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# HEROLD LAW

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March 29, 2024

*Via Hand Delivery and E-mail (k-lenahan@cranfordnj.org)*

Kathy Lenahan, Land Use Administrator  
Township of Cranford Office of Planning & Zoning  
8 Springfield Avenue  
Cranford, NJ 07016

**Re: Mark and Denise Smith, Applicants**  
**Property: 100 Lambert Street, Block 322, Lot 18**  
**Request for Interpretation Pursuant to N.J.S.A. 40:55D-70b**  
**Hearing Date: April 8, 2024**

Dear Ms. Nemeth:

As you are aware, this office represents the above referenced Applicants with reference to the Applicants' request for interpretation pursuant to N.J.S.A. 40:55D-70b (the "Application"). The Application is currently scheduled to be heard at the April 8, 2024 meeting of the Cranford Township Zoning Board of Adjustment (the "Board")

Regarding the referenced Application, enclosed are six copies of an Amended Application with Checklist attached.

Please let us know if you have any questions. Thank you.

Very truly yours,

*/s/ Robert F. Simon*

Robert F. Simon

RFS:kas  
Encs.

## Form 00/Application Instructions

~~TOWNSHIP OF CRANFORD PLANNING AND ZONING DEPARTMENT~~

8 Springfield Avenue - Cranford, NJ 07016

Phone: (908) 709-7216 • Fax: (908) 276-7664

E-Mail: [Zoning@CranfordNJ.org](mailto:Zoning@CranfordNJ.org)



Form Updated 10-11

This package contains all of the forms necessary to begin the process of submitting an application to either the Cranford Planning Board or the Cranford Zoning Board of Adjustment. Applicants are only required to complete the forms related to their specific application along with proving all necessary items required by the township Checklist of Required Items. Questions may be directed to the Planning and Zoning Department by calling 908-709-7216, or via email at [Zoning@CranfordNJ.org](mailto:Zoning@CranfordNJ.org).

### PRE-HEARING REQUIREMENTS

#### Application

All applications to either the Township's Planning Board or Zoning Board of Adjustment must provide certain documents as they relate to the application. As per § 136-13A(4) of the Township's Land Development Ordinance, all applications shall provide all items listed in the Township's checklist of required items or request waivers there from. Please see Form 18 of this packet for the checklists of required items. It should be noted that some items are required for all applications while some items are application specific. If the application will consist of several types of applications (i.e. a use variance application that will be submitted together with an application amending a minor site plan) the applicant will need to provide all of the documentation required for each type of application that is being submitted. If the same information is requested twice on the checklist, the applicant only needs to supply the information once as part of their application to satisfy both required items.

Once the application is received by the Planning and Zoning Office, by law (NJSA 40:55D-10.3) the Zoning Officer has 45 days to deem the application complete or incomplete. In order for an application to be deemed complete, all checklist items will need to be provided and/or a waiver request needs to be submitted for each waiver requested. Incomplete applications will be returned to the applicant with a letter listing all outstanding items. The applicant will also need to make sure that Form 18 is initialed by the applicant noting whether the item is provided as part of their application or a waiver is requested. If a waiver is requested, the applicant will need to provide a reason for the waiver request in writing on a separate sheet of paper. It should be noted that the Board that has jurisdiction over the application may approve or deny each waiver request. A determination of completeness does not mean that the application is approved. It simply means that the applicant has provided all required checklist items and/or waiver requests. The Board has the right, at the time of the hearing, to request additional information that was not provided as part to the application.

**PLEASE MAKE SURE ALL CHECKLIST ITEMS ARE PROVIDED!  
INCOMPLETE APPLICATIONS WILL NOT BE SCHEDULED FOR A DRC  
MEETING AND WILL NOT BE SCHEDULED FOR A BOARD HEARING.**

**Licensed Professional Representation**

Individual applicants have the right to retain licensed professionals (attorneys, architects, engineers, etc.); the hiring of any professional is strictly the decision of each applicant. In general, corporate applicants must be represented by an attorney admitted to practice in New Jersey. ALL plans submitted to a Board for review that are prepared by a licensed professional must be signed and sealed by the professional in accordance with the rules of the State Boards of Professional Engineers and Land Surveyors, Registered Architects and Certified Landscape Architects, and Professional Planners.

**Development Review Committee**

Once an application has been deemed complete, the application will be scheduled for review by the Development Review Committee (the "DRC"). The DRC is comprised of all appropriate Township professionals who will review the application and make recommendations. DRC meetings are held typically on the first and third Wednesdays of the month at 9 a.m. in the Municipal Building. Although the applicant is not required to be present at the DRC meeting, attendance is strongly encouraged.

Should document revisions be required, the applicant should re-submit to the Planning and Zoning Office eighteen (18) signed and sealed updated plans, along with eighteen (18) collated and stapled copies of any additional requested application forms (if different from original submission), and any outstanding fees.

**Take adequate time to familiarize yourself  
with the following instructions and prepare accordingly.  
Failure to meet timelines and requirements will result  
in the Board being legally unable to hear the application.**

**Preparation for Hearing Date**

Upon receipt of any revised application information or if no changes are required, the Zoning Officer will forward the application to the Board Scribe. The Board Scribe will notify the applicant in writing of the Board hearing date and will gather recommendations from all relevant Township professionals which may include, but is not limited to, the Township Engineer, Police Department, Fire Department, Development Review Committee, Health Officer, Environmental Commission, and the Historic Preservation Committee. The Board Scribe will provide the applicant with copies of all recommendations.

**200-Foot List**

Prior to being deemed "complete", the applicant is required to submit Form No. 17 of this application package, entitled "200 Foot List Request Form," along with related fees to the Planning and Zoning Department, to receive a "200-foot List." This is a list of all property owners, utilities and others to whom the applicant is required to send notification of the hearing date. By law, the list will be prepared in accordance with the Township's current tax records within seven (7) business days of the date of receipt of a completed Form No. 17.

If, during preparation of this list, it is determined that certain properties within the 200-foot boundary are located in other municipalities, the applicant is responsible for contacting the other municipalities and obtaining the certified list of those property owners in that municipality.

