



ERF 3888, 9 UNDER THE OAKS, MAIN ROAD, ONRUSTRIVIER: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PJ & C VAN ZYL

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 street building line from 4,0m to 0m to accommodate the existing carport and from 4m to 1,64m to accommodate the existing garage.
- ✚ **departure** in terms of Section 16(2)(b) of the By-Law to relax the proposed re-aligned boundary's lateral building line from 2,0m to 0m to accommodate the existing garage.
- ✚ **determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law for the unauthorised building line encroachments as mentioned above.

Full detail regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Division: Town and Spatial Planning at 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/>. 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 / (e) landuse@overstrand.gov.za) on or before **2 October 2026**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to **Mr. H. Olivier** 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 Division: Town and Spatial Planning 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 3888, UNDER THE OAKS 9, HOOFWEG, ONRUSTRIVIER: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: PLAN ACTIVE STADS- EN STREEKBEPLANNERS NAMENS PJ & C VAN ZYL

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 straatboulyn vanaf 4,0m tot 0m te verslap om die bestaande motorafdak te akkommodeer, en vanaf 4,0m tot 1,64m om die bestaande motorhuis te akkommodeer.
- ✚ **afwyking** ingevolge Artikel 16(2)(b) van die Verordening om die voorgestelde gewysigde grenslyn se syboulyn vanaf 2,0m tot 0m te verslap om die bestaande motorhuis te akkommodeer.
- ✚ **bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) vir die ongemagtigde boulynoorskredings soos bo 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 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 **2 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 **Mnr. H. Olivier** 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.

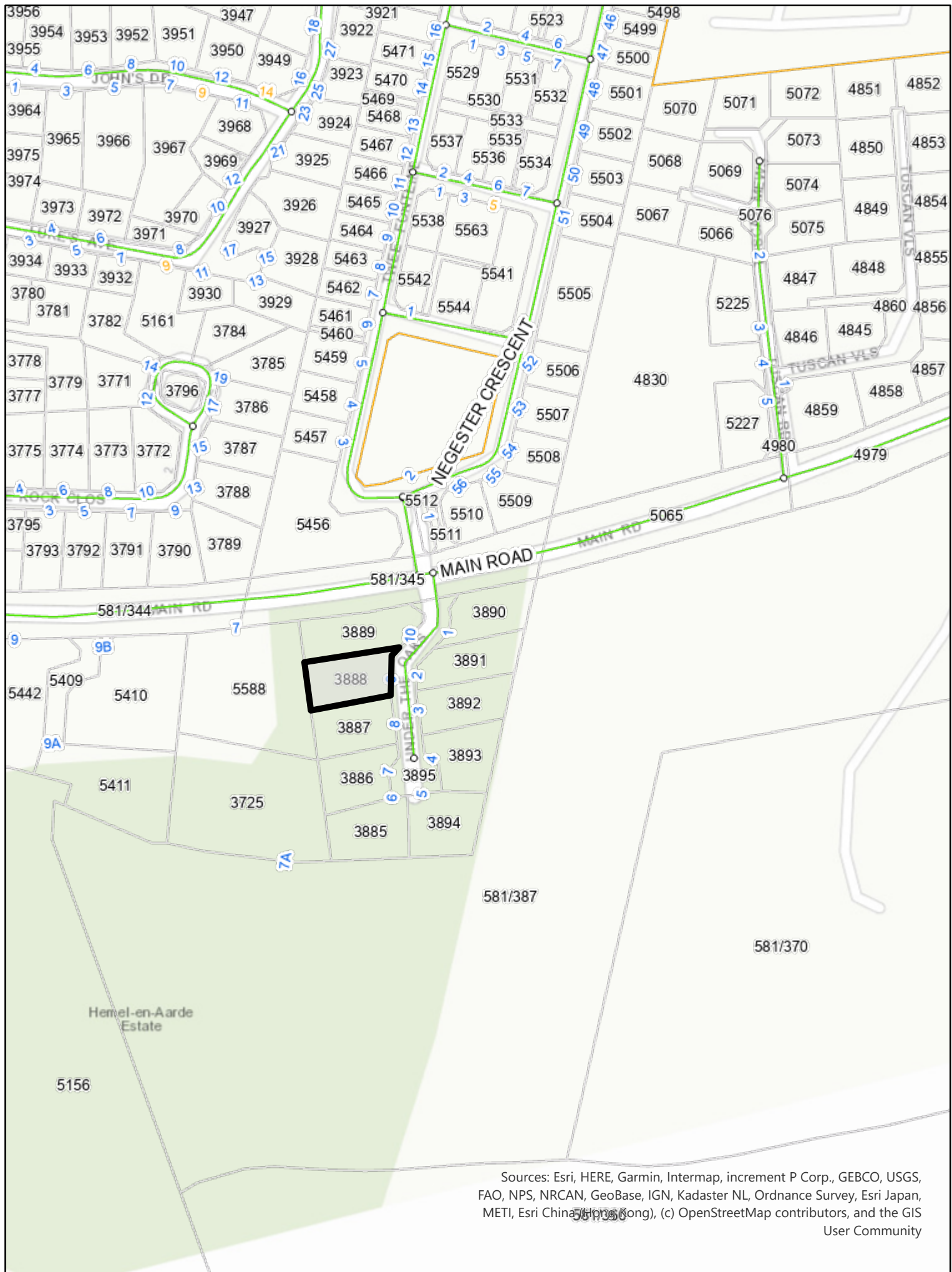
ISIZA 3888, 9 PHANTSI KWE OAKS, MAIN ROAD, ONRUSTRIVIER: ISICELO SOKUHAMBA KUNYE NOKUSETYENZISWA KWESOHLWAYO SOKULAWULA: PJ & C VAN ZYL

