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VERMONT
ENVIRONMENTAL COURT

STATE OF VERMONT
ENVIRONMENTAL COURT

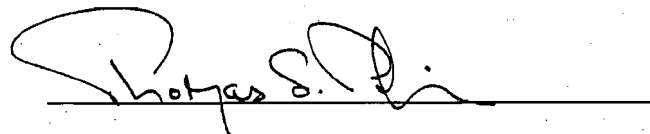
Vermont Natural Resources Board,)
Land Use Panel)
Petitioner,)
v.)
Marino Farm, LLC,)
Respondent.)

Docket # 118-6-07 Vtec

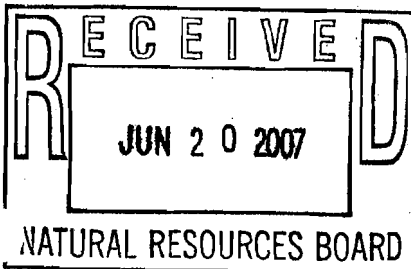
ORDER

The Assurance of Discontinuance signed by the Respondent on April 19, 2007, and filed with the Environmental Court on June 11, 2007, is hereby entered as an order of this Court, pursuant to 10 V.S.A. 8007 (c).

Dated this 18th day of June 2007.



Thomas S. Durkin,
Environmental Judge



STATE OF VERMONT

ENVIRONMENTAL COURT

Docket No.

LAND USE PANEL of the
NATURAL RESOURCES BOARD,
Petitioner,

v.

MARINO FARM, LLC,
Respondent.

VIOLATION

1. Changing the design of a permitted project without having first obtained the written approval of the Division for Historic Preservation and the District 2 Environmental Commission in violation of Condition Nos. 1, 2, 10 and 12 of Land Use Permit #2W0694-3.

ASSURANCE OF DISCONTINUANCE

Pursuant to the provisions of 10 V.S.A. § 8007, the Land Use Panel of the Natural Resources Board (Panel) and Marino Farm, LLC (Respondent) hereby enter into this Assurance of Discontinuance (Assurance or AOD), and stipulate and agree as follows:

STATEMENT OF FACTS AND DESCRIPTION OF VIOLATIONS

1. Respondent Marino Farm, LLC owns an approximately 8 acre tract of land on Stowe Hill Road in Wilmington, Vermont.
2. On December 7, 2005, the District 2 Environmental Commission (Commission) issued Findings of Fact and Conclusions of Law issuing Land Use Permit #2W0694-3 (Permit) to Respondent. The Permit authorizes Respondent to change the use of a previously permitted project subject to Act 250 jurisdiction. The Permit allows Respondent to return the main barn on the site to its former agricultural use and convert three existing buildings around the barn into three residential units.

3. Condition No. 1 of the Permit states:

The project shall be completed, operated and maintained in accordance with the plans and exhibits on file with the District Environmental Commission and the findings of fact and conditions of this permit.

4. Paragraph 17 of the Commission's Findings of Fact and Conclusions of Law states:

The renovation plans for the dairy barn and the three smaller structures have been made in consultation with a Historic Preservation consultant and approved by the Division for Historic Preservation. Exhibits 20, 39, 44, 52 and 54.

5. Exhibit 20 is a report prepared by the Division for Historic Preservation entitled "Act 250 Review – Marino Barns" (Report). The Report states, in part:

Barn 2

Exterior – The slate roof will be repaired where necessary and the clapboards will be painted.

Effect: This work will make the building more weather tight and will improve the appearance of the building.

Two skylights will be installed in the north roof slope. They will be flat and installed flush with the roof surface.

Effect: While this is a minor adverse effect, it is necessary to install these skylights in order to ensure the future use of this building.

A genuine and authentic copy of the Report is attached hereto as Exhibit 1.

6. Condition No. 2 of the Permit states:

No changes shall be made in the design or use of this project without prior written approval from the District Coordinator or the District Environmental Commission, whichever is appropriate under the Environmental Board Rules.

7. Condition No. 10 of the Permit states:

All renovations to the historic structures shall be accomplished in accordance with the representations made to the Division for Historic Preservation and approved by the Division. Any alterations to the approved renovations or further alterations and construction must be approved in writing in advance of construction by the Division for Historic Preservation and the District 2 Environmental Commission. The permittee shall affirmatively maintain the historic structures.

8. Condition No. 12 of the Permit states:

No further alteration and/or development shall be permitted without prior written approval from the District Environmental Commission.

9. In a letter dated July 7, 2006, the Assistant Coordinator for the District 2 Environmental Commission in Springfield, Vermont (Coordinator) informed Respondent that the project was not in compliance with Condition No. 10 of the Permit, stating:

As you can see, the permit clearly approved only the two skylights on the north side of the roof. At this point, there are already two skylights installed on the south side of the roof and you plan on installing two more on the north side. The south skylights are in violation of the Act 250 permit and could result in penalties. In order to bring the project into compliance with the permit, you must remove the skylights on the south side of the gambrel roof on Barn 2 (aka Pandora's Barn) and return the roof to the slate roof that it was before you installed the skylights.

A genuine and authentic copy of this letter is attached hereto as Exhibit 2.

