Commonwealth Court: "Agrivoltaics" Does Not Render Solar Farm an Agricultural Use

February 10, 2026

Harrisburg, PA and Pittsburgh, PA

Renewables Alert

(by **Morgan Madden** and **Anna Jewart**)

While agrivoltaics, the practice of combining photovoltaic electric generation with agricultural production, dates back to the early 1980s, the use thereof has gained increasing popularity over the past 10-15 years.[1] To farmland owners and solar project developers alike, the promotion of agrivoltaics offers potential for expanded opportunities in both the solar industry and the agricultural sector. Often, when use of agricultural land is proposed to be used for solar generation, the landowner remains intent on continuing to crop-farm (agrovoltaics), or to allow livestock grazing (rangevoltaics) on the property and in modern industry spaces, solar and agriculture are often considered compatible uses. Despite that reality, zoning ordinances do not often contemplate a mixed use of that nature. Consequently, Babst Calland is often asked to analyze whether or not an agrivoltaic use can proceed as an "agriculture" or "farming" use under local zoning ordinances.

Due to the highly-localized nature of land use regulation in Pennsylvania, what "use" applies to a proposed solar project will depend first and foremost on the applicable local ordinance. However, recently, on January 15, 2026, the Pennsylvania Commonwealth Court in *West Lampeter Solar 1, LLC v. West Lampeter Township Zoning Hearing Board*, 2026 WL 110932, No. 76 C.D. 2025 (Pa. Cmwth. Jan. 15, 2026)[2] rejected a developer's assertion that its proposed "agrivoltaics solar farm" was an "agricultural use" for purposes of zoning approval. In doing so, the Court appeared to reject the contention that energy generation could be considered agricultural in any instance, potentially throwing both literal and figurative shade on projects seeking to benefit from agrivoltaics processes.

In *West Lampeter Solar*, the solar developer applicant sought special exception approval from the West Lampeter, Lancaster County, Zoning Hearing Board as a use not provided for in an agricultural district. The applicant proposed a twenty-five (25) acre ground mounted solar array with sheep grazing between and beneath the panels. The local ordinance restricted nonagricultural uses to five acres in an agricultural district but did not define "agriculture". The zoning hearing board was therefore tasked with determining whether or not the proposed use was "agricultural" or "nonagricultural" based on the dictionary definitions. The zoning hearing board adopted the definition of "agriculture" as "[t]he science, art, or practice of cultivating the soil, producing crops, and raising livestock and in varying degrees the preparation and marketing of the resulting products [.]" The zoning hearing board found the proposed use was "nonagricultural" and thus restricted to no more than five acres.

On appeal the Lancaster County Court of Common Pleas affirmed the zoning hearing board's denial of the application and its finding that the use was "nonagricultural". In doing so, it relied in part on testimony as to the treatment of agrivoltaics use by commonwealth agencies, such as the Clean and Green Program's position that solar power generation is not agricultural use, and Pennsylvania Department of Agriculture guidance which discourages the placement of solar generating facilities on agricultural land, particularly where that land contains higher class soils. It also rejected the applicant's assertion that agrivoltaics constituted a "dual use".

On further appeal, the Commonwealth Court was asked, in part, to consider whether the lower court erred in failing to consider agrivoltaics as a form of agriculture. Despite the issue not being specifically raised on appeal, in its Opinion and Order affirming the lower court's order, the Court opined that the "Department of agriculture specifically advises that a 'commercial scale solar' or 'solar farm' does not meet the definition of normal agricultural operation under the Right to Farm Act, . . . and therefore, it will not receive protection from local ordinances, otherwise given to agricultural operations." *West Lampeter Solar*, supra at 11. The Court noted that the applicant argued that agrivoltaics constituted a "technological development within the agricultural industry" an argument to which it responded "[w]e disagree." The Court ended its analysis of the issue by stating the "Zoning Board's conclusion that 'agrivoltaics' does not constitute an agricultural use [was] unassailable." *Id.* at 15.

Typically, land use cases involving issues of ordinance interpretation, such as *West Lampeter Solar* are highly fact-specific and have minimal precedential value. However, in this instance, the Commonwealth Court chose to stray beyond the text of the ordinance before it, and into issues of agricultural policy. The Court's treatment of the applicant's arguments in *West Lampeter* serves as a clear indicator as to how the Court may consider similar arguments in other zoning jurisdictions.

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[1] Chloe Marie, Kole Zellers & Brook Duer, *Agrivoltaics*, Agricultural Law Fact Sheet, PennState Law Center for Agricultural and Shale Law, CASL Publication No. FS24-030 (May, 2024).

[2] Opinion reported, citation pending.