The regular meeting of the Planning Board of the Borough of Allenhurst was held in the Allenhurst Borough Hall, 125 Corlies Avenue, on Wednesday, March 12, 2014, and was called to order at 7:30 PM.

Following the salute to the flag, the Secretary called the roll and the following members were present: Bernard Costello, Gerry Ann Varley, Christopher McLoughlin, David McLaughlin, Larry Gruner, Joseph Tomaino and alternates Robert Scally, Sam Boyd and Anthony Mauro. Members Kevin Rogers and Frieda Shalam were absent.

The Secretary stated that adequate notice of this meeting of the Planning Board of the Borough of Allenhurst was sent to the Board=s official newspaper, and posted on the office bulletin board in compliance with the Open Public Meetings Act.

APPROVE MINUTES
Mr. Gruner moved, seconded by Comm. McLoughlin, that the minutes of the meeting held February 12, 2014, be approved as distributed. Motion carried.

RESOLUTIONS

RESOLUTION # 3-12-14 01
RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF ALLENHURST APPROVING A CERTIFICATE OF APPROPRIATENESS TO REVISE GARAGE DOOR PLANS TO ALLOW FOR AN 8’ CARRIAGE DOOR AND A 7’ CARRIAGE DOOR ON PROPERTY LOCATED AT 308 ALLEN AVENUE IN COMPLIANCE WITH THE HISTORIC PRESERVATION ORDINANCE

WHEREAS, the Applicant, Joseph Cohen, has requested the approval of a Certificate of Appropriateness to revise garage door plans to allow for an 8’ carriage door to allow for a car and a 7’ carriage door to allow for access on property located at 308 Allen Avenue in Compliance with the HISTORIC PRESERVATION ORDINANCE.

WHEREAS, a hearing was held by the Planning Board of the Borough of Allenhurst on February 12, 2014 in the Board Meeting Room, Second Floor, Allenhurst Borough Hall, 125 Corlies Avenue, Allenhurst, New Jersey, and

WHEREAS, all notice requirements were satisfied by the Applicant and the Board has jurisdiction to hear, consider and determine this application;

WHEREAS, the Applicant offered into evidence at the hearing the new plans as A-7, an Affidavit of Mailing as A-8 and an Affidavit of Publication as A-9; and

WHEREAS, the Board heard testimony and comments on behalf of the Applicant property owner from the following:
Steve Carlidge, Architect, was qualified and sworn and reviewed a previous approval for the house. They have revised the garage plans so that there will be an 8’ carriage door and a 7’ carriage door for access. The 8’ door will allow for a car, there will be a 1’ post and a 7’ door to allow access.

Member Rogers asked what the minimum width for a garage door was and Mr. Carlidge stated it was 8’, and they have an 8’ garage door. The other door is for access only. The owners requested these doors as they cannot operate mechanical doors on a Saturday for religious reasons.

Member Rogers asked if this was a pool house and Mr. Carlidge answered, ‘no.’ The resolution will state that the only utility to the garage will be the electric.

Michael Wenning, attorney for the applicant, stated there was testimony that they couldn’t put a door on the side of the garage because of the proximity of the pool. Mr. Carlidge added that they are not altering the original opening.

Chairman Tomaino asked about the siding and Mr. Carlidge stated it would match the house.

There was no response to Chairman Tomaino’s request for public questions or comments.

FINDINGS OF FACT:
Member Scally stated that the cedar shakes will be a great improvement and the doors will look more historic.

NOW, THEREFORE, be it resolved, by the Planning Board of the Borough of Allenhurst that the application for a Certificate of Appropriateness to revise garage door plans to allow for an 8’ carriage door to allow for a car and a 7’ carriage door to allow for access on property located at 308 Allen Avenue is hereby approved in compliance with the Historic Preservation Ordinance. The motion is approved by the following vote.

RESOLUTION OFFERED BY MEMBER SCALLY, SECONDED BY MEMBER MAURO:

VOTE: Tomaino-AYE; Rogers-AYE; Boyd-AYE; Scally-AYE; Mauro-AYE

RESOLUTION # 3-12-14 02
RESOLUTION OF THE PLANNING BOARD OF THE BOROUGH OF ALLENHURST APPROVING A BULK VARIANCE TO INSTALL A NATURAL GAS GENERATOR ON PROPERTY LOCATED AT 308 ALLEN AVENUE IN COMPLIANCE WITH THE HISTORIC PRESERVATION ORDINANCE

