

**CITY OF MT. MORRIS
ZONING BOARD OF APPEALS
AGENDA**

**January 19th, 2022
6:00 p.m.**

- 1. MEETING CALLED TO ORDER:** City Clerk Spencer Lewis.
- 2. SWEARING IN OF MEMBERS:** Oath of office: Deanna Harcz, term ending December 2024.
- 3. ELECTION OF CHAIRPERSON:** Oath of office.
- 4. APPROVAL OF MINUTES:** None.
- 5. COMMUNICATIONS**
- 6. PUBLIC COMMENT**
- 7. OLD BUSINESS:**

No Old Business.
- 8. NEW BUSINESS:**
 - a. A variance request at properties known as 643 Walker Street, and 630 Mt. Morris Street, Mt. Morris, Michigan, for Sec. 6.15 of the Mt. Morris Zoning Ordinance to allow Alyass Properties, LLC to build its structures on the property within the setbacks on the west side and north side of the property as set forth in the plans. (see following maps; 16.2' - requested northern setback, 0' - requested western setback)
- 9. PUBLIC COMMENT**
- 10. ADJOURNMENT**

**CITY OF MT. MORRIS
VARIANCE REQUEST APPLICATION**

NAME ALYASS PROPERTIES LLC

ADDRESS 3789 FAWN DRIVE, ROCHESTER, MI 48306

PHONE (home) 810-533-3660 PHONE (work) _____

Tax Parcel # of Lot 57-12-528-015 & 57-12-528-014 Zoning District COMMERCIAL

1. **Attach a written affidavit stating of how you feel that this variance request complies with the following standards:**

Section 13.07 VARIANCE REVIEW PROCEDURES (B) City of Mt. Morris Zoning Ordinance

3. The application shall be accompanied by an affidavit by the applicant explaining:

- a. How the strict enforcement of the provisions of the City Zoning Ordinance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity unnecessarily burdensome.
- b. The conditions and circumstances unique to the property which are not similarly applicable to other properties in the same Zoning District.
- c. The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.
- d. Why the requested variance if granted would not confer special privileges that are denied other properties similarly situated and in the same Zoning District.
- e. Why the requested variance if granted would not be contrary to the spirit and intent of this Zoning Ordinance.

***REQUIRED TO COMBINE PARCELS PER 11/29/2021 PLANNING COMMISSION MEETING GRANTING SPECIAL/CONDITIONAL USE APPROVAL**

2. **Attach a Plot Plan drawn to the scale of 1"=20' and placed on a standard sheet and containing the following information:**

- a. Dimensional elements for which a variance is requested.
- b. Dimensional relationships of the subject parcel to the structures on all adjacent parcels.

****SEE ATTACHED SURVEY AND PLANS

[Signature]
Applicant's Signature

12-2-21
Date

Application Fee \$300.00

Date Notice Posted 12/29/2021

Date Notice Mailed 12/21/2021

Attach list of property owners sent notice.

Date of ZBA Meeting 01.19.2022

Date Notice Published 12/29/2021

Approve Variance _____

Disapprove Variance _____

Attach minutes of ZBA meeting.

AFFIDAVIT FROM PROPERTY
OWNER IN SUPPORT OF SETBACK VARIANCES

Affiant, being duly sworn deposes and states as follows:

1. That my name is Samir Shango, and I am the Manager on behalf of ALYASS PROPERTIES LLC, a Michigan limited liability company.
2. That ALYASS PROPERTIES LLC owns the property located at 643 Walker Mount Morris MI (PIN 5712-528-015) and 630 Mount Morris Street, Mount Morris, MI (PIN 5712-528-014) (collectively ,the "Property").
3. That ALYASS PROPERTIES LLC seeks a variance to build its structures in the proposed development on the property within the setbacks on the west side and on the north side of the Property as set forth in the plans previously submitted to the City of Mount Morris. See attached.
4. That the parcel on the west is vacant and is owned by the Genesee County Land Bank. I have contacted the Land Bank and I have offered to purchase the parcel.
5. That the Section 12.07 analysis is as follows:
 - a. That Strict enforcement of the City of Mount Morris set back requirements would prevent me from maximizing the space on my property and would extremely limit the proposed development.
 - b. That given the unique size and shape of the parcel, the setback variance is required because the proposed structured would not be fit on the Property and the development would be limited or altered in a manner that would limit the viability of the project.
 - c. That the manner in which the existing property was divided prior to ALYASS PROPERTIES LLC's ownership and the railroad tracks and easements appurtenant thereto makes the shape of the property unique and limits the ability to maximize the potential of the property. Granting a variance as to the setbacks would help alleviate this burden to the property created by these external factors.
 - d. That granting the variance as to the set back to ALYASS PROPERTIES LLC would not grant any special privileged to ALYASS PROPERTIES LLC that is not available to others in the zoning district and would instead foster development in the City of Mount Morris.
 - e. That granting the setback variances requested would not be contrary to the spirit of the Zoning Ordinance because it would encourage development in the city of Mount Morris and would generate tax revenues and other opportunities for the people of the City of Mount Morris while only nominally deviating from the existing set back requirements.

