

CITY OF METHUEN
COMMUNITY DEVELOPMENT BOARD

NOTICE OF DECISION- SPECIAL PERMIT APPROVAL

Section XI-D (12) Drive-up Retail, Business or Service Establishment, Drive-up or Drive-through Restaurant, and Stand-Alone Kiosk, Drive-through or Walk-up

90 Pleasant Valley Street

Case No. 2022-3
Date of Application: 04-06-22
Date of Hearing: 05-11-2022
Date of Decision: 05-18-2022

Petition of: Raising Cane's Chicken Fingers
6800 Bishop Road
Plano, TX 75024

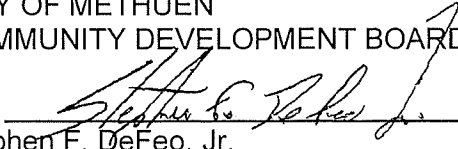
Premises Affected: 90 Pleasant Valley Street, Methuen
Assessor's Map 910-79-1
Business Highway (BH) Zoning District

Referring to the above petition for a Special Permit from the requirements of Section XI-D (12) of the City of Methuen Comprehensive Zoning Ordinance to allow the construction of a drive-up window at the proposed 3,181 SF +/- restaurant to be constructed in the BH (Business Highway) Zone.

At a public hearing held on May 11, 2022 the Community Development Board voted UNANIMOUSLY (5-0) to **APPROVE WITH CONDITIONS** the special permit for the drive-up window for the Restaurant to be located at 90 Pleasant Valley Street.

This is to certify that the above action was taken in compliance with the statutory requirements as set forth in Chapter 40A of the General Laws, and that a copy of this decision was filed with the City Clerk on **May 18, 2022**.

CITY OF METHUEN
COMMUNITY DEVELOPMENT BOARD

By: 
Stephen F. DeFeo, Jr.
Chairman, Community Development Board

Any appeal of this decision shall be made pursuant to the requirements of Massachusetts General Laws and shall be filed within twenty (20) days after the date the notice of decision was filed with the Methuen City Clerk.

I hereby certify that no appeal has been filed in the Methuen City Clerk's Office, within the twenty (20) day appeal period.

Anne J. Drouin, Methuen City Clerk

FINDINGS OF FACT:

Raising Cane's filed an application for a Special Permit on April 6, 2022. The applicant submitted a complete application, which was noticed and reviewed in accordance with Section XI Special Permits of the City of Methuen Comprehensive Zoning Ordinance and MGL Chapter 40A, Section 9.

The site, which contains approximately 46+/- acres of land, contains an existing shopping center ("The Loop"), paved parking areas, on-site utilities, landscaping, and shrub/wooded areas. The proposed project concerns approximately 0.72 acres of land in the Raising Cane's development area ("The Site").

The proposed project involves the construction of a new 3,181 SF Raising Cane's Restaurant with Drive-Thru along with newly paved parking areas, landscaping, a stormwater management system, utilities, and other associated site improvements. The Applicant has requested a special permit to allow the drive through to operate after midnight as per the following schedule: Sun-Thurs 9 AM-1 AM, Fri and Sat 9 AM-2 AM.

The Zoning Board of Appeals issued a special permit for a restaurant on April 26, 2022.

The project is shown on a plan entitled: Proposed Site Plan Documents for Raising Cane's Chicken Fingers, proposed restaurant with drive-thru; located at 90 Pleasant Valley Street, Methuen, MA; prepared by Bohler; dated 04/05/2022.

The public hearing on the above referenced application was opened and closed on May 11, 2022. The Board reviewed correspondence from the Police Department stating that they had no issues with the request to operate after mid-night as the proposed schedule matches other drive-through restaurants nearby. The Board reviewed the applicant's traffic memo. The Board also reviewed correspondence from the City's Engineering Department and the Board's peer review agent TEC. Upon a motion by Mr. Boes and seconded by Ms. Plunkett, the Board voted unanimously (5-0) to close public hearing. Upon a motion by Ms. Beshara, seconded by Ms. Plunkett, the Board voted unanimously (5-0) to GRANT the Special Permit with Conditions.

