

**TOWN OF GROTON**

Board of Health

173 Main Street

Groton, MA 01450

**BOARD OF HEALTH**

Robert J. Fleischer, Chairman

Michelle Collette, Member

Date: Monday, August 16, 2021

Time: 7:00 PM

Location: 2nd Floor Meeting Room, Groton Town Hall

Members Present: Robert J. Fleischer, Chairman; Michelle Collette, Member

Others Present: Please see Sign-In Sheet

Robert Fleischer called the meeting to order at 7:00 P.M.

**60 ORCHARD LANE – Pool Cover Variance Request**

John Guinee was present and requested the variance for 60 Orchard Lane, Groton, MA.

1. Chapter 319 – Swimming Pools, Section 319-1 Enclosure Required. The applicant is requesting that a variance be granted to allow for the use of an automatic pool cover rather than the required fence per Chapter 319-1.

Mr. Guinee proposed utilizing a Coverstar Automatic Cover and provided an overview of the safety specifications.

Ms. Collette commented that she had several conversations with the Building Commissioner and Mr. Garside had explained that the pool covers performance and specifications are safer than a fence that can be breached. The pool cover is permitted under the building codes and is frequently updated.

Mr. Fleischer was concerned that the pool cover needs someone to manually operate it to ensure that it is closed, whereas a fence is stationary and a spring-loaded gate would guarantee closure. Mr. Guinee explained to gain access to the box that contains the button to open the pool cover a key is required.

**Michelle Colette moved to grant the variance from the Board of Health Code 319.1 Enclosure Required to a swimming pool submitted by John Guinee of Chestnut Hill Farms, LLC for the properties located at 60 Orchard Lane Groton, MA in his letter dated August 10, 2021. Based upon the recommendation of the Building Commissioner and the fact that the pool cover complies with the building code and the applicant has submitted the standard performance specification for the safety cover and labeling requirements for all covers for swimming pools, spas, and hot tubs.**

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

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

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

1. 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.

*Requested: Allow less than 35 feet offset between road lines and proposed leaching areas.*

Mr. Tiv stated that Goldsmith, Prest & Ringwall had reached out to Ira Grossman and provided two options for the septic system. 1. The leaching field would be moved out of the 100-foot buffer zone. 2. A new layout is provided for the proposed leaching field using the existing stone and ripping out the piping. Mr. Grossman did not have an issue with the encroachment to the street offset. GPR assured that option one would be the best solution.

The septic system has been inspected since the last meeting and the existing septic tank is failing and dumping water into the ground. GPR is requesting to move forward with option one which only requires one variance, the front half of the existing leaching field would be expanded towards the street.

Ms. Collette commented that if this project can be completed with no variances it cannot qualify for a variance. There are usually restrictions of hardship on the land.

Ms. Collette read an email received by Mr. Grossman, "The attached is the revision to 16 Maple Avenue. The request now includes only the reduction of the street line offset. Goldsmith, Prest & Ringwall proposed modifying the existing system rather than removing it completely for monetary reasons. The plan is designed for a two-family dwelling and I have not seen the title 5 inspection for the existing system as required and requested. I suggest that the unknown status of the leaching field be resolved and should it be a failure by definition I recommended that the Board require full compliance therefore, a redesign. Dated 8/10."

Mr. Bruce Goldsmith stated that Mr. Grossman had reviewed both plans that were submitted. He ensured that the system is in compliance and passed the title 5 inspection. A letter is being composed from the inspector to verify the process of the new distribution box. The system needs to be slightly larger to update it from a one family dwelling to a two family.

Ms. Collette was reluctant to continue without Mr. Grossman's approval.

Mr. Margolius commented when the dwelling was built the septic system was designed for 6 bedrooms, however over time the regulations and the initial number of people that reside in the home have changed. A portion of the parcel has become identified as a wetland even though the Conservation Commission was split on the decision. The septic system is failing and with all the permitting required it may not be completed for months.

Mr. Fleischer reiterated that the Board is concerned with the email provided by Mr. Grossman and without consulting him they did not want to approve the requested variance. Both Mr. Margolius and Mr. Goldsmith disagreed with continuing to the next hearing.

