



**MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING HELD IN THE COMMITTEE ROOM:  
CORPORATE SERVICES ON WEDNESDAY, 8 MARCH 2023 AT 14:00**

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**PRESENT**

Internal members:

Municipal Manager, Mr J J Scholtz  
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:

Senior Manager: Development Manager, 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**

No apology was received.

**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 8 FEBRUARY 2022**

**RESOLUTION**

That the minutes of a Municipal Planning Tribunal Meeting held on 8 February 2023 are approved and signed by the chairperson, subject thereto that the word "removed" be replaced with "located" under Item 6.5/B1(f).

**5. MATTERS ARISING FROM MINUTES**

None.

**6. MATTERS FOR CONSIDERATION**

**6.1 PROPOSED DEPARTURE OF DEVELOPMENT PARAMETERS ON ERF 3557, DARLING (15/4/2-2) (WARD 6)**

Mr A J Burger, as author, tabled the application received on Erf 3557, Darling which is zoned Residential Zone 1 and developed with a dwelling house.

6.1/...

The building plan for the dwelling and swimming pool was approved on 1 February 2021. However, the owner erected a roof over the swimming pool with class panels, sliding windows and sliding doors without building approval.

The application for the departures of the development parameters forms part of a building plan application.

Mr Burger confirmed that the departures of the development parameters cannot be supported as the windows and sliding windows are installed on the erf boundary, resulting in the coverage increasing to 55%.

### **RESOLUTION**

A. The application for the departure of the development parameters on Erf 3577, Darling be refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020). The departures refused includes the following:

- (1) Departure of the 2 m rear building line to 0 m;
- (2) Departure of the 1,5 m side building line (north eastern boundary) to 0 m; and
- (3) Departure of the permissible coverage of 50% to 55%;

B. **GENERAL**

- (a) The illegal building work inside the 2 m rear and 1,5 m side building lines be demolished within 60 days after the decision making process on the application has been finalised;
- (b) The amended building plan be submitted to the Senior Manager: Development Management for consideration and approval within 30 days after the decision making process on the application has been finalised;
- (c) Appeals against the decision of the Municipal Planning Tribunal 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, 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;

C. The application be refused for the following reasons:

- (a) There are no similar building line and coverage departures in Fairview Close;
- (b) Departures from the permissible 50% coverage in this residential area is unprecedented;
- (c) The departure cannot be recommended as it will influence decision making on future departures of development parameters negatively;
- (d) The building work does not comply with the National Building Regulations with regards to safety distance of window openings in South East Elevation and North East Elevation and does not meet the requirement of Table 2 of Part T of SANS 10400.

### **6.2 APPLICATION FOR SUBDIVISION OF ERF 505, KALBASKRAAL (15/3/6-6) (WARD 7)**

The item is tabled by the author, Mr H Olivier, and entails the subdivision of Erf 505, Kalbaskraal into Portion A ( $\pm 1291$  m<sup>2</sup> in extent), Portion B ( $\pm 1291$  m<sup>2</sup> in extent), Portion C ( $\pm 1128$  m<sup>2</sup> in extent), as well as a Remainder ( $\pm 1129$  m<sup>2</sup> in extent).

Mr Olivier confirmed that the application promotes the densification of urban areas and are consistent with the minimum erf sizes determined for the area, namely 1000 m<sup>2</sup>.

### **RESOLUTION**

A. The application for the subdivision of erf 505, Kalbaskraal, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);

**A1 TOWN PLANNING AND BUILDING CONTROL**

- (a) Erf 505, Kalbaskraal (4839 m<sup>2</sup> in extent), be subdivided into Portion A (±1291 m<sup>2</sup> in extent), Portion B (±1291 m<sup>2</sup> in extent), Portion C (±1128 m<sup>2</sup> in extent), as well as a Remainder (±1129 m<sup>2</sup> in extent), as indicated on the approved subdivision plan;
- (b) The panhandles giving access to Portions A and B, be at least 4 m wide;
- (c) Building plans for all existing unauthorised building work on the subject property be submitted to the Senior Manager: Development Management for consideration and approval;
- (d) With reference to condition A3(a) below, the necessary building plans be submitted to the Senior Manager: Development Management for consideration and approval for the conservancy tanks at clearance stage;
- (e) The subdivision line maintain a distance of at least 6m between the existing dwelling on the remainder and Portion A given the fact that no application for departure was submitted for consideration;

**A2 WATER**

- (a) The subdivided portions be provided with separate water connections at building plan stage;

**A3 SEWERAGE**

- (a) The subdivided portions be provided with separate conservancy tanks with minimum capacity of 8000 litres, to the satisfaction of the Director: Civil Engineering Services, at building plan stage;

