

Township of Cranford

Development Assistance Package

for
Applications to the Planning Board
and
Zoning Board of Adjustment



Office of Planning & Zoning

8 Springfield Avenue | Cranford, NJ 07016

P: 908-709-7216

Jason Bottcher, AICP, CFM - Zoning Officer | Planner

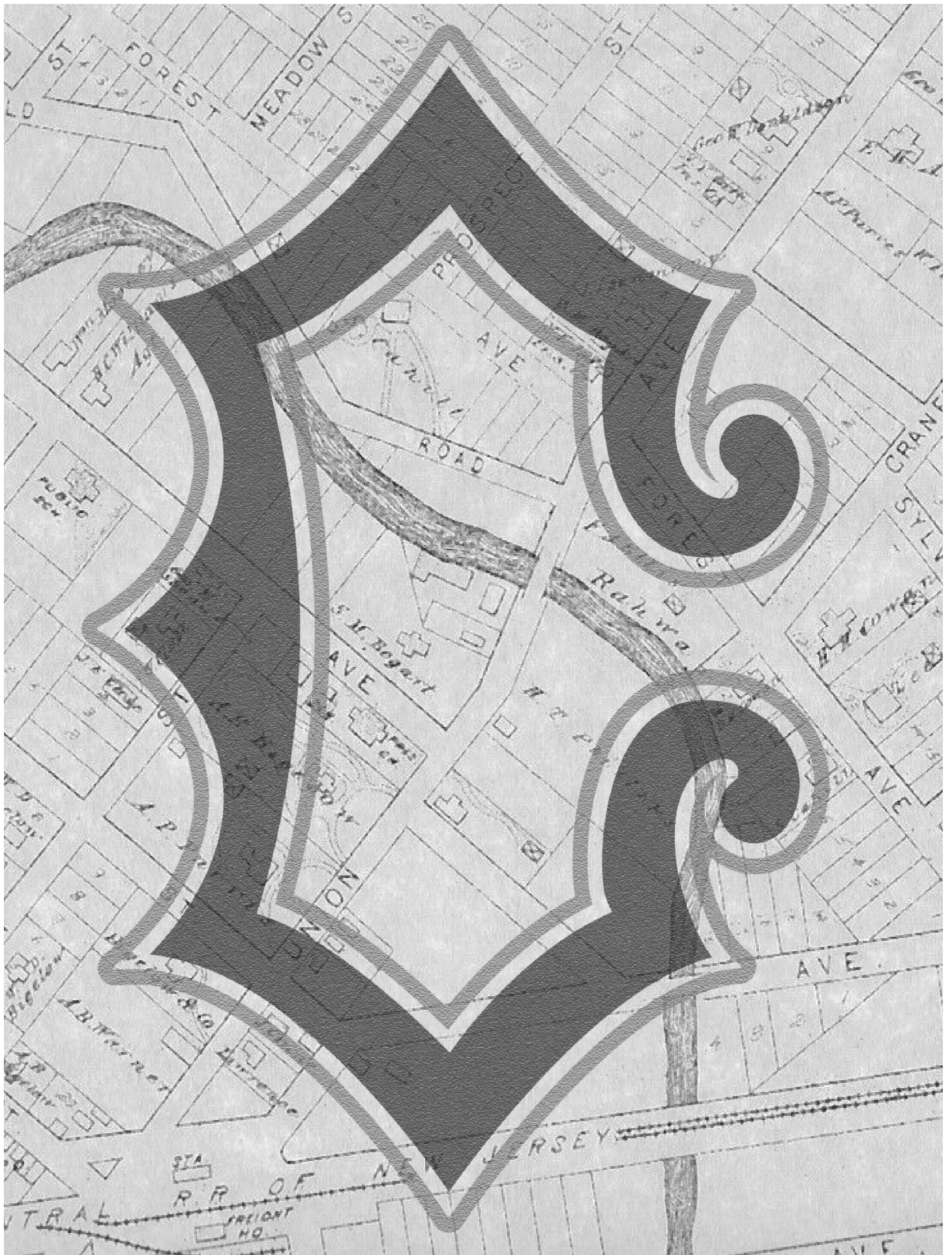
Kathy Lenahan - Land Use Administrator | Board Secretary

Ruth Nicholas - Office Assistant

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Written and designed by J. Bottcher, AICP, CFM







Contents

Purpose	Purpose
Section 1 - Guide to the Boards	1
1.1 - Introduction to Land Use in the State of New Jersey and the Township of Cranford	1
1.2 - The Boards - Planning Board & the Zoning Board of Adjustment	2
1.2a - The Boards - Planning Board	2
Site Plan	3
Subdivision	3
Conditional Use	3
Rezoning	4
1.2b - The Boards - The Zoning Board of Adjustment	5
The Zoning Review Process	5
Zoning Variances	7
Justifying the Ask	7
c(1) Hardship Variances	8
c(2) Planning Variances	8
d Variances	9
Appeals	10
Interpretations	10
Section 2 - The Application Process	11
2.1 - The Application	11
2.2 - Completeness Review	12
2.3 - The Development Review Committee	13
Section 3 - The Hearing Process	14
3.1 - The Pre-Hearing Process	14
3.2 - The Hearing	15
Board Schedules	15
Board Procedures	15
Burden of Proof	16
Public Comments	16
Deliberations	16
3.3 - The Post-Hearing Process	17
Board Requirements	17
Appeals	17
Applicant Requirements	17



Contents

APPENDICES

Appendix A - Fee Schedule	A1
Appendix B - Zoning Flow Charts	A3
Zoning Flow Chart	A3
Board Application Process	A4
Appendix C - Time Requirements	A5

FIGURES

Figure 1 - §255 - Land Development - Attachment 3, Schedule 2 - Zoning Map Amendment - Amended 11/26/2019 - Ordinance No. 2019-12	4
Figure 2 - §255 - Land Development - Township of Cranford Zoning Map	6

TABLES

Table 1 - Overview of Zoning Variances	7
Table 2 - Required Application Checklists and Forms	11
Table 3 - "Notice" Requirements	14

PURPOSE

The Township of Cranford's Development Assistance Package has been designed to aid applicants who are submitting to the Township's Planning Board and/or Zoning Board of Adjustment. The application process can be a difficult one, and it is our goal to ensure that all applicants are submitting all of the requisite materials in order to keep the process moving quickly and efficiently.

Applications to either Board have a number of items that are required based on the application type. This document will help you navigate what those requirements are so that your first submission is a complete submission. Within this package you will find all of the forms that are necessary to begin the process of submitting your application. Checklists will also be provided that clearly outline all of the required materials along with a short guide that will help you to determine what board you need to apply to for your project. Additionally, Section 1 - Application Guide, provides an overview of the Boards along with a brief description of the applicable terms and concepts.





Section 1

Guide to the Boards

Section 1 of the Township's Development Assistance Package will provide you with a brief outline of key concepts related to land use administration and zoning. Additionally, a brief summary will be provided to help you better understand the roles of both the Township's Planning Board and Zoning Board of Adjustment.

1.1 - Introduction to Land Use in the State of New Jersey and the Township of Cranford

The Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-1 et. seq., is the framework and guiding legislation that grants all of the State's municipalities the power to regulate land use. Each municipality that engages in land use regulation and administration must adhere to the principals and tenets of the MLUL. The MLUL establishes both the content and procedural guidelines that municipalities must follow in administering zoning regulations and the review of applications for development.

Additionally, if a municipality accepts the responsibility of land use administration within their jurisdiction, the MLUL provides the requirements for that municipality to create and enact a comprehensive master plan, a capital improvement plan, an official map, subdivision and site plan ordinance(s), zoning ordinances, and a defined process for applications for development. Additionally, municipalities are granted the authority to create redevelopment plans and to designate 'areas in need of redevelopment'. Ultimately, the purpose of the MLUL is to protect the public health, safety, morals and general welfare of the residents of the State of New Jersey. These goals are achieved through comprehensive land use administration and regulations.

The Township of Cranford regulates land use within the Township through its Master Plan (2009) and the recently adopted Reexamination Report (2019) which is meant to serve as a 'road map' for development throughout the municipality. The Master Plan must include a land use element with optional elements for housing and fair share, circulation, utility service, community facilities, recreation, conservation, economic, historic preservation, recycling, farm land preservation, development transfer, educational facilities, green buildings / environmental sustainability.

