



CITY OF MADISON HEIGHTS
COUNCIL CHAMBERS - CITY HALL, 300 W. 13 MILE RD.
ZONING BOARD OF APPEALS AGENDA
FEBRUARY 05, 2026 AT 7:30 PM

CALL TO ORDER

ROLL CALL

ADDITIONS/DELETIONS

APPROVAL OF MINUTES

1. January 8th, 2026 Meeting Minutes

PUBLIC HEARING

2. Case # PZBA 26-01 – Interpretation

REQUEST: Pursuant to Section 14.05 of the Zoning Ordinance, the applicant, “Harpers Auction House”, is seeking an interpretation from the Zoning Board of Appeals as to whether a proposed business falls under the definition/classification of “Firearm Retail Sales” contained in Sections 2.01.47 and 7.03.13 of the Zoning Ordinance.

MEETING OPEN TO THE PUBLIC: Items not listed on agenda

UNFINISHED BUSINESS

NEW BUSINESS

MEMBER UPDATES

PLANNER UPDATES

ADJOURNMENT

NOTICE: Persons with disabilities needing accommodations for effective participation through electronic means in this meeting should contact the City Clerk at (248) 583-0826 or by email: clerks@madison-heights.org at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

Zoning Board of Appeals Meeting
Madison Heights, Michigan
January 08, 2026

A Zoning Board of Appeals Meeting was held on Thursday, January 08, 2026, at 7:30 PM at Council Chambers - City Hall, 300 W. 13 Mile Rd.

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

ABSENT: Councilwoman Aaron and Marentette

ZBA 01-26. Excuse member(s).

Motion made by Ms. Holder, Seconded by Mr. Oglesby, to excuse Councilwoman Aaron and member Marentette from tonight's meeting.

Voting Yea: Corbett, Holder, Kimble, Loranger, Oglesby, Sagar, Covert, Thompson

Absent: Councilwoman Aaron, Ms. Marentette

Motion carried.

ZBA 02-26. Minutes.

Motion made by Ms. Corbett, Seconded by Ms. Covert, to approve the December 4, 2025, Meeting Minutes as presented.

Voting Yea: Corbett, Holder, Kimble, Loranger, Oglesby, Sagar, Covert, Thompson

Absent: Councilwoman Aaron, Marentette

Motion carried.

ZBA 03-26 PZBA #25-11: 31075 John R Road

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

REQUEST

The applicant, Matthew Abro, is appealing an administrative decision made by the City Planner, acting in the capacity of the Planning and Zoning Administrator, to deny a Certificate of Occupancy application for a tobacco/smoke shop at 31075 John R Road.

STAFF COMMENT AND ZBA ACTION

The City Planner, Matt Lonnerstater, summarized the staff report: The applicant has appealed the Planning and Zoning Administrator's decision to deny a Certificate of Occupancy (CofO) for his business. The facts presented in this staff report and the included attachments provide the reasoning for the Planning and Zoning Administrator's decision. This is not a variance request, and the criteria for reviewing an appeal differ from that of a variance request. In this case, the Zoning Board of Appeals is tasked with determining whether the Planning and Zoning Administrator (City Planner) made an error in their decision to deny the CofO. The onus is on the applicant/petitioner to prove that an error was made.

Based on general zoning practice, a reversal or modification of the Planning and Zoning Administrator's decision may be made if the ZBA finds one of the following to be true:

- (1) The decision was arbitrary or capricious; or
- (2) The decision was based on erroneous findings of fact; or
- (3) The decision was a clear abuse of discretion; or
- (4) The decision was based on an erroneous interpretation of the Zoning Ordinance.

The ZBA should not treat the appeal as a new decision. Rather, review of the decision should be limited to the information that was available to the Planning and Zoning Administrator when the decision to deny the Certificate of Occupancy application was made.

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 appeal unless an extension of time is agreed to by the applicant and the ZBA. Any ZBA motion, including a decision to either uphold or overturn the decision of the Planning and Zoning Administrator, shall include clear and concise findings of fact relating to the appeal.

Chair Kimble opened the public hearing at 7:37 p.m. to hear comments on application #25-11.

Appellant, Matthew Abro, explained the appeal: He sought to open a "Smokin Bear Tobacco" retail shop in a suite zoned B-1, Neighborhood Business. The appellant argued that significant investment was made in the build-out, including interior modifications, plumbing, and a new facade, and that city inspectors were aware of the intended use throughout the process. He further noted that a tobacco shop had previously operated in the same plaza.

City Planner Lonnerstater clarified that while building permits were issued for construction, issuance of a permit does not guarantee compliance with zoning codes. Upon review of the Certificate of Occupancy (CofO) application, it was determined that a "tobacco and smoke shop" was not a permitted use in the B-1 district under the current Zoning Ordinance adopted in 2024. The Zoning Ordinance defines such shops as stores primarily selling tobacco products, which are excluded from the B-1 use table.

Assistant City Attorney Burns advised the Board to determine if the City Planner was the appropriate authority and if the regulation was properly enforced.

There being no comments on application #25-11, Chair Kimble closed the public hearing at 8:13 p.m.