**A4 DEVELOPMENT CHARGES**

- (a) The owner/developer is responsible for a development charge of R7 623,35 (R10 890,50 x 0.7 for Single Res) per newly created portion, towards the bulk supply of regional water, at clearance stage. The amount is payable to Swartland Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA 9/249-176-9210);
- (b) The owner/developer is responsible for the development charge of R7 340,83 per newly created portion, towards bulk water reticulation, at clearance stage. The amount is payable to Swartland Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/249-174-9210);
- (c) The owner/developer is responsible for the development charge of R3 631,57 per newly created portion, towards sewerage and waste water treatment, at clearance stage. The amount is payable to the Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter. (mSCOA: 9/240-184-9210);
- (d) The owner/developer is responsible for the development charge of R2 489,47 per newly created portion, towards roads and storm water, at clearance stage. The amount is payable to Swartland Municipality, is valid for the financial year of 2022/2023 and may be revised thereafter (mSCOA: 9/247-144-9210);
- (e) 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;

**B. GENERAL**

- (a) The approval does not exempt the owner/developer from compliance with any other legislation;
- (b) The legal certificate which authorises transfer of the subdivided portions in terms of Section 38 of the By-Law will not be issued unless all the relevant conditions have been complied with;
- (c) Any existing services connecting the remainder and/or new portions, be disconnected and relocated, in order for each erf to have a separate connection and pipe work;
- (d) Should it be determined necessary to expand or relocate any of the engineering services in order to provide the development with connections, said expansion and/or relocation will be for the cost of the owner/developer;

6.2/B...

- (e) The approval is, in terms of section 76(2) (w) of the By-Law, valid for 5 years. All conditions of approval be implemented before transfer can take place, without which, the approval will lapse. However, should all the conditions of approval be met before the 5 year approval period lapses, the subdivision will be permanent and the approval period will not be applicable anymore;
- (f) Appeals against the decision of the Municipal Planning Tribunal 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, 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;

C. The application be supported for the following reasons:

- (a) The proposed subdivision is consistent with local, provincial and national policy, supporting densification of urban areas;
- (b) The development proposal is considered consistent with the provisions of the SDF;
- (c) The proposed property sizes are consistent with the minimum erf size determined for the area, namely 1000 m<sup>2</sup>;
- (d) The development will optimally connect to the existing services network;
- (e) The proposal will generate new residential opportunities;
- (f) The development proposal supports the optimal utilisation of the properties;
- (g) The development proposal will not negatively impact on the character of the specific portion of Kalbaskraal.

### 6.3 PROPOSED REZONING OF ERF 722, MALMESBURY (15/3/3-8) (WARD 10)

Ms A de Jager, the author of the item, gave background on the application received for the rezoning of Erf 722, Malmesbury from Residential Zone 1 to Business Zone 1 in order to convert the existing dwelling to accommodate offices.

Ms de Jager confirmed that the development proposal adheres to all spatial planning principles. No major structural changes to the house are proposed and thus the existing residential character of the area will be maintained, while promoting the establishment of the Malmesbury CBD.

#### RESOLUTION

A. The application for rezoning on Erf 722, 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) Erf 722 (862 m<sup>2</sup> in extent) be rezoned from Residential Zone 1 to Business Zone 1, and that the land use be restricted to said offices as presented in the application and per approved site development plan;
- (b) The sidewalk be maintained and a new site development plan be submitted to the Senior Manager: Development Management to address the layout of the parking area and landscaping of the sidewalk for consideration and approval;
- (c) The parking area and driveway be finished with a permanent, dust free surface, whether it be tar, concrete, paving or any other material pre-approved by the Director: Civil Engineering Services;
- (d) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;
- (e) The operating hours of the offices be restricted to 07:00 am – 18:00 pm from Monday to Friday, 08:00 am – 17:00 pm on Saturday and closed on Sundays, Good Friday and Christmas Day;
- (f) Application be made to the Senior Manager: Development Management for the right to display the name board/sign of the facility on the site;

6.3/A1...

- (g) Application be made to the Senior Manager: Development Management for a business licence;

**A2 WATER**

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

**A3 SEWERAGE**

- (a) The property be provided with a single sewerage connection and that no additional connections be provided;

**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 before the occupancy certificate be issued. Failure to comply will result in the approval expiring;
- (b) Appeals against the decision of the Municipal Planning Tribunal 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, 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.

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

- (a) The application complies with the planning principles of LUPA and SPLUMA;
- (b) The application is compliant with the spatial planning of Malmesbury, as directed by the SDF;
- (c) The proposed offices will complement and not have a negative impact on both the earmarked CBD, but also the residential character of the surrounding area;
- (d) The development proposal supports the optimal utilisation of the property;
- (e) Sufficient services capacity exists to accommodate the proposed offices;
- (f) Sufficient on-site parking bays are provided for the proposed offices;
- (g) Health and safety issues are not concerns, as the proposed offices are considered a low impact, low-risk, low noise activity;
- (h) The noise impact of the offices on the tranquillity of the neighbourhood is deemed to be negligible;
- (i) The development is foreseen to create employment opportunities and to subsequently assist in strengthening the local economy.

**(SIGNED) J J SCHOLTZ  
CHAIRPERSON**