Isaziso ngoko ke sinikezelwa ngokwemiqathango yeCandelo lama-48 loMthetho kaMasipala wase-Overstrand oLungisiweyo woCwangciso loSetyenziso loMhlaba kaMasipala, ka-2020 sokuba isicelo sifunyenwe kwezi zinto zilandelayo:

- ✚ **Ukuhamba** ngokwemiqathango yeCandelo 16(2)(b) loMthetho kaMasipala sokunciphisa umda wesakhiwo sesitalato ukusuka kwi- 4,0m ukuya ku-0m ukuze kulungiselelwe indawo yokupaka iimoto kunye nokusukela kwi-4m ukuya kwi-1,64m ukulungiselela igaraji ekhoyo.
- ✚ **ukuhamba** ngokwemiqathango yeCandelo 16(2)(b) loMthetho kaMasipala ukuze kunyenyiswe umgca wesakhiwo osecaleni womda ocetywayo olungelelaniswe ngokutsha ukusuka kwi-2,0m ukuya kwi-0m ukuze kunciphiswe igaraji ekhoyo.
- ✚ **ukumisewa kwesohlwayo solawulo** ngokwemiqathango yeCandelo 16(2)(q) loMthetho kaMasipala ngenxa yokungena komgca wesakhiwo ongagunyaziswanga njengoko kuchaziwe ngasentla.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ukuze zihlolwe ngeentsuku zokusebenza ngamaxesha eveki phakathi kwentsimbi ye-08:00 neye-16:30 kwiSebe: Ucwangciso lweDolophu noMmandla, eHermanus nakwiphepha lewebhusaythi likamasipala kwelikhonkco lilandelayo <https://www.overstrand.gov.za/document/town-spatial-planning/land-use-planning-applications/>. Naziphi na izimvo ngesindululo mazingeniswe ngokubhaliweyo ngokwemiqathango yeCandelo lama-51 kunye nelama-52 loMthetho kaMasipala omiselweyo kuMasipala (16 Paterson Street, Hermanus / (e) landuse@overstrand.gov.za) ngaphambi okanye **2 kaOkthobha 2026**, ebonisa igama, idilesi neenkukacha zoqhagamshelwano, umdla kwisicelo kwakunye nezizathu zezimvo. Imibuzo ngomnxeba ingabhekiswa ku**Mnu. H Olivier** kule nombolo 028-313 8900. UMasipala unokwala ukwamkela izimvo emva komhla wokuvala. Nawuphi na umntu ongakwaziyo ukufunda okanye ukubhala angandwendwela iSebe: loCwangciso lweDolophu noMmandla apho aya kuthi ancediswe ligosa likamasipala ukuze anike izimvo zakhe ngokusesikweni.

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.



MOTIVATIONAL REPORT

APPLICATION FOR DEPARTURE AND WAIVER OF ADMINISTRATIVE PENALTY

ERF 3888, UNDER THE OAKS NO. 9

1. Introduction and Purpose of Application

This document should be read in conjunction with **Application 5159/2026** with respect to Erf 3889, Onrusrivier.

