



**Murray City Hearing Officer Meeting
December 8, 2021, 12:30 p.m.**

The Murray City Hearing Officer will hold a public meeting in the Murray City Council Chambers, 5025 South State Street, on Wednesday, December 8, 2021 at 12:30 p.m.

You may attend the meeting or submit comments via email at planning@murray.utah.gov.
Comments are limited to 3 minutes or less, and written comments will be read into the meeting record. Please include your name and contact information.

BUSINESS ITEM:

1. Conflict of Interest

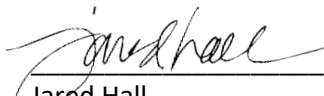
VARIANCE

2. Case #1580 – Kevin Carlston
5721 South Ridge Creek Road
Variance to Front Yard Setback Requirement
- Project #21-129

OTHER BUSINESS

Special accommodations for the hearing or visually impaired will be upon a request to the office of the Murray City Recorder (801-264-2660). We would appreciate notification two working days prior to the meeting. TTY is Relay Utah at #711.

On the 19th day of November 2021, before 5:00 p.m. a copy of the foregoing Notice of Meeting was posted in accordance with Section 10-9a-201 through 209, U.C.A. A copy of this notice was also posted on Murray City's internet website www.murray.utah.gov



Jared Hall
Manager



AGENDA ITEM #2

ITEM TYPE:	Variance Application		
ADDRESS:	5721 Ridge Creek Road	MEETING DATE:	December 8, 2021
APPLICANT:	Kevin Carlston	STAFF:	Jared Hall, Planning Manager
PARCEL ID:	22-18-278-032	CASE NUMBER:	#1580
ZONE:	R-1-8, Single-Family Residential	PROJECT NUMBER:	21-129
SIZE:	.24 acres		
REQUEST:	The applicant is requesting a variance to Section 17.100.080 of the Murray Land Use Ordinance regarding the 25' minimum required front yard setback.		



I. DESCRIPTION of REQUEST

The subject property is a .24-acre residential lot in the R-1-8 Zone with an existing home facing Ridge Creek Road. The applicant has a remodel which includes a new, covered front porch. The front porch extends to 19' 11" from the front property line, violating the minimum required setback of 25'. The applicant has requested a variance to allow the porch at 19'11"

II. LAND USE REGULATIONS

The subject property is located in the R-1-8 Zone. Section 17..100.80 of the Murray City Land Use Ordinance establishes "Yard Requirements", which are minimum required setbacks. The front yard setback is required as a minimum depth of 25'.

III. PROJECT REVIEW

Background

The Building Division brought the plans for the porch to Planning Staff's attention as they sought to establish a building permit for the work that was underway on the subject property. The Planning Division review showed that the porch cover violated the front setback requirement, and the application for variance was filed.

Applicant's Narrative and Materials

The applicant has provided a written response to questions reviewing the application against some of the tests for granting a variance (the Variance Analysis Form). The form has been attached to this report for review and consideration. Additional plans illustrating the location and dimensions of the porch relative to the front property line are also attached.

Public Input

Notices were sent to all property owners within 300 feet of the subject property. No comments or questions were received as a result of those notices, but the applicant has provided signatures from ten adjacent property owners stating that they do not object to the requested variance. The applicant's request letter to the neighbors and their signatures have been attached to this report for your review.

IV. VARIANCE FINDINGS

Staff analysis and findings for compliance with standards for a variance as contained in Land Use Ordinance Section 17.16.050 are listed below.

- A. The literal enforcement of the Land Use Ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinance.**

The applicant's request is for a variance to the 25' front setback. The variance request is

related only to the covered porch and could be granted to exclude the remainder of the structure. Required setbacks in residential zones provide open space in the neighborhood, positive aesthetics through the continuity they create, and open driveways that create additional off-street parking on each lot. There are three factors relative to this request that convince Staff the application can meet this test:

- The requested variance is relatively small at only 13” when the 4’ exception for structures like the porch cover are considered.
- The requested variance could be granted with specificity to the porch itself; there would be no impact to the off street parking, open space, or visual continuity.
- There is a retaining wall located 5’ from the sidewalk along the front property line. This further negates any impact to visual continuity or open space that the variance would have on the area.

