



**TOWN OF EDENTON**  
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Edenton Preservation Commission

July 10, 2023

Ms. Baker called meeting to order.

Mr. Newbern, Ms. Vaughan, Ms. Otey, Ms. Thornton, Ms. Baker, Hick were present. Ms. Maffitt came in after roll call.

One correction was made to the June 2023 minutes.

Ms. Baker called for the first application. Ms. Vaughan, Ms. Otey (5-0).

Ms. Baker had all speakers take an oath.

Ms. Baker asked the commissioners if they have fully reviewed all the information for Mr. Burgher's application. All stated yes.

First application. Vince Burgher 121 W King St; requesting to construct a 5'x42' foot pier with 8'x14' platform.

Mr. Whealton gave an update.

Ms. Baker asked if they would be hearing the application under the previous guidelines. It was answered that the application had been submitted before the change, therefore, the commission would be going by the old guidelines.

Mr. Burgher presents his application with a presentation. This is a revised application for the pier that went to the Board of Adjustment and sent back to the EPC to be heard. He states that this application has been going on for about 2.5 years. He gives an overview of what has transpired up until this meeting.

First, Mr. Burgher started with the Edenton Preservation Commission's duties. He states that there is a handbook for the commission which is a joint agreement between Preservation NC and the State. This dictates their role, what they are supposed to do, and how to conduct business. He states that the EPC is supposed to hear the evidence, determine relevant facts, apply the law equally, and protect the interest of property owners. In the rules he brings up that property owners are to be treated fairly. Mr. Burgher claims that he had not been treated fairly throughout the years. The handbook says that they are to prevent development that would be incongruent with the special character with the district. He states that there are 22 piers in Edenton's Historic District.

Next, he brings up the timeline for this project. In April 2021, he met with the town to review the bulkhead and the pier project. He states that there seemed to be no problem with the town. Next, he went to get a preliminary CAMA permit. Then he went to the EPC with the application, that was denied.

The permit was denied because he did not have a CAMA permit and the gate blocked the viewshed. The permit was then purchased. Next, he states that had problems with zoning issues with the town. He said that in zoning, piers are no considered an accessory use. Mr. Burgher asked if this applied to the Kayak ramp that is at Queen Ann's Park. He states that the town said it was different because it is a public ramp. Mr. Burgher believes the public ramp should be scrutinized more than a private.

He states that the town planner at the time said that it seemed the pier was the issue and not the bulk head. The next day the COA for the bulk head was approved. Mr. Burgher states that the town then said that they disagree with CAMA and filed a 3<sup>rd</sup> party lawsuit against CAMA because the town did not believe the permit should have been issued. Another specialist was hired, George Woods. When the lawsuit was filed, Mr. Burghers permit was locked up and he could not fix the bulk head.

At the next EPC meeting, Mr. Burgher states that he went back with Reed Thomas' expert opinion letter. The gate was no longer on the application. In the meeting he said that they would not hear anything because it was not a substantial change. During this time, CAMA said that the permit was expired again and he had to pay another \$600. After the \$600, the town did not object this time and the neighbors were kind enough to not file an objection. He states that this brings everyone to this meeting, 2.5 years later.

Next, he wanted to run through the application and asked to hold question to the end. The new application is submitted on the old guidelines, October 2021. It's a wood pier, 5'x42' with on end platform of 8'x14'. The gate has been removed and the inclusion of the CAMA permit. Mr. Burgher said that he had always gotten an opinion from Preservation NC.

He showed on a slide that the pier was diagonal. It has to be that way because the way the canal runs he needs to face it at a 90-degree angle. The new CAMA permit had just been issued, as well as the COA for the bulkhead.

Mr. Burgher showed a map from 1920, where five fish house piers and a fishery stood on the same corner. In 1930, he states that these, plus more still existed. He states that he also had a picture from the land records office. Mr. Burgher states that he met with Richard Elliot, and was able to see a water color that he made in 1980 of the fish house that was there at the corner.

Mr. Burgher states that corner lot has been in ruins for many years. The bulks heads have failed and the land in eroding. The corner is not a park, nor a crosswalk welcoming people to visit it. He said that you can already see many piers from that spot.

Mr. Burgher reads from the minutes of a previous hearing with Mr. Shultz, Ms. Baker and Mr. Newbern. He also read a letter from Reed Thomas that he said was the only expert opinion. Stating that fish houses had been there before and that the pier would fit that historical look.

Mr. Burgher states that he complies with all the guidelines, has an expert opinion that supports the pier, and historical precedents of 80 years. He states that his tax bill went up \$225,000 because he is a "water access estate". That is because they are charging as if he had a pier. He said that he had been denied a pier but is being taxed on it.

Mr. Burgher said he received information from Elizabeth Bryant that the EPC has accepted all the pier projects since 2002. He states that he had been singled out and given unequal treatment because no

other piers have had to go through this. He states that it was manipulation of the guidelines. The old guidelines ended in October of 2021. He received emails from Elizabeth Bryant that the guidelines were changing. He believes that the changing of the guidelines was done to keep him from building a pier. He states that verbiage was added that down Granville was the most important view. He states that in August 2021, before the guidelines changed and after his application had been denied, an email was exchanged from Ms. Bryant to Natalie Bass that "a potential case was coming up that the need their best set of standards available for them." He states that the standards were fixed around fighting him and they were caught doing it.

