



REPORT TO: **MUNICIPAL PLANNING TRIBUNAL**

ITEM NO **MPTSW13/09/19**

**WARD 49: APPLICATION FOR CONSENT IN TERMS OF THE TITLE DEED AND DEPARTURE IN TERMS OF THE CITY OF CAPE TOWN MUNICIPAL PLANNING BY-LAW, 2015: ERF 126683 CAPE TOWN AT ATHLONE, 37 BLOOM STREET, SILVERTOWN**

Case ID	70357633
Case Officer	FAIEZA ABRAHAMS
Case Officer phone number	021 684-4344
District	CAPE FLATS
Ward	49
Ward Councillor	RASHID ADAMS
Report date	2019-08-30

**1. EXECUTIVE SUMMARY**

Property description	Erf 126683 Cape Town at Athlone				
Property address	37 Blossom Street, Silvertown				
Application components / description	Consent in terms of Title Deed restriction D.1.5 of T25015/2015 relating to no additions or alterations being made, and; Departure, as set out in Annexure A, to permit a Domestic Staff Quarters within the Colwyn Road street building line restriction.				
Site extent	448 m <sup>2</sup>				
Current zoning	Single Residential SR1				
Current land use	Dwelling House				
Overlay zone applicable	None				
PHRA or SAHRA heritage	None				
Public participation outcome summary	1 objection				
Recommended decision					
Approval	✓	Refusal		Approval in part & Refusal in part	

**2. BACKGROUND FACTS**

None.

### 3. SUMMARY OF APPLICANT'S MOTIVATION

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

- The owners want to erect an outbuilding for their children.
- The space to be used will be the most appropriate because of the existing sewerage line on the property.

### 4. PUBLIC PARTICIPATION

		Applicable	Dates / Comments
Advertising	Notice in the media (s81)		
	Notice to a person (s82)	✓	2019-03-06
	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	✓	1 valid objection
	Objection petition		
	Support / No objection		
	Comments		
	Ward Councillor response		

#### Summary of objection

4.1. The objection received in respect of the application (see Annexure E) may be summarised as follows:

- The objector's property is situated directly behind the subject property.
- The front of the objector's property faces the back of the subject property.
- At present, the objector is able to stand at the front door of her property and have a view of the entire Bongo Street and part of Blossom Street, giving the objector a sense of openness and security/safety.
- The front elevation of the 2<sup>nd</sup> dwelling faces the objector's front door, thus affecting the objector's privacy as whoever lives there will be looking into the objector's room, windows and front door 24/7.
- The proposed building will obscure the objector's view of Blossom Street and Bongo Crescent.
- The proposed building would be blocking off the morning sunrise and would create a shade that would result in the objector's home staying cold and damp throughout the morning.
- The objector would feel blocked in and thus affecting the objector's safety.
- It is the applicant's objective to increase the amount of people renting his property for financial gain, not considering the impact it may have on the neighbours, including safety.
- Several broken down vehicles/ trucks and tow trucks are parked on the subject property, which is unsightly.

- The objector provided photos of her property and views from her property.

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

- 4.2. The applicant's response to objections received (see Annexure F) may be summarised as follows:
- The objector's front door faces Colwyn Road and thus the proposal does not obscure her view.
  - The view of Bongo Crescent is not visible from Colwyn Street and thus the statement is not relevant.
  - The building is more than 12m from the objector and the issues regarding shade do not make sense.
  - The applicant is of right to erect a building as proposed.
  - The applicant will not accommodate people or family that would affect her or others' safety.

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

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

- 5.1 The property is located in Silvertown which is a well-established residential area. Surrounding erf sizes are small to medium in extent with correspondingly sized semi-detached dwelling houses. Access to the suburb of Silvertown is via Blossom Street which takes access from Klipfontein Road, which is a main east-west link.

