



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE COMMITTEE ROOM:
CORPORATE SERVICES, MALMESBURY ON WEDNESDAY, 9 FEBRUARIE 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)

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, Mr H Olivier

1. OPENING

The chairperson opened the meeting and welcomed members.

2. APOLOGY

That cognisance be taken of the apologies received from the Municipal Manager, Mr J J Scholtz and the Town and Regional Planner, Ms A de Jager.

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 17 NOVEMBER 2021

RESOLVED

(proposed by Mr P A C Humphreys, seconded by Ms C Havenga)

That the minutes of a Municipal Planning Tribunal Meeting held on 13 October 2021 are approved and signed by the chairperson.

5. MATTERS ARISING FROM MINUTES

5.1 MINUTES OF MUNICIPAL PLANNING TRIBUNAL HELD ON 17 NOVEMBER 2021

None.

6. MATTERS FOR CONSIDERATION

6.1 PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE ON ERF 182, YZERFONTEIN (15/3/5-14, 15/3/10-14) (WARD 5)

The chairperson/...

The chairperson requested the author, Mr A J Burger, to table the item and to give background on the application.

Mr Burger explained that the previous owner converted the dwelling into a double dwelling for which no building plans were submitted. The property was sold and the current owner submitted the application in order to rectify the illegal land use.

RESOLUTION

- A. The application for the removal of title deed restriction on Erf 182, Yzerfontein in order to remove a restrictive condition C3 registered in Deed of Transfer T27412/2020, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);

Condition C3 reads as follows:

"...That not more than one dwelling, together with the necessary outbuildings and appurtenances, be erected on the erf..."

The following process 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 condition;
 - (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 182, Yzerfontein in order to establish a double dwelling on the property, 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:

B1 TOWN PLANNING AND BUILDING CONTROL

- (a) The consent authorises a double dwelling on Erf 182, 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, clearly indicating the separate dwelling units, be submitted to the Senior Manager: Built Environment, for consideration and approval;
- (e) The contact information of the owner/developer be available at all times and conspicuously displayed in the self-catering unit;

B2 WATER

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

B3 SEWERAGE

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

B4 DEVELOPMENT CHARGES

- (a) The development charge towards the supply of regional bulk water amounts to R5 445,25 and is for the account of the owner/developer at building plan stage.

6.1/B4(a)/...

- The amount is due to the Swartland Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The development charge towards bulk water reticulation amounts to R4 502,25 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/249-174-9210);
 - (c) The development charge towards waste water treatment amounts to R8 280,00, and is for the account of the owner/developer at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/240-183-9210);
 - (d) The development charge towards sewerage amounts to R 5 612,00 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/240-184-9210);
 - (e) The development charge towards streets amounts to R11 500,00 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter. (mSCOA 9/249-188-9210);
 - (f) The development charge towards storm water amounts to R3 192,40 and is payable by the owner/developer at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/248-144-9210);
 - (g) The development charge towards electricity amounts to R10 419,00 and is payable by the owner/developer at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/253-164-9210);
 - (h) The Council resolution of May 2021 makes provision for a 40% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2021/2022 and may be revised thereafter. The discount is not applicable to 4.a)

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 by 20 May 2022. Failure to comply will result in the approval expiring;
- (b) The applicant/objectors be notified of the outcome and their right to appeal in terms of Chapter VII, Section 89 of the By-law;

D. The application is supported for the following reasons:

- (a) The application is consistent 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;
- (d) Erf 182 does not have any physical restrictions which may have a negative impact on this application;
- (e) The proposed double dwelling will complement and not have a negative impact on the character of the surrounding residential area;
- (f) The development proposal supports the optimal utilisation of the property;
- (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 may support 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;
- (k) The removal of the relevant restrictive condition will enable a second dwelling on the property as provided for by the land use rights applicable to the property;

6.1/...

- (l) The removal of the relevant restrictive condition will not impact negatively or disadvantage surrounding/affected owners.

6.2 PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS, CONSENT USE AND DEPARTURE ON ERF 1192, YZERFONTEIN (15/3/4-14, 15/3/5-14, 15/3/10-14) (WARD 5)

The author of the report, Mr H Olivier, gave the background on the application received for the removal of restrictive conditions, consent use and departure on Erf 1192, Yzerfontein.

A discussion followed on the removal of restrictive conditions versus the amendment of restrictive conditions in respect of the 5 m street line. Mr Rabie requested the tribunal to be sensitive in considering the total removal of restrictive conditions and to consider if an amendment is not the best solution as the application is only to accommodate the existing stairs and pergola.

The Senior Manager: Built Environment, Mr A M Zaayman confirmed that, for most new developments in Yzerfontein, the 4 m street building line according to the By-law applies.

RESOLUTION

- A. The application for the removal of title deed restrictions on Erf 1192, Yzerfontein in order to remove the restrictive condition B7(a) registered in Title Deed T48073/2018, 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 title deed restrictions on Erf 1192, Yzerfontein in order to remove the restrictive condition B7(b) registered in Title Deed T48073/2018, 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:

B1 TOWN PLANNING AND BUILDING CONTROL

- (a) The restrictions to be removed read as follows:

B7(b) No building or structure or any portion thereof except boundary walls and fences, shall except with the consent of the Administrator, be erected nearer than 5 metres to the street line which forms a boundary of this erf, nor within 3 metres of the rear or 1,5 metres of the lateral boundary common to any adjoining erf, provided that with the consent of the local authority:-

- (i) *An outbuilding used solely for the housing of motor vehicles and not exceeding 3 metres in height, measured from the ground floor of the outbuilding to the wall-plate thereof, may be erected within such side and rear space, and any other outbuildings of the same height may be erected within the rear space and side space for a distance of 12 metres measured from the rear boundary of the erf, provided that in the case of a corner erf the distance of 12 metres shall be measured from the point furthest from the streets abutting the erf;*
 - (ii) *An outbuilding in terms of subparagraph (i) may only be erected nearer to a lateral or rear boundary of a site than the above prescribed spaces, if no windows or doors are inserted in any wall facing such boundary.*
- (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;

6.2/...

