



**MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL
(MPT)**

MINUTES

**DATE:
VENUE:
TIME:**

**28 APRIL 2022
VIRTUAL
10:00**

OVERSTRAND
MUNICIPAL PLANNING TRIBUNAL
MINUTES OF A MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL,
HELD VIRTUALLY ON
28 APRIL 2022 AT 10:00

PRESENT:

MEMBERS:

Ms H Janser, Directorate Development
Management
Mr S Müller, Director : Infrastructure & Planning
Mr S Madikane, Director : LED
Mr H Blignaut, Deputy Director : Engineering
Services

OFFICIALS:

Mr S van der Merwe, Senior Town Planner
Ms S Swart, Council Support Services

APOLOGIES:

Ms R Louw, Senior Manager : Strategic Services
Mr R Kuchar, Senior Manager : Town & Spatial
Planning

**MUNICIPAL PLANNING TRIBUNAL
ATTENDANCE REGISTER**

Date: **28 APRIL 2022**

I, the undersigned, hereby declare:

- that I will make known details of any personal or other interest in respect of matters on the agenda and whether I have been approached by any party prior to the meeting
- that I have read all the information on the agenda

NAME	DEPARTMENT / SECTION MUNICIPALITY	SIGNATURE
H JANSER	CHAIRPERSON DIR: DEV MANAGEMENT	✓
S MÜLLER	VICE-CHAIRPERSON OVERSTRAND MUNICIPALITY	✓
S MADIKANE	MPT MEMBER OVERSTRAND MUNICIPALITY	✓
H BLIGNAUT	MPT MEMBER OVERSTRAND MUNICIPALITY	✓
R LOUW	MPT MEMBER OVERSTRAND MUNICIPALITY	Apology
R KUCHAR	AUTHORISED OFFICIAL OVERSTRAND MUNICIPALITY	Apology
S VAN DER MERWE	SENIOR TOWN PLANNER OVERSTRAND MUNICIPALITY	✓
H VAN DER STOEP	SENIOR TOWN PLANNER OVERSTRAND MUNICIPALITY	
P ROUX	TOWN PLANNER OVERSTRAND MUNICIPALITY	
H OLIVIER	TOWN PLANNER OVERSTRAND MUNICIPALITY	
S SWART	COUNCIL SUPPORT OVERSTRAND MUNICIPALITY	✓

1. OPENING

The Chairperson, Ms H Janser, opened the meeting and welcomed those present.

2. APPLICATIONS FOR LEAVE OF ABSENCE

Ms R Louw
Mr R Kuchar

RESOLVED:

that the above-mentioned applications for leave of absence, **be granted.**

3. CONFIRMATION OF MINUTES**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 31 March 2022****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **31 March 2022.be approved**, subject to the following amendments:

Page 3 point (d): delete the word 'and' at the end of the sentence;

Page 8 under the heading 'Reasons for the Resolution', first bullet point: delete the words 'that also' and replace with the words ... 'as is' ...

4. ITEMS FOR CONSIDERATION

4.1 ERF 365, 52 SCHNEIDER STREET, FRANSKRAAL, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS PLANACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF J BOTHMA

EXECUTIVE SUMMARY

An application has been received 19 August 2021 from Messrs PlanActive Town- and Regional Planners on behalf of J Bothma in terms of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) applicable to Erf 365, Franskraal for the following:

- ❖ removal in terms of Section 16(2)(f) of the By-Law of restrictive title condition C.20(d) contained in Title Deed T39629/2013;
- ❖ departure in terms of Section 16(2)(b) of the By-Law for the relaxation of the street building line from 4m to 2,2m to accommodate the existing covered stoep (first floor) and ground floor store;
- ❖ departure in terms of Section 16(2)(b) of the By-law for the relaxation of the street building line from 4m to 2,2m to accommodate a proposed covered stoep and ground floor bedrooms and living room additions;
- ❖ departure in terms of Section 16(2)(b) of the By-law for the relaxation of the south-eastern lateral building line from 2m to 0,86 to accommodate the existing braai room as well as the proposed replacement roof;
- ❖ determination of an administrative penalty in terms of Section 16(2)(q) of the By-Law to accommodate the existing building.

RESOLVED:

1. that the late objection be noted;
2. that the application in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 (By-Law) received from Messrs PlanActive Town and Regional Planners on behalf of J Bothma on Erf 365, Franskraal for the removal of restrictive title deed condition C.20(d) as contained in Title Deed T39629/2013, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application for departure in terms of Section 16(2)(b) of the By-Law on Erf 365, Franskraal for the following:
 - ❖ to relax the street building line from 4m to 2,2m to accommodate the existing covered stoep (first floor) and ground floor store;
 - ❖ to relax the street building line from 4m to 2,2m to accommodate a proposed covered stoep and ground floor bedrooms and living room additions; and

- ❖ to relax the south-eastern lateral building line from 2m to 0,86 to accommodate the existing braai room as well as the proposed replacement roof;

be approved in terms of the provisions of Section 61 of the By-Law;

4. that the applicant **be exempted** from the payment of an administrative penalty in terms of Section 90(4) of the By-Law applicable to Erf 365, Franskraal;
5. that the decisions in paragraphs 2. to 3. above be subject to the following conditions:
 - (a) that the development be implemented strictly in accordance with the Site Development Plan;
 - (b) that the covered stoep may not be permanently enclosed;
 - (c) that building plans be submitted to the Building Department for approval, and that all conditions of the Building and the Fire Departments be complied with at that stage;
 - (d) that all the conditions in the Services Report be complied with;
 - (e) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with; and
 - (f) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
6. that the applicant be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above conditions of approval.

REASONS FOR THE RESOLUTION

- ❖ The application has followed due procedure.
- ❖ None of the relevant internal departments have any objection.
- ❖ The Overstrand Zoning Scheme Regulations have sufficient control measures when it comes to land use, coverage and building line controls.
- ❖ The proposal will not negatively impact on the existing/vested rights of adjoining property owners or the character of the area.
- ❖ The encroachments were effected by a former owner and were thus in place before the applicant bought the property.
- ❖ The proposal is considered in line with the Municipality's SDF.
- ❖ The proposal is consistent with the planning principles in terms of LUPA and SPLUMA.

The meeting adjourned at 10:24