#### **Property description**

- 5.2 At 448m<sup>2</sup> in extent, the property is considered small in extent. The property is developed with a semi-detached dwelling house and an outbuilding to the rear of the property. A low boundary wall, of ±1,5m high, separates the owner from the objector.

#### **Proposed development**

- 5.4 The proposal is to build a Domestic Staff Quarters, as per the Site Development Plan (SDP) attached as Annexure C.
- 5.5 The proposal requires a departure, as set out in Annexure A, relating to the setback from the street boundary.
- 5.6 The proposal also requires Consent in terms of the Title Deed for any alterations made, as set out in Annexure A.

### **6 PROPOSAL ASSESSMENT**

- 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 requirements of the MPBL as the correct land use application has been made and the correct procedures as set out in chapter 5 of the MPBL have been followed. Public participation was duly undertaken.
- The application must be decided by the Municipal Planning Tribunal because an objection was received from a member of the public.

6.1.2 Compliance or consistence with the municipal spatial development framework

- Not applicable

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

- For the reasons given in Section 6.2.4 below this Department is of the opinion that the proposal is desirable.

6.1.4 Would approval of the application have the effect of granting the property the development rules of the next subzone within a zone?

- No.

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

**I am satisfied that the considerations in Section 99(3) have been assessed and that the proposed land use is desirable.**

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

6.2.1 Any applicable spatial development framework

- N/A

6.2.2 Relevant criteria contemplated in the DMS

- N/A

6.2.3 Applicable policy or strategy approved by the City to guide decision making

- N/A

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 have a positive socio-economic impact as temporary job creation will be result from the construction phase of the development. Furthermore, alterations and additions to create additional living space, such as proposed, are enhancements that usually increase the value of the property. Often such improvements also result in an increase in the value of surrounding properties as well.

b. Compatibility with surrounding uses

The proposal is residential in nature and is compatible with the surrounding area. The proposal will have very little, if any, impact on the rear neighbour

who is also the objector. The proposal allows for improved amenities of the dwelling and as such fits in with the building form in the residential area. The proposal, even though it is within the street building line, will have no impact on the streetscape.

- c. Impact on the external engineering services  
None.
- d. Impact on safety, health and wellbeing of the surrounding community  
The proposal will not impact on the area in terms of safety, health and wellbeing. The general appearance of the domestic staff quarters will complement the style of the existing main dwelling house. The rear boundary elevation is not unattractive and will not negatively affect the neighbouring properties.

The proposal will have a positive effect on the area in terms of enhancing the security in the area as there will be extra surveillance and thus less of an attraction to would-be criminals. Also, according to the National Building Regulations, common boundary walls can be up to a height of 2,1m, which is significantly higher than what currently exists. By merely exercising the rights in this regard, the applicant could impact far more on the objector than through what is currently proposed.

- e. Impact on heritage  
None.
- f. Impact on the biophysical environment  
None.
- g. Traffic impacts, parking, access and other transport related considerations  
N/A
- h. Conditions that can mitigate an adverse impact of the proposed land use  
N/A

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

### **6.3 Regarding the objection:**

- 6.3.1 The objection does not relate to the departure being applied for. The departure is on the street and thus does not affect the objector as the objector is situated on the western common boundary.
- 6.3.2 The objector believes that the proposed building will block the morning sun and cast a shadow that would result in the objector's home staying cold and damp. However, the proposed building is within the common boundary building lines on the western common boundary and quite a distance from the objector, and thus will not affect the neighbour's property. It must also be noted that, in terms of the Municipal Planning By-law, for the first 12m perpendicular to the street boundary, the applicant is allowed to build hard

up onto the common boundary up to a height of 10m to the top of the roof. Should the applicant exercise his rights, this will still not require consent from the objector even though it would have much more impact than what is proposed.

6.3.3 It is reiterated from Point 6.2.4(d) that according to the National Building Regulations, a common boundary wall can be up to 2,1m in height and thus the existing wall of  $\pm 1,5$ m in height complies and can in future be extended to 2,1m.

