



**ERF 782, 84 END STREET, SANDBAAI, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: AW DESIGN ON BEHALF OF JFB JANSE VAN RENSBURG**

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 a **departure** in terms of Section 16(2)(b) to relax the following building lines:

- Southeastern building line from 2m to 0m to accommodate the three (3) carports.
- Southwestern rear building line from 2m to 0.5m to accommodate a portion of the existing wendy house.
- Northwestern lateral building line from 2m to 0.5m to accommodate a portion of the existing wendy house.
- Northwestern lateral building line from 2m to 0m to accommodate a geysers.

**Determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law for the unauthorised building line encroachments as stipulated above.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, 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 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) on or before **06 December 2024**, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the **Town Planner, Mr. B Minnaar** 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 782, END SRAAT 84, SANDBAAI, HERMANUS, OVERSTRAND MUNISIPALE AREA: AANSOEK VIR AFWYKING & BEPALING VAN 'N ADMINISTRATIEWE BOETE: AW DESIGN NAMENS JFB JANSE VAN RENSBURG**

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 dat 'n aansoek om afwyking ontvang is ingevolge Artikel 16(2)(b) om die volgende boulyne te verslap:

- Suidoostelike boulyn van 2m tot 0m om die drie (3) motorafdakke te akkommodeer.
- Suidwestelike agter boulyn vanaf 2m tot 0.5m om 'n gedeelte van die bestaande wendy huis te akkommodeer.
- Noordwestelike laterale boulyn vanaf 2m tot 0.5m om 'n gedeelte van die bestaande wendy huis te akkommodeer.
- Noordwestelike laterale boulyn vanaf 2m tot 0m om 'n geiser te akkommoder

**Bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) van die Verordening vir ongemagtigde boulynoorskredings soos hierbo uiteengesit.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae 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 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) voor of op **06 Desember 2024**, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die Stadsbeplanner, **Mnr. B. Minnaar** 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 Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

**ERF 782, 84 END STREET, E-SANDBAAI, HERMANUS, UMASIPALA WASE-OVERSTRAND: ISICELO SOPHAMBUKO NOKUMISELWA KWESOHLWAYO SOLAWULO: AW DESIGN EGAMENI LIKA JFB VAN RENSBURG**

Isaziso sinikezelwa ngokwemiqathango yeCandelo 48 loMthetho kaMasipala woLungisiweyo woMasipala wase-Overstrand ongoCwangciso lokuSetyenziswa koMhlaba kaMasipala, 2020 sokuba isicelo sifunyenwe sotyeshelo lwemiqathango yeCandelo le-16(2)(b) lokunyenyisa le mida yesakhiwo ilandelayo. :

- Umda wesakhiwo osemzantsi-mpuma ukusuka kwii-mitha eziyi-2m ukuya kwii-mitha eziyi-0m ukulungiselela iindawo ezintathu zeekhapoti.
- Umda wesakhiwo ongasemva wasemzantsi-ntshona ukusuka kwii-mitha eziyi-2m ukuya kwii-mitha eziyi-0.5m ukuze kuhlaliswe inxalenye yendlu ye-wendy ekhoyo.
- Umda wesakhiwo osecaleni kumntla-ntshona ukusuka kwii-mitha eziyi-2m ukuya kwii-mitha eziyi-0.5m ukulungiselela inxalenye yendlu ekhoyo ye-wendy
- Umda wesakhiwo osecaleni kuMntla-ntshona ukusuka kwii-mitha eziyi-2m ukuya kwii-mitha eziyi-0m ukulungiselela igiza

**Ukumiselwa kwesohlwayo solawulo** ngokweCandelo le-16(2)(q) loMthetho kaMasipala malunga nophokelo lwemida yesakhiwo olungagunyaziswanga njengoko kuchaziwe ngasentla.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ukuze zihlolwe ngeentsuku zokusebenza ngamaxesha okusebenza phakathi kwentsimbi yesi-08:00 neye-16:30 kwiSebe: UCwangciso lweDolophu, Paterson Street, eHermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokuhambelana nezibonelelo zeCandelo lama-51 kunye nelama-52 alo Mthetho kaMasipala oxeliweyo kuMasipala (16 Paterson Street, eHermanus / [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) ngomhla okanye ngaphambi kuka **06 EyoMnga 2024**, uchaze igama lakho, idilesi kunye neenkukacha zoqagamshelwano, umdla kwisicelo kunye nezizathu zezimvo. Imibuzo ngomnxeba ingenziwa ku**Mcwangcisi weDolophu, UMznz. B Minnaar** 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 limncedise ukuze abhale ngokusesikweni izimvo zakhe.



