



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

September 11, 2008

John Gavarkavich, CLA, ASLA
Walter L. Phillips, Inc.
207 Park Avenue
Falls Church, VA 22046

Re: Interpretation for RZ 2001-SU-034 and RZ 2001-SU-035, Sections 2, 3, and 4, Rugby Road,
Tax Map Sheet 45-2: Front Yard Setbacks

Dear Mr. Gavarkavich:

This is in response to your letter of April 25, 2008, requesting an interpretation of the proffers and Generalized Development Plan (GDP) approved by the Board of Supervisors in conjunction with the above-referenced approvals. As I understand it, your question is whether the reduction of the front yard setbacks for twelve (12) existing units is in substantial conformance with the proffers and GDP. This determination is based on your letter and three "As-Built Layout Plans" for Rugby Road prepared by Waler L. Phillips and dated February 5, 2007 (Section II) and May 17, 2007 (Sections III and IV). Copies of your letter and relevant exhibits are attached.

Both of the above-referenced rezoning applications were approved subject to proffers, which, among other things, proffered to construct the properties in substantial conformance with the GDPs. Sheet 2 on each of the GDPs showed an angle of bulk plane exhibit with a minimum front yard of 5 feet for all single-family attached units. You indicate that encroachments occurred during construction into the five (5) foot minimum required front yard on twelve (12) townhouse lots. You state that non-compliance was done in good faith and that all of the units have been issued Residential Use Permits (RUPs) and are occupied.

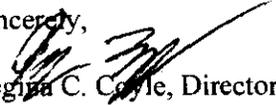
According to a chart, which is included as part of your letter, the encroachments result in a reduction of the front yard from five (5) feet to 4.9 feet on Lots 79, 80, and 85; to 4.8 feet on Lots 77, 78, 86, 92, and 93; and, to 4.3 feet on Lot 89. With the exception of Lot 89, all of the yard reductions range between 2% and 4%. The proposed reduction on Lot 89 is 14%.

It is my determination that the encroachment into the minimum front yard requirement for Lots 77, 78, 79, 80, 81, 85, 86, 92, 93, 95, and 98 are minor modifications that are in substantial conformance with RZ 2001-SU-024 and RZ 2001-SU-035. It is my determination that the encroachment on Lot 89 is not in substantial conformance with these approvals. In order to retain the structure on Lot 89 as it was built,

approval of a Special Permit for a Reduction to the Minimum Yard Requirements by the Board of Zoning Appeals, pursuant to Sect. 8-914 of the Ordinance, or approval of a Proffered Condition Amendment by the Board of Supervisors, will be required.

This determination has been made in my capacity as the duly authorized agent of the Zoning Administrator. If you have any questions regarding this interpretation, please feel free to contact Mary Ann Godfrey at (703) 324-1290.

Sincerely,


Regina C. Coyle, Director
Zoning Evaluation Division, DPZ

RCC/MAG/N:\Proffer Interpretations PI\Rugby Road (RZ 2001-SU-034, RZ 2001-SU-035) Front Yard Setbacks.doc

Attachments: A/S

cc: Michael Frey, Supervisor, Sully District
John L. Litzenberger, Planning Commissioner, Sully District
Diane Johnson-Quinn, Deputy Zoning Administrator, Permit Review Branch, ZAD, DPZ
Kenneth Williams, Office of Land Development Services, DPWES
Angela Rodeheaver, Section Chief for Site Analysis, DOT
Assad Ayoubi, Acting Director, Environmental and Facilities Inspection Division, DPWES
Audrey Clark, Director, Building Plan Review Division, DPWES
Kevin Guinaw, Chief, Special Projects/Applications Management Branch, DPZ
File: RZ 2001-SU-034, RZ 2001-SU-035, PI 0804 043, Imaging, Reading File

WALTER L. PHILLIPS, INCORPORATED

Est. 1945

April 25, 2008

Mr. Kevin Guinaw
Fairfax County Department of Planning and Zoning
12055 Government Center Parkway, 8th Floor
Fairfax, VA 22035

RECEIVED
Department of Planning & Zoning
APR 25 2008
Zoning Evaluation Division

Re: Rugby Road, Sections 2, 3 and 4 - Interpretation Letter

Dear Mr. Guinaw,

Pursuant to Fairfax County comments on Site As-Built #1340-SAB-003-1, we hereby submit for your review and approval an interpretation of RZ-2001-SU-035 and RZ-2001-SU-024 and/or administrative variance under the provisions of Z.O. 2-419. The purposes of this interpretation is to confirm that minor building encroachments into the five (5) feet front yard setback for twelve (12) lots are deemed to be in substantial conformance with the approved development plan and will allow a reduction into the minimum front yard requirements.

The non-compliance was done in good faith and as a result of construction. The units currently have residential use permits, and the error was in no fault of the owners.

The non-compliance is not detrimental to the use and enjoyment of other properties in the immediate vicinity and does not impair the purpose and intent of the ordinance.

Because the units are already built and residential use permits issued, compliance with the minimum yard regulations would cause unreasonable hardship upon the owners of those units. The minor conformity will not result in the increase in density or FAR.

Enclosed you will find copies of the proffers, development plans, and as-built site drawings that show the front yard setbacks for each townhouse unit that was built closer than five (5) feet to the lot line of the HOA owned travel ways.

These lots are as follows:

207 Park Avenue
Falls Church, Virginia 22046
Telephone: (703) 532-6163
Facsimile: (703) 533-0301



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Mr. Kevin Guinaw

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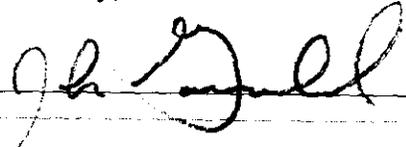
April 25, 2008

Section	Lot #	Distance from Building to Front Lot Line	Encroachment distance to 5' Front Lot Line
Section 2	Lot 77	4.8'	0.2'
Section 2	Lot 78	4.8'	0.2'
Section 2	Lot 79	4.9'	0.1'
Section 2	Lot 80	4.9'	0.1'
Section 2	Lot 81	4.7'	0.3'
Section 2	Lot 85	4.9'	0.1'
Section 3	Lot 86	4.8'	0.2'
Section 3	Lot 89	4.3'	0.7'
Section 3	Lot 92	4.8'	0.2'
Section 3	Lot 93	4.8'	0.2'
Section 4	Lot 95	4.7'	0.3'
Section 4	Lot 98	4.7'	0.3'

Justification to approve a reduction into the minimum yard requirements is found under provisions listed under Z.O. 2-419. We appreciate your consideration, and will await a favorable reply to this interpretation.

Should you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,



John Gavarkavich, CLA, ASLA

JG:ca
Cc: Jeff Lastner