



Meeting Date: November 1, 2018

AGENDA MEMORANDUM

To: Board of Adjustment

From: Tammy King
Zoning Manager

Title: Starbucks Coffee #52953 Request for Approval of Variance from the maximum sign height, maximum sign area and sign setback

Subject Property: 910 Kinner Street

Summary

Hilton Display, Inc., on behalf of Starbucks Coffee #52953, is requesting action by the Board of Adjustment for a sign variance application in the following four areas:

1. From the maximum twenty foot (20') sign height,
2. From the maximum fifty square feet (50sf) sign area,
3. From the sign setback of sixty feet (60') on Kinner Street for a new Starbucks establishment in B Zone (Business/Commercial), and
4. From the sign setback of sixty feet (60') on Wolfensberger Road for a new Starbucks establishment in B Zone (Business/Commercial).

The applicant has submitted a sign package proposing the following variances:

Variance Type	Proposed Application	CRMC Requirements	Variance Request
Height	60'	20'	40'
Sign Area	103.5 sf	50 sf	53.5 sf
Kinner Street Setback	29'	60'	31'
Wolfensberger Road Setback	20'	60'	40'



The subject property is addressed as 910 Kinner Street, also known as Lot 2A, Kinner Replat.

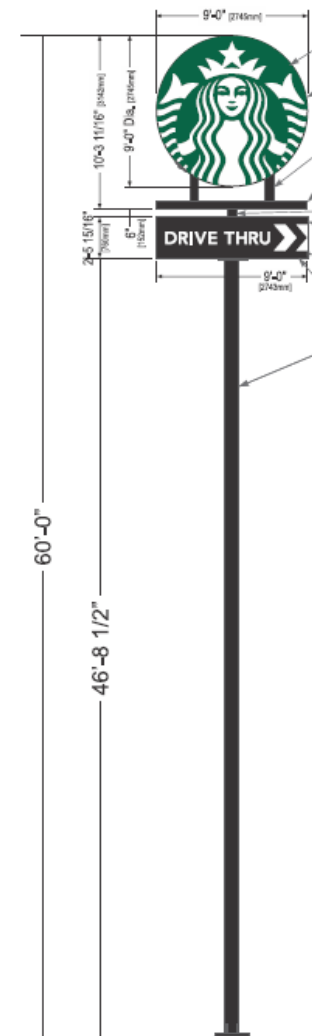
Notification and Outreach

The sign variance application has been noticed in accordance with the Town of Castle Rock Municipal Code. Town posted notice on the property, mailed meeting notices to property owners within 300 feet (300') of the property, and published the hearing notice on the Town's website.

Discussion

Castle Rock Municipal code section **19.04.052** lays out the regulations for signs in business areas. Section **19.04.052.B.1** states the freestanding sign maximum sign area is fifty square feet (50sf). Starbucks's proposed sign is just over twice this size at one hundred three and one half square feet (103.5 sf).

Section **19.04.052.D.1** allows the maximum height for freestanding signs to be the lesser of twenty feet (20') or the height of the building to which the sign is appurtenant. The Starbucks building is proposed at twenty three feet (23'), therefore the maximum allowable height for their freestanding sign is twenty feet. Their proposed sign height is three (3) times the allowable height.