The means by which the Township regulates land use is Chapter 255 - Land Development of the Township Code, which was established in order to plan and guide the use or development of land in a manner which promotes the public health, safety, morals and general welfare of the Township and its neighboring communities. §255 includes development procedures, requirements, and standards; zoning regulations; methods for traffic reduction; affordable housing rules and regulations; and procedures for addressing abandoned properties.

1.2 - The Boards

Planning Board & the Zoning Board of Adjustment



Key Terms

Site Plan - development plan of one or more lots which includes existing and proposed conditions such as topography, drainage, circulation, landscaping, utilities, structures, lighting, etc.

Major Site Plan - development plan for one or more lots which involves five (5) or more acres, six (6) or more dwelling units, a Planned Unit Development, a new street, or any off-tract improvement.

Minor Site Plan - any site plan that is not a major site plan.

Planned Unit Development - a PUD is an area with a specified minimum or noncontiguous acreage of ten (10) or more acres to be developed as a single entity according to a plan.

Subdivision - the division of a lot, tract or parcel of land into two or more lots, tracts parcels or other divisions of land for sale or development.

Minor Subdivision - a subdivision of land for the creation of no more than three (3) lots provided that it does not involve a PUD, new street, or off tract improvement.

Major Subdivision - a subdivision not classified as a minor subdivision.

Trying to figure out what board you need to apply to can be a confusing process for those who are not familiar with land use administration in the State. The roles and responsibilities of the Planning Board and the Zoning Board of Adjustment are quite different yet similar in some respects. For that reason, this section has been written in order to help applicants better understand these differences and overlaps in order to better understand why applications are assigned to a specific Board.

Glenn C. Kienz, Esq. described the two Boards best by saying the Planning Board is the Board of 'permitted activities' and the Zoning Board is the Board of 'non-permitted activities.'¹

1.2a - The Boards

The Planning Board

The Planning Board is the Board that guides and implements land use policy as outlined in the municipality's Master Plan and Reexamination Report. The Board is able to implement the policies outlined in those documents through its regulatory tools; namely the Land Development and Zoning Ordinances as well as Site Plan and Subdivision Ordinances. When the Planning Board is described as the Board of 'permitted activities'; the meaning is that this is the Board that determines whether or not an applicant's proposed project meets the requirements established by the Township Code.

So what types of applications does the Planning Board Review?

The answer isn't as simple as you would think. While thinking of 'permitted activities' certainly simplifies the concept, it does not address the 'ancillary powers' of the Board. Generally speaking however, the Planning Board reviews site plans and subdivisions along with applications for a Conditional Use. The Board also hears petitions for rezoning in the Township.

¹ Kienz, Glenn C. *The Complete Guide to New Jersey Planning Boards & Zoning Boards of Adjustment*. New Jersey Planning Officials, Inc. 2013

1.2a - The Boards

The Planning Board

A **Site Plan** is a development plan of one or more lots which includes:

1. Existing and proposed conditions of the subject lot or lot(s) including but not limited to topography, vegetation and landscaping, drainage, floodplains, marshes, and waterways;
2. The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, and screening devices;
3. Any other information that may be reasonably required in order to make an informed determination pursuant to an ordinance requiring review and approval of site plans by the Planning Board pursuant to NJSA 40:55D - Article 6.

A Site Plan can also be considered either a **Major or a Minor Site Plan**. The Township's Land Development Ordinance defines a **Major Site Plan** as a "development plan for one or more lots which meets one or more of the following criteria:

1. The project site is five (5) acres or more;
2. The project involves six (6) or more dwelling units;
3. The project involves a Planned Unit Development (PUD);
4. The project involves a new street;
5. The project involves any off-tract improvement which is to be provided pursuant to NJSA 40:55D-42.

A **Minor Site Plan** is defined as any site plan that is *not* a major site plan.

The Board can also grant exceptions or waivers from the requirements of both the Development Procedures (§255 - Article III) and the Development Requirements and Standards (§255 - Article IV) for applications seeking preliminary site plan or subdivision approval. Exceptions and waivers do not apply to the requirements established in Article V - Zoning.

One- and two-family homes are exempt from site plan review and are not under the jurisdiction of the Planning Board unless they are a part of a Planned Unit Development.

A **Subdivision** refers to the division of a lot, tract or parcel of land into two or more lots, tracts or parcels or other divisions of land for sale or development. A Subdivision is also further split between **Major** and **Minor Subdivisions**. A **Minor Subdivision** is a subdivision of land for the creation of no more than three (3) lots provided that the subdivision does not involve a **Planned Unit Development (PUD)**, the creation of a new street, or the extension of any off-tract improvement, the cost of which is to be prorated pursuant to NJSA 40:55D-2.

A **Major Subdivision** is any subdivision not classified as a minor subdivision.

A **Conditional Use** is a permitted use that can only be approved by the Planning Board assuming all of the conditions specified within the Zoning Ordinance for that use are met. When an application for a Conditional Use does not meet the standards specified in the Zoning Ordinance, the application falls under the jurisdiction of the Zoning Board of Adjustment.

Variances, which are typically the purview of the Zoning Board of Adjustment, can also be granted by the Planning Board for applications under its jurisdiction. This only applies to what is referred to as a "c" variance, hardship or flexible / planning variances, but does not apply to "d" variances which are commonly referred to as 'use' variances.

1.2a - The Boards

The Planning Board

Rezoning is the amendment or change of one zoning district to another. A rezoning impacts which regulations govern the permitted uses along with the building requirements within that zone. While the Planning Board does not have the ultimate say in an ‘Application to Rezone’ a district in the Township, they do play an important role.

Applications for Rezoning are submitted to the Planning Board. Rezoning applications must include a map of the entire property or properties proposed for rezoning and a concept plan depicting the nature, features and proposed use(s) of the property as rezoned. If the application is proposing a new zoning district that is not currently defined by the Zoning Ordinance, the application must include permitted uses, conditional uses (if applicable), and all area, yard and building requirements. Supplementary zoning regulations must also be included if applicable.

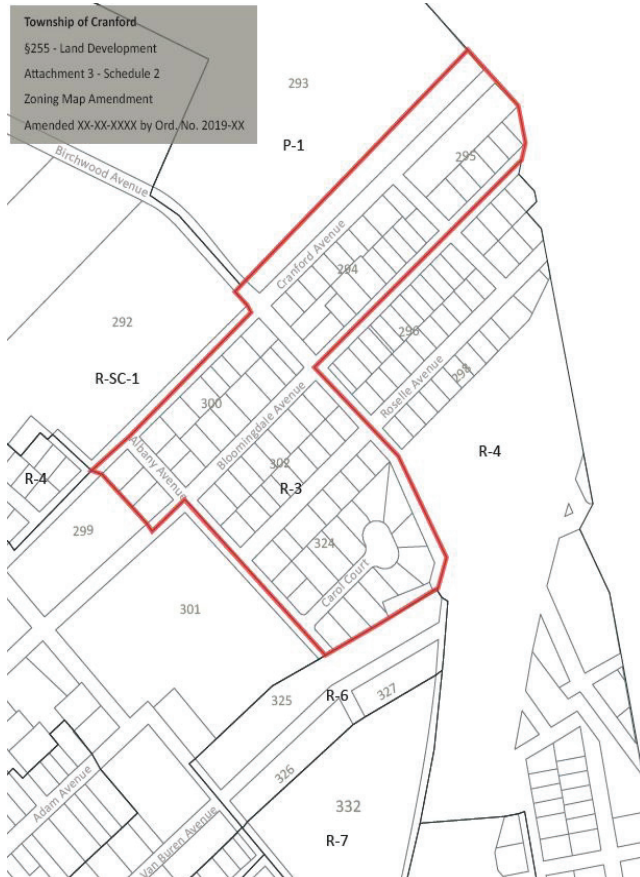


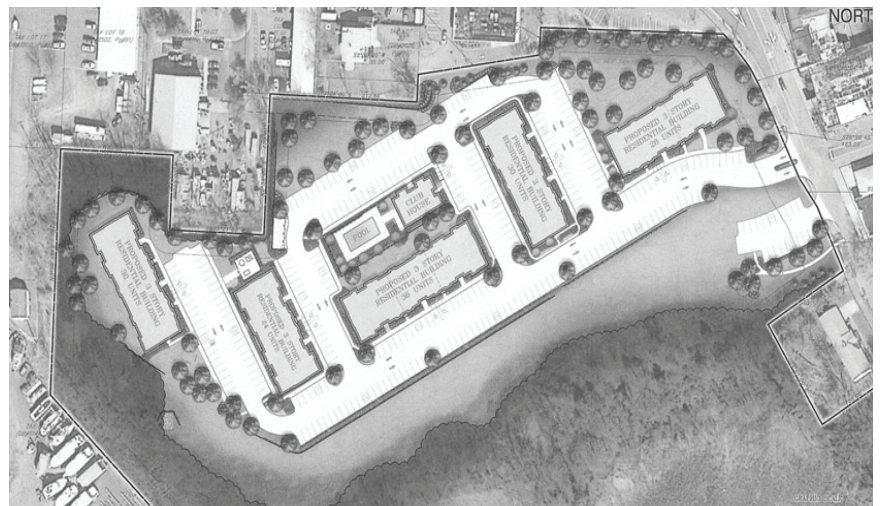
Figure 1 - §255-Attachment 3, Schedule 2

