

**TOWN OF GROTON**

Board of Health

173 Main Street

Groton, MA 01450

**BOARD OF HEALTH**

Robert J. Fleischer, Chairman

Jason Weber, Member

Michelle Collette, Member

Date: Monday, August 2, 2021

Time: 7:00 PM

Location: 1st Floor Meeting Room, Groton Town Hall

Members Present: Robert J. Fleischer, Chairman; Jason Weber, Member; Michelle Collette, Member; Ira Grossman, Nashoba Associated Board of Health Agent

Others Present: Please see Sign-In Sheet

Jason Weber called the meeting to order at 7:00 P.M.

**16 MAPLE AVENUE – Septic Design System Variance Request**

Limhuot Tiv, project engineer from Goldsmith, Prest & Ringwall presented on behalf of his client, Robert Margolius and requested the following variances:

1. Regulation 315.5(A) – Distance Requirements Required: Leaching facilities (Including the proposed expansion area) must be located at least 100 feet from any wetland, watercourse, wetland vegetation, seasonal streams and drainage ditches.

*Proposed: Allow 92 feet from the primary leaching field to the wetland area.*

2. Regulation 315.5(F) – Distance Requirements Required: A Minimum of 35-foot must be available between the edge of any street, passageway or road line and the entire exterior perimeter of any proposed leach areas. *Proposed: Allow 34 feet offset between Maple Avenue line and the proposed leaching areas.*

Ms. Collette commented that she would prefer the encroachment to be on Maple Avenue and stay outside of the 100-foot buffer zone.

The existing septic system is designed for a 6-bedroom home and is currently only a 4 bedroom. With the requested addition the dwelling would increase to a 6-bedroom home.

Ira Grossman noted that there was a discrepancy between the engineer tonight stating that the addition was for single family use and the plan that was submitted showed a two-family dwelling. Soil testing was performed for a single family. Mr. Tiv stated that he would confirm with Bruce of Goldsmith, Prest & Ringwall. Mr. Grossman explained that the septic designs would be considerably different and physical proof of capacity would be necessary.

Mr. Weber commented that the project could be completed in full compliance, Mr. Grossman agreed.

Mr. Tiv explained that the applicant's intention is to keep the project efficient and to preserve the existing septic system. Mr. Grossman disagreed.

A brief discussion ensued and there was an agreement that the type of dwelling needed to be identified before continuing on.

Mr. Fleischer questioned if there are any issues with using a 28-year-old septic system. Mr. Grossman said that he had requested a title 5 inspection and it has not been completed.

**Michelle Collette moved to continue the hearing for the Septic Variance Request for 16 Maple Avenue to August 16, 2021 to allow for Goldsmith, Prest & Ringwall to consult with their client and submit a new plan that contains no variances or very minimal changes.**

**Robert Fleischer seconded and the motion carried.**

**342 Townsend Road – Septic Design System Variance Request**

Jack Mahoney of Dillis & Roy Civil Engineering presented on behalf of Mr. and Mrs. Tello and requested the following variances:

**Local Variances:**

1. 315-1.E: A minimum of 5-feet of pervious material between the bottom of the leaching facility and the E.S.H.W.T. and/or impervious layer. *Proposed: 4 feet of material*

2. 315-3H: 5-feet of naturally occurring material must be in place over ledge. *Proposed < 5-feet (3.4’)*

3. 315-5: Distance Requirements... I-A Minimum of 15' must be available between the edge of an S.A.S. and the adjacent side-slope. *Proposed: 5'*

**Title V Variances:**

1. 15.240(1): on-site sewage disposal system shall be located in an area where there is at least 4-feet of naturally occurring material below the entire area of the proposed sewage disposal system unless a variance is issued in accordance with 15.415(2)

**Title V Local Upgrade Approvals:**

1. 15.404(3) (C): A minimum of 4' of naturally occurring pervious soil below the entire area of the S.A.S. shall be provided. *Proposed: 41 & 40"*

2. 15.405(1)(a) Reduction of system setbacks from a property line. (9.2'-S.A.S., 9.0' pump chamber)

The dwelling is a three-bedroom home.

A Geomat System is proposed over a Presby System due to the narrow width of the lot.

