

ORIGINAL



**BOARD OF ADJUSTMENT  
Minutes of Meeting  
March 22, 2012**

**1. CALL MEETING TO ORDER**

The meeting was called to order by Chair ABBOTT at 7:00 p.m.

**2. ROLL CALL**

Board Members Present: Tom Abbott  
Sally Banghart  
Janet Bell  
Bob Blair  
Paul Griffith  
Paul Hovland  
Betty Jo Page  
Jennifer Walter

Staff Members Present: Meredith Reckert, Sr. Planner  
Lauren Mikulak, Planner I  
Ann Lazzeri, Recording secretary

**3. PUBLIC FORUM** (This is the time for anyone to speak on any subject not appearing on the agenda.)

No one wished to speak at this time.

**4. PUBLIC HEARING**

- A. **Case No. WA-12-02:** An application filed by Armond Azharian for approval of variances to the minimum lot size and lot width requirements to allow an additional dwelling unit on property zoned Residential-Two and located at 4315 Balsam Street.

The case was presented by Lauren Mikulak. She entered all pertinent documents into the record and advised the Board there was jurisdiction to hear the case. She entered an additional memorandum into the record containing comments from the neighborhood that were received after the staff report was prepared. These comments indicated approval or asked questions about the application. None of the letters indicated an objection to the case. The applicant is requesting the variance approvals because he is seeking to legitimize an existing duplex after he became aware of the fact that neither the City nor

the County has record of two units on the property. Staff recommended approval for reasons, and with conditions, as contained in the staff report.

Board Member BANGHART asked if other duplexes on small lots in the neighborhood have variances. Ms. Mikulak stated they did not have variances and not all are zoned R-2. The structures and/or properties could be considered legal nonconforming. This is often the case when County Assessor records indicate a property is multi-unit, and the building was constructed before the City was incorporated.

**Armond Azharian**  
**4315 Balsam**

Mr. Azharian, the applicant was sworn in by Chair ABBOTT. He stated that he has owned the property for twenty years and during that time has invested in many improvements to the property. The rental unit was occupied for awhile by his daughter while she was in college. After that time, the unit has been rented to good tenants. When he purchased the property, it was represented as a duplex. Most of the houses on his side of the street are duplexes. He noted that his property looks more like a single family residence than a duplex with the entrance to the second unit on the side of the structure.

Chair ABBOTT asked to hear from members of the public.

**Stacy Lancaster**  
**4260 Balsam**

Ms. Lancaster was sworn in by Chair ABBOTT. She stated that she lives across the street from the subject property. She commented that she considered his unit as a mother-in-law unit rather than a full duplex. The property is for sale and she expressed concern that the entire property would become rental units which could result in an increased number of people living on the property as well as increased traffic in the area.

Ms. Mikulak clarified that the zoning will not change. Staff has recommended that if a new duplex should be proposed for the property that would better accommodate two full-size families, it would be subject to a variance process. Code enforcement can address problems that occur if the number of unrelated people living together is exceeded. This would apply to any residential units whether or not they are single or multi-family. The city has no control how many cars are parked on a public street or how many cars a person may own.

In response to a question from Chair ABBOTT, Ms. Lancaster stated that while she has concerns, she is not opposed to granting the applicant's request.

**Lynn Gleason**  
**4230 Balsam**

Ms. Gleason was sworn in by Chair ABBOTT. She stated that she lives across the street and one door north of the applicant. She commended Ms. Mikulak on her assistance when she called for clarification about the request. Ms. Gleason asked if the variance would leave the door open for the property to be subdivided resulting in a decrease in

surrounding property values. Ms. Reckert explained that there is an avenue for people to own their half of a duplex, however the land itself could not be subdivided.

Board Member BELL commented that the lot size does not meet current requirements for subdivision.

In response to Ms. Gleason's concern that the existing structure could be scraped and replaced with larger duplex, Ms. Mikulak explained that staff is recommending a condition that a variance process would be necessary if someone wanted to build a new duplex on the lot because it is too small. The Board of Adjustment would have to judge such a case on its own merits.

Chair ABBOTT asked if there were others who wished to address the Board. There was no response.

