



Report To:	Township of Southgate Council
Meeting Date:	2024-10-16
Report Number:	PL2024-091
Title:	Township Zoning By-law Review Section 5.1 Accessory Buildings and Structures
Open/Closed Session:	Open Session
Prepared By:	Bill White, MCIP, RPP, Triton Engineering Senior Planning Consultant
Approved By:	Kenneth Melanson, MCIP, RPP, Senior Manager of Development & Community Services

Executive Summary:

The regulations for accessory buildings and structures apply to porches, decks, garages, sheds, and architectural features that may project into a required setback or are separate structures in a side or rear yard. Swimming pools are accessory structures regulated in zoning.

Staff propose an amendment to define key terms and clarify when main building setbacks apply versus when accessory buildings can encroach into a required yard. Rules for interior side yards in some residential zones are changed to make space for an attached garage or carport beside a new home. Rules for back yard swimming pools are clarified to increase safety.

Zoning rules must be clear for staff to interpret and public to understand. A public meeting will allow feedback on proposed rules to confirm the amendments have regard to Provincial Interests consistent with Provincial Planning Policy and comply with the County and Township Official Plan.

Recommendation:

Be it resolved that Council receive Staff Report PL2024-091 regarding Township Zoning By-law, Review of Section 5.1 Accessory Buildings and Structures; and

That a public meeting be held on changes to Sections 3 (definitions), 5.1 (accessory uses), 5.18 (swimming pools) and interior side yards in some Residential Zones (R1, R2, R3 and R5) in the Zoning By-law as outlined in the Staff Report.

Reasons for Recommendation:

Zoning rules should be clear for staff to interpret and the public to understand. By clarifying the regulations, this will ensure a consistent interpretation across the Township by staff and with applicants.

Proposal:

Staff have encountered interpretation challenges and inconsistencies with current rules for accessory buildings and are recommending amendments to clarify a variety of regulations. Staff

recommend scheduling a public meeting and agency review on the following changes to the Zoning By-law:

- define "Carport" and apply the same rules for Garages to Carports,
- define "Required Setback" and "Required Yard" to distinguish from an existing setback or yard when applying zoning rules,
- amend regulations in the R1, R2, and R3 zones to increase one interior side yard setback for homes built without attached garages or carports,
- amend rules for accessory buildings and structures in Section 5.1 to make them clearer for the public and staff, and
- update rules for back yard swimming pools to require fencing and other safety features.

Staff supports adding definitions to Section 3, changes to Section 5.1, clarifying interior side yards in certain residential zones and updating Section 5.18 for swimming pools.

Background:

The Zoning By-law, adopted February 15, 2006, has been amended many times. Several issues have come up that impact residential lands and how accessory buildings and structures such as porches, decks, garages, sheds and architectural features are addressed in the Zoning By-law. The rules require clarification to the public and staff to improve consistency in application. Some examples are illustrated in Attachment 1.

Accessory uses must be incidental, subordinate, and exclusively devoted to a main use. The Zoning By-law lists accessory buildings and structures in most zones as a permitted use. Current required interior side yards in residential zones do not leave space for parking beside a home. The interior side yard on one side should be increased unless an attached garage or carport is provided (see examples in Attachment 1).

Rules for accessory buildings and structures impact the look of public spaces, streets, abutting lands and how owners fully enjoy their private property. Examples on how these zoning rules impact the built form include:

- distance an eave can extend into a side yard between neighbouring homes,
- whether a covered porch can be added over a front entrance,
- what size of a back deck can be allowed,
- distance a detached garage can be from a side street on a corner lot,
- location, fencing and safety of swimming pools,
- where mechanical equipment may be allowed, or
- whether a detached additional residential unit can be in a back yard.

Wording of proposed zoning changes in Attachment 2 are summarized as follows:

- Change definitions in Section 3 to:
 - provide for one additional residential unit in a detached accessory structure,
 - include carports and apply the same rules as garages,
 - differentiate between Required Setback (a setback required in the by-law) from an existing setback which may be more or less than what is required in the By-law and
 - distinguish between Required Yard versus an existing yard.
- Amend Section 5.1(a) to clarify what is not an accessory use, building or structure.
- Clarify 5.1(b) that detached accessory buildings and structures are not allowed in a required or existing front yard, or exterior side yard (longest lot line on a corner parcel).
- Retitle and revise 5.1(c) involving features permitted in any required or existing yard such as flag polies, retaining walls and such.

