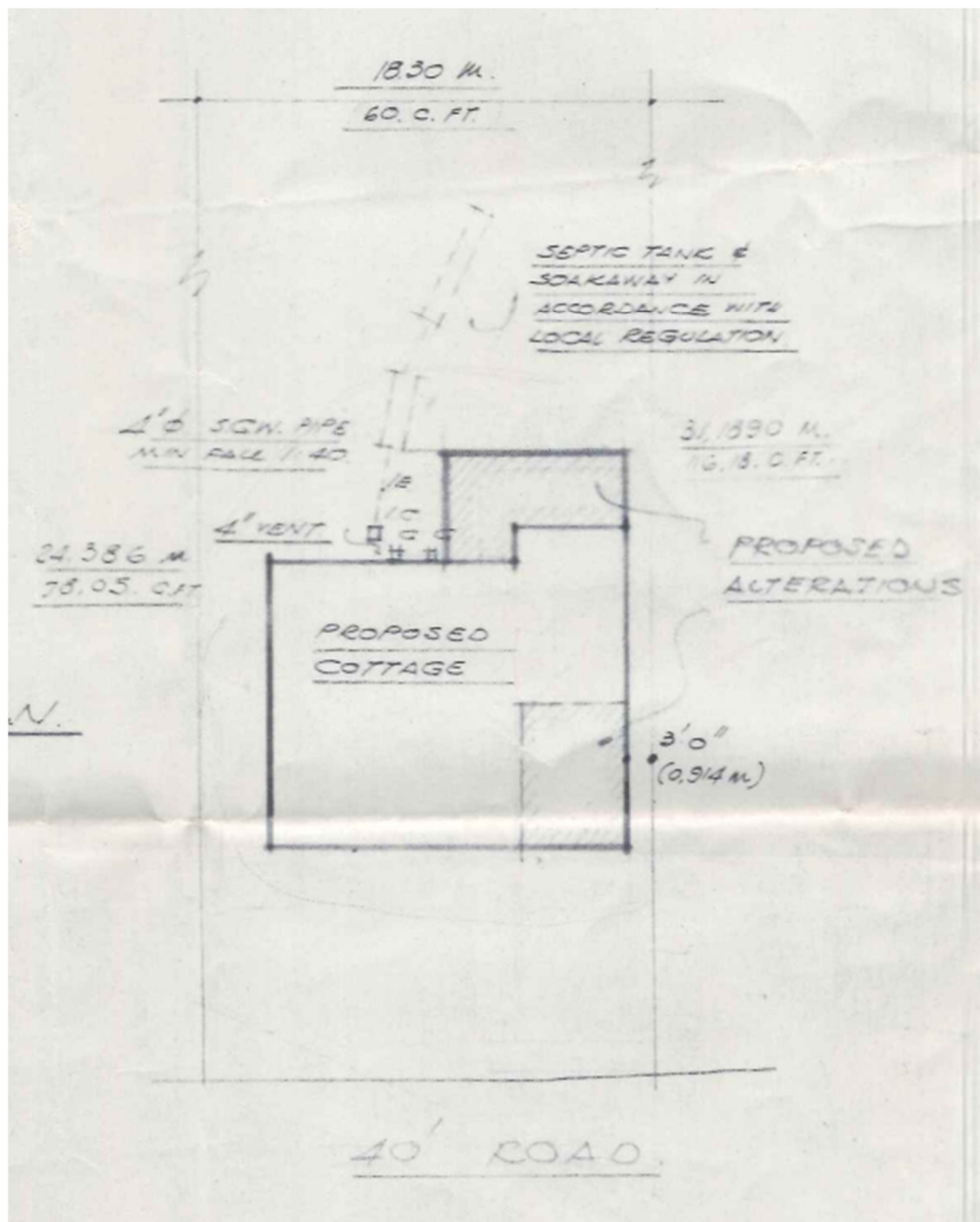


Fig 5. Approved Site plan 29 January 1976

A plan for additions was approved in September 1989 (Fig 6). The stand boundaries are indicated as 18 890mm (60 Cape feet) wide and 31 490mm (100 Cape feet) in length respectively, which is correct. The house is set back 4 500mm from the street with the patio being set back 1 000mm from the street boundary. The house is set back 4 690mm from the Western boundary. The garage is on the Western boundary with a total length of 10 000mm directly against the Western boundary, with a 1 000mm set back on the Northern boundary. The plan also reflects a patio on the Northwestern side on the Main house, which is omitted / not indicated on the last two sets of approved plans.