**"Notice" All Parties of Hearing Date**

The applicant must utilize the 200-foot List and the list of utilities and other organizations to "notice" all parties of the pending hearing date, either by certified mail or personal service, using Form 11 provided in this packet. Applicants who choose to "notice" by personal service will need to provide the Planning and Zoning Office with a notarized list containing the signatures of the owners listed on the tax records along with the date signed.

The applicant must also submit notification of the hearing for publication to one of the newspaper contacts included on the list of utilities that was provided to the applicant with the 200-foot list. This notice of the hearing date, time and place must be published, and all personal or certified notices must be completed, a minimum of ten (10) days prior to the hearing date. Adequate time must be taken into account for the preparation, mailing, and publication requirements of the particular newspaper.

**Affidavit of Proof of Service - Form No. 12**

When notifications are complete, the applicant must submit the following to the Cranford Planning and Zoning Department no less than four days prior to the hearing date:

1) The notarized Affidavit of Proof of Service (Form No. 12) with the following attached:

A copy of the Notice of Public Hearing

A copy of the 200-foot list of all property owners served and others to whom notification of the application has been made

The original (white) Certified Mail tickets stamped by the Post Office, along with

2) The original proof of publication provided to the applicant by the newspaper.

If the applicant chooses to obtain signatures personally rather than use Certified Mail, the applicant must be sure to have the original signatures of the property owners for each property and the date served included on the 200-foot list attached to the Affidavit of Proof of Service.

**If proper notice is not provided either to the required parties  
or in the newspapers, your hearing date will be postponed.**

**HEARING DATE OVERVIEW**

**Zoning Board of Adjustment** hearings typically begin at 8:15 p.m. in Room 107 at the Cranford Township Municipal Building, 8 Springfield Avenue, Cranford. The workshop portion of the Zoning Board of Adjustment meeting typically begins at 7:45 p.m. in Room 108.

**Planning Board** hearings typically begin at 8:00 p.m. in Room 107 at the Cranford Township Municipal Building, 8 Springfield Avenue, Cranford. The workshop portion of the Planning Board meeting typically begins at 7:30 p.m. in Room 108.

There may be more than one application scheduled for a meeting date. The applicant must come prepared to the hearing with all expert witnesses, documents, testimony, and exhibits as deemed necessary to adequately present the application to the Board. Such presentation is solely the decision of the applicants and their advisors.

The Board will typically render its decision the same evening that the application is heard. In some cases, however, the hearing may take several additional meetings. If that is the case, typically, the Board will announce at the end of the meeting the date the hearing will continue.

Once all testimony has been taken, the Board will vote on the application. The Board will then instruct the Board Attorney to draft a resolution of memorialization. This document serves as the legal instrument stating the reason that Board approved or denied an application and any conditions upon any approval. In most cases, the resolution of memorialization is adopted at the workshop portion of the next meeting, following the vote. Once approved, a copy is mailed to the applicant within ten (10) days.

If applicable, the applicant can then request final site plan/subdivision approval utilizing Form No. 7 or No. 9. These forms along with all other checklist items are to be submitted to the Planning and Zoning Office. Once all items are received or waivers requests are submitted, the application will then be distributed to the Township Professionals as appropriate for their review. Their findings will then be returned to the Planning and Zoning within two (2) weeks of the date of submission. If deficiencies are found, the applicant will be notified in writing by the Zoning Officer and advised of the specific items omitted.

This process will be repeated until all required documents and conforming plans are received. Upon final acceptance, the Board Scribe will schedule the matter for hearing and notify the applicant in writing of the hearing date for final site plan approval. A copy of the Board's resolution of memorialization of final site plan approval is mailed to the applicant within ten (10) days after the hearing at which the Board approves the wording of the Resolution and it is adopted. If applicable the Board Chairman and Secretary will then sign the plans and distribute them as required. Two (2) sets will be returned to the applicant. One (1) set is for the applicant's official records and one (1) set is to be retained on the job site at all times. (The other sets are distributed to the Township Engineer and the Cranford Construction Official.). The applicant can then submit all necessary applications and plans to the Cranford Construction Official for applicable construction permits. Township officials will conduct post-construction compliance inspections to ensure that all conditions and site plan requirements have been satisfactorily completed before the issuance of any certificate of occupancy.

## **GENERAL INFORMATION**

All checks are to be made payable to the Township of Cranford.

Any lessee or contract purchaser applying for development must submit a letter from the owner authorizing such persons to apply to the Board for development. (See Form No. 01)

Should an attorney sign the application for the applicant, an instrument granting Power of Attorney must be presented to the Board.

Corporations must be represented at a public hearing by a New Jersey licensed attorney and must submit a disclosure affidavit. (See Form No. 01)

All items submitted to the Board are public record and are available for review upon request via a "Request for Access to Government Records," at the fee set by the OPRA Act.

**NOTES:**

- "1" The applicant may obtain the tax map sheets by completing Form No. 17 and submitting same to the Planning and Zoning Department, Municipal Building, 8 Springfield Avenue, Cranford, New Jersey. A fee is charged for this service in accordance with the OPRA Act.
- "2" The applicant may obtain a tax certification by writing to the Township Treasurer or visiting the Tax Collector's Office, 8 Springfield Avenue, Cranford, New Jersey. A fee may be charged for this service.
- "3" To certify the property location relative to an "A" flood hazard area, the applicant should write to the Township Engineer's Office, 8 Springfield Avenue, Cranford, New Jersey. A fee may be charged for this service. If the property lies within the "A" flood hazard area, the applicant must notify the Land Use Regulation Program, New Jersey Department of Environmental Protection, P.O. Box 439, Trenton, New Jersey 08625-0439 and obtain the necessary permit or waiver. (Stream Encroachment)
- "4" For development involving the disruption of 5,000 square feet or more of soil, the applicant must notify the Somerset-Union Soil Conservation District, Somerset County 4-H Center, 308 Milltown Road, Bridgewater, New Jersey 08807, Phone 908-526-2701, and obtain the necessary permits or exemptions.
- "5" For all properties located on a State highway, the applicant must notify the New Jersey Department of Transportation, P.O. Box 600, Trenton, New Jersey 08625 and obtain the necessary permit or waiver.
- "6" For all properties located adjacent to an existing county road or proposed road shown on the Official County Map or on the County Master Plan, adjoining other County Land or situated within 200 feet of a municipal boundary, the applicant must notify the Union County Planning Board, ATTN.: Union County Department of Engineering and Planning, Union County Administration Building, Elizabethtown Plaza, Elizabeth, New Jersey 07207.