The following Board members participated in the hearing and voted on the decision: Michael Comei, Gisette Beshara, Brian Boes, Ronald Hatem, and Heather Plunkett.

This approval is granted subject to the accuracy of the information, reports and data presented. In the instance where the Board is of the belief that this material was inaccurate as presented or has subsequently become unreliable the Board may conduct a determination hearing to consider requiring further review or mandating current and reliable data and information for subsequent approval.

As required by the City of Methuen Comprehensive Zoning Ordinance Effective July 28, 2008 **Section XI-B**, based upon the applicant's testimony, plans submitted and information provided, the Community Development Board makes the following findings:

- A. The proposal serves social, economic and community needs. The proposed restaurant drive-through will provide another dining option for residents of the City; will provide employment opportunities and will provide another taxable use on an a previously developed parcel.

- B. The proposed use will result in no impact on traffic flow. The proposed restaurant with drive-through will be accessed from the internal shopping center roads. The shopping center is accessed by two signalized intersections on Pleasant Valley Street. There is adequate parking on the site.
- C. The proposed use will utilize no public services.
- D. The neighborhood character and social structure will not be impacted by the proposal. The proposed restaurant and drive-through are located within an existing shopping center and is consistent with adjacent uses.
- E. The proposed use has no impact on the natural environment. The site currently consists of a paved parking lot. There will be no additional impacts on the environment.
- F. The proposed use will have no impact on City services.
- G. The proposal is consistent with the most recent City of Methuen Master Plan

In accordance with **Section XI-D (12)**, based upon the applicant's testimony, plans submitted, and information provided, the Community Development Board makes the following findings:

- 1) The drive-up retail, business or service establishment shall not constitute a nuisance of any type.
- 2) Access to such drive-up service shall conform to Section VI-B-5 Yard Requirements, for all Districts.
- 3) The drive-up retail, business or service establishment shall not operate after Midnight without an additional special permit from the Community Development Board. **The Community Development Board has issued a special permit to allow the drive-through to operate after midnight in conjunction with this special permit for a drive-through.**
- 4) The drive-up retail, business or service establishment complies with the Methuen Municipal Code Article VI Section 9-61. Regulation of Loudspeakers, Amplifiers, and Paging Systems.

SPECIAL CONDITIONS:

The Community Development Board finds that this project generally complies with the City of Methuen Zoning Ordinance requirements as listed in Section XI-D (12) but requires conditions in order to be fully in compliance. The Community Development Board hereby grants an approval to the applicant provided the following conditions are met:

- 1) **Prior to the endorsement of the plans** by the Community Development Board, the Project Owner must comply with the following:
 - a) The final plans must be reviewed and approved for accuracy and conformance with the terms of this Approval by the City's Engineering Department, the City's Peer Review consultant (as may be required by the Board), and the Community Development Department. The final plans must be revised in accordance with comments received by the City of Methuen staff members and peer review agents.
- 2) **Prior to the start of any site work:**

- a) The Community Development Board must endorse the final site plan mylars and three (3) copies of the signed, recorded plans must be delivered to the Community Development Office.
- b) One certified copy of the recorded decision must be submitted to the Community Development Office.
- c) A bond in the amount of **five thousand (\$5,000) dollars** shall be posted for the purpose of insuring that the site is constructed in accordance with the approved plan and that a final as-built plan is provided showing the location of all on-site structures.
- d) Prior to any construction activity of any kind associated with the project, the Project Owner shall submit to the Community Development Department a proposed phased construction sequence schedule (timetable/bar chart), said schedule to be used as a guide to activities within the development including construction of roadways, utilities, drainage system, stabilization, earth removal and stockpiling. This schedule once established shall not be deviated from and may only be modified by agreement between the Project Owner and the Community Development Department.
- e) A pre-construction meeting must be held with the developer, their construction employees, Community Development Department, and other applicable departments to discuss scheduling of inspections to be conducted on the project and the construction schedule.
- f) The Project Owner will provide supervisory contact personnel along with emergency telephone numbers that are answered on a 24-hour basis (answering machines or voice mail are not acceptable).