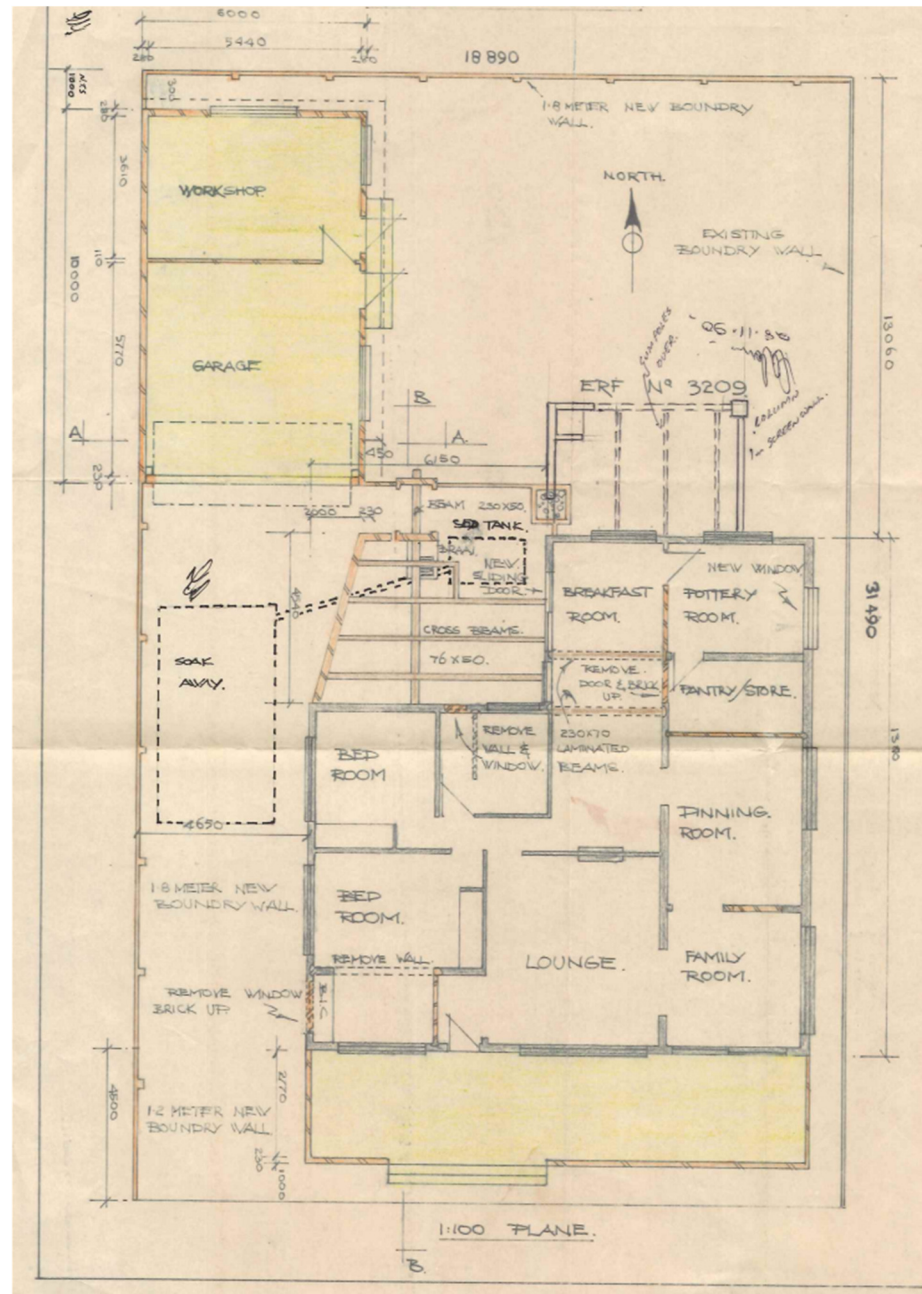


Fig 6. Approved Site plan 1 September 1989

A plan for additions was approved in September 1991 (Fig 7). The positioning of the house remained the same with additions on the Northern facade as indicated.

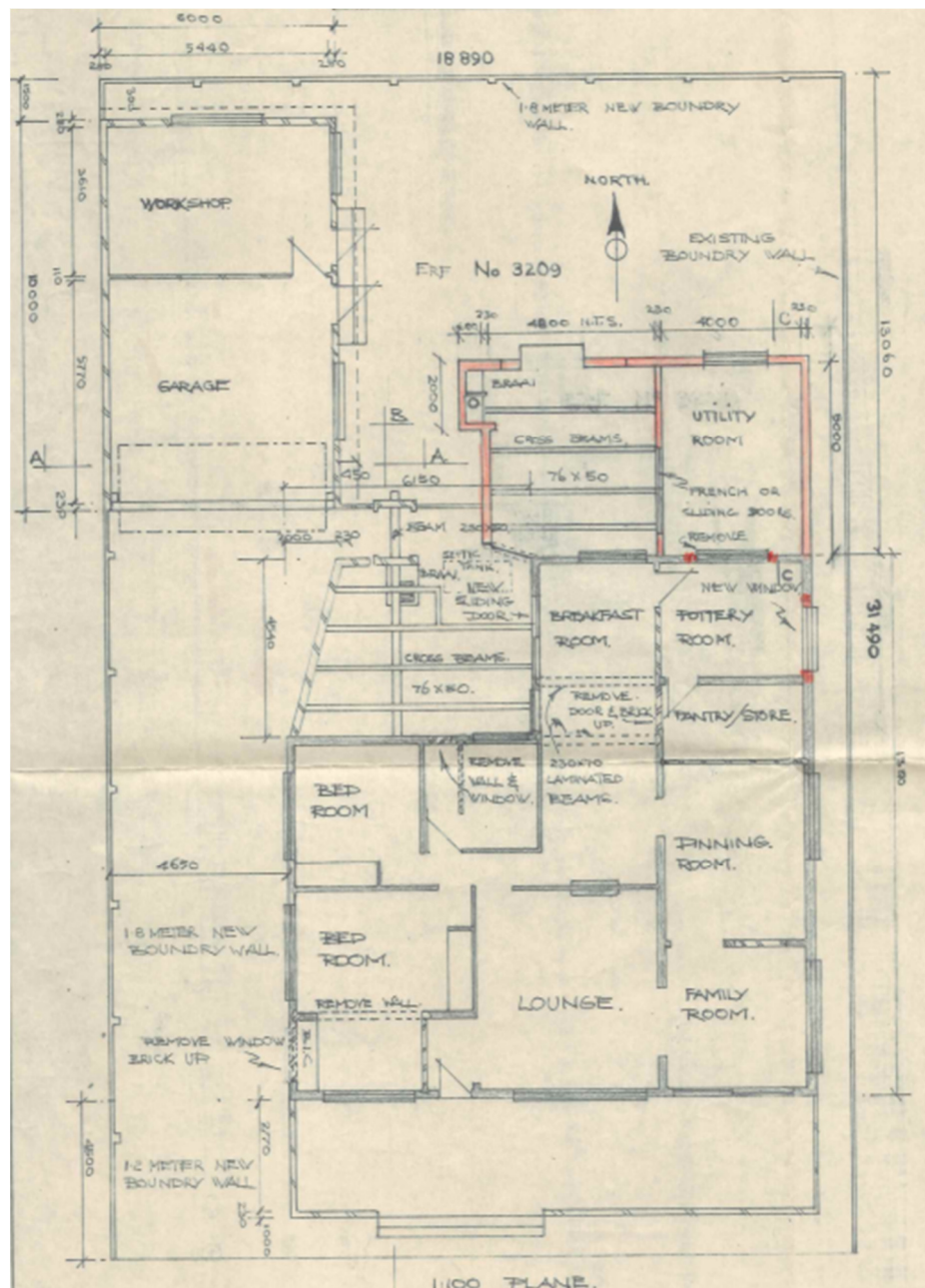


Fig 7. Approved Site plan - 26 September 1991

No plans exist for the 1992 submission but it follows it must have been for the timber panelled shed located on the Northwestern side of the Main house. The extent of the building work refers to timber sheeting, timber wood slats for the roof and an extent of 3m X2m (Fig 8).

