

**IOWA DEPARTMENT
OF EDUCATION
(Cite as 24 D.o.E. App. Dec. 21)**

In re Closing of Moore Elementary, Edmunds Academy, Adams Elementary, Cowles Elementary and Central Campus

Marc Wallace, et al., Appellants,	:	
	:	DECISION
vs.	:	
	:	[Admin. Doc. 4614]
Des Moines Independent Community School District, Appellee.	:	

The above-captioned matter was heard in person on October 5, 2005, before designated administrative law judge Carol J. Greta. Appellants Marc Wallace, Gregory Wells, Mike Murray, Gayle Murray, and Kathleen Gingerich were personally present, accompanied by their legal counsel, Bruce Johnson. Appellee, the Des Moines Independent Community School District, was represented by attorney Andrew Bracken. Appearing on behalf of the Appellee were Superintendent Eric Witherspoon, Deputy Superintendent and Board Secretary Linda Lane, and Board members Connie Boesen, Marc Ward, and Phil Roeder.

An evidentiary hearing was held pursuant to agency rules found at 281 Iowa Administrative Code 6. Authority and jurisdiction for the appeal are found in Iowa Code § 290.1. The administrative law judge finds that she and the State Board of Education have jurisdiction over the parties and subject matter of the appeal before them. Following the conclusion of the evidentiary hearing, the parties filed legal briefs with the undersigned. A deadline of January 6, 2006 for filing of responsive briefs was eventually imposed.

In this case the Appellants seek reversal of a decision the local Board of Directors of the District made on July 12, 2005, to close certain of its attendance centers.

**I.
FINDINGS OF FACT**

This is an appeal from a decision of the Des Moines School Board to close the following schools: Moore Elementary, Edmunds Academy, Adams Elementary,¹ Cowles

¹ The District's exhibits do not characterize this as a building closure, but as a merger. Nonetheless, the effect is the same as a total building closure, and the decision regarding Adams Elementary shall be treated herein as a building closure.

Elementary, and Central Campus. The first four buildings are elementary attendance centers. Central Campus houses the Scavo Alternative High School as well as several advanced placement courses and for secondary students from this and other Districts.

Over 150 exhibits were submitted herein. The essential facts, bearing in mind that the Appellants conceded that the wisdom of the local Board's decision is not at issue, are as follows.

The Des Moines Independent Community School District is located nearly wholly within the boundaries of Polk County, a tiny portion of the District being located in Warren County. On November 23, 1999 Polk County voters approved a one percent local option sales and service tax ["LOSST"] to be in effect until June 30, 2010. The tax was authorized by then-chapter 422E (now 423E) of the Iowa Code, which requires that the proceeds of the tax be spent for school infrastructure. The proceeds collected in Polk County are distributed to the 16 school districts located in whole or in part within Polk County "in a pro rata share based upon the ratio which the actual enrollment for the school district that attends school in the county bears to the total combined actual enrollments for all school districts that attend school in the county." Iowa Code § 423E.3(5)(d)(1). The District's share of LOSST revenues over the ten-year life of the referendum was originally projected by county and state revenue authorities with no stake in this matter to be \$352,000,000, but was revised down to \$300,000,000 in early 2005.²

The 1999 special election was not the first time Polk County voters had the question of the LOSST put before them. Previous such elections having failed, the District issued a ten-year school infrastructure project plan (named "Schools First") early in 1999, detailing how LOSST proceeds could be used in each of the attendance centers of the District. The purpose of Schools First was dual – to provide an informal blueprint for improvements to each building in the District and to entice voters to approve the tax referendum as the means by which the improvements would be accomplished.

The District characterized the "critical" feature of Schools First as the evolution of as many of its attendance centers as feasible into "21st Century Schools," phraseology with an emphasis on technological upgrades as well as physical plant improvements. School mergers (with attendant building closings) were a part of this plan. During the first half of the ten-year Schools First Plan, the district merged eight elementary schools into four attendance centers.³

The Appellants believe that Schools First was at the very least an implicit promise by the District that all attendance centers would not only remain open, but would be

² The \$52 million adjustment did not occur all at once. In 2002, the original projection was adjusted down to \$317 million from the original \$352 million.

