

REPORT TO: **MUNICIPAL PLANNING TRIBUNAL**  
ITEM NO

**WARD 3: APPLICATION FOR PERMANENT DEPARTURE IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015: ERF 8224, BELLVILLE (10 VERGELEGEN STREET, OAKGLEN)**

**MPTNE15/08/19**

Case ID	70452037
Case Officer	Jacques Loots
Case Officer phone number	021 444 7508
District	Tygerberg
Ward	3
Ward Councillor	Cllr. Brendan van der Merwe
Report date	28/06/2019
Interview requested	<i>To be completed by MPT support office</i>
	Applicant
	Objector(s)

**1. EXECUTIVE SUMMARY**

Property description	Erf 8224, Bellville
Property address	10 Vergelegen Street, Oakglen, Bellville
Application components / description	Permanent departure to allow the relaxation of the common boundary building line.
Site extent	793m <sup>2</sup> .
Current zoning	Single Residential 1.
Current land use	Dwelling house.
Overlay zone applicable	None.
PHRA or SAHRA heritage	None.
Public participation outcome summary	None.
<b>Recommended decision</b>	
Approval	✓
Refusal	
Approval in part & Refusal in part	

**2. BACKGROUND FACTS**

None

**3. SUMMARY OF APPLICANT'S MOTIVATION**

The applicant's motivation of the proposed development (see Annexure c) may be summarised as follows:

- The veranda (over existing stoep) is required to protect new stoep furniture, to enable the usage of the stoep throughout the year and to protect the front entrance door against the weather.
- There are similar "Proport" structures within the surrounding area.
- Being well setback from the street, the proposal will have little impact on the streetscape and will positively impact on the value of the property.
- Being 2,0m from the common boundary, the proposal will not affect the abutting neighbour's view or sunlight.
- The affected neighbour has a personal grievance against the applicant and did not want to sign the "no objection notice".

#### 4. PUBLIC PARTICIPATION

		Applicable	Dates / Comments
Advertising	Notice in the media (s81)		
	Notice to a person (s82)	✓	23/04/2019 – 27/05/2019
	Notice to Community organization (s83)		
	Notice to Ward Councillor (s83)		
	Notice of no objection (s84)		
	Notice to Provincial Government (s86)		
	Notice to an Organ of State (s87)		
	Public meeting		
	On-site display		
Outcome	Objections	✓	One objection received from the owner of the abutting property.
	Objection petition		
	Support / No objection		
	Comments		
	Ward Councillor response		

#### Summary of objections received

4.1. Objections / comments / support received in respect of the application (see Annexure D) may be summarised as follows:

- There are numerous additions and changes made to buildings that faces the objector's property, which were not done as agreed between the objector and the previous-, as well as the current owner/applicant.
- The vibracrete boundary wall between the objector's- and the subject property has been raised and fitted with electrical wiring without consulting the objector, even though the wall is situated on the objector's property.

- Various carports/canopies/verandas already exist on the subject property and the objector questions whether the necessary building plan approvals have been obtained.
- The objector has a constant problem with stormwater from the subject property flowing through and underneath the boundary wall onto the objector's property.

#### **Summary of applicant's response to public participation**

4.2. The applicant's response to objections received (see Annexure E) may be summarised as follows:

- In May 2015 the applicant purchased the property in its current state, with building plan approval for all current buildings and structures.
- Any agreement between the objector and previous owners, the raising or painting of the vibracrete boundary wall and the installation of electric fencing are not relevant to the subject application.
- The objection causes an unnecessary delay in the processing of the application, which is due to unrelated personal issues between the applicant and the objector.

### **5. BACKGROUND TO PROPOSAL**

#### **5.1 Background**

None

#### **5.2 Description of the area / surrounding land uses**

The property forms part of the Oakglen neighbourhood, located north-west of the Old Oak/Old Paarl Road intersection. The property is located within a predominant single residential area with a large, mainly vacant church-owned site across the road.

#### **5.3 Property description**

The property is currently being utilized for single residential purposes, consisting of a single dwelling house, a second dwelling and associated outbuildings.

#### **5.4 Proposed development**

The intention is to cover the existing front stoep of the main dwelling by means of a lean-to roof by Proport, resulting in the encroachment of the 3,0m common boundary building line to 2,0m from the boundary.

6.1 Consideration of criteria in terms of Section 99(1)

6.1.1 Compliance with the requirements of the MPBL

- The application complies with the general requirements for such applications and was duly processed in accordance with the provisions of the MPBL, including the posting of a registered notice to the owner of the abutting property, as indicated on the location map attached as Annexure A.
- The application is referred to the MPT for a decision because of an objection received against it.
- No Admin Penalty is applicable.

