

**TOWN OF HARRISBURG, NORTH CAROLINA  
BOARD of ADJUSTMENT MEETING  
TUESDAY, FEBRUARY 20, 2018  
6:00 PM**

**MINUTES**

**1.**

**CALL TO ORDER**

Lloyd Quay called the meeting to order.

PRESENT: Lloyd Quay, Thelma Thorne-Chapman, John Overcash, Scott Noel, Andy Rathke

**2.**

**CONSENT AGENDA**

**3.**

**PUBLIC HEARINGS**

**2018-02-(A) – Appeal of Administrator’s Decision regarding the revocation of a zoning use permit issued for 5226 NC HWY 49 S per Section 3.1.10 of the Unified Development Ordinance.** All those speaking concerning this case were sworn in. Joshua Watkins, Planning Director, presented the background information.

**Josh Watkins**

A little bit of background, on June 12<sup>th</sup> 2017 our staff received an application for a zoning clearance permit; the application was issued for a boutique business specializing in reiki healing, meditation, and yoga along with some retail of candles, charms, gem stones and books. Again this is something we received on June 12<sup>th</sup> 2017. On June 14<sup>th</sup> two days later our staff did issue a zoning permit as part as that permit issuance there was conditions on the permits that were specific, no astrology, palm reading, psychic reading or tarot card reading allowed because in that particular zoning district B-1 (neighborhood business district) those uses are not allowed. In the months of September and October it came to our attention that there may be some potential violations of the conditions that were permitted so staff begun doing some research online to find out what we could that was taking place at this current location. Some of that online research for one led to the website for the business that was listing this address 5226 NC HWY 49 S as the address for the location for psychic predictions. We have an exhibit here showing that screen shot from the website. We also found another website that you will find in here labeled as exhibit E, for Tracy Wells as a psychic specialist. While that one did not have this address it did have the same phone number to contact for setting up psychic readings as the website that was found for the town of Harrisburg. Exhibit D we found some reviews online of the business where people were talking about services that they had received which indicated that there may have been some activities that had taken place that were clearly prohibited with the conditions of the permit. So on November 7<sup>th</sup> we issued a letter effectively revoking the permit, as allowed by section 3.1.10 of the Unified Development Ordinance and on December 7<sup>th</sup> 2017 an appeal was filed challenging the revocation of that permit. Again, just a quick over view of the exhibits, exhibit A is the permit application where in the applicant has filled in the information what

would be taking place on the premises as part as the permitted uses allowed by this permit. Exhibit B was the actual permit that was issued for the business where you will see in two locations where there were prohibited uses that were listed on the permit, here in project description and here in the comments. Exhibit C is a screen capture from one of the websites that was titled Psychic Predictions, if you jump down a little down the page the address was listed at 5226 NC HWY 49 S. Exhibit D we found two online reviews from clients who have visited the current location, if you notice the address is listed at 5226 NC HWY 49 S under the review also. Exhibit E, this is the page we found for Tracie Wells, again there is information in here talking about the type of work she provides, and the interesting part is the telephone number for pricing and appointments, if you go back to the first website the telephone numbers are identical. Exhibit F we just included some information from the Ordinance section 3.1.10 that is the grounds for revocation of a permit. We have included that for information purposes. With that being said I will be glad to answer any questions that you may have for me.

**Scott Noel**

Josh, do you know what the dates were of the comments of the business that were left?

**Josh Watkins**

Up here in the corner this screen shot was taken on November 1<sup>st</sup> 2017. That is when we took the screen shot of this. If you'll look under each of those comments it actually says a month ago for the individual comments, so a month back from November 1<sup>st</sup> is when they were left.

**Thelma Thorne-Chapman**

Are there any locations in Harrisburg that are zoned to be able to run a business like this?

**Josh Watkins**

Yes there are zoning districts where that use of business, psych readings that are allowed. B-1, neighborhood business district, is not one of those zoning districts. The state requires we have a zoning for every type of use that is allowed.

