### FletcherTilton PC Attorneys at law

February 12, 2021

Susan Brown, Board Secretary Zoning Board of Appeals 140 Main Street Marlborough, MA 01752

RE: Petition for Variance Raising Cane's Restaurant, LLC 141 Boston Post Road West, Marlborough, Massachusetts

Dear Ms. Brown:

Enclosed for your review and approval please find the following:

- 1. Application for Variance
- 2. Check in the amount of Three Hundred Seventy Five (\$375.00) Dollars payable to the City of Marlborough;
- 3. Abutters List as certified by the Marlborough Assessors;
- 4. 8.5 X 11 Plan showing setbacks of all proposed buildings, lot lines, length of lot lines and use of property where the Variance is requested;
- 5. Memorandum of Applicant in Support of the Request for Variance; and
- 6. Denial Letter.

Please review and let me know that the package is complete and what procedures best are performed in these unique circumstances for having the Application package stamped by the City Clerk and then returned to your office with the eight (8) complete packages.

I look forward to hearing from you and for your time and cooperation.

Very truly yours, Mark L. Donahue

Fletcher Tilton PC The Guaranty Building 370 Main Street, 11<sup>th</sup> Floor Worcester, MA 01608 Tel: 508.459.8029 Email: <u>mdonahue@fletchertilton.com</u> MLD/mmp Enclosures

#### FletcherTilton.com

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#### CITY OF MARLBOROUGH ZONING BOARD OF APPEALS Application for Variance or Appeal Hearing

Official Use : Date Received :	City Clerk's #	ZBA Case #
Request for :		
<b>Information :</b> Property Address <u>141 Bostor</u>	Post Road West, Route	20 Zoning District <u>B</u> Map# <u>78</u> Parcel# <u>78-15</u> A
Applicant is: 🗌 Owner 🛛	Tenant	Purchaser Other
I am the owner of the property	and I have knowledge of, a	and consent to, this application.
Owner's signature		Date
		Address _ 50 Cabot Street, Suite 200, Needham
		E-mail
Applicant nameRaising Ca	ne's Restaurants, LLC	Address <u>6800 Bishop Road, Plano</u> E-mail <u>acaracci@raisingcanes.com</u>
Representative Name: Man	k Donahue	Company Fletcher Tilton, PC
Address 370 Main Street, 1		
		E-mail <u>mdonahue@fletchertilton.com</u>
property. The applicant seeks appro	val of its plans for the ins lual lane drive through se	ne proposed action, relief, or construction on the stallation of a new restaurant location at 141 ervice. Please see the Memorandum filed herewith
Subsection(s)) which are perti-	nent to the Variance (see d nimum of five feet (5'-0")	pter 650, Article(s), Section(s), Paragraph(s), enial letter). ) for side line planting area, where a zero (or minimal)

650-48 A: Requiring a minimum of one parking space for every three seats, plus one space for every employee, resulting in a requirement of thirty five (35) off street parking spaces, where twenty eight (28) off street parking spaces are proposed. Page 1 of 4

ZBA Case #

#### Variance

1. What is the soil condition, shape or topography of YOUR lot or structure which **DISTINCTLY** affects your lot, as distinguished from other lots in the zoning district which it is located. Please see the Memorandum filed herewith.

2. What is the HARDSHIP that is CAUSED by the soil condition, shape or topography of your lot or structure stated above. PERSONAL INCONVIENCE is NOT a hardship. A hardship imposes a substantial financial penalty or directly affects your use of the land or structure as it is zoned. Please see the Memorandum filed herewith.

3. State how the variance you are requesting, if granted, will not nullify or detract from the intent or purpose of the Zoning Ordinance.

Please see the Memorandum filed herewith.

4. State how the variance you are requesting, if granted, will not diminish the public welfare or well-being. Please see the Memorandum filed herewith.

#### Appeal

State the specifics of the Appeal (use additional sheet if necessary). <u>Please see the Memorandum filed herewith.</u>

ZBA Case #

#### **Application Packet:**

The applicant shall submit ten (8) copies of the application packet which shall contain sufficient information to illustrate and defend the applicant's case and as a minimum shall consist of the following:

Completed Zoning Board of Appeals Application Form
Abutters List certified by the Assessor's Office
Copy of denial letter from City Official
Certified Plot Plan prepared and stamped by a Massachusetts Registered Professional Land Surveyor. A mortgage plan is <b>NOT</b> a certified plot plan. The certified plot plan shall include:
Plan Size 8 1/2" x 11" or 11" x 17"
Plans drawn to accurate scale with north arrow
Owner names and street addresses of directly abutting lots
Name of streets and zoning districts.
Bearing and distances of subject property
Dimensions and property line setbacks of all structures on subject property
Location of driveways, parking areas and other impervious surfaces on subject property
Location of walls, curbing, major landscaping, fences on subject property
Location of easements, wetlands and floodplains on subject property, if applicable
Dimensions and property line setbacks of all proposed work
Lot Coverage (area covered by all impervious surfaces) existing and proposed
Location and property line setbacks of structures, fences, driveways etc. on abutting lots that are within fifteen (15) feet of subject property lines
Site plans of subject property showing topography and drainage structures, if regrading of the site or rerouting of runoff is proposed or if property is in Floodplain and Wetland Protection District.
Architectural plans of new or modified building structure, if applicable.

