

CALL TO ORDER: AT 7:00 P.M. by Vice Chairman Peter Rathjens  
OPEN PUBLIC MEETING LAW STATEMENT OF COMPLIANCE

ROLL CALL: Chairman Loury, Mayor William J. Chegwidden, Councilwoman Vasquez, Peter Rathjens, Marc Harris, Christopher Fleischman, Barbara Chiappa, Roshan Patel (arrived late)

EXCUSED: Brian Bosworth, Michelle Molde, and Lawrence Biehler

OTHERS PRESENT: Alan Zakin, Board Attorney; Christopher Borinski, Board Engineer; Alison Kopsco, Board Planner Representative, and Desi Ruffo, Board Secretary

Motion by B. Chiappa and seconded by C. Fleischman to approve the July 1, 2025 meeting minutes with changes to page 1 of 6 as discussed. YEA - 5 NAY - 0 ABSENT - 4 ABSTAIN - 2

Motion by C. Fleischman and seconded by B. Chiappa to approve the bills as presented. YEA - 7 NAY - 0 ABSENT - 4 ABSTAIN - 0

Board Secretary Desi Ruffo provided an update to the board on the outstanding escrow account balances.

**Resolution of Approval:**

**Hollywood Assets, LLC.: 72 Langdon Avenue (Block: 201, Lot: 14) - Minor Subdivision**

Both Remo A. Caputo, Esq., the applicant's attorney, and the applicant were present.

The board reviewed the resolution of approval. Discussion between the board members, board professionals and applicant regarding revisions to the resolution occurred. Revisions to the following pages were determined: Pages: 1 through 5,7,8,10,11,12,15,17,18, and 19.

A motion by M. Harris and seconded by P. Rathjens to approve the resolution with the revisions as noted. YEA - 5 NAY - 0 ABSENT - 4 ABSTAIN - 2

**New Business:**

**Cesar Palacios.: 183-185 South Main Street (Block: 1801, Lot: 16) – Variance and Minor Site Plan**

Bernd Hefele, Esq. of Hefele Law (Lake Hopatcong, NJ), appeared on behalf of the applicant, Cesar Palacios, who was present. The applicant is seeking a variance to construct a new 1,644 sq. ft. two-family home at 183–185 South Main Street, a permitted use in the zone. Engineering and architectural plans were submitted to the Board professionals. Modifications were made based on feedback from the professionals and a meeting with an immediate neighbor. The lot is slightly undersized, triggering several variances. The applicant is seeking relief under a C-1 hardship variance due to the lot's size and shape. Three witnesses were scheduled to testify: the owner, the engineer, and the architect.

Cesar Palacios (*duly sworn*), owner of the property at 183–185 South Main Street, testified. His current address is 49 Mountain Avenue, Dover. Mr. Palacios stated he has owned the property for several years. The original home on the lot was destroyed by fire, and the lot is currently vacant. He is proposing to construct a new two-family home on the site for himself and his family. The application and plans have gone through several revisions based on feedback from professionals and meetings with neighbors. The current proposal reflects the final version intended to meet his family's needs and respond to prior input.

Adam Kandil, P.E., of DaeTel Engineering (Mountain Lakes, NJ), was sworn and accepted as an expert in civil engineering. Mr. Kandil testified. The property is located in the RM-75 zone on a 0.153-acre lot (Lot 16, Block 1801) with existing nonconformities including a lot depth of 150 ft. proposed where 125 ft. is required.

The proposed two-family home complies with maximum building height (29.21 ft. proposed; 30 ft. allowed) and is within the required front (25 ft.), rear (20 ft.), and side yard (10 ft.) setbacks. However, variances are requested for the following: Building coverage: 44.07% proposed; 20% allowed, Impervious coverage: 57.59% proposed; 40% allowed and Accessory structures (deck and stairs): encroach into required setback areas.

The building itself remains within the building envelope. Four parking spaces are proposed to accommodate two three-bedroom units, meeting residential parking requirements.

