

THIS PERMIT AND ORDER AMENDS PERMIT 95-282A, ISSUED JUNE 4, 1996  
THIS IS A TWO SIDED DOCUMENT

 <p>P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050</p>	<p>APA Permit <b>95-282C</b> and Order Granting Variance <b>2010-273</b></p>
<p>In the Matter of the Application of <b>STEVEN LOFGREN AND CAROLYN LOFGREN</b> for a permit pursuant to §809 of the Adirondack Park Agency Act and a variance from the standards of 9 NYCRR Appendix Q-3</p>	<p>Date Issued: <b>January 13, 2011</b></p> <p>To the County Clerk: This Permit and Order must be recorded on or before <b>March 14, 2011</b>. Please index this Permit in the grantor index under the following names:</p> <ol style="list-style-type: none"><li><b>1. Steven Lofgren</b></li><li><b>2. Carolyn Lofgren</b></li></ol>

SUMMARY AND AUTHORIZATION

This Permit and Order, issued to Steven Lofgren and Carolyn Lofgren, amends Agency Permit 95-282A to approve the placement of new signage for an existing automobile sales commercial use and grants a variance from the sign standards of 9 NYCRR Appendix Q-3.

This project may not be undertaken until this Permit and Order is recorded in the Warren County Clerk's Office. This Permit shall expire unless so recorded on or before March 14, 2011 in the names of all persons listed on the first page hereof and in the names of all owners of record of any portion of the project site on the recordation date.

The project shall not be further undertaken or continued unless the project authorized herein is in existence within four years from the date the Permit is recorded. The Agency will consider the project in existence when the signage authorized herein is placed on the project site and the existing signage is removed.

Nothing contained in this Permit and Order shall be construed to satisfy any legal obligations of the applicant to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

#### AGENCY JURISDICTION

Pursuant to §§ 809(8)(b) and 810(2)(c)(2)(b) and (2)(c)(16) of the Adirondack Park Agency Act (Executive Law, Article 27), on June 4, 1996, the Adirondack Park Agency issued Permit 95-282A to Carl Ferullo and Kathleen Ferullo, authorizing a two-lot subdivision and a new commercial automobile sales and service business on one of the properties. The applicants, Steven Lofgren and Carolyn Lofgren, purchased this property in April 2008 and established a dealership of Chrysler, Jeep, and Dodge automobiles.

The applicants currently propose to place new signage above the entrance to the showroom of their dealership and above the garage doors of the dealership service building. This proposal requires an amendment to Condition 9 of Permit 95-282A, which states that any new signs on the project site must receive advance approval from the Agency and must comply with the standards established in 9 NYCRR Appendix Q-3. Pursuant to 9 NYCRR §574.3, the proposal also requires a variance from the standards of 9 NYCRR Appendix Q-3, including the following provisions:

- (1) Sec. 5(f) No sign shall be erected or maintained upon the roof of any building or structure.
- (2) Sec. 5(h) No sign shall project more than 3 feet from the wall of any building, nor shall any sign project from the roof of any building ...

#### PROJECT/VARIANCE DESCRIPTION AS PROPOSED

The project site is an approximately 1.45+acre parcel of land located on New York State Route 9 in the Town of Warrensburg, Warren County, in an area classified Rural Use by the Adirondack Park Land Use and Development Plan Map. It is identified on Town of Warrensburg Tax Map Section 183.4, Block 1, as Parcel 6.2.

The project as originally proposed is described in Permit 95-282A. The requested amendment, as conditionally approved herein, is for the placement of four new, non-illuminated signs on two portions of the exterior of an automobile dealership building on the project site, as shown on a set of 10 drawings entitled "Krystal Chrysler," drawn by Eric & Eric Drawing Service, and dated March 30, 2010. The first sign

will contain the word "Krystal," at 25.5 square feet in size in black lettering on a gray arch over the entrance to the dealership showroom. The remaining three signs will be placed on a gray board extending 4.4 feet out from the eaves of the roof over the dealership service area: the first sign will contain the word "Chrysler" at 30 square feet in size in black lettering, as signage for the Chrysler dealership; the second sign will contain the word "Jeep" at 22.75 square feet in size in green lettering, as signage for the Jeep dealership; and the third sign will contain the Ram symbol at 8.5 square feet in size and the word "Dodge" at 13.5 square feet in size, both in red lettering, as signage for the Dodge dealership.

The applicants propose to remove the existing signage for the dealership, which consists of a 34 square foot sign located on an 84 square foot structure partially within the right-of-way of Route 9. This existing sign does not comply with the conditions of Permit 95-282A or with the standards of Appendix Q-3.

