

**TOWN OF SKANEATELES
ZONING BOARD OF APPEALS
MEETING MINUTES OF
April 4, 2023**

Present:

Denise Rhoads, Chair (Zoom)
David Palen
Kris Kiefer
Dave Lee
Sherill Ketchum
Scott Molnar, Attorney
Karen Barkdull, P&Z Clerk

Vice Chair Palen opened the meeting at 7:00 pm.

Minutes

Previous distribution to the Board of the regular meeting minutes of March 7, 2023, was executed, and all members present acknowledged receipt of those minutes.

WHEREFORE, a motion was made by Member Ketchum and seconded by Member Kiefer to accept the March 7, 2023, minutes as corrected. The Board having been polled resulted in unanimous affirmation of said motion.

Record of Vote

Chair	Denise Rhoads	Present [Yes]
Vice Chair	David Palen	Present [Yes]
Member	Kris Kiefer	Present [Yes]
Member	Dave Lee	Present [Yes]
Member	Sherill Ketchum	Present [Yes]

Public Hearing

Applicant: Lee Scott & Karen Bishop
2425 Wave Way
Skaneateles, NY 13152
Tax Map #056.-02-15.0

Present: Lee Scott Bishop, Applicant; Robert Eggleston, Eggleston & Krenzer Architects.

The proposed modifications will make the property less nonconforming with the total living space remaining the same. The dwelling has conforming setbacks and the shed will be removed to reduce the existing nonconforming footprint. The impermeable surface coverage will be reduced from 13.2% to 11.1%, with the total lot coverage proposed at a conforming 13%.

A deck on the east side of the dwelling is proposed to provide views of the lake that is a common attribute with homes in the area. The porch to the west was removed due to disrepair and will be replaced with a screened porch on the same footprint. The board has visited the site, and no one requested the notice to be read.

WHEREFORE, a motion was made by Member Kiefer and seconded by Member Lee to consider the proposed action as a Type II SEQR action as per section 617.5(c)(12) and not subject to SEQR review. The Board having been polled resulted in the unanimous affirmation of said motion.

WHEREFORE, a motion was made by Member Lee and seconded by Member Ketchum to open the public hearing. The Board having been polled resulted in unanimous affirmation of said motion.

At this time Vice Chair Palen asked if there was anyone who would like to speak in favor of, against or had any comments regarding the application. Kay Bruening, 2444 Winding Way, said that it is wonderful that there are improvements to the dwelling as it has not had improvements in some time, and is in favor of the proposed improvements. Letters from Joseph Wilson III, Bernard Straile, Rick Mazzeo, Joe and Barbara Delmonico, Lisa Byrne, Kay Bruening, Paul Brownlee, and a letter signed by Robert, Lous, and Sandra Daubenspeck in support of the proposal have been submitted into the record.

WHEREFORE, a motion was made by Member Kiefer and seconded by Member Lee to close the public hearing. The Board having been polled resulted in unanimous affirmation of said motion.

Vice Chair Palen asked that Counsel Molnar take the Board through the Statutory Criteria set forth in Town Code for an area variance. At this time, the Board reviewed the Five Criteria for the area variance concerning the applicable section of Town Zoning Code. Counsel Molnar stated when considering 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, the Zoning Board of Appeals is charged with answering these five questions:

FACTORS CONSIDERED IN CONTEMPLATING THE AREA VARIANCE:

1. Whether an undesirable change will be produced in character of neighborhood or a detriment to nearby properties will be created by the granting of the area variance: Yes No

Reasons: No. The granting of the variances for the proposed modifications to the dwelling would not produce an undesirable change to the character of the neighborhood, but instead would enhance the properties. The neighborhood consists of small to moderate homes on small lots and the dated structure is in need of an update. The modifications proposed are modest and are in keeping with the neighborhood. There are several letters of support for the proposal and a direct neighbor spoke in support of the modifications. The modifications will improve the aesthetics of the property and the neighborhood.

