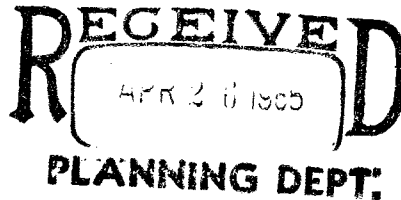




# planning advisory service

AMERICAN SOCIETY OF PLANNING OFFICIALS

313 EAST 60th STREET — CHICAGO 37, ILLINOIS



Information Report No. 96

March 1957

## NEW DEVELOPMENTS IN ARCHITECTURAL CONTROL\*

Now, who shall arbitrate?  
Ten men love what I hate,  
Shun what I follow, slight what I receive;  
Ten, who in ears and eyes  
Match me: we all surmise,  
They, this thing, and I, that: whom shall my soul believe?  
--"Rabbi Ben Ezra," by Robert Browning

Whether we approve, reject, or remain doubtful about a theoretical principle may depend on how successfully it works in practice. Architectural control is no exception.

The idea of creating a beautiful city is appealing, but in seeking the ideal there are some courses of action that will bring unwanted ends as well as the ends sought. The confusion over architectural control lies both with a definition of the end -- what makes a beautiful city? -- and with the means -- will architectural control of individual buildings improve the appearance of the city?

A great many people help to decide architectural forms through the pocket book. If they don't like something, they don't buy it. As far as their means permit, they demand what is pleasing to them. However, business executives generally leave to the experts the design of an efficient building; home buyers leave to the experts what is architecturally possible within a given price range.

But when the location and relationship of different structures to each other is determined, the decisions of many different individuals as a whole take on a different aspect. What you don't like may be located right next to what you do like. The separate house may appeal, but the over-all aspect of street or community may displease you. The individual makes his choice, but

\*Copyright, American Society of Planning Officials, 1957

as everyone else has the same privilege to choose what is pleasing the result may be an over-all picture that is disharmonious and objectionable to all.

Thus the appearance of buildings enters the province of local government. How can it be insured that many isolated selections based on individual taste will be appealing in the whole? There is an evident paradox here. Each individual makes a free choice and insists on this as a right, but when he finds he doesn't like what other people choose in relation to his choice, he wants to do something about it. Some compromise of personal freedom in a framework acceptable to the many is the theoretical solution called for, and this is what architectural control attempts to do.

The principal questions raised by architectural control are dealt with in this report. Who shall judge what is architecturally pleasing? Are there standards to guide an architectural board of review in deciding what is acceptable? Can individual choice and taste be compromised with the not too clear tenets of "general acceptability"?

Architectural control is a broad term that sometimes covers regulations governing dimensions and structural features of buildings as well as their appearance. However, it is appearance with which we are primarily concerned in this report, since requirements for adequate space and light, air, drainage, access, and safety may unquestionably be controlled under the police power. This study is also limited to public regulation of appearance. Private covenants and voluntary participation in architectural review programs, unenforced by legal means, are not discussed.

Structures other than buildings have been subjected to architectural control. The most notable example is the billboard, which has received considerable attention in other reports. (See, for instance, ASPO's Information Report No. 28, Signs and Billboards, published in July 1951.) Another type of architectural control, intended to protect old and historic districts, was covered in Preservation of Historic Districts by Architectural Control, by John Codman, published by ASPO in 1956.

In an earlier Information Report, No. 6, Architectural Control, published in September 1949, PLANNING ADVISORY SERVICE reported on the practice of architectural control on the basis of a questionnaire sent out that year.

The main points brought out in the 1949 survey are still in effect in many communities that practice architectural control. These were:

1 -- Architectural control is usually exercised under zoning authority. Exceptions are amendments to the building code or a special architectural control ordinance, although the latter is generally aimed at preservation of historic areas.

2 -- Special funds have been allotted for architectural control in a few cities. Ordinances in two cities in one state provide that each member of the architectural board of review will receive a \$25 fee for each meeting, but not more than \$1,500 a year.

3 -- Architectural control may be enforced by means of penalties in all localities (according to the replies to the questionnaire) except one, where compliance with controls is voluntary only.

4 -- The most common method of enforcing control is to withhold the building permit sought by the person wishing to erect or alter a structure. In some cities and counties, in addition to withholding the building permit, municipal services may also be withheld.

5 -- All municipalities reported that the controls are enforced -- with the exception of one, in which at that time no architectural control district had been established.

6 -- In most cases, control is exercised over only certain sections of the jurisdictional area -- for example, along specified highways, in entrance districts (points of entry into the city), commercial districts. Controls apply in all districts in some cities.

7 -- Controls usually apply to alterations of buildings, as well as to new construction; almost uniformly the alterations that are covered are those that affect the external appearance of a building, some even being limited to the front elevation.

8 -- In some jurisdictions the planning commission is charged with the responsibility of reviewing architecture. In others, a board of architects or an architectural advisory committee assists the planning commission. Several cities have a separate board to judge architectural fitness.

9 -- In some communities, the members of the control agency are required to be architects. In several places, the members must be residents of the district in which the control is exercised. Various other qualifications -- of official position or technical training -- have been established. In many cases the members of the planning commission or its staff exercise the control function.

10 -- Standards for judging architecture of proposed buildings have not been developed uniformly. The wording of the ordinances varies in specificity and inclusiveness of the factors that should be taken into consideration in judging architecture.

11 -- Procedurally, rapid judgment of the proposed plans is emphasized. Within a specified period of time (sometimes as short as 15 days) the control agency must act or by failure to act will be deemed to have given its approval to the application.

12 -- In a number of municipalities there is no agency to which appeals may be made if the individual applying for a building permit disagrees with the ruling of the control agency. In a number of communities, the legislative body -- the city council or the county board of supervisors -- is the body to which appeals may be made.

13 -- Public hearings are held in only a few municipalities. They take place prior to establishing the district in which control is to be exercised or when

appeals are made, but they are not held at the time of initial request for a building permit.

14 -- None of the municipalities reported that architectural controls had been tested in the higher courts. (Monterey County, California, in 1938, however, had its ordinance upheld in a lower court, in the case of County of Monterey vs. William Thomas Bassett et al. The judge said that he hoped the courts were sufficiently advanced to sanction such regulations.)

15 -- Planning commissions are usually instrumental in obtaining architectural controls.

16 -- Public support of architectural control is evidenced in some reports. The purpose of our present study is to bring Information Report No. 6 up to date. Analysis of ordinances adopted and court decisions handed down since 1949, rather than another questionnaire, is the basis for this report.