A reduced scale copy of Sheet A8 of the drawings is attached as a part of this permit and variance for easy reference. The original, full-scale maps and plans referenced in this Permit are the official plans for the project.

#### CONDITIONS

BASED UPON THE FINDINGS BELOW AND INFORMATION CONTAINED IN THE PROJECT/VARIANCE FILE, THE PERMIT AND VARIANCE ARE APPROVED WITH THE FOLLOWING CONDITIONS:

1. All conditions in Permit 95-282A remain in full force and effect unless specifically amended herein.
2. The project shall be undertaken as described in the completed application, the Project/Variance Description as Proposed, and the Conditions noted herein. In the case of conflict, the Conditions control. Failure to comply with this Permit and Order is a violation and may subject the applicant, successors and assigns to civil penalties and other legal proceedings, including modification, suspension or revocation of the Permit and Order.
3. This Permit and Order is binding on the applicants, all present and future owners of the project site and all contractors undertaking all or a portion of the project. Copies of this Permit and Order and all the approved plans referred to herein shall be furnished by the applicants to all contractors prior to undertaking the activities authorized herein. All deeds conveying all or a portion of the lands subject to this Permit shall contain references to this Permit as follows: "The lands

conveyed are subject to Adirondack Park Agency Permit 95-282A issued June 4, 1996 and Permit 95-282C issued January 13, 2011, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

4. The Agency may conduct such on-site investigations, examinations, tests and evaluations as it deems necessary to ensure compliance with the terms and conditions hereof. Such activities shall take place at reasonable times and upon advance notice where possible.
5. This Permit authorizes installation of the signs shown on the plans referenced in the Project/Variance Description as Proposed, and this Order grants a variance for the signage presented on these plans from any inconsistent provisions of Appendix Q-3. No sign besides those described and authorized herein shall be installed on the project site, and no change in lettering or symbols shall occur on these signs, without prior written Agency approval. In addition, external lighting of any signage on the project site shall require prior written Agency approval.
6. The signage variance granted by this order and permit amendment is authorized solely for use by the applicant for the operation of the Chrysler car dealership identified herein. The authorization does not run with the land. Within one year of cessation of the Chrysler car dealership, the applicant or owner of the car dealership shall notify the Agency of their closure or cessation and shall remove the roof mounted sign panels from the building within two months of such notification. The sign panels if stored on site shall be placed in a location that is not visible from the State highway.
7. The existing 34± square foot sign shall be removed from the project site and the Route 9 right of way within 10 days after installation of the new signage.
8. Except as authorized herein, all signage on the project site shall comply with the standards established in 9 NYCRR Appendix Q-3.

#### FINDINGS OF FACT

1. The record in this matter consists of the permit amendment and variance request and supporting materials.

Background/Prior History

2. The project site has been the subject of previous Agency projects P73-36 (Permit 73-16), 73-51 (Permit 73-28), P86-43, 95-282, 95-282A and 95-282B. Permit 73-28 authorized a three-lot subdivision to create a 3 acre lot, a 4.4±-acre lot, and a 14±-acre lot. Permit 73-16 authorized the establishment of a commercial use mechanical and autobody shop, and Permit 86-43 authorized the establishment of a commercial use automobile salvage junkyard, both on the 3± acre lot created by Permit 73-28. Permit 95-282 then authorized expansion of the junkyard. Permit 95-282A authorized a two-lot subdivision of the 3±-acre lot created by Permit 73-28. This subdivision resulted in the creation of a 1.55±-acre lot containing the junkyard authorized by Permits 86-43 and 95-282, and the 1.45±-acre project site containing the mechanical and autobody shop authorized by Permit 73-16. Permit 95-282A also authorized new commercial use on the project site, through conversion of this mechanical and autobody shop to a new and used car dealership.

Existing Environmental Setting/Character of the Area

3. The intersection of Routes 28 and 9 in the Town of Warrensburg has historically been developed with both commercial and industrial uses. Currently, the neighboring development includes a merchandise retail store, a paint ball operation, a junkyard, two sawmills, a wood processing facility, a bed and breakfast, and a massage therapy office.
4. The area surrounding the project site is classified as Rural Use on the official Adirondack Park Land Use and Development Plan Map, except that the lands across and to the northwest of Route 9 are classified as Low Intensity Use. The Hamlet land use area of Warrensburg is located approximately 2.5 miles south of the project site.
5. Two neighboring commercial use signs are located within 40 feet of the road bed. There are a number of NYS DOT signs along the highway.

