BOROUGH OF NEPTUNE CITY
LAND USE BOARD
RESOLUTION OF MEMORIALIZATION
MONMOUTH COUNTY, NEW JERSEY
AMENDED PRELIMINARY AND FINAL SITE PLAN
APPROVAL WITH ANCILLARY BULK VARIANCE RELIEF

Approved: March 18, 2025
Memorialized: April 15, 2025

MATTER OF: THIRD GARDEN PARK, LP

APPLICATION NO.: 25-01

WHEREAS, an application for amended preliminary and final site plan approval with ancillary bulk variance relief has been made to the Brough of Neptune City Land Use Board (hereinafter referred to as the "Board") by Third Garden Park, LP, (hereinafter referred to as the "Applicant") on lands known and designated as Block 106, Lot 11 as depicted on the Tax Map of the Borough and more commonly known as 220 W. Sylvania Avenue within the R-2M (Mobile Home District) Zone; and

WHEREAS, a public hearing was held before the Board on March 18, 2025 with regard to this application; and

WHEREAS, the Board has heard testimony and comments from the Applicants, consultants, witnesses, and with the public having had an opportunity to be heard; and

WHEREAS, a complete application has been filed, the fees as required by City Ordinance have been paid, and it otherwise appears that the jurisdiction and powers of the Board have been properly invoked and exercised; the following is a recital of the history of prior approvals.

1. The subject property contains 5,338.3 square feet with frontage along W. Sylvania Avenue within the R-2M (Mobile Home District) Zone. The subject Property is improved with a mobile home park which includes forty (40) individual mobile home lots.

2. The Applicant previously received use variance and bulk variance relief with preliminary and final site plan approval from the Board on October 11, 2017 permitting a new mobile home in the existing mobile home park.

3. The Applicant subsequently applied for amended site plan approval with ancillary variance relief permitting replacement of an older mobile home with a newer unit. This application was granted by the Board on July 9, 2019.

4. The Applicant once again applied for amended site plan approval with ancillary variance relief permitting replacement of an older mobile home (# 80) with a newer unit. This application was granted by the Board on April 11, 2023.

5. The Applicant further applied for amended site plan approval with ancillary variance relief permitting replacement of an older mobile home with a newer unit. This Application was granted by the Board on March 14, 2023.

6. The Applicant now seeks amended preliminary and final site plan approval with ancillary bulk variance relief to replace seven (7) older mobile homes with new units or to place a new trailer on an empty pad site.

7. Counsel for the Applicant, Richard Sciria, Esq., provided a summary of the history of prior approvals. He explained that the Applicant was now seeking amended approval permitting a total of seven (7) trailer units which would either be placed on a vacant lot or replace an existing unit. Mr. Sciria then confirmed that no more than two (2) new pad sites could be constructed and located on the overall Property.

8. Testimony was then provided by Dale Mull, who identified himself as regional manager on behalf of the Applicant. He proceeded to describe the overall mobile home park and the process for review of properties in the facility. Mr. Mull introduced a series of Exhibits, Exhibits 1 through 5 being the overall facility, including landscaping lighting, roadways, and typical

architecture. He identified most of the pads as either vacant or occupied by trailers which were to be replaced in the near future as depicted in Exhibits A6 through A12. Mr. Mull also stated that two (2) locations existed which could accommodate a double-wide trailer. He further testified that trailer owners were allowed to have an 8 foot by 8 foot shed on their individual pad site. Mr. Mull noted that most of the pad sales had at least a one (1) car driveway with the new replacement units having space for two (2) vehicles.

9. The Applicant's Engineer, Kevin Shelley, P.E., introduced Exhibit A 13, an Aerial Photograph which depicted the layout of the subject Property and location of trailers. He identified Lot 75 as being slated for a replacement unit. Mr. Shelley further testified that bulk variance relief would be required for the setbacks on the one side of the property. He then reviewed the lot dimensions and footprints for the other pads that were the subject of this application. Mr. Shelley explained that the new trailers would have sufficient parking with room to accommodate two (2) vehicles. He further testified that only one (1) trailer manufacturer supplies the units, not only for this facility, but for numerous other facilities that the Applicant owns and operates throughout the country.