#### Buildings Must Not Look Too Similar

A major development in architectural control is the anti-look-alike provision. In Information Report No. 6, the provisions analyzed emphasized "harmony" or look-alike features. For example, in one city the ordinance read, "the type of architecture should harmonize with the existing structures." In another city the duty of the architectural board of review is to determine whether "the exterior design and appearance of such structure is or is not so at variance with the exterior design and appearance of structures constructed or in course of construction in the neighborhood of said proposed structure which is in the same zoning district as the proposed structure as to cause material depreciation generally to property in said neighborhood."

Compare the following "look-alike" provision from the Dearborn, Michigan zoning ordinance (1953) in which uniformity or "harmony" is the goal, with the anti-look-alike provision of Scarsdale, which follows on page five.

In Residential zones, after 25% of the lots and frontage on the side of the street in any block where the proposed improvement is contemplated have been improved by the erection of residences thereon, if one-half or more of the residences build in any such block are of a certain type and style, the remainder of the residences to be constructed, altered, relocated or repaired in such block shall be of a substantially similar type and style so that the new or altered buildings will be in harmony with the character of the neighborhood; provided, however, that nothing herein shall prevent any residential block from being upgraded by installing an exterior finish thereon having fire or weather resistance made of brick or stone, which is greater than the minimum herein required, or by constructing in such block a residence having floor area greater than the average floor area of residences in such block. Such type and style shall be such as not to impair or destroy property values in the block, it being hereby determined that the foregoing requirement is necessary for the general welfare, public peace, and happiness of the public.

It is recommended that the architectural design and plan of all residential buildings in the City will be made in such manner to maintain a high character of community development and to protect property in the City from impairment or destruction of its value. This may be accomplished by suggesting, according to proper architectural principles, the design, use of materials, finished grade lines and orientation of all new buildings or alterations, relocating or repairing of old buildings so as to be in harmony with the other buildings in the area.

Subsequent to our earlier report, Scarsdale, New York amended its building code to provide a completely different approach to the problem of architectural control. It is apparently the first attempt to insure variety in residential architecture. The first two sections of the Scarsdale provision are reproduced here.\*

Village of Scarsdale -- Local Law No. 1 of 1950

A local law to regulate uniformity in the exterior design and appearance of buildings erected in the same residential neighborhood for occupancy as dwellings for one or two families and to create and define the powers and duties of a board with authority to hear and decide appeals from action relating thereto.

Be it enacted by the Board of Trustees of the Village of Scarsdale as follows:

Section 1. The Board of Trustees hereby finds that uniformity in the exterior design and appearance of buildings erected in the same residential neighborhood for occupancy as dwellings for one or two families adversely affects the desirability of immediate and neighboring areas for residence purposes and by so doing impairs the benefits of occupancy of existing residential property in such areas, impairs the stability and value of both improved and unimproved real property in such areas, prevents the most appropriate use of such real property, prevents the most appropriate development of such areas, produces degeneration of residential property in such areas with attendant deterioration of conditions affecting the health, safety and morals of the inhabitants thereof, deprives the municipality of tax revenue which it otherwise could receive and destroys a proper balance in relationship between the taxable value of real property in such areas and the cost of the municipal services provided therefor. It is the purpose of this local law to prevent these and other harmful effects of uniformity in the exterior design and appearance of buildings erected in the same residential neighborhood for occupancy as dwellings for one or two families and thus to promote and protect

---

\*The ordinances reproduced in this report illustrate new developments. The editors do not necessarily agree with the principles represented in these provisions.

the health, safety, morals and general welfare of the community.

Section 2. Except as provided in this local law, no building permit shall be issued under the Building Code of the Village for the erection of any building for occupancy as a dwelling for one or two families if it is like or substantially like any neighboring building, as hereinafter defined, then in existence or for which a building permit has been issued, in more than three of the following respects:

- (1) Height of the main roof ridge, or, in the case of a building with a flat roof, the highest point of the roof beams, above the elevation of the first floor;
- (2) Height of the main roof ridge above the top of the plate (all flat roofs shall be deemed identical in this dimension);
- (3) Length of the main roof ridge, or in the case of a building with a flat roof, length of the main roof;
- (4) Width between outside walls at the ends of the building measured under the main roof at right angles to the length thereof;
- (5) Relative location of windows in the front or any side elevation with respect to each other and to any door or doors in the same elevation;
- (6) Relative location with respect to each other of garage, if attached, porch, if any, and the remainder of the building in the front elevation.

Buildings shall be deemed to be like each other in any dimension with respect to which the difference between them is less than two feet. Buildings between which the only difference in relative location of elements is end to end or side to side reversal of elements shall be deemed to be like each other in relative location of such elements. In relation to the premises with respect to which the permit is sought, a building shall be deemed to be a neighboring building if the lot upon which it or any part of it has been or will be erected is any one of the following lots, as shown on the tax map of the Village:

- (a) Where it fronts on the street upon which the building to be erected on said premises would front, any lot which is the first or the second lot next along said street in either direction from said premises, without regard to intervening street lines, or any lot any part of the street line frontage of which is across said street from said premises or across said street from the first or the second lot next along said street in either direction from said

premises, without regard to intervening street lines;

(b) Where it faces the end of said street and there are less than two lots between said premises and the end of said street, any lot any part of the street line frontage of which faces the end of, and is within the width of, said street; or

(c) Where it fronts on another street intersecting or entering said street, any lot on such other street which adjoins said premises, or any part of the street line frontage of which is across such other street from said premises or across such other street from such adjoining lot, or which is on the corner and is only one lot removed from said premises.

The first anti-look-alike provision, adopted by Scarsdale in 1950, was followed in 1954 by the adoption of a similar provision in the zoning ordinance of Princeton Township, New Jersey.

In addition to the Scarsdale and Princeton Township provisions, Arlington Heights and Lake Forest, Illinois; South Euclid, Ohio; Englewood, New Jersey; Garden City and Rye, New York; Barrington, Rhode Island; Madison, Wisconsin; and the townships of Etobicoke, North York, and Toronto in Canada have all established architectural controls to prevent excessive similarity. Fox Point, Wisconsin amended an earlier provision (see page 14) and now restricts excessive similarity, as well as disparity of design. In fact, must-not-look-alike provisions are now being adopted as often, if not more often, than the opposite type of provision. The phenomenon that led to the anti-look-alike provision is the rash of almost identical houses that have sprung up in every metropolitan area in the United States and Canada.

