



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

## **MINUTES**

<b>DATE:</b>	<b>25 APRIL 2024</b>
<b>VENUE:</b>	<b>TOWN PLANNING COMMITTEE ROOM</b>
<b>TIME:</b>	<b>10:00</b>

**OVERSTRAND**  
**MUNICIPAL PLANNING TRIBUNAL**  
**MINUTES OF A MEETING OF THE**  
**MUNICIPAL PLANNING TRIBUNAL,**  
**HELD IN THE**  
**TOWN PLANNING COMMITTEE ROOM ON**  
**25 APRIL 2024 AT 10:00**

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**PRESENT:**

**MEMBERS:**

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

**OFFICIALS:**

Mr R Kuchar, Senior Manager : Town & Spatial  
Planning  
Mr S van der Merwe, Senior Town Planner  
Mr H Boshoff, Town Planner  
Mr B Minnaar, Town Planner  
Ms S Swart, Council Support Services

**APOLOGIES:**

None

MUNICIPALITY



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## MUNICIPAL PLANNING TRIBUNAL

## ATTENDANCE REGISTER

Date: 25 APRIL 2024

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	
R KUCHAR	AUTHORISED OFFICIAL OVERSTRAND MUNICIPALITY	
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	
H. Boshoff	TOWN PLANNER OVERSTRAND	
B. Minnaar	TP: Compliance. Overstrand Municipality	

**1. OPENING**

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

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

None

**RESOLVED:****3. CONFIRMATION OF MINUTES****3.1 Minutes of a Municipal Planning Tribunal Meeting held on 28 March 2024****RESOLVED:**

that the Minutes of the Municipal Planning Tribunal Meeting held on **28 March 2024**, be approved.

**4. ITEMS FOR CONSIDERATION****4.1**

**ERF 3770, 1 NERINE CRESCENT, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION: WRAP PROJECT OFFICE ON BEHALF OF AP BOTHA**

**3770 KBB (4110/2022)**

**B Minnaar**

**(028) 313 8900**

**Hermanus Administration**

**6 February 2024**

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**EXECUTIVE SUMMARY**

An application has been received on 8 April 2022 from WRAP Project Office on behalf of AP Botha in terms of Section 16.(2)(f) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the removal of a restrictive title condition Clause B.7. as contained in Title Deed T47643/2021 applicable to Erf 3770, Betty's Bay in order to accommodate the proposed new dwelling house on the 2m Scheme building line.

The restrictive title deed condition B.7. read as follows:

*"No building or structure or any portion thereof except boundary walls and fences, shall be erected with the consent of the Administrator, be erected nearer than 5m to the street building line which forms a boundary of this erf, nor within 5m of the rear or 3m of the lateral boundary common to any adjoining erf provided that with the consent of the local authority:"*

**RESOLVED:**

that the item **be referred back** and **resubmitted** at the next meeting.

**RESPONSIBLE OFFICIAL :**

**B MINNAAR**

## 4.2

**ERF 349, 10 MAIN ROAD, SANDBAAI: APPLICATION FOR REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION, DEPARTURE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: MESSRS PLAN ACTIVE TOWN- AND REGIONAL PLANNERS (ON BEHALF OF CB & JA VAN WYK)**

**349 HSB (4188/2022)**

**(H Boshoff)**

**H van der Stoep**

**(028) 313 8900**

**Hermanus Administration**

**03 April 2024**

**EXECUTIVE SUMMARY**

An application was received on 28 June 2022 from Messrs PlanActive Town and Regional Planners on behalf of CB & JA van Wyk in terms of the Overstrand Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) applicable to Erf 349, Sandbaai, for the following:

- ❖ **removal of restrictive title deed condition** in terms of Section 16(2)(f) of the By-Law, namely condition B.(2)(d) as contained in Title Deed T5251/2018, to accommodate the existing covered porch at ground floor level and the existing open wooden deck directly above the porch at first floor level, which structures encroach the 4.72m title deed street building line;
- ❖ **departure** in terms of Section 16(2)(b) of the By-Law to:
  - relax the street building line from 4m to  $\pm 1.975$ m to accommodate the existing covered porch at ground floor level and the existing open wooden deck/balcony directly above the porch at first floor level; and
  - relax the northern lateral building line from 2m to  $\pm 0.82$ m to accommodate an existing pergola.

