



Exhibit 10





Town of China

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www.townofchina.org

May 6, 2020

Brent Chesley
P.O. Box 6241
China Village, ME 04926

CEO PERMIT DENIAL

Dear Brent:

The Town of China received your application for a CEO Permit. The application was dated April 8, 2020 however it was not received at the town office until April 29, 2020. Your application proposes the construction of a granite faced steel sheetpile retaining wall.

Section 4(20) of the Town of China Land Development Code ("Code") requires a planning board permit in accordance with Section 5(N) of the Code. Section 5(N) states in its primary part:

Piers, Docks, Wharves, Breakwaters, Causeways, Marinas, Bridges (over 20 Feet in Length), and Other Uses extending over or below the normal high-water line of a waterbody or within a wetland.

Your application proposing a retaining wall would best be classified as "Other Uses" and would require a planning board permit provided it is located within or below the normal high water mark of China Lake. I note your DEP NRPA permit (# L-28372-2A-A-N) states your retaining wall is adjacent to China Lake suggesting it is not within the jurisdictional waters of China Lake. Based on your submitted plans DEP's determination is in error.

Section G of your application and plan sheet 3 (entitled China Lake Retaining Wall, Profile & Details) dated September 12, 2019 and prepared by AE Hodsdon Consulting Engineers shows clearly that the infrastructure of the retaining wall will be located below the normal high mark of China Lake. It is true, as with all retaining walls, portions of the retaining wall will be above the normal high water of China Lake. However to qualify as being above the normal high water of China Lake then no portion of the retaining wall structure can be below the normal high water mark of China Lake. Accordingly and appropriately, you will need a planning board permit as I conveyed to you nearly 4 months ago.

Your attorney has indicated you may be amenable to relocating the retaining wall a few feet back thus pulling it from the jurisdiction of the planning board. Section 5(B)(VIII) of the Code would allow a retaining wall as an accessory structure for use as erosion control under the following criteria:

- a. *The site has been previously altered and an effective vegetated buffer does not exist;*
- b. *The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;*
- c. *The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings.*
- d. *The total height of the wall(s), in the aggregate, are no more than 24 inches;*



Town of China

2010
2011
2012

- e. Retaining walls are located outside of the 100-year floodplain on rivers, streams, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils;
- f. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks;
- g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - i. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - ii. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - iii. Only native species may be used to establish the buffer area;
 - iv. A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - v. A footpath not to exceed the standards in Section 5.1 II a, may traverse the buffer;

A retaining wall which meets all of the criteria of Section 5(B)(VIII) as listed above could receive a CEO permit and not require planning board approval. Your current application would require significant modification to qualify under the Code section I list above.

It is also my understanding from your attorney that you will be appealing this decision. Please contact Becky Hapgood at the town office within 30 days and she will schedule you for the next available Board of Appeals meeting once you have submitted a complete Board of Appeals application to include payment of fees.

Sincerely,

William W. Butler
Town of China CEO
Cell: 207-660-5865

Copies: Dennis Heath; Becky Hapgood; Town of China via electronic mail
Brent Chesley via electronic mail
Enforcement file