6.3.4 It must also be noted that, should a Consent in terms of the Title Deed application not have been necessary, the objector would not have been consulted as an affected party.

## 7 REASONS FOR DECISION

7.1 Reasons for the recommended decision for **approval** relating to the application for the Consent may be summarized as follows:

7.1.1 The street building line departure is minor and will not significantly or negatively affect the streetscape.

7.1.2 The proposed alterations will be compatible with the character of the surrounding urban area.

7.1.3 The proposal will not have a negative impact on neighbouring property owners. The proposal is at ground floor only. In addition, the objector's property is located quite a distance from the proposed building and will therefore not be subject to overshadowing as a result of the new construction.

7.1.4 The proposal will not impact on existing rights.

7.1.5 The fact that the domestic staff quarters extends for only a small portion into the street frontage further mitigates the impact.

## 8 RECOMMENDATION

In view of the above, it is recommended:

8.1 The application for departure for Erf 126683 Cape Town, as contained in Annexure A, **be approved** in terms of Section 98(b) of the Municipal Planning By-Law, 2015, in accordance with the site plat attached as Annexure C.

8.2 The application for Consent in terms of the Title Deed Restriction D.1.5. of Title Deed T25015/2015, **be approved** in terms of Section 98(b) of the Municipal Planning By-Law, 2015.

## ANNEXURES

Annexure A	Departures
Annexure B	Locality plan / Public participation map
Annexure C	Site development plan/ Layout plan
Annexure D	Applicant's motivation
Annexure E	Objection received
Annexure F	Applicant's response to objection received



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**Section Head : Land Use  
Management**Name Mark CollisonTel no 021 684 4343Date 02 September 2019

Comment

None  

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**District Manager**Name Chad NewmanTel no 021 684 4310Date 2 September 2019

Comment

# ANNEXURE

## A



# ANNEXURE A 544

In this annexure:

"City" means the City of Cape Town

"The owner" means the registered owner of the property

"The property" means **Erf 126683 Cape Town at Athlone, 37 Blossom Street, Silvertown**

"Bylaw" and "Development Management Scheme" has the meaning assigned thereto by the City of Cape Town Municipal Planning Bylaw, 2015 (as amended)

"Item" refers to the relevant section in the Development Management Scheme

"Dir: DM" means Director: Development Management or his/her delegatee.

**CASE ID:** 70357633

**This departure is linked to the plans drawn by Santiago Designs cc, with Case ID: 70357633 and dated 22/06/2017 (3 pages).**

**1. DEPARTURE FROM THE DEVELOPMENT MANAGEMENT SCHEME APPROVED IN TERMS OF SECTION 98 (B) OF THE MUNICIPAL PLANNING BY-LAW, 2015:**


- 1.1 Item 22(d): To permit the domestic staff quarters to be 2,085m in lieu of 3,5m from Colwyn Road.


**2. CONSENT IN TERMS OF RESTRICTIVE TITLE DEED CONDITION D.1.5. OF TITLE DEED T25015/2015:**

- 2.1 Consent in terms of Title Deed Restriction D.1.5. of Title Deed T25015/2015 which reads "The owner of this erf shall not make any alteration, additions or demolitions to any part of the building erected on the property including boundary walls and fences, and he shall also not change the external colour scheme or materials of such buildings without the written consent of the Local Authority, nor shall he permit the external appearance of the buildings to deteriorate into an untidy or dirty condition."

