



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE BANQUETING HALL,  
MALMESBURY ON WEDNESDAY, 12 OCTOBER 2022 AT 14:00**

---

**PRESENT**

Internal members:

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

Director: Protection Services, Mr P A C Humphreys

External members:

Ms C Havenga

Mr C Rabie

Other officials:

Senior Manager: Built Environment, Mr A M Zaayman (advisor)

Director: Development Services, Ms J S Krieger

Senior Town and Regional Planner, Mr A J Burger

Town and Regional Planner and GIS, Mr H Olivier

Town and Regional Planner, Ms A de Jager

Manager: Secretariat and Records, Ms N Brand (secretariat)

**1. OPENING**

The chairperson opened the meeting and welcomed members.

**2. APOLOGY**

**RESOLVED** that cognisance be taken of the apology received from the Municipal Manager, Mr J J Scholtz.

**3. DECLARATION OF INTEREST**

**RESOLVED** that cognisance be taken that no declarations of interest were received.

**4. MINUTES**

**4.1 MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD ON 14 SEPTEMBER 2022**

**RESOLUTION**

(proposed by Mr C Rabie, seconded by Ms C Havenga)

That the minutes of a Municipal Planning Tribunal Meeting held on 14 September 2022 are approved and signed by the chairperson.

**5. MATTERS ARISING FROM MINUTES**

None.

**6. MATTERS FOR CONSIDERATION**

**6.1 PROPOSED CONSENT USE ON ERF 1196, YZERFONTEIN (15/3/10-14) (WARD 5)**

Mr A J Burger, as author, tabled the application received for a consent use on Erf 1196, Yzerfontein to erect a double dwelling on the property.

Mr Burger confirmed that the development proposal adheres to the spatial planning principles, is consistent with legislative measures and complies with the development parameters determined by the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020).

## RESOLUTION

- A. The application for a consent use on Erf 1196, Yzerfontein, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), in order to establish a double dwelling on the property, subject to the conditions that:

### **A1 TOWN PLANNING AND BUILDING CONTROL**

- (a) The consent authorises a double dwelling on Erf 1196, as presented in the application;
- (b) The double dwelling complies with the applicable zoning parameters of the By-law;
- (c) At least 4 on-site parking bays be provided as presented in the application;
- (d) Building plans be submitted to the Senior Manager: Built Environment, for consideration and approval;

### **A2 WATER**

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

### **A3 SEWERAGE**

- (a) The property be provided with a conservancy tank of appropriate size (minimum capacity of 8000l), as pre- approved by the Director: Civil Engineering Service;
- (b) The conservancy tank be accessible to the municipal vacuum truck from the street;

### **A4 DEVELOPMENT CHARGES**

- (a) The owner/developer be responsible for a development charge of R5 445,25 towards the bulk supply of regional water, at clearance stage. The amount is payable to Swartland Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/249-176-9210);
- (b) The owner/developer be responsible for the development charge of R4 502,25 towards bulk water distribution, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/249-174-9210);
- (c) The owner/developer be responsible for the development charge of R5 612,00 towards sewerage, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/240-184-9210);
- (d) The owner/developer be responsible for the development charge of R8 280,00 towards waste water treatment works, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/240-183-9210);
- (e) The owner/developer be responsible for the development charge of R11 500,00 towards streets, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/247-188-9210);
- (f) The owner/developer be responsible for the development charge of R3 192,40 towards storm water, at clearance stage. The amount is payable to the Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/247-144-9210);
- (g) The owner/developer be responsible for the development charge of R10 419,00 per newly created erf towards electricity, at clearance stage. The amount is payable to this Municipality, valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/253-164-9210);

6.1/A4...

- (h) The Council resolution of May 2022 makes provision for a 35% discount on development charges to Swartland Municipality, except for condition A4(a), which is payable in full. The discount is valid for the financial year 2022/2023 and can be revised thereafter;

**A5 GENERAL**

- (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 be complied with before the occupancy certificate be issued. Failure to comply will result in the approval expiring;

Appeals against the Tribunal decision should be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to [swartlandmun@swartland.org.za](mailto:swartlandmun@swartland.org.za), no later than 21 days after registration of the approval letter. A fee of R4 500,00 is to accompany the appeal and section 90 of the By-Law complied with, for the appeal 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.