- Update 5.1 (d) to apply the same rules to Carports as apply to Garages.
- Clarify 5.1(e) regarding accessory buildings or structure setbacks and increase the maximum structure size that can encroach from 14 to 15 square metres in floor area except for Additional Residential Units which are exempt from the 15 square metre limit.
- Retitle and Improve 5.1(g) for ornamental structures, mechanical features and fences.
- Amend title and reword 5.1(h) to clarify rules for unenclosed barrier free ramps and porches.
- Amend Section 5.18 regarding swimming pools to clarify where they are permitted and require fencing and safety requirements.
- In a Residential 1 Type Zone (R1) and a Residential 2 Type Zone (R2) allow interior side yard setbacks of 1.5 metres where an attached garage or carport is included, otherwise a 4.5 metre interior side yard applies on one side.
- In a Residential 3 Type Zone (R3) only allow interior side yard setbacks of 2 metres for a semi-detached dwelling where an attached garage or carport is included, otherwise a 4.5 metre interior side yard applies.
- In a Residential 5 Type Zone (R5) only allow interior side yard setbacks of 2 metres where an attached garage or carport is included, otherwise a 4-metre interior side yard applies on one side.
- In a Residential 6 Type Zone (R6) only allow interior side yard setbacks of 5 metres where an attached garage or carport is included, otherwise an 8-metre interior side yard applies on one side.

Application Review: Planning Act – Provincial Interest:

The [Planning Act](#) requires Council *have regard to* the Provincial Interests as set out in Section 2:

- (h) orderly development of safe and healthy communities.
- (h.1) accessibility for persons of disabilities
- (o) protection of public health and safety
- (p) appropriate location of growth and development
- (r) promote well-designed built form encouraging a sense of place and attractive high quality public spaces

The proposed amendment will *have regard to* Provincial Interests in the Planning Act.

Application Review – Provincial Policy Statement (PPS 2020):

[Provincial Policy Statement 2020](#) states long-term economic prosperity is to be supported by 1.7.1 e) encouraging a sense of place by promoting well-designed built form. [Provincial Planning Statement 2024](#) in effect October 20 states healthy, active and inclusive communities are promoted by planning public streets and spaces to be safe (3.9.1) and keeping zoning by-laws up to date with development standards to accommodate growth and development (6.1.6). The proposed zoning by-law amendment *is consistent with* Provincial Planning Policy.

Application Review – County of Grey Official Plan:

General Policies in the County Official Plan encourage compatible built form and land uses. Section 3.5 promotes high quality urban form through site design and urban design in settlement areas. The application complies with the County Official Plan.

Application Review – Southgate Township Official Plan:

The [Township Official Plan](#) encourages compatible and compact built form in various land uses and densities through zoning provisions with appropriate development standards. The proposed rezoning complies with the intent of the [Township Official Plan](#).

Application Review – Southgate Zoning By-law:

The following sections of the [Township Zoning By-law](#) relate to accessory buildings and structures:

- Section 3 defines terms such as accessory, building or structure, setback, yard that impact on where such uses are located.
- The definition of “Accessory, Building or Structure” must change to allow human habitation only in the case of an additional residential unit.
- Section 5.1 (a) through (h) outline specific rules for accessory buildings and structures.
- Section 5.18 contains rules for swimming pools.
- Sections 6 through 31 outline various zones, permitted uses and regulations (such as interior side yard setbacks) with some zones allowing “Uses, buildings, or structures accessory to a permitted use (A-1, A-2, R-1, R-2, R-3, R-4, R-5, R-6, MH, C-1, C-2, C-3, C-4, C-5, C-6, C-7, M1, M2, M3, CF, and OS). Zones not allowing accessory uses include M4, PU, EP, W, and D.

Application Circulation and Public Comments:

It is recommended the proposed Zoning By-law amendment (Attachment 2) be circulated for public comment.

Conclusion:

The proposed changes to the Zoning By-law are consistent with Provincial Planning Interests and in compliance with the County and Township Official Plans are as follows:

- Section 3 change definition of Accessory building and Structure and add definitions of Carport, Required Yard and Required Setback.
- Section 5.1 (a) though (h) to clarify when main building setbacks apply versus when accessory buildings may encroach into required setbacks.
- Section 5.18 to implement regulations to make swimming pools safer.
- Interior side yard provisions in R1, R2, R3, R5 and R6 zones to increase setback distances without a garage or carport attached to the main building.