The motivation is submitted in support of an application for departure relating to the existing garage and carport situated on Erf 3888, Under the Oaks No. 9, as well as the proximity of the garage to the northern cadastral boundary once its movement as contemplated in **Application 5159/2026** has been approved.

The application does not seek approval for any new building work, extension, alteration, or additional encroachment. It seeks only to regularise an existing built condition that has been in place since the original development and construction of Under the Oaks approximately 31 years ago.

The application is also submitted in support of the waiver, or alternatively the substantial reduction, of any administrative penalty that may otherwise be considered. The reason for this request is that the existing garage and carport were not constructed by the present owner, have existed in their current position for more than three decades, and have not caused inconvenience, obstruction, prejudice, or practical difficulty to any owner within Under the Oaks.

2. Proposed Development

No new development is proposed.

The application relates to the existing garage and carport on Erf 3888, and the proximity of the garage to the northern cadastral boundary with Erf 3889 once the applicable application had been approved.

These structures are shown on the attached sketch plans in Appendix B, which indicate the current floor plan and elevations of the garage and carport as they were built and as they still stand today.

With reference to the originally approved building plans for Erf 3888 (BP 95049 (1995)) attached as Appendix A (Pages 5 and 7 of 8), the garage is shown as being placed on the cadastral boundary with Erf 3889. This cadastral boundary is annotated as line AB on the attached topographical survey, Appendix B.

However, when the garage/carport complex was constructed, it deviated from the originally approved position in two respects:

1. The garage was moved laterally away from the cadastral boundary with Erf 23889 and was built approximately 2.18 metres from that boundary.
2. The garage and carport were positioned closer to the internal street boundary within Under the Oaks than the prescribed municipal building line requirement of 4 meters allows.

The internal street is not an ordinary external public road. It is an internal access road within a small walled estate and originated from one of the original land portions (**Erf 3895**) that was converted into an access road to serve the residents of Under the Oaks. The access road serves the estate itself and is used by the owners and occupiers within Under the Oaks. It is nevertheless accepted, however, that the standard 4 meters space from the building line should have been properly observed in 1995.

The existing position of the garage and carport has been in place for approximately 31 years. During that time, it has not caused any inconvenience, obstruction, prejudice, or practical difficulty to any owner within the estate.

A letter from the Chairperson of the Under the Oaks Home Owners Association is attached (Appendix D) in support of this application. The letter confirms that the home owners in the estate have no objection to the existing position of the garage and carport.

It is further noted that the carport was not added after the original building was constructed. The original building site plan, attached as Appendix A pages 3, 5 and 7, shows the garage and carport as part of the original development. When the garage and carport were constructed, however, the carport was set forward relative to the garage by approximately 1.75 metres, instead of being positioned exactly alongside the garage as shown on Appendix A page 7. In addition, they were not built where the approved building plans specified them to be.

3. Character of the Environment

Under the Oaks is a small, established residential estate consisting of eight residential properties served by an internal access road. The estate was developed approximately 31 years ago and has since functioned as a settled residential environment.

The garage and carport on Erf 3888 form part of the original built fabric of the estate. They have existed in their current position since the original development and have not altered the residential character of the estate.

The existing structures do not create a new land use, do not introduce additional accommodation density, and do not change the established residential character of the area. The application therefore does not create any new impact on neighbouring privacy, views, street character, or the general appearance of the estate.

The garage and carport are located in relation to an internal access road that serves the estate itself. Their position has been part of the daily functioning of the estate for

approximately 31 years. The fact that no objection has been raised by home owners, and that the HOA supports the continued existence of the structures in their present position, confirms that the existing condition is compatible with the established character and functioning of Under the Oaks.

4. Desirability of the Proposed Utilisation

The application is desirable because it regularises a long-standing existing condition without introducing any new development impact.

The existing use of Erf 3888 remains residential. The garage and carport serve the dwelling on the property and are ordinary ancillary structures associated with residential use. There is no proposed intensification of land use, no additional traffic generation, and no additional demand on municipal infrastructure.

The departure would allow the existing built condition to be formally regularised in a practical and orderly manner. Refusing the application would not serve a meaningful planning purpose, because the structure has existed for approximately 31 years without causing practical harm or inconvenience within the estate.

The approval of the departure would benefit the current owner by allowing a historic inherited condition to be regularised. It would also provide certainty to the estate and to future owners, without changing the existing physical environment.

