



ERF 3765, 22 SHERWOOD DRIVE, ONRUS RIVER: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: J DOUGLAS ON BEHALF OF VALVAN BELEGGINGS CC

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) to relax the southern lateral building line from 2m to 0m to legalize an existing garage and shade port, and to relax the rear building from 2m to 0m to legalize the existing garage and covered area.
- **determination of an administrative penalty** in terms of Section 16(2)(q) for unauthorised land use as mentioned above.

Full detail regarding the proposal is available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning at 16 Paterson Street, Hermanus. 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 / (f) 0283132093 / (e) loretta@overstrand.gov.za) on or before **22 March 2024**, 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 Town Planning Department where a municipal official will assist them in order to formalize their comment.

ERF 3765, SHERWOODRYLAAN 22, ONRUSRIVIER: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: J DOUGLAS NAMENS VALVAN BELEGGINGS CC

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) om die suidelike syboullyn vanaf 2m na 0m te verslap om die bestaande motorhuis en skadunet te wettig, en om die agterboullyn vanaf 2m na 0m te verslap om die bestaande motorhuis en afdak area te wettig.
- **Bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) vir ongemagtigde grondgebruik soos hierbo genoem.

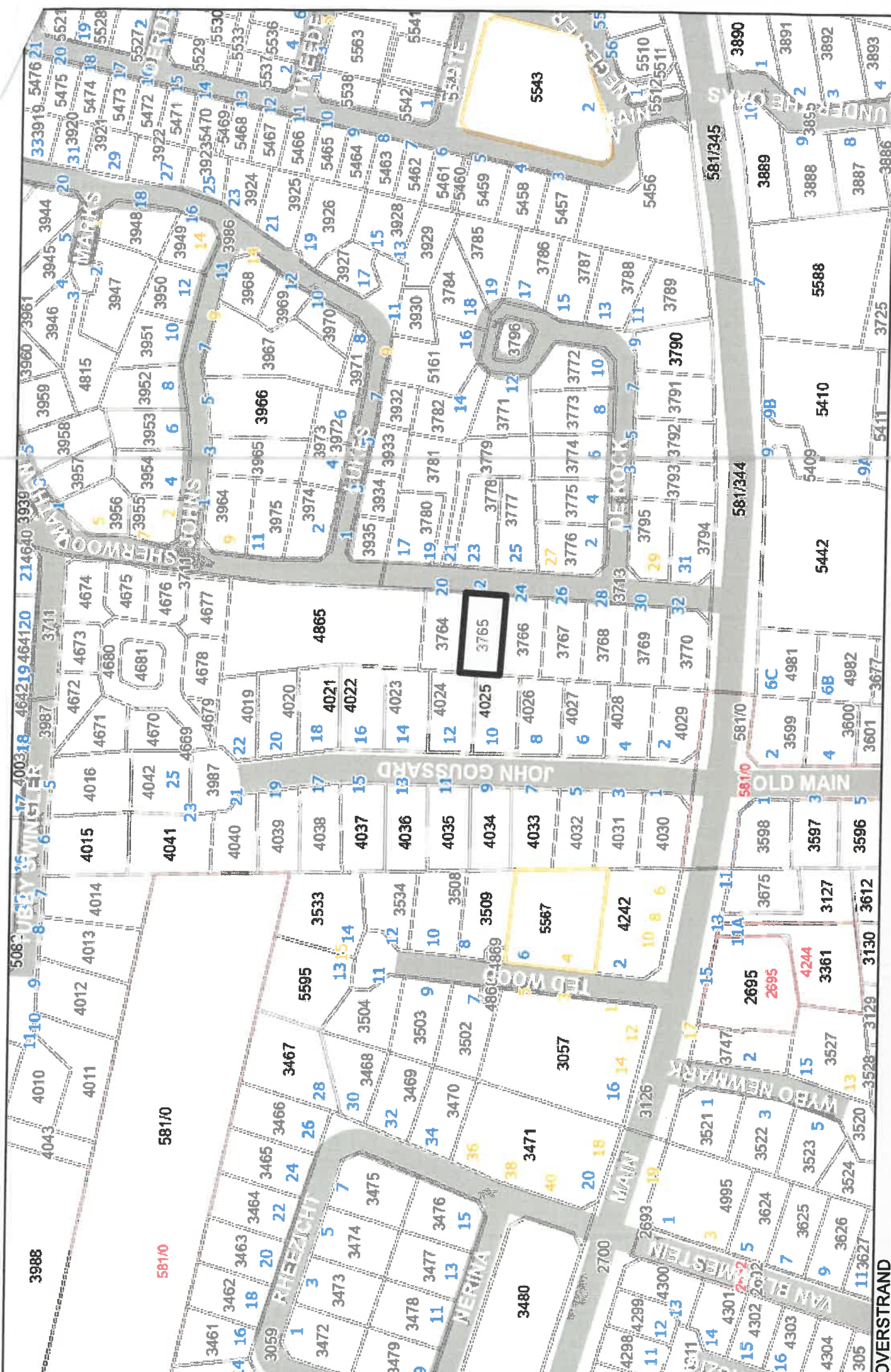
Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weekdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) voor of op **22 Maart 2024**, 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** at 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 Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