³ Brooks and Lucas are now Capitol View Elementary on the former Lucas site; Monroe and Rice have merged into Monroe; Mann and Watrous, Morris; Douglas and McKee, Brubaker.

improved. Schools First incorporated public involvement as to how to use the District's LOSST revenues. A "site planning team" of school personnel, parents, and community members was formed for each attendance center within the District. Forty-plus pages of materials (Exhibit 5) were provided to each team to assist the members.⁴

Months after the site planning teams had begun to meet, a mid-program review of the Schools First Program was begun by the District. The review was suggested in October of 2004 – at about the five-year mark of that program – by Duane Van Hemert, the District's director of facility management. As described in the minutes of the October 5, 2004 Board meeting (Exhibit 7), "it would be a good practice to review *but not limit the review to past efforts*, the management plan, actual revenue and projections, building priorities and needs, current construction market conditions and budgets." [Emphasis added.] The local Board was told in October that the report from the review would be ready in December of 2004.

It appears that the first report from the mid-program review actually was made to the local Board on February 15, 2005. By then, as indicated in footnote 2 herein, it is undisputed that LOSST revenue projections for Polk County school districts showed that those revenues would not be adequate to fund all of the 21st Century Schools goal of the Schools First Plan. As Mr. Van Hemert's summary report characterized it in Exhibits 15 and 16, the issue now facing the local Board was whether the original objective of renovating every remaining attendance center was still the best objective for the District and its taxpayers. Mr. Van Hemert specifically noted the presence of "site team frustration tied to expectations" when those expectations confronted the realities of decreased LOSST revenues and increased construction costs.

Appellant Gayle Murray was a member of the Adams Elementary site planning team. For purposes of this appeal, we shall assume that her experience was a microcosm of what happened throughout the District's attendance centers, specifically those that are the subject of this appeal.

Ms. Murray stated that the Adams' team met as often as twice a month, prioritizing items of work to be done to convert that building into a 21st Century School with the estimated \$3 million allocated to Adams' Schools First budget (Exhibit 5). She believed that Adams was not being considered for either closure or merger. This perception was based in part on statements made by Mr. Van Hemert, indicating to the Adams site planning team members that Adams would neither be closed nor merged with another elementary building. For example, Appellants Murray and Marc Wallace attended an August of 2004 District-sponsored meeting about a possible merger of

⁴ It is not clear from the record when the site planning teams were formed and started meeting. The materials in Exhibit 5, with the exception of historical documents, are not dated, but the enrollments used in Exhibit 5 are from 2000.

Adams and Garton Elementaries.⁵ Appellant Wallace described “near unanimous” sentiment expressed at that meeting against any merger, and stated that Mr. Van Hemert announced at the conclusion of the meeting that, in light of the lack of support of such a merger, the District would not explore that option. Mr. Wallace added that Board member Connie Boesen told him she personally supported keeping Adams open.

It is also clear that Ms. Murray had formed a belief that the Adams site planning team members would not have been allowed to put in so much time and effort if that building was slated for closure. Her account in Exhibit F is telling of her frame of mind. She wrote, “In the fall of 2004, our community [Adams parents] was even more resolute in their determination to follow the documented research in support of smaller learning communities versus big fancy buildings.” Understandably, Ms. Murray felt fully invested in the site planning team process. She was part of an active team that appears to have gone beyond its charge when it studied an element not included in Exhibit F, the research regarding smaller learning communities. This work, according to Ms. Murray, was put “on hold” while the District’s mid-program review of its ten-year plan took place. Mr. Van Hemert did not overstate the matter in noting at the February 15, 2005 Board meeting that site planning teams were frustrated; Ms. Murray is a clear example of this frustration.

At the February 15 Board meeting, Board member Marc Ward handed out a flow chart (Exhibit 17) and “discussed what needs to be done from here.” (Quote from minutes, Exhibit 12.) His chart, distributed to all local Board members and available as a public record, explicitly mentions the options of changing boundaries, closing schools, and merging schools. He advocated for community discussion followed by a recommendation from District administration to come before the Board in May or June. Mr. Ward’s chart does not name specific attendance centers. Although he demonstrably was thinking about – and was asking his fellow Board members to think about – building closures, there is no evidence that he had any preconceived ideas about which buildings should be closed.

