



MEETING OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

MINUTES

DATE:	30 AUGUST 2019
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	10:00

OVERSTRAND

MUNICIPAL PLANNING TRIBUNAL

MINUTES OF A MEETING OF THE MUNICIPAL PLANNING TRIBUNAL, HELD IN THE TOWN PLANNING COMMITTEE ROOM, HERMANUS, ON 30 AUGUST 2019, AT 10:00

PRESENT:

MEMBERS:

Mr S Müller, Director : Infrastructure & Planning
Mr R Williams, Director : Community Services
Mr S Madikane, Director : LED
Ms H Janser, Directorate Development
Management

OFFICIALS:

Mr R Kuchar, Senior Manager : Town Planning
Ms H van der Stoep, Senior Town Planner
Mr K Thomas, Temporary Town Planner
Ms S Swart, Council Support Services

APOLOGIES:

Ms D Arrison, Director : Management Services

1. OPENING

The Chairperson, Mr S Müller, opened the meeting and welcomed those present.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Ms D Arrison

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 1 August 2019****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **1 August 2019, be confirmed.**

4. ITEMS FOR CONSIDERATION**4.1**

ERF 678, 82 JAN VAN RIEBEECK STREET, SANDBAAI, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE, THE DELETION OF A CONDITION IN RESPECT OF AN EXISTING APPROVAL AND DEPARTURE: MESSRS ENGELBRECHT AND SCORGIE ON BEHALF OF RED CHAIR PROPERTIES EIENDOMS BEPERK

678 HSB (4137)**H van der Stoep
24 June 2019****(028) 313 8900****Hermanus Administration**

EXECUTIVE SUMMARY

The following applications, applicable to Erf 678, Sandbaai, was received on 7 August 2018 (revised application received on 27 November 2018) from Messrs Engelbrecht and Scorgie on behalf of Redchair Properties Eiendoms Beperk:

- a) application for consent use in terms of Section 16.(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015 (By-Law) for “tourist accommodation” in order to utilise both the existing dwelling units on the property as self-catering dwelling units for tourists;
- b) application in terms of Section 16.(2)(h) of the By-Law for the deletion of a condition in respect of an existing approval in order to accommodate a wendy-house that is to be used as a garden shed at the northern lateral boundary of the property; and
- c) application in terms of Section 16.(2)(b) of the By-Law for departure to relax the northern lateral building line of the property from 2m to 0m in order to accommodate the above wendy-house, as well as the southern street building line from 4m to 1,04m in order to accommodate an open braai.

RESOLVED:

1. that the application in terms of Section 16.(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for a consent use for “tourist accommodation” in order to utilise both the existing dwelling units on Erf 678, Sandbaai as self-catering dwelling units for tourists, **be approved in part** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16.(2)(h) of the By-Law for the deletion of Condition 3.(d) as set out in the relevant letter of approval dated 10 April 2017 in order to accommodate a wendy-house that is to be used as a garden shed at the northern lateral boundary of Erf 678, Sandbaai, **be approved** in terms of the provisions of Section 61 of the By-Law;

3. that the application for departure in terms of Section 16.(2)(b) of the By-Law to relax the northern lateral building line of Erf 678, Sandbaai from 2m to 0m in order to accommodate the above wendy-house, as well as the southern street building line from 4m to 1,04m in order to accommodate an open braai, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the above approvals be subject to the following conditions:
 - (a) that the Primary Unit (main dwelling) be used as a residential dwelling and the secondary unit be used as a self catering unit;
 - (b) that the development of the property strictly be in accordance with plan number erf678_MULLER_A1/11-2018-WA (REVISION A) dated NOVEMBER 2018 that was submitted with the application with reference to the wendy house and the open braai and second dwelling (secondary unit);
 - (c) that the site and building plan be amended to replace the manager's room with a bedroom;
 - (d) that the open braai may not be enclosed in any way whatsoever;
 - (e) that the wendy-house at the northern lateral boundary of the property may only be used as a garden shed for garden tools;
 - (f) that the landowner construct a fire wall of 2,1m high between the wendy-house and the common lateral boundary with Erf 679, Sandbaai;
 - (g) that the self-catering unit only be let to a single family;
 - (h) that building plans be submitted to the Building Department and that all requirements of the Building Department and Fire Services at that stage be complied with - all buildings on the property must be in compliance with SANS10400;
 - (i) that the conditions of Telkom, the Fire Department and Engineering Services be complied with;
 - (j) that the parking bays indicated on the plan in (b) above must be provided with a hard surface and must be properly demarcated;
 - (k) that no on-street parking be allowed whatsoever;
 - (l) that the owner or manager resides permanently on the premises and be responsible for the proper management of the accommodation establishment;

