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REPORT TO MUNICIPAL PLANNING TRIBUNAL

CASE ID	70484735		
CASE OFFICER	T. MAZANA		
CASE OFFICER PHONE NO	021 444 7843		
DISTRICT	TYGERBERG		
REPORT DATE	17/02/2020		
INTERVIEW REQUESTED	APPLICANT	YES	NO
	OBJECTOR(S)		
			x
			x

MPTNE13/03/20

ITEM NO

APPLICATION FOR ADMINISTRATIVE PENALTY IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015 (MPBL) IN RESPECT OF ERF 21853, PAROW, 11 KEURBOOM CRSCENT, PLATTEKLOOF 3

1 EXECUTIVE SUMMARY

Property description	Erf 21853, Parow
Property address	11 Keurboom Crescent, Platteklouf 3
Site extent	518m ²
Current zoning	General Residential (GR1)
Current land use	Group house
Overlay zone applicable	None

Submission date	06/12/2019
Subject to PHRA / SAHRA	N/A
Any unauthorised land use / building work?	Yes, storeroom
Has owner applied for the determination of an administrative penalty	Yes
Has the City Manager applied to the MPT for an order that a person who is contravening the MPBL must pay an administrative penalty in an amount determined by the MPT	No.
Has the City issued a demolition directive i.t.o section 128 of the MPBL? If yes, an administrative penalty may not be applied for.	No.
Has the City served a notice on the owner or other person in respect of the unlawful land use or building	Yes.

work which required the owner or other person to apply for the determination of an administrative penalty?	
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2 DECISION AUTHORITY

For decision by the Municipal Planning Tribunal

3 BACKGROUND / SITE HISTORY

The subject property is zoned General Residential 1 (GR1) and measures 518m² in extent. The property contains an approved group house and an unauthorised store room located on the periphery of the Group Housing Site.

The unauthorised store room contravenes item 35(e) of the DMS as it is located within the 3m common boundary building line.

A notice was served for the unauthorised building work on 17 October 2018 and approximately 10 months elapsed between notice being served and the submission of this application.

4 SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation of the proposed is attached as Annexure C and may be summarised as follows:

- The structure was built to satisfy the household requirements.
- Applicant wants to legalize the structure.
- Applicant has never previously contravened the law and hope that Council will give a fair consideration.

5 ASSESSMENT OF APPLICATION

5.1 As indicated above, the unauthorized building work is in contravention of the Development Management Scheme.

5.2 In terms of section 129(7)(a) of the By-Law, an administrative penalty for a building work contravention may not be more than 100% of the value of the building, construction and engineering work unlawfully carried out.

Administrative Penalty: Calculation

5.2.1 Unauthorised building work

$$\text{Value per m}^2 \times \text{Total Unlawful area (m}^2\text{)} = R$$

$$R\ 7\ 740 \times 11\text{m}^2 = R\ 85\ 140$$

An amount which is not more than 100% of R 85 140 may be imposed as administrative penalty.

5.3 The following factors need to be considered when determining an appropriate administrative penalty, as contemplated by section 129(8) of the By-Law:

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

Nature - A portion of the unauthorized store room contravenes the 3m common boundary building. The property has an irregular shape and does not present many alternatives for expansion. The unauthorized store room is the only structure on the property that is in contravention of the Scheme Regulations.

Duration - According to the applicant the unauthorized building work has been in existence since 2017, hence the duration is deemed to be relatively long.

Gravity - The gravity of the contravention is considered to be negligible, as there is no safety, fire, health or any other hazards. The unauthorised structure is also used for storage and not human habitation.

Extent - The extent of the unauthorised building work that is in contravention of the Development Management Scheme is 11m² and is therefore considered to be minor in relation to the total extent of the property.

b) The conduct of the person involved in the contravention

The owner had already completed the structure at the time he was served with a notice for the unauthorized building work. However, it must be noted that approximately 10 months passed between the notice being served and the submission of necessary applications.

c) Whether the unlawful conduct was stopped

The unauthorized structure remains intact.

d) Whether a person involved in the contravention has previously contravened by this By-Law or any other planning law

There is no evidence which suggest that the owner of the property previously contravened the By-Law or any other previous planning law.