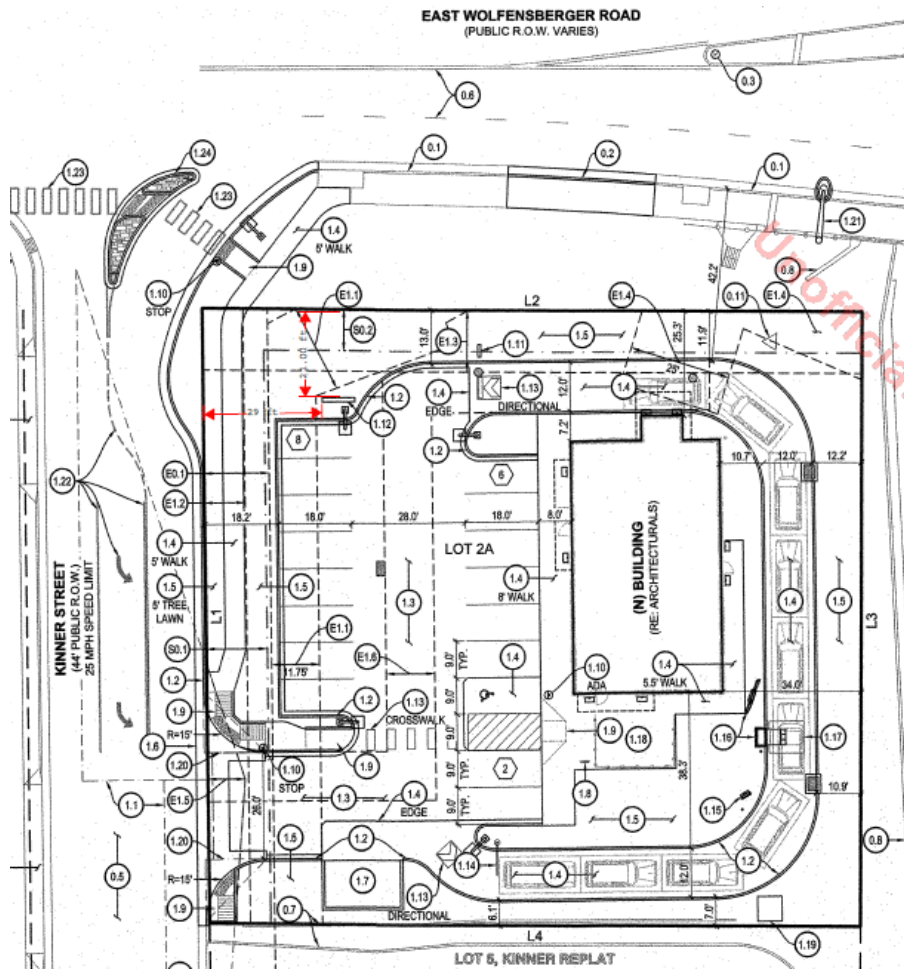


Proposed Starbucks freestanding sign



Approved Starbucks Building Height, 23 ft.

Section **19.03.052.E.1** requires freestanding signs to be setback from the property line abutting a street one foot (1') for every foot of sign height, but in no case shall the setback be less than ten feet (10'). At the proposed height of sixty feet (60'), the Starbucks sign should be setback from each road by sixty feet (60'). The applicant is requesting to place the sign twenty nine feet (29') from Kinner Street and twenty feet (20') from Wolfensberger Road, which is between one half to one third of the required setback.



Starbucks proposed site plan with proposed sign setback shown with red arrows

In addition to the above municipal code sections, section **19.04.077** regulates Legal Nonconforming Freeway-Oriented Business Signs. This section was adopted in 2007, under Ordinance 2007-24 (**Attachment D**), to eliminate the large freeway-oriented signage that existed in Castle Rock at that time. This regulation lays out the conditions that must be met to keep the current freeway-oriented business signs in operation. The site that Starbucks is building on had a previous Freeway-Oriented business sign; however, because the business at this location has been closed for more than one hundred and eighty (180) days, its sign is considered abandoned and it cannot be put back into use. Ordinance 2007-24 provides Council's intent and purpose in adopting the Ordinance, including that *"the Town desires to limit the aesthetic impact of large signs directed at interstate travelers by prohibiting future freeway-orientated signs."*

Town of Castle Rock Municipal Code 17.06.020 Powers and Duties

The Board of Adjustment Powers and Duties require that it hear specific variance requests, as outlined below:

17.06.020.B, Variances:

1. Following proper notice; the Board shall hear and decide an appeal on specific cases for a variance to the following: Sign height, sign area, Kinner Street setback, and Wolfensberger Road setback.
2. In making its decision on a variance application, the Board shall consider the following and find:
 - a. The strict enforcement of the provisions of this Code will result in practical difficulties or unnecessary hardship to the applicant, inconsistent with the intent and purpose of this Code;
 - b. The practical difficulties or unnecessary hardship were not created by the applicant;
 - c. Unique physical conditions or exceptional topography exist on the subject property and similar unique conditions do not exist on neighboring properties;
 - d. The property is unable to be reasonably developed in conformity with the provisions of this Code due to unique physical conditions or exceptional topography;
 - e. The variance, if granted, will not substantially alter the character of the neighborhood in which the property is located, or impair the use or development on adjacent property; and
 - f. The variance, if granted, will not create an adverse effect on public health, safety and welfare or cause harm to adjacent properties.
3. The Board may impose reasonable conditions on the grant of a variance. In addition, upon approval of a variance, the Board shall determine whether the variance is limited to the condition existing on the property at the time of approval, or whether the variance runs with the land regardless of whether the conditions on the property change.
4. The decision of the Board shall be final, subject to judicial review.

The Board of Adjustment is required to find all the aforementioned criteria are met to grant the variance. In addition to the variance section above, if the Board of Adjustment were to approve the two requests for increase in sign height and increase in sign area, those variances would require final approval by Town Council prior to being granted, per section 19.04.080.H, Appeals

and Variances. Therefore, if the BOA approves the applicant's request for increase in sign height and/or sign area, it should condition the BOA approval on Town Council's approval.

Staff Recommendations

Staff has reviewed the applicant's proposal in accordance with the existing side code regulations and sections outlined earlier in this report. Following are the code sections with staff recommendations included per section:

Staff finds that the Sign Code Regulations were adopted by Town Council after recognizing that signs are a necessary means of visual communication for the public convenience and that businesses, services and other activities have the right to identify themselves by using signs that are accessory and incidental to the uses on the premises where the signs are located. Town Council intended to provide a reasonable balance between the right of a business or individual to identify itself and its purpose, and the right of the public to be protected against the visual discord that results from the unrestricted proliferation of signs. Another purpose of this Regulation is to protect the public from hazardous conditions by prohibiting signs that obscure or distract the vision of motorists. The applicant has not presented any information regarding unique characteristics on the site creating hardship.

17.06.020.B.2, Variances:

A. The strict enforcement of the provisions of this Code will result in practical difficulties or unnecessary hardship to the applicant, inconsistent with the intent and purpose of this Code;

Staff finds the following:

1. **Height:** The enforcement of the Code will not result in practical difficulties or unnecessary hardship to the applicant. The twenty foot (20') sign height provision of the Code applies uniformly to freeway oriented businesses. The site of the proposed sign is not unique to other similarly situated businesses along the Wolfensberger Road and I-25 corridor. An approved SDP by the applicant indicates that a conforming sign is viable on the site. Enforcement of the provisions of the Code are consistent with the aforementioned intent and purpose of the Code, to balance business interests and Town aesthetics as well as the public health, safety, and welfare.
2. **Sign Area:** The enforcement of the Code will not result in practical difficulties or unnecessary hardship to the applicant. The fifty square foot (50 sf) sign area provision of the Code applies uniformly to freeway oriented businesses created after 2007. The site of the proposed sign is not unique to other similarly situated businesses along the Wolfensberger Road and I-25 corridor. An approved SDP by the applicant indicates that a conforming sign is viable on the site. Enforcement of the provisions of the Code are consistent with the aforementioned intent and purpose of the Code, to balance business interests and Town aesthetics as well as the public health, safety, and welfare.
3. **Kinner Street Setback:** The enforcement of the Code will not result in practical difficulties or unnecessary hardship to the applicant. The sixty foot (60') Kinner Street setback provision of the Code applies uniformly to freeway oriented businesses created after 2007. The site of the proposed sign is not unique to other similarly situated businesses along the Wolfensberger Road and I-25 corridor. An approved SDP by the applicant indicates that a conforming sign is viable on the site. Enforcement of the provisions of the Code are consistent with the aforementioned intent and purpose of the Code, to balance business interests and Town aesthetics as well as the public health, safety, and welfare.

