



ERF 6357, 60 BOEKENHOUT AVENUE, KLEINMOND: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: SCHOONRAAD ARCHITECTS ON BEHALF OF R & R MALAN

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 street building line from 4m to 3,44m to accommodate an existing double storey dwelling.
- **determination of an administrative penalty** in terms of Section 16(2)(q) for 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 Department: Town and Spatial Planning at 16 Paterson Street, Hermanus and the Kleinmond Library, Fifth Avenue, Kleinmond. 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 November 2024**, 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 Town and Spatial Planning Department where a municipal official will assist them in order to formalize their comment.

ERF 6357, BOEKENHOUTLAAN 60, KLEINMOND: AANSOEK OM AFWYKING EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: SCHOONRAAD ARGITEKTE NAMENS R & R MALAN

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 straatboulyn vanaf 4m na 3,44m te verslap om 'n bestaande dubbelverdieping huis te akkommodeer.
- **bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) vir ongemagtigde boulynoorskreidings soos bo genoem.

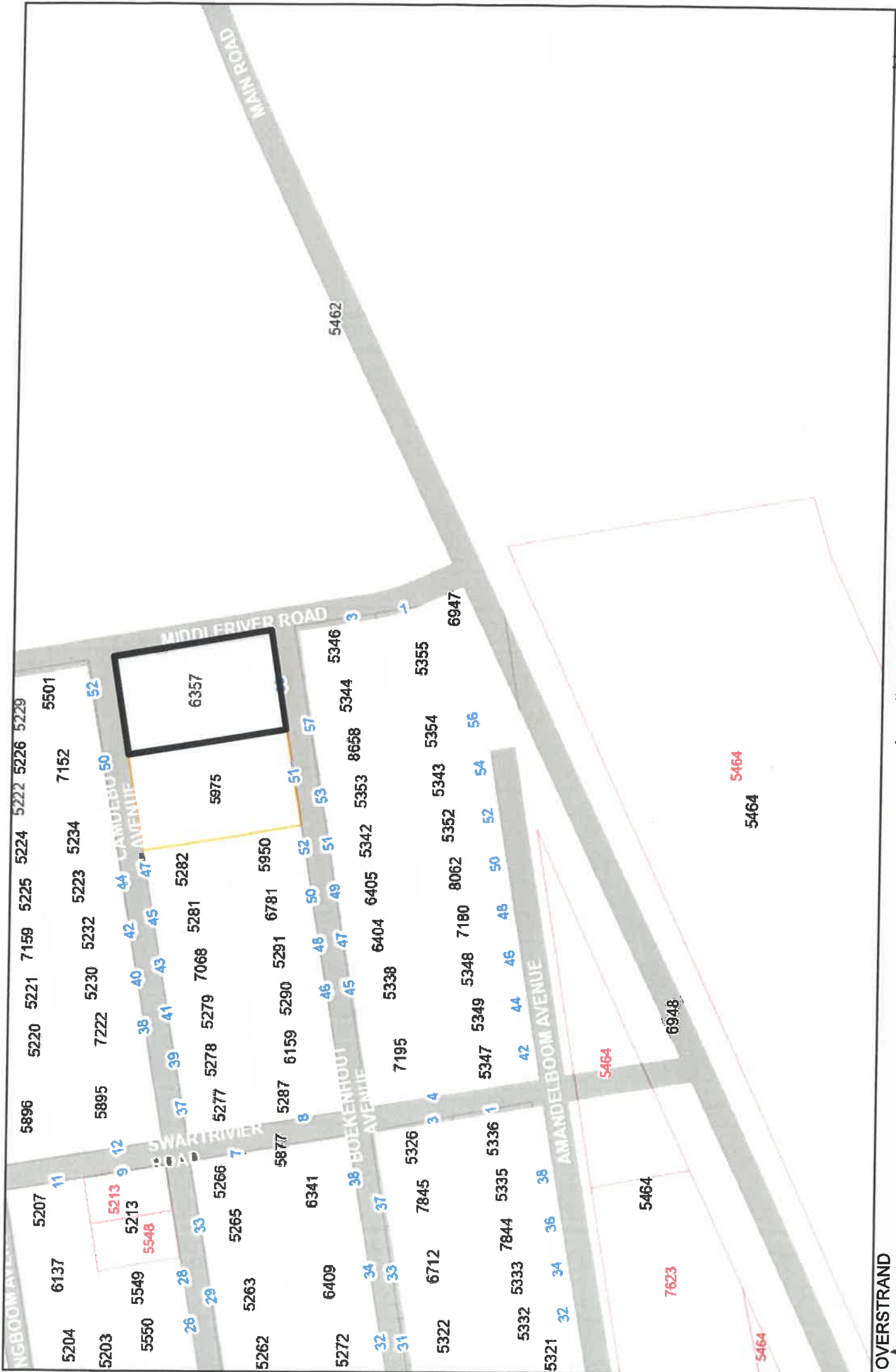
Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weekdae tussen 08:00 en 16:30 by die Departement: Stads- en Streekbeplanning, Patersonstraat 16, Hermanus en by die Kleinmond Biblioteek, Vyfdelaan, Kleinmond. Enige kommentaar op die voorstel moet skriftelik ingedien word 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 November 2024**, 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** 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: Stads- en Streekbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