**DETERMINATION OF AN  
ADMINISTRATIVE PENALTY AND  
PROPOSED BUILDING LINE  
DEPARTURES**

**ERF 782 SANDBAAI**

**OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

**1. BACKGROUND**

On behalf of Johannes Janse van Rensburg, the owner of Erf 782 Sandbaai, AW Design Studio has been engaged to apply for the determination of an administrative penalty and building line departures for the property.

Shade port carports were erected on the south eastern lateral boundary line. Constructed of galvanized pipe and custom shade net, the owner believed that building plans were not required for the carports and therefore erected them without the necessary approvals. Additionally, a small wendy house was constructed in the eastern corner, located 1 meter from the rear boundary and 0.50 meters from the north western lateral boundary. A geyser housing has also been erected between the dwelling and the lateral north western boundary.

Additionally, unauthorized work includes a sink in the garage and a small precast wall enclosure, positioned between the larger wendy house and the smaller shed structure, which contains a shower head, urinal, and wash trough, and is open to the elements.

These issues necessitate a departure application and the imposition of an administrative penalty. AW Design Studio utilized the data to create as-built building plans to support this application.

The subject property is 731m<sup>2</sup> in extent and is held by Title Deed Number T80942/2004.

## **2. APPLICATION DETAILS**

The application is made in terms of:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020, for departures from the building lines and the maximum allowable length of a structure encroaching a building line being 9m or  $\frac{1}{3}$  of the lateral or rear boundary whichever is the most restrictive.
- 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.

## **3. DESIRABILITY**

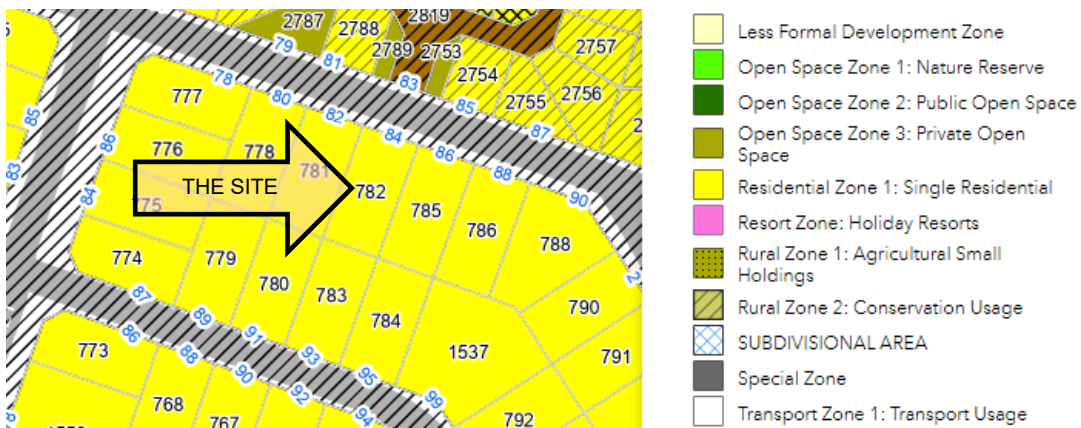
### **3.1 PROPERTY DESCRIPTION**

The subject property is located at 84 End Street, Sandbaai. Erf 782 Sandbaai, which covers an area of 731m<sup>2</sup>, is situated in a predominantly single residential and townhouse area. Please refer to the enclosed locality plan and the aerial photograph below.



### 3.2 ZONING

Erf 782 Sandbaai is zoned Residential Zone 1 and is used accordingly. The surrounding properties are also zoned for single residential purposes and public roads. Please refer to the zoning map abstract below:



### 3.3 LAND USE

Erf 782 Sandbaai serves as a residential property, hosting a well-established single-storey dwelling. This residence includes three bedrooms, a living room, a kitchen, two bathrooms, a sunroom, a double garage, and a wendy house, providing a comprehensive and comfortable living environment.