## AMENDED APPLICATION

### Index - Development Assistance Package

**TOWNSHIP OF CRANFORD - ZONING DEPARTMENT**

8 Springfield Avenue - Cranford, NJ 07016

Phone: (908) 709-7216 • Fax: (908) 276-7664

E-mail: [Zoning@CranfordNJ.org](mailto:Zoning@CranfordNJ.org)



Form 00/Updated 4-09

<u>FORM NO.</u>	<u>APPLICATION</u>	<u>Provided</u>
00	Application Instructions (5 Pages)	<u>X</u>
01	Application for Board Action (9 Pages)	<u>X</u>
02	Appeal of Zoning Officer's Decision (1 Page)	<u>N/A</u>
03	Interpretation Request (1 Page)	<u>X</u>
04	Appeal for Relief of Zoning Requirements (3 Pages)	<u>N/A</u>
05	Application for Appeal to Use Variance (2 Pages)	<u>N/A</u>
06	Application for Conditional Use Authorization (2 Pages)	<u>N/A</u>
07	Application for Approval of Subdivision (2 Pages)	<u>N/A</u>
08	Application for Final Approval of Subdivision (1 Page)	<u>N/A</u>
09	Application for Preliminary Approval of Site Plan (2 Pages)	<u>N/A</u>
10	Application for Final Approval of Site Plan (2 Pages)	<u>N/A</u>
11	Notice of Public Hearing (1 Page)	<u>  </u>
12	Affidavit of Proof of Service (1 Page)	<u>  </u>
13	Request for Extension of Time to File Plat (1 Page)	<u>  </u>
14	Consent to Extension of Time for Decision (1 Page)	<u>  </u>
15	Hold Harmless and Indemnification Agreement (1 Page)	<u>X</u>
16	Township of Cranford Fees (9 Pages)	<u>  </u>
17	Request For 200 Property Owner List (1 Page)	<u>X</u>
18	Checklist of Required Items (12 pages)	<u>X</u>

# Form 03/Interpretation Request Application

TOWNSHIP OF CRANFORD ZONING DEPARTMENT

8 Springfield Avenue - Cranford, NJ 07016  
Phone: (908) 709-7216 • Fax: (908) 276-7664



Form Updated 8-12

## To be completed by Township Staff Only

Application No.: \_\_\_\_\_ Date received: \_\_\_\_\_

Appeal is hereby made for the interpretation of the Zoning Article, Zoning Map or Official Map Article of the Municipal Land Use Ordinance of the Township of Cranford pursuant to Section 40:55D-70.b. of the New Jersey Municipal Land Use Law.

### 1. Applicant information

Name: Mark and Denise Smith

Address: 35 Wade Avenue, Cranford, NJ

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

### 2. Interpretation information

a) Specific provisions for interpretation: Section 255-39, Conditional Uses

\_\_\_\_\_  
\_\_\_\_\_

b) Description of circumstances involved and drawings or plans submitted: \_\_\_\_\_  
Township leased property to Cranford Baseball Softball League, which is currently being used contrary to what is permitted in the Cranford Township Code and is being used in excess of the intended use of the fields, and in violation of the Lease Agreement.

c) Listing of all papers and plans constituting record: \_\_\_\_\_

See attached

*(If necessary, please continue on reverse side or on an additional sheet of paper.)*



# Form 01/Board Application

TOWNSHIP OF CRANFORD ZONING DEPARTMENT

8 Springfield Avenue - Cranford, NJ 07016  
Phone: (908) 709-7216 • Fax: (908) 276-7664  
Email: [Zoning@CranfordNJ.org](mailto:Zoning@CranfordNJ.org)



Form Updated 10-12

The application, with supporting documentation, must be filed with the Planning and Zoning Department of the Township, and will be reviewed by Township professionals prior to scheduling the meeting at which the application is to be considered.

## To Be Completed by Township Staff Only

Dated Received: \_\_\_\_\_

Application No.: \_\_\_\_\_

## To Be Completed by Applicant

### 1. Subject Property

Location/Address: 100 Lambert Street, Cranford, NJ  
Tax Map: Block: 322, Lot(s): 18 Block 201, Lot 1  
Block: 323, Lot(s): 1  
Dimensions: Frontage: \_\_\_\_\_ Depth: \_\_\_\_\_ Total Area: \_\_\_\_\_  
Zoning District: R-1

### 2. Applicant Information

Name: Mark and Denise Smith  
Address: 35 Wade Avenue, Cranford, NJ  
Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Applicant is a: Corporation \_\_\_\_\_ Partnership \_\_\_\_\_ Individual X  
Limited Liability Company \_\_\_\_\_ Other (Specify) \_\_\_\_\_

### 3. Disclosure Statement

Pursuant to N.J.S.A. 40:55D-48.1, the names and addresses of all persons owning 10% of the stock in a corporate applicant or 10% interest in any partnership applicant must be disclosed. In accordance with N.J.S.A. 40:55d-48.2 that disclosure requirement applies to any corporation, limited liability company or partnership which owns more than 10% interest in the applicant followed up the chain of ownership until the names and addresses of the non-corporate



D. List any other Expert who will submit a report or will testify for the Applicant:  
[Attach Additional sheets as may be necessary.]

