



CLEAN AUDITS SINCE 2010/11



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Lêer verw/
File ref: 15/3/4-14/Erf_2132

Navrae/Enquiries:
Ms D N Stellenberg

17 August 2022

C K Rumboll & Partners
P O Box 211
MALMESBURY
7299

By Registered Mail

Sir/Madam

PROPOSED DEPARTURES ON ERF 2123, YZERFONTEIN

Your application with reference YZE/12335/NJdK dated 28 March 2022 on behalf of A J Smit has reference.

- A. The Municipal Planning Tribunal has resolved at a meeting held on 10 August 2022 to refuse the application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), in order to depart from the 4 m northern street building line to 3m on both the ground floor and first floor level.
- B. Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), in order to depart from the 3m eastern street building line to 2,5 m on ground floor level and from 3 m to 2,37 m on first floor level, has been refused;
- C. Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), in order to depart from the 1,5 m western side building line to 1 m on ground floor and first floor level, in order to accommodate the proposed bedroom and pool, has been refused;
- D. Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), in order to exceed the maximum permissible erf coverage to 59%, has been refused;
- E. Application for departure on Erf 2123, Yzerfontein, in terms of Section 25(2)(b) of the Swartland Municipality: Municipal Land Use Planning By-Law (PK 8226, dated 25 March 2020), in order to depart from the 1,5 m southern and western side building lines to 0 m, has been approved, subject to the conditions that:

E1 TOWN PLANNING AND BUILDING CONTROL

- (a) The 1,5 m southern building line be departed from to 0 m;
- (b) The 1,5 m western side building line be departed from to 0 m;
- (c) Both (a) and (b) above be restricted to the portions of the garage that encroaches on the building line, as presented in the application;

Rig asseblief alle korrespondensie aan:
Die Munisipale Bestuurder
Privaatsak X52
Malmesbury 7299

Tel: 022 487 9400
Faks/Fax: 022 487 9440
Epos/Email: swartlandmun@swartland.org.za

Moorreesburg Tel: 022 433 2246

Kindly address all correspondence to:
The Municipal Manager
Private Bag X52
Malmesbury 7299

Darling Tel: 022 492 2237

Yzerfontein Tel: 022 451 2366

- (d) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;
- (e) No openings, windows or doors, be allowed in the façades that encroach on the building lines;
- (f) The roof of the garage that encroach on the building lines be in no way utilised as terraces, balconies or any such use and that said portions be made inaccessible for such use;
- (g) 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;

F. GENERAL

- (a) The approval be, in terms of section 76(2)(w) of the By-Law, valid for 5 years. All conditions of approval must be implemented within these 5 years, without which, the approval will lapse and occupation will not be granted. Should all the conditions of approval be met before the 5 year approval period lapses, the approval period will not be applicable anymore;
- (b) 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;

G. The application be partially supported for the following reasons:

- (a) Application for departure is an acceptable mechanism provided for by the By-Law, in order to deviate from the required development parameters;
- (b) The impact of the garage departures has been evaluated and deemed to have either minimal or no impact on the surrounding area with regards to views, safety, access, privacy and health concerns;
- (c) The proposed garages optimally utilise the narrowest portion of the property while providing the required number of parking bays on the property;
- (d) The side building line departure will have no impact on the residential character of the area, as the land use will remain unchanged;
- (e) The approved side building line departures are considered desirable within the spatial context;
- (f) The departure by the proposed garage will have no impact on the views from southern properties, as the erf is located much lower than said erven;

H. The application be partially refused for the following reasons:

- (a) An increase in coverage to 59% will constitute an over-development of the property, beyond the intended capacity. Such a high coverage is more suited to another zoning category, which is not consistent with the spatial planning of the area;
- (b) Application for departure from coverage may again be made at building plan stage, if the design has been amended and the proposed coverage remains above 50%, but is more consistent with the parameters of Residential Zone 1;
- (c) The property area was known at time of purchase and the decision could have been made at that point that it did not suit the needs of the owner/developer;
- (d) The property is vacant and subject to the current applicable legislative framework, thus no claims may be made on development parameters that were previously applicable;
- (e) The street building line departures are not consistent with the departure criteria stipulated in section 12 of the By-Law;
- (f) The By-Law restricts building line departure to the ground floor and departure from any building line on first floor level is considered undesirable, due to its impact on privacy, views, the street scape, human scale within a residential neighbourhood, blocking of natural light, the character of the area, etc.

In terms of Chapter VII, Section 89 of the Swartland Municipality By-law relating Municipal Land Use Planning (PG 8226 of 25 March 2020), you as well as the objectors have a right to appeal within 21 days of date of registration of this letter to the appeal authority of the Swartland Municipality against Council's decision.

Should you decide to appeal, you can write to the following address:

The Municipal Manager, Swartland Municipality, Private Bag X52, Malmesbury, 7299

Please note that if the applicant/objector does appeal, an appeal fee of R4 500-00 is payable. The appeal must be accompanied by the proof of payment and only then will the appeal be regarded as valid.

Yours faithfully



MUNICIPAL MANAGER

via Department Development Services

/ds

Copies : *Building Control Officer*