Given the issues described above and considering that the construction of the porch cover has begun, establishing the requested setback, Staff concludes that while the requirement of a 25’ front yard setback is not in and of itself a hardship, the literal enforcement of the 25’ requirement would represent an unreasonable hardship that in this case is not necessary to fulfill the purposes of the ordinance. Staff finds that the application **meets** this requirement for granting a variance.

B. There are special circumstances attached to the property that do not generally apply to other properties in the district.

The circumstances described in item A, above, relate to the nature of the request rather than to the property itself. The home was not in violation of any setbacks or other requirements of zoning when the remodel and addition of the porch cover were begun. Staff finds no special circumstances attached to the property itself which relate to the requested variance. The variance request arises due to circumstances created by the applicant’s actions and not any issue peculiar or special to the subject property. Staff finds that the application **does not meet** this requirement for granting a variance.

C. Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the district.

As has been pointed out, the requested variance is small; just over one foot. The required setback is 25’, but the ordinance already allows exceptions for structural elements like the covered porch, balconies, eaves, and bay windows to encroach up to 4’. In short, the zoning ordinance already allows for the applicant’s porch to be covered, and to a greater extent than the main body of the home at 25’. Staff cannot conclude that granting the variance is essential to the enjoyment of a substantial property right. Staff finds that the application **does not meet** this requirement for granting a variance.

D. The variance will not substantially affect the General Plan and will not be contrary to the public interest.

The General Plan calls for single-family, low density residential development in this area. The requested variance would have no practical impacts that would be in any way contrary to the public interest or have any impact upon the General Plan. Staff finds that the application meets this requirement for granting a variance.

E. The spirit of the Land Use Ordinance is observed, and substantial justice done.

In review of this case Staff sees no practical impact from the requested variance, and Staff finds that granting the variance will not violate the spirit of the ordinance, and that the application **meets** this requirement for granting a variance.

V. UNREASONABLE HARDSHIP ANALYSIS

In determining whether enforcement of the Land Use Ordinance would cause unreasonable hardship, the Hearing Officer may not find an unreasonable hardship unless the applicant proves that the alleged hardship:

A. Is located on or associated with the property for which a variance is sought.

The alleged hardship is associated with the property for which the variance is sought.

B. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. Special circumstances must: (1) Relate to the hardship complained of, and (2) Deprive the property owner of privileges granted to other properties in the same district.

As established by Staff's analysis of the tests of hardship, the circumstances are not peculiar to the property, but arise from the applicant's actions. As such, Staff cannot recommend that the variance should be granted.

