

**RESOLUTION OF MEMORIALIZATION GRANTING BULK VARIANCE
RELIEF AND A PLANNING VARIANCE AS PER SECTION 36 OF THE MLUL
TO PERMIT THE MINOR SUBDIVISION OF LOT 1 IN BLOCK 84**

Approved: March 25, 2026

Memorialized: April 22, 2026

WHEREAS, Hollywood Assets, LLC (“Applicant”) is the owner of Lot 1 in Block 84 (“Property”) as noted on the Tax Map for the Borough of Mount Arlington with a street address of 3 Maple Path; and

WHEREAS, the Applicant submitted an Application for Development with the Borough of Mount Arlington Land Use Board (“Board”), on or about January 15, 2026, seeking minor subdivision, bulk variance relief and a planning variance as per N.J.S.A. 40:55D-36 to subdivide the Property into one additional lot with the remainder lot; and

WHEREAS, the Applicant required bulk variance relief from the zoning limitations set forth in the RA-40 zone district relating to remainder lot and the lawfully existing structures thereon. Specifically, the Applicant will require relief from the minimum lot width whereas 175 feet is required and 150 feet will be provided; the prohibition of accessory structures in the front yard whereas an accessory structure will be within 43.2 feet of the front yard along Elizabeth Way; and the minimum side yard setback for a pool whereas 15 feet is required and less than 15 feet is provided; and

WHEREAS, the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-35, no permit for the erection of any building or structure shall be issued unless the lot abuts an improved public street. The proposed new lot will only have frontage on Elizabeth Way which is an unimproved public right-of-way. Moreover, access to Elizabeth Way will be by way of a driveway extending from the improved portion of Coolidge Trail through the unimproved public right-of-way of Coolidge Trail. Consequently, the Applicant will require a variance as per N.J.S.A. 40:55D-36; and

WHEREAS, the Applicant included with its Application five (5) sheets of a Minor Subdivision Plan entitled, “Block 84, Lot 1, #3 Maple Path, Borough of Mount Arlington, Morris County, New Jersey,” prepared by Dykstra Walker Design Group, P.A., and dated November 21, 2025 and one (1) sheet of a Property Survey entitled, “Topographic Survey of Property, Tax Lot 1 – Block 84, 3 Maple Path, Borough of Mt. Arlington, Morris County, NJ,” prepared by Lakeland Surveying, dated February 5, 2025, and revised through September 27, 2025; and

WHEREAS, the Applicant submitted with its Application the appropriate fees and escrow deposit; and

WHEREAS, the Application was deemed administratively complete by the Board's Engineer on or about February 12, 2026; and

WHEREAS, the Board Engineer, David A. Clark, P.E., issued a report regarding the Application dated February 12, 2026; and

WHEREAS, the Board's Planner, Jessica P. Caldwell, P.P., also issued a report, dated February 12, 2026; and

WHEREAS, a public hearing was subsequently scheduled and held on March 25, 2026, notice being required and lawfully given; and

WHEREAS, the Applicant was represented at all times by Remo Caputo, Esq.; and

WHEREAS, at the conclusion of the public hearing on March 25, 2026, the Board rendered a decision on the Application in accordance with the requirements set forth in N.J.S.A. 40:55D-10(g); and

WHEREAS, the Board received as part of the hearing process the following testimony and documentary evidence:

Giovanni Magno testified first on behalf of the Applicant. Mr. Magno is the Managing Member for the Applicant. He stated that the Applicant purchased the property on January 9, 2025 in a Sheriff's Sale. He informed the Board that the Property was currently developed with a two-story single-family dwelling with an attached deck; a detached accessory garage; shed; and an above-ground swimming pool which has been removed along with the attached deck.

Mr. Magno testified that the Applicant was seeking to renovate the existing home and subdivide the Property to create a conforming lot to the north. He said that the Applicant was intending to build a home on the new lot although there were no plans drawn up for any future home.

After Mr. Mago concluded, the Applicant's engineer, Mark Gimigliano, P.E., testified next. Mr. Gimigliano had prepared the engineering plans submitted with the application that illustrated the minor subdivision. He first described the existing conditions on the Property. He explained that the Property was approximately 3.6 acres and was located in the RA-40 zone district which has a minimum lot size of 40,000 square feet. He confirmed that the Applicant wanted to create a new lot consisting of 61,626 square feet and a remainder lot of 96,494 square feet. Both lots in his opinion would be conforming with respect to size.

