

STATE OF NEW HAMPSHIRE  
TOWN OF FRANCESTOWN  
ZONING BOARD OF ADJUSTMENT

ADMINISTRATIVE APPEAL OF MR. AND MRS. JUSTIN LANDRY  
148 PERLEY ROAD, FRANCESTOWN, NH 03043

NOTICE OF DECISION

The Francestown Zoning Board of Adjustment denied the appeal of Mr. and Mrs. Justin Landry from the decision of John Kendall, Building and Code Enforcement Officer dated December 8, 2020 by vote of 4 to deny and 1 to uphold the appeal. The Board noted in its decision denying the appeal that Mr. and Mrs. Landry had removed the commercial equipment at issue from 148 Perley Road, Francestown, NH and the equipment was now located at Francestown Sand & Gravel off the 2<sup>nd</sup> NH Turnpike. The only commercial vehicle now at 148 Perley Road, Francestown, NH is the black Ford F550 with utility body and the decal on the side "Precision Land Management LLC."

The decision was announced at the Zoning Board meeting on Thursday, February 18, 2021 at the conclusion of the meeting.



---

Silas Little

23 Feb 2021

TOWN OF FRANCESTOWN  
MINUTES

The Francestown Zoning Board of Adjustment met on February 18, 2021 at the Town meeting hall, 2<sup>nd</sup> floor, at 7:00 p.m. to hear the appeal of Mr. and Mrs. Justin Landry, 148 Perley Road, Francestown, NH, from the decision of John Kendall, Building and Code Enforcement Officer dated December 8, 2020. Members of the Board present for the hearing with Sue Jonas, Scot Heath, Judy Miller, Cindy St. Jean, and Silas Little. Also present ~~were~~<sup>was</sup> Marci Tripp, alternate.

Kristin Landry read her letter of January 28, 2020 verbatim. At the conclusion of reading this letter, she was questioned about the snow that was dumped on the property. The explanation offered was this was snow from her parents and Mr. and Mrs. Landry were unaware of regulations pertaining to dumping snow removed from parking areas or other locations.

Donald Kingsbury, father of Kristin Landry, Fitzwilliam, NH, spoke in favor of the application and asserted that the equipment was there to finish building the house.

Chris Stewart of Francestown spoke and stated that the equipment in question, to wit, a 2005 Kenworth truck; a 2010 Econoline trailer, and the 2019 felling trailer are now at his property on 2<sup>nd</sup> NH Turnpike.

Liam Hurley spoke in favor of the appeal and discussed what was required to have a commercial registration.

John Kendall explained his decision. He noted that a CDL-A, which is a commercial motor vehicle operator's license, was required to operate the 14-wheeler and the trailer. He stated he had attempted to meet with the property owner three (3) times, but was unsuccessful and then issued the letter. Mr. Kendall specifically noted the issues under Article III, 3.9.1(c) and (g). He stated there were complaints about noise, odor, vibration, frequent visits of heavy trucks and equipment and the exterior storage of the equipment.

Mark Holding, an abutter, addressed the Board. He asked the Board whether they had read the letters. Mr. Holding was informed that the Board members had been forwarded and had read the letters.

Martine Villalard-Bohnsack addressed the Board. She is an abutter. She emphasized the letters previously written. She emphasized the condition of Oak Hill Road and her concerns concerning the scenic road and classification of both Perley Road and Oak Hill Road and the condition during mud season. She referred to her correspondence previously provided to the Board.

John Thalhauser, on behalf of the Francestown Water Company, noted to the Board there two wells within 2050' of the subject property and the company is concerned with respect to the protective wellhead radius for those two wells with respect to anything that occurs on the Landry property at 148 Perley Road.

Lisa Stewart addressed the Board and stated that if the equipment as outlined above remains at Francestown Sand & Gravel, there should be no issue.

Carson Kingsbury questioned the Board as to what a commercial vehicle would be. On this point, Mr. and Mrs. Landry were queried as to the treatment of the vehicles on a Schedule C to their Federal Income Tax return and whether they were depreciated and have received investment credit or other deduction was taken. Mrs. Landry responded that they were on the Schedule C, including the black Ford F550. The white Ford F550, which has no body, is not listed as a depreciable asset on the Schedule C.

Mr. Stewart addressed the board and endorsed the idea that the equipment being at his property removes the issue raised by Mr. Kendall's letter.

Michael Ricci addressed the Board on the appeal. His property is very close to Mr. and Mrs. Landry's. He stated there was considerable traffic of the heavy vehicles and trailers coming in and

out of the Landry property. He noted that Mr. Landry cannot turn his heavy equipment around on his property and must back it into the property using all of Perley Road and some of Marla Jones' driveway. He noted the vehicles were just left running. As they were diesel, both fumes and noise and at times vibration were present.

Laurie Ricci addressed the Board concerning the initial welcome extended to Mr. and Mrs. Landry. The situation immediately deteriorated with the equipment at 148 Perley Road. Mrs. Ricci mentioned the same things her husband did and noted the early and late hours of the heavy equipment moving in and off of the property.

Marla Jones summarized the letter she had previously written and she noted that after December 8, 2020 there were no vehicles, except of the black pickup.

Additional comments were made to the Board by Mark Holding, Mr. Stewart, Mr. Bohnsack, and Ms. Jones concerning the vehicles at different times and the effect of those large vehicles and trailers on the neighborhood. The question was raised by Ms. Jones concerning businesses registered to Justin and Kristin Landry, to wit, Precision Land Management, Landry & Son Excavation, Rogue Transport, and Midnight Oil Undercoating. Mrs. Landry said none of those businesses would be conducted at 148 Perley Road and that the address on the registrations with the Secretary of State was for purposes of notification to those businesses.

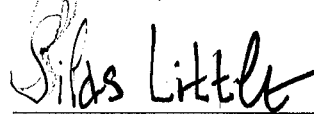
The public participation portion of the meeting was closed.

The Board deliberated on the matter and concluded that the letter issued by John Kendall was correct and supported by the facts. The sole commercial vehicle permitted is the black Ford F550 with the utility body. The other vehicles and equipment permitted to be at 148 Perley Road were represented by Mr. and Mrs. Landry to be personal, to wit, 2015 Ford white F150; 2020 Ford white 550 (without body); and the sidewalk plow and broom. The other heavy equipment is either no

longer leased by Mr. Landry or is now stored at Chris Stewart's property. The Board acknowledged that the equipment could be returned for personal use in improving the property with the caution that that exception not be unreasonably and unnecessarily exploited.

On motion the Board voted 4 to 1 to uphold the decision of John Kendall and to note that based on the representations of Mr. and Mrs. Landry there is not an ongoing issue as of the date of the hearing with respect to storage of equipment operation, and for frequent visits of heavy trucks or equipment as provided in the Zoning Ordinance.

Respectfully submitted,

A handwritten signature in black ink that reads "Silas Little". The signature is written in a cursive style with a horizontal line underneath it.

Silas Little

23 vi 2021