The HOA's support is relevant in this regard. The owners most directly affected by the internal access road have indicated that they do not object to the continued existence of the garage and carport in their current position.

5. Investigations Carried Out in Terms of Other Laws

The application relates to existing residential structures within an established residential estate. No new construction, earthworks, demolition, environmental disturbance, heritage intervention, or change in use is proposed.

On this basis, no additional investigations under environmental, heritage, coastal management, agricultural, waste, water, or occupational health and safety legislation are considered necessary for purposes of this application.

Should the Municipality require any further technical confirmation or supporting documentation, the applicant will provide such information where reasonably available.

6. Impact on Municipal Engineering Services

The application will have no impact on municipal engineering services.

No new building work is proposed. The existing garage and carport have been in place since the original construction of Under the Oaks and are already served within the existing residential infrastructure of the property and estate.

The application will not create additional demand for water, sewerage, stormwater, electricity, refuse removal, access, parking, or road infrastructure. It will also not generate additional traffic, because the use of the property remains unchanged.

The internal access road has functioned with the existing garage and carport in their present position for approximately 31 years. There is no evidence that the structures have obstructed access, created traffic difficulty, impaired movement within the estate, or interfered with municipal or private engineering services.

7. Consideration of Forward Planning and Land Use Documents

The application does not seek to introduce a new land use or to alter the residential character of the property. Erf 3888 remains used for residential purposes within an established residential estate.

The only matter requiring regularisation is the position of the existing garage and carport in relation to the internal street building line. The application therefore does not conflict with the broader intent of forward planning documents such as the Integrated Development Plan, Spatial Development Framework, or any applicable local planning policy, because it does not propose new development, urban expansion, densification, commercial activity, or any change to the existing residential use.

The departure is limited, site-specific, and corrective in nature. It seeks to formalise a historic condition within an already developed residential context.

8. Planning Principles

The application has been considered with reference to the relevant planning principles, including spatial justice, spatial sustainability, efficiency, spatial resilience, and good administration.

8.1 Spatial Justice

The application does not affect access to land, public facilities, public opportunities, or community integration. It does not create exclusionary development or alter the existing settlement pattern.

The matter concerns a private residential structure within a small established estate. Approval of the departure will not prejudice spatial justice considerations.

8.2 Spatial Sustainability

The application supports spatial sustainability in the sense that it makes use of existing built infrastructure and avoids unnecessary demolition, reconstruction, waste, and disturbance.

No new land consumption, environmental disturbance, or expansion of the urban footprint is proposed. The structure already exists and has formed part of the property for approximately 31 years.

8.3 Efficiency

The application promotes efficient land use and administrative certainty by regularising an existing built condition without requiring unnecessary physical intervention.

The garage and carport serve an existing residential dwelling. Their continued existence in the present position does not create inefficiency in the functioning of the estate, the internal access road, or municipal services.

8.4 Spatial Resilience

The application has no negative effect on spatial resilience. It does not introduce any vulnerability to the broader settlement, infrastructure network, or surrounding properties.

The continued use of the existing structures supports the ordinary functioning of the property and avoids unnecessary disruption to an established residential environment.

8.5 Good Administration

The application is consistent with good administration because it places all relevant facts before the Municipality and seeks to regularise the matter through the correct planning process.

The present owner did not construct the garage and carport and did not create the alleged non-compliance. The owner acquired the property approximately 30 years after the structures had already been built. Once the matter came to light, the owner took steps to address it through the appropriate municipal process.

It is also relevant that the structures were built as part of the original estate development and have existed openly for approximately 31 years. If final inspections, occupation processes, or municipal assessments occurred at the time of the original construction, the position of the garage and carport would have been capable of being identified then.

The application therefore allows the Municipality to deal with the matter in a fair, transparent, and proportionate manner.

9. Motivation for Waiver or Reduction of Administrative Penalty

The applicant respectfully requests that any administrative penalty be waived. In the alternative, the applicant requests that any penalty be reduced to a nominal amount.