ISIZA 3765, 22 SHERWOOD DRIVE, ONRUS RIVER: ISICELO SOPHAMBUKO NOKUMISELWA KWESOHLWAYO SOLAWULO: J DOUGLAS ON BEHALF OF VALVAN BELEGGINGS CC

Isaziso sinikezelwa ngokwemiqathango yeCandelo 48 loMthetho kaMasipala oLungisiweyo woMasipala wase-Overstrand ongoCwangciso lokuSetyenziswa koMhlaba kaMasipala, 2020 sokokuba isicelo sifunyenwe sokulandelayo:

- **Uphambuko** ngokwemiqathango yeCandelo 16(2)(b) ukunyenysiswa komda wesakhiwo esisecaleni ngasezantsi ukususela kwi-2m ukuya kwi-0m ukwenza igaraji esele ikho ibe semthethweni kunye nommandla ogqunyiweyo.
- **Ukumiselwa kwesohlwayo solawulo** ngokwemiqathango yeCandelo 16(2)(q) ngokusetyenziswa okungagunyaziswanga komhlaba njengoko kuchaziwe ngasentla.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ngeentsuku zomsebenzi phakathi kweyure-08:00 ne-16:30 kwiSebe: loCwangciso lweDolophu, Paterson Street, eHermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zamaCandelo 51 nelama-52 alo Mthetho uYilwayo kaMasipala mazithunyelwe kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / (e) loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla **wama-22 uMatshi 2024**, unike igama lakho, idilesi neenkukacha zoxibelelwano nawe, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Xa ufuna ukubuza into malunga nesi saziso ungatsalela umnxeba **kuMnu H Olivier** kule nombolo yomnxeba 028-313 8900. UMasipala angala ukuzamkela izimvo ezifike emva komhla wokuvala. Nabani na ongakwaziyo ukufunda okanye ukubhala makaye kwiSebe loYilo lweDolophu apho igosa likamasipala liya kumncedisa azibhale izimvo zakhe.



Locality Map
Erf 3765 Onrus River



LI
12 DEC 2023

OVERSTRAND MUNISIPALITEIT REKORDBEHEER 11 DEC 2023 DOCUMENT CONTROL OVERSTRAND MUNICIPALITY

TP- A Thearts
(H Olivier)

ERF 3765 ONRUS RIVER

MOTIVATIONAL REPORT: APPLICATION FOR DEPARTURE & BUILDING LINE RELAXATION



ABSTRACT

Application for departure and building line relaxation to accommodate the garage, covered area and carport.

Application By:

Jeane Douglas

Compiled for: Valerie van Deventer

FILE NO. Erf 3765-HOH
SCAN NO.
COLLABORATOR NO.
1966584

TP

11 DEC 2023
12 DEC 2023

1. Background

The subject property Erf 3765 is situated in the residential neighbourhood of Onrus River and is located along Sherwood Drive with an extent of 499m². According to the zoning map & Overstrand Municipal Land Use Scheme, 2020 the property is zoned as Residential Zone I: Single Residential (SRI). The property is developed with a dwelling house a garage, two carports on the southern side building line a covered area on the rear building line and a veranda with access gained from Sherwood Drive.

The previous property owner made additions by erecting the carports, garage and covered area without authorization. The current property owner is in the process of selling the property and needs to legalise the above-mentioned encroachment.

Jeané Douglas is hereby duly appointed by the property owner (Valvan Beleggings CC) to submit a land use planning application for the proposed development.

