

**TOWN OF GOSHEN
ZONING BOARD OF APPEALS
REGULAR MEETING – AGENDA
THURSDAY, MAY 21, 2026 AT 7:30PM**

This meeting will be held at Goshen Town Hall and via Zoom

Zoom Meeting Link:

<https://us02web.zoom.us/j/82984913639>

Meeting ID: 829 8491 3639

OR

Meeting dial in: 1 929 205 6099

1. **CALL TO ORDER**
2. **PUBLIC HEARINGS:**
 - A. **Brian and Melissa Kemish, Cottage Grove Road, Lot 0706600** - Proposed garage 28' wide by 30' deep, left front corner proposed to 17.4' from the east (front) property line and the right front corner is proposed to be 4.5' from the north property line.
3. **APPROVAL OF THE MINUTES:** April 16, 2026.
4. **OLD BUSINESS:**
 - A. **Brian and Melissa Kemish, Cottage Grove Road, Lot 0706600** - Proposed garage 28' wide by 30' deep, left front corner proposed to 17.4' from the east (front) property line and the right front corner is proposed to be 4.5' from the north property line.
5. **NEW BUSINESS:** None
6. **CORRESPONDENCE:** None
7. **OTHER BUSINESS TO COME BEFORE THE BOARD:**
8. **ADJOURNMENT**

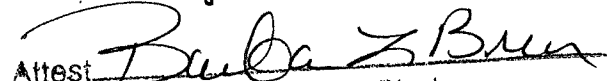
Respectfully submitted,



Lori Clinton

Commission Clerk

Received May 18, 2024 @ 10:30 A.M.

Attest 
Goshen Town Clerk

*When emailing official correspondence, please send to landuse@goshenct.gov
with "Official Business" in the subject line*

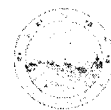


TOWN OF GOSHEN, CT

GOSHEN TOWN HALL

42A North Street Goshen, CT 06756

860-491-2308 ext.232



02/06/2026

ZONING BOARD OF APPEALS APPLICATION

Draft

☒ Residential

Commercial

☒ Variance from the Zoning Regulations; ☐ Appeal from the Decision of the Zoning Agent
☐ Approval of Motor Vehicle Sales or Repair Location

Applicant Information:

Name: Brian and Melissa KemishAddress: 28 Cottage Grove Road Goshen CT 06756Phone: 860-919-2034

Fax: _____

Email: brikemish@yahoo.com

Legal Interest: _____

Owner Information:

Name: KEMISH BRIAN & MELISSAAddress: COTTAGE GROVE ROAD GOSHEN, CT 06756Phone: 860-919-2034

Fax: _____

Email: brikemish@yahoo.com☐ Attached is documentation verifying ownership of the property.

Subject Parcel:

Address: COTTAGE GROVE ROADSize: _____ Zone: _____ Assessor's Map and Lot #: 07 066 00Is the subject parcel within 500 ft. of the Town boundary? ☐ yes ☒ no

Variance Request:

I hereby apply for a **Variance** to Section(s) _____ of the Zoning Regulations, to permit the following:

I'm looking to build a 28' wide by 30' deep garage on this property. The left front corner is proposed to be 17.4' from the east (front) property line and the right front corner is proposed to be 4.5' from the right (north) property line. An easement agreement is being drafted up by Attorney Blondin to be reviewed by and approved by the first selectman.

Is a Hardship claimed? ☐ If so, what is the specific Hardship?

Appeal from the Decision of the Zoning Agent:

I hereby **Appeal** the Decision of the Zoning Agent dated: _____ (attach copy), stating

The basis for my Appeal is:

Approval of Motor Vehicle Sales or Repair Location:

Describe Proposed Use:

Previous Applications:

Has any previous application for Variance, Appeal, or Approval of Location been filed with this premise? _____

If so, for what purpose? _____ When? _____. File No. _____

Parties of Interest:

Attorney / Engineer/ Architect / Builder Name: _____

Address: _____

Phone: _____ Fax: _____

Email: _____

Taxes:

Are all real estate, sewer use, and sewer assessment taxes current? ____ yes ____ no

____ Attached is proof of payment. (Required)

Fees:

\$60.00 (State Fee) + Town Fee* \$ 240.00 = \$ 290.00 (payable to the Town)

* Town fee is established by Town Ordinance.

