

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

ROLL CALL: Chairman Loury, Peter Rathjens, Marc Harris, Brian Bosworth, Christopher Fleischman, Barbara Chiappa, and Michelle Molde

EXCUSED: Mayor William J. Chegwidden, Councilwoman Vasquez, Roshan Patel, and Lawrence Biehler

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

Motion by C. Fleischman and seconded by B. Chiappa to approve the July 1, 2025 meeting minutes as presented.

YEA - 7 NAY - 0 ABSENT - 4 ABSTAIN - 0

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: Randolph Foreign Car, Inc.: 285 South Main Street (Block: 2004, Lots: 1 & 2)
Minor Subdivision, Site Plan, Use and Bulk Variance**

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, 3,4,6,7,8,10,11,12,13,14,17,18,19,21,22,23,24,25,26, and 27.

A motion by B. Bosworth and seconded by M. Harris to approve the resolution with the revisions as noted.

YEA - 6 NAY - 0 ABSENT - 4 ABSTAIN - 1

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

The agenda and billing documents for this meeting incorrectly listed the address as 79 Langdon Avenue. The correct address is 72 Langdon Avenue. The record is updated accordingly, herein.

Remo Caputo, ESQ., Legal Representative at Remo A. Caputo, Attorney at Law: Denville New Jersey

Appeared before the Board and provided an overview of the application. He introduced the applicant and the professional team, who would provide testimony in support of the application.

Giovanni Magno,

Managing Member of Hollywood Assets, Fairfield New Jersey and Owner of: 72 Langdon Avenue, Wharton New Jersey

Was duly sworn

Mr. Magno stated that he is a licensed builder and managing member of Hollywood Assets, LLC. He has been involved in real estate development since 2009 and has completed over 100 projects, including new construction and renovation work, primarily in Bergen County and Morris County. He noted that his firm recently completed three new single-family homes. Mr. Magno testified that the project proposes a minor subdivision on Lot 14, to construct a new single-family home on proposed lot 14.02 and renovate the existing structure on lot 14.01 at 72 Langdon Avenue. He confirmed that the project's design was prepared by his architect, Matthew Evans, AIA and aligns with the overall development of the area.

Steven Smith, P.P.L.S. at Jaman Engineering Associates: Randolph New Jersey *Was duly sworn*

Exhibit A1, Colored Rendering of Proposed Home Lot 14.02, dated 08/05/2025

Mr. Smith testified that proposed Lot 14.01 contains pre-existing non-conforming conditions, specifically a front yard setback, where 25 feet is required, but only 20.77 feet is provided. All other bulk requirements for the lot are conforming. It was noted that the lot also does not comply with the required minimum separation between structures, specifically between the existing garage and the existing house. This condition is pre-existing and will remain unchanged. The impervious coverage percentage will be reduced due to the removal of a preexisting gazebo, resulting in reduced coverage that remains conforming within the zone. Mr. Smith confirmed that the proposed development on lot 14.02, complies with all bulk requirements, including lot area, setbacks, building coverage, and impervious coverage. To accommodate the topography of the site, the house was pushed farther back on the lot, providing a 44-foot setback to the front of the house and approximately 39.5 feet to the front of the covered stoop.

Mr. Smith continued.

The design allows the structure to better integrate with existing grading and reduces the need for excessive slope disturbance. The proposed home includes a two-car garage and a driveway capable of accommodating at least four additional vehicles. The application proposes the installation of a dry well system to capture runoff from the roof leaders. He stated that revisions were made to the original plans to include piping that connects the downspouts directly to the dry well. Additionally, sight distance lines were added to the plan in response to concerns regarding potential obstruction by a small retaining wall located at the front of the property. Mr. Smith explained that the sight distance lines shown on the revised plans are located in front of the retaining wall and are not obstructed by it. Mr. Smith further noted that the applicant is requesting a design waiver from the requirement that driveways have a minimum separation of 20 feet. The proposed condition provides approximately 15 feet of separation at the curb line, expanding to about 20 feet further up the driveway. He testified that the waiver is requested because maintaining the driveway in its proposed northeastern position improves sight distance. Shifting the driveway to meet the 20-foot separation requirement would interfere with the location of the proposed retaining wall.