2. Whether the benefit sought by the Applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: Yes No

Reasons: No, Given the size of the lot an area variance would be required for any proposed improvements., as the pre-existing nonconforming lot is .43 acres.

3. Whether the requested variance is substantial: Yes No

Reasons: No. The reductions to the existing nonconformities with the project do not make the requested variances substantial. The nonconforming impermeable surface coverage and the building

footprint have been reduced as part of the proposed design.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: Yes No

Reasons: No. The variance if granted would not have an adverse effect on the environmental or physical conditions of the neighborhood. The nonconforming impermeable surface coverage and total footprint have been reduced, and the modifications will have minimal impact to the surrounding environment. A great number of the existing homes in the neighborhood have decks and the proposal would be in keeping with the neighborhood. The property is more than 400 feet from the lake and the proposed reductions in impermeable surface coverage will reduce runoff. The existing septic system and well will be protected during construction and when completed will ensure that there will be no harm to the environment..

5. Whether the alleged difficulty was self-created: Yes No

Reasons: _____.

DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, upon a motion made by Vice Chair David Palen, duly seconded by Member Sherill Ketchum and a unanimous (5-0) affirmation of all Members present as recorded below, approves the variances requested, and finds as follows:

- the Benefit to the Applicant DOES NOT outweigh the Detriment to the Neighborhood or Community and therefore the variance request is denied.
 the Benefit to the Applicant DOES outweigh the Detriment to the Neighborhood or Community.

Reasons: In review of the stated findings of the Zoning Board of Appeals, the Board concludes that the benefit to the Applicant, as weighed against the detriment to the health, safety and welfare of the neighborhood, or community, lies in favor of the Applicant. This decision is based on all the evidence presented in the Application, the Record, as well as the Board members' inspection of the property, and is conditioned as follows:

STANDARD CONDITIONS:

1. That the Applicant obtain any necessary permit(s) from the Codes Enforcement Officer or otherwise commence the use within one (1) year from the filing of the variance decision. Any application for zoning/building permit(s) shall terminate and become void if the project is not completed within the eighteen (18) months from the issuance of the permit(s).
2. That the Applicant shall obtain all necessary permits and approvals from the Planning Board and any agency or authority having jurisdiction over the Property or Application.
3. That the Applicant obtain a Certificate of Occupancy and/or Certificate of Compliance, as required, from the Codes Enforcement Officer.
4. That the Applicant notify the Codes Enforcement Officer on completion of the footing of any

project for which a variance has been obtained; and

ADDITIONAL CONDITIONS: The ZBA finds that the following additional conditions are necessary to minimize adverse impacts upon the neighborhood or community:

1. That Site Plan 1 of 1 and detail plans 1 of 2 through 2 of 2 dated February 15, 2023 with narrative dated February 15, 2023 prepared by Robert Eggleston, Licensed Architect, be followed in all respects; and
2. That the Applicant obtain Town of Skaneateles Planning Board approval of the Site Plan and Narrative, and that the Planning Board issue its Special Permit/Site Plan Approval, and that any conditions of the Special Permit be complied with in all respects.

RECORD OF VOTE

MEMBER NAME	AYE	NAY	ABSENT
Chair DENISE RHOADS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair DAVID PALEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member KRIS KIEFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member DAVE LEE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member SHERILL KETCHUM	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Public Hearing

<p>Applicant: David & Lynn Curtin Curtin Long Lake Property 345 4th St S Naples, FL 34102</p>	<p>Property: 3137 East Lake Rd Skaneateles, NY 13152 Tax Map #040.-01-30.0</p>
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Present: David Curtin, Applicant; Robert Eggleston, Eggleston & Krenzer Architects.