B. The application be supported for the following reasons:

- (a) The application is in compliance with the planning principles of LUPA and SPLUMA;
- (b) The application is consistent with local, regional and provincial spatial planning policy;
- (c) The development proposal complies with all applicable zoning parameters of the Residential zone 1 zoning and will not have a negative impact on the privacy of neighbouring properties;
- (d) Erf 1196 does not have any physical restrictions which may have a negative impact on this application;
- (e) The proposed double dwelling will complement the surrounding residential area;
- (f) The development proposal supports the optimal utilisation of land and infrastructure;
- (g) The proposed land use is considered as a desirable activity within a residential neighbourhood, as it will accommodate residential activities compatible with that of the existing area;
- (h) The double dwelling supports the tourism industry in Yzerfontein, as well as the local economy;
- (i) The double dwelling will provide in a need for a larger variety of housing opportunities to the wider population;
- (j) Sufficient services capacity exists to accommodate the proposed double dwelling.

**6.2 PROPOSED CONSENT USE ON ERF 2681, MALMESBURY (15/3/10-8) (WARD 8)**

Mr H Olivier gave background on the application for the proposed consent use on Erf 2681, Malmesbury in order to operate a day care centre.

The illegal land use was reported to the Municipality and a compliance notice was issued on 1 June 2022. After several consultations with the owner of the subject property the Municipality received an application for consent use in order to obtain the necessary authorisation.

**RESOLUTION**

A. The application for consent use on Erf 2681, Malmesbury be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), subject to the conditions that:

**A1 TOWN PLANNING AND BUILDING CONTROL**

- (a) The consent use authorises a day care centre (Pikkewouters), as presented in the application;
- (b) No more than 10 children be enrolled at the day care centre at any time, or be present on the relevant land unit;
- (c) Indoor play space be provided as follows:

Item 6.2/A1(c)/...

- (i) A play space for play, eat and sleep be provided;
  - (ii) An indoor play space for each child, with a minimum of 1.5 m<sup>2</sup> free, unlimited floor space be available;
  - (iii) If no outside play space is available on the premises, an indoor play space with a free, unlimited floor space of 3 m<sup>2</sup> per child be provided;
  - (iv) The play space not create a health nuisance.
- (d) Outdoor play space be provided as follows:
- (i) An outdoor play space of at least 2 m<sup>2</sup> be provided for each child;
  - (ii) Separate outdoor play spaces be provided for different age groups.
- (e) The service provided be primarily day care or educational in nature and not medical;
- (f) The provision of the day care service is restricted to the hours of 07H00 to 18h00;
- (g) The dominant use of the dwelling remain for the living accommodation purposes of a single family;
- (h) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (i) Application for the display of advertising signs be submitted to the Senior Manager: Built Environment for consideration for approval;
- (j) The day care complies with the requirements of Department Social Services and be registered at the Department;
- (k) Application be made to the West Coast District Municipality for a compliance certificate for an early childhood development facility as well as a second compliance certificate for the preparation of food;

**A2 WATER**

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

**A3 SEWERAGE**

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

**A4 STREETS**

- (a) Free access to the two on-site parking bays for the pick-up and drop-off of children be maintained at all times;

**B. GENERAL**

- (a) The approval is, in terms of section 76(2)(w) of the By-Law valid for 5 years. All conditions of approval be complied within a period of 2 months, by 12 December 2022, after which the 5 year period will no longer be applicable;

Appeals against the Tribunal decision should be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to [swartlandmun@swartland.org.za](mailto:swartlandmun@swartland.org.za), no later than 21 days after registration of the approval letter. A fee of R4 500,00 is to accompany the appeal and section 90 of the By-Law complied with, for the appeal 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.

- (b) The approval does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority;

**C. The application be supported for the following reasons:**

- (a) The application is in compliance with the planning principles of LUPA and SPLUMA;
- (b) The application is consistent with the Swartland MSDF, 2019;
- (c) The proposed day care will complement and not have a negative impact on the character of the surrounding residential area;
- (d) The development proposal supports the optimal utilisation of the property;
- (e) A day care is an acceptable use in a residential area which makes the possible impacts on affected parties, also acceptable;

6.2/C...

- (f) Sufficient services capacity exists to accommodate the day care;
- (g) The noise impact of the day care on the tranquillity of the neighbourhood is deemed to be low.

