

New City-wide Zoning By-law

Presentation to TLAB Members

by

Klaus Lehmann

**The Official Plan
is the Vision**

**The Zoning By-law
is the Precision**

Why One By-law?

- Easier to Administer
- Easier to read
- Better customer service
- Improved efficiencies for key Divisions
- Planning Act requirements



Biggest Challenge :

Transitioning from the Former By-laws

Existing zoning bylaws are NOT repealed to assist with transition

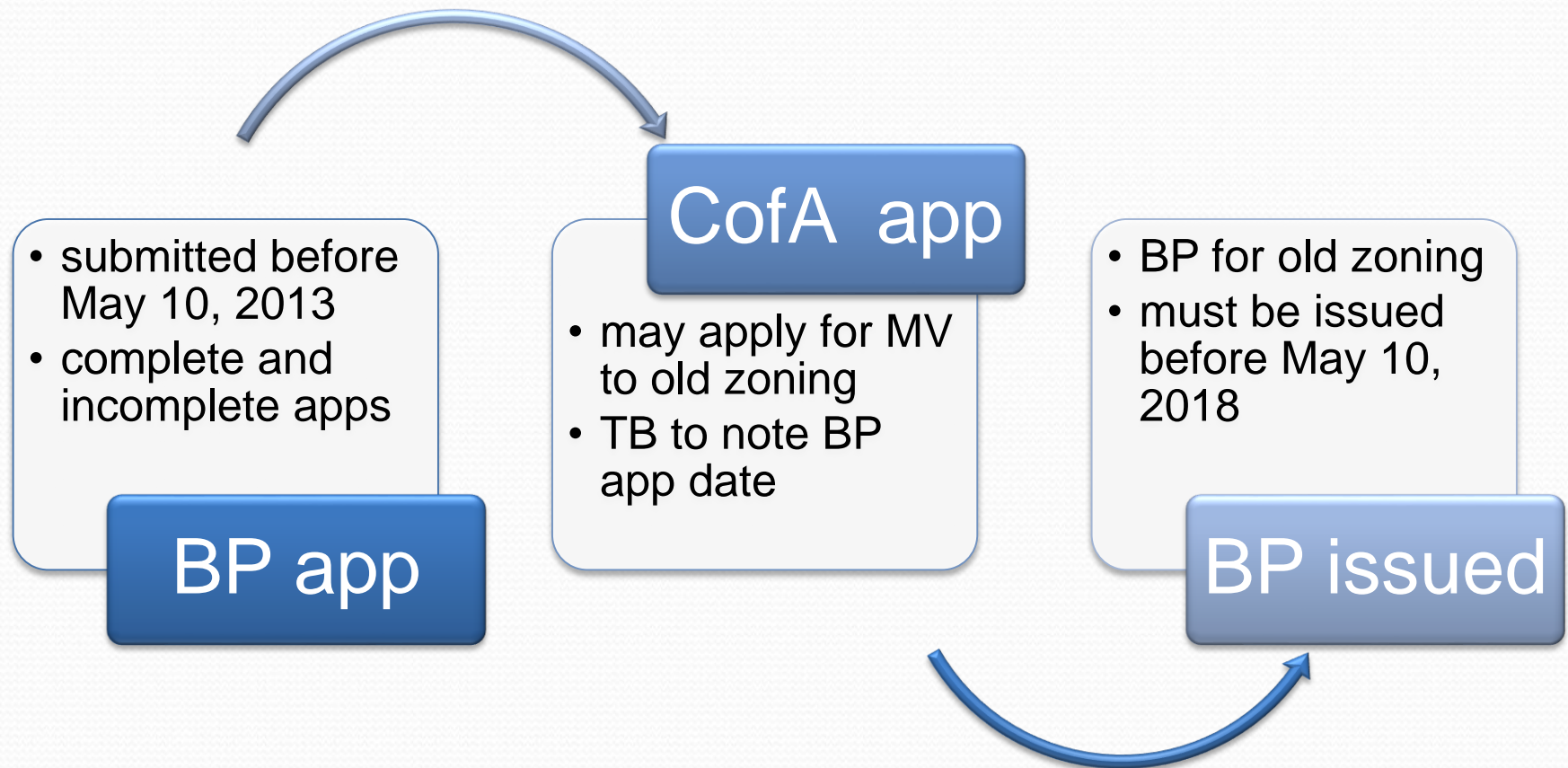
The new By-law supersedes former by-laws

A Transition Protocol determined which sites were left out of the By-law at the time of its adoption

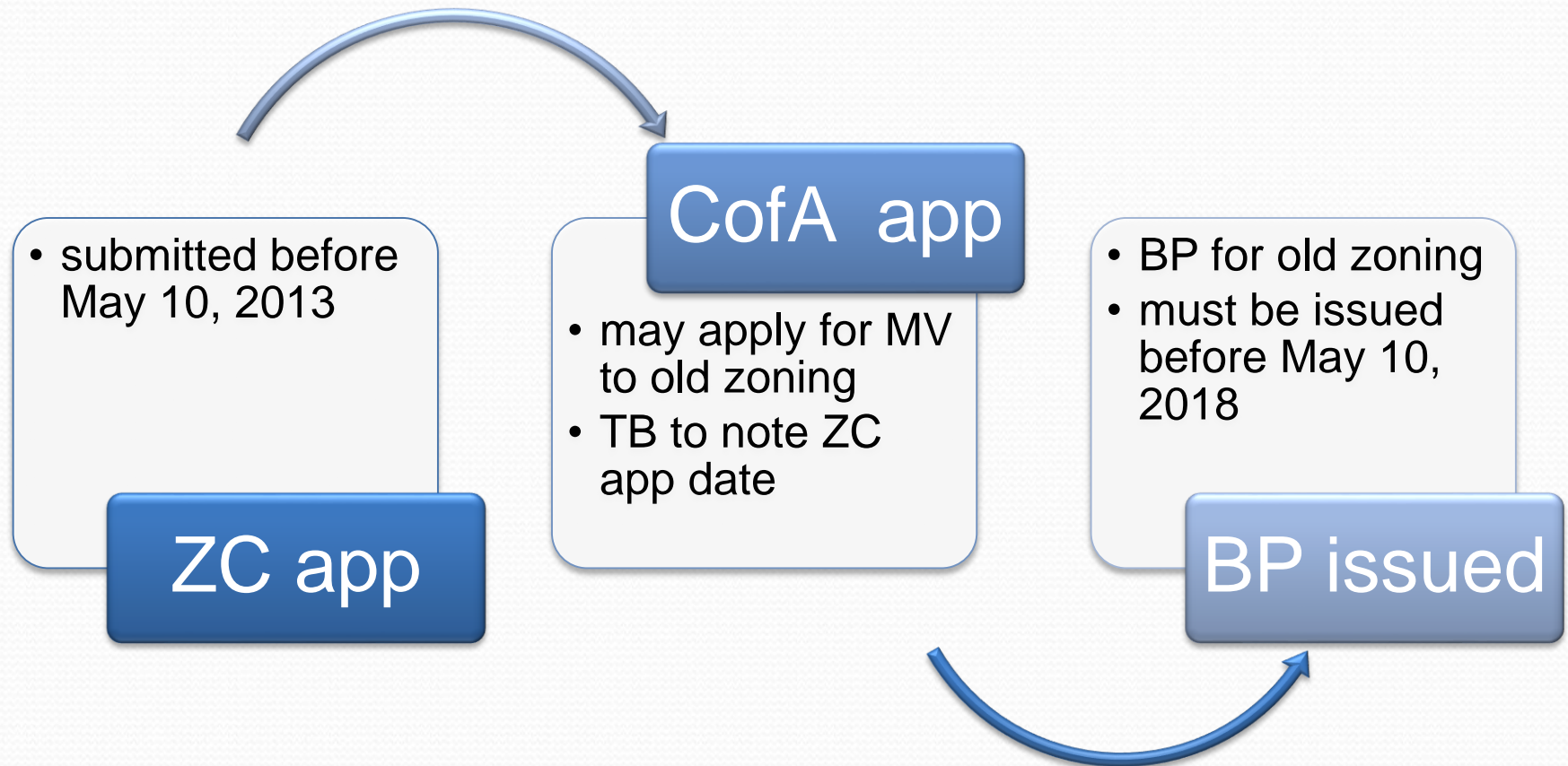
Active rezoning applications and complex area by-laws, such as the Centres, were left out at the time the By-law was adopted by Council

About 8,000 properties left out

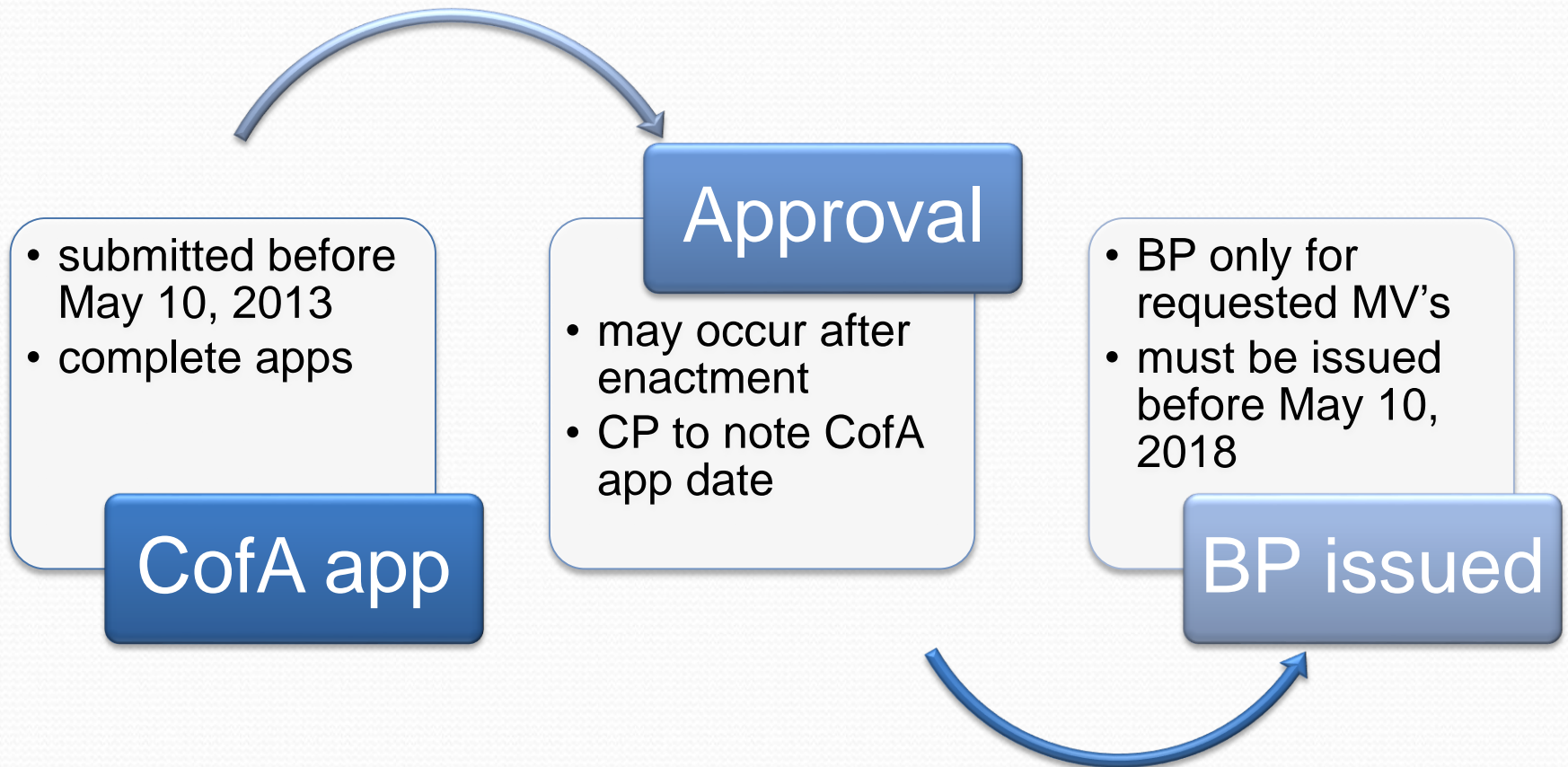
Transition – Building Permit



Transition – Zoning Certificate



Transition – Minor Variances



Transition Provisions for Existing Situations

Existing minor variances are recognized in the new Zoning By-law

Existing building conditions are “grandfathered” – known as “exemption” clauses in the By-law

Existing site specific amendments prevail over the requirements of the new Zoning By-law

Minor Variance Clause

Will regulate how minor variances to the former municipal zoning by-laws will be treated when the Transition Clause is no longer in effect – Section 2.1.2

- Existing variances continue to apply for lawfully existing conditions
- Minor variances may be relied upon if standard is same or more permissive
- Former municipal zoning bylaws used for definitions

Grandfathering Clauses

- The Zoning By-law 569-2013 has a series of Grandfathering or 'Exemption' clauses – denoted by .x1 clause number
- Apply to the “building” standards in By-law 569-2013 including height, setbacks, gross floor area, lot area and lot frontage requirements
- Each Exemption clause provides that the condition of a "lawfully existing" building is the permitted zoning requirement for that building
- The terms "**lawful**" and "**lawfully existing**" are defined in Zoning By-law 569-2013

Lawful and Lawfully Existing

Lawfully Existing:

- applies to a lot, building, structure or use.
- speaks to a timing requirement, replacing the traditional wording "on the date of passage of this By-law" and includes the three-year Transition Clause period.
- must be existing "lawfully", according to the definition of lawful and lawfully.