Mr. Gimigliano stated that the Property had frontage on three sides. Maple Path fronted the lot to the south, Elizabeth Way to the west and Dawes Way to the east. He noted that

Maple Path was improved and that the lot currently entered and exited onto Maple Path. The frontage on three sides creates several nonconforming conditions that would remain if the subdivision was granted. Specifically, he noted that there was insufficient lot width, whereas 175 feet is required and only 150 feet will be available. Similarly, the remainder lot that would include a shed that was within the front yard along Elizabeth Way and a pool that would remain less than the 15 feet required side yard setback requirement. He informed the Board that there were no building plans for the newly created lot, but in his opinion the lot would be able to support a single-family home that should be the applicable bulk requirements. Mr. Gimigliano did advise that the proposed lot was not impacted by wetlands and any home could be built outside of the steep slopes. He did admit that if a future home could not meet any applicable standard, the Applicant might have to return to the Board for relief.

Mr. Gimigliano testified that access to the proposed new lot would be from a driveway extending from the end of the improved section of Coolidge Trail Drive across Elizabeth Way which is an unimproved public right-of-way. Since neither Coolidge Trail or Elizabeth Way are improved public streets, he acknowledged that the Applicant would need to secure an easement from the Borough allowing access. He did testify that the driveway would be constructed in accordance with Borough standards which would mean that it be adequate to support police, fire and other emergency personnel vehicles.

Board members did question the Applicant about the easement needed from the Borough and it was agreed that this would need to be a condition of any approval. Similarly, when asked about future development on the newly created lot, the Applicant acknowledged that it would be required to submit a lot grading plan before any permits could be issued.

The matter was opened to the public but no one appeared.

WHEREAS, the Board after hearing the testimony delivered and the documentary evidence provided, made the following finds a fact and in conclusion of law:

1. The Applicant is seeking bulk variance relief and planning variance as per N.J.S.A. 40:55D-36 to allow for the minor subdivision of the Property into one additional lot and the remainder lot.
2. The Applicant requires bulk variance relief from the zoning limitations set forth in the RA-40 zone district relating to the minimum lot width whereas 175 feet is required and 150 feet will be provided; the prohibition of accessory structures in the front yard whereas an accessory structure will be within 43.2 feet of the front yard along Elizabeth Way; and the minimum side yard setback for a pool whereas 15 feet is required and less than 15 feet is provided as shown on the plans, however, the pool was been removed prior to the hearing date, thus negating the need for this particular variance. These nonconforming conditions presently exist and the proposed minor subdivision will not exacerbate them, the Board

believes that variance relief is warranted given the proposed reduction in the size of the remainder lot.

3. The Board concludes that the variance relief is justified under the standards set forth in N.J.S.A. 40:55D-70(c)(1). Pursuant to the C-1 standard, the Board believes that the Property is impacted by an extraordinary and exceptional circumstance that uniquely impacts it and imposes a peculiar and exceptional difficulty on the Applicant. The Property has road frontage on three sides which in essence creates three front yards. Consequently, any accessory building would in a nonconforming location given the location of the existing dwelling. Moreover, the frontage on 3 sides and the presence of a home on adjacent lot 3 in Block 84 renders it impossible for the Applicant to acquire additional land to address the insufficient lot frontage.

4. In addition, the Board believes that the Applicant has satisfied the negative criteria for the bulk variances requested. The Applicant's proposal would not be a substantial detriment to the public good, because the nonconforming conditions have existed for decades without any evidence of a substantial impact to the neighborhood. The proposed subdivision is also not a substantial impairment to the Borough's zoning ordinances because the existing use and the proposed use on the newly created lot are and will be residential, which is permitted in the RA-40 zone. The proposal also does not exacerbate any nonconforming conditions. The Board also finds that the proposal is not a substantial detriment to the Master Plan because it will the Master Plan goals of maintaining residential communities. For these reasons, the Board finds that these Applicant has satisfied the negative criteria and is entitled to the bulk variance relief sought.

5. The Board also concludes that the proposed minor subdivision is permitted. The lot to be created conforms with respect to its lot area and lot width. While the lot does not front on an improved public street as required by N.J.S.A. 40:55D-35, the proposed driveway to the property from Coolidge Trail and traversing Elizabeth Way will be adequate to support emergency vehicles and personnel thereby affording a safe use of the lot for residential purposes. Accordingly, the Board finds that the planning variance permitted under N.J.S.A. 40:55D-36 is appropriate, provided that the Applicant can enter into an easement with the Borough governing its use of Coolidge Trail and Elizabeth Way.