**6.3 PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE ON ERF 7657, MALMESBURY (15/3/5-8, 15/3/10-8) (WARD 10)**

Mr A J Burger confirmed that the purpose of the proposed removal of restrictive conditions and consent use on Erf 7657, Malmesbury is to remove the restriction regarding the use of the premises only for residential purposes in order to operate a home occupation (physiotherapist practice) from a portion of the premises.

**RESOLUTION**

- A. The application for the removal of restrictive condition C(c) of Deed of Transfer T51239/2019, registered against Erf 7657, Malmesbury, be approved in terms of section 70 of the By-Law;

The following process needs to be followed:

- (a) The applicant/owner applies to the Deeds Office to amend the title deed in order to reflect the removal of the restrictive conditions;
- (b) 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;
- (c) A copy of the amended title deed be provided to Swartland Municipality for record purposes, prior to final consideration of building plans;

- B. The application for a consent use on Erf 7657, Malmesbury, be approved in terms of section 70 of the By-Law, subject to the following conditions:

**B1 TOWN PLANNING AND BUILDING CONTROL**

- (a) The consent use authorises a home occupation (physiotherapy practice), restricted to 49,36 m<sup>2</sup>, as presented in the application;
- (b) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (c) No advertising sign be displayed other than a single un-illuminated sign or notice not projecting over a street, and such sign not exceeds 2 m<sup>2</sup> in area and only indicate the name, telephone number and profession or occupation of the occupant;
- (d) No more than four persons in total be engaged in home occupation activities on a land unit, including the occupant or occupants and any assistants;
- (e) Two (2) parking bays for the physiotherapists inside the garage and four (4) on-site parking bays for clients be provided;
- (f) The hours of operation not extend beyond the hours of 07h30 to 17h30;

**B2 WATER**

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

**B3 SEWERAGE**

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

**B4 STREETS**

- (a) On-site parking be provided with a permanent dust free surface being tar, concrete or paving or a material pre-approved by Swartland Municipality and that the parking bays be clearly marked;

B5/...

C. **GENERAL**

- (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 be complied with before the occupancy certificate be issued. Failure to comply will result in the approval expiring;

Appeals against the Tribunal decision should be directed, in writing, to the Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299 or by e-mail to [swartlandmun@swartland.org.za](mailto:swartlandmun@swartland.org.za), no later than 21 days after registration of the approval letter. A fee of R4 500,00 is to accompany the appeal and section 90 of the By-Law complied with, for the appeal 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.

- D. The application be supported for the following reasons:

- (a) The home occupation is in compliance with the spatial planning of Malmesbury;  
(b) The home occupation complies with the principles of LUPA and SPLUMA;  
(c) The home occupation practices have a low impact on the character of the surrounding area;  
(d) The impact of additional traffic to and from the property as a result of the home occupation is deemed to be low;  
(e) The development proposal of the new building to comply with all the applicable zoning parameters;  
(f) The home occupation to comply with all the provision of a home occupation as determined by the Swartland Planning By-law;  
(g) Views from erf 9240 are deemed a privilege and not a right;  
(h) The impact of the home occupation on the privacy of erf 9240 is deemed to be very low;  
(i) The home occupation is deemed not to have a negative effect on property values of surrounding properties;  
(j) The removal of the relevant restrictive condition will enable home occupation on the property as provided for by the land use rights applicable to the property;  
(k) The removal of the relevant restrictive condition will not impact negatively or disadvantage surrounding/affected owners.

**6.4 PROPOSED REZONING AND SUBDIVISION OF ERF 1237, RIEBEEK KASTEEL (15/3/3-11, 15/3/6-11) (WARD 12)**

Ms A de Jager, as author, tabled the item regarding the rezoning and subdivision of Erf 1237, Riebeeck Kasteel in order to establish a group housing development with 31 group housing erven, a private road and 7 private open spaces on the property.

The matter to notify the Heritage Western Cape of the application for the reason that the development exceeds 1 ha was brought to the attention of the Tribunal by Ms Havenga.

**RESOLUTION**

- (a) That, although the proposed development is located outside the heritage precinct identified for Riebeeck Kasteel during the draft heritage survey of 2022, the developer/owner must notify Heritage Western Cape of the intent to development, as the property exceeds 1 ha in extent.
- (b) That the item be referred back pending the above notification.

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