

**FOOTHILLS COUNTY
SUBDIVISION AND DEVELOPMENT APPEAL BOARD
Development Appeal Board Decision**

HEARING DATE: MAY 7, 2026

BOARD ORDER: D09/2026

APPELLANT/APPLICANT/LANDOWNER: SHARLEE PATTERSON

APPEAL AGAINST: THE REFUSAL OF 26D 022 FOR AN OVERSIZED ATTACHED GARAGE & VARIANCE TO CUMULATIVE SIZE OF ACCESSORY BUILDINGS

SUBJECT PROPERTY: PLAN 9710710, Block 3; PTN. NE 06-22-03 W5M

BEFORE: CHAIRMAN P. STIER; BOARD MEMBERS C. STORMES, D. MACDONALD, T. MILLS, R. SIEWERT AND RECORDING SECRETARY J. SCHULER

DECISION

Having been satisfied that notice of this hearing was provided in accordance with the Municipal Government Act, R.S.A. 2000, Chapter M-26;

And upon having read the materials provided, and upon having heard the representations from the Agent, Landowner and the Development Authority for Foothills County with respect to the appeal filed by the Appellants in accordance with Section 685 of the Municipal Government Act against the refusal of Development Permit 26D 022 for an oversized attached garage and variance to cumulative size of accessory buildings for Oversized Accessory on Plan 9710710, Block 3; Ptn. NE 06-22-03 W5M (The "Property").

The Subdivision and Development Appeal Board for Foothills County (the "Board") has decided to:

ALLOW the appeal and OVERTURN the Development Authority's decision to refuse Development Permit 26D 022 for an Oversized Attached Garage and Variance to Cumulative Size of Accessory Buildings for Oversized Accessory on Plan 9710710, Block 3; Ptn. NE 06-22-03 W5M.

The application is thereby APPROVED subject to the following conditions:

APPROVAL DESCRIPTION:

Upon completion of the below noted pre-release condition(s), this approval granted by Board Order 09/2026 allows for the following:

1. Oversized attached garage with a footprint no greater than 159.2 square meters and (1,713.6 Sq. ft.); and
2. Relaxation to the cumulative size of accessory buildings to allow for a total size of accessory buildings to remain at 397.79 sq. m (4,282 sq. ft.) consisting of an existing 119.5 sq. m (1,286 sq. ft.) pool house, an existing 139 sq. m (1,496 sq. ft)

shop, and addition of a 139.29 sq. m (1,499 sq. ft) carport, conditional on the removal of the 64.4 sq. m. (693 sq. ft) greenhouse and AC unit.

PRE-RELEASE CONDITION:

*Pre-release condition(s) must be complied with before the Development Permit will be signed and issued. Failure to complete the pre-release condition(s) on or before **August 12, 2026** will see this development permit decision deemed null and void, unless a time extension is issued under agreement between the Development Authority and the Applicant(s).*

1. The applicant is required to submit a refundable compliance deposit in the amount of \$2,500 to ensure that the existing AC Unit and Greenhouse are removed from the subject property. This deposit will be refunded at such time that these two structures have been removed in their entirety; and
2. The applicant is required to submit a Slope Stability Analysis prepared by a qualified Professional which indicates that the developable area is suitable for residential construction, to the satisfaction of Public Works.

CONDITIONS OF APPROVAL:

The following requirements must be completed within twenty-four (24) months from the date the Development Permit is signed and issued. Failure to complete the conditions of approval will see the Development Permit be deemed null and void unless a time extension is approved under agreement between the Development Authority for Foothills County and the Applicant(s).

1. The applicant shall maintain the development in accordance with all conditions of the Subdivision and Development Appeal Board Order 09/2026 and plans that have been acknowledged by the Subdivision and Development Appeal Board to be appropriate. Any revisions and/or additions to use of this land shall not proceed except under benefit of appropriate approvals and permits;
2. All necessary building and safety code permits and inspections for the development are to be obtained from the County;
3. Prior to the County acknowledging completion of the development and refunding the compliance deposit, the existing 0.75m x 0.80m AC unit and the existing 5.15m x 12.50m greenhouse shall be removed from the subject property in their entirety, with proof provided to the satisfaction of the Development Authority. It is the applicant's responsibility to ensure appropriate and proper disposal of any materials resulting from the removal of the structures; and
4. It is the applicant's responsibility to provide written notification to the Development Authority upon completion of the development, as approved herein.

ADVISORY REQUIREMENTS:

The following requirements are provided by Foothills County to inform the applicant(s) and landowner(s) of their necessity. It is the responsibility and liability of the applicant(s) and landowner(s) to ensure adherence with these requirements for the life of the development.