APPLICATION FOR ERECTION/RETENTION OF TEMPORARY STRUCTURE

The Building Officer
Municipality
P.O. Box 3
KLEINMOND
7195

Dear Sir,

I herewith wish to apply for the * erection/ * retention of a temporary structure on Erf 3209 having frontage to ALBERTYN Street. Plans in connection with the above are attached.

Floor: Material .. CONCRETE ..
Length .. 3 METERS ..
Width .. 2 METERS ..
Area .. 6 SQ METERS ..

Walls: Material .. WOOD & ASBESTOS SHEETING ..
Length .. 3 X 2 METERS ..
Height between floor and roof .. 2.2 METERS ..

Roof: Material .. WOOD SLATS & MATHIAS ..

Ceiling: Material .. NONE ..

Window Space: .. 600 SQ M/M ..

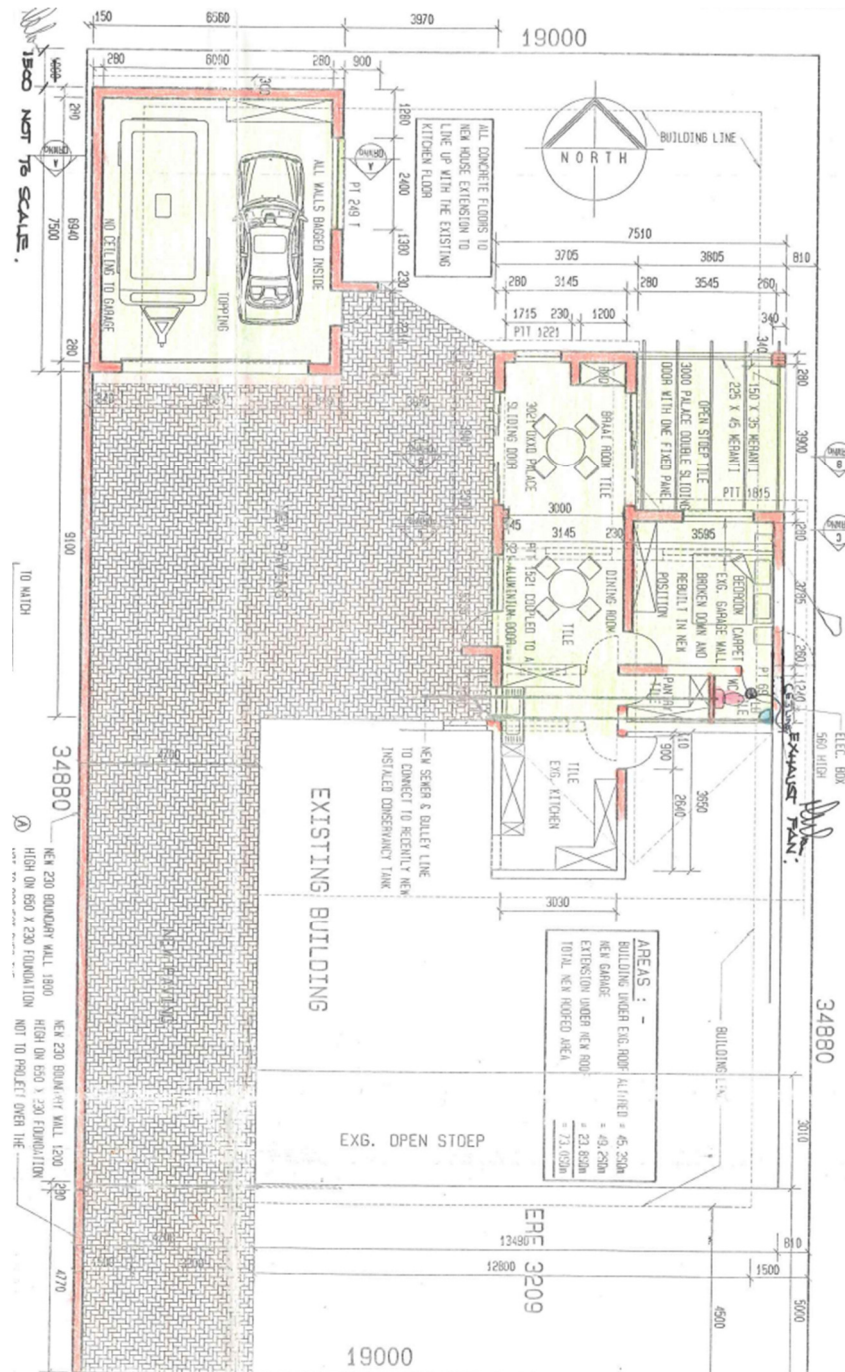
Name and Address of Owner (in Block Letters):
L. A. THOMAS
22 ALBERTYN STR
KLEINMOND
7195

.....
Signature of Owner, or duly
Authorised Agent.

* Delete whichever is not applicable.