The ordinance that requires similarity of architectural treatment applies to built-up areas. The ordinance that requires variety usually applies to undeveloped areas. The increasing number of suburban look-alike developments is the spur behind the anti-look-alike provisions.

In the same year that Princeton Township, New Jersey adopted its provision to prevent builders from putting up houses that are too similar, a survey made by the American Institute of Public Opinion found that of those questioned more adults were in favor of such a law than were opposed. This was the question asked: "In some places there are laws which keep builders from building houses that all look alike. Would you favor or oppose such a law in this community?" The nationwide vote was tabulated by size of community:

	<u>Favor</u>	<u>Oppose</u>	<u>No opinion</u>
Nationwide	47%	39%	14%
City size:			
Over 100,000 pop.	47	36	17
Suburban areas	61	32	7
10,000-100,000	53	33	14
2,500-10,000	48	47	5
Rural, farm areas	37	47	16

## Aesthetics as a Basis for Public Regulation of Private Property

According to Webster's Dictionary, aesthetics is " the branch of philosophy dealing with the beautiful, chiefly with respect to theories of its essential character, tests by which it may be judged, and its relation to the human mind."

Architectural controls are local ordinances regulating the construction and design of buildings. These laws deal with specific architectural features and sometimes encourage a certain architectural style. The proponents and administrators of such laws believe that architectural control is applied aesthetics. They also think that the enforcement of an architectural control ordinance will result in a more beautiful city. These opinions are open to question.

Nevertheless, appearance as a factor in zoning is beginning to receive judicial recognition. Architectural control laws regulate appearance; appearance is certainly within the realm of aesthetics. But architectural controls are not the same as aesthetics. Even with the police power to enforce them, regulations governing design will not insure an environment that is pleasing to the eyes of everyone.

The opinions of judges, especially in the higher courts, have a far-reaching effect on the acceptance of ideas and practices. Since 1949, there have been discussions of aesthetics in 17 court cases dealing with some aspect of land use. Fifteen of them were zoning cases. The opinion that aesthetic considerations are important is expressed slightly more often than the opposite view that aesthetics is not a basis for zoning, or if so, is only a minor consideration. Of these, only one has dealt with an architectural control ordinance.

The case of Berman v. Parker, 348 U.S. 26, 75 S.Ct. 98, has been widely quoted because it was tried by the United States Supreme Court. An important point to note is that it was not a zoning case\* The validity of acquiring property by eminent domain under the District of Columbia Urban Redevelopment Act of 1945 and turning the land over to private developers was the issue at stake. The remarks on the subject of aesthetics were made in clarifying the powers of Congress as limited by the Fifth Amendment.

The language of Mr. Justice Douglas in upholding the constitutionality of the District of Columbia Redevelopment Act was extremely broad:

Public safety, public health, morality, peace and quiet, law and order -- these are some of the more conspicuous examples of

---

\*The decision of the District judges is reviewed in part in the January 1954 ASPO NEWSLETTER under the citation Schneider v. District of Columbia et al.; Morris v. District of Columbia Redevelopment Land Agency, November 5, 1953, before Prettyman, Circuit Judge, and Curran and Keech, District Judges, sitting as a statutory three-judge court. A summary of the decision reached by the Supreme Court when the case was tried before that body appears in the December 1954 NEWSLETTER.



the traditional application of the police power to municipal affairs. Yet they merely illustrate the scope of the power and do not delimit it . . . .The concept of the public welfare is broad and inclusive. . . .The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well-balanced as well as carefully patrolled. . . .If those who govern the District of Columbia decide that the Nation's Capital should be beautiful as well as sanitary, there is nothing in the Fifth Amendment that stands in the way.

Once the object is within the authority of Congress, the right to realize it through the exercise of eminent domain is clear. For the power of eminent domain is merely the means to the end. . . . Once the object is within the authority of Congress, the means by which it will be attained is also for Congress to determine. Here one of the means chosen is the use of private enterprise for redevelopment of the area.

Excluding Berman v. Parker, the objects or land uses involved in pertinent court cases tried since 1949 fall into several categories. Signs or billboards, junk or lumber yards, or quarries were involved in 11 of the cases. Only five of the 16 cases dealt with buildings. In three of these five cases, aesthetic considerations were declared insufficient as a basis for regulation.

The citation and a brief indication of the nature of each of the 14 cases that dealt with land uses other than buildings, or in which aesthetics was declared not a basis for action, are listed below. (Key words are underlined by the editors.)

Barney & Casey Co. v. Town of Milton, Supreme Judicial Court of Massachusetts (June 16, 1949) 87 N.E.2d 9 (summarized in the September 1949 issue of ZONING DIGEST, p. 91) -- The Supreme Judicial Court said:

Aesthetic considerations may not be disregarded in determining the validity of a zoning by-law, but they do not alone justify restrictions upon private property merely for the purpose of preserving the beauty of a neighborhood or town. Undue weight must not be given to aesthetic considerations which can only play an incidental or ancillary role in some real, substantial, and sufficient basis for the imposition of zoning restrictions. Regard for the preservation of the natural beauty of a neighborhood makes the enactment of a zoning regulation desirable but does not itself give vitality to the regulation.

Borough of Point Pleasant Beach v. Point Pleasant Pavilion, Inc., Superior Court of New Jersey, Appellate Division, Part A. (May 12, 1949) 66 A.2d 40 (Vol. 1 ZD, p. 66) -- A requirement that most business be conducted within a building was held unconstitutional. The court found aesthetics alone not a proper basis for zoning.

122 Main Street Corp. v. City of Brockton, Supreme Judicial Court of Massachusetts, Plymouth (Feb. 24, 1949) 84 N.E.2d 13 (Vol. 1 ZD, p. 23) -- Minimum building height was held illegal; aesthetics was found not a proper basis for zoning. The court said in part:

It is not within the scope of the act to enact zoning regulations for the purpose of assisting a municipality to retain or assume a general appearance deemed to be ideal, or to inflate its taxable revenue. These objectives overlap any reasonable conception of the conservation of the value of property.

Town of Vestal v. Bennett et al., Supreme Court, Broome County, June 30, 1950, 103 N.Y.S.2d 830 (Vol. 3 ZD, p.113) -- Requiring that junk yards be fenced was held illegal. Aesthetics alone was found insufficient to justify use of the police power.