Mr. Grossman had no objections with the proposed plan and agreed that the Geomat System is preferable.

**Michelle Collette moved to accept the variances as presented for 342 Townsend Road in the letter dated July 1, 2021 subject to the BOH Standard Conditions below.**

1. The applicant must submit any proposed change in the above referenced plans to the Board of Health for its review and approval before the change is implemented.
2. The applicant is responsible for obtaining any other permits (including but not limited to) those required by the Select Board, Conservation Commission, Building Inspector, DPW Director, Planning Board, Stormwater Advisory Committee, and Zoning Board of Appeals.
3. Any construction (or related activity) within 100 ft of a wetland or resource protection area requires approval of the Groton Conservation Commission.
4. It is the applicant’s responsibility to ensure that the contents of this approval are made known to all contractors who perform work at this site.
5. It is the applicant’s responsibility to contact Dig Safe prior to the commencement of any work at the site.
6. For Failed Systems:

Compliance with Title 5 shall be within 2 years from the date of the sewage disposal system failure unless otherwise ordered to “upgrade” at a sooner date. The applicant must comply with the requirements of Title 5 for a “failed” system pursuant to section 15.305.

1. Any change in use or increased sewage flow is not to be made without prior approval of the Board of Health and any other applicable Board or Commission.
2. The existing 3-bedroom house is to remain a 3-bedroom house with no increase in the number of bedrooms, unless expansion plans are reviewed and approved by the Groton Board of Health.
3. This variance shall not be in effect until the Notice of Board of Health Decision is recorded at the Middlesex South Registry of Deeds. Evidence of such recording shall be submitted to the Board of Health by the applicant.

**Jason Weber seconded and the motion carried.**

**37 LONGLEY ROAD – Septic Design System Variance Request**

Jack Mahoney of Dillis & Roy Civil Engineering presented on behalf of Mr. and Mrs. David MacInnis and requested the following variances:

**Local Variances:**

1. 315-1.E: A minimum of 5-feet of pervious material between the bottom of the leaching facility and the E.S.H.W.T. and/or impervious layer. *Proposed: 4-feet of material*

2. 315-3H: 5-feet of naturally occurring material must be in place over the ledge. *Proposed: < 5-feet (3.4’)*

3. 315-3.K: When a system must be pumped, a pressure dosed system shall be utilized. (Presby type system designed and no pressure distribution recommended)

**Title V Variances:**

1. 15.240(1): on-site sewage disposal system shall be located in an area where there is at least 4-feet of naturally occurring material below the entire area of the proposed sewage disposal system unless a variance is issued in accordance with 15.415(2) Title V

**Local Upgrade Approvals:**

1. 15.405(1) (j): Reduction of the 12" separation between E.S.H.W.T. and the inlet/outlet tees. Provided : tank inlet/outlet tees below E.S.H.W.T. elev

The addition provided an expansion to both the upstairs and downstairs.

A Presby System is being proposed.

Mr. Grossman did not recommend that the BOH approve the inlets below the water table and suggested moving the septic tanks.

Mr. Mahoney explained that they are trying to remain in the general area of the existing system for the ease of plumbing, less cuts in the driveway, and to remain outside of the 100-foot buffer zone. The addition would provide an efficient swale based on the test holes. If the tanks were required to be moved the use of hydraulic cement would be necessary and there would be a concern for future leaks in the monolithic tank that contains no middle seam.

Mr. Grossman disagreed and said that the code requests inverts to be 1 inch above the high-water table and a title 5 variance would be required. The tanks would have to be changed in the landscape to receive the proper elevation and gravity level.

Mr. Mahoney explained that two cuts would be required to cross the driveway and the tank would be within the 100-foot buffer zone.

**Michelle Collette moved to continue the hearing to August 16, 2021 to allow for Dillis & Roy Engineering to consult with their client and submit a new plan that contains no variances or very minimal.**

**Jason Weber seconded and the motion carried.**

Jason Weber questioned why a Geomat System was not preferable and requested to hear from the client. Mr. Mahoney replied height is not a factor. Mr. MacInnis explained that changing the location would require cutting the driveway, removing trees, landscaping, and entering the wetlands. The project is urgent with the septic not being fully tested in over 100 years and the additional usage with four residents.