6.1.2 Compliance or consistence with the municipal spatial development framework.

Not considered applicable to a permanent departure of such small scale.

6.1.3 Consideration in terms of Section 99(3) of the desirability of the following criteria:

The essence of the proposal is determined to be desirable in view of all the applicable desirability criteria in terms of Section 99(3) of the MPBL, namely, socio-economic impact, compatibility with surrounding uses, impact on external engineering services, impact on safety, health and wellbeing of the surrounding community, impact on heritage, impact on the biophysical environment and impact on traffic, parking, access and other transport related considerations.

The detail assessment of the proposal in accordance with the aforementioned criteria is done under section 6.2.4 of this report.

6.1.4 The approval of this application will not have the effect of granting the property the development rules of the next subzone within this zone.

**I am satisfied that the decision making criteria in Section 99(1) have been complied with.**

6.2 Consideration of criteria in terms of Section 99(2)

6.2.1 Any applicable spatial development framework

Municipal Spatial Development Framework (MSDF)

Not applicable to a permanent departure of such small scale.

- 6.2.2 The proposal is considered to be consistent with the MPBL in that a permanent departure application has been made and does not amount to an invasion of intent.

- 6.2.3 Applicable policy approved by the City to guide decision making include discussion on IDP.

Not applicable to a permanent departure of such small scale.

- 6.2.4 Consideration in terms of Section 99(3) of the extent of desirability of the following criteria:

a. Socio-economic impact

The proposal will result in a minor improvement of the property and its potential value.

b. Compatibility with surrounding uses

Notwithstanding the minor encroachment of the 3,0m common boundary building line to 2,0m, the covering of the existing front stoep by means of a lean-to roof will in no way detract from the built form and general character of the surrounding area.

c. Impact on the external engineering services

No impact.

d. Impact on safety, health and wellbeing of the surrounding community

The nature and insignificant extent of the proposed structure will not influence the general health, safety and wellbeing of the abutting neighbour or the community in general. The standard building regulations will be applicable with the construction thereof.

e. Impact on heritage

Not applicable.

f. Impact on the biophysical environment

Not applicable.

g. Traffic impacts, parking, access and other transport related considerations

No impact.

h. Conditions that can mitigate an adverse impact of the proposed land use

None

6.2.5 Impact on existing rights (other than the right to be protected against trade competition)

The covering the existing front stoep with a lean-to roof, which is to be 2,0m from the common boundary and alongside the objector's garage (hidden from the objector's living areas) will have no impact on any of the objector's rights, including his privacy, sunlight, views and enjoyment of his property.

**I am satisfied that the decision making criteria in Section 99(2) have been complied with.**

## 7 REASONS FOR DECISION

Reasons for the recommended decision for approval of the application for permanent departure may be summarised as follows:

- 7.1 The proposal will be of an appropriate scale and form that relates to the surrounding built form.
- 7.2 The proposal, which is to comply with all applicable health, safety and building regulations, will not have a negative impact on the safety, health and wellbeing of the surrounding residents.
- 7.3 The proposed building line encroachment is minor in nature and will not have any negative impact on the rights of surrounding owners.
- 7.4 The proposal is desirable in terms of all the applicable criteria listed in Section 99 of the MPBL, 2015.

## 8 RECOMMENDATION

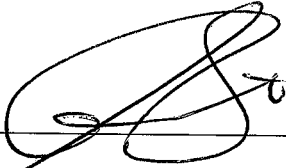
In view of the above, it is recommended that:

- 8.1 The application for permanent departure in respect of erf 8224, Bellville, **be approved** in terms of Section 98(b) of the Municipal Planning By-law, 2015, to permit the relaxation of the 3,0m common boundary building line to 2,0m to allow the covering of the existing front stoep with lean-to roof, in accordance with the site layout plan attached as Annexure B.

## ANNEXURES

1119

Annexure A	Locality plan / Public participation map
Annexure B	Site Layout Plan
Annexure C	Applicant's motivation
Annexure D	Objection received
Annexure E	Applicant's response on objection



Registered Planner

Name:

Rewaldt Smit

SACPLAN NO:

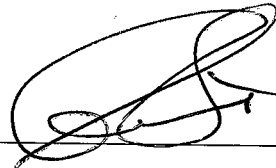


Section Head

Name: T.R. Kotze

Tel no: 021 444 7806

Date: 18.07.2019



District Manager

Rewaldt Smit

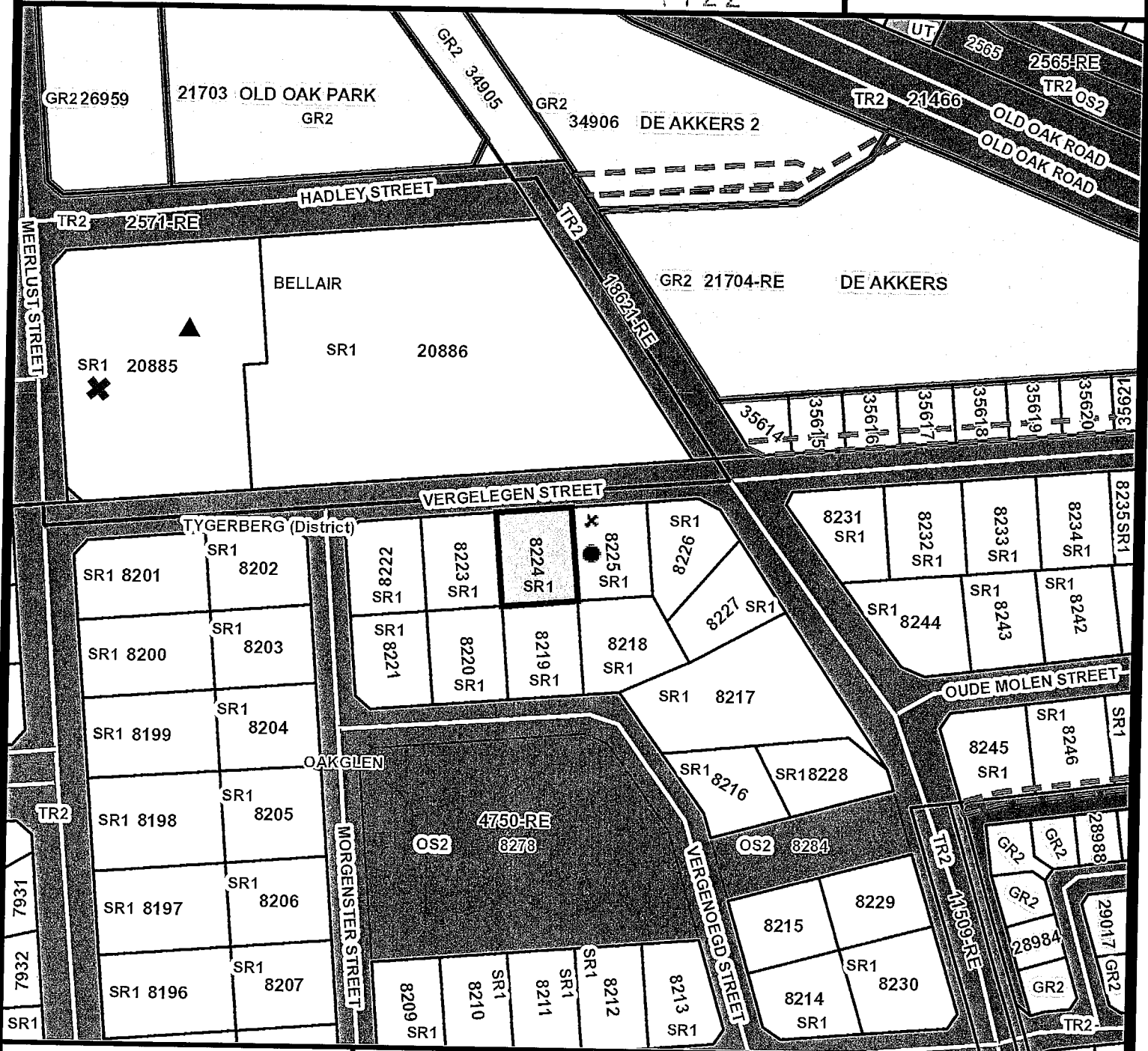
021 444 7840

22/07/2019

**ANNEXURE A**







## Overview

Erf: 8224

District: TYGERBERG

Allotment: BELLVILLE

Suburb: OAKGLEN

Ward: 3

Sub Council: Subcouncil 6



1:1 901

Notices Served



Support Received



Petition Signatory



Objections Received



Generated by:

Date:

Friday, June 28, 2019

CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD

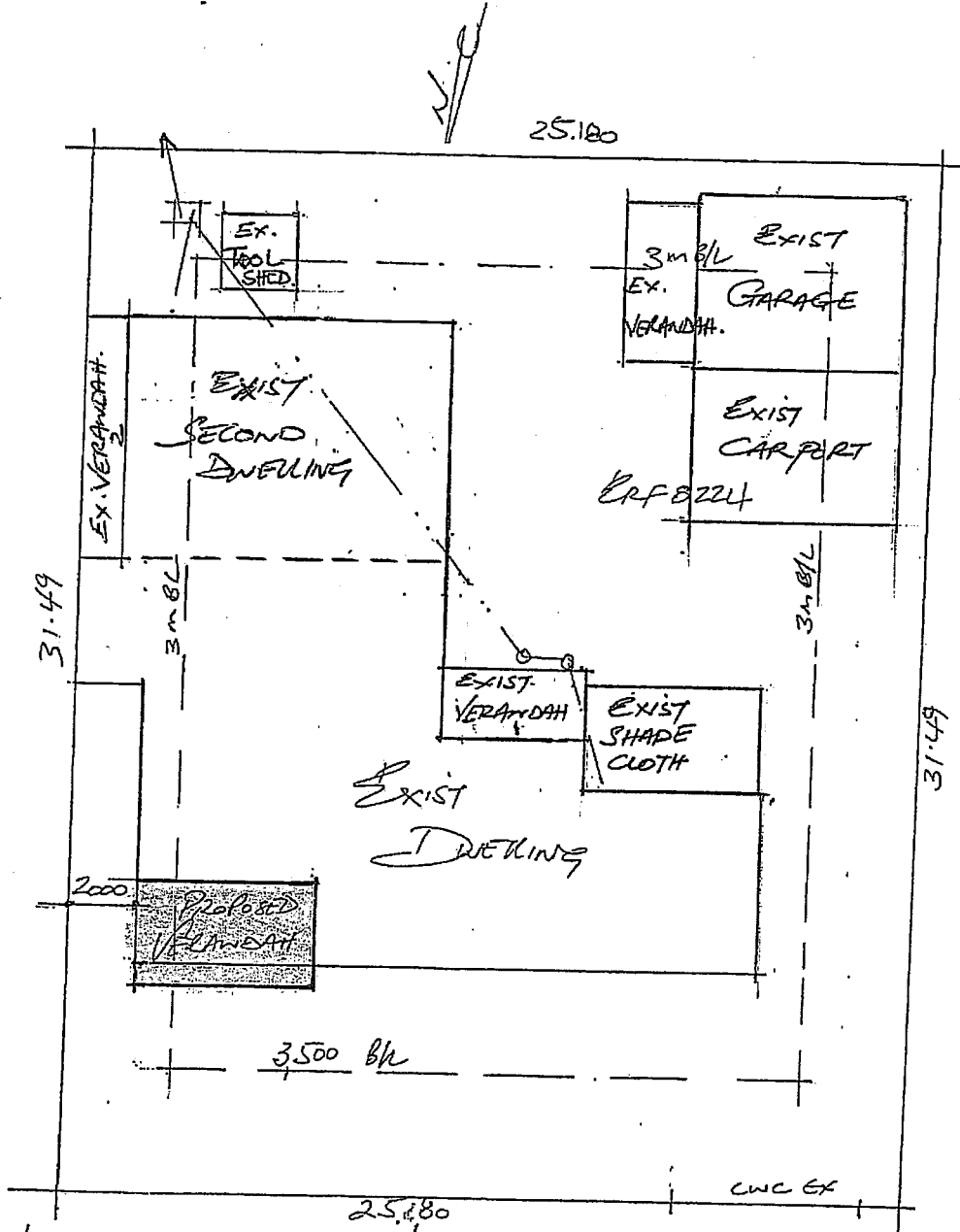
## **ANNEXURE B**

Erf	793m <sup>2</sup>
Footprint existing dwelling	230m <sup>2</sup>
Existing garage	30m <sup>2</sup>
Existing carport	30m <sup>2</sup>
Existing verandah 1	12.6m <sup>2</sup>
Existing verandah 2	6m <sup>2</sup>
Existing tool shed	5.29m <sup>2</sup>
Existing shade cloth	15.6m <sup>2</sup>
Existing verandah	9m <sup>2</sup>
Proposed verandah	13m <sup>2</sup>
<u>Total</u>	<u>345.49m<sup>2</sup></u>
<u>Coverage</u>	<u>43.56%</u>

