The experience of zoning in suburban municipalities was quite different from that in Columbus; in the suburbs zoning was effective in directing land use patterns. Even the suburbs, however, were not equally successful. Three conditions made success more likely. First, the community needed a clearly understood, if not explicitly stated, vision of its desired future. Second, officials had to draft a zoning ordinance that was both appropriate to that vision and comprehensive enough to provide guidance if they did not formally adopt a comprehensive plan. Finally, officials had to administer the zoning code carefully in a manner consistent with the understood goals. However, even where zoning was most effective, it perpetuated or expanded land use patterns developers had previously set.

Zoning perpetuated those land use patterns because those patterns, by and large, served the suburban public interest. As discussed in chapter 3, the reformist planners and lawyers who promoted zoning and developed its theory based its legitimacy on the ability to serve the public interest. They defined this interest as promoting the health, safety, and general welfare, which they believed zoning would do by providing for future growth and preventing incompatible intrusions into existing areas. But though they defined the “interest,” they did not define the “public.” They noted that individuals would have to sacrifice some private property rights for the good of the whole community but did not really wrestle with the thorny issue of exactly where this “community” was located. Was it part of the city, the whole city, in a suburb, or was it the entire metropolitan region?

When planners spoke of metropolitan growth and regional
Zoning proponents knew, of course, that under existing state laws and court opinions a city could not control land beyond its own borders, which is why they emphasized the need for regional planning. But only Edward Bassett explicitly raised the possibility in the early years that some elements of a region might define their own public interest in a way that was inconsistent with the region's. He suggested that some suburbs might try to use zoning like restrictive deed covenants to exclude some uses and people they might find undesirable but that were not in and of themselves harmful to the public health and safety. Still, he doubted that such a use of the police power would be legitimate.2

The issue of exclusionary zoning was not tested, however.3 As metropolitan areas continued to grow with increasing numbers of jurisdictions, each municipality that adopted zoning defined the public interest as it saw fit and based its land use goals on the interest of its own public.

Although land use goals varied among communities, zoning aided their achievement. In his indictment of zoning Bernard Siegan noted that planning and zoning in the suburbs “has been used to accomplish the common objective of suburbanites everywhere of maintaining a single-family character for their community. In this respect, when you've seen one suburban ordinance, you've seen them all.”4 Zoning activity in the seven suburbs examined here
only partially supports Siegan's claim. Some communities used zoning to create or maintain residential exclusivity, but others used it to provide for a balanced mix of land uses. Two used zoning to direct new growth and development to achieve a clearly understood goal. Finally, one suburb, despite the presence of a comprehensive zoning ordinance, did not "use" zoning at all but instead allowed ad hoc decision making to substitute for planning. The six communities that effectively used zoning devised ordinances that would effect their goals and they consistently administered those ordinances to that purpose. At the same time, having no clear idea of what it wanted zoning to accomplish, the seventh suburb could not effectively use zoning either to maintain residential exclusivity or to direct future development. Examination of zoning practice in Bexley, Grandview Heights, Marble Cliff, Riverlea, Upper Arlington, Whitehall, and Worthington reveals that zoning could be an effective tool, regardless of community size or goal. Figure 6.1 shows the present configurations of the seven and indicates their populations in 1960, when planning, zoning, and development were occurring simultaneously.

Small and Select: Riverlea and Marble Cliff

It is doubtful that any community ever faced an easier zoning task than the village of Riverlea. Incorporated as a village in 1939, the entire community comprised a single residential subdivision of 102 acres. The village was not adjacent to any developed area initially, and a deep ravine and the Olentangy River, on the south and west, respectively, provided a sense of isolation.

Riverlea's developer had platted the subdivision in 1924 in the midst of a real estate boom. The restrictive covenants he inserted in the deeds were to expire January 1, 1940 (roughly fifteen years after platting), or when superseded by a zoning ordinance. The developer could reasonably have expected in 1924 that the community would be fully developed by 1940, but the Great Depression almost halted construction. Thus in 1939, with deed restrictions set to expire, residents incorporated as a village so they could adopt a zoning ordinance. Deeds had originally limited construction to single-family homes except on High Street, where two-
family dwellings were permitted. When adopted, zoning had merely to preserve the status quo.\footnote{6}

However, even before Riverlea's incorporation was recorded in 1939, the village council passed its first ordinance: "to establish zoning . . . regulating and restricting the location of dwellings and
garages."\(^7\) Zoning would consequently control land use when deed restrictions expired in 1940. Several years later, in 1946, council passed a more thorough zoning ordinance.\(^8\) The 1946 ordinance's preamble noted that since Riverlea was a "residential suburb," whose streets and water and sewer systems had been "designed and constructed for single residences," public facilities would be inadequate to handle more congested development. Residents and council also wished to "preserve the present character of the village."

The zoning ordinance limited all construction to single-family homes, whose architecture and building materials the building inspector would have to approve. The ordinance included specifications for lot size, building height, and front, side, and rear yard building setbacks. Other provisions explicitly prohibited the use of any structure for multiple dwellings or any purpose other than a single residence, as well as activities that might be a "public nuisance."

The ordinance passed in 1946 remained almost unchanged for twenty-five years. In 1949, the council passed amendments specifying floor area minimums both for houses and for any rooms used for sleeping.\(^9\) In addition, all the lots bordering High Street were eventually rezoned to permit construction of two-story four-family dwellings.\(^10\) There were no other use changes or zoning actions through 1970. Thus a tiny residential community remained that way, and public land use controls perpetuated what the original developer had attempted to create.

