



CLEAN AUDITS SINCE 2010/11



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Umasipala

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Lêer verw/ 15/3/4-14/Erf_28
File ref: 15/3/5-14/Erf_28

Navrae/Enquiries:
Ms D N Stallenberg

24 November 2021

C K Rumboll & Partners
P O Box 211
MALMESBURY
7299

By Registered Mail

Sir/Madam

PROPOSED REMOVAL OF RESTRICTIVE TITLE CONDITIONS AND DEPARTURE ON ERF 28, YZERFONTEIN

Your application with reference YZE/11582/ZN/MV dated 25 August 2021 on behalf Lomien Beleggings Pty Ltd has reference.

- A** The Municipal Planning Tribunal has resolved at a meeting held on 17 November 2021 to refused the application for the departure on Erf 28, Yzerfontein, in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020), in order to encroach on the southern street building line;
- B.** The application for the removal of restrictive conditions registered against erf Erf 28, Yzerfontein, is refused in terms of Section 70 of the Swartland Municipality: Municipal Land Use Planning By-Law (PG 8226 of 25 March 2020);
- C. Non-approvals/refusals A. and B. above are motivated as follows:**
- C1 TOWN PLANNING AND BUILDING CONTROL**
- (a) The development proposal contradicts the principles of LUPA and SPLUMA and therefore cannot be supported;
- (b) The departure from the 4 m street building line impacts negatively on the view from Erf 29, Yzerfontein. A view is not a right, unless the owner that obscures the view, departs from the prescribed development parameters. As the proposal is to depart from the building line and in doing so the view from Erf 29 is obstructed, the rights of the property owner of Erf 29 are negatively affected and the application cannot be approved;
- (c) The Section 12.2.1(e) of the By-Law restricts the structures and circumstances under which building line departure may be considered. The proposed application is in contradiction with the section and is therefore refused;
- (d) The proposed removal of the Title Deed conditions negatively impacts on the rights enjoyed by Erf 29 and thus cannot be motivated or supported;
- (e) The construction of the screen walls over the street building line initially did not take place and were marked as omitted from the approved building plan after construction. Once the screen walls were built, however, the owner/developer went beyond that which was approved and opened the

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

Darling Tel: 022 492 2237

Kindly address all correspondence to:

**The Municipal Manager
Private Bag X52
Malmesbury 7299**

Yzerfontein Tel: 022 451 2366

application up to renewed scrutiny. It is therefore recommended that the owner/developer not only demolishes the lattice roof, but also that the screen wall be lowered to a maximum height of 2.1 m, measured from the natural ground level to the highest point of the column top, consistent with the By-Law;

- (f) The boundary wall be demolished to a height that complies with the Swartland Municipality: By-Law relating to Boundary Walls and Fences (PG 7638 dated 24 June 2016);
- (g) Building plans be submitted to the Senior Manager: Built Environment for consideration and approval;

D. GENERAL

- (a) The applicant/objectors be notified of the outcome and their right to appeal in terms of Chapter VII, Section 89 of the By-law;

E. The reasons for the refusal of the application are as follows:

- (a) The development proposal contradicts the principles of LUPA and SPLUMA and therefore cannot be supported;
- (b) The departure from the 4 m street building line impacts negatively on the view from Erf 29, Yzerfontein. A view is not a right, unless the owner that obscures the view, departs from the prescribed development parameters. As the proposal is to depart from the building line and in doing so the view from Erf 29 is obstructed, the rights of the property owner of Erf 29 are negatively affected and the application cannot be approved;
- (c) The Section 12.2.1(e) of the By-Law restricts the structures and circumstances under which building line departure may be considered. The proposed application is in contradiction with the section and is therefore refused;
- (d) The proposed removal of the Title Deed conditions negatively impact on the rights enjoyed by Erf 29 and thus cannot be motivated or supported;
- (e) The construction of the screen walls over the street building line initially did not take place and were marked as omitted from the approved building plan after construction. Once the screen walls were built, however, the owner/developer went beyond that which was approved and opened the application up to renewed scrutiny. It is therefore recommended that the owner/developer not only demolish the lattice roof, but also that the screen wall be lowered to a maximum height of 2.1 m, consistent with the By-Law and the Title Deed.

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 R2400-00 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