Name: \_\_\_\_\_  
Area of Expertise: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/ZIP: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
E-mail: \_\_\_\_\_

**7. Application Type**

**A. SUBDIVISION**

\_\_\_\_\_ Minor Subdivision Approval  
\_\_\_\_\_ Subdivision Approval [Preliminary]  
\_\_\_\_\_ Subdivision Approval [Final]

**B. SITE PLAN**

\_\_\_\_\_ Minor Site Plan Approval  
\_\_\_\_\_ Preliminary Site Plan Approval [Phases (if applicable)]  
\_\_\_\_\_ Final Site Plan Approval [Phases (if applicable)]  
\_\_\_\_\_ Amendment or Revision to an Approved Site Plan  
\_\_\_\_\_ Request for waiver from Site Plan review and approval

Reason requesting waiver of site plan approval (use additional pages if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. INFORMAL REVIEW: \_\_\_\_\_ Subdivision \_\_\_\_\_ Site Plan

D. CONDITIONAL USE APPROVAL per N.J.S.A. 40:55D-67

E. DIRECT ISSUANCE OF A PERMIT:

\_\_\_\_\_ N.J.S.A. 40:55D-34 (permit building or structure in the bed of a mapped Street or public drainage way, flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-32)  
\_\_\_\_\_ N.J.S.A. 40:55D-36 (permit building or structure not related to an official suitably improved street pursuant to N.J.S.A. 40:55D-35).

F. VARIANCES PURSUANT TO N.J.S.A. 40:55D-70.C

- \_\_\_\_\_ (C1) "Hardship" Variance  
\_\_\_\_\_ (C2) "Flexible" Variance (benefits v. detriments)

G. VARIANCES PURSUANT TO N.J.S.A. 40:55D-70.D

- \_\_\_\_\_ (D1) A use or principal structure in a district restricted against such use or principal structure  
\_\_\_\_\_ (D2) An expansion of a nonconforming use  
\_\_\_\_\_ (D3) Deviation from a specification or standard pursuant to Section 54 of P.L. 1975, c.291 (C.40:55D-67) pertaining solely to a conditional use  
\_\_\_\_\_ (D4) An increase in the permitted floor area ratio as defined in Section 3.1 of P.L. 1975, c.291 (C.40:55D-4)  
\_\_\_\_\_ (D5) An increase in the permitted density as defined in Section 3.1 of P.L. 1975, c.291 (C.40:55D-4) except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision.  
\_\_\_\_\_ (D6) A height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure.

H. APPEAL/INTERPRETATION PURSUANT TO N.J.S.A. 40:55D-70, (a) & (b):

- \_\_\_\_\_ (a) Appeal to Board of Adjustment of Order, Requirement, Decision or Refusal by an administrative officer based on or made in the enforcement of the zoning ordinance.  
X \_\_\_\_\_ (b) Request for Interpretation of the zoning map or ordinance or for Decisions upon other special questions upon which the Board of Adjustment is authorized to pass by any zoning or offered map or ordinance.

8. **Explain in detail** the exact nature of the application and the changes to be made at the premises, including the proposed use of the premises: [attach additional pages if needed]

Unapproved and non-permitted use of Leaseholder's property, which also exceeds the intended use of same and does not meet conditions of use as set forth in Section 255-39 of the Cranford Land Development Ordinance.

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9. Is a public water line available? N/A
10. Is public sanitary sewer available? N/A
11. Does the application propose a well and septic system? N/A
12. Have any proposed new lots been reviewed with the Tax Assessor to determine appropriate lot and block numbers? N/A
13. Are any off-tract improvements required or proposed? N/A
14. Is the subdivision to be filed by Deed or Plat? N/A
15. What form of security does the applicant propose to provide as performance and maintenance guarantees? N/A
16. Other approvals which may be required and date plans submitted:  
 Yes \_\_\_\_\_ No \_\_\_\_\_ Date Plans Submitted \_\_\_\_\_

- \_\_\_\_\_ Any Utilities Authority
- \_\_\_\_\_ County Health Department
- \_\_\_\_\_ County Planning Board
- \_\_\_\_\_ County Soil Conservation District
- \_\_\_\_\_ NJ Dept. of Environmental Protection
- \_\_\_\_\_ Sewer Extension Permit
- \_\_\_\_\_ Sanitary Sewer Connection Permit
- \_\_\_\_\_ Stream Encroachment Permit
- \_\_\_\_\_ Waterfront Development Permit
- \_\_\_\_\_ Wetlands Permit
- \_\_\_\_\_ NJ Department of Transportation
- \_\_\_\_\_ Public Service Electric & Gas Company
- \_\_\_\_\_ Other \_\_\_\_\_

**17. List of maps, reports and other materials accompanying the application (attach additional pages as required for complete listing.)**

Quantity	Description of Item
_____	_____
_____	_____
_____	_____
_____	_____

**18. The Applicant hereby requests that copies of the reports of the professional staff reviewing the application be provided to the following of the applicant's professionals.**

Specify which reports are requested for each of the applicant's professionals or whether all reports should be submitted to the professional listed.

**Reports Requested:**

**Send reports to:**

_____	Name/Address _____
	_____
_____	Name/Address _____
	_____
_____	Name/Address _____
	_____

## Certifications

Complete #19 *or* #20 a and b as indicated:

N/A

**19. Applicant is Property Owner:** I certify that I am the Owner of the property which is the subject of this application, for which I am also the Applicant, and that the foregoing statements and the materials submitted are true. As such, I further certify that I am authorized to sign this application, and that I agree to be bound by the application and the decision. [If the Owner who is also the Applicant is a corporation this must be signed by an authorized corporate officer. If the Owner who is also the Applicant is a partnership, this must be signed by a general partner.]

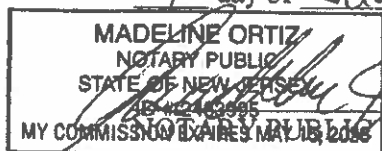
Sworn to and subscribed before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
SIGNATURE OF APPLICANT and OWNER

**20. a) Applicant Who is Not the Property Owner:** I certify that the foregoing statements and materials submitted are true. I further certify that I am the individual applicant or that I am an Officer of the Corporate applicant and that I am authorized to sign the application for the Corporation or that I am a general partner of the partnership applicant. [If the Applicant is a corporation this must be signed by an authorized corporate officer. If the Applicant is a partnership, this must be signed by a general partner.]

Sworn to and subscribed before me this  
7 day of July, 2023



\_\_\_\_\_  
SIGNATURE OF APPLICANT

MARK SMITH / DENISE SMITH

N/A

**b) Owner Who is Not the Applicant:** I certify that I am the Owner of the property which is the subject of this application, that I have authorized the Applicant to make this application and that I agree to be bound by the application, the representations made and the decision in the same manner as if I were the Applicant. [If the Owner is a corporation this must be signed by an authorized corporate officer. If the Owner is a partnership, this must be signed by a general partner.]

