



1000 Washington Street
P.O. Box 217
Harpers Ferry, WV 25425
304-535-2206
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Corporation of Harpers Ferry

Gregory J. Vaughn, Mayor
Kevin Carden, Recorder

Council Members
Greg 'Storm' DiCostanzo
Christian Pechuekonis
Chris Craig
Laurel Drake
Jerry Hutton

June 1, 2023

Ms. Midge Yost
PO Box 1507
Harpers Ferry, WV 25425

Email: Mflinnyst@aol.com

Re: FOIA #2023-0005

Midge,

This letter is in response to your FOIA request dated May 26, 2023, for a copy of the email with the subject 'Appeal of Permit Issued to Harpers Cemetery Board of Trustees' submitted to Mayor Vaughn (mayor@harpersferrywv.us) and the BZA (bza@harpersferrywv.us), via email from Midge Flinn Yost (mflinnyst@aol.com), on April 15, 2021, at 7:49 am and for a copy of the email with the subject 'Mar 8 meeting – Agenda item public comment – Cemetery/Fillmore Street boulders funding request.....dated March 8, 2021 at 5:56 pm.

Attached please find a copy of both documents. If you would like a 'hard copy' of this information, the cost will be \$.60.

Please consider this letter as fulfillment of your FOIA request. In compliance with West Virginia law, the Secretary of State's Online FOIA Database will be updated by the Town's Recorder to show this FOIA request has been completed.

Sincerely,

Pat Morse

Pat Morse
Administrative Officer

cc: Mayor, Recorder, Harpers Ferry Town Council

Historic District
Where The Shenandoah Meets The Potomac

Mar 8 meeting - Agenda item public comment - Cemetery/Fillmore Street boulders funding request

Midge Flinn Yost <mflinnyost@aol.com>

Mon 08-Mar-21 17:56

To: Wayne Bishop <wbishop@harpersferrywv.us>; Jay Premack <jpremack@harpersferrywv.us>; Barbara Humes <barbara.humes@harpersferrywv.us>; Christian Pechuekonis <cpechuekonis@harpersferrywv.us>; Nancy Case <ncase@harpersferrywv.us>; Kevin Carden <kevin.carden@harpersferrywv.us>; Ed Wheelless <ed.wheelless@harpersferrywv.us>; Pam Knight <pknight@harpersferrywv.us>
Cc: Deb Kelly <dkelly@harpersferrywv.us>; Pat Morse <pmorse@harpersferrywv.us>

March 8, 2021

Dear Mayor and Town Council:

Town Council, Historic Landmarks, and Planning received inaccurate and incomplete information from Greg Vaughn and Christian Pecheukonis regarding the Cemetery request for boulders and bollards to be paid for by the town and placed in the right-of-way of Fillmore Street.

I live across the street from the cemetery and am very aware of the vehicles that turn around at the end of Fillmore where it meets York Street. The vehicles do not hit the cemetery gate or fence when they turn around. There was not a recent incident with a car or truck turning around and hitting the freshly poured concrete at the new gate posts. It was a cemetery 'gator' style vehicle that came close to the posts and left tracks in the fresh concrete that was spilled on the right-of-way. It's evident from the proximity of the tracks to the gate post that no car or truck made the tracks or damaged the new gate posts.

While the restoration of the gate, fence and preservation work throughout the cemetery are wonderful and an amazing tribute to our town, the effort to add obstructions to the right-of-way is a big stink about nothing.

I turn around many times a day in this location without issue, and have seen trucks and cars turn around at this location for 20 years without incident.

The suggested motion to approve funding for these items will result in obstructions being placed in the Fillmore Street right-of-way, which is a violation of ordinance 909.02.

Putting boulders in the right-of-way is not just illegal, it's a safety hazard. Vehicles will continue to turn around at this intersection, and hit the boulders, an added liability for the town.

In addition to funeral vehicles, first responder and Park Police vehicles drive into the cemetery through the gate. Ambulances have responded to tourists who get hurt at Jefferson Rock from this location.

There was no public hearing on the right-of-way improvement, and agendas for the December Planning Meeting were not posted to the town meeting information links and documents reviewed with the Historic Landmarks are not posted to the town meeting information links.

I would be happy to walk this area with you and provide additional information so you have a more fully informed perspective before taking action.

