Resolution of the County Board  
of  
Kankakee County, Illinois

RE:  ZBA CASE #18-16; SPECIAL USE PERMIT SECTION 121-99.C.34 (SOLAR FARM) IN THE A1-AGRICULTURAL DISTRICT SECTIONS 25 & 36 ROCKVILLE TOWNSHIP (STALEY SOLAR LLC)

WHEREAS, an application pursuant to the terms of the Kankakee County Zoning Ordinance, has been filed by Nugent Farms I, LLC & the Kevin J. Nugent Declaration of Trust Dated July 20, 2004, property owners and Staley Solar, LLC, applicant in the Office of the County Clerk of Kankakee County for a Special Use Permit to Section 121-99.c.34 (Solar Farm) in the A1-Agricultural District, on a parcel legally described herein Exhibit A, a copy of which is attached; and,

WHEREAS, the Zoning Board of Appeals held a duly noticed public hearing, on the application on May 7, 2018 and from the testimony and evidence presented findings were made as described in Exhibit B, a copy is attached and the ZBA recommends that the request of Nugent Farms I, LLC & the Kevin J. Nugent Declaration of Trust Dated July 20, 2004, property owners and Staley Solar, LLC, applicant, be approved; and, 

WHEREAS, the Planning, Zoning, and Agriculture Committee (PZA), at its regularly scheduled and duly noticed meeting of May 16, 2018 having reviewed, discussed and considered the matter, has approved the request and adopted the findings and recommendation of the Zoning Board of Appeals, Exhibit B; and, 

WHEREAS, all matters required by law of the State of Illinois and the Zoning Ordinance of Kankakee County have been completed; and, 

WHEREAS the County Board at its regularly scheduled meeting of June 12, 2018 after review, discussion, and consideration, agrees with the findings of the Zoning Board of Appeals and committee minutes of the PZA Committee, and finds that the conclusions expressed are both reasonable and rationally supported by the evidence presented, and the special use permit will not be detrimental to the public health, safety, and economic and general welfare.

NOW, THEREFORE, be it resolved by the Kankakee County Board, State of Illinois as follows:

1. The findings of the Zoning Board of Appeals are hereby approved, confirmed, ratified, and adopted and the conclusions of the Planning, Zoning and Agriculture Committee based upon those findings are rational and in the public interest.

2. The findings, conclusions and recommendation expressed in the minutes of the Planning, Zoning, and Agriculture Committee meeting of May 16, 2018 are also supported by the record and are in the public interest and are also approved, confirmed, ratified and adopted.
3. Special Use Permit to Section 121-99.c.34 (Solar Farm) in the A1-Agricultural District, be approved on a parcel legally described in Exhibit A, a copy of which is attached herein and made a part hereof with the following condition:

1. The developer shall landscape the entire frontage of Career Center Road.

2. Due to the extended time necessary to obtain the interconnect agreement with ComEd, the requirement for the solar farm to be constructed within 12 months of approval of the special use permit shall be extended to three (3) years.

PASSED and adopted this 12th day of June, 2018.

Andrew H. Wheeler, County Board Chairman

ATTEST:

Dan Hendrickson, County Clerk
EXHIBIT A (ZBA CASE#18-16)

LEGAL DESCRIPTION:


TRACT 3: A PART OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 32 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT AN IRON ROD AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 25; THENCE NORTH 89 DEGREES 55 MINUTES 02 SECONDS EAST A DISTANCE OF 355.62 FEET TO A PK NAIL AT THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 25; THENCE SOUTH 00 DEGREES 30 MINUTES 30 SECONDS EAST ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 25 A DISTANCE OF 160.13 FEET TO AN IRON ROD; THENCE SOUTH 89 DEGREES 29 MINUTES 30 SECONDS WEST A DISTANCE OF 308.05 FEET TO AN IRON ROD; THENCE SOUTH 00 DEGREES 30 MINUTES 30 SECONDS WEST A DISTANCE OF 468.21 FEET TO AN IRON ROD; THENCE NORTH 89 DEGREES 29 MINUTES 30 SECONDS EAST A DISTANCE OF 598.45 FEET TO A PK NAIL ON THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 25; THENCE SOUTH 00 DEGREES 30 MINUTES 30 SECONDS EAST A DISTANCE OF 342.79 FEET TO THE POINT OF BEGINNING. SITUATED IN KANKAKEE COUNTY, ILLINOIS.

TRACT 4: THE NORTH HALF OF THE NORTHEAST QUARTER IN SECTION 36, TOWNSHIP 32 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN. SITUATED IN KANKAKEE COUNTY, ILLINOIS.

TRACT 5: THE EAST HALF OF THE NORTHWEST QUARTER IN SECTION 36, TOWNSHIP 32 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN. SITUATED IN KANKAKEE COUNTY, ILLINOIS.

