

**Village of Royal Palm Beach  
Village Council  
Agenda Item Summary**

**Agenda Item:**

**PUBLIC HEARING TO CONSIDER VARIANCE APPLICATION 21-32 (PVAR), AN APPLICATION BY JONI BRINKMAN, FOR THE CONSIDERATION OF A VARIANCE FROM VILLAGE CODE SECTION 23-51 (2) Q., TO PROVIDE FOR A VARIANCE TO ALLOW 56 PARKING SPACES, INCLUSIVE OF TWENTY-ONE (21) SPACES VIA CROSS PARKING AGREEMENT, WHERE VILLAGE CODE REQUIRES 59 PARKING SPACES, FOR A 1.3± ACRE PARCEL OF LAND LOCATED ON THE NORTHEAST CORNER OF SOUTHERN BOULEVARD AND STATE ROAD 7; BY RAISING CANE’S RESTAURANTS, LLC.**

**Issue:**

The subject site is located on the northeast corner of Southern Boulevard and State Road 7 where the Applebee’s Restaurant is currently located. The Applicant is requesting a parking variance from the Village’s Code of Ordinances Section 23-51 (2) q. in order to reduce the number of required parking spaces from 59 parking spaces to 56 parking spaces for a proposed Raising Cane’s Restaurant. The request results in a variance of three (3) parking spaces. The Applicant has entered into a cross parking agreement with the Christ Fellowship Church to allow cross parking with the Church for 21 of the required 59 parking spaces.

*The Applicant contends that “The proposed Raising Cane’s prototype is designed to place emphasis on the drive- through operation rather than typical dining in. As of a result, the proposed prototype consists of significantly more floor area dedicated to the high-volume kitchen than dining area. There are 50 seats proposed for indoor dining area and 22 seats proposed for outdoor dining for a total of 72 seats. The parking rate as required by the village code would not accurately account for the prototype proposed since 75 SF of gross floor area would be required to be parked in addition to 1 space per employee on peak shift (ten). Parking the entirety of the gross floor area as well as the employee requirement would be double-parking the space associated with the high-volume kitchen since employees are the only ones operating that floor area, and already are required a parking spot each at peak shift. The parking variance that is being proposed is supplemented by the fact that those parking on site, that are not using the drive-through or are not employees, will only be utilizing the dining area within the development. Parking requirements in other municipalities approach restaurants with drive-through*

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*parking in a similar way as the parking rate is based on either dining area, number of seats, or whichever is more restrictive of the two”.*

Village Code Sec. 23-53 (a) (1) allows the Village Council to grant variances to the parking code when:

- Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings subject to similar requirements;
- The special conditions and circumstances do not result from the actions of the applicant;
- Granting the variance request will not confer on the applicant any special privileges that are denied by this Code to other lands, buildings or structures similarly situated;
- A literal interpretation of the provisions in this Code would deprive the applicant of rights commonly enjoyed by other properties similarly situated under the terms of this Code and would work unnecessary and undue hardship on the applicant;
- The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- The grant of the variance will be in harmony with the general intent and purpose of this division; and
- Such variance will not be injurious to the area involved or otherwise be detrimental to the public welfare.

Village Staff is not in support of this variance because Staff believes that no special conditions or circumstances exist which are not applicable to other lands; the condition is the result from actions of the applicant; granting of the variance will confer on the applicant special privileges that are denied to other lands; and the literal interpretation of the Code does not deprive the applicant the rights enjoyed by other lands in the same zoning district. However, it is important to note that the Applicant has, in Staff’s view, brought forth the minimum variance that makes possible the reasonable use of the land, building or structure by reaching out to the Church in order to reduce the variance request through a cross parking agreement.

This item was considered by the Planning and Zoning Commission at its regular meeting on September 28, 2021 and was recommended for Approval by a vote of 4-1, with Commissioner Ray Nazareth dissenting.

**Recommended Action:**

Staff is recommending Denial of Application 21-32 (PVAR) and Variance Order VC 21-09.