1. Providing variance for the oversize garage and accessory buildings exhausts the area of permitted Accessory Buildings and Garages on a property of this size. As such, no additional Accessory Buildings or additional garage space is permitted on the subject property without first obtaining any required approval(s) from Foothills County. This includes any structure with a roof; and/or any buildings with temporary foundations;
2. The development is to be maintained in accordance with all conditions of approval and plans that have been acknowledged by the municipality to be appropriate. Any revision and/or additions to the use of this land shall not proceed unless appropriate approvals and permits have been obtained;
3. Development of the land shall comply with the requirements of the Building, Safety, and Fire Codes at all times;
4. Any new installation(s) of exterior lighting must adhere to the guidelines and technical specifications as outlined within the Dark Sky Bylaw;
5. No topsoil shall be removed from the subject property and natural drainage of the property must be maintained. Alterations to natural drainage may proceed only under the authorization of an issued Development Permit for Lot Grading;
6. The issuance of a development permit by the County does not relieve the landowners of the responsibility of complying with all other relevant County bylaws and requirements, nor excuse violation of any provincial or federal regulation or act which may affect use of the land;
7. The applicants will indemnify and hold harmless the County against the cost of any claims or actions, or awards for loss or damage to the Owner(s) arising from the use of h subject property; and
8. The applicants shall be responsible for payment of any professional costs including legal fees that may be incurred by the County with respect to the implementation of this permit.

NOTES:

1. This is not a Building Permit. Construction practices and standards of construction of any building or any structure authorized by the Development Permit, once signed and issued, must be in accordance with the Building and Safety Codes Permits. An application must be made for all required Building and/or Safety Codes Permits.
2. This is not a Development Permit. The Development Permit may be signed and issued upon completion of all Pre-Release Conditions (if any). Development can not proceed until this permit has been signed and issued.
3. The Development Permit, once signed and issued, shall thereafter be null and void if the development or use is abandoned for a period of six months.
4. The conditions of this Development Permit Decision must be met and adhered to at all times. Fines and/or Enforcement action may occur if operating outside of the Subdivision and Development Appeal Board Order D9/2026.

INTRODUCTION:

- i. The subject property is an existing 12.01-acre Country Residential District parcel located approximately 125 meters to the south of Coalmine Road West, 2.1 kilometers north of Plummers Road West, and 7 kilometers west of 240 Street West.

- ii. On March 16, 2026, the Development Authority for Foothills County refused Development Permit 26D 022 for an oversized attached garage and variance to cumulative size of accessory buildings for Oversized Accessory on Plan 9710710, Block 3; Ptn. NE 06-22-03 W5M.
- iii. An appeal was received on April 9, 2026 from S. Patterson against the refusal of Development Permit 26D 022.

ISSUES

1. APPLICATION:

- i. The Development Authority submitted that the development permit application is requesting a relaxation of the cumulative size of garage and accessory buildings. The maximum size permitted for a garage without a development permit is 111.48 sq. m. The proposed extension would bring the cumulative garage space to 223.3 sq. m. The application is seeking a 111.82 sq. m. or 100.3% variance on cumulative garage space for this garage.
- ii. The Development Authority submitted that the variance had been approved in 2025, conditional on the removal of the greenhouse and AC unit, and that the total cumulative accessory building space of 380.9 sq. m. would be exhausted. However, a recently built carport was identified during a building and safety code inspection subsequent to the development permit approval, in excess of the approved cumulative accessory building size.
- iii. The Development Authority submitted that under Land Use Bylaw Section 4.2.1.7A, a maximum of 5 accessory buildings with a cumulative area of 380.9 sq. m. is permitted. The application proposes 4 accessory buildings plus an attached garage, totalling 397.79 sq. m., including an additional 139.29 sq. m. carport. This exceeds the permitted accessory building size by 16.89 sq. m. (4.4%). When the garage and accessory buildings are combined, the proposed total is 621.09 sq. m., exceeding the permitted 492.38 sq. m. by 128.71 sq. m. (26%), which exceeds what would typically be considered.
- iv. The Development Authority submitted that under Section 5.6.5 of the Land Use Bylaw, variance powers may be exercised where a development does not unduly affect adjacent lots, is consistent with the rural character of the district, demonstrates unique hardship, and mitigates adverse effects. The Development Authority found insufficient information to confirm these conditions were met and determined the proposed cumulative garage and accessory building size exceeds what is appropriate for a Country Residential parcel of this size.
- v. Agent, D. MacDonald, submitted they are replacing the existing garage with a new functional one while converting the old garage into a mudroom and kennel space with no vehicle access.

