

**DRAFT - FOR DISCUSSION PURPOSES ONLY**

Resolution of  
The Town of Rhinebeck Zoning Board of Appeals

In the Matter of the Area Variance Application of Paul and Annie Kane DeCotiis

ZBA Case No.1095

**Whereas:**

**I. Background**

1. **Applicant.** The Applicant is Paul and Annie Kane DeCotiis (referred to hereafter as the “Applicant”). The Applicant is represented before this board by Warren Temple Smith, R.A., of Warren Temple Smith Architects, LLC.
2. **Property Involved.** This application involves property located at 23 Kenson Lane, in the Town of Rhinebeck, and which bears the Tax Parcel No.135089-6171-00-582737. The Applicant’s property is 6.66 acres in area and is located in the RA-10 Zoning District.
3. **Description of Proposed Project.** The Applicant proposes to add a two-story addition to their existing house. The addition will be on the southwest side of the residence. The purpose of the addition is to expand the kitchen and family room on the first floor, and add a bedroom on the second floor. The lot is a pre-existing, non-conforming lot, and the southwest corner of the existing house is currently within the side yard setback. The addition will extend further into the setback.
4. **Area Variance Needed.** The Proposed Project will require one (1) area variance for the side yard setback.

Required = 100 feet

Proposed = 79 feet

Variance Requested = 21 feet

**II. ZBA Review**

5. **Timeliness of Appeal.** The Applicant filed an application with this Board on February 04, 2026, and has paid the requisite fee. The application was filed within sixty (60) days of the date of the ZEO’s determination appealed from, dated February 02, 2026, and thus the application is timely as required by § 125-125(B) of the Town of Rhinebeck Zoning Law. This application was deemed complete and accepted by this Board on February 18, 2026.
6. **SEQRA.** After accepting this application, we determined that this matter should be classified as a Type II action under the State Environmental Quality Review Act (“SEQRA”) because the project (proposed action) involves construction or expansion of

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a single-family, two-family or a three-family residence on an approved lot. No further environmental review is required pursuant to SEQRA.

**7. Referrals and Responses.**

The application was referred to Town of Rhinebeck Planning Board and Town of Rhinebeck Waterfront Advisory Committee (“WAC”) on February 24, 2026, pursuant to the Town of Rhinebeck Zoning Law §125-125(E).

The Town of Rhinebeck Planning Board responded on March 03, 2026, stating that the requested area variance raises no significant planning or environmental concerns.

The Rhinebeck Waterfront Advisory Committee (“WAC”) had not provided a response to the ZBA’s referral request. As more than thirty (30) days have elapsed since the referral was received, the ZBA may continue to take action without having any comments from WAC, in accordance with Town of Rhinebeck Zoning Law §125-125(E)

**8. Public Hearing.** A public hearing on this application was duly advertised and held at Town Hall on March 18, 2026. During the course of the public hearing, neighbor Chris Cappo provided written comment that he was in full support of the application. The public hearing was closed on March 18, 2026.

**9. Site Visit.** On April 11, 2026, ZBA member Joe Kupiec visited the Applicant’s property and the surrounding neighborhood to observe first-hand on-site conditions, property characteristics, setting, surrounding environment and the character of the surrounding neighborhood. No business or deliberations were conducted during the site visit.

**III. Findings of Fact & Conclusions of Law**

**10. Balancing Test.** In our review of the variance sought, we have considered the benefit to the applicant if the area variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. We determine that the variance requested should be granted because there is no detriment to the health, safety and welfare of the neighborhood or community by the granting of this variance.

**11. Consideration of Five Factor in Balancing Test.** In our determination, we have considered the five factors required by § 125-124(c)(1) of the Town of Rhinebeck Zoning Law as follows:

**A.** If the variance is granted, will it cause an undesirable change in the character of the neighborhood or cause a detriment to nearby properties?

We find the answer to this question is no. The addition is to an existing house and maintains a similar placement within the side yard setback as the current structure. The addition does not disrupt the character of the residential neighborhood. The neighbors have raised no concern, and one neighbor stated

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they are in support of the proposed project.

