

[DRAFT]

Zoning Board of Appeals
Madison Heights, Michigan
February 05, 2026

A Zoning Board of Appeals was held on Thursday, February 05, 2026 at 7:30 PM at Council Chambers - City Hall, 300 W. 13 Mile Rd.

PRESENT: Chair Kimble and members: Aaron, Corbett, Covert, Holder, Loranger, Marentette, Oglesby, and Thompson

ABSENT: Sagar

ZBA 09-26. Minutes.

Motion made by Mr. Oglesby, Seconded by Ms. Thompson, to approve the January 8, 2026, Meeting Minutes as presented.

Voting Yea: Corbett, Holder, Kimble, Loranger, Marentette, Oglesby, Councilwoman Aaron, Ms. Covert, and Ms. Thompson

Absent: Rahul Sagar

Motion carried.

ZBA 10-26. Excuse member(s).

Motion made by Ms. Holder, Seconded by Mr. Oglesby, to excuse Mr. Rahul Sagar from tonight's meeting.

Voting Yea: Corbett, Holder, Kimble, Loranger, Marentette, Oglesby, Councilwoman Aaron, Covert, Thompson

Absent: Rahul Sagar

Motion carried.

ZBA 11-26. Case # PZBA 26-01 - Interpretation

City Planner Lonnerstater reviewed the staff report provided in the meeting packet, incorporated herein:

REQUEST

The applicant, Justin H. Summerville d/b/a/ Harpers Auction House, is seeking an interpretation of Zoning Ordinance regulations pertaining to "Firearm Retail Sales" (Section 7.03.13). In particular, the applicant is seeking a determination from the Zoning Board of Appeals as to whether or not the sale of firearms as a small component of an online auction warehouse falls under the definition of "Firearm Retail Sales", necessitating full compliance with locational and use-specific standards.

STAFF COMMENT AND ZBA ACTION

The interpretation request can be simplified via the following question: **Does the proposed sale, transfer, lease, offer or advertising for sale or lease of a single firearm, even as a minor component of an otherwise permitted warehousing use, automatically classify an otherwise permitted use as a firearm retail sales establishment?**

The Zoning Ordinance contains several uses that are defined by whether or not a certain component constitutes a majority of sales of a business or the primary element of the use. For example, a bar/taproom is defined as, “an establishment where the *majority* of sales come from alcoholic products.” Therefore, a restaurant which sells a small amount of wine would not be classified as a bar. Further, a tobacco/smoke shop is defined as, “a store *primarily* selling tobacco products and smoking equipment.” Thus, a party store which sells a small amount of cigarettes behind the counter would not be classified as a tobacco/smoke shop.

In other cases, however, such as this one, a distinction based on whether a product constitutes the majority (or primary source) of sales is not made. For example, staff opines that a convenience store that has one single gas pump would still be classified as a “gasoline service station,” even if the sale of gas constitutes less than 1% of all sales. Therefore, the gasoline service station component would be subject to all use-specific standards for gas stations.

The definition for firearm retail sales does not contain a distinction based upon the “majority of sales” or “primary” source of sales. Rather, the definition states that firearm retail sales includes the, “*sale, transfer, lease, offer or advertising for sale or lease of a firearm [...]*.” The ZBA shall interpret whether the “a” in the definition implies one single firearm.

Further, the ZBA should consider that the use-specific standards for firearm retail sales states that it shall be unlawful to establish, “[...] *firearm retail sales as an accessory use in any location in the City except as provided for in this section.*” The ZBA should discuss and interpret whether the term “*accessory*” in this provision is limited to a separate, but subordinate use to the principal use (for example, a stand-alone, firearm sales booth within a separate principal use, (e.g. a permitted gun range)), or more strictly as a minor component of a principal use itself (e.g. the applicant’s online auction warehouse).

The ZBA has the following options for the interpretation request:

Strict interpretation: Interpret that the definition of “*firearm retail sales*”, Section 2.01.47, includes the sale, transfer, lease, offer or advertising for sale or lease of one or more firearms. Therefore, any otherwise permitted use that includes firearm retail sales, even as a minor component, shall be deemed a firearm retail sales establishment subject to the use-specific standards of Section 7.03.13, and shall only be permitted in those zoning districts where “firearm retail sales” is permitted.

