

**Application #:** ZA-122-12-Y (Citywide Determination) – **DECISION BELOW**  
**Existing Zoning:** All Residential Zoning  
**Location:** Citywide  
**Request:** Does a lattice/trellis/beam covered structure, whether attached or detached from any main structure, which has a roof covering with 50% or more open surface area and not otherwise intended, designed or certified to support a solid roof plane count toward the lot coverage in a residential zoning district.  
**Ordinance Sections:** Chapter 2, Section 202 Lot Coverage  
**Applicant:** David Cisiewski / Law Office of David Cisiewski, PLLC  
**Representative:** David Cisiewski / Law Office of David Cisiewski, PLLC  
**Owner:** N/A

**ZONING ADJUSTMENT HEARING OFFICER: LARRY TOM, PRINCIPAL PLANNER  
PLANNER: EDWARD KEYSER**

Testimony was presented by David Cisiewski, Brian Brener, Dan Heaton, and Clif Freedman.

**DECISION:** This request for a determination was taken under advisement. On June 18, 2012 it was taken out from under advisement and decided as follows:

For the purpose of calculating lot coverage in an attached or detached structure that consist of having a roof covering not otherwise intended, designed or certified to support a solid roof plane that is 50% or more open in a residential zoning district, shall count towards lot coverage.

- The lot coverage shall be calculated as 50% of the total square footage of the structure or the percentage as calculated by a registrant of the State of Arizona of the structure that will remain open to the outside.
- For the purpose of open lattice/trellis/beam the open surface shall be a minimum spacing of 1" in size between the material used for the canopy. Only the lattice/trellis materials, and no other substructure shall count towards the average lot calculations.
- The structure shall also comply with all primary and accessory standards in the Zoning Ordinance and Building Code.

**FINDINGS OF FACT:** The fact that a structure not intended designed or certified to not support a solid roof plane does not exempt it from the overall lot coverage calculation of a zoning district. The design or a lattice type or solid roof or canopy is intended and provide either relief from the natural elements or act as an architectural or design feature. The use of a canopy that is a minimum of 50% open does require some relief from the maximum lot coverage requirements. Rather than calculating the entire area covered by an open canopy as 100% coverage, this area shall only count up to 50% of the area covered. This may be reduced further if a registrant of the State of Arizona is

able to calculate the actual area covered by the canopy structure. This calculation shall be detailed construction plan submitted for permits and verified by staff. All structures shall comply with ordinance standards for primary or accessory structure requirement set for in the Zoning Ordinance and Building Codes.

**SUMMARY:** Mr. Cisiewski wanted to talk about clarification regarding structures such as gazebos and trellises that are either attached or detached with open roof structures. He said that throughout Phoenix these types of structures are prevalent. He explained that the citywide request was a result of numerous clients asking what counts as lot coverage regarding these types of structures. He said that the Planning Department has Informal Interpretations in place regarding shade structures, but his clients wanted to have something more substantial. He believed that alternatives to this determination would be to request variances for each occurrence. He referred to the definitions of the Zoning Ordinance (ZO) regarding what counted as lot coverage. He believed that solid roof planes should be counted as lot coverage, but not gazebos, trellises, etc. with 50% open structure. He believed that since the structure could not be used for storage, living, etc. it should not be counted towards lot coverage. This was his interpretation. He wanted to make clear that the request was for clarification for lot coverage definition as listed in the ZO. He understood that building permits would still be necessary for construction of structures. He spoke about design issues that some of the structures, with the massing of beams, etc. could be structurally strong enough to support a roof, but would be an artistic embellishment rather than a roofed structure. He believed that submitted documents could be noted that a roof would not be constructed. He spoke about pergolas, gazebos and such which are designed to add aesthetically pleasing features to residential properties.

Mr. Tom asked what would prevent a developer/owner from covering the entire rear yard with these types of structures. Mr. Cisiewski believed that some kind of limits could be placed on this interpretation.

Mr. Freedman stated his credentials as president of a Homeowner's Association (HOA). He said that when he first heard of this, he was concerned that floor to area ratio issues needed to be addressed and that these products would be no more than a "wooden umbrella". He spoke about his support of these types of structures, much like they have in the northeast portion of the country where the gazebos and such are created to protect from rain. He believed that in the desert environment these structures would be used to protect from heat/sun and reduce the risk of skin cancer. He said that his background in real estate led him to believe that residents wanted these types of structures, which he believed should not be counted toward lot coverage. He believed that some percentage should be determined to allow for shade structures, perhaps 10 to 15%.

Mr. Brener stated his credentials as a resident and that he was an engineer. He believed that the current wording was not good enough. He stated his support of the definition of lot coverage as anything under a roof. He said that wooden beams, even without a roof, should be counted as lot coverage. He expressed his concern that

allowing a roof as defined by this determination would be detrimental to neighborhoods. He stated his opinion that a roof and floor should be considered a structure regardless if it has walls. He spoke about lot coverage and the argument had been made about the structures not being seen. He was concerned that no height restrictions were included in the determination. He was concerned about the determination of 50% open. He believed that if it served as a roof it should be called a roof. He believed that each owner should have to go through the variance process for structures. He believed that there should be a limit to some sort of square footage for shade structures. Mr. Tom clarified for Mr. Brener the current definitions and wanted to talk about possibly using a percentage of beams to be counted toward lot coverage. Mr. Brener wanted to speak about his neighbor and Mr. Tom pointed out that this request was for citywide determination and not to be lot specific. The photos he submitted were for his neighbors' property and the structure involved was 15 feet high which he believed should be counted toward lot coverage and he believed the example provided was what they did not want.

Mr. Heaton chose to speak and noted that Mr. Brener had covered most of his issues. He also wanted to submit some photographs that showed 35% lot coverage and referred again to the same parcel Mr. Brener had spoken of. He echoed the comments from Mr. Brener about counting roofed structures regarding lot coverage. He was concerned that if these structures were not counted, that there would be a proliferation of these types of structures that would affect neighborhoods and lot coverage.

Mr. Freedman said that he had not had a chance to see the photographs submitted. He believed that the site specific photos submitted were irrelevant to the discussion. Mr. Heaton and Mr. Brener disagreed with this interpretation. Mr. Tom stated for the gallery that this was a citywide interpretation.

Mr. Cisiewski addressed the issues of height. He stated that height, setbacks, and such would still have to go through the permitting process. He noted these structures would have to be permitted, and that the question was when is a roof a roof. He observed that massing beams could support a roof and he believed that the seal on the drawings would provide the city with a mechanism to enforce if the citizen later tried to put a roof on the structure. He said his clients were looking for clarification regarding the different residential zones, so the companies would have a better idea regarding what kinds of structures they could add before flipping the properties. He believed the intent of the ZO was for solid plan roofs.

Mr. Tom declined to listen to any further testimony. He stated his understanding of the rules and that he had concerns about items requested by the determination. Mr. Tom said he would review the submittals provided by the applicant and opposition. He said he believed that the structures needed to be included in lot coverage. He wanted to speak with residential permitting regarding some number that a structure, if considered open, still needed to be counted in some way towards lot coverage.

Mr. Tom took the case under advisement.

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