Sworn to and subscribed before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
NOTARY PUBLIC

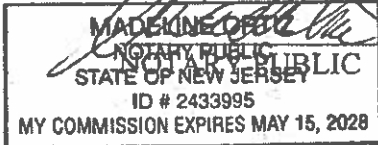
\_\_\_\_\_  
SIGNATURE OF OWNER

## Checklist Certification

**21. To be completed by the applicant:** I certify that all of the required checklist items and any waiver requests (which includes a listing of each waiver requested and a statement of arguments in support of granting each waiver requested) have been provided as part of this application. I understand that a determination of completeness is not a determination of approval and that the Board of jurisdiction has the right to request additional information. [If the Applicant is a corporation this must be signed by an authorized corporate officer. If the Applicant is a partnership, this must be signed by a general partner.]

Sworn to and subscribed before me this

7 day of July, 2023



[Signature]  
SIGNATURE OF APPLICANT

MARK SMITH / DENISE SMITH

## Escrow Certification

**21. Escrow Certification** I (*please print name*) Mark Smith & Denise Smith understand that I have provided the non-refundable sum of \$ 750.00 to be deposited in a Township of Cranford escrow account. In accordance with the Ordinances of the Township of Cranford, I further understand that the escrow account is established to cover the cost of professional services including but not limited to engineering, planning, legal and other expenses associated with the review of submitted materials and the publication of the decision by the Board. Sums not utilized in the review process shall be returned upon my written request to the Zoning Department for same. If additional sums are deemed necessary, I understand that I will be notified of the required additional amount and shall add that sum to the escrow account within fifteen (15) days.

[Signature]  
SIGNATURE OF APPLICANT

MARK SMITH / DENISE SMITH

07/07/2023  
DATE



**ATTACHMENT SUBMITTED IN CONNECTION WITH NOTICE OF APPEAL AND  
APPLICATION FOR INTERPRETATION OF ORDINANCE**

This application is brought by Mark and Denise Smith (the “Applicants”), residents of the Township of Cranford (the “Township”), for an interpretation of Section 255-39-B(16) of the Cranford Township Land Development Ordinance (the “Ordinance”), pursuant to Section 70b of the Municipal Land Use Law, N.J.S.A. 40:55D-1, et seq. (the “MLUL”), and concerns the use of the Adams Park softball fields, located at 100 Lambert Street in the Township of Cranford (the “Fields”) by the Cranford Baseball and Softball League (the “CBSL”). The Fields are located in the R-1 Residential Zoning District. The Applicants contend that the current use of the fields by CBSL is not permitted in the R-1 Zone as the use of the baseball/softball fields is not being operated by the Township, nor is the use otherwise permitted in its current intensity. While an “Institutional and Public Use”, as defined in Section 255-1 of the Ordinance, is conditionally permitted in the R-1 Zone, CBSL is not conducting an Institutional and Public Use. Even if they were doing so, they do not meet the conditions for such a use.

An “Institutional or Public Use” is defined as “Nonprofit public or quasi-public institutions and includes uses such as houses of worship, public and private schools and/or land used for such purposes, but not municipally owned libraries, buildings, structures or land.” (emphasis added) See Section 255-1 of the Ordinance. CBSL is not a public or quasi-public institution. The Fields are municipally owned, which is evidenced by the fact that the Township leased the Fields to CBSL (the “Lease Agreement”). This is not a permitted conditional use in the R-1 Zoning District. See a copy of the Lease Agreement, a true and accurate copy of which is attached hereto **Exhibit A.**

In addition to the above, the use of the Fields does not comply with the “Conditional Use” requirements as set forth in Section 255-39 of the Ordinance. Conditional Use standards for an “Institutional or Public Use” in the R-1 Zoning District, which, in general, “shall not be approved unless it is found that it meets all the requirements of this chapter, does not substantially impair the use and enjoyment of surrounding properties and does not substantially impair the character of the surrounding area”, requirements that include the following:

- a. Such uses shall be permitted in residential zones only if located on a primary or secondary arterial street.
- b. A minimum lot area of one acre shall be provided.
- c. All or part of the required off-street parking may be located on a separate lot in accordance with Article IV of this chapter and such separate lot area may be counted as part of the minimum required lot area.

- d. The maximum impervious surface shall not exceed that permitted in the zone where located.
- e. The minimum side yard shall be equal to the height of the principal structure or 20 feet, whichever is greater.
- f. The front and rear yards shall be the same as required for principal permitted uses in the zone where located or 20 feet, whichever is greater.
- g. A ten-foot landscaped buffer shall be required along the rear property line.
- h. Parking areas shall be screened from view from residential zones or uses by landscaping, fencing, or a combination thereof to create a buffer at least five feet wide and at least five feet tall and shall provide screening of vehicles in all seasons.
- i. Trash disposal areas shall be located as far from residential zone boundaries as possible.
- j. Lighting shall be located no closer than eight feet to an adjoining residential district and shall not exceed eight feet in height. Lighting shall be designed to avoid up-lighting or halo effect with fixtures incorporating shielding/cutoffs to prevent spillage off site and on adjacent residential properties.

It is the Applicants' position that the use of the Fields by the CBSL substantially impairs the use and enjoyment of surrounding properties and substantially impairs the character of the surrounding area, and its use fails to meet several of these conditions cited above, *inter alia*: (1) Adams Avenue and/or Lambert Street are not primary or secondary arterial streets; (2) the minimum side, front and rear-yard setbacks do not meet those permitted in the R-1 Zone; (3) there is no ten-foot landscaped buffer in the rear of the Fields; (4) there are inadequate and unscreened parking areas; (5) the trash disposal area is not located as far from the residential zone boundaries as possible; and (6) the field lighting is noncompliant.