Motion made by Ms. Holder, Seconded by Mr. Oglesby, **MOVE** that the Zoning Board of Appeals hereby affirms and upholds the administrative decision of the City Planner, acting in the capacity of the Planning and Zoning Administrator, to deny a Certificate of Occupancy for a tobacco/smoke shop at 31075 John R Road, zoned B-1, Neighborhood Business. This decision is based upon the finding that the Planning and Zoning Administrator acted on the submitted Certificate of Occupancy application in accordance with the Madison Heights Zoning Ordinance.

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

Motion carried.

ZBA 04-26. Public Comment: For items not listed on agenda.

Seeing no one wished to comment, Chair Kimble opened public comment at 8:14 p.m. and closed the public comment at 8:15 p.m.

ZBA 05-26. PZBA #25-10: 32500 John R Road

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

REQUEST

The applicant, Marija Dedvukaj on behalf of property owner VDG John R, LLC, requests variances from Section 12.04 (Prohibited Signs) and Section 12.07 (Regulations for Permitted Signs) to permit the installation of a pylon sign that exceeds that maximum permitted height for ground signs. The property is located at 32500 John R Road (tax parcel #44-25-01-151-063) and is zoned B-3, Regional Business. The property is located on the east side of John R Road, south of Mandoline, and is improved with a drivethrough fast-food restaurant which is in the process of being converted into a Coney Island restaurant. At their December 4th, 2025 the Zoning Board of Appeals postponed action on the variance requests to allow time for the applicant to explore alternative sign heights and designs.

VARIANCE FINDINGS AND CRITERIA

Section 15.06.2 of the Zoning Ordinance grants the Zoning Board of Appeals the power to authorize variances from sign regulations, provided that such variances will not be inconsistent with the purpose and intent of such requirements. In granting a variance, the Zoning Boards of Appeals shall make findings that the petitioner has adequately proven the existence of a practical difficulty, explicitly with regard to the following criteria:

- A. That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, and would thereby render the conformity unnecessarily burdensome for other than financial reasons; and
- B. That a variance will provide and preserve a substantial property right similar to that possessed by other properties within the same zoning district and in the neighboring area, provided that possible increased financial return shall not of itself be deemed sufficient to warrant a variance; and
- C. That the plight of the owner is due to unique circumstances of the property, such as the shape of the parcel, unique topographic or environmental conditions, or any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be extraordinary; and
- D. That the requested variance is the minimum amount necessary to permit reasonable use of the land, building or structure; and

- E. That the authorization of such variance will not be of substantial detriment to adjacent properties and will not materially impair the intent and purpose of this Ordinance or the public health, safety, and general welfare of the community; and
- F. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

In granting any variance, the ZBA may prescribe appropriate conditions and safeguards in conformity with the Ordinance, provided that said conditions are designed to protect natural resources, the health, safety, and welfare and social and economic well-being of the public. Such conditions shall be necessary to meet the intent and purpose of the Ordinance, be related to the standards established in the section for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

STAFF ANALYSIS

The applicant has provided written responses addressing the variance criteria of Section 15.06.2 of the Zoning Ordinance. As justification for their variance requests, the applicant primarily cites concerns over the lack of visibility of a shorter sign. The applicant also references the fact that the previous Wendy's sign was of a similar height and design and alludes to the existence of other tall freestanding signs in the area.

Staff offers the following comments pertaining to each variance criteria:

- A. That strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, and would thereby render the conformity unnecessarily burdensome for other than financial reasons.

Staff Comment: Staff finds that compliance with the city's sign regulations, in this case allowing for a monument style ground sign with a height up to 8 feet, would not unreasonably prevent the owner from using the property for the proposed restaurant use.

- B. That a variance will provide and preserve a substantial property right similar to that possessed by other properties within the same zoning district and in the neighboring area, provided that possible increased financial return shall not of itself be deemed sufficient to warrant a variance.

Staff Comment: The applicant is bound to the same sign regulations as adjacent properties. While there are existing non-conforming signs along John R Road, these signs predate current zoning regulations and their existence in and of themselves are not a basis for granting new variances.

- C. That the plight of the owner is due to unique circumstances of the property, such as the shape of the parcel, unique topographic or environmental conditions, or any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be extraordinary;

Staff Comment: The subject property is of a typical rectangular shape and is 0.61 acres in size. Staff finds that there is adequate frontage and building setbacks to erect a sign satisfying zoning requirements, and that the typical characteristics of the parcel do not constitute a practical difficulty.

D. That the requested variance is the minimum amount necessary to permit reasonable use of the land, building or structure;

Staff Comment: Staff finds that a monument sign meeting maximum height standards would allow for reasonable use of the building and property as a restaurant. Denial of a variance in this case has no bearing on land use or permitted land uses on the property.

E. That the authorization of such variance will not be of substantial detriment to adjacent properties and will not materially impair the intent and purpose of this Ordinance or the public health, safety, and general welfare of the community;

Staff Comment: While the requested variances may not cause a substantial detriment to adjacent property, staff finds that issuing the variances would impair the intent and purposes of the City's sign regulations pertaining to sign style and height.

F. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

Staff Comment: Staff finds that the requested variances are the result of the property owner/tenant's desire to construct a taller sign type rather than the existence of a true practical difficulty or difficulties. While a shorter sign, in theory, would be less visible, staff struggles to find the existence of a true practical difficulty on the property which would restrict the use of the parcel as a restaurant.

Practical difficulties relating to a variance request should generally relate to unique physical constraints on the property, including but not limited to natural features (e.g. wetlands, topography, soil situations) or extraordinary parcel shape. Where physical constraints severely limit the ability to place a legal ground sign on the property, variances may be warranted.

ZBA ACTION

Any ZBA motion, including approval and denial, shall include findings of fact relating to the variance criteria listed in Sections 15.06.2 of the Zoning Ordinance. Template motions are provided below for the ZBA's consideration, which may be modified at the discretion of the board.

In granting a variance, the ZBA may attach conditions regarding the location, character and other features of the proposed use(s) as it may deem reasonable in furthering the purpose of the Zoning Ordinance.

Chair Kimble opened the public hearing at 8:17 p.m. to hear comments on application #25-10.

City Planner Lonnerstater advised this case was a continuation from December 4, 2025, meeting regarding a variance for a pylon sign. The applicant returned with revised plans after the board previously requested a shorter height. The revised "Option A" proposed a 12-foot-tall pylon sign (a 4-foot variance from the 8-foot limit) featuring a decorative masonry base. The applicant cited visibility issues due to the building's setback and neighboring structures as a practical difficulty. City Planner Lonnerstater noted that the previous sign on the site was 21 feet tall, and the new proposal represented a 9-foot reduction in the existing non-conformity. It was also noted that the pole base was already existing on the property.

There being no comments on application #25-10, Chair Kimble closed the public hearing at 8:26 p.m.

Motion made by Mr. Oglesby, Seconded by Ms. Corbett, move that the Zoning Board of Appeals **APPROVE** the variance requests to permit the installation of a non-permitted sign type (pylon sign) that exceeds that maximum permitted height for ground signs at the subject property located at 32500 John R Road. This motion, being made after the required public hearing, based upon the following findings:

- 1) Per Section 12.04, pylon signs are listed as a "prohibited sign" type. A pylon sign is defined as a freestanding outdoor sign with either one or two poles for support.
- 2) Per Section 12.07.2, the maximum sign height for a ground sign in the B-3 zoning district is 8 feet. 5) The applicant proposes a 12 or 15-foot-tall pylon sign on the subject property and is requesting variances from Section 12.04 (Prohibited Signs) and Section 12.07 (Regulations for Permitted Signs). In the case of sign height, the applicant is requesting either a four (4) or seven (7) foot variance.
- 3) The requested variance satisfies the variance criteria set forth in Section 15.06.2 of the Zoning Ordinance. In particular, the Zoning Board of Appeals finds that:
 - a) Strict compliance with area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose, and would thereby render the conformity unnecessarily burdensome for other than financial reasons; and
 - b) A variance will provide and preserve a substantial property right similar to that possessed by other properties within the same zoning district and in the neighboring area, provided that possible increased financial return shall not of itself be deemed sufficient to warrant a variance; and
 - c) The plight of the owner is due to unique circumstances of the property, such as the shape of the parcel, unique topographic or environmental conditions, or any other physical situation on the land, building or structure deemed by the Zoning Board of Appeals to be extraordinary; and
 - d) The requested variance is the minimum amount necessary to permit reasonable use of the land, building or structure; and
 - e) The authorization of such variance will not be of substantial detriment to adjacent properties and will not materially impair the intent and purpose of this

Ordinance or the public health, safety, and general welfare of the community; and

f) The need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

Approval is granted with the following conditions:

- (1) The maximum pylon sign height shall be twelve (12) feet from grade as presented in “Option A”, resulting in a four (4) foot variance.
- (2) The pylon sign shall feature a decorative masonry base as presented in “Option A”.
- (3) The pylon sign shall not be located within any required clear vision corner as contained in Section 8.06 of the Zoning Ordinance.

Voting Yea: Corbett, Holder, Loranger, Oglesby, Covert

Voting Nay: Kimble, Sagar, Thompson

Absent: Councilwoman Aaron, Marentette

Motion carried.

ZBA 06-26. Officer Elections: Chair

Chair Kimble called for nominations for the position of Chairperson of the Board.

Ms. Thompson nominates Mark Kimble as Chair.

Mark Kimble accepts the nomination for the Chair position.

Motion made by Ms. Thompson, Seconded by Mr. Oglesby, to approve Mark Kimble as Chair.

Voting Yea: Corbett, Holder, Kimble, Loranger, Oglesby, Sagar, Covert, Thompson

Absent: Councilwoman Aaron, Marentette

Motion carried.

ZBA 07-26. Officer Elections: Vice Chair

Chair Kimble called for nominations for the position of Vice Chairperson of the Board.

Chair Kimble nominates Gloria Thompson as Vice Chair.