The following factors support this request:

1. The garage and carport were not constructed by the present owner.
2. The structures were built approximately 31 years ago, during the original development of Under the Oaks.
3. The present owner purchased the property only approximately 1 year ago.
4. The present owner did not knowingly or deliberately contravene any building line, zoning provision, or approved building plan.
5. The structures have existed openly in their present position for more than three decades.
6. The structures have not caused inconvenience, obstruction, prejudice, or practical difficulty to any owner within Under the Oaks.
7. The internal street is an estate access road serving the residents of Under the Oaks, and not an ordinary external municipal public road.
8. The HOA supports the application and confirms that the majority of owners do not object to the continued existence of the garage and carport in their present position.
9. No new building work, extension, alteration, or further encroachment is proposed.
10. The application is brought in good faith to regularise an inherited historic condition.
11. Once the cadastral boundary issue is addressed through **Application 5159/2026**, the lateral position of the garage will correspond with the originally approved intention that the garage be situated on the cadastral boundary.

The purpose of an administrative penalty should be considered in context. This is not a case of a recent unlawful building work, deliberate disregard of municipal control, or an owner attempting to benefit from newly constructed non-compliance. It is a case of a long-standing inherited condition that formed part of the property when acquired by the present owner.

For these reasons, it would be disproportionate and unfair to impose a punitive administrative penalty on the present owner. The applicant therefore respectfully submits that the circumstances justify the waiver of any administrative penalty.

10. Conclusion

The application seeks the regularisation of an existing garage and carport on Erf 3888, Under the Oaks No. 9, and the movement of the cadastral boundary with Erf 3889 to coincide with the as-built wall as shown in the topographical survey sketch.

No new development is proposed. The structures have existed in their current position since the original construction of the estate approximately 31 years ago. They have not caused inconvenience or prejudice within the estate, and the majority of owners, through the Under the Oaks Home Owners Association, have indicated that they do not object to the existing position.

The application is limited, corrective, and practical. It will not affect municipal services, traffic, surrounding land uses, the character of the estate, or the rights of neighbouring owners.

The applicant respectfully requests that the departure be approved and that any administrative penalty be waived. In the alternative, the applicant requests that any administrative penalty be reduced substantially, having regard to the historic nature of the matter, the absence of prejudice, the HOA's support, and the fact that the present owner did not create the non-compliance.



