

BILL NO. 5 OF 2010

A LOCAL LAW to amend the Kensington Code Chapter 151 entitled “Zoning.”

BE IT ENACTED by the Kensington Board of Trustees as follows:

Section One. Kensington Code §151-3 entitled “Word usage; definitions” is amended as follows:

BUILDING AREA – The proportion of the horizontal areas of the principal building on a lot to the total lot area measured from the exterior surface of the foundation wall on the ground level including attached and detached private garages and covered porches.

FLOOR AREA – The sum of the gross areas of the several floors of the principal and all accessory buildings on a lot, measured from the exterior faces of exterior walls:

(1) In particular, floor area shall include:

- (a) Basement space, irrespective of its use.
- (b) Floor space of each story above the basement and below the attic, irrespective of its use, and that portion of the area of any attic space, whether or not floor has been laid, with a minimum horizontal measurement of 6.5 feet that provides structural headroom of 6.5 feet or more.
- (c) Floor space of interior balconies or lofts.
- (d) Floor space of roofed terraces, exterior balconies or porches.
- (e) Floor space (in the aggregate) of all uncovered balconies in excess of 150 square feet.
- (f) Any portion of any floor area that exits to or is above grade. If an exit from a cellar is at grade level, then 50 percent of the floor space of that cellar shall be included.
- (g) Any private garage area in excess of 200 square feet shall be included.
- (h) If the first floor ceiling height exceeds 9.5 feet, the floor area of that room will be increased in direct proportion to the amount by which the ceiling area exceeds 9.5 feet. The

first floor ceiling height shall not exceed 12 feet unless there is an entry way vestibule or foyer.

- (i) The floor area of any vestibule or foyer area which exceeds 12 feet in height shall be counted twice.
 - (j) If the second floor ceiling height exceeds 8 feet, the floor area of that room will be increased in direct proportion to the amount by which the ceiling area exceeds 8 feet. The second floor ceiling height shall not exceed 9 feet.
 - (k) Any space above the spring line of a cathedral ceiling will be excluded from floor area calculations.
- (2) The floor area of a building shall not include any space occupied by open exterior wooden decks or on grade masonry terraces.

HEIGHT OF A BUILDING – The vertical distance from the first floor elevation to the ridge of a roof structure. For multiple dwellings and commercial buildings refer to height exceptions in §151.18.

STORY – The part of a building between the finished first floor elevation and the finished second floor elevation or between the finished second floor elevation and the top of the ceiling joist or spring line of a cathedral ceiling.

Section Two. Kensington Code §151-3 entitled “Word usage; definitions” is amended by repealing the definitions of “Gross Floor Area” and “Ground Level” in their entirety.

Section Three. Kensington Code §151-3 entitled “Word usage; definitions” is amended by the addition of the following:

CEILING HEIGHT – The vertical distance between the floor and ceiling of a building.

FIRST FLOOR ELEVATION LEVEL – The distance from the mean ground level to the top of the first floor platform framing of a building.

MEAN GROUND LEVEL – The average elevation of natural grade level prior to any excavation or any fill being placed on the ground as determined by a licensed New York State land surveyor. The mean ground level shall be calculated based on an average of the elevations at each building corner; at each vertex where there is a change in plane; and at three equal intermediate points for

building planes which are 20 feet or more. The mean ground level shall be measured along the entire foundation of a building.

MEAN STREET CURB LEVEL – The average elevation of the street pavement alongside the face of a curb as determined by a licensed New York State land surveyor.

PORCH – A roofed open structure projecting from the outside wall of a building without a window sash, glazing panels, or any other form of enclosure.

TERRACE – An open porch without a permanent roof.

Section Four. Kensington Code §151-9 entitled “Residence A District” is amended by the addition of the following:

K. Floor area. The floor area in a building shall not exceed 8,000 square feet.

L. Front yard lot coverage. The maximum permitted lot coverage of all paved areas in a front yard including gravel and stone aggregate, shall not be greater than 30% of the front yard. This shall include driveways, parking areas, walkways, patios and permitted encroachments.

M. Rear yard lot coverage. The maximum permitted lot coverage of all paved areas in a rear yard including gravel and stone aggregate, shall not be greater than 25% of the rear yard. This shall include parking areas, walkways, patios, decks, pools and permitted encroachments.

N. The height of an accessory structure shall not exceed 12 feet.

O. For all new construction and substantial improvements that exceed 40% of the floor area of an existing building, the additional regulations in section 151-13.2. shall apply.

Section Five. Kensington Code §151-10 entitled “Residence B District” is amended by the addition of the following:

K. Floor area. The floor area in a building shall not exceed 8,000 square feet.

L. Front yard lot coverage. The maximum permitted lot coverage of all paved areas in a front yard including gravel and stone aggregate, shall not be greater than 30% of the front yard. This shall include driveways, parking areas, walkways, patios and permitted encroachments.

M. Rear yard lot coverage. The maximum permitted lot coverage of all paved areas in a rear yard including gravel and stone aggregate, shall not be greater than 25% of the rear yard. This shall include parking areas, walkways, patios, decks, pools and permitted encroachments.

N. The height of an accessory structure shall not exceed 12 feet.

O. For all new construction and substantial improvements that exceed 40% of the floor area of an existing building, the additional regulations in section 151-13.2. shall apply.

Section Six. Kensington Code §151-11 entitled “Residence C District” is amended by the addition of the following:

K. Floor area. The floor area in a building shall not exceed 8,000 square feet.

L. Front yard lot coverage. The maximum permitted lot coverage of all paved areas in a front yard including gravel and stone aggregate, shall not be greater than 30% of the front yard. This shall include driveways, parking areas, walkways, patios and permitted encroachments.

M. Rear yard lot coverage. The maximum permitted lot coverage of all paved areas in a rear yard including gravel and stone aggregate, shall not be greater than 25% of the rear yard. This shall include parking areas, walkways, patios, decks, pools and permitted encroachments.

N. The height of an accessory structure shall not exceed 12 feet.

O. For all new construction and substantial improvements that exceed 40% of the floor area of an existing building, the additional regulations in section 151-13.2. shall apply.

Section Seven. Kensington Code §151-13 entitled “Additional special restrictions” is amended by the addition of the following:

§151-13.2. Additional regulations for new construction and substantial improvements. The following additional regulations shall apply to new construction and substantial improvements constructed after February 1, 2011 in the Residence A, Residence B, and Residence C Districts. A substantial improvement shall be defined as an alteration or addition that exceeds forty percent of the floor area of an existing building as determined by the Building Inspector.

- A. First floor elevation. The first floor elevation level of a building shall not exceed 3 feet on lots with a grade having less than a 3 percent slope. If a lot has a grade with a slope greater than 3 percent, the first floor elevation is measured by calculating the average front yard along the foundation wall.

If the distance between the mean street curb level and the mean grade level is greater than 3 feet, the first floor elevation can not exceed 1.5 feet.

- B. Height of first and second story. The first story of a building shall not exceed 12 feet in height unless there is an entry way vestibule or foyer.

The second story of a building shall not exceed 9 feet in height.

- C. Side yards. Except in the case of a corner lot, two side yards shall be provided as follows:

(1) For lots having a lot width greater than 140 feet:

- (a) The first story of a building shall have a 32 foot aggregate side yard setback and a 15 foot minimum side yard setback.
- (b) The second story of a building shall be set back a minimum of an additional 6 feet from the first story wall (“the required second story setback”) unless
 - (i) the width of the improvement proposed within the required second story setback is no more than 75% of the building’s first story width directly beneath it; and either
 - (ii) the front and rear façade planes of the proposed improvement within the required second story setback do not share the same front or rear façade planes of the building and there is a break and change in plane by at least 2 feet; or the height of the roof eave of the proposed improvement within the required second story setback is less than 50 percent of the building’s second story height.

(See Diagrams)

- (c) The side yard setback for buildings that have two-story solid planes are as follows:

- (i) A building with a two-story solid plane on one side elevation shall have a 37 foot aggregate side yard setback and a 22 foot minimum side yard setback for the side elevation with the solid two story plane.
 - (ii) A building with a two-story solid plane on each side elevation shall have a 44 foot aggregate side yard setback and a 22 foot minimum side yard setback for each side.
- (2) For lots having a minimum lot width of 100 feet up to a maximum of 140 feet:
- (a) The first story of a building shall have a 28 foot aggregate side yard setback and a 12 foot minimum side yard.
 - (b) The second story of a building shall be set back a minimum of an additional 6 feet from the first story wall (“the required second story setback”) unless:
 - (i) the width of the improvement proposed within the required second story setback is no more than 75% of the building’s first story width directly beneath it; and either
 - (ii) the front and rear façade planes of the proposed improvement within the required second story setback do not share the same front or rear façade planes of the building and there is a break and change in plane by at least 2 feet; or the height of the roof eave of the proposed improvement within the required second story setback is less than 50 percent of the building’s second story height
- (See Diagrams)
- (c) The side yard setback for buildings that have two-story solid planes are as follows:
 - (i) A building with a two-story solid plane on one side elevation shall have a 30 foot aggregate side yard setback and a 16 foot minimum side yard setback for the side elevation with the solid two story plane.
 - (ii) A building with a two-story solid plane on each side elevation shall have a 32 foot aggregate side yard

setback and a 16 foot minimum side yard setback for each side.

- (3) For lots having a minimum lot width of 90 feet up to a maximum of 99 feet:
 - (a) The first story of a building shall have a 26 foot aggregate side yard setback and a 12 foot minimum side yard.
 - (b) The second story of a building shall be set back a minimum of an additional 6 feet from the first story wall (“the required second story setback”) unless
 - (i) the width of the improvement proposed within the required second story setback is no more than 75% of the building’s first story width directly beneath it; and either
 - (ii) the front and rear façade planes of the proposed improvement within the required second story setback do not share the same front or rear façade planes of the building and there is a break and change in plane by at least 2 feet; or the height of the roof eave of the proposed improvement within the required second story setback is less than 50 percent of the building’s second story height.
- (c) The side yard setbacks for buildings that have solid two-story planes are as follows:
 - (i) A building with a two-story single plane on one or both side elevations shall have a 28 foot aggregate side yard setback and a 14 foot minimum side yard setback on each side.
- (4) For lots having a minimum lot width of 80 feet up to a maximum of 89 feet, a building shall have a 24 foot aggregate side yard setback and a 12 foot minimum side yard setback on each side.

(See Diagrams)

D. Facades.

- (1) The horizontal plane of the building’s front façade shall not extend more than 60 feet in width without a change or break in said plane of at least 2 feet.

- (2) The horizontal plane of the building's side façade shall not extend more than 35 feet without a change or break in said plane of at least 2 feet and the primary façade can not constitute more than 75% of the total area of that side wall.
- (3) For both front and side facades, projecting chimneys or permitted encroachments shall not be considered a plane break or change.
- (4) Foundation walls shall not be exposed greater than one foot.

(See Diagrams)

E. Maximum encroachments permitted into required yards.

No building or part of a building shall be erected in, upon or over a required yard except for the following permitted encroachments:

- (1) Cornices, eaves, gutters -- 24 inches;
- (2) Windowsills, belt courses or other ornamental features -- 4 inches;
- (3) Bay windows not more than 7.5 feet in width, no more than one-story high -- 2 feet;
- (4) A one-story vestibule, no more than 8 feet wide -- 3.5 feet wide in the front yard;
- (5) One-story open porches or terraces that are 60% of the overall front width of the building -- 3.5 feet into the front or rear yard;
- (6) Fireplace chimneys no greater than 6 feet in width -- 2 feet deep;
- (7) Stoops, entry steps and platforms with steps no greater than 6 feet in width and a roof that extends no more than 1 foot of the exit platform -- 3 feet deep in a side yard and 6 feet deep in a front or rear yard; and
- (8) Air-conditioning condenser area and equipment having a total width of seven feet or less -- 3 feet deep.

F. Driveways.

A. For lots with a 99 foot lot width or greater the following regulations shall apply:

- (1) A driveway situated on a lot which is improved with a detached one- or two-car garage:
 - (a) A three foot minimum side yard setback shall be required between the driveway and the side property line. Landscaping as approved by the Architectural Review Board shall be required within this setback.
 - (b) A two foot minimum separation between the building and the driveway shall be required. Landscaping as approved by the Architectural Review Board shall be required within this setback.
 - (c) The maximum driveway width shall be 12 feet in the front and side yard.
- (2) A driveway situated on a lot which is improved with a side entrance garage:
 - (a) A three foot minimum side yard setback shall be required between the driveway and the side property line. Landscaping as approved by the Architectural Review Board shall be required within this setback.
 - (b) The driveway shall have a 26 foot clearance area to be used as a turning lane. The location of the clearance area shall be approved by the building inspector.
 - (c) The maximum driveway width shall be 12 feet in the front and side yard.
- (3) A circular driveway situated on a lot which is improved with a front entry garage:
 - (a) A five foot minimum side yard setback on each side shall be required between the driveway and the side property line. Landscaping as approved by the

Architectural Review Board shall be required within this setback.

(b) The building on a lot with a circular driveway shall have a 40 foot minimum front yard setback.

(c) Neither curb cut can be separated by less than 40 feet.

B. For lots with a lot width less than 99 feet the following regulations shall apply:

(1) A driveway situated on a lot which is improved with a detached one car or two car garage shall comply with the following:

(a) A two foot minimum side yard setback shall be required between the driveway and the side property line. Landscaping as approved by the Architectural Review Board shall be required within this setback.

(b) A two foot minimum separation between the building and the driveway shall be required. Landscaping as approved by the Architectural Review Board shall be required within this setback.

(c) The maximum driveway width shall be 10 feet in the front and side yard.

(2) A driveway situated on a lot which is improved with a side entrance garage:

(a) A two foot minimum side yard setback shall be required between the driveway and the side property line. Landscaping as approved by the Architectural Review Board shall be required within this setback.

(b) The driveway shall have a 26 foot clearance area to be used as a turning lane. The location of the clearance area shall be approved by the building inspector.

(c) The maximum driveway width shall be 10 feet in the front and side yard.

Section Eight. Kensington Code §151-16 entitled “Private garages” is amended by the addition of the following:

§151-16(D). No portion of a front entrance garage may be located in the cellar or basement of a residence.

Section Nine. Kensington Code §151-18 entitled “Height of buildings” is amended as follows:

§151-18. Height of multiple-dwellings and commercial buildings.

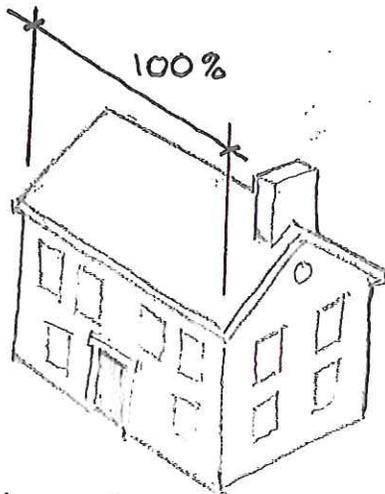
The provisions of this chapter relating to the height of multiple-dwellings and commercial buildings are subject to the following exceptions:

Section Ten. Kensington Code §151-22 entitled “Nonconforming Buildings and Uses” is amended as follows:

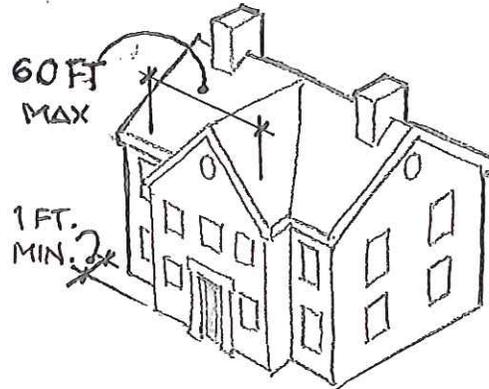
- (5) The additional regulations in section 151.13.2 shall not apply to the structural alteration, reconstruction, or enlargement of a nonconforming building unless said improvements exceed forty percent of the floor area as determined by the building inspector.

Section Eleven. If any clause, sentence, paragraph, section, article or part of this local law shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate any other part of this local law, or the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which judgment shall have been rendered.

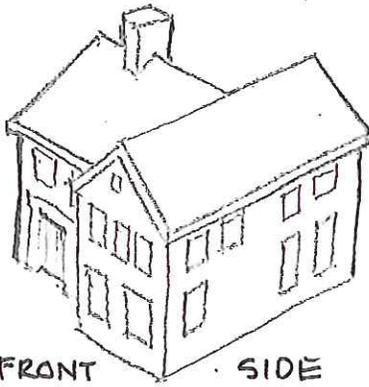
Section Twelve. This local law shall take effect immediately upon filing with the Secretary of State.



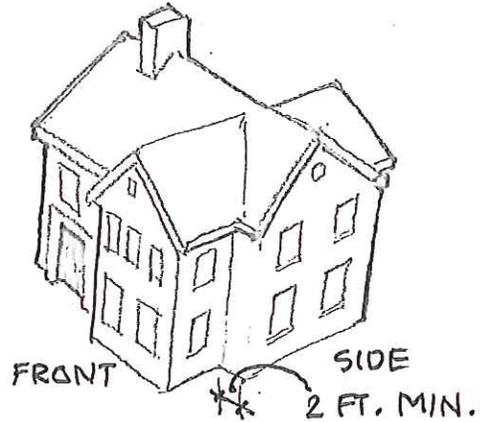
A WITHOUT BREAK



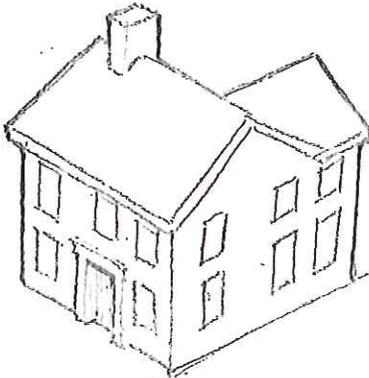
WITH BREAK



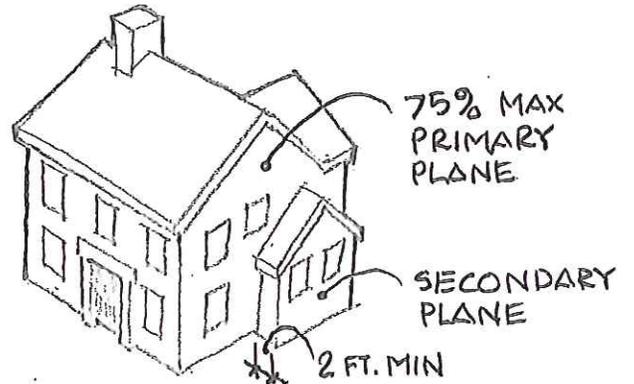
B WITHOUT BREAK



WITH BREAK



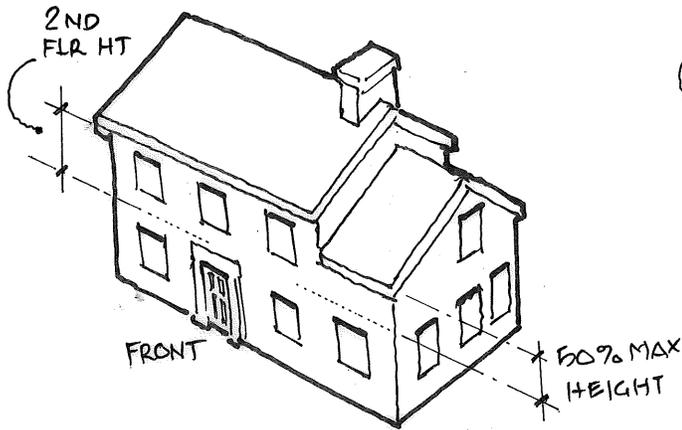
C ONE PLANE



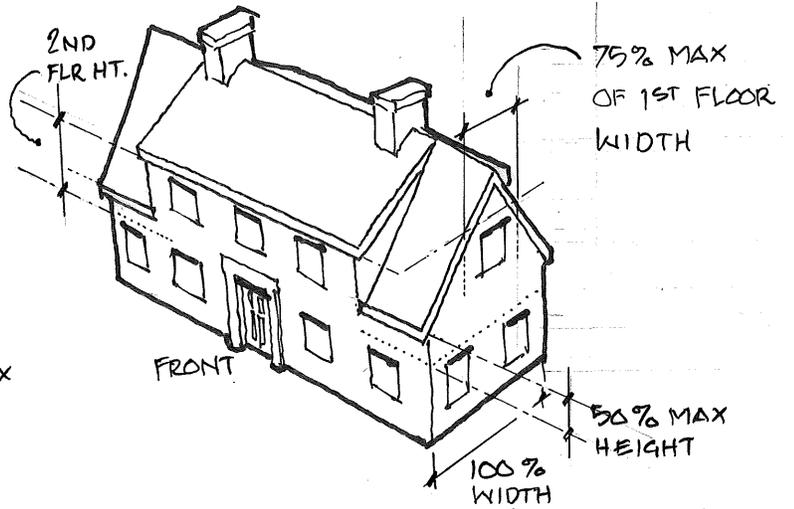
SEPARATE PLANES

Facade Diagrams

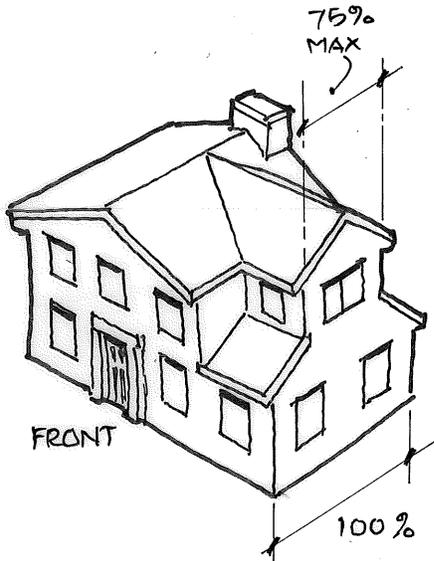
Diagrams illustrating acceptable breaks and change in claim along front and side facades



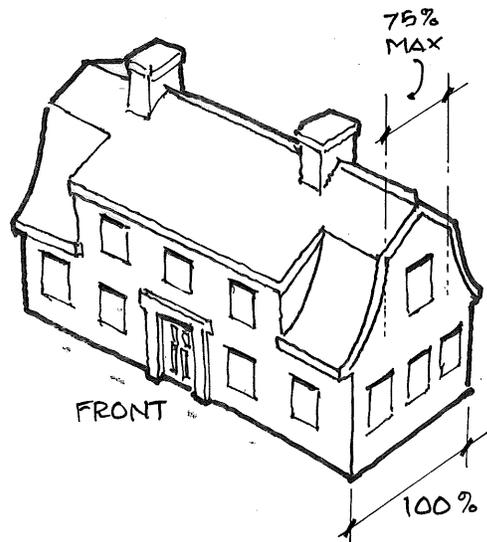
COLONIAL GABLE END



STEEP GABLE END



DORMER GABLE END



GAMBREL END

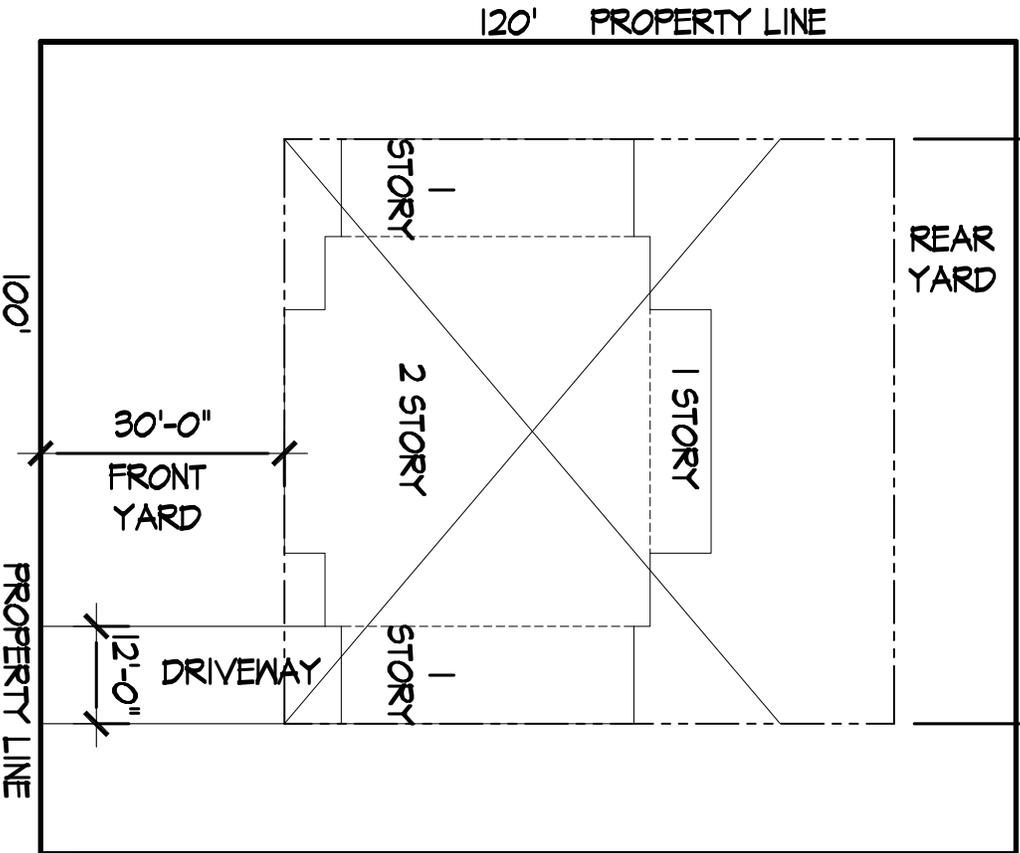
SIDE YARDS

Diagrams illustrating exceptions to second-story setback requirement.

12'-0"
MIN.
SIDE
YARD

16'-0"
MIN.
SIDE
YARD

28 FT
SIDE
YARD
(AGG)



STANDARD BASE LOT YIELD (100X120)

EXAMPLE SCENARIO

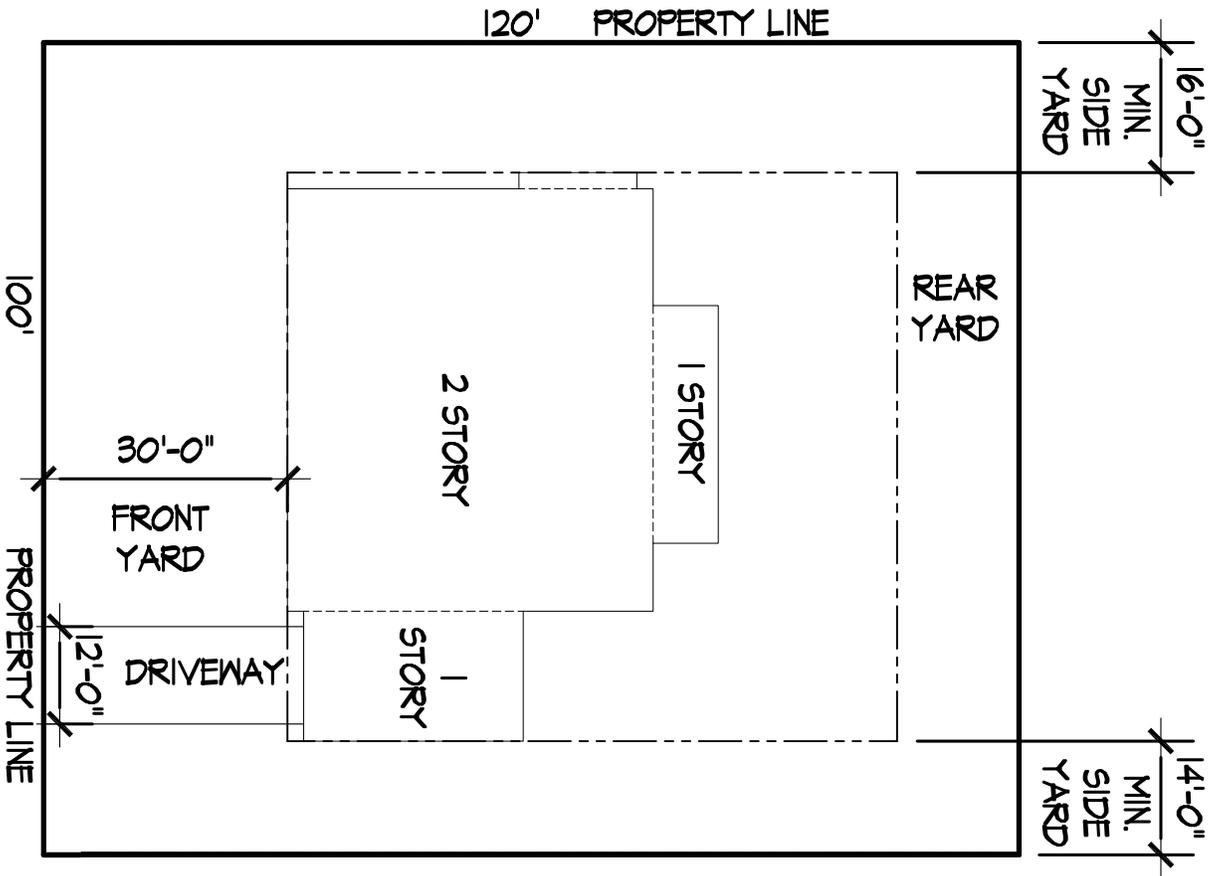
NOTES:

LOT: 12,000 S.F.
100X120

F.A.R.: 12,000 S.F. X .4 = 4,800 S.F.
ADD 200 S.F. FOR MAX
ALLOWABLE GARAGE AREA

LOT COVERAGE: 12,000 S.F. X .35 =
4,200 S.F.
(MAX. FOOTPRINT)

EXAMPLE HOME:
GROUND FLOOR: 3,258 SF
(INCL. 200 SF FOR GARAGE)
SECOND FLOOR: 1,842 SF
TOTAL: 4,800 + 200 SF = 5,000 SF
(IF BUILT TO F.A.R.)



16'-0"
MIN.
SIDE
YARD

14'-0"
MIN.
SIDE
YARD

30 FT
SIDE
YARD
(AGG)

REAR
YARD

1
STORY

2
STORY

1
STORY

30'-0"
FRONT
YARD

DRIVEWAY

100'

120' PROPERTY LINE

PROPERTY LINE

EXAMPLE SCENARIO

NOTES:

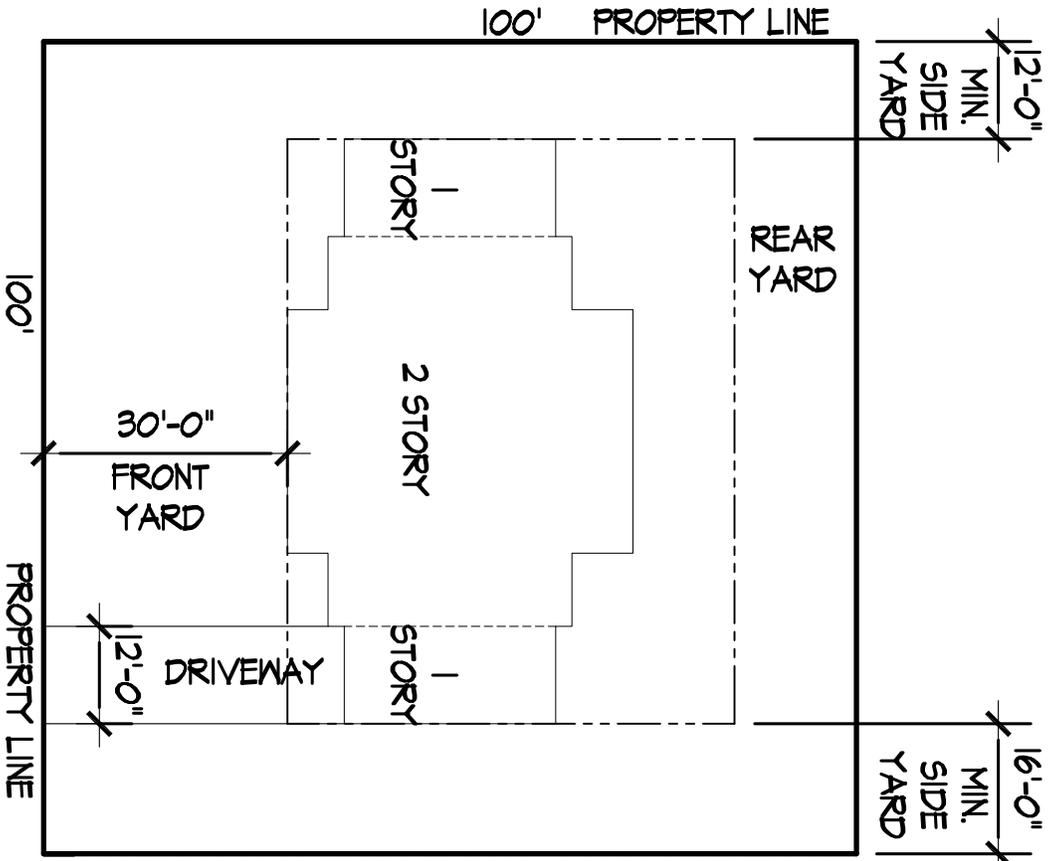
LOT: 12,000 S.F.
100X120

F.A.R.: 12,000 S.F. X .4 = 4,800 S.F.
ADD 200 S.F. FOR MAX
ALLOWABLE GARAGE AREA

LOT COVERAGE: 12,000 S.F. X .35 =
4,200 S.F.
(MAX. FOOTPRINT)

EXAMPLE HOME:
GROUND FLOOR: 2,944 SF
(INCL. 200 SF FOR GARAGE)
SECOND FLOOR: 2,056 SF
TOTAL: 4,800 + 200 SF = 5,000 SF
(IF BUILT TO FAR)

TWO STORY SIDE WITH SINGLE STORY SIDE APPENDAGE (100X120)



12'-0"
MIN.
SIDE
YARD

16'-0"
MIN.
SIDE
YARD

28 FT
SIDE
YARD
(AGG)

100' PROPERTY LINE

100'

PROPERTY LINE

REAR
YARD

1
STORY

2 STORY

1
STORY

30'-0"
FRONT
YARD

DRIVEWAY

STANDARD BASE LOT YIELD (100X100)

EXAMPLE SCENARIO

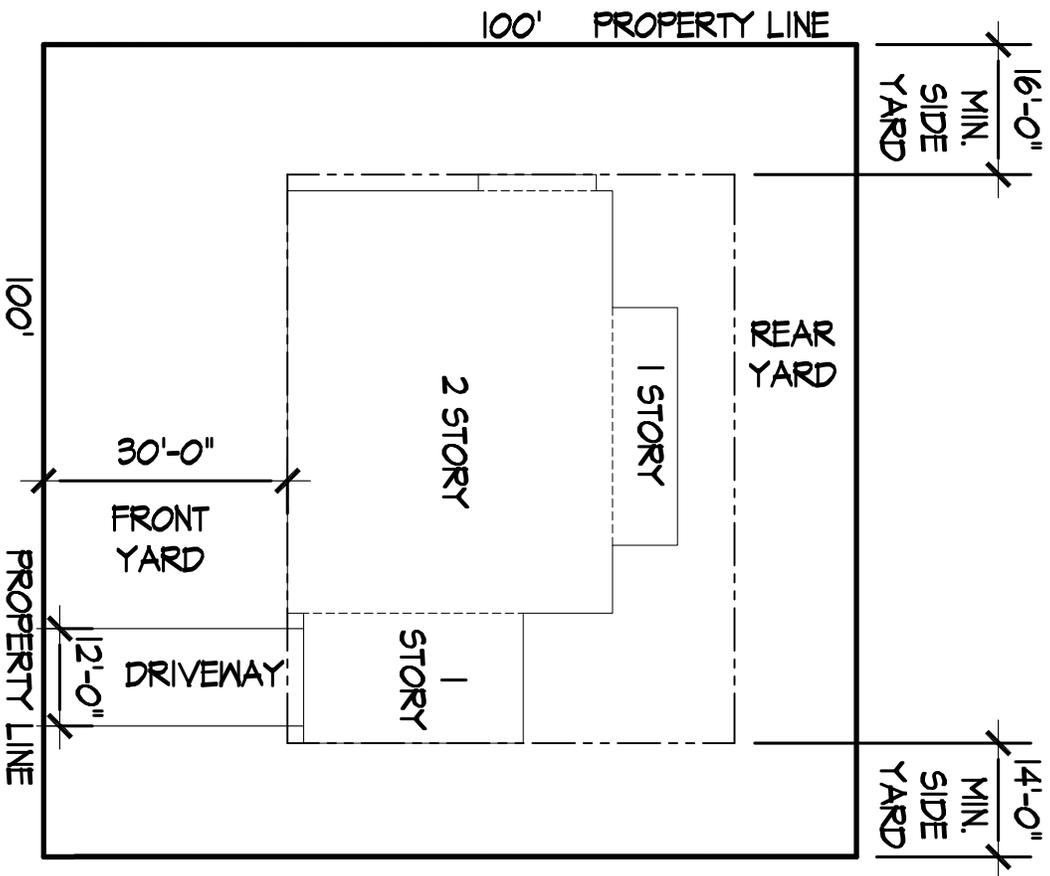
NOTES:

LOT: 12,000 S.F.
100X100

F.A.R.: 10,000 S.F. X .4 = 4,000 S.F.
ADD 200 S.F. FOR MAX
ALLOWABLE GARAGE AREA

LOT COVERAGE: 10,000 S.F. X .35 =
3,500 S.F.
(MAX. FOOTPRINT)

EXAMPLE HOME:
GROUND FLOOR: 2,439 SF
(INCL 200 SF FOR GARAGE)
SECOND FLOOR: 1,761 SF
TOTAL: 4,000 + 200 SF = 4,200 SF
(IF BUILT TO FAR)



30 FT
SIDE
YARD
(AGG)

EXAMPLE SCENARIO

NOTES:

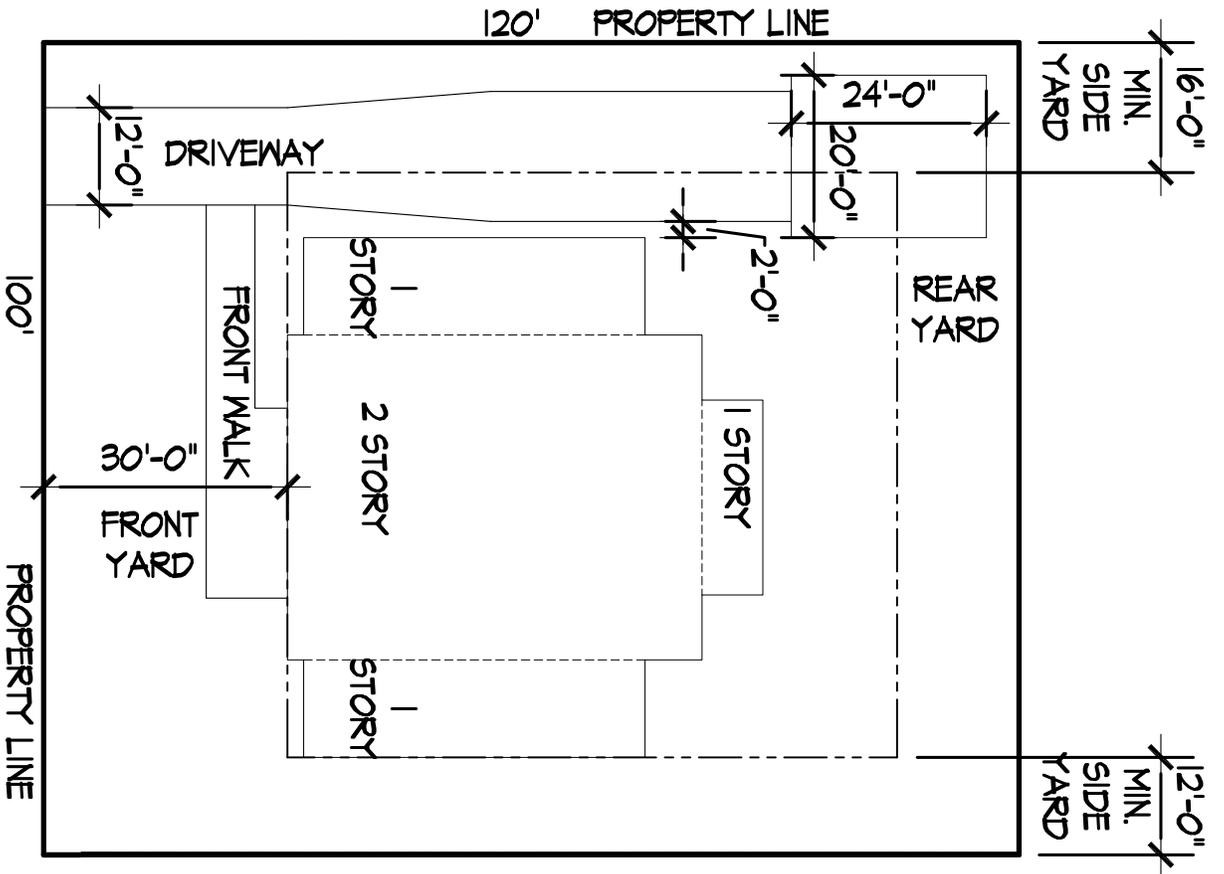
LOT: 12,000 S.F.
100X100

F.A.R.: 10,000 S.F. X .4 = 4,000 S.F.
ADD 200 S.F. FOR MAX
ALLOWABLE GARAGE AREA

LOT COVERAGE: 10,000 S.F. X .35 =
3,500 S.F.
(MAX. FOOTPRINT)

EXAMPLE HOME:
GROUND FLOOR: 2,694 SF
(INCL 200 SF FOR GARAGE)
SECOND FLOOR: 1,506 SF
TOTAL: 4,000 + 200 SF = 4,200 SF
(IF BUILT TO FAR)

TWO STORY SIDE WITH SINGLE STORY SIDE APPENDAGE (100X100)



16'-0"
MIN.
SIDE
YARD

12'-0"
MIN.
SIDE
YARD

28 FT
SIDE
YARD
(AGG)

EXAMPLE SCENARIO

NOTES:

LOT: 12,000 S.F.
100X120

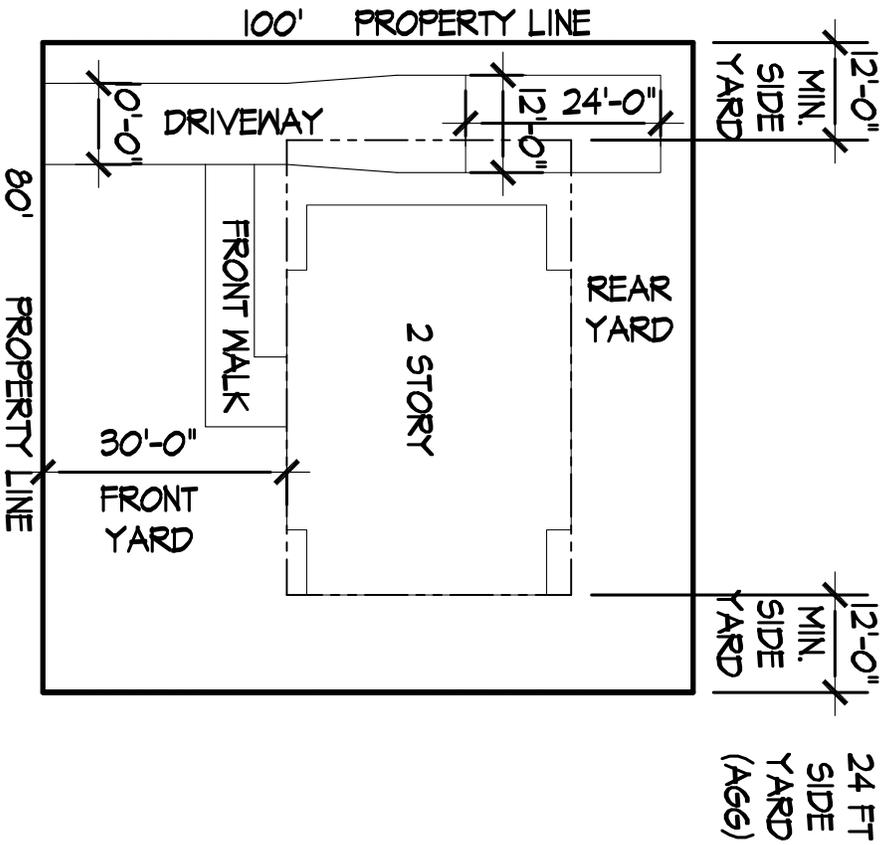
F.A.R.: 12,000 S.F. X .4 = 4,800 S.F.
ADD 200 S.F. FOR MAX
ALLOWABLE GARAGE AREA

LOT COVERAGE: 12,000 S.F. X .35 =
4,200 S.F.
(MAX. FOOTPRINT)

EXAMPLE HOME:
GROUND FLOOR: 3,227 SF
(INCL 200 SF FOR GARAGE)
SECOND FLOOR: 1,773 SF
TOTAL: 4,800 + 200 SF = 5,000 SF
(IF BUILT TO FAR)

LOT COVERAGE
DETACHED GARAGE 3,227 SF
TOTAL 480 SF
3,707 SF

STANDARD BASE LOT YIELD (100X120)
DOUBLE DETACHED REAR GARAGE



EXAMPLE SCENARIO

NOTES:

LOT: 8,000 S.F.
80X100

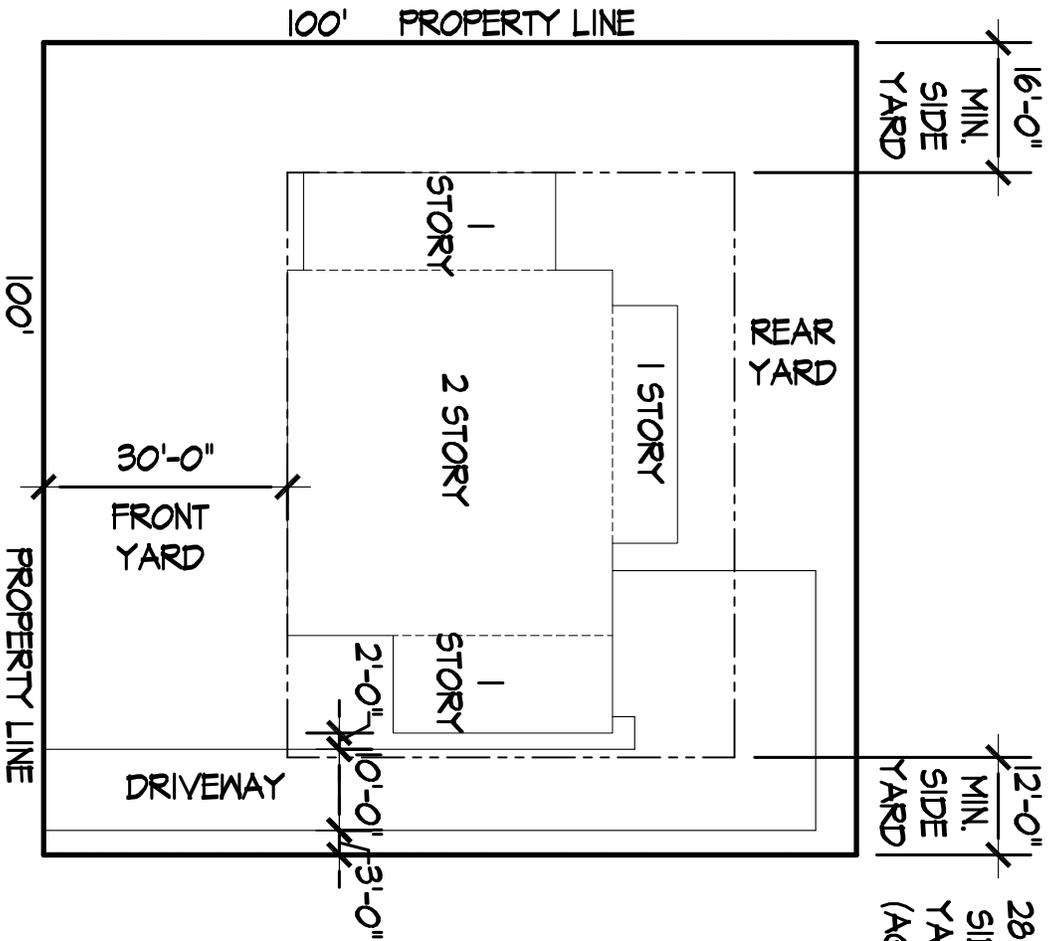
F.A.R.: 8,000 S.F. X .4 = 3,200 S.F.
ADD 200 S.F. FOR MAX
ALLOWABLE GARAGE AREA

LOT COVERAGE: 8,000 S.F. X .35 = 2,800 S.F.
(MAX. FOOTPRINT)

EXAMPLE HOME:
GROUND FLOOR: 1,542 SF
GARAGE: 288 SF
SECOND FLOOR: 1,520 SF
TOTAL: 3,400 SF
TOTAL: 3,200 + 200 SF = 3,400 SF
(IF BUILT TO FAR)

LOT COVERAGE 1,542 SF
DETACHED GARAGE 288 SF
TOTAL 1,830 SF

STANDARD BASE LOT YIELD (80X100)
SINGLE DETACHED REAR GARAGE



28 FT
SIDE
YARD
(AGG)

EXAMPLE SCENARIO

NOTES:

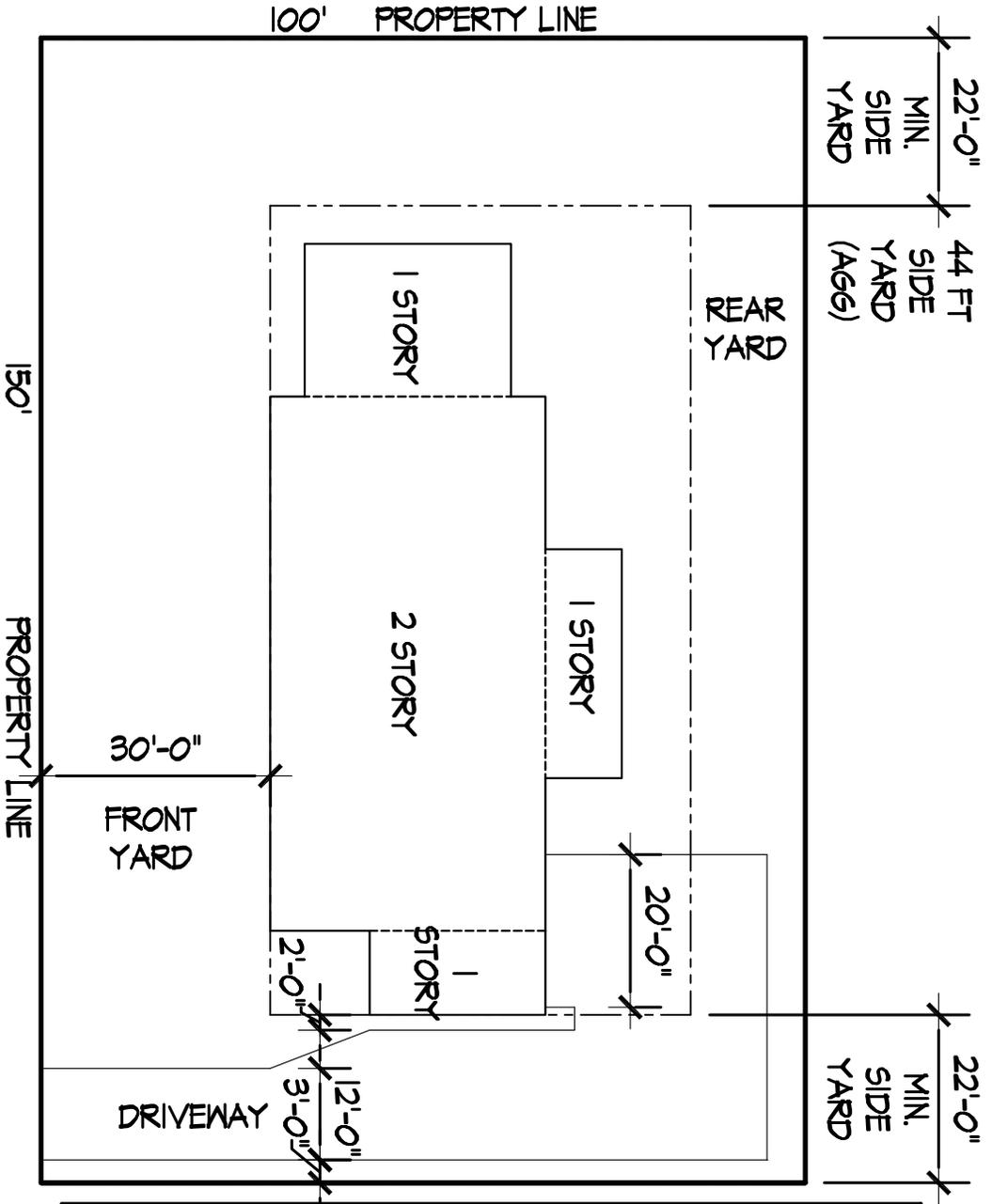
LOT: 10,000 S.F.
100X100

F.A.R.: 10,000 S.F. X .4 = 4,000 S.F.
ADD 200 S.F. FOR MAX
ALLOWABLE GARAGE AREA

LOT COVERAGE: 10,000 S.F. X .35 =
3,500 S.F.
(MAX. FOOTPRINT)

EXAMPLE HOME:
GROUND FLOOR: 2,120 SF
(INCL 200 SF FOR GARAGE) 1,480 SF
SECOND FLOOR: 1,480 SF
TOTAL: 4,000 + 200 SF = 4,200 SF
(IF BUILT TO FAR)

TWO SINGLE STORY SIDE APPENDAGES AND REAR ENTRY TWO CAR GARAGE (100X100)



22'-0" MIN. SIDE YARD
 44 FT SIDE YARD (AGG)
 22'-0" MIN. SIDE YARD

REAR YARD

1 STORY

1 STORY

2 STORY

1 STORY

30'-0" FRONT YARD

DRIVEWAY

150' PROPERTY LINE

100' PROPERTY LINE

EXAMPLE SCENARIO

NOTES:

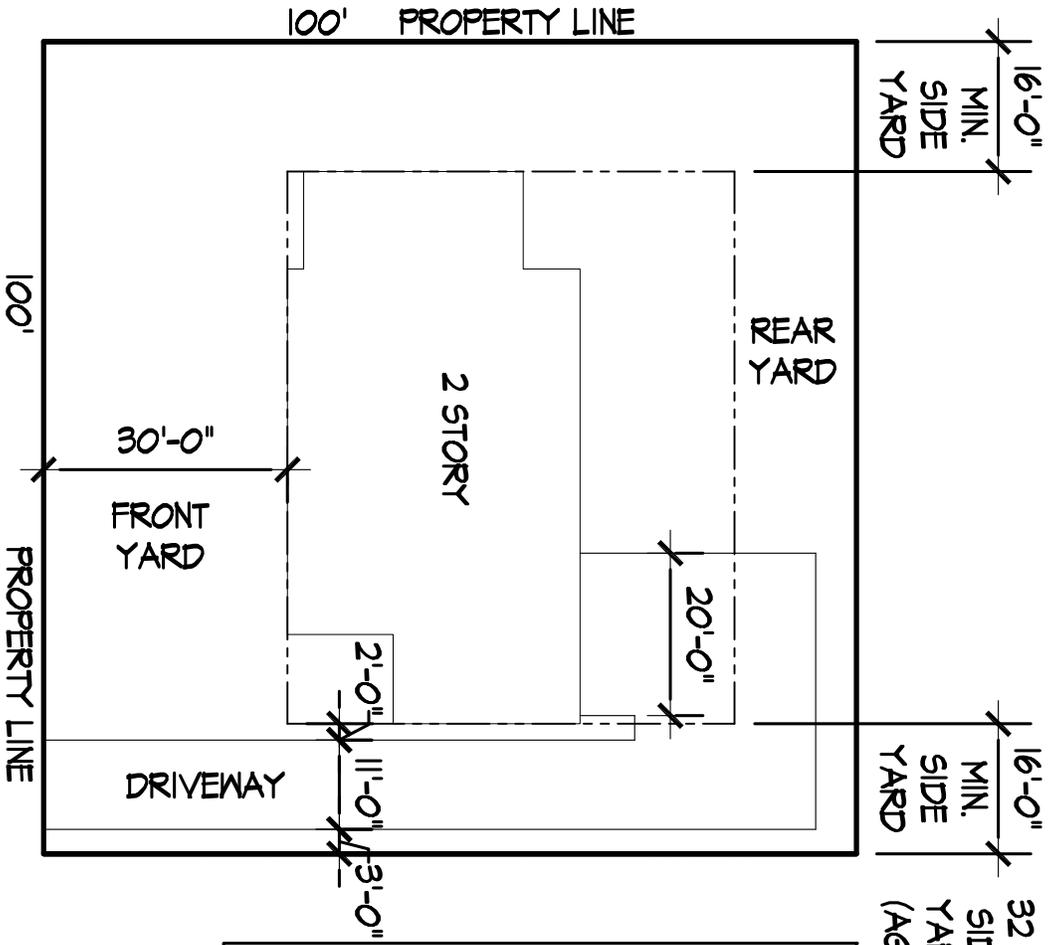
LOT: 15,000 S.F.
 100X150

F.A.R.: 15,000 S.F. X .4 = 6,000 S.F.
 ADD 200 S.F. FOR MAX ALLOWABLE GARAGE AREA

LOT COVERAGE:
 15,000 S.F. X .35 = 5,250 S.F.
 (MAX. FOOTPRINT)

EXAMPLE HOME:
 GROUND FLOOR: 3,612 SF
 (INCL 200 SF FOR GARAGE)
 SECOND FLOOR: 2,588 SF
 TOTAL: 6,000 + 200 SF = 6,200 SF
 (IF BUILT TO FAR)

TWO STORY W/ (2) ONE STORY SIDE APPENDAGES AND REAR ENTRY TWO CAR GARAGE (100X150)



32 FT
SIDE
YARD
(AGG)

EXAMPLE SCENARIO

NOTES:

LOT: 10,000 S.F.
100X100

F.A.R.: 10,000 S.F. X .4 = 4,000 S.F.
ADD 200 S.F. FOR MAX
ALLOWABLE GARAGE AREA

LOT COVERAGE: 10,000 S.F. X .35 =
3,500 S.F.
(MAX. FOOTPRINT)

EXAMPLE HOME:
GROUND FLOOR: 2,196 SF
(INCL 200 SF FOR GARAGE)
SECOND FLOOR: 2,004 SF
TOTAL: 4,000 + 200 SF = 4,200 SF
(IF BUILT TO FAR)

TWO STORY W/ TWO STORY SIDE APPENDAGES AND REAR ENTRY TWO CAR GARAGE (100X100)