The Applicants have resided adjacent to the Fields since 1992. Since moving into their home, Applicants' concerns have deepened greatly regarding the increased intensity of the use of the Fields. Since the commencement of its lease, the CBSL has taken greater and greater liberties in the use of the Fields, and the increased intensity of use has turned the once quiet neighborhood into a regional softball campus used predominantly by non-residents. Such a change imposes an unreasonable burden on the neighborhood residents and taxpayers, it substantially impairs the use and enjoyment of surrounding properties, and it substantially impairs the character of the surrounding area.

In addition to the fact that a significant portion of the teams using the Fields are not even from Cranford, it is the Applicants' position that the CBSL has gone far beyond the intended utilization of the Township's property and created a regional softball center, which in turn, creates a public nuisance. It is the Applicants' position that the current abusive and intense level of usage of the Fields cannot have been what was intended in 1995 when the Lease Agreement was entered into by the parties. Since that time, the Cranford Police Department has fielded years' worth of complaints regarding parking in the area, the Cranford Health Department has cited the CBSL for several health violations at the facility, large weekend-long tournaments are conducted with teams traveling from as far away as Brooklyn and Staten Island, NY, there are hundreds of people on three (3) fields, which creates noise that is overrunning the neighborhood, the basketball courts are used by teams waiting to use the already overcrowded fields, "No Parking" signs are ignored, the lighting remains on at all hours of the night (lights should be turned off between 9:00 p.m. and 9:30 p.m.), a 30' by 12' trailer has been added to the Fields for use as a "clubhouse", a 30' by 30' concrete pad has been constructed and four to eight picnic tables have been installed, new lights have been erected, improvements have been made to the snack stand and restrooms (with additional portable toilets being added as well), and litter has become out of control and unsanitary. The recent changes and CBSL's apparent expansion into the "business" of softball have created a situation beyond inconvenient. The Fields are no longer neighborhood softball fields, primarily for use by the Township or Cranford residents, as they have become softball fields for all of New Jersey. Such a change is unacceptable and it has created a public nuisance, with all of the burden being placed on local residents, which is inexcusable.

Most recently, Cranford High School hosted two (2) state softball tournament games at the fields, both of which were extremely disruptive to the peace and quiet of the surrounding neighborhood. Due to the excessive number of participants involved in the tournaments and the fact that the venue is just not suited for same, the Cranford Police Department was required to close several streets in the vicinity (a residential neighborhood) in order to control traffic and parking problems. Likewise, CBSL had two (2) portable toilets delivered to the Adams Avenue Fields to accommodate the large number of people expected to attend its annual 4th of July softball tournament. While CBSL may be able to bring in portable toilets, the parking and noise generated from the event will again cause havoc in the neighborhood, disrupting this important holiday; a holiday that many Cranford residents would normally choose to celebrate in the comfort of their own property, which now is no longer an option.

Notwithstanding the number of complaints received by the Township regarding the Fields, the Township would have been made aware of the intensity of CBSL's use of the Fields had the CBSL not been in violation of the conditions of the Lease Agreement by failing to provide an annual accounting of the use of the Fields as required by Paragraph 10 of the Lease Agreement. The Township's response to an OPRA request, attached hereto as **Exhibit B**, advises the Applicants that the required annual reports have not been filed by the CBSL with the Township.

Had CBSL complied with this lease provision, the annual review by the Township Committee would have revealed the dramatic and unreasonable increase in the number of games played at the Fields, as well as the change in its scope from a neighborhood to a regional softball facility.

# **EXHIBIT “A”**

AS

LEASE

THIS AGREEMENT, entered into on this 10<sup>th</sup> day of October, 1995, between the TOWNSHIP OF CRANFORD, a municipal corporation of the State of New Jersey (the "Township"), located at 8 Springfield Avenue, in the Township of Cranford, County of Union, State of New Jersey, and THE CRANFORD BOYS' BASEBALL LEAGUES, INC., also known as THE CRANFORD BASEBALL AND SOFTBALL LEAGUES, a non-profit corporation of the State of New Jersey (the "League"), with registered offices at P.O. Box 35, Cranford, New Jersey 07016;;

WHEREAS, the Township is the owner and/or lessee of certain real property on which the Adams Avenue Baseball and Softball Fields and the Memorial Baseball Fields are situate;and

WHEREAS, the League is a duly incorporated non-profit corporation organized under the Laws of the State of New Jersey; and

WHEREAS, N.J.S.A. 40A:12-15 (i) permits municipalities to lease real property to duly incorporated non-profit corporations for a public purpose; and

WHEREAS, the Township and the League have expressed a willingness to enter into a lease of the aforementioned property;

NOW, THEREFORE, the parties hereto agree as follows:

1. The Township hereby leases the demised premises to the League for the period April 1, 1995 through October 31, 2000. Thereafter, this lease shall automatically renew for successive one (1) year periods unless either party notifies the other at least six (6) months prior to the commencement of any annual renewal term. The rent for the term of this lease shall be

One (\$1.00) Dollar per year.

2. The demised premises shall be used for baseball and softball fields and uses accessory thereto, such as refreshment stands, restrooms, equipment storage and the like, and for no other purpose except with the written consent of the Township duly authorized by resolution of the Township Committee.

3. The League shall be solely responsible for the maintenance and upkeep of the facilities, for all utility expenses, and for the cost of any and all capital improvements installed during the term of this lease. Lessee may install capital improvements to existing fields, in its discretion. No additional fields shall be constructed, however, unless authorized by the Township Committee.

4. If the League shall violate any of the covenants, terms or conditions of this lease, then the lessee shall become a tenant at sufferance, waiving all right of notice and the Township shall be entitled immediately to re-enter and take possession of the demised premises.

5. The League agrees to quit and deliver up the demised premises at the end of the term of the lease. The demised premises shall be in the same condition as at the inception of the lease, ordinary wear and tear excepted, unless otherwise stated herein.

6. At the end of this lease, all capital improvements installed on the demised premises shall become the sole property of the Township, and the League shall not be reimbursed for any expenses in connection with said capital improvements.

7. The League shall save and hold harmless the Township from any and all claims arising out of the premises or of the League's occupancy thereof during the term of this lease and any extensions thereof, including any

holdover period. The League shall carry bodily injury and property damage liability insurance in form and amounts satisfactory to the Township Administrator.

