



505 Collier View Rd Solar Panel Conditional Use Permit Appeal

From: Michael Falconer [REDACTED]
Sent: Monday, January 23, 2023 4:14 PM
To: Cynda Herrick [REDACTED]
Cc: Douglas Miller [REDACTED]; Valley County Prosecuting Attorney [REDACTED]; Brian Oakey [REDACTED]
Subject: Re: 505 Collier View Rd Solar Panel Conditional Use Permit Appeal

January 23, 2023

To: Commissioner Roberts, Valley County Planning and Zoning Commission
ATTN: Cynda Herrick, Planning and Zoning Director
PO Box 1359 / 219 North Main Street
Cascade, ID 83611-1350

RE: Appeal of Conditional Use Permit is Required for Solar Panels at 505 Collier View Rd.

To Commissioner Roberts:

I appreciate the commission providing time on January 12, 2023, for me to present facts regarding the placement of solar panels on my property 8 years ago. It is unfortunate that one member stated their opposition before hearing my side of the story and subsequently making a motion to deny my request not to submit a conditional use permit.

The commissioners voted, based on the information presented, to require me to submit a conditional use permit. I want to appeal that decision in accordance with Valley County Code 9-5h-12 B.

I was informed this morning that a \$500 nonrefundable appeal fee must accompany this appeal letter. Since I've received no information or minutes from the P&Z Administrator following the commission hearing on January 12th, according to VC Code 9-5H-8 -A , I trust you will accept this letter as I need to leave and either drive to Cascade or make arrangements to pay this appeal fee in cash or check by close of business today.

I'm appealing the need of a conditional use permit (CUP) primarily because:

- a. no one answered the question why I was targeted to submit a CUP 8 years after receiving a Certificate of Occupancy (dated 10-30-15), which included the electrical permit approved on 09-21-2015. This certifies that at the time of issuance this structure was in compliance with the 2012 International codes and various ordinances of Valley County regulating building construction or use. I also have an email from the Building Official (dated 07-23-16) reaffirming completion.
- b. the staff states the panels must be installed on a "primary structure" and offered several opinions what that is but did not furnish any reference or document that includes a definition of a primary structure. The panels were installed on a structure as specified in the building application and defined in several county ordinances as well as applicable International residential and building codes definitions.

c. none of the applications, application instructions, residential construction requirements, checklists, building permits, or local building codes from that time made any reference to CUP's.

Other topics that need to be reviewed include:

1. who has precedence as the Building Official for Valley County?
2. Why did no one answer the question asking how long P&Z held a violation notice before code compliance notified me in September 2022 ?
3. Why did code compliance not review the building application until October 31, 2022?
4. Why and when was the term "off grid" blacked out on the original permit application?
5. When the code compliance employee states the "purpose of the application is not to say anyone was wrong, just that this process was missed, and we are trying to correct it." then why not correct the process administratively? (11-28-2022 VC PZ Ltr)
6. When the code compliance employee states in the November 28, 2022 letter to me that "A Conditional Use Permit is not something you will have to repeat yearly. Once this is approved it is approved for the property." How does this guidance from the county hold up to VC Code 9-5H-8B that says CUPs are valid for a period of one year from the date of the hearing, after which time, the approval will expire and be null and void unless the applicant has substantially complied with the provisions thereof or has applied for an extension of time, or the commission has approved a phasing plan for a longer period.
7. We need to carefully examine the building permit application as I was not given an opportunity to comment at the hearing.

If you have any questions, please contact me.

Mike Falconer
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