

# **ZONING BOARD OF APPEALS**

238 Main Street, Cold Spring, New York 10516

## **MEETING AGENDA**

**November 12, 2012**

**7:30 p.m.**

### **PUBLIC HEARING**

- |                       |                         |                       |                       |
|-----------------------|-------------------------|-----------------------|-----------------------|
| <b>1.) LAUSCA LLC</b> | <b>Appeal#877</b>       | <b>Interpretation</b> | <b>TM# 27.12-1-10</b> |
| <b>3166 Route 9</b>   | <b>(Public Hearing)</b> |                       |                       |

The applicant is appealing the Notice of Violation dated 12/9/11 issued by Code Enforcement Officer Kevin Donohue. The violation states that no barrier is shown on the 3/24/10 Planning Board approved Site Plan, and therefore must be removed. Applicant was sent to the Planning Board for their review and recommendation on this matter, specifically the Boards intention and clarification of the site plan, as well as possibly implementing new warning stripes and signage. The Planning Board completed their review, and the applicant is ready to move forward with the ZBA.

### **REGULAR MEETING**

#### **2.) PRE APPLICATION DISCUSSION :**

**James Gleick**

**TM# 82.-1-42.**

**200 Long Winding Rd.**

Will go over the requirements and materials that need to be submitted for a special use permit (major project ) for a residential wind turbine that exceeds 40 feet

#### **3.)REVIEW OF MINUTS**

**OCTOBER 15, 2012**

#### **4.) NEW/ OLD BUSINESS**

**ITEMS MAY NOT BE TAKEN IN ORDER AS LISTED**

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# **ZONING BOARD OF APPEALS**

**OCTOBER 15, 2012**

## **MINUTES**

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, October 15, 2012, at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Vincent Cestone, Chairman, at 7:30 p.m.

<b>PRESENT:</b> Vincent Cestone	- Chairman
Robert Dee	- Member
Bill Flaherty	- Member
Linny Lim	- Member
Paula Clair	- Member
Adam Rodd	- ZBA Council
Tina Andress- Landolfi	- Secretary

**ABSENT:** None

### **CONTENTS:**

**James Gleick - Pages 2 thru 7**

**Lausca LLC - Pages 7 thru 19**

**Approval Of Minutes- Pages 19 thru 20**

**The Pledge of Allegiance was said.**

**Vincent Cestone-** I understand that there is a resident in town that wants to ask us a question. I am going to do things a little bit out of order. Are you the residents? Come on up and tell us what your issue is. Are you representing the applicant?

**Doug Passeri-** Yes

**Vincent Cestone-** Do you have documentation that you are?

**Doug Passeri-** Yes (handed the Chairman documentation)

**Inaudible**

**Vincent Cestone-** State your name for the record please.

**Doug Passeri-** My name is Doug Passeri with Hudson Valley Wind and Energy.

**Greta Passeri-** Greta Passeri with Hudson Valley Wind and Energy.

**Doug Passeri-** We are here for James Gleick, hopefully for a pre-application meeting.

**Vincent Cestone-** Right. That is my understanding.

**Doug Passeri-** We were reviewing a lot of the stuff, and we did not know if it were going to fall under a minor or a major. The stuff that we reviewed.

**Vincent Cestone-** This is about filling out the application?

**Doug Passeri-** Correct. I guess we are here to find out the criteria. Is it a minor or a major, or is it just a variance for the height, because the tower is a 140 foot residential wind turbine.

**Vincent Cestone-** 140 foot? The maximum height is 40 feet in this town.

**Doug Passeri-** Right. With us reviewing this we really don't fall.... What am I trying to say here?

**Greta Passeri-** The only criteria that we see that we fall under for it to be a major is the height issue. Everything else is within the minor, so we would like to ask if we can have a variance for the height, and keep it as a minor. If it goes to major, the applicant would have to then, per what we understood from the building inspector, would then have to hire an attorney, and possibly an engineer. Expenses that are going to occur that they did not think that they would have to incur for a residential size turbine. It is not commercial, it is 140 feet tall and the blades are 12 1/2 feet long.

**Vincent Cestone-** It is bladed as opposed to an axial one?

**Greta Passeri-** Right. I did not do.... Speaking with Tina, thank you for all your helpful information, before I put together 13 copies of everything and is a waste of paper if we are not going to go forward with everything, and I don't waste trees. There is a small packet here for you that I will go over where their area is up on Long and Winding.

**Linny Lim-** How many packets?

**Greta Passeri-** When this comes through to the Zoning for special use, then there will be thirteen of them.

**Vincent Cestone-** They are asking for help on what to do, they have not yet.

**Linny Lim-** I understand what you are saying, but they should have at least given us one each.

**Robert Dee-** (inaudible) is a major or minor.

**Doug Passeri-** We just don't know which to fill out.

**Vincent Cestone-** At 140 feet, I would have to discuss it with the Building Department, but I would have to say that it would be a major application.

**Greta Passeri-** OK. Per the major instructions for the Zoning.

**Doug Passeri-** I guess I have one question to clarify it a little. I have a checklist here. When we go down the checklist for the seven items, we meet all these, so we would actually not fall under the major because we meet all these. The only one would be the height, so I just assumed for the height would be a variance. We meet all these for the major, we would not even fall under this at all.

**Paula Clair-** Can I just ask a question? How much land does this resident have?

**Doug Passeri-** He has like 40 acres.

**Paula Clair-** Where on the land, and how close is the closest house?

**Greta Passeri-** 2,000 feet in one direction and over 500 feet in the other.

**Robert Dee-** I don't think that we should start to get into this, because this is going to be involved.

**(Inaudible)**

**Doug Passeri-** We just went down the check list for a major, and if you asked us all these questions right now we could answer them for you, and it is yes and no. We meet all these, and it would not fall under a major it would fall under a minor. Typically we have done dozens of these, and the last one we did was up in (inaudible) Their Zoning for wind turbines was written more for commercial towers, so what we did was have a conference like this, and they waived everything, because this was not a commercial tower it was a residential tower. We just had to do a plot plan, and your basic stuff like you ask for in a minor. We just had to get a variance for the height.

**Robert Dee-** It is a 140 foot structure. That is major to me. I will tell you right now, I would vote major.

**Doug Passeri-** It dose say right here that a lot of things could be waived.

**Robert Dee-** It could be, but we know nothing about it.

**Vincent Cestone-** Kevin I hate to put you on the spot, but what are your thoughts on this?

**Kevin Donohue-** They have a letter from me.

**Vincent Cestone-** Im asking if you can just elaborate.

**Kevin Donohue-** ( Grabs letter that he wrote to Doug Passeri and reads from it) This is a solar energy facility. Any wind energy conversion system that exceeds 40 feet in height and any solar energy facility or wind energy conversion system that is used to generate electricity primarily for off-site consumption shall require a special use permit from the Zoning Board of Appeals. The next section is, Construction of a structure that is 50 feet in height above grade level is a major project. That is what the ordinance says. It was not written specifically, as you know it was written in general. I advised the applicant that the way it is written is major site plan approval. At the pre-application meeting, which our ordinances was not written to define each board, but it says the Planning Board throughout the process. In this case you substitute the Planning Board with the Zoning Board of appeals, so two members would be present at the pre-application meeting. I would request that the Board authorize AKRF to sit on the meeting as the planner, so that you would do the major, or if it is a variance, however they submit it. She would be able to do your SEQR or assist you with the SEQR process. (inaudible) it is written in general, as oppose to what they brought up, is the difference between commercial and residential.

**Vincent Cestone-** That is not addressed in the Zoning code?

**Kevin Donohue-** That is correct. (inaudible) structure exceeds a height higher than 50 feet.

**Vincent Cestone-** That is how I thought it was.

**Kevin Donohue-** For myself, my hands are tied, that is all I can do.

**Paula Clair-** I was just going to say, that maybe the Town would consider adding a section to the Zoning Code to address wind turbines, because this is something that I personally believe is beneficial for people in the town, maybe not in all places, because it might be annoying to people who are densely populated. This sounds like it is not densely populated. It might be something that we might want to consider.

**Vincent Cestone-** What I will do is write a request to the Town Board. We don't write the law, we interpret the law. The way the law is written, and Kevin pretty much confirmed that this is a major application. I am gonna write probably tomorrow or the day after to the Supervisor and tell him what transpired tonight and see if they would consider changing the code, but we don't have the authority to do that.

**Doug Passeri-** Just looking at what you have here, I just thought and typically what I have experienced with other boards is, it meets all the requirements and the only (inaudible) is to get a variance for the height. That is why I thought just looking at this, we meet all the criteria of a major except the height. That is the only one.

**Vincent Cestone-** That is a major problem with Philipstown, they have a real issues with height.

**Doug Passeri-** This is not a commercial tower, this is a residential tower. There is a big difference.

**Vincent Cestone-** I know, I am not arguing that point.

**Doug Passeri-** One other question. It says something about generate electric for off site consumption. This is not for any off site consumption. This is for residential.

**Vincent Cestone-** He is trying to get off the grid.

**Doug Passeri-** Correct.

**Kevin Donohue-** Mr. Chairman?



**Vincent Cestone-** Yes.

**Kevin Donohue-** I could not explore other avenues, but I had mentioned to the applicant that he could make an appeal of decision from my letter, but if he made an appeal of decision, I think he would have to concurrently apply for a variance in height, because if you considered the appeal and granted it then he would need a height variance. I believe I said that could be something explored.

**Vincent Cestone-** You can do that, and we can have public hearings on this end and you can present your facts to us, and we can make a decision based upon that.

**Kevin Donohue-** I have not had a chance to talk to Ed Doyal or Mr. Rodd about that type of application, that was available to them.

**Vincent Cestone-** Like anything we don't know until we have the public hearing. The board is very interested in hearing what you have to say. I will contact the board and ask them if they would define what a residential wind tower would encompass. If they are willing to amend the code, this may all become irrelevant. Generally it takes them more than a month to get back to me on something like this.

**Doug Passeri-** Thank you

**Vincent Cestone-** What you can do is contact us through the Town at anytime and ask what the status is at anytime, and we will be more than willing to get back to you. I did not want you to have to stay here for the Public Hearing.