10. The Applicant's Engineer and Planner, Marc Leiber, P.E., P.P., proceeded to describe the bulk variances required for the overall site. He explained that numerous prior approvals had previously been secured where the Board had granted similar variance relief permitting the replacement of trailers on a 1 to 1 basis. He then described a heavily landscaped strip and fence running along the length of the subject Property separating it from the adjacent condominium development. Mr. Leiber stated that the separation was enhanced by the road which runs parallel to the boundary of the condominium development itself. He opined that this feature created a significant distance of approximately 40 to 50 feet, providing more than adequate buffer space along that section of the subject Property.

11. Mr. Leiber further testified that the Applicant was not proposing any perceptible change in the density since the units were being swapped out on a 1 to 1 basis. He also stated that the Applicant was aware of its obligations to meet all code requirements as a condition of the approval.

12. Mr. Leiber next addressed the positive and negative criteria. He did not believe that the proposed exchange of trailers or trailers being located on vacant lots was in any way contrary to the intent and purpose of the Zone Plan or Master Plan of the Township. On the contrary, Mr. Leiber highlighted that the use was permitted and had been in operation on the subject Property since the 1940's. He further testified that the history of the site proved that the use was compatible with the adjacent properties. He further testified there is no area of environmental impact resulting from the installation of new trailers on any of the lots. Mr. Leiber further testified that the granting of variance relief would not result in any negative detriments to the use and enjoyment of the surrounding properties. He also stated that adequate buffer space existed between the condominium development on one side and a school on the other.

13. There were no members of the public expressing an interest in this application.

14. The Board has received, reviewed and considered various exhibits and reports with regard to this application. Those exhibits and reports are incorporated herein in their entirety.

WHEREAS, the Borough of Neptune City Land Use Board, having reviewed the proposed application and having considered the impact of the proposed application on the City and its residents to determine whether it is in furtherance of the Municipal Land Use Law; and having considered whether the proposal is conducive to the orderly development of the seven (7) pad sites and the general area in which it is located pursuant to the land use and zoning ordinances of the Borough of Neptune City; and upon the imposition of specific conditions to be fulfilled, hereby determines that the Applicant may be granted preliminary and final site plan approval pursuant to N.J.S.A. 40:55D-46 and 50 along with ancillary variance relief pursuant to N.J.S.A. 40:55D-70c(2).

The Board finds that the Applicant has proposed a permitted use, however, it requires bulk variance relief. The Municipal Land Use Law, at N.J.S.A. 40:55D-70c provides Boards with the power to grant variances from strict bulk and other non-use related issues when the applicant satisfies certain specific proofs which are enunciated in the Statute. Specifically, the applicant may be entitled to relief if the specific parcel is limited by exceptional narrowness, shallowness or shape. An applicant may show that exceptional topographic conditions or physical features exist which uniquely affect a specific piece of property. Further, the applicant may also supply evidence that exceptional or extraordinary circumstances exist which uniquely affect a specific piece of property or any structure lawfully existing thereon and the strict application of any regulation contained in the Zoning Ordinance would result in a peculiar and exceptional practical difficulty or exceptional and undue hardship upon the developer of that property. Additionally, under the c(2) criteria, the applicant has the option of showing that in a particular instance relating to a specific piece of property, the purpose of the act would be advanced by allowing a deviation from the Zoning Ordinance requirements and the benefits of any deviation will substantially outweigh any detriment. In those instances, a variance may be granted to allow departure from regulations adopted pursuant to the Zoning Ordinance.

Those categories specifically enumerated above constitute the affirmative proofs necessary in order to obtain "bulk" or (c) variance relief. Finally, an applicant must also show that the proposed variance relief sought will not have a substantial detriment to the public good and, further, will not substantially impair the intent and purpose of the zone plan and Zoning Ordinance. It is only in those instances when the applicant has satisfied both these tests that a Board, acting pursuant to the Statute and case law, can grant relief. The burden of proof is upon the applicant to establish these criteria.

