



**METROPOLITAN GOVERNMENT
OF NASHVILLE AND DAVIDSON COUNTY**

Planning Department
Metro Office Building, 2nd Floor
800 Second Avenue South
Nashville, Tennessee 37219

Date: January 11, 2011

To: Metro Planning Commissioners; Doug Sloan, Legal Department; Planning Staff

From: Richard C. Bernhardt, FAICP, CNU-A 

Re: Interpretation of destruction of Nonconforming Signs as set forth in Section 17.40.690 of the Metropolitan Code, and similar SP and UDO zoned properties (including but not limited to the Downtown Donelson and Green Hills UDO and the Gallatin Road SP) relating to freestanding (pole) sign panel replacement

In determining protocol or standards for the required replacement of freestanding (pole) nonconforming signs, the Metro Board of Zoning Appeals (BZA) in action on Case 2009-052 (decision Sept. 17, 2009) found that:

“Based upon the entire record as recorded on the video recording and contained in the file, from all of which the Board finds that:

- (1) Proper legal and written notice of the public hearing had been complied with as set forth in Section 17.40.720 of the Metropolitan Code.
- (2) The appellant sought this permit under Section 17.40.180 (A) of the Metropolitan Code.
- (3) The entire structure constitutes the sign and the sign is protected under T.C.A. §13.7.208 (b)

It is therefore, ORDERED by the Metropolitan Board of Zoning Appeals that the appellant’s request shall be granted.”

and on Case 2010-072 (decision Aug. 19, 2010) found that:

“Based upon the entire record as recorded on the video recording and contained in the file, from all of which the Board finds that:

- (1) Proper legal and written notice of the public hearing had been complied with as set forth in Section 17.40.720 of the Metropolitan Code.
- (2) The appellant sought this permit under Section 17.40.180 (A) of the Metropolitan Code.
- (3) The Board found that entire structure is the sign and the sign is protected by T.C.A. §13.7.208 B.

It is therefore, ORDERED by the Metropolitan Board of Zoning Appeals that the appellant’s request shall be granted.”

As a result of these determinations, the Planning staff in review of freestanding (pole) sign permit applications are not to consider the replacement of a sign panel as any form of destruction of the sign. The replacement of a sign panel does not count toward the area calculation used to determine if a sign has been destroyed and is thus required to comply with the regulating sign standards. While advised by the Legal Department that the BZA action does not hold precedent value, the BZA has been consistent in its interpretation on this issue and it is appropriate to consider the findings and determinations of the BZA on this matter until and unless the issue is further clarified by either the Board of Zoning Appeals in a subsequent case, the Metro Council or the courts.