- vi. Landowner, G. Patterson, submitted they were building a new garage that is more functional for vehicles and the existing garage is going to be living space. Regarding auxiliary buildings, the greenhouse will be removed.
- vii. M. Brace from McDonald Luxury Homes confirmed that this change was not included in the original application and that there were three separate applications for the project.
- viii. M. Brace advised that removing the existing garage from the proposed garage addition calculations would reduce the variance required to a 47.72 sq. m. overage.
- ix. G. Patterson explained that while one neighbour's property would be visible from the development, they had accommodated requests by moving a shop structure and had received support from two other neighbours.
- x. G. Patterson confirmed that the shop and carport were identical in size at 139 square meters each and noted that the carport was an open-air structure designed to keep snow off cars.
- xi. The Development Authority considered the reduced size of the attached garage, being 1,700 sq. ft., and confirmed that the cumulative square footage remains in excess of what is permitted under the current Land Use Bylaw. The original application requested a cumulative square footage of 2,403.6.2 sq. ft. (223.3 sq. m.), exceeding what is permitted by 26%. The revised square footage is requesting a cumulative square footage of 1,713.6 sq. ft. (159.2 sq. m.), a variance of 13%.
- xii. The Development Authority stated that this is a reduction in size that is still over what is permitted, but it is in the range of discretionary decisions that can be made by the Development Authority. The reduction would include the greenhouse removal.
- xiii. The Development Authority stated that under the approval description, number 1 would need to be changed to reflect the footprint of the attached garage to 159.2 square meters and (1,713.6 Sq. ft.) with no other changes to be made.
- xiv. The Development Authority submitted that the pre-release condition for a completion date of June 12, 2026, would be tight and noted that this date could be extended.

REASONS FOR DECISION

The Board is ALLOWING the appeal and OVERTURNING the Development Authority's decision to refuse Development Permit 26D 022 for an Oversized Attached Garage and Variance to Cumulative Size of Accessory Buildings for Oversized Accessory on Plan 9710710, Block 3; Ptn. NE 06-22-03 W5M.

The Board considered the application, the reasons for the refusal, the testimony of the Development Officer, Agent and the Landowner.

The Board reviewed revised plans for the development application noting that the existing attached garage would be converted into a mudroom, storage, and kennel space with no vehicle access, while a new garage would be built for vehicle use. The greenhouse would also be removed and would no longer count as an accessory building. The Board noted these changes differed from the original application.

The Board considered the impact of the revisions on the required variance. Removal of the greenhouse and excluding the existing garage from the calculations reduced the variance to 47.72 sq. m. above the maximum permitted size. As a result, the total variance required was approximately 13%, rather than 26%, bringing it within the scope of the Board's discretionary approval authority. As such, the Board determined that the development, as revised to reduce the cumulative size of the accessory buildings, would not unduly interfere with the amenities of the neighbourhood, nor would it materially interfere with or adversely affect the use, enjoyment, or value of neighbouring parcels of land.

The Board further advises the applicants of the importance of ensuring that all information submitted in support of a Development Permit application is complete and accurate. Although the Board, in the exercise of its discretion, approved the revised application in this instance, it notes that it would also have been reasonable to refuse the application and require the applicants to resubmit through the full application process on the basis of accurate information, with the associated time and expense that such process may entail.

CLOSING

This decision can be appealed to the Court of Appeal on a question of law or jurisdiction. If you wish to appeal this decision you must follow the procedure found in Section 688 of the Municipal Government Act, R.S.A. 2000 Chapter M-26 which requires an application for leave to appeal to be filed and served within 30 days of this decision.

Dated at the Town of High River, in the Province of Alberta, this 22nd Day of May, 2026 and signed by the Chairman of the Subdivision and Development Appeal Board, who agrees that the content of this document adequately reflects the appeal hearing, deliberations and decision of the Subdivision and Development Appeal Board.



Mr. Pat Stier, Chairman

RELEVANT LEGISLATION

FOOTHILLS COUNTY LAND USE BYLAW 60/2014

2,6 DEFINITIONS

BUILDING FOOTPRINT means that the total ground coverage or impermeable surface of the building area, including any covered roof structures, cantilevers, eaves, attached and covered decks, garage space, carports, porticos, etc. The Building Footprint is used for assessing lot coverage and cumulative area for accessory buildings on a parcel.