TRACT 6: THE SOUTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, SECTION 36, TOWNSHIP 31 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN. SITUATED IN KANKAKEE COUNTY, ILLINOIS.
TRACT 7: BEING THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 32 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN KANKAKEE COUNTY, ILLINOIS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A PK NAIL AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 36; THENCE SOUTH 89 DEGREES 34 MINUTES 10 SECONDS WEST ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 2670.23 FEET TO A STONE AT THE AT THE CENTER OF SAID SECTION 36; THENCE NORTH 00 DEGREES 58 MINUTES 46 SECONDS WEST ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 1333.21 FEET TO AN IRON ROD; THENCE NORTH 89 DEGREES 38 MINUTES 23 SECONDS EAST ALONG THE NORTH LINE OF THE SOUTH HALF OF SAID SECTION 36 A DISTANCE OF 2674.62 FEET TO A PK NAIL IN THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 36; THENCE SOUTH 00 DEGREES 47 MINUTES 30 SECONDS EAST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 664.97 FEET TO THE POINT OF BEGINNING, CONTAINING 81.688 ACRES, MORE OR LESS, EXCEPTING THEREFROM A TRACT: COMMENCING AT THE NORTHEAST CORNER OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 32 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE SOUTH 01 DEGREE 14 MINUTES 40 SECONDS EAST ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 36 A DISTANCE OF 664.97 FEET AT A PK NAIL; THENCE SOUTH 89 DEGREES 13 MINUTES 05 SECONDS WEST 1310.12 FEET TO AN IRON ROD; THENCE NORTH 01 DEGREE 14 MINUTES 40 SECONDS WEST A DISTANCE OF 664.97 FEET TO AN IRON ROD ON THE NORTH LINE OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SAID SECTION 36; THENCE NORTH 89 DEGREES 13 MINUTES 05 SECONDS EAST ALONG THE NORTH LINE OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SAID SECTION 36 A DISTANCE OF 1310.12 FEET TO THE POINT OF BEGINNING, CONTAINING 20.00 ACRES, MORE OR LESS (IN SAID EXCEPTION). SITUATED IN KANKAKEE COUNTY, ILLINOIS.
This is the findings of fact and the recommendation of the Kankakee County Zoning Board of Appeals concerning an application from property owners Nugent Farms 1, LLC & The Kevin J. Nugent Declaration of Trust Dated July 20, 2004 and applicant Staley Solar, LLC in ZBA Case No. 18-16. The applicant and owner s are seeking a special use permit to allow the construction of a 70 MW solar energy facility, known as Staley Solar, on property located along 7000 N Road west of Career Center Road (1000 W Road) in Rockville Township covering approximately 402 acres. Also being sought is a variance for setbacks.

After due notice required by law, the ZBA held a public hearing on this case on May 7, 2018 in the County Board Room, 4th Floor, Kankakee County Administration Building, Kankakee, Illinois, and hereby report their findings of fact and their recommendation as follows:

Site Information: See Staff Report (attached herewith).

Public Comments: (Refer to transcripts for full details)

Kathleen Kennedy – A resident of Kankakee and an adjoining property owner asked several questions regarding ownership of the facility, financing of the project, and the manufacturer of the panels.

Ron Hattendorf – An adjoining property owner had questions concerning property values and the future growth of the area.

Justin Caldwell - A member of the Peoples Church had questions concerning landscaping.

SPECIAL USE PERMIT

Analysis of Six Standards: After considering all the evidence and testimony presented at the public hearing, the Board makes the following analysis of the six (6) standards listed in Section 17.03.F4 (Standards for Special Uses) of the Kankakee County Zoning Ordinance that must all be found in the affirmative prior to recommending granting of the petition.

1. That the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.

The Board finds that the Solar Facility will be a photovoltaic (PV) electric
generating operation that will not endanger the public health, safety, welfare or morals in any way. Solar facilities have a proven track record of safe operations, and the Solar Facility will generate emission free electricity. The Solar Facility will not impose any burden on governmental services, as no sewer or water connection is required, and no residences are being constructed, and therefore there will be no impact on the local schools or emergency response operations. Further, excluding the proposed setback variance, the Solar Facility will comply with all of the requirements imposed on solar farms under Section 121-99(c)(34) of the County Zoning Ordinance, including the maximum height restrictions, screening and fencing requirements, and the lighting, noise, and signage restrictions.

