

Sunday, February 21, 2021

To all City Councilors:

My name is Kincade Webb and I live at 15 Basin Street on Plum Island. I want to tell you I am completely opposed to the two new zoning amendments, ordinances 69 and 71. These would both place a huge burden on homeowners for making the kinds of changes we might need. We already have a high bar for any changes due to the original PIOD – which I support – and which has served the city well.

For example, my next-door neighbor needed to build a small protected entry room with wide doors so she can bring her husband home after COVID. He is almost completely confined to a wheelchair, and the house had no outside door that was wide enough. I supported her effort completely, and now the street view of the house is improved as well!

Finally, I doubt that either of these will prevent more damage to homes on Plum Island due to storms and climate change. The city needs to focus at what it can do to ease the burdens of people on Reservation Terrace and any other place that get specifically damaged or undermined. These ordinances will do nothing to improve the situation here on Plum Island. In fact, they will undermine anyone’s efforts to make their homes more resilient.

Thank you
Kincade Webb

Dear members of the council,

I was notified this past Saturday by a neighbor that members of the council are prepared to present articles to revise building requirements for the Newburyport section of Plum Island. I presume the Newbury section is not included but I am not sure. It is unfortunate that I had to learn of these proposed changes through rumor rather than some sort of official notification. Major revisions to building regulations should be discussed when public meetings can be attended in person not in a zoom session. My family has owned this property for over three quarters of a century and I feel we should have the courtesy to express our opinion in public once this shutdown of public gatherings is suspended. I am sure that seasonal residents would also welcome the ability to comment on the proposals.

Ralph Esposito

I am:
Carol Meinhart, 27 1/2 Jefferson St, Newburyport
I am against proposed ordinances 69 and 71.
Thank you.

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Please direct to all Newburyport city counselors.

I am a resident of Newburyport residing at 27 1/2 Jefferson St. and I am strongly opposed to the proposed zoning ordinance changes 69 and 71 for Plum Island.

Respectfully,

James Meinhart
27 1/2 Jefferson St.
Newburyport, MA 01950
978-465-6398
jdmeinhart@yahoo.com

To Newburyport City Council - February 22, 2021 Council Meeting,

As residents and property owners at 4 Basin Street, Newburyport, Plum Island, we are in opposition to both Ordinance 69 and Ordinance 71.

Charlotte Vincent and Alex Hasapis
4 Bain Street
Newburyport, Plum Island, MA
01950

City Council,

Please reconsider and reject the two new building ordinances proposed by Councilor Shand and Khan which severely restrict property rights on Plum Island. These proposals are unfair, punitive and will result in financial loss to residents. Island residents, particularly in Newburyport, are already faced with severe restrictions which detract from ability to fully exercise rights normally associated with home ownership. These additional restrictions are without merit, arbitrary and capricious.

Thank you for your consideration.

Theresa Bresten
21 Basin St.
Newburyport, MA 01950

theresa.bresten@outlook.com
617-571-7515

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Dear City Council (February 22, 2021 before noon):

My wife and I adamantly **OPPOSE** the following ordinances being proposed.

- Ordinance 69 (general and 2nd proposal)
- Ordinance 71

John Adams said "Property must be secured or liberty cannot exist"

What is being proposed is effectively "taking". The Supreme Court has held that, in certain circumstances, government regulation that deprives a property owner of all economic benefit of his or her property can count as "taking". There is precedent that by prohibiting development on privately owned property that it is "taking".

In the U.S. Supreme Court decision, it is clear that a regulatory taking may have occurred when the government regulates the private property owner's decisions for their property therefore leaving the owner's use of the property diminished.

The additional issues here are also about governmental abuse. There are three issues:

1. There must be due process and it must be fair. A virtual meeting where citizens cannot show up in person is in stark contrast with being fair. Leadership should be held accountable to their residents in person with a face-to-face opportunity. Anything other than moving this to a time period where all residents can safely assemble in person for discussion is effectively unfair.
2. "Taking" property, which by argument this is doing, can only be done for a "public use". What public use is there for my family being prohibited to add on to my home or make small changes to our property? Where is the liberty if my property is not secure from government abuse or overreach?
3. If this is jammed through without regard for the residents of Plum Island, then there needs to be immediate and fair compensation for the loss of future growth, use, expansion and happiness. There needs to be compensation for the "taking" of our unalienable rights if this is going to be forced upon us.