3) During Construction:

- a) Construction activities on the site shall conform to the City of Methuen's Ordinances relating to such work.
- b) Construction activities shall be conducted in a workmanlike manner at all times. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down, or other proper storage and disposal methods.
- c) It shall be the responsibility of the Applicant to assure that no erosion from the construction site shall occur which will cause deposition of soil or sediment upon adjacent properties or public ways, except as normally ancillary to off-site construction. Off-site erosion will be a basis for the Community Development Board making a finding that the project is not in compliance with the plan; provided however, that the Community Development Board shall give the Applicant written notice of any such finding and ten days to cure said condition.

4) Prior to the Issuance of the Certificate of Occupancy:

- a) The Project Owner must submit a letter from the engineer of the project stating that the building, landscaping, lighting, and site layout substantially comply with

the plans referenced in this decision as endorsed by the Community Development Board.

- b) A final as-built plan showing final topography, the location of all on-site utilities, structures, curb cuts, parking spaces and drainage facilities, including invert elevation of all storm water structures shall be submitted to the Community Development Department and the Engineering Department for review and approval.
 - c) If all site related issues, including landscaping, have not been completed at the time the building itself is ready for occupancy, the Community Development Board may authorize the Project Owner to post a security sufficient in the opinion of the Community Development Board, to cover the cost of the City of completing the remaining site items.
- 5) **Prior to the final release of all funds:** The Community Development Board must, by majority vote, make finding that the site is in conformance with the approved plan and decision.
- 6) **Other Conditions:**
- a) The dumpster must be emptied at non-peak hours to avoid conflicts with cars that may be parked in the nearby parking spaces.
 - b) The Applicant shall make every effort to maintain queueing vehicles in the site, within the parking area, rather than allowing vehicles to queue on the primary circulation aisles of the shopping center.
 - c) The Applicant must comply with the Methuen Municipal Code Article VI Section 9-61. Regulation of Loudspeakers, Amplifiers, and Paging Systems.
 - d) To reduce noise levels the Project Owner shall keep in optimum working order, through regular maintenance, any and all equipment that shall emanate sounds from the structures or site.
 - e) Any plants, trees, or shrubs that have been incorporated into the Landscaping Plan approved in this decision that die within two years from the date of planting shall be replaced by the owner. All plantings and screening depicted on the approved plans shall remain in perpetuity over the life of the project.
 - f) Within five (5) days of the transfer of ownership of this site in whole or in part, the Project Owner shall notify the Community Development Department of the name and address of the new owner(s). The Project Owner shall provide the new owner(s) with a copy of these conditions.
- 7) The Community Development Board hereby reserves the right to serve notice on applicant of a cease and desist work order should a violation of the endorsement, the approval, the conditions or the restrictions be found to exist. Such cease and desist work order, when served in writing, directing itself to the violation occurring, shall act to prohibit any and all work on the areas as mentioned in such order.

- 8) This Special Permit shall be deemed to have lapsed two years after the date of the grant of this approval if a substantial use thereof has not sooner commenced, except for good cause. Such approval may, for good cause, be extended in writing by the Community Development Board upon the written request of the applicant.
- 9) The following documents and plans shall be deemed part of the decision:
 - a) Proposed Site Plan Documents for Raising Cane's Chicken Fingers, proposed restaurant with drive-thru; located at 90 Pleasant Valley Street, Methuen, MA; prepared by Bohler; dated 04/05/2022, containing sheets C-101, C-102, C-201, C-301, C-302, C-303, C-401, C-501, C-601, C-602, C-701, C-702, C-901, C902
 - b) Boundary, Topographic & Utility Survey, Raising Cane's Restaurant, LLC; prepared by Control Point Associates, Inc.; dated 12-28-2021
 - c) Drainage Report for Proposed Raising Cane's Chicken Fingers Restaurant; prepared by Bohler engineering, dated April 5, 2022.
 - d) Traffic Memo, dated April 15, 2022, prepared by Bohler.
 - e) Raising Cane's Exterior Elevations, C907-Pleasant Valley St & Milk St-Methuen, MA; December 14, 2021