The District then hosted community meetings at its five high school locations in April. Other than the location and date, the notices of the meetings were identical. They stated, “A Community Meeting on the Schools First Mid-Program Review will be held on (DATE), 6:00-8:00 p.m. at (SPECIFIC HIGH SCHOOL). Members of the Des Moines Public Schools Board of Directors will be in attendance.” (Exhibits 30, 36, 44, 47, and 49) Attendance at each of the five public meetings ranged from a couple dozen to several dozen persons. A summary of the comments received from these meetings was presented to the Board at its May 3 meeting. Board member Ward again stated that the 1999 Ten Year Action Plan (Exhibit 2) was now obsolete and had to change as a result of decreased revenues and increased costs. (Exhibit 62)

⁵ It is not clear in the record which attendance center – Adams or Garton – was proposed to be closed when the merger meeting was held.

During the Mid-Program Review in the first part of 2005, the District studied transportation programs, bus stops, and bus schedules (Exhibit 53); enrollment trends (Exhibits 54 and 55); special education programs data (Exhibits 56 and 57); building capacities, school boundaries, traffic and parking patterns (Exhibits 57, 58 and 59). From the community meetings, it was not unreasonable for District administrators to conclude that the priority for those who attended continued to be the development of 21st Century Schools. At the May 3 Board meeting, the Board – with the input from the community meetings and with information from District staff regarding transportation, enrollment, special programs, etc. – continued to study the challenge of how to revise the Schools First management plan to maximize dwindling resources.

An article in the *Des Moines Register* shows that Superintendent Witherspoon was publicly talking about closing at least two elementary schools in mid-May. (Exhibit 64) On May 27, 2005, Superintendent Witherspoon released the Administration's final recommendations. A memorandum dated May 27, 2005 was sent home with the students of Scavo Alternative High School, Central Academy (advance secondary courses), the high school ESL Program at Central Campus, specialized programs at Cowles, and Moore, Hillis, Woodlawn, Howe, Edmunds, Adams, and Garton Elementaries. By this memorandum, the parents of affected students were informed that their children's school was specifically recommended for closure. The memoranda were tailored to the affected buildings. For instance, the memorandum that went home with students of Adams and Garton Elementaries stated in part as follows:

Today the Des Moines School Board Members received a recommendation to revise the Schools First Management Plan. It is based on the best information available today regarding educational needs, enrollment trends, enrollment projections, local option sales tax projections, population trends, facility needs, demographics, construction costs, and inflation. ...

As has been widely reported, the combination of rising construction costs and sales tax revenue well under the projected amounts has resulted in a need to review and revise our plan to address district facility needs. This drives the need to maximize school usage at our elementary schools.

In order to insure that the students of Adams and Garton now and in the future have access to a 21st century school facility, the plan recommends that Adams School be merged with Garton School on the Garton School site

A public meeting to discuss the proposal before board action will be held at Adams, date and time to be announced. The board will hear the entire proposal on Tuesday May 31 at 6:00

PM at a public meeting. The proposal will be discussed at the meeting following the presentation and will also be discussed at the June 7 meeting and the June 21 meeting. The final vote by the school board is anticipated to be on June 21, 2005.

You can read the proposal on the Internet by clicking on the link from the district website: www.dmps.k12.ia.us.

The Board did indeed meet on May 31 and constructed a timeline for the closures that included the following:

June 6, community meetings at four sites

June 7, public input and discussion

June 21, public input and Board decision

Also at its May 31 meeting, the local Board discussed the factors considered in the Mid-Program Review, including the fact that the District had a total of 2,400 elementary seats over its actual elementary enrollment. (Exhibit 84) The Administration released a lengthy (147 pages) "Plan Update" to the Board and posted the same on its website. (Exhibit 85) The Plan Update included a summary of Superintendent Witherspoon's recommendation made to the Board, attendance center information, a 2005 building assessments summary, a project flow chart, and a review of financial strategies.

Public meetings were held June 6 at four locations, the attendance centers of Adams, Moore, Howe, and Edmunds.⁶ The next night, the Board announced at the beginning of what the Des Moines Register characterized as "another heated debate about closing elementary schools," that it was putting off a final vote on the Administration's recommendations until July 12. (Exhibit 101) Another community meeting was held June 16 at Hoover High School. 170 questions were recorded from audience members for follow-up research; responses were provided on the District's website and provided at the June 21 Board meeting. (Exhibit 122)

Based on public feedback, the District's Administration revised its May 27 recommendation. At the June 21 meeting, the Board debated the revisions. Most notably, Howe Elementary, originally slated for closure, was spared. Other schools to be closed would still be closed but the timelines were postponed. Again, the public was made aware that the final vote would take place on July 12.