Referring to the Overstrand Municipality letter dated 19 February 2024 with reference number 782 HSB, a site inspection was conducted, and it can be confirmed that the double garage is being used as a bona fide garage and that the bathroom has been removed from the wendy house. The garage door has also been replaced. Please refer to the photograph below:



Additionally, a smaller wendy house that was located on the north western lateral boundary has been removed, and the remaining wendy house will be utilized solely as a garden shed now that all sanitary elements located in the wendy house have been removed.

The surrounding area of Erf 782 Sandbaai is characterized predominantly by single-family homes, townhouse developments, and public roads. This indicates that the property is located within a mature and established residential neighbourhood. The consistency of dwelling units in the vicinity underscores the residential nature of the area, contributing to a cohesive community atmosphere. This setting offers a serene and orderly environment, ideal for family living and fostering a sense of community among the residents.

### **3.4 PROPOSAL**

The following is proposed in terms of:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020, for departures from the building lines and

the maximum allowable length of a structure encroaching a building line being 9m or  $\frac{1}{3}$  of the lateral or rear boundary whichever is the most restrictive.

- 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.

#### **3.4.1. Determination of an administrative penalty**

Being made aware of the building line encroachments of the existing three carports, wendy house, and geyser housing, sink in the garage, precast walling enclosure and external sanitary items, the owner, Mr. Janse van Rensburg, intends to legalize these structures.

The enclosed as-built building plan reveals the building line encroachments of the three carports, wendy house, and external geyser housing. The encroachments include the following areas:

- A portion of shade ports 1 to 3 located on the south eastern lateral boundary line;
- A portion of the wendy house encroaching on the southwestern rear 2m building line and the north western 2m lateral boundary line;
- An external geyser housing constructed within the north western 2m building line.

The use of the structures encroaching the building lines can be classified as having an extremely low impact on the neighbouring properties, as they are low structures used for shaded parking that also provide shade to the dwelling during summer months, a garden shed, and geyser housing, garage sink and precast walling enclosure with sanitary fittings. Consequently, this application seeks departures from the relevant building lines, which will be detailed further in this motivation report.

In accordance with Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, we hereby apply for the determination of an administrative penalty for the unauthorized building work and building line encroachments resulting from the construction of the three shade port

carports, wendy house used as a garden shed, geyser housing, garage sink and precast walling enclosure with sanitary fittings. Chapter 10, Section 90(1) stipulates that any person in contravention of this By-law must apply to the Municipality for an administrative penalty determination, provided that no demolition directive has been issued in terms of Section 85 for the concerned land or building.

In terms of Chapter 10, Section 90(3) of the Overstrand Municipality's Amended By-Law on Municipal Land Use Planning, 2020, the applicant must, to the satisfaction of the municipality, provide the following:

#### **3.4.1.1 CRITERIA FOR DETERMINATION OF AN ADMINISTRATIVE PENALTY**

##### **The Nature, duration, gravity, and extent of the contravention**

The owner constructed the three shade port carports and wendy house in 2012 and 2014, respectively. The as-built building plan reveals the minor encroachments resulting from the construction of these structures. The encroachments can be listed as follows:

- The three shade ports are constructed up to the south eastern lateral boundary.
- The wendy house was constructed 1.050m from the southwestern rear boundary and 0.50m from the north western lateral boundary.
- The geyser housing was constructed as a lean-to structure between the dwelling and up to the north western boundary wall.
- The double bowl sink in the garage connected to the existing drainage run.
- The precast wall enclosure with a wash trough, shower head and urinal were constructed in 2014 with the showerhead being against the adjacent new boundary wall and the wash trough and urinal against the existing precast boundary wall.

These encroachments have existed since their respective construction periods in 2010, 2012 and 2014. We seek approval for these encroachments to regularize the existing structures, ensuring compliance and reflecting the current use and layout of the property.

The extent of the unauthorised building work is as follows:

Structure	Extent of unauthorised building work	Date Constructed
Shadeport 1	±11m <sup>2</sup>	2012
Shadeport 2	±11m <sup>2</sup>	2012
Shadeport 3	±7.6m <sup>2</sup>	2012
Wendy House Garden Shed	±5.6m <sup>2</sup>	2014
Geyser Housing	±4m <sup>2</sup>	2010
Precast walling	±4.5m	2014
Garage and external sanitary fittings	+R4 500.00	2014

Mr. Janse van Rensburg, the owner of the subject property, is committed to fully cooperating with the Overstrand Municipality to address the unauthorized building work. This application aims to address both the determination of an administrative penalty and the approval of building line departures simultaneously, thereby resolving the issues related to unauthorized building work and building line encroachments on the property.