Fig 8. Approval document - 1992

A plan for additions and alterations was approved in January 2005 (Fig 9). The stand boundaries are indicated with discrepancies in both directions as 19 000mm wide and 34 880mm in length respectively. The open stoep is indicated as being set back 5 000mm from the street boundary. The house is indicated as being set back 4 700mm from the Western boundary. The garage is on the Western boundary is shown with a reduced length of 7 500mm set back 150mm from the Western boundary, and an increased set back of 1 500mm from the Northern boundary. The positioning of the Main house in relation to the garage has also changed significantly.



An amended as-built plan for additions and alterations was approved in May 2006 (Fig 10). The stand boundaries indicate the property as 19 000mm wide and 34 880mm in length respectively. The open stoep is set back 5 000mm from the street boundary. The house is indicated as being set back 4 700mm from the Western boundary. The garage is shown with a total length of 7 500mm offset 150mm from the Western boundary and set back of 1 500mm from the Northern boundary. The Main house is 810mm away from the Eastern boundary.

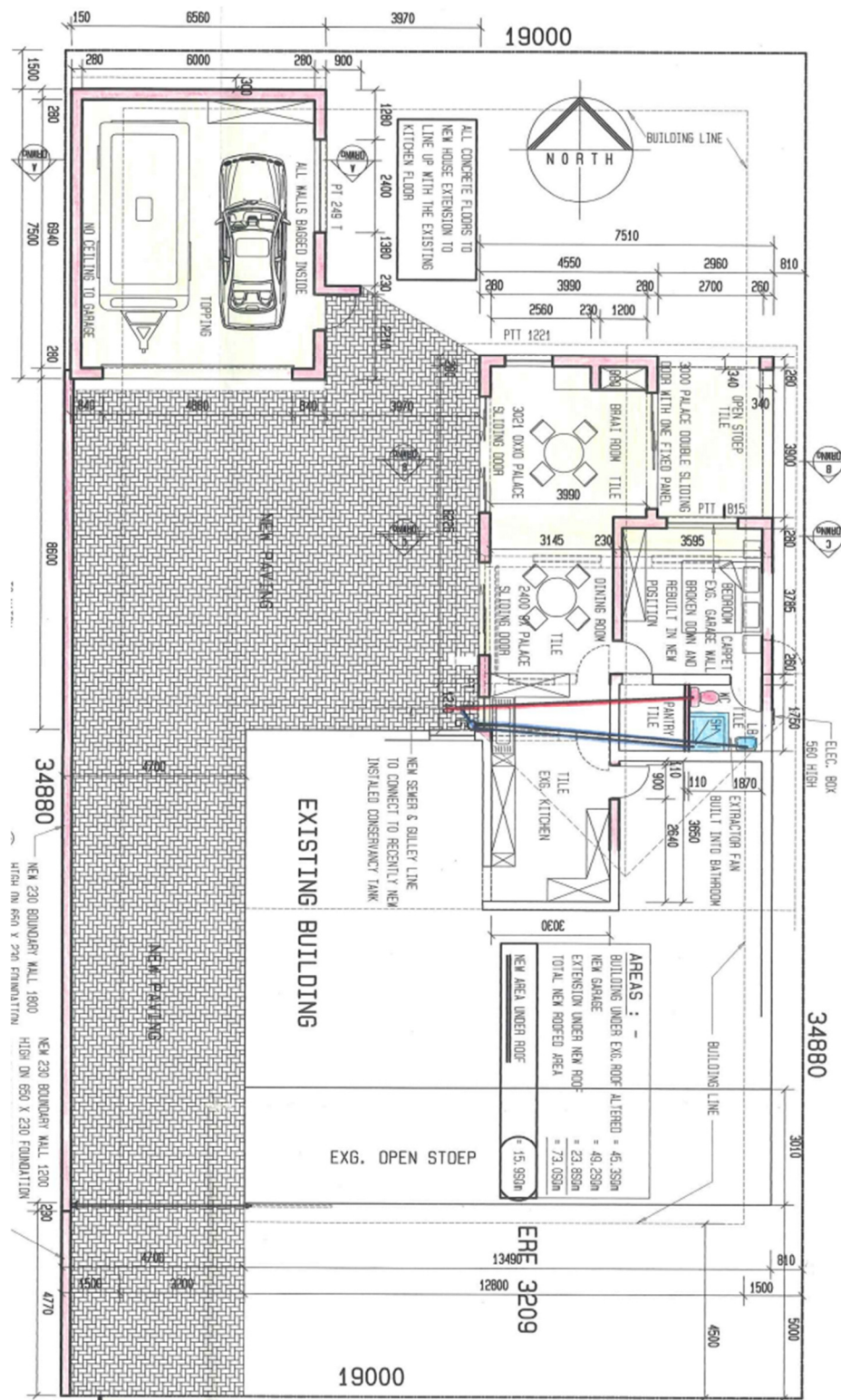


Fig 10. Approved Site plan – 15 May 2006

A combined plan has been drawn up indicating the positioning of the actual structures as surveyed, shown in light blue in relation to the outlines of the structures indicated on the previously approved plan, shown in the red diagonal hatch (Fig 11). The biggest discrepancies are related to the distances to the surveyed boundaries of the erf. Position E and F (South) is drawn in line with the property extent of the previously approved building plan, which is incorrect. Point C and D is correct. The following changes can also be noticed. The footprint of the garage is larger. The boundary walls positions are not in line with the stand boundaries. The shed and covered stoep Northwest is omitted on latest approved plan. The application is required to legalise the current position of the residence in relation to the erf boundaries. The extent of the as-built building plans relates to updating the garage footprint, adding the covered stoep and shed, indicating the enclosed Covered stoep South and the enclosed Stoep Northeast in its current position.