The lot is currently vacant due to a prior structure that was destroyed by fire. The demolition and prior grading activity resulted in areas of steep slopes, which the applicant is seeking to disturb as minimally as possible. To reduce disturbance, parking is proposed in the front of the property rather than the rear, and a retaining wall will be constructed. The proposed building footprint is 68.5 feet deep by 24 feet wide. While steep slopes exist, they are considered previously disturbed.

The property previously shared a common driveway with Lot 15. The new driveway has been shifted to provide maximum separation from adjacent driveways on both Lots 15 and 17, in accordance with County preferences. The driveway will provide a 12-foot access aisle leading to four parking spaces. Disturbance to the rear yard is limited to construction of the foundation and installation of a deck and stairs, which serve both as egress and usable outdoor space.

A 6-foot privacy fence is proposed along the side adjacent to Lot 15 to screen parked vehicles and headlights. Three shrubs will continue beyond the fence toward the front of the home to provide additional landscaping. A retaining wall is proposed on the opposite side of the lot, with a protective barrier (guardrail) installed along the top where elevation exceeds 30 inches. A new concrete apron and curb have been coordinated with the county. Motion-sensor lighting will be installed for safety, activating only when triggered. Garbage and refuse will be stored and screened on the side of the home near the shrubs. A dry well is proposed at the southwest corner of the site, with the intent to maintain existing drainage patterns.

*Board Member Marc Harris* requested clarification regarding the proposed parking layout. Mr. Kandil explained that four parking spaces are provided, each measuring 9 feet by 18 feet. An additional 3 feet is provided beyond the fourth space to allow for vehicle maneuverability, along with a 5-foot area to enable vehicles to back into the drive aisle and exit the property safely.

*Chairman Loury and Board members* discussed the change in parking location from the rear to the front of the property. Mr. Kandil explained that the lot previously shared a driveway with the adjacent property on the right (Lot 15), allowing for rear parking. However, the neighboring property has since been redeveloped as a single-family home, and the owner chose to install a private driveway, opting not to continue the shared access. No easement was in place to preserve shared use, so the applicant no longer has legal access to the former shared driveway. As a result, the applicant was required to redesign the site to accommodate parking independently. Rear parking was deemed impractical due to significant grading challenges, which would require a 15–20-foot-high retaining wall and a narrower building footprint to fit four spaces. The revised design places parking in the front, which also aligns with county preferences to avoid closely spaced adjacent driveways. The proposed front parking layout allows for either head-in or back-in parking, with maneuvering space behind each of the four spaces.

*Board Member Marc Harris* raised concerns regarding snow removal, noting the site's grading challenges and limited flat areas for snow storage. He asked whether the proposed snow storage would be adequate during typical winter conditions. Mr. Kandil confirmed that snow would be stored temporarily on-site along the driveway edges and cleared off-site if needed during heavier snowfall. Mr. Harris also asked about the 15-foot setback area between the sidewalk and the first parking space, questioning its composition.

Stormwater management was addressed by Mr. Kandil. Runoff from the building roof will be collected and directed to a stormwater management system, including a dry well located at the lowest point of the property. Additionally, behind the retaining wall, the applicant proposes an expanded stone trench in the narrow area between the guardrail and pavement. This trench will serve as an exposed drainage feature, both to avoid difficult-to-maintain grass and to increase stormwater volume capture. An underdrain system will collect water from this trench and direct it to the dry well.

The applicant agreed to a condition of approval that no additional stormwater runoff from the property will be directed onto neighboring properties.

#### OPENED TO THE PUBLIC

Laura White, 192–194 South Main Street, asked about rear yard drainage and the distance from the house to the rear property line. Mr. Kandil stated the distance is approximately 20 feet, and stormwater will be managed through roof and yard drains connected to an underground drywell system. Ms. White also requested clarification on the variances. The applicant confirmed variances are requested for impervious coverage, building coverage, and setback encroachments for accessory structures (deck and stairs).