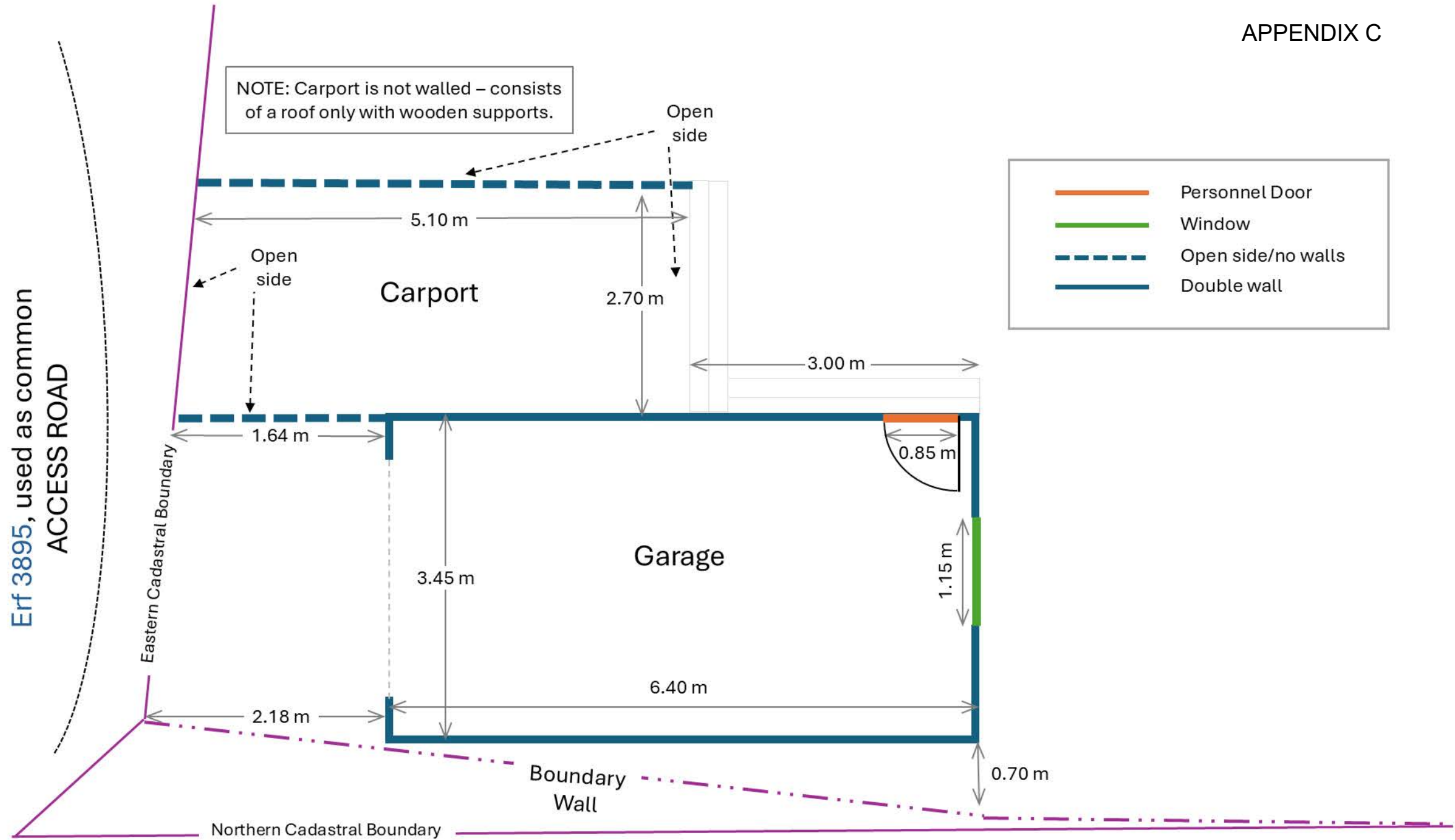
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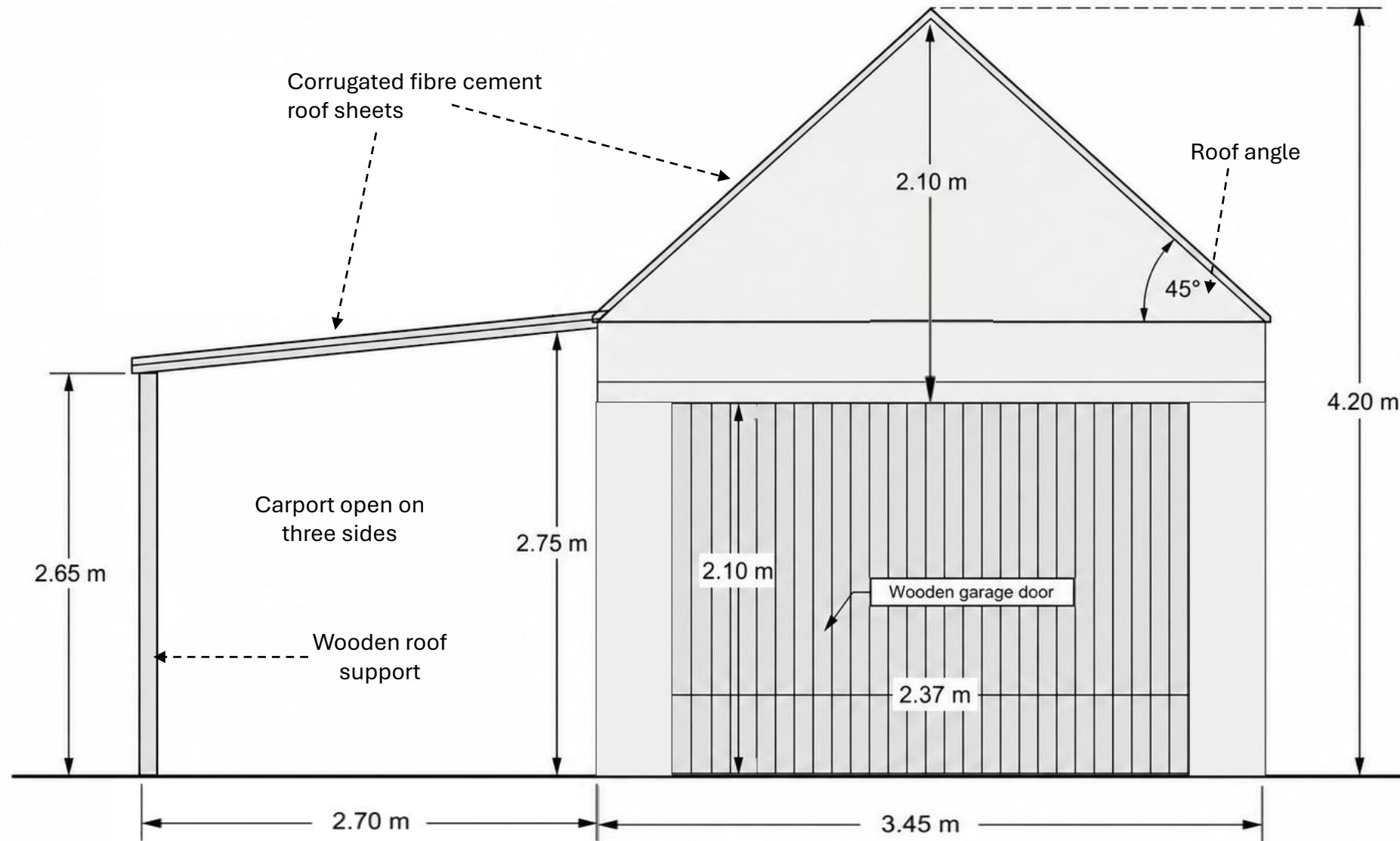