Filing Fee: Filing fees are based upon the proposed USE of the property:

Residential Nonrevenue bearing	\$130.00
Residential Revenue bearing	\$250.00
Business, Commercial or Automotive	. \$375.00
Industrial, Limited or Full	\$500.00
Special Permit (Flood Plain and Wetland Protection District	\$450,00

**Hearing Request:** I hereby request a hearing before the Zoning Board of Appeals regarding this application packet and I am aware that two (2) legal ads will be placed in the MetroWest Daily News or the Marlborough Enterprise Weekly newspaper which will be billed directly to me or my representative. I am further aware that I am responsible for sending copies of the Notice of Hearing to all the abutters on the certified list at least fourteen (14) days prior to the hearing date and that I will submit the receipts confirming this mailing to the zoning office seven (7) days prior to the hearing. Finally, I am aware that I am required to record the board's certified decision and the certified plot plan with the Registry of Deeds in order for it to take effect.

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ZBA Case #\_\_\_\_

	1	
Applicant's si	gnature:	
Print name: _		
and/or		
Representativ	e's signature;	_
Print Name:	Mark Donahue	

Date: 2/11/2021Date: 2/12/2021

Official Use Only: Received from applicant, the sum of \$\_\_\_\_\_ Check #

Signature of the agent of the Zoning Board of Appeals:

Date:

Susan Brown - Board Secretary Department - Zoning Board of Appeals 140 Main Street Marlborough, MA 01752 Tel# 508-460-3768 E-mail: sbrown@marlborough-ma.gov

The date and signature of the agent of the Zoning Board of Appeals will serve as certification as to when the COMPLETE application packet accompanied by the proper filing fee was filed with this office.

FLETCH Vendor ID	ER TILTO : 0325	N PC Payee: City of Marlborough	Check Amt:	\$375.00	Check #: Check Date:	157916 Feb 11, 2021
<u>Disb Date</u> Feb 11, 2021	<u>Disb ID</u> 342561	Disbursement Description Filing Fees		<u>Client</u> 051707	<u>Matter</u> 00001	<u>Amount</u> \$375.00
					Disbursements Total:	\$375.00

	CHER TILTON PC	TD BANK WORCESTER, MA 53-7054-2113	CHECK	NO.: 157916
WORC	AIN STREET CESTER, MASSACHUSETTS 01608 D: 04-2628601		Date: _	February 11, 2021
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Parcel Number	GIS Number	Cama Number	Property Address	Owner Name	Co-Owner Name	Owner Address	Owner Address	Owner City	Owner State	Owner Zip
78-1	M_192633_899 100	78-1	261 BOSTON POST RD WEST	ROYAL PLAZA MARLBOROUG H LLC		181 BOSTON POST RD WEST	~ ~	MARLBOROUG H	MA	01752
78-11C	M_192871_898 886	78-11C	123 BOSTON POST RD WEST	RB HOTEL MARLBOROUG H LLC		4100 REGENT ST SUITE G		COLUMBUS	он	43219
78-12	M_192617_898 673	78-12	105 APEX DR	WALKER REALTY LLC		C/O RYAN DEVELOPMENT LLC	4 LAN DR	WESTFORD	MA	01886 <b>S V</b>
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78-12	M_192617_898 673	78-12	160 APEX DR	WALKER REALTY LLC	C/O RYAN DEVELOPMENT LLC	4 LAN DR	WESTFORD	MA	01886
78-12	M_192617_898 673	78-12	21 APEX DR	WALKER REALTY LLC	C/O RYAN DEVELOPMENT LLC	4 LAN DR	WESTFORD	MA	01886