That this affidavit is made from my personal knowledge and that if sworn I can testify to the facts asserted herein.


Further, Affiant sayeth not.

Affiant/Property Owner:

ALYASS PROPERTIES LLC,
a Michigan limited liability company

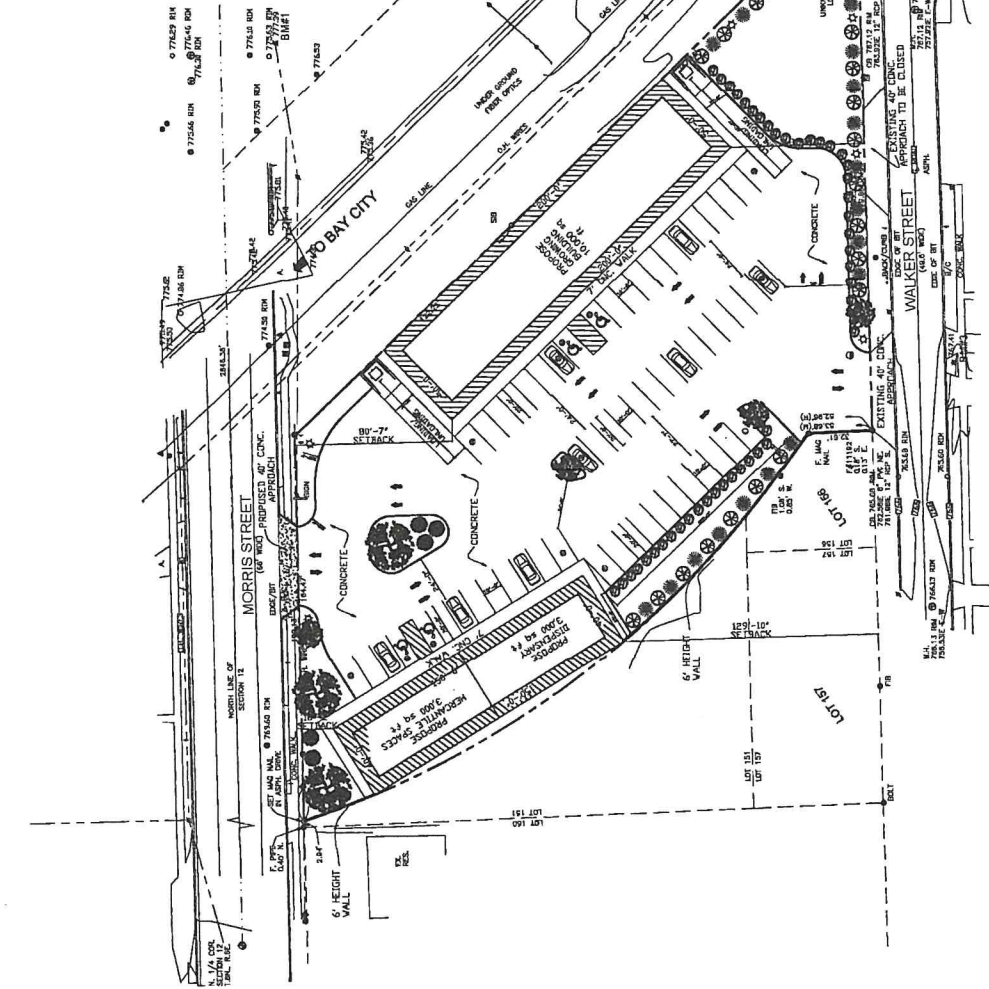
Property Owner Signature:

Property Owner Name/Title:


Samir Shango its Manager

Dated: 12/1/2021

SUBMITTALS	REVISIONS.	11/18/2021	PROJECT NO.	DATE 07/19/2021	SCALE	NOTED	SHEET TITLE SITE PLAN	SP-1	SEAL	
------------	------------	------------	-------------	--------------------	-------	-------	--------------------------	------	------	--

[illegible]
$$\frac{1}{s}$$

City of Mt. Morris
Alyass Properties LLC, 643 Walker & 630 Mt. Morris St.

Front and Side Yard Setbacks

Variance From Standards		
Standard	Required	Requested Variance
Section 6.15 (s) C District Front Yard Setback ii. The average setback of structures within 300 feet of the center of the lot front, along the same side of the street.	The average setback of properties within 300' of the center of the northern lot front on W. Mt. Morris St. is approximately 30', making the required setback for the proposed development 30' as well.	Requested setback is 16.2', requiring a variance of 13.8' from ordinance standards.
Section 6.15 (m) C District Side Yard Setback Zero feet. Fifty feet when adjacent to a road or residential district.	The adjacent property to the west is zoned Multiple Family (RB), which requires a setback of 50' on the western side lot line.	A 0' setback is requested on the western side lot line, requiring a 50' variance from ordinance standards.

Facts
<ol style="list-style-type: none"> 1. Applicant is constructing an adult use recreational marijuana establishment on the parcel that includes a grow operation, retail, and processing facility. 2. The Mt. Morris Planning Commission granted conditional approval of a site plan and special use permit for the site on November 29, 2021. One of the conditions for approval was receiving a variance from setback standards. 3. The northern setback requirement is dictated by properties within 300' of the property. The only properties within 300' of the northern property line along Mt. Morris St. are residential properties to the West. A commercial property is approximately 370' to the East on Mt. Morris St. and appears to have very little or no setback from the right-of-way. The property across the street has a setback of approximately 20'. 4. The property immediately to the West is owned by the Genesee County Land Bank Authority. 5. The subject parcels are an irregular shape due to the presence of the CSX railroad right-of-way on the eastern property line and a historical railroad easement that forms the western property line.

Standards for Approval of Variances (Section 13.07)			
In consideration of all variances, the Zoning Board of Appeals shall review each case individually as to its compliance with each of the following standards and may only approve variance requests which comply with all of them:			
Standard	Does Site Meet Requirements?		
	Yes	No	N/A
1. The standard for which the variance is being granted would unreasonably prevent the owner from using property for a permitted purpose or would render conformity unnecessarily burdensome.			
CONSULTANT FINDINGS IN SUPPORT: The required front and side yard setbacks are unnecessarily burdensome given the property's unique position in a transitional area between commercial uses to the East and residential uses to the West. Furthermore, the unique shape of the property creates an unnecessary burden for complying with the required 50' side yard setback, given that the adjacent property is vacant.	CONSULTANT FINDINGS IN OPPOSITION: Ordinance standards prevent the applicant from developing the proposed building and use, but do not prevent development of a less intensive use consistent with other uses found in the same zoning district.		
APPLICANTS COMMENTS: <i>Strict enforcement of the City of Mount Morris set back requirements would prevent me from maximizing the space on my property and would extremely limit the proposed development.</i>			
PUBLIC/PC COMMENT IN SUPPORT:		PUBLIC/PC COMMENT IN OPPOSITION:	

Standard	Does Site Meet Requirements?		
	Yes	No	N/A
2. The variance would do substantial justice to the applicant as well as to other property owners in the zoning district and a lesser relaxation of the standard would not provide substantial relief and be more consistent with justice to others			
CONSULTANT FINDINGS IN SUPPORT: Many other properties in the C zoning district that are adjacent to residential parcels do not have the required 50' side yard setback due to historic nonconformities. Applicant is providing landscaping and screening walls on the site to limit impacts on adjacent residential property owners, consistent with zoning ordinance standards.	CONSULTANT FINDINGS IN OPPOSITION: A lesser relaxation of the standards is possible with a less intensive use of the parcel.		
APPLICANTS COMMENTS: <i>Given the unique size and shape of the parcel, the setback variance is required because the proposed structure would not be fit on the property and the development would be limited or altered in a manner that would limit the viability of the project.</i>			
PUBLIC/PC COMMENT IN SUPPORT:		PUBLIC/PC COMMENT IN OPPOSITION:	