In fact, the Solar Facility will contribute to the public health, safety, and general welfare by providing more renewable energy in Kankakee County, as well as the State of Illinois. The Illinois General Assembly found, as part of the Comprehensive Solar Energy Act of 1977, that “that the public health, safety, and welfare of the People of the State of Illinois require that and adequate supply of energy be made available to them at all times; (b) that at the present time existing energy sources are becoming more limited; (c) that it is the responsibility of the State government to encourage the use of alternative renewable energy sources; (d) that solar energy systems are an effective and feasible means of reducing the dependence of the State government and the People of the State on non-State energy sources and of conserving valuable fossil fuel and other non-renewable energy sources; and (e) that it is in the public interest to define solar energy systems, demonstrate solar energy feasibility, apply incentives for using solar energy, educate the public on solar feasibility, study solar energy application, and coordinate governmental programs affecting solar energy.” 30 ILCS 725/1.1 Further, the General Assembly found, as part of the Future Energy Jobs Act passed in 2017, that the state should “encourage the adoption of cost-effective distributed energy resource technologies and devices, such as photovoltaics, which can encourage private investment in renewable energy resources, stimulate economic growth, enhance the continued diversification of Illinois’ energy resource mix, and protect the Illinois environment; invest in renewable energy resources, including, but not limited to, photovoltaic distributed generation, which should benefit all citizens of the State, including low-income households.” Public Act 099-0906.

The Solar Facility will directly satisfy these statewide policy goals by providing an extensive photovoltaic renewable energy source, further cementing Kankakee County as a leader in solar energy generation facility development that will benefit the citizens of Kankakee County and the State of Illinois as a whole.

2. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
The Board finds that the Solar Facility will have little or no impact on the properties in the immediate vicinity. The Solar Facility will be set back approximately 100 feet from adjoining residences, as required by the County’s Zoning Ordinance. The majority of the structures on the site will be less than 9-10 feet tall and will be fairly easy to conceal from view at the property line and from neighboring properties. Once operational, the Solar Facility will result in (1) a less than perceptible increase in ambient noise levels at the property’s boundaries; (2) no noxious odors whatsoever; and (3) reduced greenhouse gas emissions. Further, the Solar Facility will have landscape buffers at key observation points, such as adjoining residential properties, to enhance the visual characteristics of the project (ref: Attachment 7). Further, excluding the proposed setback variance, the Solar Facility will comply with all of the requirements imposed on solar farms under Section 121-99(c)(34) of the County Zoning Ordinance, including the maximum height restrictions, screening and fencing requirements, and the lighting, noise, and signage requirements.

The Solar Facility will not have any detrimental impact on property values within the neighborhood. The impact of solar farms on property values was addressed in the Solar Energy Development Information Report to the Kankakee County Board, dated December 15, 2017. That report noted that, at this time, there insufficient data on the impact of solar farms on property values because these installations are fairly new. However, there has been research conducted on the impact that wind farms have on surrounding property values. According to the studies cited in the County Informational Report, wind farms have little to no impact on residential property values. Moreover, the Solar Facility will be a much less intrusive use than a wind farm. Wind farms have a significantly greater visual impact on surrounding properties, they generate more noise than solar farms, and they create a flickering effect when the turbine blades cast shadows through constrained openings, known as “shadow flicker.” The Solar Facility will not impose any of these same impacts on properties in the immediate vicinity. Therefore, it is expected that—consistent with County’s staff’s report—the Solar Facility will have no impact on surrounding property values.

3. That the establishment of the special use will not substantially impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

The Board finds that the Solar Facility will not impede the normal and orderly development and improvement of the surrounding property in any way. All of the properties surrounding the Solar Facility are also zoned A-1 Agriculture District. While a Church and some residences adjoin the Property, the Solar Facility will in no way impact these existing uses. As previously noted, significant landscape buffering will be included at these locations to ensure its visual impact on adjoining properties is minimal. Further, the Solar Facility will not have any impact on traffic and utility services in the area, as it will be unburied and require limited maintenance. Moreover, the Solar Facility will result in (1) a less than perceptible increase in ambient noise levels at the property’s boundaries; (2) no noxious odors whatsoever; and (3) reduced greenhouse gas emissions. Further, the Solar Facility will have landscape buffers at key observation points, such as adjoining residential properties, to enhance the visual characteristics of the project (ref: Attachment 7). Further, excluding the proposed setback variance, the Solar Facility will comply with all of the...
requirements imposed on solar farms under Section 121-99(c)(34) of the County Zoning Ordinance, including the maximum height restrictions, screening and fencing requirements, and the lighting, noise, and signage requirements.

Additionally, the 2030 Comprehensive Plan for Kankakee County and the corresponding Long Range Land Use Plan designate the Property, and all of the adjoining properties, as part of the "Agricultural Conservation Area". The Comprehensive Plan describes the Agricultural Conservation Area as "all agriculturally zoned (A1) land in the County primarily devoted to agricultural production". The Comprehensive Plan notes that the regulations for these areas are aimed at preventing non-farm residential development because of the strain imposed by such developments on rural governments to provide basic services such as fire and road maintenance. The use of the Property for the Solar Facility is consistent with the Comprehensive Plan. As the Solar Facility is not adding any non-farm residential uses. The Solar Facility will not impede the development of surrounding properties because the Comprehensive Plan already contemplates the surrounding properties remaining as farmland.