WHEREAS, the Applicant, Joseph Cohen, has requested a bulk variance to install a natural gas generator on property located at 308 Allen Avenue and;
WHEREAS, a hearing was held on this application by the Planning Board of the Borough of Allenhurst on February 12, 2014 in the Board Meeting Room, Second Floor, Allenhurst Borough Hall, 125 Corlies Avenue, Allenhurst, New Jersey, and
WHEREAS, all notice requirements were satisfied by the Applicants and the Board has jurisdiction to hear, consider and determine this application; and
WHEREAS, the Applicant offered into evidence the Affidavit of Mailing as A-8, and Affidavit of Publication as A-9, and
WHEREAS, the Board heard testimony on behalf of the Applicant property owners from the following witnesses:

Mr. Carlidge, Architect, was qualified and sworn and addressed the issue of the applicant’s request for a variance for the installation of a generator. He stated they are proposing a natural gas generator. They are asking for an 8.8’ setback, which is the existing setback of the house. The ordinance requires a 10’ setback. They are also asking for a 5’ setback in the rear, instead of a 10’. They will provide a landscape buffer and it will not be visible.

Chairman Tomaino asked about the neighboring property owners and Mr. Carlidge stated he believed there were garages to the side and rear. Chairman Tomaino stated there was a garage apartment that spans the rear lot. However, the use was abandoned and there are no longer tenants.

Member Rogers stated that moving it to the east or west will really not make a difference. He asked about the reason for the generator, and Mr. Cohen, who was sworn, stated he would like a generator for emergencies, such as power outages when his sump pump should be running. He had two feet of water in his basement after Sandy.

Chairman Tomaino asked why they could not comply with the ordinance, and Mr. Carlidge stated it would bring it into the only yard area which they would like to reserve for the children. It will be buffered.

Member Rogers stated it is a self-imposed hardship due to the pool, which they installed. He asked Mr. Carlidge if he thought there would be any difference in noise if they did comply. Mr. Carlidge replied that he didn’t think so, and in fact, it may even help to put it in this location as it is hard against an evergreen buffer.

In response to a question from the Board, Mr. Cohen stated it has to be run once a week for 5 to 10 minutes. He can program it to run at any time.

There was a discussion on noise in which Member Boyd stated it is considerably quieter than a gasoline generator.

There was no response to Chairman Tomaino’s request for public questions or comments.

FINDINGS OF FACT:
WHEREAS, the Board makes the following findings of fact:

Chairman Tomaino stated that the proposed location of the generator is a self-imposed hardship.

Member Rogers stated that if the applicant had to comply, it wouldn’t make a difference in terms of noise to any of the neighbors. He doesn’t think there is really a hardship, but he also doesn’t think that what they are asking for is inappropriate.

Chairman Tomaino stated they have not had any expert testimony on decibel levels.

Member Mauro stated it goes on once a week for 5 to 10 minutes. In a power outage, it will go on with everyone else’s generators.

Member Boyd stated that the presence of a generator is welcome during a power outage. Compared to a gasoline-powered generator, it is a welcome change. There are no objections from the neighbors. He does not have a problem with the location.
Member Scally moved that a variance be granted for the generator, with the understanding that it be tested during the day and on weekdays only. Member Mauro seconded the motion.

NOW, THEREFORE, be it resolved by the Planning Board of the Borough of Allenhurst that the request for a bulk variance to install a natural gas generator on property located at 308 Allen Avenue be granted.

Resolution for approval of the variance is moved by Member Scally and seconded by Member Mauro.

VOTE: Tomaino-NO; Rogers-AYE; Boyd-AYE; Scally-AYE; Mauro-AYE

APPLICATIONS – MAJOR

CA – 215 CORLIES AVENUE (BILDIRICI)

The Board considered a new application submitted by Sophia Bildirici for a door that was installed in east side of garage without a Certificate of Appropriateness. The owner must also prove to the satisfaction of the Board that the existing garage door will be operational. The Zoning Officer found that door did not operate and was functioning as a wall, putting the use as a functional garage in question.

The following items were marked into evidence: A-1, Application; A-2, Affidavit of Mailing; A-3, Affidavit of Publication; A-4, Zoning Determination.

Sophia Bildirici, homeowner, stated her contractor installed a door so that he could work in the winter. She was issued a Stop Work Order by the State. She had no idea he installed the door.

Chairman Tomaino stated the contractor should have known he needed a building permit.

Mrs. Bildirici stated she was sorry it was a mess. She is trying to figure out how to proceed. She is embarrassed.

Comm. McLoughlin stated they are being told that the garage door does not function. Mrs. Bildirici stated this was true. Her contractor thought it wouldn’t be needed. She stated she will make it functional; either by repairing the current door or replacing it with one that will work.

