

**ZONING BOARD OF APPEALS APPLICATION  
TOWN OF SIMSBURY, 933 HOPMEADOW STREET, SIMSBURY, CT 06070**

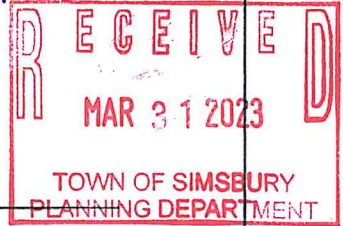
Application Number: 23-02

Fee \$ 240.00

Requested Action (please check appropriate box):

Variance

Appeal Decision of  
Zoning Official



Location of Property: 530 BUSHY HILL ROAD (SIMSBURY COMMONS)  
(number and street name)

Simsbury Assessor's Map Number B20 Block Number 508 Lot Number 001

Deed Volume Number 950 Page Number 685 (property owner must supply copy of the deed)

**Applicant - Please Print the Following:**

Name: Raising Cane's Restaurant, LLC  
Address: 6800 Bishop Road  
Plano, TX 75024  
Email: acaracci@raisingcanes.com Telephone: 972-769-3100

Signature of Applicant:  Date: 3/29/23

Applicant's Interest in Property: Leasehold/Contract

Record Owner of Property: Simsbury Commons, LLC  
(print name & address of owner)  
 Date: 3/30/2023  
(signature of owner) BARUCH A ROSSOW

Property is in Zone B-3 of (applicable section(s) Zoning Regulations 4.3

**Describe the nature of your application, including the amount of variance requested:**

Reduce easterly side yard setback from 40' to 37.1' for window canopy; and  
Reduce easterly side yard setback requirement from 40' to 19.3' for construction of a drive-thru canopy

**Describe the specific hardship:**

Shape, configuration, historic existing uses of property and adjacent property, and prior approvals contribute to hardship. See attached for detailed description.

*This application must be accompanied by required fee, site plan and any other information required by the Zoning Regulations, Building Code, or Rules of the Board. EACH APPLICATION SHALL INCLUDE A LIST OF NAMES AND ADDRESSES OF ALL ABUTTING PROPERTY OWNERS AND ALL PROPERTY OWNERS WITHIN 100 FEET OF THE SUBJECT SITE. Six complete sets of folded plans and eleven copies of the completed and signed application, and any correspondence, must be submitted with the application. Pictures of the property and letters from the neighbors are very helpful. Applicant and/or Authorized Agent must attend meeting.*

**NOTE: PICKUP YOUR PUBLIC HEARING SIGN WHEN APPLICATION IS SUBMITTED.**

**INCOMPLETE APPLICATIONS WILL NOT BE CONSIDERED**

**DESCRIPTION: SPECIFIC HARDSHIP:**

Features Unique to this Property:

1. The plan is wholly compliant, including all drives and parking, except the setback distances of the canopy structures.
2. Applicant parcel includes land in Simsbury and Avon. Avon (20 ft) and Simsbury (40 ft) have different sideline requirements for the property. (If the property were in Avon, no variance would be required.)
3. The Simsbury Commons Center has functional obsolescence issues, including that dated design and function of branch lending institutions have created significant underutilization of the bank facilities.
4. The proposed alignment in massing of the proposed facility compliments the existing buildings on the east and west.
5. The adjacent neighbor supports this application because it feels both the applicant and the neighbor benefit from the proposed landscaping easement.
6. Canopies, while not new, are a “driver” of design for new restaurants in the post-Covid world.
7. Communities like Simsbury and fast-food restaurants have greater enthusiasm than ever or drive-thru opportunities in appropriate locations.
8. The massing and location of the proposed and existing structure directly align and compliment the existing structure to the west.

Hardship

- a. The historic use of the property and historic use of the buildings at the north end of Simsbury Commons do not contain enough land to accommodate the proposed restaurant without the granting of variance.
- b. The application of different town setbacks is unique in the hardship to the proposed application.
- c. Rigid enforcement of the regulation where the entire plan including all driveways and parking are in compliance, would defeat the plan.
- d. The 40’ setback was enacted to enhance the appearance of building massing and location. In this instance, it would defeat an aesthetic plan to enhance the appearance of both the applicant property and the neighboring commercial store.