Mr. Smith also stated that the applicant is requesting a waiver from the 50-foot right-of-way requirement. He noted that all other properties along the street currently exist within a 40-foot right-of-way. The applicant is seeking to maintain the existing 40-foot width. In discussions with Board Engineer, C. Borinski it was confirmed that there are no plans for road widening. Mr. Smith also pointed out that the proposed home provides a front yard setback greater than the minimum required. Therefore, in the event road widening were to occur in the future, it would not result in the need for additional variances. The minimum front yard setback is 25 feet, the covered stoop on proposed Lot 14.01 is set back 20.77 feet, and the front steps extend slightly beyond that. He emphasized that these conditions are existing non-conformities and that no changes are proposed to those elements.

Additionally, Mr. Smith testified that the applicant is seeking a variance related to the definition of "stories" under the Borough's zoning ordinance. The ordinance defines any basement with more than 6.5 feet of ceiling height as a full story even when below grade. The proposed home includes a basement that exceeds this height threshold. Although the first floor is only five feet above grade, the home is technically classified as a three-story structure under the ordinance. Mr. Smith stated that the proposed home will appear as a typical two-story colonial-style home and complies with applicable building code definitions, which do not count the lower level as a story unless the first floor is more than six feet above average grade, which it is not. A steep slope disturbance variance is required. Based on the grading plan shown on Sheet 4 of the submitted plans, the applicant is requesting to exceed the permitted disturbance in all four steep slope categories as defined by the Borough's ordinance. Mr. Smith testified that the total excess disturbance amounts to 1,982 square feet. The subject lot is a compliant 10,513 square feet, which is approximately 3,000 square feet larger than the minimum required lot size in the zone.

Chairman Loury requested clarification on what the "disturbance" physically entails.

Mr. Smith explained, the steep slope regulations are intended to ensure that appropriate engineering and design methods are used to manage grading, erosion control, and drainage when building on sloped terrain. In this case, the disturbance involves grading for the house footprint, driveway, and supporting site infrastructure such as retaining walls and dry wells. These measures are being designed to prevent negative impacts such as stormwater overflow to surrounding areas and maintain slope stability.

The proposed elevation is designed to be slightly higher than street level, resulting in a finished grade appropriate for the overall design intent and appearance of the home. The steep slope disturbance primarily affects the front portion of the lot, nearest the road, which must be traversed to access the remainder of the lot. Currently, runoff flows northeast toward Langdon Avenue, and will continue in that direction post-construction. The proposed project does not redirect water onto neighboring properties.

M. Harris asked for clarification on whether the proposed grading or steep slope work might cause sheet flow or icing issues on the driveway in winter months.

Mr. Smith responded that the driveway has sufficient slope to allow water to drain effectively. Water behind the house and in the disturbed area is designed to: flow around the rear of the house, enter the driveway area, and discharge to Langdon Avenue; following natural flow patterns. It was noted that flat driveways with poor drainage and limited sun exposure are more likely to have freezing issues. In this case, the driveway slope is adequate to prevent water from pooling, minimizing the risk of winter icing.

Chairman Loury asked for clarification regarding proposed Lot 14.01, which contains the existing home.

Mr. Smith confirmed that only interior renovations are proposed for the existing structure. There will be no external work or changes. While steep slopes exist on proposed Lot 14.01, they are not relevant to the current application, as all steep slope calculations and variance requests pertain only to proposed Lot 14.02.

Mr. Smith addressed a comment previously raised by the Borough Engineer regarding the required replacement of trees measuring six inches in diameter or greater. He noted that, based on the number of trees to be removed, the applicant would be required to plant 21 replacement trees. Mr. Smith acknowledged that accommodating 21 new trees on the subject lot would be difficult due to site constraints and the scale of the proposed development. He respectfully requested that the Board consider allowing some flexibility in meeting this requirement, and would consider alternatives such as satisfying a portion of the tree replacement ordinance requirement at an off-site location.

Mr. Smith testified that the applicant is seeking two variances in connection with the proposed development: one for steep slope disturbance and the second for the number of stories permitted under the Borough's zoning ordinance. He stated that the steep slope variance qualifies as a C(1) variance, based on topographic conditions and physical features that affect this specific property. Mr. Smith explained that without granting the variance, the property could not be reasonably developed. The existing lot is oversized, nearly four times the size of the minimum lot area required by ordinance. The proposed subdivision would create two lots, that would still be large enough to be considered oversized and the lot requiring variances would still be approximately 33% larger than the ordinance minimum.