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**ORDER OF THE VILLAGE COUNCIL  
VILLAGE OF ROYAL PALM BEACH  
Chapter 23. Traffic and Vehicles**

**CASE NO. VC-21-09  
IN RE: Application No. 21-32(PVAR)  
Raising Canes @ NE Corner of Southern Boulevard & State Road 7**

**Legal Description:**  
Attached as Exhibit "A"

**ORDER APPROVING APPLICATION**

This cause came to be heard upon the above application and the Royal Palm Beach Village Council having considered the evidence presented by the applicant and other interested persons at a hearing called and properly noticed, and the Royal Palm Beach Village Council being otherwise advised.

**THEREUPON**, the Village Council of the Village of Royal Palm Beach finds as follows:

1. The property which is the subject of said application is classified and zoned within the General Commercial (CG) Zoning District by the Zoning Code of the Village of Royal Palm Beach and the zoning map made a part thereof by reference.
2. The applicant is seeking a **Variance** from Royal Palm Beach Code of Ordinances at the following section: Sec. 23-51 (2) q. to allow only 56 parking spaces, inclusive of 21 spaces via cross parking agreement, where Village Code requires 59 parking spaces.
3. Under the provisions of Sec. 23-53(a)(1) of the Village Code of Ordinances, the Village Council has the right, power and authority to act upon the application herein made.
4. In the judgment of the Village Council, the public welfare will best be served by **APPROVING** the application.
5. **IT IS THEREUPON CONSIDERED, ORDERED AND ADJUDGED** by the Royal Palm Beach Village Council as follows:
6. The application for **Variance, VC-21-09**, with reference to the above-mentioned property in the Village of Royal Palm Beach, Florida to permit variance to the following Code Section:  
Sec. 23-51 (2) q. to allow only 56 parking spaces, inclusive of 21 spaces via cross parking agreement, where Village Code requires 59 parking spaces is hereby **Approved** in accordance with the Village Code of Ordinances for the following reasons:

**The applicant meets the following standards set forth in Section 23-53 (a) (1).  
of the Village Code of Ordinances.**

1. Special conditions and circumstances exist;
2. Special Circumstances are not the result of actions of the applicant;
3. No special privilege is conferred;
4. Literal interpretation would constitute an unnecessary and undue hardship;
5. This is minimum variance for reasonable use of land;
6. Is in harmony with the intent and purpose of this division; and;
7. Will not be injurious to area or detrimental to the public welfare.

**Done and ordered this 21st day of October, 2021.**

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Mayor Fred Pinto  
Village of Royal Palm Beach

Attest:

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Diane DiSanto, Village Clerk

**Exhibit A**  
**Legal Description**  
**Application No. 21-32(PVAR)**  
**Raising Canes @ NE Corner of Southern Boulevard and State Road 7**

**LEGAL DESCRIPTION:**

Directly below is the Legal Description:

**LEGAL DESCRIPTION:**

PARCEL I: (LEASEHOLD INTEREST)

A PARCEL OF LAND LYING IN SECTION 31, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL ALSO BEING A PORTION OF TRACT 16, BLOCK 8, ACCORDING TO THE PLAT OF "THE PALM BEACH FARMS CO. PLAT NO. 3", AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST; THENCE NORTH 01°33'47" EAST, ALONG THE EAST LINE OF SAID SECTION 36, A DISTANCE OF 1746.25 FEET; THENCE SOUTH 88°26'13" EAST, AT RIGHT ANGLES TO THE SAID EAST LINE OF SECTION 36, A DISTANCE OF 85.00 FEET TO THE POINT OF INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 7 WITH A LINE PARALLEL WITH AND 250.00 FEET NORTH OF THE FORMER NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 80 AND THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL:

THENCE NORTH 01°33'47" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND PARALLEL WITH THE EAST LINE OF SAID SECTION 36, A DISTANCE OF 263.50 FEET; THENCE SOUTH 89°56'32" EAST, A DISTANCE OF 217.00 FEET; THENCE SOUTH 00°03'28" WEST, A DISTANCE OF 224.00 FEET; THENCE NORTH 89°56'32" WEST, A DISTANCE OF 42.97 FEET; THENCE SOUTH 01°22'03" WEST, A DISTANCE OF 43.53 FEET, TO THE INTERSECTION WITH THE AFORESAID LINE BEING PARALLEL WITH AND 250.00 FEET NORTH OF THE FORMER RIGHT-OF-WAY LINE OF STATE ROAD NO. 80; THENCE NORTH 88°37'57" WEST, ALONG LASTLY SAID LINE, A DISTANCE OF 180.00 FEET TO THE POINT OF BEGINNING.

