Application Number: LU/7133
Our File Reference Number: Erf 6685, Stellenbosch
Your Reference Number: None
Enquiries: Ulrich von Molendorff
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PER E-MAIL: ashleyabrahams01@yahoo.com/arendw@cluvermarkotter.law

Sir / Madam

APPLICATION FOR THE REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND A PERMANENT DEPARTURE: ERF 6685, 20 FONTEIN STREET, CLOETESVILLE, STELLENBOSCH

1. The above application refers.

2. The duly authorised decision maker has decided on the above application as follows:

2.1 That the following applications in terms of the Stellenbosch Municipality’s Planning By-law (2015) on Erf 6685, Stellenbosch:

2.1.1 The removal of restrictive title deed condition, condition E.5.b on page 5 of the Title Deed (T63819/2012) pertaining to Erf 6685, to facilitate the conversion of the existing double garage to a TV Room with new carport between the garage and the street with a double storey addition above the existing converted garage for a family room;

2.1.2 A Permanent Departure to relax the side building line adjoining Erf 6685, from 2.0m to 0.655m to facilitate the conversion of the existing double garage to a TV Room with new carport between the existing garage and the street with a double storey addition above the existing converted garage for a family room.

BE APPROVED in terms of Section 60 of the said By-Law.
2.2 Reasons for the above Decision

The application is supported for the following reasons:

(a) The proposed development supports and complies with the principles of the Stellenbosch Integrated Development Plan and the Municipal Spatial Development Framework as existing land within the urban edge is being redeveloped resulting in a form of "urban renewal";
(b) The proposal was extensively public participated as it was advertised to the relevant affected property owners via registered mail, in the local press and a public meeting was also held;
(c) The proposed additions and alterations are to be used for residential purposes which is the norm within the area;
(d) The proposal should have minimal impact on the adjoining neighbour as the proposed structures have no overlooking features and the existing footprint of the dwelling on ground floor will not be expanded;
(e) The proposed carport which will be located on the erf boundary is a flat roof structure thus resulting in minimal visual impact on the adjoining affected neighbour;
(f) The objector has not quantified any of the reasons provided for not supporting the application and should the applicant have complied with the objectors request the impact of the new building work on the objector would still not have been mitigated.

2.3 That such approval BE SUBJECT to the following conditions in terms of Section 66 of the said Bylaw:

(a) The approval only applies to the proposal in question, as indicated on Plan No 6685-07-2020-1 & Plan No 6685-07-2020-2, attached as Appendix 4 and shall not be construed as authority to depart from any other legal prescriptions or requirements from Council;
(b) The development be undertaken in accordance with the plan attached as Appendix 4;
(c) The applicant must after the publication of a notice in the Provincial Gazette apply to the Registrar of Deeds to make the appropriate entries in, and endorsements on, any relevant register or title deed to reflect the removal, suspension or amendment of the restrictive conditions;
(d) Building plans must be submitted to this Municipality for approval prior to any building work taking place on the property;
(e) That the approval granted of the relaxation of building line shall lapse if not acted upon within the period of five years from the date of approval;
3. You are hereby informed in terms of section 79(2) of the Stellenbosch Municipal Land Use Planning By-law, 2015, of your right to appeal the above decision to the Appeal Authority within 21 days from the date of notification of the above decision. Please note that no late appeals or an extension of time for the submission of appeals are permitted in terms of Section 80(1)(a) of the said By-Law.

4. Appeals must be submitted with the prescribed information to satisfy the requirements of Section 80(2) of the said By-law, failing which the appeal will be invalid in terms of Section 81(1)(b) of the said By-Law. The following prescribed information is accordingly required:

(a) The personal particulars of the Appellant, including:

(I) First names and surname;
(II) ID number;
(III) Company of Legal person’s name (if applicable)
(IV) Physical Address;
(V) Contact details, including a Cell number and E-Mail address;

(b) Reference to this correspondence and the relevant property details on which the appeal is submitted.

(c) The grounds of the appeal which may include the following grounds:

(i) that the administrative action was not procedurally fair as contemplated in the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000);

(ii) grounds relating to the merits of the land development or land use application on which the appellant believes the authorised decision maker erred in coming to the conclusion it did.

(d) whether the appeal is lodged against the whole decision or a part of the decision;

(e) if the appeal is lodged against a part of the decision, a description of the part;

(f) if the appeal is lodged against a condition of approval, a description of the condition;

(g) the factual or legal findings that the appellant relies on;

(h) the relief sought by the appellant; and
(i) any issue that the appellant wishes the Appeal Authority to consider in making its decision;

(j) That the appeal includes the following declaration by the Appellant:

(i) The Appellant confirms that the information contained in the subject appeal and accompanied information and documentation is complete and correct.

(ii) That the Appellant is aware that it is and offence in terms of Section 86(1)(d) of the said By-Law to supply particulars, information or answers in an appeal against a decision on an application, or in any documentation or representation related to an appeal, knowing it to be false, incorrect or misleading or not believing them to be correct.

5. Appeals must be addressed to the Municipal Manager and submitted to his/her designated official by means of E-mail at the following address: Lenacia.Kamineth@stellenbosch.gov.za.

6. An applicant who lodges an appeal must pay the applicable appeal fee in terms of the approved municipal tariffs and submit the proof of payment together with the appeal. The LU Reference number on this correspondence, or the applicable Erf/ Farm Number must be used as the reference for the payment of the appeal fee.


8. An applicant who lodge an appeal must also adhere to the following requirements stipulated in terms of section 80(3) to (7) of the said By-law:

(a) Simultaneously serve the appeal on any person who commented on the application concerned and any other person as the municipality may determine.

(b) The notice by the applicant must invite persons to comment on the appeal within 21 days from date of notification of the appeal.

(c) The notice must be served in accordance with section 35 of the said legislation and in accordance with the prescripts or such additional requirements as may be determined by the Municipality.

(d) Proof of serving the notification must be submitted to the Municipality at the above E-mail address within 14 days of serving the notification.

10. Kindly note the above decision is suspended, and in the case of any approval, may therefore not be acted on, until such time as the period for lodging appeals has lapsed, any appeal has been finalised and you’ve been advised accordingly.

Yours faithfully

FOR: DIRECTOR PLANNING AND ECONOMIC DEVELOPMENT

25/8/20
DATE:
CC:

Paulus and Beverley Ann Page
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STELLENBOSCH
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ANNEXURE 4