An email from Hood Ellis to Ms. Bryant was shown. Mr. Ellis was requested to look over the draft EPC decision for Mr. Burgher before it went public. Mr. Ellis states that he believes that decision should include a finding that the pier did not satisfy the design guideline on the view on the vista.

Mr. Burgher then showed an email from Mr. Newbern to Ms. Bryant. Mr. Burgher states this showed Mr. Newbern suppressing evidence. Mr. Burgher said that he believes Mr. Newbern should not be able to vote and should recuse himself. Mr. Burgher shared N.C. General Statutes.

Mr. Newbern explained the content of the email.

A vote was taken by the commission to recuse Mr. Newbern's vote or not.

Ms. Vaughan, Ms. Otey, Ms. Maffitt, Mr. Hicks voted not to recuse. Ms. Thornton voted to recuse.

Mr. Burgher states that he is finished with his presentation.

Ms. Baker states that she believed the Stacey property was the only one in 1985 that had a boat house. There was no other at that time. She states that Reid Thomas' letter is non-binding and he just supplies the letter the commission. She states that there are guidelines and that page 40 of the old guidelines says that the view is important as a place of special character. It also states that docks and piers have a place in the community however care and planning must go into constructions of new piers, docks and bulkheads. Ms. Baker asks about the expired CAMA permit and it listing 6' width, not the 5' in his application.

Mr. Burgher said that he believes that it has always been 5 feet and that CAMA approved him for up to 6'. He states that more people have piers for personal use than ever before and he is only requesting a 50-foot pier that his daughter can use her kayak. He states that he has consistently asked for Mr. Thomas' opinion.

Ms. Baker states that his opinion is nonbinding.

Mr. Burgher asks about the Wessington fence.

Ms. Baker states that this is up to the commission's discretion. Ms. Baker asks about the plans for the platform at the end of the dock.

Mr. Burgher states that it will just be a flat platform because he doesn't want to obstruct anyone's view.

Ms. Baker asked for clarification that he will not be adding any elevation to the end of the pier.

Mr. Burgher said that no he will not. He just wants a place for his daughter to kayak.

Ms. Vaughan states that the kayak pier on Water Street does not block anyone's view. She states that she has two issues regarding public safety. First, the pier is going to be put on a small area of land and on a blind curve. Ms. Vaughan states that carrying a kayak across the road would be dangerous. Second, she references page 40 of the guidelines. She states that to access all private piers, you must walk through private property and around a home.

Mr. Burgher said that there is signage out there that has been certified through the North Carolina Department of Transportation. He states that he has every ability to come across to access his property. He states that public safety is not it in guidelines, and that it is another issue.

Mr. Newbern states that the property he owns is separated by public streets.

Mr. Burgher said that it is across the street.

Mr. Newbern states that it is not physically connected and asks if he knows of any other pier in the historic district that that this may occur.

Mr. Burgher states that was one of the 11 objections and zoning worked through this item. He is not intruding on the right away, that the land had to be merged together, and that will certify the principal use for this accessory use structure. He states that it was resolved at a zoning hearing the year before.

Mr. Burgher talks about the public kayak ramp.

Mr. Newbern said that he said privately owned.

Mr. Burgher states that the kayak ramp is not associated with Queen Anne Park on GIS and that it is a stand-alone pier.

Mr. Newbern asked Mr. Burgher when CAMA made him turn his pier to the side and if it could it be used for a boat?

Mr. Burgher states that it doesn't matter the kind of pier and if he did a 10-foot pier it would need to be directed towards the canal. He states that he did not choose, but that's how CAMA required it.

Public comment is opened.

Larry Sellers, one of the former owners of this property, states that one of the things that they pushed when selling was that the water lot could probably have a pier erected.

Pat Grother, resident of the Mill Village, states that she wants to know the boards objection.

Ms. Baker states that she did not have a vote unless there was a tie, and her opinion is that the towns most scenic vista will be substantially altered by this permitted pier, supported by the design guidelines on page 40 number 6.

Ms. Grother asks if the pier was going to be low to the water.

Mr. Burgher states that it will be less than 12 inches off the water.

Ms. Grother states that with the pier being so low to the water it would be easier to launch a kayak, and should not obstruct the view. She states that she has no objection to this pier, being that it is Mr. Burghers property.

Anne Row states that she lives next door to the Staceys. On one hand she doesn't have an issue with a pier because most of the neighbors have a pier. Her concern would be safety, if a pier is built on that corner. She states that she is concerned that the pier would be built with pilings that would damage that houses on either side.

Ms. Thornton made a comment that she had previously been able to look down Granville Street and see the water but now she sees bushes and a road sign. She states that she does not believe that a pier will affect the vista.

Ms. Maffitt states that she was concerned about the safety and for Mr. Burgher's daughter crossing that street.

Ms. Baker states that she had passed around a paper and now was going to share it with him and the public. It was a photo of the view from the proposed area where the proposed pier would be located. Ms. Baker asked Mr. Whealton to submit it to the records.

Mr. Burgher answered Ms. Rowe. He said that he is repairing the bulk head and the town would not allow him to do a tie back. He had to do a pylon that was 3 times as deep. The bulk head will be very stable.

Ms. Baker called for a motion.

Ms. Thornton made a motion to approve the construction of a 5'x42' foot pier with 8'x14' platform.. Ms. Otey seconds.

Mr. Newbern votes no.

Ms. Vaughan votes no.

Ms. Maffitt votes no.

Mr. Hicks votes no

Ms. Otey votes yes

Ms. Thornton votes yes.

Motion failed to pass (4-2).

Meeting was adjourned.