The village of Marble Cliff was equally successful in maintaining its status quo although it was slightly larger than Riverlea and faced greater challenges.\(^11\) Unlike Riverlea, Marble Cliff contained more than one subdivision and was not physically isolated from its neighbors, Grandview Heights and Upper Arlington. It also included one sizable parcel of undeveloped land at the time it adopted zoning.

Marble Cliff had little variety of land use when it passed its zoning ordinance. The village contained only single-family homes, except on Fifth Avenue, its northern boundary. Two commercial structures on Fifth, in the northeast corner of the village, were an extension of commercial development in neighboring Grandview and were permitted to remain. Otherwise, the ordinance of 1928
permitted only single-family construction. Existing homes in Marble Cliff had been built on large lots and under deed restrictions with fairly high minimum construction costs, and the new ordinance ensured that these high standards would be maintained. No house could be built on a lot smaller than 10,000 square feet, and lots platted in the future would have to be at least 18,000 square feet in area. Size restrictions would thus prevent many from entering the Marble Cliff housing market. Although front yard setbacks varied from street to street, all provided for spacious yards. The zoning ordinance passed in 1928 remained in effect without substantive alteration for twenty-five years.

Changes to the ordinance in 1953 provided more exacting specifications. The village council thought it appropriate to be more explicit in the zoning code and added provisions specifying minimum floor areas for each floor of one, one-and-a-half, and two-story dwellings. These minimums, coupled with the large lot size, ensured continued upper middle income occupancy. Eleven years later council added a provision for multifamily construction, which allowed later development of a small, exclusive condominium complex.

Village officials maintained Marble Cliff's exclusive character when acting on requests for some alteration of the zoning code. Between 1928 and 1970 council acted on twenty requests to alter the application of the zoning ordinance, with half those requests coming in the 1960s and seven others in the 1950s. By special permit, council allowed two churches to be built in the village and gradually expanded the commercial uses along Fifth Avenue. Council strictly regulated the type of commercial activity, however, limiting it to small, neighborhood convenience-type shops or to professional offices. By special permit council also permitted multiple dwellings for no more than four families in areas zoned for professional offices—but only after members had examined and approved detailed site and construction plans. By requiring special permits and plan approval for anything other than single-family homes and by imposing high standards for single-family development, village officials ensured the community's exclusiveness.

Although they maintained the status quo, council members did not try to freeze the village in its 1928 condition. In response to the overall growth and development of the metropolitan area in the
1960s, as well as to increased traffic on Fifth Avenue from adjacent Grandview Heights and Upper Arlington, council did permit the commercial area to expand. It then used the very limited amount of multifamily housing allowed by special permit to serve as a buffer between the single-family homes and the commercial uses. The village also responded to development pressure by allowing a planned residential village to be built in 1965. This was essentially a condominium complex, containing dwellings that were not single-family homes. In its approval of the project, council imposed restrictions requiring a minimum of 10,000 square feet of lot area per unit and the same floor area minimums as for single-family homes. Thus these multiple dwellings would not alter the character of the area. All in all, the changes permitted over forty-two years of zoning did not change Marble Cliff.

Small size was surely an advantage to both Riverlea and Marble Cliff in their efforts to maintain exclusive residential character. Both communities also got a good start because of their initial developers’ actions. Deed restrictions had guaranteed middle or upper middle income residency in the dwellings built prior to zoning. By the time each community adopted a zoning ordinance, citizens and council members had a vested interest in the character of their small, select suburbs. Moreover, since there was little growth in either community, zoning had merely to preserve what private developers had created.

**Planned Exclusivity: Bexley and Upper Arlington**

Bexley and Upper Arlington did on a much grander scale what Riverlea and Marble Cliff accomplished in a small way. They used their zoning codes to perpetuate, and in the case of Upper Arlington to expand, the exclusive residential communities their founders had created. Both carefully controlled developers' activities but allowed residents to alter their homes as they chose, as long as the alteration had no negative impact on the community. When each was still a village and not yet fully developed, municipal officials determined what kind of community residents wanted and each village passed a zoning ordinance to achieve that goal. Bexley’s zoning ordinance was designed to maintain its charac-
The village adopted its first effective zoning code in October 1923, five years after the last annexation of territory brought the village to its present corporate limits. Many lots were still vacant, particularly in the eastern portion, although almost all land within the village had been platted by this time. The older part of the village, bordering Alum Creek, was home to some of the wealthiest families in Columbus. Impressive homes on large lots gave the village a stately grandeur. Subdivisions platted in the 1910s—some by Charles Johnson—contained restrictions ensuring upper or upper middle income development. The zoning ordinance continued the process. It provided for three use classes: single-family homes, two-family homes, and retail business. There were no apartments or industrial uses. All commercial uses were confined to Main Street and Livingston Avenue, east-west thoroughfares that were streetcar lines where commercial buildings already existed when council passed the ordinance. The two-family districts, which were very small, were in the extreme north and south ends of the village. There they might serve to buffer the village from anticipated development in the City of Columbus. The rest of the village was zoned for single-family use only, with building setbacks and lot areas that would prevent dense development. Also, Bexley's use districts were exclusive, rather than hierarchical, so single-family homes could not be built in two-family areas and no housing of any kind could exist in commercial zones.