The Planning Board’s role in rezoning is to review the proposal and to hold public hearings. The hearing process for a rezoning allows the Planning Board to review the proposal to ensure it is not in conflict with the adopted Master Plan. The ultimate goal is to protect the best interests of the Township by way of a recommendation to the Township Committee. The Board has one-hundred and twenty (120) days (from the time a rezoning application has been deemed complete by the Zoning Officer) to submit a report to the Township Committee. This report should include its findings, conclusions and recommendations based upon findings of fact and the conclusions of law.

The Review Standards and issues that must be addressed by each application are defined by the Land Development Ordinance - Article VII - Application for Rezoning; specifically §255-64 - Review Standards.

The Township Committee has the sole discretion to grant, deny or modify any application for rezoning.

Lastly, it is important to note that the Planning Board also reviews all proposed amendments to both the Zoning Ordinance and the Zoning Map to ensure that they are not in conflict with the adopted Master Plan. Even minor amendments to the Zoning Ordinance can lead to confusion and contradictions that make the proper enforcement and regulation of land use difficult and burdensome. The Planning Board plays an integral role in ensuring that such conflicts are avoided.



1.2b - The Boards

The Zoning Board of Adjustment

The Zoning Board of Adjustment is the Board which grants relief from the Township's Zoning Ordinance and, as previously noted, can be considered the Board of 'non-permitted activities'. The Zoning Ordinance (Section 255 - Article V of the Township Code) is how the Township regulates the use of land and buildings in the Township based upon the adopted Master Plan. The Zoning Ordinance not only governs the way buildings are built by way of land area, yard, and bulk requirements but also dictates what uses are permitted and where.

So what does the Zoning Board review?

- Requests for relief from the Zoning Ordinance including:
 - Variances (except for "c" variances that involve site plan approval or a conditional use)
 - Design Waivers
- Appeals from decisions made by the Zoning Officer
- Site Plan Approval for applications involving a "d" variance
- Requests for interpretation of the zoning map and/or zoning ordinance
- Direct issuance of a permit for a building or structure within a mapped street, drainage way, flood-control basin, or other reserved public area
- Direct issuance of a permit for a structure not having street access with the exception being if it is a part of a subdivision application.

The Zoning Board is a quasi-judicial body. Members act as the judge and jury when hearing applications brought before the Board. It is their responsibility to listen to all testimony, to ask questions of those who testify, to apply the law and to make objective decisions to either approve or to deny an application.

The Zoning Review Process

The Township is broken up into numerous different districts or zones. (Figure 1 - Zoning Map) These include residential districts, commercial districts, the downtown districts, among others. Each of these zones has different requirements as it relates to lot size, minimum yard requirements, and bulk standards (Attachment 1) These requirements allow the Township to ensure that the preferred scale and character of its neighborhoods are maintained. Zoning districts also determine how the Township's Use Regulations are enforced. Each particular district has its own set of use requirements that determine what uses are permitted and where.

The Township's Zoning Ordinance is what is referred to as a 'permissive ordinance' which means that no use or structure that is not listed as a permitted, accessory or conditional use is allowed unless granted approval by the Zoning Board. The use regulations are codified in Section 255 Subsection 36 of the Township Code. All applications to the Board, new construction, alterations, or other activities that impact how a given site functions must be reviewed by the Office of Planning & Zoning to ensure that any proposed work is compliant with the Zoning Ordinance.

If an application for development or an application for a zoning permit is not compliant with the Township's Zoning Ordinance and is subsequently denied, a variance or request for relief from the ordinance can be submitted OR the ruling can be appealed. It is the role of the Zoning Board of Adjustment to review such applications and either grant or deny each request.

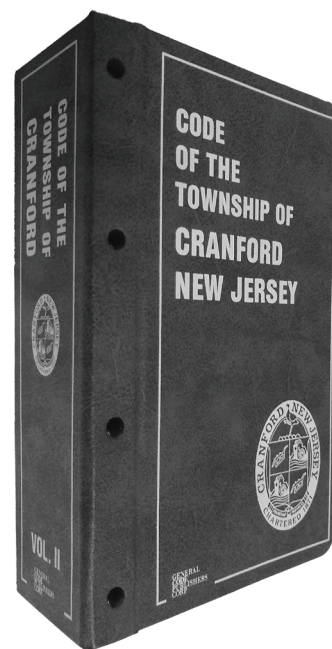


Figure 2 - Township of Cranford - Zoning Map

Zoning Map for the Township of Cranford

Union County, NJ

Map Amendments	
Ordinance:	Date Adopted:

This map is part of Ordinance _____ of the Township of Cranford, Union County, NJ.



Legend
 Zone District Line
 Floodplain Overlay District (FO)*

- Zoning Designations**
- | District Abbreviation | Zoning Districts |
|-----------------------|---|
| R-1 | One-Family Detached Residence District |
| R-2 | One-Family Detached Residence District |
| R-3 | One-Family Detached Residence District |
| R-4 | One-Family Detached Residence District |
| R-5 | One- and Two-Family Residence District |
| R-6 | Townhouse Residence District |
| R-7 | Garden Apartment Residence District |
| R-8 | Apartment Residence District |
| R-SC-1 | Senior Citizen Apartment Residence District |
| IMR | Inclusionary Multifamily Residence District |
| D-C | Downtown Core District |
| D-B | Downtown Business District |
| D-T | Downtown Transition District |
| VC | Village Commercial District |
| NC | Neighborhood Commercial District |
| O-1 | Low Density Office Building District |
| O-2 | Medium Density Office Building District |
| ORC | Office Residential Character District |
| C-1 | Commercial - 1 District |
| C-2 | Commercial - 2 District |
| C-3 | Commercial - 3 District |
| E-1 | Education District |
| P-1 | Public Use District |

- Redevelopment Districts**
- R-CC Canticut Crossing Redevelopment District
 - R-WG Western Gateway Rehabilitation District
 - R-R Rivermont Redevelopment District
 - R-ARR Age Restricted Redevelopment District

- Overlay Districts**
- FO Floodplain Overlay District

*The delineation of the Floodplain Overlay district displayed on this map exhibits the best geographic information system (GIS) 100-year floodplain mapping available at the time that this map was prepared. While the displayed FO district provides an approximate delineation of properties located within the 100-year floodplain in Cranford Township, the official mapping of the FO district shall be determined in accordance with the 100-year floodplain area identified by Flood Insurance Rate Maps and Flood Boundary Floodway Maps identified in Section 136-48.2 of the Township's Ordinances, which may be updated from time to time.

1.2b - The Boards

The Zoning Board of Adjustment

Zoning Variances

A zoning variance is permission to depart from the requirements established in a zoning ordinance. An application for a variance can only be granted because a specific section of the ordinance cannot be applied to that specific property. It must be noted that a variance *cannot* be granted due to personal hardships but only based upon the conditions of the property itself. It is equally important to note that a developer or property owner is *not entitled* to relief from the zoning ordinance. It is the responsibility of the Board to review your application and make a determination as to whether or not the justifications for the variance are legitimate through the lens of the MLUL. Variances can also only be granted if the proposed development or improvement will not result in a substantial detriment to the public good or a substantial impairment to the intent and purpose of the adopted Master Plan and Zoning Ordinance.