ISIZA 6357, 60 BOEKENHOUT AVENUE, E-KLEINMOND: ISICELO SOPHAMBUKO NOKUMISELWA KWESOHLWAYO SOLAWULO: SCHOONRAAD ARCHITECTS EGAMENI LIKA R & R MALAN

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

- **uphambuko** ngokwemiqathango yeCandelo 16(2)(b) lokunyenisa umda wesakhiwo ukusuka kwii-mitha eziyi-4m ukuya kwii-mitha eziyi-3,44m ukulungiselela indawo yokuhlala enemigangatho emibini esele ikhona.
- **ukumiselwa** kwesohlwayo solawulo ngokwemigaqo yeCandelo 16(2)(q) lokunyhashwa kwemigaqo yesakhiwo ngokungekho mthethweni njengoko kukhankanyiwe ngasentla.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ukuze zihlolwe ngeentsuku zokusebenza ngamaxesha okusebenza phakathi kwentsimbi yesi-08:00 neye-16:30 kwiSebe: UCwangciso lweDolophu, 16 Paterson Street, eHermanus kunye neThala leeNcwadi laseKleinmond, 5th Avenue, eKleinmond. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokuhambelana nezibonelelo zeCandelo lama-51 kunye nelama-52 alo Mthetho kaMasipala oxeliweyo kuMasipala (16 Paterson Street, e-Hermanus / loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama-**22 Novemba 2024**, uchaze igama lakho, idilesi kunye neenkukacha zohagamshelelwano, umdla kwisicelo kunye nezizathu zezimvo. Imibuzo ngomnxeba ingenziwa kuMchwangcisi weDolophu, **UNksk. H van der Stoep** kule nombolo yomnxeba 028-313 8900. UMasipala unokwala ukwamkela izimvo ezifunyenwe emva komhla wokuvalwa. Nabani na ongakwaziyo ukufunda okanye ukubhala angandwendwela iSebe loCwangciso lweDolophu apho igosa likamasipala liya kuthi limcedise ukuze abhale ngokusesikweni izimvo zakhe.





SCHOONRAAD ARCHITECTS

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Our ref: 2022-230

Your ref:

Date: 12th August 2023

Att: Mrs. H. van der Stoep

MOTIVATION : APPLICATION FOR DEPARTURE AND ALLOCATION OF AN ADMINISTRATIVE PENALTY : STREET BUILDING LINE EAST FROM 2 000mm TO 3 440mm: ERF 6357 KLEINMOND – 60 BOEKENHOUT STREET ON BEHALF OF MR. RUAN MALAN & MRS RIANA MALAN

PROPERTY DETAILS

CONSULTANT	SCHOONRAAD ARCHITECTS
ERF NUMBER	ERF 6357 KLEINMOND
EXTENT	2380m ²
ZONING	RESIDENTIAL ZONE 1 : SINGLE RESIDENTIAL

BACKGROUND

Erf 6357 Kleinmond, hereafter referred to as the subject property, is located at 60 Boekenhout Street, Kleinmond. The property owner, Ruan Malan & Riana Malan, referred to as the applicant, made alterations to their existing property, with improvements encroaching on the street building line due to incorrect setting out of the works during construction.