Mrs. Bildirici stated the new side door is 36” x 84” and is aluminum with a wood edge. She has the specifications for it. She would like to get approval so that she can keep it.

Chairman Tomaino asked what Mrs. Bildirici intended to do with the garage and Mrs. Bildirici replied that she will put in new windows in-kind and has already gotten permission from the Zoning Officer for that. She will sheetrock and paint the interior. She wants to clean it up before it falls into neglect.
Mrs. Varley asked if there was any other door in the garage and Mrs. Bildirici answered that there was not. She stated the only way to open the garage door is with an electric opener, which they cannot use on Saturday due to religious reasons.

Mr. Boyd asked if there was an apartment upstairs and Mrs. Bildirici replied that there was a bathroom and room which was already there when she bought the house. She did not know whether there was a toilet or not.

Chairman Tomaino suggested that Mrs. Bildirici figure out how they wanted to use the garage and come back with a plan of action. He suggested she engage an architect to draw a sketch to make a presentation to the Board.

Mrs. Bildirici asked if she wanted to paint her house, would she have to come before the Board and Chairman Tomaino answered, no.

Comm. McLoughlin stated he would not vote to allow the side door without a functioning garage door. Mrs. Bildirici agreed and presented a brochure of garage doors, which was marked with two choices. The brochure was marked as A-5.

Chairman Tomaino asked if she wanted to leave the side door because she has small children who cannot open the main door and also because the door cannot be opened electronically on the Sabbath. Mrs. Bildirici acknowledged that that was correct.

Chairman Tomaino asked if the door would be trimmed to match the windows and Mrs. Bildirici answered in the affirmative.

Mr. Scally stated he liked the door Mrs. Bildirici chose on the right-hand side of the brochure. It is more historic.

Mr. Mauro asked about the handle and Mrs. Bildirici stated she would like to match it to the handle on the side of the house.

There was no response to Chairman Tomaino’s request for public questions or comments.

Findings of Fact

Chairman Tomaino stated the reasons for the side door are religious in nature. The applicant will install trim around the door to match the window. She will either make the current garage door operational or will replace it with one of the two doors marked on Exhibit A-5.

Mr. Gruner added that the windows will be replaced in-kind.

Chairman Tomaino moved, seconded by Mr. Gruner, that an application for a Certificate of Appropriateness be granted to Mrs. Bildirici for this application. The motion was approved on the following vote: Costello-AYE; Varley-AYE; McLoughlin-NO; McLaughlin-AYE; Gruner-AYE; Tomaino-AYE; Boyd-AYE; Scally-AYE; Mauro-AYE.
CA/BULK VARIANCES – 44 OCEAN AVENUE (BARBER)

The Board next heard the continued application submitted by David and Barbra Barber for a new single family home at 44 Ocean Avenue. Variances are needed for no garage, for a driveway which does not meet a garage, for side a yard setback of 3.1 feet where 5 feet is required and for total impervious surface coverage of 40.5% square feet where 40% is permitted.

Mrs. Varley was recused.

The following additional exhibits were marked. A-10, revised plans dated 12/26/13; A-11, color rendering; A-12, floor plans; A-13, seven photos of former house before the fire and after the fire.

Lawrence Guthartz, architect, explained the revisions made to the plans since the last meeting. He stated he matched the existing detail for the handrails and placed a new handrail on the steps which was missing from the last submission.

Chairman Tomaino addressed the letter from the Board Engineer, stating his calculation of impervious surface coverage came to 40.5%.

Mr. Barber stated that he will not come back to the Board. He will just abandon his plans.

There was a discussion on discrepancies found in the plans.

Mr. Guthartz stated they will reduce the length of the driveway to make up the .5%.

There was a discussion regarding grading and drainage in which Chairman Tomaino stated they would have to receive approval from the Board Engineer prior to the adoption of a resolution. Mr. Guthartz stated he will submit the plans.

Chairman Tomaino stated there was testimony as to why there is no garage and why the driveway does not meet a garage. There was also testimony as to the side yard and a grandfather situation. They are now dealing with the Certificate of Appropriateness. He asked if it was the applicant’s intention to incorporate some of the detail from the former house into the new house.

Mr. Guthartz stated the original house had cedar planks and the new house will have cedar shingles. They will maintain the existing cement tile roof and will reuse as many of the original tiles as possible. The window trim will be the same. There will be French doors instead of windows for more access to the yard and to bring in more light. It will have the same gables in the front.

Chairman Tomaino stated there was also testimony as to why moving the house forward was impractical. It would be hemmed in with the adjacent buildings.

Mr. Scally asked if the house would be built on the same footprint and Mr. Barber stated that it would.