A public meeting and agency circulation is recommended to obtain feedback on proposed changes. Regular updates to Zoning By-law regulations (“housekeeping amendments”) are not uncommon and should be done when regulations require updating or clarification.

Link to Township of Southgate Strategic Plan:

The amendment addresses in part Goal 7 Objective 7.C of the Township [Community Strategic Plan](#) determine pathways to streamline planning processes and approvals for housing development.

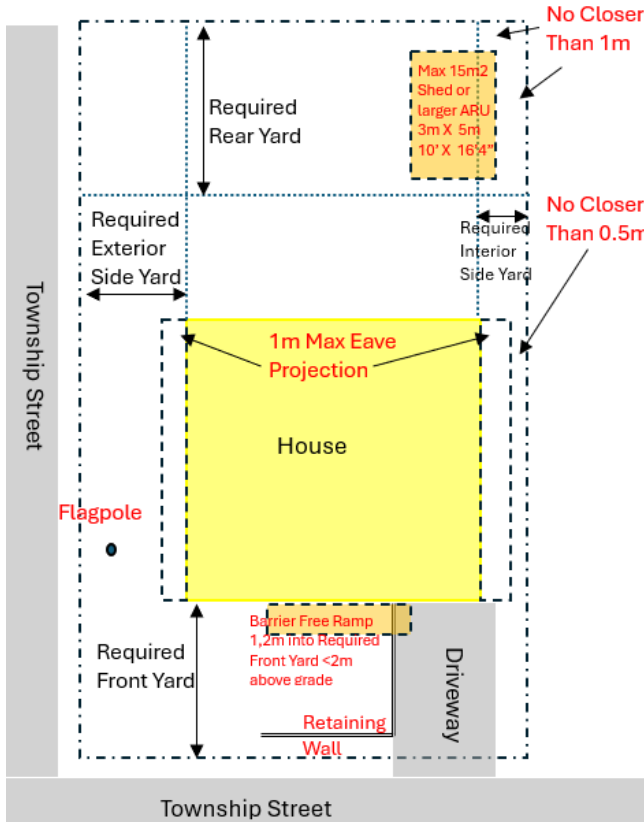
Attachment(s):

Attachment 1 – Illustrations of Zoning Provisions

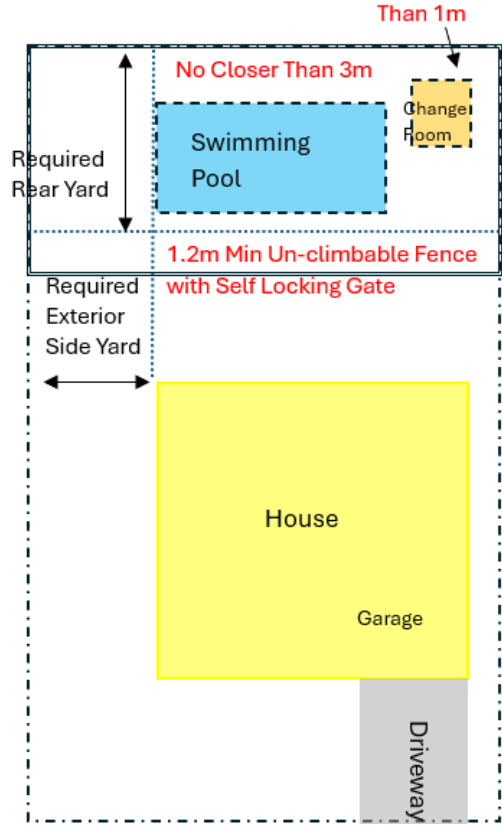
Attachment 2 – Summary of Proposed Draft Amendments