**Greta Passeri-** Thank you for that.

**Vincent Cestone-** Next item on the agenda is a continuation of Public Hearing for Lausca. Is the applicant here.

**Jamie McNiff-** I am here on behalf of the applicant.

**Vincent Cestone-** Alright.





**Jamie McNiff-** I am Jamie McNiff from Larry Paggi office representing Lausca. The last time Larry was here we were asking for Kevin to remove the violation, so this is a continuation of that.

**Vincent Cestone-** I understand that you went back to the Planning Board and they rendered a decision. Is that what you wish to present?

**Jamie McNiff-** Yes.

**Vincent Cestone-** We have copies of the resolution, so you really don't have to give it to us. If you want to paraphrase what it says, that would be fine.

**Jamie McNiff-** You got the order part right? We also got an amended site plan.

**Vincent Cestone-** Yes, we got both. The amending of the site plan was related to the island issue?

**Jamie McNiff-** Yes. It was amended so that we could address the concerns that they had over there by widening it from 12 feet to 16 feet and still having a speed bump in there, but now having signs to indicate that there are speed bumps in there, and putting landscaping right along the edge of it where it was going to be curbed. The Planning Board was happy with that. They thought it would define it better. The planner also had suggested the landscaping there to help it. This is from May 17th and they issued this Planning Board resolution number three where the Zoning Board of Appeals has requested the Planning Board for a report or an interpretation in regard to the issue of whether the site plan approval that it granted included installation of the said concrete/ curb barrier. They find and report to the ZBA that the concrete barrier was approved as a part of that site plan as reflected in the notes on that plan.

**Vincent Cestone-** Ok. Anyone wish to speak on this? Kevin ?

**Robert Cinque-** I would like to.



**Robert Cinque-** I am Robert Cinque, attorney for Code Enforcement office. While I am heartened to see that the applicant is planning to make this condition safer, as far as the issue of whether or not this violation should stand, it really comes through the fact that it was cited. If you look at the notice of violation.

**Vincent Cestone-** I have a copy.

**Robert Cinque-** It was cited not only as not appearing on the site plan, but also as a hazard. I reviewed the record and I see that we had Ms. Brown here at the last hearing, and she did in fact address the Board about the accident that she had at the site. Did you produce the photos last time Kevin?

**Kevin Donohue-** No.

**Robert Cinque-** We also have photographs of the site, that show the conditions there, and it seems pretty clear that the conditions were unsafe at the time Mr. Donohue wrote the violation. (Kevin Donohue handed out photographs of the site to all board members) Which of course falls squarely in to the old code section 175-39 and is referenced in the summons. The big question is, when Kevin wrote that violation, none of this that you see today was in the site plan that was filed at all. The question before this board is, was this summons properly issued. Based on that I would ask that the summons be upheld. I mean certainly that the applicant is taking steps to remedy this situation, would go toward a lesser sanction or any other action the board may deem fit here. The bottom line here is that when Mr. Donohue wrote that violation, there was a violation. Is there anything that you would like to add?

**Kevin Donohue-** Hi Kevin Donohue, Code Enforcement Officer. When I wrote this violation, of course I cited sections of the older code. The code that was in effect at the time. I cited number one. The concrete barrier along the north side of the property does not appear on the March 24, 2010 Planning Board approved site plan. That plan is on the table here before you. Looking at it, the curb, though there is a resolution from the Planning Board, it is not there. I was stating a fact. It does not appear on the plan. To go with the second part of that sentence, and is a hazard to traffic and

circulation between adjacent lots not in compliance with the Zoning Law. The reason I stated it that way, is there was no alternative for me to consider. If it is not on the plan, I cant say how to correct it. That is why when I get down to the subsequent part, it says you are ordered to answer or correct this violation to the satisfaction of the Zoning Administrator Officer by removing the concrete barrier along the north property line, and completing the landscape island, and repairing the speed bump. That was the only course of action that I could sight. I could not sight, that or you're in compliance with the site plan, because it does not appear. I don't know if it is in compliance with any standard, because it does not appear on the site plan. Getting back to the point of the first sentence in my notice, the concrete barrier along the north side of the property does not appear. It is to state that, I had no other option but to say, remove it.

**Vincent Cestone-** Have you discussed with the applicant? Taking down the whole barrier, because it runs past the building and all the way to the back, and there is a grade difference a bit on the (inaudible) side. Did you try negotiating with the applicant with something that is mutually agreeable?

**Kevin Donohue-** I have no authority, because it is not part of the site plan. I have no resource to pull from. There is no standard in the code for this type of barrier wall. All the evidence that was presented to you was Joann Brown, who hit it. I went out there, and in those photographs you see the physical damage to this barrier from other vehicle impacts. It is broken, it has skids on the top of it, and so my decision was, after review, is that it is a traffic hazard and shall be removed. That is where my order came from. There is no other consideration I can give to it, because there is nothing in our code to consider.

**Robert Dee-** Kevin, Question. You said when you first sighted this it was sixteen feet wide?

**Kevin Donohue-** No, I did not measure it. I did not go out and measure the width. I did observe the speed bump. I did observe that the bump was put in accordance with the plan at that time. It needed some maintenance of course with the striping and details with it, but it is the barrier that I could not find an approval for, or a standard for. There is curbing on the property,

and that other curbing does comply with the curbing details on the plan, but this does not.

**Vincent Cestone-** The Planning Board, correct me if I am wrong, but the Planning Board did say it was part of their initial plan.

**Kevin Donohue-** It does not appear on the plan.

**Vincent Cestone-** That is not what they said in their letter.

**Kevin Donohue-** What they considered of course was the minutes of the original meeting, which it was discussed, but the document that I enforce, that the Planning Board is authorized to adopt, is a site plan. Not minutes, not a resolution, those are not considered by my office.

**Robert Cinque-** If I may? My understanding is that the minutes did show that it was discussed at the meeting, but again as Kevin pointed out. He is not authorized to enforce anything that is discussed. He has his plans, he has his filed documents. He can only enforce what is actually on the record. At the time he issued the violation, what was on the record were these drawings that are on the table here, which in fact do not show the curb cut barrier as it is built.

**Vincent Cestone-** Any questions from the board?

**Robert Dee-** I have one question. Traffic hazard, do all traffic hazards come under the Planning Board? I mean under your purview ? I am just trying to get that one, because I know building inspector is houses and stuff like that, so I am just trying to figure how traffic hazard comes under your purview.

**Kevin Donohue-** As Code Enforcement Officer, this standard is only through site plan approval process. If there was a sight that did not have a Planning Board approved site plan, then I have nothing from the code to pull from, to say that you are or are not in compliance (inaudible - Chimes Ringing)

**Robert Dee-** I just wondered if a light was in the wrong place at an intersection, would you handle that too?

**Kevin Donohue-** Only on private property. The section that I cited on the notice is from the old code, and I do have a copy of the old code.( Kevin handed a copy of the old code to the members) 175-39 general standards C. Access and circulation, this is part of site plan approval. Provisions shall be made for vehicle access to the lot and circulation upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians, in the street and upon the lot to avoid traffic (inaudible) on any street, and to provide a safe convenient circulation upon the lot. Access and circulation shall also conform to the following. There is one to eight. I will go to number seven. Where topographic and other conditions are reasonably useable. Provisions shall be made for circulation driveway connections to adjoining lots of similar existing and potential uses. So it was required to connect and it was required not to be a hazard to traffic and pedestrians.

**Robert Dee-** You still can drive through it right?

**Kevin Donohue-** Yes, most people drive straight through.

**Robert Dee-** I mean there is an opening you can go through it. They were connected.

**Robert Cinque-** There is an opening.

**Robert Dee-** I am just saying they were connected right?

**Kevin Donohue-** Yes, that is the subject of what we are discussing this evening, to slow down that traffic. Through an existing curb as they put it, but that curb, as you see my photographs, is 14 inches high, and a curb you are supposed to be able to roll over it with a tire. On the plans here it shows six inches in height for the DOT curb that was put in on Route 9.

**Paula Clair-** I wanted to just say apropos of what our Chairman had eluded to, I wonder if it might be possible to remove a little more of this curb and to mark it clearly to reduce the hazard, because it does look to me to be a safety hazard.



**Kevin Donohue-** As I stated, I have no authority to consider anything less than total removal.

Paula Clair- I was just saying that perhaps we could negotiate.

**Robert Dee-** I thought the woman addressed that.

**Jamie McNiff-** Yes. We got site plan approval to widen that entrance. We are improving it. We are widening it, and the speed bump will remain. They are going to add landscaping and signage, so that people can see it.

**Vincent Cestone-** They are going to make the opening wider?

**Jamie McNiff-** Yes, it was 12 feet on the approved plan, now on the amended site plan we have it at 16 feet wide. With the signage and the landscaping we really should see the speed bump. It was put in there so that we would not have traffic flying through, because there business in there, and we don't want the cars coming through so fast.

**Vincent Cestone-** Right.

**Jamie McNiff-** The speed bump is keeping them from going quickly through the lot.

**Robert Dee-** I have seen that location. A lot of people cut through there to beat the traffic light, and they do come through at a high rate of speed.

**Adam Rodd-** If I could just interject quickly. You mentioned an amended site plan correct?

**Jamie McNiff-** Yes

**Adam Rodd-** And that was the amended site plan I believe was issued in August of this year?

**Jamie McNiff-** Yes.

**Adam Rodd-** Mr. Donohue would you have any objection to communicating with Ron Gainer who is the engineer for the Planning Board

in order to satisfy yourself, as to whether improvements that are there, that are the subject to the violation are in fact in accordance with what what was approved, is that acceptable to you?

**Kevin Donohue-** If the Planning Board approves a site plan with modifications, that becomes enforceable, I don't have discretion. The issue at hand here is, back in December when I cited this, my notice said to remove it completely, because there are no other options. What the applicant has done is present another option, but for this hearing that is new evidence that I did not consider back in December. What they have done is appeal my notice of order. What I am trying to convey to the board is that no options were presented at the time, so the only scenario I could cite was removal.

**Vincent Cestone-** Have you looked at the amended plan?

**Kevin Donohue-** Yes.

**Vincent Cestone-** What is your feeling about the amended plan?

**Kevin Donohue-** If it is signed by the Chairman, then it becomes enforceable by me. I don't have an opinion on whether it works or not.