PARCEL II: (APPURTENANT EASEMENT)

ACCESS EASEMENT FOR THE BENEFIT OF PARCEL I AS CREATED BY ACCESS, CROSS-PARKING AND NO-BUILD EASEMENT AGREEMENT BETWEEN DAYTON HUDSON CORPORATION, A MINNESOTA CORPORATION AND APPLE SOUTH, INC., A GEORGIA CORPORATION, RECORDED JUNE 24, 1996, IN OFFICIAL RECORDS BOOK 9320, PAGE 1182, PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AS AMENDED IN OFFICIAL RECORDS BOOK 22002, PAGE 1418, OVER, UNDER AND ACROSS THAT PORTION OF THE FOLLOWING DESCRIBED LANDS WHICH IS IDENTIFIED AS THE "ACCESS EASEMENT AREA" AND FURTHER IDENTIFIED BY CROSS-HATCHED MARKS ON THE SITE PLAN SET FORTH ON EXHIBIT "C" OF SAID AGREEMENT:

TRACTS 15, 18, THAT PART OF TRACT 21, LYING NORTH OF THE NORTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 80, AND A 30-FOOT ABANDONED ROAD LYING BETWEEN TRACTS 16 AND 21, ALL IN BLOCK 8, "THE PALM BEACH FARMS CO. PLAT NO. 3", RECORDED IN PLAT BOOK 2, PAGES 45 TO 54, INCLUSIVE, PALM BEACH COUNTY RECORDS, EXCEPTING THEREFROM THE NORTH 30 FEET OF TRACT 15, THE EAST 70 FEET OF TRACTS 15, 16 AND 21 AND THE EAST 70 FEET OF THAT PART OF THE ABANDONED ROAD WHICH LIES WEST OF THE EAST LINE OF TRACT 16 IF PROJECTED SOUTHERLY TO THE NORTHEAST CORNER OF TRACT 21 AND ALSO EXCEPTING THAT CERTAIN PARCEL OF LAND DESCRIBED AS FOLLOWS:

A PARCEL OF LAND AT THE NORTHEAST CORNER OF THE FOLLOWING INTERSECTION OF STATE ROAD NO. 80 AND STATE ROAD NO. 7 FRONTING 175 FEET ON STATE ROAD NO. 80 AND 250 FEET ON STATE ROAD NO. 7 WHICH SAID PARCEL OF LAND IS MORE PARTICULARLY DESCRIBED AS THE SOUTH 250 FEET OF THE WEST 175 FEET OF THAT PART OF TRACTS 16 AND 21 BLOCK 8, "THE PALM BEACH FARMS CO. PLAT NO. 3", LYING NORTH OF THE RIGHT-OF-WAY OF STATE ROAD NO. 80 AND INCLUDING THE 30-FOOT ABANDONED ROAD RIGHT-OF-WAY BETWEEN SAID TRACTS 16 AND 21.

LESS AND EXCEPT THE FOLLOWING: THE NORTH 467 FEET OF SAID TRACT 15; STATE ROAD 7 RIGHT-OF-WAY AND THE FOLLOWING DESCRIBED PARCEL:

THAT PART OF TRACTS 16 AND 21 IN BLOCK 8, OF "THE PALM BEACH FARMS CO. PLAT NO. 3", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGES 45 TO 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, SAID PART BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**Directly below is the legal description continued:**