Jefferson County v. Ernest Timmel, Supreme Court of Wisconsin, August Term, 1951 (Vol. 4 ZD, p. 46) -- The trial court, in addition to holding that the zoning ordinance was in the interest of safety, also stated: "The present Highway 30 is beautiful. For esthetic reasons this beauty should be preserved." The Supreme Court said that the general rule is that the zoning power may not be exercised for purely aesthetic considerations, but there are authorities that indicate that the rule on this subject is undergoing development. It has been declared by some authorities that "In relation to the validity of zoning laws . . . esthetic considerations are not wholly without weight, and may be taken into account where other elements are present to justify the regulation under the police power." The court found it unnecessary to resort to aesthetic considerations in upholding the validity of the ordinance.

Town of Nichols Hills et al. v. Aderhold, Supreme Court of Oklahoma, Oct. 21, 1952, 250 P.2d 36 (Vol. 5 ZD, p. 61) -- This was not a zoning case, but a local law said that "every residence erected on any lot shall front or present a good frontage on the street or streets on which said plot fronts." Apparently a group of property owners protested the construction of a new home that had no entrance on its street side. There was some question as to which direction the house fronted because of its design. What was apparently involved was the dislike of the owners of surrounding property for the design of the proposed structure. The lower court admitted expert testimony from architects, who said that the house, as designed, would present a good frontage on the street on which the lot faced.

Merritt v. Peters et al., Supreme Court of Florida, en Banc, June 2, 1953, reh. den. July 10, 1953, 65 So.2d 861 (Vol. 5 ZD, p. 171) -- The zoning regulations prohibit signs in excess of 40 square feet. The Supreme Court said in part:

We have no hesitancy in agreeing with him that the factors of health, safety and morals are not involved in restricting the proportions of a sign board, but we disagree with him in his position that the restriction cannot be sustained on aesthetic grounds alone. . . .

We must hold that although safety, morals and health of the general public in the territory do not demand the restrictions, the general welfare does and that the chancellor ruled quite correctly when he dismissed the bill of complaint seeking to restrain enforcement of the regulation on the ground that it was a violation of the plaintiff's constitutional rights. . . .

A dissenting justice was of the opinion that aesthetics did not provide a suitable basis for zoning.

Delmar v. Planning and Zoning Board of the Town of Milford et al., Court of Common Pleas of Connecticut, New Haven County, April 7, 1954, 109 A.2d 604 (Vol. 7 ZD, p. 67) -- A junk yard was prohibited in a heavy industrial zone. The court said that even some residential property, from an aesthetic standpoint, is not on a par with the industrial zone in which the property in question is located. Aesthetics was considered a basis for zoning.

New York Trap Rock Corp. v. Town of Clarkstown, Supreme Court, Appellate Division, March 5, 1956, 149 N.Y.S.2d 290 (Vol. 8 ZD, p. 98) -- A quarry was prohibited in a residential district. The court said that aesthetics may be taken into account.

Feldstein v. Kammauf et ux., Court of Appeals of Maryland, April 6, 1956, 121 A.2d 716 (Vol. 8 ZD, p. 157) -- The court held that a junk yard need not be enclosed and that aesthetics is not a proper basis for determining whether a junk yard is a nuisance.

Clary v. Borough of Eatontown, Superior Court of New Jersey, Appellate Division, July 10, 1956, 124 A.2d 54 (Vol. 8 ZD, p.235) -- A minimum lot area of 20,000 square feet was upheld. The court said, "It is no longer to be doubted that /community attractiveness/ is an appropriate consideration within the statutory criterion of the 'general welfare'."

City of Shreveport v. Brock, Supreme Court of Louisiana, June 11, 1956, reh. den. June 29, 1956, 89 So.2d 156 (Vol. 8 ZD, p. 248) -- The court ruled that a junk yard must be enclosed; aesthetics may be a secondary factor in police power control.

Stoner McCray System v. City of Des Moines, Supreme Court of Iowa, Oct. 16, 1956, 78 N.W.2d 843 (Vol. 9 ZD, p. 44) -- The court said that since the billboards in question had been legally erected and since there had been substantial expenditure of funds, plaintiffs had acquired a vested right that could not constitutionally be taken away from them through the zoning ordinance. In its decision, the court made the following statements:

Billboards properly may be put in a class by themselves and may in the future be prohibited "in residence districts of a city in the interest of safety, morality, health, and decency of a community". . . .

Aesthetic consideration can be said to enter into the matter as an auxiliary consideration where the zoning regulation has a real

or reasonable relation to the safety, health, morals, or general welfare of the community. . . .

We do not wish to infer here that under certain circumstances a municipality could not provide for the termination of nonconforming uses . . .

International Co. v. City of Miami Beach, Supreme Court of Florida, Nov. 28, 1956, 90 So.2d 906 (Vol. 9 ZD, p. 42) -- In connection with the removal of a sidewalk sign advertising a coffee shop, the Supreme Court of Florida said:

One of the principal purposes of [the zoning ordinance] was the preservation of the attractiveness of the city . . . We have upheld zoning generally in the Miami Beach area, where the principal consideration was aesthetics on the showing that because of the very nature of the place, restrictions that had no relevancy to health, safety and morals, could be imposed because the general welfare of the community depended upon preserving its beauty.

The first of the zoning cases involving aesthetics and buildings, and in which aesthetics was not ruled out as a basis for zoning, was Lionshead Lake, Inc. v. Wayne Township, Supreme Court of New Jersey, June 26, 1952, 89 A.2d 693 (Vol. 4 ZD, p. 141). (This is not, however, an architectural control case.)

The township of Wayne in Passiac County adopted a revised zoning ordinance in which it established minimum sizes of dwellings. It provided that every dwelling erected in a Residence A District should have a living floor space of not less than 768 square feet for a one-story building; not less than 1,000 square feet for a two-story dwelling having an attached garage; not less than 1,200 square feet for a two-story dwelling not having an attached garage. The minimum size requirements for dwellings were made applicable to Residence B Districts, to business districts and to industrial districts. The result was that the same minimum size requirements for dwellings prevailed throughout the entire township. About 70 per cent of all the existing dwellings met the minimum requirements of the ordinance.

The trial court held the ordinance to be valid. On appeal, this judgment was reversed by the appellate division of the superior court.

The Supreme Court reversed the appellate division. In so doing it seems to have relied heavily upon the constitutional provision that provides that local laws must be construed liberally. The court held that when the enabling zoning statutes are read in the light of the constitutional mandate to construe them liberally, there can be no doubt that a municipality has the power to impose minimum living floor space requirements for dwellings through a suitable zoning ordinance.

The Supreme Court, by a majority, held that minimum floor area standards are justified on the ground that they promote the general welfare.

The size of the dwellings in any community inevitably affects

the character of the community and does much to determine whether or not it is a desirable place in which to live.

