

No. 33832 – *Donald E. Largent v. Zoning Board of Appeals for the Town of Paw Paw and The Town of Paw Paw, a municipal corporation*

**FILED**

**December 30,**

**2008**

released at 10:00 a.m.

RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

Starcher, J., concurring:

I reluctantly concur with the majority opinion's reading of our zoning laws, but

I wish to point out an additional facet absent from the majority opinion: reason and fairness.

The appellant in this case owned seventy acres of land within the town limits of Paw Paw, West Virginia (a town of 497 people in 2007). The zoning rules at issue prohibited the appellant from doing *anything* to develop his land. The zoning restrictions, in effect, deprived the appellant of *any* ability to derive any value from his land.

The law prefers a clear, bright-line rule. But it also prefers a reasonable, balanced and fair rule. The zoning restrictions placed on the appellant's land did not appear to be based on reason and fairness, and there was nothing in the record to explain why such a rule was anything other than arbitrary.

I believe that the majority opinion in the instant case reflects the sense of unfairness to the situation faced by the appellant. Had the appellee treated the appellant differently, and created a record showing a somewhat more reasonable approach to land use, the Court's result might have been quite different.

In all other respects, I concur.