**Vincent Cestone-** No no, I am asking you point blank, does that satisfy the safety concerns that you had?

**Kevin Donohue-** My original notice does not consider that. You are asking me if that satisfies it. Im gonna go over. (Kevin approached the amended site plan) The Modification stops well before, it does not consider the entire length of the wall on the plan. That modification will happen once approved, but the rest of the wall is not on the site plan. My order would stand on the rest of the wall to be removed.

**Bill Flaherty-** Kevin did I understand you to say that this does not constitute a hazard?

**Kevin Donohue-** What was that Bill?

**Bill Flaherty-** This curb does not constitute a hazard?

**Kevin Donohue-** My December notice said it was a traffic hazard, this barrier.

**Bill Flaherty-** Maybe I misunderstood you. I thought earlier you said that you did not consider this a hazard.

**Kevin Donohue-** The plan there, I do not have an opinion of it. I enforce what is on the plan. The plan that was approved March 24, 2010, I stated the barrier did not appear on the site plan.

**Bill Flaherty-** The other site plan?

**Kevin Donohue-** In the order I say to remove it, because I have no option to make it safer. There is no specification and there is no standard in the code that I can use. As Code Enforcement I had no other options, but to say remove it.

**Robert Dee-** So you want the whole curb removed?

**Jamie McNiff-** That was not clear in the notice of violation, because where would traffic go through?

**Robert Dee-** Let me ask you a question. Lets not get into the weeds. The curb, I don't know how long it runs. Is it 200 feet 150 feet?

**Vincent Cestone-** Yes, something like that.

**Robert Dee-** You want all that removed?

**Kevin Donohue-** That is what the order says.

**Robert Dee-** Ok, that is it. I have no other questions.

**Kevin Donohue-** I will clarify.

**Robert Dee-** You clarified it, i need no more.



**Kevin Donohue-** I was going to read.

**Robert Dee-** You don't have to read anymore. I got it. You want 200 feet taken out. I got that.

**Vincent Cestone-** Anymore questions from the board?

**Paula Clair-** If the Planning Board modified its plan again to encompass more of the 200 feet that is left after they did the modifications of widening the traffic way to 16 feet from 12 feet. If they modified the plan and added the rest of the concrete barrier would that satisfy you? Would that be acceptable? Could you enforce that?

**Kevin Donohue-** Once the plan is signed and delivered to my office, that plan becomes enforceable. If it includes the remainder of that barrier on that plan, and what appears on the site plan is what is in the field, they are in compliance.

**Paula Clair-** Ok

**Adam Rodd-** So as I am understanding it (inaudible) If that conforms with what is in the field you are fine?

**Kevin Donohue-** Thats in compliance yes. My Job

**Adam Rodd-** Its just very simple. Your telling me that if the site plan is signed and the engineer certifies to you that whats on the ground complies with the amended site plan, your fine with that correct?

**Kevin Donohue-** yes

**Adam Rodd-** Ok. Do you have any objection with getting together with Ron Gainer to hash that out, and to make sure that is the case?

**Kevin Donohue-** It is not my roll to.

**Adam Rodd-** I am asking if you would object to doing that? If Ron Gainer reached out to you and said can we go over this.

**Kevin Donohue-** I don't have any input to the board as a professional.

**Robert Cinque-** I think what he is concerned with is this falls outside the scope of his employment. As a Code Enforcement Officer, I think it gets a little dicey to have the person enforcing the law or enforcing the codes, have a hand in modifying them. Again, I think when Kevin said, Yes if the board approves it, then I am fine with it. He certainly means that if you made a decision tonight, well from tonight on that is the decision he enforces, and those are his marching orders. I think we are getting a little far fielded here. The question really is whether or not when Mr. Donohue wrote that Violation Notice back in January, whether there was a violation in place. I think from the pictures that were shown and from the reference to the code that was in effect at that time, I think that we have shown that there was.

**Adam Rodd-** Well the issue is, and again I am just trying to make suggestions to resolve it. There is a violation that was written by the code enforcement officer indicating that a concrete barrier does not appear on the site plan.

**Robert Cinque-** Correct.

**Adam Rodd-** We asked the Planning Board for a report, and the Planning Board got us a report saying that, the concrete barrier was part and is part of the site plan pursuant to the notes that are referenced, and it is in compliance.

**Robert Cinque-** Well the record is clear. I know what you are saying.

**Adam Rodd-** We are just looking to resolve it. We got a specific report from the Planning Board indicating that what is there is in compliance with the site plan that was approved. I understand, without getting into all the minutia that Mr. Donohue still has some concerns about the the plan and what is there. What I suggested is perhaps a meeting between Mr. Donohue who issued the violation and Ron Gainer who is the engineer for the Planning

Board can resolve this issue. I am just raising that option as a way to move the ball forward, and get the issue resolved to everyone's mutual satisfaction. I just don't understand why there is any kind of resistance to making peace that way.

**Robert Cinque-** Clearly as we have said all along, if this board or the Planning Board chooses to take any action, then obviously, Mr. Donohue as the Code Enforcement Officer would enforce that action. Excuse me one moment. (Speaks with Kevin) Certainly Mr. Donohue is available to be consulted by anybody in the Town Government. I guess by anybody who has business that reflects the use of buildings or properties in the Town. To that extent, I am sure that if Mr. Gainer gave Mr. Donohue a call, then Mr. Donohue would be glad to talk to him. I just want to be clear for all who are involved, that he is not looking to do your job, he is not looking to do Ron's job, he is looking to do his job.

**Vincent Cestone-** Any more questions from the board? I make a motion to go into closed session to discuss legal issues with our attorney.

**Robert Dee-** I will second that.

**Vincent Cestone-** All those in favor?

**All Members were in favor.**

**The ZBA Members and ZBA Council went into closed session.**

**Vincent Cestone-** What we are going to do, is carry this over to our next meeting which will be November 12th. That is not a Holiday is it?

**Jamie McNiff-** It might be, because the schools are closed on that Monday. I don't know if Municipalities are.

**Vincent Cestone-** It does not matter to us.

**Paula Clair-** Is that Veterans Day?



**(inaudible)**

**Vincent Cestone-** If the Board is ok with that, we can meet on the 12th, even though it is Veterans Day. What would you rather do?

**Board was ok with meeting on that day.**

**Vincent Cestone-** At that time we will render a decision, but in the meantime, we suggest that the applicant and the Building Inspector, and the Engineers get together and discuss this. Hopefully we will have a resolution before November. With that, this is continued until November.

**Tina Andress- Landolfi-** The Public Hearing is still open, correct?

**Kevin Donohue-** Yes, It is closed.

**Vincent Cestone-** Yes, it is still opened.

**Kevin Donohue-** You closed the Public Hearing.

**Tina Andress- Landolfi-** I am a little confused on this.

**Adam Rodd-** I would leave the Public Hearing open just in case anyone wants to offer any other information.

**Vincent Cestone-** Yes, we are going to leave it open, just incase someone has any additional information. Next item on the agenda is to review the minutes from September 10th. I know that Paula had some corrections. Are there any other corrections?

**Paula Clair-** I already gave them to Tina.

**Vincent Cestone-** I make a motion to accept them as corrected. Do I have a second?

**Paula Clair-** I do.

**Vincent Cestone-** I have a second over here. All those in favor?



**All Members were in favor.**

**Minutes were approved.**

**Vincent Cestone-** Any old or new business? I make a motion to adjourn.

**Linny Lim-** I will second.

**Vincent Cestone-** All those in favor?

**All members were in favor.**

**Meeting was closed.**

**NOTE:** These minutes were prepared for the Zoning Board of Appeals and are subject to review, comment, emendation, and approval thereupon.

**DATE APPROVED:**\_\_\_\_\_

Respectfully Yours,  
Tina Andress- Landolfi, ZBA Secretary

## **ZBA ACTIVE APPEALS**

**#877    Lausca LLC        Public Hearing**

**MR. JAMES GLEICK  
200 LONG AND WINDING ROAD  
GARRISON, NEW YORK 10524**

**RESIDENTIAL SMALL WIND 10kW  
TAX MAP# 82.-1-42.1  
SPECIAL USE PERMIT  
SITE PLAN REVIEW**

© 2012 Google

Long and Winding Rd

9D

Acorn Hwy





Applicant: **Gleick, James**  
Address: **200 Long and Winding Rd., Garrison, NY 10524**  
Phone: **845.424.3909**  
Email: [gleick@around.com](mailto:gleick@around.com)  
**Putnam County ~Tax ID 82.-1-42.1**

### **Proposed Project**

Installation quantity one (1) Wind Energy Conversion System (WECS), consisting of Bergey WindPower Model BWC Excel - S 10kW class wind turbine atop 140' Guyed Lattice Tower.

The installation will produce electricity for the use at the site in which it is generated, and offset the rising cost of electricity associated with daily living.

The expected AEO produced from this grid interconnection application is 12,512kW providing a reduction in the current annual residential power used, and decreasing the demand placed on the utility company.

The selected WECS site will have no negative aesthetic effect to the surrounding landscape or change the character of neighboring scenic views. There is no foreseen impact to the environment; water, plant or animal.

The elevation for this location is 721'.

