



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON WEDNESDAY, 11 MARCH 2020
AT 14:00 IN THE COMMITTEE ROOM: CORPORATE SERVICES**

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:

Mr C Rabie
Mr W Steyn

Other officials:

Senior Manager: Built Environment, Mr A M Zaayman (advisor)
Manager: Secretariat and Records, Ms N Brand (secretariat)
Director: Development Services, Ms J S Krieger
Snr Town and Regional Planner, Mr A J Burger
Town and Regional Planner and GIS Administrator, Mr H Olivier
Town and Regional Planner, Ms A de Jager

1. OPENING

The chairperson opened the meeting and welcomed members.

2. APOLOGY

No apologies were received.

3. DECLARATION OF INTEREST

RESOLVED that cognisance is taken that no declaration of interest was received.

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 12 FEBRUARY 2020

RESOLVED

(proposed by Mr P A C Humphreys, seconded by Mr C Rabie)

That the minutes of a Municipal Planning Tribunal Meeting held on 12 February 2020 (with corrections) are approved and signed by the chairperson.

5. MATTERS ARISING FROM THE MINUTES

None

6. MATTERS FOR CONSIDERATION

6.1 PROPOSED DEPARTURE ON ERF 1531, MOORREESBURG (15/3/4-9) (WARD 1)

That author, Ms A de Jager, tabled the application for the departure from the 1 m lateral building line along the eastern property boundary by reducing it to 0 m, in order to amend the internal layout of the existing buildings and to construct a new garage on Erf 1531, Moorreesburg.

RESOLUTION

- A. The application for building line departure on Erf 1531, Moorreesburg, is approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The building line departure from 1 m to 0 m on the eastern side of Erf 1531 be restricted to the proposed bathroom, braai room and garage, as presented in the application;
- (b) The internal layout of the braai room be amended for the braai and chimney to be situated at least 1 m from the property boundary;
- (c) The braai room be adequately ventilated in accordance with the National Building Regulations;
- (d) The garage be amended to establish an additional parking in front of the garage;
- (e) Fireproof shutters be installed on windows between the existing dwelling and the new garage;
- (f) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (g) The construction material and finishes of the garage be in keeping with that of the existing buildings, as presented in the application and to the satisfaction of the Senior Manager: Built Environment;
- (h) No stormwater from the garage be discharged onto adjacent properties, but be contained in the existing stormwater management system;

B. GENERAL

- (a) The approval is, in terms of section 76(2)(w) of the By-Law, only valid for a period of 5 years. All conditions of approval be complied with within the 5 year period and failing to do so will result in this approval expiring;
- (b) The applicant/objector is informed of the right to appeal against this decision of the Municipal Planning Tribunal, within 21 days of this notice, in terms of section 89(2) of the By-Law;
- (c) The approval does not exempt the applicant from adherence to any and all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies;

- C. That the application is supported for the following reasons:

- (a) Building line departure is a mechanism provided for by the By-Law, with specific reference to side and rear building lines. The proposed garage will adhere to the conditions regarding width, height and construction, as required by the By-Law;
- (b) The proposed braairoom and garage constitute amenities associated with residential zones and are thus consistent with the character of the surrounding area;
- (c) The impact of the proposed departure on the quality of life of the immediate and surrounding residents is considered minimal, and have been adequately mitigated through the proposal and conditions imposed.
- (d) The building line departure is considered desirable within the spatial context;
- (e) The biggest part of the application relates to an existing approved structure.

6.2 APPLICATION FOR REZONING AND CONSENT USE ON ERF 508, CHATSWORTH (15/3/3-2; 15/3/10-2) (WARD 4)

Mr H Olivier, as author, tabled the item and confirmed that the application for the rezoning and consent use on Erf 508, Chatsworth is made in order to authorise the existing hardware store and to allow for the operation of a place of entertainment to operate a dance hall.

Resolution/...

RESOLUTION

- A. The application for the rezoning of Erf 508, Chatsworth from Residential Zone 1 to Business Zone 1, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017);
- B. The application for the consent use on Erf 508, Chatsworth, be approved in terms of section 70 of the Swartland Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017);
- C. The approvals mentioned in A and B above are subject to the following conditions:

C1 TOWN PLANNING AND BUILDING CONTROL

- (a) The approval of the consent use be restricted to a place of entertainment as presented in the application;
- (b) At least 4 on-site parking bays, as well as one loading zone, be provided on-site in accordance with the Scheme Regulations to the satisfaction of the Senior Manager: Built Environment. The parking should be clearly marked;
- (c) Application be made to the Director: Development services for an entertainment licence;
- (d) Any noise created by the facility on or in the vicinity of the property be compliant with the Western Cape Noise Control Regulations, 2013;
- (e) The place of entertainment area be made soundproof to the satisfaction of the Municipality at building plan stage in accordance with the Western Cape Noise Regulations, 2013;
- (f) The collection and disposal of bottles from the bar to the refuse building be restricted to take place between 08:00 and 18:00 and disposing of any glass objects from the pub outside these times are strictly prohibited;
- (g) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (h) the hours of trade shall be as per the applicable location category (neighbourhood business areas including mixed use areas) as per the Municipality's By-law relating to control of undertakings that sell liquor to the public (PN 7394 dated 22 May 2015);