10. On August 4, 2006, the Coordinator sent Respondent a Notice of Alleged Violation (NOAV) pursuant to 10 V.S.A. § 8006(b). The NOAV described Respondent's alleged violation as follows: "Respondent has installed sky lights on the south facing roof of the Pandora barn (Barn #2) in violation of Condition Nos. 1, 2, 10 and 12 of LUP #2W0694-3." A genuine and authentic copy of the NOAV is attached hereto as Exhibit 3.
11. To date, Respondent has neither restored the roof to the condition set forth in the Report or filed a Stowe Club Highlands analysis and application with the District 2 Environmental Commission seeking an amendment to the Permit for the additional skylights that Respondent installed on Barn 2 of the project site.
12. Respondent violated Condition Nos. 1, 2, 10 and 12 of the Permit by changing the design of a permitted project without having first obtained the written approval of the Division for Historic Preservation and the District 2 Environmental Commission in violation of Condition Nos. 1, 2, 10 and 12 of Land Use Permit #2W0694-3.

AGREEMENT

Based on the aforementioned Statement of Facts and Description of Violations, the parties hereby agree as follows:

- A. No later than thirty (30) days of the date on which this Assurance is signed by the Environmental Court, the Respondent shall pay to the State of Vermont, pursuant to 10 V.S.A. Ch. 201, a civil penalty in the amount of \$1,125.00 Dollars (U.S.), for the violation noted herein. Respondent shall make said payment by check made payable to the "Treasurer, State of Vermont" and shall be forwarded to:
- Denise Wheeler, Business Manager
Land Use Panel of the Natural Resources Board
National Life Records Center Building, Drawer 20
Montpelier, Vermont 05620-3201
- B. Respondent shall comply with all terms and conditions of Land Use Permit #2W0694-3.
- C. No later than thirty (30) days of the date on which this Assurance is signed by the Environmental Court, Respondent shall do either of the following:
- 1) Return the project site to the condition described in the plans and exhibits on file with the District 2 Environmental Commission in connection with Land Use Permit #2W0694-3. Specifically, Respondent shall remove the two (2) skylights from the south side of the roof on Barn 2 and restore the slate roof; or
 - 2) Pursuant to Act 250 Rule 34(E), file a complete Stowe Club Highlands Analysis and an application with the District 2 Environmental Commission seeking an amendment to Land Use Permit #2W0694-3 for the additional skylights that Respondent installed on the south roof on Barn 2 of the project site.
- D. If Respondent files a complete Stowe Club Highlands application with the Commission seeking an amendment to Land Use Permit #2W0694-3 and the Commission denies Respondent's request to maintain the additional skylights it installed on the south roof on Barn 2 of the project site, Respondent shall return the project site to the condition described in the plans and exhibits on file with the Commission by removing the additional skylights it installed and restoring the roof to its original condition no later than thirty (30) days of the date on which the Commission's decision becomes final.


- E. The State of Vermont and the Land Use Panel reserve continuing jurisdiction to ensure future compliance with all statutes, rules, and regulations applicable to the facts and violations set forth herein above.
- F. Nothing in this Assurance shall be construed as having relieved, modified, waived or otherwise affected the Respondent's continuing obligation to comply with all other applicable state or local statutes, regulations or directives applicable to the Respondent.
- G. This Assurance shall become effective only after it is signed by all parties and entered as an order of the Environmental Court. When so entered by the Environmental Court, this Assurance shall become a judicial order pursuant to 10 V.S.A. § 8007(c). In the event that such order is vacated, the Assurance shall be null and void.
- H. Pursuant to 10 V.S.A. § 8007(d), the Respondent shall not be liable for civil or criminal penalties with respect to the specific facts described herein and about which the Land Use Panel has notice on the date the Court signs this Assurance, provided that the Respondent fully complies with the agreements set forth above.
- I. This Assurance sets forth the complete agreement of the parties, and it may be altered, amended, or otherwise modified only by subsequent written agreements signed by the parties hereto or their legal representatives and incorporated in an order issued by the Environmental Court. Alleged representations not set forth in this Assurance, whether written or oral, shall not be binding upon any party hereto, and such alleged representations shall have no legal force or effect.
- J. Any violation of any agreement set forth herein will be deemed to be a violation of a judicial order and may result in the imposition of injunctive relief and/or penalties, including penalties set forth in 10 V.S.A. chapters 201 and/or 211.
- K. This Assurance is subject to the provisions of 10 V.S.A. § 8007.

SIGNATURES

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted. Further, I, MICHAEL J. MARINO, JR. the undersigned, hereby state under oath that I am OWNER of Marino Farm, LLC, which I have the authority to contract on behalf of Marino Farm, LLC, and that I have been duly authorized to enter into the foregoing Assurance of Discontinuance on behalf of that entity.

Dated at Kings County, ^{New York} Vermont, this 19th day of April, 2006. ⁷


MARINO FARM, LLC

By: 
MICHAEL J. MARINO, JR.
(Print Name and Title)

STATE OF ~~VERMONT~~ ^{New York}
COUNTY OF Kings ss.

At Kings County, ^{New York} Vermont, this 19th day of April, 2006,
Michael J. Marino, Jr. personally appeared and swore to the truth of the foregoing.