The position and nature of the unauthorized building work do not negatively impact the surrounding properties. These structures have been in place for several years without causing any reported issues or complaints from neighbouring property owners. Please refer to the enclosed letter of support received from the owner of 785 Sandbaai, which is attached for easy reference. The minor encroachments are minimal and do not obstruct views, sunlight, or access for adjacent properties. Additionally, the design and appearance of the structures are in keeping with the character of the neighbourhood, ensuring aesthetic continuity and minimizing any potential visual impact.

Mr. Janse van Rensburg is dedicated to ensuring that all necessary steps are taken to regularize the existing structures in compliance with municipal regulations. This includes:

- **Transparent Communication:** Engaging in open and transparent communication with the Overstrand Municipality and neighbouring property owners to address any concerns and provide updates on the regularization process.

- Ongoing Compliance Monitoring: Establishing a system for ongoing monitoring and maintenance to ensure continued compliance with all building regulations and to prevent any future unauthorized work.

By taking these steps, the owner aims to maintain and enhance harmony within the community, demonstrating a commitment to responsible property management and neighbourly cooperation. Mr. Janse van Rensburg values the support and cooperation of the Overstrand Municipality in this process and is dedicated to promoting a collaborative approach to resolving the current issues.

**The conduct of the person involved in the contravention.**

The unauthorized construction was undertaken by the owner, Mr. Janse van Rensburg, who seeks to rectify and legalize the existing encroachments as detailed earlier in this motivation report.

**A report by a quantity surveyor in matters of unauthorised building/construction**

If the Overstrand Municipality deems it necessary to impose an administrative penalty fee for the unauthorized construction, a report can be obtained from a quantity surveyor detailing the unauthorized work.

According to the Overstrand Tariffs list for 2023/2024, the cost for formal structures in habitable spaces on properties larger than 150m<sup>2</sup> is calculated at R19,107.00 per square meter (VAT inclusive). However, the unauthorized building work, consisting of the shade port carports, wendy house used as a garden shed, and geyser housing, are all non-habitable spaces. Consequently, the mentioned formula does not apply.

Non habitable spaces can tabled as follows:

Structure	Extent of unauthorised building work	Date Constructed
Shadeport 1	±11m <sup>2</sup>	2012
Shadeport 2	±11m <sup>2</sup>	2012
Shadeport 3	±7.6m <sup>2</sup>	2012

Wendy House Garden Shed	±5.6m <sup>2</sup>	2014
Geyser Housing	±4m <sup>2</sup>	2010
Precast walling	±4.5m	2014
Garage and external sanitary fittings	+R4 500.00	2014

Should the Overstrand Municipality decide to enforce an administrative penalty, the owner will request cost estimates for the construction work of approximately 39.2m<sup>2</sup> of non-habitable spaces encroaching the building lines, as described above, to determine the appropriate administrative penalty.

**Whether the unlawful conduct was stopped**

The owner is currently in the process of rectifying the contravention by applying for the determination of an administrative penalty and building line departures. The structures, erected by Mr. Janse van Rensburg in 2012 and 2014, have been completed and have been in use since their construction in those respective years.

**Whether a person involved in the contravention has previously contravened this By-Law or a previous planning law**

To the best knowledge of the applicant and as confirmed by the landowner, the current owner has never previously contravened this by-law or any other planning regulations.

We appeal to the Overstrand Municipality to consider the minimal impact of the encroachments on the surrounding area, noting that only portions of the structures encroach on the building lines.

Additionally, it is important to recognize the low impact these structures have on neighbouring properties in relation to existing land use rights. The Zoning Scheme Regulations and the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, will continue to guide future development on the subject property.

Therefore, we respectfully request that a penalty fee not be imposed on the property owner for the reasons stated above.