C2 SEWERAGE

- (a) A conservancy tank be installed with sufficient capacity to service the establishment to the satisfaction of the Municipality;

C3 WATER

- (a) The existing water connection be used and that no additional water connection be provided;

C4 STREETS

- (a) Deliveries only be done by delivery vehicles with a GVM not higher than 16 000 kg;
- (b) The owner ensures that no obstruction for other road users occurs and all traffic-related matters be adhered to;

C5 ESKOM

- (a) Underground services indicated are only approximate and the onus is on the applicant to verify its location;
- (b) There may be LV overhead services/connections not indicated on the drawing;
- (c) The successful contractor applies for the necessary agreement forms and additional cable information not indicated on the included drawing, in order to start construction;
- (d) Should it be necessary to move, relocate or support any existing services for possible future needs, it will be at the developer's cost;
- (e) Works be carried out as indicated on plans;
- (f) No mechanical plant be used within 3.0m of Eskom underground cables;
- (g) All services be verified on-site;
- (h) Cross trenches be dug by hand to locate all underground services before construction work commences;

6.2(C5)/...

- (i) If Eskom underground services cannot be located or are grossly misplaced from where the wayleave plan indicates, then all work is to be stopped and the Land Development Office be contacted on 021 980 3551, to arrange the capturing of such services;
- (j) In cases where proposed services run parallel with existing underground power cables the greatest separation as possible should be maintained with a minimum of 1000 mm;
- (k) Where proposed services cross underground power cables the separation be a minimum of 300 mm with protection between services and power cables (preferably a concrete slab);
- (l) No manholes, catch- pits or any structure be built on top of existing underground services;
- (m) Only walk-behind (2-ton Bomac type) compactors be used when compacting on top of and 1 m either side of underground cables;
- (n) If underground services cannot be located then the Customer Network Centre (CNC) should be consulted before the commencement of any work;
- (o) No work or no machinery be carried out or operated nearer than 3.0 m from 11 kV conductors;
- (p) Where applicable, no work or no machinery be carried out or operated nearer than 3.2 m from 66 kV conductors;
- (q) Where applicable, no work or no machinery be carried out or operated nearer than 3.8 m from 132 kV conductors;
- (r) Wayleaves, Indemnity form (working permit) and all as-built drawings issued by Eskom be kept on-site at all times during the construction period;

C6 GENERAL

- (a) No activities associated with the place of entertainment may take place before all conditions of approval have been met;
- (b) The approval is, in terms of section 76(2)(w) of the By-Law valid for a period of 5 years;
- (c) As the dwelling has already been converted into a business premises and the activities on erf 508 have already commenced, all conditions of approval be complied with within a period of 3 months from approval and failing to do so will result in the approval expiring;
- (d) The applicant/objectors be informed of the right to appeal against this decision of the Municipal Planning Tribunal, within 21 days of this notice, in terms of section 89(2) of the By-Law;
- (e) The approval does not exempt the applicant from adherence to any and all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies;
- (f) The Municipality reserves the right in terms of Section 76(12) of the By-Law to impose additional conditions at any given time to minimise the impact or potential impact of the place of entertainment when deemed necessary by the Senior Manager: Built Environment;

D. The application is supported for the following reasons:

- (a) Erf 508 is situated inside the envisaged CBD of Chatsworth making this application in compliance with the provisions of the SDF.
- (b) The proposal complies with the zoning parameters of the business zone 1 zoning.
- (c) Mitigation and management measures are imposed as conditions of approval for the place of entertainment. This will ensure that the facility has a minimal impact on the surrounding residential properties.
- (d) Any nuisance created outside erf 508 needs to be addressed by the Division: Law Enforcement and SAPS. The owner of the facility cannot be held responsible.
- (e) The application complies with the principles of LUPA and SPLUMA.
- (f) Public interest is regarded positively towards the proposed consent use for the place of entertainment.
- (g) There are no restrictions registered in the title deed of the property that prohibits the proposed rezoning and consent use.

6.3 APPLICATION FOR A CONSENT USE ON ERF 896, YZERFONTEIN

The author, Mr A J Burger, tabled that item and explained that the owner wishes to convert the existing dwelling and outbuildings into a double dwelling house.