Latitude = 41.34315 °, Longitude = -73.94812°

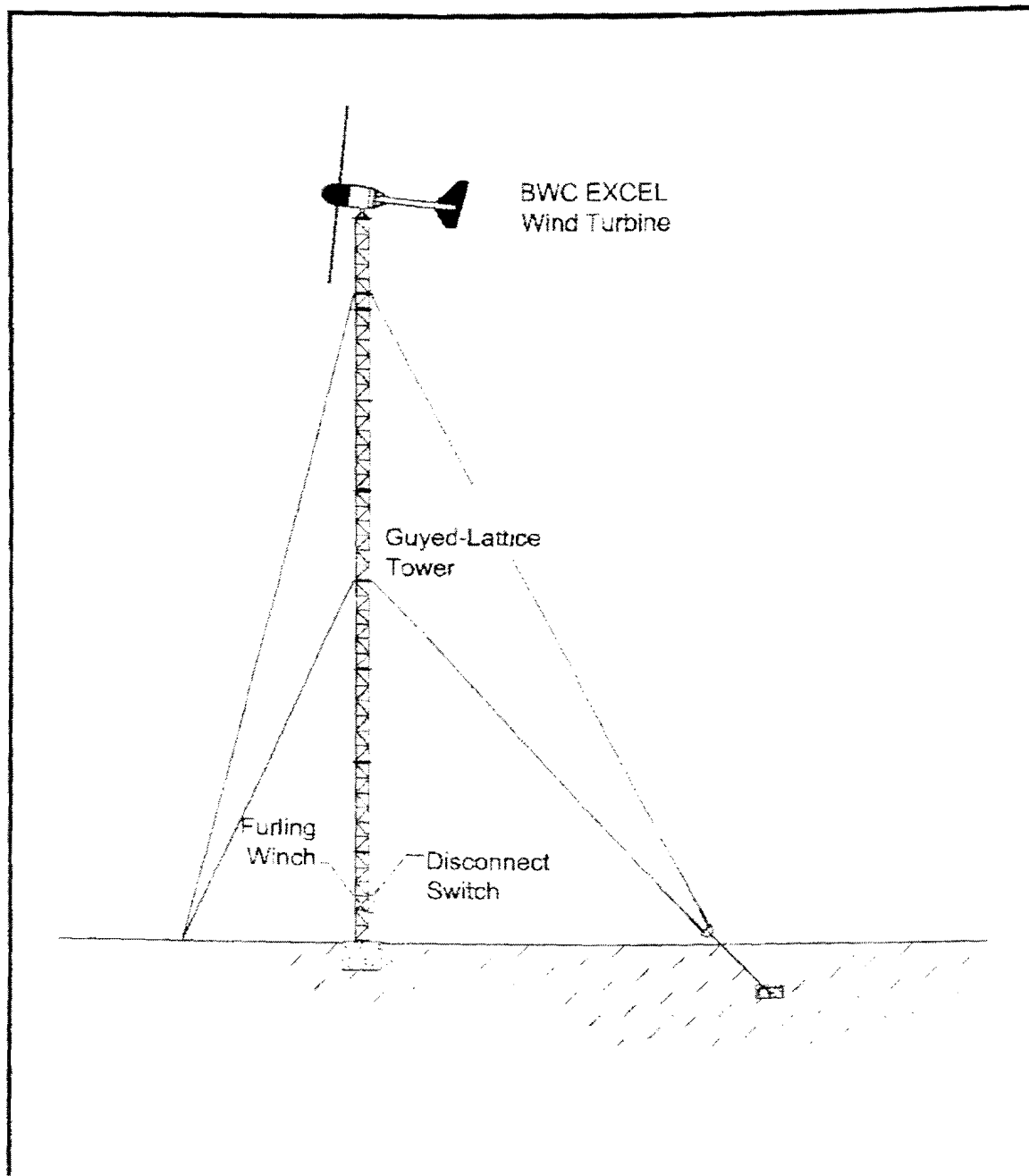
### **Specifications for Wind Energy Conversion System (WECS)**

The **BWC Guyed-Lattice** tower comes in 10ft sections; (1) base, (12) standard, & (1) top to equal a 140ft tower.

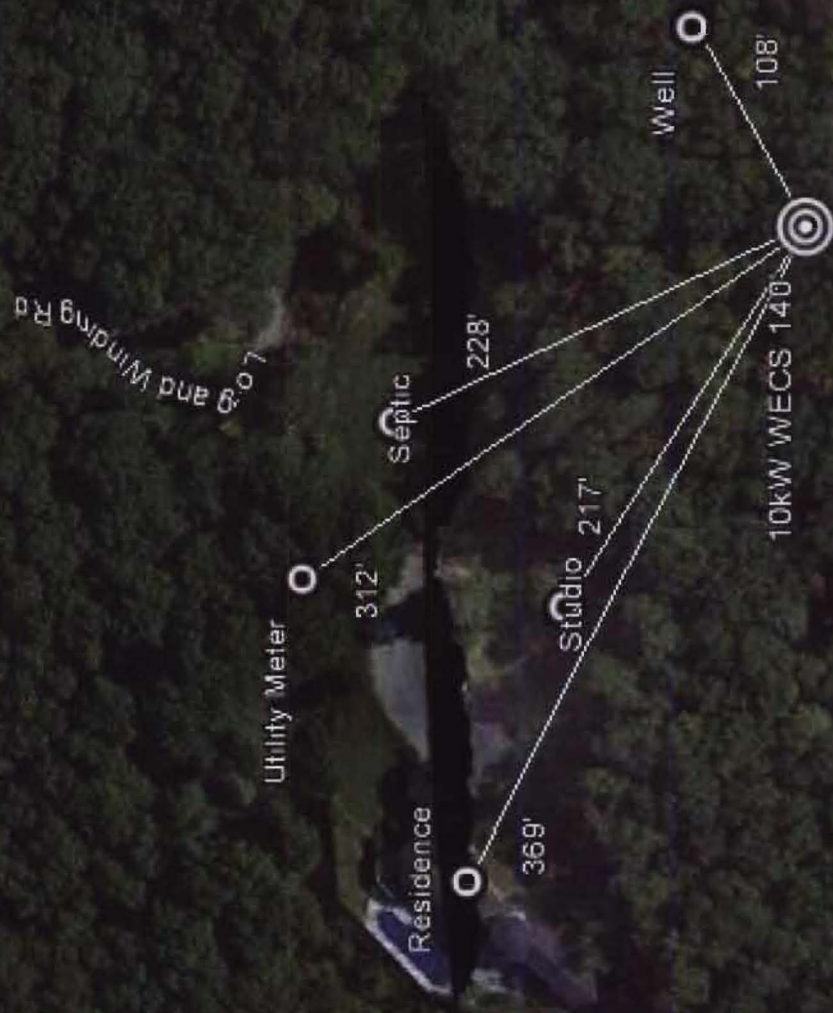
The **BWC EXCEL** is a modern 7 meter (23 ft) diameter, 10 kW wind turbine designed for high reliability, low maintenance, and automatic operation in adverse weather conditions. It is available in two configurations: battery charging and grid-connected. The BWC Excel is a ruggedly built turbine that comes with the longest warranty (10 years) in the industry. Connected to the grid, the BWC EXCEL can provide most of the electricity for an average total electric home at moderate wind sites. The all new Powersync II power processor (inverter) is the most advanced in the industry and it carries a full UL certification to the latest utility standards.

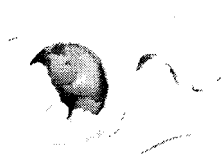
The blades attach directly to a specially designed very-low-speed permanent magnet alternator which uses state-of-the-art neodymium super- magnets. "We have designed an oversized alternator that slows the rotor down and makes the turbine very quiet." Over speed protection is provided by the proven BWC AutoFurl passive sideways furling system. "In spite of the claims otherwise, no other over speed protection system has proven to be more reliable or effective than AutoFurl."

In July 2009 the Excel turbine was upgraded with a more powerful alternator and longer blades. Performance has been improved by an average of 25%. The BWC Excel 10kW class wind turbine has a 30 to 50 year life expectancy and a 10 year warranty for the wind turbine, their associated electronics, and tower supplied by Bergey Windpower Co., Norman, Oklahoma









**HUDSON VALLEY WIND ENERGY LLC**  
**Douglas Passeri ~ 581.821.9761**

---

**Small Wind / Bergey WindPower Excel-S GL  
10kW Wind Energy Conversion System (WECS)  
140' Guy Lattice Tower**

Lat: 41.34315      Long: -73.94812      Elevation: 720.80'

Mr. James Gleick  
200 Long and Winding Road  
Garrison New York 10516

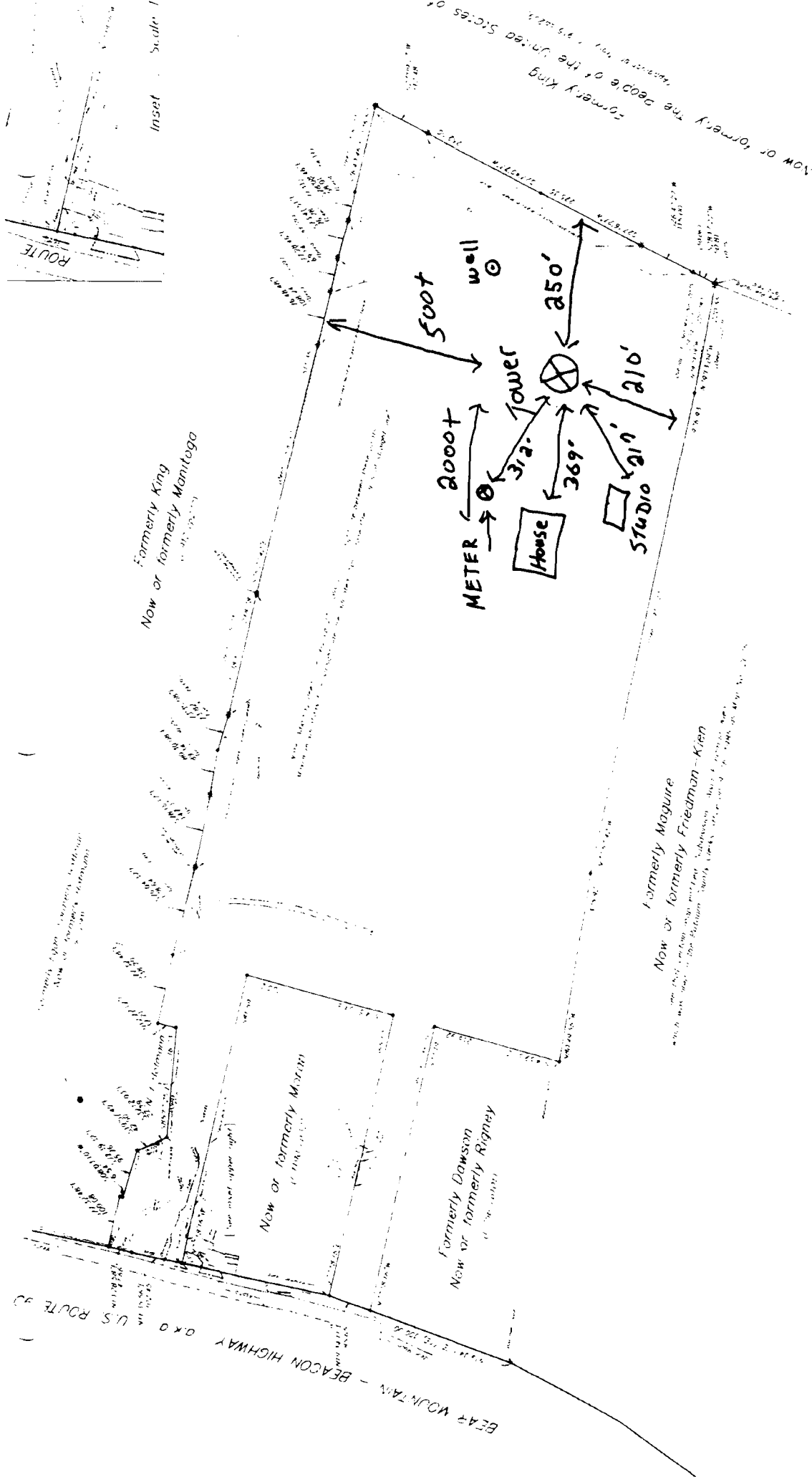
**Property Lines**

Base of tower to **North** Property Line >500'  
Base of tower to **East** Property Line >250'  
Base of tower to **South** Property Line 210'  
Base of tower to **West** Property Line >1574'

**Base Pad Measurements**

Base of tower **NW** to Utility 312'  
Base of tower **NW** to Gleick Residence 369'  
Base of tower **NW** to Studio 217'  
Base of tower **NW** to Inverter/Panel Located in Shed by Utility 312'  
Base of tower **NW** to Septic >228'  
Base of tower **NE** to Well 108'  
Base of Tower to **West** Town Road >2000'

The proposed installation is distanced as required and does not affect agricultural districts, scenic protected areas, ridgelines, open spaces or watersheds.



