

Standards for a Variance or Modification

Respond to the Standards for a Variance, posed as questions below.

Code Section:	6-305.D.6 – Parking Lot Area Landscape
Requirement:	One (1) detached landscaped parking lot island is required for every ten (10) parking spaces provided.
Requested Variance/ Modification:	One of the proposed landscaped islands, which is located in ComEd’s electrical easement, will not include trees.
Incremental Improvements:	Federal restrictions prohibit trees from being located within 35’ of the nearest phase wire. One of the proposed parking lot islands, located within the ComEd easement, will only contain shrubs and perennials.

Justification:

1. Can the property in question yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located?

No. In order to ensure that all parking lot islands include a tree, the island in question would need to be relocated, along with the associated row of parking. Shifting the row of parking to the west would require shifting all of the other parking rows, drive aisles, and the building. The ripple effect would encroach into the proposed detention pond area and the remaining undeveloped 0.5-acre portion of the parcel, limiting the potential for future development. Additionally, the proposed full access driveway is aligned with the Jewel-Osco driveway, which would not be the case with a site shift.

2. Is the plight of the owner due to unique circumstances?

Yes. The high voltage transmission lines that pass through the eastern side of the property create a unique circumstance that prohibits trees from being planted within the easement.

3. Will the variation, if granted, alter the essential character of the locality?

No.

4. Due to the particular physical surroundings, shape or topographical conditions of the specific property involved, is there a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations were carried out?

Yes. The existing ComEd easement presents a unique physical restriction on the property. The hardship caused by this physical restriction is the limited development that can occur in this area. Shifting the row of parking to the west to move the parking lot island out of the easement would cause the other parking rows, parking aisles, and the building to shift west. This would encroach into the proposed detention pond area and the remaining undeveloped 0.5-acre portion of the parcel, limiting the potential for future development. Additionally, the proposed full access driveway is aligned with the Jewel-Osco driveway, which would not be the case with a site shift.

5. How are the conditions upon which the petition for a variation is based unique to the property for which the variance is sought and are not applicable, generally, to other property?

The easement in question is a ComEd easement for high voltage (345 kV) transmission lines. The vertical clearance limitations for this type of easement prohibit trees and structures from being located within the easement.

6. Has the alleged difficulty or hardship been caused by these regulations, and not as a result from any act of the applicant or any other person presently having an interest in the property subsequent to the effective date hereof, whether or not in violation of any portion thereof?

Yes. The regulations require trees in all landscaped islands, and due to the location of the ComEd easement, a landscape island that conforms to the regulations cannot be located within the easement. This limits the potential layout of the site by not allowing and parking to be located within the easement area, as a parking lot island would also need to be included.

7. Will the granting of the variation be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located or otherwise be inconsistent with the Comprehensive Plan, any adopted overlay plan or these regulations?

No.

8. Will the proposed variation impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood?

No.

9. Is the variance granted the minimum adjustment necessary for the reasonable use of the land?

Yes. The minimum adjustment (elimination of a single landscape island tree) is being proposed.

10. Are aforesaid circumstances or conditions such that the strict application of the provisions of this Section would deprive the applicant of any reasonable use of his or her land? Mere loss in value shall not justify a variance; there must be deprivation of all beneficial use of land.

Yes. In order to ensure that all parking lot islands include a tree, the island in question would need to be relocated, along with the associated row of parking. Shifting the row of parking to the west would require shifting all of the other parking rows, drive aisles, and the building. The ripple effect would encroach into the proposed detention pond area and the remaining undeveloped 0.5-acre portion of the parcel, limiting the potential for future development. Additionally, the proposed full access driveway is aligned with the Jewel-Osco driveway, which would not be the case with a site shift.