



# Town of Halifax

499 Plymouth Street

Halifax, MA 02338

781-293-1736

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## Planning Board Application for Site Plan Review

The undersigned hereby applies for Site Plan Approval.

1. Owner's Name Nessralla Naja c/o Samera Nessralla
2. Owner's Address \_\_\_\_\_ Telephone # \_\_\_\_\_
3. Location of Building: Street Address 139 Hemlock Lane, Halifax, MA (no proposed building)  
Map # 51 Lot # Block 224, Lot 0  
Robert Bergstrom by Christopher J Alphen,
4. Applicant's Name if different Esq., Blatman, Bobrowski & Haverty, LLC Telephone # 978.371.2226 Ext. 19 (office)
5. Applicant's Address 9 Damonmill Square, Ste. 4A4, Concord, MA 01742
6. New Building(s) to be used as: \_\_\_\_\_
7. Change or Expansion of use to: outside area of assembly and recreation for bi-annual  
event known as MudFest.

The applicant is hereby notified that he/she must comply with all requirements of the Board of Health and the Zoning By-Laws.

Please ensure your site plan complies to the specifications stipulated in §167-28 of the Zoning By-Laws of the Town of Halifax. (copy attached.)

Signature of Applicant: \_\_\_\_\_

Date of Application: 1/14/2019

**BLATMAN, BOBROWSKI & HAVERTY, LLC**

ATTORNEYS AT LAW

9 DAMONMILL SQUARE, SUITE 4A4  
CONCORD, MA 01742  
PHONE 978.371.2226  
FAX 978.371.2296

CHRISTOPHER J. ALPHEN, ESQ.  
Chris@bbhlaw.net

January 10, 2019

Planning Board  
Town of Halifax  
499 Plymouth Street  
Halifax, MA 02338

RE: Application for Site Plan Review  
139 Hemlock Lane

Dear Members of the Board:

Please be informed that this office represents Robert Bergstrom (the "Applicant"). This letter serves as a supplement to the Applicant's Site Plan Review application. The Applicant proposes to hold the festival branded as "Mudfest" on the property known as Nessralla Farm located at 139 Hemlock Lane (the "Subject Property" or the "Property").

Mudfest is an outdoor amusement event involving large trucks "racing" through muddy trenches (the "Proposed Use"). Mudfest has been and continues to be held once in the fall and once in the spring. Mudfest is a family friendly event. Vendors of the event include food trucks, face painting and balloon making. Many local businesses use the event to set-up a quasi-farmer's market. Restaurants, craft stores and automotive equipment businesses attend the event to promote their respective businesses.

This Board previously determined that Mudfest was an agricultural use entitled to the exemptions set forth under G.L. c. 40A, §3. That determination has been appealed by the Town and is currently being litigated.

The Subject Property is in the Agricultural Residential ("AR") Zoning District. Pursuant to the Town Meeting vote on May 14<sup>th</sup> the Zoning Bylaw was amended to allow "[c]ommercial outdoor amusements, recreation places or places of assembly..." in the AR Zoning District by a special permit issued the Board. See §167-7(16). On November 12, 2018, the Zoning Board of Appeals voted to grant petition (#883) for a special permit to operate "Mudfest" (the "ZBA Decision"). See the ZBA Decision attached hereto. The ZBA Decision determined that the use is not detrimental to the established or future character of the neighborhood or the town. The ZBA Decision conditioned the use on the conditions or restriction set forth by §167-7(16).

The Applicant meets all the prerequisites set forth by §167-7(16) and is willing and able to meet all the regulations and conditions pursuant to the ZBA Decision.

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1. Mudfest will occur on a portion of Narsella Farm greater than five (5) acres in size (§167-7(16)(1)).
2. All the activities involved in Mudfest, including the parking, toilets, storage and infrastructure will be located more than one hundred (100) feet from all lot boundary lines or residential dwellings (§167-7(16)(2)).
3. Mudfest has been held and will continue to be held twice a year (§167-7(16)(3)).
4. Mudfest's duration will not be greater than ten (10) hours, having typically public open hours from 8:00am until 5:00pm (§167-7(16)(4)).
5. Mudfest is located in a unique location where noise will not be detected from any surrounding properties (§167-7(16)(5)).
6. The Applicant will provide, at its own expense, public safety personnel to control traffic and crowds and to provide medical aid and fire protection (§167-7(16)(6)).
7. Mudfest will provide sufficient sanitary facilities (§167-7(16)(7)).
8. The Applicant is willing and able to post a reasonable surety with the Town for the insurance that debris from the Mudfest be removed after the conclusion of the event (§167-7(16)(8)).
9. No alcohol will be served or permitted to be consumed at Mudfest (§167-7(16)(9)).