Standard		Does Site Meet Requirements?		
		Yes	No	N/A
3. The problem is due to circumstances unique to the property and not to general conditions in the area.				
CONSULTANT FINDINGS IN SUPPORT: The property has curvilinear western property line and is located on the edge of commercial zoning West of downtown Mt. Morris.	CONSULTANT FINDINGS IN OPPOSITION: N/A			
APPLICANTS COMMENTS: <i>The manner in which the existing property was divided prior to Alyass Properties LLC's ownership and the railroad tracks and easements appurtenant thereto makes the shape of the property unique and limits the ability to maximize the potential of the property. Granting a variance as to the setbacks would help alleviate this burden to the property created by these external factors.</i>				
PUBLIC/PC COMMENT IN SUPPORT:	PUBLIC/PC COMMENT IN OPPOSITION:			

Standard		Does Site Meet Requirements?		
		Yes	No	N/A
4. The problem that resulted in the need for the variance was not created by the applicant or previous owners of the property				
CONSULTANT FINDINGS IN SUPPORT: The history of the property and split of the lot is not known. The current owner did not split the properties into their current configuration.	CONSULTANT FINDINGS IN OPPOSITION: The applicant is proposing an intensive use of the property that maximizes total buildable space. A less intensive use would not require a variance.			
APPLICANTS COMMENTS: <i>Granting the variance as to the setback to Alyass Properties LLC would not grant any special privileges to Alyass Properties LLC that is not available to others in the zoning district and would instead foster development in the City of Mount Morris.</i>				
PUBLIC/PC COMMENT IN SUPPORT:	PUBLIC/PC COMMENT IN OPPOSITION:			

Standard		Does Site Meet Requirements?		
		Yes	No	N/A
5. Issuance of the variance would still ensure that the spirit of the Ordinance is observed, public safety secured and substantial justice done.				
CONSULTANT FINDINGS IN SUPPORT: The use does not present any significant dangers to public health, safety, or welfare, and it has been determined that the use will not place any undue burdens upon municipal infrastructure or other facilities. The variance will provide for similar setbacks as enjoyed by other nonconforming parcels in the same zoning district.	CONSULTANT FINDINGS IN OPPOSITION: N/A			
APPLICANTS COMMENTS: <i>Granting the setback variances requested would not be contrary to the spirit of the Zoning Ordinance because it would encourage development in the city of Mount Morris and would generate tax revenues and other opportunities for the people of the City of mount Morris while only nominally deviating form the existing set back requirements.</i>				
PUBLIC/PC COMMENT IN SUPPORT:	PUBLIC/PC COMMENT IN OPPOSITION:			

Sample motion to approve:

I make a motion to approve the requested variance based on the following findings of fact:

It complies with Standard 1 based on the unnecessarily burdensome setback requirements created by the property's unique shape and location.

It complies with Standard 2 based on the existence of many nonconforming properties in the C Zoning District that also do not comply with setback requirements.

It complies with Standard 3 based on the property's unique curvilinear shape and location at the edge of a commercial area.

It complies with Standard 4 based on the need for the variance is created by previous property configuration prior to the current owner having an interest in the property.

It complies with Standard 5 based on the requested variance is consistent with the spirit of the ordinance as it does not present any dangers to health, safety, or welfare or other purposes of the zoning ordinance.

Further, in order to ensure compliance with these standards, the following conditions are part of my motion to approve:

- _____
- _____
- _____
- _____

Sample motion to deny:

I make a motion to deny the requested variance based on the following findings of fact:

It does not comply with Standard 1 based on the need for the variance is created by the intensity of the proposed use. A less intensive use could be located on the property and comply with ordinance standards.

It does not comply with Standard 2 based on a lesser relaxation of standards is possible with a less intensive use.

It does not comply with Standard 4 based on a less intensive use would not require a variance.