- 5.4 In view of the abovementioned considerations this Department recommends that an administrative penalty of R 1200 of the value of the unauthorized building work be imposed.

6 REASONS FOR DECISION

Reasons for the recommended decision may be summarised as follows:

- The extent of the contravention is considered to be minor.
- The contravention is of a low gravity since it is unlikely to pose any safety, fire or health risk and is not used for habitable purposes.
- As far as can be ascertained, the owner has not previously contravened this By-Law or any other planning law.
- There was a significant delay between the notice being served and the application being submitted.

6 RECOMMENDATION

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In view of the above, it is recommended that:

- a) That an administrative penalty in the amount of R 1200 be determined in terms of section 129 of the City of Cape Town Municipal Planning By-Law, 2015 in respect of Erf 21853, Parow in accordance with plan no CB-0010, dated 02/08/2019.

ANNEXURES

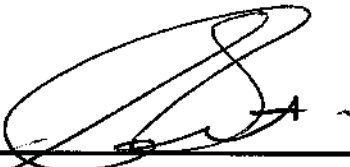
Annexure A Locality Plan
Annexure B Building plan
Annexure C Applicant's motivation



Section Head : Land Use Management

Comment

Name T.R. Kotze
Tel no 021 444 7506
Date 21.02.2020



District Manager

Comment

Name D. Sarit
Tel no 021 444 7840
Date 21/02/2020

Annexure

A

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT LOCALITY MAP

ANNEXURE : A

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Overview

Erf: 21853

District: TYGERBERG

Allotment: PAROW

Suburb: PLATTEKLOOF 3

Ward: 1

Sub Council: Subcouncil 3



1:2 400

Notices Served



Support
Received



Petition
Signatory



Objections
Received



Generated by:

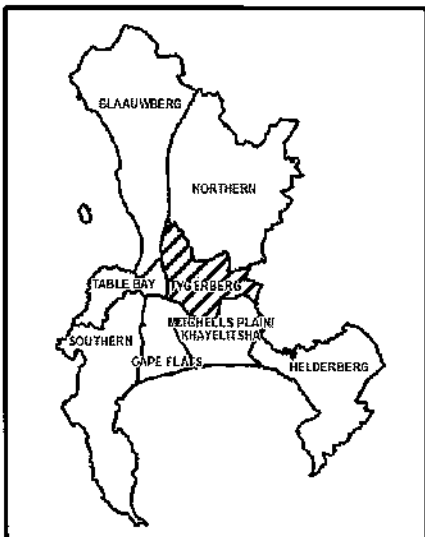
Date: Monday, 17 February 2020

File Reference:



CITY OF CAPE TOWN
ISIIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.