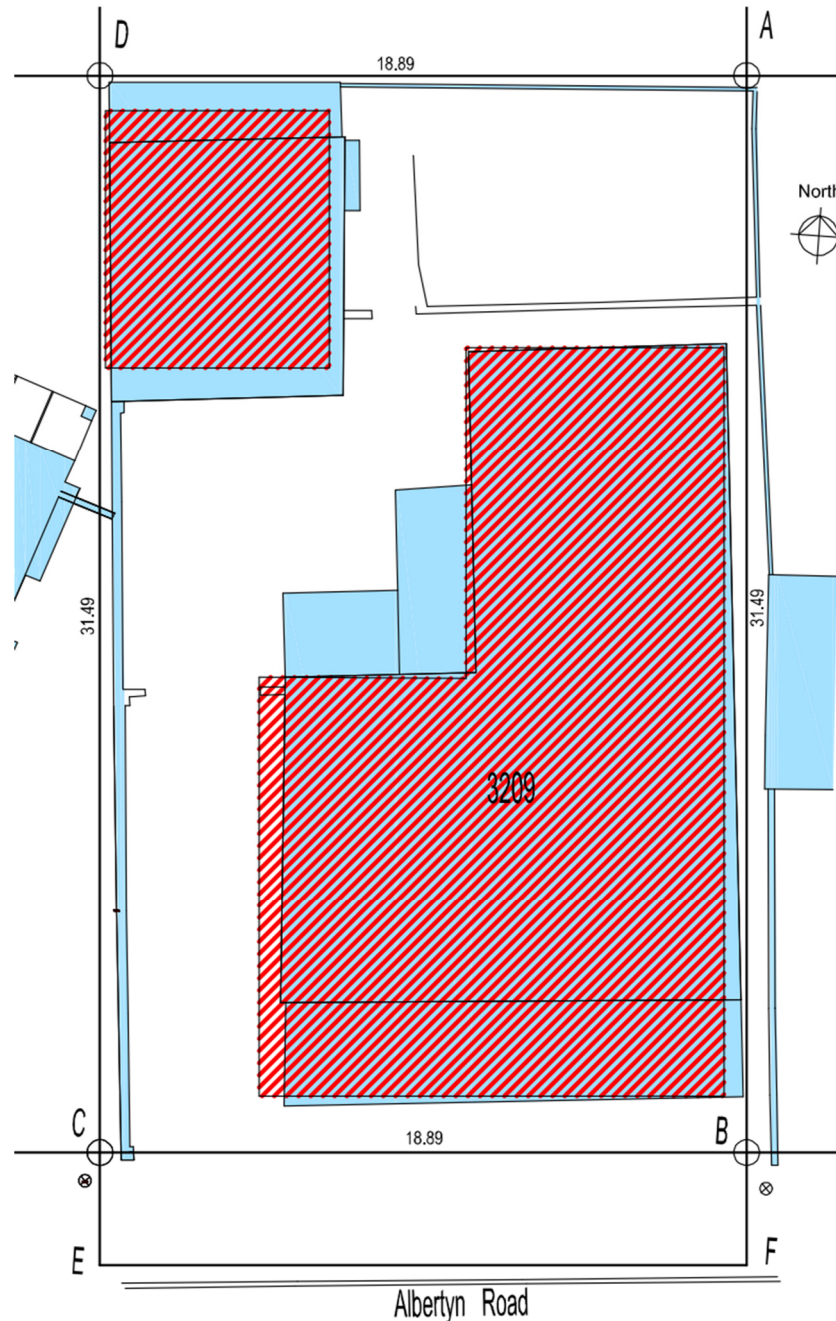


Fig 11. Combined Site plan

B. CHARACTER OF THE ENVIRONMENT

The immediate area is characterized by single and double-story residential properties. The scope of additions and alterations is in line with the grain of the existing urban framework.

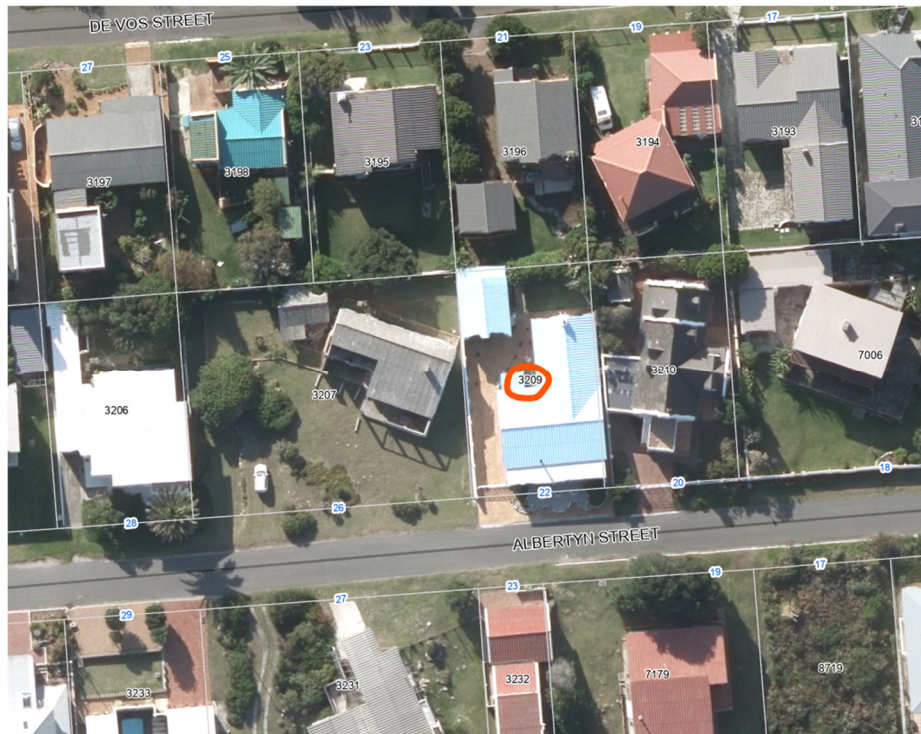


Fig 12. Aerial View

Erf 3209 Kleinmond is zoned Residential 1 (Fig 13). The surrounding properties are also zoned similarly for single residential use. The land use is in line with the zoning scheme for the area. These encroachments are not out of the ordinary and is allowed in terms of the OMLUS with the consent from the OM.