Ms. Thompson accepts the nomination for the Vice Chair position.

Motion made by Ms. Holder, Seconded by Ms. Covert, to postpone the appointment of Vice Chair Gloria Thompson until such time that she is formally appointed as a regular member of the ZBA by City Council.

Voting Yea: Corbett, Holder, Kimble, Loranger, Oglesby, Sagar, Covert, Thompson

Absent: Councilwoman Aaron, Marentette

Motion carried.

ZBA 08-26. Adjournment.

Motion made by Ms. Holder, Seconded by Ms. Covert.

Voting Yea: Corbett, Holder, Kimble, Loranger, Oglesby, Sagar, Covert, Thompson

Absent: Councilwoman Aaron, Marentette

Motion carried.

There being no further business, Chair Kimble adjourned the meeting at 8:32 p.m.



MEMORANDUM

Report Date: January 30th, 2026
To: City of Madison Heights Zoning Board of Appeals
Meeting Date: February 5th, 2026
From: Matt Lonnerstater, AICP – City Planner
Subject: PZBA 26-01
Zoning Text Interpretation pertaining to “Firearm Retail Sales”

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.

ZBA AUTHORITY

Per Section 14.05 of the Madison Heights Zoning Ordinance, the Zoning Board of Appeals shall, *“have the power to make an interpretation of the regulations of the Zoning Ordinance where it is alleged that certain regulations are not clear or that they could have more than one meaning. In deciding upon the request, the Zoning Board of Appeals shall ensure that its interpretation is consistent with the intent and purpose of this Ordinance and the article in which the language in question is contained.”*

The ZBA's authority to hear and decide on zoning interpretations is derived from the Michigan Zoning Enabling Act ("MZEA") which authorizes the ZBA to, *"hear and decide questions that arise in the administration of the Zoning Ordinance."*

GUIDANCE FOR INTERPRETATIONS

The Michigan Municipal League’s (“MML”) Zoning Board of Appeals Handbook offers the following guidance for reviewing interpretations:

The ZBA is authorized to issue an official interpretation of the zoning ordinance. Interpretations may be related to either the text of the zoning ordinance or to the boundaries of the zoning map. Unlike legal opinions or recommendations of consultants, an interpretation by the ZBA establishes the meaning of the matter being interpreted and is deemed to be the actual meaning of the ordinance from that point forward, unless the ZBA's interpretation is appealed to the courts.

Several rules of thumb may help in making interpretations.

a) Base map interpretations on the zoning ordinance itself and any relevant historical information. Commonly, these rules are of the “walk like a duck” variety. In other words, if it appears as

though the zoning boundary follows a river, it should be assumed to follow the river, or a road right-of-way, or some other physical feature. Where the boundary is unclear, the ZBA should take into account past zoning history (if any) and the potential effect of a determination on surrounding properties.

- b) *Interpret the text of the zoning ordinance based on a thorough reading of the ordinance in order not to have the effect of amending the ordinance.*
- c) *Give weight to reasonable practical interpretations by administrative officials if applied consistently over a long period of time.*
- d) *Keep records of all interpretations. Once an interpretation is rendered, it is the official position of the community as to that provision. Consistency in decision making is important for the long-term.*
- e) *Generally, if equally convincing points are put forth by the zoning administrator and an individual affected by an interpretation, fairness dictates that the person most affected by the interpretation should prevail. In other words, where two interpretations are reasonably equal, the benefit of the doubt should be given to the property owner rather than the zoning administrator.*

Once an interpretation is made, it is advisable for the planning commission to review the matter to determine whether or not an amendment to the ordinance is needed to further clarify the language (for a text interpretation), or to review the zoning map to determine a specific location of a zoning boundary (for a map interpretation).

Source: (2015). *Zoning Board of Appeals Handbook*. Michigan Municipal League.

BACKGROUND AND FACTS

Proposed Use: The applicant proposes to operate an online auction company/warehouse at 1100 E. Mandoline, zoned M-1, Light Industrial. Per the application, the business involves selling items such as antiques, collectibles, coins, vehicles and **firearms** via online auction and storing the items in the warehouse. Warehousing is permitted by-right within the M-1 zoning district. However, firearm retail sales is not permitted as a principal use within the M-1 district and only permitted as accessory to an approved indoor shooting range (Special Land Use).

Interpretation Request: The applicant is seeking an interpretation as to whether an online auction/warehousing business that, as a component of the business, stores and auctions off firearms falls under the definition of a “firearm retail sales” establishment, thus making it subject to the locational and use-specific standards applicable to firearm retail sales establishments.

Pertinent Definitions: Per Section 2.01 of the Zoning Ordinance, effective on May 29th, 2024, the following definitions pertain to this case:

Firearm Retail Sales: The sale, transfer, lease, offer or advertising for sale or lease of a firearm, which includes a gun, pistol, revolver, rifle or any device designed to be used as a weapon from which is expelled through a barrel a projectile by force of any explosion or other form of combustion.

Use, Principal: The main use to which the premises are devoted and the principal; purpose for which the premises exists.

Use, Accessory: A use subordinate to the main use of a lot and used for purposes clearly incidental to those of the main use.