APPLICATION

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 Section 16(2) (b) for an encroachment of the 4,0m street building line to 3 440mm on the Eastern boundary to legalize an existing double storey residential dwelling structure.
2. Determination of an Administrative penalty - In terms of Section 16(2) q for the determination of an administrative penalty for encroachment of the residential structure as described above.

22 AUG 2024

A. PROPOSED DEVELOPMENT

The owner acquired the property and proceeded with submitting and approving plans for additions and alterations to the structure. The building inspector inspected the work at regular intervals and only at the request for the issuing of an occupation certificate stage it became apparent that the setting out did not correspond to the approved plans. Land surveyors were tasked with measuring and surveying the exact position of the house in relation to the property boundaries. The applicant was requested to apply for a departure to legalize the encroachment.

The existing bedroom / Gym area on Ground floor is located 3 440mm from the Eastern Street boundary. The existing First floor bedroom is located 3 440mm from the Eastern street boundary. The area that encroach onto the street boundary amounts to 2,27m² per floor of which 1,24m² is contained in the external walls, creating 1,03m² of accessible space to the inhabitants per floor (Fig 2, Fig 3).

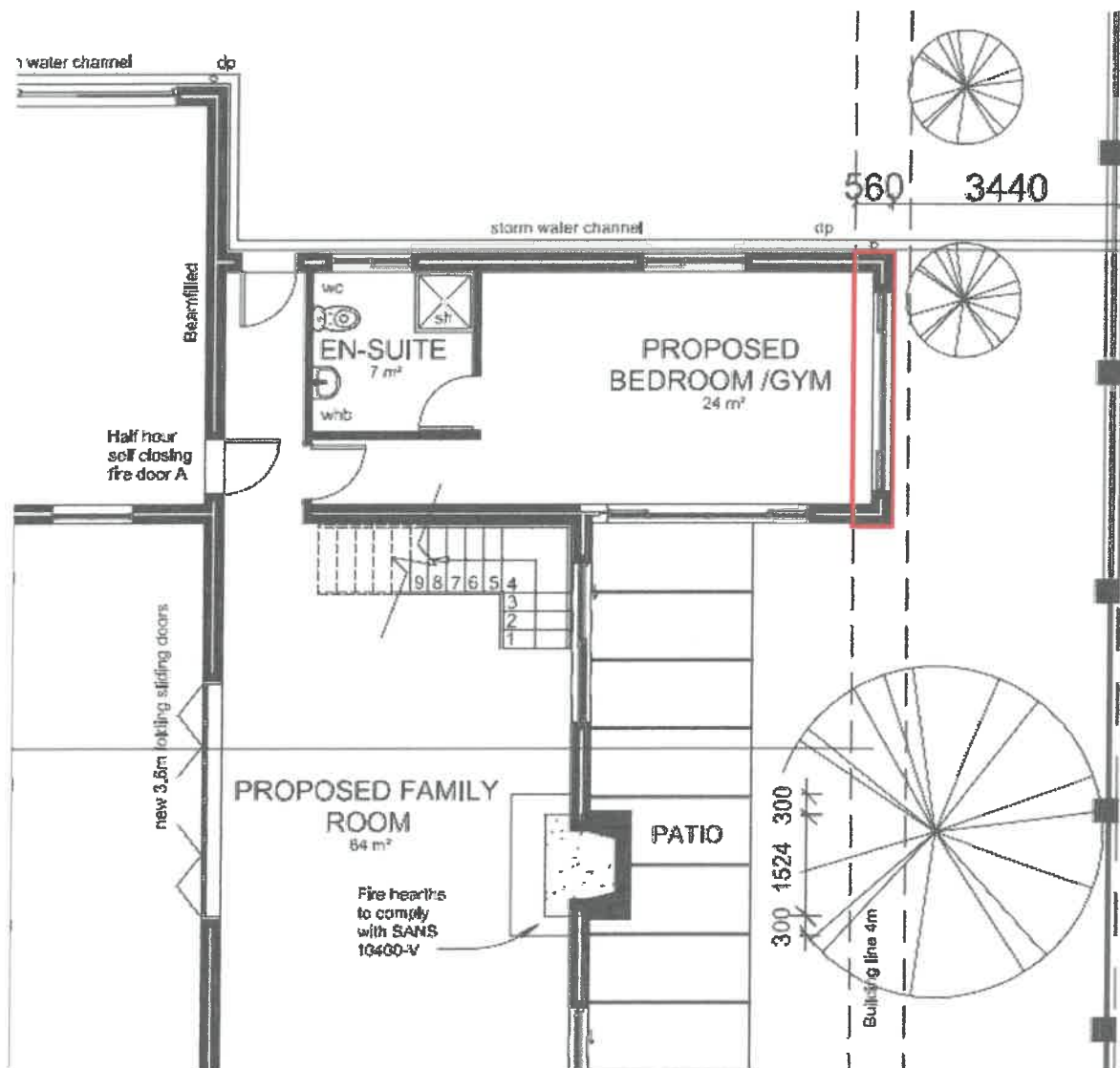


Fig 2. Ground floor plan layout

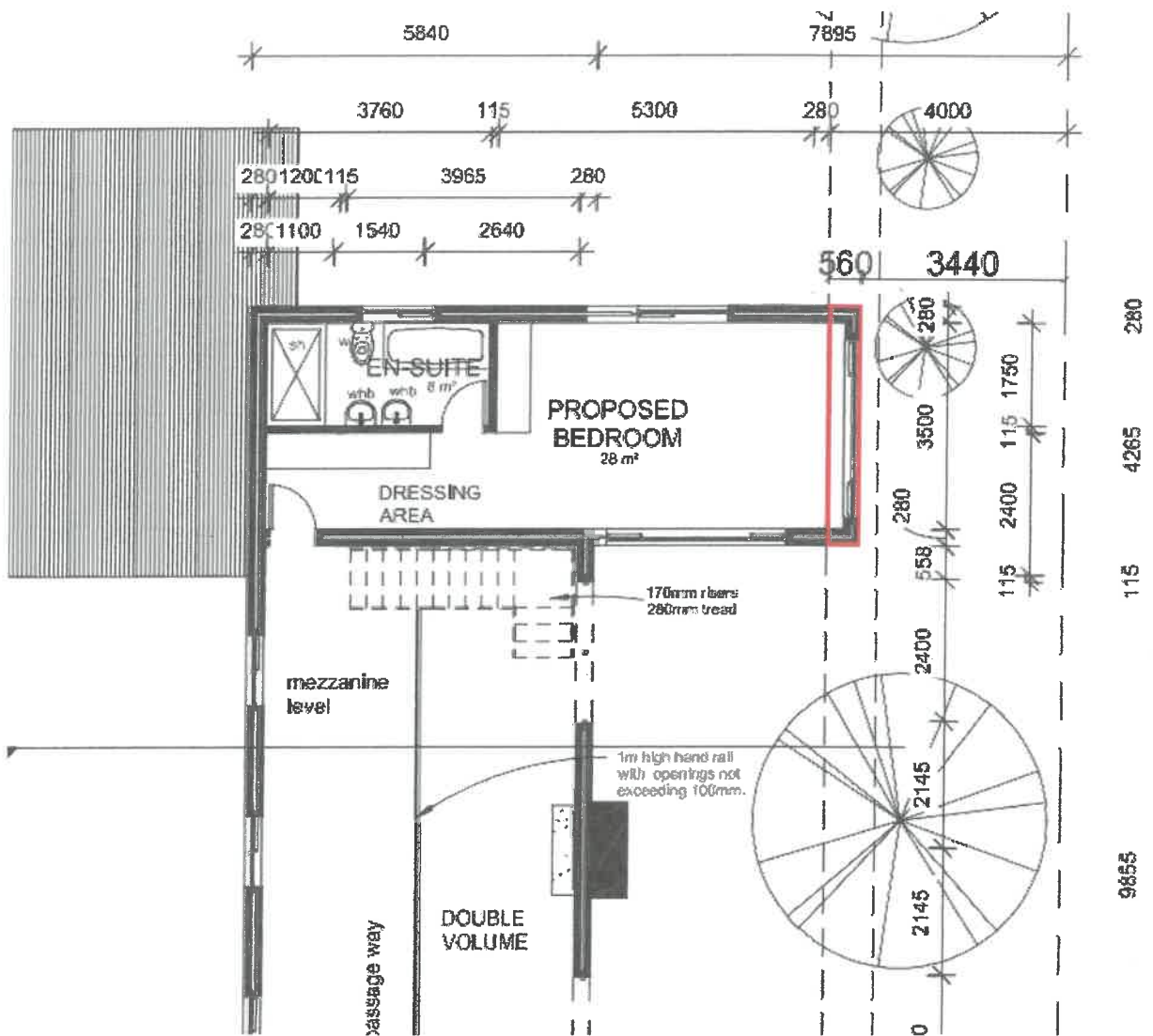


Fig 3. First floor plan layout

B. CHARACTER OF THE ENVIRONMENT

The 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. The surrounding properties are zoned for single residential purposes. These encroachments are not out of the ordinary and is allowed in terms of the OMLUS with the consent from the OM.