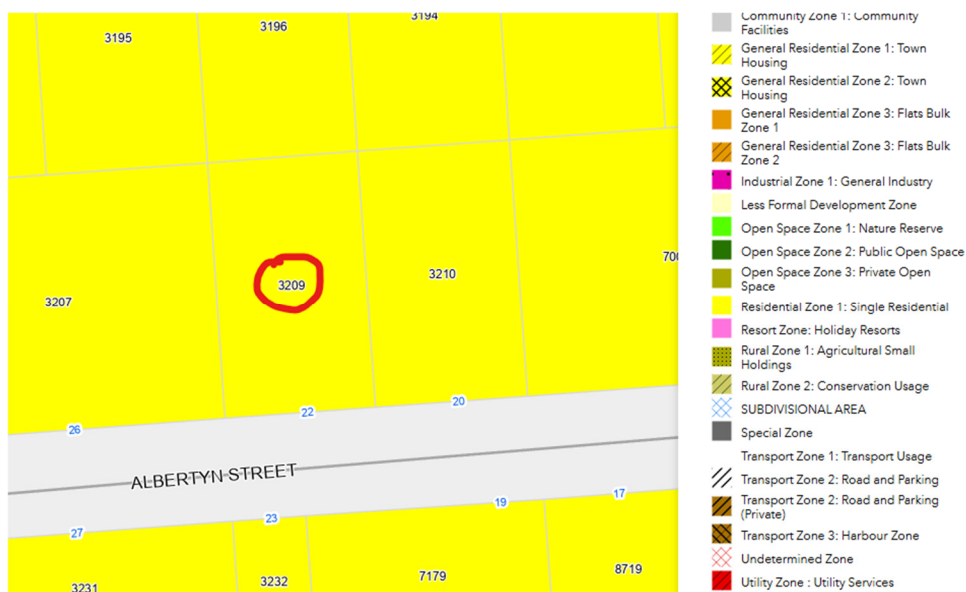


Fig 13. Zoning – Yellow Denotes – Single residential zoning

C. DESIRABILITY OF THE PROPOSED UTILISATION

No changes to the land use are anticipated other than it to be utilized for residential purposes. There is no significant or negative impact on views or access to natural sunlight on adjoining properties. Property owners adjoining the North, East and West boundaries have given neighbours consent for the existing structures. The property is not listed in the Overstrand Municipality Heritage register. The proposal is not in conflict with any provisions of the Western Cape Provincial Spatial Development Framework, 2014 or the Overstrand Spatial Development Framework, 2020.

D. INVESTIGATIONS CARRIED OUT IN TERMS OF OTHER LAWS WHICH ARE RELEVANT TO THE CONSIDERATION OF THE APPLICATION

The Southwestern corner of the property is affected by a Heritage Protection Overlay Zone (Fig 14) . There are no structures erected on the Southwestern portion of the property. The vehicle entrance is located at that point, therefore compliance with the requirements is not applicable.

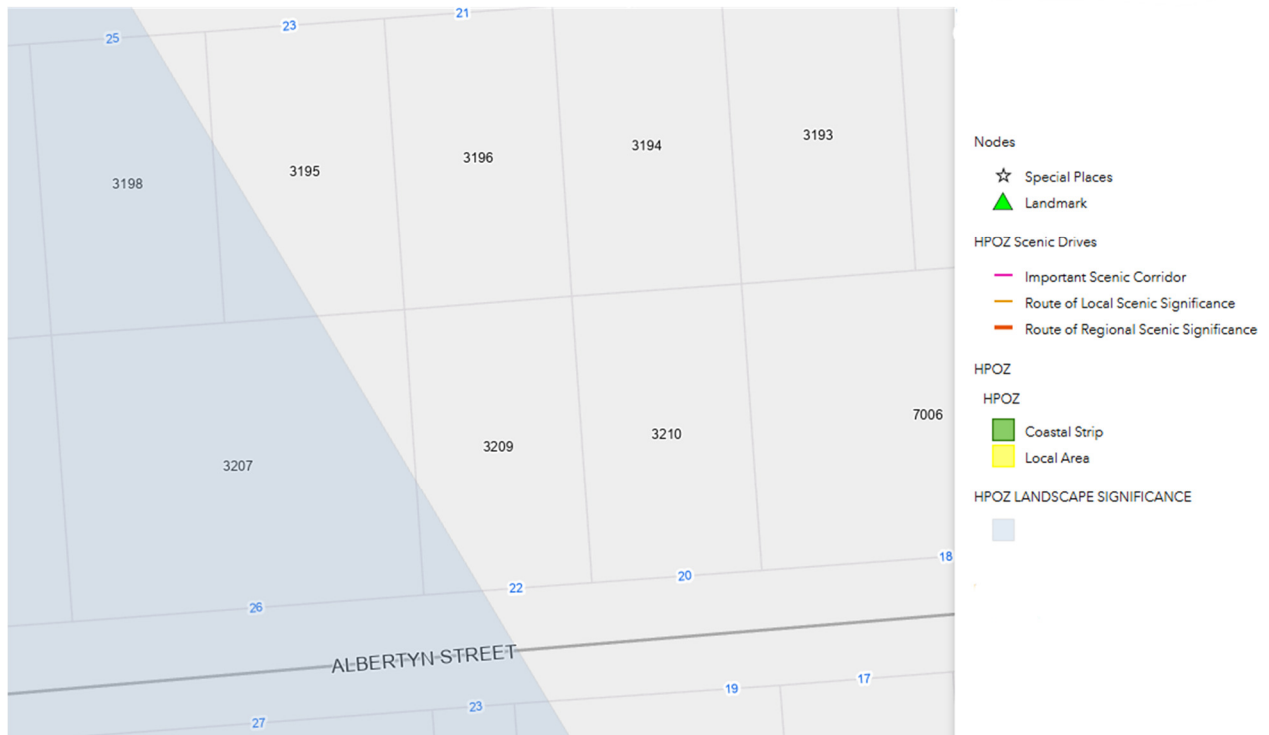


Fig 14. HPOZ Overlay zone – Landscape significance

The property is affected by NWM5 Wetland zone , graded as a seep wetland (Fig 15).