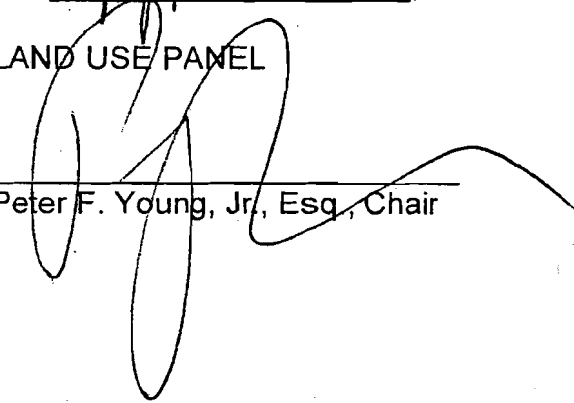
CINDI ALBINDER
Notary Public, State of New York
No. 01AL6079858
Qualified in New York County
Commission Expires: October 1, 2010

Before me,

Notary Public
My Commission Expires: _____

The provisions set forth in this Assurance of Discontinuance are hereby agreed to and accepted.

Dated in Montpelier, Vermont, this 23rd day of April, ²⁰⁰⁷ ~~2006~~.

LAND USE PANEL

By: 
Peter F. Young, Jr., Esq., Chair

Act 250 Review

Marino Barns

Wilmington, Windham County

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Abstract

This report addresses the proposed improvements to four barns on Lot 3 of the Marino Farm on Stowe Hill Road in Wilmington, Windham County. One of the stipulations of the Act 250 permit for the subdivision of this property is that any undertakings to the historic resources on the property must address Criterion 8 of Act 250. These barns are part of a former farmstead that also includes a farmhouse and two barns that are on a contiguous property. The Marino Farm, formerly known as Green Meadows, is eligible for the State and National Registers of Historic Places as a historic farmstead. The purpose of the project is to rehabilitate the barns. The dairy barn will be returned to agricultural use as a goat barn, and the other three smaller barns will be converted to living space. In general, the project will not have an adverse effect on the historic appearance of the farmstead, and will help preserve these former agricultural resources.

Introduction

The purpose of this Act 250 Review report is to identify the historic resources on the subject property, to identify the resources' historic status, to determine the effect of the proposed project on the historic resources, and to recommend treatments that will avoid adverse effect. Criterion 8 of 10 V.S.A., Chapter 151 (Act 250) requires that the effect of an undertaking on historic resources must be considered when an Act 250 permit is required.

This Act 250 Review report was completed by Paula Sagerman, Historic Preservation Consultant, of Wilmington, Vermont, for Marino Farms, LLC. Marino Farms has also hired Stevens & Associates, a planning and engineering firm in Brattleboro, to assist with other Act 250 issues. A field visit was conducted on March 21, 2005, and photographs were taken of the subject property.

Description of the Resources

Marino Farms is a former farmstead that has recently been subdivided into three lots. The site is located on Stowe Hill Road in Wilmington, in a rural hilly area overlooking the Deerfield Valley. Except for some scattered modern houses, the rural setting remains preserved. Stowe Hill Road remains relatively unspoiled compared to other parts of Wilmington, which have been developed with modern single family homes and condominiums due to the town's proximity to Mt. Snow, an all-year round recreational resort.

The subject of this report is Lot 3, which is an 8.05 acre parcel containing a large dairy barn, three small barns, and an open pole barn. Except for the modern pole barn, all of the barns appear to date to c. 1925. Lot 2, which is 8.76 acres, contains a historic farmhouse and two barns, and Lot 1, which is 11.67 acres, does not contain any structures. The subject property is open and contains the barn cluster and open fields to the south and north. The south field creates a buffer between the barns and road. The south end of the dairy barn and Barn 2 are visible from the road.

All four of the barns appear to have been constructed at the same time, as they have the same construction and stylistic features: poured concrete foundations and slabs, balloon framing, clapboard siding, slate gambrel roofs with exposed rafter tails, metal ventilators, and former and existing square window openings. It is unknown what Barns 2, 3 and 4 were used as, but possibilities include apple barn, piggery, poultry house, utility house, tool shed, grain storage, or fern house. (Ferns were picked in the hill towns of Windham County at the time, and there was a company in Wilmington that sold the ferns to florists in large cities.) Because they all have ventilators and low eaves that would not accommodate most farm vehicles, they were not used for vehicle storage. All of the barns are in good condition. See site plans for location and orientation of barns.

Dairy Barn, c. 1925

This large covered high-drive ground-level dairy barn has a long rectangular footprint, a side high drive opposite a large cross gambrel, a poured concrete foundation and slab, balloon framing, clapboard siding, and a large gambrel slate roof with exposed rafter tails and three metal ventilators. The ground level stable windows are square openings containing modern paired casements, and the cross gambrel also has new window openings infilled with glass blocks. The south gambrel contains a large modern window opening containing a bank of five one-over-one windows beneath a bank of five vertical single-pane windows. The gambreled high-drive has a poured concrete ramp and its original large door opening has been infilled with wood siding and a double-leaf modern pedestrian door. Projecting from the north gambrel wall is a modern enclosed staircase.