**3.4.1. Proposed building line departures**

Erf 782 Sandbaai is 731m<sup>2</sup> in extent. The Overstrand Scheme Regulations stipulate that a 4m street building line and 2m lateral and rear building lines apply to Residential Zone 1: Single Residential properties larger than 400m<sup>2</sup> in extent as tabled below:

Net erf area	Street building line
Less than 150 m <sup>2</sup>	1,0 m
Less than 400 m <sup>2</sup>	2,0 m
400 m <sup>2</sup> and greater	4,0 m

Net erf area	Side and rear building lines
Less than 150 m <sup>2</sup>	At least 1,0 m one side and 0 m on the other side. Rear = 1,0 m.
Up to 400 m <sup>2</sup>	1,0 m
Greater than 400 m <sup>2</sup>	2,0 m

The owner of Erf 782 Sandbaai constructed the following additions in 2010, 2012, and 2014, respectively:

- 3 Shade port Carports
- A wendy house used as a garden shed and ablutions
- Geyser Housing
- Precast walling
- Garage sink and external sanitary fittings located within the precast walling enclosure

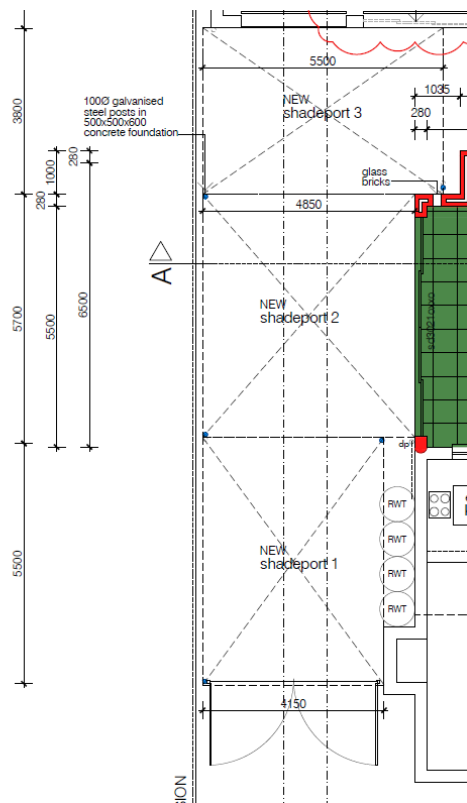
The building line departures can be summarized as follows:

- Relaxation of the south eastern building line from 2m to 0m to accommodate the 3 shade port carports
- Relaxation of the southwestern rear building line from 2m to 0.5m to accommodate a portion of a wendy house, 16.5m<sup>2</sup> in extent, used as a garden shed

- Relaxation of the north western lateral building line from 2m to 0.5m to accommodate a portion of a wendy house, 16.5m<sup>2</sup> in extent, used as a garden shed.
- Relaxation of the north western lateral building line from 2m to 0m to accommodate a geyser housing.

Please refer to the site plan and abstracts below clearly indicating the existing building line encroachments listed above.