There are two primary types of variances that can be granted. The first type are “c” variances which includes c(1) or hardship variances and c(2) flexible/planning variances. The second type of variances are “d” variances which are often referred to as use variances. There are six (6) different types of “d” variances. The standards by which the Zoning Board can approve variances differs according to the relief an applicant is seeking from the Board. Table 1 - Overview of Variances provides more detail on the different categories of variances.

Justifying the Ask

The differences between a “c” variance and a “d” variance goes beyond the difference between a bulk variance and a use variance. When an applicant is before the Board, the burden is on them to prove their case and justify to the Board why their request should be granted. The two primary types of variances requires different levels of ‘proofs’ or justification. An applicant can accomplish this by providing the *benefits vs. detriments* of ‘the ask’ or the relief that they are seeking. Additionally, use variances require the applicant provide *special reasons* for their request to be approved.

Table 1 - Overview of Zoning Variances

The “c” Variances - Bulk Variances

- *c(1) Hardship Variance* is a variance that can be granted if adherence to the Zoning Ordinance is not possible or is impractical due to:
 - an exceptionally narrow, shallow, or oddly shaped parcel;
 - exceptional topographic features or conditions of the property;
 - other exceptional or extraordinary situations or circumstances that uniquely affect the property or legally existing structures located on the property.

A hardship variance cannot be granted for conditions that are self-inflicted or for financial reasons.

- *c(2) Flexible or Planning Variance* can only be granted if the applicant can prove the following:
 - the purposes of the MLUL would be advanced by a deviation from the Zoning Ordinance requirements;
 - the benefits of the deviation from the Zoning Ordinance would substantially outweigh any detriment if the variance were to be granted.

The “d” Variances - Use Variances

- The MLUL defines six (6) different types of use variances. They include:
 - *d(1) Use Variance* - permission to place a use or structure on a property where such a use or structure is not permitted;
 - *d(2) Expansion of Nonconforming Use Variance* - permission to expand a legally existing nonconforming use;
 - *d(3) Conditional Use Variance* - permission to deviate the standards associated with a conditional use;
 - *d(4) Floor Area Variance* - permission to increase the floor area beyond the maximum allowed by the Zoning Ordinance;
 - *d(5) Density Variance* - permission to increase the density beyond the maximum allowed by the Zoning Ordinance;
 - *d(6) Height Variance* - permission to exceed the maximum allowable height by ten (10) or more feet or ten (10) or more percent.

All variances defined by NJSA 40:55-70c & d

1.2b - The Boards

The Zoning Board of Adjustment

Key Terms

Benefits vs. Detriments - the concept of presenting the pros and cons of a variance request as it relates to the MLUL. The benefits of the proposed must outweigh the detriments.

Economic Inutility - the concept that a denial for a variance renders a site unprofitable. Please note that this does not refer to an applicant's ability to make the most profitable use of the site.

Inherently Beneficial Use - a use which is universally considered of value to the community because it fundamentally services the public good and promotes the general welfare. Such uses include, but are not limited to, a hospital, school, child care center, group home, or a wind, solar or photovoltaic energy facility or structure.

Negative Criteria - a proof that is required of applications to the Zoning Board that shows that the proposed shall 1) not be substantially detrimental to the public good and 2) not substantially impair the intent and purpose of the Master Plan and Zoning Ordinance.

Permissive Ordinance - a type of zoning ordinance that implies that any use or structure that is not listed as a permitted, conditional or accessory use in a given zone is not permitted.

Positive Criteria (Special Reasons) - a proof that is required for 'd' variances that shows 1) that the proposed is an inherently beneficial use, 2) that denial would result in undue hardship or economic inutility or 3) that the proposed the promotion of the general welfare because the site in question is well-suited for the proposed use.

Hardship variances - c(1) variances are based on the property and/or structure itself and the unique circumstances or hardships that property or structure may present due irregular shape, size, topographic features or conditions, or any other circumstances that affect a property or structure. These conditions must place exceptional or undue hardship upon the developer or property owner.

How is a c(1) variance justified? To start, an applicant must show that the property in question does face unique difficulties in comparison to nearby lots in the zone. Secondly, an applicant must prove that these difficulties limit how the property or structure can be used.

A hardship variance cannot be granted for conditions that are self-induced. Additionally, financial hardships are not a valid justification to grant a hardship variance.

Planning Variances - c(2) variances require an applicant to present the 'benefits vs. detriments' of their ask.

How is a c(2) variance justified? In order for an applicant to provide suitable justification to the Zoning Board that their ask should be approved, an applicant must show that the purposes of the MLUL (NJSA 40:55D-2) would be advanced by the proposed deviation from the Zoning Ordinance. It is recommended that applicants review the purposes of the MLUL so that they can better understand how their proposed improvement or development advances its intent.

Secondly, applicants must satisfy what is referred to as the *negative criteria* which means that they must prove that the ask can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of both the adopted Master Plan and Zoning Ordinance. It is important to remember that a c(2) variance can be denied where it does not provide a benefit to the community.



1.2b - The Boards

The Zoning Board of Adjustment

“D” variances require a higher level of proof or justification to the Board for approval to be granted. In addition to the *negative criteria* required for a c(2) variances, an applicant must also demonstrate the *positive criteria* or that *special reasons* exist for the Board to grant the variance without a significant detriment (*negative criteria*).

How is a “d” variance justified? It depends on what kind of “d” variance an applicant is seeking.

Use Variance - d(1) - The applicant must demonstrate *special reasons* to depart from the use regulations of the Zoning Ordinance. This can be achieved by showing that the proposed use carries out or enhances one or more of the purposes of the MLUL (NJSA 40:55D-2). Additionally, the applicant must also satisfy the *negative criteria* by illustrating the proposed is not a detriment to the public good or the intent and purpose of the zone plan and zoning ordinance.

Inherently beneficial uses are presumed to satisfy the positive criteria however, an applicant must still satisfy the negative criteria.

Expansion of Nonconforming Use Variance - d(2) - Seeking permission to expand a legally existing nonconforming use does not require an applicant to demonstrate *special reasons* as with a d(1) variance. An applicant must still provide both the *positive* and *negative criteria* in order to justify approval. It must also be documented that the nonconforming use is legally existing.

Conditional Use Variance - d(3) - If an applicants proposed use is listed as a conditional use in the Zoning Ordinance but cannot meet those conditions, the applicant must demonstrate and the Board must find that the proposed site is appropriate for the conditional use in spite of the deviations from one or more of the conditions specified in the Zoning Ordinance by way of the *positive criteria* or *special reasons*.

Floor Area Variance - d(4) - If an applicant is seeking approval to exceed the maximum permitted floor area, it must be shown that the site can adequately accommodate the potential issues associated with exceeding these limitations.

Density Variance - d(5) - If an applicant is seeking approval to exceed the maximum permitted density for the zone, it must be shown that the site can accommodate the potential issues that can arise due to the increased density.

Height Variance - d(6) - If an applicant is seeking approval to exceed the maximum height allowed by more than ten (10) feet or ten percent (10%), it must be shown that the negative impacts associated with the increased height can be mitigated satisfactorily including the potential visual impact on the surrounding area.



1.2b - The Boards

The Zoning Board of Adjustment

Appeals from decisions made by the Zoning Officer are reviewed by the Zoning Board of Adjustment. Applicants who have submitted an application for a Zoning Permit to the Office of Planning & Zoning and were subsequently denied have a right to appeal that decision to the Zoning Board. The Board has the power to reverse the decision and require the permit be issued if the evidence presented to the Board supports such an action.

Applicants have twenty (20) days from the date of denial to file a notice of appeal with the Office of Planning & Zoning. Additionally, those who wish to appeal the Zoning Officer's decision can simultaneously submit an application for a variance. If the appeal is denied by the Board, review of the request for relief from the Zoning Ordinance can proceed. Applicants can also appeal to the State Superior Court if the Board denies an applicants appeal. It is important to note that appeal for relief must from the Zoning Board must occur before this action can be taken.

Interpretations of the Zoning Map and/or Zoning Ordinance can be made to the Zoning Board of Adjustment. The Zoning Board is granted the authority to make legal determinations or interpretations of the Zoning Map and/or the Zoning Ordinance. Interpretations may be sought for situations where an applicant seeks clarification of the zoning map and/or ordinance or if the zoning map and/or ordinance is unclear or ambiguous. The determination of the Board is a legal decision that summarily sets precedent for how the map and/or ordinance is enforced from that point on. These decisions do not consider the common good or general welfare of the community.