The basement of the dairy barn has a poured concrete floor, and it is generally open to the balloon frame structure. Some of the original rough horizontal board wall sheathing survives in the north half of the basement. The south end of the attic is open to the structure of the building, except for the north end, which is a former gymnasium and has wood floors and wallboard sheathing. There is a modern kitchen in the attic of the cross gambrel. A historic beadboard staircase leads from the basement to the attic.

The barn was constructed about 1925. It probably originally had a cow stable in the basement and a hayloft in the attic. The cross gambrel was the milk house, and the high drive served as a wagon entrance. Cattle entered the basement via openings in the gambrel end walls. In the 1970s, the exterior door openings were infilled and all of the windows were replaced, and modern walls, finishes and fixtures were added to convert the barn to school functions such as dormitory rooms, classroom spaces, kitchen and dining area, and gymnasium. The cattle stalls and any other original interior features were removed at that time. The 1970s finishes are currently being removed from the barn. Significant historic features of the dairy barn include the concrete foundation and slab, clapboard siding, slate gambrel roof with exposed rafters and ventilators, square window openings, the high drive, and the interior staircase.

Barn 2

This 1-1/2 story barn has a long rectangular footprint, poured concrete foundation and slab, balloon framing, clapboard siding, and a slate gambrel roof with exposed rafter tails and two

metal ventilators. The south eaves elevation lacks fenestration. The north eaves elevation has a centered modern pedestrian door. To the left of this is a bank of three modern one-over-one windows. The first story of the west gambrel wall has a pair of regularly-spaced paired modern one-over-one windows, and the second story has a boarded-up doorway flanked by modern one-over-one windows. The east gambrel wall matches the west gambrel wall, but the doorway contains a modern door. The interior of this barn has 1970s finishes such as gypsum wallboard and wood paneling, which are currently being removed.

This barn was probably constructed c. 1925. Its original use is unknown, but it was possibly an apple barn, a piggery, or a poultry house. It originally had square window openings like the dairy barn. All of the existing window and door openings date to the late twentieth-century. Significant historic features include the concrete foundation and slab, clapboard siding, and the slate gambrel roof with exposed rafters and ventilators.

Barn 3

This 1-1/2 story barn has a rectangular footprint, poured concrete foundation and slab, balloon framing, vinyl siding, and a slate gambrel roof with exposed rafter tails and two metal ventilators. Spanning the north eaves elevation is a shallow shed-roofed projection. The south eaves elevation has four irregularly-spaced modern awning windows and a modern pedestrian door. The south gambrel wall has a boarded-up doorway in the projection and a modern pedestrian door at the left end of the gambrel wall. To the right of this door are paired one-over-one modern windows. Directly above the windows in the gambrel there is a matching set of windows. To the left of these second story windows is a modern door. The interior of this barn has one room at each story, and has 1970s finishes such as gypsum wallboard, which are currently being removed.

This barn was probably constructed c. 1925. Its original use is unknown, but it was possibly an apple barn, a piggery, a utility house, or a poultry house. All of the existing window and door openings date to the late twentieth-century, as well as the vinyl siding. Significant historic features include the concrete foundation and slab, clapboard siding, and slate gambrel roof with exposed rafters and ventilators.

Barn 4

This 1-1/2 story barn has a square footprint, a poured concrete foundation, balloon framing, clapboard siding, and a slate gambrel roof with exposed rafter tails and a metal ventilator. Centered on the east eaves elevation is a gambreled wall dormer that contains the entry to the barn. The barn is set into a bank and has a raised basement. The gambrel end walls each have two regularly-spaced square window openings. One of the south openings has been infilled with glass blocks. One of the north openings has a nine-pane wood window. The other openings have no windows. At the peak of each gambrel is a small round opening. The south opening contains a multi-pane window and the north opening has been boarded up. The entry is a modern wood door. The interior is unfinished and has a rough pine floor.

This barn was probably constructed c. 1925. Its original use, is unknown, but judging by the ventilator it was used for either animal or food storage, or was a butter factory. The window openings are original, and the nine-pane window and round window may be original. Significant historic features include the concrete foundation and slab and slate gambrel roof with exposed rafters and ventilators.

Pole Barn

The four-bay pole barn has square posts, an open roof structure, and metal roofing. It was constructed in the late twentieth-century.

Historic Significance of Resources

The barns are an integral part of this former farmstead and are a good example of a collection of matching early twentieth-century agricultural resources. They are part of an excellent example of a diversified nineteenth-century farmstead that evolved into a successful twentieth-century dairy farm. Significant historic features of the barns include the concrete foundations and slabs, clapboard siding, slate gambrel roofs with exposed rafter tails, ventilators, and square window openings. The dairy barn is an excellent example of a covered high-drive ground-level dairy barn. It is relatively large compared to other Vermont barns of this type and has an unusually large milk house. It should also be noted that this intact farmstead in its rural setting is rare in Wilmington, which has experienced a great deal of late twentieth-century development due to its proximity to Mt. Snow, and a drastic loss of farming activity in the late twentieth century. Also, the dairy barn is the largest historic barn in Wilmington, and this is the only local collection of "matching" barns.