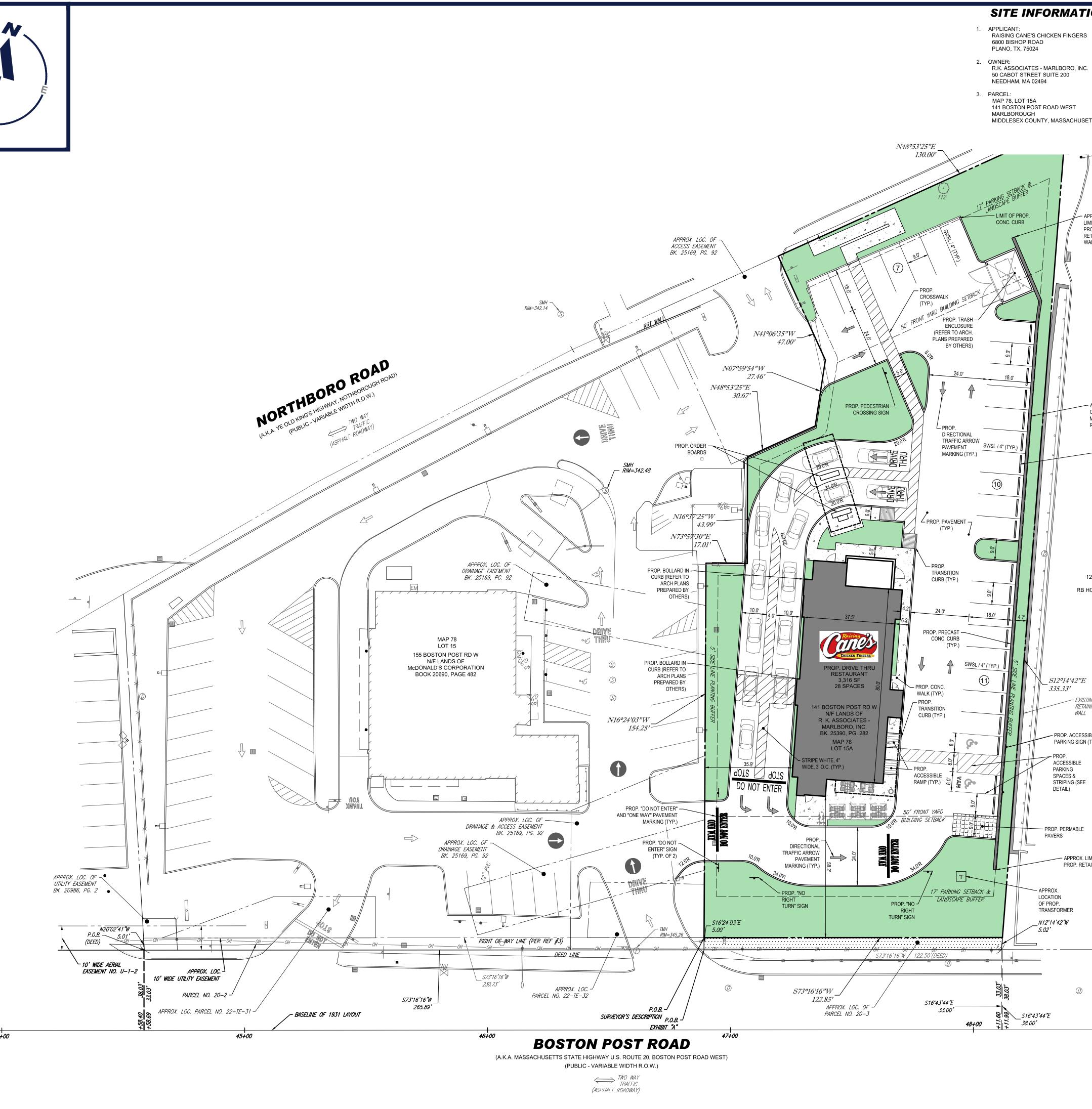
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78-12	M_192617_898 673	78-12	BOSTON POST RD WEST	WALKER REALTY LLC	C/O RYAN DEVELOPMENT LLC	4 LAN DR	WESTFORD	MA	01886
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78-15	M_192713_898 801	78-15	155 BOSTON POST RD WEST	MCDONALDS CORPORATIO N	P O BOX 902		SPENCER	MA	01562
78-16	M_192641_898 760	78-16	187-189 BOSTON POST RD WEST	R K ASSOCIATES- MARLBORO INC	50 CABOT ST STE 200	ATTN RK CENTERS	NEEDHAM	MA	02494

78-1A	M_192648_898 901	78-1A	191-199 BOSTON POST RD WEST	R K ASSOCIATES- MARLBORO INC	50 CABOT STREET STE 200	ATTN RK CENTERS	NEEDHAM	MA	02494
78-1A	M_192648_898 901	78-1A	201 BOSTON POST RD WEST	R K ASSOCIATES- MARLBORO INC	50 CABOT STREET STE 200	ATTN RK CENTERS	NEEDHAM	MA	02494
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44+00

