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MAR 30 2022

PLANNING & ZONING OFFICE  
TOWNSHIP OF CRANFORD



**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.: 2BA-21-013

**To Be Completed by Applicant**

**1. Subject Property**

Location/Address: 85 Winans Ave, Cranford, NJ 07016

Tax Map: Block: 527, Lot(s): 7

Block: \_\_\_\_\_, Lot(s): \_\_\_\_\_

Dimensions: Frontage: 50 Depth: 125 Total Area: 6250

Zoning District: C-2

**2. Applicant Information**

Name: Cold River Realty Corp.

Address: 27 Ohio Avenue Spring Valley NY 10950.

Phone: 914-447-2129 Email: danielpereira1663@gmail.com

Applicant is a: Corporation  Partnership \_\_\_\_\_ Individual \_\_\_\_\_

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

stockholders and partners exceeding the 10% ownership criterion have been disclosed.  
[Attach pages as necessary to fully comply.]

Name(s)

Address(es)

Daniel Pereira, 27 Ohio Avenue Spring Valley, NY 10950  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**4. If Owner is other than the Applicant -  
Please provide the following information on the Owner(s):**

Owner's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

**5. Property Information:**

Present use of the premises: Vacant

Restrictions, covenants, easements, association by-laws, existing or proposed on the property:

Yes [attach copies]: \_\_\_\_\_ No: X

Proposed use of the premises: Multi-Family

**NOTE: All deed restrictions covenants, easements, and association by-laws,  
existing and proposed, must be submitted for review  
and must be written in easily understandable English.**

**6. Licensed professionals representing the Applicant before the Board (if any):**

A. Attorney's Name: Adam M. Brown, Esq.

Address: 350 Springfield Ave., Ste. 200

City/State/ZIP: Summit, NJ 07901

Phone Number: 908-379-9731

E-mail: amb@ambrownlawgroup.com

B. Planner's Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/ZIP: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail: \_\_\_\_\_

C. Engineer's Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/ZIP: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail: \_\_\_\_\_

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

Name: ARTEK STUDIO, LLC  
Area of Expertise: Architect  
Address: 877 Broad Street  
City/State/ZIP: Newark, NJ 07102  
Phone Number: 973-824-0022  
E-mail: nfo@artekstudionj.com

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):

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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

- X (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
- X (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.
- \_\_\_\_\_ (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]

\_\_\_\_\_  
Applicant is making this application to demolish existing structure and build new multi-family  
\_\_\_\_\_  
structure with increased height, floor area and density.  
\_\_\_\_\_

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9. Is a public water line available? Yes
10. Is public sanitary sewer available? Yes
11. Does the application propose a well and septic system? No
12. Have any proposed new lots been reviewed with the Tax Assessor to determine appropriate lot and block numbers? No
13. Are any off-tract improvements required or proposed? No
14. Is the subdivision to be filed by Deed or Plat? No
15. What form of security does the applicant propose to provide as performance and maintenance guarantees? None
16. Other approvals which may be required and date plans submitted:

Yes \_\_\_\_\_ No X 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
<u>18</u>	<u>Survey of Property</u>
<u>18</u>	<u>Proposed Plan for New Two Family Dwelling</u>
<u>18</u>	<u>Proposed First Floor Plan for New Two Family Dwelling</u>
<u>18</u>	<u>Proposed Second Floor Plan for New Two Family Dwelling</u>

**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:**

All

Name/Address Adam M. Brown, Esq.

350 Springfield Ave, Ste. 200, Summit NJ 07901

\_\_\_\_\_

Name/Address \_\_\_\_\_

\_\_\_\_\_

Name/Address \_\_\_\_\_

## Certifications

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

**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  
13<sup>th</sup> day of August, 2021



NOTARY PUBLIC

Adam M. Brown Esq.

Attorney at Law, State of New Jersey



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  
\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

NOTARY PUBLIC

SIGNATURE OF APPLICANT

**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  
13<sup>th</sup> day of August, 2021

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

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

Adam M. Brown, Esq.  
Attorney at Law, State of New Jersey  
**Escrow Certification**

**21. Escrow Certification** I (please print name) \_\_\_\_\_ understand that I have provided the non-refundable sum of \$ \_\_\_\_\_ 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 OF APPLICANT

\_\_\_\_\_  
DATE



**TAX STATEMENT**

22. Applicant is to complete and sign form, and bring it to the Cranford Township Tax Collector for signature. If you would like the signed form returned to you by mail, please provide a self-addressed, stamped envelope for same. One copy of the signed Tax Statement should be included in each of the eighteen completed sets of Form 01.