Annexure

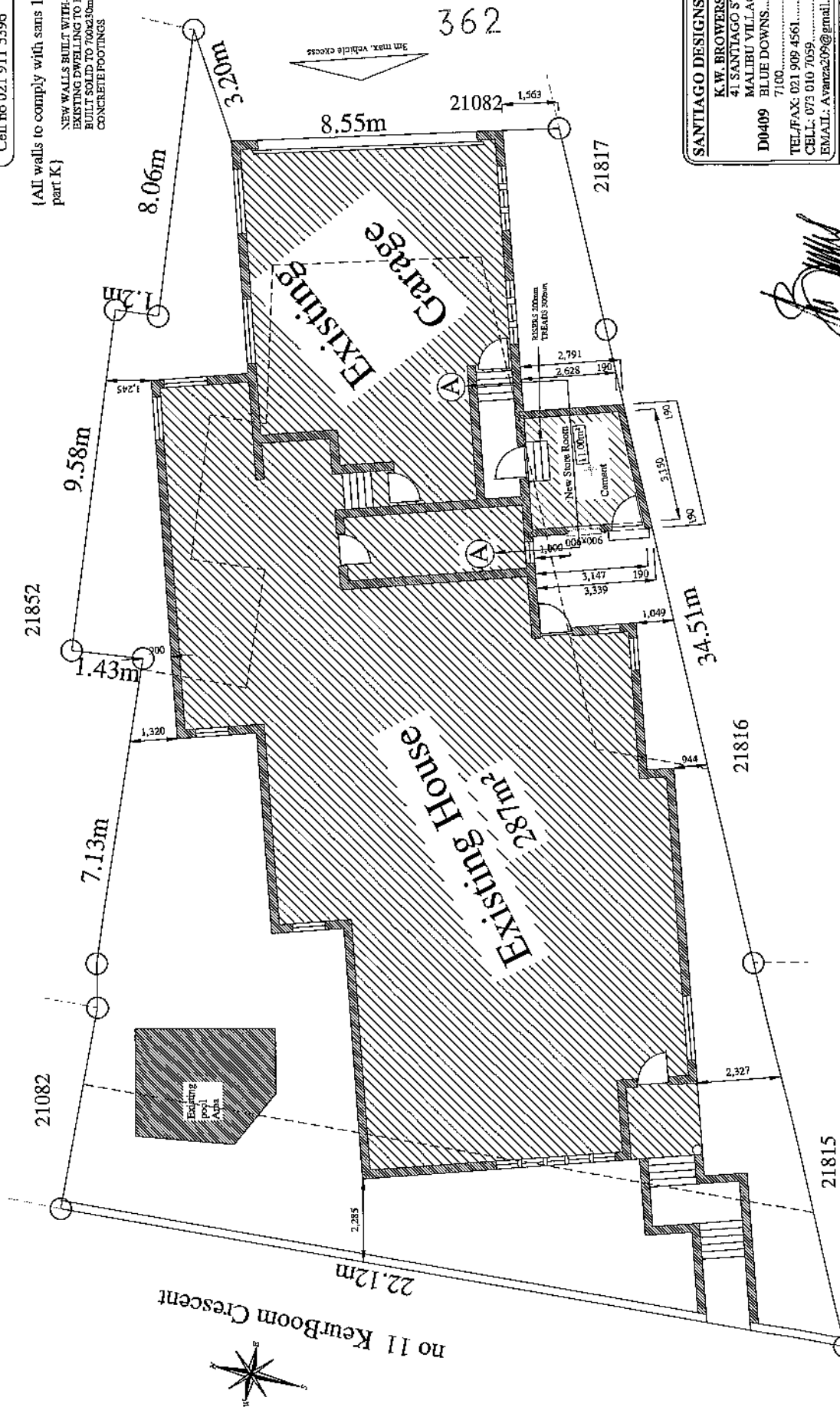
B

Proposed Alteration for.....
for Safelink international
trading proprietary limited
No 11 Keurboom Crescent
Platteklouf
Burf 21853
Cell no 021 911 5396

AREA	518,00m ²
Exist.House	287,00m ²
Prop.New Store Rm	11,00m ²
Total	298,00m ²
Percent	57,53%

(All walls to comply with sans 10400
part K)

NEW WALLS BUILT WITH-IN
EXISTING DWELLING TO BE
BUILT SOLD TO 10025mm
CONCRETE FOOTINGS



SANTIAGO DESIGNS C.C.
K.W. BROWERS
41 SANTIAGO STREET
MALIBU VILLAGE
D0409 BLUE DOWNS
7100
TEL/FAX: 021 909 4561
CELL: 073 010 7059
EMAIL: Avanza209@gmail.com

DRAWING NO:	CE-0010
DATE STARTED:	29 July 2019
DATE COMPLETED:	02 August 2019
DRAWN BY:	C. BROWERS

[Handwritten signature]

Floorplan 1:100

Proposed Alteration for....
for Safelink International
trading proprietary limited
No 11 KeurBoom Crescent
Platekloof
Erf 21853
Cell no 021 911 5396

WINDOWS IN EXCESS OF 1m² OR LESS
THAN 500mm ABOVE FINISHED FLOOR
LEVEL TO BE SAFETY GLAZED IN
ACCORDING WITH THE NBR PART N.

