



Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

Office of Community Planning and Development

To: Simsbury Zoning Board of Appeals

From: Joseph Hollis, Code Compliance Officer

Date: February 28, 2024

RE: **Application ZBA #24-01** of Raising Cane’s Restaurant, LLC, Applicant, Simsbury Commons, LLC, Owner; for variances to Section 9.3 of the Simsbury Zoning Regulations for an additional ± 211 sq. ft. of signage and the use of internal illumination for such signage at Raising Cane’s Restaurant, 530 Bushy Hill Road (Assessor’s Map B20 Block 508 Lot 001-B), Simsbury, CT 06070, zone B-3.

Description of Application:

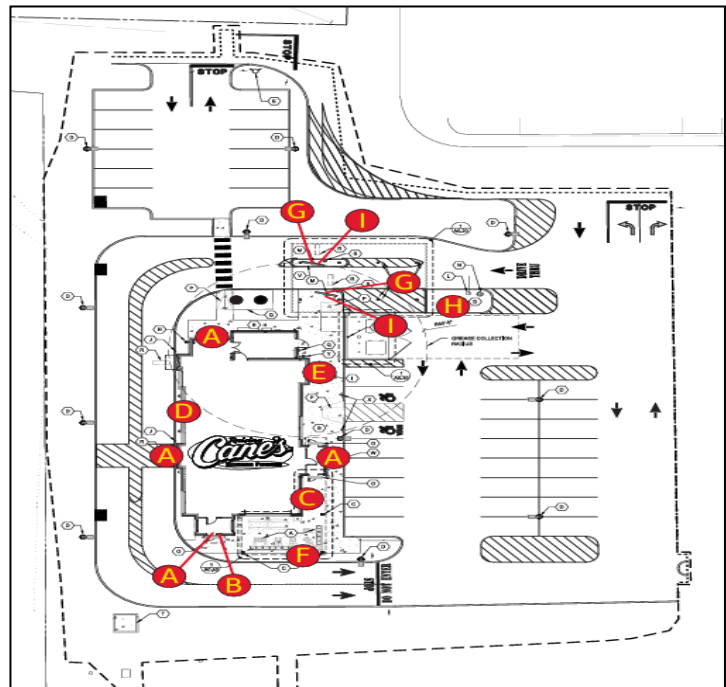
The applicant is requesting a ± 211 SF variance for additional signage over the amount allowed for the property and the use of internal illumination for such signage at Raising Cane’s Restaurant, 530 Bushy Hill Road (Assessor’s Map B20 Block 508 Lot 001-B), Simsbury, CT 06070, zone B-3.

The applicant is proposing 11 signs on the site as outlined in Graphic 1. The proposed sign plan exceeds the limit allowed under the zoning regulations in the size of wall signage, freestanding signage, and the total signage allowed on the site.

Previous approvals for the site include the following: On July 17, 2023, the Zoning Commission approved site plan/special exception application ZC #23-26 for a 3,284 SF restaurant on the property. On May 24, 2023, the Zoning Board of Appeals approved application ZBA #23-02 for a side yard setback reduction to accommodate two of the restaurant’s canopies.

Graphic 1 (Right): Proposed Sign Plan.

With the site plan approved, the applicant is seeking these variances for the proposed restaurant signage including wall signs, corporate artwork, and menu boards broken out by sign type in the table on the following page.



	QTY.	CODE	DESCRIPTION
A	4	WS-8FT	4x8 Wall Sign (Halo Lit)
B	1	ONS	Open Sign
C	1	CFNS	Chicken Fingers Neon Sign
D	1	OLH	One Love Heart
E	1	RD-1	Red Dog
F	1	CAN	One Love Canopy Letters (Uplit)
G	2	DTMB	DT Menuboard
H	1	DTPS	Pre Sell Board
I	2	DTSP	Speaker Post

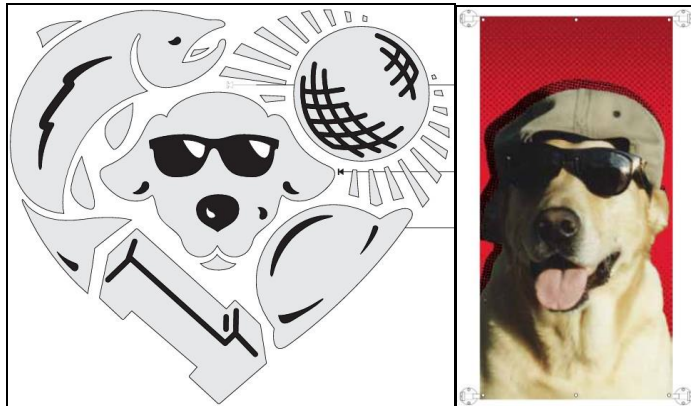
Table 1 (Below): Proposed signage sorted by sign type.

Wall Signs				
Sign Letter	Description	Quantity	Size (SF)	Total Size (SF)
A	Cane's Wall Sign	4	24.14	96.56
C	Chicken Fingers Interior Sign	1	5.27	5.27
D	One Love Heart Wall Sign	1	39.88	39.88
E	Red Dog Wall Sign	1	32	32
F	One Love Canopy Sign	1	18.84	18.84
Total SF Proposed				192.55
Total SF Allowed				31.02
Freestanding Signs				
Sign Letter	Description	Quantity	Size (SF)	Total Size (SF)
G	Drive Thru Menu Board	2	28.63	57.26
H	Pre-Sell Board	1	8.31	8.31
Total SF Proposed				65.57
Total SF Allowed				32
Summary of Application				
Total SF of Signage Proposed				258.12
Total SF of Signage Allowed				47

The proposed sign plan exceeds the limit for freestanding signs by 33.57 SF, wall signs by 161.53 SF, and the total site signage allowance by 211.12 SF. The application also features the use of internal illumination for 2 menu boards, 1 pre-sell board, and the chicken fingers interior sign which is prohibited by the regulations to be discussed in the analysis section of this staff report.

In the submitted application, the applicant identified two specific hardships in requesting the size and illumination variances. First, with regard to the One Love Heart and the Red Dog displays (shown in Graphic 2 below), “Both images of art displays...don not convey any word/text and are not traditional signs...so it is a hardship to restrict these images by the sign allowance.” Second, “the unique and remote area... of the building at the site creates a hardship with regard to visibility of signage from road view...”

Graphic 2 (Below): Two proposed displays. One Love Heart on the left. Red Dog on the right.



Analysis

The proposal can be broken down into the following elements:

- **Art vs. Signage**
- **Signage Area**
- **Signage Illumination**
- **Hardship Evaluation**

Art vs. Signage – Pursuant to Section 17.4 *Definitions*, Signs are defined as the following: “Any object, device, display or structure or part thereof, situated outdoors or indoors but designed and intended to be seen outside the building, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.” It is Staff’s opinion that the One Love Heart and the Red Dog are included in this definition as figures and symbols and thus, are counted as signage toward the site allowance.

Signage Area – Total sign area for the building is dictated by building frontage. Building Frontage is defined in Section 17.4 as “Those building elevations that face upon a road or a parking area between the building and the road.” This results in 47 feet of frontage. Section 9.3.a and 9.3.b states the following:

§9.3.a Each lot or combination of lots shown on one common site plan shall be allowed one (1) freestanding sign. The total area of all wall, canopy and free-standing signs shall be one (1) square foot of signage for every running foot of building frontage(s) except that in no case shall any freestanding sign be more than thirty-two (32) square feet.

§9.3.b Wall signs shall not exceed two-third (2/3) of the length of the building frontage

According to the sections above, the property is limited to 47 SF of signage total based on the frontage, 31.02 SF of which is the maximum for wall signage, and 32 SF of which is the maximum for freestanding signage. The applicant is proposing well over the allowed amounts for each category of signage for the restaurant as shown in Table 1 above.

Signage Illumination – Section 9.3.h is as follows, “Signs may be externally lighted or back-lit, but shall be designed so as not to allow any light to project through the face of the sign nor shall the lights themselves make up the lettering.” The application includes 2 menu boards, 1 pre-sell board, and 1 interior wall sign that use internal illumination prohibited by Section 9.3.h. The applicant referenced similar variances granted on nearby parcels for sign area and internally illuminated signs as supporting evidence in this variance request. The following is an overview of those sites in response to their reference in the submitted application.

McDonald’s – 22 Albany Turnpike

[1997 Site Plan Approval](#) – Original site approval.

180 SF of signage approved, not including directional signs per [regulations](#) at the time. Plans have building frontage at 183’ total – 38’ on Bushy Hill Road and 145’ on Route 44 allowing the approval.

[ZC #13-39 2013 Sign Plan Approval](#) – Change total site signage along with facade changes.

Plan shows existing signage at 289 SF not 180 SF as noted in 1997. The two sign plans differ in their inclusion of items on site that are deducted from the total allowed. Additionally, there is no documentation as to why the site was suddenly allowed an additional 109 SF of frontage/sign area on the site. It was approved per Howard Beach as an overall reduction from 289 SF to 255 SF.

[ZBA #20-06 2020 Variance Approval](#) – For 2 new digital pre-sell boards, to replace 2 existing menu boards with 2 smaller boards, and the use of internal illumination for all 4 items.

The case of splitting the 2 existing 42 SF menu boards into two sets of a 13.7 SF pre-sell board and a 27.4 SF digital menu board as an overall reduction in size was used as grounds for approval by the ZBA (it was negligible at a combined 41.1 SF per drive thru compared to the 42 SF of existing signage). The Board was under impression that the 32 SF sign size limit was **per sign**, when in fact building frontage and total site signage should have been considered.

Dunkin – 25 Albany Turnpike

ZBA #21-03 2021 Variance Approval – To change the existing non-illuminated menu board with a smaller internally lit board.

The case was presented as the internally lit menu board increased restaurant efficiency and the digital signage allowed for a reduction in size compared to the existing, non-illuminated, menu board. The Board was again under impression that the 32 SF sign size limit was **per sign**, when building frontage and total site signage should have been considered in their approval.

In addition to the applications referenced in the application, Staff notes that a similar variance application ZBA #22-10, was granted for an approximately 20 square foot internally lit digital menu board at Dunkin located at 138 & 142 Hopmeadow Street.

Hardship Evaluation – The applicant has described the hardship as the physical building location relative to Route 44 limiting building visibility and thus, additional signage is required to adequately advertise the business. Staff notes that in addition to the applicant’s description, the building orientation relative to the site creates a potential hardship because only the front elevation for the location is considered in the signage calculation. Had the building been approved parallel to Route 44 the restaurant would have been allowed approximately 92 SF of signage in total due to the increase in building frontage.

The application also states the displays shown in Graphic 2 should be considered artwork and should not be included in the total proposed signage, but by doing so creates a hardship for the property. The two displays meet the definition of a sign as referenced in Section 17.4 and are included in the signage calculation. Had the two displays be excluded, the application would still be a variance request of ± 139.24 SF of signage over the allowed. The board should evaluate the elements of the case including the following criteria when making their determination on the application.

Criteria for Variance Review:

Pursuant to Section 16.C, Variances, a variance from the terms of these regulations shall not be granted by the Board of Appeals unless and until the Board shall make a written finding in its minutes as to all of the following:

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 below for discussion purposes only as Exhibit A:

Exhibit “A”
Wednesday, February 28, 2024
Simsbury Zoning Board of Appeals

MOVED, the Zoning Board of Appeals approves Application ZBA #24-01 of Raising Cane’s Restaurant, LLC, Applicant, Simsbury Commons, LLC, Owner; for variances to Section 9.3 of the Simsbury Zoning Regulations for an additional ± 211 sq. ft. of signage and the use of internal illumination for such signage at Raising Cane’s Restaurant, 530 Bushy Hill Road (Assessor’s Map B20 Block 508 Lot 001-B), Simsbury, CT 06070, zone B-3, based upon the following findings: (to be determined by the Zoning Board of Appeals)

Or

Alternative Motion made by the Board