

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS
STATE OF MISSOURI

MARGARET M. SCHMITT,)
RICHARD P. WOODHOUSE,)
STEVEN L. PATTERSON,)
ELLEN L. JOHNSON,)
DUSTIN J. BOPP,)
KAREN E. VANWINKLE,) Cause No. 044-01149
KENNETH K. HAMMANN,)
MARK D. VAN WINKLE,) Division No. 5
ROBIN E. RINGWALD,)
SARA JANE RINGWALD,)
and MARTA J. FRUMHOFF,)
)
Relators,)
)
v.)
)
CITY OF ST. LOUIS,)
)
and)
)
THE BOARD OF ADJUSTMENT OF)
THE CITY OF ST. LOUIS,)
STATE OF MISSOURI,)
)
(Hold Service))
)
Respondents.)

PETITION FOR WRIT OF CERTIORARI

COME NOW Relators, Margaret M. Schmitt, Richard P. Woodhouse, Joseph W. Davis,
Steven L. Patterson, Ellen L. Johnson, Dustin J. Bopp, Karen E. Van Winkle, Kenneth K.
Hammann, Mark D. VanWinkle, Robin E. Ringwald, Sara Jane Ringwald and Marta J.
Frumhoff, by and through their attorneys, and for their Petition for Writ of Certiorari, pursuant to
§ 89.110, RSMo., state:

1. Respondent City of St. Louis (“City”) is a constitutional charter city of the State of Missouri.
2. Respondent City of St. Louis Board of Adjustment (“Board”) exists pursuant to § 89.080, RSMo., and it has the authority conferred by § 89.090, RSMo.; the Board is an operating arm and agency of the City.
3. Relator Margaret M. Smith is an individual who resides at 4248 Virginia Avenue in the City.
4. Relator Richard P. Woodhouse is an individual who resides at 4260 Virginia Avenue in the City.
5. Relator Steven L. Patterson is an individual who resides at 3101 Mt. Pleasant in the City.
6. Relator Ellen L. Johnson is an individual who resides at 4653 Tennessee in the City.
7. Relator Dustin J. Bopp is an individual who resides at 5021 S. Grand in the City.
8. Relator Karen E. VanWinkle is an individual who resides at 4411 S. Grand in the City.
9. Relator Kenneth K. Hammann is an individual who resides at 4411 S. Grand in the City.
10. Relator Mark D. Van Winkle is an individual who resides at 3665 Taft in the City.
11. Relator Robin E. Ringwald is an individual who resides at 4050 Magnolia Place in the City.
12. Relator Sara Jane Ringwald is an individual who resides at 4050 Magnolia Place in the City.

13. Relator Marta J. Frumhoff is an individual who resides at 3660 Connecticut Street in the City.

14. On information and belief, an entity known as Our Lady's Inn ("OLI") purchased in the year 2001 a certain parcel of realty in the City of St. Louis bearing the street address 4242 Virginia ("Premises").

15. Thereafter, in approximately December 2003, OLI applied with the City to construct a multi-family building, with seven residential units, at the Premises.

16. The City denied the permit because its own ordinances, codified at §§26.16.010, 26.16.020, 26.24.020, 26.24.025, and 26.24.080A of the City's Revised Code, prohibited the multi-family proposed use.

17. OLI appealed to the Board from the City's denial of its application for a permit. The Board designated OLI's appeal No. 8266 (hereinafter, "Appeal").

18. The Board issued its written decision on March 11, 2004 ("Decision") granting the Appeal, and issued the variance. A photocopy of the Decision is attached as Exhibit 1. All relators reside in the vicinity of the Premises, opposed the OLI appeal and are aggrieved by the Decision.

19. The evidence adduced at the hearings established that OLI was not entitled to the variance under the pertinent criteria set forth in the City's zoning code.

20. The Board's Decision is contrary to law and must be reversed because:

A. the Decision is not supported by competent and substantial evidence in the record sufficient to support the issuance of a variance under the criteria set forth in the City's applicable zoning ordinances;

B. the Decision is against the overwhelming weight of the evidence in the record;

C. the Decision was arbitrary, capricious, unreasonable and unlawful in that it applied an incorrect legal standard, contains deficient findings of fact and conclusions of law and was not based on an objective evaluation of the merits of OLI's appeal; and

D. the Board abused its discretion and acted arbitrarily in granting the Appeal and issuing the subject variance.

21. All Relators are authorized pursuant to § 89.110, RSMo., to file, within thirty (30) days after the issuance of the Decision, a Petition with this Court for a Writ of Certiorari directed to the Respondents.

WHEREFORE, Relator prays that this Court issue its Writ of Certiorari, directed to Respondents, requiring them to certify to this Court a true, full and complete copy of the record pertaining to the subject Appeal and all other acts and proceedings in said matter before Respondents, and to have said copy of the record returned to this Court on the date indicated in the Writ, so that this Court may adjudicate the legality of the proceedings before the Board and make such other and further adjudications and orders as justice may require; Relators further request that this Court reverse the decision of the Board and order the Respondents to take all steps necessary to rescind the subject variance.

JONES, HAYWOOD, BICK, KISTNER & JONES, P.C.

By: _____
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