**15 OLD BOSTON ROAD – Discussion of Total Room Count**

Mr. & Mrs. Justin Querze were both present for the discussion. Mrs. Querze proposed 6 additional rooms to their one-story home which would include a 2-car garage, 3 bedrooms, an office, and an indoor swimming pool.

Mr. Grossman had no objections to the newly submitted plan that allowed for 5 bedrooms, and 3 additional rooms. The applicants are not exceeding the maximum room count of 9. Mr. Grossman questioned where the indoor pool water would be discharged when the filter is changed. Mr. Querze replied in the back left corner of the house, away from the septic system.

Mr. Weber questioned why the septic system was not extended to allow for the applicants to build the house that they desire. Mrs. Querze stated it is not financially feasible.

Ms. Collette received a statement from RJ Lacombe Septic Services informing them that the old septic system would be emptied prior to removal. Mr. Grossman explained that the original property contained both a house and an abandoned trailer with a separate septic system. The trailer septic system needs to be pumped out and removed.

**Michelle Collette moved that the Board of Health concurred that the total room count at 15 Old Boston Road does not exceed 9 rooms as proposed on the site plan submitted.**

**Jason Weber seconded and the motion carried.**

**OLD / NEW BUSINESS**

**DISCUSSION OF FACE MASKS IN SCHOOL**

Judy Anderson, of Groton, commented that face masks should be worn in public buildings as well as schools.

Ms. Collette requested the mask discussion after the Groton Dunstable School District's public hearing. There were strong opinions on all sides. The discussion was added last minute and Ms. Collette believes that there has not been adequate time for a public notice or to receive public comments. It was recommended that any comments regarding wearing face masks in school be directed to health@grotonma.gov. Ms. Collette stated that the School District is meeting on August 11, 2021 and the BOH should make a decision prior to their next meeting. They are in the process of getting the children prepared to return to school whereas the town buildings are more flexible. Ms. Collette was concerned about being fair to all parties and allowing the opportunity to participate in the discussion. The BOH requested the public's thoughts on speaking on the topic tonight.

Mark Presti, of 230 Stonefield, Groton, suggested that the BOH start early and commence the discussion.

Niki Rockwell, of 52 Massapoag Way, Dunstable, expressed concern for the children who have not been given the opportunity to be vaccinated. The Prescott School Committee Center is going to be publishing their catalog and it would be helpful to have a decision made before the advertising is released. Ms. Rockwell was okay with the BOH meeting in a few days to allow others with scientific evidence to provide their comments.

Mr. Grossman recommended that the agenda run on schedule.

Mr. Fleischer questioned what the Board should discuss tonight, public buildings or the schools. Ms. Collette reiterated that they need to allow more opportunities for anyone that did not receive notification regarding tonight's meeting. After a brief discussion Mr. Weber stated that the Board should discuss wearing masks in school tonight.

Dr. Brian DiGiovanni, of 144 Robin Hill, Groton, a Pediatrician in Sudbury, discussed that the science of masks has been under emphasized. People who are experts in children's health have recommended scientific information and it should be listened to. The American Academy of Pediatrics recommended that schools should mandate masks due to younger children not having the chance to be vaccinated. There have been some proposals to have selective mask programs however, trying to oversee who wears a mask is not feasible. There is good science that masks prevent disease and do not lack oxygen as suggested at the School District meeting. Dr. DiGiovanni believed that people should be heard and their opinion should not exceed science.

Evan Thackaberry, of 79 Skyfield Drive, Groton, PhD in Toxicology had listened to the recording of the School District meeting and was disappointed in the comments made on carbon monoxide poisoning. The use of masks and vaccines are a disease control measure and limits the spread which cannot be accomplished if people do not work together. There is a large population in school that is unvaccinated and therefore, masks should be mandated. Masks are not encroaching on our freedom and not causing harm on anyone. Dr. Thackaberry encouraged the BOH to do what is right for the population.

Josh Degen, of 409 Martins Ponds Road, stated he has a meeting scheduled with Mr. Haddad regarding mandating masks in public buildings. The Select Board has control over the Town however, not over the School District. Mr. Degen stated that the BOH is an elected board and are in charge of protecting the public's health and have the authority to enforce masks being worn in school.