Lawful and Lawfully:

- applies to a regulatory standard, and as part of the definition of "lawfully existing"
- is an adjective/adverb that speaks to the compliance requirement; the regulatory standard must have complied with a former zoning by-law, was otherwise authorized by a minor variance or permitted before a zoning by-law was in place.

Minor Variances – most popular

Requested Minor Variance	% of Apps
Side Yard Setback	47%
Floor Area	43%
Lot Coverage	29%
Building Height	24%
Front Yard Setback	17%
Lot Frontage	17%
Lot Area	15%
Landscaped Area	13%
Building Length	13%
Rear Yard Setback	8%
Building Depth	8%
First Floor Elevation	7%

Minor Variances - # requested

Number of Variances Requested	% of Apps	% Approved
1	20	96
2	20	95
3	17	89
4	13	88
5	10	80
6	7	80
7	5	76
8	4	71
9	4	78

Variance Requests by Land Use

Land Use	2005	2011	2012
Residential low rise	83%	81%	84%
Commercial	4%	5%	5%
Residential high rise	3%	3%	2%
Mixed Use	3%	3%	2%
Industrial	2%	3%	2%
Residential Townhouses	2%	2%	2%
Institutional	1%	2%	1%
Parking	1%	-	-
Other	-	1%	-

Residential Zone Labels

RD (f12.0; a370; d0.45) (x123)

'x' = specific exception applicable to site

'd' = maximum floor space index

'a' = minimum lot area

'f' = minimum lot frontage

Zone Symbol, RD = Residential Detached zone

Side Yard Setbacks in an RD zone

The minimum side yard setback is about 10% of the minimum required lot frontage

- Increments are based on the **minimum required Lot Frontage** in an RD zone
 - **0.6** metres if ... frontage is less than **6** metres
 - **0.9** metres if ... frontage is **6** metres to < 12 metres
 - **1.2** metres if ... frontage is **12** metres to < 15 metres
 - **1.5** metres if ... frontage is **15** metres to < 18 metres
 - **1.8** metres if ... frontage is **18** metres to < 24 metres
 - **2.4** metres if ... frontage is **24** metres to < 30 metres
 - **3.0** metres if ... frontage is **30** metres or greater

Side Yard Setbacks in an RD zone

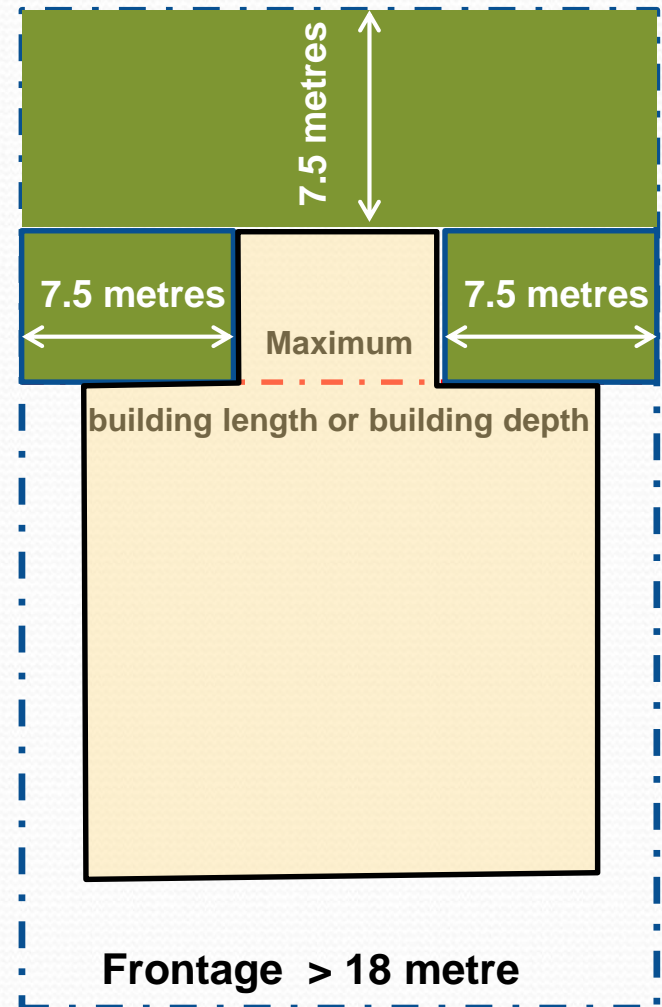
Larger side yard setback for rear part of house when Lot Frontage > 18 metres

minimum side yard setback is 7.5 metres for any part of the building that is more than:

17.0 metres from the front main wall

or

19.0 metres from the min front yard setback



Side Yard Setbacks in an R zone

Increments are based on the **type of building** in an R zone
(R2, R3, R4 & R4A zones in 438-86)

- **0.9 metres**, for
 - a detached house; a semi-detached house; and
 - a townhouse if all the dwelling units front directly on a street;
- **1.2 metres**, for:
 - a duplex; a triplex; a fourplex; and
 - an apartment building with a height of 12.0 metres or less
- **7.5 metres**, for:
 - a townhouse if a dwelling unit does not front directly on a street;
 - an apartment building with a height of more than 12.0 metres; and
 - a non-residential building

Additions to Lawfully Existing Buildings re: Setbacks

If lot has a lot frontage of 12.2 metres or less

An addition above a lawfully existing building may have the same ***front, rear*** or ***side*** setbacks as the **lawfully existing building**.

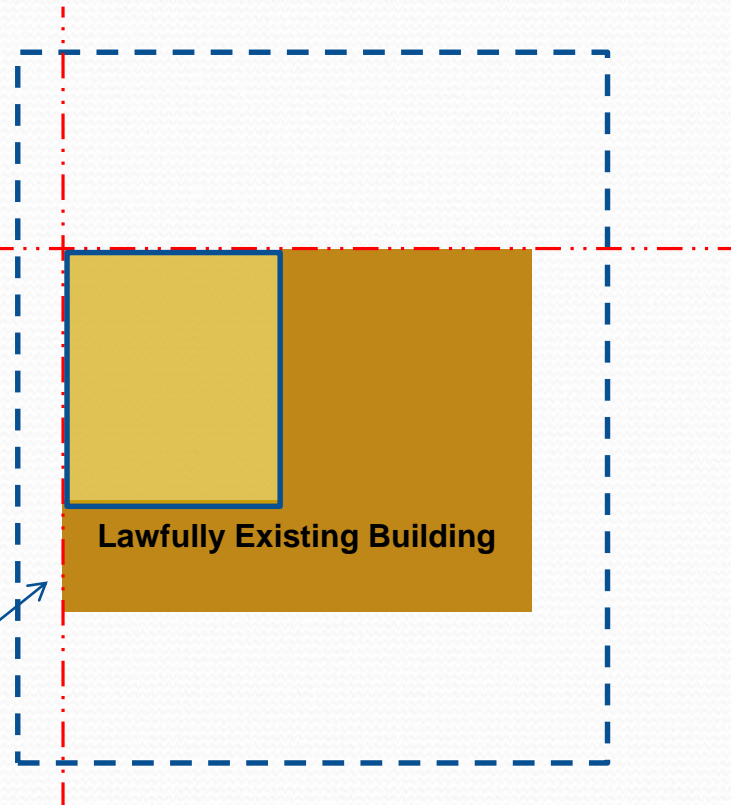
Additions to Lawfully Existing Buildings re: Setbacks

If lot has a lot frontage of 9.0 metres or less

An addition to the **rear** or the **side** of a lawfully existing building may have the same **side** yard setbacks as the lawfully existing building setbacks.

An addition **above** a lawfully existing building may have the same **front**, **rear** or **side** setbacks as the lawfully existing building.

Lawful 1.0 metre side yard
but 1.5 metre required



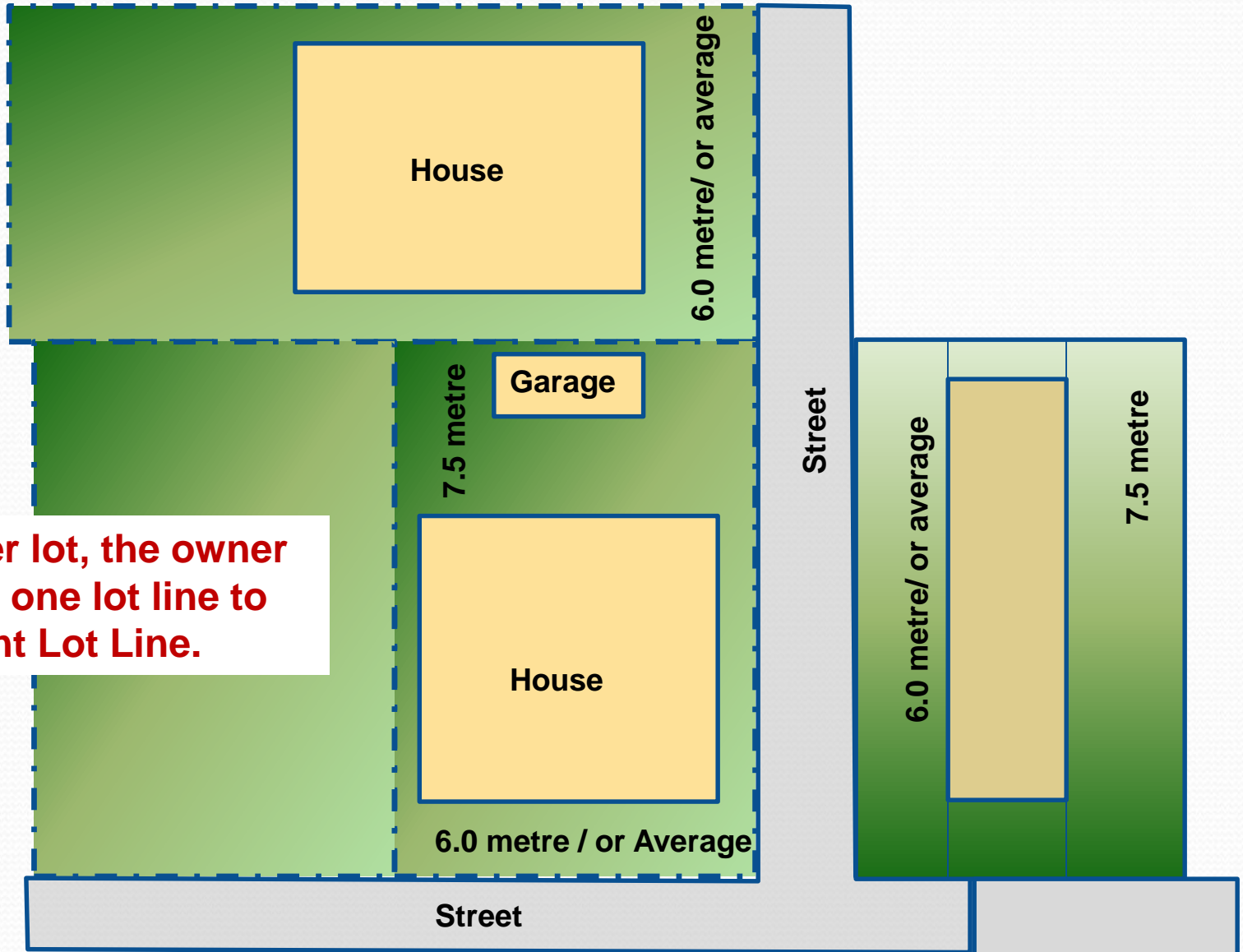
Clause 10.5.40.71

If averaging does not apply, the required minimum front yard setback is 6.0 metres.