C. DESIRABILITY OF THE PROPOSED UTILISATION

No changes to the land use are anticipated other than it to be utilized for residential purposes. The alterations will increase the value of the property which in turn will have a positive effect on the valuation of the surrounding properties. The departure is on the Eastern boundary, which borders onto a green belt across the road.

No significant impact can be observed on views or access to sunlight of adjoining properties. The property is not affected by a Heritage Overlay Protection Zone and is not listed in the Overstrand Municipality Heritage register. Although a small portion of the Southeastern boundary of the property is affected by a Coastal

Environmental Management Overlay Zone the activity in the proposal is not affected by it.

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 title deed T 26634 / 2021 was perused and there are no restrictive conditions that prohibit the departures sought by the applicant. The 3,15m set back as described in Clause 9 is honoured.

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 Boekenhout street access. The proposal will not affect it.

F. CONSIDERATION OF FORWARD PLANNING AND LAND USE DOCUMENTS

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

G. PLANNING PRICIPLES

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.

Primary use	Dwelling house	Comply
Coverage	Allowed – 50% Actual – 19%	Comply
Building lines	Street 4m Actual 3,44m	Departure required – Applied for
Height	8m Height	Comply
Garages/carports	As per approved plans	Comply

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.

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. No complaints have been received from any adjoining property owners.