Ms. Collette stated that an emergency meeting occurred in April where a popular restaurant was not wearing masks and the BOH closed the restaurant down for two days for being noncompliant. Mr. Grossman stated that the Board of Health’s powers are limited and may not exist on certain entities after lifting the State of Emergency. He suggested that they research their authority.

Ms. Collette asked Mr. Degen if the opinion was received from the Town Council regarding the Board of Health’s legal authority. Mr. Degen replied that the Council is on vacation, and Mr. Haddad has reached out to the attorneys and is waiting for a response.

Niki Rockwell, of Dunstable, disclaimed that her son is on the School Committee. The Superintendent sent out a survey to the parents and they were uncertain on how to respond and she felt that the survey will be corrupted and not provide any scientific knowledge. She was very concerned about the unvaccinated children and not being old enough to make their own decisions.

Meghan Cotter, of 6 Island Road, Groton, expressed that she is very nervous that her children are too young to be vaccinated and would be attending school.

Mr. Presti explained that he has two young boys who always wear their masks when required and will be the first to take them off when they have the opportunity. Masks are uncomfortable, however wearing them protects others. Mr. Presti is concerned with the new rising variant and having the population of unvaccinated youth together at school. The scientific reasons need to be considered.

Dr. DiGiovanni commented since the beginning of the pandemic there has been zero psychological issues from wearing a mask. He is around two-year-old’s and they have no trouble wearing masks. The problem stems from the parents.

Rebecca Thackaberry, of 79 Skyfield Drive, Groton, stated that Middlesex County has a substantial transmission rate currently; the CDC has recommended that everyone wears masks indoors. The school district is allowing parents to choose if their child wears a mask; the state has mandated that children wear a mask on the bus. To have children wear them to school and then take them off once they arrive is not sensible.

Rebecca Tabasky, of 171 Lowell Road, Groton, stated that she does not have any children and recommends that the BOH take science and the recommendations that studies have provided and use that data to make a proper decision over any opinions. The students that cannot receive the vaccination will be greatly impacted.

Amy Degen, of 409 Martins Pond Road, Groton, expressed that she is looking for the BOH to do the right thing and is very disappointed in the School Committee.

Mr. Presti commented that the BOH is obligated to make a decision about the people's health. When it comes to the School Committee it is odd that they are not asking for experienced recommendations and actual detailed information from subject experts.

Ms. Rockwell commented that Dr. Coleman from Pediatric West, also the school's doctor, recommended that students wear masks. The lawyer however, was concerned that a lawsuit would be pursued.

Ms. Collette stated that the Planning Board has been suited numerous times. The Commissioner of the Department of Public Health recommended that this fall grades K-6 should wear masks indoors. It is not necessary outdoors or while eating. The American Academy of Pediatrics cites that all students older than 2 years old and all school staff members shall wear a face mask at school unless medical or developmental conditions prohibit use, dated 7/18/21.

Ms. Rockwell stated that Dunstable is mandating mask use in all public buildings and is waiting for the school districts final decision.

Mr. Degen read an email from Mr. Haddad who had received a response from the Town Counsel stating that the BOH has broad authority to issue orders and regulations to protect the public's health and prevent the spread of disease. Any local mask rule would need to come from BOH regulation based on local health issues. The state had raised conflicting issues as seen in Providence Town and that should be prevented.

Mr. Grossman provided specific data for the Town of Groton. Out of 689 12–15 year old’s, with 444 of them have been fully vaccinated at 64%. Out of 656 16-19 year old’s, with 622 of them have been fully vaccinated at 95%. There is a total of 5 Covid cases currently out of a population of 11,690.

Ms. Rockwell informed the Board that Dunstable's percentages are lower than Groton's, 12-15 year old’s who have been fully vaccinated are at 37% and 16-19 year old’s who have been fully vaccinated are at 59%.

Mr. Weber questioned why the Board should not follow the CDC recommendation.

Mr. Grossman suggested releasing the recommendation and an order can be addressed at a later date.

