the Due Process Clause, to zone in many ways and for many purposes. Governments may regulate the height of buildings,[317] establish building setback requirements,[318] preserve open spaces (through density controls and restrictions on the numbers of houses),[319] and preserve historic structures.[320] The Court will generally uphold a challenged land-use plan unless it determines that either the overall plan is arbitrary and unreasonable with no substantial relation to the public health, safety, or general welfare,[321] or that the plan as applied amounts to a taking of property without just compensation.[322]

Applying these principles, the Court has held that the exclusion of apartment houses, retail stores, and billboards from a "residential district" in a village is a permissible exercise of municipal power.[323] Similarly, a housing ordinance in a community of single-family dwellings, in which any number of related persons (blood, adoption, or marriage) could occupy a house but only two unrelated persons could do so, was sustained in the absence of any showing that it was aimed at the deprivation of a "fundamental interest."[324] Such a fundamental interest, however, was found to be implicated in *Moore v. City of East Cleveland*[325] by a "single family" zoning ordinance which defined a "family" to exclude a grandmother who had been living with her two grandsons of different children. Similarly, black persons cannot be forbidden to occupy houses in blocks where the greater number of houses are occupied by white persons, or vice versa.[326]

In one aspect of zoning—the degree to which such decisions may be delegated to private persons—the Court has not been consistent. Thus, for instance, it invalidated a city ordinance which conferred the power to establish building setback lines upon the own-

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[317] Welch v. Swasey, 214 U.S. 91 (1909).

[318] Gorieb v. Fox, 274 U.S. 603 (1927).

[319] Agins v. City of Tiburon, 447 U.S. 255 (1980).

[320] Penn Central Transp. Co. v. City of New York, 438 U.S. 104 (1978).

[321] Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926); Zahn v. Board of Pub. Works, 274 U.S. 325 (1927); Nectow v. City of Cambridge, 277 U.S. 183 (1928); Cusack Co. v. City of Chicago, 242 U.S. 526 (1917); St. Louis Poster Adv. Co. v. City of St. Louis, 249 U.S. 269 (1919).

[322] *See*, *e.g.*, Lucas v. South Carolina Coastal Council, 505 U.S. 1003 (1992), and discussion of "Regulatory Taking" under the Fifth Amendment, *supra*

[323] Village of Euclid v. Ambler Realty Co., 272 U.S. 365 (1926).

[324] Village of Belle Terre v. Boraas, 416 U.S. 1 (1974).

[325] 431 U.S. 494 (1977). A plurality of the Court struck down the ordinance as a violation of substantive due process, an infringement of family living arrangements which are a protected liberty interest, id. at 498–506, while Justice Stevens concurred on the ground that the ordinance was arbitrary and unreasonable. Id. at 513. Four Justices dissented. Id. at 521, 531, 541.

[326] Buchanan v. Warley, 245 U.S. 60 (1917).