- (m) that the applicable rates and service tariffs, as determined by the annual budget be applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (n) that the accommodation establishments comply with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
 - (o) that only a single non-illuminated sign that complies with the Municipal By-Law on Signage, may be displayed on the premises;
 - (p) that the accommodation establishment be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;
 - (q) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
 - (r) that this approval does not absolve the landowner from compliance with any other relevant legislation;
 - (s) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with; and
 - (t) that the accommodation establishments may not be operated unless all applicable conditions have been applied with.
5. that the applicant be notified of his/her appeal right in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the conditions in 4. above.

REASONS FOR APPROVAL

- ❖ The application has followed due procedure.
- ❖ No objections were received from the public.
- ❖ It is in line with policy documents.
- ❖ Is not regarded as being undesirable from a town planning point of view.

REASONS FOR NON-APPROVAL:

- The Accommodation Policy does not allow two (2) self-catering units on a property.
- The primary right of a Single Residential erf is permanent accommodation of a dwelling house of a single family.
- The manager's room is interleading through a bedroom of the proposed self-catering unit, without proper kitchen facilities. No indication was given in the motivation of shared facilities.
- The parking is not sufficient.

- Two (2) self-catering units are not in line with the primary rights of a Single Residential erf.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP

4.2

ERF 936, 4 GRYSBOK CRESCENT, SANDBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, SUBDIVISION AND REGISTRATION OF A SERVICES SERVITUDE: MESSRS WRAP ON BEHALF OF J BIERMAN

936 HSB (4169)

H van der Stoep

14 June 2019

(028) 313 8900

Hermanus Administration

EXECUTIVE SUMMARY

An application was received on 7 September 2018 (revised on 3 October 2018) from Messrs WRAP on behalf J Bierman applicable to Erf 936, Sandbaai for the following:

- ❖ Application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the removal of restrictive Title Deed conditions C.(a), (b), (c), and (d) as contained in Title Deed T17336/2018 applicable to the above erf in order to subdivide the property into two (2) portions, as well as to be in line with the primary rights and development rules as contained in the Overstrand Zoning Scheme Regulations.

The restrictive conditions as contained in Title Deed T17336/2018 to be removed, reads as follows:

- “C. (a) *That the above erf or erven be used for residential purposes only.*
 (b) *That the above erf or erven be not subdivided.*
 (c) *That no more than one dwelling, together with the necessary outbuildings and accessories be erected on any of the above erven and that not more than one-half the area of any one of the above erven be built upon.*
 (d) *That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as gardens but shall not be built upon.”*

- ❖ Application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the subdivision of the property into two (2) portions, namely Portion A (±591m² in extent) and a Remainder (±592m² in extent).

RESOLVED:

1. that the objection be noted;

2. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of restrictive Title Deed conditions C.(a), C.(b), C.(c) and C.(d) as contained in Title Deed T17336/2018 applicable to Erf 936, Sandbaai, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(f) of the By-Law for the subdivision of Erf 936, Sandbaai into two (2) portions, namely Portion A ($\pm 591\text{m}^2$ in extent) and a Remainder ($\pm 592\text{m}^2$ in extent), **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the above approvals be subject to the following conditions:
 - (a) that Portion A must at all times allow the Remainder to have free access to and from the road over the access servitude;
 - (b) that all the conditions in the Engineering Services Report and Telkom be complied with;
 - (c) that the approvals do not absolve the applicant from compliance with any other relevant legislation; and
 - (d) that all development parameters as prescribed in the relevant Zoning Scheme must be complied with on both land units.
5. that the objector and applicant be notified of his/her appeal rights in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decisions.

REASONS FOR APPROVAL

- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ From the objection received it is clear that the objector misconstrues the essence of the application leading to the majority of the points of objection being unfounded and not having bearing to the application.
- ❖ It is in line with policy documents.
- ❖ Is not regarded as being undesirable from a town planning point of view.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP****The meeting adjourned at 14:40**