Mr. Costello stated the original house was great, but was not visible from the street. He asked if there was anything that could be done to make this more visible from the street.
Mr. Barber stated that it will be raised somewhat, which will help. Also, some of the trees that shielded the house are gone. He is also planning to lower the fence.

There was no response to Chairman Tomaino’s request for public questions or comments.

Findings of Fact

Mr. Costello stated they are not adding any additional variances from the original structure.

Comm. McLoughlin stated the new house fits in with what was there previously. As long as they fix the impervious surface so there is no variance, he sees no problem.

Chairman Tomaino stated they can easily cut back the driveway. The photographs from the applicant were important. The applicant has responded to most, if not all, of the Board’s comments.

Mr. Scally stated they have verified that they will use the same footprint.

Mr. Boyd stated he used to live directly across the street from the applicant’s house. He is pleased to see it will look close to the original house.

Chairman Tomaino stated the window trim will be similar to the previous house, as will the roof, gables and placement of the building. The site is hemmed in.

Mr. Boyd stated that the addition of the widow’s walk will bring light to the back of the house.

Comm. McLoughlin moved to grant a Certificate of Appropriateness contingent upon compliance with impervious surface coverage requirements and approval of grading and drainage by the Borough Engineer. Mr. Costello seconded the motion which was adopted on the following vote: Costello-AYE; McLoughlin-AYE; McLaughlin-AYE; Gruner-AYE; Tomaino-AYE; Boyd-AYE; Scally-AYE; Mauro-AYE.

C/A MAJOR – 303 NORWOOD AVENUE (ANTEBY)

The Board next heard the application submitted by Hyman Anteby for a second floor addition which will contain a bathroom and two bedrooms at the northeast (back portion) of the house.

Comm. McLoughlin was recused as he was within 200 feet and he temporarily left the meeting.

It was determined that there were not enough Board members present to hear the continued application and the applicant decided to start the application from the beginning. The following items were marked into evidence: A-1, Plans; A-2, Application; A-3, Zoning Determination; A-4, Affidavit of Mailing; A-5, Affidavit of Publication; A-6, 5 pages of photos of existing home; A-7, rendering of home.
Rob Farber, attorney for the applicant, stated the addition will not affect the footprint of the home and there will be no additional impervious surface. It is a second floor addition only.

Hyman Anteby, homeowner, stated he would like the addition to accommodate his growing family. The addition will consist of two bedrooms and one bathroom.

Anthony Ercolino, architect, was qualified and sworn. He described the addition which is on the north side of the house. The first floor will remain unchanged and the second floor will have two new bedrooms and they will alter another bedroom to accommodate a bathroom. They will create a dormer in the front and one in the back. The north elevation will have a steep roof.

Mr. Farber commented that the house is not historic in its existing state.

Mr. Ercolino stated that was correct. He has incorporated details from around town. The dormers, cornice and gables will conform to the rest of the house. He did not add any ornate details as they would not go with this house. He will use materials to match the house. He will use vinyl clapboard with a 5” exposure.

Chairman Tomaino asked about fenestrations and Mr. Ercolino stated it is symmetrical with two windows and also with the front and rear dormers.

Mr. Scally asked about matching the shingles and Mr. Ercolino stated that will be the contractor’s job. The new roof only touches the old in one location and if they can’t get it to match, they will replace that whole spot.

There was no response to Chairman Tomaino’s request for public questions or comments.

Findings of Fact

Mrs. Varley stated this is a definite improvement.

Mr. Scally agreed that it was a big improvement. The house was very vanilla.

Mayor McLaughlin also agreed and added that by putting in a gable, it brings it more in line with the town.

Mr. Gruner also agreed stating this gives it some articulation.

Mr. Mauro commented that it is a step closer.

Chairman Tomaino stated it is cohesive. The siding will be identical and the fenestrations are similar. It will have larger windows.

Mr. Gruner moved, seconded by Mr. Mauro that a Certificate of Appropriateness be granted for this application. The motion was approved on the following vote: Costello-AYE; Varley-AYE; McLaughlin-AYE; Gruner-AYE; Tomaino-AYE; Boyd-AYE; Scally-AYE; Mauro-AYE.
CA/VARIANCE FOR UNDERSIZED LOT – 10 ALLEN AVENUE (ADES)

The Board next considered an application filed by Maurice Ades for new single-family home with pool at 10 Allen Avenue. A variance is required for under-sized lot.

Comm. McLoughlin returned to the meeting.