Wilmington is located in the Green Mountains of southern Vermont, halfway between Bennington and Brattleboro. The Deerfield River and its branches flow through town, and the intersection of Vermont Routes 9 and 100 is in Wilmington village. Wilmington was chartered in 1751, but because there was no organized settlement undertaken, the charter was revoked. In 1763, the charter was reinstated. Settlement was slow until after the Revolutionary War, when farmers from Massachusetts started to emigrate into the area. Early local agricultural productions included potash, potatoes, corn, and wheat.

By the early nineteenth-century, mills appeared on the Deerfield River and the village of Wilmington was settled. However, Wilmington remained primarily an agricultural area. The 1840 agricultural census for Wilmington lists livestock such as horses, sheep, cattle, swine and poultry; grains such as wheat, oats, rye and buckwheat; corn; and potatoes, hay, flax, maple sugar, wool, dairy, and orchard crops. Wilmington's farms thrived during the nineteenth century, and a cooperative creamery was organized in 1886 for local farmers.

In 1900, Wilmington was described as having "surrounding hills in every direction dotted with thrifty homesteads and crowned with forests of majestic maples." Farms, such as the subject property, were located in the hills rather than the swampy valley lands. The first farmhouse on the property probably dated to the early 1820s, and was built by Rufus Greene. It is possible that

this is part of the wing of the extant farmhouse. In 1826, Israel Lawton (1758-1844) and a James Lawton, possibly his son, purchased the property. At this point it had 94 acres.

Census records show that Israel Lawton, Sr., was originally from Massachusetts. He had been a soldier in the Revolutionary War, and in 1784, moved with his wife Dolly to Wilmington. They probably moved to Vermont because of Massachusetts' economic decline during the 1780s, and the availability of cheap unspoiled agricultural land in Vermont. Besides being a farmer, Lawton also represented Wilmington in the State legislature from 1801-1803.

Israel Lawton, Jr., (1798-1860) acquired the property at some point. His family included his wife Melissa (1801-1888), and seven children. Israel Jr.'s oldest son moved to Illinois, and the second oldest son, Orsamus B. Lawton (1835-1885), acquired the property at the age of 25, after his father's death. O.B.'s mother continued to live with her son's family, which included O.B.'s wife Maria. In 1860, the farm was worth \$5,000, an above-average amount for a farm in Wilmington. Judging by the style of the farmhouse, it could have been built anytime between the 1830s and the 1870s.

After O.B.'s death in 1885, his mother sold the property to Albert M. Fox, who may have been related to the Lawtons through marriage. Fox lived on the property with his wife Ella and their son Harry (1876-1958), and in 1903, Harry acquired the property shortly after his marriage to his wife Mary (1871-1950). At this point, the property had 162 acres. Harry Fox reportedly raised beef and dairy cattle. He probably built the gambreled barns about 1925, and possibly the duplex "tenant house" at the southwest corner of Stowe Hill Road and Beau Ridge Road, which has since been subdivided from the subject property. Fox was also a Wilmington selectman for fifteen years, and represented Wilmington in the State legislature for two terms. As with the Lawtons, the Fox family had originally settled in Wilmington in the late eighteenth-century.

In 1941, the Foxes retired from farming and sold the property. They lived in Winchester, New Hampshire for three years, and then moved to Brattleboro. The property was purchased by Arthur D. Pinkham of New Canaan, Connecticut. It is unknown if Pinkham and his wife Hazel continued the farming operations, but they did add numerous acres to the property. At this point, the property went at least as far north on Stowe Hill Road as its intersection with Corbat Road.

About 1960, when the widowed Hazel was living in New York City, she subdivided the property and sold the piece that contains the house and barns, which was 258 acres, to "The Silos-Wilmington, Inc." It is unclear what the property was used for, but the dairy barn was reportedly used as a tavern and had the longest bar in Vermont. Pinkham then built a new house on Corbat Road.

In 1964, the Silos-Wilmington, Inc. lost the property due to foreclosure. The bank further subdivided the property, and in 1965, sold the parcel with the house and barns to the Windham Development Corporation. This is probably when the property was reduced to 40 acres. It is unclear what this company did with the property (besides subdivide it). Ten years later, in 1975, the property was sold to the Green Meadows Company, which sold it in 1978 to the Green Meadows School. This was a school and living facility for troubled children, which closed in the 1990s. In 1997, a 10 acre tract bordering Beau Ridge Road and the tenant house was subdivided

from the property and sold. In 2004, the property was subdivided into three lots, and owner of the barns now owns Lots 2 and 3.

Evaluation of Integrity and Eligibility for the State and National Registers of Historic Places

The Vermont Division for Historic Preservation has found that the farmstead is eligible for the State and National Registers of Historic Places. The dairy barn and Barns 2 and 3 have lost their original windows and doors and Barn 3 has vinyl siding, but otherwise they maintain their historic integrity. Although the size of the farm has been reduced to 17 acres, the rural setting remains intact.

Project Description & Effect

Marino Farms, LLC, has recently purchased Lots 2 and 3. The subject property is Lot 3, and Lot 2 is being addressed in a separate report. The current plan is to return the dairy barn to agricultural use as a goat barn, and Barns 2, 3 and 4 will be rehabilitated as seasonal rental properties. The setting will remain intact, and the field at the north end of the lot will be returned to its historic use as a pasture.