Signatures:

Signature of Owner(s) KEMISH BRIAN & MELISSA Date: 02/06/2026

Signature of Applicant(s) Brian and Melissa Kemish Date: 02/06/2026



BRIAN & MELISSA KEMISH
28 COTTAGE GROVE ROAD
GOSHEN, CONNECTICUT

BERKSHIRE SURVEYING, LLC

43 BANTAM LAKE ROAD
BANTAM, CONNECTICUT 06750

1-29-26	440 N 1st	5424/702
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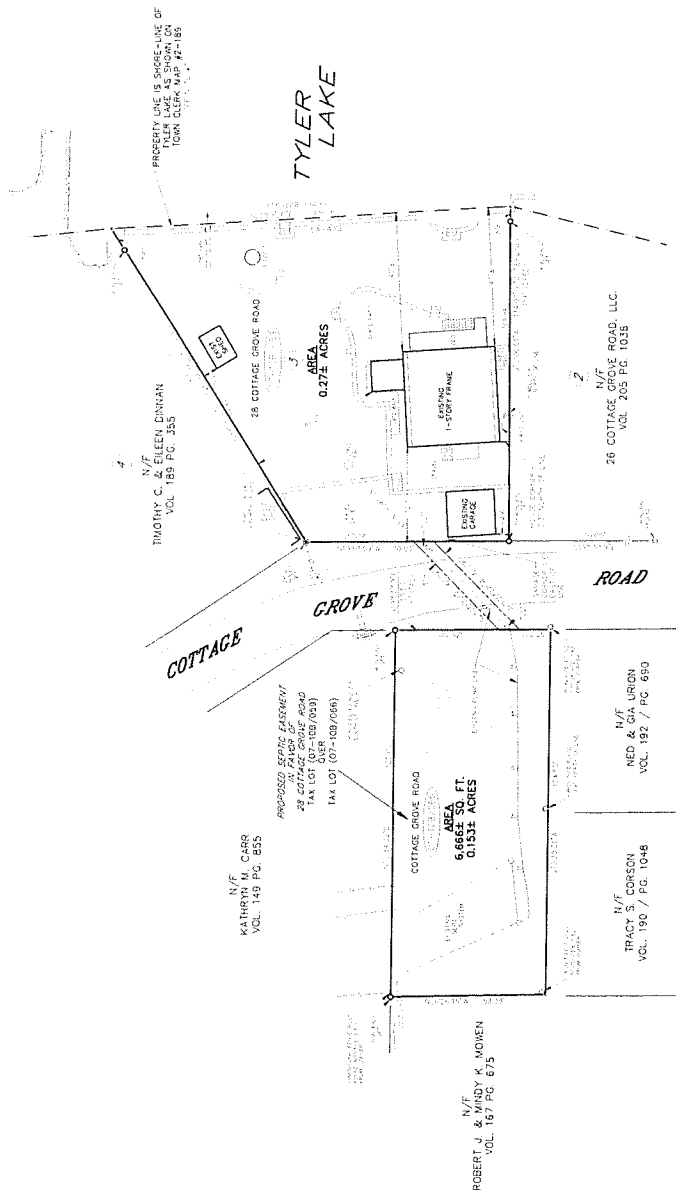
1 = 20'	Client	Erion Kemish
25-5424-ZLS(1)	Drawn By	07

[illegible]

David Byrne

[illegible]

EASEMENT MAP
SHOWING
PROPOSED SEPTIC EASEMENT
PREPARED FOR
BRIAN & MELISSA KEMISH
28 COTTAGE GROVE ROAD
GOSHEN, CONNECTICUT