1124

MR. PEARCE  
10 VERGELEGEN STR  
OAK GLEN  
BELLVILLE  
ERF 8224

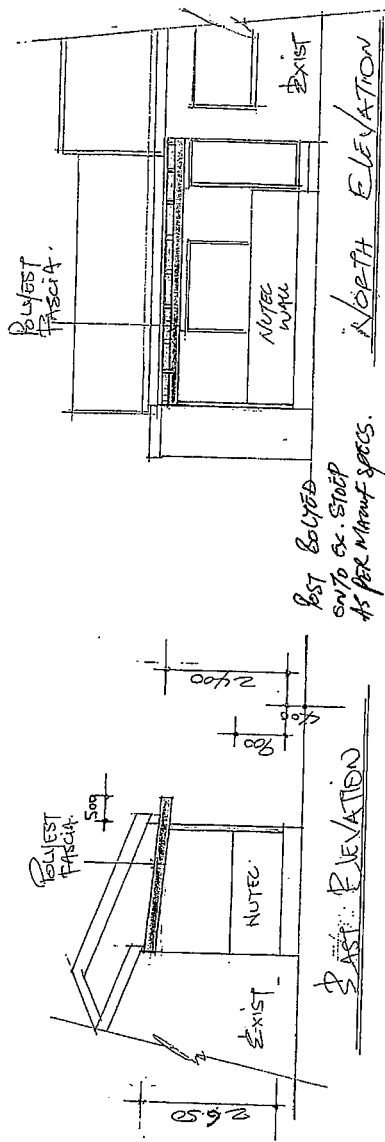
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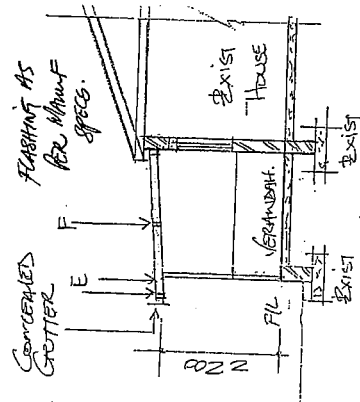
SITE PLAN 1/200

VERGELEGEN STR.

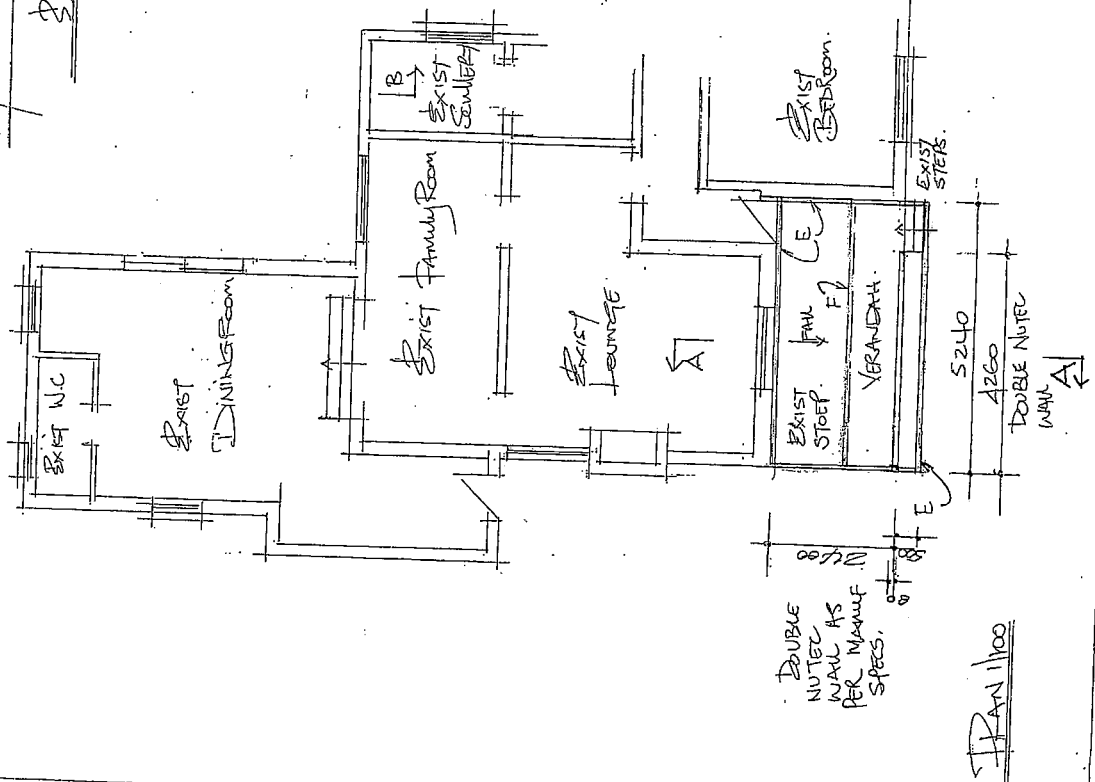
DRAWING NO: B/8224/19



NUTEC WALL FITTED  
TO MANUF. SPECS. ON  
EXIST STEEP.



