

MEETING OF THE HERITAGE WESTERN CAPE, APPEALS COMMITTEE

Approved Minutes of a Meeting of the Appeals Committee of Heritage Western Cape held on Wednesday, 22 May 2019, at 09H30 in the 1st Floor Boardroom at the Protea Assurance Building, Greenmarket Square, Cape Town

1. Opening and Welcoming

The Chairperson Ms Corlie Smart officially opened the meeting at 09:35 and welcomed everyone present.

2. Attendance

Appeals Committee

Ms Corlie Smart (CSm)	Appeals Chairperson
Dr Andre van Graan (AvG)	Appeals Committee Member
Dr Nicolas Baumann (NB)	Appeals Committee Member
Mr Rowen Ruiters (RR)	Appeals Committee Member
Mr Tseliso Leshoro (TS)	Appeals Committee Member

HWC Staff

Ms Penelope Meyer (PMe)	Legal Advisor
Mr Andrew September (AS)	Heritage Officer
Ms Heidi Boise (HB)	Heritage Officer
Ms Waseefa Dhansay (WD)	Assistant Director
Ms Stephanie Barnardt (SB)	Heritage Officer
Mr Olwethu Dlova (OD)	Admin Officer
Mr Lwazi Bhengu (LB)	Heritage Officer

Visitors

Mr. Bruce Burmeister	Ms. Ursula Rigby
Ms. Theuna Stoltz	Ms. Carrie Frencken
Mr. Chris Bakker	Mr. Marnus Botha
Adv. Gesie Van Deventer	Mr. Andrew Goodwin

Observers

None

3. Apologies

Ms Colette Scheermeyer (CSc)
Ms Aneeqah Brown (AB)

4. Approval of agenda

The Appeals Committee resolved to approve the agenda dated 22 May 2019 with additional item.

5. Approval of minutes of the previous meeting

5.2 Dated 17 April 2019

The Committee resolved to approve the previous minutes dated 17 April 2019 with amendments.

6. Disclosure of Interest

- AvG: item 10.2

7. Confidential Matters

7.1 None

8. Administrative Matters

8.1 Outcomes of the Tribunal Committee

Nothing to report.

8.2 Recent Court Decisions

8.3 Site Visits

The relevant case officer will make timeous arrangements with the owners/applicants of properties for the purpose of site visits.

The following site visits were conducted by Committee members:

- Proposed Addition and Alteration, Erf 4140, Ou Hoof Gebou, Stellenbosch University, Stellenbosch: Section 49 (Section 27 – Addition and Alteration)
- Proposed Tourist Facility, Remainder of Farm 1560, Paarl

8.4 Potential Site Visits

- Proposed Total Demolition of Erf 25889, 321 Main Road, Observatory: Section 49 (Section 34 – Total Demolition)
- Proposed Total Demolition of 3 Buildings & Consolidation for The Development of A Four Storey (Lower Ground Parking, 2 Floors & a Floor In The Roof) Erven 31751; Erven 31752; Erven 150019 (Section 34 – Total Demolition)
- Proposed Total Demolition, Erf 1556, 21 Bree Street, Cape Town CBD
- Proposed Total Demolition and replacement development on Erf 2425, Corner Banghoek and De Beers Street, Stellenbosch
- Proposed Development of a Multi-Storey Student Apartment Accommodation, Erven 143, 144, 145, 166, 167, 168, 169, 170, Dennesig and Paul Kruger Roads, Stellenbosch

9. Matters Arising

9.1 Proposed Addition and Alteration, Erf 4140, Ou Hoof Gebou, Stellenbosch University, Stellenbosch: Section 49 (Section 27 – Addition and Alteration)

Case No: 18103112HB1107E

The matter was postponed and will be heard on 13 June 2019.

Heidi Boise

9.2 Proposed Total Demolition, Erf 624 and 642, Marine Drive, Hermanus Section 49 (Section 34 – Total Demolition)

Case No: 18080303WD0806E

Ms Waseefa Dhansay introduced the item.

Mr. Bruce Burmeister was present and took part in the discussion.

In summary it was noted in discussion that:

- The appeal was previously before the Appeals Committee and required a revised proposal.
- BB indicated that the Appellant consulted with the I& AP's and they support the new revised proposal.
- The setback and roofline of the building will be the same as the original building.
- The gables will be kept.

In summary, the committee noted and took the following into account:

- Overstrand Heritage Aesthetics Committee (OHAC) had been engaged and has supported the plans submitted.
- The new development proposal has addressed the concerns raised by the Appeals Committee.