Again, my wife and I **adamantly OPPOSE** the following ordinances being proposed.

- Ordinance 69 (general and 2nd proposal)
- Ordinance 71

Warm regards,
Alex and Kristin Moody - taxpayers
24 Harbor Street
Newburyport, MA 01950
Plum Island

Attention City Council,

As a resident of the Newburyport side of Plum Island, I am emailing in opposition of ordinance 69 which aims to prohibit any building (new or redevelopment) from exceeding the existing footprint of the building.

I am also opposed to Ordinance 71 which would eliminate the option to elevate a home which has been in well established use to help structures in flood prone area. Either one of these proposals would either hinder or possibly prevent (69) or completely prevent this from being an option (71). Another example would be the complete prohibition of building on existing lots, in both cases effectively an eminent domain "taking" without any compensation. Additionally any proposals would prohibit even something as modest as adding a small vestibule or mudroom.

Sincerely,

Jennifer P. Glendon

1 Basin ST
Newburyport, MA 01950

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As a Plum Island (PI) property owner and Newburyport resident, I was astonished and shocked when informed by several of my concerned neighbors of the city council's attempt to hastily put forth several building ordinance amendments, that if approved would egregiously infringe on the property rights of PI residents and negatively affect their property values. I'm dumbfounded by the council's haste in clandestinely moving forward with such a low priority item when all Newburyport residents are struggling with the daily health and economic challenges the current pandemic has placed upon all of us. I'm also puzzled by the fact these ordinance changes are sponsored by the ward 3 councilman and that the PI representative on the council was reportedly not involved in either the drafting or negotiation of these changes. These proposed changes appear tantamount to illegal land seizures with no equitable consideration for the property owner and if passed will only trigger a myriad of lawsuits from PI residents.

I ask that the council take pause on these proposed changes and alternatively provide a forum for PI residents to voice their concerns and provide input to help draft sound and equitable changes to these ordinances. As a resident of PI I'm in favor of smart and environmentally sensible development that will preserve the integrity and aesthetic beauty of the Island, however these changes appear to be a severe overreach that will benefit no one and only cause significant economic harm to thousands of Newburyport residents.

Your anticipated attention to this matter is greatly appreciated.

Christopher P. Hickey
10 55th Street
Newburyport, MA 01950

City Council members,

I wish to respectfully convey my distress at the callous and discriminatory nature of Ordinance 69 and 71 to the beleaguered residents of Plum Island. These ordinances only target the residents of Plum Island and not the entirety of Newburyport. Those of us who reside in the reservation terrace area are facing unimaginable stress trying to save/repair our homes from damage and destruction we've endured. Both these proposals will restrict us with these efforts even more than the already restrictive existing PIOD. These proposals would either impede or completely prevent the option to elevate our homes which is a proven viable means to protect structures in flood prone areas. Both of these ordinances will decrease our property and resale values.

Silencing our voices (during a pandemic) and obstructing our prospects for safely securing our homes which often represent our most valued asset is unconscionable.

It's obvious the councilors who authored these proposals are not Plum Island residents, How many of the other councilors if any reside on Plum Island? Plum Island residents deserve fair representation.

I strongly urge you to discard both proposals tonight.

Lee McLaughlin
9 75th St
Newburyport, MA

As a resident of Plum Island residing in a family cottage of one hundred years, I am fervently opposed to Ordinance 69 and 71. Both are extremely restrictive not allowing repairs, building on existing lots with a legal footprint, no elevation to help structures in flood prone areas and lastly will have a significant negative impact on value of property.

The private property rights of Plum Island residents is at risk and neither amendment should be enacted by the City Council.

Sincerely
Cheryl VanPatten
29 Basin Street
Newburyport

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I have very serious concerns about the proposed ordinances on Plum Island and PIOD. I have detailed my concerns below.