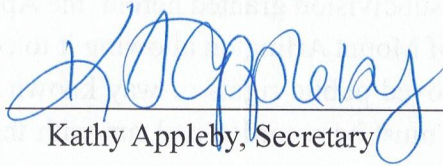
NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Mt. Arlington, County of Morris, State of New Jersey that the Application filed by Hollywood Assets, LLC seeking minor subdivision, bulk variance relief and a planning variance as per N.J.S.A. 40:55D-36 to allow the subdivision of Block 84, Lot 1 into one additional lot with a remainder lot as depicted on Minor Subdivision Plan entitled, "Block 84, Lot 1, #3 Maple Path, Borough of Mount Arlington, Morris County, New Jersey," prepared by Dykstra Walker Design Group, P.A., and dated November 21, 2025, is hereby approved, subject to the following conditions:

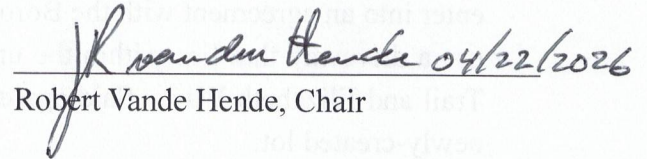
1. The Applicant shall comply with the technical comments set forth in the reports prepared by Board engineer, David A. Clark, P.E., dated February 12, 2026, particularly the on-site wetlands assessment.
2. Prior to the perfection of the minor subdivision granted herein, the Applicant shall enter into an agreement with the Borough of Mount Arlington allowing it to construct and use a driveway that lies within the unimproved public rights-of-way known as Coolidge Trail and Elizabeth Way. Said agreement must be recorded and run with the title to the newly-created lot.
3. Prior to the issuance of any building permit to allow for the development on the newly-created lot, the Applicant shall present to the Borough Engineer a lot grading plan and a copy of the recorded agreement with the Borough.
4. The Applicant shall submit proof that all fees, escrow amounts, real estate taxes and assessments have been paid prior to the issuance of both the Building Permits and Certificates of Occupancy.
5. The Applicant shall comply with and adhere to rules, regulations ordinances of the Borough of Mt Arlington applicable to the proposed development, including but not limited to Section 17-94 of the Borough's Land Development Ordinances that governs the payment of residential development fees.
6. The Board's approval is conditional upon approvals required by the Application from all outside Governmental Agencies, exercising jurisdiction over the development of the property.
7. The Applicant shall further amend its plans as per the representations made at the public hearings and the comments from the Board Planner, Board Secretary, and Board Members.
8. No construction permits of any type shall be issued by the Construction Code Official of the Borough of Mt. Arlington until all Board escrow fees have been paid, a Resolution of Approval has been memorialized and appropriately signed by the Board, and the Construction Code Official has received final plans appropriately signed by the Board Chairman, Board Secretary, and Board Engineer.
9. Pursuant to the provisions of N.J.S.A. 40:55D-39 and 55D-65, the Applicant shall provide proof that no taxes or assessments for local improvements are due on the Property.
10. The Secretary of the Board shall file a copy of this Resolution with all governmental bodies as shall be deemed necessary and appropriate.

ATTEST:

BOROUGH OF MOUNT RLINGTON
LAND USE BOARD

By:


Kathy Appleby, Secretary

 04/22/2026
Robert Vande Hende, Chair

DATED:

THE VOTE:

IN FAVOR:

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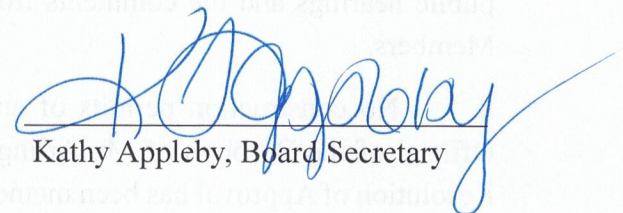
OPPOSED:

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ABSTENTIONS:

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I hereby certify that the above is a true copy of the Resolution adopted by the Borough of Mount Arlington Land Use Board at its meeting on April 22, 2026.


Kathy Appleby, Board Secretary