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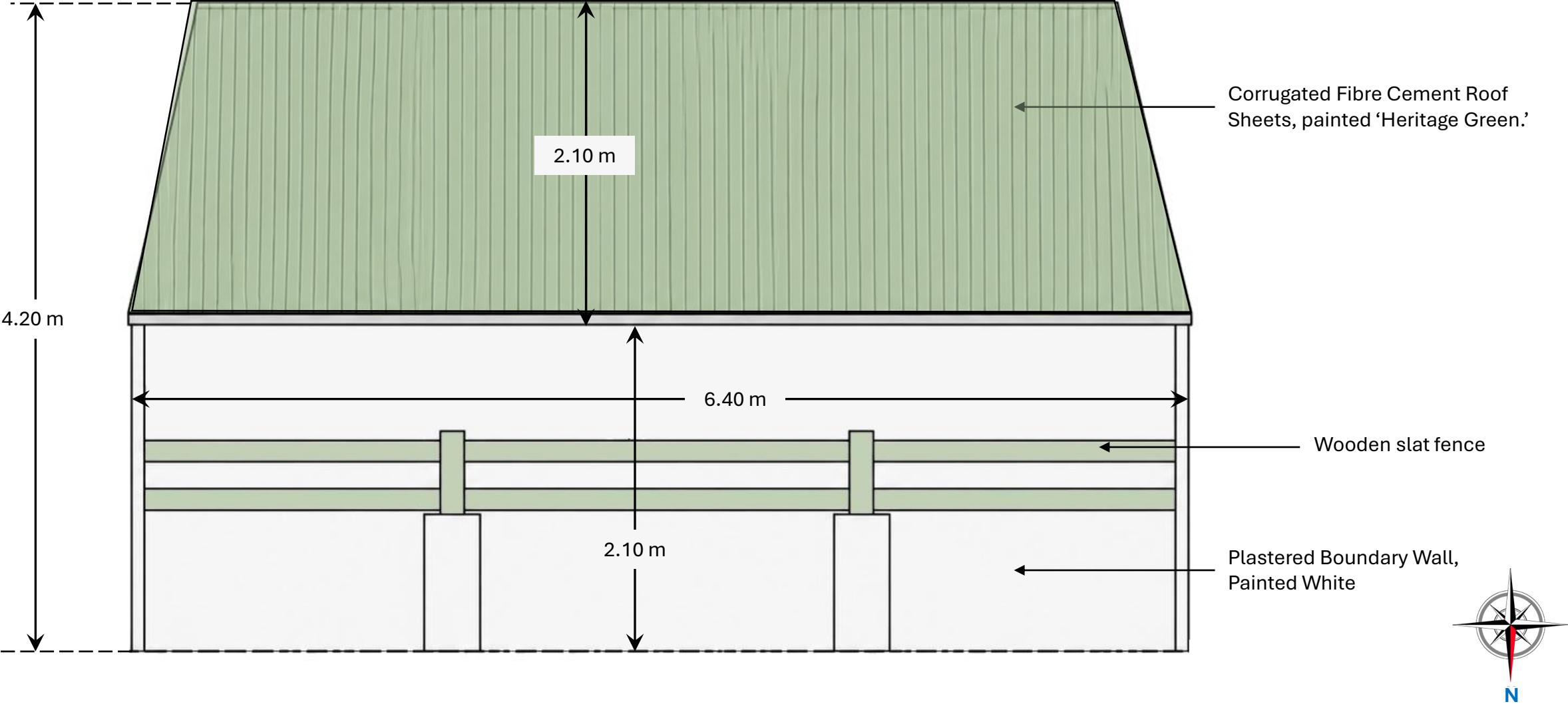
APPENDIX C