Further, and consistent with the Comprehensive Plan and Agricultural Conservation Area goals and objectives, the use of the property for the Solar Facility will keep approximately 400 acres of agriculturally zoned land fallow for many years. The Solar Facility will not include any large, permanent structures, and after the Solar Facility is decommissioned, the land will return to its former agricultural use. Keeping the land fallow will ensure its future preservation as agricultural property, and be consistent with good agricultural practices, allowing the land to recharge and remain productive crop growing property well into the future.

4. That adequate utilities, access roads, drainage, or necessary facilities have been or will be provided.

The Board finds that the Solar Facility will be designed to meet the County’s drainage and vehicular access standards and will require no other public utility infrastructure, such as water and sanitary sewer. Because the Solar Facility will be designed and constructed in full compliance with the County’s Stormwater Management Ordinance, it will have adequate on-site storm water management infrastructure and will not have any measurable impact on drainage patterns on surrounding properties. Some of this results from the fact that there will be minimal amounts of grading and earth movement required to construct the Solar Facility. Also, and perhaps more significantly, this results from the fact that, aside from the solar panels themselves, there is very little impervious surface that will be constructed on the Property. In fact, the vast majority of the Property’s acreage will be planted with native plant species that will control Stormwater flow over the Property, as well as minimize soil erosion and sedimentation infiltration in area Stormwater management infrastructure.

Because the Solar Facility will be unmanned and require limited maintenance activities, operational traffic will be very limited. Electrical service will be provided by the Solar Facilities electrical interconnection at the ComEd Davis Creek Substation.

5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
The Board finds that the Solar Facility will be designed to comply with the County’s vehicular access standards. The Solar Facility will be unmanned and require limited maintenance activities. There will be no impact on traffic congestion once construction is complete and the Solar Facility is operational.

6. That the special use will, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the board.

The Board finds that Staley Solar is seeking a variance from the setback requirements imposed on solar farms under Section 121-99(c)(34) of the Kankakee County Zoning Ordinance. These setback reductions are depicted on the “Setback Exhibit” in Attachment 7 of our application. Staley Solar seeks to reduce the setbacks along certain rights-of-way from 100 feet to 50 feet, and to reduce the setbacks along adjacent farmland from 50 feet to 25 feet. No setback reduction is being sought for the areas of the Property adjoining residences, or the area at the southeast corner of the Property that adjoins People’s Church. The Solar Facility will, in all other aspects, conform to the applicable requirements of the A-1 Zoning District and will comply with all of the requirements imposed on solar farms under Section 121-99(c)(34) of the Kankakee County Zoning Ordinance.

Conditions: The Board recommends that the developer landscape the entire frontage along Career Center Road.

Recommendation: We find that the proposed special use requested meets all the standards for recommending granting as found in Section 17.03.F4 of the Kankakee County Zoning Ordinance and that such a request is in the public interest. Therefore, the Zoning Board of Appeals hereby recommends that the special use permit to establish a solar farm in the A1-Agriculture District on the property described in the application hereby be granted.

Roll Call Vote: The roll call vote was five (5) members for the motion to recommend granting, zero (0) opposed.

Respectfully submitted this 7th day of May, 2018 by the Kankakee County Zoning Board of Appeals.

John Fetherling, Chairman – Aye
David DeYoung – Absent
William Sawyer – Present
Edwin Meents – Aye
William Hemm – Aye
Beth Scanlon – Aye
Gene Raedemacher – Absent
VARIANCE

Analysis of Four Standards: The Board considered the following findings after considering all the evidence and testimony presented at the public hearing, the Board suggested the following analysis of the four (4) standards listed in Section 17.03.G5 (Standards for Variances) of the Kankakee County Zoning Ordinance that must all be found in the affirmative prior to recommending granting of the petition.

1. That a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the letter of the regulations were to be carried out.

The Board finds that Staley Solar is seeking a variance from the setback requirements imposed on solar farms under Section 121-99(c)(34) of the County Zoning Ordinance. Staley Solar seeks to reduce the setbacks along certain rights-of-way from 100 feet to 50 feet, and to reduce the setbacks along adjoining farmland from 50 feet to 25 feet. No setback reduction is being sought for the areas of the Property adjoining residences, or the area at the southeast corner of the Property that adjoins the Peoples Church. Staley Solar will provide significant landscape buffering, as depicted on Attachment 7 of its Application, at key locations around the perimeter of the Solar Facility to ensure its visual impact on adjoining properties is minimized. Staley Solar is designed to be a utility scale solar energy facility, with generation capacity of up to 70MW. If the strict letter of the regulations were to be carried out, this design capacity could not be realized and Staley Solar would suffer a particular hardship because:

(1) the presence of several existing utility easements on the Property;
(2) the Property’s proximity to the adjacent Davis Creek Substation;
   and
(3) the presence of several residentially zoned properties on the perimeter of the Property

These factors create an odd shaped parcel necessitating the requested variances to achieve the optimal design capacity of the Solar Facility as well as enable the most efficient and effective interconnection with the Davis Creek Substation.

