

## HISTORIC PRESERVATION AND THE ADIRONDACK FOREVER WILD CLAUSE: THE CONSTITUTIONAL AMENDMENT TO SAVE DEBAR POND LODGE

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### ABSTRACT

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This paper explores the threat posed by the New York State Constitution to the historic Debar Pond Lodge and legal challenges mounted by advocates to save the building. Following interpretation of New York State Constitution's Article XIV, also known as the "Forever Wild" clause, the state should have demolished Debar Pond Lodge many decades ago. However, the buildings survived long enough to be listed on the National Register of Historic Places in 2014, providing the building extra protections under New York State Law. Public sentiment towards the permanent preservation of the property has encouraged groups to pursue a constitutional amendment that would allow New York State to conduct a land transfer and remove the property from the protected forest preserve.

### INTRODUCTION

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Tucked into the northern forests of the Adirondack Mountains on the shore of a picturesque lake is Debar Pond Lodge. Since its construction, the primary lodge and many of the associated outbuildings have survived largely intact and minimally modified. Despite the integrity of the historic resources, the century old battle over public land use in the Adirondacks has engulfed the property. According to the State's interpretation of its own constitutional Forever Wild clause, the building should have been demolished decades ago. But a questionable lease agreement permitted the building to remain standing, and now numerous community groups are fighting to save the building from destruction and return it to a useable and public space. However, doing so requires a lengthy process to approve a constitutional amendment that would remove the site from state ownership.

## THE PROPERTY<sup>1</sup>

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While the site of Debar Pond Lodge was originally developed by a hop farmer from Utica, NY in the 1800s, the existing structures are a result of a 1940 redevelopment by the Wheeler Family to create a personal summer camp isolated deep in the forest. Debar Pond Lodge was listed on the National Register of Historic Places and the New York State equivalent in 2014. Although dominated by the main lodge, the listing is categorized as a district due to the numerous outbuildings associated with the historic operation of the facility, including the guide house, pottery shed, and boathouse. At the time of nomination, eight of the eleven structures were considered contributing, though a few of these structures have since partially or entirely collapsed from disrepair.

Following the criteria for nomination under the National Historic Preservation Act, the property was nominated under both Criterion A and C. Under Criterion A, the property is significant as an example of the later period “great-camps” of the Adirondack region. Numerous of these iconic, remote complexes were built in the late 19th and early 20th centuries, typically used by the wealthy elite for a few months in the summer and staffed with dozens of on-site employees from the local communities. These great camps have deep ties to the tourism and conservation history of the Adirondacks, but many of these regionally unique complexes have been destroyed and few are publicly accessible. Following Criterion C, the building is significant for the retention of most of its original floorplan and architectural features, which are representative of the popular “Adirondack Rustic” style favored by architects during this time period. The architect of the building from nearby Saranac Lake, William G. Distin, is associated with many other historically notable buildings throughout the region.

## THE CONSTITUTIONAL CONFLICT

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The 1,200-acre property was purchased by New York State in 1979, a period of time notable for large land purchases on behalf of the State in an effort to conserve additional land within the Park<sup>2</sup>. With some exceptions, land owned by New York State within the Adirondack Park is part of the Adirondack Forest Preserve, which provides a unique set of protections and protocols. These protections originate in Article XIV of the New York State Constitution (N.Y. Const. art XIV, §1), often referred to as the Forever Wild clause:

*The lands of the state, now owned or here-after acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest land. They shall not be leased, sold or exchanged, or be taken by any corporation, public or private, nor shall the timber thereon be sold, removed or destroyed.*

Enforcement of this clause was largely restricted to the prevention of logging by private companies on

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- 1 Information regarding the historical and architectural significance of Debar Lodge has been retrieved from the National Register Nomination Form (2012)
  - 2 Adirondack State Park is unlike most parks because land within the park boundaries is a mix of private and public land. Only the publicly owned land is conserved like traditional parkland and protected by the State Constitution.