VI. CONCLUSION/RECOMMENDATION

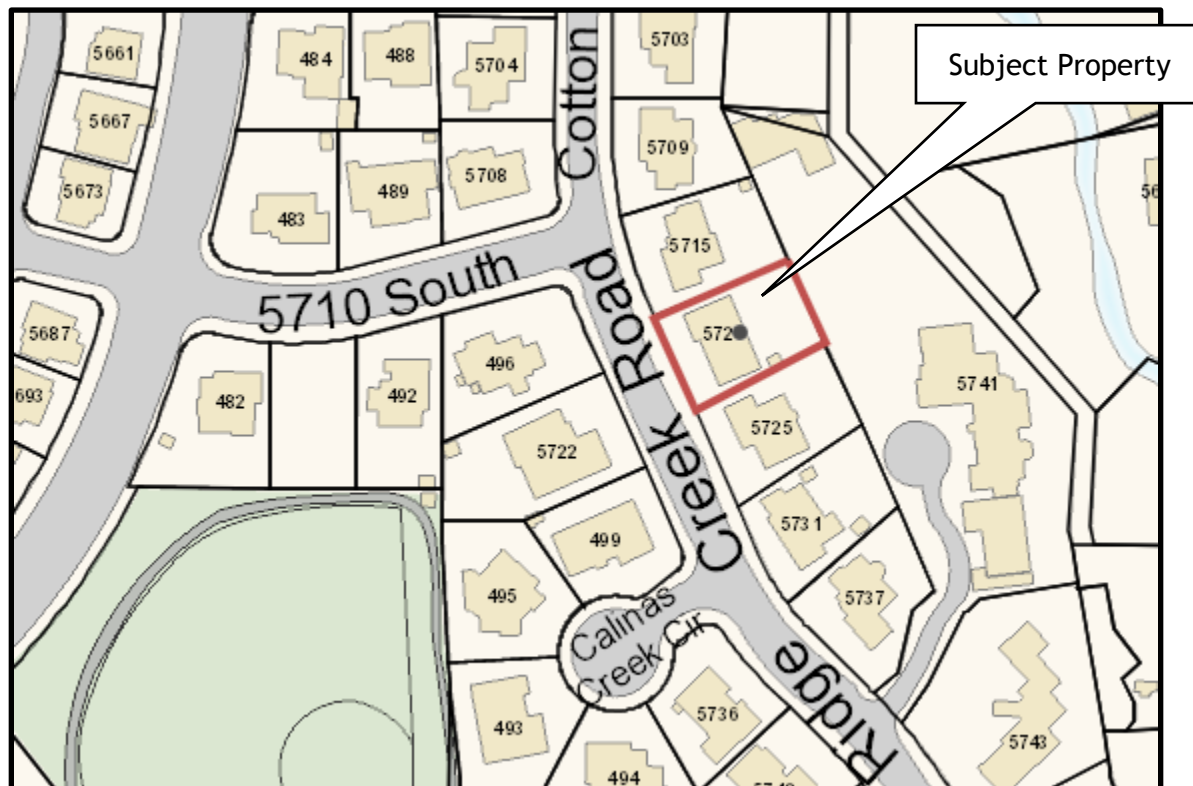
Based on review and analysis of the application materials, the subject property, surrounding area, and applicable sections of the Murray City Land Use Ordinance, Staff finds that the application cannot meet all applicable standards of review for the granting of a variance, and recommends DENIAL of the requested variance to the requirements of Sections 17.100.080 of the Murray City Land Use Ordinance.



**HEARING OFFICER
NOTICE OF PUBLIC MEETING**
December 8, 2021, 12:30 PM

This notice is to inform you of a public meeting scheduled before the Murray City Hearing Officer for **Wednesday, December 8, 2021 at 12:30 p.m.** in the Murray City Municipal Council Chambers located at 5025 S. State Street regarding the following application: **Kevin Carlston, is requesting a front yard setback variance in order to have a covered porch/canopy at the property at 5721 South Ridge Creek Road. Please see the attached plans.** You may attend the meeting in person to provide public comment, or you may submit comments via email at planning@murray.utah.gov.

Comments are limited to 3 minutes or less and will be read into the meeting record.



This notice is being sent to you because you own property within 300 feet of the subject property. If you have questions or comments concerning this proposal, please call the Murray City Planning Division at 801-270-2430, or e-mail to planning@murray.utah.gov.

Special accommodations for the hearing or visually impaired will be upon a request to the office of the Murray City Recorder (801-264-2660). We would appreciate notification two working days prior to the meeting. TTY is Relay Utah at #711.

Public Notice Dated | November 23, 2021



Figure 1: Proposed front setback of 19'11\".