Dairy Barn

Exterior - The slate roof will be repaired where necessary and the clapboards will be painted.

Effect: This work will make the building more weathertight and will improve the appearance of the building.

Interior - All of the 1970s interior features and finishes will be removed, restoring the interior of the barn to its historic unfinished appearance. The surviving interior wood sheathing will be retained, as well as the historic staircase. The basement will serve as the goat stable and the attic will serve as a hay loft and food storage area. The bottom sections of some 1970s concrete walls will be left in place in the basement to provide stall areas.

Effect: This work will restore the building to its historic appearance and will return it to its use as an animal facility.

Barn 2

Exterior - The slate roof will be repaired where necessary and the clapboards will be painted.

Effect: This work will make the building more weathertight and will improve the appearance of the building.

Two skylights will be installed in the north roof slope. They will be flat and installed flush with the roof surface.

Effect: While this is a minor adverse effect, it is necessary to install these skylights in order to ensure the future use of this building. The two attic rooms are very long, and the gable end windows do not provide enough light. The original plan was to install dormers, which would have been a major adverse effect, and the owner has agreed to forego this treatment in order to

help preserve the integrity of the building. Also, the skylights will not be visible from the most public view of the building, which is from the road.

New windows will be added to the south eaves elevation, which currently lacks fenestration.

Effect: The original window openings have already been altered, so this will not affect the historic appearance of the building. However, the effect will also depend on the appearance of the windows (see Recommendation for Avoiding Adverse Effect).

Interior – The existing interior 1970s finishes (sheetrock walls & ceilings, and wood paneling) will be replaced with new finishes.

Effect: This will have no effect on the historic appearance of the building.

Barn 3

Exterior – The slate roof will be repaired where necessary.

Effect: This work will make the building more weathertight and will improve the appearance of the building.

The vinyl siding will be replaced with clapboard siding.

Effect: This will enhance the historic appearance of the building.

Two dormers will be installed at the north roof slope in order to provide more light to the attic rooms.

Effect: Because this roof slope is not a “public” view (it faces the woods and back field), this will only be a minor change and is not considered an adverse effect.

Interior – The existing interior 1970s finishes (sheetrock walls & ceilings) will be replaced with new finishes.

Effect: This will have no effect on the historic appearance of the building.

Barn 4

Exterior - The slate roof will be repaired where necessary and the clapboards will be painted.

Effect: This work will make the building more weathertight and will improve the appearance of the building.

Interior - The interior will receive new finishes in order for the building to have a new use.

Effect: This will have a minor effect on the interior appearance of the building, but is necessary for the future use of the building. The work will be reversible in the event that the building is returned to agricultural use.

General Evaluation of Effect

Because the buildings will be repaired, all the historic features will be preserved, and vinyl siding will be replaced with clapboards, the general effect will be the preservation of these historic farm buildings. The installation of two skylights on Barn 2 will be a minor change, but will not be considered an adverse effect.

Recommendations for Avoiding Adverse Effect

Retain historic features, which include: concrete foundations and slabs, structural members, clapboard siding, the square window openings of the dairy barn and Barn 4, and the slate roofs with exposed rafter tails and ventilators. With the exception of the dormers at the north roof slope of Barn 3, do not add new exterior accessories to these buildings.

Barns 2 and 3: If possible, new window openings should be square to match the dairy barn (and the shape of the original window openings of Barns 2 and 3). Multi-pane true-divided-light paired casement windows are recommended. Otherwise, windows should be regularly-spaced individual units to prevent a "contemporary" appearance. Limit construction of dormers to north roof slope of Barn 3. On Barn 2, instead of dormers, flat skylights flush with the roof surface are recommended, and should be limited to two in the north roof slope. Also, to provide more light, the gambrel end doors may be replaced with windows.

Barn 4: Do not install any new window openings. New windows in existing openings should be either nine-pane true-divided-light wood awning windows or multi-pane true-divided-light paired casement windows. The round window openings may be restored.

Qualifications of Consultant

Paula Sagerman has a Master's Degree in Historic Preservation from the University of Pennsylvania and eleven years experience in the field of historic preservation. She meets the Secretary of the Interior's Professional Qualification Standards (36 CFR 61) for architectural historians. She is also on the Vermont Division for Historic Preservation's list of qualified architectural historians, the Vermont Community Development Program's list of authorized historic preservation consultants, and the Vermont Agency of Transportation's list of qualified historic preservation consultants.

