



ERF 5138, 15 ISAACSRIVER ROAD, KLEINMOND: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: J MINNAAR ON BEHALF OF THE TRUSTEES FOR THE TIME BEING OF THE FOORD FAMILIE TRUST

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 northern lateral building line from 2,0m to 1,55m to accommodate the existing stairs.
- departure in terms of Section 16(2)(b) of the By-Law to relax the southern lateral building line from 2,0m to 1,65m and 1,71m respectively to accommodate the existing dwelling.
- departure in terms of Section 16(2)(b) of the By-Law to exceed the prescribed height restriction from 8,0m to 8,08m to accommodate the existing roof.
- determination of an administrative penalty in terms of Section 16(2)(q) for the unauthorised building line and height 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, at the Kleinmond Library, 5th 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 / (e) landuse@overstrand.gov.za) on or before **23 October 2026**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to **Mrs. 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 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 5138, ISAACSRIVERWEG 15, KLEINMOND: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: J MINNAAR NAMENS DIE TRUSTEES INDIETD VAN DIE FOORD FAMILIE TRUST

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 noordelike syboullyn vanaf 2,0m na 1,55m te verslap om die bestaande trappe te akkommodeer.
- afwyking ingevolge Artikel 16(2)(b) van die Verordening om die suidelike syboullyn vanaf 2,0m na onderskeidelik 1,65m en 1,71m te verslap om die bestaande woonhuis te akkommodeer.
- afwyking ingevolge Artikel 16(2)(b) van die Verordening om die voorgeskrewe hoogtebeperking vanaf 8,0m na 8,08m te oorskry om die bestaande dak te akkommodeer.
- bepaling van 'n administratiewe boete ingevolge Artikel 16(2)(q) vir die ongemagtigde boulyn- en hoogteoorskrydings 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, by die Kleinmond Biblioteek, 5^{de} 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 / (e) landuse@overstrand.gov.za) voor of op **23 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 5138, 15 ISAACSRIVER ROAD, KLEINMOND: ISICELO SOKUHAMBA KUNYE NOKUMISELWA KESOHLWAYO SOLAWULO: U-J MINNAAR EGAMENI LABAPHATHI (TRUSTEES) BE-FOORD FAMILIE TRUST OKWANGOKU

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 umgca wesakhiwo esinxweseneyo esikwicala elisemantla (ukusuka kwi-2,0m ukuya kwi-1,55m) ukuze kulungiselelwe izitepsi ezikhoyo.
- ukuhamba ngokwemiqathango yeCandelo 16(2)(b) loMthetho kaMasipala ukuze kuncitshiswe umgca wesakhiwo esinxweseneyo esikwicala elisemazantsi (ukusuka kwi-2,0m ukuya kwi-1,65m nakwi-1,71m ngokulandelelana) ukuze kulungiselelwe indlu ekhoyo.
- ukuhamba ngokwemiqathango yeCandelo 16(2)(b) loMthetho kaMasipala ukuze kudlulwe kumda wokuphakama okumiselweyo (ukusuka kwi-8,0m ukuya kwi-8,08m) ukuze kulungiselelwe uphahla olukhoyo.
- ukumisela isohlwayo solawulo ngokwemiqathango yeCandelo 16(2)(q) ngenxa yomgca wesakhiwo kunye nemida yokuphakama engagunyaziswanga njengoko kuchaziwe ngasentla.

linkcukacha ezipheleleyo malunga nesindululo ziyafumaneka ukuze zihlolwe phakathi evekini phakathi kwentsimbi ye-08:00 kunye ne-16:30 kwiCandelo: UCwangciso lweDolophu neSithuba e-16 Paterson Street, eHermanus kunye neThala leeNcwadi laseKleinmond, eFifth Avenue, eKleinmond nakwiphepha lewebhu likamasipala. ikhonkco elilandelayo <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 **23 EyeDwarha 2026**, ebonisa igama, idilesi neenkukacha zoqhagamshelwano, umdla kwisicelo kwakunye nezizathu zezimvo. Imibuzo ngomnxeba ingabhekiswa ku**Nksk. H van der Stoep** 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 ngokwemiba yoMthetho Okhusela Inxelo Yomnyu Ngamnye (POPIA), uza kube ungena kwinkqubo yoluntu ngoko ke uyavuma kwaye uvumela ukusetyenziswa kwegama lakho, ifani yakho, iinkukacha zakho noluvo(nezimvo) zakho zingadizwa/ zingasetyenziswa kwinkqubo yesi (sicelo).



ERF 5138

KLEINMOND

MOTIVATIONAL REPORT: APPLICATION FOR DEPARTURE AND
ADMINISTRATIVE PENALTY FEE



ABSTRACT

Application for departure in order to accommodate the existing dwelling, stairs and height restriction.

