

TOWN BOARD OF THE TOWN OF LEWISBORO
COUNTY OF WESTCHESTER: STATE OF NEW YORK
-----X
GOSSETT BROTHERS NURSERY, LTD.;

JOHN VUOLO; and

J. VUOLO, CORP. d/b/a SOUTH SALEM WINERY,

Co-Petitioners,

PETITION FOR
AMENDMENT OF
TOWN CODE OF
TOWN OF
LEWISBORO

For amendments to the Town Code of the Town of
Lewisboro adding, as a "Permitted Use" the designation
"Accessory Winery"

-----X

Gossett Brothers Nursery, John Vuolo, and J.Vuolo, Corp. d/b/a South Salem Winery (the "Co-Petitioners") hereby petition the Town Board of the Town of Lewisboro for amendments to the Town Code of the Town of Lewisboro pursuant to New York State Town Law Sections 264 and 265 as follows:

The Co-Petitioners

1. Petitioner Gossett Brothers Nursery, Ltd. ("Gossetts") is a corporation duly organized and existing under the laws of the State of New York with offices at 1202 Route 35, South Salem, NY 10590.

2. Gossetts is a third-generation, family-owned and operated nursery and farm market located on an attractive, well recognized parcel in the heart of Lewisboro,

along Route 35. Gossetts' premises comprise approximately 5.5 acres in R4 zoning, improved with a greenhouse, retail building, and storage areas, and ample parking.

3. Gossetts is a cherished mainstay of Lewisboro's consumer commerce. A family-owned local business, it hosts our weekend farm market, a holiday market, and operates a successful year-round nursery and garden center.

4. Gossetts' roots are deeply embedded in our Town. It has employed and continues to employ successive generations of high school students; it is a steadfast donor to charitable and community events; and it continues to set a mark as one of Lewisboro's most reliable, most universally liked business. The Gossett family regularly opens its farm to the community, hosting student tours and educational events for our schools, participating in our annual library fair, building its annual whimsical North Pole. Individually, generations of Gossetts have served our Town as volunteers, as civic leaders, as citizens recognized for their decency and their commitment to Lewisboro.

5. Gossetts' agricultural operations have been recognized on several important levels. Gossetts has earned the designation 'Farm Operation' as defined in Section 301(11) of the New York Agriculture and Markets Law. And the County of Westchester and the State of New York together recognize Gossetts as an 'Agricultural District' pursuant to Section 304 of the New York Agriculture and Markets Law.

6. Gossetts' importance as a unique agricultural operation has also been acknowledged by the Watershed Agriculture Counsel, an affiliate of the New York Department of Environmental Protection. The Counsel has worked closely with Gossetts, offering its expertise and its resources, to ensure that this farming operation is remains an important and environmentally unspoiled site, home to all manner of creatures: turtles, frogs, snakes, hawks, songbirds, bunnies and others.

7. Co-Petitioners John Vuolo is a long-time Lewisboro resident who has raised his family here. Mr. Vuolo started, owns and operates J.Vuolo, Corp., a New York corporation. South Salem Winery is the d/b/a designation of J.Vuolo, Corp. (the "Winery").

8. Mr. Vuolo is an artisan wine-maker, self-taught, whose entrepreneurial spirit has gifted our community with its eponymous wine. John has been scrupulous to ensure that his business is and has been fully licensed by the New York State Liquor Authority and that is wine-making operations are consistent with all applicable health codes and regulations. His dedication to craftsmanship extends to the actual wine-making and presentation equipment and furnishings, built, for the most part, by Mr. Vuolo from materials recycled from wine barrels and wine making tools, or repurposed from Gossetts.

9. The Winery is the first business in Westchester County to be awarded a New York State Farm Winery designation, which means Lewisboro is the first town in

our county to have its own Farm Winery. Consistent with his focus on local ingredients, Mr. Vuolo makes his wine solely from grapes grown in New York State.

The Proposed Amendment

10. Co-Petitioners respectfully request the Town Board update and amend Sections 220-2; 220-23; 220-32; and 220-43.5 of the Town Code of the Town of Lewisboro (the “Code”) to establish ‘Accessory Wineries’ as a permitted use pursuant to a special permit.