Fig 15. NWM5 Wetland zone

E. THE IMPACT OF THE PROPOSED DEVELOPMENT ON MUNICIPAL ENGINEERING SERVICES

The property is connected to the municipal networks which include water, sewer and electricity. No municipal services are affected. Access to the property is gained through the existing single vehicle entrance located on Albertyn Road, Kleinmond. No existing traffic patterns will be affected. The proposal will not affect the existing entrance.

F. CONSIDERATION OF FORWARD PLANNING AND LAND USE DOCUMENTS

The proposed development will not be affected by any forward planning policies.

G. PLANNING PRINCIPLES

The proposed changes are in line with sustainable practice of creating efficient use of space by using existing built form in a more appropriate and economically viable way. The proposal or departure will not contribute to any spatial injustices. The proposal is not in conflict with any spatial planning policies. In line with good administration we invite and accept any comments from the public to make an informed decision on the proposal presented. The land use is not out of character with the surrounding environment.

PROPOSED RELAXATION OF RESTRICTIVE TITLE DEED CONDITIONS

The Title deed No. 18510/2018 was perused and contains the following restrictive condition:

Page 3 – Clause 9 “All buildings to be erected on the land herein sold shall stand back at least 3,15 meters from the line of the street or avenue on which the lot or lots herein mentioned may front”

The relaxation is required due to the position of the enclosed covered patio South, which is closer than 3,15m to the street boundary.

It is our opinion based on the previously approved plans that the position of the house was not adequately inspected or verified. It is only after the land surveyors survey was done that the actual position in relation to the boundaries was verified. The previously approved plans indicate set back distances of 1000mm, 4 500mm and 5 000mm to the street boundary. The actual distance is 1,342mm.

In terms of Section 41 of SPLUMA, No. 16 of 2013 the Municipality is the decision-making authority of land use applications, including an application for the removal, amendment or suspension of a restrictive condition. The principles, norms and standards and requirements as listed in Section 42 of SPLUMA, No 16 of 2013 and Section 35(4) of the Overstrand Municipality By-Law on Municipal Land Use Planning. The following items are listed for consideration:

- 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 relaxation of the title deed restriction will allow for the buildings to be rectified for plan approval purposes. Considering the previously approved plans, the positioning of the building on site was never accurately indicated. The owner proactively wishes to legalise the structures. There is no direct financial gain. The positive aspect would be to have a set of plans in line with what is built in its correct position, so that if in future, should they wish to sell the property on the market, the plans will be legal and correct.

- B. the personal benefits which accrue to the holder of rights in terms of the restrictive condition

The personal benefit to adjoining owners will be immaterial as no direct gain can be identified by relaxing the restrictive conditions. The intent is to rectify previous discrepancies to bring the plans in line with council policies.

- C. the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed

There are no direct or immediate accrual or gain. The personal benefit will be that if in future, should the owner wish to place the property on the market with a view to sell, the plans will be legal and correct.

- D. the social benefit of the restrictive condition remaining in place in its existing form

Numerous similar applications within the area have been applied for, submitted and approved. The stoep have been in place since 1989, a time span of 36 years. There are no social benefit to the area that can be identified if the restriction is to be retained.

- E. the social benefit of the removal or amendment of the restrictive condition

The intent is to legalise the existing structures. The scale of the intervention is minimal, a single storey structure with a landscaped garden as an interface between the residence and the road. The visual or residential appeal of the area will not be affected. It is our opinion that there is a low impact or change to the social benefit for the area.

- 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 relaxation of the restrictive condition will not remove the rights completely as the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 remains in place to assert guidance in the way in which the property can be utilized and developed.

If the relaxation is not allowed, this will deprive the owner from legalising the structures in its current position and format. Numerous plans have been submitted where the issue should have been identified and raised. The intent is not to deviate from the conditions, but it is rather an opportunity to rectify the set of documents going forward.

It is in the interest of the landowner, local authority and the public to have a set of plans which correspond with what have been built on site.

DETERMINATION OF AN ADMINISTRATIVE PENALTY

Compliance with the Overstrand Municipality By-law on Municipal Land Use and Planning 2020 as amended, is required. As the construction is existing on site it is required and necessary to include an application for the determination of an administrative penalty.

No complaints have been received from any adjoining property owners, and the affected neighbours have given consent to the structures as they are currently built on site. We however request that the administrative penalty be waived as the encroachment is not intrusive and do not pose any significant influence on adjoining property owners of the immediate area.

a. The nature duration, gravity and extent of the contravention

The encroachment only became apparent at the time of when the land surveyors measured survey was received. The encroachment is unintentional as the owner proactively requested that plans be drawn up to reflect the current scenario.

b. The conduct of the person involved in the contravention

Numerous plans were submitted and approved for additions and alterations which did not accurately reflect the situation on site. The owners were unaware of the encroachments.

There is no sense of malintent. The intent is to rectify all issues whether current or inherited from the previous owners.

c. A report by a quantity surveyor in matters of unauthorized building / construction

Due to the extent of the contravention being the existing positioning of structures on site which is not in line with the positions as previously approved, a report from a quantity surveyor was not obtained. We instruct that the penalty be calculated by the local authority according to the by-law as stipulated.

The extent of the area that contravenes the by-laws amount to

Store room garage North 11,9m²

Covered stoep East 6,2m²

Covered stoep north – The encroachment is waived – See additional documentation and motivation

Total area 18,1m²

d. Whether or not unlawful conduct was stopped

The constructed has already taken place with the structures being changed and built over several years, most without the current owners in residence. The owner is aware of the process that they need to engage to get compliance. No further building work has taken place.

e. Whether the person allegedly involved in the contravention has previously contravened this by-law or a previous by-law

To the knowledge of the applicant, the owners has not previously contravened the by-law. The owners is also willing to give his full cooperation.