Zoning Boards have jurisdiction over several other types of applications such as the direct issuance of a permit for a building or structure within a mapped street, drainage way, flood-control basin, or other reserved public area or the direct issuance of a permit for a structure not having street access. More detail on these types of applications can be found on the Township's Planning & Zoning Website.





Section 2

The Application Process

Applying to the Township’s Planning Board or Zoning Board of Adjustment is not a simple process for those who are not familiar with how the process works. To submit a full application, the applicant is required to provide numerous different documents depending on the type of application that is being submitted. Different applications require different levels of effort. Depending upon the complexity of your application, it is recommended you seek assistance from a professional, be it a contractor, architect, engineer, or a land use attorney. All corporate applicants must be represented by an attorney admitted to practice in the State of New Jersey.

2.1 - The Application Process

The Application

The Township’s application process to the Board is defined by the Township Code; specifically Section 255 - Land Development, Article III - Development Procedures as well as Article IV - Development Requirements and Standards.

Article III - Development Procedures establishes the submission requirements for all applications for development in the Township along with the review procedures that Township professionals are to follow. The most important aspect of the application process is the application itself along with all of the necessary accompanying documents. In order for an application to move forward, it must be deemed complete by the Zoning Officer during *completeness review*.

When an application is submitted to the Office of Planning & Zoning, the Zoning Officer has forty-five (45) days to perform the *completeness review* and inform the applicant that it is either complete or incomplete. Depending upon what the applicant is seeking from either the Planning Board or the Zoning Board of Adjustment, different checklists and application forms must be provided in an application package. **Only the applicable checklists and forms need be submitted with an application.** There are ten (10) different checklists and forms in the Township’s Board Application Package. Checklist 1 and Form 1 are required of all application packages submitted to the Office of Planning & Zoning. The remaining nine (9) checklists and forms are project specific.

Table 2 - Required Application Checklists and Forms

Checklist / Form 1 - Required Items for all Applications Submitted to the Planning Board and Zoning Board of Adjustment

Checklist / Form 2 - Required Items for Applications Appealing the Zoning Officers Decision

Checklist / Form 3 - Required Items for Requesting an Interpretation of the Land Development Ordinance

Checklist / Form 4 - Required Items for “c” Variances and/or Design Waiver Applications Pursuant to NJSA 40:55D-70c

Checklist / Form 5 - Required Items for “d” Variance Applications Pursuant to NJSA 40:55D-70d.

Checklist / Form 6 - Required Items for Applications for Conditional Use Approval as Defined by §255-36 - Use Regulations of the Township’s Land Development Ordinance

Checklist / Form 7 - Required Items for Preliminary Minor and Major Subdivision Applications

Checklist / Form 8 - Required Items for Minor and Major Final Subdivision Applications

Checklist / Form 9 - Required Items for all Minor and Major Preliminary Site Plan Approval Applications

Checklist / Form 10 - Required Items for all Minor and Major Final Site Plan Approval Applications

Section 4 provides all of the Checklists and Forms of the Township’s Board Application Package.

2.1 - The Application Process

The Application

Key Terms

Completeness Review - the process during which the Zoning Officer determines whether or not a Board Application Package is complete. Completeness Review and notice to the applicant must be completed by the Zoning Officer within forty-five (45) days from the date of submission to the Office of Planning & Zoning.

Development Review Committee (DRC) - A committee composed of Township Professionals including the Construction Official, Township Engineer, Zoning Officer, Director of the Downtown Management Corporation, Tax Assessor, and representatives from the Township's Police and Fire Departments. The DRC is a technical review committee that reviews every application to the Planning Board and Zoning Board of Adjustment to determine compliance with the technical standards set forth in Article IV - Development Requirements and Standards of the Township's Land Development Ordinance. Additionally, the DRC may make non-binding recommendations on the design and technical elements of any application.

The Zoning Officer submits the DRC's findings in a DRC Memorandum to the applicable board prior to the meeting when the application is to be considered.

Application Waiver - A request by the applicant to one of the Township's Boards to forego the inclusion of an item required as a part of the Township's Development Application Package. Such requests are reviewed by the Zoning Officer and applicable members of the Development Review Committee. Applicants are not entitled to waivers.

There are also certain items that are required of all applications such as:

- A certificate from the Township's Tax Collector that all taxes have been paid;
- An application for a "200-foot List" from the Township's Tax Assessor's Office (See Section 3.1 - The Pre-Hearing Process);
- A completed W-9 Form;
- The Hold Harmless and Indemnification Agreement;
- A list of all requested submission *waiver(s)* along with the justification for the request(s) (*if applicable*);

These items are often overlooked during the submission process. If an application is missing any of the items listed above, it will be deemed incomplete.

The burden of providing a complete, accurate application falls upon the applicant. The Office of Planning & Zoning is limited in how much assistance the office can provide.

Staff cannot offer insight regarding what kind of relief an applicant should seek or the arguments an applicant may present to the Board.

2.2 - The Application Process

Completeness Review

When an application is received by the Office of Planning & Zoning, the Zoning Officer has forty-five (45) days to review it to determine whether or not it is complete. This is called **Completeness Review**.

In order for an application to be deemed complete by the Zoning Officer, an applicant must provide all of the required items listed on the applicable checklist(s) and/or request waiver(s) for the submission of items that may not apply. If a waiver is not requested and a given item is not provided, the application will be deemed incomplete. Waiver requests must be justified and are reviewed by the Zoning Officer in consultation with applicable Development Review Committee members. **Applicants are not entitled to waivers.** The Board may request additional information after a waiver has been granted or deem an application incomplete which had been deemed complete.

Applications that are deemed incomplete for any reason must be resubmitted and undergo additional completeness review by the Zoning Officer. All applicants are reviewed in the order in which they are received, including resubmissions.

Applicants are notified of their completeness status via email after review. Applicants who submit a complete application are scheduled for the next *Development Review Committee (DRC)* meeting.

An application being deemed complete has no bearing on the merits of the application and does not mean the application has been approved.

2.2 - The Application Process

Completeness Review

The Certification of Completeness or Incompleteness provided by the Office of Planning & Zoning may or may not include a preliminary Planning review which outlines what the applicant has requested along with any variances, exceptions, or waivers that the applicant may have missed but were identified during *completeness review*. Any comments provided along these lines will impact application and escrow fees however it will not impact a determination of completeness. For example, if an applicant omitted a variance that would be required, it will not result in an application being deemed incomplete assuming all other required items have been provided. These comments will be reiterated during the *DRC* meeting.

2.3 - The Application Process

The Development Review Committee

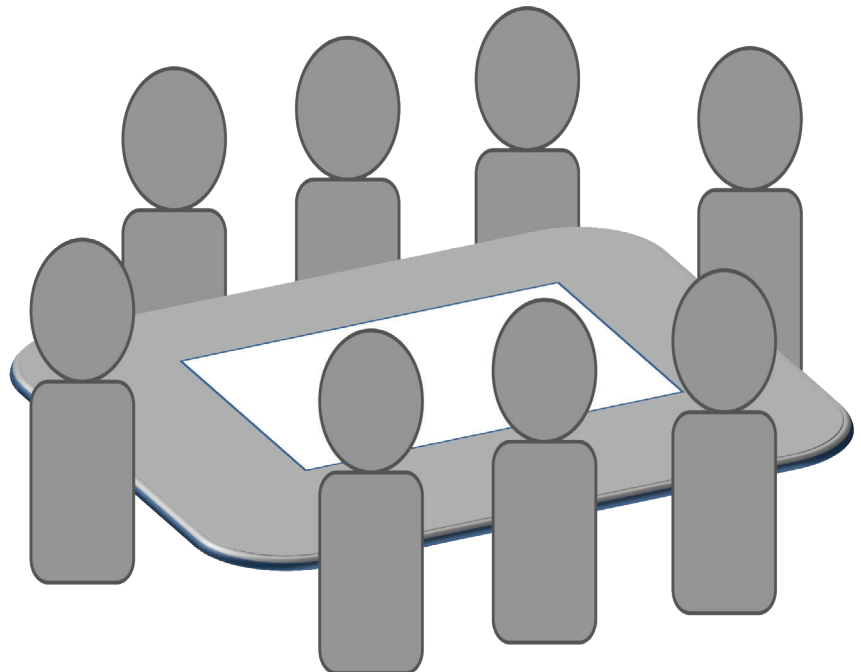
Once an application has been deemed complete, the application is scheduled for the next *Development Review Committee (DRC)* meeting. The *DRC* is comprised of Township professionals including the Construction Official (Development Coordinator - *DRC* Chair), Zoning Officer, Township Engineer, Tax Assessor, Director of the Downtown Management Corporation along with members of the Township's Fire and Police Departments. *DRC* meetings are typically held on the 1st and 3rd Wednesdays of every month at 9 a.m. in the Municipal Building. While an applicant and/or their professional representatives are not required to attend; it is strongly encouraged.