1. There are already substantial property restrictions on Plum Island and additional restrictions are not necessary or warranted.
2. Ordinances 69 and 71, cause grievous economic harm to your constituents so I want to hear from the council how you are proposing to compensate us for that. If someone purchased a "buildable" lot and the city will no longer deem it buildable, then the city must compensate that individual for their purchase. Likewise, if someone has an existing home whose value reflects the potential for expansion or improvement and the city will no longer allow such improvements then the city must compensate the homeowner for the loss in market value of their existing home. Part of the value of my home today - and the value of my home when I paid for it - is based on my ability to add a bedroom or a bathroom. If the city takes away my right to do so, this will lower the value of my home and the city must offer me proper compensation.
3. Fundamentally, if people want to live on Plum Island and assume the risks to their home and property, then they have the right to do so and it's not the role of the government to impede on those rights.
4. The proposed ordinances are really about the city trying to abdicate its responsibility for providing water and sewer service to the island. That is already, however, a sunk cost. The city owns the responsibility to provide this service whether there are 1,000, 5,000 or 20,000 people living on the island. The city contracted with each property owner to provide water and sewer service by charging us \$20,000 in "betterment fees" to connect to the water and sewer lines. Worse than that, you crushed our septic tanks when you connected the sewer and you pulled out our pumps and wells when you connected the water. Now you are proposing to limit our rights and hurt us economically so you don't have to provide that service. Will you be returning the betterment fees that we all paid?

5. Given your concern over the water and sewer lines, what the city ought to be doing is encouraging and facilitating measures to protect homes from storm surges or rising seas levels. Specifically, the city ought to do everything it can to help people build sea walls to protect their homes. But instead, you're offering more restrictions and impediments to doing so, which makes no sense. By your own argument, if the city is worried about the cost of damage to the sewer lines, then the city should actually be willing to subsidize homeowner to help protect them. I want to hear why you are not helping homeowners to build retaining walls.

As a case in point, we all watched what transpired around Annapolis Way. When homes fell into the sea, the neighboring homeowners needed permission to build retaining walls to protect their homes and, by extension, protect the water and sewer lines. The government did more to prevent this than to help the homeowners. We also heard the repeated claims that building retaining walls to stop the destruction of the beach would somehow itself destroy the beach. This argument on its face doesn't make sense. Despite all of the hurdles and hardships presented to the homeowners, in the end they were able to take it upon themselves to build retaining walls. It has now been eight years and the homeowners have proven to be right. No additional homes were lost where the retaining walls were built and the homeowners' actions prevented further damage to the beach and to the water and sewer lines. In this case, the homeowners' actions clearly benefitted the cities of Newbury and Newburyport.

6. Finally – the language in ordinance 71 completely denies proper due process. You are stating that the zoning board must assume the expansion of an existing home will be “substantially more detrimental to a neighborhood” and homeowners must prove with “a preponderance of evidence” that this is not so – yet you offer no standard of proof for the homeowners to follow. You are asking homeowner to prove a negative which is completely impossible and you are effectively legislating that homeowners are guilty until proven innocent. In this instance, when your ordinance is restricting our personal rights and causing economic harm, the rightful burden of proof is on the city to prove that any home expansion is “substantially detrimental”. You have not defined what “substantially more detrimental” means and you have not provided a standard of proof. Therefore, you certainly have not proven that home expansion is “substantially detrimental” and you don't have the right to wave that burden of proof away. Given this, I believe the language of this proposed ordinance denies our basic constitutional rights to due process and I request that it be stricken.

As I noted above, the city already owns the responsibility for providing water and sewer service. Particularly in the case of existing homes, the number of people or the number of flushes does not change the city's responsibility to provide service to that dwelling. Will you next be legislating how many children can sleep in a bedroom or how large a family can be to move onto the island? I would certainly hope not and this should show you the folly of the proposed ordinance.

If the concern is about adding new dwellings to the system, then I go back to my first point that city must pay fair market value to any owner of a lot that is currently buildable but will no longer be so under these new ordinances.

Thank you for hearing my concerns.

Sincerely,

Avrum Heafitz