In addition to an existing gas line which bifurcates the project site, there are several existing utility easements encumbering the southwest portion of the Property. These existing utility easements prevent Staley Solar from being able to utilize this area in any meaningful way. As a result, Staley Solar will suffer a hardship if the setback requirements are strictly imposed at all other points around the perimeter of the Property due to how these utility easements remove a large portion of the southwest part of the property from development.

Further, and importantly, the proposed Solar Facility is in close
proximity to the Davis Creek Substation, a major transmission hub and a significant reason why Staley Solar has designed the Solar Facility as a utility scale project.

The location of the Solar Facility allows for significant electrical injection capabilities as well as less transmission infrastructure than other areas not in close proximity to a major electrical transmission substation. Without the requested setback variance, Staley Solar will suffer a particular hardship because it will not be able to fully realize its designed capacity and the electrical injection capabilities at the Davis Creek Substation.

In addition, without the requested setback reductions, Staley Solar will not be able to further the goals of the General Assembly to increase renewable energy sources in the State, especially through photovoltaic arrays such as the Solar Facility. Moreover, when the Kankakee County Board adopted the amendments to the Zoning Ordinance allowing solar farms in the A-1 District, the findings of the Zoning Board of Appeals, which were adopted by the County Board in Resolution 2017-05-09-45 stated, in part, as follows:

"The Board finds that the inclusion of regulations for Solar Farms in the County Code (Zoning Ordinance) will promote and protect the public health, safety, comfort, morals and welfare by providing the citizens of Kankakee County and the State of Illinois with a renewable energy source. Furthermore, by regulating the location and bulk requirements of these systems the County will conserve the value of land, buildings and structures throughout the County while minimizing and mitigating impacts to neighboring properties and the agricultural community. Solar Farms also allow for the conservation of natural resources by utilizing a perpetual, renewable energy source and offer an alternative to the use of fossil fuels to meet energy needs."

Without the requested setback reductions, Staley Solar will not be able to further promote and protect the public health, safety, comfort, morals, and welfare of the citizens of Kankakee County and the State of Illinois by providing a perpetual, renewable energy source that offers an alternative to fossil fuels.

It is important to remember that the Solar Facility has a 70MW design capacity and when fully operational it is expected to generate enough renewable energy to power the equivalent of more than one-third of the households in Kankakee County.

Staley Solar has been reaching out to the adjoining property owners to discuss the project and their concerns. These conversations are ongoing, but it is Staley Solar’s desire to have a viable project that not only meets its operational needs, but is designed in a manner to minimize concerns of its neighbors.

The dissenting votes offered no comment.
2. **That the conditions for this request are unique to the property in question and would not apply, generally, to other property with the same zoning classification.**

The Board finds that the location of the Solar Facility is unique due to its proximity to the Davis Creek Substation, a major transmission hub. The location of the Solar Facility allows for a commercially viable electrical interconnection, greater electrical injection capabilities, as well as less transmission infrastructure than other areas that are not as proximate to a major electrical transmission substation. Most other property in the A-1 zoning classification cannot provide the same proximity to the Davis Creek Substation. If Staley Solar is not able to fully utilize its electrical injection capability at the adjacent Davis Creek Substation, the project will not be economically viable. Staley Solar will not be able to further promote and protect the public health, safety, comfort, morals, and welfare of the citizens of Kankakee County and the State of Illinois by providing a perpetual, renewable energy source that offers an alternative to fossil fuels.

Further, the conditions for Staley Solar’s variance request are unique because of the existing utility easements which encumber the Property. These existing utility easements prevent Staley Solar from being able to efficiently utilize the Property. These conditions do not apply, generally, to other property within the A-1 zoning classification.

The dissenting votes offered no comment.

3. **That the granting of the variance would not be detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located.**

The Board finds that the granting of the variance will not be detrimental to the public welfare in any way. Solar facilities have a proven track record of safe operations, and the Solar Facility will generate emission free electricity. The Solar Facility will not impose any burden on governmental services, as no sewer or water connection is required and no residences are being constructed that will impact the local schools or present increased demand on emergency response services. Further, excluding the proposed setback variance, the proposed Solar Facility will comply with all of the requirements imposed on solar farms under Section 121-99(c)(34) of the County Zoning Ordinance, including the maximum height restrictions, screening and fencing requirements, and the lighting, noise, and signage restrictions. In fact, the Solar Facility will contribute to the public health, safety, and general welfare by providing more renewable, clean energy in Kankakee County and the State of Illinois as a whole. Without the setback reduction, Staley Solar will not be able to fully utilize its electrical injection capability at the adjacent Davis Creek Substation, and will not be able to contribute towards the General Assembly’s goal of increasing renewable energy through solar.
development. Additionally, Staley Solar will not be able to further promote and protect the public health, safety, comfort, morals, and welfare of the citizens of Kankakee County and the State of Illinois by providing a perpetual, renewable, clean energy source that offers an alternative to fossil fuels.