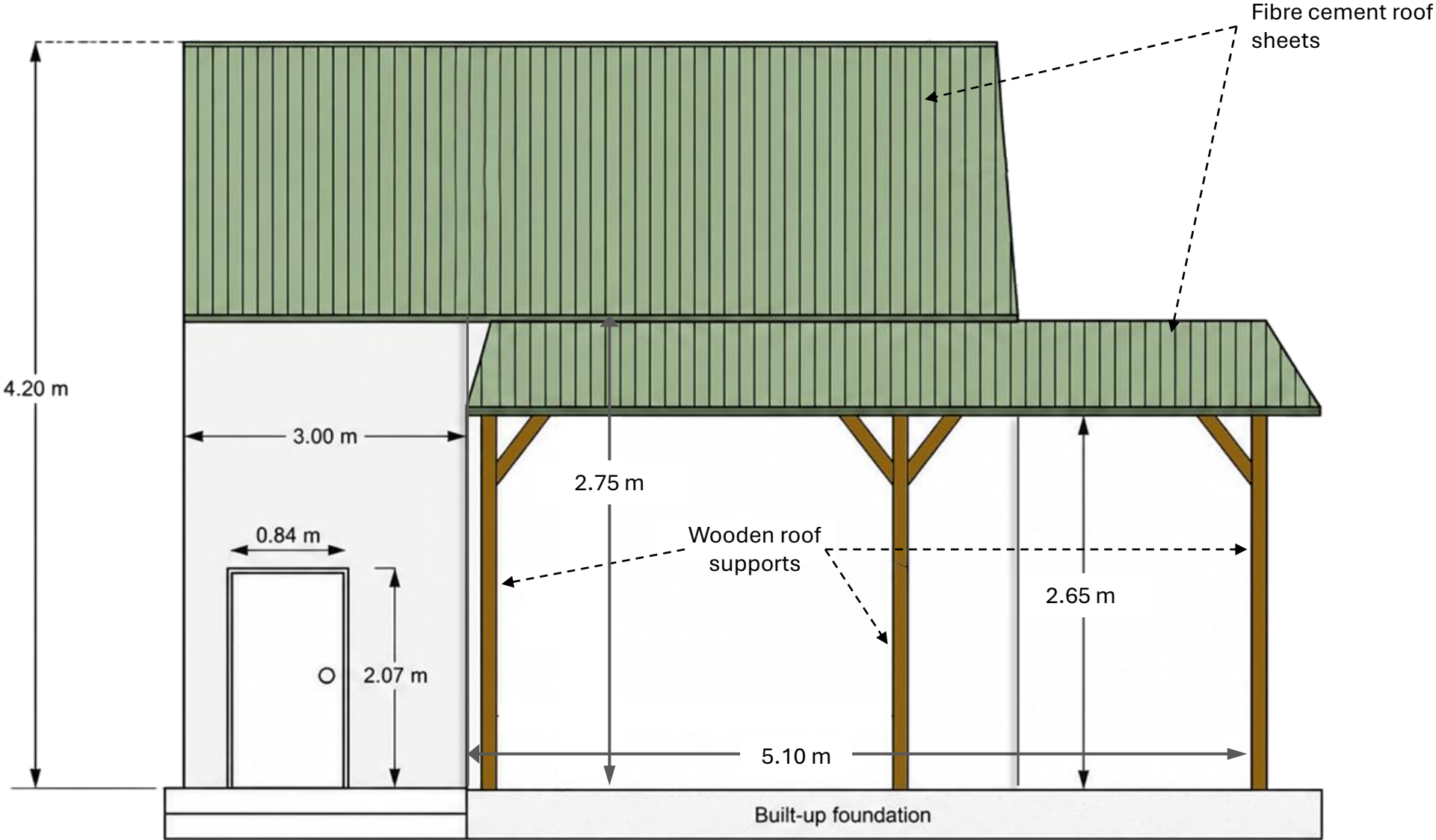
Eastern Elevation– Garage & Carport – Erf 3888, Onrusrivier



Northern Elevation– Garage – Erf 3888, Onrusrivier



Southern Elevation – Garage & Carport – Erf 3888, Onrusrivier



Western Elevation– Garage & Carport – Erf 3888, Onrusrivier