The original ordinance had only two substantive changes through 1970. In 1955, a new use district, Apartment-Office, was proposed, detailing specifications for apartments that might be built on the upper floors above businesses. Failing to achieve passage, the proposal was rewritten to provide for some apartment construction but not in conjunction with offices and only when a specific site and construction plan had been approved. In 1957 officials created a University District, which allowed a nonprofit university (i.e., Capital University) to build or remodel structures for its own use, subject to plan approval.

Making few changes in the zoning code's provisions, Bexley officials were equally reluctant to change the use of specific parcels of land. Rezonings or use variances altered the use of only eleven parcels between 1923 and 1970, all to permit either row houses or apartments in or adjacent to the commercial district.
Bexley did not grow in area but it grew in population, and plans for new houses or alterations to old ones presented the zoning board with requests for some change in zoning specifications. In forty-six years the BZA responded to 207 requests, granting 171 of them (82.6 percent). The nature of requests differed considerably from those encountered by the Columbus zoning board; 176 asked for some variance from building setback or yard requirements. These variances involved permission to let fireplace chimneys, bay windows, or door canopies and similar items extend into the setback, or to construct covered walkways between houses and garages or three-car garages rather than the two-car garages allowed by code. The variances requested and granted thus would increase neither density of population nor intensity of land use, but rather would allow residents to build or alter their own homes to suit their tastes or family needs. City Council or the zoning board received just fourteen requests to initiate a nonconforming use, only nine of which were granted. Table 6.1 allows some comparison of zoning activity in Bexley, Upper Arlington, Grandview Heights, Worthington, and Whitehall.

For over forty-five years Bexley officials used their zoning ordinance to maintain the residential exclusivity that the village's early development had created. Property owners could use their property as they chose, provided that such use was a single-family home.

Alone among the suburbs of Columbus Upper Arlington was established to be a wholly planned residential community. A prospectus prepared by developer King Thompson's company indicates Thompson's intent to create an upper class residential suburb that would retain its pleasant spaciousness indefinitely. Under Thompson's direction, the town grew rapidly in both area and population, so that by 1930 more than three thousand people called Upper Arlington home. The city council responded to rapid growth and created a planning commission to draw up a zoning code, which was passed in 1927.

That first zoning ordinance essentially codified King Thompson's plan into law. Those lots in the mall where Thompson's deed restrictions permitted commercial uses were zoned Class III for retail business. Next to them was the Class II district, where multifamily dwellings (housing only two families) could be built.
This also matched the provisions Thompson had inserted into deeds. With one small exception (Class IV, a telephone exchange district), the rest of the city was designated Class I, single-family residential. Existing multifamily structures in Class I or II districts were permitted to remain, however, and the zoning board could allow additional four-family houses in the Class II district by special permit. The retail district limited permitted uses to those of a neighborhood convenience type, such as banks, bakeries, restaurants, and gas stations. The ordinance established height, lot area, building setback, and yard specifications for each class that would preserve the open spaciousness of Thompson's original plat. Upper Arlington's use districts were hierarchical rather than exclusive like Bexley's. However, the original Class II and III districts were so small that the likelihood of single-family use in either was negligible. With no provision for industrial or manufacturing use, no apartments, and very limited commercial development, Upper Arlington would remain what Thompson had created, an upper or upper middle income residential suburb.

During the next twenty years, council passed fewer than a dozen amendments to the original code, most of which fine-tuned the
language on setback, yard, or frontage provisions. Then in 1949 council amended the Class I provisions to mandate a one-and-a-half-story minimum height for residences, requiring that the second floor be fully finished and contain at least half the floor area of the ground floor. Council created a new residential class, I-a, for one-story houses but zoned relatively little land for it and set higher frontage and lot area minimums for one-story houses than for others. As the city had grown considerably in twenty years, council established a procedure that automatically brought newly annexed land under the zoning code. At this same time, council clarified provisions for the Class III district, listing the specific permitted uses and allowing no others by special permit. Council then added a list of conditional uses, including churches and schools, that could be allowed by special permit in residential areas. In granting such uses, council would attach a list of specific conditions to be met that varied by use. This procedure allowed what might be an innocuous—but otherwise technically nonconforming—use while giving council some control over it.

As the postwar building boom hit Columbus and large-scale tract builders began to operate, Upper Arlington responded by upgrading its minimum floor area, lot area, and frontage standards for single-family districts in the mid-1950s. By this time the city was annexing land not initially platted by Thompson, and it determined to perpetuate his concept of an upper income, residential suburb, using the zoning code to do so. There would be no little "Levittowns" in Upper Arlington. In keeping with the kind of community they were trying to maintain, council members specifically prohibited used car lots or sales as a commercial use and put limitations on commercial signs, prohibiting "pennants, whirligigs or other rotating or moving devices, flashing lights or similar eye-catching devices." As the city had expanded so had the number and size of commercial areas. Council permitted commercial uses at some major intersections and along parts of Riverside Drive (the city's western border and also State Route 33) in addition to the original mall. The limitations on both the uses and their signs ensured that commercial development would not detract from the city's upper income residential character.