**Lloyd Quay**

Is there any more questions for Josh?

**Lloyd Quay**

I understand, is the attorney for the applicant here? Sir, at this point in time you can ask Josh any questions if you so desire or can wait until you make your presentation. You do have the opportunity to question Mr. Watkins at this time if you chose to do so.

**Cody Svejda**

I will wait until after my presentation.

**Lloyd Quay**

Ok, I just wanted to make that known, that you do have the opportunity at this point in time. Thank you. Is there any more questions for Josh? Now we need to hear from the appellant.

**Llody Quay**

Excuse me for just a second sir. Andrew were you going to testify on part of the staff?

**Andrew Strong**

No, I was just sworn in incase I said anything

**Lloyd Quay**

Sir please state your name and address

**Cody Svejda**

My name is Cody Svejda, my address is 615 S College St, Charlotte, NC. I am a North Carolina attorney representing Mr. Marks.

**Lloyd Quay**

And that is Svejda, right?

**Cody Svejda**

Yes

**Lloyd Quay**

Ok, thank you

**Cody Svejda**

Yes, it does not sound the way it is spelled so don't get confused but it is Svejda I promise.

**Lloyd Quay**

Alright

**Cody Svejda**

To start, I am just going to go down what Josh went through, we did agree to the permit and did understand that there was no such thing as tarot card reading, spiritual reading, and all of that and my client will agree to that. One thing is that it seems that the evidence of a telephone number and google reviews. Telephone numbers are not a land line, not all telephone numbers are land lines and my clients do have cell phones that they use for all business operations and it is very rare for people to have land lines anymore. So the telephone number that is used on the website, it is not a land line and it does not mean that the address is in Harrisburg or in North Carolina because I believe it is actually a South Carolina area code. Um, the google reviews is another thing I want to bring to your attention, as I understand from the packet you received, the comment from Sandy Marks, Sandy Marks is one of the people who left the google review for promotion services, it was nothing that Marks received in Harrisburg it was just an idea to get more people into the business and more traffic to the website. It was not due to promote tarot readings, I'm not sure if Mr. Sandy Marks knew the current conditions of the permit and that there was not tarot card or spiritual readings that is supposed to happen within Harrisburg. The other google review was a friend that used to visit the center in Tennessee, they had a business in Tennessee for a year or two that allowed them and was zoned for the tarot card and spiritual readings and that is where that started. One of those was a friend who was using a google review

for a promotional stand point. I believe the last thing I wanted to bring up was from either Josh or the town attorney about the sign that was in the front yard of the business which was different than the sign on the website. However I did not see this in the packet so I'm going to assume this was redacted. Exhibit E, this one, it states that she lives in Harrisburg North Carolina it doesn't say anything that she gives out tarot card readings in the state North Carolina however it does apply and offer services for parties and events but not services at the Harrisburg location. And of course the phone number is the same number as the one from the other website. Exhibit F, my client did not intend to misuse or mislead the permit of the business, as to my knowledge he has followed through by not intentionally misrepresent to me or here to the board that he was trying to pull something over the town's head. Again they are saying over a telephone number and google reviews is enough evidence to revoke my clients business permits to prevent him from doing business in Harrisburg where he has a lease up to almost 8 more months so I don't see any reason why the revocation should not be suspended.

**Lloyd Quay**

With the regards to exhibit D in the remarks of Sandy Marks, "Just had my reading and must tell it was the most pleasurable tarot reading I have ever had she was so accurate and so pin point on answers I will definitely go back there and take my friends she is truly gifted and passionate and devoted to your problems she has helped me a lot thank you!", your understanding is that this did not take place in Harrisburg?

**Cody Svejda**

That is my impression, that is my belief I believe that was in, yeah in the affidavit Sandy Marks states that he had no idea, that he was trying to help them provide new business, he just wasn't aware of the idea that they can't offer tarot readings like they were at the other business.

**Steve Bedwell**

So are you saying that is a false review?

