

# 20 Burgess Pt. Rd Special Permit; Site Alteration

Approved: January 14, 2019

Completed Fall of 2021

Approved by Dave Riquinha, Fall 2021

Appealed Mr. Decas, October, 2021

ZBA hearing, Jan. 12, 2021

ZBA continuance Jan 26, 2021

# 20 Burgess Pt Rd. Special Permit

We completed the following items:

- We have met **ALL** findings of the Special Permit
- We have met **ALL** conditions of the Special Permit
- We have completed the project under a severe drought
- The area is in fact in compliance with an approved RDA from Conservation with a Certificate of Compliance.
- The Wareham Enforcement Officer has signed off on the project
- THE APPELANT ONLY PROVIDED YOU WITH HIS INTERPRETATION OF THE RULING, SELECTIVE INFORMATION, AND NOT THE ACTUAL FACTS OR DATA FROM THE PLANNING BOARD, APPLICANT, PLANNING DIRECTOR, OR ENFORCEMENT OFFICER.

**We formally request the ZBA to deny the applicants request to overturn the approval of the enforcement officer. The project is complete!**

# 20 Burgess Pt Rd. Special Permit

- Planning Board Special Permit Findings:
  - ✓ Will not adversely affect the neighborhood as an open field. It doesn't say it can't be an open field.
  - ✓ Appropriate use of land temporarily as open area
  - ✓ Will not create hazard (stumps removed)
  - ✓ Will protect adjacent areas; (no runoff, no dust)
  - ✓ Will provide protection of environmental features with inclusion of sediment and erosion controls.
  - ✓ Meets all applicable sections of Zoning Bylaws

***We have met the intent and requirements of the findings of the Special Permit.***

***There was never a requirement to provide long term use of the property; but we have stated it will either be used for horses or for houses.***

# 20 Burgess Pt Rd. Special Permit

- Planning Board Special Permit Conditions:

- ✓ 1. Site visits by PB representative thru process.

- We met with Ken Buckland, official representative of the Planning Board, at least 3 times on site.
    - Dave Riquinha took over enforcement on 12/20/20.
    - We met with Dave Riquinha at least 3 additional times.
    - We met with the Town Manager and Dave once on site.
    - We met with Dave Pichette at least 4 times on site.
    - We have over 50 emails to and from Ken who is the official representative of the Planning Board.
    - We have another 10-20 emails from Dave R.
    - We met with the Planning Board on at least 3 occasions.

**CONDITION 1 MET!**

**Dave Riquinha agrees: October 18, 2021**

**“There have been numerous site visits at Burgess Pt. Road clearing location.”**

# 20 Burgess Pt Rd. Special Permit

- Planning Board Special Permit Conditions:

- ✓ **2. All Stumps shall be removed.**

- All stumps removed the week of July 25, 2019
    - We have receipt from Speakman Excavation.
    - No stumps were left on site as required.

**CONDITION 2 MET!**

- ✓ **3. Disposal of Stumps off site; approved location**

County Road Recycling, West Wareham.

Receipt from Speakman Excavating on July 30, 2019 states stumps were removed and disposed of properly.

**Email sent to Ken Buckland on July 25, 2019.**

**No reply saying he needed additional information.**

**CONDITION 3 MET!**

# 20 Burgess Pt Rd. Special Permit

- Planning Board Special Permit Conditions:  
**Ken Buckland received the email on July 25, 2019.**

 Reply  Reply All  Forward

Thu 7/25/2019 9:59 AM



Kenneth Buckland <[kbuckland@wareham.ma.us](mailto:kbuckland@wareham.ma.us)>

Re: Stumps

To: [bill.clemmey.com](mailto:bill.clemmey.com)

Thanks

Kenneth Buckland  
Director of Planning and Community Development  
Town of Wareham  
508.291.3100 x 6501

**From:** [bill.clemmey.com](mailto:bill.clemmey.com) <[bill@clemmey.com](mailto:bill@clemmey.com)>

**Sent:** Thursday, July 25, 2019 8:43 AM

**To:** Kenneth Buckland

**Subject:** Stumps

Country Road Recycling in Marion Ma

***BC Note: actually located in West Wareham.***

Just making piles now and will load them all together once all stumps pulled

Bill Clemmey  
Clemco. LLC

# 20 Burgess Pt Rd. Special Permit

- Planning Board Special Permit Conditions:

✓ **4. All finished grades within 6 inches of existing grades. An As-built survey shall be completed and submitted.**

- The Planning board explicitly told us not to change the grade of the lot and to only backfill stump holes and leave topography.
- We met on site with Ken and Dave several times and the grading was never an issue. Planning Board agreed not to flatten the site.
- We never changed any of the original grading or topography.
- The town has the required 2 plans from Winship on file for project.