H. Craig Hall
Direct: (801) 438-2056
chall@btjd.com

November 17, 2021

Via Hand Delivery

Community and Economic Development
Murray City Corporation
4646 South 500 West
Murray, UT 84123

Re: Application for Variance—Kevin Carlston, 5721 S. Ridge Creek Road,
Murray, Utah 84107

To Whom It May Concern:

Enclosed is the application for a variance on behalf of Kevin Carlston, owner of the property and home located at 5721 S. Ridge Creek Road, Murray, Utah 84107. I believe that the application is complete. If the application requires additional information or is missing something, please let me know.

Previously, the building inspection department has issued a red-tagged for the construction project at this home. At the time, concern was expressed that no building permit was issued and that a new concrete porch and landing were poured and completed.

It is my understanding that these two issues have been resolved. Videos of the concrete scan were given to the building official. These scans verified that the appropriate rebar and installation followed the proper building codes. If this is not accurate, please let me know and we will resolve those issues.

If the building permit issue is not resolved, please let me know what is deficient and we will immediately correct the problems.

My client and I appreciate the cooperation and help that the department has provided to resolve these issues. We look forward to the Board of Adjustment Hearing in early December.

Sincerely,

BENNET TUELLER JOHNSON & DEERE, LLC



H. Craig Hall

3165 East Millrock Drive
Suite 500
Salt Lake City, Utah
84121-4704

Enclosures
CC: Kevin Carlston

t (801) 438-2000
f (801) 438-2050
www.btjd.com

HEARINGS OFFICER APPLICATION

Permit # 214814

Type of Application (check all that apply):

☒ Variance

☐ Expansion of Non-Conforming Use

☐ Appeal

Subject Property Address: 5721 RIDGE CREEK RD MURRAY, UT 84107

Parcel Identification (Sidwell) Number: 22182780320000

Parcel Area (acreage): 0.24 Current Use: Primary Residence

Floor Area: 3416 sqft. Zoning Classification: R-1-8 (Single Family Residential)

Applicant Name: KEVIN CARLSTON

Mailing Address: 5721 RIDGE CREEK RD

City, State, ZIP: MURRAY, UT 84107

Daytime Phone #: 801-230-8150 Fax #: —

Email address: KEVIN.CARLSTON@GMAIL.COM

Business Name (If applicable): N/A

Property Owner's Name (If different): Same as above

Property Owner's Mailing Address: Same as above

City, State, Zip: Same as above

Property Owner Email Address: Same as above

Daytime Phone #: Same as above Fax #: —

Type of variance request, exact measurement, and reason for request: —

Asking for an 13" variance to the 25 ft. setback w/ 4' leeway... with the minimum set-back being 21 ft... the current distance from center post to the front edge of the sidewalk being 19 ft. 11"... 13" set back variance requested.

Authorized Signature: [Signature] Date: 11/2/21

Property Owners Affidavit

STATE OF UTAH

§

COUNTY OF SALT LAKE

I (we) KEVIN CARLSTON, being first duly sworn, depose and say that I (we) am (are) the current owner of the property involved in this application: that I (we) have read the application and attached plans and other exhibits and are familiar with its contents; and that said contents are in all respects true and correct based upon my personal knowledge.



Owner's Signature

Owner's Signature (co-owner if any)

Subscribed and sworn to before me this 17th day of NOVEMBER, 2021.



Notary Public

Residing in SALT LAKE COUNTY

My commission expires: 9/12/2023

Agent Authorization

I (we), KEVIN CARLSTON, the owner(s) of the real property located at 5721 RIDGE CREEK ROAD, in Murray City, Utah, do hereby appoint H. CRAIG HALL, as my (our) agent to represent me (us) with regard to this application affecting the above described real property, and authorize

H. CRAIG HALL to appear on my (our) behalf before any City board or commission considering this application.



Owner's Signature

Owner's Signature (co-owner if any)

On the 17th day of NOVEMBER, 2021, personally appeared before me

KEVIN CARLSTON the signer(s) of the above *Agent Authorization* who duly acknowledge to me that they executed the same.