State land, but a large number of land acquisitions by the State in the middle of the 20th century, combined with a new public awareness of environmental issues, led to the State to reassess management of the forest preserve. In 1972, the 2.6 million acres of forest preserve within the Adirondack Park were divided into one of eleven land-use classifications as defined by the Adirondack State Park Land Master Plan (NYS Adirondack Park Agency, 2019). Wilderness and Wild Forest designations were given the strictest regulations, intended to minimize the permanent presence of human activity such as buildings. According to the Master Plan, any non-conforming uses on Wild Forest land should have been removed by March 31, 1987 or by the end of the third year following Wild Forest designation.

When the lands containing Debar Pond Lodge were acquired by the State in 1979, the land was designated the Debar Pond Wild Forest. Wild Forests only legally permit permanent structures if they directly serve park administration, leaving the Lodge and associated structures as “nonconforming uses” (Staats, 2021). However, due to an existing 25-year lease on the property with a private third party, the structure was allowed to remain in use beyond the three-year window for removal until NYS fully acquired the property in 2004. Although this lease extension on state property was legally questionable<sup>3</sup>, it had the effect of saving the building from a series of demolitions by New York State that removed many historic structures from state land in the 70s and 80s.<sup>4</sup> By the end of the lease in 2004, New York State had become less vigilant about upholding the mandate to remove structures from state land.

Seeing that the property was vulnerable, preservation groups managed to list the building on both the National and State historic registers by 2014. Listing does not provide complete legal protection of a resource, but does create procedural hurdles that government entities are supposed to follow prior to any undertaking that might affect the historic property. In 2020 the New York State Department of Conservation (DEC) proposed an undertaking that would remove all existing structures and convert the site to a day-use and camping area, complete with pavilions, campsites, and grills (Craig, 2020). The associated Draft Scoping Document developed during the Environmental Impact Review process, which is legally required for all State undertakings, acknowledges the negative impact caused by the removal of the historic structures (NYS DEC & Adirondack Park Agency, 2020). The Document describes the proposed mitigation:

*These impacts will be mitigated, in part, through... the installation of interpretive elements throughout the site. Additionally, DEC proposes to construct day-use facilities that utilize a similar design aesthetic as the current lodge, thereby minimizing the visual impact (loss of community character) caused by the lodge's removal.*

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<sup>3</sup> Article XIV specifically forbids leasing of land but is not explicit about leasing buildings.

<sup>4</sup> By the 1970s and 80s, new interpretation of the Forever Wild clause and enforcement of the new Master Plan resulted in the removal of permanent structures from forest preserve lands. This time is noted for the demolition of numerous structures, historic and otherwise, including numerous great camps similar to Debar Pond Lodge. For example, Nehasane Lodge on the shore of Lake Lila was demolished by the DEC in the late 1970s following purchase by the state (Protect the Adirondacks, 2021).

Release of the Draft Scoping Document and the formal proposal to remove the buildings to create a day-use site motivated numerous community and preservation groups to prioritize development of an alternative use for the property. This included AARCH (Adirondack Architectural Heritage), the regional preservation organization that filed the original nomination form and has taken the lead on many similar issues throughout the Adirondacks. AARCH worked to raise public awareness about the property and publicize the proposed demolition of the lodge. AARCH publicly called upon the DEC to convene all applicable stakeholders and hold in-depth public discussions about the site's future, stating that it is the DEC's "responsibility under the New York State Preservation Act...to explore all reasonable alternatives to its demolition" (Adirondack Architectural Heritage, 2020).<sup>5</sup> With the increased awareness of the site and renewed cooperation between various community groups and with the DEC, productive discussions regarding the future of the lodge property commenced.

The most recent proposal follows a precedent set by preservationists in the 1980s to protect Great Camp Sagamore, which entailed a land swap of private land for the land containing the historic resources. Since the Forever Wild clause is written into the New York State Constitution and explicitly prohibits the exchange or sale of State-owned land, a constitutional amendment must be passed by the state legislature to allow any adjustments to forest preserve lands. Since its creation, Article XIV has been amended 16 times, mostly for the purposes of land exchanges (Protect the Adirondacks, 2020).<sup>6</sup> Two amendments, passed in 1983 and 1987, were passed to preserve Great Camp Sagamore. According to the associated amendments, the non-profit Sagamore Institute was required to transfer 200 acres with equivalent monetary value to the land being removed from the forest preserve.<sup>7</sup> To this day, Great Camp Sagamore is managed by the Sagamore Institute and is accessible to the public.