RESOLUTION

- A. The application for a consent use on erf 896, Yzerfontein is approved in terms of Section 70 of the Swartland Municipality Land Use Planning By-Law (PG 7741 of 3 March 2017) for a double dwelling house, subject to the following conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) Building plans be submitted to the Senior Manager : Built Environment for consideration and approval;
- (b) The double dwelling house complies with the parameters of the existing zoning;

A2 WATER

- (a) The property makes use of the existing water connection and that no additional connections will be provided;

A3 SEWERAGE

- (a) A conservancy tank of sufficient capacity be provided and said tank be accessible to the vacuum truck from the street to the satisfaction of the Director: Civil Engineering Services;

A4 CAPITAL CONTRIBUTIONS

- (a) The development charges for the regional bulk distribution of water is R5 402,70. This capital contribution is payable to Swartland Municipality at building plan stage. The amount is payable to vote number 9/249-176-9210 and is valid for the financial year of 2019/2020 and may be revised thereafter;
- (b) The fixed development charges towards bulk water supply be made to the Municipality to the amount of R6 534,30 at building plan stage. The amount is payable to vote number 9/249-174-9210 and is valid for the financial year of 2019/2020 and may be revised thereafter;
- (c) The fixed development charges towards sewerage be made to the Municipality to the amount of R6 080,05 at building plan stage. The amount is payable to vote number 9/240-184-9210 and is valid for the financial year of 2019/2020 and may be revised thereafter;
- (d) The fixed development charges towards waste water treatment works must be made to the Municipality to the amount of R8 970,00 at building plan stage. The amount is payable to vote number 9/240-184-9210 and is valid for the financial year of 2019/2020 and may be revised thereafter;
- (e) The fixed development charges towards roads be made to the Municipality to the amount of R11 500,00 at building plan stage. The amount is payable to vote number 9/249-188-9210 and is valid for the financial year of 2019/2020 and may be revised thereafter;
- (f) The fixed development charges stormwater be made to the Municipality to the amount of R4 560,90 at building plan stage. The amount is payable to vote number 9/248-144-9210 and is valid for the financial year of 2019/2020 and may be revised thereafter;
- (g) The fixed development charges towards electricity be made to the Municipality to the amount of R10 419,00 at building plan stage. The amount is payable to vote number 9/253-164-9210 and is valid for the financial year of 2019/2020 and may be revised thereafter;
- (h) The Council's resolution dated May 2019 there makes provision for a 40% rebate applicable on the capital contributions of Swartland Municipality. The rebate is valid for the 2019/2020 financial year and may be revised thereafter. However, the rebate is not applicable to point A4(a);

A5 GENERAL

- (a) The applicant/objector be informed of the right to appeal against this decision of the Municipal Planning Tribunal, in terms of section 89(2) of the By-Law;

6.3(A5)/...

- (b) This approval is in terms of section 76(2)(w) of the By-Law valid for a period of 5 years. All conditions of approval must be complied with within the 5 year period and that failing to do so will result in this approval expiring;
- (c) The approval does not exempt the applicant from adherence to any and all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies;

B. The application is supported for the following reasons:

- (a) Erf 896 has no physical restrictions which impacts on this application;
- (b) The land use of a double dwelling house is compatible with the permissible land uses of the residential zone 1 zoning;
- (c) The residential character of J Carter Street will not change or be affected by the proposed double dwelling house;
- (d) Regardless if property will remain to have a single dwelling house or double dwelling house, the impacts on privacy, noise or other irritations on adjoining/surrounding properties will be similar;
- (e) Local, Provincial and National policies promote densification. This application is an example of densification;
- (f) The application complies with the principles of SPLUMA and LUPA;
- (g) Sufficient engineering services capacity exists to accommodate the proposed additional dwelling unit (double dwelling house).

6.4 PROPOSED DEPARTURE ON ERF 4514, MALMESBURY (15/3/4-8) (WARD 10)

Ms A de Jager stated that the application entails the departure from the 4 m street building line to 0 m, in order to construct a garage on Erf 4514, Malmesbury.

RESOLUTION

A. The application for building line departure on Erf 4514, Malmesbury, is approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), subject to the conditions that:

A1 TOWN PLANNING AND BUILDING CONTROL

- (a) The building line departure on the southern street building line of Erf 4514 from 4 m to 0 m be restricted to the portion of the building line where the proposed garage is to be constructed, as presented in the application;
- (b) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (c) The construction material and finishes of the garage be in keeping with that of the existing buildings, as presented in the application and to the satisfaction of the Senior Manager: Built Environment;
- (d) No stormwater from the garage be discharged onto adjacent properties, but be contained in the existing stormwater management system;

A2 GENERAL

- (a) The approval is in terms of section 76(2)(w) of the By-Law, only valid for a period of 5 years. All conditions of approval be complied with within the 5 year period and that failing to do so will result in this approval expiring;
- (b) The applicant/objector is informed of the right to appeal against this decision of the Municipal Planning Tribunal, within 21 days of this notice, in terms of section 89(2) of the By-Law;
- (c) The approval does not exempt the applicant from adherence to any and all other legal procedures, applications and/or approvals related to the intended land use, as required by provincial, state, parastatal and other statutory bodies;

B. The application is supported for the following reasons:

- (a) Building line departure is a mechanism provided for by the By-Law, with specific reference to garages. The proposed carport will adhere to the conditions regarding width, height and construction, as required by the By-Law;

6.4(B)/...

- (b) The proposed carport constitutes an amenity associated with residential zones and is thus consistent with the character of the surrounding area;
- (c) The impact of the proposed departure on the quality of life of the immediate and surrounding residents is considered minimal, and have been adequately mitigated through the proposal and conditions imposed;
- (d) The building line departure is considered desirable within the spatial context.

**(SIGNED) J J SCHOLTZ
CHAIRPERSON**