EASEMENT MAP
SHOWING

SEPTIC
PREPARED FOR

PREPARED FOR

BRIAN & MELISSA KEMISH
28 COTTAGE GROVE ROAD
GOSHEN, CONNECTICUT

BERKSHIRE SURVEYING, LLC

[illegible]

143 BANTAM LAKE ROAD
BANTAM, CONNECTICUT 06750

46	Map No. 26	LC 26/2673
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2017-2018

1" = 20'

class Brian Kemish

Item No.	25-5424-ESMT(1)	Drawn By	VS


**CONNECTICUT
MEDIA GROUP**

CONNECTICUT POST | THE NEWS-TIMES | THE ADVOCATE | The Hour | GREENWICH TIME
 Darien News | Fairfield Citizen | New Canaan News | The Spectrum | Westport News | Wilton Villager

Order Confirmation

Ad Order Number 0002992920	Customer Account 349709
Sales Rep. sreed	Customer Information FISCAL OFFICE TOWN OF GOSHEN 42A NORTH STREET GOSHEN CT 06756 USA
Order Taker sreed	
Ordered By BARBARA, EMAIL	Phone: 8604912308
Order Source Phone	Fax: Email: adminassistant@goshenct.gov

Ad Content Proof

Note: Ad size does not reflect actual ad

Notice of Public Hearing Town of Goshen Zoning Board of Appeals

The Town of Goshen Zoning Board of Appeals will hold the following public hearing on Thursday, May 21, 2026 at 7:30PM in the Conference Room at Goshen Town Hall, 42 North Street, Goshen CT and via Zoom meeting. The link can be found at the Town of Goshen website.

Brian and Melissa Kemish, Cottage Grove Road, Lot 0706600 - Proposed garage 28' wide by 30' deep, left front corner proposed to 17.4' from the east (front) property line and the right front corner is proposed to be 4.5' from the north property line.

At this public hearing, interested persons may appear in person or via Zoom and be heard and written communications received. Copies of the application are available for inspection in the Land Use Office in Goshen Town Hall, 42 North Street, Goshen, CT or on the Town of Goshen website Zoning Board of Appeals page. Link: <https://www.goshenct.gov/zoning-board-of-appeals>

Dated this 21th day of April, 2026
 Daniel Kobylenski, Chairman
 Zoning Board of Appeals

Ad Cost \$294.00	Payment Amt \$0.00	Amount Due \$294.00
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Blind Box **Materials**

Order Notes

Ad Number 0002992920-01	External Ad #	Pick Up Number 0002988149
Ad Type Legal Liners	Ad Size 2 X 25 li	PO Number
Color \$0.00	Color Requests	

Product and Zone Republican-American	# Inserts 2	Placement Public Notices
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Note: Retail Display Ads May Not End in Identified Placement

Run Dates
5/11/2026, 5/19/2026

Product and Zone Rep-Am.com	# Inserts 2	Placement Public Notices
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Note: Retail Display Ads May Not End in Identified Placement

Run Dates
5/11/2026, 5/19/2026

Adam and Melissa Brutting
48 Cottage Grove Road
Goshen, CT 06756

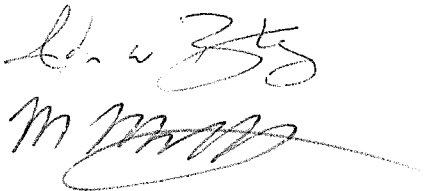
May 9, 2026

To: The Goshen Zoning Enforcement Officer,

We are residents at 48 Cottage Grove Rd. and have lived full time on Tyler Lake for over 10 years. We take a lot of pride in not only how our property looks, but how our neighborhood looks as well.

The Kemish's recently shared the proposal for constructing a garage on their vacant lot that they own. We appreciate them reaching out to keep us in the loop. We believe this new structure will fit right in with the existing homes here and will be a nice addition to the block. We have zero objections to the town granting the necessary variances for the construction to move forward.

Sincerely,

Two handwritten signatures in black ink. The first signature is cursive and appears to be 'Adam Brutting'. The second signature is also cursive and appears to be 'Melissa Brutting'.