Growth clearly posed potential problems for Upper Arlington. Between 1940 and 1960, while the metropolitan area's population
increased by 35 percent, Upper Arlington's more than tripled—from 9,024 to 28,486. Like the other suburbs, Upper Arlington belonged to the reconstituted Franklin County Regional Planning Commission, and following the commission's lead used planning funds available under the 1954 Housing Act's Section 701 to commission a comprehensive master plan. For its planning consultant the city commissioned Ladislas Segoe and Associates, who completed their plan in 1962.

The Segoe plan commented on the city's pleasant upper income residential character and credited consistent enforcement of density standards for its even population distribution. For the city to maintain its distinctiveness, the plan said, it should strive for a maximum population between 40,000 and 50,000, with 45,000 being optimum. If it were to remain predominantly residential, the city should annex land only north to Henderson Road. If, on the other hand, the city desired some carefully controlled industrial development for tax base purposes, it should annex farther north to Case Road. The city chose the former option and set Henderson Road as its northern boundary. The Segoe plan recommended maintaining the existing ratios among various land uses, which provided for more than 80 percent owner-occupied, single-family, detached dwellings.

As part of his contract with Upper Arlington, Segoe drew up a new zoning code to replace the original ordinance. The new code, which council adopted in December 1961, reflected the needs of the much larger community but still retained Thompson's original idea of a residential suburb. It created four classes of residential use, including multifamily dwellings for more than four families, but established high enough floor area and lot area requirements per family to ensure upper middle or upper income development. It also still limited most land to single-family use. The land use profile in Segoe's 1962 plan indicated that less than 6 percent of the city's land area contained multifamily or commercial structures. Although the new code created several different types of commercial districts, it strictly limited their location—generally to the intersections of major arterials or along Riverside Drive (State Route 33), the city's western boundary. This matched the proposals of the Segoe plan. Thus, forty-four years after incorporation, Upper Arlington still reflected King Thompson's original goal; and
the Segoe plan and its accompanying zoning code provided for a continuation of that ideal.

Upper Arlington's city council and zoning board consistently administered the code to maintain their upper income residential suburb in that state from the time the first zoning code was adopted through 1970. Since Upper Arlington was a larger community than Bexley, as well as an actively growing one, Upper Arlington's municipal officials faced more requests to change land use than their eastside counterparts. Over a forty-three-year period, through rezoning or nonconforming use, Upper Arlington's city council or zoning board changed the use of fifty-six parcels. But like Bexley officials, they made certain the changes did not alter the character of the community. The areas changed to commercial use were either along Riverside Drive or in or adjacent to places that the 1962 Comprehensive Plan had earmarked for neighborhood or community shopping centers. There were no commercial intrusions into established residential areas. The areas rezoned to permit four-family row houses or apartments were adjacent to the existing multifamily structures (some of which predated the 1927 ordinance) or between single-family areas and commercial districts. Thus apartments could serve as buffers. Officials allowed the city to grow and zoning changes met the growing population's needs for more multifamily housing and commercial development, but council and the zoning board strictly controlled the quantity, quality, and site of such development.

Residents of Upper Arlington, like those of Bexley, sometimes found specific provisions of the ordinance limited their enjoyment or use of their property. Thus they presented the zoning board with 582 requests for variances, of which 80.0 percent were granted. Residents sought permission to add rooms, enlarge garages, enclose porches, install swimming pools, and lay tennis courts, proposals which sometimes conflicted with the required yard or setback provisions. Forty-three requests (10.8 percent) involved a variance from some aspect of the zoning code's regulations governing the height and location of fences (Table 6.1). The zoning board generally granted requests if the variance was needed because of some physical irregularity of the lot, or if the change was not contrary to the intent of the code and the plan. At the same time, the board consistently denied lot area variances to construct
more or larger multifamily structures than permitted on the parcel in question. Thus the board controlled the actions of developers but did not unduly restrict homeowners, allowing them to alter their dwellings to suit their lifestyle or convenience—as long as such alteration did not impose on the property rights of their neighbors and it maintained the residential character of the upper middle income suburb.

Two controversies arose in Upper Arlington in 1940 that indicated city officials were clearly in tune with citizens' desires. On the advice of the city attorney, early in 1940 zoning officials approved plans for a gasoline service station at the corner of Lane Avenue and Northwest Boulevard on a Class III (retail business) lot. Nearby residents protested and, under provisions of the code, filed a formal appeal from the approval and for a joint meeting of the zoning board and city council to discuss the matter. At that meeting the city attorney confirmed the correctness of the approval, since the land had been zoned for business since 1927 and service stations were an allowable business use. After additional discussion and statements by residents, the zoning board recommended that council rezone the lot in question to either Class I or II, neither of which would allow the service station to be built. Reluctantly, council refused to do so, again acting on the advice of the city attorney, who indicated the city might face an indefensible legal challenge. By not rezoning the land until after the oil company had purchased it (with its retail zoning) and submitted plans, the city could be construed as having "taken" the value of the property in question. Thus, council allowed a legally permitted, though to some unpleasant, commercial use despite residents' displeasure.

The other 1940 controversy also concerned a nonresidential use, but one generally thought of as contributing to the wholesome character of a community—a church. The original zoning ordinance permitted churches only in Class III districts. In January 1940 the Reverend Large, a Lutheran pastor, approached city officials with a request on behalf of his congregation to erect a church in a Class I district. Several members of the congregation lived in Upper Arlington, which had no Lutheran church at the time. The Reverend Large met with city officials and indicated several possible locations for the new church. Two weeks later
officials adopted a resolution that churches not be permitted on any Class I parcel as long as Class III land was available. The church continued to pursue the issue, however, which came up again at the joint council-zoning board meeting that had been called on the gas station matter. There the zoning board reaffirmed that Class I districts should remain strictly single-family, with churches prohibited. In early May the Lutherans again came before a joint council-zoning board meeting to request permission to erect a church.