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ΊΟΝ	<b>ZO</b> ZONING DISTRICT	BUSINESS (B) DISTRICT	ABLE	N/A - NOT APPLICABLE N/S - NOT SPECIFIED (V) - VARIANCE REQUESTED	
5	OVERLAY DISTRICT	WATER SUPPLY PROTECTION OVER - DRIVE-THRU RESTAURANT: SPECI		(W) - WAIVER REQUESTED (W) - WAIVER REQUESTED (E) - EXIST. NON-CONFORMANCE	
	REQUIRED PERMIT	- DEVELOPMENT IN WATER SUPPLY SPECIAL PERMIT FROM CITY COU	PROTECTION OVERLAY DISTRICT:		
2.	ZONE CRITERIA MIN. LOT AREA	5,000 SF	EXISTING 36,338± SF	PROPOSED NO CHANGE	FINGERS
	MIN. LOT FRONTAGE	50 FT	123 FT	NO CHANGE	
	MAX. BLDG COVERAGE MIN. FRONT SETBACK	N/S 50 FT	19.4% ± 62.0± FT	9.1% ± 58.2± FT	
ETTS	MIN. SIDE SETBACK	0 FT 0 FT	24.7± FT N/A	35.9± FT N/A	
	MAX. BUILDING HEIGHT	52 FT	< 52 FT	< 52 FT	CHICKEN Raisi
	MAX. IMPER. COVERAGE PARKING SPACES	70% [1] 35	71.9% ± 36	70.0% 28 (V)	
(TYP)	ACCESS. PARKING SPACES PARKING STALL CRITERIA	2 USE/CATEGORY: RESTAURAN	3 ITS	2	
//		REQUIRED PARKING: 1 SPACE CALCULATION: (72 INDOOR + 20	E PER THREE SEATS, PLUS 1 SP		
	ACCESSIBLE PARKING CRITERIA, STANDARD:	26-50 SPACES = 2 MIN. ACCESS			
PPROX.	8 FT x 18 FT STALL (MIN.) 5 FT x 18 FT AISLE (MIN.) VAN:	1 ACCESSIBLE VAN SPACE PER 6 S ACCESSIBLE SPACES (MIN.)	STANDARD		
imit of 'Rop.	8 FT x 18 FT STALL (MIN.) 8 FT x 18 FT AISLE (MIN.)				Restaurant Support Office
RETAINING VALL					6800 Bishop Road, Plano, TX 75024 Tele: 972-769-3100 Fax: 972-769-3101
	[1] 70% FOR LOTS LOCATED IN 1	THE WATER SUPPLY PROTECTION O	VERLAY DISTRICT, OTHERWISE 80%		
					PROTOTYPE ISSUE DATE:
					STORE:
					RAISING CANE'S RESTAURANT
					141 BOSTON POST ROAD
					MARLBOROUGH, MA
					Prototype 4E/V RESTAURANT #XXX
					NEUTAURANT #AAA
					DESIGNERS INFORMATION:
- Approx. Loc					DESIGNERS INFORMATION:
OF PROP. 4'± I MODULAR BLO	ОСК				<b>BOHLER</b> //
RETAINING WA	nLL				
					352 TURNPIKE ROAD
(TYP. OF 21	1)				SOUTHBOROUGH, MA 01772 Phone: (508) 480-9900
					www.BohlerEngineering.com
					PROTOTYPE UPDATE PHASE:
					UPDATE ISSUE DATE:
					PROJECT MANAGER: EGD
MAF LOT					
123 BOSTON N/F LAN HOTEL MARL BK. 70658	IDS OF BOROUGH, LLC				PERMIT ISSUE
אט. / 1058	, , U. <del>4</del> /U				PROFESSIONAL OF RECORD:
					J.A. KUCICH
					PROFESSIONAL ENGINEER
TING					MASSACHUSETTS LICENSE No. 41530 NEW HAMPSHIRE LICENSE No. 15476 CONNECTICUT LICENSE No. 26177
INING					RHODE ISLAND LICENSE No. 9616 MAINE LICENSE No. 12553
SIBLE					
(TYP. OF 2)					SHEET REVISIONS: (Sheet Specific per Designer
		SYSL/4"		INE / 4 IN. WIDE	DATE: DESCRIPTION:
		SWSL/4 SYSL/6"	<ul> <li>SINGLE WHITE SOLID LIN</li> <li>SINGLE YELLOW SOLID L</li> </ul>	E / 4 IN. WIDE INE / 6 IN. WIDE	
		DYSL/4"	- DOUBLE YELLOW SOLID	LINE / 4 IN. WIDE	
		GENERAL C	ONTRACTOR	TO PROVIDE A	
			CIFIC WALL D		
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		P	ROPERTY OWI	VER	SHEET TITLE:
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		THIS PLAN	TO BE UTILIZ	ED FOR SITE	
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		LAYOUT P	URPOSES ONL GENERAL NOT	Y. REFER TO	<b>PLAN</b> DATE: 12/15/2020