Although Mudfest is only a bi-annual event which involves no improvements of buildings or structures, the Applicant files this Site Plan Application pursuant to §167-28. Section 167-28 states, in pertinent:

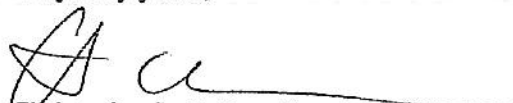
No permit shall be granted for any commercial, industrial, business, institutional, apartment, multi-dwelling, municipal or school building or public utility structure, and none of the above classes of structures shall be constructed or externally enlarged, and **no such use shall be expanded or established** in an existing building or lot **not theretofore used for such purposes**, except in conformity with a site plan bearing an endorsement of approval by the Planning Board. (Emphasis added).

In addition, §167-28(G)(4)(B) provides, "[t]he Planning Board may waive specific requirements when they are inappropriate to a given proposal." Considering the unique location of this property and the infrequency of the event itself, the proposed use will have a minimum impact to the surrounding neighborhood. Given this unique proposal and the fact Mudfest has operated successfully in the past, the Applicant requests a waiver from all Site Plan Review requirements. The Proposed Use will provide a recreational event beneficial to the Town and its residents without causing a nuisance or deteriorating any town services.

**The Applicant is willing and able to meet with any of the Board members or the Planning Department prior to any public hearing to discuss this application and the requirements hereto.**

Should you require additional information please do not hesitate to call me. We look forward to working with the board. Thank you for your attention to these matters.

Very truly yours,

  
Christopher J. Alphen, Esq.



# Town of Halifax

## Planning Board

499 Plymouth Street, Halifax, MA 02338  
781-293-1736

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### Site Plan Check List

\* Applicant Submits the Plan attached hereto.

Requirements	Included	Waiver Requested
Site Plan drawn at 1"= 20' or for larger lots 1"= 40'	_____	<u>X</u> _____
General Soil Type	_____	<u>X</u> _____
Existing Roadways	_____	<u>X</u> _____
Plan of adjacent property at a scale of 1"= 100' or same size as property if practical	_____	<u>X</u> _____
General characteristics of property within 300', including structures and their uses, parking areas, driveways, pedestrian ways and zoning districts	_____	<u>X</u> _____
Trees and other vegetation	_____	_____
Included in Site Plan are:		
Boundry Lines	_____	<u>X</u> _____
Dimensions of Lot	_____	<u>X</u> _____
Assessor's Map & Lot #	_____	<u>X</u> _____
Zoning District	_____	<u>X</u> _____
Name of Owner of Record	_____	<u>X</u> _____
Owner of Record for Abutting Property	_____	<u>X</u> _____
North Point	_____	<u>X</u> _____
Rendering & Plans of all buildings & Structures	_____	<u>X</u> _____
Existing & Proposed Topography at 2' contours including any outcropping of bedrock	_____	<u>X</u> _____
Location of the following on or within 100' of development Site:		
Existing Structures	_____	<u>X</u> _____
Acess Roads	_____	<u>X</u> _____
Driveways and Driveway openings	_____	<u>X</u> _____
Parking Spaces	_____	<u>X</u> _____
Hydrants	_____	<u>X</u> _____
Services	_____	<u>X</u> _____
Loading Area	_____	_____
Proposed vehicular circulation system, including pavement Widths	_____	<u>X</u> _____

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## Site Plan Check List (cont'd)