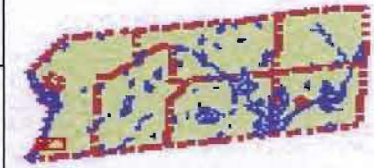
Area = 31.742 Acres

SURVEY OF PROPERTY  
 JAMES J. & CAROL BL  
 TOWN OF DUNELDT

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# Putnam County, NY Tax Map



Brewster Catchbasins



Brewster Outfalls



Brewster Streams



Parcels



ROWs

Private ROWs



Bike Path



Road Names

Road Lines



Railroads



Schools



Major Parks



Golf Courses



Lakes



Town Lines



Mon Sep 24 13:48:20 EDT 2012

PHOTOGRAMMETRY BY



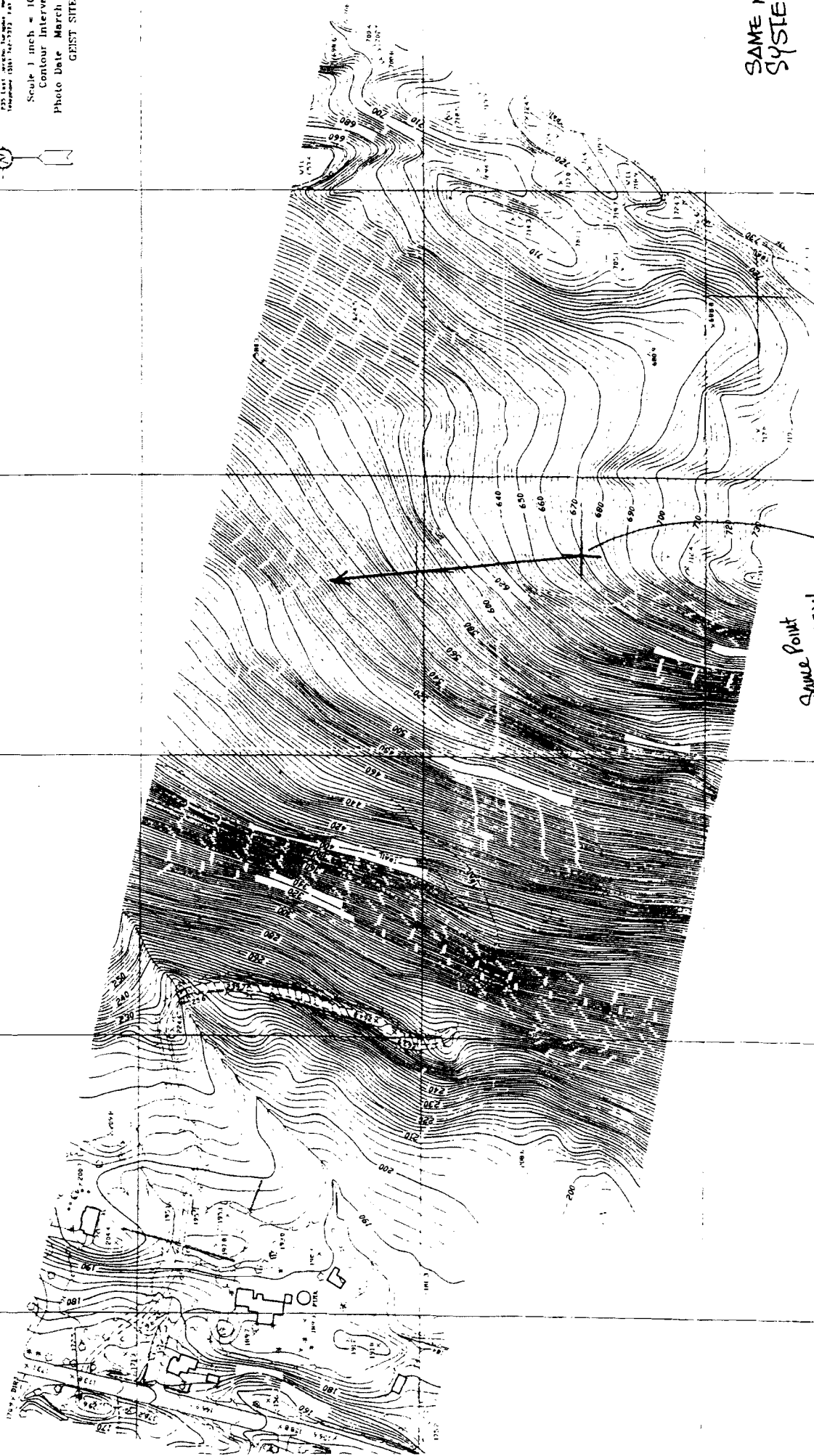
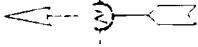
125 East Avenue, Laguna Hills, CA 92653  
Tel: (714) 761-1111 Fax: (714) 761-1112

Scale 1 inch = 100 ft

Contour Interval 2'

Photo Date March 22,

GEIST SITE



same point  
view  
point  
this link is plotted  
precisely on  
copy

SAME NOR  
SYSTEM.