1"= 20

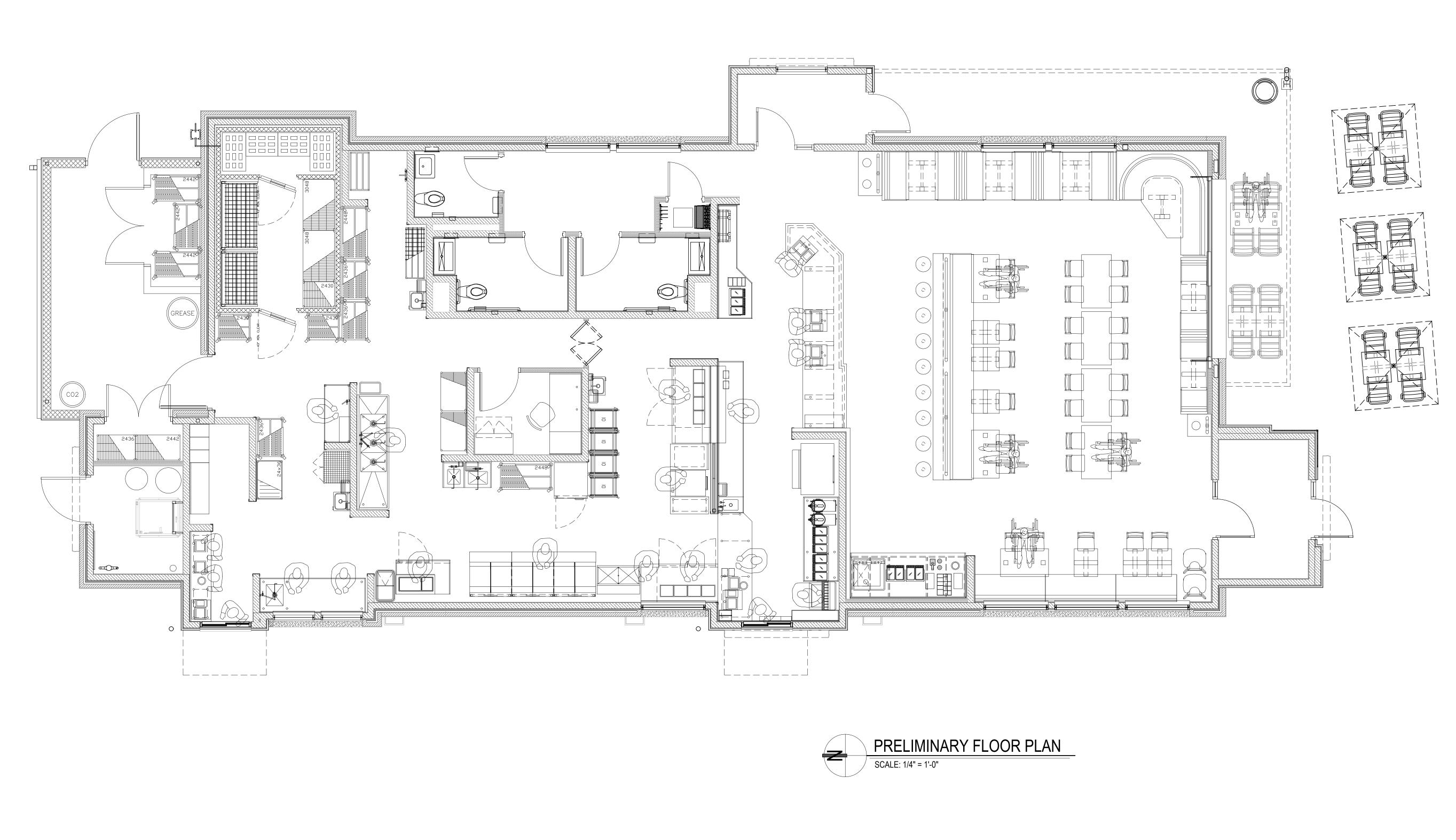
SHEET FOR ADDITIONAL NOTES

SHEET NUMBER: **C-301** 

PROJECT NUMBER:

DRAWN BY:

W201208









FRONT ENTRY ELEVATION SCALE: 1"=12'-0"



## SIDE ENTRY ELEVATION SCALE: 1"=12'-0"

EM-3

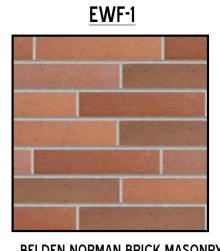


HOT ROLLED STEEL W/ CARBON GRADE FINISH - W/ CLEAR, MATTE POWDER COAT FINISH

EM-4



RECLAIMED METAL PANEL: VINTAGE CAR HOOD OCCURS AT FACE OF THE "1" ELEMENT ONLY



BELDEN NORMAN BRICK MASONRY MEDIUM RANGE, SMOOTH, IRON SPOT. MORTAR TO MATCH SOLOMON PRODUCTS IO H, WEATHERED HORIZONTAL STRIKE. VERTICAL JOINTS ARE FLUSH