Attachment 1 Illustrations of Zoning Provisions

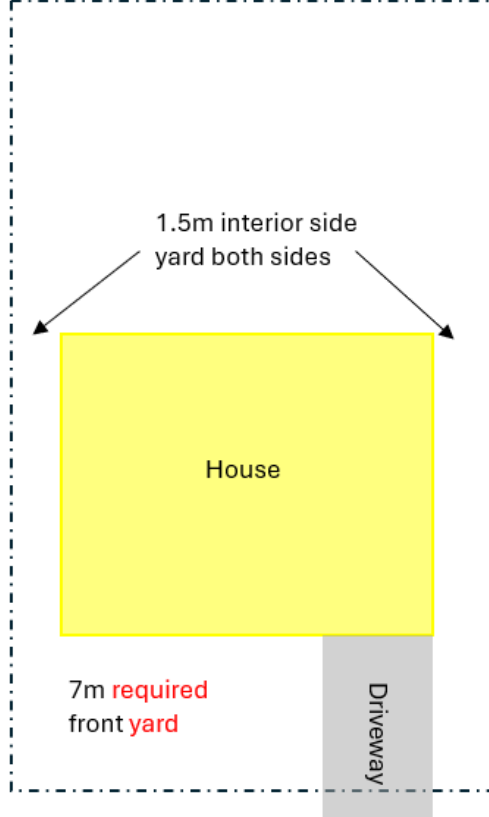
Some Permitted Yard Encroachments



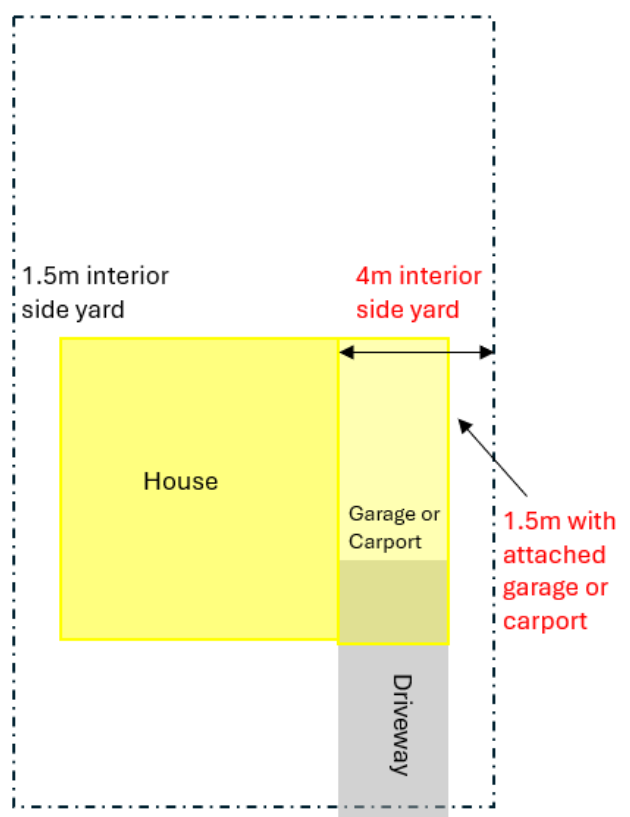
Swimming Pool Sample



Current R1 Single Family Home



Proposed R1 Single Family Home



Attachment 2 Summary of Proposed Zoning Amendments (new wording in red)

Section 3.0 Added Definitions

"Accessory Building or Structure" means:

- (a) detached building or structure above ground or below ground not used for human habitation, **except for an additional residential unit in compliance with applicable provisions in this by-law** the use of which is naturally and normally incidental to, subordinate to, and exclusively devoted to a principal use or building and located on the same lot therewith, and
- (b) includes, amongst others, a detached private garage or a detached carport

"Carport" is an accessory building structure attached to a main residential building or in another case detached from the main residential building, the walls of which are open and unenclosed without a main access door for the purposes of providing cover over a private motor vehicle.

"Setback Required" means the minimum front, rear, side, or exterior side setback required for a main building or structure in any zone which permits buildings or structures, within which required setback an accessory building or structure to a residential use only as defined in this bylaw may encroach according to permitted setback and yard encroachments in Section 5.1 of this bylaw.

"Yard Required" means the minimum front, rear, side, or exterior side yard required for a main building or structure in any zone which permits buildings or structures, within which required yard an accessory building or structure to a residential use only as defined in this bylaw may encroach according to permitted setback and yard encroachments in Section 5.1 of this bylaw.

5.1 Accessory Uses

(a) Permitted Uses

Where this By-law provides that land may be used, or a building or structure ~~may be erected or used for a purpose, that purpose shall include any accessory building, structure, or use but shall not include any of the following:~~

Where this By-law specifically permits in any zone "Uses, buildings or structures accessory to a permitted use", the following shall not be considered a permitted accessory use, building or structures:

- (i) a home occupation,
- (ii) any building used for human habitation, except where specifically permitted in this By-law,
- (iii) the open storage of goods or materials, except where specifically permitted in this By-law,
- (iv) **one or more accessory buildings or structures where the total ground floor area** ~~exceeds 5% of the lot coverage~~**area,**

~~(v) is considered an accessory structure or building if attached to the main building in any way,~~

(v) an accessory building or structure as defined in this Bylaw is attached to a main building in any way,

~~(vi) be erected prior to the main building except as permitted in Section 5.20(b) of this By-law,~~

(vi) any building or structure was erected prior to the main building except as permitted in Section 5.20(b) (non-conforming use) of this By-law,

(vii) a building or structure if located entirely underground,

~~(viii) exceeds 7 m in Height.~~

(viii) if an accessory building or structure as defined in this Bylaw exceeds 7 m in Height.