Use-Specific Standards for Firearm Retail Sales: Firearm retail sales are subject to the following use-specific standards contained in Section 6.03.13:

13. FIREARM RETAIL SALES

- A. It shall be unlawful to operate or cause to be operated a firearm retail sales establishment or firearm retail sales as an accessory use in any location in the City except as provided for in this section.
- B. Firearm sales may be permitted in the M-1 and M-2 only as an accessory use to a permitted indoor shooting range, subject to use-specific standards of **Section 7.03(22)** (Indoor Shooting Range).
- C. It shall be unlawful to operate or cause to be operated a firearm retail sales establishment within three hundred (300) feet (measured from the nearest lot line to the nearest lot line on a straight-line basis) of any of the following:
 - (1) A school or childcare facility.
 - (2) A public park.
 - (3) A public community center.
 - (4) Any residential zoning district or any parcel used for residential purposes.
- D. A firearm retail sales establishment lawfully operating is not rendered a nonconforming use by the subsequent location of a place of worship, school, childcare facility, public park, public community center, residential district, or a residential lot within three hundred (300) feet of the firearm retail sales establishment. However, if the firearm retail establishment ceases operation for a period of one-hundred and eighty (180) days or more, regardless of any intent to resume operation, it may not recommence operation in that location except in conformity with this Ordinance.
- E. No firearms or ammunition shall be displayed in window areas visible from a street or sidewalk.

Permitted Use Table: Per the Permitted Use Table, Section 3.06 of the Zoning Ordinance, “Firearm Retail Sales” is not a permitted principal use in the M-1, Light Industrial District. However, it is allowed as an “accessory use” to an indoor shooting range as discussed above.

Portion of Permitted Use Table – Section 3.06

Land Use	R-1	R-2	R-3	R-MN	R-MF	O-1	B-1	B-2	B-3	CC*	MU-1	MU-2	M-1	M-2	H-M	N-P	Use Standards (Section No.)
Child/Adult Day Care Center and Preschools	S	S	S	S	S	P	P	P	P	P*	S	P					<u>7.03(6)</u>
Commercial Kennels and Boarding Facilities								S	S				S	S	S		<u>7.03(8)</u>
Drive-Through Facilities						A+S	A+S	A	A		A+S	A					<u>7.03(11)</u>
Financial Institutions						P	P	P	P	P*	P	P	P	P			
Firearm Retail Sales								P	P				A	A			<u>7.03(13)</u>

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.

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.

Attachments

- PZBA 26-01 ZBA application for interpretation.
- Section 2.01.47 – Definition of Firearm Retail Sales
- Section 7.03.13 – Use Specific Standards for Firearm Retail Sales
- Section 3.06 – Permitted Use Table
- Section 14.05 – Zoning Board of Appeals
- Public Hearing Notice

TEMPLATE MOTIONS

Strict interpretation: 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 use-specific 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.

Interpretation in favor of Applicant: MOVE THAT the Zoning Board of Appeals hereby interprets 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. This motion is based upon the lack of clear intent contained within the definition of Firearm Retail Sales and ambiguity contained within the definition of Section 2.01.47.



**CITY OF MADISON HEIGHTS
COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT
ZONING BOARD OF APPEALS (ZBA) APPLICATION**

I. APPLICANT INFORMATION

Applicant Harpers Auction House

Applicant Address 1100 E Mandoline Suite 300

City Madison Heights State MI ZIP 48071

Interest in Property (owner, tenant, option, etc.) Tenant

Contact Person Justin H. Summerville

Telephone Number [REDACTED] Email Address [REDACTED]

II. PROPERTY INFORMATION (IF APPLICABLE)

Property Address 1100 Mandoline

Tax ID 44-25-01-251-022 Zoning District M-1 LT

Owner Name (if different than applicant) The Ford Building, Inc.

Address 18301 Eight Mile, Ste 100

City Eastpointe State MI Zip 48021

Telephone Number [REDACTED] Email Address [REDACTED]

III. CONSULTANT INFORMATION (IF APPLICABLE)

Name [REDACTED] Company [REDACTED]

Address [REDACTED]

City [REDACTED] State [REDACTED] Zip [REDACTED]

Telephone Number [REDACTED] Email Address [REDACTED]

ZBA APPLICATION

IV. NATURE OF REQUEST

Dimensional (Non-Use) Appeal of Administrative Variance Zoning Text or Map Interpretation Alteration of Non-Conforming Use

Brief Description of Request

I am requesting a different interpretation of the Retail Firearms sales zoning

Required Attachments: Refer to ZBA Review Standards Response Form and Checklist (attached).

V. APPLICANT CERTIFICATION

I (we) the undersigned do hereby apply to the City of Madison Heights for review and approval of the above-described Zoning Board of Appeals application. Applicant(s) and the property owner(s) do hereby consent to city staff to assess the property for purposes of evaluating the site for requested action(s). I hereby affirm that all of the information submitted with and including this application are correct and truthful to the best of my knowledge.