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST; THENCE NORTH 01°34'02" EAST, ALONG THE EAST LINE OF SAID SECTION 36, A DISTANCE OF 1445.96 FEET TO THE BASELINE OF SURVEY FOR STATE ROAD 80; THENCE SOUTH 88°37'42" EAST, ALONG THE BASELINE OF SURVEY FOR STATE ROAD 80, A DISTANCE OF 85.17 FEET; THENCE NORTH 01°22'18" EAST A DISTANCE OF 50.00 FEET TO THE NORTHERLY EXISTING RIGHT-OF-WAY LINE FOR STATE ROAD 80; THENCE SOUTH 88°37'42" EAST, A DISTANCE OF 175.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 88°37'42" EAST, A DISTANCE OF 216.43 FEET; THENCE SOUTH 88°31'04" EAST, A DISTANCE OF 571.31 FEET; THENCE NORTH 00°57'59" WEST, A DISTANCE OF 57.09 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY HAVING A CHORD BEARING OF NORTH 87°52'02" WEST; THENCE WESTERLY ALONG SAID CURVE HAVING A RADIUS OF 11,496.16 FEET, THROUGH AN ANGLE OF 01°18'04", AN ARC DISTANCE OF 261.06 FEET TO THE END OF SAID CURVE; THENCE NORTH 88°31'04" WEST, A DISTANCE OF 307.79 FEET; THENCE NORTH 85°03'35" WEST, A DISTANCE OF 192.80 FEET; THENCE NORTH 88°37'42" WEST, A DISTANCE OF 23.93 FEET; THENCE SOUTH 01°34'02" WEST, A DISTANCE OF 72.00 FEET TO THE POINT OF BEGINNING.

ALSO DESCRIBED AS FOLLOWS:

BEING A PARCEL OF LAND LYING IN SECTION 31, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL ALSO LYING IN A PORTION OF TRACTS 15, 16 AND 21, BLOCK 8, AND INCLUDING A PORTION OF AN ABANDONED 30 FOOT RIGHT-OF-WAY, ACCORDING TO THE PLAT OF "THE PALM BEACH FARMS CO. PLAT NO. 3", AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, INCLUSIVE, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA (BEARINGS HEREIN ARE BASED ON THE EAST LINE OF THE SOUTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST, WHICH BEARS NORTH 01°33'47" EAST), SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SAID SECTION 36; THENCE NORTH 01°33'47" EAST, ALONG THE EAST LINE OF SAID SECTION 36, A DISTANCE OF 1746.25 FEET; THENCE SOUTH 88°26'13" EAST, AT RIGHT ANGLES TO SAID EAST LINE OF SECTION 36, A DISTANCE OF 85.00 FEET TO THE INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 7, WITH A LINE PARALLEL WITH AND 250 FEET NORTH OF THE FORMER NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 80 AND THE POINT OF BEGINNING; THENCE NORTH 01°33'47" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND PARALLEL WITH THE EAST LINE OF SAID SECTION 36, A DISTANCE OF 665.07 FEET TO THE INTERSECTION WITH THE SOUTH LINE OF THE NORTH 467.00 FEET OF SAID TRACT 15; THENCE NORTH 89°01'09" EAST, ALONG SAID SOUTH LINE A DISTANCE OF 921.73 FEET TO THE INTERSECTION OF THE WEST LINE OF THE EAST 70 FEET OF SAID TRACTS 15 AND 16; THENCE SOUTH 01°01'20" EAST, ALONG SAID WEST LINE A DISTANCE OF 897.71 FEET TO A POINT OF INTERSECTION WITH THE EXISTING NORTHERLY RIGHT-OF-WAY LINE OF SOUTHERN BOULEVARD (STATE ROAD NO. 80) SAID POINT BEING ON A NON-TANGENT CURVE CONCAVE TO THE SOUTH, HAVING A RADIUS OF 11,496.16 FEET, SAID CURVE HAVING A CHORD BEARING OF NORTH 87°52'07" WEST; THENCE WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°18'24", A DISTANCE OF 262.16 FEET; THENCE NORTH 88°31'19" WEST, ALONG SAID EXISTING NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 307.79 FEET; THENCE NORTH 85°03'50" WEST, ALONG SAID EXISTING NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 192.79 FEET; THENCE NORTH 88°37'57" WEST, ALONG SAID EXISTING NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 23.93 FEET TO THE INTERSECTION WITH THE EAST LINE OF THE WEST 175.00 FEET OF SAID TRACT 16; THENCE NORTH 01°33'47" EAST, ALONG THE EAST LINE OF SAID WEST 175.00 FEET, A DISTANCE OF 178.00 FEET TO A POINT 250.00 FEET NORTH OF THE FORMER NORTHERLY RIGHT-OF-WAY LINE OF SOUTHERN BOULEVARD (STATE ROAD NO.80) THENCE NORTH 88°37'57" WEST, A DISTANCE OF 175.00 FEET TO THE POINT OF BEGINNING.

