



## MINUTES OF A MUNICIPAL PLANNING TRIBUNAL MEETING VIRTUALLY HELD ON WEDNESDAY, 12 JUNE 2024 AT 14:00

---

### PRESENT

#### Internal members:

Municipal Manager, Mr J J Scholtz (chairperson)  
Director: Protection Services, Mr P A C Humphreys

#### External members:

Ms C Havenga  
Mr C Rabie

#### Other officials:

Director: Development Services, Ms J S Krieger  
Senior Manager: Development Management, Mr A M Zaayman  
Town and Regional Planner, Ms A de Jager  
Manager: Secretariat and Record Services (secretary)

### 1. OPENING

The chairperson opened the meeting and welcomed members.

### 2. APOLOGY

The apologies received from the Director: Corporate Services, the Senior Town and Regional Planner and the Town and Regional Planner and GIS Administrator be noted.

### 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 MAY 2024

##### **RESOLUTION**

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

That the minutes of a Municipal Planning Tribunal Meeting held on 8 May 2024 are approved and signed by the chairperson.

### 5. MATTERS ARISING FROM MINUTES

None.

### 6. MATTERS FOR CONSIDERATION

#### 6.1 PROPOSED REZONING, SUBDIVISION AND REGISTRATION OF A SERVITUDE ON ERF 2582, YZERFONTEIN (15/3/3-14; 15/3/6-14) (WARD 5)

The chairperson requested the Town and Regional Planner, Ms A de Jager, to give background regarding the Addendum to the application that was referred back by the Municipal Planning Tribunal on 13 March 2024.

Ms de Jager mentioned the three options that were given to the applicant to consider and to amend the application accordingly. The applicant decided on Option 2 which entails the reconstruction of the encroaching garage into a carport.

## RESOLUTION

A. The application for the amendment of restrictive Title Deed condition registered against Erf 1142, Yzerfontein, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), in order to amend condition B.7.(b), in Title Deed T13301/2020 as follows:

(a) Restrictive condition B.7.(b) that reads as follows:

*"...B.7.(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 5m to the street line which forms a boundary of this erf, not within 3m of the rear or 1,5m of the lateral boundary common to any adjoining erf, provide that with the consent of the local authority:*

be amended to read as follows:

*"...B.7(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 1,5m of the south-eastern lateral boundary, common to the adjoining erf, provided that with the consent of the local authority:..."*

(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:

- Copy of the approval by Swartland Municipality;
- Original title deed, and
- 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;

B. The application for departure from development parameters on Erf 1142, Yzerfontein, be approved in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), subject to the conditions that:

### **B1 TOWN PLANNING AND BUILDING CONTROL**

- (a) The type of structure allowed to encroach on the street building line be limited to that of a carport, as defined by the By-Law and as described in the conditions of approval;
- (b) The 1,5 m north-western side building line be departed from to 0 m;
- (c) The 4 m north-eastern street building line be departed from to 0 m;
- (d) Both (b) and (c) above be restricted to the portions of the carport that encroaches on the building line, as presented in the application;
- (e) The carport be constructed without any walls, as well as a door to the satisfaction of the Senior Manager: Development Management;
- (f) The street façade of the carport be restricted to a maximum width of 6,5 metres, measured from edge to edge of the roof;
- (g) The screen-wall surrounding the fire pit be raised to a height of at least 2 metres and that the northern portion of the boundary wall connecting with the screen wall of the fire pit be extended at the same height of 2 m for a distance of at least 2 metres, on top of the existing boundary wall, to the satisfaction of the Senior Manager: Development Management;
- (h) Building plans be submitted to the Senior Manager: Development Management for consideration and approval;

- (i) Storm water be managed on the property itself and construction measures be taken to ensure no storm water run-off is directed to the abutting properties;

**C. GENERAL**

- (a) The approval does not exempt the owner/developer from compliance with all legislation applicable to the approved land use;
- (b) Should it in future be determined necessary to extend or upgrade any engineering service in order to provide the development with services, it will be for the account of the owner/developer;
- (c) The approval is valid for a period of 5 years, in terms of section 76(2) of the By-Law, from the date of decision. Should an appeal be lodged, the 5 year validity period starts from the date of outcome of the decision against the appeal;
- (d) All conditions of approval be implemented within 60 calendar days from the date of decision, before the occupancy certificate be issued and failing to do so will cause the approval to lapse. Should all conditions of approval be met within the prescribed period, the land use becomes permanent and the approval period will no longer be applicable;
- (e) The applicant/objector be informed of the right to appeal against the decision of the Municipal Planning Tribunal in terms of section 89 of the By-Law. Appeals 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), within 21 days of notification of decision. An appeal is to comply with section 90 of the By-Law and is to be accompanied by a fee of R5 000,00 in order 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) Section 62 of the By-Law allows applicants to amend applications at any point in the process, prior to approval or refusal. The applicant acted on said right at the suggestion of the Tribunal;
- (b) In order for the Tribunal to consider a carport as an option to approve, the applicant had to include such an option in the application. The current report thus serves as an addendum to the original, while the original information remain unchanged;
- (c) The removal of the affected Title Deed building lines is deemed necessary in order to optimally develop the property. Restrictive conditions that are not affected by the development proposal, remain intact;
- (d) The removal of restrictions will not have a negative financial or social impact on either the owner or the holder(s) of the rights;
- (e) Application for departure is an acceptable mechanism provided for by the By-Law, in order to deviate from the required development parameters;
- (f) The fire pit is consistent with structures defined by the By-Law to be exempted from building line departure. However, the use of the area for social purposes is a potential nuisance and therefore mitigating measures are proposed to the structure;
- (g) The property owners of Erf 1151 – potentially most affected by the fire pit placement – did not object against the proposal;
- (h) Carports are defined in the By-Law as structures that may be considered for street and side building line departure;
- (i) A carport façade is permeable and vehicles may park in front of the carport, without protruding onto the street with the rear of the vehicle;
- (j) The impact of the carport departures on the character of the area and the streetscape is deemed much less invasive than that of a garage;
- (k) A carport would allow for more flexibility with regard to parking space and would allow for two vehicles to be parked in tandem if necessary, without protruding into the road and creating unsafe traffic conditions;
- (l) The structure of a carport is also considered to have a lesser visual impact than that of the solid garage;

6.1/D...

- (m) The garage was constructed unauthorised, a calculated risk taken by the property owners. Fortunately the structure is comprised of an aluminium pillar and beam system, with Nu-tec cladding, which is relatively uncomplicated to reconfigure and reconstruct into the proposed carport.

**(SIGNED) J J SCHOLTZ  
CHAIRPERSON**