Further, the granting of the variance will not be injurious to the property or improvements in the neighborhood. As noted, the surrounding properties are also in the A-1 district, and are generally used for farming purposes. Staley Solar is only seeking setback reductions along certain rights-of-way and along certain areas of the Property that adjoin farmland. No setback reduction, as depicted on the “Setback Exhibit” in Attachment 7 of our Application, is being sought for the areas of the Property adjoining residences, or the area at the southeast corner of the Property that adjoins the Peoples Church. Staley Solar will provide significant landscape buffering, as depicted on Attachment 7 of its Application, around the perimeter of the Solar Facility, at these key observation points, to ensure its visual impact is mitigated. Even with the reduced setbacks, the increase in ambient noise from the Solar Facility will be less than perceptible, and no noxious odors will be produced. Also, as explained below, the Solar Facility will not have any detrimental impact on the property values in the surrounding area.

The dissenting votes offered no comment.

4. That the variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public street, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

The Board finds that the granting of the variance to reduce the required setbacks for the Solar Facility will not impair the adequate supply of light and air to adjacent properties. The majority of the structures on the site will be less than 9-10 feet tall, will be fairly easy to conceal, and will not impair the supply of light to adjoining properties at all. Further, the reduction in the setbacks for the Solar Facility will not have any impact on traffic or congestion on the public streets. Rather, the reduction in the setbacks will simply allow Staley Solar to fully utilize its electrical injection capability at the adjacent Davis Creek Substation.

The reduction in the setback requirements will not increase the danger of fire or endanger public safety. Solar farms are proven to be a safe use, with several gigawatts of installations operating in communities across the country.

The reduction in the setback requirements will not diminish or impair property values in the neighborhood at all. As noted in Staley Solar’s Findings of Fact for the Special Use Permit, studies have been
conducted on the impact that wind farms have on adjoining properties. These studies have found that wind farms have little to not impact (either positive or negative) on adjoining residential property values. In this case, the Solar Facility will be a much less intrusive use than a wind farm, and therefore will not diminish or impair property values in the area.

Staley Solar has engaged adjoining property owners to discuss the project, and has been attentive and responsive to their concerns. As an example, Staley Solar held discussions with the Pastor of the Peoples Church, which adjoins the Property to the south east. The Pastor expressed concerns over the proximity of the Solar Facility to the Church. In order to alleviate the Pastor’s concerns, Staley Solar has agreed to increase the setback on the south side of the Church from the required 100’ to 150’.

The dissenting votes offered no comment.

**Recommendation:** The motion to approve failed to obtain four (4) concurring votes and therefore failed. As such, no recommendation and no findings of fact are offered by the Zoning Board of Appeals in regard to the request for variance to the setback regulations.

**Roll Call Vote:** The roll call vote was three (3) members for the motion to recommend approval, two (2) opposed.

Respectfully submitted this 7th day of May, 2018 by the Kankakee County Zoning Board of Appeals.

**John Fetherling, Chairman – Aye**
**Gene Rademacher – Absent**
**Edwin Meents – Aye**
**William Hemm-Aye**
**Elizabeth Scanlon – Nay**
**David DeYoung – Absent**
**William Sawyer – Nay**
Exhibit A – Site Map, Rockville Township
Rockville Township

25-400-005’, 007, & 008
P.L. No. 04-01-36-100-002 & 003, 04-01-36-200-001 & 003, R 04-01-

Variance—Setback 121-99,C,34
SUP Section 121-99,C,34 (Solar Farm)
Staley Solar, LLC (Applicant)
July 20, 2004 (Owners)

Nugent Farms 1, LLC & The Kevin J. Nugent Declaration of Trust Dated

Staff Report

ZBA Case 18-16
The applicant and owners, also seeking a variance to the setback requirements which will be discussed later in this report, are seeking the construction of a 70MW solar energy facility, known as Staley Solar, on property located along 7000 N Road west of Career Center Road. The applicant and owners are also seeking a variance to the setback requirements which will be discussed later in this report. An aerial photograph of the general area can be seen above.
The following sections highlight the petitioner's response to the findings and the planning department's comments for the proposed special use permit.

ZBA Case 18-16

Finding of Fact Responses - Special Use Permit
Petitioners' Response: The Solar Facility will have little or no impact on the properties in the immediate vicinity. The Solar Facility will be set back approximately 100 feet from adjoining residences as required by the County's Zoning Ordinance. The majority of the structures on the site will be less than 9-10 feet tall and will be fairly easy to conceal from both the property and from neighboring properties. Once operational, the Solar Facility will result in (1) a less than perceptible increase in ambient noise levels at the property's boundaries, (2) non-odorous odors whatsoever; and (3) reduced greenhouse gas emissions. Further, the Solar Facility will have no impact on surrounding property values. According to the studies cited in the Kankakee County Planning Department's Environmental Impact Report, the impact of solar farms on property values within the immediate vicinity will be minimal.
Staff is not sure what Comprehensive Plan the applicant is describing in their submission above as the ZEB Case 18-16.

