

WILENTZ

—ATTORNEYS AT LAW—

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July 3, 2019

VIA E-MAIL AND HAND DELIVERY

Joseph McGrath, Zoning Officer
125 Corlies Avenue
Allenhurst, New Jersey 07711
e-mail: zoning@allenhurstnj.org

**Re: Richard & Flore Chera
1 Spier Avenue
Allenhurst, New Jersey 07711
Block 36, Lot 5**

Dear Mr. McGrath:

As you are aware, this firm represents Richard and Flore Chera (the “Cheras”), the owners of a single family home located at 1 Spier Avenue, Allenhurst, New Jersey and shown on the Borough’s Tax Map as Lot 5 in Block 36 (the “Property”). Pursuant to N.J.S.A. 40:55D-72(a), please accept this letter as a formal Notice of Appeal of your determination of alleged zoning violations as set forth in your letter dated June 15, 2019. A copy of the June 15th letter is attached.

The Property is approximately .3486 acres and located in the R-1 Residential District on the zoning map for the Borough of Allenhurst (“Borough” or “Allenhurst”) at the corner of Spier Avenue and Ocean Place. The Cheras have owned the Property since 2007.

On June 15, 2019, The Zoning Officer issued a letter relating to the hedges located in the front and side yards of the Property. The following items were cited as violations therein:

1. The hedges recently installed around the front and side of the property on top of the existing wall, violate Borough Ordinance 26-5.2.

2. Hedges constitute fencing as per the ordinance and require zoning approval.
3. The height of the hedges also violates the ordinance.
4. Immediate removal of the hedges is required.

Ordinance Section 26-5.2 regulates fences and hedges. The Ordinance states, in relevant part, that “[n]o fence of any type or material whatsoever shall be erected or constructed without obtaining a permit from the Zoning Officer. This shall also apply to hedges.” Further, the Ordinance states that “[f]ences or hedges shall not exceed four (4) feet in height along the front yard up to the main body of the house.” The Ordinance is silent with regard to how height is to be measured.

A quick drive around the Borough illustrates that this Ordinance has not been enforced. Indeed, multiple properties along Spier Avenue have hedges similar to those located at the Property and many properties have hedges much greater in height. As a result, it is submitted that the Cheras have been arbitrarily singled-out and unfairly penalized for a landscaping element that is seen and accepted throughout the Borough.

Further, as per our discussion, the obstruction of ocean views is a basis for the violations. The location of the hedges does not obstruct ocean views and merely provides privacy protection to the Cheras. In fact, the Property previously had hedges bordering the property line with 5 Spier Avenue. The prior hedges essentially “obstructed” the same ocean view corridor; arguably, to a greater degree than the current hedges. The prior hedges were unlawfully removed without the permission of the Cheras. Nonetheless, the obstruction of ocean views is not a basis for violations as per the ordinance. Rather, the Ordinance states that hedges may not “obstruct the view of motorists or pedestrians.” The location of the hedges are set back from the property line to maintain visibility of the street for safe pedestrian and motorist travel.

Lastly, the approximate height of the hedge is thirty (30) inches. As per our discussion, it is my understanding that your application of the ordinance measures hedge height from the sidewalk, taking into account grade changes associated with ocean front property. This method of measurement is not contemplated by the Ordinance and unfairly penalizes properties with grade changes, including grading measures to protect from flooding. If measured from the ground area surrounding the hedge, it would be well below the maximum of four (4) feet.

For the foregoing reasons, the Cheras appeal the determination issued by the Zoning Officer. Please be advised that we will be filing the appropriate application and fees shortly but wanted to put your office on notice within the 20-day period set forth in N.J.S.A. 40:55D-72(a) that our client is appealing your June 15th determination.

I look forward to working with you to resolve this matter to the satisfaction of all parties.

Respectfully submitted,
Wilentz, Goldman & Spitzer, P.A.
Attorneys for Richard and Flore Chera


By: AMANDA M. CURLEY

cc: Alison Gavin, Planning Board Secretary (via e-mail, planningboard@allenhurstnj.org)
Richard Chera (via e-mail)



BOROUGH OF ALLENHURST

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Joseph McGrath – Zoning Officer

Richard & Flore Chera
1 Spier Ave.
Allenhurst, NJ 07711

667 Madison Ave. 12th Floor
New York, NY 10065

June 15, 2019

Re: 1 Spier Ave.
Allenhurst, NJ 07711
Block 36 – Lot - 5

Dear Sir/Madam,

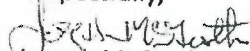
In accordance with Borough policy, a zoning application is required to install any kind of fence on properties in the Borough, a review of the file has brought an issue to light that needs to be addressed immediately.

1. The hedges recently installed around the front and side of the property on top of the existing wall, violate Borough Ordinance 26-5.2.
2. Hedges constitute fencing as per the ordinance and require zoning approval.
3. The height of the hedges also violates the ordinance.
4. Immediate removal of the hedges is required.

Please contact this office to discuss resolution of these matters at your earliest convenience. Deviations of Ordinances or Board Approvals which are not corrected within ten (10) days are subject to daily fines until violations are abated.

I look forward to working with you to bring the property into compliance.

Respectfully,


Joseph McGrath

Zoning Officer

732-658-1413

E-Mail Zoning@allenhurstnj.org

Cc. File

Code Enforcement

Sent Certified and Regular Mail # 7015 0920 0002 3870 5490

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