

**RESOLUTION**  
**OF THE**  
**LAND USE BOARD OF THE BOROUGH OF NEPTUNE CITY**  
**AMENDED SITE PLAN**

**APPLICANT:           THIRD GARDEN PARK, LP**  
**BLOCK 106, LOT 11, UNIT #77**  
**APPLICATION:  NCPB # 22-06**

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**WHEREAS**, Third Garden Park, LP (hereinafter referred to as “applicant”) is the owner of property known as 220 W. Sylvania Avenue, also known as Block 106, Lot 11 on the Tax Map of the Borough of Neptune City, in the State of New Jersey, County of Monmouth (hereinafter referred to as “premises”); and

**WHEREAS**, the premises is located in a R-2 Mobile Home District and

**WHEREAS**, the applicant previously applied to the Land Use Board of the Borough of Neptune City to for a Use Variance and bulk relief to replace an existing mobile home with a new mobile home; and

**WHEREAS**, on October 11, 2017, the Board granted approval of this application by Resolution, which contained the following condition:

1. Applicant is permitted to replace an older unit with a newer unit in the future without coming to the Land Use Board if they comply with the following (failure to comply with any of these conditions require the applicant to appear before the Land Use Board for relief from this condition):
  - a. The total number of units on the site shall not exceed 80 units.

- b. New unit shall not decrease any existing nonconformities that exist for that unit.
- c. If the existing unit is less than 2 feet from the road, the applicant shall place the new unit a minimum of 2 feet from the road. If the unit that is being moved a minimum of 2 feet off the road is back-to-back with another unit and if the applicant can not comply with the required 15-foot setback, the applicant is permitted to reduce the setback between the units, but no closer than 10 feet.
- d. If the unit that is being replaced is along the property line and the existing setback is less than 2 feet from the property line, the new unit shall be a minimum setback of 2 feet from the property line.
- e. If the new unit is larger than the existing unit, applicant has to comply with a, b, c and d above.

**WHEREAS**, the applicant is proposing to replace an older unit, that has side yard setbacks of 21.8 feet and the applicant is proposing to have the new unit to have 10 feet setback. The new unit will be 14 feet from adjacent unit, where 15 feet is required (existing condition); and

**WHEREAS**, after review and notice of publication indicates that the Board has jurisdiction in reviewing this application; and

**WHEREAS**, the public hearing was held on March 14, 2023; and

**WHEREAS**, the applicant has produced the sworn testimony of Dale Mull of Garden Homes Management Corp and the following exhibits were submitted with the application, reviewed by the Board, and shall be considered marked as in evidence as follows:

A-1 Property survey prepared by James J. Heiser, P.L.S. of DPK Consulting dated January 23, 2017, revised on September 7, 2021.

A-2 Location Plot Plan prepared by Mark Rohneyer; P.E. of T&M Associates dated June 22, 2022.

A-3 Letter dated January 24, 2023.

A-4 Revised Plans dated February 17, 2023, reflecting two off street parking spaces.

**WHEREAS**, the Board has reviewed testimony of its professionals and market the following report into evidence:

LUB-1 Resolution of the Land Use Board dated October 11, 2017

LUB-2 Leon S. Avakian Report dated January 31, 2023

**WHEREAS**, no members of the public appeared on this application; and

**WHEREAS**, the Land Use Board of the Borough of Neptune City, have considered all the evidence, exhibits and testimony presented and make the following findings of fact and conclusions of law:

1. The Board has jurisdiction to hear and decide this application.
2. The taxes on said premises are paid and current.
3. The said premise is located in the R-2M Mobile Home District as established by the Land Use Ordinance of the Borough of Neptune City.
4. The Board finds that the applicant has satisfied its burden of proof pursuant to N.J.S.A. 40:55D-1 et seq., upon the meeting of certain conditions.

Variances:

1. Set back between mobile homes, Ordinance requires 15 feet, the applicant proposes 14 feet (existing condition).

2. Side yard setback requirement is 25 feet, applicant is proposing 10 feet, where 21.8 feet exists.

The Land Use Board finds that the proposed site plan enhances the site, environmentally, commercially and aesthetically. As a result of the proposed plan, the following purposes of the Municipal Land Use Law are promoted:

- a. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey Citizens.
- b. To ensure that the development of individual municipalities do not conflict with development and general welfare of neighboring municipalities, the county and state.