Adam and Melissa Brutting

Jeffrey and Linda Segal
19 Tyler Heights Ext.
Goshen, CT 06756

To: Goshen ZBA

Dear Members of the Board,

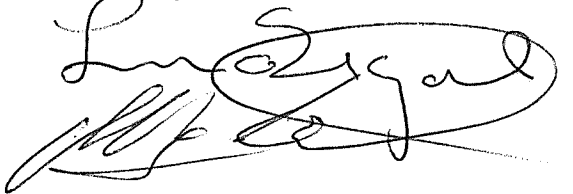
I am writing this letter to formally express my support for the proposed construction of a garage on Brian and Melissa's vacant lot.

My wife and I recently became full time Tyler Lake residents and can appreciate the cold and snowy Goshen winters. Although we don't live in the same neighborhood as Brian and Melissa, we are constantly using the Cottage Grove neighborhood when we go for walks with our dog.

We believe their garage will be consistent with the character of the neighborhood and will enhance the overall property values in our Tyler lake area.

We fully support Brian and Melissa in their application for the necessary variances to complete this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Segal". The signature is fluid and cursive, with the first name "Linda" written in a larger, more prominent script than the last name "Segal".

Jeffrey and Linda Segal



Hassett & George, P.C.
Attorneys at Law

945 Hopmeadow Street 628 Hebron Avenue, Ste 212
Simsbury, CT 06070 Glastonbury, CT 06033
www.hgesq.com

Louis N. George
lgeorge@hgesq.com
(860) 651-1333, ext. 121

May 18, 2026

VIA FEDEX OVERNIGHT MAIL AND EMAIL

Town of Goshen
Zoning Board of Appeals
42A North Street
Goshen, CT 06756
landuse@goshenct.gov

RE: Variance Application of Brian and Melissa Kemish Cottage Grove Road, Lot 0706600 Proposed Garage - Support for Variance Request

Dear Members of the Goshen Zoning Board of Appeals:

This office represents Brian and Melissa Kemish in connection with their application for a variance to construct a garage on their property located on Cottage Grove Road, Lot 0706600. We write to provide legal support for their variance request and to address serious procedural concerns that arose during the April 16, 2026, meeting.

I. Legal Basis for the Finding of a Hardship

A. Connecticut Law on Hardship and Variances

Under Connecticut law, a zoning board of appeals may grant a variance when two requirements are satisfied: (1) the variance must not substantially affect the comprehensive zoning plan, and (2) adherence to the strict letter of the zoning ordinance must cause unusual hardship unnecessary to carrying out the general purpose of the zoning plan. An applicant must show that, because of some peculiar characteristic of the property, the strict application of the zoning regulation produces an unusual hardship, as opposed to the general impact which the regulation has on other properties in the zone.¹

Importantly, in determining whether to grant relief from the literal enforcement of a zoning regulation, the Boards “essential purpose is to furnish elasticity in the application of regulatory measures so that they do not operate in an arbitrary or confiscatory . . . manner.”²

¹ See *E & F Associates, LLC v. Zoning Board of Appeals*, 320 Conn. 9, 15, 127 A.3d 986 (2015); Conn. Gen. Stat. § 8-6.

² *Verrillo v. Zoning Board of Appeals of Branford*, 155 Conn. App. 657, 679, 111 A.3d 473 (2015).

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The hardship must be different in kind from that generally affecting properties in the same zoning district and must arise from circumstances or conditions beyond the control of the property owner. Critically, the hardship which justifies granting a variance must be one that originates in the zoning ordinance and arises directly out of the application of the ordinance to circumstances or conditions beyond the control of the party involved.³

B. The Taking Doctrine as Grounds for Variance

Connecticut courts have recognized that unusual hardship may be shown by demonstrating that the zoning regulation has deprived the property of all reasonable use and value, thereby practically confiscating the property.⁴ A taking occurs when a landowner is prevented from making any beneficial use of his land.⁵ When a regulation permanently restricts the enjoyment of property to such an extent that it cannot be utilized for any reasonable purpose, it goes beyond valid regulation and constitutes a taking without due process.⁶

