



MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING VIRTUALLY HELD ON WEDNESDAY, 14 MAY 2025 AT 14:00

PRESENT

Internal members:

Municipal Manager, Mr J J Scholtz (chairperson)
Director: Corporate Services, Ms M S Terblanche
Director: Protection Services, Mr P A C Humphreys

External members:

Ms C Havenga
Mr C Rabie

Other officials:

Director: Development Services, Ms J S Krieger
Senior Manager: Development Management, Mr A M Zaayman
Town and Regional Planner, Ms A de Jager
Manager: Secretariat and Record Services (secretary)

1. OPENING

The chairperson opened the meeting and welcomed members.

2. APOLOGY

No apologies were received.

3. DECLARATION OF INTEREST

RESOLVED that the declaration by Ms C Havenga be noted in respect of Item 5.1 to the extent that the objector is known to Ms Havenga, however Ms Havenga confirmed that there were no discussions on the item.

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 9 APRIL 2025

RESOLUTION

(proposed by Ms C Havenga, seconded by Ms M S Terblanche)

That the minutes of a Municipal Planning Tribunal Meeting held on 9 April 2025 are approved and signed by the chairperson.

5. MATTERS ARISING FROM MINUTES

5.1 PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURE ON ERF 28, YZERFONTEIN (15/3/6-14) (WARD 5)

The chairperson requested Ms A de Jager to highlight the amendments in the report as the matter was discussed in detail at the meeting of the Municipal Planning Tribunal held on 9 April 2025. Ms de Jager mentioned the following:

- (1) The report was compiled with both the reasoning for the approval of the removal of the restrictive condition (as considered by the Municipal Planning Tribunal on 9 April 2025) and the refusal of the restrictive condition (as resolved by the Municipal Planning Tribunal

on 9 April 2025 to amend the report to accommodate the refusal) and therefore a transparent and justifiable decision can be reached;

- (2) With the re-evaluation of the application the following matters were taken into account:
- (i) Additional photographs during a site inspection;
 - (ii) Case Law;
 - (iii) Requirements of Section 42 of SPLUMA, Chapter VI of LUPA and Paragraph 43 of the By-Law.

RESOLUTION

- A.** The application for departure on Erf 28, Yzerfontein, be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- B.** The application for the removal of restrictive conditions registered against Title Deed T28340/2017 of Erf 28, Yzerfontein, be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);

B1 TOWN PLANNING AND BUILDING CONTROL

- (a) The development proposal contradicts the spatial principles of section 42 of SPLUMA and Chapter VI of LUPA and therefore cannot be supported;
- (b) The proposal contradicts the criteria cited in section 47 of SPLUMA, section 39 of LUPA and section 43 of the By-Law;
- (c) Erf 28 is already developed to its optimal potential;
- (d) The proposed departure and removal of restrictions are not essential to assert the rights of the applicant;
- (e) The departure from the 4m street building line impacts negatively on the view from Erf 29, Yzerfontein. A view is not a right, unless the structure that obscures the view, departs from the prescribed development parameters. As the proposal is to depart from the building line and in doing so the view from Erf 29 is obstructed, the rights of the property owner of Erf 29 are negatively affected and the application cannot be approved;
- (f) The imposition of the restrictive title deed condition relating to the street building line created a wide, unobstructed visual corridor along St Cross Street. The character of the street will be negatively impacted by both the current and potential encroachment of the street building line;
- (g) The proposed removal of the Title Deed conditions negatively impacts on the rights enjoyed by both the property owners of Erf 29, as well as the broader community and thus cannot be positively motivated or supported;
- (h) The owner/developer is instructed to remove the pergola within thirty (30) calendar days from the registration of the approval letter.

C. GENERAL

The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Yzerfontein, 7299 or by e-mail to swartlandmun@swartland.org.za, within 21 days of notification of decision. An appeal is to comply with section 90 of the By-Law and is to be accompanied by a fee of R5 000,00 in order to be valid. Appeals that are received late and/or do not comply with the aforementioned requirements, will be considered invalid and will not be processed.

6. MATTERS FOR CONSIDERATION

None.

(SIGNED) J J SCHOLTZ
CHAIRPERSON