**Directly below is the legal description continued:**

ALSO LESS AND EXCEPT THE FOLLOWING:

A PARCEL OF LAND LYING IN SECTION 31, TOWNSHIP 43 SOUTH, RANGE 42 EAST, PALM BEACH COUNTY, FLORIDA, SAID PARCEL ALSO BEING A PORTION OF TRACT 16, BLOCK 8, ACCORDING TO THE PLAT OF "THE PALM BEACH FARMS CO. PLAT NO. 3", AS RECORDED IN PLAT BOOK 2, PAGES 45 THROUGH 54, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST; THENCE NORTH 01°33'47" EAST, ALONG THE EAST LINE OF SAID SECTION 36, A DISTANCE OF 1746.25 FEET; THENCE SOUTH 88°26'13" EAST, AT RIGHT ANGLES TO THE SAID EAST LINE OF SECTION 36, A DISTANCE OF 85.00 FEET TO THE POINT OF INTERSECTION OF THE EASTERLY RIGHT-OF-WAY LINE OF STATE ROAD NO. 7 WITH A LINE PARALLEL WITH AND 250.00 FEET NORTH OF THE FORMER NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 80 AND THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL: THENCE NORTH 01°33'47" EAST, ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND PARALLEL WITH THE EAST LINE OF SAID SECTION 36, A DISTANCE OF 263.50 FEET; THENCE SOUTH 89°56'32" EAST, A DISTANCE OF 217.00 FEET; THENCE SOUTH 00°03'28" WEST, A DISTANCE OF 224.00 FEET; THENCE NORTH 89°56'32" WEST, A DISTANCE OF 42.97 FEET; THENCE SOUTH 01°22'03" WEST, A DISTANCE OF 43.53 FEET, TO THE INTERSECTION WITH THE AFORESAID LINE BEING PARALLEL WITH AND 250.00 FEET NORTH OF THE FORMER RIGHT-OF-WAY LINE OF STATE ROAD NO. 80; THENCE NORTH 88°37'57" WEST, ALONG LASTLY SAID LINE, A DISTANCE OF 180.00 FEET TO THE POINT OF BEGINNING.

PARCEL II BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 36, TOWNSHIP 43 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY, FLORIDA; THENCE NORTH 01°33'47" EAST, A DISTANCE OF 1746.25 FEET; THENCE SOUTH 88°26'13" EAST, A DISTANCE OF 85.00 FEET TO THE EAST RIGHT-OF-WAY LINE OF STATE ROAD NO. 7; THENCE NORTH 01°33'47" EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 289.04 FEET TO THE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED PARCEL; THENCE CONTINUE NORTH 01°33'47" EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 50.78 FEET; THENCE SOUTH 35°50'47" EAST, A DISTANCE OF 29.86 FEET; THENCE SOUTH 53°25'57" EAST, A DISTANCE OF 26.47 FEET; THENCE SOUTH 73°00'03" EAST, A DISTANCE OF 26.87 FEET; THENCE NORTH 89°29'07" EAST, A DISTANCE OF 200.28 FEET; THENCE SOUTH 00°55'15" EAST, A DISTANCE OF 248.92 FEET; THENCE SOUTH 88°36'42" WEST, A DISTANCE OF 33.45 FEET; THENCE NORTH 00°55'15" WEST, A DISTANCE OF 219.18 FEET; THENCE NORTH 89°56'32" WEST, A DISTANCE OF 192.53 FEET; THENCE NORTH 63°30'52" WEST, A DISTANCE OF 30.18 FEET; THENCE NORTH 48°21'26" WEST, A DISTANCE OF 18.23 FEET TO THE POINT OF BEGINNING.