By this time, they had arranged to purchase a particular residential site and obtained statements from several nearby property owners that there were no objections to the proposed church. But other residents objected sharply, saying that churches should be limited to the Class III areas where they were already permitted, and that to allow them in residential areas would decrease property values. A church spokesman responded that the church wanted a "commanding site," which no Class III parcel provided. Also, a large enough piece of Class III land cost more than the church could afford, while a comparably sized residential parcel was within its budget. A member of the zoning board then spoke, saying that the matter had been up before the board several times and should be settled once and for all, adding "that as this village was intended by the Planning Commission to be primarily for residential use, and only enough space was reserved for business purposes to meet the need of and be a convenience to its residents, it is the duty of the Zoning Commission to protect and defend human and property rights by carefully guarding ... Single-Family Resident Properties." The zoning board consequently adopted a resolution to that effect, denying the church. Not until passage of a 1949 amendment to the zoning ordinance were churches permitted in single-family districts, and then only on a conditional basis.

Thus, in the future council might allow a church to locate in a residential area but it could require that certain conditions be met.

Like Riverlea and Marble Cliff, Bexley and Upper Arlington had begun with or attained a level of residential exclusivity by the time they adopted zoning ordinances. But although they experienced much more growth and development than their tiny counterparts, they used their zoning codes as effectively to maintain their select residential characters. And their residents heartily approved.
Balance and Diversity:  
Grandview Heights and Worthington

Not all suburbs were as exclusive or as determinedly residential as the four discussed above. Both Grandview Heights and Worthington contained a mix of land uses when they adopted zoning, and both used zoning to maintain that mix. Public controls established industrial and commercial districts and allowed them to expand as needed but never to intrude into established neighborhoods. Both suburbs also had a mix of housing types that served different income groups. Each community controlled new residential development to provide for at least a middle income level but neither allowed the residential character of older neighborhoods to deteriorate. Each used its zoning code to preserve the mix of uses while providing a balance among them.

The situation in Grandview was much like that in Bexley. Although the city had nearly attained its present municipal limits by the time it adopted zoning, and almost all the land within its borders had been platted, many lots were still vacant. The principal task of zoning, then, was to maintain what was there and make sure the rest of the village developed in an appropriate manner.

The city's first zoning ordinance, adopted in 1922, did just that. As the eastern end of the village, an area bisected by railroad tracks, already contained some industrial uses, the ordinance zoned that section of the village for industry. A commercial district separated part of the industrial zone from any type of housing. The code also established a second commercial zone, an area where commercial uses already predominated. The ordinance zoned the rest of the village for single-family homes, with one exception—a rather large area zoned for two-family dwellings that separated the single-family homes from the commercial and industrial districts at the east end of town. Though Grandview's use districts were exclusive rather than hierarchical, four-family row houses could be built in the two-family district by special permit.

Lot area, yard requirements, and setback provisions provided for future middle income, but not exclusive, development. The standards set for the two-family district matched those established in King Thompson's Northwest Boulevard subdivisions, portions of which were included in the two-family zone. The industrial zone's
factories could not be of a type that would "cause noxious odors, chance of explosions, undue fire hazards, ... or public nuisance." In effect, the zoning ordinance was designed to maintain the mix of uses existing at its adoption and ensure comparable quality for future building.

The ordinance apparently did its job, for there were no substantive alterations to it until council revised the entire code in 1963. The new code was more complex, with multiple classes (varying by floor area and lot size) of residential and apartment zones and different types of commercial areas. It was much like its predecessor in effect and application, however.

Over a period of forty-eight years Grandview officials met the needs of a steadily increasing population by gradually expanding the commercial areas and providing slightly more multifamily housing. Apartments and two-family districts still served as buffers between commercial zones and the single-family areas. But all development was of a low density nature except for a luxury high-rise apartment tower approved in December 1959. Public reaction to the high-rise rezoning was similar to Upper Arlington's response to the church and gas station twenty years earlier. Initially council rezoned an undeveloped tract on the edge of town near a newly annexed industrial parcel. Council approved plans for an eight-story luxury apartment building as part of the rezoning. Before the developer could begin construction, however, a change in his financing arrangements led him to change his plans—three years later he returned for a building permit for a twenty-two-story apartment tower. The change from eight to twenty-two stories sparked an outcry and residents claimed that the 1959 rezoning was no longer valid because it had been based on specific plans that were now abandoned. Despite an outside consultant's report that the project would benefit the city, residents continued to resist, claiming that transitory apartment tenants did not contribute to the stability of the community. Nevertheless, council followed the consultant's advice and in 1964 reaffirmed the apartment zoning. To appease residents, they rezoned only that portion of the parcel where the structure was to be built and specified that the remainder of the lot be kept as open space, thus preventing even the appearance of overcrowding.