PAVED SWS

LOT 3

PROPOSED PARKING

1-BR RESIDENCE

100' FROM WELL

BARN 1

3-BR RESIDENCE

BARN 3

AGRICULTURAL BARN

PROPOSED PARKING

PAVING

EXISTING DRIVEWAY PARKING AREA

DAIRY BARN

PROPOSED PARKING

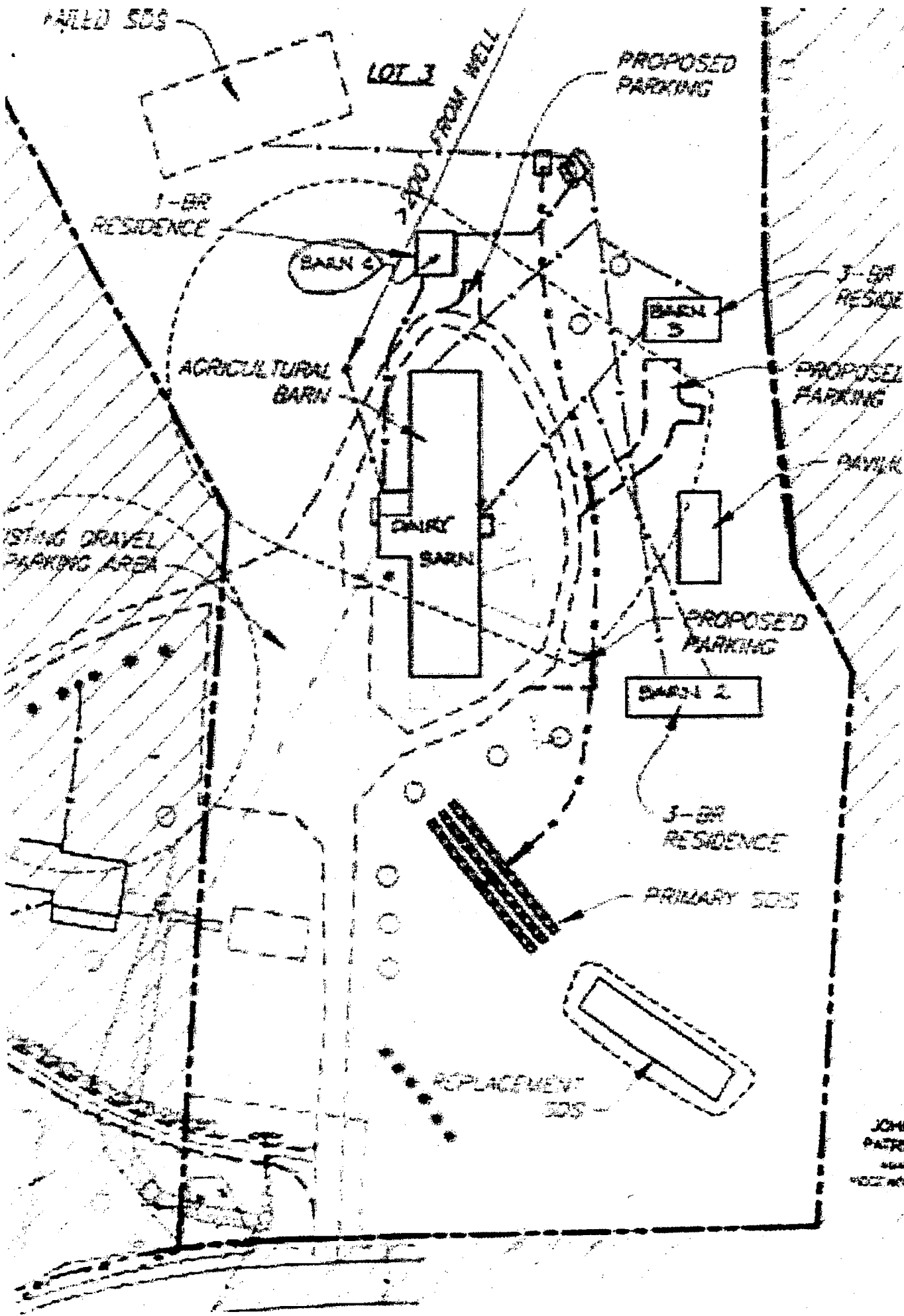
BARN 2

3-BR RESIDENCE

PRIMARY SWS

REPLACEMENT SWS

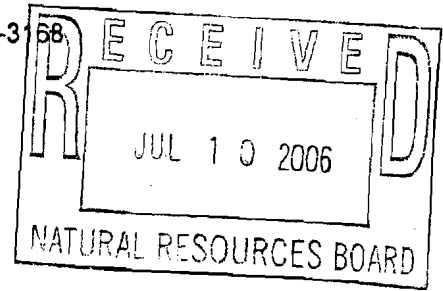
JOHN PATRICK
1984
1002-100





STATE OF VERMONT
District Environmental Commissions 2&3
100 Mineral Street, Suite 305, Springfield, VT 05156-3168
802/885-8855
TDD 1-800-253-0191

July 7, 2006



Mike Marino
Marino Farms, LLC
2390 McDonald Avenue
Brooklyn, NY 11223-4740

Re: Land Use Permit #2W0694-3, Wilmington - Compliance With Permit

Hello Mr. Marino:

As I mentioned to you on the phone yesterday, I am following our brief conversation up with this letter. You said that you believed that you were permitted to install four sky light windows on the Pandora building. According to the permit and the exhibits, the Pandora barn was only permitted for two sky lights on the north side of the roof.