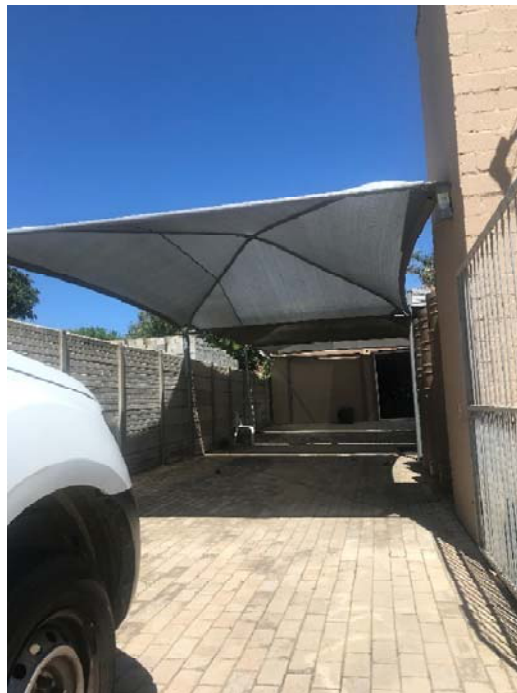
- **The Shade port Carports**



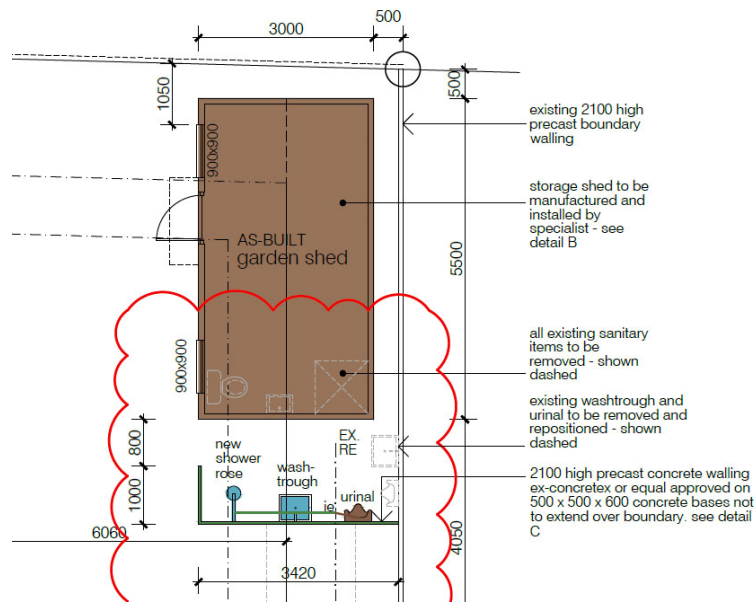
The three existing shade port carports, which encroach on the south eastern lateral boundary line, were constructed in 2012. The south eastern sides of each shade port carport have been constructed on the lateral boundary line. Due to the length of the carports and the fact that the double garage has also been approved on the lateral and rear boundary lines, a further departure is required. Therefore, we are also applying for a departure from the maximum allowable length of a building encroaching a lateral building line, which may not exceed 9m or 1/3 of the length of the lateral boundary.

The total combined length of the three shade port carports alongside the south eastern lateral boundary is 14.8m, excluding the approved double garage located on the southern corner of the subject erf. The total length of the shade port carports and double garage calculates to a total length of 21.57m. We are therefore applying for a building line relaxation to accommodate the existing shade port carports from 2m to 0m. We are also applying to exceed the maximum length of structures encroaching the lateral building line from 9m or  $\frac{1}{3}$  of the length of the lateral boundary to 21.57m.

The shade port carports are constructed of galvanized steel poles and custom-made shade cloth canopies that have very little impact on the neighbouring property, which has provided a letter supporting the position of the shade port carports. Please refer to the photo below of the existing shade port carports for easy reference.



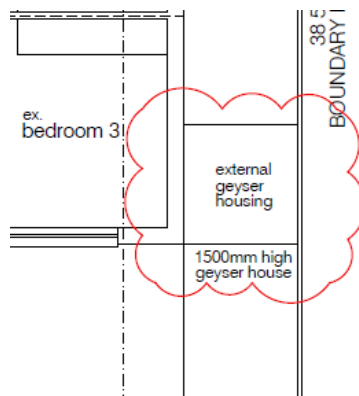
- **The Wendy House (Garden Shed)**



The wendy house was originally fitted with a toilet, washbasin, and shower for use by the domestic and garden worker. It was not used for accommodation purposes. The owner has removed the bathroom to clarify that the wendy house is not used for accommodation purposes and is now used solely as a garden shed.

The wendy house, now being used as a garden shed, is located 0.5m from the southwestern rear boundary and 0.5m from the north western lateral boundary line. We are therefore applying for a building line relaxation of the rear and lateral building lines from 2m to 0.5m to accommodate the wendy house used as a garden shed.

- **The Geyser Housing**



The external geyser housing is a low roof covered section that is a lean-to construction between the dwelling and the boundary wall. The structure is 1.5m high and is used as a cover for the geyser that is mounted outside against the north western dwelling's outer wall. Please refer to the photograph below:



The length of the structure on the northwestern boundary is  $\pm 2$ m. In order to accommodate the Geyser housing, we are applying for a building line departure from 2m to 0.0m.

- **Precast Walling and Sanitary items**

The precast walling structure is located between the wendy house and the shed that has been removed. This precast walling is the same height as that of the existing 2.1m high precast boundary walling. The length of this wall is approximately 4.5m in length.

The purpose of this area was to be provide a private area to wash off after swimming in the ocean during the summer months as well as provide a wash trough to wash the braai equipment outside of the dwelling to avoid a mess, a urinal for garden workers to use.