At the Board's July 12 meeting, 34 members of the public – primarily representing the Adams and Edmunds communities – spoke against the proposed closings of their attendance centers. After about four hours of hearing from the public and speaking their own minds, the Board voted 5-2 in favor of the revised recommendations. (Exhibit 135)

⁶ These meetings were all sponsored by the Board. A fifth meeting that night, at the Des Moines Botanical Center, was sponsored by community leaders and held in protest to the Board's meetings.

II. CONCLUSIONS OF LAW

Standard of Review, Burden of Proof

The Legislature, in Iowa Code section 279.11, gave local school boards the authority to determine the number of school buildings in their district. The statute provides no criteria for local boards to use when deciding to open or close a school. On the other hand, the Legislature provided a process in Iowa Code section 290.1 for aggrieved students or their parents to appeal local board decisions to the State Board of Education.

This Board has heard several appeals of school closings, and has developed criteria by which to review a local board's decision to close a school. These criteria are commonly referred to as the *Barker* guidelines, so named from an early decision, *In re Norman Barker*, 1 D.P.I. App. Dec. 145 (1977). The *Barker* guidelines do not focus on the substantive correctness of the school board's decision. The standards instead focus on due process considerations, in particular, whether the public was given notice and an opportunity to provide input before the final decision was made. In 2003, the State Board adopted the *Barker* guidelines as part of its administrative rules in 281—IAC 19.2. The rule states as follows:

19.2 When making a decision regarding whether to close an attendance center within its district, the board of directors of a school district shall substantially comply with all of the following steps.

(1) The board shall establish a timeline in advance for carrying out the procedures involved in making the decision on the matter, focusing all aspects of the timeline upon the anticipated date that the board will make its final decision.

(2) The board shall inform segments of the community within its district that the matter is under consideration by the board. This shall be done in a manner reasonably calculated to apprise the public of that information.

(3) The board shall seek public input in all study and planning steps involved in making the decision.

(4) The board and groups and individuals selected by the board shall carry out sufficient research, study and planning. The research, study and planning shall include consideration of, at a minimum, student enrollment statistics, transportation costs,

financial gains and losses, program offerings, plant facilities, and staff assignment.

(5) The board shall promote open and frank public discussion of the facts and issues involved.

(6) The board shall make a proper record of all steps taken in the making of the decision.

(7) The board shall make its final decision in a open meeting with a record made thereof.

The District objects that these rules are *ultra vires*. It argues that the State Board has no statutory authority to promulgate rules relating to school closings because section 279.11 vests exclusive authority to determine the number of attendance centers in local school boards. The District acknowledges that Iowa Code section 256.7(5) gives this Board general rulemaking authority.⁷

We agree with the District that our general rulemaking authority cannot be exercised over a specific subject area absent additional statutory authority. Regarding school closings, that additional authority comes from a concurrent reading of sections 279.11, 290.1, and 290.3. Section 290.3 specifically directs this Board to render decisions that are “just and equitable” in hearing appeals from local board decisions. The local boards have clear authority to close attendance centers, we have clear authority to hear appeals therefrom, and section 290.3 directs that our review must be more “than that necessary to determine whether the school district abused its discretion.”⁸

In addition to section 290.3’s directive, the administrative rules adopted by this Board for appeals before us also state that our “decision shall be based on the laws of the United States, the state of Iowa and the regulations and policies of the department of education and shall be in the best interest of education.” 281—IAC 6.17(2). This led to a standard of review first articulated in *In re Jesse Bachman*, 13 D.o.E. App. Dec. 363 (1996), that we not overturn a local board decision unless the local decision is “unreasonable and contrary to the best interest of education.” *Id.* at 369. That is the proper standard of review for building closing appeals.

⁷ “[Duties of the State Board include that the Board shall] Adopt rules under chapter 17A for carrying out the responsibilities of the department.”

⁸ *Sioux City Community School Dist. v. Iowa Department of Education*, 659 N.W.2d 563, 569 (Iowa 2003). The *Sioux City* case involved a transportation appeal brought under a statute other than 290.3. That statute – section 285.12 – is devoid of any language to guide our review. Thus, the Supreme Court stated in *Sioux City* that the proper standard of review for transportation cases is the abuse of discretion standard. We have not always clearly articulated our standard of review, but will endeavor to do so from this time forth.