### DRIVE THRU ELEVATION SCALE: 1"=12'-0"



### **REAR ELEVATION** SCALE: 1"=12'-0"

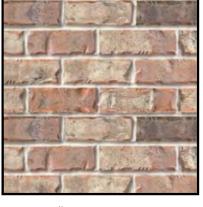
# **MATERIAL FINISHES**





"SW 7669 SUMMIT GRAY" DRYVIT

EWF-4



BORAL: "ALAMO" MODULAR BRICK, MORTER TO MATCH SOLOMON PRODUCTS IO H, LIGHT BUFF SACK RUB FINISH.

EWF-5







EWF-6



"456 OYSTER SHELL" DRYVIT

EWS-2



ALUMINUM STOREFRONT SYSTEM FINISH: ANODIZED BLACK

Staurant Support Office 6800 Bishop Road, Plano, TX 75024 Tele: 972-769-3100 Fax: 972-769-3101
ABCHIECTS, INC.       17710 Detroit Avenue       17710 Detroit Avenue
This document ("Instrument of Service") was prepared by ADA Architects, Inc. ("ADA") specifically for the referenced project and is not intended for any other use. ADA retains all common law, statutory and other reserved rights, including copyrights. This Instrument of Service shall not be used on other projects, for additions to this project or for completion of this project by others without ADA's prior written consent. Any unauthorized use of this Instrument of Service shall be at the User's sole risk and without liability to ADA. ADA makes no warranties, express or implied, of merchantability or of fitness for a particular purpose. STORE:
RESTAURANT MARLBOROUGH, MA
SHEET REVISIONS         #       DATE       TYPE         1
EXTERIOR ELEVATIONS DATE: 12/01/2020 JOB NO. 20241 EL-1 SHEET NO.

#### TOWN OF MARLBOROUGH ZONING BOARD OF APPEALS

#### RE: Raising Cane's Restaurants, LLC Petition for Variance 141 Boston Post Road West (Route 20), Marlborough, Massachusetts

#### **MEMORANDUM IN SUPPORT OF APPLICATION FOR VARIANCE**

#### I. INTRODUCTION

The applicant, Raising Cane's Restaurants, LLC (Raising Cane's) seeks approval of its plans for the installation of a new restaurant location at 141 Boston Post Road with a dual lane drive through service (the "Project"). The Project requires relief from the City of Marlborough Zoning Code (the "Code") in the form of a variance from the following two (2) provisions:

**650-47-F(2)**: Requiring a minimum of five feet (5'-0") for side line planting area, where a zero (or minimal) sideline planting area is proposed; and

**650-48** A: Requiring a minimum of one parking space for every three seats, plus one space for every employee, resulting in a requirement of thirty five (35) off street parking spaces, where twenty eight (28) off street parking spaces are proposed.

#### II. DESCRIPTION OF PROPOSAL

Raising Cane's was founded in 1996 by Todd Graves in Baton Rouge, LA. Still family owned and operated, it today operates 545 Restaurants in 25 states and the Middle East. The Restaurant's concept is focused on its One Love, the chicken finger meal. That's all Raising Cane's serves ... boxes of chicken fingers, served with crinkle cut fries, coleslaw, Texas toast, and homemade Cane's sauce.

Raising Cane's will be unique to Massachusetts in that it is one of the first national concepts with a single item on its menu to enter the market. Raising Cane's gives back to the local communities we serve in five core areas – education, feeding the hungry, pet welfare, promoting active lifestyles, and developing entrepreneurship.

As part of the Project, Raising Cane's plans to construct dual drive through lanes that will be accessed through the onsite parking area, which can be entered from either Boston Post Road or Northboro Road, per the plans submitted herewith.

The violation with respect to sideline planting area arises from an area along the westerly property line where, due to the unusual shape of the lot and the configuration of the existing structure on the lot, there is an encroachment upon the necessary five-foot side line planting area. As reflected on the plans filed herewith, this results in a short area along the property line with no side line planting area at the narrowest point.

The violation with respect to onsite parking arises from the proposal of 28 off street parking spaces, where 35 off street parking spaces are required.

