

**ARCHITECTURAL COMMITTEE POLICY REGARDING PERGOLAS AND OTHER “NON-BUILDING” IMPROVEMENTS**  
**January 7, 2011**

Regarding what limitations should be placed on construction of pergolas and other improvements that are not specifically defined as “buildings”, pertinent Articles in the Declaration of Covenants, Conditions and Restrictions (CCR’s) for La Buena Vida are as follows:

- Article 1.16 defines improvements as every structure and all appurtenances thereto of every kind and type ... used in connection with or placed on the property.
- Article 3.1 states that no improvements shall be constructed upon any Lot without prior written approval of the Architectural Committee.
- Article 3.5 allows the Architectural Committee to prevent construction of any improvement based upon the effect it will have on the view from another Lot, and the privacy of an adjoining Lot Owner.
- Article 3.15 provides setback requirements for “buildings”, but setback for other “improvements” are not defined

For the purpose of defining rules specific to pergola construction, the Committee recognizes a pergola as “an open structure consisting of vertical posts supporting an open roof of girders and cross rafters”. This definition distinguishes the pergola from being a building. However, either the addition of a wall, or a solid roof, would – in the opinion of the Committee – make the pergola a “building” and subject to the “building” setback rules as clearly defined in Article 3.15.

A cursory search of setback rules for other POA’s indicated that – although some apply the same building setback rules to pergolas - what seems to be most frequent is that pergolas are typically allowed shorter setback distance than buildings. In cases with specific rules regarding pergolas, it was typical to have limitations imposed on both the setback of the posts from the property line, as well as restrict (minimum) the distance from pergola roof overhang to the property line.

As of this date, pergolas constructed at the Samuels, Vaughan, and Cameron residences appear to comply with the 10 ft side property line setback. Bob Hardisty indicated that one of his pergolas may be closer than 10 ft.

In consideration of the above, and to establish some consistency regarding pergola and other “non-building” improvements, the Architectural Committee of the LBV Property Owners’ Association hereby adopts this Policy for La Buena Vida:

- In general, pergolas and other improvements – excluding fences and retaining walls - shall honor the CCR-specified 10 ft side property line setback (as per Article 3.15)
- If the Lot owner has valid reason – i.e., other than strictly view or convenience - for citing the pergola closer to the property line, the Architectural Committee may approve such variance only with written approval from the affected adjacent property owner. However, in no instance whatsoever shall any part of the pergola be located nearer than 5 ft from the side property line.

Michael Zotzky, Chairman Architectural Committee

Randy Hunter, Architectural Committee Member

David Becker, Architectural Committee Member

Byron Fields, Architectural Committee Member

cc: Donna Vaughan, LBV POA President