4. **Wolfensberger Street Setback:** *The enforcement of the Code will not result in practical difficulties or unnecessary hardship to the applicant. The sixty foot (60') Wolfensberger setback provision of the Code applies uniformly to freeway oriented businesses created after 2007. The site of the proposed sign is not unique to other similarly situated businesses along the Wolfensberger Road and I-25 corridor. An approved SDP by the applicant indicates that a conforming sign is viable on the site. Enforcement of the provisions of the Code are consistent with the aforementioned intent and purpose of the Code, to balance business interests and Town aesthetics as well as the public health, safety, and welfare.*

B. The practical difficulties or unnecessary hardship were not created by the applicant.

Staff finds the following:

1. **Height:** *The applicant has not identified any unique characteristics of the site that would give rise to practical difficulties or unnecessary hardship. The applicant did put forth a sign design that does not need the requested variances, and this sign design is shown on their currently approved SDP. This approved SDP shows that property signage is possible under the current sign regulations.*
2. **Sign Area:** *The applicant has not identified any unique characteristics of the site that would give rise to practical difficulties or unnecessary hardship. The applicant did put forth a sign design that does not need the requested variances, and this sign design is shown on their currently approved SDP. This approved SDP shows that property signage is possible under the current sign regulations.*
3. **Kinner Street Setback:** *The applicant has not identified any unique characteristics of the site that would give rise to practical difficulties or unnecessary hardship. The applicant did put forth a sign design that does not need the requested variances, and this sign design is shown on their currently approved SDP. This approved SDP shows that property signage is possible under the current sign regulations.*
4. **Wolfensberger Street Setback:** *The applicant has not identified any unique characteristics of the site that would give rise to practical difficulties or unnecessary hardship. The applicant did put forth a sign design that does not need the requested variances, and this sign design is shown on their currently approved SDP. This approved SDP shows that property signage is possible under the current sign regulations.*

C. Unique physical conditions or exceptional topography exist on the subject property and similar, unique conditions do not exist on neighboring properties;

Staff finds the following:

1. **Height:** *Unique physical conditions do not exist for this property. Nearby businesses along the Wolfensberger and I-25 corridors are subject to wide buffers from I-25. Additionally, nearby businesses are subject to wide vegetated buffers between their properties and I-25. Finally, nearby businesses do not exceed the Sign Code Regulations on their properties and, therefore, are not visible from I-25.*
2. **Sign Area:** *Unique physical conditions do not exist for this property. Nearby businesses along the Wolfensberger and I-25 corridors are subject to wide buffers from I-25. Additionally, nearby businesses are subject to wide vegetated buffers between their properties and I-25. Finally, nearby businesses do not exceed the Sign Code Regulations on their properties and, therefore, are not visible from I-25.*

3. **Kinner Street Setback:** *Unique physical conditions do not exist for this property. Nearby businesses along the Wolfensberger and I-25 corridors are subject to wide buffers from I-25. Additionally, nearby businesses are subject to wide vegetated buffers between their properties and I-25. Finally, nearby businesses do not exceed the Sign Code Regulations on their properties and, therefore, are not visible from I-25.*
4. **Wolfensberger Street Setback:** *Unique physical conditions do not exist for this property. Nearby businesses along the Wolfensberger and I-25 corridors are subject to wide buffers from I-25. Additionally, nearby businesses are subject to wide vegetated buffers between their properties and I-25. Finally, nearby businesses do not exceed the Sign Code Regulations on their properties and, therefore, are not visible from I-25.*

D. The property is unable to be reasonably developed in conformity with the provisions of this Code due to unique physical conditions or exceptional topography;

Staff finds the following:

1. **Height:** *The applicant has not provided information to support the concept that unique physical conditions or exceptional topography exist on the subject property that would prevent the property from being developed in conformity with the provisions of the current Town code. The applicant did put forth a sign design that does not need the variances, and this is shown on their currently approved Site Development Plan. This approved SDP shows that the property is able to be “reasonably developed in conformity with the provisions of this Code” and meet the current sign regulations.*
2. **Sign Area:** *The applicant has not provided information to support the concept that unique physical conditions or exceptional topography exist on the subject property that would prevent the property from being developed in conformity with the provisions of the current Town code. The applicant did put forth a sign design that does not need the variances, and this is shown on their currently approved Site Development Plan. This approved SDP shows that the property is able to be “reasonably developed in conformity with the provisions of this Code” and meet the current sign regulations.*
3. **Kinner Street Setback:** *The applicant has not provided information to support the concept that unique physical conditions or exceptional topography exist on the subject property that would prevent the property from being developed in conformity with the provisions of the current Town code. The applicant did put forth a sign design that does not need the variances, and this is shown on their currently approved Site Development Plan. This approved SDP shows that the property is able to be “reasonably developed in conformity with the provisions of this Code” and meet the current sign regulations.*
4. **Wolfensberger Street Setback:** *The applicant has not provided information to support the concept that unique physical conditions or exceptional topography exist on the subject property that would prevent the property from being developed in conformity with the provisions of the current Town code. The applicant did put forth a sign design that does not need the variances, and this is shown on their currently approved Site Development Plan. This approved SDP shows that the property is able to be “reasonably developed in conformity with the provisions of this Code” and meet the current sign regulations.*

E. The variance, if granted, will not substantially alter the character of the neighborhood in which the property is located, or impair the use or development on adjacent property;

Staff finds the following:

1. **Height:** *The variance, if granted, will substantially alter the character of the surrounding neighborhood. Although the area contains seven (7) freeway-oriented business signs, since the adoption of section 19.04.077, no businesses have erected large freeway-oriented business signs.*
2. **Sign Area:** *The variance, if granted, will substantially alter the character of the surrounding neighborhood. Although the area contains seven (7) freeway-oriented business signs, since the adoption of section 19.04.077, no businesses have erected large freeway-oriented business signs.*
3. **Kinner Street Setback:** *The variance, if granted, will substantially alter the character of the surrounding neighborhood. Although the area contains seven (7) freeway-oriented business signs, since the adoption of section 19.04.077, no businesses have erected large freeway-oriented business signs.*
4. **Wolfensberger Street Setback:** *The variance, if granted, will substantially alter the character of the surrounding neighborhood. Although the area contains seven (7) freeway-oriented business signs, since the adoption of section 19.04.077, no businesses have erected large freeway-oriented business signs.*

F. The variance, if granted, will not create an adverse effect on public health, safety and welfare, or cause harm to adjacent properties.

Staff finds the following:

1. **Height:** *The variance will create an adverse effect on public health, safety, and welfare due to the hazardous conditions created by signs that obscure or distract the vision of motorists. The applicant states that the purpose of the sign is to provide visibility of the sign from the I-25 corridor.*
2. **Sign Area:** *The variance will create an adverse effect on public health, safety, and welfare due to the hazardous conditions created by signs that obscure or distract the vision of motorists. The applicant states that the purpose of the sign is to provide visibility of the sign from the I-25 corridor.*
3. **Kinner Street Setback:** *The variance will encroach on the public realm and adjacent use of sidewalks.*
4. **Wolfensberger Street Setback:** *The variance will encroach on the public realm and adjacent use of sidewalks.*

Staff Recommendation

Staff recommends **DENIAL** of all four requested variance requests due to:

- The criteria under 17.06.020.B.2 have not been met;
- Ordinance 2007-24 was adopted to eliminate this type of signage;
- The applicant was informed of the sign regulation at the Preliminary Project Application (PRE17-0028) and Site Development Plan (SDP18-0006) processing and has demonstrated that the property is developable under the current Town Codes; and
- The applicant has not presented any information regarding unique characteristics on the site creating hardship.