Application By: Jeane Minnaar

Compiled for: Foord Familie Trust

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1. Background

The subject property Erf 5138 is situated in the residential neighbourhood of Kleinmond and is located at Isaacs River Road with an extent of 595m². According to the zoning map & Overstrand Municipal Land Use Scheme, 2020 the property is zoned as Residential Zone I: Single Residential (SRI). The property currently consists of a two (2) bedroom dwelling house and two (2) bedroom flat with access gained from Isaacs River Road.

The property owners built the dwelling house in 2025, once the house was completed, it was discovered that the house was not built according to the approved building plan. The following issues had to be addressed:

- Stairs encroaching the northern lateral building line;
- Dwelling house encroaches the southern lateral building line, and
- Roof higher than the height restriction.

Jeané Minnaar is hereby duly appointed by the property owners (Carl and Ida Foord) to submit a land use planning application for the proposed development.

See Appendix-B for the Power of Attorney & Appendix- C for the Site Development Plan.

2. Application

The following is proposed:

Application is hereby submitted in terms Section 16 (2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for departure for the following:

- the northern lateral building line from 2m to 1.55m to accommodate the existing stairs.
- the southern lateral building line from 2m to 1.65m and 1.71m to accommodate the existing dwelling.
- deviation of the height restriction from 8m to 8.080m
- Application in terms Section 16(2)(q) of the By-Law for the determination of an administrative penalty to accommodate the existing dwelling, stairs and roof.

3. Locality

The subject property is situated within the Overstrand Municipality, located at 15 Isaacs River Road, Kleinmond. The location of the property is shown below as figure 1.

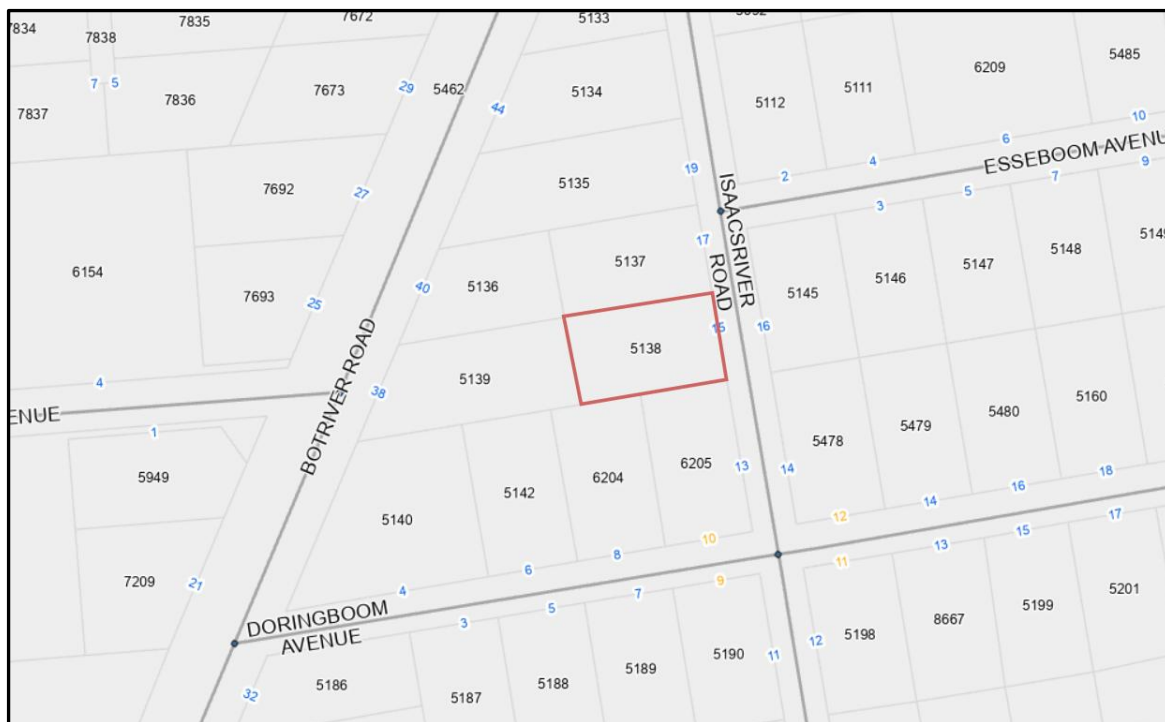


Figure 1: Locality Map

4. Land Use Environment

The property is situated in the residential neighbourhood of Kleinmond where the predominant use of the area is for residential purposes with General Residential Zone 3: Flats Bulk Zone 2 in close proximity. The zoning of the subject erf and the surrounding properties are zoned Residential Zone 1: Single Residential Zone (SR1). The zoning in the area is shown below as Figure 2 and Appendix D.