Printed Name Justin H. Summersville

Signature Justin H. Summersville

Date 11/15/26

VI. PROPERTY OWNER CERTIFICATION

By signing below, I (property owner) understand that the application to the City of Madison Heights has been made for land use matters to be considered and decision made by the Zoning Board of Appeals that will affect use of my property. I hereby affirm that all of the information submitted with and including this application are correct and truthful to the best of my knowledge.

IF YOU ARE NOT THE PROPERTY OWNER, YOU MUST HAVE THE PROPERTY OWNER PROVIDE A NOTARIZED SIGNATURE, BELOW, OR PROVIDE A NOTARIZED LETTER OF AUTHORIZATION OR NOTARIZED POWER OF ATTORNEY AUTHORIZING YOU TO ACT ON THEIR BEHALF.

Printed Name Tom Paglia, VP, The Ford Building, Inc.

Signature Tom Paglia

Date 11/15/26

Notary for Property Owner:

Subscribed and sworn before me, this 5th day of January, 2026.

Notary Stamp

A Notary Public in and for Wayne County, Michigan. (Acting in Macomb)

Notary Name (Print): Charis Miles

CHARIS MILES
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Feb 8, 2031
ACTING IN COUNTY OF Macomb

Notary Signature: Charis Miles

My Commission Expires: 2/9/2031



STAFF USE ONLY [DO NOT ACCEPT INCOMPLETE APPLICATIONS]

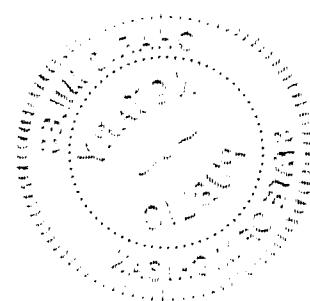
FILING FEE: \$400

ZBA NO.: PZBA # 26-001

- DIMENSIONAL VARIANCE/NON-CONFORMING USE:
 - Single-Family: \$300
 - Multi-Family/Non-Residential: \$400 + \$300 per additional variance
- Appeal/Interpretation: \$400

DATE APPLICATION RECEIVED: 11/15/25

RECEIVED BY: QZ



ZBA APPLICATION

ZONING BOARD OF APPEALS (ZBA): REVIEW STANDARDS RESPONSE FORM

Section 15.06 of the Zoning Ordinance contains review standards and criteria for variances and appeals. Please provide responses to the following review standards for consideration by staff and the Zoning Board of Appeals. (Provide additional separate sheets, if necessary).

Please fill out ONLY the section below that applies to your request.

SECTION A: APPEAL OF ADMINISTRATIVE DECISION

Check here for an Appeal of Administrative Decision (Section 15.06 of Zoning Ordinance)

1. Date of Decision BeingAppealed: _____
2. Decision Making Entity: _____

Planning and Zoning Administrator Planning Commission Code Enforcement Other: _____

3. Applicant's Reason for Appeal: Describe the decision being appealed and how the decision was made contrary to the proper requirements and standards of the Zoning Ordinance.

4. Provide copy of the Notice of Action, notice of violation, and/or meeting minutes for the zoning decision being appealed.

SECTION B: ZONING TEXT OR MAP INTERPRETATION

Check here for a Zoning Text or Map Interpretation (Section 15.06 of Zoning Ordinance)

1. If requesting a text interpretation, provide Section numbers of Zoning Ordinance to be interpreted:

7.03 Section 13 (Firearm Retail Sales)

2. Please describe the request and what needs to be clarified or interpreted by the ZBA.

I am asking for a different interpretation of the above section in relation to my business. I am an online auction company and do not sell anything retail including firearms. I sell antiques, collectibles, coins, vehicles and firearms would be an accessory for my business. I'm asking that I be allowed a different interpretation to securely and safely store the firearms in my space and do legal transfers to the legitimate buyers. All the selling I do is online and goes to the highest bidder. I am not asking to have a live fire range, only again the ability to safely, legally and securely store firearms until they have been legally auctioned and then transfer those to the buyers.

shall include hedges. Fences consisting of chain link mesh, welded or woven wire or sheet metal are excluded under this definition.

B. **Partition Fence** shall mean a fence located along the line dividing two lots or parcels of land whether subject to an easement or not.

C. **Privacy Fence** shall mean a sight-obscuring fence used to block the area enclosed by the fence from view from neighboring properties or public rights-of-way.

46. **Financial Institution:** Any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution. Examples include, but are not limited to, banks, savings and loan office, credit unions, mortgage or loan companies, and stock brokers, including branch offices and automated teller machines.

47. **Firearm Retail Sales:** The sale, transfer, lease, offer or advertising for sale or lease of a firearm, which includes a gun, pistol, revolver, rifle or any device designed to be used as a weapon from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

48. **Fleet and Recreational Vehicle Storage Yard:** A facility, typically including outdoor storage areas, dedicated towards the long-term and/or overnight storage of delivery or service vehicles owned by a commercial establishment, or the long-term storage of personal recreational vehicles, including but not limited to boats, boat trailers, utility trailers, motorized homes, and camper trailers.

49. **Floor Area, Gross:** The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage and measured from the exterior faces of the exterior walls.