**Michelle Collette moved to continue the hearing to Monday, August 31, 2021 at 7:00 PM. until Ira Grossman returns to confirm that he has reviewed the updated plans.**

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

**RECONSIDER VOTE TAKEN AT AUGUST 2ND, 2021 BOARD OF HEALTH MEETING WITH REGARD TO ORDER FOR FACE MASKS IN SCHOOLS AND CONSIDER ADOPTING PROPOSED REGULATION FOR FACE MASKS IN GRADES K – 12**

Mr. Fleischer stated that his previous vote was based exclusively on his understanding of the Department of Public Health and CDC Guidelines; masks were strongly recommended in combination with the facts and knowing that the school district was heading in the opposite direction.

Ms. Collette presented a factual slideshow regarding the Corona Virus composed by herself and the Board of Health Administrator. An article from the Boston Globe dated August 9, 2021 cited the guidelines from The CDC and Prevention. The mask guidelines were updated in late July recommending vaccinated individuals to wear masks indoors in high transmission level areas. Middlesex county is at the substantial transmission level. The Weekly Covid 19 municipality vaccination report was reviewed for both Dunstable and Groton. The number of cases is always fluctuating week to week. Vaccination rates in Massachusetts as of August 13, 2021 were shown to be at 73.7% for the 1st vaccine, and 64.4% for the second vaccine. On August 10, 2021 the Groton Select Board voted to require masks for all Town employees and the public in all public buildings. Paid employees of the Town of Groton must be vaccinated by August 31, 2021. The American Academy of Pediatrics recommended that all students older than 2 years and all school staff should wear face masks at school unless medical developmental conditions prohibit use. Ms. Colette commented that the Proposed emergency regulation voted was an order based on the cases in the commonwealth in Massachusetts and was sent to the Town Council which they advised it to be a regulation rather than an order. Chapter M. G. L. 1.11 would apply to all schools in the Town of Groton including Groton School, Groton Community School and Lawrence Academy. Ms. Collette read the Proposed Emergency Regulation: Face Masks in k-12 Schools dated August 16, 2021.

***Notice is hereby given that on August 16, 2021, the Board of Health of the Town of Groton adopted the following emergency regulation.***

***Emergency Regulation:***

***Face Masks in K-12 Schools***

*WHEREAS, based upon published reports from the U.S. Centers for Disease Control and Prevention (“CDC”) and the Massachusetts Department of Public Health (“DPH”), COVID-19 cases and hospitalizations in Massachusetts and the Town of Groton have been increasing in recent weeks due primarily to the “Delta variant” of the virus that causes COVID-19;*

*WHEREAS, the CDC recently determined that the increase in transmission rates in Middlesex County is now “substantial”;*

*WHEREAS, despite vaccination rates, COVID-19 poses a significant threat to the health and safety of the residents and workforce of the Town of Groton;*

*WHEREAS, children under the age of 12 remain ineligible to receive a vaccine for COVID-19;*

*WHEREAS, the CDC’s “Guidance for COVID-19 Prevention in K-12 Schools” dated August 5, 2021 recommends the universal indoor face masking of all students (age 2 and older), staff, teachers, and visitors to K-12 schools, regardless of vaccination status;*

*WHEREAS, the American Academy of Pediatrics’ “COVID-19 Guidance for Safe Schools” dated July 18, 2021 recommends that all students older than 2 years and all school staff should wear face masks at school unless medical or developmental conditions prohibit such use;*

*WHEREAS, in a joint memorandum dated July 30, 2021, the Massachusetts Department of Elementary and Secondary Education and DPH recommend that all students in kindergarten through grade 6 wear masks when indoors, except students who cannot do so due to medical conditions or behavioral needs, and except when students are outdoors or eating indoors; and*

*WHEREAS, at public meetings on August 2, 2021 and August 16, 2021, the Board of Health received written communications and verbal testimony from residents and parents of school-age children regarding the need for face masks in K-12 schools.*

*NOW, THEREFORE, pursuant to M.G.L. c. 111, §§ 31, 104, and 122, and all other authorizing statutes and regulations, the Board of Health of the Town of Groton adopts the following emergency regulation:*