# ANNEXURE

## B

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT LOCALITY MAP		ANNEXURE :	
Overview	Erf: 126683		District: CAPE FLATS
	Allotment: CAPE TOWN		Suburb: SILVERTOWN
	Ward: 49		Sub Council: Subcouncil 17
	 1:1 200	Notices Served 	Support Received 
	Petition Signatory 	Objections Received 	
Generated by:		 <small>... Making progress possible. Together</small>	
Date: 02 September 2019			
File Reference:			

PLANNING AND BUILDING DEVELOPMENT MANAGEMENT LOCALITY MAP		ANNEXURE :			
Overview	Erf: 126761		District: CAPE FLATS		
	Allotment: CAPE TOWN		Suburb: SILVERTOWN		
	Ward: 49		Sub Council: Subcouncil 17		
	 1:15 000	Notices Served		Support Received	
		Petition Signatory		Objections Received	
Generated by:		 <b>CITY OF CAPE TOWN</b> ISIXEKO SASEKAPA STAD KAAPSTAD <small>...making progress possible. Together.</small>			
Date: 02 September 2019					
File Reference:					

# ANNEXURE

## C



Prop. DOMESTIC GUNNIES & B. Wm.  
for Mr P. A. & B. E. Arendse  
No 37 Blossom Street  
Silver Town, Athlone  
Erf no. 126683  
T. H. 222-24-5701

PA Alex wase

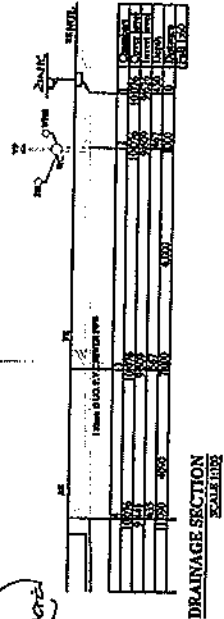
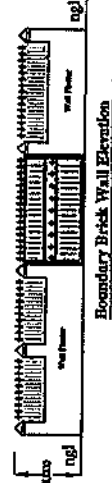
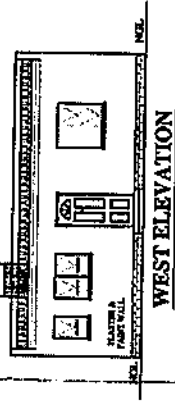
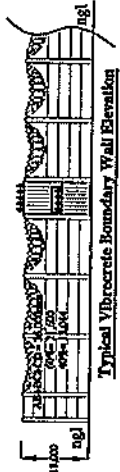
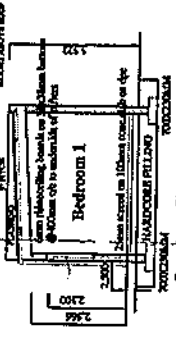
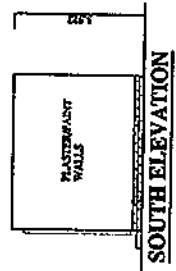
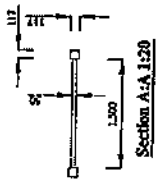
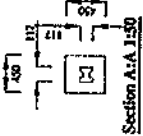
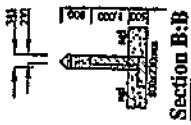
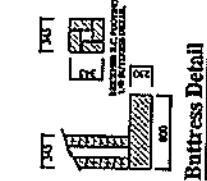
B. Frick

Area:	448,00m <sup>2</sup>
Exist. Coverage:	73,00m <sup>2</sup>
Prop. Domestic Surfacing:	35,00m <sup>2</sup>
Total	108,00m <sup>2</sup>
Percentage cov.	24,11%

**Walls supplied by  
Concretex limited**

**WALL.** 117mm walls and 50mm slabs on 450x450x600mm concrete footings. Walls under concrete slab to be solid to concrete footings. No footings to project beyond site boundary.

**SANTIAGO DESIGNS C.C.**  
K.W. BROWERS  
41 SANTIAGO STREET  
MALIBU VILLAGE  
BLUE DOWNS  
7100  
D 0409  
TEL/FAX: 021 909 4561  
CELL: 073 010 7059  
Email Address: [Avancera2996@gmail.com](mailto:Avancera2996@gmail.com)  
DRAWING: [KATY@OTHERS.22462017](mailto:KATY@OTHERS.22462017)



21682

126684

126758

[illegible]



# ANNEXURE

# D

MOTIVATION

CL-07.2017.