The applicants have owned the property since 1994 and have seasonally placed and removed a seasonal dock. They are proposing a permanent dock to replace the seasonal dock with the same layout as the season dock. The dock would be six feet wide , ninety feet long, and L shaped at the end to provide stability to the structure. The dock needs to be ninety feet to reach the appropriate depth of the water for boats and the end of the dock is twelve feet in width. The docks in the area are all long in length due to the shallowness of the lake in the area.

The proposed dock would be conforming and not require a variance to the proposed shoreline draft plans that the shoreline committee is contemplating. The drawings have been updated to address some comments from the Planning Board and include the delineation of the water perimeter, like the NYSDEC requirement, and reflecting the measurement of the water depth as four feet from the mean low water mark.

The proposed permanent dock would be a onetime disturbance as opposed to seasonal docks that disturb the lake twice a year. The dock will be constructed of eight inch steel piles that are driven into the lakebed. Member Ketchum inquired about the need for the platform at the end of the dock and suggested that the

end of the dock could be a seasonal section. Mr. Eggleston stated that the structural L provides more stability to the dock in storm conditions, by reinforcing the structure. The dock is proposed at six feet wide to reduce the possibility of vertigo when a person is traversing the length of the ninety foot dock. The platform is wider to also provide ease of egress to a boat. Member Kiefer commented that the revised shoreline code is still being written and has not gone through the approval process, so it is hard to assume what will be adopted.

Based on the existing code, the proposed dock is included in the total shoreline structures calculation, both on land and on water. Future revisions would have the calculations separated. Member Kiefer inquired about a buoy that seems to be in their water perimeter, or the neighbor's area, and Mr. Eggleston said that he was not sure what the buoy is for as it may be there to indicate that the water is shallow. The board has visited the site, and no one requested the notice to be read.

WHEREFORE, a motion was made by Member Ketchum and seconded by Member Kiefer to consider the proposed action as a Type II SEQR action as per section 617.5(c)(12) and not subject to SEQR review. The Board having been polled resulted in the unanimous affirmation of said motion.

WHEREFORE, a motion was made by Member Lee and seconded by Member Kiefer to open the public hearing. The Board having been polled resulted in unanimous affirmation of said motion.

At this time Vice Chair Palen asked if there was anyone who would like to speak in favor of, against or had any comments regarding the application and no one spoke regarding the application.

WHEREFORE, a motion was made by Member Kiefer and seconded by Member Lee to close the public hearing. The Board having been polled resulted in unanimous affirmation of said motion.

Vice Chair Palen asked that Counsel Molnar take the Board through the Statutory Criteria set forth in Town Code for an area variance. At this time, the Board reviewed the Five Criteria for the area variance concerning the applicable section of Town Zoning Code. Counsel Molnar stated when considering 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, the Zoning Board of Appeals is charged with answering these five questions:

FACTORS CONSIDERED IN CONTEMPLATING THE AREA VARIANCE:

6. Whether an undesirable change will be produced in character of neighborhood or a detriment to nearby properties will be created by the granting of the area variance: Yes No

Reasons: No. The granting of the variances for the proposed permanent dock would not produce an undesirable change to the character of the neighborhood, as there is a dock of similar length a couple properties to the north. A seasonal dock of the same size and shape has been used on a regular basis at this location.

7. Whether the benefit sought by the Applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: Yes No

Reasons: Yes, by majority vote., The applicant could place a seasonal dock without the need for a variance;

however there is a benefit for the applicant and the lake for a permanent structure that would reduce the total disturbance of the lakebed to just the construction of the permanent dock. In one respect the benefit of having a permanent dock could be satisfied using a seasonal dock. The other benefit is not having to haul 10-13 sections of a seasonal dock on an annual basis. The length of the proposed dock cannot be shortened due to the depth of the lake in this area. The applicant could continue to use the seasonal docking or have a portion of the dock constructed of seasonal sections or a seasonal platform.