11. Specifically, and as set forth in more detail in the draft ordinance attached hereto, Co-Petitioners respectfully ask the Town Board to include within the Code the following:

- a. a definition of Accessory Winery (§ 220-2);
- b. “Accessory Wineries” in the Schedule of Permitted Uses (§220-23); and
- c. a description of the criteria for “Accessory Wineries” and the requirements therefor, including:
 - i. appropriate licensing by the New York State Liquor Authority;

- ii. obtaining a designation as a 'Farm Operation' in a certified Agricultural District pursuant to Westchester County regulation and the New York Agriculture and Markets Law;
- iii. that the wine be made on the premises, predominantly from New York State grown grapes;
- iv. that no full meals be served on the premises;
- v. that the operation otherwise comply with the requirements of the Westchester County Department of Health;
- vi. that Accessory Wineries be located on New York State roads;
- vii. that adequate parking be available to patrons;
- viii. that items for sale be reasonably related to wine and wine making;
- ix. that site plan approval be, to the extent necessary, abbreviated and consistent with the purposes of these amendments; and
- xi. consistent with other sections of the Code, that the Board of Approval be tasked with reviewing and approving special permit applications for accessory wineries.

12. The foregoing criteria are intended to encourage and facilitate the development of agricommerce within our Town; to foster entrepreneurship with a focus on artisan quality, regional ingredients, and development of Lewisboro as an attractive tourist destination with its own distinctive goods and products.

13. More importantly, they are intended to ensure a high degree of professionalism and responsibility to our community, including, for example, that these operations maintain appropriate state licensing; that the products be made on the premises, that accessory wineries have food available; and that they are located on well-traveled commercially accessible state roads.

South Salem Winery's Collaboration with Gossetts

14. Further commending this application is the Co-Petitioners' long-standing collaboration and good faith efforts in support thereof.

15. SSW has sold wine at Gossetts since 2014. It makes its own wine on Gossetts' premises in small batches and produces on-site and entirely by hand approximately 600 gallons of various varieties per annum. It is fully licensed by the New York State Liquor Authority to conduct small wine-tastings, sale of its wine by the glass and sale of its wine in bottles.

16. In 2018, Westchester Magazine heralded Lewisboro's own SSW as the County's "Best Wine Experience."

17. In recent years, SSW has held a number of highly successful events showcasing its wine and local artists. These include book signings, music performances, limited wine tastings, and similar cultural events. These festive occasions were

conducted in good faith, before SSW was advised that the Lewisboro Town Code contains no winery designation.

18. Though brief, SSW's tenure as a fun cultural destination was notable for its safe, prudent operation; for the enthusiasm of its customers; for its unique ability to showcase the appeal of our Town and its rich products; and for the professionalism of its owners. There were exactly zero incidents relating to imprudent consumption of alcohol and zero complaints from neighbors or regulators. By all accounts, SSW's operations were a laudable, ingenious addition to Lewisboro's commercial and social fabric, melding two respected businesses seamlessly and creatively.

19. SSW determined, of its own volition, to cease its sales by the glass and wine-tasting operations, not because of any complaint or adverse administrative directive, but out of an abundance of caution and a respect for the rule of law. Co-Petitioners' desire to ensure full compliance with applicable law and regulation speaks to their good citizenship and commitment to their Town.

20. Petitioners respectfully submit that the Town stands to benefit from the proposed amendment. It is not a stretch to envision a Lewisboro restaurant and entertainment row along Route 35 comprising its existing establishments and a newly-minted artisan winery proudly selling products under the South Salem tradename. The proposed regulations are carefully drafted to ensure a high degree of regulatory oversight; advancement of local and state-wide agricultural interests; and operation of an accessory

winery by mature, professional businesses capable of discharging the important responsibilities to our community that will accompany this kind of operation.

21. Finally, Co-Petitioners' respectfully call the Town Board's attention to their past operations in pursuing the proposed amendments. Their reputations speak for themselves. They are vested in Lewisboro. They have acted in good faith and in a manner that reflects their heartfelt commitment to local agriculture; to our Town's special character and appeal; and to finding ways to promote the pride we take in living here. The instant Petition advances a vision for our Town articulated by its residents and its elected lawmakers and we ask that you give it your fullest consideration.

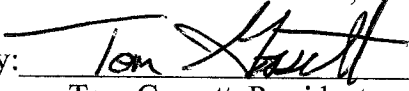
WHEREFORE, the Petitioners respectfully request that the Town Board grant this Petition and amend the Code as set forth herein.