The Solar Facility will not impact the normal and orderly development, and improvement of the surrounding property. The applicant has demonstrated that the Solar Facility will not add any non-farm residential uses to the property, nor will the Solar Facility impact any existing uses of the property. The Solar Facility will not change any existing land use or any existing surface grading on the property. The Solar Facility will not result in excessive traffic or any utility access restrictions. The Solar Facility will not add any significant noise levels to the property. The Solar Facility will not produce any noxious odors. The Solar Facility will not create any air emissions, water discharges, or significant visual impacts. The Solar Facility will not impact the natural and orderly development and improvement of the surrounding property in any way.
Planning Department Analysis:

The solar facility will be designed to comply with the County's vegetative access standards. The solar facility will be an operational facility and will be operated and maintained by personnel of the site.

Due to the limited number of visits to the site by maintenance personnel, the solar facility will be designed to provide access to accommodate the operation of the solar farm.

The project does not require sewer or water and it appears that there will be minimal, if any, effect on drainage or drainage patterns. Any potential operational facility will be provided by the solar facility and the County's roads, streets, and sewers will be maintained and require limited maintenance activities. Operational facilities will be very limited. Existing service will be adequate to serve any operational facility needed.

The County’s stormwater management infrastructure is adequate to handle the increased stormwater associated with the solar facility. Stormwater from the solar facility will be conveyed to existing County stormwater management infrastructure. The County’s stormwater management infrastructure will handle the stormwater generated by the solar facility.

The solar facility will be designed to comply with the County's vegetative access standards and will require no other access to the site.
F. WILL SPECIAL USE, IN ALL OTHER ASPECTS, CONFORM TO THE APPLICABLE REGULATIONS OF THE ZONING DISTRICT IN WHICH IT IS LOCATED, EXCEPT AS SUCH REGULATIONS MAY, IN EACH INSTANCE, BE MODIFIED BY SECTION 121-99(c)(2) OF THE KANKAKEE COUNTY ZONING ORDINANCE.

Preliminary Analysis:

With the exception of the setback variance being requested, it appears that the property will conform with all other aspects of the Zoning Ordinance. The board should ask the applicant to:

1. Explain the rationale for the requested setback variance and how it aligns with the general objectives of the Zoning Ordinance.
2. Provide additional information, if necessary, to support the application.

The Solar Facility will be in all other aspects, conform to the applicable requirements of the Zoning Distinct and will comply with all of the requirements imposed on solar farms under Section 121-99(c)(2) of the Kankakee County Zoning Ordinance.

Stated Solar seems to reduce the setbacks along certain rights-of-way, thus reducing the setbacks required under the Zoning Ordinance. These setback reductions are depicted on the "Solar Farm" exhibit in Attachment B to the application. The setbacks are being reduced, as per Section 121-99(c)(2) of the Kankakee County Zoning Ordinance.

The Solar Facility will be in all other aspects, conform to the applicable requirements of the Zoning Distinct and will comply with all of the requirements imposed on solar farms under Section 121-99(c)(2) of the Kankakee County Zoning Ordinance.

The Solar Facility will be in all other aspects, conform to the applicable requirements of the Zoning Distinct and will comply with all of the requirements imposed on solar farms under Section 121-99(c)(2) of the Kankakee County Zoning Ordinance.
In addition to the existing gas line which bifurcates the project site, there are several existing utility easements encumbering the southwest portion of the Property. These easements restrict the development of the Property by limiting the location and bulk requirements of the systems and the conservation of natural resources. Furthermore, the easements may also impose additional costs and delays on the project.

A. Additional Factors Supporting the Request for the Proposed Variances:

1. The presence of several existing utility easements on the Property:

2. The proposed design of the solar facility is expected to generate enough renewable energy without the need for additional equipment. snowy solar will still require a particular hardship because it will not be able to fully utilize the electrical transmission infrastructure. Therefore, the easements must be considered in the overall design and development of the project.

B. Finding of Fact Responses - Variance

The following sections highlight the petitioner’s responses to the findings and the planning department’s comments on the proposed variances:

The petitioner’s response: Staley Solar’s seeking a variance from the setback requirements imposed on farms under Section 121-99(c)(34) of the Zoning ordinance. Staley Solar seeks to reduce the setbacks along certain rights-of-way from 100 feet to 50 feet and to reduce the setbacks along adjoining farms from 50 feet to 25 feet. No setback reduction is sought for the areas of the Property adjacent to residences or the area at the southeast corner of the Property.