Notary Public

Residing in SALT LAKE COUNTY

My commission expires: 9/12/2023



VARIANCE ANALYSIS FORM
(To be filled out by the applicant)

Permit # _____

1. Is the applicant being deprived of property rights possessed by other property owners in the area?

Answers: See Summary Sheet Attached

2. Is the problem caused by actions of the land owner?

3. What special circumstances are associated with your property that is different from other properties in your zoning district?

4. What special conditions associated with this application constitute a hardship?

Summary of Variance Request.

The property owner desires to construct and erect an attached canopy/porch to his front steps. It would be attached to the dwelling. The proposed porch is within **19 feet 11 inches** from the inside edge of the front sidewalk. The front yard is two level with a small retaining/rock wall within **5 feet** of the sidewalk.

The front porch has been replaced because of its condition and disrepair.

The applicant is requesting a variance from the 25' front setback to **19 feet 11 inches**.

What is the unreasonable hardship in not granting the variance? The homeowners have made a substantial investment in restoring and remodeling the home since it was purchased. Windows have been replaced, new surface improvements adjacent to the home have been installed, and the front yard has been completely replaced including a new front sidewalk and rock retaining wall. The requested variance will not intrude into the public space. It does not extend past the front porch landing. The requested variance for the installation of the front porch does not intrude into the setback any further than does the front concrete landing. There is not an additional intrusion into the front setback

Do "special circumstances" exist on the subject property. The special conditions that exist are the topographical problems that exist between the front door, the front-porch and the final grade of the sidewalk.

Is the variance necessary for the enjoyment of a substantial right possessed by others property owners in the district? Attached to this application are photos of other properties in the neighborhood that do have front porches, etc. Is a "covered front porch" a substantial right? It is to the homeowner that desires to finish the look of the home, etc. **Especially facing west to deter the elements & sun exposure.**

Does granting of the substantially affect the general plan and be contrary to the public interest? Certainly the granting of a **19 foot 11 inch** front yard setback does not affect the general plan and would be contrary to the public interest. **(we have signatures from 10 homeowners on the same street adjacent to the applicant confirming it is not contrary to public interest to complete the existing structure as it is)**

Is the spirit of the zoning ordinance observed and would substantial justice be done if the variance is granted. The answer is yes. The house would be complete.

Answer to Variance analysis Form

1. Is the applicant deprived of property rights possessed by other property owners in the area? Is having a front covered porch a substantial property right?
2. Is the problem caused the actions of the land owner? The answer is no. The home was built and constructed by a third party. The creation of the requested variance is the result of the property wanting to cover the front porch and landing with an awning. Did he proceed without prior proper approvals, the answer is "yes". We are trying to rectify that mistake.
3. What special circumstances exist on the property. See answers above.
4. What special condition associated constitute a hardship? See answers above

Included with this application are eleven letters signed by our adjacent neighbors. They are not opposed to this variance application.