We the owners of property No 37 Blossom Street  
TRF No 126683 of Silverton would like to ~~an~~ extend/  
erect an outbuilding for my children, over  
the Building line. This erected space would be  
much appropriate onto the area located because  
of the existing sewerage. That is also on our  
premises.

We thank you for accepting our request.  
MR & MRS ARENDSE.

PP. *[Signature]*

# ANNEXURE E

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Brenda Craig  
51 Colwyn Road  
Silvertown  
Athlone  
7764

Vincent Klaasen  
Social District Planning Office  
Cape Town  
8000



Notice of Objection  
Refer propose second dwelling Site 37 Blossom Street  
Silvertown, Athlone  
Cadastral Description: 126683 Silvertown

I am an adult female 62 years of age, ID no 5509180103082 and residing at 51 Colwyn Road, Silvertown, Athlone, 7764 and home telephone no: 021-6335295.

My home is situated directly behind/next to the residence of Mr P Arendse, owner of 37 Blossom Street, Silvertown. The front of my house is facing the back of mentioned property of Mr Arendse. At present I am able to stand at my front door and have a view of the entire Bongo Street and part of Blossom Street, giving me a sense of openness and security/safety. The building at present is being experience no dampness on my building nor on my floors and do not feel blocked in. I do not experience that much invasion of my privacy seeing that my door faces to the side/back of neighbour's property.

These are thus my reasons/objection to the proposed erection of the second dwelling on the premises at 37 Blossom Street, Silvertown, Cadastral description 126683.

1. The proposed dwelling according to the plans which I had perused indicated that the front elevation of the second dwelling would be facing my front door, thus affecting my privacy.
2. The said building would obscure my view of Blossom Street and Bongo Crescent.
3. It would be blocking off the morning sunrise and would create a shade that would result in my home staying cold and damp throughout the morning.
4. My privacy would be affected as people that would be renting/staying there would be looking into my room, windows and front door on a 24 hour basis.
5. I would feel blocked in and thus affecting my safety.