4.2.1.7 Accessory Buildings/Structures

TABLE 4.2.1.7A	
PARCEL SIZE	SIZE OF ACCESSORY BUILDING
Less than 1 acre	Maximum of two (2) buildings with a total cumulative size not to exceed 41.8 sq. m. (450 sq. ft.) accessory to the residence
1.0 - 1.99 acres in size	Maximum of three (3) buildings with a total cumulative size not to exceed 88.26 sq. m. (950 sq. ft.) accessory to the residence
2 - 2.99 acres in size	Maximum of three (3) buildings with a total cumulative size not to exceed 155.6 sq. m. (1,675 sq. ft.) accessory to the residence
3.0 - 4.99 acres in size	Maximum of four (4) buildings with a total cumulative size not to exceed 285.7 sq. m. (3,075 sq. ft.) accessory to the residence
5.0 - 9.99 acres in size	Maximum of four (4) buildings with a total cumulative size not to exceed 325.2 sq. m. (3,500 sq. ft.) accessory to the residence
10.0 - 14.99 acres in size:	Maximum of five (5) buildings with a total cumulative size not to exceed 380.9 sq. m. (4,100 sq. ft.) accessory to the residence
15.0 - 20.99 acres in size:	Maximum of five (5) buildings with a total cumulative size not to exceed 422.7 sq. m. (4,550 sq. ft.) accessory to the residence
21.0 acres and over in size:	Maximum of six (6) buildings with a total cumulative size not to exceed 478.5 sq. m. (5,150 sq. ft.) accessory to the residence.
Agricultural District and Agricultural Business District Parcels	Any size accessory building to be used for agricultural, general purposes on agricultural zoned parcels when an agricultural operation exists on the property, in accordance with Section 4.2.1.7 of this Bylaw.

5.6 VARIANCES

5.6.1 The Development Authority may exercise its variance powers, prescribed in Sections 5.6.2 to Section 5.6.13, and approve a development permit for a permitted or discretionary use, with or without conditions, which does not comply with the regulations of this Bylaw, if the Development Authority determines that:

- a. The proposed development would not unduly interfere with the amenities, use, enjoyment, or value of adjacent lots.
- b. The proposed development would be consistent with the general purpose or character (urban or rural) of the district.
- c. There are factors unique to the development, use and site (such as the location of existing buildings) which are not generally common to other development and land in the same district, and which would result in unnecessary hardship or practical difficulties for the proposed development to comply with the provisions of this Bylaw; and
- d. There are mechanisms to mitigate the effect on adjacent lots.

13.1 COUNTRY RESIDENTIAL DISTRICT

13.1.1 PURPOSE AND INTENT

To provide for acreage development consistent with the policies outlined in the Municipal Development Plan.

13.1.3 GENERAL REQUIREMENTS:

- 13.1.3.1 Refer to Section 4.2 “No Development Permit Required” in the Land Use Bylaw for uses not requiring a development permit.
- 13.1.3.2 Refer to Section 9 and Section 10 respectively for the general and specific land use regulations and provisions that apply to this District.

13.1.4 PERMITTED USES	13.1.5 DISCRETIONARY USES
Accessory buildings not requiring a development permit	Accessory buildings requiring a development permit
Accessory uses	Agricultural intensive – on lots 3 acres or more in size
Agricultural (general)	Agricultural specialty
Dwelling, single family	Antenna structures, private
Home Based Business Type I	Arenas, private
Home office	Bed and Breakfast
Signs not requiring a development permit	Day home services
Solar Power System, Private (Not requiring a Development Permit)	Dwelling, moved on
Temporary storage of no more than 1 unoccupied recreation vehicles (within Hamlet boundary)	Dwelling, temporary
Temporary storage of up to 5 unoccupied recreation vehicles (outside a Hamlet	Home based business Type II
	Home based business Type III
	Intensive vegetation operation
	Kennels, private

<p>boundary) Public works Secondary Suite, Principal Utility services, minor</p>	<p>Lot grading Manmade water bodies, private Secondary Suites, Detached Signs requiring a Development Permit Solar Power System, Private (Requiring a Development Permit)</p>
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13.1.6 LAND USE REQUIREMENTS

