



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE BANQUETING HALL,
MALMESBURY ON WEDNESDAY, 8 JULY 2020 AT 09:00**

PRESENT

Internal members:

Director: Corporate Services, Ms M S Terblanche (acting chairperson)

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

The apology received from the Municipal Manager, Mr J J Scholtz, be noted.

3. DECLARATION OF INTEREST

RESOLVED that cognisance is taken that no declarations of interest were received.

4. MINUTES

4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 11 MARCH 2020

RESOLVED

That the minutes of a Municipal Planning Tribunal Meeting held on 11 March 2020 are approved and signed by the chairperson.

5. MATTERS ARISING FROM THE MINUTES

None

6. MATTERS FOR CONSIDERATION

6.1 PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURES ON ERF 2711, YZERFONTEIN (15/3/4-14, 15/3/5-14) (WARD 5)

Ms A de Jager, as author, tabled the report and mentioned that it deals with various applications for departures and removal of restrictive title deed conditions on Erf 2711, Yzerfontein.

The Senior Manager: Building Environment, Mr A M Zaayman, stated the importance of the historical background in considering the application and referred the Planning Tribunal to Part D of the report.

Ms De Jager further explained the various applications for departures on the basis of the Zoning Scheme Provisions – Part J of the report – and the site specific circumstances that exists in order to validate the approval as well as the non-approval of the departures.

Ms de Jager requested that each portion of the application be evaluated separately on its own merit, ranging from the least complex to the most complex aspects.

RESOLUTION

- A. The application for departure on Erf 2711, Yzerfontein, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), in order to encroach on the northern street building line;
- B. The application for departure on Erf 2711, Yzerfontein, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), in order to encroach on the western lateral building line;
- C. The application for departure on Erf 2711, Yzerfontein, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), in order to exceed the maximum permissible ground storey height;
- D. The application for departure on Erf 2711, Yzerfontein, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), in order to exceed the maximum permissible height from gradient line to ceiling;
- E. The application for departure from Section 12.1.1(c) of the By-Law, on Erf 2711, Yzerfontein, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), in order to allow for the first storey to encroach on the northern building line;
- F. Approvals A. B. C. D. and E. above are subject to the conditions that:

F1 TOWN PLANNING AND BUILDING CONTROL

- (a) The 4 m street building line be departed from and reduced to 3,15 m;
- (b) The 1,5 m western lateral building line be departed from and reduced to 0 m and that the departure be restricted to the portion of the dwelling that encroaches the building line, as presented in the application;
- (c) The maximum permissible ground storey height of 3 m be departed from and increased to 3,06 m;
- (d) The maximum permissible height of 6 m, measured between the gradient line and the ceiling be departed from and increased to 6,7 m;
- (e) The first storey be allowed to encroach on the northern building line to a maximum of 3,15 m;
- (f) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (g) No openings, windows or doors, be allowed in the portion of the western façade that encroaches on the building line;
- (h) The western portion of the deck that encroaches on the side building line be screened off from Erf 333 to ensure privacy to the satisfaction of the Municipality;
- (i) The maximum height of the deck be restricted to 1 m from natural ground level to finished floor level;
- (j) No other openings, windows or doors be permitted closer than 1 m from the property boundary;
- (k) No swimming pool be permitted closer than 1 m from the property boundary;
- (l) A demolition permit be obtained from Heritage Western Cape;

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- G. The application for the removal of title deed restrictions on Erf 2711, Yzerfontein, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017), in order to remove restrictive conditions C.I.4. and C.I.5 from Title Deed T66779/2015, subject to the conditions that:

G1 TOWN PLANNING AND BUILDING CONTROL

- (a) Conditions C.I.4. and C.I.5 that read as follows:
“...C.I. Synde ten gunste van die geregistreerde eienaar van enige erf in die dorp
- (4) *That no more than one half of the area of the erf hereby conveyed be built upon.*
- (5) *That no building shall be erected within 10 feet of any street line which forms a boundary of the erf hereby conveyed or within 10 feet of the open space where it forms a boundary of the said erf on the sea front...”*
- be completely removed from Title Deed T66779/2015;
- (b) The applicant/owner applies to the Deeds Office to amend the title deed in order to reflect the removal of the restrictive conditions;
- (c) The following minimum information be provided to the Deeds Office in order to consider the application, namely:
- (i) Copy of the approval by Swartland Municipality;
 - (ii) Original title deed, and
 - (iii) Copy of the notice which was placed by Swartland Municipality in the Provincial Gazette;
- (d) A copy of the amended title deed be provided to Swartland Municipality for record purposes, prior to final consideration of building plans;

H. **GENERAL (1)**

- (a) The 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 said period and failing to do so will result in the approval expiring;

- I. The application for departure on Erf 2711, Yzerfontein, in order to increase the maximum permissible coverage of 50% to 58%, be not approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017);

- J. The application for departure from Section 12.1.1(c) of the By-Law, on Erf 2711, Yzerfontein, in order to allow for the first storey to encroach on the western lateral building line, be not approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017);

- K. The application for the removal of a title deed restriction C.I.1 in Title Deed T66779/2015 of Erf 2711, Yzerfontein, be not approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 7741 of 3 March 2017).

L. **GENERAL (2)**

- (a) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal, within 21 days of the notice, in terms of section 89(2) of the By-Law;

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- M. The approval of certain aspects of the application be supported for the following reasons:
- (a) Application for departure is a mechanism provided for by the By-Law, in order to deviate from the required development parameters;
 - (b) The impact of the permissible departures have been evaluated and deemed to have either minimal impact on the surrounding area with regards to views, safety, access, privacy and health concerns, or the impacts were considered manageable and mitigated through conditions of approval;
 - (c) Building line departures have been considered, but more appropriately determined and limited;
 - (d) The approved departures will have little impact on the residential character of the area, as the land use will remain unchanged;
 - (e) The approved departures are considered desirable within the spatial context;
 - (f) The title deed restrictions apply to development parameters on the property. These will be managed by the By-Law, once the restrictions have been removed from Title Deed T66779/2015.
- N. The reasons for refusal/non-approval of certain aspects of the application are as follows:
- (a) The property area is already close to the minimum erf size of 500m² and increasing the coverage to 58% will cause an over-development of the property, beyond the intended capacity;
 - (b) The increase in coverage is not appropriately motivated and considered undesirable;
 - (c) The scale of the original proposal would not be in keeping with the character of the surrounding area;
 - (d) The larger dwelling would impact more severely on the wellbeing of Erf 333 by blocking northern and eastern light for large parts of the day;
 - (e) Departure from the side building line on first storey level will not only negatively impact on Erf 333, but also on the sight corridor and views from southern properties. The impact is considered undesirable in the context;
 - (f) The removal of restrictive condition C.I.1. has no bearing on the application. The land use is not proposed to be changed and the removal is not appropriately motivated.

**(SIGNED) M S TERBLANCHE
ACTING CHAIRPERSON**