When the application of a regulation renders property practically worthless, this exceptional circumstance justifies the exercise of the variance power. Courts have upheld variances when the zoning ordinance would render the property useless because it would be impossible to locate a house of any size on the lot if setback requirements were literally enforced.⁷

C. Application to the Kemish Property

The Kemish property presents a textbook case for variance relief under Connecticut law. The property is located in the RA-5 zone, which requires minimum side setbacks of 30 feet from each side property line.⁸ However, the Kemish lot is only approximately 53.50 feet wide. Strict application of the 30-foot setback requirement from each side would require a total of 60 feet of setback width, making it mathematically impossible to construct any structure on the property, regardless of size.

Moreover, the RA-5 zone requires a minimum frontage of 300 feet directly abutting a street.⁹ The Kemish property has approximately 53.50 feet of street frontage, falling far short of this requirement. The property also fails to meet the minimum 5-acre lot size requirement for the

³ *Id.*

⁴ *Caruso v. Zoning Board of Appeals*, 320 Conn. 315, 322, 130 A.3d 241 (2016).

⁵ *Id.* at 322-23.

⁶ *Id.*

⁷ *Eagan v. Zoning Bd. of Appeals*, 20 Conn. App. 561, 568 A.2d 811 (1990); see also *Compo Hill Neighborhood Assn. v. Zoning Board of Appeals*, Docket No. CV136037082S, 2014 Conn. Super. LEXIS 2030, at *19-20 (Super. Aug. 19, 2014); *Ignatius v. Zoning Board of Appeals Guilford*, Docket No. X27CV044002619, 2006 Conn. Super. LEXIS 308, (Super. Feb. 1, 2006).

⁸ Goshen Zoning Regulations, § 3.3.3.4; See also § 3.4.3.

⁹ Goshen Zoning Regulations, §3.4.3.2.

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RA-5 zone.¹⁰

The strict application of these regulations would prevent the Kemishes from utilizing their property for any of the permitted principal uses or special permit uses allowed in the RA-5 zone under Sections 3.3 and 3.4 of the Goshen Zoning Regulations. This constitutes a regulatory taking, as the property cannot be used for any reasonable purpose permitted under the zoning scheme, and therefore a variance is appropriate.

Beyond the dimensional impossibilities created by the setback requirements, the Kemish property faces additional constraints from the existing septic system. The septic system, sewer line, and leach field are fixed in place and cannot be relocated. The Torrington Area Health District has required that sufficient area remain available for a reserve system in the event the current leaching system fails.

To ensure future serviceability of the septic system and leach fields, the proposed garage must be positioned to allow adequate access for repair equipment. Consultation with J. Whatley Excavation confirmed that a 10-foot strip would be adequate for a large excavator to pass through for potential repairs. These septic constraints, combined with the dimensional limitations of the lot, dictate that the garage must be located close to the side boundary lines.

These circumstances are entirely beyond the Kemishes' control. The septic system predates their ownership, the lot dimensions were established decades ago, and the health district requirements are mandatory. The hardship arises directly from the application of current zoning regulations to a lot that was legally established long before those regulations were adopted.

As Spencer Musselman¹¹ correctly noted during the March 30, 2026, meeting—which he was asked to attend—the Town of Goshen created this hardship through the zoning change to RA-5 that occurred on August 29, 1988, more than 30 years after the Kemish vacant lot was established. The earliest records show the house lot was established in 1910, while the vacant lot across the street was established in 1954.

Mr. Musselman accurately stated that the ZBA can issue a variance under the regulations where that strict application will create an unusual hardship. He noted that because planning and zoning created this issue decades ago, it would be unfair to apply it strictly in every case. He further observed that the lot is undeveloped and cannot have anything built on it under the Goshen Zoning Regulations, which constitutes a taking, and that the hardship is that the Town rezoned the area such that nothing can be built on the property. These observations were, and remain, correct.