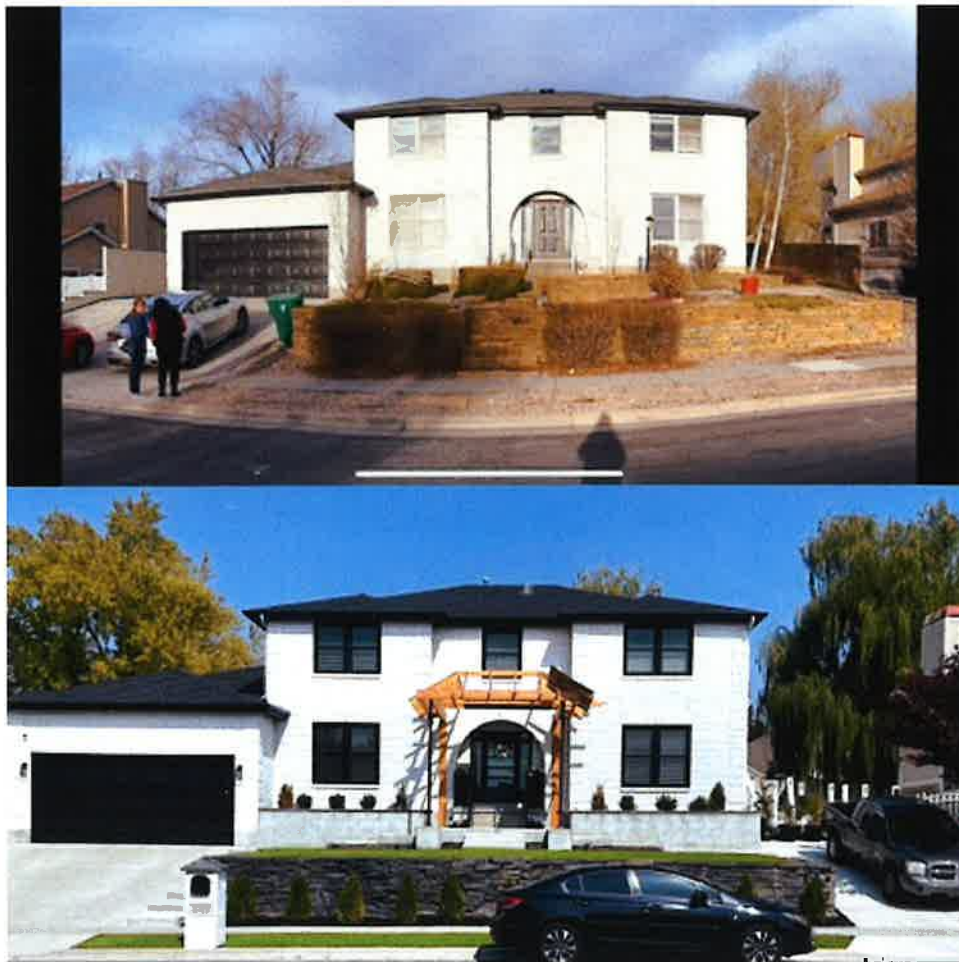
Also attached is an aerial view of the property for your review.

Craig Hall

From: Craig Hall <hchall116@gmail.com>
Sent: Monday, October 4, 2021 1:19 PM
To: Craig Hall
Subject: Fwd: Before/Now

Begin forwarded message:

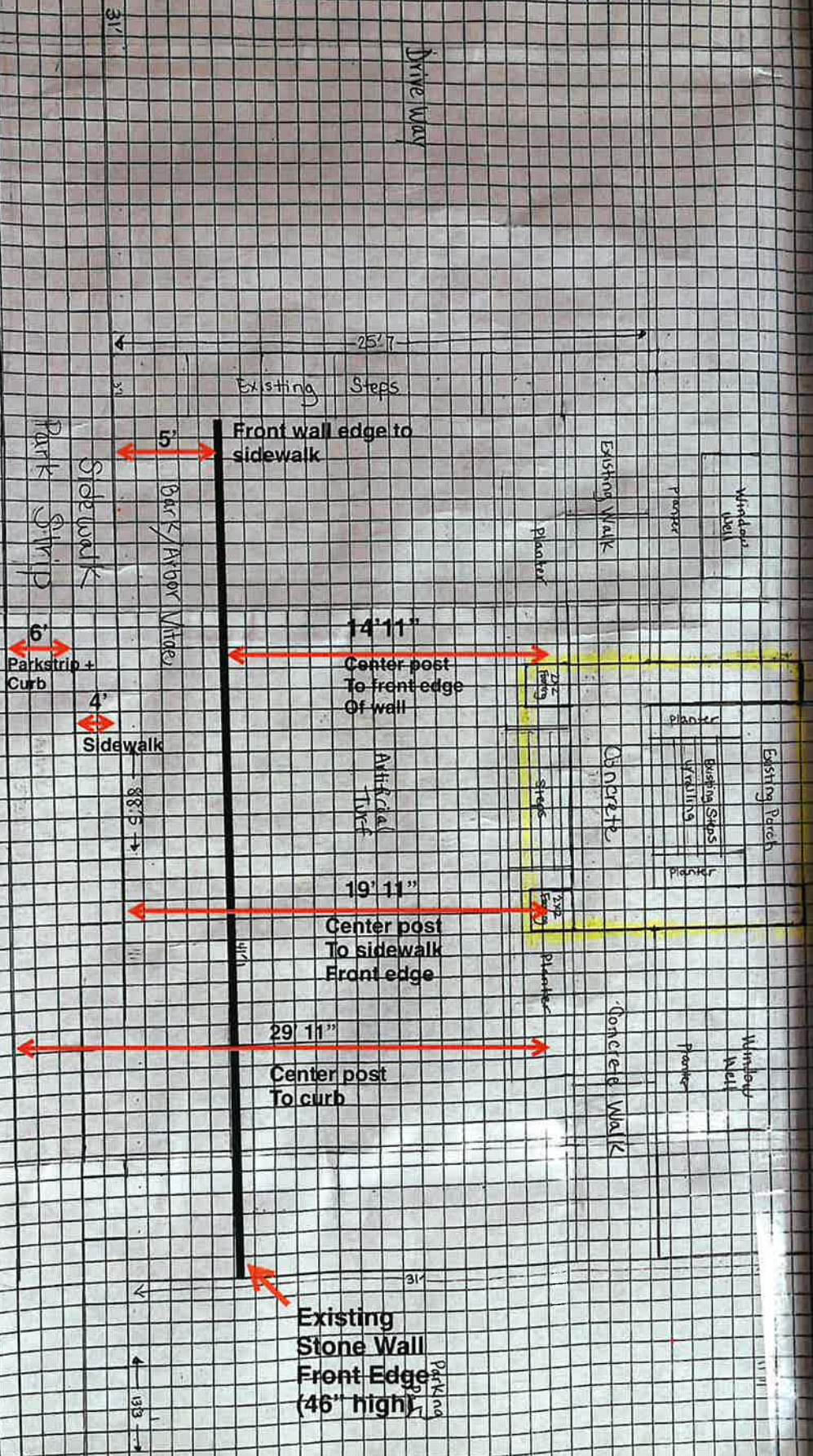
From: "Michael R. Carlston" <mrc@scmlaw.com>
Subject: FW: Before/Now
Date: September 15, 2021 at 3:18:16 PM MDT
To: Craig Hall <hchall116@gmail.com>



The information contained in this e-mail and any attachments are confidential and solely for the use of the intended recipient. If the intended recipient is our client, then this information is also privileged attorney-



5721 S Ridge Creek Road



10/18/21

Hello,

We are your neighbors Kevin & Telacia Carlston on 5721 Ridge Creek Road.

We have not been able to complete construction of the front awning on our home as Murray City told us to stop work because the awning is not set back far enough from the street. As a result of the set-back discrepancy, unless we can petition and obtain a waiver from Murray City of this noncompliance, we will likely have to tear out what is there and start over. While we support having standards for everyone, including us to follow, our mistake was unintentional and minor, but our economic burden will be significant although it is unlikely anyone will notice any difference if we must start over. Your support will help our chances to obtain a ruling that we do not have to start over. As we understand the code, the set-back distance from the front edge of the sidewalk to the front edge of the garage should be 25ft (give or take 4 feet).

The structure we are working on is 13" too close to the sidewalk (per the city code).

If you do not oppose allowing us to complete the awning where it is now, would you please sign the attached petition?

Your support will be appreciated and will likely assist us in getting final approval from the City to proceed to finish this project.

Thank you for your consideration of our request,

Kevin & Telacia

We can be reached at our home or call us if you have any questions
(801.230.8150)

To Murray City

We live at 499 Calinas Creek Cr. and have no objection to Kevin & Telacia Carlston (5721 Ridge Creek Road) completing the awning on the front of their house without changing it from the set back that is presently in place.