- 13.1.6.1 A person who wishes to subdivide land in this district into additional lots must first apply for and be granted approval of a land use bylaw amendment.
- 13.1.6.2 In order to facilitate the purpose and intent of this district and ensure the comprehensive development of country residential uses within the District, the following applies to applications for subdivision:
 - a. Parcel Density:
 - i. Maximum one lot per 2.02 ha (5 acres) of existing land contained under the same title to a maximum of 32 lots per quarter section.
 - b. Minimum Parcel Size:
 - i. The area in title at the time of passage of this Bylaw; or
 - ii. A parcel of land no less than 0.81 ha (2.0 acres).
 - c. Maximum Parcel size:
 - i. 8.49 ha (20.99 ac); or.
 - ii. The area in title at the time of passage of this Bylaw.
- 13.1.6.3 Required Developable Area:
 - a. In accordance with Section 9.8 of this Bylaw.
- 13.1.6.4 Utility Servicing Criteria
 - a. Individual wells and individual wastewater disposal systems;
 - b. Communal water and communal wastewater disposal systems; or
 - c. A combination of a. and b. as determined by Bylaw amending this section.

13.1.7 DEVELOPMENT REQUIREMENTS

- 13.1.7.1 Maximum Lot Coverage
 - a. No building or group of buildings including their accessory buildings and impervious surfaces shall cover more than forty (40) percent of the lot area.
- 13.1.7.2 Maximum Dwelling Unit Density
 - a. Maximum dwelling unit density for a parcel under 80 acres is one Dwelling, Single Family and either one Dwelling, Secondary Suite in accordance with Section 10.25, or one Dwelling, Temporary in accordance with Section 10.26 Secondary Suites and Section 10.10.
 - b. Or as determined by the Approving Authority in accordance with an approved Area Structure Plan or Outline Plan.
- 13.1.7.3 Minimum Yard Setbacks Requirements
 - a. Front Yard Setbacks:

- i. 40m (131.23 ft.) from the ultimate right of way or 70 meters from the centreline of a Provincial highway, whichever is greater;
 - ii. 48m (157.48 ft) from the centreline of a Municipal road;
 - iii. 15m (49.21 ft.) from the right of way of an internal subdivision road.
 - b. Side Yard Setbacks:
 - i. 15m (49.21 ft.) from the property line.
 - c. Rear Yard Setbacks:
 - i. 15m (49.21 ft.) from the property line.
 - d. If the title to a lot is subject to a caveat in respect of a land dedication or an agreement for the acquisition of land for road widening purposes, the dedicated area or area of future road widening shall be considered the future property boundary for which setback distances set out shall apply.
 - e. See Section 13.1.8 “Exceptions” for any setbacks exemptions that have been approved by Bylaw.
- 13.1.7.4 Corner Parcel Restrictions
 - a. In accordance with Section 9.27.9 - 9.27.12.
- 13.1.7.5 Other Minimum Setback Requirements:
 - a. See Section 9.27 “Special Setback Requirements” of this bylaw for additional setback requirements that may apply.
- 13.1.7.6 Maximum Height of Structures:
 - a. Principal buildings, first vehicle garage, and car ports:
 - i. 12m (39.37 ft.)
 - b. Accessory buildings and arenas:
 - i. 10.67m (35 ft)
 - c. Radio antennas, internet towers and wind turbines:
 - i. 16m (52.49 ft.);
- 13.1.7.7 Minimum habitable area per dwelling - 100 m² (1,077 sq. ft.)

MUNICIPAL GOVERNMENT ACT, R.S.A. 2000, CHAPTER M-26

Hearing and Decision

687(3) In determining an appeal, the subdivision and development appeal board

- (d) may make an order or decision or issue or confirm the issue of a development permit even though the proposed development does not comply with the land use bylaw if, in its opinion,
 - (i) the proposed development would not
 - (A) unduly interfere with the amenities of the neighbourhood, or
 - (B) materially interfere with or affect the use, enjoyment or value of neighbouring parcels of land,

APPENDIX “A”

PERSONS WHO WERE IN ATTENDANCE, MADE SUBMISSIONS OR GAVE EVIDENCE AT THE HEARING:

<u>NAME</u>	<u>CAPACITY</u>
1. P. Karolyi	Foothills County - Development Officer
2. G. Patterson	Landowner
3. D. MacDonald	Agent – MacDonald Luxury Homes
4. M. Brace	MacDonald Luxury Homes

APPENDIX “B”

I. DOCUMENTS RECEIVED PRIOR TO THE HEARING AND MADE AVAILABLE AT THE HEARING:

NO. ITEM

1. Decision from the Foothills County Development Officer 26D 022
2. Notice of Appeal submitted by SharLee Patterson
3. Development Permit 26D 022 File Documents

APPENDIX “C”

EXHIBITS MADE AVAILABLE AT THE HEARING

NO. ITEM

1. Presentation by the Foothills County Development Officer, P. Karolyi