**Cody Svejda**

To my knowledge, it was only for promotional services

**Scott Noel**

Josh do we have that affidavit of Sandy Marks saying that?

**Josh Watkins**

Yes, it should be in your packet

**Rich Koch**

I just want to point out that is not a regular affidavit form, it is not sworn to which is required for an affidavit it is notarized but it is not with a verification as to opposed to an acknowledgement so it is not an affidavit that would typically be accepted in North Carolina. Also we are not required to accept affidavits for these types of hearing anyway, but you can choose to do so. But I just want you to be aware that that which purports to be an affidavit is not a true affidavit and neither is the one from Mr. Demetro for the same reasons and even the appeal affidavit for Mr. Marks has an acknowledgement but not a verification so it is not an affidavit in the general form

required for an affidavit in the state of North Carolina. That's just for your information so you can choose to accept those or not but if you are considering those as affidavits, they are not in the form of an affidavit for this state.

**Steve Bedwell**

Is the Tennessee location still in operation?

**Cody Svejda**

Yes, I believe so

**Andy Rathke**

What is the difference between Sandy Marks and Chris Marks?

**Cody Svejda**

Sandy Marks is the father of my client Chris Marks

**Steve Bedwell**

And what about Chelsea Perkins?

**Cody Svejda**

I believe my client could explain more of that, all I know is that it's an old friend, I believe this review wasn't aware of the fact they were not supposed to have tarot card readings.

**Steve Bedwell**

So neither one of these reviews are legitimate and or actual reviews of the business?

**Cody Svejda**

They are not related to the Harrisburg location. They have done tarot card readings in the Tennessee location prior to moving to Harrisburg and that is my understanding is to where that experience came from but to promote the business they decided to put it up after they transferred to Harrisburg from Tennessee. So as to the authenticity of it I can say I am under the impression to was an actual experience it was just not an experience that took place in Harrisburg North Carolina.

**Steve Bedwell**

Does the Tennessee business have a website?

**Cody Svejda**

Yes it does

**Steve Bedwell**

Then why would their reviews be posted here and not there?

**Cody Svejda**

And that's one of those things that my client brought up to be was when the IT individual transferred everything he did transfer the address and telephone number and he didn't change

any services or anything like that. So the services are still the same from the Tennessee website but he only changed the address basically and he wasn't aware that the permit prevents them from doing all services that were allowed in Tennessee in North Carolina. That was the individual that did the website in general.

**Thelma Thorne-Chapman**

So is the Tennessee website still existing?

**Christopher Marks**

Yes mam, it was the same website for this one too. We took everything from Memphis Tennessee to this one in North Carolina, that was the big mistake we made

**Lloyd Quay**

Sir you will have a opportunity to testify right after Mr. Svejda is done, I understand you are answering the question but we will have to hear from you with a name and address when you come to speak

**Christopher Marks**

I apologize

**Lloyd Quay**

I understand. Is there anymore questions for Mr. Svejda?

**John Overcash**

Mr. Svejda can I ask a question, are you aware of any changes in the sign that is out in the front yard?

**Cody Svejda**

No, I am told the sign is different than the one that was in Tennessee. Because, that is actually one of the pictures I want to bring to your attention that was gave to me when I received the letter it was the sign that was in the front yard was actually different from the one on the website because the sign on the website was from Tennessee, the sign in the front yard was the new sign that did not portray psychic readings or tarot card readings. But at this time I am not aware of the sign right now.

**John Overcash**

The reason I am asking that question is a personal experience and correct me if I can make this statement

**Rich Koch**

A personal experience about what?

**John Overcash**

Well seeing a sign that does not look like that sign that is there today

**Rich Koch**

Well certainly the fact that you saw it you can ask questions about your own observation that is perfectly ok in this kind of hearing to question him about that. I will say as I keep looking at Josh, this case wasn't about a sign that I am aware of.