The subject property is approximately 5.4 acres and contains 80 mobile homes. The applicant is proposing to remove an older unit and replace same with a new unit, but the setbacks will be 10 feet. Presently, the setback is 21.8 feet. The applicant also proposes to keep the 14-foot separation between units, where the Ordinance requires 15 feet.

The removal of an older unit to a newer unit is an improvement to the site and more importantly; an improvement in the living accommodations for the owner of the new unit, who was living in the older unit. The Board finds the removal of an older, outdated unit for a newer unit is a benefit to the community, the mobile park and to the owner. The Board further finds that prohibiting the replacement of an older mobile home with a new mobile home would effectively impair the ability of these Neptune City residents from improving their homes.

With respect to the separation variance, the applicant proposes 14 feet. While the municipal ordinance requires 15 feet, the State only requires a minimum of 10 feet. Here, the applicant is unable to comply with municipal ordinance due to the existing setbacks but is able to comply with the State Code. Also, the applicant is decreasing the side yard setback to 10 feet. If the Board denies the application, the applicant would not have the ability to upgrade this unit. The Board also finds that the new home and the setbacks of 10 feet will have no negative effect on the Master Plan or Zoning Ordinances and finds that the replacement of the older, outdated unit with a new unit will be an improvement to the site and to the neighborhood. As a result, the Board hereby grants the variance, subject to the conditions contained in this resolution.

With respect to all of the requested variances, the Board finds that the applicant has met his burden with respect to the variances requested because they relate to this specific property, the purposes of the Municipal Land Use Law would be advanced by the deviation from the zone requirements, the deviations can be granted without substantial detriment to the public good, the benefits of the deviations substantially outweigh any detriment; and the granting of the variances will not substantially impair the intent and purpose of the planning and zoning ordinances.

**NOW, THEREFORE, BE IT RESOLVED** that this resolution serves as a memorialization of the Board's decision to grant Amended Site Plan Approval with Variances on March 14, 2023, subject to the conditions as follows:

1. The Applicant shall obtain all state, county and local government approvals as required by law.
2. The Applicant shall pay all professional fees, including attorney, engineering and planning fees, incurred by the Land Use Board of the Borough of Neptune City in connection with the applicant and no further improvements shall be granted by the

Zoning Board and no permits, including building permits and certificates of occupancy shall be issued to the applicant until such payment is made.

3. This approval is subject to the accuracy and completeness of the submissions, statements, exhibits and other testimony filed with, or offered to, the Board in connection with this application, all of which are incorporated by reference and specifically relied upon by the Board in granting this approval. The condition which shall be deemed satisfied unless and until the Board determines (on Notice to the applicant) that a breach hereof has occurred.
4. No taxes or assessments for local improvements shall be due or delinquent on the subject property.
5. Plot Plan shall be revised to list variances.

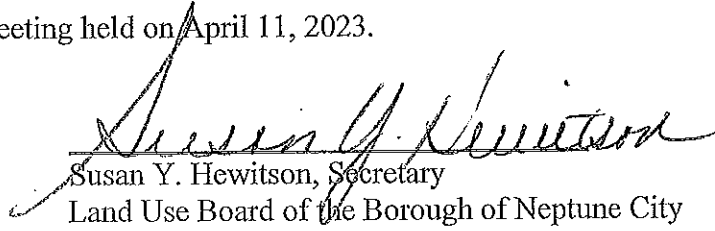
**BE IT FURTHER RESOLVED**, that the Board Secretary is hereby authorized and directed to send a certified copy of this Resolution to the applicant, the Borough Clerk, Engineer and Assessor and shall make same available to all other interested parties; and that the Board Secretary and/or the Applicant is hereby authorized and directed to cause a notice of this decision to be published in the official newspaper at the applicant's expense.

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DATED

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PATRICIA GERAND, CHAIRWOMAN  
Borough of Neptune City Land Use Board

**CERTIFICATION**

I hereby certify that the foregoing is a true copy of the resolution adopted by the Borough of Neptune City Land Use Board at a meeting held on April 11, 2023.

  
Susan Y. Hewitson, Secretary  
Land Use Board of the Borough of Neptune City

The vote on the Motion  
To approve this application:

YES: P. Gerand, A. Wardell, D. Pappas,  
R. Reynolds, Jr., R. Reynolds, J. Amoscato,  
M. McGuigan, L. Cross, C. Morcom, E.  
Maciorowski, Sharon Williams

NO: None

The Vote on the Resolution of  
memorialization was as follows:

YES: Patricia Gerand, Robert Reynolds, Jr,  
Randy Reynolds, Andrew Wardell, Larry  
Cross

NO: None