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

The encroachment only became apparent at the time of the request for the issuing of the occupation certificate.

b. The conduct of the person involved in the contravention

Plans were submitted and approved for the additions and alterations. The owners were unaware of the encroachment until such time as a survey was done as requested by the building inspector. It was done without any malintent.

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

Due to the extent of the contravention, a report from a quantity surveyor was not obtained.

d. Whether or not unlawful conduct was stopped

The constructed has taken place but 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

Considering the above, application is made for the following:

3. Departure - In terms of Section 16(2) (b) for an encroachment of the 4,0m street building line to 3 440mm on the Eastern boundary to legalize an existing double storey residential dwelling structure
4. Determination of an Administrative penalty - In terms of Section 16(2) q for the determination of an administrative penalty for encroachment of the residential structure as described above.

RECCOMENDATION

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

5. Departure - In terms of Section 16(2) (b) for an encroachment of the 4,0m street building line to 3 440mm on the Eastern boundary to legalize an existing double storey residential dwelling structure in line with Overstrand Municipality By-law on Municipal Land Use Planning, 2020 as amended.
6. Determination of an Administrative penalty - In terms of Section 16(2) q for the determination of an administrative penalty for encroachment of the residential structure in line with Overstrand Municipality By-law on Municipal Land Use Planning, 2020 as amended.