(b) Location

~~Except as otherwise provided herein, any accessory building or structure which is not part of the main building shall be erected in the rear or the side yard in which such accessory building or structure is situated.~~

No accessory building or structure as defined in this By-law shall be permitted in any existing front yard or exterior side yard or in any required front yard or exterior side yard unless specifically permitted in Section 5.1 (c), (d).

(c) Permitted Accessory Features and Landscape Encroachments

~~Notwithstanding the yard and setback provisions of this By-law to the contrary, awnings, clothes poles, flag poles, garden trellises, retaining walls, permitted signs, or similar uses shall be permitted in any required yard or in the area between the street line and the required setback.~~

Awnings, flag poles, garden trellises, retaining walls, permitted signs, or similar uses shall be permitted in any existing or required yard as defined in this By-law subject to compliance with Section 5.17 Site Triangles .

(d) Garages or Carports

Notwithstanding any other provisions of this By-law to the contrary, a detached private garage or carport shall be permitted to be erected and used in an interior side or rear yard, provided that:

(i) when such garage or carport is located in an interior side yard, it shall not be closer than 1 metre to the interior side lot line, except where a common or mutual detached garage is erected simultaneously on both sides of the lot line, as one building, in which case, no interior side yard to the accessory building is required,

(ii) when such garage or carport is located in a required rear yard, it shall not be closer than 2 metres to an interior side lot line and a rear lot line, except where a common or mutual detached garage is erected simultaneously on both sides of the lot line as one building, in

which case, no rear yard or interior side yard to the accessory building is required with respect to the common or dividing wall of said building, and

(iii) all such garages or carports, whether located in a required rear yard or required interior side yard, shall comply with the setback provisions for an exterior side yard or for a through lot applicable to the principal or main building on the lot where such rear or exterior side yard abuts a public street.

(e) Other Accessory Buildings or Structures

~~Notwithstanding any other provisions of this By-law to the contrary,~~ An accessory building or structure other than a private garage or carport allowed under 5.1(d) shall be permitted to be erected and used in a required interior side yard or required rear yard, provided that:

(i) when such accessory building or structure is located in a required interior side yard, or a required rear yard such building or structure shall not exceed ~~14~~ 15 square metres in area and shall be located no closer than 1 metre to the interior side lot line or rear lot line, and 5.75 meters from an exterior side lot line.

(ii) when such accessory building or structure is located in a required interior side yard or a required rear yard and such building or structure exceeds ~~14~~ 15 square metres in area, it shall be located no closer than ~~7~~ 5.75 metres to the interior side lot line or rear lot line; and

(iii) all such accessory buildings or structures, whether located in a required rear yard or required side yard, shall comply with the setback provisions applicable to the principal or main building on the lot where such rear or side yard abuts a public street.

(iv) Subject to Section 5.24 of this by-law and other applicable sections and definitions, an accessory building or structure that is an Additional Residential Unit as defined in Section 3 of this By-law may be permitted to encroach into required yards as specified in Section 5.1 (e) (i), (ii) and (iii) except that the maximum floor area of 15 square metres shall not apply.

(f) Boat House, Boat Lift, or Dock

Notwithstanding the yard and setback provisions of this By-law to the contrary, a boat house, boat lift, or dock for pleasure boats may be erected and used in the rear yard of a lot backing on a navigable waterway, provided such accessory buildings or structures are located no closer than 2 metres to the side lot line, and the documented approval of the appropriate Conservation Authority having jurisdiction has been obtained.

(g) Ornamental Structures, Architectural Features and Fences

Notwithstanding the yard and setback provisions of this By-law to the contrary the following ornamental structures and architectural feature projections shall be permitted:

(i) Windowsills, chimneys, cornices, eaves, gutters, parapets, pilasters, or other architectural features attached to a main or accessory building or structure may project a maximum of 1.0 meters any required yard or required setback but no closer than 0.5 meters from any lot line.