[signature page(s) follow]


DATED: October 1, 2018
Town of Lewisboro, New York

Respectfully submitted,

GOSSETT BROTHERS NURSERY, CO-PETITIONER

By: 
Tom Gossett, President

JOHN VUOLO, CO-PETITIONER

By: 
John Vuolo

J. VUOLO, CORP., d/b/a SOUTH SALEM WINERY, CO-PETITIONER

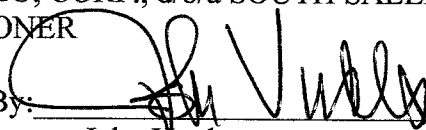
By: 
John Vuolo
President

EXHIBIT A TO PETITION

Draft Accessory Winery Statute and Regulations

220-2. Definitions and word usage:

ACCESSORY WINERY – A manufacturing facility or establishment engaged in the processing of grapes to produce wine and cider and which may include an area for wine tasting and for the sale of wine and cider and wine and cider related items and accessories.

220-23. Schedule of regulations for residential districts.

A. Permitted principal uses in R-4A, R-2A, R-1A, R-1/2A and R-1/4A Districts are as follows:

(15) *Accessory Winery

220-32.

B. Approving Agency. Applications for special permit uses shall be reviewed and acted upon by the Planning Board with the following exceptions:

(2) The Board of Appeals is hereby designated and authorized to review and take action on applications for the following special uses:

(h) Accessory Wineries.

220-43.5 Accessory Winery.

A. Purpose. The purpose and intent of this Section is to permit encourage the expansion of local agribusiness so as enhance opportunities for local farming operations, stimulate interest in the Town and thereby foster tourism, invite further creative investment by existing agribusinesses, and assist and enable the entrepreneurial development of farming and agricultural endeavors. In furtherance of these purposes, specific conditions are set forth herein for Accessory Wineries:

B. Accessory Wineries shall be special uses as follows:

- (1) An accessory winery shall be located on the premises of and accessory to an existing Farm Operation as defined in Section 301(11) of the New York Agriculture and Markets Law and shall be located in an existing Westchester County adopted, New York State certified Agricultural District pursuant to Section 304 of the New York State Agricultural & Markets Law.
- (2) An accessory winery shall be and remain licensed as a "Farm Winery" by the New York State Liquor Authority.
- (3) All wine and cider offered for sale must be produced and processed at the accessory winery from grapes or other fruit, as applicable, of which at least 80% are grown in New York State.
- (4) The accessory winery may have a retail gift shop on the premises which may sell items accessory to wine and cider, such as corkscrews, wine glasses, decanters, items for the storage and display of wine, books on winemaking and the region and non-specific items bearing the logo or insignia of the winery.
- (5) The accessory winery may prepare and serve snacks and food for consumption on the premises, primarily intended to accompany tastings, but shall not serve full meals. Any food preparation or service shall be in compliance with all applicable regulations, including as required by the Westchester County Department of Health.
- (6) An accessory winery shall be located on a state road only.
- (7) There shall be no fewer than ten (10) off-street parking spaces in addition to those required by this chapter for the farm or business to which the accessory winery is attached.
- (8) The special use permit shall be granted for a period of five (5) years and may be renewed for additional five (5) year periods. An application for and a renewal of, the special use permit shall be made to the Building Department on a form provided by the Building Department for such purpose, and by payment of a fee in an amount set forth in a fee schedule as adopted and amended from time to time by resolution of the Town Board. The application shall be accompanied by evidence in form and substance reasonably satisfactory to the Building Department of the accessory winery's New York State Liquor Authority license and its designation as a Farm Operation pursuant to the New York Agriculture and Markets Law. The Building Inspector shall thereafter inspect the premises and refer the application or renewal to the Board of Appeals if the premises are in compliance with the provisions of this chapter, the Building Code and the provisions of the original special use permit.
- (9) If and to the extent that site plan approval is required to increase parking areas, to enlarge or materially modify subsurface sewage disposal areas pursuant to a specific directive by the Westchester County Board of Health issued to the applicant, if any, or otherwise materially alter the physical site conditions to comply with a specific directive

of a competent agency having authority, the Planning Board shall require the submission of an abbreviated site plan, which shall be processed concurrently with the application for a special use permit. In all other situations, site plan approval by the Planning Board shall not be required.

- (1) In addition to the special standards described above, accessory wineries shall comply with all other requirements of this chapter.