

**BOROUGH ALLENHURST
PLANNING BOARD**

RESOLUTION NO. 8-18-2021 (4)

WHEREAS, Richard Chera and Flore Chera (hereinafter "Plaintiffs") are the owners of 1 Spier Avenue in the Borough and known as Block 36, Lot 5; and

WHEREAS, on or about June 15, 2019, the Borough issued a Notice of Violation (NOV) to the Plaintiffs asserting that certain hedges on their property, in combination with a retaining wall and elevated soil, violated Borough Ordinance 26-5.2; and

WHEREAS, on or about July 3, 2019, Plaintiffs filed a Notice of Appeal of the NOV with the Borough of Allenhurst Planning Board (hereinafter "Planning Board") challenging its conclusions and seeking an interpretation pursuant to N.J.S.A. 40:55D-72(a); and

WHEREAS, on November 12, 2020, the Planning Board issued Resolution 2-11-12-2020 denying Plaintiffs's appeal, which was published in the Asbury Park Press on November 19, 2020; and

WHEREAS, on or about December 16, 2020, the Plaintiffs filed an Action in Lieu of Prerogative Writs entitled Richard and Flore Chera v. The Borough of Allenhurst Planning Board, the Borough of Allenhurst and Joseph McGrath, Superior Court of New Jersey, Law Division, Monmouth County, Docket Number: MON-L-4064-20 (hereinafter the "Lawsuit"); and

WHEREAS, the Plaintiffs and Planning Board now wishes to resolve all their differences in accordance with the terms and conditions of the Settlement Agreement and Release attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, upon the advice of counsel, the Settlement Agreement and Release is recommended as a means of resolving a potentially costly and protracted dispute.

NOW, THEREFORE BE IT RESOLVED, by the Planning Board that the statements contained in the foregoing preamble be and are hereby incorporated into this Resolution as if more fully set forth herein at length; and

BE IT FURTHER RESOLVED that, the settlement of the Lawsuit brought by the Plaintiffs in accordance with the terms set forth in the Settlement Agreement and Release attached hereto as Exhibit "A" and incorporated herein by reference, be and is hereby authorized and approved; and

BE IT FURTHER RESOLVED that, the Chairman of the Planning Board be and is hereby authorized to execute the Settlement Agreement and Release on behalf of the Borough of Allenhurst and that Planning Board Counsel is hereby authorized to execute the associated Stipulation of Dismissal, with prejudice, to bring the Lawsuit to a conclusion.

As to the APPROVAL of the Settlement:

Moved by: Costello

Seconded by: Adjmi

ROLL CALL VOTE

Those in favor: Schechner, Costello, Varley, Chairman Tomaino

Those opposed: none

NOW, THEREFORE BE IT RESOLVED, by the Planning Board of the Borough of Allenhurst on the 18th day of August, 2021 that this Resolution be adopted.

Moved by: Costello

Seconded by: Chairman Tomaino

ROLL CALL VOTE

Those in favor: Varley, (Shalam) Adjmi, Costello, Tomaino

Those opposed: None

Those absent: Schechner

Those not voting: Mayor McLaughlin, Commissioner McLoughlin, Rogers, Hochster

The foregoing is a true copy of a resolution adopted by the Planning Board of the Borough of Allenhurst at its meeting on the 18th day of August, 2021.

As copied from the minutes

Of said meeting



Kelly Barrett

Secretary, Planning Board

Borough of Allenhurst, N.J