- C. The application for consent use on Erf 1192, Yzerfontein, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020) be approved, subject to the conditions that:

C1 TOWN PLANNING AND BUILDING CONTROL

- (a) The consent use authorizes a double dwelling house, as presented in the application;
- (b) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;

C2 WATER

- (a) A single water connection be provided and that no additional connections be provided;

C3 SEWERAGE

- (a) The property be provided with a conservancy tank of minimum 8 000 litre capacity and that the tank be accessible to the municipal service truck via the street;

C4 DEVELOPMENT CHARGES

- (a) The development charge towards the supply of regional bulk water amounts to R5 445,25 and is for the account of the owner/developer at building plan stage. The amount is due to the Swartland Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA: 9/249-176-9210);
- (b) The development charge towards bulk water reticulation amounts to R4 502,25 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/249-174-9210);
- (c) The development charge towards waste water treatment amounts to R8 280,00, and is for the account of the owner/developer at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/240-183-9210);
- (d) The development charge towards sewerage amounts to R 5 612,00 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/240-184-9210);
- (e) The development charge towards streets amounts to R11 500,00 and is payable by the owner/developer at building plan stage. The amount is due to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter. (mSCOA 9/249-188-9210);
- (f) The development charge towards storm water amounts to R3 192,40 and is payable by te owner/developer at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/248-144-9210);
- (g) The development charge towards electricity amounts to R10 419,00 and is payable by the owner/developer at building plan stage. The amount is payable to the Municipality, valid for the financial year of 2021/2022 and may be revised thereafter (mSCOA 9/253-164-9210);
- (h) The Council resolution of May 2021 makes provision for a 40% discount on development charges to Swartland Municipality. The discount is valid for the financial year 2021/2022 and may be revised thereafter. The discount is not applicable to 4.(a).

- D. The application for departure of the street building line on Erf 1192, Yzerfontein, 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:

D1 TOWN PLANNING AND BUILDING CONTROL

- (a) The 4 m street building line be departed from and reduced to 3,4 m, solely in order to accommodate the existing stairs and pergola to encroach on the building line;

E./...

E. GENERAL

- (a) All the relevant conditions of approval with regards to the removal of the title deed restrictions and departure of the street building line, be complied with by 20 May 2022. Failure to comply will result in the approvals expiring;
- (b) The approval relating to the consent use is, in terms of section 76(2)(w) of the By-Law, only valid for a period of 5 years. All the relevant conditions of approval be complied with before the necessary occupancy certificate for the second dwelling be issued and failing to do so will result in the approval expiring.
- (c) The approval does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority;
- (d) The applicant/objectors be notified of this outcome and their right to appeal in terms of Chapter VII, Section 89 of the By-law.

F. The application for the removal of restrictive condition B7(a) is refused for the following reason:

- (a) A second dwelling is a building permitted under the Residential Zone 1 zoning and it is therefore not necessary to remove the conditions relating to the use of the property given the current proposal;

G. The application is supported for the following reasons:

- (a) The proposed double dwelling is a residential use and is therefore consistent with the proposals of the SDF;
- (b) A double dwelling is accommodated as a consent use under Residential Zone 1 of the By-Law.
- (c) The development proposal supports the optimal utilisation of the property;
- (d) The double dwelling may support the tourism industry in Yzerfontein, as well as the local economy;
- (e) The double dwelling will provide in a need for a larger variety of housing opportunities to the wider population;
- (f) The development proposal will not negatively impact on the character of the surrounding neighbourhood or the larger Yzerfontein;
- (g) The departure of the street building line to accommodate the existing stairs and pergola will not have a negative impact on neighbouring affected properties nor does it have a negative impact on the streetscape.

6.3 PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS ON ERF 1585, MALMESBURY (15/3/5-8) (WARD 10)

Mr A J Burger, as author, confirmed that the application aims to remove restrictive conditions regarding the permissible amount of dwelling units on the property. The second dwelling is smaller than 60m² and is therefore permitted under the Residential Zone 1 zoning.

The outbuilding was already been converted into a second dwelling when the current owner took ownership of the property in 2020.

RESOLUTION

A. The application for the removal of restrictive condition C(c) registered against Erf 1585, Malmesbury, as contained in Title Deed T44200/2020, is hereby 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

6.3/A(b)...

- (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. 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 by 20 May 2022. Failure to comply will result in the approval expiring;
- (b) The applicant/objectors be notified of the outcome and their right to appeal in terms of Chapter VII, Section 89 of the By-law;

C. The application is supported for the following reasons:

- (a) The second dwelling smaller than 60m² is an additional use right under the Residential zone 1 zoning;
- (b) The removal of the relevant restrictive condition will enable a second dwelling on the property as provided for by the land use rights applicable to the property;
- (c) The second dwelling is foreseen not to have an impact on the character of the surrounding area;
- (d) The removal of the relevant restrictive condition will not impact negatively or disadvantage surrounding/affected owners;
- (e) The impact of additional traffic to and from the property as a result of the second dwelling is deemed to be very low.

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