I, Daniel Pereira of 27 Ohio Ave, Spring Valley, NY 10950  
Name Address

am submitting an application to the

PLANNING BOARD  ZONING BOARD OF ADJUSTMENT

for the development of Block 527 Lot 7 in Zone C-2

located at 85 Winans Ave, Cranford, NJ 07016  
Address

The owner of record is Cold River Realty Corp of 27 Ohio Ave, Spring Valley, NY 10950  
Name Address

I acquired interest in this property on March 29, 2021 and request the Tax  
Date

Collector to determine whether or not there are any delinquent taxes or other assessments due.

Daniel Pereira  
Applicant's Signature  
Member, Cold River Realty Corp.

08/13/21  
Date

**TO BE COMPLETED BY TAX COLLECTOR**

- All taxes due have been paid.
- All assessments due have been paid.
- The following are delinquent and past due:

I verify that this information accurately reflects municipal tax records.

[Signature]

Tax Collector

Tax Collector's Signature



Date

9-30-21

**Form 05/Use Variance 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: \_\_\_\_\_

Request is hereby made pursuant to Section 40:55D-70(d) of the New Jersey Municipal Land Use Law to the Board for permission to permit as a use in C-2 Zone which is specifically prohibited by the Municipal Land Use Ordinance of the Township of Cranford.

- 1. Arguments must be submitted in support of the requested "Use Variance."**  
On a separate sheet, describe reasons why the requested use variance should be granted by the Board.

**2. Public Hearing Notification Information**

Notice shall be given by the applicant at least ten (10) days prior to the date of the hearing to the following parties where applicable. Notice shall be by personal service or certified mail. An affidavit of proof of service demonstrating compliance with this requirement shall be filed with the Board Administrator in the Planning/Zoning Department at least four (4) business days prior to the date of the hearing.

**Please circle responses:**

- Is the subject property located within two hundred feet (200') of any municipal boundary? If yes, City Clerk of adjacent municipality and County Planning Board shall be notified of hearing by applicant. (Note 1) YES **NO**
- Is the subject property adjacent to an existing or proposed county road or adjoining other County Land? YES **NO** If yes, County Planning Board shall be notified of hearing by applicant. (Note 1)
- Is the subject property adjacent to a State highway? YES **NO** If yes, applicant shall notify the Commissioner of Transportation of the hearing. (Note 2, Form No. 13)
- Is the subject property greater than one hundred fifty (150) acres or involve more than 500 dwelling units? YES **NO** If yes, applicant shall notify the Director of New Jersey State Planning Commission of the hearing. Notice shall include a copy of any maps or documents required to be on file with the Municipal Clerk. (Note 3)

## **Arguments in favor of Granting of D-1 and D-4 Variance**

85 Winans Ave is an existing two-family residential property. It is over one-hundred years old. The structure is outdated and in a dilapidated state. Applicant wishes to replace the structure with a new construction. The new construction will be an aesthetic improvement in promotion of a desirable visual environment.

The proposed building will continue to be a two-family unit as it has for over one-hundred years and provide a significant aesthetic improvement, resulting in a more desirable visual environment for the neighborhood. This promotes the general welfare and surrounding neighborhood.

### **D-1 Variance:**

Even though there is already a two-family dwelling on the property, the Applicants require a "D(1)" variance as a use variance is required in order to construct a new two-family dwelling on the property.

The Board has the power to grant "d(1)" variances to permit non-permitted uses or principal structures pursuant to N.J.S.A. 40:55D-70(1) "in particular cases and for special reasons." This is the so-called positive criteria of a "d(1)" variance. Our courts have held that the promotion of the general welfare is the zoning purpose that most clearly amplifies the meaning of "special reasons."

Our courts have held that certain uses are deemed "inherently beneficial" which essentially means that, by definition, the use per se promotes the general welfare. The benefit to the general welfare from a typical non-inherently beneficial use, however, derives not from the use itself but from the development of a site in the community that is particularly suited for the very enterprise proposed. The standard the Board must employ to determine whether special reasons have been proven is whether the proposed use will promote the general welfare and whether the development of the property is particularly suited for the very use proposed.

The Board may not exercise its power to grant a "d(1)" variance otherwise warranted, however, unless the so-called "negative criteria" has been satisfied. Pursuant to the last unlettered paragraph of N.J.S.A. 40:55D-70- 70: "No variance or other relief may be granted without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance."