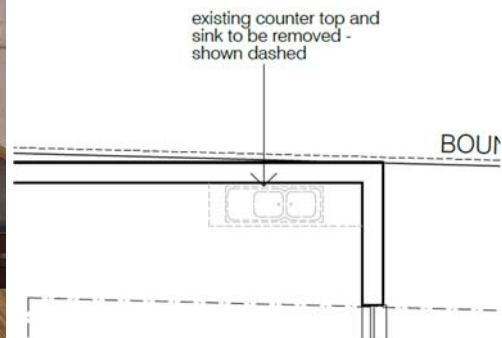
The client has subsequently removed the urinal and wash trough situated against the existing boundary walling and has decided to await approval on these two sanitary fitting repositioning as shown on the revised plans.

Please refer to the below photograph of the area in question.



- **Garage sink**

The existing sink in the garage was positioned as per the below photograph and plan excerpt:



This double bowl sink has since been removed and the existing cabinet remains in place.

From a town planning perspective, the building line encroachments of the three shade port carports, the wendy house used as a garden shed, the geyser housing, precast wall and sanitary fixtures can be supported due to their non-habitable nature and minimal impact on neighbouring properties. These structures serve auxiliary functions and do not obstruct views, sunlight, or access for adjacent properties. The shade port carports, constructed with galvanized steel poles and custom-made shade cloth canopies, offer essential shading without imposing on the visual aesthetics or functionality of the neighbourhood.

Similarly, the wendy house, now solely a garden shed, and the unobtrusive geyser housing ensure that the residential character and harmony of the area remain intact, while providing necessary utility to the property owner. These factors collectively justify the requested building line relaxations, promoting practical use of space while maintaining community standards.

### **3.5 ACCESS**

Vehicular and pedestrian access to Erf 782 Sandbaai, including the existing dwelling, double garage, and shade port carports, are gained from End Street. With this proposal, both vehicular and pedestrian access from End Street will be retained.

### **3.6 SERVICES.**

All services on the subject property already exist, and additional services are not required. Therefore, the proposal will not negatively impact the existing services provided by the Overstrand Municipality.

### **3.7 TITLE DEED**

There are no restrictive Title Deed conditions in Title Deed No. T80942/2004 that need to be addressed for the proposed building line departures of Erf 782 Sandbaai to be approved.

There is an ABSA bond registered against Erf 782 Sandbaai. Please refer to the enclosed bondholder's consent for your records.

### **3.8 FORWARD PLANNING**

**Overstrand Municipal Wide Spatial Development Framework (2020).**

In terms of the Overstrand Wide Spatial Development Framework, the subject property is earmarked for urban development purposes. The residential zoning and land use of Erf 782 Sandbaai will be retained after the proposed application has been concluded.

### **Overstrand Growth Management Strategy (2010)**

With reference to the Overstrand Growth Management Strategy, the subject erf falls within Planning Unit 3, which consists of the majority of Sandbaai. No densification is proposed for this area.

Our application is for the building line departures; consequently, the Growth Management Strategy does not apply to this application.

## **3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**

### **3.9.1 HERITAGE VALUE**

Erf 782 Sandbaai is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). The property is not earmarked for heritage conservation purposes according to the Overstrand Heritage Survey Report (2009).

The subject property is not associated with any important persons, groups, events, or activities. Additionally, it has no connection to the history of slavery and is not used for living heritage.

According to the **Overstrand Municipal GIS system** the area where the subject property is situated is categorised as A3 Heritage area as seen in the abstract below. The proposed departures will not have any impact on the area as the property is already developed and has the same characteristics as surrounding developed residential erven.



In light of the above mentioned it is evident that the building line departures will not have a negative impact on the heritage value of the subject property or the greater area of Sandbaai.

### **3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT**

The proposed building line departures do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

### **3.10 PLANNING PRINCIPLES**

The planning principles of spatial justice, spatial sustainability, efficiency and spatial resilience of this application can be described as follows:

**Spatial Justice:**

The proposal for building line departures for Erf 782 Sandbaai upholds principles of spatial justice. The proposed adjustments do not negatively impact the surrounding area, or the existing services provided by the Overstrand Municipality. The property is earmarked for urban development purposes and retains its residential zoning and land use, aligning with the Overstrand Wide Spatial Development Framework. Additionally, the lack of heritage conservation requirements ensures that the proposal does not infringe upon historical or cultural resources.

