

FIRST REGULAR SESSION

HOUSE BILL NO. 100

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JOHNSON (47).

Pre-filed December 18, 2002, and copies ordered printed.

TED WEDEL, Chief Clerk

0716L.011

AN ACT

To repeal section 89.110, RSMo, and to enact in lieu thereof one new section relating to appeals from zoning board of adjustment decisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 89.110, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 89.110, to read as follows:

89.110. Any person or persons jointly or severally aggrieved by any decision of the board of adjustment, any neighborhood organization as defined in section 32.105, RSMo, representing such person or persons or any officer, department, board or bureau of the municipality, may present to the [circuit court] **governing body** of the county or city in which the property affected is located a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the [court] **governing body** within thirty days after the filing of the decision in the office of the board. Upon the presentation of such petition the [court] **governing body** may [allow a writ of certiorari directed to] **direct** the board of adjustment to review such decision of the board of adjustment and shall prescribe therein the time within which a [return thereto] **response** must be made and served upon the [relator's attorney] **petitioner**, which shall not be less than ten days and may be extended by the [court] **governing body**. The [allowance of the writ] **review** shall not stay proceedings upon the decision appealed from, but the [court] **governing body** may, on application, on notice to the board and on due cause shown, grant a restraining order. The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 for by such [writ] **review**. The [return] **response** shall concisely set forth such other facts as may
18 be pertinent and material to show the grounds of the decision appealed from and shall be
19 verified. If[, upon the hearing,] it shall appear to the [court] **governing body** that testimony is
20 necessary for the proper disposition of the matter, it may take additional evidence or appoint a
21 referee to take such evidence as it may direct and report the same to the [court] **governing body**
22 with [his] **the** findings of fact and conclusions of law, which shall constitute a part of the
23 proceedings upon which a determination of the [court] **governing body** shall be made. The
24 [court] **governing body** may reverse or affirm, wholly or partly, or may modify the decision
25 brought up for review. Costs shall not be allowed against the board unless it shall appear to the
26 [court] **governing body** that it acted with gross negligence, or in bad faith, or with malice in
27 making the decision appealed from. All issues in any proceedings under sections 89.080 to
28 89.110 shall have preference over all other [civil actions and] proceedings.