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Requirements	Included	Waiver Requested
Location and dimensions of proposed driveway entrances and exits	_____	<u>X</u>
Proposed Fire Lanes	_____	<u>X</u>
Proposed pedestrianways, bicycle ways, and other transportation routes	_____	<u>X</u>
Proposed parking areas and signs	_____	<u>X</u>
All Proposed structures including:		
Their area and dimensions	_____	<u>X</u>
Their exact location	_____	<u>X</u>
Their relation to topography	_____	<u>X</u>
Their proposed use	_____	<u>X</u>
Number and type of proposed dwelling units and unit mix if known	_____	<u>X</u>
Service access and facilities for all structures or uses, including garbage and trash disposal facilities	_____	<u>X</u>
Location of water supply and wastewater disposal facility	_____	<u>X</u>
Existing and proposed site drainage including:		
General location of any drainage swails	_____	<u>X</u>
Wetlands, streams and ponds	_____	<u>X</u>
Floodplain Areas, HUD/FEM or other designated Kettleholes	_____	<u>X</u>
Wells and any mapped water supply protection	_____	<u>X</u>
Conservancy or Floodplain water supply protection	_____	<u>X</u>
Conservancy or Floodplain water supply protection zoning districts within 200'	_____	<u>X</u>
A note summarizing the Drainage Calculations and explaining any design not providing a 0 increase in runoff for a 25 year storm	_____	<u>X</u>
Location of open space, including:		
Intended use	_____	<u>X</u>
Existing trees and other vegetation to be retained	_____	<u>X</u>
Specific new plantings by size and location and the entity intended to own and maintain them	_____	<u>X</u>

## Site Plan Check List (cont'd)

Requirement	Included	Waiver Requested
Final contours and measures and structures to minimize erosion and siltation during construction	_____	<u>X</u> _____
Significant site appurtenances such as:		
Walls	_____	<u>X</u> _____
Light poles showing direction of outdoor lighting	_____	<u>X</u> _____
Recreation Areas	_____	<u>X</u> _____
Any fencing Screening or Signs	_____	<u>X</u> _____
All rights of ways and easements, existing and proposed	_____	<u>X</u> _____
Name and stamps of the responsible registered land surveyor, landscape architect or civil engineer	_____	<u>X</u> _____
Indication of the meeting of any specific requirements established in the Zoning Chapter not already provided for.	_____	<u>X</u> _____

***The Planning Board may waive specific requirements when they are inappropriate to a given proposal.***

Applicants shall submit an original and 9 copies of their site plan to the Planning Board, who shall give the applicant a dated receipt. Within 4 days the Secretary shall retain 1 copy and transmit 1 copy to each:

Town Clerk  
 Board of Assessors  
 Board of Health  
 Building Inspector/Zoning Officer  
 Conservation Commission  
 Fire Department  
 Highway Surveyor  
 Water Commissioner

And written notice of availability of plan to Police Department.

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# Town of Halifax Commonwealth of Massachusetts

## Zoning Board of Appeals

499 Plymouth Street • Halifax, MA 02338 • 781-293-1736

November 20, 2018

Robert Bergstrom  
139 Hemlock Lane  
Halifax, MA 02338

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HALIFAX TOWN CLERK  
RE: Petition #883

Dear Mr. Bergstrom,

At a meeting held on Monday, November 12, 2018, the Halifax Zoning Board of Appeals voted to grant your petition (#883) for a special permit to operate "Mudfest," an outdoor entertainment event on land located at 139 Hemlock Lane, Halifax, MA. Said property is owned by Naja Nessralla c/o Samera Nessralla of 139 Hemlock Lane, Halifax, MA as shown on Assessors Map 51 Block 224 Lot 0, (Land Court) Title Ref: Book 635 Page 55. The Special Permit was granted to operate "Mudfest" biannually on a property in the Agricultural-Residential Zoning District. The site will be used as an outside area of assembly and recreation and therefore would fall under the Commercial Use of 167-7D(16) Summary of Use Regulations, allowable by right in the business zone and by Special Permit in the Conservancy, Agricultural-Residential and Industrial Zones.

The Zoning Board of Appeals voted to waive the on-site inspection as they are all familiar with the event and property.