Alexander Chaile, 188 South Main Street, inquired about the location and extent of the proposed fence near the parking area. Mr. Kandil stated that the fence will extend just past the last parking space, approximately 3 feet in from South Main Street. Mr. Chaile also asked about driveway placement and whether two driveways side-by-side are permitted. It was clarified that South Main Street is a county road, and the County discourages adjacent driveways due to access management guidelines.

#### CLOSED TO THE PUBLIC

Ken Fox, AIA, (Ledgewood, NJ) was sworn and accepted as an expert in architecture. Mr. Fox testified that the proposed structure is a two-story, two-family residence with a basement. The design features a full-width front porch, consistent with the architectural character of Main Street. Each unit will have three bedrooms. The first-floor unit includes living spaces and access to a rear deck with stairs to the backyard. The second-floor unit has two separate points of access: from the front porch and a rear stair leading to a second-story deck and egress to the backyard.

Interior layouts are similar for both units, with three bedrooms and two bathrooms in each. The basement is currently accessible from only one unit, per the owner's preference. Mr. Fox stated that, in response to concerns from the Board and municipality regarding basements being used as bedrooms or habitable space, the design has been revised to eliminate exterior basement access. The basement will be accessible only from the first-floor unit and will remain one large, open space with no bedrooms. The applicant agreed to a condition of approval that the basement shall not contain any bedrooms. The attic spans the entire top of the building within the gable and is accessible only via a pull-down hatch at the top of the hallway stairs. Due to modern energy code requirements for insulation, the attic is not designed or suitable for habitable space. The attic's height peaks at approximately seven to eight feet in the center but quickly tapers down, further limiting its usability as living space.

#### OPENED TO THE PUBLIC

Laura White, 192–194 South Main Street, asked how many other multi-family properties the applicant owns. The applicant responded that he owns two other two-family properties, one in Wharton and one in Dover, where he currently resides. Clarification was sought on whether all bedrooms in both units would be occupied by the applicant's family. The applicant confirmed that one unit would be for himself and the other for his parents, totaling six bedrooms. When asked about the total number of occupants, the applicant stated approximately eight people would live in the home.

Chairman Loury reminded the applicant that interior doors are not permitted to have key locks. The applicant agreed.

*Alan Zakin, Esq., Board Attorney*, reminded attendees that everyone has the right to speak and share their views, following established protocols. While no one present is represented by an attorney, if anyone has legal representation, that person may act as a witness. Otherwise, individuals should speak for themselves, and all testimony should be relevant.

Alexander Chaile, 188 South Main Street, was sworn in and testified that he previously rented a unit in the neighboring house owned by the applicant. He described a fire incident at that property and expressed frustration that the applicant was not reachable during the event and never addressed the damages caused. Mr. Chaile stated that he and others affected were left homeless but received community assistance. He is opposed to the current application for building a new house on the site, citing a lack of communication and accountability from the property owner.

Laura White, 192–194 South Main Street, was sworn in and expressed concerns about the proposed parking in the front yard, noting that most homes in the area have houses set close to the street with parking in the rear. She believes the large size of the proposed house limits options for driveway placement. Ms. White also referenced the neighboring property’s redevelopment following a fire, agreeing with the decision to separate driveways. She shared personal observations about the property’s overcrowded conditions prior to the fire, describing it as a multi-tenant “stacked” dwelling with occupants living in both the basement and attic for an extended time. She opposed the application, doubting proper oversight of occupancy and expressing concern that the new home could face similar issues, posing a liability to the neighborhood.

Craig Erezuma, licensed architect from Madison, NJ, was sworn in and qualified as an expert witness representing Ed Kehoe of 179 South Main Street. Mr. Erezuma is also the architect of record for Mr. Kehoe’s home, which was rebuilt after a fire originating from the neighboring property. He explained that upon reviewing the applicant’s submission, they discovered a critical error in the survey, which incorrectly encroached 10 feet onto Mr. Kehoe’s property. This error was corrected.