The zoning board was also responsive to community desires.
Over a forty-eight-year period the zoning board heard 267 requests for some sort of variance and granted 82.8 percent of them. As with the other suburbs, the variances did not increase population density or change the character of the community. More than half (57.3 percent) concerned building or yard setbacks. Residents wanting to erect or alter homes or construct garages where many lots were only fifty feet wide found they needed the board's permission to extend their structures into the setback. An additional 17 percent of the variances involved some aspect of the zoning code's provisions for fences. The variances granted did not really change the city (Table 6.1) although they allowed homeowners to use their property as they chose.

Aware of the growth almost fifty years had brought, Grandview Heights, like Upper Arlington, availed itself of planning funds available under the 1954 Housing Act's Section 701 and contracted with Harland Bartholomew and Associates of St. Louis in the late 1960s to prepare a comprehensive plan. The Bartholomew firm was, of course, familiar with the area from its earlier work for Franklin County and the City of Columbus. The town that Bartholomew found was much like the one that had passed its first zoning ordinance in 1922. Although it had grown up and filled out, it contained the same balanced and diverse mix of uses. Industry provided both a tax base and some employment, commercial development was sufficient to meet the community's needs, and more than one-third of the population lived in two-family or multifamily dwellings (which ranged from modest to luxurious). Zoning had maintained the status quo and Bartholomew's report showed Grandview Heights how to perpetuate it.

Although Worthington grew in both area and population, its experience with zoning was similar. The zoning ordinance the Village of Worthington passed in 1928 was much like that of Grandview Heights. It created the same four use districts: single-family residence, two-family residence, retail, and industrial. The industrial land was at the eastern edge of the village, adjacent to a rail line. The commercial district bordered High Street, south of the original village green. The ordinance zoned the first block of each of the side streets abutting the High Street retail area for two-family residential use but allowed four-family units by special permit. The rest of the village was for single-
family homes. The use districts closely matched existing construction and were hierarchical (like those in Columbus and Upper Arlington) rather than exclusive.

For almost three decades the original ordinance sufficed with little alteration, for the town had not yet begun to grow. The only real change occurred in 1942, when a revised zoning ordinance substituted a multiple-residence district for the two-family district. By the mid-1950s, however, the suburban building boom had hit Worthington. Six annexations—all but one of undeveloped farmland—in three years increased the village’s area tenfold. Worthington officials were determined to control how that land was developed. In 1955 the village passed new subdivision and platting regulations, revised them in 1956, and then revised the zoning code as well. The new code had three classes of residential use, as well as commercial, industrial, and park or agricultural districts. Lot area, setback, and yard requirements were designed to prevent dense development but did not initially limit new construction to upper income dwellings. A 1959 amendment made use districts exclusive.

Like Upper Arlington, Worthington responded to growth and development by upgrading its single-family residence standards. Rather than maintaining exclusivity, however, this merely increased the mix of income levels in the town, as some of the city’s housing was modest to begin with. A totally revised zoning code adopted in 1967 confirmed the mix, with three classes each of single-family and multifamily residence districts. Still, all new development after 1960 was at the higher income levels, and except where council extended the industrial district to the north, it zoned newly annexed land for single-family use.

Worthington’s city council found it necessary to rezone relatively little land, and what changes council did make responded to the needs of a growing community. Almost all changes occurred after 1950. Over a twenty-year period, council gradually increased the length of the High Street commercial district and rezoned some single-family lots for multifamily use where they adjoined the expanded commercial or industrial zones.

Worthington City Council still preserved the original village character, though. Through the decades the city had retained the heart of its original plan, a village green laid out at the town’s 1803
founding. Council permitted no intense development adjacent to the green, and the lots that faced three of its four quadrants held churches and the town library. To maintain its New England heritage, in 1967 council established the Old Worthington Architectural District. The district included the area of the original 1803 village around the village green (roughly sixteen blocks) plus all the street frontage along High Street and Granville Road (the north-south and east-west arterials, respectively) within the municipal boundary. The district designation did not change the zoned use of any parcel or the lot or density specifications. It did, however, require property owners to get approval from the Municipal Development Commission (Worthington’s planning commission) before making any change that would alter the historic character of the district. Though provisions for the Old Worthington Architectural District were not part of the city’s zoning code and did not involve the zoning board in their administration, they clearly imposed limitations on the use of private property.

Like its counterparts in the other suburbs, Worthington’s zoning board generally granted residents’ requests for some variance from the zoning code (77.1 percent); and as in the other suburbs those variances did not really alter the community. A 1958 amendment to the zoning code spelled out the circumstances under which the board could grant a variance request. These involved special circumstances of the land, building, or use peculiar to the lot in question and not affecting those nearby; situations where granting the variance was necessary for the “preservation and enjoyment of substantial property rights”; and occasions where granting the request would not “materially affect adversely the health and safety of neighborhood occupants or be detrimental to the public welfare.” Following these guidelines, the board generally allowed portions of homes or garages to extend into the setback, especially on the older narrow lots, or fences taller than the ordinance standard (Table 6.1). At the same time, the board denied more than half the requests of businesses for some exception to the zoning code’s sign limitations.

Worthington's officials, like Grandview's, perpetuated the mix of uses already in existence at the time they instituted zoning. They then revised and administered their zoning ordinance to prevent deterioration in the original village and ensure high quality
development in new areas. The result was a community whose commercial and industrial districts enjoyed carefully regulated expansion but were not permitted to intrude into residential areas that were mostly, although not exclusively, middle income.