5. Land Use Scheme Parameters

The property is zoned Residential Zone 1: Single Residential Zone (SR1) in terms of the Overstrand Municipality Land Use Scheme, 2020. The table below indicates the applicable parameters in terms of the zoning and the proposed departure.

	Scheme Parameters	Proposed Development	Departure Required
Coverage	50%	45,49%	No
Eastern Street BL	4m	Not applicable	No
Northern side BL	2m	Stairs encroach lateral building line from 2m to 1.55m.	Yes
Southern side BL	2m	Dwelling house encroaches lateral building line from 2m to 1.65m and 1.71m.	Yes
Western rear BL	2m	Not applicable	No
Height Restriction	8m	Roof encroaches height restriction with 0.080m	Yes

With reference to the above table and the attached building plans, a portion of the dwelling house encroaches the southern lateral building line, the stairs encroach the northern lateral building line and the roof exceeds the height restriction.

The house was built in 2025 and was not built according to the building plans and therefore an application for departure is being submitted to legalise the building and the roof.

6. Title Deed

In terms of the Title Deed No T/ 10761/2023, Erf 5138, Foord is registered in the name of Foord Familie Trust with no title deed conditions restricting the proposed development. The Title Deed is attached hereto as Appendix E.

7. Engineering Services

The subject property is connected to the existing Overstrand Municipality services network which includes electricity, water, sewage, and solid waste. No problems are anticipated.

8. Policies and Regulations

Overstrand Municipal Spatial Development Framework, 2020 (MSDF)

The Municipal Spatial Development Framework is a sectoral component of the IDP that, in terms of the MSA, is aimed at providing general direction to guide decision making on an ongoing basis, aiming at the creation of integrated, sustainable and habitable regions, cities, towns and residential areas.

The proposed application is located within the urban edge. The proposal consists of normal residential additions and will therefore not deviate from the forward planning document.

Overstrand Municipality Spatial Growth Management Strategy, 2010 (OMSGMS)

The Growth Management Strategy promotes the longer-term sustainability of the municipal area and its sub-regions. The property falls within the planning unit 11 with promotes residential densification.

The proposal is for the legalisation of the dwelling house, stairs and roof top encroaching building lines and height restrictions which should be considered in line with the residential nature of the area since the property is already situated within the existing established residential neighbourhood. The proposal should therefore be deemed in line with this forward planning document.

9. Planning Principles

Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA)

Section 7 of the "Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)" list 5 development principles based on which any development application must be evaluated. The principles referred to are as follows:

1. Spatial Justice

Spatial Justice refers to planning proposals which do not contribute towards the perpetuation of apartheid spatial development imbalances. The existing dwelling house, stairs and height restriction will not trigger the principle due to the normal residential nature. The principle will therefore not perpetuate spatial justice.

2. Spatial Sustainability

Spatial sustainability refers to planning proposals which result in communities that are viable. The subject property is not located within any environmentally sensitive area or agricultural sensitive land. The principle of spatial sustainability is therefore not applicable to the proposed additions.

3. Spatial resilience

The dwelling house and stairs is normal to a residential property and is therefore not in conflict with any planning policies or be susceptible to spatial or environmental shocks. The principle of spatial resilience is therefore not applicable to the proposal

4. Efficiency

The proposal is to accommodate the existing building footprint and therefore the principle of efficiency is not applicable.

5. Good administration

The Overstrand Municipality has a credible track record of good administration regarding the method of public participation which invites and accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.

10. Administrative Penalty

In terms of Section 90 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020 the following is applicable: "A person who is in contravention of this By-Law, and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of land or building or part thereof concerned."

The administrative penalty applicable to the property is evaluated in terms of section 90 (3) (a-e), as follows:

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

The property owner built the house in 2025 unaware of these encroachments until final inspection by the building inspector. The part of the stair encroaching has an extent of 1.734m² and the dwelling encroaching has an extent of 1.643m².

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

The property owners are involved in the contravention as they built the house in 2025.

(c) a report by a quantity surveyor in matter of unauthorised building/construction.

Builders quotation has been submitted with the application.

(d) whether the unlawful conduct was stopped.

The structure was completed

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

The property owner has not previously contravened this By-Law or any other By-Law.

11. Need and Desirability

The dwelling house was erected in 2025, and the owners were not aware that the dwelling was encroaching the southern lateral building line from 2m to 2.5m, the stairs encroaching the northern lateral building line from 2m to 1.62m and the roof pitch exceeding the 8m height restriction by 0.8m.

These minor encroachments are of residential nature and will have no negative effect on the character of the area or the surrounding neighbours.

With the above-mentioned stated, this proposal is in harmony with all relevant planning principles and forward planning documents and is therefore considered desirable from a town planning point of view.

12. Recommendations

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

The following is proposed:

Application is hereby submitted in terms Section 16 (2)(b) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) for departure for the following:

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