

**VILLAGE OF PAW PAW
ZONING BOARD OF APPEALS**

September 10, 2019

PRESENT: Chairperson Julie Pioch, Barb Carpenter, Terry Davis, Marcos Flores, Mary Lou Hartwell

ABSENT: None

ALSO PRESENT: Rebecca Harvey, Village Planning Consultant

CALL TO ORDER

Chairperson Pioch called the meeting to order at 7:00 p.m.

APPROVAL OF AGENDA

The agenda was reviewed and approved as presented.

APPROVAL OF MINUTES

The next matter to come before the Board was consideration of the proposed minutes of the regular Zoning Board of Appeals meeting held on June 3, 2019. Ms. Carpenter moved to approve the minutes as presented. Mr. Flores seconded the motion. The motion carried unanimously.

PUBLIC COMMENT REGARDING NON-AGENDA ITEMS

No public comment on non-agenda items was offered.

VARIANCE REQUEST – *Family Fare*

The next matter to come before the Board was the request of Anchor Properties for Variance Approval from the applicable dimensional requirements established by Section 42-436, Zoning Ordinance for the existing Family Fare billboard. The properties involved are located at 835/847 South Kalamazoo Street and are within the B-2 General Business District.

Chairperson Pioch opened the public hearing.

Matt Williams of Anchor Properties was present on behalf of the application. He stated that with the recent purchase of the Family Fare building/property, it was discovered that the existing Family Fare sign is located on the site of Taco Bell.

Mr. Williams explained that in a transfer of property between the Village and Taco Bell in 2000 involving Fadel Street, the parties had agreed to the relocation of the Family Fare sign in question within the Fadel Street right-of-way. He noted that following the Fadel Street construction project in 2001, the sign ended up being located on the Taco Bell parcel (apparently inadvertently and without the consent of Taco Bell) instead of within the Fadel Street right-of-way as agreed. He referenced correspondence dated September 8, 2000 from the Village of Paw Paw regarding the transfer.

Mr. Williams acknowledged that pursuant to Section 42-3, Zoning Ordinance, the subject sign constitutes a billboard and is subject to the billboard standards set forth in Section 42-436. He stated that the existing Family Fare sign complies with all of the applicable billboard requirements, with the exception of Subsection (4) which requires that a billboard '*not be located closer than 100 ft from the abutting street right-of-way or 50 ft from the interior boundary lines of the premises on which the billboard is located.*' He noted that the existing sign is closer than 100 ft from the Kalamazoo Street and Fadel Street rights-of-way and is 5 ft from the north property line of the Taco Bell site.

Mr. Williams explained that the Family Fare ownership desires to establish the existing sign as an authorized and legal billboard so that it can be repaired/replaced in the future. He advised that the options available to accomplish this objective is to either relocate the sign into the road right-of-way as agreed to in 2000 or to leave the sign in its current location with variance approval from the location standards.

Mr. Williams stated that the Village has expressed a desire to not have the sign relocated within the road right-of-way and Taco Bell has agreed to allow the existing sign in its current location. Accordingly, Family Fare seeks variance approval from the billboard location requirements established by Section 42-436 (4) so as to render the existing Family Fare sign an authorized and legal billboard in its current location.

No public comment was offered on the matter. The public comment portion of the public hearing was closed.

The Board proceeded with a review of the variance criteria set forth in Section 42-66. The following findings were noted:

1. In considering the presence of exceptional conditions of the property, it was determined that the subject proposal does not reveal any unique

physical circumstances of the property preventing compliance that are not present on other properties within the B-2 District. It was noted, however, that development of the property has limited the ability to locate the sign in compliance with required setbacks.

2. In consideration of substantial justice, it was noted that the billboard standards apply similarly to all B-2 properties along South Kalamazoo Street and that no similar variances have been granted in the vicinity or within the B-2 District in general.
3. In considering impact on adjacent property, it was recognized that the subject sign is existing and has been in its current location since 2001, noting that the requested locational variance will not result in a change of conditions. However, given the maximum size/height afforded a billboard per Section 42-436, approval of the current location should be conditioned upon sign size and height maximums.
4. In considering the intent/spirit of the Ordinance, it was noted that the subject sign was intended to be located within the street right-of-way near its current location. Had the sign been located as originally agreed, the billboard standards would not apply and a variance would not be required.
5. In considering the public health, safety and welfare, it was noted that the existing sign meets the remaining standards applicable to billboards. It was further noted that any variance approval of the location could be conditioned upon compliance with Section 42-436 (5) which would not allow a billboard to be established '*where its size, height, illumination, or location would unreasonably impair visibility, light and air otherwise enjoyed by occupants of adjoining premises.*'
6. The condition of the property is not of a 'general or recurrent nature' and does not justify an amendment to the Ordinance.

It was stated that the above findings were based on the application documents presented and the representations made by the applicant at the meeting.

Chairman Pioch then moved to grant variance approval from the location requirement applicable to billboards set forth in Section 42-436 (4) so as to allow the current location of the existing Family Fare sign, conditioned upon the sign retaining its current size, height, illumination and location in response to public health, safety and welfare considerations and so as not to violate Section 42-436 (5). She stated that variance approval is granted based on the findings of the Board on the variance criteria set forth in Section 42-66, Zoning Ordinance, specifically those related to impacts on adjacent property, intent/spirit of the

Ordinance and public health, safety and welfare considerations. Ms. Carpenter seconded the motion. The motion carried unanimously.

ONGOING BUSINESS

No Ongoing Business was scheduled for Board consideration.

NEW BUSINESS

No New Business was scheduled for Board consideration.

MEMBER COMMENTS

No member comments were offered.

VILLAGE MANAGER/PLANNING CONSULTANT COMMENTS

No staff comments were offered.

ADJOURNMENT

There being no further business to come before the Board, the meeting was adjourned at 7:15 p.m.