50. **Floor Area, Usable:** The gross floor area, minus the area used for or intended be used for storage, hallways, vestibules, elevators, stairs, mechanical equipment, sanitary facilities, or utilities.

51. **Foster Care Facility:** A residential care facility licensed by the State of Michigan under PA 287 of 1972 as amended, or PA 116 of 1973, as amended, which provides resident care services for twenty-four (24) hour supervision or care for persons in need of that supervision or care. This term does not include such facilities licensed by the State of Michigan for care and treatment of persons released from or assigned to adult correctional institutions.

A. **Foster Care Family Home:** A state licensed foster care facility providing resident services to six (6) or fewer persons.

B. **Foster Care Group Home:** A state licensed residential facility providing resident services to more than six (6) persons.

52. **Funeral Home:** An establishment engaged in undertaking services such as preparing the human dead for burial or cremation, and arranging, managing, and hosting funeral services.

53. **Garage, Private:** An accessory building used for parking or storage of motor vehicles, but not for commercial servicing or repair.

54. **Garden Center:** A retail facility that sells plants and related products for the domestic garden as its primary business. Plant stock is typically propagated elsewhere, such as by specialist nurseries or wholesalers.

55. **Gasoline/Recharging Service Station:** A place for the dispensing, sale, or offering for sale of motor fuels or use of vehicle charging equipment directly to the users of motor vehicles, and also including the accessory sale of minor accessories.

56. **General Retail:** Business that sells retail goods, including but not limited to groceries, meats, dairy products, baked goods or other foods, dry goods, used goods, and hardware. General Retail does not include Tobacco/ Smoke Shops, as defined in this Ordinance.

57. **General Retail, Small to Mid-Format:** A general retail building of 30,000 square feet or less that is most commonly associated with one or more smaller retail tenants.

58. **General Retail, Large Format:** A general retail building of greater than 30,000 square feet that is most commonly associated with one or more larger commercial tenants. A large-format general retail building may have several commercial uses in the building or have in-line retail.

- B. Duplexes shall comply with all Detached One-Family standards, [Section 7.03\(10\)](#), with the following exceptions and additional provisions:
 - (1) At least one exterior entrance shall face a public or private street.
 - (2) Duplexes may include a 20-foot shared driveway and/or a maximum of two (2) individual 12-foot wide driveways, located on opposite ends of the front property lines.

13. FIREARM RETAIL SALES

- A. It shall be unlawful to operate or cause to be operated a firearm retail sales establishment or firearm retail sales as an accessory use in any location in the City except as provided for in this section.
- B. Firearm sales may be permitted in the M-1 and M-2 only as an accessory use to a permitted indoor shooting range, subject to use-specific standards of [Section 7.03\(22\)](#) (Indoor Shooting Range).
- C. It shall be unlawful to operate or cause to be operated a firearm retail sales establishment within three hundred (300) feet (measured from the nearest lot line to the nearest lot line on a straight line basis) of any of the following:
 - (1) A school or childcare facility.
 - (2) A public park.
 - (3) A public community center.
 - (4) Any residential zoning district or any parcel used for residential purposes.
- D. A firearm retail sales establishment lawfully operating is not rendered a nonconforming use by the subsequent location of a place of worship, school, childcare facility, public park, public community center, residential district, or a residential lot within three hundred (300) feet of the firearm retail sales establishment. However, if the firearm retail establishment ceases operation for a period of one-hundred and eighty (180) days or more, regardless of any intent to resume operation, it may not recommence operation in that location except in conformity with this Ordinance.
- E. No firearms or ammunition shall be displayed in window areas visible from a street or sidewalk.

14. FOSTER CARE HOMES

- A. The licensee must permanently reside as a member of the household.
- B. The applicant shall submit a copy of the State license for the facility upon submittal for a Certificate of Occupancy.

15. FUNERAL HOMES

- A. Assembly of vehicles for funeral processions shall not occur in a public street.
- B. Where a funeral home is permitted, a funeral chapel shall also be permitted.

16. GASOLINE/RECHARGING SERVICE STATIONS

- A. **Residential Separation Buffer.** A twenty (20) foot buffer shall be provided between any portion of a gas station facility (e.g., buildings, access drives, pumps, canopies, parking areas) and the property line of a residentially-zoned parcel, screened and landscaped in accordance with [Section 11.04](#) (Transitional Landscaping).
- B. **Minimum Lot Area and Width.** The parcel shall contain a minimum area of 14,000 square feet. The parcel shall have a minimum width of 100 feet along the principal street serving the station.
- C. **Vehicular Access:**
 - (1) Gasoline service stations, when located on a corner lot, shall provide vehicular entrances or exits (curb cuts) no less than thirty-five (35) feet from the corner intersection of the property lines.
 - (2) All curb openings, whether on a corner lot or not, shall not exceed thirty-five (35) feet in width at the property line.