# Bergey WindPower ~ Hudson Valley Wind Energy



~~~~~

All Bergey turbines are built on strong design basics:

**Simplicity.** There are only three moving parts, and none are 'wearing' mechanical parts so no replacement maintenance is needed. There are also no complex hydraulics, integrated electronics or mechanical weaknesses that would require a costly maintenance regime.

**Reliability.** The technology has been developed in 'Tornado Alley' and proven in critical military applications. Clever aeronautical design technology includes robust storm protection, controlled automatically by the wind alone.

**Performance.** With a low start-up (2.5m/sec /5mph), Bergey turbines deliver exceptional 'low wind speed' performance and with no mechanical gearbox present are extremely quiet in operation. All Bergey turbines come with extended warranties. In the case of the 10kw turbine, this is for an industry leading 10 years.

## **Key product features**

**Powerflex Blades.** Exclusive 'full length reinforced' fibreglass pultruded blades are stronger than steel - and the strongest in the industry. Developed from advanced aeronautical technology, they've received two national design awards.

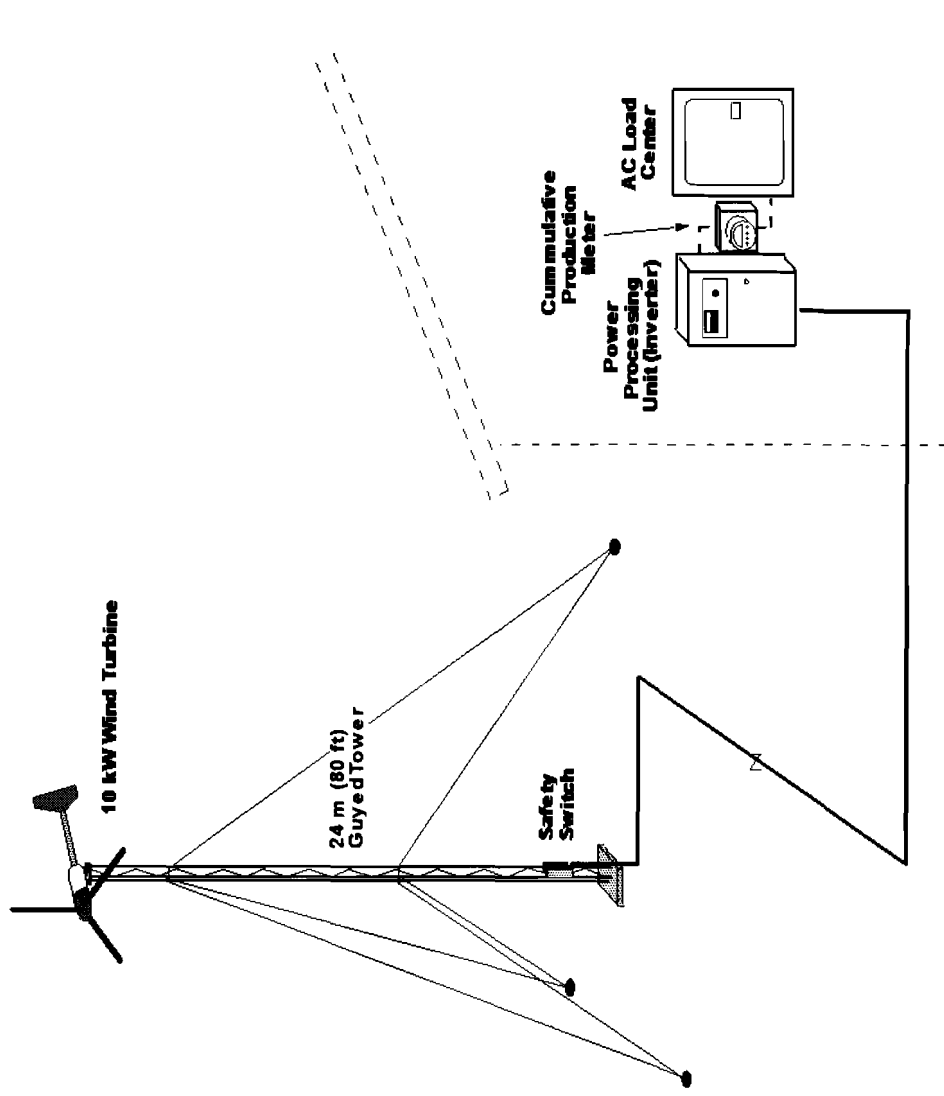
**BW-7 Airfoil.** The custom designed airfoil (blade shape) is quieter and more efficient than the more widely used 'catalogue airfoils'.

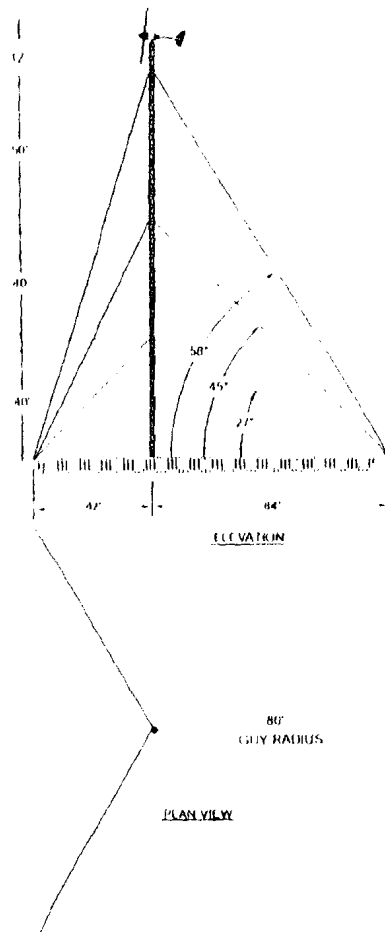
**Neo-10 Alternator.** Bergey's custom designed, very low speed 'super magnet' alternator also serves as the blade mounting hub, integrating what are typically two assemblies.

**AutoFurl Storm Protection.** Bergey's unique fully automatic, high wind protection system is hurricane proven. A robust and well engineered turbine designed for anything the US climate can throw at it, and more.

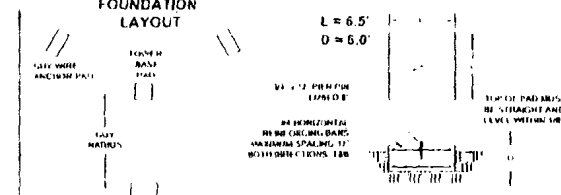
## POWER YOUR DREAM...with the wind



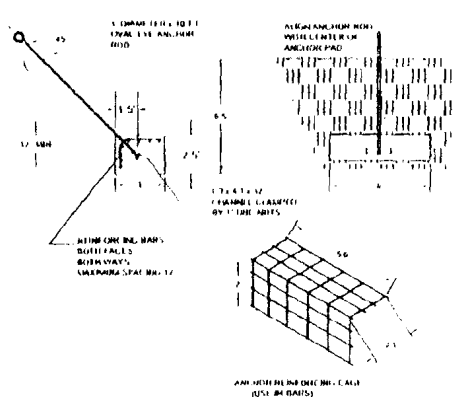




## TOWER BASE PAD CONSTRUCTION



## GUY ANCHOR CONSTRUCTION



## Foundation Notes:

1. Concrete: 2500 psi minimum ultimate strength
2. ASTM A-615 Grade 40 deformed reinforcing bars, 1/2" minimum diameter, two faces, both ways, 12" O.C. maximum spacing
3. Minimum concrete cover on all reinforcing bar is 2" top, 3" all other locations
4. Compact fill in 8" lifts to minimum 100 psi
5. Water table below all concrete at all times
6. Soil bearing strength 1500 psi minimum
7. No inspection of concrete rebar placement required per CBC 1701.5.1 and 1701.5.4

## Design Criteria

1. CBC-2007 compliant
2. Design Basic Wind Speed: 85 mph
3. Design Exposure Class: C
4. Rotor Thrust: 2400 lb max
5. Turbine Weight: 1200 lb
6. Maximum Torque: 250 ft-lb @ 300 rpm
7. Rated Moment: 875 ft-lb
8. No Ice Accumulation

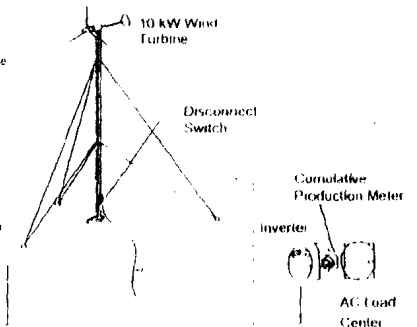
## Notes and Requirements

1. An approved Accessory Wind Energy Renewal along with any conditions from the Planning Division is required at the time of permit application.
2. A plot plan is required. Submit individual plot plans for approval at the time of permit application. Tower height and system height setbacks from the property lines shall be clearly identified on the plot plan submitted for review. In no case shall the property line setbacks be less than equal to the system height which includes the turbine and height of the blade in the 12:00 position.
3. The following height limitations shall apply to all accessory wind energy towers, provided that the application for such a system includes evidence that the proposed height does not exceed the height recommended by the manufacturer or distributor of the system.

| Land Use District RS and RM                    | Valley Area | Mountain Area | Desert Area               |
|------------------------------------------------|-------------|---------------|---------------------------|
| R1 (on parcels less than 2.5 acres)            | 52' 5"      | 52' 5"        | 52' 5" one system allowed |
| R1 (on parcels 2.5 acres to less than 5 acres) | 65'         | 65'           | 60' one system allowed    |
| R1.5 or greater                                | 80'         | 80'           | 100' one system allowed   |
| AG, AGC, AGC                                   | 80'         | 80'           | 120' one system allowed   |

Additional unit may be allowed at rate of one unit for every 10 acres to a max of three units. Units shall be separated by a minimum of 240'

4. Any climbing apparatus must be located at least 12' above the ground, and the tower must be designed to prevent climbing in the first 12 feet.
5. No protected trees or plants shall be removed. No drainage course shall be constructed. No land clearing will be conducted as part of this plan.
6. A grading plan, if required, shall be approved separately.
7. All footings are to be in undisturbed soil.
8. This stock plan is not approved to use soil bearing pressure exceeding 1,000 psi. Soil bearing capacity shall be not less than 1,000 psi.
9. Water table to be below concrete at all times.