Clause 10.5.40.70

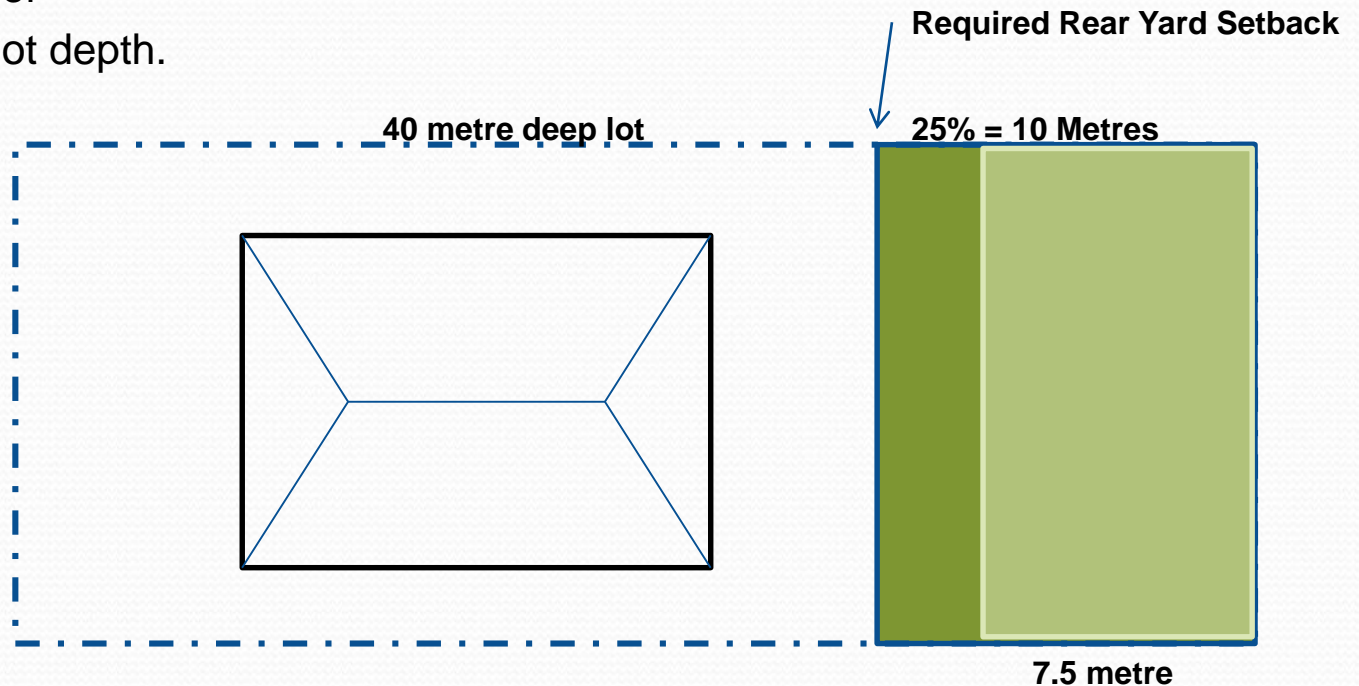
Front Lot Line

On a corner lot, the owner may select one lot line to be the Front Lot Line.



Rear Yard Setback

- In the R and RT zones is 7.5 metres.
- In the RD, RS and RM zones is the greater of:
 - 7.5 metres; or
 - 25% of the lot depth.



Floor Area (GFA or FSI)

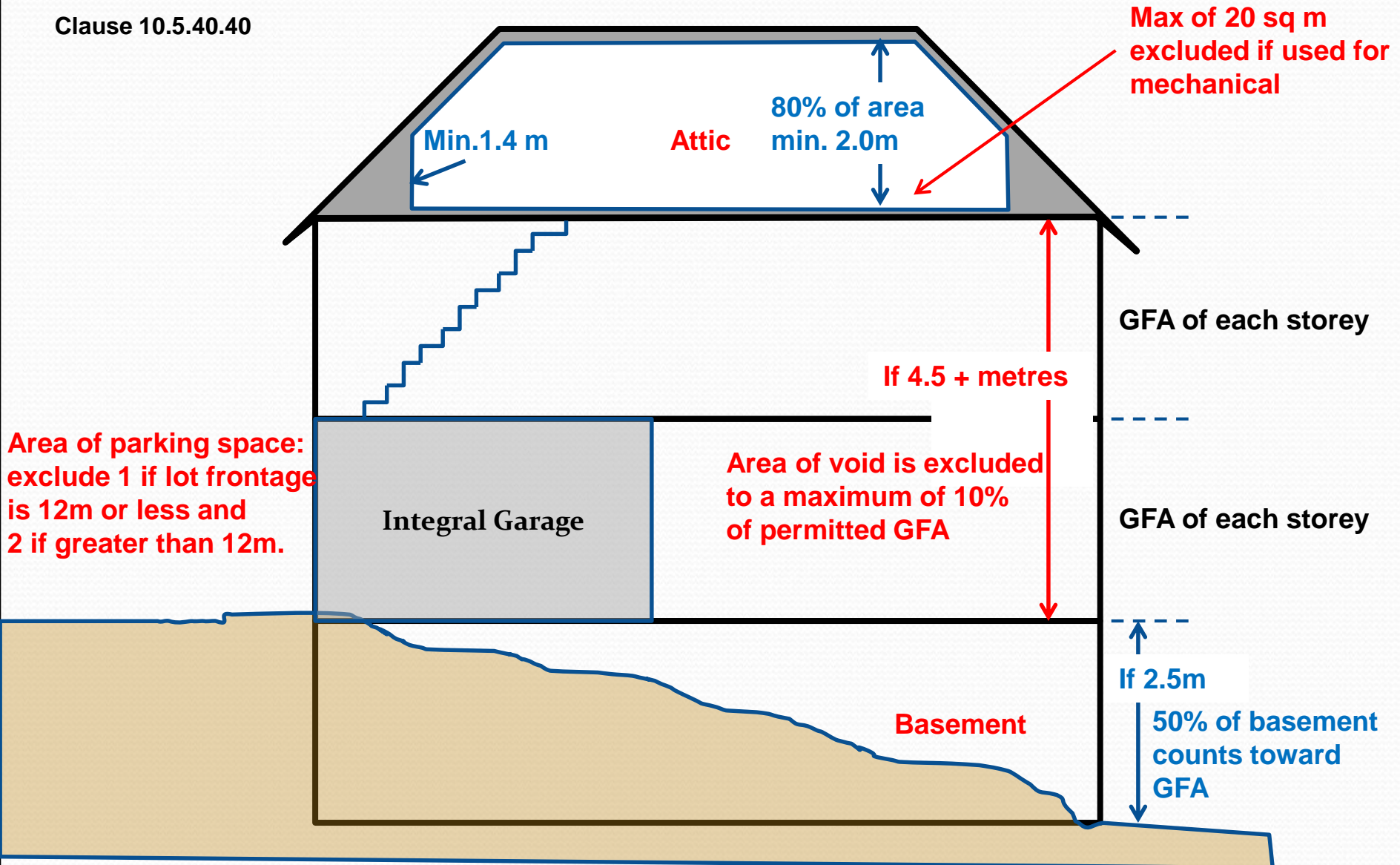
$$\text{FSI} = \text{GFA} \div \text{Lot Area}$$

**GFA = total area of each floor,
outside wall to outside wall**

(Some exceptions apply !)

Floor Area (GFA or FSI)

Clause 10.5.40.40



Floor Area (GFA or FSI)

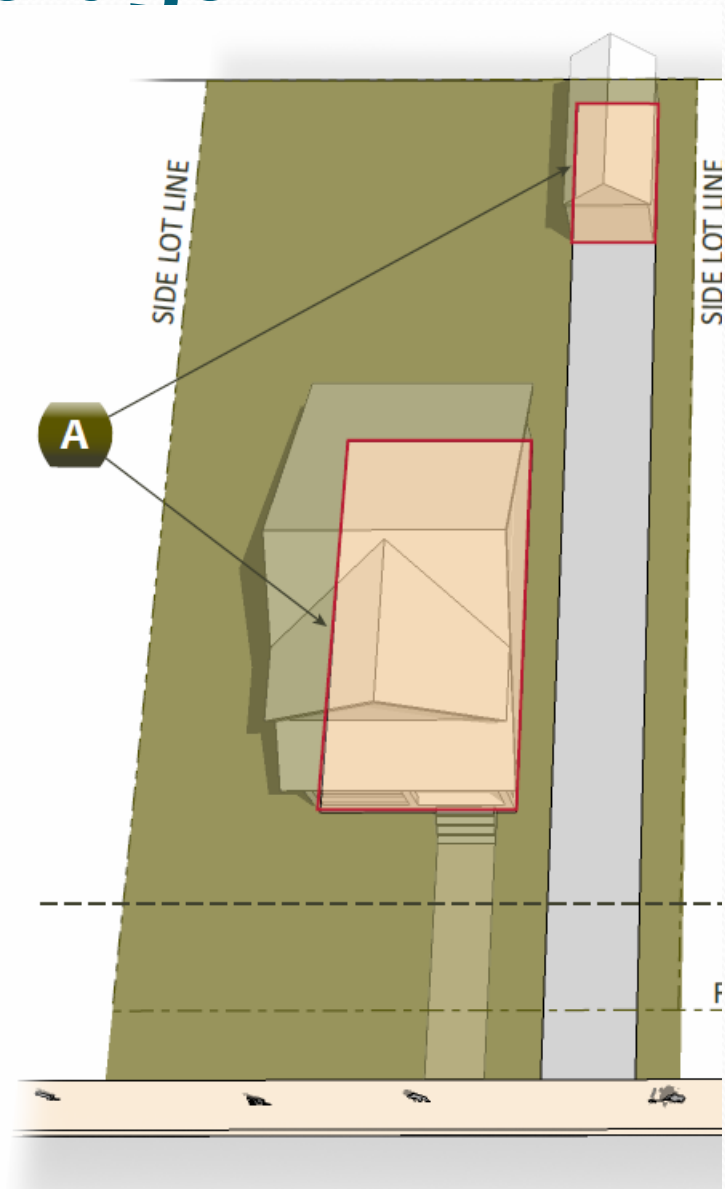
The GFA of an **apartment building** is reduced by the area used for:

- parking, loading and bicycle parking below established grade;
- **required** loading spaces and **required** bicycle parking spaces at or above established grade;
- storage rooms, washrooms, electrical, utility, mechanical and ventilation rooms in the basement;
- shower and change facilities required for bicycle parking
- **required** indoor amenity space
- elevator shafts
- garbage shafts
- mechanical penthouse
- exit stairwells in the building

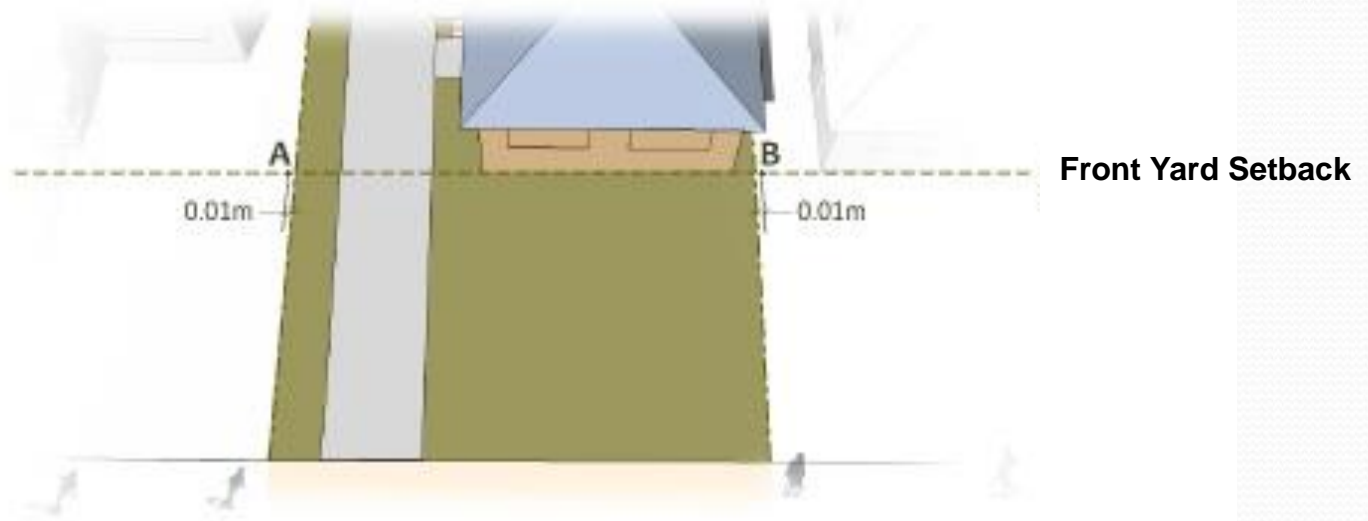
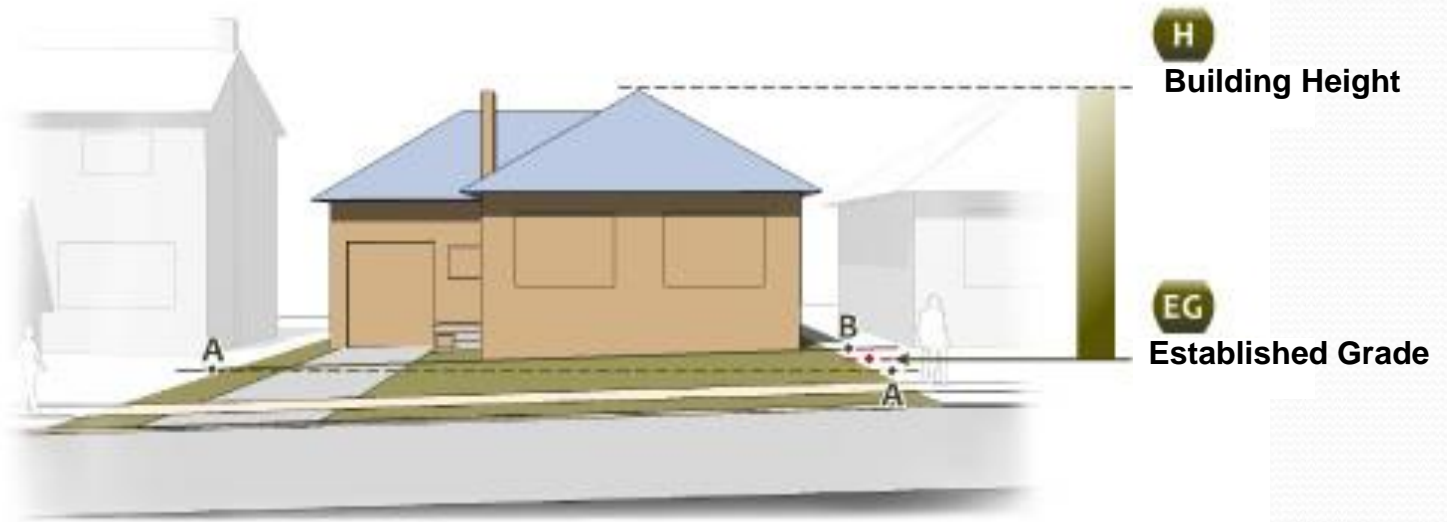
Lot Coverage

Lot coverage is as significant as FSI especially in North York where FSI was not used.

An attempt to standardize the entire City to a lot coverage of 35% was rejected.



From Established Grade To Top of Roof



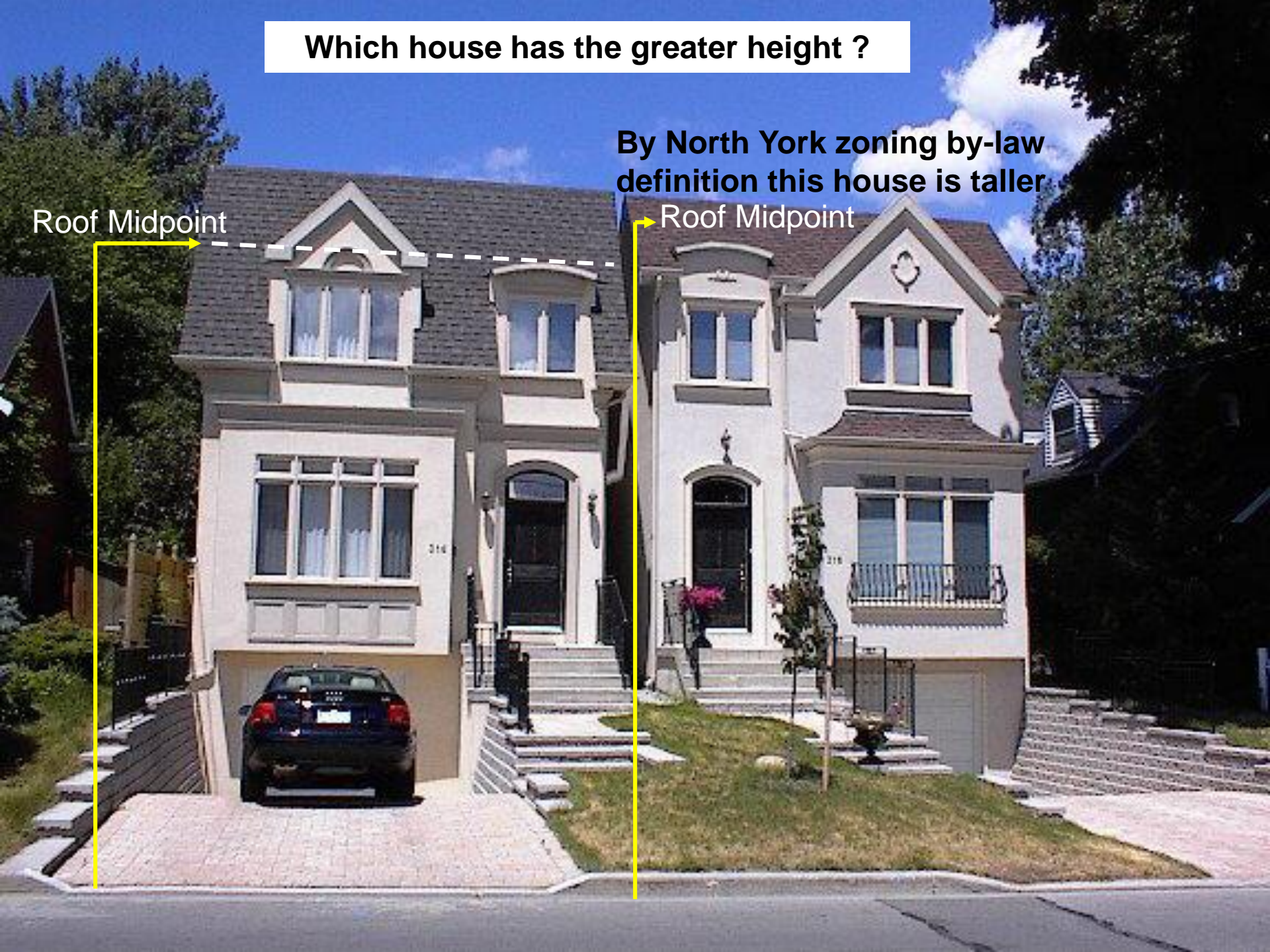


Which house has the greater height ?

By North York zoning by-law definition this house is taller

Roof Midpoint

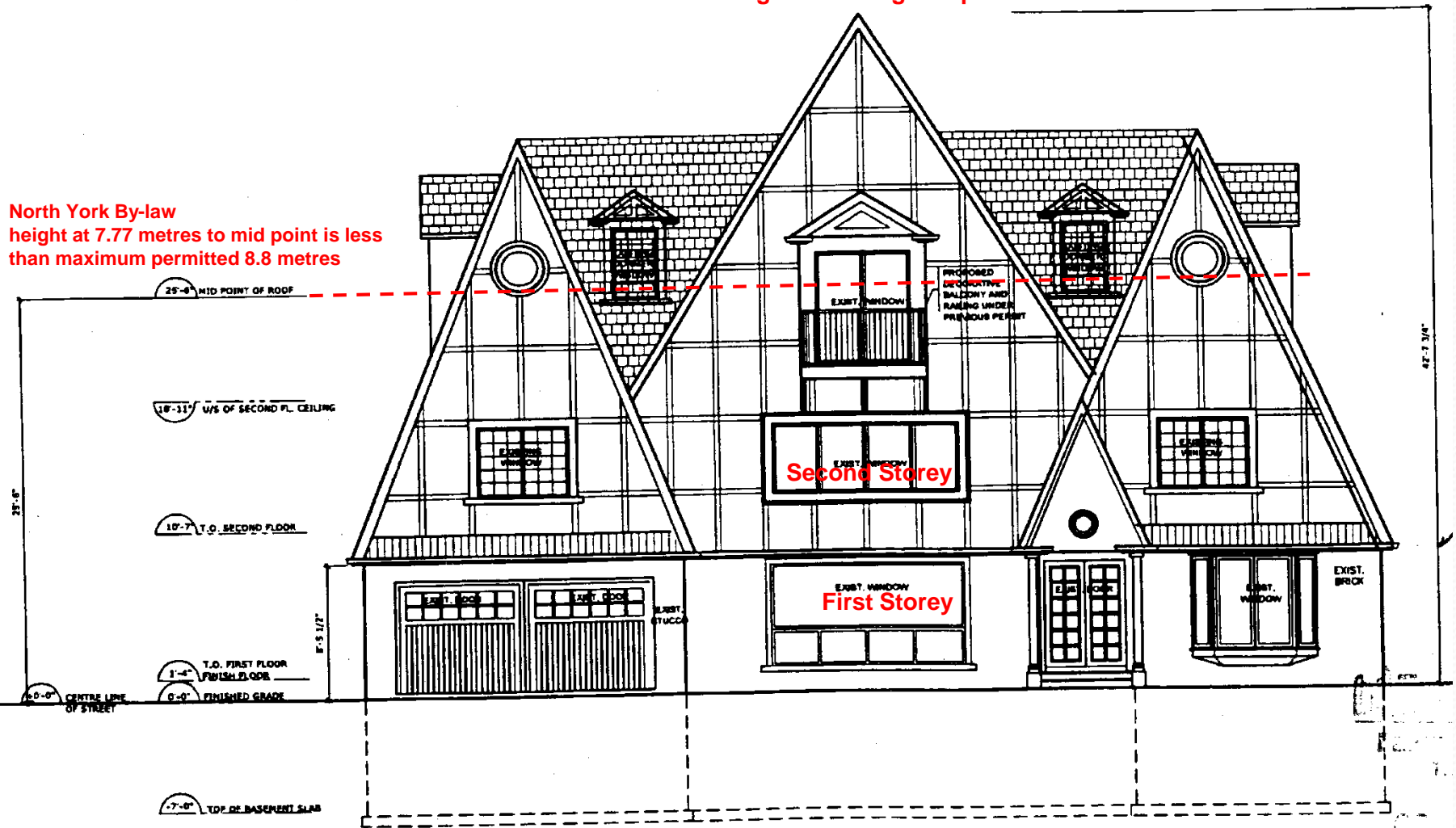
Roof Midpoint



Proposed zoning by-law (10.0 metres)

Actual height to the highest point is 13.0 metres

North York By-law
height at 7.77 metres to mid point
is less than maximum permitted 8.8 metres

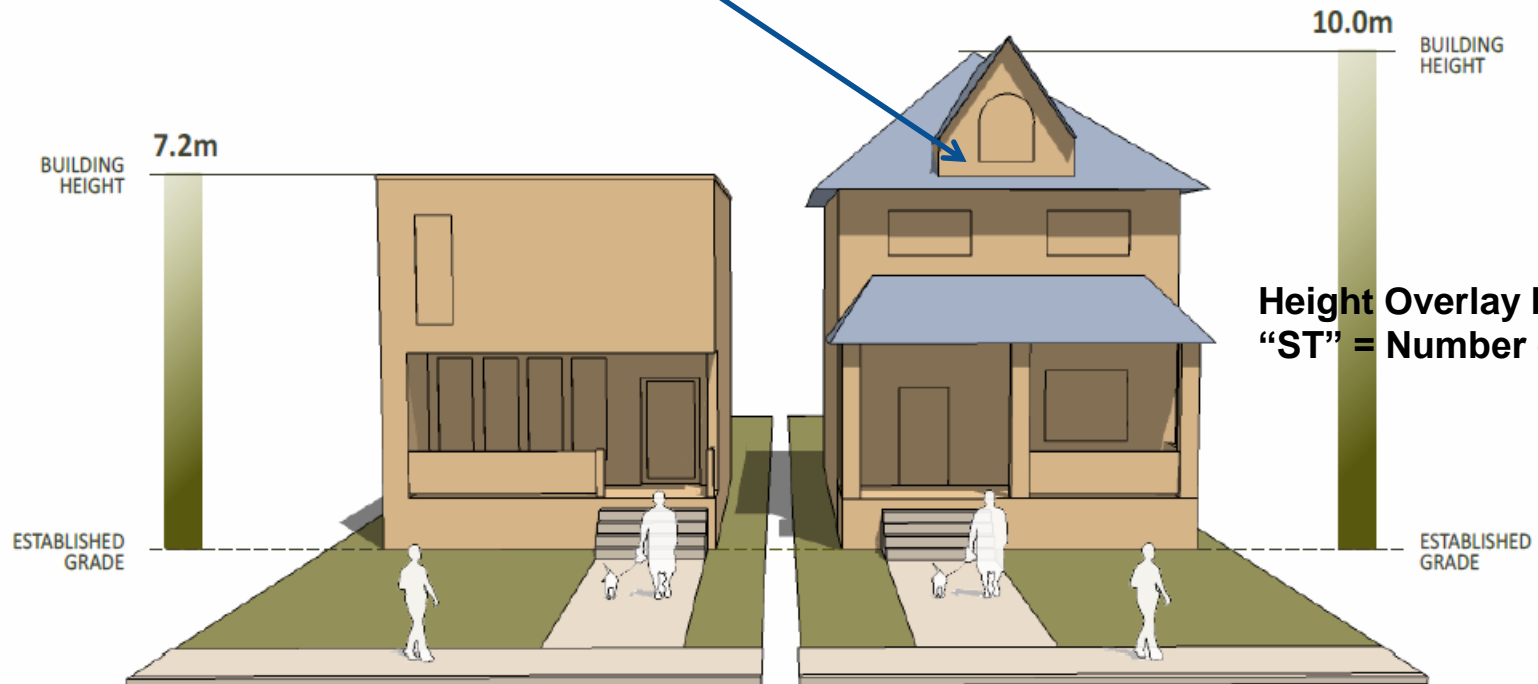


Existing North York Building Plan Elevation

Building Height

Dormers
Maximum 40% of
total width of the roof

Height as shown on the
“Height Overlay Map”
or 10 metres default



Clause 10.20.40.10

**Less than 1:4
Shallow or flat roof
Maximum Height = 7.2 metres**

**1:4 or Greater
Sloped Roof
Maximum Height = 10.0 metres**

Building Height

Maximum Height of “Opposite Pairs” of Main Walls

Main Wall height applies to the front and rear or both sides

60% of front and rear or a side main wall facing a street must comply with main wall height.



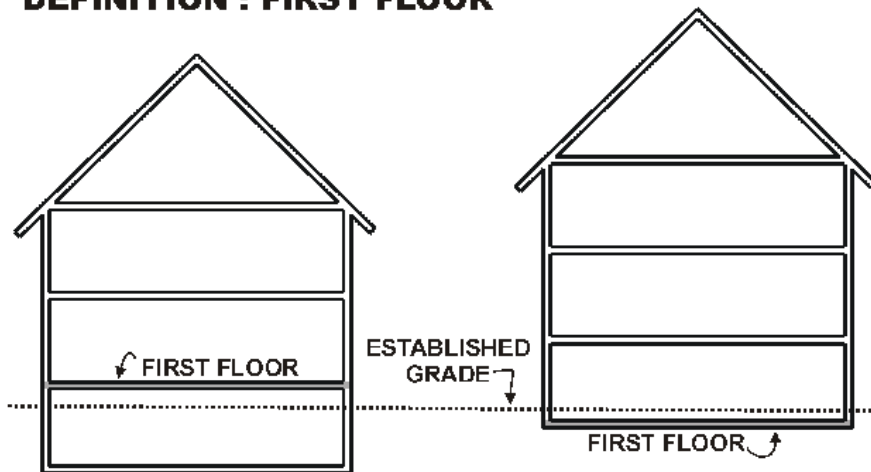
Exterior sides of a dormer are not main walls if the total width of the dormers does not exceed 40% of the total width of the building's main walls on the same side

First Floor Elevation

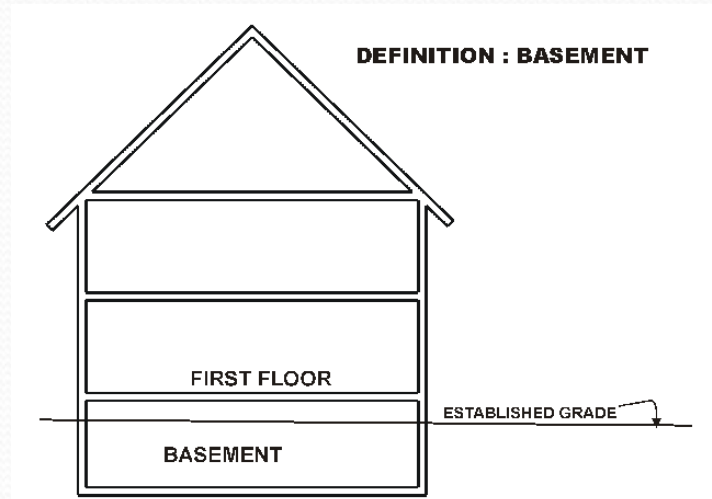
Maximum height of “First Floor” is 1.2 metres above established grade

- Note the definition and how it compares to “basement”
- Additions to a **lawfully existing building** may have a first floor as high as the existing, lawful first floor height per the Exemption regulations.

DEFINITION : FIRST FLOOR



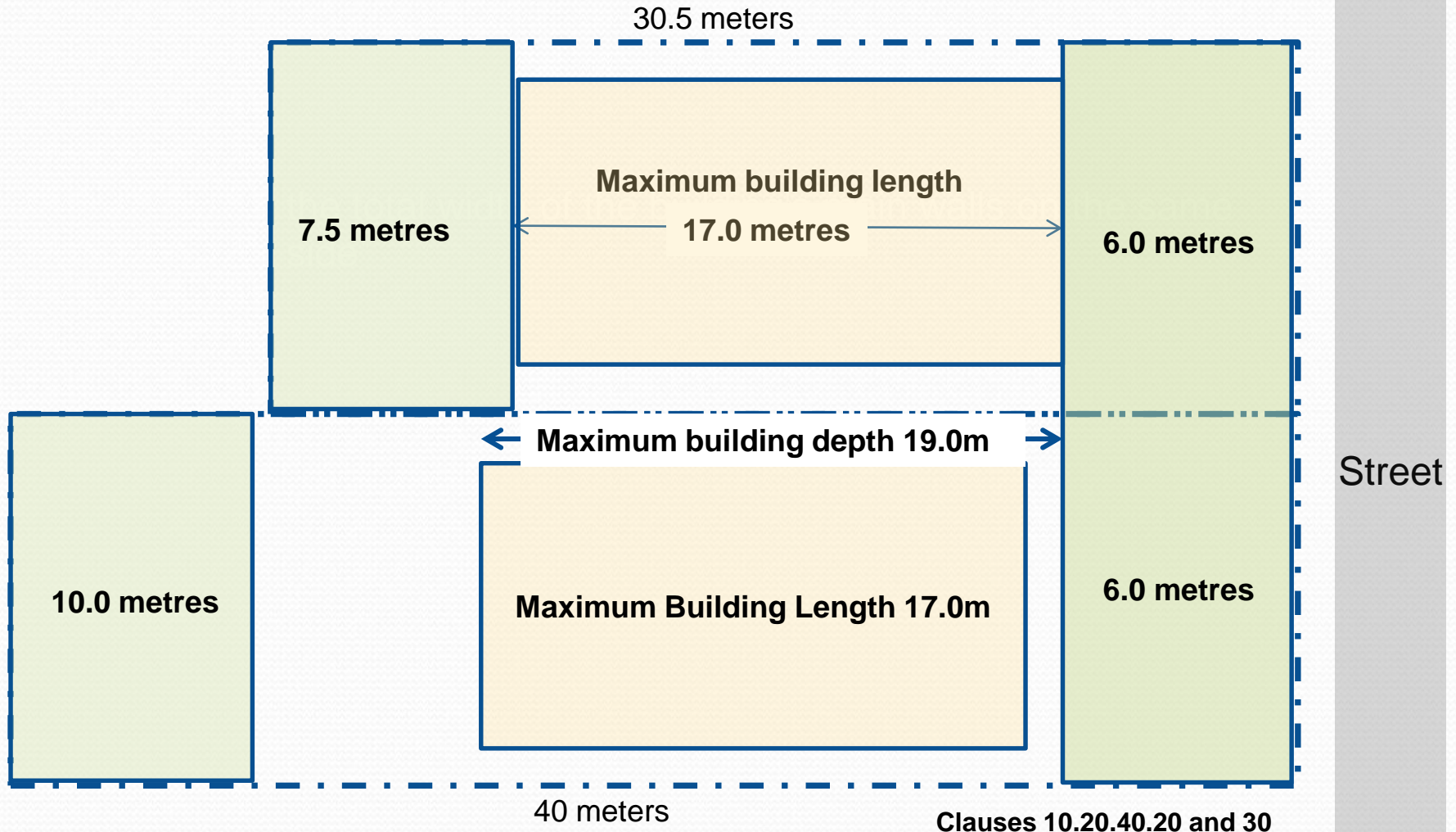
DEFINITION : BASEMENT



Regulation 10.10.40.10(6)

Building Length / Depth

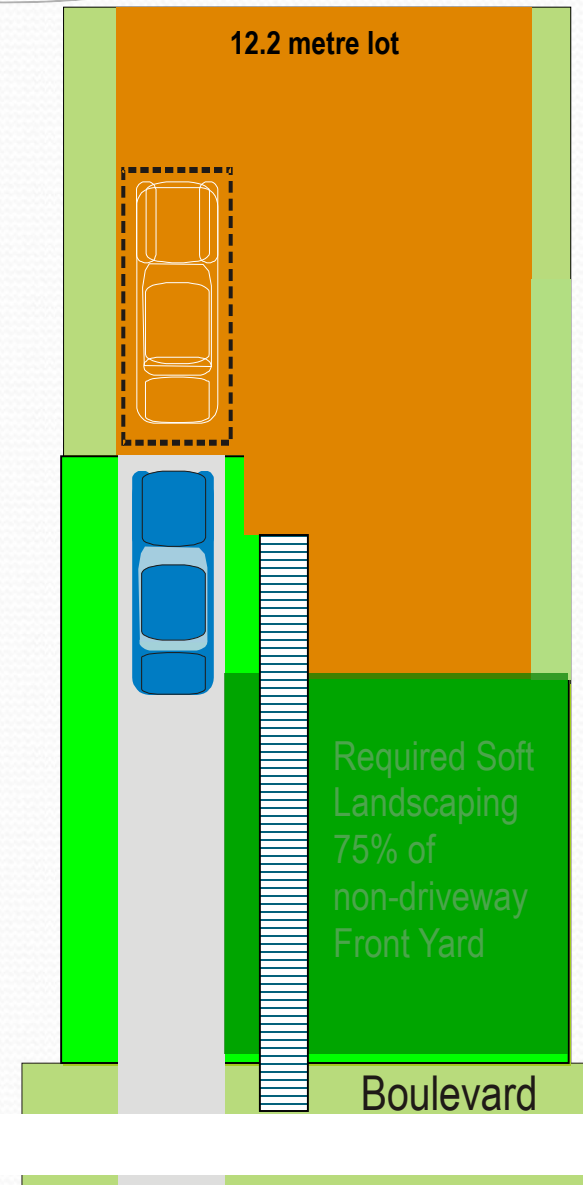
RD zone a lot with a required lot frontage of 18.0 metres or less
the maximum building **length** is 17.0 metres
the maximum building **depth** is 19.0 metres



Landscaping

Lot Frontage	Minimum % of Landscaped Front Yard
Less than 6.0m	100% excluding driveway
6.0 to less than 15.0m	50%
15.0m or More	60%

**Of the required front yard landscaping,
75% must be soft landscaping**



Zoning May be the Detail But it Implements the Bigger Picture

Minimum front yard landscaping requirement (example)

Wet Weather Flow Management Master Plan

- Reduce the amount of front yard hard surface
- Increase the amount of front yard soft landscaping
- Reduce the volume of surface water run-off
- Increase the front yard area available for water infiltration

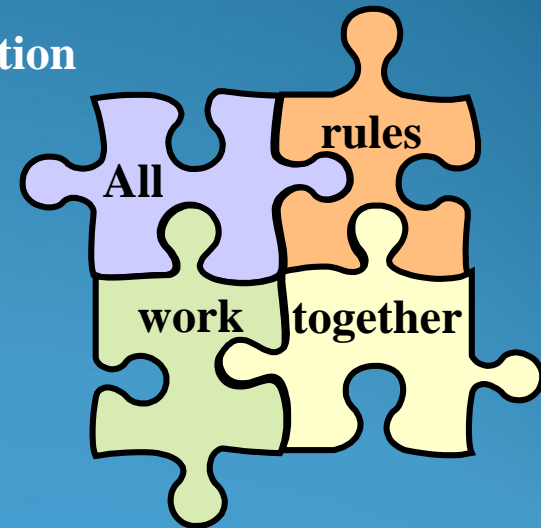
Provide Space for Tree Planting

Guidelines to Enhance Streetscapes

Maintain On-street Parking Opportunities

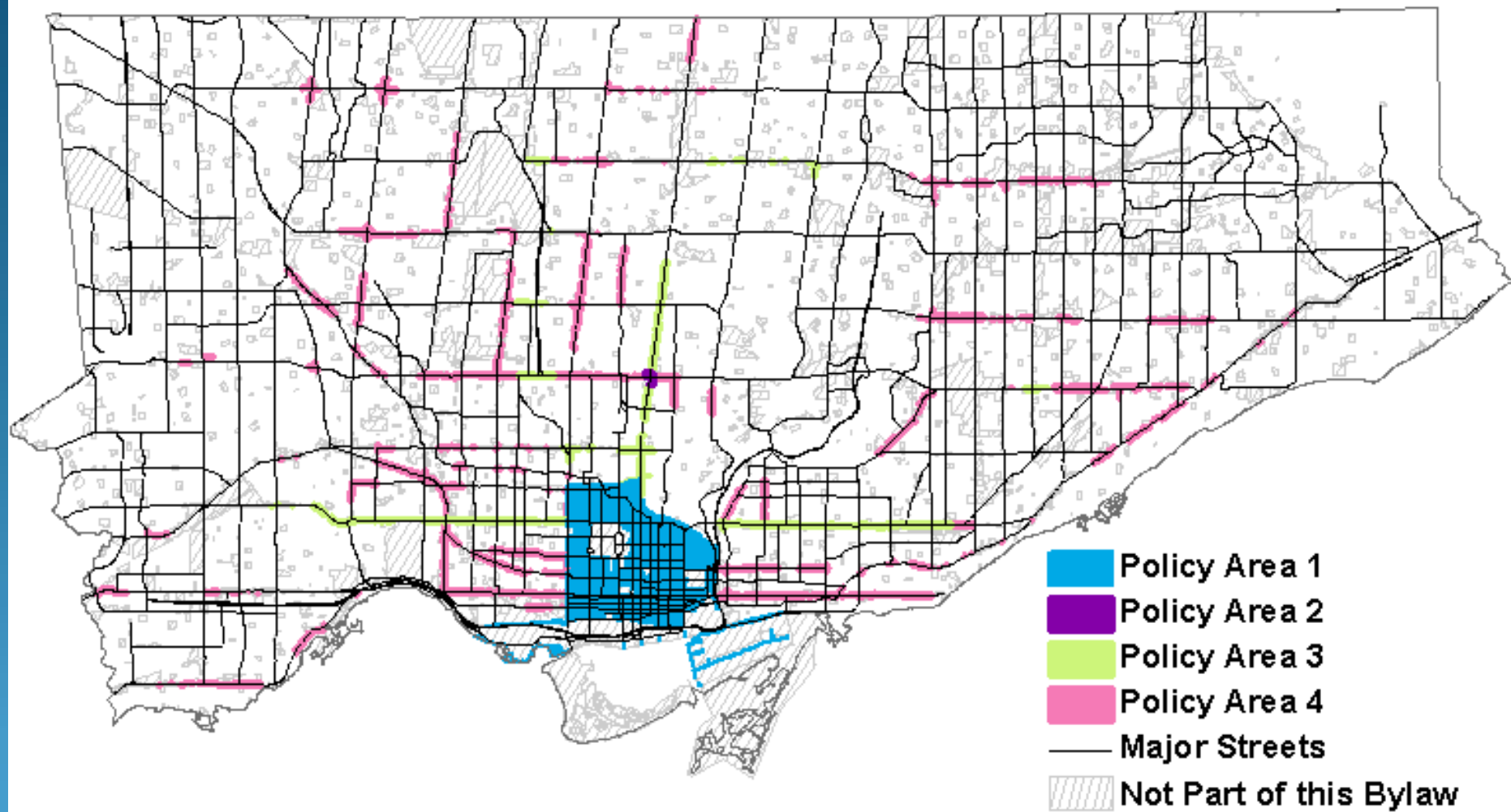
Reduces Heat Island Effect

Accommodates driveway, sidewalk & hard landscaping



Policy Area Overlay

(a framework for Parking Standards)



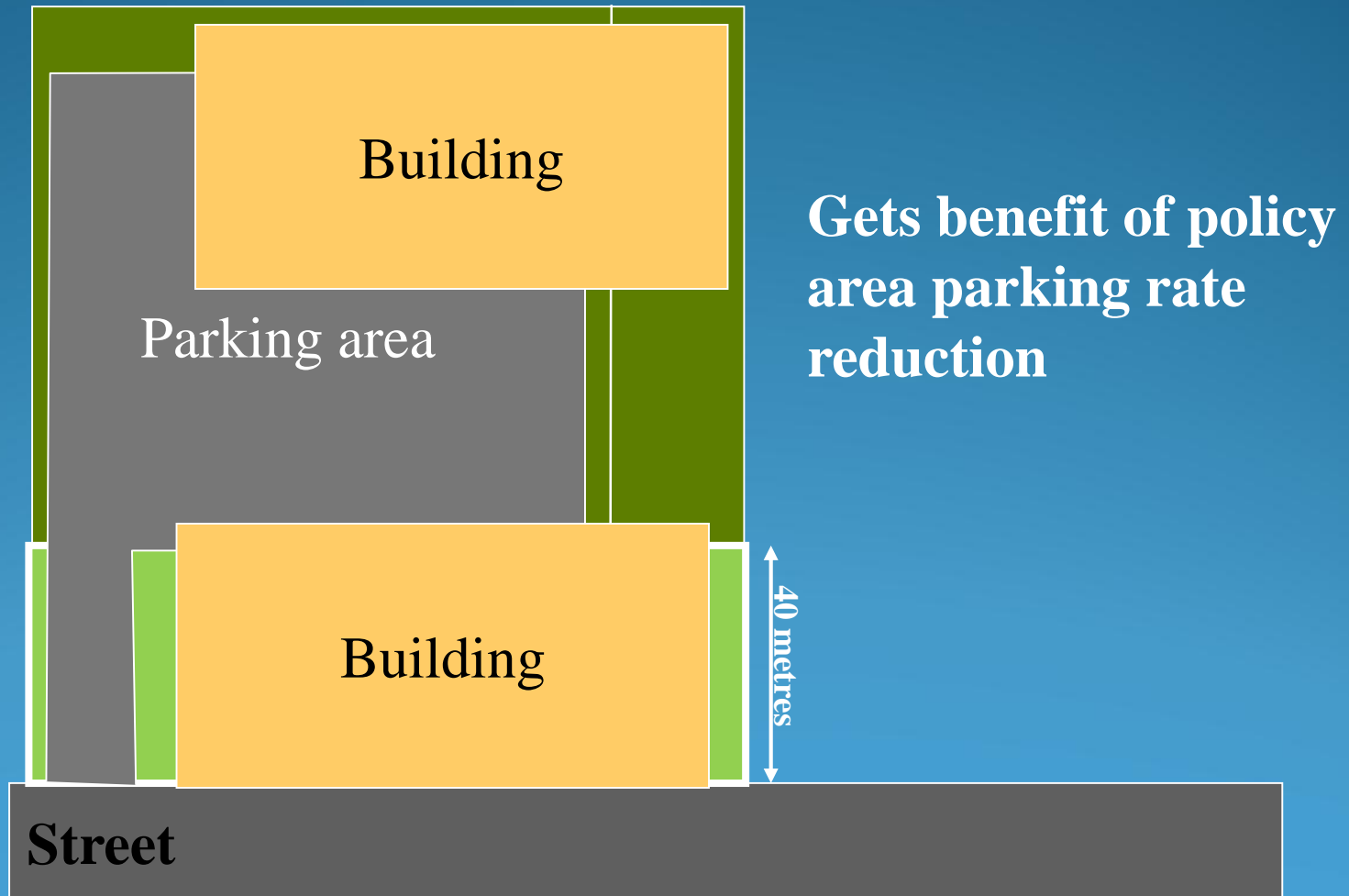
Applying Parking Rates in Policy Areas 3 and 4

200.5.1.10 Interpretation

If the building(s) on the lot **cover at least 50% of the area located within 40 metres of the lot line that abuts the street** in the Policy Area, the parking space rates for uses in that policy area apply to the entire lot.

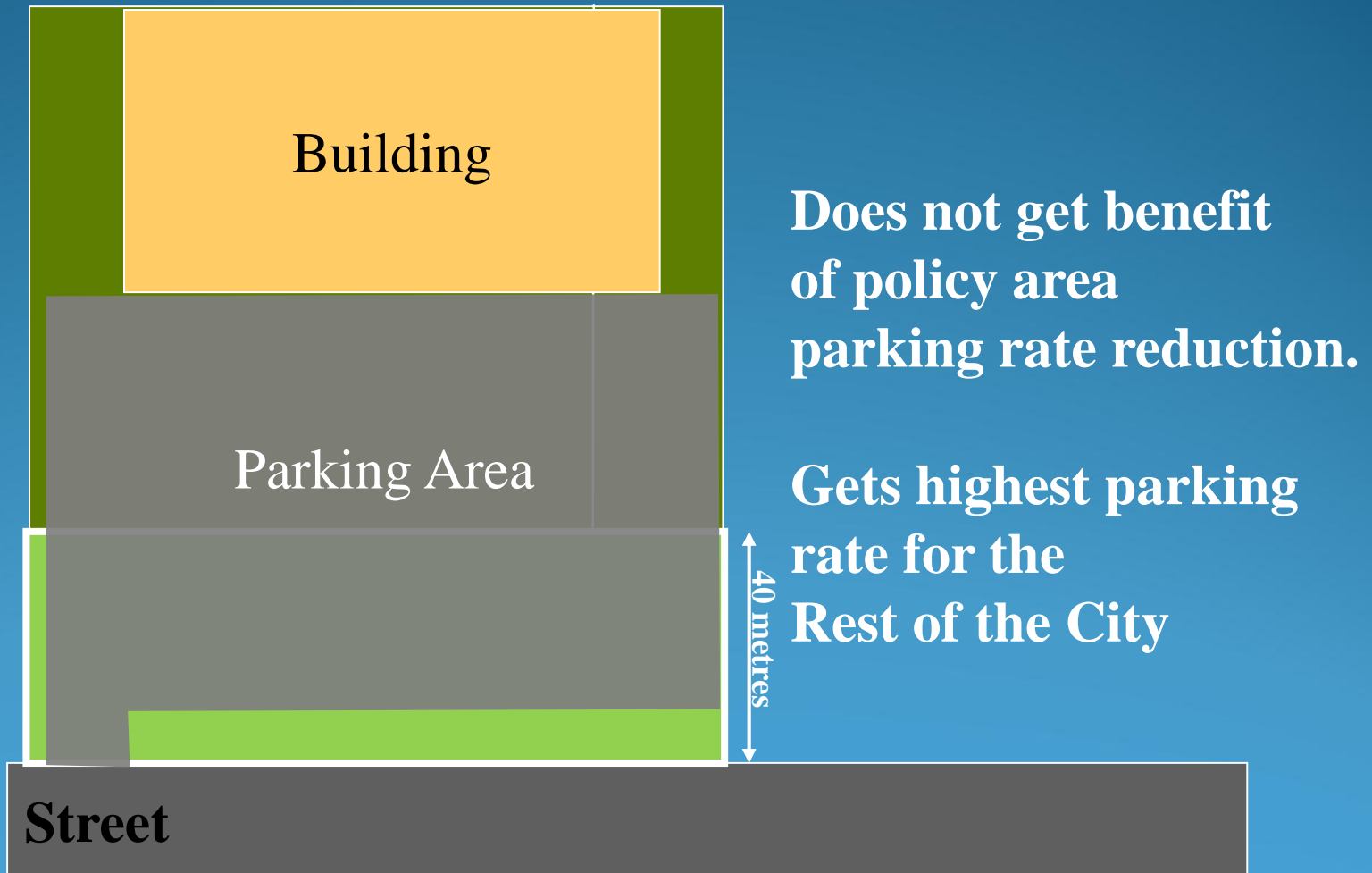
Applying Parking Rates in Policy Areas 3 and 4

200.5.1.10 Interpretation



Applying Parking Rates in Policy Areas 3 and 4

200.5.1.10 Interpretation



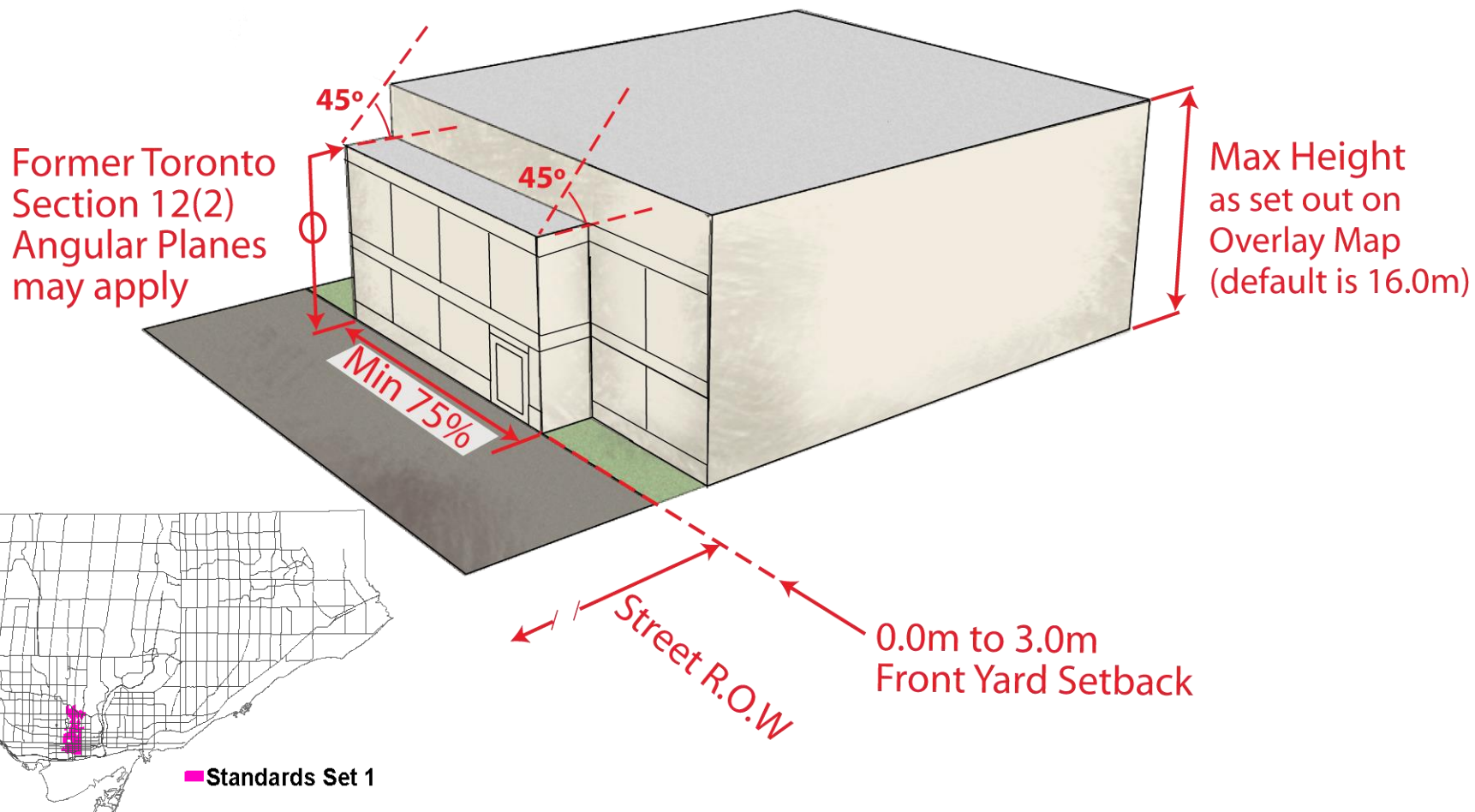
CR Provisions:

- **minimum height of 10.5m AND 3 storeys**
(does not apply to lots with an “r” value of 0 and lots not located in PA1 through PA4)
- **minimum 4.5m height for first storey**
- **detached and semi’s not a permitted Residential building type**
- **Townhouses not permitted in PA3 and PA4**



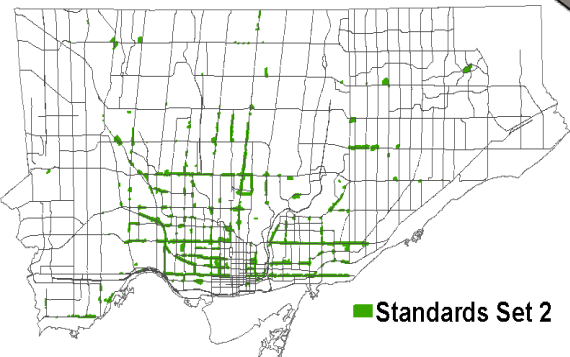
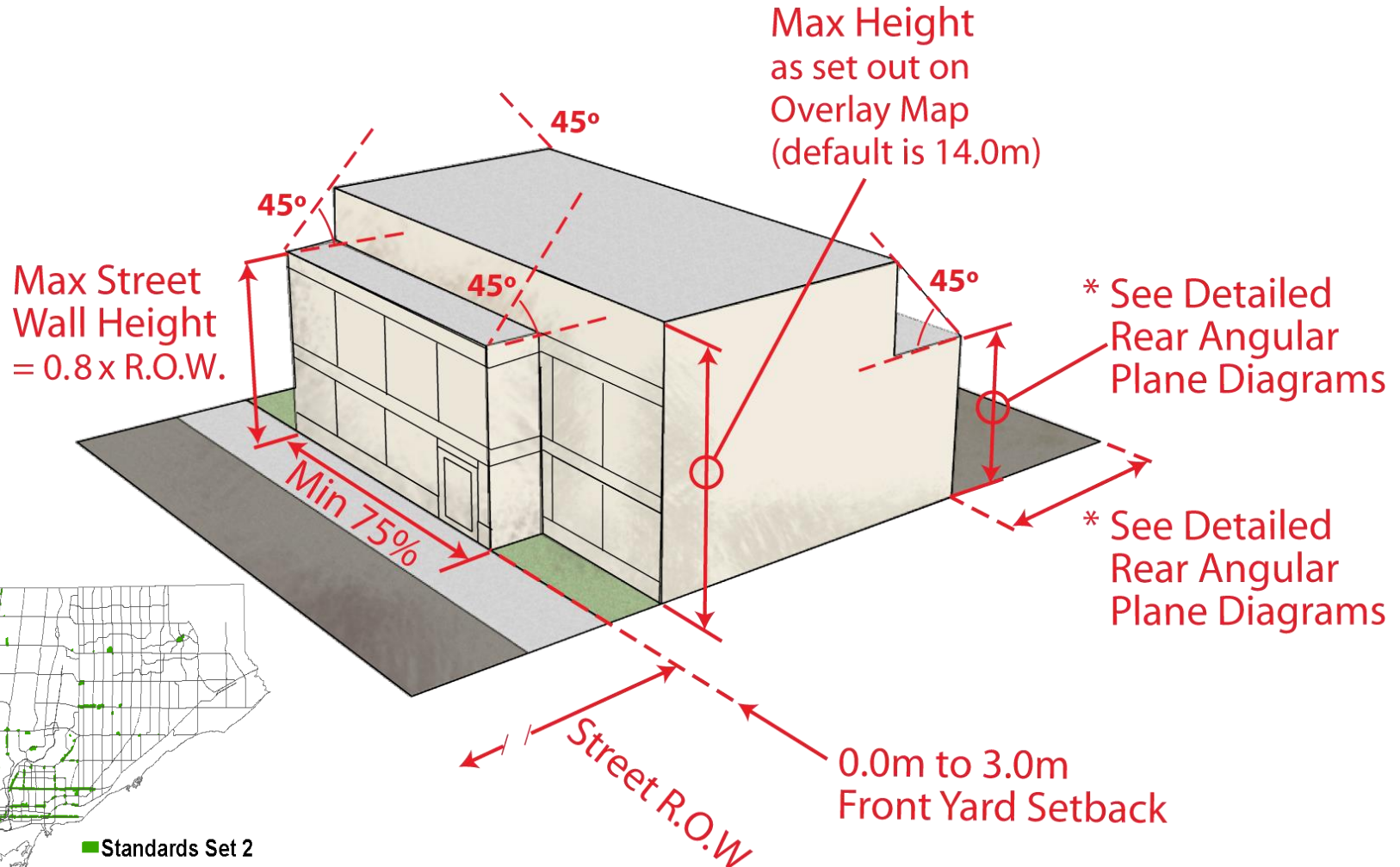
CR Zone: Standard Set 1 (SS1)

Applies to the Downtown



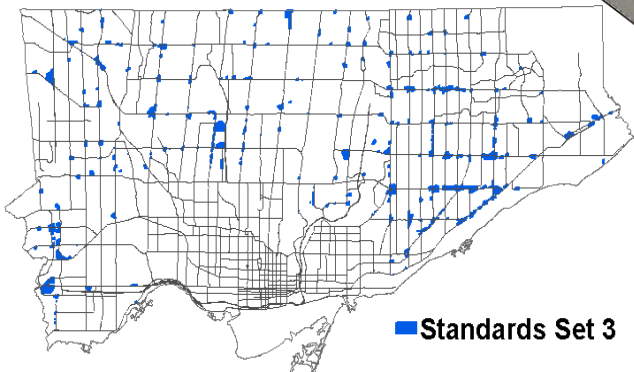
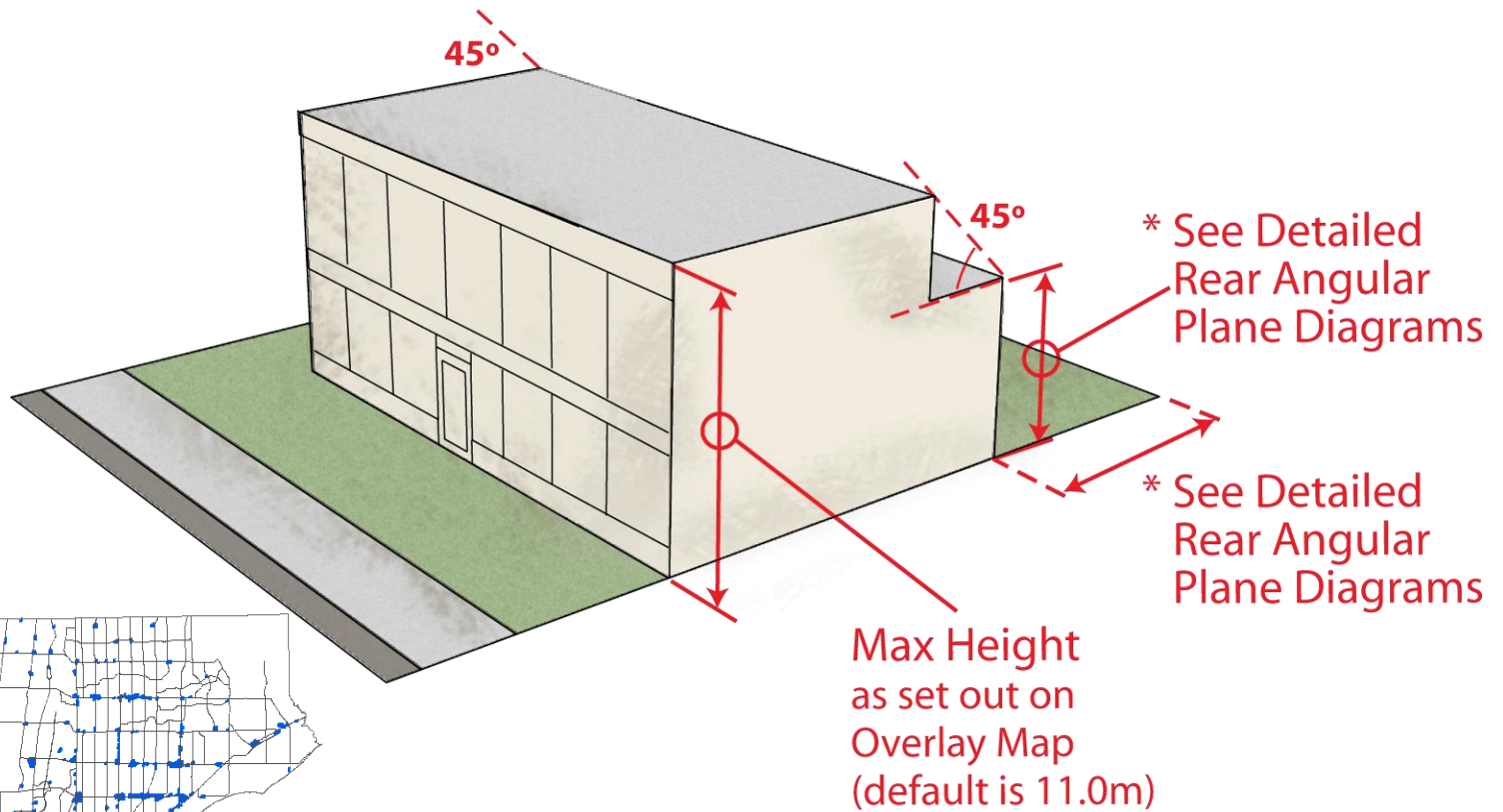
CR Zone: Standard Set 2 (SS2)

Applies to typical 'main streets'



CR Zone: Standard Set 3 (SS3)

Applies to commercial plazas; not street-related



■ Standards Set 3

CR Zone: Determining Deep vs. Shallow lots

40.10.40.70 Setbacks

Width of
street right-of-way

(column A)

20 metres

23 metres

27 metres

30 metres

33 metres

36 metres

Lot depth

(column B)

32.6 metres

36.2 metres

41.0 metres

44.6 metres

48.2 metres

51.8 metres

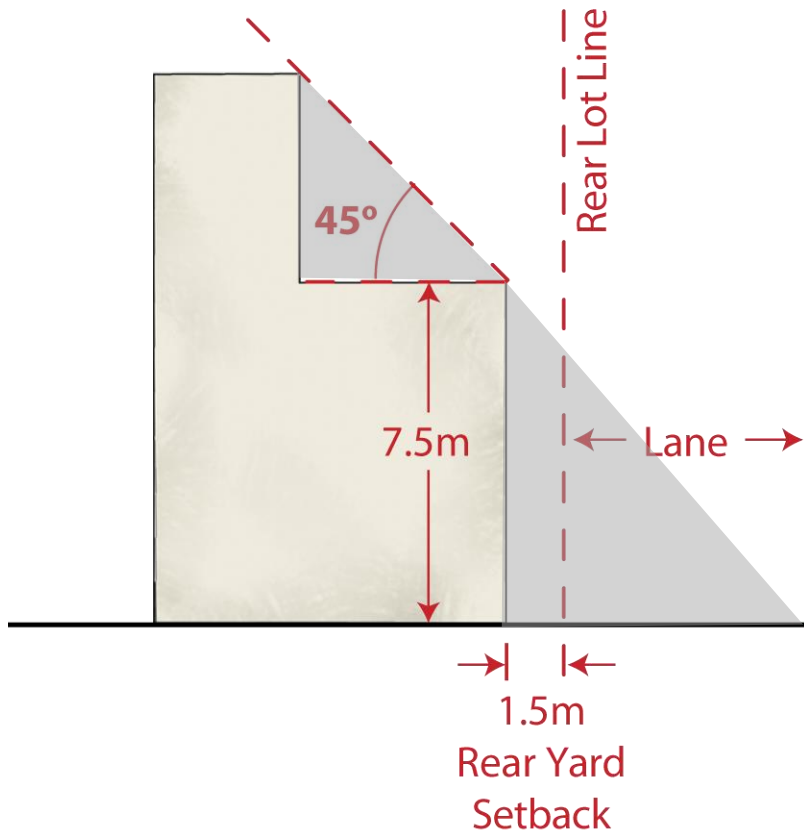
*Shallow
Lot*



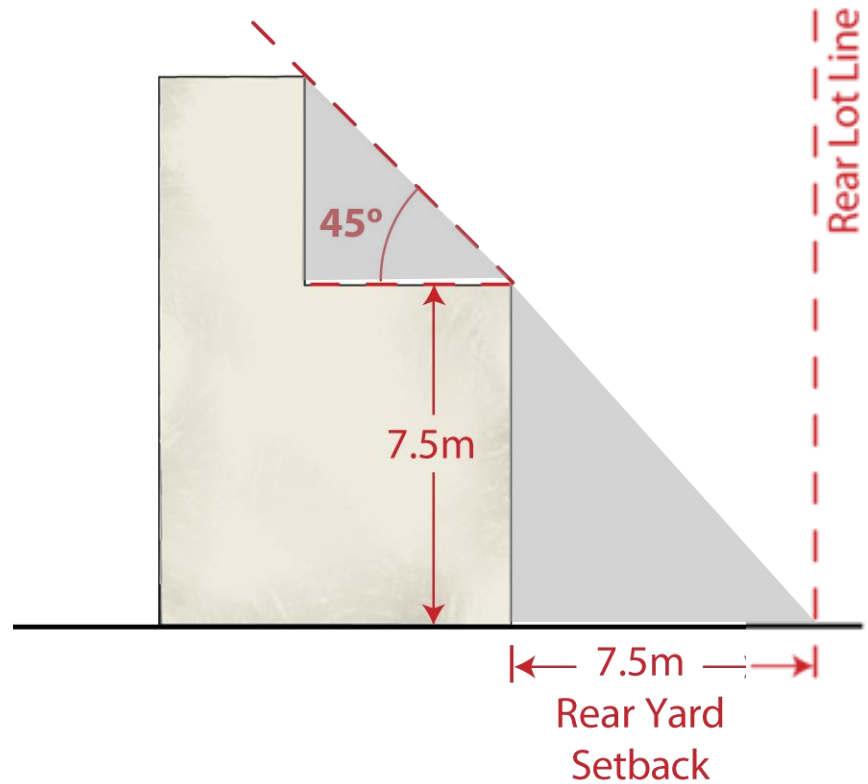
*Deep
Lot*

CR Zone: Deep lots

DEEP LOT (with lane)

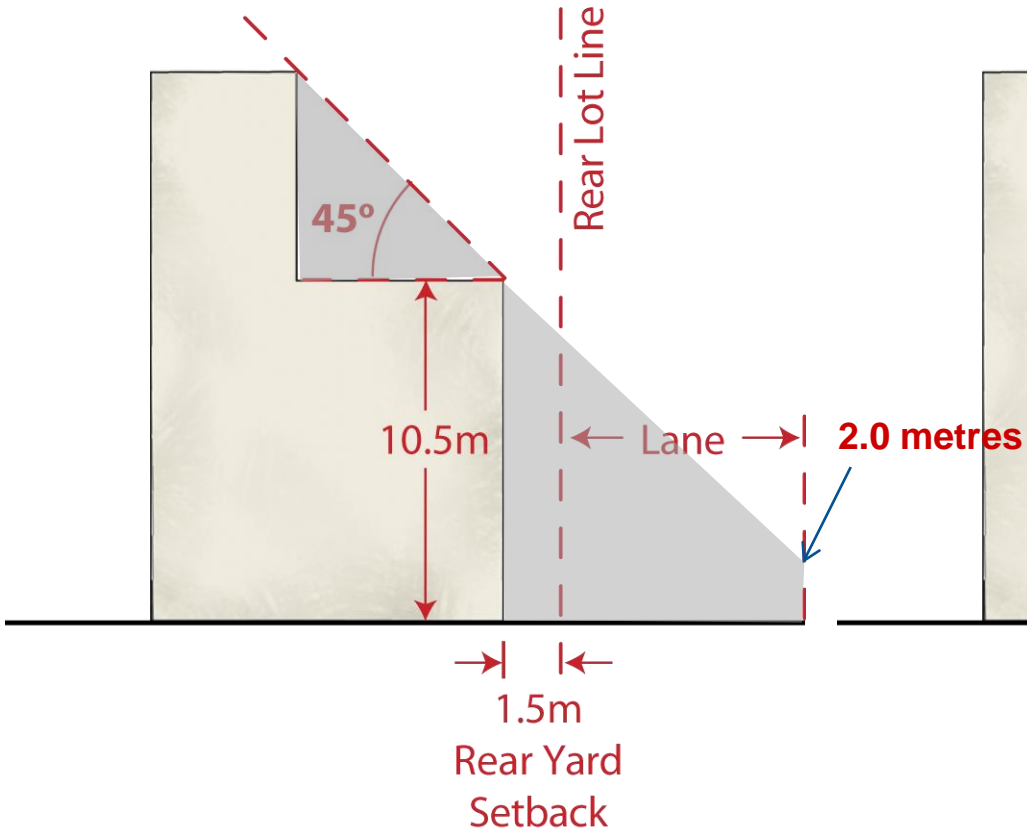


DEEP LOT (no lane)

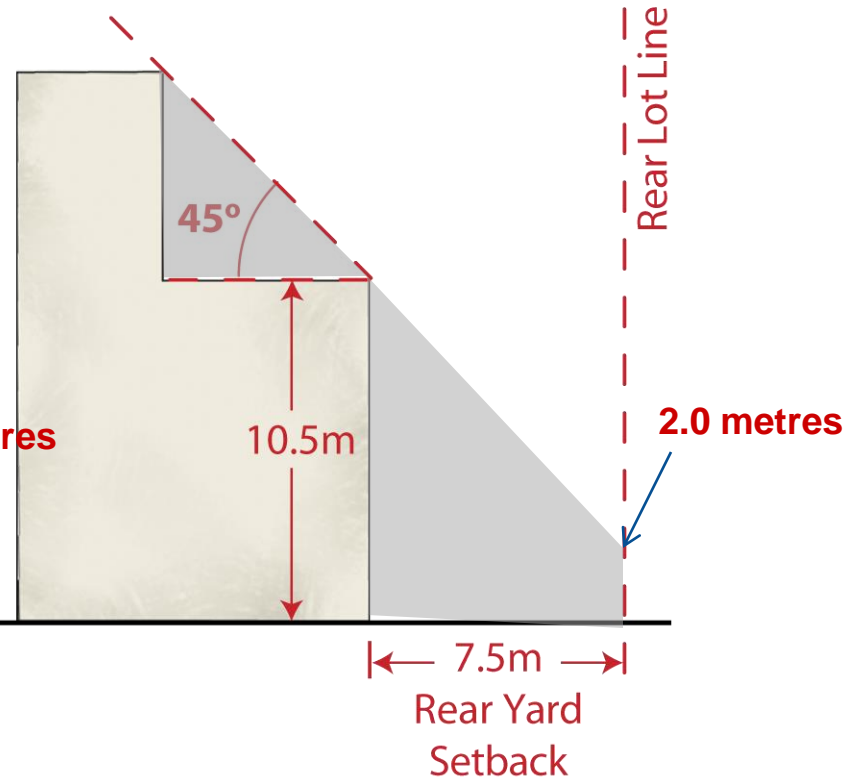


CR Zone: Shallow lots

SHALLOW LOT (with lane)



SHALLOW LOT (no lane)



Consistency

say it the same way,

approve it the same way

refuse it the same way.

By-law uses

1.20.2 How to Read this By-law –Text

(14) When Uses Are Not listed

If a use is not listed as permitted, it is not allowed.

(15) Interpretation of Uses

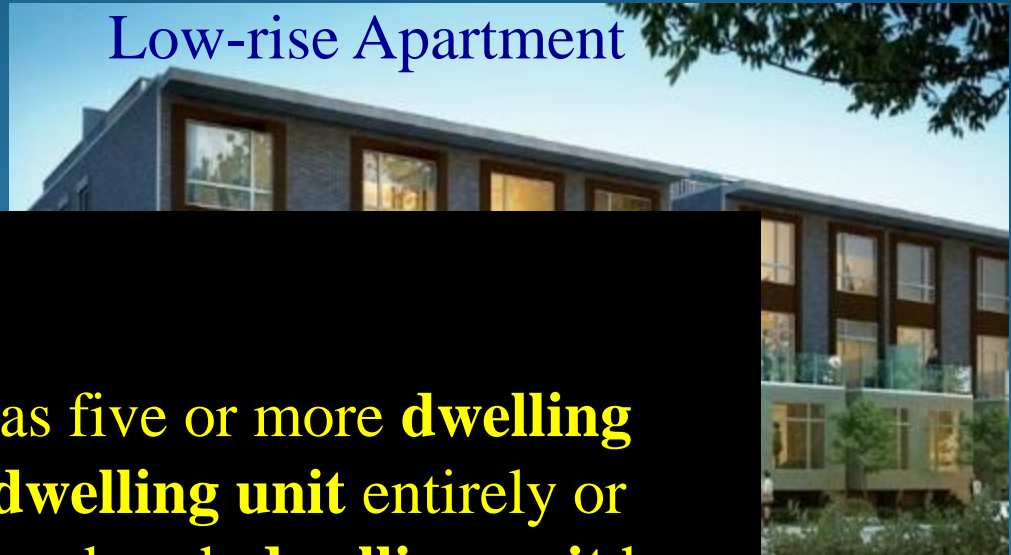
A listed or defined permitted use may not be interpreted as including any other use.

What are they ?

Garden Court
Apartment



Low-rise Apartment



(55)

Apartment Building

means a **building** that has five or more **dwelling units**, with at least one **dwelling unit** entirely or partially above another, and each **dwelling unit** has a separate entrance directly from outside or through a common inside area. A **building** that was originally constructed as a **detached house, semi-detached house or townhouse** and has one or more **secondary suites** is not an **apartment building**.



Six-plex



Stacked Townhouse



Section 900 Site Specific Exceptions

How the Exceptions are organized

Introductory wording

→ The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections:

Site Specific Clauses

Site Specific Provisions:

→ (A) An office is permitted. [TO: 438-86; 6(1)(f)(b)(iv)]

(B) The lands must comply with exception 900.2.10(7).

Prevailing By-laws and Prevailing Sections

Prevailing By-laws and Prevailing Sections:

→ (A) Section 12(2) 325 of former City of Toronto By-law 438-86;

(B) City of Toronto by-law 72-04.

Varying the Zoning By-law

The Four Tests:

- Is the application minor in nature?
- Is it appropriate and desirable development for the area?
- Is it in keeping with the purpose and intent of the Zoning By-law?
- Is it in keeping with the purpose and intent of the Official Plan?

Varying the Zoning By-law

The Court confirms that a minor variance is not a “special privilege” that requires the applicant to justify the relief sought on the basis of need or hardship. However, in what could be seen as a stark departure from the case law, the Court concludes that the jurisdiction given to a Committee of Adjustment to grant minor variances is permissive and confers on it a residual discretion as to whether or not to grant the requested relief even when the four tests are satisfied.

Perhaps the most significant finding is that in exercising its discretion, a Committee of Adjustment is entitled to consider anything that reasonably bears on whether or not an application should be granted, including need and hardship.

The Court appears to have opened the doors for the Committee (and the OMB) to consider whether the applicant actually “needs” the relief and/or will “suffer hardship” if the relief is not granted.