Mr. Erezuma outlined several revisions made by the applicant following discussions. Additionally, Mr. Erezuma presented an alternative proposal to narrow the building footprint, which would allow parking to be located at the rear of the property. He provided (4) overlay drawings illustrating this alternative, which were accepted as Exhibit: E1 Overlay Version of Proposal dated 09/02/2025. Mr. Erezuma acknowledged productive discussions with the applicant’s attorney and expressed appreciation for revisions made. However, he maintained that the current proposal still lacks balance in terms of community benefit and zoning conformity. He reiterated that narrowing and shifting the proposed building forward would better conform to the borough’s master plan and zoning intent. This alternative design is cost-neutral from a construction standpoint and could result in a development with little to no public objection.

Mr. Erezuma noted that, while there were approximately 25 questions or observations regarding the application, only 10 directly applied to Mr. Kehoe’s property. Out of those, three became topics of productive discussion with the applicant’s team. He emphasized that many of his observations, particularly regarding engineering matters, were shared in good faith as a licensed professional, for the benefit of the broader neighborhood, not solely as objections. He shared the personal impact of the 2014 fire on Mr. Kehoe, calling it a trauma that continues to affect him and his family. As both a family member and professional architect, he expressed his intent to advocate on Mr. Kehoe's behalf using his expertise to help improve the project for all parties involved.

CLOSED TO THE PUBLIC

Adam Kandil, P.E., the applicant’s engineer, testified and confirmed that the final design was based on a corrected survey. He clarified that the applicant could not use the shared driveway due to the absence of a legal easement, which significantly influenced the current site layout. Kandil noted that the project must adhere to Morris County requirements for a 50-foot separation between driveways on county roads. This requirement cannot be met anywhere on the property, so a waiver is necessary. He addressed the alternative proposal suggested by the objector’s architect, which involves shifting the house forward and placing parking in the rear. Kandil explained that doing so would increase impervious coverage, require longer retaining walls, and result in greater site disturbance. He stated that the current layout is the most practical and compliant option considering the steep topography and narrow lot constraints.

Ken Fox, the applicant's architect, explained that the lot's narrow width and steep slope significantly limited design options. Early attempts to place the parking in the rear and push the house forward were explored, but were ultimately not feasible due to county requirements for driveway spacing and turning radii. He confirmed that the existing curb cut straddles the property line, and using it again was not permitted by the county. Despite efforts with both the previous and current engineer, no workable alternative was found that met all regulations. Fox noted that, while front-yard parking is not ideal, it is consistent with nearby properties, including the neighboring home and a commercial building, both of which have parking in front. He emphasized that the current plan represents the most practical and code-compliant design possible under the circumstances.

Bernd Hefele, ESQ., applicant's attorney emphasized that the proposed design is the result of extensive professional review and multiple iterations over more than a year. Despite suggestions from objectors, he maintained that the current plan is the only feasible and code-compliant option for this undersized and challenging lot. Hefele asserted that further changes would not yield a better outcome, and the application, as submitted, represents the best possible use of the property under the circumstances.

Craig Erezuma, representing the neighboring property owner (Ed Kehoe), clarified that the lengthy list of design and engineering concerns submitted to the applicant's team was not intended to derail the project but to assist in improving the design—particularly for the benefit of neighbors.

*This exchange reflects ongoing dialogue between the parties, with the objectors' acknowledging improvements but maintaining their preference for a revised layout that places the structure closer to the street with rear parking and the applicant's professionals continue to assert is not feasible.*

A 5-minute recess was taken during the meeting.

Roll call was taken following the recess: Chairman Loury, Mayor William J. Chegwiddden, Councilwoman Vasquez, Peter Rathjens, Marc Harris, Christopher Fleischman, Barbara Chiappa, Roshan Patel (arrived late)  
EXCUSED: Brian Bosworth, Michelle Molde, and Lawrence Biehler  
OTHERS PRESENT: Alan Zakin, Board Attorney; Christopher Borinski, Board Engineer; Alison Kopsco, Board Planner Representative, and Desi Ruffo, Board Secretary

*Board Engineer, Chris Borinski* stated that accommodating the driveway with the required 10-foot side yard setbacks would require significant changes, such as reducing the side yard on the opposite side or shifting the building. Further consultation with the county is needed to determine what will be permitted regarding the driveway.