#### III. APPROPRIATENESS OF USE

In support of the grant of a variance, the applicant states the following:

1. Circumstances relating to the soil conditions, shape or topography of the land or structures and especially affecting such land or structures but not generally the zoning district in which it is located are as follows:

The irregular shape of the lot combined with the configuration of the existing structure on the lot is such that the proposed drive through lanes cannot be reconfigured or relocated to be outside the required 5'-0" side line planting area on the west side of the property. There is a ninety-degree indentation on the westerly side of the lot. The proposed building needs to be angled on the lot to provide for appropriate circulation for vehicles in a way that creates a "pinch point" at this indentation that causes the proposed encroachment into the side planting area.

The shape of the lot and configuration of the existing building similarly impact the availability of parking without further encroachment upon the required side planting area. This site is developed in its current configuration at the present time and the addition of more parking to comply with the Code would create the need for other relief. Any proposed parking along Boston Post Road would require additional relief related to the landscape buffer and parking setback. As the Applicant discussed with the town during preliminary site plan reviews, it is ideal to provide landscaping in this area, and overall the Project as proposed with the requested relief is more appealing than what would be available with a literal enforcement of the Code.

## 2. A literal enforcement of the provisions of the Westborough Zoning Bylaw would involve substantial hardship, financial or otherwise, to the Applicant for the following reasons:

Based on Raising Cane's business model, it is expected that a high level of sales will be via the proposed drive through lanes. Pre-COVID, drive thru sales typically made up 75% of Raising Cane's business. Raising Cane's expects that once dining rooms reopen (currently they are still closed), this number will edge closer to 90% until consumers become comfortable eating inside again. Pre-Covid data on the percentage of dine-in versus drive through customers at three of Raising Cane's busiest locations in California is attached hereto as <u>Exhibit A</u>. This data supports an approximate 75% or higher volume of drive through customers.

Due to the shape of the lot and the configuration of the existing structure, the proposed dual lane drive through service could not be implemented without further Code violations, and further reduction in parking. Drive through service is a necessary feature for Raising Canes to succeed as a responsible member of the local business community, particularly where many restaurants in the surrounding area, including the McDonald's restaurant on the adjacent parcel, feature drive through service.

3. Relief may be granted without substantial detriment to the public good for the following reasons:

The dual lane drive through has become the industry standard because it reduces queueing and allows for improved circulation for vehicles and pedestrians in and around the parking areas. Tablet ordering is employed by Crewmembers in the drive thru to take orders, take payment, and move cars through at industry-leading speeds of service. Currently, from the time a customer places their order until they leave the parking lot takes 2.5 minutes. Crewmembers will be staged throughout the drive through to ensure customers pull forward and the drive through queue is moving efficiently. Food is walked out to the outer drive through lane customers.

The relief may be granted without substantial detriment to the public good because the Project incorporates significant landscaping features. Lot coverage will be reduced from the existing 71.9% to a conforming 70% lot coverage as required by the Code, and sideline planting areas will otherwise meet or exceed the requirements of the Code.

The reduction in parking similarly will not have a negative impact on the public good. The addition of a drive through service will greatly reduce the number of customers parking on site, as compared to a traditional dine-in restaurant use. Based on the projected ratio of drive through to indoor customers, the proposed 28 off street parking spaces will be more than sufficient.

4. Relief may be granted without nullifying or substantially derogating from the intent or purpose of the Marlborough Zoning Bylaw for the following reasons:

The requested relief will not derogate from the intent and purpose of the Code. As discussed above, the sideline planting encroachment is along a short, currently paved area, and the Project will in fact result in a reduction in minimum lot coverage, which is in line with the intent of the code to provide sufficient landscaping coverage. Based on the anticipated level of drive though sales, parking will be sufficient and will not derogate from the intent of the code to provide sufficient on-site parking.

#### IV CONCLUSION

For all of the foregoing reasons, Raising Cane's Restaurants LLC respectfully requests that the Board grant the following variances:

**650-47-F(2)**: Requiring a minimum of five feet (5'-0") for side line planting area, where a zero (or minimal) sideline planting area is proposed; and

**650-48** A: Requiring a minimum of one parking space for every three seats, plus one space for every employee, resulting in a requirement of thirty five (35) off street parking spaces, where twenty eight (28) off street parking spaces are proposed.

Respectfully submitted,

Mark L. Donahue, Esquire Fletcher Tilton, P.C. 370 Main Street Worcester, MA 01608 (508) 459-8029 mdonahue@fletchertilton.com



City of Marlborough

**BUILDING DEPARTMENT** 

140 Main Street Marlborough, Massachusetts 01752 Tel. (508) 460-3776 Facsimile (508) 460-3736 building\_dept@marlborough-ma.gov

### **ZONING DENIAL**

JEFFREY COOKE, C.B.O BUILDING COMMISSIONER

> PATRICK DAHLGREN ASSISTANT BUILDING COMMISSIONER

WILLIAM PAYNTON LOCAL BUILDING INSPECTOR

LAURENT LEMIEUX PLUMBING & GAS INSPECTOR

> JOHN CAIN WIRING INSPECTOR

January 8, 2021

TO <u>Applicant</u> Dustin Johnston 17710 Detroit Avenue Lakewood, OH 44107

#### Property Owner

David Katz, RK Associates Marlboro, INC. 50 Cabot Street Needham, MA 02494

Mr. Johnston:

Your application to construct a restaurant serving food out of doors with drive-thru service located at 141 Boston Post Road West, Marlborough, MA Parcel ID 78-15A, located in the Business zoning district (B) is denied as it does not comply with Chapter 650-47 F.(2) and 650-48 A. (11) of City Code of Marlborough.