See Appendix-C for the Power of Attorney, Resolution letter & Appendix-E 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:

- Relaxation of the rear building line from 2m to 0m, in order to accommodate the new garage and covered area;
- Relaxation of the southern lateral building line from 2m to 0m, in order to accommodate the garage and carport;
- Relaxation of the 6,5m wide building restriction along the rear lateral boundary line for erven with a width less than 19,5m; and
- Determination of an administrative penalty in terms of Section 16(2)(q) in order to accommodate the existing carport, garage and covered area to the rear of the property.

3. Locality

The subject property is situated within the Overstrand Municipality, located at 22 Sherwood Drive, Onrus River. The location of the property is shown in the figure below as figure 1.

Figure 1: Locality Map of Erf 3765, Onrus River



4. Land Use Environment

The property is situated in the residential neighbourhood of Onrus River where the predominant use of the area is for residential purposes. 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 F.

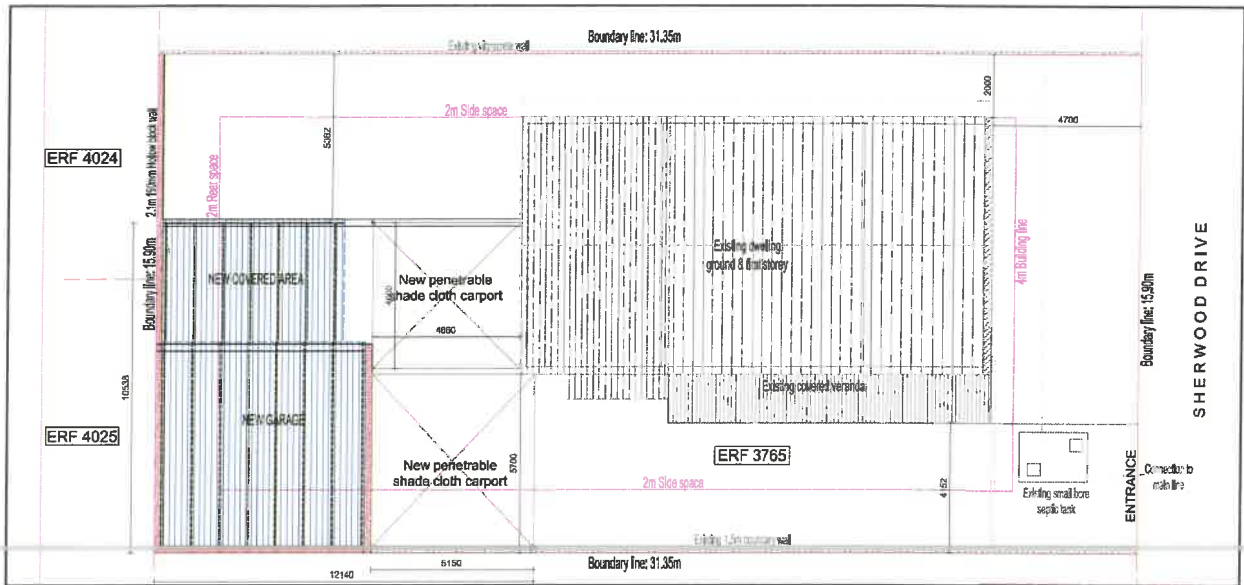


Figure 2: Surrounding Zoning

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%	42,37%	No
Street Building Line	4m	Not applicable, as the proposal does not encroach the street building line.	No
Rear Building Line	2m	0m	Yes
Southern Side Building Line	2m	0m	Yes
Northern Side Building Line	2m	Not applicable, as the proposal does not encroach the street building line.	No
Structures over rear boundary (such rear boundary is less than 19,5m in width)	6,5m	10,538m	Yes



It is evident in the figure above, that the additions to the property (garage, covered area & carport) encroach the western lateral and southern lateral building lines from 2m to 0m respectively. In addition, due to the structures being built along the rear building line with a rear boundary of 15,9m in width, the property is subject to the 6,5m restriction. In order to accommodate these structures, it is proposed that council permits the relaxation of these scheme parameters as these additions are considered to be of a normal residential nature. Although these structures were erected without previous approval by council (administrative penalty which is evaluated further in this report), the immediate affected surrounding neighbours Erf 3766 & Erf 4025 has given their consent for the approval thereof.

These structures are in no way offensive in nature and is considered to be in line with the design of the dwelling house. Additionally, these additions are set back to the rear of the property and do not negatively impact the streetscape.