8. The demised premises are described as follows:

MEMORIAL BASEBALL FIELDS

Tract 1

PATRICK J. GRALL AND J. WALTER COFFEE FIELDS:

ALL that tract or parcel of land and premises, situated, lying and being in the Township of Cranford, Union County, and State of New Jersey, more particularly bounded and described as follows:

BEGINNING at a point in the southeasterly side of McClellan Street a distance of three hundred and forty (340.0) feet from the corner formed by the northeasterly side of Cleary Street and the southeasterly side of McClellan Street; thence, first, North 57 degrees 34 minutes, 40 seconds East along the southeasterly side of McClellan Street approximately five hundred sixteen (516.0) feet to a point in the westerly right-of-way of the Garden State Parkway; thence, second, in a southerly direction along the westerly right-of-way of the Garden State Parkway approximately two hundred fifty THREE (253.0) feet to a point of intersection with the northwesterly side of Buchanan Street; thence, third, South 57 degrees, 34 minutes, 40 seconds West along said northwesterly side of Buchanan Street approximately three hundred fifty six (356.0) feet to a point; thence, fourth, North 32 degrees 25 minutes, 20 seconds West a distance of two hundred (200) feet to a point or place of BEGINNING.

BEING also known and designated as Lot 1, Block 632, part of Lots 5.01 and 6, in Block 601, and part of the unvacated portion of Moen Street as shown on the Tax Map of the Township of Cranford.

ADAMS AVENUE BASEBALL AND SOFTBALL FIELDS

ALBERT H. ANTOINE AND LAMBERT STREET FIELDS:

Tract 2

BEGINNING at a point made by the intersection of the easterly side of Lambert Street and the northerly side of Van Beuren Avenue; thence, first, North 40 degrees, 52 minutes West, along the easterly side of Lambert Street, three hundred sixty nine and sixty-six hundredths (369.66) feet to a point in the center of now vacated Adams Avenue; thence, second, North 49 degrees 4 minutes 9 seconds East, along the center line of now vacated Adams Avenue eighty one and nine hundredths (81.09) feet to a point; thence, third, South 40 degrees 55 minutes 51 seconds East thirty (30) feet, to a point in the southerly side of now vacated Adams Avenue; thence, fourth, South 41 degrees 49 minutes, 4 seconds East, two



hundred three and forty-four hundredths (203.44) feet to a point; thence, fifth, North 49 degrees 4 minutes 9 seconds East one hundred ninety and five tenths (190.5) feet to a point; thence, sixth, South 40 degrees 52 minutes East, two hundred eighty-six and fifty five hundredths (286.55) feet to a point; thence, seventh, South 49 degrees 8 minutes West two hundred seventy five (275) feet to a point on the easterly side of Lambert Street; thence, eighth, North 40 degrees 52 minutes West, along the easterly side of Lambert Street, one hundred fifty (150) feet, to the point or place of BEGINNING.

Tract 2 is also described as parts of Block 325, Lot 1, Block 326, Lot 1, and part of the unvacated portion of Van Beuren Avenue.

ADAMS AVENUE SOFTBALL FIELD

Tract 3

BEGINNING at a point made by the intersection of the westerly side of Lambert Street, and the southerly side of Adams Avenue; thence, first, South 40 degrees, 52 minutes East, along the westerly side of Lambert Street, two hundred (200) feet, to a point; thence, second, South 49 degrees 4 minutes 9 seconds West, parallel to Adams Avenue two hundred twenty five (225) feet, to a point; thence, three, North 40 degrees 52 minutes West, parallel to Lambert Street, two hundred (200) feet, to a point on the southerly side of Adams Avenue; thence, fourth, North 49 degrees, 4 minutes, 9 seconds East, two hundred twenty five (225) feet, to the point or place of BEGINNING.

Tract 3 is also described as part of Block 322, Lot 18.

ADAMS AVENUE BALLFIELD  
BOARD OF EDUCATION TRACT

Tract 4

BEGINNING at the intersection of the northerly line of Adams Avenue, with the easterly line of Lambert Street, thence (1) North 49 degrees 04 minutes 09 seconds East, along the northerly line of the now vacated Adams Avenue, 275 feet to a point; thence (2) South 40 degrees 52 minutes East 263.42 feet to a point; thence (3) South 49 degrees 04 minutes 09 seconds West 190.50 feet to a point; thence (4) North 41 degrees 49 minutes 04 seconds West, 203.44 feet to a point; thence (5) North 40 degrees 55 minutes 51 seconds West 30 feet to a point on the center line of the now vacated Adams Avenue; thence (6) South 49 degrees 04 minutes 09 seconds West along the center line of the now vacated Adams Avenue 81.09 feet to a point on the easterly side of Lambert Street; thence (7) North 40 degrees 52 minutes West along the easterly side of Lambert Street 30 feet to the point or place of BEGINNING.


Tract 4 is also known and designated as part of Lot 1, Block 301 on the Tax Map of the Township of Cranford.

9. The lease of Tract 4 is subject to the terms and conditions of a certain lease dated December 20, 1982 between the Cranford Board of Education and the Township of Cranford with respect to Lot 1, Block 301. This property is owned by the Board of Education and leased to the Township of Cranford.

10. The League shall annually submit a report to the Township Administrator of the Township of Cranford or to such other officer, employee or agency as may be designated by the Township Committee, in writing, setting out the use to which the demised premises were put during the preceding year, the activities of the League undertaken in furtherance of the public purpose for which this lease was granted, the approximate value or cost, if any, of such activities in furtherance of such purpose and an affirmation of the continued tax-exempt status of the League. Should the League fail to or be unable to comply with this paragraph, the Township shall have the right to terminate this lease.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

TOWNSHIP OF CRANFORD

  
NORMAN ALBERT, Chairman  
Cranford Township Committee

ATTEST:

  
JOHN F. LAEZZA  
Township Clerk

THE CRANFORD BOYS' BASEBALL LEAGUES, INC.,  
a/k/a THE CRANFORD BASEBALL AND SOFTBALL  
LEAGUES

  
President

ATTEST:

  
Secretary

STATE OF NEW JERSEY :

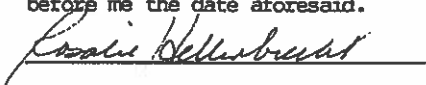
.ss: .