**Ad Hoc Incrementalism: The Case of Whitehall**

Whitehall’s zoning practices were very different from those of the other suburbs. All six discussed above used their zoning codes to maintain or expand their communities with the same character that existed prior to zoning. The relatively few use changes granted were responses to the changed needs of growing towns. Use changes and variances did not substantially alter the communities, although two grew considerably in both area and population. Whitehall, then, presents a contrast. Perhaps the land use provisions of the zoning code did not adequately reflect the needs of the community, or perhaps city officials lacked either a clear conception of the type of community they wanted to maintain or the capacity to achieve their goals. In any event, the nature and number of use changes and variances granted indicate that rather than using their zoning provisions to plan and direct growth and development, officials made every request in essence a spot zoning decision.

The first lots of Whitehall had been platted early in the twentieth century, but the area developed slowly until after World War II. Not until 1947 did the residents incorporate as a village. By 1950 the village population was 4,877. A single annexation in 1952 completed the town’s land acquisition. Now growing rapidly, Whitehall became a city in 1956 and by 1960 was home to 20,818 people.\(^56\)

Whitehall’s initial zoning code was not appropriate for the village’s needs. The first officials took office March 1, 1948, and in June of that year passed a zoning ordinance.\(^57\) That ordinance adopted as the official zoning plan for the village those provisions of the Franklin County Zoning Resolution applicable to land within Whitehall’s borders.\(^58\) The Franklin County Regional Planning Commission had proposed the county zoning resolution from the land use perspective of the county as a whole, however, and not
from that of Whitehall. The ordinance Whitehall adopted zoned all land fronting the four major arterials for local commercial use, extending to the first alley or street but not beyond three hundred feet. Thus the depth of the commercial zone was irregular. All other land was designated one- and two-family residential, although apartments could be permitted on Main and Broad streets (the east-west arterials otherwise zoned commercial) if approved by the Planning and Zoning Commission. This ordinance remained in effect virtually unchanged for four and one-half years.

Council passed a more comprehensive zoning ordinance in 1952 to bring newly annexed land, some of which contained industrial uses, under the jurisdiction of the zoning code. The new ordinance had six classes of single-family residence districts, with the lowest floor and lot area specifications being the FHA minimums for the time. Because much land in the area was used for truck gardening, there was also a zoning classification labeled Farm Residence. The Farm Residence District required minimum lots of at least five acres and permitted the sale of agricultural products on the property (although not within one hundred feet of the street or road). An Apartment House District allowed for up to four-family dwellings, as well as hotels and nursing homes. Local and General Commercial districts provided for retail and office development of varying intensity, and an Industrial District allowed warehouses and similar uses but prohibited heavy manufacturing. Council amended the ordinance twice, first permitting some specified manufacturing uses in the industrial zone, and then creating two new single-family classes with higher floor and lot area minimums than previously provided. However, the lowest minimums in the code (i.e., the least restrictive single-family districts, which followed FHA minimums) remained unchanged. Also at that time, council added a provision stating that if the setback or lot specifications of deed restrictions differed from those in the zoning code, the deed restrictions would take precedence, as long as they met the minimum zoning code standards. This ordinance remained in effect with only very minor changes through 1970.

Although the structure of the zoning code changed very little, land use under it changed a great deal (Table 6.1). Whitehall officials changed the use of 113 parcels over a period of twenty-three years by rezoning or use variance. These included 48 from
row house, apartment, or single-family use to commercial; 30 from commercial or single-family to apartment; and 35 from commercial or apartment to industrial. As all frontage along the city’s four arterials was already zoned for commercial use, the rezonings to commercial either extended the depth of the commercial district beyond the first alley or three hundred feet, or allowed commercial intrusions into residential areas. Some of the changes to apartment use were in buffer areas but others were tracts once platted for single-family development and not yet built on or odd infill parcels on single-family streets.

The changes to industrial use, most of which were accomplished by use variance rather than rezoning, largely resulted from a oddity in the zoning code itself. The list of permitted uses in the Local and General Commercial districts did not include any automobile-related activities. Such uses as gasoline service stations, car washes, and new and used car dealerships were classed as industrial and thus not permitted on the major thoroughfares. Rather than amending the code to permit such uses of right in commercial areas, or selecting specified locations along the major streets (where such uses would be convenient to residents but not create traffic or other problems) and rezoning those lots industrial to permit auto-related uses, or even creating a new use classification, council preferred to deal with the requests on a one-by-one basis. Each request granted was thus an instance of spot zoning. Property owners could almost be assured of permission to change the use of their land; of 158 zoning actions heard by council, only 1 failed to pass.61

Whitehall’s zoning board was less active than the city council on zoning matters, and also less likely to grant property owners’ requests. The approval rate was 73.5 percent.62 The nature of the variances, however, was more important than their number. Almost half the requests concerned extensions into the building setback and one-fourth involved lot specifications. Unlike the situation in the other suburbs, many of the setback requests were not the result of homeowners seeking to build or remodel homes on narrow lots. Instead, they came from business property owners wanting to place their buildings closer to the street than the setback line permitted because other businesses on the street were already in the setback. The board did not view the existing
structures as being nonconforming in location and make new ones meet the code; instead, it exempted new structures from conformance as well. The lot specification variances arose in situations where property owners wanted to split an existing lot into two separate lots to create two developable parcels instead of one. In these cases, which were overwhelmingly approved, both new lots were narrower than the minimum specified by the zoning code. Thus, the variances granted were most often to serve the property owners' prosperity rather than because some irregularity of the lot made conformance with code provisions difficult or impossible.