13 - Parcels within 100 feet of "Simsbury Commons" BUSHY HILL ROAD

A20 513 002  
539 BUSHY HILL ROAD  
CICCHETTI CARL  
422 WEST MOUNTAIN ROAD WEST SIMSBURY CT 06092

---

B20 508 001-B  
530 BUSHY HILL ROAD  
NA  
7 HANA LANE MONSEY NY 10952

---

B20 508 001-B  
498 BUSHY HILL ROAD  
SIMSBURY COMMONS LLC  
7 HANA LANE MONSEY NY 10952

---

B20 503 002-7  
537 BUSHY HILL ROAD  
GOLDMAN HOWARD E  
537 BUSHY HILL ROAD SIMSBURY CT 06070

---

B20 503 002-4  
531 BUSHY HILL ROAD  
ALBRESKI DOUGLAS A  
531 BUSHY HILL ROAD SIMSBURY CT 06070

---

A20 503 002-B  
22 ALBANY TURNPIKE  
R H C ASSOCIATES #6/36  
PO BOX 182571 COLUMBUS OH 43218

---

B20 508 001-A  
BUSHY HILL ROAD  
BUSHY HILL PARTNERS LLC  
1225 FRANKLIN AVE, SUITE 325 GARDEN CITY NY 11530

---

B20 508 001  
12 ALBANY TURNPIKE  
SAMS QUICK STOP LLC  
1144 CORBIN AVENUE NEW BRITAIN CT 06053

---

B20 508 008  
16 WEST MARY DRIVE  
VARGAS ARMANDO AND ERIN A  
16 WEST MARY DRIVE SIMSBURY CT 06070

---

B20 503 002-6  
535 BUSHY HILL ROAD  
GOSSELIN JOHN D  
535 BUSHY HILL ROAD SIMSBURY CT 06070

---

B20 503 002-5  
533 BUSHY HILL ROAD  
BRAHO ANTONELA  
533 BUSHY HILL ROAD SIMSBURY CT 06070

---

B20 508 001-A  
6 ALBANY TURNPIKE  
MIJI AVON LLC  
433 SO MAIN ST #112 WEST HARTFORD CT 06110

---

B20 508 002A  
530R BUSHY HILL ROAD  
AVON MARKETPLACE INVESTORS LLC  
PO BOX 5040 WESTPORT CT 06881

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LANDSCAPING AND SIDE YARD SETBACK EASEMENT

This Landscaping and Side Yard Setback Easement (hereinafter "Easement" is made this \_\_\_\_\_ day of April, 2023, by and between **MIJI Avon LLC**, a Connecticut limited liability company, (hereinafter called "GRANTOR") for the consideration of ONE DOLLAR (\$1.00) AND OTHER VALUABLE CONSIDERATIONS, received to its full satisfaction of **Simsbury Commons LLC**, a Connecticut LLC having an office and place of business at 12 Jeffrey Place, Monsey, New Jersey 10952 (hereinafter called "GRANTEE") do give, grant, bargain, convey and confirm unto the said Simsbury Commons LLC, its successors and assigns the following described Easement:

**RECITALS:**

WHEREAS, the GRANTOR is the owner of real property hereinafter described as 6 Old Albany Turnpike in the Town of Simsbury, County of Hartford and State of Connecticut;

WHEREAS, the GRANTEE is the owner of real property hereinafter described as Simsbury Commons, 430 Bushy Hill Road in the Town of Simsbury, County of Hartford and State of Connecticut;

WHEREAS, the GRANTOR and GRANTEE. have determined that it would be mutually beneficial to create an easement over, across, through and upon a portion of the said premises of the GRANTOR for the purposes of establishing a landscape and set back plan appurtenant to the east boundary of GRANTOR's property; and

WHEREAS, the GRANTOR is willing, in consideration of the agreement of GRANTEE to create the Easement, complete all work and install and maintain all landscaping upon the Easement area to provide for an aesthetic treatment to benefit both parties, to grant to the said GRANTEE, the easement hereinafter expressed concerning said property, thereby providing for the continuation of free attractive and open visibility over such easement area; and

NOW THEREFORE, the said GRANTOR does hereby give, grant, bargain and confirm unto the said GRANTEE, its successors and assigns forever the right, privilege and authority to create the easement, complete all work and install and maintain all landscaping upon its premises and within the easement area to provide for an aesthetic treatment to benefit both parties as a Landscaping and Side Yard Setback Easement as shown on a map entitled " \_\_\_\_\_ " attached hereto as "Exhibit A" and made a part hereof ("Easement Area").