The report on the historical buildings, prepared by Paula Sagerman, and concurred by Jane Lendway, Division for Historic Preservation, identified the "significant historic features" of this barn as including "the slate gambrel roof with exposed rafters and ventilators." (Exhibits 20 and 40)

The report also describes the "project" as repairing the slate roof "where necessary" and "Two skylights will be installed in the north roof slope. They will be flat and installed flush with the roof surface." The report identifies the "effect" of this work: "While this is a minor adverse effect, it is necessary to install these skylights in order to ensure the future use of this building. The two attic rooms are very long, and the gable end windows do not provide enough light. The original plan was to install dormers, which would have been a major adverse effect, and the owner has agreed to forego this treatment in order to help preserve the integrity of the building. Also, the skylights will not be visible from the most public view of the building, which is from the road."

In order to avoid adverse effect, the report recommends, and the Historic Preservation Division concurs, that "On Barn 2, instead of dormers, flat skylights flush with the roof surface are recommended and should be limited to two in the north roof slope. Also, to provide more light, the gambrel end doors may be replaced with windows."

Mike Marino
July 7, 2006
Page Two

Condition 10 of the permit states:

All renovations to the historic structures shall be accomplished in accordance with the representations made to the Division of Historic Preservation and approved by the Division. Any alterations to the approved renovations or further alterations and construction must be approved in writing in advance of construction by the Division of Historic Preservation and the District 2 Environmental Commission. The permittee shall affirmatively maintain the historic structures.

As you can see, the permit clearly approved only the two skylights on the north side of the roof. At this point, there are already two skylights installed on the south side of the roof and you plan on installing two more on the north side. The south skylights are in violation of the Act 250 permit and could result in penalties. In order to bring the project into compliance with the permit, you must remove the skylights on the south side of the gambrel roof on Barn 2 (aka Pandora's Barn) and return the roof to the slate roof that it was before you installed the skylights.

On the phone, you said that you would apply for an amendment and I mentioned that you should contact Paula Sagerman. However, after looking through the permit and exhibits, it is apparent that you would first need to do a "Stowe Club Highlands Analysis" [Act 250 Rules 34(E), enclosed] application to convince the District Environmental Commission that the permit condition should be "flexible". However, it is my opinion that the permit clearly intended there to be only two skylights on the north side to maintain the historical integrity of the barn and to prevent viewing the skylights from the road.

Prior to July 18, 2006, please either correct the violation and restore the south side of the roof or submit the Stowe Club Highlands application.

Sincerely,



Linda Matteson
Assistant District Coordinator

cc: Richard Holmes, Esq., Enforcement Attorney, Natural Resources Board
Tim McNamara, Environmental Enforcement Officer
Jane Lendway, Division for Historic Preservation
Eric Gilbertson, Division for Historic Preservation
Paula Sagerman

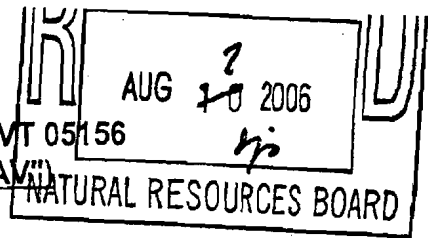
Enclosures: Act 250 Rule 34(E), SCH analysis
SCH Application

STATE OF VERMONT
NATURAL RESOURCES BOARD
LAND USE PANEL

100 Mineral Street, Suite 305, SPRINGFIELD, VT 05156

NOTICE OF ALLEGED VIOLATION ("NOAV")

10 V.S.A., SECTION 8006(b)



Investigation Date: _____ Complaint # _____ Town: WILMINGTON

Alleged Violator (Respondent): Mike Marino
Address: Marino Farms
2390 McDonald Avenue
Brooklyn, NY 11223

You are hereby put on notice that the Natural Resources Board believes that you are in violation of the following Vermont Statutes, Act 250 Rules and Permit:

10 V.S.A., Chapter 151 (Act 250) and Land Use Permit (LUP) #2W0694-3.

Description of Alleged Violation:

Respondent has installed sky lights on the south facing roof of the Pandora barn (Barn #2) in violation of Conditions #1, 2, 10 and 12 of LUP #2W0694-3.

Compliance Directive:

- 1. Prior to September 1, 2006, restore the roof to the slate roof that it was before you installed the skylights or according to the Division for Historic Preservation.**

In response to the alleged violation, the Natural Resources Board may, pursuant to its authority under 10 V.S.A., Chapter 201, proceed with an enforcement action, including but not necessarily limited to, an Administrative Enforcement Order (AO). The AO would require full compliance with all applicable statutes and regulations, assess penalties and, if necessary, require corrective/restorative action. Prompt correction of the alleged violation may lessen the likelihood, or severity, of any enforcement action taken by the Natural Resources Board.

If you have any questions, you should call Linda Matteson, Assistant District 2 Coordinator, at (802) 885-8843. **We request a written response within 10 days of receipt of this NOAV, which sets forth the reasons for the existence of the alleged violation and your intentions with respect to prompt correction.** Our mailing address is at the top of this Notice.

This Notice of Alleged Violation was served on the above-designated alleged violator by certified mail.

Dated: August 4, 2006

Linda Matteson, Assistant District Coordinator

cc: Richard Holmes, Esq., Associate General Counsel, Natural Resources Board
Tim McNamara, Environmental Enforcement Officer
Jane Lendway, Division for Historic Preservation
Eric Gilbertson, Division for Historic Preservation
Paula Sagerman