The minimal encroachments of non-habitable structures, such as the shade port carports, a garden shed, and geyser housing, have low impacts on neighbouring properties, maintaining the integrity and aesthetic continuity of the community. Furthermore, the proposal respects the Overstrand Growth Management Strategy by not introducing densification to Planning Unit 3, thus promoting equitable and responsible development.

**Spatial sustainability:**

Spatial sustainability is integral to the proposal for Erf 782 Sandbaai, ensuring responsible land use and development practices. By retaining the property's residential zoning and existing land use, the proposal aligns with the Overstrand Wide Spatial Development Framework, which earmarks the area for urban development without compromising its environmental or community integrity.

The decision to legalize existing non-habitable structures, including shade port carports, a garden shed, and geyser housing, minimizes environmental impact by utilizing already developed spaces efficiently. This approach promotes spatial efficiency and reduces the need for new construction, thereby conserving natural resources and maintaining the area's ecological balance.

Additionally, the proposal adheres to sustainable planning principles by respecting building line regulations and minimizing visual and physical disruptions to the

neighbourhood. In doing so, it contributes to a resilient and harmonious urban environment that supports both present and future community needs.

**Efficiency:**

Efficiency is a cornerstone of the proposal for Erf 782 Sandbaai, focusing on optimizing land use and regulatory compliance. By legalizing existing structures such as shade port carports, a garden shed, geyser housing, precast wall and sanitary fixtures, the proposal maximizes the use of available space without the need for extensive new development. This approach not only reduces environmental impact but also enhances spatial efficiency by integrating necessary amenities into the existing residential framework.

Furthermore, seeking building line departures in a comprehensive manner ensures streamlined regulatory processes, promoting efficiency in municipal approvals. By adhering to these principles, the proposal aims to achieve operational efficiencies while maintaining the property's functionality and contributing positively to the surrounding community's urban fabric.

**Spatial Resilience** in the context of land use planning refers to the need to promote the development of sustainable livelihoods for the poor (i.e. communities that are most likely to suffer the impacts of economic and environmental shocks). Spatial resilience also refers to the requirement for flexibility in spatial plans, policies and land use management systems to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks.

The spatial plans, policies and land use management systems should enable the communities to be able to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner, which includes the preservation and restoration of essential basic infrastructure and functions, but also adaptation in order to ensure increased resilience in terms of future shocks (United Nations Office for Disaster Risk Reduction, 2009). In our opinion the principle of Spatial Resilience is not applicable to this application.

**Good administration:** Our Company is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's By-law on Municipal Land Use Planning, 2020.

#### 4. **RECOMMENDATION**

Based on the information provided regarding the existing building line encroachments we recommend approval for the requested relaxations from a planning perspective.

Our reasons supporting this recommendation are as follow:

- The structures in question, constructed in 2010, 2012 and 2014 respectively, have been in place and actively used since their construction dates. These structures have become integral parts of the property and contribute positively to its functionality.
- The shade port carports, garden shed (formerly housing a non-residential bathroom), geyser housing, precast walling and sanitary fixtures have been in place since 2010, 2012 and 2014, respectively, with minimal reported impact on neighbouring properties. Their non-habitable nature ensures they do not disturb visual aesthetics or community functionality.
- The owner is actively seeking to rectify the existing contraventions by applying for building line relaxations. This proactive approach demonstrates a commitment to compliance with planning regulations and a willingness to address historical non-conformities.
- Future development and alterations on the property will continue to adhere to the Zoning Scheme Regulations and the Overstrand Municipality's Amended Bylaw on Municipal Land Use Planning, ensuring that any new construction or modifications are in line with current planning standards.
- Considering the property's historical context and its usage over the years, granting the requested relaxations would align with the spirit of maintaining the

property's integrity while accommodating necessary adjustments to meet current planning requirements.

- Regularizing these existing structures avoids unnecessary demolition and reconstruction, promoting sustainability by utilizing already developed space effectively and minimizing ecological footprint.
- The support letter from a neighbouring property owner underscores the positive neighbourhood perception of these structures, indicating minimal disturbance and acceptance within the community.
- The proposed building line departures do not have a negative impact on property values or the current residential character of the greater Sandbaai area. Additionally, these departures will have no adverse effects on surrounding properties.

In conclusion, approving the building line relaxations as outlined would be in the best interest of maintaining harmony between historical development and current planning norms. It acknowledges the practical realities of existing structures while ensuring future developments align with regulatory standards.

