

**State of Vermont
Superior Court—Environmental Division**

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ENTRY REGARDING MOTION
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In re Wood NOV and Permit Applications
(Appeal from Town of Hartford Zoning Board of Adjustment decision)

Docket No. 138-8-10 Vtec

Town of Hartford v. Wood
(Municipal enforcement action)

Docket No. 1-1-11 Vtec

Title: Motion in Limine (Filing No. 6)

Filed: May 10, 2011

Filed By: Paul S. Gillies, Attorney for Appellant/Applicant Marc Wood

Response in Opposition filed on 5/19/11 by William F. Ellis, Attorney for Appellee Town of Hartford

Granted Denied Other

Before the Court is a motion in limine filed by Mr. Wood challenging the Town of Hartford's use of Michael Penney as an expert witness. We have determined that this issue is best left for resolution at trial and thus reserve the motion for consideration at the upcoming merits hearing scheduled for July 14, 2011.

During the merits hearing, both parties will have the opportunity to present testimony and evidence on the qualifications of any expert witnesses that either Mr. Wood or the Town of Harford seeks to rely upon. To the extent that Mr. Penney is a professionally licensed engineer, and to the extent that the Town seeks to have Mr. Penney testify as an expert witness within his area of expertise, particularly as to the safety, integrity and conformance of Mr. Wood's retaining wall or walls, we anticipate denying the pending motion in limine.

Thomas S. Durkin, Judge

May 20, 2011
Date

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Date copies sent to: _____ Clerk's Initials _____

Copies sent to:
Paul S. Gillies, Attorney for Appellant/Applicant Marc Wood
William F. Ellis, Attorney for Appellee Town of Hartford
Kimberlee Sturtevant, Co-counsel for Appellee