GROUND FLOOR FINISH MIN. 25MM SCREED ON
100MM MASS CONCRETE FLOOR SLAB ON 250
MICRON DAMP PROOF MEMBRANE ON 50 CLEAN
SAND BLINDING TO BACKFILL COMPACTED TO
100% MOD AASHTO IN MIN 150 LAYERS TO
ENGINEER'S DETAILS AND SPECIFICATIONS

ROOF CONSTRUCTION
THE ROOF SHEETING @ 1/2 PITCH ON 76x50mm PURLINS @
750mm C/C ON UNDERLAY SHEETING ON 152x50mm
RAFTERS @ 900mm MAX. C/C ON 114x38mm WALLPLATE
TIED DOWN WITH 90x1200mm GALVANISED HOOP-IRON
STRAPS EMBEDDED 600mm INTO BRICKWORK.
GRADE 7 TIMBER

TIMBERS BUILT INTO WALL TO BE
ADEQUATELY PROTECTED WITH DPM.

TIEING DOWN OF RAFTERS
RAFTERS TO BE TIED DOWN TO
WALLS WITH 12x100mm GALV.
HOOP-IRON STRAPS 600mm DOWN.

WINDOWS IN EXCESS OF 1m² OR LESS
THAN 500mm ABOVE FINISHED FLOOR
LEVEL TO BE SAFETY GLAZED IN
ACCORDING WITH THE NBR PART N.

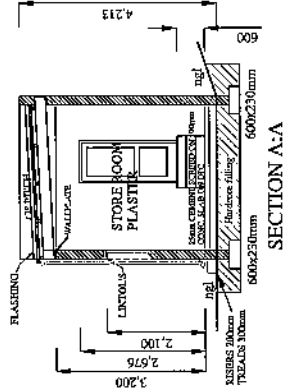
ALL SEWER PIPES UNDER
DRIVEWAY TO BE PROTECTED AS
PER PART P24.5 OF THE NBR110
BEING ENCASED IN CONCRETE

EXTERNAL WALLS
230MM CAVITY CONSTRUCTION,
5 NO. WALL TIES PER M² FIXED ACROSS CAVITY
& BRICK FORCE AT EVERY 2ND COURSE
STEPPED BRICKWORK DPC TO CAVITY AT FFL,
EVERY FOURTH PERPEND LEFT OPEN TO FORM
WEEDHOLES. ALL OPENINGS IN EXTERNAL WALL
TO HAVE VERTICAL AND HORIZONTAL DPC.

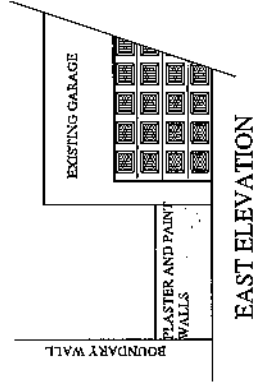
FIGURED DIMENSIONS TO
BE TAKEN IN PREFERENCE
TO SCALE DIMENSIONS

CONTRACTOR TO CHECK ALL
DIMENSIONS AND LEVELS
BEFORE SETTING OUT ANY
WORK.

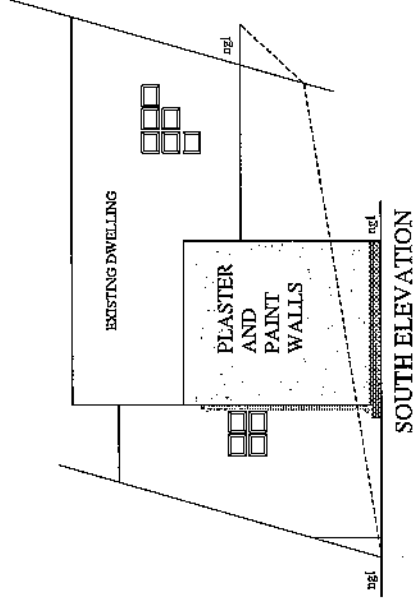
NO FOOTINGS TO PROJECT
BEYOND SITE BOUNDARY.



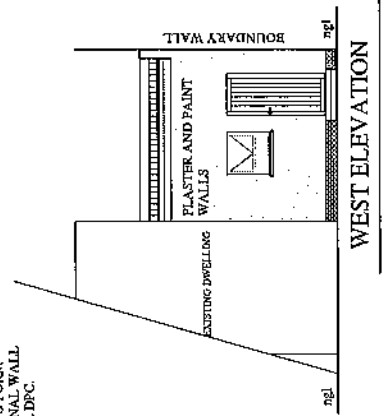
SECTION A-A



EAST ELEVATION



SOUTH ELEVATION



WEST ELEVATION

SPECIFICATIONS

WALLS
100mm solid WALLS PLASTERED BOTH
SIDES ON 600x230mm CONCRETE
FOOTINGS. WALLS UNDER
CONCRETE SLAB TO BE SOLID TO
CONCRETE FOOTINGS. NO FOOTINGS
TO PROJECT BEYOND SITE
BOUNDARY.