**Josh Watkins**

At no point have we issued any citations for the sign located on this property, there are violations with the sign, a permit was never drawn for that sign but that is not about this discussion nor have we ever perused that, I guess we were taking this case over doing that one at a time but we have never included any information about that element of this site in any of these proceedings that we are talking about this evening.

**Rich Koch**

Correct, the basis for this revocation is not regarding the sign, and to Mr. Svejda's contentions of receiving some documents from me, I don't know anything about a sign. I never sent him anything about a sign. That has never been part of this since the permit was revoked. I notified him of that and they filed their appeal but you can still ask about the sign that is fine, I just wanted to clear that up.

**John Overcash**

I would like to withdraw my question

**Cody Svejda**

I don't know where the pictures of the sign came from I believe it was on the website that was either sent to me or I personally looked into it to decide what they were talking about and I noticed the sign on the website was different than the actual sign outside and that's where I was getting the two confused because the one on the website reflects that there is tarot cards and readings here but the board in the actual Harrisburg location did not mention anything about tarot card reading.

**Rich Koch**

But your statement was that I sent you something concerning the sign which I did not

**Cody Svejda**

And that is what I wanted to correct

**Rich Koch**

And I think you also said Josh did as well but he did not because that has never been a part of this issue

**Josh Watkins**

And for clarification we have, staff has not used any information on either a sign that was on the location or a picture of a sign that was shown on the website on any of the justifications that staff has drawn up for the revocation of the permit.

**Lloyd Quay**

Not part of the evidence for this case

**Josh Watkins**

Correct

**Lloyd Quay**

Because I think we can drop the sign, what we are discussing here tonight everyone has had enough to say about it already. Alright Mr. Svejda is there anything else you would like to add?

**Cody Svejda**

No sir

**Llody Quay**

Are there any more questions for Mr. Svejda?

**Steve Bedwell**

Yes, are there tarot cards sold in this business?

**Cody Svejda**

I am not aware of the actual; I honestly do not know if they are even still conducting business, I think they were concerned about violating anything or receiving any more fines of violations daily. That's a question for Mr. Marks that he can answer, but personally I cannot answer that.

**Llody Quay**

Any more questions. Mr. Svejda do you have any more statements you would like to make?

**Cody Svejda**

No

**Llody Quay**

Ok thank you sir

**Cody Svejda**

Thank you

**Llody Quay**

Now sir if you could please come up and state your name and address?

**Christopher Marks**

How are yall doing? Christopher Marks, 5226 HWY 49 S NC 28075

**Rich Koch**

Is that your residence address?

**Christopher Marks**

Yes sir

**Lloyd Quay**

So the Tennessee address that is on the applications and the permit here you do not live at the Tennessee address anymore?

**Christopher Marks**

No sir, We moved here

**Steve Bedwell**

Your currently living at the place of business?

**Christopher Marks**

Yes

**Steve Bedwell**

Is that zoned for that?

**Josh Watkins**

No sir, it is not

**Lloyd Quay**

Go ahead sir

**Christopher Marks**

There was a misunderstanding with Joey Demetro and Sandy Marks my father in law, Joey Demetro is cousin of mine, my wife's cousin and when we first moved here when we got the license and everything was approved and there seems to be a misunderstanding he was living in Memphis for 9 years now and he is my web man he does everything on the internet, google reviews, I have no clue how to work that stuff online that's why I hired him because he knows all about that. So I told him we were moving from Memphis to here to this location and to go ahead and fix it up, make it look nice, and he just made a mistake to copy and paste the exact website of Memphis to this new website. That's where the mistake came in at and I do apologize.

**Steve Bedwell**

Tracie is your wife?

**Christopher Marks**

Yes sir

**Steve Bedwell**

And I guess again I would ask the question are tarot cards sold at this site?

**Christopher Marks**

They are sold on site yes sir. They are on the sign to and it says tarot cards, gifts, candles, crystals and they are sold inside.

**Steve Bedwell**

The two reviews that are currently provided on google are basically not real or used at this actual location?