Motions

Sign Height:

In accordance with criteria as stated in the Town of Castle Rock Municipal Code Section 17.06.020 BOARD OF ADJUSTMENT:

Option 1 Sign Height

I MOVE THAT THE BOARD OF ADJUSTMENT APPROVE with the CONDITION that Town Council also approve the Hilton Display, Inc., on behalf of Starbucks Coffee #52953, request for the sign variance from the maximum twenty foot (20') sign height at a new Starbucks establishment in B Zone (Business/Commercial) based upon the following:

- The strict enforcement of the provisions of this Code will result in practical difficulties or unnecessary hardship to the applicant, inconsistent with the intent and purpose of this Code;
- The practical difficulties or unnecessary hardship were not created by the applicant;
- Unique physical conditions or exceptional topography exist on the subject property and similar unique conditions do not exist on neighboring properties;
- The property is unable to be reasonably developed in conformity with the provisions of this Code due to unique physical conditions or exceptional topography;
- The variance, if granted, will not substantially alter the character of the neighborhood in which the property is located, or impair the use or development on adjacent property; and
- The variance, if granted, will not create an adverse effect on public health, safety and welfare or cause harm to adjacent properties.

Option 2 Sign Height

I MOVE THAT THE BOARD OF ADJUSTMENT DENY the Hilton Display, Inc., on behalf of Starbucks Coffee #52953, request for the sign variance from the maximum twenty foot (20') sign height at a new Starbucks establishment in B Zone (Business/Commercial) based on the following:

- The criteria under 17.06.020.B.2 have not been met;
- Ordinance 2007-24 was adopted to eliminate this type of signage; and
- The applicant was informed of the sign regulation at the Preliminary Project Application (PRE17-0028) and Site Development Plan (SDP18-0006) processing and has demonstrated that the property is developable under the current Town Codes.

Sign Area:

In accordance with criteria as stated in the Town of Castle Rock Municipal Code Section 17.06.020 BOARD OF ADJUSTMENT:

Option 1 Sign Area

I MOVE THAT THE BOARD OF ADJUSTMENT APPROVE with the CONDITION that Town Council also approve the Hilton Display, Inc., on behalf of Starbucks Coffee #52953, request for the sign variance from the maximum fifty square foot (50 sf) sign area at a new Starbucks establishment in B Zone (Business/Commercial) based on the following:

- The strict enforcement of the provisions of this Code will result in practical difficulties or unnecessary hardship to the applicant, inconsistent with the intent and purpose of this Code;
- The practical difficulties or unnecessary hardship were not created by the applicant;
- Unique physical conditions or exceptional topography exist on the subject property and similar unique conditions do not exist on neighboring properties;
- The property is unable to be reasonably developed in conformity with the provisions of this Code due to unique physical conditions or exceptional topography;
- The variance, if granted, will not substantially alter the character of the neighborhood in which the property is located, or impair the use or development on adjacent property; and
- The variance, if granted, will not create an adverse effect on public health, safety and welfare or cause harm to adjacent properties.

Option 2 Sign Area

I MOVE THAT THE BOARD OF ADJUSTMENT DENY the Hilton Display, Inc., on behalf of Starbucks Coffee #52953, request for the sign variance from the maximum fifty square foot (50 sf) sign area at a new Starbucks establishment in B Zone (Business/Commercial) based on the following:

- The criteria under 17.06.020.B.2 have not been met;
- Ordinance 2007-24 was adopted to eliminate this type of signage; and
- The applicant was informed of the sign regulation at the Preliminary Project Application (PRE17-0028) and Site Development Plan (SDP18-0006) processing and has demonstrated that the property is developable under the current Town Codes.