Inasmuch as we must review to determine whether a local board's decision was unreasonable and contrary to the best interest of education, it benefits all stakeholders if we articulate a set of guidelines by which local boards will know how we make this determination in the case of building closings. Chapter 19, the *Barker* guidelines codified, is a reasonable exercise of our twin authorities to make rules and to hear appeals. The rules are not beyond our authority.

The Appellants argue that the District has the burden of proving that it substantially complied with rule 19.2. The Appellants cite *Iowa Comprehensive Petroleum Underground Storage Tank Fund Board v. Shell Oil Company*, 606 N.W.2d 370 (Iowa 2000) in support of their argument that because the District has greater access to the facts, the District should have the burden of proof. The narrow question in *Iowa Comprehensive Petroleum* was the reasonableness of the costs of corrective action that the Board had assessed against Shell for clean up of petroleum released into the ground from an underground storage tank. The Board was the party bringing the action. We do not find this case to be helpful to the Appellants.

On the other hand, the general rule is that the party pursuing an action or appeal bears the burden of proof. This principle was recently confirmed by the United States Supreme Court in *Schaffer v. Weast*, 126 S.Ct. 528 (2005). In Iowa, our Supreme Court has stated that decisions of local school boards are presumed valid. *Board of Directors of the Independent Community School District of Waterloo v. Green*, 147 N.W.2d 854, 857 (Iowa 1967). We see no reason to deviate from the general rule. The burden of proof is on the Appellants to demonstrate that the District did not substantially comply with rule 19.2.

Application of the Rules

The Appellants claim that the District did not comply with the first six subrules, 19.2(1) – (6). They concede that the seventh criterion, making the final decision in open meeting, was met. This seven-step process is needed “to acclimate the public and implement [a school closing] decision.” *Meredith v. Council Bluffs Comm. Sch. Dist.*, 5 D.o.E. App. Dec. 25, 30 (1986). The Appellants note that this Board has often stated that the “purpose of going through the process is to avoid springing such an action on an unwilling, resisting public.” *E.g., In re Closing of Lockridge Elementary Building*, 21 D.o.E. App. Dec. 22 (2002). The emphasis in that statement is on avoiding any element of surprise, and not on a board making a decision unpopular with parents. We have gone on to explain, “By involving parents and citizens, a district board may not win approval of their plan, but it may avoid a schism in the community. ...The real issue for the State Board of Education to consider is not whether both sides actually listened to each other's position. The real issue is whether they were given the *opportunity* to do so. That is what the *Barker* guidelines stand for. The guidelines do not mandate that the District Board acquiesce to the wishes of those who are most vocal at the public hearings. *In re Susan Beary, et al.*, 15 D.o.E. App. Dec. 208, 217 (1999).” *In re Johnson and Grant*

Elementary Buildings, 21 D.o.E. App. Dec.1 (2002). With those principles in mind, we turn to the specific criteria.

1. Timeline. On May 31, the local Board established a timeline specifically designated for a decision on school closings. In *In re Closing of Roosevelt and Northwood Elementary Buildings*, 23 D.o.E. App. Dec. 222 (2005) [herein called the “Ames decision”], the local board had established a timeline for a decision on budget cuts but not on school closings. Nevertheless, this Board concluded that the district substantially complied with the timeline requirement because its timeline on the budget process provided notice of dates for public discussion, board hearings, board discussion, and a final decision. The timeline here gave notice of dates for further public discussion, board discussion, and a final decision. The first criterion is met.

2. Notice. The District provided unambiguous notice on May 27, 2005 as to which specific buildings were proposed for closing. Even before that, however, as early as three months previous, Board member Ward was publicly urging his colleagues on the Board to seriously consider closing schools. The Mid-Program Review power point presentation used at the five April public meetings specifically mentioned mergers of schools, and clearly sent the message that the District was searching for alternatives to the Schools First Plan as originally envisioned. Therefore, even before May 27, the statements of Mr. Ward and the actions of the District fairly put the public on notice that they should provide input to the District if they were concerned about the closure of any particular attendance center.