Motion: Gerald Joy, Member  
Second: Robert Durgin, Member  
Voice Vote: Robert Gaynor, Chairman – yes; Gerald Joy, Member – yes; Robert Durgin, Member – yes; Dan Borsari, Member – yes.  
All in Favor: Motion Passes 4-0-0

The Zoning Board of Appeals granted this petition for an Open-ended Special Permit with the applicant, Robert Bergstrom, to hold Mudfest at 139 Hemlock Lane as the use involved is not detrimental to the established or future character of the neighborhood or the town with the following conditions:

1. Mudfest will occur on a portion of Nessralla Farm greater than five (5) acres in size [167-7D(16)(1)].
2. All the activities involved in Mudfest, including the parking, toilets, storage and infrastructure will be located more than one hundred (100) feet from all lot boundary lines or residential dwellings [167-7D(16)(2)].
3. Mudfest has been held and will continue to be held twice a year [167-7D(16)(3)].
4. Mudfest's duration will not be greater than ten (10) hours, having typically public open hours from 8:00am to 5:00pm [167-7D(16)(4)].
5. Mudfest is located in a unique location where noise will not be detected from any surrounding properties [167-7D(16)(5)].
6. The applicant will provide, at its own expense, public safety personnel to control traffic and crowds and to provide medical aid and fire protection [167-7D(16)(6)].
7. Mudfest will provide sufficient sanitary facilities [167-7D(16)(7)].
8. The applicant is willing and able to post a reasonable surety with the Town for the insurance that debris from the Mudfest be removed after the conclusion of the event [167-7D(16)(8)].
9. No alcohol will be served or permitted to be consumed at Mudfest [167-7D(16)(9)].
10. If there are complaints from the Halifax Fire Department, Halifax Police Department, Board of Health and/or abutters the applicant must re-appear before the Board for review.
11. If there are any legal or medical/health instances making this event an unsafe environment, the applicant is in violation of this Special Permit and must re-appear before the Board for review and/or reapply for a new Special Permit.



**Town of Halifax** Commonwealth of Massachusetts

**Zoning Board of Appeals**

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Motion: Gerald Joy, Member  
Second: Robert Durgin, Member  
Voice Vote: Robert Gaynor, Chairman – yes; Gerald Joy, Member – yes; Robert Durgin, Member – yes; Dan Borsari, Member – yes.  
All in favor: Motion Passes 4-0-0

Please be advised that all variances and/or special permits shall comply with all the rules and regulations and codes of the Town of Halifax.

This decision shall not take effect until:

- (a) A copy of this decision certified by the Town Clerk to the effect that twenty (20) days have elapsed since this decision was filed in the office of the Town Clerks (11/20/2018) without any appeal having been dismissed or denied has been recorded in the Plymouth County Registry of Deeds, or with the Assistant Registrar of the Land Court for Plymouth County, and
- (b) A certified copy indicating such Registry Recording has been filed with the Board.

Sincerely,

Robert Gaynor, Chairman  
Zoning Board of Appeals

Cc: Town Clerk - Board of Selectmen - Planning Board - Board of Assessors - Board of Health - Conservation Commission  
Building Inspector - Water Department – Treasurer/Collector - Abutting Planning Boards

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Halifax Zoning Board of Appeals  
Halifax, MA 02338

DECISION FORM

Land Owners: Naja Nessralla c/o Samera Nessralla

and court Book 635 Page 55 Petition # 883 Applicant: Robert Bergstrom

Action Taken: Approved Denied

Board of Appeals:

D. Borzani

Yes

Robert Bergstrom - yes

GERALD T JOY

YES

[Signature]

yes

Dated November 12, 2018

We hereby certify that copies of this decision were filed with the Town Clerk, Planning Board, Board of Health and Building Inspector on \_\_\_\_\_.

If substantial use or construction permitted by (this) (these) (special permit) (s) (variances) (s) has not commenced within (one year) (two years) from the date on which a copy of this decision is filed with the Town Clerk, excluding the amount of time required for the appeal period to expire and the amount of time required to pursue and await the determination of any such appeal, then (this) (these) (special permit) (s) (variance) (s) shall expire.

Any person aggrieved by a decision of the Board of Appeals has the right to appeal such decision to the Superior Court or District Court of the Commonwealth of Massachusetts pursuant to Massachusetts General Laws, Chapter 40A, Section 17, by filing such appeal within twenty (20) days after the date on which the decision was filed with the Town Clerk.

This decision shall not take effect until:

- A copy of this decision certified by the Town Clerk to the effect that twenty (20) days have elapsed since the decision was filed in the Office of the Town Clerk without any appeal filed has been dismissed or denied has been recorded in the Plymouth County Registry of Deeds or with the Assistant Registrar of the Land Court for Plymouth County, and
- A certified copy indicated such Registry recording has been filed with the Board.

Certified as (a) above \_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Date

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