We therefore request that the administrative penalty fee **not be imposed** for the reasons given above.

RECCOMENDATION

Based on the motivation and information supplied it is recommended that the following be approved

1. Departure - In terms of Chapter 4, Section 16(2) (b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 for an encroachment of the side building line from 2,0m to 0,106m for a covered stoep on the Southeastern boundary
2. Departure - In terms of Chapter 4, Section 16(2) (b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 for an encroachment of the side building line from 2,0m to 0,585m for a covered stoep on the Eastern boundary
3. Departure - In terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 for an encroachment of the rear building line from 2,0m to 0,192m for an interlinked Garage storage space on the Northern boundary

4. Departure - In terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 for an encroachment of the side building line from 2,0m to 0,328m for a Garage storage space on the Western boundary
5. Relaxation of the title deed set back in terms of Chapter 4, Section 16(2)(f) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 on the street boundary for all buildings from 3,150m to 1,342m for a covered stoep on the Southern boundary
6. Departure in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020 for exceeding the length of the combined structures of one third of the lateral boundary concerned or 9,0m – 9,265m for an existing garage on the Western boundary
7. That the determining of an administrative penalty in terms of Chapter 4 Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty be waived as the client voluntarily decided to legalise all the structures without any external intervention or notices.

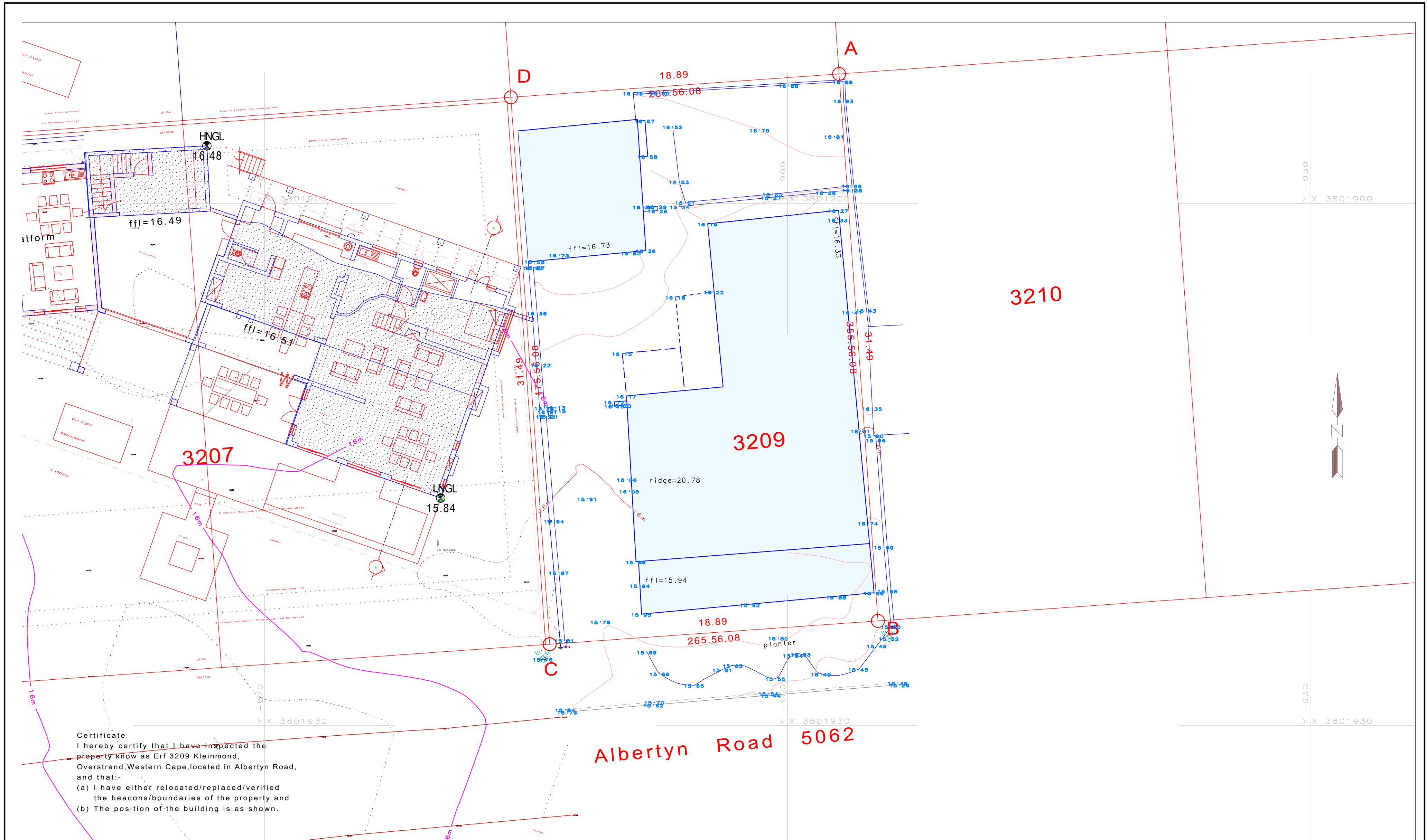
Kind Regards,



G J SCHOONRAAD

SCHOONRAAD ARCHITECTS

082 853 3770



	Richard M Lorton Pr.Land Surveyor GPr. LS 0931D Contact 082 4155 480	Date Surveyed July 2025 R (w/)	Beacon Descriptions: The boundaries shown have been determined by survey.		Client: Louw Cilliers	
	Project No. KLM3209	SCALE 1:150	Notes 1. The figure ABCD represents Erf 3209 Kleinmond. 2. 0.25m contours.		Project: Topographic Survey Erf 3209 Kleinmond	
	Drawn by: RML	SURVEY DATUM WGS84/SITE	PAPER SIZE A2			