The *DRC* is a technical review committee that sits with each applicant to review and discuss the application that is being brought to one of the Township's Boards. The *DRC* also provides potential applicants the opportunity to have a preliminary *DRC* meeting. The *DRC's* purpose is to determine each applications compliance with the technical standards established by Article IV - Development Requirements and Standards of the Township's Land Development Ordinance.

During the review process, the DRC may make non-binding recommendations on the design and technical elements of any application.

The *DRC* may provide notice to an applicant that additional variances, design waivers, or exceptions may be required.

A *DRC* Memorandum is prepared by the Zoning Officer for each application brought before the Committee which provides a summary of all discussions and findings made by the *DRC*. This memo becomes a part of the application file and the public record. Additionally, it is distributed to all the members of the applicable Board for review ahead of the hearing for any given application.





Section 3

The Hearing Process

Appearing before the Planning Board or the Zoning Board of Adjustment can be intimidating. It is important that all applicants prepare ahead of time in order to discuss their application in detail and within the correct context. Additionally, there are strict timelines and procedures that must be followed.

3.1- The Hearing Process

The Pre-Hearing Process

Once an application has been deemed complete and the *Development Review Committee* has completed its review, an application can be scheduled for the next available hearing of the applicable board.

The Land Use Administrator / Board Secretary contacts all applicants after they have been through the *DRC* to outline all of the pre-hearing requirements, timelines, and meeting date. Additionally, recommendations from all of the Township's professionals are gathered including *DRC* and *DRC* members, the Environmental Commission, and the Historic Preservation Committee. All of the recommendations are included with the application file and become a part of the public record.

Once a meeting date has been scheduled for an application, there are specific **'notice' requirements** that the applicant must adhere to. All applications that are to be heard by one of the Township's Boards must be properly noticed both in print and by 'personal notice' to all property owners within 200-feet of the property subject to a hearing and applicable utilities *at least ten (10) days before the scheduled hearing*.

The Office of Planning & Zoning must also receive proof that 'notice' has been given and posted.

Table 3 - "Notice" Requirements

FAILURE TO FOLLOW THE NOTICE REQUIREMENTS WILL RESULT IN A HEARING BEING POSTPONED.

All applicants are **required to publish notice** in the newspaper and to provide notice to all property owners within 200-feet of the subject property **at least ten (10) days prior to the hearing date**. All notifications must make specific reference to all approvals that the applicant is seeking from the Board along with the date, time and location of the hearing.

FORM 11 - Notice Requirements - provides a template for notices.

Publication

Applicants must publish 'notice' in the Westfield Leader, the official newspaper of the Township or the Star Ledger. Please take into account that notices must be submitted to the newspaper up to a week in advance of posting.

Personal Notice

Applicants must provide personal 'notice' via certified mail or personal service to all parties on the 200-foot list. The 200-foot list includes all property owners and utilities / organizations within 200-feet of the subject property.

Affidavit of Proof of Service - Form 12

When 'notice' has been given to all parties, the applicant must submit the following to the Office of Planning & Zoning no less than four (4) days before the hearing date.

1. Notarized Affidavit of Proof of Service (Form 12) with the following attached:
 - Copy of the Notice of Public Hearing
 - Copy of the 200-foot list of all property owners and/or utilities / organizations who received 'notice'
 - Original Certified Mail tickets stamped by the Post Office (white tickets)
2. Original proof of publication provided to the applicant by the newspaper.

If an applicant chooses personal service over Certified Mail, the applicant must provide original signatures from each property owner to whom notice has been served along with the date of 'notice' included on the 200-foot list attached to the Affidavit of Proof of Service.

Notice requirements are defined by the MLUL - NJSA 40:55D-11/12

3.2 - The Hearing Process

The Hearing

Once the application has been fully processed and legal notice has been provided by an applicant, the applicable board can hear the application. Typical meetings begin with a workshop session before moving on to the hearing itself. Workshops present an opportunity for the Board to discuss relevant Board issues, approve meeting minutes, and to approve Resolutions of Memorialization for action the Board has already taken.

All meetings take place in the Township Municipal Building located at 8 Springfield Avenue, Cranford, NJ. Workshops, which are open to the public unless the Board approves a closed session, are held in Room 108 while the hearing is held in Room 107.



Board Schedules

The hearing schedule for the Planning Board and the Zoning Board of Adjustment is set at the beginning of each calendar year for all regularly scheduled hearings from January through December. Sometimes an application requires 'special hearings' be scheduled. The Board schedule can be found on the Township's Planning & Zoning Office website.

The **Planning Board** typically meets every other Wednesday evening with the workshop beginning at 7:30 P.M. in Room 108 and the hearing beginning at 8:00 P.M. in Room 107.

The **Zoning Board** typically meets every other Monday evening. The workshop meeting held in Room 108 begins at 7:30 P.M. and the hearing, held in Room 107, begins at 7:45 P.M.

Board Procedures

It is important that all applicants, along with any professionals or legal representation they may have obtained, come prepared. The applicant should be able to present applicable documents, photographs, plans or any other exhibits that are related to their application. The hearing room is equipped to display digital documents on four large screen televisions as well as a digital projector. It is the right of the applicant to utilize the tools provided by the Board.

Introducing the Application

- When the Chairperson calls an application, the applicant and / or their legal representative(s) will come forward and introduce themselves and the application to the Board.

Testimony, Expert Witnesses and Cross-Examination

- Once an overview of the application has been presented, the applicant has the right to call witnesses. All witnesses must state their name and occupation and be sworn in by the Board's counsel. All professional witnesses must present their credentials and be accepted by the Board as a professional in their field;
- At the completion of each witnesses testimony, the Board and the public are given the opportunity to ask questions of the witness *related to their testimony*. This process is repeated for each witness called. *The Board, its staff, and the public have the right to cross-examine all witnesses;*
- During this time, only questions related to the witnesses testimony are acceptable. Statements or opinions on the application before the Board are not to be presented.

3.2 - The Hearing Process

The Hearing

Burden of Proof

- As previously mentioned, the *Burden of Proof* when seeking approval from a Board falls with the applicant. An applicant is not entitled to relief from the Zoning Ordinance unless they can satisfy the requirements as defined in the MLUL. Applicants are however entitled to site plan and subdivision approval assuming they meet the Zoning Ordinance requirements;
- In the case of a variance, for example, it is the responsibility of the applicant to prove the *positive* and the *negative criteria* is met if an applicant is seeking a “c” variance. If the applicant is seeking a “d” variance, the applicant is required to show ‘*special reasons*’ (positive criteria) along with the negative criteria;
- For Site Plan approvals, if an applicant fails to supply all of the necessary information on the site plan and in testimony for the Board to make an informed, responsible decision; the Board is within its rights to deny the application.

Public Comments

- After each of the applicant’s witnesses testify, the meeting is opened to the public for questions of the witnesses;
- After the close of the applicant’s presentation and before the Board takes action on any application, the meeting is opened to the public for comments under oath;
- During this time the public is provided the opportunity to comment on the application, request special consideration, and/or present their own witnesses or evidence;
- All speakers must state their name and address for the record. All comments and questions become a part of the record;
- The applicant, the applicant’s professional(s), the Board and Board professionals have the right to cross-examine all speakers;
- Speakers who have legal representation must ask their questions and/or speak through them;
- Comments called out from the audience will *not* be considered a part of the record.

Deliberations

- After the applicant’s presentation and the public comment period, the Board will deliberate the merits of the application;
- A motion is made to either approve or deny the application;
- The Board has the right to impose conditions of approval that the applicant must follow;
- The motion to approve or deny must be seconded with additional discussion if the Board desires;
- A vote to approve or deny is taken.

Key Terms

Burden of Proof - In the context of a Board application and hearing, the Burden of Proof refers to the *obligation* or *responsibility* of the applicant to prove that their application should be approved. The Burden of Proof varies based upon the type of application being heard. See Sections 2.1a & b for more detail.