**Upon a motion by Board Member PAGE and second by Board Member GRIFFITH, the following resolution was stated:**

**Whereas, application Case No. WA-12-02 was not eligible for administrative review; and**

**Whereas, Case No. WA-12-02 is an appeal to this Board; and**

**Whereas, the property has been posted the fifteen days required by law and in recognition there were no protests registered against it; and**

**Whereas, the relief applied for may be granted without detriment to the public welfare and without substantially impairing the intent and purpose of the regulations governing the City of Wheat Ridge.**

**Now, therefore be it resolved that Board of Adjustment application Case No. WA-12-02 is hereby approved.**

**Type of Variance: A variance to the minimum lot size and lot width requirements to allow an additional dwelling unit on property already zoned Residential-Two.**

**For the following reasons:**

- 1. The variance would not alter the character of the locality.**
- 2. The property in question would not yield a reasonable return in use, service or income if permitted to be used only under conditions allowed by regulation.**
- 3. The conditions necessitating the variance are not unique to the property. There are other duplexes on under-sized lots in the area.**
- 4. The alleged difficulty or hardship was not created by any person presently having interest in the property.**

**With the following conditions:**

- 1. Any future change on this property will require adherence to Code so would require a new variance request if necessary.**
- 2. The applicant shall schedule a courtesy inspection with the building division to confirm that the home meets applicable building codes for a two-family unit.**
- 3. A separate address may be assigned to the second dwelling unit – either a unique number or “Unit B.”**

Chair ABBOTT asked for discussion on the motion.

Board Member BLAIR commented that he lives in the area and hasn't noticed anything to indicate that this is an inappropriate request. It is a reasonable request that doesn't change the nature of the community.

Board Member HOVLAND indicated his support. It is an existing situation and a convoluted set of circumstances that got the situation to this point. The property has been well-maintained by the owner for the past twenty years.

Board Member BELL commended staff for the hard work and research that went into this matter that involves use of a property established before the City was incorporated. She commended the neighborhood for coming together and suggested they might also consider establishing a neighborhood watch program. The variance will validate the existence of this duplex for which there are no previous records.

Board Member ABBOTT requested the record to reflect that after the current building permit was created for 4315 Balsam, the City visited the property as witnessed by a 1985 aerial photo and a certificate of occupancy signed by the chief building inspector and the planning director.

**The motion carried by a vote of 8-0.**

## **5. CLOSE PUBLIC HEARING**

Chair ABBOTT closed the public hearing portion of the meeting.

## **6. OLD BUSINESS**

- Board Member BELL suggested scheduling a time for the Board to meet with the city attorney.
- Board Member PAGE asked if the Board would want to participate again in sponsoring a sign at the Carnation Banner. There were no objections to participating. She will arrange all the details.

7. **NEW BUSINESS**

A. **Approval of minutes – February 23, 2012**

**It was moved by Board Member BLAIR and seconded by Board Member GRIFFITH to approve the minutes of February 23, 2012 as written. Motion carried 7-0 with Board Member BANGHART abstaining.**

B. **BOA Resolution Templates**

Meredith Reckert presented a revised template for Board motions and resolutions. The difference from the past is that staff would fill in certain information on the template for each case including name and address of applicant, type of variance and reasons and conditions of approval.

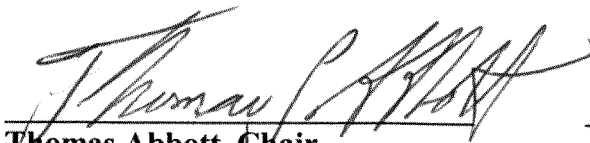
The Board agreed that the entire resolution, including “Whereas’s” should be included in all motions. There was consensus to make a decision on the new format at the next meeting.

C. **38<sup>th</sup> Avenue Plan**

Meredith Reckert presented an update on the 38<sup>th</sup> Avenue Plan.

8. **ADJOURNMENT**

**It was moved by Board Member BLAIR and seconded by Board Member HOVLAND to adjourn the meeting at 8:30 p.m. Motion carried 8-0.**

  
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Thomas Abbott, Chair

  
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Ann Lazzeri, Secretary