DECISION:

The appeal is partially upheld and the submission contained in motivation report dated 11 April 2019 prepared by Bruce Burmeister Architects option A drawing 07a is approved. Municipal building plans must be submitted to HWC for final approval.

Waseefa Dhansay

9.3 Proposed Total Demolition, Erf 1455, 14 Kotze Street, Gardens Section 49 (Section 34 – Total Demolition)

Case No: 18050710ZK0509E

Ms Waseefa Dhansay introduced the item.

Ms. Ursula Rigby, Ms. Theuna Stoltz, Ms. Carrie Frencken and Mr. Chris Bakker (CB) were present and took part in the discussion.

In summary it was noted in discussion that:

- SB indicated that the scale of the roof is lower than the previous proposal.
- The new proposal's roof will be symmetrical.
- The new proposal conforms to the heritage indicators

In summary, the committee noted and took the following into account:

- The new development proposal has addressed the concerns raised by the Appeals Committee.

DECISION:

1. The appeal is upheld and the revised proposal contained in the motivation report dated 10 May 2019 is approved. Municipal building plans must be submitted to HWC for final approval.
2. Work to be done strictly in accordance with the HWC stamped plans.
3. The replacement structure on Erf 1455, 14 Kotze Street, Gardens must be completed within three years of the date of issue of the permit for demolition, failing which a new application to approve the proposed replacement structure will be required in terms of the NHRA, regardless of whether demolition of the existing structure has taken place or not.

Waseefa Dhansay

9.4 Proposed Upgrade and Redevelopment of Tourist Facilities, Rem. Farm 1560, Domaine Brahams Farm, Vryguns Road, Windmeul, Paarl Section 49 (Section 38(4) – Heritage Impact Assessment)

Case No: 19011502LB0218E

Appeals Committee reported back on the site visit undertaken on 13 May 2019. Site visit report prepared by AvG dated 20 May 2019 attached (annexure SI1).

Mr. Marnus Botha and Adv. Gesie van Deventer (GvD) were present and took part in the discussion.

In summary it was noted in discussion that:

- The appeal is an appeal against an HOMS decision to request an HIA.
- GvD submitted:
 - The farms in the Windmeul area are small farms and small holdings.
 - The farm was not used for agricultural purposes prior to her acquiring the farm and planted vineyards on the farm.
 - The area has no heritage value.
 - The proposed new development will not be visible from the road.

In summary, the committee noted and took the following into account:

- The cultural landscape is of little if any significance.
- No heritage resources will be impacted on.

DECISION

The appeal is upheld.

Lwazi Bhengu

9.5 Proposed Addition and Alteration, Erf 9096, 6 Mill Street, Paarl: Section 49 (Section 34 Addition and Alteration)

Case No: 17072520WD0425M

Ms. Waseefa Dhansay introduced the item.

In summary it was noted in discussion that:

- The Appeal was on the Appeals Agenda of 17 April 2019 Appeals Committee Meeting.
- The applicant previously requested that the appeal be postponed to 22 May 2019 due to his unavailability to attend the Appeals Committee meeting of 17 April 2019.
- The Appeal was postponed to 22 May 2019 as requested.
- Prior to the 22 May 2019, meeting the appellant requested HWC to let the appeal stand down until 14:00.
- The appellant was informed that the matter will be held over until the last agenda item but his request to hold until 14:00 could not be granted.
- All the items on the agenda were heard and the Committee proceeded with the appeal after the case officer confirmed that the Appellant was not in the waiting area outside the meeting room
- The matter was heard at 12:20 during the open session of the meeting. The Appellant was not present.
- The case officer gave a PowerPoint presentation.
- AvG gave a report back on the site inspection.

In summary, the committee noted and took the following into account:

- The contents of all documents provided to the Appeals Committee as well as the site inspection report were noted.
- Certain unauthorised work has been undertaken on the buildings and the site.
- The church floor is currently at a higher level than it was originally, but this was done at an earlier stage.
- The church gallery is reached by a spiral staircase.
- The church ceiling is at a lower pitch to the roof above.
- The addition to the rear of the church is later.
- The manse has been altered on the north side, where it links to an older structure, with a staircase that has been inserted.
- Rooms have been inserted in the attic.
- Ground floor rooms in the house have had wide openings inserted between the rooms.
- The proposal calls for dormer windows to be inserted in both the church and the manse.
- A link from the proposed upper level of the church to the upper level of the tower has also been proposed.
- A new entrance to the property through the boundary wall was pointed out during the inspection.
- The boundary wall on the north side is new, with inserted railings.
- In terms of section 34(1) of the NHRA, any structure or part of a structure which is older than 60 years may not be altered or demolished without a permit issued by HWC.