If some such requirements were not imposed there would be grave danger in certain parts of the township, particularly around the lakes which attract summer visitors, of the erection of shanties which would deteriorate land values generally to the great detriment of the increasing number of people who live in Wayne Township the year round. The minimum floor area requirements imposed by the ordinance are not large for a family of normal size. Without some such restrictions there is always the danger that after some homes have been erected giving a character to a neighborhood, others might follow which would fail to live up to the standards thus voluntarily set. This has been the experience in many communities and it is against this that the township has sought to safeguard itself within limits which seem to us to be altogether reasonable.

Justice Jacobs wrote an interesting concurring opinion. He said:

The provision with respect to two-story dwellings were influenced in considerable part by aesthetic consideration which I believe to be entirely proper. . . .I recently expressed the view to which I adhere fully, "that it is in the public interest that our communities, so far as feasible, should be made pleasant and inviting and that primary considerations of attractiveness and beauty might well be frankly acknowledged as appropriate, under certain circumstances, in the promotion of the general welfare of our people."

Justice Jacobs also gave the following quotation from Jonathan Swift's "Verses on Blenheim":

Thanks, sir, cried I, 'tis very fine,  
But where d'ye sleep, or where d'ye dine?  
I find, by all you have been telling,  
That'tis a house, but not a dwelling.

Two of the justices dissented from the decision, basically on the grounds that to impose identical living floor space minimums on all the sections of such a municipality is to fail completely to give any consideration whatever to the "character of the district and its peculiar suitability for particular purposes."

Justice Oliphant, in dissenting said, in part:

My views on this particular phase of zoning do not prohibit minimum floor space in a house in particular districts or a proper correlation of minimum floor space in the house and the area of the lot or lots in question, but I cannot agree with the majority when they state with respect to this minimum square footage requirements that "whether it will 'prevent the overcrowding of land or buildings' and 'avoid undue concentration of the

buildings' depends in large measure on the wisdom of the governing body of the municipality." This is clearly indicative of a lack of standard with respect to this particular phase of zoning in the Zoning Act itself and it assumes that the discretion of the zoning board of the governing body of a municipality amounts to wisdom. . . .

The larger minimum size for a two-story house that does not have a garage attached is a point that was, surprisingly, disregarded in this case. This requirement is the obvious aesthetic consideration, and it is the type of ruling that the opponents of architectural controls feed on. Living space is evidently now a necessary substitute for garage space, as if they were used interchangeably. If you don't have an attached garage you must have additional floor space, or your health, safety, and welfare will be threatened. Or is it that the sight of the extra expanse of building is necessary for the welfare of neighbors with certain values?

The decision of the Supreme Court of New Jersey was, in effect, upheld, when on January 19, 1953, the Supreme Court of the United States granted a motion to dismiss the appeal taken to it in the Lionshead Lake case. The appeal was dismissed on the ground that no substantial federal question was involved.

The first case that appeared to give architectural control the stamp of approval, as well as uphold aesthetics as a basis for zoning, was State ex rel. Saveland Park Holding Corp. v. Wieland, Supreme Court of Wisconsin, March 8, 1955, 69 N.W.2d 217 (Vol. 7 ZD, p. 97)

The zoning ordinance of the Village of Fox Point, Wisconsin contains the following provision which attempts to achieve harmony of external appearance of structures:

No building permit for any structure for which a building permit is required shall be issued unless it has been found as a fact by the Building Board by at least a majority vote, after a view of the site of the proposed site of the proposed structure, and an examination of the application papers for a building permit, which shall include exterior elevations of the proposed structure, that the exterior architectural appeal and functional plan of the proposed structure will, when erected, not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district established by Ordinance No. 117 [the general zoning ordinance of the village], or any ordinance amendatory thereof or supplementary thereto, as to cause a substantial depreciation in the property values of said neighborhood within said applicable district.

Other sections of the ordinance provide that the building board must consist of three residents of the village, two of them architects (landscape architects are included within the definition). The ordinance also provides a method of appeal from the decision of the building board to the board of appeals of the village.

The constitutionality of the ordinance was challenged by a firm that sought a permit to build a two-story brick colonial house with attached two-car brick garage, which was to be built from one of the company's standard plans. The cost of the structure, exclusive of the lot, was estimated to be about \$20,000. The house was to have a living room, dining room, kitchen, three bedrooms and one and one-half baths. The permit was refused on the grounds that the proposed building would be out of keeping with the neighborhood.

The trial court held the ordinance unconstitutional for three reasons: (1) that the preservation of property values is not by itself a proper objective for the exercise of the zoning power; (2) that the ordinance is essentially concerned with aesthetics, which also is not a proper basis for the exercise of the police power; and (3) that the standards prescribed in the ordinance for governing the action and decision of the building board are so indefinite as to subject applicants for building permits to the unlimited and arbitrary discretion of such board.

Circuit Judge Leo B. Hanley, who made the decision, said, "This power is granted without any directions, rules or standards for determining that the exterior architectural appeal and functional plan of a proposed building is at variance with other structures." He further pointed out that "immediate neighborhood" had no precise meaning, and described the whole ordinance as "elastic and abstract." He went on to say that "the effect of this ordinance would be to compel the realtor and other home builders to ascertain the exterior architectural appeal of all properties in the immediate area in order to submit plans that might satisfy the building board." He added that the controlling factor in the village's adopting the ordinance was to preserve property values, but that this should depend on "certain definite laws, uniform in their application" rather than upon "arbitrary and changing views of individuals." He pointed out that the application of the law might vary with the membership of the building board.

Wieland, the Fox Point building inspector, was ordered to issue the building permit.

The village board appealed the decision to the Wisconsin Supreme Court.

The Supreme Court first cited from the leading zoning case in Wisconsin, which established a broad basis for the utilization of the police power. That case is State ex rel. Carter v. Harper, 196 N.W. 451, decided in 1923. It then cited with approval from a leading New York case, Wulfsohn v. Burden, 150 N.E. 120:

The [police] power is not limited to regulations designed to promote public health, public morals, or public safety, or to the suppression of what is offensive, disorderly, or unsanitary, but extends to so dealing with conditions which exist as to bring out of them the greatest welfare of the people by promoting public convenience or general prosperity.

