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SMALL TURBINE COLUMN:

Planning Your Wind System (2)—Building Permits

--Mick Sagrillo, Sagrillo Power & Light

You've done a resource assessment at your site and found that you do indeed have adequate winds and exposure to power a wind generator. What's next? First of all, don't rush out and buy a generator just yet, for you have other hurdles to clear before you get to that stage. These hurdles can be lumped together in a category I call "the law." They include obtaining a building permit, securing insurance, and getting an interconnection contract from your utility. A problem with any one of these can put a screeching halt to your wind project. This article will address the building permit issue, while other topics will be addressed in subsequent columns.

Good setbacks make good neighbors

One of the first people that you should visit is your zoning administrator. There may be height restrictions covering your neighborhood that must be negotiated to accommodate your wind generator tower. Or there may not be any other wind turbines that have been previously permitted in your neighborhood, resulting in numerous new questions about safety and impacts. However, your area nevertheless may have other structures such as cell phone towers, silos and grain legs, tall chimneys, or utility highline and transmission towers. While they are not in exactly the same category as a wind turbine tower, they do signal a precedent against height restrictions.

Many zoning codes are written so that if a structure collapses, it must fall within the bounds of your property. This is called a "setback" and typically equals the total height of the structure you wish to construct. Thus, a required setback may limit where you can place the tower, or the tower height itself. But do not let this deter you: few 600-foot television transmitter towers, for example, are smack in the middle of 1200-square lots, and utility transmission towers are only required to have a narrow right-of-way, not a setback. If you can find any such exceptions in your area, you have a precedent in your favor.

Better yet, talk to your neighbors about the setback. Most ordinances are written so that if your neighbor has no objection to siting the tower closer to the property line, the permit can be granted. In my case, for example, I have one 84-foot tower that's 22 feet from a

property line, and a second 80-foot tower that's only four feet from the property line. In each case, my neighbor had no concern about the location of the tower relative to his property.

Subjective Determinations

Next on your list of people to visit is the person in charge of building codes and inspections. Contrary to how most folks may feel, building codes are in place to protect the public safety, not give you headaches. Your local building inspector will probably be unfamiliar with wind generator towers and their installation. However, the inspector does know what a blueprint looks like and what it represents. So do your homework! Ask what the inspector needs, then provide that person with all the information he or she requests.

Many permit decisions will be based on what can be deemed subjective interpretation; that is, there is no precedent for such a structure in a given area, and so the zoning official or building inspector may make decisions based on gut feelings. The last thing they want to do is make a call that may be perceived by their boss or the public as a “wrong” decision. Knowing this, do your public relations up front. Provide any requested documentation, and be prepared to answer all questions. Make sure you know what you are doing and talking about by planning well in advance. Under our judicial system, you cannot be treated any differently than anyone else with a similar request—*similar* in this case meaning any type of tower.

In spite of all the potential hurdles, never approach such interactions with a chip on your shoulder. You are requesting permission to build, and you *can* be denied. You could challenge an unfavorable decision or ruling in court, but you will only make enemies in the process, as well as expend more money than you thought possible. However, do not let anyone deny you the permits you request based on “hearsay”—that is, uninformed contentions and accusations. Always remember that when it comes to hearsay, the burden of proof is on “them,” not you. Again, do your PR up front, always trying to allay fears.

Setting expectations up front

Throughout this sometimes challenging process, you should expect to be treated in a reasonable and timely manner by officials and boards. Never go into a meeting with a pugnacious attitude and a list of demands. From the officials perspective, there is no bigger turnoff than having to deal with an arrogant know-it-all. On the other hand, don't be intimidated by resistance at a public meeting. Questioning decisions on legal grounds may often get you the permits that you need, provided you know what you are talking about. Quite often, just letting the board know that you have consulted with an attorney about your rights as well as your responsibilities (which may be a good idea anyway) will go a long way in reassuring the board that you know what you are doing.

Finally, be aware that many boards have tried to dissuade people from installing wind generators with stalling tactics. This is unacceptable, just as it would be for any other

type of construction project request they receive. To avoid delays, set mutually agreed-upon deadlines for decisions, with homework assignments for each party as appropriate, just as the board would do with any of its other business.

[Editors Note: The opinions expressed in this column are those of the author and may not reflect those of AWEA staff or board.]