Some of the Appellants and their witnesses complained that they believed that the Mid-Program Review was limited to looking back at what had transpired over the first five years of the plan. This lacks credibility. It is not reasonable to limit the scope of the review to a look backward. While an assessment of what had occurred between 1999 and 2004 was a component of the review, common sense dictates that the next logical step of a review is to attempt to answer the question, “where do we go from here?” And in fact, the documents publicly shared by the District as part of the Mid-Program Review demonstrate that changing course for the future was a very large part of the Review. (Exhibit 33)

As was true in the Ames decision, *supra*, the level of public input to the district throughout 2005 prior to the final vote demonstrates that the public was fairly apprised. The fact that the District did not identify which schools could be closed before May 27 is not determinative. This criterion is met.

3. Public input. The Board sought public input through public meetings and the public forum portions of its Board meetings. After the District initiated the Mid-Program Review and prior to May 27, five public meetings plus three Board meetings including time for public comment were held to discuss the future of Schools First. After the May 27 notice to affected students and their parents, five public meetings and four Board

meetings with time for public comment were held on the proposal to close named schools.

That some persons may have not taken advantage of the post-May 27 meetings from a “what’s the use?” frame of mind does not negate that the meetings were held and that the public had ample opportunity to participate. In fact, the public process in this case bore fruit for many of the participants. The District listened to the public and made several changes to its original proposal, including removing an attendance center (Howe Elementary) from the list of schools to be closed. This is evidence of a system that worked, not of a flawed system. This factor is satisfied.

4. Research and planning. Key to this criterion is an understanding that it is not a directive that the Board affirmatively select a broad range of individuals and groups to study the listed issues. The key to this criterion is ensuring that the listed issues are indeed researched on behalf of the Board. When discussing and making its decision to close the affected attendance centers, the local Board had the benefit of research that covered student enrollment figures, transportation costs, financial gains and losses, program offerings, plant facilities, and staff assignment. (Exhibits 14, 53, 54, 55, 56, 57, 58, 59, 84, 85, 86, 98, 123, 136, 137) This criterion is met.

5. Open and frank public discussion. Although the decision of the local board in the Ames case was affirmed by this Board, we noted therein that the Ames administration encouraged its Board members not to attend public meetings on the theory that public participants might be discouraged from offering their full and true feelings during the meetings if Board members were present. Quite the opposite is true here. Board members attended the public meetings. At those meetings and at their own meetings where the public had time to speak out, the Board members directly heard what was on the mind of the public. The meetings were not always cordial, but anyone who wished to speak up had the opportunity to do so. This criterion is met.

6. Record. There is no evidence that the Board failed to make a proper record of the steps made in its decision-making process.

Summary

As is nearly universally true, this school closure decision was difficult for everyone involved. It is not surprising that this District ultimately focused on the number of buildings that were needed to educate children, in light of declining revenues and declining enrollments.

Appellant Gayle Murray’s statement that she would have felt better about the process if there had been more openness aptly sums up why this appeal was brought. Feelings were hurt. Persons such as Ms. Murray who had fully immersed themselves in the site planning process felt disenfranchised. She was not asked by the District to be a

part of any group working on building closings and related issues, and she was unhappy about that. But her voice was not silenced. She wrote an op-ed piece and she spoke out at public meetings. That the Board did not agree with her point of view does not mean that she did not have an opportunity to put forth that point of view.⁹

This Board reviews only the process for the local Board's decision; the wisdom of the decision is not at issue here. Whether a better decision could have been reached is not ours to say. We determine only whether the local Board provided sufficient process as required by the seven regulatory factors set forth in our chapter 19 rules. It cannot be said here that the District failed to substantially comply with the chapter 19 rules.

III. DECISION

For the foregoing reasons, it is recommended that the decision of the Board of Directors of the Des Moines Independent Community School District made on July 12, 2005 be AFFIRMED. There are no costs of this appeal to be assigned.

(3/9/06)
Date

Carol J. Greta, J.D.
Administrative Law Judge

It is so ordered.

(5/11/06)
Date

Gene E. Vincent, President
State Board of Education

⁹ We do not single out Ms. Murray for any reason except that, as stated earlier in this decision, her experience appears to be a microcosm of what happened throughout this matter. We also hasten to note that Ms. Murray provided thoughtful, well-reasoned testimony herein. But, reasonable persons can disagree with each other. Building closing appeals are not focused on the substantive decisions made.