The court then said:

We have no difficulty in arriving at the conclusion that the pro-

tection of property values is an objective which falls within the exercise of the police power to promote the "general welfare," and that it is immaterial whether the zoning ordinance is grounded solely upon such objective or that such purpose is but one of several legitimate objectives. Anything that tends to destroy property values of the inhabitants of the village necessarily adversely affects the prosperity, and therefore the general welfare, of the entire village. Just because, in the particular case now before us, property values in a limited area only of the village are at stake does not mean that such threatened depreciation of property values does not affect the general welfare of the village as a whole. If realtor is permitted to erect a dwelling house on land of such nature as to substantially depreciate the value of the surrounding property, there is danger that this same thing may be repeated elsewhere within the village, thus threatening property values throughout the village.

While the general rule has been that the zoning power may not be exercised for purely aesthetic considerations, the Wisconsin court said that such rule has been undergoing change. The court called attention to the decision of the United States Supreme Court in Berman v. Parker. The court said that in view of the determination of the Supreme Court that the nation's capital may be beautiful as well as sanitary, it is "extremely doubtful that such prior rule is any longer the law."

The court then accepted a definition of neighborhood used by an Iowa court and said that a neighborhood does extend further than adjoining property and may vary according to existing conditions. It accepted the following definition of substantial: " 'Substantial' as an adjective means something worthwhile as distinguished from something without value, or merely nominal."

In overruling the lower court, the Supreme Court of Wisconsin said that the provisions of the ordinance are not so indefinite or ambiguous as to subject applicants for building permits to the uncontrolled arbitrary discretion or caprice of the building board.

In analyzing these two cases we find that obiter dictum in the Berman case became law in the Fox Point case.

To date, architectural controls have been applied only to the appearance of a single structure in relation to the surrounding development. Many other factors that contribute to the beauty of the city are not touched by this type of provision. If open space; street planting; upkeep of parks, streets, and buildings; and the relation of different land uses to each other are neglected, it is doubtful that a city, even one with architectural controls, will be attractive. When aesthetics are discussed in connection with this type of control, other factors that contribute to over-all appearance are often forgotten.

#### Standards and Procedure for Judging Acceptability of Appearance

How we measure the success of architectural controls depend on what they are



intended to achieve and how they help to reach the goals set. Even before the question "what makes a beautiful city?" is answered, we can examine the standards and the procedure to be followed to achieve the aims as set forth in the provisions themselves. Are the standards clear? Is the procedure effective and at the same time in line with standards for personal freedom and choice? These are two of the questions that can be applied to both proposed controls and those now in effect.

One of the first duties sometimes set for the control agency is to establish criteria for judging the acceptability of proposed structures. This was required in four California communities - - El Centro, Newport Beach, Orange County, and San Diego. The criteria were to be approved by the planning commission and the city council, and filed with the building inspector, to be available for interested parties.

A criterion for judging standards written into architectural controls is how specific they are. Some standards are quantitative. A specification such as "60-foot frontage" is a quantitative standard. An example of a quantitative standard supplementing more general requirements is the specification in the Scarsdale ordinance that "buildings shall be deemed to be like each other in any dimension with respect to which the difference between them is less than two feet."

However, there is a tendency to impute qualitative standards by the use of descriptive terms such as "red tiles," or vague terms such as "good," or "suitable." For instance, "residences shall be of substantially similar type and style so that the new or altered buildings will be in harmony with the character of the neighborhood." The term "substantial similarity" refers to nothing measurable in units.

There may also be a tendency to believe that if a standard is clear and specific, it is also a desirable standard. This is not necessarily true. The wording of a provision could be perfectly precise and require that every residential building must cover 100 per cent of its lot. Clarity does not offset reasonableness.

On the basis of considerable research, standards to govern some aspects of our environment have been devised. Air pollution, as an example, has been studied and to a certain extent "experts" have determined what quantities of particular substances may be thrown off into the air and what effects they produce. On the basis of these findings, controls have been drawn up to regulate practices that pollute the air. When we wish to regulate the appearance of environment, there are no standards based on research to which we can refer. It is probable that standards for attractiveness will never be established on the basis of research and will always remain a matter of personal taste.

In 1955 and 1956, two very similar architectural control regulations were adopted by Garden City, New York and Lake Forest, Illinois. The guide lines to be used by the boards of review in rating proposed designs go further than the earlier anti-look-alike provisions, in that they state at length features that shall be neither excessively similar nor dissimilar in relation to other structures. The Garden City law, which probably served as a pattern for the

the later one, is lengthy. Some of the weak spots in the first ordinance were overcome in the second regulation by omission or condensation of sections. Unfortunately, a few new errors or weak spots were written in. Being apparently a rewrite, to fit a different situation, the Lake Forest ordinance seems to benefit not only from the lapse of time, but also by a new set of proponents and opponents. Both the Lake Forest and Garden City provisions list more features to be considered in judging the acceptability of proposed structures than does the earlier Fox Point ordinance.

Architectural Design

(a) The City Council hereby finds that excessive similarity, dissimilarity or inappropriateness in exterior design and appearance of buildings in Residence, Duplex and Office Districts, and inappropriateness of design in Business and Service Districts, as designated by Article III of the Lake Forest Zoning Ordinance of 1923, as amended, in relation to the prevailing appearance of buildings in the vicinity thereof adversely affects the desirability of immediate and neighboring areas and impairs the benefits of occupancy of existing property in such areas, impairs the stability and taxable value of land and buildings in such areas, prevents the most appropriate use of real estate and the most appropriate development of such areas, produces degeneration of property in such areas with attendant deterioration of conditions affecting the public health, safety, comfort, morals and welfare of the citizens thereof, deprives the city of tax revenue which it otherwise could receive and destroys a proper balance in relationship between the taxable value of real property in such areas and the cost of the municipal services provided therefore.

.....

(c) All new buildings shall be of an architectural design suitable for a good suburban community. No permit shall be issued for any new building or for an improvement to an existing building which, if erected or improved, would be so detrimental to the character, property values or development of the surrounding area or of the city as a whole as to produce one or more of the harmful effects set forth in (a) of this Section 9-A, by reason of:

(i) excessive similarity of design in Residence, Duplex and Office Districts in relation to any other structure existing or for which a permit has been issued within a distance of 660 feet of the proposed site in respect to one or more of the following features of exterior design and appearance:

- (1) Apparently identical facade;
- (2) Substantially identical size and arrangement of either doors, windows, porticoes or other openings or breaks in the facade facing the street, including reverse arrangement; or
- (3) Other significant identical features, such as, but not limited to, construction, material, roof line and height, or other design elements; provided that a finding of excessive similarity of

design shall include not only that such similarity exists, but further, that it is of such a nature as to produce one or more of the harmful effects set forth in (a) of this Section 9-A; or

(ii) excessive dissimilarity of design or inappropriateness of design or of site plan in Residence, Duplex and Office Districts in relation to any other structure existing or for which a permit has been issued on a lot within 660 feet of the proposed site, or inappropriateness or excessive dissimilarity of design in relation to the characteristics of building design generally prevailing in the area, in respect to one or more of the following features;

- (1) cubical contents;
- (2) gross floor area;
- (3) height of building or height of roof;
- (4) other significant design features, such as, but not limited to, construction, material or quality of architectural design;
- (5) location and elevation of building upon the site with relation to the topography of the site and with relation to contiguous properties.