**IN CONSIDERATION THEREOF THE GRANTEE COVENANTS AND AGREES:**

To plant and maintain said Easement Area in accordance with the landscaping plan attached hereto as "Exhibit B" and made a part hereof and to prohibit and refrain from the permitting any growing materials including without limitation bushes, shrubs, plants to exceed 36" in height at any time except as shown on said landscaping plan.

The GRANTOR reserves unto itself, its heirs, successors, and assigns the right to continue to use the property subject to said Easement for all purposes consistent with the terms hereof.

The grant of the Easement shall in no way grant anyone other than the parties hereto the right to enter upon the property subject to the Easement. The GRANTOR, or its lawful agents, may enter the property for the purpose of inspection and ensuring that the terms hereof are properly enforced.

The foregoing Easement shall be permanent and shall be binding upon the GRANTOR and its successors and assigns, and shall inure to the benefit of the GRANTEE, its successors and assigns.

TO HAVE AND TO HOLD the above granted rights, privileges or authority unto the said GRANTEE, its successors and assigns forever, to its and their own proper use.

*[The remainder of this page is intentionally blank. Signature(s) follow.]*

IN WITNESS WHEREOF, we have caused these presents to be signed by its proper corporate officer and its corporate seal to be hereto affixed this \_\_\_\_\_ day of \_\_\_\_\_ 2023.

Signed, Sealed and Delivered in the Presence of:

WITNESSES:

GRANTOR:  
**MIJI Avon LLC**

\_\_\_\_\_

\_\_\_\_\_

Its President

\_\_\_\_\_

\_\_\_\_\_

Date

STATE OF CONNECTICUT     }  
  } SS.  
COUNTY OF HARTFORD    }

Personally appeared \_\_\_\_\_ Signer and Sealer of the foregoing instrument and acknowledged the same to be her/his free act and deed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_

Commissioner of the Superior Court/  
Notary Public  
My Commission Expires: \_\_\_\_\_

WITNESSES:

GRANTEE:  
SIMSBURY COMMONS LLC

\_\_\_\_\_

\_\_\_\_\_  
Baruch Aronson, Its Member

\_\_\_\_\_

\_\_\_\_\_  
Date

STATE OF CONNECTICUT        }  
  }SS.  
      COUNTY OF HARTFORD }

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Commissioner of the Superior Court/  
Notary Public  
My Commission Expires: \_\_\_\_\_



**EXHIBIT A**  
**EASEMENT AREA**

**EXHIBIT B**  
**LANDSCAPE PLAN**





2 FRONT ENTRY ELEVATION  
 EL 1 SCALE: 1/4" = 1'-0"



1 DRIVE-THRU ELEVATION  
 EL 1 SCALE: 1/4" = 1'-0"



Restaurant Support Office  
 6800 Bishop Road, Plano, TX 75024  
 Tele: 972-769-3100 Fax: 972-769-3101

STORE:  
**RAISING CANE'S RESTAURANT**  
 ALBANY TPK. & BUSHY HILL RD.  
 SIMSBURY, CT, 06092  
 PROTOTYPE: P4-V-Av  
 SCHEME: B  
 RESTAURANT #RC935  
 VERSION: 2022-3.0 RELEASE 1.05.2022



Lakewood, Ohio 44107  
 17710 Detroit Avenue  
 Phone (216) 521-5134  
 Fax (216) 521-4824  
 www.adaarchitects.com

THIS DOCUMENT CONTAINS INFORMATION PROPRIETARY TO ADA ARCHITECTS, INC. UNAUTHORIZED USE OF THESE DOCUMENTS IS EXPRESSLY PROHIBITED UNLESS AGREED UPON IN WRITING.

ENGINEER INFORMATION:

SHEET REVISIONS

#	DATE	TYPE
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		

EXTERIOR ELEVATIONS

DATE: 04/19/23  
 JOB NO. 22031

EL 1  
 SHEET NO.