**Christopher Marks**

They are made up to bring in higher volume that's all. They did it as a gift basically because once they heard I moved in and all that stuff they just wanted to do it without me even knowing it and I told them they can't do that, I don't do that stuff here it's not zoned for that and they felt pretty bad.

**Lloyd Quay**

Mr. Marks is it Marks with a S on the end?

**Christopher Marks**

Correct, yes sir

**Lloyd Quay**

Does Mrs. Wells reside at the same address as you?

**Christopher Marks**

Yes sir

**Lloyd Quay**

On Highway 49?

**Christopher Marks**

Yes sir

**Lloyd Quay**

Ok, is there any more questions for Mr. Marks? Thank you sir

**Christopher Marks**

Yes sir

**Lloyd Quay**

What the motion is going to be hold or over turn, excuse me?

**Lloyd Quay**

Mr. Svejda would you like to ask Mr. Watkins anything other now that you have given your presentation, is there any questions that you would like to ask him?

**Cody Svejda**

I just have one or two more

**Lloyd Quay**

Please come up to the podium and do so

**Cody Svejda**  
Mr. Watkins

**Josh Watkins**  
Yes sir

**Cody Svejda**  
Where there any um was there any type of personal knowledge testimony that actually was inside this business or that came up to you or has a statement that says yeah I received a service, that a secret shopper or is all the evidence just backed up by internet?

**Josh Watkins**  
We did not send anyone in undercover so to speak, we did not receive any complaints from individuals saying they walked in there

**Cody Svejda**  
Just out of curiosity how did the information come to your attention about the website?

**Josh Watkins**  
The way that it came to our attention was that there is a local Facebook page called the Harrisburg forum and someone on that page, we keep a lot of things or development related people have development questions so we keep up with what's going on with the page and one of the things that popped up, someone said can someone recommend to me a resident of Harrisburg a local place to go for psychic services and reading through that thread this particular business was mentioned several times, the folks that were posting were saying it was a good service so that's what initially started us digging deeper into this situation.

**Cody Svejda**  
And were those services specifically relating to psychic telling's, fortune telling's or were they just a broad over view of the psych services?

**Josh Watkins**  
It was pretty much a broad over view of the services

**Cody Svejda**  
That's all I have for now, thank you Mr. Watkins

**Lloyd Quay**  
Is there any more questions, are there any more questions for Josh or Mr. Svejda or Mr. Marks? Ok is there anyone in the audience that has been sworn in that would like to make a statement or ask any questions at this time? Ok the motion is going to be to hold the zoning administrators decision or to overturn or overrule the decision. Do you have any more discussion regarding that, is that correct?

**Rich Koch**

That is correct and the decision needs to be based on the evidence material to this hearing and based on the documents that are part of the record in this case. I did advise you earlier in reference to the statements from Sandy Marks and Mr. Demetro, of course they are not here to testify in person so they have not been sworn, the statements they provided are not in affidavit form as is required for an affidavit in North Carolina, they are not under oath and they have not been verified. Mr. Chris Marks who is here has testified under oath so the fact that his affidavit is not in proper form does not make that much difference since he has been here to testify so I just want you to understand that. With reference to Mr. Svejda he has no personal knowledge of anything that he testified to. He was basically testifying on behalf of his client to things that he has been told to by his client, that is hearsay evidence that is not first person knowledge testimony and that is fine, it's fine for what it is but you have to understand it's hearsay and is being offered for the truth of the matter asserted when he has no personal knowledge of those matters. Some of it has been arguments some of it has been testimony but you just need to keep that in mind. You are the judge of the evidence not only of the weight of it but also of the credibility, you can find that a witness who's testified is not credible, you can find that they are credible, you can find that they are truthful about somethings and not others, the reason I tell you that is because there has been some contradictory testimony to documents that are in the record on this case. So you need to judge the credibility of what you have heard in addition to what has actually been stated. The test here is to determine whether there is more evidence that supports the finding of the zoning administrator than not. It's by the greater weight of the evidence it's not beyond a reasonable doubt, you do not have to have absolute proof but you can look at the evidence some of which is circumstantial but circumstantial evidence is admissible in this state. So you can look at the documents from the website, you've heard Josh's testimony which is based on firsthand knowledge of what his office has gathered and you can see what there is and then you can decide if there is more evidence to support the interpretation that has been made than not and that would be as your chair has correctly pointed out that would be your decision a motion either to affirm the revocation of the permit or a motion to not affirm the revocation of the permit. I just want you to be very clear what the competent evidence is, competent evidence being something that is admissible in a court of law. Because again you are sitting as judges in a quasi judicial setting deciding whether the revocation of this permit should be sustained or not so you need to treat it in that way, like I said you all sit as individual judges who will decide this collectively and your standard is the greater weight of the evidence so if it appears more likely than not that the evidence that the staff has put together indicates violations of the permit then you will decide accordingly if that's not the case then you will decided accordingly in the other way. Does anyone have any questions about your role or how to evaluate the evidence, how to evaluate the witnesses in terms of credibility or not or the documents or anything else related to the decision you need to make this evening.