10. Special foundation design or detailing may be necessary due to various analysis performed on certain tracts. It will be the applicant's responsibility to research and ascertain that no special foundation, soil or site conditions exist as stipulated for various tracts throughout the county.
11. Plan not approved for construction in any expansive or critical soil area.
12. Plan not approved for construction in areas required to have seismic studies.
13. Plan not approved if listing or approvals of any proposed material, appliance, devices are void, canceled, or delisted.
14. San Bernardino approved Fabricator #205
15. Concrete: 2500 PSI MINIMUM ultimate strength
16. ASTM A615 Grade #40 deformed reinforcing bars 1/2" minimum diameter (#4) Minimum concrete coverage 3" bottom, 2" top
17. A 325 Tower Bolts require a Special Inspector. The special inspector application must be submitted prior to permit issuance. The Special Inspector must be approved by San Bernardino County prior to work being done. Submit Special Inspector's report for review prior to final.
18. The installation and owner's manual shall be on file with the Building & Safety office and a copy shall be available to the inspector on the jobsite.



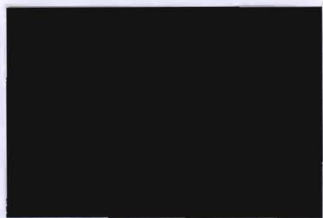
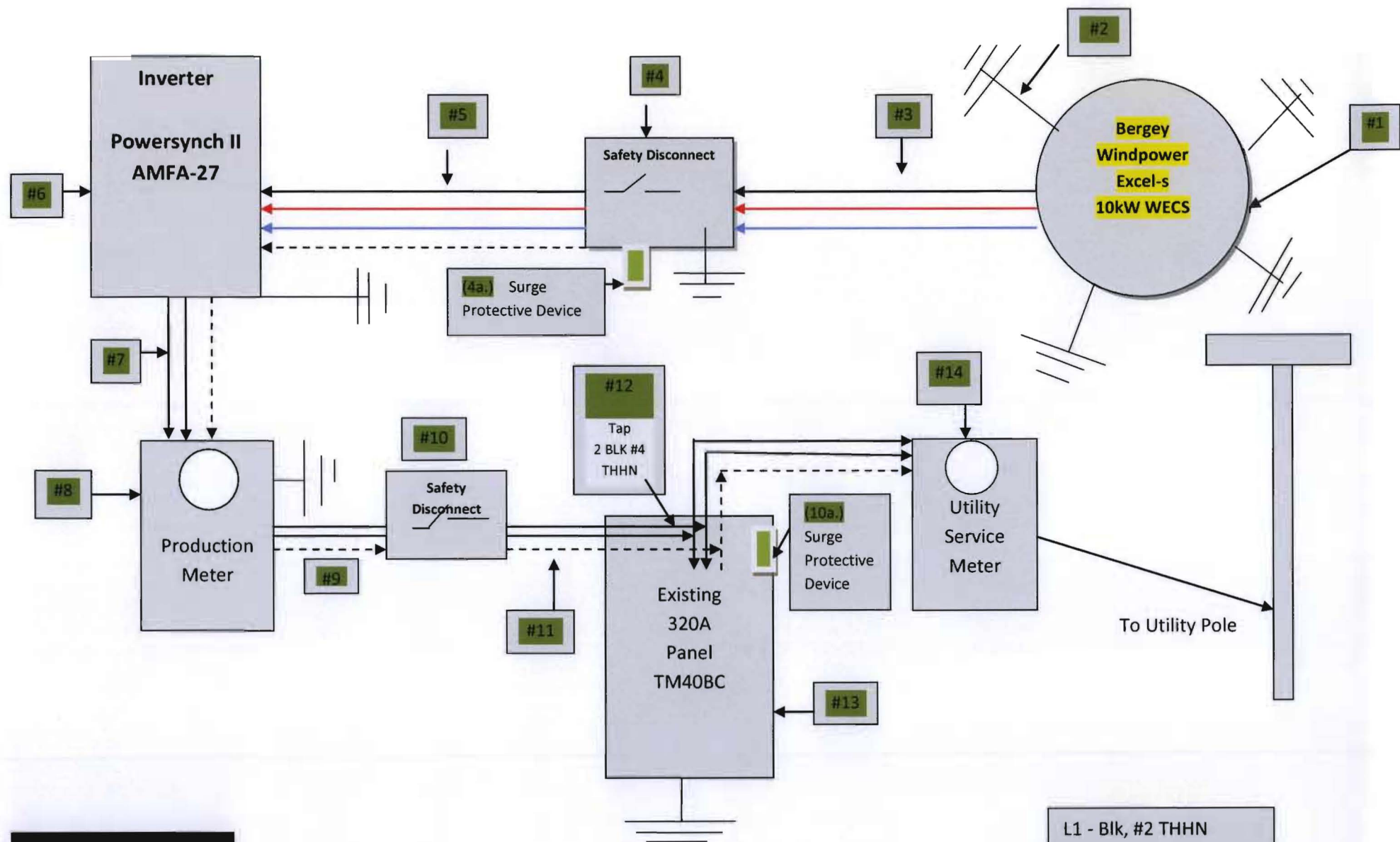
## Material Specifications

1. Tower Legs: ASTM A529 Grade 50  
Minimum yield stress 50,000 psi
2. Tower Flanges: ASTM A572 Grade 50  
Minimum yield stress 50,000 psi
3. Tower Braces: ASTM A529 Grade 50  
Minimum yield stress 50,000 psi
4. Tower Bolts: ASTM A325 construction grade  
Minimum tensile stress 170,000 psi  
Minimum yield stress 92,000 psi
5. Anchor Rods: A.B. Chance 1" Oval-eyn  
Minimum tensile strength 36,000 lb

## BERGEY WINDPOWER

|                                         |                                                                       |
|-----------------------------------------|-----------------------------------------------------------------------|
| DRAWN<br>A.T.W.<br>1/9/19 2011<br>FILED | TITLE<br>SUMMARY SHEET<br>10 kW ON GL18-140 TOWER<br>1400-XL-GL18-140 |
| APPROVED<br>SCALE<br>N=1/1"             | DATE<br>1/9/19 2011                                                   |





**Hudson Valley Wind Energy, LLC #3183**

Mr. James Gleick

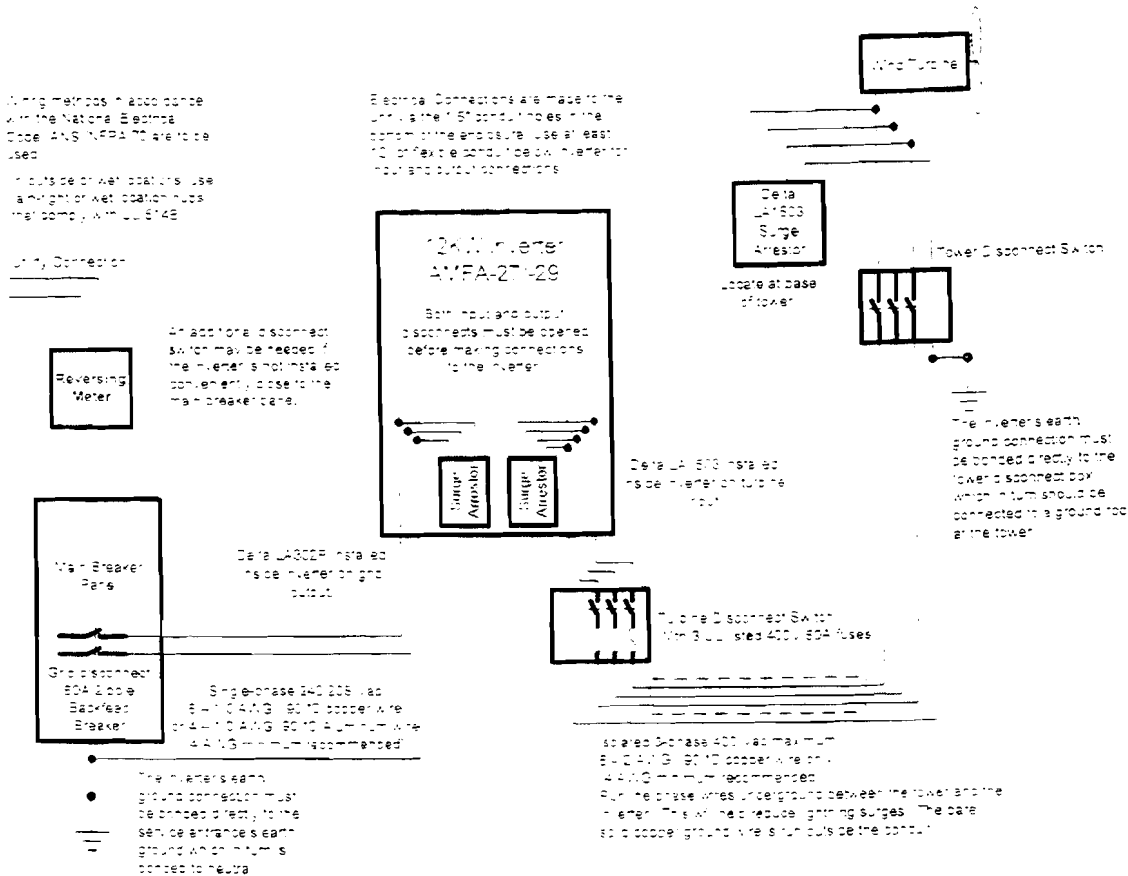
200 Long and Winding Rd, Garrison, NY 10524

Small Wind - 10kw 3 line wiring diagram page 2, foot notes

1. *Bergey Windpower 10kw Excel-S Turbine* installed on a 140' guyed lattice tower. All wire will be copper.
2. (4) 5/8 grounding rods (one per tower leg or guyed cable & one for tower) #8 insulated grounding wire to tower base
3. (3) #4 THHN MC armored jacketed cable, for tower wiring to tower mounted disconnect.
4. Wind Turbine Safety Disconnect, NEMA 3R 3 pole-600 volt 60A fused disconnect switch, Square D #H362-RB/Equiv, Fuses 45A-FRS-R-45. Labeled - "**Warning High Voltage Revolving Machinery**" approximately 5ft above grade.
- 4a. Surge Protective Device UL 1449 Voltage protective rating.
5. 2" RIDGID schedule 40 PVC conduit with (3) #2 THHN with a #8 insulated ground wire total distance to customer panel is 311' plus 140' tower height with a 1% voltage drop per conductor and a 11% fill percentage.
6. Tier Electronics Inverter, Powersynch II model #AMFA-27 mounted in shed by Production meter
7. (2) #2 THHN MC armored jacketed cable (1) #8 THHN insulated ground wire to cumulative production meter.
8. Type AB1, form 2S, 200 CL, 240 V, 3W, 60 Hz. Production meter
9. (2) #6 THHN MC armored jacketed cable (1) #8 insulated ground wire to Disconnect Switch
10. Lockable NEMA 3R 240 Volt 60Amp fused "Wind Turbine Disconnect switch" Disconnect labeled: **HIGH VOLTAGE Wind Turbine Disconnect**
- 10a. Surge Protective Device UL 1449 Voltage protective rating.
11. (2) #6 THHN MC armored jacketed cable (1) #8 insulated ground wire
12. Supply Tap - L1 & L2 and ground taped with Polaris IPLDS (UL Listed) - Labeled **Caution this Equipment is supplied by more than one Power Source**
13. Existing 320A Square D model TM40BC/TM40200CU
14. 320A 120-240V single phase utility service - Labeled **"Danger this panel is supplied by more than one Source of Power"**

## Connection Example

Surge arrestors are not required but are recommended for a minimum amount of lightning and surge protection. No lightning protection system provides complete protection. Lightning damage is not covered under your warranty.



## Markings

- Enclosure, Type 1 – for INDOOR USE ONLY
- Each ground is indicated by the following marking:



## Operation

This equipment is a UL 1741 certified Utility Interactive Inverter and complies with the requirements of IEEE1547 which is the standard for interconnecting distributed resources with electric power systems.

The Normal Operation of the inverter is as follows: When single phase 240VAC is applied to the inverter, the display will power up and a message stating that the unit is initializing is shown. A countdown timer set for 6 minutes (300 seconds) starts before the inverter is ready to transfer power to the utility grid. The inverter will automatically transfer power to the utility when AC voltages in the range of 80VAC to 400VAC are present at the Turbine input.