Officials developed the pattern of granting exceptions to zoning provisions governing property use, building setbacks, or lot specifications early in Whitehall's history. In later years they followed their own existing precedent, granting more such exceptions. The result was to increase both the density and intensity of land use but without any consciously thought-out intent to do so. Village officials did not adopt a comprehensive plan indicating what they desired for their community in ten or twenty years' time, although the zoning ordinance of 1952 could have served that purpose had officials followed it more closely.65 The result was considerable change in the character of the community as it grew. Where once suburban subdivisions had nestled among large and small farms, by 1970 Whitehall was a patchwork of single-family homes (on lots of widely varying dimensions), apartment buildings, and amorphous commercial areas or spot commercial and automobile-related uses. Rather than being planned change, directed at a specific goal, however, Whitehall's change was incremental, occurring in response to an undirected, case-by-case, ad hoc decision-making process.

The Suburban "Status Quo"

The zoning experiences of these seven Columbus suburbs only partially support Siegan's statement about suburban zoning quoted at the beginning of this chapter: "It has been used to accomplish the common objective of suburbanites everywhere of maintaining a single-family character for their community." Four suburbs were overwhelmingly single-family residential communities when they
adopted zoning, and all four used zoning to maintain that status. Moreover, one did so while growing in population and another while growing in both population and area.

Two other suburbs, however, had a greater mix of both housing types and land uses when they adopted zoning. Rather than zoning almost all land for upper middle income single-family homes and applying their zoning codes to eliminate other uses gradually, these two expanded their multifamily housing or industrial and commercial districts to maintain the mix. They carefully controlled the expansion of those areas, however, that did not have single-family housing to prevent negative impacts and to preserve the residential quality of the existing neighborhoods. But they did not try to create homogeneous single-family bedroom communities. Thus there was sufficient balance and variety of land uses to meet each city's needs.

The final suburb neither maintained single-family exclusivity nor controlled and directed alternative land use patterns. While the structure of the suburban ordinances did not differ greatly, clearly their administration did. So "when you've seen one suburban ordinance," you have not really seen them all—until you have examined their application to the land.

Whether or not they effectively used zoning to serve community needs, there is no evidence that any of the suburbs used it for explicitly racial purposes. They did not need to for other factors worked to provide near homogeneity of race. A very small community of blacks had lived in Worthington since the Civil War. Similarly, a few black families had farmed land since the mid-nineteenth century that was annexed for development into Upper Arlington in the 1950s. Racial covenants in deeds through 1948, and income restrictions in deeds throughout the development process, effectively kept those two suburban minority populations small and prohibited minority entrance into other suburbs. Fairly high standards for single-family residences in suburban zoning codes perpetuated the income patterns developers had initiated, and relatively few minorities could have afforded the suburban homes built after 1948. Only Whitehall in the 1950s and 1960s had much new development modest enough to permit black homeownership. But that development was geared to the FHA market, and since the FHA did not insure mortgages in racially mixed areas few
realtors sold Whitehall homes to blacks. By 1970 less than 1 percent of the entire Franklin County suburban population was nonwhite.

Although their purposes differed somewhat, six suburbs effectively used zoning for a specific purpose. The seventh did not. What accounts for the difference? It was not size, for the smallest and the largest were equally successful, while the one that was less so falls in the middle in terms of size. Nor is the difference explained by timing, whether with respect to when the suburbs adopted zoning or with respect to periods of physical growth. All those suburbs in existence in the 1920s, when the concept of public land use controls achieved its greatest support and adoption, passed zoning ordinances at that time. The other two (Riverlea and Whitehall) adopted zoning ordinances almost coincidentally with municipal incorporation. The two that experienced extensive physical growth after instituting zoning (Upper Arlington and Worthington) used their public controls to direct development in new areas. The one whose zoning was not an effective land use control device grew only slightly after adopting zoning, and four others that used public controls effectively did not grow in area at all.

Moreover, though planning theory would require that effective zoning conform to a comprehensive plan, none of the suburbs had formal plans by 1960 and only two had them a decade later. A formal plan thus cannot explain the difference. However, a well-drafted comprehensive zoning code could function as a plan, and in six communities it did. Officials in six suburbs had a clear vision of their communities' future. Four were to be almost entirely residential, while two others balanced homes with businesses and industries but protected residential areas. All six passed zoning ordinances to effect their visions and administered them consistently. Zoning effectively directed land use patterns in those six. In the seventh, there was apparently neither vision nor direction. Variances and use changes negated the comprehensiveness built into the zoning code. Officials, it seemed, could not see the forest for the trees.

Equally clear is the importance of developers in determining land use patterns. Developers initially established Riverlea, Marble Cliff, Bexley, and Upper Arlington as middle or upper middle income residential suburbs. Public land use controls had merely to perpetuate an established pattern. (This is particularly
the case for Riverlea and Upper Arlington, since each was largely the product of a single developer's efforts.) Grandview Heights and Worthington officials adopting zoning faced a pattern of diverse uses that property owners' actions had created. Local public officials determined how those diverse areas could grow, but private actions had created the initial land use pattern. And in Whitehall it was private property owners, whether building businesses of a type or in a place where the zoning code said they should not or building apartments or homes on too small lots, who determined the use of the land. Thus, while public officials played the zoning game, private property owners and developers had prepared the playing field.