R E P O R T

To:	Zoning Commission Town of Somers
From:	Glenn Chalder, AICP
Date:	March 4, 2021
Subject:	**Zoning Regulation Update – Farm Winery Options**

Overview of CGS 30-16 (As amended by PA 19-24)

A property owner can grow grapes and/or make wine for their own consumption with no State or local permits.

If wine is to be sold or served to others, it needs a State permit (wine store, café, etc.). A "manufacturer's permit for a farm winery" (CGS 30-16(c) as per PA 19-24) authorizes the following activities:

1. Manufacturing

2. Sale to **_PERSONS NOT ON_** the premises:
   a. Sale in bulk
   b. Sale and shipment to a <u>retailer</u>
   c. Sale and shipment to _persons_ outside the state
   d. Sale and delivery to persons _inside the state_

3. Sale/service to **_PERSONS ON_** the premises (a Town can curtail any or all of these by regulation)
   a. Offering of free samples for _consumption on the premises_
   b. Sale at retail for _consumption on the premises_
   c. Sale at retail for _consumption off the premises_

If a Town does not curtail the above referenced activities (#3.a, #3.b, and/or #3.c), it appears they are automatically authorized by the permit from the Department of Consumer Protection. The "curtailment" authorized by the statute could be an outright prohibition (by Zoning Regulation, by ordinance, etc.) or could relate to a particular element (such as hours of operation, etc.).

> **WINE PRODUCTION POTENTIAL**
>
> **There is no minimum acreage required for grape production but State statutes require that at least 25 percent of the fruit used to make the wine must be from the farm winery premises. There is a 7-year period to get grape production going where the State will assume three tons of grapes for each acre of vineyard.**
>
> > _**On-line information suggests that 1 ton of grapes yields about** 60 cases **or** 720 bottles. Therefore, 3 tons per acre could result in 180 cases or 2,160 bottles per acre of grapes. With 25% of the grapes grown on site (75% from elsewhere), total wine production could be 720 cases or 8,640 bottles per acre. Five acres at 3 tons per acre and 25% local grapes could result in 3,600 cases and 43,200 bottles_.

Prior Special Permit(s)

Jen Roy provided the following Special Permit which was approved by the Zoning Commission in December 2000 and filed on the land records that same month (the signatures on the bottom of the filed document have been cropped out to enlarge the text about the "specific action taken". A review by Jen Roy did not reveal any other Special Permits or any information in the minutes which might provide guidance to the Zoning Commission.

32674

ZONING COMMISSION
SOMERS, CT
LEGAL NOTICE FOR RECORD

VOL 197 PAGE 848

OWNER OF RECORD _____ Daniel R. & Jane E. Roulier _____

APPLICATION OF_____ Dan & Jane Roulier _____

_____ 65 Scully Road   Somers, CT 06071 _____

STREET ADDRESS OF PROPERTY_____ 359 Mountain Road _____ ZONE ___ A-1 ___

DEED REFERENCE, VOLUME_____ 191 _____ PAGE _____ 214 _____

PUBLIC HEARING HELD ON _____ December 4, 2000 _____ , XX _____

SPECIFIC ACTION TAKEN:

Unanimously approved a Special Use Permit for outdoor recreation at 359 Mountain Road with the following conditions:

1. Closing hours are Sunday through Thursday, no later than 11:00pm; Friday and Saturday closing hours are 12:00am.

2. A gate will be installed at the entrance.

3. Approval is granted with the understanding that private parties and events, corporate meetings, and wedding parties are to remain an accessory and subordinate use to the primary use of outdoor recreation area.