The following items were marked into evidence: A-1, Plans dated 1/31/14; A-2, Application; A-3, Affidavit of Mailing; A-4, Affidavit of Publication; A-5, Zoning Determination; A-6, Impervious Surface Coverage Determination; A-7, Borough Engineer’s report; A-8, landscape plan; A-9, topographical survey; SP-1 through SP 14, various exhibits from applicant.

Michael Wenning, Attorney for the applicant, stated they are here for a Certificate of Appropriateness. He has reviewed the Engineer’s report which brings up the issue of Res Judicata. This will have to be determined by the Board.

Don Beekman, Board Attorney, explained Res Judicata to the Board, stating the Board must determine whether the changes made to the applicant were sufficient enough for another hearing since this application had previously been denied.

Mr. Wenning stated that one of their arguments is that it should not apply to a Certificate of Appropriateness as subtle architectural changes can make a difference in the look of the project. He stated their other argument is that in January a motion was made to approve the application and the motion did not pass. There was no resolution written. There was no determination of finality. He read case law concerning same.

Mr. Beekman disagreed that a resolution had to be adopted.

Robert Fernicola, attorney for the objector, Mrs. Minchello, felt the matter was adjudicated. There was a findings of fact and both sides had an opportunity to present their case. There are minutes of the entire proceedings.

Chairman Tomaino stated they spent over an hour deliberating findings of fact.

Mr. Wenning stated those findings should be placed in a resolution to be adopted by the Board. They are here tonight to present new plans showing there are substantial differences between the two applications.

Mr. Fernicola asked if the objector could present expert testimony on the question of Res Judicata and Mr. Beekman stated that they could.

Steve Carlidge, architect for the applicant, was qualified and sworn and stated he could present both applications and point out the differences in each. However, it will take quite a bit of time. He can use their present exhibit and point out the changes made. A Certificate of Appropriateness is subjective. He would suggest that subtle changes could result in differences of opinion by different Board members. They could address scale, mass and size of structure. There were no questions about style. The original application was neo-classical as is this application. He stated the mass of the roof was adjusted and the mass of the dormers were
adjusted. He presented SP 01 which shows the differences in design and he explained those differences to the Board.

Mayor McLaughlin stated the differences are diminimus. They just shrunk the house down a little.

Chairman Tomaino stated they are addressing the roof level, but not what is below. He doesn’t see a reduction in the size of the structure.

Mr. Carlidge stated that the volume has been reduced, but not the square footage.

Chairman Tomaino stated that the volume is the same. Mr. Carlidge stated that square footage has been reduced in the attic from 1,004 sf to 927 sf.

Comm. McLoughlin asked what the overall square footage was and Mr. Carlidge responded it was 5,194 square feet.

Mr. Wenning stated that he did not recall the square footage being an issue.

Mr. Carlidge stated that subtle changes can affect a Certificate of Appropriateness. He believed he could demonstrate that the roof line and dormers are consistent with dozens of other houses in Allenhurst.

Mr. Costello asked when the Board is making judgments about the architectural elements of a house, how do they decide what is substantial? With a variance, it is cut and dried.

Mr. Fernicola stated he agreed with Mr. Costello. The five members who voted on the original application have to make that determination and not based on just the issues that Mr. Carlidge has addressed so far. There were a myriad of issues.

Mr. Costello asked if they could split the variances from the Certificate of Appropriateness. Where there were variances before, there are none now.

Mr. Fernicola stated the Board never made a ruling on the variances.

Mr. Costello stated that he did not want to litigate the entire application. Did they make enough changes to satisfy the Board members who voted negatively?

Chairman Tomaino stated there were many issues. They heard testimony as to how the house sits on the street and the absence of a porch. He doesn’t feel comfortable voting at this time.

There was a lengthy discussion by Board members on how to proceed.

Mr. Fernicola stated that this is what Res Judicata is. They are bringing up the same issues. This is why you don’t litigate the same issues again. They should focus on the differences.

Mr. Wenning disagreed with Mr. Fernicola’s statement.
There was a discussion on whether a formal resolution had to be prepared for the Board to vote on.

Chairman Tomaino suggested that a resolution be prepared for the Board to vote on.

Mr. Wenning asked if, because there was no formal resolution, they could withdraw the previous application and start from scratch.

Mr. Mauro moved that the prior application be withdrawn, but there was no second.

Chairman Tomaino proposed that a resolution be prepared for denial. Mr. Wenning objected based on time. He stated the client has asked for a special meeting.

It was determined that the Board would hold a special meeting on March 26, 2014 to accommodate this application and the matter was carried.

There being no further business, Chairman Tomaino moved, seconded by Mr. Gruner that the meeting be adjourned at 11:03 PM. Motion carried.

Lori L. Osborn, RMC
Planning Administrator