In the case of Debar Pond Lodge, preservationists have proposed development of a similar constitutional amendment to perform a land swap, removing the Debar Pond Lodge site from the Wild Forest in exchange

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5 Statutory Authority: Parks, Recreation and Historic Preservation Law, Section 14.09, Part 428.

Similar to the National Historic Preservation Act Section 106, when conducting any undertaking that impacts a designated or eligible historic property a New York State Agency "shall fully explore all feasible and prudent alternatives and give due consideration to feasible and prudent plans which avoid or mitigate adverse impacts on such property" (Section 428.1).

6 The amendment process has been used for numerous purposes, including highway construction, airport relocation, and ski mountain expansion

7 N.Y. Const. art XIV, §1 amend. 8 & 9: "... the state, in order to facilitate the preservation of historic buildings listed on the national register of historic places ... may convey to Sagamore Institute, Inc., a not-for-profit educational organization, approximately ten acres of land and buildings thereon adjoining the real property of the Sagamore Institute, Inc. ... in exchange therefor; Sagamore Institute, Inc. shall convey to the state for incorporation into the forest preserve approximately two hundred acres of wild forest land located within the Adirondack Park on condition that the legislature shall determine that the lands to be received by the state are at least equal in value to the lands and buildings to be conveyed by the state and that the natural and historic character of the lands and buildings conveyed by the state will be secured by appropriate covenants and restrictions and that the lands and buildings conveyed by the state will reasonably be available for public visits according to agreement between Sagamore Institute, Inc. and the state."

for at least 300 acres of nearby land not currently inside the Forest Preserve (Kirschenbaum, 2021). A newly formed non-profit, the Debar Pond Institute, would assume ownership of the building for use as an educational center while continuing to allow public access to the site. Once removed from state-ownership, the building would no longer be in violation of the State Constitution.

However, the process to pass an amendment is long and takes many years. In order to pass, an amendment must win a majority vote in both the State Assembly and State Senate, and then must wait until the next general election and be passed by the following session. After it has received approval from four different legislative bodies, it must receive approval from the people of New York State as a ballot item in a general election (*New York State Constitutional Amendment Process* | Adirondack Council, n.d.)

## CONCLUSION

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In January 2022, a bill proposing the amendment and land swap was introduced by Senator Dan Stec and Assemblyman Billy Jones, the elected officials for the legislative districts in which Debar Pond Lodge sits (Violo, 2022). Advocates for the bill, such as Howie Kirshenbaum, the founder of Adirondack Architectural Heritage, have noted that the bill not only saves the historic property, but expands and protects the surrounding forests that are a defining feature of both Debar Pond and the Adirondack Park. If the amendment is approved in both upcoming legislative sessions, then it could appear on the general ballot as early as 2023 (Rowland, 2022). It will then be up to the people of New York to determine if the preservation of Debar Lodge is worth amending the Constitution. In the meantime, the building has been secured against potential damage, including application of plywood to the historic windows and minor roof repairs. Should the amendment not pass, it is unclear what other legal avenues exist to preserve Debar Pond Lodge. Regardless of the outcome of the amendment process, it is sure to set a precedent that is likely to impact the fate of other historic properties in the decades to come.

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## APPENDIX A: PHOTOS

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*Figure 1. Exterior of the main building. Photo Credit: (Staats, 2021)*



*Figure 2. Exterior of the main lodge. Photo Credit: Zach Floss*



*Figure 3: Interior of the main building. Photo Credit: Nancy Battaglia*





*Figure 4. View of Debar Pond from the lodge. Photo Credit: Justine A. Levine*



*Figure 5. Location of Debar Mountain Wild Forest and Debar Pond Lodge (star)  
(Debar Mountain Complex, 2020)*