(ii) Mechanical equipment such as air conditioners, heat pumps and similar necessary for servicing the main or accessory use on the property may project 1.2 meters into any required yard or required setback but no closer than 0.25 meters from any lot line.

(iii) Canopies or awnings with a clear height of 2.0 meters minimum may project 1.8 meters maximum into any required yard or required setback but no closer than 0.5 meters minimum from any lot line.

(iv) Fences up to 2.0 meters maximum in height may be located on a lot line or on private property adjacent to any lot line except a lot line constituting part of a Street Triangle in which case no fence shall exceed 1.0 meter in height above the elevation of the adjacent street line.

(h) Unenclosed Porches, Balconies, Steps, Barrier Free Ramps or Patios

(i) Notwithstanding the yard and setback provisions of this By-law to the contrary, unenclosed porches, balconies, steps, barrier free ramps and patios, shall be permitted to project into any required yard a maximum of 1.2 metres provided that, in the case of porches, steps, or patios, such uses are not more than 2.0 metres above grade.

(ii) A porch or deck accessory to a semi-detached or street townhouse dwelling may be setback 0.0 meters from an interior side lot line where the main dwelling units are separated by a common party wall provided that a common privacy fence 1.5 meters minimum in height is provided from the common party wall along the full length or width of the said porch or deck.

(iii) a patio, porch or deck that is less than 0.75 meters above grade shall not be included in maximum lot coverage calculations.

5.18 Swimming Pools

Notwithstanding any other provisions of this By-law to the contrary, a swimming pool and any building or structure, other than a dwelling required for changing clothing or for pumping or filtering facilities or other similar accessory use, shall be permitted as an accessory use to any lawfully existing residence or permitted residential use subject to the following requirements:

(a) no part of such pool, or accessory building or structure shall be located in any required front yard or closer to any required interior side lot line or exterior street line than the minimum distance required for the principal building located on such lot.

(b) no part of such pool, or accessory building or structure shall be located closer than 3.0 meters from any rear yard setback or 5.75 meters minimum from any rear lot line constituting a street line.

(c) no swimming pool shall be permitted within any rear or side yard unless:

(i) in the case of an in-ground pool such pool is fully enclosed by a fence minimum 1.2 meters in height of sturdy construction with a self-closing and latching gate designed to prohibit climbing or other unauthorized entry such fence to have no opening large enough to permit entry or climbing by a child such fence to be minimum 0.9 meters minimum from the edge of said in-ground pool.

(ii) in the case of an above ground pool such pool shall be minimum 1.2 meters above adjacent grade level so that no entry shall be permitted into the above ground pool except from one platform accessed by ramp or stairs protected by a self-closing and latching gate,

and where the maximum height of such pool and associated access platform is 1.5 metres above the average finished grade level of the adjacent ground.

Residential Type 1 Zone (R1) Section 8.2

f)	Interior Lot	Corner Lot
Minimum Interior Side Yard	1.5 m one side	1.5 m
	4.0 m other side	4.0 m
	With an attached garage or carport interior side yard may be reduced to 1.5 m.	

g)	Interior Lot	Corner Lot
Minimum Exterior Side Yard	n/a	4.5 m
	With an attached garage or carport interior side yard may be reduced to 1.5 m.	

Residential Type 2 Zone (R2) Section 9.2(a)

- f) For Interior Side Yard add the words after 1.5m "on both sides with a garage or carport attached to the main building or 4.0 m on one side without an attached garage or carport"
- g) For Exterior Side Yard add the words after 4.5m "without an attached garage or carport or 3.0 m with a garage or carport attached to the main building"

Residential Type 3 Zone (R3) Section 10.3

e)	Interior Lot	Corner Lot
Minimum Interior Side Yard	2.0 m with attached Garage or carport	2.0 m with attached Garage or Carport
	4.5 m without attached or carport	4.5 m without attached garage or carport

Residential Type 5 Zone (R5) Section 12.2

e) Minimum Side Yard add the words after 2.0 m "on both sides with a garage or carport attached to the main building or 4.0 m on one side and 2.0 m on the other without an attached garage or carport, except that a minimum side yard abutting an improved public street shall be 6 metres "

Residential Type 6 Zone (R6) Section 13.2

e) Minimum Side Yard add the words after 5.0 m "on both sides with a garage or carport attached to the main building or 8.0 m on one side and 5.0 m minimum on the other without an attached garage or carport, except that a minimum side yard abutting an improved public street shall be 10 metres "