RECORD OF VOTE

MEMBER NAME	AYE	NAY	ABSENT
Chair DENISE RHOADS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair DAVID PALEN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member KRIS KIEFER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member DAVE LEE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member SHERILL KETCHUM	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. Whether the requested variance is substantial: Yes No

Reasons: Yes. The requested variance is substantial as the property is allowed a maximum of 400 square feet of shoreline structures and the applicant is requesting 805 square feet. Safe water access is important; however the request is for a large permanent shoreline structure.

9. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: Yes No

Reasons: No. Although the short term impact for the construction of the permanent dock would be negative, there would be a longer term benefit due to the more stable permanent structure being present. A permanent dock does no more damage than a seasonal construction process in and out of the lake. The construction process has proven to be not disruptive. Reducing the disturbance to the lake bottom with the permanent structure versus dragging the dock system in and out of the lake is a less adverse impact to the environment.

10. Whether the alleged difficulty was self-created: Yes No

Reasons: _____.

DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS:

The ZBA, after taking into consideration the above five factors, upon a motion made by Vice Chair David Palen, duly seconded by Member Kris Kiefer and a majority (4-1) affirmation of all Members present as recorded below, approves the variances requested, and finds as follows:

- the Benefit to the Applicant DOES NOT outweigh the Detriment to the Neighborhood or Community and therefore the variance request is denied.
- the Benefit to the Applicant DOES outweigh the Detriment to the Neighborhood or

Community.

Reasons: In review of the stated findings of the Zoning Board of Appeals, the Board concludes that the benefit to the Applicant, as weighed against the detriment to the health, safety and welfare of the neighborhood, or community, lies in favor of the Applicant. This decision is based on all the evidence presented in the Application, the Record, as well as the Board members' inspection of the property, and is conditioned as follows:

STANDARD CONDITIONS:

- 1. That the Applicant obtain any necessary permit(s) from the Codes Enforcement Officer or otherwise commence the use within one (1) year from the filing of the variance decision. Any application for zoning/building permit(s) shall terminate and become void if the project is not completed within the eighteen (18) months from the issuance of the permit(s).
- 2. That the Applicant shall obtain all necessary permits and approvals from the Planning Board and any agency or authority having jurisdiction over the Property or Application..
- 3. That the Applicant notify the Codes Enforcement Officer on completion of the footing of any project for which a variance has been obtained; and

ADDITIONAL CONDITIONS: The ZBA finds that the following additional conditions are necessary to minimize adverse impacts upon the neighborhood or community:

- 3. That Site Plan 1 of 2 through 2 of 2 dated April 4, 2023, with narrative dated February 24, 2023 prepared by Robert Eggleston, Licensed Architect, be followed in all respects; and
- 4. That verification of conformance of completed project be certified by Robert O. Eggleston, Licensed Architect, within (60) days of completion of the project with verification submitted to the Town; and
- 5. That the Applicant obtain Town of Skaneateles Planning Board approval of the Site Plan and Narrative, and that the Planning Board issue its Special Permit/Site Plan Approval, and that any conditions of the Special Permit be complied with in all respects.

RECORD OF VOTE

MEMBER NAME	AYE	NAY	ABSENT
Chair DENISE RHOADS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vice Chair DAVID PALEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member KRIS KIEFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member DAVE LEE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member SHERILL KETCHUM	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Public Hearing Continuance

Applicant: Christopher Nulty
62 Woodcliff Terrace
Fairport, NY 14450`

Property:
2699 East Lake Rd
Skaneateles, NY 13152

Tax Map #037.-01-04.0

Present: Christopher Nulty, Applicant;

The board determined that the public hearing was active, and the hearing should be opened to the public again.

WHEREFORE, a motion was made by Member Ketchum and seconded by Chair Rhoads to open the public hearing. The Board having been polled resulted in unanimous affirmation of said motion.