(iii) inappropriateness of design in Business or Service Districts in relation to any other structures existing, or for which a permit has been issued in the same Business or Service District, provided that a finding of inappropriateness exists, but further, that it is of such a nature as to produce one or more harmful effects set forth in (a) of this Section 9-A.

(d) Free standing buildings and buildings fronting on more than one street shall have the same material or architecturally harmonious materials used for all exterior walls. Buildings partially free standing shall have the same material or architecturally harmonious materials used for exposed exterior walls and exposed portions of exterior walls. Nothing herein contained shall be held to require the use of more than one material on any one wall unless more than one material is used for other exposed walls.

The phrase "design suitable for a good suburban community" is one that provides a poor standard in terms of measurability and indicates reliance on values of a particular socio-economic class as a measure of acceptability. In this provision, not only must excessive similarity or dissimilarity be determined, but these characteristics must also be found to cause the vaguely worded evils outlined in the first section.

Architectural controls are usually preceded by a general statement of purpose. (See for example the excerpt from the Scarsdale provision on page 5.)

The policy stated in the following portion of the Niagara Falls, New York zoning ordinance (1951) is quite specific, but it is difficult to determine exactly what will guide the planning board in its approval or rejection of building plans.

#### Scenic Protective Regulations

The regulations set forth in this section are adopted to promote and protect the public health, safety, and welfare, and more particularly in view of the following facts:

1. One of the great natural wonders of the world lies within the borders of the city and contiguous thereto.
2. By reason of this fact, the city has become a world renowned recreational resort.
3. The city is, in effect, the steward for mankind of that part of the environs of this natural wonder that lie in the United States and is in large measure responsible for the quality of these environs.
4. The welfare of the city requires the protection and enhancement of the attractiveness of the city as a recreational resort, as contributing to the economic soundness of the city and the economic and social welfare of its inhabitants.

Within that part of the city designated as a "Scenic Protective Area" on the map constituting Section 4 A and succeeding sections of this ordinance, and within that part of the city lying within a distance of 100 feet, exclusive of the width of any street, from the boundary of any city park exceeding 25 acres in area, no building shall be constructed, reconstructed, or altered in exterior appearance unless and until plans therefor have been approved by the planning board. No signs shall hereafter be established on or in connection with any building within any of the aforesaid parts of the city unless such sign has been approved by the planning board as a part of the approval of the plans for such building, and no such sign shall be maintained except in accordance with the terms of such approval. No sign apart from any building within any of the aforesaid parts of the city shall hereafter be established unless and until the location, size, and appearance thereof have been approved by the planning board, and no such sign shall be maintained except in accordance with the terms of such approval. The planning board shall act on any application for approval under the provisions of this section within 45 days after the date of such application; failure to act within such 45 days shall be deemed to be approval of the application.

Said board shall establish an advisory committee of not less than five members, one of whom shall be the superintendent of parks of the city, another of whom shall be a representative

of the Niagara Frontier State Park Commission, as designated by said commission, and another of whom shall be a registered architect practicing in the city; and shall request the recommendation of such advisory committee with respect to every application made under the provisions of this section. In acting on any application under this section the planning board shall endeavor to assure that all buildings hereafter erected or altered in exterior appearance, including signs thereon and all other signs, within the aforesaid parts of the city shall be of such design, appearance, and relation to one another that they will enhance rather than impair the attractiveness and pleasantness of appearance of the environs of Niagara Falls and the gorge of the Niagara River and of those parks adjacent to which the protective regulations set forth in this section are established. In furtherance of these purposes the planning board shall seek to assure good building design but shall not prescribe any type or particular style of architecture as being required therefor.

Here is another example including statement of purpose and directives to a board of review. Again the policy is fairly specific, but the steps for carrying it out are general:

Section 1. The City Council of the City of San Marino hereby finds, determines and declares as follows: That presently there remain within the City of San Marino only approximately 600 vacant lots upon which single family residences may be built; that many of these lots are situated in certain residential areas where the deed restrictions, which originally called for a very high standard of building, have expired; and that present high building costs and material shortages, together with the existing preference for San Marino as a place of residence, necessitate the adoption and enforcement of the regulations hereinafter in Section 6 set forth, in order to secure safety from fire and other dangers, to promote the public health and welfare, to secure adequate light, air, and reasonable access, and to maintain the high standards of construction and design which characterize the presently existing home in San Marino in the immediate vicinity of said lots.

Section 2. For the purpose of saving the time of the members of the City Council and of assisting them in their endeavor to arrive at a just and equitable decision in connection with the findings set forth in Section 1 above, there is hereby created in the City an advisory fact-finding board which shall be designated the "San Marino Board of Home Design."

Section 3. The Board consists of five members.

Section 4. All plans, specifications, drawings, and/or sketches submitted to the City Building Inspector for approval pursuant to the provisions of Building Ordinance 391 as amended, for the construction of any residence building proposed to be erected in Single Family Residence Zone (R-1) as same is defined in Zoning Ordinance 346 amended, shall conform to the fundamental regulations of the City Council as set forth in Section 6 of this Ordinance No. 486, and if said Inspector is in doubt as to whether said pro-

posed residence building does so conform he shall refer said plans, specifications, etc., to the San Marino Board of Home Design, and thereupon it shall be the duty of said Board to examine said plans, specifications, etc., and to take into consideration the parcel of property upon which said residence is proposed to be constructed and to report to the City Council the finding and recommendation of said Board as to whether said Council should authorize the Building Inspector to issue a permit for the construction of the proposed residence building on said parcel of property.

Section 5. In the performance of its duties as defined in Section 4 above it shall be the basic responsibility of said Board:

1. To make certain that any new residential construction shall conform reasonably with the established building standards of size and design within the immediate vicinity of the proposed site; and
2. To concern itself solely with matters of size and design for residential buildings, it being recognized that Building Ordinance 391 as amended properly regulates construction and that Zoning Ordinance 346 as amended properly regulates zoning; and
3. To refrain from originating designs and from directing the builders of homes as to the style of the architecture thereof.