**CONDITION #4 MET!!**

**Dave Riquinha agrees: October 18, 2021**

**“After careful review of the as-built drawing, it appears the contour lines substantially coincide with original Conservation Plan dated Dec. 7, 2015.”**

# 20 Burgess Pt Rd. Special Permit

- Board Special Permit Conditions:

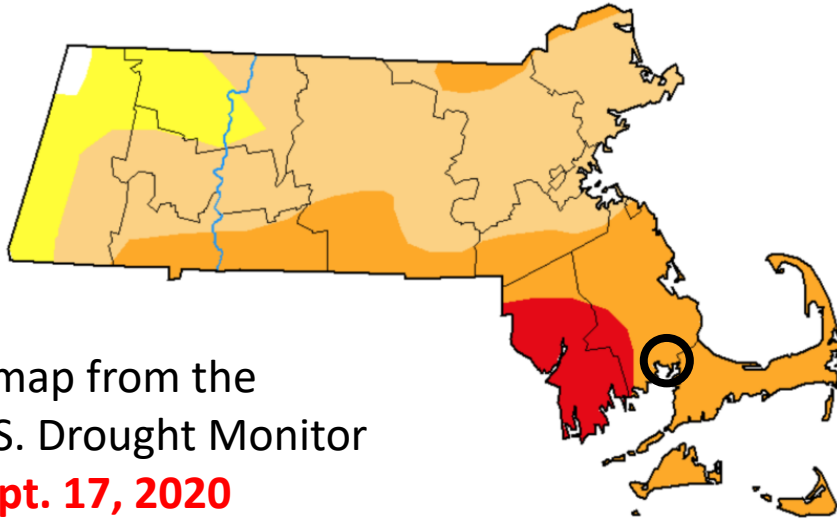
✓ 5. When the weather and ground temperatures are appropriate for vegetative growth, a grass and wild flower mix of seed shall be spread as ground cover. One or a combination of techniques to ensure germination and growth of ground cover, such as hydroseeding, watering and/or fertilizing may be required as requested by the Planning Board.

- This was the only condition we had trouble meeting primarily due to drought, lack of water supply, and overwhelming sandy soil.
- We planted and fertilized **5 times** over 2 years to get to current growth. The area is now substantially covered in native growth.
- In 2020, the area was in severe drought and it delayed ultimate growth in the area, but we completed it in 2021. See next slide.
- 90% of the area has ground cover today; most of it is native growth and grasses with wild flowers. There are also trees and bushes growing.
- There was no condition for 100% ground cover in the order.
- There was certainly no condition for 4" of loam to be spread as "suggested" by one member of the Planning Board in a meeting.

**CONDITION #5 MET!!**



# 20 Burgess Pt Rd. Special Permit



A map from the  
U.S. Drought Monitor

**Sept. 17, 2020**

Areas in **red** indicate "extreme" drought.  
Areas in **orange** "severe" conditions.  
(Screenshot via U.S. Drought Monitor)

**Sept. 17, 2020:**

The U.S. Drought Monitor reported Thursday that 6.76 percent of the state — **most of Bristol County and a sliver in western Plymouth County** — is under an "**extreme**" drought while 30.37 percent of the state is facing a "**severe**" drought and another 49.85 percent of the state contends with a "moderate" drought." Only the northwestern corner of the state is properly hydrated, the Monitor said.

- In 2020, we faced one of the driest summers in 20 years and we did our best to grow grass in an area that is subject to Coastal Storm Flowage with 90% sandy soil.
- *We planted Sept. 2019, April 2020, Sept. 2020, May 2021, September 2021*
- The site is now a beautiful meadow with trees and shrubs growing.

# 20 Burgess Pt Rd. Special Permit

- Board Special Permit Conditions:

*5. When the weather and ground temperatures are appropriate for vegetative growth, a grass and wild flower mix of seed shall be spread as ground cover. One or a combination of techniques to ensure germination and growth of ground cover, such as hydroseeding, watering and/or fertilizing may be required as requested by the Planning Board.*

- Dave R met with us in 2021 and provided final instructions to promote growth and coverage which were met and completed.
- Seriously, just look at his photos of the field. It looks great.
- Just because Mr. Decas doesn't like the meadow, doesn't make it wrong.

Dave Riquinha agrees: October 18, 2021

“Site visits to property prove substantial vegetative growth from ground level, as a normal person would view in plain sight. (See attached photos). There are a few areas where the growth is sparse; however, in *the absence of a written growth percentage* requirement, not enough information to base a case...”

# 20 Burgess Pt Rd. Special Permit


- Planning Board Special Permit Conditions cnt:
  - ✓ **6. Repair and maintenance of existing Sediment and erosion controls shall be completed as needed.**
  - Sediment haybales were part of conservation RDA approved in 2018 and were not part of the Conditions of Permit.
  - Haybales were approved by Dave Pichette in May, 2017 and verified again on July 22, 2019. We have the emails attached.
  - Dave Pichette informed Dave Riquinha in **2020** the haybales were no longer required per the conservation commission.