### **Lloyd Quay**

So we are all clear to all Rich has explained to us. Ok I would like to have a motion to, excuse me Josh yes

### **Josh Watkins**

I just want to, and Rich might have brought this up, remember this is a five member board with one alternate so I just to remind you

**Rich Koch**

No I am glad you did, I did not mention that Josh I'm glad you did, so for the Board of Adjustment it's just those members that vote on this so it would probably be good just to be clear that we have a show of hands both ways.

**Cody Svejda**

Can I make a rebuttal?

**Rich Koch**

I didn't hear what he said I'm sorry

**Lloyd Quay**

He would like to make a rebuttal

**Rich Koch**

Well let's be clear, I am representing the board ok, so I'm not taking an adversarial position on this I'm just instructing them on what the law is relative to them performing their duties so to say there is a rebuttal I don't know if that would be appropriate here. If you are really asking that you would like to make an argument some sort of a closing argument, I'll leave that up the board, to some degree you already have but that would be the board's decision if they would like to hear anything in addition from you.

**Lloyd Quay**

Mr. Svejda come on up and please be brief if possible

**Cody Svejda**

I just want to point out that my clients moved from Tennessee to Harrisburg North Carolina. They were well aware of permit restrictions and I informed them that if they were to violate it then they were done, the permit would be revoked, the business would be done and shut down. However they did take the chance to move from Tennessee to Harrisburg North Carolina, I do not see them violating the permit use because they wouldn't have a business or any livelihood. The fact that the proof against my clients is hearsay and a telephone number because of a Facebook message on Facebook that was overly broad and didn't mention anything about psych readings or tarot card readings it wouldn't be significant in this instance because the fact that the only evidence against my client is a telephone number, promotional reviews on google and a Facebook message. That is the only thing that I wanted to mention is that they moved to Harrisburg North Carolina and their permit could be provoked over the internet which is highly illogic and I appreciate your time.

**Lloyd Quay**

Sure, thank you. Is there anything else that needs to be added at this point in time? Staff, board anyone. Ok as I have stated before the motion will be to sustain Josh's revocation or to overrule it. Do I have a motion?

**Andy Rathke**

I would like to make a motion to sustain Josh's ruling

**Llody Quay**

Do I have a second?

**Scott Noel**

Second

**Lloyd Quay**

Ok Scott. Is there any more discussion? All in favor please raise your hand. All opposed same. Josh's revocation has been upheld.

**Rich Koch**

With the pleasure of the board I will prepare the appropriate findings in order

**Lloyd Quay**

That's the end of the business for the board of adjustment tonight, is there anything else the Board needs to cover?