Section 6. In carrying out its responsibility as defined in Section 5 above and for the purpose of establishing a specific basis for determining conformity in the City to the greatest degree possible, said Board should give consideration to the following recommendations of the City Council:

- (a) No new building plan should be approved by said Board unless the floor area under roof shall equal at least the total square footage in the smallest existing residence within the same block, allowing full footage calculation for porches, breezeway and shelters under the roof but allowing nothing for garage area whether attached or detached; and
- (b) That the general character and appearance of existing residences near or adjacent to the proposed residence site shall be taken into account by the designer of the proposed building and that said proposed building shall be so designed as to prevent unwarranted depreciation of surrounding properties because of non-conforming contrasts in size, apparent size, or general design; and
- (c) Any building plan examined by said Board which in the judgment of the Board fails to meet the above standards shall be so reported to the City Council; and
- (d) Any building plan submitted to said Board which appears to deviate in some degree from the requirements of subsections (a), (b) and (c) of this Section 6, yet seems to the Board to warrant the approval of the Board and the City Council for compelling reasons, shall be so reported to the City Council stating the reasons for said Board's approval thereof.

In the Madison, Wisconsin architectural regulations, the aims are stated

briefly and in general terms. However, the enforcing machinery is outlined in great detail.

The first paragraph of the Madison architectural law was based on the similar ordinance of the village of Fox Point, Wisconsin, which had been tested and found constitutional in State ex rel. Saveland Park Holding Corporation v. Wieland, and so it was thought that legal problems would be avoided. Controversy before the ordinance was passed centered around the enforcement machinery and not the purpose of the ordinance. The opposition wanted to limit objecting parties to residents within 200 feet of the proposed structure, but this "attempt to hamstring the ordinance . . . was overwhelmingly defeated in the City Council," according to one proponent of the law.

The emphasis on one particular interpretation of the Wieland case is significant. In the absorption over some of the mechanics of reviewing proposed structures for "architectural appeal," other problems seem to have been overlooked. The boundary within which the property owners are eligible to file a complaint against the proposed structures was finally set at one mile rather than at a meager 200 feet. Property owners within 200 feet or 2,000 feet will probably not be aware of construction until it has commenced, and then they will not have more than a suspicion of what the final appearance will be until the structure is almost completed. Needless to say, the objections of property owners would then be futile, since the time for filing complaints elapses prior to the issuance of the building permit.

One attempt to overcome the limitations of a small board of review and arbitrary standards for architectural acceptability is the requirement that a certain per cent of the property owners in a district petition to establish an architectural control district. The petitioners must also state the standards that they wish to have applied in the area. If the petition is approved, the new architectural controls go into effect.

This technique has not yet been put into effect as far as we know, but though it may seem to overcome some of the objections to other controls, it is still not altogether satisfactory. According to this principle, if three out of four property owners in an area under development filed a petition and it was accepted, from then on the views of three men would govern what could be built in the district!

#### CONCLUSIONS

Information concerning the nature of aesthetics as a goal, the effectiveness of architectural controls as a means of reaching ends that are truly desired, and better techniques for creating an environment "beautiful as well as sanitary" is not complete. More research is needed, but conclusions that can be drawn at this point are:

1. Architectural controls are supported by individuals who feel threatened by a particular type of building design. Opposition to uniformity is strongest where look-alike structures are likely to be build, or where people have had experience with this type of development. Protection from radical building design is sought in built-up communities where a dominant architectural type is already established.

2. Aesthetics has been discussed in an increasing number of court cases since 1949. An architectural control provision has been upheld in court once on the grounds that aesthetics is a proper basis for zoning. One interpretation is that architectural controls will actually achieve something aesthetically pleasing.

3. The language in provisions regulating the appearance of buildings is vague. Such terms as "unduly," "incongruous," "unobjectionable," and "inharmonious" are often relied on to express purpose or objectives.

4. The use of terms such as "proper," "suitable," "good taste," and "intelligent" suggests that socio-economic class values are involved in setting standards for appearance. Concern with minimum size of structures, when it is not clearly linked with health or safety, may reflect similar class values.

5. Although some communities with architectural controls have not set up standards for judging architectural appeal, they have delegated decisions of taste to a small board of review composed of a few city officials, architects, or other "experts."

In spite of a judicial history generally unfavorable to aesthetic considerations in land use control, there can be little doubt that the Berman, Fox Point, and Lionshead Lake cases have given new hope to the framers of architectural control ordinances. It can be expected that more cases involving ordinances of this type will be tried and probably there will be increasing acceptance of the principle of architectural controls by the courts.

We must also recognize that the advocates of architectural controls are not men of ill will. They are undoubtedly motivated by what seems to them the best interests of the community. Moreover, as the survey of the American Institute of Public Opinion shows, such controls would in most cases be adopted by democratic means, if the option were offered to the voters.

Yet the weaknesses of the present controls are glaring. Paradoxically, we don't want the houses to look alike, nor do we want them to look dissimilar. At the same time, we can point to the beauty and charm of European cities and of older cities on our own continent, part of which comes from the mathematical identity of house after house. Or we can show some of the sections where contemporary architects have extended themselves to make each house unique -- and the beauty of the development lies in the ingenious dissimilarity.

It is recognized that objects of artistic -- aesthetic -- merit are frequently considered bizarre and of little value at the time they are created. It takes years for their true worth to be appreciated. But at the same time, merely because it is radically different, the object is not ipso facto a thing of beauty. It can be an object of trash even more easily than it is an object to treasure. Democratic judgment on aesthetic matters has a long history of being wrong.

Nor are artists themselves always, or even often, competent critics of another person's art. This fact makes the board of "experts" suspect in aesthetic matters.



Nevertheless, it is possible to see architectural controls moving in a general direction parallel to other aspects of modern life. This is toward the goal of conformity, documented in several recent sociological studies. It is conformity but not identity. Deviations are permitted, and even desirable, so long as they stay within a limited range. The boundaries of that range are somewhat hazy, but it is not too difficult to spot something that is definitely beyond the pale. The best legal expression of this is probably the Lake Forest ordinance quoted in this report.

Whether any individual approves of conformity as a goal probably depends on whether the individual is himself a conformist. Whether enforced conformity spreads to any great extent will depend on the strength of conformity as an ideal and the strength of conformists as the electorate. Whether conformity is good or bad for urban design may not be answered for many years.

From the Library of  
AMERICAN SOCIETY OF  
PLANNING OFFICIALS