

**City of Cape May Zoning Board of Adjustment Meeting Minutes
Special Meeting - March 31, 2011**

Opening: In compliance with the Open Public Meetings Act, adequate notice of the meeting was provided. Chairperson Pitman called the meeting to order at 6:30 P.M.

Roll Call:	Mr. Pitman, Chairperson	Present
	Mr. Williams, Vice Chairperson	Present
	Mrs. Hutchinson	Present
	Mr. Iurato	Present
	Mr. White	Present
	Mr. Schmidtchen	Absent
	Mr. Todd	Absent
	Mr. Meier, Alt 1	Present
	Mrs. Inderwies, Alt 2	Absent

Also Present: Mary L. Rothwell, Zoning Officer
Edie Kopsitz, Recording Secretary
George Neidig, Board Solicitor
Craig Hurless, P.E., P.P., Board Engineer

Application:

**Frank's Investment's LLC, 711 Beach Avenue, Block 1062 Lot 6 & 7
Appeal from Administrative Decision**

Mr. Hurless clarified his credentials for the record.

Chairman Pitman clarified the procedures that will be followed and the time limit for comments are to be five (5) minutes. He stated comments/statements are not to be repetitive and only pertain to City of Cape May Code § 525-40 Demolitions and Relocations Criteria. Mr. Neidig explained in detail the process of a de nova hearing. Chairman Pitman announced that a break in the meeting will be approximately at 8:00pm and the meeting will end at 10:00pm. He verified the legal counsel by name Stephen Nehmad, Esquire (Franks Investment) and Michelle Donato, Esquire (Beach Theater Foundation, Inc.).

Stephen Nehmad, Attorney for Nehmad, Perillo and Davis representing Franks Investments Incorporated, he is ceding to Michele Donato, Attorney (Beach Theater Foundation) the use of the table in front of the Board Members to obtain her testimony.

Ms. Donato gracefully thanked the Board and Mr. Nehmad for the use of the front table. She then introduced Mr. Steve Jackson of 809 Columbia Avenue and President of the Beach Theater Foundation who was sworn in and prepared & presented a power point presentation which was marked **O-1** (packets were distributed to members and Mr. Nehmad to follow). He described the presentation as research of the history of the Beach Theater from its inception. The packets contained 19 colorized pages. He explained each page, #1- Current

photo of the outside of the theater, #2 – 1950 post card of the Beach Theater, #3- two (2) post cards of the Beach Theater, #4 – two (2) 1960's of the Beach Theater, #5 – Photograph of the Main Lobby & Concession, #6 – Beach Theater Lobby Mural uncovered in 2009, #7 & #8 – Beach Theater Lobby Mural Detail uncovered in 2009 called the The Steamship Republic wall, #9 – photograph of the Front Lobby in the 1960's, #10 – another Front Lobby Mural uncovered in 2009, #11 – 1960 picture of the Auditorium with 806 seats, #12 – clippings from Seven Mile Beach Reporter dated November 9, 1951, #13 – W.H. Lee caricature from the Exhibitor Magazine in 1928, #14 – Photographs of William C. Hunt, previous owner and William H. Lee, Architect, #15 – Photograph of the Beach Theater that states THE FUTURE on the sign, #16 – two(2) colorized renderings of the proposed Future Beach Theater, #17- colorized rendering of the Renovated Lobby, #18 – colorized rendering of the renovated auditorium equipped with a stage and #19 – a color rendering ending the presentation that states Beach Theater Foundation Cape May's Theater since 1950. He testified that nothing presented was altered or modified. Mr. Nehmad questioned the credentials of Mr. Jackson as well as the research conducted and elucidated regarding the Future Beach Theater aspect of the presentation on pages #15 through #18.