SECTION A-A



FRAN 1100

<b>STRUCTURE</b> General type layout and detail of structure designed and manufactured by Proprietor. All materials and workmanship are made out of G55mm alloy steel to form a reinforced beam, with standing waveboards of up to 105mm h.	<b>GLAZING</b> All glass in excess of 100 or whole 600mm of floor level to be safety glazing as per SANS 10400 part 1.	<b>WALLS</b> 600 x 230 foundation plaster / face brick. No building work or foundation to exceed any localities. All work to be in existing and to be read.	<b>FLOOR</b> New concrete floor 25mm screed on 100mm concrete slab. All floor on 250 mm c/c on well compacted ground as per SANS 10400 part 1.	<b>ROOF</b> Polycarbonate / 100 Galvalume / Zincalume / Chromadek / Colobond. Rivet and sateop fix to rafters. Noisy pine / Kullie ceiling.	<b>PAINT</b> All items galvanized / aluclac coated. White / Bronze / Chircol epoxy coated (Oxide).	<b>JOINTS</b> Main frames (E) and rafters (F) riveted at 350mm c/c bottom and 175mm c/c top with 4.8 x 8mm rivets bottom and 4.8 x 8mm rivets top.	<b>VERANDAH</b> 600 x 230mm aluminium frame (E) to rivet to top of post. Diameter access hole with ground. 100mm c/c rivets into "gunn plug" at 1.5m c/c.	<b>PROVIDER:</b> VERANDAH <b>FOR:</b> MR. PEARCE 10 VERGEGELEN ST. OAK GROVE BEULVILLE.	<b>DATE:</b> 12/3/19 <b>DRAWING NUMBER:</b> B/8224/19	<b>DESIGNER:</b> Nizam Hadley 11 Coenro Str Beulville St. Marys 7530	<b>REG NO:</b> 00349 <b>MANUFACTURER:</b> NUTEC 11 Coenro Str Beulville St. Marys 7530	<b>PROPRIETOR:</b> NUTEC 11 Coenro Str Beulville St. Marys 7530	<b>PROPERTY:</b> NUTEC 11 Coenro Str Beulville St. Marys 7530	<b>CONTACT:</b> (021) 845 402 (021) 945 458 VERANDAH CO ZA	<b>PROJECT:</b> NUTEC 11 Coenro Str Beulville St. Marys 7530
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## **ANNEXURE C**

2 April 2019

## TO WHOM IT MAY CONCERN

Re: Erf no 8224, 10 Vergelegen Street, Oak Glen

We would like to erect a verandah over our existing stoep. The proposed will be a covered area for the new stoep furniture. This proposed will also allow us to use this space throughout the year. This covered stoep will help with minimizing the maintenance of the front entrance door during winter months. The proposed will blend in with the surrounding and will uplift the property value. There are similar structures in our area done by Proport. The proposed will not affect any direct neighbours view or sunlight as it is 2m away from the common lateral boundary.

The proposed have little impact on the street scape as it is well set back from the road. Unfortunately, the effected neighbour that needs to give consent of approval has a personal grievance with us and refuses to sign any forms. The actual problem initially came from their child breaking our window with a cricket ball. We fixed the window, and they vowed to pay and has not yet come forward although this occurred several months ago, payment have not been received. Their reason for not signing is thus personal and has nothing to do with the actual roof itself. We therefore would appreciate if approval could be granted, based on the merits of the application, and the personal vendetta ignored.

Therefore we would like to apply in respect of section 99 of the Municipal Planning By-Law for a permanent departure. We hope that council will find this i.t.o section 42(b) relaxation of the eastern common boundary building line from 3m to 2m in terms of the MPBL to permit a verandah favourable for approval

Thank you

Yours Sincerely

Mr.D. Pearce

PP. Proport  
Johann Coetzee

## **ANNEXURE D**



1129

24 May 2019


FROM: J H Pistor

**OBJECTION AGAINST APPLICATION NUMBER 70452037 FOR PERMANET DEPARTURE: ERF 8224. BELLVILLE - 10 VERGELEGEN STREET, OAK GLEN, BELLVILLE. Purpose of application: Encroachment of the 3.0m common boundary building line to 2.0m in order to construct a verandah.**

I object to the proposed encroachment of the 3.0m common boundary boundary line to 2.0m in order to construct a verandah, due to the following reasons:

1. When we moved into 12 Vergelegen Street in 1993 we were immediately approached by the then owners of 10 Vergelegen Street to allow them to build a room ( to be used as a one man office only, not residential purposes) attached to their house and wall facing us to be on my border line. This was agreed to by us with the proviso that that the wall be of face bricks and that there would be no windows facing us. A further back portion of this room was built close to my border but it was agreed that there would also be no windows facing us in it. This room has since then been turned into a residential flat with big windows facing us – we were never consulted on this change in usage and do not know if proper building plans were filed for approval with the municipality.
2. The vibracrete wall between us is on my side of the borderline but has been heightened and electric fencing installed on top of it without consulting with me. If anybody is hurt in/on this, who will be held responsible ?
3. There are various carports/canopies/verandahs/"stoep" (one behind the office now turned into a residential flat) erected in their backyard – were plans ever submitted and approved by the municipality ?
4. We have a constant problem with water from their gutters and property going through and under the vibracrete wall unto our property, especially our stoep.
5. The fascia of the room on our border are vibracrete were never painted and it is a health risk.
6. A big window in the front of the house were replaced by a sliding door – did they file building plans for this ?

Thank you.

  
J H PISTOR (owner and occupant of:  
12 Vergelegen Street (ERF 8225)  
Oak Glen, Bellville

Telephone: 021- 915 2266 (work) / 072 118 3379 e-mail: jhpistor2310@gmail.com

## **ANNEXURE E**

28 May 2019

Development Management  
City of Cape Town  
Mr. J. Loots  
Senior Professional Officer

**RE: CASE ID: 70452037**

The objection letter received from the neighbour, Mr.J.H. Pistor, refers.

I refer to my motivation letter already submitted, and once again need to mention that this objection is purely personal. This is also quite clear from this list of objections, dated 24 th May 2019, as the main reason asking permission is basically not addressed. The proposed patio roof / verandah will be positioned on the existing stoep, as built and previously approved.

This is as we bought the property, and facts such as electric fencing, or painted vibrecrete walls have absolutely no relevancy to this application. But for the record: I have a signed contract from Mr. Pistor himself giving us permission to put up electric fencing (even though permission was never needed as it's within our boundary wall). I also have the police stamped and witnessed receipt for window repair, electric fence repair and incident report if council would like copies thereof. As per our motivation letter, this proposed patio will blend in with the property, and actually uplift the street face of the property adding value to the property (and also the neighbouring properties.)

I still need to mention that I have received no payment for the window they have broken, (and vouched to repay), and that this is the main reason for their objections.

We therefore trust that the planning department will scrutinize this application based on the merits thereof, and I trust you will rule accordingly.

I also invite the relevant officials to a site visit, to acquaint themselves with the true facts and I believe they can only make one decision based on the true facts.

Thanking you in advance.

Mr. D.C. Pearce

Owner: 10 Vergelegen Str, Oak Glen – Erf 8224



**From:** Johann <johann@proport.co.za>  
**Sent:** Wednesday, May 29, 2019 9:27 AM 1132  
**To:** Anika Adams  
**Subject:** FW: FW: Patio roof - objection Case ID 70452037

Good day Anika  
See further correspondence from Mr Pearce , the owner.  
Regards  
Johann Coetzee

**From:** Donovan Pearce <capehardwarecc@gmail.com>  
**Sent:** Wednesday, 29 May 2019 09:14  
**To:** Johann <johann@proport.co.za>  
**Subject:** Re: FW: Patio roof - objection

Hi there

Regarding their objection letter

Topic 1 has nothing to do with us as we only moved into the house x2 years back and that scenario is with previous owners plus they had building plans to build flat which were included in sales agreement when purchased house  
Topic 2 as mentioned we have a signed permission form to erect electric fencing from Mr Pistor plus the wall was never raised - it was like that when we moved in

Topic regarding painting side is irrelevant plus they don't want to give us access thru their premises in order to paint that section

Topic regarding sliding door is irrelevant as well as topic regarding carports and additional roof tops as the house was purchased with those already installed via previous owner

The only roof we installed was the kitchen roof last month done by Proport which building plans we have for  
And the topic regarding the water is inaccurate as we did install a new gutter system at our expense to fix water issue created by previous owners in order to keep the peace

Mr Pistor is dwelling on old issues which were between him and the previous owners which have all been resolved  
The municipality is more than welcome to come except the premises and I'll point everything out for them

Please add above in letter  
Thank you

On Wed, 29 May 2019 at 08:43, Johann <johann@proport.co.za> wrote:

Hi Donovan

Thanks for that – I will include those details and return to them.

Regards

Johann Coetzee

**From:** Donovan Pearce <capehardwarecc@gmail.com>  
**Sent:** Tuesday, 28 May 2019 16:05

**Regarding Case ID: 70452037 for ERF: 8224 Bellville – 10 Vergelegen Street Oak Glen Bellville****Regarding Objection Letter from Neighbour**

Please find attached contradictions to objections pointed out from Mr J H Pistor residing at 12 Vergelegen Street Oak Glen Bellville with attached evidence to support...