2 REAR ELEVATION  
EL 2 SCALE: 1/4" = 1'-0"



1 SIDE ENTRY ELEVATION  
EL 2 SCALE: 1/4" = 1'-0"



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EXTERIOR ELEVATIONS

DATE: 04/19/23  
JOB NO. 22031

EL 2  
SHEET NO.





Photo C - view from Men's Warehouse parking area looking south



Photo D - view looking north

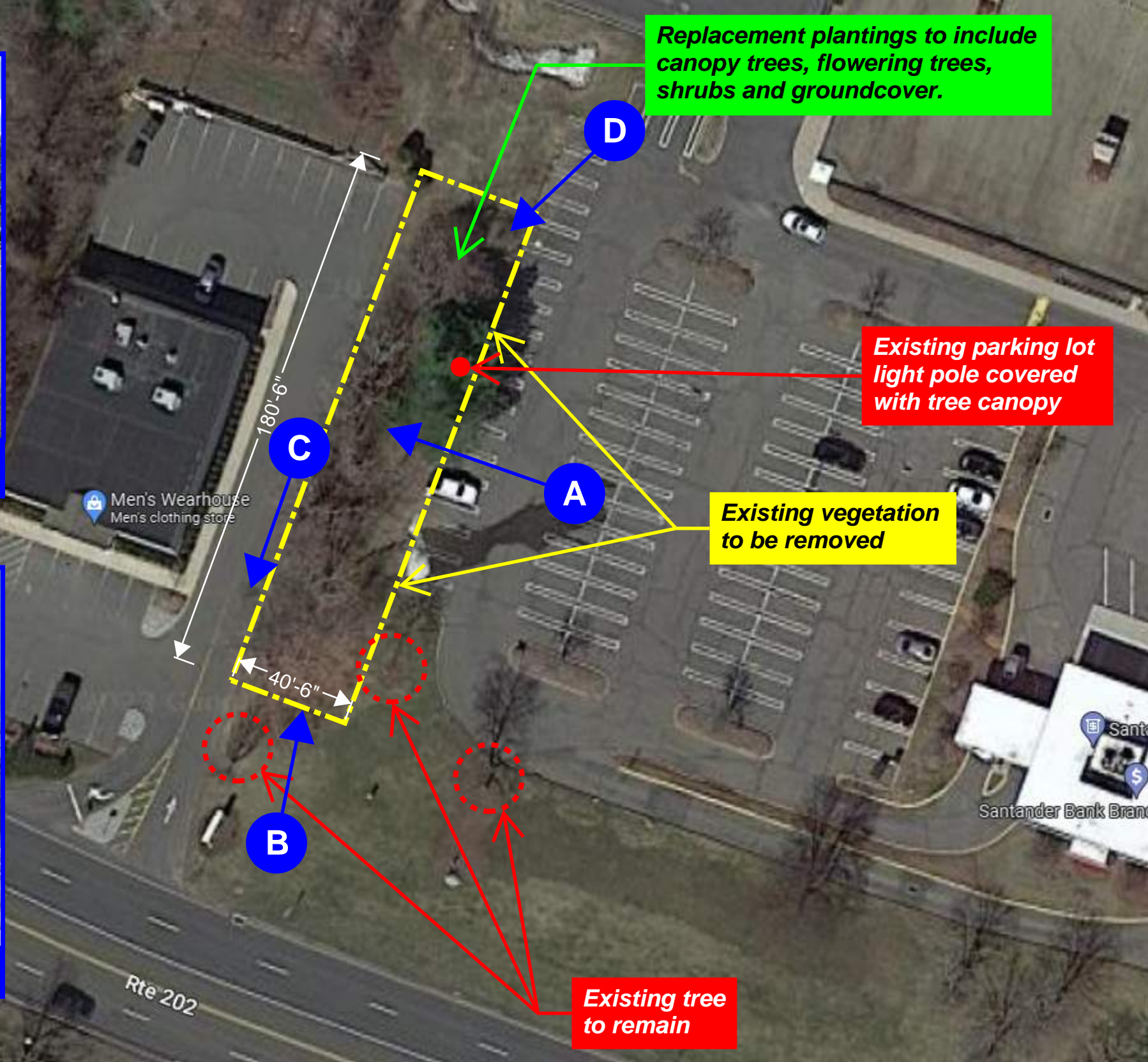


Photo A - view looking west



Photo B - view from Rte 202 looking north