The Cemetery Board and volunteers are truly generous with their time and funding for cemetery restoration and preservation efforts, but the plan for boulders far exceeds good intentions. Please do not fund obstructions that will be placed in the Fillmore Street right-of-way.

Sincerely,

Midge Flinn Yost
Resident, Harpers Ferry Historic District

From: Midge Flinn Yost <mflinnyost@aol.com>
Sent: Thursday, April 15, 2021 7:50 AM
To: bza@harpersferrywv.us
Cc: mayor@harpersferrywv.us
Subject: Appeal of permit issued to Harpers Cemetery Board of Trustees

BZA members:

I appeal the decision by Town Council to issue a permit for boulder placement in the Fillmore Street right-of-way as described in the permit granted to the Harpers Cemetery Board of Trustees (attached). As mentioned in my letter to Town Council prior to their issuance of the permit, the boulder placement:

- violates the Codified Ordinances of Harpers Ferry (references below)
- violates WV State Code (references below)
- creates a danger to vehicular traffic
- are not necessary to protect the cemetery fence

The request for public funds for the boulders was based on misleading statements. To the contrary of what was stated:

- no vehicular traffic hits the cemetery fence turning around at the end of Fillmore Street
- no vehicular traffic damaged the cemetery gate in 70 years
- cemetery maintenance vehicles caused the tire tread marks near the new gate installation, not vehicular traffic

Many vehicles turn around safely, without issue, and without getting near the cemetery gate or fence, at the end of Fillmore Street everyday. Hundreds of tourist vehicles turn around at the end of Fillmore Street without issue every weekend. There are no police reports of vehicular traffic damaging the cemetery gate or fence. If the boulders are placed in the right-of-way, vehicles will definitely hit them when they turnaround at the end of Fillmore Street, creating a liability for the Town.

As an adjacent property owner, I was not notified of the hearing or permit. No signage was placed at the site to alert the public to the permit application. The boulders will block my ability to safely turnaround in front of my home.

I've made phone calls to the clerk and stopped by Town Hall, but the Town of Harpers Ferry has not been able to provide me a copy of the permit until yesterday, thanks to the bookkeeper (who let me know there's no longer a Town Clerk), who was able to make arrangements to send me the document.

Please declare the permit issued to the Harper Cemetery Board of Trustees null and void.

Sincerely,
Midge Flinn Yost
Resident
Harpers Ferry Historic District

References to HF Codified Ordinances

1301.02

(b) Any permit, certificate or approval issued in conflict with the provisions of the Zoning Ordinance shall be null and void and, in no event, shall act as a waiver of the standards and requirements of this Zoning Ordinance.

133.10

(c) The Planning Commission, Board of Zoning Appeals or the Ordinance Compliance Officer may seek an injunction in the Circuit Court of Jefferson County to direct a person or persons or any government with jurisdiction and power to remove a structure erected in violation of the provisions of any ordinance or rule or regulation under its jurisdiction. If the Planning Commission, Board of Zoning Appeals or the Ordinance Compliance Officer is successful in any such action in which an injunction is issued the respondent shall bear the costs of the action.

909.02

No person shall obstruct, or to cause to be obstructed, individually or acting in concert with any other person, any street within the Corporation limits of Harpers Ferry...

References to WV State Code

WV State Code §17-16-1.

Obstructions, within the meaning of this chapter, shall include... fences, buildings, or other obstructions within the bounds of a public road; ... Such obstructions so placed and left within the limits of such road are hereby declared to be public nuisances, and, in addition to other remedies provided in this chapter, the county court or the State Road Commission, as the case may be, may apply to the circuit court, or other court of competent jurisdiction of the county in which they may be, for an injunction to abate such nuisance.

WV State Code §17-16-2.

Duty of landowner, occupant and public utility to remove obstructions and fill excavations.

It shall be the duty of the owner or occupant of land situated along any state or county-district road to remove all obstructions within the bounds of the road which have been placed there by himself or with his consent...

WV State Code §17-16-9.

The owner or tenant of land fronting on any state road shall construct and keep in repair all approaches or driveways to and from the same, under the direction of the state road commission, and, likewise, the owner or tenant of land fronting on any county- district road shall construct and keep in repair all approaches or driveways to and from the same, under the direction of the county road engineer, and it shall be unlawful for such owner or tenant to fill up any ditch, or place any material of any kind or character in any ditch, so as in any manner to obstruct or interfere with the purposes for which it was made.

WV State Code §17-16-5.

Liability for failure to remove obstructions.