The second variance, related to the number of stories, was described by Mr. Smith as a C(2) variance. He asserted that granting this variance would advance the purposes of the Municipal Land Use Law (MLUL) and that the benefits of the deviation would substantially outweigh any potential detriment. Mr. Smith noted that due to the grading and architectural design, the proposed home would appear to be a typical two-story colonial-style dwelling, even though it is technically classified as three stories under the Borough's definition, which includes basements exceeding 6.5 feet in ceiling height. Mr. Smith stated that the project will improve the structure and the existing site and contribute positively to the neighborhood character; the proposed home represents a planning benefit and that no substantial detriment would result from the variance. He further referenced several purposes of the MLUL that would be advanced by the approval of these variances.

M. Harris asked if there would be a maintenance plan for the drywell.

The applicant advised that a maintenance plan for the drywell was not planned.

C. Borinski, Board Engineer stated that the proposed design does not meet the threshold to require compliance with state stormwater management regulations; however, since rooftop runoff is directed into the drywell system, it provides some relief in terms of impervious coverage impact.

Chairman Loury confirmed with the applicant that a condition of approval would require completion of improvements to the existing property, including the receipt of a Certificate of Occupancy (C.O.) prior to the issuance of a C.O. for the new dwelling.

The applicant agreed to this condition.

Remo Caputo, ESQ. confirmed the lot numbers will be confirmed with the Tax Assessor.

Alan Zakin, ESQ., Board Attorney confirmed with the applicant that standard police and fire review of the site plan would be a condition of approval.

The applicant agreed, acknowledging that the police department comments were referenced in the review reports and that final compliance would be ensured prior to the issuance of a Certificate of Occupancy (C.O.). The applicant also confirmed agreement with the recommendations and comments contained in the Planning and Engineering reports, stating that modifications were made accordingly. The applicant noted that, aside from a clarification already provided regarding the number of stories, there were no discrepancies in the reports and all requested items were being addressed.

Nick Meurer, Board Planner Rep. stated that, within the context and intent of the Municipal Land Use Law, the proposed subdivision and associated site disturbance appear appropriate for achieving a suitable housing density in a location well-suited for such development. He noted that the proposed grading does not significantly alter the existing slope direction or character of the site. Based on this, he expressed the opinion that the project would not result in any negative impacts to adjacent properties or the general neighborhood.

Chris Borinski, Board Engineer confirmed that the project does not meet the threshold that would trigger compliance with the State stormwater regulations. However, the applicant is voluntarily providing a dry well system to manage rooftop runoff, which will help minimize the impact of the new impervious area. He noted that while driveways require a different treatment approach, the use of dry wells for rooftop runoff is an approved stormwater management practice. Mr. Borinski advised that while it is not mandatory for a single-family home project of this size, it would be beneficial to include a basic maintenance plan.

P. Rathjens inquired about the potential for the piping leading to the dry well to become crushed or damaged. He also mentioned that the applicant may satisfy tree replacement requirements by planting trees or alternatively, may opt to pay a fee into the Tree Replacement Fund as provided for in the ordinance.

The applicant responded that, in such an event, it would be addressed in the same manner as a damaged sewer line by locating the issue and performing necessary repairs or replacement to restore proper function. The applicant agreed to coordinate with the Borough to identify other suitable options for tree plantings as a condition of approval.

The Board and applicant agreed that, while a full maintenance plan is not required by ordinance, it was determined that a simple condition should be included in the resolution to ensure future property owners are aware of the dry well and its basic maintenance needs. Rather than imposing a formal deed restriction, the Board recommended the applicant provide a one-page document containing a brief narrative and diagram explaining the purpose and location of the dry well, along with simple instructions for basic maintenance. This document will be referenced in the site plans and handed off to future homeowners.

OPENED TO THE PUBLIC

Pamela Conley, 63 Langdon Avenue, inquired about the amount of off-street parking provided for the new residents according to the submitted plans.

The applicant responded that the proposed house includes a two-car garage. In addition, there is space to park two more vehicles in front of the garage doors, plus additional room along the length of the driveway. Overall, the site can accommodate approximately six off-street parking spaces for the new residence.

Meena Makawana, 24 Sunset Drive, asked if the applicant had any recommendations or proposals to address potential privacy impacts related to side-facing windows.

The applicant responded that placing dense hedging or screening in the front yard may not be appropriate, as it could obstruct visibility and sight lines. However, if additional trees are required to meet the tree replacement obligation, and not all can be accommodated on the subject property, the applicant would be open to working with the adjacent property owners to plant some of the replacement trees on their property, should they wish to accept them.