You propose zero (or minimal) sideline planting area.

650-48C.(5)(b)[3] parking in side and rear yard, [3] Nonresidential uses in all districts: The minimum distance for parking setback from side and rear lot lines shall be the same as the minimum width required for the side line planting areas as prescribed in 650-47F.

<u>650-47-F(2)</u> Nonresidential and multifamily residential uses on lots with under 40,00 square feet of lot area: five feet.

You propose to provide 28 parking spaces. Your proposed project includes 72 indoor seats, 20 out of doors seats, and 12 staff will require a minimum of 35 off street parking spaces. This is a reduction of 7 parking spaces from the minimum required.

<u>650-48 A. (11)</u> off-street parking, (11) Clubs, **restaurants**, taverns and other eating places shall provide one parking space for every three seats, plus one space for every three employees.

Your use requested requires Zoning relief issued by the Zoning Board of Appeals.

You have the right to appeal this decision to the Zoning Board of Appeals as stated in the City Code section 650-58.

An appeal from this denial may be taken to the Zoning Board of Appeals by filing a Notice of Appeal with the City Clerk within 30 days of the date of this denial letter. Further information should be obtained from the Board of Appeals secretary, Susan Brown at 508-460-3768.

Please note, after obtaining zoning relief from the ZBA, you will need to return to this office to obtain clearance to proceed to acquire a special permit for a drive-thru from the Special Permit Granting Authorities (SPGA).

The code in its entirety may be found at www.ecode360.com/MA1056

Sincerely,

Jeffrey Cooke, C.B.O., Building Commissioner, Zoning Enforcement Officer CC: files, City Council

	ECEIVE	
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BY_		

#### Commonwealth of Massachusetts CITY OF MARLBOROUGH APPLICATION FOR USE OR CHANGE OF USE

The Marlborough City Code requires that a permit be obtained before any land or structure may be used in any way, and before any use may be changed.

▶ This does not apply to a change of ownership – only to a change in use.

Applications for permits shall be accompanied be **two prints of a plan of the lot**, drawn to scale, showing the actual dimensions of the lot, exact location and size of any existing or proposed buildings and streets and ways adjacent to the lot.

Address of property for which use	e or change of use is	applied for:	
141 Boston Post Rd W Rt 20		78-15A	B - Business
No. / Street		Parcel ID#	Zoning District
		Assessors Init:	
Description of Use Proposed (as y Please attach a brief narrative, if r	written in Section 65 necessary.	0-17 Table of Uses).	
Restaurant serving food outdo	ors with a drive-thr	4_(31)	
If Residential, state # of units prop	posed <u>N/A</u>	L	
If Business, state exact type <u>R</u>	estaurant serving fo	od outdoors with a drive-tl	<u>1ru</u>
Present Use of Property, including	g any existing struct	ures	
Loyal Companion, commercia	l pet store retailer		
Applicant's Name <u>Dustin John</u>	<u>iston</u> Bld	g Owner's Name <u>David K</u> a	atz, RK Associates Marlboro Inc.
Applicant's Address	C	wner's Address	
17710 Detroit Ave		50 Cabot St. Suite 200	
Lakewood, OH 44107	Nino and Anna and Ann	Needham, MA 02494	New York and and a set of the second s
Applicant's Phone (216) 521-5	134	Owners Phone (781) 32	20-0001
I, as Owner/Authorized Agent here	eby declare that the	statements and information	on the foregoing application are
true and accurate, to the best of my	y knowledge and bel	lief.	
And an John			
Applicant s Signature	(	Owner's Signature	
I certify that the owner of record be circumstances per MGL Chapter 4	elow is not delinque 0 Section 57.	nt in payments to the City	of Marlborough under any
Tax Collector		Date	<b>OVER</b>
FOR ADMINISTR	ATION USE ONL'	Y – DO NOT WRITE BE	CLOW THIS LINE
	ING CODE <u>Re</u> SAON FOR DENIA	L & SIDE SET	FROM # OF PARKELING SPACE
Al Ille		8 JM 2020	Till
	nan an		