Interpretation in favor of Applicant: Interpret that the definition of “*firearm retail sales*”, Section 2.01.47, does not include an otherwise permitted use where the sale, transfer, lease, offer or advertising for sale or lease of firearms constitutes less than 50% of overall sales, transfers, or leases. Therefore, any otherwise permitted use which offers the sale, transfer, lease, or advertisement of products shall not be deemed a “firearm retail sales” establishment if firearms constitute less than 50% of overall sales, transfers, or leases; such use shall not be subject to the use-specific standards of Section 7.03.13.

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Following the consideration of all testimony, documentary evidence, and matters of record, and following the public hearing, the ZBA shall make a determination on the interpretation unless an extension of time is agreed to by the applicant and the ZBA. Any ZBA motion shall include clear and concise findings of fact relating to the interpretation request.

City Planner Lonnerstater explains that the applicant is seeking an **interpretation** regarding whether the sale of firearms as a minor component of an online auction business (located at 1100 East Mandoline in an M1 district) classifies the entire business as "firearm retail sales". Under the current ordinance, firearm retail is only permitted in M1 as an accessory use to an indoor shooting range.

Applicant Justin H. Somerville of Harper's Auction House states the business auctions antiques and collectibles, with firearms intended to be less than 25% of sales. He notes that the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) strictly regulate all sales of firearms. Mr. Somerville added that a Federal Firearms License (FFL) is required to process orders, transfers, or allow pick up of firearms.

Assistant City Attorney Tim Burns advises that interpretation creates a binding precedent. He notes that the ordinance uses the phrasing "a firearm," suggesting that even a single transaction could trigger the classification.

Chair Kimble opened the public hearing at 7:52 p.m. to hear comments on application #26-01.

There being no comments on application #26-01, Chair Kimble closed the public hearing at 7:54 p.m.

Mr. Tom Paglia, Vice President of the Ford Building, Inc., informed that Harper's Auction House is an online sales business and is not open to the public.

Motion made by Mr. Loranger, Seconded by Mr. Oglesby, **MOVE THAT** the Zoning Board of Appeals hereby interprets that the definition of "firearm retail sales", Section 2.01.47, includes the sale, transfer, lease, offer or advertising for sale or lease of one or more firearms. Therefore, any otherwise permitted use that includes firearm retail sales, even as a minor component, shall be deemed a firearm retail sales establishment subject to the usespecific standards of Section 7.03.13, and shall only be permitted in those zoning districts where "firearm retail sales" is permitted. This motion is based upon the language and implied intent of the use-specific standards for firearm retail sales, Section 7.03.13.

Voting Yea: Corbett, Kimble, Loranger, Marentette, Councilwoman Aaron, Thompson

Voting Nay: Holder, Oglesby, Covert

Absent: Sagar

Motion carried.

ZBA 12-26. Public Comment: For items not listed on agenda.

Seeing no one wished to comment, Chair Kimble opened public comment at 8:07 p.m. and closed the public comment at 8:08 p.m.

ZBA 13-26. Unfinished business.

Councilwoman Aaron expressed her concern regarding the Vice Chair position and the status of Ms. Gloria Thompson. She nominates Mr. Del Loranger for the position of Vice Chair.

City Planner Lonnerstater advised that other nominations can be considered for the Vice Chair position at the next Zoning Board of Appeals meeting.

Ms. Holder confirmed the nomination of Ms. Gloria Thompson for the position of Vice Chair. No formal action taken on the election of the Vice Chair.

ZBA 14-26. New business.

Ms. Marentette suggests moving the meeting start time earlier than 7:30 PM.

Chair Kimble directed staff to place this item on the March agenda for a formal vote.

ZBA 15-26. Adjournment.

Motion made by Ms. Holder, Seconded by Mr. Oglesby.

Voting Yea: Corbett, Holder, Kimble, Loranger, Marentette, Oglesby, Councilwoman Aaron, Covert, Thompson

Absent: Rahul Sagar

Motion carried.

There being no further business, Chair Kimble adjourned the meeting at 8:08 p.m.