Conditional Approval - The Board has the right to impose conditions of approval on an applicant. If an applicant does not adhere to the conditions set by the Board, the proposed work cannot be approved during the post-hearing process or receive a final Certificate of Occupancy. Failure to adhere to conditions may result in denial by the Building Department, Office of Planning & Zoning, Downtown Management Corporation, or the Health Department.

Public Comment Period - After the applicant has presented their case, the hearing is opened for public comment. During this period, members of the audience are allowed to comment on the application and present evidence. The Board reserves the right to limit the amount of time allotted to each individual commenter and to limit redundant comments and questions from the public. Comments called out from the audience will not be considered.

Testimony and Cross-Examination - Applicants have the right to be represented by their own attorney and to present experts to testify. Said experts must be qualified or accepted by the Board as experts in their field. The Board, its professionals, and the public have the right to cross-examine all of the applicants witnesses. During this time, the public is allowed to ask questions but *not* comments or opinions.

3.3 - The Hearing Process

The Post-Hearing Process

Key Terms

Action in Lieu of Prerogative Writs

- a right under the Constitution of the State of New Jersey which permits all interested parties to seek review, hearing and relief in the Superior Court of all actions of municipal agencies.

As-of-Right - any use or development that complies with all applicable zoning regulations and site development standards. As-of-right actions do not require variances or exceptions from a Board.

Notice of Action - notice published in a local paper informing the public that a Board has taken action on an application. Notice is published by the Township after a vote has been taken and after a Resolution of Memorialization has been approved.

Resolution of Memorialization

- a resolution prepared by Board counsel which is approved by the applicable Board which legally documents the approval or denial of an application. Resolutions include a summary of the application, findings of fact, conclusions, conditions of approval if necessary, and a voting record for that application.

Once a Board has made a decision, the process is not yet completed. The applicant and the Board still have steps that need to be followed. If an application was denied, the applicant has the right to appeal. If an application has been approved, the applicant can begin to move forward with their project.

Board Requirements

The Board is required to pass a resolution memorializing (*Resolution of Memorialization*) any action it has taken on an application within forty-five (45) days. The MLUL (NJSA 40:55D-10g) dictates that “any interested party may apply to the New Jersey Superior Court in a summary manner in order to compel the Board to reduce its findings and conclusions to writing within a stated time” if the Board does not pass the required resolution within the aforementioned time-frame.

Additionally, The Board Secretary / Land Use Administrator publishes a *Notice of Action* in the Westfield Leader on behalf of the applicant. The first notice is published after the Board votes to approve or deny an application. The second notice is published after the Board approves the *Resolution of Memorialization* for any given application. The publishing of the *Notice of Action* represents the beginning of the appeal period.

The applicant has the right to publish their own “Notice of Action” at their expense.

Appeals

Interested parties have the right to file an appeal of a decision made by either the Planning Board or the Zoning Board of Adjustment. Rule 4:69 of the State of New Jersey - *Actions in Lieu of Prerogative Writs* establishes the framework and procedures for appeal. Interested parties have forty-five (45) days from the date of publication of the Board’s decision (*Notice of Action*) to file the appeal to the New Jersey Superior Court.

Applicant Requirements

After Board approval, the applicant must follow all of the typical procedures one would take if they were proposing work on a property that was as-of-right. This includes submitting their project for approval and permits from the Building Department, the Office of Planning & Zoning, the Engineering Department (if applicable), along with the Health Department and the Downtown Management Corporation if necessary.

The primary difference between an application that is ‘as-of-right’ and one that is not is that an ‘as-of-right’ application does not require variances or exceptions from either the Zoning Board of Adjustment of the Planning Board. This does not preclude an application for development that is not a one- or two-family home from requiring site plan approval. Conditions may be imposed on both ‘as-of-right’ applications as well as those that do require variance(s) or exception(s). As a part of the application review process, the Zoning Officer and the Township Engineer also complete a review for *resolution compliance*. Plans that are submitted to the Building Department that are not compliant with the Board approval will be denied. Additionally, inspections are completed during and at the completion of construction to ensure compliance. Any deviations from the approved plans or the conditions placed by the Board on an applicant will result in a denial from the Engineering Department and the Office of Planning & Zoning. As-built drawings must also be submitted once the project is completed.



Appendix A Fee Schedule

Fees for Zoning Permit Applications and for Board Applications are established in the Township Code. §255-5 - Fees establishes all of the applicable fees for Board Applications.

Zoning Permit Application Fee

Residential - 25.00

Nonresidential - \$50.00

Board Application Fee(s)

Application Type	Application Fee	Escrow Deposit
Development Review Committee		
One- and two-family homes	Waived	\$0
Subdivisions		
Minor		
Residential	\$315, plus \$55 per lot	\$500 per lot
Nonresidential	\$315, plus \$55 per lot	\$700 per lot
Major		
Residential	\$420, plus \$105 per lot	\$1,000 per lot, \$10,000 maximum
Nonresidential	\$420, plus \$55 per lot	1/2 the cost of the preliminary application
Resubmittal fee for revised plat	1/3 of original submission fee	\$0
Extension of preliminary or final approval	1/3 of original submission fee	\$0
Site Plan		
Minor		
Residential	\$210, plus \$20 per unit	\$100 per unit but not less than \$1,000
Nonresidential	\$525, plus \$105 per 1,000 sq. ft. of gross floor area of the proposed principal structure(s) on the subject lot(s) OR \$20 per 1,000 sq. ft. of lot area, whichever is greater	\$40 per 100 sq. ft. of gross floor area of the proposed principal structure(s) on the subject lot(s) but not less than \$2,000
Major (residential)		
Preliminary	\$525, plus \$210 per new unit or \$105 per remodeled unit	\$500 per unit
Final	\$525, plus \$210 per new unit or \$105 per remodeled unit	1/2 the cost of the preliminary
Major (nonresidential)		
Preliminary	\$525, plus \$25 per 1,000 sq. ft. of gross floor area of the proposed principal structure(s) on the subject lot(s) AND \$20 per 1,000 sq. ft. of site area	\$40 per 100 sq. ft. of gross floor area of the proposed principal structure(s) on the subject lot(s) but not less than \$1,000
Final	\$525, plus \$25 per 1,000 sq. ft. of gross floor area of the proposed principal structure(s) on the subject lot(s) AND \$20 per 1,000 sq. ft. of site area	1/2 the cost of the preliminary
Appeals		
One- and two- family residential	\$265	\$250
Other residential	\$525	\$750
Nonresidential	\$525	\$750
Interpretations (of zoning regulations on map)		
One- and two- family residential	\$265	\$250
Other residential	\$315	\$750
Nonresidential	\$525	\$750

Board Application Fee(s) - continued

Application Type	Application Fee	Escrow Deposit
Variations		
Bulk Variations		
One-and two-family residential	\$265 and \$100 for each additional bulk or "c" variance	\$500
Other Residential	\$210 each	\$1,500
Nonresidential	\$265 each	\$2,500
Use Variations		
One-and two-family residential	\$315	\$750
Other Residential	\$525	\$1,500
Nonresidential	\$790	\$1,500
Conditional Use		
One- and two- family residential	\$370	\$750
Other residential	\$525	\$1,500
Nonresidential	\$790	\$1,500
Exceptions and Waivers		
Fence (residential)	\$160	\$250
Fence (nonresidential)	\$265	\$750
Sign (residential)	\$265	\$250
Sign (nonresidential)	\$420	\$500
Site Plan Approval (residential)	\$110, plus \$10 per unit	\$0
Site Plan Approval (nonresidential)	\$262.50, plus \$50 per 1,000 sq. ft. of gross floor area of all principal structure(s) on the subject lot(s)	\$0
Parking (one- and two-family residential)	\$160	\$500
Parking (other residential)	\$370	\$500
Parking (nonresidential)	\$370	\$750
Design and any other exceptions/waivers	\$100 each	\$200 each
Meetings		
Special	\$525 per special meeting	\$0
Additional	\$420 per hearing when testimony extends more than two (2) meetings	\$0
Informal Review	\$0	\$400 nonrefundable
Copy of Master Plan	\$70	\$0
Certificate of Nonconformity	\$265	\$250
Copy of Land Development Ordinance	\$30	\$0
Rezoning	\$1,500	\$2,000

As per §255-5B, applicants shall be required any extraordinary costs relating to subdivision, site plan or conditional use review and/or approval. Applicants shall be required to pay all inspection fees for professionals with respect to the installation of improvements. All such fees and charges shall be based upon a schedule established by resolution of the Township Committee.