¹⁰ Goshen Zoning Regulations, § 3.4.3.1.

¹¹ Spencer Musselman served as the Zoning Enforcement Officer (ZEO) for the town of Goshen until March 1, 2026, and his current position as Town Planner began on February 1, 2026, and he remains in that position. First, he was asked to attend the meeting on March 30, 2026, and as ZEO he staffed the Board and the Town Planner. Thus, contrary to the First Selectman's comments during the April 16, 2026, meeting, Mr. Musselman had the authority to weigh in on the issues present in this variance application, especially when asked.

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D. Consistency with Neighborhood Character

The proposed garage would not substantially affect the comprehensive zoning plan. The Kemishes have demonstrated that the lot coverage of six comparable properties in the neighborhood averages 14.7%, while their proposed garage would result in only 11.7% lot coverage. The entire neighborhood consists of structures built on similarly sized lots that predate the current zoning requirements. Granting this variance would not set a precedent that undermines the zoning scheme, but rather would provide reasonable relief from regulations that were imposed long after the lot was created and that render it unusable. Likewise, when variance applications came before the board in the future, the Board would be required to review those applications as they were presented, and not look to past variance applications for guidance.

II. Procedural Concerns Regarding Ex Parte Communications

We must also address serious procedural irregularities that occurred during the April 16, 2026 meeting of the Zoning Board of Appeals. After the Kemish application was discussed, and a public hearing set, Mr. and Mrs. Kemish left the meeting, First Selectman Breakell engaged in improper ex parte communications with the Board regarding the substantive merits of the variance application. Such communication constitutes a “secret meeting,” in violation of the Connecticut Freedom of Information Act. See Connecticut General Statutes §§ 1-200 et seq.

According to the meeting minutes and video recording, at approximately the 30-minute mark, Selectman Breakell addressed the Board, and stated that Mr. Musselman’s appearance at the March 30, 2026, meeting was inappropriate, and to disregard Mr. Musselman’s statements regarding what constitutes a hardship. First Selectman Breakell further addressed the Board, instructing them on what a hardship is himself. These statements went directly to the legal standard the Board must apply and appeared to influence at least one Board member’s initial thinking on the application.

Most tellingly, First Selectman Breakell himself acknowledged the impropriety of his participation, stating at approximately the 34:35 mark of the recorded video: “at the risk of having any other further *inappropriate* discussion when they’re not here or whatever, I’ll say goodnight.” (emphasis added.). After which, further discussion between First Selectman Breakell and the Board occurred.

These ex parte communications are deeply troubling. They occurred after the applicants had left the meeting and thus had no opportunity to respond. They addressed the substantive legal standard for granting a variance. They appear to have influenced at least one Board member’s preliminary view of the application before any public hearing was held. And they were acknowledged as inappropriate by the Selectman himself.

We respectfully request that the Board acknowledge these procedural irregularities and

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ensure that the Kemish application receives a fair hearing based solely on the evidence and arguments presented during the properly noticed public hearing, without influence from the aforementioned ex parte communications. Likewise, we respectfully request that the meeting minutes from the March 30, 2026, and April 16, 2026, meetings, along with the recorded videos of those proceedings, be added to the record for this variance application.

III. Conclusion

The Kemish variance application presents precisely the type of situation for which the variance power exists: a legally established lot that predates current zoning regulations, where strict application of those regulations would render the property entirely unusable for any permitted purpose, and where the hardship arises from circumstances entirely beyond the property owners' control. Connecticut law recognizes that such regulatory takings constitute unusual hardship justifying variance relief.

We respectfully urge the Board to grant the requested variance, which represents the minimum relief necessary to allow reasonable use of the property while maintaining consistency with the neighborhood character and the overall purposes of the zoning regulations.

Thank you for your consideration of this matter. We look forward to presenting this application at the public hearing scheduled for May 21, 2026.

Very truly yours,



Louis N. George

LNG/

S:\Land Use\Kemish Brian and Melissa\Corr to Goshen ZBA in advance of 5.21.26 hearing (FINAL).docx