



File ref: 15/3/4-14/Erf_148

Enquiries:
Mr HL Olivier

5 June 2026

Van der Merwe & Orffer Architecture Pty Ltd
Devonbosch Estate
Building 4 C/O Bottelary Road & R 304, Koelenhof
STELLENBOSCH
7600

Attention: Helmut Orffer;

helmut@vdmarc.co.za

Dear Sir

APPLICATION FOR DEPARTURE OF DEVELOPMENT PARAMETERS: ERF 148, YZERFONTEIN

Your application, with reference RE: 519_Herrmann-Keys-Yzerfontein dated 13 October 2025 submitted on the 10th of March 2026, on behalf of Me PL Herrmann-Keys, refers.

- A. By virtue of the authority delegated to the Senior Manager: Development Management, in terms of Council Decision No. 4.1 dated 28 March 2019, as determined by Section 79(1) of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), the application for departure of the development parameters with regard to the street building line and side building line on erf 148, Yzerfontein, is hereby **REFUSED** in terms of Section 70 of the By-Law;

1. REASONS FOR REFUSAL

- (a) Non-compliance with the Development Management Scheme:

The proposal fails to comply with paragraphs 12.2.1(c)(i) and 12.2.2(a) of the Swartland Development Management Scheme. In particular, the structure exceeds the maximum permissible height of 4m applicable to garages within the street building line area, measuring approximately 5,5m(excluding an additional balustrade). The structure further incorporates a habitable roof component at first floor-level within the side and street building line area. Accordingly, the proposed development falls outside the scope of departures that may be considered in terms of the Scheme.

- (b) Absence of special circumstances:

Paragraph 12.2.1(e)(iii) requires that the Municipality be satisfied that special circumstances, including site-specific constraints such as topography, justify the proposed encroachment. The application does not demonstrate the existence of any such constraints and fails to provide evidence that the structure could not reasonably be accommodated in compliance with the prescribed building line. The justification advanced is based on accommodating a particular layout and additional garage space, which constitutes design preference rather than a special circumstance, and is therefore insufficient to warrant the proposed relaxation.

- Swartland vooruitdenkend 2040 - waar mense hul drome uitleef!
- Swartland forward thinking 2040 - where people can live their dreams!
- ISwartland ijonge phambili ku2040 -apho abantu beza kufezekisa amaphupho abo!

(c) Negative impact on the streetscape:

The municipality is not satisfied that the proposal will contribute positively to the streetscape. The proposed development results in a visually dominant and bulky structure located only 3,27m from the street boundary, it introduces built form of a scale and intensity inconsistent with the intended character of garage structures within building line setbacks as well as creates a double-storey street interface due to the habitable roof component. The proposal is therefore considered inconsistent with the objectives of the building line control and broader spatial planning principles promoting coherent and context-sensitive development. In this regard, the Municipality is not satisfied that the proposal is desirable from a spatial planning perspective, as it detracts from the established streetscape character and quality of the area.

(d) Inadequate and misleading motivation:

The application characterises the encroachment as minor and relating to a garage structure only, however it is clear that the building work departed from the approved building plan (Ref nr 505/2014) especially along the eastern elevation. Extensions to the dwelling as well as the garage have been unlawfully constructed within the building line area without the necessary approval. The encroachments therefore constitute a substantial extension.

The internal dimension (7,63m x 6,25m) as well as the height and bulk of the garage structure significantly exceeds that of a typical garage. With no motivation provided for the excessive length, height as well as the habitable area on first floor level, the submission fails to adequately address the material planning considerations relevant to the application. The proposed departures are therefore not justified as it has not been demonstrated that a reasonable and compliant development alternative is not achievable on the property.

(e) The proposal if approved will result in the retrospective regularisation of extensive unauthorised development:

The application seeks to retrospectively legalise extensive building works undertaken without approved building plans. While the lodging of a departure application to regularise such development is not prohibited, approval requires a clear and compelling planning justification, which has not been provided in this instance. Approving the application would undermine orderly development management and create a perception that compliance with planning controls is optional, subject to later regularisation.

(f) The proposal undermines the purpose and consistency of planning controls:

If approved, the proposed development would undermine the purpose and effectiveness of building line controls, which are intended to protect spatial quality, visual amenity and coherent urban form. It will also compromise the Municipality's ability to apply development parameters consistently and equitably. The Municipality is not satisfied that the proposal serves the public interest, as it prioritises private design preferences over the orderly and consistent application of planning controls. Approval in these circumstances would erode the integrity of the development management system and would be contrary to sound planning and land use management principles.

B. GENERAL

- (a) The owner / developer be instructed to remove, modify, or alter the unauthorised structures on the property so as to ensure compliance with the applicable development parameters of the Swartland Municipality: Municipal Land Use Planning By-Law and applicable development management scheme. In the event that alteration or modification of the structures is proposed as a remedial measure, the owner / developer be required to submit revised building plans for approval, which must fully comply with the applicable development parameters as well as National Building Regulations prior to implementation.
- (b) The owner / developer be informed that failure to initiate appropriate remedial action within 30 (thirty) calendar days from the date of this decision shall result in the municipality instituting the necessary enforcement and legal action in respect of the identified contraventions, without further notice, in

- should be done within 21 days of notification of the decision and should be accompanied by proof of payment of the applicable fee of R 5 000.00. Appeals received late and/or that do not comply with the requirements, will be considered invalid and will not be processed.

Yours sincerely


MUNICIPAL MANAGER
per Department Development Services
H/O/ds

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