- B. Can the benefit sought by the Applicant be achieved by some method, feasible for the Applicant to pursue, other than an area variance?

We find the answer to this question is no. The existing house is already within the setback. Any addition to the southwest corner of the existing house will require a variance. It is noted that the driveway is on the other side of the house, and a patio attached to the rear. Adding an addition to this side of the house, even though already in the setback, is the most logical and fitting location for the addition, and will match the design and layout of the existing house well.

- C. Is the requested area variance substantial?

We find the answer to this question is no. Currently, the existing southwest corner of the house is 84.8 feet from the side yard. The addition will encroach further into the setback, but only by an additional 5.8 feet. With the addition, the house will be 79 feet from the side yard. This is not a substantial variance.

- D. Will the proposed variance have an adverse impact on physical or environmental conditions in the neighborhood or district?

We find the answer to this question is no. The proposal is an addition to an existing structure and will not have an adverse impact on physical or environmental conditions in the neighborhood or district. The addition is adding 1,052 square feet to the existing house.

- E. Is the alleged difficulty self-created?

We find the answer to this question is yes. The need for the variance arises from the Applicant's proposed expansion of the house. As the house is currently in the setback, any expansion requires a variance. Thus, this is a self-created hardship.

12. **Minimal Variance Requested.** In addition to our review of the five factors and balancing test, we must also determine if this requested variance is the minimum variance necessary and adequate to accomplish what is requested by the applicant.

We find the answer to this question is yes. The addition is added to the southwest corner, which is already within the setback. However, the addition is better suited for this area, as the northeast side is where the driveway meets the house, and cannot feasibly be expanded. To the rear of the house is a patio, which prevents further expansion. It is more suitable to have the addition to the side of the house, and will seamlessly fit in with the existing layout and design of the house. The requested variance extends the southwest corner an additional 5.8 feet into the setback, which is the minimum necessary to allow the proposed addition, as the existing house is already located within the required side yard setback.

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NOW, THEREFORE BE IT RESOLVED, based on all of the facts described above and upon the reasoning described above, as follows:

- Section 1. The ZBA hereby grants the variance requested by the Applicant, finding that the benefit to the Applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community by such a grant. The variance allows a modest addition to an existing house already within the setback. The addition off the southwest corner will fit in seamlessly with the existing house and is the most logical location for it, to avoid the driveway or patio. The house with the addition will remain residential in character and fit in with the neighborhood.
- Section 2. The granting of this variance is expressly contingent upon the proposed addition being constructed in accordance with the plans submitted and reviewed by the ZBA.
- Section 3. The granting of this variance shall also be expressly contingent upon the Applicant's full payment to the Town of Rhinebeck of any and all fees and escrow deposits due in connection with this application in full compliance with Article XIV "Fee Reimbursement" of the Town of Rhinebeck Zoning Law. This variance shall not be deemed granted until all such fees are paid in full by the Applicant.
- Section 4. The granting of this variance does not absolve the applicant from having to secure any other required permits and/or approvals. The proposed structure must be constructed in conformity with the application and plans submitted.
- Section 5. The area variance shall be null and void unless the proposed construction is commenced within 12 months of this resolution. Upon specific written request by the Applicant, a time extension may be made in writing no later than two weeks prior to the 12-month expiration date of adoption of this resolution. The consideration to grant such extension request shall be in the sole discretion of the ZBA.

Motion to approve resolution by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

	In Favor	Against	Abstain
Vote: Scott Bergin	_____	_____	_____
Cara Kiewel	_____	_____	_____
Richard Kopyscianski	_____	_____	_____
Joseph Kupiec	_____	_____	_____

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Brian Normoyle \_\_\_\_\_

Result: Motion passes by the following margin:

Dated:

Filing: A copy of this resolution was filed in the office of the Town of Rhinebeck Town Clerk on \_\_\_\_\_(date)\_\_\_\_, 2026 by \_\_\_\_\_(name)\_\_\_\_, Secretary to the ZBA.

Copies of this Resolution were provided to:

Town of Rhinebeck Planning Board  
Town of Rhinebeck Building Inspector  
Town of Rhinebeck Zoning Enforcement Officer  
Town of Rhinebeck WAC