Franchise Information

6. The standard sign package for Chrysler, Jeep, and Dodge dealerships includes 200 square feet of internally illuminated signage, consisting of: 1) the dealership name on an arch above the entrance; 2) the Chrysler logo, the words "Dodge", "Jeep", and "Ram", and the Ram logo on the outside wall above a glass enclosed showroom; and 3) the word "Service" on the outside wall

above the service area. Steven and Carolyn Lofgren purchased the project site in April 2008, and signed a dealership contract with the Chrysler Corporation that required the building and signage on the project site to be upgraded to comply with the standard sign package within two years. In April 2010, the applicants were granted a one year extension of this timeframe. Chrysler Corporation has since agreed to allow for the more modest signage approved herein to serve as the sign package under the dealership contract with the applicants.

#### Site Configuration

7. The majority of the project site along Route 9 is paved as a parking area, with the southern area along the highway containing steep slopes and vegetation. There is limited space available for the placement of signage on the existing building, as it is only 11.5± feet tall and contains garage doors and windows that cover much of the front of the building. The pitch of the existing roof and requirements for snow removal from the roof necessitate placement of the board for the individual wall signs 4.4 feet out from the building.

#### Visibility

8. The dealership building is located approximately 60 feet from Route 9, and is screened to the south by existing trees and bordered on the north by a merchandise retail store. For cars traveling north on Route 9, the "zone of visibility" for the approved signage is very brief. For cars traveling south on Route 9, the building is visible for approximately 300 feet from the intersection of Route 9 and 28 to the project site. The signage will not be highly visible from the intersection because it is set back from the highway and will blend in with the dealership building. The signage will not be visible from the residential area located west of Route 9. The existing signage, which will be removed, is located partially within the highway right-of-way and is readily visible from the south for approximately 100 feet and from the north for approximately 300 feet.

#### Alternatives

9. During discussions with the Chrysler Corporation, the applicants considered increasing the height of the existing building. This alternative would not have been economically feasible for the applicants, and would increase visual impacts from the signs. In discussions with Agency staff, alternatives that were considered included placing signage on the ground and stretching the backboard signage on the building to the roof edge or archway, in

an effort to blend more with the wall. No suitable alternative ground location could be found due to the extent of the existing paved area and the location of steep slopes on the unpaved portion of the property. It was determined that extension of the backboard would hamper snow removal and would not blend with the wall as well as the proposed backboard.

#### Public Notice and Comment

10. The Agency notified all adjoining landowners and additional parties as required by §809 of the Adirondack Park Agency Act and published a Notice of Complete Variance Application in the Environmental Notice Bulletin. No comments have been received.

#### Public Hearing

11. On November 30, 2010, Agency staff conducted a public hearing regarding the request for a variance from the sign standards of 9 NYCRR Appendix Q-3. The parties in attendance at the hearing included Steven Lofgren, an adjoining landowner, and an Agency staff member. Agency staff read a prepared statement describing the variance proposal, the criteria for granting a variance, and the reason for the decision to recommend approval of the variance. No issues or concerns were raised and the hearing was adjourned.

#### Other Regulatory Permits and Approvals

12. The Town of Warrensburg has review jurisdiction over the project as new land use and development and for the placement of new signs. Permits for both were issued by the Town on August 13, 2010.

#### Economic/Fiscal Factors

13. Pursuant to the dealership agreement with the Chrysler Corporation, the applicants are required to make changes to the signage on the project site. Failure to make the signage changes approved herein could result in termination of the agreement and economic hardship to the applicants. The dealership currently has 15 full-time year-round employees.

#### Variance Factors

The following findings of fact evaluate the project against the variance factors set forth in 9 NYCRR § 576.1.

Whether there are practical difficulties in carrying out the strict letter of the provisions of the Adirondack Park Land Use and

Development Plan?

14. The applicants have demonstrated that there are unique practical difficulties present on the site based on the size and configuration of the property and its location along New York State Route 9 that, absent a variance, will prevent the applicants from achieving their reasonable objective of advertising a modest, previously permitted commercial use.

Whether adverse consequences from denial outweigh the public purpose served by the restrictions of 9 NYCRR Appendix Q-3?

15. Denial of the requested variance would significantly limit available space for advertising the applicants' commercial business, and could jeopardize the applicants' existing franchise relationship with the Chrysler Corporation.
16. The existing signage is located partially within the Route 9 right-of-way and is readily visible from off-site locations. The proposed signage is designed as an integral element to blend with the proposed façade renovations to the existing building and will be less visible in the overall context of the existing development in the highway corridor.
17. Under these unique facts, the applicant has demonstrated that the benefit to the applicants and the community served by this automobile dealership are greater than the benefit to the public by strict adherence to the sign standards at issue.