## Wind Professional Wind Resource Report

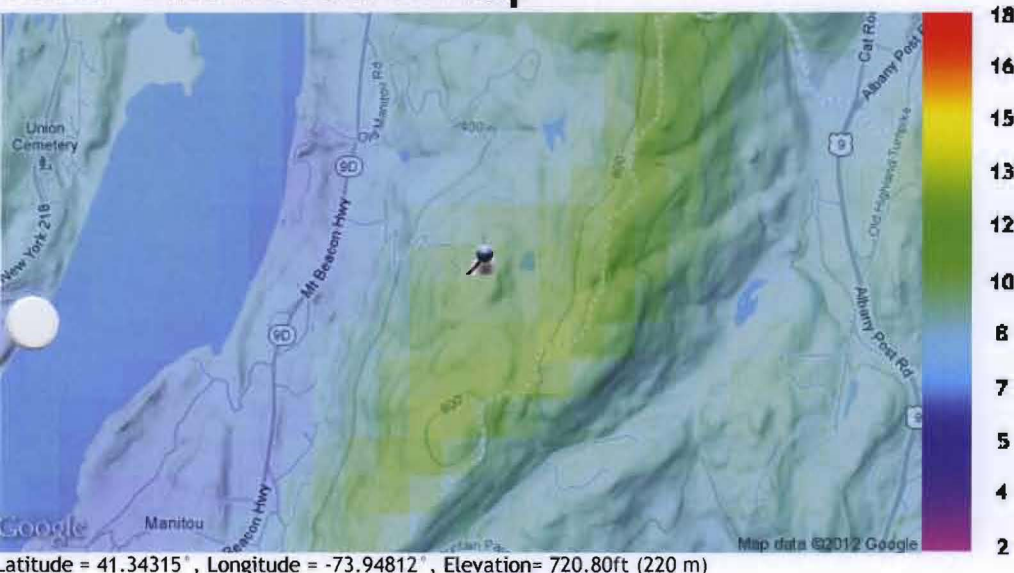
9/13/2012 9:06:09 AM

Landowner: James Gleick  
Location: 300 Long and Winding Road Garrison, NY  
Installer: Douglas Passeri

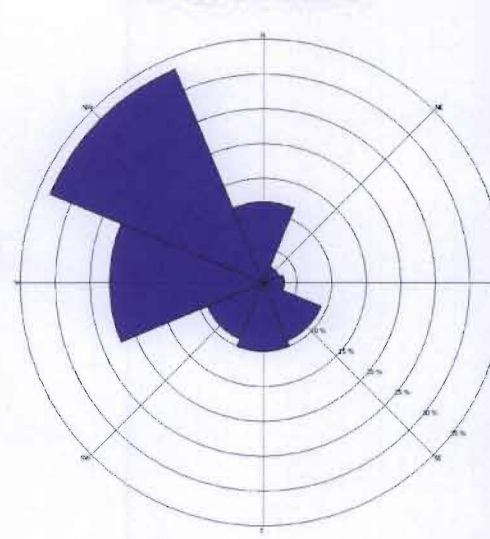
## Wind Resource

Average Annual Wind Speed at 140ft (42.67 m) = 11.44 mph (5.11 m/s)  
Weibull k = 2.33, Weibull A = 5.77, Roughness = 0.9 m

## 100ft Wind Resource Map



## Wind Rose



## System Description and Energy Production

Hub Height: 140 ft  
Turbine: Bergey Excel (10 kW, 23 ft RD, Powersync II inverter, Neodymium alternator)  
Gross Energy Production at 140ft: 10433 kWh - 15778 kWh

### Turbulence Induced Losses

| Sector | Roughness | % Energy | % TI | % Loss of Total |
|--------|-----------|----------|------|-----------------|
| N      | 1         | 11.55    | x    | 26.6 = 3.1      |
| NE     | 0.4       | 2.46     | x    | 21.4 = 0.5      |
| E      | 1         | 3.04     | x    | 26.6 = 0.8      |
| SE     | 1         | 9.03     | x    | 26.6 = 2.4      |
| S      | 1         | 9.84     | x    | 26.6 = 2.6      |
| SW     | 1         | 8.73     | x    | 26.6 = 2.3      |
| W      | 1         | 22.14    | x    | 26.6 = 5.9      |
| NW     | 0.3       | 33.21    | x    | 20.2 = 6.7      |
| Total  |           |          |      | 24.4            |

### Total System Losses

| Loss                      | Estimated |
|---------------------------|-----------|
| Turbulence Intensity Loss | 24.4%     |
| Availability Loss         | 2.0%      |
| Additional Loss           | 0.0%      |
| Total Loss(TL)            | 25.9%     |
| Maximum Loss*             | 31.1%     |
| Minimum Loss*             | 20.7%     |

\*Maximum and minimum range represents a 20% uncertainty in estimating the above losses

$$\text{Gross Energy} \times (1 - \text{Total Loss}) = \text{Net Energy}$$

10433 kWh x (1 - Maximum Loss) = 7193 kWh -> Low Estimate

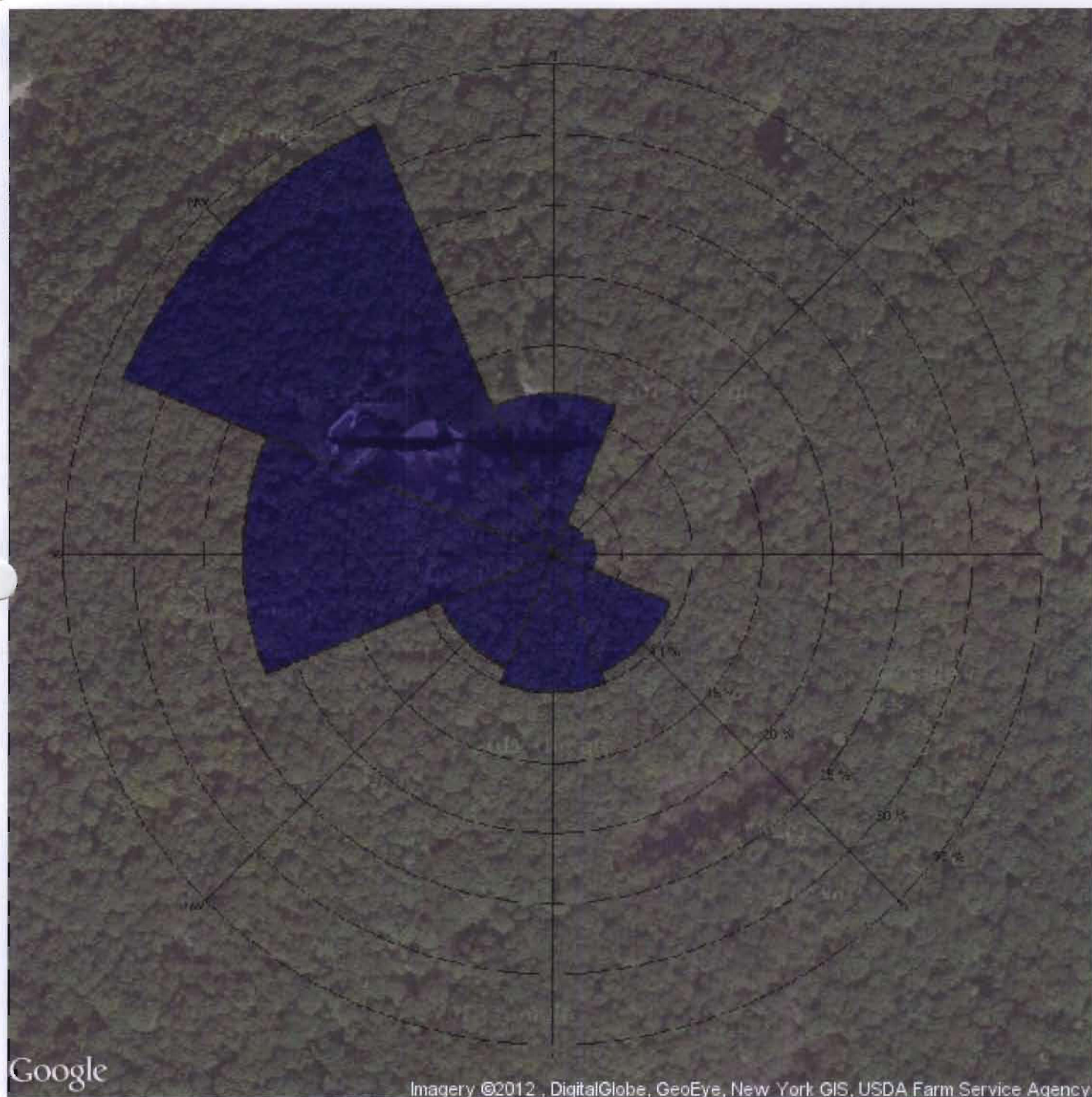
12967 kWh x (1 - Total Loss) = 9612 kWh -> Medium Estimate

15778 kWh x (1 - Minimum Loss) = 12512 kWh -> High Estimate



# Satellite Image with Wind Rose Overlay

Each ring in the wind rose represents approximately 200ft on the Google map



**IMPORTANT NOTICE AND DISCLAIMER:** The wind map and wind rose were created by [AWS Truepower, LLC](#) using the [MesoMap®](#) system and historical weather data. Annual energy estimates were calculated using the local wind resource, estimated loss factors, and a generic power curve. For more information on the program's methodology, please refer to the [Help](#) page. AWS Truepower and NYSDERDA do not guarantee the above estimates and are not responsible for the contents of this report. For applications requiring greater accuracy, the wind resource estimates should be confirmed by measurement. For more information on NYSDERDA wind incentives, please refer to [NYSDERDA's webpage](#).



**Small Wind Certification Council**  
**Certified Small Wind Turbine**

Manufacturer/Model

**Bergey Windpower Company**  
**Excel 10** (240 VAC, 1-phase, 60 Hz)



**CERTIFIED**  
SMALL WIND TURBINE  
SWCC-10-12

**Rated Annual Energy**

Estimated annual energy production assuming an annual average wind speed of 5 m/s (11.2 mph), a Rayleigh wind speed distribution, sea-level air density and 100% availability. Actual production will vary depending on site conditions.

**13,800**  
kWh/year

**Rated Sound Level**

The sound level that will not be exceeded 95% of the time, assuming an annual average wind speed of 5 m/s (11.2 mph), a Rayleigh wind speed distribution, sea-level air density, 100% availability and an observer location 60 m (~ 200 ft) from the rotor center.

**42.9**  
dB(A)

**Rated Power**

The wind turbine power output at 11 m/s (24.6 mph) at standard sea-level conditions.

**8.9**  
kW

Certified to be in Conformance with:  
**AWEA Standard 9.1 – 2009**

For a summary report and SWCC Certificate visit:  
[www.smallwindcertification.org](http://www.smallwindcertification.org)

**James & Cynthia Gleick Abutting Properties**

**#42.1**

82.-1-42.1 240  
Gleick James Garrison  
Crossen Cynthia M Parcel 1  
200 Long And Winding Rd  
Garrison, NY 10524 00130000000000003200  
ACRES 21.53

**#42.2**

82.-1-42.2 322  
Gleick James Garrison  
Crossen Cynthia M Parcel 2  
200 Long And Winding Rd  
Garrison, NY 10524  
ACRES 10.21 FD013

**#39**

82.-1-39 280  
Freeman Susan C - Cutler Robert B Jr  
540 Route 9D  
Garrison, NY 10524-1202 00154000000000000220  
ACRES 2.36

**#41**

82.-1-41 280  
Smith Allen  
627 Route 9D  
Garrison, NY 10524 00300000000000000395  
ACRES 3.95

**#44**

82.-1-44 210  
Richmond Katherine K  
Priddy Rodney  
512 Route D  
Garrison NY 10524 00300000000000000376  
ACRES 3.76

**#45**

82.-1-45 322  
Kien, LLC Garrison  
504 Route 9D  
Garrison, NY 10524 00492000000000001029  
ACRES 10.29

**#46**

82.-1-46 322  
Friedman-Kien Alvin  
486 Route 9D  
Garrison NY 10524 00412000000000001617  
ACRES 16.17

#17.1

#20

#22

#33 & #43