At this time Vice Chair Palen asked if there was anyone who would like to speak in favor of, against or had any comments regarding the application. Robert Eggleston, 1341 East Genesee St, stated that he does not represent the applicant; however, he had created the previous redevelopment plan with the prior owner. This is a challenging application as the board does take a serious view regarding impermeable surface coverage in the watershed. The prior review was a long and careful process, it was challenged in court by the neighbors, and the town was successful in supporting its original decision for the redevelopment of this property. There are a few things that are unfortunate for Mr. Nulty. When the final as built was completed there was not a careful accounting of the impermeable surface coverage, and the applicant ending up buying something that was not completed as far as completing the driveway with grass strips according to the approved plans. With the approved plan, the boat house was removed and modified the total footprint. A disadvantage of the prior redevelopment was keeping the existing structure rather than tearing it down and rebuilding the structure with a basement that could house the mechanicals. The prior applicant also chose to remove the existing shed so that the square footage could be attached to the dwelling for the mechanicals rather than placing the mechanicals in the attic space or under the stairs. Then the new owner found a need for a shed to place the lawn care equipment including gasoline and had naively placed the shed on the property without understanding the challenges to the lot. Most of the small properties along the lake have much higher footprints and living areas. What Mr. Nulty is asking for is not out of character with the neighborhood. It should be taken into consideration that he has been affected by a few bad decisions of the prior owner. A nonconforming lot under 20,000 square feet is entitled by right to an 80 square foot shed and could be a point of compromise for the board. Increases in impermeable surface coverage is under the Zoning Board's purview. Having a shed to be able to put garbage, gas can, and propane is important for any lot. Mr. Eggleston proposed that the applicant could downsize his shed to 80 square feet and install the grass strip into the driveway as a compromise with the board.

Vice Chair Palen asked Mr. Nulty if he is open to consider what was just proposed. Mr. Nulty said that he can absolutely install the grass strip in the driveway, and that his preference is to maintain the existing shed that is 96 square feet. He continued saying if it must be 80 square feet that it is better than nothing. Member Ketchum inquired how the three Rubbermaid containers are being used that are on the property and recommended that one of those could be used to store the gasoline as those containers are not regulated. Mr. Nulty said that the two containers near the driveway are for recycling and garbage, and that it was his understanding that he could not remove the parking area. Member Ketchum said that there is another container next to the existing shed and that a larger version of that could replace the shed in its location as it is not regulated. Mr. Nulty said that he could consider one of those if that is the direction from the board.

Member Kiefer commented that the garbage has a designated area that is not inside the shed. Member Kiefer inquired if there was a deck on the property and Mr. Nulty said that it is a patio. Member Kiefer inquired where there is grass that needs to be mowed and Mr. Nulty said that there is grass on three sides of the dwelling. Member Kiefer recapped the communication from the codes officer and the correspondence regarding the infraction of adding a shed without approvals. Mr. Nulty said that he was told he did not need a building permit for a shed under 144 square feet, and that he did not know the history of the property until after he received correspondence from Bob Herrmann regarding the shed and then had conversations with him. He continued saying that the house was not designed for a full time resident as far as having a place to store things. The shed was build off site and dropped off on the property. Member Lee asked if there was a record that shows that the codes officer said that there was no permit required for the shed. Mr. Nulty asked if there is a requirement for a building permit under 144 square feet and if that information can be obtained from the codes officer. Counsel Molnar reviewed the letters from the codes officer to stop all work in July 2021, then subsequently a letter from the town from November 4, 2022 indicating that the shed is noncompliant that does not speak to any landscaping or other work that was happening. The applicant had submitted an application to the Planning Board in September 2021, where the board directed the applicant to obtain a variance from the Zoning Board of Appeals before the Planning Board could consider the amendment. The town had requested that Mr. Nulty submit the variance application several times before the letter from the codes officer was sent in November 2022.

