City Council
Atlanta, Georgia

A SUBSTITUTE ORDINANCE Z-05-

By: Councilmembers Mary Norwood, Joyce Sheperd, H. Lamar Willis, Ivory Lee Young, Natalyn Archibong, Anne Fauver, Debi Starnes, and Jim Maddox

September 19, 2005

AN ORDINANCE TO AMEND THE 1982 CITY OF ATLANTA ZONING ORDINANCE, AS AMENDED, TO DEFINE AND REGULATE INFILL RESIDENTIAL DEVELOPMENT , AND FOR OTHER PURPOSES.

WHEREAS, The City of Atlanta's single-family residential neighborhoods form the predominant land use in the City;

WHEREAS, a single-family house often represents the largest personal economic investment of a citizen of Atlanta, as well as the center of his or her family life and the basis for participation in neighborhood and civic activities;

WHEREAS, many neighborhoods are zoned for single-family residential development that would exceed height and scale of existing houses that form the prevailing development pattern;

WHEREAS, zoning controls need to be put in place to ensure that new homes are built at sizes and scales that are harmonious with existing homes;

WHEREAS, new houses are not always compatible with the character of single-family residential districts when they disrupt the visual harmony of a block face, cast excessive shadows on adjoining properties, cut off views, decrease privacy on adjoining properties, or loom over adjoining properties to the extent that they interfere with the use and enjoyment of those properties;

WHEREAS, it is desirable that changes in the character of single-family residential neighborhoods occur gradually, and in a predictable manner, to ensure stability and appropriate transitions;

WHEREAS, regulations to control the height and scale of infill residential development will enhance the choices of existing property owners to renovate, rebuild, or sell their homes or to remain in place with their existing homes;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1. That the Zoning Ordinance of the City of Atlanta be amended to add the following definition in Section 16-29.001(63):

> *(63) Residential Infill Development:* Residential infill development is the construction or expansion of a single-family, detached house ("infill house") on a lot ("infill residential lot") or on up to three contiguous lots ("infill parcel") within neighborhoods zoned for single-family, detached houses where at least one of the lots that adjoin the infill residential lot or parcel is occupied by a single-family, detached house. A lot or lots located at the perimeter of a multi-lot subdivision under construction are considered to be an infill residential lot or infill residential parcel if the lot or lots adjoin at least one lot that is occupied by a single-family house that has been completed and issued an occupancy permit for a minimum of 1 year prior to the date for which a building permit is sought for the infill residential lot. Expansion of an existing single-family house shall be considered infill residential development if it adds 10% or more square footage to the existing house.

SECTION 2. That Section 16-29.001(25)(a), paragraph 2 of the Zoning Ordinance of the City of Atlanta be amended to

a. delete the current definition of retaining walls, as follows:

> *Wall, retaining:* A structure whose sole function is to contain earth so as to provide a stable surface at a grade higher than the adjacent grade level.

b. and replace it with the following amended definition of retaining walls:

> *Wall, retaining:* A structure whose sole function is to contain earth so as to provide a stable surface at a grade higher than the adjacent grade level, provided that it shall not project more than 6 inches above the earth that it retains.

SECTION 3. That Section 16-29.001(27) of the Zoning Ordinance of the City of Atlanta be amended to

a. delete the current definition of building height, as follows:

> *(27) Building, height of*: The vertical distance from grade to the mean level between the lowest and highest points of the roof of the highest story.

b. and replace it with the following new definition of building height:

(27) Height of buildings and structures:

(a) Measurement.

i) Single height roof. The vertical distance from the existing grade of the building or structure at the center of the front of the building or structure to the midpoint between the lowest and highest points of the roof of the highest story. The highest story shall be defined as any space located between the underside of the roof and the top of any floor that is constructed under the roof with no other intervening floor between it and the roof. The front of the house shall be that side of the house which faces the front property line of the lot.

ii) Stepback height bonus. If an infill house is designed so that different parts of the house would be higher or lower than each other, it shall be considered to have stepbacks. The roof of such an infill house would not be designed with continuous planes that would cover the entirety of the house, but would instead be broken into different roof planes that would cover different parts of the house at different heights.

If the infill house is designed so that one or more lower parts of the infill house would face existing houses on adjoining lots, then a height bonus shall be allowed. The height bonus shall be calculated as follows: the average of the mean heights of each lower part of the house that projects at least 8 feet from the main part of the house and the higher parts of the infill house ("stepback average"), plus ½ of the difference between 35 feet, as measured according to 16-29.001(27)(a)(i), and the stepback average. For the purpose of this calculation, heights of the lower parts of the house shall be taken from grade at the center of that wall that would face the house on the applicable adjoining lot.

SECTION 4. That Section 16-29.001(28) of the Zoning Ordinance of the City of Atlanta be amended to:

a. delete the current definition of grade, as follows:

(28) *Grade:* The average level of the finished surface of the ground adjacent to the exterior walls of a building.

b. and replace it with the following amended definition of grade, as follows:

(28) *Grade of buildings and structures:* The level of the surface of the ground adjacent to the exterior wall of a building or structure, measured at a specific point, consistent with the procedures required in Section 28.017(7).

SECTION 5. That Section 16-29.001 of the Zoning Ordinance of the City of Atlanta be amended to add the following Section 16-29.001(64):

(64) Block: Property located along a length of street frontage between two intersecting streets.

SECTION 6. That Section 28-03.003 of the Zoning Ordinance of the City of Atlanta, which lists permitted principal uses and structures of the R-1 district, be amended to

a. delete the following paragraph:

(3) Single-family detached dwellings.

b. and replace it with the following paragraph:

(3) Single-family detached dwellings. Infill houses as defined in Section 16-29.001(63) (also see Section 28.007(5)(j) and Section 28.017).

SECTION 7. That Section 28-04.003 of the Zoning Ordinance of the City of Atlanta, which lists permitted principal uses and structures of the R-2 district, be amended to

a. delete the following paragraph:

(1) Single-family detached dwellings.

b. and replace it with the following paragraph:

(1) Single-family detached dwellings. Infill houses as defined in Section 16-29.001(63) (also see by Section 28.007(5)(j) and Section 28.017).

SECTION 8. That Section 28-04A.003 of the Zoning Ordinance of the City of Atlanta, which lists permitted principal uses and structures of the R-2A district, be amended to

a. delete the following paragraph:

(1) Single-family detached dwellings.

b. and replace it with the following paragraph:

(1) Single-family detached dwellings. Infill houses as defined in Section 16-29.001(63) (also see Section 28.007(5)(j) and Section 28.017).

SECTION 9. That Section 28-04B.001 of the Zoning Ordinance of the City of Atlanta, which lists permitted principal uses and structures of the R-2B district, be amended to

a. delete the following paragraph:

(1) Single-family detached dwellings.

b. and replace it with the following paragraph:

(1) Single-family detached dwellings. Infill houses as defined in Section 16-29.001(63) (also see Section 28.007(5)(j) and Section 28.017).

SECTION 10. That Section 28-05.003 of the Zoning Ordinance of the City of Atlanta, which lists permitted principal uses and structures of the R-3 district, be amended to

a. delete the following paragraph:

(3) Single-family detached dwellings.

b. and replace it with the following paragraph:

(3) Single-family detached dwellings. Infill houses as defined in Section 16-29.001(63) (also see Section 28.007(5)(j) and Section 28.017).

SECTION 11. That Section 28-05A.004 of the Zoning Ordinance of the City of Atlanta, which lists permitted principal uses and structures of the R-3A district, be amended to

a. delete the following paragraph:

(1) Single-family detached dwellings.

b. and replace it with the following paragraph:

(1) Single-family detached dwellings. Infill houses as defined in Section 16-29.001(63) (also see Section 28.007(5)(j) and Section 28.017).

SECTION 12. That Section 28-06.003 of the Zoning Ordinance of the City of Atlanta, which lists permitted principal uses and structures of the R-4 district, be amended to

a. delete paragraph (3)

(3) Single-family detached dwellings.

b. and replace it with the following paragraph:

(3) Single-family detached dwellings. Infill houses as defined in Section 16-29.001(63) (also see Section 28.007(5)(j) and Section 28.017).

SECTION 13. That Section 28-06A.003 of the Zoning Ordinance of the City of Atlanta, which lists permitted principal uses and structures of the R-4A district, be amended to

a. delete paragraph (2)

(2) Single-family detached dwellings.

b. and replace it with the following paragraph:

(2) Single-family detached dwellings. Infill houses as defined in Section 16-29.001(63) (also see Section 28.007(5)(j) and Section 28.017).

SECTION 14. That Section 28-06B.003 of the Zoning Ordinance of the City of Atlanta, which lists permitted principal uses and structures of the R-4B district, be amended to

a. delete paragraph (2)

(3) Single-family detached dwellings.

b. and replace it with the following paragraph:

(2) Single-family detached dwellings. Infill houses as defined in Section 16-29.001(63) (also see Section 28.007(5)(j) and Section 28.017).

SECTION 15. That Section 28-07.003 of the Zoning Ordinance of the City of Atlanta, which lists permitted principal uses and structures of the R-5 district, be amended to

a. delete paragraph (1)

(1) Single-family or two-family dwellings.

b. and replace it with the following paragraph:

(1) Single-family or two-family dwellings. Infill houses as defined in Section 16-29.001(63) (also see Section 28.007(5)(j) and Section 28.017).

SECTION 16. That Section 28.007(5) of the Zoning Ordinance of the City of Atlanta be amended to add the following:

(j) *Average depth infill residential development front yard setback:* Where the houses on the lots that adjoin each side of the infill lot are set back farther from their property lines than the minimum required front yard setback, the front yard setback for an infill residential lot shall be the average front yard setback of the houses on the lots that adjoin each side. The houses on the lots that adjoin each side may be either completed or under construction. If one of the houses on the adjoining lots is set back more than twice the minimum setback, the setback of said house shall be assigned a number that is twice that of the minimum setback, for the purposes of averaging the front yard setback depth for infill residential development.

SECTION 17. That Section 28.017 of the Zoning Ordinance of the City of Atlanta, which is currently reserved, be amended to add the following:

Sec. 16-28.017. Infill Residential Development.

1) *Height of houses (main or primary buildings):* Height of houses, measured as defined in Section 16-29.001(27)(b) and Section 16-29.001(27)(c), shall be no more than 35 feet if the front wall of the house is located at the front setback line. Additional height shall be allowed at a ratio of one foot in height to 10 feet of additional distance that the house is set back from the required front, side, and rear setback lines, provided that the house shall not be higher than 60 feet. In this context, "required front setback line" shall mean the average depth infill residential development front yard setback, if applicable.

2) *Height of accessory structures*: Height of accessory structures, measured as defined in Section 16-29.001(27)(a) and Section 16-29.001(27)(b), shall be no more than 25 feet.

3) *Retaining walls*:

   a) Retaining walls on infill lots shall be set back from the front, side, or rear property lines at least half the distance of the required front, side, or rear yard setbacks, respectively, except if the retaining wall functions to retain earth on the adjoining lot.
   b) If part of a retaining wall is located at the base of a building or structure, that part shall be considered to be part of the building or structure and shall be set back from the property line to the same distance as that which is required for the structure.
   c) The grade at the base of any retaining wall that is constructed on a side property line, at the point where the side property line meets the front setback line, shall be considered to be the grade from which the height of an infill building shall be measured. Where a series of terraced retaining walls are constructed, each shall be no higher than 6 inches from grade.

4) *Re-grading of infill lots or parcels:* Re-grading of an infill lot or parcel is prohibited except if specifically allowed by a building permit for an infill house. The height of the proposed new infill house shall be calculated prior to the issuance of any building permit and shall be measured from an elevation that is shown on a field run topographic survey of the lot and any adjoining streets, which shall be provided by the applicant, except that if the elevation of the infill lot is proposed to be lowered compared to the elevation shown on the survey, the height of the proposed new infill house shall be measured from the proposed lower elevation.

5) *Screening*: Landscaped screens shall be planted along all property lines of the infill lot that are shared by adjoining properties that are zoned to classifications that would permit construction of single-family houses. Plant materials shall be planted at distances on center so that effective screening for houses on the adjoining properties of the same size and height of the proposed infill house would be achieved at the plants' maturity, subject to specifications that shall be maintained by the City Arborist.

6) *Submittal requirements.* An applicant for any building permit on an infill lot or an infill parcel shall submit the following materials simultaneously with the application for a building permit:

    1) A field run topographic survey of the lot and any adjoining streets, drawn at two-foot intervals, which shall show the footprint of the proposed infill house and a topographic elevation at the center of the front of the proposed infill house, as well as photographs of all adjoining lots, which may be taken from the street or streets on which the adjoining lots front.

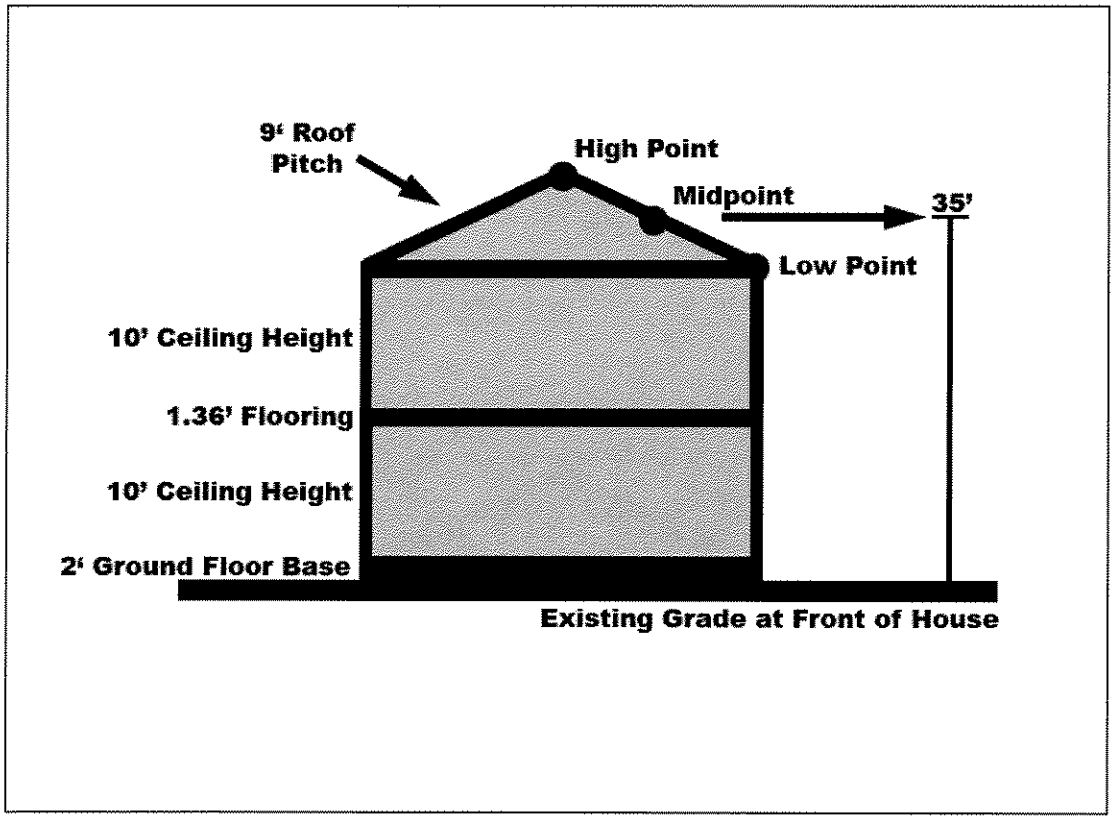
    2) Sufficient elevations of the house to enable Staff to measure the height of the proposed infill house.

    3) Minimum required front, side, and rear setback lines, including, if applicable, the average depth infill residential development front yard setback line, if applicable.

    4) A photograph that shows, on the same or on a composite photograph, a complete depiction of the house that is proposed to be demolished and the entirety of the view of the adjoining lots to each side of the infill lot from the street.

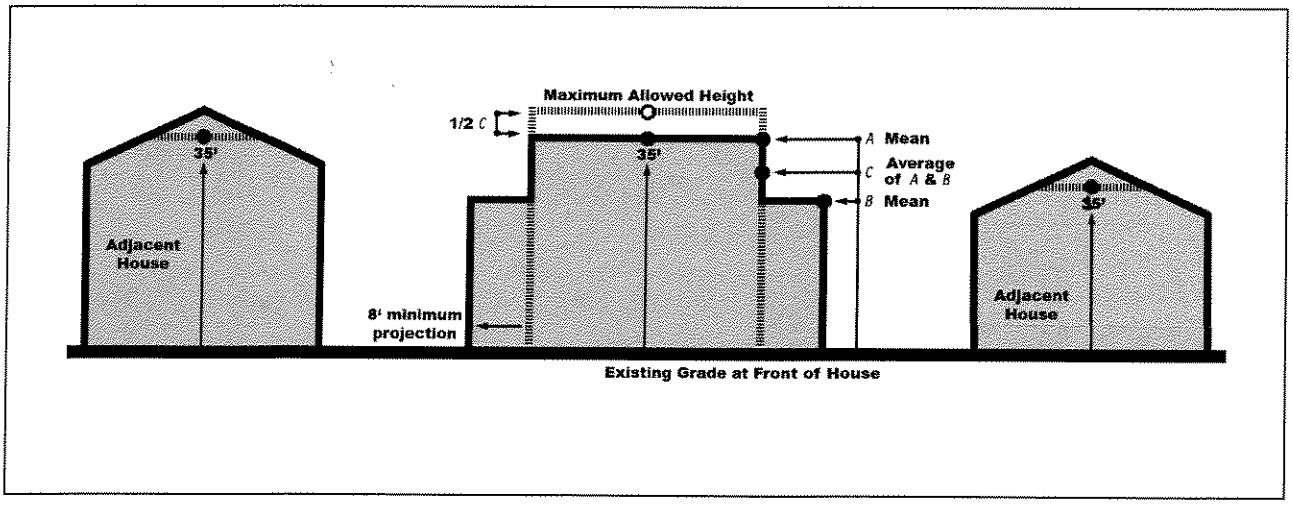
SECTION 18. That all ordinances or parts of ordinances in conflict with the terms of this ordinance are hereby repealed.

Height of Buildings & Structures – 2-Story House w/Peaked Roof



The vertical distance from the existing grade at the front of the house to the mean level between the lowest and highest points of the roof of the highest story. The front of the house shall be that side of the house which faces the front property line of the lot.

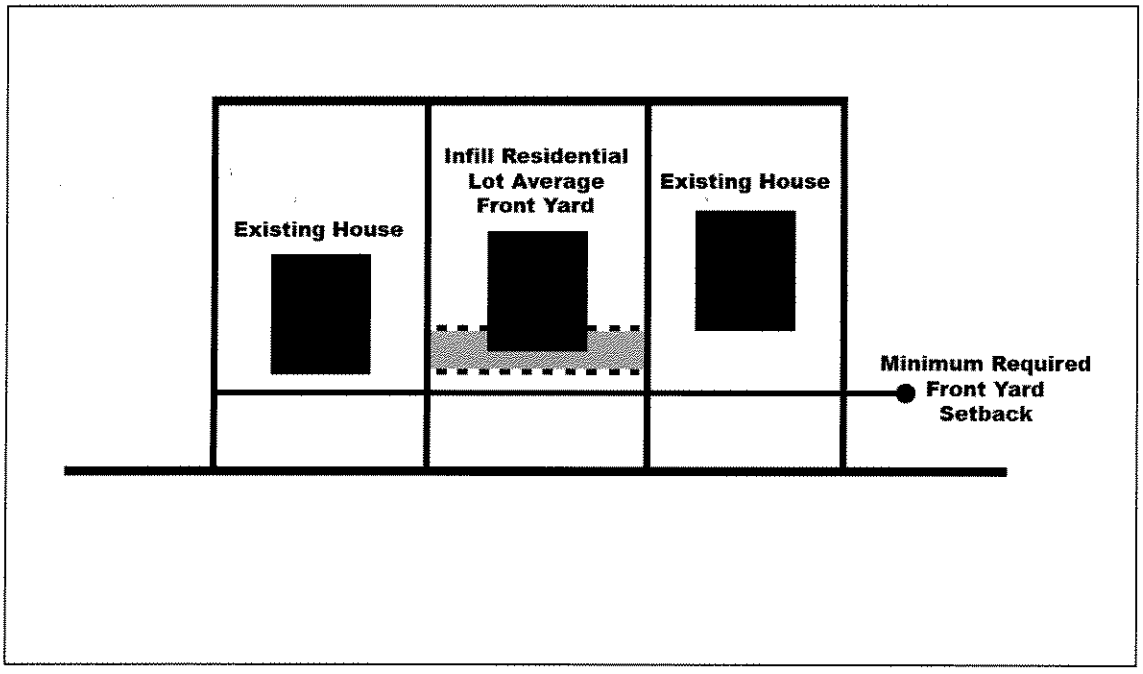
Height of Buildings & Structures – Stepback House



The height bonus for a stepback house shall be calculated as: the average ("stepback average") of the mean heights of each lower part of the house that projects at least 8 feet from the main part of the house (B) and the higher parts of the infill house (A), plus ½ of the difference between 35 feet and the stepback average (C).

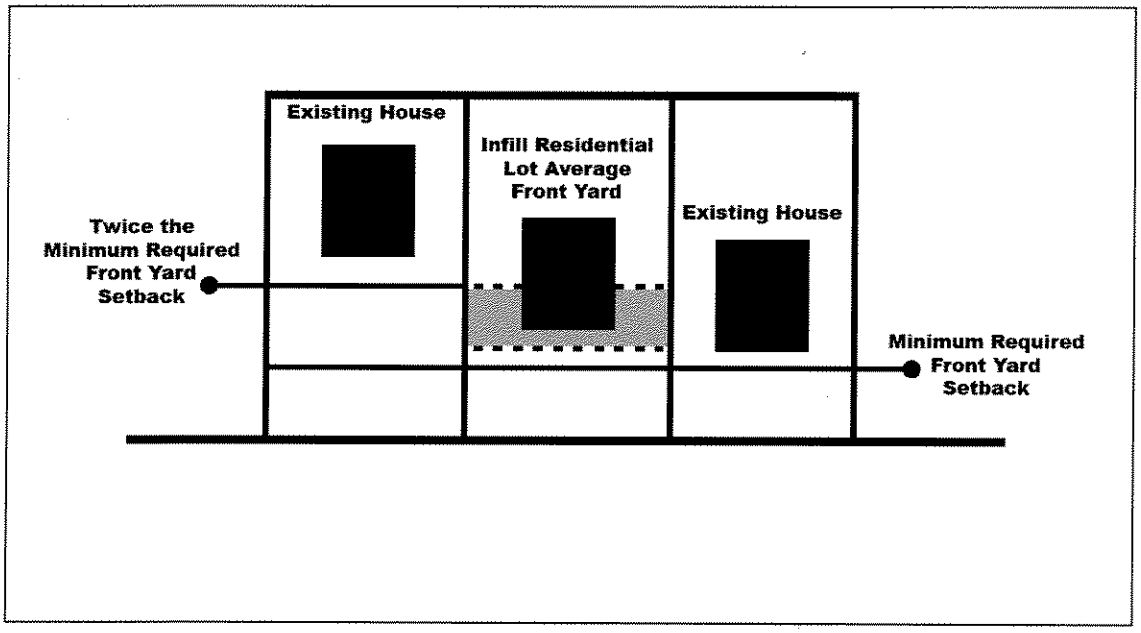
The maximum allowed height of a stepback house = the average of B + A + (½ 35 – C).

Average Depth Infill Residential Development Front Yard Setback 1



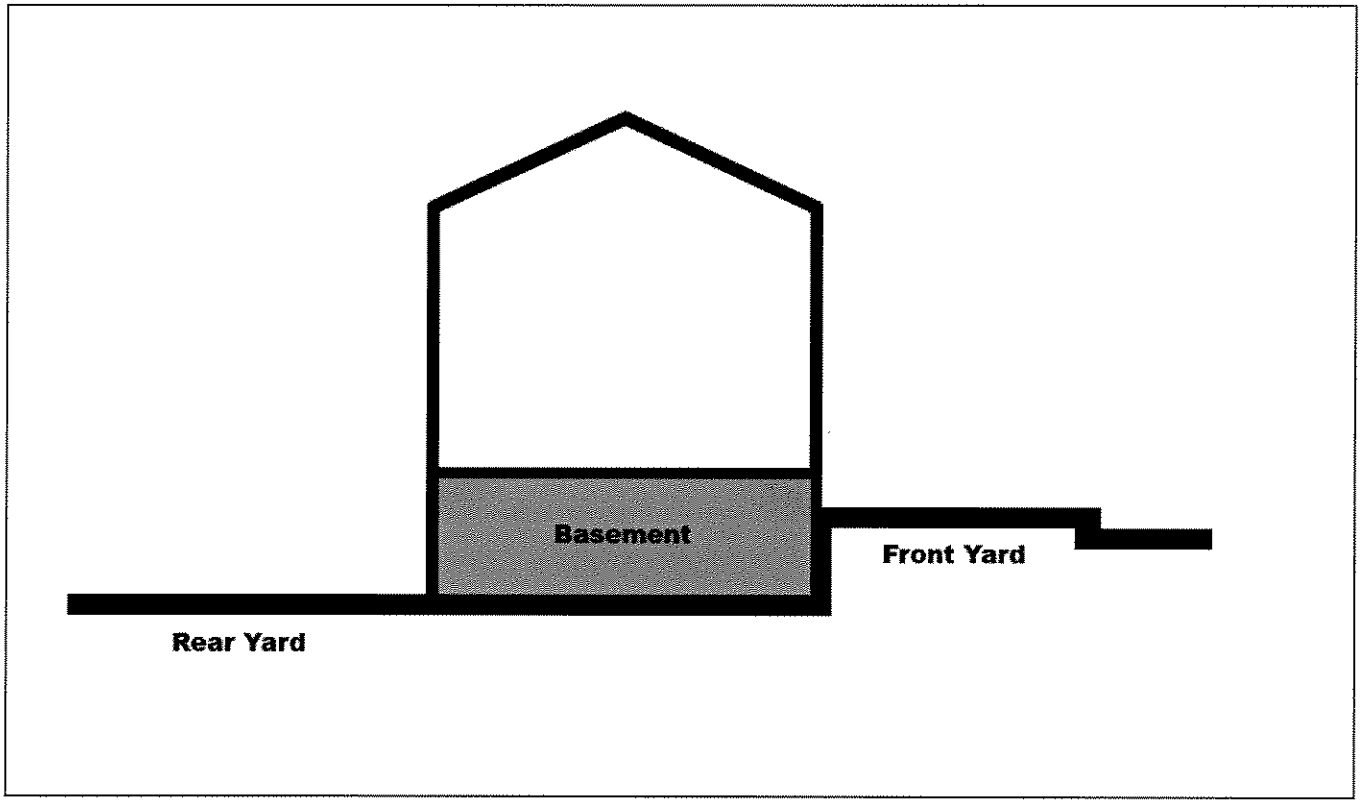
Where the houses on the lots that adjoin each side of the infill lot are set back farther from their property lines than the minimum required front yard setback, the front yard setback for an infill residential lot shall be the average front yard setback of the houses on the lots that adjoin each side. The houses on the lots that adjoin each side may be either completed or under construction.

Average Depth Infill Residential Development Front Yard Setback 2



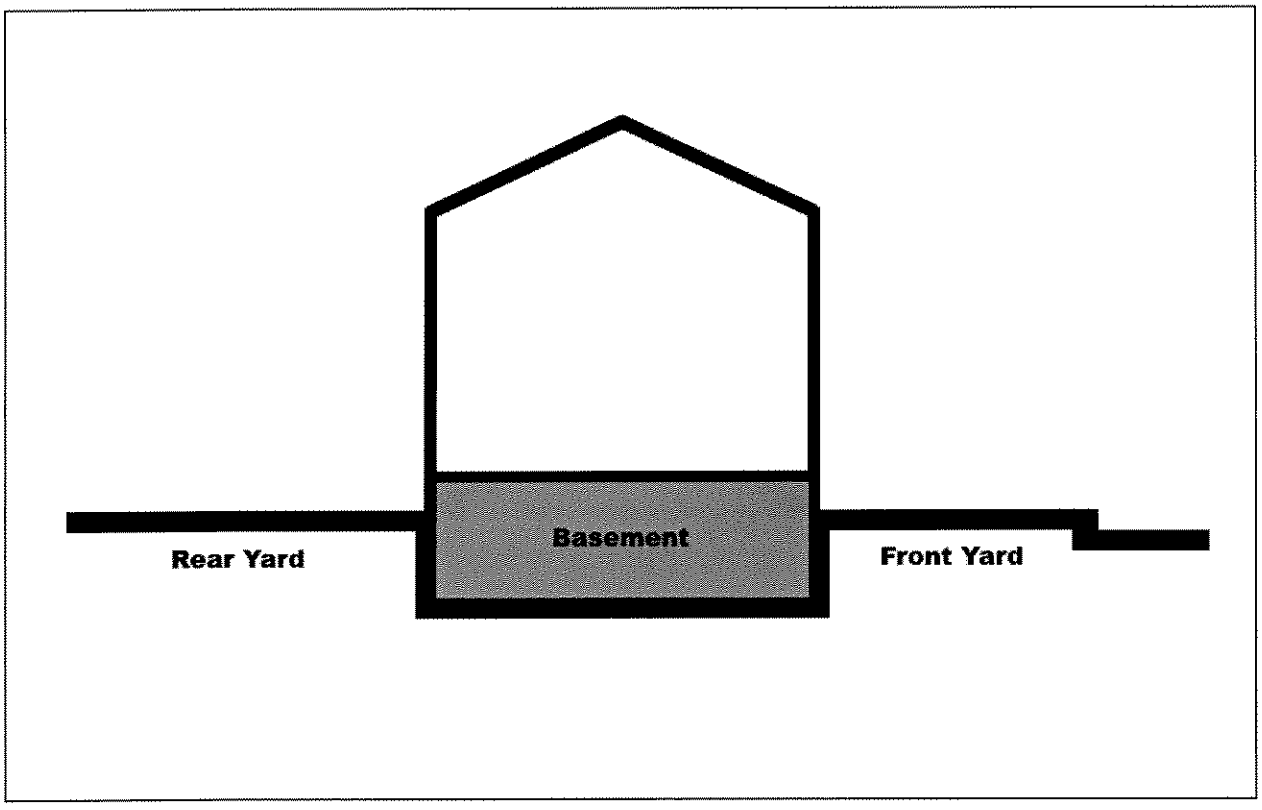
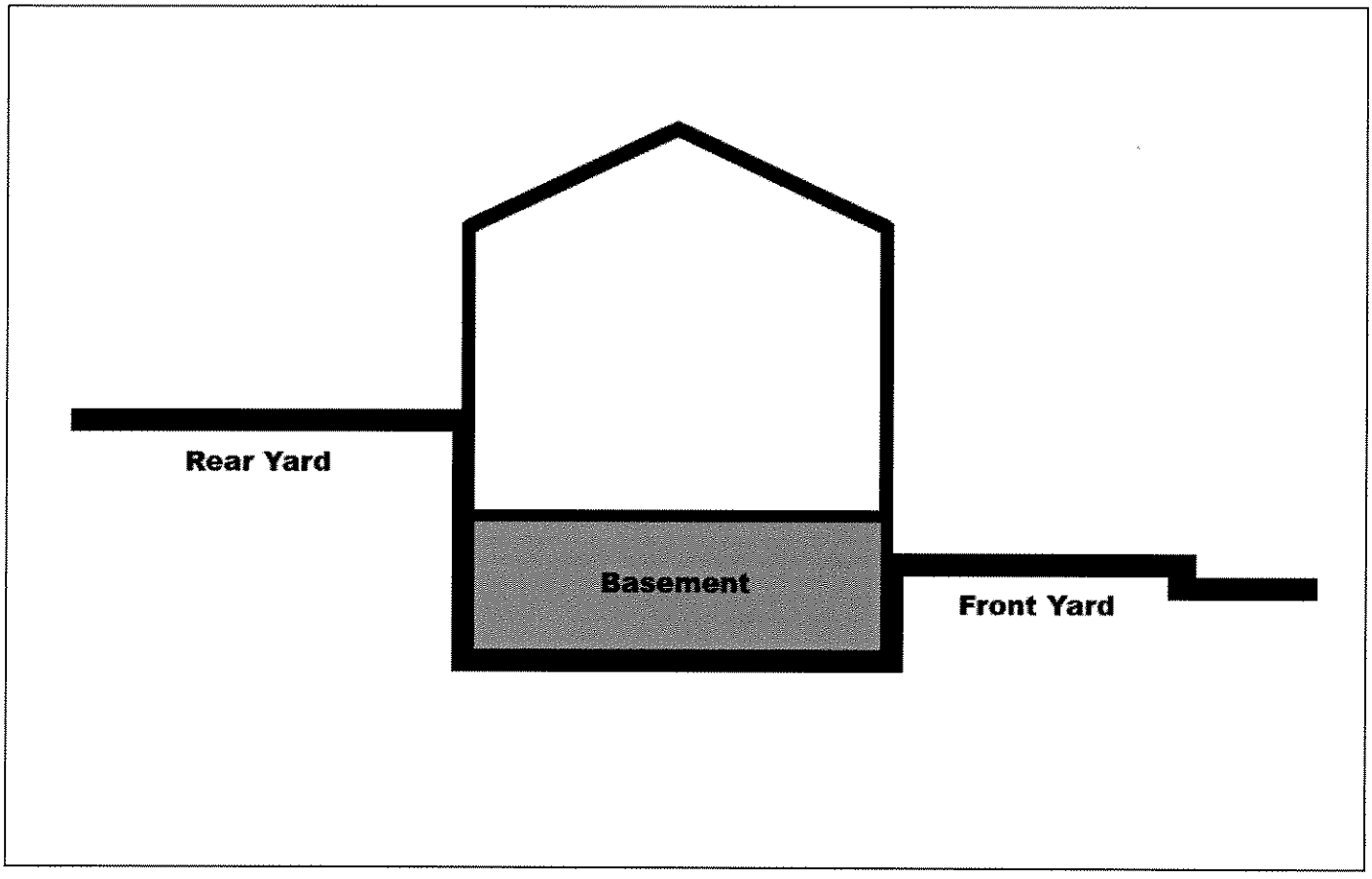
If one of the houses on the adjoining lots is set back more than twice the minimum setback, its setback shall be assigned a number that is twice that of the minimum setback, for the purposes of averaging the front yard setback depth for infill residential development.

House Section – Lot Declines To Rear



This illustration shows that a daylight basement would be feasible when the lot declines to the rear.

House Section – Level Lot



House Section -- Lot Inclines To Rear