1. *Effective August [30] 2021, all students (age 2 and older), staff, teachers, and visitors to K-12 schools located in the Town of Groton, regardless of vaccination status, shall wear a cloth face covering that covers their nose and mouth, such as a fabric or surgical mask, at all times while indoors, except while eating. Individuals prevented from wearing such a face covering by a medical condition, disability, or behavioral need shall be exempt from this regulation.*
2. *All K-12 schools located in the Town of Groton shall adopt policies necessary to ensure compliance with this regulation.*
3. *To the extent necessary, any school that violates any provision of this regulation may be subject to enforcement orders by the Board of Health and its agents.*
4. *Any school that violates any provision of this regulation may be subject to a penalty in the amount of [$300] per offense, enforced through noncriminal disposition pursuant to M.G.L. c. 40, § 21D and § 1-4B of the Groton Code. Each day or portion thereof shall constitute a separate offense.*
5. *This regulation shall be in place until rescinded by the Board of Health.*

Ms. Collette stated that this afternoon the Board received an additional revision from the Town Counsel recommending adding mask restrictions on public transportation.

Dr. Laura Chesson represented the Groton Dunstable Regional School District and stated that all the information provided was notated and any documentation discussed would be available on the school districts website. 90% or higher of their staff have been fully vaccinated since the spring of 2021. Dr. Chesson wanted to make it aware that the Department of Public Health presents data per 100,000 people and not the actual population of Groton or Dunstable. The School Committee took into consideration every aspect including, the survey from the parents and staff members, emails, reviewed vaccination rates and of their staff in 2021, guidance of all credible sources (ex. CDC. John Hopkins, AAP), and received legal guidance. The School Committee adopted a policy on August 11, 2021 which covered the key elements of the policy; the School Committee nullified its vote from July 28th which allowed face masks to be optional and instilled a new policy requiring face masks required inside the school building by all grades K-12, with limited exemptions. All staff members no matter what their vaccination status in the presence of students are required to wear masks, subject to bargaining. Unvaccinated staff members are required to wear masks at all times and are subject to pooled testing, this is subject to bargaining. Once the 90% level of vaccinations are reached among an age group the school district would work with the school physician and consult the BOH of both Groton and Dunstable before any final decision is made. Monitoring of vaccination rates would be performed by an Independent Company. The administration impact bargaining will be commencing in the next two weeks and is subject to negotiation. Phase 1 is scheduled for August 30, 2021 and would ensure that proof of vaccination for all staff members were provided to Human Resources. At that time all staff is required to wear a mask. When the 90% vaccination rate is met those staff in the presence of students would have to wear a mask however, by themselves they would be able to take it off if fully vaccinated. At any time in Phase 2 during a meeting even if a vaccinated teacher feels it necessary, they may request the others to put a mask on. At all times visitors would be required to wear masks indoors. Dr. Chesson requested that the BOH allow the School Committee permission to move forward and give them the authority to make any decisions for the health of their students and staff members when needed. If any grade reaches the 90% vaccinated level Dr. Chesson assured that the BOH would be consulted before proposing any new mask restrictions.

Ms. Collette expressed that she believes that the BOH is on the same page as the School Committee and only disagrees when the mandate of masks should be lifted. Children under the age of 12 cannot be vaccinated.

Mr. Fleischer commented that two weeks ago the School Committee was not in compliance with the CDC.

Ms. Collette stated that she had conversed with Groton School and they had adopted a mask policy and would be revisiting it at the end of the fall semester. In June, the governor lifted the Covid mandates and it seemed as if things were improving; however, with the new Delta variant the surge incases has become a concern. Wearing a mask is a precaution and prevents the spread of disease.

Dr. Chesson reiterated that it is very important for the school district to have their own authority and the BOH should allow them to do their job and not send additional regulations.

Mark Presti, 230 Fieldstone Drive, Groton, stated that this is an incredibly challenging time and when there is professional staff available to reference that should be utilized, he urged that the School Committee not be allowed to make decisions without consulting the BOH.

Dr. Vikram Narayan, 27 Crystal Springs Lane, Groton, stated that there has been no medical evidence presented that states that masks prevent disease. He expressed that enforcing people to wear a mask is the greatest act against human rights.

Jeff Kubick, of the School Committee, responded to Mr. Presti and stated that the Superintendent would work collaboratively with the BOH both of Groton and Dunstable and the district physician. The School Committee is requesting authority to make decisions and being able to set those standards going forward.