*Chairman Loury* asked Mayor Chegwiddden to confirm whether there had been a stacking issue at the property prior to the fire. Mayor Chegwiddden confirmed that there was. Chairman Loury also inquired about the process if a stacking complaint is made. Mayor Chegwiddden explained that such complaints are typically handled by the code enforcement/zoning officer, who would investigate and determine if a violation exists.

The applicant's attorney, Bernd Hefele, ESQ. reiterated that the subject property is a 6,000 sq. ft. lot in a 15,000 sq. ft. zone, which creates a legitimate hardship. He stated that the purpose of the board is to evaluate such hardship cases and determine the appropriateness of variances. He emphasized that the applicant's team has carefully designed the project, addressed neighbor concerns, and incorporated feedback throughout the process. Mr. Hefele also stated that while objectors provided testimony from an architect, there was no professional engineering testimony presented against the application. In contrast, the applicant submitted detailed engineering testimony supporting the design and feasibility. He asserted that the proposed design is the best solution for the site and urged the board to approve the application. He noted for the record that the board had received the July 25th letter from the applicant's engineer.

*Chairman Loury* requested clarification about a referenced July 25th letter from the applicant's engineer, Mr. Kandil, as previously mentioned by the applicant's attorney. There was some uncertainty as to whether the full document, including the itemized responses, had been received or reviewed by all board members. Board Secretary confirmed receipt of a cover letter with the revised plans; however, it was noted that the itemized response pages were not included or distributed. The applicant's attorney reiterated that an itemized list of responses had been prepared and exchanged with the objector's counsel over the course of the past several months and had been part of the ongoing dialogue.

Alan Zakin, ESQ. summarized the application, noting that the proposed two-family home is a conforming use in the R-75 zone, but the lot is undersized, requiring several bulk variances. The proposed conditions to be included if the board approves the application:

- The attic access must be via a hatch located within a closet.
- A six-foot privacy fence shall extend the entire length of the shared property line, transitioning to a four-foot height in the front yard area, consistent with zoning regulations.
- The basement shall not contain bedrooms or sleeping areas.
- A minimum of 18 feet of landscape screening (e.g., arborvitae) shall be installed at the front of the property to screen the parking area.
- The parking lot shall be striped.
- The project shall not result in additional stormwater runoff impacting neighboring properties, based on current engineering assessments.

*Vice Chairman Peter Rathjens* asked for variance clarification. There was a discussion regarding the impervious coverage variance, noting potential changes due to revisions in building coverage. The latest plan reflects 57.59% impervious coverage, where 40% is permitted.

*Board Member Marc Harris* expressed concern about the proposed placement of the building. He noted that the applicant's proposal breaks the established neighborhood aesthetic by intentionally setting the structure further back, potentially to gain building size or allow for an additional residential unit. He questioned whether this design approach is necessary or appropriate given the surrounding context.

A discussion occurred among board members regarding the proposed parking layout, building size, and its impact on the neighborhood aesthetic. Concerns were raised about the structure being set back further than adjacent homes, potentially disrupting the visual consistency along the street. The board also debated whether the size and placement of the building were being maximized at the expense of neighborhood character, and whether parking in the front yard was appropriate given the context and prior site conditions.

A motion was made by Peter Rathjens and seconded by Mayor Chegwidon to carry the application to a future meeting.

YEA – 8      NAY – 0      ABSENT – 3      ABSTAIN – 0

**CLOSED SESSION:**

**Chairman Loury requested a motion to introduce resolution R-09-25 for a closed session to discuss litigation: *Glass/Paramus, LLC v. Borough of Wharton Planning Board and Wharton 15 Developers, LLC.***

**Motion by Marc Harri, seconded by Peter Rathjens to approve the resolution for a closed session.**

**Motion by Chris Fleischman and seconded by Marc Harris to return to open session. No action taken.**

ADJOURNMENT AT 10:44 P.M.

Respectfully submitted,



Desi Ruffo  
Planning Board Secretary