Vice Chair Palen inquired if the board could move forward with the suggested modifications, and Counsel Molnar said that the board could move forward as the suggested modifications are no greater than what the original variances requested and advertised. The applicant is willing to bring about compliance with the grass strip portion of the driveway and some form of shed, perhaps not the existing size that is on the property but one smaller. Vice Chair Palen requested that it be put into writing and submitted to the board. Mr. Nulty said that it is a significant cost for a new shed that would be 16 square feet smaller. Member Lee said that it was cavalier to move forward when being told to stop and 16 square feet is not the issue. Mr. Nulty said that there was never any work being done as the shed was pre-built, and there was o work being done that he was asked to stop. Vice Chair Palen said that there were mistakes made and he would like to resolve this with a compromise of a smaller shed and placing the driveway grass strip.

Chair Rhoads commented that there was a certificate of occupancy issued for the property and some work prior to that was not picked up that covers the driveway portion of the property. Counsel Molnar stated that even if the driveway portion of the property was not completed when the certificate of occupancy was issued, the Zoning Board and Planning Board issued their approvals with required specific dimensions and conditions on all the plans that were approved given the challenges of the site. Those prior resolutions issued upon strict conditioned compliance with the plans exist unless the board fashions some relief to the existing requirements. Chair Rhoads said that the codes officer is supposed to check the plans to ensure compliance. In other cases, applicants had to get approval for changes before a certificate of occupancy was issued.

Vice Chair Palen inquired if a shed were reduced in size, would there need to be a variance and Counsel Molnar explained that there would be a variance due to the existing approvals that were granted on the property based on the challenging aspects of the site. Mr. Nulty reiterated that the shed was delivered prior to the July 29, 2021 letter that was received.

WHEREFORE, a motion was made by Vice Chair Palen and seconded by Member Kiefer to close the public hearing. The Board having been polled resulted in unanimous affirmation of said motion.

Counsel Molnar asked the applicant what his variance request is given the conversation today, and Mr. Nulty said that he would like the variance for the 96 square foot shed and adding the grass strip as replacing the shed with a smaller shed would be costly. He continued saying that it does not seem that it is his responsibility to put in the grass strip after the certificate of occupancy has been issued although he will do it. Replacing the shed with a smaller shed would be expensive.

Vice Chair Palen commented that he is not prepared to vote on the application at this time. Counsel Molnar said that the board has 62 days to make a determination and adjourn the application to the next meeting. Member Lee said that if the meeting is continued until next month, then the applicant would have time to consider and maybe revise his request. Mr. Nulty said that he is amenable to moving his application to next month as a smaller shed is better than no shed.

WHEREFORE, a motion was made by Member Kiefer and seconded by Vice Chair Palen to continue the review of the application to next month's meeting. The Board having been polled resulted in unanimous affirmation of said motion.

Extension Request

Applicant: Adam Graham
3429A East Lake Rd
Skaneateles, NY 13152
Tax Map #041.-01-06.0

Present: Bob Eggleston, Architect

The applicant is requesting an extension on the approved variances granted on June 7, 2022 through December 31, 2024. There have been potential impacts to the applicant's residency in Skaneateles and he would like to have more time to determine if he will be continuing his residency in the town.

Whereas, a motion was made by Vice Chair Palen and seconded by Chair Rhoads, the ZBA ratified and confirmed its SEQRA determination for the Application, which was a determination that the Application constitutes a Type II Action and not subject to further SEQR review. The Board having been polled resulted in unanimous affirmation of said motion.

WHEREFORE, a motion was made by Vice Chair David Palen and seconded by Chair Denise Rhoads, and duly adopted by unanimous vote, the Board approved the Applicant's request to extend the Approving Resolution to December 31, 2024, subject to all other conditions set forth in the Approving Resolution, which remain in full force and effect.

There being no further Board business, a motion was made by Member Kiefer and seconded by Member Lee to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 8:28 pm.

Respectfully Submitted,

Karen Barkdull
P&Z Clerk

Additional Meeting Attendees:

Bob Eggleston Lee Scott Bishop Kay Stearns Bruening

Attendees (Zoom):

Christopher Nulty David Curtin Mark Tucker