



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-2669  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 3/18/2019  
**Title:** BOA-19-10300018: A request by Evita Morin for a 20' variance from the maximum 35' front setback requirement to allow a new building to be 55' away from the front property line, located at 2803 Mossrock. Staff recommends Approval. (Council District 1)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. BOA-19-10300018 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-19-10300018  
**Applicant:** Evita Morin, Executive Director  
**Owner:** Rise Recovery  
**Council District:** 1  
**Location:** 2803 Mossrock  
**Legal Description:** Lot 37 and The Northeast Irregular 67.23 feet of Lot 33, NCB 13266  
**Zoning:** "O-1.5 AHOD" Mid-Rise Office Airport Hazard Overlay District  
**Case Manager:** Debora Gonzalez, Senior Planner

### Request

A request for a 20' variance from the maximum 35' front setback requirement, as described in Section 35-310.01, to allow two new buildings to be 55' away from the front property line.

### Executive Summary

The applicant is requesting the variance to allow a new structure to be 55' away from the front property line. The intent of this request is to build two buildings on the property. The project consists of a one story building level and a second one story building on the smaller site along the corner. Nearby uses currently include a variety of service including, offices, retail stores, restaurants, gas station and automotive centers, among residential.

### Code Enforcement History

No Code Enforcement history exists on the property.

### **Permit History**

The applicant is waiting for variances to be approved to begin project.

### **Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
"O-1.5 AHOD" Mid-Rise Office Airport Hazard Overlay District	Vacant

### **Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwellings
South	"C-3 AHOD" General Commercial Airport Hazard Overlay District	Learning Center
East	"C-3NA AHOD" General Commercial Non Alcoholic Sales Airport Hazard Overlay District	Offices
West	"O-1.5 AHOD" Mid-Rise Office Airport Hazard Overlay District	Offices

### **Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the North Sector Plan and is currently designated "Suburban Tier" in the future land use component of the plan. The subject property is not within a registered neighborhood association.

### **Street Classification**

Mossrock is classified as a Local.

### **Criteria for Review**

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

1. *The variance is not contrary to the public interest.*

**The public interest is defined as the general health, safety, and welfare of the public. In this case, the variance is not contrary to the public interest as the structure will be 55' from the front property line and will not injure the rights of the adjacent property owners. All other buildings along this street are located at 55' from the front property line. This request will allow for parking to be located in the front yard as exists on adjacent buildings.**

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**Literal enforcement of the ordinance would result in an unnecessary hardship as the existing site has a large retaining wall and the proposed project of a single-story structure will be in line with the larger building and in the similar visible line of building along Mossrock.**
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*  
**The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. In this case, the intent of the front setback is to create a more defined streetscape by locating structures closer to the front property line. Staff finds that allowing the building to be 20' further from the front is indiscernible to passersby.**
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the district in which the request for a variance is located.*  
**The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district.**
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*  
**As there are other buildings further than 35' from the property line, the request to increase the maximum front setback does not negatively impact neighboring properties as adjacent properties are all at 55' away from the front property line. It is unlikely that adjacent property would be harmed by the request.**
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*  
**The current 35' maximum setback for 0-1.5 zoning would require the new buildings to be closer to the street than other adjacent office structures creating a unique site situation for the view corridor along Mossrock and is not available for the lower portion of the site due to the existing retaining wall and playfield.**

#### **Alternative to Applicant's Request**

Denial of the variance request would result in the owner having to meet the maximum front setback requirement.

#### **Staff Recommendation**

Staff recommends **APPROVAL** of variance in **BOA-19-10300018**, based on the following findings of fact:

1. The request does not negatively impact the surrounding property owners, and;
2. The proposed project adheres to all other setbacks and bufferyard requirements.