Possible ZC Options With Regard To Section 6.12

The following options may be available to the Commission:

1. Replace Section 6.12 as drafted with specific reference to CGS 30-16(c) and add specific limitations on one or more of the following: • Offering of free samples for consumption on the premises • Sale at retail for consumption on the premises • Sale at retail for consumption off the premises • Limit the hours of operation for the above activities to limit the "coupling" with the prior Special Permit	*Most limiting?* *Interested parties can apply to the Commission in the future to propose any additional text amendments.* *State that no other uses except those specifically listed in CGS 30-16(c) are considered accessory to a "manufacturers permit for a farm winery" (including food trucks, event tents, weddings, etc.)*
2. Replace Section 6.12 as drafted with specific reference to CGS 30-16(c) allowing free samples and sale at retail but add one or more new provisions to: • Limit any other "accessory uses" to a farm winery • The Special Permit could authorize the ZEO to issue a Zoning Permit for one year and the Zoning Permit would be renewable provided the regulations still allow the operation, the operation is fundamentally identical to what was approved by the Commission, and conditions of approval have been continuously met • Require an annual permit for a certain number of private parties and events, corporate meetings, and wedding parties on specific dates and times	*State that no other uses except those specifically listed in CGS 30-16(c) are considered accessory to a "manufacturers permit for a farm winery" (including food trucks, event tents, weddings, etc.) unless specifically authorized by the Special Permit / Commission approval.* *If events get out of hand, the ZEO can refuse to renew the annual permit and the applicants would have to come back to the Commission.* *The Commission could remove Section 6.12 in the future and there would be no grandfathering since the Zoning Permit will expire each year.*
3. Do not adopt Section 6.12 and rely on statutory provisions for farm wineries (coupled with the 2000 Special Permit language about "remain an accessory and subordinate use to the primary use of outdoor recreation area").	*This allows certain activities:* • *Offering of free wine samples for consumption on the premises* • *Sale at retail for consumption on the premises* • *Sale at retail for consumption off the premises* *There might be ways that such activities could be blended with the prior special permit to enable wine service for weddings, etc.*
4. Adopt Regulations with Section 6.12 *excluding* red boxed options with or without modifications	*Future applicants could apply to modify the regulations to enable "private events" or request other changes*
5. Adopt Regulations with Section 6.12 *including* red boxed options with or without modifications	*Least Limiting?* *This enables applicants to seek approval for "private events"*

Concerns Expressed With Section 6.12

At the 2021 public hearings on adoption of the updated Zoning Regulations, the following _**specific concerns**_ were expressed with regard to Section 6.12. General statements (such as "I support" or "I oppose") and overall issues about consistency with the POCD, comprehensive plan, State statutes, etc. have not been tabulated.

1. **Section 6.12.A - Purpose**
   a. (no comments)

2. **Section 6.12.B - Standards**
   a. Properties should need to be larger than 5 acres
   b. Requirement for 5 acres should be for acres in grape production
   c. Large buffers / setbacks should be required, especially for any private events
   d. Noise limitations should be placed on any private events

3. **Section 6.12.C.1 – Uses Permissible With Special Permit – Manufacturing / Production**
   a. (no comments)

4. **Section 6.12.C.2 – Uses Permissible With Special Permit – Tasting Room / Public Events**
   a. The limitation on the size of outdoor patios, decks, porches is too strict
   b. The requirement for an enclosing fence is too strict
   c. The requirement that activities must be held inside the tasting room is too strict
   d. The allowance for food trucks and/or tents should be removed
   e. The Town has not always demonstrated the ability to enforce these kinds of provisions

5. **Section 6.12.C.3 – Uses Permissible With Special Permit – Retail Sales**
   a. (no comments)

6. **Section 6.12.C.4 – Uses Permissible With Special Permit – Function Rooms / Private Events**
   a. This should not be permitted in a residential zone / disrupts "quiet enjoyment"
   b. This could be co-mingled with the previous Special Permit
   c. Limitations on number of events are too strict
   d. Limitations on number of events are not strict enough

7. **Section 6.12.C.5 – Uses Permissible With Special Permit – Hours Of Operation**
   a. Hours of operation for tasting room and retail sales should be extended to 8:00 PM
   b. Hours of operation for private events should be extended
   c. Hours of operation could be co-mingled with the previous Special Permit

8. **Section 6.12.C.5 – Uses Permissible With Special Permit – Parking**
   a. Parking for private events will overflow the number of spaces specified