10-30-21

Date

Andrea Kehl

Print Name

Andrea Kehl

Signature

To Murray City

We live at 5731 Ridge Creek Rd and have no objection to Kevin & Telacia Carlston (5721 Ridge Creek Road) completing the awning on the front of their house without changing it from the set back that is presently in place.

10/30/21

Date

JEFF BARTON

Print Name

Signature

Debbie Barton
DEBBIE BARTON

To Murray City

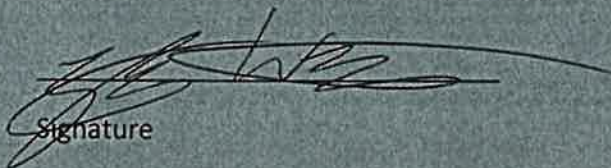
We live at 5725 Ridge Creek Road and have no objection to Kevin & Telacia Carlston (5721 Ridge Creek Road) completing the awning on the front of their house without changing it from the set back that is presently in place.

10/30/2021

Date

Strauss Western

Print Name


Signature

To Murray City

We live at 5736 Ridge Creek Rd and have no objection to Kevin & Telacia Carlston (5721 Ridge Creek Road) completing the awning on the front of their house without changing it from the set back that is presently in place.

10/30/21

Date

Michael R. Carlston

Print Name

Michael R. Carlston

Signature

To Murray City

We live at 5759 RidgeCreek Road and have no objection to Kevin & Telacia Carlston (5721 Ridge Creek Road) completing the awning on the front of their house without changing it from the set back that is presently in place.

10/30/2021

Date

Carrie Pappas

Print Name

GEORGE PAPPAS

Carrie K Pappas

Signature

[Signature]

To Murray City

We live at 496 E Crown Ridge Rd and have no objection to Kevin & Telacia Carlston (5721 Ridge Creek Road) completing the awning on the front of their house without changing it from the set back that is presently in place.

10/30/21

Date

Russell Margetts

Print Name

A handwritten signature in dark ink, appearing to read 'Russell Margetts', written over a horizontal line.

Signature

To Murray City

We live at 5715 S. Ridge Creek Rd and have no objection to Kevin & Telacia Carlston (5721 Ridge Creek Road) completing the awning on the front of their house without changing it from the set back that is presently in place.

30 OCT 2021

Date

Jason Romero

Print Name

Jason D. Romero

Signature

To Murray City

We live at 5709 S. Cotton Ridge Circle and have no objection to Kevin & Telacia Carlston (5721 Ridge Creek Road) completing the awning on the front of their house without changing it from the set back that is presently in place.

10/30/21

Date

Natalie Stoddard

Print Name

SCOTT STODDARD

Nat St

Signature

SS

To Murray City

We live at 5704 Cotton Drive and have no objection to Kevin & Telacia Carlston (5721 Ridge Creek Road) completing the awning on the front of their house without changing it from the set back that is presently in place.

10/31/2021

Date

Van Vuong

Print Name

Van Vuong

Signature

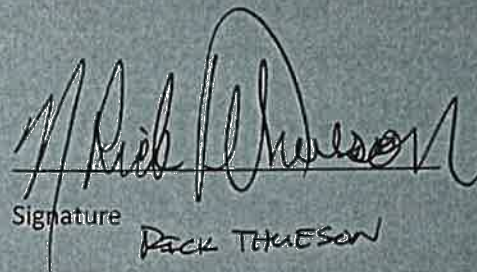
To Murray City

We live at 5722 Ridge Creek Rd Murray, Utah and have no objection to Kevin & Telacia Carlston (5724 Ridge Creek Road) completing the awning on the front of their house without changing it from the set back that is presently in place.

11-1-2021

Date


Print Name
SANDRA THUESON


Signature
RICK THUESON