COUNTY OF UNION :

BE IT REMEMBERED that on this <sup>10</sup> day of *Oct*, 1995, before me, the subscriber, personally appeared JOHN F. LAEZZA, who, being duly sworn on his oath, did depose and make proof to my satisfaction that he is the Township Clerk of the Township of Cranford, the municipal corporation named in the within instrument, that NORMAN ALBERT is the Chairman of the Township Committee, that the execution as well as the making of this instrument has been duly authorized by the Township Committee; that the seal of said municipal corporation is well known to deponent and that the seal affixed to said instrument is such corporate seal and was thereto affixed to said instrument, signed and delivered by said Chairman as and for his voluntary act and deed and as and for the voluntary act and deed of said municipal corporation, in the presence of the deponent, who, thereupon subscribed his name as attesting witness.


  
\_\_\_\_\_  
JOHN F. LAEZZA, Township Clerk

Sworn and subscribed to  
before me the date aforesaid.

  
\_\_\_\_\_  
A Notary Public of New Jersey  
My Commission Expires on 5/15/2000

STATE OF NEW JERSEY :  
COUNTY OF : .ss:

BE IT REMEMBERED that on this 10 day of October, 1995, before me, the subscriber, personally appeared G. ARTHUR HENSLER, who being by me duly sworn upon his oath did depose and make proof to my satisfaction that he is the Secretary of THE CRANFORD BOYS' BASEBALL LEAGUES, INC., a/k/a THE CRANFORD BASEBALL AND SOFTBALL LEAGUES, the non-profit corporation named in the within instrument, that EURT PETSCHAU is the President of said corporation; that the execution as well as the making of this instrument has been duly authorized by a proper resolution of the Board of Directors of said corporation and that the seal of said corporation is well known to deponent and that the seal affixed to said instrument is such corporate seal and was thereto affixed to said instrument, signed and delivered by said President as and for his voluntary act and deed and as and for the voluntary act and deed of said corporation; in the presence of deponent who thereupon subscribed his name as witness.

  
Secretary

Sworn and subscribed to before  
me the date aforesaid

  
\_\_\_\_\_

A Notary Public of New Jersey  
My Commission Expires on 5/15/2000

# **EXHIBIT “B”**

# Township of Cranford

8 Springfield Avenue • Cranford, New Jersey 07016-2199  
(908) 709-7200 • Fax (908) 276-7664  
[www.cranford.com/township](http://www.cranford.com/township)

## GOVERNMENT RECORDS REQUEST RESPONSE

### VIA EMAIL

**TO:** Mark C. Smith  
Mdaris@att.net

**FROM:** Tara Rowley, RMC  
Municipal Clerk

**DATE:** July 17, 2013

The Township of Cranford received your Open Public Records Act (OPRA) request on July 12, 2013. The official Records Custodian, Tara Rowley, received your OPRA request on July 12, 2013. As such, the seven (7) business day deadline to respond to your request is July 22, 2013. This response to your request is being provided to you on the third business day after the custodian's receipt of said request.

Your OPRA request sought access to the following:

"I am writing to request the annual reports required to be submitted to the Township described in Section 10 on page 5 of the attached lease [between the Township of Cranford and the Cranford Baseball and Softball Leagues]. Please provide all reports submitted in compliance with the requirement set out in Section 10".

Please be advised that there are no records responsive to your request.

If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the Township of Cranford to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (GRC) by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ, 08625, by e-mail at [grc@dca.state.nj.us](mailto:grc@dca.state.nj.us), or at their web site at [www.state.nj.us/grc](http://www.state.nj.us/grc). The GRC can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.

7/17/13  
Date

  
Municipal Clerk

Address of Property: 100 Lambert Street

**Checklist 1. Required items for all applications submitted to the Planning and Zoning Board of Adjustment.**

Item Number	Required Item	To be completed by applicant.		To be completed by the Planning and Zoning Office.	
		Provided ("P") or Waiver Requested ("W")	Applicant's Initials	Date item received by Planning and Zoning Office	Zoning Officer's initials
1.	One original and 17 copies of the completed Standard Board Application Form ( see Form 01).	W			
2.	One original and 17 copies of the Hold Harmless Indemnification Agreement (see Form 15).	W			
3.	One original and 17 copies of the property survey of the subject property prepared by a New Jersey licensed surveyor and that details the following items: <ul style="list-style-type: none"> <li>- All existing site conditions.</li> <li>- All proposed site conditions.</li> <li>- The location of all easements and encumbrances upon the subject property.</li> <li>- Graphic scale, north arrow, and reference meridian.</li> <li>- A scale of not more than 1:40.</li> <li>- The existing and proposed lot coverage totals.</li> <li>- Title block containing the survey preparer's name and the date the survey was prepared and any revision dates.</li> </ul>	W			
4.	18 copies of any protective covenants and deed restrictions related to the subject property.	W			
5.	One original and 17 copies of the certification from the Tax Collector that all taxes are paid in full (see Form 1).	W			
6.	Proof that all fees are paid in full and all escrow accounts (if required) are current.				
7.	One original and 17 copies of the checklist documenting all items provided and all checklist items waivers requested and statement of arguments in support of waiver requests (see Form 18).	W			
8.	One original application for the list of owners within 200 ft. of the subject property.				
9.	One original and 17 copies of any approved site plans for the subject site. The original must be sealed by licensed professional.	W			

**Address of Property:** 100 Lambert Street

**Checklist 3. Required items for requesting an interpretation of the Land Development Ordinance**

Item Number	Required Item	To be completed by applicant.		To be completed by the Planning and Zoning Office.	
		Provided ("P") or Waiver Requested ("W")	Applicant's Initials	Date item received by Planning and Zoning Office.	Zoning Officer's Initials
1.	One original and 17 copies of the Interpretation Request (Form 03).	P			
2.	One original and 17 copies of all documentation related to the applicant's interpretation request including (where applicable). <ul style="list-style-type: none"> <li>- All relevant sections of the Township's Land Development Code.</li> <li>- A statement of all arguments in support of the applicant's position.</li> </ul>	P			