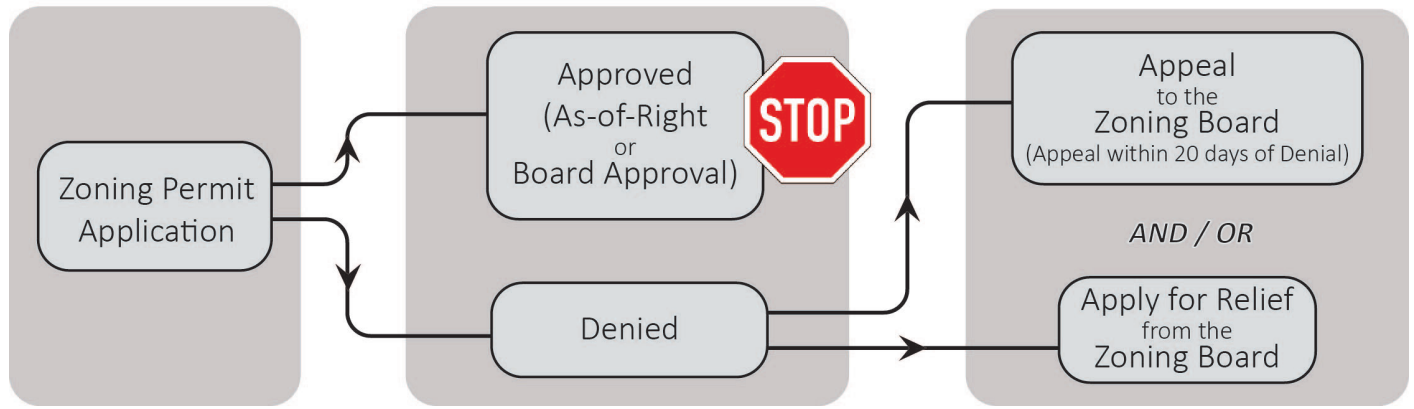
Appendix B

Zoning Flow Charts

The flow charts provided in this section are a representative example of workflow's in the Office of Planning and Zoning. They are meant to provide a rough guide and timeline's for applications that are received by the Township for both the Planning and Zoning Board of Adjustment.

Chart 1 - Zoning Flow Chart

Zoning Permit Process



The above work flow does not include other approvals and/or permits that may be required. Additional approvals may be required from the Building Department, Engineering Department, Downtown Management Corporation, and / or the Health Department.

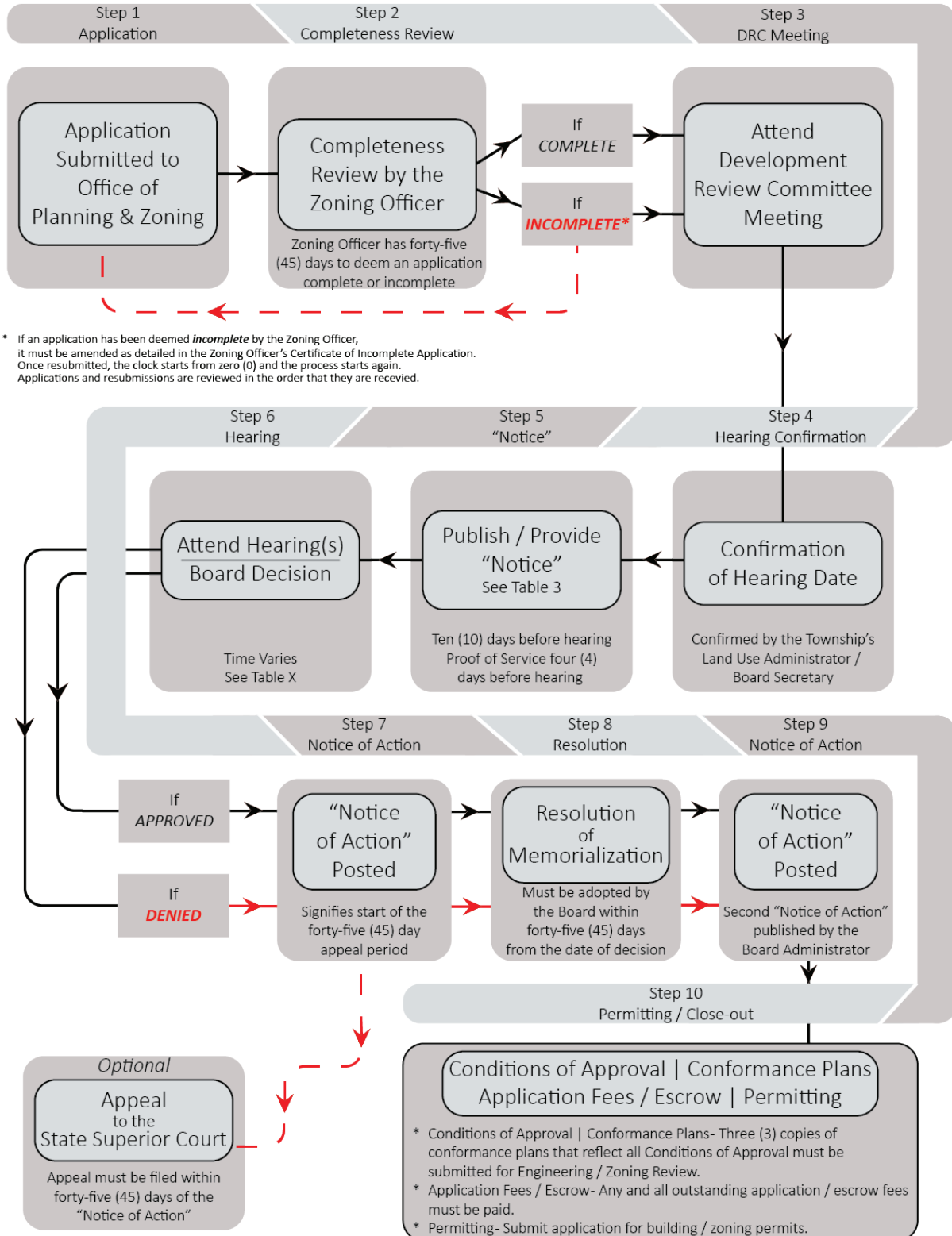
[See Next Page for Chart 2- Board Application Process]



Appendix B

Zoning Flow Charts

Chart 2 - Board Application Process





Appendix C

Time Requirements

Many of the functions of the Office of Planning & Zoning as well as the Planning and Zoning Board of Adjustment are governed by strict timelines established by the Municipal Land Use Law (MLUL). It is imperative that applicants, municipal officials and the Board's alike adhere to these timelines.

Zoning Permit

The Office of Planning & Zoning has **ten (10) business days** from the date of submission of a complete application to either approve or deny said application.

Zoning Permits are valid for one (1) year from the date of issuance.

All Board Applications

*Completeness Review - **Forty-five (45) calendar days*** from receipt of application.

* All Board applications are reviewed in the order in which they are received. If an application is deemed to be incomplete, resubmissions do not get reviewed ahead of new applications and the 'clock' resets to zero.

** Applications that are not deemed to be either incomplete or complete within forty-five (45) days shall be deemed complete.

NJSA 40:55D-10

Planning Board

Application Type

Time to Act

All applications vary in terms of complexity and potential duration. Extensions may be required depending upon each applications unique circumstances.

Minor Development

Forty-five (45) calendar days
from the issuance of a
Certificate of Completeness

Major Development

Ninety-five (95) calendar days
from the issuance of a
Certificate of Completeness

Extensions must be agreed upon by the Board and the applicant.

Preliminary Approval

Within **Three (3) years**
of the Preliminary Approval

Final Approval

Preliminary & Final
Approval

The longest time permitted for
either of the two approvals

Conditional Use
(No 'D' Variance Required)

Ninety-five (95) calendar days
from the issuance of a
Certificate of Completeness

Rezoning

Hearing within **ninety (90) days**
of the issuance of a
Certificate of Completeness

Zoning Board of Adjustment

All Applications

**One hundred and twenty
(120) calendar days**
from the issuance of a
Certificate of Completeness