Mr. Presti questioned why an order would be issued after the fact. The guidance of the CDC needs to be followed. Younger children will have a longer time being unvaccinated and masks are the only thing to prevent the virus from spreading.

Dr. Thackaberry commented that the herd immunity level is going to be higher and it is beneficial to mandate masks now, there is no downfall. The Board needs to be assertive, there are too many people that will not be wearing a mask.

Mr. Fleischer reiterated that there is a question on the Board of Health's authority and agreed that masks should be worn.

Jason Weber made a full disclosure on his status of resigning from Board; he will remain a resident and homeowner. When he was elected 15 years ago, he promised to do his best to make decisions based on facts and science.

**Jason Weber made a motion for the Groton Dunstable Regional School system to follow the CDC guidance. Because of the consideration of the logistics as the guidance changes the school changes with it.**

**Michelle Collette seconded the motion and made an amendment to cite the report from the Massachusetts Department of Elementary and Secondary Education and the Massachusetts Department of Public Health recommending grades K-6 to wear masks while indoors, dated 7/30/2021. Also citing a report from The American Academy of Pediatrics stating that “all students older than 2 years old and all school staff members shall wear a face mask at school unless medical or developmental conditions prohibit use, dated 7/18/21.**

**The original motion was withdrawn along with the second and the amendment.**

**Jason Weber moved that this Board based on the current situation with the Covid Pandemic and the facts that we understood today and the reasonable expectations for the future moved that the BOH order the Groton Dunstable Regional School District System to adopt the most stringent set of guidelines propagated by the following set of three organizations 1. CDC. 2. Massachusetts Department of Elementary and Secondary Education and The Massachusetts Department of Public Health. 3. The American Academy Pediatrics.**

**Michelle Collette seconded and made an amendment to include a citing from the American Academy of Pediatrics, “all students older than 2 years old and all school staff members shall wear a face mask at school unless medical or developmental conditions prohibit use”, dated 7/18/21.**

Ms. Rockwell suggested including the term Delta Variant to the motion. The Board agreed that Covid covers all sets of variances.

**Jason Weber seconded the amendment.**

Mr. Grossman commented that an order declares the motion as emergent and all factors had been discussed.

**The amendment was carried.**

M. Collette commented that the reference to the CDC and the fact that Middlesex County is in the highest Covid category establishes an emergency.

**Jason Weber moved to amend the motion.**

The administrator was requested to read the amended motion:

**Jason Weber moved that this Board based on the current situation with the Covid Pandemic and the facts that we understood today and the reasonable expectations for the future moved that the BOH order the Groton Dunstable Regional School District System to adopt the most stringent set of guidelines propagated by the following set of three organizations 1. CDC. 2. Massachusetts Department of Elementary and Secondary Education and The Massachusetts Department of Public Health. 3. The American Academy Pediatrics, “all students older than 2 years old and all school staff members shall wear a face mask at school unless medical or developmental conditions prohibit use", dated 7/18/21.**

**Michelle Collette had seconded the motion.**

Mr. Degen recommended that the BOH should be clear that the Delta Covid is a public health emergency.

Mr. Grossman suggested that the BOH issue a second motion.

**Michelle Collette moved to declare that Groton is part of Middlesex County which has been deemed as a high risk which constitutes an emergency for the covid pandemic.**

**Jason Weber seconded and the motion carried.**

**The motion as amended was carried.**

Michelle Collette volunteered to communicate the proper information to the Superintendent once the letter is prepared and signed by the Board members.

**MEETING MINUTES**

The Board reviewed the meeting minutes dated July 19th, 2021.

**Michelle Collette moved to approve the meeting minutes dated July 19th, 2021. Robert Fleischer seconded and the motion carried with Jason Weber abstaining.**

**INVOICES**

Board members reviewed and signed invoices.

Ms. Collette stated that the letter from Jason Weber regarding his resignation needs to be submitted to the Town Clerk. The BOH will then formally notify the Select Board and advertise to fill the vacancy. Jason Weber stated that the letter would be submitted on Wednesday.

**The Chair Robert Fleischer called the Board of Health meeting to adjourn 9:14 P.M.**

Minutes by Kristine Fox.

**APPROVED: December 20, 2021**