The addition of the carport is in line with the character of the neighbourhood as many of the houses in the immediate area have carports situated in-front of their garage.

6. Title Deed

In terms of the Title Deed No T/ 15677/1999, Erf 3765 Onrus River is registered in the name of Valvan Beleggings CC with no title deed conditions restricting the proposed development. The Title Deed is attached hereto as Appendix G.

7. Engineering Services

The subject property is connected to the existing Overstrand Municipality services network which includes electricity, water, sewage and solid waste.

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 and is indicated as part of the “urban development area”. The proposed additions to the residential zoned property are therefore in line with this 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 3; this section of Onrus River and is predominantly for residential use. Since the proposed additions are of a normal residential nature, the proposal is therefore in line with the OMSGMS strategy.

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. This proposal for the departure does not perpetuate apartheid spatial development imbalances.

2. Spatial Sustainability

Spatial sustainability refers to planning proposals which result in communities that are viable. This proposal for departure intends to ensure the subject property is utilized to its maximum capabilities.

3. Spatial resilience

This proposal is not in conflict with any spatial planning policies or other regulations of the Overstrand Municipality.

4. Efficiency

This proposal intends to maximize the usage of the subject property by converting erecting a garage, carports and a covered area.

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 the 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 extent of the contravention;

The previous property owner erected a garage (46,51m²) and a covered area (23,47m²) along the rear property boundary. The encroachment over the eastern lateral building line amounts to 21,076m² and the encroachment over the southern lateral building line amounts to 9,98m². The addition (carport) that was constructed by the current owner encroaches the southern lateral building line which amounts to 10,3m². The total encroachment over the building lines amounts to 41,356m².

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

After consultation with the current property owner, it was understood that the previous property owner constructed these additions. However, after the current property owner took ownership in 2006, a carport was erected without prior consent from the municipality.

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

No report by a quantity surveyor is submitted and the property owner has opted to utilize the municipal tariff of 2023/2024 in order to calculate the administrative penalty.

(d) whether the unlawful conduct was stopped;

The current property owner took ownership of the property in 2006 which already had the existing unauthorised structures (garage and covered area) to the rear of the property. After the current owner took ownership of the property in 2006, they erected a carport along the southern boundary of the property without consent from the municipality.

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

To my knowledge the property owner has not previously contravened this By-Law or any other By-Law, apart from the unauthorised erection of the carport which was constructed along the southern lateral boundary after they took ownership of the subject property in 2006.

11. Need and Desirability

The proposal needs to be evaluated on the basis that the current situation is not utilizing the available space efficiently. The property owner purchased the property in 2006 with the additions already erected on the property. The current property owner has recently put the property on the market to be sold and it is herewith that the property owner seeks to rectify the unauthorized additions. The addition of the garage and covered area on the rear of the property and the carport along the southern side building line is permitted to be in such a location in terms of the Overstrand municipality land use scheme 2020.

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

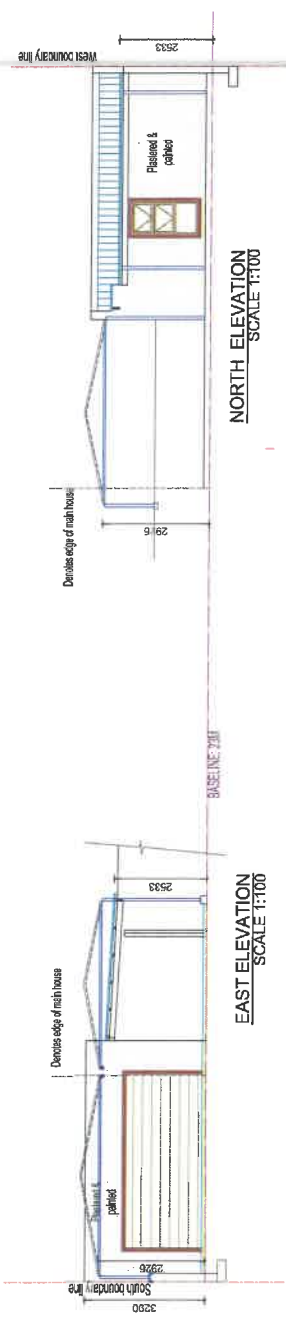
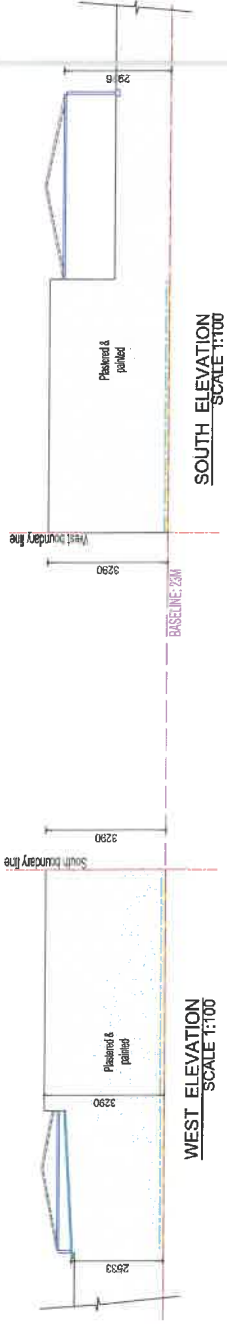
Based on the abovementioned motivation, it is recommended that the following be approved:

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:

- Relaxation of the rear building line from 2m to 0m, in order to accommodate the new garage and covered area;
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GENERAL NOTES

THIS PLAN REFLECTS "AS BUILT" ADDITIONS.
 NO NEW CONSTRUCTION IS PERMITTED.
 BOUNDARY BEACONS TO BE EXPOSED & DEMARKED



SINGLE RESIDENTIAL
 OCCUPATION CLASSIFICATION : H 4

TOWN PLANNING REQUIREMENTS

	NEW	EXISTING	COVERAGE
DWELLING GROUND		123m ²	123m ²
COVERED VERANDA		15.88m ²	15.88m ²
FIRST STOREY		96.23m ²	
GARAGE	46.51m ²		46.51m ²
COVERED AREA	23.47m ²		23.47m ²
TOTAL	69.98m²	235.11m²	211.43m²
ERF SIZE :	499M2		42.37%

PROJECT

APPLICATION FOR DEPARTURE FOR NEW
 GARAGE & COVERED AREA ON ERF 3765,
 22 SHERWOOD DRIVE, ONRUSTRIVIER

CLIENT

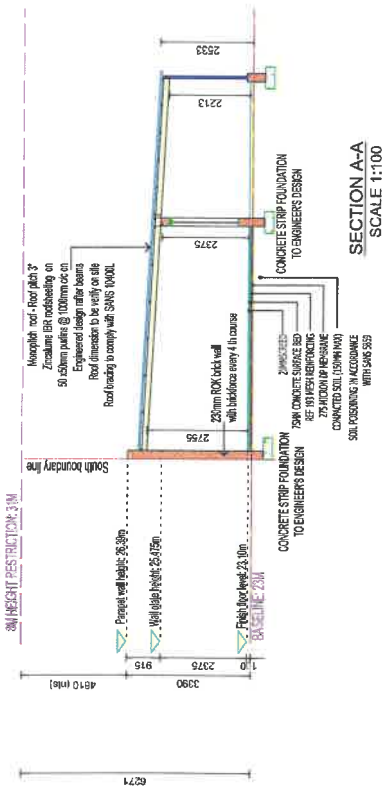
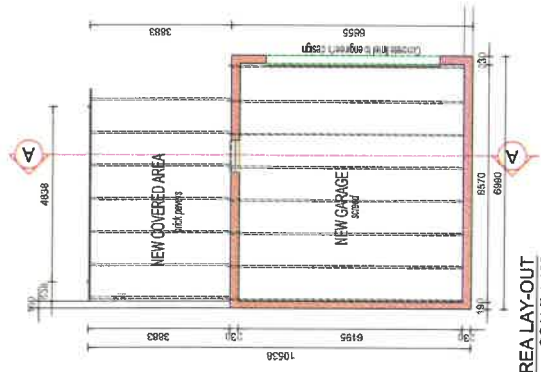
VALVAN BELEGGINGS CC

DRAWING :

GARAGE & COVERED AREA LAY-OUT
 SECTION A-A
 ELEVATIONS

DATE: 10/10/2023 PLAN NO: ON3765/2023
 REVISED SHEET NO: 2 OF 2

PROFESSIONAL ENGINEER
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GARAGE & COVERED AREA LAY-OUT
 SCALE 1:100

SECTION A-A
 SCALE 1:100