- Prior to the application for a permit in terms of section 34 (1) of the NHRA, the Appellant altered and demolished structures or a part of a structure older than 60 years without obtaining a permit before commencing the work (“unauthorised work”).
- HWC and its committees cannot in terms of section 34 of the Act issue a permit ex post facto.
- BELCom required a Status Quo report to be submitted by an independent professional. Gabriel Fagan Architects were appointed and the report was submitted to BELCom.
- According to the report the “place” was graded as a Grade 3A. The grading of the “place” includes buildings or structures, a group of buildings or structures as well as the immediate surroundings of a place.
- The committee was of the opinion that a heritage agreement must be entered into between the Appellant and HWC in order to address the unauthorized work that was undertaken by the Appellant and mitigation measures to be implemented.
- The appellant’s reasons for his appeal and written motivation did not disclose sufficient reason why a heritage agreement should not be entered into whereby the appellant is required to mitigate the unauthorized work as set out in the report Status Quo report by Gabriel Fagan Architects.
- The Appellant’s application for new and additional work cannot be assessed and decided before a heritage agreement is entered into between the Appellant and HWC, and the mitigation measures relating to the unauthorized work have been implemented in terms of such an agreement.

DECISION

The appeal is dismissed.

Waseefa Dhansay

10. New Matters

10.1 Proposed Total Demolition of Erf 25889, 321 Main Road, Observatory: Section 49 (Section 34 – Total Demolition)

Case No: 18021205SB0228M

The Committee resolved to undertake a site inspection on Tuesday, 4 June 2019 at 09:30. The matter is for noting – appeal will be heard on 14 June 2019.

Stephanie Barnardt

10.2 Proposed Total Demolition of Erf 45427, 1 Grosvenor Road, Rosebank, Cape Town: Section 49 (Section 34 – Total Demolition)

Case No: 18111302SB1114E

AvG recused himself and left the room.

Ms Stephanie Barnardt introduced the item.

Mr. Andrew Goodwin (AG) was present and took part in the discussion.

In summary it was noted in discussion that:

- AG indicated that BELCom erred in its assessment of the heritage value of the area within which the site is located.
- That even if the area was conservation worthy, the new proposal was an improvement on the existing building.
- Submitted that RAMPAC's objection was filed out of time.

In summary, the committee noted and took the following into account:

- The area has no coherent streetscape.
- Immediate context and local streetscape is of little if any heritage significance.
- The demolition of the structure will have no heritage impact.

DECISION

The appeal is upheld. The total demolition of the structure is approved.

Stephanie Barnardt

10.3 Proposed Total Demolition of 3 Buildings & Consolidation for the Development of A Four Storey (Lower Ground Parking, 2 Floors & A Floor In The Roof) Erven 31751; Erven 31752; Erven 150019, 29 Alma Road, Rosebank (Section 34 – Total Demolition)

Case No: 17111605ZK1122E

The Committee resolved to undertake a site inspection on Tuesday, 4 June 2019 at 09:30. The matter is for noting – appeal will be heard on 14 June 2019.

Stephanie Barnardt

10.4 Proposed Total Demolition, Erf 1556, 21 Bree Street, Cape Town CBD: Section 49 (Section 34 Total Demolition)

Case No: 18103118HB0206E

The Committee resolved to undertake a site inspection on Tuesday, 4 June 2019 at 09:30. The matter is for noting – appeal will be heard on 14 June 2019.

Heidi Boise

10.5. Proposed Total Demolition and Replacement Development on Erf 2425, Corner Banghoek and De Beers Streets, Stellenbosch: Section 49 (Section 34 Total Demolition)

Case No.: 18061205ZK0619E

The Committee resolved to undertake a site inspection on Tuesday, 4 June 2019 at 09:30. The matter is for noting – appeal will be heard on 14 June 2019.

Andrew September

10.6 Proposed Development of a Multi-Storey Student Apartment Accommodation, Erven 143, 144, 145, 166, 167, 168, 169, and 170, Dennesig and Paul Kruger Roads, Stellenbosch: Section 49

Case No: 18062502HB0627M

The Committee resolved to undertake a site inspection on Tuesday, 4 June 2019 at 09:30. The matter is for noting – appeal will be heard on 14 June 2019.

Heidi Boise

11. Other Matters

12. Adoption of decisions and additions:

The Appeals Committee resolved to adopt the decisions.

13. Proposed next date of the meeting: 14 June 2019

14. Closure: 13:00

Chairperson's Signature.....

Date.....