Whether the application requests the minimum relief necessary?

18. The proposed signage is within the size limit for signs allowed under Appendix Q-3, will only protrude out from the roof the minimum distance necessary to allow effective snow removal, and will be located lower than maximum height allowed under Appendix Q-3. The signage authorized for the Krystal dealership will allow for approximately half of the sign area of a standard Chrysler sign package, and will also allow for only non-illuminated signs.

Whether granting the variance will create a substantial detriment to adjoining or nearby landowners?

19. The visual impacts of the existing signage as well as signs located on neighboring properties are greater than the potential impacts of the proposed signage. The proposed signage will be set back 60 feet from the highway and will be integrated to blend with the façade renovations of the existing building. The Agency has not received any negative public comment in response to the public notices and public hearing.

Whether the difficulty can be obviated by a feasible method other than a variance?

20. There are limited areas for signage on the building due to the 11.5 foot height of the service building, which contains two garage doors, and the existing showroom façade, which contains large glass windows and a door. There are limited ground locations on the property for signage due to the size of the paved parking areas, the location of the building, and the location of steep slopes and vegetation on the unpaved areas.

The manner in which the difficulty arose?

21. The 3+-acre project site was a portion of a 21+-acre parcel that has been historically utilized for commercial purposes, which at one time included a former new and used car dealership. In 1996, the Agency permitted creation of the project site in its current configuration specifically for use as a new and used car dealership. The Chrysler Corporation required a dealership agreement when the property was conveyed in 2008.

Whether granting the variance will adversely affect existing resources?

22. There will be no adverse visual impacts from the signage, as it will be located 60± feet from Route 9 and colored to blend with the façade renovation of the existing building. The project is compatible with the character of neighboring commercial and industrial uses within the highway corridor.

Whether the imposition of conditions upon the granting of the variance will ameliorate the adverse effects noted above?

23. Requiring removal of the existing signage will reduce visual impacts to the highway corridor. Requiring approval by the Agency for any future signage changes on the project site will ensure there will be no additional adverse effects.

CONCLUSIONS OF LAW

Permit Amendment Request

The Agency has considered all statutory and regulatory criteria for project approval as set forth in §809(10) of the Adirondack Park Agency Act and 9 NYCRR Part 574. The Agency hereby finds that the project is approvable and complies with the above criteria, provided it is undertaken in compliance with the conditions herein.