CLOSED TO THE PUBLIC

Matthew Evans, AIA at Evans Architects: Paterson, New Jersey

Was duly sworn

Mr. Evans provided clarification regarding several aspects of the application, he confirmed that an earlier error on the architectural plans regarding building height has been corrected. The revised height is 27 feet, 5 inches, which is below the 30-foot maximum permitted by ordinance. Mr. Evans testified that the basement will contain a half bathroom. He clarified that there will be no bedroom in the basement, as it does not contain an egress window. It will be used for storage purposes or possibly recreation space such as a game room or office, but not as a bedroom or apartment.

Mr. Evans confirmed that there are no current plans to install a generator or sprinkler system on the site and that there will be no rooftop mechanical units. Any air conditioning units would be placed at ground level, if installed.

Mr. Evans provided an overview of the proposed home's design and floor plans. The lower level includes a two-car garage, basement area, powder room, mechanical room, and stair access to the upper floors. Approximately 20% of the lower level will be exposed due to the grading of the site. The proposed first floor features an open-concept layout including a great room, kitchen, dining area, powder room, front hall closet, and access to a rear deck. The main entry includes a covered front porch with stairs. The first floor is approximately 1,094 square feet.

The second floor contains four bedrooms, two full bathrooms, and a laundry room, with a total area of 1,239 square feet. The interior spaces are connected by a central staircase. The attic will be unfinished, accessed by a pull-down stair in the hallway. The interior height is approximately 3.5 to 4 feet, making it non-habitable and suitable only for storage and mechanical access. No windows are proposed in the attic.

It was agreed that a condition of approval would be placed on the resolution stating that the basement shall not contain a bedroom and the attic shall not be used as habitable space.

The applicant agreed to the condition of approval that the final design and materials are consistent with what was presented during the hearing and are subject to the review and approval of the Board's professionals.

OPENED TO THE PUBLIC

Meena Makawana of 24 Sunset Drive provided testimony, stating that her main concern related to privacy, as her main entrance and bedroom windows face the rear of the proposed new home.

In response, the Board inquired whether she would be open to having some of the applicant's required replacement trees planted on her property to help address the privacy concern. Ms. Makawana expressed general openness to the idea but noted that there are already existing trees and wanted to ensure that any additional plantings would not interfere with driveway access or other functional aspects of her property.

Alan Zakin, ESQ., Board Attorney summarized the application, for a minor subdivision of an oversized lot. The lot will be divided into two properties: Lot 14.01 will contain the existing home, which will remain and be renovated. Lot 14.02, the new lot will contain a new single-family home. The applicant agreed that a Certificate of Occupancy (C.O.) for the new home will not be issued until renovation and C.O. issuance for the existing home is complete. The new lot exceeds the minimum lot size requirement by approximately one-third. Variances and waivers associated with the application include: variance for steep slope disturbance, variance related to the definition of stories, as the basement ceiling height exceeds the threshold. Waivers for: driveway separation, and right-of-way width.

Conditions of approval discussed and agreed to include:

- Police and fire department review of the site plan prior to issuance of a C.O.
- Compliance with engineering and planning reports
- Submission of a dry well maintenance plan
- The basement and attic will not contain bedrooms. While the basement may be used for recreation or storage, it will not contain any habitable space therein.
- No rooftop mechanical units, sprinklers or generators are proposed.

Regarding tree replacement, the applicant expressed a willingness to work with the Borough and neighboring property owners to explore off-site planting options.

A motion was made by Marc Harris and seconded by Peter Rathjens to approve the application, subject to the conditions as noted.

YEA - 7 NAY - 0 ABSENT - 4 ABSTAIN - 0

CLOSED SESSION:

Chairman Loury requested a motion to introduce resolution R-08-25 for a closed session to discuss litigation: *Glass/Paramus, LLC v. Borough of Wharton Planning Board and Wharton 15 Developers, LLC.*

**Motion by Barbara Chiappa, seconded by Chris Fleischman to approve the resolution for a closed session.
Motion by Chris Fleischman and seconded by Barbara Chiappa to return to open session.**

A motion was made by Chris Fleischman and seconded by Marc Harris to authorize Board Attorney Alan Zakin to take specific legal action in the matter of Litigation: Glass/Paramus, LLC v. Borough of Wharton Planning Board.

YEA - 7 NAY - 0 ABSENT - 4 ABSTAIN - 0

ADJOURNMENT AT 10:04 P.M.

Respectfully submitted,



Desi Ruffo
Planning Board Secretary