- 1) The agreement they are regarding to with regards to the residential granny flat was between the previous owners Christo Van Der Merwe & Louise Van Der Merwe and Mr J H Pistor as he mentioned back in 1993 – I myself Donovan Cecil Pearce along with my co-assigns only purchased the property 8 May 2015 – 22 years later.

When we purchased the property in the current state including granny flatlet, carports, roof structures, stoep roof / verandahs etc as Mr J H Pistor mentioned, this was All already built before we purchased the house – All structures have plans approved with municipality via previous owners and actually has nothing to do with me or this current situation at all – Please see attached copy of Change of Ownership papers and Title Deed of 10 Vergelegen Street Oak Glen Bellville – ERF: 8224 dated 8 May 2015 by STBB Attorneys.

- 2) Regarding the electric fence and heightened wall as indicated by Mr J H Pistor - Firstly the rear vibracrete wall at the rear of the house was never raised – It was at the current height when we took over ownership of the premises – we did however raise the vibracrete wall by the road side by x2 slabs as that specific section was missing with Mr J H Pistor permission which was done on 7 June 2015 – 4 years ago – Please find attached signed permission form signed by Mr J H Pistor

Regarding the electric fence – although legally it is our right to erect a electric fence on our property wall as long as the supporting brackets are installed within our property we did still ask Mr J H Pistor for his permission which he gladly gave on 7 June 2015 as well – 4 years ago – Please find attached signed permission form signed by Mr J H Pistor as well as the certificate of compliance registered with Occupational Health and Safety – Act 1993

- 3) Regarding the carport, stoep roof, verandahs etc that Mr JH Pistor is referring to – as mentioned in point 1 these structures where there long before we purchased the property and are in the building plans we received from estate agent with sales agreement as we were told by the estate agent as well as a number of residents in the area to make sure all our paperwork etc is in order as Mr J H Pistor and his wife like to make life unnecessarily difficult for others in the area just like this current situation for example
- 4) Regarding the water “issue” we did install additional gutters to resolve the matter when we took ownership of the premises back in 2015 – 4 years ago at our expense. The stoep they are regarding to is far away from the boundary wall – in fact they complained to us that the portion of grass on that specific area is growing quicker than the rest of their grass causing them extra unnecessary work to cut their lawn – You are more than welcome to come investigate the premises with a site officer and I will point everything out as mentioned

- 5) The fascia board they are regarding to is not a health risk – We wanted to paint that piece but were unable to as both Mr J H Pistor and his wife didn't want to grant us access through their premises to paint it back in 2015 as they didn't want strangers on their premises even though I offered to supervise the painter as he is one of my personal staff members
- 6) Regarding the sliding door this was done back in 2015 – 4 years ago as well with plans and done through a reputable building company

As mentioned before all this unnecessary delay is due to their personal disagreement towards myself and my family for no apparent reason – this all started when their grandson broke our flatlet window with his cricket ball back on 28 November 2018 – now 6 months back – Mr J H Pistor acknowledged the damaged that occurred and offered to pay for damages however till this date we still have not received any form of payment, or any communication from them regarding payment or a payment plan of some sort etc...

Every time we try to approach them to resolve this matter they hide from the issue at hand and thus are now making this request a unnecessary delay in order to create inconvenience on our part.

Please find attached the Incident report regarding the broken window case that occurred on 28 November 2018 signed and stamped by Commision of Oath of the Lansdowne Police Station including supporting pictures and documents – this case will be going to civil court within the next upcoming months to be resolved as a matter of principal.

Please also find attached the Certificate of Compliance for the Electric Fence installed as well as the Electric Fence System Certificate of Compliance via Department of Labour section of the Occupational Health and Safety Act, 1993

We therefore trust that the planning department will scrutinize this application based on the merits thereof, and trust you will rule accordingly.

I also invite the relevant officials to site visit, to acquaint themselves with the true facts and I believe they can only make one decision based on true facts.

Thanking you in advance

Mr D C Pearce

Owner of 10 Vergelegen Street Oak glen Bellville – ERF: 8224

1135

**TO WHOM IT MAY CONCERN**

**VIBRACRETE WALL TO BE RAISED AND ELECTRIC FENCE TO BE  
INSTALLED AT 10 VERGELEGEN STREET, OAKGLEN**

We, the owners, at 10 Vergelegen Street, Oakglen, hereby ask permission to raise the vibracrete wall and at a later stage install an electric fence to secure the property.

R.T. Grobbelaar

07-06-2015

DATE:

J.H. Pistor

07-06-2015

DATE:

DATE: