



# **MODIFICATIONS TO THE EXISTING RESIDENTIAL “ER” ZONE IN THE TOWN OF ANCASTER ZONING BY-LAW 87-57**

**PROPOSED OPTIONS FOR CHANGES  
TO THE “ER” ZONE REGULATIONS**

March 2018

## PROPOSED OPTIONS FOR CHANGES TO THE “ER” ZONE REGULATIONS

Concerns have been expressed from area residents about the size, height and location of new dwellings which may be of a mass and scale in excess of the existing homes, despite meeting the Existing Residential “ER” Zone regulations in the Ancaster Zoning By-law. Compatibility issues can be magnified when new dwellings are constructed adjacent to existing dwellings which are often of a scale and built form that reflects the design preferences and economic conditions of a much earlier time period.

Zoning regulations work together to establish parameters around buildable footprint, location of a dwelling on a lot, and building mass.

The purpose of this document is to identify potential options to modify the “ER” Zone regulations. The proposed modifications to building height, combined with modifications to lot coverage and setbacks, will collectively establish an as-of-right building envelope that is more sympathetic to existing conditions and streetscape character. Recommended changes to the front, rear, and side yard setback requirements are detailed in the sections that follow, which together with modifications to the height and lot coverage regulations, will work together to regulate the built form.

The document “Illustrations of Proposed Regulations” illustrates the proposed changes to the “ER” Zone regulations described in detail in this document and is attached as Appendix “D” to Report PED18036.

The document “Data Analysis of the “ER” Zone” provides a summary of data on “ER” Zone lot characteristics, development activity in the “ER” Zone from 2012 to present, and an analysis of approved minor variances in the “ER” Zone from 2012 to present. This document is attached as Appendix “E” to Report PED18036.

### 1. MAXIMUM HEIGHT OF PRINCIPAL DWELLING<sup>1</sup>

The height of new dwellings and / or additions are often higher than existing bungalows and two-storey dwellings. Topography and variations in roof design also affect the visual perception of how a high a building is. Between 2012 and 2017, there was one Committee of Adjustment application requesting a variance to permit an increase in the height of a dwelling over the 10.5 metre height maximum.

Existing Regulation	Proposed Regulations	
	Option 1	Option 2
Maximum height	Reduce the maximum height to:	Differentiate between roof style

<sup>1</sup> Building height is measured as the vertical distance from grade to the uppermost point of the building, not including any mechanical equipment or features (e.g. chimneys), that extend beyond the uppermost point of the roof.

Existing Regulation	Proposed Regulations	
	Option 1	Option 2
of 10.5 metres	<ul style="list-style-type: none"> <li>i) 7.5 metres for a one-storey dwelling</li> <li>ii) 9.5 metres for a two-storey dwelling.</li> </ul>	<p>when regulating height (i.e. pitched roof, flat roof).</p> <ul style="list-style-type: none"> <li>i) Establish a new maximum height specific to roof style or,</li> <li>ii) Establish a new maximum height and modify how height is measured based on roof style.</li> </ul>

**Recommendation:**

The Ancaster Zoning By-law regulates height to the uppermost point of the building. Depending on how a house is built, it is possible to have a three-storey house and be under the 10.5 m height maximum.

Staff recommend Option 1 which would reduce the building height to 9.5 metres from the current permission of 10.5 metres. Further, it is recommended that maximum height be correlated to storeys so that a separate maximum height can be applied to one-storey dwellings. The maximum number of storeys permitted is recommended at two-storeys. By reducing the maximum height permitted and further, limiting the number of storeys to two, the variation in heights between existing and new dwellings will be moderated, as will the overall massing effect. The modifications to the regulations are intended to establish height parameters that are more sensitive to the existing built form.

The second option considered by staff would regulate height based on roof style (e.g flat roof, hip roof, etc.) by either introducing different maximum heights based on the roof style, or by maintaining one maximum height, but changing the way height is measured based on the type of roof. Staff are of the opinion the intent of the changes to maximum building height can be achieved through Option 1 as proposed, instead of requiring further modifications to the way height is defined and measured.

The proposed modification to the height regulations are intended to reduce the current permissions while still working within the existing regulatory framework for measuring height. As with all the proposed regulations, the maximum height regulation will be closely monitored once in effect, to evaluate how the regulation, combined with the other modifications to the “ER” Zone provisions, are impacting built form.

## 2. LOT COVERAGE<sup>2</sup>

Concern has been expressed by area residents about the scale of new dwellings; specifically, the mass of the new dwellings is greater than the existing built form which may lead to overlook and privacy concerns from adjacent properties. As mentioned previously, issues of compatibility are magnified when new dwellings are constructed adjacent to existing one-storey dwellings which are of a scale and built form that reflects the design preferences and economic conditions of an earlier time period.

Staff note that many of the existing dwellings in the “ER” Zone (both older housing stock and newer infill developments), have lot coverages that are below the maximum 35% lot coverage permitted in the Zoning By-law. This situation is predominantly a function of the varied and often larger lot sizes in the “ER” Zone. Of the approximately 2,500 lots comprising the “ER” Zone, the average lot area is 1,139 square metres, while the median (mid-point) of all “ER” Zone lots is 1,029 square metres. The result is that new dwellings can be constructed that meet the lot coverage requirement of the Zoning By-law but that are of a scale that is larger than the surrounding built form. Presently, the average lot coverage of all “ER” Zone lots is approximately 15%, with the average lot coverage of dwellings constructed between 2012 and approximately mid-year 2017 at 25%. Between 2012 and 2017, there have been five Committee of Adjustment applications requesting a variance to increase the lot coverage beyond the 35% maximum permitted, for new dwellings, and two variances requested for lot coverage beyond the maximum permitted for additions. It should be noted that lot coverage includes all buildings and accessory structures (with the exception of swimming pools and decks), which have not be factored in to the above discussion.

Existing Regulation	Proposed Regulations	
	Option 1	Option 2
Maximum Lot Coverage of 35%	Correlate maximum lot coverage to building height (storeys) and reduce the lot coverage for two-storey dwellings.  i) Maximum lot coverage of 35% (one-storey) ii) Maximum lot coverage of 25% (two-storeys)	Apply the regulations of Option 1 and introduce further regulations for large lots.  For lots greater than 1,650 square metres in area:  i) Maximum lot coverage of 30% (one-storey) ii) Maximum lot coverage of 20% (two-storeys)

<sup>2</sup> Includes all buildings and accessory structures, with the exception of swimming pools and decks.

**Recommendation:**

Staff recommend implementing both Option 1 and Option 2 which has the effect of correlating lot coverage to building height so that two-storey dwellings are subject to a lower permitted maximum lot coverage, and further reducing the maximum lot coverage for the largest lots in the "ER" Zone. As noted previously, the current lot coverage maximum of 35% is generous in the context of the varied and often larger lot fabric of the "ER" Zone.

Given the evolution in built form and design preferences, it is considered appropriate to reduce the overall massing permitted for new dwellings and additions to existing dwellings so they are of a scale that is more complementary to the existing built form and character. For dwellings greater than one-storey in height, a maximum lot coverage of 25% is proposed, to account for the potential mass of the building. However, staff recommend the maximum lot coverage of 35% remain in place for one-storey dwellings, as they generally result in a mass that is more complementary to the existing built form. Thus, while the maximum lot coverage permission for bungalows is greater than a two-storey dwelling, the potential impact is offset by the lower height of a bungalow which reduces the massing impacts and potential for overlook and privacy concerns. As well, bungalows represent an important housing form in a neighbourhood and greater community as they help to promote aging in place and contribute to overall complete communities. As a result of the recommended changes, a two-storey dwelling will have a smaller building footprint permission than a one-storey dwelling.

In addition, it is recommended there be a further reduction to the maximum lot coverage regulation for lots greater than 1,650 square metres in area such that a one-storey dwelling is subject to a maximum lot coverage of 30% and a two-storey dwelling is subject to a maximum lot coverage of 20%. Lots greater than 1,650 square metres in area represents the top 10<sup>th</sup> percentile of lots within the "ER" Zone, with approximately 260 lots within this category. It is considered appropriate to apply a further reduction to the maximum lot coverage permitted given the size of dwelling that could be constructed and in consideration of compatibility in built form and neighbourhood character.

Staff are of the opinion the combination of Options 1 and 2 for lot coverage will place more appropriate parameters on built form.

While the average lot coverage of dwellings constructed between 2012 and mid-year 2017 is marginally below 25%, close to the proposed maximum lot coverage for two-storey dwellings of 25%, the existing lot coverage data represents conditions within the current "ER" Zone regulatory framework, whereas the changes to maximum lot coverage have to be considered alongside the other recommended regulatory changes.

### 3. FRONT YARD SETBACK

The front yard setback provision regulates the distance of a dwelling from the front lot line and can assist in establishing a consistent streetwall. Although the location of new dwellings in the “ER” Zone generally maintains the front yard setback of adjacent dwellings, there are instances where this setback has not been maintained creating visual impacts from the street and can impact neighbours from an overlook and privacy perspective. Introducing a more specific regulation for front yard setback ensures the existing front yard setbacks of adjacent dwellings is respected and maintained.

Existing Regulation	Proposed Regulations	
	Option 1	Option 2
<p>Minimum Front Yard of 7.5 metres, plus any applicable distance as specified in Schedule “C”<sup>3</sup>.</p>	<p>The front yard setback shall be the average of the existing front yards of the nearest adjacent dwellings on either side of the lot, within 20 percent of the established average. In no case shall a front yard setback be less than 5.0 metres.</p> <p>Notwithstanding the above, where the average of the existing front yards of the nearest adjacent dwellings on either side of the lot provides a front yard setback less than 5.0 metres, the minimum setback shall be 5.0 metres and the maximum setback shall be 6.0 metres.</p> <p>Where a lot is a corner lot, the existing front yard setback of the adjacent dwelling that faces the same street shall apply.</p> <p>Where a lot abuts a corner lot on which the dwelling faces a different street, only the existing front yard setback of the abutting dwelling that faces the same street shall apply.</p>	<p>A Minimum Front Yard of 7.5 metres, up to a maximum of 15 metres or 20% of the lot depth, whichever is lesser.</p>

<sup>3</sup> Schedule “C” will not apply to the ER Zone.

Existing Regulation	Proposed Regulations	
	Option 1	Option 2
	In all other cases not listed above, a minimum front yard setback of 7.5 metres and a maximum front yard setback of 9.0 metres shall be provided.	

**Recommendation:**

The intent of changes to front yard setback is to establish a regulation that directly relates to the existing conditions of neighbouring properties, to create consistency along the streetscape. Changes to this regulation must consider the varied lot fabric of the “ER” Zone which creates varied front yard depths.

Staff recommend Option 1, which introduces an average front yard regulation within the parameters as outlined in the table above.

In the majority of the cases, the existing front yards of the two abutting lots will be averaged to establish the front yard setback of the affected lot. To allow for some flexibility given the range of possible conditions and scenarios, the front yard setback may be increased or decreased by 20%, provided a minimum front yard of 5 metres is maintained.

In some cases, the average front yard setback may result in a setback that is less than the 5 metre minimum. In these cases, the front yard setback must be between 5 metres (the established minimum) and 6 metres.

For a corner lot or a lot abutting a corner lot, only those abutting properties with houses that face the same street are used for the purposes of calculating the front yard setback. In some scenarios, only one property will be used to determine the front yard setback for a property that is being redeveloped. While the flankage yard of a house of an abutting property could be considered so that two abutting properties are counted in the calculation of the average, often this flankage yard is not reflective of the streetwall and would not contribute to the intent of the regulation.

For all other scenarios not identified in the regulation, a minimum front yard of 7.5 metres and maximum front yard of 9 metres must be provided. This regulation could apply to lots that do not have an abutting residential use or lots with no abutting lots that have dwellings facing the same street.

For clarity, Appendix “D” to Report PED18036 contains illustrations of the average front yard regulation.

To implement this regulation, the proponent will be required to survey the location of the front wall of the dwelling on each abutting lot (as applicable), and the dimension of the front yard setback on each abutting lot, so that staff can confirm the front yard setback for an affected property. The City of Hamilton requires a survey with the application for building permit.

Staff do not recommend Option 2 which is a modification of the current minimum front yard of 7.5 metre regulation, as it does not adequately capture and consider the existing context since there is no link to the established streetwall (existing front yard setback). Although a maximum front yard was contemplated in this option to introduce more defined parameters for front yard setbacks, the varied lot fabric of the “ER” Zone and corresponding placement of dwellings makes it difficult to establish a maximum front yard that is applicable to all scenarios. To recognize established streetwalls that have a greater setback from the front lot line yet which are appropriate in the context of larger lot patterns, this maximum front yard would have to be a large number, which would not be appropriate for shallow lots.

#### 4. REAR YARD SETBACK

Concerns have been expressed about the scale and massing of dwellings and the resulting overlook issues that may impact the privacy of rear yard amenity space. Variations in the size of dwellings, combined with variable lot fabric in the “ER” Zone may result in inconsistent rear yard setbacks. The current minimum rear yard of 7.5 metres is a regulatory tool that has less impact on the size and location of a dwelling as the depth of the lot increases.

Existing Regulation	Proposed Regulations	
	Option 1	Option 2
Minimum Rear Yard of 7.5 metres.	Maximum depth of dwelling measured from the building wall closest to front lot line, to building wall closest to rear lot line.	Correlate Minimum Rear Yard with lot depth. <ul style="list-style-type: none"> <li>• For lots with less than or equal to 40 m lot depth, a minimum rear yard of 25% of the lot depth;</li> <li>• For lots greater than 40 m lot depth and less than or equal to 45 m lot depth, a minimum rear yard of 30% of the lot depth;</li> <li>• For lots greater than 45 m lot depth and less than or equal to 50 m lot depth, a minimum rear yard of 35% of the lot depth; and,</li> </ul>



Existing Regulation	Proposed Regulations	
	Option 1	Option 2
		<ul style="list-style-type: none"> <li>• For lots greater than 50 m lot depth, a minimum rear yard of 40% of the lot depth.</li> </ul> <p>In no cases shall the minimum rear yard be less than 7.5 m.</p> <p>In addition, at minimum, one metre immediately adjacent to the rear lot line shall be free and clear of all walkways, sidewalks or other hard-surfaced material, and landscaping other than sod.</p>

### **Recommendation:**

Staff recommend Option 2 (minimum rear yard depth), which correlates the minimum rear yard setback to lot depth and more appropriately reflects specific lot conditions by increasing the rear yard setback as the lot depth increases. This regulation is better able to address the varied lot fabric of the “ER” Zone. Presently, a minimum rear yard of 7.5 metres has little influence on building location and built form for deeper lots. The proposed regulation, which assigns a specific percentage of lot depth to the determination of minimum rear yard, will limit how far back a dwelling may extend into a lot.

Four separate categories representing percentage of lot depth have been established, as this enables a consistent and incremental increase to the minimum rear yard as lot depth increases. The lowest percentage is set at 25% for lots less than or equal to 40 metres in depth. A lot with a depth of 39 metres would require a minimum rear yard of 25% (9.75 metres). With the requirement to maintain a minimum rear yard of 7.5 metres, any lot under 30 metres in depth must defer to this minimum. The highest percentage has been set at 40% for lots greater than 50 metres. A lot with a depth of greater than 50 metres would require a minimum rear yard of 20 metres. At 40% of the lot depth, a minimum rear yard is required that when contemplated with the front yard setback, establishes a front to back building envelope (depth of dwelling) that will be consistent with the as-of-right building envelopes of surrounding properties of similar depth. Appendix “D” illustrates the setback requirements applied to sample “ER” Zone lots.

As lot area and depth increase, the lot coverage maximum is less restrictive in and of itself. The minimum rear yard requirement, which increases as lot depth increases, is the predominant tool to limit the building envelope as lot depths increase. By placing limits on the permitted building envelope based on dwelling depth, impacts resulting from building mass may be reduced, and privacy concerns created by the inconsistent

location of rear yard amenity space may be tempered. Staff note that a certain degree of variability in building location and dwelling depth is expected in a given neighbourhood, with greater variability anticipated between existing and new dwellings and where lot patterns are less consistent.

Staff do not recommend Option 1 (maximum depth of dwelling) for the “ER” Zone. While it can be an effective tool to control building mass, mitigate privacy concerns, and address overlook into adjacent properties, the regulation is considered most effective with narrower, deeper lots, and a more consistent lot fabric. It may not be the most appropriate tool in the “ER” Zone context where the lot fabric is varied. Given this variability, a depth of dwelling regulation may not provide enough flexibility to respond to the lot conditions in the “ER” Zone, whereas relating the minimum rear yard to lot depth can better respond to specific lot conditions. As noted previously, all the changes to the regulations will be closely monitored once in effect, to evaluate how the regulations are impacting development.

The final modification to the minimum rear yard regulation is a requirement that at minimum, one metre immediately adjacent to the rear lot line remain free and clear of all structure’s, hard-surfaced material and landscaping other than sod. This restriction includes trees, shrubs and all other natural landscaping other than grass. This regulation is also proposed for the minimum side yard and is described in more detail in the section that follows. Applying this standard to the rear yard provides assurance that a free and clear area is maintained to provide space for drainage. No encroachments are permitted within this one metre adjacent to the rear lot line such as eaves or gutters, thus ensuring that this area remains completely free and clear from the ground upward.

**5. SIDE YARD SETBACK:**

A number of concerns were raised by residents about the space between dwellings on adjacent lots. The concerns generally relate to building mass and resulting issues of overlook and loss of privacy, as well as drainage concerns along shared lots lines.

Existing Regulation	Proposed Regulations	
	Option 1	Option 2
Minimum Side Yard of 1.5 metres, except on a corner lot the minimum side yard abutting a street shall be 6.0 metres and any applicable distance as	<p>The Minimum Side Yard shall be 2 metres.</p> <p>At minimum, one metre immediately adjacent to the side lot line shall be free and clear of all walkways, sidewalks or other hard-surfaced material, and landscaping other than sod.</p>	<p>Correlate Minimum Side Yard with lot frontage.</p> <ul style="list-style-type: none"> <li>• For lots with a lot frontage of less than or equal to 23 m, a minimum side yard of 2 m.</li> <li>• For lots with a lot frontage greater than 23 m, a minimum side yard of 10% of the lot frontage, up to a maximum of 5 m.</li> </ul>

Existing Regulation	Proposed Regulations	
specified in Schedule “C” <sup>3</sup> .	Option 1	Option 2
		<p>Except on a corner lot where the minimum flankage yard shall be 6 metres.</p> <p>In addition, at minimum, one metre immediately adjacent to the side lot line shall be free and clear of all walkways, sidewalks or other hard-surfaced material, and landscaping other than sod.</p>

**Recommendation:**

Staff recommend Option 2 which correlates the minimum side yard to lot frontage, the wider the lot, the greater the minimum side yard requirement up to a maximum of 5 metres. A minimum side yard of 2 metres is proposed. By establishing a higher minimum standard, greater spacing between dwellings is maintained which will assist with overlook and privacy concerns and maintain a larger area between dwellings for property maintenance and drainage. Increasing the minimum side yard as lot frontage increases achieves these objectives, also limits the as-of-right building envelope and the corresponding impacts of building mass and perceptions of scale as visible from the street. Streetscapes with a similar lot frontage will be subject to consistent minimum side yards thus contributing to a consistent rhythm of building frontages. The existing minimum side yard abutting a street (for a corner lot), will continue to apply.

From a drainage perspective, staff recommend a regulation requiring that at minimum, one metre immediately adjacent to the side lot line remain free and clear of all hard-surfaced material and landscaping other than sod. This restriction shall include trees, shrubs and all other natural landscaping other than grass. No encroachments (e.g. eaves or gutters) are permitted within this one metre adjacent to the side lot line, so this area remains free and clear for drainage, access and maintenance purposes.

**6. GARAGE LOCATION**

Garages projecting beyond the front wall of the dwelling have the effect of dominating the entire front façade of the dwelling, with the front entrance of the dwelling diminished in presence. This dwelling design is generally not consistent with the established housing form in the neighbourhood and may have the potential to create differences in dwelling depths vis-à-vis the abutting properties which may result in privacy concerns for rear yard amenity space.

Regulation	Option 1	Option 2
Not regulated	No part of a garage (attached or detached) or carport may be located closer to the front lot line than the front wall of any principal building or closer to the corner lot line than the side wall of any principal building.	The garage (attached or detached) or carport may extend up to 2 metres beyond the front wall of any principal building, or side wall of any principal building on corner lots, but shall not be permitted to encroach into the front yard or flankage yard.

**Recommendation:**

Staff are recommending Option 2 which limits the projection of the garage to de-emphasize the presence of the garage vis-à-vis the front façade and primary entrance of the dwelling. The garage would be permitted to project up to 2 metres beyond the front wall of the dwelling provided it does not encroach into the front yard or flankage yard. A 2 metre projection enables more flexibility for front façade articulation in the dwelling design, which can enhance the visual aesthetic of the built form and reduce the overall sense of dwelling mass.

**7. SECOND STOREY PROJECTIONS**

Some concerns have been expressed that second storey features such as balconies may have adverse impacts on rear yard privacy, particularly when a new dwelling is of a height and scale that is greater than the adjacent built form. Building mass, combined with variations in the depth of dwelling can result in overlook issues between neighbouring properties. In addition, the larger the side yard setback, the greater potential for side yard balconies.

Existing Regulation	Proposed Regulation
Not regulated	Balconies, decks and enclosed and unenclosed porches located above the first storey shall not be permitted in the side yard.

**Recommendation:**

Staff recommend introducing a regulation that will prohibit balconies, decks and porches to project into the side yard, if it is located above the first storey of a dwelling. This regulation is intended to protect the privacy of the adjacent properties, given variability in building mass and dwelling depths. It can also reduce the perceived massing impact of a dwelling as these features add to the overall building mass.