5. Rezoning Requests ([Section 15.07](#))
6. Site Condominiums ([Section 5.04](#))
7. Special Land Use Requests ([Section 15.05](#))
8. Other items forwarded onto the Technical Review Committee by the Planning and Zoning Administrator

Section 14.03 City Council

1. City Council shall act as the final approving body for the following types of applications:
 - A. Ordinance Text Amendments ([Section 15.07](#))
 - B. PUDs ([Section 5.05](#))
 - C. Rezoning Requests ([Section 15.07](#))
 - D. Residential Cluster Subdivisions ([Section 5.02](#))
 - E. Special Land Use Requests ([Section 15.05](#))

Section 14.04 Planning Commission

The Planning Commission is hereby designated as the Commission specified in the Michigan Planning Enabling Act, Act 33 of 2008, and shall perform the duties of said Commission as provided in the statute in connection with the amendments of this Ordinance. The Planning Commission is responsible for review and approval of certain Major Site Plans ([Section 15.04\(3\)\(D\)](#)) and Site Condominiums ([Section 5.04](#)) and certain Temporary Use permits (Section 7.0343) and Section 15.08). The Planning Commission acts in an advisory capacity for Special Land Uses ([Section 15.05](#)), Ordinance Text Amendments ([Section 15.07](#)), PUD's ([Section 5.05](#)), Residential Cluster Subdivisions ([Section 5.02](#)), and Rezoning Requests ([Section 15.07](#)).

Section 14.05 Zoning Board of Appeals

1. **Creation and Membership.**
 - A. There shall be established and appointed by council of the City of Madison Heights, in accordance with the Michigan Zoning Enabling Act 110 of 2006, as amended, a Zoning Board of Appeals. The Zoning Board of Appeals shall consist of nine members, who shall be appointed by the council for terms of three years each.
 - B. City Council may also appoint, in accordance with the procedure specified in the Zoning Ordinance, not more than two alternate members for the same term as regular members of the Zoning Board of Appeals. The alternate members may be called on a rotating basis as specified in the Zoning Ordinance to sit as regular members of the Zoning Board of Appeals in the absence of a regular member. An alternate member may also be called to serve in place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the Zoning Board of Appeals.
 - C. The Zoning Board of Appeals has the following duties and responsibilities:
 - (1) Dimensional Variances, in accordance with [Section 15.06](#); Administrative Appeals, in accordance with [Section 15.06](#); Alteration of non-conformities, in accordance with [Section 13.01](#).
 - (2) **Interpretation of Zoning Ordinance Regulations:** The Zoning Board of Appeals has the power to make an interpretation of the regulations of this Zoning Ordinance where it is alleged that certain regulations are not clear or that they could have more than one meaning. In deciding upon the request, the Zoning Board of Appeals

Appeals shall ensure that its interpretation is consistent with the intent and purpose of this Ordinance and the article in which the language in question is contained.

D. In the first instance, three of said members shall be appointed for a one-year term, three of said members shall be appointed for a two-year term, and three of said members shall be appointed for a three-year term; except that the term of any elected officer who may be appointed to the board shall expire upon the expiration of his term in office, or the expiration of his term upon the Zoning Board of Appeals, whichever event is first. All members of the Zoning Board of Appeals appointed to said board prior to the enactment of this Ordinance shall continue in office for the remaining portion of their term. All of the members of the board shall be citizens of the United States and resident of the City of Madison Heights for a full two-year period prior to appointment. Members of the board may be removed only as provided in section 5.4 of the City Charter. Any vacancy in the board shall be filled by the council for the remainder of the unexpired term.

2. **Procedure of Zoning Board of Appeals.**

A. Meetings of the board shall be heard at the call of the chairperson and at such other times as the board may determine by rule. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

B. All meetings of the board shall be open to the public. The board shall adopt its own rules or procedures and shall maintain a record of its proceedings which shall be a public record. The fees to be charged for appeals shall be set by resolution of the city council.

NOTICE OF PUBLIC HEARING

Notice is hereby given that a Meeting of the Madison Heights **Zoning Board of Appeals** will be held in the **City Council Chambers** of the Municipal Building at **300 W. 13 Mile Road**, Madison Heights, Oakland County, Michigan 48071 on **Thursday, February 5th, 2026** at 7:00 p.m. to consider the following requests:

1. Case # PZBA 26-01 – Interpretation

REQUEST: Pursuant to Section 14.05 of the Zoning Ordinance, the applicant, "Harpers Auction House", is seeking an interpretation from the Zoning Board of Appeals as to whether a proposed business falls under the definition/classification of "Firearm Retail Sales" contained in Sections 2.01.47 and 7.03.13 of the Zoning Ordinance.

The application and any supporting documents can be viewed during regular business hours at the Community & Economic Development Department. In addition, the agenda item can be viewed online at www.madison-heights.org in the Agenda Center after 4:00 p.m. on Friday before the meeting.

If you are unable to attend the meeting, you can send your comments via email to: MattLonnerstater@madison-heights.org and your comments will be read into the record at the meeting. Written comments may also be mailed prior to the meeting to 300 West Thirteen Mile Road, Madison Heights, Michigan, 48071. All comments will be heard at the meeting.

Item 2.

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MADISON HEIGHTS COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT (248) 583-0831

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