Donnie Partridge, 30 Britt Lane, West Groton, cited quotes from Leonardo Da Vinci, “Nothing strengthens authority but silence, anyone that conducts an argument appealing to that authority is not using his intelligence is using his memory. If you find from your own experience that something is a fact and contradicts what some authority written down and you must abandon the authority and base it on the reasoning on your own finding." Mr. Partridge then commented on the less effective vaccine and respiratory viral syndromes normally do not appear in the summer months and that shows that the vaccine is not working properly. There have been studies performed on animals showing respiratory viruses causing the immune system to not cure and actually become worse. Mr. Partridge stated people with elevated levels of Vitamin D are less likely to obtain the virus. He also showed concern for C02 building up after wearing a mask for an extended amount of time and the teacher’s only being allowed one break throughout the school day.

Dr. Evan Thackaberry, 79 Skyfield Drive, Groton, responded to Mr. Partridge's comment regarding Vitamin D and in fact it does not hold immunity and masks are not toxic. Numerous professionals rely on wearing masks daily and have had no health issues. Masks are worn for public safety and to reduce the spread of diseases. Variants transmit from infected people. Dr. Thackaberry supported the two proposals however, recommended that the school district consult the BOH before any decisions are made regarding mask wearing.

Kate Marke, 7 Shepley Street, Groton, commented that the school has been working diligently and has been sorting through all sources available to them. She stated that there is no danger from wearing masks long term. She discussed the delta variant and the increased transmission rates.

A question was directed to the School Committee and what they were requesting. Dr. Chesson commented that the School Committee consults with the same people that the BOH does. The School Committee is asking that they have their own authority to be allowed to make decisions for the safety of their students.

Mr. Partridge questioned the statistics and where the numbers were provided from. Dr. Chesson said her numbers were based on the Mass Department of Public Health per town. Ms. Collette added that the BOH included all of Middlesex County from the CDC to enforce that the virus does not respect town lines. The county information is relevant for comparison.

Fran Stanley, 19 Court St, Groton, commented that there is a value in uniformity across all public and private schools. She was concerned for the young children that do not have the opportunity to be vaccinated and will be indoors. She stated that it is known that masks slow down the spread of disease. She questioned if masks would be applied to children of the ages 3-5. Dr. Chesson replied yes.

Chris Shea, of Dunstable, stated that his child is within the 4–6 year old range and questioned if the 90% vaccination rate would be applied to all students and if the vaccination was required by the school. Dr. Chesson commented that the availability for the vaccination for younger children would not be available until Christmas time and it is the parents' choice to have their child vaccinated or not.

Jen West, 53 Oak Street, Dunstable, referenced the slide that referred to a $300 fine and questioned where that amount came from and who would enforce it. Ms. Colette explained that the draft of the findings and conditions was prepared by the Town Counsel. The provision for the enforcement would be for the entire school and not fined as an individual. A standard enforcement rule generally does not proceed to that level and would only need action if the entity ignored the regulations completely. This is a noncriminal way to ensure that the regulations are being followed and is a standard provision in the municipal bylaws. The schools will ensure masking is complied with and each school would adopt a policy to be compliant. Ms. Collette suggested that #5 be amended on the Proposed Emergency Regulations to add that the BOH will revisit the regulation after the fall semester. The school district is sponsoring a vaccination clinic at the main campus located at 344 Main Street, Groton on August 30, 2021, 12pm-8pm. It is open to anyone interested in being vaccinated.

**Michelle Collette moved to reconsider the motions made at the August 2, 2021 meeting to declare the emergency and to issue the order to the Groton Dunstable Regional School District that masks be required K-12.**

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

**Michelle Collette moved to rescind the order voted on August 2, 2021 at the Board of Health Meeting that was never issued as recommended by Town Counsel. Instead, Town Counsel drafted the proposed “Emergency Regulation: Face Masks in K-12 Schools” for the Board’s consideration.**

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

**Michelle Collette moved to notify hereby given on August 16, 2021 that the Town of Groton Board of Health adopted the following emergency regulations:**

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Ms. Collette requested to add that this regulation would be revisited by Board of Health in December 2021 and, as recommended by the Town Counsel, masksare still mandatory for all individuals on private and public transportation systems including riding shares, delivery taxis, ferries, MBTA, commuter rail, transportation stations, and healthcare facilities and other vulnerable congregate care centers.