Kinner Street Setback:

In accordance with criteria as stated in the Town of Castle Rock Municipal Code Section 17.06.020 BOARD OF ADJUSTMENT:

Option 1 Kinner Street Setback

I MOVE THAT THE BOARD OF ADJUSTMENT APPROVE the Hilton Display, Inc., on behalf of Starbucks Coffee #52953, request for the sign variance from the sign setback of thirty one feet (31') on Kinner Street at a new Starbucks establishment in B Zone (Business/Commercial) based on the following:

- The strict enforcement of the provisions of this Code will result in practical difficulties or unnecessary hardship to the applicant, inconsistent with the intent and purpose of this Code;
- The practical difficulties or unnecessary hardship were not created by the applicant;
- Unique physical conditions or exceptional topography exist on the subject property and similar unique conditions do not exist on neighboring properties;
- The property is unable to be reasonably developed in conformity with the provisions of this Code due to unique physical conditions or exceptional topography;
- The variance, if granted, will not substantially alter the character of the neighborhood in which the property is located, or impair the use or development on adjacent property; and
- The variance, if granted, will not create an adverse effect on public health, safety and welfare or cause harm to adjacent properties.

Option 2 Kinner Street Setback

I MOVE THAT THE BOARD OF ADJUSTMENT DENY the Hilton Display, Inc., on behalf of Starbucks Coffee #52953, request for the sign variance from the sign setback of thirty one feet (31') on Kinner Street at a new Starbucks establishment in B Zone (Business/Commercial) based on the following:

- The criteria under 17.06.020.B.2 have not been met;
- Ordinance 2007-24 was adopted to eliminate this type of signage; and
- The applicant was informed of the sign regulation at the Preliminary Project Application (PRE17-0028) and Site Development Plan (SDP18-0006) processing and has demonstrated that the property is developable under the current Town Codes.

Wolfensberger Road Street Setback:

In accordance with criteria as stated in the Town of Castle Rock Municipal Code Section 17.06.020 BOARD OF ADJUSTMENT:

Option 1 Wolfensberger Road Setback

I MOVE THAT THE BOARD OF ADJUSTMENT APPROVE the Hilton Display, Inc., on behalf of Starbucks Coffee #52953, request for the sign variance from the sign setback of forty feet (40') on Wolfensberger Road at a new Starbucks establishment in B Zone (Business/Commercial) based on the following:

- The strict enforcement of the provisions of this Code will result in practical difficulties or unnecessary hardship to the applicant, inconsistent with the intent and purpose of this Code;
- The practical difficulties or unnecessary hardship were not created by the applicant;
- Unique physical conditions or exceptional topography exist on the subject property and similar unique conditions do not exist on neighboring properties;
- The property is unable to be reasonably developed in conformity with the provisions of this Code due to unique physical conditions or exceptional topography;
- The variance, if granted, will not substantially alter the character of the neighborhood in which the property is located, or impair the use or development on adjacent property; and
- The variance, if granted, will not create an adverse effect on public health, safety and welfare or cause harm to adjacent properties.

Option 2 Wolfensberger Road Setback

I MOVE THAT THE BOARD OF ADJUSTMENT DENY the Hilton Display, Inc., on behalf of Starbucks Coffee #52953, request for the sign variance from the sign setback of forty feet (40') on Wolfensberger Road at a new Starbucks establishment in B Zone (Business/Commercial) based on the following:

- The criteria under 17.06.020.B.2 have not been met;
- Ordinance 2007-24 was adopted to eliminate this type of signage; and
- The applicant was informed of the sign regulation at the Preliminary Project Application (PRE17-0028) and Site Development Plan (SDP18-0006) processing and has demonstrated that the property is developable under the current Town Codes.

Option 3 Continuance

I MOVE THAT THE BOARD OF ADJUSTMENT CONTINUE THE PUBLIC HEARING TO THE NEXT REGULAR MEETING ON DECEMBER 6, 2018.

Attachments:

Attachment A: BOA Application – BOA18-0008 – 910 Kinner Street

Attachment B: Applicant's PowerPoint Presentation

Attachment C: Full Project Sign Graphics Package

Attachment D: Ordinance 2007-24

Attachment E: Page 2 from Approved Site Development Plan, SDP18-0006