Petitioner’s response: Staley Solar will provide significant landscape buffering, as depicted on Attachment 7 of its Application, around key locations around the perimeter of the Solar Facility to ensure its visual impact on adjoining properties is minimized. Staley Solar is designed to be a utility scale solar energy facility, with a generation capacity of up to 70 MW. If the strict letter of the regulations were to be carried out, this design capacity could not be realized and Staley Solar would suffer particular hardship because of:

1. the presence of several existing utility easements on the Property;
2. the state’s proximity to the adjacent Davis Creek Substation; and
3. the presence of several residentially zoned properties on the perimeter of the Property.

These factors create an odd-shaped parcel necessitating the requested variances to achieve the optimal design capacity of the Solar Facility as well as enable the most efficient and effective interconnection with the Davis Creek Substation.

In addition, without the proposed setback reductions, Staley Solar will not be able to fully utilize the goals of the General Assembly to encourage renewable energy sources in the State, especially through the promotion of solar energy. Moreover, when the Kankakee County Board adopted the amendments to the Zoning Ordinance allowing solar farms in the A-1 District, the findings of the Zoning Board of Appeals, which were adopted by the County Board in November 2017 in two separate meetings, clearly state that the Board finds that the inclusion of regulations for Solar Farms in the County Zoning Ordinance will promote and protect the public health, safety, comfort, morals, and welfare of the citizens of Kankakee County and the State of Illinois by providing a renewable energy source that offers an alternative to fossil fuels.

The Board finds that by regulating the location of these facilities, the County will consider the role of land, planning and subdivision through the County Planning Department. By regulating these facilities, the Board will consider the role of land, planning and subdivision through the County Planning Department. As a result, these findings were adopted by the County Board in November 2017 in two separate meetings.

Kankakee County Planning Department
Stalay Solar has been reaching out to the adjoining property owners to discuss the project and their concerns. These conversations are ongoing, but it is Stalay Solar's desire to have a viable project that not only meets its operational needs but is designed to minimize concerns of its neighbors.

The Board will need to consider the facts and determine if the reasons stated by the applicant are unique to this property and project.

The grant of the variance will not be detrimental to the public welfare in any way. Solar facilities have a proven track record.

The grant of the variance will not be detrimental to the public welfare in any way. Solar facilities have a proven track record.
Further, the granting of the variance will not injure the property or improvements in the neighborhood. As noted, the surrounding properties are also in the A-1 district, and no negative impacts to the neighborhood. The goal of the solar facility is to enhance the neighborhood, and not detract from or diminish its character.

Planning Department Analysis:

While staff agree that there are little or no negative impacts to the sightline of the solar facility, this agreement assumes that all regulations and set-backs are met. If these are not, the granting of the variance will not increase any negative impacts in the area.

The Board should specifically ask the applicant to address how granting this particular variance will not increase any negative impacts in the area.

The Board should also ask the applicant to address how granting this particular variance will not increase any negative impacts.
By their nature, uses subject to a special use permit generally have a higher intensity or have a greater potential to adversely affect surrounding properties. Therefore, uses permitted in a zoning district, because of their character, and the need for these uses to gain special approval, conditions can be placed on a special use permit to lessen their impact on surrounding properties and alleviate any concerns voiced by neighbors and public officials.

The Planning staff recommends that the following conditions be imposed on this special use permit. These conditions and additional conditions may be imposed by the Zoning Board of Appeals and the Kankakee County Board prior to approval.
1. Reference:

2. Location:
   - Property location:
     - Township:
     - Section:
     - Road:
   - Address:
   - Legal Counsel:
   - Applicant:
   - Applicant Request:

3. Dimensions:
   - Size of parcel:
   - Road frontage:
   - Parcel depth:
   - Parcel history:

4. Existing land use features:
   - Public road:
   - Floodplain:
   - Wetland:
   - Fire protection:
   - Police protection:

5. Surrounding land use:
   - North:
   - South:
   - East:
   - West:

6. Surrounding land use:
   - Case:
   - South:
   - West:
   - North:

7. Municipal Planning boundary:
   - Village of Bonnerdale:
   - Town:
   - Township:
   - County:

8. Comprehensive plan designation:
   - Village of Bonnerdale:
   - Township:
   - County:
   - Municipal Planning boundary:

9. Distance to public services and facilities:
   - Police Protection:
   - Fire Protection:
   - School District:

10. Miscellaneous information:
    - Special use permit for solar farm
    - Kankakee County Planning Department

Hearing Date:
- Staley Solar, I.LC
- Nuqent Farmst1[The Kevin]
- Declaration of Trust Dated July 20, 2004
- David Silverman
- 7000 North Street
- Rockville Township
- 04-01-36-200-001-002, 04-01-200-002, 04-01-200-001
- 6640 North Road, Bourbonnais
- Agriculture (row crops)
- 0.40 acres

ZBA Case #16-16