Kind Regards,



G J SCHOONRAAD
SCHOONRAAD ARCHITECTS
0828533770

Handwritten signature

L.A. van Dyk PLS 1089
Professional Land Surveyor

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Stelsel: WGS84 / Lo 19

Hoogte Stelsel:
Height System:

Skaal: 1 : 300

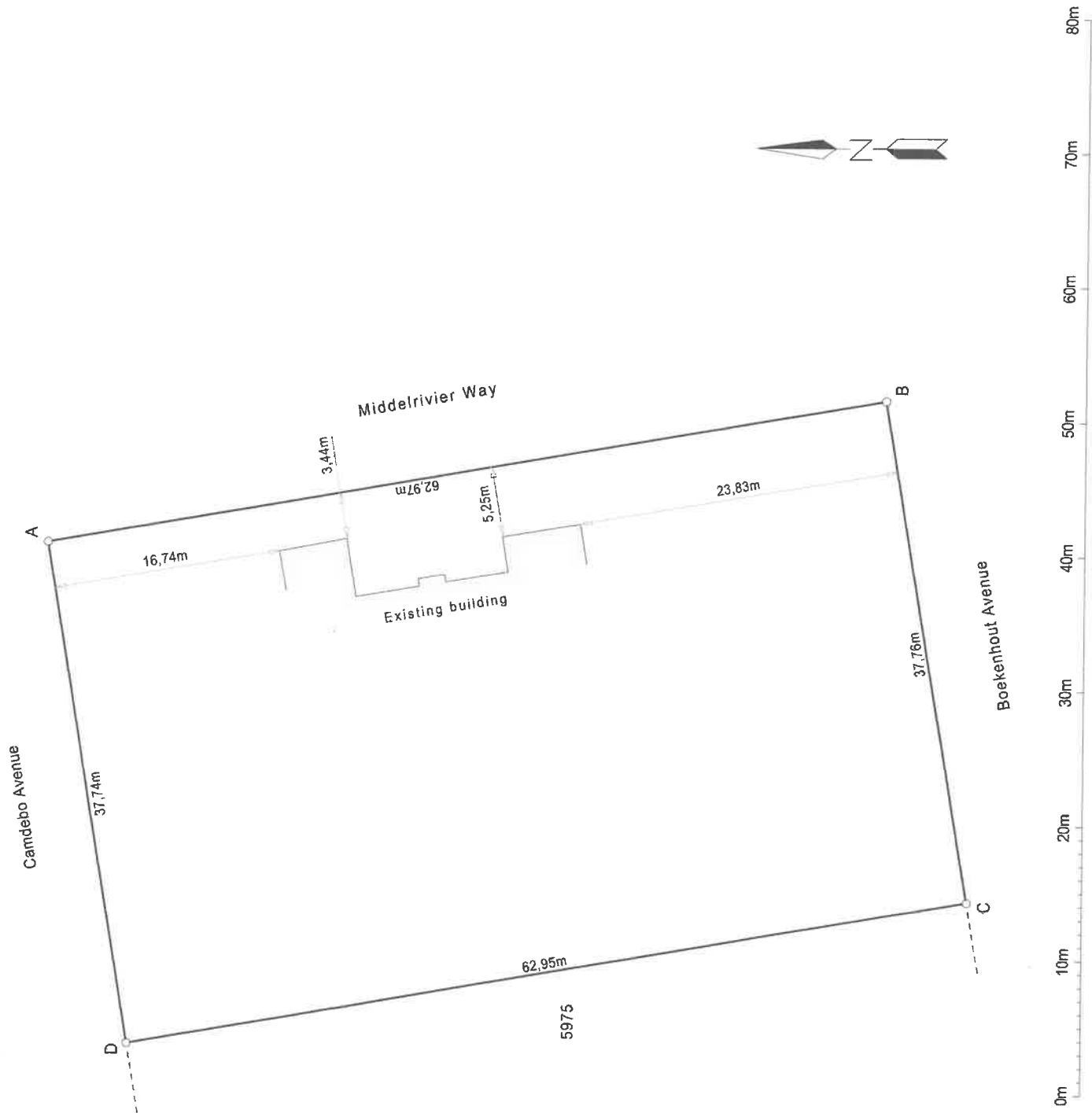
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Date:

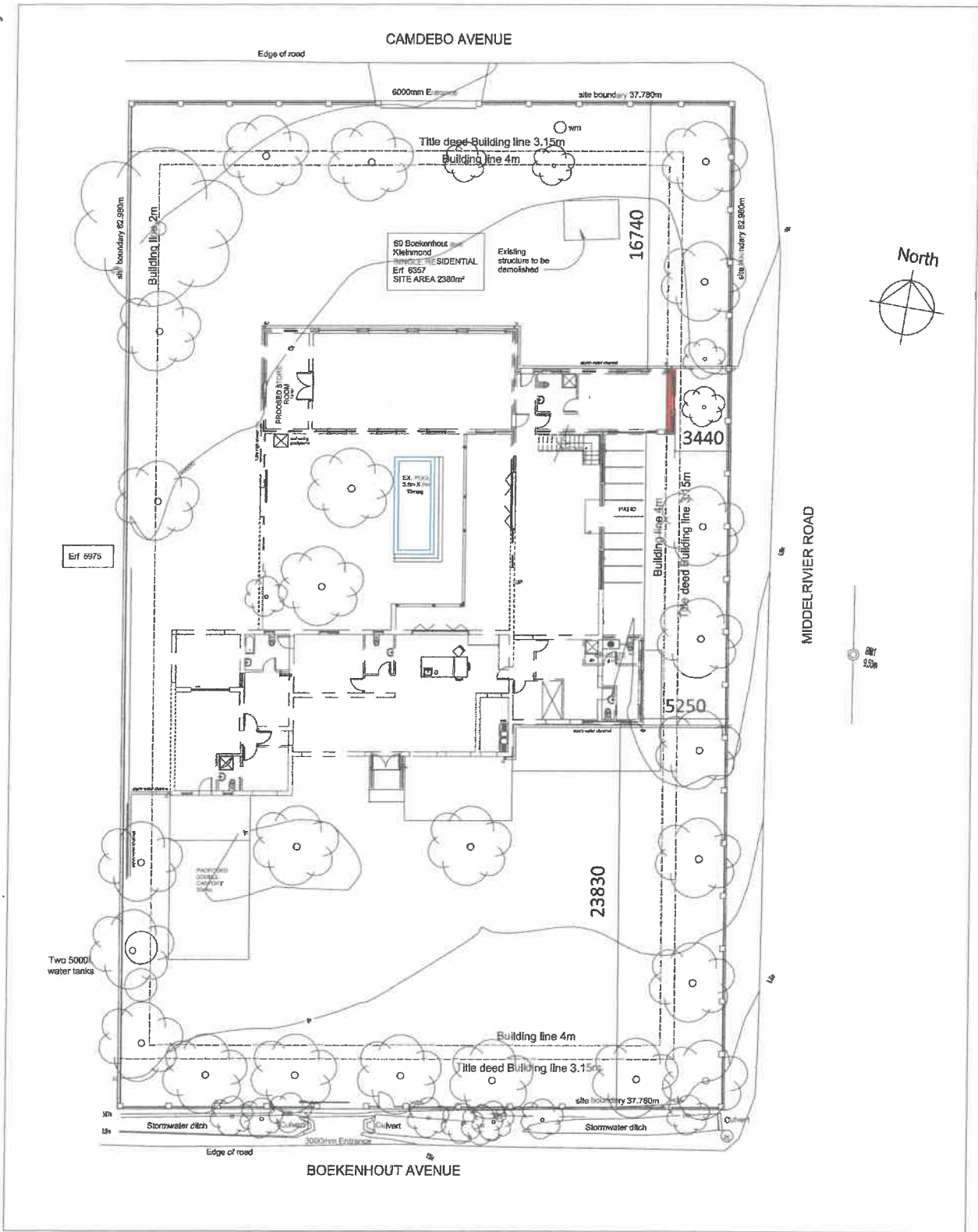
Klient: Ruan Malan

Projek Titel:
Project Title: ERF 6357
KLEINMOND 22 AUG 2024

Titel: POSITION OF EXISTING BUILDING

Tekening Nommer: V22670
Geteken deur: DJP
Vel: 1 van 1
Sheet 1 of 1





Erf 6357 Kleinmond
Site plan 1:250