As to the zone plan and zoning ordinance, the applicant must prove and the Board must find by an "enhanced quality or proof" that there will be no substantial impairment. The applicant must "reconcile" the use proposed with the ordinance's omission of the use from those permitted in the zone.

In coming to its decision, we recommend that the Board consider that despite the property's location in a C-2 Zone, this portion of Winans Avenue is entirely residential and primarily contains multi-family properties. It is well suited to remain a two-family residence.

In considering whether the proposed use will result in substantial detriment to the public good and substantial impairment of the intent and purpose of the zone plan and zoning ordinance, we recommend that the Board give substantial weight of evidence to the property

already containing a two-family building for over one-hundred years and the minimal potential impact of the proposed use to the surrounding area.

**D-4 Variance:**

The Applicants require a "D(4)" variance for floor area ratio (FAR). Rebuilding the building will make it code compliant and will promote the public health, safety and general welfare.

As mentioned above, "D(4)" variance is required for the FAR. Under the New Jersey Municipal Land Use Law (MLUL), N.J.S.A. 40:55D-1 to 129, FAR is calculated by taking the sum of the area of all floors of buildings or structures in square feet and dividing by the total area of the site in square feet. N.J.S.A. 40:55-70D-4. Thus, the FAR regulates the square feet of floors and not height. Therefore, under the FAR standard, a building could be built either on one level or multi-levels and contain the same number of square feet for FAR purposes.

The application for a FAR variance is governed by N.J.S.A. 40:55D- 70(d)(4), which authorizes a variance for "an increase in the permitted floor area ratio as defined [by N.J.S.A. 40:55-70D-4]" upon a showing of special reasons (the positive requirement) and provided that the variance can be granted "without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and the zoning ordinance" (the negative requirement). With regard to establishing "special reasons" for a FAR variance, Coventry Square v. Westwood Zoning Bd. of Adj., 138 N.J. 285 (1994) and not Medici controls. Though Coventry Square dealt with a conditional use variance under N.J.S.A. 40:55D-70(d)(3), the Supreme Court held that it would be "plainly inappropriate" to apply the variance standard for a prohibited use to what was essentially a permitted use, which does not comply with one or more of the conditions imposed by the ordinance. Coventry Square, supra, 138 N.J. at 297. The Court pointed out that with a use variance, the applicant must attempt to justify permission for a use that has been prohibited. But with a conditional use variance, the applicant need only justify "continued permission for a use notwithstanding a deviation from one or more conditions of the ordinance." Id. at 298, 650 A .2d 340.

The Court further noted that the "course of judicial development of variance standards · reflects the need for criteria that are appropriate for specific types of variances,11 Id. at 298, and held that the special reasons standard for a conditional use variance "should be relevant to the nature of the deviation from the ordinance." ML. at 297-98. Under this standard, a board could find special reasons, "if it is persuaded that the non-compliance with conditions does not affect the suitability of the site for the conditional use." ML at 298-99.

Because a "D(4)" FAR variance also deals with uses that are permitted in the zone and thus is different from variances for excluded uses, the Court held pursuant to Coventry Square that an applicant for a FAR "D(4)" variance need not show that the site is particularly suited for more intensive development. To impose such a stringent burden would mean that a FAR variance applicant would have perhaps as difficult a burden to meet as an applicant for a prohibited use variance. To require such a burden would be inconsistent with the principle that (D) variances for permitted uses need not meet the "stringent special reasons standards for a commercial-use variance." Coventry Square, at 287.

Like a conditional use variance applicant, FAR variance applicants must show that the site will accommodate the problems associated with a proposed use with larger floor area than permitted by the ordinance.

Here, the Applicants seek to demolish and rebuild a two family home. The "special reasons" that exist for the granting of the "D(4)" variance are the same reasons that exist for the granting of the bulk variances under the 11C(2)" criteria. Granting the Application will promote the public health, safety and general welfare. In addition, renovating building will promote a desirable visual environment through creative development techniques and good civic design and arrangement.

In addition to showing that "special reasons" exist for the granting of the "D(4)" variance, the Applicants also believe that the requested relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. These tests require the Board to engage in a balancing of the zoning benefits versus the zoning harms. As stated above, the Applicants are proposing the rebuilding of a two family dwelling into similar two family dwelling. This will not create any detriment to the public good, let alone a substantial detriment. On the contrary, there will be multiple zoning benefits achieved by approving the Application that are enumerated herein. Therefore the negative criteria is satisfied.