FLOORS
25mm SCREED ON 100mm CONCRETE
SLAB, ON 250 MICRON DPC, (GASB
APPROVED), ON HARD COMPACTED
HARDWARE FILLING RIVER SAND.

CEILINGS
50mm RHINO CEILING BOARD ON
38x38mm BATTENS @ 400mm MAX. C/C
ONTO UNDERSIDE OF RAFTERS WITH
4" NAILS & COVERED CORNICE AROUND
EDGES.

FASCIAS
DURAPLAST PVC GUTTERS &
DOWNPIPES WITH WATER-CHANNEL'S
RUNNING TO THE STREET.

SANTIAGO DESIGNS C.C.	
K.W. BROWERS	
41 SANTIAGO STREET	
MALIBU VILLAGE	
7100	
D0409 BLUE DOWNS	
TEL/FAX: 021 909 4561	
CELL: 073 010 7059	
EMAIL: Avanza209@gmail.com	
DRAWING NO	DESIGN BY
CH-0010	C. BROWERS
DATE STARTED	DATE COMPLETED
29 July 2019	02 August 2019

Annexure

C

365
SAFELINK INTERNATIONAL TRADING
PROPRIETARY LIMITED
NO 11 KEURBOOM CRESCENT
PLATTEKLOOF
19/11/2019

To whom it may concern

APPLICATION FOR ADMINISTRATIVE PENALTY: ERF 21853 PAROW

The correspondence outlined herein solely summarily outlines the contents as per the requirements of Section 129(8) and does not therefore provide holistic information of said extension, these are contained in a series of prior correspondence addressed to the Council for consideration.

For expedience sake the information is categorized in accordance to said requirements of the tribunal.

(a) the nature, duration, gravity and extent of the contravention;

The area outlined in the accompanying drawing via hatched lines represents the area in contravention and has a total extent of 11 square meters. The addition represents storeroom preexisting. The structural was erected and completed over a period in excess of a year as the need and natural elements dictated in order to satisfy the household requirements. It was erected during a prior application for Garage approval which spanned from initial scoping to final re-submission requirement during the period of 2015-2018 (further detail is outlined in prior correspondence).

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

The writer together with his architect Mr. Browers have been at the forefront of attempting to resolve the matter and bring it in line with legislative requirements and included the said extension in plan submission prior to it being raised as a concern. We have additionally visited the offices of the Council on several occasions to gain clarity and speedily resolve. Prior correspondence outlines the intent of said extension and does make mention of the perceptive understanding of the writer at the time.

(c) whether the unlawful conduct was stopped;

No, the structure was included in the next plan submission and had been erected by that time.

d) whether a person involved in the contravention has previously contravened this By Law

No, the writer/owner has been engaged in attempting to have said extension, i.e. Storeroom, formally approved and in accordance with the requirement as laid down by Council for the better of 7 years. The prior failed attempts and the persistence, irrespective of the reasoning at the time is testimony to the intent of wanting to conform to said by law. With the erection of roof under consideration the writer was not of the opinion that he was contravening for the reasons outlined in prior correspondence.

I wish to reinforce and assure the council that at no stage was my intention to circumvent or avert the requirements (I simply could have omitted it with the new application if that was the case) and although I need to acknowledge my ignorance being at the forefront I am simultaneously at my wits

end having vested a fair amount of time, money and effort to do the right thing but just seemingly don't ever seem to make any progress or gain traction. The need for all structures is dire and is affecting the household and resulting in significant financial loss.

I hope that my explanations satisfy the council, and fair consideration be given to my circumstances, my real intent and my dire need for speedy resolution.

Kind regards

SAFELINK INTERNATIONAL TRADING
PROPRIETARY LIMITED