**4.**

#### **ADJOURNMENT**

There being no further business, Lloyd Quay made a motion to adjourn with a second from Thelma Thorne-Chapman .**The motion passed 5-0.**

**Findings of Facts as prepared by Attorney Rich Koch are as follows:**

#### **FINDINGS OF FACT**

1. On June 14, 2017, the Town issued a zoning compliance certificate (the "permit") to Mr. Marks for a business named Spiritual Crystal Boutique which was to be located at 5226 N.C. Highway 49 South (the "property").
2. This permit was based on Application ZNHA 2017-00213 submitted by Mr. Marks for the property, which is identified as PIN 5507-36-8083.
3. In the application, Mr. Marks represented to the Town that the business of Spiritual Crystal Boutique was limited to a gift shop, reiki healing, yoga and life coaching.
4. In the permit, it was specifically stated that astrology, palm readings and tarot card readings were not permitted on the property, which is zoned B-1 (Neighborhood Business District). Such uses are not permitted in that zoning district under the UDO.
5. Subsequent to the issuance of the permit it came to the attention of the Zoning Administrator that one or more of these prohibited uses were taking place on the property.
6. Different sources on the Internet indicated the following:

a) The website for Spiritual Crystal Boutique at the property address contained reviews by persons who expressed satisfaction with their tarot readings within one month of November 1, 2017;

b) That same website indicates that the telephone number for the Spiritual Crystal Boutique is 980-777-0044;

c) Another Internet website for Tracie Wells identifies, in the first person, that she is a psychic and provides these services in the Town of Harrisburg. That site also lists her telephone number for contact as the same 980-777-0044 and lists the Property address as her location; and

d) Postings on the Internet site Harrisburg Forum indicated that psychic services are readings could be obtained at the Property location.

7. Mr. Marks testified to the following:

a) Tracie Marks is his wife;

b) He and his wife live on the Property where the Spiritual Crystal Boutique business is located.

c) The website information is inaccurate as it was simply transferred to the Property website by Mr. Marks' webmaster, Joey Demetro, from a prior similar business near Memphis, Tennessee.

d) The internet review by Sandy Marks describing a tarot card reading did not occur in Harrisburg but was simply a business promotion by Sandy Marks, who is the father of Chris Marks.

8. Mr. Marks offered "affidavits" from Joey Demetro and Sandy Marks in support of his testimony. Neither of these individuals was present for the hearing. These affidavits were not sworn to under oath and were not property notarized with a verification. The Board was advised by the Town Attorney of these deficiencies and that it was in its discretion as to whether to consider them.

9. Mr. Watkins testified to the history of this matter and the Internet investigation conducted by him and his staff.

10. On November 7, 2017, Town Attorney sent to Mr. Marks and Mr. Svejda a letter notifying them of the violations of the permit on the property and that the permit was being revoked, effective in 30 days from the letter date.

11. The Board finds that the testimony of the Mr. Marks and the "affidavits" as to the uses being made of the property are not credible and that tarot card readings and psychic services are being performed on the Property after the permit was issued.

12. Mr. Svejda testified that the 980-777-0044 telephone number was not local to the Harrisburg area but was a South Carolina area code, which the Board knows to be inaccurate, as area code 980 is local for telephone numbers issued to residents of the Harrisburg area.

Based on the foregoing Findings of Fact, the Board makes the following

### **CONCLUSIONS OF LAW**

1. The foregoing Findings of Fact are incorporated by reference as Conclusions of Law to the extent necessary to give effect to the provisions of this Decision.
2. Mr. Marks and the Property are subject to the provisions of the UDO.
3. There exists substantial, material and competent evidence to support the decision of the Zoning Administrator that Mr. Marks has violated the provisions of the permit and that the permit should be revoked.
4. Mr. Marks and his business, Spiritual Crystal Boutique, have violated the provisions of the permit and the permit should be revoked.

Based on the foregoing Findings of Fact and Conclusions of Law, IT IS ORDERED that the determination of the Zoning Administrator in this matter is unanimously affirmed and that the permit is REVOKED, effective as of the date indicated in the Town Attorney's letter of November 7, 2017 to Mr. Marks.

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Lloyd Quay, Chairman

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Carly Bedgood, Secretary