**Mr. Fleischer seconded.**

A member of the public stated that his daughter had been diagnosed with asthma and questioned if she would be required to wear a mask; he believed that the School Committee is not in the position to enforce mask wearing. Ms. Collette stated that the standard procedure to become exempt in wearing a mask would require a physician's note. Dr. Chesson explained that there were less than 7 students last year that were exempt from wearing a mask. Dr. Chesson stated that if a child needs frequent mask breaks a 504 meeting would be implemented allowing mask breaks as necessary. A question of how many children were affected out of the 50 covid cases mentioned. Dr. Chesson stated that all of those cases were children.

Mike Calautti, 71 Chapman Street, Dunstable, cited a few articles stating that people should not be wearing surgical masks or cloth masks and that there is no supportive evidence provided. He expressed that people should not be forced to wear a mask and his child would not be wearing one at school.

Brendan Mahoney, 47 Hoyts Wharf Road, Groton questioned if there is a standardized mask that his children should be wearing while attending school. Mr. Fleischer commented to reference the CDC. Dr. Chesson replied they should follow the same guidance as last year and to ensure that the mask is properly fitted according to CDC guidelines.

Mr. Kubick stated that the School Committee is encouraging vaccinations for all staff members and eligible students to meet the 90% threshold. With the BOH motion that would nullify the School Committee from being able to work towards removing masks. Ms. Collette commented that there are very minimal requirements and would like to work together. People get vaccinated to prevent serious illness or hospitalization. Mr. Kubick noted that in the interviews of the surveys taken by the students they stated that they would not get vaccinated if they are forced to wear masks. The regulation states that all students and staff members regardless of their vaccination status must wear a mask at all times except for eating. This does not include mask breaks. Dr. Chesson commented when we were going to have prom we told children if they did not want to wear a mask at prom they would have to be vaccinated and most of them went out and received the vaccination. Dr. Chesson explained that she cannot fire people if they do not want to get vaccinated, by the BOH making the regulation they are taking away the incentive for any negotiation. The School Committee needs to possess their own authority and not be overridden by anyone else.

Mr. Fleischer was not in favor of passing the regulation at this time. Ms. Collette informed that the BOH received 42 emails from concerned parents and the count was 21 in favor of mandating the mask and 21 were opposed.

Ms. West was concerned about what occurs to the students when they do not have the opportunity to go outside and have a mask break due to weather conditions.

Mr. Presti informed the BOH that he forwarded an email regarding information on EPA research in Massachusetts. He commented that all students wore masks last year to school and it was very successful. The only time Covid was transmitted within a large group of individuals that attend GDRSD was when someone held a house party last year. The fact is no mask equals the spread of disease.

Ms. Stanley commented if the BOH is setting the floor minimally then the public health needs to be considered.

Ms. West commented that there are a total of six staff members in Swallow Union who are fully vaccinated right now and questioned if they would be in violation of the regulation if they were not wearing a mask in their classroom by themselves. The BOH reiterated that Dunstable would be out of their jurisdiction.

Mr. Kubick stated that the School Committee made a vote making mask wearing optional while waiting for guidance and the BOH felt that it was not the right course of action and proceeded to single out the GDRSD and all the schools in the Town of Groton. The School Committee has currently set a mask requirement after researching all available resources.

Ms. Collette requested to take a vote on the regulation tonight due to the school year commencing soon and there being adequate health policies in effect. The Select Board was proactive and followed up with the public buildings.

**The motion failed. Michelle Collette – Yea, Robert Fleischer – Nay**

**OLD / NEW BUSINESS**

**MEETING MINUTES**

The Board reviewed the meeting minutes dated May 3rd, 2021.

**Michelle Collette moved to approve the meeting minutes dated May 3rd, 2021. Robert Fleischer seconded and the motion carried.**

**INVOICES**

Board members reviewed and signed invoices.

**BOARD OF HEALTH MEMBER VACANCY**

The Board of Health Administrator has distributed the information and the advertisement will be published in the Groton Herald this Friday and next Friday. A deadline is set for 4:00 PM on Wednesday, September 15, 2021.

**Michelle Collette moved to adjourn the meeting at 9:28 P.M. Robert Fleischer seconded and the motion carried.**

Minutes by Kristine Fox.

**APPROVED: February 7, 2022**