The Board has examined the request for bulk variance relief under the MLUL pursuant to N.J.S.A. 40:55D-70c(2). In Kaufman v. Land Use Board for Warren Township, 110 N.J. 551, 563 (1988), the New Jersey Supreme Court held:

> "By definition then no c(2) variance should be granted when merely the purposes of the owner will be advanced. The grant of approval must actually benefit the community in that it represents a better zoning alternative for the property. The focus of a c(2) case, then, will be not on the characteristics of the land that, in light of current zoning requirements, create a hardship on the owner warranting a relaxation of standards, but on the characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community."

The Board finds that the Applicant has satisfied the positive criteria. The Board finds that the proposal will promote a desirable visual environment through the installation of seven (7) new modern aesthetically pleasing trailers and improvements. The Board also finds that the proposed setbacks are consistent with the overall facility. The area is also well landscaped and fenced. The Board therefore finds that the goals of planning enumerated at N.J.S.A. 40:55D-2 have been advanced. The Applicant has therefore satisfied the positive criteria.

The Board finds that the Applicant has also satisfied the negative criteria. The proposed development will not result in any additional traffic, noise or other visual impact not already contemplated by the zone. The Board therefore finds that the grant of bulk variance relief will not result in substantial detriment to the public good or substantially impair the purpose or intent of the zone plan or zoning ordinance. The proposed setbacks have no real impact on the adjacent condominium development. The Applicant has therefore satisfied the negative criteria.

The Board finds that the positive criteria substantially outweigh the negative criteria and that variance relief pursuant to N.J.S.A. 40:55D-70c(2) is appropriate in this instance.

With the exception of the above relief, the Board finds that the Applicant has satisfied all of the zoning, site plan and design criteria ordinances. Amended preliminary site plan approval pursuant to N.J.S.A. 40:55D-46 and final site plan approval pursuant to N.J.S.A. 40:55D-50 is appropriate in this instance.

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Neptune City on this 15th day of April 2025 that the action of the Board taken on March 18, 2025, granting application no. 25-01 of the Third Garden Park, LP amended preliminary and final site plan approval pursuant to N.J.S.A. 40:55D-46 and 50 as well as ancillary bulk variance relief pursuant to N.J.S.A. 40:55D-70c(2) is approved.

The application is granted subject to the following conditions:

1. The development of the seven parcels shall take place in strict conformance with the testimony, plans and drawings which have been submitted to the Board with this application which are to be revised based on the Board's determination as follows.

2. Except where specifically modified by the terms of this Resolution, the Applicants shall comply with all recommendations contained in the Reports of the Board's Professionals.

3. The Applicant shall maintain the residential buffer subject to review and approval by the Board Engineer.

4. Trash pickup shall be scheduled during regular business hours.

5. The Applicant shall certify that taxes are paid to date of approval.

6. Payment of all fees, costs, escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.

7. Subject to all other applicable rules, regulations, ordinances and statutes of the borough of Neptune City, County of Monmouth, State of New Jersey or any other jurisdiction.

BE IT FURTHER RESOLVED that the Board secretary is hereby authorized and directed to cause a notice of this decision to be published in the official newspaper at the Applicant's expense and to send a certified copy of this Resolution to the Applicants and to the City Clerk, Engineer, Attorney, Planner, and Tax Assessor, and shall make same available to all other interested parties.

ON MOTION OF: John Amoscato

SECONDED BY: Robert Reynolds, Jr.

ROLL CALL:

YES: Patricia Gernad, Randy Reynolds, Robert Reynolds, Jr., John Amoscato, Craig Morcom, Erin Maciorowski and Sharon McSwieney

NO: None

ABSTAINED: None

DATED: April 15, 2025

I hereby certify this to be a true and accurate copy of the Resolution adopted by the Neptune City Land Use Board, Monmouth County, New Jersey, at a public meeting held on April 15, 2025.

Susan Y. Hewitson, Secretary
Neptune City Land Use Board