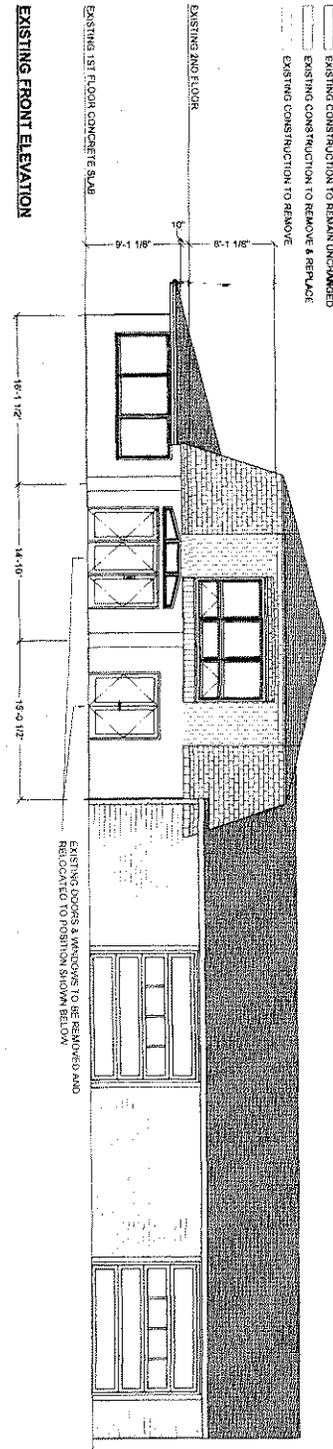
Variance Request

1. There are practical difficulties in the way of carrying out the strict letter of the provisions of the Adirondack Park Land Use and Development Plan (9 NYCRR § 576.1(a)).
2. The adverse consequences to the applicants resulting from denial are greater than the public purpose sought to be served by the restrictions (9 NYCRR § 576.1(b)).
3. The factors set forth in 9 NYCRR § 576.1(c) have been addressed:
  - a. the application requests the minimum relief necessary;
  - b. there will be no substantial detriment to adjacent or nearby landowners;
  - c. the difficulty cannot be obviated by a feasible method other than the variance;
  - d. the difficulty arose due to the creation by Agency permit of the project site in its current configuration for an automobile sales and service commercial use;
  - e. the granting of the variance will not unduly adversely affect the natural, scenic, and open space resources of the Park; and
  - f. the conditions noted herein will ameliorate any adverse effects.
4. The variance, pursuant to §809 of the Adirondack Park Agency Act and 9 NYCRR Parts 574, 576, and Appendix Q-3, observes the spirit of the Act, secures public safety and welfare, and does substantial justice.

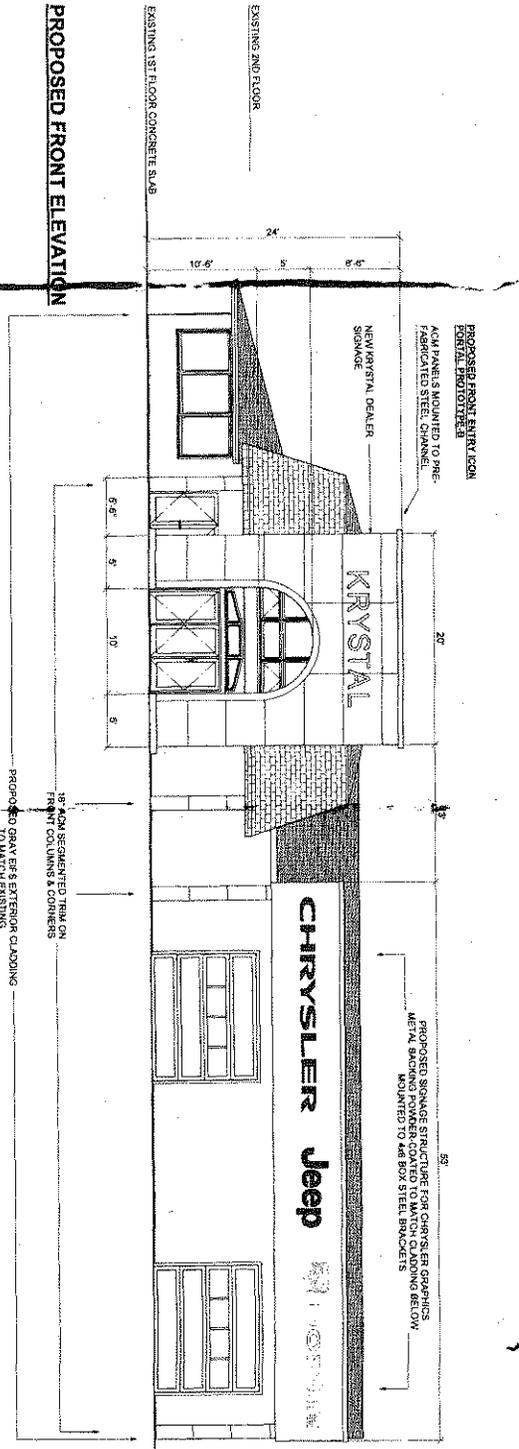




- LEGEND**
- EXISTING CONSTRUCTION TO REMAIN UNCHANGED
  - EXISTING CONSTRUCTION TO REMOVE & REPLACE
  - EXISTING CONSTRUCTION TO REMOVE



**EXISTING FRONT ELEVATION**



**PROPOSED FRONT ELEVATION**

PROPOSED FRONT ENTRY ICON  
 METAL PANELS MOUNTED TO PRE-FABRICATED STEEL CHANNEL  
 NEW CRYSTAL DEALER SIGNAGE

**KRYSTAL**

**CHRYSLER Jeep**

PROPOSED SIGNAGE STRUCTURE FOR CHRYSLER GRAPHICS  
 METAL BRACING POWER COATED STEEL BRACING IS MOUNTED TO THE SIGN BELOW

1/2\"/>
 PROPOSED GRAY FER'S EXTERIOR CLADDING TO MATCH EXISTING

**PRELIMINARY - NOT FOR CONSTRUCTION**

**A8**

**FRONT ELEVATIONS**  
**KRYSTAL**  
**CHRYSLER**  
 4485 STATE ROUTE 9  
 WARRENSBURG, NY 12865

SCALE:	3/8\"/>
DRAWN BY:	REB
DATE:	3/30/10
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**NOTES**

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