

ZONING BOARD OF APPEALS
Wednesday, May 24, 2023, at 7:00 P.M.
Public hearing was web-based on Zoom

I. CALL TO ORDER – Chair Antonio called the meeting to order at 7:00 P.M.

II. ROLL CALL

Present: Assistant Town Planner, Brittany MacGilpin; Code Compliance Officer, Laura Barkowski; Chair, Steven Antonio; Lawrence Boardman, Mark Freeman, JoAnn Hogan, Ram Kaza, Joshua Michelson, and Sharon Thomas.

Absent: Ali Rice and Stacey Walczak.

III. APPLICATIONS

1. Public Hearings

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 ± 36’ to accommodate the construction of two drive-thru canopies (originally proposed as a ± 18’ setback) at the property located at 530 Bushy Hill Road (Assessor’s Map B20-508-001-B), in Zone B-3. (Continued from 4/26/23).

- Attorney T.J. Donahue stated that they removed the overhead canopy and reduced the variance to less than 3’ in two areas adjacent to the building.
- There has been positive communication with the neighbor, Gentleman’s Warehouse, and a letter from them has been submitted to the Board.
- The hardships have been an existing hardscape, parking, and travel lanes. The parking will not comport with the project without the 3’ relief. If not, it would cause seven spaces to be eliminated and necessitate a larger easement consideration and wouldn’t support the business model.
- Another peculiarity is that the parcel and the mall exist in two different towns with different setbacks, Avon being 20’ and Simsbury being 40’.
- Jeff Bord, PE at Bohler Engineering stated that there is a north awning that provides cover for the cashier and the customer closest to the building for the transaction.

MOTION: Chair Antonio made a motion, seconded by Commissioner Ram, to close the public hearing for **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 ± 36’ to accommodate the construction of two drive-thru canopies (originally proposed as a ± 18’ setback)

46 at the property located at 530 Bushy Hill Road (Assessor's Map B20-508-001-B), in
47 Zone B-3. (Continued from 4/26/23). The motion carried unanimously. (7-0-0).
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49 **Application ZBA #23-03** of Christopher Quimby, Owner, for a variance to §3.9 of
50 the Simsbury Zoning Regulations to reduce the side yard setback from 40' to ± 29'
51 for the construction of a garage addition at the property located at 58 Terry's Plain
52 Road (Assessor's Map I09-106-046A3), in Zone R-40.
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- 54 • Mr. Quimby stated that the back of the property leads up to Talcott
55 Mountain, the front leads out to Terry's Plain Road, one side is on the lot
56 line with a propane tank. The back side of the garage seemed like the best
57 place to put an extension for storage.
- 58 • Chair Antonio inquired about putting the storage unit on the left side of the
59 garage.
- 60 • Mr. Quimby responded that he consulted the Farmington Valley Health
61 Department, and they said that due to the location of the septic they advised
62 against it to insure there was an appropriate surrounding area for safety.
- 63 • Chair Antonio inquired about putting the unit closer to Terry's Plain Road.
- 64 • The Board expressed concern about encroachment on the leach field.
- 65 • Mr. Quimby responded that the unit had a width of 28'. there would be an
66 11' drop in elevation, which would then require an 11' tall cement pad that
67 would be visible from the road and would have poor accessibility and could
68 even require building a ramp to be able to move a lawn mower into it.
- 69 • Chair Antonio said that there does not appear to be a hardship, but he
70 understands that the option is not ideal.
- 71 • Ms. Nikki Ferreira, the abutting neighbor at 60 Terry's Plain Road, stated
72 that she fully supports Mr. Quimby's request.
73

74 **MOTION:** Chair Antonio made a motion, seconded by Commissioner Hogan, to
75 close the public hearing for **Application ZBA #23-03** of Christopher Quimby,
76 Owner, for a variance to §3.9 of the Simsbury Zoning Regulations to reduce the side
77 yard setback from 40' to ± 29' for the construction of a garage addition at the property
78 located at 58 Terry's Plain Road (Assessor's Map I09-106-046A3), in Zone R-40. The
79 motion carried unanimously. (6-0-0).
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81 **2. Discussion and Possible Action**

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83 **Application ZBA #23-02** of Raising Cane's Restaurant, LLC, Applicant, Simsbury
84 Commons, LLC, Owner, for a variance to §4.3 of the Simsbury Zoning Regulations
85 to reduce the side yard setback from 40' to ± 36' to accomidate the construction of
86 two drive-thru canopies (originally proposed as a ± 18' setback) at the property
87 located at 530 Bushy Hill Road (Assessor's Map B20-508-001-B), in Zone B-3.
88 (Continued from 4/26/23).
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- Chair Antonio reiterated that it was good that the Gentleman’s Warehouse gave a supportive letter, and that there are valid hardships.

93 **MOTION:** Chair Antonio made a motion, seconded by Commissioner Thomas, to
94 approve **Application ZBA #23-02** of Raising Cane’s Restaurant, LLC, Applicant,
95 Simsbury Commons, LLC, Owner, for a variance to §4.3 of the Simsbury Zoning
96 Regulations to reduce the side yard setback from 40’ to ± 36’ to accommodate the
97 construction of two drive-thru canopies (originally proposed as a ± 18’ setback) at
98 the property located at 530 Bushy Hill Road (Assessor’s Map B20-508-001-B), in
99 Zone B-3. (Continued from 4/26/23). The hardship is the shape of the lot, the
100 configuration of the parking areas, the existing uses of the property, and the
101 inconsistencies between the budding town’s zoning regulations and the 40’ side yard
102 setback is not necessary between two commercial structures. The motion carried
103 unanimously. Commissioner Freeman abstained. (6-0-1).
104

105 **Application ZBA #23-03** of Christopher Quimby, Owner, for a variance to §3.9 of
106 the Simsbury Zoning Regulations to reduce the side yard setback from 40’ to ± 29’
107 for the construction of a garage addition at the property located at 58 Terry’s Plain
108 Road (Assessor’s Map I09-106-046A3), in Zone R-40.
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- Commissioner Hogan stated that there did not appear to be a strong hardship for the variance requested.

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113 **MOTION:** Commissioner Hogan made a motion to approve **Application ZBA #23-**
114 **03** of Christopher Quimby, Owner, for a variance to §3.9 of the Simsbury Zoning
115 Regulations to reduce the side yard setback from 40’ to ± 29’ for the construction of a
116 garage addition at the property located at 58 Terry’s Plain Road (Assessor’s Map I09-
117 106-046A3), in Zone R-40. The hardships being the topography, the sloped property
118 limits buildable areas, shape of lot, the angle of the northern property line restricts the
119 side yard of the side of the home, and the location pf the septic tank limits buildable
120 areas. The motion was denied unanimously. (0-7-0).
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122 **IV. GENERAL COMMISSION BUSINESS**

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124 Chair Antonio introduced Brittany MacGilpin as the new Assistant Town Planner.

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126 Chair Antonio announced that Ms. Barkowski accepted a Town Planner position in
127 another town.

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129 **V. APPROVAL OF MINUTES – April 26, 2023**

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131 **MOTION:** Chair Antonio made a motion to accept the Minutes of the April 26,
132 2023, Regular Meeting as written. The motion carried unanimously. (7-0-0).
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134 **VI. ADJOURNMENT**

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MOTION: Chair Antonio made a motion to adjourn the meeting. The motion carried unanimously. (7-0-0).

The meeting adjourned at 8:11 P.M.

Respectfully Submitted,

Amanda Blaze
Commission Clerk

DRAFT