



Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

Office of Community Planning and Development

To: Simsbury Zoning Board of Appeals

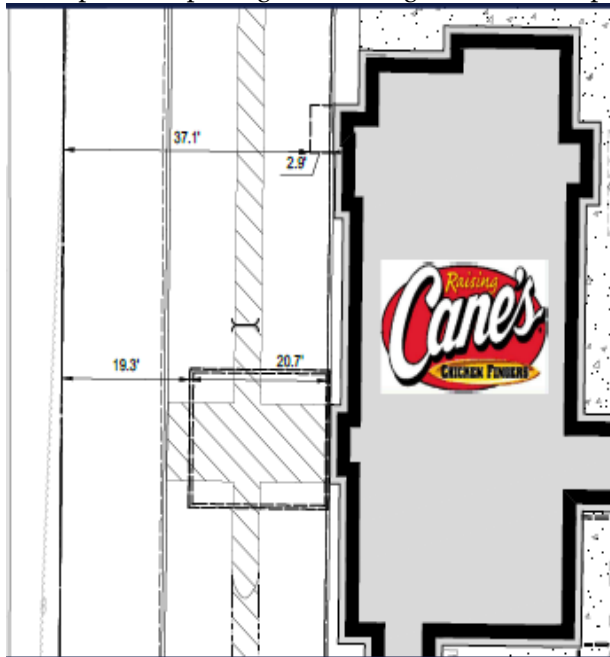
From: Laura Barkowski, CZEO
Code Compliance Officer

Date: April 26, 2023

RE: Application ZBA #23-02 of Raising Cane's Restaurant, LLC, Applicant, Simsbury Commons, LLC, Owner, for a variance to §4.3 of the Simsbury Zoning Regulations to reduce the side yard setback from 40' to $\pm 18'$ for the construction of a drive-thru canopy and from 40' to $\pm 36'$ to accommodate a window canopy at the property located at 530 Bushy Hill Road (Assessor's Map B20-508-001-B), in Zone B-3.

Description of Variance:

The applicant is requesting a variance to the side yard setback for the purpose to constructing two canopies. The subject property is located within a B-3 zoning district with the minimum side yard setback of 40'. The proposed window canopy is to encroach $\pm 3'$ into the side yard setback and the drive thru canopy would encroach $\pm 21'$. A portion of the parcel is located in Avon. Below is an aerial photo depicting the existing conditions as paved parking.



Hardship

The applicant has submitted a narrative itemizing the features unique to the property. The narrative states that the shape of lot, configuration, existing uses of the property and adjacent properties contribute to the hardship.

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Facsimile (860) 658-3206

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8:30 - 7:00 Monday
8:30 - 4:30 Tuesday through Thursday
8:30 - 1:00 Friday

Staff Comment

Staff has reviewed the applicant's variance application and supporting documentation. It should be noted that it is the canopy structure triggering the request for a variance. The paved drive itself would be permitted and not subject to the minimum setbacks. Staff has been informed of an agreement with the abutting property owner (Men's Warehouse – 6 Albany Avenue) to allow for the maintenance of plantings and a robust landscape buffer.

The public hearing notice was published in the Hartford Courant on both April 14, 2023 and April 21, 2023. The neighborhood abutters were mailed notification of the public hearing on April 5, 2023. The Town of Avon has also been notified of the application.

The Board should determine if a hardship exists and state the findings on the record with respect to the following criteria:

1. That special conditions and circumstances exist that are peculiar to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the area;
2. That these special circumstances relate to the condition of the land or parcel;
3. That the special conditions and circumstances are not related to the circumstances of the applicant and have not resulted from the actions of the applicant or the predecessor in title;
4. That the special circumstances constitute an exceptional difficulty or unusual hardship not of the applicant's making and are not solely a financial detriment;
5. That literal interpretation of the provisions of these Regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district;
6. That granting the variance requested will not confer upon the applicant any special privilege or use that is denied by these Regulations to other lands, structures, or buildings in the same district;
7. That these circumstances justify the granting of the variance;
8. That the variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building, or structure; and
9. That the granting of the variance will be in harmony with the general purpose and intent of these Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Staff has provided a sample motion for discussion purposes only as Exhibit A:

Exhibit "A"
Wednesday, April 26, 2023
Simsbury Zoning Board of Appeals

Motion to approve Application ZBA #23-02 of Raising Cane's Restaurant, LLC, Applicant, Simsbury Commons, LLC, Owner, for a variance to §4.3 of the Simsbury Zoning Regulations to reduce the side yard setback from 40' to \pm 18' for the construction of a drive-thru canopy and from 40' to \pm 36' to accommodate a window canopy at the property located at 530 Bushy Hill Road (Assessor's Map B20-508-001-B), in Zone B-3.