**CONDITION #6 MET!!**

**Dave Riquinha agrees: October 18, 2021**

**“sediment control line was to demarcate one hundred foot wetland buffer...conservation has signed off on this project and the sediment controls is no longer required.”**

# 20 Burgess Pt Rd. Special Permit

 Tue 5/2/2017 1:23 PM  
David Pichette <dpichette@wareham.ma.us>  
Re: Inspection

To: Bill Clemmey

Hi Bill,

Yes, I did inspect the haybales and they appear to be in the proper location at this point. Thanks for making the correction. Let me know if you have any further questions. Thanks.

Dave

*David D. Pichette, Conservation Administrator  
Town of Wareham  
54 Marion Road  
Wareham, MA 02571  
Phone: (508) 291-3100 x6505  
Fax: (508) 291-3116*

 Mon 7/22/2019 5:11 PM  
David Pichette <dpichette@wareham.ma.us>  
Re: Draft Decision 20 Burgess Point Road

To: bill.clemmey.com  
Cc: Kenneth Buckland  
i You replied to this message on 7/22/2019 5:23 PM.

I have inspected the recently installed haybale and silt fence erosion control barrier at the 20 Burgess Point Road site. The erosion control barrier has been properly installed as required by the condition of the Conservation Commissions approval of the stump removal project. Please contact me with any further questions on this matter. Thanks.

*David D. Pichette, Conservation Administrator  
Town of Wareham  
54 Marion Road  
Wareham, MA 02571  
Phone: (508) 291-3100 x6505  
Fax: (508) 291-3116*

# 20 Burgess Pt Rd. Special Permit

- Planning Board Special Permit Conditions cnt:

- ✓ **7. Disturbance or damage to travel ways shall be repaired immediately.**

- Roadway is a private road that is not fully paved.
- There was one tree stump sticking out into the roadway causing a safety issue. The stump had been hit by cars several times. The stump was removed and the hole repaired with reprocess material.
- We sent a letter to Ken on Dec. 28, 2019 explaining our attempts and intention to repair the one hole. We also questioned the use of the road by the Buzzards Bay Coalition to do coastal recovery work, which was approved by Mr. Decas, and resulted in many trucks and equipment using the roadway and causing much more significant damage.
- No other damage to roadway occurred other than normal wear.

## **CONDITION #7 MET**

**Dave Riquinha agrees: October 18, 2021**

**“Mr. Clemmey and Mr. Decas have both taken responsibility for the repairs of Burgess Pt. Rd (actually Winship Ave.) on numerous occasions... In my opinion, there is no reasonable way to make a factual determination as to what damage was a result of the land clearing and what is from normal wear and tear.”**

# 20 Burgess Pt Rd. Special Permit

- Planning Board Special Permit Conditions cnt:
  - ✓ 8. PB endorsement of Plan and recording of plan
  - ✓ 9. Copy of decision recorded with Registry of Deeds.
- We recorded the Special permit in March of 2019.
- There was no updated Special Permit, just an extension of deadline, therefore nothing required to be filed.

**CONDITION # 8,9 MET!**

Book 28684  
Page 218

SPECIAL PERMIT  
FOR: SITE ALTERATION - LAND CLEARING AND GRADING  
APPLICANT: WINSHIP, LLC  
AT: 20 BURGESS POINT ROAD, ASSESSORS PARCEL No. 22-2  
JANUARY 14, 2019

I. Proposal

2019 00017205  
Bk: 50892 Pg: 109 Page: 1 of 4  
Recorded: 03/12/2019 02:57 PM  
ATTEST: John R. Buckley, Jr. Register  
Plymouth County Registry of Deeds

# 20 Burgess Pt Rd. Special Permit

- In closing, we find it difficult to understand that the ZBA is not supporting the Town employee in his official role with extensive training, knowledge and understanding of the Zoning Laws over the unfounded claims of **laymen** without a single engineer, zoning expert, lawyer, or other professional providing **actual data** to show the order of conditions have not been met. It's all personal opinions and innuendo.
- We don't understand what the Appellant is even looking for at this point. Dave Riquinha asked this exact question at the first hearing? What is the end game? What actual work has not been completed? What particular work do they want done? What is the real purpose of the appeal? Apparently he wants us to build houses. Someday we might.
- We worked diligently with Ken Buckland, Dave Pichette, and Dave Riquinha to complete the project and meet the Order of Conditions. We completed all of the conditions required. Dave Riquinha provided explanation for all conditions questioned by Mr. Decas.
- According to Mr. Decas, "The Wareham Board of Selectmen met in Executive Session on June 10, 2021 to determine if legal action should be brought against Mr. Clemmey. The Selectmen declined to take action because apparently, they were informed that Mr. Clemmey was in compliance with the Special Permit."

**WE IMPLORER THIS BOARD TO DENY THIS RIDICULOUS APPEAL AND SUPPORT YOUR TOWN STAFF AND THEIR PROFESSIONAL ACTIONS.**