Professor Richard Longstreth, Historic Preservation was sworn in and clarified in detail his credentials for the record. Marked for the record as **O-2** a copy of the Professors curriculum vital. Ms. Donato began the questions for Professor Longstreth's testimony. He confirmed architect William H. Lee notoriety, giving a detailed summary of his career and informed members of his interest in theaters and his expanded study of Art deco Theaters. He informed members of Carolyn Pitt's participation of securing the National Historic Landmark for the City of Cape May and his respect/admiration for her work. The Professor expressed his interests/compassion for the variety of architecture of the City of Cape May. He elucidated on the history of the Beach Theater as a social and entertainment center (Art exhibits etc.) for this community and was largest for the era. Professor Longstreth wanted it noted for the record that he is not against new construction. Ms. Donato directed Professor in responding to the Criteria of City of Cape May §525-40 he responded the ordinance for designation are far broader and are not limited to National or State register designation he elaborated in depth regarding the period of significance. He indicated that his hypothesis was validated by the contemporaneous reports conducted by newspaper articles by Seven Mile Beach reporter dated November 9, 1951 marked **O-3**, referred to his own report dated March 21, 2011 marked **O-4**, Mr. Andrus submission of the "Exhibitor" volume 44 dated September 20, 1950 marked **O-5**, Cape May County Times 1925 article marked **O-6**, Cape May Star & Wave article dated March 31, 1949 marked **O-7**, Cape May Star & Wave article (New theater work starts) dated August 25, 1949 marked **O-8**, Photograph the City of Cape May Solarium marked **O-9**, Cape May Star & Wave article dated June 22, 1950 marked **O-10**, Cape May Star & Wave 1950, opening of the Beach Theater (date was not legible) Editorial marked **O-11**, Cape May Star & Wave enlarged article regarding a Art Exhibit at the Beach Theater dated June 29, 1950 marked **O-12**, Cape May Star & Wave article dated July 13, 1950 regarding an Art Exhibit at the Beach Theater marked **O-13** and an article called Glancing Back about William C. Hunt not dated by a Robert W. Elwell, Sr. marked **O-14**. Professor indicated that he did not research William C. Hunt only his architect. His testimony referred to the colonial motif of the Beach Theater stating the buildings was white and not frozen in the Victorian era. He stated the Beach Theater is a significant example of post World War II

commercial architecture that is tied to traditions of building is coastal resort communities. His testimony indicated that the building could be rehabilitated, encompassing both historical and modernist elements and explained in depth giving examples of other icons of various communities that were undertaken. He then commented on the exhibits by Fenwick Architects of the Preliminary Design marked A-17 (which includes 9 sheets) and stated the façade was identifiable but not specified to indicate what fabric was retained and the additions of two stories would cross purposes of the original design.

Chairman Pitman called for a ten (10) minute break at 8:00 pm. Meeting resumed at 8:10pm.

Mr. Nehmad cross-examined Professor Longstreth requesting he verify who his client was and the date he was retained. He questioned the professor at length regarding his report dated March 21, 2011 that was submitted for tonight's hearing. Mr. Nehmad requested clarification on his comments regarding the various articles he commented on O-4 through O-14. He questioned the Professor's opinion on the theater and structure conditions through present day, requested his knowledge of Ordinance #127-2007 listing the Historic Building Survey Designation and his lack of knowledge regarding the City of Cape May Ordinances §525-33 Purpose and objective Historic districts, §525-34 definition of Historic Site formally designated, his knowledge of the City of Cape May Master Plan with regards to Historic designations of sites and his knowledge of the City of Cape May Land Use Ordinance when pertaining to the designation of a Historic Site and wanted the Professor to acknowledge this was his first assignment in this area and to acknowledge he was never published regarding Cape May. The Professor acknowledged that it was correct. Professor continually responded that he is testifying to eligibility only and Mr. Nehmad stating that the Board does not make it's decision based on eligibility but basis it on the articulated standards in the City Land Use Ordinances and Master Plan. With the aerial photographs (A-12) and photographs present day (A-13) Mr. Nehmad questioned Professor Longstreth extensively regarding the location of section to be demolished and proposed construction. Several comments were made of the functional obsolescence of the building with the Professor responding that his opinion is that it could be made functional. The Professor gave his perception and evaluation of the building. Mr. Nehmad questioned Professor Longstreth regarding was a correction noted to one of the exhibits (O-9) that stated to be the Solarium and it was in fact Convention Hall. He referred the Professor to A-23 George Thomas Book, Queen of the Seaside Resort and Professor acknowledged George Thomas Book to be very detailed in Cape May architecture. He questioned the Professor regarding the building being below the base flood elevations (debate ensued between Ms. Donato and Mr. Nehmad regarding the line of questioning regarding the flood elevation), with the Professor stating he was not knowledgeable in the Engineering Field.

Mr. Nehmad requested Chairperson Pitman to call for a five (5) minute break so he could review his notes for more questions at 9:45pm. Mr. Neidig also stated the members could review upcoming dates for the continuation of this Appeal. The meeting resumed at 9:55pm.

Mr. Neidig announced the date for the next Zoning Board Meeting pertaining to the continuation for Franks Investments (Beach Theater) will be Wednesday, April 6, 2011 @ 6:30pm with a 48 hour notice.

Ms. Donato then commenced with her redirect of the Professor pertaining to Ordinance §525-34 definitions of Historic Site and Resource regarding time limitations, Permit and Restoration, §525-36 Designation of Historic Sites & Districts, §525-40 Demolition & Relocations (A-27). Mr. Nehmad wanted the Professor to acknowledge that the Beach Theater is not a designated structure (not rated) in the Historic District by Ordinance. Ms. Donato announced that the designation of the Theater has been stymied on the Council level due to the litigation.

Adjournment was made by Mr. Meier, Seconded by Mr. White at 10:15 PM, with all in favor.

Respectfully submitted: Edie Kopsitz, Recording Secretary.