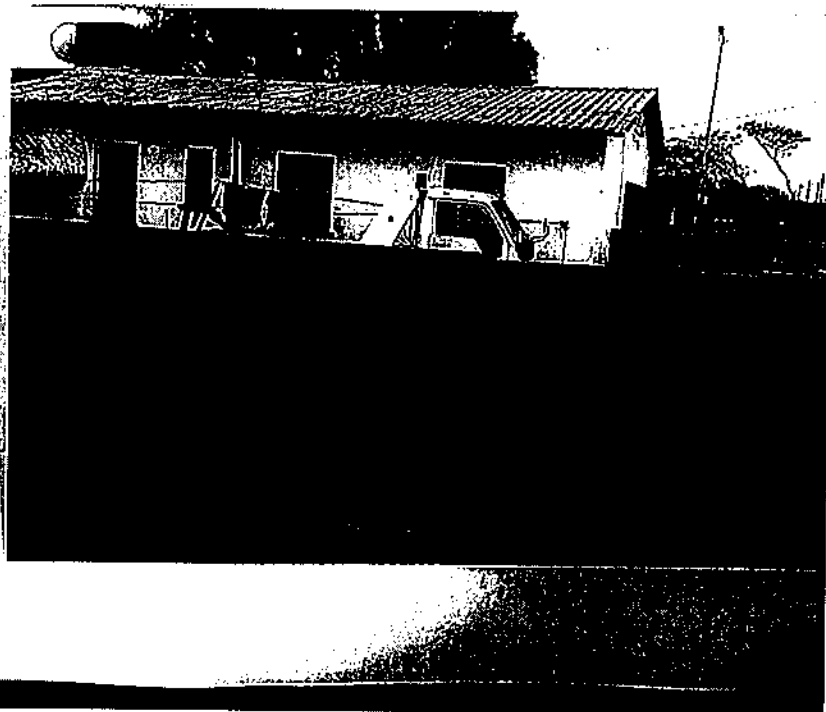
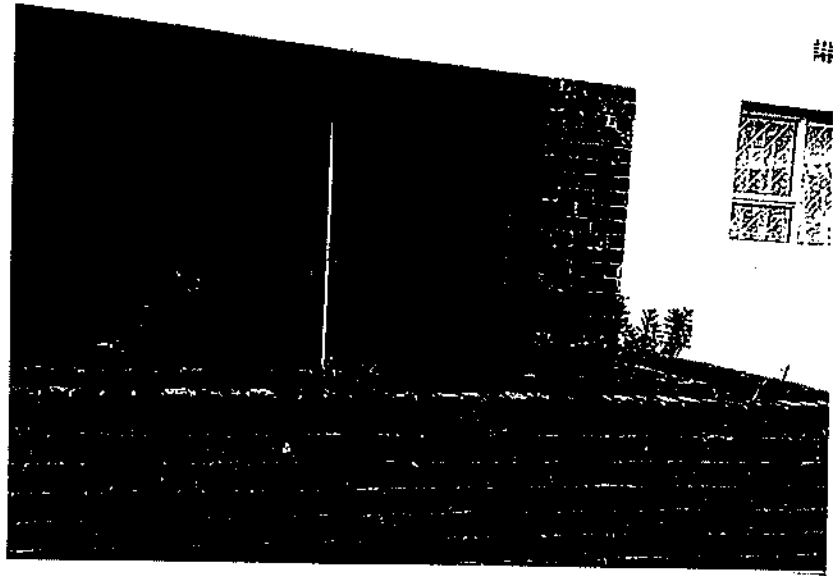
At present the owner Mr P Arendse is not living on this premises and is renting it out to other tenants. It is clear that his intention is to increase the amount of people on said property for financial gain, not considering the impact it may have on it's neighbour's/residence, not to mention the safety aspect. Several broken down vehicles/trucks and tow trucks is parked on his property, is unsightly.

I state these facts as reasons to object to the proposed plan to erect the second building on site 37 Blossom Street, Silvertown. Erf 126683.

I request the City of Cape Town Social District Planning office to consider my reason for objecting.

Yours sincerely  
Mrs B Craig

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# ANNEXURE

## F



MR. P.A & MRS BE ARNDSE  
 NO 37 Blossom Street  
 Silverton ATHONE  
 083 542 6701  
 ERF 1266 PS.  
 21-02-2019.

DEAR SIR / MADAM,

WE AS THE ABOVE OWNERS OF THIS PROPERTY HAS GONE THROUGH  
 a lot of hassels to buy this property. We have purchased  
 this property to have a sound and pleasant stay.  
 We are not interfering with our neighbours.  
 Thus far the complaints of our relevant neighbour  
 does not make preference for the development onto  
 our property.

① Point no 1

The front door of her property is facing Colwyn Road  
 and does not obscure her view.

② Point no 2 the view of Bongo crescent is not visible  
 from Colwyn street and statement is not relevant.

③ The building is more than 12 meters situated or proposed  
 to be erected for shade does not make sense.

④ We are as I right to erect a building as proposed  
 to leave for our convenience!

⑤ We will not accomodate people or family that  
 would affect her or others safety. We thank you!

Signature of Mrs B Arndse  
 MR Peter Arndse & Beulah Petra Arndse!

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# ANNEXURE

# G

**ANNEXURE G**  
**LIST OF RELEVANT PARTIES**

Applicant

562

Santiago Designs cc  
Attention: K W Browsers  
E-mail: [avanza209@gmail.com](mailto:avanza209@gmail.com)

Objector

1. B Craig (Erf 126684)  
51 Colwyn Road  
Silvertown  
ATHLONE  
7764