

**CITY OF METHUEN
COMMUNITY DEVELOPMENT BOARD**

NOTICE OF DECISION- SPECIAL PERMIT APPROVAL

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

Operate after Midnight

90 Pleasant Valley Street

Case No. 2022-4
Date of Application: 04-06-2022
Date of Hearing: 05-11-2022
Date of Decision: 05-08-2022

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

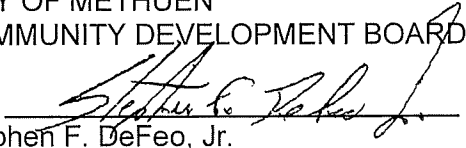
Premises Affected: 90 Pleasant Valley Street, Methuen
Assessor's Map 910-79-1
Business Highway (BH) Zoning District

Referring to the above petition for a Special Permit from the requirements of Section XI-D (12) (d)(iii) of the City of Methuen Comprehensive Zoning Ordinance to allow the operation of a drive-up window at the proposed Raising Cane's Chicken Restaurant after midnight 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 to operate after midnight.

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 Mr. Boes, 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 drive-through will operate similar hours as the surrounding drive-through restaurants.
- B. The proposed use will result in no impact on traffic flow.
- C. The proposed use will utilize no public services.

- D. The neighborhood character and social structure will not be impacted by the proposal. The drive-through restaurant is located within an existing shopping plaza.
- E. The proposed use has no impact on the natural 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.

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-B 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) **The drive-through will operate as follows:**
 - **Open at 9 AM daily**
 - **Close at 1 AM Sunday through Thursday**
 - **Close at 2 AM Friday and Saturday**
- 2) One certified copy of the recorded decision must be submitted to the Community Development Office.
- 3) The Applicant must comply with the Methuen Municipal Code Article VI Section 9-61. Regulation of Loudspeakers, Amplifiers, and Paging Systems.
- 4) 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.
- 5) 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.
- 6) 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.
- 7) 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.
- 8) 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