The restrictive condition as contained in Title Deed T5251/2018 to be removed, reads as follows:

Clause B.(2)(d)

*“That no building shall be erected on the above erf or erven within 4.72m of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as gardens but shall not be built upon.”*

- ❖ **determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law for the contraventions as set out in paragraph 1 above.

**RESOLVED:**

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 (By-Law) for the removal of condition B.(2)(d) as contained in Title Deed T5251/2018 for Erf 349, Sandbaai, to accommodate the existing covered porch at ground floor level and the existing open wooden deck/balcony directly above the porch at first floor level, which structures encroach the 4.72m title deed street building line, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application for departure in terms of Section 16(2)(b) of the By-Law to relax the street building line of Erf 349, Sandbaai from 4m to  $\pm 1.975$ m to accommodate the existing covered porch and the existing open wooden deck/balcony directly above the porch, **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 to relax the northern lateral building line of Erf 349, Sandbaai from 2m to  $\pm 0.82$ m to accommodate an existing open pergola, **be approved** in terms of the provisions of Section 61 of the By-law;
4. that, in terms of the provisions of Section 90(5) of the By-Law, the applicant/landowners, **not be exempted** of the payment of an administrative penalty for the open wooden deck, but **be exempted** from the payment of an administrative penalty for the covered porch and pergola;
5. that the decisions in paragraphs 2, 3, and 4 above be subject to the following conditions:
  - (a) that the administrative penalty determined at 3% of the building costs (as per municipal budget) of the extent of the encroachment, calculated at R9 114,04 (including VAT), must be payable within 60 (sixty) days of the final decision of the application;
  - (b) that the wendy house type structure at the southern rear corner of the property that encroaches both the lateral and rear building lines, must be moved/relocated outside the building line spaces;
  - (c) that the covered porch and open wooden deck/balcony directly above the porch at first floor level, may not be enclosed in any way whatsoever;
  - (d) that the street boundary wall of the property that is situated in the Main Road reserve, must be relocated to within the property boundaries of the property;

- (e) that building plans must 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, which plans must be submitted within 60 (sixty) days from the final approval of this application;
  - (f) that all the conditions in the Services Report and Telkom (Open Serve) must be complied with;
  - (g) that all other development parameters as prescribed in the relevant Zoning Scheme;
  - (h) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation; and
6. that the applicant and the commenters be notified of their respective appeal rights in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 regarding the above conditional approvals.

**REASONS FOR THE RESOLUTION:**Reasons for approvals

- ❖ The application has followed due procedure.
- ❖ None of the relevant internal or external departments had any objection.
- ❖ The encroachments will not negatively impact on the rights of adjoining property owners, nor does it degrade the neighbourhood in any significant way.
- ❖ It is not out of line with the broader character of the area.
- ❖ All the erven from Erf 347 up to Erf 355 (to the south) at the end of the residential block have already been developed, and the dwellings are predominantly situated at the front of the properties facing in a westerly direction, which significantly minimizes any sea view impacts.
- ❖ The impact on the streetscape of the property and that of surrounding developed properties is insignificant when the 25m wide road reserve of Main Road is taken into consideration.

Reasons for the payment of an administrative penalty for the wooden deck

- ❖ The applicant failed to conduct a thorough investigation prior to purchasing the property, which would have revealed that the structure had not been formally approved by the municipality.

Reasons for the exemption of the payment of an administrative penalty for the pergola

- ❖ No formal complaints from surrounding property owners could be traced on town planning records pertaining to the pergola.



- ❖ Due to fact that the pergola mainly consists of five wooden poles/planks, is an open, unhabitable and uncovered structure, and small in extent, it is the opinion that it has a very low overall impact that does not justify the payment of an administrative penalty.
- ❖ The comments received were predominantly aimed at the wooden deck and not at the pergola.

**RESPONSIBLE OFFICIAL :**

**H BOSHOFF**

**The meeting adjourned at 10:38**